CONGRESSIONAL RECORD:

CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

SIXTY-SECOND CONGRESS, THIRD SESSION.

VOLUME XLIX.

WASHINGTON:
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VOLUME XLIX, PART I.

CONGRESSIONAL RECORD,

SIXTY-SECOND CONGRESS, THIRD SESSION.

CONGRESSIONAL RECORD.

PROCEEDINGS AND DEBATES OF THE SIXTY-SECOND CONGRESS.

THIRD SESSION.

SENATE.

MONDAY, *December 2, 1912.*

The first Monday in December being the day prescribed by the Constitution of the United States for the annual meeting of Congress, the third session of the Sixty-second Congress commenced on this day.

The Senate assembled in its Chamber at the Capitol.

AUGUSTUS O. BACON, a Senator from the State of Georgia, took the chair as President pro tempore under the order of the Senate of August 17, 1912.

The PRESIDENT pro tempore called the Senate to order at 12 o'clock noon.

PRAYER.

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the following prayer:

Almighty God, our heavenly Father, in whose presence we now stand, we are come together in Thy name and to do Thy will. At the opening of this session of Congress we invoke Thy blessing. Without Thee we can do nothing. Until Thou dost bless us, our highest wisdom is but folly and our utmost strength but utter weakness. Bestow upon us, therefore, we humbly pray Thee, wisdom and strength from above, that so we may glorify Thee, accomplishing that which Thou givest us to do.

We come before Thee, our Father, with a deepened sense of our dependence upon Thee. Thou hast made us to know how frail we are. Thou hast showed us that the way of man is not in himself alone, and that it is not in us who walk to direct our steps. Thou hast called from his earthly labors Thy servant, the Vice President of our Nation. While we thought it was still day Thou didst cause the sun of his life to go down, bringing the night, when no man can work. We murmur not nor repine, our Father, knowing that alike the day and the night are Thine. Thou hast taken from our side fellow laborers and companions, leaving in this Senate empty seats and in our hearts loneliness and sorrow. We can not forget them, our Father, though in the flesh we behold their faces no more. Thou hast removed from his post of duty an officer of this body and hast made us to know that in the midst of life we are in death. Comfort our hearts, we beseech Thee, for all our sorrows, and keep us evermore in Thy love, and though Thou feed us with the bread of adversity and give us to drink of the water of affliction, yet take not from us Thy holy spirit.

We pray Thee to bless the President of the United States. Uphold him by Thy power, watch over him by Thy providence, guide him by Thy wisdom, and strengthen him with Thy heavenly grace. Bless him who shall preside over this Senate, bestowing upon him all things as shall seem good unto Thee. For all who are in authority we pray that they may serve Thee with singleness of purpose, for the good of this people and for Thy glory.

So, our Father, may this session of Congress, begun in Thy name, be continued in Thy fear and ended to Thine honor. Grant us so to labor that by our deliberations we may hasten the time when Thy kingdom shall come and Thy will shall be done on earth as it is in heaven.

In the name which is above every name, hear our prayer. Amen.

CALLING OF THE ROLL.

The PRESIDENT pro tempore. The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Bryan	Crane	Davis
Bacon	Burnham	Crawford	Dixon
Bailey	Burton	Culberson	du Pont
Borah	Clapp	Cullom	Fletcher
Brandegee	Clark, Wyo.	Cummins	Foster
Bristow	Clarke, Ark.	Curtis	Gallinger
Gardner	McLean	Percy	Smith, S. C.
Gore	Martin, Va.	Perkins	Smoot
Guggenheim	Martine, N. J.	Pomerene	Stephenson
Hitchcock	Massey	Richardson	Swanson
Johnson, Me.	Myers	Root	Thornton
Johnston, Ala.	Nelson	Sanders	Tillman
Kenyon	Newlands	Shively	Townsend
La Follette	O'Gorman	Simmons	Warren
Lippitt	Overman	Smith, Ariz.	Wetmore
Lodge	Page	Smith, Ga.	Works
McCumber	Penrose	Smith, Md.	

Mr. WORKS. The senior Senator from Washington [Mr. JONES] is necessarily absent on business of the Senate.

Mr. PENROSE. My colleague [Mr. OLIVER] is necessarily absent on account of sickness.

Mr. SMOOT. On account of sickness my colleague [Mr. SUTHERLAND] is necessarily detained from the Senate.

Mr. CURTIS. I was requested to announce that the Senator from Kentucky [Mr. BRADLEY] is absent on account of sickness.

Mr. PAGE. I wish to announce that my colleague [Mr. DILLINGHAM] is detained from the Senate on account of illness.

Mr. SHIVELY. I wish to announce that my colleague [Mr. KERN] is detained from the Senate on important business, and that he is paired with the Senator from Kentucky [Mr. BRADLEY].

Mr. TOWNSEND. I wish to announce that the senior Senator from Michigan [Mr. SMITH] is unavoidably detained from the Senate this morning.

The PRESIDENT pro tempore. On the call of the roll of the Senate 67 Senators have answered to their names, and a quorum is present.

LIST OF SENATORS.

The list of Senators, by States, is as follows:

Alabama—John H. Bankhead and Joseph F. Johnston.
Arizona—Henry F. Ashurst and Marcus A. Smith.
Arkansas—James P. Clarke and Jeff Davis.
California—George C. Perkins and John D. Works.
Colorado—Simon Guggenheim.
Connecticut—Frank B. Brandegee and George P. McLean.
Delaware—Henry A. du Pont and Harry A. Richardson.
Florida—Nathan P. Bryan and Duncan U. Fletcher.
Georgia—Augustus O. Bacon and Hoke Smith.
Idaho—William E. Borah.
Illinois—Shelby M. Cullom.
Indiana—John W. Kern and Benjamin F. Shively.
Iowa—Albert B. Cummins and William S. Kenyon.
Kansas—Joseph L. Bristow and Charles Curtis.
Kentucky—William O. Bradley and Thomas H. Paynter.
Louisiana—Murphy J. Foster and John R. Thornton.
Maine—Obadiah Gardner and Charles F. Johnson.
Maryland—John Walter Smith.
Massachusetts—Winthrop Murray Crane and Henry Cabot Lodge.
Michigan—William Alden Smith and Charles E. Townsend.
Minnesota—Moses E. Clapp and Knute Nelson.
Mississippi—Le Roy Percy and John Sharp Williams.
Missouri—James A. Reed and William J. Stone.
Montana—Joseph M. Dixon and Henry L. Myers.
Nebraska—Norris Brown and Gilbert M. Hitchcock.
Nevada—William A. Massey and Francis G. Newlands.
New Hampshire—Henry E. Burnham and Jacob H. Gallinger.
New Jersey—Frank O. Briggs and James E. Martine.
New Mexico—Thomas B. Catron and Albert B. Fall.
New York—James A. O'Gorman and Elihu Root.
North Carolina—Lee S. Overman and F. M. Simmons.
North Dakota—Asle J. Gronna and Porter J. McCumber.
Ohio—Theodore E. Burton and Atlee Pomerene.
Oklahoma—Tom P. Gore and Robert L. Owen.
Oregon—Jonathan Bourne, jr., and George E. Chamberlain.
Pennsylvania—George T. Oliver and Boies Penrose.

Rhode Island—Henry F. Lippitt and George Peabody Wetmore.
South Carolina—Ellison D. Smith and Benjamin R. Tillman.
South Dakota—Coe I. Crawford and Robert J. Gamble.
Tennessee—Luke Lea and Newell Sanders.
Texas—Joseph W. Bailey and Charles A. Culberson.
Utah—Reed Smoot and George Sutherland.
Vermont—William P. Dillingham and Carroll S. Page.
Virginia—Thomas S. Martin and Claude A. Swanson.
Washington—Wesley L. Jones and Miles Poindexter.
West Virginia—William E. Chilton and Clarence W. Watson.
Wisconsin—Robert M. La Follette and Isaac Stephenson.
Wyoming—Clarence D. Clark and Francis E. Warren.

NOTIFICATION TO THE HOUSE.

Mr. GALLINGER submitted the following resolution (S. Res. 388), which was considered by unanimous consent and agreed to:

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

NOTIFICATION TO THE PRESIDENT.

Mr. CULLOM submitted the following resolution (S. Res. 389), which was considered by unanimous consent and agreed to:

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled, and that Congress is ready to receive any communication he may be pleased to make.

The PRESIDENT pro tempore appointed as the committee Mr. CULLOM and Mr. MARTIN of Virginia.

HOUR OF MEETING TO-MORROW.

Mr. LODGE. I move that when the Senate adjourns to-day it be to meet to-morrow at 11 o'clock.

The motion was agreed to.

DEATH OF THE VICE PRESIDENT.

Mr. ROOT. Mr. President, with a deep sense of public loss and of personal bereavement I discharge the duty of announcing to the Senate that on the 30th day of October last, at his home in the city of Utica, JAMES SCHOOLCRAFT SHERMAN, the Vice President of the United States, departed this life.

His serene and cheerful temperament, inspired by love of country and of his kind, will no more diffuse through this body a sense of reasonableness, of friendliness, and of kindly consideration. His faculty of swift and just decision which has promoted and cleared the path of public business in the Senate for the three years which are past will no longer aid us in our deliberations.

I have the honor to offer the resolutions which I now send to the desk.

The resolutions (S. Res. 390) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow and regret the announcement of the death of JAMES SCHOOLCRAFT SHERMAN, late Vice President of the United States.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

The PRESIDENT pro tempore. In connection with the announcement just made the Chair now lays before the Senate a cablegram received from the Brazilian Senate and the reply thereto, in order that the same may now be read and become a part of the record, and to be on a later day given such disposition as the Senate may direct.

The matter entire is as follows:

RIO DE JANEIRO, VIA DAKAR,
November 6, 1912.

SR. PRESIDENTE SENADO,
Senate, Washington.

Cumpro dever communicar V. ex. que Senado Brasil sentido vivamente morte eminente Sr. JAMES SHERMAN, Vice-Presidente dessa grande Republica, deliberou inserir actn seus trabalhos voto profundo pezar por esse doloroso acontecimento, e transmittir Senado Americano sinceras condolencias, o que em seu nome faco por intermedio V. ex. a quem apresento minhas attenciosas saudacões.

FERREIRA CHAVES,
1º Secretario do Senado.

[Cablegram—Translation.]

RIO DE JANEIRO, VIA DAKAR,
November 6, 1912.

PRESIDENT OF THE SENATE,
Washington:

I perform the duty of informing Your Excellency that the Senate of Brazil, keenly afflicted by the death of the eminent Mr. JAMES SHERMAN, Vice President of your great Republic, has voted to enter upon its journal a resolution of profound sympathy in that sorrowful event and to transmit to the American Senate sincere condolence, which I do in its name through Your Excellency, to whom I present my respectful salutations.

FERREIRA CHAVES,
First Secretary of the Senate.

[Cablegram.]

WASHINGTON, *November 7, 1912.*

To the PRESIDENT OF THE BRAZILIAN SENATE:

I have received your very considerate and cordial message of sympathy, addressed to the American Senate, on the occasion of the death of the late Vice President JAMES SHERMAN.

The Senate of the United States is not now in session. So soon as it convenes in December I will have the honor to lay before that body your highly esteemed message. I beg, in the meantime, to thank your honorable body for its kindly consideration and sympathy.

AUGUSTUS O. BACON,
President of the Senate pro tempore.

[NOTE.—The foregoing reply to the cablegram of the Brazilian Senate was, upon the request of Senator BACON, cabled to the American ambassador at Brazil by the Acting Secretary of State, with directions for immediate delivery.]

DEATH OF SENATOR WELDON B. HEYBURN.

Mr. BORAH. Mr. President, it becomes my sad duty to announce to the Senate the death of my late colleague, Hon. W. B. HEYBURN. To those who witnessed his singular devotion to duty in the closing hours of the last session under conditions which all realized imperiled his life, the news of his death came as no surprise. One less determined to perform faithfully the obligations of his high office, one less mindful of the responsibilities which rest upon us here, would have yielded to the solicitation of friends and sought the rest and recuperation which he so much needed. But understanding perfectly the forfeit which he might be called upon to pay, he nevertheless met without hesitancy and with spirit and purpose the exacting duties of that trying session. With equal fortitude and courage he paid the forfeit when the time came to do so.

Senator HEYBURN was a remarkable man, a strong, sturdy, self-reliant, dominant figure. But this is not the time nor the appropriate occasion for extended remarks; upon some other occasion I shall ask the Senate to set aside a day upon which his colleagues may pay tribute to his work and worth as a man and as a legislator.

I offer the following resolutions and ask for their adoption.

The PRESIDENT pro tempore. The Secretary will read the resolutions sent to the desk by the Senator from Idaho.

The resolutions (S. Res. 391) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow of the death of the Hon. WELDON BRINTON HEYBURN, late a Senator from the State of Idaho.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

DEATH OF SENATOR ISIDOR RAYNER.

Mr. SMITH of Maryland. Mr. President, it is my melancholy duty to announce to my colleagues in the Senate that since our last adjournment death has claimed our loved associate, ISIDOR RAYNER. His death occurred at his home in Washington on the 25th of last November. His end followed an acute illness lasting several weeks. Watching with him during the period of progressing physical weakness and intense suffering were those he loved best—his wife, his son, and his grandchildren.

He was in a large sense a martyr to his sympathies, his conscience, and his talents. The ambition to do his fullest duty as a Member of this body spurred him to undertake tasks far beyond his physical capacity to stand, for his mental energy and power always outran his physical capacity. A quick, sensitive, and all-compelling sympathy for all who suffer, for all who bear burdens, however imposed, pained and wore upon him to his very soul, and deeper than I ever knew in any other case. He finally succumbed under the rack and strain. His tensely nervous temperament could not withstand the weight of others' woes added to his habit of overwork, accentuated toward the latter part of his life by obligations assumed at great risk, as he knew, to himself, and assumed in spite of the warnings and entreaties of his intimate friends.

I shall make no effort to-day to speak of Senator RAYNER'S character or life nor of the qualities of mind and heart which elevated him to so many places of trust and fixed him in so many places of affectionate esteem. I shall only make the bare announcement of his decease.

I shall in due season ask the Senate to devote some future day to ceremonies befitting his memory. Then when time has somewhat cleared our finite sight we may review his life and character, not altogether in the darkness of our own present sense of personal calamity in his loss, but rather in the light of his everlasting gain.

Mr. President, I offer the resolutions which I send to the desk, and ask for their adoption.

The PRESIDENT pro tempore. The Secretary will read the resolutions presented by the Senator from Maryland.

The resolutions (S. Res. 392) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. ISIDOR RAYNER, late a Senator from the State of Maryland.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Mr. CULLOM. Mr. President, I desire as a further mark of respect to offer the following resolution, and I ask for its present consideration.

The resolution (S. Res. 393) was read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That as a further mark of respect to the memory of the late Vice President JAMES SCHOOLCRAFT SHERMAN and the late Senators WELDON BRINTON HEYBURN and ISIDOR RAYNER, whose deaths have just been announced, the Senate do now adjourn.

Thereupon the Senate (at 12 o'clock and 22 minutes p. m.) adjourned until to-morrow, Tuesday, December 3, 1912, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *December 2, 1912.*

This being the day fixed by the Constitution for the annual meeting of the Congress of the United States, the House of Representatives of the Sixty-second Congress met in its Hall at 12 o'clock m. for its third session, and was called to order by the Speaker, Hon. CHAMP CLARK, a Representative from the State of Missouri.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

God of the universe, Father of all souls, whose spirit divine pervades all space, the light of the world, the inspiration of men, source of all good, continue, we beseech Thee, Thy ministrations unto us as a people, that with patriotic zeal and religious fervor we may press forward to the higher altitudes contemplated by our fathers in a Government "conceived in liberty and dedicated to the proposition that all men are created equal."

That the full fruition of its genius may at last obtain to the betterment of mankind, so move upon the hearts of these Thy servants now convened to conclude the work of the Sixty-second Congress, that their efforts may be well pleasing in Thy sight.

Imbue with wisdom, strength, and courage the Speaker of this House, that he may preside over its deliberations with justice and equity, that its resolves and enactments may redound to the good of the millions here represented.

Inspire, bless, guide the President of these United States and his counselors, that the laws of the land may be faithfully executed and the affairs of State amicably adjusted in consonance with the ideals of righteousness, truth, and justice. Let Thy wisdom guide the judiciary in their high and holy calling, that justice may fulfill its perfect work. So may the people, with their servants in the coordinate branches of the Government, strive for the ideals in all that makes a nation great and glorious, that the dear Old Flag may float its stars and stripes in graceful folds over a land of peace and plenty now and evermore, in the spirit of the Prince of Peace. Amen.

CALL OF ROLL.

The SPEAKER. The Clerk will call the roll of Members by States.

The roll was called, and the following Members answered to their names:

ALABAMA.

George W. Taylor.
S. H. Dent, jr.
Henry D. Clayton.
F. L. Blackmon.
J. Thomas Heflin.
Richmond P. Hobson.
John L. Burnett.
William Richardson.
Oscar W. Underwood.

ARIZONA.

Carl Hayden.

ARKANSAS.

Robert Bruce Macon.
William A. Oldfield.
John C. Floyd.
Henderson M. Jacoway.
W. S. Goodwin.

CALIFORNIA.

John E. Raker.
Julius Kahn.
James C. Needham.
William D. Stephens.

COLORADO.

Atterson W. Rucker.

CONNECTICUT.

Thomas L. Reilly.
Edwin W. Higgins.
Ebenezer J. Hill.

FLORIDA.

Stephen M. Sparkman.
Frank Clark.
Charles G. Edwards.
S. A. Roddenbery.
Dudley M. Hughes.
William C. Adamson.
Charles L. Bartlett.

GEORGIA.

Gordon Lee.
Samuel J. Tribble.
Thomas W. Hardwick.
William G. Brantley.

ILLINOIS.

Martin B. Madden.
James R. Mann.
William W. Wilson.
James T. McDermott.
Adolph J. Sabath.
Frank Buchanan.
Thomas Gallagher.
Lynden Evans.
George Edmund Foss.
Ira C. Copley.
Charles E. Fuller.
John C. McKenzie.
James McKinney.
Claude U. Stone.
John A. Sterling.
Joseph G. Cannon.
William B. McKinley.
James M. Graham.
William A. Rodenberg.
Martin D. Foster.
H. Robert Fowler.

INDIANA.

William A. Cullop.
William E. Cox.
Lincoln Dixon.
Ralph W. Moss.
Charles A. Korbly.
John A. M. Adair.
Martin A. Morrison.
Edgar D. Crumpacker.
George W. Rauch.
Cyrus Cline.
Henry A. Barnhart.

IOWA.

Charles A. Kennedy.
Charles E. Pickett.
James W. Good.
S. F. Prouty.
Horace M. Towner.
William R. Green.

KANSAS.

Joseph Taggart.
Philip P. Campbell.
George A. Neeley.
Victor Murdock.

KENTUCKY.

Ollie M. James.
Augustus O. Stanley.
R. Y. Thomas, jr.
Ben Johnson.
Swagar Sherley.
Arthur B. Rouse.
James C. Cantrill.
Harvey Helm.
W. J. Fields.
John W. Langley.
Caleb Powers.

LOUISIANA.

Albert Estopinal.
H. Garland Dupré.
Robert F. Broussard.
John T. Watkins.
Joseph E. Ransdell.
Arsene P. Pujo.

MAINE.

Asher C. Hinds.
Daniel J. McGillicuddy.
Samuel W. Gould.
Frank E. Guernsey.

MARYLAND.

J. Harry Covington.
Joshua F. C. Talbott.
J. Chas. Linthicum.
Thomas Parran.
David J. Lewis.

MASSACHUSETTS.

George P. Lawrence.
Frederick H. Gillett.
William H. Wilder.
Butler Ames.
Ernest W. Roberts.
Samuel W. McCall.
William F. Murray.
Andrew J. Peters.
John W. Weeks.

MICHIGAN.

Frank E. Doremus.
Edward L. Hamilton.
Edwin F. Sweet.
Henry McMorran.
Joseph W. Fordney.
James C. McLaughlin.
Francis H. Dodds.
H. Olin Young.

MINNESOTA.

Sydney Anderson.
Charles R. Davis.
Frederick C. Stevens.
Frank M. Nye.
Charles A. Lindbergh.
Clarence B. Miller.
Halvor Steenerson.

MISSISSIPPI.

Ezekiel S. Candler, jr.
Hubert D. Stephens.
Benjamin G. Humphreys.
Samuel A. Witherspoon.

MISSOURI.

James T. Lloyd.
Joshua W. Alexander.
Charles F. Booher.
William P. Borland.
Clement C. Dickinson.
Courtney W. Hamlin.
Dorsey W. Shackleford.
Champ Clark.
Richard Bartholdt.
Walter L. Hensley.
Joseph J. Russell.
James A. Daugherty.

MONTANA.

John A. Maguire.
Dan V. Stephens.
Charles H. Sloan.
Charles N. Pray.

NEBRASKA.

George W. Norris.
Moses P. Kinkaid.

NEVADA.

E. E. Roberts.

NEW JERSEY.

William J. Browning.
Thomas J. Scully.
Ira W. Wood.
William E. Tuttle, jr.
Edward W. Townsend.
Walter I. McCoy.
Eugene F. Kinkead.

NEW MEXICO.

George Curry.
Harvey B. Fergusson.

NEW YORK.

George H. Lindsay.
James P. Maher.
Frank E. Wilson.
William C. Redfield.
William M. Calder.
John J. Fitzgerald.
Daniel J. Riordan.
Henry M. Goldfogle.
William Sulzer.
Charles V. Fornes.
Michael F. Conry.
Jefferson M. Levy.
John J. Kindred.
Thomas G. Patten.
Henry George, jr.
Steven B. Ayres.
Henry S. De Forest.
Theron Akin.
Charles A. Talcott.
John W. Dwight.
Serreno E. Payne.
Henry G. Danforth.
Edwin S. Underhill.
Daniel A. Driscoll.

NORTH CAROLINA.

John H. Small.
John M. Faison.
Edward W. Pou.
Charles M. Stedman.
Hannibal L. Godwin.
Robert N. Page.
Robert L. Doughton.
Edwin Y. Webb.
James M. Gudger.

NORTH DAKOTA.

Louis B. Hanna.
H. T. Helgesen.

OHIO.

Nicholas Longworth.
Alfred G. Allen.
James M. Cox.
J. H. Goeke.
Timothy T. Ansberry.
Matthew R. Denver.
J. D. Post.
Frank B. Willis.
Isaac R. Sherwood.
Robert M. Switzer.
Horatio C. Claypool.
Edward L. Taylor, jr.
George White.
W. B. Francis.
William A. Ashbrook.
John J. Whitacre.
E. R. Bathrick.
Paul Howland.
R. J. Bulkley.

OKLAHOMA.

Dick T. Morgan.
Scott Ferris.

OREGON.

A. W. Lafferty.

PENNSYLVANIA.

William S. Vare.
William Stuart Reyburn.
J. Hampton Moore.
Michael Donohoe.
George D. McCreary.
Thomas S. Butler.
Robert E. Difenderfer.
William W. Griest.
John R. Barr.
Charles C. Bowman.
Robert E. Lee.
John H. Rothermel.
William B. Wilson.
Marlin E. Olmsted.
Jesse L. Hartman.
Daniel F. Lafean.
Charles E. Patton.
Curtis H. Gregg.
Thomas S. Crago.
Charles Matthews.
A. Mitchell Palmer.
J. N. Langham.
Peter M. Speer.
Stephen G. Porter.
John Dalzell.
James F. Burke.
Andrew J. Barchfeld.

RHODE ISLAND.

George F. O'Shaunessy.

SOUTH CAROLINA.

James F. Byrnes.
Joseph T. Johnson.
Asbury F. Lever.

SOUTH DAKOTA.

Charles H. Burke.

TENNESSEE.

Sam R. Sells.
Richard W. Austin.
John A. Moon.
Cordell Hull.
William C. Houston.
Joseph W. Byrns.
Lemuel P. Padgett.
Thetus W. Sims.
Finis J. Garrett.
Kenneth D. McKellar.

TEXAS.

Morris Sheppard.
Martin Dies.
Jack Beall.
Rufus Hardy.
George H. Burgess.
Albert S. Burleson.
Robert L. Henry.
Oscar Callaway.
John H. Stephens.
James L. Slayden.
John N. Garner.
William R. Smith.

VERMONT.

Frank Plumley.

VIRGINIA.

E. E. Holland.
John Lamb.
E. W. Saunders.
Carter Glass.
James Hay.
Charles C. Carlin.
C. Bascom Slemp.
Henry D. Flood.

WASHINGTON.

Stanton Warburton.
William L. La Follette.

WEST VIRGINIA.

John W. Davis.
William G. Brown.
John M. Hamilton.

WISCONSIN.

Arthur W. Kopp.
Victor L. Berger.
Michael E. Burke.
John J. Esch.
James H. Davidson.
Thomas P. Konop.
Irvine L. Lenroot.

WYOMING.

Frank W. Mondell.

The SPEAKER. Two hundred and seventy-eight Members, a quorum, have answered to their names.

SWEARING IN OF MEMBERS.

The SPEAKER. The Chair understands that certain new Members desire to be sworn in. If so, they will take their places in front of the Speaker's desk and receive the oath of office.

Mr. BROUSSARD. Mr. Speaker, Mr. LEWIS L. MORGAN, a newly elected Member of the House from the sixth district of Louisiana, is present and desires to be sworn in.

The SPEAKER. The Chair will state to the gentleman from Louisiana that the credentials of his colleague [Mr. MORGAN] have not yet been received.

Mr. BROUSSARD. I ask unanimous consent that the gentleman from Louisiana [Mr. MORGAN] be sworn in.

The SPEAKER. There is no question about his election?

Mr. BROUSSARD. None whatever.

The SPEAKER. The gentleman from Louisiana [Mr. BROUSSARD] asks unanimous consent that his colleague [Mr. MORGAN] be sworn in in advance of the receipt of his credentials, there being no question of his election. Is there objection?

There was no objection.

The SPEAKER. The Clerk will read the following memorandum:

The Clerk read as follows:

CLERK'S OFFICE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., December 2, 1912.

Hon. CHAMP CLARK,
Speaker of the House of Representatives.

DEAR SIR: The following certificates of election to the Sixty-second Congress have been received and filed:

Hon. ARCHIBALD C. HART, of the State of New Jersey, to fill vacancy caused by the resignation of Hon. William Hughes.

Hon. GEORGE C. SCOTT, of the State of Iowa, to fill the vacancy caused by the death of Hon. Elbert H. Hubbard.

Hon. EDWIN A. MERRITT, Jr., of the State of New York, to fill the vacancy caused by the death of Hon. George R. Malby.

Respectfully,

SOUTH TRIMBLE,
Clerk of House of Representatives.

The SPEAKER. The Chair will state that the credentials of the three Members referred to in this memorandum have been received, and that they are correct in every respect. Unless there be objection, the Chair will assume that unanimous consent is given to waive the reading of the credentials, and the Members elect will receive the oath of office.

Messrs. MORGAN of Louisiana, HART of New Jersey, SCOTT of Iowa, and MERRITT of New York appeared at the bar of the House and took the oath of office.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolutions:

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that Congress is ready to receive any communication he may be pleased to make.

In compliance with the foregoing resolution the President pro tempore appointed as said committee Mr. CULLOM and Mr. MARTIN of Virginia.

Also:

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled, and that the Senate is ready to proceed to business.

NOTIFICATION OF THE PRESIDENT.

Mr. UNDERWOOD. Mr. Speaker, I offer the following resolution, which I send to the Clerk's desk.

The Clerk read as follows:

House resolution 710.

Resolved, That a committee of three Members be appointed on the part of the House to join the committee appointed by the Senate to wait upon the President and inform him that a quorum of the two Houses has assembled and that Congress is ready to receive any communication he may have to make.

The resolution was agreed to, and the Speaker appointed Messrs. UNDERWOOD, JOHNSON of Kentucky, and MANN as members of the committee on the part of the House.

NOTIFICATION OF THE SENATE.

Mr. FITZGERALD. Mr. Speaker, I present the following resolution and ask for its immediate consideration.

The Clerk read as follows:

House resolution 711.

Resolved, That the Clerk of the House inform the Senate that a quorum of the House of Representatives has appeared, and that the House is ready to proceed to business.

The resolution was agreed to.

DAILY HOUR OF MEETING.

Mr. HAY. Mr. Speaker, I offer the following resolution and ask for its immediate consideration.

The Clerk read as follows:

House resolution 712.

Resolved, That until otherwise ordered the hour of daily meeting of the House of Representatives shall be 12 o'clock m.

The resolution was agreed to.

THE LATE REPRESENTATIVE ANDERSON OF OHIO.

Mr. ANSBERRY. Mr. Speaker, I offer the following resolutions, which I send to the Clerk's desk and ask for their immediate consideration.

The Clerk read as follows:

House resolution 713.

Resolved, That the House has heard with profound sorrow of the death of the Hon. CARL CAREY ANDERSON, a Representative from the State of Ohio.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The resolutions were agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate has heard with profound sorrow the announcement of the death of Hon. ISIDOR RAYNER, late a Senator from the State of Maryland.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Also:

Resolved, That the Senate has heard with profound sorrow of the death of the Hon. WELDON BRINTON HEYBURN, late a Senator from the State of Idaho.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

Also:

Resolved, That the Senate has heard with profound sorrow and regret the announcement of the death of JAMES SCHOOLCRAFT SHERMAN, late Vice President of the United States.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Also:

Resolved, That as a further mark of respect to the memory of the late Vice President JAMES SCHOOLCRAFT SHERMAN and the late Senators WELDON BRINTON HEYBURN and ISIDOR RAYNER, whose deaths have just been announced, the Senate do now adjourn.

THE LATE REPRESENTATIVE UTTER.

Mr. O'SHAUNESSY. Mr. Speaker, I offer the following resolutions and ask for their immediate consideration.

The Clerk read as follows:

House resolution 714.

Resolved, That the House has heard with profound sorrow of the death of Hon. GEORGE HERBERT UTTER, late a Member of the House from the State of Rhode Island.

Resolved, That the Clerk of the House be directed to transmit a copy of these resolutions to the Senate and send a copy thereof to the family of the deceased.

The resolutions were agreed to.

DEATH OF SENATOR RAYNER.

Mr. LINTHICUM. Mr. Speaker, I offer the following resolutions, which I send to the desk, and ask for their immediate consideration.

The Clerk read as follows:

House resolution 715.

Resolved, That the House has heard with profound sorrow of the death of Hon. ISIDOR RAYNER, a Senator of the United States from the State of Maryland.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased Senator.

The resolutions were agreed to.

THE LATE REPRESENTATIVE CONNELL.

Mr. SULZER. Mr. Speaker, I offer the following resolutions and ask for their immediate consideration.

The Clerk read as follows:

House resolution 716.

Resolved, That the House of Representatives has heard with profound sorrow of the death of the Hon. RICHARD E. CONNELL, late a Representative from the State of New York.

Resolved, That the Clerk be directed to communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The resolutions were agreed to.

DEATH OF THE VICE PRESIDENT.

Mr. CANNON. Mr. Speaker, I announce to the House that JAMES SCHOOLCRAFT SHERMAN, Vice President of the United States, departed this life at his home in Utica, N. Y., on the 30th day of October, 1912.

The admirable administration of the high office which he held, the second in the gift of the Republic, his brilliant and useful career for so many years in the House of Representatives, his sympathetic touch with every class, the unsullied purity of his public and private life, had so impressed the country that his death occasioned expression of deep-felt grief so universal as to manifest a general and profound sense of national bereavement.

Congress will doubtless, by concurrent action of the two Houses, at an early moment set apart a time for proper expression touching the life, character, and services of this eminent citizen.

I move you, sir, that out of regard for his memory and the memory of the Members of this House and of the Senate who have departed this life since the adjournment of the last session of Congress this House do now adjourn.

The motion was agreed to; and accordingly (at 1 o'clock and 8 minutes p. m.) the House adjourned until to-morrow, Tuesday, December 3, 1912, at 12 o'clock noon.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BROWNING (by request): A bill (H. R. 26454) to establish a complete financial and banking system for the United States of America; to the Committee on Banking and Currency.

By Mr. HOLLAND: A bill (H. R. 26455) to provide for an examination and survey of Elizabeth River, Va., with special reference to Norfolk Harbor, including approaches thereto and channel to Newport News, with a view to increasing the width of the 35-foot channel and providing additional anchoring space; to the Committee on Rivers and Harbors.

By Mr. BARCHFELD: A bill (H. R. 26456) to provide for the purchase of a site and the erection of a public building thereon at McKees Rocks, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. GARNER: A bill (H. R. 26457) to increase the limit of cost for the Federal building heretofore authorized at Corpus Christi, Tex.; to the Committee on Public Buildings and Grounds.

By Messrs. DALZELL, BARCHFELD, and PORTER: A bill (H. R. 26458) to provide for the erection of a public building at Pittsburgh, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. DE FOREST: A bill (H. R. 26459) to loan to the State of New York the brass fieldpieces and one brass howitzer captured by Gen. Burgoyne at the Battle of Saratoga; to the Committee on Military Affairs.

By Mr. DODDS: A bill (H. R. 26460) granting a pension to Roy Layton Moffatt; to the Committee on Invalid Pensions.

By Mr. ROBERTS of Massachusetts: A bill (H. R. 26461) to authorize the construction of a public building at Malden, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. CLAYTON: A bill (H. R. 26462) to authorize the Supreme Court to prescribe forms and rules and generally to regulate pleading, procedure, and practice on the common-law side of the Federal courts; to the Committee on the Judiciary.

By Mr. BURKE of Pennsylvania: A bill (H. R. 26463) for the erection of a public building at Pittsburgh, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. DE FOREST: A bill (H. R. 26464) to pension all persons who have served or hereafter serve as President of the United States of America, including their widows and minor children; to the Committee on Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 26465) for the erection of a Federal building for the United States post office at Warren, R. I.; to the Committee on Public Buildings and Grounds.

By Mr. SCULLY: A bill (H. R. 26466) to provide for the examination and survey of the Manasquan River, N. J.; to the Committee on Rivers and Harbors.

By Mr. NORRIS: A bill (H. R. 26467) to increase the limit of cost of the public building at McCook, Nebr.; to the Committee on Public Buildings and Grounds.

By Mr. HART: Resolution (H. Res. 717) authorizing Postmaster of House to appoint messenger for session; to the Committee on Accounts.

By Mr. O'SHAUNESSY: Resolution (H. Res. 718) that a committee be appointed to investigate alleged violations of the antitrust act of July 2, 1890, and various other acts supplementary thereto and amendatory thereof; to the Committee on Rules.

By Mr. AYRES: Resolution (H. Res. 719) requesting the Secretary of the Navy to furnish the House with the result of investigations as to the use of the Diesel oil engine; to the Committee on Naval Affairs.

By Mr. LINDBERGH: Resolution (H. Res. 720) directing the Committee on Banking and Currency to report as to its investigation of the Money Trust; to the Committee on Rules.

By Mr. TALBOTT of Maryland: Resolution (H. Res. 721) authorizing appointment of messenger to Joint Select Committee on Disposition of Useless Executive Papers; to the Committee on Accounts.

By Mr. CARLIN: Resolution (H. Res. 722) authorizing the Committee on the Judiciary to employ additional assistant clerk; to the Committee on Accounts.

By Mr. BURGESS: Joint resolution (H. J. Res. 363) requesting the President to consider the expediency of effecting a treaty with European powers providing for the neutralization of the Philippine Islands and to protect an independent government there when established; to the Committee on Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 26468) granting a pension to Augusta J. Houser; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26469) granting an increase of pension to Phoebe Dorton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26470) granting an increase of pension to John B. Stults; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26471) granting an increase of pension to James S. Strother; to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 26472) granting an increase of pension to George W. Durkee; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 26473) granting a pension to Thomas West; to the Committee on Pensions.

Also, a bill (H. R. 26474) granting an increase of pension to John W. Etiner; to the Committee on Invalid Pensions.

By Mr. BROWNING: A bill (H. R. 26475) granting a pension to Mettie Baymore; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26476) granting an increase of pension to William K. Ridgate; to the Committee on Pensions.

By Mr. CAMPBELL: A bill (H. R. 26477) granting an increase of pension to Abram H. Birdsall; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26478) granting an increase of pension to David D. Mikesell; to the Committee on Invalid Pensions.

By Mr. CARLIN: A bill (H. R. 26479) to transfer Capt. Armistead Rust from the retired to the active list of the United States Navy; to the Committee on Naval Affairs.

By Mr. COPLEY: A bill (H. R. 26480) granting a pension to Wiley L. Edmonds; to the Committee on Pensions.

Also, a bill (H. R. 26481) granting an increase of pension to Sarah M. Kinley; to the Committee on Invalid Pensions.

By Mr. DAUGHERTY: A bill (H. R. 26482) for the relief of the county of Barton, State of Missouri; to the Committee on War Claims.

By Mr. FAIRCHILD: A bill (H. R. 26483) granting a pension to Augusta H. Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26484) granting an increase of pension to Helen E. Stowal; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26485) granting an increase of pension to Eliza Butts; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26486) granting a pension to Ann E. Cummings; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26487) granting an increase of pension to Susan M. Rynders; to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 26488) granting a pension to Leora R. Maxon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26489) granting an increase of pension to Mary L. Merchant; to the Committee on Invalid Pensions.

By Mr. GREGG of Pennsylvania: A bill (H. R. 26490) granting a pension to Mary J. France; to the Committee on Invalid Pensions.

By Mr. GUERNSEY: A bill (H. R. 26491) granting a pension to Leonora V. Lunt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26492) granting a pension to Joseph M. Arey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26493) granting an increase of pension to Michael Cassidy; to the Committee on Invalid Pensions.

By Mr. KORBLY: A bill (H. R. 26494) granting a pension to Curtis O. Hayes; to the Committee on Pensions.

By Mr. LAFEAN: A bill (H. R. 26495) to correct the military record of Frederick Sapp; to the Committee on Military Affairs.

Also, a bill (H. R. 26496) granting an increase of pension to David F. Forney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26497) granting an increase of pension to William G. Stine; to the Committee on Invalid Pensions.

By Mr. LANGHAM: A bill (H. R. 26498) granting an increase of pension to John Travis Mathews; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26499) granting an increase of pension to John E. Stumpf; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26500) granting a pension to James P. Jack; to the Committee on Pensions.

Also, a bill (H. R. 26501) granting a pension to Nancy J. Sharp; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26502) granting an increase of pension to John A. Bennett; to the Committee on Invalid Pensions.

By Mr. LINDSAY: A bill (H. R. 26503) granting an increase of pension to Laura V. Brooke; to the Committee on Pensions.

By Mr. MAHER: A bill (H. R. 26504) granting an increase of pension to Catherine C. Schryver; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 26505) granting a pension to Edward W. Deegan; to the Committee on Pensions.

By Mr. MORRISON: A bill (H. R. 26506) for the relief of Frank W. Tucker; to the Committee on War Claims.

By Mr. PETERS: A bill (H. R. 26507) granting a pension to Marion A. Hey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26508) granting a pension to Margaret Gately; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26509) granting a pension to Annie McLeod; to the Committee on Pensions.

Also, a bill (H. R. 26510) granting a pension to Cornelius O'Leary; to the Committee on Pensions.

By Mr. REDFIELD: A bill (H. R. 26511) granting a pension to Nellie McMillan; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 26512) granting a pension to Walter J. Hawthorne; to the Committee on Pensions.

Also, a bill (H. R. 26513) granting a pension to Verena Ray Hartman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26514) granting an increase of pension to Rosanna Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26515) granting an increase of pension to Sarah M. Mitchell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26516) granting an increase of pension to Gould T. Hubbell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26517) granting an increase of pension to John M. Culver; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26518) granting a pension to Mary G. Doyle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26519) granting an increase of pension to William A. S. Welch; to the Committee on Invalid Pensions.

By Mr. ROBERTS of Massachusetts: A bill (H. R. 26520) granting an increase of pension to Charles H. Colgate; to the Committee on Invalid Pensions.

By Mr. SCULLY: A bill (H. R. 26521) granting an increase of pension to Ellen V. N. Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26522) granting a pension to Laura Culberson; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 26523) granting a pension to John King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26524) granting an increase of pension to Belle Spencer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26525) granting a pension to John W. Morse; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26526) granting an increase of pension to Sarah Ann Wamsley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26527) granting a pension to Augusta Batdorf; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26528) granting an increase of pension to Carver S. Griffin; to the Committee on Invalid Pensions.

By Mr. SMITH of New York: A bill (H. R. 26529) granting an increase of pension to George H. Harris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26530) granting an increase of pension to Conrad Haag; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26531) granting a pension to William C. Roderick; to the Committee on Pensions.

Also, a bill (H. R. 26532) granting an increase of pension to Charles Meal; to the Committee on Invalid Pensions.

By Mr. STEPHENS of Texas: A bill (H. R. 26533) granting a pension to Rebecca J. Pool; to the Committee on Invalid Pensions.

By Mr. WILLIS: A bill (H. R. 26534) granting an increase of pension to James McEvoy; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: A bill (H. R. 26535) granting an increase of pension to Ferdinand Jubitz; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Papers to accompany bill (H. R. 26497) for relief of Thomas West; to the Committee on Pensions.

Also, petition of Division No. 564, Order of Railway Conductors, of Orrville, Ohio, protesting against the enactment of Senate bill 5382; to the Committee on the Judiciary.

Also, papers to accompany bill (H. R. 26027) for the relief of John W. Etinel; to the Committee on Invalid Pensions.

By Mr. BURKE of Wisconsin: Petition of John V. Zweck and 12 other merchants of Beaver Dam, Wis.; of William Peters and 3 other merchants of West Bend, Wis.; and of Mrs. K. Endlick and 4 other merchants of Keewaskum, Wis., asking that the Interstate Commerce Commission be given further power for the regulation of express rates; to the Committee on the Judiciary.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring passage of bill (H. R. 17736) reducing rate of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, asking for a change in the manner in which national elections are held; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, petition of Milwaukee (Wis.) Council, No. 54, Order of United Commercial Travelers of America, favoring passage of House bill 20590, providing for a change of date of the general election; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, petition of Merchants and business men of Beaver Dam and Horicon, Wis., protesting against any change in the present parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. ESCH: Petition of the Memphis Merchants' Exchange, favoring passage of Pomerene substitute bill (S. 957); to the Committee on Interstate and Foreign Commerce.

Also, petition of Farmers' Educational and Cooperative Union of America, favoring passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FITZGERALD: Petition of the Council of Grain Exchange, Chicago, Ill., favoring passage of Senate bill 6810, the Pomerene Senate substitute bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of the board of directors of the Maritime Association of the Port of New York, favoring establishment of a Weather Bureau station at Sandy Hook; to the Committee on Appropriations.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring passage of House bill 20590, changing the date of the general election; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring passage of House bill 17736, for reduction of postage rate to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Manila Welfare Committee, urging a bond issue of $10,000,000 be issued, so that $2,250,000 be made available for urgent humanitarian purposes; to the Committee on Appropriations.

Also, petition of Farmers' Educational and Cooperative Union of America, favoring passage of Senate bill 3175, relative to immigration; to the Committee on Immigration and Naturalization.

By Mr. FULLER: Papers to accompany bill (H. R. 25354) for relief of Charles Logan; to the Committee on Invalid Pensions.

Also, papers to accompany bill for relief of Mrs. Mary L. Merchant; to the Committee on Invalid Pensions.

Also, petition of Branch No. 221, National Association of Letter Carriers, Bayonne, N. J., relative to prevailing upon Congressman THOMAS REILLY to accept an invitation as honor guest at a dinner showing their appreciation of his successful efforts in passing the postal employees' eight-ten hour law; to the Committee on Labor.

By Mr. LAFEAN: Papers accompanying bill granting increase of pension to William G. Stine; to the Committee on Invalid Pensions.

By Mr. LEVY: Petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring a change in the date of the general election; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, petition of the Maritime Association of the Port of New York, favoring the establishment of a Weather Bureau station at Sandy Hook; to the Committee on Appropriations.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring reduction of postage rate to 1 cent; to the Committee on the Post Office and Post Roads.

By Mr. LINDSAY: Petition of Farmers' Educational and Cooperative Union of America, of Rogue, Ark., favoring passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of A. Habernicht & Co., of New York, protesting against the passage of the Webb-Kenyon bill; to the Committee on the Judiciary.

By Mr. REILLY: Petition of the National Society for the Promotion of Industrial Education, favoring the passage of the Page-Wilson bill; to the Committee on Agriculture.

Also, petition of the New Haven Chamber of Commerce, New Haven, Conn., favoring the widening of the main channel of the New Haven Harbor; to the Committee on Rivers and Harbors.

Also, petition of the New Haven Chamber of Commerce, New Haven, Conn., favoring passage of House bill 26277, for creation of final court of patent appeals; to the Committee on the Judiciary.

Also, petition of the Board of Harbor Commissioners for New Haven Harbor, favoring the widening and improvement of the main channel of the New Haven Harbor; to the Committee on Rivers and Harbors.

Also, petition of Farmers' Educational and Cooperative Union of America, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. WILLIS: Petition of Robinson & Richter Co. and 4 other citizens of Milford Center, Ohio, and Ambrose & Knight and 10 other citizens of Urbana, Ohio, favoring enactment of legislation giving Interstate Commerce Commission further power toward regulation of express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. WILSON of New York: Petition of the Maritime Association of the Port of New York, favoring establishment of a Weather Bureau station at Sandy Hook; to the Committee on Appropriations.

Also, petition of the Wyckoff Heights Taxpayers' Association, of Brooklyn, N. Y., relative to giving the postmen a holiday on Thanksgiving Day; to the Committee on the Post Office and Post Roads.

SENATE.

TUESDAY, *December 3, 1912.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

NORRIS BROWN, a Senator from the State of Nebraska; MILES POINDEXTER, a Senator from the State of Washington; WILLIAM ALDEN SMITH, a Senator from the State of Michigan; and GEORGE SUTHERLAND, a Senator from the State of Utah, appeared in their seats to-day.

The Journal of yesterday's proceedings was read and approved.

SENATORS FROM IDAHO AND MARYLAND.

Mr. BORAH. I present the certificate of the governor of the State of Idaho naming Hon. KIRTLAND I. PERKY a Senator to succeed the late WELDON B. HEYBURN. I ask that it be read.

The credentials of KIRTLAND I. PERKY, appointed by the governor of the State of Idaho a Senator from that State to fill until the next meeting of the legislature thereof the vacancy in the term ending March 3, 1915, were read and ordered to be filed.

Mr. SMITH of Maryland. I present the certificate of the governor of Maryland appointing Mr. WILLIAM P. JACKSON a Senator from Maryland to succeed Hon. ISIDOR RAYNER, deceased. I ask that the credentials may be read.

The credentials of WILLIAM PURNELL JACKSON, appointed by the governor of the State of Maryland a Senator from that State to fill until the next meeting of the legislature thereof the vacancy in the term ending March 3, 1917, were read and ordered to be filed.

Mr. BORAH. I desire to state that the Senator who has been appointed from Idaho is now in the Chamber and ready to take the oath of office.

Mr. SMITH of Maryland. Mr. JACKSON is also present and ready to be sworn.

The PRESIDENT pro tempore. The Senators who have been appointed will present themselves at the desk and take the oath of office.

Mr. PERKY and Mr. JACKSON were escorted to the Vice President's desk by Mr. BORAH and Mr. SMITH of Maryland, respectively; and the oath prescribed by law having been administered to them, they took their seats in the Senate.

CREDENTIALS.

Mr. FOSTER presented the credentials of ROBERT F. BROUSSARD, chosen by the Legislature of the State of Louisiana a Senator

from that State for the term beginning March 4, 1915, which were read and ordered to be filed.

NOTIFICATION TO THE PRESIDENT.

Mr. CULLOM and Mr. MARTIN of Virginia, the committee appointed to wait on the President of the United States, appeared, and

Mr. CULLOM said: Mr. President, the committee appointed to wait upon the President of the United States in connection with a similar committee on the part of the House of Representatives and inform him that the two Houses had organized and were ready to receive any communication he might be pleased to make have performed that duty. The President stated to the committee that he would communicate with the two Houses this morning in writing. I understand that his message is now in the hands of an executive clerk at the door.

PRESIDENT'S ANNUAL MESSAGE (H. DOC. NO. 927).

M. C. Latta, one of the executive clerks, appeared and said:

I am directed by the President of the United States to deliver to the Senate a message in writing.

The message was received by the Secretary and handed to the President pro tempore.

The PRESIDENT pro tempore. The Chair lays before the Senate a message from the President of the United States, which will be read.

The Secretary read the message, as follows:

To the Senate and House of Representatives:

The foreign relations of the United States actually and potentially affect the state of the Union to a degree not widely realized and hardly surpassed by any other factor in the welfare of the whole Nation. The position of the United States in the moral, intellectual, and material relations of the family of nations should be a matter of vital interest to every patriotic citizen. The national prosperity and power impose upon us duties which we can not shirk if we are to be true to our ideals. The tremendous growth of the export trade of the United States has already made that trade a very real factor in the industrial and commercial prosperity of the country. With the development of our industries the foreign commerce of the United States must rapidly become a still more essential factor in its economic welfare. Whether we have a farseeing and wise diplomacy and are not recklessly plunged into unnecessary wars, and whether our foreign policies are based upon an intelligent grasp of present-day world conditions and a clear view of the potentialities of the future, or are governed by a temporary and timid expediency or by narrow views befitting an infant nation, are questions in the alternative consideration of which must convince any thoughtful citizen that no department of national polity offers greater opportunity for promoting the interests of the whole people on the one hand, or greater chance on the other of permanent national injury, than that which deals with the foreign relations of the United States.

The fundamental foreign policies of the United States should be raised high above the conflict of partisanship and wholly dissociated from differences as to domestic policy. In its foreign affairs the United States should present to the world a united front. The intellectual, financial, and industrial interests of the country and the publicist, the wage earner, the farmer, and citizen of whatever occupation must cooperate in a spirit of high patriotism to promote that national solidarity which is indispensable to national efficiency and to the attainment of national ideals.

The relations of the United States with all foreign powers remain upon a sound basis of peace, harmony, and friendship. A greater insistence upon justice to American citizens or interests wherever it may have been denied and a stronger emphasis of the need of mutuality in commercial and other relations have only served to strengthen our friendships with foreign countries by placing those friendships upon a firm foundation of realities as well as aspirations.

Before briefly reviewing the more important events of the last year in our foreign relations, which it is my duty to do as charged with their conduct and because diplomatic affairs are not of a nature to make it appropriate that the Secretary of State make a formal annual report, I desire to touch upon some of the essentials to the safe management of the foreign relations of the United States and to endeavor, also, to define clearly certain concrete policies which are the logical modern corollaries of the undisputed and traditional fundamentals of the foreign policy of the United States.

REORGANIZATION OF THE STATE DEPARTMENT.

At the beginning of the present administration the United States, having fully entered upon its position as a world power, with the responsibilities thrust upon it by the results of the Spanish-American War, and already engaged in laying the groundwork of a vast foreign trade upon which it should one day become more and more dependent, found itself without the machinery for giving thorough attention to, and taking effective action upon, a mass of intricate business vital to American interests in every country in the world.

The Department of State was an archaic and inadequate machine lacking most of the attributes of the foreign office of any great modern power. With an appropriation made upon my recommendation by the Congress on August 5, 1909, the Department of State was completely reorganized. There were created Divisions of Latin-American Affairs and of Far Eastern, Near Eastern, and Western European Affairs. To these divisions were called from the foreign service diplomatic and consular officers possessing experience and knowledge gained by actual service in different parts of the world and thus familiar with political and commercial conditions in the regions concerned. The work was highly specialized. The result is that where previously this Government from time to time would emphasize in its foreign relations one or another policy, now American interests in every quarter of the globe are being cultivated with equal assiduity. This principle of politico-geographical division possesses also the good feature of making possible rotation between the officers of the departmental, the diplomatic, and the consular branches of the foreign service, and thus keeps the whole diplomatic and consular establishments under the Department of State in close touch and equally inspired with the aims and policy of the Government. Through the newly created Division of Information the foreign service is kept fully informed of what transpires from day to day in the international relations of the country, and contemporary foreign comment affecting American interests is promptly brought to the attention of the department. The law offices of the department were greatly strengthened. There were added foreign-trade advisers to cooperate with the diplomatic and consular bureaus and the politico-geographical divisions in the innumerable matters where commercial diplomacy or consular work calls for such special knowledge. The same officers, together with the rest of the new organization, are able at all times to give to American citizens accurate information as to conditions in foreign countries with which they have business and likewise to cooperate more effectively with the Congress and also with the other executive departments.

MERIT SYSTEM IN CONSULAR AND DIPLOMATIC CORPS.

Expert knowledge and professional training must evidently be the essence of this reorganization. Without a trained foreign service there would not be men available for the work in the reorganized Department of State. President Cleveland had taken the first step toward introducing the merit system in the foreign service. That had been followed by the application of the merit principle, with excellent results, to the entire consular branch. Almost nothing, however, had been done in this direction with regard to the Diplomatic Service. In this age of commercial diplomacy it was evidently of the first importance to train an adequate personnel in that branch of the service. Therefore, on November 26, 1909, by an Executive order I placed the Diplomatic Service up to the grade of secretary of embassy, inclusive, upon exactly the same strict nonpartisan basis of the merit system, rigid examination for appointment and promotion only for efficiency, as had been maintained without exception in the Consular Service.

STATISTICS AS TO MERIT AND NONPARTISAN CHARACTER OF APPOINTMENTS.

How faithful to the merit system and how nonpartisan has been the conduct of the Diplomatic and Consular Services in the last four years may be judged from the following: Three ambassadors now serving held their present rank at the beginning of my administration. Of the 10 ambassadors whom I have appointed, 5 were by promotion from the rank of minister. Nine ministers now serving held their present rank at the beginning of the administration. Of the 30 ministers whom I have appointed, 11 were promoted from the lower grades of the foreign service or from the Department of State. Of the 19 missions in Latin America, where our relations are close and our interest is great, 15 chiefs of mission are service men, 3 having entered the service during this administration. The 37 secretaries of embassy or legation who have received their initial appointments after passing successfully the required examination were chosen for ascertained fitness, without regard to political affiliations. A dearth of candidates from Southern and Western States has alone made it impossible thus far completely to equalize all the States' representations in the foreign service. In the effort to equalize the representation of the various States in the Consular Service I have made 16 of the 29 new appointments as consul which have occurred during my administration from the Southern States. This is 55 per cent.

Every other consular appointment made, including the promotion of 11 young men from the consular assistant and student interpreter corps, has been by promotion or transfer, based solely upon efficiency shown in the service.

In order to assure to the business and other interests of the United States a continuance of the resulting benefits of this reform, I earnestly renew my previous recommendations of legislation making it permanent along some such lines as those of the measure now pending in Congress.

LARGER PROVISION FOR EMBASSIES AND LEGATIONS AND FOR OTHER EXPENSES OF OUR FOREIGN REPRESENTATIVES RECOMMENDED.

In connection with legislation for the amelioration of the foreign service, I wish to invite attention to the advisability of placing the salary appropriations upon a better basis. I believe that the best results would be obtained by a moderate scale of salaries, with adequate funds for the expenses of proper representation, based in each case upon the scale and cost of living at each post, controlled by a system of accounting, and under the general direction of the Department of State.

In line with the object which I have sought of placing our foreign service on a basis of permanency, I have at various times advocated provision by Congress for the acquisition of Government-owned buildings for the residence and offices of our diplomatic officers, so as to place them more nearly on an equality with similar officers of other nations and to do away with the discrimination which otherwise must necessarily be made, in some cases, in favor of men having large private fortunes. The act of Congress which I approved on February 17, 1911, was a right step in this direction. The Secretary of State has already made the limited recommendations permitted by the act for any one year, and it is my hope that the bill introduced in the House of Representatives to carry out these recommendations will be favorably acted on by the Congress during its present session.

In some Latin-American countries the expense of Government-owned legations will be less than elsewhere, and it is certainly very urgent that in such countries as some of the Republics of Central America and the Caribbean, where it is peculiarly difficult to rent suitable quarters, the representatives of the United States should be justly and adequately provided with dignified and suitable official residences. Indeed, it is high time that the dignity and power of this great Nation should be fittingly signalized by proper buildings for the occupancy of the Nation's representatives everywhere abroad.

DIPLOMACY A HANDMAID OF COMMERCIAL INTERCOURSE AND PEACE.

The diplomacy of the present administration has sought to respond to modern ideas of commercial intercourse. This policy has been characterized as substituting dollars for bullets. It is one that appeals alike to idealistic humanitarian sentiments, to the dictates of sound policy and strategy, and to legitimate commercial aims. It is an effort frankly directed to the increase of American trade upon the axiomatic principle that the Government of the United States shall extend all proper support to every legitimate and beneficial American enterprise abroad. How great have been the results of this diplomacy, coupled with the maximum and minimum provision of the tariff law, will be seen by some consideration of the wonderful increase in the export trade of the United States. Because modern diplomacy is commercial, there has been a disposition in some quarters to attribute to it none but materialistic aims. How strikingly erroneous is such an impression may be seen from a study of the results by which the diplomacy of the United States can be judged.

SUCCESSFUL EFFORTS IN PROMOTION OF PEACE.

In the field of work toward the ideals of peace this Government negotiated, but to my regret was unable to consummate, two arbitration treaties which set the highest mark of the aspiration of nations toward the substitution of arbitration and reason for war in the settlement of international disputes. Through the efforts of American diplomacy several wars have been prevented or ended. I refer to the successful tripartite mediation of the Argentine Republic, Brazil, and the United States between Peru and Ecuador; the bringing of the boundary dispute between Panama and Costa Rica to peaceful arbitration; the staying of warlike preparations when Haiti and the Dominican Republic were on the verge of hostilities; the stopping of a war in Nicaragua; the halting of internecine strife in Honduras. The Government of the United States was thanked for its influence toward the restoration of amicable relations between the Argentine Republic and Bolivia. The diplomacy of the United States is active in seeking to assuage the remaining ill-feeling between this country and the Republic of Colombia. In the recent civil war in China the United States successfully joined with the other interested powers in urging an early cessation of hostilities. An agreement has been reached between the Governments of Chile and Peru whereby the celebrated Tacna-Arica dispute, which has so long embittered international relations on the west coast of South America, has at last been adjusted. Simultaneously came the news that the boundary dispute between Peru and Ecuador had entered upon a stage of amicable settlement. The position of the United States in reference to the Tacna-Arica dispute between Chile and Peru has been one of nonintervention, but one of friendly influence and pacific counsel throughout the period during which the dispute in question has been the subject of interchange of views between this Government and the two Governments immediately concerned. In the general easing of international tension on the west coast of South America the tripartite mediation, to which I have referred, has been a most potent and beneficent factor.

CHINA.

In China the policy of encouraging financial investment to enable that country to help itself has had the result of giving new life and practical application to the open-door policy. The consistent purpose of the present administration has been to encourage the use of American capital in the development of China by the promotion of those essential reforms to which China is pledged by treaties with the United States and other powers. The hypothecation to foreign bankers in connection with certain industrial enterprises, such as the Hukuang railways, of the national revenues upon which these reforms depended, led the Department of State early in the administration to demand for American citizens participation in such enterprises, in order that the United States might have equal rights and an equal voice in all questions pertaining to the disposition of the public revenues concerned. The same policy of promoting international accord among the powers having similar treaty rights as ourselves in the matters of reform, which could not be put into practical effect without the common consent of all, was likewise adopted in the case of the loan desired by China for the reform of its currency. The principle of international cooperation in matters of common interest upon which our policy had already been based in all of the above instances has admittedly been a great factor in that concert of the powers which has been so happily conspicuous during the perilous period of transition through which the great Chinese nation has been passing.

CENTRAL AMERICA NEEDS OUR HELP IN DEBT ADJUSTMENT.

In Central America the aim has been to help such countries as Nicaragua and Honduras to help themselves. They are the immediate beneficiaries. The national benefit to the United States is twofold. First, it is obvious that the Monroe doctrine is more vital in the neighborhood of the Panama Canal and the zone of the Caribbean than anywhere else. There, too, the maintenance of that doctrine falls most heavily upon the United States. It is therefore essential that the countries within that sphere shall be removed from the jeopardy involved by heavy foreign debt and chaotic national finances and from the ever-present danger of international complications due to disorder at home. Hence the United States has been glad to encourage and support American bankers who were willing to lend a helping hand to the financial rehabilitation of such countries, because this financial rehabilitation and the protection of their custombouses from being the prey of would-be dictators would remove at one stroke the menace of foreign creditors and the menace of revolutionary disorder.

The second advantage to the United States is one affecting chiefly all the southern and Gulf ports and the business and industry of the South. The Republics of Central America and the Caribbean possess great natural wealth. They need only a measure of stability and the means of financial regeneration to enter upon an era of peace and prosperity, bringing profit and happiness to themselves and at the same time creating conditions sure to lead to a flourishing interchange of trade with this country.

I wish to call your especial attention to the recent occurrences in Nicaragua, for I believe the terrible events recorded there during the revolution of the past summer—the useless loss of life, the devastation of property, the bombardment of defenseless cities, the killing and wounding of women and children, the torturing of noncombatants to exact contributions, and the suffering of thousands of human beings—might have been averted had the Department of State, through approval of the loan convention by the Senate, been permitted to carry out its now well-developed policy of encouraging the extending of financial aid to weak Central American States with the primary objects of avoiding just such revolutions by assisting those Republics to rehabilitate their finances, to establish their currency on a stable basis, to remove the custom-

houses from the danger of revolutions by arranging for their secure administration, and to establish reliable banks.

During this last revolution in Nicaragua, the Government of that Republic having admitted its inability to protect American life and property against acts of sheer lawlessness on the part of the malcontents, and having requested this Government to assume that office, it became necessary to land over 2,000 marines and bluejackets in Nicaragua. Owing to their presence the constituted Government of Nicaragua was free to devote its attention wholly to its internal troubles, and was thus enabled to stamp out the rebellion in a short space of time. When the Red Cross supplies sent to Granada had been exhausted, 8,000 persons having been given food in one day upon the arrival of the American forces, our men supplied other unfortunate, needy Nicaraguans from their own haversacks. I wish to congratulate the officers and men of the United States Navy and Marine Corps who took part in reestablishing order in Nicaragua upon their splendid conduct, and to record with sorrow the death of seven American marines and bluejackets. Since the reestablishment of peace and order, elections have been held amid conditions of quiet and tranquillity. Near : all the American marines have now been withdrawn. The country should soon be on the road to recovery. The only apparent danger now threatening Nicaragua arises from the shortage of funds. Although American bankers have already rendered assistance, they may naturally be loath to advance a loan adequate to set the country upon its feet without the support of some such convention as that of June, 1911, upon which the Senate has not yet acted.

ENFORCEMENT OF NEUTRALITY LAWS.

In the general effort to contribute to the enjoyment of peace by those Republics which are near neighbors of the United States, the administration has enforced the so-called neutrality statutes with a new vigor, and those statutes were greatly strengthened in restricting the exportation of arms and munitions by the joint resolution of last March. It is still a regrettable fact that certain American ports are made the rendezvous of professional revolutionists and others engaged in intrigue against the peace of those Republics. It must be admitted that occasionally a revolution in this region is justified as a real popular movement to throw off the shackles of a vicious and tyrannical government. Such was the Nicaraguan revolution against the Zelaya régime. A nation enjoying our liberal institutions can not escape sympathy with a true popular movement, and one so well justified. In very many cases, however, revolutions in the Republics in question have no basis in principle, but are due merely to the machinations of conscienceless and ambitious men, and have no effect but to bring new suffering and fresh burdens to an already oppressed people. The question whether the use of American ports as foci of revolutionary intrigue can be best dealt with by a further amendment to the neutrality statutes or whether it would be safer to deal with special cases by special laws is one worthy of the careful consideration of the Congress.

VISIT OF SECRETARY KNOX TO CENTRAL AMERICA AND THE CARIBBEAN.

Impressed with the particular importance of the relations between the United States and the Republics of Central America and the Caribbean region, which of necessity must become still more intimate by reason of the mutual advantages which will be presented by the opening of the Panama Canal, I directed the Secretary of State last February to visit these Republics for the purpose of giving evidence of the sincere friendship and good will which the Government and people of the United States bear toward them. Ten Republics were visited. Everywhere he was received with a cordiality of welcome and a generosity of hospitality such as to impress me deeply and to merit our warmest thanks. The appreciation of the Governments and peoples of the countries visited, which has been appropriately shown in various ways, leaves me no doubt that his visit will conduce to that closer union and better understanding between the United States and those Republics which I have had it much at heart to promote.

OUR MEXICAN POLICY.

For two years revolution and counter-revolution have distraught the neighboring Republic of Mexico. Brigandage has involved a great deal of depredation upon foreign interests. There have constantly recurred questions of extreme delicacy. On several occasions very difficult situations have arisen on our frontier. Throughout the trying period the policy of the United States has been one of patient nonintervention, steadfast recognition of constituted authority in the neighboring nation, and the exertion of every effort to care for American interests. I profoundly hope that the Mexican nation may soon resume the path of order, prosperity, and progress. To that nation in its sore troubles the sympathetic friendship of the United States has been demonstrated to a high degree. There were in Mexico at the beginning of the revolution some thirty or forty thousand American citizens engaged in enterprises contributing greatly to the prosperity of that Republic and also benefiting the important trade between the two countries. The investment of American capital in Mexico has been estimated at $1,000,000,000. The responsibility of endeavoring to safeguard those interests and the dangers inseparable from propinquity to so turbulent a situation have been great, but I am happy to have been able to adhere to the policy above outlined—a policy which I hope may be soon justified by the complete success of the Mexican people in regaining the blessings of peace and good order.

AGRICULTURAL CREDITS.

A most important work, accomplished in the past year by the American diplomatic officers in Europe, is the investigation of the agricultural credit system in the European countries. Both as a means to afford relief to the consumers of this country through a more thorough development of agricultural resources and as a means of more sufficiently maintaining the agricultural population, the project to establish credit facilities for the farmers is a concern of vital importance to this Nation. No evidence of prosperity among well-established farmers should blind us to the fact that lack of capital is preventing a development of the Nation's agricultural resources and an adequate increase of the land under cultivation; that agricultural production is fast falling behind the increase in population; and that, in fact, although these well-established farmers are maintained in increasing prosperity because of the natural increase in population, we are not developing the industry of agriculture. We are not breeding in proportionate numbers a race of independent and independence-loving landowners, for a lack of which no growth of cities can compensate. Our farmers have been our mainstay in times of crisis, and in future it must still largely be upon their stability and common sense that this democracy must rely to conserve its principles of self-government.

The need of capital which American farmers feel to-day had been experienced by the farmers of Europe, with their centuries-old farms, many years ago. The problem had been successfully solved in the Old World and it was evident that the farmers of this country might profit by a study of their systems. I therefore ordered, through the Department of State, an investigation to be made by the diplomatic officers in Europe, and I have laid the results of this investigation before the governors of the various States with the hope that they will be used to advantage in their forthcoming meeting.

INCREASE OF FOREIGN TRADE.

In my last annual message I said that the fiscal year ended June 30, 1911, was noteworthy as marking the highest record of exports of American products to foreign countries. The fiscal year 1912 shows that this rate of advance has been maintained, the total domestic exports having a valuation approximately of $2,200,000,000, as compared with a fraction over $2,000,000,000 the previous year. It is also significant that manufactured and partly manufactured articles continue to be the chief commodities forming the volume of our augmented exports, the demands of our own people for consumption requiring that an increasing proportion of our abundant agricultural products be kept at home. In the fiscal year 1911 the exports of articles in the various stages of manufacture, not including foodstuffs partly or wholly manufactured, amounted approximately to $907,500,000. In the fiscal year 1912 the total was nearly $1,022,000,000, a gain of $114,000,000.

ADVANTAGE OF MAXIMUM AND MINIMUM TARIFF PROVISION.

The importance which our manufactures have assumed in the commerce of the world in competition with the manufactures of other countries again draws attention to the duty of this Government to use its utmost endeavors to secure impartial treatment for American products in all markets. Healthy commercial rivalry in international intercourse is best assured by the possession of proper means for protecting and promoting our foreign trade. It is natural that competitive countries should view with some concern this steady expansion of our commerce. If in some instances the measure taken by them to meet it are not entirely equitable, a remedy should be found. In former messages I have described the negotiations of the Department of State with foreign Governments for the adjustment of the maximum and minimum tariff as provided in section 2 of the tariff law of 1909. The advantages secured by the adjustment of our trade relations under this law have continued during the last year, and some additional cases of discriminatory treatment of which we had reason to complain have

been removed. The Department of State has for the first time in the history of this country obtained substantial most-favored-nation treatment from all the countries of the world. There are, however, other instances which, while apparently not constituting undue discrimination in the sense of section 2, are nevertheless exceptions to the complete equity of tariff treatment for American products that the Department of State consistently has sought to obtain for American commerce abroad.

NECESSITY FOR SUPPLEMENTARY LEGISLATION.

These developments confirm the opinion conveyed to you in my annual message of 1911, that while the maximum and minimum provision of the tariff law of 1909 has been fully justified by the success achieved in removing previously existing undue discriminations against American products, yet experience has shown that this feature of the law should be amended in such way as to provide a fully effective means of meeting the varying degrees of discriminatory treatment of American commerce in foreign countries still encountered, as well as to protect against injurious treatment on the part of foreign Governments, through either legislative or administrative measures, the financial interests abroad of American citizens whose enterprises enlarge the market for American commodities.

I can not too strongly recommend to the Congress the passage of some such enabling measure as the bill which was recommended by the Secretary of State in his letter of December 13, 1911. The object of the proposed legislation is, in brief, to enable the Executive to apply, as the case may require, to any or all commodities, whether or not on the free list from a country which discriminates against the United States, a graduated scale of duties up to the maximum of 25 per cent ad valorem provided in the present law. Flat tariffs are out of date. Nations no longer accord equal tariff treatment to all other nations irrespective of the treatment from them received. Such a flexible power at the command of the Executive would serve to moderate any unfavorable tendencies on the part of those countries from which the importations into the United States are substantially confined to articles on the free list as well as of the countries which find a lucrative market in the United States for their products under existing customs rates. It is very necessary that the American Government should be equipped with weapons of negotiation adapted to modern economic conditions, in order that we may at all times be in a position to gain not only technically just but actually equitable treatment for our trade, and also for American enterprise and vested interests abroad.

BUSINESS SECURED TO OUR COUNTRY BY DIRECT OFFICIAL EFFORT.

As illustrating the commercial benefits to the Nation derived from the new diplomacy and its effectiveness upon the material as well as the more ideal side, it may be remarked that through direct official efforts alone there have been obtained in the course of this administration contracts from foreign Governments involving an expenditure of $50,000,000 in the factories of the United States. Consideration of this fact and some reflection upon the necessary effects of a scientific tariff system and a foreign service alert and equipped to cooperate with the business men of America carry the conviction that the gratifying increase in the export trade of this country is, in substantial amount, due to our improved governmental methods of protecting and stimulating it. It is germane to these observations to remark that in the two years that have elapsed since the successful negotiation of our new treaty with Japan, which at the time seemed to present so many practical difficulties, our export trade to that country has increased at the rate of over $1,000,000 a month: Our exports to Japan for the year ended June 30, 1910, were $21,959,310, while for the year ended June 30, 1912, the exports were $53,478,046, a net increase in the sale of American products of nearly 150 per cent.

SPECIAL CLAIMS ARBITRATION WITH GREAT BRITAIN.

Under the special agreement entered into between the United States and Great Britain on August 18, 1910, for the arbitration of outstanding pecuniary claims, a schedule of claims and the terms of submission have been agreed upon by the two Governments, and together with the special agreement were approved by the Senate on July 19, 1911, but in accordance with the terms of the agreement they did not go into effect until confirmed by the two Governments by an exchange of notes, which was done on April 26 last. Negotiations are still in progress for a supplemental schedule of claims to be submitted to arbitration under this agreement, and meanwhile the necessary preparations for the arbitration of the claims included in the first schedule have been undertaken and are being carried on under the authority of an appropriation made for that purpose at the last session of Congress. It is anticipated that the two Governments will be prepared to call upon the arbitration tribunal, established under this agreement, to meet at Washington early next year to proceed with this arbitration.

FUR-SEAL TREATY AND NEED FOR AMENDMENT OF OUR STATUTE.

The act adopted at the last session of Congress to give effect to the fur-seal convention of July 7, 1911, between Great Britain, Japan, Russia, and the United States, provided for the suspension of all land killing of seals on the Pribilof Islands for a period of five years, and an objection has now been presented to this provision by the other parties in interest, which raises the issue as to whether or not this prohibition of land killing is inconsistent with the spirit, if not the letter, of the treaty stipulations. The justification for establishing this close season depends, under the terms of the convention, upon how far, if at all, it is necessary for protecting and preserving the American fur-seal herd and for increasing its number. This is a question requiring examination of the present condition of the herd and the treatment which it needs in the light of actual experience and scientific investigation. A careful examination of the subject is now being made, and this Government will soon be in possession of a considerable amount of new information about the American seal herd, which has been secured during the past season and will be of great value in determining this question; and if it should appear that there is any uncertainty as to the real necessity for imposing a close season at this time I shall take an early opportunity to address a special message to Congress on this subject, in the belief that this Government should yield on this point rather than give the slightest ground for the charge that we have been in any way remiss in observing our treaty obligations.

FINAL SETTLEMENT OF NORTH ATLANTIC FISHERIES DISPUTE.

On the 20th day of July last an agreement was concluded between the United States and Great Britain adopting, with certain modifications, the rules and method of procedure recommended in the award rendered by the North Atlantic Coast Fisheries Arbitration Tribunal on September 7, 1910, for the settlement hereafter, in accordance with the principles laid down in the award, of questions arising with reference to the exercise of the American fishing liberties under Article I of the treaty of October 20, 1818, between the United States and Great Britain. This agreement received the approval of the Senate on August 1 and was formally ratified by the two Governments on November 15 last. The rules and a method of procedure embodied in the award provided for determining by an impartial tribunal the reasonableness of any new fishery regulations on the treaty coasts of Newfoundland and Canada before such regulations could be enforced against American fishermen exercising their treaty liberties on those coasts, and also for determining the delimitation of bays on such coasts more than 10 miles wide, in accordance with the definition adopted by the tribunal of the meaning of the word "bays" as used in the treaty. In the subsequent negotiations between the two Governments, undertaken for the purpose of giving practical effect to these rules and methods of procedure, it was found that certain modifications therein were desirable from the point of view of both Governments, and these negotiations have finally resulted in the agreement above mentioned by which the award recommendations as modified by mutual consent of the two Governments are finally adopted and made effective, thus bringing this century-old controversy to a final conclusion, which is equally beneficial and satisfactory to both Governments.

IMPERIAL VALLEY AND MEXICO.

In order to make possible the more effective performance of the work necessary for the confinement in their present channel of the waters of the lower Colorado River, and thus to protect the people of the Imperial Valley, as well as in order to reach with the Government of Mexico an understanding regarding the distribution of the waters of the Colorado River, in which both Governments are much interested, negotiations are going forward with a view to the establishment of a preliminary Colorado River commission, which shall have the powers necessary to enable it to do the needful work and with authority to study the question of the equitable distribution of the waters. There is every reason to believe that an understanding upon this point will be reached and that an agreement will be signed in the near future.

CHAMIZAL DISPUTE.

In the interest of the people and city of El Paso this Government has been assiduous in its efforts to bring to an early settlement the long-standing Chamizal dispute with Mexico. Much has been accomplished, and, while the final solution of the dispute is not immediate, the favorable attitude lately assumed by the Mexican Government encourages the hope that this troublesome question will be satisfactorily and definitively settled at an early day.

INTERNATIONAL COMMISSION OF JURISTS.

In pursuance of the convention of August 23, 1906, signed at the Third Pan American Conference, held at Rio de Janeiro, the International Commission of Jurists met at that capital during the month of last June. At this meeting 16 American Republics were represented, including the United States, and comprehensive plans for the future work of the commission were adopted. At the next meeting, fixed for June, 1914, committees already appointed are instructed to report regarding topics assigned to them.

OPIUM CONFERENCE—UNFORTUNATE FAILURE OF OUR GOVERNMENT TO ENACT RECOMMENDED LEGISLATION.

In my message on foreign relations communicated to the two Houses of Congress December 7, 1911, I called especial attention to the assembling of the Opium Conference at The Hague, to the fact that that conference was to review all pertinent municipal laws relating to the opium and allied evils, and certainly all international rules regarding these evils, and to the fact that it seemed to me most essential that the Congress should take immediate action on the antinarcotic legislation before the Congress, to which I had previously called attention by a special message.

The international convention adopted by the conference conforms almost entirely to the principles contained in the proposed antinarcotic legislation which has been before the last two Congresses. It was most unfortunate that this Government, having taken the initiative in the international action which eventuated in the important international opium convention, failed to do its share in the great work by neglecting to pass the necessary legislation to correct the deplorable narcotic evil in the United States as well as to redeem international pledges upon which it entered by virtue of the above-mentioned convention. The Congress at its present session should enact into law those bills now before it which have been so carefully drawn up in collaboration between the Department of State and the other executive departments, and which have behind them not only the moral sentiment of the country, but the practical support of all the legitimate trade interests likely to be affected. Since the international convention was signed adherence to it has been made by several European States not represented at the conference at The Hague and also by 17 Latin-American Republics.

EUROPE AND THE NEAR EAST.

The war between Italy and Turkey came to a close in October last by the signature of a treaty of peace, subsequent to which the Ottoman Empire renounced sovereignty over Cyrenaica and Tripolitania in favor of Italy. During the past year the Near East has unfortunately been the theater of constant hostilities. Almost simultaneously with the conclusion of peace between Italy and Turkey and their arrival at an adjustment of the complex question at issue between them war broke out between Turkey on the one hand and Bulgaria, Greece, Montenegro, and Servia on the other. The United States has happily been involved neither directly nor indirectly with the causes or questions incident to any of these hostilities and has maintained in regard to them an attitude of absolute neutrality and of complete political disinterestedness. In the second war in which the Ottoman Empire has been engaged the loss of life and the consequent distress on both sides have been appalling, and the United States has found occasion, in the interest of humanity, to carry out the charitable desires of the American people to extend a measure of relief to the sufferers on either side through the impartial medium of the Red Cross. Beyond this the chief care of the Government of the United States has been to make due provision for the protection of its nationals resident in belligerent territory. In the exercise of my duty in this matter I have dispatched to Turkish waters a special service squadron, consisting of two armored cruisers, in order that this Government may if need be bear its part in such measures as it may be necessary for the interested nations to adopt for the safeguarding of foreign lives and property in the Ottoman Empire in the event that a dangerous situation should develop. In the meanwhile the several interested European powers have promised to extend to American citizens the benefit of such precautionary or protective measures as they might adopt, in the same manner in which it has been the practice of this Government to extend its protection to all foreigners resident in those countries of the Western Hemisphere in which it has from time to time been the task of the United States to act in the interest of peace and good order. The early appearance of a large fleet of European warships in the Bosphorus apparently assured the protection of foreigners in that quarter, where the presence of the American stationnaire, the U. S. S. *Scorpion*, sufficed, under the circumstances, to represent the United States. Our cruisers were thus left free to act if need be along the Mediterranean coasts should any unexpected contingency arise affecting the numerous American interests in the neighborhood of Smyrna and Beirut.

SPITZBERGEN.

The great preponderance of American material interests in the subarctic island of Spitzbergen, which has always been regarded politically as "no man's land," impels this Government to a continued and lively interest in the international dispositions to be made for the political governance and administration of that region. The conflict of certain claims of American citizens and others is in a fair way to adjustment, while the settlement of matters of administration, whether by international conference of the interested powers or otherwise, continues to be the subject of exchange of views between the Governments concerned.

LIBERIA.

As a result of the efforts of this Government to place the Government of Liberia in position to pay its outstanding indebtedness and to maintain a stable and efficient government, negotiations for a loan of $1,700,000 have been successfully concluded, and it is anticipated that the payment of the old loan and the issuance of the bonds of the 1912 loan for the rehabilitation of the finances of Liberia will follow at an early date, when the new receivership will go into active operation. The new receivership will consist of a general receiver of customs designated by the Government of the United States and three receivers of customs designated by the Governments of Germany, France, and Great Britain, which countries have commercial interests in the Republic of Liberia.

In carrying out the understanding between the Government of Liberia and that of the United States, and in fulfilling the terms of the agreement between the former Government and the American bankers, three competent ex-army officers are now effectively employed by the Liberian Government in reorganizing the police force of the Republic, not only to keep in order the native tribes in the hinterland, but to serve as a necessary police force along the frontier. It is hoped that these measures will assure not only the continued existence but the prosperity and welfare of the Republic of Liberia. Liberia possesses fertility of soil and natural resources which should insure to its people a reasonable prosperity. It was the duty of the United States to assist the Republic of Liberia in accordance with our historical interest and moral guardianship of a community founded by American citizens, as it was also the duty of the American Government to attempt to assure permanence to a country of much sentimental and perhaps future real interest to a large body of our citizens.

MOROCCO.

The legation at Tangier is now in charge of our consul general, who is acting as chargé d'affaires, as well as caring for our commercial interests in that country. In view of the fact that many of the foreign powers are now represented by chargés d'affaires, it has not been deemed necessary to appoint at the present time a minister to fill a vacancy occurring in that post.

THE FAR EAST.

The political disturbances in China in the autumn and winter of 1911–12 resulted in the abdication of the Manchu rulers on February 12, followed by the formation of a provisional republican government empowered to conduct the affairs of the nation until a permanent government might be regularly established. The natural sympathy of the American people with the assumption of republican principles by the Chinese people was appropriately expressed in a concurrent resolution of Congress on April 17, 1912. A constituent assembly, composed of representatives duly chosen by the people of China in the elections that are now being held, has been called to meet in January next to adopt a permanent constitution and organize the Government of the nascent Republic. During the formative constitutional stage and pending definite action by the assembly, as expressive of the popular will and the hoped-for establishment of a stable republican form of government capable of fulfilling its international obligations, the United States is, according to precedent, maintaining full and friendly de facto relations with the provisional government.

The new condition of affairs thus created has presented many serious and complicated problems, both of internal rehabilitation and of international relations, whose solution it was realized would necessarily require much time and patience. From the beginning of the upheaval last autumn it was felt by the United States, in common with the other powers having large interests in China, that independent action by the foreign Governments in their own individual interests would add further confusion to a situation already complicated. A policy of international cooperation was accordingly adopted in an understanding, reached early in the disturbances, to act together for the protection of the lives and property of foreigners if menaced, to maintain an attitude of strict impartiality as between the contending factions, and to abstain from any endeavor to influence the Chinese in their organization of a new form of government. In view of the seriousness of the disturbances and their general character, the American minister at Peking was instructed at his discretion to advise our nationals in the affected districts to concentrate at such centers as were easily accessible to foreign troops or men-of-war. Nineteen of our naval vessels were stationed at various Chinese ports, and other measures were promptly taken for the adequate protection of American interests.

It was further mutually agreed, in the hope of hastening an end to hostilities, that none of the interested powers would approve the making of loans by its nationals to either side. As soon, however, as a united provisional government of China was assured, the United States joined in a favorable consideration of that government's request for advances needed for immediate administrative necessities and later for a loan to effect a permanent national reorganization. The interested Governments had already, by common consent, adopted, in respect to the purposes, expenditure, and security of any loans to China made by their nationals, certain conditions which were held to be essential not only to secure reasonable protection for the foreign investors, but also to safeguard and strengthen China's credit by discouraging indiscriminate borrowing and by insuring the application of the funds toward the establishment of the stable and effective government necessary to China's welfare. In June last representative banking groups of the United States, France, Germany, Great Britain, Japan, and Russia formulated, with the general sanction of their respective Governments, the guaranties that would be expected in relation to the expenditure and security of the large reorganization loan desired by China, which, however, have thus far proved unacceptable to the provisional government.

SPECIAL MISSION OF CONDOLENCE TO JAPAN.

In August last I accredited the Secretary of State as special ambassador to Japan, charged with the mission of bearing to the imperial family, the Government, and the people of that Empire the sympathetic message of the American Commonwealth on the sad occasion of the death of His Majesty the Emperor Mutsuhito, whose long and benevolent reign was the greater part of Japan's modern history. The kindly reception everywhere accorded to Secretary Knox showed that his mission was deeply appreciated by the Japanese nation and emphasized strongly the friendly relations that have for so many years existed between the two peoples.

SOUTH AMERICA.

Our relations with the Argentine Republic are most friendly and cordial. So, also, are our relations with Brazil, whose Government has accepted the invitation of the United States to send two army officers to study at the Coast Artillery School at Fort Monroe. The long-standing Alsop claim, which had been the only hindrance to the healthy growth of the most friendly relations between the United States and Chile, having been eliminated through the submission of the question to His Britannic Majesty King George V as "amiable compositeur," it is a cause of much gratification to me that our relations with Chile are now established upon a firm basis of growing friendship. The Chilean Government has placed an officer of the United States Coast Artillery in charge of the Chilean Coast Artillery School, and has shown appreciation of American methods by confiding to an American firm important work for the Chilean coast defenses.

Last year a revolution against the established Government of Ecuador broke out at the principal port of that Republic. Previous to this occurrence the chief American interest in Ecuador, represented by the Guayaquil & Quito Railway Co., incorporated in the United States, had rendered extensive transportation and other services on account to the Ecuadorian Government, the amount of which ran into a sum which was steadily increasing and which the Ecuadorian Government had made no provision to pay, thereby threatening to crush out the very existence of this American enterprise. When tranquillity had been restored to Ecuador as a result of the triumphant progress of the Government forces from Quito, this Government interposed its good offices to the end that the American interests in Ecuador might be saved from complete extinction. As a part of the arrangement which was reached between the parties, and at the request of the Government of Ecuador, I have consented to name an arbitrator, who, acting under the terms of the railroad contract, with an arbitrator named by the Ecuadorian Government, will pass upon the claims that have arisen since the arrangement reached through the action of a similar arbitral tribunal in 1908.

In pursuance of a request made some time ago by the Ecuadorian Government, the Department of State has given much attention to the problem of the proper sanitation of Guayaquil. As a result a detail of officers of the Canal Zone will be sent to Guayaquil to recommend measures that will lead to the complete permanent sanitation of this plague and fever infected region of that Republic, which has for so long constituted a menace to health conditions on the Canal Zone. It is hoped that the report which this mission will furnish will point out a way whereby the modicum of assistance which the United States may properly lend the Ecuadorian Government may be made effective in ridding the west coast of South America of a focus of contagion to the future commercial current passing through the Panama Canal.

In the matter of the claim of John Celestine Landreau against the Government of Peru, which claim arises out of certain contracts and transactions in connection with the discovery and exploitation of guano, and which has been under discussion between the two Governments since 1874, I am glad to report that as the result of prolonged negotiations, which have been characterized by the utmost friendliness and good will on both sides, the Department of State has succeeded in securing the consent of Peru to the arbitration of the claim, and that the negotiations attending the drafting and signature of a protocol submitting the claim to an arbitral tribunal are proceeding with due celerity.

An officer of the American Public Health Service and an American sanitary engineer are now on the way to Iquitos, in the employ of the Peruvian Government, to take charge of the sanitation of that river port. Peru is building a number of submarines in this country, and continues to show every desire to have American capital invested in the Republic.

In July the United States sent undergraduate delegates to the Third International Students' Congress held at Lima, American students having been for the first time invited to one of these meetings.

The Republic of Uruguay has shown its appreciation of American agricultural and other methods by sending a large commission to this country and by employing many American experts to assist in building up agricultural and allied industries in Uruguay.

Venezuela is paying off the last of the claims the settlement of which was provided for by the Washington protocols, including those of American citizens. Our relations with Venezuela are most cordial, and the trade of that Republic with the United States is now greater than with any other country.

CENTRAL AMERICA AND THE CARIBBEAN.

During the past summer the revolution against the administration which followed the assassination of President Caceres a year ago last November brought the Dominican Republic to the verge of administrative chaos, without offering any guaranties of eventual stability in the ultimate success of either party. In pursuance of the treaty relations of the United States with the Dominican Republic, which were threatened by the necessity of suspending the operation under American administration of the customhouses on the Haitian frontier, it was found necessary to dispatch special commissioners to the island to reestablish the customhouses and with a guard sufficient to insure needed protection to the customs administration. The efforts which have been made appear to have resulted in the restoration of normal conditions throughout the Republic. The good offices which the commissioners were able to exercise were instrumental in bringing the contending parties together and in furnishing a basis of adjustment which it is hoped will result in permanent benefit to the Dominican people.

Mindful of its treaty relations, and owing to the position of the Government of the United States as mediator between the Dominican Republic and Haiti in their boundary dispute, and because of the further fact that the revolutionary activities on the Haitian-Dominican frontier had become so active as practically to obliterate the line of demarcation that had been heretofore recognized pending the definitive settlement of the boundary in controversy, it was found necessary to indicate to the two island Governments a provisional de facto boundary line. This was done without prejudice to the rights or obligations of either country in a final settlement to be reached by arbitration. The tentative line chosen was one which, under the circumstances brought to the knowledge of this Government, seemed to conform to the best interests of the disputants. The border patrol which it had been found necessary to reestablish for customs purposes between the two countries was instructed provisionally to observe this line.

The Republic of Cuba last May was in the throes of a lawless uprising that for a time threatened the destruction of a great deal of valuable property—much of it owned by Americans and other foreigners—as well as the existence of the Government itself. The armed forces of Cuba being inadequate to guard property from attack and at the same time properly to operate against the rebels, a force of American marines was dispatched from our naval station at Guantanamo into the Province of Oriente for the protection of American and other foreign life and property. The Cuban Government was thus able to use all its forces in putting down the outbreak, which it succeeded in doing in a period of six weeks. The presence of two American warships in the harbor of Habana during the most critical period of this disturbance contributed in great measure to allay the fears of the inhabitants, including a large foreign colony.

There has been under discussion with the Government of Cuba for some time the question of the release by this Government of its leasehold rights at Bahia Honda, on the northern coast of Cuba, and the enlargement, in exchange therefor, of the naval station which has been established at Guantanamo Bay, on the south. As the result of the negotiations thus carried on an agreement has been reached between the two Governments providing for the suitable enlargement of the Guantanamo Bay station upon terms which are entirely fair and equitable to all parties concerned.

At the request alike of the Government and both political parties in Panama, an American commission undertook supervision of the recent presidential election in that Republic, where our treaty relations, and, indeed, every geographical consideration, make the maintenance of order and satisfactory conditions of peculiar interest to the Government of the United States. The elections passed without disorder, and the new administration has entered upon its functions.

The Government of Great Britain has asked the support of the United States for the protection of the interests of British holders of the foreign bonded debt of Guatemala. While this Government is hopeful of an arrangement equitable to the British bondholders, it is naturally unable to view the question apart from its relation to the broad subject of financial stability in Central America, in which the policy of the United States does not permit it to escape a vital interest. Through a renewal of negotiations between the Government of Guatemala and American bankers, the aim of which is a loan for the rehabilitation of Guatemalan finances, a way appears to be open by which the Government of Guatemala could promptly satisfy any equitable and just British claims, and at the same time so improve its whole financial position as to contribute greatly to the increased prosperity of the Republic and to redound to the benefit of foreign investments and foreign trade with that country. Failing such an arrangement, it may become impossible for the Government of the United States to escape its obligations in connection with such measures as may become necessary to exact justice to legitimate foreign claims.

In the recent revolution in Nicaragua, which, it was generally admitted, might well have resulted in a general Central American conflict but for the intervention of the United States, the Government of Honduras was especially menaced; but fortunately peaceful conditions were maintained within the borders of that Republic. The financial condition of that country remains unchanged, no means having been found for the final adjustment of pressing outstanding foreign claims. This makes it the more regrettable that the financial convention between the United States and Honduras has thus far failed of ratification. The Government of the United States continues to hold itself ready to cooperate with the Government of Honduras, which, it is believed, can not much longer delay the meeting of its foreign obligations, and it is hoped at the proper time American bankers will be willing to cooperate for this purpose.

NECESSITY FOR GREATER GOVERNMENTAL EFFORT IN RETENTION AND EXPANSION OF OUR FOREIGN TRADE.

It is not possible to make to the Congress a communication upon the present foreign relations of the United States so detailed as to convey an adequate impression of the enormous increase in the importance and activities of those relations. If this Government is really to preserve to the American people that free opportunity in foreign markets which will soon be indispensable to our prosperity, even greater efforts must be made. Otherwise the American merchant, manufacturer, and exporter will find many a field in which American trade should logically predominate preempted through the more energetic efforts of other governments and other commercial nations.

There are many ways in which through hearty cooperation the legislative and executive branches of this Government can do much. The absolute essential is the spirit of united effort and singleness of purpose. I will allude only to a very few specific examples of action which ought then to result. America can not take its proper place in the most important fields for its commercial activity and enterprise unless we have a merchant marine. American commerce and enterprise can not be effectively fostered in those fields unless we have good American banks in the countries referred to. We need American newspapers in those countries and proper means for public information about them. We need to assure the permanency of a trained foreign service. We need legislation enabling the members of the foreign service to be systematically brought in direct contact with the industrial, manufacturing, and exporting interests of this country in order that American business men may enter the foreign field with a clear perception of the exact conditions to be dealt with and the officers themselves may prosecute their work with a clear idea of what American industrial and manufacturing interests require.

CONCLUSION.

Congress should fully realize the conditions which obtain in the world as we find ourselves at the threshold of our middle age as a Nation. We have emerged full grown as a peer in the great concourse of nations. We have passed through various formative periods. We have been self-centered in the struggle to develop our domestic resources and deal with our domestic questions. The Nation is now too mature to continue in its foreign relations those temporary expedients natural to a people to whom domestic affairs are the sole concern. In the past our diplomacy has often consisted, in normal times, in a mere assertion of the right to international existence. We are now in a larger relation with broader rights of our own and obligations to others than ourselves. A number of great guiding principles were laid down early in the history of this Government. The recent task of our diplomacy has been to adjust those principles to the conditions of to-day, to develop their corollaries, to find practical applications of the old principles expanded to meet new situations. Thus are being evolved bases upon which can rest the superstructure of policies which must grow with the destined progress of this Nation. The successful conduct of our foreign relations demands a broad and a modern view. We can not meet new questions nor build for the future if we confine ourselves to outworn dogmas of the past and to the perspective appropriate at our emergence from colonial times and conditions. The opening of the Panama Canal will mark a new era in our international life and create new and world-wide conditions which, with their vast correlations and consequences, will obtain for hundreds of years to come. We must not wait for events to overtake us unawares. With continuity of purpose we must deal with the problems of our external relations by a diplomacy modern, resourceful, magnanimous, and fittingly expressive of the high ideals of a great nation.

WM. H. TAFT.

THE WHITE HOUSE, *December 3, 1912.*

The PRESIDENT pro tempore. The message with the accompanying documents will be printed and lie on the table.

COURT OF CUSTOMS APPEALS (S. DOC. NO. 957).

The PRESIDENT pro tempore laid before the Senate a communication from the Attorney General transmitting, pursuant to law, a statement of the expenditures of the appropriation for the United States Court of Customs Appeals for the year ended June 30, 1912, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

MESSAGE FROM THE HOUSE.

J. C. South, Chief Clerk of the House of Representatives, appeared and delivered the following message:

Mr. President, I am directed by the House of Representatives to inform the Senate that a quorum of the House of Representatives has assembled, and that the House is ready to proceed to business.

Also, that a committee of three Members has been appointed by the Speaker on the part of the House of Representatives to join a committee of the Senate to wait upon the President of the United States and inform him that a quorum of the two Houses has assembled and that Congress is ready to receive any communication he may have to make, and that Mr. UNDERWOOD, Mr. JOHNSON of Kentucky, and Mr. MANN have been appointed members of the committee on the part of the House.

PETITIONS.

Mr. CULLOM presented a petition of sundry citizens of Clay City, Ill., praying for the enactment of legislation to prohibit the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

Mr. WETMORE presented a resolution adopted by the State Federation of Woman's Clubs of Rhode Island, favoring the

enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was referred to the Committee on Agriculture and Forestry.

SUPPORT OF AGRICULTURAL COLLEGES.

Mr. SMITH of Georgia. There have been pending in the Senate and in the House since early in January bills providing for the creation of extension departments in the different agricultural colleges established as a result of national legislation. A few days before the close of the last session the bill passed the House of Representatives. I desire to present a memorial from the Association of American Agricultural Colleges and Experiment Stations favoring the passage of this legislation and also extracts from letters indorsing the same. I ask that the memorials be printed in the RECORD.

The PRESIDENT pro tempore. Does the Senator from Georgia desire a reference to a committee?

Mr. SMITH of Georgia. I merely desire to have the papers printed in the RECORD.

There being no objection, the memorial and accompanying papers were ordered to lie on the table and to be printed in the RECORD, as follows:

MEMORIAL TO THE UNITED STATES SENATE.

The Association of American Agricultural Colleges and Experiment Stations, in session at Atlanta, Ga., November 14, 1912, most respectfully requests the United States Senate to pass the agricultural extension bill, H. R. 22871, during the coming session of the Sixty-second Congress.

For some years the institutions represented in this association have been urging the development of work in agricultural extension for the purpose of carrying to the farmer in his own community the successful experience of the experiment stations and the approved teachings of the colleges of agriculture.

During the sessions of the Sixty-first Congress several bills looking to this end were introduced and hearings given to the representatives of the agricultural colleges, of the National Grange, of bankers' associations, and of others interested in the development of the Nation's agricultural resources.

On January 16, 1912, the Hon. HOKE SMITH introduced in the United States Senate and the Hon. A. F. LEVER introduced in the House of Representatives a bill to establish agricultural extension departments in connection with the agricultural colleges in the several States receiving the benefits of the act of Congress approved July 2, 1862. The bill now known as H. R. 22871, embodying substantially the provisions of the two bills referred to above, has passed the House of Representatives and is now pending in the Senate.

The provisions of this bill have been fully discussed in the hearings before the Committees on Agriculture in both the House of Representatives and the Senate. Its provisions are simple and clear. The bill seeks to bring to the practical farmer by correspondence, instruction, and demonstration the accumulated and approved experience and methods of the colleges and experiment stations during the past 50 years.

Fifty years ago the United States Congress passed the act providing for the land-grant colleges. Twenty-five years ago Congress passed the act providing for the experiment stations. Both these acts have been supplemented with legislation increasing the funds and the efficiency of both colleges and stations. It is now urged that on this anniversary year the agricultural extension bill be passed in order to enable these colleges to carry to the farmer who can not come to the college or station such demonstration of the results obtained in these institutions as shall enable him to maintain and develop the agricultural resources under his direction. This movement we believe to be in accord with sound public policy lying at the basis of the economic policies looking toward increased production as an important factor in determining the comfort and welfare of the whole people. This bill naturally and logically completes the chain of agencies fostered by the Federal Government for the betterment of agriculture. Hitherto we have maintained laboratories and field experiments at our colleges and stations, have put the results into bulletins, and have taught them in the classroom. It is now proposed to take these results to the local community, carry the school to the farmer, and make his own fields a laboratory in which we can demonstrate the value of science when applied to agriculture.

The association would call the attention of the Senate to two facts: First, the universal approval the country over of the wisdom of passing the land-grant act after an experience of 50 years; of the equally universal approval of the country of the act providing for the experiment stations after an experience of 25 years; and,

Second, to the fact that the agricultural interests as represented by farmers, the colleges, the experiment stations, the agricultural press, and other interests as represented in bankers' associations and philanthropic agencies of various names are all united in a desire to see the bill for agricultural extension become a law.

The Association of Agricultural Colleges believing that these extension departments should be established without delay, and believing that this measure should receive favorable consideration upon its own merits without complication with other legislation, does most respectfully urge upon the Senate of the United States the importance of passing the bill for the establishing of agricultural extension departments in the agricultural colleges of the several States at the earliest possible date, to the end that the legislatures of the different States, many of which meet in January, may have opportunity to accept the provisions of the bill, and to put the departments into operation during the coming year.

Attention is respectfully called to the hearings before the Committee on Agriculture and Forestry in the United States Senate, Sixty-second Congress, second session (S. 4563), March 1, 1912, for a more complete statement of the merits of the bill and of the reasons for its enactment into law.

Passed by the Association of American Agricultural Colleges and Experiment Stations, Atlanta, Ga., November 14, 1912.

WINTHROP E. STONE, *President.*

Attest:

JOSEPH L. HILLS, *Secretary.*

Abstract of indorsements of S. 4563, a bill to establish agricultural extension departments, etc.

ALABAMA.

President State Agricultural and Mechanical College says it is "a splendid piece of prospective legislation."

President Alabama Polytechnic Institute: "We regard this work as one of the greatest possible goods that can be rendered by the Government to our great farming interests * * *. This sort of constructive work done with the Government money seems to me is of even more value than what might be called the destructive work of the appropriations for guns and battleships."

ARIZONA.

President University of Arizona: "The newer sections of the country are in great need of the national help that such a bill as yours contemplates * * *. I am glad the whole subject is engaging the attention of Congress * * *."

ARKANSAS.

President University of Arkansas: "I heartily approve of the bill and hope that it will be passed."

Dean and director College of Agriculture: "Senate bill 4563 * * * is a piece of proposed legislation which, to my mind, is of great importance."

CALIFORNIA.

President University of California: "There is no way in which we can do real good for the masses of our people better than through agricultural extension work * * *. There can be no question about our favoring the bill; we know what it means."

CONNECTICUT.

President Connecticut Agricultural College: "My personal opinion is that carrying of the latest scientific knowledge to the working farmer is one of the most important duties of the land-grant colleges. I sincerely hope that this bill will have favorable consideration by the present session of Congress."

DELAWARE.

President Delaware College: "I am very much pleased, indeed, to hear that the bill * * * has been read twice and referred to the Committee on Agriculture and Forestry * * *. Boys and girls of the common-school and high-school ages usually decide into what sphere of life they wish to enter. Formerly the dearth of agricultural education in that formative period rendered it impossible for the boy or girl to realize the importance of such instruction, and consequently the country boy usually found a home in the city. I believe that this condition of affairs will be remedied by the operation of such a bill as you have proposed."

FLORIDA.

President University of Florida: "I sincerely hope that you will be successful in passing this measure. Our State at the present time is giving $7,500 annually for farmers' institutes and agricultural extension work. With double this amount we believe that the efficiency of the agricultural extension work would be quadrupled, as paradoxical as this may seem."

GEORGIA.

Chancellor University of Georgia: "It is the best bill for extension work that I have ever seen. It is the only bill for extension work which I have been able to read and understand. If there is any way in which I can aid in its passage, I will be glad to know it."

President State College of Agriculture: "We are naturally very much gratified to see the progress you are making with your measure in the Senate, and hope Mr. LEVER will have equal success in the House."

HAWAII.

President the College of Hawaii: "I have read the bill over carefully and heartily commend your efforts to secure this benefit for the large and important class of our people who are in need of its provisions. This is constructive legislation of the truest type. Efficiency and contentment in agriculture are at the foundation of the Nation's welfare. * * * I believe that extension teaching is most important of all our methods for the propagation of knowledge. * * * There is sufficient data to show that the endowment for the agricultural colleges and experiment stations and the appropriations for the Department of Agriculture must be considered as among the best investments that the Nation has ever made."

IDAHO.

President University of Idaho: "Even with the best preparation we can make and the most generous support from the Government in all of its divisions we expect to be swamped by applications for assistance through extension instruction. Practically every community in the State is clamoring for extension work, and only a small percentage of the requests can be complied with. With reasonable support, however, from the United States and the State we may expect that practically the whole agricultural population of Idaho will go to school for a portion of each year."

ILLINOIS.

Vice president University of Illinois: "The bill, S. 4563, introduced by you into the Senate of the United States is one of very great importance to the people of our country, and if passed is destined to work wonderfully great results. It is well known to everybody who has thought on the matter that agriculture with us is in a state of low development. * * * The people of the rural districts are not sharing adequately in the general prosperity of the country, and the latter can not be maintained without a forward movement among these rural people. Everywhere of late is heard the cry, 'Back to the farm.' But until the farm becomes as desirable as a source of living and of community life no adequate result can be reached. This bill will serve in a practical way to make this movement really successful. * * * The University of Illinois is doing a great deal of this work now from State appropriations. It can do much more with the aid that the bill is destined to give."

Editor Orange Judd Farmer, Chicago: "The demonstration idea has not been given great attention at the North. Its wonderful success South ought to be sufficient proof that it would be just as satisfactory at the North. We are heartily in favor of this kind of work. I am very anxious to do what I can to help this bill along."

INDIANA.

President Purdue University: "I am in favor of this kind of legislation rather than some of the other measures which are now before Congress. * * * I find the demands upon us for attention and for work which we would like to do far in excess of our resources. This

kind of work is the thing now most needed in our agricultural colleges, and I hope the measure will pass."

KANSAS.

President State Agricultural College: "We shall be very glad to do anything necessary to be done to indicate the interest of the farming classes in this matter and to assure the Members of Congress that they will appreciate the enactment of a law along the line of this bill."

KENTUCKY.

Editor Home and Farm, Louisville: "The policy will result in great good. * * * Only through a better agricultural education will the farmers be able to diversify their crops intelligently, care for their soils, and increase their profits."

MAINE.

President University of Maine: "I have gone over Senate bill 4563 with very great interest. I see nothing whatever to criticize or change in the bill. If this bill becomes a law, it will enable the land-grant colleges to render unusual service to the people of this country. If I can be of any service in bringing about the favorable consideration of this bill it will be a pleasure."

MASSACHUSETTS.

President Massachusetts Agricultural College: "I am more than glad to give a hearty indorsement to the bill. * * * I think that this is one of the most important educational measures ever introduced into Congress. I believe the time is ripe for a great Federal movement in popular education in agriculture and rural affairs. The States are doing something, but we need the stimulus, direction, and practical assistance of the National Government. * * * You will find the agricultural educators and farmers of America back of you in this effort to inaugurate a great movement. I know of nothing that the present Congress could do that would be more popular. I hope the bill may be passed at this session."

MICHIGAN.

President Michigan Agricultural College: "This bill has my hearty indorsement, and I hope may pass. I shall do all I can to that end."

MISSISSIPPI.

President Agricultural and Mechanical College: "I heartily indorse your bill. While I was president of the American Association of Institute Workers I delivered an address urging that such a bill be passed by the National Congress. Extension work is by far the most important work of the land-grant colleges at this time. * * * We already have enough information to transform our agriculture if we could get the people to incorporate it in their practices."

MONTANA.

President Montana State College of Agriculture and Mechanic Arts: "I am heartily in favor of this movement, and I believe that the provisions of this bill will meet the approval of all the interests concerned. The amount required to carry out this bill is insignificant, and yet it will stimulate the States to expend several times this amount."

NEBRASKA.

Chancellor University of Nebraska: "The University of Nebraska has already organized a department of agricultural extension. For lack of funds, however, our work is conducted mainly along the line of farmers' institutes. I have read the bill and most cordially indorse it in every particular."

NEW JERSEY.

President Rutgers College: "I am glad to express to you my emphatic indorsement of this measure and my earnest hope that it will be passed. The State Agricultural College of New Jersey, Rutgers College, is surely in position to do extension work throughout the State, and the work ought to be done."

NEVADA.

President College of Agriculture and Mechanical Arts: "I heartily approve your bill and hope that it will be adopted."

NEW HAMPSHIRE.

President New Hampshire College of Agriculture and the Mechanic Arts: "My personal belief is that if this bill is passed by Congress it will be one of the wisest pieces of legislation since the land-grant act of 1862. * * * To my mind agricultural extension work is of the utmost importance at the present time. Our experiment stations have accumulated a large mass of facts and our colleges have done a wonderful work in accumulating and assimilating agricultural information of all kinds, and the most important thing we can do now is to extend this information to the farmers. This can be done only by demonstration and by other practical, thoroughgoing methods. I hope that your bill will receive the hearty support of every Member of Congress."

NEW MEXICO.

President New Mexico College of Agriculture and Mechanic Arts: "I have read the bill with great care and will say that I believe it to be the best of the several bills now pending before Congress which have this object in view. Whatever may be the merits of the various propositions to have the Federal Government support agricultural high schools, trade schools, district agricultural schools, and branch experiment stations, it seems clear that none of these ought to be tied up with the agricultural extension proposition, of which almost everybody is in favor. The Association of Agricultural Colleges at its recent meeting took the position that the support of agricultural extension work was the most important advance movement to be accomplished by legislation at this time."

NEW YORK.

President Cornell University: "It is a species of instruction which appeals to the public more than college instruction or investigation, for which provision has been made in previous acts of Congress."

NORTH CAROLINA.

President College of Agriculture and Mechanic Arts: "There is no work which the Nation can do now which would tell more for material progress than the extension work, which would be so healthfully aided by your bill. If there is anything that our farmers need more than another it is for some one to carry directly to them the vast amount of scientific knowledge about crops and methods which has been made available in the past few years. The passage of this bill would give an opportunity to do this thing, and I am sure no step could count more for progress than would be taken by such action on the part of our Congress."

NORTH DAKOTA.

President North Dakota Agricultural College: "A resolution was adopted at the Tristate Grain Growers' Convention, indorsing the passage of your bill, and as president of the convention I sent copies of the resolutions to the Members of both Houses in Minnesota and the two Dakotas. I trust the bill will find favor with both Congressmen and Senators and become a law."

OKLAHOMA.

President Oklahoma Agricultural and Mechanical College: "I am in hearty sympathy with the purpose of your bill."

OREGON.

President Oregon Agricultural College: "I am in hearty accord with all the provisions of this bill. I have already written Members of the Oregon delegation urging that they give it their support. The Oregon State Agricultural College has a regularly organized department or division for extension work in agriculture and home economics. One great need is for money with which to carry on this work. I sincerely trust that your bill may be passed by the present Congress."

PENNSYLVANIA.

President The Pennsylvania State College. "Let me thank you for copy of Senate bill 4563. * * * Wishing the bill success and thanking you for your efforts for the benefit of public education, I am, * * *."

Secretary State Horticultural Association of Pennsylvania: "I take this opportunity to especially commend Senate bill 4563, introduced by you, and to assure you of the interest and support of this association. This is a matter of immediate need and far-reaching advantage to the agricultural interests of the country. I sincerely hope that it may become a law."

RHODE ISLAND.

President Rhode Island State College: "I heartily approve of your bill and have no criticisms to make. This college has been prosecuting extension work for seven or eight years, laboring under the difficulty of lack of funds, but I am anxious to do whatever is possible to aid in the passage of this measure and have written our Senators accordingly."

SOUTH CAROLINA.

President the Clemson Agricultural College: "I have read this bill with a great deal of interest. * * * I consider it one of the most important pieces of constructive legislation proposed since the Hatch Act establishing the Agricultural Experiment Stations. There is no question but that the great need to-day is the dissemination of agricultural information among our rural people. We would welcome the passage of such a bill as yours, and assure you that we would try to make its application in South Carolina of the greatest usefulness to our people."

SOUTH DAKOTA.

President South Dakota State College: "The cause is one that has our hearty indorsement. I have not been negligent of Senate bill 4563. I believe that our delegation will support it."

Principal the School of Agriculture: "I think our farming people * * * have almost no realization of the advantages that will come from legislation of this kind. * * * I feel positive that this work will greatly advance the agricultural interests of this great State of South Dakota."

TENNESSEE.

President University of Tennessee: "I am heartily in favor of the passage of this act. I believe the work contemplated by it to be of the greatest importance. I will be glad to do anything in my power to influence its passage."

TEXAS.

President Agricultural and Mechanical College: "If this bill should become a law I am sure that it will mark a new era in agricultural education among the masses in America. * * * I can think of no expenditure of money by the Government that would be more remunerative to the Nation and which would redound to the amelioration of so large a number of our most deserving fellow citizens."

Editor Farm and Ranch: "This is a very important measure and one that should be passed without opposition."

UTAH.

President Agricultural College of Utah: "Utah established an agricultural extension department several years ago. * * * We are unable, however, with the means at our disposal, to meet the demands made upon us. * * * You are at perfect liberty to quote the officials of the Utah Agricultural College as being in very hearty sympathy with any measure for the promotion of our industrial life through the development of extension work among the farmers and farmers' wives throughout the country. It is possibly the most important work now lying before the agricultural colleges, since it permits the proper distribution among those who need it of the splendid mass of facts gathered by the agricultural experiment stations."

VIRGINIA.

President Virginia Polytechnic Institute: "This is by far the best proposition which has yet come forward. * * * The bill seems carefully drawn, and I can most heartily indorse it."

WASHINGTON.

Vice president the State College of Washington: "I have been waiting a little to find what was recommended by the meeting of the agricultural college representatives, and find that they are all of them backing this particular bill. There is certainly a large demand for more extension work in the country. We need to rationalize our education and make it more helpful to the young men and young women who do not expect to enter professional life. I will write to our Representatives and Senators and ask for their hearty cooperation in the passage of Senate bill 4563."

WEST VIRGINIA.

President West Virginia University: "I thank you very much for a copy of the bill sent and hasten to express my wish that it may become a law. * * * This is one of the greatest works for the benefit of the entire country to which public money can be devoted. It is through the extension work, and through it alone, as far as I can see, that the people of most of our rural communities can be thoroughly awakened to the need and value of agricultural education. The proposed bill seems to me to be satisfactory in every detail, and I hope that you will be successful in securing its passage."

Dean and director College of Agriculture, West Virginia University: "I am sending out a letter to some of our leading people urging the

support of your bill, and would like to send a copy of the bill with these letters. * * * We shall give this measure every support possible."

WISCONSIN.

Dean University of Wisconsin: "Bill, Senate 5463, * * * is to my mind the most suggestive measure that is under consideration in Congress for the advancement of the agricultural welfare of the Nation. What is needed most imperatively is the carrying of present agricultural knowledge to the man on the farm. * * * The agricultural extension service is the only way in which this can be most effectively accomplished, and your bill most satisfactorily fulfills this need. * * * We in Wisconsin will do all that we can to aid in the passage of this measure."

Secretary Wisconsin Country Life Conference Association: "The following resolution was unanimously adopted by the conference association, representing all the varied interests of country life and rural progress in all parts of Wisconsin:

"*Resolved*, That it is the sentiment of this conference association that we urge our Representatives in Congress to support the bill 'To establish agricultural extension departments in connection with the agricultural colleges in the several States,' etc. House bill No. 18160, Senate bill No. 4563.

"I take pleasure in acquainting you with representative Wisconsin sentiment on this measure."

Secretary Wisconsin Live Stock Breeders' Association: "Inclosed herewith please find copy of resolution passed unanimously by the Wisconsin Live Stock Breeders' Association, an organization representing all of Wisconsin's best live-stock breeders:

"MADISON, WIS., *February 8, 1912*.

"*Resolved*, That the Wisconsin Live Stock Breeders' Association assembled in annual convention heartily indorses the principle of Government aid to agricultural college extension as embodied in the Lever bill (House bill 18160), and that we authorize the secretary of this association to send a copy of these resolutions to the chairmen of the Senate and House Committees on Agriculture and to Members of the Wisconsin delegation in Congress.

"*Secretary Wisconsin Live Stock Breeders' Association.*"

Secretary National Association of State Universities: "I am deeply interested in your Senate bill 4563. The bill ought to pass, and I should be glad to cooperate with you in any way within my power to bring about the desired result."

Mr. W. O. Thompson, member executive committee Association of American Agricultural Colleges and Experiment Stations, and president Ohio State University: "As chairman of the executive committee of the Association of American Agricultural Colleges and Experiment Stations I should be very much pleased to be heard before the committees of both the House and Senate. As a little evidence of our interest, I may say that we started agricultural extension four years before the legislature authorized it, and had as many as 8,000 boys on the farms doing experimental work. * * * The Agricultural College Association expressed itself very decidedly last November in favor of agricultural extension."

Secretary New England Conference on Rural Progress: "At a meeting of the New England Conference on Rural Progress, March 8, at the offices of the State board of agriculture, State House, Boston, the following resolutions were unanimously voted:

"'Recognizing the latent possibilities of the New England States for agricultural development, especially along certain high-class, specialized lines, and realizing that this development can be most speedily and effectively brought about through well-organized extension teaching in agriculture, the New England Conference on Rural Progress, representing more than 70 organizations interested in rural life, to-day assembled in convention in the city of Boston, would respectfully urge upon Congress the necessity and advisability of passing legislation granting Federal funds for the development of extension teaching in agriculture. Of the bills now before Congress we believe Senate bill 4563 and H. R. 18160 to be the wisest and most practical forms of legislation yet proposed.'

"The delegates represent the agricultural colleges, the experiment stations, the State granges, and various special agricultural, live-stock, dairying, and other organizations and agencies of New England."

State superintendent of farmers' institutes, Lansing, Mich.: "At the Michigan State Round-up Farmers' Institute, held at this place on February 27 to March 1, at which representative farmers from more than 50 of the counties of the State were present, the following resolution was adopted:

"'Whereas Representative A. F. LEVER, of the seventh district of South Carolina, has introduced a bill to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act approved July 2, 1862, and acts supplementary thereto, and referred to the Committee on Agriculture: Therefore

"'*Resolved*, That the members of the Seventeenth Annual Farmers' Institute Round-up, in session at the Michigan Agricultural College, ask and urge its Senators and Members of Congress to favor the passage of this bill.'

"I would say that in addition to the above delegates the executive officers of the State grange, State Federation of Farmers' Clubs, State Horticultural Society, and nearly 1,000 farmers were present and voted unanimously for the resolution."

Editor Agricultural Epitomist, Spencer, Ind.: "I congratulate you on so far-reaching a measure as all S. 4563 is intended to be. If Congress does nothing else than pass this bill, it will justify the wisdom of the forefathers."

UNION CITY, GA., *February 26, 1912*.

Dr. A. M. SOULE
(*care Hon. Hoke Smith*), *Washington, D. C.*:

Resolutions adopted by Georgia Farmers' Union that the bills now pending in Congress which propose to appropriate a sum of money to each State for agricultural education, providing the State will appropriate a similar amount, known as House bill 18160 and Senate bill 4563, be heartily indorsed and supported.

J. F. MCDANIEL, *Secretary-Treasurer*.

THE INCOME TAX.

Mr. BURTON. I present a joint resolution of the General Assembly of the State of Ohio, dated January 19, 1911, in ratification of the proposed amendment to the Constitution of the United States empowering the Congress to lay and collect taxes on incomes. I ask that the joint resolution lie on the table and be printed in the RECORD.

There being no objection, the joint resolution was ordered to lie on the table and to be printed in the RECORD, as follows:

Senate joint resolution 6.

Seventy-ninth general assembly, regular session. Mr. Yount.

Whereas both Houses of the Sixty-first Congress of the United States of America at its first session, by a constitutional majority of two-thirds thereof, made the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"A joint resolution proposing an amendment to the Constitution of the United States.

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution, namely:

"'ART. XVI. The Congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several States and without regard to any census or enumeration.'"

Therefore be it

Resolved by the Senate and House of Representatives of the State of Ohio, That the said proposed amendment to the Constitution of the United States of America be, and the same is hereby, ratified by the General Assembly of the State of Ohio: And further be it

Resolved, That the certified copies of this joint resolution be forwarded by the governor of this State to the Secretary of State at Washington and to the presiding officers of each House of the National Congress.

I, W. V. Goshorn, clerk of Ohio Senate, certify the above and foregoing to be a true and correct copy of original resolution passed by General Assembly of Ohio as shown from the records of both houses.

W. V. GOSHORN,
Clerk of Ohio Senate.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PENROSE:

A bill (S. 7502) for the erection of a public building at Ridgway, Pa., to the Committee on Public Buildings and Grounds.

A bill (S. 7503) for reduction of postage on first-class mail matter; to the Committee on Post Offices and Post Roads.

A bill (S. 7504) granting a pension to James A. Stine (with accompanying paper); and

A bill (S. 7505) granting an increase of pension to Sarah A. Stockman (with accompanying paper); to the Committee on Pensions.

By Mr. BORAH (by request):

A bill (S. 7506) to establish a complete financial and banking system for the United States of America; to the Committee on Finance.

By Mr. GORE:

A bill (S. 7507) to amend section 1 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. GALLINGER:

A bill (S. 7508) to amend "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia" (with accompanying paper); and

A bill (S. 7509) to authorize the extension of Twenty-fifth Street SE. and of White Place; to the Committee on the District of Columbia.

A bill (S. 7510) granting an increase of pension to Rodney S. Vaughan (with accompanying papers); to the Committee on Pensions.

By Mr. SWANSON:

A bill (S. 7511) to transfer Capt. Armistead Rust from the retired to the active list of the United States Navy; to the Committee on Naval Affairs.

By Mr. WORKS:

A bill (S. 7512) to amend an act entitled "An act to codify, revise, and amend the penal laws of the United States," approved March 4, 1909; to the Committee on the Judiciary.

By Mr. MYERS:

A bill (S. 7513) for the establishment of a fish-cultural station in the State of Montana, near the city of Hamilton, and appropriating money therefor; to the Committee on Fisheries.

A bill (S. 7514) to amend an act entitled "An act making appropriation for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes"; and

A bill (S. 7515) for the relief of Col. Richard H. Wilson, Fourteenth Infantry, United States Army; to the Committee on Military Affairs.

By Mr. CULLOM:

A bill (S. 7516) for the relief of Helen M. Kennicott; to the Committee on Claims.

A bill (S. 7517) granting a pension to William H. Mayo (with accompanying papers); and

A bill (S. 7518) granting an increase of pension to C. W. Birg, alias Calvin W. Burton (with accompanying papers); to the Committee on Pensions.

By Mr. McCUMBER:

A bill (S. 7519) to provide for placing ex-Presidents of the United States on the retired list as commander in chief of the Army and Navy of the United States, and to provide for an annuity for the widows of Presidents and ex-Presidents; to the Committee on Pensions.

A bill (S. 7520) to amend an act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes," approved August 24, 1912; to the Committee on Post Offices and Post Roads.

By Mr. JOHNSTON of Alabama:

A bill (S. 7521) to provide for the additional compensation of rural letter carriers; to the Committee on Post Offices and Post Roads.

A bill (S. 7522) for the erection of a public building at the city of Greenville, Ala.; and

A bill (S. 7523) to provide for the purchase of a site for the erection of a public building in Greenville, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. BRISTOW:

A bill (S. 7524) granting an increase of pension to Thomas T. Keibler;

A bill (S. 7525) granting an increase of pension to John H. Beatty (with accompanying papers);

A bill (S. 7526) granting an increase of pension to Isaac A. Sharp (with accompanying papers); and

A bill (S. 7527) granting a pension to Francis M. Jones; to the Committee on Pensions.

By Mr. KENYON:

A bill (S. 7528) granting a pension to Mary Josephine Stotts;

A bill (S. 7529) granting an increase of pension to Turner S. Bailey; and

A bill (S. 7530) granting a pension to Sarah Tout; to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 7531) to authorize the Secretary of Commerce and Labor to purchase certain land required for lighthouse purposes at Port Ferro Light Station, P. R.; to the Committee on Commerce.

By Mr. PERKINS:

A bill (S. 7532) to regulate and increase the efficiency of the personnel of the United States Navy and Marine Corps; to the Committee on Naval Affairs.

By Mr. CURTIS:

A bill (S. 7533) for the relief of John A. Clark;

A bill (S. 7534) for the relief of Dr. William H. Hayes (with accompanying paper);

A bill (S. 7535) for the relief of Martha J. Wharton (with accompanying paper); and

A bill (S. 7536) for the relief of Charles Dade (with accompanying paper); to the Committee on Military Affairs.

A bill (S. 7537) for the relief of Kate Rudolph Wilson and other heirs of Zebulon Brown Rudolph (with accompanying papers);

A bill (S. 7538) for the relief of Kate Rudolph Wilson and other heirs of Tobias S. Rudolph, deceased (with accompanying papers); and

A bill (S. 7539) for the relief of Frank Hodges (with accompanying papers); to the Committee on Claims.

A bill (S. 7540) granting an increase of pension to William Bruce (with accompanying papers);

A bill (S. 7541) granting an increase of pension to Anna M. Johnson (with accompanying papers);

A bill (S. 7542) granting a pension to Eli Evans (with accompanying papers);

A bill (S. 7543) granting an increase of pension to Samuel S. Gipe (with accompanying papers);

A bill (S. 7544) granting an increase of pension to J. Jay Buck (with accompanying paper);

A bill (S. 7545) granting an increase of pension to William H. Thompson (with accompanying papers);

A bill (S. 7546) granting a pension to Adelaide Oaks (with accompanying papers);

A bill (S. 7547) granting an increase of pension to Alpheus K. Rodgers (with accompanying papers);

A bill (S. 7548) granting an increase of pension to James M. Dilley (with accompanying papers);

A bill (S. 7549) granting an increase of pension to Sue N. Inness;

A bill (S. 7550) granting an increase of pension to Susan Owens (with accompanying papers); and

A bill (S. 7551) granting an increase of pension to Alice L. Kane; to the Committee on Pensions.

By Mr. CLAPP (by request):

A bill (S. 7552) for payment to the Chicago, Milwaukee & St. Paul Railway Co. $4,583.67 improperly collected under the act of August 5, 1909; to the Committee on Claims.

By Mr. SHIVELY:

A bill (S. 7553) granting an increase of pension to Lorenzo F. Nolan (with accompanying papers);

A bill (S. 7554) granting an increase of pension to John Bailey (with accompanying papers); and

A bill (S. 7555) granting an increase of pension to Thomas B. Fouty (with accompanying papers); to the Committee on Pensions.

By Mr. CRANE:

A bill (S. 7556) granting an increase of pension to Christina Higgins; and

A bill (S. 7557) granting an increase of pension to Josiah Brainerd Hall; to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 7558) granting an increase of pension to Maria Lewis;

A bill (S. 7559) granting an increase of pension to Lucy A. Hunter;

A bill (S. 7560) granting an increase of pension to David H. Geer;

A bill (S. 7561) granting an increase of pension to Mrs. A. M. Barstow;

A bill (S. 7562) granting a pension to John H. Broadwell; and

A bill (S. 7563) granting an increase of pension to James Turner; to the Committee on Pensions.

ELECTION OF PRESIDENT AND VICE PRESIDENT.

Mr. WORKS. I introduce a joint resolution, and I ask that it be read.

The joint resolution (S. J. Res. 140) proposing an amendment of the Constitution of the United States was read the first time by its title and the second time at length and referred to the Committee on the Judiciary, as follows:

Resolved, etc., That the following be proposed as an amendment to section 1 of Article II and Article XII of the Constitution of the United States, which will be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States, namely: Amend the second paragraph of said section, providing for the manner of electing the President and Vice President of the United States, to read as follows:

"Such President and Vice President shall be elected by the direct vote of the qualified electors of the several States. The election shall be held, the returns made, and the votes canvassed in each of the States as provided by law for the holding of general elections in said States. The number of votes cast for each candidate, when canvassed by the proper officers, as provided for by the laws of the States, shall within 30 days after such election be certified to the secretary of state of each of the States, or to such other officer as may be authorized by the law of the State to receive and certify such vote. That such secretary, or other qualified officer, shall canvass, compute, and on or before January 1 following certify to the Secretary of State of the United States the total number of votes cast in the State for each of the candidates for President and Vice President."

That the twelfth amendment to the Constitution be amended to read as follows:

"That the Secretary of State of the United States shall canvass and compute the votes received by each of the candidates for President and Vice President of the United States as certified to him by the secretaries of state or other qualified officers of the several States, and shall on or before the 1st day of February following such election certify and transmit sealed to the President of the Senate of the United States lists of all persons voted for as President and of all persons voted for as Vice President and of the number of votes for each. The President of the Senate shall, in the presence of the Senate and the House of Representatives, open such certificate and the votes shall then be counted. The person having the greatest number of votes for President shall be President, and the person receiving the highest number of votes for Vice President shall be Vice President."

AMENDMENT TO NAVAL APPROPRIATION BILL.

Mr. CULLOM submitted an amendment authorizing the Superintendent of the Naval Academy to make rules for the prevention of the practice of hazing, etc., intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

OMNIBUS CLAIMS BILL.

Mr. O'GORMAN submitted three amendments intended to be proposed by him to the omnibus claims bill, which were ordered to lie on the table and to be printed.

Mr. JOHNSON of Maine submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to be printed and, with the accompanying paper, to lie on the table.

FUNERAL EXPENSES OF THE LATE VICE PRESIDENT.

Mr. BRISTOW submitted the following resolution (S. Res. 396), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by direction of the President pro tempore (under Senate resolution No. 384, Aug. 17, 1912) in arranging for and attending the funeral of the late Vice President of the United States and President of the Senate, JAMES S. SHERMAN, at Utica, N. Y., on the 2d of November, 1912, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

FUNERAL EXPENSES OF THE LATE SENATOR HEYBURN.

Mr. BORAH submitted the following resolution (S. Res. 394), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the Vice President in arranging for and attending the funeral of the late Senator WELDON B. HEYBURN from the State of Idaho, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

FUNERAL EXPENSES OF THE LATE SENATOR RAYNER.

Mr. SMITH of Maryland submitted the following resolution (S. Res. 395), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the President pro tempore of the Senate in arranging for and attending the funeral of the late Senator ISIDOR RAYNER from the State of Maryland, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

ALCOHOL AND OFFICIALS (S. DOC. NO. 958).

Mr. TOWNSEND. I have an address by Col. L. Mervin Maus, Medical Corps, United States Army, chief surgeon eastern division, delivered before a meeting of the military surgeons at Washington, D. C., October 2 last. I ask that the address be printed as a Senate document.

Mr. SMOOT. I understand that the Senator from Michigan has consented that the illustrations contained in the address shall not be printed.

Mr. TOWNSEND. I ask that the address be printed as a Senate document without the illustrations.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Michigan? The Chair hears none, and it is so ordered.

STATISTICS OF CORPORATIONS (S. DOC. NO. 956).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Finance and ordered to be printed:

To the Senate:

In response to the resolution of the Senate of June 15, 1912, requesting certain information regarding the profits and business of certain corporations for the years 1910 and 1911, as specified in Senate resolution 321, I transmit herewith a report from the Secretary of the Treasury, which contains the desired information in reference to beet sugar, sugar and molasses, cotton goods, cotton small wares, wool and woolen goods, and iron and steel products.

WM. H. TAFT.

THE WHITE HOUSE, *December 3, 1912.*

REPORT OF COMMISSION OF FINE ARTS.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on the Library and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the information of the Congress the report of the Commission of Fine Arts for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *December 3, 1912.*

REPORT OF INTERNATIONAL WATERWAYS COMMISSION (S. DOC. NO. 959).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers and illustration, was referred to the Committee on Commerce and ordered to be printed:

To the Senate and House of Representatives:

The act making appropriations for sundry civil expenses of the Government approved August 24, 1912, provided for the International Waterways Commission in the following terms, viz:

For continuing until December 31, 1912, the work of investigation and report by the International Waterways Commission, authorized by section 4 of the river and harbor act approved June 13, 1902, $10,000: *Provided*, That report as to the progress of the work be made by the American commissioners to Congress at the beginning of the next session.

The American commissioners have rendered a full report of all their acts up to this time, which I herewith transmit. It appears from this report that the commission still has two pieces of work to complete before it can properly go out of existence.

One is its final report upon a dam at the outlet of Lake Erie, a difficult and important question upon which it has expended a vast amount of labor. It should be allowed to finish its work, to clear the ground for its successor, the International Joint Commission, which will consider all future questions of this nature. I am informed that the report has been delayed, and may be further delayed, by the illness and absence in Europe of one of the Canadian engineers, but that it can probably be completed within a few months, certainly before the completion of the other piece of unfinished work.

The other is to ascertain and reestablish, to mark upon the ground, and to delineate upon modern charts, the location of a portion of the international boundary between the United States and Canada, which work was specifically assigned to the International Waterways Commission by article 4 of the treaty between the United States and Great Britain dated April 11, 1908. This work the commission states can not be completed by December 31, 1912, but will require from a year to 15 months more time beyond that date.

The work of the commission has been of a high order, and has been prosecuted with diligence. International courtesy as well as treaty obligations require that the commission be allowed to complete its work. I recommend that the items to be found in the estimates for its support during the second half of the current fiscal year and for a part of the next fiscal year receive the favorable consideration of Congress.

WM. H. TAFT.

THE WHITE HOUSE, *December 3, 1912.*

THE CALENDAR.

The PRESIDENT pro tempore. The morning business is closed and the calendar under Rule VIII is in order.

The bill (S. 2493) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri was announced as first in order on the calendar.

Mr. BURTON. I ask that the bill may go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 1505) for the relief of certain officers on the retired list of the United States Navy was announced as next in order.

Mr. SMOOT. I ask that the bill may go over.

The PRESIDENT pro tempore. On the request of the Senator from Utah the bill goes over.

The bill (S. 2151) to authorize the Secretary of the Treasury to use at his discretion surplus moneys in the Treasury in the purchase or redemption of the outstanding interest-bearing obligations of the United States was announced as next in order.

Mr. OVERMAN. Let that bill go over, Mr. President.

The PRESIDENT pro tempore. The bill goes over.

The bill (S. 256) affecting the sale and disposal of public or Indian lands in town sites, and for other purposes, was announced as next in order, and was read.

Mr. SHIVELY. Let that bill go over.

The PRESIDENT pro tempore. The bill goes over.

The bill (S. 3) to cooperate with the States in encouraging instruction in agriculture, the trades and industries, and home economics in secondary schools; in maintaining instruction in these vocational subjects in State normal schools; in maintaining extension departments in State colleges of agriculture and mechanic arts; and to appropriate money and regulate its expenditure, was announced as next in order.

Mr. LODGE. That bill should go over, as it is a special order.

The PRESIDENT pro tempore. The bill goes over.

PROMOTION OF INSTRUCTION IN FORESTRY.

The bill (S. 5076) to promote instruction in forestry in States and Territories which contain national forests was considered

as in Committee of the Whole. The bill had been reported from the Committee on Public Lands with an amendment, which was, in section 2, page 2, line 16, after the word "instruction," to strike out "offered to forest rangers" and to insert "in forestry offered," so as to make the section read:

SEC. 2. That when any State or Territory which contains national forests shall provide instruction in forestry at the State university or other educational institution maintained by the State or Territory, which, in the judgment of the Secretary of Agriculture, is adapted to the training of forest rangers employed or to be employed in the protection and administration of the national forests, the Secretary of the Treasury shall pay to the State or Territory for the benefit of such institution, designated by the Secretary of Agriculture, from the moneys made available by this act, to be expended during the fiscal year for which said allotment is made, such sum as in the judgment of the Secretary of Agriculture will adequately assist the State or Territory in the instruction in forestry offered at such institution: *Provided*, That only one institution may receive benefits under this act in any State or Territory during any one fiscal year, and the amount paid to any State or Territory during any one fiscal year shall not exceed $7,500.

The amendment was agreed to.

Mr. McCUMBER. I ask that the bill go over.

The PRESIDENT pro tempore. The bill goes over.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. If it is in order, I desire to announce that, at the conclusion of the morning business on to-morrow, if the Senate shall then be in session, I shall call up and ask that it be considered, House bill 19115, known as the omnibus claims bill.

PRESIDENTIAL PRIMARIES IN THE DISTRICT OF COLUMBIA.

The bill (S. 2234) to provide for a primary nominating election in the District of Columbia, at which the qualified electors of the said District shall have the opportunity to vote for their first and second choice among those aspiring to be candidates of their respective political parties for President and Vice President of the United States, to elect their party delegates to their national conventions, and to elect their national committeemen, was announced as next in order.

Mr. LODGE. Let that bill go over.

Mr. OVERMAN. Let it go over to the calendar under Rule IX.

The PRESIDENT pro tempore. The Senator from North Carolina suggests that the bill, the title of which has just been read, shall go to the calendar under Rule IX.

Mr. BRISTOW. I must object to the bill going to the calendar under Rule IX. I wish to have it considered during this session.

Mr. OVERMAN. I withdraw the request.

The PRESIDENT pro tempore. The bill will be passed over, retaining its place.

THE LIFE-SAVING SERVICE.

The bill (S. 2051) to promote the efficiency of the Life-Saving Service was announced as next in order, and the Secretary proceeded to read the bill.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON). The hour of 12.30 o'clock having arrived, under the order of the Senate, the Senate is now in session sitting as a Court of Impeachment for the trial of articles of impeachment against Judge Robert W. Archbald. Due proclamation will be made.

The Assistant Doorkeeper (Mr. C. A. Loeffler) made the following proclamation:

"Hear ye! Hear ye! Hear ye! The Senate of the United States, sitting as a Court of Impeachment, is now in session."

The managers on the part of the House of Representatives—HENRY D. CLAYTON of Alabama, EDWIN Y. WEBB of North Carolina, JOHN C. FLOYD of Arkansas, JOHN W. DAVIS of West Virginia, JOHN A. STERLING of Illinois, PAUL HOWLAND of Ohio, and GEORGE W. NORRIS of Nebraska—were announced by the Acting Assistant Doorkeeper (Mr. Thomas W. Keller) and conducted to the seats assigned them.

The PRESIDENT pro tempore. There are certain Senators who have not yet taken the oath required in this proceeding, and they will present themselves at the desk for that purpose. The Secretary will call the names of the Senators who have not as yet taken the oath.

The Secretary called the names of Mr. BROWN, Mr. CHILTON, Mr. CURTIS, Mr. DAVIS, Mr. DIXON, Mr. DU PONT, Mr. GORE, Mr. JACKSON, Mr. LEA, Mr. OWEN, Mr. PERKY, and Mr. RICHARDSON; and Mr. BROWN, Mr. CURTIS, Mr. DIXON, Mr. DU PONT, Mr. GORE, Mr. JACKSON, Mr. PERKY, and Mr. RICHARDSON presented themselves at the desk and the oath was administered to them by the President pro tempore.

The respondent, Robert W. Archbald, and his counsel, A. S. Worthington, Esq., and Robert W. Archbald, jr., Esq., entered the Chamber and took the seats assigned them.

Mr. WORTHINGTON. Mr. President, I wish to introduce Mr. Alexander Simpson, jr., of the Philadelphia bar, who will be associated with the counsel for Judge Archbald in this trial.

The PRESIDENT pro tempore. The name of Mr. Simpson will be entered as of counsel for the respondent.

Mr. CLARK of Wyoming. Mr. President, I send to the desk an order, and ask unanimous consent for its present consideration.

The PRESIDENT pro tempore. The order submitted by the Senator from Wyoming will be read by the Secretary.

The Secretary read as follows:

Ordered, That the daily sessions of the Senate sitting in the trial of impeachment of Robert W. Archbald, additional circuit judge of the United States, shall, unless otherwise ordered, commence at 2 o'clock in the afternoon.

The PRESIDENT pro tempore. If there be no objection, the order will be considered as having been agreed to unanimously. It is so ordered.

Mr. NELSON. I move the adoption of the order which I send to the desk.

The PRESIDENT pro tempore. The Senator from Minnesota offers an order, which will be read by the Secretary.

The Secretary read as follows:

Ordered, That the opening statement on behalf of the managers shall be made by one person, to be immediately followed by one person who shall make the opening statement on behalf of the respondent.

The PRESIDENT pro tempore. Without objection, it will be considered that the order just read has been unanimously agreed to. It is so ordered.

Mr. CLARK of Wyoming. I ask the adoption of the order which I send to the desk.

The PRESIDENT pro tempore. The Senator form Wyoming submits an order, which will now be read.

The Secretary read as follows:

Ordered, That the Senate sitting in the Court of Impeachment do now take a recess until 2 o'clock p. m. this day.

Mr. Manager CLAYTON. Mr. President, before the question is put on the adoption of that order, if it is agreeable to the Senate sitting as a Court of Impeachment, hereafter the managers on the part of the House of Representatives will appear without the formality of an announcement.

The PRESIDENT pro tempore. The Chair will give proper direction in that regard.

Mr. WORTHINGTON. I presume that might apply, Mr. President, to the counsel for the respondent and to the respondent himself.

The PRESIDENT pro tempore. Proper order will be given in the premises. The order presented by the Senator from Wyoming [Mr. CLARK], unless there be objection, will be considered as unanimously adopted. It is so ordered.

Thereupon (at 12 o'clock and 40 minutes p. m.) the Senate sitting as a Court of Impeachment took a recess until 2 o'clock p. m.

The managers on the part of the House of Representatives and the respondent and his counsel withdrew from the Chamber.

LIFE-SAVING SERVICE.

The PRESIDENT pro tempore (Mr. BACON). The Secretary will resume the reading of the bill which was being read when the Senate resolved itself into a Court of Impeachment.

The Secretary resumed the reading of the bill (S. 2051) to promote the efficiency of the Life-Saving Service.

Mr. GALLINGER. Mr. President, inasmuch as we met at an early hour this morning and there is very little interest in the calendar as it is being read, I move that the Senate take a recess until 2 o'clock.

Mr. NELSON. I trust the Senator from New Hampshire will withdraw his motion, so that we can dispose of this bill. It is a bill which the Senate has heretofore passed several times, and I think there will be no objection to it.

Mr. GALLINGER. I will withdraw the motion until the bill shall have been acted upon.

The PRESIDENT pro tempore. The Senator from New Hampshire withdraws the motion temporarily.

The Secretary resumed and concluded the reading of the bill.

The PRESIDENT pro tempore. The bill is in the Senate as in Committee of the Whole and open to amendment.

Mr. BAILEY. Mr. President, is the bill properly before the Senate, and is it before it subject to an objection?

The PRESIDENT pro tempore. The bill is subject to an objection. The Senate is proceeding under Rule VIII.

Mr. BAILEY. Mr. President, as we seem now inclined to pension or retire everybody except the men who really are entitled to the consideration of the Government—and those are the men who pay the taxes—I suppose I ought not to interpose any

objection to this bill; and I shall not prevent its consideration. If the Senate of the United States thinks we have reached a time when this class of employees ought to follow other employees of the Government onto a civil pension list—for that is all this is—and thus broaden the precedent and hasten the coming of the day when everybody who works for the Government shall likewise draw a pension, either military or civil, the Senate can take its own responsibility and say so.

For my part, I am opposed to this just as I am opposed to all provisions for the retirement of any man. I believe to-day, just as I have always believed, that every man who serves this Government ought to receive a fair compensation for his services, and he ought to save it or spend it according to his own folly or his own prudence; and then he ought to suffer the consequences of his folly if he is foolish, or enjoy the reward of his prudence if he is prudent.

I suppose the time will come when we will contrive some way to pension the taxpayer. Just exactly how a system for that can be devised is past my comprehension. But with modern legislative legerdemain I have no doubt a way will be devised to make everybody support everybody else without anybody working either for himself or for others.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

The PRESIDENT pro tempore. The question is, Shall the bill pass?

Mr. BAILEY. On that I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. BAILEY. I ask the Chair to count the other side, to see whether one-fifth of those present demanded them or not.

The PRESIDENT pro tempore. There was less than one-fifth of a quorum. That is the reason the Chair——

Mr. BAILEY. Then I make the point that no quorum is present.

The PRESIDENT pro tempore. The Senator from Texas having made that point, the roll will be called; but the Chair was about to do what the Senator had previously asked. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Curtis	Martine, N. J.	Simmons
Bacon	Dixon	Massey	Smith, Ariz.
Bailey	du Pont	Myers	Smith, Ga.
Bankhead	Fletcher	Nelson	Smith, Md.
Borah	Foster	O'Gorman	Smith, Mich.
Brandegee	Gallinger	Overman	Smith, S. C.
Bristow	Gore	Page	Smoot
Brown	Hitchcock	Penrose	Stephenson
Bryan	Johnson, Me.	Percy	Sutherland
Burnham	Johnston, Ala.	Perkins	Swanson
Burton	Kenyon	Perky	Thornton
Clark, Wyo.	Lodge	Pomerene	Tillman
Crane	McCumber	Richardson	Townsend
Crawford	McLean	Root	Wetmore
Culberson	Martin, Va.	Shively	Works

Mr. WORKS. The senior Senator from Washington [Mr. JONES] is necessarily absent on business of the Senate.

Mr. PAGE. My colleague [Mr. DILLINGHAM] is detained from the Senate by illness.

Mr. SHIVELY. The junior Senator from Indiana [Mr. KERN] is unavoidably absent.

The PRESIDENT pro tempore. On the call of the roll of the Senate 60 Senators have responded to their names. A quorum is present. The Senator from Texas calls for the yeas and nays on the question of the passage of the pending bill.

Mr. O'GORMAN. Mr. President——

The PRESIDENT pro tempore. Nothing is in order now, unless the Senator from New York proposes to address his remarks to the call for the yeas and nays, until after the vote is taken.

Mr. O'GORMAN. The yeas and nays on what question?

The PRESIDENT pro tempore. The yeas and nays are demanded on the question of the passage of the bill which has been read.

Mr. O'GORMAN. Has the bill been discussed?

The PRESIDENT pro tempore. It has not been discussed at any length. The Senator from Texas [Mr. BAILEY] had something to say on the subject.

Mr. O'GORMAN. I object to the bill being taken up out of its order unless we can have a discussion of it.

The PRESIDENT pro tempore. The bill is not up out of its order. It was read under Rule VIII, and is subject to objection. Does the Senator from New York object?

Mr. O'GORMAN. I object at this time. There has been no discussion of the bill on the floor of the Senate, and under the circumstances it would be impossible for Senators to vote intelligently on the merits of this important question at the present time.

The PRESIDENT pro tempore. The Senator from New York objects, and the bill goes over.

RECESS.

Mr. GALLINGER. I renew my motion that the Senate take a recess until 2 o'clock p. m.

The motion was agreed to, and (at 12 o'clock and 55 minutes p. m.) the Senate took a recess until 2 o'clock p. m.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The Senate sitting as a Court of Impeachment resumed its session at 2 o'clock p. m.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore (Mr. BACON). The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cummins	McLean	Smith, Ariz.
Bacon	Curtis	Martin, Va.	Smith, Ga.
Bailey	Dixon	Martine, N. J.	Smith, Md.
Borah	du Pont	Myers	Smith, Mich.
Brandegee	Foster	Nelson	Smith, S. C.
Bristow	Gallinger	Newlands	Smoot
Brown	Gore	O'Gorman	Stephenson
Bryan	Guggenheim	Overman	Sutherland
Burnham	Hitchcock	Page	Swanson
Burton	Jackson	Penrose	Thornton
Clapp	Johnson, Me.	Perkins	Tillman
Clark, Wyo.	Johnston, Ala.	Perky	Townsend
Clarke, Ark.	Kenyon	Pomerene	Wetmore
Crane	La Follette	Richardson	Works
Crawford	Lippitt	Root	
Culberson	Lodge	Shively	
Cullom	McCumber	Simmons	

Mr. PENROSE. My colleague [Mr. OLIVER] is unavoidably absent on account of illness.

Mr. PAGE. I wish to announce that my colleague [Mr. DILLINGHAM], owing to illness, is necessarily absent.

The PRESIDENT pro tempore. On the call of the roll 65 Senators are present. A quorum of the Senate is present.

Mr. Manager CLAYTON. Mr. President, as I understand the action of the Senate, it contemplated that at this time the managers should proceed to make a statement embodying the facts upon which the articles of impeachment are predicated in this case.

Mr. President, this proceeding had its origin in the resolution adopted by the House of Representatives on April 25, 1912, which is embodied in the message sent by the President of the United States to the House of Representatives on May 3, 1912, in the following words:

To the House of Representatives:

I am in receipt of a copy of a resolution adopted by the House on April 25, reading as follows:

"*Resolved*, That the President of the United States be, and he is hereby, requested, if not incompatible with the public interest, to transmit to the House of Representatives a copy of any charges filed against Robert W. Archbald, associate judge of the United States Commerce Court, together with the report of any special attorney or agent appointed by the Department of Justice to investigate such charges, and a copy of any and all affidavits, photographs, and evidence filed in the Department of Justice in relation to said charges, together with a statement of the action of the Department of Justice, if any, taken upon said charges and report."

In reply I have to state that in February last certain charges of improper conduct by the Hon. Robert W. Archbald, formerly district judge of the United States court for the middle district of Pennsylvania and now judge of the Commerce Court, were brought to my attention by Commissioner Meyer, of the Interstate Commerce Commission. I transmitted these charges to the Attorney General by letter dated February 13, instructing him to investigate the matter, confer fully with Commissioner Meyer, and have his agents make as full report upon the subject as might be necessary, and, should the charges be established sufficiently to justify proceeding on them, bring the matter before the Judiciary Committee of the House of Representatives.

The Attorney General has made a careful investigation of the charges, and as a result of that investigation has advised me that, in his opinion, the papers should be transmitted to the Committee on the Judiciary of the House to be used by them as a basis for an investigation into the facts involved in the charges. I have therefore directed him to transmit all the papers to the Committee on the Judiciary; but in my opinion—and I think it will prove in the opinion of the committee—it is not compatible with the public interests to lay all these papers before the House of Representatives until the Committee on the Judiciary shall have sifted them out and determined the extent to which they deem it essential to the thoroughness of their investigation nor to make the same public at the present time. But all the papers are in the hands of the committee and therefore within the control of the House.

WM. H. TAFT.

THE WHITE HOUSE, *May 3, 1912.*

Upon receipt of this message from the President the Committee on the Judiciary of the House of Representatives gave consideration to the matter referred to in the President's message of the alleged improper conduct of Judge Robert W. Archbald. Following the action of the committee the House of Representatives itself adopted articles of impeachment in this

cause, which articles have been heretofore submitted to the Senate sitting as a Court of Impeachment.

JUDGE ARCHBALD'S APPOINTMENT.

Robert W. Archbald was appointed in vacation a United States district judge for the middle district of Pennsylvania and was duly commissioned as such judge on the 29th day of March, 1901, as appears from his commission, which is in the following words and figures:

(William McKinley, President of the United States of America.)

To all who shall see these presents, greeting:

Know ye, that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert Wodrow Archbald, of Pennsylvania, I do appoint him United States district judge for the middle district of Pennsylvania as provided for by act approved March 2, 1901, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining, unto him, the said Robert Wodrow Archbald, until the end of the next session of the Senate of the United States, and no longer, subject to the conditions and provisions prescribed by law.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 29th day of March, in the year of our Lord 1901, and of the independence of the United States of America the one hundred and twenty-fifth.

[SEAL.] WILLIAM MCKINLEY.

By the President:
JOHN W. GRIGGS, *Attorney General.*

After the vacation and upon the convening of Congress Robert W. Archbald was appointed a United States district judge for the middle district of Pennsylvania and was duly commissioned as such judge on the 17th day of December, 1901, as appears from his commission, which is in the following words and figures:

(Theodore Roosevelt, President of the United States of America.)

To all who shall see these presents, greeting:

Know ye, that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert W. Archbald, of Pennsylvania, I have nominated and, by and with the advice and consent of the Senate, do appoint him United States district judge for the middle district of Pennsylvania, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining, unto him, the said Robert W. Archbald, during his good behavior.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 17th day of December, in the year of our Lord 1901, and of the independence of the United States of America the one hundredth and twenty-fifth.

[SEAL.] THEODORE ROOSEVELT.

By the President:
P. C. KNOX, *Attorney General.*

The said Robert W. Archbald was duly appointed an additional circuit judge of the United States for the third judicial circuit and designated as a judge of the United States Commerce Court and was confirmed by the Senate and was duly commissioned as such judge on the 31st day of January, 1911, as will appear from his commission, which is in the following words and figures, to wit:

(William H. Taft, President of the United States.)

To all who shall see these presents, greeting:

Know ye, that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert Wodrow Archbald, of Pennsylvania, I have nominated, and, by and with the advice and consent of the Senate, do appoint him additional circuit judge of the United States from the third judicial circuit, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining, unto him, the said Robert Wodrow Archbald, during his good behavior. Appointed pursuant to the act of June 18, 1910 (36 Stats., 540), and hereby designated to serve for four years in the Commerce Court.

In testimony whereof I have caused these letters to be made patent, and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 31st day of January, in the year of our Lord nineteen hundred and eleven and of the independence of the United States of America the one hundred and thirty-fifth.

[SEAL.] WILLIAM H. TAFT.

By the President:
GEORGE W. WICKERSHAM,
Attorney General.

Mr. President, under the authority of the House of Representatives and upon the suggestion of my associate managers on the part of the House the duty has devolved upon me to open this case and to make a statement of the facts upon which the House of Representatives, acting as a grand inquest inquiring in the name of all the people of the United States, have impeached Robert W. Archbald, additional circuit judge of the United States from the third judicial circuit, appointed pursuant to the act of June 18, 1910 (U. S. Stats. L., vol. 36, p. 540), and having duly qualified and having been duly commissioned and designated on the 31st day of January, 1911, to serve four years in the Commerce Court, of high crimes and misdemeanors, and the facts upon which the managers propose to make good the articles of impeachment.

It would be a waste of time of this honorable court to pronounce any panegyric upon the great tribunal which now sits as a High Court of Impeachment. It is unnecessary to dwell upon the magnitude of the questions here involved or of the grave consequences of the failure to do justice either to the people or to the respondent. The fact that the members of this court are commissioned to sit in this Chamber where renowned men have always sat is sufficient guaranty that selected men, some of them learned lawyers and all wise statesmen, will do impartial justice according to the Constitution and the law, as their solemn oath requires. And the people of this great Republic and the House of Representatives of the United States have confidence that if this respondent is guilty he will be deprived of the office which he now holds, or if innocent of the misbehaviors charged against him he will be acquitted.

The articles are 13 in number, and the facts upon which they are predicated are substantially as follows:

THE NEGOTIATIONS WITH THE HILLSIDE COAL & IRON CO. RELATIVE TO THE KATYDID CULM DUMP AT MOOSIC, PA.

(See Art. 1.)

On or about March 31, 1911, Judge Archbald entered into a partnership agreement with one Edward J. Williams, of Scranton, Pa., for the purchase of a certain culm dump known as the Katydid culm dump, located near Moosic, Lackawanna County, Pa., for the purpose of disposing of the said property at a pecuniary profit to themselves.

Mr. President, I may say here that a culm dump is a pile composed partly of refuse and partly of coal, which, in the days gone by, was not deemed merchantable. This pile is accumulated in this way: During the process of mining anthracite coal there is some slate; there may be some rock; there may be some dirt; there may be other unmerchantable things brought from the mine. This refuse, together with the finer particles of coal and coal dust, is thrown into a dump, and this is what is called a culm dump.

Most of the coal contained in this culm dump was taken from land known as the Caldwell lot, which is owned in fee simple by the Hillside Coal & Iron Co. The larger portion of the dump now rests on land known as lot 46, which is jointly owned by the Hillside Coal & Iron Co., the Everhart estate, and others. The entire capital stock of the Hillside Coal & Iron Co. is owned by the Erie Railroad Co., and a number of the managing officers and directors of the coal company are also officers of the railroad company. The Katydid dump was formed from the operation of the Katydid colliery by the firm of Robertson & Law, and later by John M. Robertson, who succeeded the firm, which operated the colliery under a verbal agreement to pay the Hillside Coal & Iron Co. certain royalties on all coal mined. It appears that the Everhart estate received certain royalties from the Hillside Coal & Iron Co. for all coal above the size of pea taken from the tract in which the Everhart estate held a one-half undivided interest. The plant was operated from 1887 to 1909, when the breaker and washery were destroyed by fire, and since then the operation has been abandoned by Robertson.

In furtherance of his agreement with Williams, Judge Archbald used his official position as judge of the Commerce Court, on March 31, 1911, and at various other times, by correspondence, personal conferences, and otherwise, to improperly induce and influence the officers of the Hillside Coal & Iron Co. and the Erie Railroad Co. to enter into an agreement with himself and Williams to sell the interest of the Hillside Coal & Iron Co. in the Katydid culm dump for a consideration of $4,500; this agreement was against the policy and practice of the Erie Railroad Co. and its subsidiary, the Hillside Coal & Iron Co., their policy being not to sell their culm dumps. Judge Archbald's name did not appear in this written agreement.

Judge Archbald and Williams then secured an option to purchase whatever equity Robertson held in this property for a consideration of $3,500, and entered into negotiations with several parties with a view to the sale of the culm dump at a large profit. One of these parties was the manager of an electric railroad, who was then purchasing large quantities of coal consumed in the operation of the road from the Hillside Coal & Iron Co. at the usual market rates. It was claimed that there were certain complications in the title to this property, but however this may be Judge Archbald considered that the options from the Hillside Coal & Iron Co. and Robertson covered the entire interest in the dump, and so stated in a letter to this prospective purchaser.

After a careful survey, a disinterested mining engineer estimates that the Katydid culm dump contains about 90,000 gross tons, of which approximately 46,704 tons are marketable

coal. This coal is appraised by the engineer at $47,533.18, subject to an increase of $3,803.40, provided that an increment of small coal can be saved in the process of reclamation. It is further estimated that the operation of this culm dump by the Hillside Coal & Iron Co. would net it approximately $35,000 profit and that the Erie Railroad Co. in addition would realize a profit for the transportation of the coal to tidewater.

During the period covering these negotiations with the officers of the Hillside Coal & Iron Co. and the Erie Railroad Co. Judge Archbald was a United States circuit judge, duly assigned to serve in the Commerce Court, and the Erie Railroad Co., a common carrier engaged in interstate commerce, was a party litigant in certain suits then pending in the Commerce Court and known as the Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38, and the Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 39.

THE ATTEMPT TO SELL THE STOCK OF THE MARIAN COAL CO. TO THE DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.

(See Art. 2.)

On October 18, 1910, the Marian Coal Co., which operated a washery at Taylor, Pa., filed a complaint against the Delaware, Lackawanna & Western Railroad Co. and several other railroads before the Interstate Commerce Commission, containing a demand for reparation for damages alleged to have been suffered by the complainant in the amount of $55,238.27, with interest, for overcharges and discrimination in freight rates, and concluding with a prayer that the Interstate Commerce Commission issue an order requiring the defendants to cease various acts alleged to have been committed for the purpose of suppressing the competition of the complainant in the coal market, and establishing just and reasonable rates upon commodities shipped by the complainant from its washery at Taylor, Pa., to all points within the jurisdiction of the commission.

Some time in July or August, 1911, William P. Boland and Christopher G. Boland, who were the controlling stockholders of the Marian Coal Co., employed one George M. Watson, of Scranton, Pa., as an attorney to effect a sale of two-thirds of the stock of the Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co. and to settle this case which was still pending before the Commerce Commission. The decision of the Interstate Commerce Commission in this case was subject to review by the Commerce Court, and there was at that time pending in the Commerce Court a suit entitled "The Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38," to which the Delaware, Lackawanna & Western Railroad Co. was a party litigant.

With full knowledge of these facts Judge Archbald entered into an agreement to assist George M. Watson, for a valuable consideration, to sell the stock of the Marian Coal Co. held by the Bolands to the Delaware, Lackawanna & Western Railroad Co. and settle the case between the said coal company and the railroad company. In pursuance of this agreement Judge Archbald, by means of correspondence, personal conferences, and otherwise, persistently attempted to induce the officers of the Delaware, Lackawanna & Western Railroad Co. to enter into an agreement with Watson to settle the case then pending before the Interstate Commerce Commission and purchase the stock of the Marian Coal Co. at a highly exorbitant price.

In all of his correspondence with the officers of the Delaware, Lackawanna & Western Railroad Co. relative to this matter Judge Archbald used the official stationery of the United States Commerce Court, and he also used his influence as a judge of that court to bring about, or in an attempt to bring about, the successful consummation of these negotiations.

THE NEGOTIATIONS WITH THE LEHIGH VALLEY COAL CO. AND THE GIRARD ESTATE RELATIVE TO A CULM DUMP KNOWN AS PACKER NO. 3, NEAR SHENANDOAH, PA.

(See Art. 3.)

The Lehigh Valley Coal Co., which is owned by the Lehigh Valley Railroad Co., holds a lease on certain coal land near Shenandoah, Pa., and owned by the Girard estate. This lease was made to run for a period of 15 years, of which about 13 years have elapsed.

On August 11, 1911, and at numerous other times thereafter, Judge Archbald, by means of correspondence and personal interviews persistently sought to induce, and did induce, that company to agree to waive its rights under the lease from the Girard estate and to permit a company in which Judge Archbald was interested, known as the Jones Coal Co., to operate a certain culm dump, known as Packer No. 3, containing approximately 472,670 gross tons and located on the land leased from the Girard estate, provided that a very small royalty should be paid the coal company for coal reclaimed from the dump, and provided further, that the coal should be shipped over the lines of the Lehigh Valley Railroad. Judge Archbald thereafter applied to the Girard estate for an operating lease on the culm dump known as Packer No. 3, stating that he had secured the consent of the Lehigh Valley Coal Co. to operate the property if the Girard estate would approve of the arrangement. The judge proposed to pay the Girard estate the same royalties on various sizes of coal which were being paid by the Lehigh Valley Coal Co. under its lease, which was executed about 13 years theretofore, when coal values were materially less than they were at the time Judge Archbald's proposition was made. The trustees of the Girard estate promptly declined to grant Judge Archbald the lease on the terms proposed, and the deal has never been consummated.

While these negotiations with the Lehigh Valley Coal Co. were in progress the Lehigh Valley Railroad Co. was a party litigant in two suits pending before the United States Commerce Court, known as The Baltimore & Ohio Railroad Co., et al., *v.* The Interstate Commerce Commission, No. 38, and The Lehigh Valley Railroad Co. *v.* The Interstate Commerce Commission, Henry E. Meeker, intervener, No. 49.

THE LOUISVILLE & NASHVILLE RAILROAD CASE.

(See Art. 4.)

In February, 1911, upon the organization of the Commerce Court, a suit known as The Louisville & Nashville Railroad Co. *v.* The Interstate Commerce Commission, which had theretofore been filed in the United States Circuit Court at Louisville, Ky., was transferred to the United States Commerce Court (Docket No. 4). The case was argued on the 2d and 3d of April, 1911, and submitted to the court for adjudication. On August 22, 1911, Judge Archbald, who afterwards delivered the majority opinion in this case, wrote to Helm Bruce, the attorney for the Louisville & Nashville Railroad Co., at Louisville, Ky., requesting him to confer with one Compton, traffic manager of the Louisville & Nashville Railroad, who had given material testimony before the Interstate Commerce Commission, and to advise the judge whether the witness intended to give an affirmative answer, as appeared from the record, or whether he intended to give a negative answer to a question propounded to him by the chairman of the commission. In pursuance of this request, Bruce conferred with Compton and advised the judge that the witness intended to give a negative answer to the question referred to. The receipt of this letter was acknowledged by Judge Archbald on August 26, 1911.

On January 10, 1912, Judge Archbald again wrote to Bruce, calling attention to certain conclusions reached by another member of the court, which, it was claimed, refuted statements and contentions advanced in Bruce's original brief and sustained the action of the Interstate Commerce Commission with respect to certain features of the case. In this letter Judge Archbald asked Bruce whether he would still affirm the position taken in his brief, and, if so, upon what theory it could be sustained, assuming that the conclusions of the other members of the court were correct. The judge followed this question with a number of other questions relative to the features of the case which were not then clear to the court. On January 24, 1912, Bruce sent the judge a letter in answer to the questions which had been propounded to him, wherein he argued these special features of the case in behalf of the railroad company at considerable length. His letter was in the nature of a supplemental brief submitted for the purpose of overcoming certain doubts as to the merits of the case of the railroad company which apparently had arisen in the minds of some of the members of the court.

On February 28, 1912, this case was decided by the Commerce Court in favor of the railroad company. Judge Archbald wrote the opinion of the majority, which followed the views expressed by Bruce, and Judge Mack dissented. The attorneys for the Interstate Commerce Commission and the United States were given no opportunity to examine and answer the arguments advanced by the attorney for the Louisville & Nashville Railroad Co. in his communication to Judge Archbald of January 24, 1912, nor were they informed that such correspondence had been had.

NEGOTIATIONS WITH THE PHILADELPHIA & READING COAL & IRON CO. RELATIVE TO THE LINCOLN CULM DUMP, NEAR LORBERRY, PA., AND THE WRONGFUL ACCEPTANCE OF A GIFT, REWARD, OR PRESENT FROM FREDERICK WARNKE, OF SCRANTON, PA.

(See Art. 5.)

In 1904 Frederick Warnke, of Scranton, Pa., purchased a two-thirds interest in an operating lease on some coal land located near Lorberry Junction, Pa., and owned by the Philadelphia & Reading Coal & Iron Co. The entire capital stock of the Philadelphia & Reading Coal & Iron Co. is owned by the Reading Co., which owns the entire capital stock of the Philadelphia

& Reading Railway Co., a common carrier engaged in interstate commerce. He put up a number of improvements and operated the culm dump on the property for several years, but owing to the action of the elements his operations were carried on at a loss. Warnke then applied to the Reading Co. for mining maps of the land covered by his lease. He was informed that the lease under which he claimed had been forfeited two years before its assignment to him, and his application was therefore denied. He then made a proposition to George F. Baer, president of the Philadelphia & Reading Railway Co., and president of the Philadelphia & Reading Coal & Iron Co., to relinquish any claim that he might have in this property under his lease, provided that the Philadelphia & Reading Coal & Iron Co. would grant him an operating lease on another property owned by said corporation at Lorberry, Pa., and known as the Lincoln culm bank.

Mr. Baer referred Warnke's proposition to Mr. W. J. Richards, vice president and general manager of the Philadelphia & Reading Coal & Iron Co., for consideration and action. Richards and Baer thereafter concluded that there was no valid reason why they should make an exception to the general rule of the coal company not to lease its culm bank. Warnke then made several attempts, through attorneys and friends, to have this decision reconsidered, and failing in this, he asked Judge Archbald to intercede in his behalf with Richards.

In the latter part of November, 1911, Judge Archbald called upon Mr. Richards at his office in Pottsville, Pa., and in pursuance of an appointment made by Judge Archbald's solicitation, attempted to influence Richards to reconsider his refusal to accede to Warnke's proposition. Judge Archbald was informed, however, that the decision of Richards and Baer must be considered final, and the judge so advised Warnke.

In December, 1911, Warnke was considering the advisability of purchasing a certain culm fill located near Pittston, Pa., and owned by the Lacoe & Shiffer Coal Co. One John Henry Jones, of Scranton, Pa., advised him that Judge Archbald was familiar with the title to the property and the rights of way of certain railroads over it. In pursuance of this assurance from Jones, Warnke consulted the judge, who advised him that the title was clear. Warnke had but two conversations with Judge Archbald regarding this matter, not exceeding 30 minutes in length altogether, but he at that time stated to Judge Archbald that he would pay the judge $500 for the information which he had received. Shortly thereafter Warnke and several business associates purchased this property for a consideration of $7,500, and in the month of March, 1911, a day or so after Judge Archbald had called at the office of Warnke and his associates, Warnke drew a promissory note of $500, as president of the coal company which had purchased the fill, and caused the same to be delivered to Judge Archbald. The note was discounted in one of the banks of Scranton.

THE NEGOTIATIONS WITH THE LEHIGH VALLEY COAL CO. RELATIVE TO THE EVERHART TRACT AND THE MORRIS AND ESSEX TRACT.

(See Art. 6.)

Since 1884 the Lehigh Valley Coal Co., which is a subsidiary of the Lehigh Valley Railroad Co., has owned one-half interest in a certain tract of coal land located near Wilkes-Barre, Pa., which consists of about 800 acres. During the past few years this company has purchased about four-fifths of the remaining one-half interest in this tract. The remaining portion of the tract is leased by the coal company from certain beneficiaries of the Everhart estate. The coal company has been negotiating for several years to purchase the fee to this outstanding portion of the tract, but the owners would not accept the terms offered.

In December, 1911, or January, 1912, Judge Archbald entered into an agreement with one James R. Dainty, of Scranton, Pa., to open negotiations with the Lehigh Valley Coal Co. and the Everhart estate for the purpose of effecting the sale of this property to the coal company on the understanding that he and Dainty should secure an operating lease on another tract of about 325 acres, of coal land owned by the Lehigh Valley Coal Co. and known as the Morris and Essex tract, as a consideration in the nature of a commission for their services.

In furtherance of this agreement Judge Archbald attempted to use his official influence as a member of the Commerce Court, through telephone conversations and personal conferences, to affect the action of the general manager of the Lehigh Valley Coal Co. with respect to the purchase of this property. While these negotiations were in progress the cases of the Lehigh Valley Railroad Co. v. The Interstate Commerce Commission and Henry E. Meeker, intervener, No. 49, and the Baltimore & Ohio Railroad Co. et al. v. The Interstate Commerce Commission, No. 38, in which the Lehigh Valley Railroad Co. was a party litigant, were pending before the Commerce Court for adjudication.

THE DISCOUNT OF THE W. W. RISSINGER NOTE.

(See Art. 7.)

In the fall of 1908 the case of The Old Plymouth Coal Co. v. The Equitable Fire & Marine Insurance Co. et al. was pending before the United States district court over which Judge Archbald presided. Mr. W. W. Rissinger, of Scranton, Pa., was the controlling stockholder of the plaintiff company. The case was predicated on certain insurance contracts between the Old Plymouth Coal Co. and the various insurance companies named as parties defendant, and the total damages sought to be recovered amounted to about $30,000. The case was on trial in November, 1908, and after the plaintiff's evidence had been presented the defendant insurance companies demurred to the sufficiency of the evidence and moved for a nonsuit. After extended argument by attorneys for both plaintiff and defendant, Judge Archbald overruled the motion, and the defendant companies proceeded to introduce their evidence. Before the evidence was all in the attorneys for the insurance companies made a proposition of compromise to the attorneys for the Old Plymouth Coal Co., which was accepted on November 23, 1908. Consent judgments were entered on that day, in which the plaintiff ultimately recovered about $28,000, and the defendant companies were given 15 days in which to satisfy the judgments.

Some time prior to November 28, 1908, Judge Archbald entered into a deal with Rissinger for the purchase of an interest in a gold-mining project in Honduras, which Rissinger was then promoting in Scranton. In order to finance the transaction it became necessary to raise $2,500, and on November 28, 1908, or five days after the judgments in favor of the Old Plymouth Coal Co. were entered, a promissory note for that amount, to run three months, signed by Rissinger, in favor of and indorsed by Judge Archbald and Sophia J. Hutchison, Mr. Rissinger's mother-in-law, was presented to the County Savings Bank of Scranton, Pa., for discount. The bank evidently put no reliance upon Judge Archbald's indorsement of the note, but made an extended investigation of Mrs. Hutchison's financial condition, and on December 12, 1908, discounted the note, after having first filed a judgment against Mrs. Hutchison in the county court of Lackawanna County, Pa., according to the practice in that State.

Shortly after the consent judgments in favor of the Old Plymouth Coal Co. were entered on November 23, 1908, this note was also presented for discount to Mr. John T. Lenahan, one of the attorneys for Rissinger and the Old Plymouth Coal Co. in the litigation with the insurance companies, but Lenahan refused to discount the note or have the same discounted in a trust company of which he was a director. The note has never been paid, but has been renewed at the end of each successive period of three months by Mr. Rissinger, and the discount on the renewals has been paid wholly by him.

THE DISCOUNT OF THE JOHN HENRY JONES NOTE.

(See Arts. 8 and 9.)

In the fall of the year 1909 the case of John W. Peale v. The Marian Coal Co., which involved a considerable sum of money, was pending before the United States district court of Scranton, Pa., over which Judge Archbald presided. The Marian Coal Co. was practically owned and controlled by Christopher G. Boland and William P. Boland, of Scranton, Pa., and this fact was well known to Judge Archbald. In the latter part of November or the early part of December, 1909, for the purpose of raising funds to invest in a timber project in Venezuela which was being promoted by one John Henry Jones, of Scranton, Pa., Judge Archbald drew and indorsed a promissory note for $500, payable to himself, which note was signed by Jones as promisor.

Judge Archbald thereupon agreed and consented that Edward J. Williams should present this note to Christopher G. Boland and William P. Boland, or either of them, for discount. In pursuance of this agreement or approval of Judge Archbald, Williams did present the note to each of the Bolands for the purpose of having the same discounted, but they refused to grant the discount on the ground that it would be highly improper for them to do so under the existing circumstances. Williams reported the refusal of the Bolands to discount the note to Judge Archbald, and thereafter took it to the Merchants & Mechanics' Bank of Scranton, but this bank also refused to discount the paper.

The note was finally discounted on application of John Henry Jones by the Providence Bank, a small State bank located in a suburb of Scranton. The president of this bank was one C. H. Von Storch, of Scranton, Pa., an attorney at law who had prevailed as a party in interest in litigation before Judge Archbald's court within a year prior to the date of the discount of the note. The note was brought to Von Storch by Jones at the suggestion of Judge Archbald. Moreover, Judge Archbald advised Von Storch that he would consider it a great favor if the discount should be granted. The note has never been paid, although the bank has made at least one call for payment, and the discount on each renewal has been wholly paid by John Henry Jones.

Judge Archbald's financial condition at the time the incident occurred was such that his note was not considered good bankable paper, and we are forced to the conclusion that he attempted to use his influence as judge to secure the loan from parties litigant before his court, and, failing this, he did use his influence as such judge to secure the loan through an attorney who was then practicing before his court and who had but a short while before received favorable judgment in a suit adjudicated therein.

THE WRONGFUL ACCEPTANCE OF MONEY ON THE OCCASION OF A PLEASURE TRIP TO EUROPE.

(See Arts. 10 and 11.)

In the spring of 1910 Judge Archbald allowed one Henry W. Cannon, of New York City, to pay his entire expenses on a pleasure trip to Europe. Mr. Cannon was then, and still is, a stockholder and an officer, in various interstate railroad corporations, including the Great Northern; the Lake Erie & Western Railroad Co.; the Fort Wayne, Cincinnati & Louisville Railroad Co.; the Pacific Coast Co., which owns the entire stock of the Columbia & Puget Sound Railroad Co.; the Pacific Coast Railroad Co.; and the Pacific Coast Steamship Co., together with various other corporations engaged in the business of mining and shipping coal.

On the occasion of this same pleasure trip to Europe one Edward R. W. Searle, clerk of the United States district court of Scranton, Pa., and one J. B. Woodward, of Wilkes-Barre, Pa., jury commissioner of said court, both of whom were appointed by Judge Archbald, raised a subscription fund of money amounting to more than $500, which was presented to Judge Archbald on his departure. This fund was not raised as the result of a bar-association movement, but was composed of contributions of various amounts from certain attorneys practicing before the United States district court, some of whom had cases then pending before said court for adjudication.

Judge Archbald accepted this fund of money and acknowledged receipt of the same to the contributors, whose names were submitted to him at the time that the fund was presented.

THE APPOINTMENT OF A RAILROAD ATTORNEY AS JURY COMMISSIONER.

(See Art. 12.)

On March 29, 1901, Judge Archbald was appointed United States district judge for the middle district of Pennsylvania. On April 9, 1901, under the exercise of authority granted by the act of June 30, 1879 (21 Stat., 43), Judge Archbald appointed one J. B. Woodward, of Wilkes-Barre, Pa., as jury commissioner of the said district court. The said Woodward was then and has since been a general attorney for the Lehigh Valley Railroad Co.

Under the annual appropriation acts the compensation of jury commissioners is limited to $5 per day, for not more than three days at any one term of court. The compensation attached to this position is so insignificant that the appointment would have no attraction for a railroad attorney, except for the power it affords in the selection of juries for the trial of cases in the Federal courts.

GENERAL MISBEHAVIOR OF JUDGE ARCHBALD.

(See Art. 13.)

The testimony in the whole case will tend to support the charge of general misbehavior on the part of Judge Archbald. Judge Archbald was appointed a United States district judge for the middle district of Pennsylvania on the 29th day of March, 1901, and held such office until January 31, 1911, on which last-named date he was appointed an additional United States circuit judge, and on the same day he was duly designated as one of the judges of the United States Commerce Court, which position he has since and now holds.

At different times while Judge Archbald was a judge of the United States district court he sought and obtained credit and in other instances sought to obtain credit from persons who had litigation pending in his said court or who had had litigation pending in his said court.

The testimony will show that after Judge Archbald had been promoted to the position of United States circuit judge and had been duly designated as one of the judges of the United States Commerce Court he, in connection with different persons, sought to obtain options on culm dumps and other coal properties from officers and agents of coal companies which were owned and controlled by railroad companies.

The testimony will further show that in order to influence the officers of the coal companies, which were subsidiary to and owned by the railroad companies engaged in interstate commerce, Judge Archbald repeatedly sought to influence the officials of the railroads to enter into contracts with his associates for the financial benefit of himself and his said associates. In most instances the contracts were executed in the name of the person associated with the judge in the particular transaction or trade, and the judge's name was not disclosed on the face of the contract. The testimony will show, however, that he was, as a matter of fact, pecuniarily interested in such contracts, and that while his interest was not known to the public it was known to the officials of the railroad companies, and of the coal companies subsidiary corporations thereof. The evidence will disclose that while the judge's several associates or partners would locate properties the judge would take up the matter of the purchase or sale of said properties with the officials of the coal companies and of the railroad companies which, as already stated, in most instances owned or controlled the coal companies. The testimony will show that while these negotiations were being conducted and agreements were made and sought to be made the railroad companies with whose officers Judge Archbald was making contracts and agreements and seeking to make contracts and agreements were common carriers engaged in interstate commmerce and had litigation pending in the United States Commerce Court.

Such options, contracts, and agreements were sought and obtained and sought to be obtained by Judge Archbald to such an extent that the exposure of the judge's several transactions through the press gave rise to a public scandal.

The testimony will show that Judge Archbald invested no money of his own in any of these several trades or deals, but used his influence as a judge, in consideration of which he received or was to receive his share or interest in the property or his profits in the deal.

Mr. President, the managers on the part of the House believe that this statement meets the requirement of the Senate and the practice in such cases as the one now pending. It is expected that, of course, during the trial the testimony will show the facts in greater detail than has been attempted to be shown in this preliminary statement.

The managers respectfully call attention to a few of the indisputable features of this case.

After Judge Archbald became judge he was evidently seized with an abnormal and unjudgelike desire to make money by trading directly and through others with railroads and their subsidiary corporations, which concerns had, or were likely to have, litigation in his court or to become directly or indirectly interested in cases coming before it for adjudication.

He abused his potentiality as judge to further these trades and place himself, or showed a willingness to place himself, under obligations to these corporate concerns.

In practically all of his correspondence had with these corporations and their subsidiaries he used the official stationery—that is, the letter heads of the United States Commerce Court—thereby constantly keeping before the minds of these officials that he was a member of the tribunal invested with the power of passing upon the rights of common carriers engaged in interstate commerce in their dealings with the shippers of the country and the general public. He had personal interviews and communications otherwise with these railroad officials at Scranton, in New York, and elsewhere, in which he sought to secure or to promote these trades in order to make money for himself out of the property or interest of these corporate concerns that had litigation in his court or were likely to have such litigation before him.

As indicated in the statement, a number of other misbehaviors on the part of Judge Archbald will be established by the evidence to be adduced during the trial of this case.

In concluding this statement, Mr. President, the managers respectfully invite the attention of the Senate—this honorable court—to the condition upon which judges are allowed to hold office, and that is, judges, in the language of the Constitution, "shall hold their offices during good behavior." The framers of that instrument were desirous of having an independent and incorruptible judiciary, but they never intended to provide that any judge should hold his office upon nonforfeitable life tenure. It was their intention that there should be a reasonable check and balance on the independence of the judiciary that would enable the people to divest an unworthy judge of his power and exalted position. It was therefore sought in the organic law to provide an adequate remedy to protect the people against the malfeasance, malversation, and misfeasance of unjust and corrupt judges. The tenure of office was wisely limited to during good behavior, and the remedy provided in case of misbehavior

was forfeiture of the right to hold office and the removal therefrom by impeachment.

The conduct of this judge has been exceedingly reprehensible and in marked contrast with the high sense of judicial ethics and probity which generally characterize American judges. Let unworthy judges be shorn of power so that an upright and independent judiciary may be maintained for the perpetuation of our Government of laws.

A judge should be the personification of uprightness in his daily walk and conversation. He should hold his exalted office and the administration of justice above the sordid desire to accumulate wealth by trading or trafficking with the actual or probable litigants in his court. He should be free and unaffected by any bias born of avarice and unhampered by pecuniary or other improper obligations.

Judge Archbald's sense of moral responsibility has become deadened. He has prostituted his high office for personal profit, in attempts to make gainful bargains for himself and his business associates. In short, Mr. President, he has attempted by various transactions to commercialize his potentiality as judge, and has not hesitated to use his official power and influence to drive bargains with those who had or had had or would probably have litigation before his court. He has degraded his high office, has destroyed the confidence of the public in his judicial integrity, and has forfeited the condition upon which he holds his commission of trust, responsibility, and power. Therefore, Mr. President, by authority of the House of Representatives and in the name of the American people, the managers on the part of the House of Representatives demand his conviction upon these articles of impeachment and his removal from the office of United States circuit judge designated to sit in the Commerce Court.

Mr. President, that concludes the statement of the managers.

Mr. WORTHINGTON. Mr. President and Senators, for the first time in an impeachment trial in this tribunal the opening statement for the respondent is to be made at the beginning of the case instead of at the close of the testimony on behalf of the managers. We have desired to do this and are doing it with the acquiescence of the honorable managers for two reasons. One is that the Members of the Senate may know when the introduction of testimony is going on what are the questions of fact in dispute. The other is that Senators may know from the beginning what we rely upon as the law of the case.

I had supposed that the Senate would be informed as to what the managers claim are the principles of law under which they ask the Senate to convict this respondent of the offenses which are supposed to be set forth in these 13 articles of impeachment. I waited until the closing words of the honorable gentleman who has just taken his seat to get his views of the law of the case. If I understand what he has said in behalf of himself and his brother managers, they claim that the respondent should be impeached because he has violated that clause of the Constitution which says that judges of the Federal courts shall hold their offices during good behavior. I had supposed until this minute that nobody would come here speaking for the House of Representatives and ask the conviction of a judge of a Federal court, or of any civil officer of the United States, except under that other clause of the Constitution of the United States which says that the President, the Vice President, or the other civil officers of the Government may be impeached for treason, bribery, or other high crimes and misdemeanors. That is the only provision authorizing this proceeding. The learned gentleman has seen fit to ignore it, I must assume, on the ground that if he does rely on that he will find that he can not expect a conviction.

Now, inasmuch as he has not gone into this subject at all, I shall state very briefly what are the contentions on our part.

In the first place, we contend that no officer of the Government may be properly convicted in this tribunal in an impeachment proceeding unless he has committed an offense which is punishable in a criminal court.

Passing by for the present the authorities and the arguments by which we had expected to outline that position at this time, we further say that if that be not so, then the offense must be one, to paraphrase the language which Mr. Buchanan used in the Peck impeachment trial—Mr. Buchanan who was afterwards President of the United States—the offense must be one which consists in the violation of a known law and one which, if not punishable criminally, at least might properly be made punishable criminally.

It was claimed on behalf of the minority of the Judiciary Committee, in the first attempt to impeach Andrew Johnson, what I have stated, that the offense must be an indictable one; and that minority opinion was sustained by the House of Representatives in that case by a vote of about 2 to 1, overruling the report of the majority of the committee that indictability was not essential to impeachability, if I may use that expression.

I will refer to just one thing that I have on my notes on this subject, because, to my mind, the attention of the Senate has never been called to the precise question before when this matter was under argument.

In the case of the United States against Hudson and Goodwin, which is reported in 7 Cranch, the doctrine was laid down that the Federal courts did not have jurisdiction in criminal cases unless there was a statute of the United States which conferred that jurisdiction—in other words, as it is frequently but erroneously, I think, stated, the Federal courts have no common-law criminal jurisdiction. This is the language which was used in the opinion of the court in that case, referring to the course of reasoning which is relied upon against that proposition:

> The powers of the General Government are made up of concessions from the several States; whatever is not expressly given to the former, the latter expressly reserve. The judicial power of the United States is a constituent part of those concessions; that power is to be exercised by courts organized for the purpose and brought into existence by an effort of the legislative power of the Union. Of all the courts which the United States may under their general powers constitute, one only, the Supreme Court, possesses jurisdiction derived immediately from the Constitution and of which the legislative power can not deprive it. All other courts created by the General Government possess no jurisdiction but what is given them by the power that creates them, and can be vested with none but what the power ceded to the General Government will authorize them to confer.

I maintain that under that principle this court, like the Supreme Court of the United States, is a court which is created by the Constitution and which gets its powers from the Constitution, and needs no aid from the laws of Congress to give it power to impeach for crimes and misdemeanors.

So we maintain that what was a crime at the common law may be made impeachable here, and that any laws which Congress has passed since that time if violated by any civil officer of the Government, judge or President, or anyone else, may be the subject of impeachment, and that there can be no other impeachable offenses.

I come now to deal with the facts in this particular case—in these particular cases, for there are 13 of them—and we are trying Judge Archbald here for 13 offenses, or alleged offenses, instead of 1. All these cases had their origin in that region of Pennsylvania that lies in the neighborhood of Scranton. We find in that region that practically the only business that people engage in there in a large way relates in one way or another to the anthracite coal, which is found in that vicinity, and if men do undertake to go into business at all it is about the only business in which they can go into except in a small way.

You will find that it is the custom in that country—and nothing exceptional has been done in the matters with which Judge Archbald was connected—it is the custom to-day, as it will come out here in the taking of evidence, that men get what they call an option on coal property without paying anything for it, and that instead of being an option it amounts practically to the creation of an agency, so that the agent has a right to sell property to whoever he pleases, and he makes whatever he can get over and above the amount he is to pay to the person who creates the agency.

Now, a word or two about the parties. Judge Archbald is now 64 years old. He has lived in Scranton ever since he was a boy of 9 years. In 1884 the people of the district where he resides elected him to the office of State judge, the tenure of the office being for 10 years, and for the last 7 years of that time he was the presiding judge, the court being composed of three judges.

In 1904, at the expiration of his term, his people reelected him to that office, and he held the position of presiding judge of that court from 1884 until the early part of 1901, when he was appointed United States district judge. The middle district of Pennsylvania was created at that time, and he was appointed the first district judge to preside in that district. He held that office, still sitting at Scranton, as he had done all the years before, until in the latter part of January, 1911, he was promoted to the position of circuit judge and assigned to duty on the Commerce Court, which position he holds to this time. So that you will see that the man who is brought here and accused of these offenses is one who held the position of judge in the city of Scranton for about 27 years—until he was appointed judge of the Commerce Court. I take it, as in every case where a man is accused of doing that which is wrong and the inquiry comes into a court of any kind, especially where the question is what was his intent in doing the things that he has done—and that is the whole matter here—his character and standing in the community where he has lived are of the highest possible

value as evidence. I make bold to say that nowhere in the United States can evidence be produced as to the integrity, the honesty, the industry, and the ability of any Federal judge which will put him on a higher plane than Judge Archbald will be put here by men of standing and influence in the region from which he comes, and who, if we would allow them and you would permit it, would swarm into this Chamber to testify as to their belief in him and their knowledge that he is a man who is above the corruption and wrongdoing with which he is charged here—by inference. I use the expression "by inference" because you do not find in a single one of these articles of impeachment, and you will find in nothing that has been said here to-day, any evidence or any proof that will show that in what the respondent did he acted corruptly. The articles of impeachment, so far as that is concerned, use adverbs and not facts, and we are here practically fighting adverbs and not evidence.

There are three other persons who live in Scranton whose names figure in so many of these articles that before going on with the facts in the particular cases I desire incidentally to mention them, so that the Members of the Senate will hereafter recognize who they are. There are three brothers there—William P. Boland, Christopher G. Boland, and James M. Boland. As to the latter, he plays no part in this case so far as I know. William P. Boland and Christopher G. Boland are men of standing there, and Christopher G. Boland and Judge Archbald have been neighbors and friends for a great many years. In a town of that size they see each other practically every day and often a great many times every day.

There is another gentleman, Edward J. Williams, whose testimony and doings will figure very largely in several of these transactions. He is a man who, perhaps, I can best describe by saying, as I believe has been brought out by the managers elsewhere, that he is called "Option" Williams; that he is a man who is not engaged in any regular pursuit, but has endeavored to make a living in the past by finding coal properties, getting options on them, and making what he can in that way. Mr. Edward J. Williams, during the time with which we are concerned, made the office of the Bolands his office, and was there, as he says and as the proof will show, practically every day.

Now, as to the first article of impeachment: My friend, Mr. Manager CLAYTON, has told you what a dump is. Then he has told you something about what the proof will show as to the value of a certain dump, and especially he has told of some investigations and calculations made by a Mr. Rittenhouse.

I should like to have it understood that all that was done after Judge Archbald's connection with this dump terminated. The question here, of course, is not what some expert in making calculations as to what was in the dump, the proportion of available coal as against the proportion of waste, and making investigations as to freight rates on the Erie road, might find it was worth, but what would be known to the ordinary man who was in the position that Judge Archbald was when he had any connection with it. You will then find that, as a matter of fact, what the Hillside Coal & Iron Co., through Capt. May, asked for its interest in this dump was very much more than it was worth, and that, as a matter of fact, the same Hillside Coal & Iron Co., through the same Capt. May, had tried to sell its interest in this same dump a short time before for $2,000 to the Du Pont Powder Co., but when that trade was about to be completed, the powder company concluded that it would get its power elsewhere and not furnish it itself, so that the sale fell through.

The trouble with that Katydid dump is that nobody knows who owns it. I am not going to weary you with any of the details of the intricacies and complications involving the title—that will sufficiently come out in the evidence—but you will find that not only does the Hillside Coal & Iron Co. not own it, but the question is whether it has any interest in it, and if it has, certainly it will appear that that interest is very small. While it is true that, as a general rule, the Erie Railroad Co., which owned the Hillside Coal & Iron Co., and the other companies which own coal property up there do not sell it, but hold it to utilize the property for themselves, they do frequently make exceptions; and in this case an exception had been made or tried to be made of the Katydid dump before Judge Archbald had anything to do with it. The reason of it was because the Hillside Co. had no title, and there were other reasons that no doubt the witnesses who will come here will tell about.

I want at this point to stop one moment to make a complaint on the part of Judge Archbald. In the thirteenth article of impeachment, after detailing in other articles particular offenses charged against Judge Archbald so that he might know as to most of them exactly what was meant, and as to one or two of them which are very general, he could guess, it is charged that in various ways he sought to use his influence as a judge to get suitors before his court to give him credit, and that in various ways and with various railroads which had cases pending in his court, or might have cases pending in his court, he sought to get them to make bargains with him; but neither in the thirteenth article nor in anything that has been said here to-day have we one word of intimation as to who it was from whom those credits were sought or with what railroad companies the respondent had these dealings, or where or how or when, and we are asked here now to enter upon this trial, if the Senate shall sustain the managers in their contention, on charges the meaning of which nobody under heaven knows, except the managers, and I doubt whether they know what they mean by that thirteenth article. If they undertake under that general imputation in the thirteenth article to bring in any new alleged offenses against Judge Archbald, we shall then ask the Senate to pass upon the question whether it is competent to bring a high officer of the Government to trial in this way so that he will not know what he is to meet.

I mention that at this point, because as to the Katydid dump it is all important to know that Judge Archbald did not of his own motion make up his mind that he would go into it and see if he could make money. Mr. William P. Boland, for reasons which will appear hereafter, sent Edward J. Williams to Judge Archbald, saying, "Go to Judge Archbald and get him to give you a letter to Capt. May asking that you be given an option on the Katydid dump." In pursuance of that request from Mr. Williams, Judge Archbald, who had had no thought or intention of having anything to do with the Katydid dump, gave Mr. Williams a letter to Capt. May, and that was the way that negotiation began.

There is some doubt in the evidence as to just what Capt. May said to Mr. Williams when he went there with the letter which simply asked whether he would sell that dump, and, if so, at what figure. I will not enter upon it now, but the option was not given promptly. Not long afterwards Mr. William P. Boland said to Mr. Williams, "Go to Judge Archbald again and get him to go to the New York office of the Erie Railroad Co." In pursuance of that suggestion, Judge Archbald did go to see Mr. Brownell, who was the general counsel of the Erie Railroad Co., to inquire, as Judge Archbald recollects, whether the question of the title to the dump had yet been settled or how he could learn something about it. The paper which Capt. May gave I will not attempt to describe; it is simply a statement by Capt. May saying that he will recommend the sale of the interest of the Hillside Coal & Iron Co. in the Katydid dump for $4,500, and that an agreement must be fully drawn up and submitted to the proper authorities of the company before any sale can be made.

You will perceive that in order to implicate Judge Archbald it was necessary not only that he should have dealings with the railroad company in reference to the proposed purchase of this dump, but to find a purchaser. William P. Borland, behind the scenes, therefore went to Mr. Conn, who was the general manager of the little road that runs between Wilkes-Barre and Scranton, called the Laurel line, and urged him to buy it. Then when he finds Conn is in a humor to buy it, once more he says to Williams, "Go to Judge Archbald and get a letter to Mr. Conn, asking him to buy this Katydid property." Mr. Williams goes to Judge Archbald, and Judge Archbald, at Williams's request, utterly ignorant of the fact that Mr. William P. Boland had anything to do with it, writes a letter to Conn. Mr. Williams takes that letter to Mr. William P. Boland instead of to Conn, and delivers it over to William P. Boland, who has it photographed, and then sends it on by the hands of Williams to Mr. Conn. Mr. Conn, after some considerable delay, upon the advice of his attorneys as to the title to the dump, refused to buy it. That was sometime in November, 1911.

So much for that. It is necessary, before I go on with this matter, so that Senators may understand the questions that are going to arise here, to refer to certain litigation a little more particularly than Mr. Manager CLAYTON has done.

There was a corporation called the Marian Coal Co., of which these two Bolands, I believe, did own the most of the stock; and the three Bolands certainly owned two-thirds of it. That company was a proprietor of one of these coal dumps. It had entered into a contract with a man named Peale, by which Peale was given the exclusive right to wash the coal in the dump and market it. He was to pay certain moneys to the Marian Coal Co., and was to have certain rights, the details of which I need not go into.

The Bolands became dissatisfied with Peale and turned him out, claiming that the contract was at an end and that Peale had not properly conducted himself. They took possession.

Peale then brought the suit which figures throughout these proceedings as Peale against the Marian Coal Co. They brought the suit in the court over which Judge Archbald was presiding in the spring of 1909; and here dates become of the utmost importance.

In September, 1909, Judge Archbald was called upon to pass on a demurrer to the complaint filed by the Marian Coal Co. He overruled the demurrer. It was simply a question about whether the suit could be brought there or would have to be brought somewhere else, and Judge Archbald held, under a decision of the Supreme Court and some other decisions, that because the company had filed its demurrer and had not raised the question of jurisdiction in the first instance it was in court and would have to stay, a decision, I believe, which nobody questions the correctness of to this day.

The note which Mr. Manager CLAYTON referred to as the $500 note, which he said was sent to the Bolands for discount, was made in December following the September in which this demurrer was overruled, but for some reason Mr. William P. Boland months afterwards got into his mind the idea that Judge Archbald had overruled the demurrer because Boland had not discounted the judge's note. That conviction became lodged in his mind and stayed lodged there until a few weeks ago at another place in this building, where he seemed to be very much surprised to find that he had been laboring under such a mistake.

After Judge Archbald was put upon the Commerce Court he was succeeded as district judge for the middle district of Pennsylvania by Judge Witmer, who presides there still. To Judge Witmer, of course, came over the case of Peale against the Marian Coal Co., and Mr. William P. Boland got it into his mind in some way—if it can be determined how, we will be glad to know; we do not yet know—that Judge Witmer, when he decided that case on the merits in August, 1911, against the Marian Coal Co., had been required to enter that decree by Judge Archbald, who had acted under the instigation of a Mr. Loomis, who was an officer of the Lackawanna Railroad Co. I say that that was a figment of his brain, and that there will be and can be no evidence to support it; but that he had it in his mind there can be no doubt.

He also got the idea, by reason of a certain letter that was written by Mr. Seager, of counsel for the Lackawanna Railroad Co., to the Interstate Commerce Commission that Mr. Seager had been informed in advance how this suit of Peale against the Marian Coal Co. was going to be decided, and generally got it into his head that Judge Witmer's court was being run by the railroad company.

Having all these things—every one of which, in fact, is without a particle of foundation—in his mind, Mr. W. P. Boland, on the 5th of January last, came down to the Interstate Commerce Commission and to them narrated these things which had got into his mind—how Judge Archbald had overruled a demurrer because he would not discount his note; how Judge Archbald had, at the direction of Mr. Loomis, gone to Judge Witmer and commanded him to enter up this final decree; how Mr. Seager was in full communication with the court and knew what it was going to do—that he was being ruined by the court, and that he came down to the Interstate Commerce Commission for this reason.

The Marian Coal Co. had brought another suit against the railroad company in the Interstate Commerce Commission, for the purpose of getting some relief against the rates charged for the shipment of its coal, and that suit was pending before the Interstate Commerce Commission. When he gave these unfounded statements to the members of the Interstate Commerce Commission—Judge Archbald knowing no more about what was going on than any of you—they went to the President and stated these delusions to the President. The President then sent them to the Attorney General, and on the day that that rate case before the Interstate Commerce Commission was finally argued on the merits, after the argument was over, a representative of the Interstate Commerce Commission took Boland and took this man Williams, who had been sent here in the meantime, before the Attorney General, and there these misstatements and delusions were again stated to the Attorney General, all without any knowledge on the part of Judge Archbald or any suggestion from anybody that he was entitled to be heard. And as the honorable manager has told you how the President and the Attorney General came to the conclusion that this was a matter which required action by the Judiciary Committee of the House of Representatives, I beg leave to read, from page 133 of the first volume of the proceedings in this case, an extract from the letter of the Attorney General to the President, dated April 29, 1912, in which he sets forth in a general way the charges against Judge Archbald, and then says:

> It had been my intention, before advising definite action in these matters, to call upon Judge Archbald himself for his own explanation of them, but, in view of the newspaper publication of the charges and the House resolution (calling for the papers), I think it would be better to transmit the papers to the Judiciary Committee of the House of Representatives, together with a copy of Wrisley Brown's report and of this letter, to the end that the transaction may be thoroughly investigated by that committee.

So it would appear that, instead of the Attorney General making a careful investigation, as Mr. Manager CLAYTON has said, and reporting to the President that the matter ought to be sent to the Judiciary Committee of the House, the Judiciary Committee of the House sent for the papers, or had a resolution adopted, which the Attorney General considered made it proper for him to send the papers, and so cut off the doing of what he was about to do—sending for Judge Archbald and giving him a chance to show the true facts in regard to the charges against him.

So the matter went to the House of Representatives, to the Judiciary Committee of the House, with these delusions of Mr. Boland that I have spoken of as the principal charges against Judge Archbald, and you see by the articles of impeachment and what has been said here to-day that it was shown that every one of them was a delusion, and they do not at all figure in the charges that have been preferred. There were some other matters of smaller moment which were before the Attorney General. But most of the charges in these articles, I think, originated with the committee and were not under consideration at all by the Attorney General.

After Mr. Boland had been here in January and after he had been here again before the Attorney General on the 12th of February, or some time in February of this year, Mr. Boland went back to Scranton. He, of course, knew that an investigation was going on, and no sale of the Katydid Mine had yet been made, and he immediately stirred up Mr. Williams, telling him that he must go to work and get a sale. He also concocted in his office a letter for Williams to sign, which Williams did sign, addressed to Conn, urging him again to buy. He had that letter prepared and signed by Williams and sent him off again, saying "Hurry, hurry; there is a storm coming." So he went to Conn again and Mr. Conn again refused to buy. Then he found a man who was engaged in the coal business, named Bradley. In Mr. Boland's office a sale to Bradley was hurried through for $20,000 for this Katydid Mine; and Capt. May, on behalf of the Hillside Coal & Iron Co., agreed to sell its title to Bradley for $4,500, under the option which had been held so long. He drew a form of contract which he submitted to Bradley and sent a copy to Williams on or about the 10th of April last.

On the day he did that, or the day after—it makes no difference which—he received letters from a number of the people who were called the Everhardt heirs, who claimed an interest in this title, telling him they understood that he was trying to sell that dump and informing him that he would have trouble if he sold it, even if he sold only his own title.

There were other properties in which Capt. May's company was interested as to which the Everhardt heirs might give a great deal of trouble. All this induced Capt. May to recall the contract with Bradley. He met Bradley at the Laurel line station where each of them had gone to take a train, and there told him he wanted Bradley to return the contract, and Bradley did return it.

Mr. President and Senators, when this matter was presented to the House of Representatives by my learned friends who are here, the House was told that Judge Archbald prepared that contract and that he met Bradley at the station, and that he knew that an investigation was coming, and that he recalled the contract, when there was not a particle of evidence in the case—and I think there never will be a particle of evidence in the case—that he made the contract or recalled it, or that he even knew that a sale to Bradley was then contemplated. That was the situation in reference to this Katydid coal-dump transaction when these proceedings were begun at the other end of this building.

I wish to deviate now in just one respect from the order in which these articles of impeachment are prepared, to pass by No. 2 for the moment and take up No. 3, because it refers to another coal-dump transaction—the so-called Packer No. 3.

It will appear that instead of Judge Archbald making up his mind that he would go into the business of speculating in coal dumps to be obtained from railroads that might have cases before him that as to this transaction, too, it was the merest accident that he had anything to do with it at all. There was up

in that region a coal dump called the Oxford dump, owned by private individuals, with which no railroad had any concern whatever. Judge Archbald, with some other persons, was proposing to acquire a lease on the Oxford dump when he was informed, or they were informed, that because of the quality of the dump it probably would be impossible to work it profitably by itself; but that right across the little creek on which that dump borders there were some other dumps, which were owned by the Lehigh Valley Coal Co., in such wise that the Oxford dump, with one or more of those, could be worked profitably. It was that that led him to inquire of the officials of the coal company which controlled the other dumps to see whether an arrangement could be made by which one or more of them could be worked with the Oxford dump.

Those dumps on the other side of the creek were called the Packer dumps—Packer No. 1, No. 2, and No. 3, and so on—and this was No. 3. The subordinate officers of that company investigated the matter, and they came to the conclusion that as to Packer No. 3 dump, it could not be utilized by the company itself. The reasons for that I need not state, but it is perfectly apparent that Judge Archbald's position had nothing in the world to do with that matter, and that they came to the conclusion that they would waive their rights in that particular dump because they could not make any money out of it themselves or do anything with it.

All those dumps, the Senators will remember, were owned by the Girard estate, and were controlled through a certain corporation in the city of Philadelphia. The Lehigh Valley Coal Co. merely had them leased, as they had leased a vast amount of other coal property belonging to the Girard estate. This Packer No. 3 was but a mere speck in the vast domain which they had leased from that estate.

The leases were to expire in less than two years, and there was talk of new leases. They simply agreed that they would give up their rights as to that particular dump, and anybody who could make proper arrangements with the Girard estate could take it, so far as they were concerned.

You have heard much said about Judge Archbald having gone into a great speculation and the business of dealing in coal dumps or coal properties of railroad companies which might have cases in the Commerce Court. These two cases—the Katydid and Packer No. 3—are the only ones of which we have been so far advised that come within that category, and with which there is any attempt to show that Judge Archbald was connected; and you will see how he got into them—one of them by its being suggested to him by Williams, who was pushed forward by Boland; and the other because he was attempting to work with others the Oxford dump, and they found that it could not be done profitably without getting one of those on the other side of the creek.

It is said here—and if it were true it would be a matter of vast importance—as it is said in the articles of impeachment, that Judge Archbald concealed his relation to these matters and put dummies forward as the real parties in interest.

Now, as a matter of fact, the exact contrary is the truth in this matter. When he wrote to Capt. May he did not say anything about Williams having any interest, but simply sent Williams as the bearer of a letter saying "Will you sell this Katydid dump?" and whatever transaction took place out of his presence anywhere else by which his name was sought to be concealed was without his knowledge and without his consent and authority.

When Mr. Robertson's option was given, which was shortly after Capt. May gave his option, Judge Archbald in his own handwriting wrote out the contract with Robertson and signed it as a witness to the signature of Mr. Robertson. When he wrote to Conn he wrote in his own name, as a person having interest. And, finally, more important than all—perhaps the managers are excusable as to this, because probably they hear it now for the first time—when the sale with Conn was about to be concluded, in October or November, 1911, Judge Archbald prepared the contract with Conn, giving the terms of the proposed sale of the Katydid dump, and he put it as a contract between Robert W. Archbald and Edward J. Williams, on the one hand, and this company of which Conn was the manager on the other hand. That we will show by evidence which will not be disputed by anybody. And as to concealing his name with reference to the Packer No. 3 transaction, the managers themselves, if they go on with that charge, will have to put in evidence the letter signed by Judge Archbald himself and signed by the other persons with whom he was interested, proposing to buy that dump and stating the terms on which they would buy it. This idea of Judge Archbald engaging in something that was wrong and concealing his name is absolutely without the slightest foundation.

Now, I want to go back a minute to the second article. That concerns the charge that Judge Archbald "for a valuable consideration"—that is the information we are given in the article—"for a valuable consideration" undertook to bring about a settlement of this suit of Peale against the Marion Coal Co., which was pending before Judge Witmer at the time, and the case of the Marion Coal Co. against the Delaware, Lackawanna & Western Railroad Co., which was pending before the Interstate Commerce Commission. Observe that neither of these cases was pending in his court. One of them was pending before Judge Witmer, who now had become district judge, and the other was pending before the Interstate Commerce Commission.

William P. Boland and Christopher G. Boland employed a lawyer named Watson in Scranton in an attempt to bring about a settlement of both those litigations, and he carried on negotiations for some time in that regard.

Judge Archbald, at the request of Mr. Watson, a long-time friend of his, and at the request of Christopher G. Boland, who implored him to assist him in the matter and who said to him with tears in his eyes, "I am afraid my brother, William P. Boland, will lose his mind if the matter is not settled; he can not sleep," lent his aid to bring the parties together. That is what he did and nothing else.

If the learned managers have any evidence to produce which will tend to show that it ever entered the mind of this respondent that he was to get a cent out of the transaction or any benefit of any kind personal to himself or that he engaged in it for any purpose other than to help friends of his for the reasons I have stated, they will produce some evidence which they have not produced and which is unknown to us.

I may say in this connection that when I was in Scranton—as I was two or three weeks ago—Mr. Watson, as we were all informed, was seized with an attack of some kind and carried to his house, and his illness is of such a character—or was then—that we fear it will be impossible for him to come here or even to have his deposition taken.

Now, as to the other articles of impeachment, I shall go over them in a very hasty way. The fourth article charges certain things as to which there is no dispute with respect to the facts. The case of the Louisville & Nashville Railroad Co. had been pending in the Interstate Commerce Commission and had come up before the Commerce Court, and that court was considering what action it would take in reference to the matter. It had been argued and submitted to the court, and Judge Archbald was engaged in writing an opinion.

Now, in going over the testimony in the case there was a certain place where a Mr. Compton, who was the principal witness for the railroad company, had used in reference to something the expression, "We did"; at least that is what he was made to say in the reporter's version of it and as it appears in the deposition before the Interstate Commerce Commission and as it was transmitted to the Commerce Court. It was perfectly apparent from the context that what the witness said and what should have been there was "We did not" do the things.

Judge Archbald wrote to Mr. Bruce—Mr. Bruce being a lawyer in Louisville whose standing as a man of honor in the profession is as high as that of any man in the country—and asked him to speak to Mr. Compton and see whether a mistake had not been made. Mr. Bruce did speak to Mr. Compton, and Mr. Compton said that was what he had said, and he called attention to the context, showing that that was what he had said.

Judge Archbald, who is charged with having engaged in this transaction corruptly, took that letter and pasted it into the record at the point where occurred the expression, "We did," where anybody might see the letter; and there it is to-day.

As a matter of fact, when Judge Archbald came to write his opinion, he based it upon the answer as it originally stood. So that this correction had no effect whatever on the decision.

Later, it is true, a question arose, the nature of which is such that to explain it would require a long statement of what had occurred in the case, which I will not attempt now and may not have to attempt in the future. He asked Mr. Bruce what he had to say about it, and Mr. Bruce at considerable length wrote back. It related to a detail of evidence. The defendants in the case in the Commerce Court were the Interstate Commerce Commission and the United States. Both of these defendants had refused to go into the questions of evidence at all, and based their defense solely upon the ground that the Commerce Court had no right to go into the evidence, so that this explanation by Mr. Bruce related to what in a proper sense was ex parte.

So far as concerns the opinion upon that subject which Mr. Manager CLAYTON has said followed the line of Mr. Bruce's

argument, I think it will be very hard for him to maintain that proposition. I have read the letter several times and read the opinion, and I confess I have not been able so far to see the connection. At all events, the case will be barren of any evidence that in what Judge Archbald did in that matter he had any wrongful intention or any motive except to arrive at the facts and to do justice between the parties.

The fifth article of impeachment is based upon the alleged gift of $500 by one Warnke to Judge Archbald as compensation for Judge Archbald having gone to an official of the Reading Railroad Co. and asked that official to give Mr. Warnke a certain right which he claimed.

The facts in that matter are these: Judge Archbald did go at the request of Mr. Warnke to ask this officer to allow Mr. Warnke to have a certain lease. He made an appointment with that officer for that purpose. He was told that the matter was closed and so reported to Mr. Warnke, and that was the end of it. As a matter of fact it appears that some months before Mr. Warnke had been endeavoring to get that same favor from the railroad company and had failed. Judge Archbald knew nothing of that and simply went as a friend of Mr. Warnke and asked that the favor be given him without any expectation or promise of any reward whatever, and never thought of any.

But one John Henry Jones and Judge Archbald were together in another transaction which involved the sale of another dump with which no railroad had any concern whatever. It is known as the Gravity fill, the coal being dumped where it made a fill instead of being piled up. It will appear beyond any dispute whatever that Judge Archbald was the principal factor in bringing about that sale, for which the purchasers agreed to pay a commission of $500. That commission was given to Judge Archbald in the form of a note for $510. He discounted it and gave half the proceeds to Jones. Warnke and his associates in the Premier Co., which was the purchaser of this property, paid the commission to Judge Archbald and had no concern with his dividing it with Jones. It is believed that it is not a criminal offense for the judge of a Federal court to have a transaction of this kind with a private individual who probably never will have any business in his court.

I hesitate to deal with the sixth article because, as a lawyer, I do not like to recognize the fact that a man may be brought into a court of justice anywhere and asked to respond to a charge so vague and indefinite as that is. Its five or six lines convey no idea as to what it is intended to charge. We are told now by the managers it was an endeavor to get the Lehigh Valley Coal Co. to purchase the interest of the Everhardt heirs in a certain tract of land, which the company owned for the most part. It had acquired the title of some of the Everhardt heirs and wanted to get the title of the others. It would appear, as to that, that Judge Archbald was interested in the Everhardt heirs because they had an outstanding claim to the Katydid culm bank, and he was trying to clear up that title so that he could sell it.

You will remember the sale had fallen through because he could not give a good title, on account of the claim of these Everhardt people, among others. When he learned that the company wanted to get the title of the Everhardt heirs to the land which they owned, he sought to have the Everhardt heirs brought into the matter so that he could get the title that they had to the Katydid dump and enable him to sell it. That was all the connection he had with that matter.

Next is article 7 with reference to the Rissinger note. It is true that Mr. Rissinger was the principal stockholder in a concern called the Old Plymouth Coal Co. That company has lost some of its property by fire and had a number of suits pending against insurance companies, and those of them which involved a sufficient amount to enable the defendant companies to remove them into the Federal court had been so removed into Judge Archbald's court. The cases were tried there together. While the trial was going on the parties settled and a judgment was entered in favor of the plaintiff company against the different insurance companies for an amount somewhat less than the amount claimed. It is true that at the time that trial was going on, and sometime before and sometime after, Judge Archbald had had some negotiations with Mr. Rissinger and a number of other people who were concerned in a speculation about some property in Honduras. After the trial Judge Archbald did lend his indorsement to a note for forty-five hundred dollars, which was discounted by some bank there. Judge Archbald claimed that he indorsed that note absolutely and entirely as an accommodation to Mr. Rissinger and had no interest in that speculation. Mr. Rissinger's theory of it, as we are given to understand, is that Judge Archbald did acquire an interest in that property, and it was for that purpose that he indorsed the note. Whether he indorsed it as an accommodation for Rissinger or indorsed it because he acquired an interest in the speculation in that far-away country does not make a particle of difference, because it is absolutely impossible to connect his relations with Rissinger in that transaction with anything that took place in the trial in which Rissinger was interested as an owner of stock in the old Plymouth Coal Co. I think every lawyer who was connected with that case will tell you that so far as the rulings of Judge Archbald during the trial are concerned there is no question but that they were right, and there is no supposition, I believe, entertained by anybody that he made any ruling in that case in favor of Rissinger that was not justified by the law of the case.

It is said that this note was presented for discount to Mr. Lanahan, who had been of counsel for Ressinger in the insurance cases. If that was done, it was without the knowledge of Judge Archbald.

The next two counts refer to a note for $500. That is the note I referred to some time ago as the one that Mr. Boland thought the judge wanted him to discount and punished him for not discounting by overruling his demurrer. That was one thing which got into Boland's brain and lodged there for many months.

John Henry Jones came to Judge Archbald in the latter part of the year 1909, after this demurrer had been overruled, and told him of a speculation in some property in Venezuela. Judge Archbald's understanding is that he indorsed a $500 note for Jones at that time as an accommodation to Jones. I think Jones so understands it, and that there was no interest acquired or intended to be acquired by Judge Archbald in the speculation. Whether that is true or not, of course, is of no consequence here. That note it appears was taken by Edward J. Williams, who was concerned in this speculation in Venezuela with Jones. It was taken first to Christopher G. Boland and then to William F. Boland, and they were asked to discount it.

It should be borne in mind, however, that at that time Christopher G. Boland was president, I think, of a bank in the State of New York, not far from Buffalo, and that it was not a rare transaction for him to have dealings concerning discounts for that bank in Scranton. However that may be, all that Judge Archbald had to do with this matter was that Mr. Jones some time after the transaction told him he had presented his note to the Bolands for a discount, or Williams intended to do it, or something of that kind.

It is true that Judge Archbald lived in Scranton and knew the Bolands, and no doubt had known of their interest in the Marian Coal Co. It is true that in the September preceding this transaction he had passed upon the demurrer in the case of Peale against the Marian Coal Co. If a judge is supposed to remember and have in mind all the time the names of every person interested in every case before him, the respondent may be charged with having in mind at the time in question that the Bolands were concerned with litigation in his court.

So it is said here that that note was taken after the Bolands had refused to discount it to Von Storch, an officer of the bank, at the request of Judge Archbald. I ask Senators to wait until they hear the evidence tending to show that that note was taken to Von Storch on any suggestion from Judge Archbald. The fact is it was taken there without any suggestion from him. After it was presented there Von Storch called the judge to the bank and had some conversation with him as to whether it was all right to discount it. It certainly is far-fetched that the honorable managers claim here that that was done by Von Storch for two reasons, in the first place because he was a lawyer practicing before Judge Archbald. As a matter of fact his practice before Judge Archbald was practically nil. On the other hand, they say that a case in Judge Archbald's court in which Von Storch had been a party and not counsel about a year before had been decided by Judge Archbald in Von Storch's favor. So they say Judge Archbald is corrupt because the note he had indorsed was taken for discount to a man in whose favor he had some time before decided a case. That is all there is in that transaction.

Article 10 comes next. Henry W. Cannon is a full cousin of Judge Archbald's wife. He is a man of large means, has a fine villa or house in Florence, Italy, and has been in the habit of making trips abroad in the summer. In 1910 he was going on his summer trip, and he wrote a letter to his cousin, who was not only his full cousin but a lifelong intimate and dear friend, and invited her to go abroad with him as his guest, and suggesting that some other member of the family might come along, and saying in the letter he assumed that Judge Archbald's public duties would not allow him to go along.

After that letter was received Judge Archbald conferred with the other judges of that circuit, and they all concluded that he

not only could go but that he ought to go, as he had not had a vacation for seven or eight years. So he and his wife went abroad as the guests of Mrs. Archbald's cousin, Mr. Cannon, and were with him for several months, and returned with him.

In order to make a crime out of that innocent transaction this article of impeachment goes on to charge that Mr. Cannon was an officer of various corporations, nearly all of which were doing business on the Pacific coast of the United States. There is no corporation he was connected with, I believe, that ever had any case that came before Judge Archbald. Nobody thought of that possibility until it originated in the minds of our honorable friends here. It had never occurred to anybody that that could constitute an offense or that there was anything improper in Judge Archbald doing what he did in that matter.

On the day that that ship sailed from New York Harbor, and just before the hour of sailing, when those who were not to go were to be cleared from the deck, Judge Searle, who was a member of the judiciary of the State of Pennsylvania, a man of as high standing for honor and integrity as any man in the State, walked up to Judge Archbald on board the ship and said, "Here is something for you, Judge, but you are not to open it until you get away from this port." Judge Archbald knew nothing about what this meant until the ship had sailed and he had opened the package. He then found a letter from a number of his friends at the bar in and about Scranton, most of them lawyers, all of high standing, as to whom it would be impossible for anybody to suggest any corrupt or wrongful intention, making Judge Archbald this present and asking him to take it and enjoy it for his private expenses. They knew that Mr. Cannon was going to pay his traveling expenses, and they gave him this in addition. It would certainly have been extremely embarrassing for Judge Archbald to have returned this fund to the donors with the intimation that they had been guilty of gross misbehavior in presenting him with the money. And this transaction is the subject matter of the eleventh article.

Now, it has been said here to-day that Mr. Searle, the clerk of Judge Archbald's court (not the Judge Searle who presented the fund which I have referred to to Judge Archbald) and Mr. Woodward, the jury commissioner for that district, were the two men who had raised this fund. Just how it was raised Judge Archbald does not know. He had no more to do with it than any of us had; he knew nothing about it, until after the money was presented to him on the ship by Judge Searle.

It is charged in the twelfth article that Judge Archbald appointed as jury commissioner of his court a lawyer named Woodward, and that Mr. Woodward was attorney for a railroad company which might have litigation in his court. This is one of the articles where by some inadvertence, I must suppose, on the part of the learned managers, the adverbs to which I have heretofore referred are omitted. It is not even charged that he made that appointment wrongfully or corruptly. It simply rests upon the proposition that to appoint as jury commissioner a man who was attorney for a railroad company is an impeachable offense.

As a matter of fact Mr. Woodward was appointed in 1901 and served until about a year ago, I believe, with eminent satisfaction to all the members of the bar, whether they were attorneys for railroad companies or not. He did not leave his position there, I believe, until after Judge Archbald came to the Commerce Court. Mr. Woodward will probably be here, and if there is any information to be obtained from him as to whether he had any collusive arrangement with Judge Archbald he may impart it. But to our mind the article as it stands charging simply this appointment without any suggestion that he did it corruptly or wrongfully is a novelty in criminal pleading.

I have little to say in reply to the concluding paragraphs of the very able and eloquent presentation that was made by Mr. Manager CLAYTON. I do not understand that we here have to determine whether the provisions of the Constitution of the United States which provide for the impeachment not only of judges but of all civil officers of the Government, including perhaps Senators and Members of the House of Representatives, are to be changed from what they have been to this day to a provision for the "recall" of judges and other officers or not. If the learned Manager means what it seems to me he has plainly indicated—it follows that he contends that if for any cause a majority of the Members of the House of Representatives and two-thirds of this body come to the conclusion that the President of the United States or any other civil officer from the President down does not conduct himself in a manner which is satisfactory to the Members of these two bodies, he should be removed from his office whether he has committed any crime or not.

In the convention of 1787, which framed the Constitution of the United States, it was at first suggested that civil officers of the United States might be impeached for maladministration, but the convention, by an almost unanimous vote, refused to adopt that provision because it was too general and too uncertain. They substituted for it the words "treason, bribery, or other high crimes or misdemeanors." The effort of the managers in this case, if I understand what has been said by them here to-day and what has been said elsewhere, is to take those words "treason, bribery, or other high crimes or misdemeanors" out of the Constitution and write back the words that the convention would not put in that instrument, "maladministration or misbehavior." I think it will be a long day before the Senate will yield to that suggestion and tear the Constitution of the United States to pieces in that fashion.

Mr. Manager CLAYTON. Mr. President, may I have permission to make a brief statement?

The PRESIDENT pro tempore. Without objection on the part of the Senate, permission is granted.

Mr. Manager CLAYTON. I wish to say, Mr. President, that the view of the law in this case was expressed to the Senate last summer. You will find on pages 86 and 87 of the proceedings then had in the Senate a statement on the part of the managers—and I may say, Mr. President, I was the manager who made the statement—of what is considered to be the general law of this case. The authorities are there cited, and some of them quoted somewhat at length.

Mr. President, in further reply to the complaint which has been made by the honorable gentleman who represents the respondent here, that we did not go into the discussion of the law in the preliminary statement which the managers had the honor to submit this afternoon, I beg to say that we followed what we believed to be the practice in such cases. I have before me the record in the case of Judge Swayne. I observe that Judge Palmer, who was then the manager speaking for all the managers, after he concluded his statement of facts, winding up, I may say, with a condensed summary of all the statements which he had made at length, ended the preliminary statement of facts which is required according to the rules and practice of the Senate. He did not at that time present any brief or any argument or any views on the law of impeachment. The managers, Mr. President, have already prepared in a formal way a brief, and can present that brief, and in argument fully cover their views as to the law of impeachment; but we thought that this brief and what the managers said last summer, which is in the RECORD and to which I have referred, would amply apprise the honorable counsel for the respondent of the line of argument on the law in this case that the managers would pursue.

I say that, Mr. President, because I think that the complaint—for so I consider it—which the counsel for the respondent has lodged against the managers because they have not presented their view of the law on this question at this time is not a well-founded complaint.

Mr. WORTHINGTON. Mr. President, I do not want to be understood as impeaching the honorable managers for the course they have pursued. I simply stated what I had expected they would do. As I have read the proceedings in impeachment cases, aside from the Swayne case, especially the case of the impeachment of Andrew Johnson, the case of the impeachment of Judge Peck, and the case of the impeachment of Judge Chase—as I read them, the propositions of law upon which the case should be presented were gone into very fully in the opening statement.

The PRESIDENT pro tempore. What is the pleasure of the managers as to proceeding?

Mr. Manager CLAYTON. As the managers understand, Mr. President, we expect to be ready to comply with the order of the Senate, the purpose of the Senate, to proceed with the examination of witnesses on to-morrow. We have some of the witnesses here this afternoon, but I had understood by conference with some of the Senators that perhaps it would not be the desire of the Senate to examine any witnesses this afternoon. It is our purpose at the convening of the court to-morrow to proceed at once to swear and examine witnesses.

Mr. CLARK of Wyoming (at 4 o'clock and 25 minutes p. m.). Mr. President, under the statement by the managers on the part of the House, I move that the Senate sitting as a Court of Impeachment do now adjourn.

The PRESIDENT pro tempore. The Senator from Wyoming moves that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to.

The managers on the part of the House and the respondent and his counsel thereupon withdrew from the Chamber.

HOUR OF DAILY MEETING.

On motion of Mr. GALLINGER, it was

Ordered, That the hour of daily meeting of the Senate be 12 o'clock meridian until otherwise ordered.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 8 minutes spent in executive session the doors were reopened, and (at 4 o'clock and 35 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, December 4, 1912, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate December 3, 1912.

COLLECTORS OF CUSTOMS.

Dascar O. Newberry, of North Carolina, to be collector of customs for the district of Albemarle, in the State of North Carolina. (Reappointment.)

James A. Harvin, of Texas, to be collector of customs for the district of Saluria, in the State of Texas, in place of Robert W. Dowe, removed. Mr. Harvin is now serving under a temporary commission issued during the recess of the Senate.

PROMOTIONS IN THE PUBLIC HEALTH SERVICE OF THE UNITED STATES.

Surg. Hiram W. Austin to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Austin is now serving under a temporary commission issued during the recess of the Senate.

Surg. Charles E. Banks to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Banks is now serving under a temporary commission issued during the recess of the Senate.

Surg. Duncan A. Carmichael to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Carmichael is now serving under a temporary commission issued during the recess of the Senate.

Surg. Henry R. Carter to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Carter is now serving under a temporary commission issued during the recess of the Senate.

Surg. James W. Gassaway to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Gassaway is now serving under a temporary commission issued during the recess of the Senate.

Surg. Arthur H. Glennan to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Glennan is now serving under a temporary commission issued during the recess of the Senate.

Surg. Fairfax Irwin to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Irwin is now serving under a temporary commission issued during the recess of the Senate.

Surg. Parker C. Kalloch to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Kalloch is now serving under a temporary commission issued during the recess of the Senate.

Surg. Frank W. Mead to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Mead is now serving under a temporary commission issued during the recess of the Senate.

Surg. George W. Stoner to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Stoner is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. John F. Anderson to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Charles E. Banks, promoted. Mr. Anderson is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Milton H. Foster to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Frank W. Mead, promoted. Mr. Foster is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Lunsford D. Fricks to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Parker C. Kalloch, promoted. Mr. Fricks is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Samuel B. Grubbs to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. George W. Stoner, promoted. Mr. Grubbs is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Claude H. Lavinder to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Hiram W. Austin, promoted. Mr. Lavinder is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Leslie L. Lumsden to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Henry R. Carter, promoted. Mr. Lumsden is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. John McMullen to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. James M. Gassaway, promoted. Mr. McMullen is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Rudolph H. von Ezdorf to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Fairfax Irwin, promoted. Mr. Von Ezdorf is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Mark J. White to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Duncan A. Carmichael, promoted. Mr. White is now serving under a temporary commission issued during the recess of the Senate.

Asst. Surg. Randolph M. Grimm to be passed assistant surgeon in the Public Health Service, United States, to rank as such from October 28, 1912. Mr. Grimm is now serving under a temporary commission issued during the recess of the Senate.

Asst. Surg. Paul Preble to be passed assistant surgeon in the Public Health Service, United States, to rank as such from October 26, 1912. Mr. Preble is now serving under a temporary commission issued during the recess of the Senate.

PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

Capt. Howard Miles Broadbent to be senior captain in the Revenue-Cutter Service of the United States, to rank as such from September 12, 1912, in place of Senior Capt. Alexander Perry Rodgers Hanks, retired. Mr. Broadbent is now serving under a temporary commission issued during the recess of the Senate.

Third Lieut. of Engineers Alvan Hovey Bixby to be second lieutenant of engineers in the Revenue-Cutter Service of the United States, to rank as such from May 2, 1912, in place of Second Lieut. of Engineers Lorenzo Chase Farwell, promoted. Mr. Bixby is now serving under a temporary commission issued during the recess of the Senate.

TREASURER OF THE UNITED STATES.

Carmi A. Thompson, of Ohio, to be Treasurer of the United States, in place of Lee McClung, resigned. Mr. Thompson is now serving under a temporary commission issued during the recess of the Senate.

ASSISTANT TREASURER OF THE UNITED STATES.

Christian S. Peatce, of Tennessee, to be Assistant Treasurer of the United States, in place of Gideon C. Bantz, resigned.

ASSISTANT REGISTER OF THE TREASURY.

James P. Strickland, of Arkansas, to be Assistant Register of the Treasury, in place of Cyrus Field Adams, resigned. Mr. Strickland is now serving under a temporary commission issued during the recess of the Senate.

APPRAISER OF MERCHANDISE.

Charles V. Johnson, of Oregon, to be appraiser of merchandise in the district of Portland, in the State of Oregon, in place of Owen Summers, deceased. Mr. Johnson is now serving under a temporary commission issued during the recess of the Senate.

ASSISTANT APPRAISERS OF MERCHANDISE.

Albert McClellan Barnes, jr., of New York, to be assistant appraiser of merchandise in the district of New York, in the State of New York, to fill an existing vacancy. Mr. Barnes is now serving under a temporary commission issued during the recess of the Senate.

William Schnitzspan, of New York, to be assistant appraiser of merchandise in the district of New York, in the State of New York, to fill an existing vacancy. Mr. Schnitzpan is now serving under a temporary commission issued during the recess of the Senate.

AMBASSADOR.

Larz Anderson, of the District of Columbia, lately envoy extraordinary and minister plenipotentiary to Belgium, to be ambassador extraordinary and plenipotentiary of the United States of America to Japan, to which office he was appointed during the last recess of the Senate, vice Charles Page Bryan, resigned.

MINISTERS.

Theodore Marburg, of Maryland, to be envoy extraordinary and minister plenipotentiary of the United States of America to Belgium, to which office he was appointed during the last recess of the Senate, vice Larz Anderson, appointed ambassador extraordinary and plenipotentiary to Japan.

Fred W. Carpenter, of California, lately envoy extraordinary and minister plenipotentiary to Morocco, to be envoy extraordinary and minister plenipotentiary of the United States of America to Siam, to which office he was appointed during the last recess of the Senate, vice Hamilton King, deceased.

SECRETARIES OF EMBASSY.

Irwin B. Laughlin, of Pennsylvania, lately secretary of the embassy at Berlin, to be secretary of the embassy of the United States of America at London, England, to which office he was appointed during the last recess of the Senate, vice William Phillips, resigned.

U. Grant-Smith, of Pennsylvania, lately secretary of the legation at Brussels, to be secretary of the embassy of the United States of America at Vienna, Austria, to which office he was appointed during the last recess of the Senate, vice Joseph C. Grew, appointed secretary of the embassy at Berlin.

Joseph C. Grew, of Massachusetts, lately secretary of the embassy at Vienna, to be secretary of the embassy of the United States of America at Berlin, Germany, to which office he was appointed during the last recess of the Senate, vice Irwin B. Laughlin, appointed secretary of the embassy at London.

SECRETARIES OF LEGATION.

J. Butler Wright, of Wyoming, lately of the Division of Latin-American Affairs, Department of State, to be secretary of the legation of the United States of America at Brussels, Belgium, to which office he was appointed during the last recess of the Senate, vice U. Grant-Smith, appointed secretary of the embassy at Vienna.

Francis Travis Coxe, of Pennsylvania, to be second secretary of the legation of the United States of America at Habana, Cuba, to which office he was appointed during the last recess of the Senate, vice Edward Bell, appointed in the Division of Latin-American Affairs, Department of State.

CONSUL.

Hubert G. Baugh, of California, formerly consul at Saigon, to be consul of the United States of America at Saigon, Cochin China, to which office he was reappoined during the last recess of the Senate.

AGENT OF ALASKA SALMON FISHERIES.

Ward T. Bower, of Michigan, to be agent, Alaska salmon fisheries, Division of Alaska Fisheries, in the Bureau of Fisheries, Department of Commerce and Labor, vice Frederic M. Chamberlain, resigned.

COMMISSIONER OF IMMIGRATION.

Graham L. Rice, of Wisconsin, to be commissioner of immigration at the port of San Juan, P. R., Department of Commerce and Labor. (Reappointment.)

INTERSTATE COMMERCE COMMISSIONER.

Edgar E. Clark, of Iowa, to be an Interstate Commerce Commissioner for a term of seven years from January 1, 1913. (Reappointment.)

UNITED STATES DISTRICT JUDGES.

Richard E. Sloan, of Arizona, to be United States district judge for the district of Arizona (under the provisions of sec. 31 of the act of Congress approved June 20, 1910). He was appointed during the last recess of the Senate, his nomination for the appointment having failed of confirmation.

John M. Cheney, of Florida, to be United States district judge for the southern district of Florida, to which position he was appointed during the last recess of the Senate, vice James W. Locke, resigned. (Mr. Cheney was nominated at the last session of the Senate, but failed of confirmation.)

Clinton W. Howard, of Washington, to be United States district judge for the western district of Washington, to which position he was appointed during the last recess of the Senate, vice C. H. Hanford, resigned. (Mr. Howard was nominated at the last session of the Senate, but failed of confirmation.)

UNITED STATES ATTORNEYS.

James B. Sloan, of Alabama, to be United States attorney for the southern district of Alabama, to which position he was appointed during the last recess of the Senate, vice William H. Armbrecht, resigned.

Richard P. Marks, of Florida, to be United States attorney for the southern district of Florida, to which position he was appointed during the last recess of the Senate, vice John M. Cheney, appointed United States district judge.

Lester G. Fant, of Mississippi, to be United States attorney for the northern district of Mississippi, to which position he was appointed during the last recess of the Senate, vice William D. Frazee, deceased.

Beverly W. Coiner, of Washington, to be United States attorney for the western district of Washington, to which position he was appointed during the last recess of the Senate, vice E. E. Todd, resigned. (Mr. Coiner was nominated at the last session of the Senate, but failed of confirmation.)

UNITED STATES MARSHAL.

Bert J. McDowell, of Texas, to be United States marshal, western district of Texas, vice Eugene Nolte, removed.

REGISTER OF THE LAND OFFICE.

Julius C. Peters, of Great Falls, Mont., who was appointed October 28, 1912, during the recess of the Senate, to be register of the land office at Great Falls, Mont., vice Edward L. Barnes, removed.

RECEIVERS OF PUBLIC MONEYS.

Andrew P. Adolphson, of Colorado, to be receiver of public moneys at Leadville, Colo., his term expiring December 17, 1912. (Reappointment.)

James W. Roberts, of Great Falls, Mont., who was appointed October 28, 1912, during the recess of the Senate, to be receiver of public moneys at Great Falls, Mont., vice Charles A. Wilson, resigned.

POSTMASTERS.

ALABAMA.

George C. Adams to be postmaster at Ragland, Ala. Office became presidential October 1, 1912.

Oscar L. Chancy to be postmaster at Hartford, Ala., in place of John B. Daughtry, removed.

William B. James to be postmaster at Evergreen, Ala., in place of G. Cullen Dean. Incumbent's commission expired February 27, 1912.

W. J. Renfroe to be postmaster at Dothan, Ala., in place of Byron Trammell, removed.

Robert B. Thompson to be postmaster at Cullman, Ala., in place of John F. Sutterer, removed.

ALASKA.

Daniel W. Figgins to be postmaster at Ketchikan, Alaska, in place of A. Zilpah Hopkins, resigned.

John E. Worden to be postmaster at Wrangell, Alaska. Office became presidential October 1, 1912.

ARIZONA.

W. A. Harwood, jr., to be postmaster at Tombstone, Ariz., in place of Francis D. Crable, resigned.

ARKANSAS.

E. N. Collett to be postmaster at Huttig, Ark., in place of James U. Brown, removed.

John W. Rogers to be postmaster at Alma, Ark., in place of Thomas B. Murphy. Incumbent's commission expired April 28, 1912.

CALIFORNIA.

John R. Chace to be postmaster at San Jose, Cal., in place of William G. Hawley, deceased.

William H. Lear to be postmaster at Portola, Cal. Office became presidential October 1, 1912.

James G. Mason to be postmaster at Menlo Park, Cal., in place of James G. Mason. Incumbent's commission expires December 14, 1912.

Robert L. Perry to be postmaster at San Miguel, Cal. Office became presidential October 1, 1912.

CONNECTICUT.

Elsie D. Bennett to be postmaster at Georgetown, Conn., in place of Charles H. Taylor. Incumbent's commission expires December 14, 1912.

Lucy A. Broadhead to be postmaster at Central Village, Conn. Office became presidential October 1, 1912.

Giles P. Lecrenier to be postmaster at Moodus, Conn., in place of Giles P. Lecrenier. Incumbent's commission expires December 14, 1912.

FLORIDA.

Albert C. Dittmar to be postmaster at Fort Pierce, Fla., in place of William F. Keefer, resigned.

Elmer J. Roux to be postmaster at Fernandina, Fla., in place of Oliver S. Oakes, deceased.

David B. Thomas to be postmaster at South Jacksonville, Fla. Office became presidential January 1, 1912.

GEORGIA.

J. W. Adams to be postmaster at Moultrie, Ga., in place of Hugh M. Pierce. Incumbent's commission expired February 27, 1912.

Nathan C. Alexander to be postmaster at Commerce, Ga., in place of Cicero C. Alexander. Incumbent's commission expired April 13, 1912.

C. L. Bennett to be postmaster at Eastman, Ga., in place of Henry C. Newman. Incumbent's commission expired January 30, 1911.

William M. Griffin to be postmaster at Manchester, Ga. Office became presidential January 1, 1911.

Mattie E. Gunter to be postmaster at Social Circle, Ga., in place of Mattie E. Gunter. Incumbent's commission expired February 27, 1912.

John F. Jenkins to be postmaster at Ashburn, Ga., in place of John F. Jenkins. Incumbent's commission expired May 7, 1912.

Leila M. Swann to be postmaster at Palmetto, Ga. Office became presidential October 1, 1912.

J. W. Westbrook to be postmaster at Winder, Ga., in place of Job R. Smith. Incumbent's commission expired May 22, 1912.

Young A. Williams to be postmaster at Greenville, Ga., in place of Pearl Williams, deceased.

IDAHO.

Reuben H. Mercer to be postmaster at Plummer, Idaho. Office became presidential July 1, 1912.

ILLINOIS.

Jonah Bennett to be postmaster at Homer, Ill., in place of Moses C. Thomas, deceased.

Frank J. Chapman to be postmaster at McLeansboro, Ill., in place of Frank J. Chapman. Incumbent's commission expires December 14, 1912.

Samuel Clark to be postmaster at Sherrard, Ill., in place of George M. Bell, resigned.

Ernest C. Foster to be postmaster at Assumption, Ill., in place of Edward C. Watson, deceased.

John A. Morrow to be postmaster at Roodhouse, Ill., in place of William C. Roodhouse. Incumbent's commission expired March 26, 1910.

Frederick J. Simater to be postmaster at Minonk, Ill., in place of Frederick J. Simater. Incumbent's commission expires December 14, 1912.

Charles G. Watrous to be postmaster at Waukegan, Ill., in place of Charles G. Watrous. Incumbent's commission expires December 14, 1912.

John C. Williams to be postmaster at Pocahontas, Ill. Office became presidential October 1, 1912.

INDIANA.

Dirrelle Chaney to be postmaster at Sullivan, Ind., in place of Arthur A. Holmes, deceased.

IOWA.

Luther I. Aasgaard to be postmaster at Forest City, Iowa, in place of Eugene Secor. Incumbent's commission expired December 9, 1911.

Fred J. Fearis to be postmaster at Richland, Iowa, in place of Fred J. Fearis. Incumbent's commission expires December 14, 1912.

S. A. Finger to be postmaster at Davenport, Iowa, in place of Alonzo Bryson. Incumbent's commission expired January 29, 1912.

Emil M. Holstad to be postmaster at Lake Mills, Iowa, in place of Martin A. Aasgaard, resigned.

Oscar I. Johnson to be postmaster at Jewell, Iowa, in place of Frederick N. Taylor. Incumbent's commission expired April 13, 1912.

John P. Kennedy to be postmaster at Montrose, Iowa. Office became presidential October 1, 1912.

M. S. McFarland to be postmaster at Marshalltown, Iowa, in place of Charles H. Smith, deceased.

George A. Poff to be postmaster at What Cheer, Iowa, in place of George A. Poff. Incumbent's commission expired March 16, 1909.

Osmond O. Stole to be postmaster at Roland, Iowa. Office became presidential October 1, 1912.

Homer Thompson to be postmaster at Valley Junction, Iowa, in place of Albert S. Burnett, resigned.

KANSAS.

Harry C. Achenbach to be postmaster at Clay Center, Kans., in place of Harry C. Achenbach. Incumbent's commission expired December 18, 1911.

Eli A. Baum to be postmaster at Burden, Kans., in place of Eli A. Baum. Incumbent's commission expires December 17, 1912.

Joel H. Buckman to be postmaster at Lyndon, Kans., in place of Joel H. Buckman. Incumbent's commission expired December 11, 1911.

Bird Chambers to be postmaster at Humboldt, Kans., in place of William T. McElroy, deceased.

C. A. Connelly to be postmaster at Independence, Kans., in place of Henry W. Conrad. Incumbent's commission expired January 9, 1912.

Daniel H. Crawford to be postmaster at Little River, Kans., in place of James W. Crawford, deceased.

William C. Edwards to be postmaster at Wichita, Kans., in place of William C. Edwards. Incumbent's commission expired January 21, 1912.

Charles M. Harger to be postmaster at Abilene, Kans., in place of Richard Waring, deceased.

E. H. Myers to be postmaster at Protection, Kans., in place of W. C. Monticue, removed.

James A. Roberts to be postmaster at La Harpe, Kans., in place of James A. Roberts. Incumbent's commission expired December 9, 1911.

Ollie H. Stewart to be postmaster at Parsons, Kans., in place of Benjamin L. Taft. Incumbent's commission expired February 12, 1912.

KENTUCKY.

Edward F. Coffman to be postmaster at Russellville, Ky., in place of Jacob B. Coffman, deceased.

Edna E. Proctor to be postmaster at Leitchfield, Ky., in place of William A. Wallace, deceased.

LOUISIANA.

J. W. Dawson to be postmaster at Boyce, La. Office became presidential October 1, 1912.

Charles C. Dow to be postmaster at Bernice, La., in place of Charles C. Dow. Incumbent's commission expired May 14, 1912.

Earl G. Eagles to be postmaster at Winnfield, La., in place of Edward Eagles. Incumbent's commission expired May 14, 1912.

Richard E. Oden to be postmaster at Kinder, La. Office became presidential October 1, 1912.

Thomas J. Perkins to be postmaster at De Quincy, La., in place of Hugo Naegele, declined appointment.

Lillian Reiley to be postmaster at Clinton, La., in place of Elizabeth Reiley, resigned.

MAINE.

Boyd Bartlett to be postmaster at Castine, Me., in place of Charles H. Hooper, deceased.

Chrries B. Haskell to be postmaster at Pittsfield, Me., in place of Charles B. Haskell. Incumbent's commission expires December 14, 1912.

Charles W. Prescott to be postmaster at Monmouth, Me. Office became presidential July 1, 1912.

MARYLAND.

Mary J. Perkins to be postmaster at Hancock, Md., in place of Mary J. Perkins. Incumbent's commission expired January 31, 1912.

Morris L. Rouzer to be postmaster at Thurmont, Md., in place of Jacob H. Cover. Incumbent's commission expired December 10, 1911.

MASSACHUSETTS.

James S. Burbank to be postmaster at Mattapoisett, Mass., in place of James S. Burbank. Incumbent's commission expires December 14, 1912.

Eunice Agnes Burtch to be postmaster at Sheffield, Mass., in place of Eunice Agnes Burtch. Incumbent's commission expires December 14, 1912.

William S. Curtis to be postmaster at Hanover, Mass. Office became presidential October 1, 1912.

Alice Maxwell to be postmaster at North Billerica, Mass. Office became presidential October 1, 1912.

Joseph C. Sheehan to be postmaster at East Bridgewater, Mass., in place of Joseph C. Sheehan. Incumbent's commission expires December 14, 1912.

Osgood L. Small to be postmaster at Saganore, Mass., in place of Osgood L. Small. Incumbent's commission expires December 14, 1912.

George B. Waterman to be postmaster at Williamstown, Mass., in place of James A. Eldridge, deceased.

Marie E. White to be postmaster at South Hadley, Mass., in place of Marie E. White. Incumbent's commission expires December 14, 1912.

MICHIGAN.

Eber S. Andrews to be postmaster at Williamston, Mich., in place of Eber S. Andrews. Incumbent's commission expires December 14, 1912.

Charles M. Butler to be postmaster at Morenci, Mich., in place of Charles M. Butler. Incumbent's commission expires December 14, 1912.

Richard A. Foy to be postmaster at Trenton, Mich. Office became presidential October 1, 1912.

Charles W. Glover to be postmaster at Bear Lake, Mich., in place of Charles W. Glover. Incumbent's commission expires December 14, 1912.

A. M. Humphrey to be postmaster at Saline, Mich., in place of A. M. Humphrey. Incumbent's commission expires December 14, 1912.

James F. Locke to be postmaster at Grosse Pointe Farms, Mich. Office became presidential July 1, 1912.

Charles L. Morse to be postmaster at Elkton, Mich., in place of Aaron Cornell, resigned.

Winfield S. Nelson to be postmaster at Gwinn, Mich. Office became presidential October 1, 1912.

Charles S. Parks to be postmaster at Kent City, Mich. Office became presidential October 1, 1912.

MINNESOTA.

Mary H. James to be postmaster at Virginia, Minn., in place of Mary H. James. Incumbent's commission expired December 10, 1910.

Anton K. Kapeller to be postmaster at Gilbert, Minn. Office became presidential July 1, 1910.

Daniel W. Meeker to be postmaster at Moorhead, Minn., in place of Edward J. Bjorkquist, deceased.

Lucia Ruth Spaulding to be postmaster at Mapleton, Minn., in place of Charles G. Spaulding, resigned.

MISSOURI.

Alfred K. Bailey to be postmaster at Meadville, Mo., in place of Alfred K. Bailey. Incumbent's commission expired March 10, 1912.

Edwin S. Brown to be postmaster at Edina, Mo., in place of Edwin S. Brown. Incumbent's commission expires January 12, 1913.

John H. Bryant to be postmaster at Burlington Junction, Mo., in place of John H. Bryant. Incumbent's commission expires February 17, 1913.

Albert J. Caywood to be postmaster at Laclede, Mo., in place of Albert J. Caywood. Incumbent's commission expired May 15, 1912.

J. W. Elliott to be postmaster at New London, Mo., in place of Blanche G. Smith. Incumbent's commission expired May 15, 1912.

Charles E. Giebler to be postmaster at Festus, Mo., in place of William E. Osterwald. Incumbent's commission expired March 10, 1912.

Clifford M. Harrison to be postmaster at Gallatin, Mo., in place of Clifford M. Harrison. Incumbent's commission expired April 2, 1912.

Henry H. Kappelmann to be postmaster at Bourbon, Mo. Office became presidential October 1, 1912.

Jennie A. Mahan to be postmaster at Knobnoster, Mo., in place of Jennie A. Mahan. Incumbent's commission expired May 15, 1912.

James G. B. Marquis to be postmaster at Schell City, Mo. Office became presidential October 1, 1912.

Campbell F. Reid to be postmaster at Warrenton, Mo., in place of Iola W. Morsey. Incumbent's commission expires December 14, 1912.

William Russell to be postmaster at Republic, Mo., in place of Martin L. Howard. Incumbent's commission expired March 20, 1912.

William L. Taylor to be postmaster at Green Castle, Mo. Office became presidential January 1, 1912.

MONTANA.

Nona Burgess to be postmaster at Kendall, Mont., in place of Lottie M. Conyngham, resigned.

Lucius Whitney to be postmaster at Joliet, Mont. Office became presidential October 1, 1912.

MISSISSIPPI.

Dora E. Tate to be postmaster at Picayune, Miss. Office became presidential July 1, 1912.

NEBRASKA.

Charles F. Leetham to be postmaster at St. Paul, Nebr., in place of Charles F. Leetham. Incumbent's commission expires December 17, 1912.

John Ring to be postmaster at Hooper, Nebr., in place of John Ring. Incumbent's commission expired May 26, 1912.

NEW JERSEY.

William G. Wright to be postmaster at Berlin, N. J. Office became presidential October 1, 1912.

NEW MEXICO.

Eli Crockett to be postmaster at Vaughn, N. Mex., in place of Spence Hardie, resigned.

Edward Pennington to be postmaster at Deming, N. Mex., in place of Edward Pennington. Incumbent's commission expires December 17, 1912.

NEW YORK.

William W. Allerdice to be postmaster at Saratoga Springs, N. Y., in place of William W. Worden. Incumbent's commission expired March 6, 1912.

William L. Bennett to be postmaster at Medina, N. Y., in place of Frank E. Colburn, deceased.

David L. Bruce to be postmaster at Andes, N. Y. Office became presidential October 1, 1912.

Gertrude R. Burrows to be postmaster at Andover, N. Y., in place of Arthur B. Burrows, deceased.

James H. Callanan to be postmaster at Schenectady, N. Y., in place of James H. Callanan. Incumbent's commission expired January 16, 1912.

M. Francis Doyle to be postmaster at Katonah, N. Y., in place of David A. Doyle, deceased.

William H. Foster to be postmaster at Homer, N. Y., in place of Zera T. Nye, removed.

Lee V. Gardner to be postmaster at Centerville Station, N. Y., in place of Lee V. Gardner. Incumbent's commission expires December 16, 1912.

William Harding to be postmaster at Roscoe, N. Y., in place of Marshall H. Dean, resigned.

Durward B. Kelly to be postmaster at Griffin Corners, N. Y., in place of Durward B. Kelly. Incumbent's commission expires December 16, 1912.

George H. Martins to be postmaster at Fort Totten, N. Y. Office became presidential October 1, 1912.

Henry Morgan to be postmaster at Aurora, N. Y., in place of Henry Morgan. Incumbent's commission expires December 16, 1912.

Michael O'Malley to be postmaster at Barker, N. Y., in place of George M. Nellist. Incumbent's commission expired February 10, 1912.

Thomas W. Peeling to be postmaster at East Bloomfield, N. Y. Office became presidential October 1, 1912.

William Rake to be postmaster at Harriman, N. Y. Office became presidential October 1, 1912.

Gordon A. Teller to be postmaster at Waterloo, N. Y., in place of J. B. H. Mongin, removed.

Elvira Williams to be postmaster at Fort Terry, N. Y. Office became presidential October 1, 1912.

NORTH CAROLINA.

Cicero Osborne Ball to be postmaster at West Raleigh, N. C. Office became presidential January 1, 1911.

Maggie Lewis Bancom to be postmaster at Littleton, N. C., in place of McMurray Furgerson, resigned.

Walter C. Brinson to be postmaster at Belhaven, N. C., in place of Walter C. Brinson. Incumbent's commission expired March 20, 1912.

John M. Burrows to be postmaster at Ashboro, N. C. Office became presidential January 1, 1908.

William D. Deal to be postmaster at Taylorsville, N. C. Office became presidential April 1, 1912.

Thomas H. Dickens to be postmaster at Enfield, N. C., in place of Thomas H. Dickens. Incumbent's commission expired December 17, 1911.

Willis P. Edwards to be postmaster at Franklinton, N. C., in place of Willis P. Edwards. Incumbent's commission expired February 11, 1912.

Walter H. Everhart to be postmaster at Newton, N. C., in place of Walter H. Everhart. Incumbent's commission expired February 10, 1912.

John R. Gurganus to be postmaster at Vineland, N. C. Office became presidential July 1, 1910.

James W. Ingle to be postmaster at Elon College, N. C. Office became presidential January 1, 1912.

James McN. Johnson to be postmaster at Aberdeen, N. C., in place of James McN. Johnson. Incumbent's commission expired January 28, 1912.

I. J. Frank Jones to be postmaster at Spray, N. C., in place of J. Sanford Patterson. Incumbent's commission expired March 20, 1912.

William H. Keaton to be postmaster at Elizabeth City, N. C., in place of John P. Overman. Incumbent's commission expired May 14, 1912.

Samuel E. Marshall to be postmaster at Mount Airey, N. C., in place of Robert T. Joyce, removed.

John C. Matthews to be postmaster at Spring Hope, N. C., in place of Mack Brantley, deceased.

W. Eugene Miller to be postmaster at Lenoir, N. C., in place of W. Eugene Miller. Incumbent's commission expired December 17, 1911.

Lonnie E. Pickard to be postmaster at West Durham, N. C., in place of Lonnie E. Pickard. Incumbent's commission expired February 19, 1912.

William S. Saunders to be postmaster at Roanoke Rapids, N. C. Office became presidential January 1, 1911.

Henry T. Scarboro to be postmaster at Mount Gilead, N. C. Office became presidential January 1, 1912.

Carl W. Smith to be postmaster at Hamlet, N. C., in place of Elisha C. Terry. Incumbent's commission expired January 28, 1912.

James E. Smith to be postmaster at Kittrell, N. C., in place of James E. Smith. Incumbent's commission expired February 12, 1912.

Thomas C. Smith to be postmaster at Rutherfordton, N. C., in place of Thomas C. Smith. Incumbent's commission expired April 28, 1912.

Isaac F. Snipes to be postmaster at Aboskie, N. C. Office became presidential January 1, 1909.

NORTH DAKOTA.

W. William Beebe to be postmaster at Belfield, N. Dak., in place of Roswell C. Davis, resigned.

John Berger to be postmaster at Richardton, N. Dak., in place of Charles C. Hill. Incumbent's commission expired February 19, 1912.

T. A. Evenson to be postmaster at McClusky, N. Dak., in place of Robert J. Saueressig, resigned.

John F. Faytle to be postmaster at McHenry, N. Dak., in place of George B. Mansfield, resigned.

OHIO.

Melissa Argo to be postmaster at Cleves, Ohio. Office became presidential October 1, 1912.

Charles W. Bieser to be postmaster at Dayton, Ohio, in place of Frederick G. Withoft. Incumbent's commission expired February 28, 1912.

George C. Braden to be postmaster at Warren, Ohio, in place of George C. Braden. Incumbent's commission expires December 17, 1912.

Kate V. Drinkle to be postmaster at Lancaster, Ohio, in place of H. Clay Drinkle, deceased.

J. Winn Fuller to be postmaster at Wickliffe, Ohio. Office became presidential October 1, 1912.

William C. Newell to be postmaster at Bainbridge, Ohio, in place of William C. Newell. Incumbent's commission expires December 17, 1912.

OKLAHOMA.

Earl V. Croxton to be postmaster at Medford, Okla., in place of Jacob P. Becker, resigned.

William I. Fisher to be postmaster at Cordell, Okla., in place of Carlos C. Curtis, resigned.

William J. Hadlock to be postmaster at Foss, Okla., in place of Charles F. Hartronft. Incumbent's commission expired April 28, 1912.

Charles Turner Hocker to be postmaster at Purcell, Okla., in place of L. D. Dickerson, resigned.

Jerman B. Morris to be postmaster at Hastings, Okla., in place of Newton S. Figley. Incumbent's commission expired February 28, 1912.

A. J. Thompson to be postmaster at Okarche, Okla., in place of A. J. Thompson. Incumbent's commission expires December 17, 1912.

OREGON.

A. H. Studer to be postmaster at Sumpter, Oreg., in place of Harvey S. Buck, removed.

Ben Weathers to be postmaster at Enterprise, Oreg., in place of Ben Weathers. Incumbent's commission expires December 14, 1912.

PENNSYLVANIA.

Jacob A. Bromer to be postmaster at Schwenkville, Pa., in place of Valentine G. Prizer, resigned.

William U. Carr to be postmaster at Wrightsville, Pa., in place of William H. Flora. Incumbent's commission expired May 14, 1912.

Thomas Garis to be postmaster at Port Carbon, Pa. Office became presidential October 1, 1912.

Harry C. Gibson to be postmaster at Harrisville, Pa. Office became presidential January 1, 1912.

Jennings U. Kurtz to be postmaster at Berwick, Pa., in place of Jennings U. Kurtz. Incumbent's commission expires February 20, 1913.

Dorff A. Lahr to be postmaster at Millerstown, Pa., in place of Jerome B. Lahr, resigned.

Oakley W. Megargel to be postmaster at Mount Pocono, Pa. Office became presidential July 1, 1911.

Frank F. Morris to be postmaster at Dallas, Pa. Office became presidential October 1, 1912.

Isaac W. Speakman to be postmaster at Westgrove, Pa., in place of William T. Dantz. Incumbent's commission expired February 15, 1911.

Henry M. Stetler to be postmaster at Wyomissing, Pa. Office became presidential October 1, 1912.

PORTO RICO.

Lee Nixon to be postmaster at San Juan, P. R., in place of Walter K. Landis, removed.

SOUTH CAROLINA.

W. Clarence Clinkscales to be postmaster at Belton, S. C., in place of W. Clarence Clinkscales. Incumbent's commission expires December 16, 1912.

Arthur R. Garner to be postmaster at Timmonsville, S. C., in place of Arthur R. Garner. Incumbent's commission expires December 16, 1912.

Roberta McAulay to be postmaster at Woodruff, S. C., in place of Roberta McAulay. Incumbent's commission expires January 12, 1913.

Rachel H. Minshall to be postmaster at Abbeville, S. C., in place of Frederic Minshall, deceased.

SOUTH DAKOTA.

Timothy Norton to be postmaster at Armour, S. Dak., in place of Ernest E. Edwards. Incumbent's commission expired May 22, 1912.

James D. Reeves to be postmaster at Groton, S. Dak., in place of John G. Ropes, removed.

TENNESSEE.

William A. Anderson to be postmaster at Bellbuckle, Tenn., in place of William A. Anderson. Incumbent's commission expires December 16, 1912.

A. R. Appleby to be postmaster at Lexington, Tenn., in place of John L. Murray. Incumbent's commission expired January 31, 1912.

Vincent A. Biggs to be postmaster at Martin, Tenn., in place of W. H. Wilson. Incumbent's commission expired April 28, 1912.

Jesse L. Callahan to be postmaster at Sweetwater, Tenn., in place of Richard N. Hudson. Incumbent's commission expired January 31, 1912.

Madison T. Fouts to be postmaster at Cleveland, Tenn., in place of James I. Harrison. Incumbent's commission expired April 28, 1912.

John H. Latture to be postmaster at Winchester, Tenn., in place of Joseph C. Hale. Incumbent's commission expired January 21, 1909.

John Rains to be postmaster at Etowah, Tenn., in place of John Rains. Incumbent's commission expired May 15, 1912.

Leonidas T. Reagor to be postmaster at Shelbyville, Tenn., in place of Leonidas T. Reagor. Incumbent's commission expired January 31, 1912.

Finis R. Sharp to be postmaster at Manchester, Tenn., in place of Finis R. Sharp. Incumbent's commission expired January 31, 1912.

H. E. Smartt to be postmaster at Watertown, Tenn., in place of James A. Cox. Incumbent's commission expired May 23, 1912.

TEXAS.

Cora E. Antram to be postmaster at Nocona, Tex., in place of William N. Merritt. Incumbent's commission expired April 28, 1912.

E. D. Bivens to be postmaster at Farmersville, Tex., in place of Edward W. Morten, deceased.

Henry Bradford to be postmaster at Chillicothe, Tex., in place of John W. Hedley. Incumbent's commission expired April 2, 1912.

M. G. Brooks to be postmaster at Wortham, Tex., in place of George C. Ross, resigned.

McDougal Bybee to be postmaster at Childress, Tex., in place of U. S. Weddington, removed.

W. B. Carson to be postmaster at Pilot Point, Tex., in place of W. B. Carson. Incumbent's commission expired May 22, 1912.

James I. Carter to be postmaster at Arlington, Tex., in place of James I. Carter. Incumbent's commission expired February 19, 1912.

Luther Cline to be postmaster at Emory, Tex. Office became presidential January 1, 1912.

Hugh B. Eades to be postmaster at Blossom, Tex., in place of Newton H. Eades, deceased.

John F. Furlow to be postmaster at Alvord, Tex., in place of Henry L. Sands, deceased.

Howell D. Greene to be postmaster at Sanger, Tex., in place of Howell D. Greene. Incumbent's commission expired April 2, 1912.

Fred P. Ingerson to be postmaster at Barstow, Tex., in place of Fred P. Ingerson. Incumbent's commission expired April 28, 1912.

Thomas Randall Keck to be postmaster at Cotulla, Tex., in place of Caroline Cotulla, deceased.

Ralph M. Kelly to be postmaster at Stanton, Tex., in place of William B. Montgomery, resigned.

D. H. Kennett to be postmaster at Mercedes, Tex., in place of Henry A. Appel, removed.

Henry Krabbenschmidt to be postmaster at Grand Prairie, Tex. Office became presidential January 1, 1912.

Cyrus L. McCullough to be postmaster at Iowa Park, Tex., in place of William L. Yanger, deceased.

William H. Mallory to be postmaster at Port Lavaca, Tex., in place of Charles Rubert. Incumbent's commission expired December 16, 1911.

Frank J. Meason to be postmaster at Crowell, Tex., in place of Jacob A. Wright, removed.

John W. Miller to be postmaster at Dilley, Tex. Office became presidential October 1, 1912.

Albert J. Neece to be postmaster at Pecan Gap, Tex. Office became presidential October 1, 1912.

William J. Porter to be postmaster at Mesquite, Tex., in place of Americus C. Nafus, removed.

Charles W. Showaker to be postmaster at Aransas Pass, Tex. Office became presidential April 1, 1910.

R. B. Slight to be postmaster at Alpine, Tex., in place of Louis W. Durrell. Incumbent's commission expired April 28, 1912.

B. F. Warnock to be postmaster at Dalhart, Tex., in place of Wesley J. Clarke, resigned.

Ross Williams to be postmaster at Jasper, Tex. Office became presidential January 1, 1911.

George Wohleb, jr., to be postmaster at Rogers, Tex., in place of Frank Leahy. Incumbent's commission expired April 2, 1912.

Tillman F. Wolfe to be postmaster at Cross Plains, Tex. Office became presidential July 1, 1912.

VERMONT.

Nelson S. Wood to be postmaster at Fair Haven, Vt., in place of Charles E. Little, removed.

VIRGINIA.

Cecil R. Crabill to be postmaster at New Market, Va., in place of Charles W. Wickes. Incumbent's commission expired May 13, 1912.

Roy T. Hart to be postmaster at Buena Vista, Va., in place of James M. Updike. Incumbent's commission expired April 21, 1912.

Alfred Hayes to be postmaster at Virgilina, Va., in place of William D. Amis. Incumbent's commission expired May 23, 1912.

J. Minor Haynes to be postmaster at Cambria, Va., in place of Archie W. Moses. Incumbent's commission expired May 20, 1912.

D. H. Lewis to be postmaster at Chincoteague Island, Va., in place of John W. Field, deceased.

Edward A. Lindsey to be postmaster at Berryville, Va., in place of John R. Elder. Incumbent's commission expired April 6, 1912.

Albert L. Taylor to be postmaster at Parksley, Va. Office became presidential October 1, 1911.

L. Bruce Wolfe to be postmaster at Mount Jackson, Va., in place of Albert A. Evans, deceased.

WASHINGTON.

Charles E. Leonard to be postmaster at Winlock, Wash., in place of John L. Gruber, resigned.

WEST VIRGINIA.

Albert Snedeker to be postmaster at Wellsburg, W. Va., in place of William R. Miller. Incumbent's commission expired February 4, 1912.

WISCONSIN.

Fred A. Brandt to be postmaster at Sparta, Wis., in place of Fred A. Brandt. Incumbent's commission expires December 14, 1912.

Isa Faulds to be postmaster at Arcadia, Wis., in place of Isa Faulds. Incumbent's commission expires December 14, 1912.

W. A. Jones to be postmaster at Oconomowoc, Wis., in place of John G. Gorth, removed.

Fred W. Kubasta to be postmaster at Merrill, Wis., in place of Christian N. Johnson. Incumbent's commission expired June 1, 1910.

George W. Leberman to be postmaster at Sheboygan, Wis., in place of Edward B. Mattoon, deceased.

Judson L. Marvin to be postmaster at Mauston, Wis., in place of Judson L. Marvin. Incumbent's commission expires December 14, 1912.

Margaret J. Perry to be postmaster at Marion, Wis., in place of Stephen L. Perry, deceased.

WYOMING.

Elizabeth W. Kieffer to be postmaster at Fort Russell, Wyo., in place of John F. Crowley, resigned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December 3, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Be graciously near to us, O God, our Father, as we thus try to draw near to Thee in spirit and in truth. Help us to seek first Thy kingdom and Thy righteousness, that all things may be added unto us. We are weak, Thou art mighty; impart unto us strength. Our knowledge is limited, Thou knowest all things; impart unto us wisdom that we may direct our knowledge aright. We are selfish, Thou art gracious and kind; make us magnanimous in all our relationships, that Thy kingdom may come in our hearts through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT.

Messrs. UNDERWOOD, JOHNSON of Kentucky, and MANN, the committee appointed to wait on the President and inform him that a quorum of the House was present, appeared at the bar of the House.

Mr. UNDERWOOD. Mr. Speaker, I desire to report that the committee appointed by the House on yesterday to wait on the President of the United States, in company with a similar committee on the part of the Senate, have performed that function and the President directs us to say that he will communicate with the House in writing.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. SAMUEL W. SMITH, for four days, on account of important business.

To Mr. BELL of Georgia, for 10 days, on account of sickness.

To Mr. ADAMSON, indefinitely, on account of serious illness in his family.

To Mr. MARTIN of Colorado, indefinitely, on account of sickness.

To Mr. TAYLOR of Colorado, indefinitely, on account of the illness of his wife.

To Mr. HOWARD, indefinitely, on account of sickness in his family.

PROPOSED SIXTEENTH AMENDMENT TO THE CONSTITUTION.

The SPEAKER laid before the House the following communications, which were read:

STATE OF OHIO, EXECUTIVE DEPARTMENT,
Columbus, November 7, 1912.

To the honorable SPEAKER OF THE HOUSE OF REPRESENTATIVES,
Care Clerk of House of Representatives, Washington, D. C.

SIR: By direction of the governor, in accord with the instruction of the senate joint resolution of the Ohio Legislature adopted January 13,

1911. I am herewith inclosing a copy of senate joint resolution No. 6, by Mr. Yount, ratifying the proposed sixteenth amendment to the Constitution of the United States.

Acknowledgment is respectfully requested.

Very truly, yours,

GEO. S. LONG,
Secretary to the Governor.

Seventy-ninth general assembly, regular session Mr. Yount.

Senate joint resolution 6.

Whereas both Houses of the Sixty-first Congress of the United States of America at its first session by a constitutional majority of two-thirds thereof made the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"A joint resolution proposing an amendment to the Constitution of the United States.

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution, namely:

"'ART. XVI. The Congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several States and without regard to any census or enumeration.'"

Therefore be it

Resolved by the Senate and House of Representatives of the State of Ohio, That the said proposed amendment to the Constitution of the United States of America be and the same is hereby, ratified by the General Assembly of the State of Ohio; and further be it

Resolved, That the certified copies of this joint resolution be forwarded by the governor of this State to the Secretary of State at Washington and to the Presiding Officers of each House of the National Congress.

I, W. V. Goshorn, clerk of Ohio Senate, certify the above and foregoing is a true and correct copy of original resolution passed by General Assembly of Ohio as shown from the records of both houses.

W. V. GOSHORN,
Clerk of Ohio Senate.

STATE OF LOUISIANA,
DEPARTMENT OF STATE,
Baton Rouge, La., October 26, 1912.

Hon. CHAMP CLARK,
Speaker of the House of Representatives,
Washington, D. C.

DEAR SIR: I am directed by His Excellency Luther E. Hall, governor of Louisiana, in compliance with act 47 of the General Assembly of the State of Louisiana for the year 1912, to transmit to you a certified copy of said act No. 47 of 1912. I have the honor to be,

Yours, very obediently,

ALVIN E. HEBERT,
Secretary of State.

STATE OF LOUISIANA:

I, the undersigned secretary of state of the State of Louisiana, do hereby certify that the annexed and following one page contains a true and correct transcript of act No. 47 of the session acts of the General Assembly of the State of Louisiana for the year 1912, approved July 1, 1912, as is shown by comparing the same with the original act on file and of record in this office.

Given under my signature, authenticated with the impress of my seal of office, at the city of Baton Rouge, this 26th day of October, A. D. 1912.

[SEAL.] ALVIN E. HEBERT,
Secretary of State.

Act. No. 47.

House concurrent resolution 8. By Mr. Johnson. Ratifying the sixteenth amendment to the Constitution of the United States.

Whereas the Congress of the United States, on the — day of July, 1909, adopted a joint resolution proposing an amendment to the Constitution of the United States, as follows:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution:

"'ART. XVI. The Congress shall have power to lay and collect taxes on incomes from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.'"

And the foregoing amendment having been laid before the General Assembly of the State of Louisiana for consideration and action: Now therefore be it

Resolved by the General Assembly of the State of Louisiana, That the foregoing amendment to the Constitution of the United States be, and the same is hereby, ratified, to all intents and purposes, as a part of the Constitution of the United States.

(2) That the governor of the State of Louisiana is hereby requested to forward to the President of the United States and to the Secretary of State of the United States an authentic copy of the foregoing joint resolution.

L. E. THOMAS,
Speaker of the House of Representatives.
THOMAS C. BARRET,
Lieutenant Governor and President of the Senate.

Approved, July 1, 1912.

L. E. HALL,
Governor of the State of Louisiana.

A true copy.

ALVIN E. HEBERT,
Secretary of State.

ORDER OF BUSINESS.

The SPEAKER. The Chair desires to make an announcement about the order of business for to-day. As soon as the gentleman from Missouri [Mr. LLOYD] presents some little matters, and the President's message is read, the Chair intends to recognize the gentleman from Tennessee [Mr. SIMS] to call up a bill made privileged by a special order of the House in regard to the physical valuation of railroads.

CLERKS, ETC., TO EXPENDITURES COMMITTEES.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of the following privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 727 (H. Rept. 1259).

Resolved, That there shall be paid out of the contingent fund of the House, for services of a clerk to each of the following-named committees, compensation at the rate of $125 per month during the third session of the Sixty-second Congress, to wit:

Committee on Expenditures in the State Department;
Committee on Expenditures in the Treasury Department;
Committee on Expenditures in the War Department;
Committee on Expenditures in the Navy Department;
Committee on Expenditures in the Post Office Department;
Committee on Expenditures on Public Buildings;
Committee on Expenditures in the Interior Department;
Committee on Expenditures in the Department of Agriculture;
Committee on Expenditures in the Department of Commerce and Labor; and
Committee on Expenditures in the Department of Justice.

And there shall also be paid out of the contingent fund of the House compensation at the rate of $60 per month each, during the third session of the Sixty-second Congress, for the services of two messengers, to be appointed by the Doorkeeper, who shall perform messenger-janitor duty in the rooms of said committees on expenditures in the several departments.

Mr. LLOYD. Mr. Speaker, this resolution provides for the several clerks who were assigned to these several expenditure committees in the extra session and also in the regular session. It provides for no additional help beyond that which we had in those sessions.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

SESSION CLERKS TO COMMITTEES.

Mr. LLOYD. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 726 (H. Rept. 1258).

Resolved, That clerks to committees of the House during the session provided for by the legislative, executive, and judicial appropriation act for the fiscal year ending June 30, 1913, be, and they are hereby, assigned for the present session of Congress to the following committees, to wit:

Committee on Education.
Committee on Mines and Mining.
Committee on Railways and Canals.
Committee on Reform in the Civil Service.
Committee on Alcoholic Liquor Traffic.
Committee on Election of President, Vice President, and Representatives in Congress.
Committee on Disposition of Useless Executive Papers.
Committee on Enrolled Bills.
Committee on Invalid Pensions (assistant clerk).

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Missouri [Mr. LLOYD] whether this is identical with the resolution passed heretofore?

Mr. LLOYD. It is identical with the resolution passed at the last session.

The SPEAKER. Is there objection?

There was no objection.

The resolution was agreed to.

MESSENGER FOR POSTMASTER OF HOUSE.

Mr. LLOYD. Mr. Speaker, I ask unanimous consent for the present consideration of the following privileged resolution from the Committee on Accounts.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 717 (H. Rept. 1256).

Resolved, That the Postmaster of the House be, and he is hereby, authorized to appoint a messenger who shall be paid out of the contingent fund of the House at the rate of $100 per month during the third session of the Sixty-second Congress.

Mr. LLOYD. Mr. Speaker, this messenger has been heretofore provided, but not provided under the legislative bill, and he has been paid from time to time out of the contingent fund. It does not add anything to the pay roll beyond that which we had in the last session.

The SPEAKER. Is there objection?

There was no objection.

The resolution was agreed to.

MESSENGER FOR COMMITTEE ON DISPOSITION OF USELESS PAPERS.

Mr. LLOYD. Mr. Speaker, I ask unanimous consent for the present consideration of the following privileged resolution from the Committee on Accounts.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 721 (H. Rept. 1257).

Resolved, That the chairman of the Joint Select Committee on Disposition of Useless Executive Papers be, and he is hereby, authorized to appoint a messenger to said committee, who shall be paid out of the contingent fund of the House at the rate of $60 per month for this session.

Mr. MANN. Is that the same provision which was made before?

Mr. LLOYD. This is the same provision that was made at the last session. This clerk was provided for then.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

MESSENGER TO OFFICIAL REPORTERS OF DEBATES.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of the following privileged resolution from the Committee on Accounts.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

House resolution 728.

Resolved, That the official reporters of debates be, and they are hereby, authorized to appoint a messenger, who shall be paid out of the contingent fund of the House at the rate of $60 per month during the third session of the Sixty-second Congress.

Report (No. 1261) to accompany House resolution 728.

The Committee on Accounts has had under consideration the accompanying resolution, providing a messenger for the official reporters of debates. The same provision as made at last session is herein asked, and believing it a necessary provision and the resolution a proper one its adoption is recommended.

Mr. LLOYD. Mr. Speaker, this officer was provided in the last Congress and paid out of the contingent fund. The resolution adds nothing to the expense beyond that authorized by the last session of Congress.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

ADDITIONAL ASSISTANT CLERK, COMMITTEE ON THE JUDICIARY.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of the following privileged resolution from the Committee on Accounts.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

House resolution 722.

Resolved, That the Committee on the Judiciary is hereby authorized to employ an additional assistant clerk at the salary of $6 per day.

With an amendment set forth in the report, as follows:

Report (No. 1260) to accompany House resolution 722.

The Committee on Accounts, to whom was referred House resolution No. 722, have had the same under consideration and recommend the following amendment:

After the word "day," in line 3, insert "during the third session of the Sixty-second Congress, to be paid out of the contingent fund of the House."

The additional assistant clerk herein provided for was found to be necessary during the last session, and believing that the necessity still exists, the committee recommends the adoption of the resolution as amended.

Mr. LLOYD. Mr. Speaker, during the last session of Congress there was an extra clerk provided for the Committee on the Judiciary, and this is to provide for an additional clerk to the Committee on the Judiciary during the present session of Congress.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on agreeing to the resolution as amended.

The question was taken, and the resolution as amended was agreed to.

MESSAGES FROM THE PRESIDENT OF THE UNITED STATES.

Sundry messages, in writing, from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries.

REPORT OF THE COMMISSION OF FINE ARTS.

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with the accompanying documents, referred to the Committee on the Library and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the information of the Congress the report of the Commission of Fine Arts for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *December 3, 1912.*

INTERNATIONAL WATERWAYS COMMISSION (S. DOC. NO. 959).

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with the accompanying documents, referred to the Committee on Rivers and Harbors and ordered to be printed:

To the Senate and House of Representatives:

The act making appropriations for sundry civil expenses of the Government approved August 24, 1912, provided for the International Waterways Commission in the following terms, viz:

For continuing until December 31, 1912, the work of investigation and report by the International Waterways Commission, authorized by section 4 of the river and harbor act approved June 13, 1902, $10,000: *Provided*, That report as to the progress of the work be made by the American commissioners to Congress at the beginning of the next session.

The American commissioners have rendered a full report of all their acts up to this time, which I herewith transmit. It appears from this report that the commission still has two pieces of work to complete before it can properly go out of existence.

One is its final report upon a dam at the outlet of Lake Erie, a difficult and important question, upon which it has expended a vast amount of labor. It should be allowed to finish this work to clear the ground for its successor, the International Joint Commission, which will consider all future questions of this nature. I am informed that the report has been delayed, and may be further delayed, by the illness and absence in Europe of one of the Canadian engineers, but that it can probably be completed within a few months—certainly before the completion of the other piece of unfinished work.

The other is to ascertain and reestablish, to mark upon the ground, and to delineate upon modern charts the location of a portion of the international boundary between the United States and Canada, which work was specifically assigned to the International Waterways Commission by article 4 of the treaty between the United States and Great Britain dated April 11, 1908. This work, the commission states, can not be completed by December 31, 1912, but will require from a year to 15 months' more time beyond that date.

The work of the commission has been of a high order and has been prosecuted with diligence. International courtesy, as well as treaty obligations, require that the commission be allowed to complete its work. I recommend that the items to be found in the estimates for its support during the second half of the current fiscal year and for a part of the next fiscal year receive the favorable consideration of Congress.

WM. H. TAFT.

THE WHITE HOUSE, *December 3, 1912.*

OUR FOREIGN RELATIONS (H. DOC. NO. 927).

The SPEAKER also laid before the House the following message from the President of the United States, which was read and referred to the Committee of the Whole House on the state of the Union and ordered to be printed:

To the Senate and House of Representatives:

The foreign relations of the United States actually and potentially affect the state of the Union to a degree not widely realized and hardly surpassed by any other factor in the welfare of the whole Nation. The position of the United States in the moral, intellectual, and material relations of the family of nations should be a matter of vital interest to every patriotic citizen. The national prosperity and power impose upon us duties which we can not shirk if we are to be true to our ideals. The tremendous growth of the export trade of the United States has already made that trade a very real factor in the industrial and commercial prosperity of the country. With the development of our industries the foreign commerce of the United States must rapidly become a still more essential factor in its economic welfare. Whether we have a farseeing and wise diplomacy and are not recklessly plunged into unnecessary wars, and whether our foreign policies are based upon an intelligent grasp of present-day world conditions and a clear view of the potentialities of the future, or are governed by a temporary and timid expediency or by narrow views befitting an infant nation, are questions in the alternative consideration of which must convince any thoughtful citizen that no department of national polity offers greater opportunity for promoting the interests of the whole people on the one hand, or greater chance on the other of permanent national injury, than that which deals with the foreign relations of the United States.

The fundamental foreign policies of the United States should be raised high above the conflict of partisanship and wholly dissociated from differences as to domestic policy. In its foreign affairs the United States should present to the world a united front. The intellectual, financial, and industrial interests of the country and the publicist, the wage earner, the farmer,

and citizen of whatever occupation must cooperate in a spirit of high patriotism to promote that national solidarity which is indispensable to national efficiency and to the attainment of national ideals.

The relations of the United States with all foreign powers remain upon a sound basis of peace, harmony, and friendship. A greater insistence upon justice to American citizens or interests wherever it may have been denied and a stronger emphasis of the need of mutuality in commercial and other relations have only served to strengthen our friendships with foreign countries by placing those friendships upon a firm foundation of realities as well as aspirations.

Before briefly reviewing the more important events of the last year in our foreign relations, which it is my duty to do as charged with their conduct and because diplomatic affairs are not of a nature to make it appropriate that the Secretary of State make a formal annual report, I desire to touch upon some of the essentials to the safe management of the foreign relations of the United States and to endeavor, also, to define clearly certain concrete policies which are the logical modern corollaries of the undisputed and traditional fundamentals of the foreign policy of the United States.

REORGANIZATION OF THE STATE DEPARTMENT.

At the beginning of the present administration the United States having fully entered upon its position as a world power, with the responsibilities thrust upon it by the results of the Spanish-American War, and already engaged in laying the groundwork of a vast foreign trade upon which it should one day become more and more dependent, found itself without the machinery for giving thorough attention to, and taking effective action upon, a mass of intricate business vital to American interests in every country in the world.

The Department of State was an archaic and inadequate machine lacking most of the attributes of the foreign office of any great modern power. With an appropriation made upon my recommendation by the Congress on August 5, 1909, the Department of State was completely reorganized. There were created Divisions of Latin-American Affairs and of Far Eastern, Near Eastern, and Western European Affairs. To these divisions were called from the foreign service diplomatic and consular officers possessing experience and knowledge gained by actual service in different parts of the world, and thus familiar with political and commercial conditions in the regions concerned. The work was highly specialized. The result is that where previously this Government from time to time would emphasize in its foreign relations one or another policy, now American interests in every quarter of the globe are being cultivated with equal assiduity. This principle of politico-geographical division possesses also the good feature of making possible rotation between the officers of the departmental, the diplomatic, and the consular branches of the foreign service, and thus keeps the whole diplomatic and consular establishments under the Department of State in close touch and equally inspired with the aims and policy of the Government. Through the newly created Division of Information the foreign service is kept fully informed of what transpires from day to day in the international relations of the country, and contemporary foreign comment affecting American interests is promptly brought to the attention of the department. The law offices of the department were greatly strengthened. There were added foreign-trade advisers to cooperate with the diplomatic and consular bureaus and the politico-geographical divisions in the innumerable matters where commercial diplomacy or consular work calls for such special knowledge. The same officers, together with the rest of the new organization, are able at all times to give to American citizens accurate information as to conditions in foreign countries with which they have business and likewise to cooperate more effectively with the Congress and also with the other executive departments.

MERIT SYSTEM IN CONSULAR AND DIPLOMATIC CORPS.

Expert knowledge and professional training must evidently be the essence of this reorganization. Without a trained foreign service there would not be men available for the work in the reorganized Department of State. President Cleveland had taken the first step toward introducing the merit system in the foreign service. That had been followed by the application of the merit principle, with excellent results, to the entire consular branch. Almost nothing, however, had been done in this direction with regard to the Diplomatic Service. In this age of commercial diplomacy it was evidently of the first importance to train an adequate personnel in that branch of the service. Therefore, on November 26, 1909, by an Executive order I placed the Diplomatic Service up to the grade of secretary of embassy, inclusive, upon exactly the same strict nonpartisan basis of the merit system, rigid examination for appointment and promotion only for efficiency, as had been maintained without exception in the Consular Service.

STATISTICS AS TO MERIT AND NONPARTISAN CHARACTER OF APPOINTMENTS.

How faithful to the merit system and how nonpartisan has been the conduct of the Diplomatic and Consular Services in the last four years may be judged from the following: Three ambassadors now serving held their present rank at the beginning of my administration. Of the 10 ambassadors whom I have appointed, 5 were by promotion from the rank of minister. Nine ministers now serving held their present rank at the beginning of the administration. Of the 30 ministers whom I have appointed, 11 were promoted from the lower grades of the foreign service or from the Department of State. Of the 19 missions in Latin America, where our relations are close and our interest is great, 15 chiefs of mission are service men, 3 having entered the service during this administration. The 37 secretaries of embassy or legation who have received their initial appointments after passing successfully the required examination were chosen for ascertained fitness, without regard to political affiliations. A dearth of candidates from Southern and Western States has alone made it impossible thus far completely to equalize all the States' representations in the foreign service. In the effort to equalize the representation of the various States in the Consular Service I have made 16 of the 29 new appointments as consul which have occurred during my administration from the Southern States. This is 55 per cent. Every other consular appointment made, including the promotion of 11 young men from the consular assistant and student interpreter corps, has been by promotion or transfer, based solely upon efficiency shown in the service.

In order to assure to the business and other interests of the United States a continuance of the resulting benefits of this reform, I earnestly renew my previous recommendations of legislation making it permanent along some such lines as those of the measure now pending in Congress.

LARGER PROVISION FOR EMBASSIES AND LEGATIONS AND FOR OTHER EXPENSES OF OUR FOREIGN REPRESENTATIVES RECOMMENDED.

In connection with legislation for the amelioration of the foreign service, I wish to invite attention to the advisability of placing the salary appropriations upon a better basis. I believe that the best results would be obtained by a moderate scale of salaries, with adequate funds for the expenses of proper representation, based in each case upon the scale and cost of living at each post, controlled by a system of accounting, and under the general direction of the Department of State.

In line with the object which I have sought of placing our foreign service on a basis of permanency, I have at various times advocated provision by Congress for the acquisition of Government-owned buildings for the residence and offices of our diplomatic officers, so as to place them more nearly on an equality with similar officers of other nations and to do away with the discrimination which otherwise must necessarily be made, in some cases, in favor of men having large private fortunes. The act of Congress which I approved on February 17, 1911, was a right step in this direction. The Secretary of State has already made the limited recommendations permitted by the act for any one year, and it is my hope that the bill introduced in the House of Representatives to carry out these recommendations will be favorably acted on by the Congress during its present session.

In some Latin-American countries the expense of Government-owned legations will be less than elsewhere, and it is certainly very urgent that in such countries as some of the Republics of Central America and the Caribbean, where it is peculiarly difficult to rent suitable quarters, the representatives of the United States should be justly and adequately provided with dignified and suitable official residences. Indeed, it is high time that the dignity and power of this great Nation should be fittingly signalized by proper buildings for the occupancy of the Nation's representatives everywhere abroad.

DIPLOMACY A HANDMAID OF COMMERCIAL INTERCOURSE AND PEACE.

The diplomacy of the present administration has sought to respond to modern ideas of commercial intercourse. This policy has been characterized as substituting dollars for bullets. It is one that appeals alike to idealistic humanitarian sentiments, to the dictates of sound policy and strategy, and to legitimate commercial aims. It is an effort frankly directed to the increase of American trade upon the axiomatic principle that the Government of the United States shall extend all proper support to every legitimate and beneficial American enterprise abroad. How great have been the results of this diplomacy, coupled with the maximum and minimum provision of the tariff law, will be seen by some consideration of the wonderful increase in the export trade of the United States.

Because modern diplomacy is commercial, there has been a disposition in some quarters to attribute to it none but materialistic aims. How strikingly erroneous is such an impression may be seen from a study of the results by which the diplomacy of the United States can be judged.

SUCCESSFUL EFFORTS IN PROMOTION OF PEACE.

In the field of work toward the ideals of peace this Government negotiated, but to my regret was unable to consummate, two arbitration treaties which set the highest mark of the aspiration of nations toward the substitution of arbitration and reason for war in the settlement of international disputes. Through the efforts of American diplomacy several wars have been prevented or ended. I refer to the successful tripartite mediation of the Argentine Republic, Brazil, and the United States between Peru and Ecuador; the bringing of the boundary dispute between Panama and Costa Rica to peaceful arbitration; the staying of warlike preparations when Haiti and the Dominican Republic were on the verge of hostilities; the stopping of a war in Nicaragua; the halting of internecine strife in Honduras. The Government of the United States was thanked for its influence toward the restoration of amicable relations between the Argentine Republic and Bolivia. The diplomacy of the United States is active in seeking to assuage the remaining ill-feeling between this country and the Republic of Colombia. In the recent civil war in China the United States successfully joined with the other interested powers in urging an early cessation of hostilities. An agreement has been reached between the Governments of Chile and Peru whereby the celebrated Tacna-Arica dispute, which has so long embittered international relations on the west coast of South America, has at last been adjusted. Simultaneously came the news that the boundary dispute between Peru and Ecuador had entered upon a stage of amicable settlement. The position of the United States in reference to the Tacna-Arica dispute between Chile and Peru has been one of nonintervention, but one of friendly influence and pacific counsel throughout the period during which the dispute in question has been the subject of interchange of views between this Government and the two Governments immediately concerned. In the general easing of international tension on the west coast of South America the tripartite mediation, to which I have referred, has been a most potent and beneficent factor.

CHINA.

In China the policy of encouraging financial investment to enable that country to help itself has had the result of giving new life and practical application to the open-door policy. The consistent purpose of the present administration has been to encourage the use of American capital in the development of China by the promotion of those essential reforms to which China is pledged by treaties with the United States and other powers. The hypothecation to foreign bankers in connection with certain industrial enterprises, such as the Hukuang railways, of the national revenues upon which these reforms depended, led the Department of State early in the administration to demand for American citizens participation in such enterprises, in order that the United States might have equal rights and an equal voice in all questions pertaining to the disposition of the public revenues concerned. The same policy of promoting international accord among the powers having similar treaty rights as ourselves in the matters of reform, which could not be put into practical effect without the common consent of all, was likewise adopted in the case of the loan desired by China for the reform of its currency. The principle of international cooperation in matters of common interest upon which our policy had already been based in all of the above instances has admittedly been a great factor in that concert of the powers which has been so happily conspicuous during the perilous period of transition through which the great Chinese nation has been passing.

CENTRAL AMERICA NEEDS OUR HELP IN DEBT ADJUSTMENT.

In Central America the aim has been to help such countries as Nicaragua and Honduras to help themselves. They are the immediate beneficiaries. The national benefit to the United States is twofold. First, it is obvious that the Monroe doctrine is more vital in the neighborhood of the Panama Canal and the zone of the Caribbean than anywhere else. There, too, the maintenance of that doctrine falls most heavily upon the United States. It is therefore essential that the countries within that sphere shall be removed from the jeopardy involved by heavy foreign debt and chaotic national finances and from the ever-present danger of international complications due to disorder at home. Hence the United States has been glad to encourage and support American bankers who were willing to lend a helping hand to the financial rehabilitation of such countries, because this financial rehabilitation and the protection of their customhouses from being the prey of would-be dictators would remove at one stroke the menace of foreign creditors and the menace of revolutionary disorder.

The second advantage to the United States is one affecting chiefly all the southern and Gulf ports and the business and industry of the South. The Republics of Central America and the Caribbean possess great natural wealth. They need only a measure of stability and the means of financial regeneration to enter upon an era of peace and prosperity, bringing profit and happiness to themselves, and at the same time creating conditions sure to lead to a flourishing interchange of trade with this country.

I wish to call your especial attention to the recent occurrences in Nicaragua, for I believe the terrible events recorded there during the revolution of the past summer—the useless loss of life, the devastation of property, the bombardment of defenseless cities, the killing and wounding of women and children, the torturing of noncombatants to exact contributions, and the suffering of thousands of human beings—might have been averted had the Department of State, through approval of the loan convention by the Senate, been permitted to carry out its now well-developed policy of encouraging the extending of financial aid to weak Central American States, with the primary objects of avoiding just such revolutions by assisting those Republics to rehabilitate their finances, to establish their currency on a stable basis, to remove the customhouses from the danger of revolutions by arranging for their secure administration, and to establish reliable banks.

During this last revolution in Nicaragua, the Government of that Republic having admitted its inability to protect American life and property against acts of sheer lawlessness on the part of the malcontents, and having requested this Government to assume that office, it became necessary to land over 2,000 marines and bluejackets in Nicaragua. Owing to their presence the constituted Government of Nicaragua was free to devote its attention wholly to its internal troubles, and was thus enabled to stamp out the rebellion in a short space of time. When the Red Cross supplies sent to Granada had been exhausted, 8,000 persons having been given food in one day upon the arrival of the American forces, our men supplied other unfortunate, needy Nicaraguans from their own haversacks. I wish to congratulate the officers and men of the United States Navy and Marine Corps who took part in reestablishing order in Nicaragua upon their splendid conduct, and to record with sorrow the death of seven American marines and bluejackets. Since the reestablishment of peace and order, elections have been held amid conditions of quiet and tranquillity. Nearly all the American marines have now been withdrawn. The country should soon be on the road to recovery. The only apparent danger now threatening Nicaragua arises from the shortage of funds. Although American bankers have already rendered assistance, they may naturally be loath to advance a loan adequate to set the country upon its feet without the support of some such convention as that of June, 1911, upon which the Senate has not yet acted.

ENFORCEMENT OF NEUTRALITY LAWS.

In the general effort to contribute to the enjoyment of peace by those Republics which are near neighbors of the United States, the administration has enforced the so-called neutrality statutes with a new vigor, and those statutes were greatly strengthened in restricting the exportation of arms and munitions by the joint resolution of last March. It is still a regrettable fact that certain American ports are made the rendezvous of professional revolutionists and others engaged in intrigue against the peace of those Republics. It must be admitted that occasionally a revolution in this region is justified as a real popular movement to throw off the shackles of a vicious and tyrannical government. Such was the Nicaraguan revolution against the Zelaya régime. A nation enjoying our liberal institutions can not escape sympathy with a true popular movement, and one so well justified. In very many cases, however, revolutions in the Republics in question have no basis in principle, but are due merely to the machinations of conscienceless and ambitious men, and have no effect but to bring new suffering and fresh burdens to an already oppressed people. The question whether the use of American ports as *foci* of revolutionary intrigue can be best dealt with by a further amendment to the neutrality statutes or whether it would be safer to deal with special cases by special laws is one worthy of the careful consideration of the Congress.

VISIT OF SECRETARY KNOX TO CENTRAL AMERICA AND THE CARIBBEAN.

Impressed with the particular importance of the relations between the United States and the Republics of Central America and the Caribbean region, which of necessity must become still more intimate by reason of the mutual advantages which will be presented by the opening of the Panama Canal, I directed

the Secretary of State last February to visit these Republics for the purpose of giving evidence of the sincere friendship and good will which the Government and people of the United States bear toward them. Ten Republics were visited. Everywhere he was received with a cordiality of welcome and a generosity of hospitality such as to impress me deeply and to merit our warmest thanks. The appreciation of the Governments and peoples of the countries visited, which has been appropriately shown in various ways, leaves me no doubt that his visit will conduce to that closer union and better understanding between the United States and those Republics which I have had it much at heart to promote.

OUR MEXICAN POLICY.

For two years revolution and counter-revolution have distrait the neighboring Republic of Mexico. Brigandage has involved a great deal of depredation upon foreign interests. There have constantly recurred questions of extreme delicacy. On several occasions very difficult situations have arisen on our frontier. Throughout this trying period the policy of the United States has been one of patient nonintervention, steadfast recognition of constituted authority in the neighboring nation, and the exertion of every effort to care for American interests. I profoundly hope that the Mexican nation may soon resume the path of order, prosperity, and progress. To that nation in its sore troubles the sympathetic friendship of the United States has been demonstrated to a high degree. There were in Mexico at the beginning of the revolution some thirty or forty thousand American citizens engaged in enterprises contributing greatly to the prosperity of that Republic and also benefiting the important trade between the two countries. The investment of American capital in Mexico has been estimated at $1,000,000,000. The responsibility of endeavoring to safeguard those interests and the dangers inseparable from propinquity to so turbulent a situation have been great, but I am happy to have been able to adhere to the policy above outlined—a policy which I hope may be soon justified by the complete success of the Mexican people in regaining the blessings of peace and good order.

AGRICULTURAL CREDITS.

A most important work, accomplished in the past year by the American diplomatic officers in Europe, is the investigation of the agricultural credit system in the European countries. Both as a means to afford relief to the consumers of this country through a more thorough development of agricultural resources and as a means of more sufficiently maintaining the agricultural population, the project to establish credit facilities for the farmers is a concern of vital importance to this Nation. No evidence of prosperity among well-established farmers should blind us to the fact that lack of capital is preventing a development of the Nation's agricultural resources and an adequate increase of the land under cultivation; that agricultural production is fast falling behind the increase in population; and that, in fact, although these well-established farmers are maintained in increasing prosperity because of the natural increase in population, we are not developing the industry of agriculture. We are not breeding in proportionate numbers a race of independent and independence-loving landowners, for a lack of which no growth of cities can compensate. Our farmers have been our mainstay in times of crisis, and in future it must still largely be upon their stability and common sense that this democracy must rely to conserve its principles of self-government.

The need of capital which American farmers feel to-day had been experienced by the farmers of Europe, with their centuries-old farms, many years ago. The problem had been successfully solved in the Old World and it was evident that the farmers of this country might profit by a study of their systems. I therefore ordered, through the Department of State, an investigation to be made by the diplomatic officers in Europe, and I have laid the results of this investigation before the governors of the various States with the hope that they will be used to advantage in their forthcoming meeting.

INCREASE OF FOREIGN TRADE.

In my last annual message I said that the fiscal year ended June 30, 1911, was noteworthy as marking the highest record of exports of American products to foreign countries. The fiscal year 1912 shows that this rate of advance has been maintained, the total domestic exports having a valuation approximately of $2,200,000,000, as compared with a fraction over $2,000,000,000 the previous year. It is also significant that manufactured and partly manufactured articles continue to be the chief commodities forming the volume of our augmented exports, the demands of our own people for consumption requiring that an increasing proportion of our abundant agricultural products be kept at home. In the fiscal year 1911 the exports of articles in the various stages of manufacture, not including foodstuffs partly or wholly manufactured, amounted approximately to $907,500,000. In the fiscal year 1912 the total was nearly $1,022,000,000, a gain of $114,000,000.

ADVANTAGE OF MAXIMUM AND MINIMUM TARIFF PROVISION.

The importance which our manufactures have assumed in the commerce of the world in competition with the manufactures of other countries again draws attention to the duty of this Government to use its utmost endeavors to secure impartial treatment for American products in all markets. Healthy commercial rivalry in international intercourse is best assured by the possession of proper means for protecting and promoting our foreign trade. It is natural that competitive countries should view with some concern this steady expansion of our commerce. If in some instances the measure taken by them to meet it are not entirely equitable, a remedy should be found. In former messages I have described the negotiations of the Department of State with foreign Governments for the adjustment of the maximum and minimum tariff as provided in section 2 of the tariff law of 1909. The advantages secured by the adjustment of our trade relations under this law have continued during the last year, and some additional cases of discriminatory treatment of which we had reason to complain have been removed. The Department of State has for the first time in the history of this country obtained substantial most-favored-nation treatment from all the countries of the world. There are, however, other instances which, while apparently not constituting undue discrimination in the sense of section 2, are nevertheless exceptions to the complete equity of tariff treatment for American products that the Department of State consistently has sought to obtain for American commerce abroad.

NECESSITY FOR SUPPLEMENTARY LEGISLATION.

These developments confirm the opinion conveyed to you in my annual message of 1911, that while the maximum and minimum provision of the tariff law of 1909 has been fully justified by the success achieved in removing previously existing undue discriminations against American products, yet experience has shown that this feature of the law should be amended in such way as to provide a fully effective means of meeting the varying degrees of discriminatory treatment of American commerce in foreign countries still encountered, as well as to protect against injurious treatment on the part of foreign Governments, through either legislative or administrative measures, the financial interests abroad of American citizens whose enterprises enlarge the market for American commodities.

I can not too strongly recommend to the Congress the passage of some such enabling measure as the bill which was recommended by the Secretary of State in his letter of December 13, 1911. The object of the proposed legislation is, in brief, to enable the Executive to apply, as the case may require, to any or all commodities, whether or not on the free list from a country which discriminates against the United States, a graduated scale of duties up to the maximum of 25 per cent ad valorem provided in the present law. Flat tariffs are out of date. Nations no longer accord equal tariff treatment to all other nations irrespective of the treatment from them received. Such a flexible power at the command of the Executive would serve to moderate any unfavorable tendencies on the part of those countries from which the importations into the United States are substantially confined to articles on the free list as well as of the countries which find a lucrative market in the United States for their products under existing customs rates. It is very necessary that the American Government should be equipped with weapons of negotiation adapted to modern economic conditions, in order that we may at all times be in a position to gain not only technically just but actually equitable treatment for our trade, and also for American enterprise and vested interests abroad.

BUSINESS SECURED TO OUR COUNTRY BY DIRECT OFFICIAL EFFORT.

As illustrating the commercial benefits to the Nation derived from the new diplomacy and its effectiveness upon the material as well as the more ideal side, it may be remarked that through direct official efforts alone there have been obtained in the course of this administration, contracts from foreign Governments involving an expenditure of $50,000,000 in the factories of the United States. Consideration of this fact and some reflection upon the necessary effects of a scientific tariff system and a foreign service alert and equipped to cooperate with the business men of America carry the conviction that the gratifying increase in the export trade of this country is, in substantial amount, due to our improved governmental methods of protecting and stimulating it. It is germane to these observations

to remark that in the two years that have elapsed since the successful negotiation of our new treaty with Japan, which at the time seemed to present so many practical difficulties, our export trade to that country has increased at the rate of over $1,000,000 a month. Our exports to Japan for the year ended June 30, 1910, were $21,959,310, while for the year ended June 30, 1912, the exports were $53,478,046, a net increase in the sale of American products of nearly 150 per cent.

SPECIAL CLAIMS ARBITRATION WITH GREAT BRITAIN.

Under the special agreement entered into between the United States and Great Britain on August 18, 1910, for the arbitration of outstanding pecuniary claims, a schedule of claims and the terms of submission have been agreed upon by the two Governments, and together with the special agreement were approved by the Senate on July 19, 1911, but in accordance with the terms of the agreement they did not go into effect until confirmed by the two Governments by an exchange of notes, which was done on April 26 last. Negotiations are still in progress for a supplemental schedule of claims to be submitted to arbitration under this agreement, and meanwhile the necessary preparations for the arbitration of the claims included in the first schedule have been undertaken and are being carried on under the authority of an appropriation made for that purpose at the last session of Congress. It is anticipated that the two Governments will be prepared to call upon the arbitration tribunal, established under this agreement, to meet at Washington early next year to proceed with this arbitration.

FUR SEAL TREATY AND NEED FOR AMENDMENT OF OUR STATUTE.

The act adopted at the last session of Congress to give effect to the fur-seal convention of July 7, 1911, between Great Britain, Japan, Russia, and the United States provided for the suspension of all land killing of seals on the Pribilof Islands for a period of five years, and an objection has now been presented to this provision by the other parties in interest, which raises the issue as to whether or not this prohibition of land killing is inconsistent with the spirit, if not the letter, of the treaty stipulations. The justification for establishing this close season depends, under the terms of the convention, upon how far, if at all, it is necessary for protecting and preserving the American fur-seal herd and for increasing its number. This is a question requiring examination of the present condition of the herd and the treatment which it needs in the light of actual experience and scientific investigation. A careful examination of the subject is now being made, and this Government will soon be in possession of a considerable amount of new information about the American seal herd, which has been secured during the past season and will be of great value in determining this question; and if it should appear that there is any uncertainty as to the real necessity for imposing a close season at this time I shall take an early opportunity to address a special message to Congress on this subject, in the belief that this Government should yield on this point rather than give the slightest ground for the charge that we have been in any way remiss in observing our treaty obligations.

FINAL SETTLEMENT OF NORTH ATLANTIC FISHERIES DISPUTE.

On the 20th of July last an agreement was concluded between the United States and Great Britain adopting, with certain modifications, the rules and method of procedure recommended in the award rendered by the North Atlantic Coast Fisheries Arbitration Tribunal on September 7, 1910, for the settlement hereafter, in accordance with the principles laid down in the award, of questions arising with reference to the exercise of the American fishing liberties under article 1 of the treaty of October 20, 1818, between the United States and Great Britain. This agreement received the approval of the Senate on August 1 and was formally ratified by the two Governments on November 15 last. The rules and a method of procedure embodied in the award provided for determining by an impartial tribunal the reasonableness of any new fishery regulations on the treaty coasts of Newfoundland and Canada before such regulations could be enforced against American fishermen exercising their treaty liberties on those coasts, and also for determining the delimitation of bays on such coasts more than 10 miles wide, in accordance with the definition adopted by the tribunal of the meaning of the word "bays" as used in the treaty. In the subsequent negotiations between the two Governments, undertaken for the purpose of giving practical effect to these rules and methods of procedure, it was found that certain modifications therein were desirable from the point of view of both Governments, and these negotiations have finally resulted in the agreement above mentioned by which the award recommendations as modified by mutual consent of the two Governments are finally adopted and made effective, thus bringing this century-old controversy to a final conclusion, which is equally beneficial and satisfactory to both Governments.

IMPERIAL VALLEY AND MEXICO.

In order to make possible the more effective performance of the work necessary for the confinement in their present channel of the waters of the lower Colorado River, and thus to protect the people of the Imperial Valley, as well as in order to reach with the Government of Mexico an understanding regarding the distribution of the waters of the Colorado River, in which both Governments are much interested, negotiations are going forward with a view to the establishment of a preliminary Colorado River commission, which shall have the powers necessary to enable it to do the needful work and with authority to study the question of the equitable distribution of the waters. There is every reason to believe that an understanding upon this point will be reached and that an agreement will be signed in the near future.

CHAMIZAL DISPUTE.

In the interest of the people and city of El Paso this Government has been assiduous in its efforts to bring to an early settlement the long-standing Chamizal dispute with Mexico. Much has been accomplished, and while the final solution of the dispute is not immediate, the favorable attitude lately assumed by the Mexican Government encourages the hope that this troublesome question will be satisfactorily and definitely settled at an early day.

INTERNATIONAL COMMISSION OF JURISTS.

In pursuance of the convention of August 23, 1906, signed at the Third Pan American Conference, held at Rio de Janeiro, the International Commission of Jurists met at that capital during the month of last June. At this meeting 16 American Republics were represented, including the United States, and comprehensive plans for the future work of the commission were adopted. At the next meeting, fixed for June, 1914, committees already appointed are instructed to report regarding topics assigned to them.

OPIUM CONFERENCE—UNFORTUNATE FAILURE OF OUR GOVERNMENT TO ENACT RECOMMENDED LEGISLATION.

In my message on foreign relations communicated to the two Houses of Congress December 7, 1911, I called especial attention to the assembling of the Opium Conference at The Hague, to the fact that that conference was to review all pertinent municipal laws relating to the opium and allied evils, and certainly all international rules regarding these evils, and to the fact that it seemed to me most essential that the Congress should take immediate action on the antinarcotic legislation before the Congress, to which I had previously called attention by a special message.

The international convention adopted by the conference conforms almost entirely to the principles contained in the proposed antinarcotic legislation which has been before the last two Congresses. It was most unfortunate that this Government, having taken the initiative in the international action which eventuated in the important international opium convention, failed to do its share in the great work by neglecting to pass the necessary legislation to correct the deplorable narcotic evil in the United States as well as to redeem international pledges upon which it entered by virtue of the above-mentioned convention. The Congress at its present session should enact into law those bills now before it which have been so carefully drawn up in collaboration between the Department of State and the other executive departments, and which have behind them not only the moral sentiment of the country but the practical support of all the legitimate trade interests likely to be affected. Since the international convention was signed, adherence to it has been made by several European States not represented at the conference at The Hague and also by 17 Latin-American Republics.

EUROPE AND THE NEAR EAST.

The war between Italy and Turkey came to a close in October last by the signature of a treaty of peace, subsequently to which the Ottoman Empire renounced sovereignty over Cyrenaica and Tripolitania in favor of Italy. During the past year the Near East has unfortunately been the theater of constant hostilities. Almost simultaneously with the conclusion of peace between Italy and Turkey and their arrival at an adjustment of the complex questions at issue between them, war broke out between Turkey on the one hand and Bulgaria, Greece, Montenegro, and Servia on the other. The United States has happily been involved neither directly nor indirectly with the causes or questions incident to any of these hostilities and has maintained in regard to them an attitude of absolute neutrality and of complete political disinterestedness. In the second war in which the Ottoman Empire has been engaged the loss of life and the consequent distress on both sides have been appalling, and the United States has found occasion, in the interest of humanity, to carry out the charitable desires of the American people, to extend a measure of relief to the sufferers on either side through

the impartial medium of the Red Cross. Beyond this the chief care of the Government of the United States has been to make due provision for the protection of its nationals resident in belligerent territory. In the exercise of my duty in this matter I have dispatched to Turkish waters a special-service squadron, consisting of two armored cruisers, in order that this Government may if need be bear its part in such measures as if may be necessary for the interested nations to adopt for the safeguarding of foreign lives and property in the Ottoman Empire in the event that a dangerous situation should develop. In the meanwhile the several interested European powers have promised to extend to American citizens the benefit of such precautionary or protective measures as they might adopt, in the same manner in which it has been the practice of this Government to extend its protection to all foreigners resident in those countries of the Western Hemisphere in which it has from time to time been the task of the United States to act in the interest of peace and good order. The early appearance of a large fleet of European warships in the Bosphorus apparently assured the protection of foreigners in that quarter, where the presence of the American stationnaire the U. S. S. *Scorpion* sufficed, under the circumstances, to represent the United States. Our cruisers were thus left free to act if need be along the Mediterranean coasts should any unexpected contingency arise affecting the numerous American interests in the neighborhood of Smyrna and Beirut.

SPITZBERGEN.

The great preponderance of American material interests in the subarctic island of Spitzbergen, which has always been regarded politically as "no man's land," impels this Government to a continued and lively interest in the international dispositions to be made for the political goverance and administration of that region. The conflict of certain claims of American citizens and others is in a fair way to adjustment, while the settlement of matters of administration, whether by international conference of the interested powers or otherwise, continues to be the subject of exchange of views between the Governments concerned.

LIBERIA.

As a result of the efforts of this Government to place the Government of Liberia in position to pay its outstanding indebtedness and to maintain a stable and efficient government, negotiations for a loan of $1,700,000 have been successfully concluded, and it is anticipated that the payment of the old loan and the issuance of the bonds of the 1912 loan for the rehabilitation of the finances of Liberia will follow at an early date, when the new receivership will go into active operation. The new receivership will consist of a general receiver of customs designated by the Government of the United States and three receivers of customs designated by the Governments of Germany, France, and Great Britain, which countries have commercial interests in the Republic of Liberia.

In carrying out the understanding between the Government of Liberia and that of the United States, and in fulfilling the terms of the agreement between the former Government and the American bankers, three competent ex-army officers are now effectively employed by the Liberian Government in reorganizing the police force of the Republic, not only to keep in order the native tribes in the hinterland but to serve as a necessary police force along the frontier. It is hoped that these measures will assure not only the continued existence but the prosperity and welfare of the Republic of Liberia. Liberia possesses fertility of soil and natural resources which should insure to its people a reasonable prosperity. It was the duty of the United States to assist the Republic of Liberia in accordance with our historical interest and moral guardianship of a community founded by American citizens, as it was also the duty of the American Government to attempt to assure permanence to a country of much sentimental and perhaps future real interest to a large body of our citizens.

MOROCCO.

The legation at Tangier is now in charge of our consul general, who is acting as chargé d'affaires, as well as caring for our commercial interests in that country. In view of the fact that many of the foreign powers are now represented by chargés d'affaires it has not been deemed necessary to appoint at the present time a minister to fill a vacancy occurring in that post.

THE FAR EAST.

The political disturbances in China in the autumn and winter of 1911–12 resulted in the abdication of the Manchu rulers on February 12, followed by the formation of a provisional republican government empowered to conduct the affairs of the nation until a permanent government might be regularly established. The natural sympathy of the American people with the assumption of republican principles by the Chinese people was appropriately expressed in a concurrent resolution of Congress on April 17, 1912. A constituent assembly, composed of representatives duly chosen by the people of China in the elections that are now being held, has been called to meet in January next to adopt a permanent constitution and organize the Government of the nascent Republic. During the formative constitutional stage and pending definitive action by the assembly, as expressive of the popular will, and the hoped-for establishment of a stable republican form of government, capable of fulfilling its international obligations, the United States is, according to precedent, maintaining full and friendly de facto relations with the provisional Government.

The new condition of affairs thus created has presented many serious and complicated problems, both of internal rehabilitation and of international relations, whose solution it was realized would necessarily require much time and patience. From the beginning of the upheaval last autumn it was felt by the United States, in common with the other powers having large interests in China, that independent action by the foreign Governments in their own individual interests would add further confusion to a situation already complicated. A policy of international cooperation was accordingly adopted in an understanding, reached early in the disturbances, to act together for the protection of the lives and property of foreigners if menaced, to maintain an attitude of strict impartiality as between the contending factions, and to abstain from any endeavor to influence the Chinese in their organization of a new form of government. In view of the seriousness of the disturbances and their general character, the American minister at Peking was instructed at his discretion to advise our nationals in the affected districts to concentrate at such centers as were easily accessible to foreign troops or men of war. Nineteen of our naval vessels were stationed at various Chinese ports, and other measures were promptly taken for the adequate protection of American interests.

It was further mutually agreed, in the hope of hastening an end to hostilities, that none of the interested powers would approve the making of loans by its nationals to either side. As soon, however, as a united provisional Government of China was assured, the United States joined in a favorable consideration of that Government's request for advances needed for immediate administrative necessities and later for a loan to effect a permanent national reorganization. The interested Governments had already, by common consent, adopted, in respect to the purposes, expenditure, and security of any loans to China made by their nationals, certain conditions which were held to be essential, not only to secure reasonable protection for the foreign investors, but also to safeguard and strengthen China's credit by discouraging indiscriminate borrowing and by insuring the application of the funds toward the establishment of the stable and effective government necessary to China's welfare. In June last representative banking groups of the United States, France, Germany, Great Britain, Japan, and Russia formulated, with the general sanction of their respective Governments, the guaranties that would be expected in relation to the expenditure and security of the large reorganization loan desired by China, which, however, have thus far proved unacceptable to the provisional Government.

SPECIAL MISSION OF CONDOLENCE TO JAPAN.

In August last I accredited the Secretary of State as special ambassador to Japan, charged with the mission of bearing to the imperial family, the Government, and the people of that Empire the sympathetic message of the American Commonwealth on the sad occasion of the death of His Majesty the Emperor Mutsuhito, whose long and benevolent reign was the greater part of Japan's modern history. The kindly reception everywhere accorded to Secretary Knox showed that his mission was deeply appreciated by the Japanese nation and emphasized strongly the friendly relations that have for so many years existed between the two peoples.

SOUTH AMERICA.

Our relations with the Argentine Republic are most friendly and cordial. So, also, are our relations with Brazil, whose Government has accepted the invitation of the United States to send two army officers to study at the Coast Artillery School at Fort Monroe. The long-standing Alsop claim, which had been the only hindrance to the healthy growth of the most friendly relations between the United States and Chile, having been eliminated through the submission of the question to His Britannic Majesty King George V as "amiable compositeur," it is a cause of much gratification to me that our relations with Chile are now established upon a firm basis of growing friendship. The Chilean Government has placed an officer of the United States Coast Artillery in charge of the Chilean Coast Artillery School, and has shown appreciation of American methods by confiding to an American firm important work for the Chilean coast defenses.

Last year a revolution against the established Government of Ecuador broke out at the principal port of that Republic. Previous to this occurrence the chief American interest in Ecuador, represented by the Guayaquil & Quito Railway Co., incorporated in the United States, had rendered extensive transportation and other services on account to the Ecuadorian Government, the amount of which ran into a sum which was steadily increasing and which the Ecuadorian Government had made no provision to pay, thereby threatening to crush out the very existence of this American enterprise. When tranquillity had been restored to Ecuador as a result of the triumphant progress of the Government forces from Quito, this Government interposed its good offices to the end that the American interests in Ecuador might be saved from complete extinction. As a part of the arrangement which was reached between the parties, and at the request of the Government of Ecuador, I have consented to name an arbitrator, who, acting under the terms of the railroad contract, with an arbitrator named by the Ecuadorian Government, will pass upon the claims that have arisen since the arrangement reached through the action of a similar arbitral tribunal in 1908.

In pursuance of a request made some time ago by the Ecuadorian Government, the Department of State has given much attention to the problem of the proper sanitation of Guayaquil. As a result a detail of officers of the Canal Zone will be sent to Guayaquil to recommend measures that will lead to the complete permanent sanitation of this plague and fever infected region of that Republic, which has for so long constituted a menace to health conditions on the Canal Zone. It is hoped that the report which this mission will furnish will point out a way whereby the modicum of assistance which the United States may properly lend the Ecuadorian Government may be made effective in ridding the west coast of South America of a focus of contagion to the future commercial current passing through the Panama Canal.

In the matter of the claim of John Celestine Landreau against the Government of Peru, which claim arises out of certain contracts and transactions in connection with the discovery and exploitation of guano, and which has been under discussion between the two Governments since 1874, I am glad to report that as the result of prolonged negotiations, which have been characterized by the utmost friendliness and good will on both sides, the Department of State has succeeded in securing the consent of Peru to the arbitration of the claim, and that the negotiations attending the drafting and signature of a protocol submitting the claim to an arbitral tribunal are proceeding with due celerity.

An officer of the American Public Health Service and an American sanitary engineer are now on the way to Iquitos, in the employ of the Peruvian Government, to take charge of the sanitation of that river port. Peru is building a number of submarines in this country and continues to show every desire to have American capital invested in the Republic.

In July the United States sent undergraduate delegates to the Third International Students' Congress held at Lima, American students having been for the first time invited to one of these meetings.

The Republic of Uruguay has shown its appreciation of American agricultural and other methods by sending a large commission to this country and by employing many American experts to assist in building up agricultural and allied industries in Uruguay.

Venezuela is paying off the last of the claims the settlement of which was provided for by the Washington protocols, including those of American citizens. Our relations with Venezuela are most cordial, and the trade of that Republic with the United States is now greater than with any other country.

CENTRAL AMERICA AND THE CARIBBEAN.

During the past summer the revolution against the administration which followed the assassination of President Caceres a year ago last November brought the Dominican Republic to the verge of administrative chaos, without offering any guaranties of eventual stability in the ultimate success of either party. In pursuance of the treaty relations of the United States with the Dominican Republic, which were threatened by the necessity of suspending the operation under American administration of the customhouses on the Haitian frontier, it was found necessary to dispatch special commissioners to the island to reestablish the customhouses and with a guard sufficient to insure needed protection to the customs administration. The efforts which have been made appear to have resulted in the restoration of normal conditions throughout the Republic. The good offices which the commissioners were able to exercise were instrumental in bringing the contending parties together and in furnishing a basis of adjustment which it is hoped will result in permanent benefit to the Dominican people.

Mindful of its treaty relations, and owing to the position of the Government of the United States as mediator between the Dominican Republic and Haiti in their boundary dispute, and because of the further fact that the revolutionary activities on the Haitian-Dominican frontier had become so active as practically to obliterate the line of demarcation that had been heretofore recognized pending the definitive settlement of the boundary in controversy, it was found necessary to indicate to the two island Governments a provisional de facto boundary line. This was done without prejudice to the rights or obligations of either country in a final settlement to be reached by arbitration. The tentative line chosen was one which, under the circumstances brought to the knowledge of this Government, seemed to conform to the best interests of the disputants. The border patrol which it had been found necessary to reestablish for customs purposes between the two countries was instructed provisionally to observe this line.

The Republic of Cuba last May was in the throes of a lawless uprising that for a time threatened the destruction of a great deal of valuable property—much of it owned by Americans and other foreigners—as well as the existence of the Government itself. The armed forces of Cuba being inadequate to guard property from attack and at the same time properly to operate against the rebels, a force of American marines was dispatched from our naval station at Guantanamo into the Province of Oriente for the protection of American and other foreign life and property. The Cuban Government was thus able to use all its forces in putting down the outbreak, which it succeeded in doing in a period of six weeks. The presence of two American warships in the harbor of Habana during the most critical period of this disturbance contributed in great measure to allay the fears of the inhabitants, including a large foreign colony.

There has been under discussion with the Government of Cuba for some time the question of the release by this Government of its leasehold rights at Bahia Honda, on the northern coast of Cuba, and the enlargement, in exchange therefor, of the naval station which has been established at Guantanamo Bay, on the south. As the result of the negotiations thus carried on an agreement has been reached between the two Governments providing for the suitable enlargement of the Guantanamo Bay station upon terms which are entirely fair and equitable to all parties concerned.

At the request alike of the Government and both political parties in Panama, an American commission undertook supervision of the recent presidential election in that Republic, where our treaty relations, and, indeed, every geographical consideration, make the maintenance of order and satisfactory conditions of peculiar interest to the Government of the United States. The elections passed without disorder, and the new administration has entered upon its functions.

The Government of Great Britain has asked the support of the United States for the protection of the interests of British holders of the foreign bonded debt of Guatemala. While this Government is hopeful of an arrangement equitable to the British bondholders, it is naturally unable to view the question apart from its relation to the broad subject of financial stability in Central America, in which the policy of the United States does not permit it to escape a vital interest. Through a renewal of negotiations between the Government of Guatemala and American bankers, the aim of which is a loan for the rehabilitation of Guatemalan finances, a way appears to be open by which the Government of Guatemala could promptly satisfy any equitable and just British claims, and at the same time so improve its whole financial position as to contribute greatly to the increased prosperity of the Republic and to redound to the benefit of foreign investments and foreign trade with that country. Failing such an arrangement, it may become impossible for the Government of the United States to escape its obligations in connection with such measures as may become necessary to exact justice to legitimate foreign claims.

In the recent revolution in Nicaragua which, it was generally admitted, might well have resulted in a general Central American conflict but for the intervention of the United States, the Government of Honduras was especially menaced; but fortunately peaceful conditions were maintained within the borders of that Republic. The financial condition of that country remains unchanged, no means having been found for the final adjustment of pressing outstanding foreign claims. This makes it the more regrettable that the financial convention between the United States and Honduras has thus far failed of ratifica-

tion. The Government of the United States continues to hold itself ready to cooperate with the Government of Honduras, which, it is believed, can not much longer delay the meeting of of its foreign obligations, and it is hoped at the proper time American bankers will be willing to cooperate for this purpose.

NECESSITY FOR GREATER GOVERNMENTAL EFFORT IN RETENTION AND EXPANSION OF OUR FOREIGN TRADE.

It is not possible to make to the Congress a communication upon the present foreign relations of the United States so detailed as to convey an adequate impression of the enormous increase in the importance and activities of those relations. If this Government is really to preserve to the American people that free opportunity in foreign markets which will soon be indispensable to our prosperity, even greater efforts must be made. Otherwise the American merchant, manufacturer, and exporter will find many a field in which American trade should logically predominate preempted through the more energetic efforts of other governments and other commercial nations.

There are many ways in which through hearty cooperation the legislative and executive branches of this Government can do much. The absolute essential is the spirit of united effort and singleness of purpose. I will allude only to a very few specific examples of action which ought then to result. America can not take its proper place in the most important fields for its commercial activity and enterprise unless we have a merchant marine. American commerce and enterprise can not be effectively fostered in those fields unless we have good American banks in the countries referred to. We need American newspapers in those countries and proper means for public information about them. We need to assure the permanency of a trained foreign service. We need legislation enabling the members of the foreign service to be systematically brought in direct contact with the industrial, manufacturing, and exporting interests of this country in order that American business men may enter the foreign field with a clear perception of the exact conditions to be dealt with and the officers themselves may prosecute their work with a clear idea of what American industrial and manufacturing interests require.

CONCLUSION.

Congress should fully realize the conditions which obtain in the world as we find ourselves at the threshold of our middle age as a Nation. We have emerged full grown as a peer in the great concourse of nations. We have passed through various formative periods. We have been self-centered in the struggle to develop our domestic resources and deal with our domestic questions. The Nation is now too mature to continue in its foreign relations those temporary expedients natural to a people to whom domestic affairs are the sole concern. In the past our diplomacy has often consisted, in normal times, in a mere assertion of the right to international existence. We are now in a larger relation with broader rights of our own and obligations to others than ourselves. A number of great guiding principles were laid down early in the history of this Government. The recent task of our diplomacy has been to adjust those principles to the conditions of to-day, to develop their corollaries, to find practical applications of the old principles expanded to meet new situations. Thus are being evolved bases upon which can rest the superstructure of policies which must grow with the destined progress of this Nation. The successful conduct of our foreign relations demands a broad and a modern view. We can not meet new questions nor build for the future if we confine ourselves to outworn dogmas of the past and to the perspective appropriate at our emergence from colonial times and conditions. The opening of the Panama Canal will mark a new era in our international life and create new and world-wide conditions which, with their vast correlations and consequences, will obtain for hundreds of years to come. We must not wait for events to overtake us unawares. With continuity of purpose we must deal with the problems of our external relations by a diplomacy modern, resourceful, magnanimous, and fittingly expressive of the high ideals of a great nation.

WM. H. TAFT.

THE WHITE HOUSE, *December 3, 1912.*

PHYSICAL VALUATION OF RAILROADS.

Mr. SIMS. Mr. Speaker, I call up House bill 22593, to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, made privileged under a special order of the House, and ask for its present consideration.

The SPEAKER. This bill is on the Union Calendar.

Mr. SIMS. Then, Mr. Speaker, I move to go into Committee of the Whole House on the state of the Union for the consideration of the bill mentioned, and, pending that motion, I wish to ask if there can not be some arrangement made as to general debate. I believe the gentleman from Minnesota [Mr. STEVENS] desires time.

The SPEAKER. The gentleman from Tennessee [Mr. SIMS] moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 22593, for the physical valuation of railroads, and, pending that, he desires to make some arrangement about the length of time to be consumed in debate.

Mr. SIMS. About how much time does the gentleman from Minnesota desire for general debate?

Mr. STEVENS of Minnesota. I think, Mr. Speaker, that this side would like about two hours.

Mr. SIMS. Does the gentleman mean two hours for that side?

Mr. STEVENS of Minnesota. Yes. The time that has been asked for will consume nearly two hours. It is a very important subject, and quite a number of bills have been presented to the committee, and quite a number of gentlemen desire to discuss their measures.

Mr. SIMS. I am anxious, under the request of the Chair, to try and get the bill passed this afternoon.

Mr. STEVENS of Minnesota. Mr. Speaker, I have half a dozen bills here, and the authors of those bills desire time in which to discuss this very important matter.

Mr. SIMS. Does the gentleman think we can complete the consideration of the bill this afternoon under the five-minute rule?

Mr. STEVENS of Minnesota. There are some amendments to be offered. I have some amendments, and I understand others have some which they desire to offer under the five-minute rule, but the consideration of those amendments ought not to consume very much time. They are for the correction of obvious defects in the bill.

Mr. SIMS. If we conclude the general debate in less than four hours, the gentleman will have no objection to taking up the bill under the five-minute rule?

Mr. STEVENS of Minnesota. Not at all. We desire to expedite the passage of the bill. We have no objection whatever to the general features of it.

Mr. SIMS. Then, Mr. Speaker, I ask unanimous consent that the general debate on this bill be limited to four hours, the gentleman from Minnesota [Mr. STEVENS] to control one half of that time and myself to control the other half.

The SPEAKER. The gentleman from Tennessee [Mr. SIMS] asks that the general debate on this bill be limited to four hours, two hours on a side, one-half the time to be controlled by himself and the other half by the gentleman from Minnesota [Mr. STEVENS].

Mr. SIMS. With the understanding that if we consume less time than that, we may enter upon the consideration of the bill under the five-minute rule at the conclusion of the general debate.

The SPEAKER. And with the further understanding that the general debate will not necessarily have to run four hours, but that if it runs out in less time, then the bill may be taken up under the five-minute rule. Is there objection?

There was no objection.

The SPEAKER. The question is on the motion of the gentleman from Tennessee that the House resolve itself into the Committee of the Whole House on the state of the Union.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 22593) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, with Mr. RAINEY in the chair.

Mr. SIMS. Mr. Chairman, I ask that the bill be read.

The CHAIRMAN. The Clerk will read the bill.

The Clerk began the reading of the bill.

Mr. SIMS. Mr. Chairman, I ask unanimous consent that the further first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

Mr. SIMS. Mr. Chairman, this is a very important bill, as its title indicates. It was introduced by the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from Georgia [Mr. ADAMSON], and was reported by him. It was his intention to call up the bill this morning under the special

rule which authorizes it to be called up, and he had intended to take charge of it himself. As the gentleman from Georgia [Mr. ADAMSON] reported the bill, some members of the committee, I for one, did not give to its details that attention that would have been given had I expected to have charge of it on the floor of the House.

The gentleman from Georgia [Mr. ADAMSON] was called home this morning by a telegram announcing the serious and dangerous illness of Mrs. Adamson. In view of the fact that he is so familiar with this subject, and that he wrote the report, I ask that the report be read in my time as a part of my remarks.

The CHAIRMAN. If there be no objection, the Clerk will read the report in the time of the gentleman from Tennessee.

There was no objection.

The Clerk read as follows:

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 22593) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, having considered the same, report thereon with a recommendation that it pass.

The Interstate Commerce Commission in its annual reports has often set forth the importance of an official valuation of the property of the carriers subject to the act to regulate commerce. The difficulties encountered in the effort to correct rates through the claims as to valuation of property have been described. The opinions of the courts likewise have laid great stress upon the element of valuation as a factor in determining rates. The people not only acquiesce in those views but they desire accurate information on the subject. Perhaps at one time or another every Member of the House of Representatives who has served more than one term has voted to authorize such official valuation. It seems to be universally favored regardless of partisan lines. Not less important is the matter of information as to the stocks and bonds of the carrier corporations, the manipulation of the finances which control those carriers, and the boards of directors, stockholders, and bondholders themselves, who really give direction to all their affairs. The anomaly has grown up, gradually and unconsciously as it were, grown up in the courts themselves as well as the commission, that public carriers are to be allowed to charge an income on what they owe as well as on what they own. Nobody else in the world with whom we are acquainted is allowed that privilege. First, there is a claim set up of the investment, actual or watered, and an income is allowed for that. Then, as a part of the fixed charges—annual burden of doing business—the interest on the bonds is considered and allowance made for that, whether the bonds sold at par or at a liberal discount, or whatever the circumstances may have been. Furthermore, financial institutions and sources either identical or more or less related secure control of the issues of stock and the boards of directors and thereby easily control the issues of bonds. Then it is not surprising that common stockholders and common directors in different corporations manage to place the bonds in the hands of common bondholders.

Whatever the evils or advantages of such financial manipulation and consolidation may be it is unnecessary in this report to discuss. The complaints of millions of shippers attest the dissatisfaction of the people. They are entitled to have the truth known. Full information, full publicity as to the true conditions of the issues of stocks and bonds, the cost to the holder, the price realized by the carriers, the disposition of the money, the facts as to the manipulations, will all shed light upon the question of correcting rates by the commission and their revision by the courts, and the information of all those things will help the people to a correct understanding thereof. If the wrongs complained of have been exaggerated, the people will be satisfied when they know the truth. If, on the other hand, the alleged wrongs or any considerable part of them are shown by the investigation really to exist, in the light of the truth they can be corrected. It is our intention in reporting this bill that when the proposed investigation shall have revealed the truth as to the matters involved, the light shall continue to shine on all future transactions and operations as to physical property, stocks, bonds, boards of directors, and financial control. To that end the bill provides that the commission shall continue to keep itself informed by continuing the investigation as to all extensions and new constructions and improvements and all increases in physical value, so as to keep such official valuation up to date all the time. Existing law, in section 20 of the act to regulate commerce, already provides for similar work and information as to stocks and bonds, so that if this bill passes it will not only result in securing information as to present conditions but also in continuing the work so as to show forth the full truth and exact facts as to future transactions as they occur, so as to show the true condition at all times.

We hope that the bill herewith reported may meet with the approval of Congress and speedily become a law.

Mr. SIMS. Mr. Chairman, the very able and clear report which has just been read, and which was prepared by the chairman of the committee, Mr. ADAMSON, explains the objects and purposes of the bill. This is not a new subject. This matter has been before the committee many years, as I am informed by Members who have served longer than I have on the committee. The question of the physical valuation of the property of common carriers is made necessary in every question in which the reasonableness of a rate is involved in the courts and before the Interstate Commerce Commission and before the various State commissions. I am informed by those who have served longer than I have on the committee that this bill, or similar bills, have been favorably reported frequently by the committee. This is a unanimous report from the committee. There is no objection to the bill that I know of coming from any member of the committee, and for the present, not knowing what objections, if any, there may be to the bill, I will reserve the balance of my time.

Mr. MANN. Will the gentleman from Tennessee yield?

Mr. SIMS. Certainly.

Mr. MANN. Would not the gentleman be willing to inform the House what the bill does do?

Mr. SIMS. The bill speaks for itself. The report analyzes the bill and states the objects and purposes of the bill, I expect, with more clearness and precision than I am prepared to do.

Mr. MANN. Oh, the gentleman from Tennessee always speaks with clearness of definition in the House, and I am sure he will be able to explain what this bill will accomplish.

Mr. SIMS. Does the gentleman from Illinois mean what the effect of the bill will be?

Mr. MANN. What will be done under the provisions of the bill.

Mr. SIMS. The bill states what ought to be done, what is expected, and what will be done.

Mr. MANN. If we should proceed on that theory we never would have any speeches explaining a measure, but only the reading of the bill. The bill always speaks for itself. Still, it seems to me, the gentleman from Tennessee ought to explain the provisions of the bill so that it will be in the RECORD.

Mr. SIMS. At present, Mr. Chairman, while I would like very much to grant the gentleman's request, but inasmuch as this is a unanimous report of the committee, put in shape by the chairman of the committee, it seems to me that any statement of mine would be a mere repetition at least in substance, and at present I hope the gentleman from Illinois will excuse me from taking further time of the committee in explaining the bill.

Mr. MANN. I would like to ask the gentleman from Tennessee a question in reference to the provisions of the bill, as he is familiar with it. I notice, next to the last paragraph of the bill, on page 6, there is a penalty provision which provides that in case of failure or refusal on the part of any carrier, receiver, or trustee to comply with all the requirements of this act, and so forth, he shall forfeit $500 for each such offense. The language "this act" there means, as I understand it, the interstate-commerce act, because this is a new section of the interstate-commerce act. Here is a penalty provision relating to the failure to comply with all the requirements of the interstate-commerce act, but there are now many penalty provisions in the interstate-commerce act itself. The question I want to ask the gentleman is, Would not this operate as a repeal, this being a new provision relating to penalty, assuming that you can not have two penalties for the same violation of the law?

Mr. SIMS. Mr. Chairman, I think this amendment which has just been read, which is an amendment to the interstate-commerce law, has reference to the penalty that will be applied to the violation of the provisions of this amendment and will not apply to the entire interstate-commerce act. That is my opinion.

Mr. SABATH. I think it is quite clear, Mr. Chairman, that the language of this section applies to the refusal of the carrier, receiver, or trustee in this section alone.

Mr. MANN. I think my colleague from Illinois did not hear what I read from the bill. Immediately following the provision which my colleague refers to is a provision relating to the requirements of the act. The act is the interstate-commerce act, and it is so treated in all amendments of the interstate-commerce act.

Mr. SABATH. I notice what the gentleman has in mind.

Mr. MANN. I think that ought to be made the provisions of the section, because some of the penalties provided in the interstate-commerce act are much more onerous than the penalties provided in this section. I did not know whether there was any reason for it or not.

Mr. SIMS. Of course it is not the purpose of the committee to relax, reduce, or minimize any penalty now in the law with reference to other matters.

Mr. MANN. I am quite sure that is not the desire of the committee.

Mr. SIMS. And the words "this act," I feel, were intended to apply only to this section. I think that would be a fair construction, especially in penal cases.

Mr. MANN. I think that would not be the construction given by the act, because in all the amendments to the interstate-commerce act, and there are many of them, wherever the term "this act" is used in any of the amended sections it means the entire interstate-commerce act and not the act making the amendment.

Mr. SIMS. And if it should be thought by the committee that the word "act" should be stricken out and the word

"section" inserted in lieu thereof, of course that can be done when we consider the bill under the five-minute rule. As I stated before, I did not prepare this bill.

Mr. MANN. I thought possibly it would be easier to arrive at an understanding now than it would be when we had exhausted the general debate.

Mr. SIMS. I would not be willing myself to say what the committee would be willing to do without consulting the other members of the committee.

I reserve the balance of my time.

Mr. BUTLER. Mr. Chairman, before the gentleman sits down I desire to ask him a question. It is stated in the report here that a measure similar to this has been voted for by the Members of the House who have attended more than one session of Congress. No such bill as this has ever passed the House, has it?

Mr. SIMS. I can not state from my own knowledge. I have been a member of this committee only one Congress prior to this Congress.

Mr. MANN. Mr. Chairman, if the gentleman will pardon me, I think I can answer the gentleman from Pennsylvania.

Mr. SIMS. Certainly.

Mr. MANN. When there was up for consideration in the last Congress a bill to amend the interstate-commerce law, on the floor of the House my colleague from Illinois [Mr. MADDEN] offered an amendment very similar to the provisions of this bill, providing for the physical valuation of railroads, which amendment was agreed to. In conference I tried to have that provision retained, but was unable to do so. It was not in the law when it was enacted. The provision went out in conference.

Mr. SIMS. Mr. Chairman, I reserve the balance of my time, and ask that the gentleman from Minnesota now use some of his time.

[Mr. STEVENS of Minnesota addressed the committee. See Appendix.]

Mr. SIMS. Mr. Chairman, I yield to the gentleman from Indiana [Mr. CULLOP], a member of the committee, such time as he may desire to use.

Mr. CULLOP. Mr. Chairman, the purpose of this measure is to ascertain the physical valuation of the railroads, for the purpose of preventing impositions on the public, in the sale of capital stock, bonds, and the fixing of transportation charges.

There can be no question that there is a demand for such legislation, and the object of this bill is to satisfy that demand.

Railroad rates are to-day fixed in a manner which is absolutely unjust to the ultimate consumers and the shippers of the country. Transportation rates are fixed on three items of consideration as the basis, first, to pay operating expenses and improvement charges; second, to pay interest on the bonded indebtedness; and, third, to pay a reasonable dividend upon the capital stock. The first basis is just. The second is absolutely wrong, and if the second and third are both employed, as is now done, they constitute a double charge upon the shipping public, which must be paid by the ultimate consumers of the country and thereby constitutes a burden on them. It is not fair to charge a rate that will make a sufficient earning to pay the interest on the bonded indebtedness and a dividend on the capital stock. Either the money raised by the bonded indebtedness went into the pockets of the owners of the railroad as a net profit, or it was invested in the construction and equipment of the road. If, therefore, a rate is charged which will create earnings to pay the interest on the bonded indebtedness and also a dividend on the capital stock—which more than covers every dollar of bonded indebtedness—such a basis necessarily constitutes a double charge. For that reason the present basis of fixing railroad rates in this country is absolutely erroneous, and gives the owners an unjust advantage over other business enterprises.

I call attention to the fact that the ultimate consumer necessarily pays every dollar of freight rates imposed in this country. Those freight rates are a charge upon the products which are shipped, and are added to the cost price, which the ultimate consumer must inevitably pay. He suffers the unjust consequences of such a method and bears the burden of the intolerable system.

Again it is a well-known fact that there is an overcapitalization of nearly every railroad in the country. The capital stock, as a usual thing, is more than double the actual cost of the building and equipping of the railroad. In many instances not only is the capital stock double the amount of the bonded indebtedness, but sometimes three or four times the value of the road, and in many instances the bonded indebtedness, the mortgage indebtedness, of the railroad is greater than the actual cost of the building and equipping of the road itself. So that, therefore, to charge a freight rate and fix it on the basis now employed enough to pay the interest on the bonded indebtedness and a dividend on the capital stock is an outrage against the ultimate consumers of the country. It is this manner of fixing rates as now employed in this country, this manner of fixing transportation charges by the great common carriers of the country, which retards the development of the country and prevents the full realization on investments in other industrial enterprises.

Many things are produced on the farm and in the factories for which there is a demand in the congested centers of population, but because the cost of the conveyance of these things from the point of production to the point of consumption is so expensive such articles can not enter the commerce of the country and are valueless to the producer. The manner in which these rates are fixed does injury to the investment of the people in other lines of business as well as to the ultimate consumers of the country. Producers and consumers are affected alike.

That is why a new policy and a new system for the levying of transportation rates should be adopted by every line of common carriers throughout the country. This is why the demand for this legislation is so universal and is hailed as a relief.

Some objection has been made to this measure because of its cost. On this subject I wish to call the attention of the committee to what the institution of this system of ascertaining the physical valuation of railroads would cost the country. I want to read from the testimony of Judge Clements, a member of the Interstate Commerce Commission, upon this subject. On page 4 of the hearings before the committee he said:

Speaking of the probable cost, it is, of course, very difficult even to make an estimate that would be at all reliable. Prof. Adams, who was our former statistician, and who was employed as a special agent of the commission to aid us in putting in practice the operation of a system of bookkeeping and accounting of reports under the twentieth section of the Hepburn Act, considered this matter when he was with us a few years ago, and his final estimate was, as well as he could judge, that it would probably take $3,000,000 for valuation. He had previously made a smaller estimate than that, but on account of increased mileage and a review of what would probably be necessary in the way of employing a sufficient corps of engineers and experts to do this work, and do it accurately and satisfactorily, he revised his estimate and, in the year 1908, when this subject was up, expressed the view, in connection with a bill that was pending before the Senate committee and some correspondence we had with President Roosevelt, that it would probably take $3,000,000. Mr. Adams had aided in making the valuation in Michigan of the railroads in that State some years ago, which I understand was made for taxation purposes.

Now, it may be further added that it will probably take from three to five years' time to do this work properly, thoroughly, and well. This demand made for the revision of the method of levying rates now requires early action in order to afford the facilities necessary to aid the public in seeking lower rates for transportation and relief from unjust burdens which bear heavily on the business of the entire country.

There is another thing about this bill that ought to be considered, and that is that it will to a large degree, if not altogether, stop the overcapitalization of railroads and the overbonding of them. It will stop the imposition which to-day and for years has been practiced, the abuse of selling watered stocks and inflated bonds to innocent purchasers. I am aware of one argument that will be made against it, and that is that these stocks have passed into the hands of widows and orphans of the country and superannuated preachers. I take it that that argument is not sufficient in the mind of any gentleman upon this floor to oppose the passage of such a measure as this. If such people have been unfortunate in their investments, they must stand upon the same basis with other people who have been likewise unfortunate. But it is not fair to 90,000,000 of people that they should be required to pay unjust and enormous transportation tolls and have the development of our country restricted in order that the investments of a few may be made safe and good. Better it would be that Congress would appropriate the money to make restitution to them than to impose upon 90,000,000 of people, as is being done now in the fixing of transportation rates in this country, and retarding the commerce of a great country. It would be cheaper to the people in the end.

Mr. COX of Indiana. Will the gentleman yield?

Mr. CULLOP. I will.

Mr. COX of Indiana. In that connection I want to ask this question, if I can make myself plain to the gentleman. I do not remember the total bonded indebtedness of the railroads, but it is several billion dollars.

Mr. CULLOP. And then some.

Mr. COX of Indiana. I do not remember the total capitalization; but the gentleman stated a moment ago, and I think truthfully, that now railroads charge freight rates with the view of paying the interest on fixed charges, and some of the

fixed charges are the bonded indebtedness of the railroads. Suppose this bill becomes a law, and then suppose the commission finds that certain railroads in this country are overcapitalized—that they have more bonds issued which are making fixed charges against the railroad than are really necessary. Does not the gentleman believe that still the railroads will have the right to fix their freight rates with a view to meeting those fixed charges?

Mr. CULLOP. Mr. Chairman, I will answer the gentleman in this way. It is the object of this bill, according to my understanding, that the capital stock and bonded indebtedness should have nothing whatever to do with the fixing of the railroad rates in this country. It should be the policy of the Government that private business is never to be guaranteed; and if the owners of railroads make bad investments in their business methods, make extravagant purchases, and the construction of the roads is imprudently done, then the innocent public should never, as a matter of common justice, be taxed to make up for the errors of any man's business judgment. It is not right as a public policy, and it is not the intention, I will say to the gentleman, to let the bonded indebtedness or the overcapitalization, the creation of great financiers, those engaged in high finance, be the subjects for the plunder of the innocent people of the country or to retard the development of the greatest country on earth, as is now being done. In every line of business men suffer for their own mistakes in judgment and not the public.

Mr. COX of Indiana. Will the gentleman permit me further?

Mr. CULLOP. Certainly.

Mr. COX of Indiana. Right in that connection, that may all be true, but does the gentleman believe that the Supreme Court of the United States would stand for the Interstate Commerce Commission or any other power fixing freight rates to the extent that the freight rates thus fixed would become confiscatory of the bonded indebtedness or capitalization of the railroads of the country?

Mr. CULLOP. Mr. Chairman, the term "confiscation" has been used as a scarecrow in this country for more than a quarter of a century. It has been made do overtime. Why should the Government guarantee anybody's private investment? It has no more right to do that than to guarantee the investment of a man in his farm, in a store, or in a factory.

Yet it is proposed by some that when a man undertakes to build a public utility, building it for making profit, for earning money on his investment, the Government ought to step in and permit him to fleece the public in order to make his business successful. Such a proposition is indefensible, and whenever presented it should be rebuked. Governments were instituted for the benefit of the governed and not the governed for the benefit of governments. Courts should uphold, if it can reasonably be done, the will of the people as expressed by their law-making powers, and the principle involved in this measure is not repugnant to the rule of our courts so far expressed on similar questions.

To-day, under the method in which railroad rates are levied, the basis employed, there is not a railroad in the country that can lose money if it employs intelligent business methods. If it does not earn profits, it is because of its bad business management. Against this no legislation could safely be enacted which would assure good business management.

Mr. COX of Indiana. Will the gentleman yield for one other question?

Mr. CULLOP. Certainly.

Mr. COX of Indiana. Let me ask the gentleman this question: Does he believe it would be just and equitable to any person, innocent or otherwise, who is the holder of railroad stock or bonds, for any commission or power to fix freight rates to the extent that the railroad company that had issued the bonds or the stock would be unable to meet those obligations when they fell due?

Mr. CULLOP. Which side does the gentleman mean to be fair and just to? There are two sides. I want to be fair and just to both; but that question implies to be fair to only one side, and that is the railroad side of the question. The public, which bears the burdens, have some rights which should not be ignored.

Mr. COX of Indiana. Oh, I beg the gentleman's pardon. I mean the investors in the stock.

Mr. CULLOP. But it was the duty of the investor in the stock to examine before he invested. If he was careless, he must suffer the consequences.

Mr. COX of Indiana. Suppose he did examine before he invested and satisfied himself that he was safe in investing his money?

Mr. CULLOP. Then he stands upon the same basis as every other investor in this country. He can ask no more and should expect no less.

Mr. COX of Indiana. He stands upon the basis, then, of an innocent purchaser for value.

Mr. CULLOP. No; he took his chances. He was not an innocent purchaser if he knew there was more capital stock than the property was worth. If he purchased inflated stock he, rather than the public, should suffer.

Mr. COX of Indiana. But suppose he did not know that?

Mr. CULLOP. But it was his duty to examine and see. He was not an innocent purchaser if he knew or by vigilance could have known there were more bonds or stock issued than the railroad was worth.

Mr. COX of Indiana. But perhaps the fault might have been in Congress or in some other legislative body.

Mr. CULLOP. Then his duty was to examine more carefully before he put his money into the project, and if he did not he would be estopped from complaining.

Mr. COX of Indiana. Suppose he exhausted his ability in examination? Then, does the gentleman believe that man should be cut out?

Mr. CULLOP. Then he made a bad business venture, and, like many others have done, must suffer the consequences. Suppose the same arguments were made as to the reduction of the tariff? Then revision downward could never be made—and here is a greater source of fleecing the public as now employed than ever existed by virtue of any protective tariff in this country, because where the protective tariff takes one dollar out of the pockets of the ultimate consumers the railroad companies take five every day in the year.

Now, if some man, in his zeal to buy cheap stock and earn large dividends or large interest on his investment, steps in and takes his chance with the rest of the world, he can not come to Congress and demand legislation to make it good at the expense of the public. The many who are made to suffer by it have as much right to be protected in the fruits of their toil as does the man who buys railroad stock or railroad bonds or any other speculative security.

Mr. SABATH. There is nothing in this bill that would prevent anyone from disposing of any of his stocks or bonds?

Mr. CULLOP. Nothing whatever. Every holder is at liberty to sell when he pleases.

Mr. SABATH. And anyone could easily dispose of his holdings.

Mr. CULLOP. Certainly he could. Now, let us look at the origin of the present system employed. Fifteen years ago there started in a movement for legislation to make just such a thing as we have now constructed the basis upon which rates should be levied. Railroad companies increased their capital stock three, four, and five hundred per cent without adding values. Why? Because it was to be taken as the basis for earning dividends for them on the amount of capitalization. It was a well-directed and well-conceived plan to get exorbitant rates—dividends on watered stocks, on fictitious values. There was a well-directed plan to get at the basis which is now employed, and with that purpose in view the railroad companies began to increase their capital stock without additional investment of any consequence until they increased it in many instances more than three hundredfold. What was the result? Then they began to bond, and many of the best railroads of the country to-day are bonded for more than enough to build and equip them. What was the object in all of this? The object was to increase earnings, and not to improve facilities. It is the only institution so far known which earns a profit on its indebtedness. Indebtedness is always loss, but here is an instance in which indebtedness is a great profit to the transportation companies. Such has been the method all along the line in the regulation of this great business.

Mr. HARDY. Will the gentleman yield just for a question or suggestion?

Mr. CULLOP. Yes.

Mr. HARDY. It seems to me by way of answer to what the gentleman from Indiana [Mr. Cox] asked, or the proposition he has suggested, that the supreme courts themselves have already held that the standard of rate or measure of rate is not to be determined by the capitalization of the road.

Mr. CULLOP. Certainly.

Mr. HARDY. And that the capitalization is only to be considered by the court, if at all, as one of the elements of evidence as to what is the real capital upon which the companies are entitled to earn a dividend, and they are entitled to earn a dividend upon nothing more than their real capital. I think that is the holding of the courts.

Mr. CULLOP. The gentleman is correct. Now, I will call the attention of the gentleman from Indiana [Mr. COX] to the cases collated in the hearings in which the doctrine is laid down in a number of them, in which the very basis that the gentleman from Indiana incorporated in his question is denied by the court and the opposite contention is sustained.

Mr. COX of Indiana. I beg the gentleman's pardon, I am not assuming any position; I was simply seeking information.

Mr. CULLOP. Well, the one involved in your question.

Mr. COX of Indiana. I was trying to get at the gentleman's views, taking it for granted that the gentleman, being a member of the committee, has given it a lot of study. I have not.

Mr. CULLOP. The courts all over the country have held, as I recall the cases, that the proper basis of levying of rates for transportation is not by taking into consideration alone the capital stock and the bonded indebtedness, but it is the real investment as the true basis. The actual investment is the proper basis, and that is a fair way to look at it; that is an equitable basis that the courts ought to and do assume and which individuals ought to assume in adjusting this matter by legislation. This question has become a public matter—one of the greatest importance. Its proper solution requires the serious consideration of every lover of our country who has its welfare at heart. Every year upon the farm go to waste great values in products, cheap products, because the cost of conveyance to market is too expensive. In the congested centers of population hungry mouths are pleading for them, but the cost of transportation between the points of production and the points of consumption is so great that the people can not afford to have these products; neither the producer nor the consumer can afford to pay the cost charged for conveying them to points of consumption. Now, that is the situation which confronts us. Go to your coal mines, and to-day coal rates in the best part of the coal-mining districts of the great Mississippi Valley are so high that it hampers this great industry and retards its development. Cost of transportation eats up the profits and retards the industry.

It is the cost of transporting the coal from the mines to the places of consumption which is holding back in our country one of the greatest industries ever developed in it. It is reducing the amount of production in the manufactories. It is holding back industrial pursuits, because the cost of putting the goods upon the market is so great. The cheaper you make an article to the ultimate consumer the more of it is consumed. The higher you make it the less of it is consumed. And the cost of transportation to-day is doing more to affect the high cost of living than perhaps any other one item which enters into it at this time. Products which are going to waste on the farms, for which the farmer ought to realize profits on his investment, on his labor, could be, if properly regulated, transported for less money to the places where there are demands for them and thereby be of value to the country and the people who desire them and a profit to the men who produce them. But this is prevented because of the cost of transportation as levied upon the basis fixed at the present time.

It is not fair to the public that it be taxed to earn dividends on watered stock; that freight rates be fixed at such price as to pay dividends upon watered stock that cost the railroads nothing. When such a procedure is permitted nothing is turned into value, and millions are made by such a policy which have never been earned. Such a policy is unjust and unfair. This bill will in a very large measure eliminate that system and will to a certain extent wipe out the system of high financing in this country by which the innocent public is exploited so often. That is one of the objects of it, and the country will approve it.

Mr. BUCHANAN. Will the gentleman yield?

Mr. CULLOP. Certainly.

Mr. BUCHANAN. I am aware that there is a great difference between the price of products at the farm and the price in the cities, but I do not know that it is all due to the high freight rates. For example, I have known potatoes to sell for 30 cents a bushel on the farm and probably sell for 40 or 50 cents a peck in the cities. I am not certain that the railroad rates has all to do with that. I think commission merchants and stock exchanges have often something to do with this great difference in the cost of the price to the producer and the price to the consumer. Can the gentleman give any information in regard to that? Has there been any explanation given in the hearing?

Mr. CULLOP. I will be pleased to answer the gentleman so far as I can. I do not claim, and never have claimed, that the cost of transportation was the sole cause of the high cost of living. But I do claim it is an element which enters into it.

Mr. BUCHANAN. If the gentleman will please permit——

Mr. CULLOP. Let me answer the gentleman's question.

Mr. BUCHANAN. I would like to get at just one thing. Is that due to the fact that the farmer can not often ship his produce because of not being able to get a market for it and abnormal high price for the product that the producer can not market?

Mr. CULLOP. In part, yes. What I do claim is that one of the items which enters into the high cost of living is the high cost of transporting the products to market. There are other items which enter into it. This bill will not eliminate all of them. We are not claiming that for it. But we must eliminate those, if we can, one by one. You will not eliminate all of them with one great legislative swoop, because there is a combination of circumstances which brings about that result, and this is one of them. Now, it is true that sometimes the want of transportation facilities does have something to do with it. The scarcity of cars, bad roads, and a number of things may enter into it which prevent producers from putting products on the market.

Why is wheat higher in the district of the gentleman from Illinois [Mr. CANNON] than it is in my district? Is it because he is nearer the initial market than the people of my district? The difference in transportation alone makes the difference in the price of wheat between my city and his city.

Why is wheat higher in Indiana than it is in Oklahoma? Because of the difference in the cost of the difference in distance from the initial market. Chicago is the initial wheat market for all the Mississippi Valley. Why is wheat higher in Chicago than it is in St. Louis? Because Chicago is the initial market and the cost of transportation from St. Louis to Chicago is the difference. Now, just as long as the present system prevails that long will the public have to bear this unjust burden. Just as soon as it is eliminated the burden it imposes will be removed and the producer and consumer alike will be benefited thereby.

It is unfair to the public that the Government should guarantee the investment in stocks and bonds, and yet that is the effect of the present system. If the stock and bond speculator wants to go on the market and speculate, the Government ought not to guarantee his investments. Who ought the Government to protect? The producers and consumers, and not alone the speculator who thrives by the manipulation of the stock market. The speculator is taking his chances in the mad race of speculation. Should the Government throw its strong arm around him and protect his chance speculation at the expense of the innocent producer and the helpless ultimate consumer of the country, or should it protect the one who earns his living by the employment of his muscle and mind? That is the proposition involved here. For me, I want to stand by the producer; I want to help the helpless consumer of this country, and not the stock speculator who takes his chances on the opportunities of trade of this country, because he is not so deserving as the other, whoever he may be. It would give a great impetus to every manufacturing industry, to every mining industry, to every farmer in this country, and it would multiply the productions of the farm, factory, and mine, and the cheaper products which now go to waste could be put into the markets of the world where there is a demand by the ultimate consumer, and it would thereby help all.

Now, Mr. Chairman——

Mr. FOSTER. Mr. Chairman, I would like to ask the gentleman from Indiana a question.

The CHAIRMAN. Does the gentleman yield?

Mr. CULLOP. With pleasure.

Mr. FOSTER. Is there anything in this bill which excludes watered stock in railroads, or which in the future would prevent the issuance of watered stocks, or which makes the investment secure in stocks where the railroads do not go out and sell watered stocks?

Mr. CULLOP. I may state to the gentleman from Illinois that the theory of this bill is that the physical valuation of the properties shall be determined irrespective of their capitalization and their bonded indebtedness, and the rates fixed upon that, so that there will be no inducements to the overzealous speculator of the country to rush in and buy watered stock or inflated bonds.

Mr. FOSTER. Well, is there anything in this bill to prevent that?

Mr. CULLOP. No, there is nothing to prevent it; but the basis for regulation, if adopted, will of itself prevent it. It is to ascertain what is watered stock, how much is overbonded indebtedness, and get at the genuine or real value of the property, and fix the transportation rates upon what the real values are. That is the purpose and object of the bill. Then it takes away, when fixed on that basis, the inducement to persons to buy watered stocks, because the opportunity to earn dividends

on such stocks by the operation of the properties will be destroyed, and hence there will be no demand on the market for them.

I can say further to the gentleman, here is the trouble about that proposition in Federal legislation: These corporations, as a rule, get their charters from States and not from the National Government, and that regulation necessarily belongs to the several States of the Union. But when you fix the rate on the basis contemplated by this bill, there will be no inducement for overcapitalization or excessive bonded indebtedness.

Mr. FOSTER. Well, does the gentleman think that when this valuation is made that will prevent the issuance of watered stock by common carriers?

Mr. CULLOP. Yes; I think there would be no inducement, and if there is no inducement to issue watered stocks, then none would be issued. Such stock is issued only upon the inducement that it can be sold, and if you will eliminate the inducement entirely, then you will have removed the evil from the public.

Mr. ADAIR. Mr. Chairman, will the gentleman yield for a moment?

The CHAIRMAN. Does the gentleman yield?

Mr. CULLOP. Yes; certainly.

Mr. ADAIR. Would not the very fact that the valuation of these roads is known make it impossible to unload watered stock on the public, because the public would know the value?

Mr. CULLOP. Exactly. That is it exactly.

There is another proposition which I want to call to the attention of the committee. These companies give one valuation for purposes of taxation, to raise public revenues, and then an altogether different valuation of the property to the Interstate Commerce Commission for the basis of charging the public for service to earn revenues from the public, which all, I take it, will concede to be unfair to the public. If the roads fix one value for taxation, why should they not be bound by the same valuation for the fixing of service charges. If it is fair that they should be taxed upon a certain valuation, then it is also fair that the public should be taxed on the same valuation for the transportation services performed. I do not believe any man will deny that proposition.

The question involved in this legislation is of vast importance to the public and upon the result depends much the conditions which shall follow, whether it shall retard or accelerate the development of our country and inspire the prosperity of the people. Common carriers render public service and should be regulated to the end that the country should be benefited thereby.

We are living in an age of wonderful progress and the evolution of the times produces marvelous strides in the development of every human activity. More is being done daily and more is required to be done to aid every agency human ingenuity can employ to facilitate the progress of the times so essential to secure the contentment and happiness of the people and to inspire and accelerate the prosperity of our country. Legislation to this end is demanded in order that the requirements of public weal may be assisted and public wants supplied for the promotion of the common welfare and the general benefit of the entire public.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. ESCH] 10 minutes.

[Mr. ESCH addressed the committee. See Appendix.]

Mr. STEVENS of Minnesota. Mr. Chairman, I now yield 10 minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Chairman, I shall vote very cheerfully for this bill, although I am not wholly in favor of certain provisions of it. My chief criticism is found in the first paragraph, which is a mandate to the commission to find the value of the property of every common carrier subject to the provisions of the act and used by it for the convenience of the public. That is a mandate to the commission to find the value of the property, and the value so found is to be taken as the value for rate-making purposes.

Now I believe, Mr. Chairman, that that is a mistake, for the question is far from being settled in this country, either by judicial interpretation or legislation, as to what elements go to make up the value of the property of the railroad for rate-making purposes. No hard and fast rule has ever been declared by any court; but the courts are unanimous upon one proposition, and that is that the physical valuation of the railroads is an indispensable element to be taken into consideration in the making of rates, and for that reason I wish, instead of a mandate to the commission to find what the value of the property is, that this bill had been limited, as far as value is concerned, to finding the physical value of the property, and then leaving to the commission to determine the question of value in each particular case as it comes up.

Now, Mr. Chairman, there are a great many questions that remain to be settled with reference to this question of value. For instance, take this great passenger station of the Pennsylvania Railroad here in this city, their station in New York, and the North Western Station in Chicago. Under this bill I take it the commission in finding the value of the property of the Pennsylvania Railroad used for the convenience of the public, will include the value of this station, running into many millions of dollars, and I take it that the policy of this bill is that that shall be included as a basis of rate-making purposes. Mr. Chairman, it is not at all certain that that is the correct basis for rate-making purposes, especially for freight rates.

It is certainly a doubtful question whether those who ship freight upon the Pennsylvania Railroad should be compelled to pay in freight rates for these expensive passenger stations, erected exclusively for the use of passenger traffic. That is one of the questions; and yet if we have the commission in an ex parte way find the value of these properties as an entity, I take it that the railroads will claim that Congress has declared the policy that they shall be entitled to exact such rates as will pay a fair return upon the total value of the property so found.

And so, Mr. Chairman, I wish that the very first paragraph might be limited to ascertaining the value of the physical property of the railroads, leaving the question entirely open, to be decided in each given case, as to what the value of the property is when used in that particular case for the purpose of rate making. If the commission had the value of the physical property—and that is the difficult thing to ascertain always—and kept it corrected and revised and changed from time to time as is provided in this bill, there would be no difficulty for the commission to apply the other elements as the cases may arise.

Further, Mr. Chairman, we have now a case pending in the Supreme Court, which will shortly be decided, namely, the Minnesota case, which will no doubt settle many of these questions and may indeed form a new basis, or at least a somewhat different basis, for the fixing of valuations for the purposes of rate making. Let me say here, Mr. Chairman, that the value of the property of a common carrier for purposes of taxation or for commercial purposes may be and very often is—yes, usually is—a very different one than a valuation used for rate-making purposes. If we are fixing the value of a railway for taxation purposes we look at the market value of that property, and the market value of that property depends almost wholly upon the earnings that the property makes.

The earnings depend upon the rates that the railroad charges, and if the railroad is permitted to charge rates 50 per cent higher than it ought to charge, 50 per cent greater than are reasonable, that is immediately reflected in the market value of the road; and the very purpose of regulation is to get a reasonable rate, and with a reasonable rate the market value of the road would be very much less than it is, of course, with an unreasonable rate.

I should seriously object to, and in fact feel compelled to vote against, this bill if it rested with the first paragraph as to the value of property; but there is another section later on that permits the commission to revise its valuations from time to time and change and correct them, so that I do not know that any great harm will come; but when this bill comes up for amendment I shall offer an amendment limiting the valuation of the property to a physical valuation. If we have the physical valuation, if we have the other information that is provided for in the bill, which I am heartily in favor of, then I see no occasion for the commission at this time in an ex parte proceeding going any further. I doubt if the railroads will be heard in this proceeding, because they will have an opportunity, a constitutional right, to be heard upon the question when the matter gets into the courts, for, after all, we make this valuation only prima facie evidence of the value and that is all we can do. I shall offer an amendment limiting the finding to the physical valuation, and then we will have all of the elements; but so far as the final conclusion of the commission is concerned, in fixing the value of a particular road, we can well leave that until the question comes before the commission with reference to the rates of that carrier. [Applause.]

Mr. FOWLER. Mr. Chairman, before the gentleman takes his seat I desire to ask him a question. On what does he base the physical valuation of the property?

Mr. LENROOT. Just what the term implies—the value of the right of way, the value of the rolling stock, the rails, the equipment, and everything that is physical that is used for the convenience of the public.

Mr. FOWLER. The gentleman means the cost value of these articles?

Mr. LENROOT. I do not. The value of the physical property in a railway is derived in this way: First, one consideration is the original cost both of equipment and right of way. Another is the present value. That is readily ascertainable. The cost of reproduction is another element, and from those elements we arrive at the present value of the physical property of the railway company.

Mr. HARDY. Is not that just the standard this bill prescribes?

Mr. LENROOT. It does when you go into detail, but the commission is required to ascertain the valuation of the property.

Mr. HARDY. And the gentleman would add the word "physical"?

Mr. LENROOT. Yes.

Mr. HARDY. And the gentleman would define it—

Mr. LENROOT. Exactly.

Mr. HARDY. So that there is no real substantial difference?

Mr. LENROOT. No; except that I do not think it is confined, so far as the final conclusion of the commission is concerned, to the physical property.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. SIMS. Mr. Chairman, I yield 15 minutes to the gentleman from Missouri [Mr. BORLAND].

Mr. BORLAND. Mr. Chairman, waiving any criticism as to the details or language of this particular bill, it seems to me that there is a very unanimous sentiment in this House in favor of it. I am heartily in favor of the measure and substantially in accord with the language in which the bill is drawn. There is no problem now before the people of the great interior sections of this country so serious, so constant, or so pressing as the problem of railway transportation. Many of the Members of this House come from districts the whole commercial and economic advancement of which depends entirely upon railroad transportation, and most of us come from districts where that is substantially true. In a great extent of the interior country such as we have, a great productive area removed from the seaboard, railroad rates are a general tax upon the entire consuming and producing public. I would not undertake to set up as an authority on economics and say who ultimately pays the cost of transportation, whether it be the producer or the consumer. I have always believed that as to the foreign transportation, as to export goods, the producer in this country pays the cost of transportation. When we export a bushel of wheat we must sell it upon a free-trade market in competition with the strongest competitive forces in the world, the wheat of South America, of Australia, of Russia, of India, of Canada, and of every wheat-producing area on the globe. The advantage we have over them is in the quality of our wheat and the cheapness of getting that wheat to the seaboard, for in water transportation distance is rarely the main factor. The great cost of putting our wheat on the foreign market is ordinarily the cost between the farm and the seaboard, and every penny saved in the cost of transportation from the farm to the seaboard is a penny left in the pocket of the producer of the wheat to enter into the channels of legitimate trade in that community.

As to domestic commerce, so much of our products as were consumed here in our own country, I have always believed that the consumer must ultimately pay the cost of everything that went upon his table or upon his back. No matter how much the cost of transportation was, he must ultimately pay a price sufficient to cover it all. Regarding, therefore, the two great elements of the transportation business, the export and the domestic consumption, as to one it has occurred to me we were in competition with the nations of the world where every facility and improvement of transportation was a direct economic gain and growth to the wealth of this country in placing our products on the foreign markets, cheaper, quicker, and better than our competitor; and as to the other, the feeding of our own home people, it is a factor in the cost of living of the man who earns a daily wage to take home on Saturday night and hand over to his wife for the necessities of his family. So there is no class of the public that is free from this universal tax of railroad rates. We have come to a time when the question of the physical valuation of railroad properties is an absolute pressing necessity. We have come to a time when the conditions are ripe for such a physical valuation. The speculative age of railroad building is probably at an end in this country. A generation or a generation and a half ago all the great West was eagerly bidding for railroads. Land grants, aid bonds, public subscription of stock, anything on earth was offered to get a railroad out there in a country that could not produce the business that justified a railroad when it was first built. Now all of those railroads have been built. They were cheaply built; many of them built entirely out of land grants or aid bonds, and yet stocks and bonds were put upon the market based upon such properties. In 1893 came a period which was a clearing house of all these western railroads. Almost without exception they went through a period of receivership and all scaled down their indebtedness and all wiped out public stocks and bonds and all control the public had over the management, and they all consolidated great systems. Then they began to rebuild out of the earnings and capitalization of that property an entirely new and adequate system of transportation throughout the West. But now the period of railroad speculation is almost at an end and a period of railroad operation has come when the roads are putting in heavier rails, straighter roadbeds, broader ties, better bridges, double tracking in most cases, running bigger trains, heavier engines, and fewer men to the train crew.

So they have more opportunity now to operate upon a purely operative basis than they ever did during the speculative age. Railroads were built to sell originally, like the jackannapes razors which are mentioned in the old poem. Now they are built to operate, like any other business property on the market. The great question we have had to confront is what is a fair rate between the shipper and the railroad. In this question the railroad has universally had the advantage of the shipper, for the railroad would not disclose the value of the property upon which it operated. It never undertook to disclose that fact. Much has been said about the difficulty of getting at the value of railroads. Unquestionably there is a practical difficulty in getting at the value of anything. Even 10 feet of ground necessary to open a public alley will cause a great deal of controversy. Value is a question of opinion, but the difficulty in getting at the value is not insurmountable, and great as it may be it is necessary to be met and met just as early as possible.

I believe, with the gentleman who last spoke, that we should confine this investigation to the physical valuation of the railroads. I do not believe we ought to value a railroad as a going concern, for the minute that you do that you add something to it besides the physical valuation of the property itself for taxation or sale purposes. Now, what do you add to it in valuing it as a going concern? You must add one of two things, either good will or franchise. Which of those belongs to the railroad—the good will or the franchise? The franchise does not. It is not the franchise of the railroad, but of the public. Did not the railroad seek the franchise on the ground that it would invest its capital in a business productive to the public and that the public might have the right of control by reason of the franchise that was given to the railroad? The railroad does not own the franchise, and I have never believed in the capitalization of the franchise of public utilities. There never has been a more vicious principle in this country than the capitalization of the value of a franchise, for the franchise is the free gift of the country upon consideration by which the railroad invests its property.

Mr. HOBSON. Does not the gentleman recognize the same principle as in the capitalization of monopolies?

Mr. BORLAND. Unquestionably it is the same principle as capitalization of monopolies. We give the railroad a right to do a certain business a private individual can not do, and then they undertake to capitalize that right, which is practically a monopoly, because no person can invest a similar amount of money without the proper franchise and compete under the same terms.

Mr. OLMSTED. Will the gentleman yield to me?

Mr. BORLAND. I will.

Mr. OLMSTED. The gentleman is discussing the matter from an intelligent standpoint, and it has occurred to me to ask him a question which has troubled me a great deal, namely, What would be the physical valuation of a railroad that had no freight or passengers to carry?

Mr. BORLAND. I will answer that question.

Mr. OLMSTED. And then I follow that by asking what would be its physical valuation if it had no franchise to carry freight or passengers? And, after all, does the physical valuation of a railroad have anything to do with what would be a proper rate of transportation over it?

Mr. BORLAND. The physical valuation of a railroad that had no freight or passengers to carry would be only, of course, the value of the rails when they were torn up and the value of the land when it was turned back for some other purpose. Of course, there would be no question about the physical valuation of a railroad with no freight or passengers to carry.

Mr. OLMSTED. Ordinarily that would be a mere right of way, which, when the rails were torn up, would go back to the original owner.

Mr. BORLAND. And the terminal facilities in the city. The physical valuation of a railroad which had no freight or passengers to carry would not be a hard thing to determine. As to the second question, I would say the physical valuation of a railroad with no franchise would not be conceivable.

Mr. OLMSTED. Which would be permitted in any State if built on private ground.

Mr. BORLAND. But a railroad without a franchise could not be a carrier. The difficulty which the gentleman from Pennsylvania [Mr. OLMSTED] has not touched upon in his question, but which I thought he might touch upon, is the physical valuation of a railroad which is operated at a loss. There is some difficulty connected with that proposition. Some branch-line railroads operated in connection or under the control of trunk lines are operated at a loss, but whether that is due to the management of the company or the conditions of the community is a matter of dispute. Ordinarily it is due to the policy of the company which owns the road.

Mr. OLMSTED. I can name several independent railroads that are operated at a loss, that never have paid a dividend, and probably never will, and yet they are railroads which cost several millions of dollars.

Mr. BORLAND. That is true. It sometimes happens, frequently happens, that money is improvidently invested in railroad enterprises that do not pay a dividend and never will pay a dividend. But it has been universally true also that all money invested in railroad enterprises was unprofitable at the first investment and only grew into profit as the community grew and the business of that road increased.

Mr. OLMSTED. I do not wish to take up the gentleman's time, but I have only another instance to present. It is a matter of history that one of the steam railroads from here to Baltimore cost a great deal more to construct and to establish than the other one, because the first road interfered with the second one in getting a franchise into Baltimore and the second one had to take an expensive route. You will see it every time you go over to Baltimore. It has to go through long and costly tunnels. Now, does the fact that one road cost possibly twice as much as the other increase its physical value, or would that physical valuation have any bearing at all on the ascertainment of what would be a proper rate for the transportation of freight or passengers from here to Baltimore?

Mr. BORLAND. That is a very important question, and I may say to the gentleman that instances of that may be multiplied all over the country, where one railroad has cost more to build, competing with another one, than the original line by reason of the cost of terminals, or the scarcity of terminals, or the difficulty of entering into a city, or whatever the reason may be.

Mr. OLMSTED. One road secures a right of way through a canyon or narrow defile and another company, to build a competitive line, may have to tunnel through a mountain.

Mr. BORLAND. Unquestionably.

Mr. OLMSTED. How, then, are you going to determine the physical valuation of the railroads under such circumstances?

Mr. BORLAND. This bill takes care of that by providing for the ascertainment of the original cost of the property for railroad purposes. Whether that would result in a uniform standard of physical valuation for all railroads that were competitive on the question of rates is another question that has not yet been reached by this bill. This bill, as I understand it, is to get at the original cost of the railroad and the present value of it, and ascertain how much of that present value is due to added improvements. If that is done in the case of each railroad, then whether or not it will serve as a basis for the fixing of rates is a matter for the court and the commission to decide as the question arises.

Mr. OLMSTED. Would we not get at it more effectively and readily by a bill regulating the issuance of stocks and bonds, so that there could be no fictitious increase of either?

Mr. BORLAND. No; I do not think there can be any possibility of regulating the issuance of stocks and bonds except on the basis of the known physical valuation of the property.

Mr. OLMSTED. Well, we have it in New York. They have an excellent public utilities commission there. No increase of stock or bonds can be made except by its permission, and other States have similar commissions.

Mr. BORLAND. It is possible to provide limits and safeguards to the issuance of stocks and bonds, but I do not think there could be any real and effective limitation on the issuance of stocks and bonds short of a physical valuation of the property upon which the stocks and bonds are issued. Now, it certainly is an evil in the transportation business that bonded indebtedness and fixed charges to pay interest on bonded indebtedness are figured into the rate making. If I guarantee a mortgage for a man who has mortgaged his house for $5,000 when it is worth only $4,000, and he has sold to your client the mortgage for $5,000, he can not sell it for any greater sum or rent it for more than it is worth any more readily than he could have done before I gave him the guaranty.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BORLAND. I would like to have five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. LENROOT. Mr. Chairman, I would like to ask the gentleman from Missouri a question.

The CHAIRMAN. Does the gentleman yield?

Mr. BORLAND. Certainly.

Mr. LENROOT. As the bill now stands, would it not compel the commission to decide the very question that has been raised by the gentleman from Pennsylvania [Mr. OLMSTED], as to two roads doing the same line of business, one costing very much more than the other, whereas if it were limited to the valuation of the physical property that question would remain to be decided in each particular case?

Mr. BORLAND. It might in this respect, that the bill provides that the commission shall report the present value of the property for railroad purposes, which might raise the cheaper and earlier railroad to the value of the competitive railroad that was afterwards put in.

But those are simply questions of information and enlightenment for this House which I regard as absolutely essential that we should have. We can not have too much of this information. The use we make of it afterwards will be such as occasion may require, but I think the bill itself is right in theory. We ought to know the cost of the physical property in the first instance. We ought to know the cost of the added improvements, and we ought to have the commission's estimate of the present value for railroad purposes. We ought to have at least those three items.

Mr. LENROOT. If I am correct in assuming that the bill is a mandate to find out the ultimate value, then is it not beyond the power of the commission itself to fix rates other than on that basis afterwards?

Mr. BORLAND. It probably would be. Now, I wanted to say this—that I believe the time has come when a physical valuation of railroads can be made on a fairer basis than ever before in the history of the railroads of this country, fairer to the railroads themselves and fairer to the shippers. I believe that railroading has gotten down to a legitimate basis. I believe that 90 per cent of the railroads of this country are entirely out of the realm of speculation and are being operated as closely and cheaply as any other large business can be operated.

Mr. HARDY. Mr. Chairman, I have not studied this bill thoroughly. I wish to ask if there is anything in it which requires that when this value is ascertained that shall be the standard upon which rates shall be fixed.

Mr. BORLAND. No; there is no requirement of that kind.

Mr. SIMS. The physical value would only be prima facie evidence.

Mr. BORLAND. It would only be prima facie evidence on which the commission could act.

Mr. HARDY. As I understand, it would just be one element to be taken into consideration in passing on rates.

Mr. BORLAND. It would be one element.

But I wanted to say this further, that we have now had about 25 years of railroad legislation, and I do not hesitate to say that all of it has redounded to the profit of the railroads themselves more than to the profit of the shipping public. The railroads have put an end to discriminations between shippers by wiping out rebates to favored shippers. There was a time, a few years ago, when no large dealer ever expected to ship a carload of stuff on the published tariff. He went to the soliciting agent of the railroad company or the soliciting agents chased him around town to get him to ship his carload of watermelons over their road at a special rate. Every railroad had a commercial agency, consisting of a number of young men of pleasing appearance, who went about town soliciting every pound of freight shipped in that community, to get it carried over that line at a special secret rate. Now the railroads have abolished all that, and they are getting full rates. Nobody is getting any rebate. Who is getting the benefit of that? Ultimately and directly the railroads themselves. The railroads used to give a pass to every respectable man in the community. There was hardly an exception. The man who did not ride on

a pass felt himself to be beneath the social standing of other persons in that community. Now every man pays his fare. Even some of the members of the lordly State legislatures pay their railroad fares.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

Mr. SIMS. I yield to the gentleman from Missouri five minutes more.

Mr. BORLAND. The railroads used to take all the baggage you wanted to send, even theatrical and traveling men's baggage, and ship it all over the country on a passenger ticket. Now you can not even take a collar box without paying excess baggage. I have never made the trip from Kansas City to Washington without paying from $4 to $9 excess baggage.

Mr. CAMPBELL. The gentleman carries too many clothes.

Mr. HAMILTON of Michigan. The gentleman has too many collars.

Mr. BORLAND. I do like a clean collar, but beyond that I do not plead guilty to being a dude. The railroads are getting more money for their business to-day than ever before in the history of transportation, and the regulation in which we have been indulging has not been reflected in cheaper rates to the consumer or to the producer or to the shipper in any single, solitary instance.

Now, the railroads claim that they are paying more for material and more for labor. I have no doubt that in many cases they are paying more for material, but my judgment is they are paying less in the aggregate for labor. We find that they have raised the labor cost 15 to 18 per cent on the average, but I think they have raised their rates much more than that. They have cut down the number of men employed on the railroads very materially. The consolidation of terminals, the consolidation of switching facilities, the running of heavier trains, the cutting out of a flagman here and a shopman there, the cutting out of little repair shops have reduced the labor roll very materially, and I doubt very much whether any portion of the increase of the rates of the railroad are justified by an increased pay roll, although there may be an increase in the rates of individual employees.

But, Mr. Chairman, the time has come now when some of this railroad regulation should be reflected in cheaper and more uniform rates for the shipping public, and I hope that that will be the outcome of this bill.

Mr. BUCHANAN. Will the gentleman yield?

Mr. BORLAND. I will.

Mr. BUCHANAN. Is it not a fact that the labor cost on a tonnage basis over the railroads is very much less than what it was?

Mr. BORLAND. It is very much less than what it was, and that is the only true test of the labor cost, and it is smaller now than it has ever been in the history of the railroads and is getting smaller every day.

The railroads have no reason to complain of the physical valuation of their property as a basis for making rates. If this Minnesota case is confirmed, there will be practically no power left in a State to regulate railroad rates. In that Minnesota case the court said that the making of an intrastate rate so directly affected the interstate rate that the intrastate rate could not be reduced without affecting the transcontinental rate. This is true. Any man who has studied railroading knows that the change of a rate from a point to a point in Minnesota will affect every rate between Chicago and Puget Sound. There is no doubt about it, and so there is but one agency through which the regulation of rates can effectively be made and but one basis upon which they can make that rate, and that is cutting out the value of the franchises, the value of the good will which the shipper has created, and give them a fair and just return on the property they have invested. [Applause.]

Mr. SIMS. I now yield 10 minutes to the gentleman from Alabama [Mr. HOBSON].

Mr. HOBSON. Mr. Chairman, this bill is in the interest of truth and honesty in offering a way to establish the facts in the various controversies arising between the public carriers and the public. The bill is in the interest of promoting an orderly evolution of our social system. The transportation system of a nation is closely analogous to the circulatory system of a living being. It is first in evolution in passing from a lower order to a higher order, and upon the development of the circulatory system depends in large measure the development of the organism. The Interstate Commerce Commission is closely analogous to the vasa motor center of a human being. The world is passing from a cold-blooded creature to a warm-blooded creature, and nations are evolving centers which can systematically regulate transportation for the whole nation as the vasa motor center regulates circulation for the whole body.

Now, our Interstate Commerce Commission itself may be likened to the vasa motor center, but the evolution of the Interstate Commerce Commission is still in its early stages.

This bill removes the obstacle in the path of its next stage of development. The references made here in the remarks of various gentlemen who have preceded me will convince anyone that the time is fully ripe for this whole question to be systematized. We are a warm-blooded creature now, and the circulation is the very life of our development. We can not proceed in an orderly system of development unless we can have transportation properly systematized and regulated.

To illustrate, take the conditions now found in my State of Alabama. One system of railroads in our State maintains that the 2½-cent passenger rate fixed by statute is confiscatory, while the other railroads accept that rate and have not been going into bankruptcy on account of it.

But this particular system has had the matter referred to the Federal judge of the district, and that judge has decided that the rate is confiscatory; and, Mr. Chairman, the search for evidence on the part of the State to present its case was met by insuperable barriers and obstacles; so that it was decided substantially, as all such cases must be decided, from one statement—the statement of one side—ex parte evidence. This bill if enacted would enable us to get recourse and relief.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. CULLOP. What was the passenger rate on the railroads before you passed your statute in Alabama?

Mr. HOBSON. It was variable. It was usually 3 cents on the larger railroads.

Mr. CULLOP. Is it not true that the railroads which have accepted the 2½ cents a mile statute rate are carrying more passengers and making more money out of the passenger traffic than ever before?

Mr. HOBSON. It certainly is a fact that whenever a passenger can travel by one of those other roads he always chooses it, and whenever a shipper can ship by one of those roads he always ships by it; but there are many localities where there is no choice. The railroads charging the rate in violation of the statute have been issuing coupons, in which they agree to return the difference in the rates if they are not sustained in the higher court. Nobody can keep those coupons, and the railroads know it, and they will not allow those coupons to be bought and sold, so as to insure their being lost. In some cases they make you sign your own name and announce that only the original purchaser will be reimbursed. This is the case in Oklahoma. They pretend that they will abide by the decision of the superior court, but they make the conditions such that when the time comes it will be a physical impossibility for the refund to be collected, showing a clear intent to hold the increase, whether lawful or unlawful.

Mr. CULLOP. I will ask the gentleman if the courts have not made this proposition of confiscatory rates do overtime in the last few years?

Mr. HOBSON. Unquestionably. Where reduced rates have been fixed by law and accepted, I find no evidence of the railroads going out of business or of any great decline in profits. I cite these as instances of the obstacles still remaining in the path of proper regulation. I travel a good deal between States. I find now many railroads, most of the roads passing through the gentleman's State [Mr. CULLOP] and the other States of the Middle West, charge more because of the simple act of crossing the State line; so that in effect the rate in both States violates the State law. In other words, they charge a rate that, separated in two parts, is illegal in both States.

Mr. CULLOP. I will say to the gentleman from Alabama that there is now pending before the Committee on Interstate and Foreign Commerce a bill introduced by myself to correct that practice on the part of the railroads.

Mr. HOBSON. I will say to the gentleman that I am surprised that the great self-governing people of the Central West, who have passed the 2-cent rate bills in their States and have found that they are fair and just, have submitted all these years to the common carriers between the States charging illegal rates under the cloak of the Interstate Commerce Commission.

Mr. CULLOP. It is not an illegal rate, I will say to the gentleman.

Mr. HOBSON. Only because it is interstate. The rates charged within the States have not been declared unreasonable, nor in practice have they proved unreasonable.

Mr. CULLOP. Yes; the Interstate Commerce Commission is opposing the proposed remedy on that subject, I will say to the gentleman. I want, furthermore, to say that in my State we have a 2-cent fare bill, passed some years ago, and the railroads have been carrying more passengers and have been making more

money out of the passenger business since that was passed than they ever did before, when they charged a 3-cent rate.

Mr. HOBSON. Showing that there was no warrant whatsoever, in fact, for them to charge a larger rate in passing from Indiana to Illinois. Each of those States has a 2-cent rate, and yet if you pass from one State to the other you are charged 2½ cents.

Mr. FOSTER. Three.

Mr. HOBSON. Some of them charge three, but most of them, I think, charge two and a half, though many times they do charge three. I have been traveling recently, and the question arises in my mind. Why are we confronted by such a situation? Is there no recourse for the people of those States? Is the Interstate Commerce Commission to be an intrenchment for recalcitrant roads to defy the just laws of the States? As long as the physical valuation of the roads is not made the Interstate Commerce Commission is thwarted in its best intentions to relieve this condition, and State authorities are thwarted in their legal processes for relief. Is this to continue forever? Of course the railroads go to the Interstate Commerce Commission and actually put up what looks like a reasonable argument that the lower rate between those States would be confiscatory. I can not understand any other reason why the Interstate Commerce Commission should submit to it. At this point I wish to bring out another point where the railroads are unreasonable. We have declared that the Pullman Co. is a public carrier, and yet if you buy mileage to Pittsburgh on one of the roads from here to Pittsburgh, having a mileage book from Pittsburgh west, say on the C. P. A., and have both mileages in your pocket, the Pullman Co. will not sell you a berth to Chicago or a point beyond Pittsburgh; it will not sell you a berth across the point where you change your mileage books. Going west you pass through Pittsburgh usually about 2 o'clock in the morning and do not want to get out of your berth to go down to get mileage exchanged for a ticket. They will not let the conductor or porter get it done, and you either have to buy two berths, one to Pittsburgh and one from Pittsburgh on, or you just have to pay the full fare of 2½-cent through rate from the starting point instead of the 2-cent rate. Those two public carriers are cooperating to practically interfere with the reasonableness of rates both on the Pullman and in transportation. I made complaint to a railroad and they announced the authority of the Interstate Commerce Commission for their unreasonable practice. I simply state this not to make a case out here, but with large experience in traveling throughout the country I find great irregularities, and I believe that this bill will be a most effective means of finally getting a basis upon which our transportation can be systematized, which will be for the best interests of the public carriers as well as for the traveling and shipping public. [Applause.]

Mr. SIMS. Will the gentleman from Minnesota use some of his time?

Mr. STEVENS of Minnesota. Mr. Chairman, how much time has the gentleman from Tennessee used?

The CHAIRMAN. One hour and twenty-six minutes.

Mr. STEVENS of Minnesota. How much time have I used?

The CHAIRMAN. Forty minutes.

Mr. STEVENS of Minnesota. I yield 10 minutes to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Chairman, the power to make a rate involves the power to levy a tax. The people all over the United States are always solicitous that taxes are not levied too high, and if we should be able to get the correct values of railroad properties and those values were made one of the elements in rate making we would have a more intelligent conception than we have now of whether we were having a just and reasonable tax for railroad transportation. The taxes levied by railroads in the United States every year for the transportation of freight and passengers amounts now to about $3,000,000,000, so that the railroad-transportation revenues in the United States are nearly three times as much as the revenues derived from taxation by the Treasury of the United States. The people all over the country are looking forward to the time when everybody will understand whether a rate is reasonable or unreasonable. Up to the present time there has been no sufficient information given to the public to enable the public to understand whether the rates are right or wrong. Everybody believes they are wrong in most cases. The railroad companies' representatives throughout the United States are constantly arguing for power to levy higher rates on the theory that the wages of the men employed by the railroad companies are much higher now than they used to be and the volume of work done by each man employed is much less, and that the total aggregate cost per ton of freight carried by the railroads of the country is greater than it ever was before, and that the dividends paid on the capitalization of the roads are much less than they ever were before. The question arises whether railroad rates should be based upon the amount of money to be earned to be applied to the payment of dividends or whether the rate should be made upon the basis of the actual value of the property of the railroads, regardless of whether the property is considered in a going concern or not. My own judgment is that where a railroad claims to be running at a loss and its capitalization is more than twice what it ought to be the question of gain or loss in such case ought not to be taken into account. If the railroad rates are fixed on the basis of valuation provided by the first section of this bill, it looks to me that in some cases they will be fixed at much higher rates than they ought to be fixed at, because this bill provides that the commission shall ascertain the value of the property for railroad purposes or for rate-making purposes, and then in the case of the railroad referred to by my friend from Pennsylvania [Mr. OLMSTED], where it was required to construct expensive tunnels to get into Baltimore, if the rate were made on the basis of cost to that road in order that it might be able to earn dividends the earning power of the railroad running in competition with it would be twice as much as it ought to be.

I believe that in many cases the values of railroad properties will be found to be greater than the actual capitalization of the railroad. But, on the other hand, I believe that in many other cases the values of the railroad properties will be found to be materially less. At any rate, whether it is higher or lower, the public is entitled to the information which this bill will enable the commission to obtain, and I am very glad that the time has come when Congress feels that the legislation demanded for so long a time by the people ought to be enacted into law.

I am fully committed to the policy of the bill, and have a bill for the same purpose pending before the committee reporting this bill, the Committee on Interstate and Foreign Commerce. But while I may give my vote for the principle at stake, my views as to what ought to be done in the form of legislation do not fully conform to that of the committee and members of the Interstate Commerce Commission on this subject. Indeed, our views will be found widely divergent.

I have advocated the appraisement or valuation of railroad properties in every Congress of which I have been a Member. In the last Congress I introduced, and the House adopted, an amendment to the Mann bill providing for a valuation. The amendment was stricken out in the Senate and not restored in conference. Immediately thereafter I introduced the bill to which I have already referred and addressed the House at some length upon its subject matter and provisions.

Before taking up the provisions of the bill which has been reported I shall address myself to the history of Government regulation of rates, and the situation surrounding a valuation essential to be thoroughly understood before there can be any effective regulation.

This bill provides that the Interstate Commerce Commission "shall investigate and ascertain the value of the property of every common carrier subject to the provisions of this act and used by it for the convenience of the public." It then directs how and through what instrumentalities the duty shall be performed. I will now, for a text, state a definite proposition, namely, that this imposes, or seeks to impose, upon the commission an impossible and a useless task.

Ignoring for all present purposes telegraph, water, and pipe lines, and express companies, all common carriers subject to the act, there are over a thousand railroad corporations in the country hardly one of which is not in some respect or to some extent engaged in interstate commerce. I would be surprised if shown a single little road anywhere that did not connect in some way either with a longer line or a water carrier whose business extended directly or indirectly across a State line. And to the extent at least of the business done by virtue of such connection the corporations owning these short lines, though wholly within particular States, are subject to the interstate-commerce act.

It is safe to say that not one line of railway wholly within a State is distinct, independent, and free from the control of some more important carrier with respect to rates on traffic going beyond or coming from beyond the State boundary. In fixing the proportion of a joint or through rate which each shall receive or retain, the value of the investment in or the entire value of the shorter line, if ever an element at all, is one of the simplest propositions imaginable. But not one time in a hundred that such a rate might come before the commission would the value of the properties of one of these lesser and subordinate carriers become an essential fact. If it ever did become necessary in any particular case, that could then be done by

the commission for that particular case without difficulty and without any provision for it in this bill. In fact, however, a controlling interest in the stocks of the intrastate and of many short interstate lines is held by great railway systems, which are comparatively few in number.

I now advance another proposition. It is neither expedient, just, nor economical to ascertain the values of all the railroad properties devoted to interstate commerce, and it will best subserve public as well as private interests if the investigation and valuation be by entire organized railway systems and limited to the important and dominating even among these. With all the light obtainable from every source, with a force of engineers, experts, and other helpers equal in number to the Standing Army of the United States at work all the time gathering and tabulating data, even if when assembled any finite mind could grasp it all, the question of what is a reasonable rate or a just and reasonable schedule of rates would still remain a matter of opinion and judgment. Compromise and the arbitrary striking of averages are an incident of all rate fixing. It is as impossible now to fix rates which in the future will pay all outlays and leave a definite sum for dividends as it would be to fix next year's prices for eggs or potatoes, and for almost identically the same reasons. All those railway economists, whether holding professorships in colleges or seats in Congress or on the Interstate Commerce Commission, who expect to make or to see made of rate fixing an exact science or even susceptible of becoming subject to any definite rules or standards are doomed to disappointment. Nevertheless it is possible to fall into habits of thought and accept principles and standards which being conformed to in practice destroy public justice and deeply wrong the freight paying public.

I am about to discuss and expose some of the mischievious dicta of commissioners and others, but lest I forget it I will, with the permission of the House, here insert without reading my amendment in the form of a substitute bill:

SECTION 1. Section 11 of the act to regulate commerce approved February 4, 1887, is hereby amended to read as follows:

"SEC. 11. That a commission is hereby created and established to be known as the Interstate Commerce Commission, which shall be composed of 1 chief commissioner and 14 commissioners to be appointed by the President, by and with the advice of the Senate: *Provided*, That any commissioners holding offices as such at the taking effect of this act shall continue in office until the expiration of their respective terms, and for all the purposes of this act such incumbents shall participate in the organization of the commission hereby created with the same rights as if appointed and confirmed by the Senate, as is herein provided for new appointees. Said commission shall be constituted by the appointment of a chief commissioner to hold office for the term of four years and to receive a salary of $11,000 annually, and 7 additional commissioners to hold office four years and receive salaries of $10,000 each annually; and their successors in office shall have the same tenures of office and receive the same salaries, except when appointed to fill a vacancy caused by death, resignation, removal, or other cause, in which case the appointee shall only hold office until the expiration of the term for which his predecessor was appointed. The commissioners now in office shall hold office until the expiration of their respective terms, except in cases of death, resignation, or removal, in which case their successors shall hold office only until the expiration of the terms of their respective predecessors: *Provided, however*, That no appointment shall hereafter be made, whether to fill a vacancy or otherwise, for a longer period than four years. Any commissioner may be impeached or removed by the Senate for inefficiency, neglect of duty, or official malfeasance, upon articles of impeachment preferred and prosecuted as in other cases. Counting the chief commissioner to be appointed as herein provided as 1, not more than 4 of such new appointees shall be members of the same political party, and no appointment shall be made at any time which shall give to any party a membership in said commission of more than 8. No person owning stocks or bonds, or who is in any way pecuniarily interested therein, shall be eligible for appointment to the office of chief commissioner or commissioner; nor shall the chief commissioner or any commissioner engage in any other than official business or employment. No vacancy or number of vacancies less than of a majority shall impair the right of the remaining commissioners to exercise the powers of the commission. It shall be the duty of the chief commissioner to preside at all meetings of the entire commission (hereinafter designated as meetings in bank), to divide and distribute the work of the commission among the departments herein provided for, to supervise and direct the business and affairs of the commission generally, including the employment and discharge of employees. Within 30 days after the taking effect of this act said additional appointments shall be made by the President, and within 10 days thereafter the chief commissioner, in addition to his other duties, shall constitute five departments of said commission, each of which shall have all the powers of the whole commission, and its decisions shall be entered of record as the decision, order, or ruling, as the case may be, of the commission, subject to the right of any party to any proceeding to a rehearing upon satisfactory cause shown by verified petition to the commission in bank. Not less than three commissioners shall participate in any decision in a department: *Provided*, That where the chief commissioner joins in a decision as one of the requisite number the hearing or examination in a department may be had by two commissioners."

SEC. 2. That section 13 of said act to regulate commerce approved February 4, 1887, is hereby amended by adding thereto and at the end of said section 13 the following:

"The Interstate Commerce Commission shall have, and is hereby, given power and authority to revise and reconstruct schedules of rates, fares, and charges previously established and put in force by carriers in interstate commerce, or such as shall be hereafter established and put in force by the commission, and to formulate and put in force by the commission, and to formulate and put in force entire new schedules of rates, fares, and charges in lieu of those previously formulated and put in force by the carriers themselves or by the commission, either when an increase of rates, fares, or charge is proposed or attempted by any carrier or by several carriers acting conjointly or contemporaneously, or at any time, upon the motion or initiative of the commission, or upon a procedure instituted by any party authorized and empowered by this act to present a complaint against a carrier concerning a rate, fare, charge, or practice. And whenever the commission shall deem it necessary or shall find it convenient, in order to prevent discrimination in rates between commodities, kinds or descriptions of traffic, persons, or localities, or to equitably equalize rates, or properly and fairly formulate and put in force new schedules, it may increase as well as reduce a rate or rates, fare or fares, charge or charges, and may rearrange and newly create classifications, as well as transfer commodities from one class to another, or may transfer a commodity from a special class, where a special rate is charged, to an ordinary established class, or from the latter to the former.

"At any hearing or examination, whether in departments or in banc, rules of evidence shall, as far as is possible, be observed and applied as in the courts of the United States; and in determining the reasonable and just rates of service by corporations subject to the jurisdiction of the commission, the test of reasonableness and justness shall be in conformity to the requirements declared and so established by the Supreme Court of the United States in Covington & Lexington Turnpike Co. v. Sanford (164 U. S., 578).

"And in order that said commission may have constantly before it for emergencies, available to all interested parties, the means for satisfying an important test of just and reasonable rates for the transportation by rail of persons and property it is hereby made the duty of the said commission, and it is hereby required, to proceed forthwith to the appraisement and valuation of the properties of at least 10 of the leading and dominating railroad systems engaged in whole or in part in the carriage of passengers and freight in interstate and foreign commerce, or in interstate commerce, the commission to make the valuation according to its best judgment, with a view to most effectually accomplish said object. The word 'system' as here used means any lawful business organization of lines of transportation, whether all rail or partly rail and partly water route, under one management and control, whatever the form, whether by lease, stock ownership, or otherwise, where the management, operation, or rates of a subsidiary railroad company or connecting company engaged in transportation by rail or water is rightfully controlled by another. The valuation in any such case shall be only of the property used in transportation. In making such valuation the commission shall reject any value or claim of value for franchises or good will, but shall include all accessions of value derivable from improvement of the vicinage, whether such value resulted from the construction of railroads to the place or places of location or otherwise. In the case of terminals and stations the land and improvements thereon shall be separately ascertained. The presence in the town or city of the particular railway and the additional value given to land by its presence and by general transportation facilities shall be considered and such value given to the land as if it were available for residential or business uses. The original cost of structures after a deduction for depreciation shall constitute their valuation. Rights of way, as land, shall be valued according to the use to which they might be devoted if not occupied for railroad purposes, and such proportional value may be given to narrow strips of land so occupied as if they were parts of bodies of land large enough for convenient use in the prevailing industry of the vicinage.

"In addition to the foregoing the commission may adopt and adhere to other convenient rules not in conflict with law for such appraisement or valuation. And for the purposes of such appraisement or valuation the commission is hereby authorized to employ engineers and other assistants upon such terms as to it shall appear just and reasonable, and to provide all such other facilities, agents, or instrumentalities and incur such expenditures therefor as may be necessary, and to pay for services and the cost of such facilities and such expenses out of any funds at its disposal or which may be appropriated by law specially for the purpose."

SEC. 3. Section 24 of the said act to regulate commerce (as amended), and all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

Before discussing its provisions I will combat and endeavor to overthrow some of the errors and fallacious views before alluded to.

First, I fear that we do not sufficiently and at all times appreciate the importance of transportation. It is the one thing under human control that is essential to every human being in the world under modern conditions and not living in the most primitive and simple condition. Those uncivilized nations not dependent upon some form of transportation are so few in number or so obscure as not to be factors in present-day affairs. It is not only a universal necessity but one of common public interest. That may be one reason why so few outside the comparatively small class profitably engaged in conducting transportation devote special and persistent study to it. Few give more than a transient thought to the atmosphere so essential to life or to the water supply for domestic use until it is vitiated or its supply is reduced to the danger point. So with respect to transportation, especially that by rail. Not only have we heretofore and do we now leave the management, the character of the service, and the rates to the care and keeping of the private corporations engaged in it, but we have allowed them almost exclusively to educate the people and their official representatives as to the rules and economic principles to govern herein.

We are living in a haze or glare of illumination, but without much steady, instructive light. There was, at a former period, a proper conception of the true relation of organized society to public-service agencies, but new ideas and strange doctrines—doctrines which are totally destructive of public justice and private right—have been sprung and industriously inculcated

during the last two decades. They have found lodgment not only in the minds of the representatives of shippers' associations, boards of trade, and other commercial bodies, but of judges, Interstate Commerce Commissioners, Senators, and Representatives. The most dangerous and far-reaching of these is the economic view that, at any rate and aside from all other considerations, the corporation conducting business as a common carrier is entitled as of right to a fair return, usually asserted to be equal to the prevailing rate of interest, upon the value of the property devoted to the public service. Sometimes the expression varies, and it is said that the carrier is entitled to some such measure of return as the prevailing rate of interest on its investment. But the whole question of what is or what should be the proper basis or measure of rates is encumbered and befogged with inconsistencies and conflicting theories, the result of which is seen in the adoption by the committee and report of the pending bill, which provides for an investigation and report by the commission upon numerous incongruous and, as I insist, nonessential matters.

Transportation has been a matter of common as well as of vital interest from the dawn of civilization. Carters, charioteers, draymen, and cabmen for hire were, by ancient law as well as by the common law of England, subject to regulation as distinct classes, and strict rules and principles of law were applied to them for the protection of the public. So when I say that the earlier decisions of our courts in cases involving corporations employed as carriers and in other public services, before interests in transportation became so vastly valuable and inextricably interwoven with all commercial and industrial activities, and prior to the organizations for the propagation of error and confusion, are entitled to the greatest respect. The heresy that it is the duty of government to safeguard the earnings of any particular class of business men up to the point of realizing a reasonable, or, indeed, any, profit upon their ventures is a most vicious form of paternalism which finds no sanction or encouragement in the decisions of the courts or otherwise until within the last few years, during which serious attempts were made to regulate the rates for service by carriers in interstate commerce.

I shall not encumber my remarks with citations to the extent of making it resemble a lawyer's brief, but will call attention to such decisions as are necessary to prove my point. In 1896 the case of Covington & Lexington Turnpike Road Co. v. Sandford (164 U. S., 578), involving rates or tolls to be charged over a turnpike, was decided. We see, upon a moment's reflection, that the question there was exactly the same as that raised in any case involving a railroad rate. In that case successive acts of the Legislature of Kentucky had greatly reduced the tolls until in 1896 the company sought to prevent the final reduction by suit in court on the ground that the rate fixed by it was confiscatory, but in the proofs it failed to show that the rate did not yield some small profit or even if it did not that insolvency would not be attributable to competition and loss of business rather than to the reduction of rates.

Here are some of the principles stated by the Supreme Court of the United States, after stating the facts and quoting literally from the complaint:

> It is proper to say that if the answer had not alleged, in substance, that the tolls prescribed by the act of 1890 were wholly inadequate for keeping the road in proper repair and for earning dividends, we could not say that the act was unconstitutional merely because the company (as was alleged and as the demurrer admitted) could not earn more than 4 per cent on its capital stock. It can not be said that a corporation is entitled, as of right, and without reference to the interests of the public, to realize a given per cent upon its capital stock. When the question arises whether the legislature has exceeded its constitutional power in prescribing rates to be charged by a corporation controlling a public highway, stockholders are not the only persons whose rights or interests are to be considered. The rights of the public are not to be ignored. It is alleged here that the rates prescribed are unreasonable and unjust to the company and its stockholders. But that involves an inquiry as to what is reasonable and just for the public. If the establishing of new lines of transportation should cause a diminution in the number of those who need to use a turnpike road and, consequently, a diminution in the tolls collected, that is not, in itself, a sufficient reason why the corporation operating the road should be allowed to maintain rates that would be unjust to those who must or do use its property. The public can not properly be subjected to unreasonable rates in order simply that stockholders may earn dividends. The legislature has the authority, in every case, where its power has not been restrained by contract, to proceed upon the ground that the public may not rightfully be required to submit to unreasonable exactions for the use of a public highway established and maintained under legislative authority. If a corporation can not maintain such a highway and earn dividends for stockholders, it is a misfortune for it and them which the Constitution does not require to be remedied by imposing unjust burdens upon the public.

The court here plainly said in effect that the matter of first importance was the interest of the public in having reasonable rates, and that that should outweigh all other considerations so long as any profit whatsoever was in sight for the company and its stockholders. The court refused to hold an act of the legislature fixing rates to be confiscatory until a point of reduction of rates was reached at which business could only be done at a loss. The court did not deem it necessary to set forth the reasoning underlying this rule in that case, but did state them in a subsequent case, Cotting v. Kansas City Stock-yards Co. (183 U. S., 79), as follows:

> If in such a case an individual is willing to undertake the work of the State, may it not be urged that he in a measure subjects himself to the same rules of action, and that if the body which expresses the judgment of the State believes that the particular services should be rendered without profit he is not at liberty to complain? While we have said again and again that one volunteering to do such services can not be compelled to expose his property to confiscation, that he can not be compelled to submit its use to such rates as do not pay the expenses of the work, and therefore create a constantly increasing debt which ultimately works its appropriation, still is there not force in the suggestion that as the State may do the work without profit, if he voluntarily undertakes to act for the State he must submit to a like determination as to the paramount interests of the public? * * * The authority of the legislature to interfere by a regulation of rates is not an authority to destroy the principles of these decisions, but simply to enforce them. Its prescription of rates is prima facie evidence of their reasonableness. In other words, it is a legislative declaration that such charges are reasonable compensation for the services rendered, but it does not follow therefrom that the legislature has power to reduce any reasonable charges because by reason of the volume of business done by the party he is making more profit than others in the same or other business. The question is always not what does he make as the aggregate of his profits, but what is the value of the services which he renders to the one seeking and receiving such services.

The latter was not a railroad case, but like principles apply to it. The gist of these decisions is that it is for Congress or the Interstate Commerce Commission in its place or stead to fix the rates, which the courts should presume to be just and reasonable until the carriers affected thereby show them to be confiscatory; that it is not sufficient merely to show that the rates are low or even unreasonably low, which being a matter of opinion is not susceptible of exact proof; that a public-service corporation assumes duties pertaining to government, such duties as the Government might, except for the interposition of the individual or corporation, itself perform for the people to be served; and finally that so long as the governmental authority fixing the rate stops short of a deprivation of all profit, or, of any whatever, the party affected can not complain, since he may at any time abandon the service and allow it to be resumed by the Government. So the proper question in all such cases is, not whether the rate is reasonable in point of profit-yielding power, but reasonable from the standpoint of the man who pays it; and this consideration ought to control the case, notwithstanding that the rate may be low, or even unreasonably low, until the actual confiscatory point is reached.

But the Covington Turnpike case was the last of a long line of decisions beginning with Munn v. Illinois. The railroad economists had, by 1897, when Smyth v. Ames (169 U. S., 466) was decided, succeeded in creating a hesitating state of judicial mind and a reluctance to carry forward into cases involving railroad rates the principles which they had previously established and adhered to. The decision in the last-mentioned case was, we might say, rather hazy. It was what in chemistry would be called a blend, rather than a compound. The sound views in prior cases were ingenuously mixed with the self-serving views of the railroad lawyers and economists. In one part of the opinion it was said that the sole criterion was the value of the property devoted to the public use, while in another several other matters were mentioned to be properly considered, and, among them, the market value of stocks and bonds. It was said (p. 546):

> We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public. And in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth.

There may be those blessed with sufficient mental skill or subtlety to state how all the matters here mentioned can be brought together, with other matters intimated but not specified, as a basis of fixing a rate. But I must confess myself unequal to the task. If the value of the property is to receive principal consideration, as the court asserts, then what consideration should or can the market value of stocks and bonds receive?

We need not dwell upon one or two decisions of the Supreme Court and several by the Interstate Commerce Commission and the Federal courts intermediary between those above referred

to and that in Wilcox v. Consolidated Gas Co. (212 U. S., 19). The latter case evidences progressive strides in false and vicious economic education. Now, the Consolidated Gas case presented exactly the same issue as that presented in any railroad rate case. The body of gas consumers answer to the whole body of transportation consumers on the lines of a railway system anywhere, and the relation of the gas company to the public is in all essentials similar to that of the railroad company. While the action of the court was not conclusive of the ultimate rights of the parties, yet the views of the court, expressed in the course of its opinion, are significant of its changed economic attitude since the decisions in the turnpike and stockyards cases.

There must—

Says the court—

be a fair return upon the reasonable value of the property at the time it is being used for the public.

The word "must," inserted by the court in lieu of the words "may, on condition that the rates to consumers are just and reasonable," contained in earlier opinions, marks the great change wrought by the schools for the propagation of economic error maintained in this country. They are maintained out of the vast profits realized on exploitation of the public through exorbitant rates. But the court declared that the franchises of the company, which it was admitted did not cost it a penny and represented merely the voluntary abdication by the State of New York of a particle of its sovereignty, should also be valued as part of the aggregate upon which the consumers should be compelled to pay rates. The court said:

It can not be disputed that franchises of this nature are property and can not be taken or used by others without compensation.

We do not fully comprehend the significance of this declaration, principle, or dogma of rate fixing unless we reflect that the Consolidated Gas Co. is an absolute monopoly, with the usual history of such monopolies of which flagrant dealings with municipal authorities and scandalous stock inflations were prominent incidents, and that the so-called franchises simply stand for monopolistic power acquired through practices which I would not care to properly designate unless willing, which I am not, to take up your time to insert the proofs. But that gas company, like all such, and like all railroad companies, possesses real taxing powers within and throughout the territory in which it operates. The folly and injustice of placing a valuation upon the monopolistic sovereign power after valuing all tangible assets is readily seen. But that is a right or privilege that municipal monopolies and railroad companies now insist upon, and what, I regret to say, the courts and Interstate Commerce Commission now concede.

That the assets of the Consolidated Gas Co. represented little, if any, original investment but what Thomas Lawson would call "made" dollars, is shown by another part of the opinion, where it said:

The evidence shows that from their creation down to the consolidation in 1884, these companies had been free from legislative regulation upon the amount of the rates to be charged for gas. They had been most prosperous and had divided very large earnings in the shape of dividends to their stockholders, dividends which are characterized by the Senate committee appointed in 1885 to investigate the facts surrounding the consolidation as enormous. The report of that committee shows that several of the companies had averaged, from their creation, dividends over 16 per cent, and six companies in the year 1884 paid a dividend upon capital which had been increased by earnings, as in the case of the Manhattan and the New York, of 18 per cent, and; had it been upon the money actually paid in, it would have been nearly 25 per cent.

It is these views and similar views of the courts and their echo and repetition by interstate commerce commissioners which have led me to offer the substitute amendments already inserted in the record. The true theory is that the Government shall regulate and control rates. But the views which I have quoted and intend to quote would make the Government the guarantor and underwriter of profits, and the vice of such views is but slightly alleviated, if at all, by the use of the qualifying word "fair." The Government has no better authority from the people or from the laws of the land to insure fair profits to a particular class of business men than to insure to them the receipt of an unfair or exorbitant profit. The one rule makes of public-service corporations the servants of the public, which was the original and is the proper conception of them. The other rule makes of them the unbridled masters of the people. The proper view is that the citizens of the Republic are freeholders in their relation to common carriers and that the latter are their agents. The perverted view adopted by judges and commissioners makes every ratepayer a taxpayer to each and all of so many little sovereignties or municipalities within their own domain and hewers of wood and drawers of water under suzerainty lords ruling them in the name and right of private corporations clothed with sovereign powers of taxation and exploitation. In the report of the commission for 1908 on the question of what constitutes the reasonable rate we find this language:

When, however, all has been said along these lines that may properly be said it nevertheless remains as a fundamental proposition that the actual investment in an enterprise needed for giving the public adequate transportation facilities is entitled to and should have a reasonable return, and no more than a reasonable return, in the form of a constant profit; and a reasonable schedule of rates is one that will produce such a result.

So, here we see the words "constant profit" used; so, here the commission declares its policy to be to fix its eyes constantly and exclusively upon railroad interests until they are secure in receipt of a "constant profit." And the same in some form is to be found in each subsequent annual report. The statement is on its face plausible and well calculated to deceive one who is simple-minded or indiscriminating in thought and expression.

The true rule is that if the public be well served at fair and reasonable rates, or rates fixed under really competition conditions, then there should be no reduction of rates so long as they produce only a reasonable return on the property. This rule of rate making compels the rate-fixing authority to begin at the shipper's side of the question and to only take up the carrier's side if that becomes necessary; that is to say, when it is alleged that fair and reasonable rates for the shipper are confiscatory of the carrier's property. It is no valid objection to rates which are only fair and reasonable from the shipper's standpoint that they are unreasonably low from the carrier's standpoint, because even unreasonably low rates may yield some profit, however small, and be therefore nonconfiscatory. What the courts and commissioners have done in recent years was to start the consideration of each question from the carrier's side; to start with this heresy that at all events, aside from all other considerations and regardless of the effect upon the fortunes of shippers, the carrier was entitled not merely to protection against a confiscatory rate, but to a return, usually placed at or a little above the rate of interest on mortgage loans. To give such a rule universal application is to guarantee not only the solvency but the financial success of the most recklessly, dishonestly, and wastefully managed roads in the country, or those which but for the Government sanction thus given to exploitation of the public would have to go into liquidation and reorganize on a sound and honest basis. An exemplification of the practical application of this modern theory is seen in the Spokane rate case, where the commissioners decided that rates which satisfied the financial needs of the Northern Pacific and gave the holders of its enormously inflated stocks the dividends which they demanded were just and reasonable, though the same rates in the case of its competitor, the Great Northern, yielded nearly twice the same dividend rate in addition to enabling it to pile up a large surplus for extensions and outside investments.

It was in view of the earlier decisions of the courts that the words "fairly remunerative" in the provision requiring the commission to ascertain and enforce reasonable rates were stricken out of the Hepburn bill in the Senate in 1906, as the record of debates shows. But, contrary to congressional intent, as thus expressed, these words were, by the commission, in the Spokane case and in other cases, interpolated by construction as part of the statute, and the real purpose of the law nullified. Another proposition, well established by former decisions, has been completely ignored or overlooked by the commission, as well as the courts, in recent years; that is, that no loss, whatever its form or extent, is protected by the rule against confiscatory rates unless resulting directly from the action of a legislative or official body, though such loss might be so great as to end in insolvency. If in fixing reasonable rates on one road another in competition with it finds its rates so reduced that it can not do business except at a loss, that should be attributed to the operation of competition and only indirectly, if at all, to the action of the commission.

The decision of the commission in such a case would be unassailable and invulnerable as against any constitutional objection. The disastrous and far-reaching effects of the nonobservance of this principle can scarcely be exaggerated. The counter proposition that the weaker, worse managed, more injudiciously located or constructed facility, or the one whose mechanical form has been antiquated and superseded must nevertheless be secured and safeguarded against loss and the possibility of destruction from competition has found favor in the official minds of the commissioner. Outside the commission there is no help and but little sympathy for one who has been struck down by the wheels of progress; but with carriers in interstate commerce, under the interstate-commerce act as paternally administered by the commission, it is very different. The

whole situation is best shown and illustrated by a discussion of the history of some of the trunk lines, and a statement of the relations between the carriers between the Atlantic seaboard and Chicago and other cities of the Central West. I deem it unnecessary, however, to encumber the record with the details of that history which must be already well known to many Representatives.

But in the case of what are known as the trunk lines, there is presented a striking and important illustration of results flowing from the adoption by the commission of the "constant-profit" theory of rate making. The rates of the Pennsylvania and New York Central, whose lines reach all the important business centers of the West, have been fixed exclusively by the railroad managements themselves, with no limitations whatever except with reference to what the traffic would bear. Their rates have never been examined or investigated by the commission as to their reasonableness or unreasonableness. It appears to have been considered entirely proper that the public should pay these companies considerably more for a given passenger service than is paid for the same service to the Baltimore & Ohio, the Erie, and certain other trunk lines. Now, it is undeniably true, a fact admitted by the railway managers at the rate-advance hearings in 1910, that a hard and fast agreement exists between all the trunk lines, and that they maintain a central association, or bureau, in New York City. Their combination would, however, be powerless to maintain unreasonable rates without the recognition given by the commission to the "constant-profit" theory. But with that recognition and adherence to their established practices, the associated trunk lines are able to exactly reverse the natural order and substitute self-interest for the interest and welfare of the public. If the economic law of competition were allowed to operate in trunk line territory the lowest rates between the East and West would be those over the most natural and direct and the best equipped routes—that is to say, over the New York Central and Pennsylvania. They have eliminated all difficult grades and curves, duplicated trackage, acquired terminal facilities, and provided themselves with superior motive power and rolling stock until they can move a given tonnage over a long distance at less than one-half what the same would cost over other and inferior roads.

By acting secretly in concert and by constant readjustment and classifications of rates, thus working them up from one level to another, they have escaped entirely the regulative powers of the commission and become a law unto themselves. The commission could not now, under existing law, even if so inclined, examine and pass upon the rate question in its application to the whole trunk-line situation and establish in trunk-line territory a system of rates. Indeed, Congress has heretofore, unwisely I think, withheld from the commission any such power. Without it it is idle to talk about any general rule for ascertaining the reasonable rate, and the rule of a constant profit for the carriers, in addition to being destructive of all other interests, is a pure invention to serve the selfish purposes of the railroads.

The difficulty of fixing reasonable rates for a single railroad lies in the great differences between conditions affecting railroads which under normal conditions would be in competition. In this same trunk-line territory are lines of varying financial strength and condition with reference to the cost of operation and volume and profitableness of traffic. For instance, there is in trunk-line territory the Pennsylvania and the Erie. The financial condition of the Pennsylvania is such that it can refund its bonds at 3 and 3½ per cent, and its stocks, though inflated and consisting largely of duplications through absorption of subsidiary lines, is far above par, and the company could continue its 6 per cent dividend rate with even lower rates than it now charges and still accumulate large annual surpluses. The Erie, according to testimony given by its vice president in the rate-advance cases, has the most pressing financial needs, paying no dividends on its common stock and being under an immediate necessity of raising $13,000,000 for general improvements. He also stated that $35,000,000 was required to put it in effective condition of construction and equipment. Now, the rates which are necessary to keep so weak an enterprise as that in a competitive position as against the stronger trunk lines must necessarily render the same rates on the business of the latter exorbitant. To reduce their rates on through traffic without a reduction also of the Erie's rates, or to increase the Erie's rates without also increasing theirs, would do the Erie no good, because the immediate effect would be to divert to them most or all of the Erie's through business. So, in order to make a practical application of the theory of a constant profit to all carriers and keep water-logged enterprises afloat, the public must pay annual bounties amounting in the aggregate to hundreds of millions of dollars over and above what the shippers consider just and reasonable rates.

The uniformity and stability of rates required by the business interests of the country can never be secured through the commission so long as its functions and powers are limited as at present by the interstate-commerce act. It must have power to revise and readjust entire schedules, and not only entire schedules of particular roads, but of whole systems and by large areas, thereby producing uniformity, justice, and reasonableness on all lines; for instance, on all the lines in trunk-line territory, on all lines in central, western, and southwestern territory, simultaneously, and from time to time, as often as is necessary to maintain justice, reasonableness, and equal treatment of shippers. The commission must be authorized to harmonize inconsistent rates, to equalize discriminating rates, and to reduce high rates wherever found. These powers it can not exercise without the enlarged powers which would be conferred by the adoption of my amendments. The only uniformity provided for in the interstate-commerce act is uniformity in the treatment by each railroad of its own patrons. The second section of the interstate-commerce act prohibits a common carrier from charging one person more than another for the same service, but it does not prohibit a carrier from charging one person more or less than another railroad charges the same person or another for an equal service.

The third section of the interstate-commerce act forbids a carrier giving any undue preference or advantage to any person or locality, or kind of traffic, over another. But this only applies to the action of a railroad toward the people or places served by it. It does not protect them from monopolistic and exorbitant rates when no competition is at hand, and so, too, with reference to the long-and-short haul provision in the fourth section.

To enable the commission to fully perform its duties, it should have power, as contemplated by my amendments, to increase, as well as to reduce, a rate. Without this additional power it can not effectively harmonize and equalize rates or deal with entire schedules.

Two principal reasons have been heretofore urged against conferring the power upon the commission to formulate or revise schedules. The first was presented by the railroads. They claimed the right to initiate all rates themselves. They urged that to confer so broad a power upon a governmental agency was to take from them the only power which rendered their properties of any value. The second objection was constitutional, though probably originating in the same fertile brains of counsel for the railroads. It was argued that if the commission could adopt and put in force rates by wholesale for one company, it could do so for all at once, which was not merely applying a statute to facts, but the exercise of outright legislative functions. The constitutional objection was not clearly, if at all, distinguishable from that based upon policy. Without turning aside to debate the issue, I venture to pronounce both objections untenable. The Supreme Court in the Southern Pacific Lumber rate case, decided last year, limited the construction of the powers of the commission under the present law as I have just stated.

We are disadvantaged by our environment in the very midst of events constantly transpiring all around us in the world of railroad construction, finance, and operation. Transportation of persons and property are interwoven with our every-day affairs and our very existence, so that we have failed to see the trend and drift of the matter, or to discern the final solution of the problems presented to us. The figures representing the present financial status of the railroads mystify us by their magnitudes. We can only understand their significance by comparisons.

The present capitalization upon which we are paying interest and dividends by way of rates and fares is, according to the latest report of the Interstate Commerce Commission, eighteen billions of dollars. In so far as this vast sum represents actual investment, it is for the most part investment made by the people who use—and who have no choice in the matter—the facilities provided, comparatively few of whom own any of the stocks or bonds. Yet the holders of these are constantly referred to as investors whose investments must be safeguarded against any diminution of returns which have gone on increasing proportionately as their property has been added to by accretions from collections which their patrons had no option but to pay.

My theory, and that upon which my substitute is based, is that existing rates on the strong and dominating lines in each group of railways are kept too high in order that their weaker competitors may enjoy, as of right, this constant profit; that this ignores the right and interest in the subject of the public; that the commission should be constrained by law to take up

the rates on each of these stronger lines as a schedule or body of rates and reduce them to the point of reasonableness and justice to the shippers, ignoring the claims of the stockholders until in the course of the reduction the confiscatory point is reached. The rates of the weaker lines are now regulated by their stronger competitors, the rates of the latter not being regulated at all. If the commissioners be given power to take up the schedules of the strong roads upon their own initiative and without having to wait for complaints, and to regulate them, by which I mean reduce their rates, the rates of the weaker lines will be thus indirectly and automatically regulated, without attention and labor on the part of the commission. That is what I have in mind in confining the physical valuation to selected systems and dealing with all the lines and subsidiaries constituting such systems in their entireties. My purpose is to have regulation assume a direct, practical, and effective form, to be more economical, and not to continue as a mere farcical but costly pretense, as it has been thus far.

There is nothing, either in the law or in what is popularly known as equity, as applied to matters of public concern, to warrant the commission in giving consideration to the alleged financial necessities of any corporation. A railroad corporation is not a public institution, nor public in any other sense which would place its affairs under the care of the Government or make it the duty of the commission to provide for its safe deliverance from the inconvenience of scant revenues, or even from insolvency. The railroads are not of public concern in any such sense and their managers do not so consider them, when discussing their legal relation, except when insisting upon being safeguarded by the Government through high rates against the results of each other's competition. No matter how important any single railroad company may be to a particular city or section, not one of them is of common interest to all the people of the Nation. The transportation business of the whole country, which practically resolves itself into what may be designated as "the railroad business," is of general, or, rather, of universal interest; and it is that business rather than any particular railroad corporation which Congress has been empowered by the Constitution to regulate. This is the view thus far taken by Congress; and, the proposition that the financial welfare or the financial affairs of any particular railroad ought to be considered by the commission as the subject matter or part of the subject matter of any rate case or question before them, or otherwise than as a limitation to be pleaded in a proper case by the particular carrier involved, was never within the purview of any legislation thus far enacted, but was a pure invention by commissioners unwilling to perform their full official duties.

The services and the rates are the only matters pertaining to common carriers with which the public have to deal or with which they come in contact. They have nothing to do with internal management, nor should their interest in just and reasonable rates be confounded or complicated with those of stock and bond holders. The commission would have plenty to do if they looked carefully after the rates and service.

The provision of the committee bill injecting the subject of stock and bond issues into the scheme of valuation is one, which in my judgment, is fraught with mischief. It imposes upon the commission a useless, if not in fact an impossible task. But the strongest argument against it is that it carries with it an assumption that the Government is under some sort of obligation to the carriers with respect to their internal finances and private relations to the holders of stocks and bonds. An inquiry, such as is provided for in the bill, as to the minute history of every issue of railroad stocks and bonds is one from which a commission composed of many members and provided with unlimited revenues might well wish to be excused. It appears to me as impossible as it is useless; and if the expenditures by the commission during recent fiscal years when it was engaged in only its routine duties may be accepted as an indication of the cost of the work directed by the bill to be done, we would do well to give that phase of the subject our most serious consideration. The estimates of cost given by the commissioners are mere guesses and not very shrewd guesses at that. It will take several years to obtain the data, and at the end of that time it will be fit only for the junk heap. So many changes will have occurred that the data would afford no satisfactory light on any question properly before the commission, even if it could ever be placed in manageable form. None of the commissioners nor any member of the committee was able at the hearings or is able now to suggest any definite use for the outcome of all this labor and expense. I do not deny the power of Congress to obtain all the information specified in the bill and to spend all the money necessary to obtain it. But I look upon the theory of rate making underlying it as peculiarly and stupendously vicious. I favor a fair valuation of the properties of not more than 10 great dominating railway systems, not with a view to making the values found a basis of rates, but in order that when the commission undertakes to establish a rate or a schedule of rates in any particular instance, it may have at hand a minimum standard below which it can not go. That is not any standard prescribed by Congress, but that already fixed in the Constitution. The rule given by Congress to the commission that all rates shall be just and reasonable is the equivalent to no rule at all and leaves with the commission unlimited arbitrary power anywhere and everywhere above the confiscatory point. With the transfer of this great discretionary power I find no fault. It is the best that Congress could do under all the circumstances.

But I am interested in having the power justly and wisely executed in the public interest. And inasmuch as I know that the commission has been controlled in the exercise of power by theories which were subversive of public interests and of great practical and unfair advantage to special interests, I have provided in the substitute bill for a complete reorganization of the commission. The substitute contains a comprehensive new grant of powers to the commission, as heretofore explained, and the people are entitled to have these broad and far-reaching powers exercised by men who are untrammeled by their records and unfettered by their preconceptions of duty under the law. It is provided that the terms of office of the present incumbents shall end upon the appointment of their respective successors, but the present incumbents are not disqualified for reappointment. The membership of the commission is increased from 7 to 15, a provision which is obviously proper and necessary if these important and comprehensive new powers and duties are conferred. But I do not care to go into the details of procedure.

The revision of a vast schedule of rates for one of our great systems, affecting directly the salability and market price of thousands of articles of commerce, consulting and conserving the material interests of all the people of large sections of the country, are of equal importance with a revision of one, and if the power conferred upon Congress herein is not to remain a dead letter, or its exercise not to be purely farcical and perfunctory, this great power must be lodged somewhere. The policy of vesting it in a commission is too firmly established to be reversed; and the time has come when the work of regulation must be begun in earnest. The matter can not longer be trifled with on any shallow pretext or false theory whatever. It is a work having the practical effects of legislation, though the unquestionably constitutional form will be administrative.

There are those, and their number is not small nor are they without influence, who will object to the giving of such large discretionary powers to a commission. But to continue the methods pursued thus far is to make a mere pretense of regulating the rates and service of the railroads. Congress, after illegalizing all except just and reasonable rates, has left the determination of the question of what rates are just and reasonable entirely to the commission with the due process of law clause of the Constitution, forbidding confiscation, as an irreducible minimum, with all the traffic will bear as the maximum limit. The policy and practice of the present commissioners has, as a general rule, allowed the railroads to reach, practice, and maintain the maximum. As to what constitutes a just and resonable rate is, and under any plan of regulation through a commission that can be devised must ever remain, largely a matter of opinion, and yet it should be understood by the present commission and by any commission that may be appointed hereafter that the freight-paying public will consider any rate too high which gives the carrier too much of the margin of profit between production and sale, a margin which is represented in the selling price and must be divided between producer, carrier, and one or more intermediaries, and that any schedule or system of rates is too high which produces in any one year a large surplus to pay dividends on watered stock, or to be laid out in the same year in additions and permanent improvements. To merely say that rates on a given kind or class of goods, or on a given commodity, are too low, or that they do not yield enough revenue to suitably compensate for the service performed in their transportation proves nothing. Nor would the fact that the service actually cost more than the rate charged necessarily justify an increase of the rate, since many services of carriers are performed at rates which do not equal the cost. Nor would evidence that any single rate produced less revenue than the outlay to have the service performed be accepted as satisfactory proof that such rate was confiscatory or even uneconomical.

These points have been decided and settled from time to time by the courts and by the commission itself, and by such decisions have conclusively established the necessity for the consideration by the commission of the relation of rates and of the combined effect of entire schedules of rates. The commission has in fact, and necessarily, exercised the power to consider such relation, to make comparison of particular rates in issue with rates not in issue—in short, to consider correlated rates in order to reach anything like intelligent conclusions, notwithstanding that the courts have, as before shown, denied to the commission the exercise of any such ample and essential powers.

The railroad managers and representatives earnestly and even persistently cultivate in the people those hopes and fears which make for corporate enrichment and popular loss. To them and their activities more than to aught else is due that morbid appetite for commercial conquest which has led to a wasteful exploitation of our diminishing natural resources. If a few square miles are found remote from railroad lines, the residents of that area are soon convinced of their complete isolation from the balance of the world and made to believe that the only thing needed to insure them plenteous prosperity and content is the advent of a railroad. And urban populations are in divers ways and through various channels and instrumentalities of false construction convinced that any legislative interference with railroad extension is a dire menace to progress, and that the financial condition of the railroads, reflected in earnings and dividends, is the true barometer of general business, and that a showing therein of a large balance in favor of the railroads constitutes the mainspring of universal as well as individual prosperity. Much that is promulgated on this subject begs the question and ignores not only the presence in the statute books of the interstate-commerce act but also the public duties of the carriers.

With a view to promoting general prosperity the carriers would compel large contributions from the purses of rate payers to those who in the opinion of the railroad economists are best qualified to bring about and maintain it by the circulation of money that such extensions would require. The railroad corporations dominate all other business, in addition to having absolute dominion over their own, and often rob particular sections of the country of the advantages which would naturally belong to them by reason of water transportation or otherwise, and the brazen claim is now made that their demand for high rates should be sustained in order that the shortest through route to general prosperity is by way of increased employment for labor by them, to be paid from large surpluses, only possible if high rates be charged and collected.

There was recently published an article by a leading railway president and publicist containing a eulogistic passage concerning the tendency of present freight adjustments to give to purchasers the choice of supply from various producing regions, inducing and compelling competition to hold down prices and give them uniformity. Thus we see that the railroads, while claiming and receiving exemption from each other's competition and clamoring at the doors of Congress to have legalized their practice of eliminating competition by combination, yet claim and exercise the prerogative of promoting and intensifying it among persons engaged in the production and sale of commodities.

The Interstate Commerce Commission made a report in 1904 showing that the railroads were then realizing dividends on their outstanding stocks of 5½ per cent. They also showed that at least one-half of the stocks did not represent any original investment. So the equitable owners of the railroads were then enjoying at least 11 per cent net profits on investments. Since that report was made there have been vast issues of stocks, estimated by competent authorities at $5,000,000,000. That means upon this new doctrine of "a constant profit" a vast inflation of the mortgages held by the railroad financiers ostensibly upon the properties, but in reality upon the Nation's commerce and industries. Nevertheless, the average dividend rate has increased until, according to the 1910 report of the commission, it averaged 6.43 per cent, and according to the latest report is nearer 7 per cent. And the railway overlords and those who officially favor them now claim that a guaranty of this, or at any rate some fixed income, should become a settled policy of the Government.

As a further illustration of the view taken by railroad managers the testimony of Vice President Gardiner, of the Chicago & North Western, in his testimony taken at Chicago by the Interstate Commerce Commission, in 1910, is interesting. His opinion coincides with that of the commissioners thus far expressed, that the railroads should collect rates high enough to safeguard them against embarrassment and enable them to accumulate surpluses in anticipation of all possible contingencies and periods of general depression, without reference to the nature or cause of its effect upon other interests. Speaking of the size of this surplus, he said:

> It should be large enough, however, as an insurance against the loss of crops for two or three years, or a calamity, or something of that sort. It would take a wise man to say even how much surplus the North Western should have. The directors would be the only body I know of who could say that finally.

I would like to know what Vice President Gardiner and others would say to a proposition coming from the merchants, farmers, and shippers generally of the Northwest that the balance of the people of the country should be compelled to pay them for what they have to sell prices sufficiently above the competitive market price to enable them to carry their indebtedness, pay wages to their employees, profits equivalent to the dividends paid by the railroads, and still enough more for large bank balances to meet all reverses and misfortunes, including those resulting from bad management. And the company for which Mr. Gardiner spoke has carried out his theory in practice. In the past 10 years not only has it paid out of its surplus $56,000,000 as dividends on $85,000,000 of capital stock, but accumulated an unappropriated surplus of $30,000,000, constituting in the aggregate a net return to its stockholders of more than 10 per cent per annum.

In view of the fact that consideration of the pending bills and of my substitute in comparison therewith renders proper, or rather necessary, an examination of the whole subject of railroad finance, I will call attention to the railroad returns for 1910, the latest available which are complete as shown by the report of the commission. It will be remembered that in that year there was a concerted and preconcerted increase of rates, which was checked by timely action on the part of Congress authorizing the commission to suspend the increases and placing on the carriers the burden of proof to show necessity for the increases. The figures for that year are a study by themselves and an object lesson of the limitless greed and rapacity of railroad managers when left without legal check or control. The total net operating revenues—that is, the profits of operation—were $938,121,000, or an increase over 1909 of $110,306,000. One significant fact about the figures is that the gross revenues or collections for 1910 were $335,934,000 more than for the preceding year. For 1909 they were $2,443,312,000, and for 1910 $2,799,246,000. At the same rate of increase they will soon reach and pass, if indeed they have not already reached and passed, the three-billion mark, while if the increase in net revenues is maintained, these will soon reach and exceed the billion mark. Another significant fact is that the increase of net, despite all that was then said about increased cost of operation, almost exactly kept pace with the gross increase, being 13½ per cent. It was a substantial increase not only of aggregates and per unit of service but per mile of railroad.

Here are the figures:

	Total average mileage.	Operating revenue per mile.	Operating expense per mile.	Net income per mile.
1909	233,002	$10,486	$6,933	$3,553
1910	236,050	11,742	7,778	3,964

The ordinary business man may, out of the profits of one year's business, buy an adjoining lot and enlarge his store or otherwise invest money to make it more convenient and attractive. He does not thereby acquire any claim, based on right, to increase the price of his goods, even if not prevented by competitive conditions. He enlarges his plant by investing more money. If he has the capital, so much the better. If he has it not, it may be expedient to borrow it in order to meet the demands of a growing business. In the latter case he must pay interest. In either case he must take the risk and determine at his peril whether the enlargement or addition will result in profit or loss. He never attempts to add the cost of enlargement or the interest on the indebtedness so increased to the price of what he has to sell, but looks to an increased volume of sales at the usual and normal profit. But the railroads object to any such view being taken of their business. Not content to await the growth of business and the rise of normal demand for the utilization of their improved facilities of transportation to restore their cash or meet their obligations, they are constantly insisting upon increases in the price for the service which they furnish and increased profits. Nor is there anything in the bill reported by the committee to prevent or check this tendency and practice of the railroads, but its inevitable effect will be to sanction, aid, and perpetuate it.

There is an important phase of railroad finance which has thus far received very little public attention, but which becomes important in any thorough consideration of the issue presented by the committee bill. Notwithstanding that the railroad corporations have worked up their net revenues from operation to the billion dollar mark, they are in receipt of additional large incomes from investments in what is really a banking or money-lending business. This refers to the large holdings of some of the principal companies in the stocks and bonds of other companies. According to the latest report of the commission on the subject the aggregate of all issues of stocks and bonds is eighteen billions of dollars, of which about four and a half billions are duplications. Most of these duplications consist of "trusteed" stocks, upon which interest-bearing bonds have been issued, constituting two distinct capitalizations, the one concealed beneath the other, upon both of which profits, to wit, dividends on the stocks and interest on the bonds are received by the holding company. But as I went into this phase of the subject at some length on a former occasion I will not now dwell upon it.

The indifference of large shippers with reference to increases of rates by changes of classification is remarkable. This remark is especially applicable to the big eastern shipper. His goods are sold "free on board," and he has no interest in the movement and but little in the rates. He leaves the classification exclusively to the railroads as a matter of no personal concern, and without even noting the changes through which the carriers gradually and almost imperceptibly work up the rates until they are actually unjust and unreasonable, without anybody being able to prove it otherwise than by comparing them with the rates made years ago, the burden being shifted to the West and South. But though we may be unable to trace out and describe the minute steps and processes by which rates have been increased, or the dates and methods, except in particular instances of litigation before the commission, yet we are able to demonstrate from general statistics that there has been a general increase in the cost of transportation. The aggregates of increased earnings and profits are no doubt due in part to increased volume of business, but that falls short of accounting for all of it. If all or nearly all of it were assignable to that cause it would involve the assumption that there had been an abnormal increase in railroad traffic during the last decade, an increase out of due proportion to that shown in the preceding decade, and we know that there was no such disproportion. Nor can it be, except in some small part, attributed to the increased capacity and effectiveness of railroad mechanism, because locomotives and cars had almost reached their maximum capacity and roadbeds had already been placed in good condition 10 years ago. Whether attributable, however, to increased rates or not, this increased and constantly increasing profitableness of railroad operation has its origin in the rates paid by shippers, rates which should be reduced, especially in view of the fact that net earnings have reached a glaring disproportion to the average returns to persons engaged in other occupations.

We all know that this question, presently and prospectively, is one of greatest concern. The question of transportation finance is scarcely less important nationally than that of government finance. The establishment by legislation of an incorrect principle or policy for dealing with the railroads may be as fatal to general prosperity as would be a vital change in our form of government. It is much to be deplored that we can not fully understand the effects of a new economic power until it has grown to gigantic proportions, and even then by long and painful experience. With respect to the railroad-system policy and practices we are now far into, but not near the end of, the educational and experimental stage. We are now in that stage of mental unpreparedness where we are liable to make huge mistakes, to be much regretted afterwards. To pass the committee bill in its present form will in my opinion be such a mistake. We have already endured many of the evils of our almost fatal optimism on this subject. We could not believe that the predicted and threatened abuses of power that we recklessly surrendered to the railroads would occur until after they had occurred in an aggravated form. We feared at first that they would displace labor and in various ways disturb our peace, but we could not foresee that they would turn the advantages we gave them to the complete domination of all other kind of business.

I would not care to go into an analysis of the meaning of railroad finance during the past 35 years. But it should not be overlooked that more than half of the $8,000,000,000 going into railroad property as the basis for the huge capitalization consisted in profits on profits. That is to say, large surpluses collected from rate payers were used in betterments, extensions, and other improvements and then more money was obtained from money lenders on these as additional security. Bonds were issued to them and a further drain on the pockets of rate payers thus instituted to keep down the interest as fixed charges. So the people were taxed in the first instance to pay for the improvements, and the same people are now being taxed to pay interest on investments in what might be equitably considered the proceeds from, or profits upon, their own investments. Legally, of course, all these new constructions belong to the railroads, in addition to being a basis for the interest charges, and also operated to earn dividends for the stockholders. But I can not detain you to explain all the intricacies of railroad finance. When, however, we begin to discuss fixed charges and dividends we should fully understand what we are discussing. If any man could exchange eighteen billion quarter dollars, hand them over to the Federal Government, and the Government should hand over in return its perpetual obligations to pay eighteen billion 100-cent dollars, bearing interest at 7 per cent, that would be a fair illustration of what is contemplated in the constant-profit scheme of rate regulation. The man who received and held these obligations would bankrupt the Nation in 50 years. And that is what the railroads will do, if we do not right about face in our views of duty to the people in this matter. We must not permit ourselves to be won over or misled as to the meaning of this self-serving doctrine which seems to have found acceptance by the Interstate Commerce Commission. The rate of interest here specified, waiving the point that part of the investment was of surplus and not original, is really 14 per cent, or nearly five times the rate at which the Government can refund its bonds. What would be thought of us if we authorized and the executive department sanctioned and carried out such a funding scheme with some powerful syndicate enjoying a monopoly of favor just as the railroads enjoy their power in the absence of legal control?

The impossibility of dealing with rate increases and inequalities in detail, or with any such purpose as that of reducing or equalizing them or more equitably distributing them among the 8,000 and more commodities and between the many thousands of shipping points, without conferring additional powers upon the commission must be so clear as to require no elucidation. The equalization, adjustment, and distribution of the increases and changes of rates is being constantly referred to as a science by itself, and one of great difficulty. All writers on the railroad question emphasize the delicacy of the existing rate adjustment and strive to show why the change of a single rate between any two important points necessitates thousands of changes so as to prevent widespread market disturbances, notwithstanding that the carriers have never hesitated to make many rate changes arbitrarily and by sweeping decrees of councils of traffic managers without reference to any rule or scientific basis or knowledge of or regard for the effect of such changes upon producing, shipping, and trading interests. How can the commission ever reach the ends of justice in all these matters without the possession of the broadest and most searching powers?

The fact had better be given recognition now than later, that any effective Government regulation of railroads partakes of the imperialistic, but should never be allowed to become paternalistic. The right to regulate grows out of the interstate-commerce clause of the Constitution and the close connection between interstate carriers and interstate commerce itself, and the regulation itself is the exercise of a power which is to some extent arbitrary. But this attitude toward the carriers should never be held to impose upon the Government an obligation to safeguard the interests of that particular class of persons and corporations engaged in transportation any more than if they were engaged in any other line of business—any more than where the law of the land is enforced against the private citizen. All business is subject and subjected to legal restrictions, regulations, and penal provisions. And in addition to the many laws which encompass the ordinary business man, he is always in contact with the law of competition, from which the railroads find ways to exempt themselves. Any Government going into the insurance business and guaranteeing constant profits in all lines of business would be proclaimed a failure and disappointment, and by none more promptly than by the prudent and conservative business men, the manufacturers, merchants, miners, and farmers of the country.

Much has been said about a claim of great and prosperous lines to enjoy, in form of greater profits, the rewards of superior engineering foresight and managerial ability. It is said that such a great institution should be conceded an organization value in the establishment of rates. Those who make that claim will regard as presumptions any attempt to answer this plausible claim, appealing as it does to our natural inclination to applaud those who have achieved success in any pursuit or

line of activity. But that the claim is superficial and utterly destitute of merit is not so difficult to demonstrate as it seems to be upon first impression. In the first place it entirely ignores the distinction between private and public service. It must be borne in mind that recognition for this claim is presented at the bar of the legislative body of the Nation and consideration is asked for it as a feature of the pending bill. It is therefore to be treated as a claim preferred for recognition at the hands of the general public, and as such I will examine and discuss it.

In the first place, it entirely ignores the distinction between private and public service. Men devote superior talent and industry to the public on the same terms and subject to the same sovereign powers as they devote talent and industry of mediocre and inferior quality, or as one devotes more and another less of capital. In the second place it is impossible to find any deserving recipient of any reward that it might, upon this new theory be proper to bestow. No man living, nor the descendants of any that have died, are entitled to compensation in any form for projecting, for instance, the New York Central as it was projected. In addition to the fact that the original promoters and builders quickly pocketed great fortunes by manipulating the stocks and bonds, and not by superior public service, is the fact that they enjoyed the favor and aid of State and municipal authorities without which their enterprise and foresight would have availed them nothing. In the third place, speaking now with reference to the present active managers, there is no basis for any claim of superior management. But assuming that the management is excellent, it is a safe assumption that all in a supervisorial capacity are in the enjoyment of adequate salaries. Then we have the corporation itself, the nonsentiment figment of the imagination which need not be considered aside from its stockholders. And as to the latter, the question of why their dividends should be rendered constant and secure by action taken by the Government has not been answered and will remain unanswered. Finally, as for the claim of the New York Central and other such companies based on superior management, it does not appear that a well constructed, highly improved, and thoroughly equipped railroad is any more difficult to manage, or even as difficult, as one of a different kind. Of all mechanical appliances that used in the transportation of persons and property from place to place is the simplest, involving a comparatively low degree of mechanical skill.

Of course, a railroad system is complicated in its entirety, as would be a great department store, but the task assigned to each man is simple. Again, transportation considered apart from its instrumentalities is too important a function to come under the absolute unsupervised control of any person or persons, either in an individual or privately organized capacity. It is to modern life what chemical forces, gravitation, and motion are to the earth. It is the one thing that makes production worth while and exchange possible, as the recurrence of the seasons causes vegetation to grow and the fruits of the field to multiply. Therefore these great conquests of the wilderness, these great advances of civilization, for which so much credit is claimed for individuals and corporations, were the mere applications of forces which belong to the whole people. Those in control temporarily of these powerful instrumentalities are the mere accidents of a day. Their achievements were not attributable so much to their superior business sagacity as to popular tolerance, credulity, and optimism.

The railroads are now claiming that rates should be maintained or increased so as to produce surpluses beyond a fair return on existing capitalizations in order to sustain the credit of the railroads. In other words, they expect Congress, the President, the Interstate Commerce Commission, and everybody having anything to do with regulation to depart from all fundamental principles governing railroad rates and set up a new rule, a rule which, while leaving the control of stock and bond issues, as well as the financial and operating control, exclusively in private hands, would impose the duty first upon Congress and then upon the commission, and ultimately upon the people to insure a market price for stocks and bonds such as will facilitate the borrowing of money and steady the market for stocks and bonds. To all familiar with the subject, to all who have in mind the public interest, the proposition is absurd and preposterous on its face. It would impose a task which, even if supportable on any just principle, would be impossible to perform, even though all the constitutional powers of the Government were fully exerted.

The doctrine of an assured constant profit to unwisely projected or badly managed roads was touched upon at the hearing in the rate-advance cases in 1910, but the discussion was quickly dropped and did not receive any further serious consideration. One of the vice presidents of the Chicago & North Western answering a query of one of the commissioners, said:

> I admit that what might be justice to some lesser line would extravagantly increase us, if you please, but I have not the wisdom to say how that thing shall be disposed of.

The people's representatives in Congress and other legislative bodies had been then for a long time insisting upon a reduction of rates and had freely expressed themselves to the effect that substantial reductions should be made. And there are ample reasons for saying that few railroad officials entered upon that scheme of wholesale advances with the expectation that the commission would dare establish the advanced rates as just and reasonable. The purpose of the railroads in taking the action taken by them was, no doubt, to make a demand such as the people are now making for a decrease of rates—a demand which was then and is still being urged—appear preposterous and unreasonable. I, for one, shall be surprised and disappointed if the millions of rate payers in the country allow their just demand for a reduction to be thwarted by such tactics. Of course the heads of some of the weaker roads, those which pretend to be having a hard struggle at best, think that any general reduction of rates would be very harsh and unjust to them, notwithstanding that the maintenance of present rates would unduly enrich the stronger companies, and of course the latter are ever ready to grasp whatever may come within their reach. So that the question finally resolves itself into one of sacrificing general interests to temporarily sustaining and keeping afloat these weak but ambitious enterprises which might otherwise have to liquidate and reorganize on a narrower financial basis.

The rate issue thus shifts and the contest comes on between the people and greatest of all the railroad systems. We are constantly invited to consider, not what is good business policy for the public, but to be profoundly impressed with the promotion of the financial prosperity of private corporations having extensive control of general business interests.

Of course—

Said Mr. McCrea, president of the Pennsylvania, at the rate increase investigation on October 12, 1910—

> it would be possible to get money by raising the interest on bonds to a substantially higher level.

But he did not think such a course would be good finance. His alternative was to increase the price of what his company has to sell. To do that is not a difficult task for monopolies of its class, in the absence of objections by the commission. But men in other business, contemplating new acquisitions for enlargement of plant or extension of operations, must obtain the needed funds as best they can and at the prevailing rates of interest. Moreover, they must find the security for their financial accommodations. But these transportation monopolies, now that the trick of concealing surpluses expended under various heads, practiced by them hitherto, is exposed and generally understood, are urging the need for further railroad extensions and facilities, and backing up their demand for high rates with an implied threat that if they be not allowed a free hand in continued and more drastic exploitation of the Nation's freight payers the extensions and facilities will not be provided and that the quality of service which they give their patrons will depreciate. What they really have in reserve is the acquisition of more and more of the weaker lines, further consolidations, and more impregnable monopolies. Any pretense that they intend to stand still is the baldest assumption, and any fear that they may or can create a commercial or financial collapse is groundless. The statement that there has been any advance in the cost of borrowed money except when borrowed by commercial and industrial interests is incredible in view of the fact that nearly all the bonded indebtedness of the New York Central, funded only a few years ago, bears interest at only 3½ per cent and that of the Pennsylvania at even a lower rate. What the railroad presidents say on the subject is, to take a charitable view of it, mere speculation. They make no pretense of ever having even an unpleasant experience in testing the money market. In fact, the financial conditions of all the controlling railroads are such that no test of their ability to borrow money at the lowest rates of interest has been necessary.

In resisting measures looking to effective regulation of their rates and services the railroads are inviting something even more drastic and far-reaching. The high-handed attempt made two years ago to arbitrarily and generally increase their rates aroused the country to a high pitch of indignation and moved Congress to place what proved for that occasion an insuperable obstacle in the way in the form of the burden-of-proof provision. The action thus taken by Congress, the general and widespread discussion which ensued, and the final action adverse to the railroads taken by the commission served to focus public atten-

tion upon railroad management and finance as never before. The whole period was educational. The people will claim the full measure of justice at our hands and in the end will find ways to obtain it. The country is rapidly filling up, population is greater and more homogeneous, and the proportion of articles for use and consumption not produced on the spot but requiring to be transported is increasing year by year. In other words, and in railroad parlance, the traffic is becoming denser, and all these are pointing to the necessity for lower rates. That necessity will not regard with favor any law not having for its primary object the common interest.

I will now call attention to certain phraseology of the Adamson, or committee, bill. I pass by for the present the fact that the investigation which the commission is to undertake covers so many important subjects and so many conditions which are constantly changing that it can never be concluded. The bill limits the commission to no standard or rule of procedure and confers the widest range of authority. Among other matters, it is authorized to—

ascertain and report in such detail as it may deem necessary as to each piece of property owned or used by said common carrier, the original cost for railway purposes, the cost and value to the present owner, and what increase in value is due to cost of improvements. Such investigation and report shall also show separately that property actually used in transportation and that held for other purposes, and shall contain a statement of the elements forming the basis of the estimate of value.

What I have quoted is but a fraction of all that the bill authorizes the commission to do at public expense, much the larger proportion of it being, in my judgment, not only entirely futile and worthless if done but impossible of being done at all. In the midst of many authorizations is the ascertainment of the value of each piece of property to the present owner and in each instance the elements forming the basis of the estimate of value. One of the meanings which I extract from all the verbiage used is that a valuation shall be placed upon railroad property as such. To value the right of way of the Pennsylvania through the gaps and narrow valleys of the Alleghenies and of the New York Central along the Hudson or of their terminal facilities in New York City for railroad purposes is to place valuations upon properties which are essentially and unqualifiedly monopolistic. The task would be vain even if possible. It would be like attempting to value the taxing and governing powers of a State or city. The bill contains not even an intimation of what the commission shall do with its valuation and report when completed; and I now call attention to the fact that the commission would be, according to its own oft-repeated declarations, at a loss as to the use to make of it.

Without quoting from the hearings before the committee, I call attention to the fact that the commissioners appearing and making statements were even more vague and noncommittal as to any uses that might be made of their valuation, notwithstanding their willingness to undertake the labor, with its incidental expenditure of millions of dollars.

I will now state what I consider a very important practical objection to making the investment a standard. Some railroads were started with very small original investments of private capital. For instance, the Union Pacific and Central Pacific, now a continuous line from Council Bluffs to San Francisco, were started with enormous land grants and Government guaranties, out of which the roads were built and equipped, leaving to the stockholders the stocks and to the corporations extensive areas of land which cost them nothing. The Union Pacific was subsequently bankrupted to construct the Oregon Short Line and other unprofitable branches, and the Central Pacific was brought to the verge of insolvency by a diversion of business to the Southern Pacific. After that the revenues of the Union Pacific and Central Pacific became very large. Enormous sums were taken from earnings and invested in betterments, additions, and branch lines, still leaving a great annual surplus for dividends. Now, take the Sante Fe, a competing line: It represents a very large percentage of original investment, but a great deal less money has been used in its construction per average mile than in the cases of the Union Pacific and Central Pacific, notwithstanding that it is just as efficient and necessary. Now, suppose you take investment as a standard, without distinguishing between original investment and investment out of income. First you would authorize the Union Pacific and Central Pacific lines to fix much higher rates from Missouri River points to the Pacific than those fixed by the Sante Fe. To say nothing of its primary injustice, that would at once divert the great bulk of traffic to the Sante Fe and defeat the very purpose of giving the Union Pacific and Central Pacific lines the higher rate.

But many roads other than the Union Pacific have been built up almost entirely out of earnings. For instance, the original investment in the Erie was much less than in the Pennsylvania, and yet the ultimate cost of the Erie was double per average mile that of either the Pennsylvania or the New York Central, owing to engineering difficulties. The inherent injustice of allowing rates to pay income on reinvestments of earnings is shown by Commissioner Lane's report in the recent rate-increase cases and illustrated by the result, if the theory were applied to the Burlington. (See p. 28 et seq. of Commissioner Lane's report in rate-advance cases.)

I also find very serious objections to making a separate valuation of each corporate property a rigid basis of rates. There would result nonpermissible inequalities. But that objection would be to a great extent obviated by making valuations in the aggregate of whole systems, as is provided for in my substitute. I suppose if you value the thousands of miles of the Pennsylvania system and the thousands of miles of the New York Central system you will not find a material difference per average mile. The deduction for obsolescence and depreciation will constitute an enormous subtraction from cost in many instances. The Pennsylvania will under my plan have its New York City and West Philadelphia improvements valued, but much of their total will be subtracted from cost of Jersey City and Broad Street terminals. But in each of the exceptional values it is to be spread over thousands of miles. And you may remember it is my plan to directly regulate these dominating lines and thus indirectly regulate the secondary or dependent lines.

I find some foundation for the objection recently advanced that a valuation would in some instances equal or exceed the capitalization. But you will note that I have anticipated that objection. With reference to equipment and trackage I make cost of reproduction, less a deduction for obsolescence, the standard or measure of value, in addition to averaging the mileage. I think we have no reason to fear that an excessive valuation would result if to this were added the land values of rights of way, terminal, and station grounds (actually used), plus actual cost (less depreciation) of improvements.

There remains to be noticed the objection that much, and in some instances nearly all, of the value was contributed out of earnings and were in fact contributed by rate payers. But, except in aggravated cases, which I think might be dealt with by the commission under power given it in the substitute to establish additional rules, I do not think it either just or expedient at this late date to rigidly distinguish between the values created by original investment and those added from current revenues. Nearly all the capital now employed in farming, manufacturing, and in trade represents surpluses resulting from farming, manufacturing, and trade. Besides, the difficulty, or rather impossibility, of segregating investment from reinvestment in these lines I could see no justice in it, if proposed with a view to giving them different treatment in legislation. I am aware that effective regulation requires a departure from the prevailing habit of thought, and that railroad properties must be recognized and treated more and more as governmental instrumentalities and less as subjects for private investment and profit. But if we try to begin upon too low a level we may not be able to begin at all. We have been discussing the subject of making a valuation or appraisement for years. Some one should come forward with a concrete plan. If the plan I propose in this substitute is not the best, let us hear from others and adopt the best. As for myself, I assure you that I am open-minded on the question.

I had thought of asking for the views of the Interstate Commerce Commissioners and others before introducing a substitute, but I know I would find them timid and unprepared. The quickest way to stimulate thought, elicit expression, and get it is to introduce a bill containing a practical, progressive plan, and get the question before the House.

This plan is not too moderate or conservative. It will not satisfy the railroads. They will strenuously object to the exclusion of so-called franchises or good will. Most of them will begin lobbying against it, and keep it up to the end.

It hardly seems necessary on this occasion to further call attention to amendments which should be made to the interstate-commerce act to make it effective. The whole mass of exising legislation, although much of it was well directed and intended, has proven ineffective to prevent an enormous increase of aggregate cost of transportation, dangerous massing and concentration of wealth with attendant general distress, and enormous and startling inflation of corporate securities, the dividend and interest charges on which constitute an ever-increasing burden and drain from all business and all industry.

If I am not much mistaken, there has been thus far no real bona fide regulation of interstate commerce. There is a total lack of mandatory rules of procedure for the commission, and

so much is left to discretion that the commissioners can, without a violation of law, exercise at once and over the whole subject powers which are as extensive as and, in some respects, more extensive than those exercised by either of the three departments of the Government or by all combined.

The present law amounts to just this: The carriers shall deal fairly by the public, and when a question of fairness or unfairness is raised the commission shall sit as an arbitration board with full powers in the premises. The reports in the rate-increase cases fully supports this view. I understand from these reports that the value of property devoted to the public use, even if any satisfactory proof of it had been made, would have constituted only one of many important elements in the case. And I infer from the language of both Lane and Prouty, commissioners, that if the railroads had made strong showings as to revenue requirements many of the proposed increases would have been allowed. Be that as it may, it is a fact, one which should arouse serious concern, that the railroads are now engaged in the preparation of a valuation of their properties to be used in making up a case upon which the commission can not reasonably prevent further increases in their rates. So the issue before the commission between the carriers and the public has been within two years converted from one raised by shippers demanding a reduction of rates to one now raised by the railroads for an increase. Though widespread protest, amounting almost to a popular uprising, stand in the way of a wholesale increase, practically the same end may now be reached gradually, covertly, and in detail, and without attracting public attention.

Transportation rates, both for freight and passengers, are too high in this country, and if I had the power I would materially reduce them. Measures of public justice are often harsh. And if rates were properly reduced on the great dominating railways, that would without any further legislative act whatever force several important and many unimportant railroad companies into receiverships and reorganizations. And yet, sooner or later, Congress must assert its constitutional powers.

Why do newspapers, lawmakers, and Interstate Commerce Commissioners discuss this as they would a humanitarian question? The corporations are artificial, nonsentient. The officers and agents are presumably interested only to the extent of their salaries, which are not to be affected by any reduction proposed by anyone. The stockholders are but a small percentage of the entire population, having no better right to obstruct measures in the public interest than have the smallest beneficiaries of exorbitant taxation.

While the commission now has unlimited discretion in determining the reasonable rate and in allowing a just and reasonable or in disallowing an increased rate, it has no power to increase a rate. Lacking this, it can not take up a schedule of rates in which inequalities and discriminations exist and adjust and equalize them. If, to illustrate, the commission could increase the rates of sugar and coal going West, that would permit of a material reduction on many other commodities without or with only moderate diminution of revenues. This would also diminish the power of the sugar trust and coal trust to injure western interests. The commission should be given the power to revise and readjust whole schedules. In other words, it should be given real rate-making power. Along with this increase should come a numerical increase in the membership of the commission and its division into departments.

And in view of the fact that the railroads have been vastly aided and benefited by the existence and work of the commission, the fee system ought to be established requiring them, in each instance of a decision adverse to the carrier, to pay all the costs and expenses of the contest. I have not seen fit to provide for that in the substitute because I did not care to insert a mere matter of detail upon which there might arise wide differences of opinion and extensive discussion, but I would heartily accept an amendment to that effect. Undoubtedly Congress should give attention to the great and increasing expenses of the commission, and the institution of the fee system would much more than offset the increased cost to result from enlarging the membership of the commission.

Notwithstanding the extreme length of my discourse, I have not said all that I would like to have said nor have I explained all the features of the substitute which I ask you and each of you to carefully examine. The subject is one the importance of which is second to none with which we have to deal. Indeed, the problem of railroad transportation, especially the monopoly and cost phases of it, is of such magnitude as to cast a shadow over the land; but I trust we shall prove equal to meeting it courageously and dealing with it intelligently and justly.

Mr. HOBSON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Alabama [Mr. HOBSON] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Illinois [Mr. MANN] 10 minutes.

Mr. MANN. Mr. Chairman, it will be noted that the bill itself provides that the commission shall investigate and ascertain the value of the property of every common carrier subject to the provisions of this act and used by it for the convenience of the public. It is to ascertain the value of the property. In making investigation the bill further provides that the commission shall ascertain and report in such detail as they may deem necessary as to each piece of property owned or used by the carrier, the original cost for railroad purposes, the cost and value to the present owner, and what increase in value is due to cost of improvements. Then the bill provides that the valuation made by the commission shall be fixed and considered as final. What is that valuation made by the commission? It is the value of the property to the present owner, so far as we can ascertain from the bill; the valuation of the property of the carrier, used by it for the convenience of the public, to the present owner. It is true the bill provides the ascertainment of the original cost for railway purposes and what increase in value is due to the cost of improvements; but the value which is finally to be ascertained is the value of the property to the present owner. All of the rest of the detail provided in the bill is a mere method of making the valuation, which ought to be left out of the bill, because the commission itself ought to be the ones who are the best judges as to the method of proceeding and making a valuation for their information and their benefit when they arrive at a judgment concerning the rates. This valuation, if no protest is filed by the railroad company, becomes final, but if a protest is filed by the railway the commission is obliged to take the protest into consideration.

I am not entirely clear as to what will be the result of ascertaining the present value to the railway companies of the property used for railway purposes. Some years ago a railroad desired to enter the city of Chicago and expended for that purpose, I believe, some $10,000,000 or $15,000,000 to have the right of way into the city. That road and another road somewhat similarly situated have no such right of way yet, but some of the original road that came into the city of Chicago. Those original rights of way cost very little. The Illinois Central Railroad, which comes into the city of Chicago along the lake front, with which most of you are familiar, came in over the lake bed, and cost practically nothing at the time. The value of that right of way to the present owner of it amounts to millions upon millions of dollars now. It could not be replaced to the Illinois Central Railroad probably for $50,000,000.

Under the provisions of this bill the commission is required to ascertain the present value to the railroad company of that roadway, and it is supposed to take that into consideration in fixing the rates of the railroad. Of course there is no other object in ascertaining the value of this property on this basis except as it may affect the fixing of railroad rates. There is not a railroad in the United States probably passing through towns that have grown in size since the road was constructed where the present value of that property to the railroad company for its uses does not far exceed not only the cost to the railroad company but its capitalization, which it goes into and helps make up.

There are people who believe that you can take the value of any one railroad property and thereby determine absolutely the rate. There are seven or eight or nine trunk lines between Chicago and New York, all engaged in carrying in competition freight between those points. Some of those roads run fairly directly between Chicago and New York. Some of them run through Kentucky and Virginia; some through Canada. The roads which have the nearest routes probably cost the least, I do not know. The roads which have the longest routes probably carry the freight the cheapest. The longer routes require a little cheaper freight rate in order to get the freight carried over that line, because few shippers will prefer to send their freight up through Canada and around through the New England States in order to reach New York when they can send it directly east over the Lake Shore or the Pennsylvania Railroad. And yet it is perfectly patent to anyone that after you arrive at the physical valuation, or the present value, or whatever you please, the capitalization of those roads—and they will not be the same—the rate that is to be fixed must be the same, practically speaking. The Pennsylvania Railroad Co. can not make a different freight rate between Chicago and New York from that of the Lake Shore and the New York Central Railroad Co., and the Canadian railroad company can not make a rate much

different, at least, from the roads which run through Kentucky—the Big Four and the Chesapeake & Ohio.

The valuation of the railroads ought to be known. In my judgment the original Interstate-commerce law gives to the Interstate Commerce Commission the power to make a physical valuation of the railroads or to acquire any other information which relates to the railroad business. It is possibly true that they have not done so because of a lack of appropriations. It is mainly true, I think, because they thought it was easier to keep on telling Congress how much they needed the power to make the valuation instead of doing that which they already had the power to do. It became the custom of the commission in every one of its annual reports to ask for increased authority from Congress. I presume that custom will continue, no matter what Congress does, although I am in favor, so far as I am concerned—as we have undertaken to carry out the theory of letting the Interstate Commerce Commission practically manage the railroads of the country—of giving them all the information that is possible.

I do not believe the present bill, if enacted into law, will accomplish a great deal of good. It will not fix rates by ascertaining the present value of the property. What we ought to do is to govern and regulate the issuance of stocks and bonds by the railroad companies and prevent the manipulation of stocks and bonds by a few gentlemen for their own benefit with secret information which they obtain. I wish I could have my way, so that every man and woman in the United States who desired to invest a little of savings might know something true in reference to the stocks and bonds which they might desire to buy, and then feel that that investment on their part could not be taken away from them by manipulation, which has been the custom in the past. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes of my time to the gentleman from Kansas [Mr. CAMPBELL].

The CHAIRMAN. The gentleman from Kansas [Mr. CAMPBELL] is recognized for five minutes.

Mr. CAMPBELL. Mr. Chairman, I shall vote for this bill, although I regard it as incomplete. Merely providing for finding the valuation of railroads accomplishes but a short step in the right direction. The provision in the Mann bill as it passed the House in the Sixty-first Congress on this subject was more complete, and it is unfortunate that that provision went out of the bill in another part of the Capitol, where it was contended that Federal control of the issuance of stocks and bonds of railroads was an interference with the doctrine of State rights. So I assume this bill is the best we can hope for at this time.

Two results should follow the ascertainment of the valuation of railroads: First of all, a regulation of the issuance of their stocks and bonds. The gentleman from Illinois [Mr. MANN] closed as I would begin, if I had the time, with a discussion of one of the most vital subjects connected with this matter—the issuance of stocks and bonds of common carriers. Every investor ought to know, by the valuation of the property, what his stock is worth. He ought to know the amount of stock that has been issued, the amount of bonds that have been issued, and by that be able to place some value upon the property that he has purchased. Then let the manipulators manipulate. Then let the stock gamblers gamble. If the investor who owns the stock does not see fit to throw his property upon the market for sale, it will still represent a value based upon the actual value of the road.

The time is coming when investors will be found in every part of the country who will purchase stocks of the transportation companies of the country, and that sort of investment should be encouraged.

The stock of transportation companies ought to be made a safe investment for every person who has the money to invest. It ought not to be a speculation or perhaps, more properly, gambling. The matter ought not to be left to the manipulators who sometimes gamble in the price of the stocks of railroad companies. This has been done and no doubt will continue to be done until either the State where the gambling places are operated or the Nation that controls interstate commerce shall find a way to put a stop to that species of stock manipulation and gambling. The day is past when promoters should have the right to fix the amount of either the capital stock or the bonded indebtedness of railroads without limit or check upon them.

The bill therefore ought to be completed by providing for a control of the issuance of stocks and bonds of these companies, based upon the valuation as found by the commission.

Then the second step should follow, that of fixing rates upon the valuation so found. The discussion by Members here this afternoon has related almost wholly to the question of freight rates, while as a matter of fact the bill does not provide for the fixing of rates at all.

Mr. CULLOP. I would like to ask the gentleman from Kansas a question.

Mr. CAMPBELL. Yes.

Mr. CULLOP. Is it the gentleman's idea that there ought to be a provision in the bill that when the commission ascertains the value of the property all stocks in excess of the ascertained value shall be canceled?

Mr. CAMPBELL. No; increases prohibited in the future.

Mr. CULLOP. But the stock has already been issued. These corporations exist. They are organized in the States, under State laws.

Mr. CAMPBELL. I understand that, but Congress assumes the right here to find the valuation of railroad property. It does not do so to gratify the caprices of the Interstate Commerce Commission, and it should be for the purpose of fixing the amount of stock or bonds that may be issued upon railway property in the future and to fix rates.

Mr. CULLOP. It would give notice by such reports to the public of the excess in amount of stock over the actual value of the property, but it is also for the purpose of ascertaining the facts upon which an equitable rate can be established.

Mr. CAMPBELL. The bill does not so provide, and I want to call attention to that if the gentleman will let me have my time. I listened with a great deal of interest to the remarks of the gentleman from Indiana on this subject. Until this afternoon I had heard it said that the tariff alone was responsible for the high cost of living; but after listening to the gentleman from Indiana I came to the conclusion that, after all, the campaign of last fall was made upon an entirely erroneous hypothesis, and that the cost of living is attributable wholly to the high cost of transportation on the railroads. But this bill does not propose that the value of the railroads shall be used as a measure for fixing rates.

Mr. CULLOP. I beg the gentleman's pardon. That is one of the elements that enters into it.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. STEVENS of Minnesota. I yield two minutes more to the gentleman from Kansas.

Mr. CAMPBELL. My contention is that this bill should provide that the information obtained as to the value of railroads shall be used as a basis for fixing rates. Otherwise, what is the object of ascertaining the value of the property if not for the purpose of fixing the amount of stocks and bonds that shall be issued and the freight and passenger rates that may be charged in the use of the property of the common carriers? Believing that the information the commission is authorized to get by this bill may be put to these uses, I shall vote for the bill.

Mr. STEVENS of Minnesota. Mr. Chairman, I now yield to the gentleman from Wisconsin [Mr. ESCH].

Mr. ESCH. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Oregon [Mr. LAFFERTY] five minutes.

Mr. LAFFERTY. Mr. Chairman, I desire merely to make a general observation.

In my travels over the country I have not found any man who wants any corporation to give him anything or to sell him anything for less than what it is reasonably worth, and the idea that is now in the minds of the American people, known as the Progressive movement, does not mean anything more than that they desire laws passed by Congress that will provide that they shall not be charged unreasonable rates by public-utility corporations and that they shall not be charged unreasonable prices by industrial corporations that have acquired monopolies in their several lines of business.

The remedy is simple. Whenever you get a majority of men in Congress who desire to serve the public it will not require the brains of a Daniel Webster, of a John C. Calhoun, of a James G. Blaine to formulate laws suitable to meet the present situation in the United States. The only requirement is that we get a majority of men in our legislative bodies, both in the States and in the United States, who desire to do the right thing.

Now, for years there has been an agitation in favor of giving to the Interstate Commerce Commission the power to make physical valuation of the property of the common carriers coming under the interstate-commerce act. I desire to congratulate

the committee for having reported this bill, also the Committee on Rules for having brought in a rule making it a privileged bill, and to congratulate the majority party in control of this House at this time upon its certain passage. You are on the right track, and so long as you stay on the right track you will enjoy the confidence of the American people.

I agree entirely with the minority leader in the comments he made here this afternoon and the comments of several of my colleagues on the Republican side of this House that this bill does not go far enough. It should be made broader; it should specify that the making of this valuation of the common carriers is for the purpose of fixing reasonable rates; and it should specify also that the Interstate Commerce Commission may regulate the issuance of stocks and bonds in the matter of carriers engaged in interstate commerce.

But I wish to be frank enough as a member of the Republican Party to say that our party was in control here for 16 years and did not give to the country as good a bill as this in this connection.

Mr. MADDEN. We passed one in the House, I think, in 1910. I introduced the bill.

Mr. LAFFERTY. My colleague reminds me that a bill of this character was passed in the House. I was not aware of that, and I want to say that the Republican House that passed it is entitled to great credit. However, we are all here now to represent the country regardless of party lines, regardless of any other considerations than those of the public welfare. That is why, Mr. Chairman, I desire to remind my colleagues that as poor as I may be in merit and ability I went back to my district and was reelected by an increased majority on the 5th day of last month. Any Member of this House who comes here and serves the public to the best of his ability, as he holds up his hand and takes a solemn oath that he will do, will be trusted by the people of this country. Of course we may be misrepresented and may not be able to meet the false accusations, but if the man is in reasonably good health and has a good nervous system and gets out and meets the opposition in an open fight he will win out.

The point I desired to make was that the people of the United States do not demand anything radical or unreasonable. We had a little illustration of the conservatism of the people in Oregon at the election on the 5th of last month. A proposition was submitted to pass a graduated income-tax law.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes more to the gentleman.

Mr. LAFFERTY. Mr. Chairman, the proposition was submitted to the vote of the people as to whether we would adopt a graduated single tax which provided that any man owning more than $10,000 worth of real estate should pay a specific, graduated tax of $2.50 per thousand, and so on up, as the amount of his holdings increased, until it got to $30 a thousand on $100,000 and over. Naturally, nine voters out of ten who went into the voting booths on the 5th of last month in Oregon would have benefited upon the surface of things by the passage of such a law. If the voters were actuated by their selfish interests, if they did not look beyond that, they would have passed the graduated single tax. It was urged by the Fels fund commission, and was ably presented in an argument to the voters and in the voters' pamphlet of that State. Yet the people of Oregon went into the polls and defeated that constitutional amendment by a vote of 5 to 2. That is only an illustration going to show that you can trust the people to be conservative and that they will not pass a law until thoroughly satisfied that it will work no injustice to any man.

In conclusion, permit me to say that when each State in this Union has created a State public-service commission having the power to fix the rates of monopolies doing business wholly within the State, and the power to make physical valuations to that end, and when Congress has made the Interstate Commerce Commission a Federal public-service commission for the same purpose, having jurisdiction over interstate monopolies, the question of the control of monopolies will have been settled. And when you reduce the tariff properly—and I am in favor of a reasonable protection for the people of this country—and provide for an asset currency to prevent a few men in Wall Street from cornering our money and bringing on a panic whenever they feel like it, you will enjoy in this country, in the future as in the past, the greatest advancement, both moral and temporal, of any country in the world. [Applause.]

Mr. SIMS. Mr. Chairman, I think that the bill has been so ably and thoroughly and exhaustively discussed in general debate that we may close the general debate at this time and read the bill for amendment under the five-minute rule. If no one wishes to use further time, I will ask that that be done.

The CHAIRMAN. Without objection, the Clerk will read the bill for amendment under the five-minute rule.

There was no objection, and the Clerk read as follows:

Be it enacted, etc., That section 19 of an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, be amended by adding thereto a new section, to be known as section 19a and to read as follows:

Mr. MANN. Mr. Chairman, I desire to propound a parliamentary inquiry. This bill consists of one section and a number of paragraphs. Is it subject to amendment by paragraphs, or may amendments to any part be offered at the conclusion of the reading of the entire bill?

The CHAIRMAN. The Chair understands that this bill is subject to amendment by sections only.

Mr. MANN. There is but one section in the bill.

The CHAIRMAN. It so appears to the Chair. The Clerk will read.

The Clerk read as follows:

SEC. 19a. That the commission shall investigate and ascertain the value of the property of every common carrier subject to the provisions of this act and used by it for the convenience of the public. For the purpose of such an investigation and ascertainment of value the commission is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony. The value shall be ascertained by means of an inventory which shall list the property of every common carrier subject to the provisions of this act in detail, and shall classify the physical elements of such property in conformity with the classification of expenditures for road and equipment, as prescribed by the Interstate Commerce Commission.

In such investigation said commission shall have authority to ascertain and report, in such detail as it may deem necessary, as to each piece of property owned or used by said common carrier, the original cost for railway purposes, the cost and value to the present owner, and what increase in value is due to cost of improvements. Such investigation and report shall also show separately that property actually used in transportation and that held for other purposes, and shall contain a statement of the elements forming the basis of the estimate of value. They should also show, as the commission may deem necessary, the history of the organization of the present corporation operating such property or of any previous corporation operating such property in such detail as may be deemed necessary, and any increases or decreases of capital stock in any reorganizations, and moneys received by any of such corporations by reason of any issues of stocks, bonds, or other securities, or from the net and gross earnings of such companies, and how the moneys were expended or paid out for the purposes of such payments.

The said investigation and report shall also show the amounts and dates of all bonds outstanding against each public-service corporation and the amount paid therefor, and the names of all stockholders and bondholders with the amount held by each, and also the name of each director on each board of directors; and find and report the facts as to the connection of any bank or bankers, capitalist or association of capitalists, or financial institution or holding company with the ownership, manipulation, management, or control of any stocks and bonds of any such company, and the transactions and connections of any bank or banker, financier, financial institution, or holding company with the reorganization of any such company in recent years.

The commission shall have power to prescribe the method of procedure to be followed in the conduct of the investigation, the form in which the results of the valuation shall be submitted, and the classification of the elements that constitute the ascertained value, and such investigation shall show the value of the property of every common carrier as a whole and the value of its property in each of the several States and Territories and the District of Columbia.

Such investigation shall be commenced within 60 days after the approval of this act and shall be prosecuted with diligence and thoroughness, and the result thereof reported to Congress at the beginning of each regular session thereafter until completed.

Every common carrier subject to the provisions of this act shall furnish to the commission or its agents from time to time and as the commission may require maps, profiles, contracts, reports of engineers, and any other documents, records, and papers, or copies of any or all of the same, in aid of such investigation and determination of the value of the property of said common carrier, and shall grant to all agents of the commission free access to its right of way, its property, and its accounts, records, and memoranda whenever and wherever requested by any such duly authorized agent, and every common carrier is hereby directed and required to cooperate with and aid the commission in the work of the valuation of its property in such further particulars and to such extent as the commission may require and direct, and all rules and regulations made by the commission for the purpose of administering the provisions of this section and section 20 of this act shall have the full force and effect of law.

Upon the completion of the valuation herein provided for the commission shall thereafter in like manner keep itself informed of all extensions and improvements or other changes in the condition and value of the property of all common carriers, and shall ascertain the value thereof, and shall from time to time, as may be required for the proper regulation of such common carriers under the provisions of this act, revise and correct its valuation of property, which shall be reported to Congress at the beginning of each regular session.

To enable the commission to make such changes and corrections in its valuation, every common carrier subject to the provisions of this act shall report currently to the commission, and as the commission may require, all improvements and changes in its property, and file with the commission copies of all contracts for such improvements and changes at the time the same are executed.

Whenever the commission shall have completed the valuation of the property of any common carrier, and before said valuation shall become final, the commission shall give notice by registered letter to the said carrier, stating the valuation placed upon the several classes of property of said carrier, and shall allow the carrier 30 days in which to file

a protest of the same with the commission. If no protest is filed within 30 days, said valuation shall become final.

If notice of protest is filed by any common carrier, the commission shall fix a time for hearing the same, and shall proceed as promptly as may be to hear and consider any matter relative and material thereto which may be presented by such common carrier in support of its protest so filed as aforesaid. If after hearing any protest of such valuation under the provisions of this act the commission shall be of the opinion that its valuation is incorrect, it shall make such changes as may be necessary, and shall issue an order making such corrected valuation final. All final valuations by the commission and the classification thereof shall be published and shall be prima facie evidence relative to the value of the property in all proceedings under this act.

The provisions of this section shall apply to receivers of carriers and operating trustees. In case of failure or refusal on the part of any carrier, receiver, or trustee to comply with all the requirements of this act and in the manner prescribed by the commission such carrier, receiver, or trustee shall forfeit to the United States the sum of $500 for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.

That the district courts of the United States shall have jurisdiction, upon the application of the Attorney General of the United States at the request of the commission, alleging a failure to comply with or a violation of any of the provisions of this act by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of this act.

Mr. SABATH. Mr. Chairman, I offer the following amendment: On page 6, line 19, substitute the word "section" in place of the word "act," after the word "this."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 6, line 19, strike out the word "act" and insert in lieu thereof the word "section."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was agreed to.

Mr. SABATH. Mr. Chairman, also amend, on page 7, line 5, by substituting the word "section" for the word "act."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 7, line 5, strike out the word "act" and insert in lieu thereof the word "section."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SABATH. Also, amend by striking out the word "act" and inserting in lieu thereof the word "section," on line 7, page 7.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 7, line 7, strike out the word "act" and insert in lieu thereof the word "section."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. STEVENS of Minnesota. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 3, line 10, by adding after the word "property" the following: "showing such revision and correction as a whole and in each of the several States and Territories and the District of Columbia."

Mr. STEVENS of Minnesota. Exactly the same language is used on page 4, lines 3 and 4, so that not only the original report but all subsequent reports shall conform to the State laws as much as may be possible. That will coordinate with the State authorities.

The question was taken, and the amendment was agreed to.

Mr. HARDY. Mr. Chairman, I wish to make a suggestion, with some hesitation, and still I believe it is an improvement. In line 8, page 3, the words "for the purposes of such payment," seem to me to be surplusage or to convey no clear meaning, because there are no payments mentioned above, and "such payments" seems to refer to something foregoing. I think the sentence would be complete just to let it end with the word "out," so that that part of the sentence would read "the net and gross earnings of such companies, and how the moneys were expended or paid out." I would strike out all after the word "out," in line 8.

Mr. MANN. Will the gentleman yield?

Mr. HARDY. Certainly.

Mr. MANN. I think the word "for" ought to be made "and"—"and the purpose of such payments."

Mr. HARDY. Well, with the word "and" it would be all right.

Mr. MANN. It may possibly be a misprint somewhere.

Mr. HARDY. I will offer, then, the amendment to strike out the word "for" and substitute the word "and." However, that would still leave in the words "such payments," when there are no payments referred to before that.

Mr. MANN. It provides for the moneys expended and paid out and the purposes of such payments.

Mr. HARDY. I will make the motion to strike out the word "for" and insert the word "and."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 3, line 8, by striking out the word "for" and inserting in lieu thereof the word "and."

The question was taken, and the amendment was agreed to.

Mr. LENROOT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 2, page 2, insert, before the word "property," the word "physical"; also, in line 2, page 4, insert, before the word "property," the word "physical."

Mr. LENROOT. Mr. Chairman, I do not know I can add anything more to what I said when I had the floor before with reference to this question, but the more I think of the matter the more important it seems to me that this valuation of the commission should be confined to a physical valuation of the property. Now, it has been said during the afternoon a number of times that this valuation was not necessarily for rate-making purposes at all, but I call the attention of the committee to this fact—that this valuation must be for no other purpose, for the bill itself provides for a valuation when certain procedure has been taken, so it seems to me that it is for no other purpose than the purpose of a basis for making rates. Now, I want particularly to call the attention of the committee to the familiar and leading case of Smyth against Ames. There it is held:

We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public.

Just exactly what is proposed to be done by the bill in its present form, the fair value of the property of the carrier. Then the decision goes on to say:

And in order to ascertain that value, the original cost of construction, the amount expended in permanent improvement, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statutes, and the sum required to meet operating expenses are all matters for consideration and are to be given such weight as may be just and right in each case.

Now, there are several elements that the Supreme Court speaks of in this case that are to be considered in arriving at the value, but there are only three of those elements that relate to the physical valuation of the property.

A great many illustrations have been given this afternoon, or a great many questions asked, as to what shall be done in a given case. For instance, by the gentleman from Pennsylvania [Mr. OLMSTED]. Here is one railroad, the cost of which was twice, perhaps, the cost of another, and the value actually might be twice the value of another, and yet as the bill reads in its present form you are asking the commission, you are compelling the commission, in an ex parte proceeding, to find the value of those two roads, and when they have found the value the commission itself will be governed by the value so found, for it is the value of the property that becomes the basis for rate-making purposes.

Now, I do insist that that question, so far as the ultimate question of value is concerned, should not be left to be decided in this ex parte proceeding. When we have the physical valuation we have one of the indispensable elements that are necessary. The commission should have that, should keep it revised from time to time, but in determining the ultimate question of value of a given property of a common carrier, it seems to me that with this information they should be left free to make that value in a given case when the carrier itself has an opportunity to be heard and presents all the facts before it.

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

Mr. LENROOT. Certainly.

Mr. MANN. Is the gentleman convinced that in making the rates the court ought not, or can not, or will not, take into consideration the value of a franchise?

Mr. LENROOT. Not at all.

Mr. MANN. Well, if you are to obtain the value of a property as an aid to rate making, is it not desirable to obtain both the value of the physical property and also the value of the franchise?

Mr. LENROOT. That might be.

Mr. MANN. Would not that be the case under the provisions of this bill?

Mr. LENROOT. That is the point exactly. They might find the value of a franchise, and find the value of a great many

other intangible things that become settled—that become final—in this ex parte proceeding. But I say that ought not to be done in that kind of proceeding, because those things can be determined in a given case by testimony. It is the physical valuation that takes one or two or three years of time. It is that valuation that the Interstate Commerce Commission has been asking for; it is that valuation that the commission could not get under the 9 or 10 months' suspension of the interstate commerce law.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. LENROOT] has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the gentleman from Wisconsin have five minutes more. Is there objection?

There was no objection.

Mr. MANN. Here is the point I wanted to get at: The ascertainment of this information is for the aid of the commission. They may have a case before them involving the freight on lemons, and another on eggs, between two points not far apart, where it is absolutely impossible to acquire the information in reference to the value of the property for the settlement of that case. In ascertaining the information is it not desirable to ascertain the value of all of the property, differentiating, as the gentleman would suggest, the value of a physical property and the value of the other property, which is for the aid of the commission and for the aid of any shipper who has a complaint? Is it not desirable to obtain all the information?

Mr. LENROOT. I think it is, and I would have no objection to that being a separate element to be found by the commission. My point is that I am opposed to the commission making the ultimate finding in this proceeding of the value of the property, which will bind the Government or the commission afterwards.

Mr. MANN. I am not sure that the gentleman is not correct, but the bill provides that the statement of the valuation shall contain a statement of the elements forming the basis and elements of value. Under this bill would not the commission be required to obtain the value of the property and ascertain how much of that is the physical value and how much is the value of the franchise, if any, and the other elements that go into the valuation?

Mr. LENROOT. I think the gentleman from Illinois has helped me to make plain what my idea is. I have no objection in the world to the commission finding all these different elements. What I do object to is the commission combining all of those into a final, ultimate finding at this time of the value of the property as a whole.

Mr. MANN. Of course, I agree with the gentleman——

Mr. MADDEN. In a single item, does the gentleman mean?

Mr. MANN. That that is not the proper method of doing it, although it is probably better than it is now.

Mr. BUCHANAN. Mr. Chairman, does the gentleman yield?

Mr. LENROOT. I would like to call attention to one other thing. Evidently from the title of the bill it was the intention or thought of the committee that the valuation should be confined to a physical valuation, for the title of the bill is, "Providing for physical valuation of the property of common carriers."

Now I yield to the gentleman.

Mr. BUCHANAN. I am somewhat confused about the question of fixing rates on the basis of the valuation of transportation lines, for the reason that sometimes the addition of value is made by an additional expenditure of money that increases the facilities of the transportation line to such an extent that it can reduce the rates and be able to pay a greater dividend than ever on the amount of money invested, as, for instance, by shortening a line or by bridging or by tunneling.

I have in mind one place in Utah where they constructed a line across Salt Lake at great expense. I am informed that it is a great investment. At other places they have added tunnels which add to the expense of the line. In still other places they have constructed elevated roads, as has been done in Chicago. In such cases there has been a great expenditure of money, but, due to the fact that they can transport much faster and with a reduced force of workingmen, made possible by the elimination of watchmen, and so on, they have reduced the cost of transportation to such a extent that even though the value of their property is much greater they still can reduce their freight rates.

Mr. LENROOT. Of course, that is often true. The gentleman understands——

Mr. BUCHANAN. Can the rates be fixed justly and equitably to all concerned on the basis of the valuation of the property?

Mr. LENROOT. The gentleman understands, and the committee will understand that, with certain exceptions—very rare—the carrier is always entitled to such a rate as will pay operating expenses and bring a fair return on the value of the property; and that is why the value of the property becomes a very important question.

Mr. STEVENS of Minnesota. Mr. Chairman, will the gentleman allow me?

The CHAIRMAN. Does the gentleman yield?

Mr. LENROOT. Certainly.

Mr. STEVENS of Minnesota. Has the gentleman considered the paragraphs beginning on page 5, perhaps, with the paragraph in the middle of page 6? Those two paragraphs in substance state this, that after the commission shall have completed the valuation, and before the valuation shall have become final, the commission shall give notice to the carrier, stating the valuation placed upon the several classes of property. Now, that would include the physical property and the franchise——

Mr. FOWLER. And it might not——

Mr. STEVENS of Minnesota. And the going value of the property in actual use.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I ask unanimous consent that the time of the gentleman from Wisconsin [Mr. LENROOT] be extended five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. STEVENS of Minnesota. Then the commission shall make a separate valuation of those several classes, covering everything that the gentleman has stated. Then the notice shall be given to the carrier. The carrier then has its hearing before the commission before the value of these several classes has been definitely fixed by the commission. Now, after the commission receives all the evidence that it sees fit from the carrier as to the different classes, it makes an order, as provided on line 11 of page 6; it issues an order making such corrected valuation final, and after that it provides for making such corrections as it sees fit later; and then these final values, including the values of the various classes, shall be made public and become prima facie evidence. Now, do not these two provisions of these two paragraphs accomplish what the gentleman has in mind?

Mr. LENROOT. I think not, because experience has demonstrated that they do not in every case where the question has come up. I know it is true in the case of railroad litigation in Wisconsin, where I was interested as one of the attorneys in that litigation. The cases of valuation comprehended all of these different elements, but in my opinion it is impossible, when you come to fix the valuation, to divide it up into these various elements.

For instance, after taking all these elements then you must add a sum because of its being a going concern, a sum for the cost of building up the business for a series of years. That has been approved by the courts; and yet it will not show in any of these separate elements that are provided for by this schedule; and when the commission comes to make its final valuation, in my judgment, it will be compelled to add things that it can not distribute into the different elements; and the commission should be left free, according to the testimony in each case, when it comes to make its final determination, having these elements in the findings as provided in the bill; but when it comes to determine the question finally, it should be left free to consider all of these questions. In my judgment, it is not left free to do so under the bill as it now stands.

Mr. STEVENS of Minnesota. Does not the method proposed by the gentleman put a much heavier burden on the shipper who desires to contest a rate than the provision that I have just read from the bill? In other words, if in each contest the shipper is compelled to prove the additional facts stated by the gentleman, while in the bill these matters are made matters of record with the commission, does it not put an additional burden on the shipper, which in some cases may be very onerous?

Mr. LENROOT. I think not; because in nearly every case there will be matters of judgment for the commission, considering the property of the carrier as a whole and the character of its business. It can not be separated into different elements. They will have all of this information, so far as the different elements are concerned, all that any investigation can produce. It will remain a matter of judgment on the part of the commission, but my idea is that the judgment should be exercised at the time the question is up for rate-making purposes, rather than in an ex parte proceeding.

Mr. CRUMPACKER. Will the gentleman yield for a question?

Mr. LENROOT. Yes.

Mr. CRUMPACKER. If the gentleman from Wisconsin will permit me, my understanding of his proposed amendment is that it inserts in line 2, page 2, just before the word "property," the word "physical."

Mr. LENROOT. Yes.

Mr. CRUMPACKER. That does not require, does it, that the physical valuation of property shall be made separate from the valuation of all other classes of railroad property? It simply requires the physical valuation of the property to be made.

Mr. LENROOT. It is limited to the valuation of physical property.

Mr. CRUMPACKER. So that the purpose of the bill is simply to ascertain the value of the physical properties of railroads?

Mr. LENROOT. Of course, these other provisions with reference to stocks and bonds are not affected by this amendment. They remain the same.

Mr. CRUMPACKER. So that the question of the value of franchises and other rights that may vitally affect even the physical value will not be included in the bill at all if the gentleman's amendment is adopted.

Mr. LENROOT. The franchises will not.

Mr. CRUMPACKER. Or any other intangible rights.

Mr. LENROOT. No other intangible rights.

Mr. SIMS. Mr. Chairman, I appreciate the statement made by the gentleman from Wisconsin and the strong argument which he has made, but I hope this amendment will not prevail, because my understanding is that it narrows the scope of the bill, and to that extent limits its usefulness in the work of the commission. If I understand this bill, the object of it is to furnish the commission with information which the commission needs in order to enable it to fix rates. Well, the commission needs all elements of value to be considered the same as courts do, because if the commission can not consider every element of value that the courts will consider in determining whether the order is to be a valid one or not, it seems to me that would be narrowing the scope of the bill, and that the bill will not accomplish all the purposes that it can accomplish by leaving it unamended.

Mr. LENROOT. Will the gentleman yield?

Mr. SIMS. Certainly.

Mr. LENROOT. The bill does not limit the power of the commission in any way. The only purpose of the amendment is to leave the ultimate question of value to be determined by the commission later according to the facts, having all this information before the commission.

Mr. SIMS. As I understand it, there is to be an inventory investigation and valuation. The commission will set down the physical value and any other element of value which the commission ascertains in this investigation which it would regard as its duty in fixing a rate. I can not see that it would add to the expense of making the investigation or cause it to be delayed; and then the facts ascertained as to any other element of value will be no more binding on the commission or on a court passing on it than will the finding of the element of physical value. It is all only prima facie.

Mr. LENROOT. The commission will be bound thereafter by its own valuation unless it afterwards takes the procedure of revising and correcting the valuation. I would leave the commission free to make use of all the information provided in the bill, but come to its own conclusion in regard to the question of the rates.

Mr. SIMS. I understand the commission will not determine the rate by any one element of value, but upon the consideration of all the information that it acquires in this investigation or that it may have otherwise.

Mr. LENROOT. If the commission makes a finding of valuation and thereafter is to be permitted to go back and consider any different elements that have gone to make up the final determination—that is what I object to.

Mr. SIMS. If a question should arise sufficiently long after the valuation upon a charge that the valuation has changed, that the physical value is greater or less, or any other item of value is greater or less, the commission will investigate that statement on application made affecting a rate based on the former valuation. It would not be precluded from making any additional investigation that the new conditions may authorize.

Mr. LENROOT. That is true; but they might and very likely will be mistaken as to some of their calculations as to what elements should be considered in arriving at the value.

Mr. SABATH. Who shall pass upon it but the commission, and they are to have all the light and information that they can get.

Mr. HARDY. Will the gentleman yield?

Mr. SIMS. I will yield to the gentleman from Texas.

Mr. HARDY. I want to suggest that this bill really only provides for a valuation of the physical property; that is the intention of it. I believe that it is possibly liable to considerable misinterpretation. Several gentlemen have spoken about the valuation of the franchise as part of the value, but this bill itself provides the standard by which they shall fix the value, as follows:

SEC. 19a. That the commission shall investigate and ascertain the value of the property of every common carrier subject to the provisions of this act and used by it for the convenience of the public. For the purpose of such an investigation and ascertainment of value the commission is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony. The value shall be ascertained by means of an inventory which shall list the property of every common carrier subject to the provisions of this act in detail, and shall classify the physical elements of such property in conformity with the classification of expenditures for road and equipment, as prescribed by the Interstate Commerce Commission.

Then it further provides that in such investigation the commission shall have authority to ascertain and report in such detail as it may deem necessary as to each piece of property owned or used by said common carrier, the original cost for railway purposes, the cost and value to the present owner, and what increase in value is due to cost of improvements.

The bill really only provides for a physical valuation of items, a detailed list of the property of the company, and it was not intended, as I read the bill, to incorporate the value of the franchise in the report required of the commission. I believe that you will have clarified the situation by putting the word "physical," as suggested by the amendment of the gentleman from Wisconsin. That will make the meaning indisputable.

Mr. SIMS. It has been stated by a gentleman on the committee, who undoubtedly states it authoritatively, that this bill was drawn by the Interstate Commerce Commission itself. As far as I am concerned, I would not know how to draw such a bill, and unless I was satisfied that this amendment would not restrict the object and purpose of the bill—that is, that it would not narrow rather than widen the scope of the bill—I would not want to accept this amendment under the circumstances. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken, and the amendment was lost.

Mr. MANN. Mr. Chairman, I move to amend, page 1, line 3, by striking out the words "section 19 of an" and inserting in lieu thereof the word "the."

The Clerk read as follows:

Page 1, line 3, strike out the words "section 19 of an" and insert in lieu thereof the word "the."

Mr. MANN. Mr. Chairman, as the bill reads it provides that section 19 of the act to regulate commerce be amended by adding section 19a thereafter. Of course section 19 of the act is not amended at all. It is entirely a separate proposition from the one involved here. The amendment is in fact an amendment of the act to regulate commerce. As the bill reads now, it is—

That section 19 of an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof be amended—

And so forth.

There are no amendments to section 19 of the interstate-commerce act. Although many other sections have been amended, the original section 19 reads now as it was enacted in 1887. I would suggest that the language of the bill be changed so as to provide that the act to regulate commerce as amended be further amended by adding this new section.

Mr. SIMS. Has the gentleman his amendment in form, so that he can state it correctly? I have no objection to the amendment.

Mr. MANN. I offered just the first part of it, and then intended to move to strike out, in line 5, "and all acts amendatory thereof," and insert in lieu thereof the words "as amended."

Mr. SIMS. So that it would read?

Mr. MANN. And then insert after the word "be," in line 5, the word "further," so that it will read:

That the act entitled "An act to regulate commerce," approved February 4, 1887, as amended, be further amended by adding thereto a new section, to be known as section 19a, and to read as follows.

Mr. SIMS. Mr. Chairman, I have no objection to that.

The CHAIRMAN. The question is on the first amendment offered by the gentleman from Illinois, which the Clerk will report.

The Clerk read as follows:

Page 1, line 3, strike out the words "section 19 of an" and insert in lieu thereof the word "the."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment offered by the gentleman from Illinois.

The Clerk read as follows:

Page 1, line 5, strike out the words "and all acts amendatory thereof" and insert in lieu thereof the words "as amended."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment offered by the gentleman from Illinois.

The Clerk read as follows:

Page 1, line 5, after the word "be," at the end of the line, insert the word "further."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. OLMSTED. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 2, line 8, after the word "testimony," insert the following:

"Upon three days' notice to the common carrier, which shall be permitted to attend by counsel or otherwise and examine or cross-examine the witnesses and to call and examine other witnesses."

Mr. OLMSTED. Mr. Chairman, just a word upon this amendment. This bill in its present form provides for the ascertainment and determination of the value of the physical property of common carriers by the Interstate Commerce Commission, which is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony; that is, I take it, touching the valuation to be ascertained. We are given to understand that the valuation is for the purpose of assisting the commission in fixing the rates which may be charged by common carriers. It is to be one of the elements at least. The rates which a common carrier may charge, the right to charge a rate, is its most important right. Without that right a railroad would have very little physical or other valuation, and it seems to me that in a matter so important as that the common carrier itself ought to have some notice of the taking of testimony and the right to be present and examine and cross-examine witnesses.

That is the sole purpose and object of my proposed amendment. If the physical valuation of railroads, which is to be determined by the commission in the matter pointed out by this bill, is to be used as the basis for the fixing of rates by the Interstate Commerce Commission, it is no more than fair and equitable, and in harmony with universally recognized principles of enlightened civilization, that the party to be affected shall have notice and an opportunity to be heard. It is true that the bill does provide that after the Interstate Commerce Commission, through its agents, experts, or other assistants shall have concluded the taking of testimony, and the commission, based upon such testimony, shall have adjudicated the matter and fixed the valuation, the carrier may have 30 days within which to file a protest, and that upon the filing of any protest by a common carrier—

The commission shall fix a time for hearing the same and shall proceed as promptly as may be to hear and consider any matter relative and material thereto which may be presented by such common carrier in support of its protest so filed.

The bill, however, makes no provision for the taking of testimony upon such a hearing. If witnesses were desired to be recalled for examination or cross-examination, the common carrier would have to hunt them up, and it would have no power to compel their attendance. The whole proceeding would be, in any event, anomalous and unreasonable. It would be like depriving a defendant of the right to participate in the taking of testimony on the trial of his case and then allowing him the mere right to file a protest after the court shall have entered judgment against him. There is no State in this Union under the laws of which $10 worth of property could be taken from any man in a proceeding in which he was not permitted to cross-examine the witnesses produced against him or to call witnesses in his own behalf; and surely that ordinary right and privilege ought not to be denied in a matter the determination of which may, and in many instances will, involve millions of dollars. This is, in any event, a remarkable provision in the bill, that—

for the purpose of such an investigation and ascertainment of value, the commission is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony.

My amendment adds, after the word "testimony," these words:

Upon three days' notice to the common carrier which shall be permitted to attend by counsel or otherwise and examine or cross-examine witnesses and to call and examine other witnesses.

It seems to me that, upon the commonest principles of justice, the amendment ought to prevail.

Now, just a few words upon the bill itself. If it would accomplish what is hinted in the report of the Committee on Interstate and Foreign Commerce, which has presented the bill to this House, and what has been intimated by some of its supporters who have spoken in its behalf, it would be a most monstrous proposition. In the report of the Committee on Interstate and Foreign Commerce accompanying this bill I find this language:

The anomaly has grown up gradually and unconsciously, as it were—grown up in the courts themselves, as well as in the commission—that public carriers are to be allowed to charge an income on what they owe as well as upon what they own. No one else in the world with whom we are acquainted is allowed that privilege.

And then, again, the report complains that:

As a part of the fixed charges to the annual burden of doing business the interest on the bonds is considered and allowance made for them.

What "anomaly" is there in the proposition that a common carrier ought to be permitted to charge rates sufficient to enable it to pay the interest upon its bonds? Let us suppose the case of a railroad costing $2,000,000. The stockholders themselves put in one million and issue stock for that amount. They borrow another million on a first mortgage and issue bonds for that amount. Why should not the company be permitted to pay the interest upon its bonds? What is wrong about that? Putting aside for the moment all questions of right and wrong, of constitutionality or of unconstitutionality, is there any gentleman upon this floor who can not discern the condition into which not only our common carriers but our whole country would be thrown if common carriers were not permitted to earn and pay their interest, as well as a reasonable return to stockholders? The regulation of common carriers is right and proper, but it is time for the balting of common carriers to cease. Without stopping to consider the effect upon existing concerns, what would be the effect upon future railroad building? It has been suggested that the day of railroad promotion is past; that the country is already well supplied. That is far from true. There are vast areas of country, particularly in the Southern States, not penetrated by railroads at all. Railroads are needed for their development; but what sane man would invest a dollar in their construction if the sentiments of some of those who have spoken upon this floor should be enacted into law?

Happily, this bill will not bring about any such state of affairs. It provides for the physical valuation of the property of common carriers, and undoubtedly the physical valuation thus ascertained will be considered by the Interstate Commerce Commission in the fixing of rates; but it does not by any means follow that the rates will be fixed so low that the common carriers can not earn the interest upon their indebtedness. Rather than that it would be better that the Interstate Commerce Commission itself should be abolished. It is manifest from what has already taken place that this bill is destined to pass. Personally I do not believe that it will prove of very much value. It will, in the first place, require for its execution the employment of a vast army of engineers, experts, and other assistants, including clerks, stenographers, bookkeepers, and the like; will involve the Government in the expense of taking testimony in practically every part of the United States; and, in addition to making a large hole in the Federal Treasury, will take up the time of officials and employees and prove annoying and expensive to common carriers as well as enormously expensive to the Government itself. When the physical valuations have been thus ascertained, I very much fear that they will not serve any useful purpose in a degree at all commensurate with the expense involved. I agree with Theodore Roosevelt that the physical valuation of railroads is of doubtful value in the determination of proper rates of transportation. It has been urged upon this floor to-day that rates ought to be based upon physical valuation alone; that the value of the franchise should not be taken into consideration at all, because the franchise is derived from the Government or from the State. Well, what would be the physical valuation of a railroad without the franchise to carry freight and passengers? Practically nothing; but little, if anything, more than the value of the rails less the cost

of removing them. Some years ago a railroad through the State of Pennsylvania was contemplated and commenced in competition with the Pennsylvania Railroad. The route was surveyed and a large amount of work done, particularly in the digging of a great number of costly tunnels through the mountains. It is said that more than $3,000,000 were expended in these tunnels. The project was finally abandoned; no rails were laid. What is the physical valuation of those holes in the ground today? And what would be the physical valuation if rails were laid over that route, and the company owning it had no right to carry freight or passengers? What would be the value of that line if there were no freight and passengers to carry? I have already, during this discussion, called attention to the fact that one of the lines between Washington and Baltimore cost a great deal more than the other because the second line was compelled to enter the city by way of a series of lengthy and expensive tunnels.

Is its physical valuation greater because of its greater cost? Would you, because of that greater cost, permit that company to charge a higher rate for freight or passengers than you would permit the other company to charge? And if you did permit it, would not the old company, being restricted to the lower rate, secure all the traffic? Or would you, basing the rate upon the physical valuation alone, require the older company to charge a higher rate so as to enable the second company to compete for business? I know of a railroad something over 200 miles in length constructed at great cost through a mountainous country for the purpose of reaching an article of commerce which for some years afforded it a profitable traffic. That commodity along its line has now been practically exhausted, and the railroad hardly pays the cost of operation. Stockholders are receiving no dividends and the bondholders are not getting the interest upon their bonds. How would you determine the valuation of that road? It would cost several millions of dollars to duplicate it to-day, but there is insufficient traffic upon the line to make it pay. No valuation which could be placed upon the property will have any effect upon the value of the stock and bonds of that corporation. The physical value of that road has little, if any, relation to the question of reasonableness of rates charged upon that line. In my judgment the valuation of the physical property of a common carrier will prove a very poor and in many cases a very misleading factor. The value of a railroad depends almost entirely upon its traffic, the probable continuance thereof, and the rates which the owner is permitted to charge for the transportation of freight and passengers. The opening of coal mines along the line of a railroad would enhance the value of the railroad and of its capital stock. On the other hand, the closing down or the exhaustion of such a mine would depreciate the value. The building of new factories would increase the value of the railroad and its capital stock. The destruction or closing down of factories would reduce its value. An increase of population in the cities or towns along the line would increase its value, while a reduction in population would have the opposite effect. If the common carrier has a reasonable amount of traffic and is permitted to charge, say, 10 cents per ton per mile and can secure that rate, it may do an exceedingly prosperous business and be a very valuable property.

If, then, the Interstate Commerce Commission should restrict its charge to 1 cent per ton per mile the value of that road and of its capital stock would be vastly decreased. The physical value of the property would not be a very important factor. The Committee on Interstate and Foreign Commerce in presenting this bill has rejected and excluded a proposition which, to my mind, would be of far more value and importance than a physical valuation of the property of common carriers. I refer to the proposition to regulate the issuance of stocks and bonds by railroad companies and other common carriers. It has been charged here upon this floor during this discussion over and over again that watered stocks and bonds are to a large degree responsible for high rates of transportation because companies strive or are permitted to pay interest and dividends upon them. If, then, we so legislate as to prevent the watering of stocks and require both stocks and bonds to be issued only for actual value we shall do much to eliminate that evil and to keep transportation rates within proper bounds. An effort will be made to insert such a provision, and it shall certainly have my support.

I regret to see that there is a disposition in some quarters to deal very unfairly with common carriers. There seems to be a disposition to make them not only common carriers, but practically free carriers, without authority to charge sufficient rates to enable them to pay interest upon the money they have to borrow to construct their lines and to keep them in operation. Reference has been made to the present existing and lamentable car shortage. The railroad companies can not buy cars without money, and they frequently—indeed almost invariably—have to make either temporary or permanent loans for that purpose. But who will lend them money if they are not permitted to pay interest upon their bonds? Another gentleman of exceeding ability argued that rates should be based exclusively upon physical valuation, and expressed doubt if in that valuation there should be included the extension of expensive terminals which within the past few years have been built in Chicago, in New York, and in this city of Washington for the convenience of the public, because, he said, they are not used in the transportation of freight, but only in the transportation or for the convenience of passengers. Another gentleman charged that the high cost of living in this country is due almost entirely to high rates of transportation. He ought either to travel abroad himself or else read the official reports of railroad operation in other countries. He would then learn that rates are very much lower here than elsewhere in the world; that the train service here is very much better; and that in the matter of speed, safety, and luxury of passenger travel, as well as in cheapness, the United States leads the world. [Applause.]

Mr. SIMS. Mr. Chairman, I feel called upon to oppose the amendment. This is an ex parte examination by the commission, one that will take a great deal of time to properly conduct, and to require notice and to permit the carrier to introduce testimony would be virtually a litigation which would continue through an interminable time. I do not charge the carriers, of course, with any intention to delay, but necessarily, if they have to have cross-examinations and the attendance of witnesses that the railroads would furnish, there will certainly be a very great delay in this ex parte proceeding of the commission, which is not conclusive upon the carriers when it is completed.

Mr. LENROOT. Mr. Chairman, will the gentleman yield?

Mr. SIMS. Certainly.

Mr. LENROOT. I would remind the gentleman that the bill itself provides for a full hearing by the carrier after the preliminary valuation is made before it becomes final.

Mr. SIMS. Yes; and not while it is proceeding. I therefore hope the amendment will be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the amendment was rejected.

Mr. LENROOT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 19, page 2, after the word "owner," insert the words "the cost of reproduction."

Mr. LENROOT. Mr. Chairman, inasmuch as this paragraph undertakes to specify the elements which shall be considered by the commission in arriving at the valuation, it seems very clear to me that the cost of reproduction is one of the indispensable elements, and it should also be specified. A number of the decisions hold that the cost of reproduction is one of the elements that must be considered in arriving at the value. As you all know, perhaps the last leading case is that of the Knoxville Water Co. against Knoxville (212 U. S., 1), in which this opinion is used:

The cost of reproduction is one way of ascertaining the value of a plant like a water company.

And, going back to the case of Smythe against Ames—

The value to be ascertained by considering original cost of construction, amount expended in permanent improvement, amount and market value of stocks and bonds, present as compared with original cost of construction.

Now, that is not provided in this bill, and it seems to me it ought to be there, so long as we are specifying the different elements that shall be considered.

The question was taken, and the amendment was agreed to.

Mr. SIMS. Mr. Chairman, if there are no further amendments I move that the committee rise and report the bill as amended.

Mr. LAFFERTY. Mr. Chairman, I desire to offer an amendment which I send to the Clerk's desk, merely to perfect the language on page 2.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, lines 24 and 25, strike out the following, "They should also show as the commission may deem necessary," and insert in lieu thereof the following, "Such investigation and report shall further show whenever the commission may deem necessary."

Mr. LAFFERTY. Mr. Chairman, the bill on page 2 in this connection is very awkward in its language. For example, it reads like this:

Such investigation and report shall also show separately that property actually used in transportation and held for other purposes, and shall contain a statement of the elements forming a basis of the estimate of value. They should also show, as the commission may deem necessary.

Now, there occurs the word "should." In all my reading of public statutes the word "should" has never appeared in a connection like this. The law reads that it "shall" do or "shall not" do; not that it "should not" do.

Mr. SIMS. Mr. Chairman, I want to say to the gentleman from Oregon that I do not think his amendment in any way hurts the bill, but may help it, and I have no purpose of opposing it.

The question was taken, and the Chairman announced that the amendment was rejected.

Mr. LAFFERTY. Mr. Chairman, was my amendment rejected?

The CHAIRMAN. It was.

Mr. LAFFERTY. I ask for a division.

Mr. FOWLER. Mr. Chairman, on page 2, line 23, after the word "statement," I desire to amend by inserting——

Mr. LAFFERTY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LAFFERTY. Mr. Chairman, during the confusion I did not understand whether the amendment I offered was agreed to or not.

The CHAIRMAN. It was not agreed to.

Mr. LAFFERTY. I demand a division. I understood the gentleman in charge of the bill stated he would agree to it.

The CHAIRMAN. The Chair has stated that it was not agreed to.

Mr. LAFFERTY. Mr. Chairman, I ask for a division. I did not understand the Chair, and if I am permitted I will state that the gentleman in charge of the bill accepted my amendment, and that is why I did not explain it further.

Mr. SIMS. I said I did not object.

Mr. SABATH. The gentleman from Tennessee did not object, but a majority of the Members did.

The CHAIRMAN. The gentleman from Oregon demands a division on his amendment.

The committee divided; and there were—ayes 41, noes 4.

So the amendment was agreed to.

Mr. FOWLER. Mr. Chairman, on page 2, line 23, after the word "statement," I desire to amend by adding the words "and value," so that it shall read:

Such investigation and report shall also show separately that property actually used in transportation and that held for other purposes, and shall contain a statement and value of the elements forming the basis of the estimate of value.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 23, after the word "statement," insert the words "and value."

Mr. FOWLER. Mr. Chairman, the purpose which I have in offering this amendment is that the different elements which are taken into consideration in making up the value of the property may be estimated separately, so that the public may understand of just what the value is made. For instance, a property may consist of physical value, a franchise value, a growing value, and a good-will value. If these four elements are to be considered in making public the value of this property, then I think they ought to be stated separately, so that the public may understand just what values are taken into consideration by the commission in making up the total value. Should the estimate of the various elements entering into the value of railroad property be combined in one sum it might present a good showing for the roads and seem to justify a greater rate than would be just to the public. Franchise value, good-will value, and value occasioned by the growth of business and the increase of population are not elements, in my opinion, which should enter into the sum total upon which to fix rates. These elements of value are created by civilization and industry, and the public ought not to be taxed because of such increase of value. It is like paying interest upon interest and more. For this reason each of the elements of value ought to be estimated separately.

Mr. SABATH. Mr. Chairman, do I understand the gentleman from Illinois [Mr. FOWLER] to amend by adding the word "value"?

Mr. FOWLER. The words "and value," so that it will read:

Shall contain a statement and value of the elements.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The question was taken, and the amendment was rejected.

Mr. OLMSTED. Mr. Chairman, I ask unanimous consent to extend in the RECORD the remarks which I made awhile ago.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SIMS. Mr. Chairman, I move that the committee do now rise and report the bill to the House as amended.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RAINEY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 22593) entitled "A bill to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors," and had directed him to report the bill to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any amendments? If not, the Chair will put them en grosse. [After a pause.] The Chair hears no objection. The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was read a third time.

Mr. MANN. Mr. Speaker, I offer a privileged motion, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Illinois offers a privileged motion, which the Clerk will report.

The Clerk read as follows:

Mr. MANN moves to recommit the bill (H. R. 22593) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of property of carriers subject thereto, and securing information concerning their stocks and bonds and boards of directors, to the Committee on Interstate and Foreign Commerce, with directions to that committee to forthwith report the said bill back to the House with the following amendment, to wit:

Insert at the end of the bill the following:

"SEC. 2. That a new section be added to said act to regulate commerce, to be numbered as section 25, as follows:

"'SEC. 25. That no railroad corporation which is a common carrier subject to the provisions of this act as amended shall hereafter issue for any purpose connected with or relating to any part of its business governed by the provisions of this act as amended any stock, bonds, notes, or other evidences of indebtedness to an amount exceeding that which may from time to time be reasonably necessary for the purpose for which such issue of stock, bonds, notes, or other evidences of indebtedness may be authorized.

"'The amount of said securities to be thus issued, excepting notes maturing not more than two years from the date of their issue, shall be determined by the Interstate Commerce Commission, and any sale of said securities shall be at a price not less than their reasonable value, which, excepting as to notes maturing not more than two years from the date of their issue, shall be ascertained and fixed by the commission. Said commission shall render a decision upon an application for such issue within 30 days after the final hearing thereon. Such decision shall be in writing; shall assign the reasons therefor; shall, if authorizing such issue, specify the respective amounts of stocks, bonds, or notes or other evidences of indebtedness as aforesaid which are authorized to be issued for the respective purposes to which the proceeds thereof are to be applied. A certificate of the decision of said commission shall, before the stock, bonds, or notes or other evidences of indebtedness as aforesaid are issued, be delivered to the corporation. Such corporation shall not apply the proceeds of such stock, bonds, or notes or other evidences of indebtedness as aforesaid to any purpose not specified in such certificate, and no property, services, or other thing than money shall be taken in payment to the corporation of the required price of such stock, certificate of stock, bond, or other evidence of indebtedness except at the fair value of such property, services, or other thing than money, which shall be ascertained by the Interstate Commerce Commission and stated in a certificate issued by it to such corporation, or to any person or persons intending to form such corporation, and recorded with the commission before the issue of said stock, certificate of stock, or evidence of indebtedness: *Provided*, That nothing herein contained shall be construed to prevent a corporation subject to this act from issuing its stock, bonds, or other obligations to refund bonds or other obligations heretofore or hereafter issued and outstanding to an amount reasonably necessary for that purpose, determined as hereinbefore provided.

"'No railroad corporation subject to the provisions of this act as amended shall hereafter, for any purpose connected with or relating to any part of its business governed by this act, issue any capital stock convertible into other capital stock of such railroad corporation unless by the terms of the certificate representing the stock so convertible the amount, par value, of capital stock that the holder of such certificate is entitled to receive in exchange therefor shall be equal to or less than the par value of the shares of stock represented by such certificate of convertible stock; but nothing contained in this act shall be deemed to prohibit the issue by any such corporation of its capital stock in exchange for and in accordance with the terms of such convertible stock issued in accordance with the provisions of this paragraph.

"'Nothing in this section contained shall be construed to prohibit the mortgage or pledge by any railroad corporation subject to the provisions of this act as amended of any bond or other evidence of indebtedness issued by such railroad corporation as security for or as part security for any note, bond, or other evidence of indebtedness issued by or loan made to such railroad corporation which shall not be issued or made in violation of the provisions of this act: *Provided*, That the terms of said loan and of such notes, bonds, or other evidences of indebtedness, if any, shall provide that none of said pledged bonds or other evidences of indebtedness shall, upon nonpayment of the notes, bonds, or other evidences of indebtedness which they are pledged to secure, or upon

nonperformance of any of the conditions thereof, be sold or become the property of the holders of the notes, bonds, or other evidences of indebtedness so secured, either directly or through a trustee for their benefit, except at or through public sale, notice whereof shall be published at least once a week for not less than three successive weeks prior thereto in at least one daily newspaper of general circulation published in the place where such sale shall take place: *And provided further*, That if such notes, bonds, or other evidences of indebtedness, if any, shall provide that the owners thereof shall have the right to convert the same into the bonds or other evidences of indebtedness so mortgaged or pledged, the Interstate Commerce Commission, previously to the making of such loan, shall have ascertained and stated in a certificate issued by the commission to such corporation or to any person or persons intending to organize such corporation and recorded with the commission or otherwise, as authorized by this act, the reasonable market or selling value of such bonds or other evidences of indebtedness so mortgaged or pledged and the rate which said reasonable market or selling value bears to the reasonable market or selling value of such secured notes, bonds, or other evidences of indebtedness, and that such secured notes, bonds, or other evidences of indebtedness shall not provide that the owners thereof shall have the right, upon such conversion, to receive in exchange therefor bonds or other evidences of indebtedness so mortgaged or pledged to an amount greater than would be receivable at the rate so found and stated in such certificate of the commission.

"Nothing in this act contained shall be taken to prohibit the issue of any bond or other evidence of indebtedness pursuant to the terms of any instrument heretofore executed, provided the same shall not be sold except in conformity with the provisions of this section.

"Nothing in this act contained shall in any way affect or impair the validity of any mortgage or pledge of any capital stock, certificate of stock, bond, or other evidence of indebtedness now mortgaged or pledged as security for or as part security for any loan heretofore made to any such corporation, or prohibit the sale, upon foreclosure or otherwise, of any such mortgaged or pledged stock, certificate of stock, bonds, or other evidences of indebtedness upon the terms and conditions provided in the instrument, if any, whereunder such securities may have been pledged or in the contract of loan; and nothing in this section contained shall be construed in any way to prohibit or affect the issue of any capital stock or the delivery of any certificate of stock, or the issue of any bond or other evidence of indebtedness in exchange for or to provide for the retirement of any capital stock, certificate of stock, bond, or other evidence of indebtedness now outstanding or provided to be issued, or the pledge of the exchanged or retired stock or securities on such terms and conditions as may be provided in the instruments where under any of the stocks, bonds, or other evidences of indebtedness referred to in this paragraph are respectively issued or authorized to be issued."

"Sec. 3. That a new section be added to said act to regulate commerce, to be numbered as section 26, as follows:

"Sec. 26. That in case at any time it shall be proposed by or pursuant to any plan of reorganization of any railroad corporation or corporations incorporated prior to January 1, 1910, the properties whereof shall be in the hands of a receiver or of receivers, or shall be subject to be sold in any suit or suits or other judicial proceedings for foreclosure of any mortgage or deed of trust heretofore executed, or for the dissolution or winding up of such corporation, or to procure the satisfaction of its debts or the application of its property thereto, pending at the time of such proposal, that any corporation utilized or to be utilized for the purposes of such reorganization, which at such time shall be, or, when organized and operating, will be, subject to the provisions of this act as amended (every corporation so utilized or to be utilized being hereinafter referred to by the term "New corporation"), shall issue stock and bonds and other evidences of indebtedness, or any thereof, for any purpose connected with or relating to any part of its business governed by this act as amended, application for any certificate of the Interstate Commerce Commission that may be requisite under the provisions of this section may be made by any person, committee, or representatives of any committee, or by managers having in charge the formulating or carrying out of any such plan of reorganization, and such certificate may be issued to such person, committee, representatives, or managers for the use of the new corporation; and the issue pursuant to such plan of reorganization by any new corporation of stock, whether of a single class or of two or more classes, as may be authorized by law, to an amount in the aggregate not exceeding the fair estimated value of the property of the corporation or corporations so reorganized or to be reorganized, which shall be ascertained by the Interstate Commerce Commission, and which aggregate amount shall be stated in a certificate issued by said commission to such person, committee, representatives, or managers for the use of the new corporation, and in no case shall exceed the aggregate amount of the par value of the stocks of the corporation or corporations reorganized or to be reorganized; and the issue by any new corporation of bonds and other evidences of indebtedness, whether unsecured or secured by mortgage upon said properties or otherwise, to an aggregate amount not exceeding the amount of new money paid to the new corporation pursuant to such plan of reorganization, and the amounts of bonds and other obligations and debts, including receiver's liabilities, which at the time of such sale or sales may have constituted claims or charges, whether legal or equitable, upon or against the corporation or corporations so reorganized, or the properties thereof, and provision for the payment of which or the delivery of securities of the new corporation in exchange for which shall be made in such plan shall not be deemed to be prohibited by anything contained in this act: *Provided*, That the aggregate amount of interest charges agreed to be paid by the new corporation or to which its property will be subject shall not exceed the aggregate amount of the interest charges to which the corporation or corporations so reorganized or their properties shall have been subject: *Provided further*, That the aggregate amount of stocks, bonds, and other evidences of indebtedness issued or assumed by the new corporation shall not exceed the fair estimated value of the property of the corporation or corporations so reorganized, or to be reorganized, as stated in the certificate issued by the Interstate Commerce Commission, plus the amount of new money paid to such new corporation pursuant to the plan of reorganization; and nothing in this act shall be deemed to prohibit the new corporation from assuming any bonds, debts, or other obligations of the corporation or corporations so reorganized in place of which it might, in accordance with the rules prescribed by this section, issue its own stocks, bonds, or other obligations.

"In case two or more railroad corporations subject to the provisions of this act as amended shall be consolidated or merged pursuant to the laws of a State or States applicable thereto and such consolidation or merger shall consist in uniting the organizations, properties, businesses, and stocks of said corporations; and if the Interstate Commerce Commission shall have ascertained and stated in a certificate issued by it to the corporations in respect to which such consolidation or merger is to take place or shall have taken place, or to one of them (or to any person, committee, or representatives of any committee, or to managers having in charge the formulating or carrying out of any plan of reorganization such as is hereinbefore mentioned under which the corporation that is to issue new securities to be distributed under such plan will be a corporation resulting from any consolidation or consolidations, merger or mergers), that the stock to be issued by such consolidated corporation and the bonds and other obligations, if any, to be assumed and issued thereby does not exceed the fair estimated value of the properties of such consolidated corporation, nothing in this act contained shall be deemed to prohibit the issue of such stock and bonds and other obligations, or any of them, or the assumption of all or any of the bonds or other obligations of the corporations so consolidated or merged.

"Nothing in this act contained shall prevent a railroad corporation, subject to the provisions of this act as amended, from acquiring the entire issue of the stock and bonds of another railroad corporation, subject to said act, which is not directly and substantially competitive with that of such first-mentioned corporation, by the issue of its own stock and bonds, provided the aggregate amount of the par values of the stocks and bonds so issued shall not exceed the fair value of the property of the corporation whose stock and bonds are so acquired, which value shall be ascertained by the Interstate Commerce Commission: *Provided*, That the stock and bonds of another railroad corporation so acquired shall not be in any way sold or distributed by the railroad corporation acquiring them, except in accordance with the provisions of section 25 of this act relating to the issuance of stock and bonds, which are hereby made applicable thereto.

"But nothing herein contained shall be construed to authorize or to validate or permit the consolidation or merger in any manner of two or more corporations in violation of any act of Congress, including the act approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraint and monopolies."'"

Mr. SIMS. Mr. Speaker, I make a point of order against this motion, that it is not germane to the bill.

The SPEAKER. The Chair will hear the gentleman.

Mr. SIMS. The motion is a long legislative proposition as to the issuance of stocks and bonds, while the bill is a bill to provide for the physical valuation of railroads; and while I might be very much in favor of the bill as a separate proposition, although, having heard it read in this way, it is impossible to understand it fully, yet it is not germane to the object and purpose of this bill in any respect.

This bill is to obtain information. Its whole object and purpose is to enable the commission to acquire information and to enable it to apply that information in determining a rate, a reasonable rate. This proposition is in reference to the merging of railroads and in reference to the issuance of stocks and bonds, and is not in any way germane to the object and purpose of this bill.

The SPEAKER. Does the gentleman from Illinois desire to be heard?

Mr. MANN. Mr. Speaker, the present bill is a bill to amend the act to regulate commerce, covering the particular section which it is proposed to insert in the law, and this bill proposes to insert a new section in the interstate-commerce law. This new section affects the physical valuation of railroads, and also the issuance of stocks and bonds. It requires an investigation. The bill provides not only for the valuation of railroad property, but it also provides for an investigation and report of the amounts and dates of all bonds outstanding and the amounts paid for the bonds, and requires a report of the money raised by bonds and invested by the railway corporation. It deals with all phases of the property of a railroad, both as to the property itself and as to the bonds which may be issued by the railroad company. It is simply an insertion of these provisions in the act to regulate commerce. The act to regulate commerce covers the entire scope of control of the railroads.

The amendment which I have offered is in the identical language of provisions which passed this House as a part of the bill amending the interstate-commerce law two years ago. They were then germane to that bill, which was a bill amending the interstate-commerce law, and they are offered here as an amendment to a bill which proposes to amend the interstate-commerce law and which specifically provides in regard to the issuance of bonds and in regard to the value. This provision which I have offered follows up the provisions of this bill by providing that no bonds shall be issued except for money actually received and the money invested in the property of the railroad company.

Mr. UNDERWOOD. Mr. Speaker, will the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. UNDERWOOD. I am not familiar with the provisions of the bill that has been offered by the gentleman from Illinois. I desire to get some information. Does the gentleman from Illinois contend that the motion to recommit with instructions that the bill shall be reported back on the motion to recommit is germane to the original bill that was proposed by the gentleman from Tennessee [Mr. SIMS], or does he contend that its germaneness lies in the fact that it is germane to the general interstate-commerce act?

Mr. MANN. I contend both. It is not only germane to the provisions of the bill, but it is in order, because the bill itself is an amendment of the interstate-commerce law, and hence a further amendment of that law is in order.

Mr. UNDERWOOD. The gentleman does not contend that an amendment to a law makes a provision germane as to everything that happens to be in the law; that if a bill were in here providing for a duty on cereals—on wheat—that, because it did amend the general tariff act it would make it in order to offer an amendment to put sugar on the free list?

Mr. MANN. I would not make the last contention under the rules adopted by the Democratic majority of the House in this Congress, because you adopted a special rule to prevent that, knowing that if that special rule—which only relates to tariff legislation—had not been adopted, then when you offered a bill to amend the tariff on cereals, a proposition to amend the tariff on sugar would have been in order. To prevent that you put a special provision in your rules, thereby admitting that without that the general rule which I have named was good.

Mr. UNDERWOOD. If the gentleman will allow me, I will say that, as I recall the decisions, many of them held that exactly what was in that special rule was the parliamentary law of this House; but as there was a conflict in the decisions, we cleared up the conflict by expressly putting it in the rule.

Mr. MANN. Oh, the gentleman is begging the question.

Mr. UNDERWOOD. There was a line of decisions, and is now——

Mr. MANN. The line of decisions is very clear in favor of the proposition which I have suggested; and because of that fact the gentleman from Alabama [Mr. UNDERWOOD], or whoever prepared the rules for this House, put in a special rule removing tariff legislation from the principles of the general rule that I have stated.

But, outside of that question, I contend that the amendment which I have offered would have been in order if this had been an original bill. It relates to the entire subject of railroad property and the bonds issued for it. I propose a further amendment in reference to the issuance of these stocks and bonds. I think if these provisions were in order two years ago they are in order now, and they were in order at that time.

The SPEAKER. The Chair will inquire of the gentleman as to the purpose of his motion. Of course, the truth is that when anybody proposes to offer a complicated motion to recommit, he should furnish a copy of his motion to the Chair in advance, so as to give the Chair a chance to have a clear understanding of it.

Mr. MANN. I have not prevented the House from adjourning with the point of order pending before the Speaker. I have never considered that it was necessary to tell the other side of the House in advance what I proposed to do. I notice that they do not do that for me.

The SPEAKER. The Chair, like everybody else, did not comprehend the full import of the motion from listening to the reading of it. The Chair wishes to ask the gentleman from Illinois, Does this motion to recommit go to the matter of investigating these subjects which are referred to in the bill of the gentleman from Tennessee [Mr. SIMS] or not?

Mr. MANN. It goes to the matter of regulating the issuance of stocks and bonds.

The SPEAKER. What is the general subject of the bill of the gentleman from Tennessee? Is it simply investigation?

Mr. MANN. The general subject of the bill of the gentleman from Tennessee is a new proposition to be inserted in the interstate-commerce law.

Mr. FITZGERALD. Mr. Speaker——

The SPEAKER. Does the gentleman from Tennessee [Mr. SIMS] desire to be heard further?

Mr. SIMS. The gentleman from New York has addressed the Chair.

The SPEAKER. The gentleman from New York.

Mr. FITZGERALD. Mr. Speaker, the question at issue has been definitely settled in the past. The rule is clear that to a bill purporting to amend a law in one particular an amendment proposing to amend it in some other respect is not germane.

Such a decision was quoted by Mr. Speaker CANNON on April 1, 1910. Members of the House will recall the situation. The legislative bill was returned from the Senate with an amendment amending the publicity feature of the corporation-tax law which was a part of the Payne-Aldrich tariff law. I submitted a motion to recommit, with instructions to report the bill with an amendment repealing the entire tariff law.

After very considerable debate Speaker CANNON held that that motion was not in order, and he quoted from Hinds' Precedents, volume 5, page 411, section 5806, as follows:

> To a bill amendatory of an existing law as to one specific particular, an amendment relating to the terms of the law rather than to those of the bill was held not to be germane.

That decision arose on a bill to provide for the administration of civil affairs in Porto Rico pending the appointment and qualification of civil officers provided for in the act. An amendment was offered in relation to franchises, and a point of order was made that the bill and Senate amendments proposed to amend an existing statute in one particular and that the question of franchises was not germane to the provisions in the bill before the House; that while they might have been germane to the original law, as the bill purported to amend existing law in but one particular, any amendment submitted must be germane to the bill that was pending.

The bill pending before the House provides for a physical valuation of railroads and outlines a scheme to be followed by the Interstate Commerce Commission in carrying out that work. The amendment proposed by the gentleman from Illinois is not germane to the proposition pending before the House, but relates to an entirely different subject. If the original law were before the House the proposition of the gentleman from Illinois might be germane to some features of that law; the question of germaneness in this instance must be determined in relation to the bill that is now pending.

I understood from the argument of the gentleman from Illinois himself that he did not contend that his amendment was germane to the proposition pending before the House, but contends that it is germane because the proposition pending in the House amends a certain existing statute, and the amendment that he proposes amends or adds to that statute additional provisions to those proposed in the pending bill. The authority to which I have called attention is not the only one to the same effect cited in the precedents, but there are a number of other decisions along similar lines.

For instance, on April 23, 1902, as appears in paragraph 5808, volume 5, of Hinds' Precedents, there were Senate amendments to a bill relating to oleomargarine and other imitation dairy products under consideration in Committee of the Whole House on the state of the Union, when Mr. JAMES R. MANN, of Illinois, offered a further amendment to a law of which a Senate amendment proposed to amend a certain portion. Mr. James A. Tawney, of Minnesota, having made a point of order, the Chairman, Mr. OLMSTED, of Pennsylvania, ruled as follows:

> Senate amendment No. 5 reads thus:
>
> "Section 3 of said act is hereby amended by adding thereto the following:"
>
> And then follows a certain proviso. The amendment offered by the gentleman from Illinois is to add at the end of that proviso these words: "*And provided further*, That the artificial coloration provided for in the preceding paragraph shall not include colored butter."
>
> The "preceding paragraph" referred to, as the Chair understands, is section 3 of a former act of Congress which is not now before the Committee of the Whole.
>
> On page 323 of the Manual the Chair finds this language:
>
> "To a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was offered and ruled not to be germane."
>
> That ruling was made by Speaker Reed. The Chair thinks that it covers this case. The amendment of the gentleman from Illinois, while it may be germane to the preceding paragraph of section 3 of the earlier act of Congress to which it refers, is not germane to the proviso which constitutes the Senate amendment, and therefore the Chair sustains the point of order.

In this instance, the amendment proposed by the gentleman from Illinois might be germane to some provision of the law proposed to be amended by the pending bill, but it is not germane to any provision in or to the subject matter of the pending bill, and under the rulings that I have cited the amendment is not in order.

The SPEAKER. The Chair will suggest to the gentleman from New York that he thinks the gentleman from New York misapprehends the claim of the gentleman from Illinois. The Chair understood the gentleman from Illinois, in reply to a question asked by the gentleman from Alabama [Mr. UNDERWOOD], on what ground he claimed that this was germane, to say that it was germane both to the law itself and to this bill. He claims that it is germane to both propositions.

Mr. FITZGERALD. I have no doubt that the gentleman from Illinois asserts for the purpose of argument that his amendment is germane to the present bill.

Mr. MANN. Mr. Speaker, I am not like the gentleman from New York [Mr. FITZGERALD]. I do not assert anything unless I believe it. [Laughter.]

Mr. FITZGERALD. Mr. Speaker, I have no doubt that the gentleman from Illinois may even believe the amendment germane, but neither the assertion nor the belief of the gentleman from Illinois can control the House in its deliberations, because if so, this side of the House might as well abandon its attempt to control its deliberations. The gentleman from Illinois [Mr. MANN] must point out the specific proposition in the bill under consideration to which his amendment is germane. While I have only the substance of the amendment in mind, I listened attentively to the argument of the gentleman from Illinois, but I could not determine any provision of the bill to which it is germane. The substance of the pending bill is to create the machinery for the physical valuation of railroads. The gentleman from Illinois proposes to confer power upon the Interstate Commerce Commission to cancel certain outstanding obligations heretofore existing. That is not necessary nor essential nor does it relate in any way to the pending bill, and while it might relate to and be germane to some provision of existing statutes, under the decision of the gentleman from Pennsylvania [Mr. OLMSTED], which I know commends itself not only to the House, but in which he thoroughly believes, the amendment proposed can not be held to be in order.

Mr. UNDERWOOD. Mr. Speaker, the Chair intimated that he desired to have opportunity to read these bills. I will ask the gentleman from Illinois if he has any objection to ordering the previous question pending this point of order, and allowing the House to adjourn, and the Speaker to take the point of order up when the bill is next up for consideration?

Mr. MANN. I would have no objection; but I do not know whether it would be possible to order the previous question pending the point of order. Why not have an agreement that this matter come up Thursday morning immediately after the reading of the Journal? It will take only a few minutes.

Mr. UNDERWOOD. If the previous question be ordered that would be the case, unless the gentleman wants to have further discussion upon the merits.

Mr. MANN. I am perfectly willing to have an understanding that there will be no debate of the proposition.

Mr. FITZGERALD. I suggest that the previous question be ordered on the bill and amendments.

Mr. MANN. I have no objection to the previous question being ordered on the bill and amendments. The amendments have already been agreed to. I am not so sure that you can order the previous question on my motion with a point of order pending. If that can be done I am perfectly willing.

Mr. UNDERWOOD. The only way it can be done is by unanimous consent.

Mr. SIMS. Then I will ask unanimous consent that that order, suggested by the gentleman from Alabama, be made.

Mr. OLMSTED. Mr. Speaker, a parliamentary inquiry. If the order be made, will it prevent further discussion of the point of order?

The SPEAKER. Not if the Chair desires further information on the subject. The gentleman from Tennessee asks unanimous consent, because of the lateness of the hour and the length of the motion to recommit, that the whole matter go over until Thursday morning.

Mr. UNDERWOOD. And that the previous question be ordered on the bill and amendments to final passage.

The SPEAKER. And the previous question ordered on the bill and amendments.

Mr. MANN. On the motion to recommit. The amendments have been agreed to.

The SPEAKER. Very well, on the bill and motion to recommit. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

MILITIA PAY BILL.

Mr. SLAYDEN. Mr. Speaker, I ask unanimous consent for one week, within which to submit the minority views on the bill, H. R. 8141, known as the militia pay bill.

The SPEAKER. The gentleman from Texas asks for one week within which to submit the minority views on the militia pay bill. Is there objection?

There was no objection.

ADJOURNMENT.

Then on motion of Mr. UNDERWOOD (at 5 o'clock and 58 minutes p. m.), the House adjourned until to-morrow, Wednesday, December 4, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Clerk of the House of Representatives, submitting a list of reports to be made to Congress by public officers during the Sixty-second Congress (H. Doc. No. 990); to the Committee on Accounts and ordered to be printed.

2. A letter from the Clerk of the House of Representatives, submitting a statement as to employees, disbursements, balances, stationery, etc., for the fiscal year ended June 30, 1912; to the Committee on Accounts and ordered to be printed.

3. A letter from the Postmaster General, transmitting list of claims of postmasters for reimbursement for losses of money orders and postal funds acted on by the Postmaster General during the fiscal year ended June 30, 1912 (H. Doc. No. 991); to the Committee on Expenditures in the Post Office Department and ordered to be printed.

4. A letter from the chief clerk of the Court of Claims, transmitting to Congress statement of all judgments rendered by said court for the year ended November 30, 1912 (H. Doc. No. 988); to the Committee on Claims and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting a statement of contingent expenditures of the Treasury Department for the fiscal year ended June 30, 1912 (H. Doc. No. 1008); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

6. A letter from the Sergeant at Arms of the House of Representatives, transmitting statement showing sums of money drawn and disbursed by him from December 1, 1911, to November 30, 1912 (H. Doc. No. 1007); to the Committee on Accounts and ordered to be printed.

7. A letter from the Secretary of Commerce and Labor, transmitting, with favorable recommendation, draft of a bill authorizing the purchase of certain land for lighthouse purposes at Port Ferro Light Station, P. R. (H. Doc. No. 994); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

8. A letter from the Postmaster General, transmitting a statement showing travel expenses of officers and employees of the department when out of Washington on official business during the year 1912 (H. Doc. No. 1000); to the Committee on Expenditures in the Post Office Department and ordered to be printed.

9. A letter from the Secretary of War, transmitting, with letter from the Acting Chief of Engineers, report on examination and survey of all lands subject to overflow from the Mississippi River between Brunswick, Miss., and Baton Rouge, La., and between Bessie and Memphis, Tenn. (H. Doc. No. 1010); to the Committee on Rivers and Harbors and ordered to be printed.

10. A letter from the Secretary of the Navy, submitting information relating to construction and repair of various vessels of the United States Navy (H. Doc. No. 992); to the Committee on Naval Affairs and ordered to be printed.

11. A letter from the Secretary of Agriculture, transmitting a detailed statement of travel expense incurred by officers and employees of the Department of Agriculture during the fiscal year ending June 30, 1912 (H. Doc. No. 998); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

12. A letter from the Secretary of Commerce and Labor, transmitting a detailed statement of disbursements made by the Department of Commerce and Labor from December 1, 1911, to November 30, 1912 (H. Doc. No. 1004); to the Committee on Expenditures in the Department of Commerce and Labor and ordered to be printed.

13. A letter from the Secretary of Agriculture, transmitting detailed statement of expenditures by the Department of Agriculture for the fiscal year ending June 30, 1912 (H. Doc. No. 955); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

14. A letter from the Sergeant at Arms of the House of Representatives, transmitting list of property in his charge on December 2, 1912 (H. Doc. No. 989); to the Committee on Accounts and ordered to be printed.

15. A letter from the Librarian of Congress, transmitting statement of travel expense incurred during the fiscal year 1911-12 (H. Doc. No. 1001); to the Committee on the Library and ordered to be printed.

16. A letter from the president of the Board of Commissioners of the District of Columbia, submitting report as to the cost and feasibility of adapting one or more of the vacant buildings upon the site of the Washington Asylum and Jail for use for municipal hospital purposes (H. Doc. No. 995); to the Committee on the District of Columbia and ordered to be printed.

17. A letter from the Acting Secretary of War, transmitting statement showing in detail travel expenses of officers and employees of the War Department during the fiscal year ended June 30, 1912 (H. Doc. No. 1002); to the Committee on Expenditures in the War Department and ordered to be printed.

18. A letter from the president of the United States Civil Service Commission, transmitting statement of travel expenses of officers and employees of said commission for the fiscal year ended June 30, 1912 (H. Doc. No. 999); to the Committee on Reform in the Civil Service and ordered to be printed.

19. A letter from the Postmaster General, transmitting report of public property, Post Office Department, Washington, on November 1, 1912 (H. Doc. No. 996); to the Committee on Expenditures in the Post Office Department and ordered to be printed.

20. A letter from the Secretary of Agriculture, transmitting statement showing the number of copies of publications of the various bureaus, divisions, and offices of the United States Department of Agriculture turned over to the Public Printer on October 1, 1912, according to the provisions of section 8 of the legislative act approved August 23, 1912 (H. Doc. No. 993); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

21. A letter from the Secretary of Agriculture, transmitting a detailed statement of all money paid out by the Bureau of Chemistry for compensation of or payment of expenses to officers or other persons employed by State, county, or municipal governments during the fiscal year 1912 (H. Doc. No. 1006); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

22. A letter from the Secretary of the Smithsonian Institution, transmitting a statement of travel on official business for Smithsonian branch during fiscal year ended June 30, 1912 (H. Doc. No. 1003); to the Committee on the Library and ordered to be printed.

23. A letter from the Secretary of War, transmitting letter from the Chief of Engineers, submitting claim for damages to schooner *Annie F. Coulon*, caused by collision with a mud scow in tow of the U. S. tug *Philadelphia*, on the Delaware River, November 11, 1911 (H. Doc. No. 997); to the Committee on Appropriations and ordered to be printed.

24. A letter from the Secretary of the Smithsonian Institution, transmitting a detailed statement of expenditures for the fiscal year ending June 30, 1912, under appropriations "International exchange," "American ethnology," "Astrophysical Observatory," "The International Catalogue of Scientific Literature," "National Museum," and the "National Zoological Park" (H. Doc. No. 1005); to the Committee on the Library and ordered to be printed.

CHANGE OF REFERENCE.

Under clause 2 of rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 1151) granting an increase of pension to James M. Freeman; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 13816) granting an increase of pension to Edward M. Yochem; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FRANCIS: A bill (H. R. 26536) to authorize the donation of certain unused and obsolete guns now at Chickamauga Park, Ga., to the Stanton Monument Association at Steubenville, Ohio; to the Committee on Military Affairs.

By Mr. GRIEST: A bill (H. R. 26537) authorizing the Secretary of War to donate to the city of Lancaster, Pa., two bronze or brass fieldpieces for the use of the General William S. McCaskey Camp, United Spanish War Veterans; to the Committee on Military Affairs.

By Mr. HOUSTON: A bill (H. R. 26538) to provide for the examination and survey of Caney Fork River from its mouth up to the mouth of Holmes Creek, in Dekalb County, Tenn.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26539) making an appropriation for clearing out the channel of Caney Fork River from its mouth to the mouth of Holmes Creek, in Dekalb County, Tenn.; to the Committee on Rivers and Harbors.

By Mr. MONDELL: A bill (H. R. 26540) dedicating 25 per cent of the proceeds of public lands to the construction and improvement of public roads; to the Committee on the Public Lands.

By Mr. PADGETT: A bill (H. R. 26541) to regulate and increase the efficiency of the personnel of the United States Navy and Marine Corps; to the Committee on Naval Affairs.

By Mr. MOON of Tennessee: A bill (H. R. 26542) authorizing the purchase of additional land for post-office site at Winchester, Tenn.; to the Committee on Public Buildings and Grounds.

By Mr. WILDER: A bill (H. R. 26543) to provide for the purchase of a site and the erection thereon of a public building at Leominster, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. CURRIER: A bill (H. R. 26544) to provide for the erection of a public building at Berlin, N. H.; to the Committee on Public Buildings and Grounds.

By Mr. CANTRILL: A bill (H. R. 26545) for the enlargement of the Federal building at Winchester, Ky.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26546) to increase the limit of cost of the Federal building heretofore authorized at Georgetown, Ky.; to the Committee on Public Buildings and Grounds.

By Mr. HUMPHREYS of Mississippi: A bill (H. R. 26547) to increase the limit of cost of the post office and courthouse at Clarksdale, Miss.; to the Committee on Public Buildings and Grounds.

By Mr. WEEKS: A bill (H. R. 26548) for the purchase of a site and the erection thereon of a public building at South Framingham, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. GARNER: A bill (H. R. 26549) to provide for the construction or purchase of motor boat for customs service; to the Committee on Interstate and Foreign Commerce.

By Mr. GRIEST: A bill (H. R. 26550) to provide for the permanent establishment of town and village mail-delivery service at post offices of the second and third classes; to the Committee on the Post Office and Post Roads.

By Mr. DE FOREST: A bill (H. R. 26551) to repeal part of section 2 of public law No. 336, approved August 24, 1912, entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes"; to the Committee on the Post Office and Post Roads.

By Mr. GARRETT: A bill (H. R. 26552) for the erection of a public building at Humboldt, Tenn.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26553) for the erection of a public building at Martin, Tenn.; to the Committee on Public Buildings and Grounds.

By Mr. MACON: A bill (H. R. 26554) amending section 71 of the act approved March 3, 1911, to codify, revise, and amend the laws relating to the judiciary; to the Committee on the Judiciary.

By Mr. JAMES: A bill (H. R. 26555) to provide for the erection of a public building at Murray, Ky.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26556) to provide for the erection of a public building at Marion, Ky.; to the Committee on Public Buildings and Grounds.

By Mr. STEVENS of Minnesota: A bill (H. R. 26557) to authorize the Secretary of War to make an agreement with the Municipal Electric Co., a corporation, for the disposal of the hydroelectric power developed by the dam between St. Paul and Minneapolis, Minn.; to the Committee on Rivers and Harbors.

By Mr. COPLEY: A bill (H. R. 26558) for the purchase of a site and the erection of a public building in the city of Batavia, State of Illinois; to the Committee on Public Buildings and Grounds.

By Mr. McKINNEY: A bill (H. R. 26559) to authorize the construction of a railroad, wagon, and foot-passenger bridge across the Mississippi River near Keokuk, Iowa; to the Committee on Interstate and Foreign Commerce.

By Mr. JACOWAY: A bill (H. R. 26560) to provide for the examination and survey of the Arkansas River banks around what is known as Fourche Island, and just below Little Rock, Ark.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26561) to provide for the examination and survey of the Arkansas River banks about 5 miles below Dardanelle, Yell County, Ark., and at or near what was known as the old Gleason & Cravens mercantile establishment; to the Committee on Rivers and Harbors.

By Mr. LEE of Georgia: A bill (H. R. 26562) for the purchase of a site for a post-office building at Rossville, Ga.; to the Committee on Public Buildings and Grounds.

By Mr. BLACKMON: A bill (H. R. 26563) to provide for the erection of a public building at the city of Sylacauga, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. FOWLER: A bill (H. R. 26564) making appropriation for the purchase of a site and the erection of a public building thereon in the city of Metropolis, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. LAFEAN: A bill (H. R. 26565) for the reduction of postage on first-class matter to 1 cent per ounce; to the Committee on the Post Office and Post Roads.

By Mr. PADGETT: A bill (H. R. 26566) to create the grades of admiral and vice admiral in the Navy of the United States; to the Committee on Naval Affairs.

By Mr. LINTHICUM: A bill (H. R. 26661) to increase the appropriation for the purchase of a site and the erection of an immigration station at Baltimore, Md.; to the Committee on Public Buildings and Grounds.

By Mr. SULZER: A bill (H. R. 26662) to amend the eighth section of the Post Office appropriation act approved August 24, 1912; to the Committee on the Post Office and Post Roads.

By Mr. CARLIN: Resolution (H. Res. 723) authorizing the Doorkeeper to expend the sum of $2,000 for folding speeches; to the Committee on Accounts.

By Mr. GREENE of Massachusetts: Resolution (H. Res. 724) authorizing and directing the Secretary of War to cause a preliminary examination and surveys of Buzzards Bay to provide 25 feet of water up to the dredged channel in the harbor of New Bedford, Mass.; to the Committee on Rivers and Harbors.

Also, resolution (H. Res. 725) authorizing and directing the Secretary of War to cause preliminary examination and surveys to be made of Taunton River, Mass.; to the Committee on Rivers and Harbors.

By Mr. LEVY: Resolution (H. Res. 729) directing the Secretary of the Treasury to use the authority invested in him by law to relieve the continued stringency in the money market by depositing in the national banks throughout the country the sum of $50,000,000 out of the general fund in the Treasury of the United States; to the Committee on Banking and Currency.

By Mr. DE FOREST: Joint resolution (H. J. Res. 364) proposing an amendment to the Constitution of the United States; to the Committee on Election of President, Vice President, and Representatives in Congress.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 26567) granting a pension to Avis Coan; to the Committee on Invalid Pensions.

By Mr. AUSTIN: A bill (H. R. 26568) for the relief of George Lane; to the Committee on Military Affairs.

Also, a bill (H. R. 26569) granting a pension to Eliza Early; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26570) granting a pension to John H. Smith; to the Committee on Pensions.

Also, a bill (H. R. 26571) granting a pension to Leatie Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26572) granting an increase of pension to Lucy A. Rose; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26573) granting a pension to Frank Tucker; to the Committee on Pensions.

Also, a bill (H. R. 26574) for the relief of the heirs of Henry Hommell; to the Committee on War Claims.

Also, a bill (H. R. 26575) granting a pension to James C. Tedford; to the Committee on Pensions.

By Mr. BOOHER: A bill (H. R. 26576) granting an increase of pension to John H. Steele; to the Committee on Invalid Pensions.

By Mr. BRADLEY: A bill (H. R. 26577) granting a pension to Margaret F. Searle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26578) granting an increase of pension to John Lavin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26579) granting an increase of pension to Celestia Sprague; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26580) granting an increase of pension to Rosalia Spohr; to the Committee on Pensions.

Also, a bill (H. R. 26581) granting an increase of pension to Katharine A. Weyant; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26582) granting an increase of pension to Maria Jane Stevens; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 26583) for the relief of the heirs of Henry Harris, deceased; to the Committee on War Claims.

By Mr. BULKLEY: A bill (H. R. 26584) granting a pension to Millie B. Spooner; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 26585) for the relief of the trustees of the Lick Creek Methodist Episcopal Church South, Stewart County, Tenn.; to the Committee on War Claims.

Also, a bill (H. R. 26586) for the relief of the estate of Thomas J. Hill, deceased; to the Committee on War Claims.

Also, a bill (H. R. 26587) for the relief of Frederick W. Palmore; to the Committee on War Claims.

Also, a bill (H. R. 26588) for the relief of William T. Wright; to the Committee on War Claims.

Also, a bill (H. R. 26589) granting a pension to Gambo C. Villines; to the Committee on Pensions.

Also, a bill (H. R. 26590) granting an increase of pension to Elizabeth M. Harper; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 26591) granting an increase of pension to John Marx; to the Committee on Invalid Pensions.

By Mr. DENVER: A bill (H. R. 26592) granting an increase of pension to Asa Jenkins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26593) granting an increase of pension to Jacob Supinger; to the Committee on Invalid Pensions.

By Mr. FAIRCHILD: A bill (H. R. 26594) granting an increase of pension to Erastus L. Merrill; to the Committee on Invalid Pensions.

By Mr. GRIEST: A bill (H. R. 26595) granting a pension to Edward D. Henderson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26596) granting an increase of pension to John C. O'Brien; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26597) granting an increase of pension to Franklin Bryson; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 26598) granting an increase of pension to William M. McArthur; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26599) granting an increase of pension to Lucinda P. Brackett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26600) granting a pension to Charles H. Boyd; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 26601) for the relief of the trustees of the Bloomfield Lodge, No. 57, Ancient Free and Accepted Masons, of Bloomfield, Ky.; to the Committee on War Claims.

By Mr. LANGLEY: A bill (H. R. 26602) granting an increase of pension to Elizabeth McIntosh; to the Committee on Invalid Pensions.

By Mr. LINDBERGH: A bill (H. R. 26603) granting an increase of pension to Lottie A. Fox; to the Committee on Invalid Pensions.

By Mr. LLOYD: A bill (H. R. 26604) granting a pension to Emma Steel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26605) granting a pension to Grant W. Berry; to the Committee on Pensions.

By Mr. MADDEN: A bill (H. R. 26606) for the relief of James H. Rhodes & Co.; to the Committee on Claims.

By Mr. MARTIN of South Dakota: A bill (H. R. 26607) granting a pension to Michael Kelly; to the Committee on Pensions.

Also, a bill (H. R. 26608) granting an increase of pension to James Rafferty; to the Committee on Pensions.

By Mr. MORRISON: A bill (H. R. 26609) granting a pension to Mary B. Berry; to the Committee on Invalid Pensions.

By Mr. NYE: A bill (H. R. 26610) granting an increase of pension to Frank C. Bowen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26611) granting an increase of pension to Cynthia E. Robinson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26612) granting an increase of pension to Lizzie McKay; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26613) granting a pension to Rosa L. Wells; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26614) granting a pension to Adaline A. Middaugh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26615) granting a pension to Alice Fenton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26616) to correct the military record of Charles D. Pillar; to the Committee on Military Affairs.

By Mr. O'SHAUNESSY: A bill (H. R. 26617) granting an increase of pension to Johanna Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26618) granting an increase of pension to Bernard Boyle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26619) granting an increase of pension to Sarah J. Millikin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26620) granting an increase of pension to Catharine Loud; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26621) granting an increase of pension to Maria A. Mathewson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26622) granting an increase of pension to Lucy A. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26623) granting an increase of pension to Annie Buckley; to the Committee on Invalid Pensions.

By Mr. PAYNE: A bill (H. R. 26624) granting an increase of pension to William V. Walker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26625) granting an increase of pension to James Nolan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26626) granting an increase of pension to John Stickle; to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 26627) granting an increase of pension to Cynthia C. Pickard; to the Committee on Pensions.

By Mr. POST: A bill (H. R. 26628) granting a pension to Frank Chroneberry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26629) granting an increase of pension to Lycurgus P. Saxton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26630) granting an increase of pension to Martin McNeely; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26631) granting an increase of pension to Vincent Miley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26632) granting an increase of pension to Charles F. Wolverton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26633) granting an increase of pension to Francis M. Whittecar; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26634) granting an increase of pension to Robert Moore; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26635) granting an increase of pension to John Hartman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26636) granting an increase of pension to John Gedling; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26637) granting an increase of pension to Samuel Eyman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26638) granting an increase of pension to William D. Grove; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26639) granting an increase of pension to James P. Bodkins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26640) granting an increase of pension to Silas Barton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26641) granting an increase of pension to George W. Butters; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26642) granting an increase of pension to William A. Barnes; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26643) granting an increase of pension to Eli Berreman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26644) to remove the charge of desertion from the military record of William S. Whaley; to the Committee on Military Affairs.

Also, a bill (H. R. 26645) to remove the charge of desertion from the military record of John Vankirk; to the Committee on Military Affairs.

Also, a bill (H. R. 26646) granting an increase of pension to John S. Clark; to the Committee on Invalid Pensions.

By Mr. RAKER: A bill (H. R. 26647) for the relief of Victor E. Shaw, and for other purposes; to the Committee on the Public Lands.

By Mr. REDFIELD: A bill (H. R. 26648) for the relief of David Crowther; to the Committee on Military Affairs.

Also, a bill (H. R. 26649) for the relief of Andrew Gaffney; to the Committee on Military Affairs.

By Mr. SHERWOOD: A bill (H. R. 26650) granting an increase of pension to Catherine Ann Bartelle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26651) granting an increase of pension to Bavin Copeland; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26652) granting an increase of pension to James O. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26653) granting a pension to William A. Jacques; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26654) granting an increase of pension to Jacob Peffer; to the Committee on Invalid Pensions.

By Mr. STERLING: A bill (H. R. 26655) granting a pension to Helena F. Stone; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26656) granting an increase of pension to Harmon McChesney; to the Committee on Invalid Pensions.

By Mr. TALBOTT of Maryland: A bill (H. R. 26657) granting a pension to John P. Yingling; to the Committee on Invalid Pensions.

By Mr. VARE: A bill (H. R. 26658) for the relief of Maria N. Kulicke; to the Committee on Claims.

By Mr. YOUNG of Michigan: A bill (H. R. 26659) to correct the military record of James A. Cooper; to the Committee on Military Affairs.

Also, a bill (H. R. 26660) granting a pension to Thomas J. McQuillen, alias Thomas J. Jones; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 26663) granting an increase of pension to Julia Maher; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26664) granting an increase of pension to Ellen Miller; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 26665) for the relief of the estate of Charles Evans, deceased; to the Committee on War Claims.

By Mr. LINDBERGH: A bill (H. R. 26666) granting an increase of pension to George W. Young; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26667) granting a pension to Almira D. Pettingill; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 26668) granting an increase of pension to William Jones; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Evidence to accompany special bill for the relief of Avis Coon; to the Committee on Invalid Pensions.

Also, evidence to accompany the special bill (H. R. 1362) for the relief of Eliza Jelis; to the Committee on Invalid Pensions.

Also, petition of the Chamber of Commerce of Cleveland, Ohio, favoring passage of House bill 25016, for the Federal incorporation of the Chamber of Commerce of the United States; to the Committee on the Judiciary.

By Mr. BULKLEY: Petition of Army and Navy Post, No. 187, Grand Army of the Republic, Cleveland, Ohio, urging the amendment of pension laws to grant pensions to helpless children of honorably discharged soldiers and sailors of the Civil War; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: Papers to accompany bill for relief of the trustees of the Lick Creek Methodist Episcopal Church South; to the Committee on Claims.

Also, papers to accompany bill for increase of pension to Elizabeth M. Harper; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting increase of pension to Gantbo C. Villmer; to the Committee on Pensions.

Also, papers to accompany bill for relief of William T. Wright; to the Committee on War Claims.

Also, papers to accompany bill for relief of Frederick W. Palmore; to the Committee on War Claims.

By Mr. FORNES: Petition of B. L. Kenyon, favoring passage of bill for Federal protection of migratory birds; to the Committee on Agriculture.

By Mr. FULLER: Petition of Duncan McEwan, Chicago, Ill., favoring the passage of the vocational education bill (S. 3); to the Committee on Education.

Also, petition of C. A. Burrows, favoring the passage of the old-age pension bill (H. R. 13114); to the Committee on Pensions.

Also, petition of the Council of Grain Exchanges, favoring the passage of the Pomerene substitute bill (S. 6810); to the Committee on Interstate and Foreign Commerce.

By Mr. GRIEST: Petition of Emily P. Gilbert, Lancaster, Pa., favoring the passage of the Federal old-age pension bill (H. R. 13114); to the Committee on Pensions.

By Mr. HAYDEN: Petition of the Arizona Mission Conference, Bisbee, Ariz., favoring the passage of the Webb-Sheppard liquor bill; to the Committee on the Judiciary.

By Mr. HINDS: Memorial of Brig. Gen. William M. McArthur; to the Committee on Invalid Pensions.

Also, memorial of Capt. Charles H. Boyd; to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: Papers to accompany bill to purchase additional land for post-office site at Winchester, Tenn.; to the Committee on Public Buildings and Grounds.

By Mr. PADGETT: Papers to accompany bill for granting increase of pension to Cynthia C. Pickard; to the Committee on Invalid Pensions.

By Mr. SPEER: Evidence to accompany bill (H. R. 26365) granting an increase of pension to Philip Shirk; to the Committee on Invalid Pensions.

By Mr. WILLIS: Papers to accompany bill (H. R. 26534) granting an increase of pension to James McEvoy; to the Committee on Invalid Pensions.

Also, petition of the Supreme Council, Order United Commercial Travelers of America, in favor of changing the day of the national election; to the Committee on Election of President, Vice President, and Representatives in Congress.

SENATE.

WEDNESDAY, *December 4, 1912.*

The Senate met at 12 o'clock m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

JOHN H. BANKHEAD, a Senator from the State of Alabama, and GEORGE T. OLIVER, a Senator from the State of Pennsylvania, appeared in their seats to-day.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

REPORTS OF SECRETARY OF THE SENATE.

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the Secretary of the Senate, transmitting, pursuant to law, a full and complete statement of the receipts and expenditures of the Senate and the condition of public moneys in his possession from July 1, 1911, to June 30, 1912 (S. Doc. No. 954), which, with the accompanying paper, was ordered to lie on the table and be printed.

He also laid before the Senate a communication from the Secretary of the Senate, transmitting, pursuant to law, a full and complete account of all property, including stationery, belonging to the United States in his possession on the 2d day of December, 1912 (S. Doc. No. 963), which, with the accompanying paper, was ordered to lie on the table and be printed.

REPORTS OF ASSISTANT SERGEANT AT ARMS.

The PRESIDENT pro tempore laid before the Senate a communication from the Assistant Sergeant at Arms, transmitting a statement of receipts from the sale of condemned property in his possession since December 4, 1911 (S. Doc. No. 961), which, with the accompanying paper, was ordered to lie on the table and be printed.

He also laid before the Senate a communication from the Assistant Sergeant at Arms, transmitting a full and complete account of all property belonging to the United States in his possession on December 2, 1912 (S. Doc. No. 962), which, with the accompanying paper, was ordered to lie on the table and be printed.

ANNUAL REPORT OF THE LIBRARIAN OF CONGRESS (H. DOC. NO. 962).

The PRESIDENT pro tempore laid before the Senate the annual report of the Librarian of Congress and of the Superintendent of the Library Building and Grounds for the fiscal year ended June 30, 1912, which was referred to the Committee on the Library.

BRIDGE AT SHIP ROCK, N. MEX. (H. DOC. NO. 1015).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the investigation, surveys, plans, estimated limit of cost, etc., for the construction of a bridge on the Navajo Indian Reservation at Ship Rock, N. Mex., which, with the accompanying papers, was referred to the Committee on Commerce and ordered to be printed.

ANNUAL REPORT OF THE SECRETARY OF THE TREASURY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Secretary of the Treasury on the state of the finances for the fiscal year ended June 30, 1912, which was referred to the Committee on Finance and ordered to be printed.

SUPPORT OF AGRICULTURAL COLLEGES (H. DOC. NO. 1030).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the application of a portion of the proceeds of the public lands to colleges for the benefit of agriculture and the mechanic arts for the fiscal year ending June 30, 1912, which, with the accompanying paper, was referred to the Committee on Agriculture and Forestry and ordered to be printed.

REPORT OF FREEDMEN'S HOSPITAL (H. DOC. NO. 1029).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the expenditures for salaries, etc., at the Freedmen's Hospital, Washington, D. C., which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

EXPENDITURES ON IRRIGATION PROJECTS (H. DOC. NO. 1034).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the distribution of moneys expended for irrigation and drainage, Indian Service, for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed.

GOVERNMENT HOSPITAL FOR THE INSANE (H. DOC. NO. 1011).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the Superintendent of the Government Hospital for the Insane for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

ANNUAL REPORT OF THE PUBLIC PRINTER.

The PRESIDENT pro tempore laid before the Senate the annual report of the Public Printer showing the operations of the Government Printing Office for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Printing and ordered to be printed.

SURVEYS OF PUBLIC LANDS (H. DOC. NO. 1019).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of surveys of public lands lying within the limits of land grants for the fiscal year ended June 30, 1912, which was referred to the Committee on Public Lands and ordered to be printed.

INDIAN TRIBES AT PEACE (H. DOC. NO. 1022).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to moneys paid or annuities delivered to any Indian tribe, which, since the last payment or delivery, has engaged in hostilities against the United States or its citizens, which was referred to the Committee on Indian Affairs and ordered to be printed.

BUREAU OF CHEMISTRY, DEPARTMENT OF AGRICULTURE.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a statement of the expenditures paid by the Bureau of Chemistry, Department of Agriculture, for compensation of or payments of expenses to officers or other persons employed by State, county, or municipal governments during the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Agriculture and Forestry and ordered to be printed.

DISTRIBUTION OF PUBLIC DOCUMENTS (H. DOC. NO. 1011).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a statement showing the number of public documents received and distributed during the fiscal year ended June 30, 1912, which was ordered to lie on the table and be printed.

TRAVEL OF EMPLOYEES OF LIBRARY OF CONGRESS.

The PRESIDENT pro tempore laid before the Senate a communication from the Librarian of Congress, transmitting, pursuant to law, a statement showing in detail the number of officers or employees of the Library of Congress who have traveled on official business outside of the District of Columbia during the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

MUNICIPAL HOSPITAL BUILDING.

The PRESIDENT pro tempore laid before the Senate a communication from the Commissioners of the District of Columbia, transmitting, pursuant to law, a report as to the cost and feasibility of adapting one or more of the vacant buildings upon the site of the Washington Asylum and Jail, reservation No. 13, for use for municipal hospital purposes, which, with the accompanying papers, was referred to the Committee on the District of Columbia and ordered to be printed.

TRAVEL OF EMPLOYEES OF WAR DEPARTMENT.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, a statement of travel and expenditures by officials or employees of the War Department outside of the District of Columbia for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

TRAVEL OF EMPLOYEES OF INTERIOR DEPARTMENT (H. DOC. NO. 1017).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a statement showing the number of officers and employees of the Interior Department who have traveled on official business outside the District of Columbia during the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

CONTINGENT EXPENSES, DEPARTMENT OF THE INTERIOR (H. DOC. NO. 1012).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, an itemized statement of expenditures made and charged to the appropriation, "Contingent expenses, Department of the Interior, 1912," for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

REPAIRS OF BUILDINGS, DEPARTMENT OF THE INTERIOR (H. DOC. NO. 1016).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, an itemized statement of the expenditures made and charged to the appropriation, "Repairs of buildings, Department of the Interior, 1912," for the fiscal year ended June 30, 1912, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

TRAVEL OF EMPLOYEES OF INTERSTATE COMMERCE COMMISSION (H. DOC. NO. 1040).

The PRESIDENT pro tempore laid before the Senate a communication from the Interstate Commerce Commission, transmitting, pursuant to law, a statement showing the travel of all officials and employees of the commission on official business outside the District of Columbia during the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

COLORADO RIVER BRIDGE (H. DOC. NO. 1020).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the survey, with plans and estimated limit of cost, for a bridge across the Colorado River between Fort Yuma, Cal., and the town of Yuma, Ariz., etc., which, with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

ANNUAL REPORT OF THE SECRETARY OF AGRICULTURE.

The PRESIDENT pro tempore laid before the Senate the annual report of the Secretary of Agriculture for the fiscal year ended June 30, 1912, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

WHITE MOUNTAIN INDIAN RESERVATION, ARIZ. (H. DOC. NO. 1013).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the surveys, plans, and estimates of costs for certain bridges on the White Mountain or San Carlos Indian Reservation, Ariz., etc., which, with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

TONGUE RIVER RESERVATION, MONT. (H. DOC. NO. 1033).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the expenditures for encouraging industrial work among the Indians of the Tongue River Reservation, Mont., during the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

EMPLOYEES IN THE INDIAN SERVICE (H. DOC. NO. 1021).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report showing the diversion of appropriations for the pay of specified employees in the Indian Service for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

INDIAN MONEYS, PROCEEDS OF LABOR (H. DOC. NO. 1031).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a detailed report of the expenditures of money carried on the books of the Department of the Interior under the caption of "Indian moneys, proceeds of labor," during the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

RELIEF OF DESTITUTE INDIANS (H. DOC. NO. 1026).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report showing the expenditures for the relief of destitute Indians for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

SIOUX INDIAN FUND (H. DOC. NO. 1032).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the expenditures from the permanent fund of the Sioux Indians for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

SUBSISTENCE FOR INDIAN TRIBES (H. DOC. NO. 1023).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the use of surplus appropriations for subsistence of any Indian tribes during the fiscal year ended June 30, 1912, which was referred to the Committee on Indian Affairs and ordered to be printed.

INDUSTRIES AMONG INDIANS (H. DOC. NO. 1027).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report showing the expenditures under the appropriation for encouraging industry among Indians for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

SUPPLIES FOR INDIAN SERVICE (H. DOC. NO. 1028).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the purchase of supplies in the open market for the Indian service for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

TRAVEL OF EMPLOYEES OF DEPARTMENT OF AGRICULTURE.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a statement of travel and expenditures of officers and employees of the Department of Agriculture outside of the District of Columbia for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPORT OF INDIAN SCHOOLS (H. DOC. NO. 1018).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the manner and for what purposes the general education fund for the preceding fiscal year has been expended for the maintenance of the Indian school and agency buildings, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

INDUSTRIAL WORK AND CARE OF TIMBER (H. DOC. NO. 1025).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a statement of the expenditures from the appropriation "Industrial work and care of timber" for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Agriculture and Forestry and ordered to be printed.

SURVEY AND ALLOTMENT WORK ON INDIAN RESERVATIONS (H. DOC. NO. 1024).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a statement of the cost of all survey and allotment work on Indian reservations for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

DISPOSITION OF USELESS PAPERS (H. DOC. NO. 1041).

The PRESIDENT pro tempore. The Chair lays before the Senate a communication from the Attorney General, recommending the disposal of certain papers on file in the Department of Justice which have no permanent value or historical interest.

The communication will be referred to the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments. The Chair appoints as the committee on the part of the Senate the Senator from Arkansas [Mr. CLARKE] and the Senator from New Hampshire [Mr. BURNHAM].

The Secretary will notify the House of Representatives of the appointment of the committee on the part of the Senate.

DEATH OF THE VICE PRESIDENT.

Mr. POINDEXTER. Mr. President, I present a series of resolutions adopted by the people of the city of Olympia, State of

Washington, in commemoration of the late Vice President. I ask that the resolutions may lie on the table and be printed in the RECORD.

By unanimous consent, the resolutions were ordered to lie on the table and to be printed in the RECORD, as follows:

Whereas death has removed from his earthly labors the Hon. JAMES SCHOOLCRAFT SHERMAN, late Vice President of the United States; and

Whereas we realize that he represented the highest type of American manhood, and that by his unwavering devotion to duty as he saw it he deserved well of his country and the world: Now therefore be it

Resolved by the people of the city of Olympia, Wash., and vicinity, assembled without regard to political affiliations or beliefs, That we deplore the untimely death of Hon. JAMES SCHOOLCRAFT SHERMAN and deeply feel the loss that our Nation has sustained, and that we extend to his stricken family the heartfelt sympathy of this community; be it further

Resolved, That the chairman of this meeting, over his signature, transmit a copy of these resolutions to the widow of our lamented Vice President, a copy to the President of the United States, and a copy to the Senators from the State of Washington to be presented to the Senate of the United States.

The foregoing resolution was unanimously passed at an assemblage of the citizens of Olympia, Wash., held in the Capital Park on Saturday, November 2, 1912.

CHAS. D. KING, *Chairman*.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a resolution adopted by the International Longshoremen's Association, favoring the establishment of a national department of health, which was ordered to lie on the table.

Mr. HITCHCOCK presented a petition of 603 members of the Christian Endeavor Society of Shelby, Nebr., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

Mr. SMOOT presented a petition of members of the Utah Federation of Women's Clubs, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was referred to the Committee on Agriculture and Forestry.

Mr. O'GORMAN presented a resolution adopted by members of the Republican Club of the State of New York, favoring the recognition by the United States of the Republic of China, which was referred to the Committee on Foreign Relations.

He also presented a resolution adopted by Chenango Council, United Commercial Travelers, of Norwich, N. Y., favoring a change in the date for the holding of the national elections, which was referred to the Committee on the Judiciary.

He also presented a resolution adopted by the members of the Merchants and Manufacturers' Association of Los Angeles, Cal., remonstrating against certain provisions of the so-called Wilson bill, providing for the protection of American seamen, which was referred to the Committee on Commerce.

Mr. DU PONT presented a resolution adopted at the Christian Endeavor Convention at Laurel, Del., favoring the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SWANSON:

A bill (S. 7564) providing for the reorganization of the police force of the Congressional Library; to the Committee on the Library.

By Mr. CULLOM:

A bill (S. 7565) to authorize the construction of a railroad, wagon, and foot-passenger bridge across the Mississippi River near Keokuk, Iowa; to the Committee on Commerce.

By Mr. GALLINGER:

A bill (S. 7566) to authorize the widening and opening of Western Avenue, District of Columbia (with accompanying paper); to the Committee on the District of Columbia.

By Mr. SMOOT:

A bill (S. 7567) to provide a penalty for retention or misuse of confidential records by former Government employees; to the Committee on the Judiciary.

A bill (S. 7568) to validate certain homestead entries; to the Committee on Public Lands.

By Mr. STEPHENSON:

A bill (S. 7569) granting a pension to Ellen Taggart Gardner Tyson (with accompanying papers);

A bill (S. 7570) granting an increase of pension to Frank D. Murdock (with accompanying papers);

A bill (S. 7571) granting a pension to Eveline Titus (with accompanying paper);

A bill (S. 7572) granting an increase of pension to Helen R. Blackburn; and

A bill (S. 7573) granting an increase of pension to Joshua Oyster (with accompanying papers); to the Committee on Pensions.

By Mr. BURNHAM:

A bill (S. 7574) providing for the deposit of a model of any vessel of war of the United States Navy bearing the name of a State of the United States in the capitol building of said State; to the Committee on Naval Affairs.

A bill (S. 7575) granting an increase of pension to Moses Rowell; and

A bill (S. 7576) granting a pension to Susan J. Littlefield; to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 7577) for the relief of John Miller; to the Committee on Military Affairs.

A bill (S. 7578) granting a pension to Jane Gascoigne;

A bill (S. 7579) granting an increase of pension to Mary F. Read;

A bill (S. 7580) granting an increase of pension to Clinton E. Olmstead; and

A bill (S. 7581) granting an increase of pension to William Hoover (with accompanying papers); to the Committee on Pensions.

By Mr. POINDEXTER:

A bill (S. 7582) allowing certain homestead entrymen choice of making proof under law of June 6, 1912, or previous law; to the Committee on Public Lands.

By Mr. DU PONT:

A bill (S. 7583) granting a pension to Charles S. Scanlon; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 7584) granting an increase of pension to Philander B. Sargent (with accompanying papers);

A bill (S. 7585) granting an increase of pension to William L. McCormick (with accompanying papers); and

A bill (S. 7586) granting an increase of pension to Ivory Phillips (with accompanying papers); to the Committee on Pensions.

By Mr. LODGE:

A bill (S. 7587) granting an increase of pension to Abby E. Carpenter (with accompanying paper); to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 7588) granting an increase of pension to Sarah Gross; to the Committee on Pensions.

By Mr. CLAPP:

A bill (S. 7589) granting an increase of pension to Jeanette Dring (with accompanying papers);

A bill (S. 7590) granting an increase of pension to Susan C. Brown (now Perrin) (with accompanying papers);

A bill (S. 7591) granting an increase of pension to Agnes Hallworth (with accompanying papers);

A bill (S. 7592) granting an increase of pension to Frank B. Doran (with accompanying paper); and

A bill (S. 7593) granting an increase of pension to Kathryn Riley (with accompanying papers); to the Committee on Pensions.

A bill (S. 7594) to remove the charge of desertion against Peter Gannon; to the Committee on Military Affairs.

By Mr. BROWN:

A bill (S. 7595) granting an increase of pension to Nelson Taylor;

A bill (S. 7596) granting an increase of pension to Carrie Crockett (with accompanying paper);

A bill (S. 7597) granting a pension to Charles F. Lane (with accompanying paper); and

A bill (S. 7598) granting an increase of pension to James W. Coburn (with accompanying paper); to the Committee on Pensions.

SUBMISSION OF MEASURES TO THE PEOPLE.

Mr. BRISTOW. Mr. President, I desire to introduce two joint resolutions. I send the first to the desk and ask that it be read.

The joint resolution (S. J. Res. 141) proposing an amendment to the Constitution providing for the submission by the President to the electors of measures recommended by him which Congress has failed to enact was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the following be proposed as an amendment to section 3, Article II of the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States.

If Congress fails to enact any measure which the President has recommended in proper form within six months from the date of such recommendation, the President, at the regular congressional election following the expiration of such period, may submit the measure to the

electors at such election, and if a majority of the electors voting on such measure in a majority of the congressional districts and also in a majority of the States approve the measure, it shall become a law.

Mr. BRISTOW. Mr. President, this amendment makes provision for the President to submit to the country a measure which he has recommended to Congress, and which Congress has failed to enact. It enables him to appeal from a dilatory or adverse Congress to the people upon questions of vital public concern, and I believe it will be most beneficial.

Furthermore, a President could not, as an excuse for signing an undesirable measure, say that it was the best that he could get from an unfriendly Congress. The Constitution now authorizes the President to recommend to Congress measures, but there the matter ends if Congress does not act. If the proposed amendment is adopted, and Congress either fails to act or passes a bill in lieu of the measure submitted that does not meet the approval of the President then it becomes his duty to sign the bill passed by Congress or to submit the measure which he thinks should be enacted to the people for their approval or rejection.

One of the weaknesses of our form of government is that the Congress may be of one political party and the executive administration of another, and legislation is then tied up for two years or longer, to the detriment of the country, and when this condition exists a system of political jockeying is inaugurated, usually by both sides, for partisan purposes. This amendment to the Constitution provides a means by which the people may, with reasonable promptness, decide such controversies, and it will not require the overturning of our entire civil administration to secure the enactment of a desirable law, which either the President has refused to accept or the Congress declined to enact.

The PRESIDENT pro tempore. The joint resolution will be referred to the Committee on the Judiciary.

Mr. BRISTOW. I introduce a joint resolution proposing an amendment to the Constitution providing for submitting to the people of the United States acts of Congress for their approval. I should like to have it read.

The joint resolution (S. J. Res. 142) proposing an amendment to the Constitution providing for submitting to the people of the United States acts of Congress for their approval, was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the following be proposed as an amendment to the Constitution of the United States, the same to be section 4 of Article III, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States:

If the Supreme Court shall decide that a law enacted by Congress is in violation of the provisions of the Constitution of the United States, the Congress, at a regular session held after such decision, may submit the act to the electors at a regular congressional election, and if a majority of the electors voting on such measure in a majority of the congressional districts and also in a majority of the States approve the measure, it shall become a law.

Mr. BRISTOW. Mr. President, the Constitution is the supreme law of the land. It was enacted by the people themselves. It is the business of the courts to interpret the will of the people as expressed in this instrument. When Congress, the representative of the people in legislative matters, passes a measure and the President, whose signature is necessary before it becomes a law, has approved it the Supreme Court of the United States may declare that, in its opinion, such a measure is not in harmony with certain provisions of the Constitution which the people have adopted. This proposed amendment gives to the people an opportunity to state whether or not they desire the law, as enacted by Congress and approved by the President, to stand as the last expression of their will and judgment.

The courts did not make the Constitution. They simply interpret what they think it means. It is the people's law, enacted by them, and if they do not desire the interpretation placed upon it by the courts to stand as their will, this provision gives them the opportunity to so declare. The will of the people is the supreme law of the land. This is the very basic principle upon which our form of government rests.

The chief objection that may be offered to this proposition is that it gives the people an easy facility for interpreting the Constitution, which province has been assigned to the courts, and that hasty or immature action might result. But a careful examination of the amendment will demonstrate that ample time has been given for full and free discussion and mature deliberation, so that action with undue haste is impossible.

First, Congress enacts the law after the full discussion that occurs in passing the measure through the two Houses. Then is has to be fought through the courts, which requires the most thorough consideration, before the final decision is ultimately rendered. After such decision, with the opinions of the court before it, the Congress must decide whether it considers the question involved of sufficient national importance to justify its submission to the electors for their final decision and judgment. This, of course, would only be done when questions of political magnitude were involved. Furthermore, Congress can not consider the submission of the proposition until the first regular session after the decision has been rendered, and then it can not be acted upon by the people until the regular congressional election following the session of Congress at which the matter was submitted, so that most ample time must intervene before final determination by the electors. The fullest discussion and most mature consideration possible is required, yet the amendment does provide a way by which a decision can be had with a reasonable degree of promptness upon a specific and definite question.

Seventeen years have elapsed since the Supreme Court declared the income-tax law unconstitutional, and we have not yet amended the Constitution so as to make an income tax possible, though few will claim that the people do not favor and desire such a law. This unnecessary and exasperating delay in vital matters makes an amendment of this kind to our Constitution desirable and, in my opinion, necessary to the country's welfare.

Mr. President, I ask that the joint resolution be referred to the Committee on the Judiciary; and I will add that I hope that committee will act favorably upon these joint resolutions with the same promptness with which it acted upon the joint resolution now pending, which takes from the people powers which they now have. These joint resolutions extend to them additional power and give them more direct authority over their government, while the amendment that has been reported takes from them powers which they already possess.

The PRESIDENT pro tempore. The joint resolution will be referred, as requested, to the Committee on the Judiciary.

OMNIBUS CLAIMS BILL.

Mr. LODGE. I submitted at the last session an amendment to the bill known as the omnibus claims bill. I ask to have a reprint of the amendment, as I have made some changes in it.

The PRESIDENT pro tempore. Without objection, it will be so ordered.

Mr. LODGE. In this connection, I ask to have printed as a Senate document (No. 964) an article giving the history of the French spoliation claims, which appeared in the American Journal of International Law.

The PRESIDENT pro tempore. Without objection, the paper will be printed as a Senate document.

Mr. O'GORMAN submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

Mr. SMITH of Maryland submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

Mr. BRANDEGEE submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

AMELIA WISSMAN.

Mr. CULLOM submitted the following resolution (S. Res. 399), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Amelia Wissman, mother of Franklin W. Wissman, late a skilled laborer in the Senate library, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

MAMIE ELSIE.

Mr. BRISTOW submitted the following resolution (S. Res. 398), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mamie Elsie, widow of Alfred Elsie, late a laborer of the United States Senate, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

MARY P. PIERCE.

Mr. SMITH of Michigan submitted the following resolution (S. Res. 397), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mary P. Pierce, widow of Edwin S. Pierce, late a skilled laborer in the Senate document-room, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

DEMOTION OF WILLIAM HALL AND OTHERS.

Mr. HITCHCOCK submitted the following resolution (S. Res. 400), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be, and he is hereby, directed to lay before the Senate all correspondence in the possession of the Post Office Department between himself, all other officials, and employees of the Post Office Department, and all other persons relating to the demotion during the years 1911 and 1912 of William Hall, C. H. Erwin, R. E. Erwin, J. J. Negley, and C. P. Rodman, clerks in the Railway Mail Service.

REPORT OF COMMISSION OF FINE ARTS.

Mr. SMOOT. I find that the message from the President of the United States transmitting the report of the Commission of Fine Arts for the fiscal year ended June 30, 1912, contains a number of illustrations. I ask that an order be entered for the printing of the illustrations.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AMERICAN HOSPITAL OF PARIS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 6350) to incorporate the American Hospital of Paris.

Mr. GALLINGER. I move that the Senate disagree to the amendments made by the House of Representatives, and ask for a conference on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed as the conferees on the part of the Senate Mr. GALLINGER, Mr. CURTIS, and Mr. MARTIN of Virginia.

THE PRESIDENTIAL TERM.

Mr. WORKS. I desire to give notice that on next Monday, immediately after the close of the routine morning business, I will, with the permission of the Senate, submit some remarks upon Senate joint resolution No. 78, the unfinished business.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. Pursuant to the notice which I gave yesterday, I ask that the Senate take up for consideration House bill No. 19115, known as the omnibus claims bill.

The PRESIDENT pro tempore. The Senator from South Dakota asks that the Senate proceed to the consideration of House bill 19115. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which had been reported from the Committee on Claims with amendments.

Mr. LODGE. Has the bill been read, Mr. President?

The PRESIDENT pro tempore. It has not been read.

Mr. LODGE. Let it be read.

Mr. CRAWFORD. Just a word, please, before the Secretary begins the reading of the bill. There have been so many requests made for the report submitted by the Committee on Claims in connection with this bill that there are now only about 40 copies of the report left, not enough to furnish each Member of the Senate with a copy. I therefore ask for an order that 250 additional copies of the report be printed.

The PRESIDENT pro tempore. The Senator from South Dakota asks that the Senate order the printing of 250 additional copies of the report referred to by him. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Massachusetts [Mr. LODGE] asks for the reading of the bill. The Chair will inquire of the Senator from Massachusetts whether his demand is for the reading of the bill including the parts stricken out?

Mr. LODGE. Mr. President——

Mr. CRAWFORD. I ask that the formal reading of the bill be dispensed with and that the bill be read for the purpose of amendment.

Mr. LODGE. I think the bill had better be read, Mr. President.

The PRESIDENT pro tempore. The Senator from Massachusetts desires the entire bill read?

Mr. LODGE. Yes.

The PRESIDENT pro tempore. The Secretary will read the bill.

The Secretary proceeded to read the bill, and read to line 12, on page 26.

Mr. LODGE. I ask that the further formal reading of the bill be dispensed with and that the bill be read for action on the amendments.

The PRESIDING OFFICER (Mr. O'GORMAN in the chair). Is there objection? The Chair hears none, and the bill will be read for amendment.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Claims was, under the subhead "Alabama," on page 2, after line 1, to strike out:

To Houston L. Bell, of Madison County, $810.
To Mary F. Casey Tucker, sole heir of Solomon L. Casey, deceased, of Lee County, $753.34.
To J. H. Carter, of Colbert County, $1,230.
To Daniel Carroll, of Tuscaloosa County, $150.
To T. F. Vann, administrator of the estate of Leroy Campbell, deceased, of Madison County, $475.
To John A. Chandler, administrator of Bethel G. Chandler, deceased, of Lauderdale County, $743.
To Douglas Taylor, administrator of estate of David Crow, deceased, late of Madison County, $120.
To Henry Davis, of Madison County, $135.
To David C. Acuff, administrator of Caswell B. Derrick, deceased, of Jackson County, $1,675.
To Belle F. Nell, administratrix of the estate of James Watkins Fennell, deceased, late of Marshall County, $1,330.
To Richard Garner, of Colbert County, $425.
To David Z. Gold, administrator of Peter H. Gold, deceased, of Jackson County, $735.
To Louisa Cochrane Gordon, daughter and heir of William Cochrane, deceased, late of Tuscaloosa County, $1,788.
To W. H. Gilbert, administrator of estate of Samuel L. Gilbert, deceased, late of Dekalb County, $237.
To J. H. E. Guest, administrator of Green Guest, deceased, of Dekalb County, $610.
To William T. Hamner, of Tuscaloosa County, $805.
To C. J. McKee, administrator of the estate of David B. Johnson, deceased, of Morgan County, $3,900.
To Nannie H. Jones and Mary E. Hereford (née Jones), of Madison County, heirs of John T. Jones, deceased, $800.
To John D. Hereford, Fannie H. Jones, and Martha J. Orman, of Madison County, and William F. Hereford, of Japan, heirs of Fannie J. Hereford, deceased, daughter and heir of John T. Jones, deceased, $400.
To J. P. McClendon, administrator de bonis non of Meredith King, deceased, late of Jackson County, $700.
To Mary E. Haywood, heir of John M. Lawson, deceased, late of Lauderdale County, $920.
To Mollie D. Wilson, Honora Myers, Julia Davis, and John C. Lyons, heirs of Daniel Lyons, deceased, late of Huntsville, Ala., $910.
To John C. McDaniel, administrator of John W. McDaniel, deceased, late of Cleburne County, $790.
To John Mantel, of Escambia County, $567.
To Lewid F. Martin, administrator of Francis C. Martin, deceased, of Limestone County, $925.
To J. G. Mason, administrator of the estate of Glorvinia Mason and John O. Mason, deceased, late of Limestone County, $3,990.
To James M. Massengale, administrator of Marcus M. Massengale, deceased, late of Madison County, $615.
To J. W. Mitchell, administrator of the estate of Thomas J. Mitchell, deceased, late of Jackson County, $290.
To Margaret J. Parks, of Jackson County, $1,068.
To Jacob A. Paulk, of Lauderdale County, $310.
To Jacob A. Paulk, administrator of Jonathan Paulk, deceased, of Lauderdale County, $1,050.
To Louisa Perkins, administratrix of estate of Augustus N. Perkins, deceased, late of Tuscaloosa County, $1,605.
To J. W. Phillips, administrator of the estate of Absalom T. Phillips, deceased, of Lauderdale County, $202.
To Edward M. Ragland, Ursula Ragland Erskine, and Edward M. Ragland as administrator of John D. Ragland, deceased, heirs of George Orville Ragland, deceased, of Madison County, $5,510.
To J. B. Roberson, administrator, with will annexed, of John P. Roberson, deceased, late of St. Clair County, $1,230.
To Charles O. Rolfe, administrator of the estate of Oscar A. Rolfe, deceased, late of Morgan County, $2,980.
To Samuel F. Ryan, formerly of Marshall County, $2,712.
To James M. Thomason, of Colbert County, $685.
To Shelby Grisham, administrator of the estate of Daniel Thompson, deceased, of Colbert County, $240.
To Cecilia R. A. Wheat, executrix of Moses K. Wheat, deceased, of Macon County, $4,890.
To Richard Garner, administrator of Thomas Williams, deceased, of Colbert County, $295.
To the trustees of the Cumberland Presbyterian Church, of Athens, $1,440.

The amendment was agreed to.

The next amendment was, on page 6, after line 22, to strike out:

To the trustees of Decatur Lodge, No. 52, Independent Order of Odd Fellows, of Decatur, $6,000.

The amendment was agreed to.

The next amendment was, at the top of page 7, to strike out:

To the trustees of the First Baptist Church, of Decatur, $2,200.

The amendment was agreed to.

The next amendment was, on page 7, after line 11, to strike out:

To the trustees of the Missionary Baptist Church, of Huntsville, successor to the Primitive Baptist Church, of Huntsville, $1,760.

The amendment was agreed to.

The next amendment was, on page 7, line 22, before the word "hundred," to strike out "four thousand two" and insert "three thousand three," so as to make the clause read:

To the Medical College of Alabama, of Mobile, $3,300.

The amendment was agreed to.

The next amendment was, on page 7, after line 24, to strike out:

To the Bolivar Lodge, No. 127, Free and Accepted Masons, of Stevenson, Jackson County, $1,150.

The amendment was agreed to.

The next amendment was, on page 8, after line 2, to insert:

To the Masonic Lodge of Bexar, Marion County, $600.

The amendment was agreed to.

The next amendment was, on page 8, after line 4, to insert:

To the trustees of the Methodist Episcopal Church South, of Huntsville, $7,500.

The amendment was agreed to.

The next amendment was, under the subhead "Arkansas," on page 8, after line 7, to strike out:

To John W. Bean, of Washington County, $290.
To Joseph N. Bean, administrator of the estate of Joseph Bean, deceased, of Nevada County, $648.
To Chester Bethell, of Scott County, $300.
To Sarah Brewer, widow and sole heir of John Brewer, deceased, late of Madison County, $232.
To T. J. Conner, administrator of estate of Isaac S. Conner, deceased, late of Washington County, $575.
To William E. Floyd, administrator of Asa Crow, deceased, late of Pulaski County, $715.
To Isaiah L. Bair, administrator de bonis non of John N. Curtis, deceased, of Benton County, $1,720.
To Isaiah L. Bair, administrator de bonis non of John N. Curtis, deceased, and Mary M. Loudon, daughter of Thomas Austin, deceased, composing the firm of Curtis & Austin, of Benton County, $775.
To J. M. Derreberry, administrator of the estate of Samuel B. Derreberry, deceased, late of Benton County, $715.
To J. W. Wallace, executor of the estate of Laura J. Dills, deceased, late of Jackson County, $2,945.
To J. H. Duke, administrator of the estate of Edmund F. Duke, deceased, of Prairie County, $3,705.
To William H. Engles, of Washington County, $1,510.
To Sam Edmondson, administrator of the estate of Isaac T. Eppler, deceased, late of Sebastian County, $2,205.
To Mattie U. Boykin, Thaddeus C. Ferrell, and Lulu D. Merlwether, heirs of Thaddeus N. Ferrell, deceased, of Arkansas County, $5,119.
To Samuel E. Fitzhugh, administrator of the estate of Samuel H. Fitzhugh, deceased, of Monroe County, $772.
To Mrs. A. M. McFarlane, administratrix of the estate of John G. Freeman, deceased, of Pulaski County, $2,991.
To John H. Bryson, administrator of the estate of John Gibson, deceased, of Nevada County, $1,060.
To Dan Thomason, administrator of the estate of Joel Harrell, deceased, of Washington County, $1,190.
To William A. Bethel, administrator of the estate of Martha Harrison, deceased, and Oliver P. Lister, of Jefferson County, $399.
To Joel G. Higgins, administrator of estate of Richard Higgins, deceased, late of Phillips County, $11,954.
To Richard D. Lamb, for himself and as administrator of Ira M. Lamb, jr., heirs of Ira M. Lamb and Caroline, his wife, both deceased, of Phillips County, $2,166.67.
To the Union Trust Co., administrator of the estate of Mary Lefevre, deceased, late of Pulaski County, $5,842.
To John B. Luttrell, of Howard County, $480.
To Ben Mahuren, of Benton County, $550.
To Eleanor Maxwell, of Arkansas County, $3,064.
To Sue F. Carl Lee, Nancy L. Frazier, and E. M. Carl Lee, as administrator of Henry E. Mullins, deceased, of Monroe County, in equal shares, $1,995.
To Jonathan Pigman, executor of Benjamin Pigman, deceased, late of Madison County, $1,570.
To Marie Polk Johnston, James Polk, and Burns Polk, jr., heirs of Burns Polk, sr., deceased, late of Phillips County, $300.
To Manurvia J. Spake, formerly Manurvia J. Ross, of Johnson County, $780.
To William B. Rutherford, of Washington County, $890.
To John T. Sifford, executor of the estate of William T. Stone, deceased, late of Ouachita County, $2,640.
To Sarah Winter, of Ouachita County, $1,380.
To Lillie L. Penrod, sole heir of Mary E. Wycough, deceased, late of Independence County, $700.
To John Zillah and Mary T. Goss, sole heirs of Joseph C. Zillah, deceased, of Washington County, $240.

The amendment was agreed to.

The next amendment was, on page 12, line 7, before the word "dollars," to strike out "hundred" and insert "thousand," so as to make the clause read:

To the trustees of the Methodist Episcopal Church South, of Clarksville, $4,000.

The amendment was agreed to.

The next amendment was, on page 12, after line 9, to strike out:

To the trustees of the First Baptist Church of Helena, $1,790.

The amendment was agreed to.

The next aemndment was, on page 12, after line 13, to strike out:

To the trustees of the Old School Presbyterian Church, of Helena, $1,900.

The amendment was agreed to.

The next amendment was, on page 12, after line 17, to strike out:

To the trustees of the First Baptist Church of Pine Bluff, $1,960.
To the trustees of the Methodist Episcopal Church South, of Pine Bluff, $1,300.

The amendment was agreed to.

The next amendment was, on page 12, after line 21, to strike out:

CALIFORNIA.

To Joseph M. Clark, of Santa Clara County, $184.12.
To Wilford Cubbage, of San Bernardino County, $137.42.
To Richard N. Doyle, of Los Angeles County, $397.97.
To Andrew J. Guilford, of Alameda County, $547.25.
To David H. Hilderbrand, of Sacramento County, $480.
To Julia H. Castle, daughter of John H. Howe, deceased, of Los Angeles County, $575.93.

The amendment was agreed to.

The next amendment was, on page 13, after line 11, to strike out:

COLORADO.

To Lewis B. Brasher, of Denver, $372.83.
To Jesse W. Coleman, of Custer County, $675.
To James W. Hanna, of Denver County, $148.34.
To William B. Palmer, of Denver, $360.05.
To George T. Shackelford, of Denver, $43.80.

The amendment was agreed to.

The next amendment was, on page 13, after line 22, to strike out:

CONNECTICUT.

To James F. Brown, of New London County, $262.98.
To E. W. Hubbell and R. H. Hubbell, executors of the estate of James E. Hubbell, deceased, of Fairfield County, $109.27.
To Charles H. Simmons, of Windham County, $39.94.

The amendment was agreed to.

The next amendment was, under the subhead "District of Columbia," on page 14, after line 6, to strike out:

To Harrison L. Dean, of Washington City, $115.74.
To Ella L. Dewecse, widow of John T. Dewecse, deceased, of Washington City, $155.09.
To Thomas Fahey, of Washington City, $1,840.

The amendment was agreed to.

The next amendment was, on page 14, line 16, before the word "cents," to strike out "sixty dollars and eighty-nine" and insert "twenty-four dollars and seventy-one," so as to make the clause read:

To Horatio G. Gibson, of Washington, $1,724.71.

The amendment was agreed to.

The next amendment was, on page 14, after line 16, to strike out:

To Heber L. Thornton and Grayson L. Thornton, trustees of the estate of Gottlieb C. Grammer, deceased, $2,540.
To Benjamin F. Hasson, of Washington City, $365.39.

The amendment was agreed to.

The next amendment was, at the top of page 15, to strike out:

To Elizabeth Thomas, of Brightwood, $1,835.

The amendment was agreed to.

The next amendment was, under the subhead "Florida," on page 15, after line 8, to strike out:

To Robert von Balsan; Eliza C. von Balsan, administratrix of Rinaldo von Balsan, deceased; and Sarah von Balsan, administratrix of Isadore von Balsan, deceased, of St. John County, $1,280.
To Joseph D. Hazzard, of Lake County, $106.21.
To Telesfor D. Quigles, administrator of the estate of Manette Marsons, deceased, late of Escambia County, $4,300.
To Richard H. Turner, in his own right and as administrator of the estate of Eliza Turner, deceased, and Eliza Ann Turner, of Duval County, $2,130.
To the First Baptist Church of Jacksonville, $1,170.

The amendment was agreed to.

The next amendment was, on page 15, after line 24, to insert:

To the rector, wardens, and vestry of St. John's Church, at Jacksonville, $12,000.

The amendment was agreed to.

The next amendment was, under the subhead "Georgia," on page 16, after line 1, to strike out:

To July Anderson, jr., administrator of the estate of July Anderson, deceased, of Liberty County, $280.
To G. W. Aycock, administrator of the estate of Reddick Aycock, deceased, late of Walton County, $515.
To Caldwell C. Baggs and William A. Baggs, of Liberty County, and to Mary A. Baggs Latham, of Duval County, Fla., in equal shares, $660.
To James F. Hicks, administrator of the estate of Larkin Clark, deceased, of Hart County, $165.
To Mrs. M. E. Arrowood, administratrix of the estate of William Coursey, deceased, of Fulton County, $617.
To George Creel, of Clayton County, $865.
To Fannie Crow, administratrix of the estate of Levi Crow, deceased, late of Paulding County, $710.
To Daniel M. Dempsey, administrator of the estate of Berryman S. Dempsey, deceased, of Floyd County, $857.
To N. C. Fears, administrator of the estate of W. S. Fears, deceased, of Henry County, $1,765.
To Miles L. Floyd, administrator of the estate of David Floyd, deceased, of Gordon County, $310.
To Plymouth Frazier, jr., of Liberty County, $122.
To H. B. Godbee, son and heir of Albert Godbee, deceased, of Clayton County, $430.
To A. G. McDonald, administrator of the estate of Robert H. Green, deceased, of Clayton County, $595.
To Abraham Greeson, of Gordon County, $405.
To Archibald A. Griggs, administrator of estate of Archibald P. Griggs, deceased, late of Cobb County, $760.

To J. M. Ballew, administrator of the estate of Sarah Hays, deceased, late of Gordon County, $330.

To Mary E. Humphreys, independent executrix of the estate of Enoch Humphreys, deceased, of Gordon County, $370.

To Dennis H. Hunt, administrator of estate of Samuel Hunt, deceased, late of Floyd County, $508.

To J. W. Jennings, administrator of the estate of Patrick Jennings, deceased, of Bartow County, $190.

To Sabini Jones, of Pike County, $215.

To Catherine Kelton, of Fulton County, $500.

To Mary A. Landis, administratrix of estate of Solomon Landis, deceased, late of Atlanta, Ga., $1,100.

To Joe M. Moon, administrator of the estate of Elijah Pinson, deceased, late of Bartow County, $705.

To Julia A. Crusells, administratrix of William H. Rice, deceased, of Fulton County, $8,190.

To S. Inman, administrator of the estate of Jacob B. Russell, deceased, late of Catoosa County, $3,210.

To Matilda J. Smith, widow of Melvin J. Smith, deceased, late of Whitfield County, $295.

To B. J. Cowart, administrator of Aaron Turner, deceased, of Campbell County, $415.

To W. C. Waldrop, administrator of the estate of Millinton Waldrop, deceased, late of Paulding County, $641.

To Otto Seller, administrator of the estate of Carl Welland, deceased, late of Chatham County, $3,022.

The amendment was agreed to.

The next amendment was, on page 19, after line 13, to strike out:

To the rector, wardens, and vestrymen of St. Philip's Episcopal Church, of Atlanta, $800.

The amendment was agreed to.

The next amendment was, on page 19, after line 17, to strike out:

To the trustees of the Jerusalem Evangelical Lutheran Church, of Ebenezer, $225.

To the trustees of the African Methodist Episcopal Church, of Marietta, $425.

The amendment was agreed to.

The next amendment was, on page 20, after line 4, to insert:

To the trustees of the Catholic Church, at Dalton, $3,680.

The amendment was agreed to.

The next amendment was, on page 20, after line 6, to strike out:

ILLINOIS.

To Martha J. Bowen, widow of Edwin A. Bowen, deceased, late of Lasalle County, $221.80.

To Andrew L. Carter, of Sangamon County, $48.16.

To Bennett Depenbrock, of Marion County, $952.19.

To Thomas O. Eddins, of Pike County, $227.90.

To Mary J. Ely, widow of Benjamin F. Ely, deceased, of Coles County, $259.68.

To James P. Files, son, and Alice White, granddaughter, sole heirs of James P. Files, deceased, late of Wayne County, $80.01.

To Benjamin S. Ford, of Tazewell County, $330.43.

To Thomas Foster, of Cook County, $1,408.

To William T. Glenn, of Cook County, $334.75.

To William Hanna, of Adams County, $395.57.

To Annie Mahar, widow (remarried) of Theodore S. Loveland, of Cook County, $590.39.

To Orrin L. Mann, of Vermilion County, $283.35.

To John E. Mullaly, of Cook County, $99.30.

To Fannie Pemberton, of Golconda, $4,000.

To Nannie L. Schmitt, widow of William A. Schmitt, deceased, of Cook County, $129.25.

To Mary L. Scott, widow of Pleasant S. Scott, deceased, of Menard County, $67.77.

To Augusta A. Smith, executrix of the estate of E. Leonidas Smith, deceased, of Cook County, $1,400.

To John H. Stibbs, of Cook County, $216.18.

To Carrie M. Persons, executrix of William Stubbs, deceased, of Cook County, $411.17.

To John J. Vincent, of Williamson County, $282.

The amendment was agreed to.

The next amendment was, on page 22, after line 5, to strike out:

INDIANA.

To Lewis J. Blair, of Dekalb County, $434.14.

To Sarah E. Smith and George W. Browne, brother and sister and sole heirs of Thomas M. Browne, deceased, of Randolph County, $202.84.

To Samuel E. Culvert, late a resident of Kentucky, now residing in Grant County, Ind., $274.92.

To William G. Dudley, of Sullivan County, $381.87.

To Russell P. Finney, of Clark County, $153.95.

To John W. Foland, of Madison County, $477.04.

To Andrew G. Gorrell, of Wells County, $264.71.

To Silas Grimes, of Monroe County, $288.37.

To John W. Headington, of Jay County, $194.19.

To Nimrod Headington, of Jay County, $276.45.

To Hiram Hines, of Hamilton County, $309.45.

To Jeannette J. Girard, administratrix of the estate of Josiah Jennison, deceased, late of Dearborn County, $1,200.

To Kate Morehead, Clara M. Girard, and Florence E. Cochran, heirs of Joseph P. Leslie, deceased, $55.43.

To John D. Longfellow, of Grant County, $98.51.

To Cyrus J. McCole, of Hamilton County, $330.44.

To Leonard H. Mahan, of Vigo County, $119.14.

To Ernest C. North, of Ohio County, $90.90.

To Robert W. Pemberton, of Tippecanoe County, $473.02.

To John W. Sale, of Allen County, $299.62.

To Joseph D. Wyatt, a resident of the National Military Home in the State of Indiana, $102.81.

The amendment was agreed to.

The next amendment was, on page 24, after line 3, to strike out:

IOWA.

To Hiram Atkinson, of Fremont County, $64.59.

To Charles C. Bauman, late of Illinois, now resident of Davenport, Iowa, $238.16.

To Annis M. Dana, widow of Newell B. Dana, deceased, of Washington County, $242.

To Henry Green, of Clay County, $83.81.

To Paris P. Henderson, of Warren County, $392.09.

To Johannah H. Houps, widow of Michael Houps, deceased, of Dubuque County, $442.74.

To Nancy J. Gilleland, widow (remarried) of John Paul Jones, deceased, of Madison County, $173.13.

To Hamilton L. Karr, of Clark County, $66.54.

To Basil D. Mowery, of Keokuk County, $461.22.

To D. W. Poor, son and heir at law of James A. Poor, deceased, of Buchanan County, $138.83.

To August Schlapp, $399.36.

To George A. Smith, of Clinton County, $416.67.

To Abram Treadwell, of Clayton County, $450.40.

The amendment was agreed to.

The next amendment was, on page 25, after line 11, to strike out:

KANSAS.

To James P. Barnett, of Sedgwick County, $97.71.

To Samuel A. Shelton, administrator of the estate of Henry Bennett, deceased, of Allen County, $845.

Mr. CURTIS. I hope the amendment regarding the claim of Shelton will not be agreed to. I ask to have read the following statement in regard to the claim.

The PRESIDING OFFICER. The Secretary will read, as requested.

The Secretary read as follows:

BRIEF IN THE CASE OF HENRY BENNETT.

The present claimant in that case is Samuel A. Shelton, administrator of the estate.

The grounds given for striking this case out of the omnibus claims bill are as follows:

"No. 226. Henry Bennett. Referred in 1888; loyalty found in 1902, 14 years later, during which period it slept in Court of Claims without motion; was not brought on for trial in Court of Claims until 1908, 20 years after reference; stores and supplies taken in 1861–1864; never presented to any department; slept 24 years before reference and 20 years in Court of Claims after reference; laches (H. 875, 60th Cong., 1st sess.)."

These statements of fact are not correct. The case did not sleep 24 years before reference, as stated, for the simple reason that the claimant made a proper presentation of his claim to the Quartermaster General under the act of July 4, 1864, and this claim remained unadjudicated in that office until 1881, where it was rejected by the Quartermaster General.

No further relief was open to the claimant at this time, but so many cases were rejected by the Quartermaster General in summary manner, without considering really competent evidence, that Congress passed the act of March 3, 1883, commonly known as the Bowman Act, authorizing the examination into the facts of these cases by a court. A bill for the relief of the claimant was introduced in the Fiftieth Congress, first session, and on May 1, 1888, the Committee on War Claims ordered the case referred to the Court of Claims for findings of fact under the Bowman Act.

PROCEEDINGS UNDER BOWMAN ACT.

The claimant is charged with having slept on his rights in the Court of Claims 14 years without motion. This statement is not correct, and it will appear from the transcript of the docket entries annexed hereto. There was a delay of 12 years in securing the claimant's testimony. Attention is asked to what is said in the inclosed printed brief relative to stores and supplies cases, about the delays of the Government in taking testimony, beginning with page 14.

In December, 1900, however, the claimant got the depositions of seven witnesses on the subject of loyalty. Claimant's brief was promptly filed on April 6, 1901, and then there was a wait until January 22, 1902, for the defendants' brief. December 20, 1904, the case was remanded to the general docket. On April 18, 1906, the defendants moved to dismiss the case for want of prosecution. The court, however, did not order the case dismissed, and the claimant's brief on merits was filed in 1907, and findings were made in the claimant's favor in the same year.

There were delays in this case, without question, but they were not all due to the claimant. The claimant was ready to go ahead and take his testimony, but found it impossible to make arrangements for having Government counsel present to conduct the cross-examination.

FINDINGS BY THE COURT.

The findings of the court are reported to Congress in House Document No. 875, Sixtieth Congress, first session. The findings by the court are as follows:

"This case being a claim for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, the court on a preliminary inquiry finds that Henry Bennett, the person alleged to have furnished such supplies or stores, or from whom the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

"During the war for the suppression of the rebellion there was taken from the claimant's decedent in Allen County, State of Kansas, by various soldiers under the command of Col. Jennison, of the Fifteenth Kansas Volunteers, property of the character and kind described in the petition, but the authority therefor is not shown. The reasonable value of the property so taken was at the time and place the sum of $845, no part of which appears to have been paid."

TRANSCRIPT OF DOCKET ENTRIES IN CASE NO. 4394, CONGRESSIONAL, IN THE COURT OF CLAIMS.

Claimant: Henry Bennett *v.* The United States.

Attorney of record: Charles and William B. King.

May 5, 1888. Order Committee on War Claims, House of Representatives, dated May 1, 1888, referring case, and one paper filed. Notified Assistant Adjutant General and claimant care of clerk.

June 5, 1888. Call on War Department issued.

June 5, 1888. Call on Treasury Department issued.

June 30, 1888. Reply Treasury Department; 12 papers filed; parties notified.

July 21, 1888. Call on War Department issued.

November 26, 1888. Reply War Department; 19 filed; parties notified.

June 2, 1891. Call on Treasury Department issued.

August 4, 1891. Call on War Department (letter) issued.

August 17, 1891. Call on War Department (letter) returned with answer indorsed thereon; parties notified.

December 5, 1891. Reply Treasury Department received; parties notified.

notified.

August 19, 1892. Report War Department filed by defendants; parties notified.

November 21, 1900. Petition filed; copies and notice to defendants.

November 30, 1900. Report of War Department filed by defendants; attorney notified.

December 27, 1900. Depositions of Samuel J. Stewart, E. Strosnider, Allen Dickinson, G. B. Balch, N. Kemmer, Mrs. Emma R. Lassman, and G. De Witt for claimant filed; parties notified.

April 6, 1901. Claimant's brief on loyalty filed; copy and notice to defendants.

April 22, 1901. Report Treasury Department filed by defendants; attorney notified.

June 20, 1901. Report Treasury Department on loyalty filed by defendants; attorney notified.

January 23, 1902. Defendants' brief on loyalty filed; attorney notified.

January 24, 1902. Report War Department on loyalty filed by defendants; attorney notified.

January 27, 1902. Submitted on evidence and briefs.

February 3, 1902. Loyalty of Henry Bennett found.

December 20, 1904. Remanded to general docket.

April 18, 1906. Defendants' motion to dismiss for want of prosecution under rule 93 filed; attorney notified; see 9519, House Journal.

September 10, 1906. Claimant's objection to motion to dismiss filed; defendants notified.

September 12, 1906. Defendants' reply to claimant's objection to motion to dismiss.

January 25, 1907. Claimant's brief on merits filed; copy and notice to defendants.

February 27, 1907. Defendants' brief on merits filed; attorney notified.

March 4, 1907. Claimant's reply brief filed; copy and notice to defendants.

March 11, 1907. Submitted on evidence and briefs.

April 1, 1907. Court filed findings of fact in favor of claimant for the sum of $205, to be certified to the Speaker, House of Representatives.

December 21, 1907. Claimant's motion to amend findings of fact with brief in support filed; defendants notified with copy; House Journal.

December 21, 1907. Certificate of register of deeds of Allen County, Kans., filed by claimants; defendants notified.

January 13, 1908. Claimant's motion of December 21, 1907, to law calendar.

February 14, 1908. Motion to substitute Samuel A. Shelton, administrator of estate of Henry Bennett, deceased, with certified copy of letters of administration filed; allowed under rule 45; defendants notified.

February 25, 1908. Defendants' reply to claimant's motion to amend findings of fact filed; attorney notified.

February 25, 1908. Claimant's motion to amend findings of fact submitted.

February 25, 1908. Claimant's motion to amend findings of fact allowed in part and overruled in part; former findings withdrawn and new findings filed in the sum of $845, to be certified to the Speaker, House of Representatives.

April 21, 1908. Findings certified to the Speaker, House of Representatives.

Mr. CRAWFORD. Mr. President, I wish to say to the Senator from Kansas that this case is very similar to several hundred others in this bill. The position of the Committee on Claims rests upon what appears on the face of the finding of the Court of Claims. We have never undertaken to go into files, records, and pleadings outside of what appears on the face of the report made to us, because to do so would be to open up questions lying beyond the report of the Court of Claims and involve the committee in inextricable confusion and difficulty.

What is set forth in the recitals does appear on the face of this claim in paragraph 226, page 62, of the report of the committee. The court does not find that this property was taken by authority. It may have been taken by soldiers and carried off, but that would be an individual act of plunder or spoliation on the part of individual soldiers. The court did not find that the property was taken by authority of any military head, and it does appear that the claim remained in this situation of inactivity all these years.

Necessarily, having passed the other House as several hundred other claims very similar to it have done, it will have to be dealt with in conference. If we make an exception of this item, raise questions of a quorum, and have roll calls, we will have an endless number of such cases, so I think the Senator ought to allow the item to go with others similarly situated and have them treated together in conference.

Mr. CURTIS. Mr. President, I have no desire to interfere with the plan of the chairman of the committee. I had noticed in this report that undoubtedly the chairman, or whoever wrote the report or looked into the cases, had not thoroughly studied them, because there are misstatements of fact. There had been diligence by the claimant. However, if that matter is to be tried out in conference and this case is to be treated with other cases, I will not insist on a separate vote, but will let the matter go so that it may be settled in conference. However, I do want to say for a number of these Kansas cases that I have looked into the facts and find that the claimants were diligent, and that the delay was more on account of the nonaction of Congress than on the part of the claimants. In many cases the delay was caused by inaction on the part of the War Department, where claims were held some 10 or 15 years before any action was taken upon them by the Quartermaster General's Department.

Mr. CRAWFORD. Upon that I simply desire to say to the Senator that I decline to plead guilty of any failure in the exercise of diligence. I do not think that when a tribunal has been created under the law for the very purpose of having it thrash out all these questions, take testimony, and make reports as advisory to us it then becomes the duty of the committees of Congress to go away back behind the record sent to us by the court and ascertain whether or not the court was at fault in not having given us a fuller statement because there was evidence that justified some fuller statement by the Court of Claims than that court had made to us. In other words, I do not think we are required to go behind the report of the Court of Claims and retry or reexamine these cases. So we did not undertake to do so, and I do not think we are subject to the charge of lack of diligence because we did decline to do so. But, as I have said, the House passed these items which the Senate committee has suggested be stricken from the bill. That necessarily will bring the matter, if the action of the Senate committee is sustained, before the conferees, where advocates of both views may be heard and some conclusion reached. I think it better to do that than to open up these individual cases and involve us in endless examination of details here. It is very much like the action of a master with a long account. There are probably 3,000 different items involved in this bill, and if the Senate is to undertake to weigh testimony in each one of them we are defeated in the attempt to consider this bill before we begin. On that account I suggest to the Senator that it would be better to let it go in that way.

Mr. CURTIS. Mr. President, as I said in my opening statement, I have no desire to oppose the policy which the chairman of the committee desires to follow in regard to these different items. If he wants to settle the matter in conference with the object of going into these cases and examining the reports that are on file with the committee of the House, I will not ask for a separate vote. I have looked up these several cases from Kansas, however, and I am satisfied that the claimants did use due diligence. With that statement, I will simply ask to withdraw my request for a separate vote upon the amendment.

The PRESIDING OFFICER. The request for a vote is withdrawn, and, without objection, the committee amendment is agreed to. The Secretary will resume the reading of the bill.

The reading of the bill was resumed.

The next amendment of the Committee on Claims was, under the head of "Kansas," on page 25, to strike out from line 18 to line 24, inclusive, as follows:

To Frank Crathorne, of Wilson County, $201.17.

To Jane H. Haynes, widow of Charles H. Haynes, deceased, of Bourbon County, $100.76.

To Alfred W. Kent, of Clay County, $664.

Mr. CURTIS. In this connection, without having it read, I will ask leave to have printed in the RECORD a statement relating to the claim of Alfred W. Kent, at the bottom of page 25.

The PRESIDING OFFICER. Without objection, permission is granted.

The statement referred to is as follows:

BRIEF IN THE CASE OF ALFRED W. KENT.

Claimant is a resident of Broughton, Clay County, Kans. He is represented locally by Mr. F. L. Williams, of Clay Center.

The reasons given by the committee for the exclusion of this claim from the omnibus claims bill are as follows (see S. Rept. No. 770, p. 62):

"No. 229. Alfred W. Kent. Referred in 1900; loyalty found in 1905; stores and supplies taken in 1864; claim presented to no department; slept for 36 years before reference; laches. (S. 455, 59th Cong., 1st sess.)"

This last statement that the claim was never presented is not correct, for the claim could not have been considered by the court under the Bowman Act had it not first been presented in accordance with the law. On this point attention is asked to the printed brief relating to the stores and supplies cases, beginning page 22.

FIRST PRESENTATION OF CLAIM.

This claim was first presented to the Third Auditor of the Treasury in April, 1883. It was rejected August 9, 1889. (See claim No. 21099, office Third Auditor of the Treasury.) The comptroller concurred in this disallowance August 15, 1889. The claimant filed additional evidence with the comptroller, who authorized a further examination into the claim. Under date of January 10, 1891, the claim was again disallowed by the accounting officers. The case was rejected on the ground that the records did not show that any voucher was given to the claimant, and his name was not found upon the report submitted to the Quartermaster General.

On February 2 the claimant petitioned Congress for relief. This petition was presented by Senator W. A. Harris, and on March 28, 1900, the bill for the claimant's relief (S. 3462) was referred by resolution of the Senate to the Court of Claims for findings of fact under the act of March 3, 1887, commonly known as the Tucker Act.

PROCEEDINGS UNDER THE TUCKER ACT.

It is claimed that the claimant was guilty of laches, but the transcript of docket entries hereto annexed shows that this was not the case. The case was referred in 1900; the petition was filed in 1901; depositions were taken in 1902 and 1904; the claimant was found loyal in February, 1905; and the case brought to trial on the merits in 1906. The case was under prosecution in the court six years.

The findings of the court are set out in Senate Document No. 455, Fifty-ninth Congress, first session. This document shows that—

"On a preliminary inquiry the court, on the 20th day of February, 1903, found that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war."

And also found that—

"During the war for the suppression of the Rebellion the military forces of the United States, by proper authority, for the use of the Army, took from claimant, in Johnson County, State of Kansas, horses, as above described. The reasonable value of said horses, together with the hire for 22 days of two teams, is the sum of $664.

"No payment appears to have been made therefor."

APPROPRIATIONS.

Provisions have been made on the following bills which have passed one or the other Houses of Congress, as indicated, for the payment of findings in these cases:

S. 7571, Sixty-first Congress, second session, as reported (S. Rept. No. 603) and passed by the Senate December 20, 1910.

H. R. 32767, Sixty-first Congress, second session, passed by the House of Representatives February 17, 1911, as a substitute for Senate bill 7571. On account of the shortness of remaining time this bill was not acted on in the Senate.

H. R. 19115, Sixty-second Congress, second session, passed by the House of Representatives February 19, 1912. Senate committee recommends striking out practically every southern war claim.

TRANSCRIPT OF DOCKET ENTRIES IN CASE NO 10149, CONGRESSIONAL, IN THE COURT OF CLAIMS.

Claimant: Alfred W. Kent v. The United States.

Attorney of record: George A. & William B. King.

March 29, 1900. Resolution of the United States Senate dated March 28, 1900, referring case and one paper under act of March 3, 1887, also Senate bill No. 3462—see accompanying letter of the Secretary of the United States Senate filed in No. 10147) filed; amount claimed, $1,265. Notified A. A. G. and claimant—address Johnson County, Kans.

May 7, 1900. Appearance of George A. and William B. King filed (power of attorney to be filed when petition is filed).

May 30, 1900. Call on Treasury Department filed, allowed, and issued June 8, 1900.

June 29, 1901. Petition filed; defendants notified with copies.

July 9, 1901. Report of War Department on loyalty filed by defendants; parties notified.

July 9, 1901. Report of War Department on merits filed by defendants; parties notified.

November 23, 1901. Report of Treasury Department on loyalty and merits filed; attorney notified.

April 14, 1902. Deposition of Alfred W. Kent for claimant filed; parties notified.

September 3, 1902. Deposition of G. W. Stabler for claimant filed; parties notified.

September 3, 1902. Depositions of William T. Turner, S. T. Duffield, and P. Duffield for claimant filed; parties notified.

December 1, 1902. Reply Treasury Department (39 papers) filed; parties notified.

October 12, 1904. Deposition of V. R. Blush for claimant filed; parties notified.

December 2, 1904. Claimant's brief on loyalty filed; copy and notice to defendants.

February 13, 1905. Submitted on evidence and brief.

February 20, 1905. Loyalty of Alfred W. Kent found.

October 14, 1905. Claimant's brief, request for findings of fact and brief on merits filed; copy and notice to defendants.

December 6, 1905. Defendants' brief on merits filed; attorney notified.

March 29, 1906. Claimant's reply brief filed; copy and notice to defendants.

April 4, 1906. Submitted on evidence and briefs.

April 9, 1906. Court filed findings of fact in favor of claimant for the sum of $664 to be certified to the President of the Senate.

May 21, 1906. Motion to certify findings to Congress filed; allowed.

May 22, 1906. Findings certified to the President of the United States Senate.

The reading of the bill was resumed.

The next amendment of the Committee on Claims was, to strike out all the items from line 1, on page 26, to and including line 9, on page 36, as follows:

To B. C. Matthews, administrator of the estate of Fenelon B. Matthews, deceased, late of Nemaha County, $550.52.

To Florence M. Metz, widow of Edmund Metz, deceased, of Reno County, $113.23.

To Martin V. B. Sheafer, of Cloud County, $152.76.

To William H. Sparrow, of Labette County, $165.26.

To Jacob Samuel Weaver, of Bourbon County, $82.26.

KENTUCKY.

To Mary E. Martin, widow (remarried) of Samson M. Archer, deceased, of Bourbon County, $115.70.

To Thomas N. Arnold, jr., administrator of the estate of Thomas N. Arnold, deceased, late of Kenton County, $5,015.

To William A. Attersall, of Clark County, $30.74.

To A. W. Richards, administrator of the estate of Kinchen Bell, deceased, of Union County, $1,420.

To Margaret A. Bloom, widow of Andrew S. Bloom, deceased, of Fayette County, $789.29.

To William H. Boswell, of Anderson County, $540.

To R. B. Bottom, executor of the last will and testament of Henry P. Bottom, deceased, of Boyle County, $1,715.

To Valentine S. Brewer, of Owsley County, $469.90.

To Patrick Henry Bridgewater, of Adair County, $220.

To Coleman T. Brown, of Green County, $1,620.

To Stephen E. Brown, of Boyle County, $490.

To J. Patrick McGee, administrator of the estate of Clement Calhoun, deceased, late of Nelson County, $230.

To Charles F. Cammack, Mary B. Harbin, Lillie V. Oldham, and Frances H. Glover, heirs of Mary R. Cammack, deceased, late of Jefferson County, $525.

To B. H. Chesher, administrator of the estate of W. G. Chesher, deceased, late of Anderson County, $320.

To Sallie M. Cohen, administratrix of the estate of Henry Cohen, deceased, late of Boyle County, $856.

To Thomas P. Coldwell, of Laurel County, $89.83.

To Millard J. Conley, heir of Harmon Conley, deceased, late of Paint Creek, $1,200.

To U. S. Denny, heir of the estate of Thomas D. Denny, deceased, of Wayne County, $102.

To Sarah Ann Dobbs, widow of Nathaniel B. Dobbs, deceased, of Pulaski County, $152.25.

To William Dunn, administrator of the estate of Woodford Dunn, deceased, of Edmonson County, $910.

To Emma F. Everman, of Carter County, $425.

To Hattie Grider, administratrix of the estate of T. S. Grider, deceased, late of Warren County, $1,795.

To James M. Hall, of Montgomery County, $750.

To J. A. Hall, administrator of the estate of Starkey Hall, deceased, late of Logan County, $380.

To Robert Hardwick, of Pulaski County, $980.

To Foster G. Heyser, Charles F. Heyser, and George Heyser, executors of the estate of Thomas Heyser, deceased, late of Hart County, $1,015.

To Thomas R. Hill, of Bath County, $495.

To E. S. Holloway and W. S. Holloway, surviving executors of the estate of John G. Holloway, deceased, late of Henderson County, $2,102.

To William B. Kelly, of Clay County, $50.

To Harriet N. Lair, of Pulaski County, $350.

To Eliza Leathers, administratrix of the estate of Alfred Leathers, deceased, late of Anderson County, $825.

To Mary H. Letcher, administratrix of estate of Thomas K. Letcher, deceased, late of Jessamine County, $420.

To Joseph E. Lindsey, surviving partner of the firm of John Lindsey & Son, of Montgomery County, $1,080.

To Katherine McClelland, administratrix of the estate of Robert M. McClelland, deceased, late of Fayette County, $900.

To Elizabeth Magruder, niece and heir at law of Alexander Magruder, deceased, of Nelson County, $220.56.

To Daniel Mans, of Maysville, Ky., late of Goochland County, Va., $250.

To George Leonard, administrator of the estate of Catherine Marin, deceased, of Campbell County, $1,105.

To John H. Marshall, of Pendleton County, $300.

To Samuel P. Martin, of Anderson County, $330.

To Kate W. Milward, widow of Hubbard K. Milward, deceased, of Fayette County, $545.10.

To Rudolph Minton, of Jefferson County, $310.

To Robert L. Moore, of Crittenden County, $213.

To Ella J. Vermillion and others, children and heirs at law of Zachariah A. Morgan, deceased, of Letcher County, $52.60.

To Miriam F. Munday, widow of Jesse S. Munday, deceased, of Mercer County, $501.86.

To Ion B. Nall, of Jefferson County, $46.40.

To Hannah Nally, executrix of William A. Nally, deceased, late of Louisville, $2,013.

To Samuel H. Pipes, of Washington County, $1,210.

To Fannie C. Poynter, administratrix of the estate of William L. Poynter, deceased, of Barren County, $610.

To Belle M. Robards, of Boyle County, $425.

To John W. Robbins, of Bracken County, $263.

To Margaret P. Robinson, widow of Richard M. Robinson, late of Garrard County, $227.

To T. P. Salyer, of Lawrence County, $350.

To C. H. Webb, jr., administrator of the estate of David B. Sanders, deceased, late of Livingston County, $1,075.

To Mary Speak, widow of Jesse C. Speak, deceased, of Laurel County, $36.60.

To Andrew J. Tranghber, of Logan County, $760.

To. R. A. Walker, executor of John L. Walker, deceased, late of Boyle County, $324.

To Benjamin R. Waller, of Graves County, $524.77.

To Elijah Warren, of Green County, $175.

To John E. Wells, of Mason County, $256.24.

To Eleanor G. Whitney, of Scott County, $6,466.

To John M. Wilson, administrator of the estate of Joseph Wilson, deceased, late of Fulton County, $2,390.

To William J. Worthington, of Greenup County, $36.40.

To the trustees of the Baptist Church of Bowling Green, $650.

To the deacons of the First Presbyterian Church of Bowling Green, $1,125.

To the stewards of the Methodist Episcopal Church South, of Bowling Green, $730.

To the trustees of the Baptist Church of Brandenburg, $180.

To the secretary and treasurer of Harrison Masonic Lodge, No. 122, of Brandenburg, $125.

To the trustees of the Methodist Episcopal Church South, of Brandenburg, $125.

To the trustees of the Methodist Episcopal Church South, of Bryantsville, $410.

To the trustees of the Baptist Church of Crab Orchard, $1,050.

To St. Andrews Lodge, No. 18, Free and Accepted Masons, of Cynthiana, $600.

To the trustees of the Christian Church of Danville, $725.

To the trustees of the First Baptist Church of Danville, $700.

To the trustees of the First Presbyterian Church of Danville, $610.

To the trustees of the Methodist Episcopal Church South, of Danville, $520.

To the directors of the Presbyterian Theological Seminary of Kentucky, at Danville, $1,150.

To J. Harrison Planck and P. S. Dudley, trustees of the Baptist Church of Flemingsburg, $775.

To the trustees of the Glasgow graded common schools, of Glasgow, successor to the Glasgow Academy, or Urania College, of Glasgow, $1,215.

To the trustees of the Baptist Church of Harrodsburg, $675.

To the trustees of the First Presbyterian Church of Harrodsburg, $1,100.

To the trustees of the Methodist Episcopal Church South, of Harrodsburg, $750.

To the trustees of the First Presbyterian Church at Lebanon, $1,380.

To the rector of St. Augustine's Roman Catholic Church, of Lebanon, $405.

To the trustees of the Methodist Episcopal Church South, of Mount Sterling, $460.

To the trustees of the Presbyterian Church of Mount Sterling, $650.

To the treasurer of Salt River Lodge, No. 180, Free Ancient and Accepted Masons, of Mount Washington, $120.

To the trustees of the Green River Collegiate Institute, successor to the Hart Seminary, of Munfordville, $525.

To the trustees of the Jessamine Female Institute, successor of Bethel Academy, of Nicholasville, $725.

To the trustees of the Christian Church of Nicholasville, $940.

To the town of Nicholasville, $300.

To the trustees of the Sulphur Well Christian Church, near Nicholasville, $300.

To the trustees of the Baptist Church of Paris, $600.

To the trustees of the First Presbyterian Church of Paris, $1,215.

To the trustees of the Ewing Institute, of Perryville, $270.

To the trustees of the Methodist Episcopal Church South, of Perryville, $425.

To the session of the Presbyterian Church of Perryville, $325.

To the trustees of the Baptist Church of Princeton, $110.

To the Madison Female Institute, in Madison County, near Richmond, $6,500.

To the trustees of the Cumberland Presbyterian Church of Russellville, $1,650.

To the trustees of the Baptist Church of Shepherdsville, $150.

To the trustees of the Baptist Church of Somerset, $1,500.

To the trustees of the Presbyterian Church of Somerset, $550.

To the trustees of the Antioch Methodist Episcopal Church South, of Stewart, Mercer County, $240.

The amendment was agreed to.

The next amendment was, under the head of "Louisiana," on page 36, to strike out from line 11 to line 23, inclusive, on page 38, as follows:

To Victorie C. Avet, administratrix of the estate of Vincent Avet, deceased, late of Plaquemine, Iberville Parish, $2,425.

To Remy Bagarry, of Iberia Parish, $1,520.

To John Fisher, administrator of estate of Henry Bauman, deceased, late of Iberia Parish, $950.

To Eugene Barrow, administrator of the estate of Mary J. Barrow, deceased, late of West Feliciana Parish, $12,625.

To Adelia B. Greely, of Jones County, Miss., sole heir of H. B. Benjamin, deceased, late of East Baton Rouge Parish, $755.

To Mrs. Marie Ernestine Bourcy, Marie Ernestine Bourcy, jr., Stanislaus L. B. Bourcy, and Augustin Theodore Bourcy, heirs of Eugene Augustin Bourcy, deceased, late of New Iberia, $1,125.

To Felix Guidry, Arsene Broussard (née Guidry), Cecilia Alabarado (née Guidry), and Loretta Broussard (née Guidry), heirs of Louisa Breaux, late of Lafayette Parish, in equal shares, $7,780.

To Sarah Bushnell, of Rapides Parish, $1,725; to Rosa Brown, Meeker Brown, and Jennie May Brown, of said parish, heirs of Lindsay L. Brown, deceased, in equal shares, $1,725; and to Elmyra Jones, William Brown, Bertha Brown, May Brown, and Esther Brown, of said parish, heirs of Talton E. Brown, deceased, in equal shares, $1,725.

To Athenais Chretien Le More, administratrix of Felicite Neda Chretien, deceased, late of St. Landry Parish, $7,945.

To Stephen D. Clark, for himself and as sole heir of Emily C. Lovelace, deceased, and of Charles L. Clark, deceased, of Catahoula Parish, $4,240.

To J. Martin Compton, of Rapides Parish, $1,990.

To J. G. Le Blanc, administrator of the estate of Jean Crouchet, deceased, late of Iberia Parish, $1,040.

To Antoine Decuir, Joseph Auguste Decuir, and Rosa Decuir Maclas, heirs of Antoine Decuir, sr., deceased, late of Pointe Coupee Parish, in equal shares, $4,115.

To Charles R. Delatte, administrator of the estate of Louis Delatte, deceased, late of the city of Baton Rouge, $1,010.

To Odile Deslonde, sole heir of Eloise Deslonde, deceased, late of Iberville Parish, $5,325.

To Nicaise Lemelle, administrator of estate of Bellot A. Donato, deceased, late of St. Landry Parish, $750.

To Ludger Lemelle, administrator of estate of Clarisse Donato, deceased, late of St. Landry Parish, $2,160.

The amendment was agreed to.

The next amendment was, beginning with line 3, on page 39, to strike out down to and including line 25, on page 44, as follows:

To Calvin H. Dyson, administrator of the estate of George W. Dyson, deceased, of Washington Parish, $715.

To Martin Guillory, of St. Landry Parish, $311.

To Adorea Honore, widow and sole heir of Emile Honore, deceased, late of Pointe Coupee Parish, $976.

To Annie E. Jones, Robert McElroy Jones, Alice J. Jones, Mattie E. Blanchard, Clemence W. Brian, Cecilia McElroy Dunn, and Robert M. Jones (administrator of the estate of Emma H. Wells, deceased), heirs of Martha J. Jones, deceased, in equal shares, the sum of $4,143.

To Florville Kerlegan, of Lafayette Parish, $671.

To E. G. Benker, administrator of estates of Rosamond Lacour, deceased, and of Colin Lacour, deceased, late of West Baton Rouge Parish, $635.

To C. La Branche, of New Orleans, dative testamentary executor of Adele Rixner Lanaux, deceased, $5,090.

To Estelle Landry, administratrix of estate of Joseph Landry, deceased, late of Ascension Parish, $1,320.

To Augustin Lazare, administrator of the estate of Jean Baptiste Lazare, deceased, late of St. Landry Parish, $697.

To Marianne T. Lemelle, administratrix of estate of Alexander Lemelle, deceased, late of St. Landry Parish, $565.

To Barthelemy Lemelle, administrator of estate of Euphemie Lemelle, deceased, late of St. Landry Parish, $1,520.

To Flack Lemelle, administrator of Leon Lemelle, deceased, late of St. Landry Parish, $845.

To Marianne D. Lemelle, administratrix of the estate of Rigobert Lemelle, deceased, late of St. Landry Parish, $1,106.

To Marie Melanie Broussard, Nunez Lyons, Mary Azelima Simon, Mary Jane Campbell, and Benjamin Broussard (administrator of the estate of Sarah Jane Lyons Broussard, deceased), heirs of Bosman Lyons, deceased, late of Vermilion Parish, $3,126.

To the heirs of Laura P. Maddox, deceased, of Rapides Parish, $15,000.

To Jules Malveau, administrator of the estate of Jean Louis Malveau, deceased, late of St. Landry Parish, $375.

To Achille P. Rachal, administrator of the estate of Ozam D. Metoyer, deceased, late of Natchitoches Parish, $960.

To Louis V. Metoyer, administrator of estate of Theophile Metoyer, deceased, late of Natchitoches Parish, $1,335.

To Alphonse Meullion, of St. Landry Parish, $245.

To Marie Josephine Le Sassier, administratrix of estate of Francois Meullion, deceased, late of St. Landry Parish, $2,810.

To Aurore D. Kerlegan, administratrix of estate of Lucien Meullion, deceased, late of St. Landry Parish, $200.

To Emile E. Zimmer, administrator of estate of George Neck, sr., deceased, late of Avoyelles Parish, $350.

To Gertrude Nolasco, of West Feliciana Parish, $540.

To Robert Norris, of Catahoula Parish, $900.

To Auguste Guirard, administrator of estate of Caroline Pierront, deceased late of the parish of St. Martin, $1,960.

To Adolph Hartiens, tutor of Sidney L. Hartiens, William W. Hartiens, and Mary R. Hartiens, grandchildren and heirs at law of William H. Osborne, deceased, late of Rapides Parish, $54,875.

To Alfred C. Parham, administrator of the estates of Harvey N. Parham, deceased; Mrs. Euphrasie Parham, deceased; and Mrs. Amelia E. Smith, deceased; and Alfred C. Parham in his own right, and Corinne B. McRight in her own right, of the parish of Rapides, $2,120. The respective interests of the claimants, being their respective shares of the property hereinbefore mentioned, are as follows: Alfred C. Parham, administrator of the estate of Harvey N. Parham, deceased, $300; Alfred C. Parham, administrator of the estate of Euphrasie Parham, deceased, $1,040; Alfred C. Parham, administrator of the estate of Amelia E. Smith, deceased, $200; Alfred C. Parham in his own right, $260; and Corinne B. McRight in her own right, $260.

To Michael Rubi, of Donaldsonville, $1,980.

To Oliver Schwartzenburg, administrator of the estate of John Schwartzenburg, deceased, late of Rapides Parish, $4,720.

To Jacintha Strother, of New Orleans, in her own right, $4,000, and as administratrix of the estate of Joseph T. Strother, deceased, late of Pointe Coupee Parish, $2,750.

To Arthur Taylor, surviving partner of Arthur Taylor and Louis Taylor, of Lafayette Parish, $787.

To Amy A. Taylor, formerly of East Carroll Parish, now Harrison County, Tex., $1,631.66; and to Marie C. Quays, executrix of Philip D. Quays, deceased, of East Carroll Parish, $1,631.66.

To Cornelius F. Terrell, Cordelia I. Terrell, and Vera R. Terrell Harper, sole heirs of the estate of Richard Terrell, deceased, late of New Orleans, $6,000.

To Charlton B. Tucker, son and heir of J. W. Tucker, deceased, and his wife, Marceline Tucker, deceased, late of Lafourche Parish, $9,743; and to Louisa Tucker Le Forte, daughter and heir of said Marceline Tucker, deceased, $4,871.

To J. B. Verdun, jr., administrator of the estate of Romain Verdun, deceased, late of St. Mary Parish, $7,715.

To James A. Verret, administrator of Adolph Verret, deceased, late of Terrebonne Parish, $4,067.

To Judith Vincent, in her own right and as sole heir of her mother, Amélia Olivier Delille, late of Iberia Parish, $875.

To Charles S. Von Hofen, administrator of the estate of Henry Von Hofen, deceased, of Jefferson Parish, $910.

To Elizabeth White, administratrix of the estate of Samuel N. White deceased, late of West Feliciana Parish, $27,800.

To Frederick T. Wimbish, administrator of William R. Wimbish, deceased, late of West Feliciana Parish, $5,100.

To the Plains Lodge, No. 135, of Free and Accepted Masons, of East Baton Rouge Parish, $700.

The amendment was agreed to.

The next amendment was, on page 45, to strike out from line 4 to line 10, inclusive, as follows:

MAINE.

To Jacob B. Loring, of Knox County, $148.23.

To Whitman L. Orcutt, of Aroostook County, $878.47.

To William L. Ross, of Penobscot County, $47.56.

The amendment was agreed to.

The next amendment was, under the head of "Maryland," beginning with line 12, on page 45, to strike out to and including line 26, on page 49, as follows:

To Jacob R. Adams, of Washington County, $210.

To Martin H. Avey, of Washington County, $625.

To mayor and city council of Baltimore, $2,996.94.

To Elizabeth V. Belt, administratrix of the estate of Alfred C. Belt, deceased, late of Montgomery County, $2,970.

To A. Rosa Bevans, of Washington County, $570.

To William E. Boteler, administrator of Hezekiah Boteler, deceased, of Frederick County, $568.

To Richard T. Gott and Benjamin N. Gott, executors of the estate of Thomas N. Gott, deceased, late of Montgomery County, $1,200.

To Maria M. Harris, widow of Henry N. Harris, deceased, late of Montgomery County, $121.98; and to Frank N. Harris, Henry W. Harris, George W. Harris, Alla V. Harris, Annie E. Harris, John W. Harris, William Harris, and Thomas D. Harris, children and heirs of said Henry N. Harris, deceased, in equal shares, $242.17.

To Harmon W. Hessen, formerly of Allegany County, now of Martinsburg, W. Va., $2,035.

To Cornelia Jones, administratrix of John L. T. Jones, deceased, late of Montgomery County, $240.

To Jeremiah Kanode, of Frederick County, $136.

To Mary J. Langley Norris, administratrix of the estate of Ignatius J. Langley, deceased, of St. Mary County, $1,050.

To Raleigh Sherman, administrator of the estate of William P. Leaman, deceased, late of Montgomery County, $590.

To Sarah C. Mitchell, executrix of the estate of Richard T. Mitchell, deceased, late of Montgomery County, $1,200.

To William H. Staulo, administrator of the estate of Eli Moats, deceased, late of Washington County, $381.

To S. Sollers Maynard, executor of Augustine D. O'Leary, deceased, late of Frederick County, $1,450.

To J. Spring Poole, administrator de bonis non of the estate of William D. Poole, deceased, late of Montgomery County, $1,000.
To Elmer K. Ramsburg and Alvah S. Ramsburg, executors of the estate of Urias D. Ramsburg, deceased, late of Frederick County, $819.
To Perry Rennoc, administrator of estate of Beverly A. Rennoc, deceased, late of Charles County, $200.
To Zachariah D. Ridout, surviving executor of Hester Ann Ridout, deceased, late of Anne Arundel County, $3,800.
To Nathan F. Edmonds, administrator of the estate of Henry Show, deceased, late of Washington County, $225.
To John L. Snyder, executor of George Snyder, deceased, late of Washington County, $1,800.
To George L. Stull, of Frederick County, $200.
To William Viers Bonic, administrator of the estate of Elijah Thompson, deceased, late of Montgomery County, $1,386.
To Cornelius Vietz, of Washington County, $600.
To William W. Wenner, executor of Joseph Waltman, deceased, late of Frederick County, $3,270.
To Lewis D. Williams, administrator of estate of Lewis W. Williams, deceased, late of Montgomery County, $385.
To John A. Windsor, administrator of the estate of Zachariah L. Windsor, deceased, late of Montgomery County, $372.
To Grant Wyand, executor of the estate of Frederick Wyand, deceased, late of Washington County, $135.
To Marion B. Young and Geno D. Weller, sole heirs of Samuel C. Young, deceased, of Montgomery County, $407.
To La Grange Lodge, No. 36, Independent Order of Odd Fellows, of Boonsboro, $370.
To the trustees of the Methodist Episcopal Church of Boonsboro, $120.
To the trustees of the United Brethren Church of Boonsboro, $170.
To the trustees of the Evangelical Lutheran Church of Burkittsville, $225.
To the trustees of the Frederick Presbyterian Church of Frederick, $200.
To the corporation of the Methodist Episcopal Church of Hancock, $550.
To the rector of St. Peters Roman Catholic Church, of Hancock, $80.
To the vestry of St. Thomas Protestant Episcopal Church, of Hancock, $173.33.
To the trustees and consistory of Mount Vernon Reformed Church, of Keedysville, $515.
To the consistory of Grace Reformed Church, of Knoxville, $410.
To the trustees of the Christ Reformed Congregation, of Middletown, successors to the German Reformed Church of Middletown, $450.

The amendment was agreed to.

The next amendment was, on page 50, to strike out from line 3 to line 9, inclusive, as follows:

To the vestry of St. Paul's Protestant Episcopal Church, situated near Point of Rocks, $790.
To the rector, wardens, and vestry of St. Paul's Protestant Episcopal Church, of Sharpsburg-Antietam parish, Washington County, $1,350.

The amendment was agreed to.

The next amendment was, under the head of "Massachusetts," on page 50, to strike out from line 11 to line 14, inclusive, as follows:

To William W. Dutcher, of Essex County, $457.84.
To William B. Kimball, of Hampshire County, $21.84.

The amendment was agreed to.

The next amendment was, on page 50, to strike out from line 18 to line 22, inclusive, as follows:

To Susan Shatswell, executrix of Nathaniel Shatswell, deceased, of Essex County, $244.90.
To Horace P. Williams, of Boston, $1,604.14.

The amendment was agreed to.

The next amendment was, under the head of "Michigan," on page 50, to strike out from line 24 to line 26, inclusive, as follows:

To Harriet C. Begole, mother of William M. Begole, deceased, of Genesee County, $19.33.

The amendment was agreed to.

The next amendment was, on page 51, to strike out lines 3 and 4, as follows:

To Lemuel C. Canfield, of Mason County, $587.68.

The amendment was agreed to.

The next amendment was to strike out from line 7, on page 51, to and including line 26, as follows:

To William A. Clark, of Ann Harbor, $329.30.
To James S. De Land, of Detroit, $202.88.
To Lucius E. Gould, Abby E. Allison, and Mary I. Todd, children of Ebenezer Gould, deceased, of Shiawassee County, $42.70.
To Elvira D. Gregg, widow of Judson H. Gregg, deceased, of Ingham County, $116.28.
To Frederick S. Hutchinson, of Ionia County, $118.80.
To George J. Lockley, Joseph F. Lockley, and Sarah E. Todd, children of George Lockley, deceased, $99.50.
To Myron Powers, of Kalamazoo County, $327.20.
To Maria N. Swain, widow of Elisha R. Swain, deceased, $361.86.

The amendment was agreed to.

The next amendment was, on page 52, to strike out from line 3 to line 11, inclusive, as follows:

MINNESOTA.

To Omar H. Case, of Fillmore County, $191.65.
To Frederick Lambrecht, of Ramsey County, $324.73.
To Warren Oman, of Clay County, $39.74.
To Randolph M. Probstfield, of Clay County, $200.

The amendment was agreed to.

The next amendment was, under the head of "Mississippi," on page 52, to strike out from line 13 to and including line 22 on page 54, as follows:

To T. A. Norris, administrator of the estate of N. M. Aldridge, deceased, late of Tishomingo County, $980.
To I. P. Watts, administratrix of estate of Charles Baker, deceased, late of Warren County, $8,213.
To Leopold Bickart, of Natchez, $1,500.
To Hiram Baldwin, of Adams County, Miss.; Joseph De France Baldwin, of Madison Parish, La.; and Richard Robert Baldwin, of Tensas Parish, La., in equal shares, as heirs of Robert Bradley, deceased, $2,000.
To D. H. Chamberlain, of Jefferson County, $340.
To Eliza Chambers, administratrix of the estate of Royall Chambers, deceased, of Yazoo County, $670.
To William T. Ratliff, administrator of estate of Sarah G. Clark, deceased, late of Hinds County, $1,355.
To W. T. Ratliff, administrator of estate of S. N. Clark, deceased, late of Hinds County, $5,670.
To G. B. Harper and J. D. Clearman, executors of William L. Clearman, deceased, late of Newton County, $1,010.
To T. M. Davidson, administrator of the estate of Margaret Davidson, deceased, of Warren County, $2,450.
To Charles A. Donk and John R. Donk, heirs of Alfred W. Donk, deceased, of Lafayette County, $1,796.48
To Jefferson T. Cowling, administrator of the estate of Eliza A. Fielder, deceased, and Benjamin L. Fielder, living, of Corinth, $655.
To Hardinia P. Kelsey and Mildred E. Franklin, heirs of Hardin P. Franklin, deceased, late of Marshall County, $860.
To Susan R. Jones, administratrix of the estate of William Freeman, deceased, late of Warren County, $4,010.
To John Fuller, administrator of the estate of J. B. Fuller, deceased, of Benton County, $790.
To J. P. Harvey, administrator of estate of Matilda B. Harvey, deceased, late of Scott County, $1,582.
To J. A. Hill, administrator of the estate of Benjamin Hawes, deceased, late of Tippah County, $1,150.
To California M. Hearn, in her own right and as administratrix of the estates of Susan L. Bailey, deceased, and of Julia B. Hancock, deceased, of Marshall County, $1,695.
To distributees or legal representative of Hartwell B. Hilliard, deceased, late of Alcorn County, $300.
To J. B. Hubbard, administrator of the estate of David R. Hubbard, deceased, of Tishomingo County, $1,500.

The amendment was agreed to.

The next amendment was, on page 55, beginning with line 1, to strike out down to and including line 15 on page 58, as follows:

To John R. Jarratt, administrator of Sarah T. Jarratt, deceased, late of Marshall County, $1,380.
To Elizabeth Johnson, of Yazoo County, $1,170.
To Mary Julia Quick, of Lauderdale County, $1,980; to Belle O. Coward, of Leflore County, $1,980; and to John Anderson, of Rusk County, Tex., $360, as heirs of Vernon H. Johnston, deceased.
To Jane Jones, administratrix of the estate of Henry Jones, deceased, late of Marshall County, $215.
To Henry W. King, of Marshall County, in his own right, and to W. H. King, administrator of the estate of Edward King, deceased, late of Marshall County, as heirs of Kinchen W. King, deceased, in equal shares, $1,741.42.
To Robert M. Lay, administrator of Nancy Lay, deceased, late of Scott County, $2,804.
To Emma Jones and Leon Lewis, sole heirs of Emma S. Lewis, deceased, late of Hinds County, $1,815.
To Ammon E. Lindley, administrator of the estate of Martha W. Lindley, deceased, of Lauderdale County, $220.
To William Lunenburger, administrator of the estate of Uriah Lunenburger, deceased, late of Amite County, $250.
To Harvey McRaven, of Marshall County, $1,160.
To Harriett Miles, of Warren County, $1,795.
To Mrs. L. H. Rowland, administratrix of the estate of Willis J. Moran, deceased, late of Benton County, $845.
To John M. Bass, administrator of the estate of William O. Moseley, deceased, late of Hinds County, $4,285.
To E. L. Brien, administrator of the estate of Mary Ann Nagle, deceased, late of Warren County, $960.
To James M. Price, sole heir and legatee of Thomas J. Price, deceased, late of Alcorn County, $665.
To A. A. Raley, administrator of the estate of Julia Quinn, deceased, of Warren County, $885.
To Margaret Ralford Loftin (née Margaret Ralford), administratrix of the estate of Robert Ralford, deceased, late of Marshall County, $2,578.
To W. A. Montgomery, administrator of the estate of John Read, deceased, late of Hinds County, $2,160.
To W. T. Smith, administrator of estate of Maria A. Reinhardt, deceased, late of Benton County, $3,395.
To J. D. Robinson, administrator of the estate of Melchisedec Robinson, deceased, late of Marshall County, $1,531.
To G. D. Able, administrator of the estate of Catherine J. Rutherford, deceased, late of Panola County, $620.
To Minor Saunders, of Benton County, $160.
To Susannah Schwartz, executrix of Christian Schwartz, deceased, member of the firm of Christian Schwartz and Leopold Bickart, of Natchez, $1,500.
To Fannie Solari, heir of Emanuel M. Solari, deceased, late of Claiborne County, $219.
To Charles O. Spencer, of Tippah County, $2,031.
To Wiley W. Tipton, of Attala County, $660.
To Mrs. J. H. T. Jackson, administratrix of the estate of Elizabeth H. Welford, deceased, late of Marshall County, $3,650.
To Bettie B. Willis, administratrix of Joel H. Willis, deceased, late of Warren County, $6,940.
To John Wood, of Tishomingo County, $880.
To John L. Woodson, administrator of the estate of Richard O. Woodson, deceased, of Marshall County, $2,250.

The amendment was agreed to.

The next amendment was, on page 58, to strike out lines 20 and 21, as follows:

To the trustees of the Cumberland Presbyterian Church, of Corinth, $833.

The amendment was agreed to.

The next amendment was, under the head of "Missouri," to strike out from line 25, on page 58, to and including line 6, on page 64, as follows:

To Merit F. Thomas, administrator of Willis M. Allman, of Lawrence County, $210.
To Francis T. Buckner, administrator de bonis non cum testamento annexo of John M. Armstrong, deceased, late of Cass County, $460.
To Caroline E. Bagg, widow of John Bagg, deceased, of Adair County, $922.90.
To William Baker, of Stone County, $140.
To Louis Benecke, of Chariton County, $1,763.
To Jane S. Bishop, executrix of E. W. Bishop, deceased, of Phelps County, $600.
To Joseph C. Black, of Barry County, $235.
To Sarah Katherine Blue, executrix of the estate of Jesse M. Blue, deceased, and William Traughber, administrator de bonis non of the estate of David Blue, deceased, of Carroll County, $710.
To William R. Boyse, heir at law of Sterling M. Boyse, deceased, of Cole County, $365.
To the heirs of Alexander Bradshaw, deceased, late of Jackson County, $420.
To William C. Brummett, of Cass County, $390.93.
To John W. Brooks, son and heir of Isaac Brooks, deceased, of Johnson County, $320.
To Nannie, Oscar W., John R., and Emma Cogswell, heirs of O. H. Cogswell, deceased, of Jackson County, $1,600.
To C. C. Bundy, administrator of the estate of Anselm L. Davidson, deceased, of Cass County, $600.
To John P. Duke, of Independence, $2,390.
To the estate of Hugh G. Glenn, deceased, late of Cass County, $1,280.
To the county of Greene, State of Missouri, $6,010.
To Joseph C. Grissom, of Jasper County, $1,298.19.
To John R. Hamacher, of Ray County, $42.38.
To Elijah B. Hammontree, administrator of the estate of John Hammontree, deceased, of Cass County, $425.
To John B. Harrelson, administrator de bonis non of the estate of Nathan E. Harrelson, deceased, of Cass County, $5,268.
To Paschal Henshaw, of Clay County, $187.
To Jackson County, $410.
To Mary E. James, widow of Thomas James, deceased, of Jackson County, $149.90.
To Abram Jones, of Barton County, $245.
To H. N. Vaughn, executor of estate of Benjamin Kirk, deceased, of Newton County, $336.
To Amanda M. Livesay, administratrix of John W. Livesay, deceased, of Dent County, $816.
To Benjamin F. Lutman, of Cole County, $388.96.
To Philip Michael, son of Philip Michael, deceased, of Barry County, $425.
To Karoline Mulhaupt, of Jackson County, $1,395.
To Charles W. Munn, administrator of the estate of Mrs. E. S. Munn, deceased, late a resident of Barry County, $1,615.
To Jay H. Neff, administrator of Andrew J. Neff, deceased, late of Jackson County, $240.28.
To Levi S. North, of Adair County, $490.
To William B. Payne, late a resident of Cass County, $4,754.
To Phelps County, Mo., $800.
To Daniel K. Ponder, of Ripley County, $530.
To Mary L. Cropper, Sallie Z. McCulloh, Dora Schmitt, and Belle Wilson, sole heirs of Tillard and Sophia L. Ragan, deceased, of Cass County, $2,970.
To George W. January, administrator de bonis non cum testamento annexo of estate of William A. Ryan, deceased, late of Cass County, $1,260.
To Francis M. Sheppard, of Chariton County, late of Company I, One hundred and sixteenth Regiment, Illinois Volunteer Infantry, $830.
To county court of Ste. Genevieve County, $1,200.
To William W. Trigg, administrator of the estate of Lowell G. Spaulding, deceased, of Cooper County, $12,500.
To John P. Bell, treasurer of State Hospital No. 1, of Fulton, $14,000.
To Merit F. Thomas, of Lawrence County, $210.
To Mildred Turley, administratrix of the estate of John Turley, deceased, of Cass County, $3,390.
To Eli D. Wilson and Narcissus Wilson, executors of the estate of John Wilson, deceased, of Laclede County, $425.
To Harriet L. Young, administratrix de bonis non of Solomon Young, deceased, of Jackson County, $3,800.
To the trustees of the Christian Church of Harrisonville, $650.
To the trustees of the Methodist Episcopal Church South, of Harrisonville, $779.75.
To the trustees of the First Baptist Church of Jefferson City, $1,380.
To the trustees of the Methodist Episcopal Church of Macon, $760.
To the trustees of the Presbyterian Church of Macon, $600.
To the trustees of the Christian Church of Marshall, $1,240.
To the treasurer of the First Christian Church of Mexico, $550.
To the trustees of the Methodist Episcopal Church South, of Mexico, $710.
To the University of Missouri, $5,075.

The amendment was agreed to.

The next amendment was, on page 64, to strike out from line 9, to and including line 21, on page 65, as follows:

To the trustees of the First Christian Church of Springfield, $275.
To the trustees of the Methodist Episcopal Church South, of Springfield, $3,150.
To the trustees of the Christian Church of Sturgeon, $550.
To the trustees of the Christian Church of Warsaw, $660.

MONTANA.

To Mary E. L. Calloway, widow of James E. Calloway, deceased, of Madison County, $53.23.

NEBRASKA.

To Margaret C. French, widow of Columbus P. French, deceased, $176.40.
To Michael Trucks, of Cuming County, $377.67.

NEVADA.

To John Allman, formerly of Virginia City, now a resident of the State of California, $2,358.
To John M. Forsyth, formerly of Carson City, now a resident of the State of California, $2,728.
To Frank J. McWorthy, formerly of the State of Nevada, now a resident of the State of California, $450.
To Thomas Rodgers, formerly of Virginia City, now a resident of the State of California, $440.
To the legal representatives of James M. Thompson, deceased, late of Carson City, $3,730.

NEW HAMPSHIRE.

To Eleazer L. Sarsons, of Sullivan County, $40.33.

The amendment was agreed to.

The next amendment was, under the head of "New Jersey," on page 65, to strike out lines 23 and 24, as follows:

To John H. Arey, of Mercer County, $20.39.

The amendment was agreed to.

The next amendment was, on page 66, to strike out, from line 4 to line 12, inclusive, as follows:

NEW MEXICO TERRITORY.

To Anastacio de Baca, administrator of Francisco de Baca, deceased, of Santa Ana County, $1,325.
To Edward H. Bergmann, of New Mexico, $1,200.
To Mary W. Littell, widow of William J. Littell, deceased, of Lincoln County, $632.18.

The amendment was agreed to.

The next amendment was, under the head of "New York," on page 66, to strike out, from line 14 to line 18, as follows:

To Luther S. Bryant, of Franklin County, $45.31.
To Josephine Campbell, widow of George Campbell, deceased, of Rensselaer County, $272.14.

The amendment was agreed to.

The next amendment was, beginning on page 66, with line 22, to strike out down to and including line 21, on page 67, as follows:

To Benjamin Fenton, surviving partner of the firm of Fenton & Co., of the city of Buffalo, $10,520.66.
To Anna Cavanaugh, sister and sole heir of John Fryer, deceased, of Otsego County, $60.80.
To Harry V. Hoes, administrator of Theodore Hoes, deceased, of Columbia County, $491.68.
To Emily A. Lockwood, widow of Harrison Lockwood, deceased, of Warren County, $484.11.
To Abby C. McNett, widow of Andrew J. McNett, deceased, of Allegany County, $816.77.
To Martin H. Mullin, of Oneida County, $351.68.
To Lucius V. S. Mattison, of Oswego County, $490.44.
To Cornelia P. Beckley and Maude P. Clark, daughters of Hamilton S. Preston, deceased, of Delaware County, $104.05.
To Alice A. Sheldon, widow of Allen Sheldon, deceased, of Columbia County, $274.54.

The amendment was agreed to.

The next amendment was, under the head of "North Carolina," beginning with line 23, on page 67, to strike out down to and including line 15, on page 69, as follows:

To E. M. Allison, administrator of estate of Francis Allison, deceased, of Transylvania County, $550.
To John E. Berry and Lovey T. Williamson, sole heirs of Esau Berry, deceased, late of Dare County, $450.
To Hardy A. Brewington, administrator of the estate of Raiford Brewington, deceased, late of Sampson County, $530.
To William H. Bucklin, of Craven County, $390.
To Louise C. Smith, administratrix of Enos Case, deceased, late of Greene County, $120.
To William Cohen, administrator of the estate of Isadore Cohen, deceased, late of Edgecombe County, $532.
To Lucy A. Dibble, administratrix of the estate of Sylvester Dibble, deceased, late of Beaufort County, $705.
To J. W. Howett, administrator of William Howett, deceased, late of Tyrrell County, $1,480.
To B. A. Critcher, administrator of estate of Harmon Modlin, deceased, late of Martin County, $293.
To John S. Morton, administrator of David W. Morton, deceased, late of Carteret County, $550.
To Mary Lee Dennis, executrix of the estate of Levi T. Oglesby, deceased, late of Carteret County, $182.
To O. H. Perry, administrator of the estate of George W. Perry, deceased, late of Craven County, $4,350.
To William O. Robards, of Henderson County, formerly of Boyle County, Ky., $1,980.
To J. A. Reagan, of Buncombe County, $240.
To Jacob West, of Harnett County, $215.
To the Methodist Episcopal Church South, of Beaufort, $1,280.

The amendment was agreed to.

The next amendment was, on page 69, to strike out lines 23 and 24, as follows:

To the First Baptist Church, of Newbern, $1,200.

The amendment was agreed to.

The next amendment was, under the head of "North Carolina," at the top of page 70, to insert the following:

To the trustees of Beulah Primitive Baptist Church, of Johnston County, $420.

To the trustees of the Primitive Baptist Church, of Newport, $350.
To the trustees of the Catholic Church, of Washington, $4,000.
To the trustees of the Methodist Episcopal Church South, of Washington, $4,500.
To the trustees of the Presbyterian Church, of Washington, $4,500.

The amendment was agreed to.

The next amendment was, beginning with line 11, on page 70, to strike out down to and including line 19, on page 71, as follows:

NORTH DAKOTA.

To Martha A. Mullery, widow of James W. Mullery, deceased, of Stutsman County, $260.35.

OHIO.

To Henry L. Biddle, of Montgomery County, $362.44.
To Jeremiah Cain, of Urbana, $684.34.
To Amanda W. Clancy, widow of Charles W. Clancy, deceased, of Jefferson County, $374.88.
To John Hamilton, of Franklin County, $272.77.
To Barton A. Holland, of Hardin County, $182.82.
To George W. Northup, of Montgomery County, $482.40.
To David Skeeles, of Carroll County, $245.85.
To Ellen R. Smith, widow of James R. Smith, deceased, of Lucas County, $514.71.
To the trustees of the Baptist Church of Gallipolis, $175.

OKLAHOMA.

To George W. Clark, of Oklahoma, late a resident of the Indian Territory, $106.26.
To Robert C. Cozine, son of John S. Cozine, deceased, of Eda, $520.22.

OREGON.

To John E. Butler, of Lane County, $417.31.

The amendment was agreed to.

The next amendment was, under the head of "Pennsylvania," on page 71, to strike out from line 21, to and including line 12, on page 72, as follows:

To William Ashworth and Adam I. Ashworth, heirs of James Ashworth, deceased, of Philadelphia, $44.57.
To John H. Black, of Blair County, $361.28.
To John Craig, of Carbon County, $88.85.
To John Danks, son and sole heir of John A. Danks, deceased, of Allegheny County, $187.81.
To Frank E. Foster, of Warren County, $569.52.
To Eliza J. Houston, widow of John Houston, deceased, of Indiana County, $136.78.
To Milton S. Johnson, assignee of Jacob Johnson, deceased, late of York, $580.
To Augustus B. Miller, of Norristown, $1,120.

The amendment was agreed to.

The next amendment was, on page 72, to strike out, beginning with line 16, to and including line 25, as follows:

To the trustees of the Tionoloway Baptist Church, of Fulton County, $225.
To the trustees of the St. James Evangelical Lutheran Church, of Gettysburg, $150.
To the trustees of the St. Mark's German Reform Church, of Gettysburg, $215.

RHODE ISLAND.

To Willard H. Greene, late of Company E, Twelfth Regiment Rhode Island Volunteer Infantry, $701.26.

The amendment was agreed to.

The next amendment was, on page 73, under the heading "South Carolina," beginning in line 2, to strike out down to and including line 21, as follows:

To A. J. Buero, administrator of the estate of Angelo Buero, deceased, of Charleston, $725.
To J. P. Matthews, administrator of Nathan Gradick, deceased, late of Richland County, $1,180.
To Robert R. Howard, heir of James B. Howard, deceased, of Charleston County, $1,100.
To the trustees of the Baptist Church of Beaufort, $2,200.
To the wardens and vestry of St. Helena Episcopal Church, of Beaufort, $1,150.
To the board of trustees of the public schools of Darlington, $980.
To the vestry of Trinity Protestant Episcopal Church, on Edisto Island, $1,200.
To the Mount Zion Society, of Fairfield County, $6,000.

The amendment was agreed to.

The next amendment was, on page 74, after line 2, to strike out:

To the trustees of the German Lutheran Church, of Orangeburg, $983.33.

The amendment was agreed to.

The next amendment was, on page 74, after line 5, to insert:

To the trustees of Three-mile Creek Church of Christ, of Barnwell County, $300.
To the trustees of Winyah Lodge, No. 40, Ancient Free and Accepted Masons, of Georgetown, $4,200.

The amendment was agreed to.

The next amendment was, on page 74, after line 10, to strike out:

SOUTH DAKOTA.

To John B. Geddis, of Beadle County, $391.31.

The amendment was agreed to.

The next amendment was, on page 74, under the heading "Tennessee," beginning in line 15, to strike out:

To Susan E. Joyner, Mary E. Roberson, Martha F. Luster, and Jane F. Crump, sole heirs of Josiah Anthony, deceased, late of Sumner County, $4,520.
To Emma R. Bailey, executrix of John J. Bailey, deceased, late of Shelby County, $3,353.
To Daniel W. Beckham, administrator of the estate of Alexander F. Beckham, deceased, late a resident of Lake County, $7,880.
To H. B. Bond, administrator of John B. Baird, deceased, of Wilson County, $2,650.
To James Boro and Mary Boro, heirs of James Boro, deceased, late of Shelby County, $1,800.
To the legal representatives of Reese B. Brabson, deceased, late a resident of Hamilton County, $6,500.
To John L. Smith, administrator of Nancy N. B. Bridges, deceased, of Rutherford County, $1,520.
To John C. Brooks, formerly of Davidson County, $600.
To Octavia P. Brooks, of Hardeman County, $350.
To John Brown, of Maury County, $150.
To Leonidas Thompson, administrator of the estate of Mathew Brown, deceased, late of Shelby County, $1,420.
To Eli Marshall, executor of William Brown, deceased, of Greene County, $80.
To Charles C. Burke, administrator of the estate of Elizabeth Burke, deceased, late of Shelby County, $812.
To Mitchell H. Butt, heir of Thomas P. Butt, deceased, of Maury County, $465.
To George N. L. Buyers, administrator of the estate of Nelson M. Buyers, deceased, late of Maury County, $425.
To S. J. McDowall, administrator of James F. Calhoun, deceased, of Bedford County, $290.
To James M. Campbell, of Maury County, $200.
To A. A. Wade, administrator of S. L. Carpenter, deceased, late of Fayette County, $468.
To Virginia Carter, administratrix of estate of Felix Carter, deceased, late of Davidson County, $1,380.
To William F. Carter, administrator of the estate of Melvina A. Carter, deceased, of Hardeman County, $240.
To Effie Cawood, administratrix of the estate of Alexander Cawood, deceased, of Sullivan County, $390.
To Edgar Cherry and James M. Head, executors of William H. Cherry, deceased, of Hardin County, $2,787.
To C. H. Corn, administrator of the estate of John Chitwood, deceased, of Franklin County, $290.
To J. W. Cloyd, administrator of the estate of J. W. Cloyd, deceased, of Wilson County, $2,125.
To Sylvannus Cobble, of Greene County, $475.
To Ida J. Cole, sole heir of Martha C. Cole, deceased, of Shelby County, $925.
To Andrew A. Colter, of Sevier County, $173.
To Elam C. Cooper, of Lauderdale County, $815.
To John Coppinger, of Monroe County, $315.
To James H. Covington and Benjamin Covington, sole heirs of Daniel Covington, of Sevier County, $225.
To Thomas W. Crutchfield, executor of the estate of William Crutchfield, deceased, late of Hamilton County, $3,850.
To J. W. Cummings, administrator of the estate of Rebecca Cummings, deceased, of Hamilton County, $656.
To R. C. M. Cunnyngham and W. H. Cunnyngham, executors of the estate of Elvina Cunnyngham, deceased, of Rhea County, $933.
To C. R. Holmes, administrator of Luckett Davis, deceased, of Rutherford County, $1,490.
To Woodson H. Webb, administrator of the estate of Harriet Day, deceased, of Giles County, $310.
To William H. Dawson, of Monroe County, $680.
To Robert A. Dickson, of James County, $142.
To Lydia Dillard, of Maury County, $100.
To P. J. McGlynnan, administrator of the estate of John Doherty, deceased, of Davidson County, $1,600.
To Jimmie A. Elliott, sole heir of Adaline Elliott, deceased, late of Rutherford County, $160.

The amendment was agreed to.

The next amendment was, on page 78, beginning in line 22, to strike out, down to and including line 16, on page 88, as follows:

To Warham Easley, of Loudon County, $2,807.
To Edward W. Eggleston, of Williamson County, $590.
To Joseph Ewing, of Maury County, $90.
To John B. McEwen, executor of the estate of Lemuel Farmer, deceased, of Williamson County, $340.
To W. F. Forbes, administrator of Archie B. Forbes, deceased, late of Memphis, $2,600.
To Rial Foster, of Maury County, $135.
To Julia Galley, sole heir of Hiram Galley, deceased, of Wayne County, $232.
To John W. Harvey, jr., administrator of the estate of Z. H. German, deceased, late of Williamson County, $500.
To John G. Henson, guardian of Mrs. Catherine J. Gilson (insane), and administrator of the estate of Samuel L. Gilson, deceased, of Knox County, $945.
To Minna H. Glassie, of Davidson County, $1,410.
To George W. Pearson, administrator of the estate of Charles Gotthardt, deceased, late of Perry County, $1,575.
To Peter H. Harlan, administrator of the estate of George B. Harlan, deceased, of Davidson County, $1,060.
To D. N. Kelley, administrator of the estate of Daniel B. Harold, deceased, of Bradley County, $1,265.
To James C. Anderson, administrator of the estate of Thomas C. Hawley, deceased, late a resident of Hamilton County, $1,030.
To W. O. Batey, administrator of John Haynes, deceased, late of Rutherford County, $675.
To R. M. Rogan, administrator of the estate of F. S. Heiskell, deceased, of Knox County, $300.
To W. R. Henson, administrator of the estate of John Henson, deceased, of Sequatchie County, $2,990.
To John A. Herrod, of Rutherford County, $400.
To John T. Hester, administrator of the estate of John W. Hester, deceased, late of Fayette County, $1,190.
To Charles W. Hewgley, of Wilson County, $580.
To J. M. Nelson, administrator of the estate of John R. Hickman, deceased, of Rhea County, $195.
To Henry E. Hilliard, of Fayette County, $1,115.
To J. B. Carter, administrator of estate of Catherine Hopson, deceased, late of Claiborne County, $90.
To Sarah Bibb, Ada B. Ewing, Alice G. Warner, Benjamin M. Hord, Mildred Washington, and Thomas E. Hord, sole heirs of Thomas Hord, deceased, late of Rutherford County, $2,913.

To R. P. Moss, administrator of the estate of Brice M. Hughes, deceased, late of Williamson County, $900.
To John Hughes, of Shelby County, $43.33.
To Baxter Smith, administrator of the estate of Hugh C. Jackson, deceased, of Davidson County, $2,795.
To Robert C. Jameson, administrator of the estate of David Jameson, deceased, late of Shelby County, $900.
To J. E. Smalling, administrator of Henry Johnson, deceased, late of Williamson County, $450.
To Richard M. Johnson, of Dekalb County, $183.26.
To Mrs. Pettie Light Johnston and Mrs. Scrappy Light Bradshaw, of Dyer County, $327.50.
To Nathaniel W. Jones, of Maury County, $480.
To Henry J. Kinzel, of Knox County, $60.
To E. M. McNamee, administrator of the estate of John Krider, deceased, of Fayette County, $221.
To William H. Landrum, of Gibson County, $257.
To Annis Lawrence, of Fayette County, $415.
To Maria Lester, widow of Joe. Lester, deceased, of Giles County, $225.
To Abner D. Lewis, of Fayette County, $5,080.
To Elizabeth Lewis, of Williamson County, $220.
To Benjamin F. Lillard, administrator of the estate of Benjamin Lillard, deceased, late of Rutherford County, $16,865.
To A. J. Williford, administrator of estate of Charity M. Locke, deceased, late of Shelby County, $695.
To R. D. Grizzle, administrator of the estate of James G. Logan, deceased, late of Cannon County, $440.
To C. R. McClarin, administrator of the estate of John McClarin, deceased, late of Smith County, $320.
To B. F. McGrew, administrator of the estate of George W. McGrew, deceased, late of Giles County, $7,315.
To W. A. Stinson, administrator de bonis non of the estate of David V. Marney, deceased, of Roane County, $867.
To O. S. Shannon, administrator of the estate of William M. Mayfield, deceased, of Williamson County, $650.
To James E. Meacham, of Hamilton County, $750.
To Patrick G. Meath, of Shelby County, $27,280.
To the city of Memphis, $21,192.88.
To Mora B. Fariss, administrator of James P. Moore, deceased, late of Maury County, $2,100.
To John H. Neely, administrator of the estate of Henry M. Neely, deceased, of Sumner County, $5,450.
To Louis Nelson, administrator of the estate of Samuel B. Nelson, deceased, of Rutherford County, $2,170.
To C. A. Russell, administratrix of B. B. Neville, late of Shelby County, $5,282.
To Mary K. Henry, Alice A. Pope, Jennie Alexander, and Nannie Newby, heirs of Oswell P. Newby, deceased, late of Memphis, $4,500.
To Francis M. Newhouse, administrator of estate of W. W. Newhouse, deceased, late of Gibson County, $575.
To Silas H. Henry, executor of John North, deceased, late of Jefferson County, $791.
To J. Minnick Williams, administrator of the estate of Charles N. Ordway, deceased, of Giles County, $3,925.
To the receiver of the Overton Hotel Co., of Memphis, Tenn., for rent of hotel used as a military hospital from June 6, 1862, until December 31, 1862, $11,385.
To Alexander M. Owen, of Tipton County, $440.
To Mary Parker, of Hamilton County, $656.
To Henly Patton, of Maury County, $200.
To A. P. Young, administrator of the estate of John R. Pearson, deceased, late of Fayette County, $2,079.
To Henry Pepper and Elizabeth H. Cleveland, of Bedford County, in equal shares, $1,875.
To Mrs. Octavia R. Polk, of Hardeman County, $2,919.
To Thomas L. Porter, administrator of estate of Nimrod Porter, deceased, late of Maury County, $3,160.
To William Raines, of Claiborne County, formerly a resident of Knox County, Ky., $155.
To Frank Read, administrator of the estate of James S. Read, deceased, of Davidson County, $715.
To T. N. Rhodes, administrator of the estate of Lewellen Rhodes, deceased, of Shelby County, $290.
To J. G. Robertson, administrator of the estate of Margaret Robertson, deceased, of Stewart County, $900.
To John B. Atchison and Clifton R. Atchison, heirs of Jane Elizabeth Rodes, deceased, of Giles County, $2,140.
To Laura E. Roulston, administratrix of James W. Roulston, deceased, of Marion County, $272.
To Thomas D. Ruffin, of Lauderdale County, $1,400.
To W. J. Sawyers, of Hamilton County, $1,908.
To Mrs. Julia Moore Selden, of Shelby County, $2,925.
To C. H. Corn, administrator of the estate of W. W. Sharp, deceased, of Franklin County, $1,248.
To William M. Moss, administrator of the estate of John Smith, deceased, of Madison County, $1,600.
To Margaret E. Smith, of Rutherford County, $860.
To John M. Speed, heir at law of Warren F. Speed, deceased, of Maury County, $610.
To Sallie B. Stamper, of Franklin County, $1,110.
To William Stone, heir of Mark Stone, deceased, of Maury County, $110.
To M. T. Swick, of Hamilton County, $1,985.
To North Memphis Savings Bank, administrator of the estate of Mary F. Swindell, deceased, late of Shelby County, $650.
To Clarissa H. Tipton, administratrix of Isaac Tipton, deceased, of Knox County, $82.
To George Todd, of Maury County, $110.
To Mrs. Sallie B. Perkins, daughter and heir of J. J. Todd, deceased, of Shelby County, $5,684.
To Alpheus Truett, of Williamson County, $790.
To George T. and Guy P. Vance, executors of the estate of William L. Vance, deceased, of Memphis, $41,667.
To Ezekiah W. Walker, of Henderson County, $300.
To Jesse A. Wallace, of Hamilton County, $215.
To Florence Walters, Ell Walters, and Dora Mahon, heirs of Mary E. Walters, deceased, late of Williamson County, $490.
To W. P. Boales, administrator of the estate of A. J. Wiglesworth, deceased, of Fayette County, $105.
To Edmond W. Williams, executor of Joseph R. Williams, deceased, late of Shelby County, $11,440.
To George T. Wilson, of Williamson County, $60.
To W. M. Wilson, administrator of the estate of William S. Wilson, deceased, of Fayette County, $315.
To J. R. Wright, administrator of the estate of Nancy Wright, deceased, of Hardeman County, $225.
To the trustees of the Missionary Baptist Church, of Antioch, $600.

The amendment was agreed to.

The next amendment was, on page 88, beginning in line 19, to strike out down to and including line 23, as follows:

To the trustees of the Baptist Church, of Bolivar, Hardeman County, $3,400.
To Hiwassee Masonic Lodge, No. 188, of Calhoun, $620.

The amendment was agreed to.

The next amendment was, on page 89, beginning in line 1, to strike out down to and including line 20, as follows:

To the trustees of the Cumberland Presbyterian Church, of Charleston, $530.
To the trustees of the Methodist Episcopal Church South, of Charleston, $960.
To the trustees of the Methodist Episcopal Church South, of Chattanooga, $1,800.
To the vestry of St. Paul's Protestant Episcopal Church, of Chattanooga, $1,500.
To the trustees of the Cumberland Presbyterian Church, of Clarksville, $1,200.
To the Cleveland Masonic Lodge, No. 134, of Cleveland, $940.
To the trustees of the Methodist Episcopal Church South, of Cleveland, $3,000.
To the trustees of the Cumberland Presbyterian Church, of Clifton, $980.
To the wardens and vestry of St. Peter's Protestant Episcopal Church, of Columbia, Maury County, $3,120.

The amendment was agreed to.

The next amendment was, on page 89, to strike out lines 23 and 24, as follows:

To the trustees of the Mill Creek Baptist Church, of Davidson County, $1,650.

The amendment was agreed to.

The next amendment was, on page 90, beginning in line 4, to strike out down to and including line 20, as follows:

To the trustees of the Christian Church of Franklin, $620.
To the trustees of Hiram Lodge, No. 7, Free and Accepted Masons, of Franklin, $2,120.
To the trustees of the Methodist Episcopal Church South, of Franklin, $875.
To the deacons of the Missionary Baptist Church, of Franklin, $660.
To the trustees of the Presbyterian Church of Franklin, $800.
To Clifton Lodge, No. 173, Free and Accepted Masons, of Clifton, Wayne County, $1,500.
To Franklin Lodge, No. 4, Independent Order of Odd Fellows, of Franklin, $1,200.

The amendment was agreed to.

The next amendment was, on page 90, beginning in line 23, to strike out down to and including line 6, on page 91, as follows:

To the wardens and vestrymen of the St. Paul's Episcopal Church, of Franklin, $2,450.
To the treasurer of Howard Lodge, No. 13, Independent Order of Odd Fellows, of Gallatin, $2,300.
To the board of deacons of the Germantown Baptist Church, of Shelby County, $1,250.

The amendment was agreed to.

The next amendment was, on page 91, to strike out lines 9 and 10, as follows:

To G. S. Lannom, receiver of the Humboldt Female College, of Gibson County, $4,100.

The amendment was agreed to.

The next amendment was, on page 91, to strike out lines 23 and 24, as follows:

To the Cumberland University, of Lebanon, $8,000.

The amendment was agreed to.

The next amendment was, on page 92, to strike out from line 5 to line 15, inclusive, as follows:

To the Grand Lodge, Independent Order of Odd Fellows of the State of Tennessee, $700.
To the board of deacons of the First Baptist Church of Memphis, $1,200.
To the trustees of the Union University, of Murfreesboro, $5,474.
To the treasurer of the University of Nashville, $7,300.
To the trustees of Mount Olivet Methodist Episcopal Church South, of Nolensville, $300.

The amendment was agreed to.

The next amendment was, on page 92, beginning in line 20, to strike out down to and including line 23, as follows:

To the trustees of the Cumberland Presbyterian Church, of Pulaski, $700.
To the trustees of the Methodist Episcopal Church South, of Saulsbury, $240.

The amendment was agreed to.

The next amendment was, on page 93, beginning in line 5, to strike out down to line 7, as follows:

To the trustees of the Methodist Episcopal Church South, of Triune, Williamson County, $3,800.

The amendment was agreed to.

The next amendment was, on page 93, beginning in line 12, to strike out down to and including line 17, as follows:

To the trustees of Washington College, $4,200.
To the trustees of the Cumberland Presbyterian Church of Waverly, $1,040.

To the trustees of the Eudora Baptist Church, of White Station, $1,295.

The amendment was agreed to.

The next amendment was, on page 93, beginning in line 20, to strike out down to and including line 9, on page 24, as follows:

TEXAS.

To Mrs. Gertrude O'Bannon, of Hunt County, $1,350.

To Mary A. Shaw, of Corpus Christi, Nueces County, $700.

To Robert E. Williams, John T. Williams, Mary E. Williams, George M. Williams, and Ida Williams Eddy, heirs of estate of Robert M. Williams, deceased, of the city of Dallas, late a resident of Cooper County, Mo., $1,140.

VERMONT.

To Henrietta V. Dale, widow of John J. Dale, deceased, of Windham County, $124.06.

The amendment was agreed to.

The next amendment was, under the subhead "Virginia," on page 94, after line 10, to strike out:

To Thomas R. Hardaway, administrator of the estate of Alfred Anderson, deceased, of Amelia County, $782.

To Edward Anderson, administrator of Mary Anderson, deceased, late of Alexandria County, $8,150.

To Robert G. Griffin, Catharine H. Harris, and Isaac P. Cromwell, administrators of the estate of Hannah T. Cromwell, deceased, sole heirs of the estate of Robert Anderson, deceased, of York County, $18,475.

To John H. Baker, of Clark County, Kans., formerly of Shenandoah County, Va., $790.

To G. B. Wallace, administrator of estate of Robert N. Blake, deceased, late of Stafford County, $1,790.

To Mary S. Bland, Anna Bland, and Sue P. Bland, legal heirs of Theoderic Bland, deceased, late of Prince George County, $2,000.

To Rosa M. Bowden, Zenobia Porter, Mary E. Bowden, and Martha Bowden Gustin, heirs of Lemuel J. Bowden, deceased, late of the city of Williamsburg, $3,540.

To Francis M. Brabham, of Loudoun County, $500.

To Solomon P. Brockway, of Augusta County, $92.64.

To the heirs of John B. Brown, deceased, late of Alexandria County, $800, to be proportioned as follows:

To Harriett A. Mills, four-ninths, or $355.55.

To Addison M. Brown, one-ninth, or $88.89.

To Willis A. Law, two-ninths, or $177.78.

To Maye C. Law, two-ninths, or $177.78.

To Mariah McDermott, administratrix of the estate of William Barley, deceased, late of Alexandria County, $470.

To Caroline Carter, of Albemarle County, $775.

To Francis F. Curtis, of Fauquier County, $603.75.

To Alice E. Davis, heir of John C. Davis, deceased, late of Fairfax County, $875.

To Margaret M. Donnelly, widow of Edward W. Donnelly, deceased, of Fauquier County, $360.

To Lewis Ellison and Helen Louise Crawford, heirs of Lewis Ellison, deceased, late of James City, $5,120.

To Hezekiah T. Embrey, administrator of Robert Embrey, deceased, of Fauquier County, $826.

To Samuel Fitzhugh, administrator of the estate of Henry Fitzhugh, deceased, late of Stafford County, $3,300.

To Margaret R. Shipley, administratrix of the estate of John Flower, deceased, late of Dinwiddie County, $3,510.

To Noah Foltz, of Page County, $300.

To Richard Fox, heir and sole residuary legatee of Capt. Nathaniel Fox, deceased, late a resident of Virginia, $5,185.

To Newton E. Funkhouser and Charles E. Funkhouser, executors of Joseph E. Funkhouser, deceased, late of Frederick County, $1,514.

To T. F. Gough, administrator of estate of Mary A. Gough, deceased, late of Frederick County, $703.

To J. R. Allison, administrator de bonis non cum testamento annexo of Isaac Haynes, deceased, late a resident of Fairfax County, $1,720.

To John C. Lutholtz, sole heir of Mary Lutholtz, deceased, of Shenandoah County, $359.

To William F. McKimmy, administrator of the estate of John McKimmy, deceased, late of Loudoun County, $1,240.

To Eleanor McWilliams, administratrix of Henry McWilliams, deceased, $775.

To R. G. Johnson, administrator of estate of Lewis W. Mann, deceased, late of Loudoun County, $500.

To Robert M. Wilkinson, administrator of the estate of Samuel Marsh, deceased, late of the city of Norfolk, $830.

To John B. Meyers, administrator of the estate of Alexander Myers, deceased, late of Charles City County, $2,682.

To Elijah P. Myers, of Loudoun County, $1,190.

To F. L. Williams, administrator of the estate of John S. Pendleton, deceased, late of Culpeper County, $6,120.

To George W. Z. Black, administrator of the estate of Alexander Poland, deceased, late a resident of Loudoun County, $4,200.

To Margaret A. Proctor, administratrix of Samuel K. Proctor, deceased, of Fauquier County, $520.

To William H. Poland, administrator of the estate of John Poland, deceased, late a resident of Prince William County, $2,017.

To John W. Kellar, administrator of the estate of Eliza J. Ricketts, deceased, of Washington County, $645.

To Joseph Roberson, administrator of the estate of Joseph W. Roberson, deceased, of Fairfax County, $420.

To the legal representatives of the estate of Felix Richards, deceased, late of Fairfax County, $5,300.

To Joshua Sherwood, heir of Lewis A. Sherwood, deceased, late of Alexandria County, $400.

To Sarah Lee Smith, Mary Ellen Smith, and Susan Virginia Smith, heirs of Sarah G. Smith, deceased, late of Stafford County, $2,762.

To William H. Tallaferro, administrator of the estate of James G. Tallaferro, deceased, of King George County, $8,910.

To John R. Taylor and Charles F. Taylor, of Fairfax County, $4,323.

To Robert Waters, of Prince William County, $558.

To W. C. Gill, administrator de bonis non of the estate of Edward O. Watkins, deceased, late of Chesterfield County, $4,912.

To Addie L. Bailey, sole heir of William G. Webber, deceased, late of Norfolk County, $450.

To Mary E. White, S. M. White, Robert D. White, Henry K. White, and Laura B. Alexander, heirs of Joshua White, deceased, of Clarke County, $550.

To Joseph Williams, of Washington, D. C., formerly of Fredericksburg, Va., $821.

To Samuel A. Wine, executor of Michael Wine, jr., deceased, late of Shenandoah County, $750.

To the trustees of Mount Zion Old School Baptist Church, near Aldie, Loudoun County, $275.

To the trustees of the Alfred Street Baptist Church, of Alexandria, $900.

To the trustees of the First Baptist Church of Alexandria, $3,900.

To the vestry of St. Paul's Episcopal Church of Alexandria, $2,000.

The amendment was agreed to.

The next amendment was, on page 100, after line 19, to strike out:

To the trustees of the Washington Street Methodist Episcopal Church South, of Alexandria, $4,600.

The amendment was agreed to.

The next amendment was, at the top of page 101, to strike out:

To the trustees of Grace Episcopal Church, of Berryville, $650.

To the trustees of Zoar Baptist Church, of Bristersburg, $700.

To the trustees of Westover Church, of Charles City County, $750.

To the trustees of the Salem Baptist Church, of Clarke County, $600.

To the trustees of the Baptist Church of Culpeper, $1,750.

To the trustees of Fairfax Lodge, No. 43, Ancient Free and Accepted Masons, of Culpeper, $700.

To the trustees of the Methodist Episcopal Church South, of Culpeper, $1,850.

To the vestry of St. Stephen's Protestant Episcopal Church, of Culpeper, $1,000.

The amendment was agreed to.

The next amendment was, on page 102, after line 4, to strike out:

To the wardens and vestrymen of St. Paul's Episcopal Church, of Culpeper County, $700.

The amendment was agreed to.

The next amendment was, on page 102, after line 10, to strike out:

To the trustees of the Calvary Episcopal Church, of Dinwiddie Court House, $520.

To the trustees of Liberty Church, of Dranesville, $700.

To the trustees of Makemie Presbyterian Church, of Drummondtown, $400.

To the trustees of the Methodist Episcopal Church of Drummondtown, $300.

The amendment was agreed to.

The next amendment was, on page 102, after line 22, to strike out:

To the trustees of Union Church, of Falmouth, $750.

The amendment was agreed to.

The next amendment was, on page 103, after line 2, to strike out:

To the trustees of Andrew Chapel, Methodist Episcopal Church South, of Fairfax County, $450.

The amendment was agreed to.

The next amendment was, on page 103, after line 12, to strike out:

To the trustees of Grove Baptist Church, of Fauquier County, $660.

To the trustees of Mount Horeb Methodist Episcopal Church South, of Fauquier County, $150.

The amendment was agreed to.

The next amendment was, on page 103, after line 21, to strike out:

To the trustees of the Mount Zion Church of United Brethren, of Frederick County, $800.

To the trustees of the Christian Church of Fredericksburg, $2,125.

To the trustees of the Fredericksburg Baptist Church, of Fredericksburg, $3,000.

To the trustees of Fredericksburg Lodge, No. 4, Ancient Free and Accepted Masons, of Fredericksburg, $610.

To the trustees of the Presbyterian Church of Fredericksburg, $2,625.

To the trustees of St. George's Episcopal Church, of Fredericksburg, $960.

To the trustees of St. Mary's Catholic Church, of Fredericksburg, $500.

To the trustees of the Shiloh (old site) Baptist Church, of Fredericksburg, $1,500.

To the trustees of Ebenezer Methodist Episcopal Church South, of Garrisonville, $600.

The amendment was agreed to.

The next amendment was, on page 104, after line 17, to strike out:

To the trustees of Abingdon Protestant Episcopal Church, of Gloucester County, $650.

To the trustees of the Muhlenberg Evangelical Lutheran Church, of Harrisonburg, Rockingham County, $925.

To the vestry of St. Paul's Protestant Episcopal Church, of Haymarket, Prince William County, $1,000.

The amendment was agreed to.

The next amendment was, on page 105, after line 2, to strike out:

To the trustees of Olive Branch Christian Church, of James City County, $410.

To the trustees of the Methodist Episcopal Church South of Jefferson, $325.

The amendment was agreed to.

The next amendment was, on page 105, after line 8, to strike out:

To the trustees of the Opequon Presbyterian Church, of Kernstown, $1,750.

To the trustees of Fletcher Chapel, of King George County, $1,500.

To the vestry of Lambs Creek Protestant Episcopal Church, of King George County, $800.

To the trustees of the Methodist Episcopal Church of Lamberts Point, $780.

The amendment was agreed to.

The next amendment was, on page 105, after line 18, to strike out:

To the trustees of the Presbyterian Church of Lovettsville, $425.

To the trustees of the Presbyterian Church of McDowell, Highland County, $150.

To the trustees of the Methodist Episcopal Church South of Marshall, $600.

To the trustees of the Presbyterian Church of Marshall, $300.

To the trustees of Massaponax Baptist Church, of Massaponax, $195.

To the trustees of the Methodist Episcopal Church South of Middleburg, $195.

To the trustees of the Methodist Episcopal Church of Middletown, $851.

The amendment was agreed to.

The next amendment was, on page 106, after line 10, to strike out:

To the wardens of the St. Thomas Episcopal Church, of Middletown, $600.

The amendment was agreed to.

The next amendment was, on page 106, after line 20, to strike out:

To the trustees of Roper Church, of New Kent County, $250.

To the trustees of the Oak Grove Methodist Episcopal Church, of Norfolk County, $1,200.

To the trustees of the Downing Methodist Episcopal Church South, of Oak Hill, $235.

To the trustees of the New Hope Baptist Church, of Orange County, $150.

To the trustees of the Methodist Episcopal Church South of Paris, $200.

To the wardens and vestrymen of the Merchant's Hope Protestant Episcopal Church, of Prince George County, $1,150.

To the trustees of the Methodist Episcopal Church South of Pungoteague, $780.

To the St. George Protestant Episcopal Church, of Pungoteague, $2,890.

The amendment was agreed to.

Mr. BACON. Mr. President, I dislike to interrupt the progress of the consideration of this bill, but it strikes me that the situation is not exactly fair to Senators. The bill was taken up this morning, and the question was distinctly presented whether the bill should be read through or whether it should be read for amendment; and the Senator from Massachusetts [Mr. LODGE] insisted that the bill should be read through without being taken up for amendment. There is now, I understand, an agreement to the contrary on the part of some of the Senators, that the Senate shall proceed with the bill for the purpose of acting upon amendments.

This is a bill in which almost every Senator in this Chamber is interested, and interested particularly in these amendments, and Senators have evidently absented themselves, gone to luncheon, and to their committee rooms, and so forth, with the understanding that the bill was simply to be read and that no amendments were to be acted upon until after the bill had been read. I speak for myself when I say that there has been an amendment already acted upon, the adoption of which I certainly would have opposed if I had been present. I was absent, as most Senators are, during the lunch hour, and I think it is hardly fair to the great body of Senators to proceed in this way when we have a comparatively empty Chamber. I presume almost every Senator interested in this bill like myself has been absent during the luncheon hour upon the understanding that the bill would be proceeded with under the order already made.

I do not wish to interfere, but I want to suggest to the Senator in charge of the bill that Senators will feel that they have not been treated with perfect fairness in regard to the matter.

Mr. CRAWFORD. I will say to the Senator from Georgia that when I called up the bill I requested that its formal reading be waived and that it be read for amendment. The Senator from Massachusetts asked for the first formal reading of the bill, and the clerk proceeded to comply with that request. He himself afterwards moved that the formal reading be dispensed with and that the bill be read for amendment.

Mr. BACON. The Senator will pardon me for a suggestion. Not only was it as stated by him, but, in addition thereto, after the Senator from Massachusetts had asked for the reading of the bill, the Senator from South Dakota asked if he would not consent that it be taken up and read for amendment, and the Senator from Massachusetts declined and desired that the bill be read in full, which emphasized the fact that the bill would be read in its entirety.

Mr. CRAWFORD. I simply want to say to the Senator that the fact that the bill is now being read for amendment is not due to any action on the part of the chairman of the committee in charge of the bill, but is due to the fact that the Senator who insisted on its formal reading himself moved that the formal reading be dispensed with and that the bill be read for amendment, which was agreed to by unanimous consent. So that it is hardly fair to put the chairman of the committee in the attitude of continuing in this way through some motion of his own, when it is the result of a motion made by the Senator who himself had asked for the formal reading of the bill.

Mr. BACON. If the Senate had been put upon notice of the change, of course there could be no possible criticism of what has been done; but having left the Chamber, and with Senators absent on the understanding referred to, and absent at a time when most of them are usually absent, it seems to me it is but fair that they should be put upon notice of the fact that a bill in which they are all interested had been given a different direction from that which they understood would be followed. I do not know of any remedy in the matter except to reserve every amendment that is acted upon now and have it acted upon again in the Senate. That will be the result, and the Senator will not gain any time by this procedure. That is undoubtedly what will result—that every amendment will be reserved.

Mr. CRAWFORD. I wish again to disclaim being responsible for that situation. There was a good number of Senators here, and the Senator from Massachusetts, who had asked for the formal reading, himself made the request here in the open Senate; all who were present were, of course, apprised of it, and there was no objection to it. It was acted upon.

I assure the Senator from Georgia that there are too many complications connected with and too large a number of items in this bill for me in the slightest degree to involve the Senate in any unnecessary repetition of its work, and I have no such purpose.

Mr. BACON. I am not reflecting upon the Senator in any way, but I thought it proper to call attention to the fact that a bill in which all Senators, with scarcely an exception, have a more or less direct interest is being proceeded with in this way when they are not informed of the fact.

Mr. CLARKE of Arkansas. Mr. President, I do not think the manner in which the Senator from South Dakota is proceeding is prejudicial at all to the interests of those who desire this bill passed. Reference to the history of the bill here will confirm what I say.

This bill was prepared for passage at the last session of Congress. In the draft presented to the Senate individual claims were largely omitted and the provisions of the bill confined to adjudicated claims in favor of churches and schools. There is such a great congestion of claims that if all were included in the bill at this time the consideration of the bill would be protracted beyond the time the Senate would be willing to devote to its attention. I think we make real progress when we separate the bill with reference to the class of claims to be included in it and to get out of the way of disputed claims those whose validity and propriety are admitted.

I do not believe that if every Senator interested in this bill was in his seat there would be serious objection to the manner in which the Senator from South Dakota is now proceeding. Whatever differences of opinion exist between the two Houses can and will be reconciled in conference, where the different views may be presented, and those claims as to which there is disagreement can be remitted for subsequent consideration.

I approve entirely of what the Senator from South Dakota is doing, because I believe it is in the interest of an expeditious disposition of a very large and pressing class of claims and one for which there is being made a more earnest and more repeated appeal from my section of the country than for any other items in the bill.

The PRESIDING OFFICER (Mr. JOHNSTON of Alabama in the chair). The reading of the bill will be proceeded with.

The Secretary resumed and continued the reading of the bill to the end of line 18 on page 107.

Mr. GALLINGER. Mr. President, I desire to ask the chairman of the committee—perhaps I ought to know without asking the question—whether these church claims are claims which grew out of the Civil War.

Mr. CRAWFORD. All of them, Mr. President, and all of them which are reported favorably by the committee are for

churches that were destroyed, and destroyed not as a military necessity, but destroyed while occupied as storehouses or hospitals or were destroyed for the purpose of using the material in the construction of bridges and things of that sort.

Mr. GALLINGER. I will ask the Senator a further question as to the approximate number of claims of a similar nature that have been filed, which are now before the committee and have not been acted upon and are not in this bill. Are these claims for the destruction of churches a half a century ago constantly coming in?

Mr. CRAWFORD. The items of that character which are in this bill are mostly claims that have been reported from the Court of Claims during the last 10 years, up to and including the year 1911. This bill, however, as reported by the committee contains a clause which, if it should go through and meet with the approval of the President of the United States, will stop the sending of any further claims of this character to the Court of Claims; and I think that is one of the best provisions in the bill as reported by the committee.

Mr. GALLINGER. If that be so, and if that could be settled now and forever, it would be a substantial reason in my mind why the bill should pass. But I will ask the Senator if a future Congress may not repeal that provision in the pending bill?

Mr. CRAWFORD. Undoubtedly, Mr. President. Bars which have been erected repeatedly against these claims have been overridden by Congress, and I presume that could happen again.

Mr. GALLINGER. I am not going to make any factious opposition to this class of claims, but it has seemed to me extraordinary, absolutely incomprehensible, that we should have bills of this character, reimbursing for the destruction of churches in whole or in part, presented to Congress 50 years after the close of the war.

I recall the fact that two or three years ago a very distinguished Senator on the other side of the Chamber declared in debate—possibly he spoke a little hurriedly—that these cases were all fraudulent and that it was time we stopped paying any of them.

Mr. OVERMAN. Mr. President, I think the Senator from New Hampshire is mistaken about that. I think he refers to the cotton claims and claims for the destruction of property, but not to churches.

Mr. GALLINGER. Well, the Senator from New Hampshire is absolutely correct in what he has said, as he remembers it. I said possibly the Senator spoke somewhat hurriedly.

Mr. CLARKE of Arkansas. No, Mr. President, I did not speak hurriedly, but I did not speak about church claims. Their claims do not sound in positive right. They are somewhat of a military benevolence. Claims of this character came in for consideration at the instance of former Senator Hoar of Massachusetts. It was not intended that they should be scrutinized from a legal standpoint as are individual claims. I spoke of claims for the destruction and consumption of property by the Army. I have said repeatedly that at this late day and time it is utterly impossible to get at the right of one per cent of them, and they are worked up by claim agents and constructive claimants, persons who are constructively and remotely interested in them. I have no better opinion of them than I have of the French spoliation claims; and I do not hesitate to express myself. But these church claims are on an entirely different footing. It is a matter of the benevolent recognition of the ravages of war upon a subject against which war is not usually directed.

Mr. CRAWFORD. If the Senator from New Hampshire will look through the bill as reported by the committee and the report made by the committee, I think he will find ample evidence of the desire on the part of the committee to rid this bill of the objectionable claims which he has in mind, because I think the report of the committee eliminates about four-fifths of the private claims. If this is sustained here, the conference committee will have to settle the question upon its merits as between the two Houses.

Mr. GALLINGER. Mr. President, I have been gratified, in looking at the bill, to observe that a very large proportion of that class of claims has been stricken from it.

I will not enter into a controversy with my good friend the Senator from Arkansas as to the exact language he used, but will content myself by suggesting to him that if he will go back to the RECORD he will find that I have stated the case substantially correct.

I simply rose for the purpose of expressing the hope that after the passage of this bill we would stop——

Mr. CLARKE of Arkansas. I join with the Senator in that hope.

Mr. GALLINGER. That we would pay these little claims, some of which are just, while probably a great many have been worked up by claim agents——

Mr. CRAWFORD. May I give notice?

Mr. GALLINGER. Certainly.

Mr. CRAWFORD. I simply desire to keep this bill before the Senate during the morning hour until it is disposed of, to carry out my obligations to Senators whom I promised I would bring up the bill.

Mr. GALLINGER. I have now said all I care to say, Mr. President.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The PRESIDENT pro tempore. The Senate is in session as a Court of Impeachment. The Sergeant at Arms will make proclamation.

The Assistant Sergeant at Arms (Mr. E. Livingstone Cornelius) made proclamation as follows:

"Hear ye! Hear ye! The Senate of the United States, sitting as a Court of Impeachment, is now in session."

The PRESIDENT pro tempore. Senators who are present and have not taken the oath required in the impeachment case will present themselves at the desk for that purpose. The names of the Senators who have not so taken the oath will be called by the Secretary.

The Secretary called the names of Mr. CHILTON, Mr. DAVIS, Mr. LEA, and Mr. OWEN.

Mr. DAVIS advanced to the desk and the oath was administered to him by the President pro tempore.

The PRESIDENT pro tempore. The Senate sitting as a Court of Impeachment is now ready to proceed with the case. The Journal of the proceedings of the last day of the Court of Impeachment will be read.

The Journal of yesterday's proceedings was read and approved.

Mr. CULBERSON. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Texas suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Curtis	McCumber	Shively
Bacon	Davis	McLean	Simmons
Bankhead	Dixon	Martin, Va.	Smith, Ariz.
Borah	du Pont	Martine, N. J.	Smith, Ga.
Brandegee	Fletcher	Massey	Smith, Md.
Bristow	Foster	Myers	Smith, Mich.
Brown	Gallinger	O'Gorman	Smoot
Bryan	Gardner	Overman	Stephenson
Burnham	Guggenheim	Page	Sutherland
Burton	Hitchcock	Penrose	Swanson
Clapp	Jackson	Perkins	Thornton
Clark, Wyo.	Johnson, Me.	Perky	Townsend
Clarke, Ark.	Johnston, Ala.	Poindexter	Wetmore
Crane	Kenyon	Pomerene	Works
Culberson	La Follette	Richardson	
Cullom	Lippitt	Root	
Cummins	Lodge	Sanders	

Mr. WORKS. The senior Senator from Washington [Mr. JONES] is necessarily absent on business of the Senate.

Mr. PENROSE. My colleague [Mr. OLIVER] is necessarily absent from the Chamber on account of his recent illness.

Mr. PAGE. I am still compelled to report the illness of my colleague [Mr. DILLINGHAM].

The PRESIDENT pro tempore. On the call of the roll of the Senate 65 Senators have responded to their names. A quorum of the Senate is present.

Mr. Manager CLAYTON. Mr. President, the managers desire to call the attention of the court to a verbal inaccuracy in the proceedings of yesterday. It, perhaps, is immaterial——

Mr. BORAH. Mr. President, I should like to submit a matter for the consideration of the managers, and I presume it should be submitted through the President pro tempore.

The PRESIDENT pro tempore. The Senator will send it to the desk.

Mr. Manager CLAYTON. May I correct the printed record of yesterday before the managers are required to consider other matters?

The PRESIDENT pro tempore. The manager will proceed.

Mr. Manager CLAYTON. As I was proceeding to say, Mr. President, perhaps this slight verbal inaccuracy is immaterial to the statement as made on yesterday, but for the sake of better English I desire to have a correction made in the record.

At the bottom of page 110 of the proceedings No. 5 had on yesterday, and on page 27, toward the top, of the CONGRESSIONAL RECORD, I desire to make a correction in this sentence:

> The conduct of this judge has been exceedingly reprehensible and in marked contrast with the high sense of judicial ethics and probity which generally characterize American judges.

There should be a period there, and I desire to have a period. Then in lieu of the dash and in lieu of the word "that" I desire a new sentence to begin with the word "Let," so that the paragraph will read:

> The conduct of this judge has been exceedingly reprehensible and in marked contrast with the high sense of judicial ethics and probity which generally characterize American judges. Let unworthy judges be shorn of power so that an upright and independent judiciary may be maintained for the perpetuation of our government of laws.

Instead of "government of law."

The PRESIDENT pro tempore. The correction will be made as desired by the manager.

Mr. Manager CLAYTON. Mr. President.

The PRESIDENT pro tempore. If the manager is through with the correction, the Chair will submit the matter which has been presented by the Senator from Idaho [Mr. BORAH]. The Senator from Idaho propounds, in writing, the following inquiry for the consideration of the managers, and the Secretary will read it.

The Secretary read as follows:

> Are the managers prepared at this time to present their brief as to our power to impeach for offenses or acts which were not committed or done during the term of the office which the party charged now holds?

Mr. Manager CLAYTON. Mr. President, on behalf of the managers, in reply to the suggestion, I beg to say that that question has been thoroughly considered by the managers, and they have no doubt that this judge can be impeached for a misbehavior of a grave character that he may have committed while he held the office of district judge, his tenure of the one having dovetailed into the tenure of the present office.

We have gathered as best we could the authorities to sustain that position. We began with the celebrated case of Judge Barnard, which is familiar, I assume, to all the lawyers in this body, and we have collated the other authorities touching upon that subject that we could find. We have made a brief, and we are prepared to make the argument on that proposition.

But, Mr. President, the managers have not up to this time deemed it proper or, I might say, advisable to bring that question to the attention of the court for the reason that we are pursuing in this case the practice which was pursued in other cases, notably the practice in the Swayne case. After the statement of facts in that case, as the present occupant of the chair knows, immediately the managers began the introduction of their witnesses, and neither the law nor the facts bearing upon any phase of the different controversies involved in that case were argued until the respondent had also made his opening statement and introduced his witnesses; and after all the witnesses had been examined, then the case was opened for discussion both upon the law and the facts.

So, Mr. President, the managers have followed what they deemed the practice to be in like cases.

Then another reason, Mr. President, why the managers have not brought that argument or that question to the attention of the Senate is because the managers were under the impression that the question itself had not been raised by the respondent or his counsel, and the managers thought as lawyers conducting this case that it was quite sufficient for them to take care of every question, both of law and fact, when that question was raised.

Notwithstanding this view, the second reason that I have assigned, it was, however, the intention of the managers to invite the attention of the Senate to a consideration of that question in the orderly way in which the argument was conducted in the Swayne case and, I think, in other cases, because the managers realize that although the respondent or his counsel might not have raised that question they knew that the Senate would wish to be advised upon all the law of the subject, whether the respondent saw proper to raise any particular question or not.

I may say, therefore, Mr. President, while we are prepared to argue that proposition now, we do not think it advisable in view of what we have said, and in view of the further fact that we have a multitude of witnesses here now whom we expect to examine, and we had expected to proceed with the examination of the witnesses at this time, and in order that some of these witnesses who are away from their business might go home.

Therefore, Mr. President, unless the Senate shall indicate its desire that the managers do so it is not the purpose of the managers at this time to submit an argument on the question which has been suggested by the Senator from Idaho.

Mr. WORTHINGTON. Mr. President, the counsel for the respondent have considered very carefully the question of raising at the beginning of the proceedings the question as to the impeachability of any of the offenses set forth in any of these articles. The answer to each article begins with an averment that the article does not set forth an impeachable offense; that the facts stated, if true, do not make the respondent responsible under the Constitution to this tribunal. We concluded that these questions—and in that we agree with the managers—might be left until the evidence is closed. That course was pursued in the Swayne case and in the other impeachment cases, except in the case of Secretary Belknap, which was the last case before the Swayne case. In the Belknap case his counsel filed an answer which raised the question whether, as he was no longer a civil officer of the Government, he could be impeached. After a very long and able discussion of that question, a majority of the Senate held that he could be impeached notwithstanding the fact that he was no longer in the service of the Government. But less than two-thirds so held. Accordingly Belknap's counsel refused to file any answer on the merits, because more than one-third of the Senate had voted that the Senate had no jurisdiction. The case went on to a final conclusion, and then all the Senators, with the exception of two, who had voted at the beginning that the court had no jurisdiction, voted not guilty on that ground.

I may add, Mr. President, that in what Mr. Manager CLAYTON has just said the managers are not to assume that we yield the point which has been suggested by the Senator from Idaho.

Mr. Manager CLAYTON. Mr. President, in reply to the suggestion just interposed by the counsel for the respondent, the managers did credit to the honorable counsel to believe that he would raise that question before these proceedings were concluded. However, we believed and now believe that it would be proper for the Senate to know it, whether he raised it or not, and we prepared to give our view on that question and for that additional reason. We thought the counsel for the respondent was too good a lawyer not to avail himself of every possible defense that the respondent might be entitled to.

Mr. President, I therefore assume that the Senate does not at this time wish the managers to discuss the proposition which was suggested by the honorable Senator from Idaho.

Mr. President, we would like to have the witnesses called. Before having the witnesses called I desire to make a very brief statement, and that is that for the proper investigation of this case it has been necessary to bring here by subpœna a large number of witnesses. Many of these witnesses are men of affairs, of great affairs, in the business world, and the managers have undertaken to have enough witnesses before the Senate each day to occupy the entire time of the session daily. We have taken the liberty of telling some of the gentlemen who will be used as witnesses that we will call them hereafter by wire, and when they do come in response to such wire when we shall need them, we shall ask that they be then sworn and examined. We have therefore present to-day a part only of the witnesses on behalf of the House of Representatives.

We therefore ask at this time that the Secretary read the whole list of witnesses on behalf of the managers on the part of the House of Representatives, and then after that list is read I will do as the Chair may suggest, either have all the witnesses sworn en bloc or have each one sworn separately as we produce him to testify. If the Chair would prefer that each witness be sworn separately as he is produced, that course will be followed.

The PRESIDENT pro tempore. The presumption is that the Senate will allow the managers to pursue their own course in that matter.

Mr. Manager CLAYTON. I would therefore ask that the witnesses be called, and all of them required to enter the Chamber who are present to-day and that the oath be administered to them.

The PRESIDENT pro tempore. The Secretary will call the names of those who are here. Does the manager ask that the entire list of witnesses be now read?

Mr. Manager CLAYTON. Yes, sir.

Mr. WORTHINGTON. That is, witnesses for the managers.

Mr. Manager CLAYTON. Witnesses for the managers. Of course, I have no control and no disposition to control the matter of witnesses for the respondent.

The PRESIDENT pro tempore. The Secretary will read the list.

The Secretary read as follows:

WITNESSES UPON WHOM SERVICE HAS BEEN MADE.

Leo Weil, Pittsburgh, Pa.
Edward Loomis, New York City, N. Y.
W. H. Truesdale, New York City, N. Y.
John L. Seager, New York City, N. Y.
Douglas Swift, New York City, N. Y.
Eben B. Thomas, New York City, N. Y.
William S. Jenney, New York City, N. Y.
T. J. Farrell, New York City, N. Y.
Henry E. Mecker, New York City, N. Y.
George Russell, New York City, N. Y.
John Henry Jones, Scranton, Pa.
W. L. Pryor, Scranton, Pa.
Harry C. Reynolds, Scranton, Pa.
James H. Rittenhouse, Scranton, Pa.
John M. Robertson, Scranton, Pa.
Edward R. W. Sengle, Scranton, Pa.
Charles F. Conn, Scranton, Pa.
Miss Mary Boland, Scranton, Pa.
Rollin B. Carr, Scranton, Pa.
Chasles W. Gunster, Scranton, Pa.
William A. May, Scranton, Pa.
Edwin M. Ripe, Scranton, Pa.
C. H. Von Storch, Scranton, Pa.
Wrisley Brown, Washington, D. C.
A. F. Gallagher, Washington, D. C.
B. H. Meyer, Washington, D. C.
W. W. Watson, Scranton, Pa.
Miss Veda M. Barber, Scranton, Pa.
F. L. Belin, Scranton, Pa.
Walter S. Bevan, Scranton, Pa.
James E. Brown, Scranton, Pa.
Alonzo Davis, Scranton, Pa.
Frank E. Donnelly, Scranton, Pa.
Henry W. Edwards, Scranton, Pa.
W. J. Fitzgerald, Scranton, Pa.
Rt. Rev. M. J. Hoban, Scranton, Pa.
John P. Kelly, Scranton, Pa.
Henry A. Knapp, Scranton, Pa.
E. C. Newcomb, Scranton, Pa.
Joseph O'Brien, Scranton, Pa.
Walter L. Schlager, Scranton, Pa.
Samuel H. Swingle, Scranton, Pa.
John Van Bergen, Scranton, Pa.
John R. Wilson, Scranton, Pa.
Clarence S. Woodruff, Scranton, Pa.
T. Ellsworth Davis, Scranton, Pa.
Martin J. Campion, Scranton, Pa.
John Henry Jones, Scranton, Pa.
Alton Kizer, Scranton, Pa.
W. L. Pryor, Scranton, Pa.
John M. Robertson, Scranton, Pa.
W. W. Scranton, Scranton, Pa.
L. A. Watres, Scranton, Pa.
Charles H. Welles, Scranton, Pa.
W. G. Vandewater, Scranton, Pa.
Mary F. Boland, Scranton, Pa.
D. R. Reese, Scranton, Pa.
Thomas Howell Jones, Scranton, Pa.
James E. Heckel, Scranton, Pa.
Fred W. Jones, Scranton, Pa.
Thomas Howell Jones, Scranton, Pa.
Frederick Warnke, Scranton, Pa.
James R. Dalaty, Scranton, Pa.
Thomas J. Foster, Scranton, Pa.
Frederick Warnke, Scranton, Pa.
Frank P. Christian, Scranton, Pa.
V. L. Peterson, Scranton, Pa.
W. W. Risslinger, Scranton, Pa.
Edward J. Williams, Dunmore, Pa.
Francis Rawle, Philadelphia, Pa.
David Newlin Fell, Philadelphia, Pa.
George F. Baer, Philadelphia, Pa.
R. F. Crowe, Philadelphia, Pa.
John G. Johnson, Philadelphia, Pa.
Frederick W. Fleitz, Scranton, Pa.
John M. Garman, Wilkes-Barre, Pa.
J. M. Humphrey, Wilkes Barre, Pa.
H. W. Saums, Wilkes-Barre, Pa.
Thomas Darling, Wilkes-Barre, Pa.
J. B. Woodward, Wilkes-Barre, Pa.
Henry Belin, jr., Scranton, Pa.
Joseph P. Jennings, Scranton, Pa.
E. A. Johnson, Scranton, Pa.
William P. Boland, Scranton, Pa.
Anna M. Blackmore, Scranton, Pa.
Christopher G. Boland, Scranton, Pa.
Reese A. Phillips, Scranton, Pa.
Wallace M. Ruth, Scranton, Pa.
John T. Lenahan, Wilkes-Barre, Pa.
B. W. Beardsley, Peckville, Pa.
John W. Berry, Pittston, Pa.
Richard Bradley, Peckville, Pa.

The PRESIDENT pro tempore. The Secretary will now proceed to read the names of witnesses who are present in order that they may be sworn.

Mr. Manager CLAYTON. I suppose, Mr. President, that it would be a difficult matter for the Secretary to call the names of witnesses.

The PRESIDENT pro tempore. Are the managers prepared to furnish the names of those whom they now wish to be sworn? If so, they will be called into the Chamber.

Mr. Manager CLAYTON. We will proceed to swear each witness as we produce him.

The PRESIDENT pro tempore. Very well, if that course is preferred.

Mr. Manager CLAYTON. And, Mr. President, in the division of labor, we have decided that Mr. Manager WEBB, of North Carolina, shall examine the first witness; and the first witness that we now ask to call is Mr. Edward J. Williams.

Mr. Edward J. Williams entered the Chamber.

The PRESIDENT pro tempore. Please give your name and place of residence to the Secretary.

Mr. WILLIAMS. Edward J. Williams, 626 South Blakely Street, Dunmore, Pa.

Edward J. Williams sworn and examined.

Mr. Manager WEBB. Mr. President, is it desired that the witness shall sit or stand?

The PRESIDENT pro tempore. The present position of the witness is probably the one from which he can be best heard by the Senate.

Mr. Manager WEBB (to the witness). What is your full name, Mr. Williams?

Mr. WORTHINGTON. Mr. President, may I ask a question? The practice differs. In some courts it is required that counsel examining a witness shall stand; but it is not customary where I have been; and I presume it is a matter about which the examining counsel or manager may use his judgment.

The PRESIDENT pro tempore. Absolutely on both sides. The managers and counsel may assume such posture as they prefer.

Mr. POINDEXTER. Mr. President, is it required that the witness should remain standing while he is giving his testimony?

The PRESIDENT pro tempore. The Chair directed that he should, because he did not think that if the witness took his seat he could be heard on the other side of the Chamber.

Mr. POINDEXTER. I beg the Chair's pardon. I did not hear the order of the Chair.

The PRESIDENT pro tempore. It is for that purpose that it was directed that the witness should stand; otherwise, of course, he would be permitted to sit.

Q. (By Mr. Manager WEBB.) State your full name, Mr. Williams:—A. Edward J. Williams.

Q. Where were you born?—A. Born in Wales.

Q. How old were you when you came to America?—A. I am 73 now, and I was born in 1840. I came here in 1866.

Q. You came here when 26 years old?—A. I came in 1866.

Q. In 1866?—A. Yes.

Q. Where have you lived since that time?—A. I first lived in Schuylkill County.

Q. Where do you live now?—A. I live in Dunmore.

Q. What is the name of the town?—A. I have lived in Olyphant before—42 years.

Q. How far is Olyphant from Scranton?—A. Six miles.

Q. Six miles from Scranton?—A. Yes, sir.

Q. How often have you visited Scranton during the last three or four years?—A. Mostly every day except Sunday.

Q. Did you have an agreement with Judge Archbald to purchase what is known as a culm dump from one Robertson and from the Erie Railroad Co.?—A. No, sir; I never had an agreement with him.

Q. State to the Senate what connection you and the judge had, if any, about the leasing of a culm dump from Robertson & Law and from the Hillside Coal & Iron Co.—A. It was not a lease, sir.

Q. Call it an "option."—A. It was an option to buy from the Erie their part—there were two owners to it—for $4,500.

Q. That is from the Erie?—A. From the Erie—and $3,500 to Mr. Robertson for his part.

Q. Making a total that you were to give them of $8,000?—A. Eight thousand dollars; yes, sir.

Q. Robertson & Law owned one part of it; is that right?—A. Robertson & Law.

Q. And the Erie Railroad Co., which owns the Hillside Coal & Iron Co., owned the other half?—A. Yes, sir.

Q. What did Judge Archbald have to do with it?—A. Why, the judge did not have anything to do any more than he gave me a letter to Capt. May: that is all he done.

Q. When was it that the judge gave you a letter to Capt. May?—A. Well, I do not remember exactly the date of it.

Q. What May is that—W. A. May?—A. W. A. May; yes, sir.

Q. Superintendent of the Hillside Coal & Iron Co.?—A. Yes, sir.

Q. Which is owned by the Erie Railroad Co.?—A. Yes, sir.

Q. Do you know when that letter was written by Judge Archbald to Mr. May?—A. I can not remember—I do not remember the date.

Q. Let me ask you if this is the letter:

SCRANTON, PA., *March 31, 1911.*

W. A. MAY, Esq.,
Superintendent Hillside Coal & Iron Co.

DEAR SIR: I write to inquire whether your company will dispose of your interest in the Katydid culm dump belonging to the old Robertson & Law operation, at Brownsville? And if so, will you kindly put a price upon it?

Yours, very truly,

R. W. ARCHBALD.

Is that the letter?

A. I do not think so. I think that he only recommended me to him.

Q. Only recommended you to Mr. May?—A. Yes, sir.

Q. Did you ever see this letter [exhibiting]?—A. I never saw it; I never opened the letter. I took the letter as it was written.

Q. In consequence of the letter that you did take you went to Mr. May?—A. Yes, sir.

Q. What did he tell you?—A. Mr. May was not very willing to give it at the time.

Q. Did he talk roughly to you?—A. No; he did not.

Mr. WORTHINGTON. One moment. I submit, Mr. President, we had as well try this case with some appearance of conformity to the rules of a court. That was a leading question, which ought never to have been asked and should not be allowed to be answered.

The PRESIDENT pro tempore. Counsel, as far as possible, will avoid leading questions.

Mr. Manager WEBB. Mr. President, later on, I think, it will be developed that it will be absolutely necessary to ask the Senate to cross-examine this witness. I shall conform as far as possible to the ordinary rules in an ordinary court, but, of course, we realize that this court has no limits as to its discretion as to what evidence shall be introduced.

Mr. WORTHINGTON. I should not like, by sitting silent, for a moment to consent to that proposition. I understand the Senate of the United States has held in every impeachment trial that it is governed by the rules of evidence.

Q. (By Mr. Manager WEBB.) Did you say that he did not want to consider the proposition when you first went to him with the letter of recommendation?—A. No; he did not give it to me.

Q. What did you do then?—A. He did not say he would give it to me.

Q. Did he decline to give you the option?—A. Well, he did not give it to me.

Q. Did he decline to do it?—A. Well, I do not remember exactly what his words were—his answer to me.

Q. Do you not know what his words were?—A. I did not get it; that is all.

Q. You want it to stand that way—that you did not get it?—A. Yes, sir.

Q. What did you do then when you did not get it? Did you go to Judge Archbald and tell him about it?

Mr. WORTHINGTON. I submit, sir, that we ought not to have this leading style of interrogatories until something has appeared to justify it. Before a committee of inquiry it seems to be the custom to lead the witness to say what he is expected to say; but I submit that in a tribunal which has the form and dignity of a court the witness should be allowed to testify and not counsel. Over and over again in impeachment proceedings the fact that a leading question was asked has been ruled to be improper, and over and over again the Presiding Officer has warned counsel not to ask leading questions. If it is necessary to inform the Senate about that, we can send for the history of these cases and read from the record. It ought not to be necessary; but certainly the managers know as well as we do that leading questions are prohibited here as well as in any court, unless there may be some exceptional case where the Senate may be satisfied that it is proper to do so because the witness is endeavoring to conceal the facts.

Mr. Manager WEBB. Mr. President, this is not what could be construed as a leading question. I do not want the witness to tell me every little transaction he did outside of the main feature of this case. I simply asked him if he went to Judge Archbald. I do not want him to detail a great many other things. I want to bring him up for the sake of time.

Q. (By Mr. Manager WEBB.) Tell what you did with reference to Judge Archbald after you did not get the option from Capt. May.—A. I told the judge that I did not get it; that is all.

Q. How long after you saw May was it that you told the judge you did not get it?—A. Right away.

Q. What did the judge say?—A. Well, the judge said he would see about it.

Q. What else did the judge say?—A. That is all.

Q. I ask you if he said anything about going to New York and seeing Mr. Brownell, general counsel of the Erie Railroad Co.

Mr. WORTHINGTON. I object to that as a leading question. As the court will see, in starting out, to have the manager do the testifying for a witness ought not to be allowed here in any case, and especially in such a case as this. The witness has not yet shown any indisposition to tell the truth. The managers are assuming that he is concealing facts, but nothing has appeared to justify that assumption. Why should not the manager write out what it is desired the witness shall say? Let me read from a case I have had occasion to cite on that subject in the Supreme Court of the United States. I think, perhaps, we may just as well spare the time now as on any other occasion, as this is the beginning of this trial. I read from an opinion delivered by the present Chief Justice of the Supreme Court in the case of Putnam against the United States in 162 United States Reports. In the conclusion of the opinion in that case, where this question was involved, the Chief Justice said:

Brevity prevents a detailed review of the other cases on this subject previously mentioned in the margin hereof. Suffice it to say that an examination discloses that they all rest upon the mistaken idea which we have pointed out. Indeed, if the principles upon which these cases necessarily rest are pushed to their logical conclusion, they not only under the guise of an exception overthrow the general rule as to refreshing memory but also subvert the elementary principles of judicial evidence. The fact that these consequences are the legitimate and necessary outcome of the cases we have reviewed depends not on mere abstract reasoning but is demonstrated by the case of People v. Kelly (113 N. Y., 647, 651, 1889). In that case, upon the sole authority of Bullard v. Pearsall, it was held that where inconsistent or adverse statements had not been given by a witness for the State but, from mere forgetfulness or a wish to befriend the accused, the witness had omitted to testify to certain details, error had not been committed by the court in allowing the prosecuting attorney, for the purpose of refreshing the recollection of the witness, to inquire of him whether he had not testified to the omitted facts before the committing magistrate and grand jury, and, upon his admission that he had done so, to ask if the statements theretofore made were not true, and that the affirmative reply of the witness was competent evidence to submit to the jury. Not only the error but the grave consequences to result from such a doctrine were aptly pointed out by Chief Justice Shaw in Commonwealth v. Phelps (11 Gray, 73), where an attempt was made to refresh the memory of a witness by reference to testimony before a grand jury not contemporaneously given.

Mr. President, that was a case in which the attention of the witness was called to statements he had previously made for the purpose of refreshing his memory that he had testified otherwise. Now, the managers, instead of doing that, are undertaking to do what is much more objectionable—putting language into the mouth of the witness here without calling his attention to anything that he has said heretofore. Counsel have no right to cross-examine except upon the theory that somewhere the witness has said things as to which he is being examined. I submit, Mr. President, that we ought not to start out in this trial of the respondent, who sits here, and have it concluded by the testimony of witnesses as to a matter so important that it might be vital to him without letting the witness in the first place go on and tell his story and see what he says, and then, if it is sought to put words in his mouth, let the Senate, after hearing him through, determine whether or not it is a case in which that sort of procedure shall be allowed.

The PRESIDENT pro tempore. Does counsel object to the question propounded?

Mr. WORTHINGTON. We object to the question propounded for the reasons I have stated.

The PRESIDENT pro tempore. The manager will please state the question, so that it may be reduced to writing.

Mr. Manager WEBB. I asked the witness, when he returned from Mr. May, who had declined to allow him an option, what Judge Archbald said, and if he said anything about going to New York to see Mr. Brownell, who was the general counsel of the Erie Railway Co.

The WITNESS. Yes, sir.

The PRESIDENT pro tempore. The Chair is of the opinion that, in the absence of any suggestion of counsel as to what was said, the question would be competent as to his having gone there and something having been said which may afterwards be disclosed.

Mr. WORTHINGTON. As the witness has already answered the question, for the present purposes it is futile to proceed. I think the witness should be cautioned, when objection is made, not to answer a question until the Presiding Officer or the Senate has ruled upon it.

The PRESIDENT pro tempore. That is a very proper suggestion. The witness will be governed by that. Hereafter when there is an objection to testimony the witness will not reply until after the matter has been passed upon.

Q. (By Mr. Manager WEBB.) You say he did tell you that he would go to New York and see Brownell?—A. Yes, sir.

Q. What else did he say about it?—A. That is all. He did not say more than that. He said he would see about it.

Q. Do you know whether or not at that time the Erie Railroad Co. was a defendant in a suit then pending in the United States Commerce Court?

Mr. WORTHINGTON. I should like to cross-examine the witness before that question is put to him, to see what his source of knowledge is as to what was pending in the Commerce Court of the United States.

The PRESIDENT pro tempore. That can be brought out afterwards by counsel.

Mr. WORTHINGTON. Very well.

Q. (By Mr. Manager WEBB.) Did you know that the Erie Railroad Co. was having a litigation before the Commerce Court?—A. Yes. I said that before in my testimony—that I seen it in the bill or what you call——

Q. The brief—the judge's docket?—A. Not in the brief—the bill of the next court that named all the trials—what do you call them—the trial list?

Q. Where did you see that?—A. On the table, sir; on the desk.

Q. On the desk? Whose desk?—A. Mr. Archbald's desk.

Q. The judge's desk?—A. On the judge's desk.

Q. Where was that? In what building in Scranton?—A. That was in the Federal Building, sir.

Q. What did you see on this table, and what did it tell you, if anything, about these suits?—A. This trial list was on there. I looked at it, and there were two cases there against the Erie; and I said, What does this case mean—this lighterage case? What does "lighterage" mean, I said to the judge.

Q. You said that to the judge?—A. Yes, sir; and he told me what lighterage meant; that it was these little boats that

carry the cars across the river. That is all that was said about it.

Q. State whether or not he said anything about seeing Brownell and being able to do Mr. May an injury if he did not grant so small a request.

Mr. WORTHINGTON. Mr. President——

The WITNESS. No; he never said that.

Mr. WORTHINGTON. I do not see any use in objecting after the witness has answered.

The PRESIDENT pro tempore. What is the objection?

Mr. WORTHINGTON. I was about to object, Mr. President, but the witness has answered the question. I should like to see what the Reporter has got as his answer.

The PRESIDENT pro tempore. The witness will hereafter be careful when counsel objects to a question not to reply until the objection has been passed upon.

Mr. WORTHINGTON. I asked that the answer of the witness to the last question be read. I did not catch it.

The Reporter read as follows:

Q. (By Mr. Manager WEBB.) State whether or not he said anything about seeing Brownell and being able to do Mr. May an injury if he did not grant so small a request?—A. No; he never said that.

Q. (By Mr. Manager WEBB). Did he say anything about May?—A. About May? I do not remember that he said anything—that he was going to see Brownell and Richardson—no; Brownell, he said, not Richardson. He did not say only one.

Q. Who is Brownell?—A. Brownell is one of the vice presidents of the Erie Co.

Q. He lives where?—A. He is counsel for them.

Q. And lives where?—A. He lives in New York, I suppose; I do not know.

Q. Why were you and the judge talking about the lighterage case?—A. This was in his office in the Federal building.

Q. But what did that have to do with the transaction? Why were you talking to him about the lighterage case?—A. I only took the thing up as I seen it on the table—on the desk.

Q. Did you know what a lighter was?—A. No, sir; didn't I tell you that I didn't know?

Q. And who did tell you what it was?—A. The judge told me what it was.

Q. What connection had the lighterage case with the Erie Railroad Co.?—A. Well, if was a lawsuit on that subject. I did not know what it was.

Q. State whether or not you knew that Mr. Brownell was marked as counsel for the Erie Railroad Co. in the lighterage case?—A. I told you that; yes, sir.

Q. That he was counsel. Well, did the judge go to New York to see Brownell?—A. He did.

Q. How do you know?—A. I only know by what was told to me.

Q. By whom?—A. I do not remember whether the judge told me or not. I could not swear that the judge told me that.

Q. Did you see the judge about it after he had gone to New York?—A. Yes, sir; I did. This is all he told me: "I seen Capt. May, and he says 'You go over and get that.'" He told me "you shall have it." No more than that, sir.

Q. State whether or not the judge told you he had seen Brownell.—A. Well, I do not remember whether he told me or not that he seen Brownell. When he came back he told me to go and get it, that he had met Capt. May.

Q. Who did—the judge?—A. The judge told me that; yes, sir.

Q. Well, what did you do when he told you to go and get that?—A. I went and got it.

Q. Got what?—A. Got the culm—got the contract.

Q. Got the option?—A. Yes, sir.

Q. From whom?—A. From William A. May.

Q. How long was it after you first saw May that you finally got the option?—A. I could not tell you; I could not say whether it was a week or whether it was two weeks; I do not remember.

Q. Let me ask you if this [reading to witness] is the option:

(Pennsylvania Coal Co., Hillside Coal & Iron Co., New York; Susquehanna & Western Coal Co., Northwestern Mining & Exchange Co., and Glossburg Coal Co.)

OFFICE OF THE GENERAL MANAGER,
Scranton, Pa., August 30, 1911.

Mr. E. J. WILLIAMS,
628 South Blakely Street, Dunmore, Pa.

DEAR SIR: As stated to you to-day verbally, I shall recommend the sale of whatever interest the Hillside Coal & Iron Co. has in what is known as the Katydid culm dump, made by Messrs. Robertson & Law in the operation of the Katydid breaker, for $4,500.

In order that it may not be lost sight of, I will mention that any coal above the size of pea coal will be subject to a royalty to the owners of lot 46, upon the surface of which the bank is located.

It is also understood that the bank will not be conveyed to anyone else without the consent of the Hillside Coal & Iron Co., and that if the offer is accepted articles of agreement will be drawn to cover the transaction.

Yours, very truly,

W. A. MAY,
General Manager.

Q. Is that his letter?—A. That is it.

Q. That is what you called an option?—A. Yes, sir.

Q. Prior to that time had you obtained the option from Mr. Robertson?—A. I did, sir; yes.

Q. Who drew that option?—A. Robertson himself.

Mr. Manager WEBB. Mr. President, we offer this letter of August 30, 1911, from May to Williams, in evidence.

Q. (By Mr. Manager WEBB.) You say Mr. Robertson drew the option?—A. Yes, sir; on his part.

Q. Do you know Judge Archbald's handwriting?—A. Yes, sir.

Q. I ask if this [handing letter to witness] is his handwriting? Can you read it?—A. Yes, sir.

Q. What is that?

Mr. WORTHINGTON. I do not know whether the managers wish to save time in this way, but, as we have already stated, we admit that that paper is in Judge Archbald's handwriting.

The WITNESS. I got one from Robertson himself——

The PRESIDENT pro tempore. The witness will suspend.

The WITNESS. I got it a second time——

Mr. WORTHINGTON. So far as we are concerned, that paper may be read in evidence. We admit that it is in Judge Archbald's handwriting and is witnessed by himself.

Mr. Manager WEBB. I ask, Mr. President, that the Secretary read this agreement.

The PRESIDENT pro tempore. Does the manager desire that it shall be read at this time?

Mr. Manager WEBB. Yes, sir.

Mr. WORTHINGTON. Our admission does not apply to what is below the agreement itself. There is an acknowledgment there as to which we should like to have the evidence, at the proper time.

Mr. Manager WEBB. I ask the Secretary to read.

The PRESIDENT pro tempore. The Secretary will read as requested.

The paper was read, as follows:

[U. S. S. Exhibit 2.]

This agreement made and concluded this 4th day of September, A. D. 1911, by and between John M. Robertson, of Moosic, Pa., of the one part, and Edward J. Williams, of Scranton, Pa., of the other part, witnesseth.

Whereas the said party of the first part is the owner of that certain culm dump in the vicinity of Moosic, made in the operation by the firm of Robertson & Law, of the so-called Katydid mine or colliery, and whereas the said party of the second part is desirous of purchasing the same.

Now, this agreement witnesseth, that for and in consideration of $1 to him in hand paid, the receipt of which is hereby acknowledged, the said party of the first part hereby grants and conveys unto the said party of the second part, his heirs, executors, administrators, and assigns, the right or option to purchase his interest in and to the said culm dump for the price or sum of $3,500, which said option is to be exercised within 60 days from this date, the terms to be cash within 5 days after the exercise of said option. It is understood that this option is intended to cover and include all the interest of the said party of the first part and of the said late firm of Robertson & Law.

In witness whereof the parties hereto have hereunto set their hands and seals the day and year aforesaid.

JNO. M. ROBERTSON. [SEAL.]
E. J. WILLIAMS. [SEAL.]

Witness:
R. W. ARCHBALD.

STATE OF PENNSYLVANIA, *County of Lackawanna, ss:*

On this 12th day of September, A. D. 1911, personally appeared before me, a notary public in and for said State and county duly commissioned, residing city of Scranton, county aforesaid, the above-named E. J. Williams, who, in due form, of law acknowledged the foregoing indenture to be his act and deed and desired the same might be recorded as such.

Witness my hand and official seal the day and year aforesaid.

[SEAL.] GEO. W. BENEDICT, Jr.,
Notary Public.

(My commission expires March 10, 1913.)

Now, November 4, 1911, the terms of the within agreement are mutually extended for 30 days.

JNO. M. ROBERTSON. [SEAL.]
E. J. WILLIAMS. [SEAL.]

Recorded in the office for recording of deeds, etc., in and for Lackawanna County, Pa., in deed book 246, volume —, page 203, etc.

Witness my hand and seal of office this 13th day of September, A. D. 1911.

[SEAL.] M. P. JUDGE, *Recorder.*

Mr. WORTHINGTON. Mr. President, let it be clearly understood by the Senate that the admission I just made does not apply to the acknowledgment just read. The admission is only as to Judge Archbald's signature. The managers will not claim that the acknowledgment is in the handwriting of Judge Archbald.

Mr. Manager WEBB. We understand that.

Mr. WORTHINGTON. No doubt it will appear later on who did write it, and why.

Mr. Manager WEBB. We should like to mark the first letter Exhibit No. 1 and the second No. 2; and we presume the Secretary will take care of the exhibits.

Q. (By Mr. Manager WEBB.) Mr. Williams, you say Judge Archbald drew this option or contract?—A. Yes, sir.

Q. And he witnessed it?

Mr. WORTHINGTON. I admit that that is his signature.

Mr. Manager WEBB. All right.

Q. (By Mr. Manager WEBB.) When did you get another option from Mr. Robertson?—A. What—another one?

Q. Yes. You say you got another one that the judge did not draw?—A. I do not remember exactly. I think I did; I am not sure; but here is a letter I got from him. I forget now whether I had another option; but he agreed to extend it, anyhow.

Q. I understand that.—A. Yes, sir.

Q. But was the original option from Mr. Robertson to you drawn by Judge Archbald and witnessed by him? I believe that is admitted in the pleadings.

Mr. SIMPSON. Yes; that is admitted.

The WITNESS. That has been admitted.

Q. (By Mr. Manager WEBB.) How much coal or culm was in this bank?—A. I will read you a report of Mr. Robertson himself.

Q. No; you need not read that. I ask you how much culm, in your judgment, was in this bank?—A. About 140,000 tons.

Q. You had your option from Mr. Robertson, and you had your option from the Erie Railroad or the Hillside Coal & Iron Co.?—A. Yes, sir.

Q. The entire option cost you $8,000. Is that right?—A. Yes, sir.

Q. After you got the option what did you do? What was the next step? In other words, did you undertake to sell it? That is what I want to get at.—A. Yes; I did.

Q. To whom did you try to sell it?—A. The first party I tried to sell it to was Mr. Conn, the manager of the Laurel line.

Q. I ask you if you and the judge did or did not have an agreement that he was to have one-half of this culm-bank profit?—A. Yes, sir.

Q. Who wrote a letter to Mr. Conn?—A. I wrote one letter to Mr. Conn.

Q. Did you pay any money for the option?—A. No, sir.

Q. Did the judge pay any?—A. No, sir; paid nothing.

Q. What is the royalty up there on this kind of coal?

The WITNESS. What is the royalty for the coal that the Erie mined, you mean?

Q. Yes.—A. Twenty cents.

Q. Twenty cents or 27½ cents?—A. Oh, no; 20 cents.

Q. If there were 140,000 tons in the bank, worth 20 cents a ton, what would that make your profit?—A. You would not have that royalty for that. They do not pay any such royalty for the lower sizes.

Q. Well, what was your proposition to Mr. Conn?—A. The proposition to Mr. Conn was to sell it for 27½ cents per ton, sir.

Q. Exactly. What would that have made the profit—$30,000 less $8,000? Is that right? It is a matter of calculation. I thought I would hurry you along.—A. I suppose it might be about that.

Q. Did you take the letter from Judge Archbald to Mr. Conn?—A. No, sir; I did not.

Q. State whether or not the judge told you he had written a letter to Conn.—A. I did not take a letter.

Q. State whether or not the judge told you he had written a letter to Mr. Conn.—A. I do not remember whether the judge told me or not.

Q. You do not?—A. No, sir; I do not. To tell you the honest truth, I do not know whether he told me that or not.

Mr. Manager WEBB (addressing counsel for respondent). You admit this letter?

Mr. WORTHINGTON. Certainly.

Mr. Manager WEBB. Mr. President, we would like to introduce Exhibit No. 3, which I should like to read to the Senate.

Mr. WORTHINGTON. We admit that Judge Archbald sent that letter to Mr. Conn and that that is his signature.

Mr. Manager WEBB. All right.

Q. (By Mr. Manager WEBB). In the first place, let me ask you who Mr. Conn is?—A. Mr. Conn is manager of the Laurel Line.

Q. The Laurel Line is an electric railroad in Pennsylvania?—A. Yes, sir.

Q. Did Mr. Conn buy a great deal of coal to run his railroad?—A. He uses a hundred tons a day, sir.

Q. Do you know from whom he bought his coal?—A. He bought some from the Erie.

Q. That is, the Hillside Coal & Iron Co.?—A. Yes, sir; but the Erie did not want to supply him with coal.

Mr. Manager WEBB. Mr. President, I should like to read this letter:

[U. S. S. Exhibit 3.]

(R. W. Archbald, Judge United States Commerce Court, Washington.)

SCRANTON, PA., *November 6, 1911.*

C. F. CONN, Esq.

DEAR SIR: On behalf of Mr. Edward J. Williams and myself I offer you the so-called Katydid culm dump, in the vicinity of Moosic, on a royalty basis at a flat rate of 30 cents a ton for all sizes, with the understanding that a minimum of 20,000 tons a year shall be taken or paid for, you to pay us $12,000 on account as advance royalties and to be entitled to take 40,000 tons without further payment therefor. In washing or screening the coal, if any of the prepared sizes are found there will be an additional charge of 5 cents a ton on such prepared sizes payable to the Hillside Coal & Iron Co. It will be satisfactory to us if you desire to remove the material from time to time in quantity without screening or washing it on the ground with the idea of screening or washing it elsewhere, provided we can be sufficiently protected and informed with respect to the actual number of tons taken, for which you would be accountable. In the execution of a formal agreement there may be other minor details in order to make a complete working contract; but the above will give you the substance of what we are ready to do.

Trusting that you will find these terms acceptable, I remain,

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager WEBB.) Did you ever see that letter?—A. I have seen it; yes, sir.

Q. You have seen it. Did the judge tell you that he had writen that letter? Did you know at that time that that letter was written?—A. What is that?

Q. Did you know at the time the letter was written that it had been written?—A. I can not tell you. I do not remember now. It is quite a while ago. I do not really remember whether I——

Q. That letter was written November 6, 1911. Did you sell to Mr. Conn?—A. No, sir.

Q. What was the reason?—A. Well, they doubted the title, sir; but the title is just as good to-day as it ever was, because the Erie Co. received their royalty every month from that company the same as they did the first day. So that agreement is proven every time they take the royalty.

Q. What was the judge to do and what did he do to entitle him to one-half of the profits in this culm dump?—A. It was none of anybody's business, if I wished to give it to him.

Q. Did you give it to him?—A. Well, I would have given it to him.

Q. What for?—A. Well, for what he did for me.

Q. What was that?—A. I told you a little while ago.

Q. Let us have it again. What did he do for you to make you give him half the profits in this culm bank?—A. It was partly through his influence I got it.

Q. Then you gave him one-half the profits for his influence; is that it?—A. But I had the other half before that; a long time before that.

Q. I understand that you and the judge claimed that you owned the entire interest in this culm dump; is that right?—A. Yes, sir.

Q. You claimed there were 140,000 tons. Was there any negotiation with Mr. Conn by you for the judge or by the judge with Mr. Conn that you know of?—A. No; but there was with me myself after that.

Q. You were the judge's partner. What did you tell him——

Mr. WORTHINGTON. Mr. President, I submit that that ought not to be said. I hope counsel will not undertake to proceed in that way in this tribunal. Counsel has no right to say that the witness was the judge's partner. The witness was giving testimony as to what he knows about it. That does not prove anything until the evidence is closed. Not that I care one way or the other whether he considers that the judge was his partner or not, but I object to that kind of procedure and examination.

The PRESIDENT pro tempore. The manager on the part of the House will put his question in another form.

Mr. Manager WEBB. Mr. President, I want to say that the only reason I put the question in that form is because in the letter the statement was made that they were partners.

Q. (By Manager WEBB.) Did you and the judge have any other negotiations with Mr. Conn with reference to the sale of this dump?—A. Not the judge.

Q. Did you?—A. Yes, sir.

Q. What did you do?—A. I sent another letter explaining the title to him; that the title was all right; proving to him that the title was all right according to any law of the land.

Q. I will ask you if this is the letter you wrote Mr. Conn:

[U. S. S. Exhibit 4.]

SCRANTON, PA., *March 13, 1912.*

CHARLES F. CONN, Esq., *Scranton, Pa.*

DEAR SIR: Regarding the culm bank located at Moosic, Pa., which you have been negotiating for, would say this matter has been hanging fire for some time, and the party who has been dealing with you is desirous

of your having the bank. He believes that the title to this property is not a complicated one.

You, as a business man, understand the conditions under which the Hillside Coal & Iron Co. are operating under this lease. For any coal which they, their successors or assigns take from this bank larger than pea coal they are to pay to the Everhart heirs a royalty of 20 cents per ton. Now, I think you do not intend preparing any of the larger sizes of coal, and, if not, the Everhart heirs et al. would have no interest in the bank.

The Hillside Coal & Iron Co. and Mr. John M. Robertson, the only recognized owners of this bank, have agreed to sell me their interest, and I would be glad to have you let me know at your earliest convenience what you intend doing in the matter, as other parties are anxious to negotiate for it. I may say that should you have any doubts you could deposit one-half or two-thirds of the royalty in the bank or return it for a reasonable time as a guaranty against any claims. I am making this at the suggestion of the party who has been dealing with you to assure you of our desire that you should sustain no loss.

Very truly, yours,

E. J. WILLIAMS.

Q. Did you sign that?—A. Yes, sir; I did.

Q. Did you consult with the judge before you wrote it?—A. No, sir; I did not.

Q. Do you know whether that statement was agreeable to the judge or not?—A. I did not know; but I guessed it would be all right.

Q. You took that responsibility yourself?—A. I did, sir. That is right.

Q. Then, what happened after you wrote that letter—between you and Mr. Conn?—A. Mr. Conn told me he could not do anything with the lawyer who was assigned to look after their times; that he would not agree; that he would not recommend it to the company.

Q. All right. Now, after you failed to sell to Mr. Conn, who was the next person you negotiated with for the sale of it?—A. Mr. Bradley. The deed was made out to Mr. Bradley.

Q. What is his full name?—A. Richard Bradley.

Q. Do you know what month it was is that you made these negotiations with Mr. Bradley?—A. No; I do not. About three or four months ago.

Q. May I refresh your memory? The letter you wrote to Mr. Conn is dated March 13, 1912. Was it after that letter?—A. Right away.

Q. Right away after that?—A. Yes, sir.

Q. Did you and Mr. Bradley and the judge agree to trade or not?—A. I did not say anything to the judge. I sold it to Mr. Bradley.

Q. Without the judge knowing anything about it?—A. I did not say a word about it to the judge; no, sir.

Mr. O'GORMAN. Mr. President——

The PRESIDENT pro tempore. The Senator from New York.

Mr. O'GORMAN. Mr. President, I desire to submit a question to be addressed to the witness.

The PRESIDENT pro tempore. The Senator from New York asks that the following question be propounded to the witness. The Secretary will read the question.

The Secretary read as follows:

Q. Who dictated the letter to Conn, which you signed?

A. Well, William P. Boland dictated part of it and so did I dictate some part. He did not do it all himself.

Mr. LODGE. I did not hear the first part of the answer. I should like to have the answer repeated.

The Reporter read the question and answer.

The WITNESS. He was helping me to send a letter to him—to Conn.

Q. (By Mr. Manager WEBB.) After the letter had been written to Mr. Conn, dictated in part by Boland and in part by yourself, what transaction did you have with Richard Bradley with reference to the sale of this culm bank?

The WITNESS. What transaction?

Mr. Manager WEBB. Yes. What did you do?

A. I sold it to him.

Q. For what price?—A. At $20,000.

Q. Did he pay the money for it?—A. He offered the check to Mr. May, sir.

Q. He offered the $20,000 to whom?—A. To Mr. May—not the $20,000. The $20,000 was not coming to Capt. May. It was not due to him; only the $4,500.

Q. Did Mr. May agree that you should sell the option to Mr. Bradley?—A. Yes, sir.

Q. To whom was the option to be made at that time—to you or to you and the judge, or to Bradley or to you and Bradley from May?—A. I would sell it to Bradley.

Q. I ask you if Mr. May did make a contract with you.—A. Yes, sir.

Q. And you were to assign the contract to Bradley?—A. Yes, sir.

Mr. Manager WEBB. Now, Mr. President, we should like to introduce a copy of the contract, which I believe is admitted.

Mr. WORTHINGTON. What contract?

Mr. Manager WEBB. The contract from May to Williams, selling the Katydid culm dump.

Mr. WORTHINGTON. I have no objection to its introduction as a paper, but it is hardly right to call it a contract. It was never executed.

Mr. Manager WEBB. I understand that.

Mr. WORTHINGTON. Suppose you submit it——

Mr. Manager WEBB. I want to submit a tentative contract drawn by Mr. May for this culm bank.

Mr. WORTHINGTON. We agree that a tentative contract was drawn by May and submitted to Bradley, and as such it may be read, so far as we are concerned.

Mr. Manager WEBB. I ask that it be read.

The PRESIDENT pro tempore. The Secretary will read as requested.

The paper was marked "Exhibit No. 5," and was read by the Secretary as follows:

[U. S. S. Exhibit 5.]

Agreement made the — day of ———, A. D. 1912, between Hillside Coal & Iron Co., a corporation of the State of Pennsylvania, party of the first part, and E. J. Williams, of the borough of Dunmore, Pa., party of the second part.

Whereas a certain tract of land situated partly in Lackawanna and partly in Luzerne County, known and designated as lot No. 46, of certified Plitston Township, patented to John Bennett March 25, 1849, is owned in the following proportions, to wit, the Hillside Coal & Iron Co., twelve twenty-fourths; E. & G. Brook Land Co., six twenty-fourths; estate of James Everhart, five twenty-fourths; and heirs of John T. Everhart, one twenty-fourth; and

Whereas since 1878 the Hillside Coal & Iron Co. have mined coal from said tract of land, partly because of their own partial ownership of the same and partly by reason of verbal permission granted by the other owners to do so; and

Whereas certain culm piles are situated upon the surface of said tract of land, one of which is known as the Katydid culm bank, which was made by the operations of the Hillside Coal Colliery, heretofore operated by Robertson & Law, the said Robertson & Law having been in the nature of sublessees of the Hillside Coal & Iron Co. for a time in the mining of certain coal from said tract of land; and

Whereas the Hillside Coal & Iron Co. claim to have an interest in the material constituting the said Katydid culm bank, and it is understood that the said Robertson & Law also make a like claim, and it may be that the other owners of said tract of land, at this time or at some subsequent time, may also claim to have an interest therein; and the said party of the second part proposes to purchase all the right, title, and interest of the Hillside Coal & Iron Co. (subject to the payment of royalties as hereinafter set forth) in and to the material constituting the said Katydid culm bank; and the Hillside Coal & Iron Co. is willing to grant, bargain, sell, and convey unto the party of the second part all its said right, title, and interest, subject as aforesaid, without in any way warranting or guaranteeing the title thereto or any part thereof as against any person or persons whomsoever:

Now, therefore, in consideration of the premises and of the sum of $1 by each of the said parties unto the other in hand well and truly paid, at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, it is hereby agreed by and between the said parties and the successors and assigns of the party of the first part and the heirs, executors, administrators, and assigns of the party of the second part as follows, to wit:

First. The Hillside Coal & Iron Co. doth hereby grant, bargain, sell, and convey (subject to the payment of royalty as hereinafter set forth) unto the said Edward J. Williams all its right, title, and interest in and to the said Katydid culm bank, with leave to the said Edward J. Williams, his heirs, executors, administrators, or assigns, to enter thereon and take away the said material, wash out the various sizes of coal therefrom, and send the same to market over the Erie Railroad Co. for the only proper use, benefit, and behoof of the said Edward J. Williams, his heirs, executors, administrators, or assigns. If, however, any attempt is made to ship the said product or any part thereof over the line of any other railroad whatsoever without first obtaining the written consent of the Hillside Coal & Iron Co. thereto, then this contract shall be utterly null and void and the party of the first part shall have the right, upon filing a bill in equity setting forth such violation of the same, to have an injunction to prevent the mining, washing, or producing or removal of any further material whatsoever from said culm bank.

Second. Upon the execution and delivery of this indenture, the party of the second part shall pay unto the party of the first part the sum of $4,500 in cash.

Third. For all coal of the size of pea coal or larger sizes, being all sizes of coal which will pass over a one-half inch square mesh, shipped or sold from said culm bank, the party of the second part shall pay royalty upon the same to the party of the first part at the rate of 20 cents per ton of 2,240 pounds, which payment of royalty shall be made on or before the 20th of each month for all the coal shipped or sold during the previous month. The royalty so paid unto the party of the first part is to be divided by the party of the first part among the respective owners of the tract of land in the proportion of one-half thereof unto the party of the first part, and the other one-half unto the other owners of the tract of land; but it is hereby distinctly provided and agreed that if at any time before the entire exhaustion of the said culm bank the Hillside Coal & Iron Co. shall become under obligation to pay to its coowners any greater rate of royalty than above stated or to pay royalty upon other sizes than as above stated, then so far as one-half of said royalty is concerned, the party of the second part shall pay as much as the Hillside Coal & Iron Co. is so required to pay, it being, however, understood and agreed that so far as the one-half interest of the Hillside Coal & Iron Co. is concerned no change in the royalty rates will be made during the continuance of the operation authorized by this indenture.

Fourth. The party of the second part shall have the right, so far as the party of the first part has the authority to extend such right, to use such an amount of surface for a washery and for railroad switch as may be necessary to enable him to carry on operations, but the same not to be selected where it would in any way interfere with the operations now carried on by the Hillside Coal & Iron Co. upon said tract, and it is distinctly understood that no warranty of the possession is hereby made as against the coowners of the party of the first part, for the reason that the party of the first part is only hereby contracting for its own interest in the premises and not for the interest of its coowners.

Fifth. It is understood and agreed that all operations of the party of the second part upon said tract of land shall be concluded at the expiration of three years from the date hereof, at which time, if the party of the second part has faithfully complied with the terms of this agreement and paid the moneys herein required to be paid, he shall have the right to remove any machinery, fixtures, buildings, railroad tracks, or other things of value placed by him upon said tract of land. All of which articles to be removed shall be removed within a period of three months after the expiration of said period of three years, and if not so removed, then they shall become the property of the party of the first part.

Sixth. The party of the first part shall have the right at any time to examine the sales book, shipping books or other books of account of the party of the second part wherein the accounts are kept showing the number of tons of coal and the sizes thereof shipped from said property, and shall also have the right to come upon the premises of the party of the second part at any and all reasonable times to ascertain how the operations authorized by this indenture are conducted and carried on.

Seventh. It is distinctly understood and agreed that by this indenture no warrant or guaranty of title, right, or interest is conveyed whatsoever unto the party of the second part and against any party or parties whomsoever who may claim to have rights or interests in the said culm bank, this indenture being merely for the purpose of conveying unto the party of the second part such right and interest as the Hillside Coal & Iron Co. hath therein.

Eighth. The party of the second part shall have the right to assign this agreement to any person or persons whomsoever, but with this distinct condition, understanding, and agreement that the person so taking an assignment hereof shall become obligated to do and perform all the covenants and agreements of the party of the second part herein.

Q. (By Mr. Manager WEBB.) Mr. Williams, did you receive a copy of that contract?—A. I did not. There is a letter here that was sent to me. He said he had sent it to Bradley.

Q. Did you ever receive a copy of that contract after Bradley received it?—A. I did not. Bradley gave it back the next day, and he had no right to give it back.

Q. Why was that contract made to E. J. Williams alone instead of to E. J. Williams and R. W. Archbald, if you can tell us?—A. Because the other contract was in my name.

Q. Is this the letter you received from Capt. May, dated April 11, 1912?

[U. S. S. Exhibit 6.]

APRIL 11, 1912.

Mr. RICHARD BRADLEY,
Peckville, Pa.

DEAR SIR: Herewith please find proposed form of agreement conveying the interest of the Hillside Coal & Iron Co. in the culm piles on the surface of lot 46, situate partly in Lackawanna and partly in Luzerne Counties, Pa.

Will you please confer with Mr. E. J. Williams, to whom I have sent a copy of this letter in regard to the form herewith, and advise whether or not same meets with your approval. If the agreement is satisfactory to you, it will be submitted to the executive officers of the H. C. & I. Co. for their consideration and approval.

Yours, very truly,

W. A. MAY,
Vice President and General Manager.

(Enclosure: Copy to Mr. E. J. Williams, 626 South Blakely Street, Dunmore, Pa.)

Did you receive that letter?—A. I gave it to the committee.

Q. Why was that contract between Mr. May and yourself never executed?—A. That I do not know.

Q. Did you ever write a letter or sign an agreement assigning a part of this culm-bank dump in which referred to Judge Archbald as a silent party?

Mr. WORTHINGTON. Mr. President, I object to the contents of the paper. Before that paper is to be read, we wish to have the opinion of the Senate on it.

The PRESIDENT pro tempore. What is the objection of counsel?

Mr. WORTHINGTON. The paper about to be produced is one prepared in the office of William P. Boland signed by this witness. Our objection is that it ought not to be allowed to go in evidence or constitute a part of the record until it is shown by some competent evidence that Judge Archbald had something to do with it.

The WITNESS. I do not think he had anything to do with it.

Mr. WORTHINGTON. That paper is claimed to be a damning piece of evidence against Judge Archbald, but we assert that it was a paper that was prepared for the purpose of making a case against him, in his absence, of which he knew nothing and never heard until after this proceeding began. I submit it is against every principle of law and justice to have this paper go in at all until some evidence has been offered tending to show that Judge Archbald knew about it or was responsible for it.

I submit that the paper was not prepared under such circumstances as that Judge Archbald could be held accountable, or that it could be admitted as evidence against him. This very question was raised, as you will remember, Mr. President, in the Swayne case. An attempt was made to prove that Judge Swayne had made certain admissions when examined as a witness before the Committee on the Judiciary of the House of Representatives, and the managers then proposed to state to the Senate what those admissions were. It was then ruled out and that ruling was affirmed by a second vote of the Senate. This ruling was under a statute of the United States, which provides that evidence given before a committee of Congress by any person shall not be used against that person in any criminal proceeding.

We do not care a great deal about this matter when the facts in regard to it will appear, and it might well be introduced when we come to present our evidence as showing a conspiracy against Judge Archbald. But until some evidence is produced tending to show that Judge Archbald had some responsibility for that paper, or knew that it was prepared or authorized it to be prepared, I submit the contents of it ought not to be put into this record at all.

I have no fear that the members of this tribunal will give any credence to it, but it will go to the country and so do Judge Archbald great harm.

Mr. Manager WEBB. The position of the managers in regard to this matter is that Mr. Williams and Judge Archbald had a combination or understanding by which they were to secure certain concessions from the railroad; that his name was to be kept silent; and in pursuance of that arrangement this witness did give an assignment of a portion of his option to W. P. Boland and a "silent party," and this witness will testify that the silent party was Judge Archbald.

In pursuance of that agreement, which we say inhered in the very first thought of the effort to secure a sale from Robertson and the last contract made by May was made to Williams alone, though the judge had a half interest; that Judge Archbald's name does not appear anywhere in this tentative deed; and that it was the understanding and agreement between witness and the judge that this witness was Judge Archbald's agent and partner, and as such signed this "silent party" contract and referred to the judge as the "silent party." We care not under what circumstances the contract was drawn. The point we make is that this contract was signed by Mr. Williams and that Judge Archbald knew that his name was used in the contract or assignment as a "silent party."

Mr. WORTHINGTON. Whenever any evidence shall be introduced tending to show that Judge Archbald requested or authorized that his name should be kept out, this will become competent evidence. This witness has not been asked, and there has been no opportunity for anyone else to testify, whether Judge Archbald ever requested or suggested that his name should be kept out of papers relating to the purchase or sale of the Katydid dump.

I submit that it is against every principle of law of evidence and against common justice. This witness has not said and has been very far from saying that Judge Archbald ever said that his name should be kept out of it. It appears that when the respondent wrote to May he signed his own name and did not refer to Williams at all. It appears that when he wrote to Mr. Conn and proposed to sell this dump to him he stated that he was one of the parties in interest. It appears as to Robertson's contract, which has been read, that Judge Archbald wrote it with his own hand and signed his own name to it as a witness.

There has not been a scintilla of evidence tending to show that Judge Archbald was trying to conceal anything or trying to keep his name out of it. Everything is to the contrary.

I may say that this is but the first step as we anticipate from what we know of prior proceedings in this case, and it will be undertaken to introduce a mass of evidence here as to transactions between other parties as to which no witness will testify that Judge Archbald knew of them or authorized them. Until there is some evidence that the respondent was cognizant of the reference to him as a "silent party," I submit this paper ought not to go into the record.

Mr. Manager WEBB. Mr. President, just a word. We do not regard this entirely as a criminal action. It is a quasi civil action. There is no criminal penalty to be fixed by the Senate. Our contention is that this witness is an agent, a partner of the respondent, and that the respondent is bound by any act or word of this witness with reference to this particular transaction. That is why we propose to introduce this contract in which he is referred to as a "silent party," and to show that the judge knew he was referred to as such "silent party."

Mr. Manager STERLING. Mr. President, the question, I understand, is whether or not this letter shall be read to the court. It is in the nature of a contract, signed by this witness, in which

he at that time was a partner of Judge Archbald. I think there will be no controversy about that. The letter has already been read here, written by Judge Archbald, in which he says he is interested with Mr. Williams in this coal dump.

The purpose of the contract which is offered in evidence now by Mr. Manager WEBB and signed by Mr. Williams is simply a transfer of one-third interest in the coal dump to William P. Boland. I dare say that Williams, whether it had been expressed by Judge Archbald or not, had authority as partner of Judge Archbald to convey this interest in the coal dump to Mr. Boland.

In any event, I do not understand how the court can pass upon the admissibility of a contract until it has been read. We are entitled to have the court know what the evidence offered is, and I think if the court hears this contract they will be able to judge of its admissibility, and I think they will find that it is admissible.

The objection to the admission of this contract on the part of Mr. Worthington is that some party referred to in the contract is referred to as a silent party. There are Mr. Boland, Mr. Williams, and a silent party. It does not make any difference who that refers to, whether to Judge Archbald or whom it may refer to, in determining the admissibility of this evidence. It is a part of this transaction; it is a part of the res gestæ; it must go in this line of testimony to connect the transaction and show what relation Williams and Boland and Judge Archbald had to each other in the ownership of this coal dump.

So, I submit, in any event it must be read to the court before the court can pass upon its admissibility.

Mr. SIMPSON. Mr. President, there is only one thing that I should like to call the attention of yourself and Senators to in answer to something that Mr. Manager WEBB has said, because, after all, that which is a fundamental proposition will generally lead us to a correct conclusion if we can find what the fundamental proposition, in fact, is.

Mr. WEBB's statement was that this is not a criminal proceeding. I want to take issue with him upon that point directly, and in the most forcible way that it can be taken, and I shall do so very briefly, for I recognize the fact that the time of the Senate is of exceeding importance.

I propose, sir, first to read a paragraph from an article on the subject of impeachment by Prof. Dwight. It is as follows:

> When a criminal act has been committed, it may evidently be regarded in three aspects—
>
> Mind you, a criminal act—
>
> first, the injury to the individual or his family may be considered; second, the wrong to the executive officer charged with the administration of the laws may be looked at; and, third, the mind may dwell upon the general wrong done to the state, or "the people," as we say in modern times. This view was early taken in the common law; the injury to the individual was redressed by a proceeding called an appeal; the injury to the king by a process called an indictment; the wrong to the entire nation by a proceeding called an impeachment. In process of time the injury to the individual came to be regarded as a private and not as a public wrong, so that in the progress of the law there remained two great criminal proceedings—indictment and impeachment.

There can not be found, I submit, sir, in any well-considered article or case any variance whatever from that conclusion, and that it is not varied in this country is evident from the language of the Constitution itself, two or three of the clauses of which I desire now to read:

> When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the Members present.

What I want to know is whether the word "conviction" is in any way relevant to a civil or a quasi civil proceeding. Again:

> The President shall * * * have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

I want to know whether there are offenses against the United States which are not in their nature criminal.

Mr. Manager STERLING. Mr. President, may I interrupt the gentleman. There will be no controversy, I think, as to the proposition which the gentleman lays down.

Mr. SIMPSON. Mr. Manager WEBB made the controversy.

Mr. Manager STERLING. I say broadly, as the gentleman seems to interpret it. But the proposition, it seems to me, is on the admissibility of this contract, and regardless of the question whether these proceedings be criminal or civil proceedings we insist that this is admissible in evidence. I do not understand that there is any difference in the rule of admitting testimony of this kind whether it be in a criminal case or in a civil case. That is the point I am making.

Mr. SIMPSON. I submit there is or may be a difference. I agree with the manager that there is no difference in the particular matter now before the Senate, and I should not have bothered the Senate about it had it not seemed to me, from Mr. Manager WEBB's statement of it, that it was an entry of the wedge opening apart for the purpose of reaching to another conclusion, which will be reached very shortly. If, however, the managers agree with Mr. Manager STERLING, that there is no controversy over this branch of the matter, I, of course, have nothing further to say in regard to it.

There is, however, on the other branch of the case a very important proposition which I do not care at this time at any length to discuss before the Senate, because it can not very well be discussed unless the presiding officer or some one connected with the Senate shall in fact see the paper. I know of no other way in which that question can be raised, but you will see, if the paper is examined into, that it is not a statement of a current existing present thing to be acted upon, in so far as Judge Archbald is concerned, but it is a recital of a past occurrence; and the authorities are absolutely uniform that, whether it is by an agent, if Mr. Manager WEBB chooses to call him so, or whether he be his partner, as the original arrangement between them and the first of these articles of impeachment seem to call it, or whether it be a coconspirator, it makes no difference, if the paper is a recital of a past occurrence or anything which has any relevancy to a past occurrence rather than to a present thing, no one of them, agent, copartner, or coconspirator, can by such a recital bind one not a party directly to the paper or declaration which is proposed to be offered in evidence.

So far as this present matter is concerned, there must necessarily be some ultimate purpose beyond that which is here expressed, because it has been conceded here, and it is now conceded upon the behalf of Judge Archbald that he did have an interest in this matter and would have obtained a portion of the profits had there been any profits to be obtained from it.

Mr. Manager CLAYTON. Mr. President, may I be permitted to make a brief statement?

The PRESIDENT pro tempore. Without objection, the manager will proceed.

Mr. Manager CLAYTON. Mr. President, those of you who have had the opportunity to examine the article written by Prof. Dwight, and which the gentleman was proceeding to read to the Senate, know that almost all the views expressed by Prof. Dwight on the law of impeachment have not been upheld by other writers upon the same subject.

However, Mr. President, I may say here and now for the benefit of the court and for the satisfaction of the counsel for the respondent, that I do not think there will be much disagreement between the lawyers on the respective sides in regard to the fundamental law of impeachment, so far particularly as the first six articles here preferred are concerned. Of course, we have to-day been informed of a disagreement as to the last six articles. The first six relating to Judge Archbald's conduct as a judge of the Commerce Court, the next six relating to his conduct as district judge, and the thirteenth article relating to his general conduct in his judicial capacity and while he was filling the offices of district and circuit judges.

Now, Mr. President, I desire to call the attention of the Senate to a thought that perhaps has not occurred to all the Members of the Senate. This, in all the history of our jurisprudence, stands unique as a tribunal. It is unique not because this is a constitutional court; we have another court created by the Constitution, the Supreme Court. It is not unique in the annals of jurisprudence as being the only Court of Impeachment that ever existed. It is unique in the history of our own jurisprudence in that this body is charged with the duty of determining the law and the facts in one and the same verdict. It is said by some of the writers that this court renders a mixed verdict; that is, in reaching a verdict and judgment the court pronounce both upon the law and the evidence in the case.

Mr. President, that at once lifts this tribunal above the atmosphere of a mere petty courthouse trial where a $5 pettifogging lawyer may undertake in the defense of a criminal to interpose all sorts of technical objections, and where the judge is to pass upon the law and the jury upon the facts. This is a different tribunal from that. It is higher than that. This tribunal wants to know all the facts.

Mr. President, I would not do myself the discredit nor would I reflect upon the intelligence nor the good intentions of this great body by suggesting that the public wish to know all the facts pertaining to the conduct of their high judicial officer. This is more than a mere petty criminal case.

Mr. President, I have digressed somewhat from the question and I come back to it, and that is the admissibility of this testimony. I lay down the proposition—and I take it it will be assented to by every lawyer—that in determining the admissibility of evidence the same rule obtains whether the case be criminal in its nature strictly or whether it be civil or

whether it be quasi criminal. The character of the case matters not; it is the character of the testimony that concerns its admissibility.

In this case why is this testimony admissible? Mr. President, the article charges that Judge Archbald has abused his office by seeking to trade and traffic in culm dumps, and this being one of the culm dumps, it is charged certainly in the statements of facts that Williams was his partner. It has been shown by the witness that Judge Archbald and Williams were partners in this transaction. And in his answer Judge Archbald admits the partnership. This contract is a part of a transaction of the partnership. We connect it, we have all along connected it up to this time, and Judge Archbald can not object to what his partner does. If I select an agent, if I have a partner in a joint enterprise, can I be heard in any court anywhere to repudiate the conduct and the action of my partner, my agent, acting within the scope of the partnership or agency?

So here, Mr. President, it is necessary for the orderly statement and full presentation of this evidence, that this part of it, which follows right along with the other testimony in the case, be put in here to elucidate the whole conduct of Judge Archbald. As it will be shown, and has been shown, that Williams is his partner, this is a part not only of that, but it is a part of the res gestae; it is a continuation of the transaction that was entered into by Archbald and Williams, Judge Archbald's partner. If that be not true, it can be disputed, but we offer it for the purpose of establishing it and keeping up the chain of this whole transaction and connecting Judge Archbald with it, and there can not be any doubt but that we will connect Judge Archbald otherwise, as I think, with this transaction.

Then again, Mr. President, upon the theory that has been suggested, if this contract relates to a conspiracy to violate the law, it is admissible. If it can be shown that while a conspirator may be here in this Chamber, if pursuant to the agreement had with the coconspirator the coconspirator commits crime down on Pennsylvania Avenue, all law writers tell us that the man who was in this Chamber when the act was committed is just as guilty as if he had been present at the scene of the crime.

Mr. President, I do not think I violate propriety when I call attention to contemporaneous history that will illustrate this contention. It was said in one of the noted cases in Alabama, my own State, by one of her great chief justices, that courts will take judicial notice of contemporaneous history, and in that case the contemporaneous history was the action of a mob in Birmingham, Ala., in violating the law.

The court took judicial cognizance of that contemporaneous history. So, I am certain, the Senate, this court, is as broad in its power and rights to take judicial notice of contemporaneous history as is any court. I think I violate no propriety when I say that in the recent case in New York City, where a police lieutenant was charged with murder, it was not pretended that he was there at the time the murder was committed, or that he had anything directly to do with it, but he was convicted, and was sentenced upon the theory that he instigated it; that he entered into the conspiracy elsewhere sometime before the act, and that the conspirators did his bidding.

Upon these principles, Mr. President, both of law and of the rules of evidence obtaining in the courts and upon the desire that this tribunal wants to do full justice—wants all the facts—and the honorable counsel for the respondent does himself justice when he credits the Senate with the ability and the fairness and the intention to pass upon these questions, I insist on the admissibility of this paper.

Mr. President, it seems to me that we might conduct this trial and save much time, and that justice can be had as well in the end, without interposing what I may think, I respectfully submit, sometimes to be captious objections to the testimony.

I participated, Mr. President, if you will pardon a personal allusion, in the Swayne case; and, as I remember it, the ordinary hidebound rules—if I may use a vulgarism—were not pursued. For instance, repeatedly during the trial of that case a witness was introduced; he was cross-examined; then he was put back and reexamined; and then he was put back and recross-examined. So that narrowness in proceedings have never been adhered to by the Senate.

Mr. President, in the economy of time, do you not think, and does not the Senate think, that it can take care of all these questions, so that justice may be fully done to the respondent?

I want to say, Mr. President, in behalf of the managers, that the managers do not desire and will not claim a verdict of conviction in this case unless, after they have adduced the testimony, they are of opinion that they have made a case that would warrant such a judgment at the hands of the Senate.

Mr. WORTHINGTON. I dislike very much to further occupy the time of the Senate in the discussion of the admissibility of this particular piece of evidence, but it may not be amiss now, on this first day of our proceedings, to have the Senate informed as to what is contended here with respect to rules of evidence and their application. It may save repeating it in the subsequent course of the trial.

I must express my surprise to hear my friend Mr. Manager CLAYTON intimate that the rules of evidence do not guide us here. I do not suppose he meant by what he said to indicate that we are pettifogging. We have resolved that at the outset of this case——

Mr. Manager CLAYTON. Mr. President, lest the gentleman shall permit that remark to stand, I wish to state that I did not say that the rules of evidence do not guide us, but I said the narrow, technical rules which characterize the proceedings in the ordinary courthouse have never characterized proceedings of this kind in the Senate.

Mr. WORTHINGTON. I was about to say, Mr. President—and I think that what has taken place so far in the presence of the Senate will justify me in saying it—that we have resolved that we would make no technical objection here; that whenever objection was made it should be to something that was very substantial.

My friend refers to what was done in the Swayne case. We are here exactly in the position in which you were in the Swayne case, in which counsel offered to introduce evidence as to statements made by Judge Swayne before the Judiciary Committee under oath. The evidence was objected to by counsel who represented Judge Swayne here; and, after very full argument and after reargument, on motion of the junior Senator from Texas [Mr. BAILEY], with closed doors, the evidence was ruled out. Now it is attempted here not to show what Judge Archbald said, but because he had entered into a simple venture with Mr. Williams, the witness in this case, to see if they could get a right to buy and sell the Katydid culm dump, to undertake to show that a paper which was executed by Mr. Williams, prepared in the office of Mr. Boland behind the back of Judge Archbald, and which was not anything in the execution of the business of the partnership—if you choose to call it a partnership—is to be evidence against Judge Archbald without showing that he had authorized or had anything to do with it.

Does the fact that I enter into a partnership with a man to purchase a piece of property authorize him, without anything more, to go and sell me out? He is authorized to do anything that may be necessary in the ordinary course of buying and selling that property; that is all I have agreed to; but when he goes into the office of another person, behind my back, and signs a paper of which I have no knowledge and years afterwards it is sought to introduce it in evidence against me in support of a criminal charge—a paper in which he undertakes to sell me out and to make statements as to what I have said or done at some prior time—I say that every principle of evidence and of justice requires its exclusion.

This witness has not been asked—the managers have not dared ask him—whether he was authorized by Judge Archbald to take Boland into partnership, for that is what it amounts to. Here is evidence that A and B entered into a partnership. Now, evidence is offered to show that one of them created another partnership made up of A, B, and C. That can not be done without the knowledge and consent of both of them. When it is undertaken to do that and to go further and to show not only that Judge Archbald was brought into a new partnership, but to put into that writing something purporting to recite past transactions, which may be used against him criminally in a subsequent proceeding, and the instrument is put away in somebody's drawer and kept from the light of day until a prosecution is sprung, it seems to me that the Senate should require some evidence to connect Judge Archbald with it before it is put in evidence. In the case of Judge Swayne the managers insisted that the Senate should hear what Judge Swayne had said before they ruled it out, but the Senate sustained the argument which was made on this side of the Chamber by counsel for the respondent—that it should not be heard and should not be put into the record until it was determined that it was competent. The Senate held that it was incompetent. After reargument it sustained that conclusion, and the evidence never did appear in the record, and nobody knows to this day what it is without going to a record in another place.

Mr. Manager WEBB. Mr. President——

The PRESIDENT pro tempore. It is necessary that argument shall conclude at some time, the Chair will say to the managers.

Mr. Manager WEBB. I just want to make the point, Mr. President, that the ruling in the Senate with reference to the Swayne case has no application to this evidence, because there it was a constitutional question as to whether or not a man under the Constitution of the United States could have his evidence used in two different places and be confronted with it in the Senate—entirely a different question. This is a question of trying the conduct of this judge. We say that he knew his conduct was bad, and that he knew that this contract was made with his name as a silent party in it. We say that the Senate ought to hear it; it is a part of the gist of this charge and ought to be made known as evidence in this case.

Mr. WORTHINGTON. When counsel prove that Judge Archbald knew it, we shall withdraw our objection.

The PRESIDENT pro tempore. Before taking action in regard to this question, the Chair desires to make a statement to the Senate. Anticipating that questions of the admissibility of evidence would arise, the present occupant of the chair has examined former impeachment cases in order to ascertain what was the practice of Presiding Officers themselves in regard to deciding questions of this character, or of submitting them to the Senate. Upon examination, it is found in former impeachment cases that very liberally, to say the least, the Presiding Officer had availed himself of the privilege of submitting the matter to the Senate. In the Andrew Johnson impeachment case in particular, which was presided over by the highest judicial officer in the land, Chief Justice Chase, almost invariably every question as to the admissibility of evidence was submitted by him to the Senate for its determination. While the present occupant of the chair is not averse to taking responsibility in a matter that is alleged by the counsel to be peculiarly vital to the case, he feels that the matter should be submitted to the Senate. He is more inclined to that course by the fact that if one single Senator differed from the conclusion of the Chair he would have the right to have the vote taken by the Senate. Therefore, in this case the present occupant of the chair will submit to the Senate the question as to the admissibility of the evidence.

Mr. CULBERSON. Mr. President, I ask that the paper be read, so that we may know what it is before we vote on its admissibility.

The PRESIDENT pro tempore. The Chair was about to state that, in the opinion of the present occupant, it is necessary that the Senate should be informed of the nature of the paper before Senators could determine whether or not it is admissible. Therefore, in the absence of any objection—and if objected to that question will be submitted to the Senate—the present occupant of the chair will direct that the paper be read to the Senate.

The Secretary read the paper, which is marked "Exhibit 7," as follows:

EXHIBIT 7.

Assignment made this 5th day of September, A. D. 1911, by Edward J. Williams, of the borough of Dunmore, County of Lackawanna and State of Pennsylvania, party of the first part, to William P. Boland and a silent party, both of the city of Scranton, county and State above mentioned, parties of the second part. For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Iron Co., it is agreed by said Edward J. Williams who is the owner of two options covering a culm bank known as the "Katydid," situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Co. $3,500 and $4,500 respectively, to be divided equally between William P. Boland and silent party mentioned above, their heirs, successors or assigns, and this shall be their voucher for same.

E. J. WILLIAMS. [SEAL.]

W. L. PRYOR.

The PRESIDENT pro tempore. The question is now submitted for the determination of the Senate whether the paper, which has just been read, shall be admitted in evidence. Under the rule the vote must be taken by yeas and nays. When so taken those who favor the admissibility of the paper will vote "yea," and those who oppose the admissibility of the paper in evidence will vote "nay."

The Secretary will call the roll.

Mr. POINDEXTER. Mr. President, I should like to inquire if it be within the rules of the Senate sitting as a Court of Impeachment to receive this evidence and to reserve a decision as to its admissibility? That practice is common in the courts. If we undertake to vote upon each objection to the testimony, or at least each important objection to the testimony of witnesses——

The PRESIDENT pro tempore. The Senator has no right under the rule to discuss the question. The Senator has the right, if he so desires, to submit an order to the Senate, which would cover the point that he wishes to make.

Mr. POINDEXTER. Well, I ask leave to submit such an order.

The PRESIDENT pro tempore. The Senator will please reduce it to writing.

Mr. LODGE and Mr. GALLINGER. Call the roll.

The PRESIDENT pro tempore. The Senator from Washington desires to have an order submitted to the Senate preliminary to the vote, as the Chair understands from the Senator's statement. Of course, he has the right to submit it, if the Chair is correct in that statement.

Mr. LODGE. I did not so understand him.

The PRESIDENT pro tempore. The Chair may have misunderstood the Senator from Washington, but that was the Chair's understanding.

Mr. POINDEXTER. I present the following order. Mr. President, I will say——

The PRESIDENT pro tempore. The Senator has not the right to discuss it.

Mr. POINDEXTER. Have I no right to make an explanation?

The PRESIDENT pro tempore. No; the Secretary will report to the Senate the order submitted by the Senator from Washington.

The Secretary read as follows:

Ordered, That the evidence be received and the decision as to its admissibility be reserved.

The PRESIDENT pro tempore. The Chair does not understand that that is subject to a point of order on his part, and is obliged to submit it to the Senate as he would any other order which is asked for. Therefore——

Mr. LODGE. The roll call must first come on the order proposed.

The PRESIDENT pro tempore. The Chair will give it that direction—that the question of admissibility will be first taken, and then the question as to what office it shall perform. The Chair will put the question upon the admissibility of the evidence unless the Senator from Washington desires this as an order preliminary to it.

Mr. POINDEXTER. I should like to have an opportunity to read the written evidence proposed to be introduced before being required to vote upon its admissibility. It is impracticable to do that here. Consequently I have submitted this order.

The PRESIDENT pro tempore. The Chair will submit the order to the Senate, and the Secretary will call the roll upon the order asked for by the Senator from Washington. Those who favor the adoption of the order will, as their names are called, vote "yea"; those who are opposed to the adoption of the order submitted by the Senator from Washington will, as their names are called, vote "nay."

Mr. CULBERSON. Mr. President, are we required to take a yea-and-nay vote on this preliminary order? I think not under the rule.

The PRESIDENT pro tempore. The rule is that every vote shall be taken by yeas and nays.

Mr. GALLINGER. Regular order!

The PRESIDENT pro tempore. The Secretary will call the roll.

The roll being called, resulted—yeas 3, nays 57, as follows:

YEAS—3.

Clapp	Dixon	Poindexter

NAYS—57.

Ashurst	du Pont	Martin, Va.	Shively
Bacon	Fletcher	Martine, N. J.	Simmons
Borah	Foster	Massey	Smith, Ga.
Brandegee	Gallinger	Myers	Smith, Md.
Brown	Gardner	Nelson	Smoot
Bryan	Gore	O'Gorman	Sutherland
Burnham	Guggenheim	Overman	Swanson
Burton	Hitchcock	Page	Thornton
Clark, Wyo.	Johnson, Me.	Penrose	Tillman
Clarke, Ark.	Johnston, Ala.	Perkins	Townsend
Crane	Kenyon	Perky	Warren
Crawford	La Follette	Pomerene	Works
Culberson	Lodge	Richardson	
Cullom	McCumber	Root	
Cummins	McLean	Sanders	

NOT VOTING—34.

Bailey	Curtis	Lea	Smith, Mich.
Bankhead	Davis	Lippitt	Smith, S. C.
Bourne	Dillingham	Newlands	Stephenson
Bradley	Fall	Oliver	Stone
Briggs	Gamble	Owen	Watson
Bristow	Gronna	Paynter	Wetmore
Catron	Jackson	Percy	Williams
Chamberlain	Jones	Reed	
Chilton	Kern	Smith, Ariz.	

The PRESIDENT pro tempore. The order is not adopted. The question recurs upon the question submitted by the present occupant of the chair, as to whether the paper read shall

or shall not be admitted in evidence. As their names are called Senators who favor the admission of the paper in evidence will vote "yea"; those who oppose it will, as their names are called, vote "nay."

Mr. CLAPP. Could not the requirement for a yea-and-nay vote be waived if there was no objection made?

The PRESIDENT pro tempore. Undoubtedly.

Mr. CLAPP. Why not test it in that way?

The PRESIDENT pro tempore. If it is unanimous, the Chair is of the opinion that a yea-and-nay vote is not required, because it is the same as if every Senator voted.

Mr. CLAPP. I suggest that the Chair first submit in a suggestive way whether it would be unanimous, and if so it would save calling the roll.

The PRESIDENT pro tempore. The Chair will adopt the suggestion of the Senator from Minnesota and ask if there is any objection to the admissibility of the paper in evidence?

Mr. WORTHINGTON. Mr. President, I should like to call the attention of the Presiding Officer and of the Senate to Rule VII adopted by the Senate and governing the proceedings in impeachment cases. It provides:

Or he—

That is, the Presiding Officer—

Or he may, at his option, in the first instance, submit any such question to a vote of the Members of the Senate. Upon all such questions the vote shall be without a division, unless the yeas and nays be demanded by one-fifth of the Members present, when the same shall be taken.

The PRESIDENT pro tempore. That is seemingly in conflict with Rule XXIII, and the Chair construes it to be governed by the first portion of Rule XXIII, which expressly provides that all orders and decisions of the Senate must be by yeas and nays. The only variation is when there is no division, which is the same as if the roll had been called and everybody had voted yea. Therefore the Chair repeats the question.

Mr. CULBERSON. I suggest to the Chair that Rule XXIII makes provision subject to Rule VII, which counsel has just read.

The PRESIDENT pro tempore. That is true, but then it does not have reference to that part of the rule. The Chair can not now discuss that question. The Chair will put the question again. Is there objection by any Senator to the admissibility of the paper in evidence?

Mr. CLARK of Wyoming. There is.

The PRESIDENT pro tempore. The Senator from Wyoming objects. Therefore the roll will be called. As their names are called those in favor of the admissibility of the evidence will vote "yea"; those opposed will, as their names are called, vote "nay."

The roll was called; and the result was announced—yeas 55, nays 6, as follows:

YEAS—55.

Ashurst	Fletcher	Massey	Simmons
Bacon	Foster	Myers	Smith, Ga.
Borah	Gardner	Nelson	Smith, Md.
Bristow	Gore	O'Gorman	Smith, Mich.
Brown	Hitchcock	Overman	Smith, S. C.
Bryan	Johnson, Me.	Page	Smoot
Burton	Johnston, Ala.	Perkins	Sutherland
Clapp	Kenyon	Perky	Swanson
Crawford	La Follette	Poindexter	Thornton
Culberson	Lodge	Pomerene	Townsend
Cullom	McCumber	Richardson	Warren
Cummins	McLean	Root	Wetmore
Dixon	Martin, Va	Sanders	Works
du Pont	Martine, N. J.	Shively	

NAYS—6.

Brandegee	Clark, Wyo.	Gallinger	Guggenheim
Burnham	Crane		

NOT VOTING—33.

Bailey	Curtis	Lea	Smith, Ariz.
Bankhead	Davis	Lippitt	Stephenson
Bourne	Dillingham	Newlands	Stone
Bradley	Fall	Oliver	Tillman
Briggs	Gamble	Owen	Watson
Catron	Gronna	Paynter	Williams
Chamberlain	Jackson	Penrose	
Chilton	Jones	Percy	
Clarke, Ark.	Kern	Reed	

The PRESIDENT pro tempore. The Senate decides that the paper is admissible, and it is so ordered.

The Chair desires, in the interest of expedition and orderly procedure, to suggest to both the managers on the part of the House and counsel for the respondent that hereafter when incidental questions are to be discussed they be confined to an opening and a reply and a conclusion. The Chair will not rule that arbitrarily or positively, but trusts that counsel will act upon its suggestion.

Mr. Manager WEBB. I understand that the contract is now in evidence?

The PRESIDENT pro tempore. The Senate has so ordered.

Q. (By Mr. Manager WEBB.) Mr. Williams, who was the silent party referred to in this contract?—A. I do not know. I do not think I ever had anything to do with that.

Q. Is that your signature [exhibiting paper to witness]?—A. That is my signature, but this is not the original. Where is the one you took a picture of?

Q. Is that your signature?—A. Yes.

Q. You say this is your signature?—A. That is my signature; yes, sir.

Q. Is it a copy of the one you signed. [A pause.] Did you sign it in duplicate?—A. No; I did not. Here they are; here are two of them [indicating].

Q. I will ask you this question: Did you testify before the Judiciary Committee of the House?—A. Yes; I did.

Q. Did you swear there that this contract contained the names——A. (Interrupting.) I do not remember anything about such a paper.

Q. Let me ask my question first. Did you swear before the Judiciary Committee of the House that the silent party referred to there was Judge Archbald, and that he knew that he was put in that contract as a silent party?—A. I did; yes.

Q. Sir?—A. That is what it meant; yes.

Q. Is that so?—A. Yes, sir.

Q. What do you say is so?—A. What is that?

Q. I want to know what you say is so; was he the silent party referred to in this contract? Did he know that you had put him in the contract as a silent party?—A. No; he did not know anything about it; the judge did not know anything about that.

Q. Who, then, was the party that you referred to in this contract as the silent party?—A. I do not remember that I ever did make that——

Q. I ask you again, did you swear before the Judiciary Committee of the House in this investigation?—A. I did acknowledge it at last.

Q. Did you acknowledge at last that you referred to him as the silent party?—A. Because my name was there; but how it got there I do not know.

Q. I ask you if you swore before the Judiciary Committee of the House that you put the judge's name to this contract as a silent party because you thought it would be unlawful to put his name in it?—A. That it would be unlawful?

Q. I ask you if you testified to that before the Judiciary Committee?—A. I do not remember.

Q. I ask you if you answered Judge NORRIS, on the committee, that the judge knew that he was a silent party.

Mr. Manager CLAYTON. Judge Archbald.

Q. (By Mr. Manager WEBB.) That Judge Archbald knew that he was a silent party?—A. I do not know about that; I do not know whether I did or not; I do not remember.

Q. Did you insert his name in there as a silent party?—A. No; I did not put his name in there. I did not put that silent party in there. I did not make that paper at all.

Q. To whom did you refer as the silent party?—A. What is that?

Q. To whom did you refer as the silent party?—A. Boland drew up that paper. Here are two more here.

Q. To whom did you refer when you signed that? Whom did you refer to as a silent party? I will ask you if you swore before the Judiciary Committee that you put this in here, or that it was put in at your own suggestion:—"silent party"?—A. I did not put it in.

Mr. NELSON. I submit we are entitled to an answer to the preceding question before the managers ask another.

Mr. Manager WEBB. I think the Senator is right.

Q. (By Mr. Manager WEBB.) I ask you again if you swore before the Judiciary Committee of the House of Representatives, when this matter was under investigation before it, that the silent party referred to in this contract was Judge Archbald, and that you told the judge you had referred to him as a silent party?—A. I never told the judge.

Q. I ask you if you swore to that before the Judiciary Committee.—A. Well, it was a mistake, because I never told the judge about it.

Q. Then, I ask you if you put his name in this contract and referred to him as the silent party?—A. I told you it was not me that put that in there.

Q. It was you who signed it, was it not?—A. I may have signed it, but I never made that paper.

Q. I ask you whether you did not say when you signed it that the judge was a silent party?—A. Well, it meant the judge, of course.

Mr. Manager WEBB. You could have said that two or three minutes ago.

Mr. WORTHINGTON. Mr. President, I object to the gentleman lecturing the witness.

Q. (By Mr. Manager WEBB.) You say "silent party" meant the judge. Why did you not put the judge's name in there?—A. I did not put his name in there.

Q. I ask if you did not swear before the Judiciary Committee that the reason you did not put his name in was because you thought it would not be lawful? [A pause.] Sir?—A. I do not remember saying that. I do not remember that.

Q. I ask you now, then, if that was not the reason?

Mr. POMERENE. Mr. President, I desire to submit a question to be addressed to the witness.

The PRESIDENT pro tempore. The Senator from Ohio asks that the following question be prepounded to the witness. The Secretary will read the question.

The Secretary read as follows:

Q. Was the paper read to you or by you before you signed it?

A. I do not think it was.

Mr. Manager WEBB. On behalf of the managers, I ask permission of the Senate at this point to cross-examine this witness. My reason for asking it is that it is perfectly evident that he is a party in this transaction, that he is a friend to Judge Archbald, and an unwilling witness, and hostile to this case. As a preliminary to this request, however, I want to ask the witness this question.

Q. (By Mr. Manager WEBB.) I will ask you, Mr. Williams, if you did not say in the Scranton Times, on the 27th of April, a week before you came to Washington to testify before the Judiciary Committee, that you had papers in your possession which would clear the judge?—A. Well before——

Q. Just answer that question.—A. Before the Attorney General, do you mean?

Q. No; before you came to Washington to testify before the Judiciary Committee. Was not this published in the Scranton Times on April 27:

I have the papers in my pocket which will show the price we paid, and when the case comes to that point my testimony will clear Judge Archbald.

Did you not admit before the Judiciary Committee that you put that in the Scranton Times; and did you not tell that to a correspondent of the Scranton Times, and was it not published in your city?—A. I do not remember anything about that—not a word.

Q. Who paid your expenses when you came to testify before the Judiciary Committee?—A. The judge paid them. He gave me the ticket to come down.

Q. You mean Judge Archbald?—A. Yes, sir.

Q. Are you a friend of the judge?—A. I was friendly with him; yes, sir.

Mr. Manager WEBB. Mr. President, under these circumstances we feel that in order to get from this witness the facts that he has testified to here before, even, or to get a full statement from him, we are entitled to cross-examine him or lead him.

The PRESIDENT pro tempore. The Chair would suggest that the manager proceed a little further without doing so.

Mr. Manager WEBB. Very well, sir.

Q. (By Mr. Manager WEBB.) I will ask you if you did not swear before the Judiciary Committee that you did sign this?—A. Yes, sir; I did.

Q. You did?—A. I did sign that. That is my handwriting.

Mr. Manager WEBB. That answers the question. That is your handwriting.

Mr. Manager CLAYTON. May I interrupt my colleague to ask that he please identify the paper as to which the witness now answers?

Mr. Manager WEBB. This is the "silent-party" contract about which I am now talking.

Q. (By Mr. Manager WEBB.) You admit you signed it?—A. Yes; I signed it.

Q. You admit now that you signed it?—A. Yes, sir; I did.

Mr. Manager CLAYTON. What is the number of the exhibit?

Mr. Manager WEBB. Exhibit No. 7.

Q. (By Mr. Manager WEBB.) When you signed it, did you know the "silent party" was in it?—A. No; I did not know it; and I do not know now. I do not know when or how that was signed; I can not tell you.

Q. I will ask you again now, and please listen to this question——A. (Interrupting.) You know that in the Crawford will case there have been some signatures put on the papers——

Q. I understand.—A. And it was not written by Jim Crawford.

Q. You do not deny that at one time—whether it was in this paper or not—you signed a paper in which you referred to Judge Archbald as a silent party?—A. No, sir. I would not swear I signed that.

Q. This paper?—A. Yes.

Q. Then we will discard this paper for the present. You did sign a paper?—A. I did.

Q. And did that "silent party" refer to Judge Archbald?—A. Yes, sir.

Q. Did you tell Judge Archbald that you had done that?—A. To Bill Boland, you mean?

Q. No; did you tell Judge Archbald that you had referred to him as a silent party——A. No; I do not know.

Q. In any kind of a contract?—A. I do not know whether I did or not.

Q. I will ask you if you made this response to Mr. NORRIS in the Judiciary Committee.

Mr. WORTHINGTON. Give the page, please.

Mr. Manager WEBB. Page 516.

Q. (By Mr. Manager WEBB.) This is a question Mr. NORRIS asked you:

Did the judge know that he was a silent partner?

Mr. WILLIAMS. He knew that he was a silent partner all right.

Is that true?—A. Yes; he knew that he was a silent partner.

Q. After the letter from Mr. May submitting a copy of the contract to you from him, did he rescind that contract a little later by another letter?—A. How is that?

Q. I mean did Mr. May annul or withdraw the contract for the Katydid culm dump which he was making to you so that he could make it to Mr. Bradley?—A. No; Mr. Bradley took the deed back to him—that deed you read here to-day.

Q. That is right. Mr. Bradley did hand it back to him?—A. Yes.

Mr. Manager WEBB. There is no controversy about that?

Mr. WORTHINGTON. No.

The WITNESS. Because this lawsuit was coming on.

Mr. Manager WEBB. I introduce Exhibit S.

Q. (By Mr. Manager WEBB.) I wish you would listen to this and see if you received that letter.

The Secretary read the letter referred to, which was marked "Exhibit S," as follows:

[U. S. S. Exhibit S.]

APRIL 13, 1912.

Mr. RICHARD BRADLEY, *Peckville, Pa.*

DEAR SIR: Further in the matter of the interest of the Hillside Coal & Iron Co. in the Katydid dump, referred to in mine of the 11th instant to you:

Because of the complications brought to your attention yesterday at the Laurel Line station our attorneys believe that it will be best for you not to do anything whatever in connection with the matter until you hear further from me.

Yours, very truly,

W. A. MAY,
Vice President and General Manager.

(Copy to Mr. E. J. Williams, 626 South Blakely Street, Dunmore, Pa.)

Q. (By Mr. Manager WEBB.) Did you receive a copy of that letter?—A. Yes, sir.

Q. Was the contract returned to Mr. May—this contract of sale?—A. The deed was returned to him; yes, sir.

Q. Well, the deed. It was returned to Mr. May?—A. It was sent to Mr. Bradley to examine, to see if it was acceptable to him.

Q. And it was acceptable to him?—A. It was acceptable.

Q. This letter received two days later called it in, did it?—A. Yes, sir.

Q. Since Mr. Bradley returned the contract, have you tried to sell the culm bank to anyone else?—A. No, sir.

Q. I ask you if you tried to sell it to Mr. Thomas Howell Jones?—A. Oh, no. That was before that.

Q. Did you try to sell it to Mr. Thomas Howell Jones?—A. No; that was before Bradley.

Q. Whenever it was, did you try to sell it to Thomas Howell Jones?—A. Yes, sir.

Q. Did you carry Thomas Howell Jones to the judge's office?—A. What is that?

Q. Did you carry Thomas Howell Jones to the judge's office; did you go with him to the judge's office?—A. Yes, sir.

Q. Did you in the presence of the judge give him a 10-day option, at $25,000, on this dump?—A. Yes, sir.

Q. Do you know when it was that you gave Thomas Howell Jones this 10-day option?—A. It was before Bradley; a few days before that.

Q. A few days before?—A. Yes; a few days before Bradley.

Q. Are you quite sure it was before, or was it since?—A. Oh, it was before.

Q. Why should it be before the time when you negotiated with Bradley for it?—A. I did not negotiate with Bradley until after Tom Jones.

Q. Then I will ask you if Mr. Thomas Howell Jones went down to examine the culm dump after he had his $25,000 option; did he examine it to see whether or not it was worth buying?—A. He was ready to buy it, but his parties did not come on.

Q. After he came back from examining the dump I will ask you if you and he did not go to the judge's office and if the judge did not tell Mr. Thomas Howell Jones that he (the judge) had no title to this dump, and that you got out of the office; and that a few days later you asked Jones where he was going and you told him not to go to the judge's office, that he had nothing to do with it?—A. No, sir; I did not. I did not say that.

Q. Did you have any discussion of that sort with Thomas Howell Jones?—A. No, sir; I did not.

Q. You gave him an option, did you not; a 10-day option?—A. Yes, sir.

Q. Who drew it?—A. It was only a verbal option; that was all; no paper.

Q. It was not written?—A. No, sir.

Q. Was it given in the presence of the judge?—A. Why, yes; it was given in the presence of the judge, but it was only a verbal option. I do not remember any written option to him.

Q. Now, returning to the other proposition, let me ask you this question, Mr. Williams: If this conversation between you and Judge NORRIS did not occur before the Judiciary Committee investigating this matter?

I read from page 513 of the volume already referred to:

Mr. NORRIS. Mr. Williams, why was it that you gave Judge Archbald a half interest in this contract?

Mr. WILLIAMS. Why was it?

Mr. NORRIS. Yes.

Mr. WILLIAMS. Did I not have a right to give it?

Mr. NORRIS. Yes; I am not questioning that, but I ask you why you did it?

Mr. WILLIAMS. Because he was doing something for it—to help me to get it.

Mr. NORRIS. What was he doing beyond writing these letters?

Mr. WILLIAMS. That is all he done—to write the letters.

Mr. NORRIS. Did you have any idea that on account of his position he might have some influence that might be important in negotiating the deals?

Mr. WILLIAMS. Well, no; not exactly that, sir.

Mr. NORRIS. Tell the committee why it was in this assignment that you gave you referred to Judge Archbald as a silent party.

Mr. WILLIAMS. Tell them why?

Mr. NORRIS. Yes.

Mr. WILLIAMS. Only of the service he done to me in getting it.

Mr. NORRIS. Yes; but in this assignment you gave to Boland you referred to a silent party, which you say means Judge Archbald. Why was he not referred to by name? In other words, why was it kept a secret that Judge Archbald was the party? What purpose did you have in view in withholding his name?

Mr. WILLIAMS. I do not know. I thought maybe that it was not lawful.

Did you swear that before the Judiciary Committee?—A. Yes, sir.

Q. Is it still so?—A. Yes.

Q. Did you say "yes" or "no"?—A. "Yes."

Q. Now, Mr. Williams, when you went back to the judge after the first time you applied to Mr. May for this option and he (May) refused or declined to let you have it did not the judge say "I will go to New York and see Brownell, and I may be able to do him some hurt for refusing such a small favor"? I will ask if you did not swear that before the Judiciary Committee?—A. I forget whether I did or not. I do not remember that I said that, but I said that he was going to New York; yes, sir.

Q. But did he not say that he had some cases, the lighterage cases, on his desk at that time?—A. No, sir. It was I who said that.

Q. Did you not swear that the judge pointed to some lighterage cases on his desk and you did not know what a lighterage case was?—A. Yes; I asked him what lighterage meant.

Q. Did you not swear before the committee that the judge said "I will go to New York and see Brownell, and I may be able to do him some hurt for refusing such a small favor"? Did you not swear that before the Judiciary Committee?—A. No, sir; I do not remember saying that. I do not know whether I did or not say that.

Q. I will ask you if you did not swear it before the committee?—A. I do not remember.

Q. Is it not a fact that you did say that the judge said "I will go to New York and see Brownell and I may be able to do him some injury," and when you came to explain who "him" meant you said the judge did not mean Brownell, but meant May? Is that not what you swore before the committee?—A. I do not remember.

Q. I ask you now if you do not remember the judge did say that and you explained that he did not mean to hurt Brownell but to hurt May? Is not that true; did you not swear that before the committee?

Mr. WORTHINGTON. I think that the witness ought to understand whether he is being asked whether it is true or whether he swore to that before the committee. Both questions are being put to him.

Mr. Manager WEBB. I am asking, first, whether he swore to that before the committee. You understand that?

Mr. WORTHINGTON. You say I understand it?

Mr. Manager WEBB. I referred to Mr. Williams.

The WITNESS. I guess I did.

Q. (By Mr. Manager WEBB.) If you swore to it, it is true, is it not?—A. Yes, sir.

Q. Because that was nearer to the time of the transaction than the present day. I ask you if, when the judge came back from New York, he told you that he had seen Brownell, and for you to go to Mr. May and get that option; that Mr. May thought a great deal of you and liked you very much?—A. No; not in that way.

Q. Tell how it occurred, then.—A. The judge did not tell me that. He said, "I met Capt. May, and he told me to tell you to come up and get it." That is what he told me.

Q. May told the judge to tell you to come up?—A. Yes, sir.

Q. And the judge did tell you?—A. Yes.

Q. And he told you that Mr. May liked you very much?—A. Yes; he did.

Q. And in response to the judge's suggestion to go and get it you did go to May and get it?—A. I got it; yes.

Q. That was after the judge had returned from New York and told you he had seen Brownell; that is correct, is it not?—A. Yes, sir.

Q. Then Mr. May had changed his attitude about the proposition between the first time you saw him and the last time, because he finally did agree to give you the option. Is not that right?—A. He gave me the option.

Q. When you went to see him about it first, would he talk to you about the matter?—A. Oh, yes; he talked to me.

Q. Did he not decline to give you any satisfaction?—A. He declined to give it to me.

Q. He declined to give you any satisfaction and talked to you pretty gruff, did he not?—A. Yes, sir. I told him I had a lease for all the culm that was mined from Forest City to Moosic in one lease, and he remembered it all right.

Q. Do you know whether Mr. May went to New York sometime in August after you saw him?—A. No, sir; I do not know anything about Mr. May's movements.

Q. Do you know Jim Dainty?

Mr. Manager WEBB. This is article 6 we are now entering upon, Mr. President.

A. Yes, sir.

Q. (By Mr. Manager WEBB.) State whether you ever took Jim Dainty to the judge for the purpose of getting the judge to assist Dainty in the sale of the Everhardt interests in a tract of land owned by the Lehigh Valley Railroad Co.; and if so, what part the judge played in that negotiation. Tell us about that.—A. I do not know much about that. I heard him telephoning to the manager of the Lehigh Valley——

Q. Before we get to that, please——A. (Interrupting.) And that is all I heard.

Q. How did you come to take Jim Dainty to the judge? Did you take Dainty to the judge?—A. I do not know whether Jim asked me to introduce him to the judge.

Q. Well, anyway, did you go with Dainty to the judge?—A. I did; yes.

Q. What was said between you and Dainty and the judge?—A. I introduced Dainty to the judge and he introduced the subject to him, and I went out.

Q. What was the subject?—A. The sale of one interest in the lease. The other interest had been sold to the Lehigh Valley.

Q. I understand the Lehigh Valley owned about four-fifths of a tract of land. Is that right?—A. Yes, sir.

Q. And the Everhart heirs owned the remaining one-fifth. Is that right?—A. Yes, sir.

Q. And that the railroad company wanted to buy this remaining one-fifth, but did not want to pay the price that the Everhart heirs had asked. Is that right?—A. They had refused until then.

Q. What did Dainty ask the judge to do when he went in?—A. He asked him to communicate with the manager.

Q. Who was the manager?—A. Mr. Warriner, or some name like that.

Q. Did he communicate then and there with him on the phone?—A. Yes, sir; and that is the last I know. I walked out and went downstairs. I do not know anything more about that.

Q. But what did you hear the judge say to Warriner?—A. Oh, just called him, and I did not hear what he talked about.

Q. Did you not swear before the committee that you heard him ask him if he would not pay this price?—A. I do not re-

member. Did I say that? I do not remember what I said about that.

Q. Why did you go out immediately that you took Dainty in to see the judge?—A. Because I had nothing to do with that.

Q. You introduced Dainty to the judge?—A. I introduced him; yes.

Q. What for? Why?—A. Jim told me what for.

Q. Why did you want Jim to know the judge in reference to the sale of this land to the railroad company?—A. Because the judge was acquainted with the Everharts, and he did that as a friendly act to——

Q. I will ask you again what the judge said to Mr. Warriner when he saw him?—A. I do not know what he said.

Q. Do you know when this was—what time last year or this year?—A. I do not remember what time.

Q. Was it a year ago? Was it in 1911?—A. Yes, sir; I think it was in 1911. I think it was before this year. I think it was over a year ago.

Q. Did Dainty tell the judge when you took him in that he had influence with the Everhart heirs, and if the judge would assist in selling this land to the railroad company he expected to get a lease of 324 acres of isolated coal land, in which he would give the judge an interest?

Mr. WORTHINGTON. Is it competent to ask the witness what took place between Dainty and the judge?

Mr. Manager WEBB. I did ask him if this occurred in the presence of the judge [to the witness], and I ask you again.

A. I do not remember whether Jim said that or not.

Q. (By Mr. Manager WEBB.) Was anything like that said?—A. Yes; there was something, but I do not remember how much land or how much coal was on the land. I do not think that Jim knew himself how much coal there was.

Q. Aside from the amount of coal and the number of acres, was that the conversation, that if the Everhart heirs sold to the railroad company the railroad company would lease to Dainty 324 or some number of acres of coal land isolated, and the judge would share in the profit of it?—A. I do not know.

Q. Was there something like that conversation before the judge?—A. I can not tell you about that, because I told you I went out right away.

Mr. Manager WEBB. I understood you to say a moment ago that you introduced Dainty to the judge.—A. I did introduce him.

Q. And told him the business he had with him?—A. I told him he knew the Everhart heirs; that he was acquainted with the Everharts.

Q. Dainty did?—A. I told the judge.

Q. That Dainty knew the Everharts?—A. That he was acquainted with the Everhart heirs; that he was friendly with them.

Q. Then did you hear Dainty ask the judge to help him sell the Everhart interest to the railroad company?—A. I just heard that and that is all. I went out.

Q. You heard that much?—A. Yes, sir.

Q. You saw the judge immediately take up the telephone and call Warriner, did you not?—A. Yes, sir.

Q. You said a while ago you saw him take up the telephone and call Warriner, the general manager?—A. I did.

Q. How far does Warriner have his office from the judge?—A. At Wilkes-Barre.

Q. Eighty miles?—A. Twenty miles.

Q. Twenty miles away? You introduced Dainty in the judge's office, and this transaction took place there?—A. Yes, sir.

Q. Did you tell Dainty that you could tell him a man who would help him make that sale?

Mr. WORTHINGTON. I object to that, Mr. President.

Mr. Manager WEBB. If there is going to be an objection I will withdraw it.

Mr. WORTHINGTON. I certainly do object to trying to influence against Judge Archbald by producing what people outside of his presence may have said, which was not communicated to him.

Q. (By Mr. Manager WEBB.) Was there anything said in this conversation between Judge Archbald and Dainty and you about the Everhart heirs wanting $20,000 more for the land than the railroad company wanted to pay?—A. I do not remember about the amount. I do not remember.

Q. I will ask you if you did not say to Dainty, in the presence of the judge, that the judge was the only man you knew in Scranton who could effectuate or effect that sale?—A. I guess I did.

Q. I will ask you if you did swear that from the conversation you gathered in the presence of the judge the judge was to act as negotiator with the Everharts and the Lehigh Railroad Co. for the sale of this tract of land to them?—A. Yes, sir.

Q. You said that?—A. Yes, sir.

Q. I will ask you if you know Thomas Darling?—A. I met him once; that is all.

Q. Is he an attorney for the Lehigh Valley Railroad Co.?—A. He is.

Q. Have you ever seen him practice law before Judge Archbald's court?—A. No; I never have.

Q. Mr. Williams, I ask you if you did not swear before the committee that you had seen him often in cases before the judge's court?—A. I never seen him only as I went to see him with that letter to his office in Wilkes-Barre.

Q. You know he is a lawyer representing the Lehigh Valley Railroad Co.?—A. I know he is a lawyer. That is all I know about him.

Q. How do you know that he represents the Lehigh Valley Railroad Co.?—A. I did not know it. I did not think he was a lawyer of the Lehigh Valley.

Q. Did you ever have any dealing with him besides this letter which you carried from Judge Archbald?—A. No; I never had any dealing with him. I was a perfect stranger to Darling.

Q. Look at this letter [exhibiting], please, and see if that is the one that you carried to Mr. Darling.—A. I do not know, because I did not open the letter.

Mr. WORTHINGTON. Under what article of impeachment is that offered in evidence, may I ask?

Mr. Manager WEBB. I think it is covered in article 13.

Mr. WORTHINGTON. If it is offered only under the thirteenth article, we object to it.

Q. (By Mr. Manager WEBB.) Do you know Judge Archbald's handwriting? I believe you said you did. Is that it [presenting letter]?—A. (Examining letter.) Yes, sir.

Mr. Manager WEBB. I should like the Secretary to read this letter, Mr. President.

The PRESIDENT pro tempore. It is offered in evidence?

Mr. Manager WEBB. It is offered in evidence.

The PRESIDENT pro tempore. The Secretary will read the letter.

The Secretary read as follows:

(United States Commerce Court, Washington.)

SCRANTON, *August 3.*

THOS. DARLING, Esq.

MY DEAR DARLING: This will introduce Mr. Edward Williams, of this city, who wishes to talk with you about the purchase of a culm dump which you control. Mr. Williams is a coal man of experience and is in touch with parties who are able to handle the dump if you are inclined to dispose of it.

Yours, very truly,

R. W. ARCHBALD.

Mr. Manager WEBB. Let the Secretary read the heading.

The SECRETARY. I did read the heading.

Mr. Manager WEBB. Read it again.

The Secretary read as follows:

United States Commerce Court, Washington.
Scranton, August 3.

Mr. WORTHINGTON. I do not care to insist on the objection until it is offered under the thirteenth article. What we have to say about that may be reserved.

Mr. Manager WEBB. I am not confined to any particular article in this particular evidence, of course. We think the letter is entirely competent. [To the witness:] Mr. Williams, the judge says here that "Mr. Williams is a coal man of experience and is in touch with parties who are able to handle the dump." Do you know whom you were in touch with then who was able to handle this dump if you could buy it? Did he refer to himself?—A. No.

Q. To whom did he refer, then?—A. I do not know. That was my business, sir.

Q. Exactly.—A. Exactly; yes, sir.

Q. He says you are in touch with coal men who would be able to handle the dump. To whom does he refer as the persons you were in touch with to handle the dump?—A. I do not know. I know all the coal men myself—all the coal operators. I am well acquainted with them.

Q. Before you got this letter from the judge did you tell him that you were going to give him an interest in it?—A. No; I did not say anything to him about that. I never talked about that.

Q. How is that?—A. No.

Q. How did you come to get this letter from Judge Archbald?—A. I went to see him about Darling. I did not know that Darling was a Lehigh Valley lawyer.

Q. We will leave that out. Why did you go to the judge to get this letter to Darling?—A. Well, because he was friendly; that is, I knew he was friendly with Darling.

Q. You knew he was friendly with him. Is that all you have to say?—A. Yes.

Q. Did you tell him when he wrote the letter that you intended to give him half of it if you got the dump?—A. I do not remember telling him.

Q. I ask you if, on page 547 of the hearings before the Judiciary Committee, you did not swear this in response to Mr. NORRIS's questions:

Mr. NORRIS. Did you intend to give him a half interest in it if you got it from Darling?
Mr. WILLIAMS. I intended to give him an interest; yes, sir.
Mr. NORRIS. You did?
Mr. WILLIAMS. Yes, sir.
Mr. NORRIS. Did you ever tell him that?
Mr. WILLIAMS. Yes, sir; I did.
Mr. NORRIS. When did you tell him that?
Mr. WILLIAMS. Before I went I told him that.
Mr. NORRIS. You told him before you got the letter, did you? Is that right?
Mr. WILLIAMS. Yes, sir.

Did you swear that before the Judiciary Committee?

Mr. WORTHINGTON. Mr. WEBB, I think you are making a mistake there. That relates to the Katydid dump and not the Darling transaction.

Mr. Manager WEBB. I beg your pardon, Mr. Worthington; that is a difference in construction. The leading question was, Did you intend to give him a half interest in it if you got it from Darling? and the subsequent question——

The WITNESS. Never anything come out of that.

Q. (By Mr. Manager WEBB.) I understand; but did you tell the judge that if you got the dump you would give him a half interest?—A. Yes, sir.

Q. That is so?—A. Yes; I intended——

Q. You told him that you intended to do it?—A. Yes, sir.

Mr. Manager WEBB. Under article 9, Mr. President, I wish to examine the witness now. [To the witness.] Mr. Williams, how long have you known Judge Archbald?

A. For over 30 years.

Q. Are you a man of any financial means?—A. I was some time ago; not now.

Q. Were you last year? Were you a year ago?—A. No; I was not a year ago.

Q. Were you four years ago?—A. Yes, sir.

Q. What did you have four years ago in the way of property?—A. Four, five, or six thousand dollars.

Q. Six thousand dollars?—A. About $6,000.

Q. What has been your business since you came to this country?—A. Coal.

Q. A miner and operator?—A. A miner. I know every part of mining, making leases.

Q. You have been all through it?—A. Yes, sir.

Q. Making leases and options?—A. I have made leases. I have made leases for the Delaware, Lackawanna & Western. I made leases for different people.

Q. Did you ever have a conversation with the judge in which you induced him to join you in a Venezuelan venture, to buy an option on a million acres of land in Venezuela, and in that conversation or transaction the judge gave you a $500 note, or gave a $500 note to John Henry Jones, indorsed by him and yourself?—A. He did not give it to me.

Q. Now state all about it.—A. We got papers from Venezuela. We had just got the option from there and we had been negotiating for quite awhile. I seen every letter that came from Deman Santo, the consul there from Spain. He told us to send a man down there, that there was some valuable property there, and we could get an option on it, iron ore, copper, and very valuable timberland. So I gave the first money to go down there and got the option on the million acres right on the Orinoco River—what is the line through the country going up to Brazil.

Q. Now come down to the transaction between you and the judge and John Henry Jones, please.—A. After we got the option I told the judge about it, and he said, "I would like to see those papers. Will you let me see them?" I said, "Yes." John brought them over the next day.

Q. John who?—A. John Henry Jones.

Q. All right. Proceed.—A. And he showed them to the judge, and the judge said they were first-class papers, all right.

Q. Well, proceed, please.—A. He would like to invest some money in them. He said he would give a note to John. This was to go to London to pay expenses to negotiate to sell the land.

Q. Did he agree to take an interest in the option?—A. Yes, sir.

Q. What interest was he to have—one-third and you one-third? Did you say yes or no?—A. Yes, sir.

Q. What interest did Jones have?—A. The same.

Q. One-third?—A. For his services. He put nothing in it. He did not put any money in it.

Q. What did the judge pay for his one-third interest; and did he give a note for it or not?—A. A note.

Q. Do you know whom the note was payable to?—A. John Henry Jones.

Q. How much was the note?—A. $500. The Providence Bank cashed it.

Q. Wait a minute. You are going too fast. Who indorsed that note?—A. The judge indorsed it. I indorsed it.

Q. Did the judge indorse it?—A. Yes, sir.

Q. Who drew it?—A. The judge, I think.

Q. That is, did he write it himself?—A. I think he did.

Q. Do you know when that was?—A. I could not say exactly the date.

Q. Was it four years ago?—A. About that.

Q. At that time did you know that the Marian Coal Co. was party defendant in a suit before Judge Archbald, in which Peale was plaintiff?—A. I do not think they were fighting yet. I do not think they were.

Q. Do you not know?—A. I do not think there was a case on at all.

Q. Do you not know that Mr. Peale had sued the Marian Coal Co.?—A. I know all about Peale, but I do not think that that case had been started at that time.

Q. Leave that out. Do you know the Bolands own the principal stock of the Marian Coal Co., William P. Boland and Christopher G. Boland?—A. I do, very well. I have good reason to know it.

Q. When that note was drawn did you take it to C. G. Boland to have it discounted?—A. I did; yes, sir.

Q. Did you tell the judge that you were going to take it to Boland?—A. I think I did; but he said "Take it where you like; I do not care where you take it." He did not induce me to go there.

Q. I understand that. When the note was drawn the next question was to get it discounted, was it not?—A. Yes.

Q. And you told the judge that you were going to carry it to C. G. Boland for discount, and he told you to take it where you pleased?—A. Yes, sir.

Q. You took it to C. G. Boland and he declined to discount it?—A. He kept it for two days, sir.

Q. And declined to discount it?—A. And he never said anything about litigation, because there was no litigation——

Q. I am not asking you about that, Mr. Williams. We will show that later. He did not discount it?—A. No, sir; he did not.

Q. And what did you do with the note?—A. I went to the Merchants & Mechanics' Bank with it.

Q. Did you get it discounted there?—A. I did not. I brought it back to John Henry Jones, and he went up to the Providence Bank and got Von Storch, the president of the bank, to cash it.

Mr. Manager WEBB. I will state, Mr. President, that the note in question is a commercial paper, and we will be able to produce it a little later and introduce it in connection with this testimony. It is now in the bank.

Q. (By Mr. Manager WEBB.) Has that note ever been paid—the note drawn then?—A. No; it is partly paid; I do not know how much of it is paid.

Q. What part of it has been paid?—A. It is partly paid.

Q. How much—what part?—A. I do not know; it is none of my business to know.

Q. Do you know how much of that note has been paid during the last four years since it was made?—A. No, sir; I do not know. Only the first time I indorsed it, and I do not know anything about it.

Q. You indorsed it the first time. Have you not indorsed it since?—A. No, sir.

Q. Has it been renewed every four months since originally made?—A. Yes, sir; and they paid so much; but whether it is paid in full or not I can not say.

Q. You do not mean to say you did not indorse it, Mr. Williams? Did you not indorse it every time?—A. No, sir; not after that.

Q. Did you not indorse it on the 6th of last May in the judge's office, with Jones present?—A. I indorsed it once, I think, and that is all. He never asked me to indorse it.

Q. He did not ask you to indorse it? Did you take it to any other private citizen except Boland?—A. What?

Q. Did you take that note for discount to any other private party except Boland?—A. No, sir; not any person. I never asked anybody.

Q. After Boland had declined to discount it did you subsequently tell him that he had made a mistake in not discounting the judge's note?—A. No; I did not tell him that. He says that I said that; that he would save all expense; but I never said such a thing to him, sir, never.

Q. Did you ever sign a statement to that effect?—A. No, sir; I never signed a statement to that effect. I would be crazy—I am mad enough now—but would be crazier than a bug, sir, if I said such a thing as that, because this man never told me such a thing, and how could I say it?

Q. Let me refresh your memory. Do you not know that a man by the name of John W. Peale had sued the Marian Coal Co. in Judge Archbald's court; that he had secured an injunction and taken an account, and that that suit was pending in the judge's court when this note was made?—A. I do not know such a thing. I did not know that case was on.

Q. You were in the judge's office very frequently, were you not?—A. Yes, sir.

Q. And did you not know something about the suits pending in the district court there?—A. I knew about it when it came on to trial; but I did not think it was on then.

Q. You do not think it was on then?—A. In 1909, was it not——

Q. Well, 1909?—A. This note was made, was it not, and in 1910 or 1911 that suit came on.

Q. The suit was determined then, but I am asking you if the suit was not pending?—A. No; it was determined in 1912.

Q. When were you subpœnaed to come down to the hearing before the Judiciary Committee? Was it Sunday, May 4?—A. Yes; it was on Sunday.

Q. Where were you on Monday next following? Where did you go?—A. I do not know.

Q. I ask you if you did not go to the judge's office immediately after you were subpœnaed to come here in the investigation before the Judiciary Committee of the House?—A. I do not remember.

Q. What, Mr. Williams?—A. I do not remember.

Q. Perhaps I can refresh your memory. I ask if you did not go to the judge's office to tell him you wanted to get the money to come down here; that John Henry Jones was there; that you renewed this very $500 note we have been talking about; that Jones took it back and the bank renewed it; and that you told the judge you would meet him at the depot, and he did meet you there and bought your ticket?—A. Yes; I know that.

Q. Did you go to the judge's office on Monday morning after you were subpœnaed on Sunday?—A. I forget; I do not remember.

Q. Speak a little louder, please, sir.—A. I do not remember whether I did or not; I do not remember about that.

Q. I ask you, then, if you did not swear before the Judiciary Committee of the House that you did go to Judge Archbald on the Monday following your subpœna on Sunday, and ask him for the money to come to Washington, and he told you he would meet you at the depot and give you a ticket, and he did do it?—A. Well, I do not remember that; but I did get the ticket anyhow.

Q. Did you go to Judge Archbald's office on Monday morning after you were subpœnaed on Sunday? You can answer that question.—A. Well, all I remember—I remember that I got the ticket. I do not remember that I went there on Monday.

Q. Do you remember seeing John Henry Jones in the judge's office?—A. No; I do not.

Q. Where did you get the ticket and from whom?—A. In the depot.

Q. From whom?—A. From the judge.

Q. How did you know that the judge was going to be at the depot?—A. I went there at the same time.

Q. How did you know that the judge was going to be at the depot if you had not seen him before that time?—A. I seen him going there.

Q. Had you not seen him in his office in the morning?—A. No; I did not go up with him from the office. I met him on the street.

Q. You met him on the street. What did you tell him?—A. I told him that I had no money to go down.

Q. Did you tell him that you were subpœnaed to come down here and testify against him?—A. To testify in this thing, anyhow.

Q. And at the depot he gave you the money, or rather the ticket, to come down here with?—A. He gave me the ticket; no money.

Q. You did not have money enough to come on?—A. No, sir; I did not.

Q. Where were all these transactions between you and Dainty and you and the judge about the Katydid dump and the Darling transaction had—in the judge's office in Scranton?—A. Some of them.

Q. Where were the others had?—A. It was those three, anyhow.

Q. Those three. Is the judge's office in the Federal building in Scranton?—A. Yes, sir.

Q. How often have you been in the judge's office during the last two years do you suppose?—A. Oh, very often; about three or four times a week maybe.

Q. Did you come down to Washington in February and testify in this Katydid matter?—A. What?

Q. Did you come to Washington on or about February 21, 1912, and testify before another tribunal, other than the Judiciary Committee, about this matter?—A. Yes.

Q. That was some time in February?—A. Yes.

Q. When you went back home did you tell the judge that you had testified down here?—A. What?

Q. When you went back to Scranton did you tell the judge that you had come down here and made this statement?—A. I did; yes.

Q. You say you did?—A. Yes.

Q. How long was it after you returned to Scranton that you told him that you had been down here?—A. I do not remember how long it was—whether it was the next day or whether it was in a week; I could not say.

Q. At any rate, immediately after you testified before the Attorney General?—A. I do not know.

Q. You did go back to Scranton and tell the judge about it?—A. I did tell him; yes.

Mr. CLARK of Wyoming. Mr. President, the Senate has now been in session since 12 o'clock. I doubt from the course of the examination whether this witness can conclude his testimony this evening; and, if it is entirely agreeable to the managers on the part of the House, I should like to make a motion that the Senate sitting as a Court of Impeachment do now adjourn.

Mr. Manager WEBB. I will say, Mr. President, that that is entirely agreeable to the managers.

The PRESIDENT pro tempore. The Senator from Wyoming moves that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to, and (at 5 o'clock and 30 minutes p. m.) the Senate sitting as a Court of Impeachment adjourned.

The managers on the part of the House and the respondent and his counsel withdrew from the Chamber.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to, and (at 5 o'clock and 31 minutes p. m.) the Senate adjourned until to-morrow, Thursday, December 5, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December 4, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou who art the life and light of men, the inspiration of every great thought, noble deed, and honest endeavor in the fields of activity which lead on to the higher and better forms of life, inspire us, quicken our activities, that we may be worthy sons of the living God, and leave behind us a record worthy of emulation, and merit at last Thine approbation, for Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

DEATH OF SENATOR HEYBURN.

Mr. FRENCH. Mr. Speaker, I offer the following resolution and move its adoption.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 730.

Resolved, That the House of Representatives has heard with profound sorrow of the death of the Hon. WELDON BRINTON HEYBURN, late a Senator from the State of Idaho.

Resolved, That the Clerk be directed to communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased Senator.

The question was taken, and the resolution was unanimously agreed to.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday, and on the last Calendar Wednesday when the House adjourned the situation was this: What is known as the Crago pension bill for widows and children of Spanish veterans, H. R. 17470, had been reported favorably from the committee, and the gentleman from Georgia [Mr. RODDENBERY] had made a motion to recommit it with instructions; and on the motion to recommit on a viva voce vote the motion to recommit was lost. Thereupon the gentleman from Georgia made the point of no quorum. There

was a call of the House, and, no quorum appearing, the House adjourned and left it in that condition. The first thing is to take a vote on the motion to recommit de novo. The Clerk will read the motion to recommit with instructions.

The Clerk read as follows:

Moved to recommit H. R. 17470, a bill to pension widow and minor children of any officer or enlisted man who served in the War with Spain or Philippine insurrection, to the Committee on Pensions, with instructions to said committee to report the same back with the following amendments:

Amend, on page 2, by adding in line 19 after the colon the following: "*Provided further*, That no widow or child as aforesaid shall be construed to have a pensionable status under this act unless it is affirmatively shown that the deceased husband or father—being an officer or enlisted man—was during the said War with Spain or the Philippine insurrection actually engaged in or present and exposed to danger in one or more battles or skirmishes."

Mr. CULLOP. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CULLOP. I would like to ask if the motion to recommit was not lost and so declared by the Chair?

The SPEAKER. It was lost on the viva voce vote.

Mr. CULLOP. And that a roll call was demanded on the passage of the bill?

The SPEAKER. You can not recommit if anybody raises the point of no quorum present; that ends the whole business.

Mr. CULLOP. Had not that stage of the proceedings been passed and the point of no quorum made on the passage of the bill?

The SPEAKER. Oh, no; the motion to recommit was made properly at the right time.

Mr. CULLOP. The inquiry I was making was if that had not been voted down and the Chair had so declared, and the point of no quorum was not made on that proposition?

The SPEAKER. The gentleman from Indiana is mistaken about the facts. The question is on the motion to recommit with instructions.

The question was taken, and the Chair announced the noes seemed to have it.

Mr. RODDENBERY. Division, Mr. Speaker.

The House divided; and there were—ayes 3, noes 101.

Mr. RODDENBERY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Georgia makes the point of order that there is no quorum present, and evidently there is not. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 25, nays 252, answered "present" 3, not voting 110, as follows:

YEAS—25.

Beall, Tex.	Evans	Oldfield	Stephens, Miss.
Burleson	Falson	Roddenbery	Stephens, Tex.
Callaway	Garrett	Saunders	Townsend.
Candler	Harrison, Miss.	Sheppard	Tribble
Clark, Fla.	Hughes, Ga.	Sisson	
Dies	Jacoway	Slayden	
Doughton	Macon	Smith, Tex.	

NAYS—252.

Adair	Copley	French	Jones
Ainey	Covington	Fuller	Kahn
Akin, N. Y.	Cox, Ind.	Gallagher	Kendall
Alexander	Crago	Gardner, Mass.	Kennedy
Allen	Crumpacker	Gardner, N. J.	Kent
Anderson	Cullop	Garner	Kindred
Andrus	Curley	George	Kinkaid, Nebr.
Anthony	Curry	Gill	Kinkead, N. J.
Ashbrook	Dalzell	Gillett	Kitchin
Austin	Danforth	Godwin, N. C.	Konig
Barchfeld	Daugherty	Goeke	Konop
Barnhart	Davis, Minn.	Goldfogle	Korbly
Bartholdt	Davis, W. Va.	Good	Lafean
Bartlett	De Forest	Green, Iowa	Lafferty
Berger	Dent	Greene, Mass.	La Follette
Blackmon	Dickinson	Griest	Lamb
Bochne	Dixon, Ind.	Gudger	Langham
Booher	Dodds	Hamilton, Mich.	Langley
Borland	Donohoe	Hamlin	Lawrence
Bowman	Doremus	Hanna	Lee, Ga.
Brantley	Draper	Hardwick	Lee, Pa.
Browning	Driscoll, D. A.	Hardy	Lenroot
Buchanan	Dupré	Hart	Lever
Bulkley	Dyer	Hartman	Levy
Burgess	Edwards	Hawley	Lewis
Burke, Pa.	Ellerbe	Hayden	Lindbergh
Burke, S. Dak.	Esch	Heald	Linthicum
Burke, Wis.	Estopinal	Heflin	Littlepage
Butler	Farr	Helgesen	Lloyd
Byrnes, S. C.	Fergusson	Helm	Lobeck
Byrns, Tenn.	Ferris	Henry, Tex.	Longworth
Calder	Fields	Hinds	McCall
Campbell	Fitzgerald	Holland	McCoy
Cannon	Flood, Va.	Houston	McDermott
Cantrill	Floyd, Ark.	Howland	McGillicuddy
Carlin	Fordney	Hull	McKellar
Claypool	Fornes	Humphrey, Wash.	McKenzie
Clayton	Foss	Humphreys, Miss.	McKinney
Cline	Foster	James	McLaughlin
Conry	Fowler	Johnson, Ky.	McMorran
Cooper	Francis	Johnson, S. C.	Madden
Maguire, Nebr.	Patton, Pa.	Russell	Switzer
Maher	Payne	Sabath	Taggart
Matthews	Peters	Scott	Talbott, Md.
Mays	Pickett	Scully	Talcott, N. Y.
Merritt	Plumley	Shackleford	Taylor, Ala.
Mondell	Post	Sherley	Thistlewood
Moon, Tenn.	Powers	Sherwood	Tilson
Moore, Pa.	Pray	Sims	Towner
Moore, Tex.	Prince	Sloan	Tuttle
Morgan, La.	Prouty	Small	Underhill
Morgan, Okla.	Pujo	Smith, J. M. C.	Vare
Murdock	Raker	Smith, N. Y.	Volstead
Murray	Randell, Tex.	Sparkman	Watkins
Needham	Rauch	Speer	Webb
Neeley	Redfield	Stedman	Whitacre
Nelson	Reilly	Steenerson	White
Norris	Riordan	Stephens, Cal.	Wilder
Nye	Roberts, Mass.	Stephens, Nebr.	Willis
Olmsted	Rodenberg	Sterling	Wilson, Ill.
Padgett	Rothermel	Stone	Wood, N. J.
Page	Rouse	Sulzer	Young, Kans.
Palmer	Rucker, Colo.	Sweet	Young, Mich.

ANSWERED "PRESENT"—3.

Burnett	Carter	Mann

NOT VOTING—110.

Adamson	Gould	Littleton	Rucker, Mo.
Aiken, S. C.	Graham	Loud	Sells
Ames	Gray	McCreary	Sharp
Ansberry	Greene, Vt.	McGuire, Okla.	Simmons
Ayres	Gregg, Pa.	McHenry	Slemp
Bates	Gregg, Tex.	McKinley	Smith, Saml. W.
Bathrick	Guernsey	Martin, Colo.	Smith, Cal.
Bell, Ga.	Hamill	Martin, S. Dak.	Stack
Bradley	Hamilton, W. Va.	Miller	Stanley
Broussard	Hammond	Moon, Pa.	Stevens, Minn.
Brown	Harris	Morrison	Sulloway
Cary	Harrison, N. Y.	Morse, Wis.	Taylor, Colo.
Collier	Haugen	Moss, Ind.	Taylor, Ohio
Cox, Ohio	Hay	Mott	Thayer
Cravens	Hayes	O'Shaunessy	Thomas
Currier	Henry, Conn.	Parran	Turnbull
Davenport	Hensley	Patten, N. Y.	Underwood
Davidson	Higgins	Pepper	Vreeland
Denver	Hill	Porter	Warburton
Dickson, Miss.	Hobson	Pou	Wedemeyer
Difenderfer	Howard	Rainey	Weeks
Driscoll, M. E.	Howell	Ransdell, La.	Wilson, N. Y.
Dwight	Hughes, W. Va.	Rees	Wilson, Pa.
Fairchild	Jackson	Reyburn	Witherspoon
Finley	Knowland	Richardson	Woods, Iowa
Focht	Kopp	Roberts, Nev.	Young, Tex.
Glass	Legare	Robinson	
Goodwin, Ark.	Lindsay	Rubey	

The Clerk announced the following pairs:

For the session:

Mr. HOBSON with Mr. FAIRCHILD.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. LITTLETON with Mr. DWIGHT.

Mr. FORNES with Mr. BRADLEY.

Until further notice:

Mr. AIKEN of South Carolina with Mr. AMES.

Mr. ANSBERRY with Mr. BATES.

Mr. BATHRICK with Mr. MCCREARY.

Mr. FINLEY with Mr. CURRIER.

Mr. BELL of Georgia with Mr. MOTT.

Mr. COLLIER with Mr. WOODS of Iowa.

Mr. BROUSSARD with Mr. CARY.

Mr. COX of Ohio with Mr. DAVIDSON.

Mr. DAVENPORT with Mr. MICHAEL E. DRISCOLL.

Mr. DIFENDERFER with Mr. FOCHT.

Mr. GOODWIN of Arkansas with Mr. GREENE of Vermont.

Mr. GLASS with Mr. SLEMP.

Mr. GRAHAM with Mr. GUERNSEY.

Mr. GRAY with Mr. HAUGEN.

Mr. GREGG of Pennsylvania with Mr. HENRY of Connecticut.

Mr. GREGG of Texas with Mr. HILL.

Mr. HAMILL with Mr. HIGGINS.

Mr. HAMMOND with Mr. HOWELL.

Mr. HENSLEY with Mr. HARRIS.

Mr. HARRISON of New York with Mr. HUGHES of West Virginia.

Mr. HAY with Mr. KNOWLAND.

Mr. HOWARD with Mr. JACKSON.

Mr. LEGARE with Mr. LOUD.

Mr. MOSS of Indiana with Mr. MCGUIRE of Oklahoma.

Mr. O'SHAUNESSY with Mr. MARTIN of South Dakota.

Mr. PATTEN of New York with Mr. MILLER.

Mr. PEPPER with Mr. MOON of Pennsylvania.

Mr. POU with Mr. PORTER.

Mr. RAINEY with Mr. MCKINLEY.

Mr. RANSDELL of Louisiana with Mr. ROBERTS of Nevada.

Mr. ROBINSON with Mr. REYBURN.

Mr. RUBEY with Mr. SELLS.

Mr. RUCKER of Missouri with Mr. SIMMONS.

Mr. SHARP with Mr. SAMUEL W. SMITH.

Mr. STANLEY with Mr. SULLOWAY.

Mr. TAYLOR of Colorado with Mr. SMITH of California.

Mr. TURNBULL with Mr. VREELAND.

Mr. THOMAS with Mr. TAYLOR of Ohio.
Mr. WILSON of New York with Mr. WARBURTON.
Mr. YOUNG of Texas with Mr. WEEKS.
Mr. UNDERWOOD with Mr. MANN.
For the vote:
Mr. WITHERSPOON (for recommitting) with Mr. BROWN (against).
For the day:
Mr. MORRISON with Mr. WEDEMEYER.
Until December 6:
Mr. DENVER with Mr. HAYES.

The SPEAKER. On this vote the yeas are 25, the nays 252, a quorum. The Doorkeeper will open the doors. The motion to recommit is rejected, and the question now is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. CRAGO, a motion to reconsider the vote by which the bill was passed was laid on the table.

MEMBERS' ELEVATOR, HOUSE OF REPRESENTATIVES.

The SPEAKER. The Chair desires to make to the House a statement in which all the Members are interested. There has been much complaint about persons who are not Members of Congress coming up in the elevator in the southeast corner. Members complain that they can not get over here from the House Office Building in time to vote, and it is a very serious discommoding and might interrupt the public business. So last summer the Chair ordered the elevator men not to allow anybody except Members to come up in that elevator. They did not pay much attention to it, so the Chair issued an order to them this morning not to let anybody travel up and down in that elevator except Members of the House and the newspaper men, because the newspaper men have to come up that way or else go clear around the Hall of the House to the southwest corner.

That order can only be enforced by the Members of the House assisting the Speaker in enforcing it. It will not be properly enforced if they undertake to bully the elevator men to let other people in with them, for of course the elevator men are afraid of being discharged on complaint. The only way to enforce that order for the benefit of Members is for the Members to help the Speaker enforce it. For himself the Speaker will say that he will direct his family, when they come up, to come up in one of these other elevators [applause], and the Chair requests Members to do the same.

CALL OF COMMITTEES.

The SPEAKER. The Clerk will call the next committee.

The Clerk proceeded with the call of committees.

ALLEGATION AND PROOF OF LOYALTY IN CERTAIN CASES.

Mr. WATKINS (when the Committee on the Revision of the Laws was reached). I am instructed, Mr. Speaker, by the Committee on the Revision of the Laws to ask consideration of the bill H. R. 16314, to amend section 162 of the act to codify and amend the laws relating to the judiciary, approved March 3, 1911.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911.

Be it enacted, etc., That section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, be amended and reenacted so as to read as follows:

"SEC. 162. The Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the provisions of the act of Congress approved March 12, 1863, entitled 'An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States,' and acts amendatory thereof where the property so taken was sold and the net proceeds thereof were placed in the Treasury of the United States; and the Secretary of the Treasury shall return said net proceeds to the owners thereof, on the judgment of said court, and full jurisdiction is given to said court to adjudge said claims, any statutes of limitations to the contrary notwithstanding: *Provided*, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims."

With a committee amendment.

Mr. MANN. Mr. Speaker, I make the point of order that this bill should be on the Union Calendar instead of on the House Calendar.

The SPEAKER. The gentleman will state why he thinks that.

Mr. MANN. The bill is an amendment to the judiciary title in reference to the jurisdiction of the Court of Claims, and among other things it provides that "the Secretary of the Treasury shall return said net proceeds to the owners thereof on the judgment of said court," which is an indirect appropriation of money out of the Treasury. Under the rules of the House the bill must be considered in the Committee of the Whole House on the state of the Union. I have no objection to the consideration of the bill to-day if it be considered in that way.

The SPEAKER. The Chair thinks that the point of the gentleman is well taken, and the bill will be transferred to the Union Calendar.

Mr. WATKINS. Mr. Speaker, I ask unanimous consent to consider it in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Louisiana asks unanimous consent to consider this bill in the House as in Committee of the Whole.

Mr. MANN. I would prefer to have the gentleman make a motion to go into Committee of the Whole.

The SPEAKER. The gentleman does not have to make a motion to go into Committee of the Whole.

Mr. MANN. That is true.

The SPEAKER. The House will resolve itself automatically into Committee of the Whole House on the state of the Union for the consideration of this bill, and Mr. RUCKER of Colorado will take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 16314, with Mr. RUCKER of Colorado in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 16314. The Clerk will report the bill.

The bill was again read.

The CHAIRMAN. The gentleman from Louisiana [Mr. WATKINS] is recognized.

Mr. WATKINS. Mr. Chairman, I move the adoption of the committee amendment and the passage of the bill.

The CHAIRMAN. The motion of the gentleman from Louisiana is not in order, because general debate is allowable.

Mr. MANN. I understood the bill was read for amendment, and I supposed the gentleman from Louisiana would explain the purport of the bill.

Mr. SHERLEY. I would like to know, Mr. Chairman, what the request was. I could not hear it stated.

The CHAIRMAN. The request was for the passage of the bill.

Mr. SABATH. I would like to know something about the bill, Mr. Chairman.

Mr. WATKINS. Mr. Chairman, I did not anticipate that there would be any objection at all to the passage of the bill. It is simply an amendment to the revision code adopted on the 3d of March, 1911, and it was really an oversight in not having incorporated in section 162 the provision which is intended to be incorporated by the passage of this bill. It is simply intended to amend that section.

Mr. GOLDFOGLE. What section is it?

Mr. WATKINS. I will read the section. It is in the same words as the bill, except that it does not dispense with the necessity of alleging and proving loyalty in those cases which arose after the cessation of hostilities, after the Civil War was over.

But, Mr. Chairman, if there is to be debate upon this, we ought to have some agreement as to the length of time which is to be consumed and who is to control the time. The ranking minority member of this committee, the gentleman from Pennsylvania [Mr. MOON], would naturally control the time on that side, and I had expected him to do so. I expect to control the time on this side. As he does not seem to be in the Hall at this moment, I suppose the gentleman from Illinois [Mr. MANN] will control the time on that side.

Mr. MANN. I suggest to the gentleman that he explain fully the purport of the bill. If I understand it, the effect of it will be to take out of the Treasury of the United States $10,000,000 or $12,000,000 without any further appropriation by Congress. It is important enough to be considered fully.

Mr. WATKINS. If the gentleman will pardon the interruption, I simply want now to arrange as to the time to be consumed. I expect to explain the bill.

Mr. MANN. I think no more time will be occupied than is necessary for the consideration of the bill. I do not see how it is practicable to fix the time in advance.

Mr. WATKINS. Then, Mr. Chairman, I will proceed in the regular order. I should like to know, though, if anyone on that side is to control the time, so that I can know what disposition to make of the time on this side.

Mr. SHERLEY. I suggest to the gentleman that the ordinary rules of the House, which give to any gentleman taking the floor one hour for the discussion of the bill, be observed until the matter develops sufficiently to show how much discussion the bill will naturally evoke.

Mr. WATKINS. If we can not agree on the time, then that course will be taken.

The CHAIRMAN. The gentleman from Louisiana [Mr. WATKINS] is recognized.

Mr. WATKINS. Mr. Chairman, on March 3, 1911, the Committee on the Revision of the Laws secured the final passage of the bill for the codification of the laws relating to the judiciary. Section 162 of that codification, under the title of the judiciary, reads in this way:

SEC. 162. The Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the provisions of the act of Congress approved March 12, 1863, entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," and acts amendatory thereof where the property so taken was sold and the net proceeds thereof were placed in the Treasury of the United States; and the Secretary of the Treasury shall return said net proceeds to the owners thereof, on the judgment of said court, and full jurisdiction is given to said court to adjudge said claims, any statutes of limitation to the contrary notwithstanding.

Mr. Chairman, when this section was incorporated in this revision it was not anticipated that any objection, technical or otherwise, would be raised to the payment of the proceeds of the property arising out of the act of Congress of 1863. It was not anticipated that the question of loyalty would be raised. For that reason that proposition was not submitted in the amendment to the section offered at that time and which finally became section 162.

The situation was just this: There was an old statute providing that in all cases arising before the Court of Claims allegation and proof of loyalty was necessary; but in the case of the United States against Klein the Supreme Court of the United States decided that under this captured and abandoned property act, passed in 1863 and amended later, no allegation or proof of loyalty was necessary, because the Supreme Court, in interpreting the act of 1863, has said that the fund so created is simply and purely a trust fund, that the property taken was taken for the benefit of those to whom it belonged, that it is not contraband of war, that it was taken solely for the purpose of converting the property and placing the proceeds in the Treasury of the United States for the benefit of the owner, and that being a trust fund it did not come under the requirements of the allegation and proof of loyalty as in the cases where the property taken was contraband of war. This property was not confiscated.

You will notice from the reading of the last section of this act that the statement made by the gentleman from Illinois [Mr. MANN] is untenable, because it requires that all the proceeds of that property shall be paid over to the owners of the property or their heirs, administrators, executors, or assigns. Therefore the property is to be paid over to the owners of it. But if there is not enough money to pay all, it is to be paid out ratably, or pro rata, to the different claimants.

The gentleman from Illinois has stated that some $10,000,000 or $12,000,000 of this fund will be paid. I have here a complete list of all these funds in the Treasury. The total amount was originally more than $26,000,000. There were paid out of it $16,000,000. The amount was further cut down by charges against the fund and under amendments to the original act until the fund now amounts to somewhere in the neighborhood of or a little less than $5,000,000 arising from the sale of the property after June 1, 1865. This $5,000,000 will never pay the claims already presented to the Treasury Department, and it is for the purpose of getting an equitable rate of distribution that we ask for this amendment. If the amendment is not incorporated in the code, the adventurers, camp followers, and speculators who came from various sections of the country after the Civil War into the South and bought up and took possession, either legally or without law, of this property will be the only ones who will benefit by the revision which was intended to benefit the heirs of the owners, the widows, and the orphans.

Mr. Chairman, the object of the House of Representatives in passing this act was to do simple justice to these parties who had taken from them property by the great Government of the United States; taken as a trust and put in charge of the agents of the Government as a trust fund, and the proceeds placed in the Treasury for the benefit of these persons. The proceeds of that property have never been allowed to be touched by any officer for any purpose. I do not think any appropriation is necessary for the purpose of carrying the law into execution. If it had been necessary, this amendment will not make it so. We do not here ask for any appropriation; we simply ask that the trust fund that is there now, and has been for 47 years, be paid out equitably and not turned over entirely to the horde of speculators and those who defrauded the people of their rights after the war; we ask that it be distributed to the rightful claimants and their heirs and representatives.

Now, Mr. Chairman, I had not thought that it would be necessary at all to discuss this question from a legal standpoint, but I have authorities here ready to make a legal argument if it becomes necessary. The reason I did not anticipate that there would be any controversy or objection to it was this——

Mr. TOWNSEND. Before the gentleman enters upon his legal argument I would like to ask for information. What is the total sum of this trust fund that he speaks of?

Mr. WATKINS. Approximately $5,000,000 in the Treasury which under the law would have to be paid out, and it is only a question of who it would have to be paid to.

Mr. TOWNSEND. Can the gentleman state the number of claimants?

Mr. WATKINS. I have the whole volume of them here; there are several thousand of them. I have not added them up. There are a great many from all over the country. There is hardly a section of the country but has a representative in these claims.

Mr. BUTLER. Will the gentleman yield?

Mr. WATKINS. Certainly.

Mr. BUTLER. How much was the fund originally?

Mr. WATKINS. About $26,000,000.

Mr. BUTLER. Will the gentleman be kind enough to tell us under what circumstances it arose?

Mr. WATKINS. In 1863 the Congress of the United States passed a law providing that all abandoned property in the insurrectory States—the States in the South in which the war was being waged—which had been captured should be taken in charge by the Federal authorities; that is, property not contraband of war, not subject to confiscation. It provided that the property which could not be confiscated as contraband of war should be taken in charge by the United States and put in a trust fund. People were moving from the South all over the southern section of the country and getting out of the way, leaving and abandoning property, particularly cotton. That act was intended to authorize the Federal authorities to take charge of it in a fiduciary capacity, selling the cotton or property and charging the cost of sale and transportation to the fund, and then to deposit the balance of the fund in the United States Treasury to remain there until it was claimed.

The original act limited the right to claim in two years, but that was afterwards extended, and now the expiration of that time has elapsed. There were a great number of people in that section of the country, particularly minors, who knew nothing of the passage of the law and did not avail themselves of an opportunity to take advantage of it. All of this fund has been distributed, except this remnant of about $5,000,000.

Mr. BUTLER. The act of 1863 was one of the confiscation acts?

Mr. WATKINS. It was not a confiscation act; it was a provision for the Government to take charge of the property, and in the case of the United States against Kline the court says that it was not a confiscation, but simply property taken in charge by the United States Government for the benefit of the owners of the property.

Mr. BUTLER. The fund that now remains in the Treasury arose from the sale of property that was seized after hostilities were over?

Mr. WATKINS. Entirely after the war was over.

Mr. BUTLER. And none of it is from the sale of property that was seized before hostilities ceased?

Mr. WATKINS. Not at all; and the very section, section 162, of the revision of the laws explains it definitely and explicitly. There can not be any doubt about it at all. It fixes the date absolutely, as the 1st of June, 1865—after the war was over.

Mr. Chairman, the reason that I made the statement that I could not anticipate any objection was because not only on account of the justice of this claim——

Mr. BUTLER. Mr. Chairman, if the gentleman will permit, of course this property was seized in the South?

Mr. WATKINS. Yes.

Mr. BUTLER. And the object of the gentleman's bill, as I understand it, is to remove the burden of proving loyalty?

Mr. WATKINS. Yes.

Mr. BUTLER. This property was seized after the war was over?

Mr. WATKINS. Yes. That is the whole thing in a nutshell. That is the reason, when this amendment came before the Committee on Revision of the Laws, that there was not a scintilla of objection to it. The ranking minority member on that committee, the gentleman from Pennsylvania [Mr. MOON], when the question was presented to him as to whether he would vote in favor of reporting the bill, said it would be not only bad faith but it would be wrong from every standpoint for any Member

to vote against the amendment. When the Democratic Members had gone before the conference committee, when this revision was in conference, they agreed with the conferees that if they would allow this measure to remain in the codification, they, the Democratic Members, would not object to other features about which they had contended in the passage of the bill.

Mr. BUTLER. Mr. Chairman, will the gentleman please tell us as a bit of history why this property was seized after hostilities had ceased?

Mr. WATKINS. Because the law provided for it.

Mr. BUTLER. Hostilities were done?

Mr. WATKINS. Yes.

Mr. BUTLER. I do not see the reason for it.

Mr. WATKINS. The law did not make any limit upon the time within which it should operate. The law went into effect as all other laws do and was general in its terms. No one knew when the law of 1863 was passed that the war would end in the spring of 1865. It made no limitation, except as to the time in which the owners should assert their claims. It simply ordered the Federal authorities to take possession of and to convert into money property that was abandoned by people in that section of the country, not placing any limit or stating any time. That continued. The gentleman will bear in mind that the people during the war for a number of years had been leaving that section of the country, and leaving behind them property, mainly cotton, though a great deal of land was left as well as other property.

Mr. BARTLETT. Mr. Chairman, will the gentleman from Louisiana yield for a moment?

Mr. WATKINS. Certainly.

Mr. BARTLETT. Mr. Chairman, if the gentleman will permit, I desire to suggest to the gentleman from Pennsylvania [Mr. BUTLER] that he will recall that from 1865 to 1866 the Southern States had located in them the forces of the United States Army. At that time we of the South were not under our own Government, but under the Government of the United States, either military or provisional. It was before we had obtained the status of civil government, and the United States Army officers, in pursuance of the act of 1863, deemed it to be their duty to seize all the cotton.

Mr. BUTLER. I have not been able to understand why it was seized. I do not see the justice of it.

Mr. BARTLETT. There was no justice in seizing it, and because there was no justice in seizing it this House, Republicans and Democrats alike, under an amendment that I myself offered to the revision-of-the-laws bill, voted to remove the statute of limitations from the abandoned and captured property act, to permit these people whose property had been unjustly seized and sold to have opportunity to recover their money which had been unjustly taken from them.

Mr. BUTLER. Congress has already determined that the question of loyalty shall not be considered in the distribution of this money, has it not; in 1911?

Mr. BARTLETT. There was nothing said about loyalty.

Mr. LANGLEY. Not as to this fund.

Mr. GARRETT. Mr. Chairman, will the gentleman from Louisiana yield?

Mr. WATKINS. Certainly.

Mr. GARRETT. Mr. Chairman, it has been my understanding—and I will ask the gentleman from Louisiana if it is not correct—that in many instances the cotton which was seized had become the property of the Confederate Government?

Mr. WATKINS. That is not involved in this question.

Mr. GARRETT. I know that it is not involved in this question, but it has something to do with the proposition as an explanation of why much privately owned cotton was seized. I say that for the information of the gentleman from Pennsylvania [Mr. BUTLER]. Much cotton, a great deal of cotton, had been acquired by the Confederate Government itself and in seizing the cotton that belonged to the Confederate Government very frequently they took cotton that belonged to private individuals as well. Of course the question as to whether it belonged to the Confederate Government or not does not belong to this amendment at all, but it is a matter of historical information.

Mr. BUTLER. The gentleman from Georgia made an explanation, but I can not see why the Government should seize cotton or any other commodity in the South after the war was over.

Mr. BARTLETT. There was no reason. It was an absolute injustice to those people which the Republican Congress undertook to correct after so many years.

Mr. WATKINS. Mr. Chairman, I have in this desultory way, interrupted by these questions, undertaken to explain the purpose of the bill, and I have about covered the main features of the case. As I desire to reserve the balance of my time, if there should be any objection to the bill, which I really can not conceive, I will now give the floor to any gentleman who desires to discuss the question, reserving the balance of my time.

Mr. WILLIS. It seems to me, Mr. Chairman, that this bill ought not to be agreed to by the committee or by the House without the most careful consideration. If I understand this bill correctly as I have read it and as I have listened to the explanation by the gentleman from Louisiana [Mr. WATKINS], it provides in substance, first, that the absolutely unbroken policy of the Government since the time of the Civil War should be abandoned. Second, that the decisions of the Supreme Court that have been made in every case of this kind shall practically be reversed by legislation. Third, that approximately $5,000,000 in the Treasury of the United States shall be paid out to some one. It seems to me, Mr. Chairman, we ought not to embark upon legislation of that kind without a most careful investigation and a most complete understanding of the facts. Now, as I understand the facts, substantially every dollar of this $5,000,000, which it is alleged is a trust fund, represents the proceeds of the sale of cotton that was captured—not taken from individuals, but captured—from the Confederate Government.

Mr. BARTLETT. May I interrupt the gentleman there?

Mr. WILLIS. Certainly; I yield to the gentleman from Georgia.

Mr. BARTLETT. I do not know where the gentleman gets his information or understanding, but it is very wide of the mark, because the evidence is, and I know it to be a fact, not only not captured but taken from the farms and warehouses where it was stored, and the records of the Treasury Department will show not only it was so taken but the names and marks of the owners from whom taken.

Mr. WILLIS. Mr. Chairman, I am quite familiar with the record to which the gentleman refers, and I want to say if he desires to have the authority for the statement I have just made it is a circular, No. 4, issued by the Treasury Department January 9, 1900, that gives a very complete analysis of this whole transaction and all of these claims, and the conclusions arrived at by the Secretary of the Treasury are stated in these words, which I shall read from the circular:

> It follows, therefore, that the balance of the fund in the Treasury received from the sale of cotton represents the proceeds received from the sale of cotton that belonged to the Confederacy.

At all events the gentleman from Georgia happens to find himself in conflict with the authorities of the Treasury Department. That is the deliberate opinion of the men who have investigated the records and gone over these cases, that these $5,000,000 are not a trust fund at all, but they simply represent the proceeds from the sale of cotton that belonged to the Confederacy. Now, where these individuals come in is in another proposition. There is a series of bills here that seem to be all working together. Attention was first called to this in the eloquent remarks of the gentleman from the Tombigbee. He has a proposition which in substance undertakes to provide that when cotton was sold to the Confederacy in good faith, paid for absolutely, but left in the hands of the original vendor, that such transaction is not a sale, that the cotton is not the property of the Confederacy, but, because the property has not been delivered, the property rights reside in the original vendor, and consequently these parties are coming in and claiming individual ownership, notwithstanding the fact that they voluntarily sold the cotton to the Confederacy at the market price and received their pay for it.

Mr. CANDLER. Will the gentleman yield?

Mr. WILLIS. Yes.

Mr. CANDLER. Mr. Chairman, I do not think the gentleman from Ohio states accurately the proposition which I submitted to the House in a speech heretofore made.

The proposition involved there is this: That where the property was contracted for but never paid for at all, and left in the hands of the original vendor, that by reason of the fact it never had been paid for, he had the right when the vendee became insolvent to repossess that property and apply it to the payment of his debt, which is the old doctrine which has been well established and recognized not only by the English but American authorities, as to stoppage in transit. It never had been paid for, and, therefore, the original vendor had the right to take it and subject it to the payment of his debt.

Mr. WILLIS. I am glad to know I did not misunderstand my friend. I correctly understood him and am familiar with the contention in his bill, which I did not mean to discuss at this time. I referred to it only incidentally. However, when we come to that I wish to say that I shall disagree entirely with his proposition. The purchase by the Government of the

Confederacy in the open market and the payment for that stock of cotton either in notes of the Confederate Government or in bonds of the Confederate Government, I contend, is a sale, and that is the law of this land now as set forth in Whitfield *v.* United States (92 U. S., 165), and it is the proposition of the gentleman to change the law. That is where I shall take issue with him when the time comes.

But reverting to this question as raised, as to whether this is a trust fund, Mr. Chairman, I deny entirely the proposition that these $5,000,000 constitute a trust fund. It is not a trust fund under the decision of the Supreme Court of the United States. That brings me around to what I said in the first place, that it is the purpose of this bill, which appears to be so innocent on its surface, to reverse a well-established policy of the Government of the United States and practically by legislation to undertake to reverse at least two or three well-considered opinions of the Supreme Court. It seems to me that such procedure ought not to be had except upon the most careful investigation.

Now, let us go into this trust fund proposition a little bit. The gentleman says that this is a trust fund that really belongs to these individuals. I have already shown you that, based upon the most careful examination, the Treasury Department holds in this circular which I have read, that these $5,000,000 represent the proceeds of the sale of cotton that belonged to the Confederacy, and that, therefore, individuals have no right, claim, or title to it, and that there is no trust fund at all. But suppose that the cotton did not belong to the Confederate Government. Let us see what the court says about this trust fund. Reference is made here by the gentleman from Louisiana to the Klein case. Let us see what the court says in a later case about these matters. I am quoting here from the Haycraft case, 22 Wallace, page 92. The court said:

> The claim is that the trust in favor of the owner having then been created, the remedy for its enforcement in the Court of Claims as a contract was restored to the disloyal owner by the operation of the President's proclamation of December 25, 1868, granting unconditional pardon to all who participated in the rebellion.

According to the doctrine of Klein's case, as I understood my friend from Louisiana [Mr. WATKINS], it was upon that case that he based his argument. But here is what the court said about the Klein case in a later decision:

> According to the doctrine of Klein's case, if a suit was commenced within two years a pardoned enemy could recover as well as a loyal friend. But the commencement of the suit within the prescribed time was a condition precedent to the ultimate relief. The right of recovery was made to depend upon the employment of the remedy provided by the act.

Then the court summed it up in this striking sentence:

> Pardon and amnesty have no effect except to such as sue in time.

These parties have not sued in time. They have been guilty of laches. They have sinned away their day of grace. They had the opportunity under the act which allowed them to sue within two years of the time the war closed. They had their remedy under the act of 1872. Now it is proposed not only to change the doctrine that has been absolutely the unbroken policy, but, mark you, sir, it is proposed to amend the law so as to take away from the Government of the United States the defense as to requiring proof of loyalty by claimants which its own attorneys are making now in the cases pending in court.

Mr. GARRETT. Will the gentleman permit an interruption?

Mr. WILLIS. Certainly.

Mr. GARRETT. The gentleman speaks of changing the policy of the Government. Does the gentleman mean for us to infer from that he insists it was necessary heretofore to prove loyalty in these claims?

Mr. WILLIS. Not under the act of 1872.

Mr. GARRETT. Nor the first act, which was the act of 1863, was it not?

Mr. WILLIS. That has just been covered. Evidently the gentleman was not listening to what I read. It was not necessary, as the court said, as to those who sued in time, but as to those who did not sue in time it was necessary to prove loyalty.

Mr. GARRETT. They had no case if they did not sue in time.

Mr. WILLIS. Certainly.

Mr. GARRETT. Of course, even if they had proven loyalty they could not have recovered if they did not sue in time.

Mr. WILLIS. I understand that perfectly. The act of 1872 gave the parties their remedy. They did not need to prove loyalty under the act of 1872.

Mr. GARRETT. If they sued in time.

Mr. WILLIS. But under the new act, under section 162 of the judicial code, the officers of the Government contend that proof of loyalty is necessary. That is one of their defenses in cases actually pending, and if we enact this bill into law we are proposing to take away from the Government the defense that it now has.

Mr. GARRETT. I understand that, but I take issue with the gentleman on the proposition that this involves a change in the unbroken policy of the Government. All that this bill proposes to do is to suspend the action of a statute of limitations. It does not change any fundamental policy of the Government or differ in any respect from the decisions that have been had heretofore.

Mr. WILLIS. Not if that is all that is proposed.

Mr. GARRETT. It does that.

Mr. WILLIS. Then there would be no objection to striking out the proviso in lines 12, 13, and 14. This proviso reads as follows:

> *Provided*, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims.

But would that action meet the approval of the friends of the bill? If that is all that is in this bill, if it is simply to remove the bar of the statute of limitations, the friends of the bill ought to agree to the amendment to strike out what follows the colon in line 12:

> *Provided*, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims.

The point is right there. That is the crux of the bill—the removal of the charge of disloyalty; the defense that the Government is now making in the Court of Claims to protect this $5,000,000, which is not a trust fund, which is not the property of any individual, but which belongs to the United States.

Now I yield to the gentleman from Pennsylvania.

Mr. BURKE of Pennsylvania. The gentleman's position is that this cotton, as I understand, had been assigned by the original owners to the Confederacy?

Mr. WILLIS. Had been sold and paid for.

Mr. BURKE of Pennsylvania. And paid for either in the form of cash, notes, or bonds; that the title had passed and that it was an executed contract?

Mr. WILLIS. Absolutely.

Mr. BURKE of Pennsylvania. Assuming that that is true, this bill, as I understand it, only gives the court jurisdiction to reimburse the owners of the property. Now, let us assume that the gentleman's contention is true. The owner of the property is the Confederacy.

Mr. WILLIS. If the gentleman will allow me just there, I think I can obviate any further difficulty. To fully understand this measure you must understand also two or three other measures that are pending here. This bill is to be followed by other measures which propose to provide that that was not a bona fide sale to the Confederacy and that the cotton belonged to the original vendors.

Mr. BURKE of Pennsylvania. Of course that is not obvious on the face of this measure. It would require an enabling act after the passage of this measure, would it not?

Mr. WILLIS. Surely it would.

Mr. GARRETT. Will the gentleman from Ohio yield further?

Mr. WILLIS. Certainly.

Mr. GARRETT. Let me ask the gentleman, as a matter of merit, his opinion on this proposition: This bill provides for the taking care of that property which was taken after June 1, 1865. At that time the War of Secession was ended, was it not?

Mr. WILLIS. Practically, but not legally.

Mr. MANN. It was not legally ended then.

Mr. GARRETT. I mean practically, not legally. Now, let me ask the gentleman from Ohio this question: Does he think that it was right for the Federal Government to take the property of private individuals after the war was ended, after there was peace, and not pay for it?

Mr. SIMS. Or require loyalty to be proven?

Mr. WILLIS. I would have one very definite idea if that property were the property of individuals, and an entirely different idea if it were, as I contend it actually was, and as the authorities of the Treasury Department hold that it was, the property of the Confederate Government. If this property was the property of the Confederate Government the mere fact that it remained in the possession of the original vendor as a bailee did not give him any title to the cotton whatsoever.

Mr. GARRETT. Of course I am familiar with the contention of the gentleman in that respect, and I do not care to go into that class of cases. I do not think it is true that all of this cotton belonged to the Confederate Government. I will say to the gentleman, however, that I have no personal interest in the matter. None of these transactions occurred in my State, or very few of them.

But the gentleman has insisted here, on this question of loyalty, that it is taking away a defense that the Government now has; and I simply wanted to get at the opinion of the gen-

tleman whether the defense of loyalty ought not to be taken away where the property was not taken until after the war was ended and in a time of peace. Why should loyalty have to be proven then? I understand the general rule among nations is that the property of an enemy is the legitimate prey of an army, but after June 1, 1865, there was no enemy.

Mr. WILLIS. Of course the gentleman understands that legally the war did not close until August, 1866.

Mr. GARRETT. I am talking about the practical fact of it. There is considerable dispute as to when the war really did end legally.

Mr. WILLIS. That has been settled by the Supreme Court of the United States, that it ended on August 20, 1866.

Mr. GARRETT. I should like the opinion of the gentleman on that question: If the property was not taken until after June 1, 1865, after there was a practical state of peace, does the gentleman think it is right to require proof of loyalty?

Mr. WILLIS. I have no hesitancy in answering that question. If the Government took property which during the war would have been regarded as the property of an enemy or as contraband of war—and cotton was so regarded—if that property was taken from an individual after the war was practically ended, then I should say there was just ground for recompense; but my contention is that that is not the case that we have before us, and that is the contention of the officers of the Treasury Department.

Mr. BYRNES of South Carolina. Would it not, then, be a matter of proof for the claimant to prove in the Court of Claims whether he did have title to the property at the time it was taken from him? Is not that a proper matter of proof in the court?

Mr. WILLIS. Undoubtedly so.

Mr. BYRNES of South Carolina. Then, if the gentleman has no objection, why not report this bill favorably?

Mr. WILLIS. In reply to that let me read a letter which I have. And before I forget it, I ask unanimous consent to insert in the RECORD certain correspondence that I have had with the Department of Justice and the Treasury Department relative to these several bills—my letters to the departments and their replies.

The CHAIRMAN. If there be no objection, it will be so ordered.

There was no objection.

Mr. BUTLER. Has the gentleman the opinion of the department?

Mr. WILLIS. I have it, and I will put it in the RECORD in full.

Mr. BUTLER. Let the gentleman give it.

Mr. WILLIS. I am going to, if the gentleman will give me time. Here is what the Attorney General says:

In some of these cases under section 162 the Government has raised questions of law which have not as yet been determined by the courts. Among these is the contention—

Note that this is the contention of the Government in these cases involving this $5,000,000—

Among these is the contention that the loyalty required under the abandoned and captured property act is still in force and will affect all suits under said section 162, and that allegations of loyalty are necessary in the petition, which must be sustained by satisfactory proof.

Now, what I am saying is that when we have these cases actually pending in court, cases involving vast sums of money, approximately $5,000,000, it is unwise and undesirable, especially in view of other legislation that is contemplated here, to let somebody get into the Treasury and to take away from the Government a perfectly valid defense that it now has.

In further response to the inquiry of the gentleman from Pennsylvania [Mr. BUTLER], I desire to present here certain correspondence had with the Department of Justice:

WASHINGTON, *July 1, 1912.*

Hon. GEORGE WICKERSHAM,
Attorney General, Washington, D. C.

DEAR SIR: I desire to secure any information that may be in the possession of your department relative to the subject matter of House bill 23465, introduced by Mr. CANDLER, of Mississippi, now pending in the Judiciary Committee of the House, and House bill 16314, introduced by Mr. WATKINS, of Louisiana, and recently reported to the House from the Committee on the Revision of the Laws. These bills deal with the alleged liability of the Government of the United States to the original vendors of certain cotton, which cotton during the period of the Civil War was sold to the Government of the Confederate States and was permitted to remain in the care of the original vendors as bailees. Subsequently, under authority of United States statutes, the United States took possession of this cotton, holding that it was the property of the Government of the Confederate States. I is now proposed under these bills to make the Government of the United States liable for this cotton to the original vendors and their heirs. House bill 23465 proposes so to amend section 162 of the act to codify, revise, and amend the law relating to the judiciary, approved March 3, 1911, that, first, "that all judgments and payments under the act shall be free from claims of assignees in bankruptcy or insolvency of the original owner of said claims; second, that no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims; and, third, that judgment thereunder shall not be denied by reason of any bill of sale or other conveyance of such property to the Confederate Government in consideration of securities of said government unless accompanied or followed by actual delivery of such property.

I wish to know what the policy of the Government has been heretofore in dealing with cases of this kind and what the legal effect of the proposed legislation will be. Any information concerning the subject matter of either of these bills that may be in the possession of your department that can properly be furnished me will be appreciated.

Very respectfully,

FRANK B. WILLIS.

DEPARTMENT OF JUSTICE,
Washington, July 8, 1912.

Hon. FRANK B. WILLIS,
House of Representatives, Washington, D. C.

DEAR MR. WILLIS: I am in receipt of your favor of the 1st instant, wherein you desire information relative to so-called "cotton claims."

It is my understanding that the Treasury Department has forwarded to you certain facts and data which to a great degree make reply to the communication received by me.

The act of March 12, 1863, provided for the collection of abandoned property, etc., in insurrectionary districts within the United States and authorized the Secretary of the Treasury to appoint agents to receive and collect all abandoned or captured property in any State or Territory in insurrection, with certain exceptions. Said act contains the following provision:

"And any person claiming to have been the owner of any such abandoned or captured property may, at any time within two years after the suppression of the rebellion, prefer his claim to the proceeds thereof in the Court of Claims; and on proof to the satisfaction of said court of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds after the deduction of any purchase money which may have been paid, together with the expense of transportation and sale of said property, and any other lawful expenses attending the disposition thereof."

Under this act numerous suits were filed in the Court of Claims for property, including cotton, seized both before and after June 30, 1866, and prior to August 20, 1866. The Supreme Court, in the case of Anderson (9 Wall., 56), held that the rebellion did not terminate until the proclamation of the President of August 20, 1866. In many cases the claimants failed to establish loyalty in compliance with the terms of the act. Some of these cases which were rejected on account of failure to establish loyalty were taken to the Supreme Court, and in the cases of Padelford *v.* The United States (9 Wall., 531), Klein *v.* The United States (13 Wall., 128), and other cases that court held that in all cases where the claimant had brought himself within the terms of the act by filing his claim within the two years prescribed by the statute, the special pardon of the President, or the general amnesty proclamation operated to dispense with proof of loyalty, and judgment was thereafter rendered in favor of the claimants in that class of cases.

Many suits were filed in the Court of Claims after the expiration of the two years named in the abandoned and captured property act, by persons who made no effort to establish loyalty, but who sought to take advantage of the rule with respect to loyalty established by the Supreme Court in the above-named cases. These were all dismissed on motion of the Government for the reason that they were not filed within the jurisdictional period named in the act. Still other suits were brought under the general jurisdiction of the court, and under other acts, but both the Court of Claims and the Supreme Court denied jurisdiction in all that were not filed within the two years named in the abandoned and captured property act.

The status of such cases were fully discussed in the case of Hayecraft (22 Wall., 92). In that case the court said:

"The claim is that the trust in favor of the owner having then been created, the remedy for its enforcement in the Court of Claims as a contract was restored to the disloyal owner by the operation of the President's proclamation of December 25, 1868, granting unconditional pardon to all who participated in the rebellion. * * *

"According to the doctrine of Klein's case, if a suit was commenced within two years a pardoned enemy could recover as well as a loyal friend. But the commencement of the suit within the prescribed time was a condition precedent to the ultimate relief. The right of recovery was made to depend upon the employment of the remedy provided by the act. * * *

"Pardon and amnesty have no effect, except to such as sue in time."

The same principle was affirmed in the case of James A. Briggs (25 C. Cls., 126; 143 U. S., 351).

In that case a special act of Congress (act of June 4, 1888, ch. 348, Stat. L., 1075) was under consideration.

In the last few years quite a large number of abandoned and captured cases have been referred to the Court of Claims for findings of fact under the act of March 3, 1887, known as the Tucker Act. In the case of Brandon, administrator of Colhoun (46 C. Cls., 559), the Court of Claims decided that it had no jurisdiction of such cases under Tucker Act references.

Section 162 of the revised Judiciary Code (act of Mar. 3, 1911) revived the abandoned and captured property act as to all cases where the property was taken subsequent to June 1, 1865. A large number of suits have been filed under this act, but none of them have been brought to trial.

In some of these cases under section 162, the Government has raised questions of law, which have not as yet been determined by the court. Among these is the contention that the loyalty requirement of the abandoned and captured property act is still in force and will affect all suits under said section 162, and that allegations of loyalty are necessary in the petitions which must be sustained by satisfactory proof.

Sections 159, 160, and 161 of the new judicial code require allegation and proof of loyalty in all cases, and we shall ask the court to construe these sections in connection with said section 162.

I herewith attach to this communication a circular dated January 9, 1909, issued by the Secretary of the Treasury, and known as Department Circular No. 4. It appears from this document that the cotton, the proceeds of which amounted to nearly $5,000,000, was seized after June 30, 1865.

By section 5 of the act of May 18, 1872 (17 Stats., 134), it was provided:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the lawful owners, or their legal representatives, of all cotton seized after the 30th day of June, 1865, by the agents

of the Government unlawfully and in violation of their instructions, the net proceeds, without interest, of the sales of said cotton actually paid into the Treasury of the United States," etc.

It will be observed that this act did not require proof of loyalty. One thousand three hundred and thirty-six claims were filed under the last-named act for 136,000 bales, estimated at the value of $13,000,000 (Ex. Doc., H. R., 45th Cong., 2d sess., p. 36), and there was allowed by the Secretary of the Treasury $195,896.21 on account of these claims. Most of the claims were rejected on the ground that the cotton had been sold to the Confederate Government by the original owners, as shown by bills of sale. In the case of Whitfield *v.* The United States (92 U. S., 165), the Supreme Court held that such bills of sale passed title and no recovery could be had by the original owners for cotton so disposed of.

The object and legal effect of the bills referred to by you are to amend section 162 so as to dispense with proof of loyalty, to nullify the bills of sale to the Confederate Government, and to make judgments in this class of cases free from the claims of assignees in bankruptcy or insolvency.

The policy of enacting such legislation is a matter entirely for the consideration of Congress.

The reports from the Treasury Department in the cases that have been filed since the 1st of January under said section 162 of the new judicial code mostly show that the cotton had been sold to the Confederate Government and bills of sale given by the original owners. The reports in another class of cases show that cotton had been bought by the Confederate Government and resold or contracted for to individuals who now make claims to the proceeds thereof.

In view of the fact that section 162 of the new judicial code did not go into effect until the 1st of last January, and, furthermore, that the various questions which the Government have raised under this act have not been passed upon by the court, and, in addition to this, the fact that in no instance have the claimants' attorneys who are now seeking to recover under this section presented a case in which they are ready for trial, it would seem that before further legislation time should be given for adjudication of some cases under the recent law.

Respectfully, for the Attorney General,

JOHN Q. THOMPSON,
Assistant Attorney General.

Mr. SIMS. Will the gentleman yield for a question?

Mr. WILLIS. Yes.

Mr. SIMS. Suppose the Government had taken property from an individual in July, 1866, cotton that was planted and raised after the war. Does the gentleman think that the question of loyalty as a matter of substance should affect the ownership of that cotton, although it may have been raised by an ex-Confederate soldier after he was paroled and had gone home?

Mr. WILLIS. The fact that he was a Confederate soldier would not make any difference.

Mr. SIMS. He was just as disloyal as a man could be during the war. Now, this act confines it to June 1, 1865, a time when in fact there was no war. After that time why should there be any difference between June, 1865, and June, 1866, because the war ended legally on August 20, 1866?

Mr. WILLIS. Can the gentleman tell me any good reason why, when there have been given three several opportunities whereby relief could be had in just such cases, there should be another? First, application to the Secretary of the Treasury; second, under the proclamation the law allowed two years after the legal close of the war—that is, up to August 20, 1868—and third, there was the law of 1872. Here were three separate remedies given to the parties, and now why should we, 50 years after that, break down the statute of limitations, break down the rules that heretofore have obtained in these cases?

Mr. SIMS. The gentleman's inquiry relates wholly to the removal of the statute of limitations, but my question was as to loyalty.

Mr. WILLIS. But the gentleman from South Carolina raised the question as to the statute of limitations.

Mr. SIMS. I can not see why there should be any question of loyalty raised after 1866, unless the owner was a belligerent and still fighting and refusing to accept the issues of war.

Mr. WILLIS. Now, Mr. Chairman, I wanted to see——

Mr. BYRNES of South Carolina. I would like to answer the question that the gentleman from Ohio has just asked.

Mr. WILLIS. I hope the gentleman from South Carolina will do that in his own time, as I would like to close. I do not desire to seem discourteous, but I want to proceed. I want to go on with this first proposition, that this is not a trust fund. The Supreme Court has clearly and distinctly so stated in what I have quoted and in what I shall insert in the RECORD.

Now let me read from another case the decision of the Court of Claims in the Brandon case, decided in 1897. The court is quoting from Ford's case (19 C. Cls., 519–525):

But as was said by the court in Ford's case respecting the right even of a loyal man in insurrectionary territory "he had no shadow of lawful claim against the Government before the act of March 12, 1863, was passed; nor had he after that, except as that act gave it to him." So that in any event, whatever right such claimant had to the proceeds arising from the sale of his cotton was given to him by the abandoned and captured property act, the determination of which was contingent upon his pursuing the remedy and establishing his loyalty and ownership within the time and as in the act provided. This was the extent of the trust. (Young *v.* U. S., 97 U. S., 39, 61.)

Then it goes on to say—

As to all persons within the privileges of the act—

Not as to all persons, but as to those who sued in time.

As to all persons within the privileges of the act the proceeds were held in trust, but in all others the title of the United States as captor was absolute. Whoever could bring himself within the terms of the trust might sue the United States and recover, but no one else.

In other words, the Supreme Court has said, as clearly as the English language will permit it to state, that this fund under discussion to-day is not a trust fund at all; that the title of the Government of the United States to this fund is absolute. What I am giving to you here is not any conclusion of my own, but the conclusion of the court itself.

The same doctrine is borne out in the Sprott case, which I will not take the time to read, but simply refer you to it. It is in Twentieth Wallace, pages 460 to 462; and, Mr. Chairman, I ask permission to insert that in the RECORD.

The CHAIRMAN. If there is no objection, the request will be granted.

There was no objection.

Mr. WILLIS. The decision referred to is, in part, as follows:

The act known as the captured and abandoned property act, passed March 12, 1863 (12 Stat. L., 820), providing for "the collection of abandoned property, etc., in the insurrectionary districts within the United States," enacts that any person claiming to have been the owner of any such abandoned or captured property may, within a time specified in the act, prefer his claim to the proceeds thereof in the Court of Claims, and, on proof to the satisfaction of the court (1) of his ownership, (2) of his right to the proceeds thereof, and (3) that he has never given any aid or comfort to the rebellion, receive the residue of such proceeds, after deducting any purchase money which may have been paid, etc.

* * * * * * *

It is a fact so well known as to need no finding of the court to establish it, a fact which, like many other historical events, all courts take notice of, that cotton was the principal support of the rebellion, so far as pecuniary aid was necessary to its support. The Confederate Government early adopted the policy of collecting large quantities of cotton under its control, either by exchanging its bonds for the cotton, or, when that failed, by forced contributions. So long as the imperfect blockade of the southern ports and the unguarded condition of the Mexican frontier enabled them to export this cotton, they were well supplied in return with arms, ammunition, medicine, and the necessaries of life not grown within their lines, as well as with that other great sinew of war, gold. If the rebel government could freely have exchanged the cotton of which it was enabled to possess itself for the munitions of war or for gold, it seems very doubtful if it could have been suppressed. So when the rigor of the blockade prevented successful export of this cotton, their next resource was to sell it among their own people or to such persons claiming outwardly to be loyal to the United States as would buy of them for the money necessary to support the tottering fabric of rebellion which they called a government.

The cotton which is the subject of this controversy was of this class. It had been in the possession and under the control of the Confederate Government, with claim of title. It was captured during the last days of the existence of that government by our forces and sold by the officers appointed for that purpose, and the money deposited in the Treasury.

The claimant now asserts a right to this money on the ground that he was the owner of the cotton when it was so captured. This claim of right or ownership he must prove in the Court of Claims. He attempts to do so by showing that he purchased it of the Confederate Government and paid them for it in money. In doing this he gave aid and assistance to the rebellion in the most efficient manner he possibly could. He could not have aided that cause more acceptably if he had entered its service and become a blockade runner or, under the guise of a privateer, had preyed upon the unoffending commerce of his country. * * *

The substance of the decision is that in the first part it gives a statement of the facts as to how this thing came about, that the Confederate Government was the purchaser of cotton. You understand it purchased the cotton; it did not confiscate it. It did not go to the planter and say, "You have got to turn this over," but it went out in the open market and bought the cotton as any other buyer might, and it paid for it. It was the practice to leave the cotton in the hands of the vendor; that was not peculiar as to the Confederate Government. It was the custom of the country, as the court says in one of the decisions. That is the way it was generally done. The sale was complete, but the cotton was left in the hands of the vendor as a bailee, but the title passed entirely and completely to the Confederate Government.

The court goes on to say in substance, in the latter part of the decision, that if it shall be permitted to be held that this cotton that was actually sold in good faith, paid for in Confederate currency, notes, or bonds, which was the only money in circulation in that portion of the country at that time—if, after the Confederacy had fallen, the people who happened to have that cotton in possession should be allowed to say that the cotton was theirs, the court says that would be giving the individual an unfair advantage and allowing him a chance to profit on a contract which by all the decisions of the court was held illegal and unwarranted. That is the substance of the decision in Twentieth Wallace, at the pages to which I have referred.

There has been a good deal written about this matter. I have seen some newspaper and magazine articles, and have

heard some discussion relative to the amount of this fund. I expected to hear it stated that it was much larger than it is. I am glad to know that the gentleman from Louisiana [Mr. WATKINS] has stated it with substantial accuracy. I have read at various times that this fund which was awaiting distribution—this so-called trust fund that was held in the interest of the common people of our great Southern States—amounted to twenty-five or twenty-six millions of dollars. I shall insert in the RECORD some brief tables from this Treasury circular that are highly interesting and important in this discussion, which show the sources of this fund and how the fund has gradually been paid up until now, as has been stated by the gentleman from Louisiana [Mr. WATKINS], the sum total remaining for distribution is $4,992,349.92. The tables referred to are as follows:

Amount received and covered into the Treasury		$26,887,584.39
Deduct items found above—		
Profits on cotton purchased	$3,444,715.14	
Premium on gold	2,571,090.25	
Miscellaneous property	1,309,650.69	
Rents	613,284.96	
Sale of captured vessels, etc	1,438,526.39	
Amount paid in since May 11, 1868	1,629,652.77	
		11,006,920.20
Leaving receipts from sale of individual cotton		15,880,664.19
Amount covered into the Treasury derived from sale of individual cotton		15,880,664.19
From this amount deduct payments judgment Court of Claims under act Mar. 12, 1863, to Feb. 4, 1888	$9,864,300.75	
Judgments of court since Feb. 4, 1888, and private acts of Congress	520,700.18	
Disbursed as expenses under section 3, joint resolution, Mar. 30, 1868, and subsequent acts	242,140.34	
Judgments against Treasury agents under act of July 27, 1868	65,276.79	
Claims allowed by the Secretary under section 5, act of May 18, 1872	195,896.21	
		10,888,314.27
		4,992,349.92

The Secretary of the Treasury, after giving the argument that I have given, substantially, goes on to say:

It follows, therefore, that the balance of the fund in the Treasury received from the sale of cotton represents the proceeds of the sale of cotton that belonged to the Confederacy.

A little further along he says:

It will be seen from the foregoing that ample provision was made by law for all persons who claimed that their property was unlawfully taken.

1. Until the fund was covered into the Treasury in 1868, the Secretary of the Treasury could return the property or the proceeds in all cases where a claim was substantiated by proper evidence.

2. The Court of Claims had jurisdiction for all claims filed before August 20, 1868.

3. The act of 1872 provided that claims for cotton could be filed with the Secretary of the Treasury until November, 1872.

I commend that circular to the study of Members, if they have not already seen it. It is Treasury Circular No. 4, issued in the year 1900.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. Yes.

Mr. BUTLER. That I may understand better, I desire to ask the gentleman a question. The gentleman is anticipating that there may be a measure pressed here authorizing individuals to collect money from the Treasury of the United States for cotton which was sold to the Confederate Government. I will agree with the gentleman that such a sale, except as to creditors, there being no delivery made, is good; but will not the gentleman concede that it is only right to pay an individual for property that was seized from him and sold after the hostilities between the North and the South had ceased?

Mr. WILLIS. Mr. Chairman, I am not anticipating a bill that will be urged. I am anticipating a bill that is now on the calendar and that has been urged, and which, in my judgment, is to be passed as a companion piece to this bill, if this bill passes. But I am not talking about that. We are talking about this bill, and the contention I seek to make is that, as a matter of fact, after years of the most careful investigation of records that are extremely voluminous—and if gentlemen have not examined these records they ought to do so and must do so before they can come to a proper conclusion—the Treasury Department officials, after most laborious research in a carload of musty documents, came to the conclusion that the funds they now have are the proceeds of the sale of cotton that belonged to the Confederacy. In other words, shorn of its verbiage, my contention is that this fund does not belong to any individuals at all.

Mr. BUTLER. Then this bill would not enable the owners of the cotton to make any claim if it belongs to the Confederacy. There is no such thing as the Confederacy at the present time, and no claim can be set up by it. Is not that the result?

Mr. WILLIS. Precisely the result, as I have stated.

Mr. GARRETT. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. Certainly.

Mr. GARRETT. The question propounded by the gentleman from Pennsylvania [Mr. BUTLER] was really the question that I was about to propound. As a matter of fact, under the terms of this bill there can not be any payment if it belonged to the Confederate Government. The gentleman is not insisting upon that, is he?

Mr. WILLIS. Certainly not. I have been unfortunate in the use of terms if I have not made it clear that I am trying to discuss this general cotton proposition as evidenced by this bill and other related measures.

Mr. GARRETT. But I feared that some gentleman who might be friendly to this bill might get an erroneous impression from the fact that the gentleman is arguing another bill.

Mr. WILLIS. I am talking about this bill and about another bill of a good deal of importance that is pending here. As a matter of fact, if the statement which I believe the gentleman from Tennessee [Mr. GARRETT] made about the bill awhile ago be true, that it simply removes the bar of the statute of limitations, then we can strike out this provision as to the requirement of proof of loyalty. We can strike out lines 12, 13, and 14, and then there will be no objection to it. I do not think anybody would object to the bill then, but the gentleman from Tennessee will not be able to get the friends of this bill to agree to that. It is not the limitation proposition, but it is the loyalty proposition that is of importance.

Mr. GARRETT. Mr. Chairman, I will say to the gentleman that I would not be willing myself to agree to that, because I do not believe where the property was taken after the war was ended that there ought to be any proof of loyalty.

Mr. BUTLER. How could there be any disloyalty after the war was over?

Mr. WILLIS. Mr. Chairman, I now yield to the other gentleman from Tennessee [Mr. MCKELLAR].

Mr. MCKELLAR. Mr. Chairman, as I understand the gentleman, he concedes that there is about $4,000,000 left, arising from the sale of this cotton. Is that correct?

Mr. WILLIS. About $4,900,000.

Mr. MCKELLAR. Then this bill simply provides the individuals who owned the cotton subsequent to June 1, 1865, shall have the right to come forward to the Court of Claims and put forth their claim to it?

Mr. WILLIS. Without proof of loyalty.

Mr. MCKELLAR. Without proof of loyalty. The war was then over, and if these men had the ownership and can prove the ownership to the property and the proceeds of that property are still in the Treasury, as the gentleman admits, why should the United States Government not permit the real owners of the property to come forward and make proof to their ownership and right?

Mr. WILLIS. If the gentleman asks me for my humble opinion——

Mr. MCKELLAR. I do.

Mr. WILLIS. My contention is that the real owner of that cotton is no longer in existence. That is, I mean to say, the vendee of the cotton—the Confederate Government—was the owner of the cotton, and, of course, with the close of the war, the Confederacy passed out of existence. Therefore the Supreme Court said (Young v. United States, 97 U. S., 39, 61) in the case which I read in the gentleman's presence, the title is absolutely in the United States. That is my contention, if the gentleman is interested in my very humble view of the matter.

Mr. SIMS. If the gentleman will permit, this bill does not provide for paying the Confederate Government anything or any assignee of the Confederate Government.

Mr. WILLIS. If I see a snake is crawling along through a rail fence, I will whack at it then whether it be passing at this, that, or the other corner. I do not mean, of course, any offense by the illustration.

Mr. SIMS. Some people imagine they see snakes. [Laughter.]

Mr. WILLIS. I accept the pleasantry of the gentleman; "Out of the fullness of the heart the mouth speaketh," and I have no doubt the gentleman, from his wide experience, refers to the matter in that way. What I am getting at is this: I am referring to this general proposition. I think this is only one of a series of bills which it is proposed to pass in order somehow to enable somebody to get $5,000,000 out of the Treasury that belongs properly to the United States. But let me proceed a little further with this specific bill. I have tried to

state the facts involved in this case and in similar cases. In the second place, what is the law and what has been the history of the law? We first had the act of March 12, 1863, to which reference has been made, the captured and abandoned property act. Then that was followed up by the act of May 8, 1872, under which proof of loyalty was not required. As I said a little bit ago, out of order in my argument, there have been three separate and distinct remedies that have been afforded to these people. If there are any individuals who actually own this cotton, the law has already provided three separate and distinct periods and three separate means whereby they could get relief. Mr. Secretary Sherman, Secretary of the Treasury, in his annual message of 1877–78, in discussing these very cases spoke of the operation of the act of 1872, under which $194,000 was paid. Under the operation of that act 1,189 claims were rejected and 49 claims were allowed. Then he goes on to say here, in substance:

That it is desirable there should be somewhere, some time, somehow an end to this period of litigation. We have already had three separate and distinct remedies and three distinct periods in which these aggrieved persons could have been relieved.

And yet gentlemen come in here more than a generation after and say we must open this thing all up again and take away the defense by the Government which has been heretofore allowed.

Mr. MCKELLAR. I want to ask the gentleman this question: The gentleman speaks of this cotton being actually the property of the Confederacy. Under this bill does not the gentleman concede that the claimant has to make proof of ownership to the satisfaction of the Court of Claims before he can sustain his claim against the Federal Government?

Mr. WILLIS. Certainly.

Mr. MCKELLAR. Then why should not he have that right?

Mr. WILLIS. I have tried to make it clear. This bill may not amount to so much, but I conceive the whole proposition here is involved in the various measures that are reported out in order to allow certain persons to get hold of this $5,000,000 that does not belong to anybody except the United States, and they will not be allowed to get it if I can help it.

Mr. BURKE of Pennsylvania. Will the gentleman yield for just one question?

Mr. WILLIS. Certainly.

Mr. BURKE of Pennsylvania. I would like more definitely to see the issue joined here. What are these bills? Will the gentleman name one of them or give some indication by which the Members can ascertain what bill is proposed to be tacked onto this legislation in the event of this enactment?

Mr. WILLIS. I think it would be hardly profitable to go into that discussion.

Mr. BURKE of Pennsylvania. It is a contingency which may arise.

Mr. WILLIS. I can give the gentleman the number of some of the bills that I can commend to him for his careful consideration. There is the present bill, H. R. 16314, and H. R. 16820, and a bill, the number of which I have just now forgotten, but which was elaborately and eloquently discussed by the gentleman from Mississippi [Mr. CANDLER], the able Representative from the Tombigbee district.

Mr. BURKE of Pennsylvania. House bill 16820 was evidently introduced subsequent to this bill?

Mr. WILLIS. I am not alleging any conspiracy or anything of that kind. I am not going into that.

Mr. BURKE of Pennsylvania. Has the bill H. R. 16820 been reported to the House?

Mr. WILLIS. I am not clear about that. My recollection is that it has been reported, however.

Mr. MANN. It is on the calendar.

Mr. WILLIS. I think it is on the calendar.

Mr. BURKE of Pennsylvania. That confirms the gentleman's argument.

Mr. WILLIS. If the House passes this bill that bill will be called up. It is apparently a perfect system. To one is assigned the cry of "Onset" and another the "Charge." The object is to get away with the $5,000,000. That is what we are opposing.

Now, in this Brandon case, to which I have referred, and which I commend to the gentlemen for careful consideration, the court gives this splendid summary on page 8:

Of the proceeds remaining in the Treasury amounting to $4,886,671 from cotton seized after June 30, 1865, the Secretary of the Treasury allowed, under the act of May 18, 1872, section 5 (17 Stat. L., 122, 134), $195,896.21, leaving $4,690,774.79, which the Secretary refused to return because the owners, he held, had sold the cotton to the Confederate Government, and the same was not, therefore, individual cotton when seized after June 30, 1865, but was the property of the Confederate Government.

Now, this whole proposition has been gone into by preceding Congresses. Reference is made here by the court to Senate Document No. 23, Forty-third Congress, second session, and to House executive document, Forty-fifth Congress. They quote that as authority. Let me read that again. It is as follows:

And the same was not therefore individual cotton when seized after June 30, 1865, but was the property of the Confederate Government.

You have not only the opinion of the Executive Department, that of the Secretary of the Treasury, the present Secretary of the Treasury, as well as past Secretaries of the Treasury. I have here the report of Mr. Secretary Sherman in 1877 and 1878. The Executive Department has decided time and again against the proposition involved in this bill. The legislative department has gone on record in the same way, and I have already quoted to you at great length the decisions of the Supreme Court of the United States, which it is proposed shall be overturned by this apparently harmless little bill. I do not believe the committee or the House or the country want to enter upon a scheme of legislation the ultimate result of which will be the payment of $5,000,000, which is the property of the United States, to somebody, the good Lord only knows who it will be.

Now, there are two or three other cases. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. Fifteen minutes.

Mr. WILLIS. There are two or three other cases I shall refer to only in passing. I have already referred to the Haycraft case and read a portion of it. Another is the Sprott case, which I referred to very briefly. The only difference between that case and the other case is that in this case the Confederate Government had sold the cotton to an individual. The Supreme Court held in a later case that it made no difference as to the nature of the transaction whether the Confederate Government bought the cotton of an individual or sold it to an individual, and that the nature of the transaction, so far as its legality was concerned, was exactly the same.

I do not believe, Mr. Chairman, that the House under the guise of passing a seemingly innocent sort of a bill to carry into effect what is alleged to be the existing intention of the law, desires to enter upon a policy which in reality, as I have said before, proposes, first, to fly in the face of the facts; second, to reverse the legislative department of the Government that has already made careful investigation of this subject and has expressed its opinion in positive law no later than the time of the passage of the judicial code.

I have read to you a portion of the letter from the Attorney General, all of which letter I shall insert in the RECORD by permission of the committee. In that letter it is said that the Department of Justice insists as one of the defenses in the case now pending in court that loyalty must be proved. That is one of the defenses. In the face, then, not only of legislative decisions, but also in the face of the contention of the appropriate executive department that under the law, as the Congress passed it only just recently, it still is the rule of law that loyalty must be proved; in view of the fact that the Attorney General's Department, whenever it has gone into this matter, has taken a position exactly opposed to this proposed legislation; in view of the fact that every time the matter has been before the Supreme Court of the United States that tribunal has taken the contrary view to that proposed by this legislation; in view of the fact that in the passage of this apparently innocent and harmless measure it is proposed to change the policy of the Government and actually to interfere with the trial of cases now pending in the Court of Claims; in view of the fact that this legislation proposes to lead into one of two ways—either that it proposes to lead nobody knows whither or else to the Treasury of the United States, and proposes to give away to somebody $5,000,000, which, according to the decision of the Supreme Court in the Young case, absolutely belongs to the Federal Government—I say, in view of the magnitude of the sum and the importance of the principle involved, this bill ought not to pass. [Applause.]

I desire to add here a communication recently received from the Secretary of the Treasury in response to an inquiry addressed to him by me relative to H. R. 16314 and H. R. 23465:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, July 9, 1912.

HON. FRANK B. WILLIS,
House of Representatives.

SIR: I have the honor to acknowledge the receipt of your communication of the 1st instant, requesting such information as may be in the possession of this department relative to the subject matter of H. R. 23465 and H. R. 16314, pending in the present Congress.

The bills have a direct bearing upon the so-called cotton claims, which, by section 162 of the judicial code, approved March 3, 1911 (36 Stat., 1139), were referred to the Court of Claims for adjudication, jurisdiction being conferred to hear and determine the claims of persons from whom property was taken subsequent to June 1, 1865, under the provisions of the captured and abandoned property act of March 12, 1863 (12 Stat., 820), and acts amendatory thereof.

In reply I have to advise you that the enactment of the proposed legislation would effect the following changes in respect to the hearing and determination of the claims:

1. Requiring the filing of all such claims prior to January 1, 1915, no limit of time being prescribed by existing law.

2. Eliminating proof of loyalty as a jurisdictional fact in the adjudication of such claims.

3. Declaring that judgment shall not be denied a claimant because of any bill of sale or other conveyance of such property to the Confederate States Government, unless accompanied or followed by actual delivery of such property.

4. Restricting payments under judgments in such cases to the personal representatives of the original claimants.

It is proposed to limit the time for filing such claims to January 1, 1915, thus giving claimants three years' time in which to file their claims, the period running from January 1, 1912, when the judicial code became effective.

This period is one year longer than was allowed for filing claims under the captured and abandoned property act of March 12, 1863, and while the matter is entirely in the discretion of the Congress it is suggested that delay in the adjudication of the cases may be caused if the court shall find that moneys derived from sales of intermingled cotton coming from a particular locality can not be traced to individual lots, and if it can not be shown that all claimants upon the fund are before the court, judgments may be suspended to await the expiration of the time for filing claims in order that all persons whose cotton contributed to the fund may receive their pro rata share of the proceeds thereof.

In the matter of the bills of sale for cotton sold to the Confederate States it is disclosed by the Confederate records that the sales were voluntary and that the Confederate Government purchased in competition with private parties, paying approximately the same price per pound for the cotton and making payment in the same kind of money or securities.

The seller of cotton to the Confederate States received as consideration for his property identically the same consideration as though he had sold to a private buyer, and the records show instances wherein the same person at or about the same time sold some of his cotton to the Confederate States and the remainder to private purchasers.

The sales to the Confederate Government were made by two classes of persons, namely, producers selling direct to the Confederate States and merchants or factors selling to the Confederate States cotton which had been purchased at private sale.

The bills of sale given by the seller for either a sale to a private dealer or to the Confederate States were substantially in the same terms and similarly conditioned. In either case the cotton was to remain in store on the plantation of the seller until called for. Actual possession of the cotton was not necessary. It was the custom of the country in making sales of cotton to transfer the planter's certificate as if negotiable, and this was the usual and generally the only mode of delivery required.

Many of the agents of the Confederate States making purchases of cotton for the Confederate Government were also buying cotton in the same localities on private account. Charles Baskerville, a Confederate cotton agent, was of this number, and subsequently, through the firm of Baskerville & Whitfield, of which he was a member, sold upward of 2,000 bales of cotton to the Confederate States, which he purchased at private sale from Mississippi planters. Baskerville paid for cotton purchased by him at private sale in the same kind of funds that he used in paying for the cotton bought for the Confederate Government.

The cotton so purchased at private sale and subsequently sold by Baskerville & Whitfield to the Confederate Government remained on the plantations of the planters, and was there when collected by the United States Treasury agents as property of the Confederate States surrendered to the United States.

The legal representative of the surviving partner of Baskerville & Whitfield has filed claims for this cotton in the Court of Claims, under section 162 of the judicial code, and similar claims for the same cotton have been filed by the legal representatives of the planters from whom Baskerville & Whitfield purchased it at private sale.

Many dealers other than Baskerville & Whitfield purchased from the planters at private sale and subsequently sold the same cotton to the Confederate States, and their claims have been filed with the court, the same cotton being also claimed in court by the legal representatives of the planters who produced it.

Of the 30,000 bales of cotton collected in the four Mississippi counties of Lowndes, Monroe, Noxubee, and Oktibbeha, approximately one-fifth was sold to the Confederate States by cotton merchants or other persons who purchased it from the planters at private sale.

Under the terms of the proposed amendment of section 162 of the Judicial Code (H. R. 23465), nullifying bills of sale of cotton sold to the Confederate States, it would appear that judgment would be given to the legal representative of the surviving partner of Baskerville and Whitfield and not to the legal representatives of the planters who retained possession of the cotton, though the bills of sale from the planters to Baskerville and Whitfield rest upon the same consideration as the bills of sale from Baskerville and Whitfield to the Confederate States.

The Confederate records further show that the cotton so purchased was regularly inspected by Confederate States cotton agents and its condition reported upon, of which record was made from time to time. Such records show sales of cotton to procure funds for supplies for the Confederate army as well as the removal of cotton to prevent its capture by the Federal military forces.

In some instances the Union and Confederate military commanders of a district authorized sales of Confederate States cotton to persons holding purchasing permits issued under section 8 of the act of July 2, 1864 (13 Stat., 377), but the cotton was not removed from the plantations until after the surrender of the Confederate military forces.

Claims arising under such purchasing permits were paid from the Treasury out of the proceeds of the cotton taken and sold. Claimants for this cotton are also before the Court of Claims under section 162 of the Judicial Code, and if the bills of sale to the Confederate States are nullified by the enactment into law of H. R. 23465, a question may arise whether the judgment to be given shall be for the whole sum which reached the Treasury or only for the balance remaining.

The changes in section 162 of the Judicial Code proposed by H. R. 16314 and H. R. 23465 are apparently matters of public policy to be determined by Congress in the exercise of its discretion.

In this connection attention is called to H. R. 16820, "A bill to revive the right of action under the captured and abandoned property acts, and for other purposes," favorably reported from the Committee on War Claims.

This bill contemplates the filing in the Court of Claims of all claims not previously filed and the reinstatement on the docket of the court of all cases dismissed for the causes stated in the bill.

Under the original jurisdiction conferred upon the Court of Claims by the captured and abandoned property acts 1,578 claims cases were filed in that court, the aggregate amount claimed being $77,785,962.10, as stated in Court of Claims Report, volume 18, page 703.

There is inclosed for your information a copy of Treasury Department Circular No. 4 of January 9, 1900, containing a statement of transactions under the captured and abandoned property acts, showing the gross receipts, sources from which derived, payments therefrom, and the balance remaining in the Treasury of approximately $5,000,000.

Should H. R. 23465 become a law it is probable that the whole of that sum would be required to be paid in carrying out its provisions.

It is understood that the Attorney General has lately communicated with you in reply to a similar inquiry upon this subject.

Respectfully,

FRANKLIN MACVEAGH, *Secretary.*

Mr. SISSON. Mr. Chairman, I shall not attempt to answer all of the speech of the gentleman [Mr. WILLIS] who has just taken his seat, because a great deal that he has said is not applicable to this bill at all. A great deal of misconception could be obtained, however, from listening to that speech, because one would imagine from hearing it that all the money in the Treasury is involved in this bill. That is not the case at all. My recollection is that this bill will carry, if passed, not over from $900,000 to $1,000,000.

Now, the entire amount of cotton, the net proceeds of the sale of which were paid into the Treasury, aggregated, according to my recollection, something like $10,000,000. A great deal of this cotton, under the acts referred to by the gentleman as having been enacted in past years, was recovered by citizens of the South who could prove loyalty to the Federal Government. My recollection is that something like $5,000,000 was paid out on that account between the close of the Civil War and the present time as the result of suits filed by people who were able to prove loyalty to the Federal Government. All of the proceeds of this other cotton, except that which is specifically covered by this bill, can not possibly be reached under this legislation.

I think it necessary that the Members of the House should thoroughly understand the situation. I am sure that there is not a Member of this House on either side who does not desire the Federal Government to be just and fair to its citizens. I agree with the position taken by any Member of this House who is unwilling that the cotton that has been properly taken from the Confederate Government should be paid for, because that cotton became absolutely the property of the Federal Government. That question is not involved in this bill, nor is the question of the payment of $3,000,000, as I recollect, of the proceeds of that cotton which belonged properly to the Confederate Government. This bill will carry only, as I recollect, something like a million dollars.

Now, if you will go down to the Treasury Department you will find that the names of the parties to whom this cotton belonged are on the books of the Treasury Department, and if those people who could prove loyalty got their money because they could prove loyalty their claims are identical with the claims of those people who have the money in the Treasury but who are unable to prove loyalty.

When the Committee on the Revision of the Laws proceeded to act upon the report of the commission codifying the law in the last Congress it took under consideration this section 162. That committee was presided over by the distinguished attorney from Philadelphia, Mr. MOON, who was also on the joint commission from the House and the Senate to revise the statute laws of the United States, as were also the gentleman from Kentucky [Mr. SHERLEY] and the gentleman from Tennessee [Mr. HOUSTON]. If you will turn to section 159 of the code, you will find that the right of recovery is there given, and from that section was removed the statute of limitations which ran against these claims for cotton the proceeds of which were actually turned into the Treasury, that cotton having been taken from a private citizen who had never parted with his title to it to the Confederate Government. In addition to removing the statute of limitations there was a clause in that section in reference to loyalty. Section 159 gives the citizen the right of recovery. But there was another section which the committee entirely overlooked. The gentleman from Tennessee [Mr. HOUSTON] will bear testimony to this fact. The other members of the committee and the members of the Senate committee who were interested in it thought that they had removed not only the statute of limitations as to these claims, but they thought that they had removed the requirement of loyalty as to these specific claims for cotton; but when the clerks made up the

code, or, rather, assembled the sections, it was discovered that in section 161, which has solely to do with procedure and with the right of a man to go into court, it was provided that the claimant must in his petition to the Court of Claims allege his loyalty in order to get into court to assert the right which is given him in section 159. If this fact had been discovered while the bill was under consideration, it would have been remedied.

Mr. BURKE of Pennsylvania. As I understand the gentleman's contention, it is that there is at the utmost $1,000,000 involved in this legislation.

Mr. SISSON. I am stating that as my recollection from a report which I saw which included the names of the parties who could recover if this law should be enacted.

Mr. BURKE of Pennsylvania. That conclusion is predicated upon some action either of the court or of the Treasury officials.

Mr. SISSON. Well——

Mr. BURKE of Pennsylvania. Did that action turn upon the proof of loyalty alone?

Mr. SISSON. Yes.

Mr. BURKE of Pennsylvania. Then there is an official record showing that there is $1,000,000 which would be paid to these claimants if it were not for the fact that they were compelled, as the gentleman says unnecessarily and unjustly, to prove their loyalty.

Mr. SISSON. Yes.

Mr. BURKE of Pennsylvania. And that is the purpose sought to be accomplished by this bill.

Mr. SISSON. That is the sole purpose of this bill.

Mr. BURKE of Pennsylvania. Is the gentleman familiar with the so-called Byrnes bill (H. R. 16820), subsequently reported from the Committee on War Claims?

Mr. SISSON. I am not familiar with that, nor do I know how much money will be covered by that bill. If I recollect it aright, I think that covers a period broader than the one covered in this bill.

Mr. SIMS. Yes; it does; to that extent.

Mr. SISSON. It does to that extent.

Mr. BURKE of Pennsylvania. That to my mind is a very important question to be decided by the gentlemen who are advocating the passage of this bill, and I would like to vote in the light of the fact that the statement is made by the gentleman from Ohio [Mr. WILLIS] that this bill in itself may be innocent enough, but coupled with subsequent legislation reported from the Committee on War Claims it would be a vicious enactment.

Mr. SISSON. Well——

Mr. BURKE of Pennsylvania. Is it the intention to follow this bill with the bill subsequently reported from the Committee on War Claims, and, if so, in what way does that bill (H. R. 16820) enlarge upon the provisions of the bill now under discussion?

Mr. SISSON. I will state to the gentleman from Pennsylvania that I am not in any sense of the word sponsor for the Byrnes bill, nor am I the sponsor for any other bill in reference to these matters, because I take this position, that where cotton was sold by a citizen—as it was sold by members of my own family—and Confederate money was paid for it, or receipts which were made money by the Confederate Government were issued for that cotton, if after the Civil War was over they turned over to the Federal Government the cotton which they had produced during the Civil War, for which they had taken either Confederate money or receipts of the kind which I have described, I do not believe they have a right now to come and ask the Federal Government to repay them for property which went into the Confederate treasury for the purpose of enabling them to win the cause for which they were fighting. I take that broad ground.

Mr. BURKE of Pennsylvania. Is there any litigation in any court which would in itself be evidence of the fact that this title is really in dispute as to the $1,000,000 spoken of?

Mr. SISSON. I do not believe there could be a question about that. Now, the gentleman from Pennsylvania does not live in a cotton country. Cotton is put up in what they call bales. A bale of cotton has its gin number, and each bale of cotton has the initials of the party upon the cotton. Now, before a man could recover he would be compelled under this bill to prove his specific ownership to that specific bale of cotton, the proceeds of which went into the Treasury. He will be compelled to prove that before he would have any status in the Court of Claims.

It might be contended that a man might go into the court and swear falsely that he did not sell the cotton to the Federal Government, and the records of the Treasury Department might show that the proceeds of that particular cotton were taken, and the records would show that he sold it to the Government. My judgment is that in that sort of a case the record in the Treasury Department would be conclusive against him, for I do not believe he would be permitted to deny what the record showed as to that cotton.

Mr. BURKE of Pennsylvania. Has that question as to the title been adjudicated; that is, whether it belongs to the individual or the Confederacy? The gentleman from Ohio [Mr. WILLIS] claims that it belongs to the Confederacy.

Mr. SISSON. I do not think the gentleman from Ohio contended that any cotton under this bill, the title of which was in the Confederate Government, could be obtained.

Mr. BURKE of Pennsylvania. Then I misunderstood him. I agree with the gentleman from Mississippi in his contention from a legal standpoint and take issue with the gentleman from Ohio if that is the fact. What I want to ask the gentleman is whether or not this title to a million dollars' worth of cotton has been adjudicated by anybody.

Mr. SISSON. It has not.

Mr. BURKE of Pennsylvania. I mean as to whether it belongs to the Confederate Government or to the individual.

Mr. SISSON. It has not by any court that I know of.

Mr. BURKE of Pennsylvania. The assumption or statement of the gentleman is that the only question at issue is the question of the party's loyalty.

Mr. SISSON. That is all.

Mr. BURKE of Pennsylvania. But there must be another question, and that is the question of title.

Mr. SISSON. And his right to go into court is barred by the question of loyalty. Now, the gentleman from Ohio argued a moment ago that these parties having these claims had been given three separate opportunities to assert their claims. This is hardly fair, because these claims intended to be covered by this bill have never been given a chance. The thing that has kept all who were loyal to the Confederate Government, even though a widow who had no relative in the Army, from recovering is the test of loyalty, and if she was even in sympathy with the Confederate Government this test would compel her to commit perjury or she had no standing in court, and never has had under any of the acts referred to by the gentleman from Ohio. Now, to answer the question of the gentleman from Pennsylvania as to the proof as to who was entitled to this cotton in controversy in this bill it would only be necessary to go down to the Treasury Department and find, for example, that certain cotton was taken from T. U. SISSON, of such number and weight, and the net proceeds turned into the Treasury. If the cotton was turned into the Treasury by the officer who took it as cotton, which did not show on it marks that it had been sold to the Confederate Government and had no receipt of any kind attached to it, I could go into the Court of Claims if I had been living at that time and recover, if this bill passes.

Mr. BURKE of Pennsylvania. The manner of confiscation is a matter of record.

Mr. SISSON. Absolutely.

Mr. BURKE of Pennsylvania. Has that record been officially interpreted by any Treasury authority?

Mr. SISSON. I will say frankly that it never has as far as I know, because we have never been able to get up to the point on account of the bar of loyalty which has kept us away from the courts that could adjudicate the question.

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. SISSON. Certainly.

Mr. WILLIS. I am interested in the gentleman's generous and fair statement that if he was a citizen of Mississippi and had sold his cotton to the Confederate Government, and it had gone into the general property of the Confederate Government, and had been used in the war, that he would not contend that he as a citizen would have any claim against the Federal Government.

Mr. SISSON. I do not think I would.

Mr. WILLIS. I think that statement is fair. But what I want to ask of the gentleman, who is an exceptionally good lawyer, is, Would it, in his judgment, have made any difference if the Confederate Government had bought that cotton absolutely, a bill of sale had been made out, and the price had been paid to him by the Confederate Government in the currency that was the only kind in circulation in that portion of the country at that time, the cotton having been left in the gentleman's possession as bailee, would he then say that he had any claim against the Federal Government?

Mr. SISSON. I do not think I would have.

Mr. WILLIS. Then the gentleman disagrees with his colleague.

Mr. SISSON. I understand that, and I dislike very much to do so, but I am not governed by any desire of mine as to what

I would like to have the law to be if I should happen to have a claim in court, in stating my opinion of what the law is. I think that prior to the time the cotton got out of his reach, prior to the time the cotton got away from him, he then could have gone into court and subjected the cotton to his claim, if he had never received anything of value for it; but since he failed to do that I do not believe that under the law of the case, so far as my little learning of the law goes, he would have any legal status in any court in England or in America.

Mr. SIMS. Mr. Chairman, will the gentleman yield?

Mr. SISSON. Certainly.

Mr. SIMS. The burden of proof would be wholly upon the person asserting the claim to show his title to it.

Mr. SISSON. Yes.

Mr. SIMS. And if the Confederate Government took it in any way, or had purchased it, or the claimant had parted with his title, how could he have any standing under this bill?

Mr. SISSON. Mr. Chairman, I take it that these gentlemen here are lawyers, and I shall not be like Judge Becket when once before the Supreme Court of the State of Mississippi. On one occasion he argued at considerable length some perfectly elementary principles of law. Among them was one which he stated in about this way: "The court will understand that the burden of proof is upon the plaintiff; that that is the general rule in law." He continued to thus discuss elementary principles of law in that way. Finally the chief justice, Judge Woods, became impatient and said: "Judge Becket, why do you not get down to the facts and the law in your case and cease discussing elementary principles of law? Why not presume that the court knows a little law?" Judge Becket then, with a little laugh, said: "Ah, your honor, I did that in the lower court and lost my case." [Laughter.] I shall presume, I will say to my distinguished friend from Tennessee, that the Members of the House understand that elementary principle of law.

Mr. SIMS. From the conclusions they draw from this bill, I did not know.

Mr. SISSON. As I understand the argument of the gentleman from Ohio [Mr. WILLIS], it is not so much to this bill that he directs it as to the legislation that he fears might follow in the wake of it. This matter was thrashed out very thoroughly by the subcommittee, of which Judge MOON was the chairman, and then was reported back to the Committee on the Revision of the Laws. These statutes, as Judge MOON stated, were scattered through about 17 large volumes, and to get them together and place them side by side, making it a harmonious whole, was a herculean task, and no men but patient lawyers like Judge MOON and Judge HOUSTON and Judge SHERLEY and all of the other judges who were on that committee would have gone through with the task as well as they did.

It was the love of the law that impelled them to hunt it up. In this particular instance they failed to amend this section, which goes entirely to the proceeding, to the affidavit which is required to be made. That learned committee gave to the claimant the right, by removing the statute of limitations and by removing the clause in reference to loyalty, section 159, to recover. Prior to that time, even after he got into court, he would have to establish his loyalty, but there was another section that had to do wholly with the question of procedure. The affidavit—the proof of loyalty of the claimant was a jurisdictional question—had to affirmatively show upon its face before he could get into court that he was loyal, and the court then could require him to establish to its satisfaction, in addition to this, his loyalty.

I presume that there is not a man from any section of the country who does not want the United States Government to pay all just, legitimate, and fair demands of the citizens against the Government. I believe I have made some little record here in Congress, if for nothing else, upon the question of conserving as far as I can the Treasury of the United States. I have not voted for bills which I thought were extravagant. Sometimes I have been rather held up and forced to do it, but there never has been and never will be a case where the Federal Government owes a citizen an honest debt, an honest obligation, that I would not be willing to pay the last dollar in the Treasury to settle it. In addition to that, before I would have the Government's paper dishonored I would mortgage posterity. I would take care of the honor, the honesty, and integrity of the Federal Government at all hazards, so that when the citizen has the obligation of his Government in the form of a Treasury note, a gold certificate, or any other piece of paper he may rest assured that the paper is good. In this particular case it is contended that the citizens of the South were disloyal to the Federal Government in the assertion of what they believed to be their rights, but the time has now come in the history of this great Republic when this next year in the great State of Pennsylvania we are to have a reunion of these two sections, and damned be he who would say one word that would cause the Union not to be complete, not to be perfect. [Applause.]

In this particular class of cases the citizen had been permitted to lay down his arms and go back home, and much of this cotton was absolutely gathered during the fall of 1865 and some of this cotton was absolutely produced in 1866; and even then, when the officer of the Federal Government went there for the purpose of collecting the property of the Federal Government, they would frequently get the property of a citizen who would make an affidavit before the proper officer of the Army, who stated to him "If you can prove that this cotton is yours and does not belong to the Confederate Government, you will get your money; and rather than resist an Army officer when he had no right to go into court and in the prostrate condition they were in then they permitted their cotton to be taken, and a great deal of this cotton never found its way into the Treasury; but there were many honest Army officers there who would take the affidavit and the proof of the citizen, and when the proceeds of the cotton was received after it was sold in New Orleans, or Yazoo City, or some other cotton market, after taking the expenses of handling, hauling, and selling it, these honest Army officers would turn into the Treasury this money as the property of the citizen; and no proof to the contrary has even been shown; but when they came to court for the purpose of establishing these claims they were met at the door of the temple of justice with this clause in each of these bills saying to the citizen, "You have no standing in court because you have been disloyal." The only thing I ask this House to do is to remove that one clause in reference to these claims where the cotton honestly belonged to the citizen who produced it and never parted with his title to the Confederate Government. It is his of right.

Why, the English people in the Boer War never required that sort of affidavit of the citizen with a claim against the English Government. Our own Government did not require it of the Mexican in the Mexican War. No civilized government demands that when its citizen's property has been taken. When the private property of the citizen has been taken all civilized governments of the world have paid the citizen for his property. I am not asking you to pay one penny to the South for Confederate cotton; I am not asking one penny for the cotton that was sold to the Confederate Government; I am not asking that this Government should respond to these sort of claims, but I am asking in common justice that those people who produced and gathered this cotton and who can establish to the satisfaction of the court that this cotton was never sold, directly or indirectly, to the Confederate Government, even at this late date be permitted to make their claim. It is never too late for either a man or for a nation to do justice to a people, and I love a government as well as a man who at a late date will pay his honest obligations although he might have the right to plead the statute of limitation.

Mr. BUTLER. Will the gentleman yield?

Mr. SISSON. Yes.

Mr. BUTLER. There is a provision in this bill to which the gentleman from Ohio [Mr. WILLIS] referred, the object of which is to avoid the question of loyalty to the United States Government.

Mr. SISSON. That is the only thing that is amended, too.

Mr. BUTLER. Now, the question of whether or not the claimant was loyal from June 1, 1865, is not, of course, involved in this measure. Was he loyal after June, 1865, up to the time the war was declared to be ended in August, 1866?

Mr. SISSON. Now, let me say to the gentleman, he raises a question about which the courts are very much at a difference. There are several decisions of the courts, and I have had opportunity to investigate these matters; but as a matter of fact Mr. Lincoln in the proposition which was made to the Southern States gave to the world the condition that when the Confederate States abolished slavery by law and assumed their former relations with the Union, that then the war would be over. That happened in June, 1865, after Mr. Lincoln had been assassinated.

Now, so far as certain acts on the part of the Federal Government are concerned in reference to the disbanding of its Army, in reference to getting all of these people back into peaceful pursuits, there were many questions which arose which made it necessary for the Federal Government and made it necessary for the Congress to say that these armies were still organized and that the military government was still in existence. As a fact, to convince any man that both Houses of Congress felt that the war was indeed over in 1865, in December, 1864, Mr. Lincoln proposed in a message to the Congress that in order that the southern people might understand the terms upon which this bloody war should cease it would be necessary for them to abolish slavery by law and to make his emancipation proclamation the law of the land and resume their peaceful relations to the Union.

What happened? The thirteenth amendment, which abolishes slavery, passed the House of Representatives in February, 1865, and the following December of that year every State in the Union had ratified that amendment, and the Congress which met put it in the Constitution of the United States, and every Southern State ratified it as well, and both Houses received that ratification which they had submitted to the Southern States. So I presume that that unquestionably, so far as this body is concerned, settled that controversy as to when the war absolutely ended.

Mr. BUTLER. Mr. Chairman, there seems to be a question in the minds of perhaps some of us as to whether or not there was an act of hostility on the part of any of these claimants toward the Government after June, 1865—whether there could have been on the part of any claimants toward the Government subsequent to June, 1865.

Mr. SISSON. One man could not be disloyal.

Mr. BUTLER. Yes, he could. He might raise a good deal of trouble, although he might not bear arms.

Mr. SISSON. You know that there has been one thing the world has been proud of, and the people of the South have been proud of, and the people of America can be proud of, and it is the example set to all the world, that where a great people differed on a great question and they appealed to the supreme court of all courts, that great court of nations, the court of might and war, when one side had lost in that great contest the miracle before the world was that the Confederate soldier went back in his tattered gray jacket to his destroyed country, beat his sword into a plowshare and went to rebuilding his home—a peaceable, good, quiet, loyal citizen. None of them were disloyal who were good Confederate soldiers. Those who were disloyal were not good Confederate soldiers.

Mr. BUTLER. Gen. Grant gave him back his horses so that he might go to work——

Mr. SISSON. I know that the gentleman, from my past knowledge of him, has that good honest heart in him that permits him to say those good things.

Mr. BUTLER. I do not think the cotton of a citizen who was loyal to the Government ought to have been confiscated after 1860.

Mr. SISSON. As a matter of fact, a great many of the people who were loyal to the Government had lost their cotton in identically the same way and have since recovered it. This act leaves the law just exactly as it is here, except we add this one proviso. You removed in your last Congress, when Judge MOON was presiding over the bill, the statute of limitation to permit him to come in to prove his case. You removed the question of loyalty from a section of the old act, and it is now in this act, section 159, I think.

Mr. BUTLER. I think I made the motion to remove it.

Mr. SISSON. Perhaps the gentleman did. I do not know.

Mr. MANN. No; the gentleman did not. The gentleman from Georgia [Mr. BARTLETT] made it.

Mr. SISSON. Now, the only thing that this does is to make section 161 correspond with section 159.

Mr. BURKE of Pennsylvania. The gentleman states that this question of loyalty is still a mooted question as to the period subsequent to June 1, 1865.

Mr. SISSON. I do not think so, as far as any matter of this kind is concerned. It was not, so far as every Confederate soldier was concerned in reference to voting on those constitutional amendments and sending members of the legislature in reference to the adoption of the thirteenth amendment to the Federal Constitution. But the gentleman must be aware, when a great struggle like that has ended, there are a great many things that have to be done through the military arm of the Government before the civil arm can take complete control. Now, to that extent the military law prevailed in certain portions of the South, but just as soon as they could remove that they did so. But, so far as the legal status of the citizen was concerned, it ended June 1, 1865.

Mr. BURKE of Pennsylvania. Eighteen hundred and sixty-five, as to his loyalty or disloyalty?

Mr. SISSON. Yes.

Mr. BURKE of Pennsylvania. Then, the gentleman's contention is that subsequent to June 1, 1865, a citizen was loyal to the Government?

Mr. SISSON. To the Government.

Mr. BURKE of Pennsylvania. If that is true, what is to prevent his making the allegation and proof essential to the establishment of his claim?

Mr. SIMS. That is where the trouble comes in. They require him to prove his loyalty during the war.

Mr. BUTLER. We can amend it so as to eliminate that.

Mr. BURKE of Pennsylvania. That feature can be remedied.

Mr. SISSON. I will ask the gentleman from Pennsylvania [Mr. BURKE] if he has ever seen an affidavit in one of these cases?

Mr. BURKE of Pennsylvania. No.

Mr. SISSON. Is the gentleman a member of the Masonic fraternity? It is almost as searching as the oath they exact of a Mason.

Mr. BURKE of Pennsylvania. The affidavit in this case would be in strict accordance with the act, necessarily, and that affidavit would go no further than the declaration of loyalty during this period.

Mr. SISSON. I will say to the gentleman from Pennsylvania, that so far as I am concerned, I believe that the purpose and intention of this act would enable the citizen to go into court now and make the proof. He ought to be permitted to go into court and make the proof. There has been no decision yet, so far as the Court of Claims is concerned, as to whether or not it is necessary even now under these acts to prove loyalty, but this removes all doubt about it.

Mr. BURKE of Pennsylvania. But, that being the case, there being no decision of the Court of Claims or any other authoritative body on the subject, what is the necessity of this legislation?

Mr. SISSON. If you do not enact it, we do not get into court.

Mr. BURKE of Pennsylvania. But there is nothing of record in the way of opinion or decision that does declare that.

Mr. SISSON. Oh, that is the trouble. You would have to prove that you had been loyal to the Federal Government at all times during the entire struggle.

Mr. BURKE of Pennsylvania. I will be guided entirely by the argument in this case. I know that the gentleman from Mississippi is making a very able argument, and that he can enlighten me and other members of the committee on the subject. There has been no adjudication of the question of the citizen's loyalty subsequent to June 1, 1865?

Mr. SISSON. Oh, yes; there have been a number of them.

Mr. BURKE of Pennsylvania. By the Court of Claims?

Mr. SISSON. Yes; by the Court of Claims. But let us get down now to the facts of this case. There has been no adjudication since the amendment of section 159 of the present civil code.

Mr. BURKE of Pennsylvania. The gentleman says that under section 159 of the present civil code there has been no decision and there has been no determination of the necessity of new legislation?

Mr. SISSON. No. I will read a part of section 184. I will not read all the section, but I will read as to the question of loyalty:

> In any case of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the late Civil War the petition shall aver that the person who furnished such supplies or stores, or from whom such supplies or stores were taken, did not give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States, and the fact of such loyalty shall be a jurisdictional fact.

Now, that is what I have been endeavoring to state throughout this whole argument—that, so far as the petition was concerned, it was necessary that the petition alleged loyalty before the court should get jurisdiction to try the petitioner's right to the property.

Mr. SIMS. Throughout the Civil War?

Mr. SISSON. Yes.

Mr. BURKE of Pennsylvania. Would not this be entirely inadequate, then, if that is the provision—this applying only to the period subsequent to June 1, 1865?

Mr. SISSON. If it is presumed that the war did not end, and if the court should hold as a finality that it did not end until June, 1866. Then this cotton could not be recovered for at all unless it was taken after June, 1866. But with the amendment proposed in this bill the question of loyalty would not bar the citizen from recovering his property. The date at which the war, according to all the acts of Congress, ended, however, is June, 1865.

Mr. BURKE of Pennsylvania. Would this meet the gentleman's approval: "*Provided*, That no allegation or proof of loyalty subsequent to June 1, 1865, shall be necessary"? Would that suit the gentleman?

Mr. SISSON. I am not the proponent of the bill.

Mr. BURKE of Pennsylvania. But the gentleman is one of the ablest advocates of the bill.

Mr. SISSON. I am an advocate of the bill, but, so far as I am individually concerned, I can see no serious objection to that.

Now, there is this point in the case, however, which might do some parties an injustice: We will presume that in the spring of 1865 some of the cotton was taken from a citizen who had not sold it to the Government, and the proceeds were actually turned into the Treasury. The gentleman would not contend that that citizen would not have the right to recover his own property. He ought to have the right to take that which was his own. All the civilized governments take that view in reference to the ownership of private property. Now, as I recollect, the captured and abandoned property act was passed in 1863.

Mr. SIMS. Yes.

Mr. SISSON. Therefore it could not be until along in 1864, wherever the Federal Army was in possession of the means of transportation, that this cotton could be taken. I think, as a matter of fact, practically all of this cotton was taken after January 1, 1865, and by far the greater part of it was taken after June, 1865. I am not absolutely sure, however, but that it might do injustice to a few individuals not to permit them to recover prior to June, 1865.

Mr. BURKE of Pennsylvania. The gentleman will admit that in determining this proposition the question of loyalty ought to be divided into two periods, namely, the period prior to June 1, 1865, and the period subsequent to that. That would be a fair assumption, would it not? When you come to open the doors of the Treasury to a citizen whose claim is based upon his loyalty to that Government, it is fair to assume that he ought to have been loyal at the time the confiscation took place. Is not that true?

Mr. SIMS. Then it ought to apply to all claims.

Mr. BURKE of Pennsylvania. I am catechizing the gentleman from Mississippi [Mr. SISSON], who is eminently able to take care of himself.

Mr. SISSON. So far as my own individual opinion of private property is concerned, I do not believe that one government in making war upon another government would have the right, solely because the citizens of one country feel kindly and feel loyal toward the government of that country, to take their private property. At the time the committee reported the legislation which they hoped would reach this case their idea was that they would begin with June, 1865.

Mr. BURKE of Pennsylvania. Would the gentleman assert that it would be reasonable to take money from the Treasury of the United States to pay for the destruction of property prior to June 1, 1865?

Mr. SISSON. No, sir. I do not believe that a government ought ever or can ever be called upon to pay for the destruction of property, which destruction is an incident to war. In other words, if it becomes necessary for the Government to destroy a house, or to destroy corn or meat or supplies, or property of any kind, although the supplies may belong to a private citizen, I do not believe any government would pay for those supplies whose destruction was necessary, unless at the time of their destruction the officer in charge agreed with the owner, "We will pay you for the property." In some instances that was done in the Southern States.

Mr. BURKE of Pennsylvania. Yes; because of the presumed disloyalty of the individual——

Mr. SISSON. I do not think that ought to cut any figure at all.

Mr. BURKE of Pennsylvania. That is what I want to get at. Does the loyalty or disloyalty of the claimant in this case cut any figure at all as to his right of recovery?

Mr. SISSON. I think it does. I am going to be just as frank as I know how to be, as I try to be with everybody. I do not believe the Federal Government, the Confederate Government, the English Government, the German Government, or any Government should ever profit by the sale of private property which it takes from the citizen during a struggle. I do not believe that ought to be done.

Mr. BURKE of Pennsylvania. No; you say it should not profit by the sale of property taken from the citizen after the struggle is terminated and after the period of disloyalty is consummated. Now, assuming that a citizen prolongs indefinitely the period of disloyalty, would the gentleman say that in that case, in spite of the action of the Federal Government, in spite of the surrender of the Federal Government—suppose the individual continued in his disloyalty and during the period of disloyalty suffered a loss such as is supposed to be covered by this litigation—would he be entitled to recover?

Mr. SISSON. I think he would, and I will give the gentleman my reason. I do not believe, in the first place, that one man can be disloyal to the Government unless you say he is disloyal in his heart, because if one man should become disloyal to the Government he becomes guilty of a crime, and you can punish him in the criminal court. Under our system of government, under our modern system, you can not confiscate the citizen's property.

Mr. BURKE of Pennsylvania. You can confiscate his property if he commits a crime.

Mr. SISSON. Yes; you do that, but you do it by imposing upon him a punishment for committing a crime. The man who committed acts disloyal to the Government could be punished in court and could be fined, and therefore you take his property away from him. But you can not take it by governmental action, by an army going down and taking property, and it ought not to do it solely because the man happens to be disloyal. It should be done by due process of law and not by legislative enactment.

Mr. BURKE of Pennsylvania. The gentleman will understand, of course, that my suggestion as to the commission of a crime has no connection with this case. Of course, I did not intend that it should have any bearing on this case.

Mr. SISSON. I understand that. I think the gentleman and I can come to an agreement.

Mr. BURKE of Pennsylvania. My question is, If the individual subsequent to June 1, 1865, continued in his disloyalty to the Government, would he be entitled to relief under this bill if it became a law?

Mr. SISSON. Well, first I want to understand what is the gentleman's definition of disloyalty. Would it be his disloyalty at heart, or must he manifest it in some act?

Mr. BURKE of Pennsylvania. In some overt act.

Mr. SISSON. If the army is in an organized state, every member of that army would be disloyal up until the moment of its surrender, but the moment the soldier surrendered, took his parole, the moment he agrees to lay down his arms against the Government and go back to his home, that moment that citizen's disloyalty ceases.

Mr. BURKE of Pennsylvania. But not the other citizens who had no connection with the military organization.

Mr. SISSON. That rule would determine the loyalty of every citizen—that the moment he surrenders and his parole is given and he goes home and agrees not to take up arms against the Government. Now, that was the case in 1865.

Mr. BURKE of Pennsylvania. If the citizens, on June 1, 1865, had surrendered, given up arms, made their peace, renewed their devotion to the Federal Government, then they were loyal citizens, and there is no bar in making that allegation and producing the proof as the law exists to-day.

Mr. SISSON. But unfortunately the law is as I read a moment ago.

Mr. BURKE of Pennsylvania. I recollect what the gentleman said. Would the gentleman, in the face of that admission, deny that any allegation of proof of loyalty subsequent to June 1, 1865, would be necessary in order to recover?

Mr. SISSON. So far as I am concerned I would be willing to answer the question, if it could settle the entire controversy and the bill could be passed. As far as I am individually concerned I would be willing to accept that sort of a compromise.

Mr. BEALL of Texas. But does the gentleman from Mississippi understand what that language means—subseqnent to June 1, 1865?

Mr. BUTLER. I think the gentleman means prior to June 1, 1865.

Mr. BURKE of Pennsylvania. No; I do not mean prior to June 1, 1865. These claims here are based on the assumption that these citizens were loyal because the war had ended. There was no disloyalty existing there in their hearts or proven by their acts, but at the time of their loyalty in a period of peace the Federal Government confiscated their property, converted the property into money, and placed it in the Treasury, and they are seeking relief through the courts. My question is, If that is the case, and they were loyal, what is there to bar them against making an allegation and proving it?

Mr. BYRNES of South Carolina. Does the gentleman from Pennsylvania favor extending this requirement of loyalty to all claimants against the United States Government for property taken from them?

Mr. BURKE of Pennsylvania. I do not propose to enter into any academic discussion of the claims that have been and will be made against the United States Government.

Mr. BYRNES of South Carolina. I mean a claim arising to-day.

Mr. BURKE of Pennsylvania. This is a concrete proposition, and one of the most important that will arise in this Congress. It is one to which every Member of this House will give his

very best thought. The people who seek to make these recoveries are entitled to recovery if they are loyal and were loyal citizens of the United States and were not at fault and did nothing to defeat the justice of their claims.

Mr. BYRNES of South Carolina rose.

Mr. SISSON. Mr. Chairman, I must decline to yield further at this time. I desire to say to my friend from Pennsylvania [Mr. BURKE] that there is this difficulty about his fixing the period definitely. For example, quite a number of the Confederate soldiers surrendered prior to June 1, 1865. In fact, practically all of the soldiers had surrendered, and nearly all of them were paroled prior to June, 1865. Therefore if during the early part of 1865, after the Confederate Government had gone to pieces, after practically all of Tennessee, all of Mississippi, practically all of Louisiana, practically all of the eastern portion of Arkansas, all of Missouri and all of Kentucky had fallen within the Union lines, and during six months prior to this time this property was being taken, then the citizen who lost his property in the beginning of 1865, who himself had surrendered under that sort of an agreement, would be done an injustice. If we could arrive at the exact moment at which the citizen himself ceased to be disloyal to the Government, I would have no objection myself to fixing that date, but I fear that in many instances an injustice would be done to a great many people who ought to be paid for the cotton which was improperly taken from them.

Mr. BURKE of Pennsylvania. Does the gentleman think the claimant would be entitled to recover if he could not prove his loyalty on June 1, 1865, the day on which his property was taken? Under the suggested amendment, if he were not capable of proving his loyalty on June 1, 1865, the day on which his property was confiscated, does the gentleman think he ought to be entitled to recover? That is the crux of this whole proposition.

Mr. SISSON. I do not know that the gentleman and I could get any closer together than we have already gotten on this proposition. My proposition is that the private citizen should never lose his property so that the other government gets the benefit of his property. I think that is confiscation. To be frank, I think it is confiscation without due process of law. I think it is unjust and unfair. We would like to have all wars nice little affairs, but all wars are cruel. They are terrible. Therefore when a government is prosecuting a war and bombarding a city, it is utterly impossible for the government to direct its shots exactly where they will hit the fellow who is in arms. It is necessary that the government shall prosecute the war to a rapid and successful conclusion. Therefore no civilized government has ever paid for property which was destroyed as an incident of war. Nobody would ask the Federal Government to do it. I think he would be a very peculiar man who would ask the Federal Government to pay for property which was destroyed in the prosecution of a war, but I think it just and fair that if the Federal Government takes a private citizen's property and then goes into the market with that property and sells it and covers the net proceeds of the property into the Treasury, that the Government pay it back to the citizen, even though he had been disloyal. It is just and fair that he get it, even if at the time they took the property he was disloyal. I think the Government should pay him back what it took away from him. I hope I have made my position plain.

Mr. BURKE of Pennsylvania. The gentleman has, and my heart is with the gentleman as a general proposition that the Government should be both merciful and generous in all legislation affecting a period of this kind.

Mr. CARLIN. And just.

Mr. BURKE of Pennsylvania. And just, but the question in my mind, and it is a serious one, is whether or not the Government can go to the extent of paying out of its Treasury money that has been converted into it from the sale of property taken from individuals who were not loyal—who were positively disloyal—at the time the act of confiscation took place.

Mr. SISSON. I can realize fully how the gentleman's feeling would be in reference to this matter—perfectly honest and perfectly fair, as he is just as good as I am—and he can well understand that perhaps I would take a somewhat different view from what he does, maybe due to our peculiar environments and to the history and traditions of the respective sections in which we live, but I appreciate fully the gentleman's position and fairness, and, so far as I am individually concerned, I state without hesitation that if we could settle this matter upon that theory—while I do not agree with the gentleman in all his conclusions—and make June, 1865, the date at which the disloyalty should cease and the loyalty begin and all cotton taken after June, 1865, should be paid for provided the citizen could satisfy the Court of Claims that it was his cotton or that he was the heir to the party whose cotton was taken, I would be willing to settle it just that way if I could, but, of course, I am not in charge of the bill and could not do so.

Mr. WILLIS. I do not want to interrupt the gentleman, but in regard to the question of international law I understood the gentleman to say that if two countries were at war neither one of them would be allowed to make any profit out of the property of a private citizen of the other country. Did I understand correctly?

Mr. SISSON. I think that is true.

Mr. WILLIS. How does the gentleman apply that theory to the well-known doctrine with respect to contraband of war as recognized in international law?

Mr. SISSON. A contraband of war is based upon the doctrine that each government has the right of self-defense; therefore, to deprive the other government of the articles that have been agreed upon is proper, and those articles which are contraband of war now are very much less than articles which were contraband of war in the savage age of the world's history, because in the savage age of the world's history everything could be taken and a private citizen could be sold into slavery and you could bring in triumphant entry into your home a citizen chained to your chariot wheels. But governments have gotten more merciful, governments have become more civilized and have gotten upon a higher plane of thought and action, and it is something that we all ought to be proud of that we are permitted to live in an age when contraband of war has been so much restricted, for only those things which tend to prolong a war and tend to prolong the suffering and tend to prolong bloodshed have been construed to be contraband of war.

Mr. WILLIS. Just one more question. Does the gentleman think that cotton should properly have been considered contraband of war?

Mr. SISSON. Not under any circumstances. For instance, you could not take your cotton and eat it, you could not make powder out of it. Ordinary clothing is not contraband of war, or shoes——

Mr. WILLIS. How about money?

Mr. SISSON. Well, money, of course——

Mr. WILLIS. Now, cotton was money.

Mr. SISSON. I do not think the Confederate money would ever have been contraband of war. But seriously, for I consider the gentleman asked the question in good faith——

Mr. WILLIS. Oh, yes.

Mr. SISSON. There is no question but that cotton when sold to the Confederate Government was a proper contraband of war, because it then became an instrument in the hands of the enemy for the purpose of prosecuting the war, and therefore the Federal Government had the right to deprive the other Government of it. It is upon that theory, upon the theory of justice and in the interest of humanity and for the purpose of preventing bloodshed that the nations have made certain articles contraband of war.

Now, I do not know that there is anything I could say in support of this proposition more than I have said.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SIMS. Mr. Chairman, I will not delay the House but a few minutes——

The CHAIRMAN. May the Chair ask the gentleman is he for or against the bill?

Mr. SIMS. Oh, I am for it.

The CHAIRMAN. It has been tacitly understood that discussion would be alternated, and the Chair would like to know if any gentleman opposed to the bill desires to speak?

Mr. SIMS. I do not know whether the gentleman from Mississippi has used as much time as the gentleman from Ohio or not. I do not desire to use more than 10 minutes in connection with this question of loyalty.

The CHAIRMAN. The Chair will say to the gentleman that he had promised to recognize the gentleman from Mississippi [Mr. CANDLER] after some one had spoken against the bill. If there is no one now desiring to speak against the bill, the Chair feels that he should recognize the gentleman from Mississippi.

Mr. MANN. Mr. Chairman, a parliamentary inquiry?

The CHAIRMAN. The gentleman will state it.

Mr. MANN. How has the time so far been divided?

The CHAIRMAN. The Chair thinks it has been divided equally, barring the fact that the gentleman from Ohio [Mr. WILLIS] did not take his hour as intended.

Mr. MANN. I take it the gentlemen who desire to speak in favor of the bill are entitled to recognition. Did not the gentleman from Mississippi [Mr. SISSON] speak in the time of the gentleman from Louisiana [Mr. WATKINS]?

Mr. SISSON. No; I did not. I spoke in my own right.

The CHAIRMAN. The gentleman from Mississippi was speaking in his own right. There was a tacit understanding. The Chair recognizes the gentleman from Mississippi [Mr. CANDLER].

Mr. SIMS. I did not want over 5 or 10 minutes right on this point.

Mr. CANDLER. Mr. Chairman, it is not my purpose or intention to detain the House for any considerable length of time, but I do feel it is important in discussion of this measure that we get back to the question itself and discuss that for a few moments, and if we can find out exactly what is involved here, then to dispose of this question and eliminate all these side issues that have been injected into it up to the present time.

Now, section 162, which is a part of the Judiciary Code, and which was adopted and approved on March 3, 1911, provides that the Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the specifications of the act of Congress approved March 12, 1863, entitled:

An act to provide for the collection of abandoned property and for the prevention of frauds and insurrection in districts within the United States.

And so forth.

And this bill simply provides for adding one provision to that section. That is all there is involved in it, and that provision is simply this:

Provided, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims.

When Congress passed this act, section 162 of the Judiciary Code, it was the intention at the time that this money which is in the Treasury of the United States should be refunded to the people to whom it belonged. That was their intention, and it was evident at the time, and there was no question about it. Subsequent to that there has arisen some idea that possibly the question of loyalty is involved. If it had arisen at that time there is no doubt that it would have been incorporated in section 162, because Congress had the power to say that this money that had lain in the Treasury all these years should go back to the people to whom it belonged. That was the purpose, that was what was intended, and that was what was desired. It not having accomplished that beyond question, this idea of loyalty being involved and having arisen, and being presented since, this provision is intended to remove that, no more and no less.

This money has been in the Treasury of the United States for all these years. It belongs to these people who are mentioned in the report of the Treasury Department. They have furnished a list of them, which is included in the Senate document printed in the Forty-third Congress. As to the question of whether it belongs to these people there can be no doubt.

The gentleman from Ohio [Mr. WILLIS] asserted a moment ago in his argument that it belonged to the United States, that it was not a trust fund, but the propery of the Government, and that if these claims were allowed and were paid it would come out of the general funds of the Treasury and would be that much of a charge upon the Treasury of the United States. He is incorrect in that if the Supreme Court is correct, because the Supreme Court has held, in so many words, in the case of Klein, which is decided in Thirteenth Wallace, that this is a trust fund and that the Government of the United States is simply the trustee of these parties, holding the money for the time to arrive when they establish and prove their claim and receive the proceeds arising therefrom.

Mr. WILLIS. Will the gentleman yield?

Mr. CANDLER. Right on that point, yes; I yield with pleasure.

Mr. WILLIS. Has the gentleman considered the Haycraft case, which was a later case than the Klein case, in which it distinctly and clearly says it is not a trust fund? He knows that is held in the Haycraft case. It says so clearly and definitely. I wondered whether his attention had been called to that decision or not. It is a later decision than the one in the Klein case.

Mr. CANDLER. Does it profess to overrule the Klein case?

Mr. WILLIS. Oh, absolutely.

Mr. CANDLER. I do not agree with my friend. In this case it says, in so many words:

We conclude, therefore, that the title to the proceeds of the property which came to the possession of the Government by capture or abandonment, with the exceptions already noticed, was in no case divested out of the original owner. It was for the Government itself to determine whether these proceeds should be restored to the owner or not. The promise of the restoration of all rights of property decides that question affirmatively as to all persons who availed themselves of the proffered pardon.

I am frank to say if that case has been overruled I am not advised of it, and my information is, after investigation made by myself and by others, that it has not been overruled, but is still the law of the land as announced by the Supreme Court of the United States. That being true, the only question which is presented here is whether or not at this late day you will continue to interpose technical objections which have no substance to them in order to prevent the return of the money to these people that is held by the Government of the United States simply as a trust fund, acting as a trustee for these people. I do not believe after all these years that have passed and gone you will continue to resist the return of the money which honestly belongs to these people, but that in these days of peace, plenty, prosperity, and happiness, which is broadcast in the land, we will arise above technicality and do that which is just and which is right, that which ought to have been done a long time ago, in order to meet the standard of justice and the standard of right when it is applied to these people.

The gentleman referred to other bills and stated what was involved in them. There is no bill pending before this House at this time except this little simple bill which is now under consideration, and what may be contained in other bills of course has nothing to do with this bill.

As I said at the outset, the question for us to determine at this time is what is involved in this identical bill itself, and as to whether it is just, and as to whether it is right, and as to whether it should be passed or not, and not to consider in any degree any other bill which may come up hereafter. When such another bill does come up, it will be considered on its own merits and be disposed of as may be just and right at that time. So, I say, let us eliminate everything else and simply take this bill itself into consideration and determine it upon its merits and pass upon the justice of its provisions; and when we shall have done that we shall have discharged our duty.

Now, I do not care to detain the committee further. I simply wanted to call attention to this one proposition which is presented in this bill, and to impress upon the Members of the House the fact that propositions in other bills have nothing to do with this bill at the present time. If these other bills come up later, they will be considered and disposed of when the time arrives for their consideration.

Mr. BURKE of Pennsylvania. Mr. Chairman, will the gentleman yield for a question?

Mr. CANDLER. I will yield for any question that occurs on this point, but I do not care to take up these outside matters.

Mr. BURKE of Pennsylvania. I hope the gentleman does not think that I would attempt to argue an irrevelant question.

Mr. CANDLER. I did not insinuate anything like that.

Mr. BURKE of Pennsylvania. Do I not understand that the gentleman from Mississippi made a very able argument in support of another House bill of this character?

Mr. CANDLER. Will the gentleman please designate the bill?

Mr. BURKE of Pennsylvania. That is the Byrnes bill.

Mr. CANDLER. I have not seen it and do not know its provisions.

Mr. BYRNES of South Carolina. I can inform the gentleman that the bill he refers to has not been considered, and that therefore the gentleman from Mississippi has not spoken upon it.

Mr. CANDLER. I have not seen its provisions, and therefore I could not express my opinion about it.

Mr. BURKE of Pennsylvania. I understood that the gentleman from Mississippi made a very able speech in favor of that bill.

Mr. CANDLER. No, sir. The gentleman from Mississippi made a speech in favor of the consideration of a bill of his own.

Mr. BURKE of Pennsylvania. I know he did make a very able speech in favor of a bill.

Mr. CANDLER. I thank you for insisting I made a "very able speech" on that bill, but the thing I am now seeking to impress upon the House is that we should not consider extraneous matters or other bills that may come up later, but to only consider this bill at this time. The future will take care of itself. [Applause.] We should consider this and dispose of it now, and when we shall have done that, we will have done well. I do not want to detain the House, but again urge upon the Members the importance of considering this bill and disposing of it, and the sooner the better, and thereby we will do tardy justice to patriotic citizens who have waited long, but I hope waited not in vain. [Applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. RODDENBERY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the

Senate had disagreed to the amendments of the House of Representatives to the bill (S. 6380) to incorporate the American Hospital of Paris, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. GALLINGER, Mr. CURTIS, and Mr. MARTINE of New Jersey as conferees on the part of the Senate.

The message also announced that the President pro tempore had appointed Mr. CLARKE of Arkansas and Mr. BURNHAM members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Department of Justice.

ALLEGATION AND PROOF OF LOYALTY IN CERTAIN CASES.

The committee resumed its session.

Mr. GREEN of Iowa. Mr. Chairman, I was at first opposed to this bill, but on further examination as to the title of this property I am led to favor it.

I wish to speak now very briefly concerning it, because I think a misapprehension rests upon the minds of many Members on this side of the House as to the status of the title of this property. This money is not the property of the United States. This property, of which the proceeds have been paid into the Treasury of the United States, has never been confiscated. The title to it has never been divested. It is still held in trust for the owners, and it never can become the property of the United States or be made available to the people of the United States except by some further act of confiscation at this late date.

Now, that is the precise holding in the Klein case, which has been cited by the gentleman from Ohio [Mr. WILLIS], who has so vigorously opposed this bill, and yet I doubt very much whether he would be ready at this time to advocate the passage of any further act of confiscation.

Mr. BUTLER. Then, Mr. Chairman, it will require a law, as I understand it, to make it the money of anybody?

Mr. GREEN of Iowa. It would, most assuredly.

Mr. WILLIS. Mr. Chairman, is the gentleman aware that in the Young case, which I mentioned a moment ago—the stenographers have the transcript now in hand, otherwise I could quote the passage—the court says definitely that the bonds to which reference is made are not a trust fund, but belong absolutely to the Government of the United States? That is what the Supreme Court says in the Young case, quoted in the Brandon case.

Mr. GREEN of Iowa. I think the gentleman refers to a case based on altogether different facts.

Mr. WILLIS. No; that is the case.

Mr. SISSON. I do not want to interrupt the gentleman, but I think the gentleman from Ohio is referring to the contention that is made, that where cotton was sold to the Confederate Government and none of the proceeds ever went into the hands of the original vendor of the cotton, then the Confederate Government became the trustee of the vendor, and the court held that that was not true, that it was the absolute property of the Confederate Government. That, however, has no application to the cases that would come under this bill.

Mr. GREEN of Iowa. I think the gentleman from Mississippi is absolutely correct, as will be found from an examination of the case. I wish to read to the House the holding in the Klein case. The syllabus says that—

The act of March 12, 1863, to provide for the collection of abandoned and captured property in insurrectionary districts within the United States, does not confiscate or in any case absolutely divest the property of the original owner, even though disloyal.

And in the dissenting opinion in that case, in which, however, the dissent was based on grounds which are not material to the discussion now being carried on, the author of the dissenting opinion says:

If I understand the present opinion, it maintains that the Government, in taking possession of this property and selling it, became the trustee of all the former owners, whether loyal or disloyal, and holds it for the latter until pardoned by the President, or until Congress orders it to be restored to him.

Now, as has been so often said here, more than a generation has elapsed since the Civil War. The passions which were aroused by that great struggle have subsided, if they have not totally disappeared. The bitterness which was brought about by it has died away. In my judgment it is too late now to originate any new punishments for the acts which were committed at that time. The mantle of charity, if nothing else, ought to be thrown over all of the deeds done at that time. [Applause.] We ought not now to bring up these questions in this manner, which would enlarge rather than restrict the doctrine of confiscation for acts done in time of war, but, on the contrary, we should now say that peace has so long prevailed that the time for punishment for the acts done in those days has passed, and that they ought to be forgotten.

As I said before, this act takes nothing from the Government. It takes nothing out of the Treasury except in the sense that when a man draws a check on his own account in a bank he removes money from it. In such a case it is money which belongs to him. This money now in the Treasury can never be used by the people of the United States, can never belong to them without some further act of Congress, and I do not believe there is a man in the House who would countenance any action of that kind. [Applause.]

Mr. SIMS. Mr. Chairman, I do not wish to take very much time, but I want to explain first, as I think I can, why there are two bills here substantially for the same purpose, one the Byrnes bill and the other the bill under discussion. The Byrnes bill was introduced and referred to the Committee on War Claims, reported by that committee, and went on the calendar. Speaking for myself, and I think I can speak for every member of the committee, we did not even know that the present bill had been introduced. I do not know what the fact is with reference to the Committee on the Revision of the Laws, but it is quite probable that it did not know that the War Claims Committee had a similar bill, and therefore two bills have been reported by two different committees for substantially the same purpose, each bill having been properly referred. In other words, the committees having jurisdiction could have acted in each case.

Some amendments may be offered to this bill when we reach that stage, but if this bill becomes a law it is not my purpose as chairman of the Committee on War Claims, nor do I think it is the purpose of the gentleman from South Carolina [Mr. BYRNES] to press that bill for passage at all, it being practically for the same purpose. I say this to remove the idea that there was a "system" by which a number of bills were to be passed, one to accomplish one purpose, another another, and each to dovetail into a general system by which money could be gotten out of the Treasury which otherwise could not be taken out of it.

On the question of loyalty I wish to be heard for a few moments. Before the Civil War the Court of Claims was open to the people of the South as well as to anybody else to assert claims against the Government of the United States; but when certain States were declared to be in a state of insurrection and war, the people of those States were not permitted to bring suit in the Court of Claims, but exception was made that persons bringing suit in the Court of Claims must prove their loyalty as a jurisdictional fact in order to get into the court at all. Even now the court will not hear any proof whatever on the merits of a claim, when the question of loyalty applies, until that question is settled by the court.

It is jurisdictional. If the court finds against the loyalty of the claimant there is no use in taking any proof in reference to the value of the property.

Now, with reference to the act of 1863, I did not know that the gentleman from Iowa [Mr. GREEN] was going to refer to the decision he has, but I am glad he did so, for I intended to do so myself. I understand the decision read holds that the question of loyalty has no relation to the title of the Government to captured and abandoned property, and holds same in trust for the true owners.

Mr. MANN. Will the gentleman yield?

Mr. SIMS. Certainly.

Mr. MANN. The gentleman does not wish to make an erroneous statement?

Mr. SIMS. Not at all.

Mr. MANN. The gentleman from Tennessee must be familiar with the fact that under the act of 1863 no person could recover in the Court of Claims who had given aid and comfort to the rebellion.

Mr. SIMS. I understood the decision of the court which was read held that captured and abandoned property, under the act, was not the property of the United States.

Mr. MANN. But the gentleman's statement was that the act did not have anything in it as to a question of loyalty.

Mr. SIMS. Now this bill, I think erroneously, limits the claims arising under it to June 1, 1865. I think it ought to apply to all of them because the bugaboo of Confederate ownership of the cotton has nothing in it. In order to recover the claimant must prove his ownership. It would be an absolute defense to show that the Confederate Government owned the property or that an individual owned it other than the claimant. That is a positive requirement of the owner of a property in any suit, to show title is in himself. Consequently the bugaboo that a large amount of this cotton did belong to the Confederate Government has nothing to do with this matter and could not be paid for under this bill.

What is loyalty? Mere negative do-nothing loyalty does not count for anything in the court; it is the loyalty that is active and affirmative, loyalty that can be shown and proved by affirmative acts. But I want to say that it was a much harder matter to be affirmatively loyal in the South than it was north of the Ohio River. More penalty and more misfortune might follow an act of loyalty in the South than it would in the North. In the North a man might get some credit for it, and at heart hope that the Confederates would win. Some men in the South may have failed to show any affirmative evidence of loyalty when, perhaps, in their hearts they were very loyal. We should look at the surrounding circumstances at the time that the property was taken. But the court has held that loyalty must be established by affirmative acts. The gentleman from Pennsylvania wants an amendment to this bill so that a man should show loyalty by an affirmative act after 1865. When the war was flagrant in the Southern States the presumption was that all were disloyal who lived in those States, consequently he wants the benefit of it and the applicant must prove his loyalty. Now, does the gentleman from Pennsylvania want a statute that any party suing for property taken after June 1, 1865, must prove by affirmative acts his loyalty in order to go into the court of the country or the Nation that took the property? Such an amendment ought not to be tolerated for a moment. The presumption is, after the war was over and all armed bodies of men opposing the Government had surrendered, and men who had shot at each other in battle were at home plowing the fields, that then a man could go into the court without establishing affirmatively that he is still loyal or that he has been loyal all the time, or loyal at all. I am surprised that the liberal-minded gentleman from Pennsylvania would advocate an amendment of that kind to a bill; that a person whose cotton was taken after June 1, 1865, should as a condition precedent have to prove that he is or was loyal. You might as well say now that he would have to prove a condition of loyalty in order to go into the courts. The general presumption should be that every man is loyal until proof shows the contrary, and he should not be required to assert it in his petition.

Mr. BURKE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. SIMS. Certainly.

Mr. BURKE of Pennsylvania. Is not that very presumption which the gentleman now mentions, that every man once having been disloyal continues to be disloyal, the basis of the necessity for this bill? And if that presumption did not exist, would this bill be in the House to-day?

Mr. SIMS. The gentleman's presumption——

Mr. BURKE of Pennsylvania. But it is not my presumption. It is the presumption on which this measure is predicated.

Mr. SIMS. The law which the bill is intended to amend provides that the claimant must prove loyalty throughout the war.

Mr. BURKE of Pennsylvania. The gentleman now is discussing my proposed amendment.

Mr. SIMS. Yes. I mean the law as it now stands provides that he must assert and prove loyalty during the Civil War.

Mr. BURKE of Pennsylvania. If he is presumed to be loyal on the 1st day of June, 1865, and, as a matter of fact, he is loyal, what harm can there come from inserting that amendatory provision in this bill?

Mr. SIMS. If there is a general presumption in favor of his loyalty, why the requirement that he shall prove that he is loyal?

Mr. BURKE of Pennsylvania. If there is a general presumption in favor of loyalty, why is this bill here at all?

Mr. SIMS. Because it is to amend a law that says his loyalty must be proven throughout the Civil War.

Mr. BURKE of Pennsylvania. Then it is to fix definitely his status before the Court of Claims, is it not; and if the purpose is to fix it definitely, why not insert the date?

Mr. SIMS. This is to waive the question of loyalty as a defense for property taken after June 1, 1865, and has nothing to do with the condition of a citizen who had property taken after that time occupied prior to that time, and the gentleman from Pennsylvania wants to amend this bill by requiring the citizen whose property is taken after all reason and cause for being disloyal has ceased to prove that he was a loyal citizen at the time it was taken.

Mr. BURKE of Pennsylvania. The gentleman wishes to amend the bill so as to carry out the very provision that the gentleman from Tennessee says exists as a matter of fact, and that is that the citizen was loyal on and after June 1, 1865, and that because he was loyal then he is entitled to recover, and should not suffer because of the act of the Federal Government. The gentleman and I do not disagree in one iota except as to the insertion of this date.

Mr. SIMS. If there is a general presumption of loyalty, then there is no need of making proof of the general presumption as a jurisdictional fact.

Mr. BUTLER. When does that presumption arise?

Mr. SIMS. We propose to make it arise from and after the 1st of June, 1865—from that date on.

Mr. BUTLER. It does not arise when the war was legally held to be ended?

Mr. SIMS. For some purposes, as has been expressly stated here, August 20, 1866, was declared by act of Congress to be the end of the war, but does the gentleman from Pennsylvania want the whole country to think, and the people who follow us and read our history to think, that we became loyal only or ceased to be disloyal after August 20, 1866?

Mr. BUTLER. No; I do not want anything of the kind.

Mr. SIMS. Then why, as a jurisdictional fact, does the gentleman want citizens of the United States south of the Ohio River, or those residing in the States in insurrection, to prove loyalty in order to go into a United States court to recover property taken after the war had ended but prior to August 20, 1866? It would simply be practically making the legislation useless to put in this requirement. To compel a man whose property was taken after June 1, 1865, to go to court and allege that he was loyal from that time on, and compel him to prove that before he can take one syllable of proof as to the value of the cotton taken, would be to make the legislation useless.

Mr. BURKE of Pennsylvania. Would it be useless if the claimant were capable of proving that fact absolutely?

Mr. SIMS. If he were capable of proving the fact, he could recover his claim. Was not almost every man north of the Ohio River during the war capable of proving his loyalty? And yet we do not require that of him.

Mr. BURKE of Pennsylvania. But there is no sectional line drawn in this bill, and there is no reference to it at all.

Mr. SIMS. The facts of history draw it.

Mr. BURKE of Pennsylvania. The facts of history might draw it.

Mr. SIMS. And the law requiring proof of loyalty may draw it.

Mr. BURKE of Pennsylvania. The gentleman now, by this legislation and by his admission on the floor of this House, has established a period during which he admits there was an active hostility and a real disloyalty and after which there was no hostility, and after which there was peace, harmony, love, and devotion to the Republic; and during that latter period, he says, it is an imposition to compel the individual to state as a matter of fact in his pleading that he was loyal on the day after the war and on the day his property was confiscated for which he desires compensation from the United States.

Mr. SIMS. I do so, and think it is a reflection on him. The presumption is that, outside a state of hostility and war, all people are loyal to the flag under which they live; and to say that a citizen of the United States has to prove loyalty to the Nation before he can go into a court to have his grievance adjusted is a reflection upon every person to whom such a law can apply. You might prove it as a defense that a man was an outlaw and no longer entitled to go into the courts of the country, but I know of no such defense.

Mr. BUTLER. If the gentleman will permit, I am not asking the gentleman for the purpose of asking questions——

Mr. SIMS. I know that.

Mr. BUTLER. I wish to ask why the 1st of June is fixed?

Mr. SIMS. We have fixed this arbitrarily because of the fact, as the gentleman knows, there was no state of organized insurrection or a state of war after that time, and it seems to me absolutely, with all due respect, to be raising a technical defense against just claims to require anything of the sort. It is wholly unnecessary and useless. I do not care even if he was a Confederate soldier who came home and raised the cotton and it was taken from him after June 1, 1865, even if he was a paroled soldier, to say that he must go into court and affirmatively allege that he had not violated the terms of surrender, in order to have a standing in the court, is wrong. Much of this cotton was planted after the war ended, and harvested, and it was taken after the war was ended.

Now, I am like the gentleman from Mississippi as to the property bought by the Confederate Government to which title had passed. I do not see there is any reason, unless as a matter of charity, that we should pay those claims, and this bill does not provide anything of that sort. I do not know how many of these claims are left unpaid, but the Attorney General seems, from the communication read by the gentleman from Ohio [Mr. WILLIS], to speak about depriving the Government of the defense of limitations. There is not a man in this House who will plead the statute of limitations to any admitted liability against himself.

Mr. BUTLER. Will the gentleman inform me—this fund was originally about $25,000,000 or $26,000,000?

Mr. SIMS. I do not know how much it was.

Mr. BUTLER. The gentleman can not state?

Mr. SIMS. About $10,000,000 is my recollection.

Mr. BUTLER. A reduction has been made in it?

Mr. SIMS. Yes.

Mr. BUTLER. Can the gentleman tell how that reduction was made upon proof of claims against it?

Mr. SIMS. By payment of claims out of it.

Mr. BUTLER. Was loyalty in the case of those claims insisted upon?

Mr. SIMS. I can not answer positively about that.

Mr. BUTLER. The gentleman does not know?

Mr. SIMS. No. I do not; but I will say there is not a man who will plead the statute of limitations to an admitted liability. There is not a gentleman in this House who would as a man do a thing of that sort. Why would he get up here and ask that the Government of the United States should have a lower standard of honor than the citizenship of the United States? Here are these claims paid into the United States Treasury. They are there now. As the gentleman from Iowa [Mr. GREEN] showed, the Government has no title to the money, but is the mere custodian of it, and yet the Attorney General of the United States wants to plead the statute of limitations as a custodian.

Mr. GREEN of Iowa. I will say the statute of limitations was removed by the statute to which this is an amendment, and it is put in this statute simply to make all in one statute, but the limitation was removed by a previous statute.

Mr. BURKE of Pennsylvania. Does the gentleman regard the pleading of the statute of limitations as an evil?

Mr. SIMS. I would regard any man or any government pleading the statute of limitations to an admitted liability as being morally wrong.

Mr. BURKE of Pennsylvania. Then, if that is true, is it not a greater evil to establish a statute of limitations, which the gentleman does in this bill?

Mr. SIMS. No, sir.

Mr. BURKE of Pennsylvania. If the claim is just, why establish a limitation at all, as he does in this bill, after January 1, 1915?

Mr. SIMS. I am not in favor of it, and it is not in the bill that the Committee on War Claims reported.

Mr. BURKE of Pennsylvania. If it is an evil here, does the gentleman defend it at all?

Mr. SIMS. The gentleman as a lawyer understands the policy of the statute of limitations.

Mr. BURKE of Pennsylvania. I do not see any evil in it.

Mr. SIMS. There is an evil in it when you recite it in a case where the person is sued sui juris.

Mr. BURKE of Pennsylvania. If these claims are right, why should any man be limited to any period of time for the recovery?

Mr. SIMS. I am not in favor of it.

Mr. BURKE of Pennsylvania. Will the gentleman move to amend the bill accordingly?

Mr. SIMS. I will be glad to vote for such an amendment.

Mr. BURKE of Pennsylvania. I will be glad to see you do it.

Mr. SIMS. I will be glad to strike it out. The object of the statute of limitations is to quiet titles and cause people to settle matters while they are fresh in the minds of everyone, and to avoid perjury or temptation to perjury. If these claims had to be proven by witnesses at this late day, the temptation of interested parties to color their testimony and swear falsely would be so great that the House ought to hesitate to open the doors of the courts to them, but when the money has been in the Treasury of the United States so long that the memory of man runneth not to the contrary——

Mr. BURKE of Pennsylvania. And the loss to the owners of that money——

Mr. SIMS. Yes; and the loss to those who were reported to the Treasury as being the ones who lost it. The Treasury has had it long enough that, if it had been put out at simple interest, it would have doubled two or three times, and with the amounts admitted, shall we, representing the people of the United States, refuse to open the doors of the courts to persons who own this property and those persons who will have to establish their cases according to the law and rules of evidence as required by the Court of Claims?

Mr. GREEN of Iowa. Will the gentleman yield for a moment?

Mr. SIMS. Certainly.

Mr. GREEN of Iowa. On that question of the statute of limitations, section 162, which is amended and reenacted, or proposed, rather, to be amended and reenacted by this bill, provides that full jurisdiction as given to the court to adjudge said claim, any statute of limitations to the contrary notwithstanding. This is not a new provision at all, so far as the statute of limitations is concerned. It is simply put in to make the clause complete.

Mr. SIMS. I understand that; but the gentleman from Ohio [Mr. WILLIS] very eloquently argued the benefit of the statute of limitations, and he seemed to be borne out by the Department of Justice saying it would remove a defense which now existed.

Mr. COX of Indiana. I would like to ask the gentleman a question for information.

Mr. SIMS. Certainly.

Mr. COX of Indiana. I heard a great deal here about the names of certain claimants in some document. Have those claims been adjudicated by the Court of Claims?

Mr. SIMS. No; it simply gives them the opportunity to go there.

Mr. COX of Indiana. That opens the doors?

Mr. SIMS. That opens the doors.

Mr. COX of Indiana. Is this bill on the part of these claimants introduced because the law has already cut them out?

Mr. SIMS. It is for those who did not file while the law permitted filing. They have been shut out, of course.

Mr. FOWLER. Is there any other fact in the way of making out these claims except the requirement that proof of loyalty shall be made by the claimant?

Mr. SIMS. I think that is all.

Mr. FOWLER. And when that is proved, then that gives the claimant an opportunity to make his proof complete. Is that true?

Mr. SIMS. In the Court of Claims. That is my understanding.

Mr. Chairman, I did not aim to occupy as much time as I have, as this bill is still to be considered under the five-minute rule; but I hope that neither the gentleman from Pennsylvania [Mr. BURKE] nor any other gentleman will offer an amendment that will require anybody to prove loyalty in order to recover for property taken subsequent to June, 1865, as a jurisdictional fact that must be established before they can even submit the evident merits of their claims to the consideration of the court.

Mr. BURKE of Pennsylvania. With reference to the last suggestion of the gentleman from Tennessee [Mr. SIMS] and the remarks of the gentleman from Iowa [Mr. GREEN], we are not concerned as to what particular fund this money is applied in the Treasury of the United States, so long as it remains there. The question before this committee is, Shall it be removed from the Treasury; and if so, by whom? And the question in my mind is, as this appears to be advanced as an equitable proposition, whether or not the individual who seeks the removal of that money from the Treasury of the United States to his own pocket shall do so with clean hands.

It is perfectly obvious to me that there can be no legitimate objection whatsoever to the amendment that I have suggested, and to which the gentleman from Tennessee [Mr. SIMS] has so vigorously objected. He says, in substance, that it would be an insult to compel any man south of Mason and Dixon's line to make an affidavit as to his loyalty. Mr. Chairman, the absurdity of that argument is apparent from the fact that every Member of this House, the gentleman from Tennessee included, when he entered this House at the beginning of this session, and at the beginning of every session since he has rendered able service in the American Congress, has raised his hand before the Speaker and took the oath that he would be loyal to and defend the Constitution of the United States. Was there any insult, either actual or implied, in compelling Members from the North and South to do that? Was there anything degrading in it? Was there anything humiliating? And if a Member of the House of Representatives, chosen by his people to perform the high function which we are sent here to perform, can do so without surrendering his honor or his self-respect, why can not a claimant who seeks to place his hand in the Treasury of the United States go at least to that extent without being humiliated or being deprived of any inherent rights as a citizen?

The gentleman from Tennessee says we are living now in a period in which the war should be forgotten. Every American should subscribe to that suggestion, and I will go one step further and say that it was the duty of every man who now seeks to drain the Treasury of the United States to have forgotten the war after June, 1865, and if he did not forget the war and prolonged his antagonism to the Government, and if during that active hostility to the Government his property was confiscated as an incident of that war or that antagonism, he can not come to-day to the Treasury of the United States with

clean hands and is not entitled to the equitable relief which is sought to be granted by this measure.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BURKE of Pennsylvania. Very gladly.

Mr. GREEN of Iowa. Does the gentleman mean to say that the oath now required of Members of this House goes further than the oath now required of these claimants under this statute to enable them to recover?

Mr. BURKE of Pennsylvania. I did not. The oath required in the amendment which I have suggested appertains to the loyalty of a citizen in a time of peace in this country, when, as the gentleman from Iowa and the gentleman from Tennessee declare, every citizen was presumed to be loyal; and if he was presumed to be loyal, I am willing to have the presumption coincide with the fact that he was loyal, and I want the record to show it. Every Member of this House is presumed to defend and support the Constitution of the United States, and I am willing in that case to have the presumption and the actuality harmonized and encouraged by taking my official oath. And inasmuch as we do take that oath in accordance with law and custom, I can see no humiliation, no surrender of my rights, no detraction from my dignity in appearing before the Speaker and taking the oath to which I referred.

Mr. GREEN of Iowa. With the gentleman's permission, I would inquire a little further, if the gentleman thinks it would be proper to require Members of Congress to take an oath similar to the one required of claimants under this statute?

Mr. BURKE of Pennsylvania. I would say that if a Member of the House were seeking to take from the Treasury of the United States money based upon a transaction 50 years old, at a time when his loyalty to the Republic may have been in question, it would be perfectly proper to compel him to make the declaration that at the time of the act complained of he was loyal to the Union and entitled to relief at that time, because if he was not entitled to relief at the hour of the confiscation he is not entitled to relief now, nor would he be 100 years from now.

Mr. GREEN of Iowa. If the gentleman puts it on that ground, is he not aware that under the laws of nations the property of noncombatants is, as a rule, exempt from seizure?

Mr. BURKE of Pennsylvania. That may possibly be.

Mr. GREEN of Iowa. And that this provision as to proof of loyalty goes much beyond that.

Mr. BURKE of Pennsylvania. But the proposed amendment only states that he was a noncombatant on June 1, 1865.

Mr. GREEN of Iowa. Oh, no; it goes much further than that.

Mr. BURKE of Pennsylvania. It simply states that he was loyal in June, 1865. To be disloyal involved the same offense as being a combatant. There is no question about that. The disloyalty is established by his attitude toward the Government at that time. The gentleman will not contend that if he was disloyal at the time, whether it was in bearing arms or in giving aid and comfort to another enemy of the Republic, it would make any difference. If he was disloyal at noon on the 1st day of June, 1865, and at noon on the 1st day of June, 1865, the Government confiscated his property, as an incident to and during his disloyalty, he is not entitled to relief. There can be no hardship in compelling him to state what my friend says is an obvious fact, that he was loyal on that date and that he then sustained and was then maintaining the same status of loyalty to the Government as the gentleman from Tennessee [Mr. SIMS] and the gentleman from Iowa [Mr. GREEN] now sustain with reference to the Government and with reference to this House.

The gentleman says it is a shame and an imposition upon citizens of this Republic that the Attorney General should plead the statute of limitations after half a century of time has passed, during which time the party to which he belongs has been in control of the Government. Yet now at this time the gentleman from Tennessee [Mr. SIMS] and the proponents of this bill establish a statute of limitation in the very act now pending before the committee.

Mr. GREEN of Iowa. Will the gentleman yield for a question?

Mr. BURKE of Pennsylvania. Yes.

Mr. GREEN of Iowa. Is not the gentleman aware that this bill does not bring forward the statute of limitations, but that it was in the statute and is there now without this bill?

Mr. BURKE of Pennsylvania. The gentleman knows that in italics on the first page, in the second section of this bill, there appears a provision which in itself is a statute of limitation, and which in itself controverts the argument of the gentleman from Iowa [Mr. GREEN] and of the gentleman from Tennessee [Mr. SIMS] that a statute of limitations should never work in behalf of a government against a citizen of that government. If it should work in this case and in this measure, which they propose and which the gentleman from Iowa advocates, why should it not in a greater degree obtain with reference to an act occurring nearly 50 years ago?

Mr. SISSON. In view of the fact that the clause relating to loyalty has always been in the laws since the Civil War, does the gentleman think it quite fair to say that the Government ought to invoke the statute of limitations, when the parties have been prevented by that very statute from bringing the suit?

Mr. BURKE of Pennsylvania. The contention of the gentleman from Tennessee [Mr. SIMS] is that it is fundamentally improper for the Government to plead the statute of limitations against a citizen and an innocent claimant.

Mr. SISSON. I do not know that I go quite so far as the gentleman from Tennessee does, but in this particular case——

Mr. BURKE of Pennsylvania. I do not believe the gentleman from Mississippi will go that far. I have not found any two gentlemen, advocates of this bill, who did agree.

Mr. SISSON. But in this particular case the fact that the citizen could not bring the suit would be at least an extenuation and a reason why he had not brought it prior to that time.

Mr. BURKE of Pennsylvania. There have been 50 years of legislation and legislative bodies during which that statute could have been removed.

Mr. SISSON. Will the gentleman yield again?

Mr. BURKE of Pennsylvania. Yes.

Mr. SISSON. The gentleman realizes that the temper of the country in former times was entirely unlike the temper of the country now; and he realizes also that we sometimes, perhaps unwisely, take advantage of certain situations in politics that we would not take advantage of in business with each other. And, while it is not necessary to discuss that condition which formerly prevailed, we are all happy that that condition does not now prevail.

Mr. BURKE of Pennsylvania. There is no gentleman more happy over the realization of what was once a dream and is now a reality than the gentleman who has the floor; and the gentleman from Pennsylvania, who has the floor, had the honor to present to the House the bill appropriating a quarter of a million dollars to bring about and perfect the great reunion on the battlefield of Gettysburg, in which we hope every Confederate veteran will join with the boys in blue who fought against them in former days. [Applause.]

Mr. SISSON. In answer to what the gentleman said about the reunion, I want to say that I believe that all Confederate soldiers are going to be there that can get there. [Applause.]

Mr. BURKE of Pennsylvania. I hope the gentleman from Mississippi will come along. I will state further that, much to my gratification and State pride, the Commonwealth of Pennsylvania has done her share and will do more to carry out the program both from the standpoint of the treasury and that of hospitality which the gentlemen of the South are so much entitled to. [Applause.]

Now, the fact that this statute of limitations has existed during all this period to my mind, instead of being a basis of criticism, is a vindication of it, because it has been sanctified by the seal of 40 or 50 years of approving history during which men have considered it probably in every Congress, if not formally, at least they have in their minds.

The fact that it has never been removed and still remains the law is in itself a vindication of its right to exist, and if its right to exist in that form and in the form of the amended bill before us is vindicated, what justification can there be for the criticism directed against it by the gentleman from Tennessee?

Mr. GREEN of Iowa. Why does the gentleman from Pennsylvania say that the bar of the statute was never removed when it was removed by a clause in the revised code?

Mr. BURKE of Pennsylvania. I find there is a conflict between gentlemen advocating the bill. The gentleman from Tennessee says the statute of limitations did and does exist, and now the gentleman from Iowa proposes to show that it has been removed and does not exist. I am at a loss to reconcile the arguments of gentlemen behind the bill. I am willing to agree with the gentleman from Iowa if his statement stands alone, and I only disagree with him to the extent that I am justified by the gentleman from Tennessee saying that the statute does exist and that it is to remove that statute practically that this bill is proposed.

Mr. GREEN of Iowa. I hold the authority in my hand, which the gentleman can examine, or I will read it to him.

Mr. BURKE of Pennsylvania. I will take the gentleman's statement of fact, or any statement of facts he may make on this floor. We may disagree on a legal proposition, but I state again that I find the gentleman from Iowa and the gentleman

from Tennessee in wholly irreconcilable positions. That is my misfortune, because I would like to have the light of both their torches blaze my way.

Mr. SISSON. If the gentleman from Pennsylvania will pardon me, I did not hear what the gentleman from Tennessee said, but if he made the statement that the statute of limitations now interferes, he is entirely mistaken, because the civil code repealed the statute of limitations in reference to these claims.

Mr. BURKE of Pennsylvania. If that is true and the statute of limitations does not exist, then what justification is there in the complaint of the gentleman from Tennessee that the Attorney General of the United States has committed an unjust act in pleading the statute of limitations in these cases?

Mr. SISSON. I did not hear the gentleman's statement; but the only trouble now in the way of these claims is the question of loyalty.

Mr. BURKE of Pennsylvania. That is very true; and I say at this time that any man who seeks to take from the Treasury of the United States under circumstances similar to this, who hesitates to admit his loyalty to the Nation on the date of the confiscation, whether he hesitates because of the fact, or because of false pride, or from any other motive, is not entitled to recover a copper from the Treasury of the United States.

Mr. MANN. Mr. Chairman, I would like to make a suggestion to the gentleman from Louisiana. I desire to address the House at some length on this bill, and I know that there are a number of Members who are anxious to attend the river and harbor convention. I would like to ask the gentleman from Louisiana whether it would be possible for us to make some agreement as to the closing of debate on the next calendar Wednesday and adjourn now?

Mr. WATKINS. If we can agree on a limit for general debate I should be glad to do so. If we can agree upon a limit of one hour I will be willing to let the bill go over.

Mr. MANN. I would like to have one hour myself.

Mr. WATKINS. Well, make it two hours, then.

Mr. MANN. There has not been much time taken by those in opposition to the bill, and I am willing to agree to two hours.

Mr. WATKINS. Mr. Chairman, I move that the committee do now rise.

Mr. SISSON. It is understood, is it, that two hours will be agreed upon in the House?

Mr. MANN and Mr. GARNER. Yes.

Mr. RODDENBERY. Mr. Chairman, I did not hear the tentative agreement between the gentleman from Louisiana and the gentleman from Illinois.

Mr. WATKINS. Quite a number of Members want to attend the river and harbor convention, and a number of Members requested me to give them an opportunity to be away from the House. I did not care to insist on their presence here during the debate, but if we can get an agreement to close debate in two hours I am willing to let the bill go over.

Mr. RODDENBERY. Mr. Chairman, in view of the fact that the Rules Committee have agreed to bring in a special rule permitting consideration of the immigration bill without reference to Calendar Wednesday, I see no objection. But if the Committee on Rules does not propose to bring in a rule of that kind I think we ought to expedite this matter now so that we may reach the bill on Calendar Wednesday notwithstanding.

Mr. MANN. Mr. Chairman, I will say to the gentleman from Georgia [Mr. RODDENBERY], agreeing with him as to the procedure, that if the House should be disposed to proceed to-night I should follow his example and make the point of no quorum, so that I might have some Members present to whom I could address myself.

Mr. GARNER. Mr. Chairman, may I suggest to the gentleman from Georgia that this is in the interest of the expedition of this bill to final conclusion. An agreement in the House to limit the debate to two hours and then take the bill up for consideration under the five-minute rule would be as short a time as one could possibly get consideration of the bill if some one saw proper to insist upon another course.

Mr. RODDENBERY. But that carries this bill over until next Wednesday.

Mr. GARNER. That is true.

Mr. RODDENBERY. Of course if the Committee on Rules should, according to the letter of the chairman, bring in early this session a special rule to consider the immigration bill, then the immigration matter is not relevant to this subject. However, Members, even new Members like myself, with a small smattering idea of procedure, realize and well recognize that it is but dilly-dallying with legislation and trifling with the people to delay for two or three weeks consideration of the immigration bill and then to pass it with great gusto and let it die in conference or in the Senate. I do not want to be a party by acquiescense, by silence, or by inaction to any procedure that is putting up buncombe on the people of this country by going to them and saying we have passed the immigration bill when we know it is passed under such conditions that it is deader than Hector. That is all I was asking about—to get the information. Of course I presume the Committee on Rules will bring in the special rule, according to written promise.

Mr. GARNER. If the gentleman from Georgia will permit, if he objects to the agreement to limit debate to two hours, carrying the bill over until next Wednesday, unless he had a majority to enable him to rise and limit debate by a vote of the House he would be unable to accomplish his purpose in any event.

Mr. RODDENBERY. Of course most of my preliminaries have been carried on in recent days without a majority being in accord with me. We have long ago abandoned the idea of proceeding with a majority on these matters, especially just before an election and right after an election.

Mr. MANN. Do I understand the gentleman will object to the arrangement made?

Mr. RODDENBERY. Oh, not at all, because I can not anticipate that the Committee on Rules will not bring in a special order for the immediate consideration of the immigration bill.

Mr. MANN. I think myself that the committee ought to, although I am not a member of that committee.

Mr. WATKINS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RUCKER of Colorado, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, and had come to no resolution thereon.

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that general debate on the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, be limited to two hours, to be divided equally, one half to be controlled by myself and the other half by the gentleman from Illinois [Mr. MANN].

The SPEAKER. The gentleman from Louisiana [Mr. WATKINS] asks unanimous consent that general debate on the bill H. R. 16314 be limited to two hours, one half to be controlled by himself and the other half by the gentleman from Illinois [Mr. MANN]. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina, by direction of the Committee on Appropriations, reported the bill (H. R. 26880) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, which was read a first and second time, and, with the accompanying report, referred to the Committee of the Whole House on the state of the Union and ordered printed. (H. Rept. 1262.)

Mr. MANN. Mr. Speaker, I reserve all points of order on the bill.

The SPEAKER. The gentleman from Illinois reserves all points of order on the bill.

Mr. MANN. Mr. Speaker, I would like to make an inquiry of the gentleman from South Carolina. First, I should like to compliment the gentleman and his committee on being able to report this bill so early in the session. I would like to inquire of the gentleman if it is the intention to have the bill printed as some appropriation bills were printed last year—to show the amounts in figures instead of in words?

Mr. JOHNSON of South Carolina. This bill will be printed in figures instead of words.

Mr. MANN. Well, I think that is a great reform that is being instituted.

Mr. JOHNSON of South Carolina. Mr. Speaker, I desire to give notice that to-morrow and on each day thereafter when the bill is in order under the rule I shall press for its consideration until final passage.

EXTENSION OF REMARKS.

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that those who have spoken upon the bill under consideration to-day (H. R. 16314) be allowed to extend their remarks.

The SPEAKER. For how long?

Mr. WATKINS. For five days.

The SPEAKER. The gentleman from Louisiana asks unanimous consent that all Members who have spoken on this bill under consideration to-day be given five legislative days in which to extend their remarks. Is there objection? [After a pause.] The Chair hears none.

CONTESTED-ELECTION CASE OF M'LEAN AGAINST BOWMAN.

Mr. ANSBERRY. Mr. Speaker, I desire to give notice that on next Tuesday I shall call up the privileged resolution in the McLean against Bowman election-contest case.

Mr. MANN. Mr. Speaker, may I make an inquiry of the gentleman in reference to that?

Mr. ANSBERRY. I shall be glad to answer any question the gentleman may ask.

Mr. MANN. The legislative appropriation bill will be taken up to-morrow. It might not be finished by next Tuesday; in fact, it would be very unusual if it were finished by that time. Does the gentleman intend to take up the election case on Tuesday in any event or, if the appropriation is not finished, to follow the appropriation bill?

Mr. ANSBERRY. If the appropriation bill is not finished, I shall not insist on the resolution being considered, but under an agreement I have with the gentleman from Iowa [Mr. PROUTY] I want to dispose of it by the 12th of the month if possible, for the reason he is going away and I think they are relying on the gentleman from Iowa [Mr. PROUTY] and the gentleman from Ohio [Mr. WILLIS] to defend Mr. BOWMAN.

Mr. MANN. If the gentleman has an understanding with him, it is not necessary for me to make any inquiry.

Mr. ANSBERRY. I do not mean to say that it is agreed to be taken up Tuesday, but I want to get it out of the road.

Mr. MANN. I understand.

The SPEAKER. The gentleman from Ohio [Mr. ANSBERRY] gives notice that on next Tuesday he will call up the election case of McLean against BOWMAN, not to interfere with the legislative, executive, and judicial appropriation bill. The Chair would like to inquire of the gentleman from South Carolina [Mr. JOHNSON] if he has any idea how long the legislative appropriation bill will take?

Mr. JOHNSON of South Carolina. No; I do not know, but I hope we will get through this week.

CHANGE OF REFERENCE.

The SPEAKER. The Chair desires to make the following announcement:

The Clerk read as follows:

By unanimous consent the reference heretofore made of House Executive Documents Nos. 1001, 995, 999, 1003, and 1005 is hereby vacated and said documents are referred to the Committee on Appropriations.

The SPEAKER. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. WATKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 22 minutes p. m.) the House adjourned to meet to-morrow, Thursday, December 5, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Attorney General of the United States, transmitting a list of useless papers on file in the Department of Justice and requesting authority to have same destroyed (H. Doc. No. 1041); to the Committee on Disposition of Useless Executive Papers and ordered to be printed.

2. A letter from the Secretary of the Treasury, submitting a detailed statement of expenses of the Revenue-Cutter Service for the fiscal year ended June 30, 1912 (H. Doc. No. 1035); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

3. A letter from the Secretary of the Navy, transmitting list of Government publications received and distributed by the Navy Department during the fiscal year ended June 30, 1912 (H. Doc. No. 1038); to the Committee on Expenditures in the Navy Department and ordered to be printed.

4. A letter from the Attorney General of the United States, transmitting a statement of expenditures of the United States Court of Customs Appeals for the fiscal year ended June 30, 1912; to the Committee on Expenditures in the Department of Justice and ordered to be printed.

5. A letter from the Secretary of the Navy, transmitting request of employees of the department for increased pay with unfavorable recommendation (H. Doc. No. 1037); to the Committee on Appropriations and ordered to be printed.

6. A letter from the Secretary of the Interior, transmitting a detailed statement of travel expenses incurred by officers and employees of the department when absent from Washington on official business for the fiscal year ended June 30, 1912 (H. Doc. No. 1017); to the Committee on Expenditures in the Department of the Interior and ordered to be printed.

7. A letter from the chairman of Interstate Commerce Commission, transmitting a statement of expenses incurred by officials and employees of the commission on account of travel when absent from Washington, D. C., on official business during the fiscal year ended June 30, 1912 (H. Doc. No. 1040); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

8. A letter from the Secretary of the Interior, transmitting statement of expenditures, repair of buildings, Department of the Interior, for the fiscal year ended June 30, 1912 (H. Doc. No. 1016); to the Committee on Expenditures in the Interior Department and ordered to be printed.

9. A letter from the First Assistant Secretary of the Interior, transmitting, as required by act of August 24, 1912, result of investigation of conditions on the Yuma Reservation in California, with respect to the necessity of constructing bridge at Yuma, Ariz. (H. Doc. No. 1020); to the Committee on Indian Affairs and ordered to be printed.

10. A letter from the Secretary of the Interior, transmitting a statement of expenditures, contingent expenses, Department of the Interior, for the fiscal year ended June 30, 1912 (H. Doc. No. 1012); to the Committee on Expenditures in the Department of the Interior and ordered to be printed.

11. A letter from the Secretary of War, transmitting, pursuant to law, a letter from the Acting Chief of Ordnance, United States Army, containing statement of the cost of the manufacture of all types of guns and other articles at the several arsenals of the United States during the fiscal year ended June 30, 1912, (H. Doc. No. 1039); to the Committee on Expenditures in the War Department and ordered to be printed.

12. A letter from the Secretary of the Interior, reporting the number of acres of public lands surveyed during the fiscal year ended June 30, 1912 (H. Doc. No. 1019); to the Committee on the Public Lands and ordered to be printed.

13. A letter from the Secretary of the Interior, transmitting a statement showing distribution of moneys expended for irrigation and drainage, Indian service, for fiscal year 1912 (H. Doc. No. 1034); to the Committee on Indian Affairs and ordered to be printed.

14. A letter from the Secretary of the Interior, transmitting copy of letter from the surgeon in chief of the Freedman's Hospital showing detailed statement of expenditures for salaries, etc. (H. Doc. No. 1029); to the Committee on the District of Columbia and ordered to be printed.

15. A letter from the president of the Board of Commissioners of the District of Columbia, transmitting detailed statement of the contingent expenses of the District of Columbia for the fiscal year ended June 30, 1912 (H. Doc. No. 1042); to the Committee on the District of Columbia and ordered to be printed.

16. A letter from the Secretary of the Interior, submitting, pursuant to section 5, act of August 30, 1890, information as to the amount disbursed to certain States of the Union for support of the colleges for the benefit of agriculture and mechanic arts during the fiscal year ended June 30, 1912 (H. Doc. No. 1030); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

17. A letter from the Secretary of the Treasury, transmitting a statement of expenses incurred by officers and employees of the Treasury Department while traveling on official business during the fiscal year ended June 30, 1912 (H. Doc. No. 1036); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

18. A letter from the Librarian of Congress, transmitting annual report of the superintendent of the Library building and grounds for the fiscal year ended June 30, 1912 (H. Doc. No. 1062); to the Committee on the Library and ordered to be printed.

19. A letter from the Secretary of the Interior, submitting report showing the diversion of appropriations for pay of specified employees in Indian service for the fiscal year ended June 30, 1912 (H. Doc. No. 1021); to the Committee on Indian Affairs and ordered to be printed.

20. A letter from the Secretary of the Interior, transmitting copy of letter from the superintendent of the Government Hospital for the Insane, with a detailed statement of the receipts and expenditures for all purposes connected with the hospital (H. Doc. No. 1011); to the Committee on the District of Columbia and ordered to be printed.

21. A letter from the Secretary of the Interior, transmitting pursuant to law, result of investigation of conditions on San Carlos Indian Reservation with view to constructing bridges for the use of the Indians across San Carlos Creek and Gila River in the vicinity of San Carlos (H. Doc. No. 1013); to the Committee on Indian Affairs and ordered to be printed.

22. A letter from the Secretary of the Interior, submitting report of expenditures from the permanent fund of the Sioux Indians during the fiscal year ended June 30, 1912 (H. Doc. No. 1032); to the Committee on Indian Affairs and ordered to be printed.

23. A letter from the Secretary of the Interior, transmitting detailed report of expenditures of money carried under the caption of "Indian moneys, proceeds of labor," during the fiscal year ended June 30, 1912 (H. Doc. No. 1031); to the Committee on Indian Affairs and ordered to be printed.

24. A letter from the Secretary of the Interior, transmitting report showing the expenditures for encouraging industry among Indians during the fiscal year ended June 30, 1912 (H. Doc. No. 1027); to the Committee on Indian Affairs and ordered to be printed.

25. A letter from the Secretary of the Interior, transmitting report of expenditures for encouraging industrial work among the Indians of the Tongue River Reservation, Mont., during the fiscal year ended June 30, 1912 (H. Doc. No. 1033); to the Committee on Indian Affairs and ordered to be printed.

26. A letter from the Secretary of the Interior, transmitting letter of the Acting Commissioner of Indian Affairs, reporting that no Indian tribe for which appropriations were made has engaged in hostilities against the United States or its citizens during the fiscal year ended June 30, 1912 (H. Doc. No. 1022); to the Committee on Indian Affairs and ordered to be printed.

27. A letter from the Secretary of the Interior, reporting that there were no diversions of appropriations for purchase of subsistence for Indian tribes during the fiscal year ended June 30, 1912 (H. Doc. No. 1023); to the Committee on Indian Affairs and ordered to be printed.

28. A letter from the Secretary of the Interior, transmitting report showing expenditures for the relief of destitute Indians for the fiscal year ended June 30, 1912 (H. Doc. No. 1026); to the Committee on Indian Affairs and ordered to be printed.

29. A letter from the Secretary of the Interior, transmitting report regarding the purchase of supplies in the open market for the Indian Service for the fiscal year ended June 30, 1912 (H. Doc. No. 1028); to the Committee on Indian Affairs and ordered to be printed.

30. A letter from the Secretary of the Interior, transmitting statement of expenses for the fiscal year 1912 from the appropriation "Industrial work and care of timber" (H. Doc. No. 1025); to the Committee on Appropriations and ordered to be printed.

31. A letter from the Secretary of the Interior, transmitting statement of cost of survey and allotment work on Indian reservations for the fiscal year 1912 (H. Doc. No. 1024); to the Committee on Indian Affairs and ordered to be printed.

32. A letter from the Secretary of the Interior, transmitting, pursuant to law, result of investigations made as to conditions on the Navajo Indian Reservation at Shiprock, N. Mex., with respect to necessity of constructing bridges across San Juan River at Shiprock (H. Doc. No. 1015); to the Committee on Indian Affairs and ordered to be printed.

33. A letter from the Secretary of the Interior, transmitting statement of documents received and distributed by the Department of the Interior during the fiscal year ended June 30, 1912 (H. Doc. No. 1014); to the Committee on Expenditures in the Department of the Interior and ordered to be printed.

34. A letter from the Secretary of the Interior, transmitting, pursuant to law, a list of buildings, etc., contracted for during the fiscal year 1911-12 payable from Indian school and agency buildings appropriations (H. Doc. No. 1018); to the Committee on Indian Affairs and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. RAKER: A bill (H. R. 26669) for the support and education of the Indian pupils at the Fort Bidwell Indian School, California, and for repairs and improvements, and for other purposes; to the Committee on Indian Affairs.

Also, a bill (H. R. 26670) for the support and education of the Indian pupils at the Greenville Indian School, California, for repairs and improvements, to purchase and provide grounds, erect buildings, and furnish the same, and for other purposes; to the Committee on Indian Affairs.

By Mr. PAYNE: A bill (H. R. 26671) for the purchase of a site and the erection thereon of a public building at Lyons, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. KENNEDY: A bill (H. R. 26672) granting to the Inter-City Bridge Co., its successors and assigns, the right to construct, acquire, maintain, and operate a railway bridge across the Mississippi River; to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER: A bill (H. R. 26673) providing for the final disposition of the affairs of the Five Civilized Tribes, and for other purposes; to the Committee on Indian Affairs.

By Mr. GRIEST: A bill (H. R. 26674) authorizing the Secretary of War to donate to the Grand Army Post of Mount Joy, Pa., two bronze or brass cannon or fieldpieces; to the Committee on Military Affairs.

By Mr. BRANTLEY: A bill (H. R. 26675) for the survey of Brunswick (Ga.) Harbor and outer bar; to the Committee on Rivers and Harbors.

By Mr. LAFFERTY: A bill (H. R. 26676) to provide additional entries for certain homestead entrymen in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming; to the Committee on the Public Lands.

By Mr. SULZER: A bill (H. R. 26677) to promote the foreign commerce of the United States, and providing for the relocation of the pierhead line in the Hudson River between pier 1 and West Thirtieth Street, Borough of Manhattan, in the city of New York; to the Committee on Interstate and Foreign Commerce.

By Mr. PROUTY: A bill (H. R. 26678) to facilitate transportation and to prevent the use of railroad cars for storage purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LAFFERTY: A bill (H. R. 26679) to amend an act entitled "An act to amend section 2291 and section 2297 of the Revised Statutes of the United States relating to homesteads," approved June 6, 1912; to the Committee on the Public Lands.

By Mr. JOHNSON of South Carolina: A bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. GARNER: Resolution (H. Res. 731) assigning a certain room in the House wing of the Capitol to the official reporters of debates; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 26681) granting an increase of pension to William L. Johnson; to the Committee on Pensions.

By Mr. CANTRILL: A bill (H. R. 26682) granting a pension to Mary E. Ewers; to the Committee on Pensions.

By Mr. CLINE: A bill (H. R. 26683) granting an increase of pension to John Dixon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26684) granting an increase of pension to James H. Rowland; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26685) granting an increase of pension to Charles Ehrman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26686) granting an increase of pension to Benjamin F. Conners; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26687) granting an increase of pension to John W. Paulus; to the Committee on Invalid Pensions.

By Mr. DRAPER: A bill (H. R. 26688) granting a pension to Louisa I. Baldwin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26689) granting an increase of pension to Caroline A. Dodge; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26690) granting an increase of pension to Luther B. Grover; to the Committee on Invalid Pensions.

By Mr. DUPRÉ: A bill (H. R. 26691) for the relief of the estate of Hypolite Abadie, deceased; to the Committee on War Claims.

By Mr. GARRETT: A bill (H. R. 26692) granting an increase of pension to Daniel H. Rankin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26693) granting a pension to Levi William Walden; to the Committee on Pensions.

By Mr. GOEKE (by request): A bill (H. R. 26694) granting an increase of pension to Junius Thomas Turner; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 26695) granting a pension to Charles L. Boggess; to the Committee on Pensions.

Also, a bill (H. R. 26696) granting an increase of pension to Eliza Taggart; to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 26697) for the relief of the heirs of John G. Burris; to the Committee on War Claims.

By Mr. JACOWAY: A bill (H. R. 26698) granting an increase of pension to Samuel R. Price; to the Committee on Invalid Pensions.

By Mr. LAFFERTY: A bill (H. R. 26699) granting a pension to Harriet L. Newton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26700) granting a pension to Larkin Russell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26701) granting an increase of pension to Regina F. Palmer; to the Committee on Invalid Pensions.

By Mr. LEE of Georgia: A bill (H. R. 26702) granting a pension to Stacy Ann Wacker; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 26703) granting an increase of pension to James Youell, alias James Moses; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26704) granting an increase of pension to George W. Connelly; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26705) for the relief of the legal representatives of George W. McGinnis; to the Committee on War Claims.

By Mr. MARTIN of South Dakota: A bill (H. R. 26706) granting an increase of pension to Alonzo Wagoner; to the Committee on Invalid Pensions.

By Mr. NORRIS: A bill (H. R. 26707) granting an increase of pension to John H. Yarger; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 26708) granting an increase of pension to Margurite D. Pollard; to the Committee on Invalid Pensions.

By Mr. PALMER: A bill (H. R. 26709) granting a pension to Ezra R. Fuller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26710) for the relief of John S. Dorshimer; to the Committee on Military Affairs.

By Mr. POST: A bill (H. R. 26711) granting an increase of pension to T. J. Lindsey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26712) granting an increase of pension to Zachariah T. Alexander; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 26713) granting a pension to George W. Hilton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26714) granting an increase of pension to Newton D. Cantwell; to the Committee on Pensions.

Also, a bill (H. R. 26715) granting an increase of pension to Lefford Mathews; to the Committee on Invalid Pensions.

By Mr. SCULLY: A bill (H. R. 26716) granting an increase of pension to John I. White; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 26717) granting an increase of pension to Sarah J. Cooper; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26718) granting an increase of pension to Sarah J. Hill; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 26719) granting a pension to James C. Boyd; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26720) granting a pension to Homer Hoover; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26721) granting an increase of pension to Alexander R. Cating; to the Committee on Invalid Pensions.

By Mr. TILSON: A bill (H. R. 26722) granting an increase of pension to John B. Doolittle; to the Committee on Invalid Pensions.

By Mr. TOWNER: A bill (H. R. 26723) granting a pension to Mary A. Millsap; to the Committee on Invalid Pensions.

By Mr. WHITACRE: A bill (H. R. 26724) granting an increase of pension to Chalkley Milbourne; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26725) granting an increase of pension to John A. Sapp; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of the American Chamber of Commerce in Paris, favoring the enactment of legislation tending to restore the American merchant marine to its former importance; to the Committee on the Merchant Marine and Fisheries.

By Mr. ASHBROOK: Evidence to accompany bill (H. R. 16469) for the relief of Lucien B. Beaumont; to the Committee on Invalid Pensions.

By Mr. AYRES: Petition of the Chamber of Commerce of New York City, protesting against the General Board of Appraisers of New York customhouse being placed under control of Treasury Department; to the Committee on Expenditures in the Treasury Department.

By Mr. DRAPER: Petition of the Chamber of Commerce of the State of New York, protesting against placing the Board of General Appraisers under any department of the Government; to the Committee on Expenditures in the Treasury Department.

By Mr. ESCH: Petition of business men of Thorp, Strum, Eleva, Osseo, Mondovi, Eau Claire, Fairchild, Greenwood, Withee, and Owen, Wis., all asking that the Interstate Commerce Commission be given further power toward controlling the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. FOSS: Petition of Lake Michigan Sanitary Association, Chicago, Ill., favoring an appropriation to investigate the extent of pollution in the lake waters; to the Committee on Interstate and Foreign Commerce.

By Mr. GARRETT: Papers to accompany bill granting an increase of pension to Daniel H. Rankin; to the Committee on Invalid Pensions.

Also, papers to accompany bill for granting a pension to Levi William Walden; to the Committee on Pensions.

By Mr. MANN: Petition of the Deep Gulf Waterways Association, Little Rock, Ark., relative to the improvement of the Mississippi River and its harbors, etc.; to the Committee on Rivers and Harbors.

Also, petition of Division No. 1, Order of Railway Conductors, protesting against the passage of the employers' liability and workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the Lake Michigan Sanitary Association, relative to preventing the pollution of the waters of the Great Lakes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORE of Pennsylvania: Petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the passage of House bill 17736, changing the letter-postage rate to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the enactment of legislation changing the date of the national election; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. REILLY: Petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the reduction of letter-postage rate to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring a change in the date of the national election; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. STEPHENS of California: Petition of W. S. Hancock Council No. 20, Junior Order United American Mechanics, Los Angeles, Cal., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. STEPHENS of Texas: Petition of citizens of the thirteenth congressional district of Texas, favoring passage of bill for eradication of the Russian thistle; to the Committee on Agriculture.

By Mr. SULZER: Petition of citizens of New York and Pittsburgh, Pa., favoring the passage of House bill 26277, establishing a United States Court of Appeals; to the Committee on the Judiciary.

By Mr. TILSON: Petition of the Chamber of Commerce of New Haven, Conn., favoring the passage of bill making appropriation for the improvement of the New Haven Harbor; to the Committee on Appropriations.

SENATE.

THURSDAY, *December 5, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

LUKE LEA, a Senator from the State of Tennessee, and ROBERT L. OWEN, a Senator from the State of Oklahoma, appeared in their seats to-day.

The Journal of yesterday's proceedings was read and approved.

ANNUAL REPORT OF THE ATTORNEY GENERAL (H. DOC. NO. 930).

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate the annual report of the Attorney General for the fiscal year ended June 30, 1912, which was ordered to lie on the table and be printed.

CITIZENSHIP IN PORTO RICO (S. DOC. NO. 968).

The PRESIDENT pro tempore laid before the Senate a communication from the Chief of the Bureau of Insular Affairs, transmitting, at the request of the Governor of Porto Rico, a petition adopted at a mass meeting of workingmen of Porto Rico, praying for the enactment of legislation granting American citizenship to the people of that Territory, which was referred to the Committee on Pacific Islands and Porto Rico and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, transmitted to the Senate resolutions of the House on the death of Hon. WELDON BRINTON HEYBURN, late a Senator from the State of Idaho.

The message also transmitted to the Senate resolutions of the House on the death of Hon. ISIDOR RAYNER, late a Senator from the State of Maryland.

The message further communicated to the Senate the intelligence of the death of Hon. GEORGE HERBERT UTTER, late a Representative from the State of Rhode Island, and transmitted resolutions of the House thereon.

The message also communicated to the Senate the intelligence of the death of Hon. RICHARD E. CONNELL, late a Representative from the State of New York, and transmitted resolutions of the House thereon.

The message further communicated to the Senate the intelligence of the death of Hon. CARL CAREY ANDERSON, late a Representative from the State of Ohio, and transmitted resolutions of the House thereon.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 16450. An act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same; and

H. R. 17470. An act to pension widow and minor children of any officer or enlisted man who served in the War with Spain or Philippine insurrection.

PETITIONS AND MEMORIALS.

Mr. BRANDEGEE. I present resolutions adopted by the board of directors of the American Institute of Electrical Engineers, of New York, relating to the American patent system. I ask that the resolutions be printed in the RECORD and referred to the Committee on Patents.

There being no objection, the resolutions were referred to the Committee on Patents and ordered to be printed in the RECORD, as follows:

AMERICAN PATENT SYSTEM.

(Resolutions adopted by the board of directors of the American Institute of Electrical Engineers, Nov. 8, 1912.)

AMERICAN INSTITUTE OF ELECTRICAL ENGINEERS,
New York.

Whereas there are pending before the Congress numerous bills affecting and greatly modifying the patent system in the United States; and

Whereas the patent system has been and is a tremendous factor in building up the present industrial prosperity of this country, thereby greatly contributing to the prosperity of the country as a whole; and

Whereas any untoward change in the patent situation might disastrously affect this condition of industrial and general prosperity and the conditions contributing to their continual augmentation; and

Whereas in view of the intimate relation of the patent system to the general welfare, no action looking toward any radical change in the patent system should be taken without most careful consideration; and

Whereas in our opinion proper consideration of such important changes as are proposed can be had only by an unbiased, nonpartisan commission made up of men from various walks of life and not from any one vocation or interest: Be it

Resolved, That the American Institute of Electrical Engineers, acting through its officers and board of directors, respectfully urge the Congress of the United States that they provide for a commission made up of unbiased, independent, nonpartisan men of such national standing as will command the respect of the whole country, and chosen from different walks of life, and not more than one from any one calling or interest, and serving without pay. Such commission to hold public hearings and otherwise, as may appear to them best, to make a thorough and careful study of the American patent situation and to prepare and submit a comprehensive report and recommendations to Congress for such changes, if any, as may, as the result of their study, appear to them expedient, whether in the Patent Office, in the method of court procedure, or in the organic patent law, and recommendations as to the legislation they would propose for effecting said changes. And that we further respectfully urge that the Congress make ample provision for the expenses of said commission; and be it

Resolved, That we respectfully urge the Congress of the United States to hold in abeyance all proposed legislation affecting the patent system in whatsoever way until such time as the said commission shall have had ample opportunity to hold the said hearings and make the said study and report; and be it further

Resolved, That these resolutions be printed and a copy be sent to each Senator and Representative of the United States who is a member of the Senate or House Committee on Patents.

RALPH D. MERSHON, *President.*
F. L. HUTCHINSON, *Secretary.*

Mr. SUTHERLAND presented a petition of the Utah Federation of Women's Clubs, praying for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was referred to the Committee on Agriculture and Forestry.

Mr. McLEAN presented a petition of the Chamber of Commerce of New Haven, Conn., praying for the creation of a final court of patent appeals, which was referred to the Committee on Patents.

He also presented a petition of the Chamber of Commerce of New Haven, Conn., praying that an appropriation be made for the improvement of the harbor at that city, which was referred to the Committee on Commerce.

Mr. JOHNSON of Maine presented a petition of the congregation of the First Baptist Church of Yarmouth, Me., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

JAMES C. ESLOW.

Mr. CLARK of Wyoming, from the Committee on the Judiciary, to which was referred the bill (S. 6022) for the relief of James C. Eslow, asked to be discharged from its further consideration and that it be referred to the Committee on Claims, which was agreed to.

AMERICAN RED CROSS.

Mr. CLARK of Wyoming. From the Committee on the Judiciary I report back favorably without amendment the bill (H. R. 20287) to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January 5, 1905, and I ask for its immediate consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend section 5 of the act for the incorporation of the American National Red Cross, approved January 5, 1905, so that the annual meeting of the organization shall hereafter be held on Wednesday preceding the second Thursday in the month of December in each and every year.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FERRO LIGHT STATION, PORTO RICO.

Mr. NELSON. From the Committee on Commerce I report back favorably without amendment the bill (S. 7531) to authorize the Secretary of Commerce and Labor to purchase certain land required for lighthouse purposes at Port Ferro Light Station, Porto Rico, and I submit a report (No. 1070) thereon. I ask for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 7599) authorizing the reappointment of Midshipman Walter J. Tigan, recently dismissed from the Naval Academy for hazing; to the Committee on Naval Affairs.

By Mr. MASSEY:

A bill (S. 7600) legalizing certain conveyances heretofore made by the Central Pacific Railroad Co. and others, within the State of Nevada; to the Committee on the Judiciary.

By Mr. LODGE:

A bill (S. 7601) granting a pension to Lulu W. Gallagher (with accompanying papers); to the Committee on Pensions.

By Mr. WARREN:

A bill (S. 7602) for the relief of Fred C. and C. Hellen Fisher; to the Committee on Public Lands.

A bill (S. 7603) granting an increase of pension to Mary A. Hubbell (with accompanying paper); and

A bill (S. 7604) granting an increase of pension to Mary E. Lafontaine (with accompanying papers); to the Committee on Pensions.

A bill (S. 7605) for the relief of Theresa A. Murray (with accompanying papers); to the Committee on Claims.

By Mr. PENROSE:

A bill (S. 7606) granting an increase of pension to Charles Bridger, alias Charles Mahoney (with accompanying paper); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 7607) granting an increase of pension to Melly L. Smith Ford (with accompanying papers); and

A bill (S. 7608) granting an increase of pension to Eliza J. Sparrow (with accompanying papers); to the Committee on Pensions:

By Mr. STEPHENSON:

A bill (S. 7609) granting a pension to Mettie I. Liskum (with accompanying papers);

A bill (S. 7610) granting an increase of pension to Horace L. Chadbourne (with accompanying papers); and

A bill (S. 7611) granting an increase of pension to Edward R. Dudley (with accompanying papers); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 7612) granting an increase of pension to Daniel H. Strout (with accompanying papers);

A bill (S. 7613) granting an increase of pension to Erastus G. Cummings (with accompanying paper); and

A bill (S. 7614) granting an increase of pension to Fred F. Harris (with accompanying papers); to the Committee on Pensions.

By Mr. WETMORE:

A bill (S. 7615) granting an increase of pension to Lucy H. Collins (with accompanying paper); to the Committee on Pensions.

By Mr. LA FOLLETTE:

A bill (S. 7616) granting a pension to Huldah Nesbitt; and

A bill (S. 7617) granting an increase of pension to Elisha L. Ashley; to the Committee on Pensions.

AGRICULTURAL CREDIT SYSTEM (S. DOCS. NOS. 966 AND 967).

Mr. FLETCHER. I ask to have printed as a document a preliminary report on land and agricultural credit in Europe and also a communication from the International Institute of Agriculture, entitled "The way out of the rut." I ask that they be printed separately.

The PRESIDENT pro tempore. The Senator from Florida asks that the two papers which he has submitted to the Senate be each printed as a Senate document. Without objection, it will be so ordered.

LINCOLN MEMORIAL COMMISSION (S. DOC. NO. 965).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, and, on motion of Mr. CULLOM, was, with the accompanying papers and illustrations, referred to the Committee on the Library and ordered to be printed:

To the Senate and House of Representatives:

I beg herewith to submit a report of the Lincoln Memorial Commission and its recommendation upon the location, plan, and design for a memorial in the city of Washington, D. C., to the memory of Abraham Lincoln, in accordance with an act providing a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln, approved February 9, 1911.

WM. H. TAFT.

THE WHITE HOUSE, *December 5, 1912.*

HOUSE BILLS REFERRED.

H. R. 16450. An act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious aspertation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same, was read twice by its title and referred to the Committee on Interstate Commerce.

H. R. 17470. An act to pension widow and minor children of any officer or enlisted man who served in the War with Spain or Philippine insurrection, was read twice by its title and referred to the Committee on Pensions.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate proceed with the further consideration of House bill 19115, known as the omnibus claims bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. Let the reading for the purpose of considering the committee amendments be resumed.

The PRESIDENT pro tempore. The reading of the bill will be continued.

The Secretary resumed the reading of the bill at line 15, on page 107.

The next amendment of the Committee on Claims was, on page 107, under the subhead "Virginia," after line 18, to strike out:

To the trustees of Oak Grove Methodist Episcopal Church, of Reams Station, $800.

The amendment was agreed to.

The next amendment was, at the top of page 108, to strike out:

To the trustees of St. Paul's Free Church, of Routts Hills, $600.

The amendment was agreed to.

The next amendment was, on page 108, after line 4, to strike out:

To the trustees of the Wilderness Baptist Church, of Spottsylvania County, $500.

The amendment was agreed to.

The next amendment was, on page 108, after line 8, to strike out:

To the vestry of Aquia Protestant Episcopal Church, of Stafford County, $1,500.
To the trustees of Berea Baptist Church, of Stafford County, $600.
To the trustees of Hartwood Presbyterian Church, of Stafford County, $800.
To the trustees of Macedonia Methodist Episcopal Church, of Stafford County, $510.
To the trustees of the Methodist Episcopal Church South, of Stephens City, $500.
To the trustees of Trinity Lutheran Church, of Stephens City, $500.
To the trustees of the Presbyterian Church of Strasburg, $730.
To the First Baptist Church of Suffolk, $550.
To the trustees of the Methodist Episcopal Church South, of Suffolk, Nansemond County, $2,100.
To the trustees of the Providence Methodist Episcopal Church, near Suffolk, Nansemond County, $890.
To the vestry of The Plains Episcopal Church, of The Plains, $550.
To the trustees of the Lutheran Church, of Toms Brook, and the trustees of the Reformed Church, of Toms Brook, successors to the Union Church, of Toms Brook, $250.
To the trustees of the Methodist Episcopal Church South, of Unison, $150.

The amendment was agreed to.

The next amendment was, on page 109, after line 16, to strike out:

To the trustees of the Old School Baptist Church, of Upperville, $250.
To the trustees of the Methodist Episcopal Church South, of Warrenton, $1,190.
To the trustees of the Presbyterian Church of Warrenton, $890.
To the trustees of the Baptist Church of Waterford, $525.
To the trustees of the Baptist Church of Williamsburg, $1,540.
To the trustees of the Methodist Episcopal Church South, of Williamsburg, $1,300.
To the trustees of the Grace Evangelical Lutheran Church, of Winchester, $810.
To the trustees of John Mann Methodist Episcopal Church (colored), of Winchester, $600.
To the trustees of the Kent Street Presbyterian Church, of Winchester, $2,750.
To the trustees of the Loudoun Street Presbyterian Church, of Winchester, $2,600.
To the trustees of the Market Street Methodist Episcopal Church, of Winchester, $1,740.
To the trustees of the St. Paul Reformed Church, of Woodstock, $325.
To the trustees of the Presbyterian Church of McDowell, Highland County, $150.

The amendment was agreed to.

The next amendment was, on page 110, after line 19, to insert:

To the trustees of Chestnut Fork Old School Baptist Church, of Culpeper County, $1,180.

The amendment was agreed to.

The next amendment was, on page 110, after line 22, to insert:

To the trustees of the Methodist Episcopal Church South, of Fairfax Court House, $1,000.

The amendment was agreed to.

The next amendment was, at the top of page 111, to insert:

To the trustees of Warrenton Academy, of Warrenton, $1,200.

The amendment was agreed to.

The next amendment was, on page 111, after line 2, to strike out:

WASHINGTON.

To Joseph Hinsen, of Pierce County, $115.41.

The amendment was agreed to.

The next amendment was, under the heading "West Virginia," on page 111, after line 6, to strike out:

To Sarah A. Bodkin, widow of William H. Bodkin, deceased, late of Upshur County, $278.50.
To Mary E. Buckey, of Beverly, $115.
To Charles Cook, administrator of John Cook, deceased, late of Fayette County, $550.
To Lorenzo D. Corrick, administrator of the estate of William Corrick, deceased, late of Tucker County, $150.
To Edward M. Craig, administrator of the estate of George W. Craig, deceased, late of Mason County, $2,114.
To Andrew Crouch, Newton Crouch, and B. L. Butcher, executors of Jacob Crouch, deceased, late of Randolph County, $3,710.
To John T. Sharp, administrator of the estate of George Dickson, deceased, late of Fayette County, $99.
To John Fitz, executor of Samuel Fitz, deceased, late of Martinsburg, $1,200.
To Mary Foreman, widow of Jacob J. Foreman, deceased, late of Berkeley County, $816.
To John H. Fout, administrator of the estate of George Fout, deceased, of Grant County, $780.
To Mary V. Chambers, administratrix of the estate of Lydia A. Hockensmith, deceased, late of Jefferson County, $395.
To T. J. Hudson, administrator of the estate of Jacob W. Hudson, deceased, of Lewis County, $15.

To L. H. Kelly, administrator of the estate of John McH. Kelly and Allie V. Kelly, deceased, of Braxton County, $535.
To Joseph Loudermilk, of Monroe County, $530.
To James S. Lucas, administrator of the estate of Catharine S. Lucas, deceased, of Jefferson County, $710.
To Ruth Milbourn, Louise V. Milbourn, and Henry W. Milbourn, sole heirs of the estate of Oliver Milbourn, deceased, late of Jefferson County, $430.
To Sarah Miller, of Monroe County, $620.
To William W. Myers, executor of James W. Myers, deceased, late of Jefferson County, $650.
To Henry O'Bannon and William A. O'Bannon, sole heirs of Alfred O'Bannon, deceased, late of Jefferson County, $304.
To J. W. Gardner, administrator of the estate of F. A. Roeder, deceased, late of Jefferson County, $320.
To John T. Sharp, administrator of the estate of John Sharp, deceased, late of Fayette County, $340.
To L. H. Briscoe, sole heir of Maria Shirley, deceased, late of Jefferson County, $260.
To Joseph C. Smith, of Jefferson County, $620.
To James M. Stephenson, of Mason County, $244.
To David Tuckwiller and Sarah Bettie Wilson, of Greenbrier County, $600.
To the trustees of the Methodist Episcopal Church South, of Barboursville, $500.
To the trustees of the Presbyterian Church of Beverly, $1,500.
To the trustees of the Methodist Episcopal Church of Bunker Hill, $1,000.
To the trustees of the Free Church of Burlington, Mineral County, $895.
To the trustees of the Methodist Episcopal Church South, of Charlestown, $600.
To the trustees of St. John's Episcopal Church, of Charleston, $1,850.
To the trustees of Zion Protestant Episcopal Church, of Charlestown, $540.
To the trustees of the Methodist Episcopal Church South, of Clarksburg, $1,400.
To the trustees of the Presbyterian Church of Clarksburg, $525.
To the trustees of Elk Branch Presbyterian Church, of Duffields, $600.

The amendment was agreed to.

The next amendment was, on page 114, after line 20, to strike out:

To the trustees of the Methodist Episcopal Church of Flatwoods, $390.
To the trustees of the Fetterman (now West Main Street) Episcopal Church, of Grafton, $490.

The amendment was agreed to.

The next amendment was, on page 115, after line 4, to strike out:

To the trustees of St. John's Protestant Episcopal Church, of Harpers Ferry, $1,700.
To the trustees of the Presbyterian Church of Huttonsville, $791.
To the trustees of the Trinity Protestant Episcopal Church, of Martinsburg, $1,340.
To the trustees of the Methodist Protestant Church of Middleway, $825.
To the trustees of the Presbyterian Church of Moorefield, $1,430.

The amendment was agreed to.

The next amendment was, on page 115, after line 20, to strike out:

To the trustees of the Methodist Episcopal Church of Philippi, $600.
To the trustees of the Mount Olivet Primitive Baptist Church, of Philippi, $250.
To the trustees of the Methodist Episcopal Church South, of Point Pleasant, $1,090.
To the trustees of the Methodist Episcopal Church South, of St. Albans, $1,400.
To the wardens and vestrymen of St. Mark's Protestant Episcopal Church, of St. Albans, $2,400.
To the treasurer of Caledonia Lodge, No. 4, Independent Order of Odd Fellows, of Shepherdstown, $115.
To the trustees of the Presbyterian Church of Springfield, $600.
To the trustees of St. John's Catholic Church, of Summersville, $1,050.

The amendment was agreed to.

The next amendment was, on page 116, after line 14, to strike out:

To the trustees of the Methodist Episcopal Church of Webster, $450.

The amendment was agreed to.

The next amendment was, on page 116, after line 16, to insert:

To the trustees of the Methodist Episcopal Church South, of Glenville, $800.

The amendment was agreed to.

The next amendment was, on page 116, after line 18, to strike out:

WISCONSIN.

To Irving V. Bliss, of Milwaukee, $334.22.
To Ole Jacobson, of Walworth County, $138.78.
To Hiram F. Lyke, of Waukesha County, $188.56.

The amendment was agreed to.

The next amendment was, at the top of page 117, to insert:

CLAIMS FOR OVERTIME DUE EMPLOYEES IN UNITED STATES NAVY YARDS.

CALIFORNIA.

To the following-named persons (representing six claims) the following sums, respectively, as found by the Court of Claims in the case of James Blessington and others against the United States, for payment for extra labor above the legal day of eight hours at the Mare Island Navy Yard, namely:

James Blessington, $701.76.
Thomas Coffey, $393.43.
Nathaniel Dunnuth, $431.30.
Thomas W. Dixon, $35.70.
Louisa Keyes, widow of James H. Keyes, deceased, $487.49.
Thomas Ney, $294.

The amendment was agreed to.

The next amendment was to insert after line 19, page 117:

To the following-named persons (representing 11 claims) the following sums, respectively, as found by the Court of Claims in the case of Joseph Borton and others against the United States, for payment for extra labor above the legal day of eight hours at the Mare Island Navy Yard, namely:

Ira M. Butler, $146.12.
Orin S. Cooper, $76.48.
J. H. Dalton, $467.62.
Daniel Gray, $81.50.
William Hooper, $57.17.
James Macarty, $484.83.
Jonathan Newcomb, jr., $108.75.
Ira M. Butler, executor of O. H. Butler, deceased, $579.92.
Margaret Geary, widow of Michael Geary, deceased, $275.
Katherin Lipp, widow of Charles M. Lipp, deceased, $63.92.
Katherine Maher, widow of John Maher, deceased, $340.66.

The amendment was agreed to.

The next amendment was, after line 19, page 118, to insert:

To the following-named persons (representing 34 claims) the following sums, respectively, as found by the Court of Claims in the case of Ellen Brew, widow of Frank Brew, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours at the Mare Island Navy Yard, namely:

Ellen Brew, widow of Frank Brew, deceased, $411.11.
James Brosanahan, $61.35.
William A. Brown, $379.96.
Dorothea T. Bryant, widow of John Bryant, deceased, $353.31.
Edward Campion, $447.62.
Henry Cassady, $129.64.
Dennis Corbett, $9.18.
Kennedy Creighton, $226.28.
Retta A. Hawes, widow of Henry A. Hawes, deceased, $266.75.
Corlis Hinds, $324.53.
Julia Lee, widow of Edward Lee, deceased, $191.40.
John Lynch, $84.69.
Duncan McLean, $514.60.
Henry MacKenzie, $179.66.
Patrick Mayoch, $10.64.
Charles Ortlieb, $456.17.
Elias Shillingsburg, $275.05.
Ann Sweeney, widow of James Sweeney, deceased, $262.25.
William H. Taylor, $328.53.
Patrick O'Day, $474.89.
William Farrell, $267.01.
Charles John Wall, $184.16.
William A. Brace, $28.25.
Charles C. Crocker, $337.20.
Louise T. Farley, widow of D. J. Farley, deceased, $512.32.
Mrs. John Harvey, widow of John Harvey, deceased, $12.24.
Mary J. Towle, widow of Benjamin C. Towle, deceased, $78.59.
George Osborne, $451.86.
Mary Riley, widow of Theodore Riley, deceased, $406.49.
John Thompson, $410.40.
Rosa King, widow of Joseph King, deceased, $567.64.
Albert Sylvester, $241.27.
John Wise, $19.43.
Sarah A. Dunbar, widow of Joseph J. Dunbar, deceased, $498.99.
Olive A. Sides, widow of George E. Sides, deceased, $489.21.
Mary G. Lockwood, widow and executrix of William Harrison Lockwood, deceased, $438.07.

The amendment was agreed to.

The next amendment was, on page 121, after line 21, to insert:

DISTRICT OF COLUMBIA.

To the following-named persons (representing 46 claims) the following sums, respectively, as found by the Court of Claims in the case of Mary E. Alcorn, widow of John Alcorn, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

Mary E. Alcorn, widow of John Alcorn, deceased, $471.78.
George G. Auguste, $261.79.
Adaline Bivens, widow of Thomas H. Bivens, deceased, $225.50.
Thomas Cheek, $102.69.
Albert Dean, $297.94.
Henry C. Fowler, $150.16.
Charles W. F. Garcia, $72.92.
Mary M. Getzendanner, widow of William Getzendanner, deceased, $196.07.
Thomas S. Gosnell, $201.64.
Lawrence J. Grant, $34.05.
Mary J. Haygle, widow of John L. Haygle, deceased, $359.82.
William B. Hardester, $1.50.
Aberrellah Holt, widow of George C. Holt, deceased, $209.77.
Aberrellah Holt, next friend of Hannah Davis (insane), widow of George E. Davis, deceased, $710.40.
Catherine A. Hunt, widow of George N. Hunt, deceased, $339.86.
Francis S. Hutchinson, $149.94.
William H. Hutchinson, $77.85.
Simpson Johnson, $195.95.
Mary C. Kidwell, widow of William Albert Kidwell, deceased, $293.99.
John H. King, $10.07.
W. Oscar Knott, $195.83.
Gertrude Lang, widow of Charles A. Lang, deceased, $5.87.
Abraham R. Lescallett, $493.81.
Albert Lewis, $271.05.
Herbert Lewis, $261.84.
Frank A. Lowe, $304.68.
George Lowry, $154.52.
William Luskey, $22.42.
William L. Mills, $127.27.
Thomas O'Brien, $106.20.
Martha E. Osborn, widow of Charles H. Osborn, deceased, $417.99.
Caleb Pennington, $253.48.
George M. Posey, $150.01.
George Selby, $91.48.
Anna C. Simmonds, widow of Daniel Simmonds, deceased, $82.60.
Mary E. Smith, widow (remarried) of Louis Browning, deceased, $1.02.
Mary A. Smithson, widow of Isaac Smithson, deceased, $220.16.
John Smallwood, $279.34.
Mary H. Summers, widow of Edward Summers, deceased, $376.89.

Mrs. E. Thompson, widow of John H. Thompson, deceased, $306.89.
John C. White, $161.62.
William T. Hutchinson, administrator of William E. Hutchinson, deceased, $701.92.
W. B. Todd, $20.07.
Thomas H. Risler, $577.42.
Artemus R. Warfield, $92.67.
Katie Langley, widow of Robert C. Langley, deceased, $215.35.

The amendment was agreed to.

The next amendment was, on page 125, after line 21, to insert:

To the following-named persons (representing 93 claims) the following sums, respectively, as found by the Court of Claims in the case of David Auld and others against the United States, for payment for extra labor above the legal eight hours at the Washington Navy Yard, namely:

David Auld, $461.10.
Everette E. Auguste, sole heir of Samuel R. Auguste, deceased, $293.98.
Martha E. Burton, widow of John F. Burton, deceased, $481.60.
Brooks Burr, $321.30.
William W. Boswell, $19.97.
Isaac Benham, $421.38.
John Beron, $361.10.
Samuel Brown Bates, $360.32.
Oliver T. Beaumont, $45.71.
William F. Brown, $287.13.
Amanda Berkeley, widow of Thomas Berkeley, deceased, $156.26.
James T. Bell, $97.61.
Sallie R. Bailey, executrix of John A. Bailey, deceased, $327.45.
Perry Baldwin, $199.97.
Walter Caddington, $29.80.
Mary J. Carrico, widow of John H. Carrico, deceased, $426.57.
Laura V. Cornelius, widow of James W. Cornelius, deceased, $420.42.
Hezekiah J. Cawood, $403.52.
Sarah E. Cawood, executrix of Philip A. Cawood, deceased, $436.
Robert Craig, $7.10.
Peter Cooksey, $187.14.
George A. Cross, $211.84.
Edward M. Cox, 21.
Robert Campbell, $420.37.
Patrick Coleman, $310.04.
Lawrence Callan, $416.32.
Thomas J. Duvall, $296.95.
Ida C. Duvall, administratrix of George Duvall, deceased, $59.88.
Hester A. Dice, widow of George D. Dice, deceased, $449.80.
Mary E. Dwyer, executrix of Henry F. Dwyer, deceased, $487.46.
William F. Dove, $481.07.
Sarah Dement, widow of James E. Dement, deceased, $362.85.
William Ewin, $204.52.
Joshua Evans, $375.60.
Amelia V. Edelin, widow of George W. Edelin, deceased, $270.52.
John T. Evely, $456.70.
Thomas R. Fry, $2.53.
Fanny Fullalove, executrix of James Fullalove, deceased, $461.08.
Andrew Gray, $114.34.
Mary B. Gill, widow of William Gill, deceased, $322.72.
Isaac O. Gordon, $71.25.
Martha Griffith, widow of Thomas Griffith, deceased, $348.10.
Richard Gates, $192.83.
John Glasgow, $81.90.
George W. Gates, $350.19.
Robert Greenwell, $246.86.
Josiah Gray, $13.87.
James Griffith, $62.51.
James Gordon, $225.90.
Thomas S. Gonter, $163.24.
John T. Harrison, $365.36.
Isaac Little, $94.77.
Catherine S. Miller, widow of Samuel Miller, deceased, $736.82.
James O. Marceron, administrator of James A. Marceron, deceased, $476.94.
Howard Miller, $370.56.
Charles E. Morris, $43.15.
Davison McCullough, $224.60.
Benjamin McKinwee, $274.18.
Peter McCarthy, $261.88.
George W. Mackabee, $139.30.
Laura McKenney, widow of Robert V. McKenney, deceased, $279.08.
Lillie M. Mohler, widow of John H. Baldwin, deceased, $265.75.
William C. Nicholson, $50.78.
Alfred Nally, $159.21.
Barbara C. Oliver, widow of H. Lewis Oliver, deceased, $58.36.
Henry A. Otterback, $149.67.
Susan Forts, widow of Perry O. Ports, deceased, $508.03.
Martha A. Perkins, widow of Samuel E. Perkins, deceased, $377.27.
Margaret O. Purcell, widow of James Purcell, deceased, $105.59.
Mary M. Padgett, widow of James Padgett, deceased, $123.10.
Ann Margaret Russell, executrix of David N. Russell, deceased, $538.80.
Richard Riggles, $231.92.
Marcus Richardson, $260.41.
Thomas B. Lear, $143.01.
Ellie S. Sweeney, administratrix of Edward Sweeney, deceased, $423.60.
Philip Sherwood, $226.52.
John A. Smith, $22.78.
Charles H. Smithson, $29.38.
George S. Stewart, $459.84.
Ann R. Turner, widow of Zachariah A. Turner, deceased, $435.11.
Eliza P. Walson, executrix of Charles F. Walson, $657.58.
Margaret Street, widow of James R. Street, deceased, $478.79.
Belle Steele, executrix of H. N. Steele, deceased, $402.45.
George W. Stockett, $1.87.
J. H. Tayman, $97.85.
Charles A. Tupper, $471.47.
Benjamin Van Horn, $476.25.
Emma Umpleby, widow of John Umpleby, deceased, $521.40.
James Watson, $319.18.
Elenora Warner, widow of John Warner, deceased, $436.05.
Joseph Webb, $174.60.
Ellen Bowling, widow of William Bowling, deceased, $228.40.
James D. Quigley, $477.80.
To Robert A. Barker, $23.37.
To Charles P. Morris, $216.43.

The amendment was agreed to.

The next amendment was, on page 133, after line 18, to insert:

To the following-named persons (representing 23 claims) the following sums, respectively, as found by the Court of Claims in the case of Mary F. Smith, administratrix of John W. Bowling, deceased, and others against the United States for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

Mary F. Smith, administratrix of John W. Bowling, deceased, $9.58.
Edgar Baldwin, $274.81.

Mr. CRAWFORD. I desire to offer an amendment in lieu of lines 1 and 2, at the top of page 134. The amendment is made necessary by the death of the claimant since the bill was passed through the House. I move to substitute the name I send to the desk.

The PRESIDING OFFICER (Mr. CLAPP in the chair). The amendment to the amendment will be stated.

The SECRETARY. On page 134, lines 1 and 2, it is proposed to strike out:

Edgar Baldwin, $274.81.

And insert:

Maria E. Baldwin, widow of Edgar Baldwin, deceased, $274.81.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Claims was, on page 134, after line 2, to insert:

Marion K. Cross, $11.12.
George C. Cumberland, heir at law of George Cumberland, deceased, $383.99.
Isabella F. Knott, heir at law of John Cook, deceased, $343.57.
Rachel Wilker, heir at law of William Crawford, deceased, $377.60.
Caroline Nicholson, daughter of Joseph H. Carroll, deceased, $355.84.
Daniel D. Davis, son of John T. Davis, deceased, $414.87.
Catherine H. Burns, daughter of Coombs Greenwell, deceased, $450.16.
Mary J. Holmes, executrix of George W. Holmes, deceased, $389.82.
John A. Lescallett, son of Samuel M. Lescallett, deceased, $132.43.
James E. Lewis, $133.72.
Maud E. Banker, granddaughter of Edward McKenney, deceased, $351.38.
Robert J. Nicholson, son of Walter Nicholson, deceased, $80.17.
Robert T. Padgett, heir at law of Robert G. Padgett, deceased, $442.36.
Margaret O. Purcell, daughter of John Wood, deceased, $269.98.
Mary A. R. R. Rose and Ann E. Willmuth, daughters of Adam L. Rose, deceased, $661.99.
Joseph J. Spollen, son of John Spollen, deceased, $233.64.
William E. Simpson, son of James E. Simpson, deceased, $100.13.
Laura Crowther, heir at law of George W. Smith, deceased, $258.17.
Mary E. Smith, daughter of Alexander Sword, deceased, $569.08.
Charles M. Smithson, son of George Smithson, deceased, $382.26.
Mary R. Watkins, daughter of John Johnson, deceased, $548.40.

The amendment was agreed to.

The next amendment was, on page 136, beginning in line 1, to insert:

To the following-named persons (representing 19 claims) the following sums, respectively, as found by the Court of Claims in the case of William A. Clements and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

William A. Clements, $171.63.
Dennis A. Daily, $76.04.
Bartholomew Diggins, $428.78.
James H. Jones, $594.46.
Edward Rockett, $169.60.
Anton Schladt, $87.82.
John Simpson, $247.55.
Thomas Wise, $50.36.
Alice Cleeves, widow of Arnold Cleeves, deceased, $145.96.
Eliza Despeaux, widow of Anthony Despeaux, deceased, $357.88.
Elizabeth Gordon, widow of William Gordon, deceased, $82.38.
Annie D. Keithley, widow of George W. Keithley, deceased, $239.78.
Harriet Lee, widow of Oscar Lee, $172.98.
Jane E. Marshall, widow of Chesterfield Marshall, deceased, $240.99.
Mary A. Perkins, widow (remarried) of Thomas C. Ayles, $6.06.
Henrietta H. Stahl, widow of John W. Stahl, deceased, $241.70.
Rose L. Wailes, widow of Stephen C. Wailes, deceased, $175.17.
Charles F. Fugitt, sole heir of Thomas M. Fugitt, deceased, $354.37.
Frank A. Leach, sole heir of E. W. Leach, deceased, $76.20.

The amendment was agreed to.

The next amendment was, on page 137, after line 18, to insert:

To the following-named persons (representing 5 claims) the following sums, respectively, as found by the Court of Claims in the case of Clements T. Dant and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

Clements T. Dant, $20.27.
Margaret H. Balderston, widow of Marcellus Balderston, deceased, $77.14.
Frank Smith, $14.09.
Edwin B. Arnold and William T. Arnold, sole heirs of Thomas O. Arnold, deceased, $94.89.
John C. Keithley, $411.52.

The amendment was agreed to.

The next amendment was, on page 138, after line 6, to insert:

To the following-named persons (representing 63 claims) the following sums, respectively, as found by the Court of Claims in the case of Robert Dugan and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

Robert Dugan, $24.74.
Jennie Olcott, widow (remarried) of Massey T. Quigley, deceased, $380.86.
John W. Robertson, $54.59.
Jasper Sarra, $122.69.

Charlotte Butler, widow of Louis Butler, deceased, $11.31.
Ladd Whiting, $98.96.
Louisa Lewis, widow of George Lewis, deceased, $258.71.
Jefferson W. Cohron, $57.07.
Dorette H. Busching, widow of Henry C. Busching, deceased, $144.69.
Elizabeth J. Ballenger, widow of Richard F. Ballenger, deceased, $160.70.
William Bolger, $39.18.
Emma F. Brown, widow of William Brown, deceased, $230.41.
Patrick Cahill, $83.22.
George T. Dean, $71.61.
William L. Fletcher, $26.18.
Charles Forrest, $240.55.
Martha J. Gill, sister and sole heir of Samuel F. Gill, deceased, $13.13.
George R. Herbert, $44.13.
Susannah Harris, widow of Marbury Harris, deceased, $99.18.
Powhatan Hall, $384.08.
James O'Connor, $231.48.
Sarah Price, widow (remarried) of Richard Langley, deceased, $301.45.
Margaret H. Root, widow of Albert L. Root, deceased, $572.27.
Charles H. Venable, $245.25.
George F. Mathieson, $199.37.
Nora C. Butler, widow of John H. Butler, deceased, $166.75.
Hannah Cook, widow of William H. Cook, deceased, $63.85.
John Lanham, $249.32.
Albert A. Leavy, $45.50.
John D. Simpson, $336.85.
Henry J. Phelps, $285.58.
John Cooney, $1.18.
Almedia Gardiner, widow of James Gardiner, deceased, $110.42.
Josephine Williams, widow of George A. Williams, deceased, $175.08.
Minnie Holmes, widow of John Holmes, deceased, $130.42.
Frank Mulhall, $29.96.
Charles R. Prosperi, $25.29.
Thomas E. Rockett, $75.41.
William R. Rockett, $95.21.
William H. Fitzgerald, $201.92.
Thomas A. Ellis, $201.84.
Virginia Locke, widow of William P. Locke, deceased, $174.65.
John W. Wood, $217.77.
James F. Byrne, $35.69.
Catherine R. A. Smith, widow of Samuel M. Smith, deceased, $37.49.
Ann M. Clark, widow of Joshua Clark, deceased, $10.
Julia Coxen, widow of Millard F. Coxen, deceased, $59.28.
Indiana Ferguson, widow of William C. Ferguson, deceased, $264.83.
William H. Johnson, $261.40.
Valentine Connor, $70.16.
Ella Rebecca Landstreet, widow (remarried) of Thomas Myers Downing, deceased, $178.48.
Georgeanna Better, widow of William H. Better, deceased, $60.53.
Henry Lowry, $217.62.
Susie E. Sears, executrix of Henry Kelley, deceased, $490.62.
William E. Peake, $91.72.
John Edwin Simms, $438.34.
Nellie Anderson, widow of Dallas Anderson, deceased, $211.58.
Samuel H. Wilkerson, $79.68.
Jacob L. Bright, $251.43.
Jerome C. Hutton, $107.92.
Laura V. Hutchinson, widow of James I. Hutchinson, deceased, $96.32.
Daniel Allman, $239.63.
James Allman, $145.90.

The amendment was agreed to.

The next amendment was, on page 143, after line 12, to insert:

To the following-named persons (representing 30 claims) the following sums, respectively, as found by the Court of Claims in the case of Richard Emmons and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

Richard Emmons, $425.84.
George C. Acton, $152.57.
George W. Ballinger, $182.44.
Edward R. Barbour, $193.56.
James Breast, $419.41.
George R. Cook, $437.88.
Joshua Cooksey, $331.30.
John D. Davis, $330.13.
Philip A. Delano, $237.81.
Oliver A. Emmons, $106.60.
William R. Flood, $161.80.
Samuel S. Fowler, $148.50.
Theodore Gates, $227.31.
Thomas J. Harrison, $286.47.
Richard Holland, $222.68.
John T. Hardester, $194.16.
William Kemp, $386.01.
William H. Krepps, $224.97.
Abraham Lee, $319.12.
George E. Luckett, $135.06.
William Morris, $359.98.
William E. Miller, $397.28.
Charles M. Nicholson, $192.49.
John W. Reed, $242.23.
Richard Smith, $284.04.
Isaac Scott, $101.83.
John A. Smith, $194.16.
Isaac Smallwood, $89.54.
Isaac Tillman, $91.27.
Augustus M. Warfield, $382.99.
To Walter H. Evans, $197.70.
To William Evans, $294.83.
To Joshua B. Stoops, $392.58.
To Laura Waddey (widow) and Jennie E. Waddey (daughter), sole heirs of Hodgson E. Waddey, deceased, $106.62.
To Mary Kibbey Diven, daughter and sole heir of James O. Kibbey, deceased, $398.31.
To Emma Heath, daughter and sole heir of Richard Heath, deceased, $350.66.
To Mary T. Russell, daughter and sole heir of Thomas F. Russell, deceased, $622.06.
To Mary E. Smith, sister and sole heir of Joseph Gibson, deceased, $427.65.

The amendment was agreed to.

The next amendment was, on page 147, beginning in line 1, to insert:

To the following-named persons (representing 41 claims) the following sums, respectively, as found by the Court of Claims in the case of William W. Langley and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

John Buckingham, $315.70.
William Breslyn, $94.
Samuel Brown, $29.78.
Henry S. Berkely, $263.80.
George Conner, $628.84.
Hamilton Cook, $341.58.
George F. Cunningham, $537.26.
James F. Cunningham, $199.35.
Mrs. F. A. Jefferis, widow of William T. Jefferis, deceased, $512.38.
Catherine Hutchinson, widow of Philip Hutchinson, deceased, $64.68.
Joseph H. Lawrence, $327.76.
William C. Kellum, $67.23.
William W. Langley, $26.88.
Katie McK. Morgan, widow (remarried) of William Little, deceased, $73.72.
James G. Murray, $295.28.
James F. Manning, $112.20.
William H. R. Martin, $186.02.
Samuel I. Miller, $118.60.
Mary E. Morgan, widow of John T. Morgan, deceased, $316.71.
William McDermott, $404.17.
John McNelley, $243.63.
George B. Nelson, $203.60.
Fred Pope, $453.12.
Benjamin Auguste, $99.43.
Betty Brown, widow of Amon Brown, deceased, $200.60.
R. J. Prather, $23.46.
Charles G. Robinson, $357.51.
George Schaffer, $17.62.
Arthur E. Van Riswick, $8.28.
Luther Reley, $56.14.
William H. Talbert, $398.30.
Charles T. Morgan, $28.75.
Benjamin McCathran, $174.86.
Barbara Burgee, widow of Edward T. Burgee, deceased, $461.10.
Thaddeus Shlue, $122.95.
John E. Nalley, $22.14.
George W. Richmond, $87.41.
Ellen C. Sanderson, widow of O. Sanderson, deceased, $94.33.
James Cephus, $293.47.
Alice Sheffield, widow of George W. Sheffield, deceased, $749.35.
Mary E. Sullivan, widow of Daniel Sullivan, deceased, $24.57.
To Susana R. Lovejoy, widow of John T. Lovejoy, deceased, $364.51.
To Ada E. Much, widow of George W. Much, deceased, $331.31.
To William W. Nalley, $188.29.
To James M. O'Neill, $224.89.
To Henry S. Walter, administrator of Adam L. Rose, deceased, $661.99.
To Joseph Thompson, $99.28.

The amendment was agreed to.

The next amendment was, on page 150, after line 22, to insert:

To the following-named persons (representing 27 claims) the following sums, respectively, as found by the Court of Claims in the case of Andelina Scarf, executrix of Thomas T. Scarf, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

Angelina Scarf, executrix of Thomas T. Scarf, deceased, $208.20.
William W. Chase, $107.09.
William H. Bennett, administrator of William Bennett, deceased, $447.46.
Sarah E. Robey, widow of Richard T. Robey, deceased, $10.17.
Elizabeth R. Betts, widow of William Betts, deceased, $120.48.
Elizabeth Bladen, widow of Thomas S. Bladen, deceased, $33.78.
James Barker, $603.13.
George F. Waters, $626.72.
Charles F. Williams, $418.39.
William H. Vogelson, $45.63.
Margaret F. Watson, widow of William A. Watson, deceased, $249.93.
Arthur Tudge, $154.03.
Sarah J. Barker, wife of William H. Barker, insane, $226.15.
H. I. Meader, $263.74.
Sarah M. Sanderson, widow of L. W. Sanderson, deceased, $236.10.
Mary Boettcher, executrix of Frederick Boettcher, deceased, $417.55.
Mary L. Cissell, widow of Thomas Cissell, deceased, $196.50.
William W. Burdine, John T. Burdine, Annie Morgan, and Alfred H. Burdine, sole heirs of James W. Burdine, deceased, $12.75.
Hannah Langley, widow of Charles W. Langley, deceased, $422.45.
John T. Roberts, $69.69.
Esther G. Nally, widow of James S. Nally, deceased, $228.50.
Amanda E. Coates, widow (remarried) of Thomas Robey, deceased, $182.21.
Ceylon Boswell, $126.42.
Peter Bopp, $150.18.
Emily J. Cannon, widow of Joseph Cannon, deceased, $179.13.
Sarah Kernan, executrix of Bernard Kernan, deceased, $309.39.
W. C. White, $94.96.

The amendment was agreed to.

The next amendment was, on page 153, after line 12, to insert:

FLORIDA.

To Henry Antone, $321.89.
To Frank Swarls, $2.
To Fred Blum, $211.01.
To William Handlon, $6.99.
To Margaret A. Mounger, Annie Mounger, Alice Mounger, John P. Mounger, Catherine F. Kanen, and Janie Bond, sole heirs of William Mounger, deceased, $14.48.

To Lawson Turner and William Turner, jr., sole heirs of William Turner, deceased, $284.52.

The amendment was agreed to.

The next amendment was, at the top of page 154, to insert:

The following-named persons (representing 14 claims) the following sums, respectively, as found by the Court of Claims in the case of Frank Bond and others against the United States, for payment for extra labor above the legal day of eight hours at the Pensacola Navy Yard, namely:

Frank Bond, $136.23.
Mary F. Boyden, widow of Paul Boyden, deceased, $560.76.
Allan Bush, $267.03.
E. P. Chaffin, $158.01.
Benjamin Dolphin, $46.30.
Abraham Harris, $184.89.
Peter Hatcher, $224.05.
Alfred Jones, $253.77.
Johanna Massey, widow of James Massey, deceased, $611.06.
Henry Skeet, $299.42.
Edward Sweeney, $82.96.
John Sweeny, $294.78.
Lizzie Wheat, widow of William J. Wheat, deceased, $458.92.
Cornelia Higgins, heir at law of C. A. Higgins, deceased, $722.62.

The amendment was agreed to.

The next amendment was, on page 155, after line 6, to insert:

To the following-named persons (representing 22 claims) the following sums, respectively, as found by the Court of Claims in the case of John P. Capell and others against the United States, for payment for extra labor above the legal day of eight hours at the Pensacola Navy Yard, namely:

John P. Capell, $96.21.
Peter Carroll, $97.55.
Frank Elijah, $128.27.
A. G. Fell, $301.45.
John J. Fell, $550.28.
William Hession, $447.06.
William M. Johnson, $43.50.
Loughlin Quigley, $284.65.
Stephen M. Scarritt, $528.85.
Henry Smith, $600.19.
Lawson Turner, $84.25.
Hattie Davidson, widow of Gam B. Davidson, deceased, $136.50.
Matilda Jackson, widow of Robert Jackson, deceased, $174.65.
Bertha McDonald, widow of James A. McDonald, deceased, $1,909.87.
Isabella McLellan, widow of John McLellan, deceased, $450.00.
Catherine J. Roy, widow of H. Roy, jr., deceased, $822.50.
Annie Unger, widow (remarried) of William C. Kelly, deceased, $151.27.
Fannie White, widow (remarried) of Alfred Willis, deceased, $559.02.
Phillip Walter Jones, G. F. Jones, Lee L. Jones, Maggie M. Jones, and Ella L. Jones, sole heirs of J. W. Jones, deceased, $167.41.
Maria Robinson, William Robinson, and Louis Robinson, sole heirs of Louis Robinson, deceased, $115.92.
Fannie Sparks, Charlotte Saunders, Mary Reese, Gertrude Smith, and Henry Smith, sole heirs of Curtis Smith, deceased, $462.40.
Mary Burch and Thomas F. Wrighton, sole heirs of Thomas Wrighton, deceased, $114.55.
To Clarence Marks, $87.24.
To George T. Clifford, $56.26.

The amendment was agreed to.

The next amendment was, on page 157, after line 14, to insert:

MASSACHUSETTS.

To the following-named persons (representing 131 claims) the following sums, respectively, as found by the Court of Claims in the case of Charles Adams and others against the United States for payment for extra labor above the legal day of eight hours at the Boston Navy Yard, namely:

Charles Adams, $343.01.
T. A. Bradford, $362.86.
Bridget A. Bailey, widow of William Bailey, deceased, $112.29.
James Edward Bell, William Bell, and Ellen J. Dow, sole heirs of James Bell, deceased, $759.56.
Elias Bourne, $33.
John W. Burnham, $97.03.
James D. Bateman, $125.93.
Katherine V. Barrett, administratrix of Daniel Barrett, deceased, $898.40.
Joshua Barker, $320.
William Bentley, son of Thomas Bentley, deceased, $424.28.
Jeremiah L. Bean, $124.41.
Joshua P. Busher, $319.68.
William E. Bruce, $338.50.
Edward J. Baker, $81.66.
William F. Blake, son of William Blake, deceased, $591.86.
James E. Byrne, $7.89.
Lydia M. Bolster, widow of Oliver Bolster, deceased, $246.18.
Ella A. Bearse, administratrix of Ezra L. Hersey, deceased, $508.87.
Julia V. Buckley, daughter of John Buckley, deceased, $62.48.
Emery R. Currier, $174.87.
William N. Currier, $144.56.
John A. Cronin, $40.54.
Jos. A. Cassidy, $293.86.
John Cutler, $192.18.
Arthur B. Cassidy, $315.42.
Anne Belle Currier, daughter of Charles H. Currier, deceased, $277.18.
William Crosby, $157.16.
William W. Collier, $165.18.
Sarah J. Clarridge, widow of Frederick Clarridge, deceased, $257.52.
Richard Donahue, $206.12.
Catherine Donlary, widow of Frank Donlary, deceased, $19.50.
John Davies, $53.87.
Henry G. Dwight, $109.39.
Henry Dawson, $289.70.
Ellen Dillon, wife of James E. Dillon, demented, $284.31.
William G. Ewell, executor of Augustus Ewell, deceased, $75.65.
J. Homer Edgerly, brother of Hiram O. Edgerly, deceased, $403.80.
J. Homer Edgerly, $884.53.
Ellen Eaton, widow of George B. Eaton, deceased, $447.54.
Daniel F. Egan, $314.40.
John L. Frisbee, $614.93.
Annie Finn, widow of William Finn, deceased, $242.26.
Charlotte J. Jackson, widow of Nathan B. Jackson, $340.30.
Josiah D. Folsom, $767.44.
Edwin W. Frisbee, $103.53.
John B. Fitzpatrick, $125.93.
James H. Finn, $423.71.
Timothy Guiney, $102.19.
John S. Gardner, $291.87.
William F. Gillings, $77.34.
Albert S. Greene, $483.06.
Daniel Greene, $373.74.
Alice F. Gates, daughter of Jacob Gates, deceased, $394.42.
Lewis G. Hilton, $378.41.
Henry G. Hichborn, one of the next of kin of William Hichborn, deceased, $896.01.
Michael H. Hudson, $141.57.
Andrew B. Hubbard, son of Robert H. G. Hubbard, deceased, $281.40.
Thomas L. Hayes, $142.35.
Mary H. Hutchings, widow of J. Clark Hutchings, deceased, $233.20.
Peter A. Hayes, $250.42.
George R. Hobbs, $147.57.
Marcia E. Hatch, daughter of Zina H. Webber, deceased, $110.40.
John Handrahan, $330.75.
Sarah R. James, sister of James Hutchings, deceased, $305.59.
George W. King, $85.
George H. Kincaid, $65.31.
John A. Long, $242.62.
William W. Locke, $21.37.
Caroline M. Loring, sister of Frank E. Melvin, deceased, $113.28.
Dennis Lowney, $90.39.
Patrick Leary, $263.22.
William Mahoney, jr., one of the heirs of William Mahoney, deceased, $144.46.
Mary A. Marrow, heir of John H. Marrow, deceased, $182.45.
Charles P. Morris, $197.52.
James J. McAuliffe, $4.50.
Catherine Melville, daughter of Charles Freeman, deceased, $175.04.
Theodore A. Melvin, $901.82.
Hugh P. McNally, $88.73.
Agnes J. Musgrave, heir of Joseph Bibeln, $254.36.
Charles Manser, son of Charles C. Manser, deceased, $180.21.
Mary E. Murphy, daughter of Jeremiah Murphy, deceased, $64.11.
Anna M. McLeod, widow of James McLeod, deceased, $51.06.
Harriet M. Metcalf, widow of William P. Metcalf, $240.40.
Mary A. McCarthy, widow of Frank McCarthy, $49.03.
Thomas Nixon, $404.04.
John L. Nicholson, $604.59.
Harriet R. Newhall, widow of Thomas E. Newhall, deceased, $332.27.
Joseph W. Newhall, one of the heirs of Joseph Newhall, deceased, $355.76.
Mary F. Overn, sister of Richard Dennis, deceased, $177.58.
Allen E. Proctor, heir of James P. Proctor, deceased, $419.44.
William Proctor, otherwise William H. Proctor, $168.78.
George E. Poor, $325.65.
Charles W. Pearson, $33.75.
John M. Pitman, $48.54.
William T. Phippin, $48.76.
Abbie H. Pedrick and Susan M. C. Crosby, executrixes of Joseph Pedrick, deceased, $965.
Elizabeth M. Preble, executrix of Jeremiah Preble, deceased, $423.88.
Augustine S. Quinn, $125.80.
Thomas Riordan, otherwise Thomas D. Riordan, $159.74.
Edward H. Rogers, $356.21.
Joseph O. Rice, $244.76.
Emily A. Roberts, widow of John H. Roberts, deceased, $898.95.
Thomas H. Ramsey, son of James Ramsey, deceased, $246.69.
John J. Ryan, for Jeremiah J. Ryan, demented, $128.04.
Mary Rowley, widow of Michael Rowley, deceased, $261.47.
Benjamin Roach, $717.35.
Catherine A. Regan, widow of Cornelius F. Regan, deceased, $144.56.
Joseph S. G. Sweatt, $258.76.
Daniel S. Sullivan, $82.97.
Blanche L. and Frank H. Seavey, heirs of Frank Seavey, deceased, $434.56.
Charles A. Stebbins, $297.42.
Winslow Sampson, son of Alden Sampson, deceased, $901.82.
Benjamin F. Sampson, son of Benjamin H. Sampson, deceased, $212.20.
William C. Sprague, $204.03.
Fred S. Soule, son of Thomas Soule, deceased, $93.43.
Samuel Staples, $178.91.
John M. Stockman, $304.46.
Robert A. Southworth, administrator of Alexander Southworth, deceased, $362.11.
Charles H. Taylor, son of John T. Taylor, deceased, $280.03.
John Tierney, $88.75.
Constantine Towle, $95.35.
Mary M. A. Thayer, sister of Daniel J. Hurley, deceased, $379.45.
Annie E. Vincent, daughter of Joseph H. Wainwright, deceased, $63.17.
George T. Wiley, only heir of Benjamin D. Wiley, deceased, $966.25.
Frank L. Weston, administrator of Samuel F. Weston, deceased, $472.50.
Harriet Wilson, widow of William Wilson, deceased, $753.45.
Agnes V. W. Walker, sole heir of Reuben Goff, deceased, $358.32.
Thomas Ward, $200.55.
Samuel A. Wright, jr., son of Samuel A. Wright, deceased, $232.56.
John H. Wright, $97.71.
John Yonkers, $740.81.

The amendment was agreed to.

The next amendment was, on page 168, after line 17, to insert:

To the following-named persons (representing 59 claims) the following sums, respectively, as found by the Court of Claims in the case of Mary A. F. Barry, widow of Daniel S. Barry, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours at the Boston Navy Yard, namely:

Mary A. F. Barry, widow of Daniel S. Barry, deceased, $302.10.
Elizabeth Smith, daughter, and Charles M. Black, son, of John Black, deceased, $59.
Joseph O. Briggs, $72.77.

William B. Bothamly, $292.77.
Mary L. Brown, daughter of Joseph H. Till, deceased, $273.56.
Sarah A. Blandin, executrix of Benjamin A. Blandin, deceased, $441.52.
Charles E. Clark, son of Daniel Pearce Clark, deceased, $330.48.
Thomas Corley, $125.54.
William H. Cate, jr., heir at law of William H. Cate, deceased, $67.87.
Emily M. Carter, widow (remarried) of Alexander H. Wright, deceased, $187.34.
Mary E. Curry, daughter of James Griffin, deceased, $109.78.
Isaac Downs, $254.93.
Otis W. Dutton, son of Benjamin Dutton, deceased, $19.87.
Charles H. Frisbee, son of Henry Frisbee, deceased, $223.06.
Ellen B. Fisher, daughter of Calvin Lewis, deceased, $257.75.
Austena Gundlach, daughter of Thomas J. McKenna, deceased, $15.75.
Theodore W. Goodspeed, $83.75.
Mary J. Gordon, daughter of Timothy J. Mahoney, deceased, $37.62.
Samuel Grant, $323.93.
Esther Ann Hudson, daughter of Patrick Hudson, deceased, $46.06.
Joseph E. Hoey, $82.93.
Harriet N. Hanscom, widow of Alvah Hanscom, deceased, $73.62.
William P. Holmes, $105.59.
John H. Holt, $70.68.
William T. Harris, $90.43.
Mrs. C. H. Harper, daughter of Abraham Larkin, deceased, $153.15.
Benjamin F. Hodgkins, $10.12.
Christy Hanscom, widow of Samuel Willard Hanscom, deceased, $112.34.
Athelia Hill, widow of George C. Hill, deceased, $77.17.
Alonzo H. Haynes, $60.50.
Ellen H. Leighton, daughter of James Chambers, deceased, $35.18.
Adelphus Leavitt, $41.12.
George F. Lewis, $128.65.
Alice M. Lowell, daughter of Alpheus A. W. Lake, deceased, $530.56.
Alice M. Lowell, sister of Alpheus A. Lake, deceased, $218.93.
Timothy W. Mahoney, brother of George W. Mahoney, deceased, $203.89.
Timothy W. Mahoney, $229.57.
Timothy W. Mahoney, son of Michael K. Mahoney, deceased, $62.40.
James Mullen, $126.50.
Edward A. McDermott, $419.61.
George Morrison, $62.62.
George W. McConnell, son of William McConnell, deceased, $112.59.
Florence Gertrude Magee, granddaughter and sole heir of James A. German, deceased, $183.
Bridget McNulty, daughter of John Mongan, deceased, $77.03.
Terence T. McNulty, $167.60.
Louisa S. Nash, widow of William H. Nash, deceased, $272.90.
Julia Ryan, widow of Michael Ryan, deceased, $33.02.
Addie R. Rice, widow of Benjamin Rice, deceased, $83.62.
Matthew Redmond, $171.12.
David L. Rigby, $211.86.
Alexander A. Selden, $80.10.
Mabel F. Swain, granddaughter of Thomas Dunham Rice, deceased, $353.18.
Mary A. C. Smith, daughter of George Colbert, deceased, $87.37.
John D. Sanborn, $295.90.
Eugene S. Sullivan, brother of Humphrey J. Sullivan, deceased, $71.60.
Charles E. Stone, $78.82.
George Short, $191.68.
Eugene S. Sullivan, $41.62.
Minnie Swett, daughter of James L. Williams, deceased, $465.92.

The amendment was agreed to.

The next amendment was, on page 173, after line 17, to insert:

To the following-named persons (representing 24 claims) the following sums, respectively, as found by the Court of Claims in the case of Alfred D. Bullock and others against the United States, for payment for extra labor above the legal day of eight hours at the Boston Navy Yard, namely:

Alfred D. Bullock, $232.11.
Joseph F. Baker, $210.77.
John Clark, $142.64.
William M. Carr, $79.07.
Winslow L. Crafts, $371.87.
Charles H. Crocker, $330.83
Samuel Dwight, $786.62.
John Flynn, $400.94.
John E. Gilmore, $275.44.
Henry G. Hichborn, $349.93.
Patrick Marrow, $171.40.
Eben P. Oakes, $126.79.
Joseph Riley, $418.59.
William P. Raymond, $381.44.
Jennie A. Sawyer, widow of Jefferson Sawyer, deceased, $281.87.
George D. V. Smith, $33.
Chester R. Streeter, $488.10.
George K. Sawyer, $315.43.
Albert Sawyer, $473.15.
Samuel J. Cochran, $445.83.
William H. Rigby, $905.78.
William N. Winter, $166.66.
John Ward, $57.75.
George H. Young, $02.81.

The amendment was agreed to.

The next amendment was, on page 175, after line 19, to insert:

NEW HAMPSHIRE.

To the following-named persons (representing 11 claims) the following sums, respectively, as found by the Court of Claims in the case of Hannah J. Adams, widow of Augustus H. Adams, deceased, and others against the United States, for payment of extra labor above the legal day of eight hours at the Portsmouth Navy Yard, namely:

Hannah J. Adams, widow of Augustus H. Adams, deceased, $87.75.
George Beal, $8.14.
Charles S. Hobbs, $290.83.
Alfred H. Hook, $61.16.
Stacy G. Moran, $32.43.
Susan Y. Perry, widow of William H. Perry, deceased, $171.49.
Sarah A. Trefethen, widow (remarried) of Benjamin E. Seaward, deceased, $685.40.
Rose A. Spinney, widow of William M. Spinney, deceased, $312.93.
Mary A. Willey, widow of Joseph Willey, deceased, $2.93.
Ivan L. Meloon, $167.10.
Fred A. Moore, $231.14.

The amendment was agreed to.

The next amendment was, on page 176, after line 23, to insert:

To the following-named persons (representing 182 claims) the following sums, respectively, as found by the Court of Claims in the case of Nathan F. Amee and others against the United States, for payment for extra labor above the legal day of eight hours at the Portsmouth Navy Yard:

Nathan F. Amee, $396.75.
George A. Adams and Stephen E. Adams, heirs of Albert J. Adams, deceased, $365.53.
Stephen E. Adams, $94.74.
Mary Jane Anderson, widow of Montgomery Anderson, deceased, $308.68.
George P. Abbott, $132.
George R. Adams, $166.12.
Levi Briard, $402.75.
Lorenzo T. Burham, $116.25.
Walter Ball, $364.14.
James Boardman, $473.52.
Albert F. Billings, administrator of Frederick A. Billings, deceased, $372.41.
Hannah A. Briard, widow of Robert Briard, deceased, $486.63.
Charles Bowden, $2.86.
George D. Boulter, $91.05.
Walter Ball, John Ball, and Ida A. Bennett, sole heirs of John R. Ball, deceased, $231.40.
Mrs. A. F. Ball, Mrs. N. S. Perry, and Mrs. E. G. Wright, heirs of Michael C. Leary, deceased, $197.12.
Mary Bright, widow of John Bright, deceased, $51.33.
Benjamin F. Bunker, $56.51.
John S. Bennett, $553.19.
Charlotte E. Betton, widow of Thornton Betton, deceased, $160.02.
Eben F. Brackett, $428.06.
John Ball, $310.07.
Elizabeth L. Brown, widow of Frank S. Brown, deceased, $130.12.
Mary Brown, Mrs. A. T. Hackett, Mrs. A. C. Plummer, and Mrs. A. L. Martin, sole heirs of Franklin K. Brown, deceased, $155.62.
Anna A. Brooks, widow of James Brooks, deceased, $902.50.
Levi M. Brooks, $9.37.
J. Mahlon Bickford, Albert H. Bickford, Louise H. Brown, and Zashews V. Bickford, sole heirs of Joshua Bickford, deceased, $247.91.
Jacob B. Burns, $28.25.
Jacob B. Burns, sole heir of Ezekiel Burns, deceased, $63.75.
Moses G. Berry, $224.58.
Tobias E. Burke, $840.63.
John W. Chickering, $396.05.
Charles W. Coleman, $170.25.
George A. Clough, Arthur B. Clough, Roland C. Clough, and Florence J. Clough, sole heirs of Elijah Clough, deceased, $345.75.
Martha E. Cottle, widow of Oliver Cottle, deceased, $107.14.
Mary Jane Curtis, widow of Moses R. Curtis, deceased, $265.92.
Samuel H. Chauncey, $158.10.
Ann E. Colley, widow of William B. Colley, deceased, $413.47.
Charles C. Dixon, $198.69.
Lavinia M. Dixon, widow of William M. Dixon, deceased, $172.87.
Margaret E. Danne, widow of John W. Danne, deceased, $371.36.
Leland W. Davis, Shirley B. Davis, and Lemuel T. Davis, sole heirs of Lemuel T. Davis, deceased, $317.80.
Thomas W. Ducker and George H. Ducker, sole heirs of Robert Ducker, deceased, $312.49.
William T. Entwistle, $105.02.
George B. Frost, $105.23.
Joseph B. Fletcher, $369.27.
Walter P. Fitzmaurice, $77.62.
Henry Fernald, $131.55.
Frank A. Fagan, $101.26.
Howard S. Frisbie, $312.45.
William F. Foye and Ada F. Foye, sole heirs of Stephen J. Foye, deceased, $294.97.
Emma D. Flagg, widow of John H. Flagg, deceased, $338.07.
George W. Foote, $190.68.
William J. Frost, $56.31.
Dennis Flynn, $54.22.
Josiah Fernald, otherwise Josiah W. Fernald, $49.87.
Oliver G. Fernald, $688.73.
S. Elizabeth Fernald, widow of William A. Fernald, deceased, $643.40.
Levi L. Goodrich, $429.65.
George W. Green, $511.45.
John A. George, $351.23.
Lewis B. Gerrish, $328.30.
John Glover, $647.93.
Lizzie L. Gatchell, widow of Jessie H. Gatchell, deceased, $79.87.
Mary O. Gray, widow of Walter S. Gray, deceased, $257.61.
George A. Genthner, $192.28.
Charles L. Gilnes, $235.87.
Mary D. Goodspeed, widow of Burbank S. Goodspeed, deceased, $327.
Mary E. Goss, widow of Alfred S. Goss, deceased, $81.82.
Josephine Gardner, widow of William H. Gardner, deceased, $426.37.
George H. Hayes, $351.53.
Elizabeth H. Hanscom, widow of Jackson A. Hanscom, deceased, $160.16.
Freeman Hurd, $158.47.
Lucinda A. Hayes, widow of Charles E. Hayes, deceased, $190.26.
Ira Hanscom, $164.02.
C. Dwight Hanscom and Albert H. Hanscom, executors of Nathaniel Hanscom, deceased, $152.01.
Margaret P. Humphreys, widow of George Humphreys, deceased, $274.12.
Mary A. Hersey, widow of George L. Hersey, deceased, $63.20.
Mabel Idella Hayes, guardian of Roy C. Philbrick, sole heir of Robert S. Philbrick, deceased, $246.06.
Samuel M. Joy, $204.94.
Walter S. Jackson and Ernest Jackson, two of the heirs of Zina H. Jackson, deceased, $391.59.
Mrs. William S. Jackson, widow of William S. Jackson, deceased, $284.25.
Joseph P. Jenkins, $179.14.
James M. Knapp, $680.49.

Joseph Keen, $167.20.
Ira C. Keen, $75.16.
Willis E. Keen, $181.06.
Elmer H. McKenney, $179.38.
Benjamin Keen, $317.62.
Harry M. Kimball and Mrs. George W. Smith, sole heirs of Charles W. Kimball, deceased, $266.12.
Catherine Killoran, sole heir of James Mahoney, deceased, $162.33.
Charles J. Lydston, $250.47.
Isaac H. Lambert, $343.48.
Adam Lutts, $384.50.
William H. Lovell, $729.
Charles Lowd, otherwise Frank Lowd, $60.72.
Maria M. Lowd, widow of Horace S. Lowd, deceased, $209.75.
Winfield S. Lord, $337.95.
James C. Lydston, $409.50.
Alfred M. Lang, $360.50.
Ellen A. Lewis, widow of Thomas Lewis, deceased, $126.
John O. Langley, $387.09.
Elizabeth Mason Leary, sole heir of Daniel Mason, deceased, $191.60.
F. Josephine Lombard, Henry A. Lombard, Elizabeth L. Moon, and Mary L. Shannon, sole heirs of Henry Lombard, deceased, $39.75.
Frank H. Lewis, Arthur H. Lewis, George W. Lewis, Emma L. Carr, Wentworth Lewis, Fred Lewis, Maud L. Foge, Harry E. Lewis, and Sydney Lewis, sole heirs of Reuben Lewis, deceased, $235.17.
James S. Lawry, $86.13.
Ellen Lowd, widow of Edwin Lowd, deceased, $55.93.
Lemuel McIntire, $78.02.
John D. Medcalf, administrator of Henry Knight, deceased, $676.75.
Oliver B. Moody, $71.92.
George Maacent, $383.96.
Daniel W. Marden, $647.87.
Harriet N. Moore, widow of Moses D. Moore, deceased, $829.85.
Benjamin F. Martin, $225.
Albert H. Moody, $16.75.
Albert Manson, $25.64.
Frank Moore, Hannah E. Atkinson, and Blanche V. Hull, sole heirs of John Moore, deceased, $49.45.
Catherine G. Nutter, widow of William H. Nutter, deceased, $137.13.
Martha J. Noyes, widow of William F. Noyes, deceased, $921.16.
Martha A. Nealley, widow of Edwin C. Nealley, deceased, $706.20.
Mark Nason, $213.85.
Edward E. Otis and James O. Otis, sole heirs of William M. Otis, deceased, $338.80.
Ellen N. Odlerne, $128.25.
Eileen E. Obrey, administratrix of Benjamin Smith, deceased, $109.97.
Frank E. Osgood, $288.93.
Isaac H. M. Pray, $210.24.
Isaac H. M. Pray, one of the heirs of James B. Pray, deceased, $77.37.
Walter Philbrick, $310.15.
John E. Pinkham, $107.87.
Fred J. Pillsbury, one of the heirs of Samuel H. Pillsbury, deceased, $7[illegible].24.
Mary E. Palfrey, administratrix of Hanson Hoyt, deceased, $127.34.
George R. Palfrey, Harry B. Palfrey, William H. Palfrey, Robert R. Palfrey, and I. Miller Palfrey, sole heirs of William W. Palfrey, deceased, $361.93.
Benjamin F. Powell, William Powell, and Mrs. Harry M. Kimball, sole heirs of Benjamin Powell, deceased, $253.97.
Mary E. Parker, widow of Pierce Parker, deceased, $301.75.
Annie E. Prior, widow of Warren Prior, deceased, $355.25.
Sarah A. Paul, widow of John A. Paul, deceased, $392.84.
Thomas Prior, $290.49.
Mary E. Paul, widow of Franklin N. Paul, deceased, $170.25.
Eliza A. Parks, widow of George L. Parks, deceased, $385.50.
Daniel H. Plaisted, Ellen O. Littlefield, James S. Plaisted, Fronie R. Colby, George E. Plaisted, Sarah E. Batting, Mark R. Plaisted, and Annie M. Bingham, sole heirs of Mark R. Plaisted, deceased, $471.50.
Edwin D. Rand, executor of Albert H. White, deceased, $345.20.
Joseph C. Remick, $170.63.
Sarah A. Richardson, widow of James W. Richardson, deceased, $307.63.
Maria Rand, widow of Reuben Rand, deceased, $329.25.
Frank Remick, executor of John Remick, deceased, $379.87.
Walter C. Rogers, sole heir of John H. Rogers, deceased, $590.68.
Howard E. Spinney, one of the heirs of Samuel H. Spinney, deceased, $12[illegible].
Howard E. Spinney, $122.83.
Willard Spinney, otherwise Willard T. Spinney, $289.41.
Harvey E. Seaward, $66.33.
William Shields, $1.03.
Mary E. Sherman, widow of Eli Sherman, deceased, $583.44.
George Stringer, $378.
Mary Spinney, widow of Azariah L. Spinney, deceased, $232.06.
George W. Stillson, $52.11.
Mary A. Spinney, widow of Sylvester Spinney, deceased, $165.
Mary Salmon, widow of Thomas Salmon, deceased, $286.81.
Margaret L. Stringer, widow of William Stringer, deceased, $261.04.
Ida Estelle Shackley and Susie H. Shackley, sole heirs of George Shackley, deceased, $324.
Elizabeth E. Swain, widow of John D. Swain, deceased, $361.87.
Frank Sides, administrator of Robert C. Sides, deceased, $286.61.
Morris Tobin, $55.21.
Ernest C. Tobey, Winfield L. Tobey, and Edgar L. Tobey, sole heirs of Meshach Tobey, deceased, $130.37.
Edwin Underhill, $177.43.
Thomas J. F. Varrell, $452.25.
Clement M. Waterhouse, sole heir of James A. Waterhouse, deceased, $373.71.
Charles A. Wendall, $905.62.
Clement Waterhouse, $244.32.
Reuben Worster, $58.50.
Asa Wilson, $38.43.
Warren P. Webster, $21.65.
John R. Wentworth, $310.99.
George A. Williams, $280.46.
Lorenzo Witham, otherwise Lorenzo D. Witham, $113.99.
John Wood, $484.50.
George S. Welch, $2.01.
Daniel L. Wendell, $211.64.
Emma E. Young and Fred C. Young, sole heirs of Charles E. Young, deceased, $352.88.
John E. Yeaton, $205.66.
John E. Yeaton, one of the heirs of Benjamin Yeaton, deceased, 37 cents.
Fred C. Young, Emma E. Young, and Clara W. Bennett, sole heirs of Charles Lane, deceased, $18.48.
Edward P. Yeaton, sole heir of Nathaniel W. Yeaton, deceased, $224.76.

The amendment was agreed to.

The next amendment was to insert, beginning with line 1, page 193, the following:

To the following-named persons (representing 12 claims) the following sums, respectively, as found by the Court of Claims in the case of William A. Ashe and others against the United States, for payment for extra labor above the legal day of eight hours at the Portsmouth Navy Yard, namely:
William A. Ashe, $461.37.
Ivah R. Davis, $111.98.
George F. Randall, $142.35.
Charles H. Rowe, $201.96.
John Walton, $201.16.
Miriam W. Adams, widow of Daniel Adams, deceased, $162.75.
Emma L. Caswell, widow of Perry Caswell, deceased, $68.20.
Lois J. Howell, widow of John S. Howell, deceased, $457.67.
Annie F. Rich, widow of Robert E. Rich, deceased, $230.02
Cedric C. Campbell, John H. Campbell, Noel Campbell, Lucy Campbell, and Ethel Gillis, sole heirs of Nathaniel Campbell, deceased, $204.51.
Alice M. Rand, sole heir of William H. Deverson, deceased, $85.25.
Charles F. Goodwin, $87.29.

The amendment was agreed to.

The next amendment was, on page 194, after line 8, to insert:

To the following-named persons (representing 38 claims) the following sums, respectively, as found by the Court of Claims in the case of Sylvester L. Backus and others against the United States, for payment for extra labor above the legal day of eight hours at the Portsmouth Navy Yard, namely:
George W. Bailey and Charles T. Bailey, sole heirs of Joseph Bailey, deceased, $106.80.
Sylvester L. Backus, $39.75.
Charles H. Bessellevre, $82.28.
Carrie R. Bragden and Lyman T. Pray, sole heirs of Charles T. Pray, deceased, $32.60.
Carrie R. Bragden and Lyman T. Pray, sole heirs of Peter Pray, deceased, $175.87.
George Campbell, Alice Campbell Stevens, and Helen Campbell Ricker, sole heirs of Thomas Campbell, deceased, $44.91.
Oscar L. Collum, sole heir of George H. Collum, deceased, $44.55.
Mrs. M. E. Critchley, widow (remarried) of John A. Yeaton, deceased, $320.19.
Lizzie A. Cram, Lydia P. Lowell, and Eliza W. Hoyt, sole heirs of Josiah W. Hussey, deceased, $96.60.
Pender Davis, $87.
Richard Davidson, Elizabeth J. Davidson, Elizabeth S. Jenness, James Davidson, and Deborah Currier, sole heirs of James Davidson, deceased, $76.95.
John J. Downes, $33.
Agnes Emery, widow of Joseph H. Emery, deceased, $224.08.
George W. French, Ruth E. Burns, Anna T. Ham, and Sadie B. Schurman, sole heirs of Joseph T. French, deceased, $367.23.
Ezra M. Goodwin, $121.71.
Susan O. Green, widow of Charles B. Green, deceased, $255.37.
Elizabeth E. Gilman, Jennie L. Grindell, Sarah L. Quackenbush, William H. Noyes, Howard A. Noyes, and Fred A. Noyes, sole heirs of William H. Noyes, deceased, $370.50.
Caroline Bird Hammond, widow of Henry Clay Hammond, deceased, $376.12.
Amanda M. Jellison, widow of Alvah Jellison, deceased, $218.88.
Samuel H. Kingsbury, $262.50.
Ira C. Keene, $75.16.
Clara I. Lewis, widow of Enoch Lewis, deceased, $5.50
Julia A. Moses, widow of Alfred D. Moses, deceased, $378.37.
Addie F. Marks, widow of Frank L. Marks, deceased, $394.12.
Ida F. Neal, sole heir of Daniel R. Neal, deceased, $82.12.
Moses Plummer, $544.27.
Mary L. Quinn, widow of Stephen H. Quinn, deceased, $417.
Ednah M. Ford Rowe, sole heir of James Edgar Ford, deceased, $416.70.
Rebecca Y. Raitt, widow of Daniel G. Raitt, deceased, $566.70.
Frederick A. Staples, Thomas F. Staples, and Calvin H. Staples, sole heirs of Thomas Staples, deceased, $420.37.
Frank W. Smith, $123.16.
Willard Sears, $284.74.
Samuel Taylor, $438.46.
Henry Wallace, $129.50.
Mrs. Jesse N. Wilson, widow of Jesse N. Wilson, deceased, $181.50.
Lucy Whalley, widow of Edmund Whalley, deceased, $267.81.
George Woods, $257.92.
George H. Young, $40.50.

The amendment was agreed to.

The next amendment was to insert, beginning at the top of page 198, the following:

To the following-named persons (representing 26 claims) the following sums, respectively, as found by the Court of Claims in the case of Robert B. Billings and others against the United States, for payment for extra labor above the legal day of eight hours at the Portsmouth Navy Yard, namely:
Robert B. Billings, $274.83.
Franklin H. Bond, $291.40.
William H. Brown, $316.96.
William C. Bray, $271.15.
Isaac H. Farr, $433.99.
John Grant, $519.77.
Robert M. Ham, $119.36.
Henry H. Ham, $509.08.
Albert Hanscom, $46.17.
James M. Jarvis, $379.34.
Thomas L. Jose, $388.66.
Michael E. Long, $308.90.
Frank E. Lawry, $78.49.

Brackett Lewis, $45.18.
William W. Locke, $228.56.
Walter N. Meloon, $166.81.
George W. Muchmore, $810.34.
Christopher Remick, $117.16.
Edwin D. Rand, $295.80.
Augustus Stevenson, $917.60.
George E. Stackpole, $180.60.
William H. Wilson, $191.55.
Benjamin F. Winn, $224.90.
Augustus S. Zara, $429.75.
Joseph A. Meloon and Charles O. Meloon, executors of Nathaniel L. Meloon, deceased, $471.30.
Charles Stewart, $349.90.

The amendment was agreed to.

The next amendment was, on page 200, after line 7, to insert:

To the following-named persons (representing nine claims) the following sums, respectively, as found by the Court of Claims in the case of George W. Brown and others against the United States, for payment for extra labor above the legal day of eight hours, at the Portsmouth Navy Yard, namely:
George W. Brown, $33.75.
John L. Emery, $257.62.
Mary Mozart, widow of William J. Mozart, deceased, $77.43.
Joseph B. Remick, $257.62.
Timothy Trafton, $145.48.
William P. Titcomb, $78.
Rhasa Perkins, $5.82.
Thomas J. Pettigrew, $420.
Alexander N. Perry, $314.25.

The amendment was agreed to.

The next amendment was, on page 201, after line 3, to insert:

To the following-named persons (representing 17 claims) the following sums, respectively, as found by the Court of Claims in the case of John W. Knight and others against the United States, for payment for extra labor above the legal day of eight hours, at the Portsmouth Navy Yard, namely:
John W. Knight, $459.37.
Ruth A. Kuse, widow of Joseph Kuse, deceased, $308.74.
Charles M. Prince, son of Charles M. Prince, deceased, $306.12.
Nathaniel Bowden, $54.34.
Dennis M. Shapleigh, $425.25.
Horace Mitchell, son of Reuben Mitchell, deceased, $251.70.
John R. Dinsmore, $506.46.
George O. Athorne, son of Oliver Athorne, deceased, $13.12.
Fred Spinney, $34.40.
Thomas E. Wilson, heir of Joseph D. Frost, deceased, $310.78.
Mabel J. Morse, daughter of P. Wentworth, deceased, $554.89.
Emily J. Morse, widow of William Morse, deceased, $98.95.
Mary S. Wilcox, widow of Theodore Wilcox, deceased, $633.42
George O. Wilson, $382.50.
James R. Philbrick, $243.55.
William F. Pinkham, $611.81.
C. H. Staples, $285.56.
To Holman Marr, $106.12.
To Charles L. Duncan, $169.57.

The amendment was agreed to.

The next amendment was, on page 202, after line 21, to insert:

To the following-named persons (representing eight claims) the following sums, respectively, as found by the Court of Claims in the case of Edward H. Norton and others against the United States, for payment for extra labor above the legal day of eight hours at the Portsmouth Navy Yard, namely:
Edward H. Norton, $260.74.
John W. Bickford, $136.35.
John Flanigan, $330.64.
Edwin A. Duncan, $188.76.
Charles E. Whitehouse, $461.
George F. Tobey, $57.25.
Edward E. McIntire, $294.31.
J. Mahlon Bickford, $514.39.

The amendment was agreed to.

The next amendment was, on page 203, after line 18, to insert:

NEW YORK.

To the following-named persons (representing 21 claims) the following sums, respectively, as found by the Court of Claims in the case of Hans Anderson and others against the United States, for payment for extra labor above the legal day of eight hours at the Brooklyn Navy Yard, namely:
Hans Anderson, $4.32.
William B. Burlingame, $20.12.
John W. Buckley, $189.32.
William H. Bulmer, $18.
Anthony J. Bommer, $112.23.
Daniel Coffey, $33.90.
William Ford, $93.38.
Michael Halloran, $341.95.
Rebecca E. Jansen, one of the heirs of Isaac Wallack, deceased, $276.66.
Mary Raulston B. Johnston, one of the heirs of Samuel Raulston, deceased, $232.81.
Maria L. Lane, one of the heirs of John Scott, deceased, $119.87.
James Norton, $65.23.
Humphrey H. Owens, $42.45.
Isaac A. Rose, administrator of Isaac A. Rose, deceased, $146.37.
Isaac Alonzo Rose, $15.30.
Leon Ridoux, $9.18.
Robert J. Ross, one of the heirs of Robert J. Ross, deceased, $20.10.
Everett W. Sharkey, one of the heirs of Alexander Sharkey, deceased, $68.56.
Charles H. Totten, $312.40.
Peter Watson, $88.15.
Elizabeth M. Clark, Annie Malloy, and Annie Kenney, heirs of Patrick Kenney, deceased, 45 cents.
To Nicholas A. Brooks, $136.32.

The amendment was agreed to.

The next amendment was, on page 205, after line 16, to insert:

To the following-named persons (representing 13 claims) the following sums, respectively, as found by the Court of Claims in the case of George W. Brown and others against the United States, for payment for extra labor above the legal day of eight hours at the Brooklyn Navy Yard, namely:
George W. Brown, $422.96.
Richard Dezendorf, $158.27.
Peter Doyle, $217.26.
Manuel Glass, $7.72.
William Hamilton, $179.17.
Rodger Howard, $291.93.
Andrew Kane, $292.45.
Patrick McNamara, $74.04.
William Phipps, jr., $131.69.
John R. Powers, $21.86.
John Rauscher, $183.68.
Joseph Sands, $307.43.
Elizabeth Tyson, widow of Peter Tyson, deceased, $93.84.

The amendment was agreed to.

The next amendment was, on page 206, after line 19, to insert:

To the following-named persons (representing five claims) the following sums, respectively, as found by the Court of Claims in the case of William L. Buckley and others against the United States, for payment for extra labor above the legal day of eight hours at the Brooklyn Navy Yard, namely:
William L. Buckley, $121.27.
John Dwyer, $385.50.
James Palmer, $99.32.
Mary M. Parent, widow of David Parent, deceased, $185.56.
Helen L. Burnett, George S. Burnett, and Mary O. Powles, sole heirs of Joseph Burnett, deceased, $424.53.

The amendment was agreed to.

The next amendment was, on page 207, after line 10, to insert:

To the following-named persons (representing 14 claims) the following sums, respectively, as found by the Court of Claims in the case of John H. Burtis and others against the United States, for payment for extra labor above the legal day of eight hours at the Brooklyn Navy Yard, namely:
John H. Burtis, $346.39.
Cornelius Bennett, $332.80.
William Croft, $95.13.
Joseph Clyne, $150.08.
Jacob Callas, $66.75.
James A. Driver, $379.80.
Wellington Griffith, $58.22.
George W. Heald, $181.34.
James Hepenstall, $905.10.
George B. Heald, $433.77.
John Knight, $245.80.
Edward Northup, $278.47.
John D. Post, $290.92.
Patrick H. White, $71.59.
To Clarkson V. Hendrickson, $35.96.
To Jasper Chisholm, $86.21.
To John T. R. Mearns, $217.17.
To Richard Rollins, $145.81.
To Mary E. Hare, widow of John E. Hare, deceased, $128.90.

The amendment was agreed to.

The next amendment was, on page 209, after line 4, to insert:

PENNSYLVANIA.

To the following-named persons (representing 19 claims) the following sums, respectively, as found by the Court of Claims in the case of Christopher Alexander and others against the United States, for payment for extra labor above the legal day of eight hours at the League Island Navy Yard, namely:
Christopher Alexander, $374.83.
Albert O. Chamberlain, $24.94.
David Craig, $29.87.
William Coates, $373.91.
Daniel H. Chattin, $401.09.
Josephine Cramp, widow of Martin C. Cramp, deceased, $186.06.
Thomas Denney, $24.60.
John J. Garrity, $270.14.
John B. Grover, jr., $225.81.
William Lynn, $184.60.
George W. Margerum, $269.43.
Theodore Mitchell, $274.60.
Joseph W. Meyers, $1.87.
John H. Pettit, $421.31.
Robert Pogue, $01.75.
James Spear, $996.76.
Edward T. Weaver, $447.37.
Thomas R. Walters, $247.69.
George A. Zirnberg, $455.35.

The amendment was agreed to.

The next amendment was, on page 210, after line 20, to insert:

To the following-named persons (representing 35 claims) the following sums, respectively, as found by the Court of Claims in the case of Sanford Bilyen and others against the United States, for payment for extra labor above the legal day of eight hours at the League Island Navy Yard, viz:
Sanford Bilyen, $555.62.
Harry Davenport, $379.83.
Thomas P. Ferguson, $38.63.
Charles P. Grice, $237.47.
Francis Grice, $149.01.
Henry Hockery, $116.30.
Joseph Magilton, $13.47.
George W. Mahorn, $68.01.
Daniel McCall, $370.09.
Charles P. Montgomery, $433.01.
John A. Newcomb, $316.31.
Richard H. O'Donnell, $503.71.
Edward E. Packer, $438.50.

John H. Redfield, $412.60.
Peter A. Slote, $214.82.
Mary A. Corkery, widow of John Corkery, deceased, $365.06.
Lizzie C. Land, widow of George M. Land, deceased, $276.67.
Eleanor F. Martin, widow of George S. Martin, deceased, $79.53.
Lois Room, widow of Benjamin A. Room, deceased, $113.98.
Annie E. Sheer, widow of John Sheer, deceased, $434.62.
Elizabeth Smith, widow of John Smith, deceased, $304.30.
Mary J. Quinton and Lizzie S. Horner, sole heirs of Nathan D. Room, deceased, $264.35.
Peter A. Slote, George W. Slote, Mamie Slote, Lidie Lutz, Andrew Wells, and Daniel Wells, sole heirs of Franklin S. Wells, deceased, $68.50.
Peter A. Slote, George W. Slote, Mamie Slote, Lidie Lutz, Andrew Wells, and Daniel Wells, sole heirs of Frank Wells, deceased $52.20.
William C. Bessellevre, jr., $16.14.
Sidney I. Bessellevre, $71.31.
Parry T. McCurdy, $266.96.
Harry C. Scott, $68.58.
Charles P. Grice and Francis Grice, sole heirs of Francis E. Grice, deceased, $187.60.
William C. Bessellevre, administrator of John A. Bessellevre, deceased, $75.
George G. Cressey, $217.32.
Edwin Phillips, $455.84.
Ida M. Hoffacker, Susie A. Antrim, Margaret Meager, Fannie Fort, Harry Tantum, Elmer Tantum, Fred Tantum, and Walter Tantum, sole heirs of Henry N. Bennett, deceased, $457.63.
Emily Powell, widow of George Powell, deceased, $224.79.
Mary A. Dunn, Rebecca Patterson, Elizabeth Hunter, and William C. Barnes, sole heirs of Frederick B. Barnes, $132.36.

The amendment was agreed to.

The next amendment was, on page 214, after line 5, to insert:

To the following-named persons (representing 15 claims) the following sums, respectively, as found by the Court of Claims in the case of Francis B. Black and others against the United States, for the payment for extra labor above the legal day of eight hours at the League Island Navy Yard, namely:
Francis B. Black, $404.21.
Arthur F. Corgee, $333.43.
Harry L. Davies, $72.91.
Harry L. Davies and John M. Davies, jr., sole heirs of John M. Davies, deceased, $808.12.
Samuel B. Edwards, $64.81.
George Hunter, $54.16.
William Kinsley, $236.66.
Mary A. McKay, widow of John McKay, deceased, $137.96.
Harry M. Mitchell and Margaret W. Eppright, sole heirs of Charles B. Mitchell, deceased, $514.46.
Simon McIlhare, $55.14.
George H. Pattison, $79.05.
Walter S. Rick, sole heir of George Rick, deceased, $469.95.
David S. Scott, $337.88.
Frederick Uber, $113.81.
Joseph Vile, $240.16.

The amendment was agreed to.

The next amendment was, on page 215, after line 16, to insert:

To the following-named persons (representing 30 claims) the following sums, respectively, as found by the Court of Claims in the case of Jacob M. Davis and others against the United States, for payment for extra labor above the legal day of eight hours at the League Island Navy Yard, namely:
Jacob M. Davis, $309.01.
William R. Day, $156.53.
Sarah A. Gail, widow of William Gail, deceased, $13.46.
Elizabeth T. Mitchell, widow of George W. Mitchell, deceased, $48.75.
George W. Mager, one of the heirs of Adam Mager, deceased, $161.03.
Adriana Wilkinson, otherwise Kane Wilkinson, $256.58.
Benjamin L. Berry, $131.99.
William H. Beldman, $57.25.
William Wilson, $437.37.
Harry M. Mitchell, $281.23.
Martha L. Roberts, widow of John S. Roberts, deceased, $441.81.
James Schomler, $397.06.
Catherine Trinkle, executrix of David Irelan, deceased, $423.31.
John Sexton, $101.19.
Anna D. Benner, widow of James Benner, deceased, $210.41.
George W. Clothier, $422.59.
Edwin W. Dougherty (on rolls as Edward Dougherty), $328.37.
James Ingram, $309.93.
Andrew J. Keyser, jr., $428.06.
Sarah M. Keyser, widow of Andrew J. Keyser, sr., deceased, $879.06.
Emily R. McCalla, widow of Frank L. McCalla, deceased, $400.03.
Andrew B. Doebler, $861.41.
Charles Ewing, $97.47.
Robert C. Kochersperger, $165.94.
Jennie McCalla, widow of John A. McCalla, deceased, $164.67.
William H. Ribl, $435.25.
Aaron F. Stull, $97.93.
Samuel J. Sharmon, $361.65.
John H. Silbert, $148.10.
John Virden, $903.59.
To Caroline Flomerfelt, widow of George W. Flomerfelt, deceased, $181.22.
To Edward McCann, $84.93.
To Elizabeth Siegfried, widow (remarried) of Robert Serro, deceased, $279.56.

The amendment was agreed to.

The next amendment was, on page 218, after line 18, to insert:

RHODE ISLAND.

To the following-named persons (representing four claims) the following sums, respectively, as found by the Court of Claims in the case of George A. Brown and others against the United States, for payment for extra labor above the legal day of eight hours at the naval torpedo station, Newport, namely:
George A. Brown, $291.19.
Mary C. Butts, widow of Noah Butts, deceased, $388.10.
Jacob C. Chase, $4.47.
Thomas Twigg, $217.80.

The amendment was agreed to.

The next amendment was, on page 219, after line 7, to insert:

VIRGINIA.

To the following-named persons (representing four claims) the following sums, respectively, as found by the Court of Claims in the case of Mary Beasley, widow of Mordecai Beasley, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours at the Norfolk Navy Yard, namely:
Mary E. Beasley, widow of Mordecai Beasley, deceased, $64.84.
Peter Gallillee, $17.63.
Sarah Richardson, widow of Noah Richardson, deceased, $130.18.
Albert E. West, $39.32.

The amendment was agreed to.

The next amendment was, on page 219, after line 20, to insert:

To the following-named persons (representing 33 claims) the following sums, respectively, as found by the Court of Claims in the case of George W. Boushell and others against the United States, for payment of extra labor above the legal day of eight hours at the Norfolk Navy Yard, namely:
George Boushell, $121.13.
John T. Brown, $72.76.
William T. Boole, $122.25.
James A. Black, $98.31.
Martin J. Casey, executor, etc., of Steven Casey, deceased, $28.38.
James O. Corprew, $88.70.
Mary F. Connor, widow of Robert Connor, deceased, $228.
Nelson Carney, $38.94.
John A. McDonald, $174.
Hugh Smith, $97.87.
Richard S. Wilson, $59.02.
Thomas P. Cooke, $122.79.
Richard M. Diggs, $4.37.
Frank E. Eaton, $28.84.
John T. Gallam, administrator of Michael Moran, deceased, $95.26.
Thomas J. Howe, $533.12.
Ignatius Howe, $136.12.
John W. Howe, $238.55.
Charles A. Jakeman, $100.62.
William F. Luke, $12.75.
James W. McDonough, $529.78.
Louis McCloud, $182.25.
Thomas O'Rourke, $70.90.
Mary J. Pyle, widow of Millin J. Pyle, deceased, $266.87.
Thomas Riley, $67.04.
Henry W. Roble, $369.51.
Mary E. Rollins, widow of James W. Rollins, deceased, $121.50.
Miles Riddick, $129.12.
Robert T. Trafton, $192.70.
Warren Wellines, $123.42.
Scot. White, $88.88.
Edward Whitehurst, $118.87.
Miles C. Wood, $46.12.
To Mary A. Curran, executrix of the estate of John J. Curran, deceased, late claimant in his own right, and as sole heir of Murty Curran, deceased, $1,032.94.
To Mrs. Martin Grady, widow of Martin Grady, deceased, $389.25.

The amendment was agreed to.

The next amendment was, on page 222, after line 19, to insert:

To the following-named persons (representing six claims) the following sums, respectively, as found by the Court of Claims in the case of Sadie F. Curtis and Annie E. C. Partin, heirs at law of Henry W. Neville, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours at the Norfolk Navy Yard, namely:
Sadie F. Curtis and Annie E. C. Partin, sole heirs of Henry Willis Neville, deceased, $376.62.
Everett Gildersleeve, Emma Francis Hathaway, Josephine Hewitt, and Ruth Clark, sole heirs of Samuel W. Gildersleeve, deceased, $873.33.
Everett Gildersleeve, Emma Francis Hathaway, Josephine Hewitt, and Ruth Clark, sole heirs of Samuel Gildersleeve, deceased, $414.42.
Thomas Hinton, Agnes Hinton, Harrison Hinton, and Henry Marshall, sole heirs of Harrison Hinton deceased, $272.60.
Charles A. McCourt and Ella A. McCourt, sole heirs of John A. McCourt, deceased, $182.16.
Rebecca Pope, widow of John Pope, deceased, $140.31.

The amendment was agreed to.

The next amendment was, on page 223, after line 21, to insert:

To the following-named persons (representing 28 claims) the following sums, respectively, as found by the Court of Claims in the case of Georgie R. Ricketts, widow of Augustus Ricketts, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours, at the Norfolk Navy Yard, namely:
Georgie R. Ricketts, widow of Augustus Ricketts, deceased, $59.12.
Margaret Cox, widow of John Cox, deceased, $2.06.
Alfred Bergerson, $19.82.
Moses Cornick, $91.50.
Robert E. Crump, $264.15.
Henry H. Epps, $164.97.
Robert Francis, $8.25.
Harrison Gaffney, $51.20.
Everett Gildersleeve, $220.82.
Samuel Gordon, $119.79.
James Kennedy, $3.52.
Enos Kitchen, $6.49.
John Land, $8.17.
Dennis Michaels, $86.56.
Isaac Miller, $283.66.
Edward V. Rauschert, $125.91.
Charles A. Shafer, $432.92.
Hm S. Whitehurst, $58.50.
Moses Whitehurst, $78.28.
Samuel P. Wigg, $301.15.
Fanny Brown, widow (remarried) of Joseph Williams, deceased, $35.26.

Mattie A. Bushnell, widow of Albert Bushnell, deceased, $354.75.
Mary E. Crandol, widow of William E. Crandol, deceased, $375.62.
Virginia Hurlbut, widow of Albert B. Hurlbut, deceased, $241.90.
Mary L. Lamar, widow of Henry Lamar, deceased, 88 cents.
Mary McDowell, widow (remarried) of Alexander Howell, deceased, $1.50.
Mary E. Moore, widow of Augustus W. Moore, deceased, $504.20.
Emma Ryder, widow of William R. Ryder, deceased, $23.62.

The amendment was agreed to.

The next amendment was, at the top of page 226, to insert:

CLAIMS FOR DIFFERENCE IN PAY BY OFFICERS AND EMPLOYEES IN THE UNITED STATES NAVY GROWING OUT OF FACTS RELATING TO WHETHER OR NOT THE SERVICE WAS PERFORMED ON THE LAND OR ON THE SEA, THE OFFICER OR SAILOR BEING ENTITLED TO A HIGHER RATE FOR SERVICE ON SEA THAN ON LAND.

CALIFORNIA.

To Hannah M. Coon, widow (remarried) of Edward B. Bingham, deceased, of Sonoma County, $308.49.
To Emily V. Cutts, widow of Richard M. Cutts, deceased, of Mare Island, $250.96.
To Francenia H. Dale, widow of Frank C. Dale, deceased, of Merced County, $61.64.
To Marcus D. Hyde, of Alameda County, $225.98.
To Louisa I. Laine, widow of Richard W. Laine, deceased, of San Francisco County, $125.55.
To Nicholas Pratt, late of the United States Navy, $352.54.
To Fannie B. Stothard, widow of Thomas Stothard, deceased, late of the receiving ship Independence, $373.72.

The amendment was agreed to.

The next amendment was, on page 227, after line 5, to insert:

COLORADO.

To Josephine A. Buell, widow of James W. Buell, deceased, of Jefferson County, $97.61.
To Robert Dickey, of Denver, $243.45.
To James Thayer, of Crested Butte, $184.95.

The amendment was agreed to.

The next amendment was, on page 227, after line 13, to insert:

CONNECTICUT.

To Lila J. Baldwin, widow of William S. Baldwin, deceased, of Norwich, $212.
To Elizabeth F. Curtis, administratrix de bonis non of William Harrymore, deceased, late of the United States Navy, $603.57.
To Julius G. Rathbone, administrator of George C. Campbell, deceased, of Hartford County, $230.19.
To Gideon E. Holloway, son of Gideon E. Holloway, deceased, of New London County, $139.50.
To Adelaide L. Spall, administratrix of George Sands, deceased, of Stratford, $504.54:
To Harriet B. Gaylord, sister of Dudley E. Taylor, deceased, of New Haven County, $142.89.

The amendment was agreed to.

The next amendment was, on page 288, after line 6, to insert:

DELAWARE.

To George R. Gray, of New Castle County, $490.74.

The amendment was agreed to.

The next amendment was, on page 228, after line 9, to insert:

DISTRICT OF COLUMBIA.

To Benjamin Atwood, of Washington, $124.63.
To Otway C. and William M. Berryman, Alice B. Bromwell, Columbia N. Payne, children of O. H. Berryman, deceased, of Washington, $67.25.
To John C. Boyd, of Washington, $238.62.
To John B. Briggs, of Washington, $16.44.
To Martha J. Briscoe, widow of John A. Briscoe, deceased, of Washington, $809.48.
To Roberdeau Buchanan, administrator de bonis non of McKean Buchanan, deceased, of Washington, $855.
To Charles E. Carter, of the District of Columbia, $65.50.
To Charles E. Carter, Elizabeth Crawford Bronson, and Lawrence C. Crawford, heirs at law of John C. Carter, deceased, of Washington and the State of New York, $372.91.
To Louisa A. Crosby, widow of Pierce Crosby, deceased, $269.17.
To Samuel Cross, of Washington, $26.85.
To Thomas T. Didier and Frederick W. Didier, heirs of Frederick B. Didier, deceased, $129.30.
To William S. Dixon, $136.44.
To Edward B., Emily K., and Charles R. Doran, children of Edward C. Doran, deceased, of Washington, $108.25.
To Edward J. Dorn, $202.19.
To Kate R. Emmerich, Parthenia E. Altemus, sisters of Charles F. Emmerich, deceased, of Washington, $452.87.
To James M. Flint, $193.30.
To Marina R. Harding, widow (remarried) of Henry O. Handy, deceased, of Washington, $195.23.
To Isaac Hazlett, $131.51.
To Cumberland G. Hedden, $204.65.
To Mary H. Corbett, granddaughter of Samuel Howard, deceased, of Washington, $370.13.
To John Hubbard, of Washington, $95.34.
To Henrietta M. D. Oliphant, widow (remarried) of Henry J. Hunt, deceased, $29.04.
To Alice S. Jordan, widow of John W. Jordan, deceased, of Washington, $251.79.
To Bella A. Leach, widow of Boynton Leach, deceased, of Washington, $83.83.
To Alice V. Lee, widow of William F. Lee, deceased, of Washington, $127.08.
To Harriet B. Loring and Francis B. Loring, sole heirs at law of Charles G. Loring, deceased, of Washington, $446.41.
To Florence Murray, widow of Alexander Murray, deceased, of Washington, $19.80.
To John A. Norris, of Washington, $79.73.
To Christine I. Owen, Kathleen D. Owen, Albert T. Owen, and Alfred C. Owen, children of Alfred M. Owen, deceased, of Washington, $175.89.
To James H. Perry, of Washington, $129.86.
To Christiana C. Queen, widow of W. W. Queen, deceased, of Washington, $49.25.
To Presley M. Rixey, $123.29.
To Albert Ross, of Washington, $583.01.
To Lily Davis White, widow of Henry W. Schaefer, deceased, $96.49.
To Amanda M. Swain, widow of Oliver Swain, deceased, of Washington, $284.52:
To William T. Swinburne, of Washington, $36.16.
To John D. Cahill, administrator of Dennis Twiggs, deceased, of Washington, $126.58.
To Frederick E. Upton, of Washington, $134.79.
To John J. Walsh, of Washington, $274.21.

The amendment was agreed to.

The next amendment was, on page 232, after line 9, to insert:

FLORIDA.

To Catherine Delap, widow of George Delap, deceased, late of the United States Navy, $168.64.
To William W. Dewhurst, administrator with the will annexed of George Dewhurst, deceased, late of the United States Navy, $831.43.

The amendment was agreed to.

The next amendment was, on page 232, after line 17, to insert:

GEORGIA.

To John T. Plunkett, heir at law of Thomas S. Plunkett, deceased, late of the United States Navy, $97.81.

The amendment was agreed to.

The next amendment was, on page 232, after line 21, to insert:

ILLINOIS.

To Louise M. Dodge, widow of Thomas W. Dodge, deceased, late of the United States Navy, $297.35.
To Antonia Lynch, Margaret Lynch, Charlotte L. Carmody, Josephine L. Ridgeway, Jane L. Canby, children of Dominick Lynch, deceased, of Cook County, $73.97.
To Mary J. Owen, widow of Elias K. Owen, deceased, of Randolph County, $1,631.42.
To Merrill Spalding, executor of Enoch G. Parrott, deceased, of Cook County, $1,888.60.
To Horatio L. Walt, of Cook County, $164.48.

The amendment was agreed to.

The next amendment was, on page 233, after line 12, to insert:

INDIANA.

To Simeon P. Gillett, of Vanderburg County, $689.98.
To G. V. Menzies, of Posey County, $39.86.

The amendment was agreed to.

The next amendment was, on page 233, after line 17, to insert:

KENTUCKY.

To Harry Pearson and Elba P. Gassaway, grandchildren of William Pearson, deceased, of Hickman County, $30.80.
To Theodore Speiden and William S. Speiden, sons of William Speiden, deceased, of Jefferson County, $60.80.

The amendment was agreed to.

The next amendment was, at the top of page 234, to insert:

MAINE.

To William H. Anderson, of the United States Navy, $282.02.
To Thomas W. Bell, of Kennebunkport, $323.02.
To Daniel Butland, brother of Francis Butland, deceased, of York County, $718.58.
To Josephine E. Dermett, executrix of Joseph E. Cox, deceased, of York County, $287.81.
To Loring G. Emerson, of Hancock County, $760.61.
To Charles H. Evans, executor of Alice Evans, deceased, daughter of William F. Laighton, deceased, late of the United States Navy, $384.49; and to Bessie D. Laighton, widow of said William F. Laighton, deceased, $192.25.
To Merrill Spalding, James A. Spalding, Elizabeth T. Spalding, children of Lyman G. Spalding, deceased, of Cumberland County, $64.11.

The amendment was agreed to.

The next amendment was, on page 234, after line 22, to insert:

MARYLAND.

To Edward A. Coughlin, next of kin and heir at law of Paul Armandt, deceased, late of the United States Navy, $63.
To Fannie S. B. Halm, widow (remarried) of John C. Beaumont, deceased, of Washington County, $81.
To James T. Bowling, late of the United States Navy, $395.73.
To Mary A. Brannan, widow of James A. Brannan, deceased, late of the United States Navy, $1,318.48.
To Harriet C. Brown, administratrix of Thomas R. Brown, deceased, of Baltimore City County, $256.22.
To Henry H. Clark, of Anne Arundel County, $1,390.36.
To Francis A. Cook, of Anne Arundel County, $870.47.
To Louis A. Cornthwaite, of Baltimore, $861.39.
To George T. Douglass, son of Daniel T. Douglass, deceased, of Baltimore County, $21.40.
To Alfred C. Doyle, administrator de bonis non of James A. Doyle, deceased, of Baltimore, $619.26.
To Mary J. Field, widow of William Field, deceased, late of the United States Navy, $694.89.
To Herbert Harlan and William Beatty Harlan, administrators cum testamento annexo of the estate of David Harlan, deceased, late of the United States Navy, $501.50.
To Peter Heede, of Baltimore, $63.38.
To Howard F. Downs, administrator de bonis non of the estate of James Hutchinson, deceased, of Govans, Baltimore County, $236.12.
To Mary T. Sweeting, heir at law of John Johns, deceased, late of the United States Navy, $179.59.
To Charles A. Le Compte, late of the United States Navy, $322.93.
To Charles F. Bennett, administrator of Nicholas Lynch, deceased, late of the United States Navy, $207.67.
To Anna McDonald, widow of James McDonald, deceased, late of the United States Navy, $422.45.
To James McDonnell, executor of James McDonnell, deceased, of Baltimore County, $68.66.

To William Moody, late of the United States Navy, $543.94.
To Edward K. Rawson, of Anne Arundel County, $136.99.
To Albert P. Southwick, administrator of the estate of John Southwick, deceased, late of the United States Navy, $641.68.
To William G. Sprostan, brother of John G. Sprostan, deceased, of Baltimore County, $59.25.

The amendment was agreed to.

The next amendment was, on page 237, after line 13, to insert:

MASSACHUSETTS.

To Mary J. Abbott, widow of William A. Abbott, deceased, of Essex County, $52.59.
To Josiah B. Aiken, of Suffolk County, $149.04.
To Lucy M. Allen and Joseph A. Holmes, administrators of the estate of Weld N. Allen, deceased, late of the United States Navy, $410.03.
To Mary Elizabeth Babbitt, daughter of Charles W. Babbitt, deceased, of Bristol County, $97.70.
To Almena B. Bates, daughter of John A. Bates, deceased, of Suffolk County, $643.04.
To Helen Bryant, granddaughter of William Black, deceased, of Norfolk County, $322.40.
To Grace E. Bolton and Mary E. Bolton, sole heirs at law of William H. Bolton, deceased, late of the United States Navy, $164.88.
To William F. Burditt, Eleanora B. Kimball, Albert B. Burditt, Charlotte Ferguson, children of William Burditt, deceased, of Suffolk County, $317.10.
To Virginia M. Chase, daughter of Moses B. Chase, deceased, of Suffolk County, $152.80.
To Frederick W. Cotton, of Norfolk County, $130.94.
To Elizabeth N. Courtney, widow of Charles Courtney, deceased, late of the United States Navy, $378.81.
To Edward Cronin, of Suffolk County, $79.20.
To Alexander D. Damon, of Suffolk County, $54.79.
To Ezra Z. Derr, of Suffolk County, $27.40.
To Emily A. Gifford, widow of George P. Gifford, deceased, of Bristol County, $83.63.
To Artemas P. Hannum, administrator cum testamento annexo de bonis non of Josiah A. Hannum, deceased, late of the United States Navy, $368.62.
To Elliott C. Harrington, of Suffolk County, $157.46.
To Mary J. Iverson, widow of Andrew J. Iverson, deceased, of Essex County, $410.96.
To Elizabeth Jackson, widow of Andrew Jackson, deceased, of Middlesex County, $206.29.
To Harry N. Stearns, administrator of the estate of Francis Josselyn, deceased, late of the United States Navy, $1,183.19.
To Katharine A. Horan, daughter of William Langdon, deceased, of Suffolk County, $587.50.
To George E. Leach, administrator of the estate of Phineas Leach, deceased, late of the United States Navy, $1,023.74.
To Edward D. Marchant, son of Cornelius M. Marchant, deceased, of Dukes County, $303.45.
To Ferdinand G. Morrill, of Suffolk County, $118.98.
To Smith W. Nichols, of Suffolk County, $239.13.
To Lott Norton, of Dukes County, $705.21.
To George H. Richards, administrator, with the will annexed, of William A. Parker, deceased, of Norfolk County, $2,230.
To Sarah Elizabeth Clarkson, Sarah L. Calthrope, Cecile Finney, Mabelle L. Medcalf, Mary E. Morrill, Robert B. Pender, Thomas Henry Pender, nephews and nieces, sole heirs at law of Thomas Pinder, deceased, of Amesbury, $61.67.
To Esther and Theresa Redington, only heirs of Robert Redington, deceased, late of the United States Navy, $238.78.
To Ida T. Coggeshall, daughter of James B. Russell, deceased, of Bristol County, $112.09.
To Mabel G. Smith, daughter of Thomas Smith, deceased, of Middlesex County, $293.69.
To John T. Spavin, Annie M. Spavin, Ernestine E. Spavin, Jennie Whitemore, Elizabeth Farnham, children of Robert Spavin, deceased, of Suffolk County, $282.81.
To John A. Tanner, of Suffolk County, $238.62.
To Charles T. Davis, nephew of James S. Thornton, deceased, of Essex County, $51.25.
To Edward K. Valentine, of Suffolk County, $1,137.47.
To Mary Elizabeth Very, administratrix de bonis non of the estate of Samuel Very, jr., deceased, late of the United States Navy, $494.27.
To John S. Waltemeyer, late of the United States Navy, $122.46.
To Mary B. Willey, daughter and only child of George F. Willey, deceased, late of the United States Navy, $288.83.

The amendment was agreed to.

The next amendment was, on page 242, after line 3, to insert:

MICHIGAN.

To Mary F. Clark, widow of Frank H. Clark, deceased, of Houghton County, $200.55.
To George G. Clay, of Kent County, $305.76.

The amendment was agreed to.

The next amendment was, on page 242, after line 8, to insert:

MISSOURI.

To Maria L. Rodgers, granddaughter of Andrew E. Long, deceased, of St. Louis City County, $98.60.
To Thomas J. Manning, only son of John Manning, deceased, of Macon County, $155.75.
To Belle M. Raborg, widow of George B. Raborg, deceased, of St. Louis City County, $109.20.
To Mary S. McQuade and William A. Chambers, children of William Smith, deceased, of St. Louis County, $188.75.

The amendment was agreed to.

The next amendment was, on page 242, after line 21, to insert:

NEBRASKA.

To Willard Foster, heir at law of Edward Foster, deceased, late of the United States Navy, $259.66.

The amendment was agreed to.

The next amendment was, at the top of page 243, to insert:

NEW HAMPSHIRE.

To S. Augusta Tasker, widow of George E. Anderson, deceased, of Belknap County, $48.59.
To Emma G. Jenness, widow of Thomas B. Gammon, deceased, of Rockingham County, $268.60.
To Emma M. Gay, widow and executrix of Thomas S. Gay, deceased, late of the United States Navy, $477.65.
To Hazel O. Goodsoe, Perle E. Nute, Leonora W. Goodsoe, and E. Shirlet Rundlett, children of Augustus O. Goodsoe, deceased, of Rockingham County, $293.70.
To Marie S. Perrimond, widow of Xavier Perrimond, deceased, of Rockingham County, $60.

The amendment was agreed to.

The next amendment was, on page 243, after line 16, to insert:

NEW JERSEY.

To Katharine M. Burnett, widow of Joseph C. Burnett, deceased, late of the United States Navy, $96.31.
To Robert C. Ribbans, guardian of the minor heirs of Isaiah E. Crowell, deceased, of Essex County, $523.14.
To Helen M. Dodge, widow of Edward R. Dodge, deceased, of Camden, $147.81.
To Nelson H. Drake, of Morris County, $346.85.
To Louise E. Elder, widow of Robert D. Elder, deceased, of Essex County, $144.84.
To Clara B. Hassler, widow of Charles W. Hassler, deceased, late of the United States Navy, $566.35.
To Andrew McCleary, of Camden County, $397.45.
To Amanda E. Macfarlane, widow of John Macfarlane, deceased, late of the United States Navy, $254.79.
To Thomas Mason, late of the United States Navy, $37.94.
To Robert C. Ribbans, guardian of the minor heirs of William N. Maull, deceased, of Essex County, $159.
To Walter J. Mayer, Alfred J. Mayer, and Ida J. Mayer Storch, heirs of William H. Mayer, jr., deceased, late of the United States Navy, $181.92.
To Clifford C. Pearson, jr., administrator of the estate of Clifford C. Pearson, deceased, of Middlesex County, $294.49.
To Martha Singleton, widow of Edward B. J. Singleton, deceased, late of the United States Navy, $102.49.
To Mary K. S. Brakeley, only child of Watson Smith, deceased, of Burlington County, $102.
To Winnie M. Stillwell, widow of James Stillwell, deceased, of Essex County, $30.75.
To Edward Lasell, guardian of the heirs at law of William H. Yeaton, deceased, of East Orange, $628.06.

Mr. CRAWFORD. I offer an amendment in connection with this amendment. On page 244, in line 3, strike out the words "Robert D. Elder" and insert in lieu thereof "Robert B. Elder." It is to correct an error in an initial.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 245, after line 10, to insert:

NEW MEXICO.

To Clifford B. Gill, of Dona Ana County, $706.35.

The amendment was agreed to.

The next amendment was, on page 245, after line 13, to insert:

NEW YORK.

To Helen S. Abernethy and Charles H. Abernethy, sole heirs at law of John J. Abernethy, deceased, late of the United States Navy, $191.05.
To William H. Bacon and Annie M. Smith, heirs at law of Francis H. Bacon, deceased, late of the United States Navy, $186.22.
To Belle Bateman, widow of Arthur E. Bateman, deceased, late of the United States Navy, $112.89.
To Fanny Belknap, widow of Charles Belknap, deceased, of Queens County, $68.11.
To A. Nelson Bell, of Kings County, $131.
To Louisa C. Bell, widow of Edward B. Bell, deceased, late of the United States Navy, $875.92.
To Caroline H. Broadhead, widow of Edgar Broadhead, deceased, of Orange County, $253.33.
To Christopher Bruns, of New York County, $141.37.
To Albert Bubner, of Kings County, $65.17.
To Rosalie C. Tone, heir at law of John Calhoun, deceased, late of the United States Navy, $1,565.94.
To Marie L. Clark, widow of Lewis Clark, deceased, of Richfield Springs, $195.06.
To Owen S. M. Cone, of Brooklyn, $237.09.
To John P. Gillis, son of John P. Gillis, deceased, of New York County, $74.14.
To Francis C. Green, executor of the estate of Francis M. Green, deceased, late of the United States Navy, $373.24.
To G. De B. Greene, son of S. Dana Greene, of Schenectady County, $373.95.
To William H. Hall, Charles G. Hall, Eleanor Darling, and Alexander H. Wells, heirs at law of Michael Hall, deceased, of Kings County, $194.60.
To Martha D. Sturgis, daughter of Samuel F. Hazzard, deceased, of New York County, $241.65.
To Harriet F. Hibben, widow of Henry B. Hibben, deceased, late of the United States Navy, $722.45.
To Jessie F. Cole, sister of Frederick A. Howes, deceased, of Dutchess County, $194.09.
To Robert Hudson, of Onondaga County, $26.03.
To Frances R. Hunsicker, widow of Joseph L. Hunsicker, deceased, of Erie County, $205.48.
To Eleanor C. Kloeppel, widow of Henry Kloeppel, deceased, late of the United States Navy, $319.
To Caroline H. Lillie and Julia W. L. Symington, executrixes of the estate of A. B. H. Lillie, deceased, of New York County, $113.97.
To Selena A. Linnekin, widow of Thomas J. Linnekin, deceased, late of the United States Navy, $154.92.
To Gilbert L. McGowan, late of the United States Navy, $23.25.
To Robert H. McLean, of New York County, $112.60.
To E. T. T. Marsh, late of the United States Navy, $54.58.
To Joseph G. Myers, William W. Myers, sons of Joseph G. Myers, deceased, of Kings County, $269.40.
To Mary H. Nicholson, widow of James W. A. Nicholson, deceased, of New York County, $273.29.
To Annie E. Ogilvie, widow of James Ogilvie, deceased, late of the United States Navy, $156.83.

To James Phillips, of New York City, $724.65.
To Alice H. Pierce, widow of Allen W. Pierce, deceased, late of the United States Navy, $209.94.
To Elizabeth M. Pitkin and Carrie Pitkin McDowell, heirs of Henry S. Pitkin, deceased, late of the United States Navy, $382.21.
To Ebenezer S. Prime, of Suffolk County, $325.20.
To George H. Sampson, Leander P. Sampson, Elias S. Willis, Henry P. Willis, James M. Willis, jr., and Maria J. Akin, heirs at law of Daniel W. Sampson, deceased, residing in the States of New York, Massachusetts, and Oregon, $936.68.
To Louisa P. Seaman, widow of Stephen Seaman, deceased, late of the United States Navy, $465.68.
To Augusta W. Seely, widow of Henry B. Seely, deceased, of New York County, $513.70.
To John M. Steele, of Kings County, $25.20.
To Eleanor R. Swan and Charles B. Swan, heirs at law of Robert Swan, deceased, late of the United States Navy, $233.42.
To Edward D. Taussig, of Kings County, $33.97.
To Hobart L. Tremain, of Sullivan County, $295.89.
To Henrietta L. Tucker, widow of Thomas B. Tucker, deceased, late of the United States Navy, $796.63.
To Charles A. White and Isabelle G. White, sole heirs at law of Leverett H. White, deceased, residing in the States of New York and New Jersey, $250.87.
To Ira C. Whitehead, of Orange County, $148.76.
To Frederick W. Wunderlich, late of the United States Navy, $58.04.

The amendment was agreed to.

The next amendment was, on page 250, after line 18, to insert:

NORTH CAROLINA.

To Augustus Rodney Macdonough, administrator of Charles S. McDonough, deceased, late of the United States Navy, $651.37.
To Stephen A. Norfleet, administrator of Ernest Norfleet, deceased, of Bertie County, $53.70.

The amendment was agreed to.

The next amendment was, at the top of page 251, to insert:

OHIO.

To L. C. Barclay, granddaughter of J. O'Connor Barclay, deceased, of Jefferson County, $119.45.
To James F. Fitzhugh, administrator of William B. Fitzhugh, deceased, of Clinton County, $1,681.37.
To Mary S. Franklin, widow of Gustavus S. Franklin, deceased, of Ross County, $324.31.
To Charles B. Gilmore, brother of Fernando P. Gilmore, deceased, of Jefferson County, $44.11.
To Esther H. Kautz, executrix of the estate of Albert Kautz, deceased, late of the United States Navy, $211.07.
To Fred B. McConnell, heir at law of Rufus S. McConnell, deceased, late of the United States Navy, $566.03.
To Nopie M. Le Breton, daughter of David McDougal, deceased, of Ross County, $49.75.
To Mrs. George C. Hagan, widow (remarried) of John G. Mitchell, deceased, of Huron County, $101.88.
To Joseph A. Scarlett, of Hamilton County, $371.06.
To Joseph G. C. Schenck and Sarah Crane, children of James E. Schenck, deceased, of Montgomery County, $100.25.
To Mary P. Shirley, executrix of the estate of James R. Shirley, only child of Paul Shirley, deceased, late of the United States Navy, $1,167.43.
To Maria S. Wright, sister of Arthur H. Wright, deceased, of Franklin County, $23.29.

The amendment was agreed to.

The next amendment was, on page 252, after line 12, to insert:

PENNSYLVANIA.

To Richard Ashbridge, of Philadelphia County, $49.31.
To Adam K. Baylor, of York, $275.59.
To Lucius B. Blydenburgh, brother of Benjamin B. Blydenburgh, deceased, of Philadelphia County, $378.59.
To Georgiana Bonsall, widow of Edward Bonsall, deceased, of Delaware County, $75.07.
To Mattie H. Chaplin, widow of J. Crossan Chaplin, deceased, late of the United States Navy, $102.50.
To Elizabeth C. Van Reed, heir at law of George Cochran, deceased, late of the United States Navy, $214.47.
To William Cuddy, of Philadelphia County, $74.79.
To William L. Degn, Annette N. Degn McCoy, Minnie H. Degn Wilson, and Albert L. Degn, heirs of Laust E. Degn, deceased, late of the United States Navy, $342.16.
To Walter B. Dick, late of the United States Navy, $64.31.
To Michael C. Drennan, of Northampton County, $15.89.
To William W. W. Dwier, of Philadelphia County, $241.60.
To the Commonwealth Title Insurance & Trust Co., administrator de bonis non cum testamente annexo of the estate of Daniel Egbert, of Philadelphia, $916.45.
To the Pennsylvania Co. for Insurance on Lives and Granting Annuities, executor of Henry Etting, deceased, of Philadelphia County, $665.86.
To Ellen L. Faunce, widow of Peter Faunce, deceased, late of the United States Navy, $401.76.
To Herbert R. Green, administrator de bonis non of the estate of Nathaniel Green, deceased, of Berks County, $400.75.
To Margaret A. Hoffner, widow of Richard J. Hoffner, deceased, late of the United States Navy, $255.78.
To Samuel W. Latta, of Philadelphia County, $105.68.
To Margaretta D. Abbey, Henry Lelar, jr., William D. Lelar, Mary D. Pierce, and Ellen D. Lelar, children and sole heirs at law of Henry Lelar, deceased, late of the United States Navy, $312.37.
To Mary E. Maxwell and Blanche M. Lewis, daughters of James McClelland, deceased, of Northampton County, $684.25.
To Mary McLeod, widow of Norman McLeod, deceased, late of the United States Navy, $326.75.
To E. Rittenhouse Miller, executor of J. Dickenson Miller, deceased, late of the United States Navy, $1,852.33.
To Rebecca P. Nields, executrix of Henry C. Nields, deceased, late of the United States Navy, $960.
To Adelaide R. Shaw, widow of Samuel F. Shaw, deceased, of Philadelphia County, $659.73.
To Georgia E. Morrison, administratrix of George Smith, deceased, late of the United States Navy, $553.45.
To John C. Spear, of Montgomery County, $252.60.
To Robert Steel, late of the United States Navy, $158.83.
To Cornelia A. Ulmer, widow of Albert F. Ulmer, deceased, late of the United States Navy, $388.51.
To Phoebe N. Ver Meulen, widow of Edmund C. Ver Meulen, deceased, of Philadelphia County, $55.89.
To Henry Whelen, of Philadelphia County, $158.12.
To Fred White, son and heir at law of Edward W. White, deceased, late of the United States Navy, $652.75.
To P. Fendall Young, executor of William S. Young, deceased, of Philadelphia County, $231.05.

The amendment was agreed to.

The next amendment was, at the top of page 256, to insert:

RHODE ISLAND.

To Frederick A. Caldwell, administrator of the estate of Charles H. B. Caldwell, deceased, of Woonsocket, $80.75.
To Charles L. Green and Samuel T. Green, executors of Charles Green, deceased, residing in Providence, R. I., and South Windsor, Conn., respectively, $1,590.87.
To Thomas Dunn, administrator of Charles Hunter, deceased, of Newport County, $41.20.

The amendment was agreed to.

The next amendment was, on page 256, after line 12, to insert:

TENNESSEE.

To Flora C. Martine, widow of Alfred H. Martine, deceased, late of the United States Navy, $691.91.

The amendment was agreed to.

The next amendment was, on page 256, after line 16, to insert:

UTAH.

To Mary V. R. Shipley, widow of George T. Shipley, deceased, late of the United States Navy, $291.42.

The amendment was agreed to.

The next amendment was, on page 256, after line 20, to insert:

VERMONT.

To Henry L. Johnson, late of the United States Navy, $142.47.

The amendment was agreed to.

The next amendment was, at the top of page 257, to insert:

VIRGINIA.

To Edward Ambler, executor of James M. Ambler, deceased, of Fauquier County, $176.71.
To George P. Barnes, of Norfolk County, $160.27.
To Mary J. Frothingham, Margaret E. Cavendy, Mary F. Coy, heirs at law of Edward Cavendy, deceased, late of the United States Navy, $353.59.
To Charles Schroeder, administrator of the estate of Samuel G. City, deceased, of Norfolk, $332.72.
To Margaret A. Blackmore, daughter of Charles F. Guillon, deceased, of Elizabeth City County, $225.56.
To H. S. Herman, administrator of William M. King, deceased, of Norfolk County, $207.39.
To John T. Newton, of Norfolk County, $66.30.
To James M. Odend'hal, administrator of John W. Odend'hal, deceased, of Norfolk County, $671.23.
To Alice C. McRitchie, Waring F. Reynolds, Clarence A. Reynolds, Henry S. Reynolds, C. Russell Reynolds, Virginia J. Reynolds, Frank H. Reynolds, Vernon T. Reynolds, and Fannie W. Reynolds, sole heirs at law of Silas Reynolds, deceased, residing in the States of Virginia, Maryland, and the District of Columbia, $748.68.
To Mary S. McIntosh and Elizabeth S. Taylor, children of John L. Saunders, deceased, of Norfolk County, $210.
To Louise V. Hudgins, daughter of Edward E. Stone, deceased, of Norfolk County, $337.17.
To Mary E. R. Smith, widow (remarried) of Emory H. Taunt, deceased, of Culpeper County, $105.20.

The amendment was agreed to.

The next amendment was, on page 258, after line 16, to insert:

WEST VIRGINIA.

To Julia M. Woods and Mary E. Hagan, daughters; Mary J. Edelen and William M. Junkin, grandchildren, of David N. Junkin, deceased, of Berkeley County, $205.16.
To Harriet S. Lyeth, administratrix of Clinton H. Lyeth, deceased, late of the United States Navy, $202.19.
To Thornton T. Perry, son of Roger Perry, deceased, of Jefferson County, $51.80.

The amendment was agreed to.

The next amendment was, at the top of page 259, to insert:

WISCONSIN.

To Charles C. Grafton, brother of Edward C. Grafton, deceased, of Fond du Lac County, $720.39.

The amendment was agreed to.

The next amendment was, on page 260, after line 4, to insert:

CLAIMS OF OFFICERS OF THE UNITED STATES ARMY FOR ADDITIONAL PAY, COMMONLY KNOWN AS LONGEVITY CLAIMS, SO AS TO INCLUDE THE PERIOD OF CADET SERVICE IN THE UNITED STATES MILITARY ACADEMY AT WEST POINT.

CALIFORNIA.

To Virginia Forse, administratrix of the estate of Albert Gallatin Forse, deceased, of Riverside County, $1,924.62.
To Flora A. Janes, administratrix of Leroy L. Janes, deceased, of San Jose, $752.08.
To James M. Seawell, administrator of the estate of Washington Seawell, deceased, of San Francisco, $2,237.55.
To Julia E. Wilcox, widow of Orlando B. Wilcox, deceased, late of the United States Army, $806.40.

DISTRICT OF COLUMBIA.

To Katherine Du B. Beale, administratrix of the estate of Samuel S. Carroll, deceased, of Washington, $955.77.
To Thomas L. Casey and Edward P. Casey, surviving executors of the estate of Thomas L. Casey, deceased, of Washington, $1,690.88.

To Richard G. Davenport, brother and sole heir at law of Thomas Corlen Davenport, deceased, of Washington, $1,196.95.

To Annie H. Eastman, administratrix of the estate of Seth Eastman, deceased, late of the United States Army, $2,833.89.

To Ulrica Dahlgren Pierce, administratrix of the estate of Vinton A. Goddard, deceased, of Washington, $549.84.

To Francis H. Hardie, Joseph C. Hardie, Caroline H. Neal, Catherine M. Hardie, and Isabelle H. Hardie, children and sole heirs at law of James Allen Hardie, deceased, of the District of Columbia, $1,760.23.

To the Washington Loan & Trust Co., administrator of the estate of Edward McK. Hudson, deceased, of Washington, $1,624.45.

To Mary B. Hunt, executrix of the estate of Henry J. Hunt, deceased, of the District of Columbia, $1,731.29.

To Alexander Mackenzie, of the District of Columbia, $2,215.47.

To Cornelia M. Mason, widow of John Sanford Mason, deceased, of the District of Columbia, $1,412.14.

To Clara D. Miller, widow of John Miller, deceased, of the District of Columbia, $5,335.44.

To the Washington Loan & Trust Co., administrator of the estate of Alfred Pleasanton, deceased, of Washington, $1,320.83.

To the Washington Loan & Trust Co., administrator of the estate of Rufus Saxton, deceased, of Washington, $1,239.65.

To John Paul Earnest, administrator of the estate of Sebree Smith, deceased, of the District of Columbia, $1,188.73.

To the American Security & Trust Co., executor of the estate of Thomas Crook Sullivan, deceased, of Washington, $2,009.38.

To Mary Tassin, widow of Augustus G. Tassin, deceased, of Washington, $107.02.

To John A. Baker, administrator of the estate of William J. Twining, deceased, of the District of Columbia, $2,438.85.

To the American Security & Trust Co., administrator de bonis non of the estate of Charles R. Woods, deceased, of the District of Columbia, $1,090.99.

To Elizabeth P. O'Conner, widow (remarried), and Edward B. Wright, son and only child of Edward Maxwell Wright, deceased, late of the United States Army, $1,101.32, to be proportioned as follows:

To Elizabeth P. O'Conner, a subject of Great Britain, $367.11.

To Edward B. Wright, of the District of Columbia, $734.21.

FLORIDA.

To Hugh T. Reed, of Orange County, $814.68.

ILLINOIS.

To Maria N. Flint, widow of Franklin Foster Flint, deceased, of Highland Park, $2,065.12.

IOWA.

To Daniel Robinson, of Des Moines, $4,756.06.

KENTUCKY.

To Seneca H. Norton, of Ashland, $436.32.

MAINE.

To Lincoln H. Newcomb, administrator de bonis non cum testamento annexo of the estate of Henry Prince, deceased, of Eastport, $1,946.56.

MARYLAND.

To William M. Graham, sr., administrator of the estate of William Montrose Graham, deceased, of Anne Arundel County, $590.80.

To Elizabeth B. Hughes, executrix of the estate of William Burton Hughes, deceased, of Baltimore, $2,041.29.

To Catherine Tully, executrix of the estate of Redmund Tully, deceased, of Cumberland, $2,013.06.

MASSACHUSETTS.

To Henry L. Abbot, of Cambridge, $2,029.57.

To Isabelle H. Adams, administratrix of the estate of Arthur Hubert Burnham, deceased, of Boston, $1,912.97.

To Henry M. Lazelle, of Worcester County, $2,330.03.

To Mary O. H. Stoneman, administratrix of the estate of George Stoneman, deceased, of Boston, $1,291.30.

MICHIGAN.

To Julia S. Weeks, administratrix of the estate of Capt. Harrison S. Weeks, deceased, late of the United States Army, $1,572.70.

NEBRASKA.

To William F. Norris, of the United States Army, $1,009.20.

NEW JERSEY.

To James Davison, United States Army, retired, $2,017.98.

To John Henry Edson, of Union County, $676.40.

To Henrietta B. Hawes, administratrix of the estate of David C. Houston, deceased, of Bergen County, $2,071.02.

NEW YORK.

To H. W. Dresser, administrator de bonis non cum testamento annexo of the estate of William C. Forbush, deceased, of Erie County, $1,737.65.

To Campbell T. Hamilton, administrator of the estate of John Hamilton, deceased, of New York City, $1,757.01.

To Edward H. Peaslee and Edmund P. Kendrick, executors of the estate of Henry L. Kendrick, deceased, of New York City and Springfield, Mass., respectively, $2,179.60.

To Jacob Ford Kent, of Albany County, $2,755.84.

To Alexander Logan Morton, of New York City, $1,542.27.

To Annie Fraser Wood, administratrix of the estate of Lafayette B. Wood, deceased, late of the United States Army, $1,202.10.

OHIO.

To Caroline M. Clous, widow of John W. Clous, deceased, of Dayton, $2,841.18.

To Virginia Lape, administratrix of the estate of Wentz Curtis Miller, deceased, of Hamilton County, $1,543.60.

PENNSYLVANIA.

To the Fidelity Trust Co., executor of the estate of Joseph Roberts, deceased, of Philadelphia, $2,246.19.

To Annie E. Ruff, executrix of the estate of Charles Frederick Ruff, deceased, of Philadelphia, $1,755.52.

RHODE ISLAND.

To Mary Tooker Best, executrix of the estate of Clermont Livingston Best, deceased, of Newport, $2,363.76.

SOUTH CAROLINA.

To Cecile W. King, daughter and only child of Stephen Moore Westmore, otherwise known as Stephen West-Moore, of Charleston, $486.72.

Provided, That in the settlement of claims for longevity pay and allowances on account of services of officers in the Regular Army arising under section 15 of an act approved July 5, 1838, entitled "An act to increase the present military establishment of the United States, and for other purposes," and subsequent acts affecting longevity pay and allowances, the accounting officers of the Treasury shall credit as service in the Army of the United States, within the meaning of said acts, all services rendered as a cadet at the United States Military Academy and as an enlisted man or commissioned officer in the Regular and Volunteer Armies, and no settlement heretofore made shall preclude a settlement under the terms of this act.

The amendment was agreed to.

Mr. JOHNSTON of Alabama. I wish to ask the chairman of the committee if it is in order now for me to offer an amendment to the paragraph which has just been read.

Mr. CRAWFORD. I would prefer to have the amendments of the Committee on Claims disposed of first. Then I shall be glad to give an opportunity for individual amendments.

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The reading of the bill will be resumed.

The reading of the bill was resumed.

The next amendment of the Committee on Claims was, on page 267, after line 17, to insert:

MISCELLANEOUS CLAIMS WHICH ARE BASED ON COURT FINDINGS.

CALIFORNIA.

To the State of California, $5,265.95.

KENTUCKY.

To the legal representative of James Harvey Dennis, $26,538.50, being the sum found by the Court of Claims to be due to him by reason of certain contracts for the improvement of the Tennessee River.

To Louis Landram, administrator of William J. Landram, deceased, late collector of internal revenue for the eighth collection district of Kentucky, $5,346.29.

MICHIGAN.

To John Alexander Besonen, of Marquette County, $297.27.

NEW YORK.

To Isabella G. Francis, administratrix of the estate of Roger A. Francis, deceased, late a resident of the State of New York, $17,185.47.

PENNSYLVANIA.

To Clayton G. Landis, administrator of the estate of David B. Landis, deceased, late of Lancaster, $11,112.22; and to the estate of Jacob F. Sheaffer, deceased, late of Lancaster, $34,055.

VIRGINIA.

To D. B. Barbour and Andrew P. Gladden, of Newport News, Va., and Clarksburg, W. Va., respectively, $758.

Mr. CRAWFORD. There is an error in the computation of the items under California, and it is necessary to amend the amendment. I offer the amendment I send to the desk.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The SECRETARY. On page 267, line 20, strike out the word "five" and insert in lieu thereof the word "twenty-eight."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. CRAWFORD. I desire to offer an amendment, to be inserted in line 9, on page 269. It is to save administration costs where the amounts are so small that the cost of administration would eat up the amount of the claim.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 269, line 9, after the words "Army or Navy," it is proposed to insert:

Or for overtime in United States navy yards.

The amendment was agreed to.

The next amendment was, on page 270, after line 9, to insert as a new section the following:

SEC. 4. That from and after the passage and approval of this act the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States based upon or growing out of the destruction of any property or damage done to any property by the military or naval forces of the United States during the war for the suppression of the rebellion; nor to any claim for stores and supplies taken by or furnished to or for the use of the military or naval forces of the United States, nor to any claim for the value of any use and occupation of any real estate by the military or naval forces of the United States during said war; nor shall said Court of Claims have jurisdiction of any claim which is now barred by the provisions of any law of the United States.

The amendment was agreed to.

The reading of the bill was concluded.

Mr. CRAWFORD. Mr. President, this is probably as far as we shall be able to proceed this morning. It concludes the reading of the amendments so far as concerns those proposed by the committee.

I desire to press the bill for consideration during the morning hour to-morrow, and if Senators have amendments which they wish to present and have voted upon I hope they will then be ready.

Mr. LODGE. Mr. President, I have two amendments.

The PRESIDING OFFICER. The bill is still in the Senate as in Committee of the Whole and open to amendment.

Mr. LODGE. I have two amendments to offer, to come in on page 264, after line 17. They are two claims for longevity pay, which came in too late to be dealt with by the committee.

Longevity claims have all been allowed, and the committee has gone further and has brought in a clause providing for their being paid without the necessity of going in as separate claims in bills—a general payment. Therefore, I think these two should be included with the other longevity claims.

Mr. CRAWFORD. I think the committee can accept those amendments. They are in exactly the same class and are governed by the same law and decisions of the courts as the items of that character in the bill.

Mr. SMOOT. I should like to ask the chairman of the committee whether he expects to accept amendments embracing other classes of claims under the headings as found in this bill?

Mr. CRAWFORD. Certainly not. But I think that in a case like this, where the courts have settled the question and the Court of Claims has made a finding, it being exactly the same as 75 others, the committee ought really to accept the amendment, but outside of cases which come within such classes I do not propose to accept amendments.

Mr. LODGE. A general clause has been put in covering all these claims. They are not open to a single objection, of course.

Mr. SMOOT. I did not rise to make any objection, but I wanted to know what the policy of the chairman of the committee was to be in relation to other amendments that may be offered, because if such amendments are to be offered to this bill, and are to be accepted by the chairman, it seems to me the bill will be opened so widely and loaded so heavily that it will be almost impossible to pass it.

Mr. CRAWFORD. I will say very frankly that I shall oppose, generally, amendments to this bill unless there is some reason so manifest why they should be allowed that the committee can accept them. Otherwise I certainly shall feel like referring them to the Senate and having them discussed.

The PRESIDING OFFICER. The Secretary will state the amendments proposed by the Senator from Massachusetts.

The SECRETARY. On page 264, after line 17, it is proposed to insert:

To Frank H. Phipps, of Springfield, Mass., $2,314.17.

To Clifford H. Frost and Frank B. McAllister, trustees under the will of Zealous B. Tower, late of the United States Army, $1,669.51.

The amendments were agreed to.

Mr. SHIVELY obtained the floor.

Mr. CRAWFORD. The Senator from Connecticut has an amendment exactly the same as that of the Senator from Massachusetts.

The PRESIDING OFFICER. The Chair has recognized the Senator from Indiana, who has the floor.

Mr. SHIVELY. Mr. President, I have here an amendment which I think is identical in nature with the amendment just offered, which was accepted by the chairman of the committee. It is an amendment to come in on page 259, after line 4. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Indiana will be stated.

The SECRETARY. On page 259, after line 4, it is proposed to insert:

To Thomas Addington, of Winchester, Ind., $78.54.

Mr. CRAWFORD. At what place on page 259 is it to be inserted?

The PRESIDING OFFICER. On page 259, after line 4.

Mr. CRAWFORD. Is that a longevity claim? I will ask the Senator from Indiana to hand it to me, and let it go over until we take up the bill to-morrow.

Mr. SHIVELY. I do not want to take any chances.

Mr. CRAWFORD. I shall probably have no objection to it.

Mr. SHIVELY. I think it is exactly the same kind of claim that was presented and which was accepted by the chairman of the committee. I want to add, however, that it seems there has been some change in the print of the bill since I filed this report, so that perhaps that is not precisely the place in the bill where the amendment should appear.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The PRESIDENT pro tempore. The Sergeant at Arms will make proclamation.

The Assistant Sergeant at Arms (Mr. Cornelius) made the usual proclamation.

The PRESIDENT pro tempore. The Journal of the last sitting of the court will be read.

Mr. GALLINGER. Mr. President, I would raise the question of a quorum.

The PRESIDENT pro tempore. The Senator from New Hampshire makes the point of no quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	McLean	Smith, Ariz.
Bacon	Curtis	Martin, Va.	Smith, Ga.
Bailey	Davis	Martine, N. J.	Smith, Md.
Bankhead	Dixon	Massey	Smith, Mich.
Borah	du Pont	Myers	Smith, S. C.
Brandegee	Fletcher	Newlands	Smoot
Bristow	Foster	O'Gorman	Stephenson
Brown	Gallinger	Oliver	Sutherland
Bryan	Gardner	Overman	Swanson
Burnham	Guggenheim	Page	Thornton
Burton	Hitchcock	Penrose	Townsend
Clapp	Johnson, Me.	Perkins	Warren
Clark, Wyo.	Johnston, Ala.	Perky	Wetmore
Clarke, Ark.	La Follette	Pomerene	Works
Crane	Lea	Richardson	
Crawford	Lodge	Root	
Culberson	McCumber	Shively	

Mr. CULBERSON. The Senator from Oregon [Mr. CHAMBERLAIN] is absent necessarily on business of the Senate. I make that announcement for the day.

Mr. PAGE. On account of the continued illness of my colleague [Mr. DILLINGHAM], he is absent from the city.

Mr. WORKS. The senior Senator from Washington [Mr. JONES] is necessarily absent on business of the Senate. I make this announcement for the day.

Mr. SHIVELY. My colleague [Mr. KERN] is unavoidably absent from the Senate. I make this announcement to stand for the day.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 65 Senators have responded to their names. A quorum of the Senate is present. The Secretary will read the Journal of the last session of the Senate sitting as a Court of Impeachment.

The Journal of yesterday's proceedings of the Senate sitting as a Court of Impeachment was read.

Mr. WORTHINGTON. I should like to hear read again what is in the minutes as to the description of the papers which were subject matter of the vote. As I understood it, it did not seem to me to be correct.

The PRESIDENT pro tempore. The Secretary will again read the item.

The Secretary read as follows:

Pending the examination of the witness, Mr. WEBB offered in evidence copy of an assignment by E. J. Williams to William P. Roland of two options covering a culm bank known as Katydid, executed on the 5th of September, A. D. 1911.

Mr. WORTHINGTON. That is correct.

The PRESIDENT pro tempore. If there are no objections to the Journal, it will be considered as approved.

Mr. BANKHEAD. Mr. President, I ask that I may be sworn.

The PRESIDENT pro tempore. Senators who are present who have not heretofore been sworn will advance to the desk and take the oath.

Mr. BANKHEAD and Mr. LEA advanced to the Vice President's desk, and the oath was administered to them by the President pro tempore.

Mr. WORKS. Mr. President, I offer the following order.

The PRESIDENT pro tempore. It will be read.

The Secretary read as follows:

Ordered, That such briefs and citations of authorities as have already been prepared by the managers on the part of the House and counsel for the respondent be filed with the Secretary and printed in the RECORD for the immediate use of Senators.

Mr. Manager CLAYTON. Mr. President, I thought the Senate had indicated its pleasure yesterday to await the disposition of the matter of presenting the briefs until the argument of the case was to be had.

I wish to say, Mr. President, assuming the ruling of the Senate yesterday to be to the effect that the managers would not be expected to bring any brief to-day, they have not brought a brief into the Senate at this time. If, however, Mr President, the Senate sees fit to adopt that order the managers will acquiesce in it and will at the earliest practicable moment bring into the Senate the brief which they have prepared—and to which perhaps they may wish to add a little between now and the time of its presentation—and file it in accordance with the order, so that it may be printed.

Mr. WORTHINGTON. We, too, Mr. President, had assumed that that matter would come up later in the trial. But very soon after the brief of the managers shall be filed, of which

we will be furnished a copy, of course, we will submit our brief in reply.

The PRESIDENT pro tempore. Is there objection to the order which has been read from the desk? The Chair hears none, and it will be considered as having been unanimously ordered.

Mr. Manager WEBB. Mr. President, may I at this point make one correction in the RECORD? On page 98, in the right-hand column, five paragraphs from the bottom, the question was, "I understand that when the note was gone," and so forth. It should read "when the note was drawn."

The PRESIDENT pro tempore. That correction is recognized as proper by all, and it will be made.

Mr. WORTHINGTON. Mr. President, I would like to ask whether we can be furnished with a copy of the proceedings each day.

The PRESIDENT pro tempore. Undoubtedly.

Mr. WORTHINGTON. We have none on our desks.

The PRESIDENT pro tempore. The Chair will direct that there be furnished each day to the counsel and to the managers a sufficient number of copies. The Chair is informed that they are now upon the desks of the counsel.

Mr. WORTHINGTON. I meant the CONGRESSIONAL RECORD.

The PRESIDENT pro tempore. The Chair will direct that the managers and the counsel for the respondent be furnished with copies of the RECORD also each day.

Mr. Manager WEBB. May I now ask that Mr. E. J. Williams be recalled as a witness?

Mr. Manager CLAYTON. Mr. President, my brother WEBB was not at the session held by the managers this morning. He was detained elsewhere, but all the managers with the exception of my brother WEBB were present. It was called to our attention that a certain witness who has been subpœnaed announced that he did not intend to come here unless brought on process issued by the Senate. It appeared yesterday, Mr. President, from reading the returns of the Sergeant at Arms, that Mr. J. H. Rittenhouse, an important witness in this case, had been regularly subpœnaed to attend and was required to be here yesterday. He was not here yesterday. He is not here to-day. He is the witness who, we are informed, said he would not come unless brought here by process of the Senate.

Therefore, Mr. President, I ask to have called the officer who served the subpœna upon the witness and prove the service. Then I shall ask for an attachment to bring him here.

The PRESIDENT pro tempore. He will be called.

James K. Julian appeared and was sworn.

Mr. Manager CLAYTON. Mr. President, will you interrogate him as to the service?

The PRESIDENT pro tempore. Mr. Julian, were you charged with the service of a subpœna upon Mr. J. H. Rittenhouse?

Mr. JULIAN. I was.

The PRESIDENT pro tempore. Did you serve it?

Mr. JULIAN. I did.

The PRESIDENT pro tempore. At what time and place?

Mr. JULIAN. Saturday, November 3, at 10 a. m., 713 Connell Building, Scranton, Pa.

The PRESIDENT pro tempore. In what manner did you serve him?

Mr. JULIAN. I served him personally and left a copy.

The PRESIDENT pro tempore. Delivering him a copy?

Mr. JULIAN. Delivering him a copy.

Mr. Manager CLAYTON. I failed to catch, Mr. President, whether you asked the witness what his office is.

Mr. JULIAN. I am an employee in the office of the Sergeant at Arms of the Senate.

Mr. Manager CLAYTON. And by the direction of the Sergeant at Arms of that office you served this subpœna upon J. H. Rittenhouse?

Mr. JULIAN. I did.

Mr. Manager CLAYTON. Mr. President, I make the statement that we are entitled to this attachment by reason that the witness was not here at the sitting when his name was called. Therefore I should like for him to be called now.

The PRESIDENT pro tempore. The Sergeant at Arms will call the name of the witness.

The ASSISTANT SERGEANT AT ARMS. Mr. James H. Rittenhouse! James H. Rittenhouse! James H. Rittenhouse! Appear and answer the summons.

Mr. Manager CLAYTON. The witness not having answered, Mr. President, I move for the appropriate order.

The PRESIDENT pro tempore. The manager will send it to the desk and it will be acted upon at once.

Mr. Manager CLAYTON (after a pause). I will ask that the Secretary report the proposed order.

The PRESIDENT pro tempore. The Secretary will report it.

The Secretary read as follows:

Ordered, That an attachment do issue in accordance with the rules of the Senate of the United States for one J. H. Rittenhouse, a witness heretofore duly subpœnaed in this proceeding on behalf of the managers of the House of Representatives.

The PRESIDENT pro tempore. Is there objection to the adoption of the order just read from the desk? If not, it will be considered as having been unanimously adopted, and the necessary attachment will be issued.

TESTIMONY OF E. J. WILLIAMS—CONTINUED.

Mr. Manager WEBB. Now, I ask that E. J. Williams be called. It has been suggested that the few remaining questions which I am to ask this witness may be heard more distinctly by standing at this point in the Chamber. [Taking a position in the aisle.]

E. J. Williams appeared and took the seat at the Secretary's desk provided for witnesses.

Q. (By Mr. Manager WEBB.) Mr. Williams, yesterday afternoon, just before the Senate adjourned, I asked you if you knew that C. G. and W. P. Boland were parties to a lawsuit pending at the time you presented that note to them from Judge Archbald, and you said you did not remember. Is that correct?—A. I can not hear you very well, sir.

Q. Yesterday afternoon I understood you to say that when the note was drawn by Judge Archbald to John Henry Jones and signed by Judge Archbald, and indorsed by Judge Archbald, yourself, and Jones, and was turned over to you to be discounted, and when you started to Mr. Boland to have him discount it, you did not know that W. P. or Christy Boland were parties to a suit then pending in Judge Archbald's court.—A. I do not think they were, sir.

Q. If I may be permitted to refresh your recollection, let me ask you if you did not swear before the Judiciary Committee last May——

Mr. WORTHINGTON. On what page?

Mr. Manager WEBB. Page 479.

The WITNESS. Look at the date on the note and look at the date of the suit.

Q. (By Mr. Manager WEBB.) If the note was drawn in the summer or fall of 1909——A. Yes. There was not suit then.

Q. Let me ask you this question: Did you not swear before the Judiciary Committee as follows——A. I might swear wrong, you know, because I did not know the date exactly.

Q. Listen to this question please, Mr. Williams:

The CHAIRMAN. At the time you presented the note to Boland and asked him to discount it, did you know that either one or both of the Bolands was party defendant in a case pending before Judge Archbald?
Mr. WILLIAMS. Well, I did know; but I did not think of that, though—that that had anything to do with it.

Did you swear to that before the Judiciary Committee?

A. I did not know and never considered anything of the kind.

Q. Judge Archbald, in his answer, admits that when this note was executed by him and turned over to you and Jones for discount there was a suit pending in his court in which the two Bolands were parties because they owned two-thirds interest in the Marian Coal Co. If the judge knew that, I ask if you did not know it too?—A. No, sir; I did not know it.

Q. I ask you if you did not swear before the Judiciary Committee that you did know it—

Well, I did know, but I did not think that had——

A. No, sir.

Q. "That had anything to do with it"?—A. No, sir; not with me at that time. I did not go there on any suit or any consideration of any suit. I went there as a friend to them.

Q. I understand that, Mr. Williams.—A. They were, I think, friendly with me all right.

Q. The point I want to bring out is whether or not you knew when you carried that note to the Bolands that they were interested in a suit then pending in Judge Archbald's court?—A. I never considered that at all.

Q. Did you swear last May before the Judiciary Committee that you knew it?—A. I do not remember whether I did or not.

Q. You were intimate with the Bolands, were you not?—A. Very intimate with them; yes, sir.

Q. And intimate with the Judge?—A. Yes, sir; with them all.

Q. Do you mean to say that you did not know the Bolands were interested in a suit with Peale against the Marian Coal Co.?—A. No, sir; I did not know. I am perfectly honest in my opinion all right that I did not know, and never considered it in the transaction at all.

Q. I asked you yesterday afternoon if you did not go to Judge Archbald immediately after you were subpœnaed to come down and testify before the Judiciary Committee, and you answered "I do not remember." Do you remember now whether or not

you did go to Judge Archbald's office immediately after you were subpœnaed to come before the Judiciary Committee?—A. I should not wonder a bit if I did.

Q. Did you?—A. Yes, sir; I did.

Q. Did you go to his office in the Federal Building in Scranton immediately after you were subpœnaed to come before the Judiciary Committee?—A. Yes, sir.

Q. I ask you if you swore this before the Judiciary Committee——

Mr. WORTHINGTON. On what page?

Mr. Manager WEBB. Page 800 [reading]:

The CHAIRMAN. John Henry Jones, testifying last Saturday, I believe, said that when he went to Judge Archbald's office last Monday—that is, the Monday before the one just gone—to have a note indorsed by the judge he found you present. Were you there?
Mr. WILLIAMS. Yes, sir.
The CHAIRMAN. That was after you had been subpœnaed to testify before this committee, was it not?
Mr. WILLIAMS. I guess it was; yes, sir.
The CHAIRMAN. Why did you go to Judge Archbald's office after you had been subpœnaed to come before this committee to testify?
Mr. WILLIAMS. I did not go about the—I just told him I was subpœnaed on the case.
The CHAIRMAN. You went down to his office to tell him you had been subpœnaed?
Mr. WILLIAMS. Yes, sir; I got subpœnaed.
The CHAIRMAN. What else did you tell him?
Mr. WILLIAMS. That is all he said to me—to tell the truth and the whole truth about it—and that is all. And that is all the talk I had about the thing altogether. "Tell the whole truth to them," he says, "the whole thing." That is what the judge said to me.
The CHAIRMAN. How many conversations have you had with Judge Archbald about the sale of this culm bank since Mr. Brown examined you on March 25, 1912?
Mr. WILLIAMS. Not many.
The CHAIRMAN. How many would you say, Mr. Williams?
Mr. WILLIAMS. Well, I might have three or four talks with him now and then.

Is that correct? Is it true that you were in Judge Archbald's office?—A. Yes, sir.

Q. On Monday morning, after having been subpœnaed here on Sunday?—A. Yes, sir.

Q. Why did you go to Judge Archbald's office immediately after you were subpœnaed to come down here and testify in this investigation before the House committee?—A. I think it was natural for me to go there. Was it not?

Q. Why was it natural?—A. And tell him what was going on. That is the point. He told me then, sir, to tell the truth and let the consequences go where they will. That is what he told me, and I am telling you the truth.

Q. So you remember this morning that you did go to his office, and you did not remember it yesterday. Now, I ask you if you did not give this to the Judiciary Committee as a reason why you went there? It is found on page 803, in your testimony:

Mr. WILLIAMS. He did pay my fare; yes, sir.
Mr. WEBB. You did say, too, that the only time you saw him was at the railroad station; is that right?
Mr. WILLIAMS. I seen him. I was in the office Monday morning, and I was there for the same purpose as I was when I went to the depot to meet him—to get money to come here. That was my object.

Did you swear that before the Judiciary Committee?—A. Yes, sir.

The PRESIDENT pro tempore (after a pause). The witness has answered the question.

The WITNESS. Yes, sir.

Q. (By Mr. Manager WEBB.) Now, one more question, Mr. Williams. When you were talking to the judge about Mr. May's refusal to let you have this option after, as you said yesterday, Mr. May had gruffly declined to give it to you, did the judge then and there tell you that he had some cases in which Brownell was interested, and that he would go to see Brownell?—A. You say that. I do not understand you all right. Let me understand you better.

Q. I ask you if, after Mr. May had gruffly declined to let you have this option on the Katydid culm bank and you returned to the judge with that information, if the judge told you then and there that he had some cases before his court in which Brownell was interested?—A. No; I picked up the paper myself, sir, off the desk there. "Here are some cases," I said, "against the Erie, ain't they—these lighterage cases; two cases there?"

Q. Let me ask you this question, then. On page 588 of the record before the House Committee on the Judiciary I ask you if the chairman did not make this statement to you.

And he told you—

Referring to the judge—

that the lighterage case was one of the cases that Brownell and the railroad company were interested in?
Mr. WILLIAMS. Yes, sir.

The WITNESS. Yes, sir; those are the cases that are on the paper.

Q. (By Mr. Manager WEBB.) Did he tell you that Brownell was interested in those cases?—A. No, sir; he did not tell me nothing of that kind.

Q. I thought you said yesterday that you knew that Mr. Brownell was marked counsel?—A. I did not tell you any such thing, sir.

Q. What?—A. I did not tell you that. I told you that I picked up that paper off the desk and the two cases I seen there, and I asked what "lighterage" meant. I did not know what it meant at all. I did not know what lighterage was, and he explained to me the lighterage.

Q. Why were you examining the United States Commerce Court judge's docket? Why were you examining his docket at that time? When you were talking about securing this culm dump from the Erie Railroad, why were you examining his docket?—A. I do not understand that.

Q. Why were you examining the judge's docket—the brief, or whatever you call it?—A. The trial list was on the table, on the desk.

Q. Why were you looking into the trial list of cases before his court?—A. I just looked at it and picked it up.

Q. Was the word "lighterage" written on it?—A. Yes, sir.

Q. Did you then ask the judge what "lighterage" meant?—A. I did; yes, sir.

Q. Did he tell you then that that was one of the cases in which Brownell was interested, and that he would go to see Brownell?—A. That that was one of the cases against the Erie at the time.

Q. Why were you talking about cases which the Erie had? Was it because you were trying to get this dump from the Erie?—A. Because those were the cases that I seen on the list, sir.

Q. And you were trying to get the Katydid dump from the Erie, from Mr. May; is that right?—A. What?

Q. And that you were trying to get the Katydid culm dump through Mr. May from the Erie Railroad; is that right?—A. No; I was not. I told you that those are the first cases that I seen on the list.

Q. I understand. And the Erie Railroad owned this culm dump?—A. Yes, sir.

Q. And you were trying to get the culm dump from Mr. May, who was the agent of the Erie Railroad by being the manager of the coal company—that you were trying to get this dump from Mr. May? Now, can you tell me why you and Judge Archbald should discuss the two cases at that particular time concerning the Erie Railroad Co., which company was a party defendant in his Commerce Court at that time?—A. I can not tell you why.

Q. You can not tell us why?—A. I can not tell you why, sir; because those were the first cases I seen there on the paper.

Q. Let me ask you this question: How long after you and the judge discussed these lighterage cases was it before the judge went to New York to see Brownell?—A. Oh, well, I could not tell you that.

Q. Was it three days or a week?—A. How could I tell you that? I do not keep those things stamped on my mind, you know. I could not tell you whether it was a week or whether it was a month. I do not know.

Q. You know it was not a month, do you not?—A. What?

Q. You know it was not a month?—A. I could not tell you.

Q. Anyway, I understood you to say that the judge told you that he had gone to New York and had seen Brownell, and also that he had seen Mr. May on the street the day before, and that Mr. May said "tell Mr. Williams to come up and he can get that."—A. That is right, sir.

Q. Listen, Mr. Williams: "Mr. May likes you very much and you can get that and anything else you want."—A. Oh, well, that is right.

Q. How much of that did he tell you?—A. That is all right. How is that?

Q. How much of that did he tell you? Did he tell you that May had told him to tell you to come up and get the option?—A. I went up right straight, sir, and got it.

Q. Who told you to go and get it?—A. Judge Archbald told me to go and get it; that he had seen May, happened to meet him on the street, and that he told him to tell me to come up and see him. I went up and I got it.

Q. And at that time he had already seen Brownell? Is that right?—A. Yes, sir.

Q. That he had been to New York and had seen Brownell?—A. That is all right.

Q. I want to ask you if you talked——

Mr. POMERENE. Mr. President, I should like to have the question submitted to the witness which I send to the desk, and also, following that question, one other.

The PRESIDENT pro tempore. The question desired to be propounded to the witness by the Senator from Ohio will be read.

The Secretary read as follows:

Q. Did you or Judge Archbald first speak about these cases being on the trial list?

The WITNESS. No, sir.

Mr. POMERENE. I suggest that the question be repeated to the witness.

The PRESIDENT pro tempore. The Secretary will again read the question to the witness.

The Secretary again read the question.

The WITNESS. No, sir. I looked at the cases myself. Judge Archbald did not tell me.

Mr. POMERENE. I do not believe the witness understands the question.

The PRESIDENT pro tempore. The witness has substantially answered the question, the Chair thinks.

Mr. POMERENE. Which one first mentioned the fact of these cases being on the docket?

The WITNESS. Me, sir.

The PRESIDENT pro tempore. The next question desired to be propounded by the Senator from Ohio will be read:

The Secretary read as follows:

Q. Did you and the judge ever before speak of other cases on the docket?

The WITNESS. No, sir; never before.

Q. (By Mr. Manager WEBB.) Mr. Williams, then you say that that is the only time you and the judge ever discussed cases on his docket?—A. What?

Q. I understand you to say that that is the only time you and the judge ever discussed cases on his docket?—A. Only as I asked him the question of what lighterage meant. That was the only question, sir.

Q. But the question was, did you and the judge ever discuss any other cases on his docket?—A. No, sir.

Q. That is the only case, then, that you ever discussed with him?—A. The only case, sir.

Mr. Manager WEBB. Mr. President, I should like to introduce the following letter——

Mr. WORTHINGTON (after examining the letter). That is agreed to.

Mr. Manager WEBB. I desire that the letter shall be read. Now, Mr. Williams, I wish you would please listen to this letter.

The PRESIDENT pro tempore. The Secretary will read, as requested.

The Secretary read the following letter, which was marked "Exhibit No. 10":

[U. S. S. Exhibit 10.]

(R. W. Archbald, Judge United States Commerce Court, Washington.)

SCRANTON, PA., *September 20, 1911.*

MY DEAR MR. CONN: This will introduce Mr. Edward Williams, who is interested with me in the culm dump about which I spoke to you the other day. We have options on it both from the Hillside Coal Co. and from Mr. Robertson, representing Robertson & Law, these options covering the whole interest in the dump. This dump was produced in the operation of the Katydid colliery by Robertson & Law, and extends to the whole of the dump so produced. I have not seen it myself, but, as I understand it, this dump consists of two dumps a little separate from each other, but all making up one general culm or refuse pile made at that colliery. Mr. Williams will explain further with regard to it, if there is anything which you want to know.

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager WEBB.) Mr. Williams, did you carry that letter by your hand to Mr. Conn?—A. Yes, sir.

Q. You did?—A. Yes, sir.

Q. I believe you stated yesterday that you proposed to sell to Mr. Conn for $20,000?—A. What?

Q. I believe that you stated that you proposed to sell to Mr. Conn for $20,000?—A. No, sir; I did not.

Q. No; it was 27½ cents a ton that you agreed to sell to him for.—A. Yes, sir; that is right now; but the $20,000 was not in it at all.

Q. Anyway that deal was not consummated, not closed; Conn did not buy it?—A. They did not think that the title was good enough.

Q. I understand. He did not buy it?—A. No, sir.

Q. Then later you negotiated with Jones—Thomas Howell Jones—for it, and he did not buy it?—A. No; but it was not on account of the title that Thomas Jones did not take it.

Q. I understand that. Then you negotiated the sale of it with Bradley last April. Is that right?—A. I told you yesterday that this thing was sold for $20,000, sir.

Q. To Bradley?—A. To Bradley; yes, sir.

Q. And did this investigation which was going on in Scranton and in Washington break up that sale?—A. If this investigation had not come for two days I would have sold it and got the money, sir.

Q. Did Judge Archbald write you and give you the letter to take to Conn?—A. Judge Archbald did, and I wrote the last letter; me and Boland—Bill Boland—had that letter to Conn dictated, and I took it over myself to him.

Q. I understand; but as to the letter you have just heard read from the Secretary's desk, did the judge give you that letter to take to Conn?—A. The judge?

Q. Yes; the letter which was just read from the desk there a moment ago introducing you to Mr. Conn.—A. I think that was my own letter, was it not?

Q. What was your answer to that?—A. Was not that my own letter?

Q. I suspect you have the letters confused. The letter I refer to is the one dated Scranton, September 20, 1911:

MY DEAR MR. CONN: This will introduce Mr. Edward Williams, who is interested with me in the culm dump——

The WITNESS. All right. Yes; that is right.

Q. (By Mr. Manager WEBB.) Who gave you this letter to take to Conn?—A. The judge.

Q. Who wrote it?—A. I guess the judge.

Q. Judge Archbald, do you mean?

Mr. WORTHINGTON. That is admitted. There is no question about it.

Mr. Manager WEBB. Very well.

Q. (By Mr. Manager WEBB.) After the deal with Bradley for the dump failed, did you talk to Judge Archbald about this matter?—A. No, sir; I did not tell Judge Archbald when I was selling it to Bradley. I made that from my own mind. I did not tell Judge Archbald that I was going to sell it. He did not know that I was selling it.

Q. I ask you this question: If, after May recalled that tentative deed to Bradley and the contract was withdrawn and Bradley was unable to buy it on account of May's refusing to make the deed—I ask you if you talked to Judge Archbald about the failure to make the trade with Bradley?—A. I did not; no, sir. I did not tell Judge Archbald about the sale of it at all. I went on and done it myself.

Q. You mean that you would make an important deal of that kind without your partner or friend being consulted?—A. Oh, yes; I was going to sell it, anyhow. I meant to give him half, all right. I did not mean to cheat him out of it at all; no, sir. I am not that kind of a man, sir.

Q. I ask you this question: If you did not swear before the Judiciary Committee with reference to the question as to whether or not you had talked with Judge Archbald after Bradley had failed to get the deed, as follows:

The CHAIRMAN——

Mr. WORTHINGTON. I ask from what page the manager is reading?

Mr. Manager WEBB. Pages 524 and 525.

The CHAIRMAN. After the deal failed of consummation, did you talk with him?

Mr. WILLIAMS. Yes.

The CHAIRMAN. What was that conversation?

Mr. WILLIAMS. Well, he did not want to sell it.

The CHAIRMAN. Why?

Mr. WILLIAMS. He wanted to let it stand there.

The CHAIRMAN. Then he changed front entirely on the matter of selling it and dividing the profit, he taking a third; he had changed his mind entirely about it, had he?

Mr. WILLIAMS. He thought it would be worth more some other time.

The CHAIRMAN. Then you and he agreed that all your efforts to sell to Conn were not in earnest, and you did not want to sell to Conn?

Mr. WILLIAMS. Yes, sir.

The CHAIRMAN. You agreed to do that. Why did you agree that you did not want to sell it, and when did you reach the conclusion that you did not want to sell it?

Mr. WILLIAMS. About three or four weeks ago.

I ask you if you swore that before the Judiciary Committee?—A. What is your question? Ask me the question square, and then I will answer it.

Q. The question, then, boiled down, is, after the Bradley deal failed the chairman asked you if you talked to the judge, and you said yes. Is that right?—A. Yes.

Q. And that you and the judge then agreed that you did not want to sell this dump; that the judge thought it would bring more at some later time?—A. The judge did not want to sell it.

Q. At that time?—A. No, sir.

Q. Then, I suppose you did swear this before the Judiciary Committee?—A. The judge did not want to sell it at the time, but I did; I wanted to sell it.

Q. And that was in April, was it not, that he did not want to sell?—A. I could not tell you the time. I can not tell you exactly the time or the date.

Q. You swore before the committee that it was "three or four weeks ago," when you were examined here about the 9th or 10th of May, so that would have made it some time in April. Is that right?—A. Oh, yes.

Q. I ask you now if at that time it was not rumored around in Scranton that this investigation was being held into Judge Archbald's conduct, and I ask you if that is the reason that the judge stopped you from making any other sale of this culm dump?—A. Yes.

Q. That is true, is it?—A. Yes.

Q. Mr. Williams, after you had presented this $500 note to one of the Bolands, or both of them, for discount, and they declined to discount, I ask you if, subsequent to that time, several months, you did not tell one of the Bolands, or both of them, that they made a great mistake in not discounting that note——

Mr. WORTHINGTON. I object to that question.

Mr. Manager WEBB. Let me finish it—if they did not make a great mistake in failing to discount that note; that if they had discounted it they would not have lost their suit?

The WITNESS. I never said such a thing, sir.

The PRESIDENT pro tempore. Wait a moment. The Chair understands counsel to object.

Mr. WORTHINGTON. What is the use of objecting, Mr. President, since the witness has stated sufficient of his answer to show what it will be?

The PRESIDENT pro tempore. The Chair has cautioned him repeatedly not to do so.

Mr. WORTHINGTON. The Chair has done his duty, surely.

Mr. Manager WEBB. That is all the questions we have to ask the witness at present.

Mr. THORNTON. Mr. President, I desire that the witness answer the question I send to the desk before he is released by the managers.

The PRESIDENT pro tempore. The Senator from Louisiana requests that a question be propounded to the witness by the Secretary. The Secretary will read the question.

The Secretary read as follows:

Q. Have you read your testimony before the committee since it was given, or has it or any part of it been read to you since?

The WITNESS. No, sir.

Mr. Manager WEBB. Mr. President, in view of the last question asked by the Senator from Louisiana, I want to ask the witness one more question.

Q. (Mr. Manager WEBB.) Since you were here and testified before the Judiciary Committee last May have you talked with Judge Archbald in his home at Scranton?—A. In his home?

Q. In his home, in his office, or anywhere.—A. Yes.

Q. You have?—A. Oh, I talked to him.

Q. Have you talked to Judge Archbald since you testified before the Judiciary Committee?—A. Not anything about the case, sir.

Q. Have you talked with Judge Archbald since you testified before the Judiciary Committee?—A. Not anything about the case at all, sir.

The PRESIDENT pro tempore (to the witness). Answer the question.

The WITNESS. Don't I answer the question?

The PRESIDENT pro tempore. No.

The WITNESS. I have talked to him; but I never talked about the case.

Q. (By Mr. Manager WEBB.) Where did you talk to him?—A. I have talked to him on the street.

Q. Where else?—A. Why, I have talked to him in the Federal building, but not in his office.

Q. Where is the Federal building you speak of—in Scranton?—A. Scranton; yes.

Q. In the judge's room there?—A. No.

Q. Well, where were you in the Federal building when you and the judge talked?—A. I was out in the corridor.

Q. Anywhere else?—A. No.

Q. Did you ever talk to him in his home about it?—A. No; I never was in his home to talk to him about it.

Q. Did you ever talk to him anywhere else besides on the street and in the Federal building?—A. No, sir.

Q. What did you talk about then?—A. We talked about different things as he passed, but never talked about the case at all.

Q. You never even mentioned this case?—A. No; never mentioned the case; I never talked to him a word about the case, because he would not talk about the case.

Q. Why? How do you know he would not?—A. Because he did not want to. [Laughter in the galleries.]

The PRESIDENT pro tempore. Occupants of the galleries must refrain from any expression of approval or disapproval, merriment, or otherwise.

Q. (By Mr. Manager WEBB.) How do you know, Mr. Williams, that he did not want to talk about the case?—A. Because he never talked about the case.

Q. How do you know he did not want to talk about it? You said he would not, and did not want to.—A. He said he did not want to talk about the case.

Q. Did you begin, then, to talk with him about it?—A. What?

Q. Did you begin to talk with him about it?—A. No. He said, "Now, Williams, you know very well that we were told by the House not to talk anything about the case." I know that.

Q. Why did the judge admonish you in that way?—A. What?

Q. Why did the judge advise you in that style?—A. Well, he warned me not to talk about the case.

Q. Why? Had you begun to talk to him about it?—A. No, sir.

Q. Why should he volunteer that warning?—A. Because he did not want to talk about the case at all.

Q. Have you talked with Judge Archbald's attorneys about the case since you were here last May?—A. Judge Archbald's attorneys?

Q. Any of them; you know them.—A. Not that I know of.

Q. Well, now, think, please.—A. What?

Q. Do you know whether you have talked to any of Judge Archbald's attorneys about this case since last May?—A. Yes; I think I did.

Q. Did you see Mr. Price?—A. No; I seen Mr. Worthington.

Q. You saw Mr. Worthington?—A. Yes, sir.

Q. Did you talk with him about this case?—A. In Scranton; yes, sir; I did.

Q. Where were you?—A. I was in the Federal building, sir.

Q. Where was the judge?—A. The judge was there, but he never said a word.

Q. Oh, the judge was present and heard you and Mr. Worthington talk about this case?—A. Yes, sir.

Q. How many times did you talk to Mr. Worthington about the case?—A. That is the only time.

Q. How many times did Mr. Worthington go to Scranton since last April?—A. Only once I seen him; that is all.

Q. I ask you if Judge Archbald's counsel, Mr. Worthington, called your attention in the presence of the judge to any of your testimony?—A. What?

Q. I ask you if Col. Worthington, when he was in the Federal building in the judge's office and in the judge's presence, suggested to you that you had made a mistake or asked you to change, if you had made a mistake, any testimony that you had given before the Judiciary Committee?—A. I did not make any mistake, sir.

Q. You did not make any mistake?—A. No, sir.

Q. So whatever is written in your testimony before the Judiciary Committee is correct?—A. I guess so.

Q. But answer my question: Were you asked in the presence of the judge about changing your testimony or as to whether your testimony before the Judiciary Committee was correct or not?—A. What was your question? Ask me that question again, sir.

Q. I ask you if any one of the judge's lawyers in the Federal building in Scranton in the presence of the judge asked you about the testimony you had given before the Judiciary Committee and either suggested that you had made a mistake or that you should change some part of it because you had made a mistake?—A. I do not know.

Q. Was that question discussed by any of the judge's counsel before the judge in the Federal building at Scranton?—A. I do not know; I could not say that it was.

Q. Well, tell us, then, what was discussed in the presence of the judge by his counsel with reference to your testimony?—A. I do not remember exactly what it was.

Q. How long ago has it been?—A. Quite a while ago.

Q. Two or three months?—A. Yes; more than that.

Q. It has been since last May, you say?—A. Yes, sir.

Q. And you can not remember what happened two or three months ago?—A. I can not remember everything.

Q. Did you not think that was an unusual meeting, and, therefore, would you not charge your memory——A. I met Mr. Worthington on the street at the courthouse, when he was going over, and talked to him, but I do not remember of the transaction, whether we talked over it, and I do not know that I ever changed anything in my evidence at all.

Q. Then I ask you if C. Worthington had a copy of your testimony before him when he examined you in the presence of the judge in the Federal building in Scranton?—A. Yes, sir.

Q. He did have a copy of your testimony?—A. I remember one thing. He asked me if I ever told the judge that I was going to sell the thing. "Well," I says to the judge, "Did I tell

you, judge? I do not know whether I told you or not." "Well," he said, "don't ask the judge," he says, "but you say so."

Q. Now, maybe you can remember something else that was said?—A. What is that?

Q. Maybe you can remember something else that was said. How long were you in the judge's presence with Mr. Worthington?—A. I do not know.

Q. Half an hour?—A. I could not tell you how long I was there. I might have been there an hour, and I might have been there half an hour; I do not remember how long.

Mr. Manager WEBB. That is all, Mr. President.

The PRESIDENT pro tempore. The witness is with the counsel for the respondent.

Cross-examination by Mr. WORTHINGTON:

Q. Mr. Williams, that conversation with me which you have just mentioned occurred in the latter part of last August, did it not?—A. I do not remember when it was, Mr. Worthington; I could not say.

Q. Do you remember that I talked to you on two different days—one day, and then the next day?—A. Yes, sir.

Q. And on the first day I asked you to bring certain papers you had referred to which you did not have with you?—A. Yes, sir.

Q. And you came the next day and brought them. Now, are you not mistaken in saying that Judge Archbald was present the first day?—A. I do not remember; but you remember very well when I asked the judge whether I told him or not about the sale of the property, you said to me "Don't ask the judge at all." You says, "You say so."

Q. Was not that the second day when you came back with the papers?—A. I am not sure.

Q. There were other people there, were there not, besides you and myself?—A. Yes, sir.

Q. Who were they?—A. Mr. Martin was there.

Q. Mr. Martin was there?—A. Mr. Price was there.

Q. And who else?—A. I can not say. The judge was there.

Q. Was not Mr. Robert W. Archbald, the judge's son there?—A. Yes. I guess he was.

Q. Was there not a stenographer there?—A. Yes, sir; a stenographer.

Q. On both occasions?—A. Yes, sir.

Q. Mr. Williams, have you had any business in the last 10 years; any regular business, I mean?—A. Have I had any business?

Q. Any regular business, I mean; any regular vocation?—A. Yes, sir.

Q. What is it?—A. Coal.

Q. Coal generally and not specifically?—A. Nothing else.

Q. Have you been known as Option Williams on account of your custom of dealing in options?—A. Boland is the author of that, you know.

Q. He gave you that title, did he?—A. Oh, yes.

Q. You have never repudiated it, have you?—A. No. I could get options when they could not touch them, sir.

Q. As to your relations with Judge Archbald prior to the time that you took to Capt. May this letter from Judge Archbald, did you ever have any business transactions of any kind with Judge Archbald?—A. No; I did not.

Q. That was the first business relation?—A. The first business; yes, sir.

Q. As to your other relations, had you up to that time ever been in his house?—A. No, sir.

Q. Have you ever been to his house since that time?—A. No, sir.

Q. Has he ever been in your house?—A. No, sir.

Q. Have you during the last few years had any office anywhere?—A. Not an office.

Q. You live, I believe, about 6 miles from Scranton?—A. I used to, but I live at Dunmore now.

Q. How far is that from Scranton?—A. That is about 2 miles away from the city.

Q. How long have you lived there?—A. I have been there now about three years; since my wife died.

Q. And before that, how many miles from Scranton did you live?—A. Six miles.

Q. You were in Scranton nearly every day, except——A. (Interrupting.) I lived there 42 years.

Q. While you lived in these places you were in Scranton nearly every day, were you not?—A. Every day.

Q. Every day, except Sundays?—A. Every day, except Sundays; yes, sir.

Q. Where did you stay; where were your headquarters, if you had no office?—A. Any office where I had any business, sir.

Q. Did you have no particular place where you went regularly when you had no special object in view?—A. I was dealing with the Bolands, and they owe me money to-day, and I always went there to try to get some of that money, sir. [Laughter in the galleries.]

The PRESIDENT pro tempore. Counsel will suspend. The Chair desires to say to the occupants of the galleries that absolute silence must be preserved, and if necessary measures will be taken to accomplish that end. Occupants of the galleries must not audibly interrupt the proceedings in this Chamber.

Q. (By Mr. WORTHINGTON.) Is it not a fact that you spent your time, when you were not doing business anywhere else, in the office of W. P. Boland?—A. I spent a good deal of my time there.

Q. You spent more time at the office of W. P. Boland during the last few years than you did anywhere else, by a great deal, did you not?—A. Yes; I did.

Q. What office is that? Is it the office of William P. Boland or the office of the Marian Coal Co., or what?—A. Office of the Marian Coal Co.; yes.

Q. Did Mr. Christopher G. Boland, a brother of Mr. W. P. Boland, have an office there, too?—A. Right next to it.

Q. So you have been in the habit of seeing both of them practically every day for years, except Sunday?—A. Yes, sir.

Q. You first gave testimony in this matter, I think, Mr. Williams, before Mr. Wrisley Brown, in Scranton, in March last?—A. I did, on a Sunday morning, sir—what I would never do again on Sunday.

Q. I am glad to know you have reformed. Who was present when Mr. Brown took your testimony?—A. William P. Boland and Wrisley Brown.

Q. William P. Boland was there all the time, was he not?—A. William P. Boland was the man who asked all the questions.

Q. I was going to ask you whether he did not conduct the examination largely?—A. Yes; he conducted the inquiry.

Q. And the next time you testified about this matter was in the office of the Attorney General, was it not?—A. Yes—no——

Q. On the 12th of February last?—A. Yes. Oh, no; that was before.

Q. The first time was in the Attorney General's office.—A. Yes, sir.

Q. Who was present when you were examined there?—A. There was nobody there but a stenographer and Wrisley Brown and William P. Boland.

Q. Are you not mistaken in saying that Wrisley Brown was in the Attorney General's office when you were examined? He was not there when you were examined?—A. No, sir; he was not there.

Q. Mr. William P. Boland was there.—A. Yes, sir.

Q. Was not Mr. Christopher G. Boland there?—A. Yes, sir.

Q. And Mr. Cochran, of the Interstate Commerce Commission?—A. Yes, sir.

Q. And William P. Boland there suggested questions to you, did he not?—A. He did.

Q. And the next time you were examined was before the Judiciary Committee, several months ago, I believe?—A. Yes, sir.

Q. Do you remember that when your examination took place there Mr. William P. Boland came and took his seat at the witness table right at your side and stayed there some time, until a member of the committee suggested that was the witness table and then he went back?—A. Yes, sir.

Q. I understand you to say, Mr. Williams, when this letter of March 31 from Judge Archbald to Capt. May was shown to you, that that was not the letter you took to Capt. May. Where were you when Judge Archbald gave you the letter to Capt. May?—A. In his office in the Federal building.

Q. Did he dictate it to a stenographer?—A. I do not know.

Q. Did he not go out and have the letter prepared?—A. Yes, sir; I never saw the letter, because I never opened the letter.

Q. Exactly——A. I could not swear to the letter to-day, because I took it as it was.

Q. Did Capt. May show you the letter?—A. No, sir.

Q. You never saw it?—A. No, sir.

Q. Then, how do you know what was in it?—A. I did not know.

Q. You said yesterday that it simply recommended you as a person——A. That is all I expected it to do.

Q. Then, how do you know that this is not the letter?—A. Well, I do not know whether it is the letter. I could not swear to that letter.

Q. Did you take a letter about the Katydid dump from Judge Archbald to Capt. May more than once?—A. Only once.

Q. You took only one letter?—A. Only one letter.

Q. Then, if you took this letter of March 31 this must be it.—A. Well, I do not know; I guess so.

Q. How did you happen to ask Judge Archbald to give you a letter to Capt. May?—A. If I can remember aright, it was William P. Boland that told me to ask Judge Archbald for a letter.

Q. Well, is not that the truth?—A. What?

Q. Is that not the truth about it?—A. That is the truth about it.

Q. Before that had you not had some negotiations with William P. Boland about this Katydid dump?—A. I did. He had told me about it before that; but he could not touch it with a 10-foot pole.

Q. Did you not sign a writing giving him an interest in it?—A. I did, but when I went there to Mr. Robertson, he told me: "If you have anything to do with William P. Boland, you can not get it."

Q. I am coming to that——A. (Interrupting.) I had to deny him any interest at all.

Q. Did you not sign a paper giving——A. (Interrupting.) I did sign a paper.

Q. Let me finish my question——A. And then I cut him out.

Q. If you will let me finish my question, Mr. Williams, we will get along a little faster.—A. All right.

Q. Did you not sign a paper giving William P. Boland an interest in this projected Katydid dump transaction?—A. I did.

Q. One moment. [Continuing.] Before you went to Judge Archbald about the matter at all?—A. He would not tell me what dump it was until I would sign it, and when I signed it I went over to Robertson, and Robertson told me, "If you have anything to do with William P. Boland, I will not have anything to do with you at all."

Q. I want to talk about what happened before you went to Capt. May with this letter?—A. Yes, sir.

Q. Had you not signed an agreement giving William P. Boland an interest in the proposed venture before you saw Judge Archbald and got the letter to Capt. May?—A. Yes, sir; but I cut him out.

Q. One moment. And after you had signed that paper, then he suggested that you go to Judge Archbald and get a letter to Capt. May, did he not?—A. What is that?

Q. After you had signed this paper giving Mr. William P. Boland an interest in the transaction, at William P. Boland's suggestion you went to Judge Archbald and got the letter to Capt. May?—A. That is right; yes.

Q. That is right, is it not?—A. Yes, sir.

Q. After you had failed to get the option agreement from Capt. May did not William P. Boland suggest to you to go to Judge Archbald and get him to go to the Erie officials over Capt. May's head?—A. No; he recommended me, or he tried to induce me, to go to Judge Archbald and get a letter from him.

Q. To whom?—A. To the Erie.

Q. To the Erie officials?—A. To Capt. May.

Q. I understand that, but after you had been to Capt. May and had not got the option, did not William P. Boland, when you reported that fact to him, ask you to go to the judge again and ask him to go see the Erie officials over Capt. May's head?—A. No.

Q. You say that did not happen?—A. No; he did not say that.

Q. You are quite clear he did not say that in William P. Boland's office?—A. No; he did not. I do not want to blame any man for what is not right. He did not tell me that.

Q. We have here the Robertson option, so-called, which has been put in evidence and proved that it is in the handwriting of Judge Archbald, and the signature admitted to be that of Robertson.—A. Yes, sir.

Q. And your signature at the foot of it?—A. I guess it is.

Q. You will see that has an acknowledgment to it [exhibiting paper to witness]. The paper itself is dated September 4, 1911, and the acknowledgment is dated September 12, 1911. It is recorded in the proper land office up there on the 13th of September, 1911. Do you know how that happened to be acknowledged and recorded?—A. Yes; I remember about it.

Q. You remember about that. Well, tell the Senate about it, please. Just tell us about it—how it came to be recorded.—A. It was William P. Boland who went and took it and put it on record.

Q. Did Judge Archbald or Mr. Robertson state anything about having it recorded?—A. No.

Q. Had you?—A. It was him that took it.

Q. William P. Boland?—A. William P. Boland.

Q. Had you said anything about having it recorded before that?—A. I had not.

Q. Now, about the dealings with Mr. Conn. Do you know how it happened that Judge Archbald got into communication with Mr. Conn as a purchaser for his little railroad up there for this coal dump?

The WITNESS. How he got into communication?

Mr. WORTHINGTON. Yes; who suggested it to him?

A. I did not suggest it to him.

Q. Did not William P. Boland tell you that Conn was a probable purchaser, and to go and see Judge Archbald and to get a letter to Conn?—A. Yes, sir; he did.

Q. Then you got this letter on the 30th of September, which is in evidence here, and took it to Conn?—A. Yes, sir.

Q. Did you not first go to Boland's office with it?

The WITNESS. With what?

Mr. WORTHINGTON. That letter to Conn. Did you not receive that letter from Judge Archbald to take it to Conn, and instead of taking it to Conn did you not take it to the office of William P. Boland and show it to him?—A. I do not think I ever took the letter from Judge Archbald to Conn. I think it was sent some other way; not by me.

Q. I will ask whether before the Judiciary Committee, referring to page 507 of the testimony before that committee——A. I do not remember that I took it there.

Q. Referring to the top of page 507, I will ask you whether this happened with respect to this very letter:

Mr. CARLIN—

A member of the Judiciary Committee—

We have a photographed letter here that has just been shown you—a letter of introduction to Mr. Conn.

Mr. WILLIAMS. Yes, sir.

Mr. CARLIN. Did you show that letter to anybody?

Mr. WILLIAMS. The contract with Conn, you mean?

Mr. CARLIN. I mean the letter introducing you to Mr. Conn, recommending you to Mr. Conn.

Mr. WILLIAMS. Did I show it?

Mr. CARLIN. Yes.

Mr. WILLIAMS. I do not remember whether I did or not.

Mr. Williams, if there was a photographic copy of that letter to Mr. Conn made, can you explain how it was made? Did you make it?

A. No, sir; I could not explain.

Q. You thought the title to this dump was all right, you said?

The WITNESS. What is that?

Q. You said you thought the title to the dump was all right?—A. It is all right to-day. It is just as much all right to-day as it ever will be.

Q. Mr. Conn's lawyers did not agree with you?—A. No, sir.

Q. They are Messrs. Wells & Torrey, an eminent law firm in Scranton, is it not?—A. Yes. It is not Torrey, but it is Wells.

Q. Wells, the senior member of the firm. After you came down here and appeared before the Attorney General in February last, there was another effort made to get Conn to take the property—the dump?—A. That was by myself. That was the last.

Q. That is the letter of March 13, Exhibit 4 in this case?—A. Yes, sir.

Q. That [exhibiting] is the letter you refer to, is it not?—A. I do not know.

Q. Look at it, please. I should like you to be sure.—A. (Examining paper.) Yes.

Q. That is right? That letter was prepared in the office of Mr. Boland?—A. Yes, sir.

Q. And Mr. Boland helped to put the words in it—dictated them?—A. Yes, sir; he did.

Q. He dictated it to the stenographer, his niece, Miss Boland?—A. Yes, sir.

Q. Then you signed it?—A. I took it over myself.

Q. Mr. Boland told you to hurry?—A. Yes, sir.

Q. Did he tell you why he wanted to have you hurry?—A. Because this suit was coming on——

Q. And he wanted to get the sale through before the storm came. He used that language or that in substance?—A. He did.

Q. You helped him to do that without telling Judge Archbald what was going on?—A. No, sir; I did not tell Judge Archbald.

Q. By the way, this letter of March 13 seems to have had a part of it cut off. Can you tell me whether you saw that done?—A. Oh, they always did that.

Q. Who always does it?—A. Mary, the stenographer.

Q. Did you see her cut the top off of this?—A. I did not notice it; no, sir.

Q. Did you not say before the Judiciary Committee that you did see her cut it off?—A. I have seen her cut it off at different times.

Q. You took that letter to Mr. Conn, and Mr. Conn still refused to buy because he did not think, or because his lawyer did not think, the title was good?—A. He could not recommend it because the lawyer would not recommend it.

Q. Exactly. Then right away Mr. Boland helped you get up the sale to Mr. Bradley for $20,000?—A. I had done that myself before Mr. Boland ever——

Q. You say it was done before Mr. Conn refused to take it the last time?—A. Yes, sir. I could have sold, but I would rather sell it to Mr. Conn, because there was more money in it, than to sell it to Bradley.

Q. Was not the arrangement to sell to Bradley made in William P. Boland's office?—A. No, sir.

Q. You say it was not?—A. No, no. I had agreed with Mr. Bradley myself, outside of anybody else in the world, to sell it to him for $20,000.

Q. Did not Mr. Boland urge you to hurry up this Bradley sale?—A. Yes; he did. That is true enough.

Q. And so you went on hurrying up a sale—that is, trying to get Conn to buy—and when he would not, to get Bradley to buy it, and arranging a sale to Bradley without saying a word to Judge Archbald?—A. Yes, sir; but I did not mean to cheat Judge Archbald.

Mr. WORTHINGTON. I do not mean to intimate that.

A. No, sir. I am not doing that kind of work.

Q. Another thing, to make certain of this March 31 letter. The first time you saw Capt. May about this Katydid dump business was when you took that letter from Judge Archbald. You had not had any talk with Capt. May about the Katydid dump until you went to him with that letter from Judge Archbald?—A. I do not think I had any talk with him at all.

Q. What arrangement did you have with Judge Archbald about what his interest in this dump should be and what your interest should be when you went to Capt. May with that letter on the 31st of March?—A. I never had any particular arrangement with Judge Archbald.

Q. You went and asked him for this letter and got it?—A. Yes, sir.

Q. And after the letter you entered into the negotiations without saying a word to Judge Archbald as to whether he was to have an interest or not?—A. I said he was to have an interest. I did not say how much or what he was to get.

Q. You never had any writing with him on the subject?—A. No, sir; only my word of mouth. That is all he had.

Q. Very well. Did Judge Archbald ever at any time tell you that his name was to be concealed or kept out of the Katydid transaction?—A. He never told me.

Q. Did he ever intimate or suggest such a thing to you?—A. No, sir.

Q. Did you ever tell him that it was contemplated to keep his name out?—A. No, sir.

Q. Or to execute any paper and refer to him as a silent party?—A. No, sir. I considered that he knew more about that than I did, and for that reason I would leave that to him.

Q. I want to come down to what you were saying a few moments ago. You say when you went to Robertson he told you that William P. Boland must not have anything to do with it?—A. Nothing to do with it at all.

Q. Or the sale would not go through?—A. Yes, sir.

Q. Or he would not sell his interest?—A. Yes, sir.

Q. Did he tell you why?—A. No, sir.

Q. He gave no reason?—A. He gave no reason; no, sir.

Q. Did he tell you that before he would sign the agreement with Judge Archbald agreeing to sell his interest for $3,500—the paper which I have just shown you, which Boland had recorded——A. I do not understand your question.

Q. No doubt it is my fault. I refer to this paper [exhibiting], Exhibit No. 2 in this case—the Robertson agreement—which is in Judge Archbald's handwriting. You say that you and Robertson signed it, and then you say it was recorded a few days afterward by Boland?—A. Yes, sir.

Q. I want to know whether Robertson told you, before that paper was signed, that William P. Boland must have no interest in the property?—A. Yes, sir; particularly.

Q. That is dated the 4th of September. I want to ask you if that is so, why it was that on the next day, the 5th of September, you signed a paper assigning two-thirds interest in this transaction to William P. Boland?—A. I never did.

Q. You never did?—A. No, sir.

Q. This paper which we have referred to in these proceedings as the "silent-party" paper was dated the 5th of September, and says:

For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Iron Co., it is agreed by said Edward J. Williams, who is the owner of two options covering a culm bank known as the Katydid, situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Co., $3,500 and $4,500, respectively, to be divided equally between William P. Boland and silent party mentioned above.

A. I never did, sir.

Q. After Robertson had told you that William P. Boland must not have anything to do with the matter, did you tell him?—A. I told him, and he says to me, "Well, I quit; I am out."

Q. Was that before or after the Robertson paper was signed?—A. It was right after Robertson told me.

Q. Right afterwards?—A. Right after Robertson said it. He says, "All right, I am out; I quit." Why should I sign anything to him? I never signed it.

Q. About this "silent-party" paper; did you receive any copy of it?—A. No, sir.

Q. This appears to have come from the possession of the managers.—A. I got two copies here, but they were never signed.

Q. Did you not swear before the Judiciary Committee that you never received any copy of the paper?—A. There are two copies. There is another one here, but I never signed any of them.

Q. Did you not swear before the Judiciary Committee——A. Did he not swear that there were three copies? Is it not in the book there that three copies were signed?

Q. We will find that in a moment. When you were testifying before the Judiciary Committee where were these copies?—A. They were in my pocket then, and I did not know they were in my pocket when I was here before.

Q. You did not know how they got there?—A. When I went to look at my pocket when I got home I found those copies.

Q. In your pocket?—A. Yes, sir.

Q. When I talked with you the first day, last August——A. I showed you it, did not I?

Q. You said you had such papers, but they were at your home, did you not?—A. No; they were right in this pocket then.

Q. Did you not tell me that they were at your house; and did I not ask you to bring them down the next day?—A. No; they were in the same pocket. It may not be the same coat, all right.

Mr. WORTHINGTON. Mr. Managers, I propose to add these exhibits to the contribution which you have made. [After a pause.] The managers have no objection to these papers going into the evidence. I will not undertake to read them, because the wording is the same as in the original paper itself. They have a line for the signature and the word "seal" in typewriting after that line.

The PRESIDENT pro tempore. Does the counsel propose to introduce them now or prove them?

Mr. WORTHINGTON. I would like to introduce them now. I know sometimes it is said that exhibits for the defense or the respondent should be put in when the time comes to put in evidence. I find always that it is very much more convenient for the court and everybody else to put them in as we go along.

Mr. Manager CLAYTON. I hope they will be printed in the RECORD right at this point.

The PRESIDENT pro tempore. There is no objection, the Chair understands.

Mr. WORTHINGTON. All right. Then I offer them, and they are in evidence.

The matter referred to is as follows:

[U. S. S. Exhibit A.]

Assignment made this 5th day of September, A. D. 1911, by Edward J. Williams, of the borough of Dunmore, County of Lackawanna and State of Pennsylvania, party of the first part, to William P. Boland and a silent party, both of the city of Scranton, county and State above mentioned, parties of the second part. For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Captain W. A. May, Sup't., of the Hillside Coal & Iron Company, it is agreed by said Edward J. Williams who is the owner of two options covering a Culm Bank known as the "Katydid," situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Company, $3,500 and $4,500 respectively, to be divided equally between William P. Boland and silent party mentioned above, their heirs, successors or assigns, and this shall be their voucher for same.

——— ———. [SEAL.]

[U. S. S. Exhibit B.]

Assignment made this 5th day of September, A. D. 1911, by Edward J. Williams, of the borough of Dunmore, County of Lackawanna and State of Pennsylvania, party of the first part, to William P. Boland and a silent party, both of the city of Scranton, county and State above mentioned, parties of the second part. For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May, Sup't., of the Hillside Coal & Iron Company, it is agreed by said Edward J. Williams who is the owner of two options covering a Culm Bank known as the "Katydid," situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-

mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Company, $3,500 and $4,500 respectively, to be divided equally between William P. Boland and silent party mentioned above, their heirs, successors or assigns, and this shall be their voucher for same.

——— ———. [SEAL.]

Q. (By Mr. WORTHINGTON.) Did you ever get any authority from Judge Archbald to sell any part of his interest in the Katydid dump—any part of the contract—to anyone else?—A. No, sir.

Q. Did you ever tell him that you had assigned an interest to William P. Boland?—A. No, sir.

Q. I should like to know, Mr. Williams, in your own way, what is the truth about whether you did or did not say anything to Judge Archbald about this "silent-party" paper?—A. I do not know nothing about it.

Q. Did you not swear before the Judiciary Committee several times that you never executed that paper and did not know anything about it?—A. I did not know anything about it, and I do not know anything about it to-day, sir.

Q. Did you not several times swear, as you have sworn here, that you put Judge Archbald in that paper as a silent party because you did not think it was lawful for him to be in the transaction?—A. I did not. I always said I did not know anything about that paper. The signature was wrote across the typewriting on the paper, and I never signed that. I never did sign it.

Q. Do you say now that, as a matter of fact, you never told Judge Archbald that you had referred to him as a silent party or never told him such a thing was contemplated?—A. No, sir.

Q. Do you mean that you did not tell him any such thing?—A. You can ask him now, if you want to.

Q. But for the present I have to confine my questions to you, Mr. Williams. Did you ever tell him?—A. No, sir.

Q. Or intimate to him——A. No, sir; I did not.

Q. That such a thing was done or contemplated?—A. I did not.

Q. Or did he ever intimate or suggest to you that he desired his connection in that matter to be concealed from anybody?—A. No, sir; he did not.

Q. At one time I believe it was supposed that the contract with Conn was going to be executed, was it not?—A. Yes; I thought it was going through all right.

Q. Did not Judge Archbald prepare a contract and submit it to Mr. Conn?—A. Yes, sir; he did.

Q. Did you see that contract?—A. Yes, sir; I did see it.

Q. Did you read it?—A. No; I did not read it. I seen it.

Q. Did you look at it at all so as to see whether Judge Archbald's name was mentioned in it?—A. Judge Archbald's name was in it.

Q. How do you know?—A. He read it to me.

Q. He read it to you?—A. Yes, sir.

Q. You can not identify the paper, then?—A. No, sir.

Q. Now, Mr. Williams, about another matter. You took this letter from Judge Archbald to Capt. May and did not get any agreement from Capt. May about the option?—A. No, sir.

Q. How soon did you go back to Judge Archbald and report that result?—A. I could not say.

Q. Was it the same day?—A. Whether I went in two days or the next day, or when, I do not remember.

Q. Where was this letter delivered to you?—A. It was two years ago.

Q. This letter was given to you in the Federal building to be taken to Capt. May?—A. Yes, sir.

Q. Where was Capt. May when you delivered it to him?—A. In the office of the Erie Co.

Q. How far away was that from Judge Archbald's office in the Federal building?—A. About 2 miles away.

Q. Had you not said several times that you right away went to Judge Archbald and told him about what Capt. May had said?—A. Now, I could not say. I guess I did go as soon as possible.

Q. From a distance of 2 miles?—A. Yes, sir.

Q. When you got back to Judge Archbald's office you saw on his desk this trial list, you say, on which was the word "lighterage." Is that right?—A. Yes, sir.

Q. And you picked up that paper and asked Judge Archbald what lighterage meant?—A. Yes, sir; I did.

Q. Was that the way that came about?—A. That is a fact, sir.

Q. Have you ever seen that paper since?—A. I never seen it since; no, sir.

Q. Was this trial list one on which there were a number of cases?—A. Oh, lots of cases.

Q. The cases numbered?—A. Oh, there was lots of cases. I looked through it, all over the list.

Q. In what court was it?—A. I do not know. I could not say what court it was.

Q. You do not know whether it was a trial list of the Commerce Court or Interstate Commerce Commission——A. I could not say. I could not swear to that.

Q. Or the district court of the United States for the middle district of Pennsylvania?—A. I could not say.

Q. You can not say?—A. No, sir. If I would swear I could not swear what court it was.

Q. In order to be clear about this I will ask you whether, when you were giving your deposition to Mr. Wrisley Brown in Scranton, page 228, you did not say that after delivering that letter to Capt. May you "went to the judge right away"? "Yes; I went to the judge right away."—A. Well, that might be; I do not remember.

Q. You do not remember whether you said that or not?—A. No; I do not remember. That is pretty near two years ago.

Q. But you were testifying very shortly after the occurrence. It was only in April.—A. I do not remember.

Q. It was the year afterwards. I do not want to misrepresent it.—A. You know this, Mr. Worthington, that when that testimony was taken it was in a hurry on a Sunday morning, and they would run over it in a hurry, there were so many questions asked. I was there about four or five hours.

Q. Then I will ask you whether, when testifying before the Judiciary Committee, page 511, you did not say this in reference to that. When the question was asked you by Mr. STERLING of the committee, "Was it the next day after you had seen May that you went back to the judge," your answer was, "Yes, sir"; do you remember that?—A. I do not.

Q. Can you be clear about this matter at all, Mr. Williams? After you had taken this letter to him and he did not give you an agreement or agree to sell, did you go to sleep on it and do nothing or were you active about it?—A. I went to see the judge that day or the next day.

Q. Then you saw this trial list with the lighterage case on it?—A. Yes, sir; that is the time.

Q. Then you had the conversation with the judge which you have narrated as well as you remember about what that case was?—A. Yes, sir.

Q. He explained to you the matter?—A. I did not know in the world what lighterage meant, and I asked him the question.

Q. To make sure what the case was, tell us again what the judge said the lighterage business was.—A. He said it was those little tugboats that carried railroad cars across the river there.

Q. To get some idea as to how correct you are about dates, I should like to ask you what is your recollection as to how long it was after you first went to Capt. May about this business until he gave you the option, as it is called here?—A. I could not say whether it was a week or a month. I could not say, sir. I could not be sure.

Q. You think it was somewhere in the neighborhood of a week or a month?—A. Yes, sir.

Q. If, as a matter of fact, the first letter to Capt. May was March 31 and the option was August 30, how do you account for being so far out on your dates?—A. I could not remember how long it was.

Q. I will ask you, Mr. Williams, whether, as a matter of fact, this talk with Judge Archbald about the lighterage case was not long after he had been to see Mr. Brownell and after Capt. May had given the option?—A. No; I think that was before he went to see Brownell, if I remember.

Q. I will ask you whether or not on the 28th day of September, 1911, in the office of William P. Boland, you did not say, in substance, that you were "going to the judge's office to look at a brief which the judge was preparing for the Erie Railroad Co."?—A. No, sir.

Q. Nothing of that kind happened?—A. No, sir; I did not see about a brief. I do not know what a brief is. I do not know the difference between a brief and something else.

Q. No such conversation occurred, then?—A. No, sir.

Q. I will ask you whether you did not call later in the day to see William P. Boland, and tell Miss Mary F. Boland, or somebody in her presence, that you had seen the brief "and it was about a case against the Erie Railroad Co. for a lighterage charge"?—A. No, sir; I never told him.

Q. Nothing of that kind happened?—A. No, sir.

Q. Away down in September, after the option had been given by Capt. May?—A. No, sir; nothing of the kind at all.

Mr. WORTHINGTON. Mr. President, we would be very glad if the Senate would take a recess for about 10 minutes in order that I may confer with my associates about some other matters. I think we will save time by it.

The PRESIDENT pro tempore. If there be no objection, it will be so ordered. The court will stand in recess for 10 minutes, until 5 minutes before 4 o'clock, it being now 15 minutes before 4.

The Senate sitting as a Court of Impeachment thereupon took a recess for 10 minutes and reassembled at 3 o'clock and 55 minutes p. m.

Mr. GALLINGER. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from New Hampshire suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Martin, Va.	Root
Bacon	Curtis	Martine, N. J.	Shively
Bailey	Foster	Massey	Smith, Ariz.
Borah	Gallinger	Myers	Smith, Ga.
Brandegee	Gardner	Nelson	Smith, Md.
Bristow	Gore	Newlands	Smith, S. C.
Brown	Hitchcock	Oliver	Smoot
Bryan	Johnston, Ala.	Overman	Sutherland
Burnham	Kenyon	Page	Thornton
Burton	La Follette	Perkins	Townsend
Clapp	Lea	Perky	Warren
Clark, Wyo.	Lodge	Pomerene	Works
Culberson	McLean	Richardson	

The PRESIDENT pro tempore. On the call of the roll of the Senate 51 Senators have responded to their names, and a quorum of the Senate is present.

CROSS-EXAMINATION OF E. J. WILLIAMS—CONTINUED.

Q. (By Mr. WORTHINGTON.) Mr. Williams, you said yesterday that you had good reason to know that the Bolands owned a large amount of the stock of the Marian Coal Co. What did you mean by that?—A. How is that?

Q. You said yesterday that you had good reason to know that the Bolands own most of the stock of the Marian Coal Co.—A. Yes, sir.

Q. What did you mean by that?—A. Because I had to sell out to them, sir. I was squeezed out of it, sir.

Q. You said something about their owing you money.—A. They owe me $1,300 and $1,100.

Mr. Manager WEBB. We think the question and answer are immaterial. Whether the Bolands owe him money or whether he owes the Bolands money we do not think has anything to do with the conduct of Judge Archbald.

Mr. WORTHINGTON. I think that what has been brought out, Mr. President, sufficiently shows that the relations between this witness and the Bolands are quite important.

The PRESIDENT pro tempore. The counsel will propound the question.

Q. (By Mr. WORTHINGTON.) The question is whether the Bolands are indebted to you, and, if so, why—I mean William P. Boland and Christopher G. Boland, or either of them?—A. Christopher G. Boland owes me money.

Q. Can you tell us briefly what is that about?—A. Why, that is part payment. They paid a part of the agreement that they had to sell out.

Q. To sell out what?—A. The Marian coal lease—the culm lease.

Q. Does Christopher G. Boland recognize that indebtedness to you or does he dispute it?—A. Yes; he does, of course.

Q. He does?—A. Yes, sir.

Q. Why does he not pay you?—A. Well, because they claim it was to be paid out of the dividends, but they claim that there was no dividends yet until they get this money. Now, if they will ever get it from the D. L. & W. for overcharges, for reduction of rates——

Q. Well, what has that got to do with your going to them with this $500 note? I think you gave that as a reason why you went to them.—A. Oh, that has nothing to do with my going to them about that $500 note.

Q. I thought you said something to that effect yesterday?—A. Oh, no; I was always friendly with them.

Q. Well, they owe you money and they recognize that they owe you money?—A. Yes, sir.

Q. And you expect to get it from them in the future?—A. Yes, sir.

Q. Have they said anything as to when you may expect to get that money?—A. How is that?

Q. Have they said anything to you as to when you may expect to get that money?—A. As soon as they get money out of it, and if they get this $50,000 from the D. L. & W., why that is money, is it not, and they are able to pay me then.

Q. Well, I do not care anything more about that. Mr Williams, did you suggest to Judge Archbald in reference to the papers, or some of the papers connected with this Katydid transaction, that he should have one of his sons sign the papers and not sign them himself; and did he not say that he proposed to sign the papers himself and not have his son sign them?—A. No; he did not.

Q. Nothing of that kind happened?—A. No, sir.

Q. I want to ask you whether, on or about January 16, 1912, in the office of Mr. W. P. Boland, in Scranton, Pa., you said, in substance, that Mr. Archbald told you it would be better for him to sign the papers in this deal, that you agreed with him, but that you later told the judge that it would be better for his son to sign the papers, and you said the judge intended singing them, and you could not prevent his doing it?—A. No, sir.

Q. Nothing of that kind was said by you?—A. I never told the judge that, or the judge never told me that.

Q. Now, about this visit you made to the judge just before you came down to testify before the Judiciary Committee. A subpœna was served upon you, I understand. On what day of the week was it served?—A. I don't remember.

Q. You were required to appear on what day of the week; do you remember?—A. I don't remember.

Q. Anyhow, you went to the judge and told him you had been subpœnaed and had not the money to pay your fare, did you not?—A. I did.

Q. You went to his office in the Federal Building?—A. I told him so.

Q. And you asked him to lend you the money so that you could come down here?—A. Yes.

Q. You told him you were going to testify or had been subpœnaed before the Judiciary Committee in his matter, did you not?—A. Yes, sir.

Q. Did he not say that he would not give you any money, but that he was going on the train somewhere the next day, and that if you would meet him at the station at that time he would give you a ticket to Washington?—A. That is all; yes, sir.

Q. And you did meet him there?—A. I did meet him at the Delaware, Lackawanna and Western depot, sir.

Q. And he went around to the window and bought that ticket and handed it to you right there?—A. He did.

Q. In the presence of a number of people who were in the room?—A. All that was around there at the time.

Q. And you say that he told you to come down here and tell the truth?—A. He told me to tell the truth and never mind the consequences. He said, "Tell the truth."

Q. You said twice, as I understood you, that this Bradley deal was stopped because this investigation was coming on, or this lawsuit, you said once. You mean the investigation which has resulted in this trial, do you not?—A. Yes, sir.

Q. Now, what do you know about that? I want to know whether you have personal knowledge about that or whether you are giving what you have heard rumored on the street or somewhere else. What do you know about why Capt. May recalled the contract which he had submitted to Mr. Bradley?—A. What do I know? I know that I asked the deed back from Bradley that he had had sent to him to see whether he would accept the deed under the conditions.

Q. I understand you. The contract was sent by Capt. May to Mr. Bradley to see if it was satisfactory to him?—A. Yes, sir.

Q. And the next day, or very soon, Capt. May recalled the contract and said it could not be executed. That is so?—A. Yes.

Q. But you say that that was done because this investigation was coming on. I want to know what the source of your information on that subject is.—A. That is all I got.

Q. Who told you that? Who told you that Capt. May recalled it?—A. Mr. Bradley told me.

Q. Who?—A. Mr. Bradley told me.

Q. Mr. Bradley told you?—A. Mr. Bradley.

Q. He told you that Capt. May had recalled the deed?—A. Yes, sir.

Q. Did Mr. Bradley undertake to tell you why he recalled it?—A. No; he did not.

Q. Did he tell you?—A. That Capt. May wanted it back.

Q. Did he not tell you that Capt. May had told him that there had been letters written making claims against the mine on behalf of the Everhart heirs, and that his counsel had advised him that under the circumstances it would not do to go on with the contract?—A. I guess he did; yes, sir.

Q. Where did you get this idea into your head that it was because of this investigation that Capt. May recalled the contract?—A. Well, I got that from other sources; not from Capt. May.

Q. You did not get it from Capt. May or from Mr. Bradley?—A. No, sir.

Q. Now, is it not a fact that the day you went to Judge Archbald's office in the Federal building, just before you came down here to testify before the Judiciary Committee, that $500 Jones note had to be renewed?—A. I do not know.

Q. If that was so, you have forgotten it, have you?—A. Yes, sir.

Q. But did you not go there to meet Jones and the judge for that purpose?—A. I do not remember.

Q. You do not remember?—A. No, sir.

Q. About this letter to Mr. Darling that is in evidence. You took that letter to Mr. Darling, and he told you that that dump had been sold or leased or something of that kind?—A. The dump had been leased to Peale, Peacock & Kerr.

Q. That was the end of it?—A. Yes, sir.

Q. You took the judge's letter to him?—A. That settled that deal.

Q. Very well. I should like to know how you came to go to Mr. Darling. Who suggested to you to go to Judge Archbald and get a letter to Mr. Darling?—A. It was William P. Boland who told me about it, but he did not know that Peale had leased it already.

Q. Who was it suggested to you to take Mr. Dainty to Judge Archbald and to try to get Judge Archbald to help him about the selling of the outstanding Everhart interest to the Lehigh Valley?—A. I do not think anybody suggested that to me.

Q. Did not William P. Boland suggest it?—A. No; I could not say that.

Q. You could not say that?—A. No, sir.

Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination by Mr. Manager WEBB:

Q. Mr. Williams, did you tell Mr. Worthington a few minutes ago that in the examination before Wrisley Brown, in Scranton, William P. Boland asked most of the questions?—A. Yes, sir.

Q. You say that now?—A. I say that now; yes, sir.

Mr. Manager WEBB. Mr. President, at this point we offer the deposition of E. J. Williams, taken on the 23d day of March, 1912, in Scranton, with reference to this matter.

Q. (By Mr. Manager WEBB.) Mr. Williams, did you sign this statement?—A. Oh, I might have signed it, but I did not know what was in it; it was not read to me at that time.

Q. Answer the first question. Did you sign it?—A. I signed it; yes, sir; but I did not know what was in it altogether.

Mr. WORTHINGTON. Mr. President, if that paper is offered solely for the purpose of showing what proportion of questions were propounded to Mr. Williams by Mr. Boland, and how many were propounded by Mr. Brown, we have no objection; but if it is offered in evidence to make what this witness said there in that ex parte investigation evidence against Judge Archbald we do object to it.

Q. (By Mr. Manager WEBB.) Mr. Williams, I ask you again if this statement was not read over to you by Mr. Brown, who asked you if you wanted to make any change in your testimony.—A. No. We were in such a hurry, sir, to get out from there after being there four or five hours. I wanted to get some time to get dinner. It was about, I think, 2 o'clock, and I got there in the morning.

Mr. Manager WEBB. Mr. President, we think it is competent to show that these questions were all asked by Mr. Wrisley Brown and the responses thereto were corroborative of what he has sworn with reference to this matter here to-day.

The WITNESS. Mr. Wrisley Brown would not know how to ask these questions altogether without the help of William Boland.

Mr. WORTHINGTON. Mr. President, it seems to me that it would be very unfortunate if we should have to try to get into this case what might be considered evidence against Judge Archbald of what this witness happened to say in an ex parte investigation in Scranton. The questions are all there; it is stated who asked them; and it is easy enough for the managers to do what I have done, count the number of questions that were asked by Mr. Boland, and it will appear that he asked 1 out of 10, or something of that kind. The witness is mistaken—there is no question about that—in saying that Mr. Boland asked most of the questions, so far as the report shows, and we ought not to have a statement made in this way by this witness or anybody else when there was no opportunity for Judge Archbald to be represented, put into this case as evidence.

The PRESIDENT pro tempore. The Chair is of opinion that the paper could not be put in evidence for the purpose of proving the testimony of the witness upon that occasion, unless the managers are prepared to take the position that they have been entrapped by the witness and desire to show what he has testified to on a former occasion; and the Chair does not understand that to be the proposition.

Mr. Manager WEBB. Well, Mr. President, in one view of the matter we think it is competent to show that Mr. Brown asked the questions, and not Mr. Boland. In another view of the question we take it that it is competent for the reason that the witness was examined on the 22d day of March, when the facts were fresh in his mind, and that it is competent to corroborate him as to what he has sworn here to-day to show that he has sworn it on other occasions.

The PRESIDENT pro tempore. The Chair is not of opinion that the corroboration of the witness is in order unless he is impeached in some way. There is no doubt about the right of the managers to prove that the questions were asked by whoever the party is, but the Chair does not think that the paper itself would be admissible as evidence of what the witness then swore to.

Mr. Manager WEBB. Then does the President admit it in evidence for the purpose of showing who did ask the questions?

Mr. WORTHINGTON. I would object to that. It seems to me if it is admitted for any purpose, of course, it goes into the record. It is an easy matter, of course, for anybody to ascertain how many questions were asked by Mr. Boland. As a matter of fact, only 12 were asked by him during a long examination.

The PRESIDENT pro tempore. The Chair would suggest that it would be better for the managers to prove what they desire without introducing the entire paper, because that would be putting in evidence that which is not proper for consideration as evidence.

Mr. Manager WEBB. To prove it in any other way would be an almost endless task, because there are 48 pages of typewritten matter, and the witness would probably have to go over it to see——

Mr. SIMPSON. To see what?

Mr. Manager WEBB. To see who asked the questions.

Mr. SIMPSON. We are quite willing that Mr. WEBB or any of his colleagues shall count them and their say so be put in the record.

Mr. Manager WEBB. I do not care to testify.

Mr. SIMPSON. We do not ask you to testify; but you can get some one outside. Mr. Brown can count them, and his say so will go.

Mr. WORTHINGTON. I happened to think this question might arise, and so I counted them myself. There are only 12 questions by Mr. Boland and 100 or more by Mr. Brown.

Mr. Manager CLAYTON. Mr. President, I dislike to do anything that may seem to be an abuse of the patience of the Senate, but it seems to me, inasmuch as Col. Worthington has seen proper to bring into this case a part of this deposition, that therefore we are entitled to have it all. It is upon that familiar principle that we insist upon our right to introduce this document in evidence in its entirety.

Mr. President, as to the limitation or the effect of this instrument, that is reserved to the Senate when it comes to render its verdict or judgment. We are addressing, as I undertook to say yesterday, a tribunal that acts in the double capacity of the judge of the law and the jury to determine the facts. Therefore, Mr. President, if you as judges admit this paper now, when you come to consider the question of fact as jurors, then you can, if you see fit, limit the effect of its operation. It is impossible for us to separate the function of the judge from the function of the jury here. Inasmuch, I repeat, as counsel for the respondent has introduced a part of this deposition, I insist that it is right and proper for us to have it all in the record—the whole truth, and not a part of it.

Mr. WORTHINGTON. I presume we are entitled to close on our objection, Mr. President. We introduced no part of this deposition in evidence. I asked the question of Mr. Williams as to whether Mr. Boland was not present when he was examined, and he answered that question, which was all I asked. Then he volunteered the statement, "Yes, and asked most of the questions." I did not ask him who asked the questions. I showed that Mr. Boland was present at the very time he has testified.

The PRESIDENT pro tempore. If a part of the deposition has been offered by counsel for the respondent, of course the Chair will recognize the right of the managers to offer the entire paper; but that is a question that seems to be in dispute. That proposition was not first suggested by the manager who first offered the paper. He put it upon an entirely different ground, as the managers and the Senate will remember. The Chair is not prepared to pass upon the question as to whether or not there has been in fact any part of the deposition put in evidence by the counsel for the respondent. If there has been a part of it put in evidence, the Chair recognizes the right of

the managers to have all of it on that ground alone. The Chair thinks the other propositions are untenable. The Chair, of course, recognizes the right of the managers to prove how many of these questions were asked by the respective parties.

Mr. Manager WEBB. Then we will offer, Mr. President, that part of it for that purpose. I do not recall the exact questions that Col. Worthington excerpted from the deposition.

The PRESIDENT pro tempore. Offer it for what purpose?

Mr. Manager WEBB. For the purpose of showing the entire questions and answers with reference to the matter about which Col. Worthington asked the witness.

Mr. SIMPSON. There was no such offer——

The PRESIDENT pro tempore. Probably the stenographer's notes would have to be consulted to see what part of it, if any, was offered by counsel for the respondent.

Mr. SIMPSON. There was no such offer made at all. There have been questions asked by Mr. WEBB for the managers and there have been questions asked by counsel for the respondent as to whether the witness did not testify at a certain place in a certain way. The managers might just as well say that because they asked whether or not on such and such a date he did not testify to such and such a thing before the Judiciary Committee the whole of his testimony may be put in in bulk here in that way. That is not the result which flows out of any such a suggestion as that. It is an inquiry of him for the purpose of putting him straight upon the record, and it is a particular right which those who are cross-examining have; otherwise cross-examination would amount to nothing. But there grows out of that no right to put in a whole bulk of testimony. Such a thing would be the most absurd rule of law imaginable.

If Mr. Worthington had said, "Mr. Williams, did you not on such and such a day testify thus and so?" and read the question and answer, and the managers then thought there was something in some other question or answer in that document which in some way corrected or straightened out or affected that matter, they could then ask him, "Did you not also testify thus and so on that same day?" and get that straightened out in the record in that way; but to put the whole document in, whether it relates to the question or not, would be——

Mr. Manager CLAYTON. May I ask the counsel——

The PRESIDENT pro tempore. The Chair must insist that the argument proceed in order. If there is objection, counsel will be heard, a reply will then be received by the Senate, and a conclusion accorded to the party making the objection; but irregular discussion can not be continued without manifest inconvenience and ill result.

Mr. Manager CLAYTON. I did not intend to interrupt, Mr. President, except by permission of the Senate and the consent of counsel, and it was for the purpose of directing——

The PRESIDENT pro tempore. The Chair had reference to the entire discussion and not to the particular manager who last addressed the Chair. It is necessary that we proceed in order. When there is objection, counsel will be heard; then a reply will be heard, and then a conclusion, but it must be done in that order if we are to proceed methodically.

Mr. SIMPSON. I think, sir, I have brought before the Senate what I desired.

Mr. WORTHINGTON. Mr. President, we have agreed that this matter may go over until to-morrow, so that we may see just what has taken place.

Mr. Manager WEBB. That was the agreement, Mr. President.

Q. (By Mr. Manager WEBB.) You told Col. Worthington a few moments ago that you could get options when others could not do it. What peculiar influence or power did you have to get options when other men failed to get them? Was it the influence of Judge Archbald?—A. How is that?

Q. You told Col. Worthington a few moments ago that you could get options on culm banks when other men failed to get them. What was your peculiar influence to enable you to get these culm banks when other men could not—was it Judge Archbald's assistance—A. No, sir.

Q. What did you mean when you told the colonel that?—A. What?

Q. What did you mean when you told Col. Worthington that?

Mr. WORTHINGTON. Please say "Mr. Worthington."

Mr. Manager WEBB. "Mr. Worthington," I beg pardon.

A. I had one lease from Forest City to Moosic of all the Erie culm without the judge's aid. I never asked the judge——

Q. Why did you tell Mr. Worthington that you could get options when other men failed?—A. I could. I could get this one when Boland could not touch it at all.

Q. You got this option on the Katydid when other men had failed?—A. Yes, sir.

Q. That was the one you referred to; and you got that through the influence of Judge Archbald, did you not?—A. I did not, sir. I only got one part of it through Judge Archbald.

Q. That was the Katydid?—A. Yes; one part of it.

Q. And the Katydid dump belonged to the Erie Railroad Co.—one part of it?—A. One part of it; one-half of it; yes, sir.

Q. Mr. Robertson wanted to sell his part, did he not?—A. Yes, sir.

Q. And the Erie Railroad Co. would not buy it? Is not that true?—A. No; he wanted to sell it; he had been trying to sell it to the Erie Co.

Q. The Erie would not buy it?—A. No, sir.

Q. And the Erie would not lease their part?—A. No.

Q. Until you took hold of it?—A. Yes. They had agreed to sell it to the Du Pont Powder man before that for less than one-half what I offered for it.

Q. But it was never carried up to Mr. Thomas by Mr. May, and nothing ever came of it. Is not that true?—A. No; but they offered it for $2,000 to du Pont, sir.

Q. Then you say you got the Erie Railroad Co.'s part of this dump through Judge Archbald's influence. Is not that your statement?—A. Yes; by paying a double price for it.

Q. I understand, but at whatever price it might be?—A. They did not favor me because of his influence, because I paid $2,500 more for it than they offered it before.

Q. You alone could not get it from Capt. May; you could not get it by yourself?—A. I do not know.

Q. You tried it and failed?—A. I did at the time, but he did not say he would not give it to me.

Q. He declined to let you have it?—A. He declined at the time.

Q. Yes; and you carried the matter back to Judge Archbald?—A. I did.

Q. And are you willing to swear now that you got this culm dump from the Erie Railroad Co. through your influence or through Judge Archbald?—A. I got part of it; yes; their half.

Q. Their half through whose influence?—A. Judge Archbald's.

Q. Before you took this letter to Mr. May, did the judge tell you that he had already phoned May in advance that you were coming to see him?—A. No, sir.

Q. I believe the judge in his answer to this article says that before he wrote this letter to Mr. May he had already phoned May about this Katydid dump. Did he ever tell you that he had phoned him?—A. I do not remember anything about it.

Q. When he sent the letter up there to May by you did he tell you he had already communicated with May about the dump?—A. No, sir.

Q. I want to ask you a question or two about this silent-party agreement. It seems that you have stated that you did sign a silent-party agreement and stated that you do not remember it. I ask you if this is not the way it occurred, and if you did not swear to this before the Judiciary Committee: That you did have a silent-party agreement with Mr. Robertson?—A. What—that I did?

Q. I ask you whether, after you had been examined back and forth on this question before the Judiciary Committee, I did not ask you the question, "Mr. Williams, it seems that you did sign a silent-party agreement, but you think that this one in evidence, September 4, is not the one, because that is not the date"?—A. Do you not know that other copy you showed me last night here?

Q. Yes. What about it?—A. That is not the copy. Where did it come from?

Q. That is not the copy you signed?—A. I did not sign any, sir.

Q. Did you sign——A. (Interrupting.) I never signed it. I do not know anything about the copy that you are talking about, where the writing is across the typewriting; I never signed that. I told them at first that I never had signed that.

Q. That particular copy; but I ask you again now, leaving out that particular copy which we referred to last night, did you not sign a silent-party agreement when you got the lease from Robertson, and did you not swear that before the Judiciary Committee?—A. To whom did I sign?

Q. Let me ask you if this statement was not made by you before the committee?

Mr. RUCKER. Who was the silent party referred to in that paper?

Mr. WILLIAMS. I think that was——

Mr. RUCKER. I am not talking about that. Who was the party you referred to when you said "silent party"?

Mr. WILLIAMS. It was Judge Archbald.

Mr. RUCKER. There is no question about you signing such a paper, is there?

Mr. WILLIAMS. Yes, sir.

Mr. RUCKER. And it had reference to Judge Archbald?

Mr. WILLIAMS. I think it was in John——

Mr. RUCKER. I am not asking what it was in.

Mr. WILLIAMS. Let me tell you. It was in John M. Robertson's option. That is where the "silent party" was.

Mr. RUCKER. Why did you write in this paper the phrase "silent party," referring to Judge Archbald? [Page 575.]

Now, then, was not that reference to "silent party" in the option that you first secured from Robertson? That is what you seem to have finally sworn before the Judiciary Committee?—A. I could not say that I ever saw that in Robertson's option.

Q. Did you ever sign an agreement in which there was a silent party mentioned? I am not talking about the one of September 4 or 5 now, but I am asking this: Did you ever, with Robertson or with anyone else, sign a contract or an assignment in which "silent party" was mentioned?—A. I do not remember any such contract; I do not remember.

Q. Let me ask you if you did not tell Mr. Worthington this on his examination of you before the Judiciary Committee, reading at page 579 of the record:

Mr. WORTHINGTON. I would like to ask you to explain, if you can, why it is you say to me that you executed only one contract or assignment to Mr. Boland, in which there was nothing said about a silent party, and then the next minute you say to the members of the committee that you did understand you signed something in which there was reference to a silent party? How do you explain that contradiction?

Mr. WILLIAMS. I don't remember signing such a contract as that, but I tell you that there was a silent party in one paper that we had—a silent partner.

Did you tell Mr. Worthington that?—A. I do not know.

Q. Sir?—A. I could not say whether I said that or not.

Q. Was there any paper that you ever signed, whether in the presence of Mr. Boland or any other person, in which the words "silent party" were used?—A. Why should he use the "silent party" when he put his own name in the Conn paper? Why should he put in "silent party"?

Q. You need not argue the case. I wish you would listen to this question. Again, on page 590:

The ACTING CHAIRMAN. Then your contention is that the contract which has been shown you here, Exhibit 20—

That is the contract of September 5, in which you refer to the silent party and which you now say you did not sign—

which contains the language "and a silent party, whose name is known only to the persons named therein," was drawn in August and not in September? In other words, I understood you to say that the date had been changed on it?

Mr. WILLIAMS. It was drawn before April, sir.

The ACTING CHAIRMAN. It was drawn before April?

Mr. WILLIAMS. Yes, sir.

The ACTING CHAIRMAN. But it was drawn and signed by you? Is that right?

Mr. CARLIN. He says a contract was, but this contract never was.

The ACTING CHAIRMAN. I understand; but I am asking about this particular contract. As I remembered his testimony day before yesterday, he contended that while he signed this contract with the "silent-party" language in it, it was really signed before he ever tried to make the deal with Robertson, and that after the deal was made with Boland he contends the date was changed on it to September 5. Was not that your contention the other day, Mr. Williams?

Mr. WILLIAMS. Wait, now——

The ACTING CHAIRMAN. I wish you would listen to my question.

Mr. WILLIAMS. Yes, sir.

The ACTING CHAIRMAN. I say, was not that your contention the other day?

Mr. WILLIAMS. Yes, sir.

The ACTING CHAIRMAN. That while you did sign this contract, this assignment to Mr. Boland, it was really signed not on September 5 but at some day before that time?

Mr. WILLIAMS. It was signed before this [exhibiting memorandum book]. Now, there is the time I got the culm from Robertson. You will see the date.

The ACTING CHAIRMAN. April 5?

Mr. WILLIAMS. April 5; yes, sir.

Mr. GRAHAM. Mr. Chairman, I suggest that you put in the record what that book is.

Is that your present contention—that you did sign a silent-party contract, but that it was not dated September 5, but some prior time? [A pause.] What do you say about that now, Mr. Williams?—A. I do not know anything about that contract that Boland claims that was wrote right on an angle across the paper there; I do not know anything about it; I can not have any memory of such a paper that ever came before me.

Q. Did you ever before September 5 sign any contract containing a silent-party reference?—A. The only paper I signed to him was before the option was got; before I got the option from Robertson.

Q. I believe you admit that you did sign this paper exhibited to you yesterday—the assignment of September 5—in which the silent party is included. You signed that?—A. I never signed that paper. I can not remember anything about such a paper in the world. And where did you get the paper you brought before me last night? Where did you get the paper? Will you bring that here? [A paper was handed to the witness by Mr. Manager WEBB.]—A. Oh, that is it? Well, this is not the paper, you know.

Q. (By Mr. Manager WEBB.) Now, which was the paper you signed?—A. Let me tell you now. That paper was printed down to the bottom here [indicating] and written across that way. This is not the paper, sir. No, sir.

Q. Did you sign this paper?—A. Did I sign it?

Q. Is not that your signature?—A. Yes, sir; that is my signature; but how did they get it there? That is the question. It is my signature all right; but you know how Jim Crawford's will was made, but I never signed. Why did he not bring that before, instead of bringing the other paper that was signed right across the printing of the stenographer?

Q. Are you in the habit of signing papers the contents of which you do not know?—A. No; not very often, sir.

Q. Then you did sign this paper?—A. Did I?

Q. You say you did?—A. Oh, you say so. No; I do not say so, because that paper—why did you bring that paper? Last night was the first time I saw it. The other paper, I told you, was signed at an angle across the writing on the paper.

Q. Well, Mr. Williams, I understand you to say that is your signature?—A. I say that, but I say Jim Crawford's will was signed the same way.

Q. Then you say that that is your signature?—A. Yes; it is my signature; but where did they get it? That is the point.

Q. That is Exhibit 7. One more question, please. When you went to the judge, after having seen May, and the conversation arose about the lighterage case, who mentioned the lighterage cases first?—A. I did.

Q. Let me ask you if you did not swear this before the House Judiciary Committee last May [reading from page 497]:

The CHAIRMAN. Did the judge, about that time, mention the lighterage cases to you in any conversation?

Mr. WILLIAMS. I seen them right there on the desk.

The CHAIRMAN. Was anything said about the lighterage cases?

Mr. WILLIAMS. He said that he had cases for them there at the time. That is all.

The CHAIRMAN. Meaning that he had cases before him in the court at that time?

Mr. WILLIAMS. Yes, sir. I did not understand what lighterage was at all.

The CHAIRMAN. And did he say that the Erie Railroad was a party defendant to those cases?

Mr. WILLIAMS. Yes, sir.

Did you swear to that?—A. Yes, sir.

Q. That is true, is it not?—A. Yes, sir; that is true.

Mr. Manager WEBB. That is all, Mr. President.

Recross-examination by Mr. WORTHINGTON:

Q. When you said just now, "Yes; that is true," in answer to Mr. WEBB's question, what did you mean?—A. What did I mean?

Q. What was it you meant was true?—A. It was true that we talked about the lighterage case.

Q. Do you mean to say it is true the judge asked the question first?—A. No; I do not say that. I say that we talked about it.

Q. How do you know that Mr. Robertson offered to sell his interest in the Katydid culm dump to Capt. May's company and could not do it?—A. He told me himself.

Q. Robertson told you?—A. Yes, sir.

Q. That is all you know about it—what Robertson told you?—A. Yes, sir. There is the man there.

Q. Where?—A. Up there [indicating the gallery].

Q. I understood you to say to Mr. WEBB just now that you tried to get the Katydid yourself before you went there with a letter from Judge Archbald. That is not so, is it?—A. I got the Robertson part of it, I told you; yes, sir.

Q. You did not go to Capt. May until you went there with a letter from the judge?—A. No, sir.

Mr. WORTHINGTON. That is all.

Mr. SMITH of Georgia. Mr. President, I send to the desk two questions which I should like to have the witness answer.

The PRESIDENT pro tempore. The Senator from Georgia asks that the questions submitted by him be propounded to the witness. The Secretary will read them.

The Secretary read as follows:

Q. Was the docket which you saw in Judge Archbald's room in writing or in print?

A. In print.

The PRESIDENT pro tempore. The next question offered by the Senator from Georgia will be read by the Secretary.

The Secretary read as follows:

Q. Please describe the appearance of the docket, and state at what place, with reference to the top or bottom of the page, the Erie cases were printed in the docket.

A. They were printed on top of the page.

The PRESIDENT pro tempore. The witness may retire. The managers will call their next witness.

Mr. Manager CLAYTON. Mr. President, we do not wish the witness to be discharged at this time, because we may desire to recall him.

The PRESIDENT pro tempore. Yes. The witness will remain in attendance.

Mr. WORTHINGTON. I think it should be understood that no witnesses are to be discharged unless counsel on both sides consent.

The PRESIDENT pro tempore. That will be the order given, then.

Mr. Manager CLAYTON. Do you mean to say—I ask for information—that if we are through with a witness and hear no expression of a desire on the part of the respondent that the witness attend further upon the court, we shall not have him discharged until we get the consent of the opposing counsel?

The PRESIDENT pro tempore. That was the suggestion of counsel.

Mr. WORTHINGTON. I think it much better, if either side wishes to discharge a witness, to ask the other side whether it has any objection.

Mr. Manager CLAYTON. I ask that because I think in one or two instances we have already, perhaps, dispensed with the attendance of some of the witnesses, and it seems to me that that makes a very difficult rule for us to follow. But we will do the best we can.

The PRESIDENT pro tempore. That is a different case altogether. The suggestion refers only to witnesses put upon the stand.

Mr. WORTHINGTON. I meant it to apply to those who are subpœnaed. As a matter of fact, we have refrained from issuing subpœnas to witnesses because we have understood they would be brought here by the managers on the part of the House. I think it might be very troublesome if a witness subpœnaed here should be discharged without our knowing it. It is very easy to arrange the matter. Counsel and the managers are here together every day, and we can communicate with them by telephone when we are not here.

The PRESIDENT pro tempore. Unless the matter is arranged between counsel, the Chair suggests that if the counsel for the respondent desires a witness it is perfectly competent for him to subpœna the witness on his own account.

Mr. Manager CLAYTON. I would say, in fairness to the managers on the part of the House, that in quite a number of instances gentlemen having important business engagements have asked the managers to let them go home, and, if needed, to call them back by wire and they would come. We have done that in a number of instances. Now, it may be developed in the case that we may not want to call back those gentlemen.

The PRESIDENT pro tempore. The Chair has already suggested to counsel for the respondent that if he desires the attendance of any witness who has also been subpœnaed by the managers, it is competent for counsel to subpœna him, and that will insure his attendance.

Mr. Manager CLAYTON. That is entirely satisfactory.

Mr. Manager WEBB. Mr. President, Mr. STERLING, one of the managers, will examine the next witness, who is Mr. W. A. May.

The PRESIDENT pro tempore. Call in the witness.

TESTIMONY OF WILLIAM A. MAY.

William A. May, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) Where do you live?—A. Scranton, Pa.

Q. How long have you lived in Scranton?—A. Thirty-nine years.

Q. What is your business?—A. I am now vice president and general manager of the Hillside Coal & Iron Co.

Q. Where is the office of the Hillside Coal & Iron Co.?—A. Their office is in Dunmore, Pa.

Q. Where is Dunmore with reference to Scranton?—A. It is a suburb of Scranton, joining it.

Q. How long have you been vice president and general manager of the Hillside Coal & Iron Co.?—A. About one year.

Q. How long have you been connected with that company?—A. Since July 1, 1873.

Q. In what capacity were you connected with the Hillside company prior to the time you became manager and vice president?—A. Before becoming vice president and general manager I was general manager. Previous to that I was superintendent.

Q. Are the duties of your office now as vice president and general manager substantially the same as they were prior to a year ago?—A. They are substantially the same.

Q. What is the relation of the Hillside Coal & Iron Co. to the Erie Railroad Co.?—A. The Erie controls the Hillside Coal & Iron Co.

Q. In what way does it control it?—A. I believe by stock ownership.

Q. Does the Erie Railroad Co. as a corporation own the Hillside Coal & Iron Co.?—A. I believe so.

Q. All of it?—A. I so understand.

Q. Who are the officers of the Hillside Coal & Iron Co.?—A. Mr. F. D. Underwood, president; G. A. Richardson, vice president; D. W. Bigoney, treasurer; David Bossman, secretary.

Q. Who is president of the Erie Railroad Co.?—A. Mr. F. D. Underwood.

Q. How long has he been president?—A. I can not tell you.

Q. He is also president of the Hillside Coal & Iron Co.?—A. He is.

Q. Do you hold any official position with the Erie Railroad Co.?—A. I do not.

Q. Who is the general counsel for the Erie Railroad Co.?—A. Mr. George F. Brownell.

Q. What office, if any, does he hold in the Hillside Coal & Iron Co.?—A. He is general solicitor.

Q. He is general solicitor for both of those corporations?—A. He is vice president and general solicitor for the Erie and general solicitor for the Hillside Coal & Iron Co.

Q. Mr. Richardson is vice president of the Erie Railroad Co.?—A. He is.

Q. What is his office, if any, with the Hillside Coal & Iron Co.?—A. He is vice president.

Q. Who is your immediate superior officer?—A. Mr. Richardson.

Q. In the Hillside Coal & Iron Co.?—A. He is.

Q. Do you know Judge Archbald?—A. I do.

Q. Do you know E. J. Williams?—A. I do.

Q. How long have you known E. J. Williams?—A. I think I first met him about 20 years ago.

Q. Has your acquaintance with him been continuous since that time?—A. It has not.

Q. To what extent does your acquaintance with E. J. Williams go?—A. Very slight.

Q. Have you had any business negotiations with him?—A. I have not, except in the case of the Katydid dump, now in question.

Q. What do you mean by the Katydid dump?—A. It is a culm dump made by the operations of the Katydid colliery.

Q. Describe briefly what you mean by a culm dump.—A. Culm is the refuse coal made in preparing coal for market.

Q. How is the refuse made?—A. By breaking up run-of-mine coal, running it through the breaker and making it into the various sizes.

Q. A culm dump is not made except as an incident to mining coal, is it?—A. That is all.

Q. And is thrown aside, and at one time was abandoned as refuse?—A. That is correct.

Q. And as worthless?—A. Yes, sir.

Q. And the accumulation of this refuse at the different collieries are called culm dumps?—A. Yes, sir.

Q. Or culm banks?—A. Yes, sir; coal dumps or coal banks.

Q. In the mining of what kind of coal is the culm bank created?—A. Anthracite coal.

Q. Where is the Katydid culm bank situated?—A. It is situated near Moosic, Pa.

Q. Where is that, with reference to Scranton?—A. Moosic is about 5 miles away.

Q. You are familiar with the Katydid culm bank?—A. Yes, sir.

Q. I will ask you to state what were the beginnings of the negotiations for the sale of the Katydid bank to Mr. Williams.—A. Mr. Williams brought to me a letter from Judge Archbald. That was the beginning.

Q. Before that had not Judge Archbald telephoned you in regard to it?—A. He may have done so. I do not remember it, though.

Q. Did you not suggest to Judge Archbald in the conversation over the phone that he send you a letter?—A. It may be possible; I do not remember.

Q. In any event, Mr. Williams came to you with a letter?—A. Yes, sir; he did.

Mr. Manager STERLING. I ask that this be marked as an exhibit.

The letter referred to was marked "Exhibit No. 11."

Q. (By Mr. Manager STERLING.) Look at Exhibit No. 11, Mr. May, and state if that is the letter Mr. Williams brought to you about the day it bears date.—A. (After examination.) That is the letter.

Mr. Manager STERLING (to Mr. Worthington). Do you want to see it?

Mr. WORTHINGTON. We are familiar with it.

Mr. Manager STERLING. We offer the letter, and will ask the Clerk to read it.

The PRESIDENT pro tempore. In the absence of objection, it will be marked and read.

The letter referred to was marked "Exhibit No. 11" and was read, as follows:

[U. S. S. Exhibit 11.]

(United States Commerce Court, Washington.)

SCRANTON, PA., *March 31, 1911.*

W. A. MAY, Esq.,
Superintendent Hillside Coal & Iron Co.

DEAR SIR: I write to inquire whether your company will dispose of your interest in the Katydid culm dump belonging to the old Robertson & Law operation at Brownsville? And, if so, will you kindly put a price upon it?

Yours, very truly,
R. W. ARCHBALD.

Q. (By Mr. Manager STERLING). I wish you would look at the notation at the bottom of the letter and state who put that there—A. I put the upper notation; that is, just below the signature. That is in my handwriting.

Q. When did you do that?—A. On March 31, 1911.

Q. Please read your notation.—A. "Have asked Beyea to have an estimate made of the quantity of material in this bank."

Q. Who is Beyea?—A. He is the land agent.

Q. When Mr. Williams presented that letter to you, just state what he said to you and what you said to him.—A. I do not remember anything he said to me.

Q. Do you remember the substance?—A. I do not.

Q. What did you say to him?—A. I took the letter and put the notations thereon. I do not remember what I said to him. Whether I told him I would have an examination made or not, I do not remember.

Q. To refresh your recollection, Mr. May, did you not say to him that it was not the policy of the railroad company or the Hillside Coal & Iron Co. to dispose of its coal properties?—A. I do not believe I said so.

Q. Did you write Judge Archbald——A. I did not.

Q. In reply to that letter?—A. I did not.

Q. Did you not send any word to Judge Archbald by Mr. Williams at that time?—A. I do not remember.

Q. Do you say now that you did not?—A. I do not say that I did or that I did not.

Q. Do you say that you probably did?—A. I would not.

Q. Do you know whether or not you made any answer in any way, either by letter or by word, through Mr. Williams to Judge Archbald to that letter?—A. I do not remember what I said.

Q. What did you do next after you had made the notation on the letter?—A. I do not remember what I did.

Q. Did you order an estimate made of it?—A. I did.

Q. When?—A. The notation was on there.

Q. When did you do it, I am asking you?—A. March 31, 1911.

Q. Why did you do that?—A. Because we wanted to get at the quantity of material in the bank.

Q. Did Mr. Beyea make an estimate of the material?—A. He did not.

Q. Why did he not?—A. He gave it to the engineer in his office to make it.

Q. Was it made by your office or by your company?—A. The estimate was made.

Q. When?—A. Shortly after this date.

Q. What was done about it, then, when you got the estimate?—A. The estimate was made, the sizes of the coal arrived at, and then the matter was brought again to my attention.

Q. By whom?—A. By Mr. Beyea and by Mr. F. A. Johnson, who arrived at the quantity, or rather the percentage, of the various sizes in the bank.

Q. What did you do when you got the report from the engineer?—A. Nothing was done, as I recall it; nothing was done at that particular time.

Q. What did you next do with reference to the matter?—A. The next thing I recall is that I spoke to Mr. Richardson about it.

Q. Had you heard again from Judge Archbald between the 31st of March and the time you spoke to Richardson with reference to it?—A. I do not remember that I did.

Q. What did you and Mr. Richardson do with reference to it?—A. When he visited the mines I spoke to him about it.

Q. What did you say to him?—A. We merely discussed the advisability of selling the dump and concluded not to sell it.

Q. And concluded not to sell it?—A. At that time.

Q. How is that?—A. We concluded we would do nothing at that time.

Q. You decided that it was against the policy of the company to sell its coal property and determined not to sell it?—A. Not necessarily in that way.

Q. Not necessarily? Did you do it or did you not do it? What was the result of your conference with reference to selling the Katydid?—A. The matter was dropped for the time being.

Q. What conclusion did you come to with Mr. Richardson with reference to selling the Katydid?—A. We simply stopped at that point—did nothing more.

Q. You decided not to sell it?—A. We decided not to sell it.

Q. Then Williams came to you again, did he not?—A. He might have come to me again.

Q. What did you say to him then——A. I do not remember.

Q. After you and Mr. Richardson had concluded not to sell it?—A. I do not remember.

Q. He came then with a letter from the judge, did he not?—A. I have no recollection of getting a letter from the judge through Mr. Williams.

Q. Did you not say to Mr. Williams when he came to you after you conferred with Richardson that you were not going to sell the Katydid?—A. I might have done so; I do not remember.

Q. Did you learn then, after Williams had been to you that time, that he had gone back to Judge Archbald?—A. I did not.

Q. When did you next hear of this negotiation for this Katydid coal bank on the part of Judge Archbald and Mr. Williams?—A. I think it was in August.

Q. About what time in August?—A. About the 25th of August.

Q. Where did you hear of it?—A. In New York.

Q. Where?—A. In Mr. Richardson's office.

Q. Both his office and Mr. Brownell's office are in New York?—A. They are.

Q. At the same place, are they not?—A. Yes, sir.

Q. What did Richardson say to you then?—A. As I recall it, he told me to take up the Katydid dump matter again.

Q. With whom?—A. With Mr. Williams.

Q. Did he say why?—A. He told me that Judge Archbald had seen him.

Q. Did he tell you when Judge Archbald had seen him?—A. He did not.

Q. Did he tell you where he had seen him?—A. I do not recall that.

Q. Did he not tell you that Judge Archbald had come to his offices in New York; that he desired to buy the Katydid coal dump, and that he had told Judge Archbald that he would take it up with you again? Is not that what he said to you?—A. I think that is so.

Q. That is substantially what he said to you?—A. Yes.

Q. And from that you began negotiations again for the sale of the Katydid coal dump?—A. I did.

Q. What did you do?—A. I casually met Judge Archbald and told him——.

Q. You say you casually met him. What do you mean by casually meeting him?—A. I accidentally met him, then.

Q. Where did you meet him?—A. I met him on the street.

Q. When?—A. I think the 29th of August.

Q. Four days after you had been in New York?—A. Yes, sir.

Q. What did you say to him?—A. As nearly as I recall it I told him to send Mr. Williams up to see me about the Katydid bank.

Q. Why did you send that message by Judge Archbald?—A. I incidentally met him and told him because the letter had originally come from him.

Q. And Mr. Richardson told you to open up negotiations again with Williams, you say?—A. Yes.

Q. The reason you told Judge Archbald to send Williams to you again was because you knew that Judge Archbald was interested in the proposed purchase of the coal dump. Is not that true?—A. Not necessarily.

Q. You say "not necessarily." Now, was it true or not? Did you suppose that he was interested at that time?—A. I knew he was interested, but what the character of his interest was I did not know.

Q. Did Williams come up to see you after you sent word to him by Judge Archbald?—A. He did.

Q. The same day?—A. No, sir.

Q. When?—A. I think it was the next day.

Q. Then what did you do when Williams came?—A. I told him that I would recommend the sale of the dump for $4,500. I do not remember whether I told him I would write him, but because of that interview I wrote a letter.

Q. To Mr. Williams?—A. To Mr. Williams.

Q. When you met Judge Archbald on the street, what else did you say to him besides telling him to send Mr. Williams up to see you?—A. Nothing that I recall.

Q. Did you not say to him that you would let them have the Katydid coal dump?—A. No, sir; I do not recall.

Q. You told him what you wanted to see Williams about, did you not?—A. I do not think I did. I might have. I do not remember.

Q. Is this the letter [exhibiting], marked Exhibit One-half, in which you say to Mr. Williams that you recommend the sale of whatever interest the Hillside Co. have?—A. (Examining.) That is the letter.

Q. It is the letter you have just referred to?—A. Yes, sir.

Q. What occurred next, after you had written that letter to Mr. Williams, the one dated August 30?—A. I think the next thing was the bringing of Mr. Bradley to my office by Mr. Williams.

Q. When was that?—A. That was in April of this year.

Q. Do you remember about what time it was?—A. It must have been about April 8 or 9.

Q. Who came with Mr. Bradley to your office?—A. Mr. Williams.

Q. What occurred there?—A. Mr. Williams introduced Mr. Bradley to me as a purchaser of our interest in the Katydid dump.

Q. In this letter of August 30 you propose to sell the interest of the Hillside Co. for $4,500. Now, when Williams came there with Bradley, did they state to you the terms on which Bradley was taking the property?—A. No; they did not.

Q. You say they did not?—A. They did not.

Q. Go ahead and state what was said.—A. As nearly as I remember it, I asked Mr. Bradley for references as to his financial responsibility, and he gave me the references; and as I was going down to the Consolidated breaker, which is situated in that vicinity, I told him I would go down to the dump with them, and I did go down to the dump. I think that afternoon, and Mr. Bradley looked at it and said he was willing to take it.

Q. At what price?—A. At $4,500 for everything below pea size, and to pay royalty on pea and above.

Q. You say that Bradley said he would take it at that price?—A. He did.

Q. Was not that the price at which Williams and Archbald were buying it?—A. It was the price that they were to get it at.

Q. From you?—A. From us.

Q. But you knew they had sold it to Bradley for $20,000?—A. I did not.

Q. Did you know what price they had sold it at?—A. I did not.

Q. Then Bradley did not say he would take it at $4,500, did he?—A. No; he said that he was willing to take the bank, after looking at it. I do not believe he said he would take it at $4,500.

Q. Did you not know of an effort on the part of Williams and Archbald to sell this property to Conn?—A. I did.

Q. Then this was not the next thing that occurred. What was it with reference to the sale of the property to Conn?—A. The sale of the property to Conn was his request from me to know what our investigations disclosed as to what the bank contained. That is my recollection.

Q. That inquiry was from Conn?—A. That was from Conn.

Q. Had you received a letter from Judge Archbald prior to that about the sale to Conn?—A. No; I think that Mr. Conn inquired before that letter came.

Q. Look at this letter [presenting letter], Exhibit 12, and state if you got that letter from Judge Archbald?—A. (Examining letter.) Yes, sir; I got that letter from Judge Archbald.

Q. What date does it bear?—A. November 29, 1911.

Q. Did you make any notations on that letter?—A. No, sir.

Mr. Manager STERLING. Just give it to the clerk. We offer it, Mr. President, and ask that it be read.

The PRESIDENT pro tempore. It will be read.

Mr. Manager STERLING. Did you want to see it, Mr. Worthington?

Mr. WORTHINGTON. Oh, no.

The Secretary read as follows:

[U. S. S. Exhibit 12.]

SCRANTON, *November 29, 1911.*

W. A. MAY, Esq.,
General Manager Hillside Coal & Iron Co.

MY DEAR CAPT. MAY: I have closed a deal on behalf of Mr. Williams for the Katydid culm dump with the Laurel Line Co., as reported to you by telephone this morning, and am therefore ready to close with you at any time you indicate—the earlier the better. Please let me look over the papers you have drawn before you execute them. I go to Washington on Monday for a few days, and, if not too much to ask, I would like before I go to get the preliminaries disposed of.

Very truly, yours,

R. W. ARCHBALD.

Q. (By Mr. Manager STERLING). The letter that has just been read, marked Exhibit 12, was in the handwriting of Judge Archbald, was it not?—A. It was.

Q. Did you answer that letter?—A. I answered the letter; yes, sir.

Q. Look at Exhibit 13 [presenting letter] and state if that is the answer which you made?—A. (Examining letter.) That is the answer I made.

Mr. Manager STERLING. We offer it in evidence, and I ask the Clerk to read it.

The PRESIDENT pro tempore. The letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 13.]

DECEMBER 1, 1911.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

MY DEAR JUDGE: Your note of the 29th ultimo, telling me of the consummation of the sale of the Katydid culm dump and requesting that the papers for the sale of the Hillside's interest be submitted to you before you leave for Washington on the 4th instant, is received.

I regret very much that I can not have the papers ready by that time. I shall, however, take the matter up with our attorneys to-day and do the very best I can. If it were not necessary to submit the papers to our New York office I could do as you wish, but that is the obstacle.

Yours, very truly,

General Manager.

Q. (By Mr. Manager STERLING.) Mr. May, the letter just read was not the original?—A. No, sir.

Q. That was just a copy of the letter which you sent to Judge Archbald?—A. Just a copy.

Q. Look at Exhibit 14 [presenting letter] and state if you received that letter from Judge Archbald.—A. (Examining letter.) I received that letter from Judge Archbald.

Mr. Manager STERLING. We offer it and ask that it be read.

The PRESIDENT pro tempore. The Secretary will read it.

The Secretary read as follows:

[U. S. S. Exhibit 14.]

(United States Commerce Court, Washington.)

SCRANTON, PA., *December 14, 1911.*

MY DEAR CAPT. MAY: The closer I look into the claim of Mr. Robertson, the more I am impressed with the idea that it is something substantial. And the less, on the other hand, do I feel that there is very much consideration to be given to the Everhart end of it. In order, however, to relieve the matter of any question, I am endeavoring to see whether I can secure from them and from the E. & G. Brookes Co. people a release of their respective interests, for which I have made them what I consider a fair offer. In the meantime, may I ask that you regard the price which you have given us for the Hillside Coal & Iron Co. interest as confidential.

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager STERLING.) Mr. May, when you received that letter did you form the opinion then that Judge Archbald had a pecuniary interest in this transaction?—A. I arrived at no conclusion as to his interest.

Q. He spoke about the price he was paying for it in that letter? Did it occur to you that he himself had any interest in the dump?—A. I did not know what interest he had.

Q. That is not the question, Mr. May. Did it occur to you from the letter which he wrote you at that time that he was buying this on his own account or that he had an interest in the dump?—A. I did not know what his interest was.

Q. I am not asking you that. Did it occur to you that he had any interest at all in it?—A. He might have had an interest of some kind, but what his interest was I do not know.

Q. Well, you thought he had an interest of some kind in it, did you not?—A. Of some kind; but just what it was I did not know.

Q. Then you replied to that letter by Exhibit 15, did you not [handing a letter to the witness]?—A. (After examination.) I did.

Mr. Manager STERLING. Will the Secretary please read the letter which we offer?

The PRESIDENT pro tempore. The letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 15.]

DECEMBER 13, 1911.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

MY DEAR JUDGE: Your letter of the 14th instant in regard to claim of Mr. Robertson, stating that you were trying to get in touch with the E. & G. Brooks Co. people, etc., and requesting that I say nothing about the price given you by the Hillside Coal & Iron Co. for its interest, is received.

I shall say nothing to anyone about our interest.

Yours, very truly,

Vice President and General Manager.

Q. (By Mr. Manager STERLING.) That is a copy of the letter which you sent to Judge Archbald, is it not?—A. Yes, sir.

Q. It was not until April, until Mr. Bradley came with Mr. Williams to your office, as I understood you?—A. It was in April.

Q. And after you had gone with Mr. Bradley to look at the dump did you have any meeting with him?—A. Yes, sir.

Q. When was it that you told him or that he told you that he would take the dump?—A. I think it was when we were on the dump.

Q. Was there any arrangement made at that time about drawing up the contract?—A. I think there was; at least the form was drawn.

Q. When?—A. It was drawn within a day or two after we were down at the bank.

Q. To whom was that contract made?—A. To Mr. Williams.

Q. It is the contract that was offered in evidence here yesterday, is it not?—A. I presume so.

Mr. WORTHINGTON. That is admitted.

Q. (By Mr. Manager STERLING.) Well, it is this contract without date, or proposed contract, marked "Exhibit 5," in which it is stated that the Hillside Coal & Iron Co. grants and conveys unto Edward J. Williams all its right, title, and interest to the Katydid culm bank. That [showing the paper to the witness] is the contract which you drew up at that time, is it not?—A. That is the form.

Q. And what did you do with it?—A. I sent that form to Mr. Bradley.

Q. With a letter?—A. With a letter.

Q. Is the letter in here [indicating]?—A. I do not know.

Mr. Manager STERLING (to Mr. Manager WEBB). Did you offer that letter yesterday?

Mr. Manager WEBB. Yes.

The SECRETARY. It is Exhibit 6.

Q. (By Mr. Manager STERLING.) Is this letter, marked "Exhibit 6," signed by yourself, and dated April 11, the letter which accompanied the contract which you sent to Mr. Bradley?—A. That is the letter, but it is signed by my chief clerk.

Q. Is not that your signature?—A. It is my signature; but he signed it.

Q. Well, it was signed on your authority?—A. Yes; it was.

Q. That was a copy that you looked at, was it not?—A. I think it was.

Q. Now look at this [handing paper to the witness] and see if this is not the original—the upper part of it?—A. Yes; that is correct; that is the original.

Q. Look at the notation at the bottom in typewriting. Who put that at the bottom of that letter?—A. The typewritten portion?

Q. Yes, sir.—A. My stenographer.

Mr. Manager STERLING. That is Exhibit 16, is it not, I will inquire of the Secretary?

The PRESIDENT pro tempore. It is marked "Exhibit 16."

Mr. Manager STERLING. We offer Exhibit 16, including the typewritten statement at the bottom under the signature. I ask to have the entire letter and the notation read.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

[U. S. S. Exhibit 16.]

(Pennsylvania Coal Co., Hillside Coal & Iron Co., New York, Susquehanna & Western Coal Co., Northwestern Mining & Exchange Co., Blossburg Coal Co.)

OFFICE OF THE GENERAL MANAGER,
Scranton, Pa., April 11, 1912.

Mr. RICHARD BRADLEY, *Peckville, Pa.*

DEAR SIR: Herewith please find proposed form of agreement conveying the interest of the Hillside Coal & Iron Co. in the culm piles on the surface of lot 46, situate partly in Lackawanna and partly in Luzerne Counties, Pa.

Will you please confer with Mr. E. J. Williams, to whom I have sent a copy of this letter, in regard to the form herewith and advise whether or not same meets with your approval. If the agreement is satisfactory to you, it will submitted to the executive officers of the Hillside Coal & Iron Co. for their consideration and approval.

Yours, very truly,

W. A. MAY.

Inc. *Vice President and General Manager.*

APRIL 12, 1912.

This letter and the attached form were returned to me at the Laurel Line station at 1.10 p. m., April 12, 1912, by Mr. Bradley, who stated that the form was satisfactory to him. I at the same time told him that notice was served on me by C. P. Holden not to dispose of the interest of the E. & G. Brook Land Co., as he held an option, and also in the name of his wife, who also has a small interest, and a notice from James E. Heckel, administrator of the James Everhart estate, which is the owner of five twenty-fourths. Mr. Bradley wanted to know whether he should go down there to-day, he being on the way there at the time I saw him. I told him I saw no objections to him going down, but I would have to consult our attorneys before going any further with the matter. He did not say whether he had seen Mr. Williams or not.

W. A. M.

Q. (By Mr. Manager STERLING.) That was the notation that you put at the bottom of the letter after Bradley had returned it to you?—A. Yes, sir.

Q. And after he had returned it to you at your request?—A. Yes, sir.

Q. That occurred the next day, or two days, after you had sent that letter with the contract to Mr. Bradley?—A. It occurred on the 12th of April, and I sent it on the 11th.

Q. The next day?—A. The next day.

Q. Now, what had occurred in the meantime to cause you to change your mind with reference to selling that dump to Mr. Williams?—A. Mr. C. P. Holden called on me at my office and objected to the sale of our interest. On the morning of the 12th I received two or three letters, one from him, one from his attorney, and I think one from the administrator of the James Everhart estate.

Q. Do you know how it came about that all these people sent these letters in to you at that time, just at the time you were about to convey your interest?—A. I do not know why.

Q. Do you think it remarkable that all these persons would get these letters in there objecting to the sale of that property after it had been lying dormant there for so long and they had never made any claim to it?—A. Not necessarily.

Q. You do not think it strange at all?—A. Not at all.

Q. They did not object to your selling your interest in it, did they?—A. There was a question as to——

Q. Just answer my question. In your notation you say that they objected to your selling their interest in it. Did they object to your selling their interest in it, or did they object to the Hillside Coal & Iron Co. selling its interest in it?—A. They objected to a sale of any kind, as I understood it.

Q. Then your notation is not correct?—A. That may be.

Q. Did you consider it of any importance that somebody else would notify you not to sell the interest of the Hillside Coal & Iron Co. in this dump?—A. It was of importance to us.

Q. You were not selling anything but your interest, were you?—A. That was all.

Q. This contract which you had prepared to send to Bradley simply specified that you were conveying the right, title, and interest of the Hillside Coal & Iron Co.?—A. That is right.

Q. And you were not intending to warrant anything, were you?—A. But——

Q. Wait. You were not intending in that contract to warrant anything, were you?—A. We were not going to warrant anything; but we had other interests that I had to look after, and this was a very small matter.

Q. Just answer my question. Is it not a fact that between the time you sent this contract to Bradley and the time you met him at the Laurel Station and demanded it back it had developed that this investigation was going on from the Department of Justice with reference to Judge Archbald's connection with this deal and the Erie Railroad Co.?—A. If it did I did not know it.

Q. Had you not heard——A. I had not.

Q. Had you not heard just at that time, when it was beginning to be rumored about the streets of Scranton——A. I had not.

Q. Wait—that an agent was there from the Department of Justice investigating these deals which Judge Archbald was having with the railroad companies, and was not that the reason you demanded this contract back from Bradley?—A. It was not.

Q. At what hour of the day did you see Bradley?—A. About 1 o'clock.

Q. On the 12th?—A. On the 12th.

Q. And you had mailed this contract to him on the 11th?—A. On the 11th.

Q. What time of day had you mailed it?—A. I think it was mailed in the afternoon.

Q. Of the 11th?—A. Yes; of the 11th.

Q. Now, when was it that these letters which you speak of came into your hands from these people notifying you not to sell?—A. On the morning of the 12th.

Q. They were all there on the morning of the 12th?—A. Not all of them. There were two or three; some came later.

Q. Did you get information from anybody, or did somebody tell you, that a tip had gone out from the office of the Hillside Coal & Iron Co. that they wanted an excuse for withdrawing this contract, and for that reason had these letters sent in there?—A. No, sir.

Q. At any rate, you refused to make the conveyance to Mr. Williams at that time, did you?—A. I did at that time.

Q. Now, going back, it was during the negotiations after you had received that letter in April from Judge Archbald, after you had talked with Mr. Richardson and had a conference with him—I mean the conference in which you and he determined not to sell the Katydid coal dump—that you and he changed your minds with reference to it, or he changed his mind and gave you different directions from what he had given you before?—A. He told me——

Q. Wait now. That occurred, did it not, between those dates?—A. Please repeat that question. I did not get it. I want to answer it.

Q. Between the time that you got the letter from Judge Archbald in April and after the time that you and Richardson had conferred and decided not to sell the Katydid coal dump—

it was after that and before you sent word by Judge Archbald to Williams that you would sell him the mine—that you and he changed your minds with reference to selling the coal dump, was it not?—A. There was no change in my mind, but Mr. Richardson told me to take the matter up again.

Q. And he told you that Judge Archbald had been to New York to see him at that time, did he not?—A. That is as I remember it.

Q. Did he tell you when he was in New York?—A. No; he did not, as I recall.

Q. Do you know when he was in New York?—A. Judge Archbald?

Q. Yes.—A. I do not.

Q. What effect did the fact that Judge Archbald appeared to be interested in this proposition have upon the Hillside Coal & Iron Co. and the Erie Railroad Co. with reference to the change of policy?

Mr. WORTHINGTON. Mr. President, I object to that question except as it may refer to what is in the witness's own mind to what he knows of his own knowledge with reference to the others.

Mr. Manager STERLING. I am merely asking for his knowledge about it—if he has knowledge.

Mr. WORTHINGTON. If I understand it is confined to his knowledge, of course I do not object; but we do not want any hearsay.

The WITNESS. Will you repeat that question?

Q. (By Mr. Manager STERLING.) What effect did the fact that Judge Archbald appeared at that time to have an interest in this dump have upon the officials of the Hillside Coal & Iron Co. and the Erie Railroad Co. with reference to changing their policy in regard to selling this coal dump?—A. I do not know. I only know that Mr. Richardson, in the ordinary course of business, told me to take the matter up again and see what could be done with it.

Q. Now, that is not all he told you, is it?—A. That is all I remember.

Q. He told you that Judge Archbald had been to see him, did he not?—A. Yes; that is correct.

Q. And you talked about the fact that Robert W. Archbald was a judge of the Federal court, did you not, at that time?—A. No, sir; we did not.

Q. And do you not know as a fact that because Judge Archbald saw him about it and because he was a judge of the Federal court was the reason that you changed your mind with reference to the sale of the Katydid dump?—A. Not at all.

Q. Did you not swear to that before the committee?—A. I did not.

Q. Well, you would not have sold it to Williams, would you?—A. No; we would not.

Q. You would not have sold it to anybody else, would you?—A. Yes; we would.

Q. What is the answer?—A. We would have if there had been no entanglements or complications in connection with it.

Q. Why would you not sell it to Williams until after Judge Archbald came into the deal?—A. Because I did not consider him responsible.

Q. You knew that he was not paying a dollar for it; that he was just getting an option and depending on the sale of it to pay you anyhow, even with Judge Archbald in it, did you not?—A. I do not remember that I knew what he was going to do with it.

Q. Did you know when you made this contract with Bradley that Mr. Bradley was to give you a check for $4,500?—A. Yes; that was subsequent.

Q. You knew, then, that Bradley was paying to you the price which they had agreed to pay you?—A. Yes; that was in April, but the letter was given to Mr. Williams in August of the previous year. Of course at the time——

Q. You were not expecting Judge Archbald or Williams to pay anything until they sold it, anyhow, were you?—A. I do not remember that I thought anything about it.

Q. Did you ever ask him for pay after you told him he could have it?—A. No, sir; I did not.

Q. It was in August—the 30th day of August—that you wrote that letter to Williams——A. It was.

Q. Stating the terms on which he could have it?—A. It was.

Q. They did not pay you then, and they never offered to pay you; and not until April, until Bradley came there and agreed to take the mine from Williams and Archbald, was anything said about the Hillside Iron & Coal Co. getting its forty-five hundred dollars?—A. Bradley was the first man that offered to pay us, or, rather, he was the first man we expected to get any pay from.

Q. Why would you not have been just as secure in your pay if you had sold it to Williams on those terms as you were in selling it to Williams and Archbald?

The WITNESS. Please repeat that.

Q. Why were you not just as secure in getting your pay, if you had sold it to Williams on those same terms, as you were by selling it to Archbald and Williams together?—A. No, sir.

Q. Why not?—A. Because we did not know where the money was to come from.

Q. You knew it was not to come from anywhere until they sold it. You were giving them an option and if they did not sell it they would not take it from you.—A. If they had offered the price themselves, we would have accepted that of course.

Q. But you did not expect them to do that?—A. I do not remember anything——

Q. Although Archbald was in it, you did not expect them to do that?—A. I do not know.

Q. You expected to wait for your money until they had sold it and that is what you did do, although Archbald was in it; is not that true?—A. That is what we did in Bradley's case.

Q. Now, let me ask you. You testified last summer before the Committee on the Judiciary in this investigation?—A. I did.

Q. I will ask you if this question was asked you by Chairman CLAYTON:

The CHAIRMAN. What I want to know, Mr. May, to be perfectly frank with you, is, was it on account of Judge Archbald's influence with you that you afterwards wrote Williams this letter of August 30, in which you signified a desire to sell the property?

And did you not make this answer:

Mr. MAY. It was the receipt of Judge Archbald's letter, in the first place, that caused me to make the examination. Even after August 31—or August 30—and up to April of this year I have refused to sell the bank, or our interest in the bank.

And then this question:

The CHAIRMAN. Then you paid no attention to Williams in his negotiations, except whenever he presented a request from Judge Archbald, about the sale of this property. Is that the fact?

And your answer:

Mr. MAY. I think that is so.

A. That is correct. I answered that way.

Q. You would answer the question the same way now?—A. I do.

Q. And then this question by Chairman CLAYTON:

It was through Judge Archbald's influence that Williams was getting or seeking to get from you the sale of this property?
Mr. MAY. Yes.

A. That is right. But if you will allow me, I should like to add to that——

Mr. Manager STERLING. Wait until I ask you these questions:

Q. (By Mr. Manager STERLING.) And were you asked this question:

The CHAIRMAN. And without Judge Archbald's influence Mr. Williams could not even have had an investigation of the value and the title of that property made?
Mr. MAY. No.
The CHAIRMAN. He could not have done that?
Mr. MAY. No.

That is correct?—A. That is correct.

Q. And this question:

The CHAIRMAN. It was through Judge Archbald's influence that Williams was enabled to have you make this investigation as to the value of the property, the physical contents of the culm bank, and the legal title? Is that true?
Mr. MAY. That is right.

A. That is correct.

Q. And this question:

The CHAIRMAN. And it was through Judge Archbald that you finally signified your willingness to sell this culm bank?
Mr. MAY. My willingness to recommend its sale.

Is that correct?—A. That is correct.

Q. And this question:

The CHAIRMAN. You would have had nothing to do with Williams without the influence or suggestion of Judge Archbald?
Mr. MAY. No; I would not.

A. That is correct. Now may I say what I wanted to say a moment ago?

Mr. Manager STERLING. Just a minute.

The WITNESS. It is with reference to what you have asked.

Mr. Manager STERLING. You may make a statement, if you desire to.

The WITNESS. It was only the judgeship added to his influence as a man and in no other way that these answers were made.

Q. (By Mr. Manager STERLING.) As I understand you, then, it was the fact of the judgeship and Robert W. Archbald as a man that had its influence upon the Erie Railroad Co. and the Hillside Coal & Iron Co. that induced you to sell the Katydid

coal dump to Mr. Williams and Mr. Archbald?—A. It certainly added——

Q. Wait; is that true now?—A. I want to explain.

Q. Can you not answer it yes or no?—A. No; I can not.

Mr. Manager STERLING. Go ahead and explain.

A. It simply added to his position; I mean as a man. The thought was not with the expectation——

Q. (By Mr. Manager STERLING.) Not what the thought was with reference to it. What I want to know is, what effect the fact that Mr. Archbald was a judge had upon this transaction?

Mr. WORTHINGTON. Mr. President, I submit when a witness is asked what was operating in his mind he has a right and should be allowed to answer. The witness was asked what he was thinking, and he was proceeding to state what he was thinking when counsel stopped him. I do not think that is right. The witness should be allowed to finish his answer.

Mr. Manager STERLING. I withdraw the objection and will let him answer.

The PRESIDENT pro tempore. The witness will answer the question and make the explanation he desires.

The WITNESS. Only as it added to his influence, only as it added to his standing as a man, did it affect me. I had no thought of influencing him as a judge.

Q. (By Mr. Manager STERLING.) It added what to his standing as a man—the fact that he was a judge?—A. Yes, sir.

Q. I will ask if this question was asked (p. 743):

Mr. RUCKER. I am not asking you about your practice, but I am asking you a direct question: Did the fact of Judge Archbald's making the application, he being a Federal judge, prompt you in whole or in part to make this deal?
Mr. MAY. It might have influenced me.

That is correct?—A. I want to add that——

Q. Wait. Did you answer that question in that way?—A. I did.

Q. Did he ask this question, page 742:

Mr. RUCKER. But when Judge Archbald wrote you and asked if you would sell it, and if so, to fix a price, you immediately set about to do that work, did you not?
Mr. MAY. Yes; I did.

That is correct?—A. That is correct.

Q. And Mr. RUCKER proceeded:

Let me ask you this direct question: He was on the Federal bench at that time?
Mr. MAY. Yes; he was.

That is correct?—A. That is correct.

Q. You knew at the time that the Erie Railroad Co. had a litigation pending in the Commerce Court, of which Judge Archbald was a member, did you not?—A. I did not.

Q. Mr. Richardson knew it, of course, did he not?—A. I do not know.

Q. He is connected with the general solicitor's office there in New York?—A. No, sir.

Q. How?—A. No, sir; he is not connected with the general solicitor's office.

Q. He is in the same office with the general solicitor?—A. He has an office on the same floor.

Q. Right next to Mr. Brownell, the general solicitor?—A. No, sir. It is on the same floor; it is not right next door.

Q. It is all one suite of rooms occupied there by the Erie Railroad Co.?—A. All of the rooms are occupied by the Erie Company, but Mr. Brownell's is some distance away.

Q. Mr. Richardson told you that Mr. Brownell had brought Judge Archbald into his office, did he not?—A. No; I do not recall that.

Q. Did you not know at the time that Mr. Brownell had introduced Judge Archbald to Mr. Richardson?—A. No; I do not think I did.

Q. Mr. Brownell, of course, knew what litigation it had pending in the Commerce Court, did he not?—A. Why, presumably.

Q. I will ask you another question, referring to the record at page 742:

Mr. RUCKER. Then, I will ask you if the fact that Judge Archbald was the judge before whom litigation might be taken had anything to do with your determination to sell that property to Mr. Williams at his, Judge Archbald's, request?
Mr. MAY. Well, it might have.

You answered in that way, did you not?—A. Well, it might have, but I do not think it did.

Q. Mr. May, how many personal conversations have you had with Judge Archbald, or did you have with him, about this transaction prior to the time you withdrew this contract from Bradley?—A. I do not remember.

Q. About how many?—A. I could not tell you.

Q. Have you any estimate at all now of how many times you talked with him personally or over the phone about this?—A. No; I have not.

Q. It was quite a number of times, was it not?—A. No, sir; I can not say; I do not know.

Q. Was it many or few?—A. Well, I do not know.

Q. You talked with him more times about it than you did with E. J. Williams, did you not?—A. No; I do not believe I did.

Q. As many times?—A. I do not know. I want to answer your questions, but I can not do it.

Q. How many times did Judge Archbald call you up on the phone about it?—A. I do not know.

Q. Williams brought this first letter to you personally, did he not—that was in March?—A. Yes.

Q. The 31st day of March?—A. Yes; he did.

Q. Then he came back in June and talked to you about it, did he not?—A. I do not remember.

Q. You testified to that before, did you not?—A. I do not remember it if I did. I would like to have the record read.

Q. In any event, Williams told you, did he not, in some conversation, that Judge Archbald was going to New York to see Brownell?—A. Yes, sir.

Q. When did you first learn that he had been to New York?—A. In June.

Q. In June?—A. No; I beg your pardon, not in June—in August.

Q. Judge Archbald was there the 4th of August. You say you did not know it until the 25th of August?—A. I did not know it until the 25th of August.

Q. And that is when Richardson told you that Judge Archbald had been down there and told you in the same conversation to take up the negotiations again?—A. That is right.

Q. Is that the first time you had seen Richardson after the 4th of August?—A. That was the first time.

Q. He told you that he had told Judge Archbald he would have you do this, did he not?—A. I do not remember what he said.

Q. And did he not also say to you at that time that Mr. Brownell, the general solicitor, had brought Judge Archbald into his office?—A. I do not remember that he did.

Q. I will ask you if the chairman did not ask you this question, reading at page 722 of the record:

The CHAIRMAN. Did you refuse to talk business about the sale of the Katydid culm bank with Williams?
Mr. MAY. Yes; I did.

A. If it is there, I said that; yes, sir.

Q. (Reading:)

The CHAIRMAN. When was it you refused to talk over this matter of the sale of the Katydid culm bank with Williams?
Mr. MAY. I think it was the latter part of June.

That is correct, is it not?—A. If it is there it is correct.

Q. I read further:

The CHAIRMAN. Where was it, and when was it Williams saw you at the time you have just mentioned?
Mr. MAY. I think it was in my office; but I do not remember.
The CHAIRMAN. In the latter part of June, to the best of your recollection?
Mr. MAY. Yes, sir.

A. That is right.

Q. That was after you and Mr. Richardson had first conferred and decided not to sell the coal dump?—A. That is correct.

Q. And it was after Archbald's trip to New York, and after you had been to New York that you notified Archbald to send Williams around and you would let him have it?—A. That is correct.

Mr. Manager STERLING. Mr. President, I think we are through with this witness now, but I would like to reserve the right, if it is the intention to adjourn now, to ask him further questions in the morning, if I see fit.

The PRESIDENT pro tempore. That will be the understanding.

Mr. Manager CLAYTON. Mr. President, before adjourning I will state that the witness for whom the order was taken to-day for the attachment has come, and he is now in the corridor of the Senate Chamber, I believe. I should like him to be brought in and to have him admonished to be present at the session of the court to-morrow and until discharged. I refer to Mr. James H. Rittenhouse.

The PRESIDENT pro tempore. The witness will be brought into the presence of the court.

Mr. James H. Rittenhouse appeared in the Chamber.

The PRESIDENT pro tempore. Mr. Witness, you are brought before the court to be admonished that you must scrupulously obey the orders you have received in the summons to appear here and not to absent yourself without leave of the Senate. You may now retire.

Thereupon Mr. Rittenhouse retired from the Chamber.

The PRESIDENT pro tempore. Does the manager on the part of the House desire that the order for attachment be vacated?

Mr. Manager CLAYTON. I ask that that be the course pursued.

The PRESIDENT pro tempore. The order for the attachment will, under the circumstances, be vacated, unless there be objection. The Chair hears no objection, and it is so ordered.

Mr. CLARK of Wyoming. Mr. President, I offer the order I send to the desk.

The Secretary read as follows:

Ordered, That the daily sessions of the Senate, sitting in the trial of impeachment of Robert W. Archbald, shall until otherwise ordered commence at 1 o'clock and 30 minutes in the afternoon and continue until 6 o'clock in the afternoon of each day.

The PRESIDENT pro tempore. Is there objection on the part of any Senator to the adoption of the order? If not, the Chair will consider it as having been unanimously adopted.

Mr. CLARK of Wyoming. I move that the Senate sitting as a Court of Impeachment adjourn.

The motion was agreed to.

The managers on the part of the House of Representatives, the respondent, and the counsel for the respondent retired from the Chamber.

DEATH OF REPRESENTATIVE CARL CAREY ANDERSON.

Mr. POMERENE. Mr. President, I ask that the resolutions of the House on the death of my late colleague in that body be laid before the Senate.

The PRESIDENT pro tempore. The Chair lays before the Senate resolutions of the House of Representatives, which will be read.

The Secretary read the resolutions, as follows:

IN THE HOUSE OF REPRESENTATIVES,
December 2, 1912.

House resolution 713.

Resolved, That the House has heard with profound sorrow of the death of the Hon. CARL CAREY ANDERSON, a Representative from the State of Ohio.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Mr. POMERENE. Mr. President, I offer the following resolution and ask for its adoption.

The PRESIDENT pro tempore. The resolution will be read.

The resolution was read, considered by unanimous consent, and unanimously agreed to, as follows:

Senate resolution 403.

Resolved, That the Senate has heard with deep sensibility the announcement of the death of the Hon. CARL CAREY ANDERSON, late a Representative from the State of Ohio.

DEATH OF REPRESENTATIVE GEORGE HERBERT UTTER.

Mr. WETMORE. I ask the Chair to lay before the Senate the resolutions of the other House on the death of Representative UTTER, of Rhode Island.

The PRESIDENT pro tempore. The Chair lays before the Senate resolutions of the House of Representatives, which will be read.

The Secretary read the resolutions, as follows:

IN THE HOUSE OF REPRESENTATIVES,
December 2, 1912.

House resolution 714.

Resolved, That the House has heard with profound sorrow of the death of Hon. GEORGE HERBERT UTTER, late a Member of the House from the State of Rhode Island.

Resolved, That the Clerk of the House be directed to transmit a copy of these resolutions to the Senate and send a copy thereof to the family of the deceased.

Mr. WETMORE. Mr. President, I offer the following resolutions, and ask for their adoption.

The PRESIDENT pro tempore. The Senator from Rhode Island offers resolutions, which will be read.

The resolutions were read, considered by unanimous consent, and unanimously agreed to, as follows:

Senate resolution 401.

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. GEORGE H. UTTER, late a Representative from the State of Rhode Island.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

DEATH OF REPRESENTATIVE RICHARD E. CONNELL.

Mr. ROOT. Mr. President, I ask that the resolutions of the House of Representatives on the death of the late Representative CONNELL may be laid before the Senate.

The PRESIDENT pro tempore. The Chair lays before the Senate resolutions of the House of Representatives, which will be read.

The Secretary read the resolutions, as follows:

IN THE HOUSE OF REPRESENTATIVES,
December 2, 1912.

House resolution 716.

Resolved, That the House of Representatives has heard with profound sorrow of the death of the Hon. RICHARD E. CONNELL, late a Representative from the State of New York.

Resolved, That the Clerk be directed to communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Mr. ROOT. Mr. President, I offer the following resolutions which I send to the desk, and ask for their present consideration.

The PRESIDENT pro tempore. The Senator from New York offers resolutions, which will be read.

The resolutions were read, considered by unanimous consent, and unanimously agreed to, as follows:

Senate resolution 402.

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. RICHARD E. CONNELL, late a Representative from the State of New York.

Resolved, That as a further mark of respect to the memory of those Representatives whose deaths have been announced the Senate do now adjourn.

Thereupon (at 6 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Friday, December 6, 1912, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December 5, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Lord, our God, we come to Thee with glad hearts when we remember that amid the busy whirl and turmoil of life's activities we ofttimes forget Thee, yet Thou art ever mindful of us, and though by devious ways we ofttimes wander from the paths of rectitude and duty Thou art constant in Thy ministrations to us.

Pardon, we beseech Thee, our shortcomings, our weakness, our sins, and hold us close to Thee and life's duties henceforth. And Thine be the praise forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. BROWN, by unanimous consent, was granted leave of absence for three days, on account of illness.

PHYSICAL VALUATION OF RAILROADS.

The SPEAKER. When the House adjourned last Tuesday the previous question had been ordered on the bill H. R. 22593, known as the Adamson bill, providing for the physical valuation of railroads, and there was pending a motion to recommit with instructions, offered by the gentleman from Illinois [Mr. MANN], and the gentleman from Tennessee [Mr. SIMS] raised a point of order that the motion to recommit was not in order because it was not germane to the subject matter of the bill.

Unless some gentleman desires to be heard on it, the Chair is ready to rule.

Mr. OLMSTED. Mr. Speaker——

The SPEAKER. The gentleman from Pennsylvania [Mr. OLMSTED] is recognized.

Mr. OLMSTED. Mr. Speaker, so far as I am concerned, I concede at once the high authority of the precedent cited by the gentleman from New York [Mr. FITZGERALD] in support of the proposition that it is not sufficient for the amendment to be germane to the original bill to which this bill is offered as an amendment, but it must be germane to this pending bill. The question is whether this amendment is germane to this bill.

I call attention to page 386, section 780, of the Manual, which treats of the whole subject in this way:

A general subject may be amended by specific propositions of the same class. Thus, the following have been held to be germane: To a bill admitting several Territories into the Union, an amendment adding another Territory; to a bill providing for the construction of buildings in each of two cities, an amendment providing for similar buildings in several other cities; to a resolution embodying two distinct phases of international relationship, an amendment embodying a third.

In section 5838, volume 5, of Hinds' Precedents of the House of Representatives appears a ruling that—

To a bill admitting several Territories into the Union, an amendment adding another Territory is germane.

And, then, in the next section—5839—it says:

To a resolution embodying two distinct phases of international relationship an amendment embodying a third was held to be germane.

There was pending in that case a resolution setting forth that it was an imperative duty, in the interest of humanity, to express the earnest hope that the European concert would do certain things in relation to the fanaticism and lawless violence prevalent in Turkey. The resolution then pending combined three resolutions in one. The first one was as I have stated. The second was—

That the President be requested to communicate these resolutions to the Governments of Great Britain, Germany, Austria, France, Italy, and Russia.

And, further:

That the Senate of the United States, the House of Representatives concurring, will support the President in the most vigorous action he may take for the protection and security of American citizens in Turkey.

Then Mr. Hepburn, of Iowa, offered an amendment, as follows:

That, for the purpose of emphasizing our protest against the murders and outrages above recited, the President is directed to furnish the Turkish minister his dismissal as a representative of the Sultan at this Capital, and to at once terminate all diplomatic relations with the Government of Turkey.

That was an entirely new, a different, and distinct subject.

A point of order was made against it by Mr. McCreary, of Kentucky, which was overruled by Speaker Reed, presumably upon the same ground as these other cases to which I have referred were ruled, that such resolution embracing more than one subject it was germane to add still another subject.

Then, in section 5840 it was held that to a bill providing for the construction of a building in each of two cities an amendment providing for similar buildings in other cities would be germane. That was decided longer ago by Speaker Banks, of Massachusetts.

Now, the question, it seems to me, is whether this pending bill contains more than one subject, more than one substantive proposition. If it does, then a third or new substantive proposition would be germane and in order under the rulings which I have cited. Does this bill contain more than one substantive proposition?

The SPEAKER. Is that the rule on that—as to the substantive propositions? What is the subject of this Adamson bill?

Mr. OLMSTED. This bill has at least two subjects. The first provides for the physical valuation of the property of common carriers. That is one separate and distinct subject. The Interstate Commerce Commission is to take testimony and determine the value of the property of common carriers. The common carriers may appeal or protest. Then a hearing is awarded upon the protest, and after the hearing the commission is to fix finally the physical value of the property of the common carrier.

That is one proposition. Then the bill contains another. It empowers the commission to investigate as to the amounts and dates of all bonds and stocks outstanding. That is a separate and distinct proposition contained in this bill. The physical valuation of railroads has nothing to do with stocks and bonds, and stocks and bonds have nothing to do with the physical valuation of the railroads. The commission is to find absolutely and determine the value of the physical property; and in addition to that—an entirely separate and distinct proposition—it is to investigate concerning stocks and bonds.

Mr. FITZGERALD. Mr. Speaker, will the gentleman yield for a question?

Mr. OLMSTED. Certainly.

Mr. FITZGERALD. The Adamson bill proposes to add a section to the existing law, and in this section is embraced a scheme which is considered essential in order to enable the Interstate Commerce Commission properly to determine whether the rates are reasonable. They are parts of one scheme, and not two independent substantive propositions.

And has not the gentleman, in quoting his authorities, entirely ignored all the decisions, including one by himself, which have established the rule that when a bill proposes to amend an existing law in certain particulars, amendments that might be germane to other provisions of the law but are not intimately related to the thing before the House are not germane to that proposition?

Mr. OLMSTED. No, Mr. Speaker; I have not ignored that proposition. I referred to it particularly at the outset. Perhaps the gentleman from New York was not listening.

Mr. FITZGERALD. I was listening carefully.

Mr. OLMSTED. I admitted that authority in support of the proposition that the proposed amendment must be germane to this bill. I concede that proposition. In fact, as the gentleman from New York has stated, I made such a ruling myself when occupying the chair upon a former occasion. The question is, Does this bill itself contain more than one proposition? Now, does it? First, there is the physical valuation of the property of common carriers to be determined by the Interstate Commerce Commission. That is one thing complete in itself. Then there is a second proposition, that the Interstate Commerce Commission shall determine as to the amount of bonds outstanding and the names of the stockholders and bondholders, and so forth. The names of the stockholders have nothing to do with the physical valuation of the property of the railroad or with the fixing of rates of that railroad, nor have the names of the bondholders. The commission is instructed to—

find and report the facts as to the connection of any bank or banker, capitalist or association of capitalists, or financial institutions or holding company with the ownership, manipulation, management, or control of any stocks and bonds of any such company.

That has nothing to do with the fixing of rates.

This amendment of the gentleman from Illinois [Mr. MANN] proposes to go further, and after the commission has ascertained these facts about stocks and bonds, provide against the fictitious issue of stocks and bonds in the future—a most important proposition, and, if the gentleman from New York [Mr. FITZGERALD] please, fully as important as touching upon the question of rates as anything involved in this bill or any other bill, because if we stop the fictitious issuance of stocks and bonds and the watering of stocks and bonds we stop the inflation of the capital upon which interest and dividends are paid, and rates must be fixed proportionately. So that even upon that argument this proposition to stop fictitious issuance of stocks and bonds may be held germane.

But what I suggest to the Chair is that this bill already containing two or more propositions, an amendment introducing a still further proposition is in order under the rule.

The SPEAKER. The Chair will ask the gentleman a question. Has this Adamson bill any provision in it whatever about the issuance of bonds and stocks?

Mr. OLMSTED. Not about the issuance of bonds.

The SPEAKER. The Mann amendment has entirely to do with the issuance of bonds and stocks, has it not?

Mr. OLMSTED. Substantially so; yes.

The SPEAKER. Does the gentleman contend that if a bill contains two different substantive propositions, that authorizes a general omnium gatherum of everything that everybody wants put in it on the subject?

Mr. OLMSTED. That is the effect of the rulings which I have cited, particularly the ruling of Mr. Speaker Reed, permitting as germane an amendment canceling the commission of the Turkish ambassador.

The SPEAKER. What was the main proposition in that resolution?

Mr. OLMSTED. It was expressing the sentiments of the Senate and House, deploring the outrages which were being perpetrated in Turkey, and another resolution requiring these sentiments to be expressed to the Governments of Great Britain, France, and other countries; and then an amendment offered by the gentleman from Iowa, Mr. Hepburn, requesting the President to cancel the commission of the Turkish representative at this Capital was declared to be in order.

The SPEAKER. But those things were on the same subject.

Mr. OLMSTED. I think not. There was nothing in the original resolution about the Turkish ambassador, or severing relations with the Turkish Government.

The SPEAKER. The original resolution expressed our horror of the way that the Turks were treating people.

Mr. OLMSTED. That is correct.

The SPEAKER. And the Hepburn amendment simply emphasized our opinion of it by adding something that made it effective.

Mr. OLMSTED. This proposal emphasizes the ascertainment of stocks and bonds and the physical valuation, and gives some effect to this bill by providing against the future issuance of stocks and bonds except under certain conditions. The investigation as to stocks and bonds is already provided for in the bill. The amendment goes a step further in the same direction and makes the bill effective just as the Hepburn amendment made the Turkish resolution effective by the introduction of a new proposition.

Mr. GARRETT. Mr. Speaker, if the gentleman will permit, does not the gentleman from Pennsylvania think that even granting the force of the precedents which he has cited a different philosophy applies to legislation than to the passage of resolutions that have no legal effect?

Mr. OLMSTED. I do not think there is any difference in principle, but I have cited several instances which applied directly to legislation. For instance, if we had here a bill granting a pension to John Smith, simply that and nothing more, an amendment granting a pension to John Jones would be held not to be germane, but if the original bill granted a pension to John Smith and another pension to John Jones, it would be held under the rulings that an amendment to pension also John Williams would be in order.

Mr. SIMS. Will the gentleman yield for a question?

Mr. OLMSTED. Yes.

Mr. SIMS. Suppose that we were back previous to 1860 in this country, and were considering a bill providing for the enumeration of slaves, or telling how they should be enumerated, as an amendment to an act already in existence. Does the gentleman hold that an amendment abolishing slavery would be in order upon such a bill as that?

Mr. OLMSTED. No; because that bill would contain simply one proposition, the enumeration of slaves, and the abolition of slavery would not be germane to a single proposition to take a census of slaves.

Mr. SIMS. And this bill has only one object and purpose, and that is the valuation of railroads. Then admitting that the information authorized to be acquired by ascertaining the amount of outstanding bonds and stocks is germane to ascertaining the value of the property of the railroads, how, then, can a bill proposing to regulate the issuance of stocks and bonds, directed against railroads themselves, be germane to a mere inquiry as to the amount of outstanding bonds?

Mr. OLMSTED. I have tried to explain that this bill contains more than one proposition. It is to a certain extent a general bill. It provides for the physical valuation of railroads. That is one thing that is definite and complete. After that has been provided, it provides for the ascertainment of the names of stockholders and bondholders and the amount of stocks and bonds and all that sort of thing, and the relation of banks to the companies. I submit that under the precedents it is germane to add a provision that, as the result of that investigation, bonds and stocks shall be issued hereafter only on certain conditions and subject to certain limitations, and with the consent of the Interstate Commerce Commission.

Mr. SIMS. Does not the amendment offered in this case have to do with the issuance in future, and not with the fact of how many have already been issued?

Mr. OLMSTED. It does.

Mr. SIMS. How can it be any more germane to the second subject of the bill than to the first?

Mr. OLMSTED. I have tried to explain that when the bill itself contains more than one proposition, under the uniform rulings of different Speakers it is germane to add a new proposition.

Mr. SIMS. To add one that is not germane to any proposition in the bill?

Mr. OLMSTED. It need not be germane to any proposition in the bill. But I submit that this is germane to a proposition in the bill and is on the same subject. If you say all this is to have relation to fixing the rates, nothing is more important in fixing the rates than that there shall be no fictitious issuance of stocks and bonds. I submit these observations for the consideration of the Chair.

Mr. GREEN of Iowa. Mr. Speaker, the gentleman from Illinois, in his remarks upon this point of order day before yesterday, contended, first, that this amendment which he had proposed was in order because it was germane to the act which was proposed to be amended, and, second, because it was germane to the bill which we now have before us.

I shall not discuss the first proposition he advanced, but will speak very briefly indeed in support of the second contention which he made. As has already been stated by the gentleman from Pennsylvania [Mr. OLMSTED], this bill contains two different propositions. The first relates to the physical valuation of railroads and the second relates to the issuance of stocks and bonds. It provides in the most sweeping and specific terms for the investigation into the amount of stocks and bonds that have been issued, the purpose to which the moneys received therefor have been applied, the persons who have been connected with the issuance of stocks and bonds, any manipulation thereof, and the whole history of the transaction; and then it goes further and provides that the railroad corporations themselves must furnish for this purpose, among others, full access to their books, records, papers, documents of all kinds, and further provides that the commission may make rules and regulations for the enforcement of the provisions in this bill.

Now, what is the object of this provision with reference to the amount of stocks and bonds issued here and the manner in which they have been issued? Abstractly considered, neither this House nor any person in the United States cares how much stocks and bonds have been issued in the past. The money has been spent, it has gone, and the liens created must stand and be recognized as valid obligations.

The argument here was when the bill was under discussion that publicity thereby obtained would be a restraining factor in the issuance of stocks and bonds in the future, and in a measure control it.

I wish to go further in my argument and show that the bill undertakes to exercise control over the issuance of stocks and bonds; to go further and show that the amendment offered by the gentleman from Illinois goes further and is relevant to the subject which it seeks to amend, and therefore, in dictionary terms at least, is germane thereto.

As I said, I wish to show that this bill, in fact, provides for the control over the issuance of stocks and bonds. Hereafter, if this bill passes, no stocks and bonds can be issued without the commission has the right to call for and report upon them, without the commission has the right to investigate into the issuance of them and the manner in which the proceeds have been spent. Up to this time, and as a matter of circumstance now, the commission has nothing whatever to do with the issuance of stocks and bonds, except that it may bear in some remote degree on some other question sought to be investigated.

The SPEAKER. The Chair will ask the gentleman from Iowa to point out in the bill anything that has to do with the future issuance of stocks and bonds.

Mr. GREEN of Iowa. If the Chair will pardon me, I did not suppose it would be contended that the matters provided for in this bill with reference to the present stocks and bonds would not apply to stocks and bonds issued in the future.

The SPEAKER. Is there anything in the Adamson bill about the issuance of stocks and bonds? If there is, I wish the gentleman would point it out.

Mr. GREEN of Iowa. In case any stocks and bonds are issued in the future, I hardly think it would be contended that thereupon the Interstate Commerce Commission will not have the right, if the bill passes, to investigate the issuance of stocks and bonds and require the railway company to furnish a full report, and then to make orders, regulations, and rules which will have the force of a law.

Of course, if it is contended here and if the Chair should hold that these provisions with reference to stocks and bonds had application only to stocks and bonds which have been heretofore issued, I shall have to admit that my argument falls to the ground.

Mr. SIMS. It can only have reference to the stocks and bonds outstanding at the time the investigation is made, and could not possibly apply to subsequent stock and bond issues unless there is a subsequent investigation.

Mr. GREEN of Iowa. Will the gentleman from Tennessee say that if this act is passed and stocks and bonds are subsequently issued by railroad companies under and by virtue of this act, the commission will have no right to investigate as to the issuance of those stocks and bonds?

Mr. SIMS. Incidentally to making the physical valuation——

Mr. GREEN of Iowa. But the gentleman is not answering the question at all. The question can be answered by yes or no.

Mr. SIMS. Under this law it does not make any investigation conditional and precedent to the issuance of stocks and bonds.

Mr. GREEN of Iowa. It does not. That is true, but this amendment which is offered by the gentleman from Illinois [Mr. MANN] simply seeks to further control, to exercise a further act of control. This investigation is an act of control over the issuance of stocks and bonds.

Mr. SIMS. Oh, no.

Mr. GREEN of Iowa. It must be, necessarily.

Mr. SIMS. Not at all.

Mr. GREEN of Iowa. And the amendment of the gentleman from Illinois goes only one step further toward the process of controlling it.

Mr. CULLOP. Mr. Speaker, will the gentleman yield?

Mr. GREEN of Iowa. Certainly.

Mr. CULLOP. From the tenor of the gentleman's argument I take it he misapprehends the purpose of the measure. It is for the purpose of changing the method by which freight rates or transportation tolls are now fixed, and it has nothing to do, so far as the amount of overcapitalization or overbonded indebtedness is concerned, with the fixing of rates at all. That is not the subject matter of the bill. It is upon the actual valuation of the physical property and not its capital stock or its bonded indebtedness. That is the purpose and object of the measure, and so far as the bonded indebtedness or capital stock is concerned, if this measure passes, they do not enter into the consideration as an element in the fixing of the transportation tolls in any manner whatever. Therefore, this amendment offered is not germane to either the text or the subject matter of the proposed measure.

The SPEAKER. The Chair would like to ask the gentleman from Indiana a question. His contention in this matter, as I understand it, is that this Adamson bill is solely for the purpose of fixing the physical valuation of railroads and that part

which is in the bill about stocks and bonds is simply to throw light on that subject——

Mr. CULLOP. Only, and for no other purpose.

The SPEAKER. And that the Mann amendment treats with an entirely different subject of controlling the issuance of stocks and bonds.

Mr. CULLOP. That is it exactly. That is my contention and has been all the way through.

Mr. GREEN of Iowa. Mr. Speaker, the remarks of the gentleman from Indiana in the general discussion of the bill are not, so far as I know, yet in the RECORD; but if I mistake not he, or at least some other gentlemen who were speaking at the time, contended in that discussion that the object and purpose of this provision to which I have alluded was altogether different from what he now sees; and, indeed, how could it be otherwise? What has the amount of stocks and bonds to be issued to do with the physical valuation of a railway or any of its property?

Mr. CULLOP. Mr. Speaker, the gentleman misapprehended my statement of that question if he refers to me. What I said was, if we resorted to the physical valuation of transportation property for the purpose of fixing rates, that as an incidental matter following from that it would destroy as a natural result or consequence the overcapitalization or the making of overbonded indebtedness in the future, and that it would eliminate that feature as a speculative matter in dealing with these properties on the market. This result will follow as an inevitable conclusion. That was my statement.

Mr. GREEN of Iowa. That is exactly what the gentleman was arguing before.

Mr. CULLOP. It was the effect and not the language that I had in mind.

Mr. GREEN of Iowa. That the purpose and object of these provisions was to prevent overcapitalization and that that would be the effect, and now I think I have shown here by this act of investigation, by this act of summoning as they may the evidence of clerks of the railways, or of any party connected with it, to give information regarding that, to give information with relation to stocks and bonds, they must and do exercise a control over the issuance of them. For that reason the amendment introduced by the gentleman from Illinois is germane.

Mr. STEVENS of Minnesota. Mr. Speaker, before the Chair finally determines the point of order he should have in mind the history of this legislation. The records of the House will show that during the last session the majority of this House directed a general scheme of investigations of alleged wrongdoing of various large business interests of the country, and I think the report of the Committee on Rules on this subject divided the work of investigation among several of the committees of the House, and among them was that the Committee on Interstate and Foreign Commerce should investigate this subject. Different sorts of investigations have been had. I think some are pending, and some very important reports have been made. One of the investigations concerning the financing and issuance of securities by common carriers, as just stated, was directed to be made by the Committee on Interstate and Foreign Commerce, and I think that the report of the Committee on Rules will so show. The records of the Committee on Interstate and Foreign Commerce, which are public and open to inspection, will show that the committee, after some discussion, thought it best to conduct its share of the investigation not by means of summoning witnesses itself to ascertain what facts there were relative to the subject matter and what plans and reports should be made, but by directing the Interstate Commerce Commission itself, which had the experience and the machinery, to make the investigation and to report its views upon the methods to right some of the wrongs which would be shown by such an investigation. The hearings before that committee will show such to be the fact, and in the process of its work the Committee on Interstate and Foreign Commerce had this bill as a basis and measure of some part of what it ought to do. Now, the investigation directed by the House concerned not only the alleged wrongs which had previously existed, but the method and plan of righting those wrongs, in order to properly subserve the welfare of the people, as might be shown by the investigation. So this measure was planned to accomplish these results. The records show it was so reported, and it came before the House to meet the report of the Committee on Rules for such an investigation and the submission of a proper plan for a righting of the different wrongs shown and known to exist in the issuance of securities by common carriers. Now, if the Chair will examine the text of the bill and consider the powers of the Interstate Commerce Commission under it, I think the question he addressed to the gentleman from Iowa [Mr. GREEN] will be answered. On page 2, lines 1 and 2, of the bill:

That the commission shall investigate and ascertain the value of the property.

Of course "property" means not only the physical property but it means every sort of property, and the value is measured not only by the cost of reproduction, not only by the amount that has been expended in its construction, but by the market value as evidenced by the outstanding securities. Now, the other committees, upon their investigations and in their reports, I think, have invariably reported to us some method—at least they reported different means and different plans of legislation by which the alleged wrongs shown by their investigation shall be righted. This bill does exactly that same thing, except we contend that it does not go far enough, but there is enough in the bill as a basis for the legislation which ought to be had, under the investigation ordered by the House, to warrant the amendment of the gentleman from Illinois [Mr. MANN]. In fixing the value of the property, of course, it would include the market value of the stocks and bonds. The bill provides the history of these stocks and bonds shall be investigated and reported, and if evils be disclosed the remedies for those evils should be ascertained and set forth in the legislation, and the remedies can be carried into effect by the very organization, by the very body, provided by this bill to conduct the investigation. The very purpose of the investigation directed by this House, the very purpose of the investigation directed by this measure and by the committee, can not be made fully effective unless by some such amendment as is proposed by the gentleman from Illinois and as was proposed by the minority of the committee in the process of its hearings and consideration. And for that reason the history of the bill shows that the whole subject matter is germane; that it was considered; that this House wanted it so considered; and there is enough in the bill under the common acceptation of construction, under the construction of the courts as to the definition of values, under the language of the bill, to take that additional step and provide a remedy for the wrongs which will be found to exist by the Interstate Commerce Commission in conducting its investigation.

The SPEAKER. The Chair would like to ask the gentleman from Minnesota a question. Now, if that is true—and the Chair has no doubt it is—what is the reason the committee did not report some such proposition as the Mann proposition in the bill?

Mr. STEVENS of Minnesota. The matter was discussed by the committee, Mr. Speaker, and the majority of the committee took the responsibility of reporting the bill in its present form. The records of the committee will show the minority did propose this identical plan suggested by the gentleman from Illinois and the majority, for reasons best known to themselves, refused to consider it.

Mr. FITZGERALD. That hardly has any bearing upon the question of whether the Mann amendment is in order on the pending bill.

Mr. SIMS. Mr. Speaker——

The SPEAKER. The Chair will not bother the gentleman from Tennessee to make an argument on his side.

Mr. SIMS. I was only going to refer to the history to which the gentleman from Minnesota referred.

The SPEAKER. The Chair has investigated the parliamentary phase of this question fully. We have not anything to do here with the merits of the substance of the motion to recommit which was submitted by the gentleman from Illinois [Mr. MANN]. If that proposition were submitted in a bill, or if the Chair thought it was germane, he would be very much in favor of it. It is not necessary in this opinion, but it is stated anyhow, that the issue of stocks and bonds by public-service corporations ought to be regulated by law. That, however, has nothing to do with this preliminary question which is pending here now.

The rule about motions to recommit is this: A proposition is not germane in a motion to recommit unless it would have been germane as an amendment to the bill.

The authorities all run one way. I have investigated them carefully. The proposition laid down by the gentleman from Pennsylvania [Mr. OLMSTED] is partly correct and partly incorrect. It does not go to the extent which he undertook to make it go. The rule is not that, if there are two substantive propositions in a bill you can add anything else to it. The rule is that on such a question as admitting Territories into the Union as States; if you were trying to admit Idaho, for instance, alone, you could not add Montana and Washington, and so forth. But if you turn it around the other way and make the bill general in its character to admit Montana and Idaho and Washington, then you might add to it, as an amendment, Wyoming, for instance.

At one time there was a proposition pending to appropriate money to destroy the boll weevil and the gentleman from Massachusetts [Mr. GILLETT] offered a proposition to add some money to destroy the gypsy moth. Mr. Speaker CANNON held that there

was no connection between the two propositions, and ruled out the amendment of the gentleman from Massachusetts.

There have been divers and sundry rulings of that kind. In the case cited by the gentleman from Pennsylvania [Mr. OLMSTED], when the House was expressing its opinion as to what the Turks were doing to the Christians over in Turkey, that was the subject matter. The resolution was to express our horror of what they were doing, and the gentleman from Iowa, Mr. Hepburn, offered an amendment which was more emphatic in its expression of horror than any of the rest, proposing to give the Turkish ambassador his passport. Consequently it was held to be germane.

During the term of the present Speaker a proposition was up to prohibit the trading in cotton futures on the exchanges of the country. Some Member offered an amendment to that proposition to include wheat and corn and other products. The Chair ruled it out by citing all these precedents which he has just cited and some additional ones. The Chair was more in favor of prohibiting the dealing in futures in wheat and corn than on cotton, because he has more to do with those products, but that fact did not have anything to do with the parliamentary point. Therefore he sustained the point of order made against the germaneness of the amendment.

The situation here is that the Committee on Interstate and Foreign Commerce brings in a bill which deals with one subject, and one subject only, and that is to fix a physical valuation of railroads. The only reason that they mention bonds or stocks in the bill at all is that, whether right or wrong, in this country we have fallen into the habit of estimating the value of a railroad by counting in both bonds and stocks, one being property and the other being debts. So that evidently the committee, in reporting this bill, thought that out of deference to the rule which prevails in this country we ought to find out what stocks and bonds have been issued. But this bill as reported nowhere provides or says a word about authorizing or directing anybody to issue stocks and bonds. The motion of the gentleman from Illinois [Mr. MANN] to recommit with instructions has entirely to do with the future issuance of stocks and bonds. It seems to be a very elaborate and perfect scheme. The Chair will say that for it. But I have asked the gentlemen who have argued this question in favor of the germaneness of this motion to recommit to point out in the bill a single word or clause that makes the resolution of the gentleman from Illinois [Mr. MANN] germane.

A case in point arose here—and it happened to be on the 1st day of April, 1910—and I will quote from the argument of the gentleman from Illinois [Mr. MANN] in that case, which seems to be absolutely unanswerable. He said:

Mr. Speaker, the gentleman from New York [Mr. FITZGERALD] referred to amendment 78 of the Senate, and it has been referred to by other gentlemen, as an amendment to the tariff law. It is not an amendment to the tariff. It is a provision which relates to reports required by that law.

And that is what it was, too.

But the provision in the Senate amendment is neither in form nor substance an amendment to the tariff law. Now, I insist that the amendment of the gentleman from New York [Mr. FITZGERALD] is not germane to the Senate amendment.

The Senate amendment provided that a certain section—section 78, the Chair believes it was—in the Payne tariff law about ascertaining the property that the corporations had, in order to levy that tax on them, should only be made public on a resolution of the House or Senate, whereupon Mr. FITZGERALD, of New York, offered an amendment to repeal the entire Payne tariff law. Mr. MANN said:

An amendment to repeal the tariff act is not germane to that Senate amendment.

Mr. MANN, continuing, said further:

The gentleman from New York is too well acquainted with the rules of the House not to know that this amendment which he offers is not germane. If the gentleman from New York, while the Senate amendment was before the House, had proposed an amendment similar to that which he now offers to this amendment, any chairman would have held it out of order as not a germane amendment to the proposition of the Senate. If the gentleman could provide for a repeal of the entire tariff act under the Senate amendment, then he could have provided for a repeal of a particular part of the tariff act. If it be in order to offer an amendment under the Senate amendment to repeal the entire tariff act, it will be in order—and I wish it were—to repeal the duty on wood pulp and paper [applause], because if it had been in order I should have offered such an amendment.

After a great deal of argument on both sides by distinguished parliamentarians, Mr. Speaker CANNON rendered the following opinion:

The SPEAKER. The Chair will cause to be read the amendment which has been agreed to.

The Clerk read as follows:

"Concur with the following amendment:

"Strike out all of amendment No. 78 and insert instead thereof the following:

"'For classifying, indexing, exhibiting, and properly caring for the returns of all corporations required by section 38 of an act entitled "An act to provide revenue, equalize duties, encourage the industries of the United States, and for other purposes," approved August 5, 1909, including the employment in the District of Columbia of such clerical and other personal services, and for rent of such quarters as may be necessary, $25,000: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President.'"

Then the Speaker said:

The SPEAKER. The House will notice that this is a proposition or an amendment covering one specific subject in the tariff act—as to the returns made by corporations. It does not relate to the amount of the tax, the kind of corporations to be levied upon, the time of levying, or touching any other matter, but only and simply the returns of corporations.

Upon the motion to concur with an amendment, which amendment provides for striking out of the Senate amendment and inserting what has just been read, the previous question was ordered, and the House has, on a yea-and-nay vote, agreed to the amendment, so that is a closed incident.

Now, the argument of the gentleman from New York brings up a very ingenious theory—

It will be observed that these two gentlemen have swapped places. [Laughter.]

But the Chair does not feel called upon to decide upon his theory, because it has been held—and, so far as the Chair has been able to ascertain, uniformly held—that where there is a proposition to amend a law in one particular—a specific particular—a proposition to amend generally or to repeal the law would not be germane. The Chair, after a hasty examination, finds as follows:

Hinds' Precedents, volume 5, page 411:

"5806. To a bill amendatory of an existing law as to one specific particular an amendment relating to the terms of the law rather than to those of the bill was held not to be germane."

Under that decision, if the amendment of the gentleman had been offered before the previous question operated, it would not have been in order, as the precedents are uniform that you can not by a motion to recommit make that in order which would not have been in order if offered as an amendment. Therefore the Chair sustains the point of order.

And the Chair sustains the point of order made by the gentleman from Tennessee [Mr. SIMS] in this case.

Mr. MANN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. The gentleman from Illinois [Mr. MANN] offers a motion to recommit.

Mr. FITZGERALD. I make the point of order, Mr. Speaker, that it is too late, the previous question having been ordered.

Mr. MANN. Ordered on what?

Mr. SIMS. On the passage of the bill. It is too late.

The SPEAKER. The Clerk will report the motion, and then we shall see.

The Clerk read as follows:

Mr. MANN moves to recommit the bill H. R. 22593, "To amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors," to the Committee on Interstate and Foreign Commerce, with directions to that committee to report said bill back to the House forthwith, with the following amendment, to wit: Insert, page 3, after line 21, the following:

"Said investigation and report shall also fully cover as far as practicable questions pertaining to the issuance of stocks and bonds by common carrier corporations subject to the provisions of this act and the power of Congress to regulate or affect the same and particularly the power of Congress to prevent the issuance of stocks and bonds by such corporations without full value being received therefor, and to require the application of the proceeds from the sale of stocks and bonds to be actually invested for the benefit of the corporation to the end that interstate railroad rates may be based upon reasonable and honest capitalization, and to the further end that the investing public may have full knowledge concerning proposed investments so that such corporations may be able to obtain money on better terms and thereby give better service at lower rates."

Mr. CULLOP. Mr. Speaker, I desire to make a point of order against the motion, for two reasons. The first is that the previous question has been ordered on the passage of the bill, and all that was reserved when that order was made was the right to rule on the point of order which was pending at the time that the previous question was ordered; second, that the proposed amendment is not germane to the bill. In other words, it is the same objection which lay against the other motion to recommit. Those are the two reasons for which I make the point of order.

Mr. MANN. Mr. Speaker——

The SPEAKER. The Chair will hear the gentleman from Illinois on this point of order.

Mr. MANN. Mr. Speaker, I will not take the time to enter into an extended discussion of the first point of order made by the gentleman from Indiana [Mr. CULLOP], because the rules expressly provide that a motion to recommit shall be in order after the previous question is ordered on the bill; and I direct the attention of the gentleman from Indiana to that provision of the rule, because it is wholly unnecessary to direct the attention of the Chair to that provision of the rule. The previous question does not operate upon a motion to recommit until the motion is before the House.

On the second proposition, as to whether this is germane to the bill, I call the attention of the Speaker to what is proposed by the bill.

The Speaker a moment ago, in making the ruling which he made, stated that the purpose of the bill was to make a physical valuation of railroad property. The Speaker did not hear the discussion on the bill in Committee of the Whole, probably. While the title of the bill refers to the physical valuation of the property, the bill itself provides that the commission shall investigate and ascertain the value of the property of every common carrier; and as was clearly brought out in the discussion in the Committee of the Whole, the investigation is not confined to the valuation of the physical property, because the Committee of the Whole, under the lead of the distinguished gentleman from Tennessee [Mr. SIMS], in charge of the bill, voted down a proposition to confine the investigation to the value of the physical property, for the gentleman from Tennessee [Mr. SIMS] contended that the purpose of the bill was much broader than that, and it is.

I call the attention of the Speaker to the provisions of the bill in reference to the investigation and report:

They shall also show, as the commission may deem necessary, the history of the organization of the present corporation operating such property——

The SPEAKER. Where is the gentleman reading?

Mr. MANN. At the bottom of page 2 and the top of page 3.

Of the present corporation operating such property or of any previous corporation operating such property in such detail as may be deemed necessary, and any increases or decreases of capital stock in any reorganizations, and moneys received by any of such corporations by reason of any issues of stocks, bonds, or other securities, or from the net and gross earnings of such companies, and how the moneys were expended or paid out for the purposes of such payments.

The said investigation and report shall also show the amounts and dates of all bonds outstanding against each public-service corporation and the amount paid therefor, and the names of all stockholders and bondholders, with the amount held by each, and also the name of each director on each board of directors; and find and report the facts as to the connection of any bank or banker, capitalist or association of capitalists, or financial institution or holding company with the ownership, manipulation, management, or control of any stocks and bonds of any such company, and the transactions and connections of any bank or banker, financier, financial institution, or holding company with the reorganization of any such company in recent years.

Now, Mr. Speaker, these provisions of the bill do not, as was intimated by gentlemen, confine the investigation to the issuance of stocks and bonds now outstanding. It will be years before the full investigation of these matters is completed by the Interstate Commerce Commission, and the commission will be directed and is directed in each of its reports to bring its investigations down to the date when the investigation is made.

Mr. OLMSTED. Will the gentleman from Illinois permit me?

Mr. MANN. Yes.

Mr. OLMSTED. I call the gentleman's attention also to the paragraph in the middle of page 5, which contemplates keeping the commission informed with reference to future changes and conditions.

Mr. MANN. I was just going to read that to the Speaker.

Mr. OLMSTED. It apparently contemplates reports from time to time.

Mr. MANN. On page 5 of the bill, as suggested by the gentleman from Pennsylvania, is the following:

Upon the completion of the valuation herein provided for the commission shall thereafter in like manner keep itself informed of all extensions and improvements or other changes in the condition and value of the property of all common carriers, and shall ascertain the value thereof, and shall from time to time, as may be required for the proper regulation of such common carriers under the provisions of this act, revise and correct its valuation of property, which shall be reported to Congress at the beginning of each regular session.

This bill as it stands endeavors to confer upon the Interstate Commerce Commission full power in reference to future issues of stocks and bonds, so far as obtaining information is concerned, and reporting it to Congress. The amendment which I have offered directs the commission to include in its investigation and report matters relating, so far as practicable, to the issuance of stocks and bonds of these common-carrier corporations for the purpose of affecting railroad rates and requiring that the issuance of stocks and bonds shall, as a result of the investigation of the Interstate Commerce Commission, be reported to Congress, to the end that in the future we may be able to have information by which we may require that stocks and bonds shall only be issued for actual value, and when issued for actual value received shall be properly invested, to the end of regulating the rates of the railroads.

Mr. FITZGERALD. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. FITZGERALD. The gentleman's contention is that his amendment merely extends the character of the investigation?

Mr. MANN. That is all.

Mr. FITZGERALD. Does it not do more than that?

Mr. MANN. It does not.

Mr. FITZGERALD. I suggest to the gentleman, although it may not have been his purpose, that it not only extends the scope of the investigation, but it confers upon the Interstate Commerce Commission the power to inquire and investigate into the issuance of stocks and bonds in a certain way.

Mr. MANN. Not at all. It says:

Said investigation and report shall also fully cover as far as practicable questions pertaining to the issuance of stocks and bonds by common-carrier corporations subject to the provisions of this act and the power of Congress to regulate or affect the same and particularly the power of Congress to prevent the issuance of stocks and bonds by such corporations without full value being received therefor——

Mr. FITZGERALD. If the gentleman will look at the punctuation——

Mr. MANN. I have not only looked at the punctuation, but I punctuated it.

Mr. FITZGERALD. Apparently very ingenuously.

Mr. MANN. There is nothing ingenuous about it at all.

Mr. FITZGERALD. There is no connection between the inquiry as to the proceeds of the issuance of the stocks and bonds and the investigations that are outlined.

Mr. MANN. Oh, the gentleman has not read the amendment carefully.

Mr. FITZGERALD. I have read it carefully.

Mr. MANN. Very well; the gentleman has read it carefully and lacks appreciation of what it contains. The gentleman can take his choice.

Mr. FITZGERALD. Sometimes it take more genius than I profess to have to understand some of the amendments drafted and proposed by the gentleman from Illinois.

Mr. MANN. The gentleman from New York lacks a great deal of appreciation of propositions sometimes. I can not expect to bring myself to the point where I can write everything so that it will be perfectly plain to the gentleman from New York.

Mr. FITZGERALD. That is an ambition which, if it could be realized by the gentleman from Illinois, would give him great happiness.

Mr. SIMS. Will the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. SIMS. Does not this amendment offered by the gentleman from Illinois require that the commission shall make an investigation as to the proceeds of the issuance of the stocks and bonds?

Mr. MANN. Not at all. The investigation and report is to cover, as far as practicable, questions relating to the issuance of stocks and bonds by the corporation and the power of Congress to regulate or affect the same, and particularly the power of Congress to prevent the issuance of stocks and bonds by such corporations without full value being received therefor.

Mr. SIMS. The object of the gentleman's amendment is to authorize the commission to report as to the method to be hereafter pursued in the application of funds growing out of the sale of stocks and bonds.

Mr. MANN. Certainly. The object of the amendment is to have the commission investigate the matter of the issuance of stocks and bonds, with a view of reporting to Congress, so that Congress may hereafter legislate upon the subject.

Mr. SIMS. Does the gentleman consider that as germane to a proposition to ascertain the value—the existing value—of the amount of outstanding stocks and bonds, to investigate what shall be done with the proceeds of stocks and bonds hereafter issued?

Mr. MANN. Certainly I do. Your own bill provides for the report of the stocks and bonds which may be issued between now and the time when the final report is made upon the last railroad, and even then after that, when stocks and bonds are issued the commission will have the authority to investigate that matter and report upon it.

Mr. SIMS. And as to what shall be done with the proceeds, does the gentleman think that is germane?

Mr. MANN. Certainly.

Mr. COOPER. Will the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. COOPER. As I understand the amendment offered by the gentleman from Illinois, it requires the Interstate Commerce Commission to report upon questions of some sort?

Mr. MANN. Yes.

Mr. COOPER. Is not the whole intent of the original bill that the commission shall report upon facts and not upon questions?

Mr. MANN. A great many questions will arise besides facts under the original bill.

Mr. COOPER. I have not observed it. I have been looking at the bill very carefully, and it is my understanding that what they are required to report on is questions of fact up to the time of the report, facts of various kinds. But when they are

called upon to report as to the power of corporations to issue stocks and bonds they may be getting into questions of law.

Mr. MANN. The commission will meet a thousand and one questions of law before it makes a report under the original bill. They are required to report upon the management and control of stocks and bonds in the past.

Mr. TOWNSEND. Mr. Speaker, will the gentleman yield?

Mr. MANN. Certainly.

Mr. TOWNSEND. Mr. Speaker, I will ask the gentleman from Illinois if there is not this distinction between the two propositions: the one contained in the bill and the one proposed by his amendment? The gentleman from Pennsylvania [Mr. OLMSTED] called the attention of the gentleman from Illinois to the paragraph on page 5 as to the commission obtaining information concerning matters treated of in the amendment proposed by the gentleman, but is not that limited by the provisions of this bill entirely to the issuance of stocks and bonds which shall have been made, whereas it is proposed by the gentleman from Illinois to inquire into proposed issues?

Mr. MANN. Does the gentleman from New Jersey mean stocks and bonds issued now?

Mr. TOWNSEND. No.

Mr. MANN. On the date of the passage of the law?

Mr. TOWNSEND. No.

Mr. MANN. Or stocks and bonds which may be issued hereafter?

Mr. TOWNSEND. Hereafter, but which shall have been issued in the future when information concerning them is sought. There is no proposal, as I understand it, in this paragraph on page 5, to which attention has been called, to make inquiry for the sake of informing the commission of proposed issues of securities, but to make inquiry in the future of issues which shall have been made at the time of the inquiry.

Mr. MANN. That is true.

Mr. TOWNSEND. And the proposition of the gentleman from Illinois——

Mr. MANN. That is the reason I offered the amendment.

Mr. TOWNSEND. Then there is a distinction between the two propositions.

Mr. MANN. Oh, if my proposition were a duplicate of what is already in the bill, I would not have offered it.

Mr. TOWNSEND. But it is not continuing work nor suggesting work of similar kind it is proposed to have done by the provisions of this bill.

Mr. MANN. Here is the proposition: This bill is for the purpose of obtaining information for the purpose of aiding the commission in the control of railroad rates. That is the only interest we have in the matter, and when you say that the commission shall report as to the stocks and bonds already issued, and you give them power to investigate that subject, certainly, if you want to control railroad rates at all, or have any influence on them, you should investigate the proposed issuance of stocks and bonds, because those that are already issued have no such influence upon railroad rates as the manipulation of the issuance of stocks and bonds in the future will have.

Mr. TOWNSEND. I did not suppose when I asked the gentleman's permission to interrupt that he was offering a duplicate, as his answer would suggest I thought. My point is this: That there are two entirely different propositions proposed, and one is not germane to the other. One is a proposition to acquire information regarding an accomplished fact, and the other is a proposition to acquire information regarding a proposed action, and one is not germane to the other. I knew they were not duplicate propositions, because I have too much faith in the gentleman's integrity as a legislator to think for a moment that he would offer a duplicate proposition.

Mr. MANN. The gentleman's position is that stocks and bonds which do not have any influence over rates ought to be investigated, and those that do have influence over rates ought not to be investigated. My proposition is, when you give the power to the commission to investigate this subject you have the right as a germane amendment to direct the commission to go a step further in the same line—not a different kind of subject at all, but in the same direction. To say when you propose to do something that you can not offer an amendment to go a step further is to say that you can not offer an amendment at all to a bill, leaving it wholly to a committee and not to the House to determine what may be in the propositions to be brought in and voted upon by the House.

Mr. TOWNSEND. I do not deny that; but this is not a proposed step in the same direction, but in a different direction.

Mr. SIMS. Mr. Speaker, it seems to me in all candor—and I of course do not understand the amendment as well as the gentleman who drew it, having heard it read only once—the object of the bill is making an inventory of existing facts in order to ascertain the physical value of the property of common carriers, and it does not even remotely relate to how proceeds shall be invested in stocks and bonds to be issued, or created by a new issue of same; and this amendment certainly does relate to what is to be done in the future as well as what has been done in the past. I desire to say frankly to the House, not speaking for the Committee on Interstate and Foreign Commerce nor for any member of it except myself, I have always favored legislation by the Congress of the United States to properly control proposed capitalization of corporations doing interstate business, but the object of this bill is only for the valuation of existing property, and only authorizes the investigation as to outstanding stocks and bonds, because, as the Speaker intimated, it is necessary to have all the light on all existing transactions in order to determine the value of existing property. Now, the object of this amendment offered by the gentleman from Illinois is to go further, just as the object of the first motion to recommit was to go further and to legislate positively as to what shall be done hereafter with proceeds of sales of stocks and bonds, and, Mr. Speaker, I do not understand it to be germane to require a report and an investigation as to what shall hereafter be done by way of limitation of the issuance of stocks and bonds and to make a recommendation as to legislation is not germane to this bill. Why should we have an investigation of facts and a report from a commission on subjects not germane to the bill any more than the offering of such an amendment in the first instance? Now, this amendment says, if I read it right—I will read all of this paragraph:

> Said investigation and report shall also fully cover, so far as practicable, questions pertaining to the issuance of stocks and bonds by common-carrier corporations subject to the provisions of this act and the power of Congress to regulate or affect the same.

Purely a question of law. Congress is better able to determine that than any commission.

> And particularly methods to prevent the issuance of stocks and bonds by such corporations without full value being required therefor, and to require the application of the proceeds from the sale of stocks and bonds to be actually invested for the benefit of the corporation to the end that interstate railroad rates may be based upon reasonable and honest capitalization.

The object of that section of the bill is to prevent future overcapitalization. The bill unamended, if it should pass unamended, will have the moral effect to prevent overcapitalization, but is not mandatory in language looking to that end.

Mr. MANN. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield to the gentleman from Illinois?

Mr. SIMS. Certainly.

Mr. MANN. The reason I asked the gentleman to yield is because in view of the criticisms that have been made on that part of the amendment which I had inserted in the amendment mainly for the purpose of making sure of the power of the commission in making its investigation, I ask to withdraw that motion which I offered and to offer the following motion.

The SPEAKER. The gentleman from Illinois withdraws his motion to recommit and offers another motion. The Clerk will read the part that is left in.

The Clerk read as follows:

> Insert, page 3, after line 21, the following:
> "Said investigation and report shall also fully cover, so far as practicable, questions pertaining to the issuance of stocks and bonds by common-carrier corporations subject to the provisions of this act and the power of Congress to regulate or affect the same, and particularly methods to prevent the issuance of stocks and bonds by such corporations without full value being received therefor."

Mr. CULLOP. Now, Mr. Speaker, I make the same point of order against this that was made against the original motion for which this is a substitute.

The SPEAKER. The Chair is ready to rule. The Chair overrules the first point of order that this motion to recommit could not be offered after the previous question was ordered. The rule is clear on that question. Rule XXVII, page 388 of the Manual, says:

> It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

The Chair, for the elucidation of the matter, will state this in regard to how many motions anybody is allowed to make to recommit. Of course a Member can only make one if it is germane, but a motion to recommit is not a motion to recommit at all if it is ruled out on the point of order, and the logic of the rule is that everybody wanted the privilege of making a motion to recommit to be absolute so nobody could take the power away from a Member, and a Member would have the right to offer a motion to recommit which is germane. If that

turned out to be obnoxious to the point of order, that would go out. Well, now, the Chair does not undertake to say that a Member can stand up and offer motions to recommit interminably that are not germane. That is a matter in the discretion of the Chairman at the time, but where the Chair believes a Member is acting in good faith he will entertain them within reasonable limits. The Chair overrules the second point of order on the proposition submitted now, and the question is on the motion to recommit with the last instructions read.

The question was taken, and the motion was agreed to.

Mr. SIMS. Mr. Speaker, I report back from the Committee on Interstate and Foreign Commerce the bill H. R. 22593, with the following amendments.

The SPEAKER. The Clerk will report the amendment offered by the gentleman from Tennessee.

The Clerk read as follows:

> Insert, page 3, after line 21, the following:
> "Said investigation and report shall also fully cover, so far as practicable, questions pertaining to the issuance of stocks and bonds by common-carrier corporations, subject to the provisions of this act and the power of Congress to regulate or affect the same, and particularly methods to prevent the issuance of stocks and bonds by such corporations without full value being received therefor."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read a third time, and passed.

On motion of Mr. SIMS, a motion to reconsider the vote by which the bill was passed was laid on the table.

MOTIONS TO RECOMMIT.

The SPEAKER. The Chair wishes to repeat the request which he made day before yesterday, that when gentlemen have complicated motions to recommit they submit them to the Chair in advance, if they can do so, because the Chair's mental apparatus does not work any more rapidly than that of other people, and it is not always possible to catch the meaning of a motion by merely hearing it read.

LINCOLN MEMORIAL (S. DOC. NO. 965).

The SPEAKER laid before the House the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Appropriations and ordered to be printed.

To the Senate and House of Representatives:

I beg herewith to submit a report of the Lincoln Memorial Commission, and its recommendation, upon the location, plan, and design for a memorial in the city of Washington, D. C., to the memory of Abraham Lincoln, in accordance with an act providing a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln, approved February 9, 1911.

WM. H. TAFT.

THE WHITE HOUSE, *December 5, 1912.*

LEAVE TO ADDRESS THE HOUSE.

Mr. BURGESS. Mr. Speaker, I ask unanimous consent for 10 minutes in which to address the House.

The SPEAKER. The gentleman from Texas asks unanimous consent for 10 minutes in which to address the House. Is there objection?

Mr. FITZGERALD. For what purpose does the gentleman wish to address the House?

Mr. BURGESS. I desire to make a short statement and to insert an editorial in the RECORD.

Mr. FITZGERALD. I would suggest the gentleman take the time on the appropriation bill which is to follow. Mr. Speaker, it will be impossible to give Members time as was done in the long session. We have only 40 days to pass all the bills. I ask that the gentleman take his time in general debate.

Mr. BURGESS. All right.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 26680, the legislative, executive, and judicial appropriation bill.

Mr. MANN. Mr. Speaker, pending that, may I ask the gentleman for the information of the House if there is any notion as to how much, if any, general debate there will be on the bill?

Mr. JOHNSON of South Carolina. There has been no request for time on either side of the House, except that the gentleman from Texas [Mr. BURGESS] has indicated that he desires 10 minutes.

The SPEAKER. The question is on the motion of the gentleman from South Carolina that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 26680, the legislative, executive, and judicial appropriation bill, with Mr. GARNER in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

> A bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

Mr. JOHNSON of South Carolina. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent that the first reading of the bill be dispensed with. Is there objection? [After a pause.] The Chair hears none.

Mr. JOHNSON of South Carolina. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. BURGESS].

Mr. BURGESS. Mr. Chairman, during the 12 years I have been a Member of this House I have not spoken on the race problem, although I was born and reared in a county in the district I represent where the population at the time was 80 per cent negroes, and it is one of the districts known as being in the "black belt." But I have refrained from discussing the race question because I am the friend of the negro and I realized no good could come from discussing a problem that all the South is wrestling with, the ultimate solution of which no man knows. But I ask permission to have read into the RECORD an editorial from the Fort Worth Record, of Texas, written by one of the most brilliant and one of the ablest of southern journalists—Clarence Ousley—and I do this not for the purpose of provoking any discussion, but simply because I think the article so well written that it will appeal to all thoughtful men.

The CHAIRMAN. The Clerk will read the article referred to.

The Clerk read as follows:

[From the Fort Worth Record.]

DEBASING NATURE AND DESPISING GOD.

Shocking and sickening as is the Chicago story of a young white girl's infatuation with Jack Johnson and the black animal's brutish insistence upon holding her within the toils of his power, it should not surprise any man who has the slightest ken of racial instinct or the faintest appreciation of the philosophy of social consequence.

The only wonder is that an intelligent people have permitted associations that make the least compromise with fundamental principle.

To put it in a paradox, this development is the natural result of an unnatural contact of whites and blacks tolerated for gain, or for sport, or for convenience. When white men meet negro men in the prize ring, when they ride together in street cars or railroad cars, or when they meet upon any common plane, they stand upon a footing of equality for the occasion, and repeating the occasion establishes a status which has no limitation or differentiation in the mind of the heedless white or the covetous and lustful black.

There is no culture of mind or heart or uplift of soul of the individual black man that warrants social equality with the white man. That is a hard saying, but it is the decree of nature and God, and to ignore it is to debase nature and despise God.

May not the black man aspire? Yes, as high as the heavens. May he not expand? Yes, throughout the whole wide universe. But aspiration and expansion are not hindered by confinement within the association of his own race. By and of himself, among his own, he must pursue his own way—and he may not be permitted to pursue any other without consequences revolting to the white man and ultimately destructive to himself, for such instances as this repeated will provoke revulsion and antagonism merciless and far-reaching.

They play with fire who venture to cross the line of racial separation by so much as the slightest step or in the faintest degree. It is not because the individual white man is injured by the contact of the moment, or that the individual black man may not be bettered by the association. If that were all there would be no race problem, and the rule would rest upon an unseemly prejudice. President Roosevelt was not hurt by the dinner with Booker Washington, for with all respect to the host it may be said that the guest was individually worthy of the hospitality. But in the mathematics of races the honest, humblest black is Washington's equal, and since Washington was made equal with Roosevelt the lowest black became equal with chiefest of the white race. That is the philosophy of the black man's reasoning; that is the corollary that finds unconscious lodgment in the white mind moved to an association by whim or temporary advantage.

Jack Johnson had a white wife, who is now dead, and nothing ill may be said of the dead. But the example has borne fruit in the weak brain of this poor child of passion who would give her birthright for the gratification of a diseased or insane fancy. The suicide of the other one, provoked perhaps by a belated realization of her racial debasement, is no warning to the younger victim lured by notoriety and intoxicated by adventure.

And that isn't all. "Oh, some of the best white women in Chicago ride in this car," said Johnson to the girl's mother when she shrank from being seen in his automobile. Of course "the best white women" in Chicago do not ride in that car, but Johnson sees no reason why they should not; other brutish negroes there and elsewhere see no reason why they should not; and thus in millions of negro minds is

born the purpose of impudence and insult and outrage to be visited upon white women any time and anywhere.

What have we of the South to be concerned about in this unspeakable infamy which the undiscerning North tolerates? May we not be content to preserve our own standards, maintain our social integrity and let others indulge animalism and amalgamation to the utmost of their bestial bent?

No, for we have knowledge they do not know; we have experiences which should teach them to beware, and we are not faithful as our brothers' keepers if we do not cry aloud and warn them of their peril.

Besides, they can not conceal these exploits from the knowledge of our blacks, and our blacks will be tempted to more wicked deeds. Quick and sure vengeance awaits the least encroachment here, but it would be little less than criminal not to endeavor to prevent the occasion for vengeance.

Thousands of black brutes all over the land will be moved by this circumstance to entertain the nameless desire which always lurks in the mind of the low and lustful.

We may not calculate how many white women must suffer the consequence of such example—nor how many black men may be destroyed to hold the others of the race in leash.

Will men never learn that nature can not be mocked without punishment? That the God of heaven is the God of races? That the pigment of the skin, while not a badge of dishonor, is an outward and visible sign of a status decreed from everlasting to everlasting? Association, dalliance, or trespass, by whatever action or custom, is outlawry which invites the wrath of the Most High.

Mr. JOHNSON of South Carolina. Mr. Chairman, I yield 15 minutes to the gentleman from Pennsylvania [Mr. PALMER].

The CHAIRMAN. The gentleman from Pennsylvania [Mr. PALMER] is recognized for 15 minutes.

Mr. PALMER. Mr. Chairman, I recognize that in the short session of Congress debate on appropriation bills should not be interrupted to any great extent by the discussion of matters which do not relate to those bills; but I crave the indulgence of the House for a few minutes this afternoon to call attention to a matter which has no relation whatever to this bill, but which I think is of sufficient importance to command the attention of the House.

On the 31st day of October, 1912, an American ambassador at a foreign court made an address which contains so many aspersions upon the character and life of a great American who was twice President of the United States, once Secretary of State, and whose name has reached the height of immortality in the world, that I feel we ought not to allow the occasion to pass without some mention of it in this House. Ambassador Reid, at the autumn session of the University College of Wales, delivered a lecture entitled "One Welshman: A Glance at a Great Career," and under that title made comment upon the life, character, and achievements of Thomas Jefferson.

There seems to be just now considerable renewed interest in Thomas Jefferson's life. I have been myself much attracted by some of the recent literature about Jefferson and about his beautiful home in Virginia and its history. I have been attracted also by the scholarly and brilliant work of the distinguished Senator from Mississippi, who has been lecturing upon the life of this great man before the students of Columbia University in New York. And it is a jarring note, especially at a time when the philosophy and the political theories of Thomas Jefferson seem to come in for enlarged support among the American people, to have the American ambassador at the court of the greatest monarchy on earth take pains to go out of his way to call attention to what he himself calls the "odious details" in the conduct of this great man as indicative, in his own language, "of the real character" of Thomas Jefferson.

He starts out by giving to Jefferson due and proper credit for many of the great things which he did, referring to his "head of gold," and then goes on in two-thirds of his address to prove that he had "feet of clay," by calling attention to what he calls the "absurd inconsistencies and extravagances" of his life, his works, and his utterances. He not only flings his jibes at what Jefferson did and said, but sneers at the accomplishments of the great political party which Jefferson founded, and by misrepresentations and misstatements of the facts seeks to give the impression that they are not worthy followers of that great man.

I admit that this sort of thing, coming from a man of letters who desires to be known as a writer of history, would not be worthy of any criticism here; but I declare that when an American ambassador at a foreign court undertakes thus untruly and improperly to criticize a man who occupies the position in our country's history held by Thomas Jefferson, the occasion is worthy not only of comment but perhaps of censure.

Mr. Reid begins by stating the admission of Jefferson's admirers that "his political career was checkered, his executive course many times open to criticism, his modes of expressing conviction often ill-considered and extravagant and amazingly inconsistent, and his acts as a politician frequently far below the standard of the philosophical writer on government." He refers to him as "possessed with such wild notions that he could not mind his own business" when a member of Washington's Cabinet; and he finally begins his citations of isolated utterances of Jefferson to prove his inconsistency of conduct and extravagance of behavior by this description of the man:

Mr. Jefferson was not a man of genius. We have seen that he was not an orator, not a soldier, not a good Executive, *least of all, a well-balanced statesman*. But he was a philosophical thinker or dreamer, and yet with a wonderfully practical gift for reading the tendencies of the populace and for putting their wishes into persuasive and stately language. * * * He was at once a philosopher and a partisan. But his philosophy was sometimes ill-balanced and ill-considered; his partisanship was always adroit and carefully considered, generally successful and *sometimes useful*.

When analyzed that paragraph gives him credit only for sometimes being useful as a party man. The ambassador goes on to say:

I began by asking you to consider a few reasons why some work of his gave as much credit to the Welsh stock as anything done by any other man of the blood. But I did not commend him as a uniformly sound political thinker or as an altogether admirable man. In fact, as a political opponent he was at times ungenerous and *underhanded*. Even his close friend, James Madison, was constrained to apologize for his frequent extravagance and inconsistency.

A few examples—

Says Ambassador Reid—

may show the urgent need of this allowance, and at the same time bring his *real character* and its limitations into clearer relief. They will also show the *absurd extravagance to which he habitually resorted* as the *surest means of impressing the less intelligent voters*.

If the American ambassador could have employed any words which would have more accurately been intended to call this great man a demagogue, I know not the words which he could have chosen. He goes on then in many pages, citing sentences from his writings and isolated instances of conduct and actions on the part of Jefferson, to prove these "absurd extravagances" which he says denote Jefferson's "real character." The accuracy of these citations may well be judged by these. He says:

And in curious contrast with his political descendants, who now wish to have the decisions of the highest courts reviewed or even reversed at popular elections, he said bluntly: "The people are not qualified to judge questions of law."

It seems to me the only excuse for such an utterance, which charges the Democratic Party with having within its ranks as one of the descendants of Thomas Jefferson the author of the doctrine which the ambassador here describes, must be found in the ambassador's absence from the country during the last few months. [Applause on the Democratic side.]

He goes on to say, further:

He reconciled his personal feeling with holding office almost continuously for 40 years, but when he became President he was vehemently in favor of rotation in office and was the author of the doctrine that "to the victors belong the spoils."

A statement which history will not corroborate. He then goes on to give his definition of the attitude of the Democratic Party to-day, which nothing except perhaps an isolated sentence taken out of the context in some of Jefferson's writings could possibly justify or excuse. He says:

He wished to confine the great General Government solely to foreign affairs—to be thus conducted without diplomatic establishment. Every other subject of public concern, excepting solely foreign affairs, he wished left to the independent States. Nine-tenths of the present useful activities of the General Government would thus have been destroyed at one stroke.

And he accompanies all this with a sneer at the government of the great city of New York, which he declares has been for many generations in control of the party which is proud to claim Thomas Jefferson as its founder, and which, in the instance cited by Ambassador Reid, he declares without justification the party has wandered far from the course laid down by the founder.

After citing these instances and others that I shall not stop to read or comment upon, he says:

Surely here are enough inconsistencies and extravagances to show the need for Mr. Madison's plea that "allowance be made for them." In most of them he was absolutely sincere. But no sketch of his career or estimate of his character would be honest without some mention of others *for which such an excuse can not be offered*.

And then he, the ambassador of this Government, standing before a foreign audience upon foreign soil, talking about the man who was the first Secretary of the department under which he, the ambassador, serves, goes on to detail the extravagances in Jefferson's character which, he says, show his absolute insincerity, and he winds up this description of the man by reference to his vulgar and ill-bred habit of sneering at conscientious beliefs, his doubt of his sincerity when he carried through Virginia the statute for religious freedom in the colony, summing it all up by reference to him as—

That strange medley of inconsistency, extravagance, enthusiasm, and fervid patriotic devotion.

Mr. Chairman, I shall not go further in this. I admit there is much in this address of Ambassador Reid which is true and which is entirely worthy of the subject. There is much in it which must of necessity have found a place in any sketch of his great career which shows a proper estimate of the man in some of the aspects of his life, character, and great achievements; but there is so much in it which impugns his motives, doubts his honesty of purpose, and condemns his methods that the whole constitutes an aspersion upon the life, character, and conduct of this great man, whose memory we revere down to this day. And I, for one, as an American Representative in Congress, would not let the occasion pass without entering my protest against the impropriety, the misconduct, of an American ambassador at a foreign court who would thus misrepresent before a foreign audience one of the greatest men who ever lived upon American soil. [Applause on the Democratic side.]

Mr. GILLETT. Will the gentleman from Pennsylvania yield to me?

Mr. PALMER. Certainly.

Mr. GILLETT. I have not read the address of Ambassador Reid, but I would like to ask the gentleman if it consists mainly of these criticisms which he has read, or if it does not also fairly represent the great qualities of Mr. Jefferson?

Mr. PALMER. I said that the ambassador did rather briefly give him his due credit for great things accomplished, but he devotes the larger part of his address to what he himself calls the "odious details" which show the "true character" of the man. No man in this House could read the address without being shocked at the thought that the American ambassador would thus describe him. [Applause on the Democratic side.]

Mr. GILLETT. I listened to what the gentleman read, and I supposed the larger part of his quotations portrayed weaknesses which the most devoted friend of Mr. Jefferson fully recognized that he possessed, and while I think we all of us admire, as I certainly do, his great qualities and great achievements, I certainly supposed the members of the gentleman's party would recognize that a large part of the criticism which he has detailed was founded on history.

Mr. LANGLEY. And these statements of the ambassador are in the main sustained by citations in the various volumes to which he refers.

Mr. GILLETT. Mr. Chairman, I ask unanimous consent that the full address of Ambassador Reid be printed in the RECORD so that we may see as a whole what impression it carries.

Mr. PALMER. I have no objection whatever.

The CHAIRMAN. The gentleman from Massachusetts asks that the full address of Ambassador Reid be printed in the RECORD.

Mr. JONES and Mr. SHACKLEFORD objected.

Mr. GILLETT. That shows the spirit of this criticism.

Mr. SHACKLEFORD. We do not want to circulate this libel any further.

Mr. GOOD. Mr. Chairman, in order that Ambassador Reid may be put right in this matter, I ask that there may be printed, with the remarks of the gentleman from Pennsylvania, the estimate of Thomas Jefferson placed upon him by President elect Woodrow Wilson, as found on page 3, volume 4, of Mr. Wilson's History of the United States, which reads as follows.

Mr. PALMER. Mr. Chairman, there was no intent on my part——

Mr. HEFLIN. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The regular order is that the gentleman from Pennsylvania has the floor.

Mr. PALMER. I have no objection to the gentleman reading the extract.

Mr. GOOD. It reads as follows:

The difference between Mr. Jefferson and Gen. Jackson was not a difference of moral quality so much as a difference in social stock and breeding. Mr. Jefferson, an aristocrat, and yet a philosophical radical, deliberately practiced the arts of the politician and exhibited oftentimes the sort of insincerity which subtle natures yield to without loss of essential integrity. Washington found him a guide who needed watching.

[Applause on the Republican side.]

Mr. PALMER. Mr. Chairman, I do not know whether my time is exhausted or not.

Mr. JOHNSON of South Carolina. I will yield to the gentleman five minutes more.

Mr. PALMER. Mr. Chairman, I only want to say that I had no intention of making political capital out of this proposition. Mr. Reid is an official of this Government. He is the ambassador of the American Government at the Court of St. James, and his conduct and his utterances are not the opinion of a historian or a man of letters. They are being presented to foreign people as indicative of the sentiment of the American people. There is nothing in the gentleman's quotation from the speech of Mr. RODENBERG, which was read here last spring during the presidential campaign as the utterances of President-elect Wilson, which compares for a single moment with the scathing, untrue description of Thomas Jefferson contained in this address by Mr. Reid. [Applause on the Democratic side]

Analyze everything that Woodrow Wilson, as a writer of history, has said about Thomas Jefferson, and any man who is not blinded by partisanship in the present circumstances in this country, when Mr. Wilson has reached a high place in the Democratic Party, would admit that his estimate of Thomas Jefferson was that of a man who believed him to be the greatest philosopher and statesman of his time. [Applause on the Democratic side.]

I did not take from Ambassador Reid's address a single sentence out of its context by which it might be judged. I am willing that the entire address shall be printed in the RECORD, and would be glad to have it there. I made no objection when the request was made. The impression that any man would get in reading all that Mr. Wilson has said about Thomas Jefferson would be that he had the highest admiration and respect and veneration for the character and achievements of Jefferson, while the impression any man would get from reading the address of Ambassador Reid must be that he has a sneering contempt for many of the attributes of character of this great man. [Applause on the Democratic side.]

Mr. GOOD. Can the gentleman from Pennsylvania point to a single sentence in the address of Ambassador Reid where there is such a reflection upon the character and integrity of Thomas Jefferson as is contained in the sentence of Woodrow Wilson where he says that Washington found in him a guide who needed watching?

Mr. PALMER. I have pointed out a dozen sentences where there is more.

Mr. GOOD. What are they?

Mr. MANN. Mr. Chairman, I will ask the gentleman from South Carolina to yield me one minute.

Mr. JOHNSON of South Carolina. Mr. Chairman, I yield one minute to the gentleman from Illinois.

Mr. MANN. Mr. Chairman, I have read the address of Ambassador Reid, as has the gentleman from Pennsylvania [Mr. PALMER]. My impression from reading the address was that in the main it was laudatory of Thomas Jefferson, and there certainly is nothing in that address which in any way whatever is so condemnatory of the life or character of Thomas Jefferson as the expression in Mr. Woodrow Wilson's printed article.

Mr. BUTLER. What does it all amount to, anyway? You can not disturb Thomas Jefferson in history.

Mr. LEWIS. Mr. Chairman, I will ask the gentleman from South Carolina to yield me two minutes.

Mr. JOHNSON of South Carolina. Mr. Chairman, I yield the gentleman from Maryland two minutes.

Mr. LEWIS. Mr. Chairman, I think the two gentlemen who have spoken in regard to this matter have wholly missed the point. There was a time in the history of this Republic when its ambassadors were not found in the highways of Europe belittling and slandering citizens of this Republic, living or dead, and there was a time even in the history of the other side of the House when, had they done so, their conduct would not have met with its applause. The difference between Mr. Wilson, the historian, and Mr. Reid, the ambassador, is the difference between a private citizen and a representative of this Republic wearing its robes of office and authority, and presumably under the duty of presenting it to foreign countries in a manner to invite respect, and not in its most discreditable guise. Thomas Jefferson himself is safe, even from the attacks of this ambassador. If the President of this Republic did his duty, Ambassador Reid would not be long safe in his office. [Applause on the Democratic side.]

Mr. JOHNSON of South Carolina. Mr. Chairman——

Mr. HEFLIN. Mr. Chairman, will the gentleman from South Carolina yield me three minutes?

Mr. JOHNSON of South Carolina. After I have made my statement respecting the bill.

Mr. Chairman, in presenting the legislative, executive, and judicial appropriation bill to the committee, I shall detain the committee long enough to call attention to the material facts of the bill. While the bill is under discussion under the five-minute rule I shall feel it my duty to explain any item in the bill to Members who may desire information. The bill as it comes to the House carries $319,000 less than the bill for the current year. It provides for 310 less salaried employees than the bill for the present year. It provides for 347 less people than the departments, in the estimates, asked Congress for.

Of the 310 employees whose services are no longer needed, there are 175 who were employed in the Census Office completing the work of the last census. The further services of these people are dispensed with because the work upon which they were engaged is now about completed.

There is a reduction of 100 in the force in the War Department. Gen. Wood testified before the committee during the last session of Congress that more "paper" work was being done than was necessary. The bill as it was finally approved provided that vacancies in the War Department should not be filled until the whole number of vacancies should equal 5 per cent of the entire clerical force. Under that provision of law 78 places became vacant and were not filled. The last military appropriation bill consolidated three bureaus in the War Department. The consolidation of those bureaus enabled the department to dispense with the services of 24 people. So that there has been a reduction of 100 clerks in the War Department, but those reductions were made without turning any person out of the Government service. They were made by not filling vacancies as they occurred. But for the fact that it was necessary for us in some particulars to increase this bill, we could have made a larger reduction. We slightly increased the force in the Library of Congress. In the Copyright Office the force was not sufficient to keep the work current. That office is self-sustaining. During the last year it paid into the Treasury about $20,000 in excess of the cost of operating it. We therefore gave an increased force in the Copyright Office. We also gave an increased force in the card-indexing department. That likewise is self-sustaining.

In the Civil Service Commission we were compelled to increase the force, first, because the efficiency law of the last Congress placed additional burdens upon the Civil Service Commission in the keeping of the efficiency records.

The President has recently promulgated an order placing all the fourth-class postmasters in the classified service. The Civil Service Commission claim that the keeping of the efficiency records of the clerks and the attention that will be required in filling all fourth-class post offices of the country will necessitate an additional clerical force. We were liberal in granting these allowances. Speaking for myself, I was particularly anxious that they should have the increased force. The Government on 4th of March will change from one great political party to the other. [Applause on the Democratic side.] There will be people unscrupulous or ignorant who would create the impression that the incoming administration and its friends are hungry for spoils. I wanted no excuse for the Civil Service Commission to say that we had denied it the force necessary to enforce the law. For these reasons we greatly increased their force. The Post Office Department has been reducing expenses. The country is constantly growing, but the Post Office Department, in spite of that fact, has been able from year to year to reduce its force. This time the department came to the committee asking for no increase on account of the general increase of the country's population and business, but asking for an increase on account of the burdens that will be placed on the department under the postal savings banks and the parcel-post laws. The increased work of that department on account of those two laws necessitated adding 30 clerks, at a cost of about $40,000. We increased, also, the permanent force in the Census Office because during the last session Congress passed an act requiring the Census Bureau to gather tobacco statistics. Congress also passed an act requiring the Census Bureau to gather additional cotton statistics. The work required of that bureau under the two laws mentioned necessitated an increased force, which we have granted.

All through the bill, where we found that the testimony indicated particularly meritorious cases we have increased salaries. Generally we have increased those in the higher grades, in order that there may be promotions all along the line. We have endeavored to provide that promotions in any division shall be made from the clerks employed in the particular division. We found that many clerks, in order to avoid the provisions of the transfer law, were resigning outright and being reemployed in another department. We have tried in this bill to correct that evil.

Now, Mr. Chairman, as I have said, as the items in the bill are reached, if any Member desires any information in regard to what we have done and why we have done it, I shall feel it my duty to explain it as best I can.

Mr. PALMER. Mr. Chairman, I would like to get a little information from the gentleman in charge of the bill about this appropriation for the maintenance of the internal-revenue collectors' offices. How many offices are appropriated for in this bill?

Mr. JOHNSON of South Carolina. Sixty-three.

Mr. PALMER. Is that the same number that was appropriated for in the last bill?

Mr. JOHNSON of South Carolina. It is.

Mr. PALMER. And that is four less than was carried before?

Mr. JOHNSON of South Carolina. Four less than were carried prior to October 1, 1912.

Mr. PALMER. I assume when the Appropriations Committee cut down the appropriation for the internal-revenue offices the committee had in mind there were four offices which could properly be abandoned for the good of the service.

Mr. JOHNSON of South Carolina. We had information to the effect that there were five that could be dispensed with.

Mr. PALMER. What districts were they?

Mr. JOHNSON of South Carolina. That information was given to a member of the Committee on Appropriations outside of the committee room, and I do not now remember what districts they were.

Mr. BURLESON. I am the Member referred to, but I do not now recall the location of the districts, save one. I recall that one was in the State of Iowa. I will state to the gentleman from Pennsylvania that the districts the committee had in mind that could be abolished were not the districts that were afterwards abolished.

Mr. PALMER. That is what I am getting at.

Mr. CARLIN. Which were they?

Mr. JOHNSON of South Carolina. One was in South Carolina, one in Texas, from obvious reasons, one in Pennsylvania, and I do not know where the other was.

Mr. PALMER. The one in Pennsylvania was the district in which I live. [Laughter.] The one in Texas, I think, is in the district in which the gentleman from Texas [Mr. BURLESON] lives.

Mr. BURLESON. No; it was the Dallas district that was abolished.

Mr. PALMER. And the other is the district in which the gentleman from South Carolina [Mr. JOHNSON] lives. I take it for granted that as far as the South Carolina and Texas districts are concerned, at least, the Appropriations Committee had no idea of having them wiped out.

Mr. MANN. Why should not they if they did not need them? Does the gentleman assume that the Appropriations Committee is unwilling to abolish a district in Texas because a gentleman from Texas is on the committee? I think that is a violent assumption.

Mr. PALMER. I assume the districts in those States are so important that it would be necessary to continue the offices in those districts.

Mr. MANN. How many districts are there in Texas?

Mr. BURLESON. One now.

Mr. MANN. That is doing pretty well.

Mr. BURLESON. How many districts are there in Illinois?

Mr. MANN. Illinois collects more revenue than all the other districts combined, and there are very few districts——

Mr. BURLESON. The Peoria district pays more into the Treasury than all the other districts in Illinois combined, the gentleman might also add.

Mr. MANN. That is true, and any one of the Illinois districts pays more internal-revenue tax than all of Texas combined.

Mr. PALMER. I want to ask the gentleman in charge of the bill if he believes this Texas district, and the South Carolina district, and the Pennsylvania district ought to be wiped out?

Mr. JOHNSON of South Carolina. I have no information on that subject. I will state, as far as I am at liberty to state, that a Member of Congress came to the Committee on Appropriations and asked that his name should not be used——

Mr. BURLESON. A Republican Member of Congress.

Mr. JOHNSON of South Carolina. A Republican Member. He said he had knowledge that there was an internal-revenue district in his State that was absolutely useless for any purpose except to give somebody a place. That led the committee to inquire of the Commissioner of Internal Revenue if there were any districts that could be dispensed with without injury to the public service. The commissioner furnished to the gentleman from Texas, who waited on him, a list of five districts which I understood he thought could be dispensed with without injury to the public service.

Mr. GILLETT. Why, Mr. Chairman——

Mr. PALMER. Mr. Chairman, would there be any impropriety in submitting that communication of the commissioner to the House?

Mr. BURLESON. It was not a communication in writing. The information was received in a personal conference. I want to state in fairness to the gentleman from South Carolina [Mr. JOHNSON] that at the time the committee was considering the abolishment of a number of these revenue districts it was understood that probably the district in South Carolina would be one of the districts abolished. I want to state, furthermore, that in my judgment the public service will not suffer by reason of the abolishment of the district in Texas. I want to state, furthermore, that I believe that the number of internal-revenue districts now authorized could be still further reduced without any injury to the public service.

Mr. PALMER. Mr. Chairman, if the committee was right last year in reducing this appropriation because there were five districts that could be dispensed with, and after the appropriation has been reduced other districts are abolished, the only way to accomplish the purpose of the last year's action would be to still further reduce the appropriation, would it not?

Mr. JOHNSON of South Carolina. No; because the President has the power by Executive order to rearrange these districts and to abolish as many as he sees fit, and we had an idea that very shortly there would be a new Secretary of the Treasury and a new Executive who would abolish the useless districts, and it was not necessary for the Committee on Appropriations to put it in the form of law that it had to be done.

Mr. PALMER. Can the Executive, without legislation, change the boundaries of these districts?

Mr. JOHNSON of South Carolina. Yes, sir.

Mr. PALMER. So he can arrange an entirely new system, dividing the country into 63 districts?

Mr. JOHNSON of South Carolina. That is my understanding.

Mr. GILLETT. May I state to the gentleman that I do not know about the private communications of Members of Congress to members of the committee or of the Internal Revenue Commissioner to Members of Congress. I do not think that is a proper kind of evidence to bring on the floor of the House, but I would like to ask the gentleman if the collector of internal revenue did not, in his official statement before the committee, state that he thought it was to the detriment of the public service to decrease the number of the districts?

Mr. JOHNSON of South Carolina. He did say in his examination on this bill that the discontinuance of the districts that had been discontinued was a detriment to the service.

Mr. GILLETT. And that in his opinion the number ought not to be diminished?

Mr. JOHNSON of South Carolina. I do not know whether he said that or not.

Mr. GILLETT. That is my recollection.

Mr. BURLESON. Undoubtedly it is true that there ought to be a rearrangement of these districts, and it is probable that the number which we now have, if a rearrangement should be effected, would be continued, but with the arrangement as it is now some of these districts could be abolished without injury to the public service.

Mr. GILLETT. Mr. Chairman, this is the first indication that we have had of the attitude of the majority toward appropriations, now that the campaign is over. I think in that light it is somewhat suggestive and interesting. We all remember that last year just on the eve of a political campaign the cry on that side of the House was all for economy and reform. The pork barrel was closed up, patronage in this House was cut off, appropriation bills were diminished, and we were told that the Democratic Party was bound for reform.

The committees on expenditures, which have jurisdiction of the different departments, were all put to work, and it was expected that revelations of extravagance and scandals would be brought before us. All of those hopes entirely failed of realization, and all of those committees accomplished nothing, though I presume they affected public opinion; and now, at the beginning of this Congress, we are going to see what the Democratic Party will do along those lines after election. That was all before election, and that was all to make a platform.

This very bill in the last Congress came in so stingy, parsimonious, and vicious in what it did and what it did not do that the Republican members of the committee felt bound to take the very unusual step of submitting a minority report—something which had not been done before, if I remember correctly, since I have been a member of the committee.

Now, we all wonder, after the object was achieved, after they had gone before the people on this platform of economy, now that they have won power, whether they will carry out those platform pledges and the precedents which they tried to start in the last Congress.

In that light I think this bill is suggestive, because in the last Congress in this bill there was not a single increase either of salary or of force except, I believe, one very small increase of a salary which had been diminished by mistake in the preceding Congress. Except for that in the last Congress you could look through all the pages of this printed statement on the legislative bill and you would not find a single increase, either of salary or of force. They not only did that, but they went a step further, and against a hostile Republican administration, as they seemed to have considered it, an administration that had distinguished itself by more genuine efforts for reform than any other administration that has been here in the 20 years that I have seen, an administration which by its efforts and investigations has cut down the expense of the departments here in Washington by hundreds of thousands of dollars a year, against that administration they made a lump-sum reduction. They not only would not allow that administration a single increase of force or of salary, but, unable to say where the administration should diminish its expenditures, unable to go into details, unable to give any intelligent judgment as to where a reduction could be made, they made a lump-sum reduction, and said that during the year whatever loss in force might occur should not be filled.

That was their attitude last year toward the Republican administration, and now what is their attitude this year? Is it the same? Last year, as I said, if you looked through these pages you would not find a single increase. That was for the Republican administration. Now, if you will take up the report accompanying this bill, you will find on more than half of its pages increases of force, increases of salary, and in some cases increases of both force and salary.

The gentleman from South Carolina [Mr. JOHNSON] says that some people are unscrupulous and ignorant enough—I think those were his complimentary adjectives—to feel that the Democratic Party is hungry for spoils. [Laughter.] I admit that I am one of those persons who come within that category.

Mr. JOHNSON of South Carolina. Will my friend from Massachusetts allow me to interrupt him?

Mr. GILLETT. Certainly.

Mr. JOHNSON of South Carolina. I am sorry that my friend from Massachusetts suspects the Democratic Party. I will look into the dictionary for another adjective to describe the gentleman. I want to ask the gentleman whether he is complaining because we have made increases either in force or in salary?

Mr. GILLETT. I am not. I am complaining because you treated the administration last year in the way you did and now begin to take a different tack.

Mr. JOHNSON of South Carolina. Has the administration suffered in any particular by reason of the reductions that were made?

Mr. GILLETT. Well, we have had only three months since that bill went into effect. You can not tell, but I have no doubt the administration has suffered.

Mr. JOHNSON of South Carolina. I know you would have suffered, unless that bill had passed, very greatly.

Mr. GILLETT. I have no doubt the administration has suffered. I have no doubt it would have been better to have given some of these increases then. I agree that many of these increases of force and of salary are proper. I am not sure but that they all are; but, under the circumstances, I do criticize the increases of salary in this bill. I criticize the way in which they are made. I believe many of the salaries to clerks in the departments are now inadequate. I believe they ought to be increased, but I believe the way to increase them is not for our committee to pick out its favorites and increase them by a bill like this——

Mr. BURLESON. I should like to ask the gentleman whether he says that has been done in this bill?

Mr. GILLETT. I do not know.

Mr. BURLESON. Does he mean to insinuate that it has been done in this bill?

Mr. GILLETT. I do not mean that they are your personal favorites. I mean that they are favorites, because they are picked out when undoubtedly there are many others in the departments equally deserving.

Mr. BURLESON. Will the gentleman indicate or particularize? Will he put his finger on one case where a man has been selected out as a favorite?

Mr. GILLETT. Everyone of them who is selected out is the recipient of favoritism.

Mr. BURLESON. Will the gentleman state whose favorite he is?

Mr. GILLETT. I do not mean that he is your favorite or any other man's favorite on the committee. He is the favorite of this legislation, and the exercising of this favoritism will lead to further favoritism, as you well know, because you know that when we have increased the salaries here the bill will go over to the Senate, and they will put on many other additions, and we will have to agree to them.

Mr. BURLESON. Right at this particular point——

Mr. GILLETT. I decline to yield right in the middle of a sentence. I say that our increasing of these salaries will lead the Senate to do the same thing. Those increases will come back here, and we will have to consent to their increases. Now, what we ought to have done is to have reclassified the whole service. There are many places which are inadequately paid. I presume I voted for most of these increases of salary. I do not remember opposing any of them. I think they are worthy,

but if you are starting in on your principle of reform and economy, I think the proper way to do it is not to refuse, as you did last year, to make a single increase either of force or salary and then come in this year to make increases. Instead of that you ought to pass a reclassification of the whole civil service. That is one of the crying needs. There are some of these clerks who are too highly paid. There are some who are paid too little. There is a bill which was considered by the Committee on Appropriations a few years ago, and I think it was favorably reported by that committee, but did not pass the House. There is a bill reported by the Committee on Reform in the Civil Service in the last session for reclassifying the service. Either of those bills contains a foundation which might have been taken up and enacted into law; but instead of adopting the system recommended by the Committee on Appropriations and by the Committee on Reform in the Civil Service, you would return to the old-fashioned way which, I am sorry to say, we have been pursuing right along. You have relaxed from your last year's stern and ascetic principle of not making any increases, and now for the Democratic administration you are making increases both of force and salary.

Mr. BURLESON. I want to ascertain the viewpoint of the gentleman. He insinuates that these increases which have been made in this bill are made as the result of favoritism. I want to know if that is the operating cause that moved those in charge of this bill for the last 16 years to grant the increases that have been made in the legislative bill and other appropriation bills.

Mr. GILLETT. I have just criticized it myself and have said it is the wrong principle. It is the same principle that we have followed right along.

Mr. JOHNSON of South Carolina. Let me ask the gentleman a question.

Mr. GILLETT. Certainly.

Mr. JOHNSON of South Carolina. Suppose we should pass a law reclassifying the service. Who would put the clerks in class 4 and class 3 and class 2 and class 1?

Mr. GILLETT. The gentleman is not familiar with the bill that has been before our committee and before the House, which provides for reclassifying them not simply by grades, as they are now, which is a vicious way, but classifying them according to the quality of the work that they do.

Mr. JOHNSON of South Carolina. Who is to do that?

Mr. GILLETT. The head of the department does it.

Mr. JOHNSON of South Carolina. Who came down here before our committee saying: "This man who is drawing $1,000 is worth $1,800"?

Mr. GILLETT. The head of the department, of course.

Mr. JOHNSON of South Carolina. The same people who would do the reclassifying.

Mr. GILLETT. No; but then they would reclassify according to the character of the work.

Mr. JOHNSON of South Carolina. That is what they testified before the committee, that they are asking for an increase because of the men's work. If there is any favoritism it is shown by the department and not by Congress. I do not know any of these people.

Mr. GILLETT. I will say frankly that I do not suspect these are the personal favorites of any member of the committee, but it is the system of favoritism appointing them in this way. The way they ought to be appointed is the other way. The very austere self-control which gentlemen exercised in the last Congress is very different from the generosity they are exercising here.

Another contrast is in reference to another branch of departmental service which is subject to great improvement. The committee last year recognized that superannuation was one of the evils of the service. It is one of the greatest problems that can be tackled by any committee, and if the Committee on Appropriations would strike out these two evils, would reclassify and would strike out superannuation, they would do something of permanent value.

Mr. FITZGERALD. Will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. FITZGERALD. I suggest that the committee did do that, but with the gentleman's assistance the President wrote a veto message with reference to it.

Mr. GILLETT. The committee did do it; but in such a crude and preposterous way that I venture to say they will not dare repeat it when they come into power. I agree that there is no inconsistency in not doing it at this session, because they know it would be vetoed again; but I venture to say now that you will not dare to do it in the next Congress, because you know it is not the right way.

Mr. FITZGERALD. The gentleman from Massachusetts characterizes the method in very harsh language. My recollection is that he made the statement that if we were not to adopt a civil retirement law, in his opinion this was the very next best thing to be done.

Mr. GILLETT. The gentleman is mistaken in his recollection.

Mr. FITZGERALD. I was of the opinion that that was what the gentleman from Massachusetts believed about it.

Mr. GILLETT. No. Now, as to this question of superannuation, the committee met it in a crude way in the last Congress, which, as I say, was utterly inadequate and which I do not believe they will press when they have the power and are able to put it into effect. So the criticism I make of the committee is not on this bill. I think this bill is a good bill, a much better bill than that of the last session. The criticism I make is that last session they flung out the banner of economy and reform and put through a bill they praised highly because it did not have in it any increases for the Republican administration, and just as they are going to have an administration of their own they abandon that policy and bring in the same kind of a bill that had been going on before and which they so harshly criticized.

Mr. JOHNSON of South Carolina. Will not we have to operate under that bill from March until July of next year?

Mr. GILLETT. Yes.

Mr. JOHNSON of South Carolina. We knew it then as well as we know it now.

Mr. GILLETT. Of course, I had not an idea then that you were going to operate under it for 12 months.

Mr. FITZGERALD. Is it not a fact that all the increases recommended in this bill are positions in the classified service?

Mr. GILLETT. Certainly.

Mr. FITZGERALD. And so far as any party affairs is concerned, there are none.

Mr. GILLETT. That depends upon what you do to the classified service. That is what we are all waiting to see. The gentleman from South Carolina says that only unscrupulous and ignorant persons think there is any hunger for spoils on that side. If that is true, there are many unscrupulous and ignorant persons.

Mr. FITZGERALD. Well, I am not hungry for spoils, neither are my constituents. I have a great many patriotic and competent citizens who believe they can materially improve the character of the administration by being made a part of it.

Mr. MANN. With a fixed salary.

Mr. FITZGERALD. And I hope to have them given an opportunity to demonstrate what they can do.

Mr. GILLETT. That confirms my suspicion that was so criticized by the gentleman from South Carolina.

Mr. FITZGERALD. That does not mean that the classified service is to be utterly demoralized, although in my own opinion there are some positions in the classified service, filled by some Republicans who were covered there by Executive order, which would be very greatly improved by having a change in the occupants.

Mr. GILLETT. I presume that the gentleman from New York has a certain number and other gentleman have a larger number, so that among you all the whole service could be changed and much improved.

Mr. FITZGERALD. I might add this: If the gentleman from Massachusetts [Mr. GILLETT] will give me a list of the places that he knows would be the easiest for me to obtain for my constituents after his long experience with the administrations of his own party I would feel very grateful to him.

Mr. MANN. Mr. Chairman, would the gentleman from New York [Mr. FITZGERALD] be willing to take a list of the places which the gentleman from Massachusetts has been instrumental in filling and be satisfied with them?

Mr. FITZGERALD. Oh, it is very easy to satisfy me.

Mr. MANN. The gentleman is skillfully evading the question.

Mr. FITZGERALD. I do not believe that the gentleman from Massachusetts should be put in a position where he might be forced to confess that perhaps he has not been as arduous in some phases of his work as recent events would make him believe he should have been.

Mr. MANN. Would the gentleman from New York be willing to take the same number of places or the places which have been filled through the instrumentality and personal solicitation of the gentleman from Massachusetts?

Mr. BURLESON. Mr. Chairman, I do not think it is right for the gentleman from Illinois to try and force a declaration from the gentleman from Massachusetts upon that point. It might coerce the gentleman into making a statement that is not exactly founded upon facts.

Mr. MANN. Would the gentleman from Texas be willing to be satisfied with filling the places that have been filled under Republican administrations through my instrumentality?

Mr. FITZGERALD. Oh, no. We know the gentleman has never been persona grata for over 10 minutes in any administration. I wish to announce for myself that I do not intend to put any limitations either upon my activities or my desires to serve to the best of my ability the most intelligent constituency in the United States.

Mr. MANN. It is quite evident that none of the gentlemen are willing to confine themselves. All are after the spoils, red-hot, all the time, chasing them down.

Mr. FITZGERALD. Mr. Chairman, if displacing an incompetent Republican with an efficient Democrat is being after the spoils, then I am after the spoils.

Mr. MANN. And if replacing a competent Republican by an inefficient Democrat is after the spoils the gentleman will still be after the spoils.

Mr. FITZGERALD. Mr. Chairman, that is a situation that can not possibly exist. There are no inefficient Democrats seeking positions, and there are many incompetent Republicans holding them.

Mr. MANN. I have no doubt that that is the attitude of all the Democratic Members.

Mr. GILLETT. Yes. Mr. Chairman, I was going to say that that, I think, pretty well justifies me in putting myself in the class reprobated by the gentleman from South Carolina [Mr. JOHNSON]. All Democrats who want office are efficient in the eyes of the majority, and any Republican who is in the place they want is inefficient. We have been wondering what would be their attitude, and this bill is the first indication, and apparently their Spartan self-denial of last session is loosening, and I expect their zeal for economy will steadily diminish and their appetite for spoils increase. I want it to be made clear that I am not criticizing this bill, but it is the last year's humbug that I am criticizing, when they pretended they were not going to increase any office or salary, when they paraded themselves as the great apostles of reform and economy, and now just as soon as they have the administration they desert their past professions.

Mr. SLAYDEN. Mr. Chairman, will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. SLAYDEN. Is not that statement perfectly consistent with the moderate increase that is made necessary by the increase in population?

Mr. GILLETT. There was just as much increase last year as there is this year. They did not give a single increase last year; instead they cut the bill down. Last year it was a Republican administration that they were providing for, and this year it is a Democratic administration that they are providing for. I will agree that the gentleman is correct, that there ought to be, in the natural course of things, an increase every year.

Mr. SLAYDEN. A moderate increase commensurate with actual demands.

Mr. GILLETT. Certainly, there ought to be, and last year it was not given; and the present administration, above any administration I know of, has disclosed a genuine zeal for economy, and has introduced reforms that right here in Washington have cut off the salary list hundreds of thousands of dollars a year. Yet, despite that fact, last year while business was growing not an increase was made.

Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. BYRNS of Tennessee. The gentleman speaks of increases in salary. Will the gentleman, for the information of the committee, state the largest increase of salary that is contained in the pending bill?

Mr. GILLETT. Oh, I do not remember.

Mr. BYRNS of Tennessee. Is it not a fact that no increase of salary has been made to a greater extent than $250?

Mr. GILLETT. I should not wonder.

Mr. BYRNS of Tennessee. And there are not over 12 or 15 increases in the entire bill.

Mr. GILLETT. I think there are more than that, but the amount is not important; it is the principle I am criticizing. Why do not you live up to the principle you laid down last year—a principle that is good enough for a Republican administration? Why do not you follow it when your own administration comes into power? That is my criticism. I am not criticizing the bill, but I am simply stating that you are not following out now the same unintelligent parsimony which you showed last year; and I expect that it was just a prelude to an equally unintelligent prodigality when you will come to appropriate for your own administration.

Mr. JOHNSON of South Carolina. Mr. Chairman, inasmuch as the gentleman from Massachusetts [Mr. GILLETT] can not find anything in this bill to criticize, and is compelled to go back and criticize the bill that was passed at the last Congress, I ask for a reading of this bill.

Mr. BURLESON. Mr. Chairman, every intelligent Member of Congress recognizes that there is a crying necessity for a reform in the classified service of the Government. Members of the House who are chargeable with the responsibility of framing the appropriation bills in recognition of that fact during the past 8 or 10 years have made repeated efforts to effect this reform by embodying paragraphs in appropriation bills dealing with this subject. Of course such paragraphs in appropriation bills are subject to the point of order, and if we should manage to get over the point of order we are in danger of running counter to a presidential veto for attempting legislation on an appropriation bill; but, Mr. Chairman, there is a committee of the House of high standing——

Mr. GILLETT. Will the gentleman allow a question?

Mr. BURLESON. Not now. I will yield to the gentleman in a minute. There is a committee of the House of great influence and high standing chargeable with the duty under our rules of dealing with this subject matter, upon which the grave responsibility is imposed of reporting to this House remedial legislation looking to the correction of this great evil, not only of reorganizing the classified service but also of looking to the elimination of admitted superannuation which exists in all the departments of the Government. That committee was for many years presided over by a very distinguished Republican. I will not charge that the distinguished gentleman has been guilty of neglect of duty, I will not charge that he has idled on the job, but the chairman of the Committee on Reform in the Civil Service in the Sixty-first Congress, in the Sixtieth Congress, in the Fifty-ninth Congress, at any time that he desired to correct this great evil that has been pointed out by the gentleman from Massachusetts, could have assembled that great committee, formulated his proposition of reform in the shape of a bill, and reported it to this House for consideration. Now, Mr. Chairman, it was not the fault of the minority, the Democrats, in the Sixty-first, the Sixtieth, and the Fifty-ninth Congresses that this action was not taken. It was a fault, if I may say so, which rested more with the chairman of the Committee on Reform in the Civil Service than with any other; and I must say that it comes with poor grace from the gentleman from Massachusetts, who held the chairmanship on the Committee on Reform in the Civil Service for so long, to come here now and point out that a feeble effort is being made by the majority at this time to correct some of these manifest abuses that now exist in our Civil Service. If the gentleman had been diligent when he was at the head of the committee which he presided over with such grace and such dignity for so long a time, if he had been diligent in the discharge of his duty, there would not now be substantial basis for the criticism he directs against those who have had the preparation of this bill.

Mr. GILLETT. Mr. Chairman, I am obliged to the gentleman for his suggestion, because he unfortunately is ignorant of the fact, as is quite apt to be the case with that side of the House. He says if I had done my duty as chairman of that committee there would have been such a report. Now, as a matter of fact there was. That committee was called together and that committee worked with great diligence through two Congresses, and it reported a bill which was the result of a vast amount of work upon both these subjects, which I am now criticizing the Committee on Appropriations for neglecting.

Mr. BURLESON. The gentleman's side controlled the House, why did not you put it through?

Mr. GILLETT. I did not control the House; I did the best I could. I did get a report out of the committee in favor of a bill to cure this superannuation and a bill for a reclassification. Those bills the present Committee on Reform in the Civil Service, although I have urged it upon the committee, has paid no attention to; but the Committee on Appropriations, which last year had a rule which made everything in order on a bill, could have undoubtedly with equal ease this year secured just such a rule. They had before them, or might have if they were not all as ignorant as the gentleman from Texas that such bills had been reported—they might have those bills which were reported before them, might have brought them in here and used them as a basis for the bill they made and with the consent of the Committee on Rules brought them up.

It is a reform that is as crying a need for the administration of this Government as anything of which I know—those two points, the reclassification of the service and the cure of superannuation—and yet the majority on that side of the House has done nothing toward it except that preposterous and crude

proposition which was made in the last Congress, and which I will venture to predict that now when they have the three branches of the Government they will not try to put through the next Congress, but will abandon it.

Mr. BURLESON. The gentleman berates this side of the House for failing to do in 6 months what the gentleman failed to do in 14 years.

Mr. GILLETT. You might have started it. You had the results of our work before you which you might have taken as a basis.

Mr. SLAYDEN. Is not the superannuation plan a pension bill?

Mr. GILLETT. A contributory pension bill.

Mr. FITZGERALD. Mr. Chairman, some features of the gentleman's statement are hardly in accordance with the general gentleness of discourse for which he is noted. As I happened to enter the House the gentleman was endeavoring to point out the fact that the Committee on Appropriations had recommended no increases of compensation during the last session, and that in the pending bill some increases had been made. He seemed to assume that the committee had refused in the last session to recommend any increases because a Republican administration would be the beneficiary of such increases, while their conduct at this time was prompted by the fact that the Democratic administration would be the beneficiary of these increases. The Committee on Appropriations during the last session of Congress, in view of the fact that all branches of the Government had been in complete control of the Republicans for a long period, realizing that the demand existed throughout the country for a halt in the extravagant program that had been followed for years in appropriating and expending public money, laid down a rule that it would not recommend any increases of compensation in any bill reported from that committee, and that unless imperative reasons were shown it would not recommend the creation of any new positions. My recollection is that the Committee on Appropriations made but four recommendations for increases in the bills coming from that committee—one to correct an unintentional reduction of the compensation of a laborer, made by the preceding Congress; two to increase the compensation of laundry women in a tuberculosis hospital in the District of Columbia; and one other that I do not recall. The purpose was to halt the custom that had been in existence of granting indiscriminately favors to those with the largest amount of influence and the most powerful connections. It was attempted to get the estimates on a fair basis in order to be in a position to proceed to do justice in such instances as the future might disclose changes to be necessary. What the committee has done in the present bill is the best answer to the charge that the Democratic committee has attempted to make recommendations that would be for the benefit of a Democratic administration after the knowledge had come to the country that the Democrats were to control the Government after the 4th of next March.

The estimates submitted by this administration for amounts to be carried in the legislative appropriation bill are $2,298,492.12 in excess of the amount actually appropriated for the current fiscal year, and the committee recommends a bill carrying $317,627.88 less than the amount enacted in the law for the current year. So that the committee has recommended a bill of two million and about six hundred thousand dollars less than the present administration estimates will be required after the 1st of July to carry on the departmental service. Ample justification was given to a Democratic House very greatly to enlarge the public service in Washington if it had a desire to take any mere petty political advantage of the situation. But, Mr. Chairman, the committee is confronted by the fact that the estimates submitted by the administration for the ensuing fiscal year are $113,415,455.14 more than the revenues for 1914 estimated by the Secretary of the Treasury, as required by law. This does not take into contemplation the estimates for deficiencies that may for any reason, proper or improper, require additional appropriations during this session; nor does it take into account whatever appropriations may be made for miscellaneous items outside of appropriation bills.

Even if the appropriations, estimated, in round numbers, at $30,000,000, for the Panama Canal, reimbursable out of the issuance of bonds, be eliminated there will still be a deficit of some $83,000,000 contrasted with the estimated revenues forecast by the Secretary of the Treasury. In his report to Congress in accordance with the law, in order to wipe out this deficit or make it as low as possible, the Secretary of the Treasury eliminates the $60,000,000 required under the terms of the sinking-fund act for the redemption of the public debt. Eliminating the amount required for sinking-fund purposes, and also eliminating the $20,000,000 required for Panama Canal construction purposes, reimbursable out of the bonds authorized to be issued, there will still be a deficit of over $22,000,000, without taking into consideration deficiencies or miscellaneous items and without considering any authorizations of any character for new river and harbor projects or new public buildings.

It seems to me that, instead of criticizing the Democratic House for making the comparatively few recommendations for increases of compensation of persons in the classified service in the legislative bill, gentlemen on that side of the House might better devote themselves to some discussion or explanation of the very remarkable financing of public operations in which this administration seems to be engaged. I take it that if Congress were to accept the estimates of the various executive departments and appropriate in accordance with them this administration would have the satisfaction of knowing that a Democratic Congress would be required to find at least $83,000,000 additional to the revenues now available in order to meet the obligations of the Government.

I hope Members of the House will bear these facts in mind during this coming winter, and that in the consideration of legislation designed to fix permanently large annual charges upon the revenues of the Government some attention will be paid to the fact that it is not necessary that Congress shall devote its time to the means by which the public revenues shall be expended, but that it will be necessary to give considerable time and thought to ascertaining sources from which additional public revenues may be obtained. [Applause.]

Mr. MANN. Mr. Chairman, the gentleman from Massachusetts [Mr. GILLETT] seems to have provoked some personal criticism of himself by suggestions which he made, which apparently were not understood on the Democratic side of the House. I did not understand the gentleman from Massachusetts to criticize the items of increase of salaries in this bill at all. He merely called attention to the fact that in the last session, when it was uncertain as to who would have control of the Government the next time, the Democrats had taken the position that they would not make any increase of salary, and that at this time they have made some increases to which, I think, he does not object.

The distinguished gentleman from Texas [Mr. BURLESON], who hopes to be in the Cabinet of the next President—and I agree with him in that respect [applause]—suggested that it was the fault of the gentleman from Massachusetts, as the chairman of the Committee on Reform in the Civil Service, that changes have not been made.

I served on that committee for many years with the gentleman from Massachusetts as chairman, and I can testify that there were many rocks placed in the road of his automobile in the line and direction which he sought to run it. I threw some of them myself. [Laughter.] He has worked diligently in this House for many years for the purpose of effecting reforms in the administrative branch of the Government, and no one ought to criticize him for again calling attention to what he believes are necessary reforms, and for criticizing the other side of the House for not bringing in those reforms.

I do not object, Mr. Chairman, to the Committee on Appropriations having made recommendations of increases of salary. I think last year there ought to have been some increases. I have no doubt this year there ought to be some increases. I do not believe that the Committee on Appropriations in making recommendations this year have been influenced by the fact that they were personally interested in the offices where the salaries were increased, or that their party was personally interested in those offices. After a while we will reach the real distinction between Democrats seeking election and Democrats after election, when we are called upon to vote for an extravagant and unnecessary public-building bill and an extravagant river and harbor bill, when the boys really get in their work on the pork-barrel bills which they were afraid to pass at the last session of Congress, but which they determined to have at this session.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For mileage of Senators, $51,000.

Mr. COX of Indiana. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by adding after line 4, page 2, the following:

"*Provided*, That hereafter Members of Congress, Delegates from Territories, the Resident Commissioner from Porto Rico, and the Resident Commissioners from the Philippine Islands shall be paid only their actual traveling expenses while traveling from their homes to Washington City and return on the usual and ordinary route of travel from their legal residence: *Provided*, That said sums of money shall be paid out upon the certificate of the Members of Congress, Delegates from Territories, the Resident Commissioner from Porto Rico, and the Resident Commissioners from the Philippine Islands, and not otherwise."

Mr. FITZGERALD. Mr. Chairman, I make the point of order that that amendment is not germane to the portion of the bill which has just been read. This portion of the bill deals with the appropriation for the Members and officers of the United States Senate. The amendment suggested by the gentleman covers a great many things not at all relating to the Senate.

The CHAIRMAN. The Chair will hear the gentleman from Indiana [Mr. COX].

Mr. COX of Indiana. Mr. Chairman, I think the amendment is germane to the subject under consideration. The part of the bill to which the amendment proposes to apply is—

For mileage of Senators, $51,000.

The subject of inquiry now under consideration is the question of mileage, and anything which relates to that subject is, in my judgment, germane.

Under clause 2 of Rule XXI, known as the old Holman rule, it certainly becomes germane. Anything is in order which tends to reduce the public expenditures and to bring economy in the administration of the affairs of this country. I insist that it is germane because it relates particularly and peculiarly to the subject under inquiry.

The subject under inquiry is that of the mileage of Senators. While it is true that the amendment which I propose here is somewhat broader than the language set out in this paragraph, relating exclusively to the mileage of Senators, and the amendment relates not only to the mileage of Senators but to the mileage of Representatives, Delegates, and Resident Commissioners, I do not believe that under the rules and practices of the House its germaneness is destroyed. The vital question, as far as germaneness is concerned, is the question. Does the amendment relate to the subject under inquiry? If it does, it becomes germane. I do not believe the point of order is well taken.

The CHAIRMAN. Does the gentleman from New York [Mr. FITZGERALD] desire to be heard further on the point of order?

Mr. FITZGERALD. No; I do not.

The CHAIRMAN. It seems to the Chair that this comes within the Holman rule and is germane, for the reason that it applies to Members of Congress and is a limitation on the appropriation.

Mr. MANN. If the Chairman will permit, the portion of the bill under consideration is headed:

Legislative—Senate.

It is a familiar rule that an item which may be germane to a bill may still not be germane to a particular portion of the bill. This amendment is offered in connection with the appropriation for the mileage of Senators, but is not confined to the mileage of Senators. It includes the question of mileage for the Members of the House. The appropriation for mileage of Members of the House is carried in an entirely different portion of the bill.

The CHAIRMAN. The Chair will ask the gentleman from Illinois a question in that connection.

This paragraph simply appropriates for the mileage of Senators, while the amendment undertakes to designate the amount of money that may be received either by a Senator or by a Member of the House?

Mr. MANN. Yes.

The CHAIRMAN. If this amendment is adopted here, would it not apply equally to Members of the House, although the appropriation for their mileage is made at a different point in the bill?

Mr. MANN. It would apply if it were offered at that point in the bill.

The CHAIRMAN. Even if this amendment is not offered at that point, this being a limitation on the appropriation made elsewhere for the mileage of Members of the House, it seems to the Chair that it would apply to that appropriation wherever made.

Mr. FITZGERALD. There is no appropriation in this paragraph for mileage for Members of the House, and an amendment providing for mileage for Members of the House, Delegates and Commissioners would not be in order at this point, because it would not be germane. At this point provision is made to pay the mileage of Senators. Any amendment to be in order at this point must be germane. An amendment proposing to reduce the stationery allowance of Members of the House would not be in order here. No more is an amendment to control the amount of mileage to be paid a Member.

The CHAIRMAN. Does the gentleman from New York contend that a limitation on the amount of mileage received by Senators would not be in order?

Mr. FITZGERALD. That is not this question. The question is much more comprehensive than that; it embraces Members of the Senate and Members of the House, Delegates, and Resident Commissioners. An amendment affecting them is not germane to a provision confined exclusively to Members of the Senate.

Mr. MANN. Mr. Chairman, personally, I doubt whether the amendment is permissible under the provisions of the Holman rule. But I am inclined to think that both the gentleman from New York and myself are mistaken. An amendment if it was offered is germane to this portion of the bill affecting the mileage of Senators, and if the item was offered as to the mileage of Senators, I think an amendment to that effect as to the mileage of the Members of the House would be in order, and if so, it is in order as originally offered in one item.

The CHAIRMAN. The Chair is ready to rule unless the gentleman from Indiana wishes to be heard.

Mr. COX of Indiana. Mr. Chairman, I do not think I have anything further to say except that I think it comes clearly under article 2, Rule XXI, what is known as the Holman rule, and, as I said a moment ago, I think it is germane. What is the subject under inquiry? It is the question of mileage. True, the paragraph relates to the mileage of Senators, but as the Chairman knows, Senators are Members of Congress exactly as are Members of the House, and because my amendment brings in two more classes of persons who are Members of this same body, to wit, the Resident Commissioner of Porto Rico and the Commissioners of the Philippine Islands, yet I insist that that does not destroy the germaneness of the amendment which I offer.

The Chair, of course, is conversant with the rule to which I have referred. It reads, in part:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except as such as being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amounts of money covered by the bill.

And so forth.

It seems to me, Mr. Chairman, that the amendment I have proposed to the bill comes squarely within that part of the rule. It is germane because the subject of inquiry is that of the mileage of a part of the Members of the Congress of the United States, because my amendment uses language which covers two or three other persons, yet the subject to which my amendment already applies is that of mileage, and I insist is germane.

The CHAIRMAN. This amendment proposes to cut down or limit the mileage allowed to Senators, Members of Congress, Resident Commissioners, and Delegates. If it applied only to Senators it would undoubtedly be germane to this paragraph, but it is a broader amendment than that and applies to all Members of Congress. Now if an amendment, as suggested by the gentleman from Illinois, was offered to limit the mileage of Senators had been submitted, an amendment to that amendment to include Members of the lower House of this body would have been in order. So it seems to the Chair that since the amendment embraces both of the subjects that would have been in order it is germane, and the Chair overrules the point of order.

Mr. COX of Indiana. Mr. Chairman, I do not desire to take much of the time of the House in discussing this question, because it has been discussed on the floor of the House time and time again. I do not know that I can add anything to what has been said on this subject by men abler than I am to present it. But, Mr. Chairman, I do believe that this amendment should carry and that it should be made permanent law. I think the Appropriations Committee last winter and summer did splendid work in reducing the appropriations, and I think they should be commended for it, and I have no doubt that their splendid work in reducing the appropriations was reechoed throughout the country during the campaign and materially aided the Democratic Party in achieving the splendid victory in the November election.

The appropriations last year were reduced something like $31,000,000 below what any previous Congress had made them. I have believed for some time that it was the odds and ends of Congress in making appropriations that the people have a meritorious right to protest against. The people have no right to object, nor do I believe they do object, against meritorious appropriations, made to legitimately run the Government. It will not be contended by any Member of this House for a moment that it costs him 20 cents per mile each way to travel from his home to the city of Washington and return by the usual and ordinary routes of travel between his residence and the Capital.

In fact, it can not possibly cost him 20 cents per mile. Almost all railroads in the country sell tickets for 2 cents per mile, and this, with sleeping-car berths and meals en route, does not amount to 5 cents per mile. There is not a Member of the House, though he live at the remotest corner or section of the United States, who can not travel from his home to Washington City on 5 cents a mile or less.

It is not so much a question of saving this amount of money, though this is an item to be considered, as it is the principle involved in the case. When the Democratic Party got control of this House a little over a year ago it began with its pruning knife. It lopped off a tremendous lot of useless jobs here and there, and which were conceded to be useless, because, after cutting out these useless jobs, the organization of the House moved right on, showing that the jobs disposed of had been useless, so far as efficiency of the organization of the House is concerned.

I believe that the cutting out of these useless jobs saved the Government approximately $180,000 per year in the way of salaries. Another practice has grown up here to which I could not subscribe, and that was allowing the employees of the House a month's extra salary. This was cut out by the Democratic caucus and saved the country approximately $65,000. I believe the country agreed with the Democratic Party, when in caucus assembled, that it did right in abolishing the large number of useless jobs and cutting out the extra month's pay for the employees of the House.

What kind of position have we got ourselves into by this kind of legislation? Let me appeal to you, my Democratic friends, who propose to stand for economy, to look this question squarely in the face. Are we doing justice, are we doing right, when we say to the little employee who travels from the Pacific coast, at a cost to him of from $65 to $100, making a trip here to fill a position the salary of which ranges from $1,200 to $1,500 per year or less, we will deny him his extra month's salary, which was given to him for the purpose of compensating him for his mileage, and at the same time refuse to repeal our 20 cents per mile and allow ourselves to be paid our actual traveling expense? Is this justice? Is it right to refuse to allow the employees of the House their month's salary in lieu of mileage and at the same time refuse to repeal the law allowing us 20 cents per mile each way for going and returning, and in lieu of that allow ourselves actual traveling expenses when this is more than we are giving to the employees of the House?

Mr. BYRNS of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. COX of Indiana. Certainly.

Mr. BYRNS of Tennessee. Mr. Chairman, I want to say to the gentleman that I am thoroughly and heartily in sympathy with the purpose of his amendment, and I have taken occasion to say so several times upon this floor. I want to ask the gentleman, with reference to the amendment as it is drawn, if it is not, as a matter of fact, possible under that amendment, as it was read from the Clerk's desk, for Members of the House to go back and forth from their homes and the city of Washington any number of times during the session and collect actual traveling expenses for each trip?

Mr. COX of Indiana. I do not believe so.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. COX of Indiana. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection? There was no objection.

Mr. COX of Indiana. The language used by me in the amendment read from the desk follows very closely the language of the old statute, which allows Members to collect 20 cents per mile each way, going and returning by the usual routes of travel.

Mr. BYRNS of Tennessee. Does not the gentleman think, in order that there may be no question about it, that he better provide expressly upon the face of the amendment that it should be paid only once during each session?

Mr. COX of Indiana. If the gentleman has any question about it, I would be very glad to accept such an amendment.

Mr. BYRNS of Tennessee. I am just suggesting that to the gentleman.

Mr. COX of Indiana. Mr. Chairman, I do not believe that the amendment I have offered will permit a Member of Congress to charge for different trips. In any event, I take it that no Member of Congress would undertake to charge for more than one trip. I regard Members of Congress as being high-priced men, and I would not believe for a moment that any Member, even though the amendment which I have offered might permit him to do so, would charge for extra trips to his home. I do not think he would do it, because of the moral obloquy he would undoubtedly bring upon himself if he attempted to do so.

Mr. KINDRED. Mr. Chairman, will the gentleman yield?

Mr. COX of Indiana. Certainly.

Mr. KINDRED. Mr. Chairman, I am sorry that I lost the drift of what the gentleman said on this phase of the subject. How many trips does the gentleman's amendment anticipate?

Mr. COX of Indiana. One here and one home. Mr. Chairman, a year ago last summer I looked into the question of mileage with some considerable degree of care. It is much broader than the mere question of mileage to Members of Congress. I give it as my sincere judgment that this country could save approximately a million dollars a year by looking into the mileage proposition. The officers of the Army while traveling on duty are allowed 7 cents a mile while coming and going to and from their posts of duty. A short time ago I asked the War Department to furnish me with vouchers or copies of vouchers for travel pay of officers, the appropriation of which was something like $500,000, and on reading these vouchers I found some exceedingly interesting reading. For instance, each year a tremendous amount of money is paid out to officers of the Army at the rate of 7 cents per mile while traveling from one point to another for the sole purpose of taking test rides. If this was remedied and the officers of the Army put on actual expense basis, it would save the people a tremendous sum of money each year.

The statute allowing Members of Congress 20 cents per mile was passed in 1799, long before the era of railroads in this country and at a time when travel was made on foot, on horseback, and conveyance, and at a time when, no doubt, it cost the Members of Congress at least 20 cents per mile each way to make the journeys from their homes to the capital and return. For instance, Members living in New England and in Georgia, where they had to travel 600 or 700 miles in order to reach the capital, and over poor roads which no doubt existed at that time, and being several days on their journey, no doubt but what it cost them at least 20 cents per mile to make their journey; but to-day when the remotest sections of our country, the United States, can easily be reached by rail in four or five days' travel, with fare reduced on all trunk-line railroads to 2 cents per mile, there is no reason why the old statute passed in 1799 should not be either repealed outright or amended so as to meet improved conditions of travel of to-day.

At the time when the old statute was enacted the salary of Members of Congress was $7 per day, and the salary has been increased from time to time, until to-day it is $7,500 per year. To repeal the old statute or to amend it by paying actual traveling expense is in line of progress with the interests of the day. I know of no business house in this country that pays its employees mileage, but all of them pay their employees actual traveling expenses, and these expenses are paid out on vouchers furnished by the employees.

Mr. Chairman, we can not in good faith remedy the mileage evil as I think it exists in other branches of the Government to-day so long as we fail to remedy our own mileage. The law should either be repealed outright or should be amended so as to pay each Member his actual traveling expenses. This is fair, just, and equitable and is in line with progressive business interests of the country.

Mr. SIMS. Mr. Chairman, the gentleman from Indiana [Mr. Cox] is talking about a reform making a large saving. I am not taking issue with him on that point, but why should not the gentleman go further? I think when a man is elected to this House and paid a salary for his services the Government ought to be entitled to his entire time. We are asked here daily to excuse Members from attendance upon the sessions of the House on account of important business. Under the rules of the House, when a Member is absent without leave——

Mr. COX of Indiana. Is the gentleman addressing that to me?

Mr. SIMS. The gentleman from Indiana was talking on the subject, and I want to invite the gentleman's attention to this point: Under the rules of the House, perhaps the law—I am not sure about that—when a Member is absent without leave he forfeits his salary, and yet we every day excuse men from attendance on the House on account of important business. If the gentleman will figure upon that he will find that perhaps he can save the Treasury a great deal by deducting the salary from Members who are absent on important business by refusing to permit them to leave this House to attend to important private business. I admit that when a man's family, or a member of same, is ill, or something of that sort, that he should be permitted to leave and remain away during such illness; but when Members leave to attend to business that pays them better than their salary, why should not they forfeit the salary for

the time they have been away attending preferably to important private business? I do not desire the gentleman to understand me as making a speech in opposition to his amendment; but since the gentleman has started on a line of economy, why not pursue it in this direction and not have the whip of this House wear himself out to get a quorum here at times when it is very important to have one because gentlemen are excused by this House on account of important business. It seems to me while the gentleman is advocating reforms—and I think he is perfectly sincere—that he might urge reforms all along the line and refuse any Member of this House leave to be absent simply because he has important business, and thereby he will save many more thousands of dollars than he is now trying to save to the Treasury and at the same time expedite the legislation of this House very materially; and yet when we hear read from the desk that Mr. A or Mr. B asks leave of absence for 10 days on account of important business I do not hear the gentleman from Indiana or anybody else object.

Mr. BUTLER. How do you save the Treasury when he is here?

Mr. FITZGERALD. Mr. Chairman, this question of mileage has been discussed in the House during my entire 14 years of service. From time to time various Members have suggested that the amount of mileage allowed to Members be reduced. I have very little interest in the matter; that is why I have at times participated in the discussion. The amount of money paid to me each session of Congress under the law is $92, so that it makes little difference whether we abolish the mileage, reduce the rate, or fix some other basis upon which it shall be paid. The Committee on Appropriations reports the amount necessary to pay the amount of mileage under the existing law. It did not take up or discuss or consider the advisability of changing the present allowance. During the present Congress at each of the two previous sessions the matter was presented, debated, and decided in the House, and upon each occasion the House by a substantial majority determined that it would not change the rate of mileage.

In view of those circumstances, the committee presented the bill carrying the amount necessary to pay mileage in accordance with existing law. I do not care at this time to discuss at length the necessity, the advisability, or the propriety of changing the present rate. Members from a long distance who are compelled to close their homes and move their families—in many instances part of their household goods—and establish themselves in Washington for a period running from four to eight or nine months, insist that the expense incident to such change or transfer of residence for themselves and their families is not more than met by the allowance under this statute. Arguments have been made that the purpose was not only to cover the personal traveling expenses of the Member himself, but to compensate him for all the expenditures necessitated by the transfer of his family and his home to the capital during the period he is required to remain here. All the reasons for and against the present rate and proposed change of rate are familiar to the Members of the House. I think we can easily determine the question without very much discussion.

Mr. SISSON. Mr. Chairman, I will detain the House for but a moment. I do not know that the amendment is so drawn that it would limit the Members to only one trip, but the proponent of the amendment states to me that that is his purpose and his intention. My objection to the present system of paying mileage is this: The gentlemen who live within a few miles of the Capital get a very small or practically no compensation at all. A man living at the distance from the Capital that I do gets something like $400 mileage. Those out West get over $1,000 mileage.

Now, the original discussion in reference to mileage paid in the First Congress hung upon this proposition, that the compensation of all Members of Congress should be the same. Therefore, in settling the question as to the location of the Capital, it was arranged so that those people who lived close to the Capital, who would have to pay but little money to get here, and those who lived a long distance from the Capital, who would have to pay a great deal more to reach the Capital, should get the same amount of salary. Under the old rules of traveling by stagecoach the amount paid originally was to pay actual traveling expenses for one round trip. Now, this mileage proposition presents an inequality of compensation which is not justified. I would prefer, rather than to have items for all sorts of expenses paid, to have a mileage basis such that it would be fixed by law, say 5 cents a mile for each way. That would certainly cover the expenses of a man and his wife, because you only pay now about 2 cents a mile for traveling expenses. Nor do I think it absolutely necessary that the expenses of the entire household should be borne by the Federal Government in getting to the Capital. I shall vote for the amendment which is offered by the gentleman from Indiana [Mr. Cox], but I hope he will so word the amendment that it can be beyond question that only one mileage shall be allowed.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. MANN. Mr. Chairman, there never will be any entirely satisfactory solution of the question of the payment of expenses for Members coming to Washington from their homes, because there is no way, of which I know, at least, of absolutely equalizing the matter. It would be a very easy matter to provide for the payment of expenses of the Member of Congress himself, and if it is the desire of Congress to have men come here from home and leave their families behind, that is a very good way to proceed. I would much rather have a Congress composed of Members with their families here, and men living with their families in Washington than have the families of Members at home and Members carousing here in Washington, because that is almost the inevitable effect. There is not a legislature in this country at any State capital where members go to the legislature for a few days in the week by themselves and go home at the end of the week, where they transact business with the same degree of propriety and sobriety as is done in Washington, where Members come and bring their families with them.

Now, there is no equitable way that I know of fully determining the method of expenditure for bringing a man's family here. The gentleman from Mississippi [Mr. SISSON] suggests that 5 cents a mile each way will bring a man and his wife here. I do not know where it will do that. Possibly it will from Chicago, but I do not know. I know of no place in the country generally where you can travel at that rate. But a man and his wife are not the only members of many families. It is desirable that men who are elected to Congress have the ability to bring their children here, who ought to be under the control of the father and the mother. It is immaterial to me whether this amendment is agreed to or whether they pay mileage at all; but I know Members in this House whose mileage does not cover the expenditures which they make to bring their families to Washington. I believe that it is to the interest of the Government that the families of Members do come, as far as it is possible to bring them.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Indiana [Mr. Cox].

Mr. COX of Indiana. Mr. Chairman, there seems to be some question about the amendment. I ask unanimous consent to insert in my amendment the following words: "going to and returning from each session, for one trip only."

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to amend his amendment in certain particulars named by him. Is there objection?

There was no objection.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Indiana.

Mr. CANNON. What is the amendment?

The CHAIRMAN. The amendment will be reported again.

The Clerk read as follows:

After the word "residences" insert "in going to and returning from each session, for one trip only."

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Indiana.

The question was taken, and the Chairman announced that the "noes" appeared to have it.

Mr. COX of Indiana. A division, Mr. Chairman.

The House divided; and there were—ayes 21, noes 37.

Mr. COX of Indiana. I make the point that there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and three Members are present—a quorum. The Clerk will read.

The Clerk read as follows:

Office of the Vice President: Secretary to the Vice President, $4,000; messenger, $1,440; telegraph operator, $1,500; telegraph page, $600; in all, $7,540.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I would like to inquire what are the duties of the telegraph operator to the Vice President and of the telegraph page. We abolished the telegraph instruments in the House apparently without any detriment to anyone except those who held the places. But why does the Vice President need a telegraph operator and a telegraph page—both?

Mr. JOHNSON of South Carolina. I will say to the gentleman that the telegraph office at the Senate end of the Capitol is not exclusively for the use of the Vice President, nor is the page exclusively for his use. It is simply a convenience provided for the use of the Senate.

Mr. MANN. That applies to the telegraph operator provided for by the Senate?

Mr. JOHNSON of South Carolina. Yes; to the telegraph operator provided for by the Senate. The Vice President appoints the messenger.

Mr. PALMER. Mr. Chairman, is it not a fact that the appropriation for the maintenance of this telegraph wire that formerly ran between the Capitol and the departments has been discontinued?

Mr. JOHNSON of South Carolina. Only as to the House of Representatives.

Mr. PALMER. Do they still maintain a telegraph line from the Capitol around to the departments?

Mr. JOHNSON of South Carolina. I understand that they do.

Mr. PALMER. It ought to be cut out.

Mr. MANN. I agree with the gentleman from Pennsylvania that it ought to be cut out.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Office of Secretary: Secretary of the Senate, including compensation as disbursing officer of salaries of Senators and of the contingent fund of the Senate, $6,500; hire of horse and wagon for the Secretary's office, $420; Assistant Secretary, Henry M. Rose, $5,000; chief clerk, $3,250; financial clerk, $3,000 and $1,250 additional while the office is held by the present incumbent; minute and journal clerk, principal clerk, reading clerk, and enrolling clerk, at $3,000 each; executive clerk, and assistant financial clerk, at $2,750 each; librarian, file clerk, chief bookkeeper, assistant journal clerk, two clerks, printing clerk, and clerk compiling a history of revenue bills, at $2,590 each; first assistant librarian, $2,400; keeper of stationery, $2,400; compiler of Navy Yearbook and Senate report on river and harbor bill, $2,220; indexer for Senate public documents and two clerks, at $2,220 each; two clerks, at $2,100 each; assistant librarian, $1,800; assistant librarian, $1,600; skilled laborer, $1,200; clerk, $1,800; clerk, $1,000; assistant keeper of stationery, $2,000; assistant in stationery room, $1,200; messenger, $1,440; assistant messenger, $1,200; three laborers, at $840 each; three laborers, at $720 each; laborer in stationery room, $720; in all, $94,040.

Mr. CULLOP. Mr. Chairman, I desire to reserve a point of order against the following in the bill, on lines 16 and 17: "And $1,250 while the office is held by the present incumbent." I desire to reserve a point of order against that part of it. I would like to ask the author of the bill or the gentleman in charge of the bill a question about that. Is the salary of this officer, the financial clerk, fixed by law at $3,000 a year?

Mr. JOHNSON of South Carolina. No.

Mr. CULLOP. Why is it that it is proposed in this bill to say that this incumbent shall have an increase of $1,250 while he holds the office?

Mr. JOHNSON of South Carolina. This appropriation has been carried in the bill for many years. It was put in by the Senate, and under the rules of comity that obtain between the House and the Senate we have no means of inquiring into the propriety of those expenditures that they make for their convenience and comfort.

Mr. FITZGERALD. Mr. Chairman, there is a different reason. The occupant of this place has not only occupied it for many years, but he is a peculiarly expert man. The Senate has done with reference to this officer what the House has done with reference to the clerk of the Committee on Appropriations. Everybody recognizes his peculiar fitness. They did not fix the compensation above a certain amount, but they felt that because of long years of faithful and efficient service this particular officer, while occupying the place, should be paid this additional sum, and that when he went out of the office his successor would be paid what it had been customary to pay prior to the time it was thought proper to give him this promotion.

Mr. CULLOP. With all due deference to that explanation, I think it would be proper, if the salary is to be raised, to raise it in the regular way. Everybody knows that if this is carried in this manner in the appropriation bill it means that this will be the permanent salary.

Mr. FITZGERALD. Oh, no.

Mr. CULLOP. That it will be the salary of the successor of this man. I do not think that is a proper way to raise the salaries of officers. If he is worth $1,250 a year more than the salary, his salary ought to be increased by the amount of $1,250 a year, and we ought not to carry it along in this way, in my judgment, because it means the fixing of the permanent salary at $4,250 a year.

Mr. FITZGERALD. The gentleman is absolutely mistaken. Mr. Cleaves, who was connected with the Committee on Appropriations in the Senate for about 36 years, received during the latter years of his service $1,000 additional to the usual compensation. Provision was made that during his incumbency that additional sum should be paid to him. When he died and his successor was appointed, that additional $1,000 was dropped out of the appropriation bill. The purpose was to make it possible to fix adequate compensation for the men who, regardless of the change of political control of these two Houses, are retained, and perform faithful and peculiarly efficient service, by giving them additional compensation. When they go out of office, their successors are given the compensation fixed for the places.

The disbursing officer of the Senate has been receiving this compensation for many years, and it would be manifestly unfair to him at this time to attempt to reduce his compensation $1,250.

Mr. CULLOP. How long has this gentleman held this position?

Mr. FITZGERALD. The clerk of the Committee on Appropriations says he has been there about 40 years.

Mr. CULLOP. How long has this item been carried in the bill in this way at the increased salary?

Mr. FITZGERALD. Six or eight years.

Mr. CULLOP. I think it ought to be dropped, and I move to amend by striking out, in lines 16 and 17, the words "and $1,250 additional while the office is held by the present incumbent."

The CHAIRMAN. The gentleman from Indiana [Mr. CULLOP] withdraws his point of order and offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 2, lines 16 and 17, by striking out, after the figures "$3,000," the words "and $1,250 additional while the office is held by the present incumbent."

Mr. FOWLER. Mr. Chairman, I desire to reserve a point of order against this paragraph. I was on my feet for the purpose of doing so when the point of order was reserved by the gentleman from Indiana [Mr. CULLOP].

The CHAIRMAN. The gentleman from Illinois reserves the point of order against the item.

Mr. FITZGERALD. Is the gentleman going to make the point or not? This is the salary that this man has been receiving. If the gentleman intends to make the point of order, let him make it.

Mr. FOWLER. I make the point of order, Mr. Chairman.

Mr. FITZGERALD. I wish to submit to the Chair that it is not subject to the point of order. This man is receiving this particular sum for the current year, and under the rulings of the Chair where the compensation of an officer is not fixed by statute his compensation is the amount which he receives in the current appropriation act. This particular compensation, expressed in this particular form, is the compensation fixed by the current law.

The CHAIRMAN. The Chair does not understand whether this salary is fixed by statute.

Mr. FITZGERALD. It is not. It is only fixed by the current appropriation law.

Mr. CULLOP. Mr. Chairman, that was the reason why I made my motion to amend instead of making the point of order, because the gentleman from New York [Mr. FITZGERALD] had answered me that the salary was not fixed by law.

The CHAIRMAN. If this compensation is not statutory, the point is not well taken. If the gentleman from Illinois [Mr. FOWLER] has any statute provision fixing this salary, the Chair will hear it.

Mr. FOWLER. Mr. Chairman, I do not know whether there is a statute fixing this salary or not. I presumed that there was, as the salary had been fixed at $3,000 and the appropriation for this has been carried for many years past at that amount. I have not taken the pains to look up this salary as to whether it is fixed by law or not. This bill came in and was printed last night, and this morning was the first opportunity I had for the purpose of making an examination of the bill.

The CHAIRMAN. The precedents are to the effect that where the salary is not fixed by statute the past and current appropriations make it law, and therefore the Chair overrules the point of order. The question recurs on the amendment offered by the gentleman from Indiana to strike out certain language.

The question was taken, and the amendment was lost.

The Clerk read as follows:

Clerks and messengers to the following committees: Additional Accommodations for the Library of Congress—clerk $2,220, messenger $1,440; Agriculture and Forestry—clerk $2,500, assistant clerk $1,800, messenger $1,440; Appropriations—clerk $4,000, two assistant clerks at $2,500 each, two assistant clerks at $1,440 each, messenger $1,440, laborer $720; To Audit and Control the Contingent Expenses of the Senate—clerk $2,500, messenger $1,440, messenger $1,200; Canadian Relations—clerk $2,220, messenger $1,440, messenger $1,200; Census—clerk $2,220, assistant clerk $1,200, messenger $1,440; Civil Service and Retrenchment—clerk $2,220, messenger $1,440, messenger $1,200; Claims—clerk $2,500, assistant clerk $2,000, assistant clerk $1,440, messenger $1,200; Coast and Insular Survey—clerk $2,220, messenger $1,440; Coast Defenses—clerk $2,220, assistant clerk $1,440, messenger $1,200; Commerce—clerk $2,500, assistant clerk $1,800, messenger $1,440; Conference Minority of the Senate—clerk $2,220, assistant clerk $1,800, messenger $1,200; Conservation of National Resources—clerk $2,220, assistant clerk $1,200, messenger $1,440; Corporations Organized in the District of Columbia—clerk $2,220, messenger $1,440; Cuban Relations—clerk $2,220, assistant clerk $1,440, messenger $1,200; Disposition of Useless Papers in the Executive Departments—clerk $2,220, messenger $1,440; District of Columbia—clerk $2,500, assistant clerk $1,800, messenger $1,440; Education and Labor—clerk $2,220, assistant clerk $1,440, messenger $1,200; Engrossed Bills—clerk $2,220, messenger $1,440; Enrolled Bills—clerk $2,220, assistant clerk $1,440; To Examine the Several Branches of the Civil Service—clerk $2,220, messenger $1,440; Expenditures in the Department of Agriculture—clerk $2,220, messenger $1,440; Expenditures in the Department of Commerce and Labor—clerk $2,220, messenger $1,440; Expenditures in the Interior Department—clerk $2,220, messenger $1,440, messenger $1,200; Expenditures in the Department of Justice—clerk $2,220, assistant clerk $1,440; messenger $1,440; Expenditures in the Navy Department—clerk $2,220, messenger $1,440, messenger $1,200; Expenditures in the Post Office Department—clerk $2,220, messenger $1,440, messenger $1,200; Expenditures in the Department of State—clerk $2,220, messenger $1,440; Expenditures in the Treasury Department—clerk $2,220, messenger $1,440, messenger $1,200; Expenditures in the War Department—clerk $2,220, messenger $1,440, messenger $1,200; Finance—clerk and stenographer $3,000, assistant clerk $2,220, assistant clerk $1,600, assistant clerk $1,440, messenger $1,440; Fisheries—clerk $2,220, assistant clerk $1,440, messenger $1,440; Five Civilized Tribes of Indians—clerk $2,220, messenger $1,440; Foreign Relations—clerk $2,500, assistant clerk $2,220, messenger $1,440; Forest Reservations and Protection of Game—clerk $2,220, messenger $1,440; Geological Survey—clerk $2,220, messenger $1,440; Immigration—clerk $2,220, assistant clerk $1,800, messenger $1,440; Indian Affairs—clerk $2,500, assistant clerk $1,440, messenger $1,440; Indian Depredations—clerk $2,220, messenger $1,440; Industrial Expositions—clerk $2,220, messenger $1,440, messenger $1,200; Interoceanic Canals—clerk $2,220, assistant clerk $1,440, messenger $1,200; Interstate Commerce—clerk $2,500, two assistant clerks at $1,800 each, messenger $1,440; To Investigate Trespassers on Indian Lands—clerk $2,220, messenger $1,440; Irrigation and Reclamation of Arid Lands—clerk $2,220, messenger $1,440, messenger $1,200; Judiciary—clerk $2,500, assistant clerk $2,220, two assistant clerks at $1,800 each, messenger $1,440; Joint Committee on the Library—clerk $2,500, assistant clerk $1,440, messenger $1,200; Manufactures—clerk $2,500, assistant clerk $1,440, messenger $1,440; Military Affairs—clerk $2,500, assistant clerk $2,220, assistant clerk $1,800, messenger $1,440, messenger $1,200; Mines and Mining—clerk $2,220, messenger $1,440, messenger $1,200; Mississippi River and Its Tributaries—clerk $2,220, messenger $1,440; National Banks—clerk $2,220, messenger $1,440; Naval Affairs—clerk $2,500, assistant clerk $1,440, messenger $1,440; Pacific Islands and Porto Rico—clerk $2,220, assistant clerk $1,800, messenger $1,440; Pacific Railroads—clerk $2,220, messenger $1,440; Patents—clerk $2,220, messenger $1,440, messenger $1,200; Pensions—clerk $2,500, assistant clerk $1,800, three assistant clerks at $1,440 each, messenger $1,440; Philippines—clerk $2,220, assistant clerk $1,800, messenger $1,440; Post Offices and Post Roads—clerk $2,500, three assistant clerks at $1,440 each, messenger $1,440; clerk of printing records $2,220, assistant clerk $1,800, messenger $1,440; Private Land Claims—clerk $2,220, assistant clerk $1,800; Privileges and Elections—clerk $2,220, assistant clerk $1,440, messenger $1,440; Public Buildings and Grounds—clerk $2,500, assistant clerk $1,440, messenger $1,440; Public Health and National Quarantine—clerk $2,220, assistant clerk $1,440; Public Lands—clerk $2,500, assistant clerk $1,800, assistant clerk $1,440, messenger $1,440; Railroads—clerk $2,220, messenger $1,440; Revolutionary Claims—clerk $2,220, messenger $1,440; Rules—clerk $2,220, assistant clerk $1,800, messenger $1,440; Standards, Weights, and Measures—clerk $2,220, messenger $1,440; Territories—clerk $2,220, assistant clerk $1,440, messenger $1,440; Transportation and Sale of Meat Products—clerk $2,220, messenger $1,440; Transportation Routes to the Seaboard—clerk $2,220, messenger $1,440; University of the United States—clerk $2,220, messenger $1,440; Woman Suffrage—clerk $2,220, messenger $1,440; in all, $370,940.

Mr. FOSTER. Mr. Chairman, I move to strike out the last word. I want to inquire of the gentleman in charge of the bill in relation to these clerks. I observe here that it has provided for clerks in the Senate to the amount of $370,940, while for the clerks of the House the amount is $162,230. I realize that this has been the practice for some time, but I want to inquire if the committee has ever made any investigation in reference to this matter of the great difference in the amount between the two Houses—the amount appropriated for the Senate clerks and messengers and janitors and those of the House. For instance, in the Post Office and Post Roads they have a clerk at $2,500, three assistants at $1,440 each, and a messenger at $1,440; while in the House Post Office and Post Roads Committee, the committee that prepares the bill and gets it ready, they only have a clerk at $2,500 and an assistant clerk at $1,400 and a janitor at $1,000. There seems to be a great difference in these two items.

Mr. BUTLER. Senators have more post offices than Members of the House.

Mr. FOSTER. The question with me is whether the committee has ever investigated this matter to ascertain if there was any real necessity for this large number of clerks or is it simply because the Senate has asked for them?

Mr. JOHNSON of South Carolina. The Committee on Appropriations of the House has no means of ascertaining the value of the work of clerks to Senate committees. I will say that the conference committee on the last legislative bill held out for many days and weeks against what the Senate was asking for, but it is simply impossible to get this bill through without giving them the clerical help they think they need.

Mr. FOSTER. So they simply make the claim that they need this great number of clerks.

Mr. JOHNSON of South Carolina. We can not contradict their statement or prove that it is not true.

Mr. COX of Indiana. Mr. Chairman, I want to ask a question. I have not had time to compare the present bill with the last bill, but I want to ask the gentleman in charge of the bill when did the clerk to the Committee on Woman Suffrage creep into the appropriation bill?

Mr. JOHNSON of South Carolina. I do not know, but they have such a committee there and it has a chairman.

Mr. COX of Indiana. This is the first time that I ever saw it carried in an appropriation bill.

Mr. FITZGERALD. It has been in the bill right along.

Mr. COX of Indiana. For how many years?

Mr. FITZGERALD. I do not remember, but long enough.

The Clerk read as follows:

Office of Sergeant at Arms and Doorkeeper: Sergeant at Arms and Doorkeeper, $6,500; horse and wagon for his use, $420, or so much thereof as may be necessary; Assistant Sergeant at Arms, $2,500; Assistant Doorkeeper, $2,592; Acting Assistant Doorkeeper, $2,592; 4 messengers, acting as assistant doorkeepers, $1,800 each; 57 messengers, at $1,440 each; 2 messengers on the floor of the Senate, at $2,000 each; messenger at card door, $1,600; clerk on Journal work for CONGRESSIONAL RECORD, to be selected by the official reporters, $2,000; storekeeper, $2,220; upholsterer and locksmith, $1,440; cabinetmaker, $1,200; 3 carpenters, at $1,080 each; janitor, $1,200; 4 skilled laborers, at $1,000 each; skilled laborer, $900; laborer in charge of private passage, $840; 3 female attendants in charge of ladies' retiring room, at $720 each; chief telephone operator, $1,200; 2 telephone operators, at $900 each; night telephone operator, $720; telephone page, $720; superintendent of press gallery, $1,800; assistant superintendent of press gallery, $1,400; laborer, $840; 27 laborers, at $720 each; 16 pages for the Senate Chamber, at the rate of $2.50 per day each during the session, $8,440; in all, $136,244.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I notice an item is carried here for pages for the session at two and a half dollars per day. The computation is for 211 days. I notice that the bill provides that wherever the words "during the session" occur it shall mean 211 days from December 1 to June 30.

Mr. JOHNSON of South Carolina. These estimates were submitted by the Secretary of the Treasury.

Mr. MANN. I understand that the arithmetical computation was made by the Secretary of the Treasury, but probably not personally. It amounts to 212 days, as anybody can easily see, and I wondered whether it was desired to have it accurate.

Mr. JOHNSON of South Carolina. It will be corrected. This is a Senate matter.

Mr. MANN. It is immaterial to me whether they appropriate a sufficient amount or not; I do not know whether it ever is expended or not.

The Clerk read as follows:

For mileage of Representatives and Delegates and expenses of Resident Commissioners, $175,000.

Mr. COX of Indiana. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Amend by striking out the period at the end of line 7, page 12, and insert a colon and add:

"*Provided*, That hereafter Members of Congress, Delegates from Territories, and Resident Commissioners from Porto Rico and the Resident Commissioners from the Philippine Islands shall be paid only their actual traveling expenses while traveling from their residences by the usual route of travel to Washington City and return once for each session of Congress, and which sums of money shall be paid out on the certificate of the Member of Congress, the Delegates from Territories, Resident Commissioners from Porto Rico, and Resident Commissioners from the Philippine Islands and not otherwise."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Indiana.

Mr. COX of Indiana. Mr. Chairman, I do not desire to detain the committee but a moment. In response to what the gentleman from Tennessee [Mr. SIMS] said a moment ago, when the other amendment was under discussion before the House—and I regret he is not now in the Chamber—there may be evils along the line that he suggested, and if there be any let him go to work and correct them. A part of his speech, I take it, was not addressed to me personally. I think every Member of this House knows that last year I could not be here.

Mr. MANN. Oh, the gentleman ought to know that the gentleman from Tennessee did not refer to him. In the absence of the gentleman from Tennessee [Mr. SIMS], permit me to suggest to the gentleman from Indiana that his statement is entirely unnecessary, and he is too sensitive. The gentleman from Tennessee carefully stated that he referred to absence on account of important business, and the gentleman from Tennessee explained to me that he did not wish the gentleman from Indiana to think his remarks were personal to the gentleman from Indiana.

Mr. COX of Indiana. I take it for granted that they were not personal.

Mr. MANN. And I think the Members of the House understood.

Mr. COX of Indiana. I want to take this occasion here to say that I have never, during the six years I have served in this House, asked to be excused on account of important business. Only one business has ever kept me away from this House, and I do not care anything about discussing that.

I desire to reply to what my friend from Illinois, who said a moment ago when the other amendment was up, about our not being able to bring our families here if either of these amendments should obtain, without paying their expenses out of our own pocket. The people in our districts do not vote for the members of our families, but they voted for us, and while I am in thorough accord with the gentleman from Illinois in that every Member of Congress, if it be within his power, should bring his family here, yet I do not believe that the family should be brought here at the expense of the people of this country.

I desire to enlarge a little on the course that we have pursued in this House. I do not understand how a Member of Congress can justify himself in voting against this amendment when he stood in this caucus and voted against appropriating one dollar to pay the little employees of this House an extra month's salary, because, forsooth, they have never been allowed mileage. I always understood that during the time that the Republican Party had control of this House the month's salary was allowed to the employees of the House to compensate them because of the fact they were not allowed mileage and in a measure to equalize and justify the mileage which the Members of Congress appropriated to themselves. I am not quarreling about that. In my candid judgment the position assumed by that side of the House was much more equitable and just than the position which this side of the House is assuming to-day. I believe that the country thoroughly approved the course which our party adopted in cutting out that extra month's salary allowed to the employees. I think that the country believes that the employee who wanted the job and knew exactly what the pay was before he took it was perfectly willing to pay his traveling expenses here to assume the job with the burden it carried. I think the country is in accord with us upon the theory that we did right in cutting it out. We give to ourselves 20 cents a mile. Is it right, is it just, is it equitable, are we dealing with our own employees upon a just basis? I appeal to the Members upon this side of the House. I believe, as I said a while ago, that the entire traveling allowance for all Government employees should be put upon an actual cost basis, or else wipe it all out. It is not alone to us that this applies, but it should apply to various other branches of the Government, and if we on this side of the House are in good faith trying to work out economies along this line, we can save the country approximately $1,000,000 a year; but can we do it? Can we afford to take from the Army officers of this country their 7 cents a mile unless we take out ours? Can we afford to put the Army officers of this country upon an actual travel pay unless we put ourselves upon that basis?

The CHAIRMAN. The time of the gentleman has expired.

The question was taken, and the Chairman announced that the noes seemed to have it.

On a division (demanded by Mr. COX of Indiana) there were—ayes 18, noes 40.

Mr. COX of Indiana. Mr. Chairman, I make the point of order there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred Members are present, and there is a quorum in the committee.

Mr. RODDENBERY. Mr. Chairman, I offer the following amendment: After the words "one hundred and seventy-five thousand dollars" insert.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Provided, That not in excess of 10 cents a mile by nearest route be allowed for mileage in any event for one trip to or from Washington for each Member during a session of Congress.

Mr. RODDENBERY. Mr. Chairman, it is evident from the vote of the committee just had on the two amendments offered by the gentleman from Indiana [Mr. Cox] that the temper of the committee is not such as to reduce the mileage of Members and Senators to the actual expenses of travel. I supported both amendments offered by the gentleman from Indiana and now offer this amendment as a fair, reasonable compromise and concession in the matter if it should be the disposition of the committee to reduce the present 20-cent mileage. It occurs to me, Mr. Chairman, that 10 cents a mile each way, cutting half in two the present mileage, is fair, and will allow a Member who may desire to bring his wife and an additional member of his family actual traveling expenses, and at the same time extracts from the existing law that phase that the public can not fully comprehend, which is, Why is it under the name of mileage 20 cents a mile each way should be allowed a Member of Congress for railroad fare, when 2 cents is the usual rate? I favor this amendment for the sake of the policy that it involves rather than the amount of money it saves. No great sum, viewed from the standpoint of appropriations for the support of the Government, will be saved if this amendment is adopted, or if the amendments of the gentleman from Indiana were adopted, but when we deal with what is nominally an allowance for our expenses in coming to and from Washington it seems to me that we might by adopting this amendment occupy a ground that would be better comprehended by the public and appropriate a sum adequate for our expenses where our families are not unusually large. I trust that the committee may give to this amendment favorable consideration. Viewing the entire mileage proposition in its present light and recognizing that session after session this question of 20 cents a mile each way for a Member of Congress from his home arises, and it will continue to arise, we may well adopt 10 cents for traveling expenses instead of the 20 cents.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. FOWLER. Mr. Chairman, I desire to ask the gentleman a question.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOWLER. I ask for an extension of his time for one minute.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. FOWLER. I desire to know why the gentleman did not include Senators in his amendment as well as Members of the House.

Mr. RODDENBERY. The Senate provision has already been passed and that of Representatives just reached. If the House should place this limitation now upon the mileage of Members, as a matter of course the limitation could be placed by recurrence to the Senate provision. I have no objection to its being placed in at this time, if such amendment be offered. I propose this amendment with no personal element involved. When I come on to Washington with my crowd I bring a wife and four other passengers who pay full fare, and in the course of a year or two will have another one paying full fare. As a general policy, however, it seems to me wise and right to at least cut the present allowance for travel from 20 cents a mile to 10 cents. Therefore the pending amendment is addressed to the judgment of Members.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia.

The question was taken, and the Chairman announced the noes had it.

On a division (demanded by Mr. RODDENBERY) there were—ayes 16, noes 51.

So the amendment was rejected.

Mr. COX of Indiana. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Provided, That hereafter not more than 5 cents a mile shall be paid to Members of Congress, Delegates, and Resident Commissioners of Porto Rico and the Philippine Islands, for one trip in traveling from their homes to Washington City and return, traveling by the usual and ordinary route of travel.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. Cox].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. COX of Indiana. Division, Mr. Chairman.

The committee divided; and there were—ayes 15, noes 48.

So the amendment was rejected.

Mr. COX of Indiana. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to revise and extend his remarks in the RECORD on this subject. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, I simply would like to ask the gentleman whether in extending his remarks in the RECORD it is his intention to represent the Members of Congress outside of those who agree with him as a kind of crook, trying to grab money out of the Treasury without being entitled to it; whether he expects to show in his remarks that his associates in Congress are far beneath him on the question of honesty and honor?

Mr. COX of Indiana. Mr. Chairman, I am astonished at the gentleman from Illinois.

Mr. MANN. The gentleman is not more astonished at me than I have been at him this afternoon.

Mr. COX of Indiana. He has certainly never found anything inserted in the RECORD yet which I have put in by unanimous consent with which he could find any criticism whatever.

Mr. MANN. I frankly say that I never have.

Mr. COX of Indiana. And I frankly say that I would not, under leave to print, print that which I would not say on the floor of this House in the presence of every man here.

Mr. MANN. I have no objection to the gentleman stating facts as long as he does not impugn the motives of Members of Congress, and there is a great temptation to do it, I have noticed, from gentlemen who have made this proposition.

The CHAIRMAN. The gentleman from Indiana [Mr. Cox] asks unanimous consent to extend his remarks in the RECORD on this subject. Is there objection? [After a pause.] The Chair hears none. The Clerk will read.

The Clerk read as follows:

Office of the Clerk: Clerk of the House of Representatives, including compensation as disbursing officer of the contingent fund, $6,500; hire of horse and wagon for use of the Clerk's office, $900, or so much thereof as may be necessary; Chief Clerk, $4,500; Journal clerk, and two reading clerks, at $4,000 each; disbursing clerk, $3,400; tally clerk, $3,300; file clerk, $3,250; enrolling clerk, $3,000; chief bill clerk, $3,000; assistant to Chief Clerk, and assistant enrolling clerk, at $2,500 each; assistant disbursing clerk, $2,400; stationery clerk, $2,200; librarian, $2,100; assistant file clerk, $1,900; two assistant librarians, and one clerk, at $1,800 each; three clerks, at $1,680 each; bookkeeper, and assistant in disbursing office, at $1,600 each; four assistants to chief bill clerk, at $1,500 each; stenographer to Clerk, $1,400; locksmith, who shall be skilled in his trade, $1,300; messenger in Chief Clerk's office, and assistant in stationery room, at $1,200 each; messenger in file room, messenger in disbursing office, and assistant in House library, at $1,100 each; stenographer to chief bill clerk, $1,000; three telephone operators, at $900 each; three telephone session operators, at $75 per month each from December 1, 1913, to June 30, 1914; telephone operator, $900; for services of a substitute telephone operator when required, at $2.50 per day, $200; two laborers in the bathroom, at $900 each; two laborers, and page in enrolling room, at $720 each; allowance to Chief Clerk for stenographic and typewriter services, $1,000; in all, $92,825.

Mr. FOWLER. Mr. Chairman, I reserve a point of order to this paragraph. I desire to ask the chairman of the committee wherein the $575 is for which is proposed in this paragraph more than was appropriated for the same purpose in the bill during the last session.

Mr. JOHNSON of South Carolina. This bill provided for some people who were paid for the session only, and the bill that was passed last year provided for the short term of Congress, from December to March, and this bill provides for the long session.

Mr. FOWLER. Does it come in the item of three telephone session operators, at $75 a month each, from December 1, 1913, to June 30, 1914? I compared it carefully with the law passed at last session, and I could not find where the discrepancy came in unless it comes in with the item I have referred to.

Mr. JOHNSON of South Carolina. We have not changed any rate of salary, and have not provided for anybody who is not provided for by law.

Mr. FOWLER. The bill last year provided for $92,250. Now this provides for $92,825. I have compared it carefully, and I have been unable to detect wherein the amounts for the several items in this bill differ from those in the law of last session.

Mr. JOHNSON of South Carolina. The gentleman can understand very well that the session employees who are paid from December to March would not get as much as the session employees who are paid from the 1st of December to the following July.

Mr. FOWLER. They are only for the telephone operators who are so employed?

Mr. JOHNSON of South Carolina. That is all.

Mr. FOWLER. And it must appear in that item?

Mr. MANN. That is what it is. That is the amount of money.

Mr. GARRETT. Mr. Chairman, I ask unanimous consent to return to line 5 on page 12, for the purpose of offering an amendment.

The CHAIRMAN. The gentleman from Tennessee [Mr. GARRETT] asks unanimous consent to return to line 5, page 12, for the purpose of offering an amendment.

Mr. JOHNSON of South Carolina. What is the amendment, Mr. Chairman? I reserve the right to object. I want to know what it is.

Mr. GARRETT. I said it was for the purpose of offering an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of line 5, add:

"*Provided*, That no part of this appropriation shall be expended in the payment of any salary to any Member, Delegate, or Resident Commissioner for any time prior to the filing of his certificate of election with the Clerk of the House of Representatives."

Mr. JOHNSON of South Carolina. Mr. Chairman, I can not consent to go back in the bill.

Mr. GARRETT. Mr. Chairman, will the gentleman withhold his objection for a moment, while I explain exactly what it is? The amendment may not be clear.

The CHAIRMAN. Does the gentleman from South Carolina reserve his objection?

Mr. JOHNSON of South Carolina. I reserve it.

Mr. GARRETT. Mr. Chairman, the purpose of the amendment is this: I understand that it is now the law, where a vacancy occurs, by death or otherwise, from a district and that vacancy is filled by an election held some time subsequent, no matter how long, that when the Member so elected to fill the vacancy takes his seat as a Member of the House he draws the salary from the date of the death of his predecessor. Now, Mr. Chairman, that is the law, as I understand it.

Mr. MANN. Does the gentleman yield for a question?

Mr. FITZGERALD. There is no such law.

Mr. GARRETT. Has it not been the practice?

Mr. FITZGERALD. The practice has been that when a Member is elected to fill a vacancy the compensation has accumulated. Nobody has ever discovered any law authorizing it, and in some instances Members have declined to draw the money.

Mr. MANN. Would the gentleman from Tennessee explain what would happen under the gentleman's provision if some one is seated by the House? He does not file any certificate of election. Would he not be entitled to any pay?

Mr. GARRETT. Oh, of course the gentleman knows my amendment does not contemplate that.

Mr. MANN. The gentleman's amendment covers it, whether it contemplates it or not. I have just read the gentleman's amendment. It not only covers that, but it would also cover any time until the certificate of election is filed.

Mr. GARRETT. Of course I did not have that in mind.

Mr. MANN. That is the reason why I called the gentleman's attention to it.

Mr. FITZGERALD. I suggest that the gentleman from Tennessee be permitted to make his statement about it.

Mr. GARRETT. Mr. Chairman, if it be, then, the practice and not the law, then the law and not the practice should prevail. It has at least been a custom long continued in the House, and no reflection, of course, is intended by me on any Member who has taken the salary, because it is the custom. But, Mr. Chairman, there is no reason for, there is no equity in, the payment, by custom or by law, of a salary that accumulates before a man ever takes his seat in this House or before he is even elected.

Mr. MANN. Mr. Chairman, would not the gentleman yield for another question?

Mr. GARRETT. Certainly.

Mr. MANN. Supposing the Member, as was the case in the last Congress, was unseated in the House and the contestant was sworn in. Does the gentleman from Tennessee desire to have the contestant receive the pay only from the time he was sworn in?

Mr. GARRETT. No; I think in equity the contestant ought to draw the salary.

Mr. MANN. What difference is there between them? The contestee has been serving, and has been receiving the pay. Why should the contestant be paid if he was not serving, was not here, had nothing to do, and rendered no service?

Mr. GARRETT. That, of course, was not the fault of the contestant. There is an equity there. I think the gentleman recognizes a decided difference in the equity between the case I have presented and the case he presents. Does the gentleman from South Carolina object to returning to that point in the bill?

Mr. JOHNSON of South Carolina. Mr. Chairman, the discussion that is going on between the gentleman from Tennessee [Mr. GARRETT] and the gentleman from Illinois [Mr. MANN] shows that it is a matter that ought to be referred to some committee having jurisdiction. I do not want to be discourteous, but I can not consent to go back in the bill.

The CHAIRMAN. The gentleman from South Carolina objects. The Clerk will read.

Mr. LAFFERTY. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Oregon offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 13, line 16, after the word "each," strike out the semicolon and insert the following:

"*Provided*, That the bathroom shall remain open during the sessions of Congress until 7 o'clock at night."

Mr. FITZGERALD. I make the point of order that that is legislation.

Mr. JOHNSON of South Carolina. We have passed the paragraph.

Mr. FITZGERALD. That makes no difference. It is legislation anyway, and subject to the point of order.

The CHAIRMAN. The gentleman from New York makes the point of order that this amendment is legislation.

Mr. LAFFERTY. If the gentleman will reserve his point of order——

Mr. FITZGERALD. Oh, no; it is a matter that ought not to be in this bill at all.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

Clerks, messengers, and janitors to the following committees: Accounts—clerk $2,500, assistant clerk $1,800, janitor $1,000; Agriculture—clerk $2,500, assistant clerk $1,800, janitor $1,000; Appropriations—clerk $4,000, and $1,000 additional while the office is held by the present incumbent, assistant clerk and stenographer $2,500, assistant clerk $1,900, janitor $1,000; Banking and Currency—clerk $2,000, assistant clerk $1,200, janitor $720; Census—clerk $2,000, janitor $720; Claims—clerk $2,500, assistant clerk $1,200, janitor $720; Coinage, Weights, and Measures—clerk $2,000, janitor $720; District of Columbia—clerk $2,500, assistant clerk $1,800, janitor $720; Elections No. 1—clerk $2,000, janitor $1,000; Elections No. 2—clerk $2,000, janitor $720; Elections No. 3—clerk $2,000, janitor $720; Enrolled Bills—clerk $2,000, janitor $720; Foreign Affairs—clerk $2,500, assistant clerk $1,800, janitor $720; Immigration and Naturalization—clerk $2,000, janitor $720; Indian Affairs—clerk $2,500, assistant clerk $2,800, janitor $720; Industrial Arts and Expositions—clerk $2,000, janitor $720; Insular Affairs—clerk $2,000, janitor $720; Interstate and Foreign Commerce—clerk $2,500, additional clerk $2,000, assistant clerk $1,500, janitor $1,000; Irrigation of Arid Lands—clerk $2,000, janitor $720; Invalid Pensions—clerk $2,500, stenographer $2,100, assistant clerk $2,000, janitor $1,000; Judiciary—clerk $2,500, assistant clerk $1,600, janitor $720; Labor—clerk $2,000, janitor 720; Library—clerk $2,000, janitor $720; Merchant Marine and Fisheries—clerk $2,000, janitor $720; Military Affairs—clerk $2,500, assistant clerk $1,500, janitor $1,000; Naval Affairs—clerk $2,400, assistant clerk $1,500, janitor $1,000; Patents—clerk $2,000, janitor $720; Pensions—clerk $2,500, assistant clerk $1,600, janitor $720; Post Offices and Post Roads—clerk $2,500, assistant clerk $1,400, janitor $1,000; Printing—clerk $2,000, janitor $1,000; Public Buildings and Grounds—clerk $2,500, assistant clerk $1,200, janitor $720; Public Lands—clerk $2,000, assistant clerk $1,200, janitor $720; Revision of the Laws—clerk $2,000, janitor $720; Rivers and Harbors—clerk $2,500, assistant clerk $1,800, janitor $1,000; Rules—clerk $2,000, janitor $720; Territories—clerk $2,000, janitor $720; War Claims—clerk $2,500, clerk to continue Digest of Claims under resolution of March 7, 1888, $2,500, assistant clerk $1,200, janitor $720; Ways and Means—clerk $3,000, assistant clerk and stenographer $2,000, assistant clerk $1,900, janitor $1,000, janitor $720; in all, $162,230.

Mr. LAFFERTY. Mr. Chairman, I move to strike out the last word. I do so for the purpose of calling the attention of Members of the House to the amendment I offered a while ago, which was ruled out on a point of order.

The Government has expended thousands of dollars to provide a bathroom in the House Office Building. The bathtubs, towels, and everything have been provided at Government expense. This bill carries an appropriation of $1,800 to employ two colored gentlemen over there to look after the establishment, but they close up at 6 o'clock sharp every evening. If any Member of this House desires to go over there after adjournment this evening to take a bath, he will be unable to do so. There is no reason why a mandatory provision should not be put in this bill requiring that the bathroom shall remain open till 7 o'clock p. m.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. LAFFERTY. Yes.

Mr. FITZGERALD. Does the gentleman from Oregon think these two colored gentlemen who work all day should work all night as well?

Mr. LAFFERTY. I contend that no man should work more than eight hours a day at any occupation, but there are two of these colored gentlemen, and there is no reason why one of them should not work part of the day and the other one the other part.

Mr. FITZGERALD. They are both busy giving baths to Members during the daytime.

Mr. LAFFERTY. One of these gentlemen is a masseur and the other is a corn doctor, and they ply their occupations during the daytime, receiving tips from each individual whom they wait upon, and incidentally they perform the services for which they receive $900 a year each. For that reason I say they should be required to devote their services to the Government of the United States.

I would not have voted in the first place to put a bathroom in the House Office Building for the use of Members of the House of Representatives, but as long as it is there, I say these gentlemen, who are serving the Government, should be required to stay there at least until the hour the House usually adjourns. But I do not go that far in my amendment. I only require that they wait there until 7 o'clock.

Mr. MANN. There are plenty of places in hotels and elsewhere where bathrooms are open all night.

Mr. FITZGERALD. There is a commission, a superintendent, and a custodian in charge of that building. Any complaint which the gentleman may have as to the hours of labor of the various gentlemenly employees in the building could properly be presented to them. I do not think it makes much difference in the gentleman's attitude to assert that he would not have voted to put a bathroom in the building, but that as long as it was put in before he came to Congress he is perfectly willing to avail himself of the facilities afforded, not only in the daytime, which seems to be sufficient to satisfy everybody else, but even in the unseemly hours of the night.

Mr. OLMSTED. Mr. Chairman, some few years ago I stopped at a large and fashionable hotel in Richmond, Va., where in each bedroom there was posted on the wall a notice giving the rates charged for the use of the room and cautioning guests to put their valuables in the safe, and below that there was this:

N. B.—Massage treatment on the office floor.

I have no doubt that in the gentleman's hotel he can get massage either on the office floor or elsewhere, and can also take a bath; or it would perhaps obviate the difficulty if he would obtain permission of the House to absent himself while the House is in session and take a bath over here in the daytime. It seems to me it is unnecessary to make these colored men work more than 8 or 10 hours a day to accommodate Members who want to take a bath at night.

Mr. LAFFERTY. The gentleman from Pennsylvania is going out of Congress, and I do not think he has taken a bath very often while he has been here.

Mr. OLMSTED. I have never taken one at the expense of the public, here or elsewhere.

The CHAIRMAN. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

For nine clerks to committees, at $6 each per day during the session, $11,340.

Mr. JOHNSON of South Carolina. Mr. Chairman, I have an amendment to offer.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 16, line 9, strike out $11,340 and insert in lieu thereof $11,448.

The amendment was agreed to.

The Clerk read as follows:

Office of Doorkeeper: Doorkeeper, $5,000; hire of horses and wagons and repairs of same, $1,200, or so much thereof as may be necessary; special employee, John T. Chancey, $1,800; special employee, $1,500; superintendent of reporters' gallery, $1,400; janitor, $1,500; 16 messengers, at $1,180 each; 14 messengers on the soldiers' roll, at $1,200 each; 15 laborers, at $720 each; laborer in the water-closet, $720; laborer, $680; 2 laborers, known as cloakroom men, at $840 each; 8 laborers, known as cloakroom men, 2 at $720 each, and 6 at $600 each; female attendant in ladies' retiring room, $800; superintendent of folding room, $2,500; foreman, $1,800; 3 clerks, at $1,600 each; messenger, $1,200; janitor, $720; laborer, $720; 32 folders, at $900 each; 2 drivers, at $840 each; 2 chief pages, at $1,200 each; 2 messengers in charge of telephones (one for the minority), at $1,200 each; 46 pages, during the session, including 2 riding pages, 4 telephone pages, press-gallery page, and 10 pages for duty at the entrances to the Hall of the House, at $2.50 per day each, $23,150; superintendent of document room, $2,900; assistant superintendent, $2,100; clerk, $1,700; assistant clerk, $1,600; assistants—7 at $1,280 each, one at $1,100; janitor, $920; messenger to press room, $1,000; in all, $158,250.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on line 10, page 17, two messengers in charge of telephones. The last bill contained but one.

Mr. JOHNSON of South Carolina. There is no increase in the force.

Mr. FITZGERALD. There have always been two messengers.

Mr. FOWLER. The appropriation for this same item was $13,800 in last year's bill. Now it is $23,150. What is the necessity for the increase?

Mr. JOHNSON of South Carolina. That is due to the fact that we are now appropriating for the long session of Congress, while in the last bill we appropriated for the short session.

Mr. FOWLER. Is it all due to that?

Mr. JOHNSON of South Carolina. It is all due to that. We have not provided for a single person in the House force that has not been provided for by law. We have created no new offices and have increased no salary. Any differences that may appear in the paragraphs are caused by people being transferred from one paragraph to another, or from one bill to another, and from the fact that this is appropriating for the long session instead of the short. There is no change in the law as to the number of offices or rate of compensation.

Mr. FOWLER. Mr. Chairman, with that explanation, I withdraw the point of order.

The Clerk read as follows:

Office of Doorkeeper: Doorkeeper, $5,000; hire of horses and wagons and repairs of same, $1,200, or so much thereof as may be necessary; special employee, John T. Chancey, $1,800; special employee, $1,500; superintendent of reporters' gallery, $1,400; janitor, $1,500; 16 messengers, at $1,180 each; 14 messengers on the soldiers' roll, at $1,200 each; 15 laborers, at $720 each; laborer in the water-closet, $720; laborer, $680; 2 laborers, known as cloakroom men, at $840 each; 8 laborers, known as cloakroom men, 2 at $720 each, and 6 at $600 each; female attendant in ladies' retiring room, $800; superintendent of folding room, $2,500; foreman, $1,800; 3 clerks, at $1,600 each; messenger, $1,200; janitor, $720; laborer, $720; 32 folders, at $900 each; 2 drivers, at $840 each; 2 chief pages, at $1,200 each; 2 messengers in charge of telephones (1 for the minority), at $1,200 each; 46 pages, during the session, including 2 riding pages, 4 telephone pages, press-gallery page, and 10 pages for duty at the entrances to the Hall of the House, at $2.50 per day each, $23,150; superintendent of document room, $2,900; assistant superintendent, $2,100; clerk, $1,700; assistant clerk, $1,600; assistants—7 at $1,280 each, 1 at $1,100; janitor, $920; messenger to press room, $1,000; in all, $158,250.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 17, in line 14, strike out "$23,150" and insert "$24,380." In line 18, strike out "$158,250" and insert in lieu thereof "$159,480."

The amendment was agreed to.

The Clerk read as follows:

For clerk to the conference minority of the House of Representatives, $2,000; assistant clerk, $1,200; janitor, $1,000; in all, $4,200. Said clerk, assistant clerk, and janitor to be appointed by the chairman of the conference minority.

Mr. JOHNSON of South Carolina. Mr. Chairman, I desire to offer the following amendment.

The Clerk read as follows:

For messenger in the minority caucus room, $1,200; and for messenger in the majority caucus room, $1,200.

Mr. JOHNSON of South Carolina. Mr. Chairman, these two places are carried in the deficiency bill of last year, and it was desired that all of the employees of the House should be provided for in this bill, and so they are brought forward from another appropriation bill.

Mr. BARTLETT. May I inquire if the House did not pass a resolution providing for their continuation to June, 1913?

Mr. MANN. There was a resolution passed first by the House, and then it was put in the deficiency bill in conformity with the resolution.

Mr. FITZGERALD. Mr. Chairman, I am familiar with the matter. In the last session the request was made of the Committee on Appropriations to carry these two messengers as they had been provided at other times. No resolution had been adopted by the House upon the report of the Committee on Accounts. The Committee on Appropriations thought that was the authority needed to give the Committee on Appropriations authority to provide for the messengers in the legislative bill. Subsequently the Committee on Accounts reported a resolution providing for these messengers, and when the deficiency bill was before the House provision was made for them in accordance with the resolution.

Mr. BARTLETT. My recollection from the RECORD is that the resolution in the deficiency bill carried them to the 1st of July, 1913, and the statement was made, as I recall, that that was the intention only to provide for them to that time. This provides for them from the 1st of July, 1913, to the 1st of July, 1914.

Mr. FITZGERALD. Under repeated rulings, once an employee has been authorized by resolution of the Committee on Accounts it is in order to carry him on the legislative bill.

Mr. BARTLETT. I want to say to the gentleman that I have made no point of order against this.

Mr. FITZGERALD. I understand; I am explaining the reason for this action. At the last session the committee declined to carry them because there had been no resolution. They were originally put in the bill by the Senate.

Mr. BARTLETT. That is correct.

Mr. FITZGERALD. When the Committee on Appropriations made up the bill for the current year, as there had been no resolution adopted by the House, the committee refused to carry these messengers. Subsequently the Committee on Accounts took the matter up and the House adopted the resolution and they were carried in the deficiency bill.

Mr. MANN. Mr. Chairman, I think this appropriation should be made, but it seems to me there ought to be a provision made as to the method of the appointment of these messengers. Would there be any objection to providing in the bill directly that they shall be appointed by the respective whips of the two sides? These messengers, while they are called messengers to the caucus rooms, have been and are intended to be, so I understand, messengers for the two whips of the two sides of the House. The whips need the men to help do the work in getting Members here and in keeping Members advised as to what is going on in the House. It seems to me the whips ought to make these appointments.

Mr. JOHNSON of South Carolina. We understand that these employees are to aid the whips of the respective sides of the House. I supposed they would make the appointments. I have no objection to an amendment that will so provide.

Mr. MANN. In the resolution which was first passed in the deficiency appropriation bill, the men were specifically named. That is all right as far as it goes, because they were named by the two whips of the two sides of the House, but the whips will be different in the next Congress, possibly—certainly, on this side. The whip on this side of the House is elected by the caucus, and I suppose that is true of the gentleman's side of the House.

Mr. BARTLETT. Yes.

Mr. MANN. So that when they are elected, it seems to me, they ought to have the naming of the men who are to do the work under them. I have prepared an amendment putting it all in one item:

To continue the employment of messengers in the majority and minority caucus rooms, to be appointed by the minority and majority whips, respectively, at $1,200 each; in all, $2,400.

Mr. JOHNSON of South Carolina. I have no objection to that, and I will withdraw the amendment that I have and offer that one.

The CHAIRMAN. The gentleman from South Carolina offers the following amendment, which the Clerk will read.

The Clerk read as follows:

After line 3, page 19, insert:

"To continue the employment of messengers in the majority and minority caucus rooms, to be appointed by the majority and minority whips, respectively, at $1,200 each; in all, $2,400."

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina.

Mr. FOWLER. Mr. Chairman, I make the point of order against that. There is a method of appointing employees in this House, which was adopted at the beginning of the Sixty-second Congress and is in force now, whereby the employees of the House are selected, and a committee for that purpose is now in existence.

Mr. FITZGERALD. But the gentleman misunderstands. This is not a change of the present practice. These two messengers are authorized and provided for and have practically been appointed by the two whips, as designated here.

Mr. FOWLER. That may be true now, and may have been so in the past.

Mr. FITZGERALD. They were at the time of the arrangement of which the gentleman speaks.

Mr. FOWLER. I do not so understand it. I do not understand that there was any exception made whatever. If you lay down the bars in the case of these two messengers, you may just as well lay down the bars in every other sense of the word and let it all go back to the Speaker of the House.

Mr. FITZGERALD. The gentleman is mistaken. There is only one place that might be affected. The minority employees were never selected by any committee of the majority. One of these is for the minority caucus room and the other is for the majority caucus room. At the time the Democratic caucus adopted the rule appointing a patronage committee this was not one of the places that was distributed as patronage in that way. The occupant was selected by the Democratic whip.

Mr. FOWLER. Is there any reason why these employees should be selected different from other employees?

Mr. FITZGERALD. Yes; there is.

Mr. FOWLER. And was there any exception made at the time of our caucus rule?

Mr. FITZGERALD. There is a reason for it.

Mr. MANN. Mr. Chairman, will my colleague permit an interruption for a moment?

Mr. FOWLER. Yes.

Mr. MANN. This would not affect the selection of this employee by the Democratic caucus or by the committee on patronage appointed by the Democratic caucus. This is only a method, so far as the House is concerned. The patronage committee of the Democratic caucus is not a committee recognized by the House itself. For instance, we provide in this bill for offices under the Doorkeeper. The Doorkeeper makes the appointments as far as the House is concerned. The Postmaster makes his appointments so far as the House is concerned, as does the Clerk of the House and the Sergeant at Arms; but the Democratic patronage committee, as far as those officials are concerned, selects for them the officials, and that committee can do the same thing about this. This provision would not affect that at all if the caucus desires it to be included in the appointments to be made by the patronage committee.

Mr. FITZGERALD. The gentleman is mistaken about this.

Mr. FOWLER. I do not so understand it. If we make an exception in one case, you then lay down the bars and make an exception all along the line.

Mr. GARRETT. Will the gentleman permit?

Mr. FOWLER. Certainly.

Mr. GARRETT. I call the attention of the gentleman from Illinois to the fact that the rules of the House provide that these various officials under the Sergeant at Arms, the Clerk, the Doorkeeper, the Postmaster, shall be appointed by those respective officers, and theoretically they are so appointed. The method by which they are chosen now is an unofficial method, with no regular or appointing force as far as the law is concerned or as far as the rules of the House are concerned.

Mr. FITZGERALD. Unless the appointment of these officials is vested in some one, if a vacancy occur no one has authority to place his successor on the pay roll, so as to get any money, unless the Committee on Accounts reports a resolution.

Mr. FOWLER. Mr. Chairman, if these two messengers are to be appointed in a different way from that which was adopted by the majority of the House at the beginning of this Congress, then I repeat that you might just as well do away with the committee which was appointed to distribute the patronage in this House.

Mr. MANN. I can assure my colleague there is no such intention on my part, and I do not think the amendment offered by the gentleman from South Carolina would affect the patronage committee at all.

Mr. FOWLER. I am not complaining at anyone for offering such a resolution. I am only complaining because of the fact that in my opinion such a precedent as contemplated by this amendment might become an entering wedge to destroy our method of selecting the patronage by a committee instead of leaving it to the Speaker.

Mr. MANN. Unless I am misinformed about it, the chairmen of some of the committees who had patronage thought the committee did not share in the other patronage in the House. Now, the bill specifically provides that the chairman shall appoint certain clerks and janitors. It is very easy for the Democratic caucus to provide that these messengers, if appointed, shall be charged to the Democratic whip as part of the patronage of the Democratic side of the House.

Mr. FOWLER. Then, if that is true, might not all the patronage of the House be taken away from the committee on patronage by virtue of bills passed by the House?

Mr. MANN. I do not think so. I do not think it has anything to do with that. The reason I put in this provision is that without it there is no authority for anybody to appoint these messengers. Heretofore we named them specifically, but nobody wants to name now the messengers for the whips, because no one knows who the whips will be until the new caucus meets. Without that there is no provision for anybody to appoint them.

Mr. FOWLER. Why not provide for the place and leave the appointing of these messengers to the future Congress, the Sixty-third?

Mr. MANN. Well, that requires the preparation of an additional resolution, and so forth, brought before the House, and is a minutia matter. The Democratic caucus can control the question when you settle in the next House, as you will have to, the question of patronage, and consider this as part of the patronage of the House as they consider every other place, and taking into consideration all the other places, they take that into consideration.

Mr. FOWLER. I concede that the House might continue those two servants in the House, but I do not concede that we ought to pass a law here prohibiting the majority of the House from adopting a method of selecting employees of the House as was fixed at the beginning of the Sixty-second Congress.

Mr. MANN. My colleague will recall, of course, that was done by the Democratic caucus; that is, in the caucus you arranged and appointed a patronage committee.

The CHAIRMAN. The time of the gentleman from Illinois has expired. The question is on the adoption of the amendment offered by the gentleman from South Carolina.

The question was taken, and the amendment was agreed to.

Mr. FOWLER. Mr. Chairman, what became of my point of order?

The CHAIRMAN. The Chair did not recall the gentleman made one.

Mr. FOWLER. Mr. Chairman, I desire to withdraw the point of order to relieve the situation.

Mr. GARRETT. Mr. Chairman, I move to strike out the last word.

Referring to the matter concerning which I offered or proposed to offer an amendment a few moments ago, I wish to say just a few words. I stated when I proposed the amendment that I was under the impression that the law provides that where a vacancy occurred that the person elected to fill that vacancy drew the salary of a Member from the time that the salary of his predecessor ceased. The gentleman from New York [Mr. FITZGERALD] was under the impression that it was not a provision of law, but was simply a custom, and, not being sure of my own ground at the time, I readily accepted the statement of the gentleman from New York. But I have since examined it, and, as a matter of interest here, I will say that section 51 of the Revised Statutes makes this provision:

> Whenever a vacancy occurs in either House of Congress, by death or otherwise of any Member or Delegate elected or appointed thereto, after the commencement of Congress to which he has been elected or appointed, the person elected or appointed to fill it shall be compensated and paid from the time that the compensation of his predecessor ceased.

So it seems unquestionably, Mr. Chairman, that there is a statute providing for it. But the statute is wrong in principle. It is not based on any equity or any policy of right, and I hope to prepare an amendment——

Mr. JOHNSON of South Carolina. What is the date of the original enactment?

Mr. GARRETT. The date of the enactment is July 16, 1862. Now, there has been a case upon which there was a report in the Fifty-ninth Congress, what is known as the Pollard case, in which the Committee on the Judiciary dealt with the question. That committee held that Representative Pollard was not entitled to the salary; but that occurred in this way: Mr. Burkett, who was a Member of the Fifty-eighth Congress, was reelected to the Fifty-ninth Congress, but before the expiration of the Fifty-eighth Congress he was elected to the Senate, and prior to March 4, 1905, when his term in the Fifty-eighth Congress expired, he resigned, the resignation to take effect on the 4th of March.

Mr. Pollard was elected at a special election to succeed him, and when he became a Member of the House in the Fifty-ninth Congress, some months later, the Sergeant at Arms paid to him—and he was, I suppose, of the opinion that under the law he was entitled to receive it—some $1,800. Becoming convinced later that he was not entitled to receive it, he sought to repay it, and a bill was introduced to authorize the Secretary of the Treasury to accept it. The matter was referred to the Committee on the Judiciary of the House, and upon investigation they reported that under the peculiar circumstances of that case no vacancy really occurred in the Fifty-ninth Congress by reason of the resignation of Mr. Burkett, and that consequently this statute did not apply. That is one case of which I know that has been passed on by a committee of the House. I repeat that this statute is not right.

Mr. BARTLETT. The gentleman from Tennessee will recall that the Committee on Ways and Means, to which was referred a bill authorizing the Secretary of the Treasury to accept the money and pay it into the Treasury, made a report that he was entitled to it.

Mr. GARRETT. Yes; I think the gentleman is right about that. But to return, there is not equity in that statute. I hope before this bill is finally passed upon to prepare an amendment and prevail upon my friend from South Carolina [Mr. JOHNSON] to return to the paragraph. I withdraw the pro forma amendment.

Mr. MANN. There was nothing before the House before, but I hope the gentleman from South Carolina will now bring before the committee a motion to rise.

Mr. JOHNSON of South Carolina. Mr. Chairman, in view of the lateness of the hour, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26680—the legislative, executive, and judicial appropriation bill—and had come to no resolution thereon.

CHANGE OF REFERENCE.

By unanimous consent, reference heretofore made of House Documents Nos. 1029, 1040, 1042, and Senate Document No. 959 was vacated, and the said documents referred to the committee on Appropriations.

ADJOURNMENT.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 30 minutes p. m.) the House adjourned until Friday, December 6, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting his annual report on the state of the finances for the fiscal year ended June 30, 1912 (H. Doc. No. 928); to the Committee on Ways and Means and ordered to be printed.

2. A letter from the Attorney General of the United States, transmitting to Congress his annual report (H. Doc. No. 930); to the Committee on the Judiciary and ordered to be printed.

3. A letter from the Secretary of the Interior, transmitting a statement of the fiscal affairs of Indian tribes for the fiscal year ended June 30, 1912 (H. Doc. No. 1049); to the Committee on Indian Affairs and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting a statement of the proceeds of all sales of old material, condemned stores, supplies, and other public property for the fiscal year ended June 30, 1912 (H. Doc. No. 1048); to the Committee on Ways and Means and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting a statement prepared by the Secretary of Agriculture showing the number of persons employed in meat inspection, the amount paid each, etc., for the fiscal year ended June 30, 1912 (H. Doc. No. 1050); to the Committee on Agriculture and ordered to be printed.

6. A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of State submitting an estimate of appropriation to continue efforts to mitigate the opium, morphine, and other allied drug evils (H. Doc. No. 1043); to the Committee on Appropriations and ordered to be printed.

7. A letter from the Secretary of the Interior, transmitting a report of the Maritime Canal Co. of Nicaragua, in accordance with section 6 of the act of Congress approved February 20, 1889 (H. Doc. No. 1044); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

8. A letter from the Secretary of the Treasury, transmitting communications from the Assistant Secretary of War submitting statements of all moneys arising from the proceeds of sales of public property for the fiscal year ended June 30, 1912 (H. Doc. No. 1045); to the Committee on Military Affairs and ordered to be printed.

9. A letter from the commissioner of the Freedman's Savings & Trust Co., submitting his annual report for the year ended December 1, 1912, as required by act of February 21, 1912 (H. Doc. No. 1046); to the Committee on the District of Columbia and ordered to be printed.

10. A letter from the Secretary of the Treasury, transmitting a communication from the Secretary of the Interior submitting an estimate of appropriation for collection of statistics concerning accidents in the mining industry (H. Doc. No. 1047); to the Committee on Appropriations and ordered to be printed.

11. A letter from the president of the Board of Managers of the National Home for Disabled Volunteer Soldiers, submitting a report of the board for the fiscal year ended June 30, 1912 (H. Doc. No. 1009); to the Committee on Military Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. PETERS, from the Committee on Ways and Means, to which was referred to bill (H. R. 4434) to provide an allowance for loss of distilled spirits deposited in internal-revenue warehouses, reported the same with amendment, accompanied by a report (No. 1263), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. RAKER: A bill (H. R. 26726) making an appropriation for continuation of post-office building at Grass Valley under the present limit, and for other purposes; to the Committee on Appropriations.

Also, a bill (H. R. 26727) making an appropriation for continuing improvement and for maintenance of the Mokelumne River, Cal.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26728) making an appropriation for the deepening and widening of the channel and for snagging and wing-dam construction for the improvement of the Sacramento River from Sacramento to Red Bluff, Cal.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26729) appropriating money for the continuing improvement of harbor at the entrance to Humboldt Bay, Cal.; to the Committee on Appropriations.

Also, a bill (H. R. 26730) making an appropriation for improving the Sacramento and Feather Rivers, Cal., continuing improvement, and for maintenance, including improvement above Sacramento to Red Bluff; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26731) making an appropriation for investigating the food habits of North American birds and mammals in relation to agriculture, horticulture, and forestry, including experiments and demonstrations in destroying noxious animals, and for investigations and experiments in connection with rearing of fur-bearing animals, including mink and marten, and for use in the destruction of ground squirrels on the national forests in California; to the Committee on Agriculture.

Also, a bill (H. R. 26732) authorizing and directing the Secretary of War to cause a preliminary examination and survey to be made of the inner channels of Humboldt Bay, Cal., and for other purposes; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26733) appropriating money for the maintenance of the improvement of the channel in front of Eureka, in Humboldt Bay, Cal.; to the Committee on Rivers and Harbors.

By Mr. PETERS: A bill (H. R. 26734) to provide for a survey for the construction of a continuous waterway from Boston, Mass., to the coast of Maine; to the Committee on Rivers and Harbors.

By Mr. LINTHICUM: A bill (H. R. 26735) to provide for an examination and survey of Patapsco River and the Chesapeake Bay and channel to Baltimore with a view to increasing the depth of the channel leading from Baltimore to the sea to a depth of 40 feet; to the Committee on Rivers and Harbors.

By Mr. CLAYPOOL: A bill (H. R. 26736) to authorize the construction of a public building at Logan, Ohio; to the Committee on Public Buildings and Grounds.

By Mr. RAKER: A bill (H. R. 26737) to amend an act approved October 1, 1890, entitled "An act to set apart certain tracts of land in the State of California as forest reservations"; to the Committee on the Public Lands.

By Mr. FOSTER: A bill (H. R. 26738) to increase the limit of cost for the post-office building heretofore authorized at Mount Vernon, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. RODENBERG: A bill (H. R. 26739) to enlarge the authority of the Mississippi River Commission in making allotments and expenditures of funds appropriated by Congress for the improvement of the Mississippi River; to the Committee on Rivers and Harbors.

By Mr. WHITACRE: A bill (H. R. 26740) to increase the limit of cost of the Federal building heretofore authorized at Alliance, Ohio; to the Committee on Public Buildings and Grounds.

By Mr. McCOY: A bill (H. R. 26741) to provide for the purchase of a site for a public building in the city of Newark, in the State of New Jersey; to the Committee on Public Buildings and Grounds.

By Mr. MOORE of Pennsylvania: A bill (H. R. 26742) to provide a foundation and pedestal on ground belonging to the United States Government in the city of Washington upon which to place a memorial or statue to be furnished by the State of Pennsylvania of Maj. Gen. George Gordon Meade; to the Committee on the Library.

By Mr. HAY: A bill (H. R. 26743) for the purchase of a site and the erection of a public building in the town of Front Royal, Va.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26744) to provide for the purchase of a site and the erection thereon of a public building at Luray, Va.; to the Committee on Public Buildings and Grounds.

By Mr. RODDENBERY: A bill (H. R. 26745) for the reduction of postage on first-class matter to 1 cent per ounce; to the Committee on the Post Office and Post Roads.

By Mr. KAHN: A bill (H. R. 26746) to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia," approved February 6, 1901; to the Committee on the District of Columbia.

By Mr. HEALD: A bill (H. R. 26747) to provide for a site and public building at Newark, Del.; to the Committee on Public Buildings and Grounds.

By Mr. EVANS: A bill (H. R. 26748) to grant relief to persons erroneously convicted in courts of the United States; to the Committee on the Judiciary.

By Mr. NORRIS: A bill (H. R. 26749) providing for publicity in taking evidence under act of July 2, 1890; to the Committee on the Judiciary.

By Mr. GUERNSEY: A bill (H. R. 26750) to authorize the Secretary of the Treasury to sell certain land to the trustees of the charity fund of Star in the East Lodge, of Old Town, Me.; to the Committee on Public Buildings and Grounds.

By Mr. CLINE (by request): A bill (H. R. 26751) granting pensions to volunteer Army nurses of the Civil War; to the Committee on Invalid Pensions.

By Mr. LEE of Georgia: A bill (H. R. 26752) to increase the limit of cost for the construction of the Federal building at Cartersville, Ga.; to the Committee on Public Buildings and Grounds.

By Mr. POU: A bill (H. R. 26753) to increase the limit of cost of the public building at Rocky Mount, N. C.; to the Committee on Public Buildings and Grounds.

By Mr. GILLETT: A bill (H. R. 26754) for the erection of a public building at Amherst, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. RODDENBERY: A bill (H. R. 26755) to provide for the purchase of a site and the erection of a public building thereon at Moultrie, in the State of Georgia; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26756) to provide for the purchase of a site and the erection of a public building thereon at Dawson, in the State of Georgia; to the Committee on Public Buildings and Grounds.

By Mr. FITZGERALD: Joint resolution (H. J. Res. 365) to permit Col. William C. Gorgas and certain other officers of the Medical Corps and certain officers of the Engineer Corps of the Army to accept service under the Republic of Ecuador; to the Committee on Military Affairs.

By Mr. RIORDAN: Resolution (H. Res. 732) to provide for the printing and distribution of Washington's Farewell Address; to the Committee on Printing.

By Mr. SABATH: Resolution (H. Res. 733) directing the Secretary of War to submit to the House the latest survey of the Chicago River; to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 26757) granting an increase of pension to Mary Thomas; to the Committee on Invalid Pensions.

By Mr. ALEXANDER: A bill (H. R. 26758) granting an increase of pension to John W. Warren; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26759) granting an increase of pension to Ephriam Clark; to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 26760) granting an increase of pension to Jacob Strunk; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 26761) granting a pension to Rachel A. Graham; to the Committee on Invalid Pensions.

By Mr. BROWNING: A bill (H. R. 26762) granting a pension to Harriet P. Hale; to the Committee on Invalid Pensions.

By Mr. BURKE of Wisconsin: A bill (H. R. 26763) granting an increase of pension to Thomas P. Wentworth; to the Committee on Invalid Pensions.

By Mr. COOPER: A bill (H. R. 26764) granting an increase of pension to Mary F. Deane; to the Committee on Invalid Pensions.

By Mr. CRAGO: A bill (H. R. 26765) granting a pension to Jennie McMurtie; to the Committee on Invalid Pensions.

By Mr. DAUGHERTY: A bill (H. R. 26766) granting a pension to Nicey A. Laderach; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26767) granting a pension to Almyra Vancil; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26768) granting an increase of pension to Elizabeth W. Wilcox; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26769) granting an increase of pension to Emily A. Kennedy; to the Committee on Invalid Pensions.

By Mr. DAVIDSON: A bill (H. R. 26770) granting an increase of pension to Horatio D. Elliott; to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 26771) for the relief of James Bartlett; to the Committee on Military Affairs.

Also, a bill (H. R. 26772) granting a pension to Helen Hascall Woodward; to the Committee on Pensions.

Also, a bill (H. R. 26773) to correct the military record of John Quinn; to the Committee on Military Affairs.

Also, a bill (H. R. 26774) granting an increase of pension to Charles G. Sanders; to the Committee on Invalid Pensions.

By Mr. GOEKE: A bill (H. R. 26775) granting a pension to Henry M. Agenbroad; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26776) granting an increase of pension to Levi Boysel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26777) granting an increase of pension to Maria E. Seib; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26778) granting an increase of pension to James Ligget; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26779) granting an increase of pension to Alexander Fleming; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 26780) granting a pension to Charles H. Boyd; to the Committee on Invalid Pensions.

By Mr. HOLLAND: A bill (H. R. 26781) for the relief of Ida Banks; to the Committee on Claims.

By Mr. KAHN: A bill (H. R. 26782) granting an increase of pension to Dorothy E. Bacon; to the Committee on Invalid Pensions.

By Mr. LAWRENCE: A bill (H. R. 26783) granting an increase of pension to Mary M. Jones; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26784) granting an increase of pension to Simon Hoafmyre; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26785) granting an increase of pension to William H. Hinckley; to the Committee on Invalid Pensions.

By Mr. McKELLAR: A bill (H. R. 26786) for the relief of C. B. McKee, administrator de bonis non of John R. McKee; to the Committee on War Claims.

Also, a bill (H. R. 26787) for the relief of the Court Avenue Presbyterian Church, incorporated as the First Cumberland Presbyterian Church of Memphis, Tenn.; to the Committee on War Claims.

By Mr. MAHER: A bill (H. R. 26788) granting an increase of pension to Rosa T. Wallace; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26789) granting an increase of pension to Mary T. Hartigan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26790) granting an increase of pension to Frank T. Sickler; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 26791) granting a pension to Daniel M. Blevins; to the Committee on Pensions.

Also, a bill (H. R. 26792) granting a pension to David A. Patton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26793) granting a pension to Charlie Forbes; to the Committee on Pensions.

Also, a bill (H. R. 26794) granting an increase of pension to William Collins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26795) granting an increase of pension to John J. Wolfe; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26796) granting an increase of pension to Samuel C. Robertson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26797) granting an increase of pension to Edward McClellan; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 26798) granting a pension to Mary Earle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26799) granting a pension to Anna M. Consant; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26800) granting an increase of pension to John W. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26801) granting an increase of pension to Hiland Goodwin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26802) granting an increase of pension to Albert S. Bloomer; to the Committee on Invalid Pensions.

By Mr. STERLING: A bill (H. R. 26803) granting an increase of pension to Sterrett McClellan; to the Committee on Invalid Pensions.

By Mr. TILSON: A bill (H. R. 26804) for the relief of Allen M. Hiller; to the Committee on Military Affairs.

By Mr. WHITACRE: A bill (H. R. 26805) granting a pension to Austin P. Walker; to the Committee on Invalid Pensions.

By Mr. YOUNG of Kansas: A bill (H. R. 26806) granting an increase of pension to Samuel Amich; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26807) granting an increase of pension to Sylvester Cary; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Eventide Council of the Daughters of America, of Coshocton, Ohio, favoring the passage of the Burnett immigration bill; to the Committee on Immigration and Naturalization.

By Mr. BURKE of Wisconsin: Paper to accompany bill (H. R. 14192) granting a pension to Flora Tuscott; to the Committee on Pensions.

By Mr. FULLER: Petition of David Felmley, president of the Illinois State Normal University, favoring the passage of the vocational education bill (S. 3); to the Committee on Education.

Also, petition of A. H. Bliss, Chicago, Ill., favoring passage of House bill 2920, pensioning military telegraphers; to the Committee on Invalid Pensions.

By Mr. GILL: Petition of the American Federation of Labor, favoring enactment of legislation decreasing the tax on oleomargarine; to the Committee on Agriculture.

By Mr. HAMLIN: Papers to accompany bill (H. R. 1811) to grant a pension to Marion West; to the Committee on Invalid Pensions.

By Mr. HINDS: Memorial of Capt. Charles H. Boyd; to the Committee on Invalid Pensions.

By Mr. KAHN: Petition of John H. Robins, of San Francisco, Cal., favoring the passage of the Kenyon-Sheppard liquor bill, preventing shipment of liquor into "dry" territory; to the Committee on the Judiciary.

By Mr. KINKEAD of New Jersey: Petition of the Intercontinental Rubber Co., Jersey City, N. J., favoring the passage of House bill 26377, to establish a United States court of patent appeals; to the Committee on the Judiciary.

By Mr. LAWRENCE: Petition of merchants of Greenfield, Mass., favoring enactment of legislation giving the Interstate Commerce Commission further power toward controlling the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. LEE of Georgia: Papers to accompany bill (H. R. 26702) granting a pension to Stacy Ann Wacker; to the Committee on Invalid Pensions.

By Mr. LINDSAY: Petition of the Chamber of Commerce of the State of New York, protesting against the placing of the Board of General Appraisers under control of any department of the Government; to the Committee on Expenditures in the Treasury Department.

By Mr. NEEDHAM: Petition of dairymen of Texas, protesting against the passage of any legislation removing the tax on oleomargarine; to the Committee on Agriculture.

By Mr. OLMSTED: Petition of the Woman's Home Missionary Society of Carlisle Presbytery, favoring passage of a bill abolishing polygamy in the United States; to the Committee on the Judiciary.

By Mr. SLOAN: Petition of the Union Thanksgiving Services, Osceola, Nebr., favoring passage of an effective interstate liquor bill; to the Committee on the Judiciary.

By Mr. TILSON: Petition of the New Haven Chamber of Commerce, favoring passage of bill (H. R. 26277) creating a final court of patent appeals; to the Committee on the Judiciary.

By Mr. UNDERHILL: Petition of citizens of Seneca Falls, N. Y., favoring a reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

SENATE.

FRIDAY, *December 6, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

ALBERT B. FALL, a Senator from the State of New Mexico; ASLE J. GRONNA, a Senator from the State of North Dakota; WILLIAM J. STONE, a Senator from the State of Missouri; and JOHN S. WILLIAMS, a Senator from the State of Mississippi, appeared in their seats to-day.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. BRANDEGEE and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

DISPOSITION OF USELESS PAPERS.

The PRESIDENT pro tempore (Mr. BACON). The Chair lays before the Senate a communication from the Secretary of War transmitting, pursuant to law, reports of the chiefs of the several bureaus of the War Department, listing papers in their respective offices not needed or useful in the transaction of business and having no permanent value or historic interest and recommending the disposal of the same.

The communication will be referred to the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments. The Chair appoints as the committee on the part of the Senate the Senator from Arkansas [Mr. CLARKE] and the Senator from New Hampshire [Mr. BURNHAM].

The Secretary will notify the House of Representatives of the appointment of the committee on the part of the Senate.

REPORT ON ORDNANCE AND FORTIFICATIONS.

The PRESIDENT pro tempore laid before the Senate the Twenty-second Annual Report of the Board of Ordnance and Fortifications for the fiscal year ended June 30, 1912, which was referred to the Committee on Military Affairs and ordered to be printed.

SPRINGFIELD ARMORY AND ROCK ISLAND ARSENAL (H. DOC. NO. 1065).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, statements of the expenditures, etc., of the Springfield Armory, Mass., and at the Rock Island Arsenal, Ill., for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Military Affairs and ordered to be printed.

CHARLES J. ALLEN V. UNITED STATES (S. DOC. NO. 969).

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of Charles J. Allen v. United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed a bill (H. R. 22593) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

Mr. McCUMBER presented petitions of sundry citizens of Inkster and Valley City, in the State of North Dakota, praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

Mr. ASHURST presented a petition of members of the Arizona Mission of the Methodist Episcopal Church of Bisbie, Ariz., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

Mr. BROWN presented resolutions adopted by the Chamber of Commerce of North Platte, Nebr., favoring the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were referred to the Committee on Agriculture and Forestry.

Mr. RICHARDSON presented a resolution adopted at the Christian Endeavor Convention held at Laurel, Del., favoring the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SMOOT:

A bill (S. 7618) granting an increase of pension to John Miller (with accompanying papers); to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 7619) for the relief of Laetitia M. Robbins (with accompanying papers); to the Committee on Claims.

By Mr. MARTINE of New Jersey (for Mr. BRIGGS):

A bill (S. 7620) for the relief of Ernest C. Stahl; to the Committee on Military Affairs.

By Mr. MARTIN of Virginia:

A bill (S. 7621) for the relief of James C. Hilton; to the Committee on Naval Affairs.

By Mr. OVERMAN:

A bill (S. 7622) for the relief of Stanley Mitchell (with accompanying paper); to the Committee on Naval Affairs.

By Mr. TOWNSEND:

A bill (S. 7623) granting an increase of pension to Henry W. Bradley (with accompanying paper); and

A bill (S. 7624) granting an increase of pension to Royal H. Stevens (with accompanying paper); to the Committee on Pensions.

By Mr. McCUMBER:

A bill (S. 7625) for the relief of certain members of the Five Civilized Tribes in Oklahoma; to the Committee on Indian Affairs.

By Mr. KENYON:

A bill (S. 7626) granting an increase of pension to George W. Stratton; and

A bill (S. 7627) granting a pension to Ada Brott; to the Committee on Pensions.

By Mr. BURNHAM:

A bill (S. 7628) granting an increase of pension to Araminta G. Sargent; to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 7629) to provide for the further Federal regulation of pilotage; to the Committee on Commerce.

A bill (S. 7630) granting a pension to Emelia McNicol; and

A bill (S. 7631) granting a pension to Margaret J. Yolkley; to the Committee on Pensions.

By Mr. ASHURST:

A bill (S. 7632) granting an increase of pension to Junius Thomas Turner; to the Committee on Pensions.

By Mr. BROWN:

A bill (S. 7633) granting a pension to Henry Wegworth (with accompanying paper); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 7634) to correct the military record of Thomas Smart; to the Committee on Military Affairs.

A bill (S. 7635) granting an increase of pension to Catherine A. Payne (with accompanying papers); to the Committee on Pensions:

By Mr. PENROSE:

A bill (S. 7636) for the relief of Cecelia Barr (with accompanying paper); to the Committee on Claims.

OMNIBUS CLAIMS BILL.

Mr. MARTINE of New Jersey submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

THE AVIATION SERVICE.

Mr. MARTINE of New Jersey submitted an amendment intended to be proposed by him to the bill (H. R. 17256) to fix the status of officers of the Army and Navy detailed for aviation duty, and to increase the efficiency of the aviation service, which was referred to the Committee on Military Affairs and ordered to be printed.

THE COURTS AND THE CONSTITUTION (S. DOC. NO. 970).

Mr. LODGE. I have a copy of the address by Senator GEORGE SUTHERLAND, of Utah, delivered at the meeting of the American Bar Association, at Milwaukee, Wis., August, 1912, on the Courts and the Constitution. I ask that the address be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ADDRESS BY PRESIDENT TAFT (S. DOC. NO. 971).

Mr. JOHNSTON of Alabama. I ask that an address delivered by President Taft at the opening session of the convention of United Daughters of the Confederacy, November 12, 1912, be printed as a public document. I make this request because of the broad statesmanship of the address and the eloquent and patriotic sentiments expressed in it. I think it ought to be given to every citizen of the United States to read.

The PRESIDENT pro tempore. Without objection, it will be so ordered.

VOLUNTEER OFFICERS' RETIRED LIST.

Mr. TOWNSEND. I ask that 1,000 copies of a hearing had before a subcommittee of the Committee on Military Affairs on the bill relating to the Civil War volunteer officers' retired list be printed for the use of the subcommittee.

There being no objection, the order was agreed to, and it was reduced to writing, as follows:

Ordered, That 1,000 copies, "Hearing before a subcommittee of the Committee on Military Affairs, United States Senate, Civil War volunteer officers' retired list," be printed for the use of the subcommittee.

HOUSE BILL REFERRED.

H. R. 22593. An act to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, was read twice by its title and referred to the Committee on Interstate Commerce.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate resume the consideration of House bill 19115, the omnibus claims bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and Tucker Acts.

Mr. CRAWFORD. Mr. President, the committee amendments have——

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from California?

Mr. WORKS. I desire to offer an amendment to the bill, if this is the proper occasion.

Mr. CRAWFORD. If the Senator will permit me to make a statement——

Mr. WORKS. Certainly.

Mr. CRAWFORD. I desire to say that the amendments reported by the committee have now been acted upon by the Senate and the bill is open to amendments which may be offered not coming from the committee. If the Senator from California will permit me, in this connection I wish to state the position of the committee with reference to such amendments as may now be offered in the open Senate.

There are certain claims, such, for instance, as claims for overtime in the navy yards, that are practically all of one character. The legal questions connected with them have been absolutely settled by the court, and the only question is the number of hours of overtime and the rate of wages. If a case which comes within that class that has not been reported should be offered here, it would be so simple that there would be no questions of facts to discuss in relation to it, and I do not think that the committee would be averse to accepting an amendment that might include an additional claim of that character.

The same is true with reference to what are known as the longevity claims. They are all exactly the same and have been settled by the decisions. An amendment that should propose the insertion of an additional claim of that kind could involve no questions of fact, and I do not think it would open up a discussion.

But outside of those particular cases the offering of amendments without the committee having had an opportunity to investigate the claims or the offering of amendments which the committee has investigated and for reasons satisfactory to it have declined to put into the bill will necessarily meet with the opposition of the committee.

Mr. OVERMAN. May I ask the Senator a question?

Mr. CRAWFORD. Certainly.

Mr. OVERMAN. I appreciate what the Senator says; I am on the committee with him; but I desire to ask what his policy will be as to those claims where the court findings have come in since the committee acted which are on a par with claims we have already included in the bill. Suppose that since the bill was prepared court findings should have come in on the same kind and class of claims?

Mr. CRAWFORD. As I have just stated, should they be claims in relation to overtime in the navy yards or longevity——

Mr. OVERMAN. I understood what the Senator said as to those, but there are church claims. We have included certain kinds of church claims. According to a certain rule they have been included. Suppose a case comes in here to-day from the Court of Claims that is exactly on all fours with the church claims which are included in the bill, why should such claims be objected to if they are on all fours with every church claim in the bill?

Mr. CRAWFORD. The committee have declined to put in the bill a great many claims that are for the use and occupation of churches, and they have declined to put in the bill some claims for the destruction of churches where that destruction was an act of war.

Each of these cases necessarily rests upon a particular state of facts. Where the committee have had no opportunity as a committee to investigate the findings of the court and analyze them or pass upon them, I do not think it would be a good way to legislate claims into the bill, to act upon those amendments here for the first time in the Senate, without their having gone to the committee at all. I should feel that it would be my duty to insist that they should be considered by the committee.

Mr. OVERMAN. The Senator knows, as I know, under what rule the committee acted, and I agreed to it for the time being, hoping to get some legislation. But suppose the chairman of the committee, after reading the court findings, concludes that these church claims fall within the class under the rule we adopted, will not the Senator agree to accept them?

Mr. CRAWFORD. The Senator from North Carolina is imposing almost too much work upon the chairman of the committee at a time when this long bill, with several thousand items in it, is here for consideration, to ask him in the midst of it to take the findings of the Court of Claims and go through

them for the purpose of ascertaining whether they fall on this side or that side of the rule which the committee adopted.

Mr. OVERMAN. I know the Senator so well that I know he can read five lines of a court finding and determine within a minute whether or not it falls within the rule we adopted.

Mr. CRAWFORD. I will say to the Senator I do not think it would be quite fair to the full committee for the chairman to take that responsibility.

Mr. OVERMAN. I do not see why he should not take that responsibility with reference to those claims as well as any other claims.

Mr. BAILEY. Let the Senate take the responsibility.

Mr. CRAWFORD. I am perfectly willing that that should be done. Of course I could not have any objection to that, but the Senator was asking the chairman to accept the amendments.

Mr. BAILEY. Of course the Senator would have a good deal to say about it, because the Senate would naturally and properly attach great weight to what the chairman of the committee would say. I can understand how the chairman would not feel authorized, speaking as chairman of the committee, to say that he would consent to that, but I can also understand that the chairman of the committee would not feel obliged to make any special resistance against an amendment of that kind.

I rose, however, for the purpose of suggesting this kind of a case to the Senator. Suppose it be a case where there is no question about the facts, and the findings of the Court of Claims filed since the bill was reported decide that a certain person is entitled to payment. To make it plain by illustration, the bill carries pay for certain claims for longevity pay. Now, suppose that a case identical with those provided for should have been reported since the bill was prepared. Surely there could be no possible reason for excluding that claim.

Mr. CRAWFORD. If the Senator will permit me, I have already stated with reference to overtime claims in the navy yards and longevity claims that they are so simple and the rule is so well settled that with those two classes, and those only, I feel that there would be little risk—in fact, none—in admitting those claims if they have been found by the Court of Claims.

Mr. BAILEY. I heard the Senator's statement about the overtime claims, but I did not hear it about the longevity claims.

Mr. CRAWFORD. It included the longevity claims.

Mr. BAILEY. That covers an amendment that I have to present.

Mr. CRAWFORD. The Senator can see, I think, with reference to the question whether or not a church was occupied, with the great variety of facts and findings that are passed upon, that that would be a very different case from a longevity claim or a claim for overtime at a navy yard.

Mr. BAILEY. Where the facts might be material, I agree to that.

Mr. CRAWFORD. That is just the distinction.

Now, Mr. President, the bill, so far as the amendments proposed by the Senate committee are concerned, has been acted upon and it is open to amendment; but I sincerely hope that general amendments will not be offered to the bill on the floor of the Senate where they have not been acted upon by the committee.

I want to say to the Senate that the bill is a most difficult kind of a bill to deal with. It embraces a vast number of claims. We were a good many months going over the different items, and the door must be closed some time against the consideration of claims that are to go into this particular bill. If we open that door to the consideration of a vast number of amendments of all kinds and characters, I shall almost despair of the bill being passed at all, because of the great mass of details that will involve discussion in the Senate.

Mr. WORKS rose.

Mr. NEWLANDS. Mr. President——

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. NEWLANDS. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The Chair begs pardon. He had not noticed that the Senator from California was on the floor.

Mr. WORKS. I gave way to the Senator from Nevada.

Mr. NEWLANDS. I do not wish to interfere with the Senator from California.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Nevada will be stated.

The SECRETARY. On page 268, after the word "cents," in line 8, it is proposed to insert:

NEVADA.

To John Glanzmann, of Carson City, Ormsby County, in said State, $3,296.

Mr. NEWLANDS. Mr. President, I will ask to have inserted in the RECORD a letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of John Glanzmann. I will ask the Secretary to read the findings of fact, and I should like also to have the entire communication inserted in the RECORD.

The PRESIDENT pro tempore. Without objection, it will be so ordered, and the Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant, John Glanzmann, is a citizen of the United States, residing at Carson City, Ormsby County, State of Nevada, and from August 1, 1892, until May 8, 1903, he was employed as a watchman-laborer in the United States customhouse and post-office building at Carson City, Nev., at a salary of $720 per annum. During the time he was so employed he worked 12 hours each day, not including Sundays and legal holidays.

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

III. The number of hours worked by claimant in excess of eight hours a day during the period from August 1, 1892, as set forth in Finding I, is 13,184; and his services for said hours, computed upon the basis of the salary he was receiving during said period, namely, $720 per annum, would amount to $3,296.

IV. It does not appear that said claim was ever presented to any officer or department of the Government prior to its presentation to Congress and reference to this court as aforesaid.

The letter from the assistant clerk of the Court of Claims is as follows:

[Senate Document No. 522, Sixty-second Congress, second session.]

JOHN GLANZMANN.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANSMITTING A COPY OF THE FINDINGS OF THE COURT IN THE CASE OF JOHN GLANZMANN AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, April 5, 1912.

Hon. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[Court of Claims of the United States. Congressional. No. 13805, sub-No. 5. John Glanzmann v. The United States.]

STATEMENT OF CASE.

This is a claim for compensation of watchman-laborer employed under the Treasury Department for time alleged to have been worked in excess of eight hours per day.

On March 2, 1909, the Senate of the United States, by resolution, referred to the court, under the act of March 3, 1887, known as the Tucker Act, a bill in the following words:

"[S. 6903, Sixtieth Congress, first session.]

"A bill for the relief of John I. Conroy and others.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to John I. Conroy, of St. Paul, Minn., and the other persons whose names appear on the memorial of John I. Conroy and others, such amount as may by findings of fact by the Court of Claims under section 14 of the act of Congress approved March 3, 1887, known as the Tucker Act, be awarded them, respectively, for work in excess of eight hours in each calendar day while employed in the care of public buildings of the United States at St. Paul, Minn., and elsewhere."

The claimant appeared and filed his petition in this court on June 17, 1908, in which he makes substantially the following allegations:

That he is a citizen of the United States and resides at Carson City, Nev.

That your petitioner is one of the persons named in the memorial referred to in said bill, and has a claim against the United States for compensation for time worked by him in excess of eight hours per day while employed at the United States public building at Carson City, Nev., as watchman-laborer.

That the act of August 1, 1892, prescribes in mandatory terms for the benefit of all laborers and mechanics employed by the Government eight hours of labor in any one calendar day as the limit for a day's work.

That your petitioner has been required, notwithstanding this provision of law, to work 12 hours per day since the date of his employment, namely, August 1, 1890, to May 8, 1903.

That the greater part of the force of laborers and mechanics employed in the care of buildings under the Treasury Department is worked on an eight-hour schedule, and that the rates of pay for all employees are fixed by the department uniformly in accordance with the character and grade of the employment without regard to the number of hours per day they will be required to work.

That the extra work rendered by your petitioner was necessary for the protection and care of the Government building and machinery, and was not work which the claimant could have been required to have performed had he refused.

That the amount of this claim for extra pay for this work is much less than the Government would have been required to expend to employ an additional laborer or mechanic to comply with the eight-hour law.

That the Treasury Department has paid some of the employees in the same branch of the service, performing exactly the same kind of work, additional compensation for the services rendered in excess of eight hours per day.

That by requiring your petitioner to work in excess of eight hours per day the General Government has taken from him the equivalent of property without compensation, and under circumstances which almost uniformly in other branches of the public service, either by regulation or order of the head of the department or by action of Congress, has been compensated by granting extra pay either at the rate of regular pay or at an increased rate for such extra time.

That the amount which would be sufficient to compensate your petitioner for the extra work so performed by him at the rate of his regular compensation is the sum of $3,296.

The case was brought to a hearing on the 6th day of December, 1909. Fred B. Rhodes, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant, and under his direction, appeared for the protection and defense of the interests of the United States.

The court, upon the evidence adduced, and after considering the arguments and briefs of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant, John Glanzmann, is a citizen of the United States, residing at Carson City, Ormsby County, State of Nevada, and from August 1, 1892, until May 8, 1903, he was employed as a watchman-laborer in the United States Customhouse and Post Office Building at Carson City, Nev., at a salary of $720 per annum. During the time he was so employed he worked 12 hours each day, not including Sundays and legal holidays.

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

III. The number of hours worked by claimant in excess of eight hours a day during the period from August 1, 1892, as set forth in Finding I, is 13,184; and his services for said hours, computed upon the basis of the salary he was receiving during said period, namely, $720 per annum, would amount to $3,296.

IV. It does not appear that said claim was ever presented to any officer or department of the Government prior to its presentation to Congress and reference to this court as aforesaid.

BY THE COURT.

Filed December 20, 1909.
A true copy.
Test this 3d day of April, 1912.
[SEAL.]
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. NEWLANDS. I would ask the Senator from South Dakota whether he has any objection to this amendment?

Mr. CRAWFORD. Mr. President, the amendment proposed by the Senator from Nevada, if allowed, will establish a precedent under which the custodians and watchmen employed in Government buildings throughout the United States will be allowed overtime pay where they were on duty more than eight hours a day. There are a large number of claims of that kind. If we allow one of them, we should allow all. The committee declined to put any of that class of claims into the bill. The reason they did so was because of this finding, which is a finding that runs through every claim of that character and is made by the court in each and every case, where the court say:

> In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

It is very apparent that it would be practically impossible to observe an eight-hour law with reference to this class of employees—custodians and watchmen—and the understanding, according to this finding, at the time they were employed was that their yearly salary was fixed at a rate which was adequate, considering the size and character of the building, the cost of living, the locality where they lived, and so forth; that all those matters were taken into consideration in fixing their yearly compensation, without regard to the number of hours they might be required to labor. In other words, the Court of Claims finds that these men have received ample compensation for their work, whether they work more than eight hours a day or not, and that in fixing their yearly compensation all those matters were taken into consideration.

The Senator knows that, so far as his personal claim is concerned, it was submitted to me and it was submitted to the committee some time ago; but to allow this claim would make it necessary to go back through this bill and put into it several thousand claims of custodians, watchmen, and men of that class, in face of the fact that the Court of Claims finds that the consideration per annum for their services was fixed for the purpose of making it adequate and taking into consideration that they would work more than eight hours a day. So the committee could not, in fairness to the other claimants and to this finding of the court, consent to the amendment.

Mr. NEWLANDS. I would ask the Senator from South Dakota whether janitors and custodians of buildings are now required to work more than eight hours a day in the public service?

Mr. CRAWFORD. They are whenever the exigencies of the service appear to require it. Whether or not it is done as a general rule, I am not advised.

Mr. NEWLANDS. The Senator will observe that this is a general rule, that the Court of Claims find that during this entire period this man worked 12 hours a day instead of 8 hours.

Mr. CRAWFORD. And I think it is quite universal in the case of custodians that they work more than eight hours a day.

Mr. NEWLANDS. The Senator is not informed as to the practice?

Mr. CRAWFORD. They are simply custodians; and it is impossible, under the conditions, to observe a hard and fast eight-hour rule with reference to them; and their compensation, the court finds, is fixed, having in view the fact that they are to work more than eight hours a day.

Mr. NEWLANDS. In view of the Senator's statement that the committee has had this class of claims under consideration and did not deem it advisable to present them in this bill, I can, perhaps, hardly hope for the favorable consideration of this amendment now. I will, however, ask the Senator whether this matter was fully argued before the committee by counsel for these various claimants?

Mr. CRAWFORD. Mr. President, the Committee on Claims, since I have been a member of it, has not given, and, so for as I know its history, it never has undertaken to give the counsel who represent claimants hearings before the committee. I think, if the Senator from Nevada was a member of the committee, he would soon realize how utterly impossible it would be to do a thing of that kind.

The archives of that committee are crowded with claims of all sorts and kinds, together with voluminous briefs and long statements. The offices on the streets of Washington are crowded with attorneys whose chief occupation appears to be to hunt up and promote the collection of such claims, and they are on the trail, I will say to the Senator, more than eight hours a day. In the corridors of the Senate Office Building and elsewhere they not only seek interviews with the chairman, but they seek interviews with the members of the committee; and when they can not approach them they undertake to influence their clerks. If we were to undertake to open the hearings of that committee to argument by counsel upon these questions we never would be able to make a report of any kind. We have not granted such hearings, and I understand it has never been the practice of the committee to allow them. We look over the briefs submitted to us; we look over the findings; we give careful consideration to the claims. We gave very careful consideration to this class of claims and came to the conclusion that in the face of that finding they should not be placed in this bill.

Mr. MASSEY. Mr. President, so far as the particular claim is concerned covered by the amendment offered by my colleague [Mr. NEWLANDS], I desire to say that I know personally, and have known for many years personally, the claimant, and I do not believe he would be insisting in this body or before any body representing the Government of the United States upon the payment of a claim if it were not just.

I desire also at this time to state that, in determining the question of justice as between claimants and the Government of the United States, a matter of establishing or breaking a precedent, so far as I am individually concerned, will have but very little weight. I believe it is the duty of the Senate to break precedents whenever a just claim is presented against the Government of the United States, and that it is the duty of the Senate to establish precedents whenever it is necessary to establish just claims against the Government of the United States.

Out in our State we have not been asking much and we have gotten less, but we do insist that this is a just claim so far as the Government of the United States is concerned, and that this great Government of ours can not afford to treat this claimant, based upon precedent, otherwise than justly in the allowance of his claim.

I believe, Mr. President, that I am a member of the Committee on Claims. I want frankly to confess that I have never had an opportunity of meeting with that committee, and I know nothing of its burdens or the character of its labors. I believe, however, the committee have been actuated by a desire to segregate from the very many claims that are presented against the Government those which are fair and just and to award to just claimants that which is justly due them; but being personally acquainted with the man and the conditions under

which this labor was performed, conditions different from those existing in every other State in the Union, I believe the Senate of the United States can not afford to reject the request for that consideration at the hands of Senators to which the claim is entitled. I join my colleague in asking that the amendment may be adopted.

Mr. NEWLANDS. Mr. President, I observe that the Senator from Idaho [Mr. BORAH] desired to be heard upon this matter, but I do not now see him upon the floor. I will state, Mr. President, that in view of the chairman's statement that the committee considered a large number of claims of this class, aggregating several thousand, and concluded to insert none of them in this bill, I do not feel like pressing the amendment to a vote, and I will withdraw it temporarily, with a view to consulting with my colleague and with other Members of the Senate who have presented similar claims.

The PRESIDING OFFICER (Mr. FLETCHER in the chair). The amendment is temporarily withdrawn.

Mr. GALLINGER. Mr. President——

Mr. CRAWFORD. May I be allowed to make a statement to the Senator from Nevada?

Mr. GALLINGER. Certainly.

Mr. CRAWFORD. I find from the report that there are 88 claimants whose claims are very similar to this, and the aggregate amount involved is $97,752.20. There are 88 claims of custodians, and in every one the court has found that in fixing their yearly compensation the Government took into consideration the character of their employment and the necessity of their working for a longer period than eight hours a day and fixed the compensation with that fact in view. We treated them all alike and left them out of the bill.

Mr. NEWLANDS. May I ask the Senator from Idaho whether he wishes to say anything upon this subject?

Mr. BORAH. I did not understand the Senator.

Mr. NEWLANDS. I understood the Senator was claiming the attention of the Chair a few moments ago with a view of saying something regarding this bill.

Mr. BORAH. It was not in connection with this matter.

Mr. NEWLANDS. I will not withdraw the amendment, but will simply withhold it temporarily, in order to consult with my colleague in regard to it.

The PRESIDING OFFICER. The Senator from Nevada withholds the amendment.

Mr. GALLINGER. I submit a proposed amendment, Mr. President.

The PRESIDING OFFICER. The Senator from New Hampshire submits an amendment, which will be stated.

Mr. WORKS. Mr. President, I was entitled to the floor and yielded to the Senator from Nevada [Mr. NEWLANDS], but I did not intend to open the door for all Senators to offer amendments. I have an amendment, and, if the Senator will allow me a moment, I think we can dispose of the amendment I am about to offer.

Mr. GALLINGER. If the Senator from California was entitled to the floor—I had no knowledge of that fact—I will allow my amendment to rest on the table for a moment.

Mr. WORKS. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The Senator from California offers an amendment, which will be stated.

The SECRETARY. On page 259, after line 25, it is proposed to insert:

> To Edgar L. Swaine, administrator of the estate of Peter T. Swaine, deceased, of Los Angeles, $2,175.09.
>
> To Oliver D. Greene, administrator of the estate of Oliver D. Greene, deceased, of Berkeley, $2,433.78.

Mr. WORKS. Mr. President, these are two of the longevity claims that have been adjudicated by the Court of Claims since the bill was reported. As I understand, under the statement of the chairman of the committee, these are amendments which should be allowed.

Mr. CRAWFORD. Has the Senator the reports from the Court of Claims on his desk?

Mr. WORKS. I have.

Mr. CRAWFORD. Will the Senator hand them to me?

Mr. WORKS. Certainly.

Mr. CRAWFORD. If I find, as I have no doubt I shall, that the cases come within the rule, I will offer no objection.

Mr. LODGE. Let the findings be read.

Mr. CRAWFORD. I ask that they be read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant, Edgar L. Swaine, is a citizen of the United States, residing at Los Angeles, Cal., and is the administrator of the estate of Peter T. Swaine, deceased, who, during his lifetime, was an officer in the United States Army, having been appointed as a cadet at the United States Military Academy September 1, 1847. He graduated therefrom and was appointed second lieutenant July 1, 1852; first lieutenant, August 8, 1855; captain, May 14, 1861; major, December 29, 1865; lieutenant colonel, October 24, 1874.

II. Said decedent was paid his first longevity ration from July 1, 1857, and one additional ration for each five years subsequent thereto.

Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to $2,200.29, from which would be deducted overpayments amounting to $25.20, leaving a balance of $2,175.09.

III. The claim was presented to the accounting officers of the Treasury and was disallowed December 27, 1890.

Except as above stated the claim was never presented to any officer or department of the Government prior to its presentation to Congress and reference to the court as hereinbefore set forth.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the services of said decedent while a cadet at the Military Academy, which service the Supreme Court decided in the case of United States v. Watson (130 U. S., 80) was service in the Army.

BY THE COURT.

Filed June 17, 1912.
A true copy.
Test this 22d day of June, 1912.
[SEAL.]
ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

Mr. CRAWFORD. All these claims are exactly of that character. One of the auditors of the War Department rejected a number of these claims on the ground that the officers were not entitled to recover for the period during which the young men were cadets at West Point. The question was carried to the United States Supreme Court, and it held that they were entitled for that period.

Now the claims are presented under that decision, and the auditor allows them, with the exception of those which had been presented to the prior auditor and rejected by him. They refuse to allow them, on the ground that it is not their policy to reverse the decision of one of the prior officers. That is the technical point which is involved.

If we allow any of them, this is just as good as the rest. That is all there is to it.

Mr. WORKS. Let me ask the Senator from South Dakota whether the claims which have already been allowed and included in the bill are of similar kind.

Mr. CRAWFORD. They are. I say, if we allow any of them these are the same as the rest.

The amendment was agreed to.

Mr. WORKS. I ask that the findings of fact in the other case may be included in the RECORD. Only one of them was read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The findings of fact in the Greene case are as follows:

FINDINGS OF FACT.

I. Claimant's decedent was an officer in the United States Army, having been appointed a cadet at the United States Military Academy July 1, 1849. He graduated therefrom and was appointed second lieutenant, Third Artillery, July 1, 1854; promoted to be first lieutenant April 26, 1861, and captain and assistant adjutant general August 3, 1861; major and assistant adjutant general, July 17, 1862; lieutenant colonel and assistant adjutant general August 20, 1862; and colonel and assistant adjutant general July 9, 1892.

II. In settlement of said decedent's account by the accounting officers of the Treasury, he has been paid first longevity ration from July 1, 1879, and one additional ration for each five years subsequent thereto, and in a settlement made November 17, 1890, said officers refused to count his service as a cadet at the Military Academy in computing his longevity pay and allowances for service prior to February 24, 1881.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) claimant would be entitled to additional allowances as follows, as reported by the Auditor for the War Department.

First longevity ration, July 1, 1854, to June 30, 1859		$474.70
Second longevity ration, July 1, 1859, to June 30, 1864		548.10
Third longevity ration, July 1, 1864, to June 30, 1869		663.60
Fourth longevity increase, July 1, 1869, to June 30, 1874		1,103.98
		2,790.38
From which should be deducted tax	$45.21	
One-half of above amount while on half-pay status from July 20, 1865, to Aug. 6, 1865	4.50	
Longevity increase under the Tyler decision allowed by settlement 6088, confirmed by the comptroller, June 20, 1883, from July 15, 1870, to June 30, 1874	306.89	
		356.60
Leaving a balance of		2,433.78

BY THE COURT.

Filed May 20, 1912.
A true copy.
Test this 27th day of May, 1912.
[SEAL.]
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. LODGE. I ask that the report, including the findings of fact by the Court of Claims in respect to the cases to which amendments were adopted yesterday, being two similar longevity claims, may be printed in the RECORD, so as to make the record complete.

The PRESIDING OFFICER. In the absence of objection, it is so ordered.

The reports are as follows:

[House Document No. 795, Sixty-second Congress, second session.]

FRANK H. PHIPPS.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS TRANSMITTING A COPY OF THE FINDINGS FILED BY THE COURT IN THE CASE OF FRANK H. PHIPPS AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, May 31, 1912.

Hon. CHAMP CLARK,
Speaker of the House of Representatives.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[Court of Claims of the United States. Congressional, No. 15557. Frank H. Phipps v. The United States.]

STATEMENT OF CASE.

This case was referred to the court by the Committee on War Claims of the House of Representatives on December 9, 1911, under the act of March 3, 1883, known as the Bowman Act.

The case was brought to a hearing on its merits on the 13th day of May, 1912.

Richard R. McMahon, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States, residing in the city of Springfield, State of Massachusetts.

That he entered the United States Military Academy as a cadet July 1, 1859; was appointed first lieutenant of ordnance, June 11, 1863; promoted captain, June 23, 1874; major, December 4, 1882; lieutenant colonel, July 7, 1898; colonel, February 17, 1903; and was retired with the rank of brigadier general, August 9, 1907.

That during the period of the petitioner's service as a commissioned officer in the Army of the United States the following statutory provisions respecting longevity pay were in force:

"That every commissioned officer of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the Army of the United States." (Act of July 5, 1838, sec. 15; 5 Stat. L., p. 258.)

"There shall be allowed and paid to each commissioned officer below the rank of brigadier general, including chaplains and others having assimilated rank or pay, 10 per cent of their current yearly pay for each term of five years' service." (Act of July 15, 1870; now sec. 1262, R. S.)

"* * * the actual time of service in the Army and Navy, or both, shall be allowed all officers in computing their pay." (Act of Feb. 24, 1881; 21 Stat. L., p. 346.)

That under a decision of the Second Comptroller of the Treasury made July 24, 1838, the accounting officers of the Treasury, in the settlement of the petitioner's accounts, did not count his service at the Military Academy in computing his longevity pay and allowances for service prior to February 24, 1881.

That upon the construction of the act of July 5, 1838, by the Supreme Court of the United States, in the case of United States v. Watson (130 U. S., 80), the petitioner made application to the proper accounting officers of the Treasury for a settlement of his longevity pay and allowances in accordance with said decision, and, under the then prevailing ruling that service as a cadet could not be counted in computing longevity pay and allowances for service prior to February 24, 1881, petitioner's application was rejected December 15, 1890.

That upon the revocation of that ruling by the Comptroller of the Treasury on May 18, 1908, the petitioner again made application to the accounting officers of the Treasury for settlement of the longevity pay and allowances due him for service prior to February 24, 1881, but the Auditor for the War Department, May 2, 1910, refused to consider the petitioner's claim, because it had been previously disallowed by the settlement of 1890.

That by this action of the accounting officers in refusing to allow petitioner credit for his service at the Military Academy prior to February 24, 1881, there has been withheld from the petitioner the sum of $2,361.92, the amount he would have received had he been dealt with according to law.

That this claim has not been paid, assigned, or transferred, in whole or in part, and that petitioner has all his life been loyal to the Government of the United States.

The court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant herein, Frank H. Phipps, is an officer in the United States Army, having entered the United States Military Academy July 1, 1859. He graduated therefrom and was appointed first lieutenant of ordnance June 11, 1863; was promoted to be captain June 23, 1874; major, December 4, 1882; lieutenant colonel, July 7, 1898; colonel, February 17, 1903; and was retired August 9, 1907.

II. Claimant was paid his first longevity ration from June 11, 1868, and 10 per cent increase each five years subsequent thereto, and by settlements with the accounting officers he was paid longevity increase under the Tyler and Morton decisions, but said officers refused to allow longevity pay under the Watson decision.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said claimant's first longevity period should begin July 1, 1864, and there would be due him, as reported by the Auditor for the War Department, the additional sum of $2,314.17.

BY THE COURT.

Filed May 20, 1912.
A true copy.
Test this 29th day of May, 1912.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[House Document No. 790, Sixty-second Congress, second session.]

CLIFFORD H. FROST, TRUSTEE.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANSMITTING A COPY OF THE FINDINGS FILED BY THE COURT IN THE CASE OF CLIFFORD H. FROST AND FRANK B. M'ALLISTER, TRUSTEES, UNDER THE WILL OF THE ESTATE OF ZEALOUS B. TOWER, DECEASED, AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, May 31, 1912.

Hon. CHAMP CLARK,
Speaker of the House of Representatives.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[In the Court of Claims. Congressional, No. 14503. Clifford H. Frost and Frank B. McAllister, trustees, under the will of the estate of Zealous Bates Tower, deceased, v. The United States.]

STATEMENT OF CASE.

The claim in the above-entitled case for longevity pay alleged to be due to the service of said Zealous Bates Tower in the Army of the United States was transmitted to this court by order of the Committee on War Claims of the House of Representatives on February 26, 1910.

The case was brought to a hearing on its merits on the 8th day of May, 1912.

Fred C. Coldern appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimants, Clifford H. Frost and Frank Barr McAllister, in their petition, make the following allegations:

That they are trustees, under his will, of the estate of said Zealous Bates Tower.

That the said Zealous Bates Tower entered the military service of the United States as a cadet in the United States Military Academy July 1, 1837, from which date he served as an officer of the United States Army until placed on the retired list January 10, 1883, as a colonel, and served thereafter on the retired list until his death, March 20, 1900.

That under the act of July 5, 1838, he became entitled to an additional ration for each five years' service, and under the act of July 15, 1870, he became entitled to 10 per cent increase of pay for each five years of service, but in computing such allowance of longevity rations and pay, computation was made on the basis that his service began at the date he was appointed second lieutenant, after graduating from the Military Academy, instead of the date of entering said Military Academy.

That under the decisions in the case of United States v. Tyler (105 U. S., 244), United States v. Morton (112 U. S., 1), and United States v. Watson (130 U. S., 80), longevity rations and pay should have been computed on the basis that his service began when he entered the Military Academy, and his estate is therefore entitled to the following amounts, being the difference between the amounts actually paid him and the amounts to which he was entitled for said periods:

First longevity ration, July 1, 1842, to June 30, 1846, inclusive	$292.20
Second longevity ration, July 1, 1847, to June 30, 1851, inclusive	292.20
Third longevity ration, July 1, 1852, to June 30, 1856, inclusive	292.20
Fourth longevity ration, July 1, 1857, to June 30, 1861, inclusive	438.30
Fifth longevity ration, Jan. 15, 1866, to June 30, 1866, inclusive	59.70
Sixth longevity ration, July 1, 1867, to July 14, 1870, inclusive	333.00
Total	1,707.60
Less internal-revenue tax	37.79
Leaving a balance of	1,669.81

That claim for said difference of pay was filed with the Auditor for the War Department, and disallowed by that officer on the ground that under the rulings in force in that office when his pay was computed, no allowance was made for service as cadet in the United States Military Academy, and by said adjudication said office had now lost jurisdiction and could not reopen the account.

That said claim is correct and just; that it has not been paid, assigned in whole or in part; and that said decedent was loyal to the Government of the United States throughout the Civil War.

The court upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimants Clifford H. Frost and Frank Barr McAllister are citizens of the United States, residing in Boston, State of Massachusetts, and are trustees under the will of the estate of Zealous Bates Tower, deceased, who was during his lifetime an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1837. He graduated therefrom and was apointed second lieutenant of Engineers July 1, 1841; was promoted to be first lieutenant April 24, 1847; captain July 1, 1855; major August 6, 1861; brigadier general of Volunteers November 23, 1861, to January 15, 1866; was appointed lieutenant colonel of Engineers November 11, 1865; colonel January 13, 1874; was retired January 10, 1883; and died March 20, 1900.

II. Said decedent was paid his longevity increase ration for each five years' service from July 1, 1846, and his claim for longevity pay and allowances under the Watson decision was disallowed by the accounting officers of the Treasury.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) there would be due said decedent additional longevity allowances, as reported by the Auditor for the War Department, amounting to the sum of $1,669.51.

BY THE COURT.

Filed May 13, 1912.
A true copy.
Test this 14th day of May, 1912.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. GALLINGER. I ask that the amendment I offered may now be read.

The SECRETARY. On page 203, after line 18, it is proposed to insert:

Edward B. Prime, $339.45.

Mr. GALLINGER. Mr. President, this is a case for overtime work in the navy yard, and the findings of the court were made four days after the report of the committee. It is absolutely based upon fact and ought to be allowed.

Mr. CRAWFORD. I wish to say this in regard to Navy overtime: They are the claims of laborers in navy yards.

Mr. GALLINGER. This man was a mechanic.

Mr. CRAWFORD. The Secretary of the Navy issued a circular, which went to all the employees, in which he fixed the hours of employment within certain hours—an eight hours' service. He specifically stated that in cases where the men worked beyond the term of eight hours they would be allowed for the extra time at the same rate. They went on and performed the service on the strength of this order issued by the Secretary of the Navy.

They had their claims adjudicated. There can be no question about them. The timekeeper kept the number of hours they worked; the wage they were receiving was a matter of record; and the whole thing is a mere matter of computation as to what the overtime amounted to. That has been found by the Court of Claims.

The court found that these men worked so many extra hours; that they were receiving such and such a wage, and the proportionate amount for the extra time was so much, and the claims of the bill are claims of that kind which have been reported to the committee after it made its report.

These claims now offered are exactly of the same character, with the same sort of finding, but they have come in since the committee made its report.

I see no reason why, if we allow any of them, these regularly reported since the bill was reported should not be inserted in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from New Hampshire.

The amendment was agreed to.

Mr. BAILEY. Mr. President, I offer an amendment, to be inserted after line 2 on page 267.

The SECRETARY. On page 267, after line 2, insert:

TEXAS.

To the Union Trust Co., of the District of Columbia, administrator de bonis non of the estate of Thomas Murray Tolman, deceased, $2,126.24.

Mr. BAILEY. Mr. President, the amendment involves a case in all respects similar to the one which the Senator from California has just explained to the Senate, and, without detaining the Senate, I will simply ask that the finding of the Court of Claims be incorporated in the RECORD.

Mr. CRAWFORD. Is it a longevity claim?

Mr. BAILEY. It is a longevity claim.

The PRESIDING OFFICER. Without objection, the finding of facts will be inserted in the RECORD, as requested by the Senator from Texas.

The findings of fact are as follows:

FINDINGS OF FACT.

I. The claimant herein, the Union Trust Co. of the District of Columbia, is the administrator de bonis non of the estate of Thomas Murray Tolman, deceased, who during his lifetime was an officer in the United States Army, having entered the United States Military Academy as a cadet on July 1, 1861. He graduated therefrom and was appointed a second lieutenant, Sixth United States Cavalry, June 23, 1865; was promoted to first lieutenant January 25, 1866, captain November 18, 1867, and died December 14, 1883.

He was paid his first longevity increase from June 23, 1870, and an additional 10 per cent for each five years subsequent thereto, but the accounting officers of the Treasury in computing his longevity pay and allowances refused to count his service as a cadet at the Military Academy.

II. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances on account of longevity, as reported by the Auditor for the War Department, amounting to $2,142.56, from which would be deducted $16.32 overpaid said decedent, leaving a balance of $2,126.24.

BY THE COURT.

Filed May 20, 1912.
A true copy.
Test this 29th day of May, 1912.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Texas.

The amendment was agreed to.

Mr. ROOT. Mr. President, I offer an amendment to the bill relating to certain longevity claims. I think they are on exactly the same basis as those included in the bill, all of them having findings of the Court of Claims.

Mr. CRAWFORD. The Senator, I suppose, wants them under the head of the New York claims?

Mr. ROOT. Yes.

The SECRETARY. On page 266, after line 5, in the New York items, it is proposed to insert:

To Diantha G. Littlejohn, administratrix of the estate of John Egan, deceased, of Brooklyn, $2,276.91.

To Ida C. Hughes and Ellen C. McNally, daughters and sole heirs at law of Christopher H. McNally, deceased, of New York City, $2,559.21.

To George H. Chadeayne, ancillary executor of Joseph H. McArthur, deceased, late of the United States Army, $1,488.84.

To Hamilton Trust Co., of Brooklyn, N. Y., executor of Loomis Lyman Langdon, deceased, late of the United States Army, $1,795.59.

To William E. Carlin, of New York City, administrator of the estate of William Passmore Carlin, deceased, late of the United States Army, $1,250.73.

To Isabella H. Silvey, widow and administratrix of William Silvey, late of the United States Army, $1,549.30.

The amendment was agreed to.

The PRESIDING OFFICER. Does the Senator from New York want the findings of facts in connection with these cases printed in the RECORD?

Mr. ROOT. I think they should be.

The PRESIDING OFFICER. Without objection, it will be so ordered.

The findings of facts are as follows:

DIANTHA G. LITTLEJOHN, ADMINISTRATRIX.

FINDINGS OF FACT.

I. The claimant herein, Diantha G. Littlejohn, is a citizen of the United States and a resident of Brooklyn, State of New York, and is the duly appointed administratrix of the estate of John Egan, deceased, who during his lifetime was an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1858.

He graduated therefrom and was appointed second lieutenant, First Artillery, June 17, 1862; was promoted to be first lieutenant May 10, 1864; captain, Eleventh Infantry, July 28, 1866; accepted his appointment November 26, 1866. He was unassigned from April 14, 1869; assigned to the Twenty-third Infantry September 1, 1869; transferred to the Fourth Artillery January 1, 1871; promoted to be major, First Artillery, January 25, 1889; and retired September 1, 1896. He died July 23, 1906.

II. Said decedent was paid his first longevity ration from June 17, 1867, and 10 per cent increase for every five years subsequent thereto, and by settlement in 1883 and 1885 he was paid longevity pay under the rules and decisions then in force. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80), said decedent would be entitled to additional allowances for longevity, as reported by the Auditor for the War Department, in the sum of $2,276.91.

III. The claim was presented to the accounting officers of the Treasury and same was disallowed November 15, 1890. Except as above stated, the claim was never presented to any department or officer of the Government prior to its presentation to Congress and reference to this court, as hereinbefore set forth.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the service of said decedent while a cadet at the Military Academy, which service the Supreme Court, in the case of United States v. Watson (130 U. S., 80), decided was service in the Army.

BY THE COURT.

Filed June 17, 1912.
A true copy.
Test this 22d day of June, 1912.
[SEAL.]

ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

IDA C. HUGHES AND ELLEN C. MCNALLY.

FINDINGS OF FACT.

I. The claimants herein are citizens of the United States residing in the city of New York, State of New York, and are the sole heirs of Christopher H. McNally, who during his lifetime served in the United States Army, having served as an enlisted man from December 21, 1848, to June 14, 1855, when he was discharged and accepted a commission as second lieutenant Mounted Rifles. He was promoted to be first lieutenant May 5, 1861, captain September 28, 1861, and retired December 24, 1866.

II. Said decedent was paid longevity pay and allowances under the Tyler decision, but the accounting officers of the Treasury refused to count his service as an enlisted man in computing longevity pay and allowances.

III. Under the decision of this court in the case of James Stewart, No. 20810, decided February 23, 1899, claimants would be entitled to additional longevity increase amounting to $2,666.10, as reported by

the Auditor for the War Department, from which would be deducted overpayments amounting to $106.89, leaving a balance of $2,559.21.

IV. Said claim was presented to the accounting officers of the Treasury and was disallowed November 3, 1883. Except as above stated, the claim was never presented to any officer or department of the Government prior to its presentation to Congress and reference to this court as hereinbefore set forth in the statement of the case, and no evidence is adduced showing why claimants did not earlier prosecute said claim.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of said decedent's service as an enlisted man, which service this court decided, in the case of James Stewart, No. 20810, was service in the Army.

BY THE COURT.

Filed.
A true copy.
Test this 27th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

GEORGE H. CHADEAYNE, EXECUTOR.

FINDINGS OF FACT.

I. Claimant's decedent, Joseph H. McArthur, was during his lifetime an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1845. He graduated therefrom and was appointed brevet second lieutenant, Second Infantry, July 1, 1849; second lieutenant, Fifty Infantry, August 12, 1850; first lieutenant, Second Cavalry, April 11, 1855; was promoted to be captain, Fifth Cavalry, June 28, 1860, major, Third Cavalry, September 25, 1863, and retired November 2, 1863. He was on active duty from date of retirement to February 8, 1866; from May 24, 1866, to May 10, 1867, and from October 2, 1867, to November 30, 1867. He served as lieutenant colonel, Sixth Pennsylvania Cavalry, from September 11, 1861, to February 15, 1862, and died January 23, 1902.

II. Said decedent was paid his first longevity ration from July 1, 1854, and one additional ration for each five years subsequent thereto, and his claim for longevity increase on account of his service as a cadet was disallowed by the accounting officers April 4, 1891.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to $1,488.84.

BY THE COURT.

Filed May 27, 1912.
A true copy.
Test this 28th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

HAMILTON TRUST CO., EXECUTOR.

FINDINGS OF FACT.

I. Claimant's decedent, Loomis Lyman Langdon, was an officer in the United States Army, having been appointed a cadet at the United States Military Academy July 1, 1850. He was graduated therefrom and appointed a second lieutenant July 1, 1854; promoted to be first lieutenant July 13, 1860; captain August 28, 1861; major March 20, 1879; lieutenant colonel December 1, 1883; colonel January 25, 1889; and retired as such October 25, 1894.

In the settlement of his accounts by the accounting officers of the Treasury said decedent has been paid on account of longevity commencing July 1, 1869, and one additional ration for each five years subsequent thereto, and said accounting officers refused by certificate No. 12506, confirmed by the comptroller December 5, 1890, to count his service at the Military Academy as service in the Army in computing longevity pay and allowances for service prior to February 24, 1881.

II. Under the decision of the Supreme Court in the case United States v. Watson (130 U. S., 80) said decedent's first longevity period should commence July 1, 1855, and the difference between the amounts which he has received and the amount to which he would be entitled under said decision, as reported by the Auditor for the War Department, is as follows:

First longevity ration, July 1, 1855, to June 30, 1859	$401.70
Second longevity ration, July 1, 1860, to June 30, 1864	438.30
Third longevity ration, July 1, 1865, to June 30, 1869	500.75
Fourth longevity increase, July 1, 1870, to June 30, 1874	494.39
Total	1,835.14
Less tax	31.67
	1,803.47

from which should be deducted an overpayment of $9.88, leaving a balance of $1,793.59.

BY THE COURT.

Filed May 13, 1912.
A true copy.
Test this 14th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

WILLIAM E. CARLIN, ADMINISTRATOR.

FINDINGS OF FACT.

I. Claimant's decedent, William P. Carlin, was during his lifetime an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1846. He graduated therefrom and was appointed brevet second lieutenant, Sixth United States Infantry, July 1, 1850; was promoted second lieutenant April 15, 1851; first lieutenant March 3, 1855; captain March 3, 1861; major, Sixteenth United States Infantry, February 8, 1864; lieutenant colonel, Seventeenth Infantry, July 1, 1872; colonel, Fourth Infantry, April 11, 1882; brigadier general May 17, 1893; retired November 24, 1893; and died October 4, 1903. He served as colonel, Thirty-eighth Illinois Infantry, from August 15, 1861, to November 28, 1862, and as brigadier general of Volunteers from November 29, 1862, to August 24, 1865.

II. Said decedent was paid his first longevity ration from July 1, 1855, and one additional ration for each five years subsequent thereto, except for the period he served as a brigadier general.

Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional longevity allowances after deducting overpayments, as reported by the Auditor for the War Department, amounting to $1,250.73.

BY THE COURT.

Filed June 17, 1912.
A true copy.
Test this 21st day of June, 1912.
[SEAL.] ARCHIBALD HOPKINS,
Chief Clerk.

ISABELLA H. SILVEY, ADMINISTRATRIX.

FINDINGS OF FACT.

I. Claimant's decedent, William Silvey, was, during his lifetime, an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1845. He graduated therefrom and was appointed a second lieutenant, Third United States Artillery, on July 1, 1849; was promoted to be first lieutenant October 31, 1853; captain, May 14, 1861; major, February 7, 1875, and retired as such May 1, 1875.

II. Said decedent was paid his first longevity increase ration from July 1, 1854, and one additional ration for each five years subsequent thereto, and the accounting officers of the Treasury have refused to count his said service as a cadet at the military Academy in computing longevity allowances for services prior to February 24, 1881.

III. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) there would be due claimant, after deducting overpayments and internal-revenue tax, the sum of $1,549.30, as reported by the Auditor for the War Department.

BY THE COURT.

Filed May 6, 1912.
A true copy.
Test this 11th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. BRANDEGEE. I offer the amendment I send to the desk. It is a longevity claim exactly on a par with those already accepted. I ask that the findings of the Court of Claims may be printed in the RECORD.

Mr. CRAWFORD. I will say that the amendment was handed to me by the Senator from Connecticut, and I am satisfied it is exactly the same as the others referred to.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 259, after line 25, and after the amendments already agreed to at that point, it is proposed to insert:

CONNECTICUT.

To Lizzie E. Remington, of Windsor, executrix of Philip Halsey Remington, deceased, late of the United States Army, $2,297.81.

The amendment was agreed to.

The PRESIDING OFFICER. The findings of fact will be printed in the RECORD as requested by the Senator from Connecticut.

The findings of fact are as follows:

I. Claimant's decedent, Philip Halsey Remington, was an officer in the United States Army, having entered the United States Military Academy as a cadet on July 1, 1857. He graduated therefrom and was appointed a second lieutenant, Eighth United States Infantry, June 24, 1861; was promoted to be first lieutenant August 23, 1861; captain July 28, 1866, and retired as such February 20, 1891.

In settlement of said decedent's account by the accounting officers of the Treasury in 1890 he was paid his first longevity ration from June 24, 1866, and one additional ration for each five years subsequent thereto, and said officers refused to count his service as a cadet at the Military Academy in computing longevity pay and allowances for service prior to February 24, 1881.

II. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) and the case of United States v. Tyler (105 U. S., 244) said decedent's first longevity ration should begin July 1, 1862, and the difference between the amounts he has received and the amounts to which he would be entitled under said decisions, as reported by the Auditor for the War Department, amounts to $2,297.81, no part of which has been paid.

BY THE COURT.

Filed May 20, 1912.
A true copy.
Test this 29th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. JOHNSTON of Alabama. I offer the amendment I send to the desk.

The SECRETARY. On page 267, at the end of line 16, after the words "this act," it is proposed to insert:

And section 3480 of the Revised Statutes, so far as applicable to these claims, is hereby repealed.

Mr. CRAWFORD. I did not catch the force of the amendment. I wish the Secretary would read it again. I should like an opportunity to examine it.

Mr. JOHNSTON of Alabama. How much time does the Senator from South Dakota want? This bill will probably be passed to-day.

Mr. GALLINGER, Mr. SMITH of Arizona, and others. Oh, no.

Mr. JOHNSTON of Alabama. I am perfectly willing to have it go over if the bill is not to be disposed of to-day.

Mr. CRAWFORD. I ask that the amendment be printed and go over.

Mr. JOHNSTON of Alabama. It has already been printed and referred to the committee, but I will consent to that course.

I will state here now that the Judiciary Committee of the Senate has twice reported unanimously for the repeal of this statute. It is a statute which prevents the heirs of certain officers who belonged to the Regular Army and went South when the contest between the two sections arose from being paid some small sums of money that are due.

In the case of Stonewall Jackson there would be $292 coming to his heirs; in the case of Robert E. Lee, $1,400; in the case of Joseph Wheeler, $219. That is the class of claims involved, and they amount to about $100,000. I will ask the Senator from South Dakota to look into it, if he desires to do so, before to-morrow.

Mr. CRAWFORD. I should like to have the amendment printed, if the Senator please——

Mr. JOHNSTON of Alabama. It has already been printed.

Mr. CRAWFORD. And go to the committee. If it involves the expenditure of a substantial sum, I should certainly want to examine it carefully.

The PRESIDING OFFICER. Without objection, it will be so ordered.

There are messages from the President which the Chair thinks ought to be laid before the Senate. One is very brief.

Mr. CRAWFORD. We close legislative proceedings at 1 o'clock.

The PRESIDING OFFICER. At 1.30.

ANNUAL REPORT OF THE ISTHMIAN CANAL COMMISSION (H. DOC. NO. 965).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Interoceanic Canals and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith, in pursuance of the requirements of chapter 1302 (32 Stats., p. 483), "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans," approved June 28, 1902, the Annual Report of the Isthmian Canal Commission for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *December 6, 1912.*

The PRESIDING OFFICER. There is another message from the President of the United States.

Mr. CRAWFORD. So that Senators may not be misled about the present status of the bill, I will ask that it be laid aside for the purpose of having the message of the President read.

The PRESIDING OFFICER. That is not necessary, but without objection that will be the order. Messages of the President are privileged.

Mr. CRAWFORD. That may be. I am not familiar with the rule.

FISCAL, JUDICIAL, MILITARY, AND INSULAR AFFAIRS (H. DOC. NO. 1067).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, ordered to lie on the table, and to be printed:

To the Senate and House of Representatives:

On the 3d of December I sent a message to the Congress, which was confined to our foreign relations. The Secretary of State makes no report to the President or to Congress, and a review of the history of the transactions of the State Department in one year must therefore be included by the President in his annual message or Congress will not be fully informed of them. A full discussion of all the transactions of the Government, with a view to informing the Congress of the important events of the year and recommending new legislation, requires more space than one message of reasonable length affords. I have therefore adopted the course of sending three or four messages during the first 10 days of the session, so as to include reference to the more important matters that should be brought to the attention of the Congress.

BUSINESS CONDITIONS.

The condition of the country with reference to business could hardly be better. While the four years of the administration now drawing to a close have not developed great speculative expansion or a wide field of new investment, the recovery and progress made from the depressing conditions following the panic of 1907 have been steady and the improvement has been clear and easily traced in the statistics. The business of the country is now on a solid basis. Credits are not unduly extended, and every phase of the situation seems in a state of preparedness for a period of unexampled prosperity. Manufacturing concerns are running at their full capacity and the demand for labor was never so constant and growing. The foreign trade of the country for this year will exceed $4,000,000,000, while the balance in our favor—that of the excess of exports over imports—will exceed $500,000,000. More than half our exports are manufactures or partly manufactured material, while our exports of farm products do not show the same increase because of domestic consumption. It is a year of bumper crops; the total money value of farm products will exceed $9,500,000,000. It is a year when the bushel or unit price of agricultural products has gradually fallen, and yet the total value of the entire crop is greater by over $1,000,000,000 than we have known in our history.

CONDITION OF THE TREASURY.

The condition of the Treasury is very satisfactory. The total interest-bearing debt is $963,777,770, of which $134,631,980 constitute the Panama Canal loan. The noninterest-bearing debt is $378,301,284.90, including $346,681,016 of greenbacks. We have in the Treasury $150,000,000 in gold coin as a reserve against the outstanding greenbacks; and in addition we have a cash balance in the Treasury as a general fund of $167,152,478.99, or an increase of $26,975,552 over the general fund last year.

RECEIPTS AND EXPENDITURES.

For three years the expenditures of the Government have decreased under the influence of an effort to economize. This year presents an apparent exception. The estimate by the Secretary of the Treasury of the ordinary receipts, exclusive of postal revenues, for the year ending June 30, 1914, indicates that they will amount to $710,000,000. The sum of the estimates of the expenditures for that same year, exclusive of Panama Canal disbursements and postal disbursements payable from postal revenues, is $732,000,000, indicating a deficit of $22,000,000. For the year ending June 30, 1913, similarly estimated receipts were $667,000,000, while the total corresponding estimate of expenditures for that year, submitted through the Secretary of the Treasury to Congress, amounted to $656,000,000. This shows an increase of $76,000,000 in the estimates for 1914 over the total estimates of 1913. This is due to an increase of $25,000,000 in the estimate for rivers and harbors for the next year on projects and surveys authorized by Congress; to an increase under the new pension bill of $32,500,000; and to an increase in the estimates for expenses of the Navy Department of $24,000,000. The estimate for the Navy Department for the year 1913 included two battleships. Congress made provision for only one battleship, and therefore the Navy Department has deemed it necessary and proper to make an estimate which includes the first year's expenditure for three battleships in addition to the amount required for work on the uncompleted ships now under construction. In addition to the natural increase in the expenditures for the uncompleted ships, and the additional battleship estimated for, the other increases are due to the pay required for 4,000 or more additional enlisted men in the Navy; and to this must be added the additional cost of construction imposed by the change in the 8-hour law which makes it applicable to ships built in private shipyards.

With the exceptions of these three items, the estimates show a reduction this year below the total estimates for 1913 of more than $5,000,000.

The estimates for Panama Canal construction for 1914 are $17,000,000 less than for 1913.

OUR BANKING AND CURRENCY SYSTEM.

A time when panics seem far removed is the best time for us to prepare our financial system to withstand a storm. The most crying need this country has is a proper banking and currency system. The existing one is inadequate, and everyone who has studied the question admits it.

It is the business of the National Government to provide a medium, automatically contracting and expanding in volume, to meet the needs of trade. Our present system lacks the indispensable quality of elasticity.

The only part of our monetary medium that has elasticity is the bank-note currency. The peculiar provisions of the law requiring national banks to maintain reserves to meet the call of the depositors operates to increase the money stringency when it arises rather than to expand the supply of currency and relieve it. It operates upon each bank and furnishes a motive for the withdrawal of currency from the channels of trade by each bank to save itself, and offers no inducement whatever for the use of the reserve to expand the supply of currency to meet the exceptional demand.

After the panic of 1907 Congress realized that the present system was not adapted to the country's needs and that under

it panics were possible that might properly be avoided by legislative provision. Accordingly a monetary commission was appointed which made a report in February, 1912. The system which they recommended involved a National Reserve Association, which was, in certain of its faculties and functions, a bank, and which was given through its governing authorities the power, by issuing circulating notes for approved commercial paper, by fixing discounts, and by other methods of transfer of currency, to expand the supply of the monetary medium where it was most needed to prevent the export or hoarding of gold and generally to exercise such supervision over the supply of money in every part of the country as to prevent a stringency and a panic. The stock in this association was to be distributed to the banks of the whole United States, State and National, in a mixed proportion to bank units and to capital stock paid in. The control of the association was vested in a board of directors to be elected by representatives of the banks, except certain ex officio directors, three Cabinet officers, and the Comptroller of the Currency. The President was to appoint the governor of the association from three persons to be selected by the directors, while the two deputy governors were to be elected by the board of directors. The details of the plan were worked out with great care and ability, and the plan in general seems to me to furnish the basis for a proper solution of our present difficulties. I feel that the Government might very properly be given a greater voice in the executive committee of the board of directors without danger of injecting politics into its management, but I think the federation system of banks is a good one, provided proper precautions are taken to prevent banks of large capital from absorbing power through ownership of stock in other banks. The objections to a central bank it seems to me are obviated if the ownership of the reserve association is distributed among all the banks of a country in which banking is free. The earnings of the reserve association are limited in percentage to a reasonable and fixed amount, and the profits over and above this are to be turned into the Government Treasury. It is quite probable that still greater security against control by money centers may be worked into the plan.

Certain it is, however, that the objections which were made in the past history of this country to a central bank as furnishing a monopoly of financial power to private individuals, would not apply to an association whose ownership and control is so widely distributed and is divided between all the banks of the country, State and National, on the one hand, and the Chief Executive through three department heads and his Comptroller of the Currency, on the other. The ancient hostility to a national bank, with its branches, in which is concentrated the privilege of doing a banking business and carrying on the financial transactions of the Government, has prevented the establishment of such a bank since it was abolished in the Jackson Administration. Our present national banking law has obviated objections growing out of the same cause by providing a free banking system in which any set of stockholders can establish a national bank if they comply with the conditions of law. It seems to me that the National Reserve Association meets the same objection in a similar way; that is, by giving to each bank, State and National, in accordance with its size, a certain share in the stock of the reserve association, nontransferable and only to be held by the bank while it perform its functions as a partner in the reserve association.

The report of the commission recommends provisions for the imposition of a graduated tax on the expanded currency of such a character as to furnish a motive for reducing the issue of notes whenever their presence in the money market is not required by the exigencies of trade. In other words, the whole system has been worked out with the greatest care. Theoretically it presents a plan that ought to command support. Practically it may require modification in various of its provisions in order to make the security against abuses by combinations among the banks impossible. But in the face of the crying necessity that there is for improvement in our present system, I urgently invite the attention of Congress to the proposed plan and the report of the commission, with the hope that an earnest consideration may suggest amendments and changes within the general plan which will lead to its adoption for the benefit of the country. There is no class in the community more interested in a safe and sane banking and currency system, one which will prevent panics and automatically furnish in each trade center the currency needed in the carrying on of the business at that center, than the wage earner. There is no class in the community whose experience better qualifies them to make suggestions as to the sufficiency of a currency and banking system than the bankers and business men. Ought we, therefore, to ignore their recommendations and reject their financial judgment as to the proper method of reforming our financial system merely because of the suspicion which exists against them in the minds of many of our fellow citizens? Is it not the duty of Congress to take up the plan suggested, examine it from all standpoints, give impartial consideration to the testimony of those whose experience ought to fit them to give the best advice on the subject, and then to adopt some plan which will secure the benefits desired?

A banking and currency system seems far away from the wage earner and the farmer, but the fact is that they are vitally interested in a safe system of currency which shall graduate its volume to the amount needed and which shall prevent times of artificial stringency that frighten capital, stop employment, prevent the meeting of the pay roll, destroy local markets, and produce penury and want.

THE TARIFF.

I have regarded it as my duty in former messages to the Congress to urge the revision of the tariff upon principles of protection. It was my judgment that the customs duties ought to be revised downward, but that the reduction ought not to be below a rate which would represent the difference in the cost of production between the article in question at home and abroad, and for this and other reasons I vetoed several bills which were presented to me in the last session of this Congress. Now that a new Congress has been elected on a platform of a tariff for revenue only rather than a protective tariff, and is to revise the tariff on that basis, it is needless for me to occupy the time of this Congress with arguments or recommendations in favor of a protective tariff.

Before passing from the tariff law, however, known as the Payne tariff law of August 5, 1909, I desire to call attention to section 38 of that act, assessing a special excise tax on corporations. It contains a provision requiring the levy of an additional 50 per cent to the annual tax in cases of neglect to verify the prescribed return or to file it before the time required by law. This additional charge of 50 per cent operates in some cases as a harsh penalty for what may have been a mere inadvertence or unintentional oversight, and the law should be so amended as to mitigate the severity of the charge in such instances. Provision should also be made for the refund of additional taxes heretofore collected because of such infractions in those cases where the penalty imposed has been so disproportionate to the offense as equitably to demand relief.

BUDGET.

The estimates for the next fiscal year have been assembled by the Secretary of the Treasury and by him transmitted to Congress. I purpose at a later day to submit to Congress a form of budget prepared for me and recommended by the President's Commission on Economy and Efficiency, with a view of suggesting the useful and informing character of a properly framed budget.

WAR DEPARTMENT.

The War Department combines within its jurisdiction functions which in other countries usually occupy three departments. It not only has the management of the Army and the coast defenses, but its jurisdiction extends to the government of the Philippines and of Porto Rico and the control of the receivership of the customs revenues of the Dominican Republic; it also includes the recommendation of all plans for the improvement of harbors and waterways and their execution when adopted; and, by virtue of an Executive order, the supervision of the construction of the Panama Canal.

ARMY REORGANIZATION.

Our small Army now consists of 83,809 men, excluding the 5,000 Philippine Scouts. Leaving out of consideration the Coast Artillery force, whose position is fixed in our various seacoast defenses, and the present garrisons of our various insular possessions, we have to-day within the continental United States a mobile Army of only about 35,000 men. This little force must be still further drawn upon to supply the new garrisons for the great naval base which is being established at Pearl Harbor, in the Hawaiian Islands, and to protect the locks now rapidly approching completion at Panama. The forces remaining in the United States are now scattered in nearly 50 posts, situated for a variety of historical reasons in 24 States. These posts contain only fractions of regiments, averaging less than 700 men each. In time of peace it has been our historical policy to administer these units separately by a geographical organization. In other words, our Army in time of peace has never been a united organization but merely scattered groups of companies, battalions, and regiments, and the first task in time of war has been to create out of these scattered units an Army fit for effective teamwork and cooperation.

To the task of meeting these patent defects, the War Department has been addressing itself during the past year. For many years we had no officer or division whose business it was to study these problems and plan remedies for these defects. With the establishment of the General Staff nine years ago a body was created for this purpose. It has, necessarily, required time to overcome, even in its own personnel, the habits of mind engendered by a century of lack of method, but of late years its work has become systematic and effective, and it has recently been addressing itself vigorously to these problems.

A comprehensive plan of Army reorganization was prepared by the War College Division of the General Staff. This plan was thoroughly discussed last summer at a series of open conferences held by the Secretary of War and attended by representatives from all branches of the Army and from Congress. In printed form it has been distributed to Members of Congress and throughout the Army and the National Guard, and widely through institutions of learning and elsewhere in the United States. In it, for the first time, we have a tentative chart for future progress.

Under the influence of this study definite and effective steps have been taken toward Army reorganization so far as such reorganization lies within the Executive power. Hitherto there has been no difference of policy in the treatment of the organization of our foreign garrisons from those of troops within the United States. The difference of situation is vital, and the foreign garrison should be prepared to defend itself at an instant's notice against a foe who may command the sea. Unlike the troops in the United States, it can not count upon reenforcements or recruitment. It is an outpost, upon which will fall the brunt of the first attack in case of war. The historical policy of the United States of carrying its regiments during time of peace at half strength has no application to our foreign garrisons. During the past year this defect has been remedied as to the Philippines garrison. The former garrison of 12 reduced regiments has been replaced by a garrison of 6 regiments at full strength, giving fully the same number of riflemen at an estimated economy in cost of maintenance of over $1,000,000 per year. This garrison is to be permanent. Its regimental units, instead of being transferred periodically back and forth from the United States, will remain in the islands. The officers and men composing these units will, however, serve a regular tropical detail as usual, thus involving no greater hardship upon the personnel and greatly increasing the effectiveness of the garrison. A similar policy is proposed for the Hawaiian and Panama garrisons as fast as the barracks for them are completed. I strongly urge upon Congress that the necessary appropriations for this purpose should be promptly made. It is, in my opinion, of first importance that these national outposts, upon which a successful home defense will, primarily, depend, should be finished and placed in effective condition at the earliest possible day.

THE HOME ARMY.

Simultaneously with the foregoing steps the War Department has been proceeding with the reorganization of the Army at home. The formerly disassociated units are being united into a tactical organization of three divisions, each consisting of two or three brigades of Infantry and, so far as practicable, a proper proportion of divisional Cavalry and Artillery. Of course the extent to which this reform can be carried by the Executive is practically limited to a paper organization. The scattered units can be brought under a proper organization, but they will remain physically scattered until Congress supplies the necessary funds for grouping them in more concentrated posts. Until that is done the present difficulty of drilling our scattered groups together, and thus training them for the proper team play, can not be removed. But we shall, at least, have an Army which will know its own organization and will be inspected by its proper commanders, and to which, as a unit, emergency orders can be issued in time of war or other emergency. Moreover, the organization, which in many respects is necessarily a skeleton, will furnish a guide for future development. The separate regiments and companies will know the brigades and divisions to which they belong. They will be maneuvered together whenever maneuvers are established by Congress, and the gaps in their organization will show the pattern into which can be filled new troops as the Nation grows and a larger Army is provided.

REGULAR ARMY RESERVE.

One of the most impotant reforms accomplished during the past year has been the legislation enacted in the Army appropriation bill of last summer, providing for a Regular Army reserve. Hitherto our national policy has assumed that at the outbreak of war our regiments would be immediately raised to full strength. But our laws have provided no means by which this could be accomplished, or by which the losses of the regiments when once sent to the front could be repaired. In this respect we have neglected the lessons learned by other nations. The new law provides that the soldier, after serving four years with colors, shall pass into a reserve for three years. At his option he may go into the reserve at the end of three years, remaining there for four years. While in the reserve he can be called to active duty only in case of war or other national emergency, and when so called and only in such case will receive a stated amount of pay for all of the period in which he has been a member of the reserve. The legislation is imperfect, in my opinion, in certain particulars, but it is a most important step in the right direction, and I earnestly hope that it will be carefully studied and perfected by Congress.

THE NATIONAL GUARD.

Under existing law the National Guard constitutes, after the Regular Army, the first line of national defense. Its organization, discipline, training, and equipment, under recent legislation, have been assimilated, as far as possible, to those of the Regular Army, and its practical efficiency, under the effect of this training, has very greatly increased. Our citizen soldiers under present conditions have reached a stage of development beyond which they can not reasonably be asked to go without further direct assistance in the form of pay from the Federal Government. On the other hand, such pay from the National Treasury would not be justified unless it produced a proper equivalent in additional efficiency on the part of the National Guard. The Organized Militia to-day can not be ordered outside of the limits of the United States, and thus can not lawfully be used for general military purposes. The officers and men are ambitious and eager to make themselves thus available and to become an efficient national reserve of citizen soldiery. They are the only force of trained men, other than the Regular Army, upon which we can rely. The so-called militia pay bill, in the form agreed on between the authorities of the War Department and the representatives of the National Guard, in my opinion adequately meets these conditions and offers a proper return for the pay which it is proposed to give to the National Guard. I believe that its enactment into law would be a very long step toward providing this Nation with a first line of citizen soldiery, upon which its main reliance must depend in case of any national emergency. Plans for the organization of the National Guard into tactical divisions, on the same lines as those adopted for the Regular Army, are being formulated by the War College Division of the General Staff.

NATIONAL VOLUNTEERS.

The National Guard consists of only about 110,000 men. In any serious war in the past it has always been necessary, and in such a war in the future it doubtless will be necessary, for the Nation to depend, in addition to the Regular Army and the National Guard, upon a large force of volunteers. There is at present no adequate provision of law for the raising of such a force. There is now pending in Congress, however, a bill which makes such provision, and which I believe is admirably adapted to meet the exigencies which would be presented in case of war. The passage of the bill would not entail a dollar's expense upon the Government at this time or in the future until war comes. But if war comes the methods therein directed are in accordance with the best military judgment as to what they ought to be, and the act would prevent the necessity for a discussion of any legislation and the delays incident to its consideration and adoption. I earnestly urge its passage.

CONSOLIDATION OF THE SUPPLY CORPS.

The Army appropriation act of 1912 also carried legislation for the consolidation of the Quartermaster's Department, the Subsistence Department, and the Pay Corps into a single supply department, to be known as the Quartermaster's Corps. It also provided for the organization of a special force of enlisted men, to be known as the Service Corps, gradually to replace many of the civilian employees engaged in the manual labor necessary in every army. I believe that both of these enactments will improve the administration of our military establishment. The consolidation of the supply corps has already been effected, and the organization of the Service Corps is being put into effect.

All of the foregoing reforms are in the direction of economy and efficiency. Except for the slight increase necessary to garrison our outposts in Hawaii and Panama, they do not call for a larger Army, but they do tend to produce a much more efficient one. The only substantial new appropriations required are those which, as I have pointed out, are necessary to complete the fortifications and barracks at our naval bases and outposts beyond the sea.

PORTO RICO.

Porto Rico continues to show notable progress, both commercially and in the spread of education. Its external commerce

has increased 17 per cent over the preceding year, bringing the total value up to $92,631,886, or more than five times the value of the commerce of the island in 1901. During the year 160,657 pupils were enrolled in the public schools, as against 145,525 for the preceding year, and as compared with 26,000 for the first year of American administration. Special efforts are under way for the promotion of vocational and industrial training, the need of which is particularly pressing in the island. When the bubonic plague broke out last June, the quick and efficient response of the people of Porto Rico to the demands of modern sanitation was strikingly shown by the thorough campaign which was instituted against the plague and the hearty public opinion which supported the Government's efforts to check its progress and to prevent its recurrence.

The failure thus far to grant American citizenship continues to be the only ground of dissatisfaction. The bill conferring such citizenship has passed the House of Representatives and is now awaiting the action of the Senate. I am heartily in favor of the passage of this bill. I believe that the demand for citizenship is just, and that it is amply earned by sustained loyalty on the part of the inhabitants of the island. But it should be remembered that the demand must be, and in the minds of most Porto Ricans is, entirely disassociated from any thought of statehood. I believe that no substantial approved public opinion in the United States or in Porto Rico contemplates statehood for the island as the ultimate form of relation between us. I believe that the aim to be striven for is the fullest possible allowance of legal and fiscal self-government, with American citizenship as the bond between us; in other words, a relation analogous to the present relation between Great Britain and such self-governing colonies as Canada and Australia. This would conduce to the fullest and most self-sustaining development of Porto Rico, while at the same time it would grant her the economic and political benefits of being under the American flag.

PHILIPPINES.

A bill is pending in Congress which revolutionizes the carefully worked out scheme of government under which the Philippine Islands are now governed and which proposes to render them virtually autonomous at once and absolutely independent in eight years. Such a proposal can only be founded on the assumption that we have now discharged our trusteeship to the Filipino people and our responsibility for them to the world, and that they are now prepared for self-government as well as national sovereignty. A thorough and unbiased knowledge of the facts clearly shows that these assumptions are absolutely without justification. As to this, I believe that there is no substantial difference of opinion among any of those who have had the responsibility of facing Philippine problems in the administration of the islands, and I believe that no one to whom the future of this people is a responsible concern can countenance a policy fraught with the direst consequences to those on whose behalf it is ostensibly urged.

In the Philippine Islands we have embarked upon an experiment unprecedented in dealing with dependent peoples. We are developing there conditions exclusively for their own welfare. We found an archipelago containing 24 tribes and races, speaking a great variety of languages, and with a population over 80 per cent of which could neither read nor write. Through the unifying forces of a common education, of commercial and economic development, and of gradual participation in local self-government we are endeavoring to evolve a homogeneous people fit to determine, when the time arrives, their own destiny. We are seeking to arouse a national spirit and not, as under the older colonial theory, to suppress such a spirit. The character of the work we have been doing is keenly recognized in the Orient, and our success thus far followed with not a little envy by those who, initiating the same policy, find themselves hampered by conditions grown up in earlier days and under different theories of administration. But our work is far from done. Our duty to the Filipinos is far from discharged. Over half a million Filipino students are now in the Philippine schools helping to mold the men of the future into a homogeneous people, but there still remain more than a million Filipino children of school age yet to be reached. Freed from American control the integrating forces of a common education and a common language will cease and the educational system now well started will slip back into inefficiency and disorder.

An enormous increase in the commercial development of the islands has been made since they were virtually granted full access to our markets three years ago, with every prospect of increasing development and diversified industries. Freed from American control, such development is bound to decline. Every observer speaks of the great progress in public works for the benefit of the Filipinos, of harbor improvements, of roads and railways, of irrigation and artesian wells, public buildings, and better means of communication. But large parts of the islands are still unreached, still even unexplored, roads and railways are needed in many parts, irrigation systems are still to be installed, and wells to be driven. Whole villages and towns are still without means of communication other than almost impassable roads and trails. Even the great progress in sanitation, which has successfully suppressed smallpox, the bubonic plague, and Asiatic cholera, has found the cause of and a cure for beriberi, has segregated the lepers, has helped to make Manila the most healthful city in the Orient, and to free life throughout the whole archipelago from its former dread diseases, is nevertheless incomplete in many essentials of permanence in sanitary policy. Even more remains to be accomplished. If freed from American control, sanitary progress is bound to be arrested and all that has been achieved likely to be lost.

Concurrent with the economic, social, and industrial development of the islands has been the development of the political capacity of the people. By their progressive participation in government the Filipinos are being steadily and hopefully trained for self-government. Under Spanish control they shared in no way in the government. Under American control they have shared largely and increasingly. Within the last dozen years they have gradually been given complete autonomy in the municipalities, the right to elect two-thirds of the provincial governing boards and the lower house of the insular legislature. They have four native members out of nine members of the commission, or upper house. The chief justice and two justices of the supreme court, about one-half of the higher judicial positions, and all of the justices of the peace are natives. In the classified civil service the proportion of Filipinos increased from 51 per cent in 1904 to 67 per cent in 1911. Thus to-day all the municipal employees, over 90 per cent of the provincial employees, and 60 per cent of the officials and employees of the central government are Filipinos. The ideal which has been kept in mind in our political guidance of the islands has been real popular self-government and not mere paper independence. I am happy to say that the Filipinos have done well enough in the places they have filled and in the discharge of the political power with which they have been intrusted to warrant the belief that they can be educated and trained to complete self-government. But the present satisfactory results are due to constant support and supervision at every step by Americans.

If the task we have undertaken is higher than that assumed by other nations, its accomplishment must demand even more patience. We must not forget that we found the Filipinos wholly untrained in government. Up to our advent all other experience sought to repress rather than encourage political power. It takes a long time and much experience to ingrain political habits of steadiness and efficiency. Popular self-government ultimately must rest upon common habits of thought and upon a reasonably developed public opinion. No such foundations for self-government, let alone independence, are now present in the Philippine Islands. Disregarding even their racial heterogeneity and the lack of ability to think as a nation, it is sufficient to point out that under liberal franchise privileges only about 3 per cent of the Filipinos vote and only 5 per cent of the people are said to read the public press. To confer independence upon the Filipinos now is, therefore, to subject the great mass of their people to the dominance of an oligarchical and, probably, exploiting minority. Such a course will be as cruel to those people as it would be shameful to us.

Our true course is to pursue steadily and courageously the path we have thus far followed: to guide the Filipinos into self-sustaining pursuits; to continue the cultivation of sound political habits through education and political practice; to encourage the diversification of industries, and to realize the advantages of their industrial education by conservatively approved cooperative methods, at once checking the dangers of concentrated wealth and building up a sturdy, independent citizenship. We should do all this with a disinterested endeavor to secure for the Filipinos economic independence and to fit them for complete self-government, with the power to decide eventually, according to their own largest good, whether such self-government shall be accompanied by independence. A present declaration even of future independence would retard progress by the dissension and disorder it would arouse. On our part it would be a disingenuous attempt, under the guise of conferring a benefit on them, to relieve ourselves from the heavy and difficult burden which thus far we have been bravely and consistently sustaining. It would be a disguised policy of scuttle. It would make the helpless Filipino the football of oriental politics, under the protection of a guaranty of their independence, which we would be powerless to enforce.

REGULATION OF WATER POWER.

There are pending before Congress a large number of bills proposing to grant privileges of erecting dams for the purpose of creating water power in our navigable rivers. The pendency of these bills has brought out an important defect in the existing general dam act. That act does not, in my opinion, grant sufficient power to the Federal Government in dealing with the construction of such dams to exact protective conditions in the interest of navigation. It does not permit the Federal Government, as a condition of its permit, to require that a part of the value thus created shall be applied to the further general improvement and protection of the stream. I believe this to be one of the most important matters of internal improvement now confronting the Government. Most of the navigable rivers of this country are comparatively long and shallow. In order that they may be made fully useful for navigation there has come into vogue a method of improvement known as canalization, or the slack-water method, which consists in building a series of dams and locks, each of which will create a long pool of deep navigable water. At each of these dams there is usually created also water power of commercial value. If the water power thus created can be made available for the further improvement of navigation in the stream, it is manifest that the improvement will be much more quickly effected on the one hand and, on the other, that the burden on the general taxpayers of the country will be very much reduced. Private interests seeking permits to build water-power dams in navigable streams usually urge that they thus improve navigation, and that if they do not impair navigation they should be allowed to take for themselves the entire profits of the water-power development. Whatever they may do by way of relieving the Government of the expense of improving navigation should be given due consideration, but it must be apparent that there may be a profit beyond a reasonably liberal return upon the private investment which is a potential asset of the Government in carrying out a comprehensive policy of waterway development. It is no objection to the retention and use of such an asset by the Government that a comprehensive waterway policy will include the protection and development of the other public uses of water, which can not and should not be ignored in making and executing plans for the protection and development of navigation. It is also equally clear that inasmuch as the water power thus created is or may be an incident of a general scheme of waterway improvement within the constitutional jurisdiction of the Federal Government, the regulation of such water power lies also within that jurisdiction. In my opinion, constructive statesmanship requires that legislation should be enacted which will permit the development of navigation in these great rivers to go hand in hand with the utilization of this by-product of water power, created in the course of the same improvement, and that the general dam act should be so amended as to make this possible. I deem it highly important that the Nation should adopt a consistent and harmonious treatment of these water-power projects, which will preserve for this purpose their value to the Government, whose right it is to grant the permit. Any other policy is equivalent to throwing away a most valuable national asset.

THE PANAMA CANAL.

During the past year the work of construction upon the canal has progressed most satisfactorily. About 87 per cent of the excavation work has been completed, and more than 93 per cent of the concrete for all the locks is in place. In view of the great interest which has been manifested as to some slides in the Culebra Cut, I am glad to say that the report of Col. Goethals should allay any apprehension on this point. It is gratifying to note that none of the slides which occurred during this year would have interfered with the passage of the ships had the canal, in fact, been in operation, and when the slope pressures will have been finally adjusted and the growth of vegetation will minimize erosion in the banks of the cut, the slide problem will be practically solved and an ample stability assured for the Culebra Cut.

Although the official date of the opening has been set for January 1, 1915, the canal will, in fact, from present indications, be opened for shipping during the latter half of 1913. No fixed date can as yet be set, but shipping interests will be advised as soon as assurances can be given that vessels can pass through without unnecessary delay.

Recognizing the administrative problem in the management of the canal, Congress in the act of August 24, 1912, has made admirable provisions for executive responsibility in the control of the canal and the government of the Canal Zone. The problem of most efficient organization is receiving careful consideration, so that a scheme of organization and control best adapted to the conditions of the canal may be formulated and put in operation as expeditiously as possible. Acting under the authority conferred on me by Congress, I have, by Executive proclamation, promulgated the following schedule of tolls for ships passing through the canal, based upon the thorough report of Emory R. Johnson, special commissioner on traffic and tolls:

1. On merchant vessels carrying passengers or cargo, $1.20 per net vessel ton—each 100 cubic feet—of actual carning capacity.
2. On vessels in ballast without passengers or cargo, 40 per cent less than the rate of tolls for vessels with passengers or cargo.
3. Upon naval vessels, other than transports, colliers, hospital ships, and supply ships, 50 cents per displacement ton.
4. Upon Army and Navy transports, colliers, hospital ships, and supply ships, $1.20 per net ton, the vessels to be measured by the same rules as are employed in determining the net tonnage of merchant vessels.

Rules for the determination of the tonnage upon which toll charges are based are now in course of preparation and will be promulgated in due season.

PANAMA CANAL TREATY.

The proclamation which I have issued in respect to the Panama Canal tolls is in accord with the Panama Canal act passed by this Congress August 24, 1912. We have been advised that the British Government has prepared a protest against the act and its enforcement in so far as it relieves from the payment of tolls American ships engaged in the American coastwise trade on the ground that it violates British rights under the Hay-Pauncefote treaty concerning the Panama Canal. When the protest is presented, it will be promptly considered and an effort made to reach a satisfactory adjustment of any differences there may be between the two Governments.

WORKMEN'S COMPENSATION ACT.

The promulgation of an efficient workmen's compensation act, adapted to the particular conditions of the zone, is awaiting adequate appropriation by Congress for the payment of claims arising thereunder. I urge that speedy provision be made in order that we may install upon the zone a system of settling claims for injuries in best accord with modern humane, social, and industrial theories.

PROMOTION FOR COL. GOETHALS.

As the completion of the canal grows nearer, and as the wonderful executive work of Col. Goethals becomes more conspicuous in the eyes of the country and of the world, it seems to me wise and proper to make provision by law for such reward to him as may be commensurate with the service that he has rendered to his country. I suggest that this reward take the form of an appointment of Col. Goethals as a major general in the Army of the United States, and that the law authorizing such appointment be accompanied with a provision permitting his designation as Chief of Engineers upon the retirement of the present incumbent of that office.

NAVY DEPARTMENT.

The Navy of the United States is in a greater state of efficiency and is more powerful than it has ever been before, but in the emulation which exists between different countries in respect to the increase of naval and military armaments this condition is not a permanent one. In view of the many improvements and increases by foreign Governments the slightest halt on our part in respect to new construction throws us back and reduces us from a naval power of the first rank and places us among the nations of the second rank. In the past 15 years the Navy has expanded rapidly and yet far less rapidly than our country. From now on reduced expenditures in the Navy means reduced military strength. The world's history has shown the importance of sea power both for adequate defense and for the support of important and definite policies.

I had the pleasure of attending this autumn a mobilization of the Atlantic Fleet, and was glad to observe and note the preparedness of the fleet for instant action. The review brought before the President and the Secretary of the Navy a greater and more powerful collection of vessels than had ever been gathered in American waters. The condition of the fleet and of the officers and enlisted men and of the equipment of the vessels entitled those in authority to the greatest credit.

I again commend to Congress the giving of legislative sanction to the appointment of the naval aids to the Secretary of the Navy. These aids and the council of aids appointed by the Secretary of the Navy to assist him in the conduct of his department have proven to be of the highest utility. They have furnished an executive committee of the most skilled naval

experts, who have coordinated the action of the various bureaus in the Navy, and by their advice have enabled the Secretary to give an administration at the same time economical and most efficient. Never before has the United States had a Navy that compared in efficiency with its present one, but never before have the requirements with respect to naval warfare been higher and more exacting than now. A year ago Congress refused to appropriate for more than one battleship. In this I think a great mistake of policy was made, and I urgently recommend that this Congress make up for the mistake of the last session by appropriations authorizing the construction of three battleships, in addition to destroyers, fuel ships, and the other auxiliary vessels as shown in the building program of the general board. We are confronted by a condition in respect to the navies of the world which requires us, if we would maintain our Navy as an insurance of peace, to augment our naval force by at least two battleships a year and by battle cruisers, gunboats, torpedo destroyers, and submarine boats in a proper proportion. We have no desire for war. We would go as far as any nation in the world to avoid war, but we are a world power. Our population, our wealth, our definite policies, our responsibilities in the Pacific and the Atlantic, our defense of the Panama Canal, together with our enormous world trade and our missionary outposts on the frontiers of civilization, require us to recognize our position as one of the foremost in the family of nations, and to clothe ourselves with sufficient naval power to give force to our reasonable demands, and to give weight to our influence in those directions of progress that a powerful Christian nation should advocate.

I observe that the Secretary of the Navy devotes some space to a change in the disciplinary system in vogue in that branch of the service. I think there is nothing quite so unsatisfactory to either the Army or the Navy as the severe punishments necessarily inflicted by court-martial for desertions and purely military offenses, and I am glad to hear that the British have solved this important and difficult matter in a satisfactory way. I commend to the consideration of Congress the details of the new disciplinary system, and recommend that laws be passed putting the same into force both in the Army and the Navy.

I invite the attention of Congress to that part of the report of the Secretary of the Navy in which he recommends the formation of a naval reserve by the organization of the ex-sailors of the Navy.

I repeat my recommendation made last year that proper provision should be made for the rank of the commander in chief of the squadrons and fleets of the Navy. The inconvenience attending the necessary precedence that most foreign admirals have over our own whenever they meet in official functions ought to be avoided. It impairs the prestige of our Navy and is a defect that can be very easily removed.

DEPARTMENT OF JUSTICE.

This department has been very active in the enforcement of the law. It has been better organized and with a larger force than ever before in the history of the Government. The prosecutions which have been successfully concluded and which are now pending testify to the effectiveness of the departmental work.

The prosecution of trusts under the Sherman antitrust law has gone on without restraint or diminution, and decrees similar to those entered in the Standard Oil and the Tobacco cases have been entered in other suits, like the suits against the Powder Trust and the Bathtub Trust. I am very strongly convinced that a steady, consistent course in this regard, with a continuing of Supreme Court decisions upon new phases of the trust question not already finally decided is going to offer a solution of this much-discussed and troublesome issue in a quiet, calm, and judicial way, without any radical legislation changing the governmental policy in regard to combinations now denounced by the Sherman antitrust law. I have already recommended as an aid in this matter legislation which would declare unlawful certain well-known phases of unfair competition in interstate trade, and I have also advocated voluntary national incorporation for the larger industrial enterprises, with provision for a closer supervision by the Bureau of Corporations, or a board appointed for the purpose, so as to make more certain compliance with the antitrust law on the one hand and to give greater security to the stockholders against possible prosecutions on the other. I believe, however, that the orderly course of litigation in the courts and the regular prosecution of trusts charged with the violation of the antitrust law is producing among business men a clearer and clearer perception of the line of distinction between business that is to be encouraged and business that is to be condemned, and that in this quiet way the question of trusts can be settled and competition retained as an economic force to secure reasonableness in prices and freedom and independence in trade.

REFORM OF COURT PROCEDURE.

I am glad to bring to the attention of Congress the fact that the Supreme Court has radically altered the equity rules governing the procedure on the equity side of all Federal courts, and though, as these changes have not been yet put in practice so as to enable us to state from actual results what the reform will accomplish, they are of such a character that we can reasonably prophesy that they will greatly reduce the time and cost of litigation in such courts. The court has adopted many of the shorter methods of the present English procedure, and while it may take a little while for the profession to accustom itself to these methods, it is certain greatly to facilitate litigation. The action of the Supreme Court has been so drastic and so full of appreciation of the necessity for a great reform in court procedure that I have no hesitation in following up this action with a recommendation which I foreshadowed in my message of three years ago, that the sections of the statute governing the procedure in the Federal courts on the common-law side should be so amended as to give to the Supreme Court the same right to make rules of procedure in common law as they have, since the beginning of the court, exercised in equity. I do not doubt that a full consideration of the subject will enable the court while giving effect to the substantial differences in right and remedy between the system of common law and the system of equity so to unite the two procedures into the form of one civil action and to shorten the procedure in such civil action as to furnish a model to all the State courts exercising concurrent jurisdiction with the Federal courts of first instance.

Under the statute now in force the common-law procedure in each Federal court is made to conform to the procedure in the State in which the court is held. In these days, when we should be making progress in court procedure, such a conformity statute makes the Federal method too dependent upon the action of State legislatures. I can but think it a great opportunity for Congress to intrust to the highest tribunal in this country, evidently imbued with a strong spirit in favor of a reform of procedure, the power to frame a model code of procedure, which, while preserving all that is valuable and necessary of the rights and remedies at common law and in equity, shall lessen the burden of the poor litigant to a minimum in the expedition and cheapness with which his cause can be fought or defended through Federal courts to final judgment.

WORKMAN'S COMPENSATION ACT.

The workman's compensation act reported by the special commission appointed by Congress and the Executive, which passed the Senate and is now pending in the House, the passage of which I have in previous messages urged upon Congress, I venture again to call to its attention. The opposition to it which developed in the Senate, but which was overcome by a majority in that body, seemed to me to grow out rather of a misapprehension of its effect than of opposition to its principle. I say again that I think no act can have a better effect directly upon the relations between the employer and employee than this act applying to railroads and common carriers of an interstate character, and I am sure that the passage of the act would greatly relieve the courts of the heaviest burden of litigation that they have, and would enable them to dispatch other business with a speed never before attained in courts of justice in this country.

WM. H. TAFT.

THE WHITE HOUSE, *December 6, 1912.*

Mr. TOWNSEND. I ask that the omnibus claims bill go over until to-morrow.

The PRESIDENT pro tempore. It will go over necessarily and be then called up as it was to-day.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

Mr. SMOOT. I suggest the absence of a quorum, Mr. President.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum, and the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Davis	Myers	Smith, Ariz.
Bacon	Dixon	Nelson	Smith, Ga.
Bailey	du Pont	Oliver	Smith, Md.
Bankhead	Fletcher	Overman	Smith, S. C.
Borah	Gallinger	Owen	Smoot
Brandegee	Gardner	Page	Stephenson
Bristow	Johnson, Me.	Penrose	Stone
Brown	Johnston, Ala.	Perkins	Sutherland
Bryan	Kenyon	Perky	Swanson
Burnham	La Follette	Pomerene	Tillman
Clapp	Lodge	Richardson	Townsend
Clark, Wyo.	McLean	Root	Wetmore
Clarke, Ark.	Martine, N. J.	Shively	Works
Culberson	Massey	Simmons	

Mr. CULBERSON. I will state for the day that the Senator from Oregon [Mr. CHAMBERLAIN] is necessarily absent on business of the Senate.

Mr. PAGE. I desire to announce that the continued illness of my colleague [Mr. DILLINGHAM] prevents his attendance on the Senate.

Mr. TOWNSEND. I wish to state that the senior Senator from Washington [Mr. JONES] is unavoidably absent on business of the Senate.

Mr. JOHNSON of Maine. I wish to announce that the junior Senator from New York [Mr. O'GORMAN] is absent on important business of the Senate. I make that announcement for the day.

Mr. MARTINE of New Jersey. I am requested to announce that my colleague, the senior Senator from New Jersey [Mr. BRIGGS], is detained by serious illness.

Mr. KENYON. I desire to announce that my colleague [Mr. CUMMINS] was called out of the city by serious illness in his family.

The PRESIDENT pro tempore. On the call of the roll of the Senate 55 Senators have answered to their names. A quorum of the Senate is present. The Sergeant at Arms will make proclamation of the sitting of the Court of Impeachment.

The Assistant Sergeant at Arms (Mr. Cornelius) made the usual proclamation.

The PRESIDENT pro tempore. Senators present who have not heretofore been sworn will present themselves at the desk.

Mr. OWEN advanced to the Vice President's desk, and the oath was administered to him by the President pro tempore.

The PRESIDENT pro tempore. The journal of the last sitting of the court will be read.

The Journal of yesterday's proceedings of the Senate sitting as a Court of Impeachment was read.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will be confirmed. The managers will proceed.

TESTIMONY OF WILLIAM A. MAY—CONTINUED.

Q. (By Mr. Manager STERLING.) Mr. May, you stated yesterday that Robertson & Law had operated the Katydid colliery.—A. Yes, sir.

Q. And they paid to the Hillside Coal & Iron Co. a royalty on the coal that came from that colliery.—A. They did.

Q. And the Katydid culm dump was created by refuse coming from the Katydid colliery.—A. It was.

Q. You had written arrangements with Robertson & Law as to the royalty which your company was to get from them on your coal.—A. Yes, sir.

Q. Was there any other person or corporation interested in the coal that came from the Katydid colliery?—A. The Hillside only had an undivided half——

Q. That is not my question. Was there any other person besides the Hillside Coal & Iron Co. who had any interest in the coal coming from that colliery and who received a royalty from Robertson & Law?—A. Yes, sir.

Q. Who was it?—A. But they received the royalty through the Hillside.

Q. That is, you paid it to them?—A. Yes, sir; we paid it to them.

Q. Who was that party?—A. The E. & G. Brooks Land Co., the James Everhart estate, and the heirs of John T. Everhart.

Q. And out of the 37½ cents per ton which the Hillside Coal & Iron Co. got from Robertson & Law you paid these three other parties?—A. We did.

Q. And you had been doing that for years?—A. Yes, sir.

Q. You knew before Judge Archbald or Mr. Williams approached you with reference to the purchase of this culm dump that these parties claimed and had some interest in that colliery?—A. They had an interest in the coal prepared at the colliery.

Q. Does the Hillside Coal & Iron Co. make its claim or did it make its claim to an interest in the Katydid culm dump by reason of the fact that it owns an interest in the Katydid colliery?—A. They did not.

Q. On what did they base their claim to an interest in the Katydid culm dump?—A. The interest that they had in the culm dump was a royalty interest. That is, they would get the royalty from the coal that was shipped; that is, won from the culm bank.

Q. Why were they entitled to any royalty on the coal that was shipped from the culm dump?—A. Because it was understood by the Hillside that Robertson & Law had the ownership of the culm bank subject to the royalty to be paid the Hillside.

Q. So your title to the culm dump was based on the fact that you had title to a part of the coal in the colliery, was it not?—A. No, sir.

Q. The fact that this culm dump came from the colliery was what gave you or the Hillside Co. the title to a part of the dump?—A. No, sir. Our title rested on the agreement made with them. It was not necessarily on the undivided interest that we had or that Hillside had in the property. It rested upon the agreement between Hillside and Robertson and Law.

Q. Did you buy from Robertson & Law an interest in the culm dump?—A. We did not.

Q. You simply owned it because you had an interest in that mine. Is not that true?—A. We owned it because we had an interest in the royalty to accrue from the coal.

Q. And these other persons whom you have named, with whom you shared the royalty that you got, based their claim to royalty on the very same ground?—A. They based their claim to royalty—that is, whatever royalty they were to get out of coal from the culm—on the arrangement they had with us.

Q. What arrangements did they have with you?—A. The arrangement was we were to pay them 20 cents a ton for their proportion of the coal won from this particular tract.

Q. And that was due to the fact that they owned some of the land on which the coal was situated?—A. That is correct.

Q. You and the Hillside Coal & Iron Co. were entirely familiar for years with the fact that these three parties claimed an interest in the colliery and in the culm dump?—A. They claimed an interest in the colliery. I did not know they claimed an interest in the culm bank.

Q. Would not their interest in the culm bank follow, just as the interest of the Hillside Coal & Iron Co. in the culm bank followed, having an interest in the mine?—A. Only to the extent of the royalty they would receive from us.

Q. Certainly; and that is all they got?—A. That is all they got.

Q. That is all they claimed?—A. I do not know about that.

Q. They never made any claim on you for any other, did they?—A. They served notice on me that they had a right to that culm bank.

Q. When was that?—A. That was the letters—I do not know that they are in evidence before you, but they were in evidence before the committee.

Q. You knew that; you knew that they were just as much entitled to their proportionate share in the culm bank as the Hillside Coal & Iron Co., did you not, because they owned a part of the mine, a part of the land on which the coal was situated?—A. They were entitled to their proportionate share of the royalty as fixed in the agreement. They did not own the culm bank.

Mr. Manager STERLING. I ask that this be marked as an exhibit.

The paper referred to was marked "Exhibit 17."

Q. (By Mr. Manager STERLING.) Exhibit No. 17 is a letter by you to Robertson & Law in which you state the royalty that you believe you are entitled to?—A. This is a copy of a letter that I sent to them dated March 11, 1901. It is not the original letter.

Q. And that is what constitutes the contract as to the amount of royalty your company was to receive?—A. That is correct.

Q. And it had been in force from that time until Robertson & Law ceased to operate?—A. It is in force up to the present time. It is in force now.

Q. There was a time when your company even disputed title in Robertson and Law to any part of this colliery?—A. To the colliery?

Q. To the culm dump?—A. There was a question, I can not say that it was as much as a dispute, but a question arose as to their ownership, because of an apparent abandonment, or a seeming abandonment, rather.

Q. Well, you protested against them having any rights there, did you not?—A. No, sir; I do not believe I did.

Q. I ask you if on June 23, 1911, John W. Robertson wrote this letter to you, marked "Exhibit 18," in which he says:

There are at present responsible parties negotiating with me for the purchase of the culm, and I feel that I am not only legally the owner but also morally am entitled to it, for it has certainly cost me considerable money to mine and pile it.

I hope you will give this your careful consideration and that your company will recognize my rights in the culm. Before selling to others I would prefer to sell to your company. Should your company desire to purchase, I shall be pleased to hear from you promptly. If, as I understand it, your company claim that I no longer own the culm, subject only to royalty, will you kindly advise me when my ownership ceased?

That is a letter you got from Robertson, is it not?—A. That is correct.

Q. And at that time you had notified Robertson that your company was claiming title to the culm?—A. No, sir.

Q. Why did Robertson——A. (Interrupting.) There was a question as to their title. I never questioned it.

Q. Why did John W. Robertson write you that letter in that way?—A. Because there were questions as to whether they had abandoned the property or not.

Q. Who did question it, if you did not?—A. Among various officials connected with the organization.

Q. With your organization?—A. Our organization.

Q. Then there did come from the Hillside Coal & Iron Co., either through you or some other official, a claim that Robertson & Law had not any interest in the culm bank?—A. There was a doubt as to their ownership.

Q. And that was about the time you were having your negotiations with Judge Archbald and Mr. Williams——A. No——

Q. Regarding the sale of it?—A. Yes. I beg your pardon; yes; that is right.

Mr. Manager STERLING. What is the date of the letter from which I just read?

Mr. WORTHINGTON. June 23, 1911.

Mr. Manager STERLING. That is what I thought.

The WITNESS. Yes, sir; June 23, 1911.

Mr. Manager STERLING. I offer Exhibits Nos. 17 and 18 in evidence. Does Mr. Worthington care to see them?

Mr. WORTHINGTON. I take it that they are in evidence; they have been read. I have no objection to them.

Mr. Manager STERLING. I read only an extract from one of them. I did that to identify the letter. It is really the only material part of the letter.

Mr. WORTHINGTON. We have no objection.

The PRESIDENT pro tempore. The papers will be read.

The Secretary read as follows:

[U. S. S. Exhibit 17.]

(Pennsylvania Coal Co., Hillside Coal & Iron Co.)

OFFICE OF GENERAL SUPERINTENDENT,
Scranton, Pa., March 11, 1901.

Messrs. ROBERTSON & LAW, *Moosic, Pa.*

GENTLEMEN: As I understand, the arrangement entered into with you was that you were to be paid on the 60 per cent basis from November 1, 1900, until further notice. The royalty on coal mined from the lands of this company from that date will be 37½ cents per ton for sizes above pea coal, 18 cents per ton for pea coal, 9 cents per ton for buckwheat coal No. 1, and 6 cents per ton for smaller sizes, a ton in each case to constitute 2,240 pounds.

Upon the receipt of a reply from you that the above is your understanding I shall at once request that vouchers be made in your favor for the balance due you since November 1, 1900.

Yours, very truly,

W. A. MAY, *Superintendent.*

[U. S. S. Exhibit 18.]

SCRANTON, PA., *June 23, 1911.*

Mr. W. A. MAY,
General Manager, Hillside Coal & Iron Co., Dunmore, Pa.

DEAR SIR: Relative to the culm mined through the Katydid Colliery and now in bank at Moosic, beg to say you will remember at the time Mr. Law and myself built the breaker and commenced mining we were only mining a small amount of coal, which at the time it was supposed the company would never be able to mine. Under our agreement we sold all the coal as well as the culm produced at our breaker and washery, to your company.

We went on in good faith and operated the breaker and washery, mining the coal and washing the culm from the bank continuously until the Delaware & Hudson Co. broke through the barrier pillar, which occurred a few months before the breaker and washery were totally destroyed by fire. The effect of the breaking through of the barrier pillar was to immediately diminish our water supply, and to such an extent that in extremely dry weather we were obliged to shut down our breaker and washery. This, however, occurred only in times of drought, so that continuously until the breaker and washers burned, with the exception noted, we were selling to the company the culm, and the company never questioned our right to it.

The breaker and washery were destroyed by fire in 1908. This fire was caused by a fire in the culm bank belonging to your company, which was dumped long after our breaker and washery were located and erected. At the time the breaker was destroyed there was very little coal left, and the operations of your company had by this time extended so that your company could advantageously mine the balance of the coal, and for that reason the breaker was never rebuilt.

Shortly after the fire we endeavored to sell the culm to the Dupont Powder Co. We took the matter up with you at that time, and there was no question raised as to our owning an interest in the bank. You will remember at that time at my request your engineers went to the culm bank and measured it in order that the company might arrive at the value of its interest in the same. The report of the engineers was, I think, about 80,000 tons. Before anything definite had been done, however, the Dupont Powder Co. decided not to take the culm, and the negotiations ceased.

Since then I have been trying to dispose of the culm pile, and have talked frequently with you about the same. No question has ever been raised as to my interest in it. I have never in any way intimated to anyone that I had abandoned my title to it, but have always, on the contrary, asserted whenever possible my rights in it. I have had a number of offers from time to time for my interest in the culm, but these offers came from persons who I knew would be antagonistic to your company, and for that reason have declined to dispose of it to such persons. There are at present responsible parties negotiating with me for the purchase of the culm, and I feel that I am not only legally the owner, but also morally am entitled to it, for it has certainly cost me considerable money to mine and pile it.

I hope you will give this your careful consideration, and that your company will recognize my rights in the culm. Before selling to others I would prefer to sell to your company. Should your company desire to purchase I shall be pleased to hear from you promptly. If, as I understand it, your company claim that I no longer own the culm, subject only to royalty, will you kindly advise me when my ownership ceased?

Yours, truly,

JNO. M. ROBERTSON.

Q. (By Mr. Manager STERLING.) Mr. May, how many culm banks does the Hillside Coal & Iron Co. own?—A. Between 8 and 10 banks.

Q. Have you ever owned any more than that?—A. No, sir. The Hillside has never owned any more than that.

Q. How many fills do you own?—A. We own no fills.

Q. You have never sold any culm banks?—A. Yes; we have.

Q. When?—A. We did not sell an entire bank. We sold our interest in what is known as the Florence bank.

Q. When was that?—A. In 1910.

Q. Have you never sold any others than that?—A. The Hillside has never sold any others.

Q. Why did you sell the one you just mentioned?—A. There was some question. If I may be allowed to make an extended statement, we owned lot 39. The Everhart heirs owned lots 38 and 40. The coal was leased to the Florence Coal Co. The Florence Coal Co. was subsequently bought out by the Hillside. A question then arose as to some minimum royalties which had not been paid, and rather than to have litigation about it Hillside surrendered whatever right it had to lots 38 and 40, retaining only its right in the culm coming from lot 39 in the bank. Believing that we would have difficulty in cleaning it up we disposed of our interest in that bank.

Q. It was under those peculiar circumstances, then, that you sold that one particular dump?—A. Yes, sir.

Q. Had you ever priced the Katydid culm dump prior to the time you priced it to Archbald and Williams?—A. Tentatively; Mr. Robertson came to me, and whether I named $2,000 or whether he asked whether we would take $2,000, I do not remember.

Q. Is it not a fact that he came to you and asked you if you would take $2,000, and you refused?—A. I refused?

Q. You refused to take $2,000 for it?—A. I do not remember that.

Mr. Manager STERLING. Let me refresh your recollection.

Mr. WORTHINGTON. On what page?

Mr. Manager STERLING. On page 776 of the testimony before the committee, by Mr. RUCKER:

Mr. RUCKER. While it is true that you had given some consideration to the sale of this culm pile before your trip to New York, at the time you conferred with your superior officer, Mr. Richardson, you had never fixed a price on it until after that, had you?

Mr. MAY. No; I had not.

A. I think that refers to the price to Mr. Williams, if I am not very much mistaken. I thought you referred to the price of the Florence bank.

Q. (By Mr. Manager STERLING.) No; I am talking about the Katydid culm bank. You had never fixed a price on it to anybody prior to the time you priced it to Judge Archbald and Mr. Williams at $4,500, had you?—A. I had not fixed a price to Mr. Williams until after my visit in New York.

Q. Had you at any time fixed a price to any other person on your interest in this culm bank prior to the time you fixed a price to Williams and Archbald?—A. Mr. Robertson came to see——

Q. You can answer that "yes" or "no."—A. No; I can not; because it will not be a straight answer.

Q. Is the testimony which you gave before the committee and which I read correct or not?—A. That testimony is correct as referring to the transaction between Williams and the Hillside Co. There was no price fixed before my visit to New York to Mr. Williams. That is what I intended to say.

Q. Was there a price fixed by you or your company to any other person on the Katydid prior to that time; and if so, to whom was it fixed?—A. Only as Mr. Robertson came to me wanting to sell to the Du Pont Powder Co., and I think he named the price, $2,000, and wanted to know whether I would

take it, and I said I would recommend it. But as far as the price to Mr. Williams is concerned, there was no price fixed until after my visit to New York.

Q. Yes; I understand that. You did not accept Robertson's offer of $2,000 for your interest in the culm bank?—A. It did not go that far. It did not reach that stage.

Q. You never reached the stage where you accepted his offer?—A. It never was consummated, because the Du Ponts did not take the bank.

Q. Do you know how much Robertson was to get from the Du Pont Co. for his interest?—A. I think it was $10,000.

Q. For the entire culm dump?—A. The entire culm bank.

Q. For which Williams and Archbald some time after that were to pay only $8,000?—A. That is correct.

Q. How long before your negotiations with Williams and Judge Archbald was it that this proposition came from Robertson with reference to selling it to the Du Pont Powder Co?—A. I think that was in 1909.

Q. Two years?—A. Yes, sir.

Q. Is it not true, Mr. May, that the value of culm dumps has gone up very rapidly in the last four or five years?—A. The price has gone up, generally speaking.

Q. And that is due to the fact that the price of anthracite coal has gone up, and also to the fact that machinery has been developed by which coal can be separated from the dirt in the culm banks?—A. Yes, sir.

Q. As I understand it, you went to New York on the 25th of August, 1911?—A. I was in New York on the 25th day of August. I think I went there the day before. I was in New York on the 25th of August.

Q. You saw Mr. Richardson on the 25th?—A. Yes, sir.

Q. And returned to Scranton on the 26th?—A. On the 26th.

Q. And the 29th, as I remember it, was the date when you sent word by Judge Archbald to Williams that you would let them have the dump?—A. That is correct.

Mr. BORAH. Mr. President, I wish to ask a question.

The PRESIDENT pro tempore. The Senator from Idaho asks that the following question be propounded to the witness.

The Secretary read as follows:

The Du Pont Powder Co. refused to take the Katydid at $10,000. Was it because the price was too high?

The WITNESS. I do not know.

Q. (By Mr. Manager STERLING.) Mr. May, is it not true that the Du Pont Powder Co. was willing to pay $10,000 for the culm and your company and Mr. Robertson refused to take it?—A. No, sir.

Q. Is not that the fact?—A. No, sir.

Q. And is not that why it fell through?—A. No, sir.

Q. You returned on the 26th, you say, and on the 29th you saw Judge Archbald?—A. Yes, sir.

Q. What, if anything, had you done between those two dates toward investigating the title to the Katydid culm dump or toward removing any cloud or correcting the title?—A. I had done nothing.

Q. Nothing at all?—A. No, sir.

Q. Was there any further reason why that negotiation with the Du Pont Powder Co. failed? The Du Pont Powder Co. afterwards decided to get their power from other sources and concluded they did not want the coal?—A. I do not know that.

Q. You do not know about that?—A. No.

Q. Did you not testify before the committee, Mr. May, that the reason that negotiation fell through was the fact that the Du Pont Powder Co. decided not to buy this coal, but decided to put up a plant elsewhere and get their power in another way? Did you not swear that before the Judiciary Committee?—A. I do not recall that I did.

Q. Do you know that is one of the reasons why it fell through?—A. No; I do not.

Mr. WORTHINGTON. The Du Pont Powder Co. state that.

Mr. Manager STERLING. And we admit it is one of the reasons. We are not saying it is the only reason. We do not want to be bound by that as the only reason.

Mr. WORTHINGTON. I do not admit that there is any other reason.

Q. (By Mr. Manager STERLING.) Mr. May, after you had returned the contract to Bradley at the time you saw him in the Laurel Station did you send any telegrams to Mr. Richardson about the matter or write him any letters?—A. No, sir; I did not.

Q. It was on the 13th of April, as I remember it, when you returned the contract?—A. The 12th of April.

Q. Was it not the 13th?—A. The 12th, as I recall it.

Q. What was the date when the newspapers published the fact that this investigation had been made or was being made by the Department of Justice?—A. On the 21st.

Q. It appeared in the Scranton papers on that date, did it?—A. I do not remember whether it appeared in the Scranton papers on that date. It appeared in the North American on that date.

Q. Do you remember when it did appear in the Scranton papers?—A. No; I do not.

Q. The North American is published at what place?—A. At Philadelphia.

Q. It circulates at Scranton?—A. Yes, sir.

Q. And immediately on the receipt of those papers, the Scranton papers and the North American, you clipped the articles out referring to the matter and sent them to Mr. Richardson, did you not?—A. I did.

Q. Why did you send those articles to Mr. Richardson?—A. Because the papers said that they had an interview with me, and it referred to the company business, and I wanted him to know it.

Q. Then did he wire you to come to New York at once?—A. I think he did. I do not remember the date of the telegram, but I think he did.

Q. You went immediately, did you not?—A. I did.

Q. Was it Richardson or Underwood who wired you?—A. Mr. Richardson wired first, I think, and then Mr. Underwood subsequently.

Q. Mr. Underwood was president of the company?—A. He was.

Q. The president of the Hillside Co.?—A. The president of the Hillside.

Q. And also the Erie?—A. Yes, sir.

Q. And you got this telegram——

Mr. WORTHINGTON. The page, please.

Mr. Manager STERLING. On page 879.

APRIL 26, 1912.

Capt. W. A. MAY:
Please call on me at your earliest convenience.
F. D. UNDERWOOD.

A. That is correct.

Q. (By Mr. Manager STERLING.) You got that on the 26th?—A. I did.

Q. And you replied on the same date:

F. D. UNDERWOOD, *New York:*
Your message. Will be at your office to-morrow morning.
W. A. MAY.

A. That is correct.

Q. And you went?—A. Yes.

Q. And you discussed with Mr. Underwood this whole situation, the entire transaction that was being negotiated between Judge Archbald and Williams on the one hand and yourself on the other, did you not?—A. I made a statement to him of the matter brought out by the newspaper article. I want to correct what I said about Mr. Richardson telegraphing me. I think that is incorrect. I think Mr. Underwood was the one who sent the message.

Q. Mr. May, we have not got the originals of those telegrams, but we have a copy of them, as you read them in your evidence before the committee. As I remember it, you asked the privilege of keeping them in your file. Have you them here now?—A. I beg your pardon, I left my file with the chairman of the committee. My file is in his possession.

Mr. WORTHINGTON. We have no objection to reading those from the record without producing the originals.

Mr. Manager STERLING. If there is no objection, then we will let those stand. We have not been able to find the original and we offer that part of the record, the two telegrams I have just read, as a part of the evidence.

Mr. WORTHINGTON. Just the telegrams?

Mr. Manager STERLING. The two telegrams. [To the witness.] Did you send some of the clippings to Underwood, too?

A. No, sir; I did not.

Q. Where is Mr. Underwood's office?—A. At 50 Church Street, New York.

Q. Where is it with reference to Brownell's office and Richardson's office?—A. On the same floor.

Mr. Manager STERLING. That is all.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Mr. May, with reference to this Katydid dump transaction, did you have Williams come to you with more than one letter from Judge Archbald, or was the letter of March 31 the only one from Judge Archbald that Williams brought to you?—A. That was the only one.

Q. (Presenting a letter.) Is this that letter of March 31, 1911?—A. (After examining the letter.) That is the letter.

Q. There are various memoranda on that letter that you referred to in your examination. I wish you would take each one of them up in its order and state what it means and give

the history of the transaction so far as is indicated on that paper.—A. Upon the receipt of the letter I wrote upon it—it must have been shortly after because I say—"have asked Beyea to have an estimate made of the quantity of the material in the bank."

Q. Beyea was your engineer or your subordinate?—A. He was the land agent.

Q. The land agent?—A. In whose charge, or rather under whose supervision, the measurements of banks had been made.

Q. I understand it to be claimed here that when you got that letter of March 31 you simply refused to do anything and told Mr. Williams you would not sell it?—A. That is incorrect.

Q. It is incorrect?—A. It is incorrect.

Q. On the contrary, you say you referred it to your land agent for investigation as to quantities and values.—A. I referred it to the land agent to have the cubical contents ascertained.

Q. Very well.—A. The other is a memorandum made by my chief clerk to the general coal inspector.

Q. Read that, please.—A. (Reading:) "Please note Mr. May wants you to make your usual report on this. Please confer with Mr. Beyea as to time estimate is to be made."

Then, apparently, a conference was held and it was decided to go on the ground Monday, April 3, 1911.

Q. Who was to go on the ground, and on what ground?—A. On lot 46, where the culm bank is, in order to get the cubical contents and to get the sizes of the coal to be found therein, and Mr. Merriman and Mr. Johnson went on the ground.

Q. Who are they?—A. Mr. Merriman was the surveyor for the land department and Mr. Johnson is the general coal inspector.

Q. Of the Hillside Coal & Iron Co.?—A. Of the Hillside Coal & Iron Co.

Q. So, instead of refusing to pay any attention to this request and refusing to sell, you directed an investigation to be made to see what your interest was worth?—A. I did.

Q. Had you had that inquiry made before?—A. From whom?

Q. I mean, had you had this investigation made at any time before that?—A. There was an investigation made at the time the Du Ponts were talking about buying, but I had entirely forgotten that. I think the investigation was made at Mr. Robertson's suggestion by one of our engineers who did Mr. Robertson's work.

Q. Very well. Now, Capt. May, am I to infer from what you did that at that time you contemplated you might recommend the sale of the interest of your company in this Katydid dump when you had this inquiry made to see what was there?—A. When an inquiry is made we do not usually turn it down. We investigate, and that occurs quite often. I presume in this instance I followed that procedure. There was not a price; there was nothing fixed at that time. It was simply preliminary.

Q. The inquiry in that letter is as to whether you would sell; and if so, at what price, is it not?—A. Yes, sir.

Q. Up to the time you had that conversation with Mr. Richardson, in June following, what was your state of mind or willingness to recommend the sale of your interest in this Katydid dump?—A. It was conflicting.

Q. You had not determined that you would recommend it or that you would not?—A. No, sir.

Q. What can you tell us, if anything, about any concealment of the fact that Judge Archbald was connected with this Katydid transaction as far as your part of it was concerned?—A. I never thought of it.

Q. What was done with that letter which came from him dated March 31 and on which there was this indorsement?—A. It took the usual course of business.

Q. Where would that take it—into whose hands?—A. The chief clerk opens the mail. He places the mail upon my desk, and I look at it and decide what to do with it. Then the succeeding morning all the correspondence of the past day is put again upon my desk and I check it off.

Q. Where did this particular letter go, can you tell us, after you had determined that you would have an investigation made?—A. It was filed in the office file.

Q. With the first memorandum on it, a direction to your chief clerk?—A. No; the first memorandum is—the way it reads I must have spoken to Mr. Beyea himself.

Q. Did he see the letter and know Judge Archbald had written it?—A. I do not know. I do not remember.

Q. Was there any attempt to conceal from everybody in your office that that letter was there and that Judge Archbald had written it?—A. There was no attempt to conceal it.

Q. Did Judge Archbald or anybody else ever suggest to you that his connection with the matter was to be covered up?—A. He never suggested anything of the kind.

Q. Did anybody?—A. No, sir.

Q. When you finally did determine to recommend the sale of the interest of your company for $4,500, who fixed that figure. Whose judgment decided that?—A. My judgment decided that.

Q. And you are an official of the Hillside Coal & Iron Co.?—A. Yes, sir.

Q. You are not connected with the main company which owns the Hillside?—A. The Erie?

Q. Yes.—A. No, sir; I am not.

Q. Had your company had, and did you have any anticipation that it ever would have, any litigation in the Commerce Court?—A. I had no thought of it.

Q. Has your company, the Hillside Coal & Iron Co., ever had so far?—A. No, sir; our company never has had.

Q. And it was you who fixed the price, I understand, upon which you would recommend the sale?—A. Yes, sir.

Q. Now, in reference to what you said that Judge Archbald's position might have influenced you, I think some passages were read from your testimony before the Judiciary Committee, and I should like to read a little more from that document. I read from page 756, the last question on that page, by Mr. Worthington:

Let me ask you if you ever had any suggestion, until this inquiry began, from any source, that Judge Archbald's connection with this matter had any relation whatever to his position as a Federal judge?

Mr. MAY. No suggestion of that character.

Is that true?—A. That is true.

Q. From pages 747 and 748 I want to read quite a passage when you were examined by Mr. DODDS, a member of the Judiciary Committee:

Mr. DODDS. I would like to ask a question: You say that the fact that Judge Archbald was a judge may have influenced you in the making of this sale for the consideration stated?

Mr. MAY. Yes; it may have influenced me.

Mr. DODDS. In what way could it have influenced you, if it did influence you?

Mr. MAY. His prominence, just as the prominence of any man in public life, you know, would cause us to listen favorably to their suggestions.

Mr. DODDS. Did you take into consideration the fact that, being a judge, he might possibly, because of your making this sale, make some decision favoring yourself or one of your companies in which you were interested?

Mr. MAY. No, sir.

Mr. DODDS. Did that influence you at all in your making the sale to him?

Mr. MAY. No, sir.

Mr. DODDS. That was not considered at all by you?

Mr. MAY. No, sir.

Mr. DODDS. How long have you known Judge Archbald?

Mr. MAY. I have known him about 38 years.

Mr. DODDS. What kind of a man has he been, so far as your experience would indicate?

Mr. MAY. His reputation with me was that he was as straight as he could be.

Mr. DODDS. Did you think so, and did you have that in mind when you were making this sale, or thinking about making it? I mean, did you consider that you were dealing with a good man?

Mr. MAY. I did.

Mr. DODDS. And you did not have in mind at all the fact that by reason of making the sale to him, or making the sale as he advised to some one else—you would place him in a position where he would be likely to make some decision that he might be called upon to make as a judge that would favor yourself or one of these companies?

Mr. MAY. No. Now, let me say this: I did not believe, knowing Judge Archbald, that the transaction, if carried through, would influence him a particle in his decisions.

Mr. DODDS. You did not have that phase of the matter in mind at all?

Mr. MAY. No.

Mr. WEBB. You very rarely have suits for your coal company in the Federal court, do you?

Mr. MAY. We never have. Well, we have suits in the circuit court there—that is, before Judge Witmer.

Mr. WEBB. Did you ever have one before Judge Archbald?

Mr. MAY. No; I do not believe we have.

Mr. WEBB. And at this time you did not know the Erie Railroad Co. had any suits pending before him in the Commerce Court?

Mr. MAY. No; I did not know.

Now, you gave that testimony before the Judiciary Committee, Capt. May?—A. That is correct.

Q. Is it true from beginning to end?—A. That is true.

Q. And when you fixed this price of $4,500 in your mind you were acting for the company and had no litigation in the Commerce Court, and never expected to have any, and you did not know the Erie Railroad Co. had any?—A. That is correct.

Mr. TOWNSEND. Mr. President, I should like to ask a question.

The PRESIDENT pro tempore. The Senator from Michigan proposes a question to the witness, which will be read by the Secretary.

The Secretary read as follows:

Prior to fixing the price of $4,500 on the culm dump, did you talk with any officer or other person connected with the Erie Railroad Co. as to the price?

The WITNESS. No, sir; I did not.

Q. (By Mr. WORTHINGTON.) With reference to the matter of Robertson's interest or claim in this dump in addition to what has been brought out by Mr. STERLING, do you know whether or not, as a matter of fact, after Robertson & Law had stopped their operations because of the burning down of their plant, they went there from time to time and took away the coal from that dump, thereby continuing to assert their title?—A. I did not know it at the time. I have heard it since.

Q. You did not know it while it was going on?—A. No, sir.

Q. You have said, as I understood you, that one reason why you agreed to recommend this particular sale of the interest of your company was the condition of the title?—A. It was not only the condition of the title, but it was our relations with the other interests, if I may be allowed to explain.

Q. You said yesterday, when asked why you should object—why after selling your interest in this coal dump—you should care who made claims against it if you were only selling your interest. You said, if I remember, that you had to look out for other interests. That is what you were going on to tell us?—A. That is what I want to tell you now.

Q. Explain that, please.—A. We have on this same lot, or did have at that time, a culm bank made from the consolidated breaker. It is about 200 yards from this Katydid culm bank, upon the same lot. We had relations with the undivided other owners and it could affect not only our interest or our property rights in the culm bank which we owned ourselves, but it might involve the breaker building. Therefore it was to our interest to keep upon as good terms as we could with the other owners.

Q. Who were the other owners—the Consolidated Breaker property?—A. The Consolidated Breaker property is on this lot 46.

Q. And the Everhart heirs had the same interest that they had in the Katydid culm property?—A. The Consolidated Breaker property is upon the very lot, upon the very piece of ground that the Katydid bank is on; and that lot is owned by the interests named herebefore.

Q. Capt. May, I understand it to be claimed, or at least intimated here, that the letters which you received on the 11th or 12th of April, 1912, notifying you of the claim of these other persons were fictitious; that they were made for the purpose of giving a possible reason for your recalling the contract with Bradley, when the real reason was that this investigation was coming on?—A. That is, that I had those made or that I inspired those?

Q. Well, you have heard the examination?—A. That is a lie.

The PRESIDENT pro tempore. The witness will confine himself to proper language.

The WITNESS. I beg pardon; I am sorry; I forgot myself. I did not mean to do that.

Q. (By Mr. WORTHINGTON.) I want to show you those letters, and put them in evidence here, and find out who the people are who wrote them. Here [exhibiting] is one dated April 11, 1912. Will you look at that and tell me if that was one of the letters in question?—A. (After examining.) That is one of the letters in question.

Q. What day did you receive that?—A. April 12, 1912.

Q. Before or after you saw Bradley at the station and recalled the contract?—A. This was before I recalled the contract.

Q. On the same morning?—A. Yes.

Q. I will show you another letter of the same date, April 11, 1912. As to the letter I have just shown you, by whom is that signed?—A. That is signed by Charles P. Holden.

Q. I will show you another letter of the same date signed "James E. Heckel, administrator." When did you receive that?—A. I received that April 12, 1912.

Q. Before or after you met Bradley at the station and recalled the contract with him?—A. Before.

Q. I show you another letter of the same date signed "Walter S. Bevan, attorney for Charles P. Holden." When did you receive that?—A. I received that April 12, 1912.

Q. Before or after you saw Bradley at the station and recalled the contract?—A. Before.

Q. I have here one dated April 13, purporting to be signed by R. M. Saltonstall, per O. When did you receive that?—A. I received that on April 16, 1912.

Q. Finally, I show you one dated April 19, 1912, purporting to be signed by William Rice Taylor. When did you receive that?—A. That I received April 20.

Q. Do you know the handwriting of these letters—the signatures?—A. I do not know. I would not want to say that I know them.

Q. Did you see these gentlemen afterwards and have conversation, and did they recognize that they had sent these letters, or did you hear from them?—A. No, sir. I have not seen them since.

Q. At all events, these are letters you received upon which you recalled the contract—I mean those dated April 11?—A. Yes, sir.

Mr. WORTHINGTON. I offer these letters in evidence.

Mr. Manager STERLING. Mr. President, before that is done, I should like to ask the Reporter to read Judge Worthington's question when he began his statement with reference to these letters, or when he began the examination on this subject.

The PRESIDENT pro tempore. The Reporter will read the question desired.

The Reporter read as follows:

Q. Capt. May, I understand it to be claimed, or at least intimated here, that the letters which you received on the 11th or 12th of April, 1912, notifying you of the claim of these other persons were fictitious; that they were made for the purpose of giving a possible reason for your recalling the contract with Bradley, when the real reason was that this investigation was coming on?

Mr. Manager STERLING. I think, Mr. President, that we are entitled to know on what Judge Worthington bases that statement. There was nothing said on our side intimating that we thought they were fictitious. We have never had any idea but that the letters were actually written. I suggested in the examination of this witness yesterday that they might have been written upon the suggestion of somebody connected with the Hillside Coal & Iron Co., but we never did suggest that they were not written by these parties; and they might have been written by these parties in good faith. There is nothing in the record to the contrary.

Mr. WORTHINGTON. Perhaps the word "fictitious" was not a happy one, Mr. President, and I will withdraw that; but I certainly did understand the claim to be that in some way these letters were concocted and sent for the purpose of giving an ostensible reason for withdrawing the Bradley contract, when the real reason was that this investigation was coming on. Let me read from page 225 of yesterday's proceedings:

Q. Did you get information from anybody or did somebody tell you that a tip had gone out from the office of the Hillside Coal & Iron Co. that they wanted an excuse for withdrawing this contract and for that reason had these letters sent in there?—A. No, sir.

Now, if that is not what it means, I do not appreciate the use of the English language.

Mr. Manager STERLING. I submit that that is not what it means, and I do not think counsel is fair with the question when he undertakes to put that interpretation on it. That question followed the testimony proving that all these letters came in there on the very same day and just at that peculiar time when they sought to withdraw this contract which they had submitted to Bradley. I say it is a fair inference that these people from some source of other got wind of the fact that this deal might be closed up, and that it was at the suggestion of the Hillside Coal & Iron Co. that they began then to make their claims so they could have an excuse for withdrawing that contract from Bradley. We never did say the letters were fictitious or anything of that kind.

Mr. WORTHINGTON. I propose to offer these letters in evidence, and then I propose to bring the persons here who wrote them; to see whether the scheme which existed in the imagination of my learned friend was in existence or whether they were written in good faith.

The PRESIDENT pro tempore. Does the Chair understand the manager to object to the introduction of the letters?

Mr. Manager STERLING. We do not object to the letters.

The PRESIDENT pro tempore. What was the objection?

Mr. WORTHINGTON. The objection was to my language about them.

Mr. Manager STERLING. My objection was to the language of Mr. Worthington, in which he said we had intimated that the letters were fictitious; that is, that we had intimated that the Hillside Coal & Iron Co. had manufactured the letters, which is not the case at all.

The PRESIDENT pro tempore. Without objection, the Secretary will read the letters.

The Secretary read the letters, marked "Exhibits C. D. E. F, and G," respectively, as follows:

[U. S. S. Exhibit C.]

THE BELLEVUE-STRATFORD,
Philadelphia, April 19, 1912.

Capt. W. A. MAY,
Vice President and General Manager Hillside Coal & Iron Co.

DEAR SIR: On behalf of my wife, Elizabeth M. Everhart Taylor, I beg to notify you that she claims an interest in the culm piles on lot No. 46, certified Pittston Township, and that she will be obliged if you will advise her of the status of this property, in which your company has a joint interest.

Very respectfully,

WILLIAM RICE TAYLOR.

[U. S. S. Exhibit D.]

(Grand Union Hotel, opposite Grand Central Station; Ford & Shaw, proprietors.)

NEW YORK, *April 11, 1912.*

W. A. MAY, Esq.,
Vice President and General Manager Hillside Coal & Iron Co., Scranton, Pa.

DEAR SIR: Please take notice that I claim an interest in the culm dumps on lot 46, certified Pittston Township, Luzerne County, Pa., by virtue of an option given by the E. & G. Brooke Land Co., also on behalf of my wife, Mary E. Holden.

Yours, respectfully,
CHAS. P. HOLDEN,
625 Commonwealth Avenue, Boston, Mass.

[U. S. S. Exhibit E.]

(The Everhart Brass Works, manufacturers of brass goods for water, gas, and steam. Established 1857.)

SCRANTON, PA., *April 11, 1912.*

W. A. MAY,
Vice President and General Manager Hillside Coal & Iron Co., Scranton, Pa.

MY DEAR SIR: In reference to the five twenty-fourths interest in the coal in lot 46 and the culm derived therefrom, I beg to notify you, as administrator for the estate of James Everhart, deceased, that we claim ownership of the above amount and not to dispose of same without our consent.

Yours, very truly,
JAS. E. HECKEL, *Administrator.*

[U. S. S. Exhibit F.]

WALTER S. BEVAN, ATTORNEY AND COUNSELOR,
Scranton, Pa., April 11, 1912.

Mr. W. A. MAY,
Smith and Mill Streets, Dunmore, Pa.

DEAR SIR: Having learned that you are about to sell and dispose of the interests you represent in lot No. 46, certified Pittston Township, you are hereby notified that Mr. Charles P. Holden, who owns certain interests in said lot, opposes said sale and hereby protests against the same, and he further notifies you that the sale will in nowise change or affect his interests in said lot, and that the said sale will be made without his approval or consent. You will therefore govern yourself accordingly.

Very truly, yours,
WALTER S. BEVAN,
Attorney for Charles P. Holden.

[U. S. S. Exhibit G.]

(Gaston, Snow & Saltonstall: William A. Gaston, Frederic E. Snow, Richard M. Saltonstall, Thomas Hunt, Lawrence A. Ford, Henry Endicott, jr., John C. Rice, Arthur A. Ballantine, and Warren Motley.)

SHAWMUT BANK BUILDING,
Boston, April 13, 1912.

Capt. W. A. MAY,
Vice President Hillside Coal & Iron Co., Scranton, Pa.

DEAR SIR: I have been in conference with Mr. Charles P. Holden in connection with mining operations as conducted by your company upon lot 46, Pittston Township, Luzerne County, Pa., and as one of the guardians of the minor children of John F. Everhart, deceased, I should be glad to be advised under what right your company is mining coal from this lot 46.

Mr. Holden informs me that a sale is about to be made of one of the culm piles on this land, and I hereby notify you that Nina D. E. Jones and R. M. Saltonstall, the undersigned, guardians as aforesaid of said minor children of said John F. Everhart, deceased, claim an interest in said culm pile and give you notice of that fact at this time so as to protect our rights in the premises. We should be glad to hear from you in reply to this letter at your early convenience.

Very truly, yours,
R. M. SALTONSTALL,
Per O.

Q. (By Mr. WORTHINGTON.) Who is Mr. William Rice Taylor, who signed the last letter which was written?—A. I do not know him. I think he is the husband of one of the daughters of John F. Everhart.

Q. You do not know anything of your own knowledge about his standing or business?—A. No; I do not.

Q. Do you know Charles P. Holden, who signs one of these letters of April 11?—A. I do.

Q. Who is he?—A. He is married to a daughter of John F. Everhart, deceased.

Q. Where does he live?—A. In Boston.

Q. Do you know anything about his business or standing?—A. I do not.

Q. Who is James E. Heckel, if you know?—A. He lives in Scranton, and is in business in Scranton.

Q. In what business?—A. He is in the brass business.

Q. Do you know him?—A. I will not say positively that I know him.

Q. Do you know who Walter S. Bevan is?—A. I know him by reputation.

Q. Where does he live?—A. In Scranton.

Q. And what is his business?—A. A lawyer.

Q. And, finally, do you know R. M. Saltonstall?—A. No, sir; I am not acquainted with him.

Q. As a matter of fact—I do not want to repeat, but I want to see if I understand clearly—you yourself had no knowledge of this coming investigation until the matter appeared in the Philadelphia North American of the 21st of April?—A. No, sir; I did not.

Q. Had you any suspicion that any such thing was pending?—A. No suspicion whatever.

Q. What, so far as you know, had Judge Archbald to do with the making of this Bradley contract or the recalling of it?—A. He had nothing whatever to do with it, so far as I know.

Q. In that connection, I should like to ask you what foundation there is, so far as you know, for this statement which I read from the proceedings in this case on page 59:

That—

Referring to the contract—

That was sent to Bradley on one day, and the next day Archbald sees Bradley at the depot and asks him to call that off, that some complications have arisen and they had better stop the negotiations, and also writes him a letter to the same effect, in which he tells him the transaction will be withdrawn on account of certain complications. No one knows what complications were referred to, excepting there had appeared in the newspapers in the meantime this scandal about Judge Archbald's relations with persons who had litigation in his court.

Mr. Manager CLAYTON. Mr. President, before the witness answers the question I desire to know from what counsel he is reading.

Mr. WORTHINGTON. I am reading from the proceedings in the House the statement made by Mr. STERLING, now one of the managers of the House, as to the facts in this case.

Mr. Manager CLAYTON. Does the court think that is proper?

The PRESIDENT pro tempore. What is the question that counsel for the respondent is asking in connection with it?

Mr. WORTHINGTON. I am asking, so far as the witness knows, whether or not there is any foundation whatever for that statement which was made to the House as one of the reasons for impeaching Judge Archbald.

Mr. Manager STERLING. May I see it, Mr. Worthington?

Mr. WORTHINGTON. Certainly.

Mr. Manager CLAYTON. May I be permitted to say that it is a speech delivered in the House of Representatives by Mr. STERLING. I think to bring it here in this way offends several rules. It offends propriety, Mr. President, as well as the rules of evidence. I need not make any further comment, in view of the intimation of the Chair not to allow the question to be answered.

The PRESIDENT pro tempore. Does the counsel for the respondent desire to be heard?

Mr. WORTHINGTON. I do.

Mr. Manager STERLING. Mr. President, I think in this print of what I had to say in the House the name of Judge Archbald is used instead of "May." I think it is purely a mistake. I do not believe there is any controversy about it at all.

The PRESIDENT pro tempore. Does the counsel for the respondent desire to be heard on the question?

Mr. WORTHINGTON. I do.

The PRESIDENT pro tempore. Counsel will proceed.

Mr. WORTHINGTON. In view of the objection, Mr. President, which I hardly supposed would come from the managers, I will change the phraseology of the question and put it in a different way. I ask you, Capt. May, whether, so far as you know, Judge Archbald met Bradley at the depot and asked him to call the Bradley deal off?

A. I know nothing of that character at all.

Q. (By Mr. WORTHINGTON.) And whether, as a matter of fact, when you called it off anything had appeared in the newspapers about the charges against Judge Archbald?

Mr. Manager CLAYTON. There is no objection to that.

The PRESIDENT pro tempore. What did the manager say?

Mr. Manager CLAYTON. I say we have no objection to that question at all. The Chair apprehended the ground of my objection to the other question.

The PRESIDENT pro tempore. The question as originally propounded and objected to was withdrawn and it is not necessary for the Chair to rule upon it.

Q. (By Mr. WORTHINGTON.) Now, about the sale of the Du Pont Powder Co., Capt. May, you have been asked about your previous testimony on that subject, and I will ask you whether this occurred. I read first from page 760:

Mr. WORTHINGTON. What was the date of the negotiations about a sale to the Du Pont Powder Co.?
Mr. MAY. 1908.
Mr. WORTHINGTON. 1908?
Mr. MAY. Yes, sir.
Mr. WORTHINGTON. And you were willing to sell then, I understand?
Mr. MAY. No; we would consider it.
Mr. WORTHINGTON. You told them you would consider it?
Mr. MAY. Yes.
Mr. WORTHINGTON. Just what you said to Williams when you talked to him?
Mr. MAY. Yes.
Mr. WORTHINGTON. And you were then, in your own mind, ready to recommend a sale in the interest of the Hillside Coal & Iron Co. for $2,000?

Mr. MAY. Yes, sir. That is, that was only a beginning, you know. Doubtless, Mr. Robertson came to me and wanted to know whether I would recommend the sale of whatever equity we had in it for $2,000, and I told him that I would recommend it. Now, that is the sum and substance of it.

Is that right?—A. That is correct.

Q. And the same thing on page 750, where you were asked this question by Mr. NORRIS:

But the man Robertson must have known how much it would cost to get your interest before he could make a bona fide offer to anybody else to sell?

Mr. MAY. Yes. Well, he would believe that whatever recommendation I made would go through.

Mr. NORRIS. Certainly; and you undoubtedly told him you would recommend $2,000?

Mr. MAY. Yes.

Is that right?

Mr. Manager NORRIS. Mr. President, before the witness answers the question I desire to object to this form of interrogation of the witness. As I understand, we would not be allowed to call his attention to the testimony unless we had first asked him about the same matter and he had testified differently. Counsel has been asking questions of this witness, reading evidence that was taken before the Judiciary Committee, without any intimation that there is anything different in his testimony now. He reads a lot of testimony and asks the witness if that was true. It seems to me that that is not a proper examination of the witness, particularly an examination——

The PRESIDENT pro tempore. The Chair was of the opinion that it was done by consent.

Mr. WORTHINGTON. I was going to say that it is my recollection that we had quite a discussion about that matter the other day, when we very earnestly opposed reading from this testimony by the manager who called the witness. Now we are cross-examining, and I submit that if it is competent for the managers who call the witness to ask him whether he had not testified at some other place so and so, and then ask, "Is not that true?" instead of asking him to testify here without reference to what he testified to anywhere else and give his present recollection of it, it certainly is much more competent for us on cross-examination to ask him. As I understood Capt. May to testify here this morning with reference to that sale to the Du Pont Powder Co., or attempted sale or negotiation with that company, he did not say explicitly as to what I have asked him here what he did say before the Judiciary Committee. I therefore submit that on cross-examination we have the right to ask him or any other witness about any matter as to which he has testified here or anything he said anywhere else which would bring out more fully what his recollection is on the subject or what it was at some prior time.

Of course, it is a very vital matter here. The great contention here on the part of the managers has been, as we see by the articles of impeachment and by what they have said here, that the Hillside Coal & Iron Co., which meant, in the first instance at least, this witness, offered to sell their interest in this Katydid dump to Judge Archbald, or to somebody who was associated with him, for $4,500, and that was a great deal less than that interest was worth. Of course, it is important in that connection to show that in the negotiations with the Du Pont Powder Co. he had offered to sell that same interest for less than that amount. I do not recollect that when Capt. May testified this morning he stated the matter as explicitly as he had stated it twice before the Judiciary Committee. I have already asked him without objection, and he has answered, that on one occasion during his examination before the Judiciary Committee he did say that he had recommended this sale for $2,000 to the Du Pont Powder Co. I asked him on another occasion during his testimony, but he did not repeat it when the objection was made.

The PRESIDENT pro tempore. Is the counsel through?

Mr. WORTHINGTON. Yes.

The PRESIDENT pro tempore. The previous testimony of this witness can be read to him for two purposes. As the Chair recollects the rule, it can be read for the purpose of contradicting him or for the purpose of refreshing his memory. If counsel examine the witness as to a matter and his testimony is not clear on the subject, the Chair would hold that then, after having attempted to elicit testimony in the usual way without success, he could go further and call attention of the witness to what he had previously testified to by way of refreshing his memory. The Chair thinks that is the correct rule of law.

Mr. WORTHINGTON. That is entirely satisfactory.

The PRESIDENT pro tempore. The Chair would suggest to counsel for the respondent that it is perfectly competent for him to put questions as to the particular matters that he desires to have testimony upon without reading from the questions and answers, but in either case the Chair would rule that counsel has the right to bring out the testimony if it is either for the purpose of calling attention to the fact that the witness had previously made conflicting statements or for the purpose of refreshing his memory upon some things in regard to which he is not now clear.

Mr. WORTHINGTON. As the witness distinctly answered when I read the first question and answer from the record, I will not press the second one.

Q. (By Mr. WORTHINGTON.) Why was it when you had been willing in 1909—you say it was in that year that the Du Pont Powder Co. transaction occurred——A. 1908 or 1909, I do not remember which.

Q. Why was it that when you were willing to sell the interest of your company then for $2,000 you asked Judge Archbald or Williams $4,500? You say prices had gone up.—A. Prices had gone up; we had measured the bank: and we thought the price that I named to Judge Archbald would cover our royalty and any profit that we ought to have.

Q. You were asked, as I recollect, something about how the Du Pont Powder Co. were willing to pay $10,000 for this whole property in 1908 or 1909, and the other parties were going to get it for $8,000, and then it was Robertson that came down on his price and you had gone up on yours?—A. Yes, sir.

Q. Do you remember whether or not when Williams first came to you, or when you first talked to him about the price, you fixed any different price than $4,500?—A. I have a distinct recollection that I first named $6,000.

Q. And he did not accept that?—A. No, sir.

Q. What would you say now as to that interest after all that has taken place and has led you to investigate this matter?—A. If we were sure of not getting into litigation we would be glad to sell for $4,500.

Q. Your interest in it?—A. Yes, sir; our interest.

Q. To go back one moment, at the time that you received the letters which were read a few moments ago, when you recalled that contract from Bradley, did you consult anybody in reference to that before you took that action?—A. Before recalling it?

Q. Yes.—A. My recollection is that I discussed it with our attorneys.

Q. Who are the attorneys whom you consulted?—A. Warren, Knapp, and O'Malley.

Q. And they are attorneys in Scranton?—A. In Scranton.

Q. Do you remember——

The WITNESS. Excuse me, as to question before the last one that I answered, would you be kind enough to read that question to me again—the one before the last?

The PRESIDENT pro tempore. The Reporter will read as requested.

The Reporter read as follows:

Q. What would you say now as to that interest after all that has taken place and has led you to investigate this matter?

The WITNESS. Now, I want to add to that: I said that if we were free of litigation, and if we were sure that we would not get into any difficulty with the owners of that property, so far as the consolidated breaker and our own holdings upon that lot are concerned. I want to make sure of that.

Q. (By Mr. WORTHINGTON.) You say if that could be fixed, you would now be willing to sell for $4,500?—A. Yes, sir.

Q. What value would that Katydid dump be to your company if you had the whole interest—owned it clear and free—and nobody else had an interest of a claim to any part of it?

Mr. Manager STERLING. We object to that as immaterial.

The PRESIDENT pro tempore. What is the question?

The Reporter read the question.

The PRESIDENT pro tempore. The Chair thinks that is relevant.

A. I never considered it in that light. I would not feel at liberty now, without careful consideration, to say what it would be worth to us.

Q. (By Mr. WORTHINGTON.) Now, in view of that answer, I will ask you, if I may be permitted, about your testimony which was given before the Judiciary Committee in answer to a similar question from a member of the committee, Mr. McCOY. Do not answer, Captain, until we see whether there is any objection to the question.

The PRESIDENT pro tempore. The counsel offers this for the purpose of refreshing the memory of the witness?

Mr. WORTHINGTON. Yes, sir.

Mr. Manager STERLING. On what page?

Mr. WORTHINGTON. Page 734; pretty near the top.

Mr. McCOY. Assuming that the title had been perfectly clear and that all the titles could have been gotten into the ownership of the Hillside Co., would it have had any considerable value then as a proposition to be worked?

Mr. MAY. The value was doubtful. If you will allow me to explain, we have a breaker called the Consolidated breaker, situated, I would

say—well, just about the distance Mr. Rittenhouse said yesterday—and we have next to that breaker a washery that I think was erected since this matter came up.

Mr. McCOY. You mean the Hillside Co. when you say "we"?

Mr. MAY. Yes; the Hillside Co.—always the Hillside Co. when I say "we"—that is, in this case. We had a culm bank made, or the Hillside I will say, has a culm bank made, from the operations of the Consolidated breaker. As I told you early in the session, the mine is on fire. Our culm bank is right over that fire. Our culm bank is on fire also. Now, it is to our interest to get that coal away from there as quickly as possible. We have been embarrassed for the want of water. We went to a great deal of expense—I wish I had the figures—to get water to wash our own bank, and then we have not enough. We are on the ragged edge there very often. Now we want to get that bank out of the road. We do not care to invest money in another bank that might burn while we were getting our own out of the road, when we could buy it later, probably, when values were more, and when we could get something out of it.

A. That is correct. I remember that now.

Q. You remember you so testified; and is that your present opinion about it?—A. Yes, sir.

Q. Is the fire still burning?

The WITNESS. In the mine?

Mr. WORTHINGTON. Yes.

A. It is. No. I beg pardon; we put it out; we just put it out a month or two ago.

Q. When you were having these negotiations with Judge Archbald for the sale of the Katydid culm dump was there any plant for washing at the Katydid dump?—A. Not at the Katydid dump.

Q. How much would it have cost to put a proper plant there to wash the dump?—A. It would cost, I estimated, to wash that bank itself, about $10,000—that is, to erect the plant.

Q. What would the plant be worth as soon as the dump was washed away and the work finished?—A. It would be practically scrap.

Q. Capt. May, something has been said about Mr. Robertson wanting to buy this dump. I think in a letter which has been read here from Robertson to you, written in the summer of 1911, if I remember correctly, he said something about wanting to sell to or buy from the Hillside Co.?—A. Yes, sir.

Q. Do you remember that?—A. Yes, sir.

Q. What was that?—A. He wanted to know whether we wanted to buy his dump. That is in the letter.

Q. Did you seek to buy?—A. No; we did not seek to buy, for the reasons named that you read from the——

Q. That I read a few moments ago?—A. Yes, sir.

Q. Had the fact that Mr. Robertson was connected with this proposed sale anything to do with your recommending it?—A. Yes, sir.

Q. What was that?

The WITNESS. You mean which sale?

Mr. WORTHINGTON. The sale you were negotiating with Mr. Williams and Judge Archbald?

A. Yes.

Q. You knew, I presume, that while they were negotiating for your interest they were also negotiating for the Robertson interest?—A. The principal reason that I favored it was because I wanted Mr. Robertson to get his money out of it.

Q. Why? What were your feelings toward and relations with Robertson?—A. They were very friendly.

Q. Now what were the reasons you gave as to why the company sold the Florence dump or sold part of it or its interest in it?—A. We wanted to be free——

Mr. Manager CLAYTON. Mr. President, I respectfully submit to the Chair that where the counsel for the respondent has gone fully into a matter and the witness has given his testimony at length, it is a useless consumption of the time of the Senate to repeat it.

Mr. SIMPSON. We have not gone into it at all.

Mr. WORTHINGTON. It is the first question I have asked him about the sale of the Florence dump.

Mr. Manager CLAYTON. You predicated your question by saying to the witness you said so-and-so about it.

Mr. WORTHINGTON. He said something about it when examined by one of the managers. I have not asked him anything about it. I want to elaborate that a little and to show that the conditions surrounding the sale of the Florence dump were almost precisely the same as those which obtained in the case of the Katydid dump.

The PRESIDENT pro tempore. The witness will answer the question.

Q. (By Mr. WORTHINGTON.) I want to know what were the particular circumstances or what was the situation that induced you to recommend the sale of the Florence dump of the Hillside Coal & Iron Co.?—A. There were conflicting interests there.

Q. Conflicting interests as to what?—A. Conflicting interests as to what should be done with the bank, and in order to get out of the trouble ourselves I was glad to recommend its sale—our interest in the sale.

Q. You mean your interest in the property?—A. In the bank.

Q. You did recommend it, and the sale was made?—A. Yes, sir.

Q. How long ago was that?—A. In 1910.

Q. About a year before you recommended the sale of the Katydid dump or agreed to recommend the sale of your interest in the Katydid dump?—A. Yes, sir.

Q. I notice you said "our company" to Mr. STERLING—"the Hillside Co. has not sold any other dumps." Was there any other particular thing you had in mind when you said "our"?—A. I meant the Hillside Co.

Q. On the letterhead you were using here the other day I noticed that the names of a number of companies appeared on the same letterhead?—A. Yes.

Q. How were they connected with the Hillside? You have all their names on the one letterhead?—A. I am vice president and general manager of three or four companies.

Q. Are they all subordinates of the Erie?—A. They are.

Q. Had these other companies been selling dumps?—A. The Pennsylvania Coal Co. has sold some fills—the old gravity roadbed. They were fills made with culm, and they have been disposed of.

Q. Is there any difference between a fill and a dump in regard to the question whether the railroad company will sell it or not?—A. Each transaction is surrounded with certain circumstances, and I can not remember what they are.

Q. It is a fact, then, that this other company, situated like the Hillside Coal & Iron Co., of which you are an officer, and another subordinate company of the Erie, has sold a number of culm dumps?—A. Has sold gravity railroad fills, but no dumps, as we call them.

Q. When these negotiations with Judge Archbald were going on, and when you agreed to sell to Bradley, what did you know, if anything, about the price that Conn was to pay?—A. I did not know.

Q. Did you know what Bradley was to pay, except what he was to pay to you?—A. No; I did not.

Mr. WORTHINGTON. That is all, Mr. President.

The PRESIDENT pro tempore. Is there anything further that the managers desire from this witness?

Mr. Manager STERLING. Yes; Mr. President.

Redirect examination:

Q. (By Mr. Manager STERLING.) Mr. May, you understood at that time that the Hillside Coal & Iron Co. owned a half interest in the Katydid dump, did you not?—A. That is, not a half interest in the dump; in the coal from which the dump was made.

Q. Well, you claimed that you owned a half interest in whatever merchantable coal was made or was gotten out of the dump, did you not?—A. We had a royalty interest in the coal to be won out of the dump. I think, Judge, if you will allow me, that I know what you refer to. I did make the statement there—one-half interest in the bank. That was a mistake. I meant to say a half interest——

Q. Now, wait. You did testify before the committee that you had a half interest in the bank, did you not?—A. I said that; but that was an error.

Q. How many tons of merchantable coal in that bank did you estimate at that time?—A. That we estimated?

Q. Yes; or your engineers.—A. The estimate that our engineers made at the time that this letter refers to, in April, 1911—they gave the report to me of 55,000 tons of material in the entire bank—that is, in the entire culm bank.

Q. Let me refresh your recollection. This is immediately following what Mr. Worthington read to you.

Mr. SIMPSON. Page what?

Mr. Manager STERLING. Page 734. Mr. Thomas asked the question—

Mr. THOMAS. I want to ask a question. Capt. May, as I understand, the Hillside owns a half interest in fee simple in the culm bank, does it?

And you answered—

That is right.

A. Yes; but there was the error that I want to speak of——

Q. Then Mr. Thomas asked you—

According to your estimate, how many tons of coal did that bank contain? I do not care for you to go into the buckwheat and other kinds of coal, but what is the total number of tons of coal that the bank contained, according to your estimate?

Mr. MAY. Well—my own estimate?

Mr. THOMAS. Yes; the estimate you got from your engineers?

Mr. MAY. One of the engineers estimated 80,000 tons of material in the bank, and, based upon the test of our general inspector, he found there would be in the bank 556 tons of pea——

Mr. THOMAS. I do not care anything about that. I want the total number.

Mr. MAY. Forty-five thousand two hundred tons of merchantable coal.

You made that answer, did you not, when you were asked those questions?—A. I made that answer.

Q. I read from the record:

Mr. THOMAS. What is the total number of tons of coal that you estimate in that bank?

And did you not reply—

Forty-five thousand two hundred tons of merchantable coal.
Mr. THOMAS. Of merchantable coal?
Mr. MAY. Yes.

Those questions were asked you, and you made those answers, did you not?—A. Yes; I made those answers, but 42,000——

Q. Wait until I finish.—A. I beg your pardon.

Q. I again read:

Mr. THOMAS. And of that amount the Hillside Coal Co. would own one-half in fee simple?
Mr. MAY. They would.
Mr. THOMAS. That would be 22,500 tons?
Mr. MAY. Twenty-two thousand six hundred tons.
Mr. THOMAS. Twenty-two thousand six hundred tons?
Mr. MAY. Yes, sir.

Those questions were asked you, and you made those answers?—A. I made those answers, but——

Q. Wait until I finish.—A. All right.

Q. I again read:

Mr. THOMAS. Independent of the cost to get it on the market, what was that coal worth on the market?
Mr. MAY. I do not know.

Then at the bottom of the page:

Mr. THOMAS. I am not asking for the net amount. I am asking you what that coal brings on the market. What would it sell for a ton if it were shipped to Philadelphia or New York? What would it bring on the market there—such coal as there was in this culm bank? How much per ton would it bring on the market there?

Mr. MAY. I can give you the prices here. I think that will answer your question. This is a copy of the voucher from the Hillside Coal & Iron Co. to the Sterry Creek Coal Co., Scranton, Pa., for the month of August, 1911, paid on the 65 per cent basis, being the price at the breaker: Egg coal, 3.1468; stove, 3.1538; chestnut, 3.3081; pea, 1.7812; buckwheat, 1.4093; rice, 0.70; barley, 0.45.

Those were the prices which you quoted from a statement of an account which you had with the Sterry Creek Coal Co. at Scranton for coal which your company had sold to them, were they not?—A. I had that statement there giving——

Q. It was the price at which you sold the coal there in Scranton, was it not?—A. I had a copy of the Sterry Creek voucher there, and I read the prices off that voucher.

Q. "At the breaker." What does that mean—the price at the breaker?—A. It means just what it says; the price on board cars at the breaker.

Q. That is, at the mine?—A. At the mine.

Q. Was there egg coal in this dump?—A. No, sir.

Q. Any stove coal?—A. No, sir.

Q. Any chestnut?—A. There was a mixture of these three sizes in the dump, but not merchantable coal.

Q. Was there any chestnut coal?—A. Not that we could market.

Q. Any pea coal?—A. About one-half the pea coal could be marketed, probably.

Q. Buckwheat coal?—A. The buckwheat could be marketed.

Q. Well, there was buckwheat coal there?—A. Yes.

Q. And rice coal?—A. Yes.

Q. And barley?—A. Yes.

Q. So that the coal that you would expect to find in that dump was pea size, buckwheat size, rice size, and barley size?—A. Will you repeat that, please?

Q. The grades of coal that you would expect to get out or that were actually there in the dump were pea size, buckwheat size, rice size, and barley size?—A. Yes, sir.

Q. And that coal was worth in Scranton the price that you stated there in that examination, was it not?—A. It was worth that price at the consolidated breaker. I would like to explain, if you will allow me, that that was all based upon the theory that we owned an undivided half interest in the bank. That was based upon the theory that Robertson & Law had abandoned the property. I did not say that that was my theory, but based upon that theory that would be the result.

Q. What would be the result?—A. The values that you give there if there were 42,500 tons of coal in the bank.

Q. What difference does it make, Mr. May, as to the price of the coal per ton whether you owned a half interest or whether you owned all in the dump?—A. It would not make any difference as to the price of the coal, but it would make a difference as to the price we would charge for the property. That is, whatever right we had in it would make the price; and that was based upon the theory that the culm bank had been abandoned and that we would have an undivided half interest in the bank.

Q. And your estimate, as you gave it there gave to the Hillside Coal & Iron Co. 22,600 tons of coal?—A. Based upon that theory.

Q. And the kind of coal that was in the dump was worth the prices which you stated there, ranging from $1.78 to 45 cents per ton?—A. Yes, sir; that is correct.

Q. And it would average more than a dollar a ton in value right there at the dump, would it not?—A. No; it would not average that.

Q. Well, what do you think it would be worth, on an average?—A. On an average I could not tell you. I would have to have the proportion of sizes that would come out of the bank.

Q. Even if it were all barley coal, if that is the smallest size?—A. That would be 45 cents.

Q. Barley coal was worth 45 cents. Even if it was all barley coal, at 45 cents, the coal in your half would be worth four or five times as much as you were charging Judge Archbald and Williams for your interest in the dump, would it not?—A. No, sir.

Q. Well, how much would it amount to—22,600 tons?—A. You have not taken out of it at all the cost to put it on cars.

Q. How much would it amount to—22,600 tons, at half a dollar a ton, would be $11,000, would it not?—A. Just about $11,000; yes, sir.

Q. Let us look at these letters here which you received immediately after you sent this contract to Mr. Bradley. On that day, the 11th of April, Mr. Holden came into your office, did he not?—A. He did.

Q. And he gave you verbal notice not to sell his interest in the dump?—A. Yes, he did; I think he did.

Q. Yes; and you told him you were about to sell it?—A. I did.

Q. And talked with him about this transaction you were having with Williams?—A. As near as I recall it——

Q. Just answer my question, please. You talked with him about the transaction you were having with Williams?—A. No; not with Williams. I talked with Holden——

Q. I know, but you talked with Holden about the transaction you were about to have with Williams?—A. Yes.

Q. And you told him you had made out a contract and had sent it to Bradley for his approval?—A. No; because the contract had not yet been sent.

Q. Had you not made it out at that time?—A. Yes; it had been made out. It was on my desk.

Q. You sent it on the 11th?—A. I sent it on the 11th; yes.

Q. And you had the contract there?—A. Yes.

Q. And even after Holden notified you that he had an interest in there you sent the contract?—A. I did.

Q. Then Holden went to New York that day, did he not?—A. He did.

Q. And he wrote you a letter notifying you not to sell his interest?—A. He did.

Q. That is Exhibit D.—A. Yes.

Q. And then Mr. Bevan, as attorney for Mr. Holden, wrote you a letter the same date, April 11?—A. Yes, sir.

Q. Which gave you the same notice that Holden had given you when the contract was lying on your desk there, before you had sent it to Mr. Bradley?—A. Yes.

Q. What effect did those letters have upon you in having you recall the contract after you had sent it? If you sent it after Holden had already given you the notice, why did those letters influence you?—A. The very fact that I recalled it showed what effect they had upon me.

Q. Why did not the verbal notice given you by Holden have some effect and thus prevent you from sending it, if these letters from Holden and his lawyer had any influence on your conduct in that transaction?—A. It did have an influence upon me. That is what made me call it back—those letters.

Q. But you sent it out after you knew Mr. Holden's claim, did you not?—A. Yes; I did.

Q. Here is a letter from James A. Heckel, administrator for the Everhart estate, notifying you they had an interest. You got that, did you?—A. I did.

Q. It did not have any influence on your withdrawing it, did it?—A. It did.

Q. What is the date of that?—A. April 11.

Q. You knew before that that the Everharts had an interest and you were paying a royalty right along on their interest?—A. Royalty on sizes above pea, but not on sizes below pea.

Q. Were you manufacturing any coal in the colliery below pea size?—A. We were.

Q. You knew they had just the same interest in the dump that they had in the colliery, did you not, the dump having been created from the operation of the colliery?—A. No, sir.

Q. Did you not know that?—A. They had no interest in the colliery.

Q. Why do you say that they had no interest in the colliery? They had an interest in the land, did they not, on which the colliery——A. They had an interest in the land.

Q. Yes; and the Hillside Coal & Iron Co. had an interest in the land?—A. Yes.

Q. And the Hillside Coal & Iron Co. based its title to an interest in the dump on the fact that they had an interest in the land?—A. No, sir.

Q. On what did they base it?—A. The interest the Hillside Co. had in the bank was only a royalty interest. I have said that here several times.

Q. It was an interest in the coal, was it not?—A. It was a royalty interest in the coal.

Q. And it arose from the fact that the Hillside Coal & Iron Co. owned an interest in the land, did it not?—A. No; not necessarily.

Q. Not necessarily? Why would it not?—A. Because they also had the right to take the coal from the entire lot, lot 46, in which the Hillside had an undivided half interest. They sublet that to——

Q. Why did they not have a right to take the coal from that lot?

Mr. WORTHINGTON. I submit that the witness should not be interrupted in the midst of an answer. Let him finish.

The PRESIDENT pro tempore. Let the witness finish his answer.

The WITNESS. The Hillside Co. sublet that at an increased royalty to Robertson & Law. Therefore the Hillside only had a royalty right in the coal that could be won from that bank.

Q. (By Mr. Manager STERLING.) It was based on your interest in the land, was it not?—A. No, sir.

Q. How could you lease anything if you did not have an interest in the land?—A. We had an interest. I hate to take up the time, but we had the right from the other interests, by a letter, to mine that coal.

Q. From what other interests?—A. The other undivided half interest. And based upon that we had a right to the coal. Whether it was a fee right or not is for the lawyers to determine. We sublet that to Robertson & Law, and the royalty that we were to obtain from the coal was what we were to get for our right.

Q. And the Everhart interest was based on the same sort of a claim, was it not—that they had an interest in the land?—A. No. Their interest—yes; that is true in one sense.

Q. Of course it is true. There is no use to try to——

Mr. WORTHINGTON. I object to any such remark being made to a witness.

Mr. Manager STERLING. The witness has answered it, and let us stop right there.

The PRESIDENT pro tempore. Let the witness complete the reply.

Mr. WORTHINGTON. May I ask whether the President heard the remark made by Mr. STERLING to the witness? If not, I should like to have it read, to see whether the Chair rules that it is proper to address the witness in that way.

The PRESIDENT pro tempore. What was the particular remark?

Mr. WORTHINGTON. It was referring to the witness, practically telling him, as a matter of fact, that what he was saying was not true, as I understood it.

Mr. Manager STERLING. I did not say anything like that to the witness.

Mr. WORTHINGTON. I ask to have it read.

Mr. Manager STERLING. Let us have it read.

The PRESIDENT pro tempore. The stenographer will read the question or remark of the manager.

The Reporter read as follows:

Q. And the Everhart interest was based on the same sort of a claim, was it not—that they had an interest in the land?—A. No; their interest—yes; that is true in one sense.

Q. Of course it is true. There is no use to try to——

Mr. WORTHINGTON. "There is no use to try to." Then you did not finish, but you were telling the witness practically that there was no use in trying to conceal something.

Mr. Manager STERLING. My purpose was that I wanted to insist that the witness had answered the question already.

The PRESIDENT pro tempore. At least the manager had not uttered the word which the counsel anticipated he would utter.

Mr. WORTHINGTON. I stopped him.

The PRESIDENT pro tempore. The Chair can not assume what was the intention of the manager.

Q. (By Mr. Manager STERLING). Did this letter from Mr. Taylor have any influence on you in publishing your recall of the Bradley contract?—A. No, sir.

Q. It was not written until the week after the Bradley contract was withdrawn, was it?—A. Yes, sir; it was written afterwards.

Q. On the 19th. This letter from Mr. Saltonstall was written on April 13, and it was received on the 16th?—A. It was afterwards.

Q. That was after you had withdrawn the contract, was it not?—A. Yes, sir.

Q. So that the only notice you had before you withdrew the contract was the one from Holden, and you had that before you sent the contract out—the verbal notice—did you not?—A. Oh, no. I had from Mr. Heckel, the administrator——

Q. Wait, now. You had the verbal notice from Holden before you sent the contract out, did you not?—A. That is correct.

Q. Then you got one other letter—and just one—after you had sent it out and before you got it in, did you not?—A. I received three letters.

Q. Listen to my question. After you had sent the contract to Bradley and before you got it back, you received just one letter?—A. No; I can not agree to that.

Q. What three did you get besides the Holden claim?—A. Oh, I only received the Heckel letter outside of the letter from Mr. C. P. Holden and his attorney. Now I understand you.

Q. You do not mean Heckel—that is, the Everhart interest?—A. James Everhart.

Q. Outside the Holden notice you just got the Heckel notice, this administrator of the Everhart estate?—A. Yes, sir.

Q. The Everhart estate you knew had an interest in it, because you had been paying them a royalty for years, had you not?—A. Not an interest in the land, but in the bank.

Q. Mr. May, as a matter of fact, these notices had not a particle of influence in your action in rescinding that contract with Bradley?—A. Yes; they did.

Mr. Manager STERLING. I think that is all.

Cross-examination:

Q. (By Mr. WORTHINGTON.) When did you consult your counsel or the counsel of the Hillside Coal & Iron Co. about the effect of this notice?—A. I think it was on the morning of the 12th. That is my recollection.

Q. Did you state which member or members of the firm you consulted?—A. Judge Knapp.

Q. Of the firm you mentioned?—A. Yes, sir.

Q. Is he still living?—A. He is.

Q. You said, I understand, that the interest of the Everharts or the relations between you and Everhart were represented by a letter?—A. That is tradition, that it is represented by a letter.

Q. I ask you if this matter is complicated by that letter having become lost?—A. The letter is lost; that is, we can not find it, and therefore it must be lost.

Q. In reference to your testimony before the Judiciary Committee, which has just been read from pages 734 and 735, where you said that you had a one-half interest in this dump, and you say that was a mistake, I want to ask you whether you did not almost immediately correct it before the Judiciary Committee by what you said on page 737? I read from page 737, question by Mr. FLOYD:

If you agree to sell—

Mr. Manager CLAYTON. Mr. President, I submit the proper way is to ask the witness if he did correct it, and then, if the witness says he did not correct it, it is proper to read from the record. That has been the ruling of the Chair, as I understand it.

Mr. WORTHINGTON. I do not understand that the Chair made such a ruling. It would be very imperfect.

The PRESIDENT pro tempore. The Chair thinks if the testimony of the witness was read from the book it will be competent for further reading in the same direction. So that the Chair may not be misunderstood, he will state that in the absence of the fact that it had been so done the Chair would rule otherwise.

Mr. WORTHINGTON. I read from page 737:

Mr. FLOYD. If you agree to sell it to Mr. Williams for a certain price and Mr. Williams in turn makes a contract to sell it to this railroad company that you had been supplying with fuel, do you regard it as good business to sell it at this reduced price when you might have sold it directly to the railroad company for this advanced price?

Mr. MAY. But we did not own the bank. We only had an undivided interest. We only had an interest in the royalty arising from the coal taken out of that bank.

Mr. FLOYD. That does not answer my question.

Mr. MAY. We had not the authority to sell that bank, or rather the right, I mean.

Mr. FLOYD. You owned in fee simple an undivided half interest in it, did you not?

Mr. MAY. Yes; an undivided one-half interest; but it had been made by Robertson & Law under an arrangement with us, and equitably the bank belonged to Robertson & Law.

[To the witness.] Is that what you testified to there?—A. That is correct.

Q. In reference to what you have been asked about the sale of the Katydid and the value of the different kinds of coal in that dump, I think you said that amount on the cars at the dump would be worth $12,000; was it?—A. That was only a supposition. The judge asked me whether if it were worth 50 cents a ton it would be worth so much on the cars and I said yes.

Q. Then you said something about that not taking into account the cost of putting it on the cars?—A. That is correct.

Q. What would be the cost of putting it on the cars which would bring the figure up to $12,000?—A. If you take the average of our washers, it would be about 45 cents a ton.

Q. That would be the cost of putting it on the cars?—A. Yes, sir.

Q. And if you sold it for 45 cents a ton you would not make anything?—A. No, sir.

Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager STERLING.) Just one question. The 45-cent coal was the barley size, was it not?—A. Yes, sir.

Q. What proportion of it was barley?—A. This is a guess. About 31 per cent I should say.

Q. Then more than two-thirds of it was ranging from 70 cents to $1.78 a ton?—A. Yes, sir.

Mr. Manager STERLING. That is all.

The PRESIDENT pro tempore. The witness will retire. The Sergeant at Arms will call the next witness.

Mr. MAY. Am I excused?

The PRESIDENT pro tempore. Do the managers desire to have the witness remain in attendance?

Mr. Manager STERLING. I think we are not prepared to excuse him now. If he can see Manager Clayton after adjournment he will probably find whether he can be excused permanently or not.

Mr. Manager CLAYTON. I may say, Mr. President, I think we will excuse him, but I desire to have a brief conversation with my brother managers before finally determining that matter. I say this for the benefit of Col. Worthington now. I should have said Mr. Worthington, for he stripped himself of his military title yesterday.

COURT OF COMMERCE CALENDAR.

Mr. ROOT. Mr. President, I submit a request and ask that it be read.

The PRESIDENT pro tempore. The Senator from New York makes a request, which will be put in the form of an order if it is desired. The Secretary will read it.

The Secretary read as follows:

I ask for the production and identification of the printed trial list or calendar of the Court of Commerce in March and April, 1911.

The PRESIDENT pro tempore. The Chair suggests that the Senate will act upon it as if put in the form of an order. Is there objection to the adoption of this order?

Mr. Manager CLAYTON. Mr. President, may I be permitted to make a statement? The managers determined in the preparation of this case to produce the document which the Senate desires. I may say that I do not think an order of the kind is necessary, for we can inform the Chair that it is our purpose and that we will produce the document specified in the request which is preferred by the Senator from New York.

Mr. WORTHINGTON. There will be no objection from us, Mr. President. We have been trying ourselves to get that document.

Mr. ROOT. I withdraw the request.

The PRESIDENT pro tempore. The managers will call the next witness.

DEPOSITION OF E. J. WILLIAMS BEFORE WRISLEY BROWN.

Mr. Manager STERLING. Mr. President, when the court adjourned last night the question was pending as to the admission of the examination of Mr. Williams before Mr. Brown at Scranton, Pa. We offered it and Mr. Worthington objected. We desire now to renew the offer and hear from Mr. Worthington if he has anything further to say in regard to it.

The PRESIDENT pro tempore. The Chair will desire to hear from the counsel for the respondent on that subject and the Chair will also hear the managers.

Mr. Manager STERLING. Mr. President, we believe that this is entirely competent and we believe that it is highly important. The paper which we offered in evidence yesterday and for which we again renew our offer is Exhibit 7, the examination of Edward J. Williams, at Scranton, Pa., March 16 and 17 of this year, made by Mr. Wrisley Brown, representing the Department of Justice, who was sent there by the Attorney General to investigate this case.

The PRESIDENT pro tempore. The Chair will desire the manager to state the ground upon which he offers it, whether it is for the purpose of contradicting the witness; and, if so, upon what ground he claims the right to contradict the witness; or whether it is because of the fact that the managers claim they have been entrapped by the witness.

Mr. Manager STERLING. We have two grounds, Mr. President, on which we insist that it is competent to have it read to the court. In the examination of Mr. Williams yesterday the counsel for the respondent referred to it at two different times and in two different ways. In one instance he asked the witness if Mr. William P. Boland had not conducted most of the examination and had not asked most of the questions at the time the deposition was taken. The fact is, and the deposition itself will disclose the fact, that Mr. Boland did not ask the questions. I think in only two or three instances did he ask questions.

The PRESIDENT pro tempore. The Chair does not rule that the questions themselves can not be proven, but, as the Chair stated yesterday, he wants to hear from the managers or the counsel now on the question whether not only the questions but the answers should be put in evidence.

Mr. Manager STERLING. Yes, sir; we desire to have all of it put in. The first reason for it is to rebut the assumption made by the counsel on the other side and to rebut the testimony of the witness in which he answered that William P. Boland had asked the questions. The deposition will disclose that Boland asked three or four questions and suggested in several instances what should be asked the witness.

Now, we think it is competent to have it go in to disprove that fact for the reason that Mr. Worthington's contention in this case largely seems to be that there was a conspiracy in which Mr. William P. Boland was a party to inveigle the judge into this transaction. So we think that it all ought to go in for that purpose. But it is competent on another ground, and it is very important on another ground.

In numerous instances the statements made by this witness, when examined by Mr. Brown, of Scranton, contradict the answers which were drawn out of him on cross-examination by counsel for the respondent. We think this is entirely proper where counsel on the other side draws answers from this witness to contradict statements he has made before, and especially statements in an examination on the very same subject and statements made under oath. We think it is perfectly competent to offer the entire deposition for the purpose of contradicting this witness as to those parts of his cross-examination where he contradicted his former statements.

I believe it is the universal rule of evidence that where a witness makes statements on the stand contrary to statements he had made prior to that time his former statements, in whatever form they may be, especially when they are sworn to, when they relate to the same case and are evidence given in the same case, are competent to contradict the statements of that witness. This deposition here is replete with evidence contradicting statements made by Mr. Williams yesterday on cross-examination drawn out of him by counsel for the respondent.

May I call the attention of the court to some of these instances?

The PRESIDENT pro tempore. If the honorable manager will permit the Chair, it may hasten the consideration of the question. The Chair ruled on yesterday that if the managers in offering conflicting testimony to that furnished by their own witness would state that they had been entrapped by the witness—in other words, that they had relied upon his testimony in the confidence that he would testify as he had previously testified—they would be entitled to show that he had sworn differently on a former occasion. But unless the managers do state that, the Chair will hear further argument on it from them.

Mr. Manager STERLING. I will say further, Mr. President, that in the statement which I just now made I confined myself to the fact that it contradicted many statements made by the witness on cross-examination. It is true that it does contradict many statements he made on the stand before this court in direct examination.

I am aware of the usual rule that we could not put in documentary evidence or a deposition to contradict our own witness. But there is an exception to that rule. I think this is a case where the exception should be applied and where it has already been applied by the ruling of the Presiding Officer in

this case, because Mr. Manager WEBB was allowed to refer to the examination before the Judiciary Committee. That was before the cross-examination had occurred. He asked the witness if he had not made statements then contradictory to his statements here, and the Chair admitted it for the reason that he was an unwilling and a hostile witness.

Of course, we expected this witness to testify to what he had testified to before. We were deceived in the testimony of this witness. It was on the ground that he was hostile and adverse, as I understand it, that the court permitted Manager WEBB to ask him on direct examination as to whether he had not made statements to a contrary effect in his examination before the Judiciary Committee.

So we say now that this is a different examination on the same subject by Mr. Brown at Scranton, and that it contradicts this witness both in the statements he made here on direct examination and in the statements he made on cross-examination. They are entirely different. He made answers that we were not expecting from this witness. He made answers, too, after he had conferred at least twice with the counsel on the other side of this case and after he had made the other deposition.

We submit that it is perfectly proper, and we submit that this court can not get the truth of this case unless it knows what this man Williams said and what he gave out to be the truth before he was called here before this court, when these things were fresh in his mind.

I submit that it ought to be the purpose of every investigation of this kind that the body to determine the rights of this man should know the truth and all the truth, and it is on that ground, to get at the simple, plain facts in this case, so that we may know all, that we ask that the testimony of this witness Williams be read in full as it was taken at Scranton.

Mr. WORTHINGTON. Mr. President——

The PRESIDENT pro tempore. Before the counsel proceeds——

Mr. Manager CLAYTON. Mr. President, I do not wish to offend against the suggestion made by the Chair yesterday——

The PRESIDENT pro tempore. The manager will permit the Chair to make a statement, and possibly it may make the argument unnecessary.

Mr. Manager CLAYTON. I submit to the suggestion of the Chair very cheerfully.

The PRESIDENT pro tempore. The Chair simply wishes to know whether it is the purpose or design of the managers to offer this deposition upon the ground that they have been deceived by the witness and entrapped by him?

Mr. Manager STERLING. Yes, sir; that is one of the reasons, I will say, Mr. President.

The PRESIDENT pro tempore. Very well. The Chair stated yesterday if it was offered on that ground, then, in the opinion of the Chair, it would be competent evidence. The Chair still adheres to that, but will hear from counsel for the respondent on that proposition.

Mr. Manager CLAYTON. Mr. President, I wanted to know if I might be permitted—I do not know whether I can be permitted—to reply to Col. Worthington, I beg his pardon, I should have said Mr. Worthington, after he has concluded, or if I shall submit my observation now. I wish to be directed by the Chair as to the time.

The PRESIDENT pro tempore. The Chair has substantially indicated his purpose to rule with the managers, but if the managers desire it they will be further heard on the proposition.

Mr. Manager CLAYTON. Then I suppose unless the Chair's present mental attitude is disturbed by the argument of the counsel for the respondent he will adhere to his ruling. If he should indicate a change, then I shall ask to be heard.

The PRESIDENT pro tempore. If after hearing from counsel for respondent the view of the Chair is in any manner changed he will hear further from the managers.

Mr. WORTHINGTON. Mr. President, so far as the order of argument is concerned, as the Chair announced the other day, ordinarily the objector makes his objection, the opposing side answers it, and the objector has the conclusion. I was about making the opening, but the Chair permitted the managers to state what they have to say about it, and I can now reply so far as I am concerned.

The PRESIDENT pro tempore. The attitude of the Chair is that upon the proposition as presented the evidence would be admissible to the extent that it contradicted the evidence which the witness had given in either direct or indirect examination, upon the distinct ground that relying upon evidence previously given by him they had put up the witness and had been entrapped by him in the fact that he had given evidence to the contrary upon this examination.

Mr. WORTHINGTON. Let me, in the first place, recur to what happened which first drew attention to this testimony or deposition, or whatever it may be called, that Williams made to Mr. Wrisley Brown. This is what took place on page 191 of the record of these proceedings:

Q. Who was present when Mr. Brown took your testimony?—A. William P. Boland and Wrisley Brown.

Q. William P. Boland was there all the time, was he not?—A. William P. Boland was the man who asked all the questions.

Q. I was going to ask you whether he did not conduct the examination, largely?—A. Yes; he conducted the inquiry.

My proposition, in the first place, would be that the managers would have the right to show how many questions were asked by Boland and what was the proportion of those to the questions asked altogether. If it is proposed to do that I have no objection.

Now, as to the situation in reference to putting in this deposition en bloc, I certainly submit, Mr. President, it is unprecedented. If the managers wish to show that as to certain matters in his statement before Wrisley Brown under oath he stated things which were contradictory to what he testified here, either on the direct examination or on the cross-examination, for the purpose of showing that he is not to be believed on his oath; if they put a witness on the stand whom they believed to be a credible witness and were surprised by the testimony, and want to show that he has made statements to the contrary elsewhere, for the purpose of showing that he ought not to be believed on oath, they have that right, not to have the whole deposition put in, but such parts of it as they think will have that effect. If they offer it for that purpose we have no objection.

If, on the other hand, the purpose is or it should be intended to use anything that was said there for the purpose of refreshing the recollection of the witness or for the purpose of showing merely that he has made different statements for the purpose of letting the Senate get at the truth of the matter, the first principle of the law of evidence and the first principle, it seems to me, of common justice is that Mr. Williams must be brought here and must be asked whether he did not testify thus and so before Mr. Wrisley Brown, so that he may be afforded the opportunity which every witness is afforded when it is undertaken to show that he made contradictory statements to the court and to see what explanation he has to make of them.

Now, if it is proposed to read the whole deposition without reference as to whether it bears upon anything that was said here or not, or without having Mr. Williams brought here, it seems to me that that can not be done and that it would be very unfair to Judge Archbald, as well as unfair to the witness himself.

The PRESIDENT pro tempore. If the proposition be simply to disprove the statement of the witness as to the number of questions which had been asked by Mr. Boland, the Chair would undoubtedly rule that only the questions themselves could be put in evidence for the purpose of contradicting him to that extent. But the Chair thinks it is a well-recognized rule, which is found in every jurisdiction, that where a witness is put up by a party and where the party who offers him as a witness has had previous information from him as to what his testimony would be, and upon his examination he gives testimony contrary to that former testimony, the party offering that witness can prove the former statements of the witness if he will state in his place that he has been entrapped by him; that relying upon the evidence that he had given and that he would again testify as he had previously done, they have put him up and they have been entrapped and surprised by the fact that he then testified to matters in conflict to what he had previously testified.

The Chair thinks that is a well-recognized rule of law. It is not for the purpose of impeaching the witness, though it might be called one class of impeachment. It is for the purpose of negativing testimony which he had given and which the counsel otherwise would be bound by, they themselves having put him up.

It is upon that ground alone that the Chair made the same announcement yesterday he now makes. If the managers yesterday had stated that they offered the deposition on the ground that they had been entrapped, the Chair would then have ruled that, in the opinion of the Chair, subject, of course, always to the judgment of the Senate, the deposition could be received.

The Chair will add, so far as the bulk of this testimony is concerned, unless it is in the main, generally as well as specifically, upon the particular points in which the counsel have been entrapped, that only such parts of it as do relate to that contradiction in his testimony would be admissible; but on the statement of the counsel, that they have been thus entrapped, the Chair is of the opinion that to that extent it is admissible.

Mr. WORTHINGTON. Let me add just one word, Mr. President. I concede that, if the managers offer the evidence for the purpose of showing that they had been entrapped, it would be competent, and we would not object, provided it is put in for the purpose of showing that the witness is not to be believed on oath. That is the reason it can be admitted. I submit now, Mr. President, that statements made under such circumstances by any witness in an ex parte examination up there in Scranton, when Judge Archbald was not present and was not represented by counsel, can not be used as evidence of facts testified to here as against him. No evidence can be used as against Judge Archbald except that which was taken when he had an opportunity to be heard.

The PRESIDENT pro tempore. Counsel for the respondent will, of course, have the right to recall the witness and require him to make such explanation of the apparent conflict as is proper and consistent with his information; he is not debarred from that privilege; but the Chair will respectfully suggest to the counsel that the purpose of that rule is not to impeach a witness and establish the fact that he is not to be believed on oath, because, if that were the case, a party could never put up an adverse witness. He is entitled to the testimony of this witness, and he is entitled to have the truth ascertained from the testimony of the witness and from his conflicting statements, so far as that can be done by the court. The Chair has said "the court," but he means any court, not simply this one. The Chair thinks that is a correct rule of law and that is the principle upon which it is based.

Mr. WORTHINGTON. That what was said to Mr. Brown in Scranton is evidence against Judge Archbald?

The PRESIDENT pro tempore. It is for the purpose of negativing the testimony which he has now stated in conflict with his previous statements. That is the purpose of it. The counsel will recognize the fact that a party when he puts up a witness is bound by his evidence, and when that witness gives evidence which is adverse to the interest of the party putting him up, but has previously made statements upon which the party relied when he put him up, the party is entitled to introduce that evidence for the purpose of negativing the effect of that unfavorable testimony. That is the extent to which, as the Chair understands, the purpose of the introduction of the evidence is limited.

Mr. SIMPSON. Does not the Chair think that the managers are obliged, even under that rule, to pick out the evidence which they say caused them to be entrapped and not put in in bulk a deposition of 28 pages, for that is what they are undertaking to do?

The PRESIDENT pro tempore. The Chair stated that unless the evidence was contradictory of evidence which the witness had given, unless it was either specifically or in the main generally so, of course, that which was not so classified would not be admitted. The Chair is not able to say whether there are matters in the paper which go beyond that limitation. If there are, the Chair thinks the suggestion of counsel is correct and that that additional matter should not be admitted.

Mr. SIMPSON. Then there is but one way to do.

The PRESIDENT pro tempore. The Chair would suggest that as that is a voluminous document, possibly it had better be withheld—there is ample time for it—for the purpose of having counsel examine and determine what part is strictly contradictory and what is not.

Mr. Manager STERLING. There are 53 pages. The evidence which contradicts Mr. Williams's statement is scattered through the entire deposition. Of course we do not care to take the time of the court to read any part of that except that which does contradict it, and, at the suggestion of the president, we will withhold it and pick out those parts that we want to read and submit them at some other time.

Mr. SIMPSON. And advise counsel for the respondent which they are, so that if there is any objection to them it may be brought to the attention of the President.

Mr. Manager STERLING. I did not catch the suggestion.

Mr. SIMPSON. And advise counsel which are the parts which the managers think ought to be read under the rule, so that if there is any objection to their reading any part of them the President and the Senate may know of it and rule upon it in due course.

Mr. Manager STERLING. We will submit it to counsel for the respondent.

Mr. Manager CLAYTON. Mr. President, may I inquire when the argument on the admissibility of this testimony will be concluded? The counsel for the respondent yesterday claimed the right to conclude, and the Chair very kindly—and I thank him for it—made a very valuable suggestion, which should guide the counsel. It seems to me that the Chair has been very indulgent and has prolonged the debate between the Chair and counsel for the respondent. I wish to know if the debate upon this proposition is to be continued to-morrow, or if when we indicate, in response to the suggestion of the Chair, what we think is admissible, that will conclude the debate, and the Chair will then declare the deposition or the paper admitted to evidence without any further debate on the question?

The PRESIDENT pro tempore. The Chair did not desire to discriminate against the managers. He decided in favor of the managers, and did not suppose that any further argument would be desired on that side. Of course, if an issue is hereafter raised as to which part of the paper is admissible and which part of it should be excluded, then the same rule will apply as to the continuation of the discussion, and certainly both sides shall have full right to be heard upon it. The Chair only now puts it upon the ground that he has decided the paper admissible so far as it contains the matter in question.

Mr. Manager CLAYTON. I so understand. I think that so far as the matter now stands the argument has been concluded.

The PRESIDENT pro tempore. It has been.

Mr. Manager CLAYTON. Mr. President, the other day, in the opening of this case, Mr. J. A. Richardson was subpœnaed as a witness on behalf of the managers of the House of Representatives, and service was made upon him, according to the return, as I have been informed, by the Sergeant at Arms of the Senate. A telegram has been received here at Washington—I have forgotten exactly by whom, but it was called to my attention—containing a request on the part of Mr. Richardson that he be notified when his presence would be required. He was notified yesterday by wire. I had the clerk of the Judiciary Committee of the House of Representatives send, at my instance, a wire to Mr. Richardson informing him that he must be here to-day. He is not here; and we wanted to examine him at this time for the orderly conduct and presentation of the case. I shall, therefore, ask for an attachment. First, I will ask if the Chair—and I rather think in a matter of this sort that is the proper course—if service has been made upon Mr. Richardson?

The PRESIDENT pro tempore. The Chair is informed by the Assistant Sergeant at Arms that this witness is ill and in a hospital in New York, consequent upon a stroke of paralysis, and that the officers have not been permitted to serve him.

Mr. Manager CLAYTON. Mr. President, I should not insist upon an order of attachment if that statement could be made to the Senate under oath, that from reliable information the deponent believes—and he will state the facts upon which he founds that belief—that this witness is ill and detained by the circumstances which have just been stated by the Chair. I shall not, however, now ask for the order.

The PRESIDENT pro tempore. The Chair suggests that the application for the order be postponed until to-morrow, as the officer from whom this information has been secured and who endeavored to make the service is not now immediately in the Capitol Building, but the information will be definitely given the managers to-morrow.

Mr. Manager CLAYTON. I can say, then, that the managers will adopt the suggestion made by the Chair and will let it take that course.

Mr. Manager STERLING. Mr. President, in the event the witness is sick and can not appear, we shall offer the deposition of his evidence that was made before the Judiciary Committee in lieu of his testimony here. I do not know whether or not there will be any objection to that by counsel.

Mr. SIMPSON. When we get that far we will decide that, Mr. STERLING.

I may say, Mr. President, there will be no necessity to call the stenographer who took the testimony. If we agree that it shall be read, it may be read from the printed book. If we disagree, we shall still agree that the printed book shows it with substantial accuracy, so that you may have no more trouble about it.

Mr. Manager NORRIS. May I ask the counsel whether, since we have another witness who is in the same condition, that will apply to Witness Watson?

Mr. SIMPSON. That will apply to any witness whatsoever.

Mr. Manager STERLING. It will not be necessary to call the stenographer in any case where we can agree that the printed testimony shall be subject only to such objections as the stenographer's testimony would be subject to.

Mr. SIMPSON. Precisely so, sir.

Mr. Manager CLAYTON. Mr. President, do I understand the counsel to assent to this proposition as being the law—it is the law in some of the States of the Union, if not in all of them—that where a witness has appeared before a court, has been duly sworn, examined, and cross-examined by the person accused or by the person entitled to cross-examine him, if the witness is dead or is beyond the jurisdiction of the court it is quite competent to introduce his testimony given in the former court proceeding? I understand that proposition to be agreed to.

Mr. WORTHINGTON and Mr. SIMPSON. No! No!

Mr. Manager CLAYTON. Of course, the testimony is subject to legal exceptions. That rule applies only to legal testimony.

The PRESIDENT pro tempore. The Chair will rule on that question when such evidence is offered.

Mr. Manager CLAYTON. I was not asking the Chair to rule upon it. I was only asking, for information, if the counsel for the respondent assented to that proposition.

Mr. WORTHINGTON. I will state to the managers that I do not assent to it. It may be that as to any testimony they may offer we will not object to its going in, but if we do, it will be on the ground that we do not object to the testimony getting before the Senate because we think it states the facts; but if the question of law should arise as to whether they have any right to use testimony taken before the Judiciary Committee, we shall probably want to have that matter settled by the Presiding Officer or by the Senate.

The PRESIDENT pro tempore. The managers will call their next witness

TESTIMONY OF GEORGE F. BROWNELL.

George F. Brownell entered the Chamber.

The PRESIDENT pro tempore (to the witness). Give your name and address to the Secretary.

The WITNESS. George F. Brownell, 50 Church Street, New York City.

The witness having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager HOWLAND.) Mr. Brownell, where do you reside?—A. New York City.

Q. What is your business?—A. I am a member of the New York bar and am a railroad official.

Q. What railroad are you connected with?—A. Principally with the Erie Railroad Co.

Q. What official capacity do you have with the Erie Railroad Co.?—A. Vice president and general solicitor of the Erie Railroad Co.

Q. Where are your offices in New York City?—A. 50 Church Street.

Q. What relation does the Erie Railroad sustain to the Hillside Coal & Iron Co.?—A. That of stockholder.

Q. What relation does it sustain as to whether or not it is a majority stockholder or controls all the stock?—A. It is the owner of substantially all of the capital stock.

Q. How about the officers of the Hillside and the Erie; are they interlocking officers?—A. A number of the officers of the Erie Railroad Co. are also officers of the Hillside Co.

Q. On or about August 4, 1911, did the Erie road have any litigation in the Commerce Court of the United States?—A. At that time there were two cases on the docket of the Commerce Court. I will say——

Mr. Manager HOWLAND. That answers the question.

Mr. SIMPSON. The witness has a right to explain it so as to make it clear.

Mr. Manager HOWLAND. The manager is asking the questions just now. There will be plenty of opportunity to explain all of these questions in due order.

Mr. SIMPSON. I submit, Mr. President, when a witness is answering a question he has a right to complete his answer so as to make it clear to the Senate what his answer is, and the manager has no right to interrupt him in making a clear statement as to what his answer is. If the witness gets beyond that point, of course, the manager has the right to interrupt him.

Mr. Manager CLAYTON. Mr. President, I desire to make a remark, with your permission. If the counsel wishes to arrest the examination, if counsel objects to the question asked by the manager or to the conduct of the manager, the rules of the Senate, as I understand, and of this court require him to address the Chair, and through the Chair make known his objection, and not by injecting these "side-bar" remarks that are common to a courthouse, but, I am glad to say, are uncommon in the practice of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. The Chair will rule that the manager has the right to conduct his examination in his own way and confine it within the limits of his questions if he desires to do so, and that then the witness shall, before he leaves the stand, have full opportunity to explain any answer he has made. The manager in examining a witness has the right to confine him within the limits of the interrogation which he desires to submit, but the witness certainly must have the opportunity either before the direct examination concludes or under cross-examination to explain fully any answer which he may make.

Q. (By Mr. Manager HOWLAND.) Mr. Brownell, are you acquainted with Judge Archbald?—A. Slightly, sir.

Q. Where did you first meet the judge?—A. I first met Judge Archbald in Washington shortly after the organization of the Commerce Court, when I was present in the courthouse, and together with other members of the bar was presented by the Chief Justice to Judge Archbald in common with the other justices of the Commerce Court.

Q. Did you have any correspondence or have you received any letters from Judge Archbald?—A. On the first day of August, 1911, I received a note from Judge Archbald, bearing date of July 31, to which I made a reply on the date of its receipt. I have had no other correspondence with him.

Q. I hand you a paper writing and ask you whether or not that is the note which you received from Judge Archbald on the date you mention?—A. Yes, sir.

Mr. Manager HOWLAND. I will ask to have the letter read by the Secretary, and then I will offer it in evidence. I do not know what exhibit it will be, but it will be the next consecutive number.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read the paper marked "Exhibit 19," as follows:

[U. S. S. Exhibit 19.]

(United States Commerce Court.)

SCRANTON, PA., *July 31.*

DEAR SIR: Permit me to inquire whether you are to be in your office on Friday of this week and at what hour other than between 2 and 3 it would be convenient for you to see me. I am to be in New York that day and may desire to call and see you for a few minutes.

Yours, very truly,

R. W. ARCHBALD.

The SECRETARY. On the front page is the stamp:

Erie Railroad, August 1, 1911. Vice president and general solicitor.

Mr. Manager HOWLAND. Mr. President, I offer that letter in evidence and ask to have it marked.

The PRESIDENT pro tempore. The letter just read is in evidence.

Q. (By Mr. Manager HOWLAND.) Did you reply to that letter from Judge Archbald, Mr. Brownell?—A. Yes, sir; on August 1.

Q. I will hand you a paper writing and ask you to identify it if you will. [The paper was handed to the witness.] What is that paper writing?—A. It is a carbon copy of the letter I wrote to Judge Archbald on the date of August 1, in reply to the one which has just been read.

Q. Written by you or dictated by yourself in reply to that?—A. It was dictated by myself. It bears the initial of my stenographer, and the original was signed by me.

Mr. Manager HOWLAND. I now ask to have the letter read.

The PRESIDENT pro tempore. The Secretary will read the letter.

The Secretary read the letter, marked "Exhibit 20," as follows:

[U. S. S. Exhibit 20.]

AUGUST 1, 1911.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: I have just received your favor of yesterday. Unless prevented by something now unforeseen, I will be at my office all day Friday and shall be glad to see you at any time convenient for you which you may designate. If equally convenient for you, I would suggest some time between 10 and 12 a. m., or, if you have no other engagement for that hour, I would be very glad to have you lunch with me at the Railroad Club, which is in this building, at 1 o'clock.

Yours, very truly,

———

Mr. Manager HOWLAND. I now offer the letter in evidence and ask to have it marked the proper number as an exhibit.

The PRESIDENT pro tempore. That will be done.

Q. (By Mr. Manager HOWLAND.) Mr. Brownell, did Judge Archbald keep the engagement which you made with him in this correspondence?—A. I do not understand that I made an engagement by the correspondence.

Q. Did Judge Archbald meet you at your offices at the time which you suggested?—A. I did not receive any further word or message from Judge Archbald, but he called at my office during the forenoon of Friday, August 4.

Q. What did Judge Archbald say to you when he called?—A. I can only give you my best recollection of the substance. I can not undertake to state the language of the conversation.

Q. What did he say, to the best of your recollection?—A. Judge Archbald said, in substance, that he was interested in an endeavor to clear up the title to certain coal property near Scranton or Moosic, Pa.; that the Hillside Coal & Iron Co. had or claimed some interest or claim, as I understood, of a disputed fractional character to this property; that negotiations had been had with Capt. May, the then general manager of the Hillside Coal & Iron Co., for the acquisition of this claim or interest of the Hillside Co.; that no reply had been received—no final reply—and that he understood that the matter had been referred to the New York offices; that he was in the city, I understood him to say, in connection with other matters than court duties, and that he had called for the purpose of ascertaining where the matter was. My recollection is that he said——

Mr. Manager HOWLAND. Go ahead, if he said anything further.

The WITNESS. My recollection is that he said that he did not know any other of the New York officers of the company except myself, and so had taken the liberty of asking me if I could tell him who would have charge of the subject matter. I said to Judge Archbald——

Q. Wait a minute. I was about to ask you what you said to Judge Archbald in reply to this preliminary statement of his. Now, go ahead.—A. I said to Judge Archbald that while I was counsel for the Hillside Coal & Iron Co. I was not an executive officer of that company and had nothing to do with its business operations; that Mr. G. A. Richardson was the sole vice president at that time of the Hillside Coal & Iron Co., and was the official to whom Capt. May reported; that Mr. Richardson would probably know of the matter or at least would know who would have it in charge.

Q. That is what you told him?—A. In part. I further said to him, according to the best of my recollection, that if he desired I would introduce him to Mr. Richardson. The best of my recollection is that I volunteered that myself, and that it was not asked.

Q. Now, if you will allow me to ask you another question, Mr. Brownell: After you had at some considerable length explained to Judge Archbald the fact that you were not an executive officer, what did you do?—A. I offered to introduce him to Mr. Richardson if he so desired. He said that he would be glad for me to do so. I went with him into the office of Mr. Richardson.

Q. If you will allow me, did you introduce him to Mr. Richardson?—A. I introduced him to Mr. Richardson.

Q. What took place in your presence after you had introduced him to Mr. Richardson?—A. Very little; I left almost immediately afterwards. I did not remain during the conversation. I had a slight conversation——

Q. I think that answers the question——A. I had a slight conversation with Mr. Richardson at the time I introduced the judge.

Q. I ask you to relate what took place while Judge Archbald, Mr. Richardson, and yourself were present after you had introduced him to Mr. Richardson?—A. To the best of my recollection I said to him, in substance, that Judge Archbald said that he had had, or that some one had had, negotiations with Capt. May in regard to some coal property or this coal property—I do not remember whether or not at the time I had a description of it—and that he desired to know who had the matter in charge and to obtain some definite answer. Mr. Richardson said that he recalled having had a conversation with Capt. May upon the subject and that he would talk with Judge Archbald. Thereupon I left, and I do not know at all of the conversation that occurred between them.

Q. And Mr. Richardson was the man who had charge of the Hillside Coal & Iron Co. matters and was the immediate superior to Capt. May in that company?—A. He was the sole vice president, his superior, and did have charge under the president.

Q. Oh, under the president?—A. Yes.

Q. Will you kindly give us, Mr. Brownell, the title of the two suits which you say were pending in the Commerce Court on or about August 4, 1911?—A. As nearly as I can recollect, without referring to memoranda, the title of one of the cases was "The Baltimore & Ohio Railroad Co. et al."—the "et al." meaning a number of other railroad companies—"against the Interstate Commerce Commission."

Q. Do you remember the number? Was the number 38? Does that suggest anything to you?—A. The one to which I now refer to identify it was the one commonly known as the Differential Fuel Coal rate case, and was not an appeal from a decree of the commission, as I now recall, and there were no intervening parties. In that way I may distinguish it from the other.

Q. What was the other?—A. The other was The Baltimore & Ohio Railroad Co. et al. against the Interstate Commerce Commission, and there had intervened, in addition to the railroad companies as petitioners, Arbuckle and Jamison as two partners under the name of the Jay Street Terminal and the Brooklyn Eastern District Terminal Co. There also intervened—and it appeared in the title in the Supreme Court and in the Commerce Court—one other party——

Q. Now, Mr. Brownell, those two cases——

Mr. WORTHINGTON. He has not finished describing the case.

Mr. Manager HOWLAND. Excuse me, I thought he had finished.

The WITNESS. You asked me for all the parties and I was trying to the best of my recollection to give them. There was simply one more intervenor, the Federal Sugar Co.

Q. You had immediate charge of these matters in the Commerce Court and argued the cases there?—A. There were, I think, six attorneys of record, but I bore the laboring oar there in that case and in the Supreme Court.

Q. There and in the Supreme Court, both?—A. Yes, sir; for the railroad company. Other counsel represented in argument the intervening parties.

Q. When was the argument submitted in the Baltimore & Ohio case?—A. The differential coal-rate case, which was argued by counsel for the Baltimore & Ohio Co., was argued in the Commerce Court in May, probably the 15th or 17th of May, upon the motion of the Government and the Interstate Commerce Commission to dismiss the complaint for want of equity and the motion on the part of the petitioners for a temporary injunction.

Q. Was that in May, 1911?—A. Yes, sir.

Q. The Federal Sugar Co. case was the other case, was it not?—A. Yes, sir.

Q. That is sometimes referred to in common parlance as the Lighterage case?—A. I have heard it in these proceedings referred to as such, but whenever so referred to it is the same that I refer to as the Federal Sugar Refining Co. case.

Q. Have you, since you introduced Judge Archbald to Mr. Richardson and retired from the room, had any correspondence with Judge Archbald, or have you had any conferences or conversations with him?—A. No correspondence or communication, written or oral.

Mr. Manager HOWLAND. I think the counsel for the respondent may take the witness.

The PRESIDENT pro tempore. The witness is with the counsel for the respondent.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Can you tell, Mr. Brownell, when the case which Mr. HOWLAND referred to as the lighterage case was first taken into the Commerce Court—when the petition there was filed—and there could have been anything of that case to get on the trial list?—A. My recollection would be the 1st or shortly before May, 1911.

Q. At all events, there was no such case there on the 31st of March, 1911?—A. No, sir.

Q. Do you remember whether in the conversation you had with Judge Archbald, either when he was with you or when you and he were with Mr. Richardson, anything was said about Capt. May in reference to complaints against him, or the reverse?—A. I have no recollection of anything in the nature of a complaint against Capt. May, sir.

Q. Do you remember anything complimentary to him being said?—A. To the best of my recollection, in Mr. Richardson's office, a remark was made by Judge Archbald, or some reference to Capt. May, which was in the nature of a complimentary remark.

Q. Do you remember——A. I can not recall what it was.

Q. At any time when you were with Judge Archbald, when you were either in Mr. Richardson's office or your office or on the way there, can you remember whether there was any reference to Judge Archbald's position in the Commerce Court?—A. No, sir.

Q. Or to any cases that were pending or might be pending there?—A. I have not the slightest recollection of any.

Q. Did Judge Archbald ask anything of you except to tell him who was the man who had charge of the matter he was inquiring about?—A. That is all, sir.

Q. Had you heard this case, which we now speak of as the lighterage case, referred to by that name before you heard it was so called in these proceedings?—A. I do not recall having done so.

Q. It was not the common name of it?—A. Among counsel and those interested we have been accustomed to speak of it

as the Federal Sugar Refining Co. case. It has had some discussion under that title.

Q. So far as you know were there any papers in it which were backed "lighterage case" or in which the word "lighterage" was used in the title?—A. No, sir.

Q. Do you recall whether you saw that case on the trial list of the Commerce Court at any time?—A. I have no recollection of it. I am not at all clear, sir, that I have ever seen the trial list of the Commerce Court. I think that would be attended to by some of my office force.

Mr. WORTHINGTON. That is all, Mr. President.

Mr. Manager HOWLAND. That is all, Mr. President.

The PRESIDENT pro tempore. Is there any further question?

Mr. HITCHCOCK. Mr. President, I submit the question I send to the desk.

The PRESIDENT pro tempore. The Senator from Nebraska asks that a question be propounded to the witness. The Secretary will read it.

The Secretary read as follows:

Q. Did Judge Archbald, when he called at your office, represent himself as a partner in the proposed purchase of the coal property or as a friend or attorney for the purchaser?

A. No, sir; he did not represent himself in either of those specific characters. He stated, as I recall it, that he was interested in the clearing up of this property, and, to that end, in the acquisition of the interest or claim of the Hillside Co., concerning which negotiations, he stated, had been under way with Capt. May. The nature or extent of that interest on his part was not stated; I mean the nature or extent of the interest which he stated he had.

Mr. Manager HOWLAND. No further examination.

The PRESIDENT pro tempore. The witness may retire.

Mr. Manager CLAYTON. Mr. President, this witness may be discharged finally. We do not apprehend that we will have any occasion to recall him.

The PRESIDENT pro tempore. He is discharged. The managers will call the next witness.

Mr. Manager CLAYTON. Call Mr. W. L. Pryor.

The PRESIDENT pro tempore. The Sergeant at Arms will call Mr. Pryor.

TESTIMONY OF WILLIAM L. PRYOR.

William L. Pryor, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager NORRIS.) Where do you reside?—A. Scranton, Pa.

Q. What is your occupation?—A. Manager of the Scranton Autopoise Co.

Q. How long have you resided in Scranton?—A. Twenty-six years.

Q. Are you acquainted with Judge Archbald?—A. I am.

Q. Are you acquainted with Mr. E. J. Williams?—A. I am, sir.

Q. How long have you been acquainted with Mr. Williams?—A. Probably not more than two years; two years or two and a half.

Q. Where were you, Mr. Pryor, and in what business were you engaged on or about the 5th day of September, 1911?—A. I was engaged as accountant for the Marian Coal Co. in preparing their case before the Interstate Commerce Commission.

Q. In preparing what?—A. In helping to prepare their case before the Interstate Commerce Commission.

Q. In what capacity? Were you an attorney?—A. No, sir; I was preparing the statistics.

Q. You were an accountant, then?—A. Yes, sir.

Q. You were working for them at that time?—A. Yes, sir.

Q. Did you see E. J. Williams on or about the 5th day of September?—A. I did. He was a daily visitor.

Q. I hand you exhibit No. 7, Mr. Pryor, which has been referred to in the evidence here as the silent party agreement, and I ask you if you have seen that before?—A. Yes; I have.

Q. When and where?—A. In the office of W. P. Boland; about the date, the fore part of September.

Q. Who was present at that time?—A. Mr. E. J. Williams, Mr. W. P. Boland, and the stenographer, Miss Mary Boland, and myself.

Q. The instrument bears your name, does it not?—A. It does.

Q. Did you sign your name to it?—A. I did.

Q. As a witness?—A. I did.

Q. To the signature of Mr. Williams?—A. Yes, sir.

Q. Did you see Mr. Williams sign it?—A. I did.

Q. Were you there when the instrument was prepared?—A. I was in the room; yes, sir.

Q. Was Mr. Williams there?—A. He was.

Q. By whom was the instrument dictated?—A. It was prepared, I believe, jointly by Mr. E. J. Williams and Mr. W. P. Boland; dictated to the stenographer.

Q. You mean each one dictated parts of it?—A. Yes, sir.

Q. After it was written out by the stenographer what was done with it?—A. A copy of it was handed to E. J. Williams and it was read to him.

Q. Who read it to him?—A. I believe it was Mr. W. P. Boland.

Q. He read it over in the presence and hearing of all of you?—A. Yes.

Q. And then what was done with it?—A. Mr. Williams sat down at a table and signed two copies, if not three.

Q. Mr. Pryor, are you sure he signed more than one copy?—A. I am almost sure that I signed two copies, and therefore it would signify that he signed two.

Q. How many copies were taken?—A. That I am not prepared to state.

Q. They were carbon copies, taken on the typewriter?—A. The original and a carbon; yes, sir.

Q. What did Mr. Williams do with the copies he took?—A. That I could not say.

Q. Did he leave them there?—A. That I could not answer.

Q. Do you know whether he took them away with him or not?—A. No, sir.

Q. I hand you respondent's Exhibits A and B, Mr. Pryor, and ask you to examine them, which you can do in connection with the original exhibit, and tell me whether they are the copies—the carbon copies—that were kept by Mr. Williams?—A. (Examining.) That I could not answer.

Q. Mr. Pryor, what was said, if anything, there in the presence of Mr. Williams and in his hearing by anyone in regard to who was the silent party referred to in this instrument that Mr. Williams signed?—A. I believe——

Mr. WORTHINGTON. One moment.

Mr. Manager NORRIS. Just wait, Mr. Pryor.

The PRESIDENT pro tempore. One moment.

Mr. WORTHINGTON. Mr. President, I believe you held, and the Senate has held, that this paper itself is competent evidence, notwithstanding that it was not shown, and there is not any evidence tending to show, that Judge Archbald had anything to do with it.

The PRESIDENT pro tempore. Counsel will please speak louder.

Mr. WORTHINGTON. I say, as I recollect, it was held by the Senate, by the vote, on the first day of our taking testimony here, that this silent-party paper was admissible in evidence, or at least should be introduced here, although no evidence was offered tending to show Judge Archbald knew of it or authorized it. But I do not understand that that ruling went so far as to hold that the parties who may have made statements about Judge Archbald would be competent witnesses against him, or that any statement made against Judge Archbald by Williams or Pryor or perhaps other persons who were in Boland's office would be competent and proper evidence in this matter.

Mr. Manager NORRIS. Mr. President, you will remember what the testimony of Mr. Williams was in regard to this silent party, and a great deal of time was taken up trying to have him admit certain testimony that he had given before the Judiciary Committee. If this witness heard him state there or in his presence who the silent party was, it seems to me it is perfectly proper and competent for the witness to tell it as explaining not only the instrument itself but Williams's testimony, wherein we claim he contradicted himself in his testimony here.

The PRESIDENT pro tempore. The Chair will inquire whether the testimony before the Judiciary Committee was in conflict with what the witness testified to here on that subject?

Mr. Manager NORRIS. I think the testimony there—at least, parts of it—were in conflict with each other, and it was certainly in conflict with the testimony here. I think the Chair will remember that in the examination conducted by Mr. WEBB, Mr. WEBB called the witness's attention to some of the testimony on that subject which he had given before the Judiciary Committee. At least, it is in dispute, as I understand it, as to just what was intended by the reference here, and we have a right to show, I think, by those who drew the instrument and by the man who signed it, what was intended when a term was used that on its face shows that some explanation is necessary.

The instrument itself says that the silent party is known to certain persons, who are named, and, as I remember it, I think this witness is one of them. I now have the paper before me.

The language is: "and the silent party whose name for the present is only known to Edward J. Williams, William P. Boland, John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Coke Co." It therefore seems that this witness is not one of the names mentioned; but if this witness was present and heard the man Williams make the statement as to who the silent party was, or heard some one else make it, in the conversation and in the hearing of Williams, then it is proper for us to show who the silent party was.

Mr. WORTHINGTON. Mr. President, I have only to suggest this illustration: If a man is on trial for murder and a paper is produced which was prepared in an office where he was not present, and at a meeting of which he had no knowledge, and a paper was drawn up reciting that he and somebody else had committed that murder, would that paper, or anything with reference to the execution of that paper, be evidence against him to show that he did commit the murder?

It is true that we admit in the answer and admit here that Judge Archbald agreed with Mr. Williams that they would together undertake to buy and to sell this coal dump; but he is charged here with the crime of attempting to use his influence as a judge of the Commerce Court with the Erie Railroad people to get them to sell that dump to him on favorable terms; and as a part of the evidence against him it is said that he agreed that his name should be concealed in that transaction because he knew he was doing wrong. Here were some other people concealing his name and preparing a paper which was concealing it, and the talk among them as to who he was and why he was concealing his name is sought to be introduced in a court of justice as affecting him.

I do not see how I can say anything more. It is against all rules of evidence under which I have been accustomed to practice, and it seems to me there is no rule in justice or equity why it should be introduced.

Mr. Manager NORRIS. Mr. President, I want to make a suggestion I omitted to make, if the President will allow me. It is at least the theory of the managers on the part of the House, and for the purpose of passing on the evidence I think it will be conceded that the Chair will take the theory, that Mr. Williams and Judge Archbald were partners, and I think that ought to be called to the attention of the Chair before the Chair passes upon it, because what he said there or did there in carrying out the purposes of whatever plans they had would certainly be proper from this witness.

Mr. WORTHINGTON. I suppose, Mr. President, in the case I have supposed if the paper had been prepared and recited the manner in which the murder was to be committed, that would make it competent against the man on trial charged with the crime?

Mr. Manager NORRIS. Oh, no; that is not a similar case.

The PRESIDENT pro tempore. The paper has been admitted as a legitimate piece of evidence. The Chair is of the opinion that everything that is necessary for a proper explanation of the meaning of that paper is competent. What effect it would have upon the respondent is a question of law that would afterwards be determined. But as to the question of the admissibility of the evidence, the Chair is of the opinion that whenever there is an ambiguity in an instrument, which itself is admitted in evidence, it is competent to show what those who made the paper intended. How far that would be binding upon the respondent is an altogether different question, and the Chair does not mean in the ruling to rule on that point. That would be a question for the Senate to determine when it comes to consider the weight of the evidence. As to whether or not a partnership has been proven, and whether the respondent should be bound by statements made by one who is alleged to be his partner, is a question to be determined by the Senate sitting as a court.

Upon the naked question as to whether or not the paper which is proven to have been executed and which the Senate has decided to be proper evidence shall have any ambiguous term explained by showing what the parties to it said it meant, the Chair is not in any doubt whatever.

Mr. Manager NORRIS. I would like to have the stenographer read the question to the witness.

The Reporter read as follows:

Q. Mr. Pryor, what was said, if anything, there in the presence of Mr. Williams and in his hearing by anyone in regard to who was the silent party referred to in this instrument that Mr. Williams signed?

A. The mention of Judge Archbald's name was brought up by Mr. Williams, as being interested in the transaction, and was to be known as the silent party.

Mr. Manager NORRIS. I think that is all. You may cross-examine.

The PRESIDENT pro tempore. The witness is with the counsel for the respondent.

Mr. WORTHINGTON. We have no questions to ask.

The PRESIDENT pro tempore. The witness may retire.

Mr. WORTHINGTON. I should like to have the witness reminded that he is under subpœna by us on another matter, and that he is not to consider himself discharged.

The PRESIDENT pro tempore. The witness will not consider himself discharged.

Mr. Manager CLAYTON. We do not anticipate that we will need him any more, so that hereafter if he desires to get away he may apply to counsel for the respondent.

The PRESIDENT pro tempore. Call the next witness.

Mr. Manager CLAYTON. Please have Charles F. Conn called as a witness. Mr. DAVIS will conduct the examination of this witness.

TESTIMONY OF CHARLES F. CONN.

Charles F. Conn, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live?—A. Scranton, Pa.

Q. What is your occupation?—A. Vice president and general manager of the Lackawanna & Wyoming Valley Railroad Co.

Q. What is the character of that railroad?—A. It is an electric railroad operating between Scranton and Wilkes-Barre.

Q. Does it sustain any business relationship, by traffic agreement or otherwise, with the Erie Railroad?—A. It does.

Q. From what source has your railroad company been purchasing its fuel supply?—A. From the Erie Co. or some of its subsidiary companies.

Q. Including the Hillside Coal & Iron Co.?—A. I can not say which of the companies have rendered the bills.

Q. Do you know Judge Robert W. Archbald?—A. I do.

Q. How long have you known him?—A. Four or five years.

Q. Do you know Edward J. Williams?—A. I do.

Q. How long have you known him?—A. I think it was in September, 1911, when I first met him.

Q. Have you, in your capacity as manager of the Lackawanna & Wyoming Valley Railroad, had any transactions with those gentlemen, or either of them, for the purchase of any coal property?—A. Yes, sir; I have.

Q. When did you have such transaction; and if with both, when and where?—A. My recollection is that the transaction began in September of 1911.

Q. Who of those first introduced the transaction to your notice?—A. Judge Archbald.

Q. When and where?—A. On the street in Scranton.

Q. What conversation had you with him at that time?—A. He stated that he would like to present a culm bank for my consideration.

Q. Was that the entire conversation?—A. That is the substance of it.

Q. To what culm bank did he refer?—A. My recollection is that he did not refer to any specific bank by name.

Q. Did he tell you by or through whom he proposed to present it?—A. I think not.

Q. What was your next connection with the transaction?—A. I received a letter. Mr. Williams brought a letter to my office introducing him and referring to the culm bank.

Q. From whom was that letter?—A. From Judge Archbald.

Q. Please look at the paper [presenting letter] I hand you, which is identified as Exhibit No. 10, and state whether that is or is not the letter to which you referred.—A. (After examining letter.) That is the letter.

Mr. Manager DAVIS. The letter is in evidence, but in order that the Senate may understand the document I will ask the Secretary to read it.

The PRESIDENT pro tempore. The Secretary will read the letter.

The Secretary read as follows:

[U. S. S. Exhibit 10.]

(R. W. Archbald, judge. United States Commerce Court, Washington.)

SCRANTON, PA., *September 20, 1911.*

MY DEAR MR. CONN: This will introduce Mr. Edward Williams, who is interested with me in the culm dump about which I spoke to you the other day. We have options on it both from the Hillside Coal Co. and from Mr. Robertson, representing Robertson & Law, these options covering the whole interest in the dump. This dump was produced in the operation of the Katydid colliery by Robertson & Law and extends to the whole of the dump so produced. I have not seen it myself, but, as I understand it, this dump consists of two dumps a little separate from each other, but all making up one general culm or refuse pile made at that colliery. Mr. Williams will explain further with regard to it if there is anything which you want to know.

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager DAVIS.) That letter was brought to you by Mr. Williams in person, was it?—A. It was.

Q. On the date given in the letter—the 20th of September?—A. I could not say as to that.

Q. On or about that day?—A. About that time.

Q. Did you have any conversation with Mr. Williams on the subject at that time?—A. Yes, sir.

Q. State the substance of your conversation.—A. I asked him as to the location of the dump and the approximate amount of material in it. He gave me that information, and I stated I would investigate it and inform Judge Archbald of my conclusion.

Q. Did you investigate it?—A. I did; yes, sir.

Q. When?—A. Within a week or 10 days. I went to the dump and looked it over. I had with me the engineer of our power plant.

Mr. THORNTON. Mr. President, I request that the witness be instructed to speak just a little louder.

The PRESIDENT pro tempore. The witness will please raise his voice.

Q. (Mr. Manager DAVIS.) Was anyone else there with you?—A. I think on that trip I met Mr. Williams and Mr. Pryor at the bank.

Q. In addition to your personal inspection of the bank at that time did you have it inspected by any other person in your behalf?—A. Yes, sir.

Q. By whom?—A. By Mr. Rittenhouse.

Q. Who is Mr. Rittenhouse?—A. Civil and mining engineer in Scranton.

Q. Did you employ him for the purpose of making an inspection of the bank in your interest?—A. Yes, sir.

Q. Did he make a report on it to you?—A. He did.

Q. Verbally or in writing?—A. He gave me a written report of the quantity of material.

Q. After your receipt of the report from Mr. Rittenhouse, when did you next see either Judge Archbald or Mr. Williams?—A. At Judge Archbald's office a short time after that. Mr. Williams was present at that time.

Q. How did you come to go to Judge Archbald's office?—A. To see him in connection with this matter.

Q. Will you detail the conversation you then had with either or both those gentlemen?—A. I stated to them that I did not care to purchase the bank for a lump sum, but that if they cared to sell it on a royalty basis I would be glad to consider it further.

Q. Had they made a proposition of a lump-sum price prior to that meeting?—A. I think so—$25,000.

Q. When was that proposition made to you?—A. My impression is that that was the price named by Mr. Williams when he presented this letter.

Q. And after your conversation at Judge Archbald's office, at which you refused to consider it at a lump sum and desired a royalty, did you receive any further proposition from them?—A. Yes; I had a letter from Judge Archbald making a proposition.

Q. Look at the paper [presenting paper] which I hand you, which is identified as Exhibit No. 3, and state whether that is the letter to which you refer?—A. (After examining paper.) That is the letter.

Mr. JOHNSTON of Alabama. Mr. President, I should like to ask one question of the witness.

The PRESIDENT pro tempore. The Senator from Alabama desires that the following question be propounded to the witness, and the Secretary will propound it to the witness.

The Secretary read as follows:

Did Judge Archbald in any interview with you tell you that he had any personal interest in the dump?

The WITNESS. I do not know that he did in those words, but I gained the impression from my conversation with him and the letters which I received from him that he had an interest in the dump.

Q. (By Mr. Manager DAVIS.) Did he at the conference you had at his office, to which you have just referred, tell you what the condition of the title was and how much of title he and Mr. Williams controlled?—A. I think no reference was made to the title.

Mr. Manager DAVIS. We have identified a letter from Judge Archbald, under date of November 6, 1911. It is already in evidence, but I shall ask that the Secretary read it at this point.

The PRESIDENT pro tempore. The letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 3.]

(R. W. Archbald, Judge United States Commerce Court, Washington.)

SCRANTON, PA., *November 6, 1911.*

C. F. CONN, Esq.

DEAR SIR: On behalf of Mr. Edward J. Williams and myself I offer you the so-called Katydid culm dump, in the vicinity of Moosic, on a royalty basis at a flat rate of 30 cents a ton for all sizes, with the understanding that a minimum of 20,000 tons a year shall be taken or paid for, you to pay us $12,000 on account as advance royalties and to be entitled to take 40,000 tons without further payment therefor. In washing or screening the coal, if any of the prepared sizes are found there will be an additional charge of 5 cents a ton on such prepared sizes, payable to the Hillside Coal & Iron Co. It will be satisfactory to us if you desire to remove the material from time to time in quantity without screening or washing it on the ground, with the idea of screening or washing it elsewhere, provided we can be sufficiently protected and informed with respect to the actual number of tons taken, for which you would be accountable. In the execution of a formal agreement there may be other minor details in order to make a complete working contract, but the above will give you the substance of what we are ready to do.

Trusting that you will find these terms acceptable, I remain,

Yours, very truly, R. W. ARCHBALD.

Q. (By Mr. Manager DAVIS.) Did you reply to that letter, Mr. Conn?—A. I did.

Q. Have you a copy of your reply in your own possession?—A. My copy was left with the committee.

Q. Look at the paper [presenting paper] I hand you and state whether this is the office copy of your reply.—A. (After examining paper.) That is my reply.

Q. At the top of the letter there is a pencil notation, "closed, as below, November 29, '11." In whose handwriting is that notation?—A. It is mine.

Mr. Manager DAVIS. Will you hand that to the Secretary that it may be read? We offer it in evidence.

The PRESIDENT pro tempore. It will be read.

The SECRETARY. Notation in pencil at top:

Closed, as below, November 29, '11.

The letter is as follows:

[U. S. S. Exhibit 21.]

NOVEMBER 29, 1911.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

MY DEAR JUDGE: In reference to your proposition for the purchase of the Katydid bank at Moosic, I beg to say that I have had figures made of the investment necessary for us to prepare this coal and get it to our road, and I find that the cost per ton will be somewhat larger than I anticipated. I still feel, however, that it may be possible for us to handle this proposition on a basis which will enable us to reduce our cost of coal a little and have submitted the matter to our people for their advice.

I believe that I can close the matter with you on the basis of a royalty of 27½ cents per gross ton for all coal shipped, with a minimum of 20,000 tons per year, and if you care to accept this proposition, will arrange to pay $10,000 as advanced royalties on the signing of the papers.

As it is our plan to erect a washery adjacent to our tracks it will be necessary for us to purchase some land for this purpose and for the disposition of the waste material, and I should wish to have it understood that the waste material belonged to this company, so that it might be used for filling, etc., if desirable to do so. I have made no effort thus far to obtain any land, so would be glad to have no mention made of this transaction until this has been accomplished.

If my proposition is satisfactory, the matter can be closed up at once.

Yours, truly,

V. P. & G. M.

Q. (By Mr. Manager DAVIS.) You signed the original of that and transmitted it to Judge Archbald in due course of mail, did you?—A. I did.

Q. What did the pencil notation, "closed, as below, November 29, '11," mean?—A. Judge Archbald came to my office on that day after his receipt of the letter and accepted the proposition. I made that notation and considered it was closed.

Q. What conversation occurred between yourself and him at that time?—A. I only recall that I stated this was subject to the approval of our attorneys as to title, and that I would ask them at once to investigate it.

Q. Was there any discussion with reference to the formation of the contract or the reduction of the agreement to writing?—A. Yes, sir. I think Judge Archbald asked if we should exchange letters confirming this arrangement and I said that it was immaterial.

Q. When did you next see Judge Archbald with reference to the matter?—A. I met him in our attorney's office a few days after that, within three or four days I should say.

Q. What occurred at that conference?—A. Our attorneys had advised that the title was not satisfactory, and that statement was made in Judge Archbald's presence. I think that is the substance of the conversation.

Q. Who were your attorneys and where was their office?—A. Welles & Torrey, in the Connell Building, Scranton.

Q. What was Judge Archbald's contention with reference to the title? What response, if any, did he make to their criticism, in other words?—A. My recollection is that he said he would look up the question raised by Wells and Torrey. It was of the Everhart interest.

Q. Was anything said as to some form of indemnity to you as the purchaser against their claim?—A. I think something of that kind was brought up at that interview, the question of Judge Archbald giving us a bond to protect us against any other claimant.

Q. Was such a bond given?—A. No, sir.

Q. That interview took place within what length of time after your letter of November 29, 1911?—A. My recollection is that it was within a week.

Q. Had you any further connection with the transaction?—A. I received a letter from Mr. Williams subsequently.

Q. Do you remember the date of that subsequent letter?—A. In March, I believe.

Q. Look at the paper [presenting paper] I had you, identified as Exhibit No. 4, bearing date the 13th of March, 1912, and signed E. J. Williams. State if that is the letter to which you refer.—A. (After examining paper.) That is the letter.

Mr. Manager DAVIS. The Secretary will read the letter. It is already in evidence.

The PRESIDENT pro tempore. The letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 4.]

SCRANTON, PA., *March 13, 1912.*

CHARLES F. CONN, Esq., *Scranton, Pa.*

DEAR SIR: Regarding the culm bank located at Moosic, Pa., which you have been negotiating for, would say this matter has been hanging fire for some time, and the party who has been dealing with you is desirous of your having the bank. He believes that the title to this property is not a complicated one.

You as a business man understand the conditions under which the Hillside Coal & Iron Co. are operating under this lease. For any coal which they, their successors or assigns, take from this bank larger than pea coal they are to pay to the Everhart heirs a royalty of 20 cents per ton. Now, I think you do not intend preparing any of the larger sizes of coal; and if not, the Everhart heirs et al. would have no interest in the bank.

The Hillside Coal & Iron Co. and Mr. John M. Robertson, the only recognized owners of this bank, have agreed to sell me their interest, and I would be glad to have you let me know at your earliest convenience what you intend doing in the matter, as other parties are anxious to negotiate for it. I may say that should you have any doubts you could deposit one-half or two-thirds of the royalty in the bank or retain it for a reasonable time as a guaranty against any claims. I am making this at the suggestion of the party who has been dealing with you to assure you of our desire that you should sustain no loss.

Very truly, yours,

E. J. WILLIAMS.

Q. (By Mr. Manager DAVIS.) Did you receive that letter by mail or was it delivered in person, Mr. Conn?—A. I could not say.

Q. Did you see either Mr. Williams or Judge Archbald after its receipt?—A. Yes, sir.

Q. When did you next see either of those gentlemen?—A. I do not recall the date. Judge Archbald came to my office a short time after that letter came to me, and I showed him the letter.

Q. He read the letter, did he?—A. Yes, sir.

Q. What was the purpose of his visit to your office at that time?—A. To discontinue the negotiations with us for the sale of the bank.

Q. What was said? What conversation took place between yourself and him?—A. In substance, that he was unable to clear up the Everhart matter, and that the proposition made to us was withdrawn.

Q. Was he still desirous that you should purchase the bank at that time?—A. I do not know as to that.

Q. What did you gather from his conversation?—A. I do not think there was any conversation on that end of the subject. The negotiations closed at that visit.

Q. You yourself told him at that time that you could not take it with the title in that condition?—A. Yes, sir.

Q. And he told you, in substance, that he could not meet the demands which had been made by your attorneys?—A. That is my recollection.

Q. And that ended the negotiations, so far as you were concerned?—A. Yes, sir.

Q. Had you invited him to your office at that time?—A. No, sir.

Q. Your last previous interview with him had been in the month of November, had it not, immediately after the writing of your last letter at the office of your attorney?—A. I should not want to say that I had not seen him in the interim, but I do not recall any meeting with him.

Q. You had not had any discussion of this proposal with him in the meantime, had you?—A. Not so far as I recall.

Q. You had not invited him to your office on the 29th of March?—A. No, sir.

Q. On the 13th of March, I believe it was. He came there of his own volition?—A. Yes, sir.

Q. And again brought up with you the question of this transaction?

Mr. WORTHINGTON. The manager assumes that the witness had said that he saw Judge Archbald on the 13th of March. He said it was soon afterwards.

Mr. Manager DAVIS. I admit the correction. The letter of Williams is dated the 13th.

Q. (By Mr. Manager DAVIS.) How long was it after the receipt of the Williams letter of the 13th of March that Judge Archbald came to your office?—A. I can not say.

Q. Had he any other business with you at that time?—A. I think not.

Q. The only matter which you discussed was this transaction?—A. So far as I recollect.

Q. Was any written form of contract submitted to you at any time during the negotiations?—A. There was.

Q. By whom?—A. By Judge Archbald.

Q. Do you have that paper?—A. No, sir.

Q. Who has it?—A. I think Col. Worthington has it.

Mr. WORTHINGTON. I will say to the manager that I have it in my pocket, and it is at his disposal if he wishes to see it or use it.

Mr. Manager DAVIS. I should like to see it, if you please.

Q. (By Mr. Manager DAVIS.) When did you deliver it to Col. Worthington?—A. I did not deliver it to him.

Q. From whom did you receive it?—A. From Judge Archbald.

Q. And when?—A. Soon after the 29th of November.

Q. And where was it delivered to you?—A. I think by mail.

Q. What did you do with it?—A. I made some notations on it and sent it to our attorneys, I think, to the best of my recollection.

Q. Did you ever redeliver it to Judge Archbald?—A. I do not know.

Q. Did you ever receive it back again from your attorneys?—A. I can not say.

Q. Do you know where that paper has been since you delivered it to your attorneys?—A. I do not know that.

Q. Is it or is it not a fact that at your last interview with Judge Archbald, had in the month of March after the receipt of the Williams letter, he asked you to redeliver that contract to him?—A. I do not remember that.

Q. Have you no recollection at all on that subject?—A. None at all.

Q. You say that he came there that evening to close the negotiations?—A. Yes, sir.

Q. Or to withdraw the negotiations?—A. Yes, sir.

Q. Do you not remember that at that time he asked you for the redelivery of this draft?—A. I do not remember that.

Q. Do you remember that he did not?—A. No, sir; I could not say that.

Q. Can you say whether this paper was or was not at that time in your possession or in the possession of your counsel?—A. I can not.

Q. Do I understand you to say that you have no recollection whatever of this paper after you delivered it to your counsel in December?—A. None whatever.

Q. Can you account in any way for its possession from that time until this?—A. I can not.

Q. Did you ever instruct your counsel to redeliver it to Judge Archbald or to any of his representatives?—A. I did not.

Q. You do not assume that they would have done so without your consent, do you?—A. I should not expect them to.

Q. So far as you know, they did not deliver it to Judge Archbald?—A. So far as I know.

Q. Are you willing to state positively that you did not deliver it to him?—A. I am not.

Q. Then it is possible, so far as the present state of your recollection is concerned, that Judge Archbald did ask you for this paper at your final interview with him in March, and you did redeliver it to him at that time?—A. It is possible.

Q. Will you look at the paper which was just handed to me by counsel and see whether that is the document to which you refer?

The WITNESS (examining paper). That is the one.

Mr. Manager DAVIS. Mr. President, I should like to offer that document in evidence in connection with the testimony of Mr. Conn.

The PRESIDENT pro tempore. Does the manager desire that it be now read?

Mr. Manager DAVIS. Not at this instant.

Mr. WORTHINGTON. I might ask, before doing that, that the handwriting be identified?

Mr. Manager DAVIS. I was just about to do that.

Mr. WORTHINGTON. There are some interlineations in handwriting.

Q. (By Mr. Manager DAVIS.) On that paper there are certain pencil notations and interlineations. Do you know by whom those were made, Mr. Conn?—A. Yes, sir; they were made by me.

Q. When?—A. I presume shortly after this contract was placed in my hands.

Q. Before or after its submission to your counsel?—A. Before.

Q. Are there any notations on there in any handwriting other than your own?—A. It has just been marked "Exhibit"——

Q. Leaving that out, of course.—A. No, sir; they are all mine.

Mr. Manager DAVIS. Now, Mr. President, I shall ask to have the document read without the notations, unless counsel prefers to have them read also.

Mr. WORTHINGTON. They can be read later.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read the paper, marked "Exhibit 22," as follows:

[U. S. S. Exhibit 22.]

This agreement made this — day of December, A. D. 1911, by and between Edward J. Williams and R. W. Archbald, of Scranton, Pa., of the one part, and the Erie & Wyoming Valley Railroad Co., a corporation of the State of Pennsylvania, of the other part, witnesseth:

Whereas the said parties of the first part are the owners of a certain culm dump or bank of waste coal and refuse, produced in the mining operations of the late firm of Robertson & Law, at the so-called Katydid mines and colliery, which dump or bank is located in the vicinity of Moosic, Pa., and known and called the "Katydid" culm dump; and, whereas, the party of the second part is desirous of purchasing the same;

Now, this agreement witnesseth that for and in consideration of the terms and conditions hereinafter mentioned the parties of the first part do hereby grant, bargain, sell, and convey unto the party of the second part, its successors and assigns, all of the said culm dump, with the right to take, remove, and dispose of the same, subject always as follows, that is to say:

1. It is the purpose of the said party of the second part, and it hereby undertakes and agrees, at some convenient place along the line of its railroad to erect and construct a so-called washery or building with suitable screens, rolls, chutes, and other appliances for the handling, screening, sorting, cleaning, and preparing for use the coal and material obtained from the said culm dump, with or without the use of water; and the same to equip with proper scales to the end that an accurate record may be kept of the weight and quantity of the said coal derived from the material taken from the said dump or bank; all of which material, excepting rock, shall be taken and be passed through the said washery, and afterwards weighed at the said washery in the cars when ready for use, or, in default thereof, shall be accounted and paid for according to the gross ton of material removed from the said dump.

2. For each ton of coal of 2,240 pounds obtained from the said dump as aforesaid, which will pass over a screen of — inches square mesh, being of the size commonly known as rice, barley, or bird's-eye or larger, the said party of the second part shall pay at the rate or royalty of 27½ cents a ton; all the material which passes through said screen being regarded as dirt or waste, for which no payment is to be required;

Provided however, that in the screening, sorting, cleaning, washing, or preparing the said material it shall not be broken down or crushed by the said party of the second part, so as purposely to make any such dirt or waste; and

Provided further, that any such waste material that is used or sold by the said party of the second part for steam or fuel purposes shall be paid for at the same rate as though of the size aforesaid.

3. The said party of the second part shall render monthly statements of the number of tons passed through, or cleaned and prepared at the said washery, which statements, in duplicate, shall be mailed to the said parties of the first part, severally, on or before the 10th day of each calendar month for the month then next preceding; and on the 20th day of each month shall make payment therefor, one-half to each of the said first parties, which the said parties of the first part shall severally receipt for by signing and returning proper vouchers therefor.

4. The said party of the second part agrees to pay at the rate per ton aforesaid for at least 20,000 tons per annum, in equal monthly installments, whether that quantity shall have been removed and obtained from said dump or bank and washed and prepared or not, until all the said material other than rock composing the said dump shall have been removed and disposed of, or all the coal to be derived therefrom shall have been paid for. When royalties have been paid in advance, and, in the opinion of the party of the second part, payment has been made at the rate aforesaid for all of the coal capable of being obtained from said dump, if there is any dispute between the parties hereto with regard to the same, the matter shall be submitted to three arbitrators; one of whom shall be chosen by the parties of the first part, one by the party of the second part, and the two arbitrators so chosen shall agree on the third arbitrator, and the decision of any two of them shall be binding and conclusive. In case of the neglect or refusal of either party to appoint an arbitrator, the appointment may be made at the instance of the other party by the Court of Common Pleas of Lackawanna County.

5. Where, in the screening, sorting, cleaning, and preparing the said material, any coal above the size of pea coal is obtained the party of the second part, in addition to the royalty of 27½ cents per ton to be paid to the parties of the first part, shall pay to the Hillside Coal & Iron Co. on account of the owners of lot No. "46," from which the said coal was originally mined, the sum of 5 cents per gross ton, in accordance with the terms on which the said culm dump is sold to the parties of the first part by the said Hillside Coal & Iron Co.

6. The party of the second part shall pay to the parties of the first part, on the execution and delivery of this agreement, the sum of $10,000 as advance royalties, for which the party of the second part without further payment shall be entitled to such number of tons of coal, at the rate of 27½ cents a ton, as shall be the equivalent thereof.

7. In case of the failure of the party of the second part for 30 days to make the payments herein provided for, or to otherwise for a like period comply with any of the terms of this agreement, the parties of the first part may forfeit this agreement on 30 days' notice in writing of their intention so to do.

8. This agreement shall take effect as of December 1, 1911, from which date the minimum herein provided for shall begin to run.

9. When this agreement shall have been fully complied with by the party of the second part the parties of the first part, at its request, shall execute an acknowledgment, releasing and discharging the said party of the second part from any further obligation thereon.

10. The terms and conditions of this agreement shall be binding upon and operate in favor of the executors, administrators, and assigns of the parties of the first part and of the successors and assigns of the party of the second part as though in each instance severally and expressly mentioned.

In witness whereof the parties of the first part have hereunto set their hands and seals, and the party of the second part has hereunto affixed its corporate seal, attested by the signature of its president and secretary on the day and year first above written.

——— ———.
——— ———.
——— ———.

Mr. GALLINGER. Mr. President, I desire to make an inquiry. The Senate has some important business to transact, and I wish to ask the managers and the counsel for the respondent if it would be agreeable to have the court adjourn at the present time, shortening the session a few minutes for the day.

Mr. Manager CLAYTON. Mr. President, on behalf of the managers, I may say that the suggestion is entirely agreeable.

Mr. WORTHINGTON. Likewise to us, Mr. President.

Mr. THORNTON. Mr. President, before adjournment, I desire to have a question propounded to the witness.

The PRESIDENT pro tempore. The Senator from Louisiana desires to have a question propounded to the witness. The question will be read by the Secretary.

The Secretary read as follows:

Q. Why did you say in the examination that you thought Col. Worthington had the document?

Mr. CULBERSON. Mr. President, may I ask that that question be read again. My attention was diverted.

The Secretary again read the question.

The WITNESS. I knew that it was in his possession.

Q. (By Mr. Manager DAVIS.) How did you come by that knowledge?—A. I went to his office when I first came to Washington and asked to see it.

Q. How did you know that you would find it at his office?—A. It was sent to my office in Scranton in my absence so that I might see it.

Q. Who sent it to your office in Scranton?—A. It came from Welles & Torrey.

Q. Who are Welles & Torrey?—A. Attorneys for my railroad.

Q. When did they send it to your office that you might see it?—A. One day last week.

Q. How did it get from your custody to Mr. Worthington?—A. It was not left at my office. It was sent there in my absence, and the messenger took it away with him.

Q. What did the messenger do with it?—A. That I can not say.

Q. Had you made a request that you might see it?—A. I had.

Q. Of whom had you made that request?—A. I think I asked Judge Archbald if I might see it.

Q. Judge Archbald had it, then, in his custody?—A. I so understood it.

Q. And you do not know even now where he got it?—A. Not of my own knowledge.

Q. What is your best information on that subject?—A. I do not think I understand your question.

Mr. Manager CLAYTON. Mr. President, we shall desire to continue the examination of the witness in the morning.

Mr. GALLINGER. I move that the Senate sitting as a Court of Impeachment adjourn.

Mr. SMITH of Georgia. Is not the hour for ending the session of the court fixed by order of the Senate?

The PRESIDENT pro tempore. It is, and it can be changed only by unanimous consent unless there is an order formally passed by a majority of the Senate.

Mr. SMITH of Georgia. Unless the managers on the part of the House or counsel for the respondent desire an adjournment at this time, I would prefer to go on.

Mr. Manager CLAYTON. To relieve the situation of any embarrassment, if I may I move that the Senate sitting as a Court of Impeachment do now adjourn until to-morrow.

Mr. CULBERSON. Can that motion be made by the managers or counsel?

The PRESIDENT pro tempore. The Chair does not think it can go further than a suggestion from the managers or counsel.

Mr. Manager CLAYTON. Then I modify it and suggest that course.

Senator GALLINGER. That is agreeable.

The PRESIDENT pro tempore. It will be a question whether the Senate will pass an order to that effect in view of the fact that there is objection. The Chair understood the Senator from Georgia to object. Is the Chair correct?

Mr. SMITH of Georgia. Yes. I think unless there is some reason why the court should adjourn at this time we should adhere to the order.

The PRESIDENT pro tempore. Does the Senator from New Hampshire desire to have an order passed to the effect that the Senate sitting as a Court of Impeachment shall now adjourn?

Mr. GALLINGER. Mr. President, I will not insist upon my motion at all if there is objection.

Mr. Manager CLAYTON. Counsel for the respondent has just suggested, and I agree with him in the suggestion, that both the managers and the respondent desire that the court take a recess at this time until to-morrow at the usual hour—an adjournment or a recess, whichever is the proper form.

The PRESIDENT pro tempore. Does the Senator from Georgia still object? [After a pause.] The Chair awaits the response of the Senator from Georgia.

Mr. SMITH of Georgia. I do not desire to be captious. I will withdraw my objection, but——

The PRESIDENT pro tempore. It was impossible for the Chair to hear the latter part of what the Senator from Georgia said.

Mr. SMITH of Georgia. I will not insist upon my objection.

The PRESIDENT pro tempore. Very well. It is moved that the Senate sitting as a Court of Impeachment do now adjourn. Unless there be objection it will be so ordered. The Chair hears none, and the Senate sitting as a Court of Impeachment stands adjourned until the usual hour to-morrow.

Thereupon the managers on the part of the House, the respondent, and his counsel retired.

PROPOSED EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

Mr. SMITH of Georgia. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Georgia makes the point that there is no quorum present. The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Gallinger	Martine, N. J.	Smith, Ga.
Bristow	Gore	Myers	Smith, S. C.
Bryan	Hitchcock	Overman	Smoot
Crane	Johnson, Me.	Page	Stephenson
Culberson	Johnston, Ala.	Penrose	Stone
Cullom	Kenyon	Perky	Swanson
Curtis	Lodge	Pomerene	Thornton
Fletcher	McCumber	Root	Townsend
Foster	Martin, Va.	Shively	Warren

The PRESIDENT pro tempore. On the call of the roll 36 Senators have responded to their names. A quorum of the Senate is not present.

Mr. SMITH of Georgia. I move that the Senate adjourn.

The motion was agreed to, and (at 5 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Saturday, December 7, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December 6, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We approach Thee, Almighty God, our heavenly Father, in prayer, that we may renew our spiritual life and thus be enabled to resist evil and strengthened to do the right as the duties of life unfold themselves to us moment by moment. Hear us and thus bless us, that Thy kingdom may come in all its fullness and strength and possess our hearts as it possessed the heart of the Master. And blessing and honor and praise be Thine for ever. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of House bill 26680.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, with Mr. GARNER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 26680, which the Clerk will report by title.

The title of the bill was read.

The CHAIRMAN. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

Wherever the words "during the session" occur in the foregoing paragraphs they shall be construed to mean the 211 days from December 1, 1913, to June 30, 1914, both inclusive.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 19, line 23, strike out the word "eleven" and insert "twelve."

Mr. JOHNSON of South Carolina. The only purpose of the amendment is to correct the total number of days.

Mr. FOSTER. Mr. Chairman, I notice here that this provides for the session from December 1, 1913, until June 30, 1914, both inclusive. I got the impression somehow that in this short session the appropriation ended March 31.

Mr. JOHNSON of South Carolina. We are now making appropriations for the fiscal year beginning July 1, 1913, and ending June 30, 1914.

Mr. FOSTER. I understand.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina [Mr. JOHNSON].

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Copyright Office, under the direction of the Librarian of Congress: Register of copyrights, $4,000; assistant register of copyrights, $3,000; clerks—4 at $2,000 each, 3 at $1,800 each, 7 at $1,600 each, 1 $1,500, 8 at $1,400 each, 10 at $1,200 each, 10 at $1,000 each, 18 at $900 each, 2 at $800 each, 10 at $720 each, 4 at $600 each, 2 at $480 each; 4 junior messengers, at $360 each. Arrears, special service: Three clerks, at $1,200 each; porter, $720; junior messenger, $360; in all, $100,780.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the last paragraph. On line 3, page 25, I see there are three clerks, at $1,800 each, a creation of one new clerk. In line 4 four new clerks are provided for by the bill, at $2,000, a creation of one new clerk. I desire to ask the chairman of the committee what cause there is for these two additional clerks.

Mr. JOHNSON of South Carolina. Mr. Chairman, the Copyright Office has work devolved upon it by law. The work increases year by year. During the last fiscal year the receipts of the Copyright Office aggregated $116,000. The total amount paid for the services of those employed in the Copyright Office was, in round figures, $96,000, leaving a surplus of $20,000.

Mr. FOWLER. Ninety-six thousand nine hundred and eighty dollars last year.

Mr. JOHNSON of South Carolina. In round numbers, I say, leaving a net surplus of $20,000 over and above the operating expenses. The work of the Copyright Office is not now current and can not be kept current unless we increase the force. We therefore gave them two additional men. But the work that these men do will bring in more than enough to pay their salaries.

Mr. GILLETT. Mr. Chairman, may I add a word?

Mr. JOHNSON of South Carolina. Certainly.

Mr. GILLETT. This $2,000 clerk is the head of a division, the index division, which is the largest division in the Copyright Office. The other heads of divisions are all getting $2,000, whereas he is now getting but $1,800, so that this is to put him the head of really the largest division of all, on a par with the others in the bill.

Mr. JOHNSON of South Carolina. Mr. Chairman, I am requested to read from the hearings with respect to the copyright office:

Mr. PUTNAM. The total number of registrations was, roughly, 121,000, and the total fees received $116,000; the expenditures for service and for stationery and sundries amounted to $96,000, leaving the net margin of receipts about $20,000. Now, the register, who is here, explains to me that these three additional positions are particularly to undertake certain indexing and cataloguing work that the law contemplates shall be done, but which it is impossible for them to do without neglecting the current work which must be kept up; and if the committee desires to go into the situation which requires that, or to have any details about the situation in the Copyright Office or its organization, the register is here at my suggestion, and of course he can answer with the experience of daily contact.

Mr. FOWLER. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Distribution of card indexes: For service in connection with the distribution of card indexes and other publications of the Library, including not exceeding $500 for freight charges, expressage, traveling expenses connected with such distribution, and the expenses of attendance at meetings when incurred on the written authority and direction of the Librarian of Congress, $30,000.

Mr. MANN. Mr. Chairman, I reserve the point of order on that paragraph. I believe in the last session there was inserted in the District of Columbia appropriation bill a provision in reference to paying the expenses of attendance at meetings. I suppose the latter part of the paragraph which has just been read is designed to meet that former legislation and to authorize attendance upon meetings as stated in the paragraph. I do not know that there is any objection to that.

Mr. JOHNSON of South Carolina. That is the purpose of the language inserted. The librarian stated that there were many meetings of the librarians of the country, and this library undertakes to cooperate with all other libraries in this scientific work, and it is necessary for him to send experts to the national meetings of the librarians. He asks permission to do so, and he says the cost will not in any year exceed $500, and it does not increase the appropriation in any sum whatever.

Mr. MANN. I do not know whether this item increases the appropriation, but the total is increased by $6,500. Is this authorization in this item, which is under the head of "Distribution of card indexes," supposed to cover only traveling expenses in attendance upon meetings which relate to card indexes or any meetings to which the librarian may send delegates?

Mr. GILLETT. I think it relates simply to card indexing. There is another appropriation for the general library work.

Mr. JOHNSON of South Carolina. It applies only to meetings that are held in relation to that one subject.

Mr. MANN. Then I should like to ask the gentleman if he has any information generally concerning the effect of the operation of that provision in the District bill, which I think was not very well understood in Congress when it went through either body. I do not believe anybody woke up to it much, unless it was the members of the committee who reported it, until after it had received the signature of the President.

Mr. JOHNSON of South Carolina. All the governmental departments are awake to it now.

Mr. MANN. Yes; and I notice that there are a number of places in this bill where it is proposed to allow the expenses of attendance upon meetings. Have the Committee on Appropriations changed their views upon this subject, they having reported the original provision in very drastic form, which forbade the payment of any expenses for attendance upon any meetings?

Mr. JOHNSON of South Carolina. We have inquired very particularly why it was necessary to send anybody to these meetings, and we have ascertained that no part of the money was to be paid for annual dues or initiation fees in joining any societies; and only in the cases where it was made to appear to the committee that it was necessary for the Government to send its experts have we permitted this language to go into the bill, and in every case we have ascertained about how much money would be used for that purpose.

Mr. MANN. I am frank to say that I doubt the advisability of the provision which went into the District bill last year, and therefore I withdraw the point of order on this item.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CIVIL SERVICE COMMISSION.

For commissioner, acting as president of the commission, $4,500; 2 commissioners, at $4,000 each; chief examiner, $3,000; secretary, $2,500; assistant chief examiner, $2,250; chiefs of division—3 at $2,000 each; examiners—1, $2,400, 3 at $2,000 each, 4 at $1,800 each; clerks—5 of class 4, 25 of class 3, 32 of class 2, 42 of class 1, 22 at $1,000 each, 20 at $900 each; messenger; assistant messenger; skilled laborer, $720; 4 messenger boys at $360 each. Custodian force: Engineer, $840; general mechanic, $840; telephone-switchboard operator; 2 firemen; 2 watchmen; 2 elevator conductors, at $720 each; 3 laborers; 2 charwomen; in all, $248,950.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the subcommittee if in providing for the Civil Service Commission expenses there were increases made by reason of the new order issued on the 15th of October, by which the President placed a number of fourth-class postmasters under the classified service. I was not present at the hearing, but I have the testimony of Gen. Black, chairman of the Civil Service Commission, in which it appears that he insisted that the expenses of the Civil Service Commission would be increased by reason of that fact. I would like to inquire if there has been any increase in the appropriations made to the Civil Service Commission by reason of that order?

Mr. JOHNSON of South Carolina. Mr. Chairman, as I stated yesterday when the bill was taken up for general debate, one of the items of increase in the bill is for the Civil Service Commission. It was contended by the commission that the efficiency law of the last Congress imposed upon the commission additional labors. It was further claimed by the commission that the order of the President placing a number of fourth-class post offices in the classified service would greatly increase the labor of the Civil Service Commission. In order that there might not be even the appearance of an attempt to evade the civil-service law, either in letter or in spirit, the subcommittee and the full committee reported to this House considerable increases for the Civil Service Commission. In the particular paragraph now under consideration the increase over the current year is $19,000.

Mr. BARTLETT. Occasioned by that order?

Mr. JOHNSON of South Carolina. Occasioned by the additional work caused by the efficiency law and the order of the President placing the fourth-class post offices in the classified service.

Mr. BARTLETT. Mr. Chairman, I made this inquiry for the purpose of placing in the RECORD, which I shall do, the regulations which have been adopted by the Civil Service Commission and the Post Office Department in the appointment of fourth-class postmasters. I call the attention of the House to the fact, and the information I elicited from the gentleman from South Carolina, because in the hearings before the subcommittee it was stated by the chairman of the Civil Service Commission and by the witnesses that there would be an increase in the expenditures of that office.

I want to read and place in the RECORD this order. It is as follows:

[Form 1752. November, 1912.]

UNITED STATES CIVIL SERVICE COMMISSION.

REGULATIONS GOVERNING THE APPOINTMENT OF POSTMASTERS OF THE FOURTH CLASS.

(Approved Nov. 25, 1912.)

All positions of postmaster of the fourth class, except in Alaska, Guam, Hawaii, Porto Rico, and Samoa, having been by the Executive order of October 15, 1912, placed in the competitive classified service and made subject to the civil-service laws and rules, the following regulations shall govern appointments to such positions:

1. Appointment to offices having an annual compensation of as much as $500 shall be made in the same manner as provided by the civil-service law and rules for other positions in the competitive classified service, except as may hereinafter be provided.

2. Appointment to offices having an annual compensation of less than $500 shall be made in the following manner: When a vacancy has occurred or is about to occur in any such office, the Postmaster General shall direct a post-office inspector to visit the locality and make selection and recommendation for appointment from among the persons filing applications, such selection and recommendation to be based solely upon the suitability of the applicant and his ability to provide proper facilities for transacting the business of the office. The inspector shall make his report in duplicate and accompany each duplicate with a list of all applicants. Such report shall include a statement of the qualifications of each applicant and of the reasons for the selection and recommendation. The Post Office Department shall transmit to the Civil Service Commission one copy of such report, showing its action thereon.

3. Whenever persons who are property taxpayers and patrons of a post office having an annual compensation of less than $500 submit to the Civil Service Commission and to the Post Office Department sworn statements in duplicate, over their own signatures, that an applicant, an eligible, or an appointee is unsuitable for office, giving specific reasons therefor, the commission may investigate the matter; and if upon the evidence it is shown to the satisfaction of the commission that, in the case of an applicant or an eligible, he is unsuitable for appointment, he shall not be further considered for appointment; and if, in like manner, it is shown to the satisfaction of the commission that an appointee is unsuitable for office, he shall be removed after due procedure required by law; and the Post Office Department shall, upon receipt of such sworn statements from patrons, suspend appointment in the case of an applicant or eligible to which such sworn statements may relate until said investigation is made by the Civil Service Commission and reported.

4. In all cases selection for appointment shall be made with sole reference to merit and fitness and without regard to political or religious considerations. No inquiry shall be made as to the political or religious opinions or affiliations of any applicant or eligible, and in conformity with section 10 of the civil-service act no recommendation in any way based thereon shall be received or considered by any officer concerned in making selections or appointments. The attention of the writer of any such recommendation shall be invited to the purport of this order, and attention hereto shall be similarly directed in connection with any verbal recommendation. Where it is found that there has been a violation of these provisions by any officer concerned in making selections or appointments, such fact shall be cause for the immediate removal of such officer from the service, and the Civil Service Commission shall make prompt report of any such case for appropriate action to the Postmaster General or, as to presidential appointees, to the President. The appointment of the fourth-class postmaster concerned, if effected, shall be canceled. Persons employed as postmasters of the fourth class, while retaining the right to vote as they please and to express their opinions privately on all political subjects, shall take no active part in political management or in political campaigns. Any such postmaster taking such part shall be removed from the service or otherwise disciplined, recommendation as to the penalty to be imposed in each case to be made by the Civil Service Commission. This section shall apply to all offices of the fourth class of whatever compensation.

5. A postmaster of the fourth class having an annual compensation of less than $500 shall not be eligible for transfer to any other position in the competitive classified service. A postmaster of the fourth class having an annual compensation of as much as $500 may, in accordance with law and the civil service rules, be transferred to a position of rural carrier at the same post office after having passed the examination prescribed for original appointment as rural carrier or its equivalent; and he may be transferred under like restrictions to any other position in the competitive classified service after having served three years in such service.

6. When the annual compensation of an office is increased to as much as $500 the incumbent of such office shall be given all the rights and privileges of persons appointed to offices with annual compensation of as much as $500.

Approved, November 20, 1912.

FRANK H. HITCHCOCK,
Postmaster General.

Approved by direction of the United States Civil Service Commission, November 21, 1912.

JOHN C. BLACK, *President.*

THE WHITE HOUSE, *November 25, 1912.*

Approved.

WM. H. TAFT.

I also have here the questions that are to be submitted. They are as follows:

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C.

INFORMATION TO APPLICANTS FOR EXAMINATION FOR THE POSITION OF FOURTH-CLASS POSTMASTER.

The examinations for the position of fourth-class postmaster are as follows:

(a) For positions the annual compensation of which amounts to $500 or more.

* * * * * * *

The examination for positions under (a), for which not to exceed four hours will be allowed, will consist of the subjects mentioned below, weighted as indicated:

SUBJECTS.	Weights.
1. Elementary arithmetic and accounts (simple tests in addition, subtraction, multiplication, and division of whole numbers and decimals, and a statement of a postmaster's money-order account)	40
2. Penmanship (the handwriting of the competitor in the subject of letterwriting will be considered with special reference to the elements of legibility, neatness, and general appearance)	10
3. Letterwriting (a letter of not less than 125 words on a topic suggested by facts furnished)	10
4. Copying addresses (a simple test in copying accurately addresses given)	10
5. Facilities for transacting postal business (based on the location of the post-office site, the convenience of office arrangements, etc., as shown in the application form)	30
Total	100

According to the testimony of Gen. Black there will be quite a number of offices, a majority of them in which the salary is less than $500. I will read from the hearings:

Gen. BLACK. Fourth-class post offices. They are divided into two classes by a horizontal line, those that are above $500 and those that are below $500. Those that are above $500 are 4,457, besides 3,411 that were already included; and those that are below the $500 line are 31,799, added by the order to 10,575 who already were in the service, and that makes a total of fourth-class postmasters of 50,222 places, 36,256 having been added, as I said before, on the 15th of October. Now the men that are below $500 are appointed primarily upon an inspection made by the post-office inspectors under certain regulations, but there is not one of those appointments that may not at some time or another come within the purview of the commission and present facts that may require an investigation.

So that by this order, out of 36,000 offices that are to be filled, there are 31,799 that are to be filled upon the report of a post-office inspector. As far as I am concerned, a majority of the fourth-class post offices in the country I come from are in the same condition that they are in other parts of the country; the salaries are less than $500. So that hereafter we are to have under this Executive order, if it shall remain, if Congress does not undertake to do anything to suspend or revoke it—there will be nearly 32,000 fourth-class post offices in which the postmaster is to be selected by a post-office inspector. As far as I am concerned, I do not relish, nor do I approve of that Executive anxiety for the civil service of the country which waited for four years and more, until a very few days of election, before it thought proper to place 36,000 post offices under the civil service, and of that number 31,799 will receive appointment only on the recommendation of the post-office inspector.

As far as I am concerned, I have no hesitancy in uttering my disapproval of that order. If it was necessary during the previous administration that this service should have been so nonpartisan, should have been covered within the provisions of the civil-service law, why was it not done before? Why did he wait until they were used—if it is true they were used, and it has been charged that they were used in advancing the political aspirations of the candidate for President. I know that in my State, in the section from which I come, they have not heretofore been appointed on the indorsement of the patrons of the office.

They have been appointed generally upon the recommendation of men who did not reside within the districts where they were appointed. In the State of Georgia there were three referees to whom the application was made, and no Member of Congress from the district in which these offices were situated, no Member from the State of Georgia, and no Senator could change or alter the result where the recommendation for the postmastership was made by the referee. That applied to all post offices of the fourth class as well as to post offices of the first, second, and third classes. I say that it is not a proper administration of affairs in the appointment of postmasters to have post-office inspectors, many of whom—in fact, most of whom—are not familiar with the people of the particular locality, have the determining voice in who shall be the postmaster in these 31,797 offices. I trust, Mr. Chairman, that if Congress shall not see fit to do something which will alter it the incoming administration will not permit that order which has been put into effect at the end of a Republican administration to remain. [Applause on the Democratic side.]

So far as I am concerned, I stand ready here and now to provide, if I can get the indorsement of the Members of this House, that not one dollar of the money appropriated in this section shall be paid to inspectors who are sent into my State and my district and in your State and your district to find out whom they shall recommend for the office of postmaster, and if I could, without violating the rule respecting new legislation, or if I could get past the point of order, I would offer an amendment which I have ready here now to repeal the order of October 15, which put under the civil service something over 36,000 post offices in this country. I do not say this because I am a spoilsman. I do not say this because I am anxious or hungry for office for my people, but I say so because I know what the people where I come from have endured for all the 16 years in which this system of permitting men to be appointed to the fourth-class post offices and other offices upon the recommendation of referees, and not upon the recommendation of men who represent those districts or States, the referee being selected by reason of his political affiliations.

Mr. MANN. Mr. Chairman, I am not in favor of the proposition which the gentleman from Georgia has stated to the House, but I can suggest to him a method by which he can bring it before the House if he so desires. All he needs to do is to move to strike out this paragraph, leave out the appropriation for one messenger at $360, and reduce the total appropriation from $248,950 to $248,590, which makes a reduction of the amount carried by the bill, and add his provision repealing the order and permitting no other order to be made. Under the Holman rule that would make it in order.

Mr. BARTLETT. I have it ready.

Mr. MANN. I would like to see that side of the House vote upon it.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Field force: District secretaries—2 at $2,400 each, 1 at $2,200, 4 at $2,000 each, 5 at $1,800 each; clerks—1 of class 4, 1 of class 3, 1 of class 1, 7 at $1,000 each, 6 at $900 each, 5 at $840 each; messenger boy, $480; in all, $45,680.

Mr. FOWLER. Mr. Chairman, I make the point of order against that paragraph. There are three new clerks provided for there at $1,800 each. It is new legislation, and I insist upon the point of order.

The CHAIRMAN. Does the gentleman make the point of order against the entire paragraph?

Mr. FOWLER. I do; under the rule that where there is new legislation in a paragraph the whole paragraph goes out.

Mr. JOHNSON of South Carolina. Mr. Chairman, I do not think the item in the bill is subject to the point of order. There is no law fixing the number of people that can be employed in the Civil Service Commission's office.

Mr. FITZGERALD. Mr. Chairman, is the point of order up for discussion?

The CHAIRMAN. The point of order has been made against the entire paragraph on page 30, lines 19 to 23, inclusive, for the reason that the provision for three of the five clerks at $1,800 each is new legislation. Do I state the point of order correctly?

Mr. FOWLER. Yes; that is correct.

Mr. FITZGERALD. It does not necessarily follow, because a place is additional to those already provided for for the current year, that the provision therefore is subject to a point of order. That happens only under certain contingencies.

The CHAIRMAN. The principal thing the Chair would like to know is whether these five offices are authorized by law.

Mr. FITZGERALD. Mr. Chairman, I wish to call the attention of the Chair to section 169 of the Revised Statutes of the United States:

Each head of a department is authorized to employ in his department such number of clerks in the several classes recognized by law, and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

There are a number of rulings under this particular provision that in the various departments of the Government, unless the organic act specifically enumerates the positions to be created, that there can be carried in the acts appropriating for the service such clerical or other force as Congress may recommend.

Mr. FOWLER. May I interrupt the gentleman?

Mr. FITZGERALD. Certainly.

Mr. FOWLER. In this case these new positions are district secretaries. Prior to that there were only two district secretaries, and here it is attempted to create three new district secretaries. Does that fall under the gentleman's contention?

The CHAIRMAN. Does the gentleman from New York desire to argue the point further?

Mr. FITZGERALD. No; I have concluded what I have to say.

Mr. MANN. Mr. Chairman, if the Chair will permit, I would like to make an observation in reference to the rule. Mr. Chairman, the rulings in regard to matters of this sort are so arbitrary and artificial that sometimes it is necessary to restate them. The rulings are uniform for many years that so far as the salary is concerned the salary in the current law fixes the salary for the bill. In other words, an increase in the salary of an official when that salary is covered by the current law can not be made over a point of order. This is a purely artificial ruling, because there is no salary fixed by law for these places, but long ago some Chairman held that current law fixed the salary, because without that the House was in confusion. Now, there is also no law fixing the number of these places, but there is a uniform ruling that where the position was authorized at all you could increase the number of places in that position unless the law fixed the number. Take, for instance, the most common illustration, which is the Post Office Department. The number of clerks and carriers in the Post Office Department is not fixed by law except the current law. They have to be increased every year. It is impossible as a matter of practice to pass a law definitely fixing for future years the number of clerks or carriers in the Post Office Department. The same is true of clerks in the different departments in Washington, but where a certain number is carried in the current law, say, two at $1,800, while the salary fixed is in the present bill and current law the number is not governed by the current law, and in this case the Civil Service Commission, being authorized to do this work and have these employees, the number of employees in the current law does not control the House in fixing the number in the bill each year, although the salary is controlled by the current law. Now, these officers being authorized by the law, the number may be increased by Congress from time to time without being subject to a point of order.

The CHAIRMAN. Does the gentleman from Illinois [Mr. FOWLER] desire to be heard further on the point of order?

Mr. FOWLER. Mr. Chairman, according to the rules of this House no new position can be created in an appropriation bill without being subject to a point of order. This has been the holding of the Chair almost universally since I have been a Member of this House. It was the holding of the Chair during the last session of Congress, and only in a few instances, where the Chairman had been called from the body of the House, was that ruling digressed from. In fact, Mr. Chairman, in this instance there is a creation of three new positions at $1,800 each. The contention of the gentleman from Illinois [Mr. MANN] that where the work of a department is authorized and the number of servants fixed by law might not control in that decision upon the point of order is not, in my mind, borne out by the rulings of this House in the past. There are three distinct and important positions created here known as district secretaries, and prior to this time there were only two district secretaries. They received each $1,800. Now it is proposed by this bill to create two additional district secretaries at $1,800 each.

It is just as much new legislation in this instance as though it had created three assistant district secretaries at a salary of $1,800 each. And there is no difference, and there is no getting away from the rules of this House which have been the controlling force in passing upon questions of this character.

I had an occasion during last session to present this question and recite the authorities which had been given by former rulings of the Chair. I have not those authorities before me now. But I say, Mr. Chairman, that this is new legislation, and under the rules of this House it is subject to a point of order, and we can not escape it however much the gentlemen who are in charge of this bill may desire to do so.

The CHAIRMAN. The Chair is ready to rule. It seems to the Chair that the first question for the Chair to ascertain is whether or not section 169 of the Revised Statutes authorizes these clerks or whether the head of a department has the right to employ these five clerks. In 1906 Mr. Hull, of Iowa, was in the chair, and this identical question came up and was decided by him on a point of order made by Mr. Tawney upon clerks of a similar nature in the War Department. Mr. Hull held at that time, quoting section 169, that where the statute had authorized the heads of the department to employ clerks and other laborers that it was in order, and he overruled the point of order. He used this language:

The first question is, What law authorizes this appropriation? The only law referred to is that contained in section 169 of the Revised Statutes, which is as follows:

Here he quotes the statute. This is a similar case, where the gentleman from New York [Mr. FITZGERALD] cites the statute, section 169, as authority for this legislation. Mr. Hull made this comment:

The next question, of course, is whether these clerks referred to in the items to which objection has been made are to be employed by the head of a department and in his department. The gentleman from Iowa, Mr. Hull, is quite correct in his statement of the ruling made by the occupant of the chair, Mr. Hopkins, as referred to on page 2404 of the RECORD, third session Fifty-fifth Congress, but it appears that at that time the Chairman of the Committee of the Whole was not familiar with the ruling of the Attorney General, which has been submitted to.

And he went on and held that these clerks were to be employed as contemplated in section 169 of the Revised Statutes. The Chair is of the opinion that section 169 would apply to the clerks in this item, and therefore overrules the point of order.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. RUBEY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 20287. An act to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January 5, 1905.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 7531. An act to authorize the Secretary of Commerce and Labor to purchase certain land required for lighthouse purposes at Port Ferro Light Station, P. R.

The message also announced that the President pro tempore had appointed Mr. CLARKE of Arkansas and Mr. BURNHAM members of the Joint Select Committee on the part of the Senate as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the Executive departments," for the disposition of useless papers in the War Department.

The message also announced that the Senate had passed the following resolutions:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. GEORGE H. UTTER, late a Representative from the State of Rhode Island.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

Resolved, That as a further mark of respect to the memory of those Representatives whose deaths have been announced, the Senate do now adjourn.

Also:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. RICHARD E. CONNELL, late a Representative from the State of New York.

Resolved, That as a further mark of respect to the memory of those Representatives whose deaths have been announced the Senate do now adjourn.

Also:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of the Hon. CARL CAREY ANDERSON, late a Representative from the State of Ohio.

Resolved, That as a further mark of respect to the memory of those Representatives whose deaths have been announced the Senate do now adjourn.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Expert examiners: For the employment of expert examiners not in the Federal service to prepare questions and rate papers in examinations on special subjects for which examiners within the service are not available, $2,000.

Mr. BARTLETT. Mr. Chairman, I desire to offer an amendment to that paragraph.

The CHAIRMAN. The gentleman from Georgia [Mr. BARTLETT] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 31, line 11, after the figures "$2,000," insert the following: "*Provided*, That no part of the amounts appropriated under this paragraph or in this bill shall be used to pay for inspectors of the Post Office Department for expenses incurred in making selections and recommendations for the appointment of fourth-class postmasters."

Mr. JOHNSON of South Carolina. Mr. Chairman, I make a point of order against that amendment. It changes existing law and seeks to regulate Executive orders.

Mr. FITZGERALD. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] makes the point of order that this changes existing law and Executive orders made under existing law.

Mr. BARTLETT. But, nevertheless, Mr. Chairman, under the rules of the House under which we operate we can change existing law if it reduces expenses. And the gentleman from South Carolina [Mr. JOHNSON] has stated in this House that the increase in the expenditures of the Civil Service Commission in its operations during the coming fiscal year was due to the fact of the Executive order issued on October 15. It will appear from the testimony which I called attention to which was taken before the subcommittee of the Committee on Appropriations, of which the gentleman from South Carolina [Mr. JOHNSON] is the chairman, that the increase in the expenditures was due to the fact that examiners would have to be appointed especially and their expenses paid by reason of this order. I will not undertake to reread that which I have read upon the subject from the hearings, but if the Executive order is law—and it is—we can at all times, even when we are not operating under the Holman rule, limit that expenditure, even though that expenditure were provided for by law. It is a simple limitation of the expenditure, and I need not, I apprehend, call the Chair's attention to the frequent ruling that, while you can not change the existing law, you can limit an expenditure under the existing law.

Mr. TRIBBLE. Mr. Chairman, I desire to join my colleague from Georgia [Mr. BARTLETT] in his protest against civil-service examination for fourth-class postmasters. I feel that I am especially justified in raising my voice against this Executive order, because if there ever was an official negro-ridden town it is the city of Athens, Ga., where I live. I have seriously considered the civil-service proposition as applied to post offices, and I see danger in the proposition. If you will analyze this order and its requirements you will find that the examination under the civil-service order will place in the fourth-class post offices in the South, as well as those in the other parts of the United States, many negroes. They will stand the examinations and take their places at the windows of small country and village post offices. I want to say to you here to-day that the people of this country will not stand for it. Gentlemen from all sections, let me say to you, your constituents in the West, in the East, or in the North will not stand for it. In my district there is a negro rural carrier. How would your constituents like that? It is not fair to my people; it it not just to the South. I shall not sit quietly in my seat and permit an order placing pest offices under civil service, knowing that negroes will have the way open to stand behind the windows and deliver mail as postmaster, and not protest with all the earnestness of my soul.

This order becomes odious to my people the very moment negroes stand examination for post-office positions. Every man in this House would join in this fight to defeat this order if it placed you in the situation it places me. I know from experience the humiliation of negro officeholders, and I warn you here to-day of danger in the enforcement of that order. For 16 years, since my sojourn in Athens, there have been negroes in the post office of that classic city, and during 12 years of that time there was a negro postmaster. In this city the State university is located, and there are over a thousand students. To-day nearly every carrier in that city is a negro. White people will not stand the examinations and compete with these negro carriers. When an examination is held the negro is there.

The city carriers are not so objectionable as the rural carriers. A rural carrier goes among the country people. He meets the lady of the house at the door. She may be alone. She may be a widow, a sister, or an only daughter; to her he sells stamps, and she has to deal with this negro in all postal affairs. It is not fair to my constituents; they are law-abiding citizens and have submitted unwillingly. I repeat, it is not fair to any section of this country to place the holders of fourth-class post offices under a civil-service examination, especially the rural districts in the South. This Executive order places fourth-class offices alongside the rural carrier and city carrier examinations, and you add to the negro carrier list a long list of negro postmasters in the South.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. GILLETT. Mr. Chairman, will the gentleman allow me to ask him a question?

The CHAIRMAN. Does the gentleman yield?

Mr. TRIBBLE. Yes.

Mr. GILLETT. Does the gentleman from Georgia know of any cases where these negro carriers that he speaks of have abused their positions?

Mr. TRIBBLE. Yes.

Mr. GILLETT. Where?

Mr. TRIBBLE. I have made two fights since I have been in Congress before the Post Office Department against an official rural carrier who has been shown to be incompetent, ignorant, old, and offensive to the patrons, and yet he has been retained on that route. I made one fight on him before I was elected to Congress and I never expect to let up until a white man succeeds him. He can not read and write well enough to read the addresses on the pieces of mail, and yet the Post Office Department has refused to dismiss him.

Mr. GILLETT. Has there been any abuse of women?

Mr. TRIBBLE. I made no such charge as that in that case.

Mr. GILLETT. Have there been any charges of that kind in these cases?

Mr. TRIBBLE. None in the case of which I have spoken.

Mr. HILL. Mr. Chairman, when I entered Congress 18 years ago there were 167 post offices, according to my recollection, in the fourth district of Connecticut. About 32 of those were presidential and the rest were fourth-class offices. Now, I do not know that my experience is of any benefit whatever to gentlemen who are coming into full and absolutely complete control of the Government for the next four years. You notice I limit it to four years. [Laughter.]

Mr. MANN. Make it two years.

Mr. HILL. No; I will not limit it to two years. I will limit it to four years. By Executive order all but 32 of these post offices were taken from my jurisdiction, and the happiest time of my political life has been since they were taken away.

Make no mistake about that. I am a firm believer that not only the fourth-class offices but the presidential offices as well should be put under civil service. There is nothing in my experience that is so distasteful as a post-office fight, unless it is a school-district fight or a church fight, one or the other, and I am still in doubt as to which is the most distasteful. I believe that the wisest thing for you gentlemen is to have the recent Executive order go into effect and remain in operation.

I realize the conditions in the South to which the gentleman has referred, and that, as he says, the South will not stand it. I notice that you do stand it, so far as your house servants are concerned, and you do stand it in a great many other respects. I do not believe it is any worse for a colored man to hand you a letter through a general-delivery window than it is for a house servant to hand you your food at your meals. I am not going into that discussion at all. I am simply looking at it from my standpoint. From my standpoint, the wisest thing that can happen to you gentlemen is to be divested of the responsibility of naming postmasters.

I want to say another thing to you: A determined effort is doubtless being made to have that order revoked. Since I have been a Member of the House of Representatives from Connecticut no Democrat has ever been removed from a postmastership in my district, and there is to-day one presidential postmaster there appointed by Grover Cleveland still serving. Why? Because I never felt it my duty to go around the district and hunt up some man to take his place and no Republican ever asked to have him removed, and there are several fourth-class postmasters appointed, as I recollect, by Grover Cleveland, who are still serving there or who were when President Roosevelt put them in the classified service.

Mr. BARTLETT. May I ask the gentleman a question?

Mr. HILL. Certainly.

Mr. BARTLETT. What would the gentleman do if nine-tenths of the patrons of an office should ask him to have a particular person appointed to a fourth-class office, and there was no one else who objected to it? Would you not think that man ought to be appointed?

Mr. HILL. My rule has been this, that every man should serve out his time, and then if there was a Republican who made application, indorsed unanimously by the Republican town committee, I made it my business to see that the Republican was appointed, and I assume that every one of you would do the same thing.

Mr. BARTLETT. I know I would.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

Mr. HILL. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. BARTLETT. The gentleman did not answer my question. There are innumerable cases where appointments have been made to post offices where the applicant did not receive the indorsement of any of the patrons of the office, but was appointed solely upon the recommendation of some Republican referee who did not live in the town or in the district.

Mr. HILL. Of course I can not appreciate that condition. My rule has been this: If the Republican town committee were unanimous in behalf of any man, I recognized that committee as the official representative of the party in the town and carried out their wishes.

Mr. BARTLETT. I think the gentleman did right.

Mr. HILL. If they were not unanimous, I felt that the burden rested upon me, and looked at it always as a burden resting upon me to determine the case. Now, gentlemen, leaving out the question of the peculiar conditions in the South to which the gentleman has referred, and which I think are magnified in some respects, you will be better off to have that responsibility lifted from your shoulders than to carry the burden.

Mr. TRIBBLE. Will the gentleman yield for a question?

Mr. HILL. Yes.

Mr. TRIBBLE. I should like to know if this Democratic postmaster in the gentleman's district has not been voting the Republican ticket lately?

Mr. HILL. Possibly so; I do not know, and I do not care how he has voted. He has made a good postmaster, and no Republican in that town has ever asked for his removal. If they had united in asking for it, I should have removed him. I am frank to say that. I think you are entitled to the legitimate patronage of this office to which you have elected Dr. Wilson. The responsibility is going to be a terrific burden upon you, and you are just beginning to realize that. But I want to say to the gentleman from Georgia just one other thing, that there is a feeling in the North that you can not absolutely take away from the colored man in the South all of the privileges of citizenship if you hold him to its responsibilities. You can not always have representation on this floor by counting him as a citizen and absolutely ignoring him as a vital living factor in this Republic, and the time will come—I say it frankly to you—when the present system must be changed. You can not seat eight men on this floor with an aggregate of 23,000 votes and at the same time find each one of the Members on this side representing 35,000 to 40,000 votes. I do not know the best way to meet the situation, but it is one which you have got to face in the next four years, for it is not fair to us in the North.

But let that go as it is. I give it to you as my experience that when the hundred or more fourth-class post offices were taken out from under my responsibility by order of President Roosevelt it was the happiest time of my political career. [Applause.]

Mr. COOPER. Mr. Chairman, I ask unanimous consent to address the House on this question.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent to address the House for five minutes. Is there objection?

There was no objection.

Mr. COOPER. Mr. Chairman, some years ago, at the time of the famous Machen case, which the House will remember, this question as to the repeal of all appropriations for the Civil Service Commission came up. During the debate I opposed the repeal and quoted from the utterances of some very distinguished statesmen who had been perfectly familiar with the abuses which existed prior to the enactment of the civil-service law.

I will read from my speech in that debate what Gen. Garfield said in an article in the Atlantic Monthly, and also what other distinguished men said in the Senate and on the floor of the House:

One third of the working hours of Senators and Representatives is hardly sufficient to meet the demands made upon them in reference to appointments in office. * * *

The present system * * * impairs the efficiency of the legislators; * * * it degrades the civil service; * * * it repels from the service those high and manly qualities which are so necessary to a pure and efficient administration; and, finally, it debauches the public mind by holding up public office as the reward of mere party zeal.

To reform this service is one of the highest and most imperative duties of statesmanship.

On the floor of the House, Gen. Garfield said, on the 4th of March, 1870:

We press such appointments upon the departments; we crowd the doors; we fill the corridors; Senators and Representatives throng the offices and bureaus until the public business is obstructed; the patience of officers is worn out, and sometimes, for fear of losing their places by our influence, they at last give way and appoint men, not because they are fit for their positions, but because we ask it.

President Grant, speaking in 1870 of the great evils of the spoils system, said:

There is no duty which so much embarrasses the Executive and heads of departments as that of appointment, nor is there any such thankless labor imposed on Senators and Representatives as that of finding places for constituents. The present system does not secure the best men, and often not even fit men, for the public places. The elevation and purification of the civil service of the Government will be hailed with approval by the whole people of the United States.

Senator Vest, a very distinguished Democrat from Missouri, said:

When I entered the Senate I became chairman of the Committee to Examine the Several Branches of the Civil Service, and for two years I was engaged with the rest of that committee in taking testimony upon the subject of civil-service reform. That very great evils exist there can be no sort of question—evils so monstrous, so deadly in their effects that men of all political parties have come to the conclusion that some remedy must be applied.

* * * * * * * *

That evils exist there can be no sort of question. Money has become the great factor in the politics of the United States.

Now, Mr. Chairman, I will read only one more quotation. It is from an equally distinguished Democrat, who served the Nation with distinction in the Senate and afterwards in the diplomatic service at the Court of St. James, Senator Bayard, of Delaware.

Senator Bayard said:

No man obtained an office except he was a violent partisan, and the office was given to him as a reward for party services; and so things went on until the offices generally were filled under that system, which was false and dangerous in the extreme—a system which, as my friend from Ohio said, is absolutely fatal to the integrity of republican institutions, I care not what party or under what name it may be organized and carried on.

Mr. Chairman, that is the testimony of witnesses of unimpeachable character and of the highest ability—statesmen, Democrats as well as Republicans—depicting the evils and abuses then in vogue, and speaking for the betterment of the service. [Applause.]

Mr. SLAYDEN. Mr. Chairman, I ask unanimous consent to address the House for two minutes.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to address the House for two minutes. Is there objection?

There was no objection.

Mr. SLAYDEN. Mr. Chairman, I want to ask the gentleman from Wisconsin [Mr. COOPER] a question, if he will permit me. I agree substantially with all that Senator Vest said, and I agree generally with the doctrine of an orderly and permanent civil service. My misgivings with reference to it have grown out of the fact that in my judgment every time that you strengthen the civil service you increase the army of pension beggars, and at last you will have a horde of them supported by pensions. If the President, for whom I have great respect, wanted to be perfectly fair, should he have waited until the close, or nearly the close, of his administration, when practically every office in the South had been filled with Republicans, and then put this blanket of civil-service protection over them and deny the people in a large section of this country the right to be represented by men whom they want in office?

Mr. HILL. Mr. Cleveland did the same thing.

Mr. SLAYDEN. If he did the same thing, I will say that he did what I do not approve.

Mr. HAMILTON of Michigan. I desire to call the gentleman's attention to the fact that a large number of the fourth-class posmasters were covered into the civil service under Mr. Roosevelt.

Mr. SLAYDEN. Surely the gentleman does not expect me to approve of what President Roosevelt did.

Mr. HAMILTON of Michigan. But the gentleman has stated that all these postmasters——

Mr. SLAYDEN. Oh, no; I have reference to this last order, issued October 15, by the present incumbent of the Executive Office. Does the gentleman from Wisconsin think that it was fair and proper?

Mr. COOPER. Mr. Chairman, the gentleman's interrogatory consists of two brauches.

Mr. SLAYDEN. Answer the last one first, please.

Mr. COOPER. The first one was whether the establishment of a civil service did not look to the establishment of a civil

pension list. That is a non sequitur. I do not see how one follows the other.

Mr. SLAYDEN. It does.

Mr. COOPER. I do not consider that men in office on salary are pensioners while they are discharging the duties of office. It is a misuse of words to apply the term "pensioner" to such a person. That answers that part of the interrogatory. To the next part of the question I would say this: It always has seemed to me that one of the greatest evils in our political life is the old-fashioned spoils system, under which men think that they have discharged their political duties when they have voted for a man who has appointed a postmaster to suit them. Then they become quiescent for four years, caring nothing about public affairs except who is postmaster.

Mr. SLAYDEN. Does the gentleman think he was fair in that order?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. STANLEY. Mr. Chairman, I ask unanimous consent to address the committee for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STANLEY. Mr. Chairman, it is passing strange to me that gentlemen on the other side of the Chamber did not become conscious of their agony until after they were relieved of their pain. Usually men suffering under an intolerable burden, like men suffering from a bunion, complain of it at the time, but we have heard nothing of the woe of these gentlemen who have been forced to name these fourth-class postmasters under an antiquated spoils system until after the power to appoint them was gone, and then we are overwhelmed with jeremiads. Their pity for us in enduring and assuming this great burden is appreciated, but we would feel, down in our hearts, still greater gratitude and we would attribute to them greater sincerity if we had heard this tale of woe at an earlier date. For 16 years they have been in power and they have not spent 16 minutes of all that time in complaining of the monstrous iniquity of being forced to name fourth-class postmasters. Is it possible that these men could have understood—these able gentlemen—what a monstrous thing it was to be forced to fill fourth-class offices with postmasters most agreeable to their constituents; that that was altogether an inquitous procedure, and that a President, 1,000 miles away, could perform the job much better? They are guilty of nonaction, of a conspiracy of silence akin to misfeasance, in keeping still so long. It is, the poet has said, a noble thing to suffer and be silent and strong. They have certainly borne their agony with amazing fortitude as long as they were called upon to endure it. [Laughter and applause.] If it was such a righteous thing—and God knows they were in dire need of having a President perform righteous acts for the last year or two—why did not some one of those gentlemen, so conscious of the iniquity of this system, whisper it a year or two earlier into the willing ear of the President of the United States? Years ago they might have been relieved, years ago they might have been happy, even as the gentleman from Connecticut [Mr. HILL] is happy; years ago they might have danced around this Chamber with the heavy load off their shoulders, with nothing to do but to consider great constitutional questions, with these letters about petty jobs off their desks and off their minds, if they had but spoken the word. But, Mr. Chairman, they forget the capacity for labor of a Democratic Congressman; they forget our willingness to suffer. [Laughter and applause.]

They forget how we love the people; they forget we worship that God who sees the sparrow's fall; that humble as we are, not so accustomed as those we succeed to the consideration of great constitutional questions, new in office, we are willing to listen to the plaintive cry of the humble postmaster and to take some time even from our more pretentious duties to attend to his claims and see that the will of the people in small communities is met and satisfied. [Loud applause on the Democratic side.]

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] made a point of order against the amendment offered by the gentleman from Georgia upon the ground that it changed existing law and limited Executive authority. A careful examination of the amendment will reveal the fact that it does not in any respect change existing law, but does place a limitation upon this particular appropriation and in a way limits the Executive authority. The rules of the House provide that you may place a limitation upon appropriations, and there are a number of rulings to the effect that you may place a condition upon an appropriation as to even limit the Executive authority. One quotation I have from Chairman Watson, of Indiana, will convince the House of that ruling. In passing upon what is known as the "canteen" amendment he made this statement:

It has been repeatedly held in this House and is an invariable precedent that the House may provide that no part of an appropriation shall be used except in a certain way even though the Executive discretion be thereby restricted.

It seems to the Chair this is clearly a limitation on the appropriation and a possible limitation on the Executive discretion, and is in order under the rules of the House. The Chair overrules the point of order, and the Clerk will report the amendment.

The amendment was again reported.

Mr. MANN. Mr. Chairman, a few moments ago the gentleman from Kentucky [Mr. STANLEY] became very eloquent in defending the patronage system as to fourth-class post offices, and enunciated the doctrine, which I take it I agree with him on, that that side of the House is much more competent to seek jobs than it is to determine constitutional questions. [Applause on the Republican side.] The gentleman seemed to assume, however, that this side of the House has been enjoying in recent years the naming of fourth-class postmasters. It is very natural gentlemen on that side of the House should assume that because they have not had any connection probably with fourth-class postmasters——

Mr. BURLESON. Nor experience.

Mr. MANN. But a great majority of this side of the House for years have had nothing whatever to do with the appointment of fourth-class postmasters, because it was during the Roosevelt administration that fourth-class offices east of the Mississippi River and north of the Ohio River were placed in the classified service, and that rule was in fact applied to most of the other Northern States.

Mr. BARTLETT. May I interrupt the gentleman?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Georgia?

Mr. MANN. I do.

Mr. BARTLETT. Of course, I was aware of the fact that President Roosevelt placed the fourth-class post offices in a certain territory under the civil service a few years ago, but can the gentleman suggest any reason why the President withheld from its operation the other portions of the country south of the Potomac?

Mr. MANN. I can suggest a very good reason. It was not practicable with the limitations of the civil service to cover the entire country into the classified service at one time. Before these offices were covered into the classified service the rule had already been announced by the Post Office Department that it would not remove a fourth-class postmaster in office for the purpose of appointing a new one without charges and cause. These offices have not been patronage offices for many years to the extent that gentlemen on that side of the House assume. It is the fact that when the civil-service law was passed it was in contemplation at the time that as administrations were retired the President would issue orders covering new offices into the classified service, and most of the classified service now is composed of offices which were covered into that service under the civil-service law by retiring Presidents. I came to Congress with the McKinley administration, following the Cleveland administration.

President Cleveland, shortly before he went out of office, covered into the classified service most of the offices not then in which amounted to anything. I listened for some years to arguments and speeches on this side of the House, in the majority under the McKinley administration, much like those I have listened to on that side of the House. This side of the House, in control, had the nerve to stand against the demand of the few office seekers as compared with the many people to be served, and resisted the attempt to return to the undesirable spoils system of the offices of the country. [Applause.] You are now in a position where I hope you will have nerve to vote and not dodge. If you vote for this provision in the law it will be vetoed by the President, but you will be on record before the country as favoring the spoils system instead of the merit system. [Applause.] And when your own President goes into the White House he will not permit you, in the light of the history of his career, to return to the demoralizing spoils system those offices which are at the beginning of his administration under the merit system.

I dare you to vote this amendment into the bill. [Applause on the Republican side.]

Mr. CULLOP. Mr. Chairman, I will say, in reply to the gentleman from Illinois, that for one I shall vote for this amendment, and when I am voting for this amendment I am voting to tear down a rotten spoils system. These men who have had

their life tenure fixed by this order secured their offices by the spoils system, and you want us to ratify it now. It is in bad taste for any administration as it is going out of power and there is a change of party to undertake to fasten upon the country officeholders of its own political faith when that party has been repudiated at the polls. [Applause on the Democratic side.]

What does this extension of the civil-service class mean? It means to increase the power that is being brought to bear on Congress to-day to create a civil pension list. To-day the power of patronage in the hands of the Executive of this Nation, it matters not of what political faith, is one of the things that menaces the welfare of the country. Five hundred thousand men are subject to appointment, removal, promotion, or demotion in office by the order of the Chief Executive of this Republic. Behind them is a great sum as the annual pay in salaries. A most powerful leverage is brought to bear by virtue of this system to continue the administration in power. And the abuse of this patronage by the former President of the United States and the present Chief Executive brought about the downfall of the Republican Party in the last election. The present Chief Executive was nominated through the official patronage of the former President of the United States. He was renominated at Chicago last June by virtue of the Federal patronage and not as the choice of a majority of the Republicans in this country. It has been used as a political asset and created a great power.

It is time to eliminate it. It has been the subject of political abuse, and to-day these offices are filled by the appointees as Republicans, and they have not come into office by virtue of the civil service, but it is proposed they shall retain their office by virtue of it and feed for the remainder of their lives at the public crib. For one I shall oppose the proposition in whatever form it presents itself. Life tenure of office I deny is advantageous to the public service. It nullifies inspiration and ambition in the holder, because there is no inducement for him to exert himself and elevate the service. Service under it should be for a fixed period of duration, not to exceed four years, with opportunity of reappointment. Then there would be inducement for improvement of service, but as it now is there is none. He is fixed for life, and because of that fact he becomes indifferent in the discharge of his duties and careless as to public sentiment. Both of these are not likely to improve the service, and the public suffers in consequence thereof.

The civil-service law as administered has become a great political machine, and it is no surprise in view of this condition that nearly all appointees are of one political faith. It is no surprise in view of this fact that it has become a powerful factor in the Republican machine and plays an important part in every campaign. It was said many years ago by Roscoe Conkling, of New York, that it would become a "snivel service" instead of a civil service. Has it not practically become so now as administered? Does not everyone know that its administration for some years has been partisan, and as such it has manifested itself throughout every department of the service in which it is known? It needs attention and changes should be made or its beneficial purposes will all be nullified. We all favor good public service, but we know this law as now administered does not produce such a result, and we all deplore that fact. Changes in the law and its administration should be made in order to promote the service and secure to the people and the country the very best service possible.

Mr. JOHNSON of South Carolina. Mr. Chairman, the particular item in the bill to which the amendment of the gentleman from Georgia [Mr. BARTLETT] has been offered, provides for the employment of technical men to prepare examination questions upon scientific subjects. There is not a dollar carried in this bill to pay post-office inspectors to carry out the Executive orders. The post-office inspectors are provided for in the Post Office appropriation bill. This proposed amendment can have no effect in law. It limits no appropriation that is necessary to carry on the work under the last Executive order. If gentlemen want to come upon the floor and vote to repeal the civil service law, let them do it in a proper manner, on a proper bill, from a committee having jurisdiction of that subject. Under the original law the Executive is authorized by Executive order to extend the civil service from time to time. You may by this vote express your disapproval of President Taft's order, but he could renew it to-morrow. You may by a vote upon an amendment that can have no legal effect put yourselves and your party in an embarrassing attitude before the country. After the 4th of March there will be another President. He will consider with great care whether or not the recent order of the President shall stand. He may modify it or he may, in spite of any amendment we put here in this bill, extend it beyond it present scope.

Now, Mr. Chairman, I hope that we will not put ourselves in the attitude of making the country believe that we intend to evade either the letter or the spirit of the civil-service law. [Applause.] I believe that the committee acted wisely and justly when it increased the appropriation for the Civil Service Commission, in order that that commission might have ample force to carry on its work. So, now, what is the use of voting for this amendment to this particular paragraph of the bill? It carries $2,000, with which to employ experts to prepare questions on scientific subjects—chemistry and things of that kind. The original law puts it in the power of the President to extend the civil service. You can not control the Executive unless you repeal the law, and for my part I do not want to repeal the law.

Mr. FITZGERALD. Mr. Chairman, I hope that the amendment will not be adopted. If the purpose be to prevent the use of certain appropriations to defray the expenses of post-office inspectors who are assigned to make investigations in connection with the appointment of fourth-class postmasters under the recent Executive order, it has not been drawn with the usual care and skill of the gentleman who presents it.

The gentleman from South Carolina [Mr. JOHNSON] has said there are no appropriations in this bill available for the pay of post-office inspectors or for their expenses. But if there were, Mr. Chairman, this amendment would not only prohibit the payment of money to post-office inspectors detailed to select persons to fill fourth-class post offices under the recent Executive order putting them in the classified service, but it would prevent the expenditure of money to defray the expenses of such inspectors to do that work if that Executive order were rescinded, suspended, or revoked. It provides that no part of the amounts appropriated under this paragraph or in this bill shall be used to pay inspectors of the Post Office Department for expenses incurred in making selections and recommendations for the appointment of fourth-class postmasters. Prior to the issuance of the recent Executive order the post-office inspectors were detailed for that very work. This would prevent, regardless of whether they were in the classified service or in the unclassified service, appropriations being utilized for such a purpose.

Moreover, Mr. Chairman, I do not believe it is proper to attempt to penalize an employee for discharging the functions of his office under orders of his superior. The post-office inspectors would have no discretion. If they were directed to make the investigation, even if Congress prohibited the payment of their salaries or expenses when engaged on certain work, they could not assign as a reason for not making it that a particular appropriation could not be utilized to pay them. They would have to do it, and Congress would be attempting to penalize a subordinate for discharging the duties of his office under the direction of his superior. Regardless of the merits of the controversy as to the wisdom or propriety of the order of the President placing fourth-class postmasters in the classified service, I feel quite confident that gentlemen on this side of the House do not wish to enact such a provision as this, that makes it impossible to utilize the post-office inspectors to investigate applicants for fourth-class post offices under any conditions or to penalize them if they do so, at the direction of their superiors. I hope the amendment will not prevail.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia [Mr. BARTLETT].

The question was taken, and the Chairman announced that the "noes" seemed to have it.

Mr. MANN. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 11, noes 67.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Establishment and maintenance of system of efficiency ratings for initial year: Clerks—1 (in charge) of class 3, 2 of class 2, 3 of class 1, 1 (stenographer and typewriter), $1,000; 5 temporary clerks, at $900 each, needed for one year during the installation of the system; in all, $13,500.

Mr. FOWLER. Mr. Chairman, I make a point of order against this paragraph. It is new legislation.

The CHAIRMAN. Will the gentleman from Illinois point out in what particular it is new legislation?

Mr. FOWLER. It is not authorized by law, neither has it been carried in any previous appropriation bill. It is entirely new. No part of it has ever been enacted heretofore. There is no provision for any of the positions created in this paragraph, and it is entirely new legislation.

Mr. JOHNSON of South Carolina. Mr. Chairman, the last legislative bill provided that a system of efficiency ratings should be kept by the Civil Service Commission. This appropriation is made to enable the commission to carry out the duties imposed upon it by the law. I do not think it is necessary to say anything more.

The CHAIRMAN. The Chair will ask the gentleman if he has before him the provision in the last legislative bill. If the Chair understands the position of the gentleman from Illinois, it is that this is not authorized by law.

Mr. FOWLER. I desire to call the attention of the Chair to the note to Rule XXI in the Manual, beginning with the last paragraph:

An appropriation for an object not otherwise authorized does not make authorization to justify the continuance of the appropriation another year, and a mere appropriation for a salary does not create an office, so as to justify appropriations in succeeding years, it being the general rule that propositions to appropriate for salaries not established by law or to increase salaries fixed by law are out of order.

Citing authorities heretofore passed upon.

The CHAIRMAN. The Chair will ask the Clerk to read a portion of section 4 of the last appropriation act which the Chair has marked in brackets.

The Clerk read as follows:

SEC. 4. The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency ratings for the classified service in the several executive departments in the District of Columbia, based upon records kept in each department and independent establishment, with such frequency as to make them as nearly as possible records of fact.

The CHAIRMAN. It must be very clear to the gentleman from Illinois [Mr. FOWLER] that this authorizes the creation of a system of efficiency ratings. To create such a system there must necessarily be employees to perform the work. This point of order would probably have been good against this provision in the former appropriation bill on the ground of being new legislation. The provision in the present bill is clearly within the authority authorized in the last appropriation bill, which the Clerk has just read from the desk. The Chair thinks the point of order is not well taken, this authorization having been fully made in the last appropriation bill.

Mr. FOWLER. But, Mr. Chairman, in that bill there was no creation of certain offices, which this bill purports to do. If the Civil Service Commission has the authority to discharge certain duties, there is no need, then, of specifying and limiting that Civil Service Commission to any certain line of duty by naming just the specific work, through certain offices, which shall be done. In other words, the Civil Service Commission law does not create the offices which are created in this paragraph, and it has been the universal holding, so far as I have been able to find, that an appropriation bill creating new positions and fixing new salaries is subject to a point of order, and that is just what I read from the book of rules of this House.

The CHAIRMAN. There is no question that the gentleman is correct, except where there is a specific provision authorizing certain work. Where you have a specific authorization there must necessarily be carried with it the power to do that work, and the Committee on Appropriations at this session is appropriating for clerks, and so carrying out the provision of law carried in the last appropriation bill. The point of order is overruled. The Clerk will read.

The Clerk read as follows:

For necessary traveling expenses, including those of examiners acting under the direction of the commission, and for expenses of examinations and investigations held elsewhere than at Washington, and including not exceeding $1,000 for expenses of attendance at meetings of public officials when specifically directed by the commission, $12,000.

Mr. FOWLER. Mr. Chairman, I make a point of order against at least a portion of this paragraph—that part which appropriates $1,000 for the purpose of attending public meetings. It is new legislation, and in my opinion it is not warranted by any authority in the civil-service act.

The CHAIRMAN. The Chair will ask the chairman of the committee in charge of the bill whether that is new legislation.

Mr. JOHNSON of South Carolina. Mr. Chairman, I call the attention of the Chair to section 8 of the appropriation bill in which that law was first enacted.

No money appropriated by this or any other act shall be expended for membership fees or dues or any officer or employee of the United States or of the District of Columbia in any society or association, or for expenses of attendance of any person at any meeting or convention of members of any society or association, unless such fees, dues, or expenses are authorized to be paid by specific appropriation for such purpose or are provided for in express terms in the appropriation act.

That covers the exact language that we have followed here.

Mr. COX of Indiana. What is the gentleman reading from?

Mr. JOHNSON of South Carolina. I am reading from the law limiting the expenditure of money for these purposes.

Mr. COX of Indiana. Section 8?

Mr. JOHNSON of South Carolina. Section 8 of the District of Columbia appropriation act for the current year.

Mr. FOWLER. But that is only for the District of Columbia.

Mr. BURLESON. But it was made to apply to all the departments.

Mr. JOHNSON of South Carolina. That was where the law came from that limited it.

The CHAIRMAN. Has the gentleman from Illinois [Mr. FOWLER] anything further to suggest?

Mr. FOWLER. No.

The CHAIRMAN. It strikes the Chair, from the language read by the chairman of the committee having the bill in charge, that it was contemplated that the Committee on Appropriations should have authority and that it does have authority to make this specific appropriation, if they see proper, and the Chair thinks the point of order is not well taken. The point of order is overruled. The Clerk will read.

Mr. BARTLETT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Georgia offers an amendment, which the Clerk will report.

Mr. BARTLETT. A new independent paragraph at the end of page 31.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

That the Executive order of October 15, 1912, issued by the President of the United States, placing in the competitive classified service postmasters of the fourth class, is hereby repealed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

Mr. MANN. Mr. Chairman, I would like to have the amendment again reported.

The CHAIRMAN. Without objection, the amendment will again be reported.

There was no objection, and the Clerk again reported the amendment.

Mr. JOHNSON of South Carolina. Mr. Chairman, I make a point of order against that as being legislation.

Mr. CULLOP. Mr. Chairman, the point of order comes too late; action had already been taken.

The CHAIRMAN. The gentleman from South Carolina raises the point of order against the amendment, and it occurs to the Chair that the gentleman from South Carolina is a little late, because the Chair looked around to see whether anybody rose, and then the gentleman from Illinois requested that the amendment be again reported.

Mr. JOHNSON of South Carolina. Mr. Chairman, I did not at first understand the reading of the amendment. The gentleman from Illinois asked for the reading a second time, and then I made the point of order as soon as I knew what it was.

Mr. BURLESON. Mr. Chairman, the gentleman from South Carolina was laboring under the apprehension that it was the same amendment that had been heretofore offered and to which the point of order had been made and overruled, and consequently he did not make it at first, but did as soon as he understood the purport of it.

Mr. MANN. Mr. Chairman, while I think the point of order was made too late, I did not make a point of order that it was too late.

The CHAIRMAN. It seems to the Chair that as to this question of a point of order being made too late it ought to be liberally construed, so that the House may have the benefit of the point of order if it is well taken, and the Chair in this case will hold that the point of order was made in time. The Chair does not pass upon the validity of the point of order, but holds that it was in time.

Mr. BARTLETT. Mr. Chairman, I did not make the point that the point of order came too late, because I understand how those things occur, and sometimes in the confusion Members do not understand the purport of the amendment offered. I admit frankly that it is legislation, and the purpose of it is to repeal that which is now law under the order of the President. I do not know, but I think it will reduce expenditures. So far as I am now concerned, Mr. Chairman, I am free to say that it is legislation upon this bill. There is no question about it, and I intended it to be legislation.

Mr. MANN. Mr. Chairman, Rule XXI provides in effect that an amendment is in order which shall retrench the expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amounts of money covered by the bill.

While it is clear that the amendment offered by the gentleman from Georgia is subject to a point of order, still if the gentleman from Georgia will offer an amendment reducing the $12,000 of this appropriation to $11,999, provided, etc., his

proposition will be in order under the Holman rule and under the repeated decisions of the Chair. I would like very much to aid the gentleman from Georgia in getting the proposition clearly before the House. I would like to know whether gentlemen on that side of the House who for the next few years will be engaged in telling applicants for office that they would appoint them if they could, but a cruel President forbids them the opportunity of recommending any man for these offices, will have the nerve when they have the chance given them of becoming job hunters instead of statesmen.

Mr. BARTLETT. Mr. Chairman, if I may be heard for a moment, I do not speak for anybody but myself, and I stand here to say right now that if the point of order is withdrawn I am ready to vote for this amendment. I offered it with the hope that I might have an opportunity to vote for the amendment to revoke and repeal this order which was enacted or passed on the 15th of October, 1912, about 15 days before the election, placing the fourth-class postmasters under the civil-service law. Now, I have not been a job hunter since I have been a Member of Congress.

Mr. MANN. The gentleman from Georgia has been and is a distinguished statesman, and I hope we will enable him to preserve that attitude.

Mr. BARTLETT. I have not been a distinguished statesman, and I have not aspired to that category. I have endeavored during the 18 years of service, two of which were during the last Democratic administration, to do the best in my ability, but then I was not a place hunter.

But, Mr. Chairman, we have this as the history of placing fourth-class postmasters under the civil-service law. It is a well-known fact in this country that the delegates to the Republican presidential nominating conventions from the South are composed, generally, of the postmasters and the United States officeholders in that section of the country, and a roll call of the delegates at any presidential convention of the Republican Party for the past few years would have been like calling the roll of the postmasters in the South. We believe they were placed in the classified service for political reasons and we believe that they were covered recently into the civil service in order to take care of political favorites, and I for one am ready to vote to repeal an order passed as this was done, for the purpose for which it was passed, to give the people I represent and the section from which I come an opportunity for once in 14 or 16 years to have some voice in the selection of the fourth-class postmasters, which they have not had for that period of time.

The CHAIRMAN. The Chair is ready to rule. It is not contended by anyone that this puts a limitation on appropriations or that it comes within what is known as the Holman rule. It is a clear change of existing law and is therefore subject to the point of order. The Chair sustains the point of order, and the Clerk will read.

The Clerk read as follows:

Office of chief clerk and superintendent: Chief clerk, including $300 as superintendent of Treasury Building, who shall be the chief executive officer of the department and who may be designated by the Secretary of the Treasury to sign official papers and documents during the temporary absence of the Secretary and the Assistant Secretaries of the department, $4,000; assistant superintendent of Treasury Building, $2,000; clerks—4 of class 4, 1 of class 3, 2 of class 2, 2 of class 1, one $1,000, one $900; 2 messengers; 3 assistant messengers; messenger boy, $360; storekeeper, $1,200; telegraph operator, $1,200; telephone operator and assistant telegraph operator, $1,200; chief engineer, $1,400; 3 assistant engineers, at $1,000 each; 8 elevator conductors, at $720 each, and the use of laborers as relief elevator conductors during rush hours is authorized; 8 firemen; coal passer, $500; locksmith and electrician, $1,400; captain of the watch, $1,400; two lieutenants of the watch, at $900 each; 65 watchmen; foreman of laborers, $1,000; skilled laborers—2 at $840 each, 2 at $720 each; wiremen—1, $900; electrician, $1,200; 34 laborers; 10 laborers, at $500 each; 1 plumber and 1 painter, at $1,100 each; plumber's assistant, $720; 85 charwomen; carpenters—2 at $1,000 each; 1, $720. For the Winder Building: Engineer, $1,000; 3 firemen; conductor of elevator, $720; 4 watchmen; 3 laborers, 1 of whom, when necessary, shall assist and relieve the conductor of elevator; laborer, $480; 8 charwomen. For the Cox Building, 1769 New York Avenue: Two watchmen-firemen, at $720 each; one laborer; in all, $170,960.

Mr. FOWLER. Mr. Chairman, I reserve the point of order on the provision in line 10, page 35. I notice this bill carries a provision for an electrician, which is a new office. I would be glad to have the chairman explain the reason for this new office.

Mr. JOHNSON of South Carolina. Mr. Chairman, the current law provides for one wireman at $1,000 a year. The testimony before the committee was that the man was a very efficient one. They desire to promote him from $1,000 a year to $1,200 a year because he is an expert, and to change his designation. In view of the fact that the Treasury Department has reduced its force by several hundred employees, the committee felt that when that department came before the committee and requested that a man's salary be advanced, giving good reasons therefor, we ought to do something for them. If the gentleman from Illinois desires to assume the responsibility of keeping this workman up here in the Treasury Department, who is now receiving the salary of $1,000 and is very efficient and worthy, from having an increase to $1,200 we shall have to submit.

Mr. FOWLER. Mr. Chairman, I will be very glad to know why the committee did not increase the salary of the two skilled laborers who are receiving a salary of $840 a year and the two at $720 a year?

Mr. JOHNSON of South Carolina. Because there was nothing brought before the committee. There was no request that their salaries be increased, and no testimony given to the committee which would have justified the committee in increasing their salaries.

Mr. FOWLER. Mr. Chairman, I will be very glad to leave the $1,200 as it stands, if the committee would increase the salaries of these two skilled laborers.

Mr. JOHNSON of South Carolina. Mr. Chairman, we can not do that. The gentleman understands there are 30,000 employees in the city of Washington, and the committee can have no knowledge of the efficiency and worth of any particular man unless it is brought to the attention of the committee. We do not know who these men are. They are presumably getting what they are worth.

Mr. FOWLER. Mr. Chairman, I will be very glad to say that I am in favor of increasing the salaries of these low-salaried people. They have been working for a long time at a bare subsistence on a very economical basis, and I have no disposition to hold down the salary of any of these low-salaried men; but I am going to insist that whenever there is an increase it shall cover at least a portion of the low-salaried men, and if it can not be applied to them, whenever there is an attempt to increase the salary of a high-salaried man I shall make the point of order. Inasmuch as this man is a low-salaried man, I shall refrain from making the point of order.

The CHAIRMAN. The gentleman from Illinois withdraws the point of order and the Clerk will read.

The Clerk read as follows:

Division of Bookkeeping and Warrants: Chief of division, $3,500; assistant chief of division, $2,700; estimate and digest clerk, $2,500; 2 principal bookkeepers, at $2,100 each; 12 bookkeepers, at $2,000 each; clerks—14 of class 4, 6 of class 3, 6 of class 2, 3 of class 1; messenger; 3 assistant messengers; messenger boy, $480; in all, $87,180.

Mr. FOWLER. Mr. Chairman, I reserve the point of order on that paragraph.

The CHAIRMAN. Does the gentleman from Illinois reserve the point of order to the paragraph?

Mr. FOWLER. No; to that portion of the paragraph which creates the office of messenger boy. I would be glad to ask the chairman of the committee what necessity there is for a new messenger boy, when the bill carries one messenger and three assistant messengers, the same as has been carried in the bill heretofore?

Mr. JOHNSON of South Carolina. Mr. Chairman, the Division of Bookkeeping and Warrants is unquestionably the most important division in the Treasury Department. It has intimate relations with every other division. It has more intimate and close relations with the Committee on Appropriations than any other division. It is through that division that estimates are all transmitted to the Congress. The work of this office increases from year to year, and we have given them one messenger boy only at $480 a year. That is the only increase we allowed them, notwithstanding the great volume of work and the great responsibility. The situation is simply this: If we do not give them this messenger boy at $480 it will be necessary to take some other person who is employed as a clerk or in some other capacity to do the work of carrying papers to the different departments that a boy would do if we allow him.

Mr. FOWLER. Mr. Chairman, if a messenger boy is absolutely necessary, I have no objection to it; but I desire to ask the chairman if the committee unanimously agreed to insert this new legislation?

Mr. JOHNSON of South Carolina. I do not remember there was any opposition whatever in the committee.

Mr. FOWLER. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

Division of Appointments: Chief of division, $3,000; assistant chief of division, $2,000; executive clerk, $2,000; law and bond clerk, $2,000; clerks—3 of class 4, 4 of class 3, 5 of class 2, 6 of class 1, 4 at $1,000 each, 1 $900; messenger; 2 assistant messengers; in all, $42,180.

Mr. COX of Indiana. Mr. Chairman, I move to strike out the last word, for the purpose of getting some information from the chairman of the committee. The Committee on Expenditures in the Treasury Department last summer had considerable investigation in sifting out the contingent funds which Congress appropriated and gave to the Secretary of the Treasury for the purpose of improving conditions in the department. With a part of those funds the Secretary employed a firm in Chicago, I believe by the name of Young & Co., if I recollect correctly. They went through the Treasury Department rather carefully, and that committee recommended the abolishment of this Appointment Division, and I am not sure but what some committee formulated and prepared by the Secretary himself—I mean the employees of the department who were made members of the committee—recommended the same thing. I would like to ask the chairman of the committee now whether or not the committee of which he is a member has investigated that question, with a view of seeing whether or not there is any necessity for the maintenance of this bureau in the Treasury Department, or, in other words, whether it can be abandoned without crippling the service?

Mr. JOHNSON of South Carolina. This division is a very important one, I will say to the gentleman from Indiana. A great number of the people who are employed by the Government are bonded. A large number are under heavy bond. Now, this division not only appoints, sifts out in the various bureaus, and makes these formal appointments, but it keeps the bonds of all these officials. I would say frankly, while we have not directed any special investigation toward the abolishment of this particular division, the Treasury Department has shown such a determination to do away with useless employees and to abolish useless divisions that we have felt inclined to grant them within the bounds of reason what they did ask for. I think that the Treasury Department has reduced the force something like 700 people.

Mr. COX of Indiana. That is true.

Mr. JOHNSON of South Carolina. I do not know how many divisions have been abolished and consolidated, but no information has been brought to the committee that would justify the curtailing of any force for which they have asked.

Mr. COX of Indiana. Well, I desire to know whether or not the committee has made any inquiry along that line?

Mr. JOHNSON of South Carolina. We have not made any specific inquiry as to whether this division should be abolished, and particularly for the reason that the department shows such earnest efforts to do away with useless places.

Mr. COX of Indiana. One of the chief objections that I have observed to this division, as far as I am personally concerned, is, it seems to me, it serves as a rather circuitous route through which employees are procured for the department. If I understand the workings of the machinery in this bureau, if an application is made for an employee that application is made to the appointment division. The appointment division then calls upon the Civil Service Commission, and the Civil Service Commission makes its recommendations to the appointment division, and the appointment division fills the place that may be requested by the department. I was under the impression, while our committee had that matter under investigation, that so far as that part of the work was concerned it could be better served by the heads of the departments themselves than to have it go through the circuitous route that it now takes.

Mr. MANN. Will the gentleman yield?

Mr. COX of Indiana. I do.

Mr. MANN. Is not it a fact that the appointment division keeps the roster of the employees of the whole department, and that all promotions and every change in position goes through the appointment division?

Mr. COX of Indiana. That is true; and for that very reason before our committee last summer there was some very stringent criticism on it.

Mr. MANN. That may be.

Mr. COX of Indiana. And the criticism that seemed to our committee pertinent was, as I recall it now—it has been some time since I refreshed my memory on it—that the appointment division did not know the employees who really were entitled to promotion as well as the chiefs of bureaus themselves did.

Mr. MANN. As I understand, the chiefs of the bureaus make their recommendations, the matter is taken up by the appointment division, and questions in reference to efficiency are considered, and the appointment division lays those matters before the Assistant Secretary of the Treasury who has charge of those matters. The gentleman knows that Mr. Lyman, who is at the head of this division, was formerly Civil Service Commissioner under Mr. Cleveland?

Mr. COX of Indiana. And that very reason is what brought on some considerable criticism.

Mr. MANN. No doubt there has been a good deal of criticism of the appointments of the division, but I think it was because it was not responsive enough in the opinion of certain gentlemen to political pressure.

Mr. COX of Indiana. The criticism was that when a recommendation was made to the chief of the bureau to this appointment division for promotion, sometimes the recommendation would be turned down by the appointment division, and that brought about some considerable criticism before our committee.

Mr. MANN. The gentleman understands that in many of these places it is almost impossible for the head of the division to determine in reference to the appointment without its going through somebody else's hands, of course. I do not know whether the appointment division is necessary or not. I do not see how the appointment division could be maintained in control of that part of it without having control of the calling upon the Civil Service Commission for original appointments.

Mr. COX of Indiana. That is what I recollect as being the chief criticism so far as that was concerned. This appointment division, if I recollect, has something to do with the collection of internal revenue or the payment of salaries in the internal-revenue department. Is that correct?

Mr. JOHNSON of South Carolina. The division of appointments under the order of the Secretary of the Treasury audits the accounts of the customs service, which amount to $10,000,000 a year.

Mr. COX of Indiana. When you speak of the auditing of the accounts, that is the auditing of the salaries of the employees in the service?

Mr. JOHNSON of South Carolina. And other expenditures. The total expenditures of the customs service, amounting to $10,000,000, are audited in this division.

Mr. COX of Indiana. Did the gentleman have any thought in this connection, whether this particular branch of that work would not be better served by turning it over to the customs department of the Government?

Mr. JOHNSON of South Carolina. During the last Congress the question of auditing the claims against the Government received very careful consideration at the hands of the Committee on Appropriations, because we found in many of the disbursing offices of the Government an auditing system had grown up. In other words, disbursing officers had gathered around them a sufficient force to transpose an ordinary disbursing office into an auditing office. So we went into the question of administrative audit with the departments of the Government, and in the last legislative bill provided there should be an administrative audit and that the disbursing officers should discharge the functions of disbursing officers. And we think we saved a great deal. And this since the last session of Congress has been the division that gives the administrative audits of the customs service.

Mr. COX of Indiana. I will state to the Chairman what was said. I do not know anything about it. I am simply asking for information. The criticism came from Mr. Young, expert accountant, that it should be abolished, and that it would effect an economy of $40,000. And then another criticism came because of the circuitous route through which these appointments were made, and that the auditing in the payment of accounts growing out of the Internal-Revenue Service was in the customs service itself, but I do not know. I am stating now my recollection that some of the committee down there—I think a committee of five, or two out of three—reported at one time that it should be abolished, but I think the gentleman is right in saying that the Secretary himself did not approve of that committee of three. At least, if I recall correctly, his spokesman, if I remember right, Mr. Wilmeth, said it would not bring about any economy. So I simply wanted to get the gentleman's opinion about it, and as to whether they had looked into it with the view of abolishing it.

The Clerk read as follows:

The services of skilled draftsmen, and such other technical services as the Secretary of the Treasury may deem necessary, may be employed only in the Division of Revenue-Cutter Service in connection with the construction and repair of revenue cutters, to be paid from the appropriation "Repairs to revenue cutters": *Provided*, That the expenditures on this account for the fiscal year 1914 shall not exceed $3,400. A statement of the persons employed hereunder, their duties, and the compensation paid to each shall be made to Congress each year in the annual estimates.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] reserves a point of order on the last paragraph read by the Clerk.

Mr. MANN. I do not expect to make the point of order. This provision, apparently, is contemplated to remain as per-

manent law, except the proviso. I do not know, but ordinarily a provision of this sort in the bill would apply only to the fiscal year in which the appropriation is made, and you limit that to $3,400. That is all right. Then you go ahead with a provision that "a statement of the persons employed hereunder, their duties, and the compensation paid to each shall be made to Congress each year in the annual estimates." That would seem to contemplate a permanent provision of law, without any limitation in it at all, because the limitation of amount applies only to the fiscal year ending June 30, 1914. Do you want to make a provision of this sort, which has no limitation in it at all?

Mr. JOHNSON of South Carolina. Mr. Chairman, I would say that that contemplates an annual appropriation under the Chief of Engineers.

Mr. MANN. I understand that. They have some work. They are constructing some revenue cutters.

Mr. JOHNSON of South Carolina. They have some construction work to do in connection with the Revenue-Cutter Service. The gentleman who appeared before the committee—whether an Army officer or otherwise I am not sure——

Mr. MANN. He is not an Army engineer. I suppose it was the chief of the Revenue-Cutter Service.

Mr. JOHNSON of South Carolina. He said that the plans must be made.

Mr. MANN. I am calling the attention of the gentleman from South Carolina to this proviso, limiting the amount to be expended to $3,400. But if this is a permanent provision of law, then there is no limitation hereafter.

Mr. JOHNSON of South Carolina. It is just like the provision that has been in the bill for 25 years. It is a lump-sum appropriation, and we require them to specify in each bill how much they have.

Mr. MANN. Is this in the current law?

Mr. JOHNSON of South Carolina. A similar provision is found elsewhere in the bill under the Chief of Engineers.

Mr. MANN. Here is the point about this: An item similar to this occurs in various branches of the service, where it is necessary to have it every year; but it is not necessary to have this every year in the Revenue-Cutter Service, I think.

Mr. JOHNSON of South Carolina. If they do not ask for it, we shall not appropriate it.

Mr. MANN. You do not have to appropriate at all. You have that permanent provision of law here, which does not require any appropriation. That is what I am calling to the gentleman's attention—that it is wholly outside the control of the Committee on Appropriations. If the policy of the committee is to expect to cover this every year, it is immaterial to me; but if you do not put this item in every year, mind you, and there were any appropriations for the repair of revenue cutters, they could transfer just as much as they pleased, because there is no limitation upon it.

Mr. JOHNSON of South Carolina. I will read to the gentleman what Mr. Allen said about it. He said:

In January, 1912, we abolished an office in Baltimore in which we had a draftsman, an assistant draftsman, and a clerk. They were handling the drafting work connected with repairs of revenue cutters. We thought we could do without them, but after trying it we find we can not. This new provision is drawn to correspond with one which appears in the naval appropriation bill each year. It will permit us to pay not to exceed $3,400 for drafting and other services in connection with revenue-cutter work.

Mr. JOHNSON. There is no increase in the appropriation?

Mr. ALLEN. No increase. It simply enables us to expend from the appropriation for repairs this amount of money, which is required in making blue prints and kindred work. I do not think the work will be continuous or that we will have to spend $3,400. We ask that because it was what it approximately cost us in Baltimore.

Mr. MANN. Well, he says he does not think the work will be continuous. Mr. Allen did not explain to you the real reason. I will. Probably he did not think about it, or was not aware of it; I do not know. But under the law appropriations for the construction of revenue cutters can not be used for the payment of employees in the District of Columbia for this kind of work. The money could be used over in Baltimore and the office was over in Baltimore. Then they brought the office over here, and it is very proper that the amount necessary for the repair of vessels of the Revenue-Cutter Service should be used for that purpose. But under your provision that goes into the permanent law. They do not have to ask you for it hereafter.

Mr. JOHNSON of South Carolina. The clerk to the committee, who understands these matters thoroughly, says that this item is identical with a number of others that we carry every year, and of course the gentleman from Illinois understands that this item will be carried from year to year, because, as I stated, this work was hitherto done in Baltimore and paid for out of appropriations for the Revenue-Cutter Service.

If we are going to use the money for the Revenue-Cutter Service in the District of Columbia there must be a specific authorization to that effect in order to make it law. Now, if they determine to dispense with the services of anybody in the city of Washington hereafter, then the estimates that come down to the Congress will not contain that item.

Mr. MANN. I think I will try to make myself more clear to the committee. Two or three years ago we made an appropriation for two new revenue cutters, with a limitation of cost. That limitation of cost is supposed to cover all of this work. The office was maintained outside of the District of Columbia, and there was no authority to maintain anybody inside of the District of Columbia for that work, except by specific authority of Congress. Now, under this provision hereafter, if it remains permanent law, whatever the Committee on Appropriations may do, the limit of cost will not cover the services of skilled draftsmen and other technical services in connection with the construction of these new revenue cutters, but that will be paid out of the appropriation for repairs to the revenue cutters. That is not a very desirable thing to do. However, I withdraw the point of order.

The CHAIRMAN. The gentleman from Illinois withdraws the point of order. The Clerk will read.

The Clerk read as follows:

Division of Mail and Files: Superintendent of Mail, $2,500; registry clerk, $1,800; distributing clerk, $1,400; clerks—1 of class 2, 1 of class 1, 1 $1,000; mail messenger, $1,200; 2 assistant messengers; messenger boy, $300; in all, $12,300.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on the paragraph. I desire to inquire of the chairman of the committee why you increased the mail messenger's salary from $1,000 to $1,200?

Mr. JOHNSON of South Carolina. His salary was $1,200. In submitting the estimates for the present fiscal year, by a mistake made by somebody, the estimate was made to call for a salary of only $1,000. We provided in the law for the present year that his salary should be $1,000, thereby reducing the salary $200 on account of the mistake in the estimates.

Mr. FOWLER. But it is increased $200 in this bill.

Mr. JOHNSON of South Carolina. As I have said, his salary for last year was $1,200. The Treasury Department, in sending the estimates to Congress, called for a salary for this man of $1,000, reducing the salary $200 by inadvertence. The committee made the appropriation for the current year only $1,000. It was purely a mistake, and we are simply putting the salary back to what it formerly was and to what it was intended to be.

Mr. FOWLER. I withdraw the point of order.

The CHAIRMAN. The gentleman from Illinois withdraws the point of order, and the Clerk will read.

The Clerk read as follows:

Office of the Supervising Architect: Supervising Architect, $5,000; executive officer, $3,250; technical officer (in lieu of chief, technical division, transferred from salary roll, sundry civil act), $3,000; drafting division—superintendent (in lieu of chief constructor), $3,000; assistant superintendent (in lieu of assistant constructor, transferred from salary roll, general expenses, sundry civil act), $2,750; superintendent, computing division (in lieu of chief computer), $2,750; mechanical engineering division—superintendent (in lieu of chief mechanical and electrical engineer), $2,750; assistant superintendent (in lieu of mechanical engineer acting as assistant chief mechanical and electrical engineer, transferred from general expenses, sundry civil act), $2,400; structural division—superintendent (in lieu of chief structural engineer, transferred from salary roll, general expenses, sundry civil act), $2,750; assistant superintendent (in lieu of assistant chief structural engineer, transferred from salary roll, general expenses, sundry civil act), $2,400; superintendent, repairs division (in lieu of architectural draftsman, acting as chief, repairs division, transferred from general expenses, sundry civil act), $2,400; superintendent, accounts division (in lieu of chief of accounts division), $2,500; superintendent, maintenance division (in lieu of chief of maintenance division), $2,500; files and records division—chief, $2,500; assistant chief (transferred from salary roll, general expenses, sundry civil act), $2,250; head draftsman (in lieu of principal draftsman, transferred from general expenses, sundry civil act), $2,500; inspectors—5 at $2,300 each (transferred from salary roll, general expenses, sundry civil act), 4 at $2,190 each, 3 at $2,000 each (transferred from salary roll, general expenses, sundry civil act), 2 at $1,800 each (1 transferred from salary roll, general expenses, sundry civil act); inspectors of supplies—1 at $2,300 (transferred from salary roll, general expenses, sundry civil act), 1 $1,800 (transferred from salary roll, general expenses, sundry civil act); administrative clerks—6 at $2,000 each (transferred from salary roll, general expenses, sundry civil act); technical clerks—4 at $1,800 each; clerks—8 of class 4, additional to 1 of class 4 as bookkeeper, $100; 4 at $1,700 each, 13 of class 3, 6 at $1,500 each, 13 of class 2, 8 at $1,300 each, 13 of class 1, 4 at $1,100 each, 6 at $1,000 each, 3 at $900 each, 2 at $840 each; photographer (transferred from salary roll, general expenses, sundry civil act), $2,000; foreman, duplicating gallery, $1,500; 2 duplicating paper chemists at $1,200 each (1 transferred from salary roll, general expenses, sundry civil act, and 1 formerly clerk of class 1); foreman, vault, safe, and lock shop (transferred from salary roll, general expenses, sundry civil act), $1,100; 4 messengers; 2 assistant messengers (1 transferred from salary roll, general expenses, sundry civil act); messenger boys—3 at $480 each (transferred from salary roll, general expenses, sundry civil act), 2 at $360 each (transferred from

salary roll, general expenses, sundry civil act); skilled laborers—4 at $1,000 each (transferred from salary roll, general expenses, sundry civil act), 7 at $960 each (transferred from salary roll, general expenses, sundry civil act), 1 $900 (transferred from salary roll, general expenses, sundry civil act), 1 $840 (transferred from salary roll, general expenses, sundry civil act); laborers—1 $660, 1 $600 (transferred from salary roll, general expenses, sundry civil act); in all, $235,920.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

Mr. FOWLER. I desire to reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] reserves a point of order.

Mr. MANN. Perhaps we had better dispose of the point of order first.

Mr. JOHNSON of South Carolina. Does the gentleman make the point of order?

Mr. FOWLER. No; I do not make the point. I reserve it.

Mr. JOHNSON of South Carolina. It is not subject to a point of order, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois has not stated the ground of his point of order.

Mr. FOWLER. I reserved the point of order. I did not want to take the floor away from the gentleman from Illinois [Mr. MANN].

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is no longer seeking the floor, and the Chair was trying to settle the point of order. What is the point of order?

Mr. FOWLER. I desire to know the reason for the increases of various salaries in this paragraph.

Mr. JOHNSON of South Carolina. There is not an increase of a salary in the paragraph. Heretofore a certain part of the force in the Supervising Architect's Office has been paid out of appropriations made in the legislative bill and another part of his force was paid out of appropriations made in the sundry civil bill. The last sundry civil act required that hereafter all persons who were paid out of the lump sums in the sundry civil bill shall be appropriated for in the legislative bill. So we have simply consolidated the two forces, as we are required to do by law. Not a single additional person has been provided for and not a single salary has been increased. They asked us to do both, both of which we refused to do.

Mr. FOWLER. In line 19, page 38, I see that the salary of the drafting superintendent is $3,000, and it was carried in the last bill at $2,750.

Mr. JOHNSON of South Carolina. The gentleman will find, if he examines that item, that the superintendent carried in this bill is the chief constructor, who was paid $3,000.

Mr. FOWLER. Yes; but there was a drafting division, and the superintendent thereof in the last bill was paid a salary of $2,750.

Mr. JOHNSON of South Carolina. The amount that is carried here at $3,000 is carried in the last bill at $3,000 under the words "chief constructor."

Mr. FOWLER. Then on the same page, line 21, under a heading of "General expenses," there was transferred from the salary roll one of the assistants who was drawing $2,500, and under this appropriation in this bill he is given $2,750.

Mr. JOHNSON of South Carolina. He was carried in the last bill as an assistant constructor at $2,750, just what we have given him here.

Mr. FOWLER. In the other bill it was an assistant superintendent, and he only drew $2,500. Now it is proposed to give him $2,750.

Mr. JOHNSON of South Carolina. There is the law on page 202, assistant constructor, $2,750.

Mr. FOWLER. And here he is assistant superintendent.

Mr. JOHNSON of South Carolina. He was carried in the last bill under the words "assistant constructor." We call it assistant superintendent instead of assistant constructor, but I state to the gentleman from Illinois that we have not changed a single salary in the paragraph.

Mr. FOWLER. Then how does the gentleman account for the increased appropriation?

Mr. JOHNSON of South Carolina. There is no increase.

Mr. FOWLER. In the last bill it was $228,620 and now it is $235,920, according to this bill.

Mr. JOHNSON of South Carolina. I thought I had explained to the gentleman that there were two forces in the Supervising Architect's Office; one part of the force was paid out of appropriations in this bill—the legislative bill—and the other part of the forces was paid out of appropriations in the sundry civil bill. The last sundry civil bill required that these forces should be consolidated, and that hereafter they should all be carried specifically in the legislative bill. So that this bill now before the committee carries two forces that have hitherto been carried in that office under the two appropriations. But I state to the gentleman that not a single dollar is added to any salary and not a single person is added to the force.

Mr. FOWLER. Mr. Chairman, with the explanation given, I withdraw the point of order.

Mr. MANN. Mr. Chairman, as a matter of information I want to ask the gentleman a question or two. On page 39, at the end of line 3, commences the item "Structural division—superintendent (in lieu of chief structural engineer transferred from salary roll, general expenses, sundry civil act), $2,750." As a matter of fact, that man is not transferred from the sundry civil roll, is he? Is he not the same as the structural engineer carried in the appropriation bill?

Mr. JOHNSON of South Carolina. They were paid out of a lump sum. They were specifically appropriated for in the sundry civil bill while a great many were paid out of a lump sum.

Mr. MANN. But we specifically provided for them in the legislative bill.

Mr. JOHNSON of South Carolina. Not in this particular.

Mr. MANN. I do not know where you will find anybody that corresponds to the chief structural engineer carried in the legislative bill.

Mr. JOHNSON of South Carolina. He is paid out of a lump-sum appropriation, outside of these two rolls, and he is brought into this bill.

Mr. MANN. Who draws a salary of the present chief structural engineer and the assistant structural engineer?

Mr. JOHNSON of South Carolina. I do not know any individual in the Supervising Architect's Office.

Mr. MANN. I do not mean the individual. We have here a chief structural engineer at $2,750 and an assistant structural engineer at $2,400, and these are the identical places carried in your bill, under the head of "Structural division—superintendent (in lieu of chief structural engineer transferred from salary roll, general expenses, sundry civil act), $2,750, and assistant superintendent (in lieu of assistant chief structural engineer transferred from the salary roll, general expenses, sundry civil act), $2,400." You say they are transferred from the sundry civil list when they are not.

Mr. JOHNSON of South Carolina. I will say to the gentleman from Illinois that the estimates that came down from the Treasury Department in regard to the consolidation of these two forces was the most complicated thing I ever saw, and the most competent man in Washington—and the gentleman knows to whom I refer—spent several days in unraveling it and getting all the men fixed.

I am perfectly satisfied, and I state it without any hesitation, that this bill as it is now written provides for every man who is provided for in the previous bills and does not provide for any more.

Mr. MANN. I think that is correct. I am not disputing that, but while a very competent man—the competent man—has been over this, still I take the liberty of making a correction even to him. This bill erroneously states that these two places are transferred from the salary roll of the general expense under the sundry civil act, whereas, as a matter of fact, they are both provided for by the current legislative appropriation bill and are not paid out of the sundry civil general expense account at all.

Mr. Chairman, I understand that the point of order was withdrawn.

The CHAIRMAN. The point of order has been withdrawn.

Mr. MANN. Mr. Chairman, I move to strike out the last word. As I understand, this, to a certain extent, remodels the office of the Supervising Architect. Of course, it is true it only brings together men who are paid out of different rolls. What information is the gentleman able to give the House with reference to the progress which the Supervising Architect's Office is making concerning that highly mooted question of the construction of public buildings heretofore authorized? I think it is due to the House that we be informed now what progress is being made by the Supervising Architect's Office, because I take it that we will soon again be up to the question of whether it is necessary for the House, in order to aid the public business in other matters, to pass a new bill providing for additional public buildings.

Mr. JOHNSON of South Carolina. Mr. Chairman, in the interest of my friends who are concerned in public buildings, I inquired of the Supervising Architect, or of some other authority, what progress they were making under the new regulations in regard to using old plans in part, and he stated that without increasing the force they would be able to get out plans much more rapidly than they had hitherto.

Mr. MANN. How many buildings have been already authorized, plans for which have not yet been prepared or begun?

Mr. JOHNSON of South Carolina. I can not answer that question, but quite a number of buildings have been authorized for which no plans have been begun.

Mr. MANN. Are there as many as several hundred?

Mr. JOHNSON of South Carolina. I think there are probably 200 or more.

Mr. MANN. Is the gentleman able to say whether, with the appropriation that is made here, the Supervising Architect's Office will be able to prepare the plans for the buildings already authorized within the next fiscal year?

Mr. JOHNSON of South Carolina. No. He stated that they had been preparing about 90 plans a year, but that under the changed conditions they would be able to get out about 110 with the same force.

Mr. MANN. I take it, then, that the gentleman does not consider it absolutely necessary at this time to authorize the construction of new buildings, except those that may be in the nature of emergencies?

Mr. JOHNSON of South Carolina. I think there are many things of far more pressing importance to this country than the construction of new buildings.

Mr. MANN. I was in hopes that we might get some observation from some member of the Committee on Public Buildings, but I suppose they are so busily engaged in attending to the ordinary duties of that committee, at the committee room, that they are not able to be present on this floor at this time, because I do not see any of them here.

The Clerk read as follows:

Office of Comptroller of the Treasury: Comptroller of the Treasury, $6,000; Assistant Comptroller of the Treasury, $4,500; chief clerk, $2,500; chief law clerk, $2,500; nine law clerks revising accounts and briefing opinions—one $2,100, eight at $2,000 each; expert accountants—six at $2,000 each; private secretary, $1,800; clerks—eight of class four, three of class three, one of class two; stenographer and typewriter, $1,400; typewriter-copyist, $1,000; two messengers; assistant messenger; laborer; in all, $73,460.

Mr. COX of Indiana. Mr. Chairman, I reserve the point of order on that portion of the paragraph touching the salary of the Comptroller of the Treasury, $6,000. My recollection is that the law creating the office fixed that salary at $5,500, and that his salary was increased, probably at the close of the Sixty-first Congress, by an appropriation committee. I would like to ask the chairman of the committee whether or not he thinks a salary of $6,000 is really due that office?

Mr. JOHNSON of South Carolina. Mr. Chairman, I believe the salary is fixed by law at $5,500. It has been increased not by this committee but by some former Congress.

Mr. COX of Indiana. At the close of the Sixty-first Congress, I think, it was increased.

Mr. JOHNSON of South Carolina. This committee is simply carrying the amount that has been carried. The man who is at the head of that department is a very important man. He is one of the most powerful men connected with the Government so far as the expenditure of the public money is concerned. He must pass upon and construe every act of Congress that authorizes public expenditure, and this committee did not feel justified in undoing what a former Congress had done.

Mr. COX of Indiana. Was the gentleman from South Carolina a member of the Appropriations Committee when this increase was given him?

Mr. JOHNSON of South Carolina. No.

Mr. COX of Indiana. Simply followed the current law of the previous year. That is my understanding of it.

Mr. JOHNSON of South Carolina. Yes.

Mr. COX of Indiana. What does the gentleman really feel as to whether or not the office is worth $6,000?

Mr. JOHNSON of South Carolina. Well, I think it takes one of the best lawyers connected with the Government service to fill it well.

Mr. COX of Indiana. I quite agree with the gentleman on that. It is a very responsible position, but I do not agree with the plan of increasing the salary in this way on an appropriation act.

Mr. JOHNSON of South Carolina. We have not increased it; we took it as we found it. Of course, it is subject to the point of order.

Mr. COX of Indiana. And I agree the gentleman's committee has not increased it, but it has been increased. Does the gentleman feel it ought to be $6,000?

Mr. JOHNSON of South Carolina. Well, I think that the man in that place now has certainly earned $6,000. I do not know who the next man will be. It is a very responsible position.

Mr. COX of Indiana. What I am trying to get at—perhaps I am not putting it to the gentleman in a fair way and manner—is whether or not he feels the salary of $6,000 is commensurate with his responsibility.

Mr. JOHNSON of South Carolina. Well, certainly a man filling an office of that responsibility ought to have that amount of salary, and I should not care to fill it at all; the responsibility is too great.

Mr. COX of Indiana. Mr. Chairman, I will withdraw the point of order, then.

The Clerk read as follows:

Office of Auditor for War Department: Auditor, $4,000; assistant and chief clerk, $2,250; law clerk, $2,000; chief of division of accounts, $2,500; chief of division, $2,000; 2 assistant chiefs of division, at $1,900 each; chief transportation clerk, $2,000; clerks—22 of class 4, 40 of class 3, 62 of class 2, 50 of class 1, 9 at $1,000 each, 3 at $900 each; skilled laborer, $900; messenger; 5 assistant messengers; 10 laborers; messenger boy, $480; in all, $307,470.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on this paragraph. I desire to inquire of the chairman of the committee, on page 42, line 1, what is the necessity for two assistant chiefs of divisions at $1,900 each, and also chief transportation clerk at $2,000? All three of these positions are new.

Mr. JOHNSON of South Carolina. Those are new positions, Mr. Chairman. I want to say, if the gentleman desires to make a point of order against this item, that it is subject to the point of order; but I also want to call his attention to the fact that the appropriations for this particular office were reduced in the last year from $336,750 to $310,070, or a reduction in round numbers of $26,700, and 21 people were dropped. There was a saving of $26,000 and the services of 21 people were dispensed with. Now, as I have said on this floor before, and I repeat now, this department has shown such a commendable zeal in trying to reduce expenditures and to do away with useless employees that when we find them coming back here and asking us for a small increase of salary we feel like giving it to them.

Mr. FOWLER. Well, Mr. Chairman, I commend the gentleman's committee for its great work of retrenchment, but I thought that the work had been done by the force that is already provided for in the last legislative bill. Now here is an increase of three new positions over that of the last bill.

Mr. MANN. Is not there a reduction in this bill from two chiefs of division at $2,000 to one chief of division?

Mr. JOHNSON of South Carolina. Yes; we drop out one man. We only have one in this bill.

Mr. MANN. There are two in the current law and one in this bill.

Mr. FOWLER. But in this bill there are two assistant chiefs of division.

Mr. MANN. There were two in the current law at $2,000—that is, chiefs of division—and there is only one in this bill.

Mr. FOWLER. This is current law.

Mr. MANN. In the current law there are two chiefs of division at $2,000 and in this bill there is only one.

Mr. FOWLER. I am speaking of assistant chiefs of division.

Mr. MANN. At $1,900? I say they had two chiefs of division and they cut out one and there is only one additional office.

Mr. FOWLER. There were two transportation clerks?

Mr. MANN. No; there were two chiefs of division, and instead of that they drop one and make two assistant chiefs. I would like to say a word about the transportation clerks; I do not know anything about this item.

Mr. FOWLER. I wanted to ascertain the use for this transportation clerk. It seems to be an entirely new position.

Mr. MANN. If the gentleman will permit, for several years, at different times, I have taken up with the War Department the question of the railroad rates paid by that department for transportation. Of course, it is a very complex matter to figure out the railroad rates so as to get the best where you are shipping stuff throughout the United States. I have called the attention—because, I suppose, of my connection with the Committee on Interstate and Foreign Commerce so long on railway matters—of the War Department a number of times to the fact that in some cases the rates that were being paid for freight were probably higher than ought to be paid to secure transportation between two points, although I will say that the transportation branch of the War Department is, I think, exceedingly efficient. But the War Department is shipping both personnel and freight in very large amounts throughout the United States. It becomes extremely important to know whether we get the best rate that is practicable. When these items are passed upon by the War Department they must be audited in the Office of the Auditor for the War Department, and it is extremely important that we have a very efficient force in the auditor's office so that, if improperly or unnecessarily, the War

Department starts in to allow a higher rate of transportation or ships freight over a route where the expense is greater, they will be called down by the auditor's office.

Mr. COX of Indiana. Will the gentleman yield for a question?

Mr. MANN. Certainly.

Mr. COX of Indiana. I do not know whether the gentleman has investigated this phase of the subject or not, nor do I know whether my information is accurate or not, but I have received information to this effect: For instance, the War Department would buy a carload of salt in New York City and ship it to Fort Sam Houston, Tex., where the freight during that haul would actually cost as much or more than the salt would cost; have you ever had occasion to investigate that question?

Mr. MANN. I think that is not the case, but I think this has happened: For instance, when the troops were ordered to Texas a year or two ago, or whenever it was, I ascertained that there was considerable freight shipped from the various Army posts to Texas, where probably the expense of the freight, together with the original cost, were far greater than would have been the expense of purchasing the material in Texas. Here was the case: The War Department had contracted to purchase, perhaps, hay to be delivered to Fort Sheridan, Chicago. They had purchased a lot of hay, and they had a lot of hay on hand. They had a contract agreeing to take a certain amount of it. Now, that was transferred in various ways to Texas, certainly at some higher expense than would have been the case if they had purchased the hay in Texas, but relieving the Government from responsibility under its contract for failure to carry it out and dispose of the material, which otherwise might have had to be sold at second hand: I investigated that matter in the Quartermaster General's Office, and have been over this freight matter with his office a number of times. It is a very complicated proposition.

Mr. FOWLER. Who has been discharging the duties of this transportation clerk heretofore?

Mr. MANN. Really I am unable to furnish my colleague information on this subject concerning the auditor's office. I do not know. My communications and work have been in connection with the Quartermaster General's Office, which incurred the original liability, but these accounts all have to be audited in the auditor's office. I say it is extremely important that there be an efficient force there, because any mistake that may be made in the Quartermaster General's Office will be corrected in the auditor's office. I do not know who occupies the place, nor am I familiar with the force in the office which has to do with that subject.

Mr. FOWLER. I can not understand the use of a transportation clerk in this department.

Mr. MANN. Well, this transportation clerk, I suppose—certainly of the office—has to audit all the freight bills of the War Department, an extremely complicated proposition. If the War Department wants to ship freight from Chicago to Omaha, or from Chicago to Texas, or anywhere else throughout the country, first you have the land-grant railroads that have to be taken into consideration, where you get a cheaper rate of freight. Then perhaps it is cheaper to ship by one route than another. Then there is a quarrel all the time as to classification of freight, and the War Department succeeds every once in a while in having the classification changed in the interest of the Government, and, on the other hand, the railroads are frequently seeking to change the classification of freight so as to put freight in a higher classification and charge more. Now, all these cases have to be figured out by the auditor's office as well as by the Quartermaster General's office, because the auditor has to audit these claims.

Mr. JOHNSON of South Carolina. I will give the gentleman in concrete form just what the difference is between the proposed bill and the current law. In the office of the Auditor for the War Department an assistant and chief clerk at $2,250, is provided for instead of a chief clerk and chief of division at the same salary; a chief of division, at $2,000; two assistant chiefs of division, at $1,900 each; and a chief transportation clerk, at $2,000, are provided for instead of two chiefs of division, at $2,000—that is one of these men who is taken care of under another designation—and two clerks, at $1,800 each; and a reduction is made of one clerk, at $1,000, and two clerks, at $900 each, so that the appropriation in this bill is $307,470, while in the current law it is $310,070.

Mr. FOWLER. I know.

Mr. JOHNSON of South Carolina. We reduced that office $26,750 this year below the figures of last year, and notwithstanding these slight changes here we are reducing it this year about $3,000.

Mr. FOWLER. You reduced the number of clerks in class 4 from 24 to 22?

Mr. JOHNSON of South Carolina. Yes. They get $1,800 each.

Mr. FOWLER. And you reduced from 10 to 9 the number of clerks drawing $1,000 each, and from 5 to 3 the number of clerks drawing $900 each?

Mr. JOHNSON of South Carolina. Yes, sir.

Mr. FOWLER. I congratulate the gentleman on the good service, but I could not understand the reason for this chief transportation clerk especially, and I do not yet.

Mr. JOHNSON of South Carolina. The gentleman from Illinois [Mr. MANN] has explained to his colleague that the transportation question is a very large question with the United States Government, and particularly with the War Department.

Mr. FOWLER. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The point of order is withdrawn. The Clerk will read.

The Clerk read as follows:

For compensation on a piece-rate basis, to be fixed by the Secretary of the Treasury, of such number of employees as may be necessary to tabulate by the use of mechanical devices the accounts and vouchers of the postal service, $166,960.

Mr. MANN. I reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] reserves a point of order on the paragraph.

Mr. MANN. I understand we authorize the Auditor for the Post Office Department to employ the piecework system in that office at least to a certain extent. How far is it expected that the piecework system is to be inaugurated in the auditor's office and other branches of the Government service, and what is the occasion for departing from the principle that the Government has maintained, as a rule, at least certainly in Washington, of employing competent people to work a certain number of hours a day, without starting in on the principle which is condemned generally by people of having people do work on the piecework basis?

Mr. FOSTER. May I inquire of my colleague whether under this a lump sum is given?

Mr. MANN. Yes.

Mr. FOSTER. And then the Auditor for the Post Office Department or the Secretary of the Treasury fixes the amount that should be paid for this piecework?

Mr. MANN. Of course they fix the amount. As I understand, this is done with machinery now. This is the work of tabulating money-order returns and money orders, I suppose. But is there a good reason for our starting in to establish the piecework system in the Government service? I think we have not done it in the Census Office, although the work there is very similar.

Mr. FOSTER. Is it the gentleman's idea, then, that in operating these machines they should be operated by persons who are employed on a yearly salary instead of by the piecework system?

Mr. MANN. Yes; that is on one side of it, and the piecework system is on the other side.

Mr. FOSTER. Is it possible that these machines are not operated continuously, and for that reason it might be more convenient and economical to use the piecework system?

Mr. MANN. Oh, no. These machines are operated just as continuously as machines in any other branch of the service are operated. This is the operating work, I understand, of the money-order division, work formerly done by hand under a very poor and long-drawn-out system. This introduces the machine-tabulation system, a very desirable thing to do. But why is it necessary to introduce the piecework system simply because we introduce the machines?

Mr. FOSTER. Like my colleague, I am trying to get some information. As I understand it, they use these tabulating machines in the Census Office.

Mr. MANN. They do not use these machines, but they do use tabulating machines.

Mr. FOSTER. Machines of this kind.

Mr. MANN. They use tabulating machines.

Mr. FOSTER. Are they on a piecework basis?

Mr. MANN. I think not. I do not know whether any of them are. Personally, I doubt the desirability of introducing the piecework basis in the departmental service.

Mr. FOSTER. What is the objection?

Mr. COX of Indiana. What is the objection to putting them on a piecework basis?

Mr. MANN. We have had discussed here and elsewhere, for instance, the Taylor efficiency system.

Mr. COX of Indiana. This does not apply to the Taylor efficiency system, does it?

Mr. MANN. No; but this applies the Taylor efficiency system to us. The inevitable result, where people work upon a piece basis, is that they strain themselves in doing the work, or many of them do, and, as a rule, work that can be fairly measured and compensated by day work is not put on the piece basis and ought not to be.

Mr. COX of Indiana. I take it when the gentleman says they strain themselves in doing piecework that they do it because the more work they do the greater is their pay?

Mr. MANN. Certainly.

Mr. FITZGERALD. I do not believe that is the objection to piecework among mechanics. The objection that labor organizations have had to the piecework system has been that after the rate per unit had been fixed, especially skillful men, who are known as pacemakers, are able to earn what the people in control of the establishment consider to be more than a man in their position of life ought to be paid, and they regulate the rate per unit upon the ability of the pacemaker, so that the average man and the man a little below the average is unable to earn reasonable compensation for his work. That is the objection that mechanics and labor unions usually have to the piecework system.

Mr. MANN. The gentleman is correct, but I did not quite finish my statement. Some people absolutely strain themselves under a piecework system, and through that and through personal adeptness are able to turn out a large amount of work. Others are told that they ought to be able to do as well. If they do as well, the result is a decrease in the compensation per piece, and if they do not do as well they are apt to be fired from the service.

Mr. BUCHANAN. I should like to ask the gentleman in charge of the bill. When did the Government establish a piecework system of this sort and why was it done?

Mr. JOHNSON of South Carolina. Piecework has been going on in this particular department for two or three years, I think. When the Auditor for the Post Office Department was before the Committee on Appropriations he was asking that annual leave be extended to people engaged in this piecework, and this bill extends it to them. This question was asked Mr. Kram:

Mr. GILLETT. Has this piece system worked well?

Mr. KRAM. It has been very satisfactory. An analysis of the pay rolls shows that the average compensation paid employees transferred from the salary roll to the piece-rate basis has been increased 15 per cent as a result of the transfer. On the other hand, the increased output of work has reduced the cost of key-punching cards from 24 cents per hundred to 15 cents per hundred, resulting in a net saving to the Government of approximately 36 per cent.

Mr. BAILEY. There was a decrease of $100,120 last year in that office.

So that under the piecework system, as it is in operation in the auditor's office, the employees have increased their earnings 15 per cent and the Government has had a saving of 36 per cent.

Mr. BUCHANAN. Is there any other reason? Is it due to the piecework system that this result has been obtained? I hardly see how the compensation of employees could be increased to that extent and the cost of the work reduced to that extent as a result of the piecework basis. It must be due to some new methods of doing the work or something of that kind.

Mr. JOHNSON of South Carolina. The labor-saving devices I have never seen, but these people are not complaining.

Mr. BUCHANAN. I am opposed to the Government establishing a piece-rate system without there is some special reason, because a piece-rate system, as a general thing, has proved to be to the disadvantage of the working people. Wherever it has been changed from piecework to day wages the employees as a rule are satisfied, and it has been at their request.

Mr. JOHNSON of South Carolina. I will call the gentleman's attention to the fact that we are not inaugurating the system.

Mr. BUCHANAN. There can be no good results from the piecework system.

Mr. FITZGERALD. This does not set a precedent. The Government pays on the piece-rate system in a number of departments. In the Government yards in a number of lines the mechanics were paid on a piece-rate basis. At first they were reluctant to have it established, but now they are heartily in favor of it. The reason is that the same changes and conditions were not common in Government employment that has been common in private establishments. It seemed to the committee that this was one of those exceptional cases in the auditor's office and the Post Office Department. This applies only to those employed on the auditing of the money-order receipts. The result has been that instead of taking nine months from the time the money order was issued to complete the audit they are now completed in about three months. I do not understand that there is any objection whatever on the part of the employees.

Mr. JOHNSON of South Carolina. We have heard no complaint whatever from any employee who is working on a piecework basis. There are many people so employed in the Government Printing Office, in the Bureau of Engraving and Printing, in the navy yard, and all through the Government service, and we have had no complaint.

The Clerk read as follows:

The Secretary of the Treasury may, during the fiscal year 1914, in his discretion, diminish the number of positions of the several grades below the grade of clerk at $1,000 per annum in the office of the Auditor for the Post Office Department and use the unexpended balances of the appropriations for the positions so diminished as a fund to pay, on a piece-rate basis, to be fixed by the Secretary of the Treasury, the compensation of such number of employees as may be necessary to tabulate, by the use of mechanical devices, the accounts and vouchers of the postal service.

Mr. FOSTER. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman for information in relation to tabulating machines, whether it is intended to purchase them or whether they are to be used by the Government for an annual rental?

Mr. JOHNSON of South Carolina. We buy some and we rent others. We are carrying in this bill—and have been carrying for a number of years—an item under the Census Office authorizing them to make experiments in developing calculating machines. In the taking of the last census we purchased outright and acquired many machines at very much less expense than 10 years before it had cost us to rent them. In 1900 it cost about $400,000 to rent the machines that were used in the tabulation of the census returns. In 1910, under this system of appropriating from year to year a small amount of money for developing these tabulating machines, we are able, for something over $300,000, to develop and buy the machines that were needed.

The machines that are used in the Census Office for the purpose of enumerating the population will be used in the Auditor's Office for the Interior Department in auditing pension checks.

Mr. FOSTER. Does the gentleman know about the value of those machines?

Mr. JOHNSON of South Carolina. No; I am not familiar with their value. I believe where we can not buy and must rent that the rental is excessive, and that is why the Government is trying to develop and improve machines.

Mr. FOSTER. The hearings show that $480 was paid as an annual rental for certain machines and $240 for others. Did the committee get any information as to the value of those machines?

Mr. JOHNSON of South Carolina. No; we have not the information to enable us to state accurately what one of these machines would be worth on the market if sold. Unfortunately they are not sold; they are protected by patents; and the owners refuse to sell and the Government is obliged to rent. In these cases I am satisfied that the rental is excessive.

Mr. FOSTER. Are there no other tabulating machines except these that they rent that are successful?

Mr. JOHNSON of South Carolina. There are many devices. I am not familiar with them, but all the time improvements are in progress.

Mr. FOSTER. There is no particular competition in reference to renting these machines, but the department, I suppose, selects the kind that they believe best adapted to the purpose.

Mr. JOHNSON of South Carolina. They select the machines best adapted to the purpose in hand.

Mr. FOSTER. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

Office of the Commissioner of Internal Revenue: Commissioner of Internal Revenue, $6,000; deputy commissioner, $4,000; deputy commissioner, $3,000; chemists—chief $3,000, 1 $2,500; assistant chemists—2 at $1,800 each, 1 $1,600, 1 $1,400; heads of divisions—4 at $2,500 each, 5 at $2,250 each; superintendent of stamp vault, $2,000; private secretary, $1,800; clerks—3 at $2,000 each, 31 of class 4, 27 of class 3, 41 of class 2, 40 of class 1, 32 at $1,000 each, 42 at $900 each; 4 messengers; 21 assistant messengers; 16 laborers; in all, $359,990.

Mr. FOWLER. Mr. Chairman, I reserve the point of order on this paragraph. I shall confine it to some specific parts. I desire to ask the chairman of the committee the necessity for creating a chief chemist and an assistant chemist?

Mr. JOHNSON of South Carolina. They are simply brought from another place.

Mr. FOWLER. But the chemist in the last appropriation bill drew only $2,500 a year. Then there was another chemist.

Mr. JOHNSON of South Carolina. If the gentleman will look at the copy of the law he has in his hand, he will find that last year there were three short paragraphs providing for

that force, and if he will look in the second paragraph he will find a chief chemist provided for at $3,000. It is simply a consolidation of all of them, and they are merged into one paragraph.

Mr. FOWLER. That may be true. I am inclined to think the gentleman is correct about that. I desire, however, to further ask why it is that there is an increase in the force.

The bill provides for "heads of divisions, four at $2,500 each." Last year there were provided only three at $2,500 each.

Mr. JOHNSON of South Carolina. We increased the force in that office by one clerk at $2,000, one clerk at $1,800, one clerk at $1,600, and the salary of the head of one division was increased from $2,250 to $2,500.

Mr. FOWLER. What was the occasion for that increase?

Mr. JOHNSON of South Carolina. The occasion for the increase in the office of the Internal Revenue Commissioner is that he has charge of the collection of many millions of revenue. The commissioner stated before the committee that within reasonable limitations for every dollar that we gave him he could increase the revenues many dollars.

Mr. FOWLER. Could he not increase it with a salary of $2,000 the same as with a salary of $2,500?

Mr. JOHNSON of South Carolina. We gave one man an increase of $250. Outside of that there is no increase in anybody's salary. We simply gave him an increase of force.

Mr. FOWLER. I see there is an increase of the force all along.

Mr. JOHNSON of South Carolina. We have not increased the force in the same proportion that the work has been increased.

Mr. FOWLER. There is an increased appropriation of $23,990 over that of last year.

Mr. JOHNSON of South Carolina. Yes; and the work in that office is very rapidly increasing.

Mr. FOWLER. Which one of the clerks received an increased salary of $250?

Mr. JOHNSON of South Carolina. It is the clerk that passes on technical matters in that office relating to the collection of over $150,000,000 a year. He is certainly a man of very great ability. He passes upon the technical matters in that office involved in the collection of $150,000,000 a year, and we thought he was certainly entitled to the salary that we provide.

Mr. FOWLER. Mr. Chairman, I desire to make the point of order against the increase in the salary of that clerk.

The CHAIRMAN. Does the gentleman withdraw the other point of order?

Mr. FOWLER. I desire to make the point of order against the increase in chief of division. I think there is the creation of a new clerk under the item "Heads of divisions." There were three in the last appropriation bill and four in this at $2,500.

Mr. JOHNSON of South Carolina. But we have the right to increase the number of men to do the work from year to year. The current law is taken as fixing the salary, and an increase in salary is subject to the point of order. But to give six clerks instead of four is not subject to a point of order; otherwise the governmental service could never grow with the growth of the country.

Mr. FOWLER. Mr. Chairman, I think the whole paragraph is subject to the point of order. If the gentlemen are not willing to point out those increases where there can be a specific point of order made against the increase of salaries, I desire to make the point of order against the whole paragraph. This bill came in at such an hour that it gave no one of the Members of the House an opportunity to make an examination of it in order to point out specifically all of the increases.

Mr. MANN. Mr. Chairman, there is, I believe, authority under the statutes for the appointment of heads of division or chiefs of division. Of course if there be no such authority as that, there is no authority for appropriating for any of these heads of division. Now, what has been done in this case? In the current law there are three heads of division carried at $2,500 each and six heads of division carried at $2,250 each. It is quite competent for Congress to increase that to four heads of division at $2,500 and seven heads of division at $2,250, because the number of heads of division is not limited by any act of Congress. The Treasury Department having authority under the law to have heads of division, the number is wholly within the control of Congress, and we are not limited by the existing appropriation act as to the number. Now, what has been done by this bill is, in fact, to increase the number of heads of division at $2,500 by one and decrease the number of heads of division at $2,250 by one, and it is assumed by gentlemen that there was some one individual who is increased from $2,250 to $2,500. On the contrary, it may be that the Treasury Department proposes to abolish one of the heads of division now existing, which it has the right to do, and provide for a new head of division, which it has a right to do. The items must be considered entirely apart from each other, so far as the bill is concerned. Private information which gentlemen may have which leads them to assume that a particular individual or a particular head of division is to have an increase of salary is not shown on the face of the bill and is not information for the use of the Chairman of the committee on the point of order. We could make this four heads of division at $2,500 if we can provide for one at all, hence the item is not subject to the point of order.

Mr. JOHNSON of South Carolina. Allow me to interrupt the gentleman. In 1866 Congress specifically authorized seven heads of divisions, at an annual salary of $2,500, for the Internal-Revenue Office, so we are within the law.

Mr. MANN. Well, if the law fixes seven at $2,500, four certainly comes within the law.

The CHAIRMAN. The Chair understood the gentleman from South Carolina to make the statement that the organic act itself authorizes seven of these heads of divisions.

Mr. MANN. That is my understanding.

Mr. JOHNSON of South Carolina. The statute passed in 1866 authorized seven heads of divisions at $2,500. We put in this bill only four at that amount.

The CHAIRMAN. It seems to the Chair it is quite clear that if the statute authorizes seven of these heads of divisions it is a mere matter of discretion with Congress as to how many they will create in the different divisions; and if the statute does authorize it, the point of order will not be considered as being well taken.

Mr. FOWLER. Well, Mr. Chairman, there is an increase in the various positions subordinate to the chiefs of divisions.

The CHAIRMAN. The Chair understood the gentleman from Illinois [Mr. FOWLER] to make the point of order upon the ground that on page 48, line 1, the word "four" was inserted instead of the word "three."

Mr. FOWLER. I say I made the point of order against the paragraph and was trying to pick out the specific instances wherein there was an increase, but the bill is so drawn that it is difficult to get at the specific increases at a glance. It has certainly increased the appropriation, which is patent on its face. For instance, in the case of clerks there are three at $2,000 each, wherein there was only a provision for two. Another class of clerks of the fourth grade are increased from 29 to 31, of the third grade from 25 to 27, and of class 2 from 37 to 41, and of class 1 from 37 to 40. Then, there is an increase of messengers from 3 to 4, which makes it patent upon the face of the bill there is an increase.

The CHAIRMAN. It is the understanding of the Chair there is an increase in the total appropriation on this item, but the point I understood the gentleman from Illinois to make was that he made the point of order that the committee had no right to make these increases.

Mr. FOWLER. No; I am making the point of order against the entire paragraph because of the fact of these increases; there is an increase in the appropriation.

The CHAIRMAN. The Chair is ready to rule on that question. Congress is authorized by the organic act to provide heads of divisions and clerks. It is a mere matter of discretion of the committee as to the number they will carry under each one of these heads. The point of order is overruled.

The Clerk read as follows:

Office of Surgeon General of Public Health Service: Surgeon General, $6,000; chief clerk, $2,000; private secretary to the Surgeon General, $1,800; assistant editor, $1,800; clerks—3 of class 4, 2 of class 3, 6 of class 2, 1 of whom shall be translator, 7 of class 1, 3 at $900 each; messenger; 3 assistant messengers; 2 laborers, at $540 each; in all, $43,780.

Mr. FOWLER. Mr. Chairman, I make a point of order against this paragraph.

The CHAIRMAN. The gentleman from Illinois makes a point of order against the paragraph—line 23, page 50.

Mr. FOWLER. In line 18 the salary of the Surgeon General is increased from $5,000 to $6,000, which is an increase of $1,000. There is also an assistant private secretary at $1,800 and then an assistant editor at $1,800. The assistant editor is a new office. I desire to ask the chairman of the committee the reason for increasing the Surgeon General's salary?

Mr. JOHNSON of South Carolina. Mr. Chairman, I was going to ask the gentleman from Illinois if he did not vote for an act approved August 14, 1912, which passed this House on a Calendar Wednesday, specifically increasing the salary of the Surgeon General from $5,000 to $6,000 a year?

Mr. FOWLER. I will ask the gentleman if that was not in an appropriation bill and not in a general bill?

Mr. JOHNSON of South Carolina. It was a special act that came from the Committee on Interstate and Foreign Commerce.

Mr. MANN. I have the act here.

Mr. FITZGERALD. It came up one Saturday afternoon when nobody anticipated it would come up.

Mr. FOWLER. What have you to say about the editor?

Mr. MANN. Mr. Chairman, I probably can answer the question of my colleague from Illinois in reference to the editor, unless the gentleman from South Carolina [Mr. JOHNSON] happens to have the act. The act of Congress changing the name of the Public Health and Marine-Hospital Service to the Public Health Service, which was approved August 14, 1912, contained this language:

There may be employed in the Public Health Service such help as may be provided for from time to time by Congress.

Mr. Chairman, that language has been inserted in laws on several occasions for the express purpose of leaving it to Congress to determine the number of employees, and has been held to be sufficient authority for an item in a bill over a point of order, and that was the purpose of putting it in the law.

Mr. JOHNSON of South Carolina. And the only increase of force that we gave this office under that law was this assistant editor, against which the gentleman's colleague desires to make the point of order.

Mr. MANN. Yes.

Mr. FOWLER. Where is the editor? You have an assistant editor here.

Mr. JOHNSON of South Carolina. One of the commissioned officers in charge of the publication division——

Mr. FOWLER. This is an assistant editor. Where is the editor?

Mr. JOHNSON of South Carolina. He is probably an Army officer.

Mr. MANN. He is a commissioned officer.

Mr. JOHNSON of South Carolina. He is a commissioned officer of this service.

Mr. MANN. One of the medical doctors. They are carried in the sundry civil appropriation bill and not in this.

The CHAIRMAN. Does the gentleman from Illinois [Mr. FOWLER] withdraw his point of order?

Mr. FOWLER. Mr. Chairman, in view of the explanation made by the gentleman on the question of the Surgeon General's increase of salary, I withdraw the point of order so far as that is concerned, and desire to make it apply to the creation of an assistant editor, at $1,800.

The CHAIRMAN. The point of order is not well taken, for the reason that the organic act authorizes Congress to create such help in this department as it may seem proper. It is not a question of the right of the committee, but it is a question of the wisdom of the committee. The point of order is overruled.

The Clerk read as follows:

Contingent expenses, Treasury Department: For stationery for the Treasury Department and its several bureaus and offices, $50,000, and in addition thereto sums amounting to $76,000 shall be deducted from other appropriations made for the fiscal year 1913, as follows: Contingent expenses, Independent Treasury, $6,000; contingent expenses, mint at Philadelphia, $350; contingent expenses, mint at San Francisco, $200; contingent expenses, mint at Denver, $200; contingent expenses, assay office at New York, $350; materials and miscellaneous expenses, Bureau of Engraving and Printing, $3,300; suppressing counterfeiting and other crimes, $290; expenses of Revenue-Cutter Service, $1,000; Public Health Service, $1,800; Quarantine Service, $500; preventing the spread of epidemic diseases, $290; Life-Saving Service, $1,000; general expenses of public buildings, $6,000; collecting the revenue from customs, $37,300; miscellaneous expenses of collecting internal revenue, $14,000; and for expenses of collecting the corporation tax, $3,000; and said sums so deducted shall be credited to and constitute, together with the first-named sum of $50,000, the total appropriation for stationery for the Treasury Department and its several bureaus and offices for the fiscal year 1914.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from South Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 51, in line 4, strike out the word "thirteen" and insert in lieu thereof the word "fourteen."

Mr. JOHNSON of South Carolina. The purpose of the amendment is to correct a typographical error.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

For purchase of labor-saving machines, including the purchase and exchange of registering accountants, numbering machines, and other machines of a similar character, including time stamps for stamping date of receipt of official mail and telegrams, and repairs thereto, and the purchase of supplies for photostat, $8,000.

Mr. BORLAND. Mr. Chairman, I offer an amendment to that paragraph, to strike out the word "photostat" and insert in lieu thereof the words "photographic reproduction machines," so that it will read "Supplies for photographic reproduction machines." With a word of explanation I can make that clear.

The CHAIRMAN. Will the gentleman wait until the amendment is reported?

Mr. BORLAND. Certainly.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Missouri [Mr. BORLAND].

The Clerk read as follows:

Amend, page 54, line 6, by striking out the word "photostat" and inserting in lieu thereof the words "photographic reproduction machines."

Mr. BORLAND. Mr. Chairman, the word "photostat" is the name of a particular kind of patented machine used for the purpose of photographing documents, making reproductions by the use of photography instead of by typewriting or otherwise. The name "photostat" is not, as might be supposed from this wording, a generic term, but the name of a particular machine. There are other machines in the market; some of them called "cameragraphs" and other names in a general way designating the kind of machines they are, which are used for the same purpose—that is, to make photographic copies of documents. It happens that there are a certain number of photostats in this particular department. I believe the auditor has ruled that the supplies for photostats may be stationery, and, possibly, might be included in the general appropriation for stationery. But in order to make the thing perfectly safe he advised that they put into that particular clause for contingent expenses the phrase "supplies for photostats." They now have in contemplation the purchase and employment of other machines besides the photostat, and will probably have them in operation during the life of this bill, so that the wording should be broad enough to include supplies of any kind of a photographic reproduction machine, whether called a "photostat" or not. That is the idea of the amendment.

Mr. JOHNSON of South Carolina. Mr. Chairman, they have in certain departments of the Government a machine called a "photostat." We are making appropriations for that. If other machines should be purchased hereafter, I think it would be early enough then to change the language of the appropriation bill.

Mr. BORLAND. I do not believe it would be for this reason——

Mr. JOHNSON of South Carolina. For instance, we have given the Treasury Department no money out of which they can buy any other machines, so far as I am aware. They have a photostat already installed.

Mr. BORLAND. Under this appropriation, Mr. Chairman, they can buy labor-saving machinery, and under that designation they could buy any other machine for the same purpose that was not called a "photostat." They could buy a machine not called a "photostat," which is a labor-saving machine, and if they undertook to buy it under this item authorizing the purchase of labor-saving machinery they would need some supplies for it, and probably would need some supplies for it during the current year. It is just as easy as not to make that language broad enough to include supplies in labor-saving machinery whether called "photostats" or otherwise.

Mr. JOHNSON of South Carolina. I suggest that the gentleman withhold his amendment.

Mr. BORLAND. I have the amendment here.

Mr. JOHNSON of South Carolina. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, and had come to no resolution thereon.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 7531. An act to authorize the Secretary of Commerce and Labor to purchase certain land required for lighthouse purposes at Port Ferro Light Station, P. R.; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 20287. An act to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January 5, 1905.

LINCOLN MEMORIAL (S. DOC. NO. 965).

The SPEAKER. The Chair will state to the House that yesterday there came in a short message from the President of the United States, transmitting a report of the commission on the Lincoln Memorial, and the Chair ordered the message to be printed according to the usual formality, but did not include in the order the printing of the report. Unless there is objection, by unanimous consent the Chair will order it printed for the information of the Members.

Mr. MANN. It would be printed with illustrations, I presume. I do not know whether there are any illustrations, but I presume there are.

The SPEAKER. If there are illustrations, they will be printed, too.

PANAMA CANAL (H. DOC. NO. 965).

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, with the accompanying report, ordered to be printed and referred to the Committee on Interstate and Foreign Commerce:

To the Senate and House of Representatives:

I transmit herewith, in pursuance of the requirements of chapter 1302 (32 Stats., p. 483), "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans," approved June 28, 1902, the Annual Report of the Isthmian Canal Commission for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *December 6, 1912.*

FISCAL, JUDICIAL, MILITARY, AND INSULAR AFFAIRS (H. DOC. NO. 1067).

The SPEAKER laid befor the House a message from the President of the United States, which was read, ordered to be printed, and referred to the Committee of the Whole House on the state of the Union.

[For text of message see Senate proceedings of this day.]

At the conclusion of the reading of the message there was applause on the Republican side.

ADJOURNMENT.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 27 minutes p. m.) the House adjourned until to-morrow, Saturday, December 7, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Des Moines River, Iowa (H. Doc. No. 1063); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of survey of Cohasset Harbor, Mass. (H. Doc. No. 1052); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of entrance to Kuskokwim River, Alaska (H. Doc. No. 1051); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Sergius Narrows, Alaska (H. Doc. No. 1053); to the Committee on Rivers and Harbors and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Sammamish River, Wash. (H. Doc. No. 1062); to the Committee on Rivers and Harbors and ordered to be printed.

6. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Green River, Ky. (H. Doc. No. 1061); to the Committee on Rivers and Harbors and ordered to be printed.

7. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Falls of the Willamette River at Oregon City, Oreg. (H. Doc. No. 1060); to the Committee on Rivers and Harbors and ordered to be printed.

8. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of South Fork of Edisto River to Gulgnords Landing, S. C. (H. Doc. No. 1054); to the Committee on Rivers and Harbors and ordered to be printed.

9. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Indian River Inlet, Del. (H. Doc. No. 1055); to the Committee on Rivers and Harbors and ordered to be printed.

10. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Mississippi River opposite St. Louis (H. Doc. No. 1059); to the Committee on Rivers and Harbors and ordered to be printed.

11. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Murderkill River, Del. (H. Doc. No. 1058); to the Committee on Rivers and Harbors and ordered to be printed.

12. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Apalachicola Bay and St. George Sound, Fla. (H. Doc. No. 1057); to the Committee on Rivers and Harbors and ordered to be printed.

13. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Bayou Courtableau, La. (H. Doc. No. 1056); to the Committee on Rivers and Harbors and ordered to be printed.

14. A letter from the Secretary of War, transmitting, pursuant to law, statement submitted by Acting Chief of Ordnance of expenditures at Springfield Armory, Springfield, Mass., and Rock Island Arsenal, Rock Island, Ill., during the fiscal year ended June 30, 1912 (H. Doc. 1065); to the Committee on Expenditures in the War Department and ordered to be printed.

15. A letter from the Secretary of War, transmitting list of useless executive papers on file in the various bureaus in the War Department and requesting that same be destroyed (H. Doc. No. 1064); to the Committee on Disposition of Useless Executive Papers and ordered to be printed.

16. A letter from the president of the Board of Commissioners of the District of Columbia, transmitting report of the commissioners on the necessity of establishing a reform school for white girls within the District of Columbia, as requested by act of June 26, 1912 (H. Doc. No. 1066); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. LEE of Georgia, from the Committee on War Claims, to which was referred the bill H. R. 16737, reported in lieu thereof a resolution (H. Res. 734) referring to the Court of Claims the papers in the case of the heirs of Nicholas Chano, accompanied by a report (No. 1264), which said resolution and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CARTER: A bill (H. R. 26808) to provide for the completion of the survey and appraisement of the segregated mineral land in Oklahoma; to the Committee on Indian Affairs.

By Mr. LEE of Georgia: A bill (H. R. 26809) to increase the limit of cost for the construction of a Federal building at Cedartown, Ga.; to the Committee on Public Buildings and Grounds.

By Mr. McKENZIE: A bill (H. R. 26810) to extend the time for the construction of a dam across Rock River, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mr. McKELLAR: A bill (H. R. 26811) to amend an act providing for the appointment of the Mississippi River Commission, and other purposes, approved June 28, 1879, and an amendatory act thereto approved February 18, 1901; to the Committee on Rivers and Harbors.

By Mr. FRENCH: A bill (H. R. 26812) to provide for State selection of phosphate and oil lands; to the Committee on the Public Lands.

Also, a bill (H. R. 26813) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or association to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or association; to the Committee on the Post Office and Post Roads.

By Mr. DIES: A bill (H. R. 26814) to authorize the erection of a public building at Nacogdoches, Tex.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26815) to authorize the purchase of a site for a public building at Orange, Tex.; to the Committee on Public Buildings and Grounds.

By Mr. DIXON of Indiana: A bill (H. R. 26816) to provide for the purchase of a site and the erection of a public building at Greensburg, Ind.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26817) to provide for the purchase of a site and the erection of a public building thereon at North Vernon, in the State of Indiana, and appropriating money therefor; to the Committee on Public Buildings and Grounds.

By Mr. AKIN of New York: A bill (H. R. 26818) for the purchase of a site and the erection thereon of a public building at Fort Plain, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. MOON of Tennessee: A bill (H. R. 26819) to regulate the pay of substitute letter carriers in the City Delivery Service and provide for their status when appointed to permanent positions as regular carriers; to the Committee on the Post Office and Post Roads.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred, as follows:

By Mr. ADAIR: A bill (H. R. 26820) granting an increase of pension to Mary J. Smith; to the Committee on Invalid Pensions.

By Mr. ALEXANDER: A bill (H. R. 26821) for the relief of the trustees of the Christian Church at Missouri City, Clay County, Mo.; to the Committee on War Claims.

By Mr. ASHBROOK: A bill (H. R. 26822) granting a pension to Sarah Harmon; to the Committee on Invalid Pensions.

By Mr. BORLAND: A bill (H. R. 26823) granting an increase of pension to Hester Ann Steel; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 26824) granting a pension to Roy Vest Smith; to the Committee on Pensions.

By Mr. CRAVENS: A bill (H. R. 26825) granting a pension to James T. Kissinger; to the Committee on Invalid Pensions.

By Mr. FAIRCHILD: A bill (H. R. 26826) granting a pension to Celestia Betts; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26827) granting an increase of pension to Emma M. Barrett; to the Committee on Invalid Pensions.

By Mr. FOSTER: A bill (H. R. 26828) for the relief of Peter Helfman; to the Committee on Claims.

Also, a bill (H. R. 26829) granting a pension to Mary O'Brien; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26830) granting a pension to Rebecca E. Fowler; to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 26831) granting an increase of pension to Rodney W. Anderson; to the Committee on Pensions.

By Mr. HARTMAN: A bill (H. R. 26832) granting a pension to Hannah McVicker; to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 26833) granting a pension to William Trots; to the Committee on Invalid Pensions.

By Mr. JACOWAY: A bill (H. R. 26834) granting a pension to Kate Chance; to the Committee on Invalid Pensions.

By Mr. LAFFERTY: A bill (H. R. 26835) granting an increase of pension to Daniel J. Haynes; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 26836) granting an increase of pension to Levi P. Miller; to the Committee on Invalid Pensions.

By Mr. LEWIS: A bill (H. R. 26837) for the relief of the trustees of the Quinn African Methodist Episcopal Church, of Frederick, Md.; to the Committee on War Claims.

By Mr. LINDBERGH: A bill (H. R. 26838) to correct the military record of John Brown; to the Committee on Military Affairs.

Also, a bill (H. R. 26839) granting an increase of pension to Henry B. Frey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26840) granting an increase of pension to Elias S. Baker; to the Committee on Invalid Pensions.

By Mr. McKENZIE: A bill (H. R. 26841) granting a pension to Miles S. Bennett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26842) granting a pension to Emma C. Weinhold; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26843) granting an increase of pension to James C. Burwell; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 26844) granting a pension to Mary Hahn; to the Committee on Invalid Pensions.

By Mr. PARRAN: A bill (H. R. 26845) granting a pension to Marian Eva Keyes; to the Committee on Pensions.

Also, a bill (H. R. 26846) granting a pension to Martha A. Rea; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26847) granting an honorable discharge from the military service of the United States to Adam Thurmon; to the Committee on Military Affairs.

By Mr. PATTON of Pennsylvania: A bill (H. R. 26848) granting an increase of pension to Mary B. Garretson; to the Committee on Invalid Pensions.

By Mr. PETERS: A bill (H. R. 26849) for the relief of Charles Dudley Daly; to the Committee on Military Affairs.

By Mr. RUCKER of Missouri: A bill (H. R. 26850) granting an increase of pension to George W. Runion; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26851) granting an increase of pension to David Shulz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26852) granting an increase of pension to Emanuel Carmack; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 26853) granting a pension to John H. Baker; to the Committee on Invalid Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 26854) granting an increase of pension to Edmund Buck; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26855) restoring the name of Sarah E. Wilson to the pension roll; to the Committee on Invalid Pensions.

By Mr. STONE: A bill (H. R. 26856) granting a pension to Laura Newman, née Mount; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26857) granting an increase of pension to Thomas Daugherty; to the Committee on Pensions.

Also, a bill (H. R. 26858) granting an increase of pension to Isaac Byers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26859) granting an increase of pension to George Ingersoll; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26860) granting an increase of pension to John L. Beck; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26861) granting an increase of pension to Charles Saunders; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26862) granting an increase of pension to Samuel Webb; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26863) granting an increase of pension to Mary B. Taylor; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 26864) granting an increase of pension to Jesse A. Ross; to the Committee on Invalid Pensions.

By Mr. THOMAS: A bill (H. R. 26865) for the relief of the county court of Allen County, Ky.; to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Mr. J. H. Reiser and 3 other merchants of Tuscarawas, Ohio, asking that Congress further increase the power of the Interstate Commerce Commission toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. AYRES: Petition of the Lake Michigan Sanitary Association, favoring an appropriation for investigating the extent of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. DYER: Petition of the National Society for the Promotion of Industrial Education, favoring the passage of the Page-Wilson bill giving Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Stark Distillery Co., St. Louis, Mo., protesting against the passage of the Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

Also, petition of James E. Cowan, St. Louis, Mo., favoring enactment of legislation securing pension for the Missouri Militia; to the Committee on Pensions.

By Mr. ESCH: Petition of the Supreme Council of United Commercial Travelers of America, favoring passage of bill changing the day of the national elections; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, petition of the Chamber of Commerce of the State of New York, protesting against legislation placing the Board of General Appraisers under any department of the Government; to the Committee on Ways and Means.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the reduction of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Grand Council of Wisconsin, Order of United Commercial Travelers of America, favoring the changing of the general election day to Monday; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, petition of the Manila Welfare Committee relative to reclaiming and making sanitary the lowlands around Manila; to the Committee on Appropriations.

Also, petition of the Lake Michigan Sanitary Association, favoring appropriation for the investigation of the extent of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. ESTOPINAL: Petition of postal clerks of New Orleans, La., relative to the interpretation of the section of the Post Office appropriation bill relating to classification and advancement of railway postal clerks; to the Committee on the Post Office and Post Roads.

Also, petition of the Southern Agricultural Workers, favoring an appropriation for the eradication of the cow ticks; to the Committee on Agriculture.

Also, petition of the Central Trades and Labor Council of New Orleans, La., protesting against the passage of the amended bill of Mr. KENYON (S. 4043); to the Committee on the Judiciary.

Also, petition of New Orleans (La.) Lodge, No. 161, of the United Brewery Workers of America, protesting against the passage of the Webb-Kenyon liquor bills; to the Committee on the Judiciary.

By Mr. FULLER: Petition of the Illinois Daughters of the American Revolution, favoring the passage of the Cox bill, to prevent desecration of the American flag; to the Committee on the Library.

Also, petition of R. C. Brown, clerk of the United States district court for the southern district of Illinois, favoring passage of House bill 21226, to put such clerks on a salary basis; to the Committee on the Judiciary.

Also, petition of the Lake Michigan Sanitary Association, favoring an appropriation for the investigation of the extent of the pollution of the Great Lakes; to the Committee on Appropriations.

By Mr. LINDSAY: Petition of the Lake Michigan Sanitary Association, favoring investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. MILLER: Petition of citizens of Proctor, Minn., favoring enactment of legislation requiring civil-service examinations for third-class postmasters; to the Committee on the Post Office and Post Roads.

By Mr. MOTT: Petition of the Chamber of Commerce of the State of New York, protesting against placing the Board of General Appraisers under control of the Treasury Department; to the Committee on Expenditures in the Treasury Department.

By Mr. SCULLY: Petition of Capt. J. W. Conwer Post, No. 63, Grand Army of the Republic, favoring the passage of House bill 14070, for relief of veterans whose hearing is defective; to the Committee on Invalid Pensions.

By Mr. SULZER: Petition of the Lake Michigan Sanitary Association, favoring appropriation for investigating the extent of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. WEEKS: Petition of citizens of Boston, favoring enactment of legislation establishing a United States court of appeals; to the Committee on the Judiciary.

By Mr. WILLIS: Petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the reduction of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

SENATE.

SATURDAY, *December 7, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CULBERSON and by unanimous consent, the further reading was dispensed with and the Journal was approved.

UNITED STATES COMMERCE COURT (H. DOC. NO. 1081).

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the Attorney General, transmitting, pursuant to law, a statement of the expenditures of the appropriation for the United States Commerce Court for the year ended June 30, 1912, etc., which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

MARITIME CANAL CO. OF NICARAGUA (H. DOC. NO. 1044).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, the report of the Maritime Canal Co. of Nicaragua, which, with the accompanying paper, was referred to the Committee on Interoceanic Canals and ordered to be printed.

YORKTOWN CELEBRATION.

The PRESIDENT pro tempore laid before the Senate a communication from the Yorktown Historical Society, which was read and ordered to lie on the table, as follows:

YORKTOWN HISTORICAL SOCIETY
OF THE UNITED STATES,
London, September 28, 1912.

The honorable the SECRETARY OF THE SENATE
OF THE UNITED STATES OF AMERICA,
Washington, D. C., U. S. A.:

The Yorktown Historical Society of the United States requests the honor of the presence of the honorables the Members of the Senate of the United States of America at the annual celebration of the surrender of Gen. Lord Cornwallis to Gen. Washington, to be held at Yorktown on the 19th day of October, 1912, and also on the same date in the year 1913.

R. S. V. P. to the secretary of the society, Mrs. Carroll Van Ness.

PETITIONS AND MEMORIALS.

Mr. GRONNA. I present petitions signed by sundry citizens of Buxton, Valley City, Drayton, Inkster, and Casselton, all in the State of North Dakota, praying for the passage of the Kenyon bill, No. 4043, providing for the ratification of an interstate liquor law. I ask that the body of one of the petitions may be printed in the RECORD in full.

There being no objection, the petitions were ordered to lie on the table, and the body of one of the petitions was ordered to be printed in the RECORD, as follows:

To the Hon. A. J. GRONNA,
United States Senator, Washington, D. C.:

The undersigned, citizens and residents of the State of North Dakota, realizing the evil effects of the liquor traffic and the difficulty of enforcing the prohibition law of this State under the present interstate-commerce law, earnestly request you as our representative to use all legitimate means within your power to secure the passage of the bill known as the "Amended Kenyon bill," No. 4043, which will come up in the United States Senate on December 16 next.

Mr. CLAPP. I present a petition relative to the payment of the balance due the depositors in the Freedmen's Savings & Trust Co. I ask that the statement on the front page be printed in the RECORD and that the rest of the petition be filed.

There being no objection, the petition was referred to the Committee on Education and Labor, and the statement was ordered to be printed in the RECORD, as follows:

This petition is indorsed by the National Baptist Convention, representing two millions and a half communicants; the African Methodist Episcopal Church, representing 800,000 communicants; the Methodist Episcopal Zion Church, representing 600,000 communicants; the National Negro Business League, representing the colored business men throughout the United States; and sundry other citizens and organizations, praying for the enactment of legislation to pay the balance due the depositors in the Freedmen's Savings & Trust Co.

R. JAMES L. WHITE.

Mr. BRISTOW presented a petition of sundry citizens of Scandia, Kans., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 7637) to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.; to the Committee on Commerce.

By Mr. BORAH:

A bill (S. 7638) to provide for State selections on phosphate and oil lands; to the Committee on Public Lands.

By Mr. CULBERSON:

A bill (S. 7639) to provide for the erection of a public building in the city of Bay City, in the State of Texas; to the Committee on Public Buildings and Grounds.

By Mr. BANKHEAD:

A bill (S. 7640) to incorporate the Virginia Terminal Co.; to the Committee on the District of Columbia.

By Mr. JOHNSON of Maine:

A bill (S. 7641) granting a pension to Mary O'Neil (with accompanying papers); to the Committee on Pensions.

By Mr. POMERENE:

A bill (S. 7642) for the erection of a public building at the city of Sandusky, in the State of Ohio, and appropriating moneys therefor; to the Committee on Public Buildings and Grounds.

By Mr. GARDNER:

A bill (S. 7643) granting an increase of pension to Julius A. Record (with accompanying papers);

A bill (S. 7644) granting an increase of pension to William L. Ham (with accompanying paper);

A bill (S. 7645) granting an increase of pension to Charles S. Penley (with accompanying papers); and

A bill (S. 7646) granting an increase of pension to David H. Gray (with accompanying paper); to the Committee on Pensions.

By Mr. CLAPP:

A bill (S. 7648) granting a pension to Lucretia B. Crockett; and

A bill (S. 7649) granting an increase of pension to Giles A. Woolsey; to the Committee on Pensions.

By Mr. HITCHCOCK:

A bill (S. 7650) for the relief of the estate of Samuel Richards; to the Committee on Claims.

By Mr. SANDERS (for Mr. BRADLEY):

A bill (S. 7651) for the relief of the trustees of Bloomfield Lodge, No. 57, Ancient Free and Accepted Masons, of Bloomfield, Ky.; and

A bill (S. 7652) for the relief of the county court of Allen County, Ky.; to the Committee on Claims.

By Mr. McLEAN:

A bill (S. 7653) granting an increase of pension to Lillian A. Loomis (with accompanying papers);

A bill (S. 7654) granting an increase of pension to Ann E. Newport (with accompanying papers); and

A bill (S. 7655) granting an increase of pension to James A. Fancher (with accompanying papers); to the Committee on Pensions.

By Mr. CULBERSON:

A joint resolution (S. J. Res. 143) authorizing the Secretary of War to loan certain tents for use at the meeting of the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine to be held at Dallas, Tex., in May, 1913; to the Committee on Military Affairs.

CAMPAIGN CONTRIBUTIONS.

Mr. CLAPP. I introduce a bill and ask that it be read.

The bill (S. 7647) to limit the use of campaign funds in presidential and national elections was read the first time by its title and the second time at length, as follows:

Be it enacted, etc., That hereafter it shall be unlawful for any person, firm, corporation, association, or committee, or any officer or agent of any person, firm, corporation, association, or committee, to send any money or other thing of value from any State or Territory of the United States to any person, firm, corporation, association, or committee in any other State or Territory of the United States, including the District of Columbia, or from any insular possession of the United States to any person, firm, corporation, association, or committee in any State or Territory of the United States, including the District of Columbia, to be used or expended for and on behalf of the nomination or election of a President or Vice President of the United States, or of any Member of the House of Representatives or any Member of the United States Senate: *Provided*, That this act shall not apply to the payment of bills incurred by a national campaign committee in the fitting out and maintenance of speaking campaigns by a candidate for the office of President or Vice President where a train is fitted out and maintained by the national committee; nor shall it include the transportation and hotel expenses of speakers sent out by a national committee, the expenses of literature distributed by a national committee, advertisements marked as such paid for by a national committee, or campaign funds raised for and sent to a national committee properly reported as required by law.

SEC. 2. Any person violating the provisions of the foregoing section shall, upon conviction therefor, be guilty of a misdemeanor and be punished by imprisonment of not less than six months nor more than one year.

Mr. CLAPP. I ask that the bill be referred to the subcommittee of the Committee on Privileges and Elections created under resolutions 79 and 386 of the Senate.

The PRESIDENT pro tempore. It will be so referred, without objection.

Mr. CLAPP. Mr. President, I simply desire at this time to say that the bill is aimed to meet the vice of gathering funds in large centers and in sending them to distant States to influence presidential, congressional, and senatorial elections.

It recognizes the continued existence of the national committee. It recognizes the right of the national committee to receive money from any portion of the country and to use those funds in the maintenance of speakers, literature, and advertising.

It would seem, of course, as though there were many exceptions to the general prohibition. These exceptions are included so as to leave it in the hands of the committee to use the funds for these specified purposes and at the same time to prevent the gathering of large sums in money centers and sending those sums to distant States and Territories.

I have no pride of opinion in the expressions of the bill. I have introduced it, and those who take an interest in the subject may consider the bill, and perhaps as the result of consideration and discussion the bill may be materially perfected.

AMENDMENT TO DEFICIENCY APPROPRIATION BILL.

Mr. CLAPP submitted an amendment proposing to pay the balance due the depositors of the Freedmen's Savings & Trust Co., intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Education and Labor and ordered to be printed.

OMNIBUS CLAIMS BILL.

The PRESIDENT pro tempore. The morning business is closed.

Mr. CRAWFORD. I ask that the Senate may resume consideration of House bill 19115, known as the omnibus claims bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. OLIVER. I offer proposed amendments to the pending bill.

The PRESIDENT pro tempore. The amendments will lie on the table until they are reached in order.

Mr. TOWNSEND. I desire to offer an amendment to the pending bill, to be inserted after line 22, page 264.

The PRESIDENT pro tempore. The Chair is informed that there is now a pending amendment. The Senator from Michigan will withhold his amendment until that is disposed of. The pending amendment is the amendment offered by the Senator from Alabama [Mr. JOHNSTON].

Mr. JOHNSTON of Alabama. I ask the Senator from South Dakota if he has had an opportunity to examine the amendment?

Mr. CRAWFORD. I understood the Senator to say that he offered it with a view to having it printed, so that we might examine it, and I expected the printed copy to be here this morning. I understand that it proposes to repeal a general statute, and is hardly within the scope of this bill.

Mr. JOHNSTON of Alabama. It is exactly within the scope of the bill, because it repeals the statute as to longevity pay only. But if the Senator from South Dakota desires to wait until the printed amendment comes in I shall be perfectly content with that course.

The PRESIDENT pro tempore. The amendment has been printed. There is a copy of the amendment at the desk.

Mr. JOHNSTON of Alabama. The Senator from South Dakota asks that the amendment be again printed?

The PRESIDENT pro tempore. It is now in print.

Mr. CRAWFORD. This amendment was proposed by the Senator from Alabama, I think, before the close of the last session.

Mr. JOHNSTON of Alabama. Yes.

Mr. CRAWFORD. And at that time it was printed. I presume the copy offered yesterday was one of the old copies, printed last spring. The committee in charge of the bill never considered the amendment as printed and offered at the last session. They had no opportunity to do that, because, as I recollect it, the bill had gone through consideration by the committee and the report was all made up and printed, if not actually made when the Senator from Alabama offered the amendment; so it was never considered by the committee. I had not even remembered that it had been proposed until the Senator offered it again yesterday. Whether we have enough old copies to go around I do not know, but the committee have lost track of it. It did not come into their possession until after

they acted on the bill and made their report. I suggested yesterday that it be again printed, so that copies could be furnished to the Members, and I expected to find a copy on my desk this morning, but have not done so.

I do not feel that under those circumstances the committee as a committee can accept the amendment. It has not been considered by the committee. Its purpose is to repeal some statute that has not been considered at all, and it seems to me it would be better to have it presented as an independent proposition and considered as such.

Mr. JOHNSTON of Alabama. Independent of this bill?

Mr. CRAWFORD. Independent of this bill.

Mr. JOHNSTON of Alabama. It is directly in line with this bill. It carries a repeal of that section so far as the items preceding it in this bill are concerned.

Mr. CRAWFORD. What I am seeking to do is to avoid, so far as it is possible to do so, subjects that may involve us in differences and in debate. If we get many such questions in here in connection with the consideration of the bill, I shall have a good deal of doubt about our getting it through.

I do not express any opinion whatever as to the merits of the amendment proposed by the Senator from Alabama, but I do say that it repeals an existing statute. I have not had an opportunity to see that existing statute. It could, it seems to me, more properly be considered if it was presented as an independent proposition to repeal that statute, and it should be considered as an independent bill. Otherwise I do not know how much discussion it may provoke or what it may open up in the way of debate. On that account, I do not feel like consenting.

Mr. JOHNSTON of Alabama. Mr. President, I want to say that this is a modified repeal of section 3480. It has been heretofore passed twice by the Senate as an independent proposition; first, on the 8th of March, 1907; and, again, on the 1st of April, 1908. So the Senate has fully considered the matter in a broader sense than it is offered here to-day, because it is only offered to-day in connection with this longevity pay.

Mr. CRAWFORD. Mr. President, would the Senator from Alabama kindly state in a few words the nature of the amendment and just what it is intended to repeal?

Mr. JOHNSTON of Alabama. I shall be glad to do that. Section 3480 requires the accounting officers to refuse to audit the claims that arose prior to April 13, 1861, which covered all the longevity pay of officers of the Army. Amongst those officers of the Army were a number who went South on the breaking out of hostilities. This amendment simply proposes to repeal that section so far as those officers are concerned. It has no operation upon any others.

Mr. CRAWFORD. I will ask the Senator from Alabama if, as to every officer who was in the Confederate Army and who had taken the military course at West Point, it would not establish the precedent that all of them should come in and receive what we call the longevity allowance, and if it would not involve an expenditure, according to my recollection as to what the Senator from Alabama stated yesterday, of $100,000?

Mr. JOHNSTON of Alabama. Something like that.

Mr. CRAWFORD. Mr. President, that simply means that we are opening the door to the allowance of claims amounting to at least $100,000. It is a matter of conjecture whether it would be $100,000 or a good deal more than $100,000. Without saying one word against the merit of the proposition—it may be that this should be done—I do not believe that, without the matter having been considered by the committee and without its coming in under any existing law, we ought, in considering this bill, to repeal a statute of that kind. If the Senate has acted on it once or twice it may act upon it favorably again; but it seems to me that it would be better to have an independent bill dealing with that repeal standing alone and have it acted upon by this body.

Mr. JOHNSTON of Alabama. Mr. President, the Senator from South Dakota has properly said that this amendment applies only to officers of the Army who resigned and went South to take part in the war between the States. This bill opens the door to all those who remained in the Army. The question of loyalty has long since passed out, and most of those officers are dead and the money will go to their children. It involves a small amount of money—a little over $100,000—and applies to no other class in the world. I do not see why we should hesitate here to grant to these officers for the services they rendered the United States before they retired from the Army the pay that was due them under the laws of the United States.

Mr. CULLOM. I have amendments for two longevity claims at the desk, not from the South, but from the North.

The PRESIDING OFFICER (Mr. WORKS in the chair). There is an amendment pending at the present time.

Mr. CULLOM. I supposed that amendment had been objected to for the present.

Mr. JOHNSTON of Alabama. I am willing for it to lie over for the present until the printed amendment comes in. I shall then insist upon the amendment.

The PRESIDING OFFICER. The Senator from Illinois [Mr. CULLOM] offers an amendment, which will be stated.

Mr. CULLOM. I suppose there will be no objection to these longevity claims.

Mr. CRAWFORD. I hope the Senator from Alabama [Mr. JOHNSTON] will not urge his amendment in connection with this bill. I say that not as one unfriendly, but because I do not think it is fair to the committee, the matter never having been before the present committee in any form. The former bills on this subject were not before the committee and never have been considered by it. I do not think it is fair to the committee to have the amendment put in with this vast number of claims, upon which we have acted at the expenditure of a great deal of time and labor. If the amendments proposed by the Senator from Illinois [Mr. CULLOM] cover longevity claims that have been reported by the Court of Claims——

Mr. CULLOM. Both of them have been so reported.

Mr. CRAWFORD. If they are exactly the same as those allowed yesterday, I shall not object to them.

Mr. CULLOM. They are exactly the same.

Mr. CRAWFORD. I ask that they be read.

The PRESIDING OFFICER. The first amendment proposed by the Senator from Illinois will be read.

Mr. CRAWFORD. I desire also that the findings of the Court of Claims be read.

The PRESIDING OFFICER. The amendment proposed by the Senator from Illinois will first be stated.

The SECRETARY. On page 263, after line 9, under the heading "Illinois," it is proposed to insert:

To Susan Dye Baylies, daughter and only surviving child of William McEntire Dye, deceased, late of the United States Army, and Pearl Walter Dye, widow and sole legatee of John Henry Dye, deceased, who was a son of said William McEntire Dye, $1,616.72, to be proportioned as follows:

To Susan Dye Baylies, of Chicago, Ill., $1,077.81.

To Pearl Walter Dye, $538.91.

Mr. CRAWFORD. I ask that the findings of the Court of Claims be read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant Susan Dye Baylies is the daughter and only living child of William McEntire Dye, who died intestate in November, 1899, and Pearl Walter Dye is the widow and sole heir under the will of John Henry Dye, a deceased son of said William McEntire Dye. Said John Henry Dye died in April, 1903, leaving a will by which he bequeathed all his property, real and personal, to his widow, Pearl Walter Dye, who is still living. He left no children. Annette M. Dye, the only other child of said William McEntire Dye, died intestate in March, 1904, never having been married and leaving as her sole heir her sister, the said Susan Dye Baylies. The widow of said William McEntire Dye died in 1901.

II. Claimant's decedent, William McEntire Dye, was during his lifetime an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1849. He graduated therefrom and was appointed brevet second lieutenant of Infantry July 1, 1853; was promoted to second lieutenant, Eighth Infantry, November 9, 1854; first lieutenant, February 1, 1856; captain, May 14, 1861; and major, January 14, 1866, and was discharged at his own request September 30, 1870. He served as colonel Twentieth Iowa Infantry from August 1, 1862, to July 26, 1865.

III. Said decedent was paid his first longevity ration from July 1, 1858, and one additional ration for each five years subsequent thereto, and third 10 per cent increase from July 15, 1870.

Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional longevity allowances, as reported by the Auditor for the War Department, amounting to $1,616.72, which would be divided two-thirds ($1,077.81) to Susan Dye Baylies and one-third ($538.91) to Pearl Walter Dye.

BY THE COURT.

Filed June 17, 1912.
A true copy.
Test this 18th day of June, A. D. 1912.
[SEAL.]

ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

Mr. CRAWFORD. That is satisfactory. The amendment comes within the rule.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Illinois [Mr. CULLOM], which has just been read.

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment proposed by the Senator from Illinois will be stated.

The SECRETARY. It is also proposed, on page 263, after the amendment just adopted, to insert:

To Thomas J. Medill, of Rock Island, administrator de bonis non of the estate of Thomas J. Rodman, deceased, $2,113.54, as reported by the Court of Claims in House Document No. 850, Sixty-second Congress, second session.

Mr. CRAWFORD. Now I desire that the Secretary read the findings in that case.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant is the duly appointed administrator de bonis non of the estate of Thomas J. Rodman, late brigadier general, United States Army.

II. The claimant's intestate entered the United States Military Academy as a cadet July 1, 1837; was appointed brevet second lieutenant of ordnance July 1, 1841; promoted first lieutenant March 3, 1847; captain, July 1, 1855; major, June 1, 1863; lieutenant colonel, March 7, 1867; and died June 7, 1871, at Rock Island Arsenal, Ill.

III. Claimant's intestate was paid his first longevity ration from July 1, 1846, and one additional ration for each five years subsequent thereto. December 22, 1890, the accounting officers of the Treasury disallowed his claim for longevity increase on account of service as a cadet at the Military Academy.

IV. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said claimant would be entitled to additional allowance, as reported by the Auditor for the War Department, as follows:

First longevity ration, July 1, 1842, to June 30, 1846	$292.20
Second longevity ration, July 1, 1847, to June 30, 1851	292.20
Third longevity ration, July 1, 1852, to June 30, 1856	292.20
Fourth longevity ration, July 1, 1857, to June 30, 1861	438.30
Fifth longevity ration, July 1, 1862, to June 30, 1866	535.70
Sixth longevity ration, July 1, 1867, to July 14, 1870	332.00
Making a total of	2,183.60
from which the following should be deducted:	
Internal-revenue tax	$38.50
Pay and allowances overpaid	31.56
	70.06
Leaving a balance of	2,113.54

Filed June 17, 1912.
A true copy.
Test this 20th day of June, 1912.
[SEAL.] ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

Mr. CRAWFORD. The committee will accept that amendment, Mr. President.

The amendment was agreed to.

Mr. TOWNSEND. I now ask that the amendment which I proposed be stated.

The PRESIDING OFFICER. The amendment proposed by the Senator from Michigan will be stated.

The SECRETARY. On page 264, after line 22, under the head of "Michigan," it is proposed to insert:

To Sophie M. Guard, executrix of Alexander McCook Guard, deceased, late of the United States Army, $1,499.58.

The PRESIDING OFFICER. The Secretary will read the findings in that case.

The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant, Sophie M. Guard, is a citizen of the United States, residing in Chippewa County, State of Michigan, and is the widow and executrix of Alexander McCook Guard, late an officer in the United States Army.

II. Said decedent, Alexander McCook Guard, entered the United States Military Academy as a cadet July 1, 1866. He was graduated therefrom June 12, 1871, and was appointed second lieutenant, Nineteenth United States Infantry, but did not take the oath of office until August 10, 1871, at which time he was still on graduating leave. He was promoted to be first lieutenant March 20, 1879; captain, February 20, 1891; was placed on the retired list with the rank of major September 8, 1899, and died July 19, 1905.

III. Said decedent was paid his first longevity increase from June 12, 1870, and each subsequent longevity increase was made to commence at intervals of five years following that date. In a settlement by the accounting officers of the Treasury June 29, 1885, he was allowed longevity increase under the Morton and Tyler decisions counting his cadet service from February 24, 1881, and no longevity increase for cadet service prior to that date was allowed by said officers.

IV. Claimant's decedent was paid the difference between the pay of a captain and major, amounting to $784.03, for exercising the command of a major by reason of seniority from June 12, 1898, to March 29, 1899, and this amount would not now, under the act of March 3, 1911 (36 Stats., 1039), be deducted by the accounting officers of the Treasury from any amount found due on account of longevity pay.

V. If the accounting officers of the Treasury now had jurisdiction to settle this claim for longevity allowances there would be deducted from any amount found due the following sums, to wit:

Difference between pay as second lieutenant and cadet erroneously paid from June 15, 1871, to Aug. 9, 1871, 1 month 25 days, at $65.88 per month	$120.78
Half pay on longevity pay for 5 years' service as second lieutenant, not mounted (Brodie decision), from Oct. 8, 1871, to Jan. 31, 1872, 3 months 23 days, at $5.83	21.97
First longevity increase of 10 per cent for 5 years' service as second lieutenant, not mounted (Brodie decision), while absent without leave on Mar. 1, 1874	.39
Making a total of	143.14

VI. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent's longevity periods should begin on the following dates: First period, July 1, 1871; second period, July 1, 1876; third period, July 1, 1881; fourth period, July 1, 1886; and the difference between the amounts actually paid to him and the amounts to which he would be entitled under said decision is $1,642.72, from which would be deducted the $143.14 referred to in Finding V, leaving a balance of $1,499.58.

If the amount paid to decedent for difference in pay of a captain and major for exercising higher command by reason of seniority, amounting to $784.03, as set forth in Finding IV, should be deducted from any amount found due on account of longevity pay, the balance would be $715.55.

VII. In June, 1908, a claim was filed with the accounting officers of the Treasury for longevity pay for the period prior to February 24, 1881, in accordance with the decision in the Watson case, but same was not considered for the reason that a previous settlement had been made. The claim was presented to the Sixtieth Congress, and Senate bill 6998, for the relief of the claimant herein, was by resolution of the United States Senate referred to this court under the provisions of the Tucker Act, and said claim was given docket No. 13318, congressional, and was afterwards consolidated with the present claim.

Except as above stated, the claim was never presented to any officer or department of the Government prior to its presentation to the Sixty-second Congress and reference to this court as hereinbefore set forth, and no evidence is adduced to show why claimant did not earlier prosecute said claim.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred. The claim is an equitable one against the United States in so far as they received the benefit of the services of said decedent while a cadet at the Military Academy, which service the Supreme Court, in the case of United States v. Watson (130 U. S., 80), decided was service in the Army.

BY THE COURT.

Filed May 20, 1912.
A true copy.
Test this 27th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. CRAWFORD. There is no objection to that amendment.

The amendment was agreed to.

Mr. JOHNSON of Maine. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 263, after line 20, it is proposed to insert:

To George Lemuel Turner, of Portland, Me., $654.61.

Mr. CRAWFORD. What is the last paragraph of the findings of fact in that case.

The PRESIDING OFFICER. The Secretary will read.

The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant herein was officer in the United States Army, having been appointed a cadet at the United States Military Academy July 1, 1870. He graduated therefrom and was appointed second lieutenant Eighteenth United States Infantry June 17, 1874, promoted to be first lieutenant January 16, 1884, and was dismissed November 20, 1890.

II. In the settlement of said claimant's account by the accounting officers of the Treasury he was paid first longevity increase from June 17, 1879, and he was also paid longevity increase for the period from February 24, 1881, to June 30, 1884, and thereafter, but said officers refused to count the service of said claimant as a cadet at the Military Academy in computing longevity pay and allowances for service prior to February 24, 1881.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said claimant's first longevity increase should begin July 1, 1875, and the difference between the amounts actually paid to him and the amount to which he was entitled under said decision is $654.61.

BY THE COURT.

Filed May 13, 1912.
A true copy.
Test this 14th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. CRAWFORD. The committee will accept the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JOHNSON of Maine. At the request of the junior Senator from New York [Mr. O'GORMAN], I offer the amendments which I send to the desk, being claims for longevity pay, together with the findings of the court.

Mr. CRAWFORD. I ask that the amounts be read and then the findings, without all the details.

The PRESIDING OFFICER. The first proposed amendment will be stated.

The SECRETARY. On page 209, after line 4, it is proposed to insert:

To Frank H. Fletcher, $61.52.
To Octavia Cavendy, widow of Joseph S. Cavendy, $73.44.

Mr. CRAWFORD. There are two cases there?

The PRESIDING OFFICER. There are two cases.

Mr. CRAWFORD. Are they both longevity claims or are they overtime claims for work in navy yards? I inquire if the Senator from Maine knows.

Mr. JOHNSON of Maine. The information I have is that they are all for longevity pay.

The PRESIDING OFFICER. The Chair is informed that they are for longevity pay.

Mr. CRAWFORD. I ask that the findings of the court be read.

The Secretary proceeded to read from the findings of the Court of Claims.

Mr. CRAWFORD. I think this is an overtime navy-yard claim, but it has the same merit.

The PRESIDING OFFICER. The Secretary will continue to read the findings, as requested.

The Secretary resumed and concluded the reading, as follows:

FINDINGS OF FACT.

I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the claimants herein or their decedents, and each of them, were in the employ of the United States in the navy yard at Brooklyn, N. Y., during which time the following order was in force:

Circular No. 8.

NAVY DEPARTMENT,
Washington, D. C., March 21, 1878.

The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be—

From March 21 to September 21, from 7 a. m. to 6 p. m.; from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The departments will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of 8 hours a day. All workmen electing to labor 10 hours a day will receive a proportionate increase of their wages.

The commandants will notify the men employed, or to be employed, of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. THOMPSON,
Secretary of the Navy.

II. Said claimants and each of them or their decedents while in the employ of the United States as aforesaid worked on the average the number of hours set opposite, their respective names in excess of 8 hours a day and at the wages below stated, to wit:

No. 89. Frank H. Fletcher:
150 hours at $1.76 per day.
131 hours at $1.78 per day, and 2¾ hours less than 8 hours a day at $1.76 per day.
No. 101. Joseph S. Cavendy:
132 hours at $2.76 per day.
77 hours at $3 per day, and 2¾ hours less than 8 hours a day at $2.76 per day.

III. If it is considered that 8 hours a day constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then the claimants or their decedents have been underpaid as follows:

Frank H. Fletcher, $61.52.
Octavia Cavendy, widow of Joseph S. Cavendy, $73.44.

IV. The claims herein were never presented to any department or officer of the Government prior to the presentation to Congress and reference to this court as hereinbefore set forth, and no evidence is adduced to show why said claimants did not earlier prosecute their claims.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claims herein are not legal ones against the United States, and are equitable only in the sense that the United States received the benefit of the services of said Frank H. Fletcher and said Joseph S. Cavendy in excess of 8 hours a day as above set forth.

BY THE COURT.

Filed May 20, 1912.
A true copy.
Test this 24th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. CRAWFORD. That is an overtime navy-yard claim.

The PRESIDING OFFICER. The correction is made. They are navy-yard claims for overtime.

Mr. CRAWFORD. The findings are in favor of the claimants; and, on behalf of the committee, I accept the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The next amendment, submitted by Mr. JOHNSON of Maine for Mr. O'GORMAN, was stated by the Secretary as follows:

On page 266, after line 5, it is proposed to insert:

"To Henry Catley, of Syracuse, $3,351.29, as reported by the Court of Claims in House Document No. 801, Sixty-second Congress, second session."

Mr. CRAWFORD. What are the findings of the court?

The PRESIDING OFFICER. The Secretary will read:

The Secretary read as follows:

FINDINGS OF FACT.

I. Claimant served as enlisted man, United States Army, from July 3, 1855, to December 31, 1864. He was mustered in as first lieutenant, First Oregon Infantry, January 2, 1865, and mustered out February 9, 1866; was appointed second lieutenant, Sixteenth United States Infantry, February 23, 1866; accepted the appointment May 31, 1866; promoted first lieutenant August 5, 1866, and transferred to the Second Infantry April 17, 1869; promoted captain June 22, 1882, and retired April 17, 1891.

II. In the settlement of claimant's accounts by the accounting officers of the Treasury, he was paid on account of longevity periods as follows: First period, from April 23, 1870; second period, from April 23, 1875; fourth period, from June 15, 1878. September 19, 1883, he was paid longevity increase under the Tyler decision (105 U. S., 244) without taking into account his service as an enlisted man from July 3, 1855, to December 31, 1864.

III. Under the principle of the decision of the Supreme Court of the United States in the case of United States v. Watson (130 U. S., 80), and the decision of this court in the case of Stewart v. United States (No. 20810, 34 C. Cls. R., 553), claimant's longevity periods should begin on the following dates: First period, May 31, 1866; second period, December 3, 1866; third period, October 25, 1870; fourth period, October 25, 1875; and the difference between the amounts actually paid to him and the amounts to which he was entitled under said decisions for said periods is as follows:

First additional ration from May 31, 1886, to Dec. 2, 1866	$93.00
Second additional ration from Dec. 3, 1866, to July 14, 1870	849.90
Second 10 per cent increase, July 15, 1870, to Oct. 24, 1870	45.83
Third 10 per cent increase from Oct. 25, 1870, to Oct. 24, 1875	1,656.36
Fourth 10 per cent increase from Oct. 25, 1875, to June 18, 1878	795.00
Making a total of	3,440.09
From which the following should be deducted:	
Revenue tax	$47.50
Amount paid by settlement 6196 of Sept. 19, 1883	48.83
	96.33
Leaving a balance of	3,343.76

From a debit and credit statement of claimant's account he is entitled to an additional credit of $7.53 for short payments of pay and allowances during his service, which sum, added to the above-named balance, makes $3,351.29.

BY THE COURT.

Filed May 13, 1912.
A true copy.
Test this 29th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. CRAWFORD. The committee will accept that amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The next amendment, submitted by Mr. JOHNSON of Maine for Mr. O'GORMAN, was, on page 266, after the amendment just agreed to, to insert:

To Maria T. Knox, administratrix cum testamento annexo of the estate of George T. Balch, deceased, of Troy, $1,017.66.

Mr. CRAWFORD. I ask that the findings of the court be read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

I. Claimant's decedent, George Thatcher Balch, was during his lifetime an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1847. He graduated therefrom and was appointed second lieutenant July 1, 1851; promoted to be first lieutenant July 1, 1854; captain, November 1, 1861, and resigned to take effect December 1, 1865.

II. In the settlement of his accounts the accounting officers of the Treasury allowed said decedent his first longevity ration from July 1, 1856, and one additional ration for each subsequent five years, and made no allowance in computing his longevity allowances for his services as a cadet at the Military Academy.

III. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to $1,137.96, from which would be deducted the sum of $120.30 due by him to the United States, leaving a balance of $1,017.66.

BY THE COURT.

Filed May 6, 1912.
True copy.
Attest this 8th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. CRAWFORD. The amendment is accepted by the committee.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. MARTINE of New Jersey. Mr. President, I present a similar amendment for longevity pay, together with the findings of the court.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 263, after line 2, it is proposed to insert:

To the Washington Loan & Trust Co., administrator of the estate of James W. Cuyler, deceased, of Washington, $2,431.89.

Mr. CRAWFORD. I ask that the findings of fact be read.

The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant, the Washington Loan & Trust Co., of the District of Columbia, is the duly appointed administrator of the estate of James W. Cuyler, deceased, who, during his lifetime, was an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1860. He graduated therefrom and was appointed first lieutenant of Engineers June 13, 1864; was promoted to be captain March 7, 1867; major, July 17, 1881; and died April 16, 1883.

II. Said decedent was paid his first longevity ration June 13, 1869, and one additional ration for each five years subsequent thereto, and by settlements of the accounting officers of the Treasury, in 1884 and 1885, he was allowed longevity increase under the Tyler and Morton decisions.

Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to $2,444.67, from which would be deducted overpayment of $12.78, leaving a balance of $2,431.89.

III. The claim was presented to the accounting officers of the Treasury at various times and was disallowed in 1883, 1884, 1885, and again in 1910. Except as above stated, the claim was never presented to any officer or department of the Government prior to the presentation to Congress and reference to this court as hereinbefore set forth.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the services of said decedent while a cadet at the Military Academy, which service the Supreme Court, in the case of United States v. Watson (130 U. S., 80), decided was service in the Army.

BY THE COURT.

Filed June 17, 1912.
A true copy.
Test this 24th day of June, 1912.
[SEAL.] ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

Mr. CRAWFORD. The amendment is accepted by the committee.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. GALLINGER. I offer a trifling amendment for overtime work in the Washington Navy Yard, and will ask that the findings of fact be inserted in the RECORD.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 153, after line 12, under the heading "District of Columbia," it is proposed to insert:

Alfred C. Cassell, $223.38.

Mr. CRAWFORD. What is the finding?

Mr. GALLINGER. The finding is precisely as in the other cases.

Mr. CRAWFORD. Very well; the committee accepts the amendment.

Mr. GALLINGER. I ask that the findings be inserted in the RECORD without reading.

Mr. CRAWFORD. I ask that in each of these cases the clause of the findings which gives the amount be inserted in the RECORD.

The PRESIDING OFFICER. Without objection, that order will be entered. The findings in the case covered by the last amendment will be inserted in the RECORD.

The matter referred to is as follows:

FINDINGS OF FACT.

I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the claimant herein was in the employ of the United States in the navy yard at Washington, D. C., during which time the following order was in force:

Circular No. 8.

NAVY DEPARTMENT,
Washington, D. C., March 21, 1878.

The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be—

From March 21 to September 21, from 7 a. m. to 6 p. m.; from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The departments will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of eight hours a day. All workmen electing to labor 10 hours a day will receive a proportionate increase of their wages.

The commandants will notify the men employed, or to be employed, of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. THOMPSON,
Secretary of the Navy.

II. Said claimant, while in the employ of the United States as aforesaid, worked on the average the number of hours set opposite his name in excess of eight hours a day, and at the wages below stated, to wit: 533¾ hours, at $1.50 per day; 231¼ hours, at $1.75 per day; 145¼ hours, at $2 per day.

III. If it is considered that eight hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then the claimant has been underpaid the sum of $223.38.

IV. The claim was never presented to any officer or department of the Government prior to the presentation to Congress and reference to this court as hereinbefore set forth, and no evidence is adduced to show why claimant did not earlier prosecute his said claim.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein is not a legal one against the United States, and is equitable only in the sense that the United States received the benefit of the services of said claimant in excess of eight hours a day as above set forth.

BY THE COURT.

Filed May 27, 1912.
A true copy.
Test this 29th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from New Hampshire is agreed to.

Mr. STONE. I offer the amendment I send to the desk.

The SECRETARY. On page 264, after line 22, it is proposed to insert:

MISSOURI.

To Simon Lyon, administrator of the estate of John A. Campbell, deceased, of Kansas City, $785.66.

To Martha R. Hitchcock, widow and executrix of Ethan Allen Hitchcock, deceased, of St. Louis, $754.79.

To Louis J. Garesche, of Washington, administrator of the estate of Julius P. Garesche, deceased, $1,366.11.

Mr. CRAWFORD. Is each one of these a longevity case?

Mr. STONE. Each is a longevity claim. I have sent the findings of the court to the desk. These claims are in the exact condition of those which have been accepted by the committee.

Mr. CRAWFORD. Is there a finding in each case?

Mr. STONE. In each case. They are exactly on a par. I will say to the Senator, with the other claims of this kind.

Mr. CRAWFORD. I want the record made complete; that is all.

Mr. STONE. I ask that the report in each case be printed in the RECORD.

Mr. CRAWFORD. I will ask that the reports be printed, and I will not detain the Senate in asking that they be read. But I will state that after they have been printed I will inspect them, and if I find any reason for doing so, I shall move to strike out any item that I may find erroneous.

Mr. STONE. That is all right, but I can not see why the Senator from South Dakota can not say now what the committee will do. He has done so in every other instance.

Mr. CRAWFORD. Certainly. I simply mean to save the time which would be consumed by having the finding in each case read. I certainly do not mean any reflection upon the Senator from Missouri.

Mr. STONE. I give the Senator from South Dakota the assurance that they are on that exact line.

Mr. CRAWFORD. If there is any error, I want the privilege of making the motion to strike out.

Mr. STONE. What disposition is now to be made of the amendment?

Mr. CRAWFORD. The committee is willing to accept it in that way.

Mr. STONE. That is all I ask.

The PRESIDING OFFICER. Without objection, the amendment will be adopted and the reports indicated will be printed in the RECORD.

The reports are as follows:

[House Document No. 803, Sixty-second Congress, second session.]

SIMON LYON, ADMINISTRATOR.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS TRANSMITTING A COPY OF THE FINDINGS FILED BY THE COURT IN THE CASE OF SIMON LYON, ADMINISTRATOR OF THE ESTATE OF JOHN A. CAMPBELL, DECEASED, AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, May 31, 1912.

Hon. CHAMP CLARK,
Speaker of the House of Representatives.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[Court of Claims. Congressional, No. 15062. Simon Lyon, administrator of the estate of John A. Campbell, v. The United States.]

STATEMENT OF THE CASE.

The claim in the above-entitled case for arrears of increase of pay due on account of the services of John A. Campbell in the United States Army was transmitted to the court by the Committee on War Claims of the House of Representatives on the 12th day of January, 1912.

The case was brought to a hearing on its merits on the 1st day of April, 1912.

Lyon & Lyon appeared for the claimant and the Attorney General, by George M. Anderson, his assistant, and under his direction, appeared for the defense and protection of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States and a resident of the city of Washington, in the District of Columbia, and is the administrator of the estate of John A. Campbell, who died while serving in the United States Army on the 29th day of October, 1875.

That the aforesaid John A. Campbell, deceased, entered the military service of the United States as a cadet at the Military Academy on the 29th day of October, 1863; appointed second lieutenant June 17, 1867, Second United States Artillery; first lieutenant July 24, 1874, which grade he held until his death on the aforesaid date, and by reason of such service is entitled to longevity pay, computing the time he served at the Military Academy as a cadet, in accordance with the decisions of the Supreme Court of the United States as laid down in the case of United States v. Watson (130 U. S. Rep., p. 80) and United States v. Tyler (105 U. S. Rep., p. 244), which has never been paid to the deceased officer or his heirs.

That application for such longevity increase pay was made to the accounting officers of the Treasury Department by Sophia B. Campbell, his widow, then and now residing at Kansas City, Mo., but said claim was disallowed on the 13th day of July, 1896, on the ground "service

as a cadet under the existing laws and decisions can not be counted in computing longevity pay and allowances for services prior to February 24, 1881," contrary to the decisions of the Supreme Court of the United States in the cases of Watson and Tyler above stated.

Application was again made for same longevity increase pay in accordance with the decision of the Comptroller of the Treasury in the case of Alexander O. Brodie (14 Comp. Dec., p. 795), but this application was disallowed on the 27th day of September, 1909, on the ground that there was no authority of law to reopen an adverse settlement made by a predecessor, irrespective of the fact that the law now favors the settlement of this class of cases.

That there is due the claimant under the law as decided by the Supreme Court of the United States in the cases of United States v. Watson and Tyler, above stated, the following amount of longevity increase pay:

First longevity ration, Oct. 19, 1868, to July 14, 1870	$190.20
First 10 per cent increase, July 15, 1870, to June 16, 1872	269.11
Second 10 per cent increase, Oct. 19, 1872, to Oct. 29, 1875	336.17
Total	795.48
Less internal-revenue tax	9.82
Leaving net amount due officer	785.66

That the court, upon the evidence and after considering the briefs and arguments of counsel upon both sides, makes the following

FINDINGS OF FACT.

I. Claimant's decedent, John A. Campbell, after having served as an enlisted man in the Fifth and Third Missouri Infantry, was appointed a cadet in the United States Military Academy and entered same October 19, 1863. He graduated therefrom and was appointed second lieutenant, Second Artillery, June 17, 1867; was promoted first lieutenant July 24, 1874, and died October 29, 1875.

II. In the settlement of said decedent's accounts by the accounting officers of the Treasury he was paid his first longevity increase from June 17, 1872.

Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) he would be entitled to additional longevity allowances as follows:

First longevity ration, Oct. 19, 1868, to July 14, 1870	$190.20
First 10 per cent increase, July 15, 1870, to June 16, 1872	269.11
Second 10 per cent increase, Oct. 19, 1872, to Oct. 29, 1875	336.17
Total	795.48

from which should be deducted $9.82 internal-revenue tax, leaving a balance of $785.66.

BY THE COURT.

Filed May 6, 1912.
True copy.
Attest this 8th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[House Document No. 791, Sixty-second Congress, second session.]

MARTHA R. HITCHCOCK, EXECUTRIX.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANSMITTING A COPY OF THE FINDINGS FILED BY THE COURT IN THE CASE OF MARTHA R. HITCHCOCK, WIDOW AND EXECUTRIX OF ETHAN ALLEN HITCHCOCK, DECEASED, AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, May 31, 1912.

Hon. CHAMP CLARK,
Speaker of the House of Representatives.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims of the House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[In the Court of Claims. Congressional, No. 15078. Martha R. Hitchcock, widow and executrix of Ethan Allen Hitchcock, v. The United States.]

STATEMENT OF THE CASE.

The claim in the above-entitled case for arrears of increase of pay due on account of the services of Ethan Allen Hitchcock in the United States Army, was transmitted to the court by order of the Committee on War Claims of the House of Representatives on the 30th day of January, 1911.

The case was brought to a hearing on its merits on the 1st day of April, 1912.

Lyon & Lyon appeared for the claimant, and the Attorney General, by George M. Anderson, his assistant and under his direction, appeared for the defense and protection of the United States.

The claimant in her petition makes the following allegations:

That she is a citizen of the United States and at this time residing in the city of Washington in the District of Columbia, and is the widow and executrix of Ethan Allen Hitchcock, who deceased August 5, 1870.

That the aforesaid Ethan Allen Hitchcock, deceased, entered the military service of the United States as a cadet at the Military Academy on the 11th day of October, 1814; promoted third lieutenant, Corps Artillery, July 17, 1817; second lieutenant, Eighth Infantry, February 13, 1818; first lieutenant, October 31, 1818; regimental adjutant, July, 1819, to June 1, 1821; transferred to First Infantry, June 1, 1821; regimental adjutant, July 16, to September 16, 1821; captain, December 31, 1824; major, Eighth Infantry, July 7, 1838; lieutenant colonel Third Infantry, January 31, 1842; colonel Second Infantry, April 15, 1851; resigned October 18, 1855; major general, Volunteers, February 10, 1862; honorably mustered out October 1, 1867; died August 5, 1870, and by reason of such service is entitled to longevity pay computing the time he served at the Military Academy as a cadet in accordance with the decisions of the Supreme Court of the United States as laid down in the case of United States v. Watson (130 U. S. Rept., p. 80) and United States v. Tyler (105 U. S. Rept., p. 244), which has never been paid to the deceased officer or his heirs.

That application for such longevity increase pay was made to the accounting officers of the Treasury Department, but said claim was disallowed on the 20th day of November, 1890, on the ground "service as a cadet under the existing laws and decisions can not be counted in computing longevity pay and allowances for services prior to February 24, 1881," contrary to the decisions of the Supreme Court of the United States in the cases of Watson and Tyler above stated.

Application was again made for same longevity increase pay in accordance with the decision of the Comptroller of the Treasury in the case of Alexander O. Brodie (14 Comp. Dec., p. 795), but this application was disallowed on the 20th day of April, 1909, on the ground that there was no authority of law to reopen an adverse settlement made by a predecessor, irrespective of the fact that the law now favors the settlement of this class of cases.

That there is due the claimant under the law as decided by the Supreme Court of the United States in the cases of United States v. Watson and Tyler above stated, the following amount of longevity increase pay:

Fifth longevity ration, Oct. 11, 1839, to July 16, 1842	$202.60
Sixth longevity ration, Oct. 11, 1844 to July 16, 1847	201.80
Seventh longevity ration, Oct. 11, 1849, to July 16, 1852	202.60
Eighth longevity ration, Oct. 11, 1854, to Oct. 18, 1855	74.60
Ninth longevity ration, Mar. 2, 1867, to Oct. 1, 1867	64.20
Longevity increase on travel pay	14.10
	758.70
Less tax	3.91
Balance	754.79

That the deceased officer was loyal to the United States throughout the War of the Rebellion, he having served in the United States Army through the entire period of said rebellion, and the claimant was born subsequent to said War of the Rebellion.

The court, upon the evidence and after considering the briefs and arguments of counsel upon both sides, makes the following

FINDINGS OF FACT.

I. Claimant's decedent, Ethan Allen Hitchcock, during his lifetime was an officer in the United States Army, having entered the United States Military Academy as a cadet on October 11, 1814. He graduated therefrom and was appointed a third lieutenant, Corps of Artillery, July 17, 1817; promoted to be second lieutenant, February 13, 1818; first lieutenant, October 31, 1818; captain, December 3, 1824; major, Eighth Infantry, July 7, 1838; lieutenant colonel, January 31, 1842; colonel, April 15, 1851, and resigned October 18, 1855.

II. In the settlement of said decedent's longevity pay and allowances the accounting officers of the Treasury refused to count the time he served as a cadet at the Military Academy.

III. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) there would be due to said decedent the sum of $754.79.

BY THE COURT.

Filed May 6, 1912.
True copy.
Attest this 8th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[House Document No. 794, Sixty-second Congress, second session.]

LOUIS J. GARESCHÉ, ADMINISTRATOR.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANSMITTING A COPY OF THE FINDINGS FILED BY THE COURT IN THE CASE OF LOUIS J. GARESCHÉ, ADMINISTRATOR OF J. P. GARESCHÉ, DECEASED, AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, May 31, 1912.

Hon. CHAMP CLARK,
Speaker of the House of Representatives.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[Court of Claims of the United States. Congressional, No. 15529. Louis J. Garesché, administrator of Julius P. Garesché, deceased, v. The United States.]

STATEMENT OF CASE.

The claim in the above-entitled case for longevity pay, alleged to be due on account of the service of said decedent in the United States Army, was transmitted to the court by the Committee on War Claims of the House of Representatives on the 18th day of August, 1911, under the act of March 3, 1883, known as the Bowman Act.

The case was brought to a hearing on its merits on the 8th day of May, 1912.

Richard R. McMahon, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States, residing in Washington, D. C., and is the duly appointed administrator of Julius P. Garesché, late a lieutenant colonel, United States Army.

That said Julius P. Garesché entered the United States Military Academy as a cadet July 1, 1837; was appointed second lieutenant Fourth United States Artillery July 1, 1841; first lieutenant June 18, 1846, and served as such until February 14, 1856; brevet captain and assistant adjutant general November 9, 1855; brevet major and assistant adjutant general May 14, 1861; major and assistant adjutant general August 3, 1861; lieutenant colonel July 17, 1862; he was killed at the battle of Stone River, Tenn., December 31, 1862.

That during the period of the service of said Julius P. Garesché the following statutory provision respecting longevity pay was in force:

"That every commissioned officer of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the Army of the United States." (Act of July 5, 1838, sec. 15, 5 Stat. L., p. 258.)

In the settlement of said decedent's accounts the accounting officers of the Treasury did not count his service at the Military Academy from July 1, 1837, to July 1, 1841, in computing his longevity allowances.

That upon the construction of the act of July 5, 1838, by the Supreme Court of the United States, in the case of United States v. Watson (130 U. S., 80), application was made to the proper accounting

officers of the Treasury for a settlement of the longevity pay and allowances due claimant's decedent in accordance with said decision, and, under the rulings then in force, said claim was disallowed October 18, 1890.

That upon the revocation of the ruling of the comptroller that service as a cadet could not be counted in computing longevity pay and allowances, May 18, 1908, the claimant made application to the accounting officers of the Treasury for settlement of the longevity pay and allowances due under the act of July 5, 1838, but, January 14, 1909, the Auditor for the War Department refused to reconsider the settlement of 1890.

That by this action of the accounting officers there has been withheld from claimant's decedent the sum of $1,500 which is justly due.

That the claim has not been assigned or transferred, in whole or in part, and that claimant has all his life been loyal to the Government of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant is the duly appointed administrator of the estate of Julius P. Garesché, late an officer of the Army of the United States.

II. Claimant's decedent entered the United States Military Academy as a cadet July 1, 1837; was graduated therefrom and appointed second lieutenant Fourth Artillery July 1, 1841; first lieutenant, June 18, 1846; brevet captain and assistant adjutant general, November 9, 1855; brevet major and assistant adjutant general, May 14, 1861; major and assistant adjutant general, August 3, 1861; lieutenant colonel and assistant adjutant general, July 16, 1862; and was killed at the battle of Stone River, Tenn., December 31, 1862.

III. In the settlement of said decedent's accounts by the accounting officers of the Treasury he was paid on account of longevity periods as follows: First period, from July 1, 1846; second period, from July 1, 1851; third period, from July 1, 1856; fourth period, from July 1, 1861. November 17, 1890, said accounting officers, under their then existing ruling, refused to count the service of said decedent at the Military Academy in computing his longevity pay and allowances after he became a commissioned officer.

IV. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80), said decedent's longevity periods should begin on the following dates: First period, July 1, 1842; second period, July 1, 1847; third period, July 1, 1852; fourth period, July 1, 1857; fifth period, July 1, 1862; and the difference between the amounts paid him and the amounts to which he was entitled under said decision for said periods is as follows:

First longevity ration, July 1, 1842, to June 30, 1846	$292.20
Second longevity ration, July 1, 1847, to June 30, 1851	292.20
Third longevity ration, July 1, 1852, to June 30, 1856	292.20
Fourth longevity ration, July 1, 1857, to June 30, 1861	478.20
Fifth longevity ration, July 1, 1862, to Dec. 31, 1862	55.20
Making a total of	1,370.10
From which the following should be deducted:	
Revenue tax $1.10	
Other debits of pay and allowances 2.89	
	3.99
Leaving a balance of	1,366.11

BY THE COURT.

Filed May 13, 1912.
A true copy.
Test this 29th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. OLIVER. I offer three amendments, accompanied by the findings in each case.

The PRESIDING OFFICER. The amendments will be stated.

The SECRETARY. On page 266, after line 19, insert:

To Joseph Fornance, executor of the estate of James Fornance, deceased, of Norristown, $1,186.74.

Mr. CRAWFORD. I will say the same in reference to these claims. I will not detain the Senate by asking to have the findings read. I will ask that the findings in each case be printed, and I will accept the amendments on behalf of the committee with the understanding that after the findings are printed, if, on looking them over, I find any error, I reserve the privilege of calling up the matter.

Mr. OLIVER. That is entirely satisfactory.

The PRESIDING OFFICER. The findings of fact will be printed in the RECORD.

The findings of fact are as follows:

FINDINGS OF FACT.

I. Claimant's decedent, James Fornance, was during his lifetime an officer in the United States Army, having entered the United States Military Academy as a cadet September 1, 1867. He graduated therefrom and was appointed second lieutenant, Thirteenth United States Infantry, June 12, 1871; promoted to be first lieutenant June 29, 1872, and captain December 16, 1889.

II. In the settlement of said decedent's accounts the accounting officers of the Treasury refused to allow for the time he served as a cadet at the Military Academy in computing his longevity pay and allowances.

III. Under the decision of the Supreme Court of the United States in the case of United States v. Watson (130 U. S., 80) there would be due in addition to the amount already paid to said decedent the sum of $1,186.74, as reported by the Auditor for the War Department.

BY THE COURT.

Filed May 6, 1912.
True copy.
Attest this 8th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Pennsylvania.

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment proposed by the Senator from Pennsylvania will be stated.

The SECRETARY. On page 266, after line 19, insert:

To the Union Trust Co., of the District of Columbia, administrator of the estate of William Hemphill Bell, deceased, $2,717.60.

The amendment was agreed to.

The findings of fact are as follows:

FINDINGS OF FACT.

I. The Union Trust Co., of the District of Columbia, claimant herein, is the administrator of the estate of William Hemphill Bell, deceased, who during his lifetime was an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1853. He graduated therefrom and was appointed brevet second lieutenant, Third Infantry, July 1, 1858; was promoted to be first lieutenant, May 14, 1861; captain, June 17, 1862; major and commissary, August 14, 1883; lieutenant colonel and assistant commissary general, December 27, 1892; colonel and assistant commissary general, June 10, 1896; brigadier general and commissary general, November 15, 1897; and retired January 28, 1898. He died October 17, 1906.

II. Said decedent was paid his first longevity ration from July 1, 1863, and one additional ration for each five years subsequent thereto.

Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional longevity allowances, as reported by the Auditor for the War Department, amounting to the sum of $2,717.60.

BY THE COURT.

Filed June 17, 1912.
A true copy.
Test this 18th day of June, A. D. 1912.
[SEAL.] ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

The PRESIDING OFFICER. The next amendment proposed by the Senator from Pennsylvania will be stated.

The SECRETARY. On page 266, after the amendment already adopted, insert:

To Benjamin D. Critchlow, of New Brighton, $331.65.

The amendment was agreed to.

The findings of fact are as follows:

FINDINGS OF FACT.

I. The claimant herein, Benjamin Dwight Critchlow, is a citizen of the United States, residing in the State of Colorado, and was at the times hereinafter stated an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1861.

He graduated therefrom and was appointed first lieutenant, Thirteenth Infantry, June 23, 1865, and resigned as such January 21, 1869.

II. In the settlement of claimant's account the accounting officers of the Treasury refused to count his service as a cadet in computing his longevity pay and allowances for services prior to February 24, 1881.

III. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) there would be due claimant, as reported by the Auditor for the War Department, the sum of $331.65.

BY THE COURT.

Filed May 6, 1912.
True copy.
Attest this 8th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. CURTIS. I offer an amendment to be inserted on page 233, under the heading "Kansas."

The SECRETARY. On page 233, after line 17, it is proposed to insert:

KANSAS.

To regents of the University of Kansas, $20,000.

Mr. CURTIS. I have sent for the findings of fact in that case, and I hope the chairman will permit the amendment to go in.

Mr. CRAWFORD. If the committee should accept these amendments which have not been before the committee, on all divers and sundry claims, we never would get through. My recollection is, although I am not sure about it, that this claim has been before the committee, and the action of the committee was adverse. What is the title?

Mr. CURTIS. It is for the relief of the State University of Kansas on account of the destruction of the Free State Hotel in the city of Lawrence.

Mr. CRAWFORD. Yes.

Mr. CURTIS. It was reported by the committee four years ago, and the chairman is right; it has been before this committee, but I think no action was taken.

Mr. CRAWFORD. No; the action of this committee was against putting it in the bill.

Mr. SMOOT. It was an adverse report.

Mr. CRAWFORD. It was an adverse report.

Mr. CURTIS. I desire leave to print the findings in the RECORD. I have sent for them; and if there is no objection, I should like to have them printed.

The PRESIDING OFFICER. Does the Senator from Kansas withdraw the amendment for the present?

Mr. CURTIS. No, sir; I do not. I ask for a vote on it.

Mr. CRAWFORD. If I can find it, I think there is a report against the proposed amendment. Unless the Senator from Kansas desires to debate it—I know it has been considered by the committee and the decision of the committee was adverse—I will ask the Senate to sustain the committee in rejecting it.

If the Senator desires to debate it, I will get the records and discuss it.

Mr. CURTIS. I do not think it is necessary to debate it. I want to print the findings in the RECORD. I am perfectly willing to submit the question on a viva voce vote. Whatever the Senate wants to do about it it may do. We discussed the bill five years ago very thoroughly, and of course if the committee has acted unfavorably on the measure——

Mr. CRAWFORD. It has.

Mr. CURTIS. It is likely that the Senate would sustain the committee. I do not think they are right in it. I think they ought to pay this claim.

Mr. CRAWFORD. I call for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Kansas.

The amendment was rejected.

Mr. CURTIS. Let the findings of fact be printed in the RECORD.

The findings of fact are as follows:

FINDINGS OF FACT.

I. The claimant, the regents of the University of Kansas, is a corporation created under the laws of the State of Kansas, and was such corporation on the 17th day of February, 1897, and is a State institution for the higher education of young men and women of the State of Kansas who are sufficiently prepared for university work. It has no commercial features and is supported in the main by appropriation made by the Legislature of Kansas. It has also a small income from an endowment fund, receives the proceeds of sale of certain public lands, and has some income from small fees paid by the students of the university.

II. On the 21st day of May, 1856, the New England Emigrant Aid Co. was a corporation duly organized and existing by virtue of an act of the Legislature of the State of Massachusetts and was the owner in fee simple of lots 21 and 23 on Massachusetts Street, city of Lawrence, Territory of Kansas, on which it had theretofore erected and then owned a certain hotel structure with necessary outbuildings, known as the Free State Hotel, or Eldridge House, which building, exclusive of its furniture and exclusive of the land upon which it stood, was reasonably worth the sum of $20,000.

III. On the 5th day of May, 1856, Judge Lecompte convened the United States district court at the town of Lecompton, State of Kansas, and delivered a charge to the grand jury of that court, a portion of which was as follows:

"This Territory was organized by an act of Congress, and so far its authority is from the United States. It has a legislature elected in pursuance of that organic act. This legislature, being an instrument of Congress, by which it governs the capital territory, has passed laws. These laws, therefore, are of the United States authority and making, and all that resist these laws resist the power and authority of the United States, and are therefore guilty of high treason. Now, gentlemen, if you find that any persons have resisted these laws, then you must, under your oaths, find bills against such persons for high treason."

After having been charged by the judge as aforesaid, the grand jury made the following presentment on the said 5th day of May, 1856:

"The grand jury, sitting for the adjourned term of the first district court in and for the county of Douglas, in the Territory of Kansas, beg leave to report to the honorable court that from evidence laid before them, showing that the newspaper known as the Herald of Freedom, published at the town of Lawrence, has from time to time issued publications of the most inflammatory and seditious character, denying the legality of the Territorial authorities, addressing and commending forcible resistance to the same, demoralizing the popular mind and rendering life and property unsafe, even to the extent of advising assassination as a last resort.

"Also, that the paper known as the Kansas Free State has been similarly engaged, and has recently reported resolutions of a public meeting in Johnson County, in this Territory, in which resistance to the Territorial laws, even unto blood, has been agreed upon; and that we respectfully recommend their abatement as a nuisance.

"Also, that we are satisfied that the building known as the Free State Hotel, in Lawrence, has been constructed with a view to military occupation and defense, regularly parapeted and portholed for the use of cannon and small arms, and could only have been designed as a stronghold of resistance to law, thereby endangering a public safety and encouraging rebellion and sedition in the country, and respectfully recommend that steps be taken whereby this nuisance may be removed.

"OMER C. STEWART, *Foreman.*"

A search of the records of the said district court, as they have been preserved, was made by one of the witnesses during the year 1906, but said search failed to disclose that any warrant or process of any kind was issued against the said Free State Hotel by reason of said presentment or indictment so found by the grand jury.

IV. On the 11th day of May, 1856, United States Marshal J. B. Donelson issued the following proclamation:

PROCLAMATION.

To the people of Kansas Territory:

Whereas certain judicial writs of arrest have been directed to me by first district court of United States, etc., to be executed within the county of Douglas; and

Whereas an attempt to execute them by the United States deputy marshal was violently resisted by a large number of citizens of Lawrence; and as there is every reason to believe that any attempt to execute these writs will be resisted by a large body of armed men:

Now, therefore, the law-abiding citizens of the Territory are commanded to be and appear at Lecompton as soon as practicable and in numbers sufficient for the proper execution of the law.

Given under my hand this 11th day of May, 1856.

J. B. DONELSON,
United States Marshal for Kansas Territory.

On said 11th day of May, 1856, a committee of the citizens of the town of Lawrence, Kans., presented the following letter to the governor of the Territory of Kansas:

LAWRENCE CITY, *May 11, 1856.*

DEAR SIR: The undersigned are charged with the duty of communicating to your excellency the following preamble and resolutions adopted at a public meeting of the citizens of this place at 7 o'clock last evening, viz:

Whereas we have the most reliable information from various parts of the Territory and the adjoining State of Missouri of the organization of guerrilla bands, who threaten the destruction of our town and its citizens: Therefore

Resolved, That Messrs. Topliff, Hutchinson, and Roberts constitute a committee to inform His Excellency Gov. Shannon of these facts and to call upon him in the name of the people of Lawrence for protection against such bands by the United States troops at his disposal.

All of which is respectfully submitted.

Very truly, etc.,
C. W. TOPLIFF,
W. Y. ROBERTS,
JOHN HUTCHINS.

Gov. Shannon replied to said letter on May 12, 1856, as follows:

EXECUTIVE OFFICE,
Lecompton, Kans. T., May 12, 1856.

GENTLEMEN: Your note of the 11th instant is received, and in reply I have to state that there is no force around or approaching Lawrence, except the legally constituted posse of the United States marshal and sheriff of Douglas County, each of whom, I am informed, have a number of writs in their hands for execution against persons now in Lawrence. I shall in no way interfere with either of these officers in the discharge of their official duties.

If the citizens of Lawrence submit themselves to the Territorial laws and aid and assist the marshal and sheriff in the execution of process in their hands, as all good citizens are bound to do when called on, they or all such will entitle themselves to the protection of the laws. But as long as they keep up a military or armed organization to resist the Territorial laws and the officers charged with their execution I shall not interpose to save them from the legitimate consequence of their illegal acts.

I have the honor to be, yours, with great respect,
WILSON SHANNON.

On May 14, 1856, the following letter was presented by the said committee to said United States marshal:

LAWRENCE, *May 14, 1856.*

DEAR SIR: We have seen a proclamation issued by yourself, dated 11th day of May, and also have reliable information this morning that large bodies of armed men, in pursuance of your proclamation, have assembled in the vicinity of Lawrence.

That there may be no misunderstanding, we beg leave to ask respectfully that we may be reliably informed what are the demands against us. We desire to state most truthfully and earnestly that no opposition whatever will now or at any future time be offered to the execution of any legal process by yourself or any person acting for you. We also pledge ourselves to assist you, if called upon, in the execution of any legal process.

We declare ourselves to be order-loving and law-abiding citizens, and only await an opportunity to testify our fidelity to the laws of the country, the Constitution, and the Union.

We are informed also that those men collecting about Lawrence openly declare that their intention is to destroy the town and drive off the citizens. Of course we do not believe that you give any countenance to such threats; but in view of the exciting state of the public mind we ask protection of the constituted authorities of the Government, declaring ourselves in readiness to cooperate with them for the maintenance of the peace, order, and quiet of the community in which we live.

Very respectfully,
ROBERT MORROW,
LYMAN ALLEN,
JOHN HUTCHINSON.

J. B. DONELSON,
United States Marshal for Kansas Territory.

To said letter last above, dated May 14, 1856, said United States marshal replied by letter, in which, after making certain charges against the citizens of Lawrence, he used the following language:

"But I must take the liberty of executing all processes in my hands as the United States marshal in my own time and manner, and shall only use such power as is authorized by law."

On the 17th day of May, 1856, the following letter was sent by a committee of the citizens of Lawrence to the United States marshal:

J. B. DONELSON,
United States Marshal, Kansas Territory.

DEAR SIR: We desire to call your attention, as citizens of Kansas, that a large force of armed men have collected in the vicinity of Lawrence and are engaged in committing depredations upon our citizens, stopping wagons, arresting, threatening, and robbing unoffending travelers upon the highway, breaking open boxes of merchandise and appropriating their contents, have slaughtered cattle, and terrified many of the women and children.

We have also learned from Gov. Shannon that there are no armed forces in the vicinity of this place but the regularly constituted militia of the Territory. This is to ask you if you recognize them as your posse and feel responsible for their acts. If you do not, we hope and trust you will prevent a repetition of such acts and give peace to the settlers.

On behalf of the citizens.

C. W. BABCOCK,
LYMAN ALLEN,
J. A. PERRY.

To this letter there was no reply by the marshal.

On said 17th day of May, 1856, a letter as follows was presented to Gov. Shannon by the proprietors of the aforesaid Free State Hotel:

LAWRENCE, KANS. T., *May 17, 1856.*

GENTLEMEN: Having learned that your reason for assembling so large a force in the vicinity of our town to act as posse in the enforcement of the laws rests on the supposition that we are armed against the laws and the officers in the exercise of their duties, we would say that we hold our arms only for our own individual defense against violence and not against the laws or the officers in the execution of the same. Therefore, having no further use for them than our protection is otherwise secured, we propose to deliver our arms to Col. Sumner so soon as he shall quarter in our town a body of troops sufficient for our protection, to be retained by him so long as such force shall remain among us.

Very truly, etc.,
MANY CITIZENS.

His Excellency WILSON SHANNON, *Governor*, and
J. B. DONELSON, Esq., *United States Marshal for Kansas Territory.*

V. That on the 21st day of May, 1856, said United States marshal, J. B. Donelson, having in his hands a writ for the arrest of certain

persons then residing in said city of Lawrence, organized a posse of several hundred armed men under the pretense of needing the same for making said arrests, and proceeded to said city of Lawrence and camped with said posse near said city; and on the forenoon of said day, leaving said posse in camp, proceeded into said city and made arrests under said writ. That on the afternoon of said day, while the marshal was present, a man went through said posse and dismissed it with the statement that the marshal had no further use for its services, thanking the men and telling them to make out the number of days they had served and that they would be paid. This same man immediately summoned the same men as the posse of Sheriff Jones, the sheriff of Douglas County. That on the afternoon of said day said posse, under the command of the said sheriff, proceeded in a body into said city and destroyed the Free State Hotel by fire, said marshal appearing to give countenance to the same by his presence at the time, and said sheriff announcing immediately prior to the burning of the hotel, while the United States marshal was present, that he was a deputy United States marshal and that he was acting under an order of the United States court for Douglas County, and had a writ from that court; but further than this statement by the sheriff and the fact of the marshal's presence and giving countenance to the acts of the sheriff and the posse, it does not appear that the said sheriff had any official connection with the United States.

VI. On the 22d day of May, 1856, the said posse was again enrolled as the posse of the said United States marshal.

Also, on the said 22d day of May, 1856, a committee of said town of Lawrence, Territory of Kansas, set forth all of the foregoing facts concerning the conduct of said governor, marshal, deputy marshal, and posse in a memorial addressed to His Excellency Franklin Pierce, President of the United States, which was on said last-mentioned day forwarded to said President.

VII. During the said period of time from May 5, 1856, to and including May 21, 1856, there was no armed force in said town of Lawrence making resistance to the laws of the United States, and there was no concerted action among the citizens of the said town of Lawrence, nor any action by the owners of the said hotel building in opposition to the said laws of the United States.

VIII. The said New England Emigrant Aid Co. presented to the Thirty-seventh Congress of the United States, third session, a claim against the United States for the value of said hotel building in the sum of $25,000.

Said company frequently memorialized subsequent Congresses of the United States in different efforts to secure payment of this claim.

IX. On the 17th day of February, 1897, by its deed, the said New England Emigrant Aid Co. assigned and transferred the said claim to the present claimant, the regents of the University of Kansas.

X. This claim was presented to the Fifty-fifth Congress in the sum of $20,000, where it was Senate bill 2077, upon which bill a favorable report was made by the Senate Committee on Claims, being Report No. 763, Fifty-fifth Congress, second session, and the said bill was passed by the Senate of the United States.

A similar bill, S. 76, was presented to the Fifty-sixth Congress, first session, which bill was also reported upon favorably by the Committee on Claims in Report No. 179 of said Congress and session.

The claim was again presented to the Fifty-seventh Congress, first session, where it was Senate bill 687, which last-named bill was on the 12th day of March, 1903, referred to this court for a hearing and determination of facts under and in accordance with the provisions of the act of Congress approved March 3, 1887, as hereinbefore set forth.

By THE COURT.

Filed January 28, 1907.
A true copy.
Test this 31st day of January, 1907.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. OVERMAN. I offer an amendment on behalf of the Senator from West Virginia [Mr. WATSON]. I will say that this is a case which does not fall within the rule adopted by the committee. I do not suppose the Senate, in view of the course adopted, will agree to the amendment. I hope at another time we will get this and similar amendments adopted, because they have merit in them. But just at this time the committee have ruled out all cases of this kind. I want to be frank with the Senate and say that. But on behalf of the Senator from West Virginia, who is not here, I offer the amendment.

The SECRETARY. The Senator from North Carolina [Mr. OVERMAN], on behalf of the Senator from West Virginia [Mr. WATSON], offers an amendment, on page 216, after line 18, to insert:

To the trustees of the Methodist Episcopal Church South, Ravenswood, W. Va., $300.
To the county court of Randolph County, $2,000.

Mr. CRAWFORD. Mr. President, to accept those two amendments would simply mean that we would change the entire character of the report and admit a whole class of claims that the committee declined to insert in the bill, and the Senate has already sustained the committee in that respect. On that account the committee can not accept these amendments, and I shall feel obliged to oppose them.

Mr. BANKHEAD. I should like to ask the chairman of the committee if he is willing to state to the Senate why, on what ground, for what reason, the committee rejected all these claims—these church claims—the justice of which everybody concedes. They ought to be paid. I should like to have the chairman state.

Mr. CRAWFORD. Mr. President, if the Senator from Alabama will do the committee the honor to read their report, in which they have very fully reviewed these claims, he will find exactly what is the position of the committee.

Mr. BANKHEAD. Mr. President——

Mr. CRAWFORD. I will simply say this, if the Senator will permit me to conclude my statement——

Mr. BANKHEAD. Certainly; I will be glad to have the Senator do that.

Mr. CRAWFORD. The Committee on Claims decided that they would follow the rule which has been followed since the first report was made, by Senator Hoar, in regard to educational institutions destroyed during the war, and allow the claims, according to the findings, for all educational institutions, eleemosynary institutions, and churches that were destroyed by the armies of the United States or the military authorities during the war, where the destruction was not the result of war necessity, in battle; and all claims of that character are reported favorably in this bill.

Mr. President, there are a great many claims in the bill as it passed the House that are not for churches destroyed—claims which are not within the rule laid down by Senator Hoar in the case concerning the William and Mary College—but are cold-blooded claims for rent. There is nothing in the rule pertaining to the conduct of war in this country or in any other country, under the rule laid down by Senator Hoar, or in the rules that have been declared since his great report in regard to the college of William and Mary was made, that furnishes any basis whatever for distinguishing a mere commercial claim for the rent of a church from a claim for the rent of a warehouse or the rent of a store.

Now, here is a large class of claims for the rent of churches, and, Mr. President, in the large majority of these cases the findings do not show even when the churches were occupied. The findings do not show whether a church was occupied 24 hours or 4 years. The findings do not show that it was damaged one dollar in the occupation. The findings do not show what kind of church building it was, whether it was 75 years old or 1 year old, whether it cost $20,000 or $500. The findings are absolutely silent with reference to any of these details or any information of that kind and character.

And, Mr. President, that is not all. Oftentimes the men who claim to represent church organizations and are asking for appropriations here are representing church organizations that have been out of existence for years. Some man has himself appointed a trustee 45 or 50 years after the war, and presents an old claim for the rent of a church, and does not even state the year in which it was occupied, does not even state the length of time it was occupied, does not even undertake to specify what kind of building it was; but, claiming to be an elder or trustee of a defunct organization, he brings in a cold-blooded commercial claim here for dollars and cents.

Now, that opens a big question here. The House passed such claims, and we have rejected them. They will have to be considered in conference. The conference committee will have to thrash out these differences and decide which of them they will allow and which they will not allow.

I will say this to the Senator from Alabama: There are some of those claims that personally I would not be adverse to allowing, not because they relate to churches, but because the parties have given us evidence which we ought to have and which we ought to require from them just as we require it from the owner of a store or a warehouse. They have described the building. They have said it was a substantial church building, erected just before the war, 40 feet long, so many feet wide, with a gallery inside, and have described how it was furnished. They have shown that it was occupied, it may be, by the troops of Gen. Sherman as a hospital from the 1st of January of such a year down to the 1st of January of such a year; that the building was worth so much money, that its use and occupation was reasonably worth so much. There we have some facts.

But to throw a lump collection upon Congress, saying that during the war the military forces of the United States occupied a church building at Culpeper or Washington Court House, or in some county somewhere, without saying what kind of a building it was, and not even showing that the organization is now in existence, and appropriate for such claims, is a reckless way to dispose of money out of the United States Treasury.

That is the class of cases and claims that are in dispute, and if we open the door to discuss them here—and there are hundreds of them—this bill will never pass the Senate. If the Senator sustains the committee, and lets the conference between the two Houses take up these cases and thrash them out, sifting each case, and the conferees can come to a conclusion that in this case the Senate amendment ought not to be sustained and in that case it ought to be sustained, we can bring some conclusion back to the Senate and perhaps pass this bill. So I ask the Senator to assist others in sustaining the policy that is followed by this committee.

Mr. BANKHEAD. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Alabama?

Mr. CRAWFORD. I do.

Mr. BANKHEAD. The Senator, the chairman of the committee, has been discussing a question that is not in this proposed amendment at all. It is simply a proposition to pay the Presbyterian Church of Huntsville, not for use and occupation of the church during the war, or anything like that, but for destruction of the church. This church had just been completed, at the beginning of the war, at a cost of $30,000. The Army came into Huntsville and did not occupy this church, but deliberately tore it down and used the brick and material in building chimneys, bake ovens, and other necessary matters around the camp. That is this case.

Mr. CRAWFORD. Will the Senator call my attention to the particular case that he is now mentioning?

Mr. BANKHEAD. It is the Presbyterian Church at Huntsville. I have sent for the papers and the findings of the court.

Mr. CRAWFORD. Was it in the bill as it passed the House?

Mr. BANKHEAD. No. I want to put it in the bill in the Senate.

Mr. CRAWFORD. That is a different thing. Was it ever submitted to the committee?

Mr. BANKHEAD. No.

Mr. CRAWFORD. That is an altogether different thing. If a church at Huntsville, Ala., was destroyed for the purpose of using the material to build a bridge——

Mr. BANKHEAD. It was not to build a bridge.

Mr. CRAWFORD. Or for the construction of winter quarters or for any purpose of that kind, we have allowed claims of that character; but I do not think we should be asked here, after the bill is made up and our report has been presented, to consider such claims which were not submitted to us and which are presented after the bill was made up. There is another time for claims of that character, without bringing such claims in at this time when there is no opportunity on the part of the committee to examine them.

Mr. BANKHEAD. I recognize the force of the suggestion of the chairman of the committee. This claim is 4 or 6 years old—I am not quite sure which—and doubtless it would have been presented to the House but for the fact that the Member representing that district was in very poor health and was unable to attend the sessions of the House when the bill was made up. It never came to my knowledge until within the last few days. I know I ought not to insist on making an exception in this case, but it is a meritorious one if there are merits in any of these cases.

Mr. CRAWFORD. I would not pass judgment upon a report of that kind, but I will simply say to the Senator that we must have a point at which to stop in deciding on the items which shall go in one of these bills. At a later date important matters can be taken up which we have had no opportunity whatever to examine.

Mr. BANKHEAD. I thought from the nature of the Senator's argument the committee, especially the chairman of the committee, had made up their minds that none of these church claims were of much merit and perhaps it was the policy of the committee to reject them at all times. I thought if that was the case we had as well settle it in the Senate now as at any other time. But it appears that I misconstrued the attitude of the chairman of the committee, and in view of the suggestion he has made and in view of the further fact that there will be another Congress in session after this one, I will not ask the Senate to vote on the amendment.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from North Carolina [Mr. OVERMAN].

Mr. BURTON. Mr. President——

Mr. CRAWFORD. The amendment offered by the Senator from North Carolina was an item for West Virginia. He was offering it for the Senator from West Virginia.

The PRESIDING OFFICER. It was offered by the Senator from North Carolina.

Mr. CRAWFORD. The committee can not accept that amendment, and it was obliged to oppose it because of the rule we have followed in making up this bill.

The PRESIDING OFFICER. Does the Senator from Ohio desire to speak to the amendment?

Mr. BURTON. No; I was not aware that any amendment was pending, the Senator from Alabama having, as I understood him, withdrawn his amendment.

The PRESIDING OFFICER. The pending amendment had been previously offered by the Senator from North Carolina, and it has not been acted upon. The question is on agreeing to the amendment offered by the Senator from North Carolina.

The amendment was rejected.

Mr. BURTON. I desire to offer an amendment which I think will not cause any discussion.

Mr. CRAWFORD. What is it?

Mr. BURTON. It is a claim for longevity pay.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 266, after line 6, insert:

To J. Nelson Caldwell, administrator of the estate of James N. Caldwell, deceased, of Cincinnati, $2,096.82.

Mr. CRAWFORD. The committee can accept that amendment. I have here the finding of the court sustaining it, and it is exactly the same as the other. I will ask that the finding be printed in the RECORD in connection with it.

The PRESIDING OFFICER. The finding will be printed in the RECORD, without objection, and the amendment adopted.

The matter referred to is as follows:

[In the Court of Claims. Congressional, No. 15512. J. Nelson Caldwell, administrator de bonis non of the estate of James N. Caldwell, v. The United States.]

STATEMENT OF THE CASE.

The claim in the above-entitled cause for arrears of increase of pay due on account of the services of James N. Caldwell in the United States Army was transmitted to the court by the Committee on War Claims of the House of Representatives on the 3d day of August, 1911.

The case was brought to a hearing on its merits on the 8th day of May, 1912.

Lyon & Lyon appeared for the claimant and the Attorney General, by George M. Anderson, his assistant, under his direction, appeared for the defense and protection of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States and a resident of the city of Cincinnati in the county of Hamilton, in the State of Ohio, and is the administrator de bonis non of the estate of James N. Caldwell, who died while serving in the United States Army on the 12th day of March, 1886.

That the aforesaid James N. Caldwell, deceased, entered the military service of the United States as a cadet at the Military Academy on the 1st day of July, 1836; brevetted second lieutenant, Second Infantry, July 1, 1840; second lieutenant, First Infantry, August 5, 1840; first lieutenant, March 31, 1847; captain, October 25, 1860; major, Eighteenth Infantry, February 27, 1862; retired December 29, 1863, which grade he held until his death on the aforesaid date, and by reason of such service is entitled to longevity pay, computing the time he served at the Military Academy as a cadet, in accordance with the decision of the Supreme Court of the United States as laid down in the case of The United States *v.* Watson (130 U. S. Rep., p. 80), which has never been paid to the deceased officer or his heirs.

That application for longevity increase pay was made to the accounting officers of the Treasury Department, but said claim was disallowed on the 11th day of November, 1890, on the ground "service as a cadet, under the existing laws and decisions, can not be counted in computing longevity pay and allowances for service prior to February 24, 1881," contrary to the decision of the Supreme Court of the United States in the aforesaid Watson case above cited.

Application was again made for the same longevity increase pay, in accordance with the decision of the Comptroller of the Treasury in the case of Alexander O. Brodie (14 Comptr. Dec., p. 795), but this application was again disallowed on the 5th day of February, 1909, on the ground that there was no authority at law to reopen an adverse settlement made by a predecessor, irrespective of the fact that the law now favors the settlement of this class of cases.

That there is due the claimant, under the law as decided by the Supreme Court of the United States in the case of The United States *v.* Watson aforesaid, the following amount of longevity pay:

First longevity ration, July 1, 1841, to June 30, 1845		$292.20
Second longevity ration, July 1, 1846, to June 30, 1850		292.20
Third longevity ration, July 1, 1851, to June 30, 1855		292.20
Fourth longevity ration, July 1, 1856, to June 30, 1860		438.30
Fifth longevity ration, July 1, 1861, to June 30, 1865		438.30
Sixth longevity ration, Mar. 2, 1867, to June 30, 1870		382.70
		2,135.90
Less pay and allowances overpaid	$8.24	
Less internal-revenue tax	30.84	
Total		39.08
Leaving balance due officer		2,096.82

That the court, upon the evidence and after considering the briefs and arguments of counsel upon both sides, makes the following

FINDINGS OF FACT.

I. The claimant, James Nelson Caldwell, is a citizen of the United States, residing in Cincinnati, State of Ohio, and is the administrator de bonis non of the estate of James N. Caldwell, deceased, who during his lifetime was an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1836. He was graduated therefrom and appointed brevet second lieutenant, Second Infantry, July 1, 1840; promoted to be second lieutenant, First Infantry, August 5, 1840; first lieutenant, March 31, 1847; captain, October 26, 1850; major, Eighteenth Infantry, February 27, 1862; and was retired December 29, 1863. He died March 12, 1886. He was on active duty from December 29, 1863, to January 18, 1866; from May 25, 1867, to December 31, 1867; and from August 19, 1868, to February 28, 1869.

II. Said decedent was paid his first longevity ration from July 1, 1845, and one additional ration for each five years subsequent thereto, and the accounting officers of the Treasury refused to count his service at the Military Academy in computing his longevity pay and allowances.

III. Under the decision of the Supreme Court in the case of United States *v.* Watson (130 U. S., 80), there would be due said decedent additional longevity allowances, as reported by the Auditor for the War Department, amounting to $2,096.82.

BY THE COURT.

Filed May 13, 1912.
True copy.
Attest this 14th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. SMITH of Arizona. I offer an amendment, which I ask may be read.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. On page 8, after line 7, insert:

ARIZONA.

To John T. Brickwood, $14,950; Edward Gaynor, $29,000; Theodore Gebler, $10,600; Lee W. Mix, $6,100; Arthur L. Peck, $5,560; Thomas D. Cassnega, $900; Joseph de Lusignan, $6,125; and Joseph H. Berger, $4,000, out of any money in the Treasury of the United States not otherwise appropriated, in full compensation for the losses incurred by the destruction in 1899 of their buildings and other property and their removal by the United States authorities from the premises severally owned and occupied by them on what is commonly called the International Strip, in the town of Nogales, Ariz.

Mr. SMITH of Arizona. Mr. President, from the date mentioned in the amendment up until now these men have been struggling to recover the property that they lost by the act of the Government in removing from the international boundary line in the town of Nogales 60 feet of property then owned, controlled, and occupied by the residents of the city whose names appear in the amendment. This property in the town of Nogales had been on what was known or believed to be a Mexican land grant. These owners had purchased from the Mexican authorities and after it was decided that this particular part was not within the grant, the city applied for a town-site patent. Every resident in that city obtained a patent to his land except those on the international boundary on the 60 feet from which their houses were taken and their property utterly destroyed, and the land dedicated to public use. They were the only men in the city who lost by it. In fact, those abutting on them gained by it. The town site went to patent, and these men have been left from that day to this without any relief whatever.

A hearing was had as to the value of this property and it was submitted to the Court of Claims. The Court of Claims, in its findings, said they had no title to the land, which was true enough, and that they had no title whatever to any recovery, but suggested what improvements were on the land and intimated that it would not be altogether wrong to pay for those.

I did not have time to have this placed as a charter amendment in the bill. I made application to go before the committee on my advent to this body in order to present these claims to that committee. This is a question which is going to involve the findings of the court, and at this time, in the present condition of the Senate, I do not wish to delay the proceedings nor to retard the consideration of the pending bill, because it would take me at least an hour to show the Senate that these men are entitled to every cent they claim. I have no doubt that the chairman will inform me whether or not he expects within a reasonable time to bring before the Senate another of these claims bills.

Mr. CRAWFORD. Mr. President, of course I can not answer upon that point, because there will undoubtedly be a new chairman of the Committee on Claims after the 4th of March and the personnel of the committee will change. The Senator from Arizona was very courteous and very considerate about these claims. He came to the chairman of the committee about it last year after he came here. I appreciate his situation in relation to it. The committee has investigated it, however. For instance, in the Brickwood case, here is the finding of the court:

VI. Claimant never had any title to the real estate upon which said buildings and improvements were situated.

And their conclusion is:

Upon the foregoing findings of fact the court concludes that the claim herein is neither a legal nor an equitable one against the United States, and payment rests in the bounty of Congress.

That is practically the situation with reference to the other claims. It would take some time if the Senator from Arizona and myself were to undertake to review each of these cases. I simply desire to say that there was before the committee this report from the Court of Claims, to which the claims had been referred, and the committee investigated the findings in each case, and came to the conclusion that the claims should not go into this bill. Of course I feel obliged to adhere to that conclusion of the committee and to resist the adoption of an amendment which would incorporate the claims in the bill at this time.

Mr. SMITH of Arizona. But, Mr. President, I can not permit the case to leave the present consideration of the Senate without some explanation of the findings of this court. In the Potomac Flats case of this town, reported in One hundred and seventy-fourth United States, under exactly the same conditions, the Supreme Court of the United States held that while they did not have a legal title to the land they held it under a color of title and made improvements in good faith on it and were entitled to recover the value of their improvements, and they did recover in the Potomac Flats case in this city under exactly similar conditions.

The finding of the Court of Claims that these people had no title is technical and unjust, because the record proof in the case shows that most of those people for 25 years had been residents in good faith of that property, one of them receiving a rental of from five to seven hundred dollars a month on his property, and they allow him $2,300 for that. The proof in this record shows that the holdings were worth $20,000, and it is proved by every neighbor he had and every real estate expert there in that part of the country. Though he did not have a valid title from the United States he had lived on this ground under its grace, with the right to claim title ultimately when it gave patents, as it did to every one of his neighbors except him, and they dedicated this to public use.

The Court of Claims say that these people had no legal or equitable title to that ground, in the face of the fact that they gave to every other man in the city a direct Government title to his land and withheld it from these claimants. The Court of Claims come in to tell Congress that the claimants here have no legal or equitable title to anything and that it is a matter merely for the grace of Congress to give them some compensation for this injury done them.

I shall attempt, I think, a shorter cut. At the very first opportunity I shall introduce a bill to relieve these men directly and avoid any questions that can be raised on the Court of Claims finding, for I appreciate the attitude the chairman is in and the difficulties his bill is already giving, not only to himself, but to the Senate and to the House.

So I will for the present withdraw the amendment.

The PRESIDING OFFICER. The amendment offered by the Senator from Arizona is withdrawn.

Mr. MARTINE of New Jersey. Mr. President, yesterday I presented an amendment, which has been printed. It is for longevity pay, and I have here the court findings.

The PRESIDING OFFICER. The Senator from New Jersey offers an amendment, which will be read.

Mr. MARTINE of New Jersey. It is the one I offered yesterday and which has been printed.

Mr. CRAWFORD. It is a claim for longevity pay growing out of the service of an Army officer.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. On page 265, after line 9, insert:

To Jane W. Laidley, widow, and Jane A. Oberly, daughter and only child, of Theodore T. S. Laidley, deceased, late of the United States Army, $2,057.95, to be proportioned as follows:

To Jane W. Laidley, of Elizabeth, N. J., $685.98.

To Jane A. Oberly, of Elizabeth, N. J., $1,371.97.

Mr. MARTINE of New Jersey. The court findings I have sent to the desk.

Mr. CRAWFORD. Let the Secretary read the conclusion of the findings.

The Secretary read as follows:

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein not having been filed for prosecution before any court within six years from the time it accrued is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the service of said decedent while a cadet at the Military Academy, which service the Supreme Court in the case of United States v. Watson (130 U. S., 80) decided was service in the Army.

BY THE COURT.

Filed June 17, 1912.

A true copy.

Test this 18th day of June, A. D. 1912.

[SEAL.] ARCHIBALD HOPKINS, *Chief Clerk Court of Claims.*

Mr. CRAWFORD. The committee accepts the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. SMITH of Maryland. I offer the following amendment, and I also send to the desk the findings of the Court of Claims.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. On page 50, after line 9, insert:

To the rector of St. Augustine's Roman Catholic Church, of Williamsport, Md., $425.

Mr. CRAWFORD. This amendment was proposed by the Senator from Maryland, as I recall it, at the last session. The claim was considered in the committee, and the findings of the Court of Claims were considered by the committee, and the amendment was not adopted by the committee. It is a case in a class. If it is allowed, a great many others of the same character and kind ought to be allowed.

It was the decision of the committee that the facts as reported with reference to the use and occupation of the church did not bring it within the rule laid down by the late Senator from Massachusetts in the Williams and Mary College case for the destruction of educational buildings or buildings used for religious purposes, but it is a purely commercial claim for rent. Without a finding as to the period during which it was occupied, showing how long it was occupied, with no specification as to the damages, not discriminating at all, I will say to the

Senator, against his State or his claim, it is a part of a class which the committee decided adversely upon.

Mr. SMITH of Maryland. Do I understand the Senator from South Dakota to say that claims shall be rejected, regardless of the recommendation of the Court of Claims? It will be seen by the finding of the Court of Claims that this amount has been recommended as due. I take it for granted that the court investigated the matter and found that it was due by the Government, for they have so stated.

It certainly seems to me that the Court of Claims is of very little use, when after a proper investigation they recommend a claim as a just claim and one that should be paid by the Government, if their recommendation is to be ignored. It does seem to me that their finding ought to be recognized by the Senate. The claim is recognized by the Court of Claims as a proper one, and recommendation is made for its payment.

Mr. CRAWFORD. I will say to the Senator from Maryland that that is hardly a fair statement as to what the Court of Claims has done. The Court of Claims renders no judgment in these cases. The Court of Claims simply reports the facts which they find, and those facts are sent here for the enlightenment of Congress in determining whether or not it will appropriate money.

In many, many of the reports from the Court of Claims they make no recommendation. They find no judgment; they simply report certain facts; and oftentimes they do not report facts which are sufficient to give to Congress the information that is necessary and which ought to be reported before the money is paid out of the United States Treasury.

For instance, with reference to the rent, I think if the Senator as a successful business man were asked to make a payment in the absence of any lease, in the absence of any specific contract to pay for the use and occupation of some building somewhere in his vast business, which he may have had no personal knowledge of but which is reported to him by one of his employees, before he would consent to pay a specific sum of money for the use and occupation of the building he would at least require the claimant to show him how long he had occupied the building. He would simply require the claimant to show him what sort of a building it was, and if the claim was made that his men were occupying it and had done damage to it he would certainly require some specifications as to what the damages were.

I am not discussing this particular case so much as I am cases that come within the class we have acted upon, where, for instance, a claimant puts in a blanket claim for the rent of a church. Claimants do not tell us the year when it was occupied; they just use the general language "during the war"; and they do not tell us what kind of a building it was. I presume you could sell some of these negro churches for $25, and yet they bring in claims here for use and occupation of their building. Whether they were 100 years old or new and substantial buildings, there is absolutely nothing in the findings to show.

I have absolutely no prejudice about this matter. I was only 2 years old when the war began, and there is none of the old feeling about it, so far as I am concerned; but I do insist that when we are paying money out of the Treasury of the United States on these claims, the claimants or their attorneys ought at least to present us the essential facts that are necessary, and would be required between business men when they are asked to pay an obligation. I think the trouble is due to the incompetency and the recklessness of attorneys, who themselves have practically no faith in these claims, but who are just taking a snapshot at them, thinking "we may get something and we may not." If they were trained lawyers they certainly ought to have known how to draw up findings that would cover the necessary facts in a case upon which they were asking an appropriation of money. Over and over again what purport to be findings coming here from the court do not furnish the facts which should be required as the basis for appropriating money out of the United States Treasury.

Mr. SMITH of Maryland. Mr. President, I would say to the Senator from South Dakota that I have no idea that he has any prejudice whatever in this matter. I am quite sure that he is inclined to do his duty as he sees it; but in regard to his suggestion that in many instances no special church was specified, I will say that in this instance the church was specified; the name of it was given and the location was given.

Mr. CRAWFORD. If the Senator will permit me, he is right about that point. I wish to say to him that there are only a few such cases; but there are some claims for church rent where they did describe the building, give its size, and give us some information. I regard those as rather in a class by themselves.

Mr. SMITH of Maryland. I will say to the Senator that this claim is one of that class. This church has been specified——

Mr. CRAWFORD. And we treated them all alike, if the Senator please.

Mr. SMITH of Maryland. And the Court of Claims has decided that this is an equitable claim and that the money is due for rent. Inasmuch as the Government has appointed a Court of Claims to investigate these matters, I assume they have investigated this case; I assume that they found that this church was occupied; I assume that they found that the damage to the church was equal to the amount asked for; and they have made a report here stating that this amount of money is due to this church. It does seem to me that the Court of Claims amounts to nothing if, after they have investigated and reported upon a case, their report should be turned aside.

I would not for a moment question the Senator's feelings in regard to the matter; I am sure he wants to do what is right; I know he does; but it is a matter of judgment as to what is right. I feel that this is a proper claim; I feel that it has been properly adjudicated; that it has been properly examined and reported upon by the Court of Claims; and they say in their report that it is an equitable claim and should be paid.

Mr. CRAWFORD. Mr. President, this is one of the very late findings; I think it was made in January, 1912. There are some claims of a similar character in the bill which have been rejected and will have to be determined in conference.

I hope the Senator from Maryland will be satisfied to allow this claim to remain out of the bill and have these cases which belong to a similar class determined between the two Houses. If they should then decide to allow them, it would give the Senator from Maryland a precedent for his claim; if they should decide against them, the Senator would then know what to expect with reference to his claim. The findings are very recent—January, 1912, as I recall. That is 50 years after 1862. These findings come here in relation to the rent of a church 50 years after the war began. I think the Senator ought to allow this claim to rest in the class with the others.

Mr. SMITH of Maryland. I have no disposition to do anything that would cause confusion, but at the same time I feel that this is a just claim and that it should be allowed. I have no disposition whatever to interfere with the working of the committee; but this is certainly a claim which should be allowed, and so I feel that it is my duty to press it to the furthest extent.

Mr. CRAWFORD. Mr. President, I ask that the amendment be rejected.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maryland.

The amendment was rejected.

Mr. LODGE. Mr. President, I have an amendment here which I desire to offer in regard to a Philippine claim. I send the amendment to the desk. I will say to the Senator from South Dakota that it will take some little time, as I wish to say something about it, and I do not think we have the opportunity to consider the amendment now.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. It is proposed to insert:

D. M. Carman, representing the estate of Luis R. Yangko, for rent and repairs of 10 cascos used by the Quartermaster's Department of the United States Army in Manila Bay, $2,876.42.

Mr. LODGE. The amendment has not been adopted by the committee, but the committee, I notice, does not say anything in the report in condemnation of it.

Mr. CRAWFORD. The trouble is that it was not submitted to us until after our main report was made up. I should not want to accept the amendment in behalf of the committee, because the committee never acted upon it. If the Senator from Massachusetts will permit me, the facts reported here are the facts which I reported as a little addendum to the report authorized by the committee, simply for the information of the Senate.

Mr. LODGE. Mr. President, there is no time to go on with the consideration of the amendment now, but I know about this claim because it came before the Philippine Committee, of which I was chairman for many years. We investigated it carefully and reported it favorably, I think, at least once. I believe it is a thoroughly good claim and that it ought to be paid. It has been held equitable by the Court of Claims; it has been approved by the Quartermaster General and by the Secretary of War, and I should like the opportunity to lay it before the Senate because I think it will be adopted by the Senate. The Committee on Claims has not acted upon it. It has simply come in too late for them to embody it in their report. I ask that the amendment may go over now, as it is within a minute of half past 1 o'clock.

Mr. SANDERS. On behalf of the Senator from Kentucky [Mr. BRADLEY], I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to insert, under the heading "Kentucky," the following:

To the wardens of Christ Protestant Episcopal Church, Bowling Green, $300.

Mr. CRAWFORD. I will ask that that amendment be printed and lie on the table.

Mr. LODGE. I did not intend to withdraw my amendment. I thought the bill was going over, and I wanted it to go over with my amendment pending, as it is an amendment which I wish to take a few moments to explain, and we have no time now.

The PRESIDING OFFICER. It was understood that the amendment offered by the Senator from Massachusetts was to go over temporarily.

Mr. LODGE. To go over with the bill and be the pending amendment.

The PRESIDING OFFICER. With the bill, exactly.

Mr. CRAWFORD. That is entirely satisfactory. I ask that the amendment submitted by the Senator from Tennessee [Mr. SANDERS] on behalf of the Senator from Kentucky [Mr. BRADLEY] be printed and lie on the table so that I may have an opportunity to examine it.

The PRESIDING OFFICER. It will be so ordered.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

Mr. GALLINGER. I make the point of no quorum, Mr. President.

The PRESIDENT pro tempore. The Senator from New Hampshire makes the point of no quorum, and the Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	McLean	Smith, Ariz.
Bacon	Curtis	Martin, Va.	Smith, Ga.
Bailey	Davis	Martine, N. J.	Smith, S. C.
Borah	Dixon	Massey	Smoot
Brandegee	Gallinger	Myers	Stephenson
Bristow	Gardner	Oliver	Stone
Brown	Gronna	Overman	Sutherland
Bryan	Hitchcock	Owen	Swanson
Burnham	Johnson, Me.	Page	Thornton
Clapp	Johnston, Ala.	Perkins	Tillman
Clark, Wyo.	Kenyon	Perky	Townsend
Clarke, Ark.	La Follette	Richardson	Warren
Crane	Lea	Root	Wetmore
Crawford	Lodge	Sanders	Works

Mr. PAGE. I again announce that owing to continued illness my colleague, the senior Senator from Vermont [Mr. DILLINGHAM] is unable to be present.

Mr. WORKS. The senior Senator from Washington [Mr. JONES] is necessarily absent on business of the Senate.

Mr. LODGE. I desire to announce that the Senator from New Mexico [Mr. CATRON] is absent from the Senate owing to public business, being on the committee investigating the soldiers' home. I make that announcement for the day.

Mr. CULBERSON. In that connection, I will say that the Senator from Oregon [Mr. CHAMBERLAIN] is also absent on the same business of the Senate.

Mr. JOHNSON of Maine. I desire to announce that the junior Senator from New York [Mr. O'GORMAN] is absent on important business of the Senate. I make this announcement for the day.

Mr. MARTINE of New Jersey. I desire to announce that my colleague [Mr. BRIGGS] is absent from the Senate owing to serious illness.

Mr. TOWNSEND. I beg to announce that the senior Senator from Michigan [Mr. SMITH] is absent on business of the Senate.

The PRESIDENT pro tempore. On the call of the roll of the Senate 56 Senators have answered to their names. A quorum of the Senate is present. The Sergeant at Arms will make proclamation.

The Assistant Sergeant at Arms (Mr. Cornelius) made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last sitting of the Court of Impeachment.

The Journal of yesterday's proceedings of the Senate sitting as a Court of Impeachment was read.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it stands confirmed. The managers on the part of the House will proceed. Do they desire the last witness recalled?

Mr. Manager DAVIS. Call Mr. Conn.

TESTIMONY OF CHARLES F. CONN—CONTINUED.

Charles F. Conn, having been previously sworn, was further examined, and testified as follows:

Q. (By Mr. Manager DAVIS.) Mr. Conn, when the Senate adjourned last evening we were discussing the draft of the agreement submitted to you by Judge Archbald and produced by Mr. Worthington. You stated that you had made a request of Judge Archbald that you might be permitted to reinspect that paper. When did you make that request?

The WITNESS. Did I make that statement?

Mr. Manager DAVIS. I think I quoted you in substance. Shall I refresh your memory from the RECORD?

Mr. WORTHINGTON. What page? I have the RECORD here.

Mr. Manager DAVIS. I will read from the CONGRESSIONAL RECORD of this morning. The question was asked you:

Had you made a request that you might see it?

And you answered:

I had.

Q. Of whom had you made that request?—A. I think I asked Judge Archbald if I might see it.

Now, the question is, When did you make that request of Judge Archbald, and where?—A. A short time after I testified in the proceedings here I met Judge Archbald on the street in Scranton, and he stated to me that "You were in error in saying that you had not seen the draft of contract"; and he stated that it was in his possession and that I might see it.

Q. Do you remember approximately the date of that interview?—A. I do not.

Q. Have you stated before the Committee on the Judiciary that no draft of such an agreement had ever been submitted to you?—A. I so stated.

Q. You were in error, were you not, in making that statement?—A. I was in error.

Q. How long after that tender on the part of Judge Archbald was it before the paper was exhibited to you?—A. I saw the paper Tuesday morning of this week.

Q. In the city of Washington?—A. Yes, sir.

Q. Why did you wait that length of time before asking for the paper or going to see it?—A. I do not know that I can give any reason.

Q. At the time Judge Archbald told you of his possession of the paper, did he tell you when and how it had come into his possession?—A. I think not.

Q. Did you ask him how it came to be in his possession?—A. I do not think I did. I think I did not.

Q. Was there nothing said which would refresh your recollection as to the manner in which that paper had got out of your custody and again into his?—A. I think not.

Q. You say you think not, Mr. Conn. Can you not be sure as to whether there was or was not any information of that sort communicated to you?—A. No; I can not be sure.

Q. Have you no recollection whatever touching that matter?—A. My recollection is that nothing was said at that time, but I am not positive.

Q. Have you any better recollection than you had yesterday as to the manner in which that paper, having been submitted to you by Judge Archbald, was by you redelivered to him or some representative of his?—A. Not of my own knowledge.

Q. Has anyone refreshed your recollection about it?—A. Not since yesterday.

Q. Well, has anyone refreshed your recollection about it at any time?—A. After Judge Archbald made this statement to me that I was in error in my testimony I went to Wells & Torrey's office, attorneys for the railroad company, and asked Mr. Wells about this contract. My recollection is that he stated that the contract had been given to Judge Archbald's attorneys by him or by the firm.

Q. Who were Judge Archbald's attorneys?—A. Mr. Martin and Mr. Price.

Q. And when had it been given to them by him?—A. That I do not know.

Q. Had it been given to them by him before or after your testimony before the Committee on the Judiciary of the House?—A. I do not know.

Q. Do you know whether it had been given to them by your attorney, Mr. Wells, before or after this inquiry began?—A. I do not.

Q. Do you know when Messrs. Martin and Price first became the attorneys of Judge Archbald?—A. I do not.

Q. They were his attorneys, were they not, and present at the time of the examination had before the Committee on the Judiciary?—A. They were.

Q. And was it not after the beginning of that inquiry that your counsel, Mr. Wells, delivered this paper to them?—A. I do not know.

Q. Does that not refresh your recollection about it? I will withdraw that question and put it in another form. Were Messrs. Martin and Price counsel for Judge Archbald at any time in connection with your purchase of this culm bank and your negotiations with him about it?—A. Not to my knowledge.

Q. In all that transaction Judge Archbald, of course, appeared as his own representative?—A. He did.

Q. Was there any matter, so far as you know, in which they were Judge Archbald's attorneys other than this proceeding?—A. Not so far as I know.

Q. In this contract itself, Mr. Conn, I observe that your company is described as the Erie & Wyoming Valley Railroad Co. Is that a correct designation?—A. No, sir.

Q. What is the corporate name of your concern?—A. The Luckawanna & Wyoming Valley Railroad Co.

Q. It does, however, have a physical connection with the tracks of the Erie Railroad Co., does it?—A. Yes, sir.

Q. And a traffic arrangement with that railroad company?—A. Yes, sir.

Q. You were to pay for this coal, according to the proposition you made, 27½ cents per ton royalty? That is correct, I believe?—A. Yes, sir.

Q. What was your estimate of the cost of the coal to you after that royalty had been paid and the coal had been won from this bank?—A. About 65 cents.

Q. You were at the time purchasing coal from the Erie Railroad Co. and its subsidiaries?—A. Yes, sir.

Q. What were you paying to them per ton at that time?—A. $1.

Q. Did you have any knowledge of the price which had been fixed by the Erie Railroad Co. upon its holdings in the option given to Archbald and Williams?—A. I had.

Q. Before the negotiations were concluded?—A. Yes, sir.

Q. At the time the negotiations were begun had you that knowledge?—A. Not at the beginning of the negotiations; no, sir.

Q. When did you acquire that knowledge?—A. Soon after I received the first letter introducing Mr. Williams I went to Capt. May's office to get information concerning the culm bank and there learned the price of the Hillside interest.

Q. Did Capt. May at that time tell you anything about Judge Archbald's connection with the transaction?—A. I think not.

Q. Will you fix for us again, if possible, the exact date when your attorneys advised you that they would not recommend the title to this property?—A. I can not state that date positively.

Q. You had a conversation with Judge Archbald on the 29th day of November, 1911, in which you and he agreed as to price and terms. How long after that date was it, approximately, when your attorneys gave you this advice?—A. Within a week.

Q. How long was it after they gave you this advice before you communicated it to Judge Archbald?—A. I think that was also within a week.

Q. And after that you heard nothing further from Judge Archbald until you had received the letter from Williams on the 13th of March, 1912, and he came to your office within a few days thereafter. Is that correct?—A. I think I had heard from him during that period, either in conversation, meeting him on the street, or by telephone.

Q. With reference to this transaction?—A. That he was attempting to negotiate for an option from the Everhart heirs.

Q. When did he make the statement to you?—A. I have no way of fixing the time.

Q. How often during that interval did he communicate with you on the subject?—A. Perhaps two or three times.

Q. When was your attention called to the fact that you had made an error in your testimony before the committee with reference to the existence of this paper?—A. I can not fix the date.

Q. Was it before or after you left the city of Washington?—A. It was in Scranton, after I had left Washington.

Q. After you had left Washington. Was Judge Archbald present at your examination before the committee in the city of Washington?

Mr. WORTHINGTON. It is admitted that he was.

Mr. Manager DAVIS. Let me refresh the witness's recollection.

The WITNESS. At the examination of this contract?

Q. (By Mr. Manager DAVIS.) Yes. Was Judge Archbald present at your examination before the Committee on the Judiciary in Washington?—A. He was; yes, sir.

Q. Were Messrs. Martin and Price, his counsel, present at the same time and place?—A. They were.

Mr. Manager DAVIS. You may inquire, gentlemen.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Mr. Conn, when this former contract, which is Exhibit No. 22, was read yesterday, the interlineations were not read. We all understood they were not to be read. I wish you would now read them and state in what lines they occur and what they are, so that the record will show the contract and the interlineations.

And I would like to suggest, Mr. President, that this contract be reprinted in the record of this trial to-day with the interlineations, showing where they occur. Otherwise there will be no means by which the Members of the Senate can tell about these interlineations without going to a great deal of trouble.

Mr. Manager CLAYTON. There is no objection to that, Mr. President. We want all the facts as they are to appear.

The PRESIDENT pro tempore. Without objection, it will be so ordered.

The matter referred to is as follows:

[U. S. S. Exhibit 22.]

[Words in brackets stricken through and words inserted in lieu thereof in italics.]

This agreement, made this — day of December, A. D. 1911, by and between Edward J. Williams and R. W. Archbald, of Scranton, Pennsylvania, of the one part.

And the [Erie and Wyoming Valley Railroad Company] *Lackawanna & Wyoming Valley Power Co.*, a corporation of the State of Pennsylvania, of the other part, witnesseth:

Whereas the said parties of the first part are the owners of a certain culm dump or bank of waste coal and refuse, produced in the mining operations of the late firm of Robertson and Law, at the so-called Katydid mines and colliery, which dump or bank is located in the vicinity of Moosic, Pennsylvania, and known and called the "Katy-did" culm dump; and whereas the party of the second part is desirous of purchasing the same:

Now, this agreement witnesseth, that for and in consideration of the terms and conditions hereinafter mentioned the parties of the first part do hereby grant, bargain, sell, and convey unto the party of the second part, its successors and assigns, all of the said culm dump, with the right to take, remove, and dispose of the same, subject always as follows; that is to say:

1. It is the purpose of the said party of the second part, and it hereby undertakes and agrees, at some convenient place along the line of [its] *the L. & W. V.* railroad to erect and construct a so-called washery or building, with suitable screens, rolls, chutes, and other appliances for the handling, screening, sorting, cleaning, and preparing for use the coal and material obtained from the said culm dump, with or without the use of water; [and the same to equip with proper scales to the end that an accurate record may be kept of the weight and quantity of the said coal derived from the material taken from the said dump or bank;] all of which material, excepting rock, shall be taken and be passed through the said washery, and afterwards weighed at *scales of R. R. Co. at Scranton* the said washery in the cars when ready for use or, in default thereof shall be accounted and paid for according to the gross ton of material removed from the said dump.

2. For each ton of coal of two thousand two hundred and forty (2,240) pounds obtained from the said dump as aforesaid which will pass over a screen of — inches, square mesh, being of the size commonly known as rice, barley, or bird's-eye, or larger, the said party of the second part shall pay at the rate or royalty of twenty-seven and a half cents (27½¢) a ton; all the material which passes through said screen being regarded as dirt or waste, for which no payment is to be required:

Provided, however, That in the screening, sorting, cleaning, washing, or preparing the said material it shall not be broken down or crushed by the said party of the second part, so as purposely to make any such dirt or waste; and

Provided further, That any such waste material that is used or sold by the said party of the second part for steam or fuel purposes shall be paid for at the same rate as though of the size aforesaid.

3. The said party of the second part shall render monthly statements of the number of tons passed through or cleaned and prepared at the said washery, which statements, in duplicate, shall be mailed to the said parties of the first part, severally, on or before the tenth day of each calendar month for the month then next preceding; and on the twentieth day of each month shall make payment therefor, one-half to each of the said first parties, which the said parties of the first part shall severally receipt for by signing and returning proper vouchers therefor.

4. The said party of the second part agrees to pay at the rate per ton aforesaid for at least twenty thousand (20,000) tons per annum, in equal monthly installments, whether that quantity shall have been removed and obtained from said dump or bank and washed and prepared or not, until all the said material, other than rock, composing the said dump shall have been removed and disposed of, or all the coal to be derived therefrom shall have been paid for. When royalties have been paid in advance and, in the opinion of the party of the second part, payment has been made at the rate aforesaid for all of the coal capable of being obtained from said dump, if there is any dispute between the parties hereto with regard to the same, the matter shall be submitted to three arbitrators, one of whom shall be chosen by the parties of the first part, one by the party of the second part, and the two arbitrators so chosen shall agree on the third arbitrator, and the decision of any two of them shall be binding and conclusive. In case of the neglect or refusal of either party to appoint an arbitrator, the appointment may be made at the instance of the other party by the court of common pleas of Lackawanna County.

5. Where, in the screening, sorting, cleaning, and preparing the said material, any coal above the size of pea coal is obtained, the party of the second part, in addition to the royalty of twenty-seven and a half cents (27½¢) per ton to be paid to the parties of the first part, shall pay to the Hillside Coal and Iron Company, on account of the owners of lot No. "46," from which the said coal was originally mined, the sum of five cents (5¢) per gross ton, in accordance with the terms on which the

said culm dump is sold to the parties of the first part by the said Hillside Coal and Iron Company.

6. The party of the second part shall pay to the parties of the first part, on the execution and delivery of this agreement, the sum of ten thousand dollars ($10,000) as advance royalties, for which the party of the second part, without further payment, shall be entitled to such number of tons of coal, at the rate of twenty-seven and a half cents (27½¢) a ton, as shall be the equivalent thereof.

7. In case of the failure of the party of the second part for thirty days *after the same are due* to make the payments herein provided for, or to otherwise, for a like period, comply with any of the terms of this agreement, the parties of the first part may forfeit this agreement on thirty days' notice, in writing, of their intention so to do.

8. This agreement shall take effect as of December 1, 1911, from which date the minimum herein provided for shall begin to run.

9. When this agreement shall have been fully complied with by the party of the second part, the parties of the first part, at its request, shall execute an acknowledgment releasing and discharging the said party of the second part from any further obligation thereon.

10. The terms and conditions of this agreement shall be binding upon and operate in favor of the executors, administrators, and assigns of the parties of the first part, and of the successors and assigns of the party of the second part, as though in each instance severally and expressly mentioned.

In witness whereof the parties of the first part have hereunto set their hands and seals, and the party of the second part has hereunto affixed its corporate seal, attested by the signature of its president and secretary, on the day and year first above written.

_____ _____.
_____ _____.
_____ _____.

The WITNESS. The words "Erie and Wyoming Valley Railroad Company" are crossed out and the words "Lackawanna & Wyoming Valley Power Co." are substituted. That is on the first page, second paragraph.

In section 1 the word "its" is stricken out and "the L. & W. V." substituted.

In the margin of the second page "scales of R. R. Co. at Scranton" are inserted.

Mr. Manager CLAYTON. After what word is that insertion?

Mr. WORTHINGTON. It is not after any word. It is in the margin.

The WITNESS. It is in the margin of the page, intended to take the place of these words:

And the same to equip with proper scales to the end that an accurate record may be kept of the weight and quantity of the said coal derived from the material taken from the said dump or bank.

Mr. Manager CLAYTON. That gives me the information that I desire.

The WITNESS. In section 7 the words "after the same are due" are inserted after these words:

7. In case of the failure of the party of the second part for 30 days.

Q. (By Mr. WORTHINGTON.) Are those all?—A. All except two interrogation marks which are in the margin of the paper.

Q. Are all those interlineations which you have just read in lead pencil?—A. Yes, sir.

Q. And the body of the paper is in typewriting, I believe?—A. Yes, sir.

Q. And are all those interlineations in your handwriting?—A. They are.

Q. And how about the interrogation marks? Are you able to identify them?—A. I think they are mine.

Q. Since you have seen that paper and recognized your handwriting, do you now recall having had the paper in your possession and suggesting those changes in the contract in that way?—A. I know, of course, that the paper was in my possession, but I have no recollection of it.

Q. You do not recognize making those changes?—A. I do not.

Q. Or having the paper at all?—A. No, sir.

Q. About how the paper got out of your possession, if I can refresh your recollection, do you not recall that when you saw Judge Archbald in Scranton immediately after the 13th of March last, when you showed him that letter of March 13—that is, since you refused to go on with the contract or consider it any further—he asked you to return that paper to him and you then did so?—A. I have been told I did so. I have no recollection of it.

Q. You have no recollection of it?—A. I have no recollection of returning that paper.

Q. As to the paper being sent around Scranton and sent to your office—you said it was sent to your office while you were away, and by your attorneys, I think you said—Messrs. Wells & Torrey?—A. One of the junior partners of Wells & Torrey brought the paper to my office.

Q. Did you not learn at the same time that the object of that was to find out in whose handwriting these pencil memoranda are?—A. No, sir.

Q. You did not know what the purpose was?—A. No, sir.

Q. When you saw that paper last Tuesday, in whose hands was it?—A. Mr. Archbald, jr.

Q. You said Wells & Torrey were the attorneys for the railroad company. What company did you mean?—A. The Lackawanna & Wyoming Valley Railroad Co.

Q. Mr. Martin and Mr. Price, I believe, are members of the bar of Scranton? That is their residence?—A. They are.

Q. You know them very well, and I presume that they know Judge Archbald?—A. Yes, sir.

Q. When you saw Judge Archbald just after the 13th of March last and showed him the letter of that date from E. J. Williams, did the judge say whether or not that was the first he knew of that letter being sent?—A. Not in those words.

Q. What is your recollection now as to what he did say about it when you exhibited that letter to him?—A. That he had no knowledge of the letter.

Q. If that letter of yours of September 30, 1911, to Judge Archbald, which is in evidence, was photographed at some time, do you have any knowledge as to how it came to be photographed?—A. None whatever.

Q. Was it out of your possession or custody from the time you received it until it was given to the Judiciary Committee?—A. Not to my knowledge.

Q. Did Judge Archbald ever ask you to return any of his letters to you relating to this matter?—A. I think not. He did not.

Q. And, as a matter of fact, you had them in your possession until they were turned over to the Judiciary Committee?—A. Yes, sir.

Q. When Mr. Williams came to your office on or about the 30th of September, 1911, with the letter of that date from Judge Archbald, did you know that he was accompanied by another man, who sat just outside the door where you and Williams were, and was listening to your conversation?—A. I do not think I noticed that there was anyone with him.

Q. Do you know Mr. Pryor, who was examined as a witness here yesterday?—A. I do.

Q. Do you know whether or not he came with Mr. Williams and sat just outside the door while you were talking with Pryor?—A. I could not say.

Q. And listening to your conversation?—A. I do not know.

Q. Had Mr. William P. Boland had any conversation with you about this culm bank before you had any conversation with Judge Archbald about it?—A. He had spoken to me of a culm bank a short time before these negotiations began, but I am not sure whether he identified this particular property or not.

Q. When you say "shortly before these negotiations began" what do you refer to?—A. The receipt of the letter introducing Mr. Williams.

Q. What was your conversation with Mr. Boland about a culm bank, whether he mentioned the particular bank or not?—A. He asked if we would be interested in the purchase of a culm bank which could be reached from our own tracks, and I answered that we would be.

Q. Did you have any knowledge at the time of this transaction that the letter of Judge Archbald to you was the result of a suggestion that Mr. William P. Boland made to Williams, after his talk with you?—A. None whatever.

Q. You did not know it?—A. No, sir.

Q. If I understand about the price you were paying or were to pay if you had taken this Katydid bank, you were to pay 27½ cents per ton of coal?—A. Of coal.

Q. It was not for material in the bank, but only for the coal, was it?—A. Coal shipped.

Q. Was the price you were to pay the estimate you had made of the quantity of it? Did you make any computation as to how you would come out as compared with how you would stand when buying the same quantity of coal from the Erie Railroad or its subsidiaries?—A. I figured that we would save 30 or 35 cents a ton.

Mr. WORTHINGTON. Mr. Secretary, will you show the witness the letter of March 13, 1912? I have not the number of the exhibit.

Mr. SIMPSON. Exhibit No. 4.

Q. (By Mr. WORTHINGTON [exhibiting paper].) I want you to designate that the top of the paper on which that letter was written appears to have been cut off. I wish to ask you whether or not that was done while the paper was in your possession?—A. It was not.

Q. It is in the same condition now as when you received it?—A. Precisely.

Q. Was any suggestion made to you at any time by Judge Archbald that his connection with this matter was to be kept quiet and covered up in any way?—A. No, sir.

Q. Was any such suggestion made to you by anybody?—A. No, sir.

Q. Was there, in fact, any concealment of his connection with the matter, on your part or on the part of anybody, so far as you know?—A. There was not.

Q. As a matter of fact, did you not tell Mr. Rittenhouse when you engaged him to look at the bank and tell you what the quantity of coal was, or estimate it for you, you sent him to Judge Archbald to get information about the title or something else connected with the bank?—A. I do not recall doing that.

Q. You do not remember that?—A. No, sir.

Q. You were asked yesterday by one of the Senators as to whether Judge Archbald told you he had a personal interest in this matter. You recollect that in his letter of September 30 he said that he and Mr. Williams were the parties interested?—A. Yes, sir.

Q. Did he at any time limit or alter the statement he had made to you in that way in the letter which opened the negotiations?—A. No, sir.

Q. In this connection, do you recollect whether or not in the contract as it was submitted to you and as prepared by him, coming from him, it said:

This agreement made this — day of December, A. D. 1911, by and between Edward J. Williams and R. W. Archbald, of Scranton, Pa., of the one part—

And so on?

Mr. Manager DAVIS. The agreement itself is the best evidence of the contract.

Mr. WORTHINGTON. Perhaps that is true; but I want to have that appear in this connection.

Mr. Manager CLAYTON. Do it when the argument comes to be made.

Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager DAVIS.) Mr. Conn, you say you were informed by some person unnamed that you had redelivered this tentative draft to Judge Archbald at the time of his interview with you in March, 1912. By whom were you so informed?—A. I think Mr. Archbald, jr., made that statement when I saw the paper on Tuesday.

Q. On Tuesday last in the city of Washington?—A. Yes, sir.

Q. That is, Mr. Archbald, who is one of the counsel at the table?—A. Yes, sir.

Q. Was that statement confirmed to you by any other person?—A. I think not.

Mr. Manager DAVIS. That is all, I believe, Mr. President.

Mr. Manager CLAYTON. Mr. President, this witness may be discharged.

Mr. WORTHINGTON. We agree.

The PRESIDENT pro tempore. The witness is discharged.

DEPOSITION OF E. J. WILLIAMS BEFORE WRISLEY BROWN.

Mr. Manager STERLING. Mr. President, we now propose to read such portions of the deposition of E. J. Williams taken at Scranton by Mr. Brown as we think contradict his statement on the examination here. I will ask the Clerk to read the part we have marked.

Mr. WORTHINGTON. Let me say, Mr. President, that we have gone over this with the manager and we agree that the passages which he has marked and which are about to be read come within the ruling which you made yesterday and they may be read for the purpose indicated, not, of course, withdrawing our contention that they are not competent. We also, of course, reserve the right, if after reading the whole deposition, we think that something else which is in it should go in in connection with it, to then offer it ourselves to make it complete.

Mr. Manager STERLING. There is no objection, I think, to reading from the printed copy.

Mr. WORTHINGTON. Not at all. I should like to have the original, if it is here, to follow the reading with.

The PRESIDENT pro tempore. The Secretary will proceed to read.

The SECRETARY. Reading from the printed copy of hearings before the Judiciary Committee of the House of Representatives, page 218:

SCRANTON, PA., *March 16–17, 1912.*

Mr. BROWN. Will you please state to me the circumstances under which a promissory note for $500, signed by Judge Archbald, was presented to Mr. W. P. Boland for discount while Mr. Boland was involved in litigation then pending before this judge?

Mr. WILLIAMS. We had an option on 1,000,000 acres of land, and I went to see Judge Archbald about it, and talked to him about it, and he says to me, "Could I see the option?" I said, "Yes, sir"; and brought the papers there, and he looked them up. I said to him, "What do you think of them?" "They are all right, first class." "Would you like to pay some money in this, Judge?" "Yes, sir; I will tell you what I will do. I will give you a note to discount for $500." I says to him then, "I will take this note to the Bolands." "All right," he says.

Mr. BROWN. Did this suggestion to take the note to the Bolands come from Judge Archbald?

Mr. WILLIAMS. No; I suggested that to him.

Mr. BROWN. What was his reply?

Mr. WILLIAMS. He said, "Yes; you can take it to them."

Mr. BROWN. Up to the time you suggested taking the note to the Bolands for discount Judge Archbald had made no suggestions relative to the party by whom the note should be discounted?

Mr. WILLIAMS. No; he did not.

Mr. BROWN. So that the idea of having the Bolands discount the note was your own?

Mr. WILLIAMS. I suggested it, as I told William to-day about that.

Mr. BROWN. The judge approved of it?

Mr. WILLIAMS. Yes, sir; he approved of it.

Mr. BROWN. To whom was the note made payable?

Mr. WILLIAMS. To John Henry Jones.

Mr. BROWN. Was Jones a partner in the Venezuelan transaction? What are the interests of the several parties to this transaction?

Mr. WILLIAMS. Each of us owned one-third.

Mr. BROWN. Each of you invested $500?

Mr. WILLIAMS. Me and the judge invested the money.

Mr. BROWN. What part has Jones in the deal?

Mr. WILLIAMS. He went down there.

Mr. BROWN. He contributed his services?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. You and Judge Archbald contributed the money?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. Did you know at the time you presented the note to Boland that he was a party defendant in a case pending before Judge Archbald?

Mr. WILLIAMS. Yes, sir.

* * * * * * *

Mr. BROWN. Mr. Williams, will you please state to me, in detail, the circumstances which led up to the Katydid culm-bank transaction?

Mr. WILLIAMS. Yes, sir. Mr. Boland said I know where there is a culm bank, but at the time he did not know it was in two parts. He knew that I knew that Robertson owned one part.

Mr. BROWN. What do you mean by one part? You mean one-half interest in the whole bank?

Mr. WILLIAMS. Yes; he owned one-half interest in the whole bank. I got a verbal option from Robertson, and then we went to the judge, and Robertson asked him, "Who is your partner in this?" I said, "The judge."

Mr. BROWN. Just a moment. State what occurred when you went to the judge the first time.

Mr. WILLIAMS. I went over to the judge; I said to him: "Now, I can get one-half of the Robertson control and I would like to get the other one-half from Capt. May." He says: "I will give you a good recommendation to get it." I went to see Capt. May, and he did not give it to me on the first time, but the second time he did.

Mr. BROWN. You said you went to Capt. May with the letter from Judge Archbald. What was the substance of that letter?

Mr. WILLIAMS. He recommended me as a man that could handle it all right.

Mr. BROWN. At this time had you agreed with the judge that he should have a part interest in this deal?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. Did Capt. May so understand it?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. The letter indicated that the judge was interested?

Mr. WILLIAMS. I told Capt. May that he was. The letter did not indicate that.

Mr. BROWN. He didn't tell you to tell Capt. May that he was interested in the transaction?

Mr. WILLIAMS. Yes; he did.

Mr. BROWN. You saw Capt. May, and Capt. May refused to grant the option?

Mr. WILLIAMS. Yes; at first.

Mr. BROWN. What did he say to you on this occasion?

Mr. WILLIAMS. He said he didn't want to sell it.

Mr. BROWN. Didn't he say why he didn't want to sell at any price?

Mr. WILLIAMS. No, sir.

Mr. BROWN. At the first conference with May you didn't discuss the consideration?

Mr. WILLIAMS. Yes; I did.

Mr. BROWN. Give me a statement of just what took place at the first conference with May.

Mr. WILLIAMS. I told Mr. May that I got the other one-half from Mr. Robertson, and now I was coming to see him about getting the other part. Mr. Robertson offered his to the Erie many times before.

Mr. BROWN. On what basis?

Mr. WILLIAMS. For so much money.

Mr. BROWN. How much?

Mr. WILLIAMS. The Erie refused to buy Robertson's equity.

Mr. BROWN. Did Capt. May explain why the Erie did not care to purchase Robertson's equity?

Mr. WILLIAMS. They could not handle it through their washery. The washery was out of the way.

Mr. BROWN. They didn't want to buy Robertson's equity, but they didn't want to dispose of their own equity. Didn't Capt. May intimate to you either expressly or impliedly that it was against the policy of the road to dispose of their interest in this culm bank?

Mr. WILLIAMS. Yes; he said he was not willing to do it.

Mr. BROWN. Didn't he give you any idea on which he based his reluctance to negotiate?

Mr. WILLIAMS. No; he was very short.

Mr. BROWN. You mean his manner was abrupt?

Mr. WILLIAMS. Very abrupt; yes.

Mr. BROWN. He didn't seem to want to transact business with you at all?

Mr. WILLIAMS. No, sir.

Mr. BROWN. You left him with the impression that his decision was final?

Mr. WILLIAMS. Yes; I went to the judge right away.

Mr. BROWN. What did the judge say?

Mr. WILLIAMS. The judge says, "I know their lawyer, Mr. Brownell. I will see him about it. You go back to him again and see him about it to-morrow." I went back to him, and in the meantime, as I remember, the judge met him and spoke to him about it.

Mr. BROWN. What did the judge say to you? Give me a complete statement of just what occurred when you went back to the judge after having seen May.

Mr. WILLIAMS. I don't remember exactly. The judge got excited, and he says, "Well, I will go and see Brownell; I am well acquainted with him, and I might hurt him for his refusal to give such a small thing."

Mr. BROWN. Is that all he said?

Mr. WILLIAMS. That is all. He told me, "I got some cases here now for them that I have just decided."

Mr. BROWN. Cases for whom?

Mr. WILLIAMS. The Erie Co.

Mr. BROWN. What else did he say?

Mr. WILLIAMS. I took ahold of the brief and looked at it.

Mr. BROWN. Of what brief?

Mr. WILLIAMS. Of the lighter brief. Some overcharges that they had made on the lighters. I asked him what is a lighter. "It carries the railroad cars over the river," he says.

Mr. BROWN. You say the judge was preparing a brief at the time for the Erie Co.; you saw the brief?

Mr. WILLIAMS. The brief was there.

Mr. BROWN. In what form; printed or typewritten?

Mr. WILLIAMS. Printed.

Mr. BROWN. It had been completed?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. It did not appear that the judge had written the brief?

Mr. WILLIAMS. It was there.

Mr. BROWN. Did he tell you that he had prepared it?

Mr. WILLIAMS. No; he had some cases there then, and he said, "Here is one brief," and I took ahold of it.

Mr. BROWN. When he told you that he had some cases there then, what was your understanding of his statement? I want to know whether he was preparing or completing a brief for the Erie, or had he before him a case for adjudication in which the Erie was a party?

Mr. WILLIAMS. He was not making the brief.

Mr. BROWN. He was passing on the case and the brief had been prepared and filed by the lawyers for the Erie Co. Is that your understanding?

Mr. WILLIAMS. It was a printed matter.

Mr. BROWN. Your understanding was he was passing on a case in which the Erie Co. was a party, and this brief was a brief filed by the attorney for the Erie Railroad in that case?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. Did the judge allude to this brief or refer to it in any way?

Mr. WILLIAMS. I asked him what did that mean.

Mr. BROWN. He defined what the term "lighterage" meant?

Mr. WILLIAMS. He said he had passed upon a couple of cases for them before. He said there are more cases.

Mr. BROWN. You refer to the lighterage case? What did he say about it? Did he connect the lighterage case with the culm-bank transaction? It is not necessary that you should give me the exact words of the judge, but I want the purport of his remarks to you at that time.

Mr. WILLIAMS. I said that he passed on two cases for them before. He did not tell me how he decided them.

Mr. BROWN. What did he say about the lighterage case pending before him then?

Mr. WILLIAMS. Here is some cases yet. That is all he said.

Mr. BROWN. What inference did you draw from this remark?

Mr. WILLIAMS. Well, I have no right to draw any inference; you can draw your own inference.

Mr. BROWN. I want to know what is your understanding of his remarks regarding this lighterage case. What did he mean to imply when he said he had a case pending before him, according to your understanding?

Mr. WILLIAMS. Well, I suppose he meant he had a chance to do something for them or against them.

Mr. BROWN. Were his remarks susceptible of any other construction?

Mr. WILLIAMS. No, sir.

Mr. BROWN. What did he say about Brownell?

Mr. WILLIAMS. He said he was well acquainted with their lawyer. I did not know him. I never heard the name before.

Mr. BROWN. Did he say he would see Brownell about the option?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. Do you know whether he saw him or not?

Mr. WILLIAMS. I don't remember.

Mr. BROWN. Try to remember whether he ever told you he saw him or not, or indicated that he saw Brownell.

Mr. WILLIAMS. I can't remember whether he saw Brownell or not.

Mr. BROWN. Can you remember whether he said he was going to New York to see him?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. What happened the second time you went?

Mr. WILLIAMS. He gave it to me—the option.

Mr. BROWN. His attitude seemed to have changed completely? You say only one day intervened between your first and second conference? Had the judge done anything other than speak to May personally?

Mr. WILLIAMS. No, sir; because he didn't have time.

Mr. BROWN. State what happened next.

Mr. WILLIAMS. I got the option. I could not say how many days after that I went to see Capt. May again, but I know the judge had met him and talked with him. I don't remember if he saw Brownell. He told me to go and see May again.

Mr. BROWN. You went to see May. Do you remember how many days had elapsed?

Mr. WILLIAMS. I could not say.

Mr. BROWN. The next time you went to see Capt. May his attitude was entirely changed?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. What took place at the second conference?

Mr. WILLIAMS. He gave me the option.

Mr. BROWN. He seemed to be glad to grant it?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. Did May give you any explanation for changing his decision?

Mr. WILLIAMS. No; not a word.

Mr. BROWN. You did not ask for any explanation?

Mr. WILLIAMS. No, sir; the judge told me before I went that I could get anything from him.

Mr. BROWN. How was the purchase price that you paid for the Erie equity in the culm bank fixed?

Mr. WILLIAMS. $4,500.

Mr. BROWN. How did you arrive at that amount? Did you discuss it with May?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. What was the purport of your conversation regarding the price to be paid for this option?

Mr. WILLIAMS. I talked to him about the amount and the quantity of coal with their own engineers. I told him that I got the other half for $3,500. He brought it down. He had it up to $6,000; then he brought it down to $4,500.

Mr. BROWN. At the time did you think that $4,500 was a reasonable price for the Erie interest in the culm bank?

Mr. WILLIAMS. If the other was reasonable, it must be more than reasonable.

Mr. BROWN. Did you think at that time it was a reasonable price to pay for the Erie interest?

Mr. WILLIAMS. I thought I had some advantage.

Mr. BROWN. How great an advantage? What did you honestly believe was the value of the Erie interest in the culm bank at that time?

Mr. WILLIAMS. It was worth $10,000.

Mr. BROWN. Yet you have practically completed negotiations for selling the property for between $30,000 and $40,000? How do you account for the large discrepancy in your estimate?

Mr. WILLIAMS. I suppose it was through his influence that done a good deal of it.

Intermission.

Mr. BROWN. Mr. Williams, I would like to resume your examination relative to the fixing of the purchase price to be paid to the Erie for their equity in the culm bank. You stated that you saw Capt. May, the first time he refused absolutely to negotiate with you relative to this deal; you went back to Judge Archbald and told him what happened, and the judge, as I understand it, indicated displeasure at the actions of May, and intimated to you that he would go over May's head and force him to talk business with you, and at that time he was passing on a case involving lighterage charges.

Mr. WILLIAMS. Something about lighterage, I don't remember what it was.

Mr. BROWN. In which the Erie was a party in interest?

Mr. WILLIAMS. I did not understand what lighterage was.

Mr. BROWN. You do remember the Erie was a party in this case pending before him at that time?

Mr. WILLIAMS. Yes; I seen it, I had the paper book in my hand.

Mr. BROWN. Judge Archbald, according to your theory, saw or communicated with somebody higher up than May in this corporation, and then he told you to go and see May again, and the second time May's attitude had entirely changed, and he was willing to talk business with you.

Will you give me, to the best of your recollection, just the substance of the conversation with May, on the second visit, with especial reference to the method whereby the price to be paid for the culm bank was arrived at.

Mr. WILLIAMS. He figured it up at 12 cents a ton, then he figured it at 6 cents. I told him, why should you ask any more than Robertson; he only asked $3,500. I think your price is high.

Mr. BROWN. What did he say

Mr. WILLIAMS. Well, he figured it down to $4,500.

Mr. BROWN. At what rate per ton?

Mr. WILLIAMS. At 6 cents per ton.

Mr BROWN. Isn't that a very low price for culm, in place?

Mr. WILLIAMS. Yes; we could get from the Laurel line 27½ cents.

Mr. BROWN. Has the price materially increased since you put through the deal with May?

Mr. WILLIAMS. It has increased some.

Mr. BROWN. To what extent?

Mr. WILLIAMS. I could not tell you.

Mr. BROWN. Well, give me an estimate Has it increased, say, 25 per cent in value or 50 per cent, or is the increase comparatively small?

Mr. WILLIAMS. It has increased, maybe, from 5 cents to 6 cents a ton.

Mr. BROWN. So that you estimate that at the time you purchased the Erie interest in this culm bank the culm was probably worth about 20 cents a ton?

Mr. WILLIAMS. Yes, sir; it is not a very rich dump.

Mr. BROWN. I want to get your estimate of the value, per ton, of that culm at the time you got this option from May, as contradistinguished from the present value of the culm.

Mr. WILLIAMS. He estimated we could get nearly $40,000 to lease it by the ton.

Mr. BROWN. You understand, Mr. Williams, I am trying to get at the reasonable value of that culm per ton in place at the time that you put through this option with May?

Mr. WILLIAMS. Well, I have leased 1,000,000 tons at 10 cents per ton.

Mr. BROWN. You mean you have purchased culm at that rate?

Mr. WILLIAMS. I leased it. I leased all he owned from Forest City to Moosic.

Mr. BROWN. It is not material what you leased culm for. I want to know what it was worth in the market, according to your best judgment, at the time the option was granted A moment ago you stated that the value of culm has increased from 5 cents to 6 cents a ton since this transaction occurred. The Laurel line was willing to pay 27½ cents per ton for this culm. Now, the logical inference is, according to your best judgment, at the time you secured this option this culm was worth about 20 cents per ton.

Mr. WILLIAMS. I suppose.

Mr. BROWN. I want a little more definite answer than that. What is your best judgment?

Mr. WILLIAMS. Conn told me he was paying 70 cents per ton for culm at that time. Yes; he told me that.

Mr. BROWN. That evidently was higher than the prevailing market price?

Mr WILLIAMS. Yes, sir. He was paying the Erie 70 cents.

Mr. BROWN. For the same quality of coal?

Mr. WILLIAMS. It was fresh culm from the breaker.

Mr. BROWN. What difference in the value of culm would that make?

Mr. WILLIAMS. I don't know. There might be more carbon in it.

* * * * * * *

Mr. BROWN. You have had a great deal of experience in coal transactions?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. Do you think it is probable that Mr. May could have, in a deal involving as much money, made an honest mistake in the appraisal of the value of this bank that he was about to sell for the corporation he represented?

Mr. WILLIAMS. I don't know. I believe he said the estimate was of their engineers. Robertson said that the estimate of their engineers was 140,000 tons.

Mr. BROWN. Whose engineers?

Mr. WILLIAMS. The Erie's engineers.

Mr. BROWN. Then you think Capt. May knew at the time that this culm was worth more than he was charging you for it? He knew that the Erie interest in the bank was worth a good deal more to the Hillside Coal & Iron Co. than he was charging for the option?

Mr. WILLIAMS. I couldn't say. I don't think he was ignorant; he handled so much of it.

Mr. BROWN. He was an old, experienced coal man, and was a good judge of coal values?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. Who told you that the Erie engineers had estimated there was 140,000 tons in the bank?

Mr. WILLIAMS. Mr. Robertson.

Mr. BROWN. Where did he get it?

Mr. WILLIAMS. From their engineers.

Mr. BROWN. Who were their engineers?

Mr. WILLIAMS. I don't know. May told me that day that they estimated it, but I think he told me at first that it was 140,000.

Mr. BROWN. What made him change the amount?

Mr. WILLIAMS. I don't know; I think he told me the same as Robertson told me.

Mr. BROWN. Told you when?

Mr. WILLIAMS. In the office.

Mr. BROWN. At what time?

Mr. WILLIAMS. When I was there the second time.

Mr. BROWN. That at the time he granted the option there was 140,000 tons? I understood you to say a moment ago that he admitted the amount of coal to be only about——

Mr. WILLIAMS. There is a difference in the amount of coal and culm, altogether.

Mr. BROWN. I mean the amount of culm, we are referring to culm. His estimate was based on the amount of coal, and the estimate of the engineers was based on the amount of culm?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. What is the usual basis of valuation on a culm bank, the amount of coal or culm?

Mr. WILLIAMS. The amount of coal.

Mr. BROWN. Then what was the purpose of the estimate of the engineers that there was 140,000 tons of culm?

Mr. WILLIAMS. We know pretty near how much the percentage of coal is. We knew by the estimate of culm the percentage of coal, after we get the estimate of culm.

Mr. BROWN. Let us get a common basis of computation. You say May's estimate was based on the amount of coal, the engineers' estimate was based on the amount of culm. How does the engineers' estimate of the amount of culm tally with May's estimate of the amount of coal?

Mr. WILLIAMS. The estimate of coal would not run less than 75 per cent.

Mr. BROWN. Seventy-five per cent of the 140,000 tons of coal? You think that is a fair estimate?

Mr. WILLIAMS Yes, sir.

Mr. BROWN. May must have known that at the time the option was made?

Mr. WILLIAMS. He ought to know; he had so many washeries themselves that would give more percentage than that.

Mr. BROWN. What I want to get at is just this, whether or not there was a reasonable possibility of May having made an honest mistake in calculating the amount of coal or culm in this bank at the time he granted the option to you?

Mr. WILLIAMS. I can not see how he could make a mistake—a man of his experience. With his experience and the report of the engineers of his company to inform him, I can't see how he could make a mistake.

Mr. BROWN. Your theory is that he deliberately miscalculated the amount of coal or culm in the bank?

Mr. WILLIAMS. It looks that way to me.

* * * * * * *

Mr. BROWN. Has any other action been taken with respect to this Hillside property? You are waiting the consummation of the deal with respect to the Katydid bank before taking this other property under consideration; so that in view of these conditions you believe that the price that you have put on this culm, of 27½ cents per ton, in the prospective contract with Conn, is less than you ought to be able to get for the property.

Mr. WILLIAMS. I think we ought to get 40 cents.

Mr. BROWN. You think 40 cents is a conservative estimate of its value to the Laurel line?

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. In other words, you think that the Erie Railroad Co., or rather the Hillside C. & I Co., could have sold their interests in this bank direct to the Laurel line, if they had wished to do so, at a rate of at least 27½ cents.

Mr. WILLIAMS. Yes, sir.

Mr. BROWN. I am speaking of their equity in the property. They could have disposed of that to the Laurel line on that basis of valuation?

Mr. WILLIAMS. Yes; very likely.

Mr. BOLAND. The Erie controlled the bank on account of owning the land and the tracks, and Mr. Robertson had no right in the culm at all. He had a switch and scales, for his good will, and what he had was the personal property and improvements, so that he was claiming $3,500.

Mr. WILLIAMS. At first Capt. May doubted his equity in the bank to me, but I would not make any dispute about it. After that the judge said he did not think Robertson had any equity; then May came to the conclusion that he did, and so did the judge.

* * * * * * *

Mr. BROWN. At the time you got your option from the Hillside C. & I. Co., Mr. May did not believe there was any interest vested in Robertson?

Mr. WILLIAMS. No, sir. He did not know whether he had an interest or not, but after he came to the conclusion that he had.

Mr. BROWN. Just explain your idea of Robertson's interest, just what its limitations were, its nature and extent.

Mr. WILLIAMS. One-half interest.

Mr. BROWN. As I understand it, it had certain qualifications to it?

Mr. WILLIAMS. Robertson owned one-half of the culm, outside of chestnut. They did not own any chestnut in his part, if ever there was any chestnut in one-half of it.

The most of the coal he mined came from other property. Even the Erie had not control of that property.

TESTIMONY OF RICHARD BRADLEY.

The PRESIDENT pro tempore. The managers will proceed with their next witness.

Mr. Manager CLAYTON. I would call Mr. Richard Bradley as the next witness.

Richard Bradley entered the Chamber.

The PRESIDENT pro tempore. Give your name and address to the stenographer.

Mr. BRADLEY. Richard Bradley, Peckville, Pa.

Richard Bradley, having been duly sworn, was examined, and testified as follows:

Q. (By Mr. Manager CLAYTON.) Mr. Bradley, I believe you stated that your name is Richard Bradley?—A. Yes, sir.

Q. And that your residence is at Peckville, Pa.?—A. Yes, sir.

Q. What business are you engaged in?—A. I am in the coal business at present.

Q. How long have you been engaged in the coal business?—A. It will be seven years the 19th of this month.

Q. And in that coal business have you had anything to do with the operation of culm dumps or culm banks?—A. Yes, sir. The only way that I have operated coal was through culm banks.

Q. How many culm banks have you owned or operated within the time that you have named in nearly the last seven years?—A. I have been interested in two.

Q. Are you familiar with the Katydid culm dump at Moosic, Pa.?—A. Yes, sir. I have been there and looked the bank over.

Q. How many times have you been there and looked the bank over?—A. I think I make the third trip there.

Q. Did you make a careful inspection of the Katydid culm dump?—A. I can not say that I inspected it very close.

Q. You inspected it close enough to form what you think a pretty accurate idea of its size and its probable contents?—A. Yes, sir.

Q. What was your estimate of its worth to the Erie Railroad Co., or to its subsidiary, the Hillside Coal & Iron Co., or its market worth?

Mr. WORTHINGTON. I object to that question, Mr. President. I do not know how Judge Archbald is to be affected by the opinion that this witness may have had as to what this culm bank was worth to somebody else. Of course, Judge Archbald is to be judged by the knowledge that he had when he entered into this transaction; and how it can be affected by what the witness's judgment was as to the value of the dump to the Erie Railroad Co. I can not concelve.

The PRESIDENT pro tempore. Please propound the question again, or let the stenographer read it, which perhaps would be better.

The Reporter read as follows:

Q. What was your estimate of its worth to the Erie Railroad Co., or to its subsidiary, the Hillside Coal & Iron Co., or its market worth?

Mr. WORTHINGTON. If the question is confined to its market worth I have no objection.

Mr. Manager CLAYTON. Very well, Mr. President; I thought counsel's objection to the question was broader than that. I have no objection to putting it in that way.

Q. (By Mr. Manager CLAYTON.) What was the market value——

Mr. WORTHINGTON. I should like to say here, Mr. President, that we do not concede that the opinion of anybody as to what the value of this dump was or is is competent testimony unless it is shown to have been communicated to Judge Archbald. But we are not making that objection, because that is a matter that can be considered when we come to the argument.

Mr. Manager CLAYTON. I will not stop to tell the President or the Senate why I am seeking to elicit this information; that will appear in the argument; and I think it will then be shown to be perfectly competent testimony. It harmonizes with other testimony in the case which has already been adduced.

Q. (By Mr. Manager CLAYTON.) What is your answer to this question: What was the market value or worth of the Katydid culm dump?—A. How do you mean, Judge? Do you mean to get that coal out and load it on cars, or do you mean right where it lies?

Q. I want to know what it was worth there.—A. You mean on a royalty basis that this coal was worth for a man who——

Q. You can use your own way in answering it. I want your estimate, in other words, of that culm dump.—A. Well, in that culm dump is different sizes of coal and every size carries a different price.

Q. How much did you offer for that culm dump? That will, perhaps, enable you to answer the question better.—A. I offered Mr. Williams the first time I walked over the dump——

Mr. CLARK of Wyoming. We can not hear the witness.

The PRESIDENT pro tempore (to the witness). Speak louder.

A. The first time I walked over the dump with Mr. Williams I offered him $16,000 for it.

Q. Then, afterwards, did you offer him another amount?—A. Yes, sir.

Q. How much was the other amount which you offered him?—A. $20,000.

Q. When was it you offered him $20,000 for the Katydid culm dump?—A. It was on the same day.

Q. What was the worth of that Katydid culm dump at the time you offered Mr. Williams $20,000 for it?—A. Well, a man could have paid $20,000 for that, Judge, and yet could have made a little money on it. That was my idea.

Q. How much in addition to the $20,000 could he have made on it?—A. I thought he ought to make about ten.

Q. After having paid all operating expenses?—A. Yes, sir.

Q. Mr. Bradley, did you meet Mr. Williams in Scranton at any time in 1912 and have a conversation with him about this Katydid culm bank; and, if so, what did he say to you?—A. I met him there in Scranton, and he said to me that he had the dump for sale.

Q. What all did he say and what all did you say?—A. I do not know as I could repeat it all.

Mr. Manager CLAYTON. May I refresh the witness by referring to his previous testimony, Mr. President?

The PRESIDENT pro tempore. The Chair thinks the witness had better state as much of it as he can recollect, and then if he fails——

Mr. Manager CLAYTON. I am trying to get him to do so.

The WITNESS. I should like to go along the line as much as I can of the last evidence.

Mr. Manager CLAYTON. I did not hear your answer, Mr. Bradley. Please repeat it.

The WITNESS. I say I would like to go along the line as nearly as I can with the last evidence I gave before.

Mr. Manager CLAYTON. Certainly. Well, state in your own way the transaction you had with E. J. Williams with reference to the purchase of the Katydid culm dump, beginning with the beginning and stating it all in your own way.—A. Well, I went with him to the dump, and from the dump we came back to Scranton. On my way down at the dump I offered $16,000, and after I got back to Scranton we talked it over at Mr. Boland's office and I offered him $20,000. I can not remember that there was a great deal said more than making the proposition and going to see Mr. May to have the contract drawn up for the dump.

Q. Mr. Bradley, prior to your offer of $16,000 for the Katydid culm dump, did Mr. Williams say anything about another offer that he had made to him for the purchase of that dump?—A. Yes, sir.

Q. What did he say in respect to that offer?—A. There was a party—Tom Starr Jones, I think, he spoke of as the name of the party—that had offered twenty-five thousand.

Q. Twenty-five thousand what?—A. Twenty-five thousand dollars.

Q. For what?—A. For the Katydid culm dump. I think that is somewhere near the line.

Q. Did you and he leave each other without having come to any conclusion after you had offered him the $16,000?—A. No, sir; we did not. When I left him, you know, I had offered him the twenty thousand.

Q. Where was it that you offered him the twenty thousand?—A. In Mr. Boland's office.

Q. In Scranton?—A. Yes, sir.

Q. Now, why did you offer him the $20,000 for the culm dump? Was it because you expected to make money on it by its operation?—A. Yes, sir.

Q. What was said in reference to Mr. May by Williams or by you in the conversation with Williams touching the sale and purchase of the Katydid culm dump?—A. Well, there was not anything said very particular about that, I do not think, until we reached Mr. May's office next morning.

Q. How did you find out that May was a necessary party to consult in the transaction?—A. Mr. Williams told me that he got the option from Mr. May.

Q. Did you and the witness go together to see Capt. May?—A. Yes, sir.

Q. When was that?—A. I do not know as I can tell you the day and date for that.

Q. Was it in March or April, 1912?—A. I think it was in May.

Q. Do you remember, if I may refresh your recollection, that you were down here testifying in May, and therefore this transaction was before you testified here in Washington?—A. Yes, sir. It might have been the latter part of April. I can not say just when.

Q. What happened when you and Mr. Williams went to see Capt. May? What did Williams say, what did you say, and what did Capt. May say?—A. Mr. Williams introduced me to Capt. May and said to him that I was the man who was going to buy the dump from him, if Capt. May was satisfied to let me have it—somewhere in those lines.

Q. What else was said, if anything?—A. I never had met Capt. May before; we were strangers, and he wanted me to give him some reference. He wanted to find out whether I was responsible enough to take hold of such a thing or pay for it, or something like that.

Q. After you saw Mr. May, or when you saw Mr. May, was there anything said or considered as to the matter of the title to the Katydid culm dump?—A. No, sir.

Q. Did you consider the title to the dump satisfactory to you?—A. I could not tell until I got the contract from Mr. May, and then I was going to take it to my lawyer and let him look up that point for me—the title.

Q. Do you not remember that before the Judiciary Committee this question was asked you:

After you saw Mr. May the matter of title was satisfactory to you, was it?

And you answered:

Well, Mr. May—yes. Mr. May explained it—how much of the bank they owned and how much Mr. Robertson and Mr. Law owned.

The CHAIRMAN. Will you please state in your own way, as nearly as you can, what Mr. May said and what you said?

Mr. BRADLEY. Well, there was not but very little said—very little. Of course, me and Mr. May were strangers to each other there, and he wanted to know of me who would I get—that is, for reference of whether I was responsible, you know, of taking the obligation; and I referred him to a gentleman in Scranton there, and he was satisfied, and we made an agreement that he would go with me down to the bank at 1.20 in the afternoon. * * * So we went down together, Mr. May, Mr. Williams, and myself.

Mr. WORTHINGTON. From what page of the record is that?

Mr. Manager CLAYTON. Page 859.

Q. (By Mr. Manager CLAYTON.) Do you remember, Mr. Bradley, having testified before the Committee on the Judiciary in the House of Representatives last spring in the manner and in the substance to that which I have just read?—A. Yes, sir; that is right.

Q. Is that a correct statement?—A. Yes, sir.

Q. That is the truth?—A. Yes, sir.

Q. That is the truth now?—A. Yes, sir.

Q. And it was the truth then?—A. Yes, sir; that is right.

Mr. Manager CLAYTON. I wish you would give me, Mr. Secretary, the letter from W. A. May, vice president and general manager of this concern, addressed to Mr. Richard Bradley.

The Secretary handed a letter to Mr. Manager CLAYTON.

Q. (By Mr. Manager CLAYTON.) What happened, Mr. Bradley, between you and May and Williams after you three went down to the culm bank?—A. Mr. May and I went over the culm bank and he showed me what banks were there that he meant would be sold under this option. There was one bank there; it was a coarse bank, and he claimed that that bank did not go in with the rest.

Q. You did not understand that you were buying the one that May pointed out as not going in with the rest when you offered the $20,000 for the Katydid culm dump?—A. No, sir.

Q. Mr. Bradley, what else; were there any further negotiations that day by you and Williams in respect to the purchase of the Katydid culm dump? Have you stated all that occurred at the time of the visit of yourself and Williams and May to the Katydid culm dump?—A. I can not say; I do not know that I have left out anything.

Q. After your visit, to which I have just referred, did you get a copy of the letter or contract, one or both, from Capt. May, the vice president and general manager?—A. Yes, sir; I got the contract. The letter I never could remember. But it seems the letter came to me, but I never could recall what it is.

Q. Have you a copy of the original of that letter which you say came to you?—A. No, sir.

Q. Have you looked for it?—A. No, sir.

Q. Do you know where it is?—A. No, sir.

Q. I show to the witness, now, the exhibit U. S. S. Exhibit S, which is a copy of a letter dated April 13, 1912, addressed to Mr. Bradley, written by Capt. May.—A. Capt. May spoke of the letter before. It seems when I gave him the contract back this letter was somewhere in with the contract, and I had never seen it.

Q. What was it that you remarked? We did not hear it.—A. It seems that that letter was in with the contract.

Q. You received this letter and the contract in the same envelope through the mails?—A. Yes, sir.

Q. Is that what you mean?—A. It seems that way to me. Mr. May had the letter, and claimed it was in the contract after I sent it back.

Q. That is the reason why you think you have not the original letter?—A. I have not got any.

Q. Now, Mr. Bradley, I wish you would pay attention to the reading of this letter. It is already in evidence, but I desire, in order to correctly interrogate the witness, to have it reproduced in the record at this juncture.

The Secretary read as follows:

[U. S. S. Exhibit S.]

APRIL 13, 1912.

Mr. RICHARD BRADLEY, *Peckville, Pa.*.

DEAR SIR: Further in the matter of the interest of the Hillside Coal & Iron Co. in the Katydid dump, referred to in mine of the 11th instant to you:

Because of the complications brought to your attention yesterday at the Laurel Line station our attorneys believe that it will be best for you not to do anything whatever in connection with the matter until you hear further from me.

Yours, very truly,

W. A. MAY,
Vice President and General Manager.

(Copy to Mr. E. J. Williams, 626 South Blakely Street, Dunmore, Pa.)

Mr. Manager CLAYTON. Will the Secretary please find the contract which is referred to in that letter?

The Secretary handed Mr. Manager CLAYTON a paper.

Q. (By Mr. Manager CLAYTON.) You have just heard the letter read. Do you think you would recognize the contract which accompanied that letter if you were to see it? Look at this [exhibiting paper] and state whether or not you think that is the paper which was inclosed with the letter. I am now referring to United States Senate Exhibit 5.

The WITNESS (after examining paper). Yes, sir; I think that is it.

Mr. Manager CLAYTON. I will not ask to reproduce this in the evidence, but merely repeat what I said just now, that it is marked "United States Senate Exhibit 5," so that in the argument of the case we can very readily find it. It is a tentative deed from the Hillside Coal & Iron Co., a corporation of the State of Pennsylvania, party of the first part, and E. J. Williams, of the borough of Dunmore, Pa., party of the second part.

Now the letter which you examined a few moments ago and which has been read from the Clerk's desk you say you received, and this contract which you have looked upon, through the mail?

A. Yes, sir; but it seems the letter was with the contract. It does not seem that the letter came by itself.

Q. When you say "it seems," you mean to say that that is your best recollection?—A. Yes, sir.

Q. And what became of that letter and that contract?—A. I gave it to Capt. May.

Q. When did you hand that letter and contract to Capt. May?—A. I think it was either on the 12th or 13th.

Q. Of what month and of what year?—A. April, I think.

Q. What year?—A. 1912.

Q. Did I correctly understand you to say that the 12th or 13th day of April, 1912, is your recollection of the time when you delivered that letter and that form of a contract back to Capt. May?—A. Yes, sir; I think so. I think it is somewhere around there.

Q. Is it your best recollection that it was either on the 12th or 13th day of April, 1912, that you delivered those papers back to Capt. May?—A. I think so; yes, sir.

Q. Where was the delivery had, Mr. Bradley?—A. To the Laurel line station in Scranton.

Q. The Laurel line station is what sort of a building? What is it? Is it a railroad station?—A. Yes, sir.

Q. What railroad?—A. The Laurel line, going from Scranton into Wilkes-Barre.

Q. That is an electric railroad, is it?—A. Yes, sir.

Q. How did you happen to meet Capt. May there at the Laurel line railroad station at the time of the delivery of this letter and contract back to him?—A. Well, I wanted to go down to the dump again to look the dump over. There were some points there I wanted to see before I signed the contract.

Q. And you happened to see Capt. May at the station. Did he know before that that you were going down again to the culm bank?—A. No, sir. I do not think he knew it.

Q. Do you know how it happened that he went to the railroad station at the particular time that you met him on this day that we have talked about?—A. He is there quite frequently each day. I think that is the way he goes to his office in Scranton.

Q. Did you approach him first on the day that this letter and form of a contract were surrendered by you back to Capt. May or did he first approach you?—A. He first approached me.

Q. Please narrate as nearly as you can exactly what he said and what you said.—A. There were but very few words passed between the two of us about the subject. He said to me, "I sent you a contract." I think he said, "yesterday." I said to him, "Yes, sir; I received it." He said, "I wish you would mail me that contract back again." I did not ask him any questions why he wanted me to do that. I said, "Well, I do not have to mail it, Mr. May. I have it in my pocket," and I gave it to him. I said, "I was on my way going down to the dump, and I suppose it isn't any use," or some such remark, "of my going down." "Oh," he said, "you can go if you like." That was about all that was said between him and me at the station.

Q. When Capt. May said that he had sent you a contract, did he tell you how he had sent it—did he say that he had sent it throught the mails?—A. Yes, sir.

Q. Did or did not Mr. May at that time say anything about the reason why he wished the contract back?—A. I think he made some remarks there that his company thought it would be best not to go any further with it until a future time.

Q. Did he say why?—A. No; he did not.

Q. Had you heard anything at that time about a rumor or anything in the shape of a rumor of an investigation into the conduct of Judge Archbald by an officer or an agent of the Department of Justice from Washington?—A. No, sir; I had not.

Q. Nothing was said by you or Mr. May at that time about that?—A. No, sir.

Q. You did not ask him to give any reason why he wanted the contract back, did you?—A. No, sir; I did not.

Q. And he volunteered none?—A. No, sir; he did not.

Q. You merely handed him back the contract; and you think the letter was in with the contract; was that all?—A. That is about all I knew about that.

Q. Did he not assign any reason whatever, Mr. Bradley?—A. No, sir; he did not.

Q. You received a letter dated April 11, 1912, from Mr. May, did you not? I will show you a copy of it. I am referring now to U. S. S. Exhibit No. 6, it being a letter addressed to Mr. Richard Bradley at Peckville, Pa., dated April 11, 1912, and signed by W. A. May, vice president and general manager. I think this letter—Exhibit No. 6—has been read into the record. We have the two letters, and that is the one, I think, which was read awhile ago.

Mr. SIMPSON. The one you read awhile ago was the letter of the 13th.

Mr. Manager CLAYTON. I meant to have read the letter of April 11. That is the one I thought the Secretary was reading. The letter of the 11th, of course, is the one that inclosed the contract. Now, this letter of April 13 which has been read into the record is one that was written when Capt. May had decided not to make the contract, and I should have had that read first, before this one dated April 13.

The PRESIDENT pro tempore. Does the manager desire that they shall be transposed in the record?

Mr. Manager CLAYTON. Yes, Mr. President.

The PRESIDENT pro tempore. Very well.

Mr. Manager CLAYTON. So the letter of the 11th, which transmitted the contract, shall appear first. Now I ask that the letter of April 11 be read.

The PRESIDENT pro tempore. The Secretary will read it.

The Secretary read as follows:

[U. S. S. Exhibit 6.]

APRIL 11, 1912.

Mr. RICHARD BRADLEY, *Peckville, Pa.*

DEAR SIR: Herewith please find proposed form of agreement conveying the interest of the Hillside Coal & Iron Co. in the culm piles on the surface of lot 46, situate partly in Lackawanna and partly in Luzerne Counties, Pa.

Will you please confer with Mr. E. J. Williams, to whom I have sent a copy of this letter, in regard to the form herewith and advise whether or not same meets with your approval? If the agreement is satisfactory to you, it will be submitted to the executive officers of the H. C. & I. Co. for their consideration and approval.

Yours, very truly,

W. A. MAY,
Vice President and General Manager.

(Inclosure: Copy to Mr. E. J. Williams, 626 South Blakely Street, Dunmore, Pa.)

Q. (By Mr. Manager CLAYTON.) That is the letter, Mr. Bradley, that I questioned you about and which you said accompanied this contract?—A. Yes, sir; that is right.

Q. That is the letter you say you surrendered back with the contract we have heretofore referred to?—A. Yes, sir.

Mr. Manager CLAYTON. I want the other one, dated the 13th.

The SECRETARY. That is No. S.

Mr. Manager CLAYTON. I know that letter was read to him awhile ago. So I was right and somebody else was in error, Mr. President. That letter was read awhile ago. I

interrogated the witness about it. I did not think I made a mistake. Now, I desire to have read the letter of April 13.

The Secretary read as follows:

[U. S. S. Exhibit S.]

APRIL 13, 1912.

Mr. RICHARD BRADLEY, *Peckville, Pa.*

DEAR SIR: Further in the matter of the interest of the Hillside Coal & Iron Co. in the Katydid dump, referred to in mine of the 11th instant to you:

Because of the complications brought to your attention yesterday at the Laurel line station our attorneys believe that it will be best for you not to do anything whatever in connection with the matter until you hear further from me.

Yours very truly,

W. A. MAY,
Vice President and General Manager.

(Copy to Mr. E. J. Williams, 626 South Blakely Street, Dunmore, Pa.)

Q. (By Mr. Manager CLAYTON.) Mr. Bradley, you have heard that letter read. It is already in evidence. Did you receive a letter of which a copy has just been read from the clerk's desk?—A. Yes, sir; I received that letter.

Q. When did you receive that letter?—A. I can not say just the day and date for that.

Q. Did you not receive it after you had surrendered the contract back to May?—A. Yes, sir.

Q. You saw May before the letter reached you and you gave him back the contract?—A. Yes, sir.

Q. And his former letter?—A. Yes, sir.

Q. After this letter was transmitted to you in the mail?—A. Yes, sir.

Q. You will observe that in the letter which has just been read Capt. May uses this language:

Because of the complications brought to your attention yesterday at the Laurel line station our attorneys believe that it will be best for you not to do anything whatever in connection with the matter until you hear further from me.

Now, does not that refresh your memory so that you can now tell the Senate that May did tell you something about what the complications were? And if it does so refresh your memory, tell us what he said.—A. No, sir; I would tell you. If he had said anything to me I would tell you, but he did not.

Q. You say that Capt. May did not call any complications to your attention at the station?—A. No, sir.

Q. He gave you no reason that because of any complication or for any other cause he desired not to execute the contract?—A. No, sir; he did not make any reference to anything whatsoever.

Q. Now, Mr. Bradley, for the purpose of refreshing your memory I desire to call your attention to a part of the testimony taken before the Committee on the Judiciary of the House of Representatives last spring here in Washington.

Mr. WORTHINGTON. On what page?

Mr. Manager CLAYTON. On page 859:

Is it not a fact that when Mr. May asked you to turn back that contract on account of the complications that had arisen you understood, without his telling you, that it was on account of these reports concerning Judge Archbald's connection with the transaction——

Mr. WORTHINGTON. Mr. President, I think I will object to that. It is a question which was asked this witness before the Judiciary Committee, in which he stated or undertook to state what he thought was in his mind at the time Mr. May asked him to return this contract. There is nothing that he communicated even to Mr. May much less to Judge Archbald, and we are asked to be affected now by what this witness said before the Judiciary Committee as to what he thought Capt. May thought at the time the contract was returned.

The PRESIDENT pro tempore. The Chair understands that the manager is only reading it for the purpose of refreshing the memory of the witness. Is the Chair correct?

Mr. Manager CLAYTON. That is my object.

Mr. WORTHINGTON. Of course; but he wants to refresh his memory about a matter which I think is incompetent.

Mr. Manager CLAYTON. May I conclude the reading and then——

The PRESIDENT pro tempore. The Chair understood the counsel for the respondent to make an objection and——

Mr. Manager CLAYTON. I had not finished reading the statement, Mr. President.

The PRESIDENT pro tempore. The manager will be given an opportunity to finish the question.

Mr. Manager CLAYTON. I will await the pleasure of the Chair.

The PRESIDENT pro tempore. The Chair suggested that the manager finish the question.

Mr. Manager CLAYTON. I did not so understand the Chair.

Mr. WORTHINGTON. In view of what followed in the statement before the Judiciary Committee I think I will withdraw the objection.

Q. (By Mr. Manager CLAYTON.) Then, Mr. Bradley, I will read the question over again. At the time and before the committee, which I have named to you, Mr. FLOYD asked you this question:

Is it not a fact that when Mr. May asked you to turn back that contract on account of the complications that had arisen you understood, without his telling you, that it was on account of these reports concerning Judge Archbald's connection with the transaction, and that you readily returned? Is not that the truth about it? Did you not understand what the complications were, and was it not the fact that rumor and report had connected Judge Archbald with the transaction in such a way that when Mr. May called for the contract back you understood without his telling you what those complications were and willingly surrendered back a contract which would have been to your advantage if executed? Is not that the truth about it?

And then you answered:

Mr. BRADLEY. I have an idea that had something to do with it.

Now, does not that refresh your mind and enable you to answer the question that I asked a while ago?—A. Yes, sir; I remember saying that. I remember answering the question in that way. But I wish to say this: That the day I gave Capt. May back that contract I had never heard nor seen nothing in the paper about Judge Archbald.

Q. You had not seen it in the papers?—A. Oh, afterwards it came out in the paper; I could not say just how many days after I gave the contract back; and there is where I had taken the idea that that was the reason Capt. May wanted the contract back.

Q. Let us see if you will stand by that answer when I further refresh your memory by reading from your testimony given before the Committee on the Judiciary at the time I have heretofore indicated. On page 871, near the bottom:

Mr. Worthington—

The same gentleman who sits here now, you remember. You remember having seen him in the committee?—A. Yes, sir.

Q. (By Mr. Manager CLAYTON.) Mr. Worthington asked you this question:

What is your recollection as to whether anything had appeared in the newspapers about these charges against Judge Archbald, or this proposed investigation, when you had that talk with Mr. May at the Laurel Station on or about the 12th of April?

Mr. BRADLEY. I will tell you; I hardly ever read the paper.

Mr. WORTHINGTON. You do not know whether anything had appeared in the newspapers at that time or not, do you?

Mr. BRADLEY. All I could hear, once in a while somebody would speak about it.

Now, your memory being refreshed, is not that the way the matter happened?—A. Yes, sir.

Q. And is not that the truth?—A. Yes, sir; that is right.

Q. That you did hear once in a while somebody speak of the matter before you surrendered this contract back to Mr. May?—A. Well, that is a kind of a puzzle to me, that contract. When giving the contract back to Mr. May it runs in my mind—I can not say it thoroughly to be a fact, but it runs in my mind that I had never heard anything of the subject of Judge Archbald before I gave the contract back, you understand, but after I gave it back it was in the paper about Judge Archbald.

Q. Is it not a fact that you understood the complication to be this rumored investigation of Judge Archbald's conduct to be the reason why you gave the contract back without making any inquiry?—A. No, sir; that is not it; no, sir.

Q. Why did you give up a profitable contract so readily without making any inquiry?—A. Well, Capt. May wanted it.

Q. And you did it simply because he wanted it?—A. Yes, sir. You see it was not any use to me. The contract would not be any use to me with none of his name. There was nobody's name signed to it at all.

Q. And you did not care to ask him about what reason operated upon him?—A. Yes, sir; that is right.

Q. You readily, without any question at all, surrendered it to him?—A. Yes, sir.

Q. Did Mr. E. J. Williams tell you at the beginning of your negotiations that he had a half interest and Judge Archbald had a half interest in this Katydid culm dump?—A. Yes, sir.

Q. Did he tell you what they had to pay and that they had options from other people? State what he did say about that, if he said anything, as to how they acquired the Katydid culm dump.—A. That is in the sale you mean with somebody else that was after buying the dump?

Q. Yes.—A. Yes; he told me about these parties. Mr. Jones was after buying the dump.

Q. What did he say?—A. That he had offered them $25,000.

Q. And you were buying the Katydid culm dump from Williams and Judge Archbald, were you?—A. Yes, sir.

Q. But you had to ask Capt. May's consent to the transaction?—A. Yes, sir.

Q. Capt. May was president of what concern?—A. Of the——

Q. Hillside Coal & Iron Co.?—A. Yes, sir.

Q. From whom Judge Archbald and Mr. Williams had acquired the property. Is that true?—A. You see Judge Archbald—I never met the Judge. I had no talk with him whatsoever, more than taking old man Williams's word, and he said he had the selling of the dump, and he said himself and the judge owned the dump. Of course, I did not see the judge and had no talk with him about the matter.

Q. After this contract or paper was surrendered back to Capt. May by you did you have any conversation with Judge Archbald relative to the sale and purchase of the Katydid culm dump?—A. No, sir.

Q. Did you not to go Judge Archbald and talk to him about it and make him some proposition?—A. No, sir.

Q. You did not approach him on the subject at all after that?—A. No, sir.

Mr. Manager CLAYTON. Mr. President, the counsel for the respondent can examine the witness.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Did anybody explain to you why it was that if Mr. Jones was going to buy this dump for $25,000 the owners were selling it to you for $20,000?—A. Well, Jim Dainty kind of made the suggestions on those points, that if I did not want the dump for $20,000 those fellows would buy it and pay twenty-five, and then we would split the difference; he would take two thousand and I would get three thousand.

Q. Did anybody besides Dainty and Williams talk to you about it or suggest your getting this bargain for $20,000?—A. Mr. Boland.

Q. Which Mr. Boland?—A. W. P. Boland.

Q. Did Mr. Boland tell you why he was mixing in it?—A. No, sir; he did not.

Q. Did he tell you he had an interest in it?—A. He told me he did have an interest in it, but he did not have any at that time.

Q. He told you he had had an interest in it, but that he had none then?—A. Yes, sir.

Q. And all these interviews, I think, occurred in Mr. Boland's office, did they not?—A. Yes, sir.

Q. And in Mr. Boland's presence?—A. Yes, sir.

Q. How did you first get informed that there was a chance to buy this dump? Who first spoke to you about it, and where?—A. Mr. Boland put me on in the first start out.

Q. Mr. William P. Boland?—A. Yes, sir.

Q. Where was that?—A. In his office.

Q. Go on and state what he had to do with it after that.—A. Well, he got after me to go and buy the dump, that he thought it was a very good deal for the money.

Q. Did he say anything to you about this $5,000 profit that might be made by reselling it to Jones?—A. No, sir.

Q. Was that said in his presence?—A. No, sir.

Q. You appear to have gone along pretty fast with this transaction. How soon after that first statement to you about it was it that you went to the dump and looked it over?—A. Oh, I think it was two or three days from the time we talked it over first I went down.

Q. How long after you went down to the dump and looked it over was it before you went with Williams to see Capt. May for the purpose of closing up the transaction?—A. I went down in the afternoon to look the dump over and then went to see Capt. May the next morning.

Q. Where did you meet Williams the next morning?—A. In Mr. Boland's office.

Q. In reference to the title to this dump or your idea about the title, whether you were satisfied with the title, I should like to read a little more than Mr. Manager CLAYTON read to you, and ask if this is what you said on that subject, and all you said on that subject, before the Judiciary Committee when you testified there? Reading from page 859 first, I begin a little farther back than the manager did.

The CHAIRMAN. You were satisfied with the title that Williams could give you to it?

Mr. BRADLEY. Well, to get the main points and facts and figures of this thing, I had to go and see Mr. May. I had never met Mr. May before to be really acquainted with him until on that morning.

The CHAIRMAN. After you saw Mr. May, the matter of the title was satisfactory to you, was it?

Mr. BRADLEY. Well, Mr. May—yes. Mr. May explained it—how much of the bank they owned and how much Mr. Robertson and Mr. Law owned.

The CHAIRMAN. Will you please state in your own way, as nearly as you can, what Mr. May said and what you said?

Mr. BRADLEY. Well, there was not but very little said—very little. Of course me and Mr. May were strangers to each other there, and he wanted to know of me who would I get—that is, for reference of whether I was responsible, you know, of taking the obligation.

That is all about the title.

Now, I turn next to page 873, and will read something and ask you whether you said that on the subject at a later stage of your examination.

I find I have an erroneous reference. I pass that for the present and will come back to it.

Q. You said when Mr. May showed you the bank that there was one dump or one part of the dump not included. I did not understand just what you said about that. What was it?—A. There was a dump there with lots of coarse coal and rock mixed together.

Q. What was the shape of that particular dump or part of dump?—A. It was just like a dump. The railroad run out there and dumped it out there with cars.

Q. Was that a large proportion of the whole Katydid dump or only a small proportion?—A. It was quite a chunk that laid there.

Q. Quite a chunk?—A. Yes; that is, I mean quite a quantity of stuff in that dump.

Q. You said that when you happened to meet Capt. May, when he asked you to return the contract, you were on the way to the dump again about certain points, or some points. What was that? What were you going there the second time to look at the dump for?—A. Well, the day that Mr. May was there with me the dump was very close to the Erie people's line, and there was not any room for a man to build a plant there on that piece of land, and at the end of the dump on the Erie line the D. & H. had some land leading from that; and I went there to look it over and to see the location and the lay of the land, and then go to the D. & H. and see if I could get that piece of land from them to build the plant. That was my object for that day.

Q. Did you have a plant then that you expected to remove to this place, or were you going to build a new plant to run the dump if you had gotten it?—A. I had not decided on that. I had a plant that I would be through with in the course of two years, but I had not decided on that—whether I could move it and move that dump in time enough to fulfill the contract.

Q. Now, where did you first learn of the investigation or anything about Judge Archbald—about his conduct?—A. About his conduct?

Q. Yes; these charges against him that resulted in this proceeding? How was it that the matter was first brought to your attention that such a thing was coming on?—A. Now, lawyer, I do not know whether I can answer that.

Q. Let me ask you if you did not first see it in a Scranton newspaper?—A. Yes, sir; that is right.

Q. What was that newspaper?—A. I think it was the Scranton Times.

Q. Now, up to the time that you had seen the publication in the Scranton Times had you heard any rumors or talk about the matter at all, or were the rumors and talk that you speak of after you had seen the publication in the Scranton Times?—A. No, sir.

Q. Do you mean that you had heard these rumors before or that you had not?—A. I had never heard anything about Judge Archbald until I seen it in the paper.

Q. Then when you find that paper and find the date of that publication we will know when you first had any idea there was such a thing coming on, will we?—A. Yes, sir.

Q. Mr. Boland rather urged you to buy this dump, did he not, Mr. Bradley?—A. Yes, sir.

Q. Did he not tell you that you could make money out of it?—A. Well, he thought it was a good deal.

Q. And when you offered $16,000, did he not tell you it was worth more?—A. He did.

Q. Are you not mistaken in saying Mr. Boland did not talk to you about the Jones's $25,000 option?—A. No, sir; I do not think Mr. Boland said anything to me about that. I think it was old man Williams talked with me about that.

Q. That was in Mr. Boland's office?—A. No, sir; it was on the street—the sidewalk.

Q. On the sidewalk?—A. Yes, sir.

Q. You do not remember whether there was any talk about Jones's option in Mr. Boland's presence?—A. No, sir; I do not remember that.

Q. You say Mr. Williams told you that Judge Archbald had a one-half interest in that matter with him?—A. He did; yes, sir.

Q. Did he make any suggestion about keeping that fact quiet?—A. Did he?

Q. Did he?—A. He did not say anything about it.

Q. Did anybody suggest it was a secret that Judge Archbald was connected with the matter?—A. Did anybody outside of Mr. Williams, you mean?

Q. Did Mr. Williams suggest it was a matter to be kept secret?—A. No, sir.

Q. Well, I ask, Did anybody?—A. No, sir; not to me, they did not.

Q. Mr. Bradley, from your examination of this dump did you come to the conclusion about how many thousand tons of coal

you could get out of it before you offered to pay $16,000 or $20,000 for it?—A. Yes, sir; I investigated kind of like.

Q. Well, how many tons of coal did you think you could get out of it when you offered first $16,000 and then $20,000 for it?—A. I thought it was anywhere from eighty to one hundred thousand tons of coal could be gotten out of it.

Q. It is upon that you based your conclusion that you could pay $20,000 for it and still make money?—A. Yes, sir.

Q. Did you intend to execute that contract if it had not been returned without submitting it to your lawyer?—A. Oh, no, sir; oh, no.

Q. If you had found you did not get a good title from the Hillside Coal & Iron Co. and Mr. Robertson, would you have gone on with the deal?—A. No, sir; I had that privilege from Mr. May. He would send me the contract, and then I would hunt up the title—a copy of the contract—that is what I got. If the title was right, then we would do business together.

Q. When you said that with eighty or ninety thousand tons of coal there you could afford to pay $20,000 and expected to make $10,000, did you include anything for your own services and time in managing the operation?—A. Well, at all times I do not figure that in, but I figure out what it will cost me to build my plant; then figure out what my expenses will be, and whatever is left I call it mine.

Q. Well, you did not deduct anything for your own time and services?—A. No, sir.

Q. How long would it have taken you, in the ordinary course of the operation as you expected to work it, to have finished the plant, the washing, and the delivery of the coal for sale?—A. That is, you mean how long would it take me to build the plant and wash the dump away?

Q. Yes, sir; to finish the job up?—A. Oh, I could do it in two years or two and one-half.

Q. Could you tell us what it would cost in that region to get a man who is competent to manage such a job—to run it?—A. I have got a very good man—a foreman—down at the south-side plant at Scranton. I pay him $110 a month.

Q. Well, I mean a man to take your place for the work you were going to do?—A. I don't know as I could answer that question. There is an old saying, if you ever heard it, "Of all your mother's children, you love yourself the best."

Mr. WORTHINGTON. I think that is all, Mr. President.

The PRESIDENT pro tempore. Is there any other question to be asked on the part of the managers?

Mr. Manager CLAYTON. This witness may be discharged, Mr. President.

The PRESIDENT pro tempore. The witness will be finally discharged.

Mr. OVERMAN. Mr. President, it is now after 4 o'clock; this is Saturday evening; few of the Senators are here; and, that being the case, I suggest to the managers that by unanimous consent we have an adjournment. If that is agreeable, I move that the Senate sitting as a Court of Impeachment do now adjourn.

Mr. WORTHINGTON. If I may be permitted, I should like to have action on that motion suspended for just a moment until I speak to the managers about a matter concerning which I have already communicated with them. There is a witness who is detained here whom I wish to call and ask a single question, and the managers have kindly consented that it may be done.

The PRESIDENT pro tempore. Does the Senator from North Carolina withhold his motion for that purpose?

Mr. OVERMAN. I withhold my motion for that purpose.

Mr. WORTHINGTON. It is simply an accommodation to the witness.

The PRESIDENT pro tempore. The witness will be called. Will counsel please indicate the name of the witness?

Mr. WORTHINGTON. He is Mr. Pryor.

TESTIMONY OF W. L. PRYOR—RECALLED.

W. L. Pryor, having been previously sworn, was recalled, and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Pryor, I want to ask you whether you heard in Mr. Boland's office, when you were there in the spring of 1911, any conversations between Mr. William P. Boland and Mr. Edward J. Williams in reference to Judge Archbald going to any New York office?—A. There were conversations going on continually in my presence and while I was absent. Mr. Williams was a constant visitor at the office; in fact, every few hours or so.

Q. Well, I ask you specifically whether you heard any conversation between William P. Boland and Williams in reference to Williams getting Judge Archbald to go to the New York office of the Erie Co.?—A. I believe Mr. Boland requested Mr. Williams to see Mr. Archbald and get a letter of introduction from him, I believe, to Capt. May.

Q. After that date did you hear Mr. Williams report that he had not got the option from Capt. May?—A. I think he did; yes, sir. On a subsequent time he came back and acknowledged having had it.

Mr. Manager NORRIS. Mr. President, as I understood, the Senate wanted to adjourn. Counsel is asking the witness questions that are not proper cross-examination. I have no objection, if I will be permitted to cross-examine him. Counsel is really making the witness his own witness now.

Mr. WORTHINGTON. I understand that perfectly.

Mr. Manager NORRIS. He is really offering the witness as his own at this time.

Mr. WORTHINGTON. With reference to this particular matter.

Mr. Manager NORRIS. With that understanding, I have no objection, but it may delay the adjournment for some time.

Mr. Manager CLAYTON. Mr. President, I want respectfully to submit another suggestion, and that is that this witness is now the witness for the respondent, and the counsel for the respondent is asking him leading questions. For instance, he so frames the question that the witness can answer categorically. I submit that the proper way for him to proceed, until the witness has shown an unwillingness, is to ask what was said by the parties and not to state what he wants the witness to give an affirmative answer to or a negative answer to, as the case may be.

Mr. WORTHINGTON. I think, Mr. President, it is perfectly apparent that we can not dispose of this matter in so short a time as I had hoped; so we had better not detain the Senate, if there is a desire to adjourn now.

Mr. OVERMAN. I renew my motion, Mr. President, that the Senate sitting as a Court of Impeachment do now adjourn.

The PRESIDENT pro tempore. The Senator from North Carolina moves that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 8 minutes p. m.) the Senate adjourned until Monday, December 9, 1912, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *December 7, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father Almighty, boundless the resources, infinite the mercies, plenteous the gifts poured out upon us. Help us as rational beings gifted with the power of choice to lay hold upon these things, make them ours, that we may wisely use them to the uplift of our souls and the furtherance of Thy kingdom, that peace and good will may reign supreme. In the spirit of the Lord Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of House bill 26680, the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GARNER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the purpose of considering the bill, of which the Clerk will read the title.

The Clerk read as follows:

A bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The CHAIRMAN. When the committee arose yesterday there was an amendment pending offered by the gentleman from Missouri [Mr. BORLAND], and if there is no objection, the amendment will again be reported.

The Clerk read as follows:

Amend, page 54, line 6, by striking out the word "photostat" and inserting in lieu thereof "photographic reproduction machines."

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] is recognized.

Mr. JOHNSON of South Carolina. Mr. Chairman, I desire that the gentleman from Missouri shall be first recognized.

Mr. BORLAND. Mr. Chairman, I desire to withdraw the amendment that I offered yesterday in order that the chairman of the committee may introduce an amendment covering the same ground.

The CHAIRMAN. The gentleman from Missouri withdraws his amendment, and the gentleman from South Carolina offers the following amendment, which the Clerk will report.

The Clerk read as follows:

On page 54, in lines 5 and 6, strike out the words "and the purchase of supplies for photostat."

Mr. JOHNSON of South Carolina. Mr. Chairman, I think under the appropriation for miscellaneous expenses and stationery they can supply these articles, and I move to strike out all reference to any particular machine.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the gentleman from South Carolina whether he removes the objection that was made by the gentleman from Missouri, that the photostat is a patented article.

Mr. JOHNSON of South Carolina. The gentleman from Missouri did not want Congress to single out any particular machine for reproductive purposes. There are other machines by other names that do the same work.

Mr. MOORE of Pennsylvania. That seemed to me to be a proper amendment. I do not think Congress ought to legislate in favor of certain patented articles requiring that they should be purchased.

Mr. JOHNSON of South Carolina. The Committee on Appropriations has no knowledge of the merits of any particular machine, and therefore we are quite willing that the language shall not designate any particular machine.

Mr. MOORE of Pennsylvania. The difference between the amendment offered by the gentleman from Missouri and the one suggested by the gentleman from South Carolina is instead of specifying the photostat we shall specify the materials used in the operation of the photostat, so that the photostat as a patented article still remains.

Mr. JOHNSON of South Carolina. We do not specify any machine; they buy the materials for use on all the machines out of the appropriation for stationery.

Mr. MOORE of Pennsylvania. Does the gentleman think that his amendment will allow any competition? Will any competitor under this bill be able to supply the department with his particular machine or is not the supply still limited to the photostat?

Mr. JOHNSON of South Carolina. No; we do not limit it to any particular article because we do not mention any particular machine. My amendment strikes out the word "photostat."

Mr. MOORE of Pennsylvania. If I understood the amendment of the gentleman correctly, it provides that instead of striking out the word "photostat" and using the term "photographic machines," as suggested by the gentleman from Missouri, the amendment of the gentleman from South Carolina simply proposes that we shall buy the materials for use.

Mr. JOHNSON of South Carolina. The language of my amendment is, "on page 54, line 6, strike out the words 'the purchase of supplies for photostat.'"

Mr. MOORE of Pennsylvania. I think that prevents competition.

Mr. BORLAND. They have already the labor-saving machines under the general language of the clause which permits them to buy them. It does not specify any particular make of machines nor designate it by patented name. It is a general clause appropriating $8,000 for the purpose of purchasing labor-saving machinery. Under that they have the photostat, and other machines for the same purpose. Recently the Auditor of the Treasury ruled there was some doubt about buying supplies for this machinery under this clause. He thought that they should put in additional wording permitting them to buy supplies for these machines. It appears, however, they could have bought the supplies under the stationery clause and ought to buy them under that clause. The amendment now suggested by the gentleman from South Carolina [Mr. JOHNSON] strikes the word "photostat" from the law entirely and makes no provision here for the purchase of supplies for that particular machine. That relegates the purchase of supplies to the stationery clause.

Mr. MOORE of Pennsylvania. The gentleman from Missouri made the statement yesterday that the photostat was a patented machine.

Mr. BORLAND. And now I repeat that. The photostat is not a generic term, but is a particular patented machine for the purpose of photographing reproductions. This is the only place in the law where the name "photostat" appears. It is the only clause in this law where it appears, and we now strike it out entirely.

Mr. MOORE of Pennsylvania. Under the amendment proposed by the gentleman from South Carolina could the manufacturer of another machine now compete for these supplies?

Mr. BORLAND. That is my understanding, and I agreed to the amendment on that understanding.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Office of assistant treasurer at Chicago: Assistant treasurer, $5,000; cashier, $3,000; vault clerk, $2,250; paying teller, $2,500; assorting teller, $2,000; redemption teller, $2,000; change teller, $2,000; receiving teller, $2,000; bookkeepers—1 at $1,800, 2 at $1,500 each; clerks—1 $1,750, 2 at $1,600 each, 9 at $1,500 each, 22 at $1,200 each, 1 $900; hall man, $1,100; messenger, $840; 3 watchmen, at $720 each; janitor, $720; 8 money counters and handlers for money laundry machines, at $900 each; in all, $83,320.

Mr. MANN. Mr. Chairman, I move to strike out the last word. May I ask the gentleman from South Carolina whether in the estimates made for the office of the assistant treasurer at Chicago there was any recommendation of an increase in the number of positions, and particularly for an assistant cashier?

Mr. JOHNSON of South Carolina. There was, I am sure, although I have not the estimates before me at this moment.

Mr. MANN. I am sure they are very much in need of an assistant cashier.

Mr. JOHNSON of South Carolina. They asked that the receiving teller be increased from $2,000 to $2,250. They asked that an additional man be employed under the name of assistant cashier, at $2,000, and then they dropped one clerk. They also asked that the watchman be increased from $720 to $840.

Mr. MANN. I was not speaking of the increases so much as the matter of authorizing an assistant cashier there, which my information leads me to believe is a place very much needed. Did the committee consider that?

Mr. JOHNSON of South Carolina. The committee had before it absolutely no evidence upon that question at the last sitting. In the making up of the bill during the last Congress we did have extensive hearings. The Secretary of the Treasury attempted to reorganize the force and to classify and standardize the work. I believe that in the bill as it finally passed we left the items for the subtreasuries just as the Secretary of the Treasury had asked us, with the exception of one or two men who had been reduced at Boston.

Mr. MANN. I think the committee last year in its recommendations did very good work in reference to the affairs in the office of the assistant treasurer. Of course that was in a way somewhat tentative, although practically complete. The gentleman knows there is a very large amount of business transacted at the Chicago office, much larger than at any other place in the country outside of New York City, and while the business is not so great by any means as it is in New York City, where they have an assistant cashier, information led me to believe they are very much in need of an assistant cashier, by that title, in the Chicago office.

Mr. JOHNSON of South Carolina. The gentleman will understand that the man who is designated in the estimates as assistant cashier is now carried as a clerk. They simply propose to increase the salary and give him a different designation. It does not increase the number of people in the subtreasury.

Mr. MANN. I understand that, but it increases the effectiveness of the force by authorizing an assistant cashier who can do certain work that a clerk can not do. However, if the committee has not carefully considered it, we may bring it to the attention of the committee later.

Mr. JOHNSON of South Carolina. I would say to the gentleman from Illinois that inasmuch as we adjusted all of these salaries in the last Congress according to the recommendation of the Secretary of the Treasury, we did not consider it at this time, and we had no evidence whatever respecting it before the committee.

Mr. MANN. The gentleman would not see his way clear at the present time, or would he, to accepting an amendment providing for an assistant cashier there?

Mr. JOHNSON of South Carolina. We can not do that.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FOSTER. Mr. Chairman, I observe in these appropriations for the different subtreasuries that there are provisions for money counters and handlers for laundry machines. Now, is that the money that is laundered in the Bureau of Printing and Engraving Office here or are the laundry machines located in the subtreasuries?

Mr. JOHNSON of South Carolina. There is to be installed in each subtreasury, except that at San Francisco where they use no paper money, a money-washing machine.

Mr. FOSTER. So that the work will be done in the subtreasuries instead of here?

Mr. JOHNSON of South Carolina. Oh, yes; there will be a money-washing machine in each subtreasury except the one at San Francisco. There is now one in the Treasury Department——

Mr. FOSTER. One here in Washington.

Mr. JOHNSON of South Carolina. Yes.

Mr. FOSTER. But none in the subtreasuries at this time?

Mr. JOHNSON of South Carolina. No; but the machines have been purchased and will be installed by January.

Mr. COX of Indiana. I desire to ask the chairman how much economy will that result in?

Mr. JOHNSON of South Carolina. At least $300,000 a year.

The Clerk read as follows:

Office of assistant treasurer at Cincinnati: Assistant treasurer, $4,500; cashier, $2,250; paying teller, $2,000; receiving teller, $1,800; vault clerk, $1,800; bookkeeper, $1,800; clerks—two at $1,300 each, five at $1,200 each, two at $1,000 each; clerk and stenographer, $1,000; chief watchman, $840; two watchmen, at $600 each; four money counters and handlers for money laundry machines, at $900 each; in all, $31,390.

Mr. FOWLER. Mr. Chairman, I reserve the point of order——

The CHAIRMAN. Against what paragraph?

Mr. FOWLER. Against the paragraph just read. I desire to ask the chairman of the committee why the assistant treasurer at Boston and at Chicago receive a salary of $5,000 and at Cincinnati he only receives a salary of $4,500. Is that provided for by law?

Mr. JOHNSON of South Carolina. I do not recollect there is any law fixing the salary of assistant treasurers in the United States. The salaries as fixed in this bill have been fixed by the Secretary of the Treasury. They were fixed, in his judgment, according to the responsibility of the position. The responsibilities in Chicago and Boston, where large sums are handled, are greater than the responsibilities in Cincinnati.

Mr. FOWLER. Are the sums the same as have been carried in the bills heretofore?

Mr. JOHNSON of South Carolina. We have made no change whatsoever in any one of the subtreasuries of the United States unless it was a reduction.

Mr. FOWLER. I observe that the cashier at Chicago receives $3,000, whereas the salary paid the same position at Boston and at Cincinnati is $2,250 in one case and $2,500 in the other. Why should there be a difference made in these different offices in these subtreasury positions?

Mr. JOHNSON of South Carolina. I will say to the gentleman from Illinois that Secretary MacVeagh has undertaken to reclassify and standardize the work and the salaries of all the employees in all the subtreasuries, and at the last session of Congress the appropriation bill carried the amounts recommended by the Secretary, and that was done not hastily but after investigation and inquiry.

Mr. FOWLER. I discover that you make an increase of clerks from four to five at the salary of $1,200. What is the use for the extra clerk at Cincinnati?

Mr. JOHNSON of South Carolina. There is no change in this bill.

Mr. FOWLER. Last year the bill carried a provision for four; this bill carries a provision for five.

Mr. JOHNSON of South Carolina. Has the gentleman the law before him?

Mr. FOWLER. Yes.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. LONGWORTH. Mr. Chairman, I desire to offer an amendment.

Mr. FOSTER. There is a point of order pending.

The CHAIRMAN. Does the gentleman from Illinois [Mr. FOWLER] reserve the point of order?

Mr. FOWLER. I did reserve the point of order, Mr. Chairman, and was trying to get the reasons for the increase of salary in certain positions.

Mr. JOHNSON of South Carolina. Mr. Chairman, as I stated to the gentleman a moment ago, there is no increase. If he will examine the appropriation bill for the current year, he will find in one place four clerks at $1,200 each. Then follows two clerks at $1,300 each; vault clerk, $1,800; bookkeeper, $1,800; clerk, $1,200. This year, instead of carrying the five clerks in two separate parts of the bill, we consolidated and say five clerks at $1,200.

Mr. FOWLER. That may be true——

Mr. JOHNSON of South Carolina. It is true.

Mr. FOWLER (continuing). That they have been combined, but I do not so discover on an examination of the bill. However, Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The gentleman from Ohio [Mr. LONGWORTH] offers an amendment, which the Clerk will report.

Mr. LONGWORTH. In line 12, page 59, strike out the figures "600" and insert in lieu thereof the figures "720."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 59, line 12, by striking out the figures "600" and inserting in lieu thereof the figures "720."

Mr. LONGWORTH. Mr. Chairman, I merely desire to make this very brief statement, and I trust that the chairman of the committee will offer no objection. It will be observed that the watchmen in every subtreasury, except that in Cincinnati, receive a salary of $720 a year, while in Boston they receive $850 a year. In Cincinnati their salary is only $600 a year—$50 a month. It seems to me that the mere statement of this fact carries its own argument. It is utterly absurd that these men in Cincinnati should be paid $120 a year less than they are paid in New Orleans for doing precisely the same work. If my amendment shall carry, then every watchman in every subtreasury will receive at least $60 a month. The increase is almost negligible. It will amount to only $240 a year, and yet it will pay these watchmen what I regard as a fair living wage. I trust that the gentlemen will not interpose an objection.

Mr. ALLEN. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Ohio [Mr. LONGWORTH] yield to his colleague?

Mr. LONGWORTH. Certainly.

Mr. ALLEN. Has the gentleman concluded his statement?

Mr. LONGWORTH. Yes, if the gentleman desires to make a statement.

Mr. ALLEN. I simply wanted to say that I hope the committee will see its way clear to accept that amendment, not only for the reasons stated, namely, that the watchmen in the subtreasuries in other cities receive $720 a year, but, as I recall, in the Post Office appropriation bill last year janitors were increased on motion, I think, of the gentleman from Kansas [Mr. MURDOCK], from $600 to $720 a year, it being recognized that in this day of the high cost of living $600 was entirely inadequate for a man to take care of his family and to meet the requirements of the present time. I want to add my word in their behalf, and I hope the committee will accept that amendment, which is a small amount, so far as this bill is concerned.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. LONGWORTH], which the Clerk will again report.

The amendment was again read.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Office of assistant treasurer at St. Louis: Assistant treasurer, $4,500; cashier, $2,500; paying teller, $2,000; receiving teller, $1,800; assorting teller, $1,800; change teller, $1,600; coin teller, $1,200; bookkeeper, $1,500; clerks—3 at $1,500 each, 7 at $1,200 each, 2 at $1,100 each, 3 at $1,000 each, 3 at $900 each; 2 watchmen, at $720, each; 2 janitors, at $600 each; guard, $720; 4 money counters and handlers for money laundry machines, at $900 each; in all, $44,660.

Mr. DYER. Mr. Chairman, I move to strike out the last word. I desire to offer an amendment on line 23. I move to strike out the figures "600" and substitute the figures "720."

The CHAIRMAN. The gentleman from Missouri offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 61, line 23, strike out the figures "600" and insert "720."

Mr. DYER. Mr. Chairman, on looking over the pay for janitors and watchmen in the different subtreasuries of the country I find that, with the exception of those in the subtreasury in St. Louis, the pay is $720 in each and every instance. These janitors at the subtreasury in St. Louis are on the same footing as watchmen. They have to do that work in the subtreasury offices, and I feel, Mr. Chairman, that in view of the policy shown by the House at the last session of Congress the increase of pay of these men to a living wage, namely, to $720, which was the minimum of the increase of the last Congress—and, in fact, they were increased up to as much as $840—I think it is only fair and proper that this change should be made. It is impossible for men to live on $600 a year—$50 a month—and properly rear a family.

Mr. MANN. Will the gentleman yield for a question?

Mr. DYER. Yes.

Mr. MANN. Why is it necessary to have two janitors at the St. Louis subtreasury? The bill already carries two watchmen and two janitors. At New Orleans there are two watchmen

but no janitor, and at Cincinnati, where we just increased the appropriation for the watchmen, they have two watchmen and no janitor. What is the necessity for having two watchmen and two janitors at St. Louis?

Mr. DYER. St. Louis is a larger city.

Mr. MANN. What is the necessity of having two watchmen and two janitors at St. Louis more than at any other office? Chicago, which is reputed to be a somewhat dirty city, so far as the air is concerned, has but one janitor, and yet requires three or four times as much work as is done in St. Louis. Is more cleaning required at St. Louis than anywhere else?

Mr. DYER. I will state, in answer to the question of the gentleman from Illinois, that St. Louis is a much larger city than any he has named except Chicago, which is provided with a messenger, which is not provided for at St. Louis.

Mr. MANN. The messenger does not do janitor's work.

Mr. DYER. These janitors do substantially the same work as the watchmen in the Chicago office. There is a messenger at the Chicago office at $840, and three watchmen at $720 each, and one janitor at $720. These janitors at St. Louis do practically the same work as the watchmen. The language is used interchangeably, and there is no difference, substantially, in the work which they do.

Mr. MANN. The amount of work done at the St. Louis office is only a trifle larger than the amount transacted at New Orleans and at Cincinnati, where they get along without those four men. What is the necessity of having four men at St. Louis to do the work done by two men at Cincinnati or at New Orleans or most of the other places? They have one janitor at Chicago and two janitors at St. Louis.

Mr. DYER. Well, I explained, or tried to explain that to the gentleman, that in some places "watchmen" are carried instead of "janitors." We have only one watchman at St. Louis, and these janitors have ofttimes to do the work of a watchman, because if he goes away for one purpose or other the janitors have to do his work. These janitors are employed all the time and give all their time to this work, and they are needed. I ask for a vote, Mr. Chairman.

Mr. MANN. There is no real necessity for them at all.

Mr. JOHNSON of South Carolina. Mr. Chairman, did I understand the gentleman's amendment to provide that these people should be called watchmen instead of janitors?

Mr. DYER. No; my amendment did not provide that.

Mr. JOHNSON of South Carolina. But the gentleman's amendment proposes to increase the pay only?

Mr. DYER. Yes; to make it the same as janitors are paid at other subtreasuries in the country in every instance.

Mr. JOHNSON of South Carolina. Mr. Chairman, I have only this to say: That the Secretary of the Treasury has requested no increase in the compensation of these people. There is not a word of testimony before the committee that would justify the committee in making the increase. There are 450,000 people in the employment of the Government, and we can not raise salaries on the floor of the House indiscriminately without any evidence whatever. In fact, I think the best thing to do would be to strike out those two positions. They are hardly needed.

Mr. DYER. Will the gentleman yield for a question?

Mr. JOHNSON of South Carolina. Yes.

Mr. DYER. When we had the Post Office appropriation bill up there were 1,400 messengers and janitors and watchmen whose salaries were increased and there had been no recommendation from the Postmaster General or anybody asking for it, and in the case of those whom we just increased a while ago, for instance, in the case at Cincinnati, there is no word from there on the subject. It is not because they are not needed.

Mr. JOHNSON of South Carolina. The Secretary of the Treasury recommended the increase at Cincinnati.

Mr. DYER. Well, I will say that I have talked with the officials at the office at St. Louis and they tell me that $600 is not sufficient to pay these men to do the work and expect from them good service.

Mr. JOHNSON of South Carolina. That is all.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Missouri [Mr. DYER], which the Clerk will again report.

The amendment was again read.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chairman announced that the "noes" appeared to have it.

Mr. DYER. I ask for a division, Mr. Chairman.

The committee divided; and there were—ayes 16, noes 20.

Mr. DYER. I ask for the yeas and nays, Mr. Chairman.

The CHAIRMAN. The yeas and nays can not be had in committee.

Mr. DYER. I ask for tellers.

The CHAIRMAN. The gentleman from Missouri demands tellers. As many as favor taking this vote by tellers will rise and remain standing until counted. [After counting.] Only 12 gentlemen have arisen. It takes 20. Tellers are refused. The Clerk will read.

The Clerk read as follows:

Mint at Denver, Colo.: Superintendent, $4,500; assayer, $3,000; superintendent melting and refining department, $3,000; superintendent coining department, $2,500; chief clerk, and cashier, at $2,500 each; deposit weigh clerk, and bookkeeper, at $2,000 each; assistant assayer, $2,200; assayer's assistant, $2,000; assistant cashier, $1,800; clerks—two at $2,000 each, two at $1,800 each, four at $1,600 each, two at $1,400 each, one $1,200; private secretary, $1,200; in all, $47,200.

Mr. FRENCH. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Idaho offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 62, by striking out all of lines 15 to 23, inclusive, and inserting in lieu thereof the following:

"MINTS AND ASSAY OFFICES.

"Mint at Carson, Nev.: Assayer in charge, who shall also perform the duties of melter, $2,250; assistant assayer, $1,500; chief clerk, $1,600; clerk, $1,000; in all, $6,350.

"For wages of workmen and other employees, $6,200.

"For incidental and contingent expenses, $3,000.

"Mint at New Orleans, La.: Assayer, who shall have general charge of the institution as under section 3500, Revised Statutes, and who shall be a practical assayer, $2,500; assistant assayer, $1,500; chief clerk, who shall perform the duties of cashier, $1,500; 3 clerks, $1,200 each; assayer's assistant, $1,200; in all, $10,300.

"For wages of workmen and other employees, $7,500.

"For incidental and contingent expenses, $3,500.

"Mint at San Francisco, Cal.: Superintendent, $4,500; assayer, superintendent melting and refining department, and superintendent coining department, at $3,000 each; chief clerk, and cashier, at $2,500 each; bookkeeper, $2,000; assistant assayer, $2,200; assistant melter and refiner, and assistant coiner, at $2,000 each; assistant cashier, $1,800; assistant bookkeeper, $1,800; assayer's assistant, $2,000; deposit weigh clerk, $2,000; 1 clerk, $2,000; 1 clerk, $1,800; 6 clerks, at $1,600 each; private secretary, $1,400; 2 clerks, at $1,400 each; 2 clerks, at $1,200 each; in all, $54,300.

"For wages of workmen and other employees, $122,500.

"For incidental and contingent expenses, including new machinery and repairs, exclusive of that required for the refinery, melter and refiners' wastage, and loss on sale of sweeps, arising from the manufacture of ingots for coinage, and for wastage and loss on sale of coiners' sweeps, $40,000.

"Assay office at Boise, Idaho: Assayer in charge, who shall also perform the duties of melter, $2,250; assistant assayer, $1,600; chief clerk, who shall also perform the duties of cashier, $1,500; assayer's assistant, $1,500; 1 clerk, $1,200; in all, $8,050.

"For wages of workmen and other employees, $3,540.

"For incidental and contingent expenses, $2,500.

"Assay office at Charlotte, N. C.: Assayer and melter, $1,500.

"For wages of workmen and other clerks and employees, $900.

"For incidental and contingent expenses, $400.

"Assay office at Deadwood, S. Dak.: Assayer in charge, who shall also perform the duties of melter, $2,000; clerk, $1,200; assistant assayer, $1,600; assayer's assistant, $1,400; in all, $6,200.

"For wages of workmen and other employees, $3,000.

"For incidental and contingent expenses, new machinery, etc., $1,500.

"Assay office at Helena, Mont.: Assayer in charge, $2,500; chief clerk, who shall also perform the duties of cashier, $1,800; clerk, $1,600; clerk, $1,400; assistant assayer, $1,700; assayer's assistant, $1,400; in all, $10,400.

"For wages of workmen and other employees, $6,500.

"For incidental and contingent expenses, $3,250.

"Assay office at Seattle, Wash.: Assayer in charge, who shall also perform the duties of melter, $2,750; assistant assayer, $2,000; chief clerk, who shall also perform the duties of cashier, $2,000; 1 clerk, $1,700; 2 clerks, at $1,600 each; clerk, $1,400; in all, $13,050.

"For wages of workmen and other employees, $22,000.

"For incidental and contingent expenses, including rent of building, $6,500.

"Assay office at Salt Lake City, Utah: Assayer in charge, who shall also perform the duties of melter, $2,500; assistant assayer, $1,600; chief clerk, who shall also perform the duties of cashier, $1,600: *Provided*, That the chief clerk shall perform the duties of assayer in charge in his absence; clerk, $1,400; in all, $7,100.

"For wages of workmen and other employees, $4,500.

"For incidental and contingent expenses, $3,500.

"The position of coiner, which has heretofore existed in each of the coinage mints, and the position of melter and refiner, which has heretofore existed in each of the coinage mints and in the United States assay office at New York, are hereby abolished, to take effect on and after July 1, 1912, and on and after that date the duties and responsibilities heretofore imposed by law on the officers holding said positions in each of said mints and the assay office shall devolve upon the superintendents of said institutions; and all assistants and employees of the mints and assay offices of the United States shall, from and after July 1, 1912, be appointed by the Secretary of the Treasury.

"Mint at Denver, Colo.: Superintendent, $4,500; assayer, $3,000; superintendent melting and refining department, $3,000; superintendent coining department, $2,500; chief clerk, and cashier, at $2,500 each; deposit weigh clerk, and bookkeeper, at $2,000 each; assistant assayer, $2,200; 2 clerks, at $2,000 each; assayer's assistant, $2,000; assistant cashier, $1,800; 2 clerks, at $1,800 each; 4 clerks, at $1,600 each; 2 clerks, at $1,400 each; 1 clerk, $1,200; private secretary, $1,200; in all, $47,200.

"For wages of workmen and other employees, $94,000.

"For incidental and contingent expenses, including new machinery and repairs, wastage in melting and refining departments and coining

departments, and loss on sale of sweeps arising from the treatment of bullion and the manufacture of coin, $35,000.

"Mint at Philadelphia: Superintendent, $4,500; engraver, $4,000; assayer, $3,000; superintendent melting and refining department, $3,000; superintendent coining department, $2,500; chief clerk, $2,500; assistant assayer, $2,200; assistant superintendent of melting and refining department, $2,000; cashier and bookkeeper, at $2,500 each; 1 clerk, and deposit weigh clerk, at $2,000 each; assistant cashier, and curator, at $1,800 each; 2 clerks, at $1,700 each; 8 clerks, at $1,600 each; 1 clerk, $1,500; 6 clerks, at $1,400 each; 1 clerk, $1,300; 3 clerks, at $1,200 each (including one formerly paid from 'parting and refining'); 5 clerks, at $1,000 each; 1 clerk, $900; in all, $73,200.

"For wages of workmen and other employees, $305,000.

"For incidental and contingent expenses, including new machinery and repairs, wastage in melting and refining and in coining departments, and loss on sale of sweeps arising from the treatment of bullion and the manufacture of coins, $70,000.

"Assay office at New York: Superintendent, $5,000; assayer, $3,000; superintendent of melting and refining department, $3,000; chief clerk, cashier, deposit weigh clerk, and assistant assayer, at $2,500 each; 2 clerks, and assayer's assistant, at $2,000 each; bookkeeper, $2,350; assistant cashier, and 4 clerks, at $1,800 each; 1 clerk (formerly paid from 'parting and refining'), $1,600; 1 clerk, $1,500; private secretary, $1,400; 1 clerk, $1,250; 7 clerks, at $1,000 each; in all, $51,100.

"For wages of workingmen and other employees, $80,000.

"For incidental and contingent expenses, including new machinery and repairs, wastage in the melting department, and loss on sale of sweeps arising from the treatment of bullion, $60,000."

Mr. JOHNSON of South Carolina. Mr. Chairman, I make the point of order that the paragraph to which the amendment is offered provides simply for the mint at Denver, Colo., while the amendment undertakes to provide for assay offices throughout the country.

The CHAIRMAN. As the Chair understands the gentleman's point of order, it is that the amendment is not germane.

Mr. JOHNSON of South Carolina. I think it also provides for striking out parts of the bill that have not been reached.

Mr. FRENCH. Will the gentleman withhold his point of order for a few minutes?

Mr. JOHNSON of South Carolina. I will, if the gentleman desires.

Mr. FRENCH. Mr. Chairman, I think the gentleman's point of order is not well taken, but I shall not argue that question just at this time. I want to call the attention of the gentleman and of the Members of the House to that which is provided in the amendment which I have sent to the Clerk's desk. All that is provided is existing law. The language that has just been read is the language of the present law, and the bill as it has been reported by the committee proposes to abolish six of the assay offices of the United States, including the ones in North Carolina, Louisiana, Utah, Nevada, Montana, and Idaho.

The argument that was repeatedly advanced a year ago for the abolition of these assay offices, and the one that is pressed to-day, is the argument that it is necessary on account of economy and the economical administration of this branch of the Government. If there were merit to that argument, the position that the committee has taken falls short, because a year ago the committee went further and provided for the abolition of different assay offices which are not abolished in the present bill. More than that, if the argument of economy is to be regarded as the controlling factor in the consideration of this particular feature of the bill, the committee does not go far enough, because it should even abolish our mints and all the assay offices, with possibly one or two exceptions, because with possibly one or two exceptions they do not pay the expenses of their operation.

The fact of the business is that mints and assay offices are not maintained as revenue producers by our Government; and if we were to go further than that, the fact is that probably very few of the functions of the Government are exercised or maintained for the purpose of making a profit to the Government while performing a public service for the people. If you will go to the various departments, the head offices of which are here in Washington, you will find that that statement is amply borne out by that which we are doing in every session, in making appropriations for the maintaining of these various departments. Your Agricultural Department costs you every year millions and millions of dollars, and yet it is not urged that there is a profit coming to the Government from the maintenance of that department, other than the profit that comes to the people generally throughout the country through the information and development and experience that can be obtained, which are to the interest of farming and agricultural communities.

Until within the past year the Post Office Department has not been maintained at a profit, and has not even borne the expense of its own maintenance. You would not abolish that department. So it is with other departments. The people of the country do not expect that our governmental institutions shall bear the expense of their operation as a reason for their existence, providing they give service.

Here is an institution that is operated for the convenience of the people. I refer merely to the one in my own State, which may be taken as an illustration of the character of service performed by similar institutions in the other sections of the country.

We have an assay office at Boise that performs the work of assaying gold and silver to the amount of nearly $1,000,000 per year for people of a large section of the country. The service that is performed is not performed for a few people only, it is not performed for a few large mining companies, but if you will turn to the record you will find that of the 500 and more who have sent bullion to the assay office at Boise almost all has been sent by persons who have sent less than $1,000 each.

Mr. BURLESON. Will the gentleman yield?

Mr. FRENCH. Certainly.

Mr. BURLESON. I would like to ask the gentleman if he is aware of the fact that during the last fiscal year the earnings of the assay office at Boise were $6,017.46 and the expenditure $14,541.14?

Mr. FRENCH. That statement is practically correct.

Mr. BURLESON. Does the gentleman think that it is a good proposition to maintain at Government expense an assay office with a net loss of $8,000 a year?

Mr. FRENCH. Postal routes are maintained at a net loss to the Government, and you would not ask to abolish them in all sections of the country on account of the expense.

Mr. BURLESON. Does the gentleman contend that there is any analogy between the two cases?

Mr. FRENCH. I contend that they are analogous. Of the 500 persons who sent gold and silver bullion to the assay office at Boise, nearly 500 sent in amounts of less than $1,000 each, and only 26 sent in an amount of more than $2,000 per individual. That represents accommodation to the people in handling nearly $1,000,000 of bullion that is assayed every year at that office. I have no doubt the same illustration could be made at every other assay office as to proportion and average. It is a great convenience to the people in the section where the assay offices are located.

Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. FRENCH. I will.

Mr. BYRNS of Tennessee. The gentleman has referred to the Agricultural Department and the Post Office Department. We know that they are run in the interest of the people throughout the country. In whose particular interest are the assay offices maintained?

Mr. FRENCH. In the interest of the people throughout the country, because just as the development of agriculture and just as the development and dissemination of information through the Post Office Department are for the benefit of the country at large, so these assay offices are for the development of the mining resources. Our mining resources have developed in the last quarter of a century along these lines, so that to-day the output of gold and silver is nearly $100,000,000 every year, and yet the industry has received scarcely any encouragement.

The CHAIRMAN. The time of the gentleman from Idaho has expired.

Mr. FRENCH. Mr. Chairman, I ask that my time be extended five minutes.

The CHAIRMAN. The gentleman from Idaho asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. FRENCH. I will yield to the gentleman.

Mr. BYRNS of Tennessee. The gentleman surely does not mean to contend that these assay offices are maintained for any other purpose than the convenience of those who produce the gold bullion. Now I want to ask if it is not a fact that these people who now send their bullion to the assay office located in the gentleman's State could not send it other assay offices, say at Denver or Deadwood, S. Dak., which it is proposed to retain, and have the same services performed there that are performed now in the State of Idaho and save this expense to the people?

Mr. FRENCH. That is true in part, but there would be a delay in the time it would take to get a return on the bullion, and also an extra expense in the express charges that our producers would have to pay in carrying the bullion the greater distance. In the gold that is produced in Idaho to-day, 80 or 90 per cent is sent to Boise, and of the silver more than 96 per cent is sent to the assay office in Boise instead of the assay offices or mints in other parts of the country.

Mr. BYRNS of Tennessee. The only difference that would result would be that those who produce gold bullion now would have to pay a little more money to send their gold and silver to the assay offices located in other places than they do, in order to send it to the assay office in the gentleman's State.

Mr. FRENCH. That same principle could be applied to the Agricultural Department, and could be applied to the Post Office Department, and every other department that we maintain. The people could bear the expense individually which the Government now bears.

Mr. BYRNS of Tennessee. The position of the gentleman is that 93,000,000 people should be forced to pay the extra expense of something like $8,000 for the benefit of 400 or 500 people in Idaho who produce gold bullion and send it to the assay office in his State, rather than to the mint and assay office at Denver.

Mr. FRENCH. Oh, not at all; and the convenience and advantage that just a few would receive is merely suggestive of the convenience and advantage it would be to a large section of the country to have the institution there, where people may have the opportunity of sending the bullion they produce in those States to a convenient assay office, for the encouragement of the industry, for the encouragement of building up the gold and silver mining in the particular sections of the country that are tributary to these assay offices. I think the people generally, the 93,000,000 to whom the gentleman refers, will be glad to have this expense borne by the Government as an encouragement to the mining industry of the United States.

Mr. BYRNS of Tennessee. Can the gentleman then tell why it is that the Secretary of the Treasury has, without exception, year after year, recommended that the assay office in the gentleman's State and all the other assay offices except at Denver and Philadelphia be abolished in the interest of the public service and of the people?

Mr. FRENCH. The Secretary takes that position honestly, but why has not the committee followed that course they followed a year ago? If their position a year ago was correct, wherein they sought to abolish the assay office at Seattle, the mint at San Francisco, and other assay offices in the country, why do they reverse their policy and now try to abolish only a few?

Mr. BYRNS of Tennessee. If the gentleman asks me the question, I will say that the committee was in earnest a year ago when it endeavored to abolish all the assay offices, but the trouble was that when we came in here on the floor of the House we found a combination against the committee which prevented the abolishment of any of these offices. The committee now seeks by this bill to abolish only those assay offices which are a losing proposition to the Government.

Mr. FRENCH. Yes; and they are in States that are represented by but a one-Member delegation—States like Idaho, Utah, Montana, Nevada. Of course North Carolina and Louisiana must be included, but four of the six the committee is abolishing are located in States that have only one Representative on this floor.

Mr. BYRNS of Tennessee. That is because these assay offices happen to be located in those States, but I will say to the gentleman that every assay office in the South has been abolished in this bill.

Mr. FRENCH. Only two of them.

Mr. BYRNS of Tennessee. There are only two there.

Mr. FRENCH. Yes; and you have abolished four from States that have only one Member each representing them in this body, and I think it is more a question of being able, as the gentleman suggests, to prevent some such combination that the committee has prepared the bill in the way it has. If the committee were in earnest a year ago, why not fight it out along the same lines now?

Mr. BYRNS of Tennessee. Will the gentleman join us in an effort to abolish all of them?

Mr. FRENCH. No, I will not; because I believe they should be retained, not only the ones that are retained in the bill but the ones I ask to have retained in the amendment which I now propose.

Mr. JOHNSON of South Carolina. Mr. Chairman, has the Chair yet ruled on the point of order?

The CHAIRMAN. The Chair thinks the point of order well taken. If the gentleman from Idaho cares to be heard upon the question, the Chair will hear him. The gentleman said he did not care to discuss the point of order.

Mr. FRENCH. Mr. Chairman, I do not think there can be any particular question on the point of order. I think the point of order is not well taken, because the amendment simply reinstates existing law. It proposes nothing new, it refers to that which is already existing law, and I think that now is a very proper time to have it considered, in lieu of the paragraph for which it is a substitute.

The CHAIRMAN. It is a well-established rule of the House, as the Chair understands it, that if any portion of an amendment is obnoxious, it makes the entire amendment obnoxious. It appears from the reading of this amendment that it includes matters other than is contemplated in the provision from line 15 to 23, on page 62. If the gentleman's amendment should come after that as a different and separate section, it might be in order; but this provision provides solely for a mint at Denver, whereas the amendment offered by the gentleman from Idaho creates a number of assay offices throughout the country. If he should offer his amendment as a separate section following the mint at Denver, it seems to the Chair that it would be in order.

Mr. FRENCH. Then, to save time, because I would simply follow the program the Chair has outlined, I ask unanimous consent that the amendment I have proposed be offered as a separate section immediately following the disposition of this section that is now pending, and also in the same sentence I will ask that we do not read it, because we are all familiar with its terms, and then it can be voted up or down as the House sees fit.

Mr. JOHNSON of South Carolina. I object, Mr. Chairman.

The CHAIRMAN. The gentleman from South Carolina objects. The point of order is sustained, and the Clerk will read.

Mr. FRENCH. Then, Mr. Chairman, I would offer this same amendment as a separate section at this time.

The CHAIRMAN. The gentleman from Idaho offers the following amendment as a separate section.

Mr. FRENCH. If the Clerk will omit the part pertaining to Denver—I want to omit that because that is taken care of—I would ask that the reading be dispensed with, because the House is familiar with it.

The CHAIRMAN. The gentleman from Idaho asks unanimous consent that the reading of the amendment be dispensed with. Is there objection? [After a pause.] The Chair hears none. The question is on the adoption of the amendment offered by the gentleman from Idaho.

Mr. BURLESON. Mr. Chairman, I demand a division of the amendment.

The CHAIRMAN. The gentleman from Texas demands a division of the amendment. The Clerk will report the first subdivision of the amendment.

The Clerk read as follows:

Page 62, after line 23, insert the following:

"MINTS AND ASSAY OFFICES.

"Mint at Carson, Nev.: Assayer in charge, who shall also perform the duties of melter, $2,250; assistant assayer, $1,500; chief clerk, $1,600; clerk, $1,000; in all, $6,350.

"For wages of workmen and other employees, $6,200.

"For incidental and contingent expenses, $3,000."

Mr. BURLESON. Mr. Chairman, I simply desire to direct the attention of the committee to the fact that last year the earnings at the Carson Mint were $3,717.93 and the expenses were $15,284.69. The aggregate expenses of the assay offices we seek in this bill to abolish are $144,673.69. The aggregate earnings are $42,180.18. The net annual loss to the Government is more than $100,000, and, in addition to this loss, for each year there is a cost for transportation necessarily incurred by the shipment of ore that is purchased which is sent to the mint for coinage purposes, aggregating thousands of dollars. The abolishment of these assay offices has been recommended by the present Secretary of the Treasury. Every Secretary of the Treasury for years with unvarying regularity, Democratic Secretaries of the Treasury alike with Republican Secretaries of the Treasury, have recommended their abolishment, declaring that they render no substantial service. It is in the interest of economy, and, Mr. Chairman, no reason can be stated why they should be continued, and they would not have been continued in last year's bill except for a combination upon the part of certain Representatives who have a selfish interest in the continuance of these particular assay offices, and I now ask that the Committee of the Whole sustain the Committee on Appropriations in its effort to strike down this wasteful extravagance. But for the combination last year these useless offices would have been abolished. I think now it no longer exists and that at last we can succeed in eliminating these indefensible items from this bill.

Mr. GILLETT. Mr. Chairman, I had occasion the other day to criticize the committee and the majority of this House for introducing in this bill what I thought was the first indication of a seizure of the spoils of office. I want to be fair about the matter, and so I think I ought now to say that this proposition which they are making here shows quite an opposite spirit. I am surprised at it. I am afraid it is a spirit that will not be demonstrated very often in the progress of time, but certainly in this instance the majority of the committee is showing great self-denial and restraint of appetite in the effort to abolish these offices, which in the future would give them patronage. I think they are doing it wisely as well as unselfishly. I think it is a righteous economy which deserves the commendation and support of the House.

The CHAIRMAN. The question is on the subdivision amendment offered by the gentleman from Idaho.

The question was taken, and the amendment was rejected.

The CHAIRMAN. Does the committee desire the balance of the amendment voted on together?

Mr. BURLESON. We are willing to vote on it.

The CHAIRMAN. The question is on the balance of the amendment offered by the gentleman from Idaho.

The question was taken, and the Chairman announced the noes seemed to have it.

Upon a division (demanded by Mr. FRENCH) there were—ayes 11, noes 49.

So the amendment was rejected.

The Clerk read as follows:

Assay office at Deadwood, S. Dak.: Assayer in charge, who shall also perform the duties of melter, $2,000; clerk, $1,200; assistant assayer, $1,600; assayer's assistant, $1,400; in all, $6,200.

For wages of workmen and other employees, $3,000.

For incidental and contingent expenses, new machinery, etc., $1,500.

Mr. COX of Indiana. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COX of Indiana. I would like to know where the Clerk was reading.

The CHAIRMAN. Page 65, line 7.

Mr. COX of Indiana. Mr. Chairman, I do not know whether I am too late or not, but I want to move to strike out all on page 65, lines 1, 2, 3, 4, 5, 6, and 7; in other words, from line 1 to line 7, inclusive, page 65.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 65, strike out all of lines 1 to 7, inclusive.

Mr. JOHNSON of South Carolina. I am quite willing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Assay office at Seattle, Wash.: Assayer in charge, who shall also perform the duties of melter, $2,750; assistant assayer, $2,000; chief clerk, who shall also perform the duties of cashier, $2,000; clerks—one $1,700, two at $1,600 each, one $1,400; in all, $13,050.

Mr. DYER. Mr. Chairman, I move to strike out the last word. I want to ask the chairman of the committee a question. Is there any more need for the office at Seattle than for the one at Deadwood, in his opinion?

Mr. JOHNSON of South Carolina. Yes; there is a great deal more need for an assay office at Seattle than there is at any other point on the Pacific coast. The amount of bullion which comes down to Seattle from Alaska is very great.

Mr. DYER. While I am on my feet I would like to ask the chairman of the subcommittee a question which I wanted to ask him when we had up the matter of the subtreasury. I would like to know if the Committee on Appropriations has made any recent inquiry into whether or not some of the subtreasuries could not be abolished without injuring the public business?

Mr. JOHNSON of South Carolina. They ought all to be abolished, but this committee was not in a position to do it. They were organized under a very different condition of things than that which now obtains. We are not prepared to abolish them.

Mr. DYER. I understand the gentleman to say, then, that these different subtreasuries could practically be abolished without any injury to the public business?

Mr. JOHNSON of South Carolina. I think they could. Of course we have not had any inquiries on that subject.

Mr. DYER. Can the chairman state to us whether or not it is the intention, so far as he knows now, of the Committee on Appropriations to take up this inquiry for the purpose of trying to abolish them?

Mr. JOHNSON of South Carolina. I do not know who will be on the Committee on Appropriations after the 4th of March. This committee will do well to get through with the appropriation bills for the next fiscal year.

The Clerk read as follows:

GOVERNMENT IN THE TERRITORIES.

District of Alaska: Governor, $7,000; 4 judges, at $7,500 each; 4 attorneys, at $5,000 each; 4 marshals, at $4,000 each; 4 clerks, at $3,500 each; in all, $87,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I would like to inquire from the gentleman in charge of the bill, in regard to the District of Alaska, whether they need as large a force there now since Alaska was created into a Territory as they have had heretofore? Is there a large share of this legal work there to be done hereafter?

Mr. JOHNSON of South Carolina. The Committee on Appropriations has no information on that subject. When we were making up the bill last year we thought that the force was too large in the Territories, and we made an inquiry of the Attorney General, and after investigation he notified the committee that the force could not be reduced.

The Clerk read as follows:

For judges of circuit courts, at $4,000 each, so much as may be necessary, for the fiscal year ending June 30, 1914.

[Mr. FARR addressed the committee. See Appendix.]

Mr. MANN. Mr. Chairman, I move to strike out the last word, for the purpose of inquiring of the gentleman from South Carolina [Mr. JOHNSON], in charge of the bill, whether any request or estimate was made in reference to the expenses of the Territorial Legislature for the Territory of Alaska, or whether they would properly come in this bill or in the sundry civil bill?

Mr. JOHNSON of South Carolina. They would properly come in this bill, Mr. Chairman, but no estimate was sent to us. We do provide in this bill for the Legislature of Hawaii, but as it only meets biennially it was not necessary to have any estimate on this bill. No estimates came in regard to the other.

Mr. MANN. And the matter was not called to the attention of the committee by the Delegate from Alaska?

Mr. JOHNSON of South Carolina. No. There is no estimate before the committee as to the amount needed.

The Clerk read as follows:

WAR DEPARTMENT.

Office of the Secretary: Secretary of War, $12,000; Assistant Secretary, $5,000; assistant and chief clerk, $4,000; private secretary to the Secretary, $2,500; clerk to the Secretary, $2,000; stenographer to the Secretary, $2,000; clerk to the Assistant Secretary, $2,400; assistant chief clerk, $2,400; disbursing clerk, $2,750; appointment clerk, $2,250; 4 chiefs of division, at $2,000 each; superintendent of buildings outside of State, War, and Navy Department Building, in addition to compensation as chief of division, $500; chief telegrapher, $1,800; clerks—4 of class 4, 5 of class 3, 15 of class 2, 19 of class 1, 6 at $1,000 each, 1 at $900; foreman, $1,200; carpenter, $1,200; chief messenger, $1,060; carpenter, $1,080; skilled laborer, $1,000; 6 messengers; 7 assistant messengers; 2 assistant messengers, at $600 each; telephone switchboard operator; assistant telephone switchboard operator; engineer, $900; assistant engineer, $720; fireman; 4 watchmen; 5 watchmen, at $660 each; 8 laborers; hostlers—1 at $600, 1 at $540; elevator conductors—4 at $660; 4 charwomen; in all, $448,160.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on this paragraph. I desire to ask the gentleman why the chief clerk's salary is increased from $2,500 to $4,000.

Mr. JOHNSON of South Carolina. We have not done anything of the kind. The salary is the same now as it has been.

Mr. FOWLER. The last bill provides that the chief clerk of the Secretary of War shall have a salary of $2,500. In this bill it provides for a salary of $4,000.

Mr. JOHNSON of South Carolina. We have made no change whatever.

Mr. FOWLER. I have the statute before me.

Mr. JOHNSON of South Carolina. The gentleman may have the statute before him, but we are following current law.

Mr. FOWLER. Well, as a matter of fact, does the gentleman think that there ought to be an increase in the salary simply by current law, when there is no general law for it?

Mr. JOHNSON of South Carolina. He is not merely a chief clerk in the ordinary acceptation of that term, but he is also an Assistant Secretary of War.

Mr. FOWLER. Mr. Chairman, there is no provision in the statute for an assistant secretary and chief clerk of war, but there is a provision for a chief clerk at a salary of $2,500. It is sought by this bill to increase his salary from $2,500 to $4,000 by marrying him to an assistant for which there is no provision of law. I therefore make a point of order against this provision in line 3 for $4,000 for the chief clerk.

Mr. JOHNSON of South Carolina. Mr. Chairman, the chief clerk when the War Department was created by the act of 1789 was provided for at $600 a year. From time to time it was increased; notably in 1871 the salary was increased to $2,500. At some time previous to this present fiscal year the salary was increased in an appropriation bill to $4,000, and this committee has not increased the salary over the amount carried in the current law. There would be just as much sense in going back and fixing this officer's salary at $600, which was the amount fixed in the original statute in 1789, as there would be in going back to the year 1871 and fixing the salary at $2,500.

Mr. FOWLER. Does the gentleman contend that there has been an amendment to the statute fixing the salary of the chief clerk to the Secretary of War to $2,500?

Mr. JOHNSON of South Carolina. I endeavored to state distinctly that it has been increased on appropriation bills, and we are simply following the current law as made in an appropriation bill.

Mr. FOWLER. The gentleman is well aware of the fact that merely because a salary may have been increased by an appropriation bill it is not binding at all upon any future Congress or session thereof in making an appropriation for that purpose.

Mr. JOHNSON of South Carolina. Mr. Chairman, I am ready to have the Chair rule.

Mr. FOWLER. I will say to the Chair that I have before me the statute governing the question of salaries for the Department of War, and it provides for one chief clerk of the department at a salary of $2,500 a year.

The CHAIRMAN. It is the Chair's understanding of the precedents that where a statute fixes the salary of an officer a point of order against the increase of the salary is good, and that where the statute fixes no salary, then the current law is to govern in a case of that character; and for that reason it seems to the Chair that——

Mr. FITZGERALD. Mr. Chairman, in this instance, however, there is one other point to which the attention of the Chair must be called. The statute cited by the gentleman from Illinois [Mr. FOWLER] fixes the compensation of the office of chief clerk, but that is not this office. This is a different office. It is the office of assistant and chief clerk—a different title, with somewhat different duties—and it is upon that ground that the gentleman from South Carolina [Mr. JOHNSON] has based his contention. There was a consolidation of offices and a change in the compensation, and the particular position that the gentleman from Illinois [Mr. FOWLER] now mentions does not exist.

Mr. FOWLER. Mr. Chairman, does the gentleman from New York yield?

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Illinois?

Mr. FITZGERALD. Certainly.

Mr. FOWLER. I desire to ask if there is such a position as Assistant Secretary of War, as contemplated by this provision of this bill?

Mr. JOHNSON of South Carolina. There is an Assistant Secretary of War at $5,000 a year, and he has an assistant and chief clerk at $4,000 a year.

The CHAIRMAN. The Chair would like to ask the gentleman from New York [Mr. FITZGERALD] how the word "assistant" is going to help to make it in order unless that office is authorized by law?

Mr. JOHNSON of South Carolina. It is authorized by appropriation acts, which justify us in carrying it in the next appropriation bill.

The CHAIRMAN. But if it is an office not authorized by law, and the point of order is made against it, under the rules of the committee a point of order would lie.

Mr. FITZGERALD. There is no separate statute, as I recall, creating the office of assistant and chief clerk. If the gentleman from Illinois [Mr. FOWLER] has made his point of order on that ground that is one thing. But the only compensation fixed for the office of assistant and chief clerk is the compensation fixed in the appropriation bill.

The CHAIRMAN. The Chair is inclined to think the point of order is well taken.

Mr. FITZGERALD. Against the entire clause?

The CHAIRMAN. No; against this provision of "assistant and chief clerk at $4,000." Has the gentleman from South Carolina any amendment?

Mr. JOHNSON of South Carolina. No; we have no amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Office of the Judge Advocate General: Chief clerk and solicitor, $2,500; law clerks—1 at $2,400, 1 at $2,000; clerks—1 of class 4, 2 of class 3, 3 of class 2, 6 of class 1; copyist; 2 messengers; assistant messenger; in all, $26,600.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph. I desire to ask the gentleman in charge of the bill why the chief clerk, in this paragraph, has a salary of $2,500, whereas it ought to be $2,000?

Mr. JOHNSON of South Carolina. There is no law creating such an office. It is just simply carried in an appropriation bill. We have carried it there because the previous appropriation bills provided for it.

Mr. FOWLER. There is a chief clerk of this office?

Mr. JOHNSON of South Carolina. He is something more than a chief clerk.

Mr. FOWLER. Can you consolidate a statutory office with another office by an appropriation bill?

Mr. JOHNSON of South Carolina. A chief clerk is authorized by law at $2,000.

Mr. FOWLER. A chief clerk is authorized by law at the salary of $2,000?

Mr. JOHNSON of South Carolina. Yes.

Mr. FOWLER. I make the point of order against this portion of the paragraph, Mr. Chairman.

Mr. JOHNSON of South Carolina. If it is subject to a point of order, I would rather let it go.

The CHAIRMAN. The Chair understands that the gentleman from Illinois says he has the statute before him, and the statute authorizes a salary of $2,000.

Mr. FOWLER. I understand the law so fixes it.

Mr. JOHNSON of South Carolina. The words "and solicitor" are subject to a point of order.

The CHAIRMAN. What is the understanding of the gentleman in charge of the bill as to what the statutory law is?

Mr. JOHNSON of South Carolina. There is authority for a chief clerk at $2,000. There is no provision for "chief clerk and solicitor," but there is a law for the chief clerk.

The CHAIRMAN. Let the Chair understand just what the gentleman from Illinois made the point of order against. Will the gentleman state it again?

Mr. FOWLER. The point of order is directed against the salary of the chief clerk and solicitor provided in the bill at $2,500. There is no such office as "chief clerk and solicitor" created by the statute. There is a statutory office of chief clerk, and I make a point of order against that provision of the bill.

The CHAIRMAN. The point of order, in so far as the words "and solicitor" are concerned, is doubtless well taken. The Chair is not certain whether that takes out of the bill the entire provision "chief clerk and solicitor."

Mr. FITZGERALD. Mr. Chairman, the provision "chief clerk and solicitor, $2,500," goes out.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FITZGERALD. Mr. Chairman, I move to strike out the last word. There are carried in the legislative bill a very large number of offices which have been carried for a great many years at compensations and under titles different from the compensation and titles fixed in the organic act. In a long series of years Congress, in providing for the needs of the public service, has from time to time provided additional compensation and changed titles in order to obtain the services required to carry on the public service adequately. It is a notorious fact that this bill can be taken by any studious or industrious Member of the House and completely emasculated. That is known to the entire House. We have established a governmental service in all the various departments essential for the proper conduct of the public business. The Chair will probably recall that a few years since, as a result of a somewhat partisan controversy that arose in the House, two Members of the House undertook to eliminate from the legislative bill all of the items that were not strictly in order under the rules, and they carried their work to such an extent that at the completion of the bill the House, by a practically unanimous vote, adopted a rule reinserting all the items taken out, because it would have been ludicrous to pass through the House a bill purporting to provide for the departmental service which everybody knew in effect did not do so. The gentleman from Illinois [Mr. FOWLER] can follow that practice if he chooses to do so. If he were bringing to the attention of the Committee of the Whole items in this bill that the Committee on Appropriations were at this time attempting to do in the way of increasing forces or increasing compensation, which were not in strict conformity with the rules, that would be one matter, and I do not know that I have ever criticized anyone for exercising his rights under the rules in that respect; but to sit here and take out all these various items of appropriation which are absolutely essential for the conduct of the public service can not, it seems to me, be justified upon any theory whatever. It may be that the gentleman will carry his work to such an extent that in order to preserve the self-respect of the House, at the conclusion of the bill, the committee may be compelled to ask the adoption of a rule restoring all of the items eliminated in this way.

Mr. FOWLER. Mr. Chairman, I desire to offer an amendment to take the place of the $2,500, which has been stricken out, and make it $2,000, so that it will read "chief clerk and solicitor, $2,000."

Mr. JOHNSON of South Carolina. I make the point of order against that amendment that it is not provided by law.

The CHAIRMAN. The point of order is sustained.

Mr. FITZGERALD. I ask the gentleman from South Carolina to withdraw the point of order.

Mr. JOHNSON of South Carolina. I will withdraw the point of order. Let the amendment be reported.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 68, line 16, strike out $2,500 and insert $2,000.

Mr. MANN. Mr. Chairman, I submit that that is not the amendment that was offered. Let the Clerk report the amendment that was offered.

The CHAIRMAN. The Clerk will report the amendment as offered by the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman, I desire to amend my amendment.

Mr. FITZGERALD. Mr. Chairman, I demand that the amendment be reported.

The CHAIRMAN. If the gentleman from Illinois [Mr. FOWLER] will wait a moment, the Clerk will report his original amendment.

The Clerk read as follows:

Page 68, lines 15 and 16, insert "chief clerk and solicitor, $2,000."

Mr. FOWLER. Mr. Chairman, I desire to amend the amendment by striking out the words "and solicitor."

The CHAIRMAN. The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Amend the amendment by striking out the words "and solicitor."

Mr. MANN. I would like to ask the reason for striking out the words "and solicitor." This man is conceded to be a solicitor.

Mr. FOWLER. I do not understand that there is any such statutory office as solicitor provided for in this department.

Mr. MANN. That is true; but this department itself is a lawyer's department. It is the office of the Judge Advocate General. While he is an Army officer he is also a lawyer and has to be; his office is the legal department, and like any other legal department of the Government it requires a solicitor. Where there is a chief clerk he needs to be a lawyer or else have a lawyer besides. It is run as a legal office and does the legal work for the Army, and occasionally has furnished information to the House and the committees of the House of an important character in legal work.

Mr. FOWLER. Mr. Chairman, I do not desire to hinder or delay legislation in this body in any way whatever. I feel as sensible as any other Member of this House of my weakness and newness in this body. Under no consideration would I hold up this House, in any sense of the word, in any department of the Government which would handicap it or lessen its ability to carry out the great needs of the Government of this country to the fullest extent.

I resent, Mr. Chairman, any statement made here on the floor of this House which may impute to me a disposition of that kind. I do say, Mr. Chairman, that there is a regular and lawful way to proceed in all of the business in this House. We have a code of rules which are employed for the purpose of guiding Members in the conduct of bills in this House, and we have ample laws, fixed and definite, as to what is to be done and should be done in appropriations for furnishing the Government in its various departments ample revenue for the purpose of bringing to the country its greatest welfare. I therefore offer this amendment so that the gentleman from New York [Mr. FITZGERALD] may be advised as to my position in the premises—that is, that where a statutory office is created that it shall remain distinct and apart from all other positions, and that it can not be married to Tom, Dick, and Harry without the consent of the Congress of the United States.

Mr. FITZGERALD. The gentleman from Illinois does not imagine that this marriage to which he refers was placed in this law without the consent of the Congress of the United States. It was done in the House and agreed to by the Senate. That is how it is here. I ask for a vote on the amendment to the amendment.

The CHAIRMAN. The question is on the amendment to the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment to the amendment was lost.

Mr. FITZGERALD. Mr. Chairman, I move to strike out the words "two thousand" in the amendment and insert "twenty-five hundred."

Mr. FOWLER. I make a point of order, Mr. Chairman, to that amendment to the amendment.

The CHAIRMAN. On what ground?

Mr. FOWLER. Because it seeks to regulate the salary of a statutory office which is fixed by law.

Mr. FITZGERALD. I call the attention of the Chair to the fact that the gentleman's amendment provides for an office that is not provided for by statute; that is legislation, and under the rules of the House any germane legislation is in order.

The CHAIRMAN. The Chair understands that it is the unbroken rule that where an amendment is offered out of order and permitted to be acted on by the committee, it can be perfected in any way the committee may think best. So the point of order is not well taken. The question is on the amendment to the amendment offered by the gentleman from New York.

The question was taken, and the amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on the amendment as amended.

The question was taken, and the amendment as amended was agreed to.

The Clerk read as follows:

Office, Chief, Quartermaster Corps: Assistant and chief clerk, $2,750; 5 principal clerks, at $2,250 each; clerks—15 of class 4, 25 of class 3, 44 of class 2, 85 of class 1, 50 at $1,000 each, 10 at $900 each; advisory architect, $4,000; experienced builder and mechanic, $2,500; inspector of supplies, $2,500; draftsmen—3 at $1,800 each, 7 at $1,600 each, 5 at $1,400 each; supervising engineer, $2,750; 2 civil engineers, at $1,800 each; electrical engineer at $2,000; electrical and mechanical engineer, $2,000; marine engineer, $3,500; assistant marine engineer, $1,800; sanitary and heating engineer, $1,800; blue-print operator, $900; 6 messengers; 14 assistant messengers; 12 laborers; 1 laborer, $600; 1 laborer, $480; in all, $378,670.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against that paragraph. I desire to ask the chairman of the committee why the chief clerk's salary is increased from $2,000 to $2,750. That is on page 69, at the bottom of the page.

Mr. JOHNSON of South Carolina. Mr. Chairman, the section of the bill now under consideration is the consolidated bureau resulting from the legislation in the last military appropriation bill that required three bureaus of the War Department to be consolidated.

Mr. FOWLER. Did it create any office of assistant and chief clerk, and thereby fix the salary?

Mr. JOHNSON of South Carolina. It certainly provided, Mr. Chairman, that these three bureaus in the War Department should be consolidated into one bureau. The statute itself does not fix the number of employees, and therefore under the general law we have the right to appropriate for such force as is necessary to carry on the work of that bureau. And I want to say, further, if the gentleman will permit me to give him the information——

Mr. FOWLER. That is sufficient.

Mr. JOHNSON of South Carolina. That these three consolidated bureaus for the present year are costing $425,700. By the consolidation we are able to carry on this service for $378,670, making, in round figures, a saving of $50,000. I am surprised that the gentleman should object to such economy as that.

Mr. FOWLER. There is not such a saving as $50,000. It is much less than $50,000.

Mr. JOHNSON of South Carolina. How much less?

Mr. FOWLER. I have not the exact figures, but it does not reach $50,000 by any means.

Mr. JOHNSON of South Carolina. The service is costing $425,700 now. Under the proposed bill it will cost $378,670. There are 43 people less provided for, and the net saving is $47,030—in round numbers $50,000.

Mr. FOWLER. I desire to ask if the statute does not fix the chief clerk's salary for this department at $2,000?

Mr. JOHNSON of South Carolina. There is no statute fixing the chief clerk's salary in that bureau at any price.

Mr. FOWLER. I desire to call the attention of the chairman to the fact that the Quartermaster General's Corps provides for a chief clerk at a salary of $2,000.

Mr. JOHNSON of South Carolina. Yes; but that is the old law. The military appropriation bill provided that these three bureaus should be consolidated. It abolishes all of the others.

Mr. FOWLER. Yes; but it does not make any change in the question of the chief clerk of the Quartermaster General's office.

Mr. JOHNSON of South Carolina. There is no such thing. It wiped all of them out of existence, and this section of the bill is prepared in accordance with the new law.

Mr. KAHN. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of South Carolina. Certainly.

Mr. KAHN. Under the last Army appropriation bill the Quartermaster's Department, the Subsistence Department, and the Pay Department were consolidated under the name of the Quartermaster Corps. The $2,000 that the gentleman speaks of refers to a chief clerk of the Quartermaster's Department. That department has been abolished. This provides for the Quartermaster Corps, an entirely new department, and the legislation that was enacted in the last Congress did not provide——

Mr. FOWLER. Was there any provision in that bill repealing the law creating the Quartermaster General's office and that department?

Mr. KAHN. By inference there was, because the Quartermaster's Department was consolidated with the Pay Department and the Subsistence Department in the Quartermaster Corps.

Mr. FOWLER. Is it not a fact that this is the Quartermaster General's Department, just the same as it has been always, and if not, what has become of the Quartermaster General and his clerks?

Mr. KAHN. The Quartermaster General does no longer exist. He is now called the Chief of the Quartermaster Corps. The office of Quartermaster General has been abolished. The office of Paymaster General has been abolished and the office of Commissary General has been abolished. They are all consolidated in the new Quartermaster Corps.

Mr. FOWLER. Mr. Chairman, I desire to make a point of order against that part of this paragraph, page 69, lines 24 and 25, wherein it is sought to create an assistant and chief clerk with a salary of $2,750.

The CHAIRMAN (Mr. FOSTER). The Chair is of the opinion that the military appropriation bill of last year, in bringing about a consolidation of these offices, changed the office of Quartermaster General and Paymaster General and Commissary General, and created this new office called the Quartermaster Corps, and it is under the provisions of that legislation that the committee has appropriated for this new department. In the opinion of the Chair the point of order is not well taken, and the point of order is overruled.

The Clerk read as follows:

Office of the Surgeon General: Chief clerk, $2,250; law clerk, $2,000; clerks—13 of class 4, 11 of class 3, 26 of class 2, 32 of class 1, 10 at $1,000 each, 3 at $900 each; anatomist, $1,600; engineer, $1,400; 3 firemen; skilled mechanic, $1,000; 2 messengers; 10 assistant messengers; 3 watchmen; superintendent of building (Army Medical Museum and Library), $250; 6 laborers; chemist, $2,088; assistant chemist, $1,500; principal assistant librarian, $2,250; pathologist, $1,800; microscopist, $1,800; assistant librarian, $1,800; 4 charwomen; in all, $163,358.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph. I desire to make the point of order against the salary of the chief clerk at $2,250, because it is a statutory office wherein the salary is fixed by law at $2,000.

Mr. JOHNSON of South Carolina. Mr. Chairman, it is subject to the point of order, and I do not care to waste time over it.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FOWLER. I desire to amend the bill by——

Mr. JOHNSON of South Carolina. Mr. Chairman, I move, in line 14, after the words "chief clerk," to insert the words "two thousand dollars."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend page 70, line 14, by inserting at the beginning of the line "$2,000."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Office of the Chief of Engineers: Chief clerk, $2,250; 2 chiefs of division, at $2,000 each; clerks—8 of class 4, 11 of class 3, 13 of class 2, 16 of class 1, 10 at $1,000 each, 11 at $900 each; 6 messengers; 3 assistant messengers; 2 laborers; in all, $104,070.

Mr. FOWLER. Mr. Chairman, I make the point of order against this paragraph continued to the salary of the chief clerk, which is denominated in this bill at $2,250, whereas the statute fixes the salary at $2,000.

Mr. JOHNSON of South Carolina. Mr. Chairman, it is subject to the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FOWLER. Mr. Chairman, I desire to amend by inserting $2,000 instead of $2,250.

The CHAIRMAN. The Chair will state to the gentleman from Illinois that the gentleman in charge of the bill has the preferential right to recognition.

Mr. JOHNSON of South Carolina. Mr. Chairman, I move to insert "$2,000" after the words "chief clerk."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 71, line 22, by inserting at the beginning of the line "$2,000."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Office of the Bureau of Insular Affairs: Law officer, $4,500; chief clerk, $2,250; clerks—10 of class 4, 3 of class 3, 10 of class 2, 19 of class 1, 15 at $1,000 each; 3 messengers; 2 assistant messengers; 4 laborers; 2 charwomen; in all, $88,430.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph. I desire to ask the chairman of the committee why the chief clerk's salary is fixed at $2,250 instead of $2,000?

Mr. JOHNSON of South Carolina. Because we thought he was worth the money and ought to have it.

Mr. FOWLER. Why make a distinction here, and in other places in this same department of the Government you fix the chief clerk's salary at $2,000, such as in the Engineer's Department?

Mr. JOHNSON of South Carolina. We fixed it at $2,250 in order to equalize him with these and other chief clerks, and the gentleman made a point of order against it.

Mr. FOWLER. Mr. Chairman, I make a point of order against the chief clerk's salary at $2,250.

Mr. JOHNSON of South Carolina. The point of order is not well taken, because there is no law fixing the salary at $2,000.

Mr. FOWLER. I submit, Mr. Chairman, that if there is a law fixing the exact salary I have not been able to lay my hands to it; but I believe it was fixed along with the other departments. I withdraw the point of order, not being definite enough to give the proper information.

Mr. MANN. The gentleman can withdraw the point of order, but it is subject to the point of order.

The Clerk read as follows:

Contingent expenses of branch offices at Boston, New York, Philadelphia, Baltimore, Norfolk, Savannah, New Orleans, San Francisco, Portland (Oreg.), Portland (Me.), Chicago, Cleveland, Buffalo, Duluth, Sault Ste. Marie, Panama, and Galveston, including furniture, fuel, lights, works and periodicals relating to hydrography, marine meteorology, navigation, surveying, oceanography, and terrestrial magnetism, stationery, miscellaneous articles, rent and care of offices, care of time balls, car fare and ferriage in visiting merchant vessels, freight and express charges, telegrams, and other necessary expenses incurred in collecting the latest information for the Pilot Charts, and for other purposes for which the offices were established, $11,000.

Mr. JOHNSON of South Carolina. Mr. Chairman, on page 82, line 23, before the word "Panama," insert the word "Seattle."

The CHAIRMAN (Mr. GARNER). The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 82, line 23, by inserting at the beginning of the line, before the word "Panama," the word "Seattle."

Mr. JOHNSON of South Carolina. Now, Mr. Chairman, in that connection I desire permission to insert in the RECORD certain correspondence.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to insert in the RECORD certain correspondence pertaining to the amendment just offered. Is there objection? [After a pause.] The Chair hears none.

The correspondence is as follows:

DECEMBER 5, 1912.

Mr. G. F. COOPER,
Hydrographic Office, Navy Department, City.

MY DEAR MR. COOPER: It seems that the Committee on Appropriations drew the conclusion from your statement made to the committee with reference to the removal of the hydrographic office at Port Townsend, Wash., that there was no necessity for a hydrographic office on Puget Sound. I know, of course, that you did not intend that any such construction should be placed upon your statement. Will you please tell me what necessity there is for the continuance of such office on Puget Sound? I will be under obligations for an immediate reply.

Sincerely, yours,

W. E. HUMPHREY.

HYDROGRAPHIC OFFICE,
Washington, D. C., December 6, 1912.

Hon. W. E. HUMPHREY, M. C.,
House of Representatives, Washington, D. C.

MY DEAR MR. HUMPHREY: In reply to your letter of December 5, 1912, please permit me to express my great regret that the Committee on Appropriations should have placed the construction upon my testimony that they seem to have done. I had no intention whatever of conveying any impression that there was no necessity for a branch hydrographic office on Puget Sound. On the contrary, my testimony will show that the estimates requested the establishment of two offices on that Sound instead of one. The question was simply a relocation of the office now situated at Port Townsend and, if possible, the establishment of an additional office on Puget Sound. The office at Port Townsend, as I said to the committee (see p. 128, hearings on the legislative, executive, and judicial appropriation bill for 1914), is not advantageously situated with regard to the shipping interests centering on Puget Sound. Port Townsend is a small place, and most of the shipping that centers on Puget Sound simply uses Port Townsend as a port of entry and quarantine station. The ships do not remain sufficiently long at that port for their masters to properly avail themselves of the advantages of the branch office now situated there. They are compelled to receive their information and publications by mail, and if they wish a personal interview with the officer in charge of the office it is generally necessary for them to go up to Port Townsend, leaving their vessels.

If the office is moved to Seattle, the situation would be very much more advantageous to the shipping interests. There is great necessity for a branch hydrographic office on Puget Sound. This office maintains a time ball which is dropped every day at noon. It supplies mariners with the latest information concerning dangers to navigation in all parts of the world. It has on file for their information all the charts and sailing directions of the world corrected to date. With this office taken from Puget Sound, the shipping interests centering on that Sound would be deprived of this time service and information service, which is of great use to them. Our one desire in suggesting that the office be moved from one point on the Sound to another is that it might be still more useful to the shipping interests.

I had supposed that the Committee on Appropriations would understand from my hearing that the office at Port Townsend was not as advantageously situated as it would be at Seattle. In addition to the hearing, I left with the clerk of the committee a copy of my letter to the Secretary of the Navy transmitting the estimates, which letter specifically mentioned the removal of the office from Port Townsend to Seattle.

Very respectfully,

GEORGE F. COOPER,
Commander, United States Navy, Hydrographer.

In number of ships, and perhaps also in tonnage, Puget Sound is the second port of the United States. Tonnage of Puget Sound in 1911, 2,857,818 tons. Of this amount 2,162,814 tons came from Seattle and was of the value of $109,097,114.

Mr. MANN. In the current law I notice Port Townsend is included as one of the hydrographic offices. Is this intended to take the place of Port Townsend and provide the office at Seattle?

Mr. JOHNSON of South Carolina. Yes.

Mr. MANN. Is that satisfactory to the gentleman from Washington [Mr. HUMPHREY]?

Mr. JOHNSON of South Carolina. I understand it is desired by the official heads. I have not had anything to do with the correspondence.

Mr. MANN. Is that satisfactory to the gentleman from Washington [Mr. HUMPHREY]?

Mr. JOHNSON of South Carolina. Yes; the gentleman from Washington requested me to make this amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Naval Observatory: Assistant astronomers—1 at $2,400, 2 at $1,800 each; assistant in department of nautical instruments, $1,600; clerks—1 of class 4, 1 of class 2; instrument maker, $1,500; electrician, $1,500; librarian, $1,800; assistants—3 at $1,600 each, 3 at $1,400 each, 2 at $1,000 each; stenographer and typewriter, $900; foreman and captain of the watch, $1,000; carpenter, and engineer, at $1,000 each; 3 firemen; 6 watchmen; elevator conductor, $720; 9 laborers; in all, $43,640.

Mr. SMALL. Mr. Chairman, I ask unanimous consent to return to page 72, lines 14, 15, and 16, and pending that, to make this statement as the basis for a motion to strike out those lines.

Mr. JOHNSON of South Carolina. Mr. Chairman, reserving the right to object, I am perfectly willing that the gentleman shall make his statement as to the reason for returning to page 72.

The CHAIRMAN. Is there objection?

Mr. SMALL. Also a motion, unless there is objection.

Mr. CARLIN. Reserving the right to object, Mr. Chairman, does the unanimous consent carry with it the right to make the motion?

Mr. SMALL. Yes; providing there is no objection to it.

Mr. CARLIN. What is the motion to be?

Mr. SMALL. To strike out the section.

Mr. Chairman, the chairman of the Committee on Rivers and Harbors [Mr. SPARKMAN] was expecting to be present when that paragraph, on page 72, lines 14 to 16, was read, but he was unexpectedly and urgently called away from the Chamber, and has requested me to ask for this consent. This section sought to be repealed was included in the river and harbor act approved July 25, 1912. As a matter of fact, it was inserted as an amendment to the river and harbor bill while it was pending in the Senate, but it was inserted at the request of the Chief of Engineers, Gen. W. H. Bixby, upon the statement that it was necessary as an urgency measure. Section 10 of the river and harbor act sought to be repealed provides that the Chief of Engineers may, in preparing estimates in the carrying out of directions in the river and harbor act, employ such additional clerical help as may be necessary. The chairman of the committee desired, if he had been here, to move to strike out the paragraph repealing this section, and that is my purpose upon which I ask unanimous consent to return to it.

The CHAIRMAN. The gentleman from North Carolina [Mr. SMALL] asks unanimous consent to return to page 72 for the purpose of making the motion to strike out lines 14, 15, and 16. Is there objection?

Mr. JOHNSON of South Carolina. Mr. Chairman, it is the purpose in the legislative, executive, and judicial appropriation bill to provide all the clerical services for the Government within the District of Columbia. It is impossible for the Committee on Appropriations to know the number of people employed and the compensation paid if, in addition to what we provide in this bill, lump sums are given by the Indian Affairs Committee and the Post Office Committee, the Rivers and Harbors Committee, and the various committees of this House which appropriate money. The rivers and harbors act, passed in July, 1912, in section 10, authorizes an expenditure for clerical services in the preparation of plans, and so forth. We carry in this bill $42,000 for that purpose. When Maj. Ladue, representing the office of the Chief of Engineers, was before the committee I asked him if he desired any larger appropriation than they have for the current year. He replied that they did not. I asked him the further question as to how many clerks had been employed under the authorization in section 10 of the rivers and harbors act, and he stated that none had been employed. So, Mr. Chairman, while section 10 of the rivers and harbors act authorized the employment of clerical service, the Chief of Engineers had not found it necessary to employ anybody, and as it is our purpose in this bill to give to this bureau, and every other bureau, the clerical force necessary I shall have to object.

Mr. SMALL. I ask the gentleman to reserve his objection for just a moment.

Mr. JOHNSON of South Carolina. And I desire to insert in the RECORD the testimony before the committee when this bill was being made up.

Mr. SMALL. May I ask the gentleman whether in the hearing there was any statement made by Maj. Ladue, or anyone representing the War Department or office of the Chief of Engineers, that section 10 was not desired?

Mr. JOHNSON of South Carolina. I asked Maj. Ladue this question:

You are familiar with section 10 of the rivers and harbors act?
Maj. LADUE. For 1912?
Mr. JOHNSON of South Carolina. Yes, sir.
Maj. LADUE. Yes, sir; I am.
Mr. JOHNSON of South Carolina. Where did that originate?
Maj. LADUE. I am unable to say positively where it originated. It was put in by the Senate committee when the rivers and harbors bill was under consideration. I was not present at the hearings on that bill, and I have not read them. I really do not know who is responsible for the provision, but I know that is where it was put in.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to insert certain matters in his remarks. Is there objection?

There was no objection.

Following is the statement referred to:

STATEMENT OF MAJ. WILLIAM B. LADUE, FROM THE OFFICE OF CHIEF OF ENGINEERS.

Mr. JOHNSON. Major, your item is on page 154 of the bill. We will be glad to have you make any statement that you desire to make, if the notes are not as full as you would like them to be, in regard to these increases on page 154.

Maj. LADUE. The notes express briefly the reasons for the proposed increases. They are, first, a recommendation that the salary of the chief clerk be raised from $2,000 to $2,500, and, second, a recommendation for an increase of three in the clerical force.

Mr. JOHNSON. Is there anything else?

Maj. LADUE. As to the chief clerk, I would simply add to the notes that our present chief clerk has been in our office for 45 years. He has devoted his life to the service, and his present pay has been unchanged for about 25 years. He is a man of tact and courtesy and is an efficient and able man, thoroughly devoted to the interests of the service. He has a good deal of responsibility placed upon him. He is in charge of the general office administration.

Mr. JOHNSON. Do you mean to say that he has been a clerk there for 25 years without having any increase in pay?

Maj. LADUE. He has not been chief clerk all of that time, but he had the same salary before he was promoted to the position of chief clerk.

Mr. JOHNSON. But you mean to say that he has had no increase in 25 years?

Maj. LADUE. It is a condition that is not uncommon in our service.

NOTE.—Upon examining the office records it is found that the above statement with regard to the salary of the present chief clerk is not correct, his salary having been unchanged for 12½ years instead of 25 years as stated. An increase of $200 per annum made 12½ years ago (July 1, 1900) was, however, the only increase in his salary since July 1, 1874, a period of 38½ years. The salary of the position of chief clerk has been unchanged since July 1, 1871, a period of over 41 years, during which time there have been two incumbents of the position, the first serving from July 1, 1871, until his death on July 10, 1901, and the present incumbent serving from July 15, 1901, to the present date.

Mr. JOHNSON. The purpose is to promote somebody in increasing these clerks of class 3?

Maj. LADUE. We need an additional force to carry on our work. Our work has increased right along. An analysis of the figures showing the papers that go through the office, the increase in the number of the appropriations, as well as in the amounts of the appropriations, and in the expenditures, with the annual river and harbor bill and the general increase in all public work handled by our office, shows that this increase has been continuous, and it shows no signs of decreasing. It rather shows signs of increasing steadily. This means, of course, more work in our office in the handling of projects, plans, and estimates, looking after the execution of work, replying to inquiries, recording papers, taking care of the accounts, the examination of papers, and the preparation of financial statements, and so on. So that we have been really requiring an additional clerical force for some time. We need more men. We have recommended increases in the medium grades with the idea, of course, if the increase is allowed, that the vacancies created will be filled by the promotion of clerks in the lower grades.

Mr. JOHNSON. How many clerks in all are provided in the legislative bill for your office?

Maj. LADUE. Seventy-two in the present bill. The bill carries 83, of whom 11 are messengers, assistant messengers, and laborers, making 72 clerks.

CLERKS UNDER AUTHORIZATION OF RIVER AND HARBOR BILL.

Mr. JOHNSON. How many clerks have you under the authorization of the river and harbor bill in addition to those provided for in the legislative bill?

Maj. LADUE. Last year we carried 1 chief of division and 10 clerks under that authority.

Mr. JOHNSON. You have reference, I think, to the section that authorizes the expenditure of not exceeding $42,000. I mean what clerical services you have employed under the rivers and harbors act of 1912?

Maj. LADUE. None. We have not done anything under that.

Mr. JOHNSON. I am glad to hear that, because we may not always give you what you ask, but we do try to provide for all clerical services in the District of Columbia in this bill so that we can keep a record of it.

Maj. LADUE. Yes, sir.

Mr. JOHNSON. Now, do you desire any change in the section authorizing the employment of skilled draftsmen, civil engineers, etc., the expenditure not to exceed $42,000?

Maj. LADUE. No, sir; we are asking for no change in that. We would like that to be the same.

CLERKS PAID FROM LUMP-SUM APPROPRIATIONS.

Mr. JOHNSON. In the last legislative bill there is a provision to the effect that people who are paid out of lump-sum appropriations shall not be paid a greater sum than the amounts paid for similar services during the preceding year. Has that embarrassed you any in your expenditures for this year?

Maj. LADUE. Well, it has not embarrassed us so far.

Mr. JOHNSON. Under what conditions would it embarrass you?

Maj. LADUE. The question, of course, turns entirely upon the interpretation of the words "similar services." If these words are narrowly interpreted to mean the same service that the individual man performed last year, it would, of course, as you see, absolutely bar any further promotion. We have not interpreted it that way and neither has the comptroller. It has been interpreted to permit promotions in the grades, when there are grades established, for the purpose of recognizing efficiency or increased value to the service. The place where it is most likely to worry us is in our field service. Of course the provision in the legislative act does not affect the field service, but the provision in the deficiency act, which is similar to the language in the legislative act, does affect our field service. But under our present interpretation it has not worried us, because we have interpreted it to mean that if anywhere in our field service we are paying draftsmen $1,800 a year, then anywhere else in the field service draftsmen at $1,200 can be promoted. I think that is the intent of the provision, and therefore it has not worried us. The effect of it is to put a limit on the top.

Mr. JOHNSON. Have you had a construction of it from the Comptroller of the Treasury? Have you asked for his interpretation of the law?

Maj. LADUE. We have not for our own departments, but I have seen several interpretations that he has rendered for other departments. You see it puts a limit on the top. All up through the grades we can work very well, but at the top you will find the man who will feel the pinch. If the services of the man at the top entitled him to an increase that we would be glad to give him, he would be barred by this provision.

SECTION 10, RIVERS AND HARBORS ACT.

[See also p. 88.]

Mr. JOHNSON. You are familiar with section 10 of the rivers and harbors act?

Maj. LADUE. For 1912?

Mr. JOHNSON. Yes, sir.

Maj. LADUE. Yes, sir; I am.

Mr. JOHNSON. Where did that originate?

Maj. LADUE. I am unable to say positively where it originated. It was put in by the Senate committee when the rivers and harbors bill was under consideration. I was not present at the hearings on that bill, and I have not read them. I really do not know who is responsible for the provision, but I know that is where it was put in.

Mr. MANN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from South Carolina yield to the gentleman from Illinois?

Mr. JOHNSON of South Carolina. Certainly.

Mr. MANN. In the bill itself is contained that item, I think, that the gentleman refers to, of $42,000 from which may be paid the services of skilled draftsmen, civil engineers, and so forth; to carry into effect the various appropriations for rivers and harbors and surveys, to be paid from appropriations for this purpose, not to exceed in the total $42,000.

Now, the river and harbor section, section 10, covers the preparation for and consideration of river and harbor estimates and bills, for which there is no special emergency appropriation anywhere. Would it not be perfectly fair, with the repeal of section, to insert in this item that language so that within the limit of the $42,000 they could employ some one for the emergency work in the preparation of the estimates in bill? It will leave the control of the matter with the Committee on Appropriations, and will require them to estimate for it and give reasons for it, and it will not increase the amount.

Mr. SMALL. Mr. Chairman, if the gentleman from Illinois will pardon me, I think his suggestion ought to be accepted, because while I can not reconcile the statement of Maj. Ladue with that of the Chief of Engineers, I do know—because I heard Gen. Bixby make a statement to that effect—that in his opinion an emergency does exist every year for additional help in making up estimates.

Mr. MANN. Probably the amount would be trifling, and it would not increase the appropriations any to insert that language.

Mr. JOHNSON of South Carolina. I have no objection to the language of the gentleman from Illinois because it is not our purpose to cripple any bureau of the Government.

Mr. MANN. We all understand that. If the gentleman will insert in the bill on page 72, line 7, after the word "surveys," the language, "and the preparation for and the consideration of river and harbor estimates and bills," I think it would be well, although I do not know whether that would cover it exactly or not. Probably it would need something additional. I think you had better return to that, if you want to do it.

Mr. JOHNSON of South Carolina. I suggest, Mr. Chairman, that we return to this item after the gentleman from Illinois has had time to prepare the amendment.

Mr. SMALL. In answer to the gentleman from South Carolina [Mr. JOHNSON], I do not understand, Mr. Chairman, that he consents to return to the item for the purpose of accepting a motion to repeal lines 14, 15, and 16, but to insert an amendment to the provision.

The CHAIRMAN. The gentleman from North Carolina [Mr. SMALL] does not object to returning to that item for the purpose of making an amendment. Without objection, that will be done. The Clerk will read.

The Clerk read as follows:

Bureau of Yards and Docks: Chief clerk, $2,250; draftsman and clerk, $1,800; clerks—1 of class 3, 1 of class 2, 2 of class 1, 1 at $1,100; 6 at $1,000 each; assistant messenger; 3 messenger boys, at $600 each; 2 laborers; in all, $20,390.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] reserves a point of order on the paragraph.

Mr. MANN. I notice, Mr. Chairman, that there are a number of increases of salary of a number of chief clerks of the Navy Department. While my attention was engaged otherwise I see they were passed over. I supposed that my colleague [Mr. FOWLER] was going to take care of them. What is the reason for making these increases?

Mr. JOHNSON of South Carolina. I will say to the gentleman from Illinois that all the chief clerks in the Navy Department were increased from $2,000 to $2,250. The recommendation was to increase them to $2,500. The committee was fairly satisfied that the work required of a man in the position of a chief clerk in any of the bureaus of the Navy Department is such as could well justify the salary of $2,250. We believed that the salaries of the chief clerks in the Navy Department were very much less than the salaries of men doing corresponding work in other departments, and we increased all of them because we believed they merited the increase.

Mr. MANN. Well, is the office of Chief of Ordnance in the Navy Department so much more important than the office of Chief of Ordnance in the War Department?

Mr. JOHNSON of South Carolina. There was not anything before us on the matter from the War Department, concerning which the gentleman has just asked, upon which we could operate. In both the War and Navy Departments wherever the estimates called for an increase for the chief clerks we allowed $250 instead of $500.

Mr. MANN. This is one of those cases, then, where virtue is not its own reward, and modesty does not pay. The Chief of Ordnance of the War Department, thinking it was not the policy of Congress to make increases of salaries, refrained from requesting an increase for his chief clerk. The chief clerk himself probably did not desire to be turned down, but wanted to comply with the spirit that he believed would be likely to actuate Congress, and therefore he did not ask for an increase for himself. He does not get an increase, although he is just as important to the Government and to the department as anybody. All those who asked for increases got them. I go on the theory, usually, that when you find a man who is doing good work and is modest enough not to be "hollering" about getting something more, you can afford to do something for him, rather than for the one who is always complaining and insisting that he ought to be better provided for.

Mr. JOHNSON of South Carolina. Well, the gentleman from Illinois understands that where we are providing for 16,000 employees in this bill it is impossible for us to inquire into the merits of every employee unless they are brought to our attention.

Mr. MANN. I have no intention of complaining about the Committee on Appropriations, which does very efficient work, and I am always willing to compliment the gentleman from South Carolina [Mr. JOHNSON] on his work. And yet when the gentlemen are proposing to increase the salaries of chief clerks throughout certain branches of the governmental service, it seems to me I would not leave out one who evidently ought to have his salary increased if others are increased, because he has been modest enough not to kick about what he is getting.

The CHAIRMAN. The Clerk will read.

Mr. MANN. What became of my point of order?

The CHAIRMAN. The Chair understood the gentleman to withdraw his point of order.

Mr. MANN. I did not; but I will.

The CHAIRMAN. The gentleman withdraws his point of order. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR.

Office of the Secretary: Secretary of the Interior, $12,000; First Assistant Secretary, $5,000; Assistant Secretary, $4,500; chief clerk, including $500 as superintendent of buildings, who shall be chief executive officer of the department and who may be designated by the Secretary of the Interior to sign official papers and documents during the temporary absence of the Secretary and the Assistant Secretaries of the department, $4,000; assistant to the Secretary, $2,750; assistant attorneys—1 at $2,500; 2 special inspectors, whose employment shall be limited to the inspection of offices and the work in the several offices under the control of the Department of the Interior, at $2,500 each;

6 inspectors, at $2,500 each; chief disbursing clerk, $2,250; clerk in charge of supplies, $2,250; clerk in charge of mails, files, and archives, $2,250; clerk in charge of publications, $2,250; private secretary to the Secretary, $2,500; clerks—4 at $2,000 each; 13 of class 4, 18 of class 3, 21 of class 2, 24 of class 1, 3 at $1,000 each; returns office clerk, $1,600; female clerk, to be designated by the President, to sign land patents, $1,200; 8 copyists; multigraph operator, $900; assistant multigraph operator, $720; typewriter repairer, $900; 2 telephone switchboard operators; 9 messengers; 7 assistant messengers; 21 laborers; skilled mechanics—1 at $900, 1 at $720; 2 carpenters, at $900 each; plumber, $900; electrician, $1,000; laborer, $660; 6 laborers, at $480 each; packer, $660; 2 conductors of elevators, at $720 each; 8 charwomen; captain of the watch, $1,200; 49 watchmen; additional to 2 watchmen acting as lieutenants of watchmen, at $120 each; engineer, $1,200; assistant engineer, $1,000; 7 firemen; clerk to sign, under the direction of the Secretary, in his name and for him, his approval of all tribal deeds to allottees and deeds for town lots made and executed according to law for any of the Five Civilized Tribes of Indians in the Indian Territory, $1,200; in all, $275,570.

Mr. FOSTER. Mr. Chairman, I reserve a point of order on this paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] reserves a point of order on the paragraph.

Mr. FOSTER. As I understand, this provides, on page 91, lines 4 and 5, for an additional attorney for the Interior Department. Is that correct?

Mr. JOHNSON of South Carolina. No; there is no increase. There is a transfer.

Mr. FOSTER. Last year's bill, I think, provided for but one, as I understand it.

Mr. JOHNSON of South Carolina. There is no change in it. There is no increase whatever.

Mr. FOSTER. Last year the bill provided for an assistant attorney at $2,500. I do not find this additional attorney in last year's law. This seems to provide for two attorneys, but last year's bill appropriated for but one.

Mr. MANN. There is only one attorney provided for here.

Mr. FOSTER. In the bill I have it says:

Assistant attorneys—one, $2,500.

Mr. MANN. Assistant attorney—one, at $2,500.

Mr. FOSTER. My bill says "assistant attorneys."

Mr. MANN. That is a heading.

Mr. FOSTER. What I was getting at was whether there was a provision in the law for one and this provided for an additional one.

Mr. MANN. That is a heading which is supposed to cover what comes after.

Mr. FOSTER. My colleague may be right about that.

Mr. JOHNSON of South Carolina. If the gentleman [Mr. FOSTER] will look at the punctuation he will see that there is only one provided for at $2,500. Then we provide for other forces under that heading. There is no change whatever in the paragraph.

Mr. FOSTER. This provides for only one assistant attorney?

Mr. JOHNSON of South Carolina. Yes.

Mr. SMALL. Mr. Chairman, on behalf of the chairman of the Committee on Rivers and Harbors, the gentleman from Florida [Mr. SPARKMAN], I desire to offer an amendment on page 72.

The CHAIRMAN. We have passed page 72.

Mr. SMALL. It was agreed that we should return to page 72 for this purpose.

The CHAIRMAN. The gentleman from North Carolina requests unanimous consent to return to page 72 for the purpose of offering a certain amendment. Is there objection?

Mr. JOHNSON of South Carolina. Let the clerk report the amendment.

Mr. FOSTER. Reserving the right to object, let us hear the amendment reported.

The Clerk read as follows:

On page 72, in line 7, after the word "survey," insert the following: "Preparation for and the consideration of river and harbor estimates and bills.

The CHAIRMAN. The gentleman from North Carolina [Mr. SMALL] asks unanimous consent to return to page 72 for the purpose of offering the amendment which has just been reported.

Mr. JOHNSON of South Carolina. I have no doubt this amendment is all right.

Mr. FOSTER. I should like to reserve the right to object until I hear the gentleman's statement.

Mr. MANN. This is what we discussed a while ago.

Mr. SMALL. Mr. Chairman, by a paragraph of the bill on page 72 it is proposed to repeal section 10 of the river and harbor act of 1912 because of the indefiniteness of it, and because there was no limit upon the amount which might be expended. This amendment which I have offered gives to the Chief of Engineers the right to employ clerical help in the emergencies referred to in the original section of the river and harbor act sought to be repealed and removes the objectionable features, and is a satisfactory provision.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina [Mr. SMALL]?

There was no objection.

The CHAIRMAN. The Clerk will now report the amendment.

The Clerk read as follows:

On page 72, in line 7, after the word "survey," insert "preparation for and reconsideration of river and harbor estimates and bills."

Mr. MANN. The word "and" should be inserted before the word "preparation."

Mr. SMALL. I ask unanimous consent to insert the word "and," before the word "preparation," in the amendment.

The CHAIRMAN. Is there objection?

There was no objection.

The amendment was agreed to.

The Clerk read as follows:

For per diem in lieu of subsistence of two special inspectors, Department of the Interior, while traveling on duty, at a rate to be fixed by the Secretary of the Interior, not exceeding $4 per day, and for actual necessary expenses of transportation (including temporary employment of stenographers, typewriters, and other assistance outside of the District of Columbia, and for incidental expenditures necessary to the efficient conduct of examinations), to be expended under the direction of the Secretary of the Interior, $4,500.

Mr. COX of Indiana. Mr. Chairman, I move to strike out the last word. I would like to inquire of the gentleman in charge of the bill about this item of inspectors at $4 a day. In one place in the bill I notice that the per diem is $3 a day and in another place $4 a day. I would like to inquire as to the reason for this difference.

Mr. JOHNSON of South Carolina. There are some Government employees who are allowed $3 a day and others allowed $4 a day. Those that are allowed $3 are the inspectors who are out in the country, where their expenses are less than in the cities at expensive hotels.

Mr. COX of Indiana. As I understand, in the bill under consideration some are allowed $3 a day and others $4 a day.

Mr. JOHNSON of South Carolina. Yes; and for that reason.

Mr. COX of Indiana. I would like to inquire further whether or not it is not the custom of the department in the Assistant Attorney General's Department to allow the full $4 a day?

Mr. JOHNSON of South Carolina. I think they do allow the full amount.

Mr. COX of Indiana. Does not the gentleman feel that it would be just and proper to put all the per diem employees on the same basis?

Mr. JOHNSON of South Carolina. No; as I stated a moment ago, the distinction is brought about by reason of the difference in the circumstances. If a man is required to go on Government business to large cities where hotels are expensive, he is put to more expense than when he is traveling in the country, where the people are hospitable and the expenses are smaller.

Mr. COX of Indiana. I want to state to the gentleman that a few years ago the post-office inspectors were allowed $4 per day, and they used the same argument, but finally the House came to the conclusion that $4 a day was too much, and they reduced it to $3 per day. I do not remember the exact amount of the saving that it brought to the Government, but it was something like $40,000 or $50,000 a year. I am disposed to believe that $3 a day is a plenty, and I believe they all ought to be treated alike. I can not see the justice of allowing one set of men $3 a day and another set $4 a day, because I recognize that they can conjure up some sort of argument to justify the $4 a day rate.

Mr. JOHNSON of South Carolina. I have stated to the gentleman the reason why some get $4 a day and some $3 a day. It was thought that those in the country had less expense than those who have their work in the cities.

Mr. COX of Indiana. Where do these men travel, as a rule, who are provided for in the Assistant Attorney General's office? What are their duties?

Mr. JOHNSON of South Carolina. There is nothing of that sort in that office. The people the gentleman speaks of are under the Secretary of the Interior himself.

Mr. COX of Indiana. That is right; I was looking at the wrong paragraph. Where do the inspectors in the Interior Department usually travel?

Mr. JOHNSON of South Carolina. They travel in all public-land States.

Mr. COX of Indiana. That is altogether in the western part of the country?

Mr. JOHNSON of South Carolina. Yes; the land offices where they are required to go are located in the cities.

Mr. COX of Indiana. I understand that, but all the land offices are not located in large cities.

Mr. JOHNSON of South Carolina. No; but they are all located in cities.

Mr. COX of Indiana. Mr. Chairman, I ask unanimous consent to withdraw my pro forma amendment.

The CHAIRMAN. The gentleman from Indiana withdraws his pro forma amendment.

Mr. COX of Indiana. Now, Mr. Chairman, I move to strike out, in line 23, page 92, the figure "4" and insert in lieu thereof the figure "3," so that it will read "$3 per day."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 23, page 92, strike out the figure "4" and insert the figure "4," so that it will read "$3 per day."

Mr COX of Indiana. Mr. Chairman, I do not wish to be parsimonious, but I think $3 a day for these men is plenty. I realize that an argument can be made to justify it on different grounds, but at the same time I do not believe it is needed. I believe the economy which will be brought about as a result would be just, wise, and equitable to the people of this country, and I think that the amendment I have offered ought to obtain.

Mr. JOHNSON of South Carolina. Mr. Chairman, these inspectors are in the land offices in public-land States. Their business takes them to Seattle, Portland, San Francisco, and a large part of their time they are obliged to travel from one city to another, living in Pullman cars, and it has not been very long since that item was increased from $3 to $4 a day because it was impossible for them to subsist on $3 a day.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The question was taken, and the amendment was lost.

The Clerk read as follows:

Hereafter the right of review by the Secretary of the Interior of the action of the Commissioner of Pensions in relation to claims for Army and Navy pensions, or in relation to the payment of Army and Navy pensions, shall be limited and confined to questions of law.

Mr. FOSTER. Mr. Chairman, I reserve a point of order on the paragraph. I observe this limits the appeal to the Assistant Secretary of the Interior to matters of law and prevents him from going any further in settling an appeal in a pension claim.

Mr. JOHNSON of South Carolina. Mr. Chairman, the Commissioner of Pensions states that only 2 per cent of all the cases appealed are reversed on questions either of law or fact. He believes that the force in the Pension Office is better qualified to pass upon the facts in an application for pension than probably any other force that could be gotten together. There is no reason why there should be appeals upon questions of fact. The Commissioner of Pensions is deeply interested in this subject; is familiar with all the work in the Pension Office, having risen from a subordinate position to the head of the bureau, and he thinks no appeals should be allowed on questions of fact.

Mr. FOSTER. Mr. Chairman, I have very high regard for the honesty and integrity and ability of Mr. Davenport, the Commissioner of Pensions, and believe that his duties are discharged in a satisfactory way so far as he is able to oversee that work, but it has occurred to me that since they have in the department a law division as well as a medical division there is no reason why questions of law should be considered on appeal any more than medical questions, as well as questions of fact. For instance, a local medical board examines a pensioner, and that board gives him a certain rating, which is provided for in the law as a part of their duty. That finding goes to the medical board in the Pension Office. That board passes upon the case of the pensioner, and in doing so may determine from the report of the local board that examined the pensioner that he is not entitled to the amount that is recommended by the board at home, in the community where the pensioner resides. I may be wrong, but it occurs to me that on an appeal on a question of that kind the pensioner ought to have the right to have his case reviewed so far as those facts are concerned as well as on the questions of law.

Mr. JOHNSON of South Carolina. The gentleman from Illinois understands that the men in the Pension Office have had years of experience and training in passing upon questions of fact of that nature, and he will understand that when an appeal is taken to the Secretary of the Interior the men who constitute the appellate court, so to speak, are lawyers, and, while quite familiar with the law, have no special fitness for passing on facts in a pension case.

Mr. FOSTER. I would suggest that if that appeal board is composed entirely of lawyers, then the board ought to be changed. There ought to be others on the board who would be able to judge more particularly of medical facts as well as matters of law.

Mr. JOHNSON of South Carolina. I am told they have a medical expert as well.

Mr. COX of Indiana. Does the Secretary of the Interior recommend this legislation also?

Mr. JOHNSON of South Carolina. I do not know what his views on that question are. I have stated the views of the Commissioner of Pensions.

Mr. FOSTER. It has occurred to me that the pensioner should have a right to have his case on appeal reviewed as to matters of fact. If you are going to say that the men in the Pension Bureau are more able to judge of a pension case, then why have any appeal at all? Or if he has a right to have an appeal, why not let that appeal consider all the surroundings of that particular case?

Mr. JOHNSON of South Carolina. The gentleman will understand that these questions have been settled so often that there are very few appeals necessary now. Under recent legislation the difficulty of the Pension Office is a mere matter of calculating how long a soldier has served. It depends upon how long he was in the service as well as upon the question of disability.

Mr. FOSTER. I do not agree with the gentleman on that point at all, because under the pension law lately passed in one clause there is a provision for $30 a month when the pensioner is able to show by medical evidence that the disease or wounds contracted in the service are such as to prevent him from performing manual labor, regardless of age or time he served. In that case, if he is 65 years of age and served nine months or a year, then the question is whether he is entitled to $30 a month under the provisions of that law, and it seems to me if he is dissatisfied with the action of the Pension Commissioner that he should have a right to appeal his case to the Assistant Secretary of the Interior, if we are going to have any appeal at all.

Mr. JOHNSON of South Carolina. I will say, Mr. Chairman, that this is legislation and is subject to a point of order.

Mr. FOSTER. I have read the hearings and know what Mr. Davenport said.

Mr. JOHNSON of South Carolina. I have great confidence in the Commissioner of Pensions, and I think his judgment is of great value, and I would as soon follow him as anybody I know.

Mr. FOSTER. I will say to the gentleman from South Carolina I believe I have as much confidence in the Commissioner of Pensions as he has, and I have a very high regard for his honesty, integrity, and his judgment, and yet I submit I might have an opinion of my own in reference to this matter which would vary with the Commissioner of Pensions without doubting his ability, his honesty, or his integrity.

The CHAIRMAN. Does the gentleman from Illinois withdraw the point of order?

Mr. FOSTER. No; I insist on the point of order.

The CHAIRMAN. The point of order is sustained, and the Clerk will read.

The Clerk read as follows:

For per diem, when absent from home and traveling on duty outside the District of Columbia, for special examiners or other persons employed in the Bureau of Pensions detailed for the purpose of making special investigations pertaining to said bureau, in lieu of expenses for subsistence, not exceeding $3 per day, and for actual and other necessary expenses, including telegrams, $215,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word. May I ask the gentleman from South Carolina [Mr. JOHNSON], in reference to the disbursing clerk's office which pays pensions, how the cost of that compares with the present cost of paying pensions? Also as to what is to become of the clerks in the various pension agencies? Then I would also like to know, if I may, whether this provision about filling vacancies only to the extent of 25 per cent will not injuriously affect the disbursing clerk's office.

Mr. JOHNSON of South Carolina. Mr. Chairman, in reply to the several questions of the gentleman from Illinois I will say that the disbursing clerk provided for here is provided for in the law that abolished the pension agencies throughout the country.

Mr. MANN. Yes; I am familiar with that. What is the cost proposed for paying pensions under the consolidated office here and the present cost of paying pensions through the various pension agencies?

Mr. JOHNSON of South Carolina. The difference is $131,100.

Mr. MANN. More?

Mr. JOHNSON of South Carolina. It will be that much less under the new arrangement.

Mr. MANN. That is, it is that much more now than under the new arrangement?

Mr. JOHNSON of South Carolina. Yes. Now, in answer to the question as to what becomes of the clerks who were in the various pension agencies throughout the country, it is provided that they shall be transferred to the office at Washington. There are 300 of them. Some of them do not care to come to Washington. We have provided for the number that the Commissioner of Pensions believes that he will need and all that he believes will come to Washington.

Mr. MANN. Well, can they be transferred to Washington?

Mr. JOHNSON of South Carolina. Yes; the law specifically provides for that, as I understand.

Mr. MANN. The law we passed last session does the gentleman mean?

Mr. JOHNSON of South Carolina. They are in the classified service, and they will be transferred under the rules for transferring employees from one place to another. The reason for putting in the clause that only 25 per cent of the vacancies shall be filled is this: There has been for many years in the appropriation bill language to the effect that none of the vacancies in the Pension Office shall be filled, because the work was growing rapidly less. Under the recent legislation increasing pensions it was necessary to increase the force. The commissioner thought, therefore, it would be better not to allow all vacancies to remain, but to allow him to fill 25 per cent in order that there may be no difficulty in having sufficient force.

Mr. MANN. Of course there will not be any less work probably on the disbursing clerk's office. Is it contemplated, then, that the places of clerks dropped out of the disbursing clerk's office shall be filled by transferring them from the general Pension Office?

Mr. JOHNSON of South Carolina. I beg the gentleman's pardon.

Mr. MANN. The work of the disbursing clerk's office is not likely to decrease very rapidly or for some time. Is it contemplated that as clerks drop out their places will be filled by transferring from other portions of the Pension Office?

Mr. JOHNSON of South Carolina. The gentleman understands there are 250 people who will be brought here from the agencies throughout the country, and that those gentlemen primarily will work in the disbursing clerk's office, but it was thought that probably the disbursing would not require the full time of all of these people, and we inserted a provision in the bill that when not engaged in that work they might be employed upon the general work of the office. It is not thought that the provision that only 25 per cent of the vacancies shall be filled during the next fiscal year will embarrass the Pension Office in any way whatever. I would call to the gentleman's attention page 197 of the hearings, where the following occurred:

Mr. JOHNSON of South Carolina. Is it proposed, Mr. Davenport, to bring from the pension agencies to Washington clerks who are now employed in those agencies if they desire to come?

Mr. DAVENPORT. All that desire to come and are efficient. There are some very old clerks we would not think of bringing here.

Mr. JOHNSON of South Carolina. What proportion of the clerks in the agencies do you anticipate will come to Washington, or have you any data that would enable you to state it?

Mr. DAVENPORT. More will come than are appropriated for.

I thought he said 250.

The CHAIRMAN. Does the gentleman from Illinois [Mr. MANN] reserve a point of order?

Mr. MANN. No; I do not. I was trying to eliminate the word "dollars" from the bill. I am not quite through yet, unless my time has expired. May I ask the gentleman from South Carolina [Mr. JOHNSON] what information he has?

Mr. JOHNSON of South Carolina. If there is any danger of the force in the disbursing office being impaired by reason of that clause of the bill, I am willing to transpose lines 13 to 21, so as to precede the disbursing clerk's section, and let it apply to the other portion of the force only.

Mr. MANN. And insert the word "above."

Mr. JOHNSON of South Carolina. Mr. Chairman, I ask unanimous consent at the end of line 3, page 97, to insert the language beginning on line 13, page 97, and ending on line 21, page 97, as an amendment.

Mr. MANN. And insert after the word "herein," at the end of line 15, the word "above."

Mr. JOHNSON of South Carolina. And insert after the word "herein," at the end of line 15, the word "above."

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] asks unanimous consent to return to page 97 and offer an amendment, which the Clerk will report.

The Clerk read as follows:

Page 97, after line 13, insert the following:

"During the fiscal year 1914 not more than 25 per cent of the vacancies occurring in the classified service of the Bureau of Pensions herein above provided for shall be filled except by promotion or demotion from among those in the classified service in said bureau. And the salaries or compensation of all places which may not be filled as herein above provided for shall not be available for expenditure, but shall lapse and shall be covered into the Treasury."

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none. The question now is on the amendment offered by the gentleman from South Carolina [Mr. JOHNSON].

The amendment was agreed to.

Mr. JOHNSON of South Carolina. Now, on page 97, beginning with line 13, I move to strike out down to and including line 21.

The CHAIRMAN. The gentleman from South Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 97, strike out all of lines 13 to 21, inclusive.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

For necessary traveling expenses of the commissioner in studying educational systems, visiting educational institutions, and attending meetings of educational associations, societies, and other organizations for the purpose of collecting and disseminating information respecting educational conditions, $1,500.

Mr. MANN. Mr. Chairman——

Mr. FOSTER. Mr. Chairman, I reserve a point of order on this paragraph. I would like some information. I refer to the top of the first paragraph on page 101.

Mr. JOHNSON of South Carolina. The Commissioner of Education desired the committee to give him $20,000 for the purpose of paying the traveling expenses of himself and his experts throughout the country. It is necessary that the Commissioner of Education and those representing him should do some traveling, and we allowed $1,500 for that purpose. There is legislation pending in both branches of Congress which would probably largely increase the activities of that bureau, and we did not feel disposed to anticipate the action of Congress.

Mr. FOSTER. The gentleman's committee was very kind in giving him one-twentieth of what he asked.

Mr. JOHNSON of South Carolina. Fifteen hundred dollars is more than one-twentieth of what he asked.

Mr. FOSTER. Well, it seems to me if we start on this sort of work there will be no end to the amount of traveling the Commissioner of Education will do over the United States.

Mr. BYRNS of Tennessee. This limits him.

Mr. FOSTER. But it limits him and those under him to the extent of $1,500. He does not have any agricultural colleges to visit. I believe I shall insist on the point of order.

Mr. JOHNSON of South Carolina. It is subject to a point of order.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] makes a point of order, page 101, lines 1 to 6, inclusive. The point of order is sustained. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

Postal Savings System: For the following, now authorized and being paid from a general appropriation: Director, $5,000; assistant director, $2,000; 2 chiefs of division, at $2,500 each; 2 assistant chiefs of division, at $2,000 each; clerks—10 of class 4, 15 of class 3, 25 of class 2, 50 of class 1, 50 at $1,000 each, 20 at $900 each; 2 messengers; 4 assistant messengers; 3 laborers; 3 pages at $480 each; in all, $229,980.

Mr. MANN. Mr. Chairman, I raise a point of order on that paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] raises a point of order on that paragraph.

Mr. MANN. I notice, Mr. Chairman, as to the postal-savings banks, that there is provided a specific salary for the director at $5,000, which may or may not be too much. It may be too little, for all I know. But it is the only $5,000 position in the Post Office Department, I believe, where the incumbent is not an assistant to the Postmaster General. I suppose this office is under one of the Assistant Postmasters General.

Wherever they create an office and pay its employees out of a lump sum they usually pay much higher salaries than anywhere else in the department. In this case the office was payable out of a lump-sum appropriation, and the salary of the director was fixed at $5,000. A $5,000 salary for this office is not at all on a plane with the other salaries in the Post Office Department, either of those superior to this office or on an equality with this office or inferior to this office. The purchasing agent of the Post Office Department is fully as important as the director of the postal-savings banks. There are many other places in the Post Office Department that are equally important. I suppose the committee did not care to assume the responsibility of changing the salary and so took it the way it was.

Mr. JOHNSON of South Carolina. The gentleman from Illinois has already stated that when the postal-savings law was passed a lump-sum appropriation was made to carry on the work. Under that lump-sum appropriation this division was created by the Postmaster General, who fixed the salaries.

The salary of the director was placed at $5,000. In order that this committee might know the number of people employed and the salaries paid, we directed that they should furnish us with a list of the employees and of the salaries, and that they should be carried hereafter on the statutory roll. In accordance with that law they made their estimates this year. We took the force they had, and we did not feel justified in changing this salary, because while it looks as though $5,000 is a large sum for the head of a division, we realize that the deposits now amount to $28,000,000, I believe, and they will grow from year to year.

Mr. MANN. Well, that is probably true. A big man ought to be at the head of every division. In the Division of Money Orders the superintendent gets a salary of $3,500 a year. I believe the money orders amount to several hundred million dollars a year—close to a billion dollars a year. I do not know whether this salary is too small or whether the duties are much more onerous with reference to the director of the postal savings banks. I do not say that the salary of $5,000 is too much, but it is too much in proportion to the other salaries that are paid in the Post Office Department.

Mr. JOHNSON of South Carolina. If it is, it simply demonstrates what some of us have all along believed, that lump-sum appropriations ought not to be made, but that the employees ought to be provided for specifically, as we try to do in this bill.

Mr. MANN. Yes; but it is inevitable to make lump-sum appropriations under certain circumstances, like those surrounding the postal savings-bank establishment. Then the question is, when the matter comes to be fixed by Congress, what Congress will do, because Congress is not bound by what the department does in regard to it.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF JUSTICE.

Office of the Attorney General: Attorney General, $12,000; Solicitor General, $10,000; assistant to the Attorney General, $7,000; 7 Assistant Attorneys General, at $5,000 each; Assistant Attorney General of the Post Office Department, $5,000; Solicitor of Internal Revenue, $5,000; Solicitor for the Department of State, $5,000; 4 attorneys, at $5,000 each, one of whom shall have charge of all condemnation proceedings in the District of Columbia and supervise the examination of titles and matters arising from such condemnation proceedings in which the United States shall be a party or have an interest, and no special attorney or counsel, or services of persons other than of those provided for herein, shall be employed for such purposes; attorneys—1 $3,750, 3 at $3,500 each, 1 $3,250, 12 at $3,000 each, 2 at $2,500 each; assistant attorneys—1 $3,500, 2 at $3,000 each, 2 at $2,750 each, 5 at 2,500 each, 1 $2,400, 2 at $2,000 each; assistant examiner of titles, $2,000; chief clerk and ex officio superintendent of the buildings, $3,000; superintendent of buildings, $500; private secretary and assistant to the Attorney General, $3,000; clerk to the Attorney General, $1,600; stenographer to the Solicitor General, $1,600; law clerks—3 at $2,000 each, 2 of class 4; clerk in office of the Solicitor of Internal Revenue, $1,800; attorney in charge of pardons, $3,000; superintendent of prisons, $4,000; disbursing clerk, $2,750; appointment clerk, $2,000; chief of division of investigation, $3,500; examiners—2 at $2,500 each, 4 at $2,250 each, 2 at $2,000 each, 3 at $1,800 each; librarian, $1,800; clerks—7 of class 4, 11 of class 3, 7 of class 2, 15 of class 1, 14 at $1,000 each, 21 at $900 each; chief messenger, $1,000; packer, $900; messenger, $960; 5 messengers; 13 assistant messengers; 7 laborers; 7 watchmen; engineer, $1,200; 2 assistant engineers, at $900 each; 4 firemen; 2 conductors of the elevator, at $720 each; head charwoman, $480; 22 charwomen. Division of Accounts: Chief of division of accounts, $2,500; examiner, $2,500; chief bookkeeper and record clerk, $2,000; clerks—4 of class 4, 5 of class 3, 6 of class 2, 6 of class 1, 2 at $900 each; in all, $424,610.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I notice that the examiners in the Division of Investigation have been reduced. That is the division, I believe, that does the secret-service work.

Mr. JOHNSON of South Carolina. It is simply a transposition. There is no change. The Department of Justice made no request for any increases or decreases. They simply have current law, and wherever it appears that any change is made it is due to the fact that somebody has been transferred.

Mr. MANN. Where has this item been transferred to?

Mr. JOHNSON of South Carolina. We put them in the Division of Accounts, because the last legislative bill provided that in the Division of Accounts an administrative audit should take place.

Mr. MANN. You have transferred an examiner at $2,500 to the Division of Accounts, with three clerks?

Mr. JOHNSON of South Carolina. Yes.

Mr. MANN. I would not desire to have the Division of Investigation unduly interfered with, because I noted the other day, with considerable interest and some pride, that under the so-called Mann white-slave act there had already been 335 convictions.

If there is anybody on earth who deserves to receive a penitentiary sentence it is some designing chap who has monkeyed with the buzz saw and violated that white-slave law.

The CHAIRMAN. The clerk will read.

The Clerk read as follows:

To enable the Secretary of Commerce and Labor to provide and pay for the medical examination of employees of the United States receiving compensation for injuries under the provisions of the act of May 30, 1908, as directed by section 5 of said act, and for clerical assistance in its administration, and for subsistence, transportation, and traveling expenses of officers and employees of the Bureau of Labor while traveling on duty away from their homes and outside of the District of Columbia while engaged in the investigation of claims arising under the provisions of said act, $3,000.

Mr. COX of Indiana. Mr. Chairman, I desire to inquire of the gentleman in charge of the bill whether or not there is any schedule of fees fixed by the department for the payment of these doctors?

Mr. JOHNSON of South Carolina. No, sir; I do not think so; but it was thought that under certain circumstances it was best that a medical examination should be made promptly, and we allowed the small sum of $3,000 for that purpose.

Mr. COX of Indiana. Was this item carried in last year's bill?

Mr. JOHNSON of South Carolina. Yes.

Mr. COX of Indiana. What I wish to know is if there is any schedule of fees regularly fixed for the payment of physicians when they make these examinations?

Mr. JOHNSON of South Carolina. No; not so far as I know.

Mr. COX of Indiana. Can the gentleman tell how they are paid, how the amount is arrived at?

Mr. JOHNSON of South Carolina. The doctors make the examination and make their charges.

Mr. COX of Indiana. How much was appropriated last year?

Mr. JOHNSON of South Carolina. Three thousand dollars.

Mr. COX of Indiana. Was the entire sum used last year?

Mr. JOHNSON of South Carolina. I do not know whether there was any of it turned back into the Treasury or not. Last year we asked for all of these items, but this year we have not received them. I will say to the gentleman that we had to make up this bill before many of the reports required by law to come to Congress had been printed.

Mr. COX of Indiana. I am not criticizing the gentleman's bill. On the contrary, I am commending it.

Mr. JOHNSON of South Carolina. When we made up this bill last year we knew in every case whether all of an appropriation had been used or any of it had been turned back into the Treasury, but we do not know this year.

Mr. COX of Indiana. Does the gentleman know how much of the appropriation for this fiscal year has been used up to this time?

Mr. JOHNSON of South Carolina. Only between $200 and $300 of the $3,000 has been used up to this time, and they have paid out under that law approximately a million of dollars for injuries.

Mr. COX of Indiana. I withdraw the pro forma amendment.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word for the purpose of making an inquiry. I desire to ask the gentleman in charge of the bill whether it is the object of these medical examiners to get information concerning these injuries for the purpose of relieving the injured, or is it for the purpose of aiding the Government?

Mr. JOHNSON of South Carolina. The purpose is to ascertain the facts, so as to determine whether or not the Government is liable under the law.

Mr. FOWLER. Without any reference to relief for the injured?

Mr. JOHNSON of South Carolina. We have provided by law for relief to the injured, and this medical examination is to determine our liability and the extent of it.

Mr. FOWLER. But not for the immediate or temporary relief of the injured.

Mr. JOHNSON of South Carolina. No; because we have no doctor right on the spot.

Mr. FOWLER. I desire to say to the gentleman that I am asking for information. I desire to know if the medical examiner, in going to visit the injured person, does so for the purpose of examining him so as to give him medical relief?

Mr. JOHNSON of South Carolina. Oh, no. There are only two men employed under this appropriation. Where the department, for reasons satisfactory to itself, wants some additional information besides what it has, and believes there ought to be some investigation made, one of these doctors is sent to investigate the particular case, and this $3,000 is appropriated for that purpose. A very small part of it has been used so far during the present fiscal year, but it may be needed.

Mr. FOWLER. Do these examiners go to every injured person or only in special instances where they are directed by the department to go?

Mr. JOHNSON of South Carolina. I think they go only where they are directed by the department.

Mr. FOWLER. I thank the gentleman for the information.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I fear the gentleman in charge of the bill, the gentleman from South Carolina, has not kept track of the calendar. I would like to suggest to him that this is the seventh day of the week, and that we have been in session quite continuously all of these days, working hard. I think for the first time in my recollection we really began to work on the second day of the session and kept it up until nearly 6 o'clock at night. In other words, this is Saturday evening, and there is no quorum here.

Mr. JOHNSON of South Carolina. Well, Mr. Chairman, I am at the mercy of the gentleman.

Mr. MANN. I do not think we can get through with this bill to-night. I think in justice to the Members of the House that the gentleman in charge of the bill who always wants to get through ought to be willing to waive his personal convenience in the interest of the rest of the Members. Last night we worked until after 5 o'clock, although it was understood that we would quit at 5. We can not finish the bill to-night anyway.

Mr. JOHNSON of South Carolina. Mr. Chairman, of course it is perfectly obvious that no quorum is present, and while I was anxious to complete this bill this afternoon, it seems impossible, under the circumstances, to do it, and I now move that the committee rise.

The motion was agreed to; accordingly the committee rose, and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 26880) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, and had come to no resolution thereon.

MEMORIAL TO THOMAS JEFFERSON.

The SPEAKER. The Chair has received a letter of great interest to the House, and does not know what to do with it, except to have it read and referred to a committee. Without objection, the Clerk will read the communication.

There was no objection.

The Clerk read as follows:

DECEMBER 5, 1912.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: With the approval of Congress conferred by the sundry civil act of March 4, 1909, the Louisiana Purchase Exposition Co. has erected upon the World's Fair site at a cost of $450,000 a memorial to Thomas Jefferson in commemoration of the acquisition of the Louisiana Territory. The statue of Jefferson will be unveiled and the memorial structure will be dedicated on the one hundred and tenth anniversary of the signing of the Louisiana purchase treaty, the 30th of April, 1913. The trustees respectfully request the presence and participation of a committee of the House of Representatives.

Respectfully,

DAVID R. FRANCIS, *President*.

The letter was referred to the Committee on Industrial Arts and Expositions.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas, chairman of the Committee on Indian Affairs, by direction of that committee, reported the bill (H. R. 26874) making appropriation for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, which, with accompanying papers, was ordered printed and referred to the Committee of the Whole House on the state of the Union. (H. Rept. 1265.)

Mr. MANN reserved all points of order on the bill.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to give notice that I will call up this bill immediately after the disposition of the legislative, executive, and judicial appropriation bill.

Mr. MANN. Will the gentleman from Texas state whether any arrangement has been made with reference to calling up the contested-election case next Tuesday? The gentleman from Ohio gave notice that he would call up a contested-election case on that day.

Mr. STEPHENS of Texas. I was not aware of that.

The SPEAKER. The Chair will inquire if any arrangement has been made about debate?

Mr. STEPHENS of Texas. None whatever.

ADJOURNMENT.

Mr. JOHNSON of South Carolina. Mr. Speaker, I now move that the House adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 33 minutes p. m.) the House adjourned until Monday, December 9, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of St. Francis River from its mouth to the mouth of L'Anguille River, and L'Anguille River from its mouth to the city of Marianna, Ark. (H. Doc. No. 1069); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of French Broad River, N. C. (H. Doc. No. 1071); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of the Delaware River at Morrisville, Pa. (H. Doc. No. 1072); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Fort Pond Bay, Suffolk County, N. Y. (H. Doc. No. 1073); to the Committee on Rivers and Harbors and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of the Mississippi River between Calhoun Point and Mason Island, Ill. (H. Doc. No. 1074); to the Committee on Rivers and Harbors and ordered to be printed.

6. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Little Manatee River, Fla. (H. Doc. No. 1075); to the Committee on Rivers and Harbors and ordered to be printed.

7. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Oregon Slough, branch of Columbia River opposite Vancouver, Wash. (H. Doc. No. 1070); to the Committee on Rivers and Harbors and ordered to be printed.

8. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Tangipahoa River, La. (H. Doc. No. 1068); to the Committee on Rivers and Harbors and ordered to be printed.

9. A letter from the Secretary of War, transmitting papers in claim of Edward Judson for damages to launch caused by collision with U. S. towboats *Ellen* and *Henry Boss*, near Natchway Dam on the Mississippi River, July 31, 1912, said claim having been adjudicated by the department as authorized by law (H. Doc. No. 1084); to the Committee on Appropriations and ordered to be printed.

10. A letter from the Secretary of War, transmitting claims of Dravo Contracting Co., of Pittsburgh, Pa., for repairs to mixer boat on account of collision with the U. S. S. *T. P. Roberts* on May 15, 1912, at Pittsburgh, Pa., which has been adjusted by the Chief of Engineers; also calling attention to claims of Arnott Dock and Freeman R. Garrett, submitted to Sixty-second Congress, second session (H. Doc. No. 1083); to the Committee on Appropriations and ordered to be printed.

11. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of the examination and survey of ship canal, with depths of 30 and 35 feet, extending from a point in the city of Newark below the junction of the Pennsylvania and Lehigh Valley Railroads through the Newark meadows and Newark Bay to the deep water of the Kill Van Kull, N. J. (H. Doc. No. 1076); to the Committee on Rivers and Harbors and ordered to be printed.

12. A letter from the Secretary of War, transmitting, with letter from the Chief of Engineers, report of examination and survey of Sag Harbor, N. Y., with view to securing increased anchorage area and protecting the channel between said harbor and Gardiners Bay from the erosion of Cedar Point (H. Doc. No. 1077); to the Committee on Rivers and Harbors and ordered to be printed.

13. A letter from the Secretary of War, transmitting, with favorable recommendations, letter from the Acting Chief Quartermaster Corps requesting the estimate for appropriation for Cavalry post in Hawaiian Islands be included in the urgent deficiency appropriation bill (H. Doc. No. 1082); to the Committee on Appropriations and ordered to be printed.

14. A letter from the Secretary of War, transmitting twenty-second report of the Board of Ordnance and Fortifications for the fiscal year 1912 (H. Doc. No. 945); to the Committee on Appropriations and ordered to be printed.

15. A letter from the Secretary of War, transmitting letter from the Acting Chief of Engineers calling attention to certain claims in connection with Engineer Department referred to House Document No. 613, Sixty-second Congress, and requesting favorable consideration by the Committee on Claims, etc. (H. Doc. No. 1079); to the Committee on Claims and ordered to be printed.

16. A letter from the Secretary of the Treasury calling attention to the appropriation in the sundry civil act approved August 24, 1912, for the construction and installation of vaults for the Bureau of Engraving and Printing Building in Washington and recommending that an amendment thereto be included in the urgent deficiency bill (H. Doc. No. 1080); to the Committee on Appropriations and ordered to be printed.

17. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of St. Marys River with a view to the removal of shoals and reefs near Detour, Mich. (H. Doc. No. 1078); to the Committee on Rivers and Harbors and ordered to be printed.

18. A letter from the Attorney-General of the United States, transmitting statement of expenditures by United States Commerce Court for the fiscal year 1912, as furnished by the presiding judge of said court (H. Doc. No. 1081); to the Committee on Appropriations and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. UNDERWOOD: A bill (H. R. 26866) for the purchase of a site and the erection of a public building at Marion, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. KINKEAD of New Jersey: A bill (H. R. 26867) to amend an act entitled "An act to create a uniform system of bankruptcy in the United States and Territories," approved July 1, 1898; to the Committee on the Judiciary.

By Mr. LOBECK: A bill (H. R. 26868) fixing the maximum price of electric current to consumers in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. JOHNSON of Kentucky: A bill (H. R. 26869) to accept a deed of gift or conveyance from the Lincoln Farm Association, a corporation, to the United States of America, of land near the town of Hodgenville, county of Larue, State of Kentucky, embracing the homestead of Abraham Lincoln and the log cabin in which he was born, together with the memorial hall inclosing the same; and, further, to accept an assignment or transfer of an endowment fund of $50,000 in relation thereto; to the Committee on the Library.

By Mr. TAYLOR of Colorado: A bill (H. R. 26870) granting to the city of Black Hawk, Colo., the right to purchase certain lands for the protection of water supply; to the Committee on the Public Lands.

By Mr. HAWLEY: A bill (H. R. 26871) to amend an act granting to the Siletz Power & Manufacturing Co. a right of way for a water ditch or canal through the Siletz Indian Reservation in Oregon; to the Committee on the Public Lands.

By Mr. REILLY: A bill (H. R. 26872) to grant compensation to letter carriers and post-office clerks injured in the performance of their duties; to the Committee on the Post Office and Post Roads.

By Mr. CRAGO: A bill (H. R. 26873) to provide for the purchase of a site and the erection of a public building at Waynesburg, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. STEPHENS of Texas: A bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914; to the Committee of the Whole House on the state of the Union.

By Mr. BURLESON: A bill (H. R. 26875) to provide for the erection of a public building at Brenham, Tex.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26876) to provide for the erection of a public building at Taylor, Tex.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26877) to provide for the erection of a public building at Georgetown, Tex.; to the Committee on Public Buildings and Grounds.

By Mr. RAKER: A bill (H. R. 26878) making an appropriation for the protection and improvement of the Yosemite National Park, Cal., and the construction and repair of bridges, fences, trails, and improvement of roads other than toll roads, and for other purposes; to the Committee on Appropriations.

By Mr. DAVENPORT: A bill (H. R. 26879) to authorize diverting and use of the waters of the Arkansas River, in the State of Oklahoma, and the construction, maintenance, and operation of machinery, works, appliances, and structures in connection therewith, for the purpose of creating and developing water power; to the Committee on Interstate and Foreign Commerce.

By Mr. LOBECK: Resolution (H. Res. 735) authorizing an investigation into the affairs of the Washington Gas Light Co.; to the Committee on Rules.

By Mr. BURNETT: Resolution (H. Res. 736) providing for the consideration of S. 3175; to the Committee on Rules.

By Mr. HAMLIN: Resolution (H. Res. 737) to pay a certain sum of money to Anna Fink, widow of James Fink, late a messenger in the House; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 26880) granting an increase of pension to James H. Klukead; to the Committee on Invalid Pensions.

By Mr. ALLEN: A bill (H. R. 26881) for the relief of Jacob Burkhardt; to the Committee on Military Affairs.

By Mr. ASHBROOK: A bill (H. R. 26882) authorizing the Secretary of War to confer upon James B. Ross the congressional medal of honor; to the Committee on Military Affairs.

By Mr. BOOHER: A bill (H. R. 26883) granting an increase of pension to William H. Watson; to the Committee on Pensions.

By Mr. BRADLEY: A bill (H. R. 26884) granting an increase of pension to Helen Archibald; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 26885) granting a pension to Mary C. Kines; to the Committee on Invalid Pensions.

By Mr. BURKE of South Dakota: A bill (H. R. 26886) for payment to the Chicago, Milwaukee & St. Paul Railway Co. the $4,583.67 improperly collected under the act of August 5, 1909; to the Committee on Claims.

By Mr. CAMPBELL: A bill (H. R. 26887) granting a pension to Susan Staneart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26888) granting an increase of pension to Albert Passwater; to the Committee on Pensions.

By Mr. CLAYPOOL: A bill (H. R. 26889) granting an increase of pension to Herbert W. Brooks; to the Committee on Pensions.

By Mr. CURRIER: A bill (H. R. 26890) granting an increase of pension to Henry G. Bickford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26891) granting an increase of pension to James B. Kellogg; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26892) granting an increase of pension to H. W. Stone; to the Committee on Pensions.

By Mr. FOCHT: A bill (H. R. 26893) granting an increase of pension to Mary Murphy; to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 26894) for the relief of John N. Neal; to the Committee on Military Affairs.

Also, a bill (H. R. 26895) for the relief of Charles A. Coulson; to the Committee on Military Affairs.

Also, a bill (H. R. 26896) for the relief of Edward Dodsworth; to the Committee on Military Affairs.

Also, a bill (H. R. 26897) for the relief of Reuben W. Pavey; to the Committee on War Claims.

Also, a bill (H. R. 26898) granting a pension to Mary Julka; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26899) granting a pension to Charles Kline; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26900) granting a pension to Lucy A. Wharton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26901) granting a pension to Margaret Tayes, née Ellis; to the Committee on Pensions.

Also, a bill (H. R. 26902) granting a pension to Christina B. Offer; to the Committee on Pensions.

Also, a bill (H. R. 26903) granting a pension to Mary McKelvey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26904) granting a pension to Paul Heineman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26905) granting a pension to Herman J. Wacker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26906) granting an increase of pension to Albert White; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26907) granting an increase of pension to John J. Driscoll; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26908) granting an increase of pension to John J. Driscoll; to the Committee on Pensions.

Also, a bill (H. R. 26909) granting an increase of pension to William Barfield; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26910) granting an increase of pension to Benjamin F. Allen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26911) to correct the military record of John J. Barlow; to the Committee on Military Affairs.

Also, a bill (H. R. 26912) to correct the military record of Horace McMellon; to the Committee on Military Affairs.

Also, a bill (H. R. 26913) to remove the charge of desertion standing against Servello J. Dematos; to the Committee on Military Affairs.

By Mr. HAMILTON of West Virginia: A bill (H. R. 26914) granting an increase of pension to Samuel L. Somerville; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 26915) to reimburse the postmaster at Seaside, Oreg., for the loss by fire of postal savings cards and stamps; to the Committee on Claims.

By Mr. JOHNSON of Kentucky: A bill (H. R. 26916) granting a pension to William Curtsinger; to the Committee on Pensions.

By Mr. KINKEAD of New Jersey: A bill (H. R. 26917) granting an increase of pension to George Van Orden; to the Committee on Invalid Pensions.

By Mr. KONOP: A bill (H. R. 26918) granting a pension to James H. Kampo; to the Committee on Pensions.

By Mr. MANN: A bill (H. R. 26919) granting a pension to Mary B. F. Trainor; to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 26920) granting a pension to Sarah A. Bland; to the Committee on Invalid Pensions.

By Mr. OLDFIELD: A bill (H. R. 26921) for the relief of the heirs of Samuel Corruthers, deceased; to the Committee on War Claims.

By Mr. O'SHAUNESSY: A bill (H. R. 26922) granting an increase of pension to Alphonzo O. Drake; to the Committee on Invalid Pensions.

By Mr. ROBINSON: A bill (H. R. 26923) granting an increase of pension to B. E. Benton; to the Committee on Pensions.

By Mr. RUSSELL: A bill (H. R. 26924) granting an increase of pension to Mary Kessinger; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26925) granting an increase of pension to Duncan Campbell; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 26926) granting an increase of pension to Joanna Swander; to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 26927) granting a pension to Sarah Whidden; to the Committee on Pensions.

By Mr. STEENERSON: A bill (H. R. 26928) granting an increase of pension to Jeremiah Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26929) granting an increase of pension to Christian C. Ellingson; to the Committee on Invalid Pensions.

By Mr. STONE: A bill (H. R. 26930) granting a pension to Missouri Parker; to the Committee on Pensions.

Also, a bill (H. R. 26931) granting an increase of pension to Alonzo F. Murden; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 26932) granting an increase of pension to Gen. James K. Proudfit; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 26933) granting a pension to Henry C. Doll; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26934) granting an increase of pension to Alvaranda Tyler; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: A bill (H. R. 26935) granting an increase of pension to Robert Shay; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of Thomas Nelson Woolfolk, jr., Norfolk, Va., relative to impeachment for treason; to the Committee on the Judiciary.

By Mr. ALLEN: Petition of Bethlehem Council, No. 45, Daughters of America, Cincinnati, Ohio, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Cincinnati (Ohio) Lodge, No. 5, Benevolent and Patriotic Order of Elks, favoring the enactment of legislation purchasing Mount Vernon, the former home of President Washington; to the Committee on Public Buildings and Grounds.

By Mr. ASHBROOK: Petition of the National Wholesale Liquor Dealers' Association of America, Cincinnati, Ohio, protesting against the passage of House bill 4040, the Kenyon interstate commerce liquor bill; to the Committee on the Judiciary.

By Mr. BUCHANAN: Petition of Chicago Division, No. 1, Order of Railway Conductors, protesting against the passage of the workmen's compensation and liability act (S. 5382); to the Committee on the Judiciary.

By Mr. CLINE: Petition of the Lake Michigan Sanitary Association favoring appropriation for investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. DYER: Petition of Lynch & Co., St. Louis; German-American citizens of California, Mo.; and the National Wholesale Liquor Dealers' Association of America, protesting against the passage of the Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

Also, petition of the State Council of Pennsylvania, Order of Independent Americans, Philadelphia, Pa., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Lake Michigan Sanitary Association favoring appropriation for investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

Also, petition of the Building Trades Council of St. Louis, Mo., and the Missouri State Dairy Association, protesting against the passage of House bill 20281, removing the tax on oleomargarine; to the Committee on Agriculture.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring reduction of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring passage of a bill changing the national election day to Monday; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. FULLER: Petition of the New York Board of Trade and Transportation, favoring the passage of the Sulzer bill creating a final court of patent appeals; to the Committee on the Judiciary.

By Mr. HOWELL: Petition of citizens of Ephraim, Manti, and Mount Peasant, all in the State of Utah, favoring regulation of the express companies by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. KINDRED: Petition of the Lake Michigan Sanitary Association, favoring appropriation for investigating the extent of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

Also, petition of the American Embassy Association, favoring the passage of House bill 22589, appropriating $500,000 for embassy, legation, and consular buildings; to the Committee on Appropriations.

Also, petition of the Chamber of Commerce of the State of New York, protesting against placing the Board of General Appraisers under control of the Treasury Department; to the Committee on Expenditures in the Treasury Department.

By Mr. LINDSAY: Petition of the State Council of Pennsylvania, Order of Independent Americans, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. McCOY: Petition of R. Sanford Ross (Inc.), Jersey City, N. J., favoring legislation for the establishment of a United States court of appeals; to the Committee on the Judiciary.

By Mr. MOON of Tennessee: Papers to accompany bill for relief of Sarah A. Bland; to the Committee on Invalid Pensions.

By Mr. MOORE of Pennsylvania: Petition of Pennsylvania State Camp, Patriotic Order Sons of America, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. MOTT: Petition of the National Society for Promotion of Industrial Education, favoring the passage of the Page-Wilson bill for vocational education; to the Committee on Agriculture.

Also, petition of the State Council of Pennsylvania, Order of Independent Americans, and the Farmers' Educational and Cooperative Union of America, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Lake Michigan Sanitary Association, favoring investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. PICKETT: Papers to accompany the bill granting pension to Lizzie S. Williams; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting pension to August A. Buntgen; to the Committee on Invalid Pensions.

By Mr. REYBURN: Petition of the State Council of Pennsylvania, Order of Independent Americans, Philadelphia, Pa., and Pennsylvania State Camp, Patriotic Order Sons of America, Philadelphia, Pa., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. TILSON: Petition of the Board of Harbor Commissioners of New Haven Harbor, relative to improving the New Haven Harbor; to the Committee on Appropriations.

By Mr. WEEKS: Petition of citizens of Franklin and South Framingham, Mass., favoring the enactment of legislation to give the Interstate Commerce Commission further power toward regulating the express rates; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Framingham, Mass., favoring enactment of legislation giving the Interstate Commerce Commission further control toward regulating the express rates; to the Committee on Interstate and Foreign Commerce.

SENATE.

MONDAY, *December 9, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

WILLIAM E. CHILTON, a Senator from the State of West Virginia, and JAMES A. REED, a Senator from the State of Missouri, appeared in their seats to-day.

The Secretary proceeded to read the Journal of the proceedings of Saturday last when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MARKING OF CONFEDERATE GRAVES (H. DOC. NO. 1105).

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, the final report of the commissioner appointed to continue the work of locating and marking the graves of the Confederate dead, which, with the accompanying paper, was referred to the Committee on Military Affairs and ordered to be printed.

MEMORIAL TO THOMAS JEFFERSON.

The PRESIDENT pro tempore laid before the Senate a communication from the president of the Louisiana Purchase Exposition Co., which was read and referred to the Committee on Industrial Expositions, as follows:

OFFICE OF THE PRESIDENT,
December 5, 1912.

THE PRESIDENT PRO TEMPORE UNITED STATES SENATE.

SIR: With the approval of Congress, conferred by the sundry civil act of March 4, 1909, the Louisiana Purchase Exposition Co. has erected upon the world's fair site at a cost of $450,000 a memorial to Thomas Jefferson, in commemoration of the acquisition of the Louisiana Territory. The statue of Jefferson will be unveiled and the memorial will be dedicated on the one hundred and tenth anniversary of the signing of the Louisiana purchase treaty, the 30th of April, 1913. The trustees respectfully request the presence and participation of a committee of the United States Senate.

Respectfully,

[SEAL.] DAVID R. FRANCIS,
President Louisiana Purchase Exposition Co.

PAPAGO INDIAN RESERVATION, ARIZ. (S. DOC. NO. 975).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of an investigation with a view to determining the possibility of enlarging the irrigation system on the Papago Indian Reservation, Ariz., together with surveys, plans, and estimated limit of cost of such project, which, with the accompanying papers and illustrations, was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. 20287) to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January 5, 1905; and it was thereupon signed by the President pro tempore.

PETITIONS.

Mr. GRONNA. I present a petition of the Young People's Branch of the Woman's Christian Temperance Union of the University of North Dakota. I ask that the petition may lie on the table and be printed in the RECORD.

There being no objection, the petition was ordered to lie on the table and to be printed in the RECORD, as follows:

UNIVERSITY, N. DAK., *November 25, 1912.*

Hon. A. J. GRONNA,
United States Senator:

Believing that it is our inherent constitutional right under the police power to regulate the liquor traffic in this State, and that the future destiny of our Commonwealth depends upon the correct solution of this great problem, we, the members of the Young People's Branch of the Woman's Christian Temperance Union of the University of North Dakota, respectfully petition you to put forth your best efforts for the passage of the Kenyon bill.

THEODORE ROY, *President.*
ETHEL E. HALCROW, *Secretary.*

Mr. GRONNA presented petitions of sundry citizens of Walsh County, Hatton, and Reach, all in the State of North Dakota, praying for the enactment of the Kenyon interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MASSEY:

A bill (S. 7656) to grant to the State of Nevada lands for educational purposes; to the Committee on Public Lands.

By Mr. MARTIN of Virginia:

A bill (S. 7657) for the erection of a statue to John Marshall (with accompanying paper); to the Committee on the Library.

By Mr. CHILTON (for Mr. WATSON):

A bill (S. 7658) granting an increase of pension to John F. Bennett; to the Committee on Pensions.

By Mr. MARTINE of New Jersey:

A bill (S. 7659) to establish a bureau for the study of the criminal, pauper, and defective classes; to the Committee on Education and Labor.

By Mr. McCUMBER:

A bill (S. 7660) granting a pension to August T. Lillich;

A bill (S. 7661) granting an increase of pension to Sidney P. Jones;

A bill (S. 7662) granting an increase of pension to William B. Seace (with accompanying papers);

A bill (S. 7663) granting an increase of pension to Charles F. Miller (with accompanying papers); and

A bill (S. 7664) granting an increase of pension to Ann T. Smith (with accompanying papers); to the Committee on Pensions.

By Mr. DU PONT:

A bill (S. 7665) for the relief of Charles Hellyer; to the Committee on Claims.

By Mr. PENROSE:

A bill (S. 7666) to provide for the purchase of a site and the erection of a public building thereon in the city of Warren, State of Pennsylvania; to the Committee on Public Buildings and Grounds.

A bill (S. 7667) granting an increase of pension to Catherine M. Peck; and

A bill (S. 7668) for the better payment of pensioners; to the Committee on Pensions.

By Mr. SMITH of Arizona:

A bill (S. 7669) for the relief of John T. Brickwood, Edward Gaynor, Theodore Gebler, Lee W. Mix, Arthur L. Peck, Thomas D. Casanega, Joseph de Lusignan, and Joseph H. Berger; to the Committee on Claims.

By Mr. GUGGENHEIM:

A bill (S. 7670) granting an increase of pension to Mary A. Buchanan (with accompanying papers);

A bill (S. 7671) granting a pension to Martha Sample (with accompanying papers);

A bill (S. 7672) granting an increase of pension to Florence M. Saunders (with accompanying papers); and

A bill (S. 7673) granting an increase of pension to Elmer H. Pond (with accompanying papers); to the Committee on Pensions.

A bill (S. 7674) for the relief of William J. Brooker, alias William Hicks (with accompanying paper); to the Committee on Military Affairs.

OMNIBUS CLAIMS BILL.

Mr. WARREN submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

INAUGURATION OF THE PRESIDENT ELECT.

Mr. OVERMAN submitted the following concurrent resolution (S. Con. Res. 31), which was read, considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring), That a joint committee, consisting of three Senators and three Repre-

sentatives, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next.

COURTS OF EQUITY (S. DOC. NO. 972).

Mr. OVERMAN. I have a copy of the Rules and Practice for the Courts of Equity of the United States, which I ask may be printed as a Senate document. I also ask that 5,000 additional copies be printed for the use of the Senate document room.

There being no objection, the order was agreed to, and it was reduced to writing, as follows:

Ordered, That 5,000 additional copies of Rules and Practice for the Courts of Equity of the United States be printed for the use of the Senate document room.

LIST OF COMMERCIAL AND AGRICULTURAL ASSOCIATIONS.

Mr. NELSON submitted the following resolution (S. Res. 404), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Interstate Commerce Commission is hereby directed to furnish to the Senate a list of National, State, and local commercial organizations, also, National, State, and local agricultural associations, to be made to the Senate not later than February 15, 1913, and that 1,500 copies be printed for the use of the Senate.

LAND AT HELENA, ARK.

Mr. CLARKE of Arkansas. I ask the Chair to lay before the Senate the amendment of the House of Representatives to Senate bill 3436.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 3436) granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse, which was, on page 1, line 13, after the word "dollars," to insert:

Provided, That upon the discontinuance of the use of this property for public purposes it shall revert to the United States.

Mr. CLARKE of Arkansas. I move to reconsider the vote by which the amendment of the House was concurred in.

The motion to reconsider was agreed to.

Mr. CLARKE of Arkansas. I move that the Senate disagree to the amendment of the House of Representatives and ask for a conference on the disagreeing votes of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the President pro tempore appointed Mr. SMOOT, Mr. NELSON, and Mr. SMITH of Arizona conferees on the part of the Senate.

PATENT OFFICE INVESTIGATION.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, referred to the Committee on Patents, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a report relating to an investigation of the United States Patent Office made by the Commission on Economy and Efficiency pursuant to the joint resolution approved August 21, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *December 9, 1912.*

[NOTE.—Report accompanied similar message to the House of Representatives.]

CALLING OF THE ROLL.

The PRESIDENT pro tempore. The morning business is closed.

Mr. SMOOT. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum, and the Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	McCumber	Sanders
Bacon	Cullom	McLean	Smith, Ariz.
Bankhead	Curtis	Martin, Va.	Smith, Ga.
Borah	Fall	Martine, N. J.	Smith, Mich.
Brandegee	Foster	Massey	Smith, S. C.
Bristow	Gallinger	O'Gorman	Smoot
Brown	Gronna	Overman	Stephenson
Bryan	Guggenheim	Page	Sutherland
Burnham	Hitchcock	Penrose	Swanson
Burton	Johnson, Me.	Perkins	Thornton
Clark, Wyo.	Kenyon	Perky	Warren
Clarke, Ark.	La Follette	Pomerene	Wetmore
Crane	Lea	Reed	Works
Crawford	Lodge	Richardson	

Mr. KENYON. I desire to announce that the Senator from Iowa [Mr. CUMMINS] is detained in Des Moines by the serious illness of his father.

Mr. PAGE. I wish to announce that because of continued illness of my colleague [Mr. DILLINGHAM] he is not able to be present in the Senate.

Mr. MARTINE of New Jersey. I beg to announce that my colleague [Mr. BRIGGS] is detained from the Senate on account of serious illness. I make this announcement for the day.

Mr. BRYAN. I desire to announce that my colleague [Mr. FLETCHER] is detained from the Senate on public business.

Mr. WORKS. I wish to announce that the senior Senator from Washington [Mr. JONES] is necessarily absent on business of the Senate.

The PRESIDENT pro tempore. On the call of the roll 55 Senators have responded to their names, and a quorum is present.

THE PRESIDENTIAL TERM.

Mr. WORKS. Mr. President, I ask that Senate joint resolution No. 78, which is the unfinished business, be laid before the Senate.

The PRESIDENT pro tempore. The joint resolution referred to will be read by the Secretary.

The Secretary read the joint resolution (S. J. Res. 78) proposing an amendmnet to the Constitution of the United States, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following be proposed as an amendment to the first paragraph of section 1 of Article II of the Constitution of the United States, which will be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States, namely: Amend said paragraph to read as follows:

"The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of six years and shall be ineligible to a second term, and, together with the Vice President, who shall hold for a like term, and shall also be ineligible to a second term, be elected as follows."

Mr. WORKS. Mr. President, this proposed amendment to the Constitution is a matter of grave importance and should be considered with the utmost care. Every proposal to amend the fundamental law that has stood the test of time for more than a century should be regarded as most important. By this resolution we are proposing to submit to the people, represented by their respective legislatures, the question of the limitation of the term of service of the President of the United States and a provision that will make it impossible for any citizen to be a candidate for the office for a second time. On the one hand it is claimed, as I am about to maintain, that such a limitation of the term of service by any one man as President of the United States is in the interest of the people and necessary for the public welfare. I go further and contend that it is better for the incumbent, once elected, that he should be made ineligible for a second term. On the other hand, it is strenuously insisted by some Members of this body that such an amendment if adopted will be an unjust limitation of the right of the people to elect whom they please as their President and to reelect him as often as they please. These latter views, conscientiously entertained by Senators, are entitled to frank and fair consideration and should be given their full weight in determining this question. I approach the discussion of the subject in that spirit.

I am not one of those who believe that amendments of the Constitution of the United States should be made easy. I would not, as I view the situation and the conditions that prevail, add anything to the facilities now afforded for amending that great instrument, framed by our forefathers in their wisdom for the preservation and perpetuation of the rights and liberties of the people. But this affords no reason for a failure to make necessary amendments in the manner and under the safeguards of the Constitution itself.

I have no sympathy for the sentiment abroad in the country that the Constitution should be treated as subservient to the present will or sentiment of the majority of to-day that may be the minority of to-morrow. Nor do I subscribe to the doctrine, openly declared, that there should be no constitutional limitation upon the will of the people as that will is supposed to exist at any given time. We are living in a time of supreme unrest, discontent, and dissatisfaction with things as they are. There is strong reason for this condition of public sentiment. Things have gone wrong in this country. We all recognize that fact. There is no concealing it from any thoughtful and observant man. Conditions need to be changed. Who is to change them, and how? Obviously, the people. And just as obviously, it seems to me, this change must be brought about by peaceful, legal, and legitimate means under the limitations and restraints of the Constitution. Any effort to remedy evil conditions affecting the rights of the people in any other way

would lead to anarchy and ultimately to the overthrow of the Government. The very fact that this spirit of revolt against existing conditions prevails renders these restraints upon unlicensed power more than ever necessary. The demand that the Government should be returned to the people is just and right. The people have not ruled their own country or controlled its affairs in the recent past. But the vastly more important question is, How are the people to rule? Shall it be by the unlimited and unrestrained will of the majority without regard to the reasonable regulations and restraints of the fundamental law, under which this Nation has grown and prospered all these years, or shall it be according to the law of the land that is intended to protect the rights and liberties of the people?

POPULAR GOVERNMENT.

We hear much these days of popular government, of democracy, and the rule of the people. What do these advocates of popular government, so called, mean by that term? What do they mean when they cry out for a democracy? Do they really mean that they favor the establishment of a government controlled directly by the body of the people without the intervention of representatives chosen by them and without constitutional restraints; in other words, as democracy is defined, "the political system in which government is directly exercised by the people collectively"? They must mean this, or their cry for a popular government or a democracy means nothing more than the cry of the demagogue for votes. Unless they mean just this, their demand is not sincere. We now have a democracy defined as "a commonwealth in which the people as a whole legislate through elected representatives," known and recognized as a "democratic Republic."

What we need are just laws, strictly observed, guarded, and enforced, that will secure to the voter the free and independent use of the ballot unmolested and unafraid. This assumes, of course, that the voter will use the franchise intelligently, independently, and honestly. If he does not, he is unworthy to be a voter or an American citizen. If he uses the power given him corruptly or otherwise improperly, he should be deprived of the franchise altogether. Any corrupt use of it or corrupt or forcible interference with it should be severely and certainly punished. The direct primary and general elections under the Australian secret ballot system are the best means yet devised for the protection of the voters and elections. Such reasonable and just laws will insure to the people everything necessary to the full protection of their rights. To this should be added the initiative, referendum, and recall, limited and guarded in such way as to prevent, as far as possible, any abuse or misuse of them. If the people exercise their right of choosing their representatives intelligently and wisely, the other remedies will be unnecessary. If they nominate and elect competent and honest men to represent them, there will be no call for direct action by resort to the initiative or referendum. These remedies should only be used when legislative representatives fail or refuse to act when necessary for the public good or act corruptly or against the public interests. The recall can be justly resorted to only for similar reasons and should never be applied to judicial officers.

All of these remedies are beneficial and necessary to the full control of affairs by the people, but are subject to gross abuses that may make them worse than useless. They should be used only to protect the rights of the people to fair and honest representation and to preserve the Government as a democratic Republic. In most of the States we have all these remedies now. I am afraid that they are not sufficiently guarded to confine them to legitimate uses. This is needful, and I hope will come in time. We can not go beyond this with safety.

Does any Senator on this floor maintain that this Government should be converted into a pure democracy, where the people legislate and perform all other governmental functions as a body? Does anyone sincerely believe that a nation composed of a hundred millions of people could be governed in any such way? I can not believe it. The attempt would be ruinous and suicidal. To advocate such a change in government is revolutionary and dangerous.

Sir, the troubles that are besetting us as a Nation are not the result of our form of government. Our form of government is ample for the protection of the people. The constitutional guaranties are sufficient to protect the life, liberty, and property of the citizen. The fault does not lie there. It lies in the fact that our form of government is perverted and disregarded; that the Constitution is trampled under foot, often by constituted authority, and constantly and systematically by privilege-seeking and organized wealth. The poor man is denied his rights, not because the form of government is defective or inadequate, but because of the powerful, unrestrained, and corrupt encroachments of combined wealth on the one hand, and the indifference of the masses of the people to their civic duties and corruption and crime in politics by both rich and poor on the other, by which the right of the franchise is prostituted to base ends. The great corporation corrupts the ballot box for gain and the voter sells his vote for the same purpose. A change in the form of government will not make men, whether rich or poor, more honest or less greedy. The man who sells his own vote or buys the vote of another is as much a traitor to his country as the man who takes up arms against it. If we are going to maintain a free Republic that will preserve the liberties of the people, we must maintain an honest Government. To maintain an honest Government we must maintain the honesty of our people. All power emanates from them, and if the source of power is corrupt the Government will be corrupt.

Sir, when I think of the extent to which the franchise in the hands of the voters of this country has been corrupted and bartered away I tremble for the future of my country. What are we to expect when the voters of some communities of the great and enlightened State of Ohio have sold their votes and been disfranchised therefor to such an extent that there are hardly qualified electors enough to hold the elections, and when the neighboring State of Illinois and the proud and ancient State of Virginia have furnished similar cases of wholesale delinquencies? We have every reason to suppose that this mode of corrupting the ballot is prevalent in greater or less degree all over the country. Such practices have lowered the standard of citizenship, debauched the electors, and done much to destroy the sense of obligation to duty in public office.

ELECTION TO SECOND TERM CAUSE OF CORRUPTION.

Mr. President, I am persuaded that the amendment now proposed will, if adopted, do much to remedy these evil and threatening conditions. The effort to elect a President to a second term is a prolific source of political corruption, neglect of official duty, and betrayal of trust on the part of public servants. It is degrading to the President himself, and brings his great office into disrespect, often contempt. The President has come to be regarded as the head of his party, not as a candidate only, but as President, and not as the head of the Nation. It is a most pernicious doctrine. He has the power of appointment of thousands of Federal officers in every part of the country. Practically, in making these appointments he acts as the head of his party and not as President. If he is reelected the appointees may reasonably expect to retain their offices. A large part of his time that should be devoted to the public service is given over to politics and the effort to secure his reelection. He is regarded by his appointees as their political chief, to whom they owe allegiance because he appointed them. They are tempted to serve him rather than the country. He expects every man he appoints to support his political aspirations. To fail is to be treacherous and ungrateful. They so regard it, and so does he. The White House is turned into the headquarters of a political party, where a press bureau is maintained in the interest of the political chief and leader of his party who is for the time being the President of the United States. The members of his Cabinet become his political advisers. In this they are not serving their country, but the seeker after a second term. The appointees in the immediate service of the President become his political aids and devote much of their time, paid for by the Government, to his service as political leader and candidate for reelection. It is a vicious system, that can not be denounced too strongly or too often. The people of a free Republic should not submit to it for a day. Every lover of his country should speak out against it and support any measure intended and reasonably calculated to put an end to it. If a President were limited to one term, and rendered ineligible to a second election, there would be no incentive or temptation to appoint men to office with a view to their support of him as a candidate for a second term. He would need no political army. As a political leader he would be useless. He would have no motive or desire other than to do his duty as President and make for himself an honorable record as a public official. We have had some highly honorable men in the White House, men who would have condemned the use of patronage by another for his political advancement, but there is not one of them who has been a candidate for reelection who has not willingly profited by such conditions. Not one of them, I believe, but would have regarded it as an act of treachery on the part of one of his appointees to oppose or even fail to support his candidacy for reelection. Every man holding an office by the appointment of the President has come, by common consent on the part of politicians, to be one of his politi-

cal supporters owing him personal allegiance. This condition alone should assure the passage of this resolution by Congress and its ratification by the States.

But, sir, there are other considerations favorable to this proposed amendment that appeal to me with equal if not greater force. The President is more powerful than any king of modern times. Of later years he has assumed and exercised powers that do not justly belong to him. He has made himself an active and, not infrequently, a controlling part of the law-making power. He has not been content to recommend the enactment of laws; he has demanded their passage, and brought to bear all the power and influence of his great office to compel their enactment. This is a plain and dangerous usurpation of power and a violation of the spirit of the Constitution. The longer one man remains President the greater is his inclination to usurp this power.

The authority rightly vested in the President, to see that the laws are executed, is equally subject to abuse. Congress may enact a law. The President may nullify it or destroy its effect, either entirely or as affecting individuals, by a mere word. He may direct the Department of Justice to enforce a law or withhold its enforcement, and the Attorney General will obey. The Sherman antitrust law is an example in point. It defines what shall constitute a trust and makes the maintenance of a trust a crime. In any State in the Union it would be the duty of any prosecuting officer to whose attention a violation of the statute is directed to prosecute the offender. It is as much his duty to enforce the law as it is for the delinquent to obey it. So it should be in the case of the Attorney General of the United States, but it is not so regarded. If the President does not direct him to prosecute, that is looked upon as sufficient excuse for not doing so. If the President directs him not to enforce the law, or not to enforce it against a given corporation, that is conclusive. This very thing has been done, evidently in the interest of one great corporation or another. It has been made the subject of adverse comment in the late political campaign.

FAVORS GRANTED TO TRUSTS.

Now, sir, what is the natural result of favorable or unfavorable action affecting a corporation when the incumbent of the presidential office becomes a candidate for reelection? Would you expect such a corporation, thus favored and protected from prosecution by order of the President, to oppose his renomination and election? We are not without evidence of the effect of such action on succeeding elections. The great Harvester Trust, one of the worst and most oppressive of its kind, was signally favored by Mr. Roosevelt, when President, in this respect. It was not prosecuted for violation of the Sherman antitrust law, because Roosevelt ordered otherwise. What was the natural result? When Roosevelt again became a candidate George W. Perkins became his ardent supporter and chief financial backer. Perkins was largely interested in the Harvester Trust. What else could one expect? Perkins knew, by actual demonstration, that his company would be safe against just prosecution if Roosevelt were elected, unless he should change his mind. And he would be much less likely to change his views if the Harvester Trust or its stockholders should lend him their support. The same comment might be made as to the Steel Trust.

Mr. President, I am not saying that Mr. Roosevelt acted out of improper motives in dealing with the Harvester Trust or the Steel Trust. He may have been perfectly satisfied that the course taken by him wag the proper and just course. It is not my purpose to judge or condemn him personally. I call attention to these instances of presidential favor and what followed them as illustrating the power that exists in the hands of a President, in his first term, to secure his election to a second term. Whether rightly or wrongly exercised, the power is there. It is practically unrestrained. The temptation to use it in such way as to secure a reelection is manifestly great. That the action of the President in dealing with the question of the prosecution of corporations alleged to be trusts may and almost certainly will affect his prospects most profoundly as a candidate for reelection can not be justly denied. The power that these great aggregations of wealth have exercised in controlling elections in the past is beyond question. As political campaigns are conducted, money is regarded as one of the most powerful factors in the struggle. That millions of money have been supplied by these trusts and their millionaire stockholders has been clearly demonstrated by actual proof before the committee of the Senate to luvestigate campaign expenditures. No one familiar with conditions can reasonably doubt that the money contributed by such men and such interests has been the means of buying thousands of votes and in other ways corrupting the electorate and the ballot.

CAMPAIGN CONTRIBUTIONS.

This brings me logically to the consideration of campaign contributions as affecting the candidacy of the President for a second term. As I have pointed out, the question whether corporations alleged to be or suspected of being trusts in violation of law shall be prosecuted or not rests absolutely with the President. The temptation to prosecute or not to prosecute, as affecting him, I have already pointed out. The inducement to support or oppose a candidate for reelection as a result of his previous treatment of a corporation in this respect is too obvious to need comment. Privilege-seeking corporations support the public official who will grant them privileges. That is what they are in politics for. This being so, how natural it is for a corporation that has been thus favored to make contributions to the campaign fund of their official friend. They are not only paying for past favors, but buying new ones, as they very naturally believe. They expect to accomplish results by the use of money in politics as they do in business. It is the only way of doing politics that they know.

The investigation of campaign contributions lately had has exposed some of the darkest pages of the political history of the country. It has revealed the unpleasant fact that the money used for campaign purposes, by both Republicans and Democrats, in past years, was supplied almost wholly by men interested in the large corporations that were amenable to punishment under the antitrust law. The new Progressive Party was tainted in the very beginning by putting itself in the hands of the same interests. It was managed and financed by promoters, corruptionists, and trust magnates. In all these cases the money was contributed to secure the election of the man who, if elected, would be intrusted with the power of determining conclusively whether they should be prosecuted or not. No matter whether it was so understood or not, it was nothing more or less than buying immunity from such prosecution. They very naturally reasoned that the man who accepted their money to secure his election would not use the power their money had given him to punish them for making that money unlawfully. To prosecute such as these for the crime of making the money by violating a law that his sworn duty required him to enforce would convict him of accepting tainted money to secure his election. The hypocritical pretense that such contributions were in the public interest and not in the personal interest of the men who made them excites contempt.

But, sir, to me there is an even more serious and reprehensible side to this question of political contributions than this. Such contributions can not justly be called voluntary. The giver makes them under compulsion and for his own protection, especially in case of the candidacy for reelection. The President has some months of his first term to serve after the contributions must be made. If he is willing to accept such contributions he may well be suspected of a disposition to resent it if they are not forthcoming. He has it in his power to enforce the law against the noncontributors and he has ample time to do it even if he is defeated for reelection. When he makes known the fact personally or through his committee that he wants or is willing to accept such a contribution, the official or stockholder of such a corporation may well fear that it is a demand for money that must be furnished under penalty of prosecution or other unfavorable treatment in case of refusal. Such a demand or request from the candidate, or his political managers, is essentially a holdup. That it has been so considered by some of the contributors is perfectly well understood. Let me again refer to the work of the investigating committee. E. H. Harriman was the president of the Southern Pacific Co., a Kentucky corporation, and other transportation companies operating a system of railroads in the western portion of the country, with headquarters in New York. He and his corporations were subject to prosecution for violation of the Sherman antitrust law. He was shown to have raised a fund of $250,000 for the Republican campaign fund of 1904, fifty thousand of which he contributed himself. Other generously disposed gentlemen, connected with other corporations, including the Standard Oil Co., also contributed large sums.

Mr. Roosevelt was then the Republican candidate for reelection to the office of President. He denied that he had requested any of these contributions, and testified that he did not know that most of them were made, and that upon learning that the Standard Oil Co. had made a contribution he directed the chairman of the national committee to return it, which, however, seems not to have been done. He should be given the full benefit of this denial. But Mr. Harriman in his lifetime declared that he made his contribution and raised the additional

amount at the request of Roosevelt. Judge Lovett, then and now connected with the same companies in an official capacity, testified that Harriman said to him that Roosevelt had called upon him to raise the money, and that he had to do it. On the other hand, Roosevelt testified that instead of his asking Harriman to raise money Harriman had appealed to him to use his influence to have the national committee furnish additional funds for the State campaign in New York. Lovett further testified that Harriman did raise the money and turn the full amount over to him in checks of other large corporation men, and some money, with directions to deliver it to the treasurer of the national committee, who would come for it, which he did. Senator Scott, of West Virginia, late a Member of this body, testified that he was a member of the national committee that year; that he was called on the telephone from the White House, he then being in the committee headquarters in New York; that he talked with Roosevelt, who asked him about a report that the campaign funds were running low, and told him that he would see Harriman and have him raise additional funds. This is in substance the testimony of these several witnesses bearing on the question. I am not going to enter upon a discussion of the weight or accuracy of the conflicting testimony of these several witnesses. It is not very material which was right and which was wrong. The material facts are that Roosevelt was a candidate for election to a second term. Harriman was the head of a system of railroads owned nominally by several different corporations but operated together under one management; that he raised the $250,000, and it was accepted by the national committee. It was further shown that Roosevelt and Harriman were at that time close and rather intimate friends, but had a falling out after the election. And, Mr. President, Harriman received his reward whether the money was raised for that purpose or not. Suits by the Government were at that very time pending against some of his companies, and after this contribution they were dismissed. His roads were otherwise favored by the President that his money helped to elect, as shown by the following statement in La Follette's Magazine of November 2, 1912:

THE SUIT AGAINST HARRIMAN'S ROADS.

In this connection I remembered that two important suits brought by the Government against the Central Pacific Railroad Co. et al. and the Southern Pacific Railroad Co. et al., and pending when Harriman made his $250,000 contribution, were thereafter dismissed in the early part of the year 1905 following Roosevelt's election. Joseph H. Call, of California, was the special counsel employed to prosecute these cases. Mr. Roosevelt's Attorney General ordered them dismissed—not through Mr. Call, the special counsel, or upon his advice. Roosevelt's Attorney General did not appoint Call as special counsel to commence the suit to dissolve the so-called Harriman merger of these two and other lines. This suit was based upon an investigation and report of the Interstate Commerce Commission, No. 943, entitled "In the Matter of Consolidations and Combinations of Carriers," etc. In this report the commission states that these two lines, the Central Pacific Railroad and Southern Pacific Railroad, were competing parallel lines across the continent and had been consolidated together and operated through a holding company called the Southern Pacific Co. This suit was decided against the Government by the judges of the United States Circuit Court, Eighth Circuit, June 25, 1911. An inspection of this reported case will show that for some mysterious reason the Government did not join as defendants these two wrongdoers, the Southern Pacific Railroad Co. and the Central Pacific Railroad Co. And moreover, strange as it may seem, its bill did not charge or allege that a combination to monopolize commerce or restrain trade had been formed between those two great competing lines; but, on the contrary, the bill admitted that these two lines had been combined in the Southern Pacific Co., the holding corporation, and started out with that fact. The result was that no decree could be entered dissolving the combination, as it was not complained of, and because the parties were not before the court a judgment was entered against the Government. That case is now pending upon appeal in the United States Supreme Court, but whatever the outcome it can not result in separating these two great lines, because that relief is not sought by the bill.

In this suit, brought by the Government under the Roosevelt administration against Harriman lines, why did his Attorney General fail to make the Southern Pacific Railroad Co. and the Central Pacific Railroad Co. parties defendant in that action? Without charging that the contributions made and secured by Mr. Harriman, amounting to $250,000, were for the express purpose of securing a dismissal of the pending suits against the Southern Pacific and the entering of what would appear to be a collusive judgment against the Government in favor of the combination, it would seem that Roosevelt or some one for him ought to explain this whole matter in connection with the contributions.

Mr. President, this episode in the political history of the country should teach us a valuable lesson and serve as a warning to the American people. Why did Harriman raise this large sum for campaign purposes? He did it, as he said himself, because he had to. He knew perfectly well that his corporations were violating the antitrust law and were subject to prosecution. Roosevelt was his personal friend, was the President of the United States, and very much wanted to be reelected. No one knew better than Harriman what Roosevelt's resentment might mean to him and his corporations. To refuse the contribution would certainly arouse that resentment. There was nothing to do, in the estimation of a trust magnate, but to put up the money. What is said of the candidacy for the presidency is just as true in the case of candidates for Congress who are seeking reelection. The congressional political committees call for contributions. The corporations are at the mercy of such candidates for months, even if they are defeated. Therefore, whether willingly or unwillingly, they contribute in self-defense, as they naturally regard it. This enforcement of campaign contributions is nothing better than blackmail.

Mr. President, why should we have these large contributions from interested, privilege-seeking corporations or their stockholders? The making of them is a subtle and dangerous species of bribery. They make such contributions to gain favor at the hands of public officials whom their money elects. They are buying privileges, to be asked for, or immunity from punishment for crimes committed, or both. Why should an election to the great office of President of the United States be made to depend on such contributions? Why, sir, the mere offer of them should be taken as an insult, and would be by a man possessed of a proper appreciation of the office and its dignity and responsibilities. I ask, Why should we have such contributions? I go further and ask, in the name of the people of this country, Why should we have any contributions at all? Such as these are not the only ones that are made in the interest of the donor. It is a significant fact that, as a rule, the men who are appointed to high offices under the Government are liberal campaign contributors. It is interesting to note that ambassadors to foreign countries have usually donated large sums to the campaign of the President who appointed them. Did they make their contributions in the hope of reward by appointment to office? Let us hope not. Were they appointed because they made them? Maybe not. But the fact that they made them and that they were appointed makes one feel uncomfortable. Some people may contribute to these funds for purely disinterested reasons—love of country, for example. But I am afraid such as these are few in number. The whole system of campaign contributions, let the donations come from whatever source, is an evil. It is a corrupting and degrading influence in politics that should not be allowed. No contributions from any source, other than the State or Nation, should be permitted. To make them should be made a criminal offense. Large campaign funds, however raised, are a dangerous menace to the free institutions of the country. They are worse than useless and unnecessary. They are an obstruction to the free exercise of the franchise and a degrading influence that corrupts the purity of elections. Such information as may be necessary to inform the voters of the issues and the candidates should be furnished at public expense. Nothing should be furnished at private expense. Until campaign contributions and campaign funds are abolished we need not expect purity or honesty in elections. No greater or more wholesome reform could be adopted than that of providing for the carrying on of all political campaigns at public expense and the abolition of the present pernicious system of private contributions.

CANDIDATES FOR PRESIDENT ON THE STUMP.

Mr. President, I refer with regret to another phase of the evil consequences, resulting mainly from the attempt of the President to be reelected. I have had occasion to mention it before. It is the advocacy by the incumbent of his own election. In the late campaign it led to the most shameful campaign of crimination and recrimination between the President and ex-President, one seeking a second and the other a third term, that has ever been witnessed. I hope it may never occur again. On the 1st of July last I offered a resolution in this body calling for an investigation of campaign expenses and other matters. On the same day, in some remarks made by me in support of the resolution, I had this to say:

We have just passed through a campaign in both of the great parties for the nomination of candidates for President of the United States. No American citizen can look back upon it without the blush of shame. Candidates for that great office have gone on the stump and canvassed for their own election. That was shame enough. But one of them was President of the United States and another an ex-President pitted against each other. Their campaign was undignified, malicious, and disgraceful. It was not a discussion of principles or an effort to inform or instruct the people, but consisted of personal attacks and counter attacks, criminations and recriminations. If half the things they said of each other were true, neither of them was fit to be nominated. The whole country was shocked at this unexampled spectacle. The people were humiliated and indignant.

Since then the general election has been held and both of these candidates were overwhelmingly defeated. It was just and right that this should be so. They both deserved defeat for this reason if for no other. The contest between these two men was unfortunate in the extreme, not only to them but to the whole country. They had been warm personal and political friends. As the result of this disgraceful campaign they became

bitter enemies. The conduct of Roosevelt was peculiarly reprehensible. His vicious assaults on the President made it imperative, in his estimation and that of his friends, for the latter to meet on the stump the charges made against him. It was a fatal mistake. It lost him the respect and good will of many good people. He put himself on a level with his detractor, and thus lowered his own dignity and that of his office, to no purpose. How much better it would have been for these men, how much better it would have been for the country, if both of them had been ineligible to reelection.

Mr. President, I do not believe in a candidate for President, whether it be for a first, second, or any other term, going on the stump. It is undignified and beneath the office of any man fit to be President. In the late campaign two of the candidates traveled the country over making speeches, good, bad, and indifferent, most anywhere they could find standing room and to anybody that would stop and listen. They traveled in their private cars, at immense cost, paid out of contributions for campaign purposes. One of them gave time enough from his eager and unseemly quest for office to visit the tomb of Abraham Lincoln and lay a wreath, also paid for out of campaign contributions, on his grave. What a touching and sincere tribute this was to the greatest President this country ever had. Could anyone conceive of Abraham Lincoln, as a candidate for President, traveling the highways and byways extolling his own virtues and appealing for votes for himself or his party? There is no stronger evidence that politics and public estimation of the great office of President have degenerated than such a campaign as this acquiesced in by the people of the country.

PATRONAGE IN THE SOUTH.

Mr. President, turning back for a moment to the unwarranted use of patronage, let us consider briefly what it means in the Republican Party in the South. We all know that in many of the Southern States the officeholders constitute the active workers in the party. They dominate the local conventions. They are made delegates to the national convention, and sometimes hold the balance of power. These men support their chief. It is not a question of fitness with them. They support him for two reasons—because their own continuance in office depends on his reelection, and, besides, they owe him fealty and support. This is so, only in less degree, in every State in the Union. It is literally true beyond doubt that a President may be, and even has been, renominated by his appointees to office. Precisely the same condition will prevail in the Progressive Party if it becomes a political force. It has made no impression on the solid South, and probably will not. If it should ever come into power, it will be represented in most of the Southern States by a handful of officeholders, just as the Republican Party is now.

ALLEGED LIMITATION OF THE RIGHTS OF THE PEOPLE.

This brings me to a consideration of the chief objection urged against this proposed amendment. Several Senators have centered upon it as insurmountable. It is the claim that the amendment will amount to a limitation of the right of the people to choose their President and to determine at the time of his election whether he should be elected to a second or third term. It is worthy of remark that most of the Senators who seized upon this objection were then supporters of a man running for a third term. It would at least be embarrassing to his candidacy for the Senate of the United States to determine that he should be ineligible for even a second term. Notwithstanding this, I am sure Senators urged this objection in perfect good faith and sincerity. It may well be, however, that, unconsciously to them, their judgment was more or less affected by existing conditions. At all events, Mr. President, they have overlooked the very object and purpose of this amendment. Rightly understood and considered the objection has no weight whatever. It assumes that, as things now are, there are no limitations upon the right or obstruction of the exercise of the right of the people to choose their President. If I believed this I would never have offered this resolution and would not now be urging its adoption. I offered the resolution for the very reason that, under the present provisions of the Constitution, the people do not freely choose their Presidents, but are prevented from doing so in great part by the conditions that enable a candidate for a second term to manipulate caucuses and conventions and command the influence and money of great corporations to subvert the will of the people and elect a candidate that the people do not want in spite of them. It is to remove the conditions that enable the interests, machine politicians, and Federal officeholders to thwart the will of the people and at the same time corrupt elections that this amendment is proposed. Do Senators really think it is an unreasonable limitation upon the rights of the people to attempt to rescue their elections from the money changers and corruptionists and place them in their own hands? What chance have the people against the millions of the great corporations, the corrupt political machine operated by them, and the army of Federal officeholders in the effort to select a President who has favored and protected the trusts and appointed the officeholders in his first term? What hope have they against a candidate with an army of Federal officeholders appointed by him supporting his candidacy, with contributions by interested parties of millions of dollars to be used in his election?

It is worse than idle to talk about limiting the rights of the people under such conditions. It is not a limitation of the exercise of their right to elect the man of their choice, but the removal of one of the greatest obstacles to the exercise of that right. That is the one thing that I am standing for in my support of this measure. I do not say that there are not other causes and other forces at work to hinder and prevent the free and independent exercise of the franchise by the voters and to rule politics by money in the hands of the interested and privilege-seeking few. But I do say that the power given a President to dominate the affairs of the party, and, with the help of the selfish and interested few against the will of the disinterested many, to force his nomination and election to a second term is one of the most potent causes for this condition in the politics of the country. It is within the power and jurisdiction of Congress to submit to the people of the country the question whether this change should be made or not. It is for them to say, in a proper case, whether the Constitution shall be amended or not. We, as their representatives, can do no more than to submit it to them for their consideration and action. I do not believe we are under obligation to do so unless there is reasonable ground for its submission to the people. I agree with the Senator from Idaho [Mr. BORAH], who, I regret to say, is opposing the submission of the question, that a Senator is not bound, as a matter of course, to vote in favor of it. He has a right, and it is his duty, to exercise his own judgment as to whether there is any necessity for the amendment. On the other hand, if there is a real and reasonable call for its submission, based upon substantial grounds, and there is a division of opinion as to the necessity for the amendment, I believe it is the duty of a Senator to support it. He does not thereby adopt the amendment but only the resolution submitting it to the people. As one of the voters he could consistently vote against it at the polls notwithstanding the fact that, as a member of this body, he had voted in favor of submitting the question to a vote of the people.

Now, sir, is there reasonable grounds for the submission of this question to a vote of the people? I have tried to point out the evils that result from the candidacy of a President for a second term. They are serious evils that should be overcome. The only way this can be done is by amending the Constitution as proposed. I know, from information received before and since I offered the resolution, that there is a widespread and earnest desire that the amendment should be made. Moved by this wise and forceful public sentiment the now dominant party in the country has declared unqualifiedly in favor of such an amendment. The 1912 platform of the Democratic Party has this plank:

TERM OF PRESIDENT.

We favor a single presidential term, and to that end urge the adoption of an amendment to the Constitution making the President of the United States ineligible for reelection, and we pledge the candidate of this convention to this principle.

This platform has since been indorsed by the vote of the people, and a Democrat, running on that platform and indorsing that plank of it, has been elected President of the United States by the largest electoral vote ever given a candidate of his party. Neither the Republican nor the Progressive Party spoke for or against it, although it was then before the Congress and the country for consideration.

Sir, I submit that no Senator can now justly say that there is no general demand for this amendment. Neither can he, with just reason, stand upon the claim made here that there is no necessity for it. The Senator who endeavors to impress upon the minds of the people of the country that their rights are being encroached upon by such an amendment is, in my judgment, making a grievous mistake. From the point of view of the opponents of the measure it is a debatable question. If it is, then it should be submitted to the people for their determination. The electors of the country have the right to pass upon this question, and that right should not be denied them.

ADVANTAGE OF EXPERIENCE.

Another objection urged to the amendment is that one who has served one term as President is better fitted for a second term than a new man, and that to render him ineligible to a reelection is to deprive the country of his experience and superior ability resulting from his previous service. This is a plausible objection, but it has no support in the lives and experiences of men who have served a second term as President. Can Senators who make this objection point to a single case in the history of the country where the second term of an incumbent of the office was better or more satisfactory, either to him or the country, than the first? The Senator from Idaho [Mr. BORAH] says in support of this contention:

What mistakes were made in the election of Jefferson, Madison, Monroe, Lincoln, Grant, McKinley, and Cleveland to a second term?

But, Mr. President, that is not the question. The question is, Would it have been a mistake to have elected some one else? Does the Senator think that at the time any one of these men was elected another one might not have been chosen with entire safety and without detriment to the interests of the people of the country? I hope the time will never come when there is only one man in our 90,000,000 of people competent to be their Chief Magistrate. There has never been a time when a competent, reliable, and trusted man was not found to succeed the incumbent of a first term. If he who has served a first term is better fitted by experience to further hold the office, he must be still better fitted, for a stronger reason, for a third and a fourth term, and so on indefinitely. It is an argument that will justify a life tenure just as much as a second term.

But, Mr. President, let us look into this phase of the question a little more closely. For the information of the Senate, I submit a list of the Presidents of the United States and their terms of service.

PRESIDENTS AND THEIR TERMS OF OFFICE.

George Washington, April 30, 1789, to March 4, 1797.
John Adams, March 4, 1797, to March 4, 1801.
Thomas Jefferson, March 4, 1801, to March 4, 1809.
James Madison, March 4, 1809, to March 4, 1817.
James Monroe, March 4, 1817, to March 4, 1825.
John Quincy Adams, March 4, 1825, to March 4, 1829.
Andrew Jackson, March 4, 1829, to March 4, 1837.
Martin Van Buren, March 4, 1837, to March 4, 1841.
William Henry Harrison, March 4, 1841, to April 4, 1841.
John Tyler, April 6, 1841, to March 4, 1845.
James K. Polk, March 4, 1845, to March 4, 1849.
Zachary Taylor, March 4, 1849, to July 9, 1850.
Millard Fillmore, July 10, 1850, to March 4, 1853.
Franklin Pierce, March 4, 1853, to March 4, 1857.
James Buchanan, March 4, 1857, to March 4, 1861.
Abraham Lincoln, March 4, 1861, to April 15, 1865.
Andrew Johnson, April 15, 1865, to March 4, 1869.
Ulysses S. Grant, March 4, 1869, to March 4, 1877.
Rutherford B. Hayes, March 5, 1877, to March 4, 1881.
James A. Garfield, March 4, 1881, to September 19, 1881.
Chester A. Arthur, September 20, 1881, to March 4, 1885.
Grover Cleveland, March 4, 1885, to March 4, 1889.
Benjamin Harrison, March 4, 1889, to March 4, 1893.
Grover Cleveland, March 4, 1893, to March 4, 1897.
William McKinley, March 4, 1897, to September 14, 1901.
Theodore Roosevelt, September 14, 1901, to March 4, 1909.
William H. Taft, March 4, 1909, to March 4, 1913.

PRESIDENTS WHO SERVED TWO FULL TERMS.

George Washington, Thomas Jefferson, James Madison, James Monroe, Andrew Jackson, Ulysses S. Grant, and Grover Cleveland.

Theodore Roosevelt served out the second term of William McKinley and was elected to and served another full term.

The following Presidents were elected a second time but did not live out the term: Abraham Lincoln, William McKinley.

VICE PRESIDENTS SUCCEEDING TO THE OFFICE.

John Tyler, Millard Fillmore, Andrew Johnson, Chester A. Arthur, and Theodore Roosevelt became President by succession to the office as Vice President on the death of the President, and of this number Theodore Roosevelt was elected to a second term.

Thus it will be seen that we have had 26 Presidents. Of this number only 10 were elected the second time, and 2 of this number lost their lives early in the second term. Therefore there are but 8 Presidents whose second terms of service can be compared with the first for efficiency. Can the Senator from Idaho put his finger on a single one of these who can justly be said to have rendered better service to his country in his second term than in the first? There may have been some particular act done or service rendered during a second term that might be especially commended, but doubtless the same service would have been rendered in the first term if opportunity had offered, or by his successor in his first term if one had been chosen.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. OLIVER in the chair). Does the Senator from California yield to the Senator from Idaho?

Mr. WORKS. I do.

Mr. BORAH. I have no doubt in the world that, under the peculiar circumstances, the second term of Washington was of far more importance to the country, and of far more benefit, than would have been the first term of any other man who could have been elected at that time.

Mr. WORKS. I am coming to that in a moment. There is not the slightest ground, I am persuaded, for the claim that any advantage ever accrued to the country by the election of any man to a second term. An exception may possibly be made in the case of Washington, not for the reason urged by Senators of greater efficiency by reason of previous service, but because the people believed that he was the one man to lead the Nation in its infancy. Perhaps this was only a fancy. There were then many competent men, of lofty character, superior ability, and exalted patriotism to take his place; men under whose guidance the Government would have gone on as well as under Washington and as it did when, in his wisdom and patriotism, he declined to serve further in that capacity. This objection is more imaginary than real. It has no tangible facts to support it. And if it were true that the experience of one term would better enable the incumbent to perform the duties of the second, the evils resulting from a second election, some of which I have endeavored to bring to the attention of the Senate, so far outweigh the advantages claimed for a second term of service that the objection becomes insignificant in comparison.

Mr. President, it will be impossible for me to conclude my remarks within the time limited. I ask to suspend at this point, and give notice that on to-morrow, immediately after the routine morning business, I shall continue my address.

The PRESIDING OFFICER (Mr. OLIVER in the chair). The Senator from South Dakota [Mr. CRAWFORD] has given notice——

Mr. TOWNSEND. Mr. President, I ask that the omnibus claims bill be now taken up. I do not know whether it is necessary to make that motion.

Mr. GALLINGER. Mr. President, pending that, I make the point of order that there is no quorum of the Senate present.

The PRESIDING OFFICER. The Senator from New Hampshire suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Clarke, Ark	Martine, N. J.	Richardson
Bacon	Davis	Massey	Smith, Mich.
Bankhead	Fletcher	Myers	Smoot
Borah	Gallinger	Oliver	Stephenson
Brandegee	Gronna	Overman	Sutherland
Brown	Kenyon	Page	Thornton
Burnham	Lea	Perkins	Townsend
Chilton	Lodge	Perky	Warren
Clapp	McLean	Poindexter	Works
Clark, Wyo.	Martin, Va	Reed	

The PRESIDING OFFICER. Thirty-nine Senators have answered to their names. A quorum of the Senate is not present.

Mr. SMOOT. I ask that the names of the absentees be called.

The PRESIDING OFFICER. The Senator from Utah asks that the names of the absent Senators be called. The names of the absentees will be called.

The Secretary called the names of the absent Senators, and Mr. BRISTOW, Mr. BRYAN, Mr. CRAWFORD, Mr. CURTIS, Mr. HITCHCOCK, Mr. MCCUMBER, Mr. O'GORMAN, Mr. POMERENE, Mr. SIMMONS, Mr. SMITH of Arizona, Mr. SMITH of Georgia, and Mr. SWANSON answered to their names.

Mr. KENYON. I desire to announce that my colleague [Mr. CUMMINS] is detained at his home by the serious illness of his father. I make the announcement to stand for the day.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 51 Senators have responded to their names. A quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Assistant Sergeant at Arms (Mr. Cornelius) made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will call the name of any Senator who has not yet taken the oath.

The Secretary called the name of Mr. CHILTON, who advanced to the desk, and the oath was administered to him by the President pro tempore.

The PRESIDENT pro tempore. The Secretary will read the Journal of the proceedings of the last sitting of the Court of Impeachment.

The Secretary read the Journal of Saturday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. Manager CLAYTON. Mr. President, I should like for the witness, John Henry Jones, to be called at this time.

The PRESIDENT pro tempore. The witness will be called.

The ASSISTANT SERGEANT AT ARMS. John Henry Jones! John Henry Jones! John Henry Jones! Appear and answer summons.

Mr. Manager CLAYTON. Mr. President, I ask for present consideration of the order which I send to the desk. I ask that the order be read, and then I will make a statement to the Senate.

The PRESIDENT pro tempore. The Secretary will read the order as requested.

The Secretary read as follows:

Ordered, That an attachment do issue, in accordance with the rules of the Senate of the United States, for one John Henry Jones, a witness heretofore duly subpœnaed in this proceeding, on behalf of the managers of the House of Representatives.

Mr. Manager CLAYTON. Mr. President, I desire to show by the Sergeant at Arms that that witness has been duly subpœnaed; that he is not present; and that he has not been present to answer, as the subpœna requires.

The PRESIDENT pro tempore. The Sergeant at Arms will produce the officer who made the service.

James K. Julian, having been previously sworn, appeared and testified as follows:

The PRESIDENT pro tempore. What is your name?

Mr. JULIAN. J. K. Julian.

The PRESIDENT pro tempore. What office have you been performing? What is your position?

Mr. JULIAN. I am clerk in the office of the Sergeant at Arms of the Senate.

The PRESIDENT pro tempore. And you were deputized——

Mr. JULIAN. Deputized.

The PRESIDENT pro tempore (continuing). To serve certain subpœnas?

Mr. JULIAN. Yes, sir.

The PRESIDENT pro tempore. State whether or not you served the witness, John Henry Jones?

Mr. JULIAN. I did.

The PRESIDENT pro tempore. When?

Mr. JULIAN. November 30, at 11.20 in the morning, in the courthouse at Scranton, Pa.

The PRESIDENT pro tempore. Personally?

Mr. JULIAN. Personally.

The PRESIDENT pro tempore. The Sergeant at Arms will state whether or not the witness has appeared.

Mr. E. Livingstone Cornelius appeared.

The PRESIDENT pro tempore. Mr. Cornelius, has this witness appeared?

Mr. CORNELIUS. He has not.

The PRESIDENT pro tempore. He has not been here at all?

Mr. CORNELIUS. He has not reported to us.

Mr. Manager CLAYTON. I respectfully submit the order for the consideration of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Possibly it might be well to show from the subpœna at what date the witness was required to be present.

Mr. Manager CLAYTON. I can state it, but I think the suggestion of the Chair is better.

The PRESIDENT pro tempore. When was Mr. Jones subpœnaed to appear?

Mr. CORNELIUS. He was subpœnaed to appear on the 3d day of December.

The PRESIDENT pro tempore. Have you the return of the subpœna?

Mr. CORNELIUS. I have.

The PRESIDENT pro tempore. Does the copy of the subpœna which you hold in your hand show on what date he was summoned to appear?

Mr. CORNELIUS. December 3.

The PRESIDENT pro tempore. He was ordered to appear on the 3d day of December?

Mr. CORNELIUS. Yes, sir.

The PRESIDENT pro tempore. Now, Mr. Manager CLAYTON.

Mr. Manager CLAYTON. I ask the adoption of the order which was read from the desk.

The PRESIDENT pro tempore. The Chair will inquire whether it is necessary to insert in the order the fact that the witness Jones has not appeared. The order does not state that fact.

Mr. Manager CLAYTON. Following action in like cases——

The PRESIDENT pro tempore. It is unnecessary?

Mr. Manager CLAYTON. I think it is unnecessary.

The PRESIDENT pro tempore. The question is on the adoption of the order submitted by the manager on the part of the House of Representatives. [Putting the question.] The "ayes" have it, and the order is adopted. The Secretary will see that the proper attachment is prepared and delivered into the hands of the Sergeant at Arms for this purpose. The managers will proceed.

Mr. Manager STERLING. Will you have Mr. Snyder called?

TESTIMONY OF G. F. SNYDER.

G. F. Snyder, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) What is your name, and where do you live?—A. G. F. Snyder; 1735 New Hampshire Avenue, Washington, D. C.

Q. What official position have you here?—A. I am clerk of the Commerce Court.

Q. How long have you been clerk of that court?—A. Almost two years; since its organization.

Q. And you have been clerk continuously since you were appointed, two years ago?—A. I have.

Q. Have you the briefs and petitions filed in cases of the Baltimore & Ohio Railroad Co. against The Interstate Commerce Commission, Nos. 38 and 39?—A. I have; except that the case was brought against the United States and not against the commission.

Q. What case do you refer to as against the United States?—A. Both of them.

Q. What was the popular title of the case which is marked No. 38, the Baltimore & Ohio Railroad Co. and others against The Interstate Commerce Commission?—A. It was known as the Sugar Lighterage case.

Q. And generally called the Lighterage case?—A. By most people; yes.

Q. Look at the eight briefs which I hand you, and state if they are the printed briefs which were filed by the several parties in that case?—A. (After examination.) They are.

Q. Are those briefs the briefs of the petitioners or of the defendants?—A. (After examination). The briefs for both sides.

Q. Are those all of the printed briefs that were filed in the Commerce Court?—A. They are.

Q. I will ask you if the title of the case on the back of each of those briefs is the same?—A. Practically. In some cases it is abbreviated.

Q. I wish you would read the title of the different ones. Those that have the same titles you need not repeat, but read the different forms of the title of the case as they appear on those several briefs.—A. The title on the brief for the petitioners on the motion for temporary injunction reads "In the United States Commerce Court, the Baltimore & Ohio Railroad Co., the Central Railroad Co. of New Jersey, the Delaware, Lackawanna & Western Railroad Co., the Erie Railroad Co., the New York, Ontario & Western Railroad Co., the Pennsylvania Railroad Co., petitioners, against the United States of America, respondents."

Q. Whose brief is that?—A. The brief of the petitioners on the motion for temporary injunction.

Q. Read the title on the back of the brief in the other cases, except where it is the same as that you have read.—A. On the brief which is entitled "Points submitted on behalf of the defendant, the Federal Sugar Refining Co.," the title is "In the Commerce Court of the United States. Baltimore & Ohio Railroad Co. et al., petitioners, against United States, respondent. Federal Sugar Refining Co., intervening party, defendant."

In the brief of the United States the title is "In the United States Commerce Court. Baltimore & Ohio Railroad Co. et al., petitioners, against The United States, respondent."

In the brief for the Jay Street Terminal and Arbuckle Bros., interveners, the title is "In the Commerce Court of the United States. Baltimore & Ohio Railroad Co. and others, petitioners; Jay Street Terminal and Arbuckle Bros., interveners, against The United States, respondent. Federal Sugar Refining Co. and Interstate Commerce Commission, interveners."

On the brief for the Brooklyn Eastern District Terminal the title is "In the Commerce Court of the United States. Baltimore & Ohio Railroad Co. et al., petitioners, against The United States, respondent." Brief for the Jay Street Terminal and Arbuckle Bros., interveners—I may say that from now on these briefs have been filed within the last month or two in the Commerce Court.

Q. Have you read all the briefs that were filed prior to August 29, 1911?—A. I have.

Q. Those that were filed subsequent to that date, then, you need not read. Have you read the title to the cases on the back of all the briefs that were filed prior to August 29, 1911?—A. I have.

Q. I will ask you if in the title of that case, in any of those briefs, the case is designated as the Lighterage case.—A. It is not.

Q. Does the word "lighterage" appear on the back of any of the briefs in that case?—A. It does not.

Q. Look at this volume, marked "38," and state what that is.—A. That is the original petition for injunction filed in the Commerce Court April 12, 1911.

Q. What was the date it was filed?—A. April 12, 1911.

Q. That is the date on which that case came into the Commerce Court?—A. It is.

Q. Does the word "lighterage" appear in the title of the case on the back of that petition?—A. It does not.

Q. Is it designated as the lighterage case anywhere on the back of the petition?—A. It is not.

Q. What is this volume, marked "Exhibit 24" [indicating]?—A. It is the printed record as transmitted to the Supreme Court by the clerk of the Commerce Court, printed by the clerk of the Supreme Court.

Q. And when was that printed?—A. I do not know. It must have been printed subsequent to the date on which it was filed, which, it is stated, was July 14, 1911.

Q. That is the transcript of the record from the Commerce Court in No. 38, known as the Lighterage case?—A. It is.

Q. Does the word "lighterage" appear on the back of that transcript anywhere?—A. It does not.

Q. Is the case designated as the Lighterage case anywhere on the back of the transcript?—A. It is not.

Q. Look at this volume, marked "Exhibit 26." Let me state for the benefit of the record, Mr. President, that the numbers which I have given are the numbers of the exhibits as they were presented to the Judiciary Committee. I will say that the clerk desires to take those, as there are files in the court, and that is the reason I am proving what is contained on the cover, so that he can take them now. What is volume 26?—A. This is a printed record of the transcript as sent by the clerk of the Commerce Court to the Supreme Court.

Q. Of 38?—A. No; of the Commerce Court, No. 39.

Q. That is not the Lighterage case?—A. It is not.

Q. What was 39?—A. 39 was a case popularly known as the Fuel Coal case.

Q. Just read the title to that case, giving the names of all the parties in interest.—A. As it appears on this printed transcript the title is, "Interstate Commerce Commission and the United States, appellants, against the Baltimore & Ohio Railroad Co., the Pennsylvania Railroad Co., et al."

Q. Does it not name the Erie Railroad Co. in the title?—A. Not on this transcript.

Q. Who are the et al.?—A. I should have to look at the original petition in order to state that.

Q. This volume is marked "39," and this one also is marked "39." Please state what the first volume is.—A. The first volume is the original petition filed in the Commerce Court on April 27, 1911, in the Fuel Coal case. The second volume is the brief for the Baltimore & Ohio Railroad and others, petitioners.

Q. The first one is the original petition?—A. It is.

Q. Filed April 27?—A. Yes, sir.

Q. Ascertain from that, if you can, the names of all the parties interested in that suit.—A. I will read them, if you wish.

Mr. Manager STERLING. Yes, sir.

A. The petitioners were the Baltimore & Ohio Railroad Co.; the Pennsylvania Railroad Co.; the Pennsylvania Co.; Buffalo, Rochester & Pittsburgh Railway Co.; the Pittsburgh, Cincinnati, Chicago & St. Louis Railway Co.; the Wheeling & Lake Erie Railroad Co., and B. A. Worthington, receiver thereof; the Lake Shore & Michigan Southern Railway Co.; the Pittsburgh & Lake Erie Railroad Co.; Buffalo & Susquehanna Railway Co., Harry I. Miller, receiver; Buffalo & Susquehanna Railway Co.; and here inserted in pen and ink is the Erie Railroad Co.; next the Western Maryland Railway Co.; the Pittsburgh, Shawmut & Northern Railroad Co., and Frank Sullivan Smith, receiver thereof.

Q. You say the Erie Railroad Co. is written in in ink in the title?—A. It is.

Q. I wish you would look at the body of the petition and see if it is designated as a party there.—A. This is in the Fuel case, you understand.

Q. It is No. 39?—A. Yes, sir. [The witness examined the volume.]

Q. Well, the Erie Railroad Co. was a party to that suit, was it not?

Mr. Manager WEBB. I think the respondent admits it in the pleading.

Mr. WORTHINGTON. I was going to say that so far as all this is concerned, it is admitted in the answer.

The WITNESS. I do not see the name of the Erie Railroad Co. in the petition. I can only say from the documents before me——

Q. By Mr. Manager STERLING.) It is written in the title?—A. Yes, sir; it is.

Mr. Manager CLAYTON. And reference is made to the parties, Judge.

Mr. Manager STERLING. Yes. [To the witness:] Look at this document.

The witness proceeded to examine the document.

Mr. Manager STERLING (to the Secretary). I wish you would mark that.

The pamphlet was marked "Exhibit No. 23."

Q. (By Mr. Manager STERLING.) Have you the brief in case 39?—A. I have the brief of the petitioners.

Q. I wish you would read the title on the back of that brief.—A. In the Commerce Court of the United States, in equity, the Baltimore & Ohio Railroad Co. et al., petitioners, against The United States, respondent.

Q. Look at this, Exhibit 23, which I hand you, and state what it is.—A. This is the docket of the United States Commerce Court for the April session of 1912.

Q. Are cases 38 and 39 in that docket?—A. They are.

Mr. WORTHINGTON. 1911.

Mr. Manager STERLING. 1911.

The WITNESS. This is 1912 which you handed to me.

Q. (By Mr. Manager STERLING.) What was the last docket printed by the court prior to the October session, 1911?—A. One which showed the calendar to be called March 24, 1911.

Q. Is it the docket of 1911 or 1912 that is before you?—A. 1912, sir.

Q. Have you the docket for the April session of 1911?—A. After the April session of 1911 the next session for which we had printed the docket was the October session, 1911.

Q. Then the first docket which your court had printed after cases 38 and 39 came into the Commerce Court was the October session, 1911?—A. 1911.

Q. Are those the cases in that docket?—A. They are.

Q. When was that docket printed?—A. It was printed about two weeks before October 2, 1911.

Q. About the middle of September, 1911?—A. About then is the time we have our dockets printed.

Q. Look at the title to case 38 and see if the case in that docket is designated as the Lighterage case.—A. It is not in the title.

Q. Just read the title as designated in that docket.—A. No. 38 is designated as the Baltimore & Ohio Railroad Co. et al., petitioners, Brooklyn Eastern District Terminal, John Arbuckle, and William A. Jamison, intervening petitioners, against The United States, respondent, Interstate Commerce Commission, Federal Sugar Refining Co., intervening respondents. I might say under "Remarks" on this docket, opposite "Case," it is said it will be in order "to set aside an order of the Interstate Commerce Commission affecting lighterage charges on sugar in and near New York Harbor."

Q. Is that the first time in any brief or docket or calendar or petition in printed form the word "lighterage" appears in or in connection with the title to case 38?—A. It is, in printed form.

Q. And that was not printed until after the 29th of August, 1911?—A. That is correct.

Q. What page is that on?—A. Page 12 of the docket for the October session, 1911.

Mr. Manager STERLING. We offer Exhibit 23, so far as it relates to cases 38 and 39. I will offer it a little later. (To the witness.) No. 38 came into the Commerce Court on the 12th day of April, 1911?

A. April 12, 1911.

Q. No. 39 came into that court the 27th of April?—A. 1911.

Q. When were the cases argued orally in the Commerce Court?—A. The Sugar Lighterage case was first argued on petition for preliminary injunction May 17, 1911.

Q. And the other case?—A. The Fuel and Coal case first came up on motion of the Interstate Commerce Commission to strike out, and was heard on that motion on May 19, 1911.

Q. When were those cases taken by the court for consideration after those arguments?—A. The Sugar Lighterage case was taken under consideration by the court May 18.

Q. That is No. 38?—A. No. 38. Thirty-nine, the Fuel and Coal case, the court did not take under consideration, but announced from the bench that the motion of the Interstate Commerce Commission to strike out would be sustained.

Q. Those cases have been pending on the Commerce Court docket from the time they were filed until the present time?—A. In a way. They were both appealed from the preliminary order of the Commerce Court, and being in the Supreme Court on appeal, of course nothing could be done in the Commerce Court.

Q. But that is not my question. Did the titles appear on the docket of that court from that time until the present time?—A. They did.

Q. Do you know what case in the Commerce Court is generally known as the Meeker case?—A. I do.

Q. Have you the title of that case there?—A. I have not.

Q. What was the title?—A. As I remember it, it was the Lehigh Valley Railroad Co. against The United States.

Q. The Lehigh Valley Railroad Co. was a party to that suit, was it?—A. It was.

Q. And Mr. Meeker was an intervener?—A. Yes.

Q. When was that case filed?—A. I have not the original petition here, and I can not say.

Q. Could you tell from memory about when it was filed?—A. No; I can not. Of course it was subsequent to this case, being a later number, but it might have been——

Q. Does it appear in any of these dockets?—A. No; these are my rough notes I am reading, taken in the court room.

Q. Look at this docket here [presenting paper] and see if it appears in any of these dockets.—A. (Examining.) The docket of the February session, 1912, states that the Lehigh Valley Railroad case, known as the Meeker case, was filed September 29, 1911.

Q. How long did it pend in the court?—A. I am afraid I can not tell that.

Q. Is it on the docket of the Commerce Court now?—A. No; it was dismissed at the request of the petitioner.

Q. When was it dismissed?—A. It was dismissed some time between the April session of 1912 and the June session of 1912.

Q. On motion of the petitioner, the Lehigh Valley Railroad Co.?—A. As I remember it.

Q. When was it argued in the court?—A. This case, known in the Commerce Court as No. 49, was heard on petition for preliminary injunction on October 10, 1911.

Mr. Manager STERLING (to Mr. Worthington). Take the witness.

Mr. WORTHINGTON. Mr. President, it seems to me it would be very much to the advantage and convenience of all Senators and counsel and managers if we should have this witness furnish a copy of the docket entries in each of these cases to be put into the record instead of having to go through his testimony to find out certain of these dates.

The PRESIDENT pro tempore. That is a matter of agreement between the counsel and the managers.

Mr. WORTHINGTON. I ask to have it furnished and put in the record.

Mr. Manager STERLING. We have no objection to it at all. Mr. Worthington can have it done as well as we. I will ask the witness to furnish it and send it to Mr. Manager CLAYTON. Will it be sufficient if he will send it to Mr. Manager CLAYTON?

Mr. WORTHINGTON. That is, in each of these three cases; a certified copy of the docket entry in those cases.

The WITNESS. And filing?

Mr. WORTHINGTON. Certainly. [To the witness:] I want to ask you one or two questions.

Q. (By Mr. WORTHINGTON.) Mr. Snyder, do the briefs show the dates they were filed in your court?—A. They do.

Q. That will appear from these docket entries?—A. It will.

Q. If I understand what you have testified to in regard to the Lighterage cases it means this—I wish you would correct me if I am wrong—that there were no documents filed in what is called the Lighterage case in which the word "lighterage" appeared until September. What was the date?—A. The document upon which the word "lighterage" appeared was not a paper that was filed. It was a docket printed by the court.

Q. That was printed just before the beginning of the October term, was it?—A. Yes; 1911.

Q. The court had a recess from May 29 to October 2 or 3, 1911?—A. Yes; as I remember it.

Q. Do I understand you correctly as saying that the docket was printed two weeks or so before the court met in October?—A. It was.

Q. And were not copies of those dockets sent to the judges?—A. Immediately upon being received from the printer.

Q. So, in the ordinary course of things Judge Archbald would have received a copy of this docket or a list of cases with the word "lighterage" appearing along about the middle of September, 1911?—A. He would.

Q. Will you look at this paper [presenting paper] and tell me whether that is a copy of the opinion of the Supreme Court of the United States in the Lighterage case as it came to your court after the Supreme Court had acted upon it?—A. (After examining.) It is.

Mr. WORTHINGTON. I should like to have that marked, Mr. President, for identification.

The PRESIDENT pro tempore. It will be marked in order.

Mr. WORTHINGTON. It will be marked "H."

The SECRETARY. United States Senate Exhibit H.

Q. (By Mr. WORTHINGTON.) I should like for you to look at this paper [presenting paper] and tell me if that is a copy showing the final action taken in the Lighterage case by the Commerce Court.—A. (Examining.) To date.

Q. The final action of the Commerce Court after the case came back from the Supreme Court?—A. It is.

Mr. WORTHINGTON. I should like to have that marked, Mr. President, for identification.

The PRESIDENT pro tempore. It will be marked.

The SECRETARY. United States Senate Exhibit I.

Mr. Manager STERLING. I should like to see them, Mr. Manager.

Mr. WORTHINGTON. Certainly. I am not offering them in evidence now.

Mr. Manager STERLING. I may want to cross-examine the witness.

Mr. WORTHINGTON. Certainly. I should like to see the petition in which the word "Erie," or the description of the Erie, was inserted in handwriting, as I understood you. Do you recognize the handwriting in which the words "Erie Railroad Co." stand in this caption?

A. I do not.

Q. Have you examined the paper itself to be sure that the Erie Railroad is not a party otherwise than its name is written in the caption?—A. No; I have not. I did not have time to read carefully the body of it.

Mr. WORTHINGTON. I may say, Mr. President, that on examination I find that the Erie Railroad Co. is a party in the petition.

Mr. Manager STERLING. We know it is in the body of the paper.

Mr. WORTHINGTON. The witness was in error about it in stating it was not there. Perhaps the witness had better correct that now. [To the witness:] State if from closer examination you find the Erie is a party in the body of the paper.

A. (Examining.) I state upon closer examination of case No. 39 the Erie Railroad Co. is a party printed in the body of the petition.

Mr. WORTHINGTON. That is all. Mr. President.

The PRESIDENT pro tempore. Are there any other questions to be asked the witness?

Mr. Manager STERLING. Mr. President, I desire to offer in evidence the docket of the October session, 1911, which the witness read, in which the word "lighterage" appears in connection with the order made in that case. I ask to have it marked Exhibit 24.

Mr. Manager CLAYTON. The October docket.

Q. (By Mr. Manager STERLING.) This Exhibit 24 is the docket from which you read the order in which the word "lighterage" was used in connection with case 38, is it not?—A. It is.

Q. And that is the docket of the United States Commerce Court, October session, 1911?—A. It is.

Mr. WORTHINGTON. Let me look at that. [The paper was handed.]

Q. (By Mr. Manager STERLING.) Exhibit H you say is the opinion of the court in case 38, known as the lighterage case?—A. (After examining.) The opinion of the Supreme Court.

Q. What is the date of that?—A. June 10, 1912.

Q. On what question was the decision of the Supreme Court with reference to those cases?

Mr. WORTHINGTON. I should think that would appear from the decision.

Q. (By Mr. Manager STERLING.) Did it go to the Supreme Court on its merits?—A. It did not.

Q. Then during all that time, while it was in the Supreme Court on this one question, it was still pending on its merits in the Commerce Court, was it not?—A. It was.

Q. (Presenting paper.) State what that is.—A. (Examining.) Exhibit I, the final order of the United States Commerce Court in the Sugar Lighterage cases.

Q. What is the date of that?—A. November 15, 1912.

Mr. Manager STERLING. I believe that is all to be asked this witness.

Mr. WORTHINGTON. That is all. Let me have those two papers.

The PRESIDENT pro tempore. The witness may retire.

Mr. Manager STERLING. Leave Nos. 24 and 23, Mr. Snyder.

The WITNESS. Very well.

TESTIMONY OF A. F. GALLAGHER.

Mr. Manager STERLING: Let Mr. Gallagher be called.

A. F. Gallagher appeared.

The PRESIDENT pro tempore. State your name and residence.

Mr. GALLAGHER. A. F. Gallagher; 131 A Street NE., this city.

Having been duly sworn, A. F. Gallagher was examined, and testified as follows:

Q. (By Mr. Manager STERLING.) What is your business, Mr. Gallagher?—A. Shorthand reporter.

Q. In what court do you report?—A. In various courts; in the district court and the Interstate Commerce Commission.

Q. Do you report in the Commerce Court?—A. I have not reported in the Commerce Court this session, but I did for two years.

Q. Did you report in the Commerce Court October 2, 1911?—A. Yes, sir.

Q. I wish you would look at this paper [presenting paper] and state if it is a transcript of notes which you took upon that date with reference to a case in the Commerce Court.—A. (Examining.) Yes, sir; I recognize it.

Q. Did you make that transcript?—A. Yes, sir.

Q. Is it correct?—A. Yes, sir.

Q. It is a correct transcript of the stenographic notes which you took?—A. Yes, sir.

Mr. Manager STERLING. I think that is all I desire to ask of this witness.

Mr. WORTHINGTON. We have nothing to ask him.

Mr. Manager STERLING. We offer this transcript.

Mr. WORTHINGTON. There is no objection to that.

Mr. Manager STERLING. We ask the clerk to read it, beginning at this point [indicating].

Mr. Manager CLAYTON. Mr. President, the witness may be excused.

Mr. WORTHINGTON. Perhaps if the transcript is to be read, he might as well stay. Some questions might be suggested by the contents of the paper.

The PRESIDENT pro tempore. Take your seat, Mr. Gallagher. The Secretary will read the transcript.

The Secretary read as follows:

Judge KNAPP. No. 38, Baltimore & Ohio Railroad Co. et al. v. United States, the Interstate Commerce Commission, and others.

Mr. SWIFT. That case, I understand, is ready. The preliminary injunction has been granted in that case, and the motion of the defendant to dismiss has been denied. The Government has filed an answer, as has also the sugar company, but the Interstate Commerce Commission has not filed any. It is the desire of the petitioners to bring that case on for final hearing and take such action as may be necessary and such testimony as the court may think proper in the case. An appeal has been taken from the order granting the preliminary injunction in the case to the Supreme Court; but it does not seem to us that that should interfere with the case coming up for argument in this court.

Judge ARCHBALD. When was the answer filed?

Mr. SWIFT. I can not give you the date when it was filed; but it was some time ago, your honor.

Judge ARCHBALD. Has anything been done on that toward taking testimony?

Mr. SWIFT. No.

Judge ARCHBALD. You say the case is ready for hearing?

Mr. SWIFT. It is ready; and we ask for the privilege of taking testimony in the case.

Judge KNAPP. The petitioner, then, desires to take testimony?

Mr. SWIFT. Yes.

Mr. ESTERLINE. If your honor pleases, the case has gone to the Supreme Court of the United States on the old record; the appeal of the Southern Railway Co., the intervention of Arbuckle and Jamison, the intervention of the Brooklyn Eastern District Terminal as complainant against the Government, and the intervention of the Interstate Commerce Commission, and the intervention of the Federal Sugar Refining Co. Their pleadings are full and complete in all respects. The injunction having been issued on the face of that record, that whole record, which has gone to the Supreme Court, and not a word of which is disputed as it stands before the Supreme Court, and the appeal having been taken from the preliminary injunction, it is the idea of the Government that the whole case made by the petitioners and the intervenors stands squarely before the court undisputed and undenied, and the Supreme Court's decision on that preliminary injunction will dispose of that case. If that injunction is affirmed, I do not know what could be done in the nature of taking testimony. If it is reversed, I do not know what could be done in the nature of taking testimony. If it is started in to take testimony now, or to hear the case, the Supreme Court may decide it on the question of law, and the time and labor would simply be in the air. The Government expects to present that case squarely on the record made by their pleadings, which are not denied, and all the testimony that they could take for the rest of the winter would not make that any stronger for the purpose of the injunction. It is the contention of the Government that there is no testimony to be taken, and the decision of the Supreme Court will be final.

Judge ARCHBALD. Does the other side coincide with you on that?

Mr. SWIFT. No; they do not. There is an assignment of certain errors made, which does not go to the merits of the case at all. A reversal which would prevent the preliminary injunction by the Supreme Court on a technical ground would leave us without an injunction, and they would compel us to obey its order pending the final determination of the case.

Mr. ESTERLINE. If your honors please, if there were reversals on any such ground as that this court could either issue another injunction with the findings of facts, on a day's notice, or take such action as it chose in issuing the injunction.

Judge ARCHBALD. If the Supreme Court should say it would not interfere with the exercise of the discretion of the court——

Mr. ESTERLINE. Very well, then, I think it is up to us. If they hold that this court has the discretion in the matter, we would have to come to this court to determine what its opinion was, and in that case they are not in any way prejudiced.

Mr. DYKMAN. Is there not another course by which the Government might withdraw the technical assignments of error to which Mr. Swift has referred? There are more than one; there are three or four assignments by the commission and at least three assignments by the Attorney General. We are here answering because there has been an answer interposed, and on this calendar we are here to dispose of the issues joined by the answer.

Judge ARCHBALD. Your application now is for some opportunity for a hearing?

Mr. DYKMAN. Yes; we want to come to a decision as to the merits, which will be final. If the decision of the Supreme Court would be final and would bring an end to the litigation, we will be better satisfied.

Judge KNAPP. It is understood that you desire to take some further testimony?

Mr. SWIFT. Yes, sir.

Judge KNAPP. Can you indicate the nature of the testimony and the length of time which will be required to take it?

Mr. SWIFT. I think that depends altogether on whether our opponents would enter into a stipulation for the testimony taken before the commission. That would take only a short time.

Mr. ESTERLINE. I do not want to state now what we would or would not stipulate. Our position is to follow the practice of proceedings in the circuit court of appeals. It would be a hardship for us to take a lot of testimony in this case while preparing for argument on other cases before the Supreme Court. It would seem to be the better practice to see what the Supreme Court is going to decide, because I can not possibly see how it would prejudice the petitioners. If the court affirms that injunction, they are not hurt. If it is reversed because your honors did not make a finding of fact, it would not take long to make one.

Judge ARCHBALD. If they want to hear all the case, how can you deny it?

Mr. DYKMAN. Mr. Esterline said he was not prepared to answer now whether he would stipulate that evidence; but I am not prepared to say that I would not, for expedition, stipulate that record to save time.

Mr. ESTERLINE. The most you could do is to prove the allegations of your bill. You could not go beyond that. Now, they stand undisputed before the Supreme Court.

Judge KNAPP. Has there been an answer filed in this case?

Mr. ESTERLINE. Not before it went to the Supreme Court.

Judge KNAPP. It appears to me that if the petitioners are desirous of taking this course in this case they are entitled to do so, and therefore the application to take further testimony will be granted. We suggest that you confer with each other, and if that results in an agreement to stipulate the present record of the testimony taken before the Interstate Commerce Commission, it may obviate the necessity of taking further testimony, or at least the oral examination of witnesses, and you may appear in court to-morrow morning and we will hear what you have agreed upon and then decide whether the testimony will be taken, if any is to be taken, by a member of the court or by an examiner, and will perhaps fix the time and place for taking that testimony. Would you be willing to take it here in Washington?

Mr. DYKMAN. Would it be possible to have a longer time than to-morrow morning, in order that I may be able to consult Mr. Brownell? I should like to submit any result that we would reach to him.

Judge KNAPP. We will only say to you that the application for the taking of testimony will be granted, and at the opening of court to-morrow morning we will make some announcement as to whether that testimony will be taken by an examiner or a member of this court.

Q. (By Mr. Manager STERLING). Mr. Gallagher, who is Mr. Swift?—A. Mr. Swift was the representative of the Baltimore & Ohio Railroad Co.

Q. He was one of the attorneys for the petitioners in case 38?—A. Yes, sir.

Mr. Manager STERLING. That is all.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Who was Mr. Esterline?—A. Mr. Esterline represented the United States.

Mr. WORTHINGTON. That is all.

The PRESIDENT pro tempore. If there are no further questions, the witness may retire.

The witness thereupon retired.

Mr. Manager STERLING. Mr. President, we offer the evidence of G. A. Richardson taken before the Judiciary Committee of the House, and ask to have it read because Mr. Richardson is sick and unable to attend.

Mr. WORTHINGTON. Mr. President, I should like at this point to repeat what I think I said the other day, and that is that we have agreed that this may be read, but we do not waive any objection to any part of it for materiality or competency, nor do we agree that the managers have any right to read here testimony taken before the Judiciary Committee. They do it now by our consent, but, of course, the question of whether they may read without it——

The PRESIDENT pro tempore. It is done with your consent.

Mr. WORTHINGTON. It is done with our consent. The question of whether they have a right to read testimony given there without our consent is not to be prejudiced by our consenting in this instance.

Mr. Manager CLAYTON. Therefore we do not ask consideration of a moot question, Mr. President.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

TESTIMONY OF MR. G. A. RICHARDSON.

The witness was duly sworn by the chairman.

The CHAIRMAN. Mr. Richardson, will you please give your full name, your address, and your occupation to the reporter?

Mr. RICHARDSON. G. A. Richardson, 50 Church Street, New York; vice president of the Hillside Coal & Iron Co.

The CHAIRMAN. Have you any connection, Mr. Richardson, with the Erie Railroad Co.?

Mr. RICHARDSON. I am a director of the Erie Railroad and vice president of the Erie Railroad.

The CHAIRMAN. And you are president of the Hillside Coal & Iron Co.?

Mr. RICHARDSON. Vice president.

The CHAIRMAN. And are you also a director in the coal company?

Mr. RICHARDSON. I am a director and vice president of about all of the subsidiary companies of the Erie Railroad.

The CHAIRMAN. And this Hillside Coal & Iron Co. is one of the subsidiary companies of the Erie Railroad?

Mr. RICHARDSON. The Erie Railroad owns the capital stock of the Hillside Coal & Iron Co.

The CHAIRMAN. Did Mr George F. Brownell, the vice president and general counsel of the Erie Railroad Co., introduce Judge Archbald to you in your office in New York City some time during last summer—the summer of 1911?

Mr. RICHARDSON. He did.

The CHAIRMAN. Can you give the committee the time at which that occurred?

Mr. RICHARDSON. I can not.

The CHAIRMAN. Can you fix about the time?

Mr. RICHARDSON. It was some time during the summer, in July or August, I should say, but I have no definite way of locating the time.

The CHAIRMAN. Of 1911?

Mr. RICHARDSON. Yes, sir.

The CHAIRMAN. Please state, Mr. Richardson, in your own way, what took place between yourself and Judge Archbald while Mr. Brownell was present in your office at the meeting to which you refer.

Mr. RICHARDSON. Nothing occurred that I can recall, except passing the time of day and speaking about things in general. Mr. Brownell left quite promptly afterwards. I believe he had an appointment to keep. The judge opened the matter of business on which he called by stating that he was either interested for himself or other parties in the Katydid culm bank. I told him I had had some conversation with Capt. May in regard to it several months prior to that time; that just what it was I could not recall, but that the next time Mr. May was in New York or I was in Scranton, I would make it a point to ask him what the situation was, and to see if some determination could not be arrived at. Subsequently, I suppose it might have been a few weeks or several months later, Capt. May was in New York, and I asked him what the negotiations were. He called my attention to something I had previously known——

The CHAIRMAN. When you say "he," that was Judge Archbald?

Mr. RICHARDSON. That was Capt. May, on his succeeding visit to New York.

The CHAIRMAN. Yes. I want to know now what happened. I do not want to interrupt your story, but I want to get back, and I want to know what took place between you and Judge Archbald after Mr. Brownell left your office.

Mr. RICHARDSON. He mentioned the purpose of his visit, and I told him I knew something of the case, but nothing of the particulars.

The CHAIRMAN. What did the Judge say to you at that time, if you can recall?

Mr. RICHARDSON. I can not recall his words, but it was to the point that he was interested in that property.

The CHAIRMAN. What was it?

Mr. RICHARDSON. That he was interested in that property. That was the effect of his words. What they were in detail I do not know.

The CHAIRMAN. What property did he refer to?

Mr. RICHARDSON. The Katydid culm bank.

The CHAIRMAN. Did he indicate what he wanted, or what he wanted you to do?

Mr. RICHARDSON. I have no doubt that he did, but my recollection is that he either said he was interested or interested for people in it, and had made some application for it, and wanted to know the result.

The CHAIRMAN. That he was interested with some other people, you think, and he wanted to know what was the result of his application for the purchase of it?

Mr. RICHARDSON. Well, that might be it or it might not be it. He might have said he was interested, or he might have said he was interested for other people. I do not recollect. It did not impress me one way or the other.

The CHAIRMAN. He told you he had come to your office for the purpose of ascertaining whether the deal for the Katydid culm bank would be consummated, did he not?

Mr. RICHARDSON. He called on Mr. Brownell to find out what officer of the company he should see in regard to it.

The CHAIRMAN. Yes; and it was referred to you?

Mr. RICHARDSON. Yes. He was brought over by Mr. Brownell and introduced personally, which is the custom on his part.

The CHAIRMAN. Mr. Brownell brought the judge into your office and introduced him, did he?

Mr. RICHARDSON. He did; and it is customary on his part.

The CHAIRMAN. You had never known Judge Archbald before that time?

Mr. RICHARDSON. I had never met him before.

The CHAIRMAN. And he came in to talk, and his business with you was looking to the purchase of the Katydid culm bank?

Mr. RICHARDSON. Particularly.

The CHAIRMAN. And you are not positive whether he said he was interested for other people who wanted to buy it, including himself, or that he and his associates wanted to buy it. You do not know what the language was that he used?

Mr. RICHARDSON. I am not positive. I do not know what language he used.

The CHAIRMAN. As nearly as you can, Mr. Richardson, please state what your recollection is of what he did say when he brought up the matter of the Katydid culm bank.

Mr. RICHARDSON. My recollection is that it made no particular impression upon me at the time, but I thought he was interested with other people who had made application for that bank.

The CHAIRMAN. You did not think he was interested merely as a friendly matter to other people, but you thought he was financially interested?

Mr. RICHARDSON. I had no way of knowing that. I made no inquiries about it. The subject was brought up, and it was a matter that had been resting, and my part of it was to start it up again and see that it was closed one way or the other, if it was possible.

The CHAIRMAN. And that is as nearly as you can tell the committee what happened between you and Judge Archbald?

Mr. RICHARDSON. Yes, sir.

The CHAIRMAN. Do you remember the proposition that Judge Archbald—did he bring to you any proposition for the purchase of the Katydid culm bank prior to the time that Mr. Brownell introduced the judge to you? Did he communicate to you in writing or otherwise any proposition prior to the introduction between yourself and Judge Archbald? Did the judge prior to that time communicate to you any proposition for the purchase of the Katydid culm bank?

Mr. RICHARDSON. None at all.

The CHAIRMAN. Now, was the matter of the sale of the interest of your company in the Katydid culm bank to Judge Archbald or others in connection with Judge Archbald called to your attention by any of your subordinate officials at any time prior to the introduction of Judge Archbald to you?

Mr. RICHARDSON. It was.

The CHAIRMAN. That brings us back, I believe, to where you were a while ago, relating what Capt. May had to do with it. Now, I wish you would begin right there, Mr. Richardson, and go on with it and tell all you know about the matter in your own way. We prefer to have you do it, if you will, in narrative form.

Mr. RICHARDSON. I shall be glad to. I was in Scranton and the neighborhood in June or July of the year 1911, and I think my visit there purposely was to examine what is known as the Underwood operation, which is a large new operation that had just been put under way. Upon returning from that visit my recollection is that Capt. May asked me to take a look at the Katydid culm bank, saying that some overtures had been made to him looking to its purchase. There were a great many complications ensuing, and the result of the conversation was that I said I thought he had better let the matter rest until some of them were cleared up; and the matter rested there, I presume on my say so. That is all in connection with my visit to Scranton in viewing the culm bank in question.

Mr. FLOYD. It was never brought to your attention at your office in New York by Mr. May or anyone else?

Mr. RICHARDSON. It was in the succeeding July or August.

Mr. FLOYD. But previous to that time.

Mr. RICHARDSON. No; not prior to that time, but subsequently.

Mr. FLOYD. Not prior to that time?

Mr. RICHARDSON. No, sir.

Mr. FLOYD. Were any letters written to your from the office in Scranton concerning it?

Mr. RICHARDSON. I had no correspondence whatever on the subject. It was brought to me as a new matter and was brought to me for the purpose of reminding myself of it if the question came up at some time in the future.

Mr. FLOYD. You state that at that interview in Scranton you did not look favorably upon the proposition?

Mr. RICHARDSON. Well, it did not impress me favorably. There were a good many complications surrounding it.

Mr. FLOYD. When you were first approached on the subject, then, you were not impressed with the proposition?

Mr. RICHARDSON. I have no recollection of who was involved in it at all——

Mr. FLOYD. I say, you were not impressed with the proposition?

Mr. RICHARDSON. I was just coming to that. I viewed the culm bank and understood something about the ownership and the claims on it and the people who were interested in it, and in accordance with my recollection no progress had been made whatever in clearing it up. Consequently, we were not in a position to sell it. We might have possibly sold at some bargain, more or less, our interest in it, but it was not in shape to be passed upon finally.

Mr. FLOYD. Who brought it to your attention first, Capt. May?

Mr. RICHARDSON. On my visit to Scranton he brought it to my attention.

Mr. FLOYD. Did he tell you who it was that was desirous of purchasing it?

Mr. RICHARDSON. Doubtless he told me, but I have no recollection of it.

Mr. FLOYD. You were not impressed with that?

Mr. RICHARDSON. Not at all.

Mr. FLOYD. Please describe Capt. May's duties as superintendent of the Hillside Coal & Iron Co.

Mr. RICHARDSON. He has practically complete charge of his operations.

Mr. FLOYD. What was Capt. May's attitude regarding this proposition prior to your conference with Judge Archbald?

Mr. RICHARDSON. It might have been favorable or it might have been unfavorable. But I am inclined to think it was just half way. He had not completed his investigation. He was just showing it to me as a matter of precaution.

Mr. FLOYD. Is it not a fact that you would ordinarily act in accordance with the recommendation of Capt. May in a matter of this kind?

Mr. RICHARDSON. Unless I had some very good reason to the contrary.

Mr. FLOYD. Had you discussed with Capt. May the price which the Hillside Coal & Iron Co. should receive for its interest in the Katydid culm bank in the event of a sale?

Mr. RICHARDSON. No; I have no recollection of discussing anything in regard to price with him.

Mr. FLOYD. Why did you not refer Judge Archbald to Capt. May when he disclosed the nature of his mission to you?

Mr. RICHARDSON. I practicallly did.

Mr. FLOYD. But later you brought it to the attention of Capt. May yourself again, did you not?

Mr. RICHARDSON. Oh, no; I brought Capt. May's attention to it the first time I saw him afterwards.

Mr. FLOYD. Later, I said.

Mr. RICHARDSON. That was some time subsequent to Judge Archbald's visit.

Mr. FLOYD. About how long after?

Mr. RICHARDSON. I would be unable to say. It might have been a week or it might have been a month. Probably it was not more than a month.

Mr. FLOYD. What moved you to take action in the matter after your conference with Judge Archbald, under the attending circumstances?

Mr. RICHARDSON. Oh, I took action about the same as I do in 1, probably, out of every 8 or 10 cases that come up. Some one comes in and asks me something about it, and I tell him that I have discussed it more or less with Capt. May, and will refer it to him and see what his final decision is.

Mr. FLOYD. What action did you take in the matter after you had this conference with Judge Archbald?

Mr. RICHARDSON. None at all.

Mr. FLOYD. Did you state that at the next visit of Capt. May to New York you brought it to his attention?

Mr. RICHARDSON. I said I would call Capt. May's attention to it the next time I saw him. I did not know whether I would see him in Scranton or in New York. My recollection is that I saw him in New York the next time.

Mr. FLOYD. I so understood you.

Mr. RICHARDSON. Yes.

Mr. FLOYD. But the very next time Capt. May was in New York you did call his attention to it?

Mr. RICHARDSON. It would be the first time, without any question.

Mr. FLOYD. The first time you met him after the conference with Judge Archbald?

Mr. RICHARDSON. Yes.

Mr. FLOYD. Did not Judge Archbald request you to see Capt. May about it?

Mr. RICHARDSON. How is that?

Mr. FLOYD. Did not Judge Archbald request you to see Capt. May about it?

Mr. RICHARDSON. I do not know whether he requested me or not, but I said I would. Either he asked me or I volunteered the information.

Mr. FLOYD. Did you not understand that the reason for his visit to see you in regard to the matter was that he could not get satisfactory arrangements through Capt. May directly?

Mr. RICHARDSON. No; I did not understand it exactly in that way. He was there, and I suppose he took the opportunity of seeing me.

Mr. FLOYD. If Capt. May practically had the absolute control over those matters, what would be the necessity of Judge Archbald calling on you in reference to it unless there was some difference between you and Capt. May in regard to the transaction?

Mr. RICHARDSON. None, probably. Capt. May probably told him that the question was not ready for settlement, and that he could not reach any decision; and he might have said that he would refer the subject to New York or have a talk with me about it; and the next time Judge Archbald was in New York he asked me to see whoever had the matter in charge.

Mr. FLOYD. Capt. May had not, in fact, referred it to you by letter or otherwise?

Mr. RICHARDSON. He called it to my attention when I was there. He said that questions were likely to arise in the future, and he wanted me to know of it when they did.

Mr. DAVIS. Did you indicate to Judge Archbald whether your recommendation to Capt. May would be favorable or unfavorable?

Mr. RICHARDSON. In no way.

Mr. FLOYD. Is it not against the general policy of the Hillside Coal & Iron Co. to dispose of its coal property interests?

Mr. RICHARDSON. It all depends upon the circumstances. Sometimes we do, but generally we do not, because we think we can operate——

Mr. FLOYD. I was asking you about the general policy.

Mr. RICHARDSON. The general policy is that we do not, because we think we can operate the coal property to success where a great many other people would make a failure of it.

Mr. FLOYD. Will you tell the committee what prompted you to depart from this general policy in this instance?

Mr. RICHARDSON. I did not depart from it. I simply told Capt. May to go on with the investigation and to report to me. As yet I have not received any report.

Mr. WEBB. You say that the first time you heard anything about this Katydid proposition was in Scranton some time last summer, when Mr. May called your attention to it?

Mr. RICHARDSON. Yes.

Mr. WEBB. I believe the evidence shows that Judge Archbald wrote Mr. May a letter some time in the spring of 1911 asking him to place a price on this culm bank, or asking him if he would fix a price.

Mr. RICHARDSON. I understand so, generally, but I have never seen any correspondence on the subject.

Mr. WEBB. I imagine that it was in consequence of that letter that later Mr. May did ask you something about it?

Mr. RICHARDSON. That and some future developments no doubt caused him to bring it to my attention.

Mr. WEBB. And at that time in the summer you told him that under the circumstances he might let the matter rest?

Mr. RICHARDSON. The matter was so complicated that I thought the matter might rest until some of the points were cleared up, anyway.

Mr. WEBB. Exactly. And in something like a month or two after that Mr. Brownell introduced the judge to you?

Mr. RICHARDSON. It might have been a month or six months; but my recollection has been called to it since, and it was probably about three months, in fact.

Mr. WEBB. Can you tell just the conversation that the judge had with you, and what you said to him?

Mr. RICHARDSON. Oh, no; I can not.

Mr. WEBB. But you inferred from his conversation that he was interested alone, or interested with others in this Katydid culm bank?

Mr. RICHARDSON. I did.

Mr. WEBB. He wanted to buy or lease it, and you told him you would see if a determination of the matter could not be arrived at.

Mr. RICHARDSON. I told him that Capt. May had spoken to me about it and showed it to me, and that the next time I saw him I would call his attention to it and see if we could not get rid of the difficulty, so that we could bring about a trade somewhere.

Mr. WEBB. I understood you to say that you told the judge at that time that you would see if a determination could not be arrived at.

Mr. RICHARDSON. Yes, sir; that is it.

Mr. WEBB. Then, what did you communicate to Capt. May in consequence of that agreement with the judge, that you would look after the matter? What did you tell Mr. May?

Mr. RICHARDSON. I suppose I had an accumulation of just about twenty things. I can only go on the order of my business. I have no notes whatever.

Mr. WEBB. The probability is that you communicated with him pretty soon?

Mr. RICHARDSON. I assume that I asked him to come to see me, as I had numerous things to discuss with him.

Mr. WEBB. Do you remember discussing this with him?

Mr. RICHARDSON. I remember discussing it with him.

Mr. WEBB. Did you tell him to go ahead with the matter?

Mr. RICHARDSON. I told him to go ahead and to complete his investigation of it as soon as he could.

Mr. WEBB. It is in evidence here that very soon after the judge called on you in New York Mr. May notified Mr. Williams, who had made application for this lease, to come around to his place of business and he would give him that option, and that in consequence of that understanding Mr. Williams did go around and got a letter which they called an option on this culm bank. Looking at it from your standpoint, now, would you take it that Mr. May agreed to this option in consequence of what you told him, and in consequence of the judge's visit to New York to see you, coming so soon after the judge's return from New York?

Mr. RICHARDSON. No; I do not really see how Capt. May could give anyone an option on it, because his interest in it was so small.

Mr. WEBB. Sir?

Mr. RICHARDSON. I say I can not see how Capt. May could give anyone an option on it, because his interest in it was so small.

Mr. WEBB. Suppose he had written a letter, in that letter saying that he would give an option on it, or recommend it——

Mr. RICHARDSON. I could not be held responsible for that, because I would try to have him act on his own initiative in a great many matters.

Mr. WEBB. Exactly; but the point I am making is that a few days, it may be immediately after the judge's return from his visit to New York to see you, we find a letter coming from Capt. May to Mr. Williams saying that if he would come around he would give him the option, or recommend the option; and that he did so. His letter is in evidence here. Would you say that that letter, coming so soon after the judge's return from New York, was written in consequence of your instruction to May, or the judge's call upon you, or what would you attribute that to?

Mr. RICHARDSON. I should attribute it, if Capt. May wrote that letter, that it was based upon some instruction or authority that I gave him.

Mr. WEBB. The truth of it is, and I believe Capt. May so testified, that you changed your attitude in regard to this matter from what it was in the summer to what it became later on?

Mr. RICHARDSON. I think he was entirely wrong if he so testified.

Mr. WEBB. Judge Moon calls my attention to the fact that the evidence of Capt. May is that when you first discussed it with him you were opposed to it, but that later on you changed your attitude in regard to the matter.

Mr. RICHARDSON. I recall his first testimony, because I think I heard it. I think that he said I did not approve of it, which was an indication that he probably recommended it; but I do not so recall it. I think he was biased——

Mr. WEBB. But if Mr. May did write this letter saying that he was ready to give the option, or would give it, naturally it was in consequence of something that you had said to him later on?

Mr. RICHARDSON. That might have been, but I do not think it could have been. I do not think I gave him any such authority.

Mr. WEBB. The testimony so far shows, Mr. Richardson, that Mr. May would not consider the proposition to lease this culm dump, and that later on in the summer the judge went to New York to see you, and did see you, and within a few days—I do not know whether it was the next day, but almost immediately—after the judge returned from New York to Scranton Mr. Williams went around and got a letter from Capt. May, saying that he would now recommend the lease. Would you not, looking at the matter as the business man that you are, judge that that recommendation on the part of Mr. May was brought about by something that you had directed him to do or told him or advised him?

Mr. RICHARDSON. I might have seen Capt. May a week or 10 days later than I saw Judge Archbald. I have no way of fixing it; but I will let it go by saying that when I did see Capt. May I instructed him what to do, and that was to clear up the title as much as possible and rid ourselves of a property that was bringing us no return and might not in the future.

Mr. WEBB. But when the letter was written immediately after the judge's return from New York, written by Capt. May saying that he would recommend the lease, the title had not been cleared up, so Capt. May said.

Mr. RICHARDSON. And it has not to this day, so far as I know.

Mr. WEBB. Exactly. Then how can you account for Capt. May writing this letter to Mr. Williams telling him he would make this lease to him, so soon after the judge's return from New York to see you?

Mr. RICHARDSON. I assume that he did it anticipating the approval of his superior officer. If it would come to me not cleared up, I would not have approved it.

Mr. WEBB. You had already said to May to let it lie on account of the condition of the title. You had already directed May to let it run because the title was not clear. A day or two after the judge calls on you in New York, and then Capt. May writes a letter in which he says "I am now ready to grant the option."

Mr. RICHARDSON. My instructions were to go ahead and clear up the whole situation.

Mr. WEBB. But he wrote this letter before the whole situation was cleared up, according to the testimony.

Mr. RICHARDSON. Then he probably overestimated his authority, I do not know any other way to explain it.

Mr. WEBB. You said awhile ago that if he wrote the letter probably it was on authority that you had given him.

Mr. RICHARDSON. My general authority to him is to act on his own initiative as far as possible; and if he knew he had cleared the title to the property, he could act accordingly.

Mr. WEBB. Do you think in view of what you told him personally in Scranton, to let the matter lie, that inside of a month after that he would have written this letter saying that he was now ready to give the option, unless he had gotten some authority from you to do so?

Mr. RICHARDSON. Not knowingly, he might have undertaken to dispose of the rights that he had, in the letter, for a certain price—not the rights of the whole property.

Mr. WEBB. Here is a letter, Mr. Richardson, that Mr. May wrote on August 30, 1911, after the judge had been to New York and had seen you, and after you had told Mr. May to let the matter rest. It reads:

Mr. E. J. WILLIAMS,
35 South Blakely Street, Dunmore, Pa.

DEAR SIR: As stated to you to-day, verbally, I shall recommend the sale of whatever interest the Hillside Coal & Iron Co. has in what is known as the Katydid culm dump, made by Messrs. Robertson & Law in the operation of the Katydid breaker, for $4,500.

In order that it may not be lost sight of, I will mention that any coal above the size of pea coal will be subject to a royalty to the owners of lot 46, upon the surface of which the bank is located.

It is also understood that the bank will not be conveyed to anyone else without the consent of the H. C. & I. Co., and that if the offer is accepted articles of agreement will be drawn to cover the transaction.

Yours, very truly,

W. A. MAY, *General Manager.*

Can you give the committee any idea as to what made Capt. May change his attitude so soon after you had told him to let the matter lie? The title had not been changed, the title had not been cleared up. In other words, do you not know, Mr. Richardson, that it was in consequence of the judge's visit to you in New York? Is not that the fact, now? Naturally, would it not be so?

Mr. RICHARDSON. I think you are in error in regard to the instruction I gave him. I did not instruct him to clear it up, but to go ahead and clear the incumbrances, if he could, which he had brought to my attention before. He probably on his second visit to New York told me all he had told me on his first visit, reminding me of all the complications. Now he gets through and leaves New York with instructions to clear the proposition up to the best of his ability. He makes a proposition to somebody that he would sell the Hillside Coal & Iron Co.'s interest in it. It might be more or less——

Mr. WEBB. But that was under your instruction, was it not?

Mr. RICHARDSON. Yes; that is part of his authority.

Mr. WEBB. That was all the judge wanted, was it not—your interest in it? He did not expect to get the interest of anybody else?

Mr. RICHARDSON. But he did not buy it, and the offer is still open. That is, simply the Hillside Coal & Iron Co.'s interest.

Mr. WEBB. I understand that the offer is still open; but an agreement was made that they would lease it—that your company would lease it?

Mr. RICHARDSON. In the proposition you have read me Capt. May says he will sell the Hillside's interest for $4,500; and he is prepared to take that now, but he can not find a taker.

Mr. WEBB. But he was not willing to do that 30 days before he wrote his letter?

Mr. RICHARDSON. The matter had not progressed far enough to act, sir.

Mr. WEBB. There had been no change in the title or in the conditions, except that the judge had seen you in New York?

Mr. RICHARDSON. It was the consequence of subsequent negotiations.

Mr. WEBB. But the negotiations had not been changed. The same negotiations were on foot between the judge and Williams and May. You had told May to let the matter rest; and in less than 30 days we find May writes a letter, and that he changes his entire attitude and says, "I will sell now."

Mr. RICHARDSON. That might be his way of clearing up the situation. It might be that he found certain things that he could not clear up, and consequently he would sell the interest.

Mr. WEBB. Then he knew that he had authority to clear it up to this extent?

Mr. RICHARDSON. He had authority to clear it up in any way he saw fit.

Mr. WEBB. You gave him that authority, and told him——.

Mr. RICHARDSON. I do not think he needed any authority. He had it in the first place.

Mr. WEBB. Did you not promise the judge that you would see that there was some determination made of the matter?

Mr. RICHARDSON. I promised the judge nothing whatever, sir.

Mr. WEBB. You told him you would see——

Mr. RICHARDSON. I told him I would see the general manager in regard to it, as I tell everyone.

Mr. WEBB. And the general manager in less than 30 days after you saw him wrote——

Mr. RICHARDSON. I do not know. The record shows everything he did.

Mr. WEBB. I think the record shows that in less than 30 days he saw him on the street and told him to come around and that he would fix it up.

Mr. RICHARDSON. And he gave him an offer that he did not accept, and has not accepted yet.

Mr. WEBB. Later he did make a lease, did he not, or draw a lease at the suggestion of Mr. Williams, leasing the culm bank property to one Bradley, or selling the property to Bradley?

Mr. RICHARDSON. I have understood it so in a general way. I would consider the letter that you read as a perfect lease.

Mr. WEBB. You would?

Mr. RICHARDSON. I would consider the letter from Capt. May, that you read, as practically a perfect lease.

Mr. WEBB. You would consider it a perfect lease?

Mr. RICHARDSON. If it was properly signed, I think it would give sufficient authority to anyone to operate it.

Mr. WEBB. And this letter, which you say is a perfect lease, was written within 30 days after you told him to let the matter lie. Is it not fair to draw the conclusion that the lease which you say is perfect now would not have been made except by reason of the judge's visit to you in New York?

Mr. RICHARDSON. I have already said you could assume it. I instructed Capt. May to find out about it and clear it up as soon as he possibly could, whether that was one week after the judge's visit or three months later; but here you see he had not cleared the title. He says he will sell all of the interest of the Hillside Coal & Iron Co. in it, whatever it may be. There is no attempt to clear up the title in this letter.

Mr. WEBB. The date will show for itself. That is all I want.

Mr. MCCOY. What was it that the Hillside Coal & Iron Co. was proposing to part with?

Mr. RICHARDSON. Their interest in the Katydid culm bank.

Mr. MCCOY. The proposition was, then, to give a quitclaim deed of whatever they had there?

Mr. RICHARDSON. Oh, they would give whatever they had in the bank. I do not know——

Mr. MCCOY. That would be the customary way of parting with right, title, and interest, would it not?

Mr. RICHARDSON. I do not know what legal document might be required to give our interest in it.

Mr. MCCOY. If it was simply a parting with whatever interest the coal company had, what difference did it make what their title was?

Mr. RICHARDSON. I have already said that I thought the form of the letter was sufficient to make a contract, if it was taken so.

Mr. MCCOY. As I recollect your testimony, it was to the effect that when you went to Scranton at one time you did talk with Capt. May about this property, and he described the situation to you, and your testimony was that it was so complicated that you told him to drop it for the time being. Was not that what you testified to?

Mr. RICHARDSON. Practically so. He showed me the place and explained it to me. I supposed the whole thing was probably in its infancy. He said the matter would come to me at some time in the future for final determination, and he thought that I ought to see it, first, in order that I might the more intelligently pass upon it when it did come before me.

Mr. MCCOY. What was it that it was expected would be called to your attention later? Was it the valuation of the property or the condition of the title?

Mr. RICHARDSON. Oh, he might have come to New York at some subsequent date, and he might have talked to me on that subject, or on two or three other subjects.

Mr. MCCOY. But I say, at the time you were in Scranton and had this first talk with Capt. May about the property, what was it that you then expected he would later call to your attention and clear up? Was it the question of what the property was worth or the title to the property?

Mr. RICHARDSON. Oh, I have not the least idea—not the least in the world—whether it was the question of money or of the title to the property.

Mr. MCCOY. What did he state to you at the time in Scranton were the difficulties involved in the matter?

Mr. RICHARDSON. My recollection is that he spoke particularly of the title. I do not recall his mentioning names or money.

Mr. MCCOY. My question is, assuming that the difficulties were difficulties affecting the title, what difference did it make what those difficulties were, when all that the Hillside Coal & Iron Co. was to transfer was its right, title, and interest in the property?

Mr. RICHARDSON. Practically none, I should say.

Mr. MCCOY. Then it made no difference how complicated the title was, or what anybody was claiming, because the Hillside Coal & Iron Co. was to convey only its interest. That is all there was to it. Is not that the fact?

Mr. RICHARDSON. But you must recall that this was a personal conversation. He might have told me or he might not. If he had been writing me on the subject he would probably give the price, the names, the title, and everything that he could think about; and if there was anything that I could think about that was not covered, I would probably call his intention to it, and ask about it; because when I finally determine a subject, I ascertain and know everything about it.

Mr. MCCOY. Did he ever communicate to you in writing subsequently about it?

Mr. RICHARDSON. No; I communicated with him first, the second time.

Mr. MCCOY. That was after——

Mr. RICHARDSON. After Judge Archbald came to see me.

Mr. MCCOY. Have you a copy of the letter?

Mr. RICHARDSON. I did not communicate with him by letter. I communicated with him verbally. I probably had from a dozen to 15 or 20 subjects to discuss with him. I have them currently. I have them every day.

Mr. MCCOY. I am not referring to any matter except to this particular matter.

Mr. RICHARDSON. I probably had a dozen or twenty others with that, I will say.

Mr. MCCOY. That does not interest us. What other communication did you have with him, either verbally or in writing, in regard to the interest of the Hillside Coal & Iron Co. in this culm bank?

Mr. RICHARDSON. I had none in writing. Whatever communication I had with him was verbal.

Mr. MCCOY. What communication did you have with him in regard to this after you saw him in Scranton?

Mr. RICHARDSON. He came to New York, or I went to Scranton. I have said that presumably he went to New York. There were several subjects to be discussed and one was this culm bank.

Mr. MCCOY. Was the title to the property discussed at that time?

Mr. RICHARDSON. I have not any recollection of what I might have discussed with him. I think I discussed every phase of it with him. That had been my custom.

Mr. MCCOY. Your testimony, then, is that you now have not any recollection of even the substance of your conversation with Capt. May when you saw him the second time there in New York or in Scranton?

Mr. RICHARDSON. I have a very close recollection of the whole transaction when I saw him in Scranton, and I think I have already testified as to that.

Mr. MCCOY. I am talking about the subsequent interview.

Mr. RICHARDSON. In the subsequent interview in New York I assume that I sent for him and that, amongst other subjects about which I spoke to him, I mentioned Judge Archbald's desire to secure this bank either for himself or his associates, or both combined, and told him to go ahead and see if he could not close it up in some manner. That would have been done for anyone else.

Mr. MCCOY. I understood you to say a few minutes ago that you might on that occasion have discussed in detail this question of the culm bank. Is not that what you said—that you might have done so?

Mr. RICHARDSON. My ordinary practice would be—and that is all I can give you, because this is no exception to the general rule——

Mr. MCCOY. My question is this: Have you now any personal recollection of your conversation at the second interview with Capt. May?

Mr. RICHARDSON. None whatever.

Mr. MCCOY. In regard to the culm bank?

Mr. RICHARDSON. None whatever.

Mr. MCCOY. You do not now recollect?

Mr. RICHARDSON. No, sir.

Mr. MCCOY. That is what I wanted to get. Now, did you say there was no established policy of the Erie Railroad or any of its subsidiary companies in regard to the sale of its coal properties?

Mr. RICHARDSON. I make whatever policy they have, as an officer of the coal company. I would know the general basis. If anyone can operate the property to advantage, the Hillside Coal & Iron Co. can. I should look very closely into some one else's proposition to buy coal property from the Hillside Coal & Iron Co., they being in business daily and at a great many places.

Mr. MCCOY. Then I understand your answer, in substance, to be that the attitude of the Hillside Coal & Iron Co. is adverse, prima facie, to the sale of any of its coal properties?

Mr. RICHARDSON. I do not think I go that far. If anyone comes to me I refer him to Capt. May to get a full report of the details and his recommendation. I think I would reserve my own judgment until I had received his report.

Mr. MCCOY. You formulate the policy, in other words?

Mr. RICHARDSON. I make the policy any time it becomes necessary, or I think it is desirable. You may make my answer to that "I do," if you like.

Mr. MCCOY. Let me ask you another question. Has the Erie Co., or any of its subsidiary companies, in the last five years, parted with their or either of their interests in any coal property?

Mr. RICHARDSON. Yes.

Mr. MCCOY. What property?

Mr. RICHARDSON. Well, I can not mention all of them now. I know there are certain outlying coal properties that we could not work to advantage, and if we would receive what I thought was a proper price for them we would sell them without any question.

Mr. MCCOY. You are talking about what you would do. I am asking for a matter of fact.

Mr. RICHARDSON. I can give you specific cases if you will give me time to refer to the records. I can not do it offhand.

Mr. MCCOY. That, of course, is a fair suggestion, to give you time, but can you not——

Mr. RICHARDSON. I could not tell you.

Mr. MCCOY. Without tying you down to any specific number, have there been numerous instances in the last five years in which the Erie or any of its subsidiary companies, or affiliated companies, companies in which it owns a controlling part of the stock, have sold their properties? Have there been numerous instances?

Mr. RICHARDSON. The cases have not been numerous. The applications have been more or less numerous, but when looked into they are found faulty in some respect, either as to the price or the prospects.

Mr. MCCOY. Will you furnish to the committee when you get back to New York, as soon as you can, a statement of the number of instances in which any of these companies which I have referred to have absolutely parted with their interest in any coal properties—not leasing them?

Mr. RICHARDSON. I can give you one, I think, within the last year.

Mr. MCCOY. Mr. Richardson, I have asked you to give me all, and you say you can not do it. I have asked you to approximate it, and you say you can not do it. I prefer to give you the opportunity you want of getting the information back in New York and sending it, so that we could have it accurately.

Mr. RICHARDSON. I am perfectly agreeable.

Mr. NORRIS. I would suggest that you confine it to properties that are on the railroad. I think you had better confine it to those.

Mr. WEBB. Because this one is on the railroad.

Mr. NORRIS. Yes; because this one is on the railroad.

Mr. MCCOY. All the properties which any of these companies have absolutely sold their title to; and their location in a general way. I do not care for the metes and bounds.

Mr. RICHARDSON. Will you specify the period of time?

Mr. MCCOY. I say in the last five years.

Mr. RICHARDSON. That does not mean leases, but sales?

Mr. MCCOY. Yes.

Mr. RICHARDSON. I can say now that I think it has never sold. It would be a question of lease.

Mr. MCCOY. You say now that they have never sold?

Mr. RICHARDSON. Not to my knowledge. I do not think we have ever had the question of selling the property, but it has been a question of lease always of coal property.

Mr. MCCOY. But the question in the Katydid culm bank was a question of the sale of the right, title, and interest?

Mr. RICHARDSON. The sale of our interest, which was not a controlling interest.

Mr. MCCOY. You do not need to get me the list, because you have answered my question. I just wanted a list of the properties which any of these companies associated with, controlled by, or affiliated with the Erie Co. had absolutely sold, or their interest in which they have absolutely parted with—not by lease, but by a quitclaim deed, a deed in fee, or whatever it might have been.

Mr. RICHARDSON. If I may make answer to that, as I understand it, I will simply say "No" to the whole question.

Mr. MCCOY. Yes, sir.

Mr. WEBB. Let me ask you one question: Did you know, Mr. Richardson, when the judge came into your office about this transaction, that he was a judge of the Commerce Court at Washington?

Mr. RICHARDSON. Oh, I have no doubt I knew it, but it made no impression on me, to think of it particularly.

Mr. WEBB. No; but you did know it?

Mr. RICHARDSON. I would say that, as a fairly well informed man, I probably knew it.

Mr. WEBB. Did you know that your railroad company, of which you were the vice president, was the defendant in a suit that was then pending before his court?

Mr. RICHARDSON. No; I did not. I saw the general solicitor almost daily and we talked of different things. He might have told me about one thing one day, and I might have forgotten it. I have no recollection about it in any way or shape now.

Mr. WEBB. You do not know, now, whether your company has a suit in the Commerce Court or not?

Mr. RICHARDSON. I do not know whether any Erie suits are lodged there now or not.

Mr. WEBB. Do you know whether they ever had a suit in the Commerce Court?

Mr. RICHARDSON. I am not sure that I ever heard of any one that was ever before that court.

Mr. WEBB. Sir?

Mr. RICHARDSON. I am not sure that I know of any that were ever taken to the Commerce Court.

Mr. WEBB. Do you know that your railroad ever had a suit before the Commerce Commission?

Mr. RICHARDSON. The Interstate Commerce Commission?

Mr. WEBB. Yes.

Mr. RICHARDSON. Oh, I think they have had numerous suits by themselves and in conjunction with other companies.

Mr. WEBB. You never knew that this lighterage case in which the Erie Railroad Co. was defendant was appealed from the Interstate Commerce Commission to the Commerce Court—and you were vice president of the railroad?

Mr. RICHARDSON. I do not know as much about it as you do.

Mr. WEBB. I see you do not, if you do not know that.

Mr. RICHARDSON. I really know nothing about it myself.

Mr. WEBB. I do not suppose you knew, then, that it was possible for your railroad to even have a suit before the Commerce Court?

Mr. RICHARDSON. I suppose our railroad company could have a suit before any court that might be made.

Mr. WEBB. At the time the judge called on you did you think it possible that your railroad might ever have a suit before his court?

Mr. RICHARDSON. I did not think anything about it.

Mr. WEBB. But you knew that it might have at some time?

Mr. RICHARDSON. I might know a good many things, but I am talking about the things I was thinking about at the time.

Mr. WEBB. Did you know that the Commerce Court was the court where they settled the railroad rates on interstate railroads?

Mr. RICHARDSON. I certainly did.

Mr. WEBB. Do you believe that Mr. Brownell would have brought Judge Archbald into your office and introduced the judge to you in the manner and way he did had he not known the purpose which the judge had in his mind?

Mr. RICHARDSON. I have never known Mr. Brownell, in this or in any other case, to use any unfair or improper methods.

Mr. WEBB. Do you think that is an answer to my question?

Mr. RICHARDSON. I think so; yes.

Mr. WEBB. I will repeat it. Do you believe that Mr. Brownell would have brought Judge Archbald into your office and introduced him in the way and manner he did to you if he had not then known the purpose the judge had in mind?

Mr. RICHARDSON. I do not believe I can answer that yes or no. I might say——

Mr. WEBB. Read the question.

The reporter read as follows:

"Mr. WEBB. I will repeat it. Do you believe that Mr. Brownell would have brought Judge Archbald into your office and introduced him in the way and manner he did to you if he had not then known the purpose the judge had in mind?"

Mr. RICHARDSON. Yes; I do. I think he would have brought anyone in that came to him for information.

Mr. WEBB. Did he ever bring anybody else to you in the last 10 years who wanted to buy an interest in a culm bank or a colliery belonging to your railroad or coal company?

Mr. RICHARDSON. I have no idea. He has brought numerous people in on numerous subjects.

Mr. WEBB. Do you know of one that he has brought in there who wanted to buy the company's interest in coal property? Because you have not sold any and you were not trying to sell any?

Mr. RICHARDSON. We might have leased our interest in some property.

Mr. WEBB. I understand; but this is not a leasing proposition, but a proposition to part with the entire title in the Katydid culm bank—something that you had never done in five years.

Mr. RICHARDSON. I think Mr. Brownell brought him in simply because he came to him. He did not express himself in any particular way about it.

Mr. FLOYD. Mr. Richardson, Mr. Brownell has been before this committee, and he testified as follows in answer to questions by the chairman:

"The CHAIRMAN. Please state in your own way, Mr. Brownell, just what took place at that conference or that meeting between you and Judge Archbald in your office in New York City.

"Mr. BROWNELL. Judge Archbald called at my office something before 12 o'clock on that day.

"The CHAIRMAN. On what day?

"Mr. BROWNELL. On Friday, the 4th of August. I fix the time, because I had an engagement between the hours of 12 and 1, and therefore in writing him had indicated a desire for an early appointment rather than an afternoon appointment. I was also preparing to leave on vacation in the afternoon.

"The CHAIRMAN. Yes.

"Mr. BROWNELL. Judge Archbald stated, in substance, that he was interested in an endeavor to clear up the title to certain coal property in the vicinity of Scranton belonging to third parties—I mean by that otherwise than the Hillside Coal & Iron Co.—in which the Hillside Coal & Iron Co. had, or claimed to have, some disputed title of a fractional character."

Did not Judge Archbald and you discuss this question of the title, and did not Judge Archbald explain to you the situation about the title to that property?

Mr. RICHARDSON. He may have explained to me about what Mr. Brownell expressed on the witness stand. He made some explanation of it. All I can recall is that he called my attention to the property and that some proposition had been made. Whether he had made it, or his clients, or what it was, I do not remember.

Mr. FLOYD. Mr. Brownell states that Judge Archbald told him that his purpose was or that he was interested in an endeavor to clear up the title to this coal property at Scranton.

Mr. RICHARDSON. Yes.

Mr. FLOYD. Did Judge Archbald tell you any such thing was his purpose?

Mr. RICHARDSON. He probably did. He probably told me the very thing he told Mr. Brownell.

Mr. FLOYD. Did he not, in that interview that he had with you, show that he was familiar with the title, and give you information about the title, and explain to you that it was not necessary to delay the sale or transfer of that property on account of the title; that you could simply transfer your company's interest and that they would look after the other interests in the title, and if that does not change your attitude?

Mr. RICHARDSON. I have no recollection at all about what he might have said to me, or what he offered, or what he might have said about the title.

Mr. FLOYD. I understood you to say in response to a question that was asked by Mr. McCoy in regard to your conversation with Capt. May that you had no present recollection of what you did say to Capt. May in that interview. Did I understand you correctly?

Mr. RICHARDSON. Do you refer to the interview at Scranton?

Mr. FLOYD. No; the second interview—not at Scranton.

Mr. RICHARDSON. At New York?

Mr. FLOYD. I understood you to say that you did have an accurate recollection of what occurred at the interview at Scranton.

Mr. RICHARDSON. Yes.

Mr. FLOYD. And that of the interview subsequently at New York you had no present recollection, and were basing your testimony upon what your custom was, and what you knew you must have done from your habits of business and custom. Did you so state?

Mr. RICHARDSON. It was probably one out of numerous questions, and I told him to go ahead and investigate.

Mr. FLOYD. Do you mean to give the same impression with regard to your interview with Judge Archbald? Are you basing your statement of what occurred there on your habitual custom as a business man?

Mr. RICHARDSON. No; what I told Judge Archbald and what I told Capt. May would be two vastly different things on the same subject.

Mr. FLOYD. I understand. But what is your present recollection—not from your habits of business, or what you would be likely to do? What is your present recollection of what did occur between you and Judge Archbald?

Mr. RICHARDSON. I can base my recollection on what occurred yesterday afternoon. A man comes in to see me about some coal-property case that he has up. I say that I know something about it. I do not assume to know the details. I may know more than I confess to him, but all I can say is that I will submit it to my next subordinate officer the next time I see him, and I base my action on what he tells me at that time.

Mr. FLOYD. That is no answer to my question. My question is for you to state now what is your present recollection of your interview with Judge Archbald, when Mr. Brownell introduced him to you on that occasion, the first time you had ever met him.

Mr. RICHARDSON. I think I gave it early in my testimony; but it was to the effect that he was interested, or interested with others, in the Katydid culm bank; and I said yes, I knew something about it, because Capt. May had taken me there and showed it to me and explained it to me, and that the next time I saw him I should take it up with him and ascertain what was holding it up.

Mr. FLOYD. You understood that he was interested individually, or with others, or for others, in the purchase of that property, did you not?

Mr. RICHARDSON. Yes.

Mr. FLOYD. You got that idea?

Mr. RICHARDSON. Yes; he wanted to acquire the bank and wash it, as I understood it. What he was trying to do with it I did not know.

Mr. FLOYD. That is all.

The CHAIRMAN. Are there any other questions, gentlemen? Mr. Worthington, do you wish to ask Mr. Richardson any questions?

Mr. WORTHINGTON. Yes; do you know of a dump owned by the Hillside Co. called the Florence dump?

Mr. RICHARDSON. I have heard of it, and knew it at one time.

Mr. WORTHINGTON. Do you remember whether that is one dump that your company sold within recent years—sold its interest in?

Mr. RICHARDSON. My recollection is that they sold it to some one.

Mr. WORTHINGTON. Now, about this very dump, the Katydid dump. Do you remember that within recent years you offered to sell that very dump, or your interest in it, to the Dupont Powder Co. for $2,000?

Mr. RICHARDSON. Well, that is subsequent recollection. I might have known at one time in regard to it and dismissed it from my mind.

Mr. WORTHINGTON. Let me ask you whether in anything you did in this matter you took any action or did anything or suggested anything on account of Judge Archbald's supposed power or influence as a member of the Commerce Court?

Mr. RICHARDSON. None whatever.

Mr. WORTHINGTON. Do you know, as a matter of fact, whether Mr. Brownell's introduction of Mr. Archbald to you was a few days before the 30th of August, 1911, or a few weeks, or a few months?

Mr. RICHARDSON. I could not say that.

Mr. WORTHINGTON. You do not mean to assent to the idea that it was immediately before the 30th of August?

Mr. RICHARDSON. I can not fix the date at all. It was probably two or three months after my interview at Scranton.

Mr. WORTHINGTON. On page 106 of Serial 3 it appears that Mr. Brownell stated that the interview was on the 4th of August, and the option, as it is called, was not given until the 30th of August.

Let me ask you, if you can fix the time, how long it was before the 30th of August that you had your first talk with Capt. May when you said that he had better let the matter rest because of the complications concerning the title?

Mr. RICHARDSON. I understood from him that it was the latter part of June, but I would have only his statement of it.

Mr. WORTHINGTON. Can you tell us whether there was any personal conference before the 30th of August?

Mr. RICHARDSON. I can not. I might possibly go back in my correspondence file and fix on some things that were near the date. That would be immaterial, I imagine.

Mr. WORTHINGTON. Is this Katydid dump on the line of the Erie Railroad or the Hillside?

Mr. RICHARDSON. My recollection is that it is on the New York, Susquehanna & Western Railroad, near the Hillside junction.

Mr. WORTHINGTON. The Hillside Co. is not a railroad?

Mr. RICHARDSON. No, sir; the Hillside Coal & Iron Co. is a coal company.

Mr. WORTHINGTON. How far is it from your line? How far is the Katydid coal dump from the Erie line—the nearest point?

Mr. RICHARDSON. I should think it was—well, not over 5 miles nor less than half a mile. It is close to the Hillside junction. I do not know just the distance.

Mr. McCOY. Would the coal from the Katydid dump be shipped over the Erie or over the Susquehanna?

Mr. RICHARDSON. I think it could be shipped over both roads, but it would probably go over the Susquehanna. I think it could be shipped over both roads from the Hillside junction.

Mr. McCOY. Do not these coal-carrying companies have arrangements with each other by which in a situation of that kind they charge the shipping railroad what they would charge themselves, so to speak, for shipping the coal?

Mr. RICHARDSON. Well, they have some arrangement, but that is all made by the traffic department. I do not have anything to do with that.

Mr. McCOY. In other words, if the Erie Co. owned a coal mine on the line of the Susquehanna, it would not cost it any more to ship the coal than it would to ship coal from a mine on the Erie line itself. Is not that a fact?

Mr. RICHARDSON. I am not sure about that. I am inclined to think that the Susquehanna road would ship its own coal through from the operations on its line.

Mr. McCOY. That may be, but my point is this: Here is an Erie coal property on the line of the Susquehanna Railroad or more accessible to the Susquehanna than to the Erie.

Mr. RICHARDSON. Yes.

Mr. McCOY. The Susquehanna would ship the coal to Hoboken, for instance, or wherever you ship it—to Jersey City—mined by the Erie Co. just as cheaply as it would ship the coal which one of its own properties produce; or, in other words, it would charge the Erie for shipping the coal what it charges against its own company when it ships its own coal. Is not that the fact?

Mr. RICHARDSON. I can not give you that directly. I can only say that I assume that they have some reciprocal arrangements whereby they balance those things up.

Mr. NORRIS. Did I understand you to say, in answer to Mr. Worthington's question, that the Katydid dump was not on the line of your railway?

Mr. RICHARDSON. I am only giving my recollection. My recollection is that it is on the New York, Susquehanna & Western line, near the Hillside junction.

Mr. NORRIS. There are probably several roads that run so near to it that it might be said to be on all of them. What I want to know is is it or not on your line—that is, on the Erie line?

Mr. RICHARDSON. I think not. If you will let me give the best of my recollection, it is on the New York, Susquehanna & Western. I do not think it can be on the line of any other company.

Mr. NORRIS. Is it not true that your line could build to it without building on any other line except this tract upon which the dump is located?

Mr. RICHARDSON. I have no way of knowing that. I do not know.

Mr. NORRIS. Did you ever offer to sell this before?

Mr. RICHARDSON. I have known of the operation, but I do not recollect that transaction ever coming up before.

Mr. NORRIS. You did not know anything about it, did you?

Mr. RICHARDSON. I doubtless had it in my mind, but it was not impressed on my memory.

Mr. NORRIS. It seems to me in this particular sale to Judge Archbald that it was necessary to get your mind to operating; that you had charge of it, in other words, and your recommendation controlled the situation so far as this sale was concerned. Is not that true?

Mr. RICHARDSON. I think that is true.

Mr. NORRIS. That is my understanding of it.

Mr. RICHARDSON. But the matter would come to me no matter from what source it had originated.

Mr. NORRIS. It would go to you, and it would be necessary to receive your sanction in order to make the sale?

Mr. RICHARDSON. That is perfectly right.

Mr. NORRIS. In their attempted sale or offered sale it had never been carried to such an extent that it had reached you?

Mr. RICHARDSON. I would not say that. Over a course of 10 or 12 years probably a great many things would be brought out that I would forget about.

Mr. NORRIS. Who was the man here that said that he had been trying to sell it for $2,000?

Mr. MARTIN. That was the Du Pont Powder Co. Is that the one you mean?

Mr. NORRIS. Do you know anything about the Du Pont Powder Co. proposition?

Mr. RICHARDSON. I may have known about it at the time, but I do not recall it now.

Mr. NORRIS. You do not remember it now?

Mr. RICHARDSON. I remember it now, because I have heard subsequent conversation about it, just as I have about the Florence culm bank, when the gentleman here inquired of me if we had disposed of our interest in it.

Mr. NORRIS. Did you offer to sell your interest in the Katydid culm bank to the Du Pont Powder Co. for $2,000?

Mr. RICHARDSON. It might have been carried out subject to my approval, and brought to me. I do not think it was.

Mr. NORRIS. Can you tell us now whether you would have been inclined to recommend the sale of the interest for $2,000?

Mr. RICHARDSON. It would depend upon the presentation of the case to me.

Mr. NORRIS. What do you mean by that?

Mr. RICHARDSON. If Capt. May had made a very full and complete argument in regard to the ownership, title, and value of the property, and possibly had come down to explain to me, I might have approved it.

Mr. NORRIS. Assuming that Capt. May would tell you the truth, and would tell you the same in one case that he would in another, would you have been inclined to sell to the Du Pont Powder Co. for $2,000

what you were selling to Judge Archbald or Mr. Williams, whichever it might be, for $4,500?

Mr. RICHARDSON. I would assume always that Capt. May was telling me the truth, and whatever recommendation he made, even if I saw nothing was to be made on it, I would approve it.

Mr. NORRIS. But you say it would depend upon what Capt. May said as to whether you would accept $2,000. Assuming that Capt. May would say the same thing when the Du Pont people came to him that he would say when Judge Archbald came to him—assuming that, would you have been likely to have taken that for your interest? Would you have accepted $2,000?

Mr. RICHARDSON. If it is possible to assume those things, I would accept it and approve it.

Mr. NORRIS. You would have accepted $2,000?

Mr. RICHARDSON. Without question, if the whole matter was clear and straightforward. It might be good policy. I can tell better after it works out.

Mr. NORRIS. Do you mean by that that you probably did instruct May to sell it for $2,000?

Mr. RICHARDSON. I have not any recollection on the subject, either good or bad. I do not believe he ever took it up with me.

Mr. NORRIS. This price of $4,500 was fixed on his recommendation, was it?

Mr. RICHARDSON. I have never seen that recommendation. It has not come to me.

Mr. NORRIS. How did that price come to be fixed?

Mr. RICHARDSON. I just heard it here, when the letter was read offering it at that price.

Mr. NORRIS. You did not know anything about that?

Mr. RICHARDSON. Yes; because I have seen copies of the letter since I have been here.

Mr. NORRIS. Who originated the price?

Mr. RICHARDSON. I have no doubt that Capt. May originated it. I think it was within his power to do so.

Mr. NORRIS. What I mean is, if you were going to sell the property, who would fix the price? Would Capt. May offer to sell it for $4,500 without first getting your consent to that?

Mr. RICHARDSON. I think the price would really be fixed between him and me.

Mr. NORRIS. You have not anything to do with fixing the price?

Mr. RICHARDSON. I have not fixed it.

Mr. NORRIS. There was an offer to sell it for $4,500 after the judge consulted you about it?

Mr. RICHARDSON. Yes; and I may have approved it and may not.

Mr. NORRIS. But he had made that offer as manager of the company to sell it for $4,500, and he had never consulted with you about the price?

Mr. RICHARDSON. I do not recall his consulting me at all about the $4,500 price.

Mr. NORRIS. You know that he offered it for $4,500?

Mr. RICHARDSON. I saw that by the letter that was just read.

Mr. NORRIS. You do not know what fixed in his mind that he should get that amount of $4,500?

Mr. RICHARDSON. Oh, I am inclined to think that he thought it was probably a couple of thousand dollars more than I thought he might be able to get for it, and consequently it would be such a good price that I would not fail to approve it. And for that amount of money I certainly would approve it.

Mr. NORRIS. You would approve anything that he recommended?

Mr. RICHARDSON. Anything that he would recommend for $4,500, if it was worth twice that much, to keep his recommendation good.

Mr. NORRIS. I am trying to get at the proposition whether he had authority to fix a price. You first said——

Mr. RICHARDSON. Let it go that he had authority. Let it go that way.

Mr. NORRIS. I do not want it to go at that, unless it is the truth, you know.

Mr. RICHARDSON. I said it would lie between us. I said that anything I disapproved would be rejected.

Mr. NORRIS. If you said you would sell for $4,500 he would have to sell it?

Mr. RICHARDSON. Yes. I would have that authority as an executive officer of the company.

Mr. NORRIS. Did you not have authority to fix the price?

Mr. RICHARDSON. Yes; as an executive officer.

Mr. WEBB. I want to read Capt. May's testimony in this connection:

"Mr. RUCKER. While it is true that you had given some consideration to the sale of this culm pile before your trip to New York, at the time you conferred with your superior officer, Mr. Richardson, you had never fixed a price on it until after that, had you?

"Mr. MAY. No; I had not."

So it seems that he had never fixed a price on that culm bank until he had seen you. [Reading further:]

"Mr. FLOYD. Capt. May, you stated that when you first mentioned this matter to your superior officer, Mr. Richardson, he protested or objected on account of title, and that afterwards he acquiesced?

"Mr. MAY. Yes.

"Mr. FLOYD. After you had this interview in New York, or at that time, was when he acquiesced in your recommendations, was it not?

"Mr. MAY. When I had the——

"Mr. FLOYD. When he told you in New York to go on with the deal, you understood that to be an acquiescence in your former recommendations to sell it?

"Mr. MAY. Yes, sir; I did—to further consider it.

"Mr. FLOYD. To further consider it?

"Mr. MAY. But that did not close the bargain, by any means.

"Mr. FLOYD. I understand that; but you understood that all his objections to the transaction were withdrawn, and you were to proceed with the negotiations?

"Mr. MAY. That we could further take it up; yes."

I wanted to state that the 4th of August, 1911, was when Judge Archbald called on you in your office; on the 25th day of August, in obedience to a request from you, Capt. May went to New York to see you, and on the 30th day of August Capt. May writes a letter giving to Mr. Williams a price on the Katydid culm bank. Would you not judge from Capt. May's testimony that that procedure was produced because the Judge had called on you on the 4th day of August; and that that is the reason for your change of attitude in this matter?

Mr. RICHARDSON. I do not like to give my judgment on Capt. May's testimony. It struck me that by your questions right there you were trying to get him to say something that he did not want to say; but he was finally compelled to say that I instructed him to take up the case and carry it to a conclusion.

Mr. WEBB. One more question. You know Mr. Brownell well?

Mr. RICHARDSON. Quite well.

Mr. WEBB. He has an office in your building?

Mr. RICHARDSON. Yes.

Mr. WEBB. Just across the hall from you?

Mr. RICHARDSON. Yes.

Mr. WEBB. Did you not know that Mr. Brownell appeared for your railroad in the lighterage case in the Commerce Court?

Mr. RICHARDSON. I did not know of the lighterage case specially, but I knew that all of the legal cases of the Erie Railroad he was very much interested in.

Mr. WEBB. In the restricted-rate cases—did you not know Mr. Brownell, who has an office right across the hall from you, appeared on behalf of the railroad before the Commerce Court in the restricted-rate cases and in the lighterage cases?

Mr. RICHARDSON. I know he appears for the Erie in every legal case they have, no matter what it might be. I have no recollection of any particular case. My duties are so much more than I can properly perform now that it takes all of my time, and I am not interesting myself in Mr. Brownell's duties with the railroad.

Mr. WEBB. But you are interested in the Erie Railroad?

Mr. RICHARDSON. Certainly I am. I am interested in the Erie, first, last, and always.

Mr. WEBB. Do you want to tell us that you never knew the Erie Railroad Co. had a suit before the Commerce Court?

Mr. RICHARDSON. I might know those things from day to day, but——

Mr. WEBB. Had you heard it said that the Erie Railroad was a party to a suit in the Commerce Court in 1911? Did you not hear about it? You are the vice president of the company. Did you not know there was a suit pending?

Mr. RICHARDSON. I might have read about it in the newspapers or some people might have told me.

Mr. WEBB. Is it not probable that you did hear that the railroad of which you are the vice president did have such a suit?

Mr. RICHARDSON. I do not know. There is hardly any important case that could come up that some one would not speak to me about at some time. I am perfectly willing to go in testimony to that effect.

Mr. WEBB. All right, sir. That is all.

Mr. NORRIS. Mr. Richardson, you said that this Katydid dump was on what road?

Mr. RICHARDSON. I said that to my recollection it is on the New York, Susquehanna & Western Railroad.

Mr. NORRIS. What connection does the New York, Susquehanna & Western Railroad have with the Erie?

Mr. RICHARDSON. It is a very few miles to the Hillside junction, where they cross.

Mr. NORRIS. I mean as to the ownership, operation, and so forth?

Mr. RICHARDSON. The Erie Railroad Co. owns a good part of the capital stock of the New York, Susquehanna & Western Railroad Co., but it is operated specifically by itself.

Mr. NORRIS. Are there any of the officials of one that are officials of the other?

Mr. RICHARDSON. I should say that a greater part of them are. It is economy, sir.

Mr. NORRIS. They have practically the same officers?

Mr. RICHARDSON. Pretty much so, I should say.

Mr. NORRIS. The stock in one road is owned by the other mostly.

Mr. RICHARDSON. The majority of the stock of the New York, Susquehanna & Western Railroad Co. is in the Erie Railroad Co.

Mr. NORRIS. Is not the Katydid culm bank on your railroad? You said in answer to a question by the attorney for Judge Archbald that this property was not on your railroad, or words to that effect, as I understood.

Mr. RICHARDSON. I did not mean it to be understood in that way. I meant that it was accessible for shipment by the Hillside Coal & Iron Co.

Mr. NORRIS. There is no difference, so far as that is concerned, is there, between your railway and the Susquehanna? It is all one system, is it not?

Mr. RICHARDSON. No; I would differentiate them.

Mr. NORRIS. Are you an officer in the New York, Susquehanna & Western?

Mr. RICHARDSON. Yes, sir; vice president.

Mr. NORRIS. And what position do you hold in the other?

Mr. RICHARDSON. I am vice president of that, too.

Mr. NORRIS. You are vice president of that also?

Mr. RICHARDSON. Yes, sir.

Mr. NORRIS. And you are vice president of the coal company?

Mr. RICHARDSON. Yes, sir.

Mr. NORRIS. You do not want the committee to understand that these two railroads are independent of each other and that both, on the other hand, are independent of this coal company, do you?

Mr. RICHARDSON. They are so particularly anxious that we have everyone believe that, that they keep all their accounts separate.

Mr. NORRIS. Who is particularly anxious?

Mr. RICHARDSON. Everyone, all concerned—the legislatures and everyone interested in politics, and——

Mr. NORRIS. I want to know if that is what you want us to understand. That was the impression you left with me.

Mr. RICHARDSON. That is the impression that I want to give.

Mr. NORRIS. They are independent concerns?

Mr. RICHARDSON. They are independent concerns, and I am attempting at unnecessary expense to keep them so.

Mr. NORRIS. As the vice president of one railroad you get into bitter competition with yourself as the vice president of the other railroad; and as the vice president of the coal company you fight both of the railroads, do you not?

Mr. RICHARDSON. If provocation came I would have to produce it myself, but I am not very likely to produce complications for myself.

Mr. NORRIS. It is not very likely that as vice president of the Erie Railroad Co. Mr. Richardson would get into a bitter controversy with Mr. Richardson as the vice president of the Susquehanna road?

Mr. RICHARDSON. That is not quite liable to happen, of course.

Mr. NORRIS. I did not think it was.

Mr. RICHARDSON. No; it would not be.

Mr. NORRIS. Your answer to Mr. Worthington's question left the impression on me that this property, the Katydid property, was not on your line of railroad.

Mr. RICHARDSON. I did not mean to give such an impression. I knew it was on either the Erie or the New York, Susquehanna & Western, and I think it is on the last one. I presume it is there.

Mr. NORRIS. The point is this: If it is on your line of railway you would have shipping advantages that other roads would not have. It came out from the question of Mr. McCoy, who wanted you to give him a list of the properties that you had offered to sell, and I wanted him to limit that list to properties that were not on your railroad—property located like the Katydid, on the Susquehanna line. That is owned by the Erie?

Mr. RICHARDSON. No; it is owned by the Hillside Coal & Iron Co.

Mr. NORRIS. I mean the railroad.

Mr. RICHARDSON. You mean the Susquehanna road is owned by the Erie?

Mr. NORRIS. Yes.

Mr. RICHARDSON. Part of it is.

Mr. NORRIS. The coal company does not own the railroad?

Mr. RICHARDSON. No.

Mr. NORRIS. But the railroad owns the coal company?

Mr. RICHARDSON. The Erie Railroad owns part of the stock of the New York, Susquehanna & Western Railroad.

Mr. NORRIS. They are all controlled by the same men?

Mr. RICHARDSON. They could control them.

Mr. NORRIS. Well, they do; do they not?

Mr. RICHARDSON. They do to some extent and to some extent they do not, by reason of the law.

Mr. NORRIS. They do as much as they dare under the law?

Mr. RICHARDSON. They are doing their best to protect the public and everyone and their own interest, which is identical.

Mr. NORRIS. I wanted to have the evidence show whether this particular coal dump was on your railroad.

Mr. RICHARDSON. May I say in answer to that it is on the New York, Susquehanna & Western Railroad?

Mr. NORRIS. Yes; but that road is the same as yours.

Mr. RICHARDSON. It is owned and controlled by the Erie Railroad Co.

Mr. NORRIS. That makes it perfectly plain. I wanted to have that go into the record, because as you left it it was not on your railroad, and therefore it was not desirable property for you, because you would have to get the consent of some other railroad to ship it.

Mr. RICHARDSON. I want it clear that if the Hillside Coal & Iron Co. owned the property or an interest in it they would have perfect shipping facilities.

Mr. NORRIS. The Hillside Coal & Iron Co. would not have very much more difficulty in making arrangements through its vice president with the Erie Railroad Co.'s vice president than it would with the vice president of the Susquehanna, would it?

Mr. RICHARDSON. But I am not in charge of the traffic of the Erie Railroad. I would have to see another officer entirely—if I saw him.

Mr. NORRIS. As vice president of the coal company you could have the vice president of the railroad company see the traffic manager of the railroad company, and, perhaps, get into very friendly relationship, could you not?

Mr. RICHARDSON. If I wanted to get into trouble, I might influence him very much, I think.

Mr. NORRIS. That is all.

The CHAIRMAN. Gentlemen, do you desire to ask the witness any further questions?

Mr. MARTIN. I would like to ask one question. Did you ever see this dump yourself, Mr. Richardson?

Mr. RICHARDSON. I saw it, the testimony is, last June when Capt. May showed it to me purposely, saying that the subject of its disposition later would come up, and he wanted me to see it.

Mr. MARTIN. Did you look at it with reference to its location or with reference to the other railroads around there? What I a getting at is in line with Judge Norris's questions. Is this dump accessible to either the Susquehanna road or the Erie road without some other connecting line?

Mr. RICHARDSON. I assume it was accessible to the New York, Susquehanna & Western Railroad, because I knew Robertson & Law operated and shipped coal that way; and if we secured the operation of it we would send our shipments out that way.

Mr. MARTIN. That is all. I thought there was another railroad.

The CHAIRMAN. Mr. Richardson, you may be discharged from further attendance upon the committee.

Mr. RICHARDSON. Thank you very much. I should like to say to the chairman and to the committee that if my testimony is needed further and a telegram is sent to me at New York, I shall be very glad to respond to it. I expect to be back there by the first of the week.

TESTIMONY OF THOMAS H. JONES.

Mr. Manager WEBB. Mr. President, we would like to have now the witness, Thomas Howell Jones, called.

Thomas H. Jones appeared.

The PRESIDENT pro tempore. State your name and residence.

Mr. JONES. Thomas H. Jones, 1144 Academy Street, Scranton, Pa.

Thomas H. Jones, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Jones, are you called Thomas Howell Jones?—A. Yes, sir.

Q. That is your real name?—A. Yes, sir.

Q. Do they call you Thomas Hart Jones?—A. No, sir.

Q. Do they call you Thomas Starr Jones?—A. Sometimes they do; yes, sir.

Q. Did you ever secure an option from E. J. Williams on the Katydid culm bank?—A. Yes, sir.

Q. When was it?—A. April.

Q. What time in April?—A. April 6.

Q. This year or in 1911? This year, was it not?—A. This year.

Q. Do you mean last April?—A. Yes, sir.

Q. How did you happen to trade with Williams?—A. He told me he had this dump for sale.

Q. Well, go on and tell the court.—A. I went to look at the dump and took two gentlemen down with me to see as to the tonnage—how the tonnage was—about $22,000.

Q. Right there, when he first mentioned to you the dump, did he agree to tell you where it was?—A. Not the first time; no, sir.

Q. When he mentioned the dump to you the first time, did you ask him the contents of it; that is, how much it contained?—A. Yes, sir.

Q. What did he tell you?—A. I think, 150,000 tons.

Q. What did you tell him?—A. I told him I did not believe he had such a dump; I did not know such a dump as that near Scranton.

Q. Was that the end of the conversation with him the first day?—A. Yes, sir.

Q. How long after that was it that he brought it to you again?—A. I think I went down to examine the dump before I saw him the second time.

Q. But he would not tell you where it was the first day?—A. No. Well, it was afterwards that he told me where it was. I think he did.

Q. How long afterwards?—A. That I do not remember.

Q. Two or three days?—A. Thereabouts. It could not be long.

Q. Now, tell us what he said to you and what you said to him the second time you had a meeting. May I refresh your memory? Did he ask you if you would like to buy the dump, and you finally told him yes and asked him if he had papers on it, and he told you yes?—A. Yes, sir; he told me he had an option on it.

Q. Did you meet him again and ask him if he really had title to it?—A. I did.

Q. What did he say to you, then?—A. He said he had title. I told him I did not believe he had title.

Q. What did he say to you about title?—A. Then he told me, "If you will come up with me to Judge Archbald's office I will prove to you I have title."

Q. Did you go to Judge Archbald's office with him?—A. I did.

Q. Immediately?—A. I do not remember whether that day or the next day.

Q. When you went to Judge Archbald's office was that in the Federal building in Scranton?—A. Yes.

Q. Was the judge there?—A. I do not remember that the judge was there. I think he was.

Q. Well, now——A. Yes; he was.

Q. What did you say and what did he say to the judge?—A. Mr. Williams told the judge he was trying to sell me that dump, and I did not believe he had title to it, and the judge gave me to understand that he did not have no title to it—that he couldn't deliver it.

Q. That who did not have?—A. Mr. Williams.

Q. Was that in the presence of Mr. Williams and in your presence?—A. Yes, sir.

Q. He gave you to understand, if I interpret your language, that Mr. Williams had no title to it and could not deliver it?—A. Yes, sir.

Q. Now, what did you do after he had told Williams in your presence that Williams had no title to it? Did you leave the office?—A. Yes, sir.

Q. When was the next time that you saw Williams?—A. I generally saw him every day on the street.

Q. After that particular transaction?—A. I could not tell exactly; probably a week; I do not know

Q. Was it the next day?—A. I do not know.

Q. Anyway he did come to you again, and he insisted on your buying it?—A. Yes, sir.

Q. And told you if you came up to the judge's office you would get the option?—A. Yes, sir. I told him I would not go down again unless he had an option.

Q. Did you go again to Judge Archbald's office?—A. Yes, sir.

Q. Was the option drawn while you were waiting there?—A. Yes, sir.

Q. Who drew it?—A. I do not know.

Q. Was it drawn in Judge Archbald's office?—A. Yes, sir.

Q. Was it drawn in typewriting?—A. Yes, sir.

Q. How long was that option to run?—A. Ten days.

Q. What was the price fixed in the option?—A. $25,000.

Q. Where were you when the option was drawn?—A. I did not see the option drawn at all. Mr. Williams gave me the papers in Judge Archbald's office, right on the desk, and signed it there.

Q. Explain when the option was drawn where you were and where it was drawn, if you did not see it drawn.—A. I was in Judge Archbald's office, but I did not see anybody drawing that paper.

Q. It was drawn in some mysterious manner, then?—A. I did not see it.

Q. Did you remain in Judge Archbald's office all the time after you went up there until you got the option?—A. I did not.

Q. What did you do?—A. I went out. I stopped in the corridor; there was something going on in Judge Williams's court; and when I got back Williams had the paper and signed it.

Q. You went out of the office and remained out long enough for that option to be drawn in typewriting, and then you went back and found the option on the table?—A. Yes, sir.

Q. Was there a clerk there who drew it?—A. No, sir.

Q. Who signed it?—A. Edward J. Williams.

Q. Was it delivered to you there in Judge Archbald's office?—A. Yes, sir.

Q. Did he say Williams had no title to it?—A. No, sir; nothing was said.

Q. At what time was that option drawn?—A. April 6.

Q. When you were down here before the Judiciary Committee the 25th of last May you did not have this option?—A. No; I did not have it. I could not find it.

Q. It was lost at that time?—A. It was among the papers on my desk. I found it.

Q. (Presenting paper.) Is this the option?—A. (Examining.) Yes, sir.

Mr. Manager WEBB. Mr. President, we would like to have it read and marked the proper number. (To the witness.) This is the first time you have ever produced that paper so far as the managers know anything about it?—A. Yes, sir.

The PRESIDENT pro tempore. The Secretary will read the paper.

The Secretary read as follows:

[U. S. S. Exhibit 26.]

SCRANTON, PA., *April 6, 1912.*

THOMAS H. JONES, Esq.

DEAR SIR: I will sell you the interest which I have in the Katydid culm dump, produced under the operation of Robertson & Law, in the neighborhood of Moosic, Pa., for the price or sum of $25,000. It is understood that for this price I only undertake to sell the interest which I have by virtue of the writing or option which I have from the Hillside Coal & Iron Co. of August 30, 1911, and the option of September 4, 1911, from John M. Robertson. I will undertake to pay out of the money received from you the amount which I am to pay to the Hillside Coal & Iron Co. and to Mr. Robertson. It is understood that if any coal is found in washing or disposing of said dump above the size known as pea coal a royalty of 20 cents is to be paid to the parties entitled thereto. This option to you is only to hold good for 10 days.

Yours, very truly,

E. J. WILLIAMS.

Q. (By Mr. Manager WEBB.) Did anybody witness this option?—A. No, sir.

Q. Was anything said in the presence of Judge Archbald during your conversation in securing this option which indicated that the judge had a half interest in this proposition or deal?—A. No, sir; not to me; no.

Q. All that you can remember is the judge having said that Williams had no title to it?—A. Yes, sir.

Q. And could not deliver it?—A. Yes, sir.

Q. I want to ask you if, after he told you that, you did not know that Judge Archbald drew this option?—A. I do not.

Q. And he did not let you see him do it?—A. I did not see him doing it.

Q. Who else was in the office?—A. Mr. Williams.

Q. Was a stenographer there?—A. No, sir.

Q. You know Mr. Williams did not draw it, do you not?—A. I should say so.

Q. You should say he did?—A. He did not draw it.

Q. You went down and estimated the amount of culm in the bank, and concluded you would not take it, and paid no more attention to it. I will ask you if at this time, April 6, you did not know that agents had been to Scranton, Pa., investigating the conduct of Judge Archbald, and that is the reason why the judge did not have anything to do with this proposition?—A. No, sir; I did not know about it.

Q. Had it not been talk and common rumor?—A. No, sir; it had not. I had never heard it.

Q. You never heard it?—A. No, sir; not at that time.

Q. What time did you hear it?—A. I do not remember; I could not tell the exact date.

Q. Did you not know that E. J. Williams was examined before Wrisley Brown, in Scranton, on the 14th and 16th of March?—A. No, sir; I did not.

Q. You never heard it?—A. No, sir.

Q. Did you ever have any other transaction with Judge Archbald about a culm dump?—A. Yes, sir.

Q. Well, when was that?—A. I can not give you exactly the date.

Q. You remember that now because of what occurred before the Judiciary Committee when you were down here, do you not?—A. Yes, sir.

Q. At that time you did not remember of ever having any other transaction with Judge Archbald?—A. No; I did not testify that; no, sir.

Q. Did you not testify that you never made an application with him or with other parties for a culm bank?—A. I told you that I could not recall signing that paper—the application for the lease. After refreshing my memory I think I did recall the application for the lease.

Q. Explain to us what other transaction you had with Judge Archbald with reference to a culm bank or culm dump, its operation or purchase or lease.—A. Why, a gentleman by the name of John Henry Jones came to me and offered me a washery for sale.

Q. John Henry Jones. Is that the man we have ordered attached here to-day?—A. Yes, sir. He told me that he had a washery, and I think he told me the tonnage was about 250,000 or 300,000 tons, or something like that; but he did not tell me—he would not give me the location of that washery for some time.

Q. What was that last expression?—A. That he did not give me, the first time he offered me the proposition, the location of that washery.

Q. Proceed.—A. Then, I think it was some time later on he told me where it was.

Q. Where was it?—A. In the Shenandoah Valley. Then I went down to examine the dump.

Q. Did he tell you that the judge had anything to do with it?—A. He did not; no, not exactly; but I remember he told me——

The PRESIDENT pro tempore. Mr. Witness, the Chair is informed by Senators that they can not hear you. Speak out louder.

The WITNESS. I think that Mr. Jones told me that there was a couple of fellows in the Shenandoah Valley operating a washery that did not operate it to an advantage and that it was for sale; they would like to sell it; that he got that information from Judge Archbald, Mr. Jones did.

Q. (By Mr. Manager WEBB.) Is that the proposition that Jones wanted to interest you in?—A. Yes, sir.

Q. Did you join him in the proposition of the Oxford washery?—A. I offered that operation for sale, but it was turned down as no good.

Q. Then that was the last you heard of the Oxford proposition?—A. No, sir.

Q. Well, proceed and tell us all about it, Mr. Jones. You understand what I am asking you, do you not?—A. Yes, sir. I offered this proposition for sale, but it was turned down. I told you I got it from Mr. Jones and that it was no good. Then I went down to examine the property——

Q. You went down to examine the Oxford dump?—A. Yes, sir.

Q. Go ahead, sir.—A. I found it was no good; the dump had been almost washed; it was very rocky; and the superintendent of the Oxford washery told me if we could secure a dump across the way that a fair operation could be made out of it by bringing that coal into this washery.

Q. What did you ask for it?—A. For the washery?

Q. Yes; when you went down to examine it?—A. I think the price was $75,000 or $80,000; I do not remember.

Q. Did you ever have any other association with Judge Archbald besides the Oxford proposition?—A. No, sir. I am telling you that the superintendent of the Oxford washery showed me a dump across about a quarter of a mile from that, and said that if I could secure a lease on that dump a fair operation could be made, combining it with the Oxford.

Q. Did you ever sign with Judge Archbald a request to lease a certain bank, known as Packer No. 3, from the Girard estate?—A. Yes, sir. This was Packer No. 3.

Q. It was?—A. Yes, sir.

Q. I thought you had turned it down?—A. Not Packer No. 3—the Oxford, sir.

Q. You turned down the Oxford?—A. Yes.

Q. Do you remember having made a different proposition to the Girard estate, asking for a lease of Packer No. 3 dump with Judge Archbald?—A. Yes, sir. When I came back after examining the property I told Judge Archbald and Mr. Jones that there was a dump not far from there called Packer No. 3, and if that could be secured, it would make a fair operation.

Q. That is something that you remember since you testified before the Judiciary Committee, is it not?—A. No, sir.

Q. You did not remember before the Judiciary Committee that you ever signed any proposition with Judge Archbald at all?—A. I had forgotten it.

Q. You had forgotten it at that time?—A. Yes, sir. I was not quite sure about that before.

Q. You had forgotten that you ever signed your name with Judge Archbald applying for a lease from the Girard estate?—A. Yes, sir.

Q. You had forgotten that in that application the coal company was to be called the Jones Coal Co., have you not?—A. I told you at that time that the name was undecided upon; that we thought of several names.

Q. But afterwards the application which you signed was read, and in that application a statement was made that they proposed to form the Jones Coal Co.—A. It slipped my memory about signing that paper.

Q. I say on the 29th of last May you had forgotten that you had made application, you had forgotten the name of the company, and had forgotten who was to put up the money?—A. No; I did not say that.

Q. Have you talked to anybody about this matter since you were down here last May?—A. No, sir.

Q. Have you been in Judge Archbald's office?—A. I was in Judge Archbald's office once.

Q. What time? When?—A. I do not know. I was up in the revenue office one day, was walking around the corridor, and the judge was sitting in his office, and passed the time of day. That is all.

Q. You just passed the time of day with him?—A. Yes, sir.

Q. Did you go into his office?—A. Standing right in the door.

Q. Did you stop and pass the time of day?—A. Yes, sir.

Q. You did not sit down?—A. No, sir.

Q. You have not been examined by counsel?—A. No, sir.

Q. By any lawyer?—A. No, sir.

Q. You have not had any conversation with any counsel?—A. No, sir.

Q. But you do remember now that you were the man who suggested that they might get Packer No. 3 from the Girard estate?—A. Mr. John Henry Jones told me that they thought that they could get something else down there. Then I told Mr. Jones of this Packer No. 3.

Q. Let me ask you now if this [showing paper to witness] is the application that you made? I want to read you the first part of it.

Mr. Manager WEBB. I will introduce this paper, Mr. President. It is a copy, I will say to Col. Worthington, but I presume there will be no question about it. [Showing the paper to Mr. Worthington.]

Mr. President, at this point we will introduce a copy of the application, because the original is in the files of the Girard estate in Philadelphia and will be produced here at the proper time. Counsel for respondent admit that this is a copy. I now ask that the Secretary read it.

The Secretary read as follows:

[U. S. S. Exhibit 27.]

(Copy.)

SCRANTON, PA., *December 19, 1911.*

Col. JAMES ARCHBALD,
Engineer of Stephen Girard Estate.

DEAR SIR: We hereby make application for a lease of the culm bank near Shenandoah known as Packer No. 3, the same to cover also the upper part of the adjoining Packer No. 4 dump. We propose to incorporate as the Jones Coal Co., with a capital of $25,000, and to put up a washery which will handle some 400 or 500 tons of coal a day. We understand that these dumps are now subject to a lease to the Lehigh Valley Coal Co. which expires December 31, 1913, and which possibly will be renewed. But we have the assurance of that company that on certain terms and conditions, which have practically been agreed upon between us, it will be satisfactory to them to have us lease from you to the extent suggested. We shall expect to pay the current royalties, but we suggest that owing to the character of the dump, which is not the best, the royalties should not be the highest. We shall be prepared, if the lease is made, to put up the washery with reasonable promptness.

Very truly, yours,

R. W. ARCHBALD.
JAMES F. BELL.
V. L. PETERSEN.
T. H. JONES.

Q. (By Mr. Manager WEBB.) Mr. Jones, is your name T. Howell Jones?—A. Yes, sir.

Q. Who drew this application?—A. I think Judge Archbald did.

Q. What?—A. I should say Judge Archbald did. I did not see him doing it.

Q. Where did you sign it?—A. In Judge Archbald's office.

Q. At whose suggestion and instance?—A. Well, now, I do not recall that. I went in there and signed that paper.

Q. Did you not swear before the committee that John Henry Jones got you to go in?—A. I do not think I did.

Q. At whose instance?—A. I do not remember; no, sir. I went in there to sign that paper.

Q. Do you remember at whose instance? Did you go in at the judge's or John Henry Jones's instance?—A. I can not recall that. I am sure I went there.

Q. You do not know, then, under what circumstances you went into the judge's office and signed that application for a lease, stating that you were going to form the Jones Coal Co. and incorporate for $25,000? You do not know why you went in to sign it?—A. No; I can not recall.

Q. Did the judge send for you?—A. I do not remember that he did; no, sir.

Q. When you went into his office, what did he say to you?—A. Well, if I remember right now, he told me that was the paper; that that was the application for the lease; and I signed it.

Q. Had you talked about it before?—A. About what, sir?

Q. About forming the Jones Coal Co.—A. Yes, sir.

Q. Had you talked with Judge Archbald about it?—A. Yes, sir.

Q. How long before December 19?—A. Now, that I could not recall.

Q. What was the agreement between you, Judge Archbald, Bell, and Petersen?—A. We had no agreement, sir.

Q. What was the corporation to be called?—A. Well, the Jones Coal Co.

Q. You had no agreement before you signed this paper that it was to be called the Jones Coal Co., had you?—A. No, sir.

Q. In fact, when you were down here before the committee you did not know that it had been called the Jones Coal Co., did you?—A. I told you then we talked of several names.

Q. But the name had not been agreed upon?—A. No, sir: I do not remember that it had. I suppose that whoever prepared that paper called it the Jones Co.

Q. Exactly. So really when you signed that paper you did not know that it was going to be named in your honor?—A. No, sir. If I did I had forgotten that name had been put upon it.

Q. You had forgotten that when you testified here in May?—A. Yes, sir.

Q. Who was going to put up the money to finance this Jones Coal Co.?—A. Mr. Thomas Farrell, from New York.

Q. Did you not swear that you were to find the money?—A. I was to find the money.

Q. You were to find the money?—A. Yes, sir; I was to find the money.

Q. Do you now mean that you were to find the man who was to find the money?—A. It is all the same, is it not? I agreed to finance that deal; I said "I will find the money."

Q. You agreed to find Farrell and Farrell was to furnish the money?—A. Yes, sir.

Q. And Farrell was not even an incorporator, was he?—A. No, sir.

Q. His name is not attached to this proposition?—A. No, sir.

Q. What was Judge Archbald to do and what interest was he to have in this corporation?—A. We did not define that interest; we had not gone so far as that.

Q. You did not define that interest?—A. No, sir.

Q. You knew when you made this application to the Girard estate that the consent of the Girard estate would be worthless unless you at the same time got the consent of the Lehigh Valley Railroad Co. or the Lehigh Valley Coal Co. to operate this Packer No. 3, because the Lehigh Valley Railroad Co. or the Lehigh Coal Co. had a lease from the Girard estate for it. Is not that so?—A. I did not know that.

Q. Did you not know that your lease from the Girard estate would be no good or worthless unless you got a further lease from the Lehigh Valley Coal Co.?—A. No; I did not.

Q. Did you know anything about the situation at all when you came and signed these papers?—A. The superintendent of the Oxford washery told me that it was dump or mine of the Lehigh Valley or of the Girard estate, I think he said.

Q. You say that you did not know when you signed this application with the judge to the Girard estate that you had also to get the consent of the Lehigh Valley Coal Co. before you could operate this dump?—A. No, sir; I do not recall that.

Q. Did you know that the Lehigh Valley people had a lease on it?—A. That I did not know.

Q. In fact, you do not know anything about this proposition except what you find on this paper, do you?—A. Yes, sir; I have told you all that I know about it.

Q. Do you know what became of the Jones Coal Co.?—A. Why, it was never incorporated.

Q. Never incorporated?—A. No, sir.

Q. Do you know why?—A. Because we did not get the lease, I guess.

Q. You are guessing now.—A. That is what the judge——

Q. After December 19, 1911, did you ever go to Judge Archbald and ask him what had become of the Jones Coal Co.?—A. I do not know that I did.

Q. You swore before the Judiciary Committee that you never did ask him, did you not?—A. I do not remember what I did ask him.

Q. Then you signed this application in December, and up to last May you had never asked the judge what had become of that coal company?—A. No; I do not think I did. The judge has been away from home a good deal, and I seldom see him.

Q. You know him well; you are friends?—A. Yes, sir.

Q. You see him when he is in Scranton, do you not?—A. No, sir; not always.

Q. Do you live in Scranton?—A. Yes, sir.

Q. You do not do anything there now, do you?—A. Well, yes. I have some interests to attend to.

Q. But you are not actively engaged?—A. Yes, sir.

Q. Well, you do see the judge when he goes to Scranton, do you not?—A. Sometimes I see him on the street; yes, sir.

Q. But you have never asked him what became of the Jones Coal Co. up to this hour?—A. No, sir; I have not.

Q. And you do not know?—A. No, sir; I do not.

Q. Did he ever tell you that he had secured from S. D. Warriner, the vice president and general manager of the Lehigh Valley Co., permission to lease, or re-lease, from the Lehigh Valley people this culm dump, provided the Girard estate was willing to do it?—A. I do not recall that I ever told you that.

Q. What did you mean when signed your name to this statement:

> We understand that these dumps are now subject to a lease to the Lehigh Valley Coal Co., which expires December 31, 1913, and which possibly will be renewed. But we have the assurance of that company that on certain terms and conditions, which have practically been agreed upon between us, it will be satisfactory to them to have us lease from you to the extent suggested.

You did understand what you were signing?—A. I did not word that paper.

Q. Do you mean to say, then, that you did not understand what you were signing?—A. Not exactly; no. I know what I am signing, as a rule, but I have forgotten the contents of that paper.

Q. Then, you must have known that it was necessary to get the consent of the Lehigh Valley Coal Co., because you so state in that application?—A. I can not recall that now.

Q. You do not remember?—A. I do not.

Q. And you do not remember whether the judge told you that he had secured that consent from S. D. Warriner?—A. I do not remember that he did.

Q. Did he ever tell you from December 19, or on that date, to the present time that he had secured the consent of the Lehigh Valley Coal Co. to lease to you this dump provided the Girard estate did not object?—A. I do not remember; I am not sure that he ever told me.

Q. And you signed this paper, knowing very little about it?—A. No; I knew a good deal about it.

Q. You do not seem to know the two main features.—A. I see your point. I did not prepare that paper.

Q. But you understood it, did you not?—A. At that time, sir.

Q. Was it read over to you?—A. Yes, sir; I think so.

Q. Who read it to you?—A. Now, I am not sure whether Mr. Bell was there with me or not.

Q. Was Bell with you?—A. I am not positive now whether he was there or not. I do not remember.

Q. You are not sure, then, whether you read it or whether it was ever read to you?—A. It was read to me. I would not have signed it without it being read to me.

Q. You are the last signer on here, I notice?—A. Yes, sir.

Q. Did you ever talk with Mr. Warriner about this proposition?—A. No, sir; I do not know the gentleman.

Q. What was the judge to do, in connection with the formation of the Jones Coal Co., to entitle him to a share in it or to be a stockholder?—A. No more than he made that application for the lease, I guess.

Q. Was he not to go there and get the permission of the Lehigh Valley Railroad Co. to the lease?—A. That I do not know.

Q. Do you mean to say you do not know whether that is so?—A. No, sir; I do not.

Q. You stated in this application that it was necessary to get the consent of the Lehigh Valley Railroad Co.?—A. Yes, sir; I understand that.

Q. Did you understand that the judge had already gotten it, then?—A. No; I did not understand that he had it.

Q. You stated in this paper that you had assurances that you would get it. Who gave you those assurances?—A. I do not remember. I did not prepare that paper.

Q. That is not an answer. Did the judge tell you that he had gotten permission of the Lehigh Valley Railroad Co. to lease this dump?—A. I do not remember that he did; no, sir.

Q. You say he did not?—A. I do not remember that he did.

Q. Why did you not ask him, if you read this paper, "How did you get this consent from the Lehigh Valley Railroad Co."?—A. Well, I did not want to ask him such a question.

Q. You did not want to ask him such a question?—A. No, sir.

Q. Do you not know, Mr. Jones, that your connection with this proposition was merely nominal; that you were simply to find a man who could furnish the money; and that Judge Archbald's connection with it was only for the purpose of securing from the Lehigh Valley Railroad Co. its consent to do something that it had not done in 35 years, to wit, re-lease one of their culm dumps to you? Is not that the reason why he was connected with this proposition?—A. Well, the first way he became connected was through the Oxford, I guess; I do not know.

Q. Do you think that is an answer to my question?—A. What did you want me to answer?

Q. I want to ask you whether Judge Archbald's only connection with this proposition was not for the purpose of securing a lease from the Lehigh Coal Co. to your coal company?—A. I should say so; yes, sir.

Q. You should say so?—A. Yes, sir.

Q. Where were you born?—A. In Wales.

Q. How long have you been in the United States?—A. Thirty-five years.

Q. What has been your business?—A. I have been in the drug business.

Q. In connection with the Star Drug Store?—A. Yes, sir.

Q. That is why they call you Thomas "Star" Jones, at times?—A. Yes, sir.

Q. How long were you in the drug business?—A. I do not know.

Q. And how long have you been a coal operator—that is what I am trying to get at?—A. I have been in the coal business a good many years.

Q. About how many years?—A. Eleven or twelve years.

Q. So that the judge was to put nothing in this proposition, no money?—A. No, sir.

Mr. Manager WEBB. That is all, Mr. President, that we care to ask the witness.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Jones, where did you first meet Mr. Williams in relation to the Katydid culm dump?—A. I met him in front of the Republican Building, sir; in Scranton.

Q. Did he tell you at that time where the dump was?—A. No, sir.

Q. How long was it after that that you first learned where the dump was?—A. Well, I can not tell you exactly how long, but it was not very long until he told me where it was.

Q. Did you go to see the dump before or after the option was given to you?—A. I went the first time before the option was given to me.

Q. Did you take anybody down with you?—A. Yes, sir.

Q. Who was it you took with you?—A. I took Mr. Alonzo Davis. He is an engineer.

Q. For what purpose?—A. Why, there were three besides myself.

Q. Who were the other two?—A. They were the prospective buyers of the dump.

Q. Were they engineers?—A. No, sir; I do not think they were engineers; I did not know them.

Q. What purpose did you have in going down to the dump?—A. To ascertain the size of the dump—what tonnage it was.

Q. Did you have an estimate then made as to what the tonnage of the dump was?—A. Yes, sir.

Q. What was the estimate?—A. 22,000 tons.

Q. In the beginning of your examination in chief you spoke of $22,000. That was a mistake, was it not? You meant tons?—A. 22,000 tons.

Q. After you got the estimate as to there being 22,000 tons in it, what did you do?—A. I dropped it; I did not do anything further with it for awhile; but I was not satisfied that those engineers were right. I thought there was more in the dump than 22,000 tons; so I told Mr. Williams if he would give me an

option. I would go down again and see; and I went down again and took a competent engineer.

Q. Not so fast, please. This is all now relating to the Katydid culm dump?—A. Yes.

Q. And you told him that if he would give you an option you would go down and make another examination?—A. Yes, sir.

Q. Then the option which has been produced here was given?—A. Yes, sir.

Q. Did you pay anything for the option?—A. No, sir.

Q. Then you went down again and examined the dump?—A. Yes, sir.

Q. Who went with you that time?—A. A mining engineer by the name of Carl Motiska.

Q. Did he make any estimate as to the tonnage of the dump?—A. Yes, sir.

Q. What was his estimate?—A. Sixty-eight thousand tons, I think, if I remember right.

Q. Was that the whole tonnage or the coal in the dump?—A. The whole tonnage.

Q. The whole tonnage of the dump?—A. Yes, sir.

Q. Then, of these two estimates that you had, the first estimate was 22,000 tons and the second estamate 68,000 tons in a dump which Mr. Williams had told you contained 150,000 tons?—A. Yes, sir.

Q. That is correct, is it?—A. Yes, sir.

Q. Was the first estimate of 22,000 tons the estimate of the quantity of coal in it or of the whole tonnage of the dump?—A. The whole tonnage of the dump.

Q. Then, after you got this second estimate of 68,000 tons while the option was running, what did you do—in regard to the option, I mean?—A. I examined the dump.

Q. You have told us that, and found 68,000 tons in it?—A. I did not do anything more with it.

Q. Why did you not do anything more with it?—A. Because I did not think it was worth the money—no good.

Q. It was no good. Do you mean that you were satisfied that it was no good because of the experience you had had in such matters?—A. No, sir.

Q. You mean that you did not think it was any good because of that?—A. That is it.

Q. The next matter, as I understand, was the Oxford washery matter?—A. Yes, sir.

Q. Will you tell us, please, whether that was an old dump or a new one?—A. That was a very old dump.

Q. A very old dump?—A. A very old dump.

Q. You made an examination of it?—A. Yes, sir.

Q. And your conclusion about that was what?—A. That it was no good.

Q. No good either? But out of that, I think you said awhile ago, there grew the question of the leasing of Packer No. 3?—A. Yes, sir.

Q. Who suggested the leasing of Packer No. 3?—A. I did. I told Mr. Jones and the judge of this dump in the immediate neighborhood, called Packer No. 3.

Q. That is in the immediate neighborhood of the Oxford washery?—A. Yes, sir.

Q. You mean John Henry Jones?—A. Yes, sir.

Q. The question was asked you whether you did not say before the Judiciary Committee that you did not sign an application for Packer No. 3. I am reading, gentlemen, from page 1466:

Mr. WEBB. Did you ever sign an application for a lease of a culm dump, together with Judge Archbald, Peterson, and others, directed to James Archbald, chief engineer of the Girard estate, asking for a lease of any culm dump?
Mr. JONES. Yes, sir; I believe I did.
Mr. WEBB. You did?
Mr. JONES. Yes.

Q. Do you remember testifying so?—A. Yes, sir.

Q. That was true, was it not?—A. Yes, sir.

Q. Then there was read to you the application which has been read already this afternoon, and these questions were asked on page 1468:

Mr. WEBB. Did you ever sign it? Did you or did you not sign such a statement as that, addressed to James Archbald? Did you ever sign such a statement, or such a letter, to Col. James Archbald, engineer of the Girard estate?
Mr. JONES. I think I did. I signed one paper, I know.
Mr. WEBB. Do you know who signed it?
Mr. JONES. I am not positive; I believe I did.
Did you testify to that?—A. Yes.

Q. And that is true also, is it not?—A. Yes, sir.

Q. You saw, when you signed that application for Packer No. 3, that the judge's name was already signed to it?—A. Yes, sir.

Q. Mr. WEBB asked you a little while ago whether or not it was not true that Judge Archbald was to do nothing but obtain, if he could, the dump from the Lehigh Valley Coal Co. You knew that his application was made also to the Girard estate, did you not, and that that was the application which was read a while ago?—A. Yes, sir.

Q. Was there anybody put any money in it other than the money which was to be obtained through your financing of the proposition from Mr. Farrell?—A. That is right.

Q. Nobody was to put any money in it?—A. No, sir.

Q. You testified that when you first went down to look at the Oxford washery you reported to Judge Archbald the result of your investigation. Why did you do that?—A. I reported to Judge Archbald or Mr. Jones. I do not remember whether I reported to Judge Archbald or Mr. Jones.

Q. You knew that both of them were interested in it before you were interested in it?—A. Yes, sir.

Q. And they were interested in it, then, when you went to look at it?—A. Yes, sir.

Q. And your report was made either to the judge or John Henry Jones?—A. Yes, sir.

Q. Because of the fact of their being interested in it and getting you to go and look at it?—A. Yes, sir.

Q. After this application was made to the Girard estate there was nothing further ever done with the matter, was there?—A. No, sir.

Q. And it has remained in that position from that day to this?—A. Yes, sir.

Q. It was suggested in the course of the examination a while ago that there was something mysterious about the way in which the option for the Katydid culm dump was drawn. Was there anything mysterious about it that you know of?—A. No, sir.

Q. You knew, did you not, that the room of the stenographer whom Judge Archbald had was adjoining the judge's; that she was not in the same room where you and the judge and Mr. Williams had your conversation?—A. I know there was no stenographer in the judge's office when I was there.

Q. But did you know that there was a stenographer in the adjoining room?—A. Yes; I knew that.

Mr. SIMPSON. That is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager WEBB.) At the time that 10-day option for $25,000 was drawn and presented to you did you think Judge Archbald drew it?—A. I do not know who else could do it.

Q. Answer my question. Did you think he drew it?—A. I did.

Q. Then I ask you what was the impression that was made on your mind when you determined that Judge Archbald had drawn that option from Williams to you inasmuch as two or three days before that time he had told you that Mr. Williams had no title to it? What impression did you get from that?—A. Well, Mr. Williams insisted that he had an option. He said his title was good.

Q. But the judge said he did not have it?—A. Yes. The first time he gave me to understand that he had no title to it.

Q. And in a few days afterwards the judge did draw this option from Williams to you?—A. Yes, sir; at the judge's office.

Q. Out of your sight?—A. Yes.

Q. He did not even witness it?—A. No, sir.

Q. And drew it while you had gone into Judge Witmer's court?—A. Yes. I was not there in the judge's office when that paper was prepared.

Q. Let me ask you this question: You told Mr. Simpson that nothing further had been done with this Girard estate application since the application was made. Do you not know that the judge had much correspondence with Mr. Warriner, the vice president of the Lehigh Valley Coal Co., about getting a lease from him, and that he went to Philadelphia to see the manager of the Girard estate in an effort to get them to agree to make the lease; do you not know that?—A. No, sir; I do not.

Q. Then why did you tell Mr. Simpson that nothing else had been done about it?—A. I do not know whether it was before or since——

Q. Then you do not know anything more than that you signed this application on December 19, 1911?—A. I know more? I told you all I know about the proposition.

Q. You told us a while ago that you have not heard of it since?—A. Yes, sir.

Q. Is that true—that you have not heard of it since?—A. Yes, sir.

Q. And you do not know what became of the Jones Coal Co.?—A. No, sir.

Q. Then you could not meant what you said when you told Mr. Simpson that nothing more had been done with the matter. Your answer should have been that you did not know what else had been done. Is not that true? When you estimated the amount of coal in the Katydid dump you found 80,000 or 90,000 tons?—A. 68,000 tons, I think.

Q. Of coal or culm?

Mr. SIMPSON. Culm.

Q. (By Mr. Manager WEBB.) Sixty-eight thousand tons. Do you mean by that the entire contents of the bank or the coal—the pea and chestnut and prepared sizes of coal and buckwheat to be found in the bank?—A. The entire contents of the bank.

Q. That included dirt and all the rest?—A. Yes, sir.

Q. Who was that engineer?—A. Carl Motiska.

Q. Did you know how much coal—pea, buckwheat, chestnut, and prepared sizes—there was in this Packer No. 3, for which you applied to the Girard estate?

The WITNESS. What was the tonnage, do you mean?

Q. How much coal—pea coal, chestnut coal, barley, and prepared sizes—was contained in Packer No. 3, for which you signed an application?—A. No, sir.

Q. I will ask you if you have learned since that there were 472,000 tons in it?—A. I was under the impression that there was more.

Q. Where did you get the impression?—A. From myself; I judged myself that there was more than that.

Q. You mean by that the entire contents of the bank? I am asking now about the entire amount of coal to be taken from the dump. Did you ever know that there were 472,000 tons in this Packer No. 3 dump?—A. I figured it more than that. I had an engineer to figure it, and I think it was more.

Q. You had an engineer to figure Packer No. 3?—A. Yes, sir.

Q. How much did he figure it?—A. I think it was 700,000 tons.

Q. You made it a million and something tons, did you not?—A. That was the whole dump.

Q. He made 700,000 tons in Packer No. 3?—A. Something like that.

Q. And did you know that when you signed this application for the lease or was it done afterwards?—A. I think I knew it before.

Mr. Manager WEBB. That is all.

The PRESIDENT pro tempore. The witness may retire.

Mr. Manager WEBB. And so far as we are concerned this witness may be discharged.

Mr. SIMPSON. We do not want him. He may go so far as we are concerned.

The PRESIDENT pro tempore. The witness is finally discharged.

Mr. Manager FLOYD. The next witness we desire called is Mr. James H. Rittenhouse.

TESTIMONY OF JAMES H. RITTENHOUSE.

James H. Rittenhouse, being duly sworn, was examined, and testified as follows:

Q. (By Mr. Manager FLOYD.) Please state your name and place of residence.—A. J. H. Rittenhouse, Scranton, Pa.

Q. What is your business or occupation?—A. Civil and mining engineer.

Q. What experience have you had as a civil and mining engineer in the anthracite coal region of Pennsylvania and elsewhere?—A. Forty years in all kinds of work—railroad work, mining work, metal mining, masonry, dams, including general mining engineering.

Q. So you have a thorough knowledge of general engineering in all the various branches you have mentioned, including engineering?—A. I think I have a pretty good knowledge of it.

Q. Have you ever at any time been employed by the Marian Coal Co. or by W. P. Boland or C. G. Boland?—A. Never.

Q. I will ask you if you are acquainted with a culm dump known as the Katydid culm dump, near Moosic, Pa.?—A. I am.

Q. Were you ever employed by anyone to make a survey of that culm dump and to estimate the amount of material and the various kinds and sizes of coal contained therein; and if so, state by who and when.—A. I was; by Mr. Wrisley Brown, in the month of March, I think.

Q. Who is Mr. Wrisley Brown, or in what capacity was he acting when he employed you?—A. I did not know Mr. Wrisley Brown. He simply gave me a card with his name on it, and I did not know where he was from or whom he represented till afterwards.

I want to say this: He came into my office. I took him to be a well-to-do man—he was dressed accordingly—and after making some preliminary inquiries as to what he wanted and as to the responsibility of the parties whom he represented, he told me that for certain reasons he did not wish to have his identity known. He had been over to the adjoining office, to one of my business associates, although we are not a copartnership at all, and he had talked with him, and Mr. Stevenson brought him over and introduced him to me. After arranging the preliminaries in regard to about what it cost to make such a survey, he held up a telegram and said: "I have telegraphed my people as to the cost and it is satisfactory." But he covered up the address and signature of the telegram, so that I simply could not tell from whom or where it came.

Q. Let me ask you if you afterwards learned that he was at that time representing the Department of Justice?—A. Not until I had made my reports, sent my papers on, and then finally sent my last communication and turned it over to the stenographer, and when she brought it into me I saw that it was addressed to Wrisley Brown, Department of Justice, Washington, D. C. That was the first intimation I had of what I was called upon to do. If I had pursued my usual policy of asking whom he represented and whether there was a lawsuit at the end of it, I would undoubtedly have turned the proposition down.

Q. Under the circumstances, you accepted the employment without knowing the purpose of the survey?—A. I did; yes.

Q. And made it without knowing whom you were representing—that is, except Wrisley Brown, and you did not know what interest he represented?—A. I did not. He gave me to understand there were certain reasons why he desired to keep the matter quiet, and I supposed it was in reference possibly to the Everhart title. They wanted an unbiased, disinterested opinion, so I supposed he could use it in that way.

Q. State whether or not under this employment by Mr. Brown you made a survey of this culm bank and made a report thereon.—A. I did.

Q. Please state the amount and percentage of the various kinds of coal according to your estimate as incorporated in your report.—A. I have given to Mr. Brown all these papers and the maps in the case when it was tried by the House.

Q. For the purpose of refreshing your memory I will let you take that. Is that your original report, Mr. Rittenhouse, which you made to Mr. Brown [handing witness report]?—A. (After examination.) It is.

Q. And the supplemental report is attached to that, is it not?—A. Yes, sir.

Q. Now you may answer my question.—A. What was the question?

The Reporter repeated the question, as follows:

Please state the amount and percentage of the various kinds of coal according to your estimate as incorporated in your report.

A. The number of cubic feet in the bank, as outlined by the Erie, is 3,133,632; additional dump, making 3 in all, 681,229; total, 3,824,861 cubic feet. Weight per cubic foot, 52.9 pounds; 42.3 cubic feet equals 1 ton of 2,240 pounds; 3,133,632 cubic feet divided by 42.3 cubic feet equals 74,081 tons; 681,229 cubic feet divided by 42.3 cubic feet equals 16,105 tons; total, 90,186 tons.

Q. Is that the gross amount of material that you estimate?—A. That is the gross amount of the material; yes, sir.

Q. Does that include waste as well as coal?—A. It does.

Q. You can go ahead with your statement.—A. A test of the component parts of the various sizes in the dump I find as follows:

	Coal.	Waste.	Total.
	Per cent.	*Per cent.*	*Per cent.*
Sizes above chestnut	6.086	2.765	8.851
Pea	1.041	.261	1.032
No. 1 buckwheat	12.419	.....	12.419
No. 2 buckwheat	9.893	.....	9.893
No. 3 buckwheat	22.454	.....	22.454
Slush passing through ½-inch	.....	45.080	45.080
Slate and rock	.....	3.020	.....
Total	51.893	48.106	99.999

This, worked out on the basis of values received from the various sizes, according to their percentages, would make the dump figure up in gross receipts $47,333.

Shall I give the percentage of values as to the different sizes?

Mr. Manager FLOYD. Yes, sir; give the percentage of values as to the different sizes.—A. Assuming that the bank contains 90,000 tons, we then have the various sizes, as below:

Chestnut and above, 5,477 tons. At a value of $3.25 a ton, it makes $17,800.25; pea coal, 937 tons, at $1.78 per ton, making

$1,667.86; No. 1 buck, 11,177 tons, at $1.41 per ton, $15,759.57; No. 2 buck, 8,904 tons, at 70 cents a ton, equals $6,232.80; No. 3 buck, 20,209 tons, at 30 cents a ton, makes $6,062.70; total of tons, 46,704 tons; total dollars, $47,533.18.

If line prices were obtained instead of the 65 per cent basis, then the amount would be increased to some extent.

Q. Now at that point please explain what you mean by the 65 per cent basis and by the term "line prices."—A. Sixty-five per cent basis is the railroad contract for transporting the coal, giving the operator 65 per cent of what it brings at tidewater, the railroad company taking the balance of 35 per cent for freight.

Q. Now what is meant by "line prices"?—A. Line prices is when you get the same kind of a contract as to freight that you sell along the line and is not based on tidewater. Tidewater prices are usually less than line prices. For instance, 10 miles outside of Scranton in any direction coal sells for more than it does in New York. Consequently line prices are preferable.

Q. Do they apply this 65 per cent basis on line prices as a rule?—A. That I am not prepared to say. I think the regular freight rates rule.

Q. Now you can proceed with your statement.—A. If what passes through a three thirty-seconds inch mesh and over one-sixteenth mesh is saved, it would be equal to 12,678 tons, and this at 30 cents per ton would be an increment of $3,803.40; and this should be added to the above, making the total $51,336.58. But I might say that that size of mesh is used in only a few places; not generally.

Q. Permit me to ask you if it is possible by the use of that sized mesh to gain this increment of which you speak?—A. It is.

Q. You can proceed.—A. A flat price of 30 cents a ton for the entire dump, or 90,000 tons, at 30 cents per ton, would be $27,000.

Q. Now, Mr. Rittenhouse, please describe the location of this culm dump with reference to the different railroad lines in that vicinity.—A. This property lies on lots 46 and 47, if I remember rightly.

U. S. S. EXHIBIT 28.

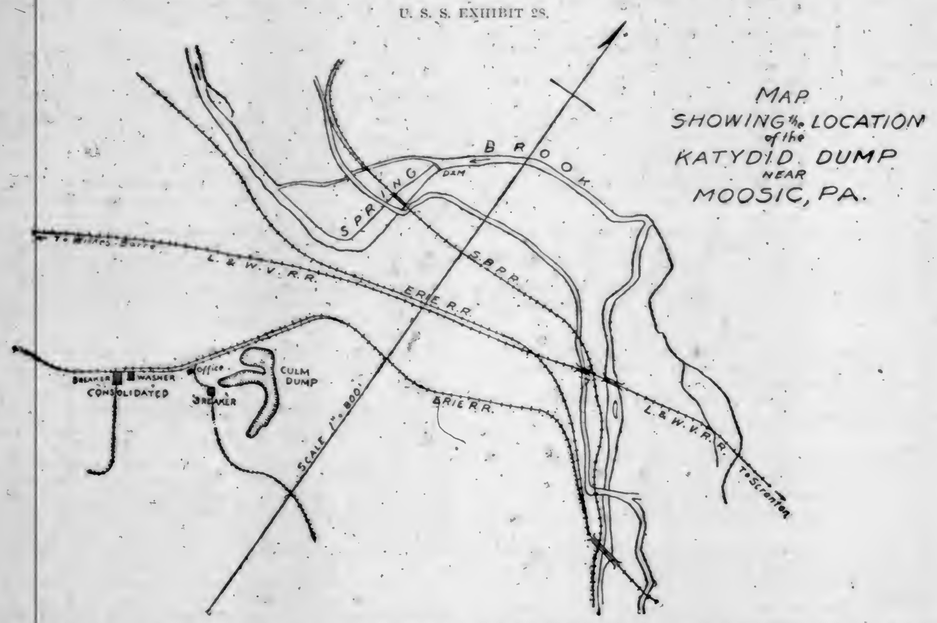

Q. To refresh your memory, I will ask you to state if that [exhibiting] is a map of the location of the Katydid culm dump? We will first establish the location of the dump.—A. (After examining.) It is, yes, sir; made by us.

Mr. Manager FLOYD. Now, Mr. President, we desire to make this an exhibit at this point.

Mr. WORTHINGTON. Let me see what you are offering.

Mr. Manager FLOYD. Excuse me, Mr. Worthington.

Mr. WORTHINGTON. It is from the other record? It is the same thing?

Mr. Manager FLOYD. Yes, sir; the same thing. [To the witness.] Now, do you desire this, Mr. Rittenhouse?

A. This lies to the southeast of the borough of Moosic and is on the southerly side of the Lackawanna Valley; lying to the south there is a large brook called Spring Brook. The Erie & Wyoming Valley Railroad, which was located on the line of the old gravity track of the Pennsylvania Coal Co., light track, after the gravity road was abandoned, is now the main line of this valley branch of the Erie. That breaker, called the consolidated breaker, was connected with this old gravity road, which was built in the fifties. Subsequently the Lackawanna & Wyoming Valley Railroad, an electric railroad, was built in 1901 or 1902, during those years, and it runs parallel about 4 or 5 rods from the Erie for a distance of a quarter of a mile. Then it swings off to a point nearer the Katydid dump than the branch of the Erie. There is a lateral branch from this main line of the Erie that goes into this consolidated breaker and along the tail track connected with the Katydid culm pile. The culm pile is situated right on the tail tracks of the Erie and about 600 feet from the nearest point of the Lackawanna & Wyoming Valley Road.

Q. (By Mr. Manager FLOYD.) Mr. Rittenhouse, one of the maps that has been submitted shows the location? You put in evidence two or three maps.—A. This is the map [exhibiting].

Q. It shows the facts with reference to the location?—A. Yes, sir.

The map was marked "U. S. S. Exhibit 28" and offered in evidence. (See accompanying illustration.)

Q. Did you make this map [presenting map] which was Exhibit 31 before the hearing, showing in detail the situation of the Katydid culm dump?—A. (Examining.) Yes, sir.

Q. That map was prepared by you?—A. Yes, sir.

Mr. Manager FLOYD. Mr. President, we want to offer this exhibit in evidence at this point.

Mr. WORTHINGTON. May I see it first?

Mr. Manager FLOYD. Certainly; excuse me.

Mr. WORTHINGTON (after examining). This is all right.

The paper was marked "U. S. S. Exhibit 29" and offered in evidence. (See accompanying illustration.)

Mr. Manager FLOYD. What is the scale indicated on the map or blue print submitted?

A. I have not got it.

Mr. Manager FLOYD. The Clerk has it at the desk.

The WITNESS (examining map). Scale 1 inch equal to 40 feet.

U. S. S. EXHIBIT 29.

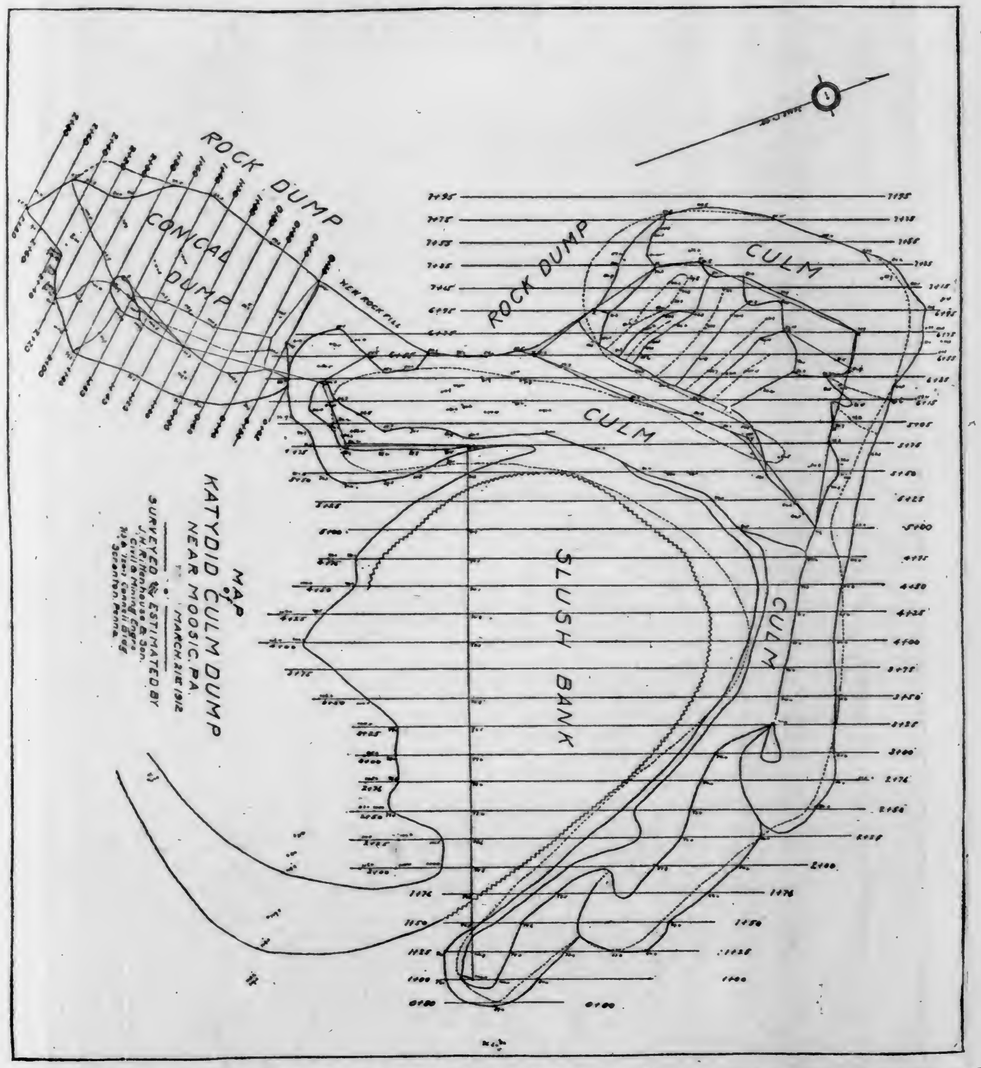

Q. (By Mr. Manager FLOYD.) Here is a further map. [Presenting map.] Please identify that, Mr. Rittenhouse, and state whether or not you prepared that map in connection with this investigation, and what it is?—A. (Examining map.) This is a map on cross-section paper on a scale of 1 inch equal to 40 feet, and in connection with it I will say that these cross sections or these tracings are 20 feet apart, and then those sections are represented by the red lines. Those sections are then put on this cross-section paper and used for calculating the area of the different sections; the two sections are put together, and the distance between them gives the cubical contents.

Q. (By Mr. Manager FLOYD.) Mr. President, we desire to make this an exhibit and offer it in evidence at this point.

The PRESIDENT pro tempore. It will be identified by number.

The exhibit was marked "U. S. S. Exhibit 30." (See accompanying illustration.)

U. S. S. EXHIBIT 30.

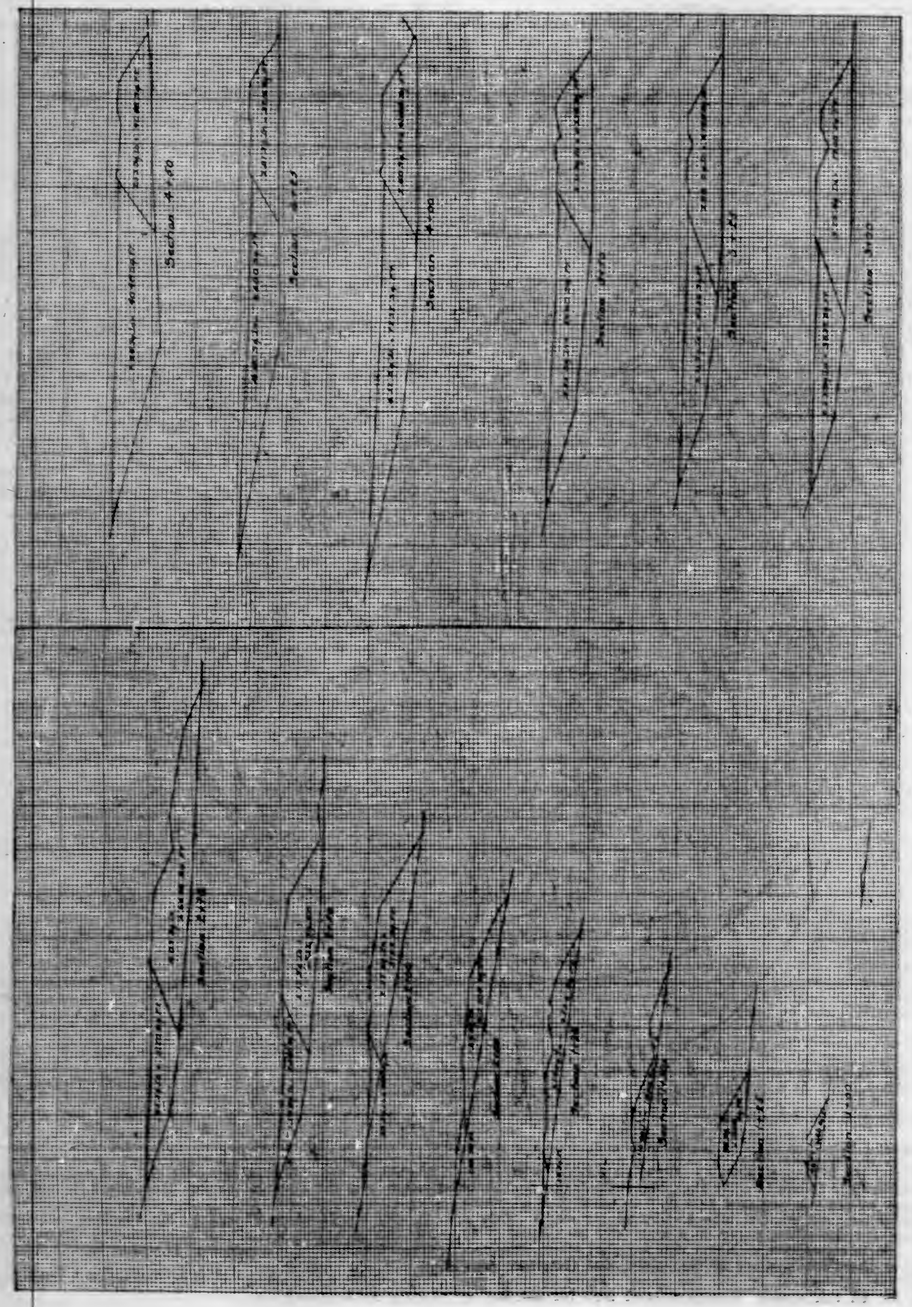

U. S. S. EXHIBIT 30—Continued.

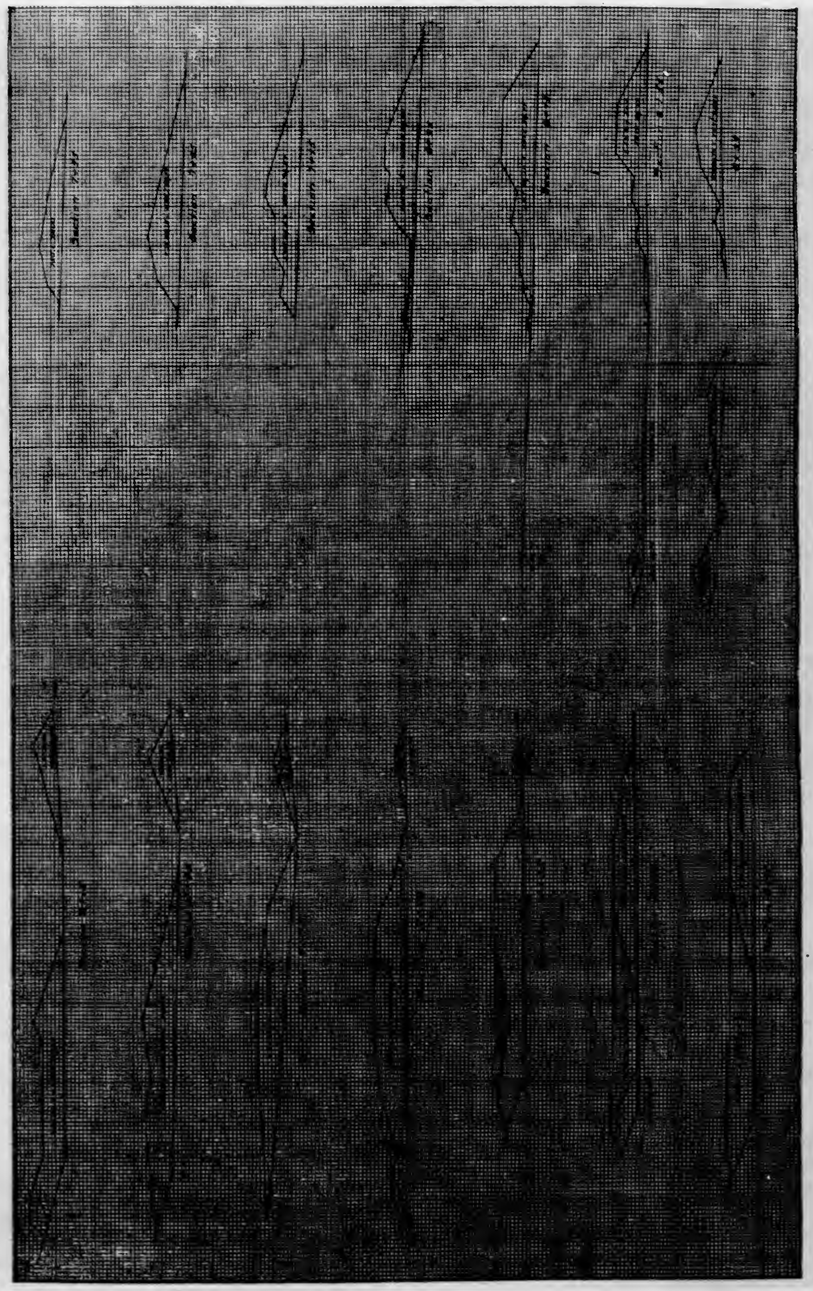

U. S. S. EXHIBIT 30—Concluded.

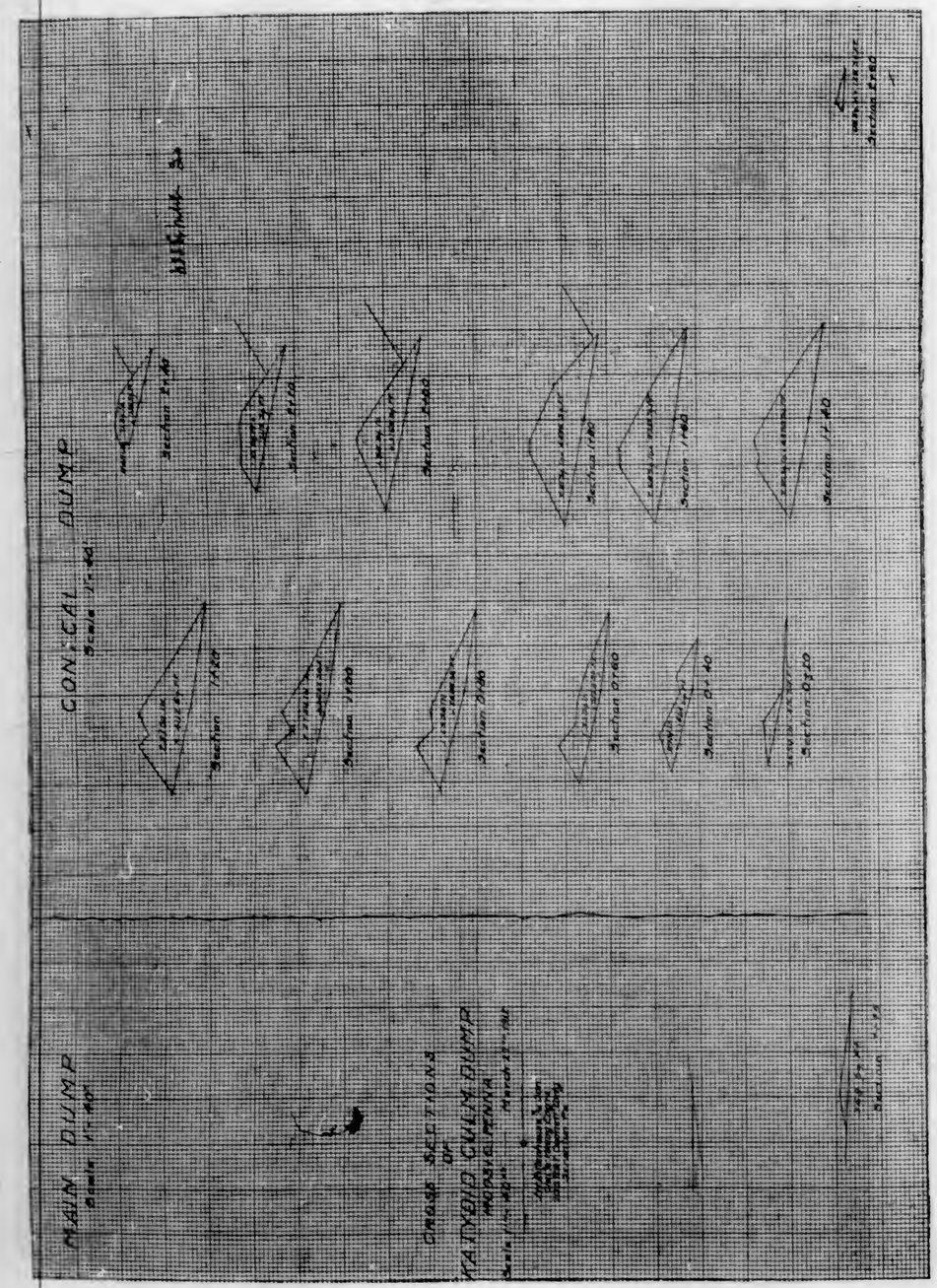
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that the matter might just as well be left until we get through the evidence. Our contention is and will be that it does not make any difference what the value of this culm dump is or was; the real question is what did Judge Archbald have reason to believe that it was worth. If it shall be shown that at the time he undertook the negotiations for the purchase of it with Mr. Williams, his information was it was worth $100,000, and he was proceeding on that basis to get it for $4,500 or $8,000, it would be to no purpose, I submit, to have some expert examine it and bring him here to testify that it was not worth 10 cents, because that is wholly immaterial. But we do not care to go on with a discussion of that question now; it is only when we come to go into the proposition of showing what the details of the operation of the Erie Railroad would have been if it had operated it.

The PRESIDENT pro tempore. The Chair is of opinion that it is competent for the managers to prove the value of this dump, and the Chair would also be of opinion that it is perfectly competent for the witness to use that paper to refresh his memory that he may give the necessary testimony; but the Chair does not think that the report as a report would be admissible in evidence. The facts contained can, so far as they are governed by the suggestion that has already been made, be proven by the witness.

Q. (By Mr. Manager FLOYD.) Mr. Rittenhouse, I will ask you to state what, in your opinion, is this Katydid culm dump worth? First, what is its value according to the estimate you have made? I think you have already stated it. You can state it again. What is the value of the coal in that dump, according to your estimate?—A. That depends upon who works it.

Q. Then, what would it be worth to the Erie Railroad?

Mr. WORTHINGTON. I object to that question, Mr. President. That is a very simple question to ask; but you see at once it involves an inquiry not only as to the cost of building a washery there or transporting the coal to some other washery—every question about where it can probably be sold or be likely to be sold, what would be the details of the expense there, what would be the probable market price, and all that—simply the opinion of an expert. If we are to go into that, we want to warn the Chair and the Senate that it is a very wide and large field.

The PRESIDENT pro tempore. The Chair would inquire of counsel if similar questions could not be propounded as to the estimate of its value to any one?

Mr. WORTHINGTON. No; it would have to be——

The PRESIDENT pro tempore. As to its general value?

Mr. WORTHINGTON. It would have to be its market value, I should say, Mr. President, what it would be worth. Certainly, it would have to be shown that it would be reasonable to suppose Judge Archbald would know what it was worth. He might know what it was worth in the market. We have a right to assume that he might know that, though there is no evidence that he did. The only thing that appears, the only evidence that I know of—it is hardly evidence—is a letter that was introduced by the managers, written by him to Mr. Conn on the 30th of September, 1911, in which he said he had never seen the dump.

The PRESIDENT pro tempore. As the Chair understands the attitude of the managers, one of their propositions is that the dump was sold by the Erie Railroad Co. for less than it was worth. If so, it would be competent to show what it was worth then.

Mr. WORTHINGTON. If the Chair thinks that, of course that involves going into all these details. We are——

The PRESIDENT pro tempore. The Chair would say to the managers and to counsel that it is not competent for the Chair to exclude legitimate evidence on the ground that it may involve too wide a discussion or inquiry.

Mr. Manager FLOYD. Mr. President, I will say that the managers charge that this property was sold by the Erie Railroad Co. through the influence of Judge Archbald, and our contention is that it was sold for less than its value to the company. We think this is material, and I believe the Chair has so indicated.

The PRESIDENT pro tempore. The Chair thinks it would be perfectly competent for the respondent to show what it would be worth to him or what he had reason to believe it would be worth to him.

Q. (By Mr. Manager FLOYD.) Please answer my question, Mr. Witness.

The WITNESS. What is the question, please?

The PRESIDENT pro tempore. The stenographer will read the question.

The Reporter read as follows:

Q. (By Mr. Manager FLOYD.) Mr. Rittenhouse, I will ask you to state what, in your opinion, is this Katydid culm dump worth? First, what is its value according to the estimate you have made. I think you have already stated it. You can state it again. What is the value of the coal in that dump according to your estimate?—A. That depends upon who works it.

Q. Then what would it be worth to the Erie Railroad?

The WITNESS. The actual value of the coal in the dump that can be gained by treatment figures up, as I gave it, reading my estimate, $47,533.18, if I remember correctly. That is what that stuff will bring at the breaker. It depends on how you get that and how you freight it as to what it is worth—who does it. There is the possibility of the Erie working it; there is the possibility of the Laurel line working it; and also the possibility of some individual working it—any one of these three will get different results by working it.

Q. (By Mr. Manager FLOYD.) What I desire to know is what would be the value to the Erie Railroad Co., if it worked it?

Mr. WORTHINGTON. Mr. President, if that includes going into the question of transportation, then I want to renew my objection. I do not understand the Chair has passed upon that.

The PRESIDENT pro tempore. The Chair will ask that that question be read by the stenographer.

The Reporter read as follows:

Q. (By Mr. Manager FLOYD.) What I desire to know is what would be the value to the Erie Railroad Co., if it worked it?

The PRESIDENT pro tempore. The Chair is of the opinion, under the statement of the managers as to their contention in the matter, that the railroad company had sold this dump for less than it was worth, that it would be competent evidence. The Chair repeats that it would still be open for the respondent to show what was his view in regard to the matter of what it would be worth to him.

Q. (By Mr. Manager FLOYD.) Now, please answer the question, Mr. Rittenhouse.

A. As I have stated before, the value of $47,533.18 is the value of the coal in that dump; and inasmuch as it lies contiguous to the present washery of the Erie, with their tail tracks and all that, it is worth more to them than to anyone else. They would require less expense to get it and ship it than anyone else. Therefore I fix the value of about $35,000 as the value of the coal, leaving out the question of freight to the Erie.

Q. You say, leaving out the question of freight, you think it would be worth $35,000 to the Erie Railroad if they worked it?—A. I do; leaving out the freight. The freight would be extra.

Q. Now, suppose they carried it to tidewater over their own lines and sold it at tidewater, what would be the additional value by reason of freights?

Mr. WORTHINGTON. One moment. Mr. President, it seems to me that the witness must qualify as an expert in freight rates and railroad operations before he can answer that question. He has qualified as an expert in mining and coal, but I have not yet heard him say anything to the effect that he is qualified to give us information——

Mr. Manager FLOYD. Let me modify my question, then.

Q. (By Mr. Manager FLOYD.) What would it be worth on the 65 per cent basis that you have already explained?—A. They would charge varying prices for that coal. Chestnut would give them a rate of $1.82 and a fraction ordinarily; grate, egg, and stove would be $1.74 and a fraction; pea coal would be $1.40; No. 1 buck would be $1.30; and No. 2 and No. 3 buck would be a little less than that. I do not know that I can recall the figures; but it would be around $1.15 or $1.20 for No. 2 and No. 3 buck. Those are their charges.

Q. Well, can you tell us the total amount they would get as freight rates out of hauling that much coal to tidewater over their own line?—A. I never figured that out; no, sir. I would have to strike an average freight rate and figure up the different tons in order to find out what that would run into. It is a calculation that can be made, if you desire it.

Q. Have you got anything in your report on that question? [Handing the report to the witness.]

The PRESIDENT pro tempore. The witness may use the report to refresh his memory, and not for the purpose of reading it.

Mr. Manager FLOYD. To refresh his memory.

The WITNESS. I have nothing in the report as to that. I have taken it in bulk.

Mr. Manager FLOYD. That is all, Mr. President.

Mr. JOHNSTON of Alabama. Mr. President, I desire to ask a question.

The PRESIDENT pro tempore. The Senator from Alabama desires that the witness shall be asked a question, which will be read to him by the Secretary.

The Secretary read as follows:

What, in your opinion, would be the profit if worked intelligently and economically?

The WITNESS. Do I understand that has reference to the freight?

Mr. JOHNSTON of Alabama. The value of the dump, the coal in the dump.

The PRESIDENT pro tempore. The Senator can modify his question if he desires to do so.

Mr. WORTHINGTON (to Mr. JOHNSTON of Alabama). I will ask the question as a part of my cross-examination.

Mr. JOHNSTON of Alabama. Very well.

Q. (By Mr. WORTHINGTON.) Without any reference to the transportation of the coal, but taking its value after——

Mr. Manager FLOYD. Mr. President——

Mr. WORTHINGTON (to Mr. Manager FLOYD). Are you not through?

Mr. Manager FLOYD. I insist that the question which was asked by the Senator from Alabama ought to be answered.

The PRESIDENT pro tempore. The question must be answered as asked by the Senator. The Chair simply suggested, in view of the verbal comment of the Senator, that, if he desired, he could modify the question in writing.

Mr. WORTHINGTON. I was going on because I understood the Senator had withdrawn the question, with the idea that I would bring out the information he desired.

The PRESIDENT pro tempore. Does the Senator withdraw the question?

Mr. JOHNSTON of Alabama. Yes; I withdraw it.

Mr. Manager FLOYD. I did not so understand, Mr. President.

The PRESIDENT pro tempore. The Chair did not understand the Senator had withdrawn the question. The Chair inquires if the managers have finished with the witness?

Mr. Manager FLOYD. We have on the part of the managers; but I did not understand the Senator had withdrawn his question.

The PRESIDENT pro tempore. Very well. Counsel for the respondent has an opportunity to ask the question if he desires to do so.

Mr. Manager FLOYD. Will you permit me one more question, Mr. President?

The PRESIDENT pro tempore. Very well.

Q. (By Mr. Manager FLOYD.) What would be the profit to the Erie Railroad Co. if they intelligently and economically worked that culm dump?—A. Leaving out the freight?

Q. Leaving out the freight.—A. Just as I said before, $35,000 profit to them.

Mr. Manager FLOYD. That is all.

Cross-examination:

Q. (By Mr. WORTHINGTON.) What would the coal be worth at the washery after it was ready for sale if the operation were conducted intelligently and economically?—A. Just as I said, the value of the coal was $47,533, and allowing them a fair price for working it, they should realize that much from it, in my judgment.

Q. Now, aside from the Erie, you have told us that there are three bases, as I understood you, for the calculation; that is, what would be the result for the individual operator, what would it be for the Laurel line, and what would it be for the Erie? Take the individual operator, suppose he works it?—A. I think he would lose money by it.

Q. He would lose money by it?—A. Yes, sir.

Q. Why?—A. For this reason: He has got to buy the pile, in the first place. That is an outlay of $20,000 to $25,000. He has got to put up his plant, which will cost in the neighborhood of $10,000. That would make an aggregate of from $30,000 to $35,000, and he has got to operate it. Assuming that he operated it as cheaply as the Erie would operate it—that is, at a cost of as much as 25 to 30 cents a ton—it would eat up the balance of the value of the pile.

Q. I wish you would tell us—I could do it perhaps if I had your figures, but I will be obliged if you will do it—suppose a sale had been made of the merchantable coal in the dump and 27½ cents a ton was to be paid for the coal won from the dump, what would be the price that would be paid for it?—A. Then he would likely make something out of it, just as Mr. Bradley testified to, because, inasmuch as about 50 per cent of the pile is coal, instead of paying a flat price for it you would cut that $25,000 or $30,000 or $20,000 pile down to about $14,000, and in that way he would make anywhere from $5,000 to $10,000—the individual operator.

Q. I think you misunderstood my question or else I did not ask it very intelligently. I simply desired to ask if you take the quantity of coal that you found in the dump, what would it amount to at 27½ cents a ton?—A. I said, in my judgment, it would be somewhere around fourteen thousand dollars and something, for a guess.

Q. Of course, I need not ask you, but you have assumed in fixing the value of this dump to the Erie that the Erie own the whole dump?—A. I have. They would not have to buy it, or their part of it, at any rate.

Q. On that subject, were you not told that there was some entanglement about the title?—A. I have understood that there was some entanglement about the title. I know there is.

Q. I believe, Mr. Rittenhouse, you have not said anything about that, but were you not first employed in regard to this dump by Mr. Conn, the manager of the Laurel line?—A. Mr. Conn and I went down there and looked the pile over, and he wanted me to give him a rough estimate of about what I thought was in the pile.

Q. Did you do that?—A. I did.

Q. What did you tell him, then, when you simply gave a rough estimate?—A. If I remember rightly, I made him a written statement covering about three or four lines, saying that taking the outline of the blue print by the Erie and a little data that I had gotten together as to elevation, I estimated about 87,000 cubic feet in the dump. My accurate survey subsequently, I think, put it a little over 90,000.

Q. You do not mean 87,000 cubic feet only?—A. I should have said 87,000 tons; I beg your pardon.

Q. Do you remember when you were talking to Mr. Conn about this matter that he told you that Judge Archbald was interested in it and you went to see Judge Archbald about it?—A. I did go to see Judge Archbald; yes.

Q. Was it not because Mr. Conn told you that Judge Archbald was interested in it?—A. No. That had developed at the time when we went down over the pile to look it over.

Q. I am interested to know how it developed that Judge Archbald was in it. How did you find out?—A. Through Mr. Conn.

Q. I say Mr. Conn had told you?—A. Yes.

Q. Then you went to see Judge Archbald about it, did you not?—A. I did after I had been employed. This matter with Mr. Conn was last fall and we anticipated getting to work promptly on it, but we were called off very suddenly when the breaker and constructors and I had arranged to go down there and look the plant over to see what could be done with it. Nothing more was done about it, and I had not thought any more about it until Mr. Wrisley Brown came and asked me to make a survey of the pile, as I stated.

Q. When was it you went to see Judge Archbald about it?—A. I think it was either in the latter part of March or the first part of April.

Q. This spring some time?—A. This spring; yes.

Q. It was then that Mr. Conn told you that Judge Archbald was interested in it, was it?—A. I had nothing whatever to say to Mr. Conn at that time at all.

Q. Well, did you not just say that Mr. Conn told you that Judge Archbald was interested?—A. Well, that was last fall.

Q. He told you that last fall?—A. Yes.

Q. Then you did not go to Judge Archbald until this spring?—A. No, sir. I heard rumors about it. I thought maybe he could clear the matter up.

Q. When Mr. Conn told you that Judge Archbald was interested did he accompany that with any suggestion that you were to keep that fact quiet?—A. No, sir.

Q. There was not any suggestion of concealment, was there?—A. No, sir; nothing that I remember.

Q. Do you know, as a matter of fact, whether you talked to other people as to whether Judge Archbald was interested?—A. I do not know that I mentioned it to anybody.

Q. If you did not it was merely accidental that you did not; it was not intentional?—A. That is right.

Mr. WORTHINGTON. I would like to see that Exhibit No. 29, that map.

Q. (By Mr. WORTHINGTON.) Referring to this map, which is Exhibit No. 29, I see it is a map of the Katydid dump, and a portion of it is labeled "conical dump." In your estimate have you included that conical dump as a part of the Katydid dump?—A. I have.

Q. Just what tests were made of this dump for the purpose of determining the proportions of the different kinds of coal in it, and who made them?—A. We dug holes all over the culm pile at stated distances at the top and the bottom, and then put that into bags and carried it to a big flat rock and spread it out into conical piles by tossing it over so as to get an average mixture. Then we quartered it and took the opposite quarters and sized it down in that way until we got something over a hundred pounds to test for the various sizes. That is the usual way of testing the dumps.

Q. What were the dimensions of these holes that you made?—A. We took a shovel full, half a bag, at a time from a hole, going down a couple of feet, and in the top of the pile and the bottom of the pile and on the slopes and over the top.

Q. You did not in that way reach the interior of the pile at all, did you?—A. We did not; no, sir.

Q. Was the chestnut coal which was in that pile—that is the largest size you have in your estimate?—A. Yes, sir.

Q. Was that in chestnut size or was it in large lumps and had to be broken up?—A. It was in various sizes.

Q. Various sizes?—A. Yes; "chestnut" and above, I think I have it.

Q. Would the larger sizes have to be broken up?—A. They would have to be broken up. It would hardly be worth while to put the screens on for the small quantity of the larger sizes. As a general thing, all of that larger stuff is ground up.

Q. You have included in your estimate about $17,000 for that chestnut after it was ground.—A. There is quite a difference between $3.25 for some and 30 cents for others, and the 30-cent coal is the largest quantity of the bunch in itself.

Q. The chestnut coal, which I understand you to say it would not be worth while to run through as chestnut, you have concluded was worth $17,000 as chestnut, have you not?—A. I have.

Q. That reminds me, Mr. Rittenhouse, I think you have not got part of your report in here. [To Mr. Manager FLOYD.] If you will let me have that report, I should like to show it to the witness and ask him to read a table from it which bears on this question of amounts.

Mr. Manager FLOYD. We are perfectly willing to let the whole report go in.

Mr. WORTHINGTON. Yes; I have found that out.

Q. (By Mr. WORTHINGTON.) I ask you to look at the part of this record which I indicate, to refresh your memory, and tell me what was your estimate, assuming that the bank contained 90,000 tons, giving the quantities and the values which you have fixed to them of each kind.—A. That is worked out from the percentages that are in the pile.

Q. I would like to have it worked out and have it in the record just as it is in the report, if that is correct:—A. I gave all this in detail when I read it.

Mr. SIMPSON. No; you only gave the percentages.

Q. (By Mr. WORTHINGTON.) I think you did not give the whole of it, and I would like to have it in order to have it complete?—A. I will go over it again, but I am positive that I did.

Assuming that the bank contains 90,000 tons, we then have the various sizes as below:

Chestnut and above, 5,477 tons, at $3.25	$17,800.25
Pea, 937 tons, at $1.78	1,667.86
No. 1 buck, 11,177 tons, at $1.41	15,759.57
No. 2 buck, 8,904 tons, at $0.70	6,232.80
No. 3 buck 20,209 tons, at $0.30	6,062.70
Total (46,704 tons)	47,533.18

Q. What is the name of the washery that you have referred to that is near the Katydid?—A. It joins the Erie Consolidated breaker, probably about 50 feet from it.

Q. The Erie Consolidated?—A. Yes, sir.

Q. What do you know about that washery?—A. I simply know it is a good-sized washery, treating a large amount of culm, and is within 500 or 600 feet of the Katydid dump.

Q. Have you examined its machinery or apparatus to know the details of it?—A. I have not.

Q. Or what they do there?—A. No; only what I have seen go in there.

Q. Only as to the result?—A. Yes, sir.

Q. In your estimate of 30 cents based upon the proposition that it is 30 cents flat; that is, for everything in the pile?—A. $30,000 is what I was figuring on in the first place. Thirty cents flat would give $27,000.

Q. Thirty cents flat, that is for culm and all?—A. Yes, sir.

Q. And the whole contents of the pile would amount to how such?—A. Twenty-seven thousand dollars at 30 cents. Of course that would be doubled when you get only half of the coal.

Q. Double it?—A. Practically so. There is only about 50 per cent coal in the pile.

Q. Where did you get that 30 cents?—A. When it was talked of in the first place it was talked of for $30,000. I did not know any other price or anything further in regard to it until Mr. Brown came and said something about 27½ cents. I did not know anything about these arrangements with Mr. Conn—as to what he proposed to pay for it or whether instead of paying a flat rate for it he was going to pay a royalty basis for it. I knew nothing about it until it developed in this case.

Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager FLOYD.) Did I correctly understand you to say that Mr. Conn told you that Judge Archbald was interested in this transaction, or what did you say about that?—A. I do not know that Mr. Conn said that he was interested in it anything more than that Judge Archbald and Mr. Williams had an option on it.

Q. When was that?—A. That was last fall; that is, a year ago.

Q. Was that when you were making an estimate for Mr. Conn at his request?—A. It was.

Q. Did you make a statement about seeing Judge Archbald at some other time?—A. I did.

Q. And talking to him about it?—A. I did.

Q. When was that?—A. The latter part of March or the first part of April of this year.

Q. Of this year?—A. Yes, sir.

Q. Will you state what was said?—A. Mr. Brown asked me not to go into the title particularly, but to find out in a general way as to the ownership, and so forth. That is all I did in regard to it.

Q. And you went to Judge Archbald for that purpose, did you?—A. I thought Judge Archbald would probably know more about the title end of it, and I asked a few questions in regard to that. I want to say that, inadvertently, when I was asked that question before by Col. Worthington—whether any other subject was discussed—I said no. I said that on the spur of the moment, and what I meant by "no" was nothing further referring to the Katydid.

Q. That was during the negotiations with Mr. Conn that you went to Judge Archbald and asked him some questions about the title?—A. No, sir; it was last fall.

Q. Last fall?—A. Last fall. I went to Judge Archbald when I tried to get this data that Mr. Brown asked for.

Q. This spring, you mean?—A. This spring.

Q. When Mr. Brown was making his investigation?—A. Yes, sir.

Q. That was the time you went to Judge Archbald?—A. Yes, sir.

Mr. Manager FLOYD. That is all.

Recross-examination:

Q. (By Mr. WORTHINGTON.) What did Judge Archbald say to you about the title when you went to him in the spring?—A. He could not give me much light on the subject, only he thought the matter could be straightened out in a short time.

Q. Did he not tell you in substance that there was some trouble about the title but he thought it would soon be fixed up and be all right?—A. That is my understanding about it.

Mr. WORTHINGTON. That is all.

The PRESIDENT pro tempore. Is it desired that this witness be finally discharged?

Mr. Manager CLAYTON. Yes; the witness may be finally discharged.

Mr. WORTHINGTON. Mr. President, we agree.

The PRESIDENT pro tempore. The witness is finally discharged.

JUDGE ARCHBALD'S COMMISSIONS AND OATHS OF OFFICE.

Mr. Manager CLAYTON. Mr. President, I desire to introduce in evidence and have printed in the RECORD copies of the several commissions issued to Judge Archbald, and his several oaths of office.

Mr. SIMPSON. There is no objection, sir.

The PRESIDENT pro tempore. The managers do not desire to have them read?

Mr. Manager CLAYTON. No, sir; merely printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The papers referred to are as follows:

[U. S. S. Exhibit 31.]

UNITED STATES OF AMERICA,
DEPARTMENT OF JUSTICE,
Washington, D. C., June 17, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original commission of Robert Wodrow Archbald as United States district judge for the middle district of Pennsylvania (under his recess appointment of March 29, 1901), a copy of which is on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Department of Justice to be affixed on the day and year first above written.

For the Attorney General.
[SEAL.] J. A. FOWLER,
Assistant to the Attorney General.

(William McKinley, President of the United States of America.)

To all who shall see these presents, greeting:

Know ye that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert Wodrow Archbald, of Pennsylvania, I do appoint him United States district judge for the middle district of Pennsylvania, as provided for by act approved March 2, 1901, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining unto him, the said Robert Wodrow Archbald, until the end of the next session of the Senate of the United States, and no longer, subject to the conditions and provisions prescribed by law.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand at the city of Washington the 29th day of March, in the year of our Lord 1901, and of the Independence of the United States of America the one hundred and twenty-fifth.

[SEAL.] WILLIAM MCKINLEY.

By the President:
JOHN W. GRIGGS,
Attorney General.

UNITED STATES OF AMERICA,
DEPARTMENT OF JUSTICE,
Washington, D. C., June 17, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original commission of Robert W. Archbald as United States district judge for the middle district of Pennsylvania (under his confirmation appointment of December 17, 1901), a copy of which is on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Department of Justice to be affixed on the day and year first above written.

For the Attorney General:
[SEAL.] J. A. FOWLER,
Assistant to the Attorney General.

(Theodore Roosevelt, President of the United States of America.)

To all who shall see these presents, greeting:

Know ye that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert W. Archbald, of Pennsylvania, I have nominated and, by and with the advice and consent of the Senate, do appoint him United States district judge for the middle district of Pennsylvania, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining unto him, the said Robert W. Archbald, during his good behavior.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand at the city of Washington the 17th day of December in the year of our Lord one thousand nine hundred and one and of the independence of the United States of America the one hundred and twenty-sixth.

[SEAL.] THEODORE ROOSEVELT.

By the President:
P. C. KNOX,
Attorney General.

UNITED STATES OF AMERICA,
DEPARTMENT OF JUSTICE,
Washington, D. C., June 17, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original commission of Robert Wodrow Archbald as additional circuit judge of the United States from the third judicial circuit, a copy of which is on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Department of Justice to be affixed on the day and year first above written.

For the Attorney General:
[SEAL.] J. A. FOWLER,
Assistant to the Attorney General.

(William H. Taft, President of the United States of America.)

To all who shall see these presents, greeting:

Know ye that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert Wodrow Archbald, of Pennsylvania, I have nominated and, by and with the advice and consent of the Senate, do appoint him additional circuit judge of the United States from the third judicial circuit, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining unto him, the said Robert Wodrow Archbald, during his good behavior. Appointed pursuant to the act of June 18, 1910 (36 Stats., 540), and hereby designated to serve for four years in the Commerce Court.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 31st day of January, A. D. 1911, and of the Independence of the United States of America the one hundred and thirty-fifth.

[SEAL.] WILLIAM H. TAFT.

By the President:
GEORGE W. WICKERSHAM,
Attorney General.

UNITED STATES OF AMERICA,
DEPARTMENT OF JUSTICE,
Washington, D. C., June 19, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original oath of Robert Wodrow Archbald as district judge for the middle district of Pennsylvania, dated April 1, 1901, which is on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Department of Justice to be affixed on the day and year first above written.

For the Attorney General.
[SEAL.] J. A. FOWLER,
Assistant to the Attorney General.

STATE OF PENNSYLVANIA, *county of Lackawanna, ss:*

I, Robert Wodrow Archbald, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as district judge of the middle district of Pennsylvania, according to the best of my ability and understanding, agreeably to the Constitution and laws of the United States, so help me God.

R. W. ARCHBALD.

Sworn and subscribed before me this 1st day of April, A. D. 1901.

H. M. EDWARDS,
President Judge of the Forty-fifth Judicial District of Pennsylvania.

UNITED STATES OF AMERICA,
DEPARTMENT OF JUSTICE,
Washington, D. C., June 19, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original oath of Robert Wodrow Archbald as United States district judge for the middle district of Pennsylvania, dated April 5, 1901, which is on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Department of Justice to be affixed on the day and year first above written.

For the Attorney General.
[SEAL.] J. A. FOWLER,
Assistant to the Attorney General.

I, Robert Wodrow Archbald, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

R. W. ARCHBALD.

Sworn and subscribed before me this 5th day of April, A. D. 1901.

[SEAL.] W. M. CURRY,
Notary Public.

UNITED STATES OF AMERICA,
DEPARTMENT OF JUSTICE,
Washington, D. C., June 19, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original oath of Robert Wodrow Archbald as a district judge for the middle district of Pennsylvania, dated December 21, 1901, a certified copy of which is on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Department of Justice to be affixed on the day and year first above written.

For the Attorney General.
[SEAL.] J. A. FOWLER,
Assistant to the Attorney General.

STATE OF PENNSYLVANIA, *County of Lackawanna, ss:*

I, Robert Wodrow Archbald, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as district judge to the middle district of Pennsylvania according to the best of my ability and understanding, agreeably to the Constitution and laws of the United States. So help me God.

R. W. ARCHBALD.

Sworn and subscribed before me this 21st day of December, A. D. 1901.

[SEAL.] GEORGE D. TAYLOR,
United States Commissioner for the Middle District of Pennsylvania.

UNITED STATES OF AMERICA,
DEPARTMENT OF JUSTICE,
Washington, D. C., June 19, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original oath of Robert Wodrow Archbald as additional circuit judge of the United States from the third judicial circuit, which is on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Department of Justice to be affixed, on the day and year first above written.

For the Attorney General.
[SEAL.] J. A. FOWLER,
Assistant to the Attorney General.

OATH OF OFFICE FOR UNITED STATES JUDGES.

(Secs. 712 and 1757, Rev. Stat.)

I, Robert Wodrow Archbald, do solemnly swear that I will administer justice without respect to persons and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as additional circuit judge of the United States from the third judicial circuit, appointed pursuant to the act of June 18, 1910 (36 Stats., 540), and designated to serve for four years in the Commerce Court, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States; and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that

I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

R. W. ARCHBALD.

Subscribed and sworn to before me this 1st day of February, 1911.

[SEAL.] E. R. W. SEARLE, *Clerk District Court.*

[NOTE.—The act of May 1, 1876 (1 Supp., R. S., 100), provides that the oaths of Territorial officers shall be administered in the Territory in which the office is held.]

Mr. LODGE. Mr. President, as it is now only three or four minutes of 6 o'clock, and I understand this is the last witness on this article, I move that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to.

Thereupon the managers on the part of the House, the respondent, and his counsel retired.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at 6 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, December 10, 1912, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate December 9, 1912.

APPOINTMENTS IN THE PUBLIC HEALTH SERVICE.

Mather H. Neill to be assistant surgeon in the Public Health Service, United States, in place of Passed Asst. Surg. Thomas B. McClintic, deceased.

Alvin R. Sweeney to be assistant surgeon in the Public Health Service, United States. New position created by the sundry civil bill approved August 24, 1912.

John Sundwall to be assistant surgeon in the Public Health Service of the United States, to rank as such from December 2, 1912. Mr. Sundwall is now serving under a temporary commission issued during the recess of the Senate.

PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

First Lieut. Frederick Chamberlayne Billard to be captain in the Revenue-Cutter Service of the United States, to rank as such from September 12, 1912, in place of Capt. Howard Miles Broadbent, promoted. Mr. Billard is now serving under a temporary commission issued during the recess of the Senate.

Second Lieut. George Ellender Wilcox to be first lieutenant in the Revenue-Cutter Service of the United States, to rank as such from August 27, 1912, in place of First Lieut. Albert Henry Bunner, retired. Mr. Wilcox is now serving under a temporary commission issued during the recess of the Senate.

Third Lieut. Clarence Henry Dench to be second lieutenant in the Revenue-Cutter Service of the United States, to rank as such from August 27, 1912, in place of Second Lieut. George Ellender Wilcox, promoted. Mr. Dench is now serving under a temporary commission issued during the recess of the Senate.

APPOINTMENTS IN THE ARMY.

GENERAL OFFICERS.

Brig. Gen. William Wallace Wotherspoon to be major general from May 12, 1912, vice Maj. Gen. Frederick D. Grant, who died April 11, 1912.

Col. Edward J. McClernand, First Cavalry, to be brigadier general from August 27, 1912, vice Brig. Gen. William Wallace Wotherspoon, appointed major general.

CHAPLAINS.

Rev. Wallace Hubbard Watts, of New York, to be chaplain with the rank of first lieutenant from September 23, 1912, vice Chaplain John E. Dallam, Twenty-third Infantry, who died in March, 1912.

Rev. Joseph Matthew Kangley, of Illinois, to be chaplain with the rank of first lieutenant from November 4, 1912, vice Chaplain Joseph H. Sutherland, Twelfth Infantry, retired from active service March 21, 1912.

COAST ARTILLERY CORPS.

Stiles Morrow Decker, of Texas, late midshipman, United States Navy, to be second lieutenant in the Coast Artillery Corps, with rank from August 12, 1912.

To be second lieutenants with rank from November 25, 1912.

Archie Stanton Buyers, of New York.
Ernest Leslie Osborne, of Connecticut.
William Ayres Borden, of New York.
Francis Tuttle Armstrong, of New York.
Edwin Bright Spiller, of Virginia.
Cecil George Young, of Connecticut.
Carl Andrew Waldman, of Oregon.
Paul Wesley Evans, of Ohio.
Henry Armstrong Wingate, of the District of Columbia.
William Claude Washington, of Texas.
Alfred Bixby Quinton, jr., of Kansas.

CAVALRY ARM.

To be second lieutenants with rank from November 30, 1912.

John Keith Boles, of New York.
Terry de la Mesa Allen, of Florida.
John Chilton McDonnell, of Maryland.
Jerome Willard Howe, of Pennsylvania.
Otto Wagner, of Pennsylvania.
William Trigg Pigott, jr., of Montana.
Clyde Vincent Simpson, of Wyoming.
Joseph Frank Richmond, of Tennessee.
Roy Stuart Brown, of Minnesota.
Louis Alexander Falligant, of Georgia.
Herbert Merton Ostroski, of Washington.
Paul Root Davison, of Illinois.
John Bernard Brooks, of Massachusetts.
John Breitling Coulter, of Texas.
William Anderson Raborg, jr., of Maryland.
Welton Mathew Modisette, of New York.
John Parsons Wheeler, of Maryland.

FIELD ARTILLERY ARM.

To be second lieutenants with rank from November 30, 1912.

Bertram Frankenberger, of West Virginia.
Raymond Brooks Austin, of Ohio.
Joseph Olden Daly, of Massachusetts.
Edwin Pearson Parker, jr., of the District of Columbia.
John Macaulay Eager, of Maine.

INFANTRY ARM.

To be second lieutenants with rank from November 30, 1912.

Hamilton Templeton, of the District of Columbia.
Edward Fuller Witsell, of South Carolina.
Alfred Loveday Rockwood, of California.
George Weeks Polhemus, of the District of Columbia.
Floyd Charles Hecox, of Illinois.
Carl Adolphus Hardigg, of Indiana.
Carl Lewis Cohen, of Georgia.
William Rudolph Gruber, of Ohio.
Russell Brown Patterson, of New Hampshire.
Francis Patrick Regan, of Wisconsin.
Herbert Joseph Lawes, of Minnesota.
Robert Crayton Williams, of Tennessee.
Paul Xavier English, of Virginia.
Estil Virgil Smith, of Illinois.
Troy Honston Middleton, of Mississippi.
Roland Francis Walsh, of South Carolina.
Paul Murray, of Massachusetts.
Robert George Calder, of New Jersey.
William Daniel Faulkner, of Oklahoma.
Edgar Adair Stadden, of Illinois.
Roy Messick Jones, of Maryland.
Arthur Read Christie, of New Jersey.
Percy Edgar Van Nostrand, of Iowa.
Frederic Vinton Hemenway, of Maine.
Clarence Monroe Dodson, of Oregon.
Virgil Vincent Enyart, of Ohio.
James Merriam Moore, of Michigan.
Frank Hudson Moody, of New York.
Percie Cobbs Rentfro, of Illinois.
George Alexander Speer, jr., of Georgia.
Sidney Burkhalter Colquitt, of Texas.
Carl Jay Ballinger, of Kansas.
Richard Taillefer Taylor, of New York.
John Robinson Baxter, of Ohio.

MEDICAL RESERVE CORPS.

To be first lieutenants.

Alvin Willis Schoenleber, of Illinois, from September 23, 1912.
Harry Louis Dale, of Oregon, from September 23, 1912.
Charles Clark Hillman, of Arkansas, from September 23, 1912.
George Russell Callender, of Massachusetts, from September 23, 1912.
Oscar Dowling, of Louisiana, from September 27, 1912.
Thomas Davies Coleman, of Georgia, from September 27, 1912.
Charles Franklin Stresnider, of North Carolina, from October 3, 1912.
John Murdoch Pratt, of New York, from October 5, 1912.
Paul H. Ellis, of Nebraska, from October 5, 1912.
Donald Guthrie, of Pennsylvania, from October 5, 1912.
Antonio Mayoral, jr., of Porto Rico, from October 5, 1912.

Eugene Edmond Murphey, of Georgia, from October 5, 1912.
Frederick George Novy, of Michigan, from October 5, 1912.
John Earle Pulver, of Nebraska, from October 5, 1912.
Mazyck Porcher Ravenel, of Wisconsin, from October 5, 1912.
Erik Martin Paulus Sward, of Iowa, from October 5, 1912.
William Otis Bailey, of Massachusetts, from October 11, 1912.
Herbert Atkins, of Kansas, from November 13, 1912.
Algernon Thomas Bristow, of New York, from November 13, 1912.
Howard Milford Brundage, of Ohio, from November 13, 1912.
Edmund Russell Brush, of Ohio, from November 13, 1912.
Burton Chance, of Pennsylvania, from November 13, 1912.
Francis Miles Chisolm, of the District of Columbia, from November 13, 1912.
Warren Coleman, of New York, from November 13, 1912.
George Sumner Crampton, of Pennsylvania, from November 1, 1912.
Ernest Charles Dalton, of Alaska, from November 13, 1912.
Verne Adams Dodd, of Ohio, from November 13, 1912.
Harry Quigg Fletcher, of Tennessee, from November 13, 1912.
Howard Engler Harman, of Ohio, from November 13, 1912.
Eugene Richards Lewis, of Iowa, from November 13, 1912.
Edward Charles Ludwig of Ohio, from November 13, 1912.
Francis Randolph Packard, of Pennsylvania, from November 13, 1912.
Herbert Lee Quickel, of Pennsylvania, from November 13, 1912.
George Christian Schaeffer, of Ohio, from November 13, 1912.
Fred Barrington Sutherland, of New York, from November 13, 1912.
Gustav Grant Fischlowitz, of New York, from November 13, 1912.
William James Mayo, of Minnesota, from November 21, 1912.

APPOINTMENTS, BY TRANSFER, IN THE ARMY.

CAVALRY ARM.

Second Lieut. Carl Peterson Dick, Twenty-second Infantry, to be second lieutenant of Cavalry, with rank from July 23, 1912.

FIELD ARTILLERY ARM.

First Lieut. George M. Morrow, jr., Coast Artillery Corps, to be first lieutenant of Field Artillery, with rank from January 25, 1907.

COAST ARTILLERY CORPS.

First Lieut. Charles G. Mettler, Field Artillery (detailed captain in the Ordnance Department), to be first lieutenant in the Coast Artillery Corps, with rank from January 25, 1907.

PROMOTIONS IN THE ARMY.

CAVALRY ARM.

Lieut. Col. Edwin P. Brewer, Fourteenth Cavalry, to be colonel from August 28, 1912, under the provisions of an act of Congress approved March 3, 1911. The officer herein is named for advancement in grade in accordance with the rank he would have been entitled to hold had promotion been lineal throughout his arm since the date of his entry into the arm to which he permanently belongs.

Lieut. Col. James Lockett, Cavalry, unassigned, to be colonel from August 28, 1912, vice Col. Edward J. McClernand, First Cavalry, who accepted an appointment as brigadier general on that date.

Maj. Henry T. Allen, Cavalry, unassigned, to be lieutenant colonel from August 28, 1912, vice Lieut. Col. August C. Macomb, unassigned, detached from his proper command.

Maj. John W. Heard, Sixth Cavalry, to be lieutenant colonel from September 15, 1912, vice Lieut. Col. Percy E. Trippe, unassigned, retired from active service September 14, 1912.

Maj. Stephen L'H. Slocum, Fifteenth Cavalry (since retired from active service), to be lieutenant colonel from September 17, 1912, vice Lieut. Col. Henry L. Ripley, Second Cavalry, retired from active service September 16, 1912.

Maj. William W. Forsyth, First Cavalry, to be lieutenant colonel from October 3, 1912, vice Lieut. Col. Stephen L'H. Slocum, unassigned, retired from active service October 2, 1912.

Capt. George T. Langhorne, Twelfth Cavalry, to be major from August 27, 1912, vice Maj. Charles C. Walcutt, jr., Fifth Cavalry, detailed as assistant to the Chief of the Bureau of Insular Affairs on that date.

Capt. Charles Young, Cavalry, unassigned, to be major from August 28, 1912, vice Maj. Farrand Sayre, Ninth Cavalry, detached from his proper command.

Capt. Francis C. Marshall, Cavalry, unassigned, to be major from September 3, 1912, vice Maj. John T. Nance, Second Cavalry, retired from active service September 2, 1912.

Capt. James A. Ryan, Cavalry, unassigned, to be major from September 15, 1912, vice Maj. John W. Heard, Sixth Cavalry, promoted.

Capt. Frank M. Caldwell, Cavalry, unassigned, to be major from September 17, 1912, vice Maj. Stephen L'H. Slocum, Fifteenth Cavalry, promoted.

Capt. James J. Hornbrook, Cavalry, unassigned, to be major from October 3, 1912, vice Maj. William W. Forsyth, First Cavalry, promoted.

Capt. William F. Clark, Fourth Cavalry, to be major from October 31, 1912, vice Maj. Matthew F. Steele, Second Cavalry, retired from active service October 30, 1912.

First Lieut. George P. Tyner, Second Cavalry, to be captain from August 27, 1912, vice Capt. George T. Langhorne, Twelfth Cavalry, promoted.

First Lieut. Walter F. Martin, Second Cavalry, to be captain from August 28, 1912, vice Capt. Charles C. Farmer, jr., Fourth Cavalry, detached from his proper command.

First Lieut. Henry J. McKenney, Thirteenth Cavalry, to be captain from September 3, 1912, vice Capt. James C. Rhea, Seventh Cavalry, detached from his proper command.

First Lieut. Oscar A. McGee, Second Cavalry, to be captain from October 3, 1912, vice Capt. James J. Hornbrook, unassigned, promoted.

First Lieut. John S. E. Young, Thirteenth Cavalry, to be captain from October 31, 1912, vice Capt. William F. Clark, Fourth Cavalry, promoted.

First Lieut. Oliver P. M. Hazzard, Second Cavalry, to be captain from November 13, 1912, vice Capt. Fred W. Hershler, Ninth Cavalry, retired from active service November 12, 1912.

Second Lieut. Frederick T. Dickman, Eleventh Cavalry, to be first lieutenant from August 27, 1912, vice First Lieut. George P. Tyner, Second Cavalry, promoted.

Second Lieut. Adna R. Chaffee, jr., Fifteenth Cavalry, to be first lieutenant from August 28, 1912, vice First Lieut. Walter F. Martin, Second Cavalry, promoted.

Second Lieut. George W. De Armond, Twelfth Cavalry, to be first lieutenant from October 3, 1912, vice First Lieut. Oscar A. McGee, Second Cavalry, promoted.

Second Lieut. John G. Quekemeyer, Fifth Cavalry, to be first lieutenant from October 31, 1912, vice First Lieut. John S. E. Young, Thirteenth Cavalry, promoted.

Second Lieut. Frank M. Andrews, Eighth Cavalry, to be first lieutenant from November 13, 1912, vice First Lieut. Oliver P. M. Hazzard, Second Cavalry, promoted.

FIELD ARTILLERY ARM.

Maj. William L. Kenly, Fifth Field Artillery, to be lieutenant colonel from August 26, 1912, vice Lieut. Col. Peyton C. March, Sixth Field Artillery, detailed as Adjutant General on that date.

Capt. Harry G. Bishop, Third Field Artillery, to be major from August 26, 1912, vice Maj. William L. Kenly, Fifth Field Artillery, promoted.

First Lieut. Charles J. Ferris, Fourth Field Artillery, to be captain from August 26, 1912, vice Capt. Harry G. Bishop, Third Field Artillery, promoted.

Second Lieut. Samuel R. Hopkins, Third Field Artillery, to be first lieutenant from August 26, 1912, vice First Lieut. Charles J. Ferris, Fourth Field Artillery, promoted.

Second Lieut. Charles P. Hollingsworth, First Field Artillery, to be first lieutenant from September 6, 1912, vice First Lieut. Otho V. Kean, unassigned, resigned September 5, 1912.

COAST ARTILLERY CORPS.

Second Lieut. William N. Porter, Coast Artillery Corps, to be first lieutenant from September 1, 1912, vice First Lieut. Henry W. T. Eglin, detached from his proper command.

Second Lieut. Maurice B. Willett, Coast Artillery Corps, to be first lieutenant from October 20, 1912, vice First Lieut. West C. Jacobs, detached from his proper command.

PAY DEPARTMENT.

Maj. Beecher B. Ray, paymaster, to be Deputy Paymaster General, with the rank of lieutenant colonel from February 16, 1912, vice Lieut. Col. Hamilton S. Wallace, promoted.

CORPS OF ENGINEERS.

Maj. E. Eveleth Winslow, Corps of Engineers, to be lieutenant colonel from October 12, 1912, vice Lieut. Col. Graham D. Fitch, retired from active service October 11, 1912.

Capt. George B. Pillsbury, Corps of Engineers, to be major from October 12, 1912, vice Maj. E. Eveleth Winslow, promoted.

First Lieut. Francis B. Wilby, Corps of Engineers, to be captain from September 29, 1912, vice Capt. Charles T. Leeds, retired from active service September 28, 1912.

First Lieut. Clarence S. Ridley, Corps of Engineers, to be captain from October 12, 1912, vice Capt. George B. Pillsbury, promoted.

Second Lieut. Lindsay C. Herkness, Corps of Engineers, to be first lieutenant from September 29, 1912, vice First Lieut. Francis B. Wilby, promoted.

Second Lieut. Albert K. B. Lyman, Corps of Engineers, to be first lieutenant from October 12, 1912, vice First Lieut. Clarence S. Ridley, promoted.

INFANTRY ARM.

Lieut. Col. Samuel W. Miller, Infantry, unassigned, to be colonel from November 12, 1912, vice Col. Francis W. Mansfield, Second Infantry, retired from active service November 11, 1912.

Maj. Clarence E. Dentler, Fifteenth Infantry, to be lieutenant colonel from September 8, 1912, vice Lieut. Col. Wendell L. Simpson, unassigned, retired from active service September 7, 1912.

Maj. Henry D. Styer, Twenty-ninth Infantry, to be lieutenant colonel from November 12, 1912, vice Lieut. Col. Harry C. Hale, Seventeenth Infantry, detached from his proper command.

Capt. John J. Bradley, Fourteenth Infantry, to be major from May 30, 1912, vice Maj. Joseph P. O'Neil, Thirtieth Infantry, promoted.

Capt. Douglas Settle, Fifth Infantry, to be major from August 16, 1912, vice Maj. Wendell L. Simpson, Fifteenth Infantry, promoted.

Capt. John S. Switzer, Fourth Infantry, to be major from September 8, 1912, vice Maj. Clarence E. Dentler, Fifteenth Infantry, promoted.

Capt. Herbert O. Williams, detailed in the Quartermaster Corps, to be major of Infantry from October 13, 1912, vice Maj. John H. Wholley, Second Infantry, who died October 12, 1912.

Capt. George D. Guyer, Sixteenth Infantry, to be major from November 12, 1912, vice Maj. Henry D. Styer, Twenty-ninth Infantry, promoted.

First Lieut. Benjamin H. Pope, Ninth Infantry, to be captain from May 30, 1912, vice Capt. John J. Bradley, Fourteenth Infantry, promoted.

First Lieut. Julian L. Dodge, Sixth Infantry, to be captain from August 16, 1912, vice Capt. Douglas Settle, Fifth Infantry, promoted.

First Lieut. Herman Glade, Sixth Infantry, to be captain from August 22, 1912, vice Capt. William E. Hunt, Twenty-second Infantry, detailed as quartermaster on that date.

First Lieut. Frank S. Bowen, Twentieth Infantry, to be captain from October 20, 1912, vice Capt. Graham L. Johnson, Eighth Infantry, resigned October 19, 1912.

QUARTERMASTER CORPS.

Brig. Gen. James B. Aleshire, Quartermaster General, to be Chief of the Quartermaster Corps, with the rank of major general, for the period of four years beginning August 24, 1912, with rank from that date, to fill an original vacancy.

Capt. Frederic H. Pomroy, Quartermaster Corps, to be major (subject to examination required by law), with rank from November 1, 1912.

ORDNANCE DEPARTMENT.

Lieut. Col. William W. Gibson, Ordnance Department, to be colonel from September 2, 1912, vice Col. Stanhope E. Blunt, retired from active service September 1, 1912.

Maj. Tracy C. Dickson, Ordnance Department, to be lieutenant colonel from September 2, 1912, vice Lieut. Col. William W. Gibson, promoted.

CHAPLAIN.

Chaplain (Capt.) Ivory H. B. Headley, Coast Artillery Corps, to be chaplain, with the rank of major, from September 22, 1912, vice Chaplain Henry Swift, Fourteenth Cavalry, retired from active service September 21, 1912.

PROMOTIONS IN THE NAVY.

The following-named lieutenants to be lieutenants in the Navy from the dates set opposite their names, to correct the dates from which they take rank as previously confirmed:

William C. Barker, jr., March 4, 1911;
George S. Bryan, March 8, 1911;
August C. Wilhelm, March 24, 1911;
Roy L. Lowman, May 19, 1911;
Robert L. Ghormley, June 14, 1911;
Isaac C. Bogart, July 1, 1911;
Isaac C. Shute, July 3, 1911;
Pierre L. Wilson, July 13, 1911;
Owen Bartlett, August 3, 1911;
Walter F. Jacobs, August 4, 1911;
Leo F. Welch, August 15, 1911;
Carroll S. Graves, September 14, 1911;
Harry L. Pence, September 24, 1911;
Ferdinand L. Reichmuth, October 11, 1911;
Harvey Delano, October 17, 1911;
Wolcott E. Hall, October 20, 1911;
Isaac C. Kidd, October 26, 1911;
Fred M. Perkins, December 14, 1911;
Robert A. White, December 22, 1911;
Frank H. Roberts, January 25, 1912;
Lewis D. Causey, February 10, 1912;
Henry G. Fuller, February 16, 1912;
Andrew S. Hickey, March 2, 1912;
Edward S. Moses, April 27, 1912;
Stuart W. Cake, May 3, 1912;
Stephen Doherty, May 10, 1912;
Charles A. Woodruff, June 7, 1912;
Ronan C. Grady, July 1, 1912; and
Reuben L. Walker, July 2, 1912.

Lieut. (Junior Grade) Joe R. Morrison to be a lieutenant in the Navy from the 28th day of July, 1912, to fill a vacancy.

Medical Inspector Francis S. Nash, an additional number in grade, to be a medical director in the Navy from the 2d day of September, 1912, with the officer next below him.

Medical Inspector Oliver D. Norton to be a medical director in the Navy from the 2d day of September, 1912, to fill a vacancy.

Surg. George A. Lung to be a medical inspector in the Navy from the 2d day of September, 1912, to fill a vacancy.

Surg. John L. Neilson to be a surgeon in the Navy from the 20th day of July, 1912, to correct the date from which he takes rank as previously confirmed.

Surg. Frederick W. S. Dean to be a surgeon in the Navy from the 29th day of July, 1912, to correct the date from which he takes rank as previously confirmed.

Passed Asst. Surg. Clarence F. Ely to be a surgeon in the Navy from the 7th day of August, 1912, to fill a vacancy.

The following-named citizens to be assistant surgeons in the Navy from the 23d day of September, 1912, to fill vacancies:

Dana C. Post, a citizen of Michigan, and
William E. Findeisen, a citizen of New York.

Norman R. Sullivan, a citizen of Illinois, to be an assistant surgeon in the Navy from the 1st day of November, 1912, to fill a vacancy.

The following-named passed assistant paymasters to be paymasters in the Navy from the 22d day of August, 1912, to fill vacancies created by an act of Congress approved that date:

David G. McRitchie,
Philip J. Willett,
Ben D. McGee,
Neal B. Farwell,
Reginald Spear,
Elijah H. Cope,
Brainerd M. Dobson,
William W. Lamar, and
William L. F. Simonpietri.

The following-named assistant paymasters to be passed assistant paymasters in the Navy from the 22d day of August, 1912, to fill vacancies:

John F. O'Mara,
James P. Helm,
Byron D. Rogers,
Edward C. Little,
Frank Baldwin,
Manning H. Philbrick, and
Henry L. Beach.

The following-named assistant paymasters to be passed assistant paymasters in the Navy from the 23d day of August, 1912, to fill vacancies:

John H. Knapp,
Fred E. McMillen,
Maurice H. Karker,
William R. Van Buren,
Raymond E. Corcoran,
Elwood A. Cobey, and
Robert S. Chew, jr.

The following-named citizens to be assistant paymasters in the Navy from the 20th day of September, 1912, to fill vacancies:

Herman G. Bowerfind, a citizen of Ohio;
Richard E. Lambert, a citizen of Oregon;
Charles C. Copp, a citizen of Iowa;
John J. Gaffney, a citizen of South Carolina;
Lawrence A. Odlin, a citizen of New Hampshire; and
James H. Colhoun, a citizen of Maryland.

John A. Byrne, a citizen of Missouri, to be an assistant paymaster in the Navy from the 27th day of September, 1912, to fill a vacancy.

Richard S. Robertson, a citizen of Texas, to be an assistant paymaster in the Navy from the 12th day of November, 1912, to fill a vacancy.

The following-named citizens to be assistant paymasters in the Navy from the 3d day of December, 1912, to fill vacancies:

Charles V. McCarty, a citizen of Texas;
Eaton C. Edwards, a citizen of the District of Columbia;
David T. Chalmers, a citizen of Virginia;
John A. Harman, a citizen of Virginia; and
John B. Ewald, a citizen of Virginia.

The following-named pharmacists to be chief pharmacists in the Navy from the 22d day of August, 1912, in accordance with the provisions of an act of Congress approved on that date:

Charles E. Reynolds,
John W. Wood,
Alrik Hammar,
John D. Milligan,
Joseph F. Pearson,
Hubert Henry,
Edward R. Noyes,
Frederick W. Breck, and
Laurence O. Schetky.

First Lieut. Fred D. Kilgore to be a captain in the Marine Corps from the 22d day of August, 1912, to fill a vacancy.

First Lieut. William E. Parker to be a captain in the Marine Corps from the 22d day of August, 1912, to fill a vacancy.

First Lieut. William M. Small to be a captain in the Marine Corps from the 16th day of September, 1912, to fill a vacancy.

The following-named second lieutenants to be first lieutenants in the Marine Corps from the 22d day of August, 1912, to fill vacancies:

Clarence C. Riner,
Leon W. Hoyt,
Julian C. Smith,
Charles J. Miller,
Otto Becker, jr.,
Leander A. Clapp, and
William S. Harrison.

Second Lieut. Thomas S. Clarke, to be first lieutenant in the Marine Corps from the 16th day of September, 1912, to fill a vacancy.

The following-named citizens to be second lieutenants in the Marine Corps from the 7th day of November, 1912, to fill vacancies:

Philip T. Case, United States Marine Corps;
Paul C. Marmion, a citizen of District of Columbia;
Lowry B. Stephenson, a citizen of District of Columbia;
John L. Mayer, a citizen of Pennsylvania;
Benjamin A. Moeller, United States Marine Corps;
Clyde H. Metcalf, a citizen of Arkansas; and
Harold C. Pierce, a citizen of Massachusetts.

The following-named midshipmen to be ensigns in the Navy from the 8th day of June, 1912, in accordance with the provisions of an act of Congress approved March 7, 1912:

Allen H. Guthrie and
Joseph Y. Dreisonstok.

Asst. Civil Engineer Albert A. Baker to be a civil engineer in the Navy from the 16th day of October, 1912, to fill a vacancy.

GOVERNOR OF HAWAII.

Walter F. Frear, of Honolulu, to be governor of Hawaii, his term having expired December 18, 1911. (Reappointment.)

SECRETARY OF HAWAII.

Ernest A. Mott-Smith, of Honolulu, to be secretary of Hawaii, his term having expired December 18, 1911. (Reappointment.)

UNITED STATES MARSHAL.

Phil E. Baer, of Texas, to be United States marshal, eastern district of Texas, vice Dupont B. Lyon, removed.

COLLECTOR OF CUSTOMS.

John F. O'Brien, of New York, to be collector of customs for the district of Champlain, in the State of New York. (Reappointment.)

POSTMASTERS.

ALABAMA.

James W. Pilgreen to be postmaster at Calera, Ala., in place of James W. Pilgreen. Incumbent's commission expires December 16, 1912.

Newton L. Wilson to be postmaster at Blocton, Ala., in place of Newton L. Wilson. Incumbent's commission expires December 16, 1912.

CALIFORNIA.

Walter M. Avis to be postmaster at Pomona, Cal., in place of Walter M. Avis. Incumbent's commission expired December 12, 1911.

Nelson Bowerman to be postmaster at Soldiers Home, Cal., in place of H. C. Hollenbeck, resigned.

John L. Butler to be postmaster at Colfax, Cal., in place of John L. Butler. Incumbent's commission expires January 28, 1913.

George F. Hirsch to be postmaster at Long Beach (late Longbeach), Cal., in place of George F. Hirsch, to change name of office.

James L. Matthews to be postmaster at Covina, Cal., in place of James L. Matthews. Incumbent's commission expired February 4, 1912.

Frederick B. Nichols to be postmaster at McCloud, Cal., in place of Frederick B. Nichols. Incumbent's commission expires December 14, 1912.

Charles A. Stilson to be postmaster at Oceanpark, Cal., in place of Charles A. Stilson. Incumbent's commission expired January 20, 1912.

John W. Wood to be postmaster at Pasadena, Cal., in place of John W. Wood. Incumbent's commission expired February 13, 1912.

COLORADO.

Minnie L. Bunker to be postmaster at Paonia, Colo., in place of John A. Bunker, deceased.

David E. Gray to be postmaster at Greeley, Colo., in place of David E. Gray. Incumbent's commission expires January 11, 1913.

Ira L. Herron to be postmaster at Longmont, Colo., in place of Ira L. Herron. Incumbent's commission expires January 22, 1913.

Susan K. Herrington to be postmaster at Montrose, Colo., in place of George A. Herrington, resigned.

Henry W. Lance to be postmaster at Rocky Ford, Colo., in place of Henry W. Lance. Incumbent's commission expires December 16, 1912.

Griffith L. Lewis to be postmaster at Cripple Creek, Colo., in place of Griffith L. Lewis. Incumbent's commission expires December 16, 1912.

Robert S. Lewis to be postmaster at Canon City, Colo., in place of Robert S. Lewis. Incumbent's commission expires December 16, 1912.

Marshall Moore to be postmaster at Fort Collins, Colo., in place of Marshall Moore. Incumbent's commission expires February 9, 1913.

William C. Sloan to be postmaster at Creede, Colo., in place of William C. Sloan. Incumbent's commission expires February 9, 1913.

L. W. Terrell to be postmaster at Englewood, Colo., in place of Mary E. Williams, resigned.

Nimrod S. Walpole to be postmaster at Pueblo, Colo., in place of Nimrod S. Walpole. Incumbent's commission expires January 20, 1913.

CONNECTICUT.

Nelson Ritch Jessup to be postmaster at Stamford, Conn., in place of Nelson Ritch Jessup. Incumbent's commission expires December 14, 1912.

FLORIDA.

Charles E. Kettle to be postmaster at Hastings, Fla., in place of R. C. Harris, resigned.

GEORGIA.

Warren Edwards to be postmaster at Milledgeville, Ga., in place of James L. Sibley, removed.

Oscar Hyde to be postmaster at Cumming, Ga., in place of John E. Puett. Incumbent's commission expired May 22, 1912.

L. Q. Stubbs to be postmaster at Dublin, Ga., in place of George B. Grier. Incumbent's commission expires February 1, 1913.

ILLINOIS.

Edward Cosart to be postmaster at Cowden, Ill., in place of Edward Cosart. Incumbent's commission expires January 11, 1913.

John Holliday to be postmaster at Kirkwood, Ill., in place of John Holliday. Incumbent's commission expires December 14, 1912.

Charles H. Hurt to be postmaster at Barry, Ill., in place of Charles H. Hurt. Incumbent's commission expires January 26, 1913.

Robert L. Lutton to be postmaster at Clifton, Ill., in place of Robert L. Lutton. Incumbent's commission expires December 14, 1912.

Belle McCann to be postmaster at Seneca, Ill., in place of Joel W. Ellis. Incumbent's commission expires December 14, 1912.

Robert J. Morray to be postmaster at Creal Springs, Ill., in place of Robert J. Morray. Incumbent's commission expires December 14, 1912.

William L. Spear to be postmaster at Rankin, Ill., in place of William L. Spear. Incumbent's commission expires December 14, 1912.

Joseph F. Thompson to be postmaster at Bement, Ill., in place of George M. Thompson. Incumbent's commission expires January 14, 1913.

IOWA.

W. T. Davidson to be postmaster at Hamburg, Iowa, in place of W. R. Harris, resigned.

John C. Meredith to be postmaster at Allerton, Iowa, in place of John C. Meredith. Incumbent's commission expires December 14, 1912.

John H. Scholsser to be postmaster at Dallas Center, Iowa, in place of George H. Loring, resigned.

KANSAS.

June B. Smith to be postmaster at Cottonwood Falls, Kans., in place of June B. Smith. Incumbent's commission expired March 31, 1912.

MAINE.

Edward B. Buck to be postmaster at Foxcroft, Me., in place of Edward B. Buck. Incumbent's commission expires December 14, 1912.

Freeman D. Dearth to be postmaster at Dexter, Me., in place of Freeman D. Dearth. Incumbent's commission expires December 14, 1912.

Frank W. Mallett to be postmaster at Fort Kent, Me., in place of Frank W. Mallett. Incumbent's commission expires December 14, 1912.

Charles F. Plumly to be postmaster at Lincoln, Me., in place of Charles F. Plumly. Incumbent's commission expires December 14, 1912.

MICHIGAN.

Thomas H. Berryman to be postmaster at Mohawk, Mich., in place of Thomas H. Berryman. Incumbent's commission expires December 14, 1912.

Theron D. Childs to be postmaster at Three Oaks, Mich., in place of Theron D. Childs. Incumbent's commission expires December 14, 1912.

MINNESOTA.

George P. Tawney to be postmaster at Winona, Minn., in place of George P. Tawney. Incumbent's commission expired December 9, 1911.

Charles E. Ward to be postmaster at Ada, Minn., in place of Charles E. Ward. Incumbent's commission expired March 28, 1910.

MISSOURI.

Solomon R. McKay to be postmaster at Troy, Mo., in place of Solomon R. McKay. Incumbent's commission expires December 17, 1912.

George Stoolfer to be postmaster at Skidmore, Mo., in place of George Stoolfer. Incumbent's commission expires December 14, 1912.

MONTANA.

Caspar L. Gayle to be postmaster at Manhattan, Mont., in place of Caspar L. Gayle. Incumbent's commission expires January 14, 1913.

E. B. Thayer to be postmaster at Columbus, Mont., in place of E. B. Thayer. Incumbent's commission expires January 26, 1913.

NEBRASKA.

Charles W. Meeker to be postmaster at Imperial, Nebr., in place of Charles W. Meeker. Incumbent's commision expires December 17, 1912.

Maroni H. Tyson to be postmaster at Elmwood, Nebr., in place of William K. Sargeat, resigned.

NEW HAMPSHIRE.

John H. Brown to be postmaster at Concord, N. H., in place of John H. Brown. Incumbent's commission expired December 9, 1912.

E. Bertram Pike to be postmaster at Pike, N. H., in place of E. Bertram Pike. Incumbent's commission expires December 14, 1912.

NEW YORK.

N. Austin Baker to be postmaster at Salem, N. Y., in place of N. Austin Baker. Incumbent's commission expires December 16, 1912.

William H. Clark to be postmaster at Nichols, N. Y., in place of William H. Clark. Incumbent's commission expires December 16, 1912.

Charles W. Fletcher to be postmaster at Montour Falls, N. Y., in place of Charles W. Fletcher. Incumbent's commission expires December 16, 1912.

Frank A. Frost to be postmaster at Watkins, N. Y., in place of Frank A. Frost. Incumbent's commission expires January 25, 1913.

Frederick B. Powell to be postmaster at Amityville, N. Y., in place of Frederick B. Powell. Incumbent's commission expires December 16, 1912.

NORTH CAROLINA.

Ella A. Atkins to be postmaster at Lillington, N. C. Office became presidential January 1, 1912.

Edward C. Beaman to be postmaster at Farmville, N. C. Office became presidential October 1, 1911.

John W. Brown to be postmaster at Oxford, N. C., in place of John W. Brown. Incumbent's commission expired February 27, 1912.

Eugene Brownlee to be postmaster at Tryon, N. C., in place of Eugene Brownlee. Incumbent's commission expired January 28, 1912.

William H. Cox to be postmaster at Laurinburg, N. C., in place of William H. Cox. Incumbent's commission expired December 17, 1911.

Samuel M. Hamrick to be postmaster at Hickory, N. C., in place of Samuel M. Hamrick. Incumbent's commission expired December 17, 1911.

John R. Joyce to be postmaster at Reidsville, N. C., in place of John R. Joyce. Incumbent's commission expired January 28, 1912.

William A. Mace to be postmaster at Beaufort, N. C., in place of William A. Mace. Incumbent's commission expired December 19, 1910.

Luren D. Mendenhall to be postmaster at Randleman, N. C., in place of Luren D. Mendenhall. Incumbent's commission expired January 28, 1912.

George W. Robbins to be postmaster at Rocky Mount, N. C., in place of George W. Robbins. Incumbent's commission expired May 20, 1912.

Frank Roberts to be postmaster at Marshall, N. C., in place of Frank Roberts. Incumbent's commission expired December 17, 1911.

Charles F. Smathers to be postmaster at Canton, N. C., in place of Charles F. Smathers. Incumbent's commission expired January 28, 1912.

George W. Stepp to be postmaster at Black Mountain, N. C. Office became presidential July 1, 1912.

Henry J. Whitt to be postmaster at Roxboro, N. C., in place of Henry J. Whitt. Incumbent's commission expired December 17, 1911.

OHIO.

Henry H. Dibble to be postmaster at Canal Winchester, Ohio, in place of Henry H. Dibble. Incumbent's commission expires January 21, 1913.

William W. Dowdell to be postmaster at Quaker City, Ohio, in place of William W. Dowdell. Incumbent's commission expired May 16, 1912.

Frank Holmes to be postmaster at Nevada, Ohio, in place of William P. Gillam. Incumbent's commisson expired May 16, 1912.

William W. Reed to be postmaster at Kent, Ohio, in place of William W. Reed. Incumbent's commission expires January 21, 1913.

PENNSYLVANIA.

Lewis E. Davis to be postmaster at Centralia, Pa., in place of Ralph M. Lashelle, sr., resigned.

Alfred R. Houck to be postmaster at Lebanon, Pa., in place of Alfred R. Houck. Incumbent's commission expires January 26, 1913.

Frank Eugene Merts to be postmaster at Uniontown, Pa., in place of William W. Greene. Incumbent's commission expired April 6, 1912.

Louise M. Reynolds to be postmaster at Reedsville, Pa., in place of Daniel W. Reynolds, deceased.

George C. Wagenseller to be postmaster at Selinsgrove, Pa., in place of George C. Wagenseller. Incumbent's commission expired January 29, 1911.

SOUTH DAKOTA.

Clark L. Kemls to be postmaster at Beresford, S. Dak., in place of Charles A. Ramsdell, deceased.

Thomas T. Smith to be postmaster at Canton, S. Dak., in place of Thomas T. Smith. Incumbent's commission expires December 17, 1912.

TENNESSEE.

Terry Abernathy to be postmaster at Selmer, Tenn. Office became presidential October 1, 1912.

William M. Bray to be postmaster at Henderson, Tenn., in place of William M. Bray. Incumbent's commission expired January 31, 1912.

James H. Christian to be postmaster at Smithville, Tenn., in place of James H. Christian. Incumbent's commission expires March 3, 1913.

Elbert T. Reavis to be postmaster at Dresden, Tenn., in place of John P. Gibbs. Incumbent's commission expired May 15, 1912.

TEXAS.

Henry A. Cady to be postmaster at Ballinger, Tex., in place of Henry A. Cady. Incumbent's commission expired February 27, 1910.

UTAH.

Jonathan S. Page, jr., to be postmaster at Payson, Utah, in place of Jonathan S. Page, jr. Incumbent's commission expires December 17, 1912.

VERMONT.

Lyman P. Bailey to be postmaster at Putney, Vt., in place of Lyman P. Bailey. Incumbent's commission expires December 14, 1912.

WEST VIRGINIA.

J. W. Edwards to be postmaster at Welch, W. Va., in place of J. W. Edwards. Incumbent's commission expires December 14, 1912.

WISCONSIN.

Julian Villier to be postmaster at Port Washington, Wis., in place of Eugene S. Turner. Incumbent's commission expired April 24, 1912.

George E. King to be postmaster at Winneconne, Wis., in place of George E. King. Incumbent's commission expires December 14, 1912.

WYOMING.

Frederick E. Davis to be postmaster at Wheatland, Wyo., in place of Frederick E. Davis. Incumbent's commission expires December 17, 1912.

CONFIRMATION.

Executive nomination confirmed by the Senate December 9, 1912.

TREASURER OF THE UNITED STATES.

Carmi A. Thompson to be Treasurer of the United States.

HOUSE OF REPRESENTATIVES.

MONDAY, *December 9, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, on earth, and in the hearts of men, we approach Thee with profound gratitude for life, liberty, and all that makes life dear. Help us to realize that as "eternal vigilance is the price of liberty," so it is the price of all that makes for righteousness in the soul. Make us, therefore, zealous in all good works, that we may all come unto the measure of the stature of the fullness of Christ, and unto Thee we will give all praise. Amen.

The Journal of the proceedings of Saturday, December 7, 1912, was read and approved.

DISTRICT DAY.

The SPEAKER. The Chair will state that this is the day set apart for the consideration of District of Columbia business.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The SPEAKER. Of course the motion made by the gentleman from South Carolina is a privileged motion, bnt before putting the question the Chair will again state that this is the day set apart for the consideration of business relating to the District of Columbia. If no one desires to call up any District business, the Chair will put this motion. [After a pause.] The question is on the motion of the gentleman from South Carolina that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to; accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26680, the legislative, executive, and judicial appropriation bill, with Mr. GARNER in the chair.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Enforcement of navigation laws: To enable the Secretary of Commerce and Labor to provide and operate such motor boats and employ thereon such persons as may be necessary for the enforcement, under his direction by customs officers, of the laws relating to the navigation and inspection of vessels, boarding of vessels, and counting of passengers on excursion boats, $15,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. Will the gentleman from South Carolina please say whether this is a new item or has it been regularly provided for heretofore? I refer to the appropriation of $15,000 for the enforcement of the navigation laws.

Mr. JOHNSON of South Carolina. It is the current law. There is no change whatever.

Mr. MOORE of Pennsylvania. There is nothing new in the paragraph?

Mr. JOHNSON of South Carolina. Nothing new.

The Clerk read as follows:

Enforcement of wireless communication laws: To enable the Secretary of Commerce and Labor to enforce the acts of Congress "to require apparatus and operators for radio communication on certain ocean steamers" and "to regulate radio communication" and carry out the International Radio Telegraphic Convention, and to employ such persons and means as may be necessary, this employment to include salaries of employes in Washington not exceeding $5,800, traveling and subsistence expenses, printing, purchase and exchange of instruments, technical books, rent, and all other miscellaneous items and necessary expenses not included in the foregoing, $37,880.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. This item for the enforcement of wireless communication laws is new, is it not?

Mr. JOHNSON of South Carolina. Mr. Chairman, I will state that there is no change whatever in the amount appropriated. The difference is in this, that in the last legislative bill we carried $10,000, while the deficiency bill carried $27,000. In order that we might keep it together we bring it forward in one item in this bill.

Mr. MOORE of Pennsylvania. New legislation was passed last year regulating radiotelegraphy.

Mr. JOHNSON of South Carolina. Yes. The gentleman will understand that at the time the legislative bill passed we incorporated $10,000 for that purpose. After the legislative bill had passed the House there was legislation upon the subject. Then the deficiency bill made an appropriation of $27,000 in addition to what we had appropriated in order to carry out that law. We now bring both of the amounts forward in this bill.

Mr. MOORE of Pennsylvania. Ten thousand dollars was in anticipation of what would be needed under the new law?

Mr. JOHNSON of South Carolina. Yes. We were doing then by departmental regulation what we are now doing by law.

Mr. MOORE of Pennsylvania. And the department will now be in a position to go ahead and regulate these private enterprises?

Mr. JOHNSON of South Carolina. Yes.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and the Speaker having resumed the chair, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

For Division of Information established under section 40 of the act approved February 20, 1907, entitled "An act to regulate the immigrations of aliens into the United States," namely: Chief of division, $3,500; assistant chief of division, $2,500; clerks—2 of class 4, 1 of class 3, 2 of class 2, 3 of class 1, 1 at $900; messenger; in all, $10,340.

Mr. RODDENBERY. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Amend, page 129, line 22, by striking out all of line 22 after the word "one" and insert the following:

"*Provided*, That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States the following persons shall also be excluded from admission thereto, to wit: All aliens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age,

his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

"SEC. 2. That for the purpose of ascertaining whether aliens can read or not the immigrant inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plain type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip.

"SEC. 3. That the following classes of persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit through the United States; (c) all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory.

"SEC. 4. That an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came in the manner provided by section 19 of 'An act to regulate the immigration of aliens into the United States,' approved February 20, 1907."

During the reading of the foregoing.

Mr. BURLESON (interrupting the reading). Mr. Chairman, it is patent from what has been already read that this is subject to a point of order, and I make the point of order that it is new legislation.

The CHAIRMAN. As the Chair understands it, the amendment must be reported.

Mr. BURLESON. It is not necessary that it should be reported in full, if it is patent that it is subject to a point of order.

Mr. RODDENBERY. Mr. Chairman, before there is any ruling on the point of order at any stage I should like to be heard briefly.

The CHAIRMAN. The Chair will permit the amendment to be read.

The Clerk then concluded the reading of the proposed amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] makes the point of order against the amendment that it is new legislation. Does the gentleman from Georgia desire to be heard?

Mr. RODDENBERY. Mr. Chairman, I desire to submit that under the rules of the House the motion reduces the number of offices and reduces the expenditures provided for in the bill, and offers an amendment to a statute, the subject of immigration, with which subject the paragraph to which it is offered deals and which statute is specifically mentioned in the paragraph.

The paragraph reads as follows:

For division of information established under section 40 of the act approved February 20, 1907, entitled "An act to regulate the immigration of aliens into the United States," namely—

Then it recites the officers for the administration of that law. The amendment offered provides in terms that an additional class of persons other than those mentioned particularly in the act recited in the bill shall be excluded from admission to the United States, providing in its terms that this exclusion shall in no way limit or restrict the present prohibited classes as mentioned in the particular paragraph of the pending appropriation bill to which the amendment is offered. It goes further and provides and regulates the condition and manner upon which they may be admitted and the condition and manner in which inadmissible aliens may be deported from the United States, and section 4 of my amendment specifically provides that an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came in the manner provided by section 19 of an act to regulate the immigration of aliens into the United States, approved February 20, 1907, and the act of February 20, 1907, is the same act to which the paragraph and the section of the measure to which this amendment is offered relates. Even if it is new legislation it is germane to the bill as it is legislation which retrenches expenditures and reduces the number of offices in the Federal Government. It is so clearly a proper amendment to be offered to this bill, Mr. Chairman, under more than one rule of the House that I do not see how the gentleman in charge of the bill can insist that this amendment is not pertinent as well as in order.

Mr. MANN. Will the Chairman have the first part of the amendment reported?

The Clerk read as follows:

Provided, That after——

Mr. RODDENBERY. Mr. Chairman, I raise the point of order. The first part of the amendment I offered is to strike out the words "one, $900; messenger; in all, $13,340"; that is the first part of my amendment, and to substitute therefor the amendment.

The Clerk read as follows:

Amend, page 129, line 22, by striking out all of line 22, after the first word, "one," and insert the following: "*Provided*, That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit."

Mr. BURLESON. Mr. Chairman, the point of order is that it is a change of existing law and new legislation upon an appropriation bill.

The CHAIRMAN. The Chair is ready to rule. The Chair has examined the amendment and it is clearly subject to the point of order and the Chair sustains the point of order. The Clerk will read.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 129, in lines 19 and 20, by striking out the word "immigrations" and insert in lieu thereof the word "immigration."

Mr. JOHNSON of South Carolina. The only purpose is to correct a typographical error.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Bureau of Standards: Director, $6,000; physicists—chief, $4,800, 1 qualified in optics, $3,000, 2 at $3,000 each, 1 $3,000; associate physicists—3 at $2,700 each, 4 at $2,500 each, 4 at $2,200 each, 5 at $2,000 each; assistant physicists—9 at $1,800 each, 11 at $1,600 each, 14 at $1,400 each; chief chemist, $4,800; chemist, $3,500; associate chemists—1 $2,700, 2 at $2,500 each, 1 $2,200, 1 $2,000; assistant chemists—2 at $1,800 each, 3 at $1,600 each, 2 at $1,400 each; laboratory assistants—16 at $1,200 each, 13 at $1,000 each, 13 at $900 each; laboratory helpers—1 $840, 3 at $720 each; aids—10 at $720 each, 7 at $600 each; laboratory apprentices—6 at $540 each, 6 at $480 each; storekeeper, $1,000; librarian, $1,600; secretary, $2,200; clerks—1 of class 4, 1 of class 3, 2 of class 2, 4 of class 1, 4 at $1,000 each, 4 at $900 each, 2 at $720 each; telephone operator, $720; office apprentices—2 at $540 each, 2 at $480 each, 3 at $360 each; elevator boy, $360; chief mechanician, $1,800; mechanicians—1 $1,600, 1 $1,500, 1 $1,400, 3 at $1,200 each, 4 at $1,000 each, 1 $900; shop apprentices—1 $540, 2 at $480 each; 4 watchmen; skilled woodworkers—1 $1,000, 1 $840; 6 skilled laborers, at $720 each; draftsman, $1,200; packer and shipper, $840; messenger; superintendent of mechanical plant, $2,500; assistant engineers—1 $1,500, 2 at $1,200 each, 1 $1,000, 1 $900; pipe fitter, $1,000; 4 firemen; 2 glass blowers, at $1,400 each; electricians—1 $1,200, 1 $900; 6 laborers; janitors—2 at $660 each, 1 $600; 2 female laborers, at $360 each; in all, $290,940.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on the paragraph. I desire to ask, on page 130, line 1, why the necessity for the new physicist at $3,000?

Mr. CANNON. Is he a clairvoyant?

Mr. FOWLER. I do not know; he may be a morganatic fellow; I do not know just what kind of a fellow he is.

Mr. CANNON. If the gentleman will yield? Is there a copy of the latest dictionary, Century, or otherwise, here?

Mr. JOHNSON of South Carolina. Mr. Chairman, in answer to the gentleman, in respect to that one particular man, I may as well answer as to all. In 1903 Congress authorized the establishment of the Bureau of Standards. The work was begun upon a small scale, and from year to year the work has increased. The appropriations have correspondingly grown. That bureau is engaged in very important work along many scientific lines. We have recently, within the last two or three years, authorized the construction of a new laboratory, and that laboratory will be completed in January. It is necessary that it should be equipped with machinery and apparatus and with men. We have given not all that was asked for, but what we thought was needed to carry on the work. I hope that will satisfy my friend, not only as to that one man, but as to all the others in the paragraph. We have increased the appropriation about $50,000.

Mr. FOWLER. A little more than $50,000.

Mr. JOHNSON of South Carolina. I said about $50,000 in that one item.

Mr. FOWLER. You also increased the salaries of many of these men in this employment. Why should the salaries be increased? You have also increased a number of them. For instance, in line——

Mr. JOHNSON of South Carolina. There is no increase in salaries, I will say to the gentleman from Illinois. It may be that some of the scientific men who are employed in the bureau will be promoted and given an advance in salary in the next fiscal year, but we have not specifically increased anybody's salary, but we give the Director of the Bureau of Standards a vary largely increased force, because the circumstances not only justified it but demanded it.

Mr. FOWLER. I call the attention of the chairman to the associate chemist, who received in the last appropriation bill $2,500. According to this bill he will receive $2,700.

Mr. JOHNSON of South Carolina. That is not the same man that was appropriated for before, I will say to the gentleman from Illinois.

Mr. FOWLER. That must be a new place, then, entirely.

Mr. JOHNSON of South Carolina. It is a new place, and the old man is appropriated for at the old salary.

Mr. FOWLER. Well, you have not only increased the salary, as I take it, but you have increased the number. You have two assistants at $2,500, whereas, as I understand, there was only one.

Mr. JOHNSON of South Carolina. That is right.

Mr. FOWLER. One assistant chemist at $2,500. Now, you have one at $2,700 and two at $2,500.

Mr. JOHNSON of South Carolina. That is correct.

Mr. FOWLER. That makes an increase of two?

Mr. JOHNSON of South Carolina. Yes.

Mr. FOSTER. I think last year one was at $2,500 and one at $2,200. So there is certainly an increase of salary in those two places.

Mr. JOHNSON of South Carolina. No; we still appropriate for the man at $2,500 and we still appropriate for the man at $2,200, but what we do is to give the director two additional men—one at $2,700 and one at $2,500.

Mr. FOWLER. And then you give him another assistant at $2,000. That is new also.

Mr. JOHNSON of South Carolina. Yes, sir.

Mr. FOWLER. Now, there are three new men—one at $2,700, one at $2,500, and one at $2,000. Is it necessary to the carrying out of the provisions of this department that these three new positions should be created?

Mr. JOHNSON of South Carolina. I would say to the gentleman from Illinois that we are just completing a $250,000 building for these scientific purposes, and it would be utterly useless to construct that great building unless we were going to put scientific men there after constructing it in order to carry on the work.

Mr. FOWLER. Well, you will increase that work in the associate physicists from one to three at $2,700, making two, and then you have increased the other assistants from three to four, and then the other assistants from three to four, making in all four new places.

Mr. JOHNSON of South Carolina. I tried to explain to the gentleman in the beginning that the Bureau of Standards was organized and started out on a very small scale. This building has been authorized and will be completed in January. We are intending, if we can, to install it with all the necessary machinery and apparatus and with the men to operate it.

Mr. CANNON. Will the gentleman allow me?

Mr. JOHNSON of South Carolina. Certainly.

Mr. CANNON. I think if my colleague [Mr. FOWLER] would make an investigation—if he has not done so—touching this work that is being done by the Bureau of Standards, he will find that if this bill sins at all it sins in not being sufficient rather than oversufficient. I am satisfied, if my colleague would familiarize himself with the work of this bureau, that he would agree with me that possibly both of us had better get a dictionary and see that a physicist is not a man who practices morganatic marriage. [Laughter.]

Mr. JOHNSON of South Carolina. I am much obliged to the gentleman from Illinois for his statement.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON of South Carolina. If it is true that we made any mistake with respect to the Bureau of Standards, the mistake was in giving too little and not too much.

Mr. FOWLER. Mr. Chairman, I desire to state, in reply to the distinguished gentleman from Illinois, my colleague [Mr. CANNON], that I am well aware of the fact that it is difficult to understand all of the machinery of any department of this Government, and I am more than anxious to equip each and every one of them with the proper assistance that is necessary to accomplish the great good of this country. But I must say that here is an increase in the physicists from four to six, and if these are necessary now the force heretofore must have been wholly inadequate, and I am sure, Mr. Chairman, that it can not be explained on any other ground. I therefore make a point of order against the new position created on page 130, line 1, of a physicist, at $3,000. But, before I yield, I desire to reserve a point of order against the remainder of the paragraph until this question is settled.

Mr. JOHNSON of South Carolina. Mr. Chairman, the point of order is not well taken. On page 1449, chapter 875, of the laws of the United States, 1901, the Chair will find that the Bureau of Standards was established by law. It was provided that this bureau should be established for the purpose of doing testing and standardizing work and such other scientific work as might be useful to the country. I send the statute to the Chair. There is no force specifically provided. The language of the statute is broad, and it is within the purview of Congress to authorize such force as, in its judgment, is necessary to carry forward the work.

The CHAIRMAN. Does the gentleman from Illinois [Mr. FOWLER] desire to be heard further?

Mr. FOWLER. Mr. Chairman, I desire to say that if it is left to the committees of this House to create new positions and increase the salaries of the positions already in operation, then the House and the country are in a deplorable condition, and are solely at the mercy of the committees. It has been evidenced that legislation in this body is largely carried on by recommendations of departments, without law and without any legal authority. If these new positions can be created indiscriminately, then, Mr. Chairman, the country is at the mercy of departments and committees of each branch of this legislative body.

I take it, Mr. Chairman, that if this new position can be created, a million such positions can be created by the same authority, and without any authority of law, and these positions to the number of a million may have affixed to them salaries at a million dollars each; and the rules of this House are too short, according to the contention of the gentleman from South Carolina [Mr. JOHNSON], to be reached by a point of order. I take it, Mr. Chairman, that the rules of the House, especially rule 21, govern this case, and it is new legislation which increases the expenses of this department.

Now, Mr. Chairman, I do not desire to take up the time of this House, because I am anxious to finish this bill, as much so as any member of the committee. But I do say, Mr. Chairman, that this is an entirely new position created by this bill, and the salary is fixed by the committee indiscriminately within its own purview. If it could create one position, it could create a thousand. If it could fix the salary at $3,000, it could fix the salary at 300 times $3,000, and, according to the contention of the gentleman from South Carolina, this bill would be in order and not subject to a point of order.

The CHAIRMAN. The Chair is ready to rule. Does the gentleman from Illinois [Mr. MANN] desire to be heard?

Mr. MANN. Mr. Chairman, I take it that the Chair has before him the organic act. I remember very distinctly when we passed the law creating the Bureau of Standards, and the language of the law was so framed at that time as to meet this very point of order now being made, because it was recognized in Congress that the Bureau of Standards was one of those bureaus which would necessarily increase its work and grow from time to time. It was not possible in the creation of the bureau to specifically authorize the employment of officials which would be sufficient as time went on and as the work of the bureau increased.

Now, we have just inaugurated or provided a large new laboratory there, carrying out the original idea of the law in creating the bureau, and the language of the organic act, taken in connection with the language of the law creating the clerks, and so forth, in the executive departments, specifically authorizes Congress, over a point of order under the rules of the House, to make provision for such scientists and other employees in the bureau as it desires to provide for.

The CHAIRMAN. The Chair is ready to rule. There are two well-defined policies of Congress in reference to this matter. One is, in the creation of bureaus under the statute, to define what the offices may be. The other is to pass a statute broad enough to permit Congress to create such offices as are necessary for the conduct of the business required by the statute. This is one of the cases where the statute is broad enough to permit the Congress to create a sufficient number of offices, at such salaries as the Congress may deem proper, to conduct the business of the bureau.

The Chair is inclined to agree with the gentleman from Illinois [Mr. FOWLER] that if the Congress should see proper it might create this office at a salary of three hundred times $3,000; but it is not to be supposed that Congress in its wisdom will create an office with that salary.

The Chair is thoroughly of the opinion that this statute is broad enough to permit the Congress to create such offices as are necessary to carry out the provisions of the law, and that their number and salaries are entirely a question for the committee and the House. The Chair overrules the point of order.

Mr. FOWLER. Mr. Chairman, I make the same point of order to the two associate physicists created in line 1, page 130, of this bill, at $2,700 each. I presume the same ruling will be made by the Chair as to that.

The CHAIRMAN. Yes.

Mr. FOWLER. In line 2 there is a new associate physicist at $2,500 and one at $2,200. I make the point of order as to both those two items.

The CHAIRMAN. The Chair overrules the point for the same reasons.

Mr. FOWLER. In line 3 there is an increase of the number of assistant physicists from seven to nine, at $1,800 each, making two new ones. I make the point of order as to that increase.

The CHAIRMAN. Does the Chair understand the gentleman from Illinois to state that this point of order is as to the increase of a salary or as to the increase of a number?

Mr. FOWLER. It is an increase in the number.

The CHAIRMAN. The same ruling would apply.

Mr. FOWLER. In line 5 there is a new chemist created, at $3,500. The chief chemist, $4,800, is the same as it was in the last bill, but a new place, known as chemist, is created, at $3,500. I make the point of order, because it is new legislation and against Rule XXI.

The CHAIRMAN. The same ruling.

Mr. FOWLER. There is an increase in the salary of the associate chemist, in line 5, from $2,500 to $2,700. I make the point of order to that because it is an increase in a salary heretofore carried by current legislation.

Mr. JOHNSON of South Carolina. The gentleman is mistaken. The current law provides for an associate chemist, at $2,500. We provide for one at $2,700 and two at $2,500. We have not increased the salary, but we have created two new positions.

Mr. FOWLER. Mr. Chairman, that is tweedle dee, tweedle dum. I say there are two new positions created at $2,500 and an increase of the associate chemist from $2,500 to $2,700.

The CHAIRMAN. The chairman of the committee in charge of the bill, Mr. JOHNSON of South Carolina, states to the Chair that the $2,700 position is a new position and that one of the $2,500 positions is the one carried in the last bill.

Mr. FOWLER. There was only one in the last bill, and that was an associate chemist, at $2,500.

The CHAIRMAN. And the chairman of the committee in charge of the bill states to the Chair that that one is one of the $2,500 positions provided in this bill.

Mr. FOWLER. In line 6 there is another new place created at $2,000. I make the point of order as to that, because it is new legislation and not in harmony with Rule XXI of this House.

The CHAIRMAN. The same ruling applies.

Mr. FOWLER. There is an increase in the laboratory service from 15 to 16. I presume that the same ruling will be made as to that increase in number?

The CHAIRMAN. May the Chair suggest to the gentleman from Illinois that he might include certain other new places created? The Chair understands the gentleman in charge of the bill to say that there are no increases of salary, but that there have been certain new places created. The gentleman from Illinois might include in his point of order all the new places created in this paragraph.

Mr. FOWLER. In line 12 the salary of the librarian is increased from $1,400 to $1,600. There is no tweedledum and no tweedledee here. The salary prior to this bill was $1,400, and this increases it to $1,600. I make the point of order against the increase, because it is not in harmony with Rule XXI of this House.

Mr. JOHNSON of South Carolina. Mr. Chairman, the salary of the librarian is increased $200, and is subject to the point of order if the gentleman seeks to make it.

The CHAIRMAN. Does the gentleman from Illinois insist on his point of order?

Mr. FOWLER. Yes; I insist upon it.

The CHAIRMAN. The point of order is sustained.

Mr. FOWLER. Mr. Chairman, I desire to offer an amendment to line 3, page 131, where two female laborers are provided for at $360 each. I desire to strike out the figures "360" and insert in lieu thereof the figures "600," so that it will read:

Two female laborers, at $600 each

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 131, line 3, strike out the figures "360" and insert in lieu thereof the figures "600."

Mr. MANN. Mr. Chairman, I reserve a point of order on the amendment.

Mr. FOWLER. Mr. Chairman, if this committee has the authority to provide liberally for the carrying out of the provisions of this department, I think it would be very generous for us to provide a larger salary than $360 a year for the services of women. If we can create new positions here at $3,000 each, and if we can increase the salary of these large officeholders, then I say it is fit that we go down the line where the people by manual labor perform the work of this department.

I believe, Mr. Chairman, to carry in this bill three laborers, who shall be females, at a salary of $360 is not only a recreant discharge of duty, but it is a crime against the better half of mankind. I insist, Mr. Chairman, that the gentleman from Illinois withdraw his point of order and permit the House to vote upon the proposition.

Mr. MANN. Mr. Chairman, the item is "two female laborers, at $360 each." These two laborers are charwomen, carried under the head of "female laborers" in order that they may receive $10 a month more salary than the ordinary charwomen do in the District. These women work probably a little longer time than the ordinary charwomen, but do not work a full day. Charwomen get $240 a year, or $20 a month, while these two receive $360 a year, at a rate of $30 a month, which is quite sufficient, and I make the point of order.

Mr. FOWLER. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. FOWLER. I desire to ask my colleague if he thinks that $360 a year is enough for any laborer in this country.

Mr. MANN. It depends upon how long a time they work. These people do not work a full day, as my colleague will understand.

Mr. FOWLER. Do you believe that the charwomen in the various departments of the Government are receiving a sufficient salary at the present time?

Mr. MANN. I will express my views upon that subject in some way when we reach the item in the bill and my colleague moves to increase the amount from $240 to a larger sum, which amendment would be in order.

The CHAIRMAN. The point of order is sustained.

Mr. JOHNSON of South Carolina. Mr. Chairman, in line 12, page 130, I move to insert the figures "1,400" after the dollar mark, which went out on a point of order, so that it will read "librarian, $1,400."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 130, line 12, insert the words "librarian, $1,400."

The amendment was agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FITZGERALD having taken the chair, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had disagreed to the amendment of the House of Representatives to the bill (S. 3436) granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. SMOOT, Mr. NELSON, and Mr. SMITH of Arizona as the conferees on the part of the Senate.

The message also announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 31.

Resolved by the Senate (the House of Representatives concurring), That a joint committee, consisting of three Senators and three Representatives, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

For the investigation of fire-resisting properties of building materials and the conditions under which they may be most efficiently used, including personal services, in the District of Columbia and in the field, $25,000.

Mr. COX of Ohio. Mr. Chairman, I offer an amendment to insert a new paragraph after line 2, on page 132.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 132, after line 2, insert as a new paragraph the following: "To investigate the dangers to life and property due to the transmission of electric currents at high potentials, and the precautions to be taken and the best methods of construction, installation, and operation to be followed in the distribution and return of such current in order to reduce to a minimum such dangers; also to investigate the best means of protecting life and property from lightning, including personal services, in the District of Columbia and in the field, $15,000."

Mr. COX of Ohio. Mr. Chairman, I want to say, in the first instance, that I hesitate to introduce this amendment because I am a member of the Committee on Appropriations, but I believe that consideration for the lives of individuals should transcend any notion of propriety with reference to submitting the matter which I shall discuss. The members of the subcommittee who will oppose this amendment can offer no justification for the elimination of this item, except upon the ground that two or three other provisions have been made in behalf of the Bureau of Standards.

The provision here is that the Bureau of Standards shall now make practical use of certain laboratory apparatus which was purchased under an authority granted during the session of the last Congress. Let me remind Members of this House that every State in the Union which is keeping step with the progress of the age has created a so-called public-utilities commission, and it is the purpose of this subdivision of State governments not only to regulate the rates which are assessed against individuals, but to protect in the largest measure possible human life. Living in the North, as many of us are, I think we have a measurably full appreciation of the tremendous dangers which now join to the great industrial activities of this age. In our neighboring State of Indiana the most important question now is the passage of a workman's compensation act, in order that there may be taken from the courts every piece of litigation which joins to personal-injury cases. The President of the United States, in submitting his message here the other day, dilated upon the importance, the propriety, and the justice of this legislation. We want to go deeper. We want to touch a more important fundamental of this subject by preventing this harvest of deaths. The public-utilities commissions in the States desire to install certain safety devices which will be fair to corporations and which will be fair also to the people. They want to know what the best safety devices are, and then they can standardize them.

Civilization now calls upon this Republic, through Representatives here assembled, to give to the highest authority in this land, the Bureau of Standards, the task of determining the safety devices which ought to be installed in order that public-utilities commissions in the States can then have them standardized and applied. The cost is only $15,000 per year. The apparatus for experimentation has been purchased. I want to remind gentlemen that I have in my hand now press clippings from the newspapers of the day covering but a short time, and yet they tell the story of countless human tragedies. I do not want to appeal in any improper way to the sentiment nor the impulse of this House, but there is not a provision in this bill which is half so important to the country as the amendment which has just been introduced.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. COX of Ohio. Certainly.

Mr. HOBSON. The question I desire to ask the gentleman bears chiefly upon making his purpose effective. Would not the gentleman actually need more money and need the whole question to be taken up in a more thorough method than his amendment provides?

Mr. COX of Ohio. I will state for the information of my distinguished colleague from Alabama that it is the judgment of the Bureau of Standards, than which there is no more efficient subdivision of this Government, that $15,000 is abundant. They have the apparatus. They simply want money to employ two or three experts and give to them the means to meet their traveling expenses to test these different devices.

Mr. Chairman, the trouble in this country is that all of the so-called unrest arises from the fact that we legislate here along lines entirely too impersonal. Your subcommittee has left in this bill the provision with respect to the testing of fire materials. We have legislated in behalf of property. I ask you to legislate now in behalf of the human unit. That is the trouble in this country, and when we begin to recognize the propriety of legislating along more personal lines we will have less of the so-called unrest than we now have.

Mr. FITZGERALD. Mr. Chairman, will the gentleman yield?

Mr. COX of Ohio. Certainly.

Mr. FITZGERALD. The gentleman is trying to place the committee in the attitude of having selected an item beneficial to property interests as against one that is beneficial to the safety of human life. Is the gentleman not aware that both items were placed upon the same ground, namely, that the fire-resisting materials were just as essential to the protection of human life as this investigation, and is it not a fact that the Chief of the Bureau of Standards was asked to state the relative importance of these——

Mr. COX of Ohio. Mr. Chairman, I will ask the gentleman to state one question at a time.

Mr. FITZGERALD. I would state the two together in order to save time.

Mr. COX of Ohio. No; the gentleman will pardon me. The gentleman has stated his first question. Let me reply to that. What the gentleman says is true. That has to do also with the safety of human life, but let me remind him now that there are building codes in every great city and State in this country. Under their terms it is necessary to construct buildings along certain lines.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. COX of Ohio. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio? [After a pause.] The Chair hears none.

Mr. COX of Ohio. We have the protection of municipal enactment and we have building codes in the States. Now, I want to ask the gentleman from New York, whether he knows this to be a fact or not that within the last month certain gentlemen interested—and I want to preface what I have to say with respect to this by the assurance that I mean nothing unkind whatsoever with reference to my colleagues on this committee—in fireproofing material and other things of that sort have been in Washington asking for this legislation?

Mr. FITZGERALD. I know that certain public officials, the most prominent of whom were from the State of Ohio, called publicly at the Committee on Appropriations and made inquiry about it as they had a perfect right to do, as had any other American citizen.

Mr. COX of Ohio. The gentleman gives point again to the fact that Ohio is always more clearly alive to the interest of our people than public officials of New York State.

Mr. FITZGERALD. Well, he happened to be accompanied by the most competent man in that particular line from the State of New York.

Mr. COX of Ohio. Yes; but this is the thing that is in my mind. There is no one here to represent the people in whose behalf I am offering this amendment, except the Members here assembled.

Mr. FITZGERALD. If the gentleman will permit, there was no lobby in behalf of either of these amendments. I started to ask the gentleman from Ohio a second question when he headed it off, and that was: Was not it a fact that the Chief of the Bureau of Standards, in response to an inquiry, placed the items that the committee reported as of more importance than the one in which the gentleman from Ohio happens to be particularly interested, and the committee based their action upon the report of the man who is supposed to be most competent to inform the committee?

Mr. COX of Ohio. I replied to the gentleman's first question and now I shall make response to his second question. I have the statement of the chairman of the subcommittee [Mr. JOHNSON of South Carolina] on that phase of the matter, and that is sufficient so far as I am concerned. He made the statement to the subcommittee and the whole committee that the bureau had indicated the importance of these projects in the order named, and they placed two or three before the project which is contemplated in my amendment; but let me remind the gentleman from New York and my colleagues here on this floor that the head of the Bureau of Standards is not as able to understand the influence, the effect, and the result of these experimentations as the people in the States are.

Mr. FITZGERALD. Well, I know the gentleman is mistaken, and that the best-equipped man to pass on this question is Dr. Stratton, universally recognized as one of the most efficient men in his line in the entire world.

Mr. COX of Ohio. Let me say for the information of the gentleman that the statement has been made in the last few days, since the unsuccessful fight in the Committee on Appropriations in behalf of this amendment, that it would probably be better if not a word were spoken in the House on this because the Senate will amend it anyhow, but I am bringing this up here in order that the House of Representatives can do its duty and not await the pleasure or action of the great body at the other end of this Capitol. I conceive it to be our duty, in making provision for new projects in the Bureau of Standards, to take care of that department which contemplates the protection of humanity, and I trust the amendment will prevail.

Mr. FOSTER. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from Ohio yield to his colleague?

Mr. COX of Ohio. I do.

Mr. FOSTER. May I ask the gentleman from Ohio if his State, concerning which he has been somewhat profuse as to what the State and the people are doing in reference to matters of this kind, has taken any action looking to an investigation along the line suggested by his amendment, or is he trying to get the Federal Government to make this investigation for the State of Ohio?

Mr. COX of Ohio. Mr. Chairman, I am very glad the gentleman asked the question. It is the wish of the public-utilities commission in our State to have standardized safety devices. This matter was not brought to my attention by anyone in the Bureau of Standards, but it was presented to me first by the State electrician in the great city of Cleveland, the most ideal municipality in this country so far as government is concerned, and I have taken it up since with the board of public utilities of Ohio and they say that something must be done, but they are groping about in the dark.

They want these devices made standard, first, because they want to be fair to capital, and, second, they recognize the absolute importance of protecting human lives. Electricity is being transmitted through what we call larger potentials now, and it is essential that something be done.

Mr. BUCHANAN. Will the gentleman yield?

Mr. COX of Ohio. With pleasure.

Mr. BUCHANAN. I understand the board you speak of thinks it more essential to protect capital than it is to protect human lives. They put human lives of working people second to capital and profit. That has been the trouble. That has been the reason why we have not had these investigations and laws throughout the States and throughout the United States to protect the lives of the workingmen of the country. That is the reason that a better system has not been provided.

Mr. COX of Ohio. Mr. Chairman, I have no objection to the gentleman asking me a question, but I do object to his making an argument.

Mr. BUCHANAN. The consideration of profit has always stood in the way.

Mr. COX of Ohio. I suggest the gentleman read my speech in the morning's RECORD. I tried to dilate in this body concerning the very thing the gentleman is now urging.

Mr. BUCHANAN. I am not criticizing the gentleman. The gentleman mentioned capital first——

Mr. COX of Ohio. I will observe with interest as to whether the gentleman gives support by his vote to the thing concerning which he is talking.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. JOHNSON of South Carolina. Mr. Chairman, if there was any one item in the bill concerning which I felt the House might call upon us for an explanation as to why we have so largely increased the appropriation, it was this item. The appropriation for the Bureau of Standards is very much larger in this bill that it has ever been. I realize that the Bureau of Standards is doing a great and an important work, but I wish to call the attention of the committee to the fact that many projects are under investigation. If we increase the number of projects which they must investigate it will postpone the final solution of the problems. In addition to all the work now in progress in the Bureau of Standards, they ask for appropriations for four new projects. We have given them in this bill money for the two projects which we understood in the mind of the chief of the bureau to be of the greatest importance. I want to say for the benefit of the gentleman from Ohio [Mr. COX] and the other members of the committee, that no lobbyist approached the subcommittee or the chairman of the subcommittee with respect to any of these projects——

Mr. COX of Ohio. Will the gentleman yield for just a moment?

Mr. JOHNSON of South Carolina. Yes, sir.

Mr. COX of Ohio. I know that full well. That was farthest from my thought. But people were here in behalf of this legislation, and properly so. The point I am making is that the provision you left in was right, and the people were here in behalf of it. The class of humanity I am seeking here now to benefit has no representative here except their chosen representatives. I was trying to work out a mere distinction, that was all. I would despise myself if I made the slightest unkind reference to any gentleman on the committee.

Mr. JOHNSON of South Carolina. All the information I have with respect to this item or any other items came from Dr. Stratton, the head of the bureau.

Now, Mr. Chairman, in addition to the work hitherto undertaken at the Bureau of Standards, we have given three new items. One is for the investigation of railroad, elevator, and other scales. The next is for the investigation of fire-resisting properties of building materials. I believe that as many human lives are lost through great fires in the cities as have ever been lost through electrical devices. I am as much interested in humanity as any Member upon this floor. I do not question the wisdom of making this investigation, but I say that we can not appropriate all the money in one bill to do all the things that people come and ask Congress to do. I hope the committee will vote down the amendment.

Mr. HOBSON. Mr. Chairman——

Mr. CANNON. Mr. Chairman——

The CHAIRMAN. The gentleman from Alabama [Mr. HOBSON] is recognized.

Mr. HOBSON. I will defer to the gentleman from Illinois [Mr. CANNON].

Mr. CANNON. Mr. Chairman, I move to strike out the last word. I am a member of the Committee on Appropriations, and I am glad to cooperate with that committee. Ordinarily, after the committee considers estimates, there is not much of division between the two sides of the aisle touching the same. This bill I think is a good one. I feel like complimenting the gentleman in charge of the bill and the subcommittee that prepared it. In supporting this amendment I do not wish to criticize the gentleman from South Carolina or the committee. The committee was divided.

Now, what are the merits, after all? If the House should adopt the amendment, then the committee is not harmed. I think the gentleman from South Carolina will concede that this is an important estimate, and that the investigation ought to be made, but contends the $15,000 to pursue this investigation for the coming fiscal year can wait. I do not agree with him in that position. Of course it can wait and must wait unless the appropriation is made. But an item of $15,000 in the presence of total expenditures that run pretty well up to one thousand million dollars is of but slight importance in view of the fact that an investigation ought to be made. I believe this work ought to be undertaken, and undertaken now. The Bureau of Standards is a splendid bureau, and it is doing a great work. It has justified its creation. I quite agree that these three items which the committee has reported for the year are very important, and I believe that the appropriation ought to be made.

Now, then, we all understand that we enact legislation for the District of Columbia; we appropriate for our insular possessions; we appropriate for Alaska. Otherwise in the United States proper, I believe, there is no Territory that is not organized. I believe we organized Alaska at the last session, or provided for its organization, with a Territorial form of government.

It is simply marvelous to contemplate the electrical development throughout the country, and yet that development is in its infancy. From the standpoint of human life it is important. I cooperated as one Member of the House, and cooperated cheerfully, in the creation and strengthening of the Bureau of Mines. One mining disaster attracts great attention. The States have plenary power in the premises, but notwithstanding they have plenary power Congress has wisely created a Bureau of Mines and Mining, and the expenditures for that bureau will constantly grow. It will do a great work from every standpoint: primarily from the standpoint of the protection of human life, and secondarily for the protection of property. They go hand in hand. Yet I think I can safely say, although I am not informed by statistics, that more men are wounded, disabled, and killed who are engaged in the various electrical industries of the United States than there are of wounded or killed or injured in the mining industries. From that standpoint I believe that the United States Government, for the reasons assigned by the gentleman from the State of Ohio [Mr. COX], to which I shall not refer further, would do well to cooperate with the States in these investigations in the greatest bureau for the making of scientific investigations in the United States. I think it is our duty to make these investigations for the information of the respective States, which are performing their duties, each State upon its own initiative.

Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Illinois asks for five minutes more. Is there objection to the gentleman's request?

There was no objection.

Mr. CANNON. So much from that standpoint. Now, let us consider it from the property standpoint, and that is important but not of primary importance. I feel quite sure that my honorable colleague from one of the Chicago districts [Mr. BUCHANAN], if he had been in the Chamber at the beginning of the discussion, would not have asked the gentleman from Ohio [Mr. COX] the question that he did ask. I do not go hotfoot in any legislation that I undertake to say that because property and material interests and capital are interested human life should not also be protected, because there comes a benefit also to capital and to property from the protection of human life.

It is a very cheap kind of politics. It is a well-known fact—and I do not speak now as a scientific expert—that the electric current is not yet fully understood; that in our great cities, with the gas mains and the water mains, the injuries from electrolysis are very serious indeed. Therefore, as labor conquers all and creates all, I do not perceive that it is criminal to make an investigation that will tend to protect human life and at the same time tend also to protect property created by labor. I do not advocate legislation from that standpoint.

Considering the capital that is already invested in the Bureau of Standards and considering the fact that these investigations are proceeding for the benefit of the public service, for one I believe that this bagatelle of $15,000 for making investigations touching electricity, coming, as it does, in its operation in contact with substantially every one of the 90,000,000 people in the United States, should be appropriated, and this investigation ought to commence, in my judgment. Therefore I shall vote for the amendment of the gentleman from Ohio [Mr. COX].

Mr. HOBSON. Mr. Chairman, I shall support this amendment. In doing so I wish to say to the chairman of the subcommittee that framed the bill [Mr. JOHNSON of South Carolina] that I have a fellow feeling for him in his desire to have his bill go through as drawn; but I think it is simply in keeping with the spirit of legislation that the House in Committee of the Whole should from time to time make amendments to bills as submitted by the various committees. My judgment, formed in the years since I have been here, is that it might be to the public interest to have more amendments adopted than are usual in this House when offered by members of the Committee of the Whole.

It ought to be fully understood that the Chief of the Bureau of Standards does not oppose this amendment, but, on the contrary, that he fully recognizes its importance.

Mr. JOHNSON of South Carolina. Will the gentleman allow me to interrupt him?

Mr. HOBSON. Certainly.

Mr. JOHNSON of South Carolina. The item is in the estimates.

Mr. HOBSON. Yes.

Mr. JOHNSON of South Carolina. The Chief of the Bureau of Standards made an argument in favor of it?

Mr. HOBSON. Yes.

Mr. JOHNSON of South Carolina. But the gentleman understands that the departments usually ask for more than they can get.

Mr. HOBSON. I am fully aware of that. Our naval appropriation bill requires very large reductions from the estimates.

Mr. JOHNSON of South Carolina. We asked the Chief of the Bureau of Standards to furnish us the items in the order of their importance, in his mind, for our guidance. If we could not give him all he wanted, and we have inserted in the bill the items in the order of their importance, according to his judgment and not ours.

Mr. HOBSON. I thoroughly understand that position, and I want simply to remind my colleagues that this amendment does not seek to have inserted in the bill something that is opposed by the chief of the bureau, nor even opposed on its merits by the members of the subcommittee, but an item whose utility and usefulness are recognized by all.

The next point is this: This amendment does not undertake to purchase or install any life-saving apparatus. It is purely a question of investigation. As a general proposition money spent in getting information for standardization is the best money that can be spent in any line of expenditure. And further, Mr. Chairman, as a general proposition, this House and other legislative bodies, in my judgment, give more attention to questions of what might be called business, questions of property, the departments of human activity in which men find their employment, and tend naturally and inevitably to neglect those departments of human activity that relate to what may be called the humanities of life and the conditions of living, which seem, in the process of human evolution, to have fallen to the lot of woman. My investigations in recent years have convinced me that the great need of the world at large is the need of more attention to life, health, and the conditions of living, in framing legislation and public policies; and, to make an honest confession, those investigations have led me to believe that woman suffrage would be a good proposition for the Nation. [Applause.] I have become a suffragist as the result of my investigations.

Mr. MANN. The problem has been solved by one man.

Mr. HOBSON. And to come down to this specific application, I should like to remind my friends who represent districts in the neighborhood of the Appalachian system, particularly the southern Appalachian system, in the great States of North Carolina, South Carolina, Georgia, Alabama, Tennessee, Kentucky, and other States whose Members I see here among my colleagues, that the question of the development of water power is one of the great questions of the day. Take my own State. I expect before I make my exit to see the State of Alabama ramified with electrical transmission of power from the Tennessee, the Coosa, and other great rivers.

It is a fact, as stated by the gentleman from Illinois [Mr. CANNON] and others, that the question of human life is very fundamentally involved in the electrical transmission of power for long distances. The voltages are now something undreamed of a few years ago, and in a very few years more they will be very much larger than they are to-day; because you know the waste, the heat, varies as the square of the current and only the first power of the resistance. That means that it will be advantageous to have smaller wire, with large voltage and a small current, for the transmission of a given amount of power a given distance, and particularly for long distances. Therefore we will be dealing constantly with networks of potentials that would destroy life when turned upon the human body; and it is the simplest form of leadership that the Federal Government should assume, not to take the parts of individual States, but to proceed to standardize and to take the leadership in such measures as this, that protect human life.

The CHAIRMAN. All debate on this amendment is exhausted.

Mr. FITZGERALD. Mr. Chairman, I move to strike out the last two words. Mr. Chairman, the remarks of the gentleman from Ohio in advocating this amendment were grossly unjust to the Committee on Appropriations. They did not quite state the facts, and they were so framed as to give a very unfair color to the attitude of the members of the committee. The gentleman intimated that the committee were more interested in legislation and appropriations designed to protect material interests than to those to conserve human life. Subsequently he intimated that the activities of a lobby—expressed with that peculiar tone sometimes used in making use of the term—was instrumental in determining the question by the committee. Neither one of the insinuations is based upon anything which justifies such an accusation against the committee.

Mr. COX of Ohio. Will the gentleman yield?

Mr. FITZGERALD. Certainly.

Mr. COX of Ohio. The gentleman from New York will remember that I disavowed in plain words any intent to cast any reflection on the committee. The gentleman from New York does me an injustice when he suggests that such a thing would enter my mind.

Mr. FITZGERALD. The gentleman did not intend, he says, to reflect on the committee, but it was intended to influence Members of the House to vote on the proposition, and the remarks directed to me were intended to convince Members that a lobby had been present in Washington in the interest of the item to investigate the fire-resisting qualities of building material, but none in behalf of the other item.

Now I shall, if the gentleman will permit me, lay before this committee all of the information that I have about this so-called lobby, together with all the correspondence that has come to me as chairman of the Committee on Appropriations. Then Members will be better able to determine just whether this lobby was such a movement as might have influenced Members in their judgment, and whether it should not properly have influenced Members in their judgment.

The Director of the Bureau of Standards, in his statement before the committee, in discussing the item for an appropriation for the investigation of fire-resisting qualities of building materials, stated that "the loss of life and property due to fire is appalling." He urged this appropriation so that in building operations buildings might be so constructed as to prevent the destruction of life and property.

Mr. COX of Ohio. Did he not urge the other also?

Mr. FITZGERALD. I am coming to that. In his statement about the investigation in regard to establishing standards to be utilized in the transmission of electric currents of high potentiality he said, "The loss of life and property due to each cause is very great." But these two statements hardly justify the gentleman from Ohio in intimating that because the committee recommended the item for the investigation of the fire-resisting properties of building material and not the one for the standardization of the methods of carrying electric currents of high potentiality that thereby they were recommending legislation designed to be beneficial to the material interests and to capital invested and to be indifferent to those matters which may be instrumental in conserving or protecting human life. They were both put on the same plane by the Director of the Bureau of Standards, and I will put his judgment against all the others that may be marshaled on such a proposition, because I believe he is not only the best informed, but the most competent man to express an opinion. In his judgment, the investi-

gation of fire-resisting qualities of building materials was of more importance than the matter in which the gentleman from Ohio is so much interested.

Mr. COX of Ohio. Do the hearings show that? I wish the gentleman would read it.

Mr. FITZGERALD. It is not in the hearings.

Mr. COX of Ohio. Then it ought to be in the hearings.

Mr. FITZGERALD. The gentleman can think what he pleases as to what ought to be in the hearings. I am making statements and giving authority for them. The gentleman from South Carolina [Mr. JOHNSON] stated that he asked the Director of the Bureau of Standards to state the relative importance of these estimates so that the committee, if it did not feel that it could recommend all the appropriations, in determining to give some would give the ones most important from his point of view. The gentleman from South Carolina stated that the item for the investigation of fire-resisting qualities of building materials was placed by the Director of the Bureau of Standards above the item for the standardization for the methods of transmitting electricity of high potentiality. Mr. Chairman, I am not disposed, nor would I for a moment suggest that it is necessary to have that statement in print in order to rely upon the statement of the gentleman from South Carolina.

Mr. COX of Ohio. What is the use of having hearings published if they do not contain all of the statements?

Mr. FITZGERALD. I do not wish to discuss that now.

Mr. COX of Ohio. The gentleman makes a statement as being intrinsic, but it does not appear in the hearings.

Mr. FITZGERALD. We have more important matters to discuss than that; whether it is in the hearings or not, the statement was in the possession of the gentleman from Ohio, because he heard the gentleman from South Carolina make it.

Mr. JOHNSON of South Carolina. At the conclusion of Dr. Stratton's testimony before the subcommittee I said to Dr. Stratton, who was asking an increase of $50,000 in one item and of $100,000 and upward in others, that it was possible that the committee might not feel able to give him all that he desired. I further stated that we were not familiar with these scientific subjects, and asked him to indicate to the committee the order in which he thought these matters most important, so that if we could not give all that he wished we could provide for them in the order of their importance, in his judgment. I have here a little typewritten statement on which is marked the order of importance, 1, 2, and 3. It came to us after Dr. Stratton's testimony had been concluded.

Mr. FITZGERALD. No. 1 is test car, etc.; No. 2 fire-resisting properties; and No. 3, high potentials.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. FITZGERALD. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BURKE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. FITZGERALD. I yield.

Mr. BURKE of Pennsylvania. I would like to ascertain to just what extent the committee, which I regard as possessing rare discrimination, yielded to Dr. Stratton's desires and buried their own views on this question.

Mr. FITZGERALD. That is not a fact. The committee did not bury its own views. Their views coincided with those of Dr. Stratton as to which of these items is more important. That is why they recommended them in the bill. The gentleman from Ohio [Mr. Cox] dissented from Dr. Stratton and a majority of the committee, and in that he happens to be unfortunate.

Mr. COX of Ohio. The gentleman from Ohio was for life second and property third, and the position of the gentleman from New York was directly the reverse, and I would not swap positions with him on the subject.

Mr. FITZGERALD. The gentleman still has not realized the value of certain investigations that the Bureau of Standards desires to make.

Mr. BURKE of Pennsylvania. If the doctor's recommendation——

Mr. FITZGERALD. Dr. Stratton stated that the loss of life and property due to fire was appalling, and that is why he wanted to make these investigations.

Mr. BURKE of Pennsylvania. If the doctor had reversed his recommendation, what would then have been the attitude of the committee? If the gentleman is in a position to state that, I would like to have him do so. I desire to follow the committee, if I can, and I would like to know the judgment of the committee.

Mr. FITZGERALD. Mr. Chairman, I shall not at this time answer that question, if the gentleman will permit me to state some things that I wish to say.

Congress convened on the 2d day of December, which was Monday, and I arrived in the city of Washington on the evening previous, the 1st of December. Among mail accumulated and coming, because of my absence in Panama, I found the following:

OHIO STATE BUILDING CODE COMMISSION,
Columbus, Ohio, November 30, 1912.

Hon. JOHN J. FITZGERALD,
Chairman Appropriation Committee, Washington, D. C.

DEAR SIR: I am informed that a request has been made by the Bureau of Standards for an appropriation to enable the said department to make fire tests and tests of various materials used for fire prevention and fire protection.

As consulting architect for the Building Code Commission of Ohio, I fully realize and appreciate the value of the knowledge to be gained by such investigations, and believe that such a department should be operated and maintained by the Government.

Government tests and reports would be free from the criticisms of and objections to private tests, as is the present condition.

Government tests would provide a uniform standard throughout the country and would raise the standard of building operations along these lines.

I further believe that the work of the Bureau of Standards should be so expanded as to include all materials and devices used in building construction and equipment.

The above are my personal views, and in these I believe I voice the sentiments of the code commission; however, I have been unable to secure a statement from the commission owing to the lateness of the hour and the fact that this is Saturday and a holiday for the officials.

It will be a pleasure to know that the request of the Bureau of Standards has been granted and that Ohio and all other States may secure the benefit of Government regulations and tests.

Sincerely,

OHIO STATE BUILDING CODE COMMISSION,
Per FRED W. ELLIOTT, *Consulting Architect.*

I also received the following communication:

THE BUREAU OF BUILDINGS
FOR THE BOROUGH OF MANHATTAN,
New York City, December 5, 1912.

Congressman JOHN J. FITZGERALD,
House of Representatives, Washington, D. C.

DEAR SIR: I understand that an appropriation of $25,000 has been requested by the Bureau of Standards for testing and determining the fire-resisting qualities of building materials. I believe this item is included in the legislative bill recently reported by the Appropriations Committee.

Under normal conditions there is a steady increase in building construction throughout the country. The tendency is toward the construction of larger and higher buildings. Increasing congestion in cities is practically unavoidable. All this increases the fire hazard. Not only is property affected, but the lives of the occupants are at stake. Fire-resisting construction, therefore, becomes more and more important. To secure satisfactory fireproof construction, a thorough knowledge of fire-resisting qualities of building materials is essential. No agency seems to me better qualified or equipped for an impartial and careful investigation of this subject than the Bureau of Standards. Municipal governments and building officials need this information, which at the present time is secured in a scattered way and not systematically by various methods in different parts of the country, and then only with a view of some one device or construction and not with any purpose of establishing the general and underlying principles.

Our Government has spent for some years past millions of dollars in investigations in the interests of agriculture. It seems reasonable, therefore, that some appropriation be made for the investigation of the materials used in so large an industry as building construction. Some work along this line was done by the Federal Government under the direction of the Geological Survey a few years ago. I hope that the work may now be continued by the Bureau of Standards, and that you will lend your support to the passage of this item in case it should be questioned on the floor of the House.

Yours, truly,

RUDOLPH P. MILLER,
Superintendent of Buildings.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. FITZGERALD. Mr. Chairman, I ask for five minutes more.

Mr. BUCHANAN. Mr. Chairman, reserving the right to object, I want to know if the gentleman desires to read some more communications of the same kind. If that is the purpose of extending his time, I object.

Mr. FITZGERALD. I have two more letters.

Mr. BUCHANAN. They can be inserted in the RECORD without taking up time to read them here.

Mr. FITZGERALD. I have two letters that I desire to read.

Mr. BUCHANAN. I object, Mr. Chairman, to a further extension of time.

The CHAIRMAN. The gentleman from Illinois objects.

Mr. BUCHANAN. Mr. Chairman, I move to strike out the last three words.

The CHAIRMAN. That amendment is now pending; the gentleman can be recognized to speak in opposition.

Mr. BUCHANAN. The amendment was to strike out the last two words.

The CHAIRMAN. That amendment is now pending. The gentleman from Illinois is recognized on the pro forma amendment offered by the gentleman from New York.

Mr. BUCHANAN. Mr. Chairman, I do not care to take up much of the time of the House, but it seems the question I asked the gentleman from Ohio [Mr. Cox] was misunderstood. I only was calling his attention to the way he was putting the matter in regard to the protection of capital and labor. The question of safety devices for the working people of the country has been one to which I have given much study and thought, for I believe we have drifted into a condition, as I have said before, where we are making cripples and paupers, due to the fact that the people themselves have probably been indifferent to this great question and the public officials certainly have lost sight of the importance of securing the passage of laws and enforcing them that will give better protection to the working masses of the country. There are 22 foreign nations that have passed protective measures for the working people of their respective countries, but we seem to follow the path of greed and avarice, and we have drifted into a condition that ought to bring the blush of shame to the faces of people of public spirit. I have been probably in a position through my experience in life, working at one of the most hazardous trades, where this has been brought close home to me, and it has impressed itself upon me strongly, for I have seen the tears often of those whose relatives have been killed by accidents that could have been avoided if reasonable care had been exercised.

I have seen the poor widows condemned to the washtub and their children to destitution and poverty. In answering the question of whether or not I would support any amendment that would tend to provide safety devices of any sort to the working people of the country, if the gentleman understood me to say I would not, he certainly does not understand me. Nor in doing this do I believe that I am putting any obstruction in the way of the proper success of legitimate and honest business and capital. I do believe, though, if the proper safeguards were given the working people of the country they would probably be unable to pay the large dividends which have been paid in the past on fictitious capital and watered stock that has been floated on the industries of this country, which has made it a burden and made it almost impossible to provide the necessary safeguards and protection and give the necessary wages for the working people of the country to exist as they should. These questions are something that ought to be and will be considered when men realize their importance and it begins to awaken their sympathy, as I believe the gentleman from Ohio does, and when that sympathy gets stronger for the human side of the question, then the influence that is brought to bear for the sake of profit—a profit, too, on this fictitious capital, counterfeit capital that has been created by a few financial pirates and industrial highbinders of this country, men who now are parading as eminent business men and business benefactors of the country to the discredit and disgrace of honest legitimate business——

Mr. TOWNSEND. Will the gentleman yield for a question?

Mr. BUCHANAN. Yes; but I have not much time.

Mr. TOWNSEND. I want to ask the gentleman if he does not think that the fire in New York known as the Triangle fire, where within the space of five minutes 375 shop girls were killed, was not the result of the absence of fire-resisting building materials in that building?

Mr. BUCHANAN. Not only that, but I understand it was also on account of their not having proper fire escapes, due to the neglect of which I am speaking. I am not complaining of this committee putting into the appropriation bill money for that purpose. I do complain that there ought to be money appropriated, if necessary, for the other purpose of standardizing safety devices, and so forth, and for that reason I am in favor of the amendment offered by the gentleman from Ohio, and if my question has been misconstrued or misunderstood I wanted to correct that, otherwise I would not have taken the committee's time to have again arisen.

It is not my purpose to criticize the committee for what they have done, but this amendment should pass.

The CHAIRMAN. All debate on this amendment has been exhausted.

Mr. BERGER. Mr. Chairman——

Mr. JOHNSON of South Carolina. Mr. Chairman, I move that all debate on this amendment close in five minutes.

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] moves that all debate on this amendment close in five minutes.

Mr. BERGER. Mr. Chairman, I asked for time half an hour ago.

Mr. MANN. There are three gentlemen who are seeking the floor.

Mr. JOHNSON of South Carolina. I will ask for 10 minutes, then.

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] moves that all debate on this amendment close in 10 minutes.

Mr. MANN. I understood the gentleman from Wisconsin [Mr. BERGER] and the gentleman from Pennsylvania [Mr. FARR] were to have the time.

The CHAIRMAN. The question is on the motion of the gentleman from South Carolina [Mr. JOHNSON].

The question was taken, and the motion was agreed to.

The CHAIRMAN. The gentleman from Wisconsin [Mr. BERGER] is recognized for five minutes.

Mr. BERGER. Mr. Chairman, I am glad to know that the social conscience is making some headway in the House here. I am glad to notice that the gentleman from Illinois [Mr. CANNON], the gentleman from Alabama [Mr. HOBSON], and the gentleman from Ohio [Mr. COX] unite on the necessity for protection to human life of the workers. We all understand that labor nowadays performs a social service even when labor is still privately employed.

Therefore labor is entitled to social protection; to all the protection scientific investigation may provide, and the Nation ought to provide the investigation.

Now, I do not like to find fault with the report of a committee that reports on routine matters or appropriations, for the simple reason that the committee has the opportunity and the necessary time to consider these things in detail, and the average Member has neither the time nor the opportunity. On the other hand, it is not said that when such committee makes a report the House must simply accept every proposition as submitted, otherwise there would be no sense in reporting bills to the House. I do not believe the chairman of the committee or any member of the committee should consider any committee report a personal question and any criticism a personal criticism.

As I understand it, Dr. Stratton, of the Bureau of Standards, was in favor of the proposition of the gentleman from Ohio [Mr. Cox] to have the bureau investigate the nature, qualities, uses, and dangers of electricity.

Electricity is rapidly becoming one of the main forces of production and transportation—one of the principal sources of heat and light. And yet we know little or nothing about the nature and origin of electricity—scientists even disagree whether it is a fluid or caused by vibration.

Human life is in constant danger by the necessity of constant handling of a wonderful power about which we know so little. Thousands of human beings lose their lives every year. Fifteen thousand dollars is simply a pittance when we consider this question from that point of view.

But there is also the economic waste. Carlyle said somewhere that a human being ought to be worth as much as a hundred horses. A good horse is worth about $500 nowadays. A human life should therefore be worth at least $50,000, according to Carlyle's estimate in 1830. I have no statistics at hand, but I know it is safe to estimate that 10,000 human beings lose their lives every year through accidents caused by electricity. I believe the number of such accidents will grow from year to year, because electricity is rapidly supplanting gas, steam, and other forces, and is bound to grow immeasurably with the development of our water powers. The economic waste is therefore also tremendous.

I believe $15,000 to study this question is a very small sum, indeed, from any point of view—from the humanitarian or the economic. We ought not to make any objection to so small a sum when we consider that we spend over a billion of dollars every year for other purposes. I hope the Committee of the Whole will see its way clear to vote for the amendment and for the appropriation of the $15,000. There is not a dollar in this bill that is spent more wisely.

Mr. FARR. Mr. Chairman, I welcome an opportunity to vote for an appropriation that ought to result in so much good as this one. There is no controversy as regards the wisdom of testing the resisting power of fire brick, and there should be none on the question of safeguarding life after viewing the batch of clippings presented by the gentleman from Ohio [Mr. Cox] showing the horrible accidents and the great number of deaths resulting to those engaged in electrical work. I welcome also the opportunity to vote for this appropriation, with the hope that the House will pass it, because it puts in the hands of a Federal bureau the work of research. The work, after all—the work that will prevent accidents along these lines—will be done here in Washington and not by the different States.

Mr. COX of Ohio. Will the gentleman yield?

Mr. FARR. I will.

Mr. COX of Ohio. Has the gentleman observed that of the three projects carried in this bill two of them are in behalf of the property unit and one in behalf of the human unit? The latter is that in respect to refrigeration. That calls for $15,000. The sum total of the other two property units is $105,000, or about seven times the amount. Now, we ask that we put beside the projects for the property units a small, modest provision for another human unit of $15,000.

Mr. FITZGERALD. Does the gentleman from Ohio [Mr. Cox] understand that the method of refrigeration for transportation of freight is what is called a human element?

Mr. COX of Ohio. It is a supply; yes, sir.

Mr. FARR. I have no controversy with the gentleman with regard to those provisions, but I sincerely hope this House will favor the appropriation of $15,000 to safeguard human life.

The amendment speaks for itself. It carries its own conviction. It is to investigate dangers to life and property due to the transmission of electric current at high potentialities and the precautions to be taken and the best methods of constructing installation and operation to be followed in the distribution and return of such currents in order to reduce to a minimum such dangers; also to investigate the best means of protecting life and property from lightning.

The distinguished former Speaker, Mr. CANNON, referred to the work of the Bureau of Mines.

The national Bureau of Mines, I believe, is doing more than all the bureaus in the respective States combined to find out the causes of accidents and to do things to prevent accidents. Many lives will be saved as a result of its research and experimental work.

The States are doing a supervisory work in that line. I believe more and more of the responsibilities of government are going to shift to this great and wonderful center of Washington, and it will be for the good of humanity and the advancement of our Nation. And I sincerely trust that inasmuch as $1,500 worth of our time has been taken up in debating this simple provision of appropriating $15,000 to save the heads of many families and to prevent shocking accidents, such as have been referred to, we will not spend another $1,500 in debating it further, but that we shall vote for it, and vote for it heartily.

The CHAIRMAN. All debate on this amendment has been exhausted. The question is on agreeing to the amendment offered by the gentleman from Ohio [Mr. Cox].

The question was taken; and the Chairman announced that the ayes seemed to have it.

Mr. JOHNSON of South Carolina. A division, Mr. Chairman.

The committee divided; and there were—ayes 63, noes 19.

Mr. JOHNSON of South Carolina. Let us have tellers, Mr. Chairman.

The CHAIRMAN. Those in favor of taking this vote by tellers will rise and remain standing until counted. [After counting.] Only eight gentlemen have arisen. Tellers are refused. The ayes have it, and the amendment is agreed to. The Clerk will read.

The Clerk read as follows:

Contingent expenses, Department of Commerce and Labor: For contingent and miscellaneous expenses of the offices and bureaus of the department, for which appropriations for contingent and miscellaneous expenses are not specifically made, including the purchase of professional and scientific books, law books, books of reference, periodicals, blank books, pamphlets, maps, newspapers (not exceeding $2,500), stationery, furniture and repairs to the same, carpets, matting, oilcloth, file cases, towels, ice, brooms, soap, sponges, fuel, lighting and heating; for the purchase, exchange, and care of horses and vehicles, to be used only for official purposes; freight and express charges, postage to foreign countries, telegraph and telephone service, typewriters and adding machines, including their exchange; repairs to the building occupied by the offices of the Secretary of Commerce and Labor; storage of documents belonging to the Bureau of Lighthouses, not to exceed $1,500, and for storage of documents belonging to the Bureau of Labor, not to exceed $750; street car tickets, not exceeding $300; and all other miscellaneous items and necessary expenses not included in the foregoing, $60,000, and in addition thereto sums amounting to $72,000 shall be deducted from other appropriations made for the fiscal year 1914 and added to the appropriation "Contingent expenses, Department of Commerce and Labor," in order to facilitate the purchase through the central purchasing office as provided in the act of June 17, 1910 (Stat. L., 36, 531), of certain supplies for bureaus and offices for which contingent and miscellaneous appropriations are specifically made as follows: General expenses, Lighthouse Service, $8,000; stationery, Bureau of the Census, $10,000; miscellaneous expenses, Bureau of the Census, $20,000; books and periodicals, Bureau of the Census, $1,000; contingent expenses, Steamboat-Inspection Service, $3,000; contingent expenses, shipping service, $500; instruments for measuring vessels and counting passengers, $500; expenses of regulating immigration, $13,500; equipment, Bureau of Standards, $1,000; general expenses, Bureau of Standards, $1,800; general expenses, Coast and Geodetic Survey, $4,200; miscellaneous expenses, Bureau of Fisheries, $8,500; and the said total sum of $132,000 shall be and constitute the appropriation for contingent expenses, Department of Commerce and Labor, to be expended through the central purchasing office (Division of Supplies), Department of Commerce and Labor, and shall also be available for objects and purposes of the several appropriations mentioned under the title "Contingent expenses, Department of Commerce and Labor," in this act.

For rent of buildings and parts of buildings in the District of Columbia for the use of the Department of Commerce and Labor, $50,000.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from South Carolina offers the following amendment, which the Clerk will report.

Mr. JOHNSON of South Carolina. The amendment is to the paragraph on page 134.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 134, in line 20, strike out the sum "$20,000" and insert in lieu thereof the sum "$15,000."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina.

The amendment was agreed to.

Mr. JOHNSON of South Carolina. I offer another amendment to page 134, line 21, to strike out the sum "$1,000" and insert in lieu thereof the sum "$500."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 134, line 21, strike out the sum "$1,000" and insert in lieu thereof the sum "$500."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

JUDICIAL.

Supreme Court: Chief Justice of the Supreme Court of the United States, $15,000; 8 associate justices, at $14,500 each; marshal, $4,500; 9 stenographic clerks, 1 for the Chief Justice and 1 for each associate justice, at not exceeding $2,000 each; in all, $153,500.

Mr. FOWLER. Mr. Chairman, I raise a point of order on this paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] makes a point of order against this paragraph.

Mr. FOWLER. I desire to ask the gentleman in charge of this bill if the salary of the Chief Justice is fixed at $15,000 by current law or by statutory law?

Mr. JOHNSON of South Carolina. By statute law.

Mr. FOWLER. When was that change made?

Mr. JOHNSON of South Carolina. Two years ago.

Mr. FOWLER. Is not the salary $14,000 for the Chief Justice and $13,500 for the Associate Justices? Is not that the statutory salary?

Mr. JOHNSON of South Carolina. We followed the law as it is—$15,000 for the Chief Justice and $14,500 each for the Associate Justices.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield?

Mr. FOWLER. Yes.

Mr. CULLOP. I desire to ask the gentleman from South Carolina if the salary of the Chief Justice is not $13,500 and the salary of the other Justices $13,000? I understand that this is an increase of $1,500.

Mr. JOHNSON of South Carolina. The salary of the Chief Justice is fixed by law at $15,000 and that of the Associate Justices at $14,500, and the committee has simply appropriated the amount required by law.

Mr. CULLOP. My understanding, I will say, was different from that of the gentleman. Two years ago, when the statute was amended, the salary was $13,500 for the Chief Justice and $13,000 for each of the Associate Justices.

The CHAIRMAN. Does the gentleman from Illinois [Mr. FOWLER] insist upon his point of order?

Mr. FOWLER. I am satisfied, Mr. Chairman, that there is no statute authorizing the salary of $15,000 for the Chief Justice and $14,500 for the Associate Justices, respectively.

Mr. JOHNSON of South Carolina. But, Mr. Chairman, there is a statute, and it went into effect on the 1st day of January, 1912.

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] assures the Chair that there is a statute fixing the salary of the Chief Justice at $15,000 and that of the Associate Justices at $14,500 each. If the gentleman from Illinois will state to the Chair that he is positive there is no such statute, then the Chair will investigate in order to determine which of these two gentlemen is correct.

Mr. FOWLER. The rule of parliamentary procedure in this House, Mr. Chairman, is that if there is a contention by a committee that there is a statute fixing a salary at a certain amount, the burden is on the committee to produce the statute.

The CHAIRMAN. The Chair believes that would be a good rule if these contentions were made only where there was some indication that there was no statute authorizing the salary.

Mr. MANN. Mr. Chairman, I will produce the statute.

The CHAIRMAN. But if some gentleman in his place questions the chairman of the committee as to the law, and the chairman of the committee in charge of the bill asserts of his positive knowledge that there is a statute, the Chair will take that statement, unless some gentleman says, I have the statute before me and the chairman of the committee in charge of the bill is in error.

Mr. FOWLER. Mr. Chairman, at the last session of this Congress, on an amendment to increase the salaries of the clerks to the Members of Congress, I had occasion to investigate the salaries of public officers, and among them was the salary of the Chief Justice and Associate Justices. I solicited the assistance of the librarian for that purpose, and with him went through an investigation of the matter, and my recollection assures me that the salaries in this paragraph are too large.

The CHAIRMAN. Will the gentleman from Illinois yield now to his colleague [Mr. MANN], who says he has the statute before him?

Mr. FOWLER. Yes.

Mr. MANN. Mr. Chairman, by the act of March 3, 1911, revising the laws relating to the judiciary title, which carries the salaries of the Supreme Court Justices and other salaries, it is provided that the salary of the Chief Justice shall be $15,000 and the salary of the Associate Justices $14,500.

The CHAIRMAN. The Chair now has the statute before him—United States Statutes at Large, acts of 1909-1911.

Mr. FOWLER. Was that current law or permanent law?

The CHAIRMAN. It is permanent law, and it has not been repealed so far as the Chair knows.

Mr. JOHNSON of South Carolina. Section 218 of the code:

The Chief Justice of the Supreme Court of the United States shall receive the sum of $15,000 a year, and the Justices thereof shall receive the sum of $14,500 a year each, to be paid monthly.

Mr. MANN. He will find it at page 1152 of the Statutes at Large, Sixty-first Congress.

Mr. FOWLER. In what connection was that statute passed?

The CHAIRMAN. The Chair is not familiar with the law, only that it is an existing statute on the books now.

Mr. MANN. It is the revision of the judiciary title, so called, and that provision was inserted in the bill in the House on my motion.

The CHAIRMAN. The Chair is ready to rule.

Mr. FOWLER. Mr. Chairman, it is characteristic of the gentleman from Illinois [Mr. MANN] to make motions to increase the salaries of big men and to object to motions to increase the salaries of charwomen. Therefore, Mr. Chairman, I withdraw the point of order.

Mr. MANN. I never made a motion to decrease the salary of my colleague.

Mr. CANNON. Mr. Chairman, I move to strike out the last word. I, too, am a Representative, from now until March 4, from the State of Illinois. I am not in sympathy with the great desire of my colleague [Mr. FOWLER] to protest against the salaries of the Chief Justice and the Associate Justices of the Supreme Court of the United States. I should not have felt it necessary or even desirable to make this remark had it not been that my colleague [Mr. FOWLER] is also from the State of Illinois, and I am glad that the salary of the Chief Justice is $15,000, and that the salaries of the Associate Justices are $14,500.

Mr. FOWLER. Mr. Chairman, in opposition to the amendment offered by the gentleman from Illinois [Mr. CANNON] I desire to say that I am not objecting to this paragraph because of the salaries, but I was making an honest inquiry as to whether there was any permanent law which authorized those salaries. I was sincere in believing that the statute fixing the salaries of the Chief Justice and Associate Justices of the United States did not authorize these amounts. I was acting in good faith. I stand for the courts of our country, and I defy the ex-Speaker of this House to have greater reverence for them than I have, because I regard myself as a member of those courts as an attorney practicing therein.

Mr. CANNON. The gentleman then agrees with me that he is glad that the Chief Justice receives a salary of $15,000 a year?

Mr. FOWLER. I would be very glad, Mr. Chairman, if I could have my colleague Mr. CANNON say that he joins me in asking that the wages of the labor of this country be placed upon a better level with the salaries of the great offices which he has sought in the past so many times to increase; but I am sorry to say that he and his kind have ever had their seals set against the labor of this country and regard it as a matter of course to serve those who feed upon the products of its toil.

Mr. CANNON. Mr. Chairman, I move to strike out the last two words. Does the gentleman desire that the charwomen and the messengers, occupying positions sought for in the District of Columbia for which we are constantly besieged for recommendations, should be compensated for at the rate of $15,000 a year? Mr. Chairman, labor pays it all.

Mr. FOWLER. And produces it all.

Mr. CANNON. Labor that is distributed throughout the country of 100,000,000 people, substantially, produces all, pays all the taxes, for the preferential labor at better pay and more certain pay; labor throughout the country is taxed to contribute to it.

I know that the gentleman represents a district in the southern part of the State of Illinois, standing in season and out of season to play up to his constituents that mine the coal, fooling the people with the idea that he is serving them when he seeks to tax them for the purpose of employing other labor at preferential prices. Yet it is true that by the verdict of the people that sent him here he has succeeded in fooling them; how long he can fool them God only knows. [Laughter.] I want to say one other thing, as long as my colleague has made the statement that I lie awake nights and in my service have discriminated against the men who live in the sweat of their faces. I apprehend that during my service I have assisted in legislation more for the benefit of the hundred millions of people that toil than he would or can even if he lived to be as old as Methuselah and occupied a seat in this House for that time. [Laughter.]

Mr. FOWLER. Mr. Chairman, I desire to speak in opposition to the amendment now pending.

The CHAIRMAN. The gentleman from Illinois, Mr. CANNON, moved to strike out the last two words, and now the gentleman from Illinois, Mr. FOWLER, is entitled to speak in opposition.

Mr. FOWLER. Mr. Chairman, I did not know that it was a crime in any legislative body to look after legislative appropriation bills to the extent of seeing whether they conform to the law of the land, but my distinguished colleague from Illinois [Mr. CANNON] has revealed such as being the fact from his standpoint. I do not complain of paying a salary to an individual who is worthy of the salary. I am not complaining of a salary that is commensurate with the services rendered. Neither am I complaining at the salary of the Supreme Court of the land, but the gentleman from Illinois rose in his seat and eulogized the salary which was paid to these great officials of this country. In the same connection he sought to belittle the effort to increase the salary which is paid to such people as messengers and charwomen. From his seat, since I have been here, he has repeatedly sought to keep such labor on a low salary, below that which is necessary to give an economical living. With such as him the country has complained; it has complained of his policy as Speaker of this House, and the people at large have complained and repudiated him and his policies. He has been fooling a majority of the people of his district for a long time. If I should live as long as he suggested, I would not fool the people, or as many of them as he has, because he has fooled a majority of the people of this country, and I have not even fooled a majority of one congressional district. My constituents sent me here because I stand against such policies as the gentleman has labored for 30 years to inaugurate in this House and to fasten upon this country. I say to him that I never will stand for his policies. The people have repudiated them once and for all time to come, as I verily believe.

The CHAIRMAN. All debate on this amendment is exhausted, and the Clerk will read.

The Clerk read as follows:

District courts: Ninety-three district judges, at $6,000 each, $558,000.

Mr. BURKE of Pennsylvania. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Page 135, line 25, strike out "$6,000" and insert "$7,000," and in line 25, page 135, strike out "$558,000" and insert "$651,000."

Mr. JOHNSON of South Carolina. Mr. Chairman, I make the point of order that that is new legislation.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

Retired judges: To pay the salaries of judges retired under section 714 of the Revised Statutes, so much as may be necessary for the fiscal year ending June 30, 1914, is hereby appropriated.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee

a question. How many judges are there now upon the retired list?

Mr. JOHNSON of South Carolina. The amount for retired judges for the year 1912 is $132,651.11.

Mr. CULLOP. In number how many are there?

Mr. JOHNSON of South Carolina. I do not know. The number varies from time to time.

Mr. CULLOP. Does the gentleman know what States and Territories they are in? Each State has not a retired judge?

Mr. JOHNSON of South Carolina. I will say to the gentleman that there are Supreme Court judges, circuit court judges, and district court judges on the retired list, and they draw different salaries.

Mr. CULLOP. Are there any Supreme Court Justices on the retired list?

Mr. JOHNSON of South Carolina. Yes.

Mr. GARRETT. Judges Shiras, Brown, and Moody are on the retired list.

Mr. CULLOP. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

Court of Appeals, District of Columbia: Chief justice, $7,500; 2 associate justices, at $7,000 each; clerk, $3,250, and $250 additional as custodian of the Court of Appeals Building; assistant or deputy clerk, $2,250; reporter, $1,500: *Provided*, That the reports issued by him shall not be sold for more than $5 per volume; crier, who shall also act as stenographer and typewriter in the clerk's office when not engaged in court room, $1,200; 3 messengers, at $720 each; necessary expenditures in the conduct of the clerk's office, $1,000; 3 stenographers, 1 for the chief justice and 1 for each associate justice, at $1,200 each; in all, $36,710, one-half of which shall be paid from the revenues of the District of Columbia.

Mr. FOWLER. Mr. Chairman, I reserve the point of order on the paragraph. I desire to ask the chairman what was the necessity for raising the salary of the crier from $1,000 to $1,200?

Mr. JOHNSON of South Carolina. Mr. Chairman, the crier of the court is required to be a stenographer and typewriter and to act as such. He has been receiving a salary of $1,000 a year. The committee was urgently requested to increase the salary to $1,600 a year, and we allowed an increase of $200.

Mr. FOWLER. Has he been doing the stenographic work heretofore?

Mr. JOHNSON of South Carolina. I do not know how long he has been doing that work. That is what he is doing now.

Mr. FOWLER. I desire to ask if these volumes of reports can not be produced for less than $5 each? They ought not to be sold above cost, should they?

Mr. JOHNSON of South Carolina. The gentleman understands that there is no great demand for these reports. They are from the Court of Appeals of the District of Columbia. There is a very limited number of volumes sold.

Mr. FOWLER. I did not know whether the gentleman's committee had gone into the question.

Mr. JOHNSON of South Carolina. We did not. I am just giving the gentleman my judgment.

Mr. FOWLER. Does the gentleman think that they could be produced for $3 a volume?

Mr. JOHNSON of South Carolina. The gentleman knows that in producing books the cost depends on the number of copies that can be disposed of, and the number here is small.

Mr. FOWLER. If the gentleman thought so, I would like to offer an amendment to make it $3 instead of $5.

Mr. JOHNSON of South Carolina. I think we had better let it alone.

Mr. FOWLER. At $5?

Mr. JOHNSON of South Carolina. Yes. The lawyers who buy the books are not complaining.

Mr. FOWLER. Very well. I withdraw the point of order.

The Clerk read as follows:

Commissioner, Yellowstone Park: Commissioner in Yellowstone National Park, $1,500. And the provisions of section 21 of the legislative, executive, and judicial appropriation act approved May 28, 1896, shall not be construed as impairing the right of said commissioner to receive said salary as herein provided.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word. I would ask the chairman why this provision is worded as it is in regard to the act of 1896, providing that it shall not be so construed as impairing the right of said commissioner to receive such salary as herein provided. Was there anything in that act which provided for the payment of a salary to this commissioner?

Mr. JOHNSON of South Carolina. The United States commissioners are paid fees. It is necessary for the Government to have one commissioner in the Yellowstone Park, but the fees received are insignificant, so that it is necessary for Congress to provide, and it has so provided for many years, for a small salary.

Mr. CULLOP. Would it not be advisable, then, to add a provision to this that the fees he may receive should be covered into the Treasury of the United States to be used for park funds?

Mr. JOHNSON of South Carolina. The gentleman understands that $1,500 is a small salary for anyone to receive who resides in the Yellowstone Park, and if we were to require him to turn the little fees he receives into the Treasury it would probably be necessary to increase the salary by an equal amount.

Mr. CULLOP. About what is the amount annually that he receives?

Mr. JOHNSON of South Carolina. I do not know, but it is small; inconsequential, the Clerk tells me.

Mr. CULLOP. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

For rent of necessary quarters in Washington, D. C., and elsewhere, $7,000; for necessary traveling expenses of members of the court and clerk, $150; for books, periodicals, and stationery, supplies, freight, telephone and telegraph, heat, light, and power service, drugs, chemicals, and cleansers, furniture, and printing; for pay of bailiffs and all other necessary employees not otherwise specifically provided for; and for such other miscellaneous expenses as may be approved by the presiding judge, $7,500; in all, $14,650.

Mr. GILLETT. Mr. Chairman, I offer as a separate section the amendment which I send to the Clerk's desk.

The CHAIRMAN (Mr. ROBINSON). The Clerk will report the amendment.

The Clerk read as follows:

On page 138, after line 6, insert as a separate paragraph the following:

"Commerce Court: Expenses allowance for judges at rate of $1,500 per annum each, $7,500; clerk, $4,000; deputy clerk, $2,500; marshal, $3,000; deputy marshal, $2,500; for rent of necessary quarters in Washington, D. C., and elsewhere, and furnishing same for the United States Commerce Court; for books, periodicals, stationary, printing, and binding; for pay of bailiffs and all ther necessary employees at the seat of government and elsewhere, not otherwise specifically provided for, and for such other miscellaneous expenses as may be approved by the presiding judge, $35,000; in all, $54,500."

Mr. GILLETT. Mr. Chairman, I do not wish to take the time of the committee in debating this, because the majority of the House have already fully indicated their opinion upon it. It was debated at length in the last session of the Congress, and I do not suppose that any argument would alter their minds. In fact, the leaving out of this provision shows their purpose; but I simply wish that there shall be a vote upon it, so that the responsibility may rest where it belongs and it shall not appear that the whole House acquiesced in omitting this appropriation.

Mr. JOHNSON of South Carolina. Mr. Chairman we are perfectly willing that the responsibility should appear to rest upon us for not putting this item in the bill. Let us have a vote on the amendment. The House has passed upon it and the country has passed upon it.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For reporting the decisions of the court and superintending the printing of the forty-seventh volume of the reports of the Court of Claims, $1,000, to be paid on the order of the court, notwithstanding section 1765 of the Revised Statutes or section 3 of the act of June 20, 1874.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 138, in line 22, strike out the words "forty-seven" and insert in lieu thereof the words "forty-eight."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 2. That the pay of telephone-switchboard operators, assistant messengers, firemen, watchmen, laborers, and charwomen provided for in this act, except those employed in mints and assay offices, unless otherwise specially stated, shall be as follows: For telephone-switchboard operators, assistant messengers, firemen, and watchmen, at the rate of $720 per annum each; for laborers, at the rate of $660 per annum each; assistant telephone-switchboard operators, at the rate of $600 each; and for charwomen, at the rate of $240 per annum each.

Mr. FOWLER. Mr. Chairman, I offer an amendment to line 16 by striking out the figures $240 and inserting in lieu thereof $360.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 139, line 16, by striking out "$240" and inserting in lieu thereof "$360."

Mr. JOHNSON of South Carolina. Mr. Chairman, I make the point of order that this is new legislation.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard?

Mr. FOWLER. Mr. Chairman, it is not subject to the point of order. There is no statute fixing the salary of charwomen or the wages to be paid to charwomen, neither is there any precedent for fixing wages of charwomen. I think that $240

is much less than has been paid to any charwomen in any department carried in this bill. As I recall, none of them has been paid less than $360. The only thing I desire is to make the salary equal to that in other departments. I do not think it is subject to the point of order at all.

The CHAIRMAN. May the Chair ask the gentleman from South Carolina whether $240 is the amount carried in the appropriation bill of last year?

Mr. JOHNSON of South Carolina. The law fixes it at $240, or rather the appropriation bill fixes it at $240. That is all the law on the subject.

The CHAIRMAN. That is what the Chair asked the gentleman. The point of order is sustained.

The Clerk read as follows:

SEC. 4. That section 7 of the general deficiency appropriation act approved August 26, 1912, is amended to read as follows:

"SEC. 7. That no part of any money contained herein or hereafter appropriated in lump sum shall be available for the payment of personal services at a rate of compensation in excess of that paid for the same or similar services during the preceding fiscal year; nor shall any person employed at a specific salary be hereafter transferred and hereafter paid from a lump-sum appropriation at a rate of compensation greater than such specific salary, and the heads of departments shall cause this provision to be enforced: *Provided*, That this section shall not apply to mechanics, artisans, their helpers and assistants, laborers, or any other employees whose duties are of similar character and required in carrying on the various manufacturing or constructing operations of the Government."

Mr. MANN. Mr. Chairman, I reserve a point of order on the section. I would like to know just what change this makes from the provision now in force.

Mr. JOHNSON of South Carolina. Does the gentleman make inquiry of me?

Mr. MANN. I made inquiry of the gentleman.

Mr. JOHNSON of South Carolina. The last Congress provided that persons transferred from the statutory roll to the lump-sum appropriation should not receive a greater sum than they had received on the statutory roll. Some of the governmental departments employ people—artisans and mechanics—in the navy yards and arsenals, and it is the rule at those places to fix the rate of compensation for mechanics and artisans every six months by a board. This board figures as to the rate of compensation paid for like services in surrounding manufacturing establishments, and upon that basis they fix the rate of pay, and this provision would of course forever limit them to the rate of pay received the year before this law was enacted unless it was modified.

Mr. MANN. Well, this statute was just enacted. The ink is hardly dry upon it. Was it ill considered at the time it was brought into the House and passed?

Mr. JOHNSON of South Carolina. No; it was not ill considered. It was good legislation, because we found that people who were on the statutory roll at $1,600 or $1,800 a year would be transferred to a lump-sum appropriation at an increase of $900 or $1,000, and it was to stop that that this legislation was enacted. Then it was brought to the attention of the committee that these artisans and mechanics were employed in the way that I have indicated, and we are trying to keep all the good effects of the law without doing anything wrong.

Mr. MANN. I may say it may not have been ill-considered legislation, but evidently not fully considered legislation, because here is a proposition to amend it in two very important particulars, only one of which has been suggested by the gentleman from South Carolina [Mr. JOHNSON].

Mr. JOHNSON of South Carolina. Oh, well, I do not say that the legislation was perfect, but it was in the right direction.

Mr. MANN. It seems to me that when matters of this sort are brought in, involving every branch of the service, they ought to be pretty fully considered by the committee before they are presented.

Mr. GILLETT. Last year it was not intended that it should apply to the artisans and mechanics, but it was overlooked that it would affect them.

Mr. MANN. Whoever drafted the amendment must have intended that to apply.

Mr. GILLETT. Not at the time, I think. I do not think they thought of it at all.

Mr. MANN. Then it was not considered at all, because the bulk of the employees of the Government probably are artisans and mechanics. Here was a provision framed affecting them, and you say the committee never thought of them in connection with it?

Mr. GILLETT. That is what I have understood.

Mr. JOHNSON of South Carolina. This came over from the Senate as an amendment.

Mr. MANN. I had forgotten that. Now, as I understand, this provision, having ascertained that the law as it now stands would prevent the raising of the salaries of artisans and mechanics at all, would keep them from year to year what they were the preceding year, and you propose to do the same thing by this amendment as to everybody else in the Government service. You have herein proposed to have amended the law so that the rate of compensation shall not be in excess of that paid for same or similar services during the preceding fiscal year. Well, take this year, and here is the rate of compensation fixed now according to the preceding fiscal year. It could not be raised next year; it can not be raised the year after that; it can not be raised the year after that; and if this remains in, it can not be raised in any year, because it will be fixed according to the preceding year; and in 50 years it will be the same as this year.

Mr. JOHNSON of South Carolina. Unless Congress changes the pay.

Mr. MANN. That is what it is——

Mr. JOHNSON of South Carolina. Unless Congress changes the rate of compensation here in the department, the rate now obtaining will continue to be the rate.

Mr. MANN. Under the existing provision in the deficiency act the rate of compensation must not exceed that paid for the same or similar service during that current year.

Mr. GILLETT. Yes; but not out of a lump sum. For instance, we do change every year the compensation of different officers who are not paid out of a lump sum.

Mr. MANN. I am not talking about what this applies to. This is a lump-sum appropriation. But there are various officials of the Government who are paid out of lump-sum appropriations. I agree with the committee that the fewer the better, but under this bill it would not be possible to change the amount paid any individual out of a lump-sum appropriation under any circumstances hereafter if this remains in the law.

Mr. GILLETT. The gentleman, I think, is mistaken there, because the gentleman goes on the theory that this means that whatever is paid out of a lump sum shall not be greater than that which was paid the previous year out of a lump sum. Now, that paid the previous year out of a lump sum, of course, could not be increased, and that was not the intention of this clause, I understand. This clause means that what is paid out of a lump sum shall not be greater than was paid to the same man who did similar work, who was paid not necessarily from the lump sum, but by regular, specific appropriation. Now, those cases can be raised from year to year. I think that was the intention.

Mr. MANN. I know, but if you have cases where a man is being paid out of a lump sum—that is, under this provision—the best test of it is what sum was paid for similar services last year. What he is paid is the best test, and no other test could be applied. You could not change the compensation by increasing it.

Mr. MONDELL. Mr. Chairman, it seems to me that the gentleman from Illinois [Mr. MANN] places a peculiar construction on this language. The intent of the section is to prevent the increase of the salary or emolument of certain classes of officers or employees out of a lump-sum appropriation over and above the amount they received in the previous year out of regular appropriations.

Mr. MANN. I beg the gentleman's pardon; to that portion of the bill I have not referred, or to that portion of the law.

Mr. MONDELL. That is all there is in the law.

Mr. MANN. I beg the gentleman's pardon. There is a specific paragraph on that subject, which is not changed by the addition of a word or the dotting of an "i" or the crossing of a "t" from existing law.

Mr. MONDELL. Well, referring now to the part of the section contained in the first five lines, the intent is as I have stated, and the intent is very clearly stated, I think, in the language used; and I think the language can not be properly criticized. Then the provision goes on and provides:

Nor shall any persons employed at a specific salary be hereafter transferred and hereafter paid from a lump-sum appropriation at rate of compensation greater than such specific salary.

There can be no objection to that, it seems to me.

Mr. MANN. That is the current law.

Mr. MONDELL. Then the gentleman's objection is to the first part of the section, which I have just read; it seems to me that it very clearly meets the evil that it is intended to cure, providing that no payment out of a lump-sum appropriation shall be in excess of the payment to the same officer for the same kind of service out of regular appropriations.

Now, the committee, in adopting the language last year, through inadvertence, used the words "during the fiscal year 1912." It is very clear that that was adopted by reason of the fact that when the provision was first considered it was con-

sidered as an amendment to that particular bill, and not as continuing legislation. When it came to be considered and changed into continuing legislation, those words were not modified. We modify it now, in order that it may be continuing legislation, under which payments out of lump sums may not be in excess of what the same officer or employee received from a regular appropriation for the same service in the preceding fiscal year.

Mr. MANN. Mr. Chairman, my distinguished friend from Wyoming, whom I was glad to designate to go on the Committee on Appropriations, has given a great deal of attention to the subject of appropriation bills, but I believe not quite so much attention as I have given, and very naturally he should have fallen into the error he has fallen into about this item. This item is not continuing legislation, and will not be continuing legislation unless it is inserted from year to year in the bill.

The item in the deficiency bill relates only to the year 1912, and therein it is provided that salaries paid out of lump-sum appropriations shall not be greater than those paid for the same or similar services during the fiscal year 1912. That is perfectly proper. That does mean that lump-sum salaries shall not be greater than specific salaries. But now, as it is proposed to be changed, while it is not continuing legislation, if the same item is to be put in every appropriation bill, it will fix the salary this year or last year for all lump-sum salaries for all time to come. It was purposely made in the deficiency bill so that it should only put lump-sum salaries on the same basis as specific salaries are during that same time. Now it is proposed, however much specific salaries may be increased hereafter, that lump-sum salaries shall remain inviolate.

Mr. MONDELL. I know that the gentleman wants to be accurate, and he generally is——

Mr. MANN. I am on this occasion. I have studied this appropriation, and I am sure the gentleman has not.

Mr. MONDELL. The gentleman says this provision contained in the late deficiency bill had no reference to any appropriation except that appropriation. The gentleman must be mistaken; otherwise the words "hereafter appropriated" would have no force or effect. I think the gentleman will concede that this language in the deficiency bill is continuing legislation, in that it affects appropriations in the future. The amendment also affects or will affect, if it remains in the bill, appropriations in the future, and it was to avoid the very fault that the gentleman criticizes—that of continuing the salaries of 1912 as the basis for the future—that the amendment was made.

Mr. MANN. Mr. Chairman, be that as it may, I called attention to this section because here was a provision inserted in the deficiency bill which became a law on August 26 last, fully considered by the gentleman now in charge of this measure. It is proposed to amend it in two very important particulars. I call attention to that because I propose to make a point of order against the next section. I do so for the purpose of showing how easy it is for our great Committee on Appropriations, when they start to legislate instead of appropriate, to make bad mistakes and bring in, not possibly ill advised, but certainly not fully considered, legislative propositions. I withdraw the point of order on this section.

The CHAIRMAN. The gentleman withdraws the point of order.

Mr. JOHNSON of South Carolina. Mr. Chairman, before the Clerk reads I desire to ask unanimous consent that the clerk of the committee be authorized to correct all totals in the bill.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent that the clerk be authorized to correct all totals in this bill.

The Clerk read as follows:

SEC. 5. That hereafter no person who is or has been employed, within the classified service, in any executive department or other branch of the public service of the United States shall be employed, within the classified service, in another executive department or other branch of the public service of the United States unless a period of at least 11 months shall have elapsed since such previous employment of the person shall have ceased, except in specific cases where the heads of executive departments or other branches of the public service immediately concerned shall be agreed on a transfer or an employment notwithstanding the period of not less than 11 months herein contemplated shall not have elapsed, and in every such exceptional case the written approval of the President shall be obtained in advance of the employment, and except also in cases where termination of service shall have occurred because of reduction of force in any branch of the public service.

Mr. MANN. Mr. Chairman, I make a point of order against that section.

Mr. JOHNSON of South Carolina. Mr. Chairman——

Mr. MANN. I will reserve the point of order if the gentleman from South Carolina desires to be heard upon it.

Mr. JOHNSON of South Carolina. I have no desire to encumber the RECORD. We believe this is wise legislation, but it is subject to a point of order, and if my friend is going to make it I have nothing further to say.

Mr. MANN. I shall make the point of order in the end.

Mr. JOHNSON of South Carolina. Then the gentleman had better make it now.

Mr. MANN. I make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

SEC. 6. That all laws or parts of laws inconsistent with this act are repealed.

Mr. MARTIN of South Dakota. Mr. Chairman, I move to strike out the last word. I have asked this recognition in order to make reference to another item in the bill at the top of page 65, containing the appropriation for the maintenance of the assay office at Deadwood, S. Dak.

The Committee on Appropriations after deliberation dropped six assay offices. They made an appropriation in the bill for the Deadwood assay office and for the assay office at Seattle.

Upon Saturday afternoon, when there were but very few in the Chamber, a motion was made by the gentleman from Indiana [Mr. COX], when this paragraph was read, to strike it out. That motion was not resisted by the committee or otherwise, and the amendment prevailed.

I was necessarily absent at the time, and other gentlemen interested in the item were relying upon the assumption that it having been reported by the committee, it would not be dropped out, at least without resistance and debate. Consequently, a demand will be made for a separate vote in the House upon the amendment striking out this item.

I want, in my time, to explain the situation regarding the Deadwood assay office. Of the eight remaining assay offices outside of the city of New York, the office at Deadwood produces more bullion in the course of the year than any of the eight. Indeed, almost one-half of the entire purchase of bullion, in the neighborhood of $8,000,000, is made at that office. The earnings of the office are considerably more than those of any of the assay offices in this entire list, and the expenses of operating it are less than any, with the sole exception of the small office at Charlotte, N. C., which has really been only nominally maintained for many years.

The policy has been to drop out assay offices upon the theory that they were unnecessary and were not maintaining themselves out of their earnings. The Deadwood office is one the dropping of which can not be sustained upon any such theory of economy.

It is the only office, practically, paying the entire expenses from the earnings. The receipts or earnings of the Deadwood office during the last fiscal year were $10,917.95. As reported in the tables of the Secretary of the Treasury, it would appear that the expenditures were $14,096.40; but, as a matter of fact, the expenses of that office were only $10,122.65 for the fiscal year. This other item is an item which has been charged from the general Department of the Treasury apportioning the disbursements for express charges on bullion from the various offices amounting to three thousand nine hundred and some-odd dollars. Taking that out of the alleged expenses of the Deadwood office, the office has earned an actual profit and has been doing so for some years.

As a matter of fact, that express charge ought not to be carried against this office. The assay office charges and collects for charges of stamping and assaying bullion purchased at the office $1.25 per thousand. If it was sent to the nearest mint, the Government would collect no such charge for assaying and stamping, and the result would be that the cost to the Government would be more than the express item.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MARTIN of South Dakota. Mr. Chairman, I ask unanimous consent for one minute more.

The CHAIRMAN. The gentleman asks unanimous consent that his time be extended one minute. Is there objection?

There was no objection.

Mr. MARTIN of South Dakota. This is an item that I am familiar with, because it is in my own city. The office has been managed constantly with the idea in view that it ought to be managed and maintained within the earnings of the office. It has practically done so, and the committee were right in retaining the item in the bill. It was inadvertently stricken out without consideration when few were present, and I hope that the views of the committee in keeping it in the bill will be supported when it is offered in the House.

Mr. JOHNSON of South Carolina. Mr. Chairman, I move that the committee do now rise and report the bill with amendments to the House, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26680, the legislative, executive, and judicial appropriation bill, and had directed him to report it back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move the previous question on the bill and amendments to its final passage.

The motion was agreed to.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. MONDELL. Mr. Speaker, I ask a separate vote on the amendment striking out lines 1 to 7, inclusive, on page 65.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 65, by striking out lines 1 to 7, inclusive, which read as follows:

"Assay office at Deadwood, S. Dak.: Assayer in charge, who shall also perform the duties of melter, $2,000; clerk, $1,200; assistant assayer, $1,600; assayer's assistant, $1,400; in all, $6,200.

"For wages of workmen and other employees, $3,000.

"For incidental and contingent expenses, new machinery, etc., $1,500."

The question was taken; and on a division (demanded by Mr. MONDELL) there were 63 ayes and 26 noes.

So the amendment was agreed to.

The remaining amendments were agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. GILLETT. Mr. Speaker, I move to recommit the bill with instructions to report it back with the following amendment.

The SPEAKER. Is the gentleman from Massachusetts opposed to the bill?

Mr. GILLETT. I am as much opposed to the bill as anybody could be.

The SPEAKER. That is not the question. The question is whether the gentleman is opposed to the bill.

Mr. GILLETT. I am in favor of the bill with this amendment.

The SPEAKER. The rule provides that in making motions to recommit preference shall be given to some Member opposed to the bill. There is nobody on earth who knows whether the gentleman from Massachusetts is opposed to the bill except himself. If he says he is, the Chair will recognize him.

Mr. GILLETT. I will not say more than that I prefer it with this amendment. I do not know how anyone can say more.

Mr. MANN. No honest man can say more, and the gentleman from Massachusetts is to be commended for it.

The SPEAKER. If the gentleman from Massachusetts will say that he is opposed to the bill, the Chair will recognize him.

Mr. GILLETT. I will not say any more, Mr. Speaker, than I have stated.

Mr. CANNON. Mr. Speaker, it seems to me that the gentleman from Massachusetts can be recognized to move to recommit the bill for a specific object, to add an amendment or a provision to it, provided always that there is no one who demands recognition because he is opposed to the bill in its entirety. I apprehend there is no such one, and therefore I submit the gentleman would be entitled to be recognized under the rule.

The SPEAKER. There is no question in the world about what the rule is. If the gentleman from Tennessee [Mr. GARRETT], who is clamoring for recognition, says he is opposed to this bill, with the answer of the gentleman from Massachusetts [Mr. GILLETT] standing as it is, the Chair will recognize the gentleman from Tennessee, but if he makes the same answer, and all the rest who are asking recognition, then the Chair will recognize the gentleman from Massachusetts.

Mr. GARRETT. Mr. Speaker, I wish to submit an observation upon that, if I may be so permitted.

The SPEAKER. The previous question has been ordered.

Mr. GARRETT. Is there not tentatively a point of order pending, the point having been made by the Speaker?

The SPEAKER. There is no point of order pending. The Chair has already settled it.

Mr. GARRETT. I can not, Mr. Speaker, of course, go further than the gentleman from Massachusetts goes. No man can on an appropriation bill.

Mr. MANN. No honest man can.

Mr. COX of Indiana. Mr. Speaker, I desire to offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. COX of Indiana. I am opposed to that portion of the bill to which my motion applies.

The SPEAKER. The gentleman's motion must apply to the legislative, executive, and judicial appropriation bill.

Mr. COX of Indiana. My preferential motion applies to a part of that bill.

The SPEAKER. So does the preferential motion of the gentleman from Massachusetts, and he is recognized.

Mr. GILLETT. Mr. Speaker, I move to recommit with the following instructions, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 138, after line 6, insert as a separate paragraph the following:

"Commerce Court: Expense allowance for judges at rate of $1,500 per annum each, $7,500; clerk, $4,000; deputy clerk, $2,500; marshal, $3,000; deputy marshal, $2,500; for rent of necessary quarters in Washington, D. C., and elsewhere, and furnishing same for the United States Commerce Court; for books, periodicals, stationery, printing, and binding; for pay of bailiffs and all other necessary employees at the seat of government and elsewhere, not otherwise specifically provided for, and for such other miscellaneous expenses as may be approved by the presiding judge, $35,000; in all, $54,500."

Mr. JOHNSON of South Carolina. Mr. Speaker, on the motion to recommit I demand the previous question.

The previous question was ordered.

Mr. COX of Indiana. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. COX of Indiana. Is a motion to recommit amendable?

The SPEAKER. Not after the previous question is ordered. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. GILLETT) there were—ayes 33, noes 83.

So the motion to recommit was rejected.

The SPEAKER. The question now is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. JOHNSON of South Carolina, a motion to reconsider the vote by which the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. BROWN, for four days, on account of serious illness.

To Mr. TURNBULL, indefinitely, on account of sickness.

To Mr. HART, for two weeks, on account of illness.

The SPEAKER. The Chair lays before the House the following communication, which the Clerk will report.

The Clerk read as follows:

Mr. SPEAKER: The managers on the part of the House of Representatives in the matter of the impeachment of Judge ROBERT W. Archbald, the trial of which cause is now pending and in progress before the Senate sitting as a Court of Impeachment, beg to say:

1. That said cause is called for trial daily in the Senate sitting as a Court of Impeachment, beginning at the hour of 1.30 p. m. and generally continuing until the hour of 6 p. m.

2. The managers find that it is necessary for the proper trial of such case for them to have the permission of the House from 12 m. for consultation and arrangement of the presentation of the case, and that their presence is required in the Senate daily from 1.30 p. m. until, as a rule, the hour of 6 p. m.

We respectfully ask that we be excused from attendance upon the sessions of the House until such impeachment trial shall have been completed.

HENRY D. CLAYTON.
EDWIN Y. WEBB.
JOHN C. FLOYD.
JOHN W. DAVIS.
JOHN A. STERLING.
PAUL HOWLAND.
GEORGE W. NORRIS.

The SPEAKER. Without objection, the managers on the part of the House will be excused from further attendance on the sessions of the House.

There was no objection.

MONTICELLO.

Mr. HENRY of Texas. Mr. Speaker, I offer the following privileged resolution from the Committee on Rules, which I send to the desk and ask to have read.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to call up for consideration at this time the Indian appropriation bill, which I gave notice that I would do immediately upon the conclusion of the legislative bill. I therefore move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Indian appropriation bill.

The SPEAKER. These two motions are of equal dignity. The Chair has promised to recognize the gentleman from Texas, Mr. HENRY. The Chair will recognize the gentleman from Texas, Mr. STEPHENS, as soon as the resolution of his colleague is out of the way. The Clerk will report the resolution of the gentleman from Texas [Mr. HENRY].

The Clerk read as follows:

House resolution 740 (H. Rept. 1266).

Resolved, That immediately upon the adoption of this resolution the House shall proceed to consider Senate concurrent resolution 24, providing for an inquiry as to the purchase of the home of Thomas Jefferson at Monticello, Va., and that at the end of one hour's debate the previous question shall be considered as ordered on said Senate concurrent resolution and the House shall vote upon the same without any intervening motion, except the motion to recommit under the general rules of the House.

Mr. HENRY of Texas. Mr. Speaker, I move the previous question on the resolution which I send to the Clerk's desk.

Mr. MOORE of Pennsylvania. Mr. Speaker——

The SPEAKER pro tempore (Mr. ROBINSON). For what purpose does the gentleman rise?

Mr. MOORE of Pennsylvania. For a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MOORE of Pennsylvania. I think I addressed the Chair in time.

The SPEAKER pro tempore. The gentleman has been recognized.

Mr. MOORE of Pennsylvania. I want to know if the passage of this motion precludes the opportunity to offer an amendment to the resolution?

The SPEAKER pro tempore. The question is on moving the previous question——

Mr. MOORE of Pennsylvania. I desire to offer an amendment to this resolution, and I want to know whether under this motion——

The SPEAKER pro tempore. The Chair can not put that question now; the Chair will pass upon the parliamentary inquiry when it is in order. The question is on the ordering of the previous question.

The question was taken, and the previous question was ordered.

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MOORE of Pennsylvania. I asked the Chair a moment ago a parliamentary question, and I did not understand that the question was answered. I do not know whether it is in order now to make a parliamentary inquiry.

The SPEAKER pro tempore. It is in order to make a parliamentary inquiry, and the Chair will answer the question when the inquiry is in order.

Mr. MOORE of Pennsylvania. Under the status of the resolution now will there be an opportunity to offer an amendment——

The SPEAKER pro tempore. The Chair will answer that question when it is in order to answer it; it is not in order now.

Mr. MANN. Mr. Speaker, in order that such a question may be cleared up, I ask that the rule may be again reported.

The SPEAKER pro tempore. The Clerk will again report the resolution.

The resolution was again reported.

The SPEAKER pro tempore. Now, the gentleman from Pennsylvania [Mr. MOORE] will state his parliamentary inquiry.

Mr. MOORE of Pennsylvania. I want to know if I will have an opportunity now or at the conclusion of the debate to offer an amendment.

Mr. HENRY of Texas. If the gentleman will allow me just a moment, I will state this is for the consideration of the rule; the concurrent resolution, No. 24, has not been read, and I will ask unanimous consent that it be now read.

Mr. MANN. If the gentleman will pardon me, the resolution which was read clearly states that at the end of an hour's debate on the concurrent resolution the previous question shall be considered as ordered, so if the resolution is adopted that ends any chance to amend the concurrent resolution.

Mr. MOORE of Pennsylvania. That is my understanding, and for that reason I made inquiry. The gentleman from Texas has helped a little bit; but it would seem, even with his explanation, there would be no opportunity to amend this resolution at any time.

Mr. MANN. There is none, unless it is voted down.

Mr. MOORE of Pennsylvania. Then it will be necessary to vote down this resolution to get an opportunity to amend the concurrent resolution.

Mr. CULLOP. May I make an inquiry of the gentleman?

Mr. HENRY of Texas. Mr. Speaker, I desire to answer these questions without it being taken out of my time, as I understand it is a parliamentary inquiry that is being addressed to the Chair. I will be glad to answer, if the Chair will not take it out of my time.

Mr. CULLOP. The inquiry I wanted to make was this: As I understand the reading of the rule, it provides that at the end of an hour the previous question shall be ordered.

Mr. HENRY of Texas. Yes.

Mr. CULLOP. But by a motion to recommit the resolution itself or rule it could be amended if that motion should carry?

Mr. HENRY of Texas. Of course that will be a matter for the Chair to pass on.

Mr. CULLOP. Well, it provides for a motion to recommit.

Mr. HENRY of Texas. I think it would be in order; yes.

Mr. CULLOP. Then the gentleman from Pennsylvania, if he desires to amend it, would have an opportunity to offer his amendment in the nature of a motion to recommit with instructions.

Mr. HENRY of Texas. Mr. Speaker, we might as well have read, for the information of the House, Senate concurrent resolution to be considered at the expiration of the 40 minutes' debate which is now to be had, provided the special rule be adopted by the House. This resolution was unanimously passed by the Senate of the United States on July 17, 1912:

Senate concurrent resolution 24.

Resolved by the Senate (the House of Representatives concurring), That the President of the Senate be, and is hereby, authorized to appoint a committee of five members of the Senate, to act in cooperation with a similar committee to be appointed by the Speaker of the House of Representatives, to inquire into the wisdom and ascertain the cost of acquiring Monticello, the home of Thomas Jefferson, as the property of the United States, that it may be preserved for all time in its entirety for the American people.

Mr. Speaker, the Senate of the United States last summer unanimously adopted the concurrent resolution. The one sent to the Clerk's desk, and which has just been read, is a resolution providing for the consideration of the concurrent resolution now held by me.

Mr. Speaker, at the end of the hour's debate provision is made that a motion to recommit Senate concurrent resolution No. 24 may be made, in order that the House may amend it if it sees proper. So far as I am personally concerned——

Mr. SHERLEY. Will the gentleman yield for a question? It would only be possible to amend it by one motion to recommit with instructions. It would not be possible to consider it for amendment in the ordinary course.

Mr. HENRY of Texas. No; it would not; but a motion to recommit with instructions can be made, and I apprehend any gentleman can express his views in a motion to recommit. Mr. Speaker, this resolution only provides for appointing a joint committee of the Senate and House of Representatives for the purpose of inquiring into the wisdom of acquiring the home of Thomas Jefferson. I can not see how any gentleman on this side of the House or the other side of this body can object to a resolution unanimously passed by the Senate, which simply seeks to ascertain whether it is wise or not for this Government to acquire the home of Thomas Jefferson. Let this House vote upon the resolution and express its choice. I shall gladly cast my vote in favor of the Senate concurrent resolution in order that a proper inquiry may be made into the proposition. [Applause.]

It has been said that we are now endeavoring to take Monticello from the distinguished gentleman from New York [Mr. LEVY], who now holds the legal title to those premises. I deny that there is anything in the special rule or in the concurrent resolution looking to that end. The gentleman from New York should gracefully bow to the will of the American people and let this House pass a resolution that has passed the Senate of the United States, looking into the wisdom of such a simple proposition as this. [Applause.] I have great respect for the gentleman as my colleague, and would do no violence to his rights on the floor of this House, nor to the rights of any colleague of mine, but it seems to me that the name and fame of Thomas Jefferson are far above any personal consideration in this day and generation, and we may well inaugurate a plan looking to the acquisition of his grave and the premises that were owned by him. Therefore, I have interested myself as an individual and in an unofficial way to bring this matter before the American Congress, and hope the House of Representatives will adopt this rule and let us have a vote on the other resolution—No. 24—and see whether or not the representatives of the people are in favor of the proposition.

Mr. DALZELL. Mr. Speaker——

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. DALZELL], a member of the Committee on Rules, is recognized.

Mr. DALZELL. Mr. Speaker, the Committee on Rules has twice passed on this proposition, first, as an original legislative proposition, which was favorably reported to the House and went on the calendar. Since that time the Committee on Rules has adopted this resolution making the consideration of the original proposition privileged. I was not able to be present at either of those meetings. Had I been present I would have voted against both resolutions—both the resolution to report

the concurrent resolution and the resolution now before the House to make that resolution privileged. And I shall vote against this proposition now and shall vote against the original proposition when the time comes.

The original proposition provides for the appointment of a committee to do two things, first, to inquire into the wisdom of purchasing the home of Thomas Jefferson; and, secondly, to ascertain the cost of acquiring that home. Now, as to the first proposition, there is absolutely no necessity for this resolution. The question of the wisdom of purchasing the home of Thomas Jefferson is a question for the individual judgment of each Member of this House, and it is a question that every Member of this House will determine without any regard to the report of any committee on the subject. The question as to how much the home of Thomas Jefferson may be purchased for is a question the answer to which does not require the appointment of any committee. The home of Thomas Jefferson is to-day in the legal ownership of a Member of this body. That gentleman has declared publicly, is ready to declare now, that the home of Thomas Jefferson is not for sale at any price. This resolution, therefore, is unnecessary and inopportune, unless it have an ulterior purpose.

That it has such ulterior purpose has been authoritatively declared both privately in conversation and publicly in the press, and that ulterior purpose is to compel a private citizen against his will to part with his property by means of legislation. In other words, it is to declare that the doctrine of Federal eminent domain shall be sufficient to carry the compulsory sale of the property of an individual who is unwilling to part with it. I do not believe—I can not believe—that the House of Representatives is willing to make such an assault upon the fundamental right of private property.

The question as to whether or not the Government should own the home of Thomas Jefferson is a question about which there might be differences of opinion. But without respect to differences of opinion at all, it is apparent that that home can not be owned by the United States in the present condition of things unless by the passage of legislation which, in my judgment, would be a disgrace to any civilized body, and especially a disgrace to the House of Representatives of the United States. [Applause.]

I reserve the balance of my time.

Mr. HENRY of Texas. Mr. Speaker, I yield to the gentleman from Virginia [Mr. SAUNDERS].

Mr. SAUNDERS. I wish to oppose the resolution. I have risen for that purpose.

Mr. HENRY of Texas. I did not understand that.

Mr. DALZELL. Does the gentleman from Virginia want time?

Mr. SAUNDERS. Yes. I desire a few minutes.

Mr. DALZELL. How much time does the gentleman desire?

Mr. SAUNDERS. I do not know how much is available.

Mr. DALZELL. I yield five minutes to the gentleman.

The SPEAKER pro tempore. The gentleman from Virginia [Mr. SAUNDERS] is recognized for five minutes.

Mr. SAUNDERS. Mr. Speaker, as a Representative from Virginia, the State that claims Jefferson as a son, and cherishes his memory, I wish to say that I am opposed to this resolution. The name and the fame of the dead are being used to oppress the living. I am opposed to any movement that looks to the acquisition of this property by means of the power of eminent domain. The Federal Government possesses this power to the extent to which it is expressly, or by necessary implication given by the Constitution, but it has never been settled that the right of condemnation may be applied to the acquisition of private homes within the States to be used as parks, or as shrines of liberty. No rhetorical references, however fervid to the memory and the greatness of Thomas Jefferson, for in this regard we are all agreed, should avail to blind us to the fact that fundamentally the power to which appeal must be made, to render this movement effectual, and deprive the present owner of his property in Monticello is, to say the least of it, one of doubtful existence.

It is bootless for the advocates of this resolution to insist that the pending proposition is merely an inquiry to ascertain whether Monticello is for sale, and the propriety of its purchase. If such be the sole and only purpose of the resolution, then this House is doing a vain and futile thing to create a committee to ascertain a fact already within our knowledge. The owner of this property has already declared in the hearings, and repeated his declaration in terms of the most emphatic emphasis upon this floor, that Monticello is not for sale on any terms, or under any circumstances. Is the committee willing to accept an amendment to the effect that the committee created by this resolution, shall be limited in its investigation to the mere inquiry whether the property is for sale, and if so the price at which it may be acquired? The terms of the resolution are of much more extended import, and will empower a more extended inquiry than the amendment I suggest, though this amendment is in harmony with what is asserted on the floor to be the scope and intent of this movement. It is very clear to one who has followed the course of this resolution through the committee hearings, and read the matter submitted in support of the same, that in the ultimate the power of condemnation is intended to be invoked to secure this property, should the owner decline to sell, and the action of to-day is merely the initial step in that direction.

If we look to the terms of the resolution, as it passed the Senate, it will be manifest from the wording of the same, that the committee for which it provides, was not intended to be limited to the mere inquiry whether the home of Jefferson could be obtained by simple purchase. But if it is now contended that such is the limit of the inquiry, then why waste the time of the House with this debate, or create a committee to obtain information which this body can secure first-hand? The owner of Monticello is now on this floor, and with all the fervor of which he is capable, declares that Monticello is not for sale. Surely this should be sufficient?

Confronted, therefore, with so emphatic a statement, of so authoritative a character; in possession of the very information that this resolution supposedly will secure, why should we do so vain a thing as appoint a committee to ascertain a fact of which we are all apprised?

Mr. HENRY of Texas. Mr. Speaker, will the gentleman yield?

Mr. SAUNDERS. Certainly.

Mr. HENRY of Texas. Why did the Senate pass the resolution, then?

Mr. SAUNDERS. I do not know why the Senate passed the resolution. I am dealing with the proposition that confronts us, but will say that this is neither the first resolution, nor the first bill that has passed the Senate to find defeat in this body. I do not know what motive animated the Senate in passing this resolution, but I do know that to-day we are in possession of information with respect to the merits of this proposition that was not before the Senate. I know that some of the descendants of Jefferson in no remote degree, have given formal expression to their attitude of opposition to this movement to invoke the power of eminent domain to strip the present owner of Monticello of a property which for many reasons is dear to his heart, and which he maintains in a manner at once honorable to himself, and creditable to the memory of Jefferson. The name and authority of this great man should not be invoked to sustain a movement to call into exercise the power of the Federal Government to take over private property for a use which in the contemplation of the Constitution has not been clearly ascertained to be a public one. [Applause.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HENRY of Texas. Mr. Speaker, I yield five minutes to the gentleman from Kentucky [Mr. JAMES]. [Applause.]

[Mr. JAMES addressed the House. See Appendix.]

Mr. DALZELL. I yield to the gentleman from Pennsylvania [Mr. MOORE] five minutes.

Mr. MOORE of Pennsylvania. Mr. Speaker, the distinguished gentleman from Kentucky [Mr. JAMES], who has just taken his seat, seems to misunderstand the language of this resolution. It is not a resolution to remove the remains of Thomas Jefferson to the city of Washington in order that a monument may be erected over them, but it is a resolution to take over the property belonging to a private citizen. If this resolution passes it will destroy every precedent that this House has followed in matters of this kind for half a century. There are a number of historic spots of ground all over this land that will have claims upon the Congress of the United States if this resolution shall be enacted into law. Bills have been brought in here to take over the Hermitage, the home of Andrew Jackson. Long arguments and strong fights were made upon this floor to secure that property by similar means, but the House has set its face against taking over these properties as Government charges, because they carry with them not only the patriotic questions involved, and those of gallantry, too, if you please, but they take over the practical, cold question of maintenance, which is a very serious one to the Government. All over the eastern coast we have sites hallowed by the lives of distinguished men, which would at once command the attention of Congress, and every one of them would have an equal claim upon this body. It would mean additions to the pay rolls of thousands of caretakers at salaries that would have to be provided by the people of the United States. If we are to take

over Monticello, the home of Thomas Jefferson, and take it away from its private owner, then why not take the Betsy Ross flag house in which was made the first flag of the United States, woven by the deft fingers of Betsy Ross back in 1774? We had a bill here for that purpose, but it was not favorably considered.

Why not take over the battle field of Appomattox, upon which was sealed the fate of this Nation, now the property of a private individual? Why not take over Mount Vernon, the home of George Washington, now in the hands of patriotic women of this country, who contributed therefor from their own means, maintaining it as a shrine? Independence Hall is not the property of the Government, but the Government has an interest there; it is maintained by the city of Philadelphia. The old statehouse in Boston, the scene of some of the most heroic passages in history, is not the property of the Government of the United States. The Daughters of the American Revolution, patriotic women all of them, are organized for the very purpose of taking over these historic spots and making them shrines for the people.

What will be the cost incident to taking over Monticello? The Government in appropriation bills must annually provide for a certain number of caretakers to maintain the upkeep, and then will follow an almost unlimited demand for the recognition of patriotic institutions, until the pay rolls are burdened by thousands of new places—holders that our friends on the other side, if they pass this bill, will have to provide for in the very near future. [Applause.]

Mr. HENRY of Texas. Mr. Speaker, I yield five minutes to the gentleman from Tennessee [Mr. GARRETT].

Mr. GARRETT. Mr. Speaker, it seems to me that gentlemen who are opposing this resolution are opposing it not because of what is in it, but because of things that are not in it. I am not prepared, Mr. Speaker—and I say it very candidly—to commit myself to the doctrine that the Government has the right or the power to exercise eminent domain in regard to this estate for the purpose stated in the Senate resolution. Upon that question I have yet to reach a conclusion. But this resolution does not in any respect whatsoever provide for that, nor does it by any fair implication look to that.

So far as the policy of the Government owning estates of great men of the past is in question, there may be difference of opinion, but so far as I am concerned, Mr. Speaker, if the Government can acquire this property in a legitimate manner I do not think it would hurt my country. I do not think any man would ever think less of this country because it owned and cared for the home and the grave of the author of the Declaration of Independence. [Applause.]

I do not shrink from the policy that may be involved in its purchase or in its care and ownership, but as I have said, I do not commit myself and am not prepared to commit myself to the doctrine that the Government would have the legal right to condemn and take it. But that is not involved in this resolution. For reasons that are sound, in my opinion, it is wise at this time to have a committee composed of Members of this House and of Members of the other body make an elaborate investigation of the legal question that is involved here, and let it be determined in a formal, official way once and for all what the power of the Government may be in this regard. [Applause.]

Mr. DALZELL. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has five minutes.

Mr. DALZELL. I yield two minutes to the gentleman from Kentucky [Mr. JOHNSON].

Mr. JOHNSON of Kentucky. Mr. Speaker, no American worships at the shrine of Thomas Jefferson more than do I. One of his most earnest requests was that he be taken care of when he was dead. I believe if he could speak now that he would be the first to raise his voice in opposition to that which is about to be undertaken here to-day. In my honest judgment the best way to take care of him when he is dead is to refuse to do that which he would not do, either for himself or for another, if he were living. It has been referred to by my distinguished colleague when he said that it might become possible to ask the consent of the present owner of that property to go to the shrine of Thomas Jefferson that he might there worship. Is he not now compelled to pay even to get within the gates of Mount Vernon, where lie the remains of George Washington? [Applause.] I predict for the owner of the estate of Thomas Jefferson that he will never demand a fee of admission there. He admits now—and I have no doubt he and his successors in ownership of that property will continue to do as a patriotic society does in Kentucky which owns the home of Abraham Lincoln—every man, woman, and child of this land, and every other nation, to go there and worship at the shrine, if you choose to call it that, of the greatest perhaps of all Americans. [Applause.]

This patriotic society that owns the home of Abraham Lincoln says, "We will make the American people a present of it. We will put with that an endowment for them of $50,000 to take care of it," and no man I believe should ask that that property should be taken away from these people if they wish to retain it, and I for one would stand in the way of it to the fullest extent possible. [Applause.]

Mr. HENRY of Texas. Mr. Speaker, I yield two minutes to the gentleman from Alabama [Mr. CLAYTON].

Mr. CLAYTON. Mr. Speaker, I can not hope to say very much in the limited time I have. There is no occasion, Mr. Speaker, for anyone to be alarmed, and there is less occasion for excitement over the consideration and the adoption of this resolution. It is simply a resolution of inquiry. It is not a condemnation proceeding. It is merely to furnish information to the Congress of the United States, to the American people, as to the wisdom and as to the cost of acquiring this property. That, Mr. Speaker, will be considered by the committee, and of course, as a corollary of the main question, the legal rights of the distinguished gentleman from New York [Mr. LEVY] will also be ascertained and dealt with by the joint committee. I have no doubt, Mr. Speaker, that every phase of this question, the wisdom of acquiring and the cost, as well as the rights of the gentleman from New York, will be fully considered and reported to the Congress by the committee. [Applause.]

Mr. Speaker, if Congress has not the power to acquire this property, I hope that patriotic impulses will yet spring in the heart of the gentleman from New York, who claims ownership of this property, and let the American people have free access, and not some sort of permissive access, to the shrine of the greatest statesman that ever graced American history. [Applause.]

Mr. LEVY. They do have free access to it now.

The SPEAKER pro tempore. The time of the gentleman from Alabama has expired. Each side has three minutes remaining.

Mr. DALZELL. Mr. Speaker, I yield three minutes to the gentleman from Virginia [Mr. SAUNDERS].

Mr. SAUNDERS. Mr. Speaker, I desire to bring to the attention of the House one or two matters which of necessity I was unable to discuss in the few minutes accorded to me from the brief time prescribed for this debate. First, I challenge the statement that this resolution does not directly or by any fair construction contemplate the acquisition of this property by condemnation proceedings. In answer to this contention I will read the language of the resolution itself:

The committee shall ascertain the cost of acquiring Monticello.

Mr. JAMES. Oh, read the first part of it.

Mr. SAUNDERS. That portion of the resolution is not relevant, or helpful in this connection.

Mr. JAMES. The resolution says the wisdom of doing it.

Mr. SAUNDERS. I am discussing the authority given to the committee, and assert that when the resolution uses the words: "Shall ascertain the cost of acquiring Monticello," such language is broad enough to cover not only peaceful purchase, but the harsh procedure of condemnation. In this conclusion I think every lawyer in the House will concur.

In addition I wish to say that since this movement was inaugurated a great change has taken place in the public attitude, growing out of increasing knowledge on the part of the public of the real purpose of this agitation. That great editor from the State of Kentucky, Henry Watterson, was willing to be associated with this propaganda so long as it was limited to the acquisition of Monticello by private purchase, but when its real aims were disclosed, he withdrew his support, and within the last few days has announced in the most emphatic terms that he is opposed to proceedings in condemnation. On its inception many persons favored this movement under the misconception that an association was to be formed for the purchase of Jefferson's home. To the formation of such an association, and to the development of an organization so limited, there can be no valid objection. Certainly I offer none. In order that I may fairly put before the House the attitude of one who is certainly entitled to speak with a measure of authority, as a descendant of Thomas Jefferson, I wish to read a portion of a letter from Frank M. Randolph, to Mr. JEFFERSON LEVY. We have heard much of the "one wish," of a distinguished advocate of this resolution. The concluding "wish" of the writer of this letter may be fairly opposed to this "one wish."

Mr. Randolph writes:

I am sorry to be so dilatory in expressing to you my sympathy, and my abhorrence of the unjust fight Mrs. Littleton is waging to seize your home. I am sure that all my family, to whom you have always been so courteous and kind in offering the hospitality of Monticello, feel the same way. We all feel that it is a travesty on justice, a direct infringement on American liberty, and directly opposed to the principles and sentiments of the great builder of Monticello.

The care and preservation you have bestowed on this dear old place shows your faithful and sentimental appreciation of your charge. You have evinced always a desire and interest to care for Jefferson's tomb.

May you win your just cause in this fight, is the hope and the one wish of your friend and neighbor,

FRANK M. RANDOLPH.

I can not put before the House my own attitude more forcibly than by reading this letter.

Mr. STEPHENS of Texas. How is Mr. Randolph related to Mr. Jefferson?

Mr. SAUNDERS. He is a great-great-grandson. Like this descendant of Jefferson I hold that this proceeding is directly opposed to the principles and sentiments of the great builder of Monticello. It is difficult to relate the authority for the condemnation of Monticello for use as a shrine, or park to any one of the powers afforded by the Constitution. While such authority might be deduced from that instrument by appeal to the principles of liberal interpretation, such a deduction would be opposed to the historic attitude of Jefferson. No greater wrong could be done to the memory of this great man, than to secure this property by a perversion of the plain meaning of the Constitution, and resort to the principles of a school of constitutional interpretation to which he was flatly opposed.

Mr. FERRIS. Mr. Speaker, if the concurrent resolution providing for the acquirement of Monticello, now under consideration, involved our affection for Thomas Jefferson, we would all stand on the same side of the question together, but such is not the case.

If the defeat of this resolution would dim one glory to his long line of achievements, we would all oppose it together, but such is not the case.

If the resolution provided for a task that was within the power of Congress, we would then have but the problem of advisability to solve, but to be asked to undertake to do a thing which no friend of this resolution, either in speech or print, has asserted they can do is too much.

To pass a resolution of inquiry when the facts are patent to all of us is certainly asking Congress to do a useless and idle thing. It is well known by all of us here this day that the property is owned by one of our colleagues who does not at this time wish to sell it. It is scarcely less than a senseless thing to ask Congress to do a thing which not even its friends will assert can be done; that of taking it by force.

If this proceeding was a resolution to ascertain what we could in an orderly way secure the property for, it would then be questionable as to whether we should purchase Monticello before we purchase Mount Vernon, the home of the Father of our Country, we at least are not more derelict in one case than the other.

This proposed investigation can and will never result in anything but headlines and should go no further. Congress should not be asked to do on the ground of sentiment, emotion, and commotion a thing which can not be done within our powers.

This resolution comes to us under whip and spur. Few of us can even be heard at all upon it by reason of the gag rule; none of us may amend the resolution even partially, therefore the whole matter should wait until it is known that Monticello can be acquired in an orderly way for a reasonable price and without any coercion or other strong-arm methods. Congress can ill afford to do things from the standpoint of might and totally abandon right. Congress sometimes oversteps their powers unwittingly; surely we should not overstep our powers when there is no disagreement among us as to our powers.

Some well-meaning persons, wrought up with emotion and commotion, will be disappointed at this action this day, but surely this Congress in its entirety can ill afford to be driven by emotion or forced into undertakings of doubtful authority by commotion.

This rule should first be defeated, so that when this matter does come on for consideration it will be subject to amendments and other painstaking considerations which a gag rule will not permit of.

Mr. DALZELL. Mr. Speaker, before the gentlemen on the other side proceed I ask unanimous consent that the time be extended for five minutes on each side.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent that the time be extended for five minutes on either side. Is there objection?

Mr. JAMES. Mr. Speaker, I object.

Mr. HENRY of Texas. Mr. Speaker, I yield three minutes to the gentleman from Kentucky [Mr. STANLEY].

Mr. STANLEY. Mr. Speaker, great deference is due one of the lineal descendants of Thomas Jefferson, but we should remember that the spiritual descendants of Thomas Jefferson number many millions [applause], and those who worship at that shrine, those who have learned the great lessons of civil liberty from that immortal teacher, have a right to be heard and a right to be considered. It is not for the sake of the dead, but for the sake of the living, that we desire to make this home a sacred shrine to all who seek or who love liberty anywhere in the world, without let, without hindrance, without cost. You would think, sir, from what has been said here that this Congress was preparing without further ado to seize Monticello. Nothing is further from the truth, nothing is more remote from the facts in the case. If this place can not be secured legally, does anyone believe, does this House believe, that the Senate, without one dissenting voice, would do this unconstitutional thing? Why, it is easier for a camel to go through the eye of a needle than for a constitutional question to get through the Senate. If there were any such trouble as that which seems to stalk like a hobgoblin through this House, it would never have passed the Senate. Mr. Speaker, they are objecting not to the taking of this place by condemnation proceedings—I would not approve of that—but here is a new idea of the sacredness of property. I have the greatest deference for my colleague, the gentleman from New York [Mr. LEVY], but I do not believe that he holds this property by such a peculiar and unique title that it is against the law to ask him what it is worth and if he will not sell it, and yet that is all that this resolution contemplates——

Mr. MANN. Do it now; ask him.

Mr. STANLEY. Mr. Speaker, I can not be interrupted in the three minutes time I have. [Laughter.]

The SPEAKER. The time of the gentleman has expired; all time has expired, and the question is on agreeing to this resolution from the Committee on Rules.

The question was taken, and the Speaker announced the noes seemed to have it.

Mr. HENRY of Texas. Division, Mr. Speaker.

The House proceeded to divide.

Mr. HENRY of Texas. Mr. Speaker, to save time I demand the yeas and nays.

The SPEAKER. The gentleman from Texas demands the yeas and nays; evidently a sufficient number and the yeas and nays are ordered.

The question was taken; and there were—yeas 101, nays 141, answered "present" 10, not voting 138, as follows:

YEAS—101.

Adair	Dent	Kendall	Reilly
Alexander	Denver	Kent	Rothermel
Allen	Dickinson	Kitchin	Rouse
Ashbrook	Dixon, Ind.	Konop	Rubey
Austin	Dodds	Kopp	Russell
Barchfeld	Dupré	Lafferty	Scott
Barnhart	Edwards	Lee, Ga.	Sheppard
Beall, Tex.	Falson	Linthicum	Sisson
Berger	Fergusson	Littlepage	Slemp
Blackmon	Fields	Lobeck	Small
Booher	Francis	Loud	Smith, J. M. C.
Brantley	French	McKellar	Smith, Tex.
Bulkley	Garrett	McLaughlin	Stanley
Burgess	Gill	Maguire, Nebr.	Stedman
Burke, Wis.	Godwin, N. C.	Maher	Steenerson
Burnett	Goeke	Mays	Stephens, Nebr.
Byrnes, S. C.	Hamilton, W. Va.	Miller	Taylor, Ala.
Byrns, Tenn.	Hardwick	Nelson	Thomas
Candler	Hayden	Nye	Towner
Cantrill	Heflin	Oldfield	White
Collier	Henry, Tex.	Palmer	Wilder
Copley	Hensley	Pepper	Wilson, Ill.
Cox, Ind.	Houston	Peters	Young, Tex.
Cox, Ohio	Hull	Pickett	
Cullop	Humphreys, Miss.	Porter	
Davenport	James	Raker	

NAYS—141.

Ainey	Dies	Griest	La Follette
Akin, N. Y.	Difenderfer	Gudger	Lawrence
Anderson	Donohoe	Guernsey	Lee, Pa.
Barthldt	Doremus	Hamilton, Mich.	Lenroot
Bates	Doughton	Hamlin	Lever
Bathrick	Driscoll, D. A.	Hammond	Levy
Boehne	Dyer	Hardy	Lindbergh
Bowman	Ellerbe	Harrison, Miss.	Lloyd
Buchanan	Estopinal	Hawley	McCoy
Burke, Pa.	Farr	Hay	McCreary
Burke, S. Dak.	Ferris	Hayes	McDermott
Burleson	Finley	Heald	McKenzie
Callaway	Fitzgerald	Helgesen	McKinley
Carter	Flood, Va.	Helm	McKinney
Clark, Fla.	Foss	Hinds	Macon
Claypool	Gallagher	Holland	Madden
Cline	George	Howell	Mondell
Cooper	Gillett	Johnson, Ky.	Moon, Tenn.
Curley	Good	Johnson, S. C.	Moore, Pa.
Dalzell	Goodwin, Ark.	Jones	Morgan, La.
Danforth	Green, Iowa	Kahn	Morgan, Okla.
Davis, Minn.	Greene, Mass.	Kinkaid, Nebr.	Morse, Wis.
De Forest	Greene, Vt.	Korbly	Moss, Ind.

Mott	Rees	Speer	Underhill
Neeley	Robinson	Stephens, Cal.	Vare
Padgett	Rodenberry	Stephens, Miss.	Volstead
Page	Rodenberg	Stephens, Tex.	Watkins
Patton, Pa.	Rucker, Mo.	Stone	Wedemeyer
Payne	Saunders	Sulzer	Willis
Pimsley	Shackleford	Sweet	Wilson, Pa.
Powers	Sharp	Switzer	Witherspoon
Prouty	Sherley	Taggart	Wood, N. J.
Rainey	Sherwood	Thistlewood	Young, Kans.
Ransdell, La.	Simmons	Tilson	
Raush	Slayden	Townsend	
Redfield	Sloan	Tribble	

ANSWERED "PRESENT"—10.

Browning	Foster	Hobson	Murray
Butler	Fowler	McMorran	
Cannon	Garner	Mann	

NOT VOTING—138.

Adamson	Floyd, Ark.	Konig	Richardson
Aiken, S. C.	Focht	Lafean	Riordan
Ames	Fordney	Lamb	Roberts, Mass.
Andrus	Fornes	Langham	Roberts, Nev.
Ansberry	Fuller	Langley	Rucker, Colo.
Anthony	Gardner, Mass.	Legare	Sabath
Ayres	Gardner, N. J.	Lewis	Scully
Bartlett	Glass	Lindsay	Sells
Bell, Ga.	Goldfogle	Littleton	Sims
Borland	Gould	Longworth	Smith, Saml. W.
Bradley	Graham	McCall	Smith, Cal.
Broussard	Gray	McGillicuddy	Smith, N. Y.
Brown	Gregg, Pa.	McGuire, Okla.	Sparkman
Calder	Gregg, Tex.	McHenry	Stack
Campbell	Hamill	Martin, Colo.	Sterling
Carlin	Hanna	Martin, S. Dak.	Stevens, Minn.
Cary	Harris	Matthews	Sullowny
Clayton	Harrison, N. Y.	Merritt	Talbott, Md.
Conry	Hart	Moon, Pa.	Talcott, N. Y.
Covington	Hartman	Moore, Tex.	Taylor, Colo.
Crago	Haugen	Morrison	Taylor, Ohio
Cravens	Henry, Conn.	Murdock	Thayer
Crumpacker	Higgins	Needham	Turnbull
Currier	Hill	Norris	Tuttle
Curry	Howard	Olmsted	Underwood
Daugherty	Howland	O'Shaunessy	Vreeland
Davidson	Hughes, Ga.	Parran	Warburton
Davis, W. Va.	Hughes, W. Va.	Patten, N. Y.	Webb
Dickson, Miss.	Humphrey, Wash.	Post	Weeks
Draper	Jackson	Pou	Whitacre
Driscoll, M. E.	Jacoway	Pray	Wilson, N. Y.
Dwight	Kennedy	Prince	Woods, Iowa
Esch	Kindred	Pujo	Young, Mich.
Evans	Kinkead, N. J.	Randell, Tex.	
Fairchild	Knowland	Reyburn	

So the resolution was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. BROWN (for resolution) with Mr. HIGGINS (against).

Mr. GARNER with Mr. MURDOCK.

For balance of day:

Mr. RICHARDSON with Mr. ESCH.

For one week:

Mr. MURRAY with Mr. MCCALL.

Until further notice.

Mr. UNDERWOOD with Mr. MANN.

Mr. PUJO with Mr. MCMORRAN.

Mr. HOLLAND with Mr. OLMSTED.

Mr. FOSTER with Mr. CAMPBELL.

Mr. BELL of Georgia with Mr. GARDNER of New Jersey.

Mr. AIKEN of South Carolina with Mr. AMES.

Mr. WILSON of New York with Mr. CALDER.

Mr. JACOWAY with Mr. LANGLEY.

Mr. HOWARD with Mr. CANNON.

Mr. MORRISON with Mr. CURRIER.

Mr. CARLIN with Mr. KNOWLAND.

Mr. DICKSON of Mississippi with Mr. MERRITT.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. ANSBERRY with Mr. ANTHONY.

Mr. AYRES with Mr. CARY.

Mr. BORLAND with Mr. CRAGO.

Mr. BROUSSARD with Mr. CRUMPACKER.

Mr. HART with Mr. DRAPER.

Mr. CONRY with Mr. MICHAEL E. DRISCOLL.

Mr. HAMILL with Mr. FORDNEY.

Mr. FLOYD of Arkansas with Mr. FULLER.

Mr. GLASS with Mr. HANNA.

Mr. GOLDFOGLE with Mr. HARTMAN.

Mr. GRAHAM with Mr. HAUGEN.

Mr. GRAY with Mr. HENRY of Connecticut.

Mr. GREGG of Pennsylvania with Mr. HILL.

Mr. GREGG of Texas with Mr. HUGHES of West Virginia.

Mr. HUGHES of Georgia with Mr. HUMPHREY of Washington.

Mr. KINDRED with Mr. JACKSON.

Mr. KINKEAD of New Jersey with Mr. KENNEDY.

Mr. KONIG with Mr. LAFEAN.

Mr. LAMB with Mr. LANGHAM.

Mr. LEGARE with Mr. LONGWORTH.

Mr. MCGILLICUDDY with Mr. MARTIN of South Dakota.

Mr. MOORE of Texas with Mr. MATTHEWS.

Mr. O'SHAUNESSY with Mr. MOON of Pennsylvania.

Mr. PATTEN of New York with Mr. NEEDHAM.

Mr. POST with Mr. PRAY.

Mr. POU with Mr. PRINCE.

Mr. RANDELL of Texas with Mr. REYBURN.

Mr. RUCKER of Colorado with Mr. ROBERTS of Nevada.

Mr. SABATH with Mr. ROBERTS of Massachusetts.

Mr. TALCOTT of New York with Mr. SELLS.

Mr. TAYLOR of Colorado with Mr. SAMUEL W. SMITH.

Mr. THAYER with Mr. SMITH of California.

Mr. TURNBULL with Mr. SULLOWAY.

Mr. WHITACRE with Mr. VREELAND.

Mr. HARRISON of New York with Mr. WEEKS.

Mr. LINDSAY with Mr. WOODS of Iowa.

Mr. MARTIN of Colorado with Mr. YOUNG of Michigan.

Mr. SMITH of New York with Mr. HARRIS.

For the session:

Mr. SCULLY with Mr. BROWNING.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. LITTLETON with Mr. DWIGHT.

Mr. FORNES with Mr. BRADLEY.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. RIORDAN with Mr. ANDRUS.

Mr. BARTLETT with Mr. BUTLER.

Mr. BROWNING. Mr. Speaker, I voted "nay." I am paired with my colleague, Mr. SCULLY, and I wish to withdraw my vote and vote "present."

The SPEAKER. The Clerk will call the gentleman's name.

The name of Mr. BROWNING was called, and he voted "present."

Mr. MANN. Mr. Speaker, I voted "nay." I am paired with the gentleman from Alabama, Mr. UNDERWOOD, who I understand did not vote.

The SPEAKER. Call the gentleman's name.

The name of Mr. MANN was called, and he voted "present."

Mr. MURRAY. Mr. Speaker, may I inquire whether or not the gentleman from Massachusetts, Mr. MCCALL, has voted?

The SPEAKER. He has not voted.

Mr. MURRAY. I have a pair with the gentleman. Therefore I desire to change my vote from "nay" to "present."

The SPEAKER. The Clerk will call the gentleman's name.

The name of Mr. MURRAY was called, and he voted "present."

The result of the vote was announced as above recorded.

On motion of Mr. DALZELL, a motion to reconsider the vote by which the resolution was rejected was laid on the table.

PRINTING OF MANUAL AND DIGEST.

Mr. HENRY of Texas. Mr. Speaker. I offer the following resolution and ask for its consideration.

The SPEAKER. The gentleman from Texas [Mr. HENRY] offers a privileged resolution, which the Clerk will report.

Mr. STEPHENS of Texas. Mr. Speaker——

The SPEAKER. The Chair will recognize the gentleman from Texas [Mr. STEPHENS] in a minute.

Mr. HENRY of Texas. Does the Chair recognize me?

The SPEAKER. Yes.

Mr. HENRY of Texas. Mr. Speaker, I ask for the reading of the resolution.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 739.

Resolved, That there be printed 2,000 copies of the Digest and Manual of the Rules of the House of Representatives for the third session of the Sixty-second Congress, the same to be bound and distributed under the direction of the Clerk and Doorkeeper of the House.

The SPEAKER. Is there objection to the present consideration of this resolution?

There was no objection.

The resolution was agreed to.

RESIGNATION FROM COMMITTEE.

The SPEAKER laid before the House the following communication:

WASHINGTON, D. C., *December 9, 1912.*

Hon. CHAMP CLARK,
Speaker of the House of Representatives,
Washington, D. C.

SIR: I hereby respectfully tender my resignation as a member of Elections Committee No. 3 of the House of Representatives, the same to take effect immediately.

Yours, truly,

HENRY ALLEN COOPER.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

SITE FOR COURTHOUSE, HELENA, ARK.

Mr. ROBINSON. Mr. Speaker, I beg to take from the Speaker's table the bill S. 3436, and move to agree to the conference asked for by the Senate.

Mr. MANN. I hope the gentleman will let it go over until we see what the Senate does about it in the RECORD.

Mr. ROBINSON. The Senate has done nothing about it, but asks for a conference.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (S. 3436) granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse.

The SPEAKER. The gentleman from Arkansas moves to take the bill from the Speaker's table and agree to the conference asked for by the Senate.

The motion was agreed to.

The SPEAKER announced the following conferees: Mr. ROBINSON, Mr. GRAHAM, and Mr. VOLSTEAD.

INVESTIGATION OF THE PATENT OFFICE.

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, with the accompanying documents and illustrations, referred to the Committee on Patents and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a report relating to an investigation of the United States Patent Office made by the Commission on Economy and Efficiency pursuant to the joint resolution approved August 21, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *December 9, 1912.*

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to call up the bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes for the fiscal year ending June 30, 1914, and ask that the House resolve itself into Committee of the Whole House on the state of the Union for its consideration.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 26874, the Indian appropriation bill, with Mr. ROBINSON in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the Indian appropriation bill, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes for the fiscal year ending June 30, 1914.

Mr. STEPHENS of Texas. Mr. Chairman, I move to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from Texas [Mr. STEPHENS] moves that the first reading of the bill be dispensed with.

Mr. MANN. Reserving the right to object, Mr. Chairman, may I inquire of the gentleman from Texas whether, if the first reading of the bill be now dispensed with, it is his intention to at once move that the committee rise?

Mr. STEPHENS of Texas. It is. To-morrow the bill will be read under the five-minute rule for amendment.

Mr. MANN. May I inquire further, whether it is the intention of the gentlemen in charge of the House to go ahead with the Indian appropriation bill to-morrow, or to go ahead with the election contest case, according to the notice given by the gentleman from Ohio [Mr. ANSBERRY] the other day?

Mr. STEPHENS of Texas. I will state that we desire to finish this bill as speedily as possible and to regard it as unfinished business. We desire to proceed with the bill.

Mr. MANN. That is not what I am asking. I am asking whether the gentlemen in charge of the House have agreed as to which measure shall come up. I think it is but fair to this side of the House that we should know. May I ask the gentleman from Ohio [Mr. ANSBERRY] whether it is his intention to proceed to-morrow with the election case?

Mr. ANSBERRY. It is.

Mr. MANN. I do not object to dispensing with the first reading of the bill.

The CHAIRMAN. Is there objection to dispensing with the first reading of the bill?

There was no objection.

Mr. STEPHENS of Texas. Then, Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. ROBINSON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26874, the Indian appropriation bill, and had come to no resolution thereon.

COMMITTEE ON ARRANGEMENTS, INAUGURAL CEREMONIES.

Mr. GARRETT. Mr. Speaker, I call from the Speaker's table Senate concurrent resolution No. 31, and ask unanimous consent for its present consideration.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

Senate concurrent resolution 31.

Resolved by the Senate (the House of Representatives concurring), That a joint committee, consisting of three Senators and three Representatives, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next.

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman if he has examined the resolution to ascertain if this is the usual form of resolution for this purpose?

Mr. GARRETT. Mr. Speaker, it is in the precise language used four years ago and eight years ago.

The SPEAKER. The gentleman from Tennessee [Mr. GARRETT] asks unanimous consent to take this Senate resolution from the Speaker's table and consider it now. Is there objection?

There was no objection.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

The SPEAKER. The Chair appoints Mr. RUCKER of Missouri, Mr. GARRETT, and Mr. MCKINLEY as members of the joint committee on the part of the House.

EXTENSION OF REMARKS.

Mr. HENRY of Texas. Mr. Speaker, I ask unanimous consent that those Members who have addressed the House on the resolution reported from the Committee on Rules concerning Monticello be allowed to extend their remarks in the RECORD.

The SPEAKER. The gentleman from Texas [Mr. HENRY] asks unanimous consent that those who have addressed the House on the Monticello resolution be allowed the privilege of extending their remarks in the RECORD—for how long?

Mr. HENRY of Texas. For five days.

Mr. MANN. Reserving the right to object, I wish to say that the gentleman from Pennsylvania [Mr. DALZELL] in charge of the time in opposition to the resolution had agreed to give me a few moments of time. It passed out of his mind, and he gave out all the time. Subsequently he conferred with the gentleman from Texas [Mr. HENRY] in reference to extending the time for five minutes in order that I might have the opportunity of addressing the House, and at the request of the gentleman from Kentucky [Mr. JAMES] or the suggestion of the gentleman from Tennessee [Mr. GARRETT] the gentleman from Texas [Mr. HENRY] and the gentleman from Kentucky objected.

Mr. HENRY of Texas. Is the gentleman sure that I made that objection? If he is not, he ought not to make the statement, because the statement is not correct.

Mr. MANN. If the gentleman says that he did not make the suggestion, I withdraw the statement.

The SPEAKER. Is the gentleman from Illinois objecting to this request?

Mr. HENRY of Texas. Furthermore, I will say that I had no objection.

Mr. MANN. But the gentleman from Kentucky [Mr. JAMES], who had addressed the House, having five minutes of time himself—one-quarter of the time on that side of the House—objected to letting anybody else address the House.

Mr. HENRY of Texas. It was not at my instigation. The gentleman must not make that kind of statement.

The SPEAKER. Does the gentleman from Illinois [Mr. MANN] object to the request of the gentleman from Texas for unanimous consent that all gentleman who have made speeches on the Monticello resolution may extend their remarks in the RECORD at any time within five days?

Mr. MANN. I shall not object, lest people might think it was on account of what I said; but I desire to give notice now that there will not be as many extensions of remarks at this session as there were at the last session. It has been run into the ground.

Mr. FITZGERALD. I shall be glad to have the gentleman's aid in the attempt to economize.

Mr. GARRETT. Reserving the right to object, I wish to ask the gentleman from Illinois if in referring to "the gentle-

man from Tennessee" he referred to this gentleman from Tennessee?

Mr. MANN. I did not refer to the gentleman from Tennessee.

Mr. GARRETT. The gentleman used the expression "the gentleman from Tennessee."

Mr. MANN. But I immediately changed it.

The SPEAKER. Is there objection?

There was no objection.

Mr. LEVY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. RAINEY. I ask unanimous consent to extend my remarks in the RECORD.

Mr. FERRIS. I make a similar request.

Mr. MANN. I shall object to any further requests. If we must have drastic rules brought in here, and the time limited to 20 minutes, I do not propose to let anybody else get into the RECORD.

The SPEAKER. Is there objection to the requests of the gentleman from Illinois and the gentleman from Oklahoma?

Mr. MANN. No; I am not objecting to these requests that are already made. I stated that I would object to any further requests. When gentlemen are not courteous enough to give other gentlemen the opportunity, I shall object.

The SPEAKER. Three gentlemen were in that first proposition, the gentleman from New York [Mr. LEVY], the gentleman from Illinois [Mr. RAINEY], and the gentleman from Oklahoma [Mr. FERRIS]. Is there objection to those three?

There was no objection.

Mr. CARTER. I make a similar request.

The SPEAKER. The gentleman from Oklahoma [Mr. CARTER] has made a similar request, but did not come in in the first proposition.

Mr. MANN. I object to any further requests.

The SPEAKER. The gentleman from Illinois objects.

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 19 minutes p. m.) the House adjourned until Tuesday, December 10, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of the Lake of the Woods at or near Arnesen, Minn. (H. Doc. No. 1099); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Core Creek, N. C. (H. Doc. No. 1097); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination and survey of South River, N. C. (a tributary of Pamlico River), (H. Doc. No. 1095); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Sandusky River, Ohio (H. Doc. No. 1086); to the Committee on Rivers and Harbors and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Bayou Lafourche, La. (H. Doc. No. 1102); to the Committee on Rivers and Harbors and ordered to be printed.

6. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Great Sodus Bay, N. Y. (H. Doc. No. 1089); to the Committee on Rivers and Harbors and ordered to be printed.

7. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Nehalem River, Oreg. (H. Doc. No. 1104); to the Committee on Rivers and Harbors and ordered to be printed.

8. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, reports on preliminary examination and survey of Edenton Bay, N. C. (H. Doc. No. 1096); to the Committee on Rivers and Harbors and ordered to be printed.

9. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Pineland Channel, Fla. (H. Doc. No. 1092); to the Committee on Rivers and Harbors and ordered to be printed.

10. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Darien Harbor and Doboy Bar, Ga. (H. Doc. No. 1091); to the Committee on Rivers and Harbors and ordered to be printed.

11. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of the harbor of Belhaven, N. C., and entrance thereto (H. Doc. No. 1098); to the Committee on Rivers and Harbors and ordered to be printed.

12. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Camden Harbor, Me. (H. Doc. No. 1093); to the Committee on Rivers and Harbors and ordered to be printed.

13. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Two Rivers, Wis.; also relative to terminal facilities at this locality (H. Doc. No. 1090); to the Committee on Rivers and Harbors and ordered to be printed.

14. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination and plan and estimate of cost of improvement of Chincoteague Inlet, Va. (H. Doc. No. 1094); to the Committee on Rivers and Harbors and ordered to be printed.

15. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Frederica River at or near Fort Frederica, Ga. (H. Doc. No. 1088); to the Committee on Rivers and Harbors and ordered to be printed.

16. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Lemon Creek, N. Y. (H. Doc. No. 1103); to the Committee on Rivers and Harbors and ordered to be printed.

17. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of the Hudson River at Albany and Rensselaer, N. Y. (H. Doc. No. 1087); to the Committee on Rivers and Harbors and ordered to be printed.

18. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of North Fork of Kentucky River, Ky. (H. Doc. No. 1101); to the Committee on Rivers and Harbors and ordered to be printed.

19. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Cape Charles City Harbor, Va. (H. Doc. No. 1085); to the Committee on Rivers and Harbors and ordered to be printed.

20. A letter from the Postmaster General, transmitting a report of the finances of the department for the preceding year and a report of the amount expended in the department (H. Doc. 1108); to the Committee on Expenditures in the Post Office Department and ordered to be printed.

21. A letter from the Secretary of the Navy, submitting detailed statement of expenditures under the contingent appropriations for the Navy Department for the fiscal year ended June 30, 1912 (H. Doc. No. 1107); to the Committee on Expenditures in the Navy Department and ordered to be printed.

22. A letter from the Secretary of War, transmitting report of expenditures on account of appropriation for contingencies of the Army, 1912 (H. Doc. No. 1106); to the Committee on Expenditures in the War Department and ordered to be printed.

23. A letter from the Secretary of War, transmitting final report of the commission appointed to continue the work of locating and marking the graves of Confederate dead (H. Doc. No. 1105); to the Committee on Military Affairs and ordered to be printed.

24. A letter from the Secretary of War, transmitting 1,847 reports of inspections of disbursements and transfers by officers of the Army, received in the office of the Inspector General during the past fiscal year (H. Doc. No. 975); to the Committee on Expenditures in the War Department.

25. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Edmonds Harbor, Wash. (H. Doc. No. 1100); to the Committee on Rivers and Harbors and ordered to be printed.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 26406) granting an increase of pension to Samuel A. Pearce, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HARDWICK: A bill (H. R. 26936) authorizing the Secretary of War to donate to the city of Augusta, Ga., certain bronze cannon and cannon balls; to the Committee on Military Affairs.

By Mr. RAKER: A bill (H. R. 26937) granting a pension of $25 per month to certain widows of soldiers and sailors who served in the Civil War for a period of six months or more and who were honorably discharged therefrom or who died or were killed while so serving; to the Committee on Invalid Pensions.

By Mr. CALLAWAY: A bill (H. R. 26938) to provide for a public building at Comanche, Tex.; to the Committee on Public Buildings and Grounds.

By Mr. BARTHOLDT: A bill (H. R. 26939) to provide for the erection of a statue at the Panama Canal to be symbolic of universal peace, and to appropriate money therefor; to the Committee on the Library.

By Mr. JOHNSON of Kentucky (by request of the Commissioners of the District of Columbia: A bill (H. R. 26940) to authorize the extension of Twenty-fifth Street SE. and of White Place; to the Committee on the District of Columbia.

By Mr. MARTIN of South Dakota: A bill (H. R. 26941) providing for the disposal of certain lands containing coal and other minerals within portions of Indian reservations heretofore opened to settlement and entry in the State of South Dakota; to the Committee on the Public Lands.

Also, a bill (H. R. 26942) providing for the disposal of certain lands containing coal and other minerals within portions of Indian reservations heretofore opened to settlement and entry; to the Committee on the Public Lands.

By Mr. RAKER: A bill (H. R. 26943) to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal.; to the Committee on the Public Lands.

By Mr. UNDERWOOD: A bill (H. R. 26944) for the purchase of a site and the erection thereon of a public building at Birmingham, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. KENT: A bill (H. R. 26945) for the purchase of a site and the erection thereon of a public building at Willows, Cal.; to the Committee on Public Buildings and Grounds.

By Mr. CARLIN: A bill (H. R. 26946) to create a national university at the seat of the Federal Government; to the Committee on Education.

By Mr. J. M. C. SMITH: A bill (H. R. 26947) to enlarge, extend, remodel, etc., post-office building at Battle Creek, Mich.; to the Committee on Public Buildings and Grounds.

By Mr. DONOHOE: A bill (H. R. 26948) to authorize certain enlisted men of the United States Army to count their service continuous; to the Committee on Military Affairs.

By Mr. RUCKER of Missouri: A bill (H. R. 26949) to increase the limit of cost of the United States post-office building at Chillicothe, Mo., heretofore authorized by Congress; to the Committee on Public Buildings and Grounds.

By Mr. FRENCH: A bill (H. R. 26950) to protect the rights of women citizens of the United States to register and vote for the Members of the House of Representatives; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. ALLEN: Resolution (H. Res. 738) authorizing the appointment of a committee to investigate as to whether or not in certain factories and districts food products are canned under dirty and insanitary conditions, whether hours of employment are unreasonable, and whether the pure-food laws of the United States are being violated; to the Committee on Rules.

By Mr. BURKE of Pennsylvania: Joint resolution (H. J. Res. 366) authorizing the Secretary of War to transfer to the city of Pittsburgh, Pa., or to the board of public education of the city of Pittsburgh, a part of the arsenal grounds at Pittsburgh in exchange for other grounds to be transferred to the United States; to the Committee on Mines and Mining.

By Mr. LINDBERGH: Joint resolution (H. J. Res. 367) requiring Members of the Senate and the House of Representatives to file a statement showing their own interests or the interests of members of their families in corporations or other concerns doing a banking, loaning, or brokerage business; to the Committee on Election of President, Vice President, and Representatives in Congress.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 26951) granting an increase of pension to Victoria Hill; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26952) granting an increase of pension to Samuel H. Bitler; to the Committee on Invalid Pensions.

By Mr. ALLEN: A bill (H. R. 26953) granting an increase of pension to Catharine Hospes; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26954) granting a pension to Eliza M. Drummond; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26955) granting an increase of pension to Anna M. Henshaw; to the Committee on Invalid Pensions.

By Mr. ALEXANDER: A bill (H. R. 26956) granting an increase of pension to Richard P. Wardell; to the Committee on Pensions.

By Mr. ANSBERRY: A bill (H. R. 26957) granting a pension to Clara Sill; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 26958) granting a pension to Mary C. Kaiser; to the Committee on Invalid Pensions.

By Mr. AUSTIN: A bill (H. R. 26959) granting an increase of pension to Richard P. Chandler; to the Committee on Invalid Pensions.

By Mr. BARTHOLDT: A bill (H. R. 26960) for the relief of the Buffalo River Zinc Mining Co.; to the Committee on Claims.

By Mr. CRAGO: A bill (H. R. 26961) granting a pension to Ida V. Moore; to the Committee on Invalid Pensions.

By Mr. CRAVENS: A bill (H. R. 26962) for the relief of the estate of Thomas Daly; to the Committee on War Claims.

By Mr. CULLOP: A bill (H. R. 26963) granting an increase of pension to James Williams; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26964) granting an increase of pension to Joel H. Morgan; to the Committee on Invalid Pensions.

By Mr. DYER: A bill (H. R. 26965) granting a pension to John J. Ledford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26966) granting a pension to Martha Pendergras; to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 26967) granting a pension to Anna N. Carson; to the Committee on Invalid Pensions.

By Mr. FRANCIS: A bill (H. R. 26968) to appoint Brig. Gen. William P. Rogers, United States Army, a major general on the retired list of the United States Army; to the Committee on Military Affairs.

By Mr. GOOD: A bill (H. R. 26969) granting a pension to Mary J. Mitchell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26970) granting an increase of pension to Richard Woodland; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26971) granting an increase of pension to Michael Sullivan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26972) granting an increase of pension to Henry G. Gibbs; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26973) granting an increase of pension to Elisha D. Ely; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26974) granting an increase of pension to William Bales; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 26975) granting an increase of pension to James Lawdon; to the Committee on Pensions.

By Mr. HOLLAND: A bill (H. R. 26976) for the relief of William R. Cherry; to the Committee on War Claims.

By Mr. KONOP: A bill (H. R. 26977) granting a pension to Robert H. Burden; to the Committee on Pensions.

Also, a bill (H. R. 26978) granting a pension to Genovefa Gronnert; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26979) granting a pension to Adam Reuland; to the Committee on Pensions.

By Mr. McGILLICUDDY: A bill (H. R. 26980) granting a pension to Eugene Belanger; to the Committee on Pensions.

Also, a bill (H. R. 26981) granting an increase of pension to Alvin D. Lane; to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 26982) to remove the charge of desertion from the record of John M. Green; to the Committee on Military Affairs.

By Mr. POST: A bill (H. R. 26983) granting a pension to Lida J. Paul; to the Committee on Invalid Pensions.

By Mr. PRINCE: A bill (H. R. 26984) granting a pension to Leo C. Zindel; to the Committee on Pensions.

By Mr. REILLY: A bill (H. R. 26985) granting a pension to Patrick Lallay; to the Committee on Pensions.

Also, a bill (H. R. 26986) granting an increase of pension to Ann Stanford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26987) granting an increase of pension to Honora Higgins; to the Committee on Invalid Pensions.

By Mr. REYBURN: A bill (H. R. 26988) granting an increase of pension to Cinderella B. McClure; to the Committee on Invalid Pensions.

By Mr. ROBINSON: A bill (H. R. 26989) for the relief of the heirs of James Thompson, deceased; to the Committee on War Claims.

By Mr. SHACKLEFORD: A bill (H. R. 26990) granting a pension to Fritz Meyer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26991) granting a pension to Jennie Smith; to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 26992) granting an increase of pension to Joseph L. Bostwick; to the Committee on Invalid Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 26993) granting an increase of pension to George A. Gary; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26994) granting an increase of pension to Sylvester Rumsey; to the Committee on Invalid Pensions.

By Mr. TALCOTT of New York: A bill (H. R. 26995) granting an increase of pension to William Dyas; to the Committee on Invalid Pensions.

By Mr. VARE: A bill (H. R. 26996) granting an increase of pension to Dennis P. Parker; to the Committee on Invalid Pensions.

By Mr. WILLIS: A bill (H. R. 26997) granting an increase of pension to Lemuel H. Mahan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26998) granting an increase of pension to Bateman Zoll; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 26999) granting an increase of pension to Walter Mason; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of the Baltimore Clothing Co. and 20 other merchants of Uhrichsville, Ohio, favoring passage of legislation giving the Interstato Commerce Commission further power toward controlling express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. AYRES: Petition of the Pennsylvania State Council of the Order of Independent Americans, Philadelphia, Pa., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. BARTHOLDT: Papers to accompany bill for the relief of the Buffalo River Zinc Mining Co.; to the Committee on Claims.

By Mr. BURKE of South Dakota: Petition of citizens of South Dakota, favoring passage of legislation giving the Interstate Commerce Commission further power toward controlling the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. BUTLER: Petition of citizens of Pennsylvania, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. CAMPBELL: Petition of citizens of the third district of Kansas, protesting against further enlargement of the parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. CRAVENS: Papers to accompany the bill for the relief of Thomas Daly; to the Committee on War Claims.

By Mr. DAVIS of Minnesota: Petition of merchants of the third district of Minnesota, protesting against further enlargement of the parcel-post act; to the Committee on the Post Office and Post Roads.

By Mr. DYER: Petition of the National Wholesale Liquor Dealers' Association of America, Cincinnati, Ohio, protesting against the passage of the Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

Also, petition of M. Henry Bollman, St. Louis, Mo., favoring passage of bill for Federal protection of migratory birds; to the Committee on Agriculture.

Also, papers to accompany bill granting a pension to Martha Lendergras; to the Committee on Invalid Pensions.

Also, papers to accompany bill (H. R. 26254) granting pension to Lincoln Mothersbaugh; to the Committee on Invalid Pensions.

Also, petition of Elizabeth Jamieson, St. Louis, Mo., favoring passage of bill giving Federal protection to migratory birds; to the Committee on Agriculture.

By Mr. FORNES: Petition of the State Council of Pennsylvania, Order of Independent Americans, Philadelphia, Pa., favoring the passage of Senate bill No. 3175 for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Flanders & Co., New York, N. Y., and citizens of New York and Brooklyn, favoring the passage of House bill 26277, creating a United States court of patent appeals; to the Committee on the Judiciary.

Also, petition of the Chamber of Commerce of the State of New York, protesting against placing the Board of General Appraisers under control of the Treasury Department; to the Committee on Expenditures in the Treasury Department.

Also, petition of the American Embassy Association, New York, favoring the passage of House bill 22589, making an appropriation for the building of United States diplomatic buildings; to the Committee on Foreign Affairs.

Also, petition of the Lake Michigan Sanitary Association, Chicago, Ill., favoring appropriation for the investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. FULLER: Petition of Ralph G. Crisman, president Portland (Ill.) Commercial Association, favoring the passage of House bill 22589, making an appropriation for diplomatic building; to the Committee on Foreign Affairs.

By Mr. HARTMAN: Petition of the Pennsylvania State Camp, Patriotic Order Sons of America; State Council of Pennsylvania, Order of Independent Americans, Philadelphia, Pa.; and State Camp of New York, Patriotic Order Sons of America, Binghamton, N. Y., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. HOWELL: Petition of citizens of Utah, favoring the regulation of express rates by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. MARTIN of South Dakota: Petition of citizens of Hot Springs, Belle Fourche, and Hermosa, S. Dak., protesting against any legislation enlarging the present parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. McKELLAR: Petition of citizens of the tenth district of Tennessee, favoring passage of legislation giving the Interstate Commerce Commission further power toward regulating the express rates and classifications; to the Committee on the Post Office and Post Roads.

By Mr. MOORE of Pennsylvania: Petition of the State Council of Pennsylvania, Order of Independent Americans, favoring passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. MOTT: Petition of the Manila Welfare Association, favoring the reclaiming and making sanitary the lowlands around Manila; to the Committee on Appropriations.

Also, petition of the State Camp of New York, Patriotic Order Sons of America, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. REILLY: Petition of the Automatic Transportation Co., New York, N. Y., favoring an appropriation for meeting extra expenses that might occur by the parcel-post act going into effect; to the Committee on the Post Office and Post Roads.

SENATE.

TUESDAY, *December 10, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

TRANS-MISSISSIPPI COMMERCIAL CONGRESS.

The PRESIDENT pro tempore (Mr. BACON). The Chair lays before the Senate a communication from the Secretary of the Trans-Mississippi Commercial Congress, which met in the city of Salt Lake, Utah, August 27 to 30, 1912, transmitting copy of resolutions adopted by that body as to various subjects matter of legislation. The resolutions cover so many different subjects of legislation that it is not practicable to refer the communication to any one committee. The Chair will therefore direct that it be noted and lie on the table, subject to the inspection of Senators.

PARCEL-POST INVESTIGATION.

The PRESIDENT pro tempore laid before the Senate the following letter, which was read and ordered to lie on the table:

TRENTON, N. J., *December 9, 1912.*

Hon. A. O. BACON,
President pro tempore United States Senate,
Washington, D. C.

MY DEAR SIR: On account of ill health, which may prevent my attending the meetings during the present session, I tender my resignation as a member of the joint committee to make further inquiry into the subject of parcel post.

Yours, very sincerely, FRANK O. BRIGGS.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a telegram in the nature of a petition from the Federal Council of the Churches of Christ in America, in session in Chicago, Ill., praying for the passage of the Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BRANDEGEE presented a memorial of members of the German-American Alliance of Connecticut, remonstrating against the passage of the so-called Kenyon interstate liquor bill, which was ordered to lie on the table.

Mr. OLIVER presented a resolution adopted by the Board of Trade of Chester, Pa., favoring the establishment of a United States Court of Patent Appeals, which was referred to the Committee on Patents.

He also presented memorials of Local Unions No. 22 and No. 144, of Pittsburgh, and of Local Union No. 206, of Lancaster, United Brewery Workers, and of the Western Branch of the Wholesale Liquor Dealers' Association of Pennsylvania, all in the State of Pennsylvania, remonstrating against the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

He also presented a petition of sundry citizens of Shirleyburg, Pa., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

Mr. PERKINS presented resolutions adopted by the board of directors of the Modesto irrigation district, at Modesto, Cal., remonstrating against the proposed change in the boundary of Yosemite National Park, which were referred to the Committee on Public Lands.

Mr. CURTIS presented petitions of sundry citizens of Ellinwood, Selden, Norton, Burdett, and Ness City, all in the State of Kansas, praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

Mr. McLEAN presented a memorial of members of the German-American Alliance of Connecticut, remonstrating against the passage of the Kenyon interstate liquor bill, which was ordered to lie on the table.

Mr. PENROSE presented memorials of Local Union No. 363, Brewery Workers' Union, of Charlerol; of Local Union No. 264, United Brewery Workmen, of Allentown; of the German-American Alliance of Pennsylvania; and of sundry citizens of Wilkes-Barre, all in the State of Pennsylvania, remonstrating against the passage of the Kenyon interstate liquor bill, which were ordered to lie on the table.

Mr. DU PONT presented resolutions adopted by the Delaware Christian Endeavor Union at Laurel, Del., favoring the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

SUBSTITUTION OF COTTON FOR JUTE.

Mr. DAVIS. Mr. President, I present a petition and ask that it be read and referred to the Committee on Finance.

There being no objection, the petition was read and referred to the Committee on Finance, as follows:

PARIS, TEX., *November 11, 1912.*

Hon. CHARLES A. CULBERSON, United States Senator, Dallas, Tex.; Hon. J. W. BAILEY, United States Senator, Gainesville, Tex.; Hon. MORRIS SHEPPARD, M. C., Texarkana, Tex.; Hon. ROBERT L. OWEN, United States Senator, Muskogee, Okla.; Hon. THOMAS P. GORE, United States Senator, Lawton, Okla.; Hon. ROBERT BROUSSARD, New Iberia, La.; Hon. JAMES P. CLARKE, United States Senator, Little Rock, Ark.; Hon. JEFF DAVIS, United States Senator, Little Rock, Ark.; Hon. MURPHY J. FOSTER, United States Senator, Franklin, La.; Hon. JOHN R. THORNTON, United States Senator, Alexandria, La.; and Hon. JOSEPH E. RANSDELL, M. C., Lake Providence, La.

GENTLEMEN: We, the undersigned, have been appointed a committee by the National Farmers' Union for the purpose of assisting in the work of a "greater consumption of cotton," and from our interview with the Secretary of the United States Navy, the United States Secretary of War, and the Postmaster General, we are of the opinion that while these departments are perfectly willing to have cotton-made materials used instead of those made in jute, they have not authority to do so, as our existing laws demand of them that they use the cheapest materials in ordering supplies.

We took the matter up with the American Sugar Refining Co., which firm, after investigating, reported to our committee that while cotton sacks would cost them a little more money than jute sacks, at the same time they recognized the fact that American citizens should use cotton-made articles and that they would absorb the difference in price and would agree to sell their sugar in double cotton bags, instead of jute bags, at the same price they charge for sugar in jute sacks.

The Navy and War Departments of our Government use supplies which annually consume thousands of sacks and thousands of tons of wrapping twine and rope made of jute, and the Post Office Department uses hundreds of tons of wrapping twine annually made in jute.

Cotton is no longer a sectional question. It is an interstate proposition. In fact its importance can not be overestimated to the welfare of the United States Government, as to-day it is the one farm product which turns the world's balance of trade in favor of the United States of America and brings from foreign shores to the United States of America annually more cash than any one farm product.

The raisers and manufacturers of cotton are citizens of the United States and spend all their money here and contribute to the support of our National Government.

All of the money spent for cotton made articles remains in the United States. Ninety-five cents of every dollar spent by American citizens for jute and jute made articles is consumed abroad and never returns to the United States of America.

Many years ago the English Government passed a law specifying that all goods made from wool and used by any part of the English Government should be made only from English grown wool.

For the above and many other reasons we ask you gentlemen to at once take steps when Congress convenes in December to have the law so amended that all departments of the United States Government specify "cotton bags" when ordering supplies that come packed in sacks, and that "wrapped in cotton cloth" be added for such supplies as come wrapped in cloth, and cotton wrapping twine and cotton rope be substituted for rope and wrapping twine made from jute.

The importance of this will certainly appeal to every sober-thinking American citizen, and we request your earnest, careful, and constant attention until cotton made articles entirely take the place of those made in jute in goods ordered in the use of the United States Government.

We further ask that you take this matter up with other Members of the House of Representatives from your respective States and enlist the cooperation of all the Senators and Representatives from other States, and we request that you write your views to each of us, and also mail copies of any letters you may write to different parties on the subject to the chairman of our committee at Paris, Tex.

The American Sugar Refining Co. stated that they will request their customers to specify "in cotton bags" when ordering sugar, but the charge will be the same for sugar packed in cotton bags as it is for sugar packed in jute bags.

We further request that you have this letter read before the Senate and House of Representatives and entered in the Journals of each branch of Congress, and kindly send several copies of the Journals containing it to each member of our committee, and also to Mr. Charles S. Barrett, Union City, Ga., and Mr. A. C. Davis, secretary National Farmers' Union, Rogers, Ark.

Awaiting your advices, we remain, yours, respectfully,

R. D. BOWEN, *Chairman, Paris, Tex.*
JAS. W. BIARD, *Secretary, Paris, Tex.*
J. N. MCCOLLISTER, *Mony, La.*
W. F. BELDEN, *Maramec, Okla.*
W. T. TATE, *Camden, Ark.*

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CRAWFORD:

A bill (S. 7676) granting an increase of pension to George W. Barrett (with accompanying paper); to the Committee on Pensions.

By Mr. SMOOT:

A bill (S. 7677) granting a pension to Ellen E. Clark (with accompanying paper); to the Committee on Pensions.

By Mr. MASSEY:

A bill (S. 7678) relating to the recording of notice and certificate of location of mining claims in certain cases; to the Committee on Mines and Mining.

By Mr. SANDERS:

A bill (S. 7679) to authorize the President of the United States to appoint by selection an additional major general of the United States Army; to the Committee on Military Affairs.

By Mr. CLAPP:

A bill (S. 7680) to prohibit unfair discrimination between different sections, communities, or localities, unfair competition, and providing penalties therefor; to the Committee on Interstate Commerce.

By Mr. ASHURST:

A bill (S. 7681) granting a pension to Harriet A. Davison; to the Committee on Pensions.

By Mr. MARTINE of New Jersey:

A bill (S. 7682) granting an increase of pension to John Snyder (with accompanying papers); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 7683) granting a pension to William H. Ryley;

A bill (S. 7684) granting an increase of pension to Catherine T. Williams; and

A bill (S. 7685) granting an increase of pension to Almantha Cunningham; to the Committee on Pensions.

By Mr. CURTIS:

A bill (S. 7686) to vacate the town site of Voltaire, Sherman County, Kans.; to the Committee on Public Lands.

A bill (S. 7687) for the relief of Claus H. Otten (with accompanying papers); to the Committee on Claims.

A bill (S. 7688) for the relief of James L. Wallace, his heirs or assigns (with accompanying papers); to the Committee on Indian Depredations.

A bill (S. 7689) granting an increase of pension to John C. Swaney;

A bill (S. 7690) granting an increase of pension to Ira C. Sage;

A bill (S. 7691) granting an increase of pension to Franklin Stilson;

A bill (S. 7692) granting an increase of pension to William H. Ruckle;

A bill (S. 7693) granting an increase of pension to John F. Spence (with accompanying papers);

A bill (S. 7694) granting an increase of pension to Allen Brown (with accompanying paper);

A bill (S. 7695) granting an increase of pension to Eliza G. McKinstry (with accompanying paper);

A bill (S. 7696) granting an increase of pension to David M. Ferguson (with accompanying papers);

A bill (S. 7697) granting an increase of pension to James M. Dumendel (with accompanying papers);

A bill (S. 7698) granting an increase of pension to Tillman H. Snyder (with accompanying papers);

A bill (S. 7699) granting an increase of pension to Simon K. Mann (with accompanying papers); and

A bill (S. 7700) granting a pension to Catharine Sershon (with accompanying papers); to the Committee on Pensions.

By Mr. BURTON:

A bill (S. 7701) granting an increase of pension to Sarah B. Paden;

A bill (S. 7702) granting an increase of pension to Levin A. Harvey; and

A bill (S. 7703) granting a pension to Jennie E. Howell; to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 7704) authorizing the Department of State to deliver to Capt. P. H. Uberroth, United States Revenue-Cutter Service, and Gunner Carl Johanuson, United States Revenue-Cutter Service, watches tendered to them by the Canadian Government (with accompanying paper); to the Committee on Foreign Relations.

A bill (S. 7705) granting a pension to Jessie Byerly; and

A bill (S. 7706) granting an increase of pension to George W. Cross; to the Committee on Pensions.

By Mr. CLAPP:

A bill (S. 7707) for the relief of John W. Cupp; to the Committee on Claims.

RELIEF OF PERSONS ERRONEOUSLY CONVICTED (S. DOC. NO. 974).

Mr. SUTHERLAND. I introduce a bill for reference to the Committee on the Judiciary, and in connection with the bill I ask to have printed as a Senate document certain matter which pertains to the merits of the bill and some information in respect to it. I ask that it may be printed as a Senate document for the use of the Judiciary Committee.

The PRESIDENT pro tempore. Will the Senator from Utah indicate the nature of the paper which he wishes to have printed as a document?

Mr. SUTHERLAND. It is an editorial and other matter.

Mr. CULBERSON. Before the request is put, let the bill be read.

The bill (S. 7675) to grant relief to persons erroneously convicted in courts of the United States was read the first time by its title.

Mr. SUTHERLAND. The papers which I send to the desk are an analysis of the bill, which will be of use to the Judiciary Committee in the consideration of it, together with some editorial comments, a short article by Prof. Wigmore, and some other matter. I ask that these be printed as a Senate document for the use of the Judiciary Committee.

Mr. CULBERSON. Is the bill a long one?

The PRESIDENT pro tempore. It is a short bill.

Mr. CULBERSON. I ask that it be read.

The bill was read the second time at length, as follows:

Be it enacted, etc., That any person who, having been convicted of any crime or offense against the United States, shall hereafter, on appeal from the judgment of conviction or on the retrial or rehearing of his case, be found to have been innocent of the crime with which he was charged and not guilty of any other offense against the United States, or who, after inquiry by the Executive, has received a pardon on the ground of innocence, may, under the conditions hereinafter mentioned, apply by petition for indemnification for the pecuniary injury he has sustained through his erroneous conviction and imprisonment.

SEC. 2. That the claimant may, within six months after he has been finally acquitted or pardoned on the ground of innocence, petition the Court of Claims for the relief granted in this act.

SEC. 3. That the court is hereby authorized to make all needful rules and regulations consistent with the law for executing the provisions hereof.

SEC. 4. That the claimant shall have the burden of proving his innocence, in that he must show that the act with which he was charged was not committed at all or, if committed, was not committed by the accused.

SEC. 5. That the claimant must show that he has not, by his acts or failure to act, either intentionally or by willful misconduct or negligence, contributed to bring about his arrest or conviction.

SEC. 6. That the Court of Claims shall examine the validity and amount of all claims included within the description of this act; they shall receive all suitable testimony on oath or affirmation and all other proper evidence; and they shall report all such conclusions of fact and law as in their judgment may affect the right to relief.

SEC. 7. That upon proof satisfactory to the Court of Claims that the claimant is unable to advance the cost of court and of process, the cost of obtaining and printing the record of the original proceedings and of securing the attendance of such witnesses as the chief justice or the presiding judge of the Court of Claims shall certify to be necessary, and the service of all notices required by this act, shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims, on presentation to the Secretary of the Treasury of a duly authenticated order, certified by the clerk of the Court of Claims and signed by the chief justice or, in his absence, by the presiding judge of said court.

SEC. 8. That the court shall cause notice of all petitions presented under this act to be served on the Attorney General of the United States, who shall be authorized, by himself or his assistant, to examine witnesses, to cause testimony to be taken, to have access to all testimony taken under this act, and to be heard by the court. He shall assist all claims presented under this act by all proper legal defenses.

SEC. 9. That the Court of Claims in granting or refusing the relief demanded shall take into consideration all the circumstances of the case which may defeat or in any other way affect the right to and the amount of the relief herein provided for, but in no case shall the relief granted exceed $5,000.

SEC. 10. That in all cases of final judgments by the Court of Claims the sum due thereby shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims, on presentation to the Secretary of the Treasury of a copy of said judgment, certified by the clerk of the Court of Claims, and signed by the chief justice or, in his absence, by the presiding judge of said court.

Mr. CULBERSON. Mr. President, while I think that is an extraordinary bill, I do not feel like objecting to the publication of the papers sent by the Senator from Utah to the desk.

Mr. SUTHERLAND. The proposed law is, of course, new in this country. It is a law which is in operation in half the countries of Europe, however. I understand the Senator from Texas does not object to the printing of the matter which I have sent to the desk.

Mr. CLARKE of Arkansas. Did I understand the Senator from Utah to ask for the printing of a sufficient number of the document to supply the Senate, or simply to have a sufficient number printed to supply the Judiciary Committee?

Mr. SUTHERLAND. I understand when an order is made for the printing of a document a sufficient number are printed for the use of the Senate.

Mr. CLARKE of Arkansas. The Senator's request was that it might be printed for the use of the committee, and I thought probably he had not clearly indicated that it should be printed as a Senate document, when the usual number are printed. With the understanding that that will be done, I have no objection.

Mr. SUTHERLAND. That was my desire.

The PRESIDENT pro tempore. The Senator from Utah asks that the papers sent to the desk shall be printed as a Senate document. Is there objection? The Chair hears none, and it is so ordered. The bill will be referred to the Committee on the Judiciary.

AMENDMENTS TO LEGISLATIVE APPROPRIATION BILL.

Mr. BORAH submitted an amendment proposing to appropriate $8,050 for the maintenance of an assay office at Boise, Idaho, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. SMOOT submitted an amendment proposing to appropriate $7,100 for the maintenance of an assay office at Salt Lake City, Utah, intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. CURTIS submitted an amendment proposing to appropriate $400 to pay Etta A. Griffin, assistant librarian in charge of the blind, her salary for the months of July, August, September, and October, 1912, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. LODGE submitted an amendment proposing to appropriate $500 to enable the assistant doorkeeper of the Senate to compile a history of the desks of the Senate Chamber, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

WITHDRAWAL OF COURT OF CLAIMS PAPERS.

Mr. CRAWFORD. The Court of Claims has requested that certain papers and exhibits that were offered with a Senate bill in the Fifty-seventh Congress and which are with the file clerk of the Senate and which are Court of Claims papers that are needed for examination there in connection with certain other matters be returned to the Court of Claims. I offer the following order and ask for its immediate consideration.

The order was read and agreed to, as follows:

Ordered, That the papers accompanying the bill (S. 132) for the relief of Elisha Nelson, Fifty-seventh Congress, first session, which were taken from the files of the Court of Claims in the Fifty-fifth Congress, be returned to the said court.

SERGEANT AT ARMS OF THE SENATE.

Mr. GALLINGER submitted the following resolution (S. Res. 405), which was read, considered by unanimous consent, and agreed to:

Resolved, That E. Livingstone Cornelius, Assistant Sergeant at Arms, be, and he hereby is, chosen Sergeant at Arms of the Senate, vice Daniel M. Ransdell, deceased.

THE PRESIDENTIAL TERM.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. The morning business is closed. The Senator from California.

AS IT AFFECTS THE INCUMBENT.

Mr. WORKS. Mr. President, I have considered this question of the advantages of a second term as it affects the public interests. I would like the further attention of the Senate while I consider it as it affects the incumbent of the office. Is it better for the man? Of course if it is true that he can render his country better service by reason of the experience his first term has given him, that is a satisfaction to him as well as an advantage to the Nation. Besides, the fact urged by Senators, weak as it seems to me, as an objection to this proposed amendment that a man is entitled to the reward of public approval, evidenced by a reelection for duty well done, should be taken into account. I am impressed with the belief that the alleged public approval by a reelection that is obtained by personal endeavor and the influence of the millions of the ill-gotten gains of the corporations, the machinations and manipulations of the corrupt political machine, and the help of the officeholders whose support is the result of patronage and the sense of loyalty to a political chief is a species of approval that to a right-minded man would not amount to very much. An exhibition of popular approval, obtained in that way, costs too much, not only of actual money, but what is of vastly more importance, of self-respect. It may be conceded, for the purposes of the argument—indeed, I think it is true—that some of our Presidents were peculiarly fitted to serve their country at the time of their election, and under the existing conditions. And where those conditions and the problems to be met continued, there might be strong reasons for continuing them in office for a second term. I think this may fairly be said of Washington and Lincoln. Madison, Monroe, and Jefferson were trained statesmen when they entered upon their first terms. They were just as competent to perform the services required of them as President the first day of their service as they were the last. Their second terms were no better than their first and added nothing to their fame nor to the esteem in which they were held.

ANDREW JACKSON FAVORED ONE TERM.

Jackson was a soldier and not a statesman, and was always at war. Hostilities did not cease when he was transferred from the Army to the Executive Department. One of the things for which he will be long remembered is that he was the father of the doctrine that to the victor belongs the spoils, which will soon be put into operation again by his followers. It is a practice that has been the plague of public men and discreditable to the Nation. It is one of the things that has made the amendment now proposed necessary for the public welfare. But even in those earlier days public sentiment, it seems, was against the use that was then being made of the power to appoint to office. Jackson himself recognized and made note of it in his first inaugural address, in which he said:

The recent demonstration of public sentiment inscribes on the list of Executive duties, in characters too legible to be overlooked, the task of reform, which will require particularly the correction of those abuses that have brought the patronage of the Federal Government into conflict with the freedom of elections and the counteraction of those causes which have disturbed the rightful course of appointment and have placed or continued power in unfaithful or incompetent hands.

Jackson was a great man, a sincere patriot, and a good President, albeit a little hot-headed and contentious. He favored both the direct election of President by the people without the intervention of electors and an election for a single term of either four or six years. He took this ground at the beginning of his service as President and reiterated his views on other and later occasions. In his first annual message to Congress he said:

In this as in all other matters of public concern policy requires that as few impediments as possible should exist to the free operation of the public will. Let us, then, endeavor so to amend our system that the office of Chief Magistrate may not be conferred upon any citizen but in pursuance of a fair expression of the will of the majority.

I would therefore recommend such an amendment of the Constitution as may remove all intermediate agency in the election of the President and Vice President. The mode may be so regulated as to preserve to each State its present relative weight in the election, and a failure in the first attempt may be provided for by confining the second to a choice between the two highest candidates. In connection with such an amendment it would seem advisable to limit the service of the Chief Magistrate to a single term of either four or six years.

* * * * * * *

There are, perhaps, few men who can for any great length of time enjoy office and power without being more or less under the influence of feelings unfavorable to the faithful discharge of their public duties. Their integrity may be proof against improper considerations immediately addressed to themselves, but they are apt to acquire a habit of looking with indifference upon the public interests and of tolerating conduct from which an unpracticed man would revolt. Office is considered as a species of property, and government rather as a means of promoting individual interests than as an instrument created solely for the service of the people. Corruption in some and in others a perversion of correct feelings and principles divert government from its legitimate ends and make it an engine for the support of the few at the expense of the many. The duties of all public officers are, or at least admit of being made, so plain and simple that men of intelligence may readily qualify themselves for their performance; and I can not but believe that more is lost by the long continuance of men in office than is generally to be gained by their experience. I submit, therefore, to your consideration whether the efficiency of the Government would not be promoted and official industry and integrity better secured by a general extension of the law which limits appointments to four years.

In his second annual message, of December 6, 1830, he has this further to say on this important subject:

It was a leading object with the framers of the Constitution to keep as separate as possible the action of the legislative and executive branches of the Government. To secure this object nothing is more essential than to preserve the former from all temptations of private interest, and therefore so to direct the patronage of the latter as not to permit such temptations to be offered. Experience abundantly demonstrates that every precaution in this respect is a valuable safeguard of liberty, and one which my reflections upon the tendencies of our system incline me to think should be made still stronger. It was for this reason that, in connection with an amendment of the Constitution removing all intermediate agency in the choice of the President, I recommended some restrictions upon the reeligibility of that officer and upon the tenure of offices generally. The reason still exists, and I renew the recommendation with an increased confidence that its adoption will strengthen those checks by which the Constitution designed to secure the independence of each department of the Government and promote the healthful and equitable administration of all the trusts which it has created. The agent most likely to contravene this design of the Constitution is the Chief Magistrate. In order, particularly, that his appointment may, as far as possible, be placed beyond the reach of any improper influences; in order that he may approach the solemn responsibilities of the highest office in the gift of a free people uncommitted to any other course than the strict line of constitutional duty, and that the securities for this independence may be rendered as strong as the nature of power and the weakness of its possessor will admit, I can not too earnestly invite your attention to the propriety of promoting such an amendment of the Constitution as will render him ineligible after one term of service.

He said, on the same subject, in his fourth annual message of December 4, 1832:

I beg leave to call the attention of Congress to the views heretofore expressed in relation to the mode of choosing the President and Vice President of the United States and to those respecting the tenure of office generally. Still impressed with the justness of those views and with the belief that the modifications suggested on those subjects if adopted will contribute to the prosperity and harmony of the country, I earnestly recommend them to your consideration at this time.

He renewed the subject in his fifth and sixth messages in similar language. In the latter he says, after urging the change suggested by him in the mode of electing the President and Vice President:

Could this be attained and the terms of those officers be limited to a single period of either four or six years, I think our liberties would possess an additional safeguard.

It was much to the credit of Jackson that he urged this amendment at the very beginning of his first term, when he might be, and actually was, called by his countrymen to serve a second term as their Chief Magistrate. It would have been equally to the credit of Congress if it had listened to and acted favorably on this wise and patriotic recommendation.

ULYSSES S. GRANT.

Grant was another President whose place in the hearts of his countrymen comes from his service as a soldier in the Army and not from anything accomplished by him as President. As a soldier he had few equals and no superiors. His administration as President was commonplace, partly because the times were such as necessarily to render it so. There was nothing in his second term, so far as I know, that was superior to his first. The reward of a second term he did not need. He had made the best of his record at that time. His place in public estimation was secure. There was nothing in his career as President to support the objection to this resolution that I am now considering.

ABRAHAM LINCOLN.

Abraham Lincoln was a great man; one of the greatest of the great men, not only of his own country, but of the world. There were two sides to his nature that seemed to be inconsistent and at war with each other. On the one side he was patient, forbearing, sympathetic, and humane. On the other he was a man of stern resolve, uncompromising in his convictions and firm in maintaining them. He was a man of profound

sympathies on the one side and of determination and decision on the other.

Each of these sides of his nature and its characteristics was a check and balance on the other. His decisions, however strongly and unswervingly he maintained them, were tempered with justice and mercy. On the other hand, the sympathetic side of his nature that often resulted in acts of mercy was guarded from weakness and overindulgence of that disposition by his high sense of right and justice. He tempered justice with mercy and mercy with a right sense of justice. Grover Cleveland, in speaking of the objections of the military authorities to his sympathetic attitude toward individual delinquents and his frequent pardons, had this to say of him: "Notwithstanding all that might be objectionable in these, what was he doing? He was fortifying his own heart. And that was his strength, his own heart; that is a man's strength." In the great trials that he passed through, when thousands of his countrymen were being slain in a fratricidal war, his heart, that was as tender as the heart of a woman, was wrung with anguish that brought him much sorrow. But through it all he never faltered in the performance of his duties. He insisted upon the vigorous prosecution of the war, however much it grieved him to witness all the suffering, sorrow, and sacrifice of human lives it entailed. Nothing could move him from his fixed determination to save the Union, no matter how much it might cost in life and treasure. His warm sympathies, his humane disposition, his ever-active human affection and heartfelt desire to avoid and ameliorate human suffering did not swerve him from this lofty and patriotic purpose. On the one side his life was pathetic, on the other it was sublime. His tender sympathies, his kindliness of heart, his great and abounding love for his fellowmen, his rugged honesty, his austere and uncompromising principles of right and justice, his inflexible determination, his undying patience under unjust criticism by his friends and foes alike, made up a combination of great and honorable qualities that made him one of the greatest men of all history. The more tender and sympathetic characteristics of the man brought him the tender and lasting affection of the American people. His lofty patriotism, his rugged honesty, and his consecration to duty created for him in the minds of his countrymen the most profound trust, respect, and admiration. His career was cut short by the hand of an assassin. He was then at the height of his power, the zenith of his fame.

Do Senators believe that Abraham Lincoln could have added to the luster of his fame, or added to the love, respect, and admiration entertained for him by the American people by a second term as President? Is there one here who will say that he would have made a better President during the second term than he had proved himself to be during the first?

No, Mr. President; his place in the hearts of his own people and of the civilized world was made secure by the service he rendered the Nation in his first term.

I have often wondered, sir, what would have been Lincoln's place in history and in the estimation of the people if he had been called upon to meet the great problems growing out of the reconstruction of the Government and the bringing back into the Union of the seceded States. Andrew Johnson was not a weak man, but he failed utterly to meet and solve those problems. He left the office in disgrace because of his conflict with the Congress of the United States growing out of those questions. He was disposed to be merciful and liberal in dealing with the people of the South. We have a right to believe that Lincoln would have been influenced by like feelings of sympathy. On the other hand, there were men in the Congress who were vindictive and revengeful—men who insisted upon imposing upon the people of the South the most humiliating conditions as a preliminary to their readmission into the Union. This sentiment was backed by the most powerful influences and encouraged by the natural feelings of the people of the North whose homes had been made desolate by the ravages of the war. The reconstruction period is one of the darkest pages of the history of the country. The spirit of hatred and revenge that ruled in the Congress of the Nation made it possible. At this day it would be impossible. Could Lincoln, with all his determination, with the trust and confidence of the people behind him, have withstood this tide of hatred and malice that, with him in his grave, swept everything before it? It may well be doubted.

GROVER CLEVELAND.

Grover Cleveland was another of our great Presidents. He served a second term. He consented to be a candidate for the third time with great reluctance. He felt that his first term had been a success and that he had rendered his country valuable service. He was a conscientious public servant and governed by high ideals. He was solicitous about entering upon a second term. Concerning his reelection he said:

> Why should I have any desire or purpose of returning to the Presidency? It involves a responsibility almost beyond human strength for a man who brings conscience to the discharge of his duties. Besides, I feel somehow that I made a creditable showing during my first term, all things considered, and I might lose whatever of character and reputation are already gained in it. I do not want the office, and, above all, I do not feel that I can take the risk involved in a second term after the intervention of one by another man and an opposing party. It would be necessary for me to start new again, and I do not feel equal to it.

His fears and his hesitation to take upon himself the cares and responsibilities of the Presidency were fully justified by subsequent events. His second term, through no fault of his, was not a success, and brought disaster to his party. It was a disappointment to him and his political associates. He performed the duties of the office during the second term with the same fidelity, courage, and consecration to duty that characterized his first term. But some of his most cherished policies were disapproved by his party and the opposition and bitterness that grew out of these differences of opinion caused him to feel that his efforts had failed and that his second administration of the great office of President was a failure. In December, 1894, he said in a letter to his friend Richard Watson Gilder:

> I am so depressed during these days that the thought of my lack of deserving any thought of my friends is strangely mixed with the gratification caused by the evidence that you have thought of me.
>
> I am sure I never was more completely in the right path of duty than I am now, and more sure that I never did better public service than now; but it is depressing enough to have no encouragement from any quarter.
>
> I believe I shall hold out, but I doubt if I shall advise anyone to lose the support of party in the hope of finding support among those who beyond partisanship profess a patriotic desire for good government.

Again, in March, 1895, he says:

> As day after day passes, full of trouble and annoyances with such small surface results, I find myself again and again saying, "How flat, stale, and unprofitable."
>
> If occasional words of encouragement did not reach me like a breath of fresh air in this dreadful atmosphere I would be in danger of sinking into a condition of mere anxiety for my release from the things that surround me here.
>
> But two years more will quickly pass.

When he came to surrender the office to his successor, he said to Mr. McKinley that he hoped that his administration would be successful and that he would not have so many reasons as he (Cleveland) had to feel glad when he came to go out.

On another occasion he wrote to Mr. Gilder:

> Of all men in the world, you know best that I do honestly try to "keep the compass true," and I am convinced that you appreciate better than others how misleading the fogs sometimes are. I frequently think what a glorious boon omniscience would be to one charged with the Chief Magistracy of our Nation.

Cleveland thought that he had reason to feel disappointed at the lack of understanding and appreciation of his public services. It troubled him, and he often spoke of it. But the masses of the people understood him better than did the politicians, and therefore appreciated him and his public services the better. But I think it may be fairly said that his second term added nothing to his fame, and it is certain that it added nothing to his peace of mind. I am glad to bear witness to my very high regard for Mr. Cleveland and appreciation of the great service he rendered to his country. His great moral courage and his determination to stand by his convictions, founded on principle, have always appealed to me very strongly. But, Mr. President, there is nothing in his experiences that gives the slightest weight to the argument of Senators that a second term is beneficial to the public interest.

PUBLIC APPROVAL BY SECOND ELECTION.

But it is said that a President who has rendered acceptable service in his first term is entitled to a second as an evidence of public approval, and the hope of such a reward is an incentive to better service. I have already remarked, incidentally, that the strenuous and sometimes objectionable methods resorted to to secure a second term render it wholly valueless as an evidence of approval of past services, and I must confess to some surprise that it could be supposed that any man worthy of being President of this Republic would be influenced to render better service by the hope of thereby securing the office for a second term. This is certainly placing a very low estimate on the standard of official duty and obligation that may well be supposed to govern the incumbent of that great office. It strikes me as being not only a very weak argument, but a reflection on the honorable men who have held the office. Any man who thus seeks public favor with a second term in view and makes that hope or prospect an incentive to better public service is unfit for a first term and certainly should never be elected to a second.

Mr. President, this position taken by Members of this body confirms my conviction that there should be no second term for any man. His service should be wholly independent, disinterested, and without hope or thought of reward. If he is weak enough to vary his conduct for better or for worse because of any desire or expectation of an election to a second term he is unworthy of the high honor that has been bestowed upon him. For that reason he should be relieved of any temptation to do so by making him ineligible to a second term. The first election to so high an office and the consciousness of duty well done should be reward enough for any man. Besides, he need not wait for a second election to know whether his service has been understood and appreciated or not. Mr. Cleveland knew, or believed he knew, that he was neither understood nor appreciated, but he never swerved from what his own conscience told him was right, and he was in the end honored the more for it. I am sorry that such an argument as this has been advanced on the floor of the United States Senate, however sincerely it has been urged.

We have in this country an organization known as the Anti-Third Term League. There has never been any particular necessity for any such league. The people of this country have never yet chosen a man as Chief Magistrate for a third term, and probably never will. But this league now proposes to so amend the Constitution as to prevent the election of a President for a third term in lieu of the amendment here proposed. This would be absurd. We need no such amendment as that, for the reasons I have stated. The people will take care of that question without any change in the Constitution. Besides, to my mind, the objection to the holding of a second term is just as strong as to that of a third term, with the single exception that it arouses the fear that the third-term election may some time lead to a life tenure. All the evil effects of allowing a reelection of the incumbent, some of which I have brought to the attention of the Senate, apply with just as much force to a second as to a third election.

CONSTITUTIONAL CONVENTION OF 1787.

The Senator from Idaho [Mr. BORAH] has contended that the Contitutional Convention of 1787 had under consideration the length of the presidential term and that of the ineligibility of the incumbent to a second term, and determined against the limitation now sought to be imposed. On the 24th day of May, 1912, I had printed in the RECORD the proceedings before that convention relating to those subjects, together with a letter from James Madison to Thomas Jefferson, explaining the views of members of that body that finally led to the adoption of the present provision of the Constitution. I now submit the proceedings and that portion of the letter relating to the subject now in hand for the information of the Senate:

[Extracts from Farrand's Records of Federal Convention of 1787.]

RANDOLPH'S PLAN.

Resolution.

May 29, 1787: 7. *Resolved*, That a National Executive be instituted, to be chosen by the National Legislature for the term of — years; to receive punctually at stated times a fixed compensation for the services rendered, in which no increase or diminution shall be made so as to affect the magistracy existing at the time of increase or diminution, and to be ineligible a second time.

June 1: It was moved and seconded to proceed to the consideration of the seventh resolution, submitted by Mr. Randolph, namely:

"*Resolved*, That a National Executive be instituted, to be chosen by the National Legislature for the term of — years; to receive punctually at stated times a fixed compensation for the services rendered, in which no increase or diminution shall be made so as to affect the magistracy existing at the time of such increase or diminution, and to be ineligible a second time; and that, besides a general authority to execute the national laws, it ought to enjoy the executive rights vested in Congress by the Confederation."

On motion by Mr. Wilson, seconded by Mr. C. Pinckney, to amend the first clause of the resolution by adding after the word "instituted" the words "to consist of a single person," so as to read:

"*Resolved*, That a National Executive, to consist of a single person, be instituted."

It was moved and seconded to postpone a consideration of the amendment; and on the question to postpone it passed in the affirmative.

It was then moved and seconded to agree to the first clause of the resolution, namely: "*Resolved*, That a National Executive be instituted;" and on the question to agree to the said clause it passed in the affirmative.

It was then moved by Mr. Madison, seconded by Mr. Wilson, after the word "instituted," to add the words: "With power to carry into execution the national laws, to appoint to offices in cases not otherwise provided for, and to execute such powers, not legislative or judiciary in their nature, as may from time to time be delegated by the National Legislature," and on a division of the amendment the following clauses were agreed to, namely, "with power to carry into execution the national laws, to appoint to offices in cases not otherwise provided for."

On the question to continue the last clause of the amendment, namely, "and to execute such other powers, not legislative or judiciary in their nature, as may from time to time be delegated by the National Legislature," it passed in the negative.

It was then moved and seconded to fill up the blank with the word "seven," so as to read: "For the term of seven years."

And on the question to fill up the blank "seven," it passed in the affirmative—ayes 5, noes 4, divided 1.

It was then moved and seconded to postpone the consideration of the following words, namely, "to be chosen by the National Legislature," and on the question to postpone it passed in the affirmative.

The seventh resolve, "That a National Executive be instituted," agreed to. "To continue in office for seven years," agreed to. "A general authority to execute the laws," agreed to. "To appoint all officers not otherwise provided for," agreed to.

The question of the unity or plurality of the Executive postponed, and the committee proceeded to examine the powers. These points being discussed, the committee took into consideration the duration of the office of the Executive.

Wilson—For three years and no exclusion or rotation.

Madison—Seven years and an exclusion forever after or during good behavior.

Mason—In favor of seven years and an exclusion afterwards. Thereby he is made independent of the legislature who are proposed as his electors. If he is capable of reelection by the legislature the Executive will be complaisant and reelect. The Executive will be subservient and court a reelection.

On the question to fill the blank for seven years: Massachusetts divided—Gorham and King, aye; Gerry and Strong, no; Connecticut, no; North Carolina, no; South Carolina, no; New York, aye; New Jersey, aye; Pennsylvania, aye; Delaware, aye; Virginia, aye.

June 2, the question being then taken on the words contained in the resolution submitted by Mr. Randolph, namely, "to be ineligible a second time," it passed in the affirmative—ayes 7, noes 2, divided 1.

June 13, state of the resolutions submitted to the consideration of the House by the Hon. Mr. Randolph, as altered, amended, and agreed to in a Committee of the Whole House.

9. *Resolved*, That a National Executive be instituted, to consist of a single person, to be chosen by the National Legislature for the term of seven years, with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; to be ineligible a second time; and to be removable on impeachment and conviction of malpractices or neglect of duty; to receive a fixed stipend, by which he may be compensated for the devotion of his time to public service, to be paid out of the National Treasury.

June 13: Report of the Committee of the Whole on Mr. Randolph's propositions:

"1. *Resolved*, That it is the opinion of this committee that a National Government ought to be established of a supreme legislative, executive, and judiciary.

"9. *Resolved*, That a National Executive be instituted, to consist of a single person, to be chosen by the National Legislature for the term of seven years, with power to carry into execution the national laws, to appoint to offices in cases not otherwise provided for, to be ineligible a second time, and to be removable on impeachment and conviction of malpractices or neglect of duty, to receive a fixed stipend by which he may be compensated for the devotion of his time to public service, to be paid out of the National Treasury."

July 17: "To be ineligible a second time"—Mr. Houston moved to strike out this clause.

Mr. Sherman seconded the motion.

Mr. Gouverneur Morris espoused the motion. The ineligibility proposed by the clause as it stood tended to destroy the great motive to good behavior—the hope of being rewarded by a reappointment. It was saying to him, "Make hay while the sun shines."

On the question for striking out as moved by Mr. Houston (it passed in the affirmative): Massachusetts, aye; Connecticut, aye; New Jersey, aye; Pennsylvania, aye; Delaware, no; Maryland, aye; Virginia, no; North Carolina, no; South Carolina, no; Georgia, aye—ayes 6, noes 4.

"For the term of seven years" resumed.

July 19: It was moved and seconded to agree to the following clause, namely, "for the term of seven years," which passed in the negative—ayes 3, noes 5, divided 2.

On the question to agree to the following clause, namely, "for the term of six years," it passed in the affirmative—ayes 9, noes 1.

On the question to restore the words "to be ineligible a second time," it passed in the negative—ayes 2, noes 8.

On the question, Shall the Executive continue for seven years? it passed in the negative: Massachusetts, divided; Connecticut, aye; New Jersey, no; Pennsylvania, no; Delaware, no; Maryland, no; Virginia, no; North Carolina, divided; South Carolina, aye; Georgia, aye—ayes 3, noes 5, divided 2.

Mr. King was afraid we should shorten the term too much.

Mr. Gouverneur Morris was for a short term in order to avoid impeachments, which would be otherwise necessary.

Mr. Butler was against a frequency of the elections.

Georgia and South Carolina were too distant to send electors often.

Mr. Ellsworth was for six years. If the elections be too frequent, the Executive will not be firm enough. There must be duties which will make him unpopular for the moment. There will be outs as well as ins. His administration will be attacked and misrepresented.

Mr. Williamson was for six years. The expense will be considerable and ought not to be unnecessarily repeated. If the elections are too frequent, the best men will not undertake the service and those of an inferior character will be liable to be corrupted.

On question for six years: Massachusetts, aye; Connecticut, aye; New Jersey, aye; Pennsylvania, aye; Delaware, no; Maryland, aye; Virginia, aye; North Carolina, aye, South Carolina, aye; Georgia, aye—ayes 9, noes 1.

July 25: Mr. Pinkney moved that the election by the legislature be qualified with a proviso that no person be eligible for more than 6 years in any 12 years. He thought this would have all the advantage and at the same time avoid in some degree the inconvenience of an absolute ineligibility a second time.

Col. Mason approved the idea. It has the sanction of experience in the instance of Congresses and some of the executives of the States. It rendered the Executive as effectually independent as an ineligibility after his first election and opened the way at the same time for the advantage of his future services.

On Mr. Pinkney's motion that no person shall serve in the executive office more than 6 years in 12 years it passed in the negative: New Hampshire, aye; Massachusetts, aye; Connecticut, no; New Jersey, no; Pennsylvania, no; Delaware, no; Maryland, no; Virginia, no; North Carolina, aye; South Carolina, aye; Georgia, aye—ayes 5, noes 6.

July 26 it was moved and seconded to amend the third clause of the resolution respecting the National Executive so as to read as follows, namely: "For the term of seven years, to be ineligible a second time," which passed in the affirmative—ayes 7, noes 3.

Col. Mason: In every stage of the question relative to the Executive, the difficulty of the subject and the diversity of the opinions concerning it have appeared. * * * He conceived at the same time that a sec-

ond election ought to be absolutely prohibited, having for his primary object, for the pole star for his political conduct, the preservation of the rights of the people, he held it as an essential point, as a very palladium of civil liberty, that the great officers of State, and particularly the Executive, should at fixed periods return to that mass from which they were at first taken, in order that they may feel and respect those rights and interests which are again to be personally valuable to them. He concluded in moving that the constitution of the Executive, as reported by the Committee of the Whole, be reinstated, viz, "That the Executive be appointed for seven years and be ineligible a second time."

Question on Col. Mason's, as above, which passed in the affirmative: New Hampshire, aye; Massachusetts, not on the floor; Connecticut, no; New Jersey, aye; Pennsylvania, no; Delaware, no; Maryland, aye; Virginia, aye; North Carolina, aye; South Carolina, aye; Georgia, aye—ayes 7, noes 3, absent 1.

On the question on the whole resolution as amended in the words following: "That a National Executive be instituted to consist of a single person to be chosen by the National Legislature for a term of seven years; to be ineligible a second time; with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; to be removable on impeachment and conviction of malpractice or neglect of duty; to receive a fixed compensation for the devotion of his time to the public service; to be paid out of the National Treasury;" it passed in the affirmative: New Hampshire, aye; Massachusetts, not on the floor; Connecticut, aye; New Jersey, aye; Pennsylvania, no; Delaware, no; Maryland, no; Virginia, divided—Mr. B. (Blair) and Col. M. (Mason), aye; Gen. W. (Washington) and Mr. M. (Madison), no; Mr. Randolph happened to be out of the House—North Carolina, aye; South Carolina, aye; Georgia, aye—ayes 6, noes 3, divided 1, absent 1.

COMMITTEE OF DETAIL.

There was connected with the work of the convention what was known as a committee of detail. Documents preserved and set out in Ferrand's Records of the Convention show the following relating to this question, and mostly in the form of resolution submitted to and acted upon by the convention, covering the time from July 14 to 26, 1787:

Resolved, That a National Executive be instituted to consist of a single person, to be chosen for the term of six years, with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; to be removable on impeachment and conviction of malpractice or neglect of duty; to receive a fixed compensation for the devotion of his time to public service; to be paid out of the Public Treasury.

Resolved, That a National Executive be instituted to consist of a single person to be chosen by the National Legislature for a term of seven years; to be ineligible for a second time; with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; to be removable on impeachment and conviction of malpractice or neglect of duty; to receive a fixed compensation for the devotion of his time to public service, to be paid out of the Public Treasury.

4. The Executive (governor of the United People and States of America):

1. Shall consist of a single person;
2. Who shall (hold) be elected by the legislature (by joint ballot (of which) each House have a negative on the other);
3. And shall hold his office for the term of (six) seven years;
4. And shall be ineligible thereafter.

The executive power of the United States shall be vested in a single person. His style shall be "the President of the United States of America" and his title shall be "His Excellency." He shall be elected by ballot by the legislature. He shall hold his office during the term of seven years, but shall not be elected a second time.

September 4, 1787, Mr. Brearley, from the committee of eleven, made a further partial report, as follows: "The committee of eleven, to whom sundry resolutions, etc., were referred on the 31st of August, report that, in their opinion, the following additions and alterations should be made to the report before the convention, viz:

"4. After the word 'Excellency,' in section 1, Article X, to be inserted: 'He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected in the following manner,' viz:

"COMMITTEE ON STYLE.

"PROCEEDINGS OF CONVENTION REFERRED TO THE COMMITTEE OF STYLE AND ARRANGEMENT.

"We, the people of the States of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain, declare, and establish the following Constitution for the government of ourselves and our posterity:

"SECTION 1. The executive power of the United States shall be vested in a single person. His style shall be 'The President of the United States of America' and his title shall be 'His Excellency.' He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected in the following manner:

"REPORT OF THE COMMITTEE ON STYLE.

"We, the people of the United States, in order to form a more perfect union, to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

"SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected in the following manner:

"THE CONSTITUTION OF THE UNITED STATES IN ITS COMPLETED FORM AS REPORTED BY COMMITTEE AND ADOPTED.

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America:

"ARTICLE II.

"SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as follows:

LETTER FROM MADISON TO JEFFERSON.

NEW YORK, *October 24, 1787*.

You will herewith receive the result of the convention, which continued its session till the 17th of September. I take the liberty of making some observations on the subject, which will help to make up a letter if they should answer no other purpose.

* * * * * * *

As to the duration in office, a few would have preferred a tenure during good behavior; a considerable number would have done so in case an easy and effectual removal by impeachment could be settled. It was much agitated whether a long term—seven years, for example, with a subsequent and perpetual ineligibility—or a short term, with a capacity to be reelected, should be fixed. In favor of the first opinion were urged the danger of a gradual degeneracy of reelections from time to time, into first a life and then a hereditary tenure, and the favorable effect of an incapacity to be reappointed on the independent exercise of the Executive authority. On the other side it was contended that the prospect of necessary degradation would discourage the most dignified characters from aspiring to the office, would take away the principal motive to the faithful discharge of its duties—the hope of being rewarded with a reappointment would stimulate ambition to violent efforts for holding over the constitutional term—and instead of producing an independent administration and a firmer defense of the constitutional rights of the department would render the officer more indifferent to the importance of a place which he would soon be obliged to quit forever, and more ready to yield to the encroachments of the legislature of which he might again be a member.

Mr. President, it will be seen that there was a very strong sentiment in favor of but one term. At one time this sentiment was so strong that a majority of the States represented in the convention voted in favor of one term of seven years with a clause rendering the President ineligible to a second term.

VIEWS OF LUTHER MARTIN.

Luther Martin, another member of the convention, and afterwards attorney general of the State of Maryland, had this to say on the subject in an address delivered by him before the Legislature of Maryland:

On these subjects (mode of electing the Executive, his powers, and his tenure of office) there was a great diversity of sentiment; many of the members were desirous that the President should be elected for seven years, and not to be eligible a second time; others proposed that he should not be absolutely ineligible, but that he should not be capable of being chosen a second time until the expiration of a certain number of years. The supporters of the above propositions went upon the idea that the best security for liberty was a limited duration and a rotation of office in the chief executive department.

There was a party who attempted to have the President appointed during good behavior, without any limitation as to time, and not being able to succeed in that attempt, they then endeavored to have him reeligible without any restraint.

It was objected that the choice of a President to continue in office during good behavior, would be at once rendering our system an elective monarchy; and, that if the President was to be reeligible without any interval of disqualification, it would amount nearly to the same thing, since with the powers that the President is to enjoy, and the interest and influence with which they will be attended, he will be almost absolutely certain of being reelected from time to time as long as he lives.

As the propositions were reported by the Committee of the Whole House the President was to be chosen for seven years and not to be eligible at any time after. In the same manner the proposition was agreed to in convention, and it was so reported by the committee of detail, although a variety of attempts were made to alter that part of the system by those who were of a contrary opinion, in which they repeatedly failed; but, sir, by never losing sight of their object and choosing a proper time for their purpose, they succeeded at length in obtaining the alteration, which was not made until within the last 12 days before the convention adjourned.

It is perfectly evident, sir, that the present provision in the Constitution was a compromise of strongly conflicting views of strong men, and, like most all compromises, it has proved unsatisfactory; and being a compromise, it affords but little, if any, support to the objections made to the proposed amendment. The letter of Mr. Madison, giving the conflicting views of members and their reasons therefor, is peculiarly interesting in this connection.

PRESIDENT TAFT FAVORS ONE TERM.

The present Chief Magistrate has declared against a second term in emphatic terms. He was quite willing to accept that honor for himself, as who would not have been under the same circumstances? Indeed, he labored strenuously, altogether too strenuously as I think, to obtain it. Having himself made the attempt, he is better able than most men to understand and appreciate the evils growing out of the temptation to run a second time and the campaign made in furtherance of that ambition. I have no doubt of the entire sincerity of his views. I commend them to the consideration of the Senate. At a meeting of the Lotus Club, of New York, held since the last presidential election, he has this to say on the subject:

I venture the suggestion that it would aid the efficiency of the Executive and center his energy and attention and that of his subordinates in the latter part of his administration upon what is a purely disinterested public service if he were made ineligible after serving one term of six years either to a succeeding or a nonconsecutive term.

I am a little specific in this matter, because it seems necessary to be so in order to be understood. I do not care how unambitious or modest a President is, I do not care how determined he is that he himself will not secure his renomination (and there are very few, indeed, who go to that extent), still his subordinates, equally interested with him in

his reelection, will, whenever they have the opportunity, exert their influence and divide their time between the public service and the effort to secure their chief's renomination and reelection.

It is difficult to prevent the whole administration from losing a part of its effectiveness for the public good by this diversion to political effort for at least a year of the four of each administration. Were this made impossible by law, I can see no reason why the energy of the President and that of all his subordinates might not be directed rather to making a great record of efficiency in the first and only term than in seeking a second term for the purpose.

Four years is rather a short time in which to work out great governmental policies. Six years is better.

I do not desire to consume the time of the Senate unnecessarily or to trespass unduly on the patience of Senators, but there is another idea advanced here that needs at least a little attention. The Senator from South Dakota [Mr. CRAWFORD], for whose judgment and sincerity I have great respect, tells us that if we are going to render a President ineligible for reelection because of the opportunity he has to use patronage for that purpose, the same disqualification should be made to attach to Senators. It is not because a President has appointed men to office as a means of securing their support, or upon the theory that any incumbent of that great office would himself appoint men with that object in view, that I think he should be rendered ineligible to a second term. It is because this pernicious system has grown up, a system that in a political sense makes it the duty of every appointee to support his chief who gave him his office. The President himself has little, if any, control over it. It has become the fixed, unwritten law of politics. It is a detriment to the President as well as to the country. He can not free himself from this obnoxious condition if he would, and there is every temptation to let things take their course and say nothing. I do not remember of a single case where a candidate for a second term has protested against it. The system is not only detrimental and discreditable to the office of President, but it is demoralizing to the whole public service.

Mr. President, I agree with the Senator from South Dakota, that if any Member of this body is recommending men to office with a view of securing their support in his candidacy for a reelection or is otherwise using his office and conducting himself in such way as to secure a reelection, without regard to his duty as a Senator, the doctrine of ineligibility should apply to him with full force. Not only that, but he should be expelled from his present seat in this body. But that has nothing to do with this question. It is begging the question to say that if you make a President ineligible you should do the same as to Senators. We are not dealing with Senators now. If the Senator thinks the rule should extend to Senators he can offer an amendment to that effect. The issue can not be clouded in that way. That the rule should be applied to the presidential office I have no doubt, and that is the only question before the Senate.

The Senator from Idaho has discussed the question of business tranquillity and insists that the effect of the amendment on business in one way or another should receive no consideration whatever. I agree with the Senator entirely. This is too important a question to be influenced by any consideration of dollars and cents. I had not supposed that any Senator would advance any such reason for making the proposed change in the Constitution. Certainly that never occurred to me as a reason for introducing the resolution, and I do not press it now. The same may be said, without commenting upon it, with reference to the cost of elections. I place no weight upon that as a ground for making this proposed amendment.

The objection mentioned that the extended term might continue an objectionable man longer is too fanciful in the light of past experience to call for refutation.

LENGTH OF TERM.

There remains to be considered the question of the length of the term to be fixed in case of ineligibility. I said on another occasion that I was not greatly concerned as to the time fixed. I would not object to four years. I would much rather have one term of eight years than two terms of four years each, as we may have it now. But six years seems to me to be a reasonable term. To give that length of time will meet the claim of the value of experience, if any weight is given to that contention. It also meets the objection, entertained by some, to too frequent elections, although, as I have said, I believe that is hardly worthy of consideration. Weighing all these things, it seems to me that a six-year term is better and more reasonable.

Mr. President, my one desire is to so amend the Constitution as to insure the best and most satisfactory service to the country. This is not a question of men or of politics, but of principle. I am sure every Member of this body so considers it. I hope this resolution will be passed by Congress and ratified by the States, because I believe the amendment proposed is for the good of the country.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate resume the consideration of House bill 19115, known as the omnibus claims bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. I suggest the absence of a quorum, because there are several Senators who have amendments, I know, that they want to offer who are not in the Chamber.

The PRESIDING OFFICER (Mr. CLARK of Wyoming in the chair). The Senator from South Dakota suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Curtis	Martine, N. J.	Sanders
Borah	Davis	Massey	Simmons
Brandegee	Fletcher	Nelson	Smith, Ariz.
Bristow	Gallinger	Newlands	Smith, Mich.
Brown	Gardner	O'Gorman	Smith, S. C.
Bryan	Gronna	Oliver	Smoot
Burnham	Johnson, Me.	Overman	Stephenson
Burton	Johnston, Ala.	Page	Sutherland
Chilton	Kenyon	Penrose	Thornton
Clapp	La Follette	Perkins	Townsend
Clark, Wyo.	Lea	Perky	Works
Clarke, Ark.	Lodge	Pomerene	
Crane	McLean	Richardson	
Crawford	Martin, Va.	Root	

Mr. PAGE. I wish to announce the continued illness of my colleague [Mr. DILLINGHAM]. He is necessarily absent from the Senate.

Mr. WORKS. I desire to announce that the senior Senator from Washington [Mr. JONES] is necessarily absent on business of the Senate.

The PRESIDING OFFICER. Fifty-three Senators have answered to their names. A quorum is present.

Mr. CRAWFORD. The Senator from Massachusetts [Mr. LODGE] had an amendment pending the other evening.

Mr. LODGE. I offered an amendment to pay to D. M. Carman the sum of $2,876.42. My interest in that claim, as I stated the other day, arose simply from the fact that it came before the Committee on the Philippines when I was chairman. I had then occasion to look into it very fully.

Carman provided the Government with certain cascos for carrying freight from the steamships to the shore. They were compelled to go in all sorts of weather. These boats were of very light build, and were seriously damaged on one occasion by being forced to go in a storm and lie alongside the steamer, when they were driven against the sides of the steamer by the waves and were crushed in. Therefore a large proportion of them had to be repaired. They were taken to the yard and repaired.

Carman made claim not only for the injuries done but for the loss of rental during the time that these boats were laid up. The local officer declined to recognize the claim on the ground that the Government was not liable for rental, but the superior officer stated that while he thought the claim was unfounded for rental he did think there was an equitable claim for damages.

It was brought to the department on the report of Capt. Knight, sent to the Quartermaster General, and the Quartermaster General made an allowance of this amount on the claim. It was reported to the Secretary of War, and by the Secretary of War it was reported to the President and was sent to the Senate December 21, 1906. An appropriation was made in the military appropriations act of March 2, 1907, for the payment of 256 approved claims for damages to a list of private property in the United States, Cuba, Porto Rico, and the Philippines, in which provision was made for the payment of five claims for damages to cascos at Manila, two of which grew out of the same contract as the one involved in this claim. At that time the claimant would not accept the reduced allowance made by the Quartermaster General, or did not accept it until on or about February 27, 1907, he cabled to his attorney, but it was too late, and it did not get into the bill.

The matter then went into the Court of Claims, and they sustained the claim for the amount of $2,876, and that it was an equitable one.

Mr. President, claims of a precisely similar nature were paid many years ago by the Government. This claim has been recommended by every executive officer to whom it has been submitted. It has been recommended by the Court of Claims; it was approved by the Philippine Committee of the Senate,

and, I think, by the Committee on Military Affairs. It simply did not get into the bill with the others owing merely to the delay in the acceptance of the claimant.

It seems to me if any claim can be a fair and honest one it is this claim, and I think it ought to be included. I notice in reading the report of the committee that they do not state that they have taken adverse action upon it.

Mr. CRAWFORD. Mr. President, I will say this about the claim: Two of these boats of exactly the same character involved under the same facts have been paid for. This claimant was not satisfied with the amount which the Quartermaster General was willing to allow to him, which was the only reason why it was not paid. He afterwards wired to the department his consent that he would accept this lower amount, but it was not received here until the closing days of that session of Congress, and on account of that fact it was not acted upon.

Now, those are the facts in the case. As representing the committee I can not accept the amendment. We did not have it at the time we passed on all the items of the bill in the regular way and settled upon our report. Afterwards, when the amendment was submitted, I made this report upon it so that the committee could put the Senate in possession of the facts. I am perfectly willing to abide by whatever decision the Senate may make of the matter upon this report.

The PRESIDING OFFICER. The question is on agreeing to the amendment submitted by the Senator from Massachusetts.

Mr. CRAWFORD. I do not want to have it accepted as a precedent here for a general opening of the bill for amendment, because if we do that we will be involved in such a wilderness of amendments that we might as well abandon the attempt to pass the bill.

Mr. LODGE. Mr. President, I understand the chairman's feeling about opening up the bill, but this is a claim that I think is admitted to be a good claim by all who have examined it, and the only thing is that it came in too late. It occupies a different ground certainly from many of the other claims that were adversely reported on by the committee. In fact, it has not been acted upon by the committee.

Mr. SMOOT. Mr. President, the reason why I objected to the inclusion of the claim was because the agreement made between the Government and the claimant was that any damages done without the fault of the owner were to be repaired at the expense of the United States, the action of the elements excepted. These boats were damaged by the action of the elements, and that is the reason why I objected to the amendment at the time and thought that the claim should not be included in the bill.

Mr. LODGE. Mr. President, that agreement did not mean that this man was to have no claim. If they took his boats and sunk them, it would be destruction by the action of the elements, by water. He was compelled to go out by the orders of the Government in weather when it was entirely unsafe for him to go, and it was owing to that that the boats were crushed. Of course, the means by which it was done were the waves. If he had been let alone, the elements would not have destroyed the boats.

Mr. SMOOT. He was only fulfilling the requirements of his contract when he undertook to go out the 5 miles he did go. It does seem to me that, strictly speaking, under his contract with the Government of the United States the damage came about by the action of the elements, and that was excepted in the contract.

Mr. LODGE. The elements drove the boats against the side of the vessel. The Government vessel was not an element of nature. It was an element of destruction on that coast.

Mr. SMOOT. It was the typhoon that was raging at the time.

Mr. LODGE. All the officers there admitted——

The PRESIDING OFFICER. The Chair will suggest that the debate is degenerating into a conversation. The Senator from Utah has the floor.

Mr. LODGE. I have no desire to have it degenerate into a conversation, no matter how interesting.

The PRESIDING OFFICER. The Senator from Utah can only be interrupted by his consent.

Mr. SMOOT. I have read the report very carefully—every word of it—as far as that is concerned. I see it is stated that under the circumstances they think this claim ought to be paid, and I shall not say anything more about it. But I wanted simply to say that it was not strictly in accordance with the agreement between the claimants and the Government of the United States.

Mr. CRAWFORD. Mr. President, my chief concern is that we shall not open the door here. I would not consent to this, or I do not consent to it, but I would oppose it if it were not for the fact that these people came to an agreement. The Quartermaster General allowed this man the amount of money that he is asking for here. He was not willing to accept it at that time, but later on he did accept it by telegraph. His claim did not get into the bill because it was in the closing hours of Congress. There seems to be nothing further to adjust between them. On that account I am not opposing it, but I am not consenting to it, because I want to warn the Senate against the opening of the door here to claims outside of this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Massachusetts [Mr. LODGE].

The amendment was agreed to.

Mr. CURTIS. Mr. President, in connection with the amendment of the Senate committee striking out the House provision in regard to the claim of Jacob Samuel Weaver, I ask to have printed in the RECORD the findings of the Court of Claims in that case. I shall not ask to have it read, but merely ask to have it printed in the RECORD.

The PRESIDING OFFICER. Without objection, the order to do so will be made

The document referred to is as follows:

JACOB SAMUEL WEAVER.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANSMITTING A COPY OF THE FINDINGS FILED BY THE COURT IN THE CASE OF JACOB SAMUEL WEAVER AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 9, 1905.

Hon. JOSEPH G. CANNON,
Speaker of the House of Representatives.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims of the House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[Court of Claims. Congressional, No. 10826. Jacob Samuel Weaver v. The United States.]

STATEMENT OF CASE.

The claim in the above-entitled case was transmitted to the court by the Committee on War Claims of the House of Representatives on the 14th day of May, 1902. The case was brought to a hearing on its merits on the 6th day of November, 1905.

Messrs. Pennebaker and Jones appeared for the claimant, and the Attorney General, by James A. Tanner, Esq., his assistant and under his direction, appeared for the defense and the protection of the interests of the United States.

The claimant in his petition makes substantially the following allegations:

1. That he is a citizen of the United States and resident in the county of Bourbon, in the State of Kansas.

2. That he, being the first sergeant of Company M, Eleventh Regiment Pennsylvania Volunteer Cavalry, was duly appointed or commissioned by the governor of the State of Pennsylvania as second lieutenant thereof, to take rank from October 1, 1864; and that from and after said date he assumed and performed all the duties of his said grade until November 5, 1864, when he was mustered in as second lieutenant. Said regiment was continuously below the minimum number prescribed by law and regulation, and for this reason and no other he was refused muster and recognition in the grade of second lieutenant during said period.

3. That during said period he was allowed and paid only the pay and allowances of a first sergeant, although he was in the continuous performance of the duties of second lieutenant.

Upon the reports furnished by the War and Treasury Departments and upon other evidence and upon briefs and arguments of counsel the court makes the following

FINDINGS OF FACT.

1. Jacob Samuel Weaver, the claimant in this case, is a citizen of the United States and resident in the county of Bourbon, in the State of Kansas.

2. On October 1, 1864, the said Jacob Samuel Weaver was first lieutenant of Company M, Eleventh Regiment Pennsylvania Volunteer Cavalry. On that date and until he was mustered into the service, to wit, on November 6, 1864, the same was and continued to be below the minimum number prescribed by General Orders, No. 182, of the War Department, of June 20, 1863, carrying into effect section 20 of the act of Congress approved March 3, 1863 (12 Stat. L., p. 734).

The second lieutenant of said Company M, Eleventh Regiment Pennsylvania Volunteer Cavalry, being then and thereafter out of service in said grade, the duties of second lieutenant devolved upon this claimant, who then and thereafter assumed and performed all the duties of second lieutenant of said Company M, Eleventh Regiment Pennsylvania Volunteer Cavalry, until November 6, 1864, when he was mustered as such.

The governor of the State of Pennsylvania also issued to this claimant a commission as second lieutenant, Company M, Eleventh Regiment Pennsylvania Volunteer Cavalry.

3. On the said October 1, 1864, the mustering officer then and thereafter refused to muster this claimant as second lieutenant of said Company M, Eleventh Regiment Pennsylvania Volunteer Cavalry, solely because his command was below its minimum strength, as aforesaid, although he continued to perform the duties of second lieutenant until he was mustered into the service as such.

4. During a portion of the period aforesaid, to wit, from October 25, 1864, to November 6, 1864, this claimant employed a servant not enlisted.

5. During said period this claimant did not draw rations from the Government.

6. If the said Jacob Samuel Weaver should be deemed second lieutenant of Company M, Eleventh Regiment Pennsylvania Volunteer Cavalry, and entitled to the pay of that grade, the difference between his pay and allowances as a first sergeant, which he has received, and that of a second lieutenant, to which he would have been entitled had he been mustered for the period from October 1, 1864, to November 6,

1864, would amount to $82.26, without any deduction for income tax, as reported by the Auditor for the War Department.

7. Income tax would amount to $2.80, and if to be deducted would leave $79.46.

Filed November 1, 1905.

A true copy of the findings of fact as filed by the court.

Test this 6th day of December, 1905.

[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. CRAWFORD. Mr. President, the Senator from Massachusetts [Mr. LODGE] has an amendment proposing to insert the French spoliations claims.

Mr. LODGE. I have two or three amendments here which I was going to offer, but I understood the Senator from Alabama [Mr. JOHNSTON] was going to offer an amendment. I am perfectly willing, however, to go on with my amendments now. I send to the desk an amendment which I now offer.

The PRESIDING OFFICER. The amendment proposed by the Senator from Massachusetts will be stated.

The SECRETARY. As an item from Massachusetts it is proposed to insert on page 264 the following:

To Thomas B. Flower, of Greenville, Mass., $5,538.

Mr. LODGE. I ask to have the report of the Court of Claims in that case read.

Mr. CRAWFORD. Is that a longevity claim?

Mr. LODGE. No.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

FREDERICK L. GREENE, ADMINISTRATOR.

COURT OF CLAIMS FINDINGS FILED BY THE COURT IN THE CASE OF FREDERICK L. GREENE, ADMINISTRATOR OF THOMAS B. FLOWER, DECEASED, AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, February 11, 1902.

Hon. WILLIAM P. FRYE,
President of the Senate pro tempore.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the resolution of the Senate of the United States under the act of March 3, 1887.

I am, very respectfully, yours, etc.,
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[Court of Claims. Congressional case No. 10161. Frederick L. Greene, administrator of the estate of Thomas B. Flower, deceased, v. The United States.]

STATEMENT OF THE CASE.

The claim in the above-entitled case for stores and supplies alleged to have been taken by the military forces of the United States for the use of the Army during the war for the suppression of the rebellion was transmitted to the court by a resolution of the United States Senate on the —— day of April, 1900, under the act of March 3, 1887, known as the Tucker Act.

The case was brought to a hearing on its merits on the 4th day of December, 1901. G. W. E. Black, Esq., appeared for claimant, and the Attorney General, by John Q. Thompson, his assistant and under his direction, appeared for the defendant and protection of the interests of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States, residing in Franklin County, State of Massachusetts, where his decedent resided during the late War of the Rebellion; that at different times during said period the United States forces, by proper authority, took from his decedent in Dinwiddie County, Va., quartermaster stores and commissary supplies of the value of $7,920 and appropriated the same to the use of the United States Army as follows:

Taken in 1864–65 by Gen. Warren's command:

180 acres of timber, at $20	$3,720
133 acres of timber, at $15	1,995
1,000 panels of fence, at 30 cents	300
1 dwelling house, 20 by 35 feet	1,200
3 kitchens, two 10 by 25 and one 10 by 12 feet	600
1 granary, tool house, and henhouse	75
1 corncrib, 18 by 18 feet	30
Total	7,920

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant's decedent, Thomas B. Flower, the person alleged to have furnished such supplies or stores, or from who the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

II. There was taken from the claimant's decedent, in Dinwiddie County, State of Virginia, during the War of the Rebellion by the military forces of the United States for the use of the Army property of the kind and character above described, which was then and there reasonably worth the sum of $5,538, for which no payment appears to have been made.

III. The claim was not presented to the Southern Claims Commission, and no evidence has been offered by the claimant under the act of March 3, 1887, "bearing upon the question whether there has been any delay or laches in presenting such claim or applying for such grant, gift, or bounty, and facts bearing upon the question whether the bar of any statute of limitation should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy."

BY THE COURT.

Filed February 3, 1902.

A true copy.

Test this 14th day of February, 1902.

[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. LODGE. Mr. President, in this case, as to the court findings, there was no question of the loyalty of the claimant, or the deceased in whose name the claim is made. I observe the committee say that there was no statement of authority. The court found that the property was taken by the United States troops by proper authority, and there was no question raised as to the actual taking of the property. The court put the valuation on it which I have placed in the amendment. The point against it is that the claim was not made until 1900, and that it did not come before the Southern Claims Commission; and that the day of the month is not stated, although the year is stated. It seems to me that this claim is as good as any of the other claims of that character can be, and that it is a hardship to reject it simply because it was not filed before the Southern Claims Commission and was not brought to the attention of the Government until the year 1900.

Mr. CRAWFORD. Mr. President, the adoption of this amendment will mean that this whole question of laches, long delay, failure to present the claim at a time when witnesses were alive, and the general uncertainty of dealing with claims for property in a generation later than the one in which the original acts arose will involve the discussion of the whole subject.

I want to be perfectly frank in saying, after going over these claims personally, taking the findings of the Court of Claims personally and inspecting them in relation to every one of these cases rejected, my convictions have become so firmly fixed with reference to the allowance of a large class of these claims that if they were put into this bill I could not, even as chairman of the committee, record my vote in its favor.

I merely want to call attention to this situation: This claim was not referred to the Court of Claims until the year 1900. When was the property claimed to have been taken? In 1864–65.

Mr. President, I see the hour has arrived for the impeachment proceedings, and as I shall make remarks at a little length upon this subject I ask that the amendment may go over to-day and come up for discussion to-morrow in connection with the bill.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms (Mr. E. Livingstone Cornelius) made the usual proclamation.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum. The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	Lea	Pomerene
Bacon	Crawford	Lodge	Richardson
Borah	Cullom	McCumber	Sanders
Brandegee	Curtis	McLean	Smith, Ariz.
Bristow	Fletcher	Martine, N. J.	Smith, S. C.
Brown	Foster	Myers	Smoot
Bryan	Gallinger	O'Gorman	Stephenson
Burnham	Gronna	Oliver	Sutherland
Chilton	Johnson, Me.	Page	Thornton
Clapp	Johnston, Ala.	Perkins	Tillman
Clark, Wyo.	Kenyon	Perky	Townsend
Clarke, Ark.	La Follette	Poindexter	Wetmore

Mr. KENYON. I desire to state that the senior Senator from Iowa [Mr. CUMMINS] is detained at home by the serious illness of his father.

Mr. JOHNSON of Maine. I desire to state that my colleague [Mr. GARDNER] has been called from the Chamber on business of the Senate.

Mr. MARTINE of New Jersey. I desire to announce that my colleague [Mr. BRIGGS] is detained from the Senate by illness.

The PRESIDENT pro tempore. On the call of the roll of the Senate 48 Senators have answered to their names. A quorum of the Senate is present. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Monday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal of the Senate sitting as a Court of Impeachment? If not, it will stand approved.

Mr. Manager WEBB. We should like to recall Thomas Howell Jones for one question.

The PRESIDENT pro tempore. The witness will be recalled.

TESTIMONY OF THOMAS HOWELL JONES—RECALLED.

Mr. Thomas Howell Jones, having heretofore been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Jones, after you had secured the 10-day option on the Katydid culm dump for $25,000 on the 6th day of April, 1912, did you see Mr. Williams again?—A. Yes, sir.

Q. What did he say to you, if anything, relative to this matter and Judge Archbald?—A. He told me not to go to the judge's office again; that the judge had nothing at all to do with it; that he had the papers.

Mr. Manager WEBB. That is all, Mr. President.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Who was present?—A. Sir?

Q. Was there anybody else present when that was said?—A. No, sir.

Redirect examination:

Q. (By Mr. Manager WEBB.) Can you state when it was; how long after the 6th of April?—A. I could not state.

Q. Was it one, or two, or three days?—A. I could not tell; maybe it was two, three, or four days. I do not remember the date.

Q. That was before you came down here to testify before the Judiciary Committee?—A. Yes, sir.

Mr. Manager WEBB. That is all, Mr. President.

Mr. Manager FLOYD. Mr. President, the next witness we desire to have called is Mr. H. C. Reynolds.

TESTIMONY OF HARRY C. REYNOLDS.

Harry C. Reynolds, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Please state your name and place of residence.—A. H. C. Reynolds; Scranton, Pa.

Q. What is your business or profession?—A. I am an attorney at law.

Q. Are you acquainted with the Marian Coal Co.?—A. I am, sir.

Q. I will ask you to state if you have ever represented them in the capacity of attorney in any suits?—A. I have, sir.

Q. Were you their attorney in a suit pending before the Interstate Commerce Commission?—A. Two actions.

Q. In one or more suits pending before the Interstate Commerce Commission?—A. I filed on their behalf two complaints—one against the Delaware, Lackawanna & Western Railroad Co. individually and another against the Delaware, Lackawanna & Western Railroad Co. and certain delivering carriers.

Q. State as briefly as you can the nature of those suits—what was claimed.—A. We sought in the first case which I have mentioned to obtain a reduction in the rates charged for the hauling of anthracite coal on all points on the line of the Delaware, Lackawanna & Western Railroad Co. covered by its tariff then known as No. 6095. We also endeavored to point out certain discrimination which we alleged we had suffered at the hands of the Delaware, Lackawanna & Western Railroad Co. and certain acts upon their part which we alleged were in oppression of my client's rights to ship his coal to points on the line of that railroad.

In the second action we sought to obtain a reduction in the joint through rates charged at some points where there were a few joint through rates in effect, and to obtain generally joint through rates to all points on the lines of the various delivering carriers defendants in the complaint.

Q. When were these petitions or suits filed?—A. I forwarded the first petition against the Delaware, Lackawanna & Western Railroad August 12, 1910. The letter was received a few days later in Washington. The second complaint I forwarded, I think, August 15, 1910. They were returned to me by the secretary of the commission with a statement that I should attach detailed statements of claims for reparation, among other things, and they were returned; and I caused my client to prepare the detailed statement, showing the car number, the weight, the date of shipment, the car initial, and thus showing the amount of damages claimed. I might say——

Q. Right at that point, Mr. Reynolds, what was the total amount of damages claimed?—A. We only claimed damages in reparation in the complaint against the Delaware, Lackawanna & Western, and that claim was for upward of $53,000.

Q. State when that suit was finally disposed of by the Interstate Commerce Commission.—A. There was an opinion filed on the 8th day of June, 1912, reducing the rates on prepared coal 25 cents per ton, on pea coal 19 cents per ton, and on buckwheat, I think, 15 cents per ton. The commission, I thought, overlooked the fixing of rates on rice and barley coal, and I filed a brief on the 23d of August pointing out the fact that our complaint had complained particularly of those rates, and pointing out on numerous pages of the testimony where it was shown, as we thought, that they were unjust and unreasonable. And later, early in the month of November——

Q. What year?—A. 1912; they reduced the rates on rice and barley coal; so that we obtained a reduction on all the rates complained of.

In the second case, the joint through-rate case——

Q. Just a moment, Mr. Reynolds. Then, if I understand you, from the time you filed your petition before the Interstate Commerce Commission up to the 12th of November, that matter was pending in some form before the Interstate Commerce Commission for determination?—A. Yes, sir.

Q. Now, you can state about the other case, briefly.—A. In the joint through-rate case, after we had had a few hearings, the railroad companies proposed, voluntarily—at least some of them did—to absorb the 30-cent switching charge for a service from the breaker or property of the Marian Coal Co. to the connecting carrier, and we agreed upon what I termed an armistice, that we would permit the joint through-rate case to stand undisposed of until the disposition of the case against the Delaware, Lackawanna & Western Railroad Co., upon the understanding that they would during such interval absorb the 30-cent-a-ton switching charge that we had been subjected to theretofore. So in both cases—in one case by a voluntary concession—we obtained the absorption of the switching charge.

Q. Kindly state what you mean when you say that they absorbed the 30-cent switching rate. Do you mean the carriers agreed to become responsible for it instead of the shipper?—A. I mean that the carrier, the originating carrier, made some arrangement, no doubt with the originating carrier, whereby it agreed to transport the coal from the washer to the junction point, paying out of the total freight rate to the originating carrier for that service.

Q. The effect of that arrangement, then, as I understand you, was to relieve the shipper of that 30 cents switching charge?—A. Yes, sir.

Q. Mr. Reynolds, I will ask you to state if you were attorney of record and in control of these cases before the Interstate Commerce Commission throughout the entire pendency of those proceedings?—A. Yes, sir.

Q. Did you have an associate with you?—A. No, sir.

Q. You were the sole attorney?—A. Yes, sir.

Q. I will ask you to state if you have any knowledge or information about an effort being made on the part of the Bolands to have this matter compromised by a Mr. Watson, an attorney of Scranton?—A. Well, I only know from information that Mr. W. P. Boland gave me with reference to that.

Q. I am not asking you what the information was. You did have information that such negotiations were being carried on?—A. Yes, sir.

Q. Who were the owners and principal stockholders of the Marian Coal Co.?—A. I never saw their stock books, but I understood and understand now that C. G. Boland and James N. Boland and W. P. Boland were the principal stockholders.

Q. In representing the Marian Coal Co. they were the individual members of the corporation that you dealt with?—A. That I dealt with directly, although I talked with other stockholders of the company.

Q. Now, I will ask you to state whether or not you had anything to do with the negotiations on the part of a Mr. Watson to bring about a settlement of the differences between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.?—A. No, sir; not at any time.

Q. Were you at any time consulted by Mr. Watson for information, or for any other reason, concerning the transaction?—A. No, sir.

Mr. Manager FLOYD. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) You spoke, Mr. Reynolds, of a 30-cent switching charge. That was 30 cents per car?—A. Thirty cents per ton.

Q. Thirty cents per ton, was it?—A. Yes, sir.

Q. In what way was your claim of $53,000 or thereabouts made up? I do not mean to ask you to go into the detail, but in a general way how was it made up?—A. On the complaint as originally filed we alleged that the rate on prepared coal ought not justly to exceed $1 per ton. My recollection is that we averred the rate on pea coal should not exceed 90 cents, and that the rate on buckwheat—I had better speak from the record——

Q. I do not care about the details.—A. Well, 85 or 87 cents, or something like that. And the rate on rice and barley something less, perhaps 75 or 76 cents. Taking that difference between the established rate of $1.58, $1.43, and $1.28 and $1.13 as the difference, we claimed our damages for that difference upon the number of tons we had shipped for a period two years prior to the 18th of October, 1910, which aggregated—the exact figures I can give you—something like $53,000.

Q. That is near enough for our purposes here.—A. Yes, sir.

Q. Is it not true in point of fact that you were asked to go with Mr. Watson to meet Mr. Truesdale in relation to this matter?—A. Yes, sir.

Q. The Mr. Truesdale to whom I have referred is president of the Delaware, Lackawanna & Western Railroad Co.?—A. Yes, sir.

Mr. SIMPSON. That is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager FLOYD.) I desire to ask the witness a question. You say you were asked to go to this conference with Truesdale?—A. Yes, sir.

Q. And Mr. Watson?—A. Yes, sir.

Q. Who asked you?—A. Mr. W. P. Boland called at my office and stated that Mr. Watson had asked him to ask me to go with Mr. Watson and Judge Archbald to present the case to Mr. Truesdale.

Q. Why did you not go?—A. I told him I would not go because I did not believe that Judge Archbald ought to be interested in that case in the light of what he told me that day as to the matter.

Q. What had he told you that day?

Mr. SIMPSON. I object. The objection, as you may see, sir, is that it is what Mr. Boland said that Mr. Watson had said, so that it might be carried to this witness. That is the question really, and the objection is it is double hearsay.

Mr. Manager FLOYD. Mr. President——

The PRESIDENT pro tempore. The Chair will request the manager to name the parties.

Q. (By Mr. Manager FLOYD.) What did Mr. Boland say?—A. Mr. W. P. Boland——

Mr. SIMPSON. Wait, please.

The PRESIDENT pro tempore. Wait.

Mr. SIMPSON. I object to what Mr. Boland said in the absence of Judge Archbald or something to connect Judge Archbald with it.

Mr. Manager FLOYD. I should like to be heard in this connection.

In the examination in chief this witness was asked whether or not he had participated in an attempted settlement, and then on cross-examination respondent's counsel asked if he were not requested to attend that conference before Mr. Truesdale, and accompanying Mr. Watson at that conference, in an effort to settle these matters; and I was simply inquiring into that transaction, which was brought out by the respondent's attorney. I think, in view of the manner in which this matter has come out in the testimony, it is entirely proper that he should state the conversation referred to. It is a part of the reason why he did not go. I think it is competent as showing why this witness refused to go to that conference. That is our position.

Mr. SIMPSON. You will perceive, sir, the question which is now asked has no relevancy. He had been asked in chief whether or not he had taken any part in the conference. He said "No." He was then asked on cross-examination whether he had not been asked to go, and he said he had. He was then asked what was said in relation to asking him to go, and as to that no objection was made. But he is now asked to give his reasons for not going. He may have ten or fifteen or a hundred reasons, or only one, and they may all be valuable to him and may not be valuable to anybody else. Judge Archbald can not be in the slightest degree affected by the reasons which operated upon this man's mind in determining that he would not go. He was only asked about the fact and he has answered the fact, and certainly he can not go beyond it to give reasons which could not have affected the parties in interest in this proceeding.

Mr. Manager FLOYD. I shall not insist upon the question at this point.

The PRESIDENT pro tempore. Are there any further questions to be asked the witness?

Mr. Manager FLOYD. No further questions.

Mr. Manager CLAYTON. The witness may be discharged.

The PRESIDENT pro tempore. Under his subpœna?

Mr. Manager CLAYTON. Yes, sir.

Mr. WORTHINGTON. We do not desire to have this witness discharged. It is very likely that when we come to take evidence, if that time ever arrives, we shall want to cross-examine him.

The PRESIDENT pro tempore. Mr. Reynolds, have you been subpœnaed by the respondent?

Mr. REYNOLDS. No, sir.

Mr. WORTHINGTON. In that case we would have to issue a subpœna and make some arrangement.

The PRESIDENT pro tempore. So far as the subpœna with which he has been served is concerned, the witness is discharged.

Mr. WORTHINGTON. Mr. Reynolds, you are not likely to go where you can not be reached?

Mr. REYNOLDS. Oh, no; I can come when reached by telegraph any time. I may go now?

The PRESIDENT pro tempore. Yes.

Mr. Manager CLAYTON. Mr. President, before the examination of the next witness is proceeded with I desire to say on behalf of the managers that we have consented that Miss Blackmore, a witness subpœnaed on behalf of the managers, may be finally discharged. We think we will not need her as a witness in this case. I desire to make this statement, so that the counsel for the other side may have her subpœnaed if they desire her presence and testimony.

Mr. WORTHINGTON. We have no objection to her being discharged.

The PRESIDENT pro tempore. On that suggestion Miss Blackmore will be discharged.

TESTIMONY OF CHRISTOPHER G. BOLAND.

Mr. Manager FLOYD. The next witness we desire to call on the part of the managers is Mr. C. G. Boland.

The PRESIDENT pro tempore. The witness will be summoned to appear.

Mr. C. G. Boland entered the Chamber and was conducted to the witness stand.

The PRESIDENT pro tempore. Give your name and address to the stenographer.

Mr. BOLAND. Christopher G. Boland, Scranton, Pa.

C. G. Boland, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Mr. Boland, please state your name and address.—A. Christopher G. Boland, Scranton, Pa.

Q. What is your occupation or business, Mr. Boland?—A. Insurance and real estate.

Q. Are you in any way interested in the banking business?—A. And banking; yes.

Q. At what point or location?—A. At Lackawanna, N. Y.

Q. I will ask you to state whether or not you are interested in the Marian Coal Co.—A. Yes, sir.

Q. Is the Marian Coal Co. a corporation?—A. Yes, sir.

Q. In what business is it engaged?—A. In the business of winnowing coal from a culm dump or pile at Taylor, near Scranton, Pa.

Q. And who are some of the other stockholders in the Marian Coal Co.?—A. I do not know whether I can recite all their names to you.

Q. I do not care about all. You are one?—A. William P. Boland is the principal stockholder.

Q. Have you another brother also a stockholder?—A. James M. Boland, of Wilkes-Barre.

Q. There are also other stockholders?—A. Other stockholders.

Q. Who is president of the Marian Coal Co.?—A. At this time William P. Boland is president.

Q. Were you at any time during the existence of the corporation the president of the company?—A. From its organization, in 1904, until May, 1910, I was president.

Q. Since that time William P. Boland has been president of that coal company?—A. Yes, sir.

Q. Now, Mr. Boland, I will ask you to state briefly whether or not a suit was brought against the Marian Coal Co. by one John W. Peale, and if so, state about when that suit was brought.—A. A suit was brought by John W. Peale against the Marian Coal Co. I could not tell you now the exact date without refreshing my recollection.

Q. About when?—A. It was about 1909, I think; in the early part of 1909 and the latter part of 1908.

Q. Where was that suit brought—that is, in what court?—A. It was brought in the Federal court for the middle district of Pennsylvania at Scranton.

Q. Who was the judge of the court at the time the suit was brought?—A. Hon. R. W. Archbald.

Q. The respondent in this case?—A. Yes, sir.

Q. I will ask you to state what you know about a certain promissory note for $500 that was presented to you some time in 1909 for discount and bore Judge Archbald's name upon it. Tell it in your own way.—A. The note you mention was brought into my office in the Republican Building, at Scranton, Pa., some time, I believe, in the fall of 1909, by Edward J. Williams, who asked me to take the note and advance the cash upon it.

Q. Please describe the note, Mr. Boland.—A. As I remember the note, it was made by John Henry Jones and indorsed by Judge Archbald. I am not quite clear as to whether or not it was also indorsed by Mr. Williams.

Q. To whom was the note made payable, if you remember?—A. I am not quite clear on that; possibly to Judge Archbald. I am not quite clear. It was made by John Henry Jones, I am pretty sure.

Q. It was indorsed by Judge Archbald?—A. It was indorsed by Judge Archbald.

Q. What was the amount of that note?—A. $500.

Q. Did you discount it?—A. No, sir.

Q. Was this suit of John W. Peale against the Marian Coal Co. pending at that time?—A. Yes, sir.

Q. Before the court——A. Yes, sir.

Q. Of which Judge Archbald was judge?—A. Yes, sir.

Q. Why did you decline to discount the note, Mr. Boland?

Mr. SIMPSON. I object, sir. The reasons which actuated the witness are a matter of no moment in this controversy.

The PRESIDENT pro tempore. The manager will please state the purpose of the question.

Mr. Manager FLOYD. I will put the question in a different form. [To the witness:] What did Mr. Williams say about that note when he presented it to you for discount?

A. Mr. Williams, as I remember now, told me that he was joined with Mr. John Henry Jones and Judge Archbald in the acquirement of a large tract of land in Venezuela and they wanted this amount in order to enable Mr. Jones to go either to Venezuela or to London to complete the acquirement of the property, and he wanted me to advance the cash on the note.

Q. What did you say to Williams?—A. I remember very well telling him that under other circumstances I might advance the amount, but I felt it would be very improper under the circumstances existing at that time; that I was an officer of the Marian Coal Co. and had a suit before Judge Archbald, and I did not feel on that account that I could consider the matter at all.

Q. Now, Mr. Boland, I desire to ask you about another transaction. I will ask you to state whether or not you employed one Mr. Watson, an attorney, G. F. Watson——A. George M. Watson, I think it is.

Q. An attorney of Scranton to attempt to negotiate a settlement between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co. pending in the Interstate Commerce Commission, and also all differences between the railroad company and the Marian Coal Co., and, further, a transfer of the stock of the Marian Coal Co. to the railroad company?—A. Yes; I made an arrangement with him to act for parties holding two-thirds of the stock of the Marian Coal Co. at the time.

Q. I will ask you to state in your own way that transaction, the circumstances leading up to it, and all about it.—A. Well, the circumstances leading up to it——

Q. I do not mean in any lengthy detail, but just the immediate circumstances?—A. It covered several years of difficulty in which the Marian Coal Co. or the majority stockholders were involved.

Q. Mr. Boland, will you pardon me? I do not want to go into a history of your affairs for years previously, but the circumstances leading immediately up to that transaction, and in a general way you might state about your litigation previously.—A. At the time of employing Mr. Watson there was pending in the Federal court the case of John W. Peale against the Marian Coal Co., and there was also pending before the Interstate Commerce Commission here in Washington the case of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co. and a number of other railroads for discrimination in freight rates against the company. I might say that previous to employing Mr. Watson we feared an adverse decision against the Marian Coal Co. by the court from information obtained by my brother, William P. Boland. So Mr. Edward J. Williams called at my office one day and suggested that we could be gotten out of our difficulty and dispose of our interest if I saw Mr. Watson. He believed that Mr. Watson could dispose of our interest to an advantage and urged me to see him. I talked with William P. Boland, who, together with his own stock, had control or options on a majority of the stock of the Marian Coal Co., to see if he would be agreeable to my doing so. At first he was opposed to it, but after talking with his attorney, Mr. H. C. Reynolds, who just preceded me on the witness stand, he said I might go and see him and see what he would propose to do.

Q. That is, to see whom?—A. See Mr. Watson. I accordingly called on Mr. Watson, who talked with me about the matter and several other matters in connection with the troubles we had. He told me he believed he could dispose of our interest. He wanted to know what we wanted for our interest, and I told him I would have to discuss that further with my brother, William P. Boland. So I went away, and later called on him again after talking with William P. Boland, who agreed that we ought to obtain $100,000 for our two-thirds interest in the Marian Coal Co. My brother wanted to know what Mr. Watson would charge us for his services, and I told him I would ascertain. I again talked with Mr. Watson. I told him the price which I felt we ought to have for our stock; that is, two-thirds of the stock, which amounted to $50,000; the entire stock at that time being $75,000, one-third of it being held by John W. Peale, of New York and Pennsylvania, who had this suit pending in the Federal court against the company. After talking with Mr. Watson he agreed to accept $5,000 for his fee, giving us $95,000 in the event of his selling the property. I remember a day or two after that, I think the day after that, being called over to Judge Archbald's office.

Q. Proceed.—A. Where I met Mr. Watson and Judge Archbald. After some discussion of the matter there the judge informed me that he was going to assist Mr. Watson in an effort to dispose of the property and to release us from the difficulty in which we were involved at the time, referring particularly to this Peale case, which was in his court—I think he was judge at that time—saying he would give it a good deal of consideration and saying it was a good case to settle out of court.

Q. You say "judge." What judge do you mean?—A. Judge Archbald. It was Judge Archbald's office in the Federal building to which I was called.

Q. How came you to go to Judge Archbald's office on that occasion?—A. Some one there called me on the telephone.

Q. Who was in the room when you got there?—A. Mr. Watson and Judge Archbald.

Q. When was that, as near as you can fix the time?—A. It was within a short time after I had arranged with Mr. Watson as to the price he could sell our interest for in the Marian Coal Co. and the fee he was to obtain.

Q. Now, fix the time as near as you can when it was that you arranged with Mr. Watson to make an effort to settle this matter for you.—A. You mean the month and year?

Q. The month and year; yes.—A. It was in August, I believe, 1911.

Q. That is, you mean to state that Judge Archbald was judge of the middle district?—A. I mean 1911.

Q. I am asking you now what is your recollection about whether Judge Archbald was judge of the district court at that time?—A. No; I am thinking of the time when this note was presented to me. He was judge of the court at that time, but this other transaction was in August, 1911, when, I believe, Judge Witmer was judge of the Federal court.

Q. What position did Judge Archbald hold?—A. Judge Archbald was judge of the Commerce Court.

Q. Just state all that occurred and was said in that conversation at Judge Archbald's office when he was present, between yourself, Judge Archbald, and Mr. Watson about the judge going to assist Mr. Watson in this settlement.—A. My recollection is that Mr. Watson recited the fact that he had spoken to the judge about the matter and that the judge had agreed to assist him. The judge stated to me that he would do what he could in the matter. But during the course of the talk a suggestion was made to me that there ought to be some paper furnished to Mr. Watson guaranteeing him, in the event of his disposing of the two-thirds interest or stock, that he would be paid this $5,000.

Q. Who made that suggestion to you?—A. I am not quite positive on that, but we all joined in the discussion, Judge Archbald, Mr. Watson, and myself. I informed both of them that as my brother controlled a majority interest of the stock to be disposed of, I had consulted him and he had agreed that this payment should be made, but if they thought a paper ought to be made reciting the agreement I would endeavor to obtain it, and it was agreed that I should do so. I went to my brother from the judge's office and told him what I had been asked to do, and he gave me a paper reciting that in the event of George M. Watson selling our two-thirds interest, or the two-thirds of the stock of the Marian Coal Co., the Marian Coal Co. would pay him, or the stockholders would pay him, $5,000.

Q. You procured that from your brother and delivered it to Mr. Watson?—A. I did.

Q. Now, did you retain a copy of that agreement or writing?—A. I have no copy with me. I believe it was presented to the Judiciary Committee.

Q. I will ask you to examine that paper, Mr. Boland [presenting paper]. The original of that was signed by whom?—A. (Examining.) By William P. Boland.

Q. The copy was not signed?—A. I do not think any copy was signed.

Mr. Manager FLOYD. This we offer as a copy, Mr. President, and we want it marked as an exhibit, and then ask to identify it.

The PRESIDENT pro tempore. It has not been identified?

Mr. SIMPSON. That is the copy. We have no question about it.

Mr. Manager FLOYD. There will be no question about its identification.

The paper was handed to the Secretary, and marked "Exhibit No. 32."

Q. (By Mr. Manager FLOYD.) I will ask you to examine this paper marked "Exhibit 32" and state whether or not that is a copy of the writing that was given to Mr. Watson?—A. (Examining paper.) Yes, sir.

Mr. Manager FLOYD. Mr. President, we desire to offer this paper in evidence at this point and have it read.

The PRESIDENT pro tempore. The Secretary will read it.

The Secretary read as follows:

[U. S. S. Exhibit 32.]

SCRANTON, PA., *August 23, 1911.*

C. G. BOLAND, Esq., *Scranton, Pa.*

DEAR SIR: In reference to the matter of G. M. Watson being taken into the case of the Marian Coal Co. against the Delaware, Lackawanna & Western, would say in confirmation of what I told you heretofore, that if through the efforts of Mr. Watson a satisfactory settlement is brought about the Marian Coal Co. agrees to pay him $5,000 for such settlement.

Of course Mr. H. C. Reynolds has been in this case from the beginning and will be attorney in it until its final settlement.

Very truly, yours,

MARIAN COAL CO.,
——, ——, *President.*

A. That was signed by William P. Boland as president, I believe.

Q. (By Mr. Manager FLOYD.) It has been introduced as evidence, and you testify it to be a true copy of it according to your best recollection?—A. Yes, sir.

Q. Now, I will ask you to state whether or not anything else was done or said by Judge Archbald at this interview, which you have described, when Mr. Watson and yourself were present in Judge Archbald's office.—A. I do not remember that. I do not know whether it was at that or a subsequent call at Judge Archbald's office the judge called on the telephone to the Scranton office of Mr. E. E. Loomis, who was the vice president of the Delaware, Lackawanna & Western Railroad Co., to arrange an interview with him in reference to this matter.

Q. Now, to refresh your memory, was it the conference you have been detailing or was it a subsequent conference?—A. I am not positive as to that.

Q. Anyhow, you testify that he did, either on that occasion or on some subsequent occasion, call for Mr. Loomis?—A. Yes, sir.

Q. Or called up his office on the telephone with a view of arranging an interview?—A. Yes, sir.

Q. Was Mr. Watson also present at the time when the judge called up Loomis?—A. I believe so. I am inclined to believe it was that time when I was called from my office over to the judge's office. Some one suggested that Mr. Loomis was in Scranton on that day, and it was considered advisable to reach him and arrange a conference with him.

Q. What was your understanding as to whether he did reach Mr. Loomis and call him on the phone?—A. He did not reach him. They reported, as I understood and as I remember now, the judge said he was not at his office at the time.

Q. You state, Mr. Boland, that in that conversation Mr. Watson informed you that Judge Archbald had agreed to assist him in the settlement, and that Judge Archbald stated that he had agreed to assist him and do all he could to assist him in the matter?—A. Yes, sir.

Q. You had agreed to pay Watson $5,000 in the event he secured that settlement, had you?—A. Yes, sir.

Q. Now, was there anything said in that conversation, either by Mr. Watson or Judge Archbald, as to what interest Judge Archbald had in making that settlement or the reason he was taking part in making that settlement, or in an effort to make that settlement?—A. No, sir; not to my recollection.

Q. You knew that you agreed to pay Watson a money consideration of $5,000?—A. Yes, sir.

Q. And Judge Archbald agreed to assist him in the negotiation of that settlement in your presence?—A. Yes, sir.

Q. And no explanation was made about why he was doing it, the motive that prompted him, or the consideration that moved him?—A. Not at that time.

Q. Was there at any other time?—A. Yes; by——

Mr. SIMPSON. One moment, please.

Mr. Manager FLOYD (to the witness). Well, when Judge Archbald was present?—A. No, sir.

Q. Now, I want to ask you to state whether or not, in pursuance of that agreement, any efforts were made on the part of Mr. Watson or Judge Archbald or both of them to negotiate a settlement with the people of the Delaware, Lackawanna & Western Railroad Co.?—A. Yes, sir.

Q. About what length of time did those negotiations continue?—A. From this time in August, the date of which I fixed by that letter, up until some time in October, I think, when this interview or conference occurred between Mr. Watson and the officials of the Delaware, Lackawanna & Western Railroad Co.

Q. And that was about what date?—A. I think that was in October; I am not positive; but I remember on the day of the conference Mr. Watson sent a telegram to Judge Archbald here at Washington. If I had that record, I could state about what date it was.

Q. I will refresh your memory.—A. I think it was in October.

Q. Just wait a moment, Mr. Boland, and I will refresh your memory. [Handing paper to witness.] Examine that telegram, Mr. Boland, and see whether that is the telegram referred to.

The WITNESS (after examining). Yes, sir.

Q. In whose handwriting is that telegram?—A. In Mr. George M. Watson's handwriting.

Q. Were you present when he wrote it?—A. I was.

Mr. Manager FLOYD. Mr. President, we desire to have that paper marked as an exhibit and read in evidence at this point.

The WITNESS. It is dated October 6. So that was about the time the negotiations ended.

The Secretary read the paper, which was marked "Exhibit 33," as follows:

[U. S. S. Exhibit 33.]

THE WESTERN UNION TELEGRAPH CO.,
October 6, 1911.

To Hon. R. W. ARCHBALD,
Judge Court of Commerce, Washington, D. C.:

Wire me East Stroudsburg what time to-morrow I can meet you in Washington.

G. M. WATSON.

Q. (By Mr. Manager FLOYD.) That telegram, you say, was sent on the day or about the time of the conference with Truesdale, Loomis, and others?—A. Yes, sir.

Q. And that was sent by Mr. Watson to Judge Archbald?—A. Yes, sir.

Q. I will ask you to state, if you know of your own knowledge, of any part that Judge Archbald took to bring about or to further those negotiations other than what you have testified to up to this point in your testimony?—A. I have only the information——

Q. I am asking you of your own knowledge.—A. I do not recall any information of my own knowledge; but we consulted after that interview with Mr. Watson, my brother probably holding more interviews with him than myself.

Q. Well, did you understand that the judge was assisting Mr. Watson in these negotiations, from any information you had?—A. I did.

Q. Did you see any letters that he had written in connection with the matter in any way?—A. I do not remember now having seen any letters to Mr. Watson.

Q. Did you have any conference with the railroad company; that is, with any of the officers or agents of the Delaware, Lackawanna, and Western Railroad Co., during the pendency of these negotiations—that is, from the time in August when they were instituted up to the 5th or 6th of October?—A. Yes, sir; I met Mr.——

Mr. SIMPSON. One moment, please. I object, if the court please.

Mr. Manager FLOYD. I am just asking the witness whether he had or not.

Mr. SIMPSON. Yes; but he went on. That is the reason I interrupted him. The question was quite proper.

The PRESIDENT pro tempore. The witness will answer the question, but should not proceed further.

Q. (By Mr. Manager FLOYD.) During the time you had the conferences with him?—A. Yes, sir.

Q. Now, I will ask you to state if, in any of these conferences with the railroad people, you were shown any letters that had been written by Judge Archbald concerning this negotiation?—A. No, sir; not to my recollection.

Q. Did you understand that this negotiation was attempted to be brought about by Mr. Watson assisted by Judge Archbald?

Mr. SIMPSON. I object, unless it is shown that Judge Archbald was a party in some way to that understanding. One can not tell from whom this gentleman gets his understanding.

Mr. Manager FLOYD. Mr. President——

Mr. SIMPSON. If you will excuse me, Mr. Manager FLOYD, if you will state that the witness got his understanding from anything that was said by Judge Archbald, or in his presence, of course the question will be wholly unobjectionable.

Mr. Manager FLOYD. Mr. President, we can not agree with counsel for the respondent on that proposition. We have shown by the testimony of this witness that he employed, for a consideration of $5,000, Mr. Watson to bring about a settlement of the disputes, or certain disputes, between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co. He has further testified that within a very short time thereafter—a day or two—he was called to the office of Judge Archbald; that he there met Mr. Watson and Judge Archbald; and that Mr. Watson, the man whom he had employed to negotiate this settlement, or to attempt to negotiate this settlement, stated to him that Judge Archbald had agreed to assist him in bringing about the settlement in the presence of Judge Archbald; and that Judge Archbald agreed to assist him, and stated that he would do all he could to assist him.

The witness has further testified that either on that occasion, or on some subsequent occasion, Judge Archbald called up the office of Mr. Loomis, the vice president of the Delaware, Lackawanna & Western Railroad Co., in an effort to get in touch with him to confer with him about this particular matter. I think, therefore, it is perfectly competent, having laid that basis, to ask this witness whether or not he understood that Judge Archbald was continuing his efforts to bring about this negotiation or whether he dropped out of the transaction altogether, and what was his understanding about it. It seems to me that it is entirely competent.

The PRESIDENT pro tempore. The Chair thinks that counsel has proved the fact of the statement being made in the presence of Judge Archbald, and the presumption of law would continue unless proof were offered to the contrary. The Chair does not see what counsel would have to gain by making further proof of the fact.

Mr. Manager FLOYD. Very well, Mr. President, we shall not insist upon the question upon that ruling of the Chair. I desire to say that I fully agree with the law as indicated by the Chair, and do not wish to press that particular question further.

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's interest or participation in this settlement, and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?

Mr. SIMPSON. We object, unless it is intended to prove either that the conversations referred to took place in the presence of Judge Archbald or that they were in some way indicated to him and not dissented from by him.

Mr. Manager FLOYD. Upon that proposition, Mr. President, we desire to be heard. I will state that we regard that question as a very material one in this case. We shall therefore ask the indulgence of the Senate to present our views of the law quite fully upon that proposition at this time.

The PRESIDENT pro tempore. Before the argument proceeds, the Chair will ask that the stenographer be permitted to read the question so that it will be clearly presented.

The Reporter read as follows:

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's interest or participation in this settlement and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?

Mr. Manager FLOYD. Mr. President, we think that we are entitled to prove, under the circumstances, conversations of and declarations made by Mr. Watson. If that question had been answered, it would have been followed by another question, "What were those conversations?" or "What was said in those conversations?" But this raises the question, and I suppose that counsel for the respondent will not be technical about that. What we are insisting upon is the right to prove conversations and declarations made by Mr. Watson during the course of these negotiations concerning Judge Archbald's relation to that transaction.

In support of that proposition we submit that there are three principles of law under which, according to our view of the law, that character of testimony is admissible in this case. In the first place, under article 2 Judge Archbald is charged with an unlawful act in assisting one George M. Watson to make a settlement for a consideration. If Judge Archbald's act is unlawful, then the act of the man who assisted him in the performance of that act is unlawful; and on the ground of criminal conspiracy we think declarations made by Watson concerning the transaction would be admissible.

We insist, further, that under the simple rules of contract, whether there is any conspiracy or not, this evidence is admissible, for the question of inquiry is as to certain negotiations had in an attempt to make a settlement of the affairs of the Marian Coal Co. with the Delaware, Lackawanna & Western Railroad Co. It is in proof here that Judge Archbald agreed to assist the attorney to do all he could to aid him in making that settlement and associated himself with him. I know of no different rule for a contract to do one particular thing than a contract to engage in business or a contract to do various things. When two or more persons enter into an agreement to carry into effect a common design, the same rules and principles of law apply, as I understand, whether it is to carry on a business or to do some particular thing. In this instance the agreement was to do, or to undertake to do, a particular thing, namely, to bring about an adjustment or a settlement between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.—a settlement of their differences over certain lawsuits and over certain property.

The third principle upon which we think this character of evidence is admissible is that it is a part of the res gestæ, a part of the transaction itself. In inquiring into this settlement and into the various steps that were taken by those concerned in an effort to bring it about we contend that it is perfectly competent to prove what the participants in that settlement did and said when we have once established the fact that Judge Archbald entered into an agreement to assist Mr. Watson or to participate in that settlement; it becomes entirely immaterial, under our view of the law, whether Judge Archbald was present or whether Judge Archbald was not present when these declarations were made by Watson, his associate and partner.

Under the testimony already established, it is shown that Judge Archbald was present at a conference at which Mr. C. G. Boland, the witness on the stand, and one Mr. Watson were present, and that he undertook or agreed or stated that he had agreed to assist Mr. Watson in this settlement; and we will show by incontrovertible testimony that will be introduced later in this case that Judge Archbald did attempt to assist Mr. Watson in negotiating that settlement; that he continued his activity throughout the entire period of these negotiations almost up to the day of the final conference. We will show by letters and by witnesses who were officers of the railroad company that Judge Archbald sought and obtained personal interviews with railroad officials and wrote them various letters concerning the proposed settlement.

I say that, in addition to what we have already shown, we will produce witnesses to prove those facts, which will be a further basis for the admissibility of this evidence.

As to the law, I read from Greenleaf on Evidence:

Declarations of conspirators: The same principles apply to the acts and declarations of one of a company of conspirators in regard to the common design as affecting his fellows. Here a foundation must first be laid by proof sufficient in the opinion of the judge to establish prima facie the fact of conspiracy between the parties, or proper to be laid before the jury as tending to establish such fact. The connection of the individuals in the unlawful enterprise being thus shown, every act and declaration of each member of the confederacy, in purusance of the original concerted plan and with reference to the common object, is, in contemplation of law, the act and declaration of them all, and is therefore original evidence against each of them. (Greenleaf on Evidence, 14th Ed., Vol. I, pp. 149, 150.)

Now, in regard to declarations of copartners, I read from the same work as follows:

Declarations of partners: This doctrine extends to all cases of partnership. Wherever any number of persons associate themselves in the joint prosecution of a common enterprise or design, conferring on the collective body the attribute of individuality by mutual compact, as in commercial partnerships and similar cases, the act or declaration of each member, in furtherance of the common object of the association, is the act of all. (Greenleaf on Evidence, 14th Ed., Vol. I, p. 151.)

In Roscoe's Criminal Evidence, volume 1, sections 429–430, the same doctrine is enunciated.

The PRESIDENT pro tempore. The Chair would like for the manager to read from the authority just cited.

Mr. Manager FLOYD. Very well, I will read. In volume 1, Roscoe's Criminal Evidence, page 570, eighteenth edition, we find the following:

Proof of the existence of conspiracy in general: It is a question of some difficulty how far it is competent for the prosecutor to show, in the first instance, the existence of a conspiracy amongst other persons than the defendants without showing at the same time the knowledge or concurrence of the defendants, but leaving that part of the case to be subsequently proved. The rule laid down by Mr. East is as follows: "The conspiracy or agreement among several to act in concert for a particular end must be established by proof before any evidence can be given of the acts of any person not in the presence of the prisoner; and this must, generally speaking, be done by evidence of the party's own act and can not be collected from the acts of others independent of his own, as by express evidence of the fact of a previous conspiracy together or of a concurrent knowledge and approbation of each other's acts." (1 East, P. C., 96.) But it is observed by Mr. Starkie that in some peculiar instances, in which it would be difficult to establish the defendant's privity without first proving the existence of a conspiracy, a deviation has been made from the general rule; and evidence of the acts and conduct of others has been admitted to prove the existence of a conspiracy previous to the proof of the defendant's privity.

The PRESIDENT pro tempore. If the manager will pardon the Chair, the point upon which the argument is desired would be as to the right to prove the sayings of one party connected with the transaction as against the other.

Mr. Manager FLOYD. Yes, sir.

The PRESIDENT pro tempore. And the Chair would say that, so far as the present view of the Chair is concerned, the circumstances here would hardly justify its being brought within the rule of conspiracy. Whether or not it is within the rule of partnership is another question.

Mr. Manager FLOYD. I will submit authorities upon that point a little later.

In the case of Wiborg and others *v.* The United States (163 U. S., p. 632) we find a decision which we think in point upon this question. I will state the case briefly.

On an indictment for violating the neutrality laws *v.* the captain and mates of the steamer *Horsa*. Held that declarations of the men taken on board as members of a filibustering expedition that they were going to Cuba to fight Spaniards, though made in the absence of defendants, are admissible.

The PRESIDENT pro tempore. If the manager will pardon the Chair, the Chair will state that if the manager can establish the fact that there was a pecuniary interest of Judge Archbald in this matter, then, in the opinion of the Chair, the testimony would be admissible—if the manager can point to evidence which shows that Judge Archbald had a pecuniary interest in this fee.

Mr. Manager FLOYD. That is one of the purposes of this very evidence, namely, to show that fact in connection with other facts and circumstances. The managers will have no difficulty whatever in establishing the fact of Judge Archbald's connection and participation and activity in an effort to bring about this settlement from the beginning of the contract he had with Mr. Watson up to the final conclusion, when the proposition was turned down by Mr. Truesdale, the president of the Delaware, Lackawanna & Western Railroad Co.; and we have proven, as we understand, that he entered into an agreement with Mr. Watson, and Mr. Watson, according to the undisputed evidence, was to receive a pecuniary consideration for his services.

The PRESIDENT pro tempore. If the manager will point to the testimony where a pecuniary or valuable interest is shown, it will then be competent by this testimony to show the extent of that interest.

Mr. Manager FLOYD. Perhaps, Mr. President, the Chair misunderstood my statement. My statement was to the effect that it was in proof that if Mr. Watson undertook to secure this settlement on a basis of $100,000, and if he succeeded then Mr. Watson was to receive a pecuniary consideration of $5,000 for his services.

It is further in proof that immediately following that agreement on the part of the Bolands with Mr. Watson, Mr. C. G. Boland is called to Judge Archbald's office and there, in the presence of the judge, Mr. Watson states to Mr. Boland, his client, for the specific purpose, that Judge Archbald has agreed to assist him in bringing about the negotiation of a settlement of the matters in dispute between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.; and it is in proof that Judge Archbald stated to Mr. Boland that he had agreed with Mr. Watson to assist him and that he would do all he could to bring about the settlement.

It is further in proof that on the suggestion of some one of those three men the question of a written contract was discussed as to whether or not Mr. Watson ought not to have some writing to guarantee the payment of this $5,000 in the event he should be successful in bringing about the negotiation.

It is further in proof that, in keeping with that suggestion, whether it was made by Mr. Watson or Judge Archbald, it was made in Judge Archbald's presence, a written agreement or guaranty was prepared and signed by W. P. Boland, president of the Marian Coal Co., and delivered to Mr. Watson.

Now, Judge Archbald did not explain in that conference, according to the testimony, what his interest was. He had made an agreement to assist an attorney who was undertaking to bring about a negotiation for a fee. Now, we insist, under those circumstances, that we ought to be permitted to prove the declarations of Mr. Watson—to show what interest Judge Archbald had in the contract and whether or not he was to share in the fee.

We have some authorities here bearing on the question of the admissibility of such declarations. Mr. President, in the case of Nudd and others *v.* Burrows (91 U. S., 438), this principle is discussed. I am reading from page 438, Ninety-first United States, Otto:

In general, the rules of evidence are the same in civil and criminal cases. (U. S. *v.* Gooding, 12 Wheat., 469.)

Where two or more persons are associated for the same illegal purpose, any act or declaration of one of the parties in reference to the common object and forming a part of the res gestæ, may be given in evidence. (American Fur Co. *v.* United States, 2 Pet., 365.)

The bill of exceptions does not purport to give all the evidence. What proof had been given of the alleged concert and conspiracy on the part of the defendants when the declarations of Emmons were offered to be proved does not appear.

It is to be presumed it was sufficient to lay the proper foundation as to them for the introduction of the evidence. The declarations were competent to prove the whole case as against Emmons.

In that case it was contended by counsel that these declarations were not admissible unless the defendants were present, and as I understand the contention on the part of the attorneys for the respondent it is that these declarations are not admissible because the respondent was not present.

To each and all of the questions asked with this view the counsel for the defendants objected "on the ground that they called for the declarations of Emmons not made in the presence of either of the defendants or brought to their knowledge."

Was this ground of objection well taken?

And the court holds that it was not in that case.

As a further authority we desire to submit the case of Clune *v.* the United States (159 U. S., p. 590). This was an indictment against Clune and others for conspiracy to obstruct the passage of the mail. Held, that telegrams from third parties and declarations of certain parties not parties to the record in carrying on or attempting to carry into effect the conspiracy were admissible against the defendants.

Beginning at page 592, near the bottom, are quoted the telegrams from other parties entirely disconnected with defendants, and then the court says:

Although all the evidence does not appear to have been preserved in this bill of exceptions, enough is disclosed to show that the Government was seeking to establish a conspiracy by circumstantial testimony, and telegrams of this character, if identified and brought home to the defendants, were obviously circumstances tending to show such conspiracy. It is familiar law that where a case rests upon that character of evidence much discretion is left to the trial court, and its ruling will be sustained if the testimony which is admitted tends even remotely to establish the ultimate fact.

* * * * * * *

Another series of objections is to the admission of the declarations and acts of parties other than the defendants, to wit, Gallagher and Buchanan, on the ground that they were not parties to the record. The indictment charged the defendants with conspiring and combining together and with other persons. Now, if Gallagher and Buchanan were conspirators with defendants, evidence of their acts and declarations in carrying or attempting to carry into effect the conspiracy was competent, and we must assume, in the silence of the record, that it was shown that they were engaged in the conspiracy and that their acts and declarations were in execution thereof.

In the case of the Connecticut Mutual Life Insurance Co. *v.* Hillmon (188 U. S. Repts., p. 208) we have the same principle discussed in a life insurance case. In that case the policy was a policy upon the life of Hillmon. Suit to recover was instituted by his wife and beneficiary, who was not alleged or shown to have been a party to the conspiracy to defraud the company. The defense by the insurance company was conspiracy to defraud by pretense of death and substitution of body between Hillmon and the insured.

Baldwin, Brown, and others made declarations. The court held that the declarations of Baldwin, Brown, and these other witnesses that testified to declarations concerning transactions with Hillmon were admissible, although it was not charged that Mrs. Hilmon, the party to the suit, was present or that such declarations were ever brought to her attention or knowledge.

The court says, at page 215:

Several assignments are based upon the exclusion of the testimony of the witnesses Phillips, Blythe, Crew, and Carr as to acts performed and declarations made by the alleged coconspirators John W. Hillmon John H. Brown, and Levi Baldwin after evidence had been introduced establishing such conspiracy. That considerable evidence of a conspiracy between these three parties had been introduced, and at a very considerable length is not denied, and the main objection to the introduction of the acts and declarations of the above witnesses was based upon the ground that the plaintiff, the wife of Hillmon, was not alleged to have been a party to such conspiracy.

The proposed testimony of Phillips, who was a physician, and had been called professionally by Baldwin to his house in the summer or fall of 1878, related to certain inquiries made by Baldwin as to the effect of death upon bodies. In this connection defendant offered to prove that Baldwin asked the witness if he had any insurance upon his life, and said he had been thinking about taking out some himself, and in the same conversation asked Phillips how long a dead body would decompose after it was buried. He further asked if it "would not be a good scheme to get a good insurance on your life and go down South and get the body of some Greaser and pawn it off as your body and get the money."

Now, the testimony regarding the declarations of other witnesses was along a similar line. The plaintiff, the wife of Hillmon, was not charged to be connected with this conspiracy in any way; but this testimony was admitted in evidence as a part of the transactions and declarations of conspirators to show that Hillmon and these parties were in the fraud.

Now, one more authority, Mr. President——

The PRESIDENT pro tempore. The Chair will state to the manager that there is no question at all about the correctness of the rule for which he is reading authorities, as to cases where there is a conspiracy shown or where there is a partnership shown. The only question in the mind of the Chair is whether or not the foundation has been laid by this evidence as to whether or not Judge Archbald had a material interest in the fee. So the manager will please confine his argument to that. There is no question about the rule of law.

Mr. Manager FLOYD. Mr. President, at the present stage of the evidence, in so far as the question of the conspiracy is concerned, I believe I have said about all I wish to say on that point. I have recited the facts and circumstances in detail. But in regard to the common agreement, I contend that where two men undertake a common purpose, whether it be to go into a mercantile business or a mining business or to settle a lawsuit, when we have established that they have undertaken to work together for a common purpose, to bring about a common design, a common result, that then these rules apply and the evidence of one is admissible against the other throughout the entire transaction; that by an agreement to undertake a common design they become partners. And I can see no distinction between being partners in compromising a lawsuit and partners in bringing about any other particular purpose.

So we think the testimony offered is clearly admissible upon that principle, and we believe we have established sufficiently the basis for its introduction when we have shown that Judge Archbald agreed to assist Mr. Watson and that they did undertake to bring about this settlement, and that they worked together in an effort to bring about such settlement, to admit the testimony on that ground; and if the Chair does not think we have——

The PRESIDENT pro tempore. The Chair has not said so——

Mr. Manager FLOYD. It is in regard to the other point I am speaking; if the Chair does not think that a sufficient basis has been laid to admit this testimony upon the ground of conspiracy, and if the Chair should so hold, we wish to serve notice now that at a latter stage, when we have gotten all our testimony in, we will ask to repeat the question to the witness.

But upon the other proposition, and on the ground that it is a part of the res gestæ, the settlement in question, we think the testimony offered is clearly admissible, entirely regardless of the fact whether there is any criminal act on the part of Judge Archbald or anyone connected with it; and these authorities which we have submitted, in our judgment, bear out that contention.

Mr. SIMPSON. Mr. President, you were quite accurate in saying there can not be any controversy on the law either of conspiracy or of partnership, but that the acts or doings of one conspirator or one partner are binding on all of them, or at least may be offered in evidence against all of them. But there is at the root of that the primary thing that you must first establish, either the conspiracy in the one case or the partnership in the other.

The basis upon which the allegation is made here that there is either a conspiracy or a partnership is simply that at an interview at which Mr. Boland was present in Judge Archbald's office, Judge Archbald said, or somebody else said and Judge Archbald assented to it, that he would assist Mr. Watson in obtaining a settlement, for the benefit of the Bolands, of the litigation which they then had pending. That litigation, you will remember, sir, was not, either branch of it, in any court with which Judge Archbald was in any way connected, and I know of no principle of law, nor have the managers called attention to any principle of law, that would prohibit Judge Archbald or judge anybody else, any more than it would prevent you or me, from saying "We will agree," if you choose, or "We will assist in bringing about a much-desired settlement of pending litigation." There is nothing unlawful in such a thing. There is in it nothing that can be said to be detrimental to any man's character.

The PRESIDENT pro tempore. Counsel will pardon the Chair, but that is not now the question. That would be a question for argument to the Senate—as to the effect of it.

Mr. SIMPSON. Of course, but there has to be brought out something to show a partnership, if you choose, or a conspiracy, if you choose, in relation to the thing in regard to which the question is asked.

You will remember, sir, that the question here is not whether Judge Archbald did in fact assist in bringing about the settlement; whether he saw Smith, Jones, Brown, or Robinson in regard to it; whether he spoke to Smith, Brown, Jones, or Robinson or wrote them in regard to it, but the question here is whether Mr. Watson said to this witness, in the presence of Judge Archbald, that Judge Archbald was to receive a portion of the consideration for bringing this settlement to pass. That is the very question which is here asked and which is objected to.

Now, if that question were to be followed up by some evidence that would tend to show that to Judge Archbald's attention this matter was called, quite another question would arise; but there is no attempt to show that here and no pretense of it.

It is said by Mr. Manager FLOYD that they may ask this question in the future, after they have introduced some other proof. I think it is quite sufficient for our purposes to say that we need worry over that if the time arises. But unless there can be found here in the evidence already in something from which there can be found fairly as a conclusion of fact that Judge Archbald was to receive some portion of this consideration this question can not be asked. Otherwise you are in precisely the situation as if you asked this witness to state whether or not Watson did not say he was to receive some part of the consideration for the purpose of showing that he was, in fact, to receive it and not as a concomitant thing growing, in fact, out of that which precedes; and you are in precisely the situation which Mr. Manager FLOYD might have read from section 111 of Greenleaf if he had read a little further in regard to it, where this is said. I will have to read two sentences in order to get the matter squarely before the court:

> Sometimes, for the sake of convenience, the acts or declarations of one are admitted in evidence before sufficient proof is given of the conspiracy, the prosecutor undertaking to furnish such proof in a subsequent stage of the cause. But this rests in the discretion of the judge and is not permitted, except under particular and urgent circumstances, lest the jury should be misled to infer the fact itself of the conspiracy from the declarations of strangers.

That is exactly what this question undertakes to do. He undertakes to prove to the Senate that Judge Archbald was to get a portion of this $5,000 because Watson said he was to get a portion of it, and thereby prove that there was a conspiracy and the fact both, and that, I submit, sir, he can not do.

The PRESIDENT pro tempore. The question is not free from doubt, but the Chair is of the opinion that proof that Judge Archbald was assisting counsel is not proof that he had an interest in what was to be the reward for that service. Whenever that proof is made, then the evidence undoubtedly would be admissible; but until it is so made, in the opinion of the Chair, it is not admissible.

Mr. Manager STERLING. If I may, I want to make just one brief suggestion with reference to that.

While we believe and the proof already in and the proof to come in will satisfy the Senate that Judge Archbald was to share in the fee, yet I do not understand that it is necessary that Judge Archbald should share in the fee in order to be guilty of the offense charged to this count. If it was an offense on the part of Judge Archbald to engage in this class of undertaking, to sell this property, and to make this settlement with a view of himself getting some consideration for it, it was just as much an offense for him to engage in it with a view of helping a friend to get some compensation for it.

Our position is this: That a judge on the bench has no more right to do improper things or to engage in improper transactions for the assistance of a friend or of a partner than he has for the assistance of himself; and if he did this with a view of assisting his friend Watson, or if you desire to call him a partner, his partner Watson, with a view of helping him to get a consideration for his work, he has committed the offense charged in this article.

The PRESIDENT pro tempore. That does not relate to the question of the admissibility of the evidence here. That would be a question for argument, which is legitimate argument, the Chair recognizes.

Mr. WORTHINGTON. It is hardly necessary for us to say, since the manager on the part of the House has undertaken to anticipate what will come at the end of the evidence, that we do not agree with his proposition of law.

The PRESIDENT pro tempore. The Chair hopes counsel and the managers will postpone argument on this question until the time comes to present it in argument. The managers will produce their next witness.

Q. (By Mr. Manager FLOYD.) Just a moment, please. Mr. Boland, will you state any other fact in regard to this proposed

settlement that you know? You are not allowed to answer the question that I asked you some time ago about the conversation, but were you present at the final conference of Mr. Watson with the officers of the Delaware, Lackawanna & Western Railroad Co.?—A. No, sir.

Q. You were not present?—A. No, sir.

Q. Did you know what was the proposition submitted at that time, of your own knowledge?—A. Of my own knowledge, no; only as Mr. Watson informed me and as I was subsequently informed by officials of the Delaware, Lackawanna & Western Railroad Co.

Q. You were not present at that conference, and of your own knowledge you do not know just what the proposition was that he submitted to them—I mean the amount?—A. I was not present at the conference. He told me the amount he submitted as the consideration.

Q. Did you receive at any time during this negotiation or after the negotiations were closed from Judge Archbald any letter in regard to this settlement?—A. At the former hearing I had forgotten about that circumstance, but I have reason to believe that I did receive a letter from Judge Archbald, a copy of which was presented to me in the hearing before the Judiciary Committee.

Q. I will ask you to examine that copy [presenting paper], Mr. Boland?—A. (Examining.) That is a copy of the letter undoubtedly.

Mr. Manager FLOYD. Mr. President, we desire to have this marked as an exhibit at this point and read in evidence.

The PRESIDENT pro tempore. It will be marked and read.

The Secretary read as follows:

[U. S. S. Exhibit 34.]

SCRANTON, PA., *November 13, 1912.*

C. G. BOLAND, Esq., *Scranton, Pa.*

MY DEAR CHRISTY: I had an interview with our friend this afternoon, and I regret to say that I did not succeed in doing anything. I tried to get him to make a counter proposition to the one which had been submitted upon your side. But he seemed to feel that the amount which he would be willing to offer was so inconsiderable that it was hardly worth the while. I regret to report this as the final outcome of the efforts at settlement which have been made, but I see nothing to be attained any further here.

I return herewith the papers which you let me have.

Yours, very truly,

_____ _____.

Q. (By Mr. Manager FLOYD.) You state that you had forgotten that letter, but that afterwards your memory was refreshed?—A. Yes, sir.

Q. I will ask you to state whether or not that letter was produced at the hearings before the Judiciary Committee by Judge Archbald or his counsel?—A. It was.

Q. And after it was produced and you examined it, then you remembered about receiving such a letter from Judge Archbald?—A. Yes, sir.

Q. Have you the original letter?—A. I have not.

Q. The letter that has been read in evidence is a copy that was shown you?—A. A copy that was shown me, I believe, before the Judiciary Committee.

Q. And you remember now that you did receive such a letter?—A. Yes, sir.

Q. What is the date of that letter?—A. It is dated November 13, 1911. That is the correct date, is it not?

Mr. WORTHINGTON. That is right.

Q. (By Mr. Manager FLOYD.) What settlement does he refer to or did you understand him to be referring to in that letter when he regretted that the adjustment or settlement could not be brought about?

Mr. WORTHINGTON. There is no question but that he referred to the investigation Mr. Watson was engaged in.

Q. (By Mr. Manager FLOYD.) Do you have any knowledge about what the judge meant by this language:

> I had an interview with our friend this afternoon, and I regret to say that I did not succeed in doing anything. I tried to get him to make a counter proposition to the one which had been submitted upon your side.

Did you have any knowledge or do you have any knowledge now or understanding of what that referred to?—A. My understanding is that it referred to the negotiations started by Mr. Watson for the sale of our stock in the Marian Coal Co.

Q. He says further down:

> I regret to report this as the final outcome of the efforts at settlement which have been made, but I see nothing to be attained any further here.

Did you understand that that language also referred to these Watson negotiations?—A. Yes, sir.

Q. Now, I will ask you to state, Mr. Boland, whether or not you had any other negotiations with Judge Archbald about settling any other matter that that could have referred to?—A. No, sir.

Q. There was no other matter it could have referred to?—A. No, sir.

Q. I will ask you to state whether, after the failure of Watson to secure a settlement by his negotiations with the Delaware, Lackawanna & Western Railroad Co., you did in person undertake to effect a settlement with the railroad people?—A. Yes, sir.

Q. When?—A. Following closely the failure of Mr. Watson to make a settlement.

Q. About what time, if you can remember?—A. In October or November, 1911.

Q. Then, immediately following the termination of the negotiations on the part of Mr. Watson, you took the matter up?—A. Yes, sir.

Q. With whom?—A. I took the matter up with Mr. Reese A. Phillips, the superintendent of the coal-mining department of the Delaware, Lackawanna & Western Railroad Co.

Mr. SIMPSON. Do not state what was said, please. Just answer the question.

Mr. Manager FLOYD. I am not asking him as to what was said.

The WITNESS. Also with Mr. E. E. Loomis, the vice president of the Delaware, Lackawanna & Western Railroad Co., and at that time president of the Delaware, Lackawanna & Western Coal Co.

Q. (By Mr. Manager FLOYD.) I will ask you to state if you made any proposition to them and if they made any counter proposition to you. Just state what your proposition was and what theirs was.

Mr. SIMPSON. Mr. President, that is objected to, unless it is proposed to show that Judge Archbald was present at the time or it was subsequently brought to Judge Archbald's attention or shown that he authorized it in some way.

The PRESIDENT pro tempore. The Chair will ask that the question be read so that the matter may be brought out clearly.

The Reporter read as follows:

> Q. (By Mr. Manager FLOYD.) I will ask you to state if you made any proposition to them and if they made any counter proposition to you. Just state what your proposition was and what theirs was.

The PRESIDENT pro tempore. Will the managers specify the parties? The question should be changed to that extent by inserting the names.

Q. (By Mr. Manager FLOYD.) Did you, in conferring with the officers of the Delaware, Lackawanna & Western Railroad Co., namely, Mr. Phillips and Mr. Loomis, make a proposition of settlement to either of them and did they make a counter proposition to you? If so, state what the propositions were.

The PRESIDENT pro tempore. The Chair will inquire of the managers whether they propose to connect Judge Archbald with that?

Mr. Manager FLOYD. Mr. President, I will explain the purpose in asking this question. We expect to show that after Mr. Boland entered into an agreement with Mr. Watson to settle the disputes and differences between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co. for $100,000, for which he was to receive a fee of $5,000 if he succeeded, when he had arranged a conference with the officers of the Delaware, Lackawanna & Western Railroad Co. he submitted a proposition of settlement for $161,000.

Mr. WORTHINGTON. Watson?

Mr. Manager FLOYD. Watson submitted a different proposition of settlement for $161,000, an entirely different amount, $61,000 in excess of the amount that the Bolands, representing the Marian Coal Co., had agreed to take; and afterwards Mr. Boland made a proposition of settlement and the railroad company made a counter proposition. We simply wanted to show what those propositions were. We think, when the evidence is all in, that this evidence is necessary to a proper understanding of this whole transaction. The Senate sitting as a Court of Impeachment must determine from all the facts and circumstances in regard to the transaction whether or not there is any criminality in the acts of Judge Archbald. We insist that, under our view of the case, we expect to establish the connection of Judge Archbald with this first negotiation, the one that was carried on by Watson, by incontrovertible evidence, by his own letters written to railroad officials, and it is proper for us to ask the witness this question.

The PRESIDENT pro tempore. Do the managers expect to connect Judge Archbald with this particular matter in any way?

Mr. Manager FLOYD. With this particular proposition that was made, we do not. This was a proposition made by Mr. Boland on his own responsibility after the negotiations in which Judge Archbald had participated had entirely failed.

The PRESIDENT pro tempore. It is not the purpose, then, to hold Judge Archbald responsible?

Mr. Manager FLOYD. Not to hold him responsible in any way for this particular transaction.

The PRESIDENT pro tempore. The testimony on the part of the managers might be admitted, in the opinion of the Chair, to complete their witness.

Mr. SIMPSON. But, sir, how can Judge Archbald be affected by a complete narration of any kind or character after admittedly his connection with the transaction has ended except by something the witness says was said in his presence?

The PRESIDENT pro tempore. The Chair may be wrong, but he has ruled to admit it.

Mr. SIMPSON. If the Chair has ruled, of course, I can not argue the question further.

The PRESIDENT pro tempore. The decision of the Chair is always subject to the decision of the Senate. The Reporter will read the question.

The Reporter read as follows:

Did you, in conferring with the officers of the Delaware, Lackawanna & Western Railroad Co., namely, Mr. Phillips and Mr. Loomis, make a proposition of settlement to either of them, and did they make a counter proposition to you? If so, state what the propositions were.

The WITNESS. I might say yes; but I should like to be permitted to explain this, please, Mr. President. May I explain it?

Q. (By Mr. Manager FLOYD.) Just explain what the propositions were.—A. Yes.

Q. That is a part of the question.—A. Very well; but leading up to that——

Mr. WORTHINGTON. Mr. President, I object. We object to leading up to it, since it has been stated that this evidence is not to be used against Judge Archbald at all, and the time of the Senate should not be taken up with what offers and counter-offers were made. It seems to me that it is doubly a waste of time to find out what led up to it.

The PRESIDENT pro tempore. The witness will simply answer the question asked.

Q. (By Mr. Manager FLOYD.) Just answer the question asked as to what proposition you made and what counterproposition they made. You need not explain what led up to it.—A. It was not wholly to make them a proposition as to the sale of the property I called on either or both of them. It is a part of my reason, and I would like to state it all.

Q. Mr. Boland, I have asked you what the proposition was that you made to these officials named, if you made any, and what counterproposition they made to you. Can you not answer those simple questions? That is all I am asking.—A In reference to Col. Phillips and my interview with him, I called upon him. His office is at Scranton, Pa. The office of Mr. Loomis is at New York, but he visits Scranton frequently. I first called on Col. Phillips and expressed my regret at the negotiations having fallen through.

Mr. SIMPSON. Mr. President, I object.

The PRESIDENT pro tempore. If the witness can answer briefly, the Chair will admit it simply as a part of the general narrative, in order that it might be connected up; but if he is proposing to go into a prolonged, detailed narrative, the Chair would feel compelled to hold that it is not admissible.

Q. (By Mr. Manager FLOYD.) We are not insisting upon the witness going into any detailed narrative. I will again ask the witness, Can you not state what the proposition was that you made to the railroad company and what was the counterproposition that they made to you without going into any details about it? Was the proposition reduced to an amount?—A. I remember stating to Col. Phillips, after discussing with him the previous negotiations had with Watson, that I believed——

The PRESIDENT pro tempore. The witness is not answering the question. Answer the question which the manager propounded to you.

The WITNESS. I then might say I made no proposition of the sale of the property to Col. Phillips, but suggested that I believed I could have my brother agree to it.

The PRESIDENT pro tempore. That is out of the line of the question.

Q. (By Mr. Manager FLOYD.) Then you did not make any proposition to Mr. Phillips?—A. I told him what I believed it could be had for by his company.

Q. Did you make any proposition to Mr. Loomis?—A. I asked Mr. Loomis what was the maximum amount they would be willing to give, and he said that it was so inconsiderable he did not care to mention it. That is as far as any negotiations for the sale went to me.

The PRESIDENT pro tempore. This is not on the line of the question which was submitted.

Mr. Manager FLOYD. I realize that.

The PRESIDENT pro tempore. The Chair rules all that out.

The WITNESS. Then I have to answer I was not authorized when I called on those two gentlemen to make any proposition.

The PRESIDENT pro tempore. The witness must stop. He was not asked that question.

Mr. Manager FLOYD. That is all to be asked this witness on the part of the managers now.

Mr. BRYAN. Mr. President, I send a question to the desk to be asked the witness.

The PRESIDENT pro tempore. The Senator from Florida asks that the following question be submitted to the witness, and it will be propounded by the Secretary.

The Secretary read as follows:

Did the Marian Coal Co. collect any damages in its suit against the Delaware, Lackawanna & Western Railway Co.; and if so, how much?

The WITNESS. They did not up to this time.

Mr. Manager FLOYD. The counsel for the respondent will take the witness.

Cross-examination:

Q. (By Mr. SIMPSON.) I understand, Mr. Boland, that you did not see Judge Archbald at all in relation to the $500 note transaction?—A. I did not.

Q. And you never told him what Mr. Williams had said to you in regard to it?—A. I did not.

Q. You never referred to the matter at all in any way in Judge Archbald's presence?—A. No, sir.

Q. And never heard anybody else ever refer to it in any way in Judge Archbald's presence?—A. No, sir.

Q. What was it you say Mr. Watson was employed to settle with the Delaware, Lackawanna & Western Railroad Co.?—A. All of the differences that the Marian Coal Co. had with the Delaware, Lackawanna & Western Railroad Co. and with Mr. Peale—John W. Peale, of New York.

Q. That is to say, he was to undertake to settle the case of Peale against the Marian Coal Co. and the case of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co.?—A. Yes, sir.

Q. Anything else?—A. Well, that was enough. That was all.

Q. Was there anything else?—A. There was nothing else.

Q. Was there not included in that settlement the question of the sale of the washery of the Marian Coal Co. and the culm bank connected with that washery?—A. The question was as to the sale of the stock held, the two-thirds of the stock of the Marian Coal Co. That was what he was to do, to release those who held the majority interest of the Marian Coal Co. from any further connection with it.

Q. But you see you do not answer my question. Was it not in fact to effect a sale of the washery of the Marian Coal Co. and the culm bank which was being used in connection with that washery?—A. In effect, yes.

Q. How was that settlement to be carried into effect, so far as the Marian Coal Co. was concerned?—A. It was intended that the case of John W. Peale against the Marian Coal Co. would be adjusted in some way, and that by the sale of two-thirds of the stock of the Marian Coal Co. by Mr. Watson the case of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co. for excessive freight charges, which was pending before the Interstate Commerce Commission, should also be settled, and that it would carry with it in the settlement with Peale, who held one-third of the stock of the Marian Coal Co., the sale of the company, which carried with it the sale of the washery and the coal connected with the washery and the culm dump.

Q. Then it was not in fact a settlement of anything, but simply a purchase of stock; is that the idea?—A. That was the idea, but the purchase of stock necessarily would carry with it the purchase of the company and all that it owned.

Q. But how do you make that out? You were only to sell, you say, two-thirds of the stock. That left the remaining one-third of the stock standing in outside hands, did it not?—A. In the hands of John W. Peale.

Q. And, of course, Mr. Peale would have the same right to whatever recovery was had in the suit against the Delaware, Lackawanna & Western Railroad Co. pending before the Interstate Commerce Commission that he had before the sale was made, would he not?—A. If no settlement were made with him; yes.

Q. Was there any writing whatsoever showing what Mr. Watson was to do except this paper which you have produced to-day?—A. I do not know of any.

Q. Will you let me have that paper, please? [The paper was handed.] I notice that this paper of August 23, 1911, which you said was prepared by or for you, says:

In reference to the matter of G. M. Watson being taken into the case of the Marian Coal Co. against the Delaware, Lackawanna & Western, would say, in confirmation of what I told you heretofore, that if through the efforts of Mr. Watson a satisfactory settlement is brought about the Marian Coal Co. agrees to pay him $5,000 for such settlement.

You will observe there is nothing whatever said in this letter about these other matters. Have you any explanation as to how, when you dictated that letter, you omitted these other matters?—A. I might say that the whole matter was understood by the gentlemen who signed and made that paper. I do not think I dictated it. I think it was dictated and signed by William P. Boland.

Q. What was done with it after William P. Boland dictated and signed it?—A. The original was placed in the hands of Mr. George M. Watson.

Q. It must have gone through somebody to Mr. Watson. How did it get to Mr. Watson?—A. I gave it to Mr. Watson.

Q. This paper, I see, is directed to you?—A. Yes, sir.

Q. Was it dictated in your presence?—A. I believe so.

Q. Then you knew its contents?—A. Yes, sir.

Q. Then can you explain why these other matters to which you have adverted were left out of it?—A. It was fully understood by Mr. Watson.

Q. I am not asking you what Mr. Watson understood.—A. The paper was drawn on his suggestion, as I have already explained.

Q. But what I want to know is if you have any explanation why these other matters were left out of it?—A. Only this: That the paper was designed to secure Mr. Watson and his $5,000 fee, and it was deemed unnecessary to go into any long explanation on that account. He did not require it. He said that the paper was entirely satisfactory, and it was the paper that was handed me by William P. Boland to be given him to show in writing that he was to receive that fee.

Q. Do you not know that he testified he never got that paper?—A. I do not.

Q. Did you not hear him so testify?—A. No, sir; I was not here when he testified.

Q. When was it, you say, that he said the paper was entirely satisfactory to him?—A. When it was presented to him by me.

Q. When was that, relative to this date of August 23, 1911?—A. I presume it was on that date.

Q. And where was it presented?—A. At Scranton, in his office at the Connell Building.

Q. Who else were present, if anybody?—A. I do not recall that there was anyone present.

Q. Did you not testify before the Judiciary Committee——

Mr. Manager FLOYD. The page, please.

Mr. SIMPSON. You will find it in two or three places—pages 991, 992, and 1001.

Mr. Manager FLOYD. When you read, just give the page.

Mr. SIMPSON. The exact page I read from is page 991. I will read only one of them. There are three of them, all alike, substantially.

Mr. LODGE. Mr. President, I should like to ask the witness a question.

The PRESIDENT pro tempore. The Senator from Massachusetts asks that the following question be propounded to the witness, and the Secretary will propound it.

The Secretary read as follows:

Did not the sale or disposition of the stock cover all the property of the Marian Coal Co. and everything connected with it?

The WITNESS. Yes.

Mr. SIMPSON. As far as I can see, sir, that is a question of law, but——

The WITNESS. Well, that is my understanding. I am not a lawyer, but I understand that the ownership of the stock of a corporation carries with it the ownership of all that the corporation owns.

Q. (By Mr. SIMPSON.) So we all understand, but you were only selling two-thirds of the stock, were you not?—A. Two-thirds; but it was understood by Mr. Watson he should also with Mr. Peale, who had a case pending against the Marian Coal Co., and held one-third of this stock.

Q. I will not enter into any controversy with you about that, especially after the Chair's suggestion. I am going to read from page 1001. I am reading about one-fourth of the way down:

Mr. WEBB. Can you fix the month it was that you and Watson and the judge had this conference with reference to the sale of the property?
Mr. BOLAND. Either July or August, 1911.

That is the interview you spoke about, is it not, when you went to the judge's office?—A. The interview; yes. I have since fixed in my mind that it was in August, not in July.

Q. No matter when it was, what I read to you is what was talked about at that interview, was it not?—A. I did not pay attention to what you read.

Q. I thought you would do so as a witness. Let me read it again:

Mr. WEBB. Can you fix the month it was that you and Watson and the judge had this conference with reference to the sale of the property?
Mr. BOLAND. Either July or August, 1911.

A. The sale of the——

Q. The sale of the property. That is what was talked about, was it not?—A. The sale of the stock is what I meant.

Q. Not the property?—A. That meant, of course, also the sale of the property, divesting us of our property rights in the company.

Q. I read the second question and answer immediately below that:

Mr. WEBB. In that conference you spoke of selling this property through the influence of the judge and Mr. Watson and others to the Lackawanna Railroad Co.?
Mr. BOLAND. Yes, sir.

Q. Do you say the same thing as to that—when you said "selling the property" you meant selling the stock?—A. I did; certainly.

Q. That is what you meant, was it? Did you not testify before the Judiciary Committee that Judge Archbald took hold of this matter to effect a settlement as a friend of yours?

Mr. Manager WEBB. On what page is that?

Mr. WORTHINGTON. On page 247.

Mr. SIMPSON. Not before the Judiciary Committee, but before Mr. Wrisley Brown. [To witness:] Is not that so?

The WITNESS. When I was called into his office on that day in August that was my belief.

Q. That the judge took hold of that matter as a friend of yours?—A. Yes, sir.

Mr. Manager FLOYD. Mr. President, we have no objection to counsel repeating the question from the book and submitting it to the witness to to whether he testified to it or not; but we submit that it is hardly proper for the counsel to state what it was. If he is going to refer to the book and to previous testimony of the witness, I think, in fairness to us and to the witness also, he ought to read from the book.

Mr. SIMPSON. I think, sir, I might put it either way in cross-examining a witness.

The PRESIDENT pro tempore. The Chair thinks the proper course is, if counsel is going to ask the witness as to his testimony, to call his attention specifically to it.

Mr. SIMPSON. But in order that Mr. Manager FLOYD may have it upon the record if he wishes it there in the language of the witness——

Mr. Manager FLOYD. From what page is counsel reading?

Mr. SIMPSON. At the bottom of page 247.

The PRESIDENT pro tempore. The Chair would think that the proper course is the one now going to be pursued by counsel; that if he is going to ask the witness as to his testimony, he should call his attention specifically to it and be as exact as practicable.

Q. (By Mr. SIMPSON.) The question is, did he so swear; but as Mr. Manager FLOYD wants the exact words, I have no objection at all to giving them:

Mr. BROWN. Well, in your judgment did Judge Archbald have any legitimate incentive or reason to intervene in this matter?
C. G. BOLAND. Well, in my talk with him he told me that he would intervene in it as a friend of Mr. Watson and of my own.

Do you remember so stating?—A. I think that was not before the Judiciary Committee, but it was before Mr. Brown when he was at Scranton.

Q. The question is, do you remember so stating?—A. I suppose I did. Mr. Brown, as I understand it, has had some notes printed in this testimony which I was not wholly conversant with until I saw them printed in the book. I made, as I understand it, a signed statement to Mr. Brown. I do not know whether it is in the book or not. I have not read that book.

Q. But this statement that is in this book was in fact prepared by you, was it not?—A. No, sir. The notes were taken by a stenographer, and I signed a statement.

Mr. Manager WEBB. His name is not signed to this statement.

Mr. SIMPSON. No; it is not signed to it. [To the witness:] Did you not testify to this before the Judiciary Committee:

Mr. WORTHINGTON. Did you make a statement to Mr. Wrisley Brown?
Mr. BOLAND. I did.
Mr. WORTHINGTON. That was written out and signed?
Mr. BOLAND. He asked me to have it reduced to writing and I did, at his request.

A. Yes; it was taken by a stenographer who was there at the time that he was examining myself, and my recollection is that I signed the statement.

Q. But the question is, is it true what you testified there, that Mr. Brown asked you to have it reduced to writing, and that

you did it at his request?—A. That may be so. I am not positive now.

Q. You are not positive after this lapse of time? Do you remember appearing before the Judiciary Committee in this matter?—A. I do.

Q. Do you remember testifying as follows?—I am reading from page 143—

I have nothing to say that would impugn Judge Archbald's integrity in any way, excepting what has already been said about Mr. Williams presenting Judge Archbald's note to me to be discounted.

A. Yes, sir.

Q. Do you remember also testifying as follows as found on page 1007:

Mr. GRAHAM. If you have any reason to give other than you have given why you did not mention these things to the judge himself or make him aware of what Williams was saying, you might give it now.

Mr. BOLAND. I have no explanation to make of it, only that I felt probably Mr. Williams might have approached me without the authority or knowledge of Judge Archbald, notwithstanding his statement that he was authorized to do so, and I felt reluctant to mention the matter to the judge.

Do you remember testifying to that before the Judiciary Committee?—A. I do.

Q. Do you remember also testifying thus before the Committee on the Judiciary, on page 977:

As stated before the Attorney General, I said that I might under other circumstances or conditions consider the proposition that he presented to me, but that I did not feel warranted in doing so at that time, and so I refused to discount the note. Now, I do not think it is fair that I should recite the conversation between myself and Mr. Williams, because, in the light of recent events, I do not feel that it would be fair to reflect on any man by anything Mr. Williams might say at that time or any other time.

Do you remember so testifying before the Judiciary Committee?—A. I do.

Mr. Manager STERLING. Mr. President, I think we ought to object to pursuing this any further. This is not in contradiction of anything that this witness has said to the present time. He has not said anything that disputes the proposition which the counsel has read from the last four or five pages, and if it is to be pursued further we want to object.

Mr. SIMPSON. I think that would not apply, Mr. President, except, perhaps, to the last question which I read, and if the gentleman had objected it might have been ruled on or argued in due course.

Mr. Manager STERLING. None of them are contradicting the witness.

The PRESIDENT pro tempore. Under the rule, as the Chair understands, counsel will confine himself in cross-examination to matters as testified to by the witness on direct examination.

Mr. Manager CLAYTON. Mr. President, I want to state another reason why we think it is improper to pursue that as the counsel is now doing. We have undertaken to shorten the examination of these witnesses. Now, if the counsel is going into all the testimony that the witness has given before, necessarily it will protract the examination of the witness. We have undertaken to examine the witness only on matters that we think are admissible and material to the case.

Q. (By Mr. SIMPSON.) Mr. Boland, you testified that you were president of a bank in Lackawanna, N. Y., at the time these transactions were going on?—A. I did.

Q. Will you tell us whether Mr. Williams, at the time he brought the note to you, knew that you were president of that bank?—A. I do not know; I presume he did.

Q. Did you not testify before the Judiciary Committee—I am now reading from page 977:

Mr. MCCOY. The bank was not mentioned?

Mr. BOLAND. No. Mr. Williams knew that I was president of the bank.

A. If it be there, I testified to that fact or to my belief.

Q. Who was counsel for the Marian Coal Co. in the Peale case?—A. Do you mean on both sides? Well, the Marian Coal Co.'s counsel——

Q. Counsel for the Marian Coal Co.?—A. Their counsel was Frank E. Donnelly.

Q. Had Mr. Reynolds or Mr. Watson any connection with that case?—A. No.

Q. Who was counsel for the Marian Coal Co. in the suit before the Interstate Commerce Commission against the Delaware, Lackawanna & Western Railroad Co.?—A. H. C. Reynolds.

Q. Had Mr. Watson or Mr. Donnelly any connection with that case?—A. No.

Q. Mr. Boland, do you know Clarence L. Woodruff?—A. It might be Clara L. Woodruff.

Q. No; Clarence L. Woodruff, attorney at law in Scranton?—A. Oh, C. L. Woodruff; yes, I am acquainted with Mr. Woodruff; he is my neighbor.

Q. He is your next-door neighbor on the same floor in the office building in Scranton, is he not?—A. Yes.

Q. Do you remember having a conversation with him about the 1st of November of this year in relation to this pending proceeding?—A. The 1st of November of this year?

Q. About that time.—A. Well, I had numerous conversations with him. Our offices adjoin.

Q. I am speaking about the 1st of November of this year and in relation to this particular proceeding.—A. Here before the Senate, you mean?

Q. Yes, sir; in relation to the proceeding pending before the Senate.—A. I do not recollect that we had any talk with particular reference to this proceeding or the contemplated proceeding.

Q. Let me see if I can refresh your memory in any way in regard to it. Do you remember on or about the 1st of November of this year going to Mr. Woodruff and asking him to see Judge Archbald, and to state to Judge Archbald for you that if the suit of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co. was settled you would withdraw from the impeachment proceedings against Judge Archbald, and asking him to see Judge Archbald about it?—A. Well——

Q. That is easily answered—yes or no.—A. I say no; but that would appear ridiculous, would it not?

Q. You say you did not have such a conversation?—A. Not in those words, certainly.

Q. Well, in substance those words?—A. No; not in substance.

Q. And did not he report to you after you had returned from a visit to New York what the result of his interview was?—A. I remember having some talk with Mr. Woodruff, but not in the way you put it.

Q. Nor in substance the way I put it?—A. Nor in substance the way you put it; no, sir.

Q. Do you remember at or about the same time asking Mr. Woodruff to see Maj. Warren and to say the same thing to him?—A. No, sir.

Q. Neither in words nor substance?—A. Neither in words nor substance. I might say, on the contrary, he wanted me to go and meet Maj. Warren in connection with the Marian Coal Co. troubles, and I refused to go.

Q. You say "he." Whom do you mean by "he"?—A. Mr. Woodruff—Attorney Woodruff.

Q. You testified a while ago to a telegram which was sent by Mr. Watson to Judge Archbald in Washington on, I think, October 6, 1911. The paper which was shown to you was the original telegram, was it not?—A. I so understand it; yes.

Q And that original telegram, which is Exhibit No. 33, is in the handwriting of Mr. Watson, is it not?—A. Yes, sir.

Q. How did you get that original telegram?—A. It was handed to me by Mr. Watson as I was leaving his office, with the instruction that I should forward it to Judge Archbald.

Q. Well, you did not forward that original telegram, did you?—A. No; I did not, certainly.

Q. Why did you keep that original telegram?—A. I did not keep it.

Q. What did you do with it?—A. I informed my brother when I went over to the office——

Q. When you say your brother, you mean William P. Boland?—A. William P. Boland—in reference to it. I might say that he was opposed to Mr. Watson proceeding any further in the matter of attempting to settle the matter of the Marian Coal Co. differences or the sale of its stock or property, and he suggested that he would take the telegram and send it; and I handed it to him, as I recollect.

Q. How did you get it back?—A. I did not get it back.

Q. You did not get this back from him?—A. I do not recall having seen it before until you presented it, unless I saw it at the Judiciary Committee hearings.

Q. Did you know that a photograph was made of this telegram?—A. I saw the photograph presented before the Judiciary Committee; yes, sir.

Q. Did you make any copy of the telegram?—A. No, sir; not that I remember; no, sir.

Q. Did you know that William P. Boland was going to make a copy of the telegram and retain the original?—A. No, sir.

Mr. SIMPSON. That is all, Mr. President.

The PRESIDENT pro tempore. Are there any further questions for the witness?

Mr. Manager FLOYD. We desire to ask him a few questions.

Redirect examination:

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, the attorney for the respondent, as I understand, has questioned you concerning certain statements made before the Attorney General. Mr. Simpson read a statement that you made before the Attorney General. I will read the question and answer. He read a portion of it; I want to read it all, and ask you about it.

It is on page 143 of volume 1 of the proceedings before the Attorney General:

The ATTORNEY GENERAL. Mr. Boland (Mr. C. G. Boland), have you anything to add to this?

Mr. C. G. BOLAND. Mr. Attorney General, the matter came on me as a great surprise yesterday when I was told in the afternoon that these papers were to be presented to the Attorney General's office. My instinctive feeling was that it was not the proper thing to do or the proper time. I want to add to what my brother said, that the most friendly relations exist between myself and Judge Archbald. I have nothing to say that would impugn Judge Archbald's integrity in any way, excepting what has already been said about Mr. Williams presenting Judge Archbald's note to me to be discounted; and, of course, in this case in which the Marian Coal Co. was involved, in which it has been known that my brothers and myself were interested as stockholders, it made me feel that it would be a most grievous indiscretion on my part to discount the note for the judge in whose court our case was pending. Under the circumstances——

Mr. WORTHINGTON. "Under other circumstances."

Mr. Manager FLOYD. It is "under the circumstances" here.

The WITNESS. I had that corrected before the Judiciary Committee. It was a mistake of the stenographer.

Mr. Manager FLOYD. As corrected it would read "under other circumstances," but I am reading it as it is. Correcting it, it would read "under other circumstances"—

Under other circumstances if the judge had asked for $500 from me he could have had it; but I refused to discount the note. Then the statement that Judge Archbald called me up to his office, where I found Mr. Watson, whom we talked about, and whom Mr. Williams told me could take this case away from the courts where it had been so long. The judge called me up, and I met Mr. Watson there, and I was asked if I had authority from my brother to agree to pay Mr. Watson $5,000 in the event of his settling the case for $100,000, and I told him I would have to speak to my brother, who was a majority stockholder.

Was not that your full statement to the Attorney General?—A. Yes, sir; so far as it goes there, as I remember it.

Q. So you said in that statement that you had nothing to say that would impugn Judge Archbald's integrity in any way, excepting the things that were stated following?—A. That is correct.

Q. That is your statement before the Attorney General?—A. Yes, sir.

Q. And is that correct?—A. That is correct.

Q. You have already explained that you corrected the statement before the Judiciary Committee by inserting the words "under other circumstances" in reference to that $500 note?—A. Yes, sir. The stenographer got it "under the" when it should be "under other circumstances."

Q. So that I understand that you refused to discount the $500 note because you had a case pending in Judge Archbald's court, namely, the case of John W. Peale against the Marian Coal Co.?—A. That is correct.

Q. And that under other circumstances, on account of the friendly relations between yourself and Judge Archbald, you would have gladly discounted the note, or would have discounted it; is that your statement?—A. Yes, sir.

Mr. CULBERSON. Mr. President, I desire to propound a question to the witness.

The PRESIDENT pro tempore. The Senator from Texas submits a question, which will be read by the Secretary.

The Secretary read as follows:

Q. State fully any conversation you may have had with Mr. Woodruff about which counsel for the respondent have asked you.

The WITNESS. My recollection of the conversation with Mr. Woodruff, who is an attorney at law and was a classmate of President Taft, and whose office adjoins my own—or that of my brother, W. P. Boland, whose office adjoins mine—was in reference to an attempt made by a gentleman named Morgan Davis, jr., who during the past summer or fall took up the sale of the Marian Coal Co. stock or property with parties in New York, and who reported some time about the 1st of November or in October that he had failed in his negotiations. Mr. Woodruff was aware of the fact that he was negotiating for the disposition of the property, and in a conversation we had I informed him that Mr. Davis reported to me that the negotiations had fallen through. I might say Mr. Davis first stated that he represented a syndicate in New York, but afterwards he revealed to me the fact that he was dealing with Mr. Loomis, of the Delaware, Lackawanna & Western Railroad Co. He did not want my brother, William P. Boland, to know that. I expressed my regret to Mr. Woodruff, and he also appeared regretful, and suggested to me that if I would go with him to Maj. Everett Warren, of Scranton, who was counsel for the Delaware, Lackawanna & Western Railroad Co., it might be possible to take it up with him; but I refused to go. He said he would go and talk to Mr. Warren, to which I offered no objection at all. I think, before I saw him again, I made a trip to New York, and on my return he told me that he had talked with Maj. Warren about the matter, but that Maj. Warren did not believe that he could take up the matter himself. In our talk Mr. Woodruff always understood—and I think he referred to it—that the troubles and difficulties and injustices that he believed practiced on him by the companies in his effort to work the Marian Coal Co. affected him very much, and Mr. Woodruff suggested that possibly he might talk to Judge Archbald about it again. I felt that was treading on very dangerous ground, and I told him that, so far as I was concerned, I would not have any connection with that whatever. That, I think, embodies all the conversation Mr. Woodruff and myself had with reference to this matter that the counsel has asked me about.

Q. (By Mr. Manager FLOYD.) Was there anything said——

Mr. CULBERSON. Mr. President, I offer another inquiry in the same connection.

The PRESIDENT pro tempore. The Senator from Texas submits a question, which will be read to the witness by the Secretary.

The Secretary read as follows:

I refer generally to the question of counsel for the respondent to the effect that you had offered in a certain contingency to withdraw from this prosecution.

The WITNESS. In the first place, I hope the Senate will realize that I am not the prosecutor; that I am merely a witness; and, in the next place, I never made that statement to Mr. Woodruff or anyone else, because I was in the hands of the Congress, who were investigating into this matter and carrying on this proceeding, and it would, as I said before, be ridiculous for me to make such a proposition, because it would be impossible for me to carry it out.

Q. (By Mr. Manager FLOYD.) Mr. Boland, did you in that Woodruff conversation say anything that could be construed to be a proposition on your part to withdraw from this case?

Mr. SIMPSON. I object. I have no objection whatever to the witness stating all that occurred, and if the manager will state that he has not stated it all, I have no objection to his leading him in order to bring out the balance; but the question is objectionable in the form in which it was put.

Mr. Manager FLOYD. I am willing for the President to pass on the question.

The PRESIDENT pro tempore. The Chair understood the witness to have replied, in answer to a question from the respondent's counsel, that he had not stated anything substantially to the effect that he had asked him if he had stated. Now, I understand the question of the manager to be substantially along the same line; and if one is admissible the other is. The witness will answer the question.

The WITNESS. I made no statement that would justify the question asked me by the respondent's counsel.

Mr. Manager FLOYD. That is all.

Recross-examination:

Q. (By Mr. SIMPSON.) Did you not give Mr. Watson $50 to come down to Washington at the time of the sending of the telegram that has been offered in evidence?—A. Not to come down to Washington. I remember giving him $50.

Q. For what purpose?—A. Because Mr. Watson, when the negotiations fell through, told me of his desire to go to Washington, but said he had incurred expense in the matter, and, while I was not under any legal obligation to him at all, he felt he ought to have $50 to help defray the expenses he had incurred up to that time in our service.

Mr. SIMPSON. That is all.

Mr. Manager FLOYD. Mr. President, that is all for this witness, and he may be excused.

The PRESIDENT pro tempore. Do you wish this witness to be retained?

Mr. Manager FLOYD. Yes, sir; we wish him retained, but he may be excused from the witness stand at this time.

The PRESIDENT pro tempore. He will be excused, subject to recall at the order of the Senate.

Mr. Manager FLOYD. We will next call Mr. W. P. Boland as a witness.

TESTIMONY OF WILLIAM P. BOLAND.

William P. Boland, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Please state your name and place of residence.—A. My name is William P. Boland; Scranton, Pa.

Q. State your business and occupation.—A. My business for the last 14 years has been coal operations.

Q. State whether or not you are one of the stockholders of the Marian Coal Co.; and if so, state your connection with it.—A. I have been connected with the Marian Coal Co. since its inception, and president since April, 1907, up to date.

Q. Who are the principal stockholders of the Marian Coal Co.?—A. C. G. Boland, James M. Boland—two brothers of mine—and myself.

Q. How much of the stock of the Marian Coal Co. do you and your brothers own?—A. I think we own $45,000 of the $75,000—between $45,000 and $47,000; I am not exact on the figures.

Q. The Marian Coal Co. is a corporation, is it?—A. Yes, sir; a Delaware corporation.

Q. When was this corporation organized?—A. I think it was in 1904.

Q. I will ask you to state if John W. Peale, as plaintiff, instituted a suit against the Marian Coal Co., and, if so, when was that suit instituted and in what court, and so forth?

Mr. WORTHINGTON. Mr. President, I was going to suggest sometime ago to my friends the managers that there is in the record of this case before the Judiciary Committee a certified copy of the docket entries in that suit. Witnesses have been asked about the dates of the suit, and the whole thing could be put in from the House record, so far as we are concerned. That would be much more convenient.

Mr. Manager FLOYD. Does that cover the whole thing?

Mr. WORTHINGTON. It is on page 206.

Mr. Manager FLOYD. You have no objection?

Mr. WORTHINGTON. It is the same thing. It is all right.

Mr. Manager FLOYD. I will be very glad to put that right in here.

Mr. President, at this time we desire to offer different entries as shown by the court records as to the successive steps in the case referred to, the case of John W. Peale versus the Marian Coal Co., about which I asked the witness a question.

The PRESIDENT pro tempore. Does the manager desire to have it read or simply to have it incorporated in the proceedings?

Mr. Manager FLOYD. Simply incorporated in the proceedings and as a part of the record.

Mr. WORTHINGTON. I think it ought to be read. The dates are quite important here.

Mr. Manager CLAYTON. It is not very long, Mr. President.

Mr. Manager FLOYD. I ask that it be read as evidence in this case.

The Secretary read as follows:

[U. S. S. Exhibit 35.]

In the District Court of the United States for the Middle District of Pennsylvania. John W. Peale v. The Marian Coal Co. No. 55. May term, 1909.

O'Brian & Kelly for complainant, Robert Snodgrass.
Frank E. Donnelly for defendant.

1909.

March 4. Bill of complaint and copies.
March 4. Subpœna in equity issued returnable first Monday in May and certified copy of bill.
March 9. Subpœna returned served.
May 3. Demurrer.
September 17. Motion to amend bill and order and amendment.
September 25. Opinion on demurrer to bill overruling demurrer and allowing defendants 20 days to answer.
October 25. Defendant's answer.

1910.

November 17. Order appointing examiner and notice.
November 17. Replication.

1911.

January 28. Order continuing hearing before the special examiner to February 27, 1911.
June 30. Motion of Frank E. Donnelly, attorney for Marian Coal Co., asking leave to file amendment and order of court thereon allowing motion.
June 30. Amendment.
July 18. Plaintiff's evidence, volumes 1, 2, 3, and 4.
July 18. Defendant's evidence, volumes 1, 2, 3, and 4.
July 18. Plaintiff's evidence, volume 5.
July 18. Rebuttal evidence, volumes 1, 2, and 3.
Surrebuttal evidence, volumes 1 and 2.
July 18. Volumes containing statements submitted, respectively, by plaintiff and defendant for the assistance of the court.
July 18. Exhibit statement prepared by E. C. Spaulding.
August 24. Opinion and order.
August 29. Certified copy of order returned by marshal served on defendant Marian Coal Co. and F. E. Donnelly, Esq., attorney.

1912.

January 30. Report of J. Fred Shaffer, special examiner and master.
January 30. Testimony before special examiner.
February 3. Order fixing fee of J. Fred Shaffer, special master, in the sum of $600, to be taxed as costs in case.

I, G. S. Scheuer, clerk of the above-named court, do hereby certify that the foregoing is a true and correct copy of the docket entries in the above-entitled case.

G. C. SCHEUER,
Clerk United States District Court.

Q. (By Mr. Manager FLOYD.) Mr. Boland, I will ask you to state who was the judge of the court at the time that suit was brought in the district court?—A. Judge Robert W. Archbald, sitting here at present.

Q. The respondent?—A. Yes, sir.

Q. He was judge of the court at that time?—A. Yes, sir.

Q. Did he remain judge of that court until he was appointed circuit court judge and assigned to the Commerce Court?—A. As I understand, he was.

Q. I will ask you to state what you know about a $500 note transaction—a note brought to you by E. J. Williams.—A. During the trial of this case before Judge Archbald, Mr. Williams called at my office one day with a note for $500. The maker, I think, was John Henry Jones, and the note was indorsed by Judge Archbald. He asked me to discount the note, and I refused to discount the note; I told him I was not a money lender, and I was in Judge Archbald's court at the time and would not think of doing it.

Q. About when was that?—A. I can not give the exact date. It was somewhere before Judge Archbald, to the best of my recollection, decided the demurrer. That has been my recollection always.

Q. What was your statement about the demurrer?—A. I say, I think it was some time before Judge Archbald decided against us on the demurrer that Mr. Donnelly filed. That has been my impression. I may be wrong on the date, but that has been my impression.

Q. Who was the payee in that note, do you remember?—A. I do not remember that. I only remember what impressed me in connection with the note was Judge Archbald's name connected with the note; and I believe the note was written in Judge Archbald's handwriting.

Q. He was an indorser on the note?—A. Yes.

Q. The note was presented to you by Mr. Williams?—A. Yes.

Q. For discount?—A. Yes, sir.

Q. And you refused to discount it?—A. I refused to discount it.

Q. Whether you are mistaken about the time during the proceeding at which it was presented, whether before or after the judge had passed on the demurrer, was it while that case was still pending in the judge's court?—A. It was.

Q. And while he was still judge of that court?—A. Yes, sir; it was.

Q. You are positive of that, are you?—A. Yes; during that time.

Q. Mr. Boland, I will ask you to state if you know anything about a contract that was executed by E. J. Williams to you in reference to the sale of an interest in the Katydid culm dump to yourself or to your company?—A. Yes, sir; I do.

Q. I will ask you to state if that exhibit is the contract referred to [indicating]?—A. That is the paper which Mr. Williams gave to me, giving me a one-third interest in the profits of whatever might accrue from the sale of the Katydid culm bank that was acquired through the influence of Judge——

Q. Just a moment.—A. I beg your pardon.

Mr. Manager FLOYD. This paper is already in evidence; but in order that it may come in at this point I ask that it may be read, as I desire to cross-examine the witness in reference to it.

The PRESIDENT pro tempore. The Secretary will read it.

The Secretary read as follows:

[U. S. S. Exhibit 7.]

Assignment made this 5th day of September, A. D. 1911, by Edward J. Williams, of the borough of Dunmore, county of Lackawanna, and State of Pennsylvania, party of the first part, to William P. Boland and a silent party, both of the city of Scranton, county and State above mentioned, parties of the second part. For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Iron Co., it is agreed by said Edward J. Williams, who is the owner of two options covering a culm bank known as the "Katydid," situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Co., $3,500 and $4,500, respectively, to be divided equally between William P. Boland and silent party mentioned above, their heirs, successors, or assigns, and this shall be their voucher for same.

W. L. PRYOR. E. J. WILLIAMS. [SEAL.]

Q. (By Mr. Manager FLOYD.) Mr. Boland, will you, in your own way, explain that contract, how it came to be made, and who was referred to as the silent party?—A. Why, I got that contract——

Q. (Continuing.) And what was said about it by Mr. Williams at the time of its execution?—A. The silent party mentioned there was Judge Archbald. His identity in that paper was only known to Capt. May, John M. Robertson, Mr. Williams, and myself. The paper was made at the suggestion of Mr. Williams, that I should have an interest, as I was partly responsible for finding the bank.

Q. You state that the silent party or the person referred to as the silent party in that contract was only known to the persons named in the contract. Now, how do you know that?—A. Well, as far as I knew, those were all who were supposed to know who the silent party was.

Q. Do you know that the parties mentioned—Capt. May and the other parties named—A. Mr. Robertson and Mr. Williams.

Q. Mr. Robertson and Mr. Williams. Do you know that they knew it?—A. I only know that from the papers that Mr. Williams secured. I know that Mr. Williams got John M. Robertson to go over to Judge Archbald's office, and in Judge Archbald's office Mr. Robertson gave——

Mr. WORTHINGTON. One moment. Were you there?

A. (Continuing.) Well, I saw them coming out of the office.

Mr. WORTHINGTON. I object to the witness testifying to what went on in the office when he was not there.

Mr. Manager FLOYD. He has not testified to what went on in the office when he was not there. He is explaining what he knew about it.

The WITNESS (continuing). I got the papers that were received through Mr. Williams and Mr. Williams's statement of how he obtained the papers. It was through Judge Archbald's influence——

Mr. WORTHINGTON. One moment. If the witness is going to state what Mr. Williams told him about what Judge Archbald had told him (Williams) we object.

The WITNESS. I never met Judge Archbald in my life.

Q. (By Mr. Manager FLOYD.) I am asking you about that paper, that contract. Who wrote that contract which was brought out of Judge Archbald's office by Mr. Robertson?—A. It was in Judge Archbald's handwriting.

Q. Who witnessed it?—A. Judge Archbald. I had a photograph made of it.

Q. Go on with your statement.—A. Mr. Williams had secured an agreement to sell the interest of the Hillside Coal & Iron Co. in the Katydid property to Williams for $4,500, and Mr. John M. Robertson had agreed to sell his interest for $3,500, and whatever profit there was to be derived from the sale was to be divided by three in the beginning; but I saw the managers of the Pennsylvania Central Brewing Co. and offered this property for sale, and when they went to investigate and inquire of the Pennsylvania Coal Co., I believe they saw Capt. May—Mr. Kelly said he saw some of the officials——

Mr. WORTHINGTON. I object to the witness stating what Mr. Kelly said.

Mr. Manager FLOYD. You need not tell that.

The PRESIDENT pro tempore. Do not state that.

A. (Continuing.) Well, the bank immediately shrank up; there was only 35,000 tons, according to Capt. May's report.

Mr. WORTHINGTON. I object to that. I understand he is undertaking to tell what Capt. May did or said.

The PRESIDENT pro tempore. Just answer the question.

The WITNESS. Very well.

Q. (By Mr. Manager FLOYD.) I ask you to state about this silent-party contract. When you made that silent-party contract you were to have one-third?—A. I am only stating what a party to this contract stated to me. I had no knowledge of ever meeting Judge Archbald or Capt. May. I never met either one of them. I was dealing with Mr. Williams, and he was dealing through those two men.

Q. I ask you to state what occurred at the time of the execution of this silent-party contract. Were you to receive under that contract one-third of the profit under the option?

Mr. WORTHINGTON. I submit that is shown by the contract. The witness can not tell the legal effect of the contract.

Mr. Manager FLOYD. I want to ask this as preliminary to another question.

The WITNESS. I can only answer that Mr. Williams representing——

Mr. WORTHINGTON. I object to the witness stating anything that Mr. Williams said about Judge Archbald.

Mr. Manager FLOYD. Mr. President, testimony in explanation of a contract is certainly admissible. It is not in contradiction of it.

Mr. WORTHINGTON. I submit it is not admissible if it is to the detriment of Judge Archbald. Mr. Williams has been here and told us himself what he knew, whether detrimental or to the advantage of Judge Archbald. We have had an opportunity to cross-examine him and to hear his testimony under oath. I submit that this is not competent.

Mr. Manager FLOYD. I submit I have so far asked him no question in relation to Judge Archbald.

The PRESIDENT pro tempore. The Chair understands the manager to be asking the witness what was his interest under the contract.

Mr. Manager FLOYD. Under the contract of Mr. Williams what was his interest?

Mr. WORTHINGTON. I submit that that is shown by the contract. Under the contract, reduced to writing, he is to get one-third. He wants to prove that——

The PRESIDENT pro tempore. Does the contract specify the interest, that he is to have a one-third interest, the Chair would inquire of the manager?

Mr. Manager FLOYD. I will have to examine the contract.

The PRESIDENT pro tempore. The Senator from Texas is temporarily using it.

Mr. CULBERSON. Here it is.

The PRESIDENT pro tempore. So far as the contract specifies the interest, it of course is the best evidence.

Q. (By Mr. Manager FLOYD.) This contract was executed by Mr. E. J. Williams to you?—A. Yes, sir.

Q. And you undertook to negotiate a sale under it?—A. I did; yes, sir.

Q. To the Central Brewing Co.?—A. The Pennsylvania Central Brewing Co., of Scranton, Pa.

Q. And failed?—A. Yes, sir.

Q. Then did you afterwards claim any interest under that contract?—A. When I found——

Mr. WORTHINGTON. One moment. I object to that, Mr. President. If it comes down to what this witness really knows of this transaction, it will take but a very few minutes to find it out. I submit the question calls for something by which we can not be affected.

The PRESIDENT pro tempore. As the Chair understands, the question asked the witness was whether he claimed any interest under the contract.

Mr. WORTHINGTON. I submit that that is of no interest to us. Here is a contract that purports to give him one-third interest. That has not been brought to the attention of Judge Archbald, and even if it had been it would not be competent to affect him.

Mr. Manager FLOYD. I think this evidence is entirely admissible. It is in proof that afterwards Mr. Williams——

The PRESIDENT pro tempore. What is the question?

Mr. Manager FLOYD. I will ask the Reporter to read it.

Mr. WORTHINGTON. It was whether he claimed any interest under the contract.

The PRESIDENT pro tempore. Let the Reporter read the question.

The Reporter read as follows:

Q. Then did you afterwards claim any interest under that contract?

The PRESIDENT pro tempore. The Chair will hear what the respondent's counsel has to say.

Mr. WORTHINGTON. I ask how it can possibly affect Judge Archbald in this case whether the witness claimed interest under the contract or not. If it was proposed to follow that by showing that Judge Archbald knew what he was claiming, we would sit down at once.

Mr. Manager FLOYD. I think the whole transaction should come out. Even if it does not affect him, the Senate ought to have the full transaction in order that it may be understood.

The PRESIDENT pro tempore. If the Chair understands the purport of the question, it is legitimate.

Mr. Manager FLOYD. I might explain——

The PRESIDENT pro tempore. It is not necessary. The Chair has ruled with the manager.

Q. (By Mr. Manager FLOYD.) Answer the question.—A. I afterwards withdrew or released Mr. Williams from any interest that I might have in the sale of that property.

Q. Do you know whether or not that contract was made in duplicate or triplicate; whether there was more than one copy made?—A. There were three copies.

Q. Do you know what was done with the copies?—A. Mr. Williams took the other two copies.

Q. And do you know whether the other copies were signed or not?—A. I do not remember. Mr. Williams agreed to deliver one to Judge Archbald and keep the other himself.

Q. You do not know of your own knowledge what he did with them?—A. No, sir; I do not.

Q. What was the date of this contract?—A. I would have to refer to the paper to get it.

The PRESIDENT pro tempore. Does the contract show the date?

Mr. Manager FLOYD. Yes, sir.

The PRESIDENT pro tempore. Then it is not necessary to ask it of the witness.

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you if you know anything about a letter written by Mr. Williams to Mr. Conn some time in April, 1912.

Mr. WORTHINGTON. March 13, 1912.

Q. (By Mr. Manager FLOYD.) March 13, 1912. Let me have that exhibit, Mr. Clerk. [The paper was handed.] Examine this letter of March 13, 1912.—A. (Examining.) I have heard this letter discussed here and I do know something about it.

Mr. Manager FLOYD. At this point I desire to have it read. It is already in evidence.

The PRESIDENT pro tempore. The Secretary will read it.

The Secretary read as follows:

[U. S. S. Exhibit 4.]

SCRANTON, PA., *March 13, 1912.*

CHARLES F. CONN, Esq., *Scranton, Pa.*

DEAR SIR: Regarding the culm bank located at Moosic, Pa., which you have been negotiating for, would say this matter has been hanging fire for some time, and the party who has been dealing with you is desirous of your having the bank. He believes that the title to this property is not a complicated one.

You as a business man understand the conditions under which the Hillside Coal & Iron Co. are operating under this lease. For any coal which they, their successors or assigns, take from this bank larger than pea coal they are to pay to the Everhart heirs a royalty of 20 cents per ton. Now, I think you do not intend preparing any of the larger sizes of coal; and if not, the Everhart heirs et al. would have no interest in the bank.

The Hillside Coal & Iron Co. and Mr. John M. Robertson, the only recognized owners of this bank, have agreed to sell me their interest, and I would be glad to have you let me know at your earliest convenience what you intend doing in the matter, as other parties are anxious to negotiate for it. I may say that should you have any doubts you could deposit one-half or two-thirds of the royalty in the bank or retain it for a reasonable time as a guaranty against any claims. I am making this at the suggestion of the party who has been dealing with you to assure you of our desire that you should sustain no loss.

Very truly, yours,

E. J. WILLIAMS.

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, state what you know about the preparation of that letter and what, if anything, you had to do with it?—A. Well, I had something to do with the formation of that letter to Mr. Conn. Mr. James R. Dainty, Mr. Williams, and myself, and my niece, my stenographer, were in the office. I had been down here to Washington on the case of the Marian Coal Co. against the Delaware, Lackawanna & Western February 20, and was called over to the Attorney General's office February 21 and was interrogated about certain charges that I made to the Interstate Commerce Commission. When I came back this deal was hanging fire with the Laurel Line, with Judge Archbald negotiating, as I understood from Mr. Williams, and I said to Mr. Williams that I was anxious to see him get a profit out of this deal, and unless he closed the deal quickly there was liable to be trouble, the Erie Railroad Co. withdrawing their offer to sell this property. Accordingly, I suggested to Mr. Williams that he get a definite answer from the Laurel Line so he might be released and deal with other parties. Along those lines I assisted him in writing that letter to Mr. Conn.

Q. Now, Mr. Boland, I desire to ask you about the suit or proceeding instituted by your company, the Marian Coal Co., against the Delaware, Lackawanna & Western Railroad Co. before the Interstate Commerce Commission?—A. Yes, sir; we had a suit against them.

Q. Just explain briefly what you were seeking in that suit.—A. We were seeking an existence from the Lackawanna and other coal-carrying railroads. We were embarrassed from shipping our coal. Our coal was followed to tide by the Lackawanna.

Mr. WORTHINGTON. Are we to go into the details of the origin of that suit?

The PRESIDENT pro tempore. The Chair thinks it is not necessary.

Mr. Manager FLOYD. It is not necessary.

The PRESIDENT pro tempore. If it is not necessary, time ought not to be consumed.

Mr. Manager FLOYD. I was not asking the witness to state the details.

The PRESIDENT pro tempore. The managers will please stop the witness when going beyond the direct question.

Mr. WORTHINGTON. The Chair, of course, will remember that that suit was never in the Commerce Court, and never in any court that Judge Archbald was connected with.

Mr. Manager FLOYD. I simply desire, as preliminary to another question, to ask the witness to briefly describe the suit he had before the Interstate Commerce Commission.

The PRESIDENT pro tempore. The witness will state it as concisely as possible.

Mr. Manager FLOYD. As concisely as he can.

The PRESIDENT pro tempore. Answer the question.

The WITNESS. Oh, the cause of this whole suit was the Lackawanna's attitude toward this company.

Q. (By Mr. Manager FLOYD.) Did you bring a suit or action before the Interstate Commerce Commission against the Delaware, Lackawanna & Western Railroad in regard to rates and also in regard to damages?—A. Yes, sir; after five years' solicitation to get them to give us a hearing.

The PRESIDENT pro tempore. That it is not necessary to state.

Mr. Manager FLOYD. That is sufficient on that point. [To the witness:] I will ask you to state about when those suits were instituted.

Mr. WORTHINGTON. As I suggested a moment ago, we have that in the record.

The PRESIDENT pro tempore. It is a matter of record.

Mr. WORTHINGTON. We have the record with the statement of docket entries, full copies.

Mr. Manager FLOYD. I withdraw the question. Mr. Worthington need not argue it. [To the witness:] I ask you to state, then, if at any time after those suits were instituted you undertook to secure a settlement by the intervention or assistance of Mr. Watson, an attorney in Scranton?—A. Mr. Edward Williams——

Q. Answer my question. Did you?—A. Yes, sir. I never did——

Q. State what you know.—A. I never did myself; I never gave my consent to it; but other members of our company, other stockholders felt that they would like to get out of the difficulties, and accordingly I went with them, not of my own accord.

Q. (By Mr. Manager FLOYD.) You finally assented to it?—A. I did. I assented to anything to get out of the trouble we were in.

Q. State what you know about that settlement or that attempted settlement.—A. Somewhere along in 1911 Mr. Williams came to me one day and told me he knew a lawyer that could settle these Marian Coal Co. differences with the Lackawanna and that he knew he could deliver the goods. I asked him who the lawyer was, and he said it was George M. Watson. I said I do not understand what influence Mr. Watson has——

Mr. WORTHINGTON. I object.

The WITNESS. I refused to have anything to do with Mr. Watson at the time.

Q. (By Mr. Manager FLOYD.) I will ask you if afterwards you consented that your brother and the other members of the company——

The PRESIDENT pro tempore. The witness has already said he had.

The WITNESS. Yes, sir.

Q. (By Mr. Manager FLOYD.) Do you know anything more about that settlement of your own knowledge, not what people told you?—A. Yes, sir. I was requested by my brother to give a paper assuring Mr. Watson a fee of $5,000; if he was able to turn over two-thirds of the stock at a maximum of $100,000, he would receive $5,000 as compensation.

Q. You did sign that paper?—A. Yes, sir; I did.

Q. It has already been placed in evidence?—A. Yes; and I met Mr. Watson afterwards several times.

Q. Do you know anything more of your own knowledge about all those negotiations?—A. I do, through Mr. Watson. Mr. Watson informed me that——

Mr. Manager FLOYD. You need not state what Mr. Watson said. We have already raised that question once and it has been ruled to be not competent. That is all, Mr. President, for the present.

The PRESIDENT pro tempore. The counsel for the respondent will take the witness.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Mr. Boland, you said this $500 note was presented to you during the trial of the Peale case. You did not mean the trial in the court, but during the continuance of the case, did you not?—A. Oh, no; it was in the inception of the Peale case that the note was presented.

Q. Mr. Williams came to you with a note which was signed, as you remember, by John Henry Jones and indorsed by Judge Archbald?—A. The only impression I got of the note was Judge Archbald's name on the note. That was the only thing that impressed me about the note.

Q. Have you no recollection that John Henry Jones had anything to do with the note?—A. His name did not impress me as much as Judge Archbald's name did.

Q. Is it your recollection that John Henry Jones's name was on the note?—A. I think so, but I would not be so sure.

Q. Do you know whether or not at the same time there was some conversation between Williams and your brother, Christopher G. Boland, about that note?—A. I think it was after he had seen me.

Q. Was there more than one time when they were speaking to you about discounting a $500 note with Judge Archbald's name on it?—A. Only once.

Q. When we get the date of that transaction we will know whether it was on or after the demurrer was overruled in the Peale case.—A. That would not decide it, because I think they peddled the note a long time before they got it cashed.

Q. You think the date would not show anything about it?—A. I do not think that the note would show anything about it.

Mr. REED. Mr. President, I ask that the following question be propounded to the witness.

The PRESIDENT pro tempore. The Senator from Missouri presents a question which will be propounded to the witness by the Secretary.

The Secretary read as follows:

What paper did you state was written by Judge Archbald in his own hand and witnessed by him?

The WITNESS. The option from John M. Robertson to Edward J. Williams.

Mr. Manager CLAYTON. For what?

The WITNESS. For his interest in the Katydid culm bank.

Mr. Manager CLAYTON. That paper is in evidence, Mr. President.

Mr. WORTHINGTON. Yes. I think it should be stated for the information of Senators, since that has been spoken of, that the paper by which Robertson agreed to sell his interest in the Katydid dump to Mr. Williams for $3,500 was prepared in the handwriting of Judge Archbald and is witnessed by him. Senators will remember the evidence. It was testified that the witness had it recorded of his own motion. [To the witness:] What do you mean by saying that the note was peddled for a long time before it was brought to you?—A. Well, I know at the time they were trying to get that money it was hard for them to get it. That is, they were refused in one or two banks, Mr. Williams told me afterwards.

Q. Were you at any bank when Williams presented the note?—A. I was not.

Q. And discount was refused?—A. I was not.

Q. Do you know anything about it except what you heard from Williams?—A. I only know what the party to the note told me.

Q. Mr. Williams you mean?—A. Yes, sir.

Q. What did he tell you about having peddled it before he came to you?—A. He told me he was a little surprised that Judge Archbald's credit was not better in the banks than it was.

Q. I want to know if he told you he had peddled it before it came to you?—A. He said it took some time to get the money. I can not give you a plainer answer.

Q. I want to know if Williams said he had peddled it about and taken it to banks before he came to you?—A. That is what I gathered from his statement, that it was hard for him to get a note for $500 cashed in any of the Scranton banks.

Q. Did he say that before he presented it to you and asked to have it discounted?—A. No, sir; he said it to me afterwards.

Mr. POMERENE. Mr. President, I should like to propound the following question.

The PRESIDENT pro tempore. The Senator from Ohio presents a question, which will be propounded to the witness by the Secretary.

The Secretary read as follows:

Can you give approximately the date of the Archbald note, or the date when it was presented to you for discount?

The WITNESS. I can not give you the exact date. I can only come so close to it—that it was shortly after or during the time of this Peale case in Judge Archbald's court.

Mr. WORTHINGTON. I may say, Mr. President, it will undoubtedly be shown what bank discounted it, the exact date of the note, and all about it.

The WITNESS. That would not prove that that was the note.

Q. (By Mr. WORTHINGTON.) You say it would not prove that that was the note. You make that argument, do you?—A. No, sir; I say I do not know that that is the note. I am not swearing to that note.

Q. I want to know whether there was more than one $500 note with Judge Archbald's name on it offered to you by Williams for discount?—A. No, sir; there was only one.

Q. Now, about this silent-party paper, as we have called it, that was prepared in your office. Let me have that paper, Mr. Secretary, that we may have no misunderstanding. [Presenting paper.] This paper is dated the 5th of September, 1911, and is Exhibit 7 in this case?—A. I see it; yes; I recognize it.

Q. It is the same paper Mr. Manager FLOYD showed you a few moments ago?—A. Yes, sir.

Q. You say that there were two copies of that paper made besides this?—A. That is the best of my recollection, that it was made in triplicate.

Q. And Williams took both of them?—A. I think he did.

Q. You said one was to be for him and one he was to take to Judge Archbald?—A. That is what he informed me.

Q. Have you been informed by anybody that during this trial Mr. Williams produced two copies of this paper here?—A. I saw it from the gallery the other day.

Q. You were in the gallery when you saw it?—A. Yes, sir; I saw him present those papers.

Q. When you were testifying in the Judiciary Committee hearings, did you not say that Mr. Williams took only one copy?—A. Well, I would not say I did not say that. I might have been mistaken in the number of copies Mr. Williams took.

Q. Who were present when that paper was prepared?—A. That paper?

Q. Yes.—A. The silent party. There was Edward Williams and W. L. Pryor, Miss Mary Boland, and myself.

Q. What is Miss Boland's full name?—A. Mary Boland.

Q. Your niece and stenographer?—A. Yes, sir.

Q. I wish you would tell us just who put in the language that is in that paper. Who dictated it to the stenographer?—A. Well, I will answer you that Mr. Williams was very particular and tried to keep Judge Archbald's name out of any papers.

Q. Do you think that is an answer?—A. He was the one who suggested that. Mr. Worthington, I am trying to answer as best I know how.

Q. My question is, Who dictated that paper to the stenographer, and nothing else.—A. That part of it you asked me about—the silent party—was Mr. Williams. Other parts of it, I believe, I was responsible for—the formation of that paper.

Q. You dictated it all until you came down to the words——A. No; I did not. Mr. Williams named the amount and how it was to be divided. He was the owner of the property, and he divided the property as he saw fit. He was satisfied to divide it in that way.

Q. Who dictated it to the stenographer? That is what I want to know.—A. I did a part of it, Mr. Williams did a part, and I think Mr. Pryor made some suggestions.

Q. You all participated?—A. Oh, yes; in fact we were not lawyers, but we did the best we knew how.

Q. I think you have stated that you never have met Judge Archbald. Is that correct?—A. I have known Judge Archbald for years, and respected him; but since I found out about his transactions here I never met him. I refused to meet him.

Q. Did you ever speak to Judge Archbald, or were you present when any other person spoke to him about this $500 note being presented to you for discount?—A. I never did. I never called his attention to it.

Q. You were never present when anybody else spoke to him about it?—A. No, sir; until in the House Judiciary Committee it was never in my mind.

Q. I mean before these proceedings began, of course?—A. No, sir.

Q. About this so-called silent-party paper did you ever speak to Judge Archbald?—A. I never did.

Q. Did you ever hear anybody else speak to him about it?—A. Only as Mr. Williams, Mr. Pryor, and my niece, who had knowledge of it.

Q. I ask you whether you ever heard anybody speak to Judge Archbald about that silent-party paper?—A. I never was in Judge Archbald's company or heard any discussion or anything talked about it in over two years.

Q. Now, about the letter here of March 13 that was read a little while ago?—A. I do not remember the paper.

Q. To Mr. Conn?—A. Yes. I was a party to the formation of that paper.

Q. You said before that paper was prepared in your office you had been down to Washington to the Attorney General's office?—A. I was called——

Q. Now, that is it? You had been to the Attorney General's office about this matter?—A. I was not called to Washington to go to the Attorney General. I——

Q. You had been at the Attorney General's office about this business before that letter was prepared?—A. I was called to Washington by the Interstate Commerce Commission in finishing up our trial before the Lackawanna, and I was notified in the Interstate Commerce Commission office that the Attorney General wanted to see me. That is how I came before the Attorney General.

Q. You had been before the Interstate Commerce Commission and told them a great deal about Judge Archbald, had you not?—A. I did not. I went to the Interstate Commerce Commission—now, will I be allowed to explain this?

Q. I am not very much inclined to try to keep the witness from answering questions, because of the impossibility of it.

The PRESIDENT pro tempore. The witness will answer questions as briefly as he can.

The WITNESS. I will say that——

Mr. Manager STERLING. Mr. President, we object to the remark made by counsel for the respondent. I do not think it is the duty of the counsel to lecture this witness or make such remarks concerning him while he is on the witness stand.

The PRESIDENT pro tempore. Counsel will confine their questions to the testimony which they desire to elicit.

The WITNESS. What is the question?

Mr. WORTHINGTON. The question I ask now——

The PRESIDENT pro tempore. The witness will answer as directly as possible.

Q. (By Mr. WORTHINGTON.) Before you were at the Attorney General's office in February had you not been down to talk with Commissioner Meyer, of the Interstate Commerce Commission?—A. Never.

Q. And his clerk, Mr. Cockrell?—A. No, sir.

Q. About Judge Archbald?—A. No, sir; I never went to any of the commission to talk to them about Judge Archbald.

Q. Did you not go to them in January, 1912, and tell Mr. Commissioner Meyer and Mr. Cockrell, who is an assistant or a clerk there, that Judge Archbald had overruled your demurrer in the Peale case after you had refused to discount his note?—A. I could not answer your question that way, because it is not true; it is not the fact. I went down to answer a letter that was written by John L. Seager, Interstate Commerce attorney for the Delaware, Lackawanna & Western, who claimed to have advance knowledge of a decision that had not been handed down until the 30th of January. I went down to show the commission that it was absolutely necessary for a speedy trial of the interstate-commerce case against the Delaware, Lackawanna & Western, because the railroad was using a Federal court to put us out of business, and I showed them prima facie evidence that the railroads were using his court for the purpose of putting us out of business. I had no idea of coming down here to start an investigation; it was self-preservation with me. I did not want to do Judge Archbald any harm; but I was wiped out through the influence of the railroads with him. That is why I came down.

Q. Without regard to why you came down, did you tell Commissioner Meyer, of the Interstate Commerce Commission, in January last, that Judge Archbald had overruled the demurrer in the Peale case because you had refused to discount his note?—A. Yes; when he was about to throw me out of his office. I made a statement, and when I made the statement he was about to throw me out of his office for trying to come in there to influence the commission by making my statements against a Federal judge. I said, "Just wait a moment and I will prove it to you." I pulled the paper out of my pocket to show that Judge Archbald himself had admitted that he was dealing with the railroads. Then there was the fact that Judge Witmer laughed me out of his court. That was the reason why I came down, and that is the reason I am here. I did not have anything against Judge Archbald. He never done a thing to me in his life until the railroads began to use him.

Q. Did you tell the Interstate Commerce Commission or Commissioner Meyer in January last that Judge Archbald had overruled the demurrer in the Peale case because you had refused to discount his note?—A. I told him a whole lot—Commissioner Meyer and his secretary, Mr. Cockrell, a man I never met before.

Q. Did you tell Commissioner Meyer and Mr. Cockrell that Judge Archbald had overruled your demurrer in the Peale case because you had refused to discount his note?—A. I told the commission that Judge Archbald was being used by the railroads to crush us out of existence and to prevent us from getting a decision before the Interstate Commerce Commission; that is what I told the commission; and immediately they tried to get the Lackawanna to produce the evidence that they refused up to that time.

Q. Did you tell the Interstate Commerce Commission or Commissioner Meyer——A. I did.

Q. In January last——A. On January the 6th——

Q. One moment. That Judge Archbald had overruled your demurrer in the Peale case because you had refused to discount his $500 note?—A. I told them that. I said other things; that I thought he was the cause of our being held up for $34,000 by a fictitious judgment that could only be decided against us on technicalities with a dishonest lawyer acting with a corrupt judge.

Q. Who is the dishonest lawyer?—A. Mr. Donnelly.

Q. He was your lawyer?—A. He was my lawyer, and if he was playing fair—if he was the same kind of a lawyer that Mr. Reynolds was—neither Judge Archbald nor I would be here to-day.

Q. Mr. Donnelly was your lawyer in the Peale case?—A. Yes, sir; he apparently was.

Q. And he continued to represent you and——A. To misrepresent us.

Q. To represent you in court until what time?—A. There was one day given us to take an appeal. That was on the 19th and the judgment went into effect on the 20th.

Q. He was your attorney in that case until after you were before the Judiciary Committee was he not?—A. He was like a live wire that you could not let go of. I could not let go of him. I did not know anything about the case. He had me right in his power.

Q. What did you say about the 19th?—A. The 19th day of the month. The judgment went into effect on the 20th, or the time expired on the 20th.

Q. The 19th of what month?—A. The 19th of August of this year.

Q. The 19th of August of this year?—A. Yes; that is why I am here.

Q. It was up to that time that Mr. Donnelly represented you?—A. I have been losing money. I could not afford to come down here——

Q. I understand you to say that Mr. Donnelly was betraying you in that case?—A. That is my belief, because the Lackawanna Railroad Co. went out and reached out with their bribing methods. They gave his brother-in-law a great big chunk of coal.

Q. You said something about Mr. Donnelly and a corrupt judge just now. Whom did you mean?—A. I meant Judge Archbald. He was unfit for that position.

Q. You mean that your counsel and Judge Archbald were in corrupt collusion——A. I believe that Judge Archbald——

Q. Let me finish the question. Let me have just a word.—A. All right, I will do that.

Q. Do you believe that Mr. Donnelly and Judge Archbald were in collusion together to defeat you in that suit?—A. I told Mr. Donnelly, "If Judge Archbald has made an honest mistake, go to him and tell him all we want is a square deal; tell Judge Archbald that I do not want to do him or his family any injury; but go and tell him." He said, "He will commit you for contempt." I said, "I am not afraid of contempt when I am right."

Q. Well, when you came down here last January you told the Interstate Commerce Commission about Judge Archbald and your corrupt attorney?—A. I did not say anything about my attorney to the commission. I told what I thought concerned——

Q. About your attorney and a corrupt judge——A. Yes, sir; I did.

Q. In handling your Peale suit?—A. In fact, I was sold out.

Q. At that time Judge Witmer was the judge of the court—the court where the Peale suit was pending?—A. He is not much of an improvement on Judge Archbald. I will say that to you.

Q. You told them at the same time that Judge Witmer had been commanded to enter up an order or a decree in the Peale case by Judge Archbald?—A. Yes, sir; I told them that.

Q. And that he had done that under the dictation of Mr. Loomis?—A. That was my information.

Q. That is what you told them?—A. Yes, sir.

Q. When you went before the Attorney General you repeated all these statements, did you not? Did you not tell the Attorney General——A. I was chuck full of them; I have been chuck full of them for eight years.

Q. Did you not tell the Attorney General when you were there in February that Judge Archbald had overruled your demurrer in the Peale case because you had refused to discount his note?—A. I think I charged Judge Archbald with responsibility for all these embarrassments of the company. I think I made it general that I held Judge Archbald accountable for all these things, all these troubles.

Q. All your troubles in the Peale case?—A. Yes, sir.

Q. You have not answered my question yet, Mr. Boland. You did tell the Attorney General that Judge Archbald had overruled the demurrer in the Peale case because you had refused to sign his note?—A. I told the Attorney General, Mr. Worthington, things that perhaps if I had had a little time—I was called to the commission's office without any preparation or without any expectation of being called before that high tribunal to make a statement against a Federal judge, and I might have made statements there that, if I had time to correct, I might have put in different form.

Q. Can you tell us now whether, as a matter of fact, you did or did not tell the Attorney General that Judge Archbald had overruled the demurrer in the Peale case?—A. I think I did. Anything that the Attorney General says that I said, I will assume responsibility for.

Q. But the Attorney General is not here, and I want your recollection.—A. I have not got the notes, but if he says that I said it to him, I presume I did.

Q. Have you any recollection of what you did charge against Judge Archbald when you went before the Attorney General?—A. I charged him with ruining this company and everything that went with it; in aiding the railroads to wipe us out of business.

Q. And you told the Attorney General that Judge Archbald was controlling Judge Witmer and requiring him to decide the Peale case against you?—A. I told them that I thought the same influences controlled Judge Witmer that controlled Judge Archbald; and I say that to you now.

Q. Now, having learned what you told the Interstate Commerce Commission and what you told the Attorney General, I want you to tell the Senate one thing that you know that Judge Archbald has ever done in the Peale case that was not right and proper?—A. The first time that Judge Archbald convinced me that he was wrong was when he ordered me to New York to take testimony, 145 miles away from home, and I had no way of knowing who the parties were that had secured 70,000 tons of our coal, and I said in the presence of the judge to my lawyer: "Mr. Donnelly, will you please suggest to the judge that there is no need of a law suit if this agent of ours gives us an accounting. If he tells us where he has made those allowances, if they are honest allowances, we want to allow them; but if they are steals, or if he stands in with the railroad and has got a favored rate, as some of the men whom I know have, I want to know it." I asked my lawyer to state that so that Judge Archbald could have heard me, but he paid no attention to me. He said, "the judge has made the order and you have got to comply." I looked at Judge Archbald—I just looked at him, and I said then to myself, "You will wish you never saw me, for from your conduct I know now you are serving the railroads." Then I went out to prove what I believed myself to be true; and I think I have fairly proved it.

Q. Well, now that is one thing. You have told me that he required you to go to New York to take testimony?—A. Yes, sir.

Q. What else did he do that was wrong or improper?—A. I could not tell you the proceedings, but I was rushed along. The case lay there from the time the contract was broken on the 13th day of October, and until we began proceedings in the Interstate Commerce Commission there was scarcely a move in this proceeding. Mr. Peale did not take any active part for several months after, but just as soon as we started proceedings against the railroad Mr. Peale, who was the agent of the railroad, as well as for the Marian Coal Co., began this proceeding to put us out of business.

Q. How many months do you say the case lay idle?—A. From the 13th of October to about December, 1910.

Q. When?—A. From October, 1908, until about December, 1910. There was scarcely anything done with it.

Q. The suit was not brought until March, 1909, was it?—A. He supposed the contract was broken, and he decided that he had redress in the local courts, but he saw fit to go over into the other court.

Q. You hold Judge Archbald responsible for the delay before the suit was brought in his court?—A. I hold Judge Archbald responsible for taking away our trial by jury. He had no right to do so. This man had said how he wanted his redress, but by the usual method of the railroads, an injunction, he denied the man his rights of trial by jury. He did that to a nicety.

Q. Did Judge Archbald grant an injunction against you?—A. He did, I believe. It was a preliminary injunction until Judge Witmer made it permanent.

Q. Where did you get your information that Judge Archbald had enjoined you?—A. Well, Judge Archbald was the man who let the case come into his court. That is where he got it.

Q. You think that if he had done his duty the case would not have got into his court at all, do you?—A. That is what I was informed by reputable lawyers, but I did not know; I am not a lawyer. It might have been right, but able men have differed with Judge Archbald on that.

Q. You have always thought that Judge Archbald issued a preliminary injunction in that Peale case?—A. No, sir; I did not, because we were not prevented from working until August 24, 1911.

Q. That was long after Judge Archbald was out of that court, was it not?—A. Yes, sir.

Q. I want to find out what you know or what you charge that Judge Archbald did that was not right in the Peale case that caused you to come down here and make these awful charges against him before the Interstate Commerce Commission and the Attorney General. I will tell you very frankly, Mr. Boland, I want to know whether it was something in fact or whether you have a delusion in your brain about this.—A. I do not think it is a delusion.

Q. Wait a moment—a delusion about things that never had any real existence?—A. Well, I will tell you as well as I can. I might have been intoxicated from the attitude of the railroads to a certain extent, but I never had any reason to suspect Judge Archbald—he was a man I had a great deal of respect for—until this case came into his court, and then his right-hand bower, Mr. Williams, who I have seen in his office at all times of the day, would tell me what was going to happen and the influence that was back of Judge Archbald; and when Mr. Williams made so many statements to me I wanted to find out, before I dared breathe it against a Federal judge, that some of the statements were true, and I began to check up; I began to get information from the judge himself. I would not come in here and make a statement from anybody else against the integrity of Judge Archbald, but only from himself; and I was fully convinced from what he was doing and what he was ready to do and what he was willing to do. I did not pick out Judge Archbald's associates; I had nothing to do with the introduction of those. I had to check the information that they gave me. That was the kind of material that he picked out; it was not my selection, because I would not have gone along with him on that kind of a proposition. I got the information from his men, his associates, of what he was doing and what he was willing to do for the railroads; and, along with the things that had happened to the Marian Coal Co., I was fully convinced that Judge Archbald was not playing fair with that little company.

Q. Did Mr. Williams tell you that Judge Archbald had overruled your demurrer because you had not discounted the note, and that if you had discounted the note, he would have decided otherwise?—A. Mr. Williams told me that I made a mistake in not discounting that note; that if I had I would not have had any lawsuit.

Q. That is one of the things that you have——A. Yes, sir; and he told of several things.

Q. Did he tell you that Judge Archbald would have sustained your demurrer in the Peale case if you had discounted the note?—A. He told me that I would have saved all trouble; that there would not have been a lawsuit.

Q. When did he tell you that?—A. Some time in 1910. He told me a lot of things, and he told it to me so often that I had him reduce it to writing.

Q. In 1910? In 1911, was it not?—A. No; I think it was 1910. I think he made the statement in 1910 or 1911, I am not sure which; but I had him reduce it to handwriting. The paper will speak for itself.

Q. Then you came down to the Interstate Commerce Commission and to the Attorney General and told them that Judge Archbald had overruled your demurrer in the Peale case because you had not discounted his note, because Williams told you that it would have been better for you if you had discounted the note?—A. I do not think that would have interested the commission at all, if it was not for the fact that I stated to the commission that I knew that Judge Archbald was dealing with the railroads, and that he was a tool of the railroads. That was the statement I made to the commission.

Q. I should like to have the question read, Mr. President, and the witness instructed to answer it.

The PRESIDENT pro tempore. The witness will answer the question.

Q. (By Mr. WORTHINGTON.) I will repeat the question. Did you tell the Interstate Commerce Commission and the Attorney General that Judge Archbald had overruled your demurrer in the Peale case because you had not discounted his note on the strength merely of the statement that Williams had made to you that it would have been better for you if you had discounted the note?—A. Mr. Worthington, in order to answer you that I would have to have the statement I made before the Attorney General. If I said that in that statement, then I do not deny that I did say it; but on account of the absence of the statement here or the notes that were taken that day, I can not say what I did say. I did charge Judge Archbald with being responsible for the destruction of this company in a great many ways.

Q. How did you tell them Judge Archbald was responsible for the destruction of the company?—A. I felt that Judge Archbald——

Q. Just a moment. Is it not a fact that Judge Archbald retired from that court while that case was pending—while the testimony was being taken—and no decision had ever been

arrived at as to the merits of the case?—A. I felt that Judge Archbald injected himself in to prevent a decision being handed down by the Interstate Commerce Commission.

Q. Tell me what you mean by that and what your source of information is, Mr. Boland.—A. Well, from his participation with the railroads, from his willingness to go along with the railroads.

Q. You say you felt he had injected himself into your case before the Interstate Commerce Commission?—A. He and Watson. That is why I kept Watson's telegram. I kept everything I could which I did not consider larceny.

Q. That brings me to another subject. You suggested to Mr. Williams to go and get Judge Archbald interested in the Katydid culm dump, did you not?—A. No; Mr. Williams told me that if I knew of any property along the lines of the anthracite coal carrying roads Judge Archbald could get them for him; that he had influence with the railroads.

Q. Did you not tell Mr. Williams about the Katydid culm dump and suggest to him——A. Oh, I had——

Q. One moment—and suggest to him to get Judge Archbald to give him a letter to Capt. May?—A. I believe I did, Mr. Worthington, because I wanted to check up Judge Archbald and wanted to get from himself an admission that he was that kind of a man.

Q. Then, you knew that a letter had been given by Judge Archbald to Capt. May pursuant to your suggestion?—A. I think Capt. May suggested it to Mr. Williams also. Mr. Williams claimed that Capt. May had suggested that if he could get a letter from Judge Archbald it might help him.

Q. Well, you knew that Judge Archbald had given the letter pursuant to the suggestion and that Capt. May had not given the option or had not agreed to sell the property?—A. Yes, sir; I did.

Q. Did you not then suggest to Mr. Williams in your office shortly after that to go to Judge Archbald and get him to go to the office of the Erie Co. in New York about the matter over Capt. May's head?—A. No, sir; I did not; but I will explain to you how that came about. When Mr. Williams came back from Capt. May he went up to Judge Archbald's office and told the judge, and the judge picked up some papers that were in the case—letters, typewritten papers—and he said, "Well, I will show that fellow. See the work I am doing for them. Here is a brief I am preparing for them"; and Mr. Williams came out and told me. That's all. I asked Mr. Williams, "Are you not mistaken, Mr. Williams, about a brief?" He said, "No; it is a Lighterage case." I said, "Mr. Williams, would you go out to Judge Archbald's office and show me the paper?" I wanted to get it and get a photograph of it; but I was afraid that Judge Archbald might come and find it gone and perhaps lock me up for it. But he showed me the paper from a window in Judge Archbald's office. I did not dare take that; I did not dare take the chances of taking that paper. I took other chances, though, in order to prove that he was just what he is.

Q. That is interesting, but the question I asked you was whether or not, after you learned that Capt. May had not given the option or had not agreed to sell the Katydid property when Mr. Williams first went to him—whether you did not then suggest to Mr. Williams to go back to Judge Archbald and have him use his influence with the New York office?—A. I would not say I did not, but I will say this to you, Mr. Worthington: That Mr. Williams would have lost his right arm before he would have done anything for me that would have been injurious to Judge Archbald. He did not know that he was doing it. There never was any of those fellows who gave me information that knew what I was using them for.

Q. I would like to know whether or not you made that suggestion?—A. I think I did. I will not deny that.

Q. So you suggested to Mr. Williams to go to Judge Archbald and get a letter to Capt. May, and then later suggested to him to get the judge to go to the New York office?—A. I do not think I had to make many of those suggestions——

Q. Answer my question.—A. I will not deny that I did. I think I may have done so.

Q. Very well. Now, when the option was obtained from Capt. May in August following, did you not then busy yourself to find a purchaser to whom the property could be sold, so as to have Judge Archbald complete the transaction; did you not go to Mr. Conn?—A. I was not so much interested in Judge Archbald as in old man Williams.

Q. Did you not go to Mr. Conn?—A. I was selling coal to Mr. Conn at the time.

Q. You went to Mr. Conn and suggested that the Katydid might be a good purchase for him?—A. I suggested that it was a bargain.

Q. And when you found he was interested, then you suggested to Mr. Williams to go to Judge Archbald and get a letter to Mr. Conn?—A. They had been dealing together before that.

Q. Did you not, after you had this conversation with Mr. Conn, and finding that he would consider the purchase of the Katydid, go to Mr. Williams and say, "Go to Judge Archbald and get a letter"?—A. I think I did. I wanted to button up Judge Archbald sure.

Q. And when Mr. Williams got that letter from Judge Archbald he brought it to your office instead of taking it to Mr. Conn, did he not?—A. Yes.

Q. And you took it and had a photograph made of it?—A. I had a photograph made of it; yes.

Q. How did he happen to bring that letter to you and show it to you?—A. I do not know. He came in and showed me the letter. He was proud to go around and show the privileges he had with a Federal judge. He thought that was a great thing to do.

Q. Was not that letter under seal?—A. No, sir.

Q. And did not you or Mr. Williams break the seal?—A. No, sir; I never did that in my life.

Q. You say that letter was not sealed?—A. I say so now and swear to it, that it was not sealed when it came to me.

Q. And you photographed it, and Mr. Williams passed it along to Mr. Conn?—A. I had three plates made of it and put them in a safe-deposit vault, so that I could not lose it.

Q. And then you told Mr. Pryor, who was in your employ at that time, to go along with Williams and listen to what was said?—A. I do not know that I told him to listen. I wanted to know that that letter was delivered to Mr. Conn.

Q. Do you think that is an answer to my question?—A. I asked Mr. Williams if he knew Mr. Conn, and I asked Mr. Pryor if he knew Mr. Conn, and he said he did, and I then said, or suggested, to Mr. Pryor that he go down with Mr. Williams to Mr. Conn's office. I did that.

Q. And did you not tell him to listen to what was said and report to you?—A. I do not remember that I told him to listen, but I told him to introduce Mr. Williams to Mr. Conn.

Q. Now, about the letter of March 13, who dictated that? That was the second letter to Mr. Conn.—A. I told you that I had a part in it. Mr. Dainty told me that Judge Archbald had sent him down to Philadelphia to the Everhart heirs, to find out——

Mr. WORTHINGTON. I must object to this. I can stand for almost anything, but now we are going too far.

The PRESIDENT pro tempore. Just answer the question.

The WITNESS. Yes; I had something to do with that.

The PRESIDENT pro tempore. You will very much abridge matters if you will answer the questions; and then, if you desire, you may make any explanation.

Q. (By Mr. WORTHINGTON.) That letter of March 13 was dictated in your office to Miss Mary Boland, was it?—A. That is a letter to Mr. Conn, asking him to release the bank or the sale of the bank.

Mr. WORTHINGTON. Let us have the letter and then we will not have any question of what we are talking about.

(The letter was handed to Mr. Worthington by the Secretary, the same being Exhibit No. 4.)

The WITNESS. Yes; I helped to dictate that letter.

Q. (By Mr. WORTHINGTON.) You had been down to the Interstate Commerce Commission and to the Attorney General's office before that letter was written?—A. I was; yes, sir.

Q. Did you tell Mr. Williams that there was going to be a storm coming about that matter?—A. Mr. Williams knew it himself.

Q. Did you not tell him that, and to hurry up this letter to Conn?—A. I do not think I did.

Q. What was that?—A. I do not think I did. I told Mr. Bradley that.

Q. You did not tell Mr. Williams to hurry up this letter of March 13 to Mr. Conn?—A. I urged on him the necessity of disposing of the property in order to get his profit; yes, sir.

Q. Was not your real object to try and force the transaction through to a sale before the storm came?—A. Not necessarily; no.

Q. Was not that one of the things you had in mind?—A. Not necessarily.

Q. Was not that one of the things you had in mind?—A. No; no.

Q. How is that?—A. I wanted to see Mr. Williams get $6,000.

Q. And you wanted to see Judge Archbald implicated by having a completed sale?—A. I had him implicated before that.

Q. Did you not want him implicated by having a completed sale made before the storm broke?—A. No; I could have done it afterwards if I wanted to follow him up.

Q. I will ask you whether on the 1st of February, 1912, after you had been before the Interstate Commerce Commission, you wrote to Mr. Cockrell this letter:

MARIAN COAL CO.,
Scranton, Pa., February 1, 1912.

ALLEN V. COCKRELL, Esq.,
Washington, D. C.

DEAR SIR: I have secured additional information along the lines that I spoke to you and the other parties about and will be ready on the date you mention.

A. Yes, sir.

Q. You were then looking up information?—A. I was; yes.

Q. And had arranged with Mr. Cockrell, of the Interstate Commerce Commission, that you would get information——

Mr. Manager FLOYD. What page do you read from?

Mr. SIMPSON. Page 146.

Mr. Manager FLOYD. Volume I?

Mr. SIMPSON. Yes.

The WITNESS. I knew it took a whole lot to disturb a Federal judge, and I had to fortify myself before I would dare speak.

Q. (By Mr. WORTHINGTON.) You had arranged with the Interstate Commerce Commission, through Mr. Cockrell——A. No arrangement——

Q. One moment—that you would get more evidence for them implicating Judge Archbald?—A. I had made no arrangements with the Interstate Commerce Commission. I was informing the Interstate Commerce Commission——

Q. What did you mean by saying "I have secured additional information along the lines that I spoke to you and the other parties about, and will be ready on the date you mention"?—A. I told him I had other information and other lines out. I knew the bait he was after, and if it was not checked up so soon I would have had it; so he would never have come before the Senate; he would have resigned if I had had a chance to button up all the things I had on him.

Q. What was the additional information you had obtained between the 5th of January——A. It is not in evidence now, and I have not any corroboration.

Q. Oh! Why was the sale of the Katydid to the Pennsylvania Brewing Co. not carried out?—A. The bank shrank up, because my identity with it was known.

Q. What do you mean by "the bank shrank up"?—A. Capt. May reported that there were only 35,000 tons in the bank when they inquired about the tonnage there was in the bank.

Q. Was that report of Capt. May verbal or in writing?—A. I do not know whether it was verbal or in writing. That is what I was told.

Q. That is what you were told? Who told you?—A. Some members of the Pennsylvania Central Brewing Co., and I immediately dropped any further——

Q. Who were they?—A. Well, I think that Mr. P. J. Casey, Mr. William Kelly, and they had a man who looked after the purchasing of their coal—I think he was the man; I do not know his name—who told me that the bank was not of sufficient size to warrant them going in on it.

Q. Oh, that was it?—A. Yes, sir.

Q. When was it you released Mr. Williams from your claim to a one-third interest in the Katydid bank?—A. Immediately after that report came that the bank was growing smaller.

Q. Did Mr. Williams tell you anything about Mr. Robertson objecting to your having anything to do in the matter?—A. No; he did not. Although Mr. Robertson knew that I would not be allowed, because I had talked with Mr. Robertson before, and he knew, on account of my asking the railroad for a reduction in the rates, that I could not get anything the railroads had.

Q. Did Mr. Williams tell you that Mr. Robertson had said that the sale would not be made if you had anything to do with it?—A. I do not know that he did, Mr. Worthington; I do not think that he did.

Q. In this March 13 letter it is said that the title to the Katydid coal dump is not a complicated one. Where was that information obtained?—A. It was not a complicated one, either.

Q. What was that?—A. It was not a complicated one.

Q. Are you a lawyer?—A. No; but I understand the contract slightly——

Q. What was the title—who owned it?—A. The title to the bank, the possession of the bank—the Erie Railroad Co. had possession, and they were only accountable to the Everhart heirs for chestnut coal and all above. All the smaller sizes belonged to the one in possession; that was the Hillside Coal & Iron Co. And Mr. Robertson, according to the search, did not have anything to show, other than scales and a track, of his equity in the property.

Q. Your conclusion was, and is, that Mr. Robertson has not any interest in the dump?—A. He has some, not in the dump, but in the improvements that were there.

Q. Not in this coal that was the subject of this trade?—A. No; there was not anything he could show that would warrant him in claiming an interest in the dump.

Q. Was it upon that information of yours that was put into this letter to Mr. Conn that the title was not complicated——A. No; I think that was Mr. Dainty's report from Philadelphia.

Q. Did you not know that Mr. Conn had consulted Messrs. Wells & Torrey about the title and that they had advised him not to purchase it because the title was bad?—A. I think those lawyers were more afraid of Judge Archbald than approving it. They did not want Mr. Conn to take that property on account of Judge Archbald's connection. That is what Mr. Williams told me—they were more afraid of offending Judge Archbald. That is the pretense they put up—that the title was not good.

Q. That is another idea of yours?—A. No; that is no idea of mine; that is Mr. Williams's statement to me. That is what was told me.

Q. You believe that, do you?—A. Yes.

Q. Do you believe that Messrs. Wells & Torrey, attorneys to Mr. Conn, told him the title was not good because they were afraid if he bought the property from Judge Archbald that he would have trouble?—A. Well, there were a lot of people in Judge Archbald's court that had a whole lot of fear of him. They respected him out of fear, not because they thought he was any better than anybody else, but because they feared him.

Q. But you are under the impression now and really believe that Wells & Torrey's advice against that title was just a pretense?—A. I do not know. I never met Wells & Torrey. I was told that, and I am telling you what I was told.

Q. Did you know that Judge Archbald had prepared a contract with Mr. Conn?—A. I heard of it.

Q. A form of contract with Mr. Conn and submitted it to Wells & Torrey?—A. Yes; I heard of it.

Q. Did you see it?—A. No; I never saw it.

Mr. WORTHINGTON. Mr. President, I have quite a number of questions that I desire to ask this witness and it will take me quite a little time to look through my notes in order to segregate what I want to ask. Therefore, I would be glad to take an adjournment at this time, instead of at 6 o'clock, if there is no objection.

Mr. Manager FLOYD. We have no objection to suspending the examination of this witness, but we have another little matter we wish to bring to the attention of the Senate before adjournment.

The PRESIDENT pro tempore. The witness will be excused until to-morrow at half past 1.

JOHN HENRY JONES.

Mr. Manager CLAYTON. I would like the Sergeant at Arms to bring in the defaulting witness, John Henry Jones, and then I desire to make a suggestion.

John Henry Jones appeared in the Chamber.

Mr. Manager CLAYTON. Mr. President, I suppose the Senate will want to know why this witness was not here and may desire to give him a reprimand or other punishment for not having obeyed the process of the court.

The PRESIDENT pro tempore (addressing Mr. Jones). Why were you not here to obey the summons?

Mr. JONES. It was on account of the serious illness of the wife.

Mr. Manager CLAYTON. Your wife?

Mr. JONES. Yes, sir. I have brought a letter from the doctor to that effect.

Mr. Manager CLAYTON. Let me see it.

(Mr. Jones produced the letter, which was examined by Mr. Manager CLAYTON.)

Mr. Manager CLAYTON. Was your presence necessary?

Mr. JONES. Yes, sir.

Mr. Manager CLAYTON. This is an unsworn certificate from a physician, who I suppose is a reputable physician. I suppose it would have been sworn to, if required. I ask, therefore, at this time, inasmuch as this physician says that Mr. Jones's presence is necessary for attendance upon his sick wife, that the witness be not kept in custody longer, but that he be given admonition to be here to-morrow and from day to day until discharged.

The PRESIDENT pro tempore. Mr. Jones, you will be careful to be present at all times when you may be needed to testify in this case.

Mr. JONES. I will, sir.

Mr. Jones thereupon withdrew.

The PRESIDENT pro tempore. Unless there are other proceedings to be had, the hour of adjournment for the Senate sitting as a Court of Impeachment having practically arrived, the Chair will declare the sitting of the Senate as a Court of Impeachment ended.

Thereupon the managers on the part of the House, the respondent, and his counsel retired.

Mr. SMOOT. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 59 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, December 11, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December 10, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Infinite Spirit, God over all, in whose sacred presence we continually dwell, take away all hindrances from our minds and hearts and draw us by that influence which is ever emanating from Thy heart nearer to Thee that we may be able to fulfill in the daily walks of life that requirement which is to do justly, love mercy, and walk humbly before Thee our God. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The SPEAKER laid before the House the following letters, which were referred to the Committee on the Election of President, Vice President, and Representatives in Congress:

Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Georgia at the election held therein on November 5, 1912, as furnished by the governor of said State.

Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Maryland at the election held therein on November 5, 1912.

Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Vermont at the election held therein on November 5, 1912.

Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the ascertainment of electors for President and Vice President appointed in the State of Oklahoma at the election held therein on November 5, 1912, as furnished by the governor of said State.

Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the final ascertainment of electors for President and Vice President appointed in the State of Virginia at the election held therein on November 5, 1912, as furnished by the governor of said State.

Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the final ascertainment of electors for President and Vice President appointed in the State of Delaware at the election held therein on November 5, 1912, as furnished by the governor of said State.

Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the final ascertainment of electors for President and Vice President appointed in the State of New Hampshire at the election held therein on November 5, 1912, as furnished by the governor of said State.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bill:

H. R. 20287. An act to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January 5, 1905.

ORDER OF BUSINESS.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to inquire whether it be in order to proceed with the Indian appropriation bill at this time or whether the contested-election case has the right of way?

The SPEAKER. The right of a Member to his seat in the House is of the highest privilege. It takes precedence of other business. The swearing in of a Member takes precedence of everything else. It can interrupt the reading of the Journal.

CONTESTED-ELECTION CASE—M'LEAN AGAINST BOWMAN.

Mr. ANSBERRY. Mr. Speaker, I desire to call up House resolution 687, declaring that Representative Charles C. Bowman is not entitled to a seat in the Sixty-second Congress.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That Charles C. Bowman was not elected a Representative to the Sixty-second Congress from the eleventh district of Pennsylvania and is not entitled to a seat therein.

Mr. MANN. Mr. Speaker, I raise the question of consideration.

The SPEAKER. The gentleman from Illinois raises the question of consideration. The question is, Will the House now consider this resolution?

The question being taken,

Mr. ANSBERRY. Mr. Speaker, I make the point of no quorum.

The SPEAKER. The gentleman from Ohio makes the point of no quorum. The Chair will count. [After counting.] One hundred and fifteen Members present, not a quorum. The Doorkeeper will close the doors; the Sergeant at Arms will notify the absentees. All those in favor of taking up the contested-election case will, when their names are called, answer "aye," those opposed will answer "no," and the Clerk will call the roll.

The question was taken; and there were—yeas 166, nays 113, answered "present" 10, not voting 101, as follows:

YEAS—166.

Adair	Donohoe	Hull	Ranch
Alexander	Doremus	Humphreys, Miss.	Redfield
Allen	Doughton	James	Reilly
Ansberry	Driscoll, D. A.	Johnson, Ky.	Robinson
Ashbrook	Dupré	Johnson, S. C.	Roddenbery
Barnhart	Edwards	Jones	Rothermel
Bartlett	Ellerbe	Kitchin	Rouse
Bathrick	Estopinal	Konig	Ruhey
Beall, Tex.	Evans	Konop	Rucker, Colo.
Blackmon	Falson	Korbly	Rucker, Mo.
Boehne	Fergusson	Lamb	Russell
Booher	Ferris	Lee, Ga.	Shackleford
Borland	Fitzgerald	Lee, Pa.	Sharp
Brantley	Flood, Va.	Lever	Sheppard
Buchanan	Floyd, Ark.	Levy	Sherley
Bulkley	Foster	Lewis	Sherwood
Burgess	Fowler	Lloyd	Slayden
Burke, Wis.	Francis	Lobeck	Small
Burleson	Gallagher	McCoy	Smith, N. Y.
Burnett	Garrett	McDermott	Smith, Tex.
Byrnes, S. C.	Glass	McGillicuddy	Sparkman
Byrns, Tenn.	Godwin, N. C.	McKellar	Stanley
Callaway	Goeke	Macon	Stedman
Candler	Goodwin, Ark.	Maguire, Nebr.	Stephens, Miss.
Cantrill	Graham	Mays	Stephens, Nebr.
Carlin	Gudger	Moon, Tenn.	Stone
Carter	Hamilton, W. Va.	Moore, Tex.	Sweet
Claypool	Hamlin	Morgan, La.	Taggart
Cline	Hammond	Moss, Ind.	Talcott, N. Y.
Collier	Hardwick	Murray	Thomas
Cox, Ind.	Hardy	Oldfield	Townsend
Cox, Ohio	Harrison, Miss.	Padgett	Tribble
Cullop	Hay	Page	Tuttle
Curley	Hayden	Palmer	Underhill
Davenport	Heflin	Patten, N. Y.	Watkins
Davis, W. Va.	Helm	Pepper	Whitacre
Dent	Henry, Tex.	Peters	White
Denver	Hensley	Post	Wilson, Pa.
Dickinson	Hobson	Pou	Witherspoon
Dies	Holland	Rainey	Young, Tex.
Difenderfer	Houston	Raker	
Dixon, Ind.	Hughes, Ga.	Randell, Tex.	

NAYS—113.

Ainey	Good	McCreary	Roberts, Mass.
Akin, N. Y.	Green, Iowa	McGuire, Okla.	Rodenberg
Ames	Greene, Mass.	McKenzie	Scott
Anderson	Greene, Vt.	McKinley	Sells
Anthony	Griest	McKinney	Simmons
Austin	Guernsey	McLaughlin	Sloan
Barchfeld	Hanna	Madden	Smith, J. M. C.
Bartholdt	Hartman	Merritt	Smith, Saml. W.
Bates	Haugen	Miller	Speer
Berger	Hawley	Mondell	Steenerson
Burke, Pa.	Hayes	Moon, Pa.	Stephens, Cal.
Burke, S. Dak.	Heald	Moore, Pa.	Sterling
Butler	Helgesen	Morgan, Okla.	Sulzer
Calder	Hill	Morse, Wis.	Switzer
Cooper	Hinds	Mott	Thistlewood
Copley	Howell	Murdock	Tilson
Crumpacker	Howland	Needham	Towner
Dalzell	Hughes, W. Va.	Nelson	Vare
Danforth	Kahn	Nye	Volstead
Davidson	Kendall	Patton, Pa.	Wedemeyer
Davis, Minn.	Kennedy	Payne	Whiler
Dodds	Kinkaid, Nebr.	Pickett	Willis
Dyer	Kopp	Plumley	Wilson, Ill.
Farr	La Follette	Porter	Wood, N. J.
Foss	Langham	Powers	Young, Kans.
French	Lawrence	Pray	Young, Mich.
Fuller	Lenroot	Prince	
Gardner, Mass.	Lindbergh	Prouty	
Gillett	Longworth	Rees	

ANSWERED "PRESENT"—10.

Bowman	Fairchild	Mann	Talbott, Md.
Bradley	Fields	Stephens, Tex.	
Browning	Garner	Stevens, Minn.	

NOT VOTING—101.

Adamson	Focht	Lafean	Riordan
Aiken, S. C.	Fordney	Lafferty	Roberts, Nev.
Andrus	Formes	Langley	Sabath
Ayres	Gardner, N. J.	Legare	Saunders
Bell, Ga.	George	Lindsay	Scully
Broussard	Gill	Linthicum	Sims
Brown	Goldfogle	Littlepage	Sisson
Campbell	Gould	Littleton	Slemp
Cannon	Gray	Loud	Smith, Cal.
Cary	Gregg, Pa.	McCall	Stack
Clark, Fla.	Gregg, Tex.	McHenry	Sulloway
Clayton	Hamill	McMorran	Taylor, Ala.
Conry	Hamilton, Mich.	Maher	Taylor, Colo.
Covington	Harris	Martin, Colo.	Taylor, Ohio
Crago	Harrison, N. Y.	Martin, S. Dak.	Thayer
Cravens	Hart	Matthews	Turnbull
Currier	Henry, Conn.	Morrison	Underwood
Curry	Higgins	Neeley	Vreeland
Daugherty	Howard	Norris	Warburton
De Forest	Humphrey, Wash.	Olmsted	Webb
Dickson, Miss.	Jackson	O'Shaunessy	Weeks
Draper	Jacoway	Parran	Wilson, N. Y.
Driscoll, M. E.	Kent	Pujo	Woods, Iowa
Dwight	Kindred	Ransdell, La.	
Esch	Kinkead, N. J.	Reyburn	
Finley	Knowland	Richardson	

So the House determined to consider the resolution.

The Clerk announced the following pairs:

On this vote:

Mr. MORRISON (in favor of consideration) with Mr. HUMPHREY of Washington (against).

Mr. BROWN (in favor of consideration) with Mr. DRAPER (against).

Until further notice:

Mr. AYRES with Mr. CAMPBELL.

Mr. BROUSSARD with Mr. CANNON.

Mr. CLARK of Florida with Mr. CRAGO.

Mr. CONRY with Mr. FOCHT.

Mr. COVINGTON with Mr. FORDNEY.

Mr. FINLEY with Mr. CURRIER.

Mr. FORNES with Mr. BRADLEY.

Mr. GOLDFOGLE with Mr. MICHAEL E. DRISCOLL.

Mr. GREGG of Texas with Mr. HARRIS.

Mr. HAMILL with Mr. HENRY of Connecticut.

Mr. HARRISON of New York with Mr. HIGGINS.

Mr. HART with Mr. JACKSON.

Mr. HOWARD with Mr. KNOWLAND.

Mr. JACOWAY with Mr. MCCALL.

Mr. KINDRED with Mr. MARTIN of South Dakota.

Mr. KINKEAD of New Jersey with Mr. OLMSTED.

Mr. LEGARE with Mr. LOUD.

Mr. LINTHICUM with Mr. REYBURN.

Mr. MAHER with Mr. ROBERTS of Nevada.

Mr. NEELEY with Mr. SMITH of California.

Mr. O'SHAUNESSY with Mr. SULLOWAY.

Mr. SABATH with Mr. TAYLOR of Ohio.

Mr. SIMS with Mr. VREELAND.

Mr. TAYLOR of Alabama with Mr. WEEKS.

Mr. TURNBULL with Mr. WOODS of Iowa.

Mr. WILSON of New York with Mr. CALDER.

Mr. GARNER with Mr. HAMILTON of Michigan.

Mr. SISSON with Mr. MATTHEWS.

Mr. SAUNDERS with Mr. LAFEAN.

Mr. DICKSON of Mississippi with Mr. SLEMP.

Mr. AIKEN of South Carolina with Mr. AMES.

Mr. PUJO with Mr. MCMORRAN.

Mr. RICHARDSON with Mr. ESCH.

Mr. FIELDS with Mr. LANGLEY.

Mr. UNDERWOOD with Mr. MANN.

Mr. LINDSAY with Mr. MERRITT.

For the session:

Mr. SCULLY with Mr. BROWNING.

Mr. LITTLETON with Mr. DWIGHT.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. RIORDAN with Mr. ANDRUS.

Mr. MANN. Mr. Speaker, I voted "no," but I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to change my vote from "no" to "present."

The name of Mr. MANN was called, and he answered "Present."

Mr. FIELDS. Mr. Speaker, I voted "aye," but I am paired with the gentleman from Kentucky, Mr. LANGLEY. I desire to withdraw my vote of "aye" and answer "present."

The name of Mr. FIELDS was called, and he answered "Present."

A quorum being present, the doors were opened.

Mr. ANSBERRY. Mr. Speaker, it has been agreed by the majority and minority, or rather between the gentleman from Iowa [Mr. PROUTY] and myself, that we divide the time and that five hours be agreed upon to debate this resolution and the time be divided, two and a half hours on each side, and that the gentleman from Iowa have control of two and a half hours and I have control of two and a half hours. That is our understanding. Having stated the agreement, I would ask that unanimous consent be given that this resolution be taken up and debated for two and a half hours on each side; that at the end of that time a substitute may be offered by the minority, and that the previous question be then considered as ordered and vote had on the resolution.

Mr. AUSTIN. When do you expect to get a vote on this proposition? It will take until 7 o'clock.

The SPEAKER. The gentleman from Ohio asks unanimous consent, and states that it is by agreement with the parties, that debate shall continue for five hours, one half of which time to be controlled by himself and the other half by the gentleman from Iowa [Mr. PROUTY]; that at the expiration of that time anybody can offer a substitute, and of course the Chair will recognize the gentleman from Iowa to offer it, and the previous question shall then be considered as ordered.

Mr. PALMER. Mr. Speaker, reserving the right to object, I want to say I propose to offer a privileged resolution seating George R. McLean, the contestant, and I shall have no objection to this arrangement if it may include a vote upon that resolution immediately after the substitute offered by the minority and the resolution of the committee shall have been voted upon.

Mr. ANSBERRY. I have no objection to that and I hope that no one else will, so that we may get through with it.

The SPEAKER. The principal resolution, the Chair will state to the House for its information, is—

Resolved, That Charles C. Bowman was not elected a Representative in the Sixty-second Congress from the eleventh district of Pennsylvania and is not entitled to a seat therein.

And it does not provide anybody shall be seated. Of course, the Chair takes it that the gentleman from Iowa will offer a substitute declaring the contestee is entitled to his seat. What does the gentleman from Pennsylvania desire?

Mr. PALMER. I offer a privileged resolution and ask that it be included in the agreement for unanimous consent.

Mr. MANN. The gentleman has not been recognized for that yet. Mr. Speaker, I suggest, under the circumstances, that the gentleman from Iowa be permitted to now offer his substitute and that the gentleman from Pennsylvania be permitted to offer his.

Mr. PALMER. That is my proposition exactly.

The SPEAKER. Has the gentleman from Iowa his resolution ready?

Mr. PROUTY. Mr. Speaker, I desire to offer and have pending a resolution as a substitute for the one that has been reported by the committee.

The SPEAKER. The gentleman will send it to the Clerk's desk to be read.

The Clerk read as follows:

Resolved, That the case of George R. McLean against Charles C. Bowman, from the eleventh congressional district of Pennsylvania, be dismissed for want of jurisdiction, because said alleged contestant gave no notice of contest within the time or in the manner prescribed by law, and because he has not asked or secured the consent of this House or the committee for proceeding in any other manner than that prescribed by law, and has not shown any equitable excuse for his failure to give the notice prescribed by section 105 of the Revised Statutes.

The SPEAKER. That is a substitute for the resolution of the committee. Now, the gentleman from Pennsylvania offers a resolution in the nature of an amendment to this substitute.

Mr. PALMER. Mr. Speaker, my resolution is a separate privileged resolution, and I shall ask unanimous consent that all three of them be considered.

The SPEAKER. The gentleman will send his resolution to the desk.

The Clerk read as follows:

House resolution 743.

Resolved, That George R. McLean, the contestant, was elected a Representative in the Sixty-second Congress from the eleventh district of Pennsylvania and is entitled to a seat therein.

Mr. MANN. As I understand, the gentleman from Ohio [Mr. ANSBERRY] asks that the time for debate be limited to five hours and at the end of that time the previous question be ordered on all the pending propositions?

Mr. ANSBERRY. Yes.

The SPEAKER. Yes; and the order of voting will be on the Ansberry resolution.

Mr. MANN. Mr. Speaker, on the substitute first.

The SPEAKER. On the substitute first.

Mr. MANN. And then on the committee resolution.

The SPEAKER. Then where would the Palmer resolution come in?

Mr. MANN. The motion could not be considered until the other resolution was agreed to.

Mr. BARTLETT. I would like to know whether the resolution of the gentleman from Ohio [Mr. ANSBERRY] would not be a preferential resolution to all these motions? It is of the highest privilege and ought to be the first one to be voted upon. It is a resolution declaring a person entitled to a seat in this House.

The SPEAKER. All of them are privileged.

Mr. PALMER. Mr. Speaker, I would suggest that the resolution which I have offered is in the nature of an amendment to the committee resolution, and therefore the vote should first be on the substitute, and after that on the amendment to the committee resolution, and then upon the committee resolution as amended.

Mr. MANN. Mr. Speaker, it is perfectly simple. The first vote would be on the substitute offered by the gentleman from Iowa [Mr. PROUTY] dismissing the contest. If that is not agreed to, then the vote comes as to whether the sitting Member is entitled to his seat. If he is thrown out, then the question would come on seating a new Member. You could not seat a new Member while another Member was in his seat.

Mr. PALMER. That is true. You must adopt both resolutions at the same time.

Mr. BARTLETT. Mr. Speaker, it seems to me the resolution of the committee declares that the sitting Member is not entitled to his seat. There would follow, if the gentleman from Pennsylvania [Mr. PALMER] would offer his as an amendment to the resolution of the committee, the other resolution.

Mr. PALMER. I can see no objection to the plan I suggested.

Mr. BARTLETT. I have no objection.

Mr. PALMER. My resolution is in the nature of an amendment to the committee resolution. If the substitute is voted down, then the original resolution comes up, but the amendment must first be considered.

Mr. MANN. The gentleman must see that before you seat a new Member you must declare whether the present sitting Member is entitled to his seat. It always has been voted that way, I will say to the gentleman.

Mr. PALMER. I have no objection to its being voted that way, so far as I am concerned.

Mr. BURKE of Pennsylvania. If the Prouty resolution has the effect of dismissing the contest, does not that end the entire matter?

The SPEAKER. The Chair does not understand the gentleman.

Mr. BURKE of Pennsylvania. If the resolution of the gentleman from Iowa [Mr. PROUTY] is in effect to dismiss this contest, does not that vacate the entire proceeding, and would the resolution either of the gentleman from Ohio [Mr. ANSBERRY] or the gentleman from Pennsylvania [Mr. PALMER] be either in order or necessary?

Mr. KENDALL. Suppose the Prouty resolution fails?

The SPEAKER. These matters are all pending now by unanimous consent unless somebody objects, and then the three matters are pending here at once and the House has to vote on them in some way. The first thing to do is to vote on the Prouty substitute, and then the Chair will determine whether the vote shall be on the Palmer amendment or the other. The Chair will examine them in the meantime. It seems to be a difference between tweedledum and tweedledee. Is there objection? [After a pause.] The Chair hears none.

The gentleman from Ohio [Mr. ANSBERRY] is recognized for two hours and a half.

Mr. ANSBERRY. Mr. Speaker and gentlemen of the House, some time in August, in accordance with notice previously given by me, the contested-election case of McLean against Bowman, under resolution No. 687, was called up in the House, and the gentleman from Pennsylvania, Mr. Bowman, the contestee in this case, asked that the matter be passed until this session. At that time, under unanimous consent, I was given 20 minutes to make a statement with reference to this case. Most of you gentlemen heard that statement, and at this time I am not going to go into it as extensively as I did then. I expect to close the debate on this resolution, and then I shall present to the House evidence in support of the majority report of the committee. But at this time I shall make a brief statement with reference to the case and the evidence which sustains the allegations of fraud, corruption, coercion, and intimidation, so that any gentleman who was not present in August can follow the debates with full knowledge of the issue.

The contest arises over the election of a Member from the eleventh district of Pennsylvania. This district lies wholly within the county of Luzerne. This county is one of the hard-coal mining counties of Pennsylvania, and there are more than 60,000 miners residing in the district. Its population is something over 300,000.

The notice of contest was filed by Mr. McLean on the 11th day of January, 1911, and charged the contestee with procuring his election by fraud, corruption, coercion, and intimidation of voters, and also claimed that the votes cast for the contestee on the Prohibition ticket should not be counted for him because of the illegal way in which the contestee procured the substitution of his name on that ticket in place of the regularly nominated candidate of that party for the office of Representative in Congress. This notice of contest was some 30 days late, as under the rules adopted by the House for the guidance of persons who intend to contest the election of a Member of this House this notice must be served within 30 days after the determination of the result of the election. However, the contestee answered this notice on the 9th day of February, 1911, by a written notice objecting to the notice of contestant, for the reason that it was not served within 30 days, and alleged that there was no valid reason in law or equity why contestant should not have filed notice within the time specified in the rules of Congress governing such contests. He further answered and joined issue by stating that the notice was indefinite, vague, and uncertain, and denied any coercion, intimidation, or corruption on his part or on the part of his manager in said election, and specifically denied instances of coercion, fraud, and illegal acts on the part of the contestee, as set forth in the notice of said contestant, and claimed that the substitution of his name in place of the name of the regularly nominated candidate of the Prohibition Party, Mr. Robert R. Robinson, was strictly in accordance with law and the rules of said party under the laws of Pennsylvania. Certain statements were contained in the answer charging conspiracy and the corruption of voters on behalf of the contestant. Thereafter the testimony of contestant was taken under the rules of the House before two commissioners in Luzerne County, Pa., at which counsel for both sides were present, who examined and cross-examined witnesses with reference to this contest.

In passing I might refer to the fact that the record is silent as to any objection which the contestee may have had to the taking of depositions by the contestant at the time they were taken. The testimony came to the committee in the form of some seven or eight hundred pages of closely printed matter, and in due time the matter was presented to the committee and fully argued by counsel. Thereafter the committee made its report, in which it was stated that because of the failure of the contestant to file his notice within 30 days the committee had not considered the testimony with a view of seating the contestant, but the committee was of the opinion that section 105, against which rule contestant had offended by not filing his notice within 30 days, was merely directory and not mandatory, and for that reason they went into the merits of the case and reported a resolution unseating the contestee, and gave as their reason many instances of violations of the law in both letter and spirit by said contestee and his manager in the procuring of the election of the said contestee to a seat in this House. The minority members of the committee filed a report largely devoted to a discussion of section 105, and stating that in their opinion contestee should not be removed for the reason that notice of contest was not filed in time. This law question will be fully discussed, and I think thereafter the House will be of the opinion that this technical objection to the unseating of the contestee is absolutely the only ground upon which they have to stand, as no one seriously questions the facts with reference to corruption and violations of the law employed by the contestee and his manager in this election.

The position of the majority, with reference to section 105 is, as I have stated before, merely directory and not mandatory, and there is not a precedent in this House for the position taken by the minority. Many times has this question been raised, and I assert that the House has never refused to consider a case where there were any facts which would warrant the conclusions to which this committee has arrived. In other words, the House has never taken the technical view and has always permitted a hearing on the facts, merely insisting that both sides be given the regular notice and that full opportunity be had to get their testimony and to cross-examine witnesses. In this case the notice was served on the part of both contestee and contestant, the testimony was taken in the regular way, and the contestee was not injured one iota by reason of the failure of the contestee to serve his notice within the 30 days. Such being the case, the committee relies upon

the House to take the common sense and not the technical view of this question.

The principal vehicle for fraud and corruption in this case was the employment of special watchers, the manager for the contestee having employed a large number of men and paid out a large sum of money for the employment of men which the committee thinks, under the evidence, was used for the corruption of voters and not for the employment of men to work at the polls.

Contestee's manager made a statement of his expenditures under the laws of Pennsylvania and filed the same with the prothonotary of Luzerne County, and this statement and the cross-examination with reference to it disclosed the fact that Mr. Davis, the manager for the contestee, expended $2,300 for "special watchers," and he defines "special watchers" to be, "Possibly buying Democratic votes," and in connection with this cross-examination he made the further statement that, "Here is one that I bought and which went wrong," and gave the name of the person as Mr. Fred Shoemaker, of Parsons, and said that he gave Shoemaker $25.

In my closing statement I propose to show this House that these are not isolated instances. I said that upward of 60,000 miners live in this district. It becomes apparent that whoever could procure the services of those in authority over these men would have a big advantage in procuring the support of the miners, and a large part of this fund for "special watchers" was traced through these channels. These bosses manifested more than the ordinary amount of interest in this campaign. In addition to the coercion and corruption, the election laws were violated, and this fact was one of the basic reasons for this resolution. In one election precinct the testimony of two men, both of whom I think were of the contestee's political faith—one an official in a bank, a cashier, I believe, and the other a doctor, who lived in the precinct in question—gave testimony of a character to convince any reasonable man or set of men that the election returns in this district were altered in the interest of the contestee. One of the election officials likewise impeaches these returns. Many other violations of the election laws will be read from the record by me in closing the argument in this case; and, in passing, I will say that I referred to them, or most of them, in my statement in August, and contestee will have an opportunity to reply to them, for they are set out in the committee's report and will be gone into more fully on behalf of the majority by the gentleman from Virginia [Mr. HOLLAND].

There were other violations of the election laws by officials in charge. They have in Pennsylvania the Australian ballot, and if a man has a physical disability he may ask that some one go in the booth with him for the purpose of helping him to mark his ballot. The election laws and the decisions on this question are as follows:

> If any voter declares to the judge of election that by reason of any disability he desires assistance in the preparation of his ballot, he shall be permitted by the judge of election to select a qualified voter of the election district to aid him in the preparation of his ballot, such preparation being made in the voting compartment. (Act of assembly, approved 10th of June, 1893, P. L., 431, sec. 26.)
>
> Mere ignorance of how to mark the ballot, however, is not a sufficient disability. (Fadden's contested election, 3 Lack. L. N., Pa., 74.)
>
> If, after being allowed assistance, a voter prepares his ballot himself in the presence of his assistant, his vote should be rejected. (Fadden's contested election, supra.)
>
> Showing his ballot disenfranchises a voter. (Fadden's contested election, supra.)

In a number of precincts men having the contestee's money in their pockets, and mine bosses, entered the booths at the request of men who asked for assistance—in one precinct 35 or 40—contrary to law, and marked these ballots. Briefly stated, this is the position of the committee.

Mr. HILL. Will the gentleman pardon me a moment just on that point?

Mr. ANSBERRY. Yes.

Mr. HILL. Does the gentleman mean to construe the law that a person can not go into a booth to assist a man who is disabled, either by blindness or paralysis, or anything of that kind, and mark the ballot in his presence in the booth with him? If that is the law, it is contrary to the law of one State certainly that I know of, and establishes a very bad precedent for future elections in the United States.

Mr. ANSBERRY. I make no such contention. Perhaps my statement was not as clear as it should have been.

Mr. HILL. As I understood the gentleman, he said the committee did not consider that a man could go into the booth with a voter?

Mr. ANSBERRY. I meant to say that only in the case of physical disability could that be done. I think that is what the framers of the law had in mind—that only in the case of physical disability could any person be permitted to stay in the booth and watch and receive information as to how a man votes.

Mr. HILL. But the gentleman does not question the fact that a man can do that.

Mr. ANSBERRY. Only in case of physical disability. A man might have some disability other than that, but if his disability is educational or otherwise than physical, it is the contention of the committee, which I think is sustained by the law of Pennsylvania, as I think will be shown before the resolution is voted on, that no one can be present while the voter is marking his ballot.

Briefly, that is the committee's case. The law question which is raised in the resolution of the gentleman from Iowa [Mr. PROUTY], should perhaps, in the regular order of events, be disposed of first, as the presentation of the facts should come up later on. For that reason I wish to yield to the gentleman from Iowa [Mr. PROUTY] at this time, as I understand he wishes to present his side of that controversy.

Mr. BURKE of Pennsylvania. Before the gentleman from Ohio takes his seat, will he yield for a question?

Mr. SIMS. Mr. Speaker, I wish to make an inquiry.

Mr. ANSBERRY. I yield to the gentleman from Tennessee.

Mr. SIMS. Is it the gentleman's contention that all the watchers who were employed by the contestee were thereby corrupted and voted otherwise than they would have voted had it not been for their employment?

Mr. ANSBERRY. It is the contention of the committee that the entire sum of money that was used for special watchers was a corruption fund. I can not say how those men would have voted under ordinary circumstances, but many of them were described as Democrats.

Mr. SIMS. Many of the watchers were Democrats?

Mr. ANSBERRY. Many of the watchers who were employed by this money were Democrats.

Mr. SIMS. I believe on the face of the returns the contestee was elected by something more than 500 votes.

Mr. ANSBERRY. He was elected by five hundred and some odd votes. The contestee was on two tickets—the Republican ticket and the Prohibition ticket—and the committee in passing call attention to the fact that he would have been defeated had it not been for the vote he got on the Prohibition ticket. Mr. McLean received some 200 more votes on the Democratic ticket than Mr. Bowman received on the Republican ticket. Mr. Bowman received some 700 votes on the Prohibition ticket.

Mr. SIMS. Under the laws of Pennsylvania was it not valid for him to be on two tickets?

Mr. ANSBERRY. Under the laws of Pennsylvania that was valid. The only question was the question of his procurement of the nomination. That is only referred to because of the fact that it helps to present the general scheme of fraud and corruption by which he obtained the support he received.

Mr. SIMS. Then the Prohibition votes are not challenged simply because they were Prohibition votes?

Mr. ANSBERRY. Oh, no. They were counted.

Mr. SIMS. The gentleman is going to leave the floor, and I wanted to get a fair idea of the matter.

Mr. ANSBERRY. I shall take the floor again with reference to the facts. I am only yielding now for the purpose of allowing the presentation of the question of law.

Mr. SIMS. I have been here 16 years, and when I first came here I used to see the Republican side unseating men on the Democratic side and electing the contestant in his place. I saw so many Members unseated in the South that I got tired of seeing that thing go on, and now before I vote for anything of that sort I would like to see a clear case.

Mr. ANSBERRY. I shall not ask anybody to vote for this resolution because it is the committee's action.

Mr. SIMS. I suppose that my teeth are on edge because I have had a contest myself.

Mr. BURKE of Pennsylvania. Will the gentleman yield?

Mr. ANSBERRY. Certainly.

Mr. BURKE of Pennsylvania. I am anxious to ascertain what the attitude of the committee is upon this proposition. It is divided into three chapters: A resolution offered by the gentleman from Ohio, one by the gentleman from Iowa, and one by the gentleman from Pennsylvania. When the resolution was offered by the gentleman from Ohio and by the gentleman from Iowa an agreement was made that the debate should continue for five hours, involving the unseating of Mr. Bowman. Subsequent to the announcement of that understanding a resolution offered by the gentleman from Pennsylvania [Mr. PALMER] was read for the seating of Mr. McLean. The previous question was to be ordered at the termination of the five hours' debate.

Do I understand that the seating of McLean is to be effected if the votes can be had without any discussion on the subject?

Mr. ANSBERRY. I will say to the gentleman that the two propositions are so interlocked that it would be impossible to discuss one without touching the other.

Mr. BURKE of Pennsylvania. Will the gentleman inform me whether the committee has taken any formal action with reference to McLean's right to a seat?

Mr. ANSBERRY. The committee has necessarily taken that up because it is interlocked with the other, and you could not consider one without considering the other.

Mr. BURKE of Pennsylvania. I understand; but has the committee formally made any recommendation?

Mr. ANSBERRY. The gentleman knows very well that the committee has not formally made any recommendation. It is not in the resolution, and that is the only way that the committee could act. I would be glad to give my views as a Member of Congress and not as the chairman of the committee.

Mr. BURKE of Pennsylvania. Whether or not the proposition to make a negative or an affirmative recommendation, as far as McLean is concerned, was presented to the committee and acted upon by the committee?

Mr. ANSBERRY. The gentleman will understand that that question is wholly improper. The gentleman from Pennsylvania can ask his question of the gentleman from Iowa, and, as far as I am concerned, he can answer it if he desires, but it is improper to state on the floor what took place in the committee. The committee speaks through its report.

Mr. BERGER. Will the gentleman yield?

Mr. ANSBERRY. I will.

Mr. BERGER. The gentleman stated that the candidate for governor on the Prohibition ticket received 700 votes.

Mr. ANSBERRY. No; the candidate for governor received less than 300 votes—240.

Mr. BERGER. And the candidate for Congress received?

Mr. ANSBERRY. Over 700.

Mr. BERGER. Does the gentleman mean to convey the idea or the impression that the 400 Prohibition votes were gotten by illegal means?

Mr. ANSBERRY. I do not mean to convey the impression, but my impression is it was used as a cloak for fraud.

Mr. BERGER. I am not a Prohibitionist, as everybody knows, nor do I come from a city where prohibition is very strong, but I believe as a rule, Mr. Speaker, that the Prohibitionists are honest and are actuated by principle and are hard to be bought.

Mr. ANSBERRY. But that is beside the question. The point I make is that the Prohibitionists being honest would vote for the candidate for governor, as they did, to the number of 242, but men could vote the Prohibition ticket for a candidate for Congress who were not Prohibitionists.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. ANSBERRY. I must decline to yield further, Mr. Speaker.

Mr. MOORE of Pennsylvania. I want to help the gentleman as to his attitude and that of the committee.

Mr. ANSBERRY. I appreciate that, but my time is very short. I will yield later to the gentleman.

Mr. PROUTY. Mr. Speaker, this case on its face is a simple contest between Mr. McLean and Mr. Bowman for a seat in this Congress from the eleventh district of Pennsylvania. There are two phases of this controversy, one a question of law or procedure and the other a question of fact. By common consent it has been allotted to me to discuss the parliamentary or legal questions.

I would say for the benefit of the House generally that there is nothing in this case that appeals especially to either the prejudice or passions of men. I have no doubt but that there were technical violations, perhaps, of the statutes of Pennsylvania in the conduct of this campaign, but the amount of money spent and the quality of the expenditure on the part of both the contestant and contestee was so nearly alike that the majority members of this committee—and that showed their sincerity and consistency—while recommending the unseating of the Republican did not recommend the seating of the Democrat. I make this statement in view of the somewhat preliminary discussion that has taken place already. The question I intend to confine myself to is the question of the jurisdiction of this committee. I raised the same question in committee, and I now desire to raise it on the floor of this House, and that is that there is no contest pending either before the committee or before this House.

I first wish to call the attention of the House to the law. Section 105 of the Revised Statutes provides:

> Whenever any person intends to contest an election of any Member of the House of Representatives of the United States, he shall, within 30 days after the result of such election shall have been determined by the officer or board of canvassers authorized by law to determine the same, give notice in writing to the Member whose seat he designs to contest, of his intention to contest the same, and in such notice shall specify particularly the grounds upon which he relies in the contest.

Mr. Speaker, there is no claim on the part of the contestant that he complied or attempted to comply with that provision of the law. The final result of the election was declared by the canvassers on the 12th day of November, 1910, and the notice in this case, and the only notice or only pretense of a notice, was served on the 14th day of January, 1911, 32 days after the time provided by the statute. I am not unaware of the rulings of this House upon the question involved. I realize that under the Federal Constitution the House is the sole judge of the qualifications, elections, and returns of its Members, and that that could not be taken away even by a statute enacted by the House and Senate and signed by the President of the United States, because it is a constitutional right. But the proposition that I wish to call to the attention of the House is this, that until the House does modify that rule, until the House grants some other manner in which a contest can be brought before it, until this new rule is not only adopted but complied with by the Member wishing to press his contest, there is absolutely no contest pending; and I make the broad statement now, so that any gentleman can go to work upon it, that there is not a record of a case in the American Congress where a man has been allowed to present his case and oust the other man unless he has given this notice, or unless he has come into the House and asked for a new method of procedure and has been granted that privilege.

The real fight that I am making now, the real appeal that I am making to this House at this time, is not so much for Mr. Bowman, although I like him, but for the future of the proceedings in this Assembly. If you adopt the rule that the majority here would force you to adopt, it allows any man at any time to start a contest in this House without having given any notice. All the testimony may be taken. It may then be presented to the House, even two years after the man's election or claimed election, and if some committee should then report that this man ought to have a seat, if you establish this precedent that is asked here to-day, it will be the duty of the House to consider it.

Mr. SHERLEY. Mr. Speaker, will the gentleman yield?

Mr. PROUTY. Certainly.

Mr. SHERLEY. What does the gentleman say of the effect of the vote of the House just taken to consider the contest?

Mr. PROUTY. That does not prescribe the rules under which it should be taken.

Mr. SHERLEY. But the point the gentleman makes is this: He admits the power of the House to deal with the matter without regard to the statute, but contends that inasmuch as the statute was not complied with and the House had made no other rule, therefore it should not be considered. I now call to his attention the fact that the question of consideration was based on whether a contest between the two gentlemen should or should not be considered, and on that question the House has just had a roll call and has determined to consider the contest. Does the gentleman consider that act a mere nullity?

Mr. PROUTY. What I claim is this: That question was not discussed in this House. It was not before the Members of this House, and the House had no real opportunity of deciding the question I am now presenting and urging. I had not presented my resolution; I had not offered the suggestion to the House. So that the gentleman and I have an understanding at the start. I concede the power of this House to do anything with its Members that it sees fit. It is limitless. There is no court in the world to which any man can take his case. That does not bar him, however, from making an appeal to the Members of this House to decide these questions along the lines of certain precedents. I assume and shall assume in my discussion that the gentlemen on that side of the House are just as ready and willing to follow the rules and regulations and precedents of this House as they are upon this side. If I can convince them, or if I can convince the gentleman, that there has never been a case like this ever heard in this House, I suspect that I will get their votes, notwithstanding they did vote a little while ago to take up the consideration of this matter.

Mr. SHERLEY. Mr. Speaker, the point I desired to bring to the gentleman's attention was simply this: Whether the question of consideration that he is now pressing should not have been presented prior to the other vote, and whether he is not now in effect asking a reconsideration on the part of the House.

Mr. PROUTY. I think not. What I am going to argue and prove by the precedents before I get through is that there is

not a case where they have not prescribed that a notice shall be given, and the time and manner in which it shall be given. I do not believe I care to discuss with the gentleman the technical points that he raises, because it does not appeal to me, and I apprehend it does not appeal to the calm judgment of this House, that simply because you have voted to take up this resolution thereby you establish a new rule of contest in the House.

Now, I repeat what I said before. First, the statute fixes the manner in which this contest will be taken up. I grant that the House has the power to fix another and different rule, but it can not make that rule until the party desiring it shall appeal to the House or at least to the committee for the right to proceed in a different manner from that authorized by the statute, and by the rules and precedents of this House. The very furthest that is hinted at is in a case where an agreement was made between counsel outside fixing a different rule that it ought to have been presented at the first opportunity to the House for its ratification. The most that could possibly be done now under any rule established by the precedents would be for some one to offer a resolution here to ratify what these people have done and bring the matter up in that way. I repeat, that I defy the gentleman on that side to produce a precedent, in the long history of this legislative body, in which Congress has gone any further than that. They have never gone that far, but hinted that that was at least necessary.

Mr. SHERLEY. If the gentleman will permit, the gentleman does not mean to insist the power of Congress is limited to the initiative of a contestant?

Mr. PROUTY. I say to the gentleman Congress is limited by nothing except conscience.

Mr. SHERLEY. The gentleman said that, and immediately afterwards the gentleman said you could not go ahead until the contestant had by some motion undertaken to get Congress to establish a rule.

Mr. PROUTY. Of course I am assuming all the time that side of the House and this side of the House desired to move along the lines of law, order, and precedents. If these things appeal not to you, I say to you now your power is limitless.

Mr. BARTLETT. May I ask the gentleman a question?

Mr. PROUTY. With pleasure.

Mr. BARTLETT. When was the suggestion first made that this notice was not filed in time; when the testimony was first taken or begun?

Mr. PROUTY. Yes.

Mr. BARTLETT. Or since Congress——

Mr. PROUTY. It was made at every stage of the proceedings; the record is perfectly full of it.

Mr. BARTLETT. Protesting against the proceedings to take testimony?

Mr. PROUTY. All the way through; yes.

Mr. BARTLETT. So the contestee, then, has made the point from the beginning?

Mr. PROUTY. Certainly he has.

Mr. DAVIS of Minnesota. And no waiver?

Mr. PROUTY. And no waiver.

Mr. MOORE of Pennsylvania. Is not that point entirely conceded by the majority of the committee in its report, on page 3?

Mr. PROUTY. The facts are.

Mr. BARTLETT. May I ask the gentleman another question?

Mr. PROUTY. With pleasure.

Mr. BARTLETT. Taking for granted that the gentleman's position is correct—and I do not grant it except for the question—that this contest is irregular and not in accordance with the statutes and is not before us in the way Congress may have heretofore or may hereafter have the power to inaugurate a proceeding of its own, has not the House got before it in a legal way what it could have had before it if it had instituted a contest by a memorial or application of the contestant to inaugurate and obtain this testimony; that is, we get all we could get about this case?

Mr. PROUTY. So far as that is concerned, I am not able to answer that question, that because a man does not serve notice upon me and gets into court is not any proof that if he had served the proper notice I could have gotten more proof. The question is upon the precedents of this House. Does this House now want to establish a precedent that would to-day allow some fellow to file a contest for your seat, and take evidence, you protesting at every stage, and then, because there was such a large majority on one side of the House as to make it possible, have you unseated? That is the problem you are up against. If you are not going to have orderly procedure, what kind are you going to have?

Mr. ALEXANDER. Will the gentleman yield?

Mr. PROUTY. With pleasure.

Mr. ALEXANDER. What right of the contestee has been prejudiced by the procedure adopted by a majority of the committee?

Mr. PROUTY. In reply to that I will say the majority of the committee has adopted no procedure. He has not asked the committee for any course of procedure; he has not asked to be permitted to do it in some other way. He went ahead after giving this notice and took his testimony, dumped it into the hands of the committee, and against the protest of some of the committee it was considered by the good members of the committee. The point I am raising now is that there was nothing there legally for them to consider any more than to dump a wastebasket into the committee room to-morrow from the seventh district of Iowa.

Mr. ALEXANDER. Assuming that is true and the action of the committee was irregular from beginning to end, yet what right of the contestee has been denied him or what privilege by their method of procedure?

Mr. PROUTY. I announced frankly to this House in my opening statement that I was here more for the purpose of fighting for a correct principle and to give a precedent in this House affecting all future time, than perhaps for this particular case. The gentleman from Pennsylvania [Mr. BOWMAN] has only a couple of months to serve at the best, and it is not so vital to him except as a question of real right. But I say, and I repeat, if you adopt the principle and vote down the resolution I have offered, you have established a precedent that will harass many good men for many years yet to come.

Now, the provision of the Constitution to which reference is always had in this class of cases, and to which reference will be had often in the discussion, is section 5 of Article I:

> Each House shall be the judge of the elections, returns, and qualifications of its own Members.

Now, as I have said before, I concede that the House has unlimited power. Under that you will find this footnote:

> The statutes of the United States provide specific methods for the institution of a contest as to the title to a seat in the House—

Citing Hinds' Precedents, 678, 697, and 706—

> But the House regards this law as not of absolute binding force, but rather a wholesome rule not to be departed from except for cause—

And then it cites cases, all of which I will call to your attention—

> And it sometimes by resolution modifies the procedure prescribed by the law. (I, 449 and 600.)

With the amount of time I have and with the questions that are being asked of me, I can not cite all these authorities that I would like to cite.

Mr. POWERS. Will the gentleman yield to me for a question?

Mr. PROUTY. I prefer not to do so at this time.

I first call attention to the case of Williams against Sickles, Hinds' Precedents, first volume, section 597. This was in the Thirty-sixth Congress, and I believe the first time that this question was raised after the passing of the statute of 1851. This case was in 1858. The party had not given the notice, and it was a question as to when the time would begin to run. It was a case of the board of canvassers not having made the ordinary returns. Therefore there was a question as to when it began. There was not a real chance for a man to give a notice within 30 days, and so application was made to the House for a new time in which to give a notice. After full consideration, which I can not have time to read—or at least all of it—I will quote what they said:

> There obviously can arise cases not within the provision of that act in which the parties must apply to the House itself for authority to take any other than voluntary testimony.

And the House adopted the following resolution:

> *Resolved*, That A. J. Williamson, contesting the right of Hon. D. E. Sickles to a seat in this House as a Representative from the third district of the State of New York, be, and he is hereby, required to serve upon the said Sickles within 10 days after the passage of this resolution a particular statement of the grounds of said contest, and that the said Sickles be, and he is hereby, required to serve upon the said Williamson his answer thereto in 20 days thereafter; and that both parties be allowed 60 days next after the service of said answer to take testimony in support of their several allegations and denials before some justice of the supreme court of the State of New York, residing in the city of New York, but in all other respects in the manner prescribed in the act of February 19, 1851.

The next time the matter was considered was in the Thirty-ninth Congress. In all of these cases that I have read, and I think I have read or examined every one in which this question has been up, no one has claimed that a contest could be had without some kind of notice. There was a strong contention when this matter was first up that even the House had not power to change those rules. On the other hand, there were a certain number of gentlemen who claimed that the Constitution

gave the right to the House to proceed at any time and under any circumstances. I think that last provision is practically conceded by every man who has carefully considered this proposition. But in all of these cases the House has said that to maintain its orderly procedure it must insist either upon the party complying with the statute or asking and receiving new instructions and complying with them. As I have said before, I challenge any man on that side of the House, or on this side, for that matter, to show a precedent that has gone further than I have named. This matter came up again in the Thirty-ninth Congress, and the point was raised that as there was not given any notice there could not be any contest. But the committee that had the matter in charge reported:

The committee were therefore of the opinion that this case could not be heard by them in its present position and that it must be dismissed unless the House should authorize the parties to make up an issue and submit the same, with such evidence as each may be able to produce in relation to the same, to the committee of the House.

It was thereupon claimed by the contestant that he had been led into noncompliance, and so forth, by reason of the stipulation that was entered into. But the following resolution was passed:

Resolved, That Dorsey P. Thomas, contesting the right of the Hon. Samuel M. Arnell to a seat in this House of Representatives from the sixth congressional district of Tennessee, be, and he is hereby, required to serve upon the said Arnell, within 8 days after the passage of this resolution, a particular statement of the grounds of said contest, and that said Arnell be, and he is hereby, required to serve upon said Thomas his answer thereto in 8 days thereafter, and that both parties be allowed 18 days after the service of said answer to take testimony in support of their several allegations and denials in all other respects in conformity to the requirements of the act of February 19, 1851, except that not more than 4 days' notice shall be required for the taking of any deposition under this resolution.

Now, I do not know that it would either interest or convince any Member of this House if I should go ahead and read all the other precedents, but I repeat the challenge that there is not a precedent in the American Congress that will sustain the course pursued by the majority of the committee in this case.

Mr. NYE. Mr. Speaker, will the gentleman permit me a question?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. PROUTY. Yes; I yield.

Mr. NYE. There was an issue made up, as in ordinary cases, by an answer to the notice, was there?

Mr. PROUTY. Yes.

Mr. NYE. And did the answer raise the objection that the notice was unauthorized by reason of being too late?

Mr. PROUTY. Yes; I think that in every pleading that was filed, and in every answer that was made, and in every appearance that was had, that objection was raised. You know I would not be able to speak with real accuracy as to all of them. But it appears throughout all the records.

Now, it must be apparent that there is some wisdom in this rule of the House, either that a man must give the notice prescribed, or appeal to the House for the authority, because, under the rules of this House, the House practically pledges $4,000 expenditure of money for every contest, and therefore every man, before he goes ahead and incurs that expense, before he requires his opponent to incur that expense, ought to appeal to the House and see whether they were going to allow him to present his case—whether they thought there was enough merit in it to justify it.

But as I say, no record was had for that, not a syllable of testimony was taken within the time or in the manner prescribed by statute. Not merely the notice, but everything else, went away beyond the time. But, so far as this case is concerned, I am confining my argument to the notice, because that is the jurisdictional question.

Now, I come to what may be considered as the second phase of this controversy.

Mr. PALMER. Mr. Speaker, will the gentleman yield to me for a moment?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. PROUTY. With pleasure.

Mr. PALMER. I want to understand the gentleman's contention on that. As a matter of fact is it not true that the statute provides that the testimony shall be taken within a certain number of days after the answer of the contestee has been served?

Mr. PROUTY. Yes.

Mr. PALMER. Was not all the evidence in this case so taken?

Mr. PROUTY. Yes; if you will take the 14th day of January as the date for serving notice, I will concede that all was regular from that on.

Mr. PALMER. The statute prescribes the time of notifying as to the contest.

Mr. PROUTY. The gentleman is begging the question.

Mr. PALMER. I think the gentleman from Iowa is begging the question.

Mr. PROUTY. If you take January 14 as the starting point, then it is regular. But it started 32 days too late, and, according to my theory, it never caught up.

But now I come to the second question. Even if now the contestant were in this body you would not grant to him the right to enter a contest if you decided the question on its merits. In other words, he does not make an equitable showing as to why he did not file the contest in time. He does not bring himself within any equitable rule. As I called to the attention of the House a few moments ago, this election was held on the 8th of November. The results were declared on the 12th of November. The notice in this case was served on the 11th day of January, 1910.

The paper excuse that the gentleman gives for not filing his notice sooner was poor health. The sworn answer, as I will show by his testimony, is that neither he nor his attorney knew when the notice should be served, and I assume that we are all familiar with the proposition that ignorance of the law does not excuse anyone, and certainly not even Democratic candidates for Congress.

But Mr. McLean was not so disqualified that he was unable fairly to consider this matter of contest and to have given sufficient orders to start it. The evidence introduced in this case shows, if you will examine page 7, that Mr. McLean was taken with some intestinal trouble on the 31st day of October, eight days before the election. It further shows that on the 5th day of November, three days before the election, he had so far recovered that two of his political friends, Messrs. McKenna and Kehoe, visited him, and they had a conversation in regard to the campaign. You will find that stated on page 624 of the evidence.

On the same day, or the following day, the editor of the Times-Leader, a newspaper published in that town, had a conversation with him, and during the time that they were in consultation they were discussing a letter to be written, and which was written, in reply to certain things appearing in the newspapers. This you will find stated on page 183 of the evidence.

The day before the election, on the 7th of November, Mr. McLean read, examined, and approved an article that was to appear in the paper.

On the day of the election he rode out to the polls and voted.

On the next day after the election, the 9th, he personally wrote and signed a check (p. 567).

On November 12 he examined bills and wrote and signed several checks, some of them for political bills (p. 716). On that day he learned the official results of the election (pp. 682-683).

Evidently the contestant was taken some worse after that, as is shown by the testimony on page 716, but during that time he signed at least one political check.

The contestant, however, improved rapidly, as is shown by the testimony. On the 28th day of November he had so far recovered that he began checking over his political bills and making checks for the same. On that day he personally drew and signed 30 political checks.

On November 29, 17 days after he knew the result of the election and 13 days before his time was up for serving his notice of contest, he personally, in his own handwriting, made out his expense account, as required and provided by the statutes of the State of Pennsylvania. This paper contained 43 items.

On the 30th of November the contestant gave five political checks, all of which were written in his own handwriting and signed by him, as you will find stated on page 716 of the testimony.

On December 1 he drew one check, and had so far recovered that his doctor consented that he might go South. Before going he drew two checks, the morning that he left. He went South, and during the time he was down there he wrote numerous letters home, and yet never took any action in regard to this matter until either the 7th or 9th of January.

In addition to that here was his brother, a good lawyer, who was the manager of his campaign, who had had personal charge of the financial part of the campaign and, I guess, had had charge of all parts of it. His father was a good lawyer and they were members of the same firm. A mere word from him was all that would have been necessary: "Prepare a notice of contest in this case."

But you will find, by reading the testimony, that the real cause of this delay was admitted by the contestant on page 720, and that was that he did not know that the law required that the notice should be given within 30 days. If you will examine page 683 you will find that it is admitted that contestant's

brother-manager did not know until in January that the 30 days' notice was required.

Not one of these facts is disputed. Does the House wish to go on record as saying that because a man does not know the law, and for 60 days allowed himself to become unacquainted with the law, when he is himself a good lawyer, shall excuse him from giving the notice that the law requires?

That is the proposition of law in a nutshell. I have not relied upon my opinion as to this proposition, for I have a dozen authorities that I can call to the attention of the House. I have sent to the desk a resolution which I want the House to pass upon. I want you to pass upon it as lawyers. I want you to pass upon it as men. I do not wish any of you to pass upon it because it is Mr. Bowman, because it is Mr. McLean, or because it is a Republican, or because it is a Democrat. I want you to pass upon it because you are here now making a record that will bind this House for many years to come. It is as follows:

Resolved, That the case of George R. McLean against Charles C. Bowman, from the eleventh congressional district of Pennsylvania, be dismissed for want of jurisdiction because said alleged contestant gave no notice of contest within the time or in the manner prescribed by law, and because he has not asked or secured the consent of this House or of the committee for proceeding in any other manner than that prescribed by law and has not shown any equitable excuse for his failure to give the notice prescribed by section 105 of the Revised Statutes.

[Applause.]

Mr. LONGWORTH. Before the gentleman takes his seat I want to ask him a question. I observe that the majority of the committee lay a great deal of stress on the fact that the contestee made no protest to the House, although the gentleman says that he made protest to the committee. In any of the other cases which the gentleman has cited was a protest made by the contestee to the House?

Mr. PROUTY. Nobody seems to have thought of the question. I did not think of it and I did not suppose anyone would think of making a protest to the House against some one not bringing him here. My contention is that he has never been brought to the bar of this House or to the committee.

Mr. WILLIS. Will the gentleman yield?

Mr. PROUTY. Certainly.

Mr. WILLIS. I had thought of that question and I looked over the cases carefully, but there is not a single one where that action was taken. Consequently it ought not to be expected to be done in this case.

Mr. ANSBERRY. Mr. Speaker, I yield 45 minutes to the gentleman from Pennsylvania [Mr. PALMER].

Mr. PALMER. Mr. Speaker, the majority of the committee report a resolution declaring that Charles C. Bowman was not elected a Representative in the Sixty-second Congress from the eleventh district of Pennsylvania and is not entitled to a seat therein, and fail to report any resolution bearing upon the right of the contestant, George R. McLean, to the seat which he claims as the duly elected Representative of that district. The reason for this rather unusual report on the part of the committee, as stated by the majority, is that the committee is—

not satisfied that the reasons alleged by the contestant are sufficient entirely to excuse him from serving upon the contestee his notice of contest within 30 days from the 12th day of November, 1910, and not believing that he should be a beneficiary of his own negligence, under the findings of the committee, they have not considered the case from the viewpoint of reporting a resolution to seat the contestant.

The contestant served no notice of the contest until 63 days after the result of the election had been determined by the board authorized by law for that purpose, and therefore failed to bring himself within the letter of the statute which provides that any person intending to contest an election of a Member of the House of Representatives shall give notice in writing within 30 days after the result of the election shall have been determined by the board of canvassers. The committee is undoubtedly right in its interpretation of this statute as merely directory and intended to promote the prompt institution of contests and to establish a wholesome rule not to be departed from except for cause. This interpretation is amply supported by the decisions of the House extending over many years, and must necessarily be correct in view of the constitutional provision making the House the judge of the qualification and election of its own Members. The statute is in the nature of a rule intended for the guidance of a contestant, the protection of a contestee, and the convenience of the House itself.

Each of these purposes can be served in this case without holding to the strict letter of the rule.

Mr. PROUTY. Will the gentleman yield?

Mr. PALMER. I would like to get started, but I will yield to the gentleman.

Mr. PROUTY. I want to ask the gentleman if, even though the rules of the House are subject to be changed by the House itself, until they are changed are they not binding on the House?

Mr. PALMER. Yes; but the House, being the sole judge of the qualifications of its own Members, has decided time after time, as the gentleman perfectly well knows, that it may and will waive this particular rule in order to get at the merits of the case and carry out its right and power as defined in the Constitution.

Mr. PROUTY. I would like to have the gentleman cite the case in which they made that waiver.

Mr. PALMER. In every case which the gentleman has cited——

Mr. PROUTY. Not waive, but modify.

Mr. PALMER. In every case which the gentleman has cited the House has either expressly waived the rule by adoption of a new rule at the time or has impliedly waived the rule by a decision upon the merits of the contest, and I will get to those cases in a moment.

Mr. PROUTY. Is not the distinction this, that instead of waiving it they make a new rule?

Mr. PALMER. That is a waiver of the rule.

Mr. PROUTY. I think not.

Mr. PALMER. If a man has failed to file his contest within 30 days and he comes into the House, or upon the report of the committee the House permits him to file the notice within 8 or 10 days after the passage of the resolution or the presentation of the report, while that is a new rule for him to operate under, it constitutes a waiver of the statute of 1851.

Mr. DALZELL. Mr. Speaker, will the gentleman yield?

Mr. PALMER. Certainly.

Mr. DALZELL. In this particular case did the House take any action?

Mr. PALMER. No.

Mr. DALZELL. It did not?

Mr. ANSBERRY. Yes; the House referred it to a committee.

Mr. PALMER. Except, of course, that the contest was referred to a committee, but I imagine my colleague desires to inquire whether the House took any action permitting the contestant to have more than 30 days in which to file his contest.

Mr. DALZELL. That was my question.

Mr. PALMER. The House up to this time has taken no such action, unless, as I think it entirely proper to argue, the House has now by the vote to consider these resolutions waived the strict compliance with the statute. As I understand the argument of the gentleman from Iowa [Mr. PROUTY], he admits that the House has the right to do this thing.

Mr. PROUTY. That the House has the power to do it.

Mr. PALMER. He admits that the House has done it time after time, but he contends that the way in which it ought to be done by the House is on the application of the contestant himself sometime before the report of the committee comes into the House. It seems to me that is an argument which can only be characterized as absurd. In this case Mr. McLean could only go for consent to file the notice after the 30 days to the House to which he claimed to have been elected and of which he claimed to be a Member. The Sixty-first Congress, which was then in session, had nothing in the world to do with the thing. Each House is the judge of the qualifications of its own Members, and the first time that this House was open to him when he or somebody on his behalf might ask permission to extend the time in which to file the notice was on the 4th of April, 1911, after his notice had actually been served, after it had been answered upon the merits, after the testimony in chief had all been taken. So that he would have been asking a perfectly futile thing to have come then and asked to be permitted to have 30 days more in which to file his notice of contest.

Mr. PROUTY. Will the gentleman submit to a question just there? Might he not have appeared and had a ratification of what he had done?

Mr. PALMER. That is exactly what we are proposing now. If the gentleman's argument is correct, that the House might under the precedents—ought to, perhaps, where there is a meritorious case and where reasonable excuse has been offered by the contestant—in advance give this permission, certainly the House can and under the same circumstances has ratified the failure of the contestant to comply with the law; and we are now here asking the House to do precisely that thing, declaring to you two things—that upon the merits of the case Mr. McLean is entitled to the verdict of the House and upon the excuses which he offered he is entitled to equitable relief at the hands of the House, or, at least, he has made such a case as calls upon the House to ratify failure on his part to comply with the strict letter of the statute.

Mr. PROUTY. This House has been in session most of the time for 18 months and he has made no application, and yet, as a matter of fact, does not the gentleman know it to be a

fact that much of this testimony was taken after this House convened?

Mr. PALMER. No; all of contestant's testimony in chief was taken before the first session of the Sixty-second Congress.

Mr. PROUTY. And much of it afterwards.

Mr. PALMER. The testimony in rebuttal was taken after the House met on the 4th of April, 1911.

Mr. PROUTY. If the House had had a chance to pass upon that question then, it might not have been necessary to have taken any testimony.

Mr. PALMER. It seems to me this is the fairer way to do the thing. The House has the right to know when an application comes to it to waive one of the strict requirements of its rules what are the merits of the contestant's case. It goes right to the root of the thing.

If he has no case the House ought not to waive the rule; if he has an absolutely good case or where it appears to the majority of the House that he has, or if it appears that he has a reasonable excuse for his failure to comply with the statute it constitutes good grounds for the House to waive the rule, because, after all, as one of the cases cited by the gentleman himself declares, the question which the House is interested in is not how these men file their pleadings, but who was legally elected to this House in the district. And that question can certainly be better considered by the House after the record is made up and the evidence all submitted than at the beginning of the proceedings. Now, I say from the standpoint of the rights of the sitting Member there can be no possible objection to the House considering this case upon its merits. The constitutional right of a Member to a seat in this House, whether he be a returned Member or one who knocks at its doors, because he claims to be the legal representative of his people, is a matter of too great importance to be decided upon the mere technicalities of pleading. It would develop a case of manifest injustice both to the Member and to the constituency which might thus be disfranchised in the House if the mere failure of a party to file a pleading within the period fixed by the rule should deprive a Member of his seat to which otherwise his title may be perfectly clear. There are many cases in the books where the House has taken this view of the statute, and especially where a reasonable and proper excuse is offered for the delay.

Now let me recur for a moment to the cases cited by the gentleman from Iowa. In each of these cases, as I said a minute ago, there is in the committee report a statement to the effect that the House should follow this rule, yet in each one of these cases the House did what we are asking it now to do—waive the requirements of the rule, either impliedly or expressly.

For instance, take the first case cited in the gentleman's minority report and to which I think he referred in his oral argument. In the case of Bradley against Hynes, section 901, volume 2, Hinds' Precedents, the gentleman quotes the syllabus:

> The notice of contest being served after expiration of the legal time and the testimony taken without regard to the statutes, the committee did not examine the case.

Well, I have long since gotten by the time in my life when I believed everything a syllabus writer declared was the law, or was so laid down as the law in the opinion of the court in the case which the syllabus covers. In that particular case they say:

> There was no evidence to show that contestant had been elected, but, on the contrary, there was evidence that the sitting Member was entitled to a larger majority than the returns gave him.

Now, that is the finding, so that instead of it being true that the committee did not examine the case, the committee found upon the merits of the case and brought their report upon that finding before the House. Again, the gentleman cites Williamson against Sickles in 1 Hinds', 597. There was another case where the House expressly waived this rule, so that instead of being authority for the gentleman's position it comes back to the support of what I have said, that where a proper excuse is offered or the merits of the case are good the House will always waive the rule. In that case the committee reports:

> The committee do not consider the law of 1851 as of absolute binding force upon this House, for by the Constitution "each House shall be the judge of the elections, returns, and qualifications of its own Members," and no previous House and Senate can judge for them. The committee, however, consider that act as a wholesome rule, not to be departed from except for cause. * * * There obviously can arise cases not within the provisions of that act, in which the parties must apply to the House itself for authority to take any other than voluntary testimony.

And, therefore, the committee reported a resolution permitting the contestant to serve notice within 10 days and contestee to answer in 20 days, and the House agreed to the resolution.

In other words, the House refused to hold the party to the strict letter of the statute.

And the gentleman cites Thomas against Arnell, in volume 1, Hinds' Precedents, 680, which is the same kind of a case, except in that case neither notice nor answer had actually been served. Well, I can understand why the House might hesitate if a contestant failed to file any notice of contest or the contestee failed to file any answer, for, as said, in some of the cases the House will not permit the parties to agree to waive this law and make rules for themselves for the guidance of the House. And yet even in that case, despite the fact that there had been no notice and no answer, the committee recommended a resolution that the contestant be allowed 8 days in which to serve his notice of contest, and that the contestee be required to serve his answer within 8 days thereafter, and that both parties be allowed 18 days next after the service of said answer to take testimony in support of their several allegations and denials, according to the resolution. Now, I do not care whether it was before the testimony was taken or after the testimony was taken. The fact remains that again the House waived the strict requirement of its rule.

Mr. PROUTY. Will the gentleman yield to a question?

Mr. PALMER. Yes; I will yield to the gentleman.

Mr. PROUTY. Have you found any case where there was no notice given within the time that the House considered it, unless they prescribed another kind of notice, and that was given?

Mr. PALMER. Well, here is the proper way to put an inquiry about these cases.

Mr. PROUTY. I put the inquiry.

Mr. PALMER. Has the gentleman ever found a case where a man was refused a seat in this House because he did not file a notice of contest in time?

Mr. PROUTY. Plenty of them.

Mr. PALMER. I beg the gentleman's pardon, but I would like to have him produce them.

Mr. PROUTY. I will. There is McDonald against Jones, and Pearce against Bell, in Hinds' Precedents, volume 2, section 1073.

Mr. PALMER. Are those the gentleman's cases?

Mr. PROUTY. That is one of them.

Mr. PALMER. Neither of them sustains the gentleman's proposition.

Mr. PROUTY. That may be true, but now I would like to have a definite answer to my question.

Mr. PALMER. Wait a minute until I finish this matter. Take Pearce against Bell, which the gentleman has cited. That was a case where no notice was given. The report says:

> In this case the contestant gave no notice of contest, as required by law, and has taken no evidence to sustain the allegations of fraud and intimidation claimed by him to have been committed.
>
> The official returns show that the contestee received 47,703 votes; that Thomas M. Bowen received 42,369 votes; that W. A. Rice received 2,032 votes; and the contestant received 157 votes.

On the merits of the case they refused to seat the contestant, and they so declared in their report in exactly the same way as McDonald against Jones, but they also say that the rule was not complied with. But you can not find a case where the refusal to seat a man who otherwise had a good case upon the merits was based upon the ground that he had failed in his pleading in the case.

Mr. PROUTY. Now, will you be so kind as to answer another question?

Mr. PALMER. I will not go into that any further. And if the gentleman can cite any other case in his time which shows the contrary, I shall be glad to have him do it.

Mr. PROUTY. Does the gentleman refuse to yield?

Mr. PALMER. I have read these cases with just as much care as the gentleman has read them, I have no doubt, and I assert, and the reading of the report in these cases will show that in all of them, where these remarks by the committee in reference to complying with this notice have been contained, the contestant has been refused a seat upon the merits of the case.

Mr. PROUTY. Will the gentleman yield for a question?

Mr. PALMER. Yes; for one question.

Mr. PROUTY. Have you found a case reported in the books where no notice was given, where the contest was entertained by the House without prescribing another notice and compliance?

Mr. PALMER. No; but that was not this case at all. There was a notice in this case.

Mr. PROUTY. Within time?

Mr. PALMER. Well, there was a notice given in this case. The gentleman may or may not be familiar with the case of Moore against Funston, cited in Hinds, volume 2, section 1052, where the contestee failed to file his answer in the time required by the statute, and the House refused to disregard his case because he had not complied with the statutory requirements as to his pleading. Nor did the House, by formal resolution,

waive the requirements of the statute. It was a waiver as is here asked, by action on the merits, despite the defective pleading.

In that case the committee said:

> The law requires that the notice of contest shall be served within 30 days after the determination of the result of the election, * * * and shall state specifically the grounds upon which contestant relies in the contest. It is also required by the law that a copy of the answer of contestee shall be served upon contestant within 30 days after service of the notice of contest.
>
> If service by copy * * * is to be regarded as a service contemplated by the statute, then the notice of contest was served on December 26, 1892, and the answer and countercharge 32 days after, on the 27th day of the following January. Or if personal service be required, it is found that such service of the notice of contest was made on December 28, 1892, and such service of the answer and countercharge 31 days later, on the 28th day of January, 1893. So in either case the answer was out of time.
>
> If, then, we should closely apply to the notice of contest the rule of pleading upon which contestee insists and should apply to the answer the requirement of the law, we should find contestee without an answer, and would have to ascertain whether, upon the grounds of contest undoubtedly specified in the notice, contestant has made good his contention that he and not contestee was really elected in Congress from the second district of Kansas. If we should take this view of the matter, our labors would be greatly lessened, a considerable portion of the huge record in the case would be eliminated, and the finding would necessarily be in favor of contestant. We believe, however, that the real question to be determined is not so much whether this or that bit of evidence offered by contestant certainly relates to something clearly specified in his notice of contest as a ground upon which he relies, nor yet whether contestee's answer and countercharge were made in due time, but rather which of the two claimants according to the record was really elected and is really entitled to a seat in the House of Representatives.

There the rule was waived where the contestee had failed to comply with the statute. Here it is the contestant who is dilatory. What is sauce for the goose is sauce for the gander in this proposition.

Now, the gentleman cites the case of O'Hara against Kitchin, and I think with my reference to that I have referred to all the cases he has cited, either in his verbal or in his written argument. That case is reported in 1 Hinds, 730. That was a case where the contestant had not served his notice, and there was alleged to have been an agreement to waive, which the committee did not consider. But the point is that the committee says—and its report was adopted by the House—that the "committee might, indeed, in a case where testimony had been taken out of time, but with full opportunity to the other party to cross-examine the witnesses and submit evidence in reply, and where it was evident that this had been fully done, recommend to the House, if they find sufficient reason therefor, that the testimony be considered as if taken in time"; and the committee, upon the facts of the case, say that even if considered the testimony is insufficient to establish contestant's case.

You will find in all the reported cases that where the committees add to their findings the additional protection of this rule they always say they have considered the merits of the case sufficiently to declare to the House that no harm is done the contestant, because upon the merits he would not be seated, even if the preliminary formalities were all proper.

Now, this seems to be the committee's view; but the committee failed to consider the contestant's right to a seat upon the merits because of its belief that the excuses offered by the contestant were insufficient. I can think of no better excuse for the failure of a contestant to begin his proceedings in time than his physical incapacity to do the necessary work in connection therewith. A reading of the testimony makes it plain that McLean, before the election and for a period of nearly 60 days after the election, was a very sick man. Taken, in the middle of the night, a few days before election day, with a malady which, according to the physicians, made it not only imprudent but practically impossible for him to do any work, he continued under the care of his physicians, and under their orders to abstain from any effort, until after the time for filing the contest had expired. All that he was able to do—and this was against his physicians' orders—was to sign his name to a number of checks and state a simple account of his election expenses, copied from a check book. The performance of these slight tasks, which made no call upon his strength and subjected him to no mental effort, is not sufficient to rebut his own and his physicians' statement that the reason for his failure to bring the contest within the statutory period was that he was too ill to do so.

The bringing of a contest required a considerable examination of facts which must have developed and come to light only after the election; called for a decision upon a matter of large moment, which might involve the contestant in months of labor and great expense; and required an examination of the law and the decisions of the House of Representatives with respect to the reasons which might be alleged as grounds for the contest—all of which were entirely beyond the mental and physical strength of a man so sorely beset with a serious illness as was Mr. McLean at the time.

Immediately upon his return from Florida, where his physician had ordered him and where he continued to be under doctors' care, he undertook a consideration of all the facts in connection with the proposed contest and prepared and served the notice. The contestee was in no wise injured by the delay and does not claim that he was. No evidence which he otherwise might have secured to free him from the charges made had been in the meantime destroyed or its effect in any wise diminished. He has had all the opportunities for presenting his case upon its merits that he would have had if the notice had been served within the 30 days, and he has accepted those opportunities to present his case, which has been thoroughly argued upon the merits both in the committee and on the floor of the House.

In my judgment the record presents a case which so clearly convicts the contestee of many of the charges made against him that it would amount to an outrage upon the people of the eleventh congressional district of Pennsylvania if this simple technicality of the failure of the contestant to serve the sitting Member with notice within the statutory period should continue in this House as a Representative of the district one whose election was plainly secured by fraud and corruption; and it would be as great an outrage if the House, having purged itself of one whose election was thus secured, failed for a like reason to seat him who was duly and honestly elected by his people to serve them here.

I have studied with considerable care the voluminous record in this case, and I am satisfied that the most casual reading of the testimony would convince any Member that the committee is fully justified in its finding that the contestee was not honestly elected and is not entitled to the seat. While I do not wish to present myself as a witness in the case, my judgment is confirmed by my knowledge of conditions long existing in that district, gained from personal observation over many years. I am a native of Luzerne County, which is the eleventh congressional district, and I now live in an adjoining county. I have been interested in the observation of its political conditions ever since I have known anything about politics, and have reached the conclusion, which is shared by all observant citizens of the State, that nowhere in Pennsylvania have fraud and corruption and crime so thoroughly permeated the elections and so consistently thwarted the will of the people as in Luzerne County. Whether George R. McLean shall find himself a Member of Congress or not, he may have the satisfaction of knowing that he has performed a greater service for his people than many of those who have represented the district in the past in bringing this contest and exposing to the State and the country the deplorable conditions which there exist, for we can only hope for improvement when the people are forewarned by exposure and forearmed with publicity.

The three principal methods which have been employed for years in that county to control elections have been—

First. The intimidation of voters by mine bosses and foremen, of whom there are about 900 in the county.

Second. The use of the Prohibition Party column upon the ballot as a makeweight in a close contest between the two leading parties.

Third. The excessive use of money in the employment of men who, by bribery or otherwise, could control the votes of the more ignorant of the mine workers.

The county is the very center of the anthracite coal regions of Pennsylvania. Mining is its principal industry, and mine workers make up the bulk of its voting population over an extensive part of the county. The mines are owned almost entirely by corporations which have believed that their interests could best be protected in Congress by Republican Members, and it is significant of the value of the process of intimidation by mine bosses and foremen as a factor in the result of the elections that in 20 years the Democratic candidate for Congress has only twice been elected, although the county is admittedly Democratic, and every successful Republican candidate has been either a coal operator or official, or an admitted representative of the coal-mining corporations.

All of the methods which I have mentioned were employed to secure the election of Mr. Bowman, and each of them, without question, changed a sufficient number of votes to control the result.

Mr. FARR. Mr. Chairman, how many of the mine foremen does the evidence show were interested in this contest?

Mr. PALMER. The testimony of Davis was that there was only one mine foreman whom he went after that he did not get, and according to the testimony he went after a big lot of them.

Mr. FARR. Will the gentleman state the number of them?

Mr. PALMER. I can not give the number of them. I take it from Davis's own statement that he was entirely successful in his efforts to line up the mine bosses of Luzerne County.

Mr. FARR. Will the gentleman permit me to say that there were only 52 who were interested in this contest, and that there were 900 mine foremen in Luzerne County.

Mr. PALMER. I have stated that there were 900 foremen in Luzerne County.

Mr. FARR. And according to the evidence only 52 were interested in the contest.

Mr. PALMER. Oh, the gentleman is mistaken about that.

Mr. FARR. I am not mistaken.

Mr. PALMER. There is, in fact, no Prohibition Party in the county. Its organization has long since fallen into decay, but in practically every contest its name has been captured by the Republican Party in order to give to the election officers in the notoriously crooked districts a handy instrument to change the result of the contest where more votes have been returned for the Democratic candidate than for the Republican candidate. The method of using it is simple, reasonably safe from detection, and absolutely certain in its results. It is the custom when the ballots have been counted for the election officers to send in to headquarters at the county seat the number of votes cast for the candidates in the columns of the two chief parties. If these returns from the entire county indicate that the election is close, the election officers then return votes cast for the Republican candidate in the Prohibition column, and the present case is not the only instance in the county where a sufficient number of votes has been returned for a Republican candidate in the Prohibition column to give him a majority on the face of the full returns. McLean, as the Democratic candidate, received 13,834 votes; Bowman, as the Republican candidate, received 13,661—173 less. McLean's lead, however, was overcome by the 722 votes received by Bowman in the Prohibition column on the ballot. In my judgment the facts and circumstances surrounding this Prohibition vote returned for Bowman constitute such a fraud as would amply justify the House in throwing out the entire Prohibition vote. The original candidate of the Prohibition Party for Representative in Congress was one Robert P. Robinson, and the name of Bowman was substituted on or about the 21st day of October, 1910. This substitution was, without question, illegal, contrary to the rules of the Prohibition Party, and should be held void. The courts of Pennsylvania have uniformly recognized the right of a political party to make rules for its guidance and have received such rules in evidence as a guide to the courts in determining the validity of contested nominations. The rule of the Prohibition Party in Luzerne County prohibited the substitution for one of its regularly nominated candidates of a candidate of another party. The substitution in this case was, therefore, flatly against the party's rule, and, besides, was made by de facto officers of the party organization, who were totally unauthorized to make it, acting as individuals and not as the executive committee of which they were members—a method which is directly contrary to the decisions of our State courts. The certificate of substitution was not framed in accordance with the statute permitting the substitution to be made, and according to the evidence was not verified by affidavit, as required by the same statute. No reported case in Pennsylvania can be found which would have supported Bowman in his contention that he was the legal nominee of the Prohibition Party and entitled to a place upon the ballot in the Prohibition Party column if it had been attacked in the courts of the State.

I admit the force of the argument that this question should have been settled in the State courts in advance of the election, and that McLean, having taken the chance of a verdict at the polls, is estopped from now questioning the validity of Bowman's nomination upon the Prohibition ticket; but it must be remembered that these substitutions are a sort of "star chamber" proceeding. They are filed in the office of the secretary of the Commonwealth at Harrisburg, and unless a careful guard is maintained constantly over that office the public is kept in ignorance of the name of the substituted candidate until the official ballots appear on election day. As a matter of fact, McLean learned of this substitution before election day, but not until after the expiration of the time, fixed by the statute, for the filing of exceptions to substitutions. He, therefore, never had his day in court upon this proposition, and the Prohibition nomination, which otherwise would have gone down under the dead weight of the unanimous decisions of the Pennsylvania courts, became the instrument for accomplishing Bowman's election, when it became clear that the voters who agreed with his political convictions, as Republicans, were in the minority in the county. Bowman was not a Prohibitionist and there was nothing in his record which would urge Prohibitionists to support him. On the contrary, there was much in his methods of conducting the campaign and in his frank catering to the liquor interests of the district which would have alienated the support of real Prohibitionists, if, indeed, there were any such in the county.

Mr. FARR. Will the gentleman yield?

Mr. PALMER. I am quoting from the evidence.

Mr. FARR. Does the gentleman not know that Mr. Bowman was president of the Antisaloon League in the State of Pennsylvania?

Mr. PALMER. Yes; but I also know that according to the evidence his conduct in the campaign could not have secured for him the support of the antisaloon people in the district, as the gentleman knows.

It needs only a glance at the returns to show that the Prohibitionists in fact did not vote for him. While Bowman received 722 votes on the Prohibition ticket, the Prohibition candidate for governor, M. F. Larkin, whose name was at the head of the ticket, received but 242 votes. Yet Mr. Larkin lived in a neighboring county, was and is one of the best known and most consistent Prohibitionists in the country, and was and is admittedly held in high esteem by all of the men of that faith, who have uniformly supported him, when a candidate for office, to the limit of their strength.

In one district, the third ward of the borough of Plymouth, Bowman received 28 votes on the Prohibition ticket, although no vote was cast for any other Prohibition candidate in the district, and only 1 vote had ever been cast for a Prohibition candidate at any previous election. In another, the sixth west district of the township of Plymouth, Bowman received 6 votes on the Prohibition ticket, while no other Prohibition candidate received any vote, and no Prohibition candidate at any election had ever received a vote in the district. These are simply two instances, showing a condition which obtained in many other districts. In some of them Prohibition votes had been returned in previous elections, because resort was made to the same trick as was here prepetrated, although the districts are not of a kind where men would vote the Prohibition ticket, for the voters are in many cases made up entirely of foreign-born mine workers whose views upon the temperance question are well known in the community.

The illegal substitution of Bowman's name as the Prohibition candidate is of itself probably insufficient to justify the throwing out of the Prohibition vote, but taken in connection with his conduct during the campaign in catering particularly to the nonprohibition vote, and with the well-known reluctance of the Prohibitionist to refuse to vote for one who openly espouses the cause of the liquor traffic, and with the well-known habit of the Prohibitionist to vote his straight party ticket, it is inconceivable that Bowman should have received in the Prohibition column three times as many votes as were cast for the head of the ticket.

The fact admits of no better proof than that which was adduced in this case. It is circumstantial, but it is convincing; and the conclusion is simply irresistible that the Prohibition column was used to pad the total vote to be returned for Bowman, in order to accomplish his election upon the face of the returns. Taken in connection with the illegal substitution of Bowman's name for the regular Prohibition candidate, which was the entering wedge of the fraud intended to be practiced, it constitutes as complete and perfect a fraud as ever changed the real result of a popular election.

Mr. FITZGERALD. Will the gentleman briefly describe the Pennsylvania ballot?

Mr. PALMER. The Pennsylvania ballot, which the gentleman asks me to describe, really beggars description. It is a blanket ballot with the name of the candidates for the various offices segregated into what are called groups around the name of the office for which the parties are candidates. In most elections it is upon a sheet of paper a yard long and sometimes a yard wide, and they have been very much larger than that.

The SPEAKER pro tempore (Mr. RANDELL of Texas). The time of the gentleman from Pennsylvania has expired.

Mr. ANSBERRY. Mr. Speaker, I yield to the gentleman 15 minutes more.

Mr. PALMER. On the first column appears the names of all the parties with what is called the party square immediately after the name. In each of the other columns appear the names of the separate candidates for office in the different parties. A vote in the party square will vote all the candidates for office, wherever found, upon the ballot who are there as candidates of the party beside whose name the cross is made. So that in this instance the man who desired to vote the straight Prohibition ticket would, of course, vote opposite the word "Prohibition," in the first column of the ticket. If he

desired to cut his ballot and vote the Republican ticket for all except Congressman, we will say, he was obliged to mark all the candidates for whom he desired to vote upon the ballot.

But even if the House should determine that McLean lost his right to complain of the illegal substitution of Bowman as the Prohibition candidate by his failure to contest that question in the State courts, or if the House should be of the opinion that the fraud in connection with the vote returned for Bowman on the Prohibition ticket is not sufficiently proven, still there can be no question that the same evidence which justifies the unseating of the contestee makes it follow logically that McLean was duly and honestly elected and is entitled to his seat.

In other words, the corruption evidenced by the liberal use of money by Bowman and his campaign manager for the hiring of "special watchers" and workers largely in excess of the number allowed for each district by the corrupt practices act of Pennsylvania, the fraud perpetrated in the filling of vacancies on election boards, the violations of law found in the absence of ballots from the official ballot boxes before the polls were opened, and in the conduct of watchers who entered the polls "to see that they voted the way the watchers desired," and in the failure to seal the ballot boxes after counting all ballots for the evident purpose of making it easy to change the returns—all were present in districts which gave to Bowman in the aggregate a larger majority than he was given on the face of the full returns in the entire district. These evidences of fraud, of crime, and of corruption in particular instances in these various districts are such as under all the decisions of Pennsylvania and most of the precedents of the House not only justify but compel the rejection of the entire poll of the districts affected.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. PALMER. Yes; although I have but little time.

Mr. MOORE of Pennsylvania. Would the gentleman apply that same argument with the same eloquence and force to the case of a Democratic nominee who secured a place on a Republican ballot? Would it apply to a case of that kind?

Mr. PALMER. I do not propose to be led off into a discussion of the gentleman's Philadelphia political troubles. It is notorious, it is common knowledge all over Pennsylvania, that in Luzerne County the Prohibition Party column has been used for the purpose I here state.

Mr. MOORE of Pennsylvania. The gentleman would not throw out the whole 700 Prohibition votes?

Mr. PALMER. I would, for fraud.

Mr. MOORE of Pennsylvania. If a Democrat was nominated on the Republican ticket——

Mr. PALMER. It would make no difference if he was a Democrat or a Republican. I am not discussing politics. If the Democratic Party in any part of Pennsylvania had been in the habit of resorting to this trick to thwart the will of the people, either of Luzerne County or of Philadelphia, I would be as strongly opposed to it as I am when Mr. Bowman, a Republican, had used the trick.

Mr. MOORE of Pennsylvania. I wanted the gentleman to be fair with regard to the 700 voters; he surely would not deprive the voters of their right of franchise.

Mr. PALMER. They do not represent voters; there are no Prohibition votes in the districts where these votes were returned in the Prohibition column. They were returned in the column for the purpose of changing the effect or the result.

Mr. AINEY. Will the gentleman yield right there?

Mr. PALMER. I am sorry, but I have not the time.

I have read all of the testimony which bears upon the fraud and corruption in the various districts of the county, and have picked out those districts where the evidence of fraud, crime, and corruption is so complete that no reader of the testimony could doubt the result was largely influenced, if not entirely controlled, thereby. These districts are—

The ninth ward of the Borough of Nanticoke.
The second ward of the Borough of Duryea.
Hazle Township, twelfth district.
Nanticoke, eleventh ward.
Foster Township, northwest district.
Foster Township, Hazlebrook district.
Plymouth Township, sixth west district.
Hazle Township, third district.
Duryea, fourth ward.
Foster Township, Grifton district.
Wilkes-Barre, sixth ward, second district.

In these districts, upon the face of the returns, Bowman received 1,114 votes while McLean received 383, a majority for Bowman of 731. If it be true, therefore, that in each of these districts there was present such an excessive use of money as to indicate that it was a purchase of influence or votes and therefore "unlawful" in the language of the Pennsylvania courts, or such irregularities in the composition of election boards, accompanied by the liberal use of money, or the employment of watchers who, according to the evidence, went into the ballot booths to see that the electors voted the way the watchers desired, or such other improprieties as are sufficient under the decisions to reject the poll, a sufficient number of votes would necessarily be lost to Bowman to change the result of the election and compel the conclusion that McLean was elected by a majority of the honest and uncorrupted vote of the district.

Mr. MURRAY. May I ask the gentleman to give us such information as he can as to the Pennsylvania decisions in cases of this sort?

Mr. PALMER. I have quoted the Pennsylvania decision in my résumé of the irregularities here presented to show fraud and corruption.

Mr. MURRAY. And it is customary to throw out the votes in the district so affected?

Mr. PALMER. Yes. For the irregularities I have stated as being present in this case, following the language of the courts of Pennsylvania.

Mr. FARR. Mr. Speaker, will the gentleman yield at that point?

Mr. PALMER. I can not yield. I want to finish what I have to say.

Mr. FARR. This is just a simple question.

Mr. PALMER. Of course, it is a simple question; but it is going to take time.

Without going into detail or reading the testimony bearing upon the frauds in these various districts, it may be well to cite some instances which are simply typical of the conditions which existed in all of the districts which I have named. For instance, in the ninth ward of the borough of Nanticoke, though the law of Pennsylvania expressly restricts the number of watchers for a party at each polling place to 3, the evidence shows that 15 men were paid to work for the contestee, 1 of them being a mine boss; that another man was paid as much as $150 to employ watchers in the district which embraces this voting place, and despite the plain mandate of the Pennsylvania statute, which requires bystanders to fill vacancies on the board existing at the time the polls were opened, a Republican was appointed minority inspector by a Republican judge and majority inspector, leaving the Democratic Party without representation on the board.

In the second ward of the borough of Duryea the contestee and his campaign manager paid the president of a Polish club $25 to "treat the boys," and gave to the chief of police of the town $150 to secure special watchers in excess of the number allowed by law, while other men received altogether as much as $745 for use in the district. Here again were fraudulent and illegal proceedings with relation to the formation of the board and the absence of the ballots from the ballot books before the polls were opened.

Mr. FARR. Will the gentleman yield there?

Mr. PALMER. No. In Hazle Township, twelfth district, there were at least nine special watchers employed, and a considerable sum of money paid by an officer of a mining company, who instructed the men employed as watchers in a way that leaves no doubt of the purpose for which the money was paid.

In addition to the special watchers mentioned one person, a local superintendent of schools, was given $150 to pay either the teachers or for watchers, it does not plainly appear which.

In the borough of Nanticoke, in one ward, there were 8 extra watchers, in another 11, in another 4, while as much as $550 was paid to one man for the purpose of employing special watchers.

In Foster Township, Hazlebrook district, the superintendent of mines received $110, a district where only 73 votes were cast for the office of Representative in Congress. In Foster Township, northwest district, there were five Republican watchers at the polls who marked ballots, according to the evidence, entering the booths "to see that they voted the way the watchers desired." In this district no other evidence of fraud need be presented when it is stated that 118 votes were returned as cast, while the entire registration in the district is 118, an outpouring of the citizenship in this district which is phenomenal.

In the township of Plymouth, sixth west district, it cost Bowman $550 to pay the special watchers unauthorized by the law to receive a mere 74 votes in the return to McLean's 17.

In Hazle township, third district, there were at least five special watchers who entered the voting booths and marked the ballots of the voters, notwithstanding the protests of the Democratic watcher, and against the provisions of the law of Pennsylvania, which provides that no man can receive assistance in the booth unless he asks for it and declares his physical inability to mark his ballot. In this district there was the evidence of

at least one case of open and flagrant bribery with the way for fraud made easy by a board composed of Republicans only.

In the fourth ward of the borough of Duryea at least $55 was paid for special watchers, the usual price being $5 each, enough to take care of one out of every five of those who voted for Bowman. In addition at least $50 seems to have been used in this particular district, and perhaps a part of the $150 given to the chief of police of Duryea, so that from $105 to $255 was used in this small district to produce the 63 votes for Bowman, while McLean received 32.

In Foster township, Drifton district, a coal company foreman was given $50 by Bowman's manager, with instructions to "go out and get Democratic votes." Apparently six men were employed and paid for acting as special watchers in the district, and the mine foreman went out and got the votes to the extent of Bowman 40, McLean 15.

In the second district of the sixth ward of Wilkes-Barre the Democratic election officers were apparently persuaded to absent themselves from the polls, while the sum of at least $142 was furnished to various persons to pay special watchers in this and one or two adjoining districts. Some of this money went to one of the election officers, who, though a former Republican county chairman, was appointed a clerk by a member of the board who was supposed to be representing the Democratic Party.

The corrupt practices act of Pennsylvania is that in name only, and it has come to be a joke throughout every part of the Commonwealth. It permits the expenditure of moneys for such highly elastic purposes as the "dissemination of information," the "employment of watchers to the number allowed by law," and the "transportation of voters" to and from the polls. Under the protection of these broad terms, much outright bribery has been perpetrated in some districts of Pennsylvania. The law has been entirely inadequate to prevent, if, indeed, it was intended to prevent, the kind of corruption which has been common in districts like certain portions of Luzerne County. But where a candidate or his political manager boldly goes beyond the broad bonds of our corrupt practices act and finds even its liberal terms insufficient to cover all the ramifications of his improper practices, the conclusion of fraud and corruption sufficient to vitiate an election must be certain.

In all of the districts which I have named, though the law permits but three watchers for a political party, the contestee, or his political manager, hired and paid, in some instances, as many as 15 watchers for a single district, who served no purpose covered by the law of Pennsylvania which permits their payment, but who were paid as a convenient, well-appearing method of not only bribing the individual who received the money, but controlling the ignorant vote of those whose ballots the watchers would succeed in marking.

All of the irregularities which I have here mentioned appear in the testimony of the witnesses in this case absolutely uncontradicted. They must be accepted as the facts, and they show in the aggregate in the districts mentioned such willful and open violations of the law as lead certainly to the conclusion that the result announced was not the honest vote of an uncorrupted electorate but a return purchased with money and made possible by crime.

I want to say in conclusion, my colleagues in this House, that if after a careful study of this case I were not entirely convinced that it is only a simple act of justice that Mr. Bowman should be deprived of this seat and Mr. McLean put there to represent his people I would not argue for Mr. McLean. I am not influenced by the fact that he will sit upon this side of the House. The political phase of it has nothing to do with bringing my mind to a conclusion upon the study of the testimony in this case and my knowledge of what has happened in Luzerne County. Mr. McLean has done a service not only to his own people but to the people of Pennsylvania in exposing the corruption, the fraud, and crime which have been rampant in Luzerne County for years; and I ask you, not in the name of any Democratic Party in Pennsylvania but in the name of the decent citizenship of our State, to put your stamp of disapproval on this sort of conduct, so long prevalent in that county, and seat here a man who was honestly and fairly elected to the place. [Applause on the Democratic side.]

Mr. PROUTY. Mr. Speaker, I yield 15 minutes to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Speaker, section 105 of the Revised Statutes provides—

Whenever any person intends to contest an election of any Member of the House of Representatives of the United States he shall, within 30 days after the result of such election shall have been determined by the officer or board of canvassers authorized by law to determine the same, give notice in writing to the Member whose seat he designs to contest, of his intention to contest the same, and in such notice shall specify particularly the grounds upon which he relies in the contest.

I desire to call attention, in the first place, to the fact that this is not a rule of the House alone. This is a law of the United States that was passed by the House of Representatives with the concurrence of the Senate and the approval of the President. It stands as the law of the land until it shall be abrogated or repealed. I know that the House of Representatives may disregard and violate this law. I know that the Constitution gives to the House of Representatives the power to be exclusively the judge of the qualifications of its membership, but certainly all rules of right and of justice and of a due regard for proper and lawful procedure ought to call upon the House of Representatives to regard the law.

Commenting upon this provision of the statutes a majority of the committee make a few observations that I desire to call to the attention of the House. First, they say that under a strict construction of this section of the statute the committee would have dismissed the case, but the statute is, in fact, merely directory. I decline to follow that statement of the committee as the law. There is no rule that I know of directly in point as a precedent; neither is there a precedent in other similar portions of law where notices of this kind are required.

I believe the notice that is required to be served in this case is analogous to the notice that is required, for instance, by municipalities, that no claim shall be prosecuted against them unless it shall have been presented within a certain length of time. Such statutes exist all over the United States, and it has been time and time again contended that such a provision of the law was merely directory, but the courts have universally, so far as I know, held that such a provision of the law was not directory, but that it was absolutely jurisdictional; that it was important to save to the municipalities the right to know when claims should be presented, in order that it might preserve its evidence if need be, and the same rule and the same reason exist in the case that we have here. It is not a directory provision. It is a jurisdictional provision, upon which the right to hear and determine a contest exists, and unless it shall be complied with, then the law has not been complied with. The committee go on further to say that it was intended—

to establish a wholesome rule, not to be departed from except for cause.

There is no provision of law that says the departure shall be made for cause. There have been departures made for cause, but, as has been well shown in this debate, the departures have been such as do not constitute a precedent for this case. But under the law there is no provision for an exception of the case, and it is only because this House of Representatives is both the judicial tribunal that hears the cause and the legislative body that makes the law that it can at one and the same time make a law and hear the cause about which the law is made. Under ordinary circumstances a judicial proceeding proceeds from the law-making power, which is a distinct body separate and apart from it.

In the case here we have the right—not the right, but the power, being both the lawmaking power and the judicial body that shall determine the question under the law, to determine what shall be the rights of the parties to it. Now, if we turn to the precedents of the House of Representatives, we shall find that the law has been departed from in certain cases. Those cases have all been cases where for some reason or other the notices were not served at all or not served in time, as has been shown in this case. Then the parties have come before the House of Representatives and asked them to make a new law, or rather a new rule, that would allow them the opportunity of serving legally the notice within the contemplation of the law, and in all such cases there has been a rule of the House fixing the time for notice, so that there shall be in such case, first, an opportunity for the House to determine whether it ought to grant the hearing, and second, the right of fixing a time that shall be under the particular facts in that case a reasonable and proper time. This House, in this case, ought to have the right, first, to determine whether or not it would be fair to the defendant and proper under the circumstances to bring him before the bar of the House to answer to the charge. If, under the circumstances shown, the House of Representatives should have been satisfied that it would be unfair to him to allow notice to be served and to bring him before the bar of the House for trial, then I judge that the House would not have gone further with the proceedings. But nothing of the kind has been attempted, and we are now asked to take this further and certainly unwise and unjustifiable step that has never before been taken by the House of Representatives, and say that it is not necessary in any case to serve notice; that at any time during the service of a Member of the House of Representatives a contest may be instituted, long after the witnesses may have been spirited away by the contestant, and the contestee would have no opportunity to prove his right to his seat.

This is now the precedent that is sought to be established by the House of Representatives.

Mr. BARTLETT. May I ask the gentleman a question?

Mr. TOWNER. Certainly.

Mr. BARTLETT. I understood from the inquiry I made of the gentleman from Iowa [Mr. PROUTY] that the contestee in the beginning and all the way through had protested against this contest by reason of a noncompliance of the statute in filing a contest. That is true, I suppose?

Mr. TOWNER. Yes; I understand so.

Mr. BARTLETT. Now, is there any statement in the record—I have not had my attention called to it in the report—in which the contestee undertakes to say that he is at a disadvantage by reason of the lateness of the filing of the contest or that his witnesses would not be accessible and evidence obtainable as they would have been had the contest been filed in the time prescribed by law? Does he say that he is put at a disadvantage by reason of that fact? I am inquiring of the gentleman for information.

Mr. TOWNER. I do not know of anything of that kind in the record, I will say to the gentleman, but the gentleman is too good a lawyer to contest the proposition that the law never requires that.

Mr. BARTLETT. I know this to be the fact. When I first came to this House I served upon the Committee on Elections for six years and we had quite a number of cases to consider and quite a variety of questions. One of the first cases which came before that committee was a case from Virginia, in which the contest had not been filed for quite a long time. It was the case of Jones against some one from Virginia.

Mr. TOWNER. I think that is the case of MacDonald against Jones to which the gentleman refers.

Mr. BARTLETT. It was a case from one of the Virginia districts.

Mr. TOWNER. In that case he served notice of contest, but it had not been served within the time required by the statute, and the committee concluded that with reasonable diligence the notice might have been served within the prescribed time, and therefore the application in that case was denied. In other cases it has been granted, but this is the proposition: There has never been an opportunity for this contestant to appear before the House and show whether or not this was or was not unreasonable. There never has been an opportunity for him to consider and defend himself against the proposition until now that this case should be heard upon a contest that was filed. I judge that every man here who is a Representative would say that in any case where there might be a contest 30 days after the period had elapsed which the statute prescribes he would have the right to say, "There is no longer any necessity for me to preserve my evidence or to make my defense, because the time has gone by when notice of a contest can be served under the provisions of the law."

The law of the United States is express upon the proposition that these notices must be served within 30 days. And there is no longer any reason to preserve his testimony, or his defense, or to make ready for a contest and trial. That certainly is the law, and it is only fairness and justice as well.

Mr. BARTLETT. May I ask the gentleman another question? I do not desire to take up his time.

Mr. TOWNER. I yield.

Mr. BARTLETT. I understand the committee itself concluded that the contest was not filed in time?

Mr. TOWNER. I understand so. I am going to comment on that.

Mr. BARTLETT. I will not anticipate the gentleman's argument, then.

Mr. TOWNER. Thirty-two days later than the law——

Mr. BARTLETT. Then, having the testimony before the committee, obtained in this way, which is said to be the way prescribed by law, the committee goes on and inquires into the right of the contestee to his seat, and they report that he is not entitled to it, according to the testimony obtained. Is that the case?

Mr. TOWNER. Yes.

The SPEAKER pro tempore. The time of the gentleman from Iowa [Mr. TOWNER] has expired.

Mr. PROUTY. I yield five minutes more to the gentleman from Iowa.

Mr. TOWNER. Mr. Speaker, it is not necessary for us to consider the equitable circumstances that are alleged and urged now by gentlemen on the floor of this House. The committee considered that, and they found that insufficient. Here is the language of the committee itself:

The committee is not, however, satisfied that the reasons alleged by the contestant are sufficient entirely to excuse him from serving upon the contestee his notice of contest within 30 days from the 12th day of November, 1910, and not believing that he should be a beneficiary of his own negligence under the findings of the committee they have not considered the case from the viewpoint of reporting a resolution to seat the contestant.

In other words, they act upon the grounds and go just as far with regard to the rights of the contestee as if the notice had been properly served. They do not give him any benefit from it. But they punish the contestant for his negligence and say that he shall not have his seat because he has not legally served a notice. I submit the committee is unfair to the contestant. If the notice is sufficient to deprive the contestee of his seat, it ought to be sufficient to sustain the contestant's right. And if it is insufficient to sustain the contestant's right, it ought to be considered insufficient to deprive the contestee of his right. The committee found the contestant guilty of negligence in not serving the notice as required by law, and his equitable excuses valueless, and punish him therefor by depriving him of his seat. But they find the notice good and sufficient to deprive the contestee of his seat, notwithstanding the negligence and want of equitable grounds excusing it. But these facts, if utterly illogical and indefensible, are significant in showing that the majority of the committee knew that the contestant was guilty of negligence in not filing his notice of contest in time.

Mr. COOPER. Will the gentleman permit?

Mr. TOWNER. Certainly.

Mr. COOPER. I think that which the gentleman has just read is the most significant thing in their report. The majority says, does it not, that it not only knows, but expressly finds, that this contestant was guilty of contributory negligence? The report says:

And not believing he should be a beneficiary of his own negligence under the findings of the committee.

Is not that an express finding of this committee?

Mr. TOWNER. It certainly is. Not only is that true——

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. TOWNER. If you will allow me to finish this sentence. Not only is that true, but it shows that the committee had carefully considered the equitable reasons that have been urged by the contestant in support of the proposition that he was urging, that he ought to have the right to be heard, notwithstanding his own negligence. They say they admit his own negligence. They say that the reasons he urges excusing it are not good, which disposes of the equitable feature of the case, and punish him for his negligence and his want of equitable features by saying he shall not have a place in the House of Representatives himself.

I will now yield to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. And the majority of the committee having conceded that the contestant had no right in the premises, would not the effect of the passage of the amendment offered by the gentleman from Pennsylvania [Mr. PALMER] to seat the contestant, Mr. McLean, be to pay out of the Treasury of the United States substantially two years' salary to a man who had not qualified as a contestant in this House? And would it not, in addition to that, mean that there would be paid to him also a premium of $2,000, which is offered by the Congress of the United States to every contestant who undertakes to harass a sitting Member?

Mr. TOWNER. It certainly would have that effect.

The SPEAKER pro tempore. The time of the gentleman from Iowa [Mr. TOWNER] has again expired.

Mr. ANSBERRY. Mr. Speaker, I yield 30 minutes to the gentleman from Virginia [Mr. HOLLAND].

The SPEAKER pro tempore. The gentleman from Virginia [Mr. HOLLAND] is recognized for 30 minutes.

Mr. HOLLAND. Mr. Speaker, I have reached a conclusion in this case after a very careful consideration of all the evidence and arguments of counsel, and I feel that it is my duty as a member of the Committee on Elections No. 1 to give the reasons for that conclusion. I shall endeavor, however, to discuss this case upon its merits only, and shall not consider the technical questions that have been raised by my friends on the other side.

The contestee in this case made a motion to dismiss this contest and suppress the testimony upon the ground that the contestant had not filed his notice of contest within the time prescribed by statute. The contestant alleged that he was prevented by serious illness from serving his notice of contest at an earlier date. This may or may not be under the circumstances of this case a sufficient excuse, but the motion, in my opinion, should be denied for the following reasons:

First. It is conceded that the evidence was fairly and regularly taken and completed. While it was being taken the contestee was at all times represented by able and astute counsel.

There is not a particle of evidence to show that the contestee was in any way prejudiced by the delay. It follows, therefore, that this record of the testimony presents contestee's case as fully and as completely as if it had been made under the direction and supervision of a committee appointed by this House. Under such circumstances I am unwilling to allow a mere technical objection to prevent its consideration for any legal purpose.

The House has an undoubted right at any time to examine into the facts and circumstances upon which the credentials of one of its Members may rest. And if upon such examination the facts disclose that a sitting Member has secured his seat by corrupt and fraudulent practices, the House should have, and I believe has, an undoubted right to unseat him. And it has this right whether a valid contest is pending or not. The question of the sitting Member's title to his seat is the only question involved, and not the right of another thereto.

I believe, therefore, that this evidence, thus fairly taken and completed, should be examined for the purpose of determining the contestee's right to a seat in this body. Any other conclusion would establish a precedent which would permit a mere technical objection to conceal the grossest frauds and most glaring political irregularities.

Second. The corrupt practices act of Pennsylvania provides that if upon certain proceedings it shall be ascertained that a candidate has incurred illegal election expenses or has consented to the incurring of illegal election expenses, then his election shall be declared void and his seat vacant. The great State of Pennsylvania has determined that such a law is necessary to secure the purity of its elections. This law ought to be rigidly enforced. The practice of expending large sums of money in all congressional elections in this district has become a custom. Upon such a practice this House should place its seal of disapproval. If, therefore, the evidence submitted shows that the sitting Member has incurred illegal election expenses or has consented to the incurring of such illegal expenses, then he should suffer the penalty prescribed by the statute of his State. This should be done in the interest of pure elections and for the purpose of securing to every candidate for Congress the protection of the laws of his own State. Otherwise, in the absence of Federal statute, a man might retain his seat in this body although he had not been fairly and honestly elected.

For these reasons I believe that this evidence should be examined and upon such evidence the right of the sitting Member to his seat determined. An examination of the evidence shows the following facts:

First. A candidate for Congress willing to spend any amount of money necessary to secure his nomination and election.

The contestee knew that candidates for office in Luzerne County were expected to make large expenditures of money for election purposes and expressed a willingness to follow the custom. When he sought the indorsement of his candidacy by the Prohibition committee he told Ricketts, "That anything that was necessary he would furnish" (p. 14); but Ricketts declined for the reason that "the Prohibition Party was not in for graft in any manner or form" (p. 14). When he sought the indorsement of the Keystone Party he told Long that "He was in this thing to win, and that he was going to win"; and he told Hendershot, "I am as good a fighter as you are. I will spend $30,000" (p. 297). When he approached Jonathan R. Davis and requested him to act as his campaign manager and Davis told him it would be an expensive campaign, the contestee replied, "When C. C. Bowman takes a bath he don't stop at washing his feet" (p. 217). [Laughter.]

These facts show a commendable ambition to go to Congress, but they likewise show a willingness to have that ambition gratified by the illegal purchase of a seat in Congress, and this should be severely condemned.

Second. The selection of one Jonathan R. Davis, a corrupt and unscrupulous politician, to place his money.

This same Jonathan R. Davis had been the chairman of the Republican Party of Luzerne County for years and had conducted many campaigns in which large sums of money were used. In 1906 this same man Davis was chairman of the Republican Party and conducted the campaign in that county for the election of the Republican ticket. After the election "there was a storm of indignation over the alleged falsification of the returns and the corrupt use of money" (p. 764). Certain election officials were indicted and convicted, and the expense accounts of this same man Davis were excepted to. The contestee in this case contributed to the fund for the prosecution of these officials and must have known that the campaign conducted under the leadership of Davis was very generally condemned by the good people of Luzerne County (pp. 764–765).

In the contestee's own primary election it was found that Davis had expended large sums of money in the conduct thereof and that certain election officials at Warrior Run, presumably selected by him, had been guilty of such glaring frauds that they were indicted and convicted therefor (p. 489).

In the regular election it is shown by his own evidence that Davis acted the part of a corrupt politician. His illegal expenditures of money, his falsification of his expense accounts (p. 99), his efforts to secure Democratic influence and votes by the questionable use of money, and his contradictory and evasive answers to proper questions relative to his political acts in the conduct of the election tend strongly to prove his guilt. And yet the contestee continued this man as his political manager and allowed him, in the conduct of his election, to expend larger sums of money than could have been necessary for legitimate purposes.

Third. A corrupt electorate in Luzerne County willing to take the money.

The contestee, when told by Hendershot that if he expected to go to Congress with the Heffernan tag on him he would be fooled, replied, "I am opposed to this gang the same as you are, and it don't make no difference whether I am elected or not. I am in politics, and I am willing to spend $5,000 a year to clean up the corruption in Luzerne County."

Mr. DALZELL. Mr. Speaker, will the gentleman yield at that point?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. HOLLAND. No; I can not yield.

This statement is an admission that the contestee knew that there was a "corrupt gang" in Luzerne County.

Before the primaries Davis, the contestee's political manager, handed Chester Kerbaugh a check for $25, and when Kerbaugh wished to know what it was for replied "You ought not to ask me that. That is all right. You take this" (p. 467). And afterwards, when Kerbaugh told him he did not want it Davis replied, "You should not hesitate to take it; everybody else is taking it. I don't know what you mean. If that is not enough, I will double it" (p. 467).

This statement shows, if Davis can be believed, that "everybody" was willing to take money for election purposes, and that Davis was anxious to secure the political services of certain parties in Luzerne County by the corrupt use of money. The fact that they have a corrupt electorate in Luzerne County is further shown by the number of people who were willing to accept from Davis money for election purposes. The high sheriff and his deputies, the register of deeds and his deputies, the jury commissioner, the State constabulary, county constables and detectives, superintendents of schools, inspectors of elections, and apparently every other officer of Luzerne County who had public duties to perform accepted money from Davis, became his employees or hired partisans, and aided in the distribution of his corruption fund (pp. 91, 92, 95, 98, 105, 111, 112, 154, 230, 291, 358, 359, 478, 479).

Mine inspectors, mine superintendents, mine foremen, fire bosses, and other mine officials accepted money and checks from Davis and used them for their own and for corrupt political purposes. Hundreds of voters, Democrats and Republicans alike, were employed at the same prices to go out and get Democratic votes (p. 399). In fact, "everybody," as Davis stated, seemed to be willing to take money and to use it as Davis directed. Only a corrupt and purchasable electorate could have made it "a custom for years to spend large sums of money in the conduct of elections in Luzerne County."

But it may be said that these facts alone do not show that money was corruptly used or in violation of law. That makes it necessary to further examine the evidence and ascertain for what purposes it was used. The evidence shows the following facts:

First. Under the laws of Pennsylvania a candidate is allowed three special watchers at each polling place.

These watchers allowed by law were employed, and employed especially for Bowman (p. 69). But in direct violation of the law the sum of $2,393 was illegally expended for additional watchers. This amount, according to the evidence, was sufficient to employ nearly 500 additional watchers. These additional watchers were not only employed in violation of law but were employed for the purpose of purchasing influence and votes. When Davis was asked, "What do you mean by special watchers; do you mean money to go out and buy Democratic votes?" he replied, "It is possible" (p. 63). It is true that he subsequently withdrew this statement, but the evidence conclusively shows that the statement was true.

On page 432 of the record one Walter Richards, one of Davis's hired partisans, testified as follows:

Q. You were to go out and get Democrats?—A. Yes.
Q. And he gave you $50 with which to get Democrats?—A. Certainly.
Q. And you went out and got Democrats?—A. I certainly did.

Q. Tell us how you went about it.—A. I hired some Democratic watchers.
Q. Tell us the Democrats you hired.—A. Now, that is a pretty hard proposition. You have been in the game long enough.
Q. And it is a game?—A. It is a game.
Q. And it is a pretty crooked game sometimes?—A. Sometimes it is.

They were not employed "to disseminate Republican information," but as special watchers. A special watcher's duties were not specified; he was given money and not required to render service. For what purpose, then, were Democrats hired as watchers? Can it be said that they were thus indirectly hired to vote for contestee? They had all the Republican watchers allowed by law; they needed Democratic votes.

When Davis was testifying about the employment of special watchers we find that he made the following statement (p. 263):

Q. State what the purpose was, Sheriff.—A. For the employment of extra workers, extra voters for the Republican ticket.
Q. And the extra vote and the extra work were directed to the men whom you had reason to thing were of Democratic affiliation?—A. Yes, sir.
Q. And it was in this instance that you sought these men because you thought they were Democrats?—A. Yes, sir.
Q. And it was in this instance that you dealt with these men, because you thought they were Democrats?—A. Yes, sir.

Here is an admission by Davis that he had certain dealings with Democrats for the purpose of securing not only extra work from them, but extra votes as well. Here is also an admission that he employed them to do certain work with the expectation that he would secure their influence and their votes. He testified that he could have employed Republicans at the same price. Why didn't he employ Republicans?

Davis testified relative to one Shumaker (p. 65), "Here is one I bought and which went wrong." It is true that he subsequently withdrew this statement, but that he did try to secure Democratic votes, and was willing to pay for them if necessary, is sustained by the following admission:

Q. Is it not a fact, Mr. Davis, in conducting this campaign, that you went to every Democrat of supposed influence that you thought you might be able to induce to support Mr. Bowman?—A. No, sir; I did not.
Q. Could you give me any idea of what you mean by a few?—A. I was out to see two or three prominent Democrats.
Q. Only two or three in the county?—A. That is all I can recall.
Q. You were willing to pay them money, too?—A. Yes (pp. 399, 400).

For what purpose was he willing to pay them money except for the purpose of thereby inducing them to support the contestee? And that his hired partisans were willing to purchase Democratic votes is shown by the uncontradicted statement of Nathan Charles, who, on page 435, testified as follows:

I received $2 for my vote. It was paid to me by Daniel Conlin, who asked me to vote for Brehem and Bowman particularly.

And this same witness, when asked if he saw anybody else getting money that day, replied: "I didn't see them, but I seen them going around the corner."

Second. The law of Pennsylvania allows the use of money for the "dissemination of political information." It does not allow its corrupt use for that purpose. Any person with any experience in everyday practical politics will have no trouble in reaching a conclusion as to the fraud and corruption that may be perpetrated under the guise of disseminating political information. Such a provision in any law is a mere cover for buying influence and votes, and that a large sum of money was used by Davis for that purpose and to great advantage is shown by his own evidence.

On page 93 of the record Davis was asked the following question:

Q. Disseminating good Republican information in this State means purchasing Democratic votes?—A. I don't know.

Was he afraid to deny the purpose for which this money was being used and unwilling to say that it was being used for legitimate purposes?

On the same page he was asked why he gave some men more money than others for the dissemination of political information, and he replied: "There are some men worth more money than others in every respect with reference to any position." Men were paid, therefore, by Davis according to the supposed influence of each and not for the service which each one might perform. The fact is that the evidence fails to show, and possibly for some good purpose, what services were to be performed by many of the parties to whom money was paid (p. 93). I might mention numerous instances in which this was the case, but I think it sufficient to refer to only one. The record shows that a check for $150 was sent by Davis to one Cosgrove, a Democrat. Neither Davis nor contestee testified for what purpose this money was to be used. In answer to the question, "Did you talk with him?" Davis replied, "I said 'How do you do' to him" (p. 69); and when contestee was asked the question, "Did not Jonathan Davis give it to him at your request?" he replied, "No; he did not, except in the sense that when I told him about Cosgrove, to whom he gave the money, that I said he should probably, or should not, give it to him as county chairman" (p. 169). Neither one seems to recall for what purpose the money was given to Cosgrove, and Cosgrove was not asked to tell.

From Frank E. Williams a receipt for $150 was taken, but instructions were given to take the money to one J. C. Lewis, a saloonkeeper, with directions to use it wherever his judgment might dictate (p. 75). To one Crooks the sum of $75 was given, although Crooks stated that he knew nothing about politics, and with instructions to do the best he could with it (p. 423). To the sheriff and his deputies, to the deputy recorder and his deputies, to constables, detectives, and other officers money was paid for the alleged dissemination of political information (pp. 91, 92, 94, 95). But what these officers did with the money the evidence fails to disclose. It seems that some were paid money to "sing Bowman's praises" (p. 88); some to "write newspaper articles" (p. 89); some to "work among saloonkeepers"; some to work among the Jewish population" (p. 92); some to "work among the Polish population"; some to "work among the secret societies" (p. 94); some "with instructions to use the money for the Republican ticket" (pp. 99–196); and some without instructions as to what to do with it (pp. 87–96). Surely no court would place on this provision of a corrupt-practices act a construction which would be so liberal as to legalize expenditures of this character. It would certainly require satisfactory evidence that such money had been expended for legal purposes.

The contestee and his political manager not only failed to disclose but actually concealed the purposes for which much of this money was expended. The conclusive presumption, therefore, is that the money was not properly expended.

Third. Money was corruptly used among a large number of men employed in the mines.

Davis admits that "he landed," with one exception, all the mine bosses of the district (p. 396), and the evidence shows that it cost him a little more than $2,000 to do it. What did he mean by "landing the bosses"? Is the answer found in the amount of money expended for that purpose? Corruption can rarely be proved by direct evidence. It must generally be done by proof of independent circumstances. Fortunately, in this case, two of contestee's supporters, one a district superintendent of mines, and one a mine boss, frankly stated the purposes for which they used the money furnished to them. On page 221 James Wallace, a district superintendent of mines, testified in part as follows:

Q. And all this money, with the exception of $5, was paid by you to men who worked for you?—A. Yes.
Q. And many of them were Democrats?—A. That is what I was looking for.
Q. You were looking for Democrats?—A. I wanted to give them money.

For what purpose did he wish to give them money? The only legitimate inference is that he wished to do so in order to secure their votes for contestee.

On page 192 John C. Lewis, a mine boss, testified as follows:

Q. You gave him this money to use in Avondale?—A. It was immaterial to me. I told him to do what he could for Bowman. It made no difference.
Q. You know, as a mine boss, that he knew what to do with it?—A. I suppose that he did.
Q. And you did not care especially in what respect he used it if he used it to get votes for Bowman?—A. That was the idea exactly.
Q. Who was the next one?—A. G. C. Lewis.
Q. What is his business?—A. He is a miner.
Q. You did not give the miner as much as the mine boss?—A. No; he could not deliver the goods.
Q. You knew that when a mine boss bought a fellow he stayed bought?—A. That is up to him.
Q. Then, why did you give the mine boss more than the miner?—A. I thought he knew more that could turn out the goods.
Q. You mean that he could hold them better?—A. That is up to him. I did the best I could to deliver the goods.

Could evidence be stronger to show that money was corruptly used among the miners? More than 60,000 men are employed in the mines in this district. How many of them were bought and "delivered" to the contestee the evidence fails to show, but that many were so "delivered" I have not the slightest doubt.

Fourth. But it may be contended that contestee did not know that his money was being used for corrupt purposes.

Davis testified that he gave one F. H. McConna $100 to purchase services of special watchers for contestee, and that contestee knew it (pp. 67–68).

Davis testified that he mailed to one Cosgrove, chief of police of Duryea and a Democrat, a check for $150, to be used, presumably, for the purchase of the services of special watchers or the dissemination of political information, and that this was done by direction of contestee (p. 69).

In the presence of contestee Davis, after asking certain representatives of a Polish club to support contestee, gave one of them a check for $25 with instructions to spend it "treating the boys" (p. 482). Subsequently contestee visited the club with Davis and some one again "treated the boys" (p. 107).

And for the money so used in "treating the boys" a receipt for special watchers was taken.

And one T. J. O'Brien was put on the contestee's pay roll at the beginning of his campaign at a salary of $60 per month, and his salary and expenses for political activities were charged to "house" accounts (pp. 267–276).

The fact is that contestee was indifferent as to the uses to which Davis put his money. He was anxious to win and to win by such methods as Davis might be disposed to use.

On page 294 Matthew Long testified as follows:

Then Mr. Trembath or Chairman Smith—I am not positive as to which of them it was—called Mr. Bowman's attention to statements that had been made re his actions in the primary election, and the spending of some seven or eight thousand dollars for the primary election expenses, a portion of which had been to help the machine candidates, and Mr. Bowman said he had put that matter in the hands of Mr. Davis, Jonathan R. Davis, the chairman, and that it was not his affair how Davis had disposed of that money, or some words to that effect. It might not have been his exact words, but words to that effect.

In the regular election this same man Davis was continued as manager. On page 168 of the record contestee testified as follows:

I said that I had nothing to do with the handling of money in connection with the campaign; that it was all handled by the county chairman, Jonathan R. Davis.

The contestee knew that there was a corrupt electorate in Luzerne County, and he also knew, because he furnished it, that Davis, as his political manager, was spending large sums of money in the county, more than was necessary for legitimate purposes.

Mr. FARR. Mr. Speaker, will the gentleman yield there?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. HOLLAND. No; I have not the time.

And yet there is no evidence to show that he ever made a single inquiry as to the purposes for which his money was being used. Under such circumstances he ought now to be estopped from claiming that he did not know how his money was being used. It was his duty to know.

But I will not further discuss the evidence. Suffice it to say that it conclusively shows that the election laws of Pennsylvania were grossly violated by contestee, his campaign manager and political partisans; that political influence and votes were corruptly purchased under the guise of "disseminating political information"; and that many ignorant miners were improperly influenced and corruptly induced for a money consideration to give their support to the contestee. A candidate willing to furnish the money, a corrupt politician willing to place it, and a corrupt electorate willing to take it are the only necessary requisites for a corrupt election.

The temptation to commit fraud under such conditions is so great that some voters can not resist it, and it is no surprise that we have in this case evidence that frauds were actually committed. No such sum of money as was used in the conduct of this election was necessary to protect the interests of the contestee and disseminate essential political information. The only legitimate conclusion from the evidence is that it was used to corrupt the voters and control the election.

The ballots cast for the contestee do not, in many instances, represent the honest judgment and the honest conviction of the voters. The election in many respects was not honestly conducted, and many of the votes for contestee can not in all fairness be counted for him.

For these reasons I have reached the conclusion that the contestee has not a good title to his seat in this body, and I shall vote to unseat him. [Applause on the Democratic side.]

Mr. ANSBERRY. Mr. Speaker, I will ask the gentleman from Iowa [Mr. PROUTY] to utilize the balance of his time.

Mr. PROUTY. I yield 20 minutes to the gentleman from Pennsylvania [Mr. BOWMAN].

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. BOWMAN] is recognized for 20 minutes.

Mr. BOWMAN. Mr. Speaker and Members of the House of Representatives, I have written a connected narrative relating my connection with this campaign. I did not expect to answer any of the statements made by the gentlemen speaking upon the other side, but the gentleman from Virginia [Mr. HOLLAND] has made such a definite statement regarding a conversation, alleged to be in the evidence, which I held with a man by the name of Hendershot that it is necessary for me to call attention to that, and also to the other statements which he made relating to my connection with the Keystone committee and with O'Brien, an employee of mine.

Let me read the testimony just as it is regarding Hendershot. It occurs on page 297:

Mr. Bowman. If you will say this to me—that you are against the gang—it doesn't make no difference whether the Keystone people indorse you or not, I will be for you.

Mr. KENDALL. Against whom was that?

Mr. BOWMAN. "Against the gang."

Mr. MOORE of Pennsylvania. Is that a question of what you said?

Mr. BOWMAN. No. That is what Hendershot said to me:

Mr. Bowman, if you will say this to me—that you are against the gang—it doesn't make no difference whether the Keystone people indorse you or not, I will be for you.

Here is my response in his language:

I am as good a fighter as you. I will spend $30,000. I am opposed to this gang, the same as you are, and it doesn't make no difference whether I am elected or not. I am in politics, and I am willing to spend $5,000 a year to clean up the corruption in Luzerne County.

Mr. MOORE of Pennsylvania. That is quoted as having been said by you. Did you make any such ungrammatical and foolish statement as that?

Mr. BOWMAN. No, sir; I did not. That is Hendershot's version of my answer.

Mr. HOLLAND. I should like to interrupt the gentleman.

Mr. BOWMAN. I have not the time. The gentleman would not yield to me.

The next reference was to the meeting before the Keystone committee. The statement was that I said I was willing to spend any amount of money to get a nomination, and in that connection was prepared to do anything; that when I prepared to take a bath I did not go in to wash my feet. I will state that conversation exactly as it occurred before that committee. I may say that I did not solicit the nomination of the Keystone Party from that committee. I did not want to go before them, but at the solicitation of the county chairman I did. The question arose as to how I had become a candidate. I stated I was solicited by a committee of citizens to be the candidate of the Republican Party for Congress and yielded to their wishes. I called Jonathan R. Davis on the telephone, whom I knew to be an honest Christian gentleman; he had conducted the campaign for the Hon. H. M. Palmer, who preceded me in this office. Many of you know him well. He conducted the Swayne impeachment before the Senate. When I asked Mr. Davis to take charge of the campaign he said, "There are others who are looking for the place." I told him a citizens' committee had asked me to be a candidate; that I had agreed to do so; and that I would not back up, and in that connection I made the statement that when I got ready to take a bath I did not go in to wash my feet.

Mr. FARR. Will the gentleman yield for a question?

Mr. BOWMAN. Yes.

Mr. FARR. You had no thought, then, of spending money for corrupt purposes?

Mr. BOWMAN. Not a word had been said about money in any way, shape, or manner, and I had no thought of any such thing.

Now, with regard to O'Brien. O'Brien was a man who was working upon my place at a monthly salary, taking care of the lawn and doing other work about the place. Like all men of that name, he had always been interested in politics. I could not keep him on the place. He was posting cards and he wanted to get out and talk politics. He had been with me for a long time before, and is still in my employ. The amount of money paid him did not vary one cent whether he went out and talked politics or whether he was working about the place and taking care of the horses. That is the long and the short of any corrupt influence or any money corruptly spent by O'Brien or through O'Brien. He was questioned by persons in the interest of the contestant. Why was he not called as a witness?

When this election contest was commenced, started as it was over a month after the statutory time within which it should have been instituted, and only after the contestant had been here at Washington for some days, it was not considered seriously by those who knew the facts, among the inhabitants of the district generally. No one thought it would ever reach this House, and I say to you, gentlemen, that except for the insinuations of examining counsel for the contestant, his speeches before the committee, attacking the integrity of the entire judiciary of the county, blackening the character of its people and insulting their intelligence, and except for the unfair, unjust, and untruthful brief of the contestant, upon which it is apparent the gentleman from Ohio has based his remarks, and when considered in the light of the real and credible evidence judicially weighed, this whole matter is farcical. Read the testimony in the case, and save for a few instances where counsel and witnesses have joked about matters which should have been above such treatment, but which in every instance were fully explained, you will find nothing which supports the statements or conclusions of contestant's brief or of the majority report based thereon. Lacking time to read the evidence of almost 800 pages, read carefully the briefs of both parties and by verification in the record ascertain which brief is truthful and worthy of belief and which conclusions you would indorse were your character and that of your friends and your constituency in question.

The contestee upon principle has refused to take any but defensive action in this case.

His character for probity is established in his district, with those who know him in this House, and wherever he is known. The purpose of these remarks is to correct any false impression gained by the gentleman from Ohio or made by him upon the minds of others.

Democratic as well as Republican Members of this House, who have examined the law relating to this contest, agree with Judge PROUTY, the ranking Republican member of the Elections Committee, in his report.

Those who have read the testimony know that I have done nothing wrongful or illegal; others who know the source of this contest and who have read the majority report know what force to give to its statements and conclusions. I have already been vindicated by my constituents by receiving a larger vote for renomination at the primary election in April than I received at the primary preceding the election in question, while the contestant was defeated for renomination and repudiated by the people of the district—Republicans and Democrats alike—as he sought renomination upon both tickets.

It is safe to say that the trouble and expense which this contest has put me to have been largely because my right to this seat has been used as a pawn in the political factional game that has been in progress for the control of the Democratic Party in my State.

Those desiring to investigate the legal proposition are referred to the citation of contestee's brief, pages 30 to 33. The majority report does not give any citations to the contrary. In this connection it may be worthy of note that the majority report is not signed; it is a matter of great persuasion to me, since I infer that it means that the members of the committee who did not sign the majority view did not have the time to corroborate the statements in contestant's brief or the argument of his counsel before them, and thus they assumed the statements to be accurate, but do not vouch for them. Had they been able to give this case careful perusal I feel assured that they would never have permitted such a report to be written.

The entire membership of the committee were satisfied that the contestant did not comply with the law relating to the time for commencing his contest, a fact which is plainly shown by the contestee's brief, pages 2 to 30, and also briefly set forth in the minority view.

This unanimous agreement upon this jurisdictional fact legally and equitably causes this contest to fall, as it is condemned on principle and authority. I refer you to the cases cited at pages 32 and 33 of contestee's brief.

When the question of deferring consideration on this case was to be discussed it caused surprise and regret that the gentleman from Ohio should make that an occasion to go into the merits of the case and display an apparent bitter feeling which he has acquired in the matter rather than being marked by judicial poise such as might naturally be expected of one who before the committee acted as a judge in the case.

It is stated that the minority report "is the weakest report which has ever been written in answer to such an indictment as the majority has made in this case." I am willing to let the minority report speak for itself, with this statement, however: That it was forced to be prepared in such haste that it was found impossible to take up the consideration of each and every instance cited in the majority report, and this because of the delay in presenting the majority report and the absence of the ranking member of the minority committee and the short time allowed for the minority presentation. They will be taken up by members of the minority, however, in later discussion, and hence I will confine my remarks to the matters mentioned by the gentleman from Ohio.

It is stated that the money expended by Chairman Davis, of the Republican county committee, for "special watchers" for contestee was "in violation of the laws of the State," and that "that money was expended for corrupt purposes." I am legally advised that the employment of such men is legal. There is no question but that it has been done from time immemorial in this district. Even contestant and his brother-manager, both of whom are lawyers, employed such watchers and accounted for expenditures as made. (See filed expenses of the "Treasurer for George R. McLean," Record, p. 707.) It was unquestioned when my predecessor in this seat was elected, as the filed expense account of the Republican treasurer shows disbursements for this very purpose. (Record, p. 704.) Even the present Democratic District Attorney Bigelow used money to procure watchers, and he distinguishes between "the best watchers and the best poll men." (Top p. 586, Record.) It would be worth your while to read this gentleman's testimony, as it gives a good insight into the methods and ways of this district. Yet, notwithstanding these facts, the contestant calls such expenses illegal, and the report following the brief says it is illegal and corrupt. I defy anyone to point out in the testimony proof that a single dollar of the money expended for such watchers was used to buy votes, which I assume is what is meant by "corrupt purposes." In many instances each hand through which money went was shown in the testimony until ultimately some actual worker was shown to have received $5 for his work in getting out the vote on election day.

I am not a lawyer, but I am advised that under the Pennsylvania statute money may be spent by a candidate and by a party committee; both must file accounts of expenditure under the corrupt-practice act, but only for the money expended by them. There is an attempt to confuse the expenditures made by the Republican Party through Chairman Davis for which contestee had no duty under the law to account with expenditures made by contestee personally, for which it was his duty to file and for which he filed an accurate account.

Under the Pennsylvania law the failure to include an item of expense does not work a forfeiture of the office; if the expense is legal the account would be reformed. What, then, would become of contestant's claim as to the $700 auto payment or the $50 Glering payment? Both were legitimate, even if made for political purposes.

Money given one F. J. McCanna, a Democrat of Pittston, for special watchers, is cited as a corrupt use, and the statement made that "the record is silent as to the 'special watchers' that this man McCanna hired at Mr. BOWMAN'S request." As has been stated in the testimony, especially by Mr. Bigelow, party lines were broken in this election and the district was swept by the Keystone Party. The Democratic vote for State officers was only 3,444 for governor, 4,827 for lieutenant governor, and only 3,842 for secretary of internal affairs. With party lines so broken, with McCanna, a resident of my own town, associated with me as a member of Pittston council for years, helping me as he did in the primaries, is it strange that he should continue his support for the election? The contestant could have found out where the money he received went had he been called as a witness. As the testimony states, there is nothing which would support the statement of the gentleman from Ohio, except his own suspicions.

Money sent one Lawrence Cosgrove is mentioned. The circumstances were that I saw the burgess of the village—a personal friend but political opponent—where Cosgrove was chief of police and at the election this fall a candidate for the legislature. He told me if we wanted to have some one employ watchers and correct certain stories that were being circulated about me, Mr. Cosgrove was the best one to act. I reported my conversation to Chairman Davis and a check for $150 was sent. The burgess himself worked for the contestant. (Record, p. 572). Why did not the contestant call Cosgrove as a witness and find out what he did with the money? One of contestant's witnesses seems to show that the gentleman was working for contestant on election day. (Record, p. 503.) Upon this proof the buying of votes is based. If one were suspicious, it would be more reasonable to suspect from the testimony that this money was used to further contestant's interests rather than contestee's.

The next subject taken up is the matter of an incorrect expense account having been filed by contestee. It is insisted that an item of $700 was left out. Why should it not be left out if it had nothing to do with political matters? If I purchase an auto from the Republican county chairman after election, what has that to do with my political expenditures? Other statements regarding this auto are incorrect. I knew the car, having ridden in it when the property of Mr. Shepherd, of my city. Before purchasing it Mr. Davis told me he paid $600 for the car, and that he had spent nearly $200 in improvements, new tires, and so forth, and that it was in good running order. He bought it to help a poor fellow support himself and family. I was glad to help Mr. Davis out by buying the car, as he managed my primary campaign and acted as chairman of the county committee without the promise of reward of any kind or character. The gentleman from Ohio [Mr. ANSBERRY] stated in his address to the House that there was an erasure on the stub of this check. He was mistaken; no erasure has been made upon the stub of that check. The check book and check are here open for inspection. Jonathan R. Davis is incapable of a dishonorable act. He is a business man of means, a bank director, active in church work. During the last year he was appointed by the nonpartisan court as president of the board of assessment and

revision of taxes for the whole county, called the richest natural area in the world. In acquired wealth it is only exceeded in the State of Pennsylvania by the cities of Philadelphia and Pittsburgh.

Another charge is that I wrongfully gave $50 to E. T. Giering, January 4, 1911, after election. Mr. Giering wrote editorials in the Wilkes-Barre Record of his own free will and accord, with no suggestion on my part, favoring my candidacy. I intended to present to him a watch at Christmas time, but forgot to do so. My attention was called to it after New Year's Day; told my bookkeeper I wanted to make him a gift of $50. For many years I have kept a ledger account headed "Duty," under which gifts of this character are charged. The gentleman from Ohio [Mr. ANSBERRY], in his address to the House, stated: "The check was altered from 'political' to 'duty,' and Giering's name was erased." He was mistaken. See the testimony of the bookkeeper, page 49:

Q. When did you write "for duty"?—A. The first time that I wrote the check.

Q. He didn't tell you it was a gift until after you had drawn the check up, did he? What I want to get at is this: You put on here a recognition of indebtedness and at the same time another entry indicating that it was simply a mere philanthropic bequest.—A. I understood from the first it was that.

The check was first drawn to the order of E. T. Giering. After it was signed the bookkeeper wrote above his name, "C. C. Bowman for," so that I could get gold for it, as I desired to make the gift in that form.

In justice to Mr. Giering, who is one of the most conscientious, Christian gentlemen it has ever been my pleasure to know, I would state when I handed the gold to him he asked: "What is this for?" I answered: "In appreciation of the many favors you conferred upon me during the campaign in your editorials." He answered: "I can not take it; I have only done my duty." I told him he would offend me if he did not accept. He stated that he would in any event be obliged to consult Mr. Moore, the business manager of his paper. I waited in his office until he went downstairs to see him. Upon his return he reported that Mr. Moore did not object to his accepting the gift. This innocent transaction, occurring two months after election and nearly a month after this contest could legally be brought, has caused me more regret than anything else in connection with this whole contest. Mr. Giering is a very sensitive man; his grief over the misstatements regarding this gift seriously affected his health. At one time it appeared as though it would end his days.

In reference to the Prohibition nomination, the testimony does not support the serious statements of the gentleman from Ohio. The chairman of the Prohibition Party testified:

Q. You were willing that Mr. Bowman appear, as he did appear, as the Prohibition candidate for Congress of Luzerne County?—A. Yes, sir; of Luzerne County (p. 17).

The secretary of the party testified:

Q. When you came to signing up the paper you signed some kind of a paper for Mr. Bowman, you three officers did; that is, you signed the same kind of a paper that you signed for Mr. Palmer when he became the candidate in Mr. Ricketts's place?—A. I couldn't tell you what I signed for Mr. Bowman, but the paper looked all right.

Q. It was understood that he was legally and regularly put on your ticket?—A. Yes, sir (p. 21).

Comparison of the substitution papers for this election (p. 669) with those made in past years by the same men will show their similarity (pp. 712–715). It is surprising to find this matter taken up when the majority report treats of this matter as follows:

With regard to the legality of the substituted nomination of the contestee by the Prohibition Party the committee has felt—

And so forth (p. 3 to the end of the paragraph).

There is no proof that either the contestee or the Republican county chairman, Davis, had anything to do with the Nanticoke newspaper article referred to by the gentleman from Ohio. Personally I can say that I never saw the article until this testimony was taken, and it was not paid for except from Republican funds in the hands of the Republican Party county treasurer. And right here I again protest, as I and my counsel have throughout this contest, to the statements made "regarding Bowman's manager and Bowman's money," when the testimony and facts are that they should say the "Republican county chairman or treasurer and Republican money." There were other contributors to the Republican campaign that year than myself, and no differentiation was made as to the spending of said fund or keeping one contributor's money separate from the others.

The testimony does not sustain the statement made by the gentleman from Ohio that the contestee would provide anything necessary to procure the nomination. The statement which I made at that time and which is not fully given in the testimony was that anything that was necessary to carry on the campaign for the Prohibition Party I would furnish, knowing, as I did, that these expenses would be small or nothing at all, as was the case.

Again referring to the newspaper article, which is assumed as emanating from myself or Chairman Davis, the testimony of the chairman of the Prohibition Party will show the injustice of the gentleman from Ohio's conclusion:

Q. If you had become acquainted with this declaration coming from one of Mr. Bowman's organs, whether or not you would have joined in his indorsement on the Prohibition ticket?—A. I would have inquired of Mr. Bowman whether he knew anything of that, and if he said he did, I would not have joined. I understood at the time that the liquor men were in favor of Mr. McLean and that Mr. Bowman was on the temperance side (p. 17).

* * * * * * *

Q. If somebody had sent you copies of these papers or had written you, or had come to you and said to you what Mr. Lenahan has said to you, what you would have done is to ask Mr. Bowman whether he stood for that?—A. Certainly.

Q. And if Mr. Bowman told you, "No; I don't stand for that sort of thing," you would have done just what you did do?—A. Very probably.

Q. In other words, what you did do or what you would have done or should have done would be determined not by newspaper talk or rumor but upon direct inquiry?—A. Yes; I understood Mr. Bowman to be a Christian and an upright man, and I would have taken his word (p. 18).

The chairman of the Prohibition Party also stated that Mr. Bowman's reputation around this region for years and years was that of a thorough temperance man (p. 19).

The statement of the gentleman from Ohio that he had in his hand a list of mine officials, numbering about 50 names, leads me to believe that he had pages 29 to 32 of contestant's brief before him. The further statement made that these were men "who received all the way from $20 to $140" is not accurate. Of the 54 names on that list there were 12 whom the testimony shows received no money at all; 9 received but $5, and that from Republican funds. The money was not kept personally, but was expended for either Republican poll men or special watchers, and 3 of them were Republican Party officials whose duty it was to get poll men and pay their party subofficials or even the poll men themselves. It was pointed out in contestee's brief that, considering only 1 of each kind of mine official listed for every mine in the county, there are over 900 of such officials. What were the other 846 doing this election?

The further statement that two friends' names were kept out of the report means nothing. If he intended to say that the payments to them were kept secret, he is mistaken, as the money paid them was accounted for and their receipts filed with the county clerk. (Record, p. 78.)

It is gratifying to me that we can trace some of this money which is stated to have been used to coerce men and buy votes. Mr. Hollister gave $15 of the $50 to one P. H. O'Brien, who was also a witness. O'Brien testified that he gave the money to three men, McKeown, Mullin, and Clifford. McKeown and Mullin were brought in as witnesses by the contestant and stated that they received the $5 each, and that they worked for the same. All of these men were personal friends of mine, and I ask that you read the testimony and assure yourselves of the mistake that has been made in this unsupported accusation. The other friend, Mr. Jennings, is a neighbor of mine who spent $26 of his own, gave one Patrick Kelly, over whom he had no control, and who was not employed by him, $15 to work for Mr. Bowman, and one John Brown $11 for watchers in Port Griffith. Neither of these men were called to show that they had spent the money for any other purpose than that for which they received it. Nor is there any proof that they voted any differently for receiving said money. After election I paid Mr. Jennings for his disbursements. I believe when gentlemen of the character and standing in the community such as Mr. Hollister and Mr. Jennings enjoy are so infamously accused of coercion and buying of votes, that it is time when all honest men of all parties should forget their prejudices and give such men the vindication which they deserve and expect. I feel that the gentleman from Ohio has not read the testimony regarding this matter, otherwise he would not have made such statements. His characterization must have been received from some source outside the evidence and from a source as base as the accusation itself.

It is with great regret that I have taken up these various statements of the gentleman from Ohio; but I have done so as briefly, carefully, and patiently as possible. If any of the gentlemen of the House are interested to know the real reason why the contestant in this case was defeated, he has only to read the testimony of the contestant's friend, Ernest G. Smith, chairman of the Keystone Party at this election, and editor of the Wilkes-Barre Leader, the leading Democratic paper in the district (pp. 325–329, 640–643).

In concluding I call attention to data which should be the best proof of the impossibility of the suspicious which have caused the conclusions of the majority. The Republican vote

at this election was, governor, 12,389; lieutenant governor, 11,166; secretary of internal affairs, 11,181; Bowman, 13,661; while the Democratic vote was as follows: Governor, 3,444; lieutenant governor, 4,827; secretary of internal affairs, 3,843; McLean, 13,834. A perusal of the results for the various districts will show that the contestee ran about the same as the other Republican candidates, save in those parts of the district where he was well known or a resident; while on the other hand, there are many districts ordinarily Republican, which had a large vote for the State officers and the same vote for the contestant, showing, according to contestant's own counsel, returns which were prima facie fraudulent. (Contestee's brief, pp. 91–92.) In concluding I call your attention to other data well set forth in the minority report, proving conclusively that the election in 1910 was not only "quiet" (p. 81) but "clean" (p. 641), and that this House should confirm the result as given by the people voting and by the judges of the court of common pleas, which judgment has been still later affirmed by the results of the late primaries and by all parties.

This election contest involves the county of Luzerne, being the eleventh Pennsylvania congressional district. It contains two State senatorial districts and seven State legislative districts, with a total of 311 polling places or voting precincts. At the time of the 1910 election its population was 343,186, and the number of voters registered for voting under the registration requirements was 59,352. There was to be chosen at this time a governor and other State officers, Congressman, State senator, and eight State representatives. This election saw the rise of an independent party known as the Keystone Party, a movement stated to be "without money and without patronage" (p. 641). Their candidates swept the county. They had no congressional candidate; that fight was waged between the contestant, C. F. Quinn, Socialist, and the present holder of the seat.

In common with other elections that fall, the vote was very light, only a total of 33,652 votes being cast, less than 57 per cent of the voters registered, and less than 10 per cent of the population. The congressional vote was especially light, that of the Congressman and contestant being but 28,218, less than 48 per cent of the registered vote, and less than 8 per cent of the population. It is also noteworthy that while the total vote for governor was 32,684, the total congressional vote was but 29,766, or less than 88 per cent of the actual vote cast. It may be interesting to compare these figures with the 1908 congressional vote of 40,565, or with the 1909 vote of 29,589 cast for one judge running on both Republican and Democratic tickets. Outside of contestant's vote the highest Democratic vote was for lieutenant governor, being 4,827.

While the Keystone Party broke the regular party lines, yet in the first senatorial district, comprising about one-half the county, there was another fight, in which, as stated by the Democratic chairman, "it was impossible to make a straight-out party fight on account of the local conditions" (p. 583).

The election has been summed in the testimony, in two terse expressions by disinterested people, as "one of the quietest elections" and also one of the "cleanest elections." These general considerations alone seem to refute and answer every claim and contention of the contestant, without requiring one to open the evidence and there finding the corroboration for these conclusive and indisputable facts and figures.

Elections in this district have always been expensive. An average of two or three poll men, or "watchers," usually have been employed at each polling place. One of the local Democratic chairmen in this election testified that he paid $10 per day apiece for 40 men. It will be noted that wages are relatively high throughout this entire district. Allowing three men to each district at only $5 per day, the usual rate, would amount to about $5,000 for that purpose alone. Deduct this from the amount spent by the Republican county chairman in this election, and there would only be left $4,000 for hall rent, bands, newspaper advertising, and other lawful expenditures, which amount would not be excessive for a district like this, containing more inhabitants than six of the entire States. At the county election following this, with no State candidates, the Republican county chairman filed expenses upward of $16,000 and the Democratic county chairman upward of $19,000.

That is surely a small sum with a district like this, with a population exceeding that of six of the States, where the highest wages in the world are paid for labor of similar character. My subscription to the election fund was $5,000. In this connection, directly after I made my subscription, a week or two before the election, a meeting was called of the county chairmen all through the whole district, with the candidates, and I told them that I had made a subscription of $5,000, and that every penny of it must be spent honestly; that if any man spent a penny for a bad purpose I would send him to State's prison just as quickly if he were a Republican as I would if he were a Democrat.

As stated, my subscription to the county election fund was $5,000, the county chairman having said that this amount would, with other subscriptions, be all the funds needed to carry on the campaign. However, he came to me a day or two before election and said that strong influences were working against me; that a number of his poll men and watchers had been hired away, and that he needed $1,500 to fill their places and for the employment of extra men in precincts where they had been placed by the other side. I made this additional subscription by check to him, as I did the original subscription of $5,000. At his request I also gave a check for $50 to W. H. Hollister to employ extra watchers at Avoca, Pa., a town near Pittston, and a check to W. P. Jennings of $26, refund of money he had expended for a like purpose.

Every dollar which I subscribed or paid in connection with this election went through my checkbook or petty cashbook, and all the books in my office, business and personal, were open to the inspection of the contestant and his attorneys. I had nothing to do with keeping the accounts, as they were entirely in charge of my bookkkeeper, an experienced person, who has been with me for years; who had, before the time of the election, a general power of attorney, and still has that authority.

It is true I did, unintentionally and unknowingly, file an election account of expenses which was not technically accurate, the circumstances being that my account was prepared by the bookkeeper, who neglected a few items. Certain items paid by me personally were, as stated, given to the Republican county chairman and were accounted for by him in his filed account as his expenses. Certain items were only known or paid after the account was prepared by the bookkeeper, to be sworn to by me. I had no personal knowledge of the amounts, but trusted this matter entirely to my bookkeeper, who had entire control of the accounts and decided upon which one was to be charged any given item. It will be noted that contestant's account filed is also inaccurate in the same manner, although the expenditures and account were both made by him personally. My accounts were well and carefully kept, as any Member may see by personally examining the pages of the ledger containing the political expense account or the checkbook in question, which are here to-day and will show that alterations and erasures consisted in corrections made in the due course of business. No changes were made but which were discernible and which were explained in the testimony. No concealment or intent to conceal was shown.

A broad and comprehensive view of the testimony shows that my money and the money of the contestant were used for much the same general purposes, with one exception—contestant (pp. 567, 627, 629), his managers, and supporters distributed cigars and dispensed alcoholic liquors freely, election day being no exception. This is contrary to the corrupt-practice act of Pennsylvania. Practically all my money went into the hands of and was expended by the Republican county chairman. Contestant or his brother spent all but $700 of contestant's money. The total expenditures which might properly be considered for my sole and personal benefit amounted to $2,761.50. Contestant showed expenditures of that character amounting to $4,209.15. I spent personally, through my office, $368.50—less than $25 of that amount myself. Contestant filed personal expenditures of $1,386.20. I had no outside and separate interests spending money in my behalf. Contestant was the recipient of the benefit of thousands of dollars spent by others.

The expenditures of Jonathan R. Davis, Republican county chairman, in this election were many thousands of dollars less than the ordinary, usual, or customary expenses therefor, and much less also that the amount expended by contestee George W. Shonk, Fifty-second Congress, which expenditures were approved by the Committee on Elections and by Congress.

The laws of the State of Pennsylvania gave opportunity to the contestant to test my right to this office. His attorneys were present at the canvass of the vote before the judges of the court of common pleas, where they had every opportunity to prosecute a contest, but abandoned it. Two members of the State constabulary were stationed by the Keystone Party at the polls in the fourth district of Pittston Township. They testified only 34 men entered the booth, besides the members of the board. One hundred and twenty-two votes were returned as cast for Representative in Congress—3 for Quinn, 5 for Bowman, 114 for McLean, the contestant. (See evidence, pp. 735–744.) The laws of Pennsylvania are complete in covering fraud and corruption, and nothing is now known or proven that could not have been presented by contestant and his counsel when the judges of the court sat to receive the votes and hear all objec-

tions. The fact was that objections were made, withdrawn, and then a politically divided court unanimously decided there was a free and untrammeled choice by the voters. Even assuming everything that the majority report claims to be true, there is no such evidence as requires the seat to be declared vacant.

The evidence discloses that I contributed in 1906 to a fund to investigate alleged election frauds. I have always done everything that I could to protect the sanctity of the ballot. I could not think of any change in the conduct of the 1910 campaign that would have made it upon my part any cleaner or more honest. The stenographers' bill for the hearings in my county was about $1,500. Detectives were going about the district for months looking for evidence. My business associates were quizzed as to their relations with me. The contestant visited my office and questioned my employees during my absence. I would not wish to see you or even my worst enemy exposed to the persecution I have undergone. I am sure you would not approve of such action if taken against yourself, nor can you when taken against me. Considering the size of the district, it is not surprising that slight irregularities should have arisen, but none of them were of sufficient importance to affect the result.

The majority of this House do not wish to establish such a precedent now, just as you are about to assume the Government of this great country. Under the procedure followed in this case, any one of you might be served with a notice of contest which you would be forced to defend, whatever length of time you may have held your seat, whereby you might be put to thousands of dollars' expense and untold anguish entailed upon yourself and family. Good men have been through this bitter ordeal, but I am advised never contrary to express statute, as in this case. I have always believed "the first thing a man owes his country is the integrity of his own life." Nothing has been proven against me or any person over whom I had any control. My hands have never been soiled with a dollar that would cause my fellow man to offend against the laws of my county or my God.

Since the 1910 election I have gone through two more campaigns—the primary election in April last, wherein I was chosen as a candidate of the Republican Party; the second, the election last November, in which my vote was double that of the head of the ticket and exceeded the vote given upon that ticket to the State senator who was elected in one portion of the district, and also exceeded the total vote cast for the eight candidates for the State legislature. These two elections were conducted in exactly the same way as the campaign in 1910, which is in question. Knowing my innocency, I did not attend the hearings in this contest, which extended for about four months, excepting as I was obliged under subpœna as a witness for the contestant. Personally I took nothing but defensive action against him.

Many of the Members of this House are judges and lawyers, fully capable of separating the wheat from the chaff in this case. I depend upon your decision that there is no basis in law or equity for the bringing of this action. [Applause on the Republican side.]

Mr. PROUTY. Mr. Chairman, I yield 15 minutes to the gentleman from Pennsylvania [Mr. AINEY].

Mr. AINEY. Mr. Speaker, I think it very fitting when a man finds himself in contempt by the criticism he heaps on others. It is with some astonishment, in view of the report of the majority members of the committee declining to recommend the seating of Mr. McLean, that I heard my distinguished colleague [Mr. PALMER] offer a resolution to accomplish that which the committee, after a careful investigation of all the evidence in the cause, refused. I am not able to solve the inconsistency of the position which proposes to unseat Mr. BOWMAN because it is claimed he employed special watchers in defiance of the laws of Pennsylvania and because he failed to prepare and file a complete and accurate account of his expenditures under the law of that Commonwealth, when the records in the cause clearly establish similar conduct on the part of Mr. McLean.

The Pennsylvania statute recognizes candidates and political committees. Both are required to file sworn statements of their expenditures to primary or regular elections. The candidate must itemize expenditures made by himself or through his agents. If his expenditures are not made personally or through his agents, but through a political or party committee, his sworn statement may be for the gross sum, because under such circumstances the party committee are in duty bound by law to make an itemized and sworn statement.

In that respect the political committees are the agents of the candidate. There is no authority in law for an agent to make a sworn statement for his principal.

I hold in my hand a certified copy of an account of expenditures, signed "William McLean, treasurer for George R. McLean," covering the contested election, made and filed in direct violation of the provisions of the Pennsylvania law. It violates that law in two respects: First, that an agent had no authority under the law to make this affidavit, because the statute provides that an oath to the accuracy of it on the part of the candidate is a condition precedent to his induction into office, and he may not avoid the pain of prosecution for perjury by shifting the responsibility upon his agent; second, the paper shows large sums of money expended by William McLean for poll workers and special watchmen, items not itemized or explained. If these constitute a violation of the law when done by Mr. Bowman, how can they be justified by this House when expended for these purposes on behalf of Mr. McLean? If the employment of special watchers is illegal, if there is no justification under the statute for the payment of poll workers, how stands Mr. McLean under his own showing? I quote from the certified copy of the election account of William S. McLean, jr., treasurer for George R. McLean, and ask your indulgent attention to the following unitemized and large expenditures for poll men and special watchers:

John Bigelow, Esq., poll man in first district	$100
John Bigelow, Esq., special watchers, first district	60
Rodger Devers, Esq., special watchers, first district	100
William S. McLean, jr., poll man, second district	270
George F. Buss, poll man, third district	400
George F. Buss, registration, Pittston City	100
Hon. M. J. Healey, special poll man, Avoca	20
James J. Judge, special watchers, third district	150
R. B. Sheridan, Esq., poll man, fourth district	310
J. J. Moore, poll man, fifth district	315
B. W. Davis, Esq., poll man, sixth district	40
C. M. Honeywell, poll man, sixth district	90
T. P. Mackin, poll man, sixth district	30
J. J. Murray, poll man, sixth district	20
Thomas Walsh, poll man, sixth district	5
Joseph Freeman, poll man, sixth district	100
W. J. Butler, Esq., poll man, seventh district	450
W. J. Butler, Esq., registration, city of Wilkes-Barre	250
Mose Solomon, for special watchers	100

[Applause on the Republican side.]

It is true that Mr. McLean, the contestee, did make a sworn statement, in which he said he paid over a lump sum of $3,500 to William S. McLean, jr., "contributed to his brother as his chairman" as a part of the $4,860.95 expended in that election, but he may not avoid moral responsibility in that respect, for it was contestant's duty under the corrupt practice act to make oath to these items.

The right to make such expenditures is confined by the act to two classes, "namely, candidates and treasurers of political committees." Such was the utterance of the Pennsylvania courts in Bechtels election-expense case 39, Superior Court Report 292.

Surely it will not be argued that a treasurer of a candidate is a political committee.

In Umbel's election case, a recent deliverance of the Supreme Court, it was held that where Judge Umbel had paid five different persons sums aggregating $3,670 and filed their gross receipts, it was not a compliance with the law. He might pay out this money through agents, but he was duty bound to account for the items of expenditure in his own account.

In the Bechtel case Judge Bechtel paid Nichter $700, taking his receipt therefor and filing same as a gross item of expenditure in his account. Nichter was not a member of a political committee. This is exactly what McLean did in paying his brother, William McLean, $3,500.

The court held that this $700 must be itemized in Judge Bechtel's own account. The opinion so elucidated certain features of the law appreciable to this case that I ask your indulgence to quote from the opinion:

Bechtels case 39, super 292, opinion of the court:

* * * In my opinion it is lawful to employ and pay a voter to electioneer for a party or candidate either on or before election day, and that a candidate or party may lawfully employ poll workers, so that it be done honestly and in good faith. But it is a crime to buy or attempt to buy a citizen's vote or political influence.

The act of April 18, 1874, P. L., 64, is exactly similar, word for word, to the act of March 5, 1906, P. L., 78, so far as clause second above quoted, is concerned, to wit: "For dissemination of information to the public." And the supreme court, in Williams v. Com., 91 Pa., 493, holds that thereunder a candidate may employ and pay an elector to take interest for him before his election; in other words, to work for his election. In that case, Williams, while a sheriff of Armstrong County, had employed and paid voters to electioneer for him, and the county court held such to be a violation of the statute, but the supreme court reversed the case and said it was not a violation of the law unless done corruptly.

The evidence in the case at bar does not warrant the conclusion that said poll workers were corruptly employed, and this branch of the case is ruled in favor of the accountant on the authority above cited. * * *

And where parties have been employed ostensibly as watchers or to disseminate information, the fact that they fail to do anything does not necessarily render the employment illegal. * * *

* * * * * * *

Where a candidate contributes money to the treasurer of a political party or committee, his account should set out the name of the treasurer and the party or committee of which he is treasurer, but it is not necessary for the candidate's account to set out the specific purpose for which the money is used. But the treasurer's account should set forth not only each person to whom money is paid and the amount, but also should set out specifically for what purpose or purposes it was paid.

Turning, then, to the statute we find that it recognizes as lawful the expenditure of money for "election expenses," provided such expenditure is confined to the purposes and objects specifically set forth in the act. But the persons who may make even such lawful expenditures are confined to two classes, to wit, candidates and treasurers of political committees. The individual citizen may still lawfully give his money to aid the success of the political party or the advancement of the political cause he deems most desirable. But he may not do this by undertaking himself the expenditure of even his own money for "election expenses." He must contribute it directly to a candidate or to a political committee, because only through one of these two channels can it lawfully be expended for even the purposes designated in the act. "No person who is not a candidate, or the treasurer of a political committee, shall pay, give, or lend, or agree to pay, give, or lend any money or other valuable thing, whether contributed by himself or by any other person, for any election expenses whatever, except to a candidate or to a political committee," is the comprehensive language of the statute.

To conclude this branch of the case, there were two methods open to Mr. McLean under the law: To personally or through agents make his campaign expenditures, in which event he must personally account for the items, or contribute to a political committee, in which event he need only account for the gross amount, for the law deals directly with political committees, requiring them to itemize their expenditures.

He complied with neither alternative.

I regret exceedingly that our limited time will prevent full explanation of the political conditions which confronted not only Luzerne County but the entire State of Pennsylvania at the election in 1910.

Both the old political parties were torn asunder. The Republican Party, which usually carried the State of Pennsylvania by a majority of nearly half a million, elected a governor by a small plurality of about 15,000, while the Democratic Party did not have enough gubernatorial votes to make a mess.

The Keystone Party, with Berry heading its ticket, almost swept the State—invading and depleting the ranks of Republican, Democratic, and Prohibition—so that when Larkin had but little over 200 votes in Luzerne County against Bowman's 700 it was in keeping with the political condition of the State.

The imagination of men—which had so largely taken the place of evidence in this case—seeks to find corruption in the difference between the Larkin and the Bowman vote. It must not be overlooked that under the law the election officers are required to write the names of each voter in a panel, and with these panels there is no difficulty in determining the name of every man who was reported to have voted. Such opportunity was opened to contestants.

If his contention was true, it could have been thus established—it would have substituted fact for inference, and the burden surely rested upon him to make out his case.

There was a three-cornered fight for governor and a two-cornered fight for Congress, with party lines broken and hardly discernible—it was not at all strange that former Democrats were occasionally found working for Mr. Bowman.

My time is too limited to discuss the evidence, but so much has been said about watchers and special watchers that I am inclined to think you may find some information in the consideration of the law relating to them.

I take issue squarely with the gentlemen on the other side of this controversy. Special watchers performing the duties described in the evidence are to be distinguished from the watchers mentioned in the act of 1906, and may be lawfully employed and compensated either by a candidate or by a political party.

Section A of the corrupt-practice act defining legitimate election expenditures enumerates, under paragraph 6, "the employment of watchers to the number allowed by law."

Unfortunately, our legislature a number of years ago selected a term which had been theretofore used in long-established custom among the people of our State describing workers performing election duties. The term "watcher," as commonly used, included canvassers, poll-book men, vote solicitors, and persons employed in getting voters to the polls. It was usually limited in application to election-day workers, and answered to the term "vigilance men," used in certain localities.

The General Assembly of Pennsylvania selected the same term, "watcher," to define a position having entirely different duties and prescribing the method of his selection and the scope of his authority. Each political party had the right to select three watchers for each polling place; their authority came by virtue of certificates of appointment issued to them by the county commissioners. They had no right to electioneer in behalf of anyone while performing their duties (18 Pa. Co. Court, 520; act of 1893, sec. 23). Their special privilege under their certificate was the authority, one at a time, to be in the voting room outside the inclosed space where they were permitted to keep poll books (sec. 24) and challenge lists, and to be present during the counting of the votes (sec. 28).

If further authority is needed on this proposition, it may be found in the utterance of the Supreme Court of Pennsylvania in Parish petition, 214 State, 67. Bearing in mind, then, that the watchers defined by the corrupt-practice act and the prior act of 1893 are entirely distinct from the political workers now commonly designated special watchers to distinguish them from the statutory kind, the only question which can arise is whether it is lawful under the corrupt-practice act to employ men as canvassers, poll workers, or vote solicitors.

The evidence in the Bowman contest clearly establishes that the special watchers employed by the chairman of the Republican county committee performed the duty of canvassers, poll workers, and vote solicitors. Are such expenditures lawful under the Pennsylvania law?

Merely for the purpose of a starting point in this branch of the discussion, I desire to call attention to a decision of the Pennsylvania courts interpretative of the corrupt-practice act of 1906. This case is of some special interest because of the fact that the gentleman from Pennsylvania [Mr. PALMER] appeared in court in advocacy of the position adopted in the case.

The court said concerning the act of 1906:

It may also be remarked that the general opinion of the public that the act of March 5, 1906, limits and circumscribes the lawful election expenses of a candidate, and that he can not now do what he would have been privileged to do before its enactment, is a mistaken one. The act, in a sense, codifies the law and provides a method to discover and establish the violations and punish the offenders, but substantially no more. If anything, it provides for expenditures about which there might have been some question before its passage. The act of April 18, 1874 (P. L., 64), denoted the privileged necessary expenses, how they might be incurred, and prescribed the oath of office to be taken and punishment for the violation of the law. What is now a violation of the election laws in any of these respects was a violation before the act of March 5, 1906.

The only apparent advantage of the act of March 5, 1906, is the power to inquire into alleged abuses.

I desire now to call your attention to several cases decided in the Pennsylvania courts, wherein the term "watcher" is used to define the duties performed by special watchers in the Bowman case, or where these duties were performed by paid men under other designations:

In re Howard v. Jacoby (3 Pa. Co. C., 438).

The statute is not to be so construed as to prevent a candidate from employing a friend to canvass an election district for him, and by representations in regard to his qualifications, his claims for party support, or by legitimate arguments operate upon the minds of the voters and thus procure the return of delegates who will support him in the nominating convention. Such services are not illegal and are a sufficient consideration to support a promise to pay for them, including necessary traveling expenses.

In re Williams v. Commonwealth (91 Pennsylvania, 493).

This is the leading case in Pennsylvania, interpretive of certain features of the act of 1874. The opinion was rendered by a distinguished jurist of the State, Justice Trunkey, who, in speaking of the decision of the lower court in that case, said, reversing the lower court:

But, not resting there, it was also held by the lower court that if he so paid or promised to electioneer for him, that was a violation of the statute; and the word "electioneer" was defined "to make interest for a candidate at an election; to use arts for securing the election of a candidate." Article 7 of the constitution requires an officer, before entering on the duties of his office, to take an oath containing, inter alia, "I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this Commonwealth, or procured it to be done by others in my behalf." Section 9 of article 8 imposes severe disabilities on "any person who shall, while a candidate for office, be guilty of bribery, fraud, or willful violation of any election law." The act of 1874, section 36, Pamphlet L., 64, authorizes a candidate to pay or contribute as follows:

(Act of 1874.)

"1. For printing and traveling expenses. 2. For dissemination of information to the public. 3. For political meetings, demonstrations, and conventions"; and section 37 declares that "nothing contained in this act shall be so construed as to authorize the payment of money or other valuable things for the vote or influence of any elector, either directly or indirectly, at primary, township, general, or special elections, nominating conventions, or for any corrupt purposes whatever, incident to an election." *Both the organic law and the statute strike at bribery, fraud, and every corrupt act incident to an election, but leave the candidate free to use all honest means for the success of his party and promotion of his own election. He may disseminate information to the public respecting the affairs of state, the principles, the purity, and the corruptions of the several political parties, and the merits and demerits of candidates; and in so doing he may use every honorable act of persuasion, eloquence, and reasoning. These are lawful, are within the very life of free government, and are not forbidden to a candidate, though they make interest for him at an election. The statute carries its own interpretation.* In comprehensive terms it expressly authorizes the payments and contributions by candidates for printing, traveling expenses, dissemination of information to the public, political meetings, demonstration at conventions, and excepts out every direct and indirect

purchase of the vote or influence of an elector, and every act for any corrupt purpose whatever incident to an election. What is clearly embraced within those terms and not excepted therefrom is lawful. Interest may be made for a candidate without taint of corruption. Art may be used in securing his election with pure motive and patriotic purpose. The statute forbids the perversion of art, not its use. We are, therefore, of opinion that it was error to unqualifiedly charge that if the defendant paid or contributed or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to an elector "for the purpose that such elector should make interest for the defendant when he was a candidate before his election," * * * "or for the purpose that the elector should use arts for securing the election of the defendant as a candidate for sheriff." * * *

(In re Liebel's expense account No. 2, 16 District Reports, 938. Mayoralty contest—city of Erie.)

The opinion of the court recites the following facts:

From the evidence taken, including the testimony of many witnesses, we find that accountant's expenses at said election, as shown by his account, were $3,253.35, of which $950 was paid to the treasurer of the Democratic city committee and $1,115 thereof was paid to James B. Yard, treasurer of a committee of Republicans, Mr. Liebel being on the Republican and Democratic tickets; that his account does not show for what purposes the money was paid to the said treasurers, but Mr. Yard was the treasurer of certain Republicans organized in the interests of Mr. Liebel's candidacy and the Democratic treasurer, Mr. Bennett, was the regular treasurer of the Democratic city committee. The treasurers expended said money largely in the employment of watchers, and also in the employment of parties to electioneer for Mr. Liebel at the polls and elsewhere. Some were employed simply as poll workers. No one party was paid more than $10 for his services. Mr. Liebel was in close touch with the campaign and participated in the said employment of watchers and poll workers, etc. It does not appear that any of said money was used in the purchase of votes or political influence.

Mr. Yard paid L. Ott $10 to electioneer for Mr. Liebel, and on election day Mr. Ott served as clerk on the election board to fill a vacancy. It does not appear that he was an election officer when employed by Mr. Yard. Mr. Bennett paid A. Calabrese $10 out of said fund, and, so far as appears, Calabrese performed no services. He testified that he was employed by Mr. Joe McCormick (I believe a member of the Democratic committee) as a watcher, but received no watcher's certificate; and that on election morning he accepted the position as clerk on the election board to fill a vacancy, and served there. He was not an election officer when engaged as a watcher.

Mr. Yard paid B. F. Russell, a constable, $10. Mr. Russell testifies that he was employed by Mr. William Illig to work for the Republican ticket, and that he did so prior to election day. He says he electioneered among his Republican friends and urged them to attend the election, etc., but that on election day he was at the election booth and did nothing but attend to his official duties.

(Umbel's election, 231, Pa. St. 96.)

This was a proceeding under the act of 1906 investigating the account of Robert E. Umbel, candidate for Democratic nomination to the office of judge. The case having been appealed to the superior court, it was there decided in opinion by Judge Rice (43 Su. Ct., 598), and on appeal Judge Rice's opinion was sustained per curiam.

It should be noted in this case that the account was for expenses incident to the nomination, and the distinction remembered that as to nominations, expenditures are not authorized to be made through the medium of a political committee acting other than as the agent of the accountant. Hence, all the expenses must be itemized and appear in accountant's statement.

It should be further borne in mind that the watchers prescribed by the act of 1906 relate only to elections and not to primary elections, no watchers being authorized by law to serve at primary elections.

The opinion of Judge Rice is therefore of special interest, for it shows that inadvertently, or following the custom, he used the word "watchers" not in the sense in which it is used in the statute, but in the sense in which it had been used by much of the public for many years and to cover an entirely different duty:

Preliminary to a discussion of the questions raised by the assignments of errors to rulings upon offers of evidence, it is important to determine whether the account filed by the respondent conformed to the requirement of the act of March 5, 1906, P. L. 78. The account embraced two classes of items, (1) expenditures made by the respondent personally, (2) payments made by him to certain individuals of certain sums of money "For expenditure in my behalf under the first, second, sixth, seventh, and eighth parts of section 4, act of March 5, 1906." There are 12 items of the latter class, showing payments to five different persons aggregating $3,670, and these give no further information as to the purposes for which the money was actually expended than is indicated by the words and the figures above quoted. The receipt given by the persons to whom the respondent paid the money are equally indefinite. The plain import of the account is that these sums of money were paid to these five persons, not as compensation *for their services in disseminating information to the public or in acting as watchers or the like*, but to be expended by them in the respondent's behalf for some or all of the purposes mentioned in these paragraphs of the act, or to reimburse them for payments made by them to others in his behalf for these purposes.

The distinguishing features of this case is that Judge Umbel paid five different persons a sum aggregating $3,670 and filed the lump receipts, not giving items of disbursement which they made. These men, not being a political committee or party, and no political party being authorized under the statute to disburse money for a candidate for nomination, it was held in this case that while it would be legitimate for Judge Umbel to act through these agents he must include in his account the items severally expended by these individuals. Had it been an election and Judge Umbel a candidate for election and these sums paid to the political committee, his lumping receipts in his account and their itemized account as a committee would have been proper and sufficient.

It will be seen from the cases which I have quoted that there is a plain distinction between the certificated watchers authorized to be within the voting place, and limited in number, and the personal workers of candidates or parties soliciting votes or aiding the candidacy of anyone, and which, both by Mr. McLean and by Mr. Bowman, were designated "special watchers." As has been well pointed out, the Pennsylvania law is opposed to corruption—bribery of the voters—but it has never set its seal of disapproval upon the widest publicity or system of canvass in order to make interest in behalf of political parties or individual candidates.

I have given some care to a consideration of this case, and unhesitatingly venture an opinion, based upon the examination of all the authority, that the employment by a candidate of special watchers to aid in creating interest in his behalf, in addition to the watchers authorized by certificate, to remain in the voting room, is a legitimate expenditure. [Applause.]

It may be of interest to quote more extensively from the act defining the duties of watchers:

WATCHERS.

(Act of 1903, Apr. 16, P. L. 213, sec. 1.)

Each party which has by its primary meeting board, caucus convention, sent to the proper officers a certificate of nomination, and each group of citizens which has sent to the proper office a nominating paper as provided in sections 2 and 3 of this act shall be allowed to appoint three qualified watchers, who must be three elective residents of the division, etc., in each voting place, without expense to the county, one of whom shall be allowed to remain in the room outside the inclosed space. Each watcher shall be provided with a certificate from the county commissioners, stating his name, the names of the persons who appointed him, and the party or policy he represents, and no party or policy shall be represented by more than one watcher in the same voting room at the same time. Watchers shall be required to show their certificates when required to do so.

Until the polls are closed no person shall be allowed in the room outside the inclosed space except the watcher, voters not exceeding 10 at any one time who are awaiting their turn to prepare their ballots, and peace officers when necessary for the preservation of the peace. (This section amends section 23, act of 1893, June 5.)

The watchers appointed by this act have different duties from overseers required to be appointed under act of 1874. (214 Pa., 63, Parrish petition.)

It appears to me that much confusion has arisen in this case owing to the fact that there has been a misconception as to the relationship of a political or party committee to a candidate. The political committee or party has a legal standing as such quite distinct from the candidate, and in no sense can the political committee be considered the agent of the candidate. At primary elections, however, the political committee has no standing, its duties and right to expend money as such begins only when nominations are made. Jonathan D. Davis, according to the testimony in the case, was the manager for Mr. Bowman at the primaries. After Mr. Bowman's nomination he was selected under the party rule to be the chairman of the party of the congressional district, and as such he was not either under the law or under the facts in this case the agent of Mr. Bowman. Mr. Bowman's account of his expenditures was duly filed, and Chairman Davis received contributions from a number of persons in addition to Mr. Bowman, and under the law filed his account. It is only by seeking to place Mr. Davis in the position of agent of Mr. Bowman that the semblance of a case is presented.

The need for special watchers to get out the vote was apparent. The special difficulty which confronted candidates was in getting the voters to vote. The election in 1910, at which thousands of voters failed to vote, establishes this.

The careless but fully explained remarks of witnesses for which Mr. Bowman was not responsible and concerning which he had no knowledge are made the basis of serious attack. It is unsafe to seek to establish conclusions from single sentences torn from their associations. Less money was expended in this campaign than in many which preceeded it.

The battling forces of mighty error have ever wrested texts from Holy Writ and sought thereby to prove that right was wrong and wrong was right and to enthrone themselves upon the pedestal of their own unrighteousness.

The unseating of Mr. Bowman will disfranchise the voters of the Luzerne district, a majority of whom desire him for their Congressman. But the seating of George R. McLean will be a violent and anarchistic error, the chief purpose of which will be apparent to everyone, and the Treasury of the United States despoiled of fifteen or twenty thousand dollars which George R. McLean will be permitted to draw for his expenses and back pay in order to satisfy the desires of those who may seek to override the facts in order to place him in a position to which he was not elected. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania [Mr. AINEY] has expired.

Mr. AINEY. Mr. Speaker, I desire to ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. AINEY] asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. ANSBERRY. Mr. Speaker, I desire to give notice that we will call this resolution up on Thursday afternoon, after the reading of the Journal, for the finishing of the debate, which will run for about an hour and ten minutes more, and for a vote.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. LITTLEPAGE, for three days, on account of illness.

To Mr. LINTHICUM, for three days, on account of important business.

To Mr. SAUNDERS, for two days, on account of illness.

ADJOURNMENT.

Mr. ANSBERRY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 52 minutes p. m.) the House adjourned until Wednesday, December 11, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of Commerce and Labor, inviting attention to certain items of proposed legislation relating to the Lighthouse Service for the fiscal year 1914, contained in the Book of Estimates of Appropriations (H. Doc. No. 1111); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting supplemental and revised estimates of appropriations required by the War Department for the service of the Army for the fiscal year ending June 30, 1914 (H. Doc. No. 1119); to the Committee on Military Affairs and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Green River, Ky. (H. Doc. No. 1118); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Ponchatoula River, La. (H. Doc. No. 1117); to the Committee on Rivers and Harbors and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of waterways from Louisville to Savannah, Ga. (H. Doc. No. 1116); to the Committee on Rivers and Harbors and ordered to be printed.

6. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Alabama River, Ala. (H. Doc. No. 1115); to the Committee on Rivers and Harbors and ordered to be printed.

7. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Chowan River, N. C. (H. Doc. No. 1114); to the Committee on Rivers and Harbors and ordered to be printed.

8. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination and survey of Satilla River, Ga., above Burnt Fort (H. Doc. No. 1113); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

9. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Cove Harbor, Conn. (H. Doc. No. 1122); to the Committee on Rivers and Harbors and ordered to be printed.

10. A letter from the Secretary of the Interior, transmitting special report of superintendents of irrigation on irrigation and flood protection, Papago Indian Reservation (S. Doc. No. 973); to the Committee on Indian Affairs and ordered to be printed with illustrations.

11. A letter from the Secretary of the Treasury, transmitting communication from the Acting Secretary of Commerce and Labor submitting a statement of expense incurred from appropriations for expenses of regulating immigration for the fiscal year ended June 30, 1912 (H. Doc. No. 1120); to the Committee on Expenditures in the Department of Commerce and Labor and ordered to be printed.

12. A letter from the Secretary of War, recommending that there be inserted in the sundry civil appropriation bill for the fiscal year 1914, after the appropriation "Repairing roads to national cemeteries," an amendment conveying to city of Springfield, Mo., part of the roadway approach to national cemetery near that city and inclosing copy of letter from the mayor of Springfield, together with blue print of national cemetery (H. Doc. No. 1121); to the Committee on Appropriations and ordered to be printed with illustrations.

13. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report of examination and survey of Chesapeake Bay at Cape Charles City, Va. (H. Doc. No. 1112); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CALDER: A bill (H. R. 27000) authorizing 15 days' leave of absence with pay to per diem employees of the Lighthouse Service of the Department of Commerce and Labor; to the Committee on Interstate and Foreign Commerce.

By Mr. LOBECK: A bill (H. R. 27001) authorizing the Shoshone Tribe of Indians residing on the Wind River Reservation, in Wyoming, to submit claims to the Court of Claims; to the Committee on Indian Affairs.

By Mr. BARNHART: A bill (H. R. 27002) to provide for the purchase of a site for a public-building at Plymouth, Ind.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27003) to provide for the purchase of a site for a public building at Warsaw, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. MOSS of Indiana: A bill (H. R. 27004) providing for the purchase of a site and the erection of a public building thereon in the city of Clinton, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. SIMMONS: A bill (H. R. 27005) to amend an act approved June 30, 1906, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes"; to the Committee on Interstate and Foreign Commerce.

By Mr. RUBEY: A bill (H. R. 27006) for the purchase of a site and the erection of a public building in the town of Salem, Mo.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27007) for the purchase of a site and the erection of a public building in the town of Marshfield, Mo.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27008) for the purchase of a site and the erection of a public building in the town of Mountain Grove, Mo.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27009) for the purchase of a site and the erection of a public building in the town of Lebanon, Mo.; to the Committee on Public Buildings and Grounds.

By Mr. SHARP: A bill (H. R. 27010) to increase the limit of cost for the Federal building site heretofore authorized at Ashland, Ohio; to the Committee on Public Buildings and Grounds.

By Mr. HANNA: A bill (H. R. 27011) placing all postmasters of fourth-class post offices on a salary; to the Committee on the Post Office and Post Roads.

By Mr. MONDELL: A bill (H. R. 27012) providing for the expenditure of 25 per cent of the receipts from national forests for road and trail construction; to the Committee on Agriculture.

By Mr. CANDLER: A bill (H. R. 27013) to increase the limit of cost for the public building at Corinth, Miss.; to the Committee on Public Buildings and Grounds.

By Mr. FRANCIS: A bill (H. R. 27014) to amend section 4747 of the Revised Statutes, relating to pensions; to the Committee on Invalid Pensions.

By Mr. BATES: A bill (H. R. 27015) increasing the limit of cost of public building at Corry, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. RAKER: A bill (H. R. 27016) to require common carriers engaged in interstate commerce by railroad to equip all locomotive engines used in interstate traffic in transportation of trains with headlights of not less than 1,500 candlepower, and to provide a penalty for the violation of the same, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HUMPHREY of Washington: A bill (H. R. 27017) to extend the time for the completion of the Alaska-Northern Railway, and for other purposes; to the Committee on the Territories.

By Mr. CULLOP: Resolution (H. Res. 741) requesting the Interstate Commerce Commission to investigate costs in repair shops of railroads, car shortages, and storages, and report to the House; to the Committee on Interstate and Foreign Commerce.

By Mr. UNDERWOOD: Resolution (H. Res. 742) relating to messages of the President of the United States communicated to the two Houses of Congress on December 3 and 6, 1912; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred, as follows:

By Mr. AMES: A bill (H. R. 27018) granting a pension to Maria M. Emery; to the Committee on Invalid Pensions.

By Mr. BORLAND: A bill (H. R. 27019) granting an increase of pension to Addison D. Madeira; to the Committee on Invalid Pensions.

By Mr. CALDER (by request): A bill (H. R. 27020) for the relief of Lamont-Corliss & Co.; to the Committee on Claims.

By Mr. CANNON: A bill (H. R. 27021) granting a pension to Mary Knight; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27022) granting a pension to Christopher E. Hyland; to the Committee on Pensions.

Also, a bill (H. R. 27023) granting an increase of pension to Robert M. Leef; to the Committee on Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 27024) for the relief of R. O. Hatfield; to the Committee on War Claims.

By Mr. CRUMPACKER: A bill (H. R. 27025) granting a pension to Lydia W. Wolgamot; to the Committee on Invalid Pensions.

By Mr. DAVENPORT: A bill (H. R. 27026) granting an increase of pension to William H. Barton; to the Committee on Invalid Pensions.

By Mr. DODDS: A bill (H. R. 27027) to correct the military record of John E. Sprick, alias Henry Smith; to the Committee on Military Affairs.

By Mr. FIELDS: A bill (H. R. 27028) for the relief of the heirs of William D. Jones, deceased; to the Committee on War Claims.

By Mr. FOSTER: A bill (H. R. 27029) granting an increase of pension to Thomas L. Goddard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27030) to remove the charge of desertion from the record of Andrew J. Askew; to the Committee on Military Affairs.

By Mr. HANNA: A bill (H. R. 27031) granting a pension to Lucinda H. Knox; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27032) granting an increase of pension to Allen H. De Groff; to the Committee on Invalid Pensions.

By Mr. HELM: A bill (H. R. 27033) for the relief of the estate of John Wesley Eubanks, deceased; to the Committee on War Claims.

By Mr. HOUSTON: A bill (H. R. 27034) granting a pension to Mary E. Ferrell; to the Committee on Pensions.

By Mr. LAFFERTY: A bill (H. R. 27035) granting an increase of pension to William D. Ewing; to the Committee on Pensions.

Also, a bill (H. R. 27036) granting a pension to Nancy E. Tate; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27037) to correct the military record of Fred W. Godfrey; to the Committee on Military Affairs.

By Mr. MORRISON: A bill (H. R. 27038) granting an increase of pension to George S. West; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27039) granting an increase of pension to John L. Gibson; to the Committee on Invalid Pensions.

By Mr. NEEDHAM: A bill (H. R. 27040) granting a pension to Maud Fickert; to the Committee on Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 27041) granting an increase of pension to John Anderson; to the Committee on Invalid Pensions.

By Mr. PROUTY: A bill (H. R. 27042) granting an increase of pension to Fred Babcock; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27043) granting an increase of pension to Henry L. Armstrong; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 27044) granting an increase of pension to John M. Schaler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27045) granting a pension to Hannah Brewer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27046) granting an increase of pension to Lewis M. Osborne; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27047) granting an increase of pension to Daniel O. C. Marine; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27048) granting an increase of pension to Henry Bolner; to the Committee on Invalid Pensions.

By Mr. RODENBERG: A bill (H. R. 27049) granting an increase of pension to Charles Kaiser; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 27050) granting an increase of pension to Malinda McKinley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27051) granting an increase of pension to Calvin Hedgpeth; to the Committee on Invalid Pensions.

By Mr. SCULLY: A bill (H. R. 27052) granting a pension to Mary Jones; to the Committee on Pensions.

By Mr. SHACKLEFORD: A bill (H. R. 27053) granting an increase of pension to James E. Crane; to the Committee on Invalid Pensions.

By Mr. SLOAN: A bill (H. R. 27054) for the relief of Martin Hagarity; to the Committee on Military Affairs.

Also, a bill (H. R. 27055) granting a pension to Lucy B. Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27056) granting a pension to Catherine Leach; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27057) granting an increase of pension to Thomas C. Allen; to the Committee on Invalid Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 27058) granting a pension to Eliza C. Spears; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 27059) for the relief of Francis A. Land; to the Committee on Military Affairs.

Also, a bill (H. R. 27060) granting an increase of pension to Marshall V. Vaden; to the Committee on Pensions.

By Mr. TILSON: A bill (H. R. 27061) granting an increase of pension to Kate D. Linsley; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Branch No. 898, Letter Carriers' Association, Canal Dover, Ohio, favoring the passage of the Hamill civil-service pension bill; to the Committee on Pensions.

Also, petition of Ross & Hill and 10 other merchants of Denison, Ohio, asking that the Interstate Commerce Commission be given further power toward regulating the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. CALDER: Petition of Flandrau & Co., New York, N. Y., favoring the passage of House bill 26277, to establish a United States court of patent appeals; to the Committee on the Judiciary.

Also, petition of the Lake Michigan Sanitary Association, Chicago, Ill., favoring enactment of legislation making appropriations for the investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

Also, petition of National Society for the Promotion of Industrial Education, favoring passage of bill giving Federal aid to vocational education; to the Committee on Agriculture.

By Mr. DIFENDERFER: Petition of the Perkins Glue Co. and others, of Lansdale, Pa., favoring the passage of the Sulzer bill (H. R. 26277) to establish a United States court of patent appeals; to the Committee on the Judiciary.

Also, petition of the State Council of Pennsylvania, Order of Independent Americans, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FOCHT: Papers to accompany bill (H. R. 26893) for the relief of Mary Murphy; to the Committee on Invalid Pensions.

Also, papers to accompany bill (H. R. 26967) for the relief of Anna N. Carson; to the Committee on Invalid Pensions.

By Mr. FULLER: Petition of the congressional committee, United States Military Telegraph Corps, favoring the passage of House bill 2920, granting pensions to members of the Military Corps in the United States Army during the Civil War; the Committee on Invalid Pensions.

Also, petition of the Rockford (Ill.) Manufacturing & Shippers Association, favoring the passage of the Newlands river regulation bill creating a board of river regulation; to the Committee on Rivers and Harbors.

By Mr. HANNA: Petition of citizens of North Dakota, favoring the passage of the amended Kenyon bill (S. 4043); to the Committee on the Judiciary.

By Mr. LANGHAM: Petition of the Lake Michigan Sanitary Association, Chicago, Ill., favoring appropriation for the investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

Also, petition of Pennsylvania State Camp, Patriotic Order Sons of America, Philadelphia, Pa., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. LEVY: Petition of the New York Produce Exchange, New York, N. Y., favoring the passage of the Pomerene substitute bill (S. 957); to the Committee on Interstate and Foreign Commerce.

Also, petition of the Lake Michigan Sanitary Association, Chicago, Ill., favoring an appropriation for the investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. McKELLAR: Petition of citizens of Memphis, Tenn., favoring the passage of the Kenyon-Sheppard liquor bill; to the Committee on the Judiciary.

By Mr. MONDELL: Petition of citizens of Powell, Cody, and Basin, Wyo., favoring passage of bill giving the Interstate Commerce Commission further power toward regulation of express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. NEEDHAM: Petition of dairymen of California, protesting against the passage of any legislation removing the tax from oleomargarine; to the Committee on Agriculture.

Also, petition of State Council of Pennsylvania, Order of Independent Americans, Philadelphia, Pa., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the board of directors of the Modesto irrigation district, protesting against the passage of any legislation changing the boundary line of the Yosemite National Park; to the Committee on the Public Lands.

By Mr. PARRAN: Papers in support of bill (H. R. 26847) granting an honorable discharge from the military service; to the Committee on Military Affairs.

By Mr. ROBINSON: Papers to accompany bill (H. R. 26989) for relief of heirs of James Thompson; to the Committee on War Claims.

By Mr. SULZER: Petition of citizens of New York, favoring passage of House bill 26277, to establish a United States court of patent appeals; to the Committee on the Judiciary.

By Mr. UNDERHILL: Petition of the State Camp of New York, Patriotic Order Sons of America, Binghamton, N. Y., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. WILLIS: Papers to accompany bill (H. R. 26997) granting an increase of pension to Lemuel H. Mahan; to the Committee on Invalid Pensions.

SENATE.

WEDNESDAY, *December 11, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary read the Journal of yesterday's proceedings.

Mr. CULLOM. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore (Mr. BACON). The Senator from Illinois suggests the absence of a quorum. The Secretary will proceed to call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Foster	Massey	Sanders
Bankhead	Gallinger	Myers	Smith, Ga.
Brandegee	Gardner	Newlands	Smith, S. C.
Bristow	Gronna	O'Gorman	Smoot
Brown	Hitchcock	Oliver	Stephenson
Bryan	Johnson, Me.	Overman	Sutherland
Burnham	Johnston, Ala.	Owen	Swanson
Clapp	La Follette	Page	Thornton
Clark, Wyo.	Lea	Penrose	Townsend
Clarke, Ark.	Lodge	Perkins	Warren
Crane	McCumber	Perky	Works
Crawford	McLean	Pomerene	
Cullom	Martin, Va.	Richardson	
Davis	Martine, N. J.	Root	

Mr. PAGE. I wish to announce the continued absence of my colleague [Mr. DILLINGHAM], and that he is not able to be in attendance.

The PRESIDENT pro tempore. On the call of the roll 53 Senators have responded to their names. A quorum of the Senate is present. The Journal having been read, if there is no inaccuracy it will be considered as confirmed.

NATIONAL FOREST RESERVATION COMMISSION (H. DOC. NO. 1158).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, a report of the National Forest Reservation Commission for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Forest Reservations and the Protection of Game and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed Senate concurrent resolution No. 31, providing for the appointment of a joint committee to make necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next, and in compliance therewith the House had appointed Mr. RUCKER of Missouri, Mr. GARRETT, and Mr. McKINLEY the committee on the part of the House.

The message also announced that the House insists upon its amendment to the bill (S. 3436) granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. ROBERTSON, Mr. GRAHAM, and Mr. VOLSTEAD managers at the conference on the part of the House.

The message further announced that the House had passed a bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

Mr. OLIVER presented a petition of the Ministerial Association of Beaver Falls, Pa., and a petition of 300 citizens of Masontown, Pa., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

He also presented a memorial of Local Union No. 163, International Union of the United Brewery Workmen of America, of Wilkes-Barre, Pa., remonstrating against the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

Mr. BRYAN. I present a petition of the Board of Trade of the city of Eustis, Fla., praying for the passage of the so-called Kenyon-Sheppard liquor bill. I ask that the petition lie on the table and be printed in the RECORD.

There being no objection, the petition was ordered to lie on the table and to be printed in the RECORD, as follows:

EUSTIS BOARD OF TRADE.
Eustis, Fla., December 6, 1912.

Hon. N. P. BRYAN.

DEAR SENATOR: At a meeting of the board of trade of the city of Eustis held this evening it was unanimously resolved to request you to vote for and work for the passage of the Kenyon-Sheppard bill now before Congress. When the subject was introduced it was discussed, and upon motion the resolution was adopted without a dissenting voice. We feel that you could not confer a greater honor upon yourself than by heeding this petition.

Respectfully,

E. L. FERRAN,
President Board of Trade, President Lake County Publishing Co., President E. L. Ferran & Co., Merchants.
D. J. CALDWELL,
Vice President Board of Trade, Proprietor D. J. Caldwell Hardware Co.
H. C. HANNAH,
Secretary Board of Trade, Secretary Lake County Manufacturing Co.
W. F. MANTEY,
Treasurer Board of Trade, Proprietor Mantey Bros., Stationers.

Attest:

HENRY W. BISHOP,
Secretary Pro Tempore Board of Trade, ex-President Board of Trade, ex-Mayor City of Eustis, Attorney at Law.

Mr. SANDERS presented a petition of members of the faculty of Maryville College, Maryville, Tenn., and a petition of sundry citizens of Blount County, Tenn., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

Mr. McCUMBER presented petitions of sundry citizens of Drayton, Cheyenne, Buxton, Casselton, Hatton, Beach, and Wyndmere, all in the State of North Dakota, praying for the passage of the so-called Kenyon interstate liquor bill, which were ordered to lie on the table.

Mr. McLEAN presented a memorial of Local Union No. 126, International Union of the United Brewery Workmen, of Waterbury, Conn., remonstrating against the passage of the so-called

Kenyon interstate liquor bill, which was ordered to lie on the table.

Mr. LEA presented memorials of sundry citizens of Tennessee, remonstrating against the installation of the so-called Taylor system of shop management in Government navy yards, etc., which were ordered to lie on the table.

He also presented petitions of sundry citizens of Nashville, Memphis, Knoxville, McKenzie, Sumner County, Fayette County, White County, Madison County, Polk County, Davidson County, Robertson County, Morgan County, Franklin County, Crockett County, Henry County, Dickson County, Chester County, McNairy County, Overton County, McMinn County, Putnam County, Gibson County, Hardin County, Decatur County, Dekalb County, Knox County, Carroll County, Hamilton County, Lawrence County, Fentress County, Dyer County, all in the State of Tennessee, and of the Woman's Missionary Society of the First United Presbyterian Church, of Washington, D. C., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

Mr. BROWN presented sundry affidavits in support of the bill (S. 7595) granting an increase of pension to Nelson Taylor, which were referred to the Committee on Pensions.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. TOWNSEND:

A bill (S. 7708) granting an increase of pension to Olive Stell (with accompanying paper); to the Committee on Pensions.

By Mr. THORNTON:

A bill (S. 7709) for the relief of the estate of Philip Felix Herwig, deceased; to the Committee on Claims.

By Mr. McCUMBER:

A bill (S. 7710) granting an increase of pension to Mary M. Croft; and

A bill (S. 7711) granting an increase of pension to John Enright (with accompanying paper); to the Committee on Pensions.

By Mr. CRAWFORD:

A bill (S. 7712) granting an increase of pension to Riley Hawley (with accompanying paper); to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 7713) establishing compensation of certain customs officials; to the Committee on Finance.

By Mr. CRAWFORD (for Mr. GAMBLE):

A bill (S. 7714) granting an increase of pension to John W. Culver (with accompanying papers); and

A bill (S. 7715) granting a pension to Catherine E. Brown (with accompanying papers); to the Committee on Pensions.

By Mr. STEPHENSON:

A bill (S. 7716) granting an increase of pension to James Mitchell (with accompanying papers); to the Committee on Pensions.

By Mr. FLETCHER:

A bill (S. 7717) granting an increase of pension to Edmund P. Banning; and

A bill (S. 7718) granting a pension to Austin Mooney; to the Committee on Pensions.

AMENDMENT TO LEGISLATIVE APPROPRIATION BILL.

Mr. MYERS submitted an amendment proposing to appropriate $10,400 for the maintenance of an assay office at Helena, Mont., etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

HOUSE BILL REFERRED.

H. R. 26680. An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

OMNIBUS CLAIMS BILL.

The PRESIDENT pro tempore. The morning business is closed.

Mr. CRAWFORD. I ask that the consideration of House bill 19115, known as the omnibus claims bill, be resumed.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. There is an amendment pending.

The PRESIDENT pro tempore. The pending amendment, the Chair is informed, is an amendment submitted by the Senator from Massachusetts [Mr. LODGE]. It will be read.

The SECRETARY. On page 264, after line 17, in the Massachusetts items, insert:

To Thomas B. Flower, of Greenville, Mass, $5,538.

The PRESIDENT pro tempore. The question is on the adoption of the amendment.

Mr. CRAWFORD. Mr. President, when the Senator from Massachusetts offered this amendment yesterday he had the findings of the Court of Claims printed in the RECORD, and they are in the RECORD of yesterday's proceedings. This item was not in the bill as it passed the House. The Senate committee, after examining the items in the bill as it passed the House, proposed an amendment striking out a very large number of claims of the same character and having the same standing as this claim which the Senator from Massachusetts proposes shall be paid. This amendment, which he proposed some time ago, was referred to the committee and received very careful consideration by that committee, and the committee decided against incorporating it in the bill.

Mr. President, I wish to call attention to claims of this class. In the first place, it is for what may be called stores and supplies, although two items in it are for woodland, 163 acres of timber and 133 acres of timber, apparently standing timber, as estimated by the agent. Among the items is a claim for a henhouse and a corncrib and divers items of that kind, which it is claimed were taken by the military forces of the United States for the use of the Army in 1864.

This claim was sent to the Court of Claims under what is known as the Tucker Act. That act required that the court make a finding, giving any excuse which the claimant might have for long delay in presenting his claim. The court, in its findings, say that—

> The claim was not presented to the Southern Claims Commission, and no evidence has been offered by the claimant under the act of March 3, 1887, "bearing upon the question whether there has been any delay or laches in presenting such claim or applying for such grant, gift, or bounty, and facts bearing upon the question whether the bar of any statute of limitation should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy."

It was sent to the Court of Claims under an act which required the court to find what the facts were that might be considered in excusing the claimant for his delay and laches, and the court finds no evidence whatever upon the question why during all these years this claim had not been presented to any department of the Government. It was not presented to the Southern Claims Commission; it was not sent to the Court of Claims under the Bowman Act; but apparently it was allowed to slumber from 1864 until the year 1900, when for the first time it was sent to the Court of Claims under the Tucker Act. Now, that is a period or more than a generation. For a period of about 36 years this claim lay dormant and was not presented to any department of the Government. Sir, during that time the claimant died. The court finds in the year 1902 that this claimant was loyal. Mr. President, it can be seen at a glance how difficult it would be, after the expiration of 36 years, the original claimant himself being in his grave, for the Government to get testimony with reference to whether or not he was not loyal.

But it is a notorious fact, which appears all through the omnibus claims bill, that after an ancestor, who during his lifetime was too conscientious and had too much regard for his sense of propriety to come forward and assert a claim, is dead and gone, his children come forward and urge the claim, saying that he was loyal, and this, too, when all the witnesses who lived at the time the claim arose are dead and in their graves and there is no opportunity for the Government to make an issue with reference to the matter. Some of these children come in here and ask damages for corn cribs or for spoliation of timber lands by the hundreds of acres more than a generation ago, and say that the ancestor was loyal. Loyalty is a very general term; it is largely a state of mind; and, as the court has said over and over again, the most competent witness upon the question of loyalty, if he will tell the truth, is the claimant himself who originally had the right to assert the claim. When he is dead, when his lips are forever closed, and when no issue can be made with reference to him, after all the parties are gone and the transaction is a stale one, the children come in and say the ancestor was loyal. That puts the Government of the United States at a very great disadvantage, indeed. Then, when the claimant goes into court under a law which requires the Court of Claims to find what explanation there is for his delay, and under that statute the court takes jurisdiction of the claim and reports it back here without a single

explanation, without any facts whatever to explain the long years that have gone by since the facts arose upon which the claim is based, it seems to me we are opening the door in a very reckless and very dangerous way to go into the appropriation of money to satisfy claims of such a character.

In war all the residents of the country with which we are at war are enemies—public enemies—they are so regarded; and to bring a claim on account of soldiers going through forests and in the conduct of war laying waste to trees, so that they are estimated by the acre—133 acres of timber—is bringing a claim against the Government which arose during the war of such a character that it seems to me it would be a very dangerous precedent, indeed, to appropriate money to satisfy it.

As I have said over and over again, if this particular claim is allowed upon this state of facts, and we are to load this bill down with such claims, I will say frankly to the Senate that after the bill is so loaded it will not have my support.

I have investigated these claims personally. I have not taken the word of clerks; I have taken the findings, and I have carefully and conscientiously gone through each one of them and reported to the full committee the facts which I found. That committee, after seriously considering them, decided to reject this claim and others of this class. It is for the Senate to say whether they will sustain the committee in that policy or throw the bars down here and go into a discussion of all the multitudinous details and facts in relation to stale claims of this character.

I submit to the Senate that the amendment ought not to be accepted.

Mr. LODGE. Mr. President, I have no desire to protract the discussion of this particular amendment. I am unable to say why there was delay in the presentation of the claim, but I do wish to say a single word in regard to one statement made by the Senator from South Dakota as to the children of the man in whose name the claim is made coming forward and making a statement about his loyalty which he would have been unwilling to make. I happen to know the son of this man who, I think, is the one who has brought the claim. He is a young man of a great deal of talent and ability and of the highest character. He is utterly incapable of making any statement for the purpose of getting money from the Government which he did not thoroughly believe to be true. I think it is only just to him to say that I am sure that he is thoroughly convinced that this is an honest and proper claim and that he never would have alleged the loyalty of his father unless he had been perfectly certain of it. I know this case comes under a class of claims very much disputed, but I felt when I introduced it that it was an honest claim and a good claim, and for that reason I presented it. I do not wish to delay the Senate any further.

Mr. CRAWFORD. Just one word further, Mr. President. I do not wish to start in here on one item with a lengthy discussion, but the Tucker Act, under which this claim was sent to the Court of Claims, provides that that court shall also report whether there are any equitable grounds upon which the claim might be allowed. There is absolutely no report under the Tucker Act that there are equitable grounds upon which this claim should be considered.

Another thing. It is said that this property was taken by the military forces for the use of the Army, but it is not said, as is customary in such cases, that it was taken by authority of the Government. It is simply said that it was taken by the military forces for the use of the Army.

Mr. LODGE. The court says specifically that it was taken by proper authority.

Mr. CRAWFORD. That is in the statement of facts, taken from the petition, but not in the findings. The findings are that there was taken from the claimant's decedent in Dinwiddie County——

Mr. LODGE. Yes; that is the statement of fact.

Mr. CRAWFORD. Certainly. That is merely the allegation.

Mr. LODGE. Yes; that is true.

Mr. CRAWFORD. But in the statement of facts it does not say that it was by authority of the Government.

That is not all. Under the laws relating to these claims there should have been a receipt issued by the quartermaster, or whoever represented the Government at the time this property was received, if it was taken in that way and for the use of the Government by authority of the Government. There is nothing of that kind here. The most that can be claimed for these facts is that this property was taken by the United States forces and was used for the Army, but there is nothing in the findings to show that it was taken by the authority of the commanding officer or that it was receipted for, so there is not any evidence of that class and character which, under several of the acts, it is contemplated should be produced before the claim would have any standing before an auditor of the War Department.

I ask that the amendment be rejected, Mr. President.

The PRESIDING OFFICER (Mr. SMITH of Georgia in the chair). The question is on the amendment offered by the Senator from Massachusetts [Mr. LODGE]. [Putting the question.] The ayes seem to have it.

Mr. CRAWFORD. I call for a division, Mr. President.

The PRESIDING OFFICER. A division is called for.

Mr. CRAWFORD. I call for yeas and nays. We might as well go on record on this claim. Some Senators evidently did not understand the question on which the vote was being taken.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Massachusetts, which the Secretary will state.

The SECRETARY. On page 264, after line 13, it is proposed to insert the following:

To Thomas B. Flower, of Greenville, Mass., $5,538.

Mr. CLARKE of Arkansas. May I ask the Senator from Massachusetts what the claim is based on?

Mr. LODGE. That is stated in the findings of the court. It is a claim for property taken and used during the war. Thomas B. Flower is dead, and the claim is brought by his heirs.

Mr. CLARKE of Arkansas. Mr. President, my understanding is that this bill is being made up upon the theory that all private claims should be omitted, except such as relate to overtime charges in favor of those who served in the postal department and various other branches of the public service.

The private claims referred to as being eliminated I supposed were private claims growing out of property taken during the war. I understood all those claims would be left over for future consideration and that the bill was to go to conference as amended on the part of the Senate, sufficient being done at this time to take care of school, church, and other undisputed claims.

I am opposed to the amendment going in the bill unless all the other private claims of the same character are also inserted. There is no reason why there should be an exception made of that one simply because the beneficiary of it happens to reside in Massachusetts.

Mr. CRAWFORD. Mr. President, the Senate has sustained the committee in practically all of the amendments reported by the committee, striking out of the bill just such claims as this. Now, the Senate will have to reverse itself with reference to two or three hundred claims or else discriminate against two or three hundred claims if it allows this one claim presented by the Senator from Massachusetts. I do not think it would be fair to the committee or wise to do anything of the kind.

Mr. THORNTON. Mr. President, I should like to ask the Senator from Massachusetts whether the claim which he now offers was embodied in the House bill?

Mr. LODGE. I have not examined the House bill to see whether it was included or not, but I think it was not.

Mr. CRAWFORD. It was not.

Mr. THORNTON. It was not in the House bill?

Mr. LODGE. No.

Mr. MARTIN of Virginia. Mr. President, I ask the Senator from Massachusetts if it has ever been to the Court of Claims, and if there is a finding from the Court of Claims?

Mr. LODGE. Yes; the findings of the Court of Claims have been rendered.

Mr. MARTIN of Virginia. Have they been read?

Mr. LODGE. They have been read. I will ask that they be read again, if the Senator so desires.

Mr. CRAWFORD. The Senator from Virginia may not have been in the Chamber at the time, but we have just discussed the issue with reference to the report of the Court of Claims. The claim was sent there under that clause of the Tucker Act which required the court to find what the facts were and to ascertain what explanation the claimant gave for his delay. Under that clause the Court of Claims found no excuse whatever for the delay. In addition to that, I have just called attention to the fact that the court findings, while they say the property was taken by the military forces, do not go to the extent of saying that the property was taken by the authority of the Government. There was no voucher, or anything of that kind produced. So that in many respects it is not as strong as cases which the Senate has sustained the committee in striking from the bill as it passed the House. This claim is not in the bill as it passed the House.

Mr. LODGE. The findings of fact read yesterday are as follows:

FINDINGS OF FACT.

I. The claimant's decedent, Thomas B. Flower, the person alleged to have furnished such supplies or stores, or from who the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

II. There was taken from the claimant's decedent, in Dinwiddie County, State of Virginia, during the War of the Rebellion by the military forces of the United States for the use of the Army property of the kind and character above described, which was then and there reasonably worth the sum of $5,538, for which no payment appears to have been made.

III. The claim was not presented to the Southern Claims Commission, and no evidence has been offered by the claimant under the act of March 3, 1887, "bearing upon the question whether there has been any delay or laches in presenting such claim or applying for such grant, gift, or bounty, and facts bearing upon the question whether the bar of any statute of limitation should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy."

Mr. CRAWFORD. The claim was not sent to the Court of Claims until 1900, 36 years after this property was alleged to have been taken, and the finding that the original claimant was loyal was made in 1902, 38 years afterwards, when the claimant was dead and in his grave. There is not anything in the record to show that up to 1900 relief was asked from any department of the Government or even a bill presented to the Congress of the United States for relief. The Court of Claims, under the Tucker Ac which required an explanation of the delay and laches, finds no explanation.

Mr. President, I withdraw my request for the yeas and nays on the amendment, but ask that the question again be put on it.

Mr. LODGE. I ask the Chair to put the question again.

The PRESIDING OFFICER. The Chair will again put the question. The question is on agreeing to the amendment offered by the Senator from Massachusetts [Mr. LODGE].

The amendment was rejected.

Mr. ROOT. Mr. President, I wish to offer an amendment covering a longevity claim. I think it is of the same character as others which have been passed upon favorably.

Mr. CRAWFORD. We have been over so many of them that I will not ask to delay the Senate by having the findings read, and I will accept the amendment with this reservation, that I wish to examine the case, and if I find in any way that it differs from the cases that we have allowed, then I am sure the Senator will concede to me that I can ask to have the action reconsidered.

Mr. ROOT. That is entirely satisfactory to me.

Mr. CRAWFORD. With that understanding on the part of the committee, I am willing to accept the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 263, after line 2, in the District of Columbia items, it is proposed to insert:

To Spencer Gordon, administrator of the estate of Charles Harris Lester, deceased, of Washington, $1,545.58.

Mr. CRAWFORD. Is that an overtime navy-yard claim?

Mr. ROOT. That is a longevity claim.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROOT. I offer another amendment. It does not come under the same head.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 268, after line 9, it is proposed to insert:

Elizabeth B. Eddy, widow of Charles G. Eddy, deceased, $602.92.

Mr. ROOT. There are findings of the Court of Claims in that case. I ask to have the findings read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

I. Claimant's decedent, Charles G. Eddy, upon whose service this claim is based, was loyal to the United States, he having served in the military service of the United States from July 26, 1862, until the close of the War of the Rebellion.

II. Said decedent was enrolled in the military service of the United States for three years on the 26th day of July, 1862, at Milwaukee, Wis., and was mustered into said service as sergeant, Company A, Twenty-fourth Wisconsin Infantry, on August 15, 1862. On December 22, 1862, he was detailed as telegraph operator at the headquarters of Gen. A. D. McCook, and served under said detail from December 22, 1862, until June 14, 1863, when the following order was issued:

[Special Field Orders, No. 192.]

HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,
Tullahoma, Tenn., June 14, 1863.

[Extract.]

* * * * * * *

4. Sergt. Charles G. Eddy, Company A, Twenty-fourth Wisconsin Volunteers, is detailed for duty in telegraph office and will report without delay to Capt. J. C. Van Duzer, assistant superintendent military telegraph.

By command of Maj. Gen. Rosecrans:

H. THRALL,
Captain and Assistant Adjutant General.

While serving under said last-mentioned detail the following order was issued:

[Special Orders, No. 93.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, February 26, 1864.

[Extract.]

35. The following enlisted men will be furloughed without pay or emoluments until further orders, to enable them to enter the service of the United States Military Telegraph Corps. They will be borne on their company rolls as on furlough. Sergt. Charles G. Eddy, Company A, Twenty-fourth Wisconsin Volunteers.

* * * * * * *

By order of the Secretary of War.

W. A. NICHOLS,
Assistant Adjutant General.

III. Said Charles G. Eddy was carried on the pay rolls of the Quartermaster Generals Department of civilian employees of the United States Military Telegraph Service for the months of January, February, and March, 1864, at $70 per month, for the months of April, May, and June at $80 per month, and from July, 1864, to May 31, 1865, at $100 per month, a total of $1,550, and he receipted to various assistant quartermasters for the payments to him of said amounts.

It does not appear that said Charles G. Eddy received any pay for services as a telegraph operator for any time prior to January 1, 1864.

IV. No general or special orders were issued by the War Department during the Civil War relative to the granting of furloughs to enlisted men to enable them to be employed in the United States Military Telegraph Service on the civilian rolls prior to October 30, 1863.

V. Said Charles G. Eddy was reduced to private September 1, 1864, and was mustered out with his company June 22, 1865. Including a net overpayment of $5.93, he has been paid by Army paymasters the pay and clothing pay of a sergeant from July 26, 1862, to August 31, 1864, and of a private from September 1, 1864, to June 22, 1865, and $200 bounty under the acts of July 22, 1861, and July 28, 1866.

VI. The salaries paid to civilian employees of the United States Military Telegraph Service in the Department of the Cumberland during the months of January of the years 1862, 1863, and 1864 varied from $15 per month to $100 per month, as follows: $15, $20, $27, $30, $33, $35, $37, $38, $40, $47, $50, $55, $58.20 ($1.94 per day), $60, $65, $70, $75, $76, $80, and $100 per month.

VII. The difference between the pay of a telegraph operator for the period from December 23, 1862, to December 31, 1863, inclusive, at $70 per month, the rate allowed said Charles G. Eddy during the first three months of his service as civilian employee of the United States Military Telegraph Service, as shown in Finding III, and the pay and clothing pay received by him as sergeant during said period is $602.92, after deducting the overpayment of $5.93 as aforesaid.

VIII. The claim herein was duly presented to the accounting officers of the Treasury Department, but by them disallowed April 30, 1896, on the ground that they found nothing due the claimant's decedent under existing law.

BY THE COURT.

Filed the 2d day of December, 1907.
A true copy.
Test this 5th day of December, A. D. 1907.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. ROOT. Mr. President, this little claim has heretofore passed the Senate, and I know of no reason why it should not be put into this bill, unless it be the general consideration relating to the kinds of claims to go into the bill.

Mr. CRAWFORD. May I ask the Senator when the bill passed the Senate?

Mr. ROOT. I think it was in the last session of the last Congress—the Sixty-first Congress.

Mr. CRAWFORD. It was not reported by the committee.

Mr. ROOT. It reached the House too late to be acted upon.

I want to appeal to the chairman of the committee and to the Senate not to apply that rule to this claim, for this reason: This man was a veteran of the Civil War. He was mustered into the service of the United States in April, 1862, with a Wisconsin regiment, and shortly after, the officers ascertaining that he was a skilled telegrapher, he was ordered to duty as a telegrapher at headquarters and was kept there. He had become a sergeant. He was deprived of the opportunity for promotion, deprived of the opportunity for distinction in the military service, which as a young man he was seeking, and was obliged to stay at a desk and do the work of a telegrapher, side by side with civil telegraphers who were paid the salaries that were mentioned in the findings of the Court of Claims, while he was receiving the pay only of a private in the Army.

He brought to me an autograph letter of Gen. Sherman to him containing the highest encomiums upon his fidelity and value of his service. If this just claim is deferred, it never will be of any use to the claimant. As the Senate has once passed upon the case and as the Court of Claims has passed upon it, I hope the Senate will put it in this bill.

Mr. CRAWFORD. Mr. President, I remember quite distinctly talking with the Senator from New York about this claim and reading the letter from Gen. Sherman, which, of course, appeals to anyone who reads it; but I have no recollection of this claim having been reported by the Committee on Claims. I remember we had it before us and there was objection to it,

and, as I recall it, the committee did not make a report upon it. It may have come through some other committee, but I doubt very much if that bill was reported favorably by the Committee on Claims.

Mr. ROOT. I do not know. I have a memorandum that it passed the Senate in the Sixty-first Congress, but too late to pass the House.

Mr. CRAWFORD. If the Senator will permit me, I wish to call attention to some facts disclosed in the findings of the Court of Claims with reference to Mr. Eddy's compensation. He received pay and clothing pay of a sergeant from July 26, 1862, to August 31, 1864, and of a private from September 1, 1864, to June 22, 1865, and $200 bounty, under the acts of July 2, 1861, and July 22, 1866. There was $200 bounty. Then in January, February, and March, 1864, Mr. Eddy received $70 a month as a telegraph operator, while during the same time he drew pay as a sergeant. That is, he got pay as a sergeant as well as pay as a telegraph operator.

Mr. ROOT. I think that is all charged against him in the findings of the Court of Claims, and this $600 is the difference between all he received and what he would have received if he had been paid what the men working side by side with him were receiving.

Mr. CRAWFORD. I want to get that clearly before the Senate. He drew for April and May and June $80 a month as an operator; at the same time he drew pay as a sergeant. My sympathy is naturally with the claimant, particularly because of the letter of Gen. Sherman, but I discovered that he drew pay as an operator, and they did not cut him off from that, and at the same time he drew pay as a sergeant. From July, 1864, to September, 1864, he drew a hundred dollars a month as an operator; and then from July, 1864, to August, 1864, covering the same period, he drew pay as a sergeant. He got a hundred dollars a month and at the same time got a sergeant's pay; and from August, 1864, to May 31, 1865, he drew a hundred dollars a month as an operator, and from September, 1864, to June 22, 1865, he drew pay as a private; and then $200 additional as bounty. So that, after all, there is not as strong a case made out in his favor on the ground that he was unjustly treated by being confined to the duties of an operator while others were drawing salaries in other capacities, because he drew pay as an operator and also pay as a sergeant and got this bounty besides.

Mr. ROOT. But there was a period from 1862, when he was ordered to this telegraph office, until 1864, when there was a general order providing for the pay to men under those circumstances as civilians during which he was receiving only his pay as a sergeant. It was not covered by that general order because it was not retroactive.

Mr. CRAWFORD. Mr. President, I wish the Senator would allow the matter to lie over until I can ascertain whether, as a matter of fact, the Committee on Claims reported this bill favorably. I have no recollection of their doing it. If the committee committed itself to this bill by a favorable report, that would put the committee in a different attitude from what I think it is in. I think the committee is in the position of having rejected this claim; and, if so, I should not feel that I could do otherwise than oppose it. But I should like to have an opportunity to do that.

Mr. ROOT. It will be quite satisfactory to me to have this amendment lie on the table until the chairman of the committee can make the inquiries he wishes.

The PRESIDING OFFICER. Without objection, it will lie on the table.

Mr. MASSEY. Mr. President, I desire to offer the following amendment to the pending bill.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 64, following line 8, insert:

NEVADA.

To John Allman, formerly of Virginia City, now a resident of the State of California, $2,358.

To John M. Forsyth, formerly of Carson City, now a resident of the State of California, $2,728.

To Frank J. McWorthy, formerly of the State of Nevada, now a resident of the State of California, $450.

To Thomas Rodgers, formerly of Virginia City, now a resident of the State of California, $440.

To the legal representatives of James M. Thompson, deceased, late of Carson City, $3,736.

Mr. MASSEY. Mr. President, the items covered by the amendment just read were in the bill at the time it passed the House and have been stricken out by the Committee on Claims in the bill as reported to the Senate.

The items grew out of a Piute Indian depredations in 1859 and 1860. It is true that no action was taken toward the presentation of these bills against the Government until many years after, and it is also true that there was no tribunal in the way of a court having power to adjudicate matters of this kind as between claimants and the Government until many years after these claims arose.

It is also true, Mr. President, that these claims were referred to the Court of Claims, and that the court has in each instance made findings of fact concerning the merits of the claims themselves; and as illustrating the facts out of which all of the claims have grown I call the attention of the Senate to and will read from the report sent to the Senate on the 16th day of December, 1904, under the certification of the clerk of the court.

I refer to the claim of John M. Forsyth, covered by the amendment which I have read.

The claimant in his petition—

Reading from the report—

The claimant in his petition makes the following allegations:

1. That he is a citizen of the United States and a resident of the State of California. That in the spring of 1860 he was a resident of the Territory of Nevada and volunteered to serve under Maj. William Ormsby in a volunteer organization raised to repel the attacks of the Piute Indians who were at the time raiding in the Territory of Nevada. That this volunteer organization was raised by the citizens in order to defend the Territory from the attacks of said Indians, there, being at the time no United States troops in the Territory or any authorized militia of the Territory.

2. That he furnished for the use of said organization various supplies, as hereinafter set forth, and in a battle with said Indians in the spring of 1860 the Indians repulsed the volunteer organization forces and captured the horses, supplies, saddles, and other equipments furnished by this claimant. That he claims pay from the United States for the following property.

Then follows in the report a list of the property upon which he bases his rights against the Government of the United States, which I shall not read.

3. That a claim for said property, with evidence therein, was on the 24th day of October, 1890, presented to the State board of examiners of Nevada, the items of said claim being as hereinbefore recited and being for sum of $6,850, under the act of the legislature of said State as follows, to wit, an act entitled "An act relative to the proving of Indian war claims," approved February 27, 1885, and February 13, 1889, respectively. (State Statutes of Nevada for 1885, p. 47, and for 1889, pp. 32, 33.)

That final action was not taken upon this claim by the State board of examiners of Nevada, but the same was reported to the governor of Nevada, being one of a list of cases marked "Action deferred." (Rep. Secretary of State, 1889–90.)

The court, upon the evidence and after considering the briefs and arguments of counsel of both sides, make the following

FINDINGS OF FACT.

I. In 1859 and early in 1860 the Indians of the Piute Tribe inaugurated a series of raids and massacres of settlers on the Carson River, Nevada Territory, and in April, 1860, they drove off a large amount of stock and killed several people and threatened the whites with extermination.

II. It became necessary, for the protection of the life and property of the settlers in and about Carson City, Virginia City, and the country intervening, to organize a company of volunteers to proceed against the Indians, and a company was organized composed of recruits from Carson City, Virginia City, and other smaller settlements, aggregating 125 or 130 men, under the command of Maj. William Ormsby. This company proceeded against the Indians, numbering several hundred; met them in a fight at Pyramid Lake, Nev., where the volunteer company was defeated with great loss. Whatever property, provisions, and supplies the company took into this campaign were used by the volunteers or abandoned or destroyed at or near Pyramid Lake, the survivors returning to their homes.

Immediately after these events home guards were formed and a regular force of volunteers was formed, recruited from residents of Carson and Virginia City, and other neighboring places, and requests for aid were sent to California, and in response several companies of volunteers and one of the regular United States soldiers were sent across the mountains and the whole force was placed under the command of Col. John C. Hays. This force, composed of several hundred men, moved against the Indians, who speedily retreated and after some small fights surrendered and sued for peace, which was granted.

III. These forces under Maj. William Ormsby and Col. Hays were provisioned and equipped by contributions from citizens of both Nevada and California. It was necessary to the success of the expeditions that the soldiers should be furnished with horses and feed, arms, ammunition, clothing, and provisions, all of which were either contributed by citizens upon request or impressed by the officers.

IV. In April, 1860, claimant resided at Carson, Nev., and was the owner of a number of horses and mules. He took an active interest in aiding in the organization of the volunteers under Maj. Ormsby and later those under Col. Hays, and enlisted in each organization.

V. At the request of Maj. William Ormsby claimant gave his services to aiding in recruiting volunteers for Ormsby's company and furnished supplies for the use of said organization, the same being actually used by them in the campaign against the Indians and being reasonably worth at the time the sum of $2,728, for which no payment appears to have been made.

VI. The evidence does not establish to the satisfaction of the court the supply of cash by the claimant.

I read from the findings of the court, Mr. President, that the Senate may know what the facts are as to each of the particular items covered by the amendment which I have proposed. These Indians were the wards of the Government. The Government had invited people to settle in the valleys in the neighborhood of these Indians. It was the duty of the Government to protect the settlers there both in their lives and property. When the trouble arose they were without that protection, and they took upon themselves, necessarily and in response, of course, to the inherent law of nature, to do that which the

Government should have provided for—that is, the protection of their own lives and their own homes and their own property—and they gave this aid to the country for that purpose, although at a subsequent date, as shown, a portion of the Regular Army was sent across the mountains from California to assist in suppressing the uprising of these Indians.

Mr. President, in addition to that these items were covered in the bill as it passed the House. In addition to that fact these same items have passed the Senate in other bills covering the same items for the same purposes. They have been passed by the Senate twice, if I have read the RECORD correctly, in January, 1909, as shown by Senate bill 7971 of the Sixty-first Congress, second session, and on the 20th of December, 1910.

Not only that, Mr. President, but the Senate of the United States and the Congress of the United States, in fact, have recognized a number of claims of similar and like character, some of which, if my recollection serves me correctly, grew out of the same transaction, and have passed bills reimbursing citizens of the State of Nevada on account of the same losses or losses growing out of Indian depredations of the same character.

There were 39 of these claims, many of which have been paid, and when the House evidently deemed the claims of sufficient importance to embody it in the bill as carrying with it that equity which appealed to the conscience of the House in the passage of the bill as it came to the Senate, I think the Senate can not afford to reject at this time these claims.

There was a moral obligation upon the part of the Government as well as a legal obligation, especially under the conditions existing in the Territory of Nevada in 1859 and 1860 to afford that protection of life and property from these marauding tribes to which the settlers were entitled. The Senate well remembers as a part of the history of this country that in those days the trails of that western country across those deserts were crowded with emigrants who were seeking the gold fields of California and settling wherever land could be found at that time upon which to settle in the western country, to build the nation that we have in the western country.

As a matter of fact, the Government did not give to these people that protection which they should have had. They were compelled to make this sacrifice for the protection the Government should have given.

While these claims may be state the mere question of their being stale ought not to be determinative of these rights where the facts are clear and undisputed. There is no doubt in my mind but that the Senate, in order to act justly regarding these claims, should adopt the amendment and give to the people making the claims what is due under the conditions and facts I have stated.

Mr. CRAWFORD. Mr. President, the claims of certain citizens of Nevada are claims which arose among the people who were taking voluntary steps in their own way to protect their settlements. That has been done in every pioneer community in every State in the United States at some time or another. The Maj. Ormsby who is mentioned was not an officer of the Regular Army of the United States. In fact, he was not connected with the Federal military establishment in any manner, shape, or form. They were going out from Carson City and Virginia City to engage in a contest with these Piute Indians, and the citizens contributed toward the fund with which they purchased the provisions and procured the horses and the equipment which these volunteers used. It seems that a fight occurred in which the settlers were defeated, and they lost a number of their horses and the provisions were consumed or destroyed.

If this had ever had any standing whatever as a claim against the Government, it would be a claim to be presented to the Committee on Indian Depredations, and it would have to proceed under the statutes that have provided for the settlement of claims of that character. Now, that attempt was made. This claim was presented as an Indian depredation claim and it was rejected. That is the entire history of this transaction. It dates away back in 1859. It never came here for reference to the Court of Claims until in the year 1900.

It seems to me that the Territory of Nevada and the State of Nevada that was evolved from it might with more propriety than the Federal Government take care of a claim no larger than this. It is less than $20,000. If their own citizens or the decedents of their own citizens there, away back in the fifties, in a voluntary movement in no way connected with any action of the Federal Government, sustained some loss, they are better prepared to know what the merits are than we at long range for a claim of this kind. Coming to the Capital of the Federal Government as late as 1900, when the transaction was in no way associated with the Federal authorities, and coming here in an omnibus claims bill in 1912, it seems to me opens a door of too great laxity in appropriating money out of the Federal Treasury to satisfy claims. I think there ought to be some responsibility fastened upon the Federal Government to justify taking money out of the Treasury and handing it over to citizens of the United States. I see no connecting link in this case whatever, and I ask that the action of the committee be sustained.

Of course, the court finds no conclusion of law. The Court of Claims finds nothing except the facts which I have recited.

I wish to say to the Senator from Nevada, in all kindness, that if the Senate rejects this amendment there will be a conference in which the views of the two Houses may be presented. The theory upon which the House puts this item in and the theory under which the Senate leaves it out will be therefore adjusted. I think it is fairer to the country, it is more in keeping with the responsibility that rests upon us in connection with the payment of money and the satisfaction of claims of this character, that we take that course rather than sustain the action of the House by placing this item in the bill.

I ask that the amendment be rejected.

Mr. MASSEY. Mr. President, just one or two words more, if I may, in response to the suggestions of the chairman of the Committee on Claims.

In the first place, Mr. President, the settlers on the Carson River in 1859 and 1860 did not voluntarily give up this property which they are now asking compensation for. As to the necessity of the donation, if the chairman wants to term it such, it was compelled by the action of the Piute Indian Tribe, who were wards of the Government, under conditions where the Government was bound to protect those citizens from their raids. There was nothing voluntarily done so far as any citizen made any contribution at that time.

The further proposition that the claims are old. I grant; but that does not militate to any extent against the justice of the claim as based upon the facts found by the Court of Claims in each of these particular cases.

It is true, as the chairman has stated, that there is no conclusion of the court as to whether these claims ought or ought not to be paid upon the facts stated in the findings. I want very frankly to state to the Senate that when I know what the facts are—and there seems to be no dispute as to the facts in either of the cases presented to the Senate—I do not ask any court or any other person to form my conclusion as to the justice or the injustice of the claim, believing that I am capable of drawing my own conclusion as well as the court would be capable of drawing its conclusion, if conclusions were necessary under the facts stated.

Not only that, Mr. President, but I desire to repeat that the Senate in the Sixty-first Congress and in a session prior thereto passed a bill upon these facts compensating these people for these losses. Not only that, Mr. President, but a large amount of money was paid under a prior appropriation act, an act of Congress of the United States, to various claimants for claims of an exactly similar kind and character, and where the facts were no clearer than they are now.

Not only that, but I desire to call the attention of the Senate to the further fact that the House—I am simply repeating because I want to emphasize the fact—following the precedent established by the Senate heretofore, deemed these claims of sufficient character and justice to include them in the bill as it passed the House, and sent the bill here for the action of the Senate upon the same line and under the same direction.

Simply because the claims are old does not militate against a just claim of any kind, and it is only a question in my mind as to whether or not these claims are just. It is not a question whether or not the transaction out of which they arose occurred in 1859 or 1899. The question is whether the Government under the undisputed facts ought to compensate these people for this property that they contributed in protecting their lives and their property under the conditions named.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from Nevada [Mr. MASSEY].

The amendment was rejected.

Mr. LODGE. Mr. President, I desire to offer a single amendment covering two claims, and I will ask to have the findings of fact read in each case, as that will put the cases most briefly before the Senate.

Mr. CRAWFORD. Have the amendments ever been referred to the committee, I will ask the Senator from Massachusetts?

Mr. LODGE. The Selfridge Board has dealt with them.

The PRESIDING OFFICER. The amendment proposed by the Senator from Massachusetts will be stated.

The SECRETARY. It is proposed to insert:

Velma C. Williams, administrator of the estate of Paul Curtis, $4,128.39.

The Secretary read the findings of fact in the case, as follows:

FINDINGS OF FACT.

I. The claimant, Nelson Curtis, is the executor of the estate of Paul Curtis, who died about the year 1872. Edwin Wright, who was the coexecutor under the will, died in the year 1890. Paul Curtis, deceased, was loyal to the Government of the United States throughout the war for the suppression of the rebellion.

II. Said Paul Curtis entered into a contract with the Navy Department September 9, 1862, to build and equip the hull of a paddle-wheel gunboat, known as a wooden double-ender and subsequently called the *Chicopee*, for $75,500. He completed the vessel, and the defendants by their proper officers paid him the contract price of $75,500, together with $3,304.20 for extra work resulting from changes and alterations during the process of the work, making a total payment to him of $78,804.20. By the contract the vessel was to be launched January 13, 1863, 126 days from the date of the contract, but was not launched until March 4, 1863. The contract allowed 50 days more for completing the vessel, but instead of being completed March 4, 1863, she was not finished until April 1, 1864, the principal cause of this delay being the delay of the machinery contractor in completing and installing the machinery of the vessel.

III. Changes in the plans and specifications and alterations of work were ordered by the Government and performed by the contractor throughout the progress of the work, many changes being made after the delivery of the vessel in New York City, some 200 miles distant from the contractor's place of business, which made such work more expensive to the contractor than it would otherwise have been. The vessel remained in New York over a year awaiting completion and installation of the steam machinery before the contractor could finally complete the work on the hull, during which time the prices of labor and materials very greatly increased, thus adding to the cost of the work performed during the period of delay.

IV. In consequence of the presentation of claims by a number of contractors for additional compensation for the construction of war vessels for the Government during the war the United States Senate on March 9, 1865, passed the following resolution:

"*Resolved*, That the Secretary of the Navy be requested to organize a board, of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels of war and steam machinery contracted for by the department in the years 1862 and 1863 cost the contractors over and above the contract price and allowance for extra work, and report the same to the Senate at its next session. None but those that have given satisfaction to the department to be considered."

The Navy Department thereupon appointed a board consisting of Commodore Selfridge, Chief Engineer Henderson, and Paymaster Eldridge, commonly known as the Selfridge Board; and the contractor in this case presented to said board a claim for $18,870.41, alleging this to have been the amount of the extra cost of said vessel to him over and above the amount received therefor.

Upon consideration said board decided that the vessel had cost the contractor over and above the amount he had received for it the sum of $4,128.39, and the board so reported to the Secretary of the Navy, by whom said report was transmitted to the Senate on January 30, 1866.

V. No evidence has been adduced to either impeach or confirm the allowance made by the Selfridge Board as aforesaid.

VI. The facts bearing upon the question whether there has been delay or laches in the presentation and prosecution of this claim appear to be that the contractor presented his claim to Congress March 16, 1864; to the Selfridge Board August 3, 1865, and to the Marchand Board in 1867. The claim was also presented to Congress in January, 1901, and later referred to the court by the United States Senate June 17, 1902, as hereinbefore mentioned.

BY THE COURT.

Filed May 15, 1907.
A true copy.
Test this 3d day of March, A. D. 1908.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. LODGE. I will state, Mr. President, that Velma C. Williams has been substituted as administrator for Nelson Curtis, owing to the death of the latter. I now ask that the findings be read in the other case—the Sampson case. The two cases stand on the same ground.

Mr. CRAWFORD. Does the Senator insist on the findings being read? They cover exactly the same conditions as to facts.

Mr. LODGE. I have made the request only to get the facts before the Senate. I, of course, can state them.

Mr. CRAWFORD. They can be printed.

Mr. LODGE. I will, then, ask to have them printed, as the time for the meeting of the Court of Impeachment arrives in a few moments.

The PRESIDING OFFICER. The next amendment proposed by the Senator from Massachusetts will be stated.

The SECRETARY. It is also proposed to insert the following item:

To George T. Sampson, survivor of the firm of George T. & Augustus Sampson, $4,015.38.

Mr. LODGE. I ask that the findings of fact in that case be printed in the RECORD.

The PRESIDING OFFICER. Without objection, they will be printed in the RECORD.

The matter referred to is as follows:

FINDINGS OF FACT.

I. George T. Sampson and his brother Augustus Sampson resided in Boston, Mass., and were associated in business from the year 1862 to 1875. They gave no aid or comfort to the rebellion, but were loyal to the Government of the United States throughout the war—from 1861 to 1865. Augustus Sampson died about the year 1894, and neither his estate nor his heirs are represented in this suit as parties claimant.

II. The said George T. Sampson and Augustus Sampson entered into a contract with the Navy Department, dated September 9, 1862, to build, launch, deliver to the engine contractor in New York City, and thereafter complete, the hull of the wooden double-ender gunboat *Mattabessett*, for the sum of $75,500. Under the contract the vessel was to be launched within 126 days from the date of the contract, or by January 13, 1863, and promptly thereafter delivered at the premises of the contractor for the steam machinery; but the vessel was not launched until April 3, 1863, 206 days after the date of the contract, and was not delivered to the machinery contractor until May 2, 1863 (reply of Navy Department, filed July 19, 1905, pp. 13, 84, 185). The contract called for the completion of the vessel within 50 days after its delivery to the machinery contractor in New York, May 2, 1863; but it was not completed until eight months thereafter, the principal cause of this delay being the delay on the part of the machinery contractor in completing the installation of the engines and machinery of the vessel.

III. During the construction and equipment of the hull of said vessel by the contractors there were numerous alterations and additions ordered by the Navy Department and made by the contractors, for which the contractors, upon the completion of the vessel, presented a claim to the Navy Department, upon which claim they were allowed and paid the sum of $3,723.70, this being the full amount of the claim, with the exception of an item of $487 for cost of awnings for hurricane deck and an item of $1,325 for additional compensation for delivery of vessel at New York. This allowance and payment of $3,723.70 was in addition to the contract prices of $75,000 for the construction of the vessel and $500 for its delivery to the machinery contractor in New York, thus making a total payment to the contractors of $79,223.70.

IV. In consequence of numerous contractors and builders of Government vessels during the war having asked additional compensation for the construction of such vessels on the ground that they had cost the contractors more than they had received for them, the Senate of the United States on March 9, 1865, passed the following resolution:

"*Resolved*, That the Secretary of the Navy be requested to organize a board of not less than three competent persons whose duty it shall be to inquire into and determine how much the vessels of war and steam machinery contracted for by the department in the years 1862 and 1863 cost the contractors over and above the contract price, and the allowance for extra work, and report the same to the Senate at its next session, none but those who have given satisfaction to the department to be considered."

The Navy Department thereupon appointed a board consisting of Commodore Thomas O. Selfridge, Chief Engineer Henderson, and Paymaster Eldridge, commonly known as the Selfridge Board; and the contractors in this case presented to said board a sworn statement of claim alleging the entire cost to them of the said vessel, *Mattabessett*, to have been $83,239.08, thus claiming the extra cost to them over and above the $79,223.70 theretofore paid them to have been $4,015.38.

Upon consideration said board decided that the vessel had cost the contractors this amount of $4,015.38 over what they had received for it, and the board so reported to the Secretary of the Navy, by whom said report was transmitted to the Senate on January 30, 1866.

V. No evidence has been offered by the Government to disprove the findings of the Selfridge Board, but some evidence has been produced by the claimant to confirm it.

VI. The contractors presented this claim to the said Selfridge Board on June 29, 1865, since which time no action appears from the record to have been taken in the prosecution of the claim until its presentation to the Fifty-seventh Congress by Senate bill No. 703, as hereinbefore set forth.

Mr. LODGE. Mr. President, these cases relate to certain claims of contractors for building vessels during the Civil War. There is no pretense that there was laches at the time. They both presented their claims immediately. They took their claims before the board known as the Selfridge Board, which was established by the Government for the purpose of dealing with such claims, and that board made awards in both cases. Like so many of the claims against the Government, the boards or commissions established by the Government make the award and then Congress does not pay the debt. The matters have dragged along until finally they were referred to the Court of Claims, and the findings of the Court of Claims have been stated. It seems to me that nothing could be stronger, according to mere justice, than these claims. They made their claims at once. The Government said, "All these claims shall be submitted to a board," admitting the liability. The board thereupon was convened, heard the claims, made the awards, and ever since Congress has refused to pay the awards. It seems to me that if any claim is a just one it is a claim of that character.

Mr. CRAWFORD. Let this amendment be considered the pending amendment, and I will ask to-morrow, after the routine morning business, to resume consideration of the bill.

Mr. JOHNSTON of Alabama. I want to put into the RECORD an amendment that I shall offer to this bill and the explanation of facts upon which I propose to offer it. It is very brief, and I merely desire it printed in the RECORD.

The PRESIDING OFFICER. Without objection, the request of the Senator from Alabama will be granted.

The matter referred to is as follows:

On page 267, at the end of line 16, after the words "this act," insert the words "and section 3480 of the Revised Statutes, so far as applicable to these claims, is hereby repealed."

STATEMENT IN REFERENCE TO AMENDMENT BY SENATOR JOHNSTON OF ALABAMA TO H. R. 19115, ON PAGE 267.

The provision now in the bill, lines 3 to 16, page 267, removes the restriction placed upon accounting officers by decisions of the comptroller in cases where the claim has once been presented and denied.

At one time the Comptroller of the Treasury decided adversely to longevity claims. Later this decision was reversed. Since that time numbers of officers who had never previously had their longevity claims passed upon presented their claims, and these claims the comptroller has allowed, but upon the principle of res adjudicata has refused to reopen and allow similar claims that his predecessors had disallowed.

There are certain other claims barred from consideration by the accounting officers by section 3480, Revised Statutes. These are all claims for services in the Army previous to April 13, 1861; that is, claims that had accrued or existed prior to the commencement of the war. In 1867, just after the war, section 3480 was enacted restricting pay officers from allowing claims or demands existing prior to April 13, 1861, in favor of any person who was not known to be opposed to and disloyal in favor of the suppression of the rebellion.

At the close of our Civil War this recognized principle of international law would have applied except for the direct prohibition upon the allowance of such claims by section 3480, enacted in 1867, before the bitterness and passion of the war had passed and as a punitive statute. The repeal of that section now in no way affects existing limitations upon the payment of claims which arose out of the war, as the section affects only debts due before the war commenced.

THE SECTION HAS BEEN REPEALED IN PART SEVERAL TIMES.

1. By an act of March 3, 1873 (17 Stat. L., 528), claims of the census takers of 1860 were exempt from the operations of this section.

2. By an act of March 3, 1877, provision was made for payment of claims of mail carriers for services performed prior to the outbreak of the Civil War, and provision made that this section should not be applicable to the payments therein authorized.

3. By "An act to repeal, in part, and to limit section 3480, Revised Statutes of the United States," approved March 11, 1898 (30 Stat. L., 276), proof of loyalty was dispensed with "in any application for bounty land where the proof otherwise shows that the claimant is entitled thereto."

STATUS OF SECTION 3480 NOW.

As above stated, the bill has already been repealed in part three times. Besides this, a bill to totally repeal the section has been twice favorably reported to the Senate by the Judiciary Committee, once by the late Senator Pettus, of Alabama, in the Fifty-ninth Congress, and in that Congress the bill passed the Senate. The second time on a report by Senator DILLINGHAM, of Vermont, in the Sixtieth Congress. A bill to repeal the section in whole is now pending in this Congress.

If claims which are now barred from consideration because they have been disallowed by the accounting officers are now going to be opened for consideration, these claims also should be so opened which have been barred from consideration by this statute.

The purpose of this amendment is to open to audit these claims of officers of the Regular Army serving in the Confederate Army. No appropriation is asked, and that question would arise after the audit.

Mr. SMOOT. I suggest the lack of a quorum, Mr. President.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Curtis	McLean	Smith, Ga.
Borah	Davis	Martine, N. J.	Smith, S. C.
Brandegee	du Pont	Myers	Smoot
Bristow	Foster	Nelson	Stephenson
Brown	Gallinger	O'Gorman	Sutherland
Bryan	Gronna	Oliver	Swanson
Burnham	Johnson, Me.	Page	Thornton
Chilton	Johnston, Ala.	Penrose	Tillman
Clapp	Kenyon	Perkins	Townsend
Crane	La Follette	Perky	Warren
Crawford	Lea	Richardson	Works
Culberson	Lodge	Root	
Cullom	McCumber	Sanders	

Mr. TOWNSEND. I desire to state that the senior Senator from Michigan [Mr. SMITH] is absent from the Chamber on business of the Senate.

The PRESIDENT pro tempore. On the call of the roll of the Senate 50 Senators have responded to their names. A quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Tuesday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies in the Jounral? If not, it will stand approved.

Mr. Manager FLOYD. Mr. President, we will ask to have Mr. W. P. Boland recalled, as his cross-examination has not been concluded.

The PRESIDENT pro tempore. The witness will be recalled.

TESTIMONY OF W. P. BOLAND—RESUMED.

Cross-examination, continued:

Q. (By Mr. WORTHINGTON.) Have you talked with anybody about the case or your evidence since you were on the stand yesterday?—A. Only my brother and Miss Boland and Miss Blackmore, when I went back to the hotel.

The PRESIDENT pro tempore. Speak louder; we can not hear you.

The WITNESS. I say only to my brother and my niece, Miss Boland, and Miss Blackmore, who is with her here as a witness.

Q. (By Mr. WORTHINGTON.) You said yesterday that Judge——A. (Interrupting.) I might say that I spoke to Mr. WEBB. I said, "How do you do?" out here in the corridor.

Q. In the corridor?—A. Yes, sir.

Q. You said yesterday that Judge Witmer laughed you out of his court?—A. I did; yes, sir.

Q. I wish you would tell us a little about that, so we will know to what you refer.

Mr. Manager FLOYD. Mr. President, I object to that on the ground that it is wholly immaterial. Counsel for the respondent brought it out on cross-examination, and we care nothing about testimony of that character. It is not cross-examination, and it has nothing to do with the case. We think that in order to shorten the trial and to get through with the testimony matters that are wholly irrelevant and immaterial and not properly the subject of cross-examination ought to be omitted from this cross-examination.

Mr. WORTHINGTON. We make no quarrel with the honorable managers about the rule that should be applied; but this witness has testified that Judge Archbald and Judge Witmer and his own attorney and others had formed a conspiracy to ruin the Marian Coal Co.

Mr. Manager CLAYTON. Mr. President, I think that statement is hardly justified. I do not think the witness said that.

Mr. WORTHINGTON. Well, Mr. President, if the Chair does not recall that, we will have to stop a moment to see what the witness did say.

The PRESIDENT pro tempore. The Chair does not consider the question whether or not that particular language was used material to the decision of this question. So we will not pause for the purpose of examining the notes as to that.

Mr. WORTHINGTON. Shall I ask the question?

The PRESIDENT pro tempore. No, sir. The Chair would like to hear from counsel.

Mr. WORTHINGTON. I say the witness has testified, and said with great emphasis yesterday, that Judge Archbald and Judge Witmer together, Judge Witmer at the dictation of Judge Archbald, entered a decree in the case of Peale versus the Marian Coal Co., and otherwise took action in the case which ruined that company.

Now, I submit we ought to have the right to find out what is the foundation for such charges; or, as we contend, to determine that there is no foundation for them and that the witness is laboring under hallucinations in his talk about Judge Archbald and Judge Witmer and his own counsel.

The PRESIDENT pro tempore. So far as the Chair remembers, in the articles of impeachment there is no charge of conspiracy between Judge Archbald and Judge Witmer. Therefore the testimony would be utterly irrelevant, and the Chair would not consider it admissible.

Mr. WORTHINGTON. But, if you will permit me, Mr. President, the articles of impeachment charge Judge Archbald with being engaged in improper practices, and especially with reference to this particular suit, and the witness who was called to substantiate the charge says the conspiracy was one to which Judge Witmer was a party.

The PRESIDENT pro tempore. If that testimony had been brought out by the managers, the Chair would recognize the right of counsel to cross-examine the witness upon it; but that was testimony brought out by the respondent, and the Chair thinks it is entirely irrelevant.

Mr. WORTHINGTON. Very well.

Q. (By Mr. WORTHINGTON.) I wish you would repeat—I do not recall now just what you said—about the case of Peale against The Marian Coal Co. remaining idle for a great many months. You said from the 13th of October, 1908, if I remember right, to some date.—A. On the 13th of October the Marian Coal Co. suspended further shipments of coal to Mr. Peale, and somewhere along in 1909 there was a suit started in the Federal courts; but there was not much of a movement to that suit until after or about the time we started proceedings against the railroads before the Interstate Commerce Commission. That is what I meant.

Q. And what was the time you started proceedings before the Interstate Commerce Commission?—A. I think that was about August 12, 1910.

Q. Are you aware of the fact that the Peale suit was not begun until March, 1909?—A. I only know from what I have seen of the records of that case.

Q. You do not doubt that the record is correct about that?—A. I have no reason to doubt that; no.

Q. Did you not, before the Attorney General in February, 1912, assent to this statement made by Mr. Cockrell?

Mr. Manager FLOYD. Mr. President, we object to that unless it is for the purpose of contradicting something that the witness has said in his examination in chief. We did not go into that matter at all. We recognize the right of counsel to refer to it to contradict anything we may have brought out on examination in chief in which the witness has sworn contrary to statements there, but not otherwise.

The PRESIDENT pro tempore. Does counsel desire to say anything on that?

Mr. WORTHINGTON. I was looking for what the witness stated yesterday on that subject, Mr. President. The honorable manager says he did not bring that out. [Addressing witness.] You testified yesterday, did you not?—

Q. How many months do you say the case lay idle?—A. From the 13th of October to about December, 1910.

Q. When?—A. From October, 1908, until about December, 1910, there was scarcely anything done with it.

Now, surely, Mr. President, when the main point of this witness's testimony has been the conduct of Judge Archbald with reference to the case of Peale against The Marian Coal Co., we ought not to be restricted in our cross-examination of him as to just what is charged against Judge Archbald or just what are the facts in reference to the charges so far as we can get them from this witness.

The PRESIDENT pro tempore. The Chair will ask that the question be repeated.

The Reporter read as follows:

Q. Did you not, before the Attorney General in February, 1912, assent to this statement made by Mr. Cockrell?

Mr. WORTHINGTON. That the demurrer was overruled and the case lay idle for about 26 months?

The PRESIDENT pro tempore. The question is as to the witness having assented——

Mr. WORTHINGTON. Yes, sir.

The PRESIDENT pro tempore. To a statement made by another?

Mr. WORTHINGTON. Yes, sir. That would be supposed to be the same thing as if he had said it himself.

Mr. President, what I want to bring out is that this witness, whose statements brought on these proceedings, and who is now brought here as a witness to support them, told the Attorney General and told the Interstate Commerce Commission just what has been said here, that the suit referred to lay idle for 26 months, it being the suit of Peale against the Marian Coal Co.; that nothing was done about it until the Marian Coal Co. ventured to bring a suit before the Interstate Commerce Commission against the Delaware, Lackawanna & Western Railroad Co. in the fall of 1910; and that then immediately, as the witness has said, the machinery of the courts was set to work. He has stated here distinctly that he charges that Judge Archbald and Judge Witmer together then undertook to start the Peale case and ran it to a decree against him for the purpose of interfering with the prosecution before the Interstate Commerce Commission of his suit against the railroad company.

Now, I want to bring out what the facts are to show that, indeed, the suit was brought in March, 1909, and that it went along regularly about the way an equity suit in a Federal court usually goes along, and that there was no hurrying up of the case, and that it is not true that there were no steps taken until about the time the case before the Interstate Commerce Commission was begun, and that his whole story about that made to the Interstate Commerce Commission and made to the Attorney General and made here is in fact a delusion; that there is not the slightest foundation for it in fact.

The PRESIDENT pro tempore. The question of the admissibility of that evidence, if offered, would be a distinct question. The question which the Chair understands counsel to propound is as to the witness having agreed and tacitly consented to what he heard another witness testify. Is that the question?

Mr. WORTHINGTON. No; not another witness; Mr. Cockrell was not a witness.

The PRESIDENT pro tempore. The Chair will not say a witness.

Mr. WORTHINGTON. Mr. Cockrell, if I may say so to you, Mr. President, is an officer in the commission—I think he is private secretary to Commissioner Meyer, of the Interstate Commerce Commission—and he was present when Mr. Boland was examined by the Attorney General—in what capacity I do not know—but not as a witness.

Mr. Manager FLOYD. Now, Mr. President, our objection to this testimony is that counsel has no right to ask the question unless it is for the purpose of contradicting——

The PRESIDENT pro tempore. If the manager will permit the Chair, in order that we may proceed promptly the Chair will for the present exclude this testimony, and if afterwards counsel offer to prove that, which can be done by the record, the question will come up again. But it will possibly be an economy of time to give it that direction at this time without finally concluding the right of counsel to prove those facts.

Q. (By Mr. WORTHINGTON.) Then I will ask you, Mr. Boland, whether before the Judiciary Committee, when you were examined there, this did not happen in your examination——

Mr. Manager FLOYD. Mr. President, we object, unless it is for the purpose of contradicting testimony that the witness has given here, because we did not ask him a single question about what he said before the Judiciary Committee, as I remember it.

The PRESIDENT pro tempore. If the statement counsel now proposes to read relates to matter that the witness testified to on direction examination, of course that would bring it within the rule.

Mr. WORTHINGTON. Mr. President, is there not another ground on which I may ask the witness this question? Is it not competent to show the bias of any person who is brought into court as a witness? Is it not always proper for the opposing counsel to show, if they can do so, that a witness is biased against the person against whom his testimony is directed?

The PRESIDENT pro tempore. The Chair thinks so.

Mr. WORTHINGTON. I propose to show that this witness is not only biased against Judge Archbald in the ordinary way, but that he is responsible practically for this whole prosecution or proceedings, and that he did it by making statements which are absolutely false and groundless.

The PRESIDENT pro tempore. Counsel will recognize the correctness of the rule that on cross-examination a witness can be examined only on matters brought out on direct examination.

Mr. WORTHINGTON. And also the rule as to a witness's bias. Mr. President, if I had witnesses who had heard this witness say yesterday that he was going to come in here and tell a whole lot of things that would hurt Judge Archbald, whether they were true or not, could I not prove that, although he did not testify to it on direct examination? Anything that would tend to show his bitterness and feeling toward Judge Archbald, or anything that he may have stated falsely about Judge Archbald, would be competent as showing bias.

The PRESIDENT pro tempore. Undoubtedly, but the Chair does not know what the particular evidence is.

Mr. WORTHINGTON. I am proposing to bring out clearly that before the Interstate Commerce Commission, before the Attorney General, and before the Judiciary Committee this witness said distinctly that his case lay idle for 26 months—that was the case of Peale against the Marian Coal Co.—that it lay idle until he ventured to bring suit before the Interstate Commerce Commission against the Delaware, Lackawanna & Western Railroad Co., and that then Judge Archbald, who had not been in the court for several months, got Judge Witmer to take up the case and push it along and make a decree, which he says ruined him. Is not that competent on the question of bias?

The PRESIDENT pro tempore. Does counsel propose to examine the witness about testimony which he gave before the Judiciary Committee, and which testimony has not been brought out in the examination here?

Mr. WORTHINGTON. Certainly; for the purpose of showing his bias.

The PRESIDENT pro tempore. The Chair thinks counsel is entitled to show bias, but not in that way. It would open the door widely to the examination of this witness upon every subject connected with this case, whether it be a matter that has been brought out by the managers or not. There would be no limitation whatever under the rule as suggested by counsel for the respondent. The door would be absolutely thrown wide open without any restrictions or limitations as to the whole subject matter of the case if that rule is correct.

The Chair does not wish to be understood as ruling against the right of counsel to show those facts, but not in this way.

Mr. WORTHINGTON. Very well.

Q. (By Mr. WORTHINGTON.) Now, I understood you to testify on your direct examination that when this silent-party paper was prepared, which gave you a one-third interest, you did expect to have an interest in this Katydid purchase and sale, and that afterwards you notified Williams that you released him. Is that right?—A. I did; yes, sir.

Q. When was it you released him?—A. I do not remember the exact date.

Q. Was it before you came down before the Interstate Commerce Commission and the Attorney General?—A. It was.

Q. It was?—A. Yes, sir.

Q. Now I will ask you whether this took place before the Attorney General, when Mr. Cockrell was there, on or about the 12th of February?

Mr. Manager FLOYD. I object to anything that took place before the Attorney General, because I did not ask the witness any questions about that, unless counsel will say that he means to contradict some statement that the witness did make.

Mr. WORTHINGTON. I do mean to show that he then stated that he still had the one-third interest.

Mr. Manager FLOYD. I object, on the statement of counsel, because he is asking this witness certain questions and is then trying to contradict statements which he himself has brought out, not that we brought out.

Mr. WORTHINGTON. That was brought out by the managers. That is my recollection and that of my associates here.

The PRESIDENT pro tempore. The Chair will have to have information on that point—by whom it was elicited. If it was elicited by the managers, counsel undoubtedly have the right to cross-examine the witness on it.

Mr. Manager FLOYD. I desire to state further that what counsel proposes to show is wholly immaterial. Counsel can only contradict the witness upon material matters, and so far as the purposes of this case are concerned, we regard that proposed testimony as wholly immaterial. What happened before the Attorney General or the statements that counsel proposes to quote that he expects to prove the witness then said, we regard as absolutely immaterial to the issues in this case.

Mr. WORTHINGTON. Let me read from the proceedings in this case, page 429. He was asked by Mr. Manager FLOYD:

Then did you afterwards claim any interest under that contract?

The PRESIDENT pro tempore. Who asked the question?

Mr. WORTHINGTON. This is a question put to him by the manager who is now objecting to my going on.

Mr. Manager FLOYD. From what page are you reading, Mr. Worthington?

Mr. WORTHINGTON. Page 429, just a little above the middle of the page:

Q. Then did you afterwards claim any interest under that contract?—A. When I found——

Then there was an objection, and a discussion followed which I will not read. Then Mr. Manager FLOYD said:

I think the whole transaction should come out. Even if it does not affect him, the Senate ought to have the full transaction in order that it may be understood.

The PRESIDENT pro tempore. If the Chair understands the purport of the question, it is legitimate.

Mr. Manager FLOYD. I might explain——

The PRESIDENT pro tempore. It is not necessary. The Chair has ruled with the manager.

Q. (By Mr. Manager FLOYD.) Answer the question.—A. I afterwards withdrew or released Mr. Williams from any interest that I might have in the sale of that property.

The PRESIDENT pro tempore. The Chair thinks the question can be asked.

Q. (By Mr. WORTHINGTON.) I will ask you whether or not, before the Attorney General, on or about the 12th of February last, this did not occur——

Mr. Manager FLOYD. Mr. President, we do not question the right of counsel to cross-examine the witness upon that proposition, but we do question his right, unless the witness has made some contrary statement here, to read that book.

Mr. WORTHINGTON. I have just brought out that upon the question asked him by Mr. Manager FLOYD, the witness said he told Williams he had released him. He told him that was before he came down here. I want to prove that when he came down here he then made the statement that he still had the one-third interest.

The PRESIDENT pro tempore. The counsel will ask the question.

Q. (By Mr. WORTHINGTON.) Reading from the bottom of page 138 of volume 1 of the proceedings before the Judiciary Committee of the House:

The ATTORNEY GENERAL. What was the sum placed on the other option?

Mr. BOLAND. $4,500. Now, I put myself in this proposition because I wanted to know where I stood——

The PRESIDENT pro tempore. The Chair thinks that counsel ought to confine himself to the particular point ruled by the Chair, that he has a right to show it by cross-questioning upon the particular evidence elicited by the managers.

Mr. WORTHINGTON. I thought it was only fair to the witness and to the Senate that I should read the immediate question which led to it. It is the next question which is based on this.

The PRESIDENT pro tempore. Very well.

Mr. WORTHINGTON. Mr. Boland says:

Now, I put myself in this proposition because I wanted to know where I stood, so that I could talk and wouldn't be talking from hearsay, as I knew how utterly helpless I was with the influence I was up against.

Mr. COCKRELL. In other words, you and Mr. Williams and Judge Archbald were three partners in the sale of this culm bank?

Mr. BOLAND. Yes.

Q. (To the witness:) Did you so testify?—A. I did.

Mr. Manager FLOYD. Mr. President, I do not understand that that contradicts anything this witness has said here in any particular.

The PRESIDENT pro tempore. Does the counsel claim that that contradicts the former statement of the witness?

Mr. WORTHINGTON. I do.

The PRESIDENT pro tempore. If the counsel claims that it does, it is proper evidence.

Q. (By Mr. WORTHINGTON.) How was it that Judge Archbald took away your trial by jury?—A. By taking into his court the case which should be brought in the local courts, which he——

Mr. Manager FLOYD. Mr. President, we object.

The PRESIDENT pro tempore. The Chair's attention was diverted for the moment. What was the question?

Mr. Manager FLOYD. The counsel asked the witness how it was that Judge Archbald took away his trial by jury.

The PRESIDENT pro tempore. The stenographer will read the question.

The Reporter read as follows:

Q. How was it that Judge Archbald took away your trial by jury?

Mr. WORTHINGTON. I base that upon this, which happened yesterday——

The PRESIDENT pro tempore. The counsel will ask the question. The question is legitimate. The Chair understands, of course, that it was elicited by the managers. Was it not?

Mr. Manager FLOYD. It was not elicited by the managers.

Mr. WORTHINGTON. I was about to call the attention of the President to what did happen on cross-examination. I read from page 377 of the CONGRESSIONAL RECORD.

Q. You hold Judge Archbald responsible for the delay before the suit was brought in his court?

That was my question. Then he said:

I hold Judge Archbald responsible for taking away our trial by jury. He had no right to do so.

That was volunteered by the witness.

The PRESIDENT pro tempore. That is not material at all to this case. It is not stated in the articles of impeachment that he had deprived anybody of the right of trial by jury.

Mr. WORTHINGTON. It is on page 377 of the RECORD. I should like to have the paper on page 489, the "To whom it may concern" paper.

Mr. Manager CLAYTON. What page is it in the record?

Mr. WORTHINGTON. Page 489 of the hearings before the House Judiciary Committee.

(Mr. Manager FLOYD handed the paper to Mr. Worthington.)

Mr. WORTHINGTON. This is a photographic copy. It is just as good. [To the witness:] Will you look at this paper, which is dated July 31, 1911?

Mr. Manager FLOYD. Mr. President, we object.

The PRESIDENT pro tempore. What is the objection of the manager?

Mr. Manager FLOYD. My objection is that the paper was not in evidence and was not mentioned by the managers in any way in the examination in chief, and the counsel himself brought out whatever reference has been made in the testimony upon the cross-examination. We do not desire to offer that testimony in evidence. We consider it immaterial and irrelevent. I do not think the counsel has a right to cross-examine upon it.

Mr. WORTHINGTON. It is a paper that has not yet been referred to, I submit.

Mr. Manager FLOYD. Then we object because the counsel is not confining himself to a proper cross-examination.

Mr. WORTHINGTON. I offer this evidence for the purpose of showing, in connection with the other matters in the case, that this witness is biased against Judge Archbald, and to show that he was concocting papers in his office to his detriment. I do not see how the President of the Senate can judge about the competency of it without having it read. I recollect that when there was a paper offered by the managers early in these proceedings we objected to its going into the record, but it was decided that it must be read so that the question could be passed upon.

The PRESIDENT pro tempore. The paper may be read if desired. The Senate has the same right to hear it as the Presiding Officer. It is now being read simply for the information of the Senate.

Mr. WORTHINGTON. Certainly; I understand that.

The Secretary read as follows:

SCRANTON, PA., *July 31, 1911.*

To whom it may concern:

This is to certify that I, Edward Williams, called on W. P. Boland about December 15, 1910, with a note of R. W. Archbald, judge of the Interstate Commerce Court, for $500, to have said note discounted. I did not tell Boland at the time that the judge knew that I was going to call on him to discount the above-mentioned note. I only informed him about July 25, 1911, that he made a mistake in not discounting said Archbald note, as he was interested in the case of John W. Peale *v.* Marian Coal Co., which was then before the United States court, and he would have saved all of the costs had he discounted the note.

E. J. WILLIAMS. [SEAL.]

A. M. BLACKMORE.

The PRESIDENT pro tempore. What is the question that the counsel asked with reference to this paper?

Mr. WORTHINGTON. The question is whether that paper was concocted in his office under his direction.

Mr. Manager FLOYD. I do not think it is fair to the witness to use that language, that it was concocted in his office. I think the counsel ought to use some other language.

Mr. Manager CLAYTON. You ought to treat the witness with respect.

Mr. Manager FLOYD. Certainly.

Mr. WORTHINGTON. I will substitute the word "prepared" for "concocted" if that pleases my honorable friend and if that will be more consistent with my duty to the witness, who does not seem to be worrying himself.

The PRESIDENT pro tempore. If the Chair remembers correctly, the managers brought out the fact as to the presentation of this note for discount and the refusal of the witness to discount it, and the reason he gave for so refusing. Am I correct in that?

Mr. Manager FLOYD. Yes, sir; that is correct.

The PRESIDENT pro tempore. Under those circumstances it seems to the Chair that the counsel is entitled to go fully into that question to show all the motives of the party and throw light on his testimony.

Q. (By Mr. WORTHINGTON, handing paper.) Do you recognize the signature of Mr. Williams to that paper?—A. (Examining.) I do; yes, sir.

Q. And of Miss Blackmore, the witness?—A. I do.

Q. Do you know anything about the creation of that paper?—A. I do.

Q. What?—A. Mr. Williams was making several statements to me regarding his influence on Judge Archbald, what he could do and have the judge to do, and where I made a mistake in not going along with the request of the judge to discount this note. I knew it was dangerous for me to say anything about Judge Archbald when I had to prove it by a friend of his unless I got it reduced to writing. I consequently told Mr. Williams that if he was telling me the truth the only way he could prove it to me was to put it in writing; if he was making those charges against his friend, Judge Archbald, that he had to substantiate me with a written statement so that I might be fortified if I did say something detrimental to Judge Archbald. That is why I asked Mr. Williams for this paper.

Q. You dictated it to a stenographer?—A. Mr. Williams told me in his way where I made the mistake, and he recited that to the stenographer, and she put it in the shape that was satisfactory to him and as he wanted to convey that to me. That is how it was concocted, Mr. Worthington.

Q. Who was the stenographer?—A. I think Miss Mary Boland.

Q. Do you not know?—A. No; it was Miss Blackmore there who wrote this paper.

Q. Were you there?—A. I was in that neighborhood; I was around there; but could not exactly say, because so many things have been on my mind. I can not right off tell you just what occurred two years ago or a year ago.

Q. If you are not sure you were there, how can you tell how it was prepared?—A. I was there, because the paper was delivered to me.

Q. Were you in the room when it was typewritten?—A. I would not deny it. If I could answer that clearly I would not deny that. I do not know whether I was or not. There is nothing about this paper I want to deny of its origination or its possession.

Q. You kept it until when?—A. I kept it until I came to Washington.

Q. And you had a photographic copy made of it, did you not?—A. Yes; I wanted to be sure I would not lose it—if I lost the original that I would have a photographic copy.

Q. Look at this paper [handing paper] and state whether that is the photographic copy; or were two of them made?—A. (Examining.) I had photographic copies made. Whether this is one or not, I know I had. I think this is one.

Q. When did you have that done?—A. Immediately after I got this letter. I think I did.

Mr. WORTHINGTON. This photographic copy had better be marked in evidence. It is not necessary to read it. It is the same as the original, of course.

(The original was marked "Exhibit K," and the photographic copy was marked "Exhibit L.")

Q. (By Mr. WORTHINGTON.) In the letter to Mr. Cockrell, of the Interstate Commerce Commission, which was read yesterday, you referred to "the date you mention." It is on page 379 of the RECORD. Let me remind you of the letter, Mr. Boland, dated February 1, 1912, at Scranton, under the heading of the Marian Coal Co., addressed to Mr. Allen V. Cockrell, Esq., Washington, D. C. It is as follows:

MARIAN COAL CO.,
Scranton, Pa., February 1, 1912.

ALLEN V. COCKRELL, Esq.,
Washington, D. C.

DEAR SIR: I have secured additional information along the lines that I spoke to you and the other parties about and will be ready on the date you mention.

Did Mr. Cockrell mention the date to you by letter, telephone, conversation, or how?—A. I am not clear on what that date meant. I do know that I told Mr. Cockrell, and I told the Attorney General and I told Commissioner Meyer and I told Commissioner Clements that I had a lot of information that I had not time to close up. I had a lot of information that would involve others with the judge, and I felt I might be misunderstood at that particular time as using it for political purposes, and consequently there was a lot of things that were kept out for that purpose. I did not want to injure any man, because I was not in politics only so far as to vote for a good candidate.

Mr. Manager FLOYD. We object to that.

Mr. WORTHINGTON. It has not the slightest reference to the question asked the witness.

The PRESIDENT pro tempore. The Chair will rule it out and request the witness to answer.

Q. (By Mr. WORTHINGTON.) You say you can not tell what you refer to in that letter when you said "Will be ready on the date you mention"?—A. I can not give it to you now. I am not clear on that.

Q. Do you know whether or not, after Mr. Watson had ceased his efforts in the matter about which you have testified, he returned any papers to you or to your brother?—A. I do not remember getting any paper back from Mr. Watson. I gave him none.

Q. Do you know what paper was referred to in the letter of Judge Archbald to your brother dated November 13, 1911, in which he said he returned the paper?—A. I do not think I ever gave Mr. Watson any paper.

Q. Mr. Boland, you do not understand my question entirely. There is already in evidence a letter from Judge Archbald to your brother beginning "My dear Christy," dated November 13, 1911, and at the end of it he said, I return you papers or certain papers. I am asking you what those were or where they are?—A. I can not answer that question. I do not know.

Q. You will correct me if I am wrong, but I think in your testimony before the Judiciary Committee, in referring to this conspiracy which you told us about yesterday, in which Judge Archbald and the railroads were a party, you referred to it as the Black Hand and the Mafia.

Mr. Manager FLOYD. We object, Mr. President. We did not bring out any testimony of that kind.

Mr. WORTHINGTON. On page 1734, I will ask you whether you said——

The PRESIDENT pro tempore. Wait a moment.

Mr. Manager FLOYD. We object to the question put in that way.

Mr. WORTHINGTON. May I read it?

The PRESIDENT pro tempore. The Chair will ask the counsel if it relates to matters brought out on direct examination?

Mr. WORTHINGTON. I confess, Mr. President, that after the cross-examination of this witness had proceeded as far as it did yesterday without any objection being made by the managers or by anybody else, I had supposed we would be permitted to go on and proceed on those lines to-day. So I did not examine his direct examination to see as to which of those lines he had testified on his direct, but he certainly did give testimony which the managers claim tends to show that Judge Archbald was engaged in a conspiracy with Mr. Williams and with Mr. Watson afterwards. I cross-examined him yesterday for the purpose of showing, or trying to show, as I thought, that his views on this subject of Judge Archbald and a conspiracy generally were absolutely unfounded and originated in a disordered brain.

Now, I want to pursue that for the purpose of showing that he has got into his head that they are black-hand people of the same order as the Italian organization which is called the Mafia and which I understand to be a collection of cutthroats; and I was about to read from his testimony before the Judiciary

Committee, where he used that very language in reference to them.

The PRESIDENT pro tempore. The Chair does not think, unless it is in rebuttal of testimony elicited by the managers, that it is, under the rule in Federal courts, admissible to pursue a cross-examination which has no connection with anything brought out by the direct examination. The Chair will state that yesterday a good many things were asked by counsel on cross-examination which, if they had been objected to, the Chair would have ruled out; but the fact that they were not objected to does not warrant the examination of the witness still further upon a line which would not be within the rule.

Mr. WORTHINGTON. Very well.

The PRESIDENT pro tempore. The Chair will be disposed to recognize the right of examination to the utmost as to anything which was elicited by the managers in the direct examination.

Mr. WORTHINGTON. I leave that subject, Mr. President. I understand now the Chair to rule that this is a repetition of his ruling, and where I wish to cross-examine this witness to show his bias against Judge Archbald I can not ask about that unless there is some reference to it in the direct examination; but I may bring it out in another way at a later stage in the case.

The PRESIDENT pro tempore. The Chair does not think it would be competent to lay down the rule suggested by the counsel. For the reason previously given it would absolutely destroy the rule which prohibits the examination of witnesses upon matters not brought out in direct examination, and there would be no limitation thereafter, and counsel, upon cross-examination, could go to the utmost extent in the examination of a witness.

Mr. WORTHINGTON. I do not wish to be persistent about it, but certainly I have a right at some time or other to show that this witness has a deadly bias and prejudice, an unreasonable bias, as I think, against Judge Archbald.

The PRESIDENT pro tempore. There is no question about the counsel's right in the matter.

Mr. WORTHINGTON. The President holds that I can not do it on cross-examination, and the question is how it may come up later.

The PRESIDENT pro tempore. The Chair does not rule on that, but the Chair rules that the counsel can not do it by the infraction of another rule. The counsel can cross-examine the witness in any way that may disclose that fact without going into subjects matter relating to this case which were not brought out in the direct examination. Counsel are not concluded by that. There are two ways in which counsel can reach all that is wanted. One is by proving the same by other parties, and the other by introducing the witness as his own.

Mr. WORTHINGTON. I think we will reserve these questions, then, until we come to introduce our own witnesses, when we will offer his declarations and statements as independent evidence on our own part. [To the witness:] Who was it gave you the information about the Pennsylvania Central Brewing Co.'s estimate of the value of the Katydid dump?—A. I think it was the man in charge of the coal department. I do not know his name, but I think I got that information from him, that the bank was not large enough to consider; that they were not prepared at that time to take the thing over.

Q. Was he the man who told you that the value of the dump or the quantity of coal in it had shrunk after it was found you had something to do with it?—A. No, sir; he did not tell me anything of that kind.

Q. Where did you get that information?—A. I got that information from the statement he made to me and the statement Mr. Robertson made to me and the personal knowledge I had of the bank myself. I was on it. I found, in talking with Mr. John M. Robertson at one time, that he claimed there was about 100,000 tons of coal there, and when this man told me that the Pennsylvania people or the Hillside Coal & Iron people had only estimated 35,000 tons I felt that that was not right, and I told Mr. Williams then that I believed the reason of the shrinkage was on account of my connection with it.

Q. Did you know that the contract Judge Archbald had prepared to be executed in the matter of the sale to Mr. Conn was in Judge Archbald's name?—A. I did.

Q. How did you know that?—A. Mr. Williams told it to me.

Q. That is all you know about it?—A. That was all I knew about it; yes.

Q. Did Mr. Williams tell you that Judge Archbald was going to have it in his own name and not have Williams's name in it?—A. Yes, sir; he did.

Q. And that Williams objected to it?—A. Yes, sir.

Q. And then it was prepared with Judge Archbald's name and Williams's name both in it?—A. Yes, sir; he told me those things.

Q. You said yesterday something about Williams showing you a paper from the window of Judge Archbald's office, and you said that was something in connection with this lighterage matter, as I understood you. I wish you would explain that for my benefit.—A. He told me about how Judge Archbald felt when Capt. May refused to give him this bank.

Q. Mr. Boland, I am only asking you about Williams exhibiting that paper at the window. What window was it, and where?—A. He showed that paper at the window. I want to tell you how he came to show it to me.

Q. I do not care about that. What I want to know is where the window was.—A. The post-office building and the Republican Building are side by side. There is a space of about 30 feet between them. The office of Judge Archbald was on the second floor and my office was on the second floor in the Republican Building, directly opposite Judge Archbald's office, and we could see people coming in and see each other at all times of the day.

Q. Was the window of Judge Archbald's office directly opposite your office, or was it——A. It was just about like that door there [indicating] on the south side.

Q. The Federal building, in which the judge's office was, fronts on what street?—A. It fronts on Washington Avenue and Linden Street. It is on a corner. There are entrances on both streets.

Q. On what side of that building is Washington Avenue—north, south, east, or west?—A. On the east side.

Q. The window of the judge's office you speak of is on what side?—A. On the south side.

Q. How far from the east end of the building is the window on the south side where this paper was exhibited to you?—A. I should say it was about 40 feet.

Q. About 40 feet from the front of the building?—A. No; from Judge Archbald's office window to my office window.

Q. I am asking you how far it was from the window where this paper was exhibited to you to the east line of the Federal building?—A. I could not say that. I could not say which one of the two windows he showed it to me from.

Q. How far was the nearest window from that street?—A. From the street?

Q. Yes; from the east front of the building on that street you mentioned.—A. I could not say whether it was 10 or 12 feet or less than that.

Q. It was very close to the street, was it?—A. Yes, sir.

Q. Could you give us any description of the paper that Mr. Williams exhibited to you from the window?—A. It seemed to be a paper—if I am permitted to handle this paper—it seemed to be in the form of loose leaflets that was not prepared—that is, what was in typewriting form—the paper he showed me. I was not near enough to recognize the contents of the paper, but he held the paper up in that shape before the window.

Q. And you arranged that with him in advance?—A. No; he told me what the judge was doing, and then I wanted to see in what shape it was in—if it was in book form.

Q. He had told you before this that it was something about the lighterage case, I understood you to say?—A. Yes; I knew that it was not unusual for Judge Archbald to have a brief, but I thought it was unusual for Judge Archbald to prepare a brief.

Q. Do you remember that at the time of this conversation that you had with Williams in reference to this lighterage case your niece and stenographer, Mary Boland, was making notes of the conversation and what Williams said about it.—A. I told Mary Boland to be careful and take note of everything said, because I knew it was a case of life and death——

Q. You are not answering the question.—A. Yes, sir.

Q. Did she make a memorandum of that conversation had with Edward J. Williams about the lighterage case in the judge's office?—A. I did not quite understand that question.

Q. Did Mary Boland make a memorandum and in this way note all the conversation you had with Williams in reference to what was going on in the judge's office about the lighterage case?

Mr. Manager FLOYD. We object, Mr. President.

The PRESIDENT pro tempore. On what grounds?

Mr. Manager FLOYD. Because it is immaterial. We brought out nothing about anything of that kind, and it is not a cross-examination. The counsel is asking this witness about something that would be within the knowledge of another witness, even if it is material.

The PRESIDENT pro tempore. The Chair thinks that counsel is entitled to sift the witness as to the truth of the statement which he has made. That is along the line that counsel asked that question. The question is admissible.

The WITNESS. I can only say that she can answer that best herself, but my instructions to her were to take——

Q. I do not care about your instructions to her. I want to ask if you know whether she did or did not?—A. I do not know; I could not swear to that, Mr. Worthington. I am only telling you that I told her to do it.

Q. Did this conversation with Mr. Williams about the lighterage case in the judge's office occur after you had told her to keep memoranda of theses things?—A. I would say I think it did.

Mr. WORTHINGTON. Very well. That is all, Mr. President, I can now ask this witness under the rulings of the Chair, but I would ask that he be not discharged after his examination is finished to-day.

The PRESIDENT pro tempore. The witness will retire, subject to recall. Is there further question for this witness?

Mr. Manager FLOYD. One moment.

The PRESIDENT pro tempore. The witness will remain for the present.

Q. (By Mr. Manager FLOYD.) Mr. Boland, you said that Mr. Williams showed you certain papers. Could you tell now about what those papers were from the distance you were when you saw them when he held them in the window?

The PRESIDENT pro tempore. The Chair will suggest to the manager that the witness has already expressly answered that question.

Mr. Manager FLOYD. That is all.

The PRESIDENT pro tempore. The witness may retire. Call the next witness.

Mr. Manager FLOYD. Our next witness is Mr. Loomis.

Mr. Manager CLAYTON. Mr. President, while the next witness is coming, I desire to offer a certified transcript of all the proceedings in the case of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co., docket No. 3592, and reports and orders filed by the commission in said case on June 8, 1912, and October 19, 1912, the originals of which are now on the files and records in the office of the Interstate Commerce Commission. This is one of the cases in the Interstate Commerce Commission.

I also introduce in evidence a certified copy of the record and all the papers, including all the orders, in the case of Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Co., against the Lehigh Valley Railroad Co., docket No. 1180; the complaint and answer in the case of Henry E. Meeker against the Lehigh Valley Railroad Co., docket No. 3235; and also the report and order of the commission, dated June 8, 1911, in said docket, No. 1180, and joint report and orders dated May 7, 1912, in said cases, the originals of which are now on file and in the records in the office of the Interstate Commerce Commission. I do not desire that they be read, Mr. President, but that they be printed in the record.

The PRESIDENT pro tempore. If there be no objection on the part of counsel——

Mr. WORTHINGTON. I should like to have an opportunity to look at those papers before they go in to see whether they are complete. I make that suggestion because, looking at the first one, it does not appear to be complete.

Mr. Manager CLAYTON. I thought they were complete. They purport to be complete, Mr. President.

Mr. WORTHINGTON. Yes; the certificate is all right.

The PRESIDENT pro tempore. They will be withheld for that examination.

Mr. Manager CLAYTON. If they are not complete, the deficiency can be supplied, and I am quite willing that counsel may have a reasonable opportunity to examine them. Then, if he agrees that they are complete, they should be printed in the record as having been introduced at this time.

The PRESIDENT pro tempore. That direction will be given, if it is agreeable to counsel.

The papers were subsequently ordered printed in the record.

[U. S. S. Exhibit 47.]

INTERSTATE COMMERCE COMMISSION,
WASHINGTON.

I, John H. Marble, secretary of the Interstate Commerce Commission, do hereby certify that the papers hereto attached are true copies of the complaint and answer in the case of Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Company, against the Lehigh Valley Railroad Company, Docket No. 1180, and complaint and answer in the case of Henry E. Meeker against the Lehigh Valley Railroad Company, Docket No. 3235. Also report and order of the commission dated June 8, 1911, in the said Docket No. 1180 and joint report and orders dated May 7, 1912, in said cases, the originals of which are now on file and of record in the office of this commission.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the commission this 9th day of December, 1912.

[SEAL.] JOHN H. MARBLE,
Secretary.

(Before the Interstate Commerce Commission. Henry E. Meeker and Caroline H. Meeker, complainants, v. Lehigh Valley Railroad Company, defendants.)

To the Interstate Commerce Commission:

The petition of the above-named complainants respectfully shows, on information and belief:

I. At all the times hereinafter mentioned the complainants were and still are copartners, engaged in the business of buying, shipping, and selling anthracite coal, under the firm name of "Meeker & Co."; and ever since the year 1898 they have been shipping large quantities of anthracite coal over the lines operated by the defendant from mines and collieries situated in what is known as the "Wyoming" coal region, in Pennsylvania, to tidewater, at Perth Amboy, New Jersey, and thence to the New York market.

II. At all such times the defendant was and still is a railroad corporation, organized and existing under the laws of the State of Pennsylvania, and a common carrier engaged in the interstate railroad transportation of passengers and property between points in the States of Pennsylvania, New Jersey, and New York over its own lines of road as well as over other lines owned, leased, controlled, or operated by it. About 80 per cent of the defendant's entire business is the transportation of anthracite coal and other merchandise, and about one-half of such percentage of its business is the transportation of anthracite coal.

III. In addition to the complainants there have been a number of other shippers engaged in shipping anthracite coal as interstate commerce over the said lines operated by the defendant from mines and collieries situated in the said Wyoming coal region to tidewater at Perth Amboy, one of whom was and still is the Lehigh Valley Coal Company (hereinafter called the "Coal Company"), a corporation organized and existing under the laws of the State of Pennsylvania and engaged in the business of mining and buying anthracite coal at mines and collieries in the said Wyoming coal region and shipping the same as interstate commerce over the lines of the defendant to tidewater at Perth Amboy, New Jersey, and there selling it. Since the incorporation of the Coal Company, the defendant has owned or controlled and still owns and controls its entire capital stock, and the two companies have had and still have virtually the same officers; and at least 75 per cent of the anthracite coal transported by the defendant since 1898 was owned by the Coal Company.

IV. Substantially all the unmined anthracite coal in the United States is contained in a small area, consisting of about 496 square miles, in the northeastern part of Pennsylvania, in three localities, known as the "Wyoming," the "Lehigh," and the "Schuylkill." Only a small portion of such coal is consumed in the immediate neighborhood of the mines. The greater portion of it is consumed in the Eastern and Middle States; and more than twenty per cent of it is shipped to the harbor of New York City and there marketed.

V. The only means of transporting coal from the anthracite region to New York Harbor is over the line of the defendant and the following other railroad companies, namely, the New York, Ontario and Western Railroad Company, the Delaware, Lackawanna and Western Railroad Company, the Central Railroad Company of New Jersey, the Philadelphia and Reading Railroad Company, the Erie Railroad Company, the New York, Susquehanna and Western Railroad Company, and the Pennsylvania Railroad Company. For many years the said railroad companies, in addition to their business as common carriers, have owned and controlled large tracts of coal lands and have been engaged, either directly or indirectly, through the control of coal companies, in mining and dealing in anthracite coal; and, in this manner, the said companies control the eastern market for a very large proportion of the anthracite coal annually mined. The said railroad companies, including the defendant, but excepting the Pennsylvania Railroad Company, are hereinafter referred to as the "Anthracite Companies."

VI. Any charge made by the defendant for transporting anthracite coal from the breakers at the said mines or collieries to tidewater in excess of the difference between the market price at tidewater and a sum representing the price prevailing at the breakers, together with the expenses of selling the coal and a reasonable allowance for interest and profits, is an unreasonable, excessive, unlawful, and discriminatory charge, because it does not permit the independent shippers, including the plaintiff, to sell coal except at a loss, and must inevitably result in enabling the defendant, owning, as it does, the capital stock of the Coal Company, to drive all independent shippers out of the market, for the excessive rates paid by the Coal Company are received by the defendant, and the apparent losses to the Coal Company are consequently only nominal as to the defendant.

VII. For several years prior to August 1, 1901, there was in operation between the defendant and the various shippers of anthracite coal, including the complainants, an arrangement by which it was provided that the rate which should be paid for transporting their coal to tidewater should be the difference between the market price at tidewater and the price prevailing at the breakers, the latter being definite percentages of the former, and although the defendant published nominal tariff rates and draw sight drafts each week upon their shippers for transportation at such tariff rates, which the shippers paid, yet the charges actually made to the shippers for transporting their coal were, in all cases, approximately the difference between the market price at tidewater and the price prevailing at the breakers, and the accounts between the defendant and the various shippers were adjusted accordingly a few days after the expiration of each month; and, in case the defendant had been overpaid upon the said sight drafts, it immediately returned the amount of such overpayment to the shippers, respectively.

VIII. In November, 1900, the Anthracite Companies entered into negotiations with various owners and operators of the anthracite coal mines in the said Wyoming coal region as to the prices to be paid at the breakers for anthracite coal, and agreed that such prices, when determined, should be payable from November 1, 1900, and that, meantime, the prices then prevailing should be paid, namely, 60 per cent of the tidewater prices for prepared sizes, 45 per cent thereof for pea coal, and 32 per cent thereof for buckwheat coal, and that the additional sum, if any, should be subsequently paid as soon as it had been determined.

IX. On or before August 1, 1901, an agreement was made between the anthracite companies and a large majority of the said owners and

operators, which determined the price paid for coal at the breakers in the said Wyoming coal region, shipped subsequent to November 1, 1900, whereby it was provided that the breaker price should be 65 per cent of the tidewater price for prepared sizes, 50 per cent thereof for pea coal, and 40 per cent thereof for buckwheat coal; and thereupon the coal company accordingly paid the said additional percentages, respectively, for each ton of coal purchased by it at the breakers from said owners and operators subsequently to October 31, 1900.

X. During all of the said period between November 1, 1900, and August 1, 1901, no change had been made in the arrangement existing between the defendant and the independent shippers of anthracite coal, including the complainants, as to the rate to be paid for carrying their coal, as hereinbefore stated; but it was well understood between the complainants and the defendant that the usual allowances should be made to them upon the freight charges paid by them, equivalent to the additional price paid at the breakers for coal shipped during the said period; and for a part of the said period between November 1, 1900, and April 1, 1901, before the said prices had been definitely determined and when the difference between the tidewater price and the price at the breakers represented a sum in excess of the amount paid on the said sight drafts, as aforesaid, the defendant rendered statements of accounts to the complainants, showing such difference, some of which the complainants paid.

XI. Before November 1, 1900, and August 1, 1901, the complainants shipped about eighty-eight thousand three hundred and thirty-six (88,336) tons of coal over the defendant's line between the Wyoming coal region and tidewater at Perth Amboy, a distance of about one hundred and sixty-five (165) miles, and paid it, for such service, an average of about 9 40/100 mills per ton per mile for prepared sizes of coal and about 7 5/100 mills per ton per mile for smaller sizes, the total sum of one hundred and twenty-nine thousand nine hundred and eighty-nine dollars and eighteen cents ($129,989.18), whereas the amount which they should have paid pursuant to the said understanding, based upon the difference between the market prices at tidewater and the respective prices for the same coal prevailing at the breakers, was only one hundred and eighteen thousand eight hundred and sixty-seven dollars and twenty-one cents ($118,867.21), showing an overpayment of eleven thousand one hundred and twenty-one dollars and ninety-seven cents ($11,121.97), the repayment of which the plaintiffs have demanded of the defendant, but no part thereof has been paid.

XII. From August, 1901, to July 1, 1907, the anthracite companies, including the defendant, which, prior to 1901, as hereinbefore alleged, had not charged more than the difference between the market price of the coal at the breakers and the price at tidewater for transporting coal, although they had been publishing nominal tariff rates, began to exact from all independent shippers a fixed charge per ton for carrying coal to tidewater in excess of such difference in prices, amounting to $1.55 per ton for prepared coal, $1.40 per ton for pea coal, $1.25 per ton for buckwheat coal, and $1.10 for coal smaller than buckwheat coal, and the said charges have ever since been continued. During the said period any charge made by the defendant for transporting anthracite coal between the said points in excess of one dollar per ton constituted an unreasonable and excessive charge, and the said charges to the plaintiffs were not only far in excess of the value of the services rendered and far more than the defendant had previously received for such service, but they were in excess of the difference between the amounts realized for the coal at New York tidewater after deducting expense of selling and the prices paid for it at the mines and constituted an excessive, unreasonable, unlawful, and discriminatory charge for the said services.

XIII. As a result of the said excessive and unreasonable charges, the independent dealers and shippers, including the complainants, have been unable to ship coal to New York, except at a loss, and the plaintiff has been obliged to pay excessive rates upon all coal shipped by them to tidewater over the lines of the defendant.

XIV. From August 1, 1901, to June 30, 1907, the complainants shipped 504,251 tons of anthracite coal over the lines of the defendant from the breakers at the mines and collieries in the Wyoming region to tidewater, at Perth Amboy, New Jersey, and paid to the defendant for such services, but under protest, $1.55 per ton for 247,652 tons of prepared sizes of such coal, $1.40 per ton for 106,218 tons of the pea size of such coal, $1.20 per ton for 37,379 tons of the buckwheat size of such coal, $1.25 per ton for 87,868 tons of buckwheat size of such coal, $1.10 for 16,733 tons of the rice size of such coal, and $1.10 for 3,136 tons of the barley size of such coal, and $1.10 a ton for 2,264 of the culm size of such coal, all of such prices being greatly in excess of one dollar per ton, the reasonable charge therefor, and constituting a total overcharge of about $210,351.00.

XV. The complainants were unable to continue their shipments of anthracite coal except by complying with the demands of the defendant as to rates; and all their said payments were made under duress, and the complainants, in each and every case, made the said payments under protest, asserting that the rates charged were unreasonable and excessive, and notified the defendant that they reserved the right to recover back from it the amount of excess over the reasonable rate.

XVI. Since August 1, 1901, the Coal Company has been and still is selling anthracite coal at Perth Amboy at such prices that, after deducting therefrom the price at which the coal was purchased at the breakers in the Wyoming coal regions, and a reasonable and proper allowance for shipping and selling expenses, there remains, as revenue or receipts to be paid to the railroad company for the transportation of the coal, a less sum than that charged by the railroad company for the transportation of the said coal between the said Wyoming coal region and Perth Amboy.

XVII. The fact that the Coal Company, in nominally paying the tariff rates prescribed by the railroad company, has paid an excessive amount for the transportation of its coal and has done so only at a loss, is evident from the annual reports of the said companies. The Coal Company would have been unable to transact its business in the manner above mentioned and to pay the railroad company the said charges for the transportation of anthracite coal from the Wyoming coal region to Perth Amboy except for the fact that the railroad company has furnished to it the capital and means to make good the losses which have necessarily resulted in the payment to the railroad company by the Coal Company of the said transportation charges.

Wherefore the complainants respectfully request the commission to make an order fixing the rate for the transportation of anthracite coal by the defendant between the Wyoming coal region in Pennsylvania and Perth Amboy, New Jersey, at not more than one dollar per ton, and ordering and directing the defendant to make reparation to the complainants for the sum of eleven thousand one hundred and twenty-one dollars and ninety-seven cents ($11,121.97), with interest thereon from August 1, 1901, and for the sum of two hundred and ten thousand three hundred and fifty-one dollars ($210,351), with interest on the respective payments made by the complainants in excess of a reasonable rate, from the dates of such payments, respectively, and to award to the complainants such other relief as they may show themselves entitled to receive.

MEEKER & CO., *Complainants.*
SHEARMAN & STERLING,
44 Wall Street, New York City, and
WILLIAM A. GLASGOW, Jr.,
412-417 Real Estate Trust Building, Philadelphia, Pa.,
Attorneys for Complainants.

STATE OF NEW YORK, *County of New York:*

Henry E. Meeker, being duly sworn, says that he is a member of the firm of Meeker & Co. and one of the complainants herein, and that the matters therein set forth are true, as he verily believes.

HENRY E. MEEKER.

Sworn to before me July 11, 1907.
[SEAL.] O. R. HOUSTON,
Notary Public, New York County.

(Henry E. Meeker & Caroline H. Meeker, complainants, v. Lehigh Valley Railroad Company, defendant. Answer. Docket No. 1180. Filed Jan. 21, 1908.)

The above-named defendant, saving and reserving its objections hereinafter stated to the jurisdiction and power of this commission to grant the relief prayed for in the petition, answers the petition in the above-entitled proceeding as follows:

I. Defendant alleges that this commission possesses no jurisdiction or power to make an order fixing the rate for transportation of anthracite coal, as prayed in the petition, and defendant alleges that section 15 of the act to regulate commerce, approved February 4, 1887, as amended by section 4 of the act of June 29, 1906, attempting to confer such jurisdiction and power upon this commission is unconstitutional and void.

II. Defendant admits the allegations contained in Paragraph I of the petition, except the allegation as to the copartnership relation of the complainants, concerning which allegation the defendant has not sufficient knowledge to answer.

III. Defendant admits the allegations contained in Paragraphs II, III, and IV of the petition.

IV. The defendant admits that the only means of transporting coal from the anthracite region to New York Harbor is in the way and manner averred in Paragraph V of the petition. Defendant has not sufficient knowledge to answer as to whether the railroad companies named in the petition, other than this defendant, have owned and controlled or do now own and control large tracts of coal lands or are and have been engaged in mining and dealing in anthracite coal. Defendant denies that it has owned or controlled or now owns or controls large tracts of coal lands, and also denies that it has engaged or is now engaged, directly or indirectly, in mining and dealing in anthracite coal. Defendant admits the ownership of shares of capital stock of the Lehigh Valley Coal Company, a corporation of the Commonwealth of Pennsylvania, and avers that such ownership is in accordance with the laws of the Commonwealth of Pennsylvania, the State in which defendant is incorporated. Defendant denies that it controls the eastern market for a very large proportion of the anthracite coal annually mined, and, so far as it has knowledge, the railroad companies mentioned in Paragraph V of the petition do not control said eastern market for a very large proportion of said anthracite coal.

V. Defendant denies each and every allegation of fact contained in Paragraph VI of the petition.

VI. Defendant denies the allegation contained in Paragraph VII of the petition that for several years prior to August 1st, 1901, there was in operation between the defendant and the various shippers of anthracite coal, including the complainants, an arrangement by which it was provided that the rate that should be paid for transporting their coal to tidewater should be the difference between the market price at tidewater and the price prevailing at the breakers. Defendant further denies the allegation contained in said Paragraph VII of the petition that the charges actually made to the shippers for transportating their coal were in all cases approximately the difference between the market price at tidewater and the price prevailing at the breakers.

VII. Defendant denies that the "Anthracite companies" entered into negotiations with owners and operators as stated and alleged in Paragraph VIII of the petition or entered into such agreements with said owners and operators as stated and averred in said Paragraph VIII.

VIII. Defendant is unable to answer the allegations contained in Paragraph IX of the petition as to what agreements were made by the anthracite companies other than the defendant. Defendant avers, so far as regards this defendant, that it entered into no such arrangement or agreement as is averred in said paragraph.

IX. Defendant denies that any arrangement existed between the defendant and the independent shippers of anthracite coal as to the rate to be paid for carrying their coal, as alleged in Paragraph X of the petition. Defendant denies the averment in said paragraph of an understanding between the complainants and the defendant as to allowances. Defendant further denies that during part of said period it rendered statements of accounts to the complainants showing the difference specified in said paragraph of the petition.

X. Defendant denies each and every allegation contained in Paragraph XI of the petition except that it admits that the statements of the aggregate shipments of coal by the complainants over the defendant's lines between November 1, 1900, and August 1, 1901, and the total amount paid therefor by the complainants are substantially correct, and, except that it further admits that complainants have demanded of the defendant the repayment of eleven thousand one hundred and twenty-one dollars and ninety-seven cents ($11,121.97), and that no part thereof has been paid by the defendant.

XI. Defendant admits that from August, 1901, to July 1, 1907, as alleged in Paragraph XII of the petition, the defendant charged for carrying coal to tidewater the sums of $1.55 per ton for prepared coal, $1.40 per ton for pea coal, $1.25 per ton for buckwheat coal, and $1.10 per ton for coal smaller than buckwheat coal, except that defendant avers that since the 10th day of January, 1905, the charge for buckwheat coal has been on No. 1, $1.20 per ton. Defendant alleges that the charges aforesaid were in accordance with the tariffs duly filed by the defendant with this commission and duly published and posted as required by law. Defendant denies that said charges were, or are, in excess of the value of the services, or in excess of the difference between the amount realized for the coal at New York tidewater, after deducting expenses of selling, and the prices paid for it at the mines, or constituted an excessive, unreasonable, unlawful, or discriminatory charge for such services.

XII. Defendant denies the allegations contained in Paragraph XIII of the petition.

XIII. Defendant admits that the statements contained in Paragraph XIV of the petition as to the amount of the shipments of coal by the complainants over the lines of the defendant between August 1, 1901, and June 30, 1907, and the prices paid therefor are correct. Defendant denies that the prices paid for transportation as alleged in said paragraph were unreasonable, or constituted an overcharge of the amount averred in said paragraph or constituted an overcharge to any amount.

XIV. Defendant denies the allegations contained in Paragraph XV of the petition, except that it admits that complainants have notified the defendant that as to payments made subsequent to the first day of August, 1901, they reserved the right to recover such amounts as they might be entitled to.

XV. Defendant denies the averment contained in Paragraph XVI of the petition.

XVI. Defendant denies the allegations contained in Paragraph XVII of the petition.

XVII. Defendant further alleges that as to all payments made by the complainants on account of the transportation of anthracite coal over lines of the defendant as alleged in the petition prior to the 17th day of July, 1905, the petition herein not having been filed with this commission within two years after the cause of action accrued, or within one year after the passage of the act of June 29th, 1906, all claims for the recovery of any damages based upon said payments are barred by virtue of the provisions of section 5 of the act of June 29th, 1906, amending section 16 of the act to regulate commerce.

Wherefore defendant prays that the petition be dismissed.

LEHIGH VALLEY RAILROAD COMPANY,
By E. B. THOMAS, *President.*

FRANK H. PLATT,
Counsel, 2 Rector Street, New York City.

(Before the Interstate Commerce Commission. Henry E. Meeker, complainant, v. Lehigh Valley Railroad Company, defendant. Complaint No. 2.)

To the Interstate Commerce Commission:

The petition of the above-named complainant respectfully shows, on information and belief:

I. The plaintiff is engaged in the business of buying, selling, and shipping anthracite coal, under the trade name of Meeker & Co., having duly succeeded to the business which for many years was carried on by himself and Caroline H. Meeker, under the same name. The said business involves the shipping of large quantities of anthracite coals over the lines operated by the defendant from mines and collieries situated in what is known as the "Wyoming" coal region, in Pennsylvania, to tidewater at Perth Amboy, New Jersey, and thence to the New York markets.

II. At all the times herein mentioned the defendant was and still is a railroad corporation, organized and existing under the laws of the State of Pennsylvania, and a common carrier engaged in the interstate railroad transportation of passengers and property between points in the States of Pennsylvania, New Jersey, and New York, over its own lines of road, as well as over, other lines owned, leased, controlled, or operated by it. About 80% of the defendant's entire business is the transportation of anthracite coal and other merchandise, and about one-half of such percentage of its business is the transportation of anthracite coal.

III. In addition to the complainant there have been a number of other shippers engaged in shipping anthracite coal, as interstate commerce, over the said lines operated by the defendant from mines and collieries situated in the said Wyoming coal region to tidewater at Perth Amboy, one of whom was and still is the Lehigh Valley Coal Company (hereinafter called the "Coal Company"), a corporation organized and existing under the laws of the State of Pennsylvania and engaged in the business of mining and buying anthracite coal, at mines and collieries in the said Wyoming coal region, and shipping the same as interstate commerce over the lines of the defendant to tidewater at Perth Amboy, New Jersey, and there selling it. Since the incorporation of the Coal Company the defendant has owned or controlled, and still owns and controls, its entire capital stock, and the two companies have had, and still have, virtually the same officers, and at least 75% of the anthracite coal transported by the defendant since 1899 was owned by the Coal Company.

IV. Substantially all the mined anthracite coal in the United States is contained in a small area, consisting of about 496 square miles, in the northeastern part of Pennsylvania, in three localities, known as the "Wyoming," the "Lehigh," and the "Schuylkill." Only a small portion of such coal is consumed in the immediate neighborhood of the mines. The greater portion of it is consumed in the Eastern and Middle States, and more than twenty per cent of it is shipped to the harbor of New York City and there marketed.

V. The only means of transporting coal from the anthracite region to New York Harbor is over the line of the defendant and of the following other railroad companies, namely: The New York, Ontario and Western Railroad Company, the Delaware, Lackawanna and Western Railroad Company, the Central Railroad Company of New Jersey, the Philadelphia and Reading Railroad Company, the Erie Railroad Company, the New York, Susquehanna and Western Railroad Company, and the Pennsylvania Railroad Company. For many years the said railroad companies, in addition to their business as common carriers, have owned and controlled large tracts of coal lands and have been engaged, either directly or indirectly, through the control of coal companies, in mining and dealing in anthracite coal; and in this manner the said companies control the eastern market for a very large proportion of the anthracite coal annually mined. The said railroad companies, including the defendant, but excepting the Pennsylvania Railroad Company, are hereinafter referred to as the "Anthracite Companies."

VI. Any charge made by the defendant for transporting anthracite coal from the breakers, at the said mines or collieries, to tidewater, in excess of the difference between the market price at tidewater and a sum representing the price prevailing at the breakers, together with the expenses of selling the coal and a reasonable allowance for interest and profits, is an unreasonable, excessive, unlawful, and discriminatory charge, because it does not permit the independent shippers, including the complainant, to sell coal except at a loss, and must inevitably result in enabling the defendant, owning, as it does, the capital stock of the Coal Company, to drive all independent shippers out of the market; for the excessive rates paid by the Coal Company are received by the defendant, and the apparent losses to the Coal Company are consequently only nominal as to the defendant.

VII. For several years prior to August 1, 1901, there was in operation between the defendant and the various shippers of anthracite coal, including the complainant and his said copartner, an arrangement by which it was provided that the rate which should be paid for transporting their coal to tidewater should be the difference between the market price at tidewater and the price prevailing at the breakers, the latter being definite percentages of the former; and although the defendant published nominal tariff rates and drew sight drafts each week upon its shippers for transportation at such tariff rates, which the shippers paid, yet the charges actually made to the shippers for transporting their coal were, in all cases, approximately, the difference between the market price at tidewater and the price prevailing at the breakers, and the accounts between the defendant and the various shippers were adjusted accordingly a few days after the expiration of each month; and, in case the defendant had been overpaid upon the said sight drafts, it immediately returned the amount of such overpayment to the shippers, respectively.

VIII. From August 1, 1901, the Anthracite Companies, including the defendant, which, prior to 1901, as hereinbefore alleged, had not charged for transporting coal more than the difference between the market price of the coal at the breakers and the price at tidewater, although they had been publishing nominal tariff rates, began to exact from all independent shippers a fixed charge per ton for carrying coal to tidewater, in excess of such difference in prices, amounting to $1.55 per ton for prepared coal, $1.40 per ton for pea coal, $1.25 per ton for buckwheat coal; and the said charges have ever since been continued, except that the rate for buckwheat coal was reduced from $1.25 to $1.20 per ton on January 10, 1905. The said charges were and are unjust, unreasonable, and discriminatory and are forbidden by the act to regulate commerce and particularly by sections one and three thereof. During the said period any charge in excess of one dollar per ton made by the defendant for transporting anthracite coal between the said points constituted an unreasonable and excessive charge; and the said charges to the complainant were not only far in excess of the value of the services rendered and far more than the defendant had previously received for such service, but they were in excess of the difference between the amounts realized for the coal at New York tidewater, after deducting expenses of selling, and the prices paid for it at the mines, and constituted an excessive, unreasonable, unlawful, and discriminatory charge for the said services.

IX. As a result of the said excessive and unreasonable charges, the independent dealers and shippers, including the complainant, have been unable to ship coal to New York, except at a loss, and the complainant has been obliged to pay excessive rates upon all coal shipped by him to tidewater over the lines of the defendant.

X. In July, 1907, the complainant's said firm submitted a petition to the Interstate Commerce Commission, requesting it to make an order fixing the rate for the transportation of anthracite coal by the defendant between the Wyoming coal region in Pennsylvania, and Perth Amboy, New Jersey, at not more than one dollar per ton, and ordering and directing the defendant to make reparation to said complainant for charges exacted by the defendant from the said complainant in excess of the said rate of one dollar per ton prior to July 1, 1907. The said proceeding has been diligently prosecuted, but is still pending and undetermined before the said commission.

XI. From July 1, 1907, to April 1, 1910, the complainant shipped 126,673 tons of anthracite coal over the lines of the defendant from the breakers at the mines and collieries in the Wyoming region to tidewater at Perth Amboy, New Jersey, and paid to the defendant for such services, but under protest, $1.55 per ton for 68,405.02 tons of the prepared sizes of such coal, $1.40 per ton for 31,327.03 tons of the pea size of such coal, $1.20 per ton for 24,428.06 tons of the buckwheat sizes of such coal, $1.10 per ton for 2,512.09 tons of the rice and barley sizes of such coal, all of such prices being a great deal in excess of $1 per ton, the reasonable charge therefor, and constituting a total overcharge of about $55,290.73.

XII. The complainant was unable to continue his shipments of anthracite coal except by complying with the demands of the defendant as to rates, and all his said payments were made under duress; and the complainant, in each and every case, made the said payments under protest, asserting that the rates charged were unreasonable and excessive, and notified the defendant that he reserved the right to recover back from it the amount of excess over the reasonable rate.

XIII. Since August 1, 1901, the Coal Company has been, and still is, selling anthracite coal at Perth Amboy at such prices that, after deducting therefrom the price at which the coal was purchased at the breakers in the Wyoming coal region, and a reasonable and proper allowance for shipping and selling expenses, there remains, as revenue or receipts to be paid to the railroad company for the transportation of the coal, a less sum than that charged by the railroad company for the transportation of the said coal between the said Wyoming coal region and Perth Amboy.

XIV. The fact that the Coal Company, in nominally paying the tariff rates prescribed by the railroad company, has paid an excessive amount for the transportation of its coal, and has done so only at a loss, is evident from the annual reports of the said companies. The Coal Company would have been unable to transact its business in the manner above mentioned and to pay to the railroad company the said charges for the transportation of anthracite coal from the Wyoming coal region to Perth Amboy except for the fact that the railroad company has furnished to it the capital and means to make good the losses which have necessarily resulted in the payment to the railroad company by the Coal Company of the said transportation charges.

Wherefore the complainant respectfully requests the commission to make an order requiring the defendant to answer the charges herein; that after due investigation an order may be made commanding said defendant to cease and desist from the aforesaid violations of the said act to regulate commerce, and that an order may be made fixing the rate for the transportation of anthracite coal by the defendant between the Wyoming coal region, Pennsylvania, and Perth Amboy, New Jersey, at not more than $1 per ton; and ordering and directing the defendant to make reparation to the complainant in the sum of $55,290.73, with interest on the respective payments made by the complainant in excess of a reasonable rate from the date of such payments, respectively; and to award to the complainant such other relief as he may show himself entitled to receive.

HENRY E. MEEKER, *Complainant.*
SHEARMAN & STERLING,
55 Wall Street, New York City.
WILLIAM A. GLASGOW, Jr.,
417 Real Estate Trust Building, Philadelphia, Pa.,
Attorneys for Complainant.

STATE OF NEW YORK, *County of New York:*

Henry E. Meeker, being duly sworn, says that he is the plaintiff herein, and that the foregoing complaint is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

HENRY E. MEEKER.

Sworn to before me April 11, 1910.

[SEAL.] HENRY J. DORGELOH,
Notary Public, No. 35, Kings County.
Certificate filed New York Co.
Commission expires March 30, 1912. Customs Notary.

(Before the Interstate Commerce Commission. Henry E. Meeker, complainant, *v.* Lehigh Valley Railroad Company, defendant. Complaint No. 2. Docket No. 3235. Answer.)

The above-named defendant, saving and reserving its objections hereinafter stated to the jurisdiction and power of this commission to grant the relief prayed for in the petition, answers the petition in the above-entitled proceeding as follows:

I. Defendant alleges that this commission possesses no jurisdiction or power to make an order fixing the rate for transportation of anthracite coal, as prayed in the petition, and defendant alleges that section 15 of the act to regulate commerce, approved February 4, 1887, as amended by section 4 of the act of June 29, 1906, attempting to confer such jurisdiction and power upon this commission, is unconstitutional and void.

II. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph I of the petition.

III. Defendant admits the allegations contained in Paragraphs II, III, and IV of the petition.

IV. The defendant admits that the only means of transporting coal from the anthracite region to New York Harbor is in the way and manner averred in Paragraph V of the petition. Defendant has not sufficient knowledge to answer as to whether the railroad companies named in the petition, other than this defendant, have owned and controlled, or do now own and control, large tracts of coal lands, or are and have been engaged in mining and dealing in anthracite coal. Defendant denies that it has owned or controlled, or now owns or controls, large tracts of coal lands, and also denies that it has engaged, or is now engaged, directly or indirectly, in mining and dealing in anthracite coal. Defendant admits the ownership of shares of capital stock of the Lehigh Valley Coal Company, a corporation of the Commonwealth of Pennsylvania, and avers that such ownership is in accordance with the laws of the Commonwealth of Pennsylvania, the State in which defendant is incorporated. Defendant denies that it controls the eastern market for a very large proportion of the anthracite coal annually mined, and, so far as it has knowledge, the railroad companies mentioned in Paragraph V of the petition do not control said eastern market for a very large proportion of said anthracite coal.

V. Defendant denies each and every allegation of fact contained in Paragraph VI of the petition.

VI. Defendant denies the allegation contained in Paragraph VII of the petition that for several years prior to August 1, 1901, there was in operation between the defendant and the various shippers of anthracite coal, including the complainant, an arrangement by which it was provided that the rate that should be paid for transporting their coal to tidewater should be the difference between the market price at tidewater and the price prevailing at the breakers. Defendant further denies the allegation contained in said Paragraph VII of the petition that the charges actually made to the shippers for transporting their coal were in all cases approximately the difference between the market price at tidewater and the price prevailing at the breakers.

VII. Defendant admits that from August, 1901, as alleged in Paragraph VIII of the petition, the defendant charged for carrying coal to tidewater the sums of $1.55 per ton for prepared coal, $1.40 per ton for pea coal, $1.25 per ton for buckwheat coal, and $1.10 per ton for coal smaller than buckwheat coal, except that since the 10th day of January, 1905, the charge for buckwheat coal has been on No. 1 $1.20 per ton. Defendant alleges that the charges aforesaid were in accordance with the tariffs duly filed by the defendant with this commission and duly published and posted, as required by law. Defendant denies that said charges were, or are, in excess of the value of the service or in excess of the difference between the amount realized for the coal at New York tidewater, after deducting expenses of selling and the prices paid for it at the mines, or constituted an excessive, unreasonable, unlawful, or discriminatory charge for such services. Defendant denies that said charges were or are unjust, unreasonable, and discriminatory or forbidden by the act to regulate commerce. Defendant denies knowledge or information sufficient to form a belief as to any of the other allegations contained in Paragraph VIII of the petition.

VIII. Defendant denies the allegations contained in Paragraph IX of the petition.

IX. Defendant admits and states that on or about July 17, 1907, a complaint was filed with the Interstate Commerce Commission in a proceeding entitled "Henry E. Meeker and Caroline H. Meeker, complainants, against Lehigh Valley Railroad Company, defendant," which proceeding is designated by the commission as Docket No. 1180. Defendant further admits that the petition in said action, Docket No. 1180, contains the following prayer:

"Wherefore the complainants respectfully request the commission to make an order fixing the rate for the transportation of anthracite coal by the defendant between the Wyoming coal region, in Pennsylvania, and Perth Amboy, New Jersey, at not more than one dollar per ton, and ordering and directing the defendant to make reparation to the complainants for the sum of eleven thousand one hundred twenty-one dollars and ninety-seven cents ($11,121.97), with interest thereon from August 1, 1901, and for the sum of two hundred and ten thousand three hundred fifty-one dollars ($210,351), with interest on the respective payments made by the complainants in excess of a reasonable rate from the dates of such payments, respectively, and for award to the complainants such other relief as they may show themselves entitled to receive."

Defendant further admits that said proceeding is still pending and undetermined before the Interstate Commerce Commission. Defendant denies such and every other allegation in Paragraph X of the petition.

X. Defendant denies knowledge or information sufficient to form a belief as to any of the allegations contained in Paragraph XI of the petition, except that it denies that one dollar per ton would be a reasonable or compensatory charge, and further denies that there has been or is any overcharge.

XI. Defendant denies the allegations contained in Paragraph XII of the petition, except that it admits that complainant has notified the defendant that as to payments made subsequent to July 1, 1907, he reserved the right to recover such amounts as he might be entitled to.

XII. Defendant denies each and every allegation contained in Paragraph XIII of the petition.

XIII. Defendant denies each and every allegation contained in Paragraph XIV of the petition.

XIV. Defendant alleges that as to all payments made by the complainant on account of the transportation of anthracite coal over lines of the defendant as alleged in the petition prior to the 20th day of April, 1908, the petition herein not having been filed with this commission within two years after the cause of action accrued, or within one year after the passage of the act of June 29, 1906, all claims for recovery of any damages based upon said payments are barred by virtue of the provisions of section 5 of the act of June 29, 1906, amending section 16 of the act to regulate commerce.

XV. Defendant further alleges that the act to regulate commerce, approved February 4, 1887, as amended by the act of June 29, 1906, does not confer jurisdiction or power upon this commission to make or determine upon any reparation whatsoever to the complainant; and further alleges that any interpretation of said act, as amended, or any part thereof, purporting to give such jurisdiction or power to the commission would render said act, as amended, in so far as it relates to claims for reparation, unconstitutional and void.

Wherefore defendant prays that the petition be dismissed.

LEHIGH VALLEY RAILROAD COMPANY,
By E. B. THOMAS, *President.*
FRANK H. PLATT, *Counsel,*
2 Rector Street, New York City.

NEW YORK, N. Y., *May 10, 1910.*

(Opinion No. 1880, before the Interstate Commerce Commission. No. 1180. Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Company, *v.* Lehigh Valley Railroad Company. No. 3235. Henry E. Meeker *v.* Lehigh Valley Railroad Company. Submitted February 27, 1912. Decided May 7, 1912.)

Reparation awarded on account of unreasonable and discriminatory rates charged for the transportation of anthracite coal from the Wyoming region in Pennsylvania to Perth Amboy, N. J., in accordance with the conclusions announced in Meeker *v.* L. V. R. R. Co., 21 I. C. C., 129.

William A. Glasgow, jr., for complainants.
Frank H. Platt, George W. Field, and E. H. Boles for defendant.

SUPPLEMENTAL REPORT OF THE COMMISSION.

McCHORD, Commissioner:

The original report in No. 1180, 21 I. C. C., 129, disposed of all the questions at issue except the claim for reparation, and the case was held open for the purpose of securing further information regarding that feature. A further hearing has been held, and complainant has presented exhibits showing the total number of tons of each variety of coal shipped and the amount of reparation due on such shipments. These exhibits have been examined by defendant and admitted to be correct.

In our original report we found that the rates charged complainant for the transportation of anthracite coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., during the period from November 1, 1900, to August 1, 1901, were unjustly discriminatory in violation of section 2 of the act to the extent that they exceeded the rates contemporaneously charged the Lehigh Valley Coal Company under the contract then in effect between that company and defendant; and we further found that the rates in effect from August 1, 1901, to July 17, 1907, were unreasonable to the extent that they exceeded rates of $1.40 per gross ton on prepared sizes, $1.30 on pea, and $1.15 on buckwheat.

On basis of our conclusions in the former report, and upon consideration of the evidence adduced at the hearing upon the question of reparation, we now find that during the period from November 1, 1900, to August 1, 1901, complainant shipped from the Wyoming coal region of Pennsylvania to Perth Amboy, N. J., 55,257.75 tons of coal of prepared sizes, 16,689.76 tons of pea coal, 11,448.93 tons of buckwheat coal, and 4,926.77 tons of rice coal, and paid charges thereon, amounting to $129,989.18, at the rates found to have been unjustly discriminatory; that complainant has been damaged to the extent of the difference between the amount which he did pay and $118,979.85, the amount which he would have paid had he been given the benefit of the rates applied by defendant to similar shipments of the Lehigh Valley Coal Company; and that he is therefore entitled to an award of reparation in the sum of $11,009.33, with interest thereon from August 1, 1901. We find further that from August 1, 1901, to July 17, 1907, complainant shipped from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., 246,870.15 tons of coal of prepared sizes, 106,051.09 tons of pea coal, and 87,250 tons of buckwheat coal, and paid charges thereon amounting to $685,375.27, at the rates found to have been unreasonable; that complainant has been damaged to the extent of the difference between the amount which he did pay and $626,945.62, the amount which he would have paid at the rates found reasonable, less $133.20 deducted by stipulation of all parties on account of certain claims already paid; and that he is therefore entitled to an additional award of reparation in the sum of $58,236.45, with interest, amounting to $27,750.64, on the individual charges comprising said sum from the dates of payment thereof to September 1, 1911, together with interest on said sum of $58,236.45 from September 1, 1911.

With the exception of the reparation features, the issues involved in No. 3235 have been passed upon by the commission in No. 1180. The latter case covered the period from November 1, 1900, to July 17, 1907, while the instant case is designed to secure reparation upon shipments which moved between July 17, 1907, and April 15, 1910. The petition in the present case therefore resolves itself into a prayer for reparation on shipments moving subsequent to the period covered by the original report, on basis of the conclusions announced in that report.

In No. 1180 the complaint attacked the reasonableness of rates charged by defendant for the transportation of various sizes of anthracite coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., and asked reparation. On June 8, 1911, the commission rendered its decision in that case. The petition in the present case was filed on April 15, 1910, or about a year prior to our decision in No. 1180. As before stated, it attacks the same rates that were found unreasonable in No. 1180, and asks reparation on shipments moving from July 17, 1907, to April 13, 1910.

The former case was filed with the commission within one year from the passage of the law of June 29, 1906, and consequently was not limited to causes of action that accrued within two years prior to the filing of the complaint. The present proceeding, however, was instituted more than one year subsequent to the passage of that law, and is therefore subject to the two-year limitation of the statute. Complainant's prayer for reparation on shipments moving more than two years prior to the filing of the complaint in this case must be denied.

On basis of our decision in No. 1180, and upon consideration of the evidence submitted at the hearing of the present case regarding the amount of reparation due complainant, we now find that the rates exacted by defendant for the transportation of anthracite coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., during the period from April 13, 1908, to April 13, 1910, were unreasonable to the extent that they exceeded rates of $1.40 per gross ton on prepared sizes, $1.30 on pea, and $1.15 on buckwheat; that complainant shipped from said point of origin to said destination during the period above set forth, 46,772.02 tons of coal of prepared sizes, 26,972.06 tons of pea coal, and 22,004.09 tons of buckwheat coal; that complainant paid charges thereon amounting to $136,663.41 at the rates herein found to have been unreasonable, and was damaged to the extent of the difference between the amount which he did pay and $125,849.81, the amount which he would have paid at the rates above found reasonable; and that he is therefore entitled to an award of reparation in the sum of $10,813.60, with interest, amounting to $1,526.53, upon the individual charges comprising said sum from the dates of payment thereof to September 1, 1911, together with interest on said sum of $10,813.60 from the 1st day of September, 1911.

The exhibits showing details respecting the shipments upon which reparation is asked are too extensive to be set forth in this report. But inasmuch as the accuracy of the figures in said exhibits respecting the shipments made, freight charges paid, and reparation due is conceded of record by defendant, we deem it unnecessary to make detailed findings respecting the numerous shipments involved.

Orders will be issued in accordance with the findings herein announced.

ORDERS.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 7th day of May, A. D. 1912.

No. 1180. Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Company, *v.* Lehigh Valley Railroad Company.

This case being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the commission having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That defendant Lehigh Valley Railroad Company be, and it is hereby, authorized and required to pay unto complainant, Henry E. Meeker, on or before the 15th day of July, 1912, the sum of $11,009.33, with interest thereon at the rate of 6 per cent per annum from the 1st day of August, 1901, as reparation for unjustly discriminatory rates charged for the transportation of anthracite coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., during the period from November 1, 1900, to August 1, 1901, and for the sum of $210,351, with interest thereon at the rate of 6 per cent per annum, amounting to $11,121.97, upon the various individual charges comprising said sum, from the dates of payment thereof to September 1, 1911, as itemized in complainant's Exhibit 2, together with interest at the rate of 6 per cent per annum on said sum of $210,351 from September 1, 1911, as reparation for unreasonable rates charged for the transportation of various shipments of anthracite coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., during the period from August 1, 1901, to July 17, 1907, and for the sum of $58,236.45, with interest thereon at the rate of 6 per cent per annum on said sum of $58,236.45 from September 1, 1911, as reparation for unreasonable rates charged for the transportation of various shipments of anthracite coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., during the period from July 17, 1907, to April 13, 1910, were unreasonable to the extent that they exceeded rates of $1.40 per gross ton on prepared sizes, $1.30 on pea coal, and $1.15 on buckwheat; that complainant shipped from said point of origin to said destination during the period above set forth, 46,772.02 tons of coal of prepared sizes, 26,972.06 tons of pea coal, and 22,004.09 tons of buckwheat coal; that complainant paid charges thereon amounting to $136,663.41 at the rates herein found to have been unreasonable, and was damaged to the extent of the difference between the amount which he did pay and $125,849.81, the amount which he would have paid at the rates above found reasonable; and that he is therefore entitled to an award of reparation in the sum of $10,813.60, with interest, amounting to $1,526.53, upon the individual charges comprising said sum from the dates of payment thereof to September 1, 1911, together with interest on said sum of $10,813.60 from September 1, 1911, as reparation for unreasonable rates charged for the transportation of various shipments of anthracite coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., which rates so charged have been found by this commission to have been unjustly discriminatory, as more fully and at large appears in and by said report of the commission.

It is further ordered, That defendant Lehigh Valley Railroad Company be, and it is hereby, authorized and required to pay unto complainant, Henry E. Meeker, on or before the 15th day of July, 1912, the sum of $58,236.45, with interest thereon at the rate of 6 per cent per annum, amounting to $27,750.64, upon the various individual charges comprising said sum, from the dates of payment thereof to September 1, 1911, as itemized in complainant's Exhibit 2, together with interest at the rate of 6 per cent per annum on said sum of $58,236.45 from September 1, 1911, as reparation for unreasonable rates charged for the transportation of various shipments of anthracite coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., which rates so charged have been found by this commission to have been unreasonable, as more fully and at large appears in and by said report of the commission.

By the commission:

Secretary.

(Opinion No. 1585, before the Interstate Commerce Commission. No. 1180. Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Company, *v.* Lehigh Valley Railroad Company. Submitted May 15, 1911. Decided June 8, 1911.)

1. Upon shipments of anthracite coal made by complainants from the Wyoming region in Pennsylvania to Perth Amboy, N. J., during the period from November 1, 1900, to August 1, 1901, the rates collected by defendant were unjustly discriminatory and resulted in damage to complainant for which reparation will be awarded.

2. Defendant's present rates for the transportation of anthracite coal in carloads from the Wyoming region in Pennsylvania to Perth Amboy, N. J., of $1.55 per gross ton on prepared sizes, $1.40 on pea coal, and $1.20 on buckwheat coal, found unreasonable to the extent that they exceed $1.40 on prepared sizes, $1.30 on pea coal, and $1.15 on buckwheat coal, which latter rates are established as maxima for the future, reparation to be awarded on basis of the latter rates as to shipments made by complainants since August 1, 1901.

William A. Glasgow, jr., and John A. Garver for complainants.
J. F. Schlegerkotter, Frank H. Platt, and George W. Field for defendant.

REPORT OF THE COMMISSION.

McCHORD, Commissioner:

Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Company, complainants in this proceeding, were, when the complaint was filed, engaged in the business of buying, shipping, and selling anthracite coal over the lines of the Lehigh Valley Railroad Company from mines and collieries situated in the Wyoming coal region of Pennsylvania to tidewater at Perth Amboy, N. J., and thence to the New York market.

During the pendency of the proceeding Caroline H. Meeker died, and it has been continued to be prosecuted in the name of the surviving partner, Henry E. Meeker.

Complainants were not mine operators, but merely dealers on the New York market. The coal shipped by them to Perth Amboy was purchased from the Stevens colliery, which is situated near the city of Wilkes-Barre, Pa., on the West Pittston branch of defendant's Wyoming division, 1.5 miles from Coxton and 165 miles from Perth Amboy.

Practically all the anthracite coal deposits in the United States are in nine counties in the eastern portion of Pennsylvania in an area comprising about 486 square miles. The different coal fields are as follows: The northern, commonly called the Wyoming, from which the shipments involved in this proceeding were made; the eastern middle and western middle, which together are known as the Lehigh regions; and the southern, which also bears the name of Schuylkill. All three regions are reached by the Lehigh Valley Railroad. The northern field is some 55 miles in length, has a maximum width of about 5 miles, and lies northwesterly of the Pocono Mountains in the valley of the Lackawanna and Susquehanna Rivers. From this valley the carriers find comparatively easy outlets to points north and west, along the rivers mentioned, but coal shipped to the east over defendant's line has to be carried over the mountains at a maximum elevation of 1,750 feet. The lowest portions of the valley are about 500 feet above the level of the sea.

The coal mines are usually located at points separated from carrier's main tracks by distances varying from a fraction of a mile to several miles and connected with such tracks by lateral lines called branches or spurs. These branches are sometimes constructed by the mine operators, but generally by the carriers. The manner in which the coal is handled at the mine openings and while in process of transportation is as follows: For convenience in handling the coal at the mouths of the mines and preparing it for market, buildings called "breakers" are erected, and in these buildings the large lumps are broken and the coal separated into required sizes by being run over a series of screens of appropriate mesh. Some lump coal is taken as it comes out of the mine and is marketed for use either in furnaces or locomotives, but the demand for this size is limited. The sizes usually transported are the following:

Broken or grate, which goes through a mesh 4 inches square and over a mesh 2¾ inches square.

Egg, which goes through a mesh 2¾ inches square and over a mesh 2 inches square.

Stove, which goes through a mesh 2 inches square and over a mesh 1¾ inches square.

Chestnut, which goes through a mesh 1¾ inches square and over a mesh three-fourths inch square.

Pea, which goes through a mesh three-fourths inch square and over a mesh one-half inch square.

Buckwheat No. 1, which goes through a mesh one-half inch square and over a mesh one-fourth inch square.

Buckwheat No. 2, or rice, which goes through a mesh one-fourth inch square and over a mesh one-eighth square.

Smaller sizes are known as buckwheat No. 3 and culm.

The sizes above pea are known as prepared sizes and are used principally for domestic purposes. The smaller sizes are used almost entirely for steam purposes.

Formerly the smaller sizes had no commercial value and were allowed to accumulate as waste product in banks at the mines. But changes made in the grates of furnaces have facilitated their use for steam purposes, and such use has been increasing rapidly during recent years. By means of "washeries" large quantities of the smaller sizes have been recovered from these waste or culm banks and sent to market to satisfy this increased demand. However, only comparatively small prices can be obtained for these smaller sizes.

The cars are loaded directly from the breakers by means of chutes. The loaded cars are then hauled to a convenient place of concentration along the main track designated a gathering or assembly point, where they are drilled into trains according to destination and with some reference to the sizes. The coal destined to tidewater points is hauled in trains to yards adjacent to the docks, where a more particular separation takes place; that is to say, coal of particular qualities and sizes is placed on separate tracks and afterwards transferred to the boats or storage bins in accordance with the requirements of different purchasers.

For the year ended June 30, 1908, the Lehigh Valley Railroad Co. carried altogether 11,206,774 gross tons of anthracite coal, upon which its gross revenue was $14,908,923.08, showing an average revenue of $1.2411 per gross ton, or $0.00737 per net ton per mile. During the same period the Lehigh Valley's entire freight revenue amounted to 23,643,001 gross tons, its gross revenue to $30,186,341.72, its average rate per gross ton to $1.277, and its average rate per net ton per mile on all traffic, including anthracite coal, to $0.00659. It will thus be seen that during 1908 anthracite coal constituted approximately 47 per cent of the defendant's freight tonnage and produced approximately 49 per cent of its freight revenue. Complaints shipped between August 1, 1901, and June 30, 1907, 499,901.47 gross tons of anthracite coal, upon which they paid total freight charges of $769,637.67, resulting in an average rate per net ton per mile (based on the average mileage from the Wyoming region to Perth Amboy of 170 miles) of $0.00745.

It appears that prior to 1900 various anthracite coal carrying railroads in Pennsylvania, in their endeavor to control the output and sale of anthracite coal, had formed other and distinct corporate organizations, usually known as "coal companies," but which through stock ownership were owned, officered, and controlled by the railroads which brought them into existence. Such was the relation that existed between the Lehigh Valley Railroad Company and the Lehigh Valley Coal Company. The function of the Lehigh Valley Coal Company was to acquire, hold, and operate vast tracts of anthracite coal lands and to make contracts with independent operators for their entire output. In connection with the purchase of coal from independent operators, there came into existence what are known as "percentage contracts." The Lehigh Valley Coal Company regularly for a period of years entered into such contracts with independent coal operators along the line of the Lehigh Valley Railroad. Under these percentage contracts, the Lehigh Valley Coal Company agreed to pay the independent operators fluctuating prices for their coal at the mines, to be arrived at on the basis of certain

percentages of the average market prices of the various grades of anthracite coal at tidewater. An accurate check was kept on the tidewater market prices, and monthly settlements were made. Under the contract which was in effect during the greater part of the year 1900 the agreement by the Lehigh Valley Coal Company was to pay the coal operator 60 per cent of the tidewater price on the highest grade of anthracite coal and lesser percentages on the lower grades. This contract was therefore called the "60-per-cent contract," due to the fact that that percentage figure applied on the highest grade of coal.

Although the Lehigh Valley Railroad Company was not nominally a party to any of the percentage contracts entered into by the Lehigh Valley Coal Company, yet it made a practice of settling for the freight charges on coal purchased and shipped by the Lehigh Valley Coal Company at the differences between the amounts paid to the coal operators and the average market prices at tidewater. The result, therefore, was, taking the highest grade of coal as an illustration, that if the Lehigh Valley Coal Company paid the independent operator 60 per cent of the tidewater price the Lehigh Valley Railroad Company transported the coal for 40 per cent of said tidewater price. It will thus be seen that although the matter of freight rates was not mentioned in the contracts made by the Lehigh Valley Coal Company with the independent operators, yet the freight rates were directly dependent upon said contracts.

It appears that if an independent coal operator lacked established business connections or capital, it was to his interest to enter into the percentage contract with the Lehigh Valley Coal Company. Meeker & Company, however, had been in business as sales agents for coal since 1880, and their facilities for selling were adequate. They therefore made a contract with the Stevens Coal Company for practically their entire output of coal. There were also a number of other shippers of anthracite coal over the lines of the Lehigh Valley Railroad, and in order to place them on an equality with the Lehigh Valley Coal Company they were accorded the same rates as were accorded to that company.

It was the custom of all shippers, including the Lehigh Valley Coal Company, to pay the tariff rates on the various grades of anthracite to tidewater, and then by means of monthly settlements be given the benefit of the rates upon the percentage basis, which rates were known as "adjusted rates," and were usually considerably lower than the tariff rates; but which at certain periods, owing to advancing prices of anthracite coal, were higher than the tariff rates. The general purpose of the adjusted rates was, however, to give the shippers the benefit of rates lower than the tariff rates, and upon the whole they accomplished this result, and the evidence shows that they were impartially applied on all shipments during the greater part of the time that they were in effect.

In November, 1900, the parties interested (i. e., the Lehigh Valley Railroad Company, the Lehigh Valley Coal Company, and the coal producers) began to consider making a change in the terms of the then existing 60 per cent contract. It seems that the subject was not of easy solution, and that the negotiations dragged along for nine months, until August 1, 1901, at which time an agreement was reached whereby the price of the highest grade of coal at the breakers was to be 65 per cent of the tidewater market prices, instead of 60 per cent as formerly, with related increases on the lower grades. From almost the beginning of these negotiations it seems to have been the understanding of all parties that whatever arrangement was finally reached would be made retroactive until November 1, 1900, the date of the beginning of the negotiations, and that the Lehigh Valley Railroad Company would readjust its freight charges retroactively in conformity with the new scale of prices not only upon shipments made by the Lehigh Valley Coal Company but upon all coal shipped by independent dealers.

On the first hearing of this case counsel for the Lehigh Valley Railroad Company took the position that the tariff rates had been paid by all coal shippers during the nine months of negotiations, and that when, on August 1, 1901, it was determined that the 65 per cent basis should govern retroactively to November 1, 1900, the extra cost of the coal on this basis was paid by the Lehigh Valley Coal Company to the coal operators. Hence it was argued that the Lehigh Valley Railroad Company, having charged its full tariff rates to all, and the coal company having paid the increased price, there had been no discrimination against Meeker & Company during said nine months. As the evidence in support of this argument was meager and unsatisfactory, a supplemental hearing was had at which additional evidence was asked upon this point. The facts as disclosed by that hearing were as follows:

The Lehigh Valley Railroad Company during the period from November 1, 1900, to August 1, 1901, endeavored to settle with all shippers upon the basis of adjusted rates, under the 60 per cent contract. During the months of November, December, January, February, and March the adjusted rates upon some of the grades were higher than the tariff rates, owing to the high market price of coal at tidewater. Meeker & Company were expecting the 65 per cent contract to be adopted, and believed that the effect of its adoption would be that they would get the benefit of adjusted rates, which were lower than the tariff rates, whereas under the 60 per cent contract they were being called on to pay adjusted rates, which were in many instances higher than the tariff rates. They protested against paying money to the Lehigh Valley Railroad Company under the 60 per cent basis, which they expected to be subsequently refunded when the 65 per cent contract was adopted. They therefore objected to settling upon the basis of the 60 per cent "adjusted rates," even as early as November and December, 1900, but under some arrangement or understanding with the coal freight agent of the Lehigh Valley Railroad Company settlements were made for November and December in order that the books of that company might be closed for the year. Thereafter they refused to settle upon the basis of the 60 per cent adjusted rates, even in those instances where settlement would have involved a refund to them from the tariff rate which they had paid. Their idea seems to have been to have nothing whatever to do with settlements upon the 60 per cent basis, because they believed the whole matter would have to be subsequently undone and refigured upon the 65 per cent basis.

During the earlier months of 1901, owing to the market prices of coal, the adjusted rates upon the 60 per cent basis were in the main higher than the tariff rates; but in April, May, and June, and possibly thereafter, owing to the lower prices of coal, the adjusted rates became less than the tariff rates. The evidence does not clearly show whether independent shippers other than Meeker & Company paid the adjusted rates when they were higher than the tariff rates, but the presumption is that some of them, at least, did so. It appears, however, that shippers other than Meeker & Company accepted refunds from the Lehigh Valley Railroad Company in such instances as the adjusted rates were lower than the tariff rates.

When it was finally determined on August 1, 1901, to adopt the 65 per cent contract, the Lehigh Valley Railroad Company made a systematic effort to pay back to all shippers, including the Lehigh Valley Coal Company, such amounts as may have been paid during the period November 1, 1900, to August 1, 1901, in excess of the tariff rates. There was not, however, at that time any attempt made to collect back from shippers refunds which may have been made to them from month to month when the "adjusted rates" were lower than the tariff rates. It thus appears that the attempted readjustment to basis of tariff rates which the Lehigh Valley Railroad Company sought to make upon the adoption of the 65 per cent contract was only partial. Meeker & Company were offered refunds of the excess over tariff rates which had been paid in November and December, 1900, but refused to accept the same, stating in a letter of refusal that they would insist upon settlement of freight rates upon the basis of the newly adopted 65 per cent contract.

This brings us to the contention of complainants that the payment of the increased retroactive prices to the coal producers by the Lehigh Valley Coal Company was in fact a payment by the Lehigh Valley Railroad Company, and therefore equivalent to a readjustment by the latter company of its freight rates upon the basis of the 65 per cent contract on such coal as was shipped by the Lehigh Valley Coal Company during the period from November 1, 1900, to August 1, 1901.

Investigation of the books of the Lehigh Valley Railroad Company disclosed the fact that subsequent to August 1, 1901, there were extraordinary cash advances made by that company to the Lehigh Valley Coal Company, and one of the purposes of the supplemental hearing was to ascertain whether said cash advances included the sum which the Lehigh Valley Coal Company paid to the coal operators under the 65 per cent contract which was made retroactive for the nine months from November 1, 1900, to August 1, 1901.

On that hearing it developed that at the end of the year November 30, 1898, the Lehigh Valley Coal Company owed the Lehigh Valley Railroad Company $1,596,650; that at the end of the year November 30, 1899, the amount of its indebtedness remained unchanged; that during the fiscal year November 30, 1899, to November 30, 1900, there was a strike, production was curtailed, and sales were made from stored coal, whereby the coal company was enabled to reduce its stock of coal and its accounts receivable due from customers for coal sold; that as the result of this condition the indebtedness of the coal company to the railroad company on November 30, 1900, had been reduced to about $500,000. The unusual advances made by the railroad company to the coal company in 1901 were necessitated by the resumption of mining operations after the cessation of the strike. Counsel for the Lehigh Valley Railroad Company introduced in evidence the following extracts from the annual report of the company to its stockholders for 1901, viz:

"Under the existing arrangements the Lehigh Valley Coal Company is compelled to depend upon the railroad company for working capital to carry on its operations.

* * * * * * * * *

"The suspension of mining during the period of the strike last year and the sale of the greater portion of coal in stock enabled the coal company to repay to the railroad company a large proportion of the amount advanced by the latter company for this purpose."

And counsel for the complainant was permitted to read into the record the following additional extract from the same report, viz:

"The uninterrupted continuance of operations during the fiscal year just closed (i. e., the year ending November 30, 1901) restored normal conditions, necessitating advances by the railroad company of a million dollars, which amount is more than represented by the increased tonnage and value of the coal in stock as compared with November 1st last."

The general auditor of the Lehigh Valley Railroad Company testified that the amount which the Lehigh Valley Coal Company had to pay the coal operators under the 65 per cent contract, which on August 1, 1901, became effective retroactively to November 1, 1900, was $231,090.19. He further testified that the deficit of $491,576.65 shown in the operations of the Lehigh Valley Coal Company for the year ended November 30, 1901, would have been less by $231,090.19 had it not been for the payment by the coal company to the operators of the increased prices under the retroactive 65 per cent contract.

In view of the admissions upon the supplemental hearing the conclusion seems inevitable that the financial condition of the Lehigh Valley Coal Company was not such as to have enabled it to pay the $231,090.19 to the coal operators out of its own treasury, and that not only this amount but much larger sums were advanced by the railroad company to the coal company during the year 1901 for the purpose of enabling the latter to carry on its operations.

It is alleged in the petition that between November 1, 1900, and August 1, 1901, complainants, Meeker & Company, shipped 88,336 tons of coal from the Wyoming region to tidewater at Perth Amboy, N. J., a distance of about 165 miles, on which they paid a sum total as freight charges amounting to $129,989.18, whereas upon the 35 per cent basis which complainants contend was the necessary result of the 65 per cent contract entered into by the Lehigh Valley Coal Company on August 1, 1901, the freight charges should have been only $118,867.21, the amount of overpayment by complainants being $11,121.97.

From the facts disclosed it is apparent that the payment of the $231,090.19, which was ostensibly made by the Lehigh Valley Coal Company to the coal operators from which it had purchased coal during the period from November 1, 1900, to August 1, 1901, was in fact made from funds advanced as cash by the Lehigh Valley Railroad Company to the Lehigh Valley Coal Company, and was therefore the equivalent of a readjustment of the freight rates upon the basis of the 65 per cent contract on such coal as was purchased by the Lehigh Valley Coal Company and shipped to tidewater during the period from November 1, 1900, to August 1, 1901. We are of the opinion, and so hold, that complainants have sustained the allegation of unjust discrimination under the second section of the act. Reparation, with interest from August 1, 1901, will be awarded on this account.

Since August 1, 1901, complainants and other shippers have paid full tariff rates on coal from the Wyoming region to Perth Amboy, which rates are as follows:

	Per gross ton.
Prepared sizes	$1.55
Pea coal	1.40
Buckwheat coal	1.20
Aug. 7, 1904, to Jan. 10, 1905	1.25
All sizes below buckwheat	1.10

It is alleged in the complaint that any charge in excess of $1 on all grades subsequent to August 1, 1901, is unreasonable, and reparation is asked by complainants upon the basis of the suggested rate of $1 upon all shipments made by them over the Lehigh Valley Railroad during the period August 1, 1901, to July 1, 1907, the aggregate amount of reparation sought during said period being $210,351.

In a later complaint, filed April 13, 1910, No. 3235, styled Henry E. Meeker v. Lehigh Valley Railroad Company, complainant seeks reparation on the basis of a rate of $1 on all grades of coal shipped during the period July 1, 1907, to April 1, 1910, alleging a total overcharge during said period of $55,290.73.

As the subject matter of the two complaints is the same, in so far as the reasonableness of the rates is concerned, the disposition of the later case will perhaps be determined by the conclusions reached in this case.

When complainants filed their complaint in July, 1907, they elected, as to the period from November 1, 1900, to August 1, 1901, to rely entirely upon a violation of the second section of the act, and therefore claimed reparation only to the extent of $11,121.97, on the ground of discrimination during said period in favor of the Lehigh Valley Coal Company, claiming that the effect of the retroactive 65 per cent contract of August 1, 1901, was to readjust upon a lower basis the freight rates which had been paid by the Lehigh Valley Coal Company during said period.

When the case came on for hearing in March, 1909, complainants' counsel announced orally before the commission, and not by way of amendment of their petition, that they desired to claim additional reparation in the sum of $41,644.82—the excess paid over $1 per ton during the period from November 1, 1900, to August 1, 1901.

Complainants' counsel stated in his brief filed with the commission, but not by way of amendment to his petition, that by reason of the fact that the commission may not be convinced that $1 per ton is a reasonable rate on all grades of coal to tidewater he desired to put his claim for reparation in an alternative form, viz, that in event the commission should not approve the suggested rate of $1 per ton on all grades of coal, complainants are entitled to reparation in the amount of $156,144.92, the amount by which the freight charges which they have paid exceed what said charges would have been upon the basis of the average rate per ton per mile on all freight transported by the Lehigh Valley Railroad Company. In support of this claim for reparation he sets forth an exhibit in his brief which covers the calendar years 1902 to 1907, inclusive. This claim therefore does not extend back to November 1, 1900, as do his other claims; but it includes the latter half of 1907, and therefore extends six months beyond the period covered by his larger claim for reparation on the basis of the proposed $1 rate.

Complainants insist that the average rate per ton per mile upon coal ought not to exceed the average rate per ton per mile upon all freight traffic and base their claim for reparation in large part upon the assumption that the higher rate per ton-mile on coal is proof of the unreasonableness of the rates in question. Defendant answers this contention by asserting that the initial service in connection with the transportation of coal, commonly called collection or assembly, and the terminal service at Perth Amboy, are both difficult and complicated and involve extraordinary operating expenses, as well as the permanent investment of a large amount of capital, which are not incurred in the transportation of other classes of freight. The transportation of coal from the mining regions to Perth Amboy is described in detail in the record and may be summarized as follows:

Coal from the Wyoming region around Wilkes-Barre, after being assembled from the various branches, is carried east by way of Coxton or Pittston Junction over what is known as the Mountain Cut-Off, thence by way of Avoca, Penn Haven Junction, and Phillipsburg to South Plainfield, where it leaves the main line for Perth Amboy. Coal from the Lehigh region is collected from the various branches in the neighborhood of Hazleton, Lumber Yard, New Boston, and Mount Carmel, and carried to Penn Haven Junction, from which point it follows the same course as the Wyoming coal. Coal from the Schuylkill region reaches the main line at Lizard Creek Junction from the regions around Blackwood. Coal in transit from the Wyoming region to Perth Amboy passes over defendant's Wyoming and New Jersey & Lehigh divisions. The Wyoming division extends from Sayre to Mauch Chunk and includes the territory known as the Wyoming coal region, or the southern part of the northern coal field, and touches also the Lackawanna coal region. The New Jersey & Lehigh division extends from Easton to the sea end of the Perth Amboy docks. Defendant's Mahanoy & Hazleton division covers a portion of the Lehigh and a portion of the Schuylkill regions in the middle and southern coal fields. This division meets the main line at Penn Haven Junction.

Coal is carried from the mines to assembly yards, from which it is in turn taken to classification yards, where trains are made up for the main-line hauls. In the Wyoming division there are two such yards, Port Bowkley and Coxton, the former being an assembly yard and the latter both a classification and assembly yard.

At Perth Amboy defendant has adequate terminal facilities, storage bins, two docks, and appropriate equipment for the handling of anthracite coal. Ten locomotives and crews are employed by the company in handling coal at the terminal. At the entrance to the terminal are a series of tracks, eight in number, about one-half mile long, known as the receiving tracks, upon which trainloads of coal are left by the road crews. Upon these tracks employees inspect and check the cars and designate by marks thereon the various kinds and sizes of coal, region and colliery from which shipped, and such other information as may be necessary for proper unloading into vessels or storage bins. After the cars are so marked they are classified for purposes of disposition. When orders are received the coal is removed to the docks or stocking bins, both of which are provided with suitable trackage facilities.

Complainants' contention that the rates to Perth Amboy are unreasonable is based in part upon the testimony of certain persons who were formerly officers of the Delaware, Susquehanna & Schuylkill Railroad and of Coxe Brothers & Company. For many years prior to 1905 Coxe Brothers & Company were engaged in mining and shipping anthracite coal from their extensive properties in the Lehigh region. They owned and operated the Delaware, Susquehanna & Schuylkill Railroad, a road about 28 miles in length, which reached their different collieries and connected with the Lehigh Valley Railroad at a place called Lumberyard or Stockton Junction.

After January, 1894, the Coxe coal, instead of being carried to Perth Amboy in the trains of the Lehigh Valley, was transported to tidewater in the trains of the Delaware, Susquehanna & Schuylkill Railroad, and by its motive power, under a trackage contract between that road and the Lehigh Valley, which provided for the use of the tracks of the latter company from Stockton Junction to Perth Amboy, a distance of approximately 125 miles. The agreed compensation to the Lehigh Valley for the use of its tracks was 2½ mills per gross ton per mile, or 35.94 cents per gross ton for the haul from Stockton Junction to Perth Amboy. The Lehigh Valley unloaded the coal at Perth Amboy into vessels or bins and performed other terminal service, for which it charged Coxe Brothers 12 cents per ton. Additional payments were agreed upon from time to time for other services by the Lehigh Valley, such as supplying additional motive power to push trains over grades, furnishing coal to Delaware, Susquehanna & Schuylkill locomotives, repairing cars at Perth Amboy, and similar incidentals.

The contract of January, 1894, remained in force until April, 1904, when it was replaced by another contract, substantially similar in all material respects and providing for the same compensation to the Lehigh Valley and which was to have remained in effect for a period of 15 years. It remained in effect, however, only until 1905, when the Coxe properties were purchased by the Lehigh Valley Railroad.

During the period prior to the absorption of the Delaware, Susquehanna & Schuylkill Railroad by the Lehigh Valley Railroad Company, L. C. Smith, manager of the Delaware, Susquehanna & Schuylkill Railroad Company, and J. H. Pennington, superintendent of motive power of said railroad, and J. Brinton White, vice president and treasurer of Coxe Brothers & Company, made certain calculations as to the cost to the Delaware, Susquehanna & Schuylkill Railroad of transporting anthracite coal to Perth Amboy, based on various elements of operating expense, including the aforementioned trackage charge of the Lehigh Valley Railroad.

Counsel for complainants has introduced the testimony of these three men relative to the cost of transporting coal from the Lehigh region, and insists that it has an important bearing on the cost of transporting coal from the Wyoming region, for the reason that it has been the custom of the Lehigh Valley Railroad Company to make the same rates from the Wyoming region to Perth Amboy as from the Lehigh region to Perth Amboy, and also because the Wyoming region has the advantage over the Lehigh region both in distance and in grades.

L. C. Smith, former manager of the Delaware, Susquehanna & Schuylkill Railroad, testified that about 1900 he, as manager of the Delaware, Susquehanna & Schuylkill Railroad, made up a statement of cost to move one train of coal from Drifton, a mine of Coxe Brothers & Company, to Perth Amboy, including trackage to the Lehigh Valley Railroad Company, the shipping charges of that company at Perth Amboy, and the return of empty cars, which statement is filed as complainants' Exhibit No. 1.

The total cost per ton shown by said exhibit is 76.54 cents.

J. Brinton White, vice president and treasurer of Coxe Brothers & Company, who owned the entire stock of the Delaware, Susquehanna & Schuylkill Railroad Company, made frequent calculations as to the cost per ton of the movement of coal from the mines on the Delaware, Susquehanna & Schuylkill Railroad to Perth Amboy, and continued these calculations until he "got down to a figure which he knew to be correct." The figure which Mr. White arrived at was 76 cents per ton; but as this 76 cents included the trackage charge of the Lehigh Valley Railroad and the shipping charges at Perth Amboy, he was of opinion that the profit of the Lehigh Valley should have been deducted from the 76 cents, if the profit could have been ascertained.

J. H. Pennington was superintendent of motive power of the Delaware, Susquehanna & Schuylkill Railroad Company from 1899 until the latter part of 1905, when that road was bought by the Lehigh Valley Railroad Company, and he made certain tests for the purpose of determining the relative cost of transporting coal from Delaware, Susquehanna & Schuylkill Railroad mines to Perth Amboy in 60,000 and 100,000 pound capacity cars, respectively.

Based upon his tests for the cars of 100,000 pounds capacity (which it is claimed are *now* in use), counsel for complainants claims to show that the cost of transporting a ton of coal from the mines of the Delaware, Susquehanna & Schuylkill Railroad to and including the dumping of the cars at Perth Amboy and the return of the empty cars to the colliery amounted to 62.41 cents, which figure includes the profit of the Lehigh Valley Railroad Company on its trackage charge and the profit on the shipping expense of 12 cents at Perth Amboy.

Counsel for the Lehigh Valley Railroad Company, in his brief, enters upon an exhaustive criticism of complainants' Exhibit No. 1. Among other things he says:

"The exhibit includes no allowance for assembling; it contains no allowance for reserve equipment; it contains no allowance for depreciation; no allowance is made for overtime of crew; no allowance is made for nonrevenue haul; no allowance is made for loss and damage or injuries to persons; the item shown for fuel is manifestly inadequate; the wages allowed are inadequate.

He also argues that as the estimate of J. Brinton White confirms that of Mr. Smith, the presumption is that Mr. White omitted the same items that were omitted by Mr. Smith.

As to J. H. Pennington's estimate of the cost per gross ton of transporting coal to Perth Amboy, counsel for the Lehigh Valley Railroad Company says that he admitted that in making the test he purposely left out of account such expenses as would be substantially the same whether he used 60,000-pound cars or 100,000-pound cars. He did not take into account the following:

Reserve engines; maintenance and repairs of locomotives; repairs to cars; expenses of telephone and telegraph; stationery; clerks; general office expenses; yard expenses; terminal expenses; loss and damage claims; clearing wrecks, etc.

It will be noted that in the calculations made by L. C. Smith and J. Brinton White one of the most important items was the trackage charge of 35.94 cents per gross ton, which the Lehigh Valley Railroad Company charged the Delaware, Susquehanna & Schuylkill Railroad for the use of its tracks for the 125-mile haul from Stockton Junction to Perth Amboy.

As it did not clearly appear from the record what the conditions were that led to the trackage arrangement further testimony was taken upon that point at the supplemental hearing. It was shown that prior to the trackage contract entered into by the Delaware, Susquehanna & Schuylkill Railroad Company with the Lehigh Valley Railroad Company the coal traffic originating on the Delaware, Susquehanna & Schuylkill Railroad had moved to tidewater over the lines of the Philadelphia & Reading Railroad. The following extract from the annual report of the Philadelphia & Reading Railroad Company for the year ended November 30, 1893, was read into the record:

"A contract was made with Coxe Brothers & Company, under date of May 14, 1891, for the transportation over the Reading Railroad system of a large tonnage of coal from the mines of that company to New York tidewater and to other markets, the minimum amount to be 1,000,000 tons per annum.

"In order to transport the coal to be furnished under this contract a railroad 10 miles in length was constructed by the Reading Company to connect its lines with those of the Delaware, Susquehanna & Schuylkill Railroad, which was controlled by Coxe Brothers & Company, and a large coal tonnage had passed and was passing over this road; but the division of the freight rate as between the two railroad companies was felt by the receivers to be so inequitable to the Reading Company, as on the greater part of the tonnage it allowed the Delaware, Susquehanna & Schuylkill Railroad Company an average of about 73 cents per ton for gathering the coal, hauling it an average of

about 12 miles to Roan Junction, and shipping it at Port Johnston, leaving for the Reading Company only 80 cents per ton for hauling the coal 138 miles to Round Brook Junction, that they notified Coxe Brothers & Company that after August 15, 1893, they would no longer transport their coal under that contract, offering, however, to continue to carry the coal upon terms similar to those which are ordinarily accorded to other railroad companies for the exchange of similar business. This offer was, however, not found satisfactory by Coxe Brothers & Company, and the transportation of their coal has therefore been almost entirely lost to the Reading Company."

The following extract from the annual report of the Lehigh Valley Railroad Company to its stockholders for 1894 was also read into the record:

"On January 31, 1894, a contract was entered into with the Delaware, Susquehanna & Schuylkill Railroad Company whereby that company was granted the privilege of running its own trains coal laden to the tidewaters of New York, thus assuring to this company for a term of 15 years from July 1, 1894, an important traffic, that of the Cross Creek Coal Company, formerly Coxe Brothers & Company, for which several outlets existed, and which had been in contention for some time previously. It also removed an incentive for the construction of new lines into the territory tributary to the Lehigh Valley system. Local coal received from the line of that company continues to be hauled in our trains as it was previously."

It appears that when the contract with the Lehigh Valley Railroad Company was entered into the Philadelphia & Reading Railroad Company tore up its 10-mile extension, which it had built to connect with the Delaware, Susquehanna & Schuylkill, because there was no longer any use for it.

For the purpose of showing the effect of the trackage contract of January, 1894, upon the movement of anthracite coal over the Lehigh Valley Railroad counsel for that company at the supplemental hearing put in evidence the following exhibit, viz:

Statement of anthracite coal received from the Delaware, Susquehanna & Schuylkill Railroad during the fiscal years ended November 30.

Year.	Gross tons.	Year.	Gross tons.
1891	233,061	1894	976,415
1892	199,310	1895	1,053,965
1893	350,295	1896	1,115,077
Total	782,666	Total	3,145,457

"It was also shown that the Central Railroad of New Jersey had a track into Drifton, a point located on the Delaware, Susquehanna & Schuylkill Railroad, and that the Delaware, Susquehanna & Schuylkill Railroad also had a connection with the Pennsylvania at Tomhicken.

Defendant has endeavored to show the actual cost of transporting coal from the Wyoming district to the barges at Perth Amboy. Three civil engineers, William J. Wilgus, J. F. Stevens, and John F. Wallace, were engaged by defendant to investigate the transportation of coal from the anthracite region to tidewater for the purpose of ascertaining the cost thereof. They were assisted in their investigation by officers and employees of the road and by engineers in Mr. Wilgus's office. Mr. Wilgus prepared an estimate of the cost of carrying coal based upon theories and formulæ which were approved by the other engineers. His estimate is set forth in a voluminous exhibit known as "Defendant's Exhibit F-3." The exhibit contains all the details from which the final estimate of cost is deduced. The recapitulation of Exhibit F-3 is as follows:

Cost of transporting anthracite coal on the Lehigh Valley Railroad from the Wyoming district to Perth Amboy.

Items.	Perth Amboy terminal.	Mainline, Perth Amboy to Coxton.	Wyoming collection district.	Total.
Operating expenses, including taxes	$0.1189	$0.6015	$0.0886	$0.8970
Interest:				
Roadbed, tracks, and structures	.0709	.1470	.0412	.2582
Equipment	.0096	.0437	.0283	.0816
General facilities	.0012	.0045	.0010	.0067
	.0808	.1952	.0705	.3465
Depreciation:				
Roadbed, tracks, and structures	.0071	.0034	.0009	.0114
Equipment	.0080	.0646	.0176	.0902
General facilities	.0004	.0015	.0003	.0022
	.0155	.0695	.0188	.1038
Total	.2152	.9662		1.3473
Additions and betterments				.0400
Risks and deficits				.1070
Grand total				1.4943

There are many circumstances, however, connected with the preparation of this exhibit, which seriously impair its value as evidence on the question of cost.

Mr. Wilgus testified that the figures which he used in preparing said exhibit as to the value of the roadbed, track, and structures and value of equipment were based on an examination of the road and an examination of the equipment, and that he had attempted to estimate the cost of reproduction. This work he states was done by himself and assistants in his employ. The assistant in his employ, who undertook to make an examination of the road with a view to determining the cost of reproduction, was T. A. Lang, and Mr. Wilgus testified that his calculations are absolutely dependent upon the information furnished him by Lang.

The story of Mr. Lang's investigation as to cost of reproduction, as told by Lang himself, was as follows:

He left Perth Amboy at 1.20 p. m. on a passenger train for Easton, arriving there about 3.20 or 3.30 p. m. In going to Easton he stood on the rear platform of the train. After arriving at Easton he did nothing more that day, as it was Sunday. The following morning at 9 a. m. he left Easton on a pony engine, which had a coach on top of the boiler. On this engine he traveled at the rate of 15 or 20 miles an hour, stopping at various points. About 5.30 p. m. of the same day he arrived at Wilkes-Barre and stayed there all night, all the next day, and the next night. While there he made computations in the railroad company's office. On the following day he left Wilkes-Barre at 8.30 a. m. on a passenger train and arrived at Easton about 11 or 12 o'clock. He remained in Easton until that afternoon and then took a train for New York. While at Easton he devoted a "few minutes" to an examination of the Delaware bridge and the Easton steel viaduct. Based upon this examination, he furnished Mr. Wilgus the data which he required as to estimated cost of reproduction of the Lehigh Valley Railroad.

This examination by Lang was made in the latter part of April, 1909. Mr. Wilgus accepted his estimates and gave his testimony on April 29, 1909. Mr. Lang, however, was not called as a witness until May 25, 1909. Evidently feeling that his first superficial examination of the road would become the subject of attack, he undertook early in May to make a more thorough examination of the road.

On this second trip he consumed eight and one-half days going over the road on a hand car, and the results of his work on the second trip he terms his "check estimate." The cross-examination of Mr. Lang developed that his check estimate was also a very superficial piece of work. He testified that he "could see" the thickness of the ballast "very easily," and that he measured it "at one place" only; that it was from 18 to 20 inches in thickness. He also testified that he started out to count the number of switches and frogs, but did not carry it all the way through. He further says that there never had been any examination of the ties and ballast or going over the road in a hand car at the time that Mr. Wilgus made his estimate.

Based upon information thus furnished, Mr. Wilgus undertook to determine the cost of carrying a ton of coal from the Wyoming district to Perth Amboy, and Messrs. Wallace and Stevens were called as witnesses to confirm the reliability of his figures.

Mr. Wilgus testified that on the trip which he made over the Lehigh Valley Railroad he started from New York at 6 p. m. in an observation car with Messrs. Wallace and Stevens and certain officials of the Lehigh Valley Railroad Company, and went to Wilkes-Barre. The two following days were spent in riding over the main line of the Lehigh Valley Railroad and some of its branches. It appears never to have been, the intention that Messrs. Wilgus, Wallace, and Stevens should personally do any of the detail work incidental to the determination of the cost of carrying coal to Perth Amboy. All of that was to be done for them by subordinates, and they were then to testify whether they believed the work of these subordinates constituted a conservative estimate of the cost.

Mr. Stevens testified in substance that he believed it possible for a competent engineer to get a correct approximate idea of the value of a railroad by riding over it, and that he has done considerable work in estimating values by traveling over railroads. He stated that he was not prepared to dispute Mr. Wilgus's figures, and that he would not guarantee them; and "that it would be worse than foolish for him to say that he had time to undertake to make a mile-by-mile estimate of the cost of reproducing the Lehigh Valley Railroad." The most that he had to say concerning Mr. Wilgus's estimate was that it was "probably conservative."

Mr. Wallace frankly admitted that his testimony given in corroboration of Mr. Wilgus's figures was a matter of purely personal judgment, based on his experience and observation. He testified that men in his line of business were continually drawing comparisons and making "estimated judgments," and that sometimes they were correct and sometimes wrong. He further stated that it was his custom to value railroad property very much as a farmer would value a horse.

The estimate of cost made by Mr. Wilgus is based on the fundamental assumption that the cost of carrying coal is equal to the average cost of carrying all traffic. If this proposition be sound, it follows that by far the greater part of tariffs covering the transportation of coal are improperly constructed, for the rates upon coal are generally much below the average rates.

Again, as a basis of apportioning expenses for which no actual division could be obtained, the engineers used the relation of passenger-train ton-mileage to freight-train ton-mileage, finding that of the total the former was 7.8 per cent and the latter 92.2 per cent. This arbitrary basis of apportionment seems to be unwarranted when we take into consideration the relation which exists between freight revenue and passenger-train revenue on the Lehigh Valley Railroad. Those revenues were as follows for the years shown:

	1901	1905	1908	1910
Total freight revenue	$19,820,263	$25,962,920	$30,186,982	$39,579,597
Passenger-train revenue	3,400,628	4,116,847	4,842,652	5,097,118

It thus appears that upon the basis of relative earnings at least 14 per cent of the value of the road could properly have been assigned to passenger traffic, whereas in the estimate made by Mr. Wilgus but 7.8 per cent has been so assigned.

Moreover, it will be noted that the estimate of cost shows that the average cost of carrying anthracite coal from the Wyoming region to Perth Amboy is $1.49. An exhibit filed by the Lehigh Valley shows that its average receipts per gross ton of anthracite coal to Perth Amboy for the 10 years ending June 30, 1908, were $1.46. It would therefore follow that all anthracite coal which has been hauled by the Lehigh Valley to tidewater has been carried at a loss of about 3 cents per ton. But it is shown by reports on file with the commission that the operations of the Lehigh Valley Railroad Company for a number of years past have been exceedingly profitable, and as anthracite coal has constituted almost half of its tonnage, it is fair to assume that it has made a profit upon the handling of that commodity.

There are other matters contained in the record which go to show that the cost of transporting coal as estimated by Mr. Wilgus is excessive.

Henry B. Ely, who was formerly general eastern agent for Coxe Brothers & Company, testified that after the decision in the case of Coxe Brothers & Co. v. Lehigh Valley Railroad Company, 4 I. C. C. Rep., 535, in 1891, and up to the 31st of January, 1894, the rates paid by Coxe Brothers & Company were the tariff rates of the Lehigh Valley, less a discount of 35 per cent. The tariff rates which were in effect during this period are contained in an exhibit filed by the Lehigh Valley,

and deducting said discount therefrom, it appears that the rates actually charged Coxe Brothers & Company were as follows:

	Rate per ton.
For prepared sizes	$1.103
For pea coal	.91
For buckwheat and smaller sizes	.78

Defendant has also filed in evidence an exhibit, which shows the adjusted rates to Perth Amboy on the various grades of anthracite coal, by months, during the period from January, 1895, to October, 1900, inclusive, a period of five years and nine months, immediately preceding the discontinuance of adjustments upon the percentage basis. An average of the rates contained in said exhibit shows the following:

	Rate per ton.
Prepared sizes	$1.4164
Pea coal	1.1712
Buckwheat	1.1566

These latter figures are of themselves sufficient to show that the estimate cost of carrying coal to tidewater of $1.49 is far from correct.

A very noticeable feature of the work of these experts employed as disinterested parties to ascertain the cost of carrying coal to Perth Amboy is the manner in which they arrived at their valuations of real estate and rights of way.

Mr. Wilgus testified that he did not himself make the estimates upon the value of the Perth Amboy terminals, but took the estimates of his assistant, Mr. Van Houten. Mr. Van Houten testified that he got his information as to the cost of reproduction of the Perth Amboy terminals from the general solicitor of the defendant, because he is an authority on real estate and handles all the real estate matters for the Lehigh Valley Railroad. Mr. Wilgus also stated that he valued the right of way from Perth Amboy to South Plainfield Junction at $3,000 an acre, and between Penn Haven and Phillipsburg at $1,200 an acre, and that these estimates were made "not only upon the way it impressed me, but also from consultation with Mr. Schaperkotter, the general solicitor of the company."

Complainants have called attention to the rates of the Pennsylvania Railroad Company for the transportation of anthracite and the rates of certain bituminous carriers. The Pennsylvania Railroad Company carries anthracite coal from South Wilkes-Barre and Plymouth, in the Wyoming region, to South Amboy, N. J. There are two routes by which the Pennsylvania may carry this coal, the longer route being 276 miles and the shorter 222 miles. Owing to the fact that the grades on the long haul are very much easier than those on the short haul, the long haul is the one generally used. Its rates for this transportation are as follows: Prepared sizes, $1.40 per gross ton; pea coal, $1.25 per gross ton; and buckwheat, $1.15 per gross ton. Up to a comparatively recent date the same rates applied from points on the Delaware, Lackawanna & Western Railroad, which brought the coal to the Pennsylvania Railroad, and the Pennsylvania allowed the Lackawanna a 15-cent lateral charge. The Pennsylvania has since withdrawn the lateral allowance and requires payment to it of its full rate.

The Norfolk & Western Railway Company transports bituminous coal from Pocahontas to Lambert Point, 377 miles, crossing the Blue Ridge and Allegheny Mountains, at a rate of $1.40 per gross ton, and this includes the collection of the coal in the Pocahontas district and dumping the same into vessels at Lambert Point. The rate per ton per mile for this haul is $0.00377. In the Pocahontas district there are two assembling yards, Bluefield and Vivian, the average distance of the collieries from Bluefield being about 29 miles, and the average distance of the collieries from Vivian about 15 miles. During 1907 the Norfolk & Western collected from the 67 collieries in the district 7,285,960 tons of coal. During the same year the Lehigh Valley collected 4,142,442 tons from the 36 collieries connected with its tracks in the Wyoming region. The following exhibit shows certain rates for the transportation of bituminous coal, together with the length of haul and the rate per ton per mile:

Statement showing origin, destination, transporting railroad, miles hauled, rate charged, and rate per ton per mile on bituminous-coal shipments to tidewater.

[2,240 pounds per ton. Rates include dumpage from piers to vessels.]

Region or district.	Transporting railroad.	Destination.	Miles hauled.	Rate charged.	Rate in cents per ton per mile.
Myersdale	Baltimore & Ohio.	Baltimore	215.0	$1.18	0.549
Do	do	Philadelphia	310.8	1.25	.402
Do	do	St. George	390.6	1.55	.396
Pocahontas	Norfolk & Western.	Norfolk (Lamberts Point).	377.0	1.40	.371
New River Thurmond.	Chesapeake & Ohio.	Newport News via Lynchburg.	418.0	1.40	.335
Do	do	Newport News via Gordonsville.	381.0	1.40	.367
Kanawha Handley.	do	Newport News via Lynchburg.	457.0	1.50	.328
Do	do	Newport News via Gordonsville.	420.0	1.50	.357
Kentucky Marrowbone.	do	Newport News via Lynchburg.	673.0	1.70	.253
Do	do	Newport News via Gordonsville.	636.0	1.70	.267
Beech Creek	New York Central and Philadelphia & Reading.	Port Reading	308.0	1.55	.503
Do	do	Philadelphia (Port Richmond).	229.0	1.25	.546
Clearfield	Pennsylvania R. R.	Baltimore (Canton Pier)	242.2	1.18	.487
Do	do	South Amboy	322.5	1.55	.481
Do	do	Philadelphia (Greenwich Piers).	202.2	1.25	.477
Do	do	Philadelphia via Lock Haven and Sunbury.	317.0	1.25	.394

Defendant answers that the tidewater rate of the Pennsylvania Railroad, cited by the complainants, is entirely inconsistent with the other anthracite rates charged by the Pennsylvania, whereas the Lehigh Valley tidewater rate is in line and consistent with its other anthracite rates. An exhibit in this connection shows that the Pennsylvania Railroad Company's rate on prepared sizes to Harrisburg, a distance of 110 miles, is $1.50; to Philadelphia, a distance of 164 miles, $1.80; to Reading, a distance of 111 miles, $1.80; to Perth Amboy, a distance of 226 miles, $1.80; to South Amboy, when not for transshipment, $1.80. The Pennsylvania Railroad Company is a bituminous rather than an anthracite road.

The defendant also introduced evidence tending to show that the market for anthracite coal on the lines of the Pennsylvania Railroad exhausts the supply originating on the road, and for this reason a 15-cent lateral was allowed on coal assembled on other roads and turned over to the Pennsylvania. On such shipments the Pennsylvania was relieved of the gathering cost; and in view of the high line rates on anthracite coal over the Pennsylvania, the arrangement was favorable to the railroad. As has been noted, the Pennsylvania has since withdrawn the lateral allowance.

In so far as the comparison with bituminous rates is concerned, the defendant calls attention to the fact that bituminous rates are generally less than anthracite rates, due in part to the difference in value of the two kinds of coal, and that there are dissimilarities in connection with the carriage and shipment of bituminous and anthracite coal which render the transportation of anthracite coal more expensive. About 95 per cent of the coal shipped from the bituminous regions is run of mine, and no such elaborate classification is necessary in the assembling regions as in the anthracite regions. Bituminous coal is not stored at tidewater, and the carriers are therefore relieved of the expense of building storage bins and of placing the coal in the bins and removing it therefrom. It is also claimed that the carriage of bituminous coal involves less empty car mileage, but upon that point the record is rather indefinite. At any rate, the conditions relating to the transportation of anthracite and bituminous coal have not been shown to be similar to such a degree that the existence of a lower rate on bituminous would warrant a conclusion that a higher rate on anthracite on a different road is unreasonable.

It is earnestly contended that any such comparison disregards the fact that the Lehigh Valley Railroad was built and is maintained primarily as a coal-carrying road; that as such it has the right to receive a return upon the coal transported sufficient to enable it to operate profitably, and is further justified in obtaining all traffic that it can secure in addition to its anthracite tonnage at rates which exceed cost of operation; and that a successful search for such outside tonnage, so long as it is carried at a margin of profit above operating expenses, aids the road to perform more cheaply its service in gathering and carrying coal.

Defendant contends that the extraordinary terminal expense attributable to the comparatively short haul on anthracite coal makes any per-ton-per-mile comparison improper and misleading.

In connection with its terminal at Perth Amboy, defendant has erected 372 stocking or storage bins, which vary in capacity from 500 to 1,000 tons each, and have a total capacity of about 250,000 tons. Trestles extend over the stocking bins, and coal is dropped into them from cars which have been pushed onto the trestles. Underneath the stocking bins are tunnels through which cars are run to remove the coal as called for. About 350 cars of 60,000 pounds capacity are employed exclusively in removing coal from the bins.

Attention is called by defendant to the special privileges accorded and services rendered in connection with the transportation of anthracite coal without extra compensation above the tidewater rates. The rate covers delivery of coal by the railroad into vessels at Perth Amboy. No demurrage is charged on cars at the collieries or at Perth Amboy. A slight deduction is made from the scale weights at the collieries to offset the weight of water in the coal when loaded, and an allowance is made for depreciation in weight due to rehandling. The shippers have the privilege of stocking in transit. Extensive storage privileges are permitted at Perth Amboy, the railroad providing the bins and performing the labor of storing and lifting from storage without additional compensation. This privilege tends to permit daily operation of mines to the limit of their production, regardless of the fluctuation of the market demand. Moreover, the demand for different sizes is more or less irregular, while the production of the several sizes is fairly uniform; and this condition makes the storage privilege of additional value to the shipper at certain seasons of the year. Complainants have freely exercised their privilege of storage. In 1907 they had 47.56 per cent, and in 1908, 32.27 per cent of the coal shipped by them to Perth Amboy placed in the bins. Of the coal tonnage carried to Perth Amboy in 1908, 20.96 per cent was placed in the bins.

It is claimed that the limited life of anthracite railroads has an important bearing on the matter of freight rates, and is therefore a factor to be taken into consideration in connection with the question of "fair return."

As to the limited life of the anthracite railroads, counsel for defendant say in their brief:

"The evidence establishes the fact that when the railroad shall be deprived of the tonnage from the collieries along its lines and the incidental tonnage involved in and dependent upon the production of coal the traffic on the Mahanoy and Mazleton Division and the Blackwood Branch will for all intents and purposes be nil.

"As to the Wyoming Division, the investment in everything but the main line will have been destroyed and the continued existence of the road will depend upon whether or not the through traffic is sufficient to pay the operating expenses and the interest charges.

"There are many instances where, on account of closing up breakers for one reason or another, portions of the Lehigh Valley Railroad have already become useless."

They then cite the following instances of abandoned tracks in the Wyoming region, viz:

"Crescent breaker, 1 mile long, abandoned 1900.
"Babylon breaker, 1½ miles.
"Lawrence track, partially abandoned, length not given.
"Phoenix track, 1 mile long.
"Heidelberg breaker, No. 2, tracks abandoned; length not given.
"Henry breaker, tracks 1¾ miles long; will soon be abandoned.
"Wyoming breaker, ¼ mile long.
"Midvale track, ½ mile long; abandoned.
"Franklin breaker, 1½ miles.
"Abbott or Hillman mine, ¼ mile long.
"Mosier mine, track 1 1/16 miles; abandoned.
"Butler colliery, tracks taken up; length not given."

In addition, it is stated that many collieries have been abandoned which have not involved the taking up of tracks, the tracks remaining in partial use in connection with other breakers.

It will be noted that while the list of abandoned tracks in the Wyoming district has the appearance of being quite large, yet the sum total of each of the mileages as are specified shows that a fraction more than 8 miles has been abandoned.

Counsel also in their brief give quite a list of names of breakers which have been abandoned on the Mahanoy and Hazleton Division, but it is found that the total of abandoned mileage on this division is only 9.5 miles.

As to the kindred subject, namely, the exhaustion of anthracite coal supply, counsel in their brief thus state the result of the testimony of W. P. Dodge, an expert mining engineer, introduced as a witness on behalf of the defendant:

The total future shipments from the Wyoming Division, starting with the year 1909, will amount to 91,230,000 tons. The lives of the various collieries will vary from 5 to 50 years. The annual output is estimated for the first five years to be 19,395,000 tons, and will diminish gradually until, from the twenty-fifth to the thirtieth year, the annual output is estimated at only 7,055,000 tons, dwindling down in the period between the forty-fifth and fiftieth years to 500,000 tons per annum. At the end of 25 years, according to the testimony of Mr. Dodge, the output of the Wyoming region will be less than half what it is now, and at the end of 50 years will cease altogether.

On the other hand, the following more optimistic view of the situation appears from the Report of the Anthracite Coal Strike Commission, rendered to the President of the United States March 18, 1903, viz:

"What is of some importance, however, in connection with the discussion of the past production is a consideration of what is to be expected in the future in the way of production and the probable duration of the anthracite coal supply. The original deposits of the anthracite coal field have been ascertained with a reasonable degree of accuracy.

"According to the estimates of the Pennsylvania geological survey, the amount of workable anthracite coal originally in the ground was 19,660,000,000 tons. The production to the close of 1901, as previously stated, amounted to 1,350,000,000 long tons, which would indicate that there remained still available a total of 18,150,000,000 tons. Unfortunately, however, for every ton of coal mined and marketed one and one-half tons, approximately, are either wasted or left in the ground as pillars for the protection of the workings, so that the actual yield of the beds is only about 40 per cent of the contents. Upon this basis the exhaustion to date has amounted to 3,375,000,000 tons. Deducting this from the original deposits, the amount of anthracite remaining in the ground at the close of 1901 is found to be approximately, 16,125,000,000. Upon the basis of 40 per cent recovery, this would yield 6,450,000,000 long tons. The total production in 1901 was 60,242,560 long tons. If this rate of production were to continue steadily, the fields would become exhausted in just about one hundred years.

"Mr. William Griffith, in a series of articles contributed to the Bond Record in 1896, considers that the estimates upon which the foregoing computations have been made were too liberal. His estimate of the amount of minable coal remaining at the close of 1895 was 5,973,786,750 tons.

"In the six years from 1896 to 1901, inclusive, the production has been, approximately, 308,570,000 tons, which would leave still available for mining 4,765,216,750 tons. This supply, at the rate of production in 1901, would last a little less than 80 years. But as indicating how susceptible to error are human predictions, it is well to state that in his carefully prepared statement, published in 1896, Mr. Griffith assumes the limit of annual production would be reached in 1906 and would amount in that year to 60,000,000 tons.

"This amount of production was reached in 1901, in just half the time predicted by Mr. Griffith, and the production of January, 1903, as recently reported, shows that the anthracite mines are capable of producing at a rate of 72,000,000 tons annually in their present state of development. It is not to be supposed, however, that the annual rate of anthracite production will continue practically uniform until the mines are exhausted and then suddenly cease. Portions of the fields have already been worked out, others are rapidly approaching total exhaustion, while others at the present rate of production will, it is calculated, last from 700 to 800 years. If we can assume the annual production will have reached its maximum limit at between 60,000,000 and 75,000,000 tons, and that the production will then fall off gradually as it increased, we may expect anthracite mining to continue for a period of from 200 to 250 years." (Report of Anthracite Coal Strike Commission, pp. 21, 22.)

Defendant claims the right to earn enough out of its coal rates to provide for a return of the principal of the investment in that part of the railroad company devoted to the carriage of coal, when and as this principal becomes reduced and extinguished by exhaustion of the coal. We have noted the estimate of defendant's witnesses to the effect that shipments of anthracite coal over the railroad will practically cease in 50 years, and we have quoted the opinion expressed on the same subject by the Anthracite Coal Strike Commission to the effect that production may last for 250 years. Probably the truth lies somewhere between the two extremes. During the years 1903 to 1910, the Lehigh Valley Railroad Company under the rates in controversy succeeded in accumulating an unappropriated surplus of $27,219,780. If the company could accumulate this sum for every eight-year period during the next 30 or 40 years, it would have a surplus in the neighborhood of $125,000,000. It seems, therefore, that the present rates are more than sufficient to meet defendant's idea of an annual income sufficient to provide for return of the capital when that part of the railroad devoted to the carriage of anthracite coal loses its earning capacity through the exhaustion of that commodity. This matter, however, is too speculative to be of much value in determining the reasonableness of present rates. By the time anthracite coal is exhausted other traffic may have become so dense that the present value of the road will not be impaired.

It requires no extended argument to sustain the proposition that the maintenance of an unreasonably high rate operates to the advantage of the Lehigh Valley Railroad Company as a dealer in coal. The record shows that the only line of demarcation between the Lehigh Valley Railroad Company and the Lehigh Valley Coal Company is one of bookkeeping. Assuming for purposes of illustration that the cost of mining anthracite coal is $2 per ton and the cost of carrying it to tidewater is $1 per ton, it follows that the cost of coal at tidewater would be $3 per ton; and if the published rate were $1 the independent operator and the railroad coal company would be on a fair competitive basis so far as the cost of mining and transportation are concerned. But as between the railroad company and its coal company it matters not whether the profit comes from mining or transporting the coal. So, therefore, if, instead of the $1 rate above mentioned, the railroad company were to establish a rate of $1.50 per ton, the railroad and its coal company could still sell coal at tidewater for $3 per ton, standing a deficit of 50 cents per ton in the mining price and taking an equal profit in the transportation price. But the independent operator can not recoup himself in this manner, and the best price that he could make at tidewater would necessarily be the mining price of $2, plus the carrying charge of $1.50, or $3.50; and he would enter the market at a disadvantage of 50 cents per ton as compared with the railroad and its coal company. It is obvious that such an advantage would enable the railroad company and its *alter ego*, the coal company, to monopolize the field of production and the selling market. Whatever the means employed, it is a fact that the railroad coal company has monopolized the coal field served by it. In 1901, 47 per cent of the defendant's coal tonnage to Perth Amboy was controlled by it and 53 per cent by independent operators; while in 1908 the defendant controlled 95 per cent of the anthracite tonnage over defendant's line to Perth Amboy and the independent operators 5 per cent. During the same period complainants' shipments to Perth Amboy decreased from 147,811 tons for 1901 to 40,502 tons for 1908.

Coming now to the question of the reasonableness of the rates, counsel for defendants asserts that the rates on coal must be sufficient to produce four results, viz: (1) An income sufficient to make up for past deficiencies in current return on investment. (2) A reasonable current annual return upon the investment in the railroad and transportation adjuncts. (3) An amount sufficient to provide reasonably for keeping the property up to constantly modern standards—i. e., such improvements as are necessary for public convenience and safety and to enable the railroad to get business in competition with other roads. (4) An amount sufficient to provide for a return of the principal of the investment, when and as this principal becomes reduced and extinguished by the exhaustion of coal freight.

Under the first proposition defendant argues that the present rates should be sufficiently high to enable it now to earn the amount by which it has fallen short of paying a 6 per cent annual dividend in the past, or at least as far back as 1894. It shows that a dividend rate of 6 per cent applied to its common stock of $40,441,100 for the period from November 30, 1894, to June 30, 1908, would amount to $35,091,276; that during this period the dividends paid amounted to $7,260,264; and argues that upon a 6 per cent basis the common-stock shareholders suffered a deficiency in dividends during this 14½-year period of $27,831,112. In the Wilgus estimate above mentioned 10 cents per ton is added to the assumed cost of carrying coal to Perth Amboy for the purpose of "making good the deficit of over $20,000,000 in dividends" for past years.

Assuming, without conceding, that the present producers and consumers of anthracite coal must bear the burden of the misfortunes or mismanagement of a previous generation, it is worth while to inquire whether this claim does not amount for the most part to a declaration, not that the shareholder is entitled to a fair dividend, but rather to an assertion that he may invest his dividends in improvement of the property and have it in cash also.

Certain aspects of the financial condition of the Lehigh Valley for the years 1901 to 1910, inclusive, are set forth in the following table:

Lehigh Valley Railroad Company.

Item.	Year ending June 30—				
	1901	1902	1903	1904	1905
§ A. MILEAGE:					
1. Owned—single track, miles	317.67	317.09	316.98	311.63	308.12
2. Owned—all tracks, miles	797.17	799.60	797.84	799.69	892.69
3. Operated—single track, miles	1,387.38	1,387.24	1,392.15	1,392.67	1,393.87
4. Operated—all tracks, miles	2,905.48	2,923.31	2,933.68	2,971.87	3,003.30
§ B. COST OF ROAD AND EQUIPMENT	$37,657,712	$37,657,712	$46,435,550	$46,435,604	$48,410,162
Per mile owned—single track	118,543	118,560	146,493	149,009	157,115
Per mile owned—all tracks	47,239	47,099	58,201	58,067	60,355
§ C. TOTAL CAPITALIZATION	87,416,100	87,900,100	97,555,100	97,267,100	98,984,100
Per mile owned—single track	275,179	277,208	289,072	293,897	321,252
Per mile owned—all tracks	109,658	109,918	122,274	121,631	123,498
Capital stock	40,441,100	40,441,100	40,441,100	40,441,100	40,441,100
Funded debt	46,975,000	47,459,000	57,114,000	56,826,000	58,543,000
§ D. TOTAL OPERATING REVENUES	23,654,245	23,668,672	25,692,270	28,672,362	30,235,345
Per mile operated—single track	17,040	17,062	18,455	20,588	21,692
Per mile operated—all tracks	8,141	8,097	8,698	9,648	10,067
Total operating expenses	18,676,927	19,103,254	13,377,922	18,236,917	18,445,230
Per mile operated—single track	13,462	13,771	13,201	13,109	13,223
Per mile operated—all tracks	6,428	6,535	6,222	6,143	6,142
Ratio to total operating revenues ... per cent	78.96	80.71	71.53	63.67	61.01

Lehigh Valley Railroad Company—Continued.

Item.	Year ending June 30—				
	1901	1902	1903	1904	1905
§ D. TOTAL OPERATING REVENUES—Continued.					
Analysis of operating expenses under official classification:					
Maintenance of way and structures	$4,241,717	$4,632,997	$4,099,169	$3,058,204	$3,269,383
Per mile operated—single track	3,057	3,340	2,944	2,196	2,346
Per mile operated—all tracks	1,460	1,585	1,398	1,029	1,089
Ratio to total operating revenues ... per cent	17.93	19.58	15.96	10.67	10.82
Maintenance of equipment	4,448,244	5,149,924	4,694,305	4,744,232	4,894,269
Per mile operated—single track	3,206	3,712	3,372	3,407	3,511
Per mile operated—all tracks	1,531	1,762	1,589	1,596	1,630
Ratio to total operating revenues ... per cent	18.81	21.76	18.27	16.54	16.19
Traffic and transportation expenses	9,251,820	8,581,666	8,964,325	9,857,588	9,694,567
Per mile operated—single track	6,669	6,186	6,440	7,078	6,955
Per mile operated—all tracks	3,184	2,935	3,035	3,317	3,228
Ratio to total operating revenues ... per cent	39.11	36.25	34.89	34.38	32.06
General expenses	735,146	738,667	619,533	595,895	587,011
Per mile operated—single track	530	533	445	428	421
Per mile operated—all tracks	253	253	210	201	195
Ratio to total operating revenues ... per cent	3.11	3.12	2.41	2.08	1.94
Analysis of operating expenses between labor and other expenses:					
Compensation paid direct to labor	9,199,572	9,995,715	10,550,679	10,977,204	10,920,360
Per mile operated—single track	6,631	7,205	7,579	7,882	7,834
Per mile operated—all tracks	3,166	3,419	3,572	3,694	3,636
Ratio to total operating revenues ... per cent	38.89	42.23	41.07	38.29	36.12
Compensation paid general officers	139,352	128,320	145,835	116,746	103,188
Per mile operated—single track	100	93	105	84	74
Per mile operated—all tracks	48	44	49	39	34
Ratio to total operating revenues ... per cent	.59	.54	.56	.40	.34
Material, fuel, and all other items	9,338,003	8,979,219	7,681,408	7,161,877	7,421,432
Per mile operated—single track	6,731	6,473	5,517	5,143	5,325
Per mile operated—all tracks	3,214	3,072	2,601	2,410	2,472
Ratio to total operating revenues ... per cent	39.48	37.94	29.90	24.98	24.55
Taxes	312,182	285,781	289,996	471,262	538,033
Per mile owned—single track	983	901	915	1,512	1,740
Per mile owned—all tracks	392	358	364	589	572
Per mile operated—single track	225	206	208	338	387
Per mile operated—all tracks	107	98	98	159	179
Ratio to total operating revenues ... per cent	1.31	1.21	1.13	1.65	1.78
Operating income	4,665,106	4,279,637	7,024,352	9,945,183	11,251,182
Per mile operated—single track	3,362	3,085	5,046	7,141	8,072
Per mile operated—all tracks	1,606	1,464	2,378	3,346	3,746
Ratio to total operating revenues ... per cent	19.73	18.08	27.34	34.68	37.21
§ E. INCOME ACCOUNT:					
Operating income from railroad operation	4,665,106	4,279,637	7,024,352	9,945,183	11,251,182
Additions to income (total of items 1 and 2 following)	1,286,836	1,367,808	1,660,528	1,682,763	1,493,508
1. Rents received from other roads for the use of road, equipment, and facilities of the operating property	718,098	621,011	962,233	1,209,376	1,040,438
Interest on bonds and dividends on stocks in separately operated railroads and income from other miscellaneous property	568,738	746,797	698,295	473,387	453,010
Deductions from income (total of items 1, 2, and 3 following)	7,091,757	6,980,222	6,307,653	5,907,095	5,940,251
1. Rents paid for lease of roads which form a part of the operating property	2,724,019	2,743,965	2,727,328	2,332,434	2,410,967
2. Rents paid to other roads for the partial use of road, equipment, and facilities needed in operating the property	706,919	526,293	562,258	574,384	444,471
3. Interest accrued on funded and floating debt	3,660,819	3,709,964	3,018,047	3,000,277	3,084,813
Corporate income for the year	Def. 1,139,815	Def. 1,332,777	2,377,247	5,720,851	6,804,439
Per cent on capital stock outstanding § C	2.82	3.29	5.88	14.14	16.82
§ F. PROFIT AND LOSS ACCOUNT:					
Accumulated surplus brought forward from preceding year	77,014	Def. 1,178,258	Def. 3,372,147	1,620,681	5,914,796
Corporate income for the year	Def. 1,139,815	Def. 1,332,777	2,377,247	5,720,851	6,804,439
Discounts on securities bought and sold and other profit and loss allocations	−299,196	−861,112	+3,881,761	+438,554	−1,424,371
Total surplus available for distribution	Def. 1,361,996	Def. 3,372,147	2,886,861	7,380,036	11,294,864
Per cent on capital stock outstanding § C	3.37	8.34	7.14	18.25	27.93
Dividends declared					1,225,989
Additions, betterments, and permanent improvement appropriations			1,266,182	1,465,290	1,411,550
Sinking and special reserve funds	Cr. 183,738				
Total surplus appropriated	Cr. 183,738		1,266,182	1,465,290	2,637,539
Per cent on capital stock outstanding § C	.45		3.13	3.62	6.52
Unappropriated surplus carried over to the following year	Def. 1,178,258	Def. 3,372,147	1,620,681	5,914,796	8,657,325

Item.	Year ending June 30—				
	1906	1907	1908	1909	1910
§ A. MILEAGE:					
1. Owned—single track, miles	306.70	302.30	302.39	303.09	302.61
2. Owned—all tracks, miles	815.42	824.66	833.60	832.99	840.85
3. Operated—single track, miles	1,429.16	1,443.24	1,447.63	1,445.57	1,440.25
4. Operated—all tracks, miles	3,133.48	3,163.30	3,228.49	3,241.48	3,261.43
§ B. COST OF ROAD AND EQUIPMENT	$48,410,162	$54,385,714	$58,782,995	$53,639,362	$61,443,218
Per mile owned—single track	157,842	179,840	194,395	193,472	203,044
Per mile owned—all tracks	59,369	65,925	70,517	70,399	73,073
§ C. TOTAL CAPITALIZATION	120,982,100	129,644,100	132,338,981	129,507,047	127,017,047
Per mile owned—single track	394,464	428,859	437,643	427,289	419,738
Per mile owned—all tracks	148,308	157,209	158,756	155,473	151,058
Capital stock	40,441,100	40,441,100	40,441,100	40,441,100	40,441,100
Funded debt	80,541,000	89,203,000	91,897,881	89,065,947	86,575,947
§ D. TOTAL OPERATING REVENUES	32,050,187	35,287,381	37,426,745	34,940,973	38,151,174
Per mile operated—single track	22,426	24,460	25,854	24,176	26,480
Per mile operated—all tracks	10,228	11,155	11,593	10,782	11,698
Total operating expenses	19,682,035	21,700,358	24,012,038	22,541,145	23,814,256
Per mile operated—single track	13,772	15,036	16,587	15,592	16,535
Per mile operated—all tracks	6,281	6,860	7,438	6,954	7,302
Ratio to total operating revenues ... per cent	61.41	61.50	64.16	64.50	62.43

Lehigh Valley Railroad Company—Continued.

Item.	Year ending June 30—				
	1906	1907	1908	1909	1910
§ D. TOTAL OPERATING REVENUES—Continued.					
Analysis of operating expenses under official classification:					
Maintenance of way and structures	$3,153,245	$3,166,884	$3,398,642	$3,273,339	$3,462,903
Per mile operated—single track	2,206	2,215	2,348	2,264	2,394
Per mile operated—all tracks	1,096	1,011	1,053	1,010	1,062
Ratio to total operating revenues ... per cent	9.83	9.06	9.08	9.37	9.08
Maintenance of equipment	5,485,794	6,186,942	6,153,874	5,832,430	5,995,810
Per mile operated—single track	3,838	4,287	4,251	4,034	4,163
Per mile operated—all tracks	1,751	1,956	1,906	1,799	1,858
Ratio to total operating revenues ... per cent	17.12	17.54	16.44	16.68	15.71
Traffic and transportation expenses	10,421,778	11,686,787	12,121,580	10,760,203	11,512,285
Per mile operated—single track	7,292	8,098	8,373	7,443	7,993
Per mile operated—all tracks	3,326	3,634	3,755	3,320	3,560
Ratio to total operating revenues ... per cent	32.52	33.12	32.39	30.79	30.17
General expenses	631,218	650,075	637,940	799,794	713,149
Per mile operated—single track	435	436	441	491	495
Per mile operated—all tracks	198	199	198	249	219
Ratio to total operating revenues ... per cent	1.94	1.78	1.71	2.03	1.87
Analysis of operating expenses between labor and other expenses:					
Compensation paid direct to labor	12,013,753	14,282,297	12,891,828	12,113,154	13,703,030
Per mile operated—single track	8,496	9,896	8,905	8,379	9,514
Per mile operated—all tracks	3,854	4,515	3,993	3,737	4,242
Ratio to total operating revenues ... per cent	37.49	40.48	34.44	34.66	35.92
Compensation paid general officers	104,576	129,718	178,063	184,768	160,821
Per mile operated—single track	73	90	123	128	112
Per mile operated—all tracks	33	41	56	57	49
Ratio to total operating revenues ... per cent	.32	.37	.49	.53	.42
Material, fuel, and all other items	7,563,706	7,288,343	10,942,147	10,245,226	9,950,165
Per mile operated—single track	5,293	5,050	7,559	7,083	6,929
Per mile operated—all tracks	2,414	2,304	3,389	3,160	3,051
Ratio to total operating revenues ... per cent	23.69	20.65	29.21	29.31	26.08
Taxes	468,849	660,501	850,361	789,491	794,998
Per mile owned—single track	1,529	2,185	2,812	2,573	2,627
Per mile owned—all tracks	575	801	1,020	937	946
Per mile operated—single track	328	458	588	540	552
Per mile operated—all tracks	159	209	263	241	244
Ratio to total operating revenues ... per cent	1.47	1.87	2.27	2.21	2.09
Operating income	11,890,303	12,926,522	12,564,346	11,628,314	13,541,920
Per mile operated—single track	8,326	8,956	8,679	8,044	9,402
Per mile operated—all tracks	3,797	4,086	3,892	3,587	4,162
Ratio to total operating revenues ... per cent	37.12	36.63	33.57	33.27	35.49
§ E. INCOME ACCOUNT:					
Operating income from railroad operation	11,890,303	12,926,522	12,564,346	11,628,314	13,541,920
Additions to income (total of items 1 and 2 following)	1,548,521	1,726,188	1,474,813	1,657,273	1,463,372
1. Rents received from other roads for the use of road, equipment, and facilities of the operating property	739,670	8,781,059	500,581	292,639	409,013
Interest on bonds and dividends on stocks in separately operated railroads and income from other miscellaneous property	808,851	945,138	108,331	764,641	1,054,359
Deductions from income (total of items 1, 2, and 3 following)	6,426,014	6,559,167	6,666,532	6,841,783	6,867,892
1. Rents paid for lease of roads which form a part of the operating property	2,455,286	2,347,253	2,520,323	2,748,308	2,763,984
2. Rents paid to other roads for the partial use of road, equipment, and facilities needed in operating the property	450,176	373,895	185,833	150,806	171,270
3. Interest accrued on funded and floating debt	3,540,552	3,838,019	3,900,176	3,942,669	3,930,729
Corporate income for the year	7,021,810	8,093,543	7,432,647	5,843,804	8,137,400
Per cent on capital stock outstanding § C	17.36	20.01	18.38	14.45	20.12
§F. PROFIT AND LOSS ACCOUNT:					
Accumulated surplus brought forward from preceding year	8,657,325	11,380,915	14,099,283	16,516,904	19,212,252
Corporate income for the year	7,021,810	8,093,543	7,432,647	5,843,804	8,137,400
Discounts on securities bought and sold and other profit and loss allocations	−1,103,971	−1,252,541	−719,059	−135,110	−391,617
Total surplus available for distribution	14,575,164	18,221,917	20,722,871	22,225,598	26,958,035
Per cent on capital stock outstanding § C	36.04	45.06	51.24	54.96	66.65
Dividends declared	1,624,022	2,141,044	2,430,703	2,430,703	2,430,703
Additions, betterments, and permanent improvement appropriations	1,570,227	2,068,590	1,363,834	380,206	848,857 Cr. 3,440,778
Sinking and special reserve funds			411,430	2,437	Cr. 95,547
Total surplus appropriated	3,194,249	4,212,634	4,205,967	3,013,346	261,705
Per cent on capital stock outstanding § C	7.90	10.42	10.40	7.45	.65
Unappropriated surplus carried over to the following year	11,380,915	14,099,283	16,516,904	19,212,252	27,210,780

The figures for years prior to 1901 are not given above, because we have not had them revised to conform to the present system of accounting, but from 1895 onward they tell practically the same story—that is, the charges to maintenance of way from 1895 to 1904 were abnormal as compared with the years 1905 to 1910. During this 10-year period the density of tonnage per mile of line has increased about 50 per cent. Three of the large items of operating expenses, namely, maintenance of equipment, compensation to labor and material, fuel, and supplies, show an increase somewhat proportionate to the increase in density of tonnage, while the fourth large item of operating expense—maintenance of way and structures—has decreased from $3,057 per mile in 1901 and $3,340 in 1902 to $2,404 in 1910. The only inference which can be drawn from these figures is that in the period from 1895 to 1902 the shareholders elected to devote surplus earnings to rebuilding and improving their road instead of distributing the earnings to themselves in the form of dividends. The excess of the maintenance of way item alone for several years prior to 1903 over that for 1910 was sufficient to pay a 2 per cent dividend on the stock. The devotion of earnings to permanent improvements and betterments was no doubt a wise policy on the part of those in control of the road. But the indications are that the shareholders have already received the benefit of that policy, even though it has not come in the form of cash dividends covering the period in question. From 1894 to 1903 the average market value of Lehigh Valley Railroad stock was in the neighborhood of $75 per share. At this writing the same stock is quoted at $178. Thus a person who had invested in Lehigh Valley at par prior to 1904 has benefited by an appreciation in value of his stock to the amount of 5 per cent per annum since 1894 and has received dividends gradually increased from 2 per cent to 5 per cent since 1905. The earnings in 1910 were sufficient to pay a dividend of 20.12 per cent, but the company elected to increase its unappropriated surplus from $19,212,252 in 1909 to $27,210,780 in 1910. Moreover, the Lehigh Valley Railroad Company has been carrying amongst its assets certificates of indebtedness of the Lehigh Valley Coal Company amounting to $10,537,000, upon which no interest is collected. Interest on this indebtedness would be sufficient to pay a 1 per cent dividend on the stock.

We should hesitate to assent to defendant's first proposition, that present shippers must bear the burden of earlier misfortunes of the road, but it is unnecessary to decide that point in this case, because it has been sufficiently demonstrated that the shareholders have received a fair return on their investment, taking into consideration the money actually received in dividends, the increased value of their shares, the increased value of the property, and the large unappropriated surplus. It follows, therefore, that the allowance in the Wilgus estimate of 10 cents per ton to make up for this alleged deficit should be eliminated from the calculation.

Defendant's second and third contentions that the rates should be sufficient to guarantee a fair annual return on the investment and to provide reasonably for keeping the property up to improved modern methods are sound, but have little bearing on this case, in view of the summary of the road's finances above set forth. It will be noted by referring to that tabulation that defendant's corporate income was sufficient to pay a dividend on the capital stock of 16 per cent in 1905, 17 per cent in 1906, 20 per cent in 1907, 18 per cent in 1908, 14 per cent in 1909, and 20 per cent in 1910. Instead of paying such dividends it has paid 5 per cent on its capital stock, appropriated to additions, betterments, and improvements sums ranging from $580,206 to $2,068,590 per annum, and has increased its unappropriated surplus from nothing in 1902 to $27,210,780 in 1910. Certainly it must be conceded that the present rates provide liberally for a fair annual return on the investment and the proper maintenance of the property.

As noted, the Lehigh Valley Railroad Company carries amongst its assets $10,537,000 noninterest bearing certificates of indebtedness of the Lehigh Valley Coal Company. At 5 per cent per annum the interest on these certificates would be $526,850. The latter sum is in all substantial respects a rebate to the Lehigh Valley Coal Company. The proportion of the total tonnage from the anthracite field shipped by the Lehigh Valley Coal Company does not appear, but it is of record that it ships about 95 per cent of the coal to tidewater. If its proportion of the total traffic is the same as that to tidewater, its tonnage for 1910 was in the neighborhood of 10,500,000 tons; and the net result of the transportation as between it and its competitors was the same as if it had had its coal transported for 5 cents per ton less than the independent dealers. Referring to the same matter in Coxe Brothers Co. v. L. V. R. R. Co., supra, the commission said:

"The railroad company advances to the coal company nearly $7,000,000 with which to transact its business, and for the use of which the railroad company receives no advantage other than such advantages as it gets from carrying the freight of the coal company. The value of the annual use of such advances at 5 per cent interest amounts to $350,000, nearly. This sum exceeds 10 cents per ton on all the coal shipped by the coal company over the lines of the railroad company, and is to that extent an undue preference given to said coal company, to the disadvantage of Coxe Brothers & Company and other shippers who receive no advances. The advantage of like advances if made to complainants, estimated on their annual shipments, would exceed $100,000. Had the Lehigh Valley road as a means of securing freight made like advances to any other competitor of complainants, whether an individual operator or a coal company in which the railroad company had no interest, it would hardly be contended that such act did not amount to undue preference and unjust discrimination. The fact that the road was interested in the coal company, as the owner of its capital stock, does not make lawful what would be unlawful without such interest."

Defendant has filed on exhibit purporting to show that its average revenue for the transportation of coal to Perth Amboy from 1898 to 1908 has been $1.46 per gross ton. Assuming that by the loan to the coal company defendant loses interest charges amounting roughly to 5 cents per ton, the average just given would be reduced to $1.41 per gross ton. In the Coxe Brothers case, decided in 1891, the commission decided that a fair return to defendant upon traffic here involved would be an average of $1.40 per gross ton. The rates ordered as a result of that decision were never put in force because, while litigation resulting therefrom was in the courts, it was decided that as the law then stood the commission was without authority to fix a rate for the future. Since that decision density of tonnage has increased, the ratio of operating expenses to income has materially decreased, grades have been eliminated, trainloads and car capacities have materially increased; in short, every factor which ought to make for lower rates has been present. But the rates charged have produced revenue of about 6 cents per ton in excess of that found reasonable by the commission.

Turning again to the Wilgus exhibit, we find the estimated cost of transporting a ton of coal from the Wyoming region to Perth Amboy is $1.49. But we have shown that 10 cents of that amount, designed to cover past deficits, is an improper charge. Therefore $1.39 would be the cost if the exhibit were accurately and properly constructed on the basis of facts known to the witnesses. In considering this exhibit it must be remembered that the so-called cost does not mean operating expense. The item of $1.49 is designed to cover all proper, possible, and probable charges, including not only interest and depreciation charges but other items, such as the 10-cent allowance above mentioned. Therefore, if the exhibit were not open to objection, it would be seen that, after eliminating the 10-cent charge above referred to, defendant's rates on the several sizes of anthracite coal ought to bring them revenue averaging $1.39 per gross ton. That is to say, upon defendant's own showing it is collecting rates which have been on the average 7 cents per ton in excess of a reasonable rate.

After careful study of defendant's exhibits relating to tonnage and cost of movement, as well as a painstaking analysis of defendant's voluminous exhibits respecting its past and present financial condition, we are of opinion, and so find, that defendant's rates for the transportation of coal from the Wyoming region to Perth Amboy of $1.55 per gross ton on prepared sizes, $1.40 on pea coal, and $1.20 on buckwheat coal are unreasonable so far as they exceed $1.40 on prepared sizes, $1.30 on pea coal, and $1.15 on buckwheat. If the relative tonnage of the several sizes continues as it has in the past, the rates herein found to be reasonable would result in an average reduction in defendant's revenue per gross ton for hauling coal to Perth Amboy of about 11 cents below the figure of $1.46 for the 10 years from 1898 to 1908. As applied to 1908, the last year for which anthracite tonnage to Perth Amboy is shown in the record, the proposed rates would have resulted in reducing its operating revenue by about $247,000, and apparently 95 per cent of this amount would accrue to the benefit of the railroad coal company. By reference to the table above set forth it is at once apparent that such a reduction will have no serious effect on defendant's revenues and will afford ample allowance for interest charges, operation, dividends, and all proper reserve funds.

We are further of opinion that reparation should be awarded upon basis of the rates herein found to be reasonable upon all shipments of coal by complainants from the Wyoming region to Perth Amboy since August 1, 1901. The amount of reparation which should be awarded under our finding in this case can not be ascertained from the exhibits now on file, and such further proceedings will be had as may be necessary to determine the amount of money due to complainants.

ORDER.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 8th day of June, A. D. 1911.

Present: Judson C. Clements, Charles A. Prouty, Franklin K. Lane, Edgar E. Clark, James S. Harlan, Charles C. McChord, Balthasar H. Meyer, Commissioners.

No. 1180. Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Company, v. Lehigh Valley Railroad Company.

This case being at issue upon complaint and answer on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That defendant Lehigh Valley Railroad Company be, and it is hereby, notified and required to cease and desist, on or before the 15th day of August, 1911, and for a period of two years thereafter to abstain, from charging, demanding, collecting, or receiving its present rates for the transportation of anthracite coal in carloads from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., as follows, to wit: Upon prepared sizes, $1.55 per gross ton; on pea coal, $1.40 per gross ton; and on buckwheat coal, $1.20 per gross ton; which said rates have been found by the commission in its said report to be unreasonable.

It is further ordered, That said defendant be, and it is hereby, notified and required to establish, on or before the 15th day of August, 1911, and for a period of two years thereafter to maintain, and apply to the transportation of anthracite coal in carloads from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., rates not in excess of the following, to wit: $1.40 per gross ton on prepared sizes of said coal; $1.30 per gross ton on pea coal; and $1.15 per gross ton on buckwheat coal; which said rates have been found by the commission in its said report to be reasonable.

[U. S. S. Exhibit 48.]

INTERSTATE COMMERCE COMMISSION,
Washington.

I, John H. Marble, secretary of the Interstate Commerce Commission, do hereby certify that the papers hereto attached are true copies of the complaint and answer filed in the case of Marian Coal Company against the Delaware, Lackawanna & Western Railroad Company, docket No. 3592, and reports and orders filed by the commission in said case on June 8, 1912, and October 19, 1912, the originals of which are now on file and of record in the office of this commission.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the commission this 9th day of December, 1912.

[SEAL.] JOHN H. MARBLE, *Secretary.*

(Before the Interstate Commerce Commission of the United States.
Marian Coal Company v. The Delaware, Lackawanna & Western Railroad Company. Docket No. —.)

Complaint.

The petition of the above-named complainant respectfully shows:

I.

The Marian Coal Company is a corporation organized under the laws of the State of Delaware, with its principal office in the city of Wilmington in the State of Delaware.

The said complainant is engaged in the business of cleaning, preparing, shipping, and selling that character of anthracite coal known in the trade as washery coal, reclaiming from the refuse discarded in the early history of anthracite mining the small pieces of coal which, at such early period were not marketable, but which are now valuable, particularly for steaming purposes. Its washery is located in the borough of Taylor, Lackawanna County, Pennsylvania, distant 2,500 feet from the Bloomsburg Division of the defendant carrier and is situate upon a switch serving three collieries supposed to belong to the defendant or to the D., L. & W. Coal Company, an organization affiliated with the defendant carrier. Large quantities of fresh-mined coal, as well as other washery coal, is transported over this switch for shipment intra and inter state.

II.

The defendant railway is a common carrier organized under the laws of the State of Pennsylvania, engaged in the transportation of passengers and property by railroad, or by rail-and-water transportation, by continuous carriage or shipment between the plant of the complainant located in the State of Pennsylvania aforesaid to points designated hereinafter situate in the States of Pennsylvania, New York, and New Jersey, over its own road, and it operates, leases, owns, and controls certain railways which are part of its system and are made subject to this complaint, issuing tariff sheets over such line as part of its system, and is subject to the provisions of the act of Congress to regulate interstate commerce of the 14th February, 1887, and acts amendatory thereof and supplementary thereto. More than half of its business is the transportation of anthracite coal, and of the anthracite coal transported more than ninety per cent (99%) is produced by the D., L. & W. Coal Co., the capital stock of which defendant owns, or is coal purchased by said coal company from individual operators under contracts covering all coal produced or to be produced by them.

The defendant carrier has established rates for the transportation of the product of the complainant from its plant in the borough of Taylor aforesaid to the destinations hereinafter specified, which severally constitute an unjust and unreasonable charge for the service rendered to the complainant, and are in violation of the first section of the act of Congress to regulate interstate commerce of the 14th February, 1887, and the acts supplementary thereto or amendatory thereof. These several destinations are specified as follows, to wit:

All stations between the borough of Taylor and the several terminals of the defendant railway in the city of Hoboken and Jersey City, in the State of New Jersey, and to docks situate in the Borough of Brooklyn, Greater New York, in the State of New York, and to points between the plant of the complainant and the city of Buffalo, and the city of Oswego, New York, and in the vicinity of said cities in the State of New York.

All points alluded to will be found in I. C. C. Tariff No. 6095.

The complainant avers, that from April 6, 1907, to August 1, 1909, the defendant railway violated section four (4) of the act to regulate commerce, in that it charged and received a greater compensation for the transportation of property for a shorter than for a longer distance, over the same line or route and in the same directions, the shorter being included within the longer distances. By its Tariff I. C. C. No. 6095, the defendant railway, after this complainant had complained to the defendant of the unjust rates, reduced slightly certain of its rates, but is still violating the spirit and intent of the section of the act mentioned, by charging and receiving as great a compensation for a shorter as for a longer distance. The complainant makes specific reference to Tariffs I. C. C. No. 4222–No. 4223 and to joint freight Tariff No. C 3449, D., L. & W. R. R. in connection with Bangor and Portland, the two first mentioned having been cancelled by I. C. C. No. 6095, hereinabove mentioned.

The rates charged to all points on the line of the defendant railway are unjust and unreasonable, particularly so at intermediate points, both intra and interstate, as shown by the tariff mentioned. The rates charged for the transportation of rice and barley coal are also particularly unjust and unreasonable, as shown by Tariff I. C. C. No. 6095,

and are burdensome to the complainant, 75 per cent of whose product is rice and barley coal. The defendant railway has recognized that on account of the slight value of rice and barley coal, at origin, it should bear a less rate of freight than coal of a greater value. The freight rate charged upon barley coal being, for example, from origin to Hoboken, one dollar and thirty-five cents ($1.35) per gross ton, while the price of said coal f. o. b. at Hoboken is one dollar and fifty cents ($1.50). The actual cost of preparing barley coal is about thirty cents (38 cents) per ton, cost of selling ten cents (10 cents) additional. This size is selling locally at from forty to forty-five cents (40 to 45 cents) per ton. The freight rate charged upon rice coal, which is a size larger than barley coal, for example, is from origin to Hoboken one dollar and thirty-five cents ($1.35), while the selling price of coal f. o. b. at Hoboken, is two dollars ($2.00) per ton. The actual cost of preparing rice coal being about forty cents (40 cents) per ton, plus ten cents (10 cents) additional for selling expense. The price locally being from ninety cents (90 cents) to one dollar ($1.00) per ton.

It thus appears that taking the actual cost of barley coal, which amounts to about sixty per cent (60 per cent) of complainant's output, at tidewater, freight added, is one dollar and seventy-five cents ($1.75); it sells at Hoboken at one dollar and fifty cents ($1.50), at a loss of twenty-five cents (25 cents).

The rice coal costs the complainant forty cents (40 cents) per ton to prepare, ten cents (10 cents) per ton for selling expense, and the freight one dollar and thirty-five cents ($1.35), showing a net cost of one dollar and eighty-five cents ($1.85). It sells at Hoboken at two dollars per ton ($2.00), leaving a margin of fifteen cents (15 cents) for rice coal at Hoboken, the intrinsic vale of which is from ninety cents (90 cents) to one dollar ($1.00) per ton at origin.

The defendant also has a rate in effect to Hoboken, N. J., f. o. b. vessel, per gross ton for sizes larger than pea coal one dollar and fifty-eight cents ($1.58); for pea coal, one dollar and forty-three cents ($1.43); buckwheat coal, one dollar and twenty-eight cents ($1.28); and for rice and barley, one dollar and thirteen cents ($1.13), and such charge for transportation includes the service of transfer from car to vessel.

The coal company affiliated with the railroad company charges for barley coal at its mines at Taylor one dollar ($1.00) per gross ton; for rice coal, one dollar and fifty cents ($1.50) per gross ton; and for buckwheat, two dollars ($2.00) per gross ton.

By reason of the injustice complained of the complainant is unable to ship his product to points on the line of the D., L. & W. R. R. at a profit except as to pea coal and sizes larger.

The defendant carrier owns the capital stock of the Delaware, Lackawanna & Western Coal Company, which also mines and ships from the Lackawanna and Wyoming coal regions of Pennsylvania via the defendant road coals of the various sizes shipped by this complainant, and by reason of the conditions imposed upon complainant by the defendant subjects the latter to unjust conditions of competition.

The defendant has charged the complainant a switching charge in addition to the charges for hauls on the main line to some of the destinations lying between the points hereinabove designated to which it has not subjected other shippers of the like product shipping the same under similar circumstances and like conditions, the said switching charges having been absorbed in the haul to such destinations.

In some instances the defendant carrier has imposed a switching charge upon some shippers much less than the switching charge imposed upon complainant's product for much more expensive service. The complainant avers that the defendant has no right to impose any charge whatever upon its product as a switching charge at either origin or destination, but that the same should have been included in the through rate to the destinations mentioned of the D., L. & W. R. R. system on all of its product shipped to interstate destinations of which the commission has jurisdiction. Complainant is informed, believes, and expects to be able to prove upon the trial of this case that it has been subject to this switching charge when it has transported the same character of product to the same destinations for favored shippers at a rate which did not include charges for switching, which several acts constitute an undue or unreasonable prejudice or disadvantage to the complainant discriminatory and in violation of the third section of the act of Congress aforesaid.

IV.

The complainant has been and now is compelled to ship its product over the defendant's road by reason of the refusal of the defendant and other carriers to establish reasonable and just through joint rates, which should absorb the switching or transfer charges to connecting carriers, and complainant avers that the defendant carrier or its coal company has enjoyed a transfer charge as low as three cents (3 cents) per ton for similar service to interstate destinations, rates to which were requested by this complainant to be put into effect, and has performed service more expensive for competitors affiliated with other railroads constituting the Anthracite Coal Trust at much less than has been exacted of this complainant. In some instances, as complainant believes, the switching or transfer charges have been absorbed in the through joint rate. By these unjust and discriminatory acts the complainant has been unable to secure equality of conditions with competitors constituting the Anthracite Coal Trust, and has been and is at a great disadvantage as a result thereof.

V.

The complainant avers that the defendant carrier has willfully violated the sixth section of the act of Congress, in that it has not printed and kept open to public inspection the schedules required under this section of the said act of Congress, nor has it observed the modified requirements of the commission, which requires common carriers to permit shippers to have access to such schedules in the hands of the freight representatives of carriers subject to the act, and has not filed and published in conformance with the provisions of the act mentioned the rates, fares, and charges imposed upon the product of the complainant as required by said section. The complainant made application at the proper freight offices at Taylor, Pa., and Scranton, Pa., three miles from Taylor, and to the freight office in the city of New York for the rates of freight applicable to his product, and further requested the defendant carrier to exhibit to him certain agreements for switching services performed in interstate traffic, for competitors of the complainant, such competitors being coal companies affiliated with various railroads transporting anthracite coal and other products as common carriers over their lines, under like circumstances and similar conditions, specifically stating to the freight agents of such company the particular agreements or freight traffic contracts in force, either written or by parol, existing between such companies and the coal companies specified. The railway freight agents denied the existence of such agreements. The complainant then requested Mr. E. E. Loomis, vice president of said railroad company, in charge of the coal department, to whom the complainant's letter was referred for a reply, to furnish him the information requested of the freight agents.

The defendant railway freight officials instead of giving to the complainant the information which would enable him to ascertain the rates of freight charged to various destinations, referred him to the officials of the coal department, which fixes the rates upon anthracite coal, and is a competitor of your complainant.

VI.

The rate of freight as shown in the tariff cited hereinabove is not a rate imposed upon all shippers alike. The rate obtained from the D., L. & W. Coal Company and from individual operators who sell all their coal to the said company, is based upon a monopoly, maintained through the device of the Temple Iron Company, the directors of which are presidents of the railroad company constituting the Anthracite Coal Trust, and it in effect fixes the price of coal, the freight rate upon such coal is fixed, by a percentage of the average price of coal as reported by a bureau maintained by the Coal Trust, to have been received by the various companies constituting the Coal Trust for coal sold at tidewater. The railroads formerly and now the coal companies affiliated therewith sell the coal, making no charge therefor to such operators as enjoy the benefit of the contracts, while complainant must sell its own product and suffer its own losses for bad accounts. The effect of this illegal system of rate making is to enable the Coal Trust to maintain a rate to one class of shippers different from that imposed upon another class, and the rate changes many times each year to one class without notice of change to the other class. In April it decreases, and then the price of coal advancing each month, each month the freight rate advances, thus constituting an illegal device and subjecting the complainant to conditions prohibited by the act to regulate interstate commerce. The rates on complainant's coal have been fixed by the coal company's representatives.

VII.

In deliveries locally the defendant coal company sells delivered at Scranton at the same price it charges at the breaker, which is located within a few hundred feet of complainant's washery, the complainant being subject to a delivery charge of thirty cents (30 cents) per ton. The defendant, the D., L. & W. Coal Company, sells coal delivered along the line, intra and interstate, at a price much less than the freight with the price charged for the coal at its said breaker added, which prices are: For buckwheat, two dollars per ton ($2.00); rice, one dollar and fifty cents ($1.50) per ton; and barley, one dollar ($1.00) per ton; thus preventing the complainant from competing at line points. The unjust amount charged for freight is sufficient to prevent competition by complainants, or other independent shippers, and ultimately must drive the few remaining operators out of the field. When complainant has attempted to ship on the line of the defendant railroad, the defendant's officials have protested to complainant's agents, claiming the line trade as its own.

VIII.

The complainant believes and therefore avers, that the defendant carrier has charged it a compensation greater for services rendered it in the transportation of its commodity, than it has charged, collected, or received from other persons, firms, or corporations for contemporaneous services in the transportation of like traffic under substantially the same circumstances and conditions in violation of the second section of the act of Congress hereinabove recited.

IX.

The several acts in violation of the act of Congress, your complainant believes, together with other acts upon the part of the defendant company, were done for the deliberate purpose of driving the complainant out of business as a producer of coal in competition with the coal company affiliated with the defendant carrier. The acts, in detail, are as follows:

A. The defendant attempted to compel the complainant to sell its coal to it upon an agreement which would require the complainant to restrict its output to such an extent as to make it impossible for the complainant to exist, at the same time compelling the complainant to rate its capacity at much less than its actual capacity.

B. It refused to quote the complainant rates, local or intrastate, and stated that they did not have the tariffs required under the law to be posted at its freight stations, which complainant did not then understand, so that complainant could use the same. During the entire period that this continued the complainant was obliged to sell its product to the defendant railroad. Upon the size of coal which could be produced at a profit at the price received by the defendant it wrongfully procured the condemnation of 95 per cent thereof, although said coal was of as good quality as the defendant was producing at its washeries, prepared with machinery equally as good, if not better, than the machinery used in the washeries of said defendant company. Instead of inspecting the coal by ascertaining the average character thereof in the manner in force with other producing shippers, the defendant's inspector persistently took the coal for test from under the lip screens, where of necessity the percentage of foreign matter would be large, and condemned complainant's buckwheat coal, as hereinabove stated. Upon the sizes of coal which are by-products of a washery, to wit, sizes smaller than buckwheat coal, upon which there would be no possible profit at the prices received from the railroad company, it took freely. For example, for the size of coal known as buckwheat, which it sold 2,500 feet distant from complainant's plant for two dollars ($2.00), it paid complainant one dollar and ten cents ($1.10) per ton; and for coal sold at said point of the size known as rice coal, for which it received one dollar and fifty cents ($1.50) per ton, it paid complainant fifty cents (50 cents) per ton therefor; and for size known as barley, sold at said point, for which it received one dollar ($1.00) per ton, it paid the defendant twenty cents (20 cents) per ton therefor.

C. The complainant having thus ascertained the attitude of the defendant railway, through its coal company, to it as an independent producer of coal and competitor, offered the property for sale and had five responsible bidders willing to purchase the said washery and culm bank. It thereupon offered to sell the property to the defendant for ten thousand dollars ($10,000) less than the best bid it had received, in the hope of getting legitimate concessions over the defendant railway for the shipment of the products of another property owned by the persons interested in the Marian Coal Company, which property had been made valueless by the attitude of another carrier on account of complainant's refusal to sign another contract of the same general character as the one complained of herein. The representative of the defendant railway secured the names of the bidders for the property from the representative of the complainant, and thereupon practically agreed to buy it. The defendant immediately thereafter notified all of the bidders,

the names of which the representative of the complainant had given in confidence, that should they purchase the property they would buy a lawsuit, and then immediately thereafter notified the complainant that it would not purchase the property. The said bidders then also refused to purchase. The complainant endeavored to sell its coal to wholesale purchasers, who were requested by the coal department of said railroad not to purchase its product under the pain of the displeasure of the defendant carrier.

D. The defendant attempted to compel the complainant to sign a contract for the sale of its coal to the D., L. & W. R. R. Co. which would permit a continuance of the acts mentioned in the second paragraph of this article. The plaintiff suggested that it ought to have the right, in case the defendant coal company should condemn its coal, to sell the coal so condemned in the open market, which the defendant's coal company refused to permit the complainant to do. It also in the said contract refused to insert a clause governing the methods of inspection, such as the defendant had agreed to do with other individual operators of which it purchased coal, whereby the coal taken for the purpose of test of quality should be taken from various points upon the car instead of under the lip screens, whereupon this complainant refused to continue the shipment of coal to the defendant and declined to enter into any contract for the sale of the coal under the conditions exacted by the defendant.

E. After the defendant began to sell its coal to purchasers in the open market the defendant railway, without any duty upon its part so to do, proceeded, through its inspectors or the inspectors of the D., L. & W. Coal Company, to condemn coal consigned to independent purchasers, which coal had been accepted by the inspector of such independent purchasers as showing a less percentage of foreign matter than is required under the so-called sixty-five cent (65-cent) contract then in force between the defendant carriers and the operating individual operators selling their output to the defendant.

F. By reason of the inexperience of the complainant the defendant company has persistently routed its products over long hauls at higher rates, instead of via shorter routes at lower rates, to the complainant's great damage and injury.

G. The nature of the business of preparing coal at washeries requires water in considerable quantities. The complainant, a lower riparian owner, had been using the waters of a stream which passed through its property. For the purpose of preventing the defendant from washing its coal from this stream the coal company affiliated with the defendant deliberately built two dams on said stream, diverting the water therefrom, turning it into the mines operated by it, and then pumped the water out at night, at a time when it is practically impossible to work a washery.

H. The complainant has sought to obtain relief by shipping its coal to points along the lines of connecting carriers, several of which are distant five thousand feet (5,000 feet) from its washery, but these carriers have refused to put into effect a through joint rate which would absorb the prohibitive switching charges imposed upon it by the defendant, notwithstanding that these are absorbing switching charges for other operators, the defendant claiming that no rate could be established because the traffic did not originate on its line, while the connecting carrier alleged it could not join in the through joint rate which would absorb the switching charges because the traffic did not originate on its line.

I. In the latter part of the year 1906 a culm bank on the land of the defendant railway became ignited and threatened the destruction of the entire contiguous banks leased to the complainant. The representative of the complainant called the attention of the authorities in charge of the defendant's property to the danger of communicating to complainant's bank, and the representatives of the Lackawanna Railroad, or the said D., L. & W. Coal Company, declared that as the fire was in their own culm bank it was nobody's business, and thereafter, against the protests of the complainant, continued deliberately to dump new fuel upon this fire until finally it communicated to the bank of the complainant, destroying about seventy-five thousand (75,000) tons of valuable material. The culm bank of complainant would have been utterly destroyed, and such total destruction was only obviated by the expenditure of about seven thousand dollars ($7,000).

J. The defendant company charged the complainant about 30 cents per ton for hauling its coal from the washery to the connection with the C. R. R. of New Jersey, distant five thousand feet (5,000), while performing service more expensive in character under similar conditions for a small fraction of such charge. This charge almost exactly equaled the additional price for coal which the complainant might have obtained had it been able to ship this coal along the line of the Central R. R. of New Jersey, and is in excess of charges made to competitors of complainant for service much more expensive.

X.

Complainant has repeatedly protested against the several unjust and illegal acts complained of, and sought to secure a fair adjustment of the several complaints, and has asked the defendant to create an equality of the conditions of competition with defendant's coal company and others, but has been unable to secure the same.

XI.

By reason of the refusal upon the part of the defendant company to absorb the switching charge in its through rate to interstate points, and by reason of its discrimination in the switching charge for interstate and intrastate shipments, and on account of the acts herein complained of, the complainant has been prevented from marketing its product in such quantity as would enable it to continue its business except at an enormous loss. Its competitors were enjoying switching rates tabulated as follows:

Five cents (5 cents) per gross ton for a distance of about nine miles.

One dollar and fifty cents ($1.50) per car for a distance of about nine miles.

Twelve cents (12 cents) per gross ton through a crowded and expensive yard, distant about two and one-half miles.

Two dollars ($2.00) per car for varying distances from three to five miles.

And at numerous other points as your complainant is informed and believes rates are equally as discriminatory against the defendant as the rates hereinabove quoted.

XII.

This petition is presented upon behalf of the complainant and such other persons, firms, or corporations as may hereafter by proper petition become parties in interest to this suit. And the complainant hereby claims damages to the amount of fifty-five thousand two hundred and thirty-eight and twenty-seven one-hundredths dollars ($55,238.27) with interest, and demands reparation, and attaches hereto a statement which is made a part hereof, detailing the origin of the freight, destination, date of shipment, car number, car initial, size of coal, weight, rate charged.

Wherefore your petitioner prays:

First. That the defendant carrier may be required to answer the charges herein set out, and that after due hearing and investigation and ascertainment of lawful rates, and of the violations of law herein complained of, an order be made requiring the defendant to cease and desist from the several violations of the act to regulate commerce herein specified.

Second. That the defendant be furthermore required to put into effect just and reasonable rates upon the complainant's commodity from Taylor, Pa., to all points within the jurisdiction of the commission upon its railroad or upon railroads owned, leased, controlled, or operated as a part of the defendant system, as shown in its published tariffs. The complainant respectfully requests the commission to make an order fixing the rate for the transportation of anthracite coal from the Lackawanna coal regions in Pennsylvania to Hoboken, N. J., or f. o. b. vessel Hoboken, N. J., which shall include switching and all other transportation charges, at not more than ninety-five cents (95 cents), being about six and one-fourth mills (6¼) per gross ton per mile upon sizes of coal larger than pea coal; ninety cents (90 cents) per gross ton or about six (6) mills per ton per mile upon sizes of coal known as pea and buckwheat coal; and seventy-five cents (75 cents) per gross ton or about five mills per gross ton per mile upon sizes of coal known as rice and barley coal; and ordering and directing the defendant to make reparation to the complainant for the sum of fifty-five thousand two hundred thirty-eight and twenty-seven one-hundredths dollars ($55,238.27), shown as follows:

Excess charges on 2,014.17 of pea coal	$1,068.63
Excess charges on 26,629.09 of buckwheat	9,169.21
Excess charges on 49,156.02 of rice coal	16,679.39
Excess charges on 69,265.06 of barley coal	26,321.04
Total claim for reparation	55,238.27

to which complainant asks interest be added on the respective payments made by complainant in excess of a reasonable rate, from the dates of the several payments, respectively, as made.

The total charge for coal transported is as follows: $179,831.82

	Pea.	Buck.	Rice.	Barley.
	2,014.17	26,628.09	49,156.02	69,265.06
Rate	$1.43	$1.28	$1.13	$1.13
	$2,881.23	$33,134.41	$55,546.39	$78,269.79

Just charges based upon a reasonable rate is stated as follows:

Pea.	Buck.	Rice.	Barley.	
$1,812.60	$23,965.20	$36,867.00	$51,948.75	
Total being				124,593.55
Amount claimed as in excess of a just and reasonable rate				55,238.27

Third. And that you make such further orders and decrees as the commission might deem necessary in the premises for the furtherance of justice.

MARIAN COAL COMPANY,
By W. P. BOLAND, *President*.

OCTOBER 11, 1910.

STATE OF PENNSYLVANIA,
County of Lackawanna, ss:

W. P. Boland, president and general manager of the Marian Coal Company, being duly sworn according to law, doth depose and say, that as to the facts set forth in the complaint hereto attached, with which he is familiar, they are true and correct, and as to the facts which he states from information and belief, he believes the same to be true, and further saith not.

W. P. BOLAND.

Sworn to and subscribed before me this 11th day of October, 1910.

[SEAL.] CLARA L. WOODRUFF,
Notary Public.

My commission expires 5th of January, 1913.

Detailed statement of claim for excessive freight rates or overcharges made by Delaware, Lackawanna & Western Railroad for anthracite coal shipped by the Marian Coal Co., via D., L. & W. R. R., from Taylor, Pa., to J. W. Peale, Hoboken, N. J., who was the coal sales agent of the Marian Coal Co., the latter paying freight.

[Rate: Pea, $1.43; Buck., $1.28; rice, $1.13; barley, $1.13.]

Date of shipment.		Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908 July	8	D., L. & W.	75836			38	
		do	74742				38
		do	73572			37.15	
		do	73923				38
	9	do	72879			38.05	
		do	70388				37.05
		do	43521				28
		do	44276				21.10
		do	74853				37
		do	72272			37.15	
		do	72817				37.05
		do	74534				37
		do	75898			38	
		do	75502				36.10
	10	do	74009			38.05	
		do	72953				39
		do	70494			35	
		do	46123	28.08			
		do	75324				37.15
		do	18371	26.17			
		do	74009			38.05	
		do	72953				39
		do	70494		35		

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908 July 10	D., L. & W.	46123	28.03			
	do	75324				37.15
11	do	18371	36.17			
	do	70173			37.07	
	do	70035				37
	do	72848				37.09
	do	74963			39.03	
	do	70058				37
	do	17756			21	
	do	44677			21.05	
	do	75577		37.04		
	do	73221				38
	do	75738				39
	do	72462			38.10	
	do	70517				38.06
	do	19171			27.11	
	do	72215				38
13	do	42158			18.13	
	do	75338			38.10	
	do	72216				38.14
	do	73879			37	
	do	73039				37.05
	do	73212				37.15
	do	18429			28.02	
	do	39690		22.13		
	do	46235				27.18
	do	18449			27.02	
			109	94.17	635.18	870.05
	do	45769				28.05
	do	18162	27.05			
	do	43268		37.01		
	do	46040				27
	do	19210			27.12	
14	do	18485				28
	do	7374			23	
	do	19115				37.05
	do	72578			39	
	do	19931				29
	do	69968				42
	do	73037			37.15	
	do	44015				37.10
	do	44944			37.04	
	do	73096				37.18
	do	74051				37.16
	do	72090			38	
	do	70939				37.01
15	do	73360			38	
	do	74969				38.05
	do	70882			37	
	do	18258		26.17		
	do	73598				38.15
	do	70139				36.15
	do	74942			38.05	
	do	74482				38
	do	73907			37.05	
16	do	73610				36.18
	do	73759			37.04	
	do	73067				37.15
	do	75304			38.05	
	do	73194				37
	do	73422			38	
	do	70097		36.05		
	do	70483				36.15
17	do	74001				39
	do	72269			38.15	
	do	76075				37.15
	do	74500				37.02
	do	74935			39.06	
	do	72390				38
	do	70822			37.05	
	do	70229				38.04
18	do	70213				37
	do	70751			37.08	
	do	72993				38.07
	do	73729			38	
	do	74348				37.12
	do	74329		38.16		
20	do	74202				37
	do	74973			37.02	
	do	72195				38
	do	73454			38.13	
	do	72487				38.05
	do	73528		37.15		
	do	75755			37.16	
	do	69931				40
21	do	72399				39.06
	do	72786			39.05	
	do	39807		27.15		
	do	18891			29.18	
	do	73691				38.10
	do	70258			38.12	
	do	75700				37
	do	12829				24
22	do	73522			39	
	do	74789				37.17
	do	18257		38.15		
	do	18094				38
	do	72883			39.06	
	do	72789				30
	do	75357		39		
	do	70816				37.05
23	do	73431			39	

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908 July 24	D., L. & W.	45675				29
	do	75709				38.15
25	do	73697				38.15
	do	18697				29
	do	40983			37	
	do	18103				38.10
	do	49278				38.06
	do	46140			28	
	do	15888				37.12
27	do	42245				27
	do	45480			27	
	do	43167		21.05		
	do	44702				21.07
	do	75365				36.10
	do	72255			39	
28	do	73821				37
	do	74025			37.12	
	do	18825				37.05
	do	43825	29			
	do	75948				36.15
	do	70984			37.05	
	do	73881				35.10
	do	74062			38.07	
	do	74125				37.10
29	do	72905				37.08
	do	73891			37.10	
	do	75608				36.10
	do	39725			37	
	do	42229	28			
	do	46287				27
	do	73704			38	
	do	39323				21
30	do	75069			38	
	do	72562				38.05
	do	75689				37
	do	41207			29	
	do	39035	18.05			
	do	45438				27.05
	do	73618			38.05	
	do	72375				37.05
31	do	40925				27.15
	do	45908				28
	do	6147				31
	do	74173				38
	do	41713				19
Sept. 5	do	43409				22.05
	do	74618				37
	do	70947			36.05	
8	do	49975				37.07
11	do	72973				38.10
14	do	73883				37.10
	do	74309				38.15
	do	70599			35.05	
	do	74449				38
	do	73051			37.05	
	do	73095				37.10
	do	72264			38	
	do	72142				36.10
15	do	70923				37
	do	70419			36.10	
	do	75980				37.10
	do	70150				36.05
	do	73905			37.10	
	do	72969				37
	do	75747			36.18	
	do	72237				38
	do	39975				27.10
16	do	72268				27.15
	do	74693			37	
	do	72538				38
17	do	74871			37.10	
	do	73061				37.15
	do	19172			27.05	
	do	73465				37
	do	70743				35.10
	do	70460			36.05	
18	do	73356				37.05
	do	74247				37.15
	do	70914			36	
	do	72314				37.05
19	do	72788				37.05
	do	69981			39	
	do	72331				37.05
21	do	72250	36.15			
	do	73498			38	
	do	74546			37.15	
	do	72242				37.13
	do	70819				36
	do	70938			35.15	
	do	74051				37.14
22	do	72177				37.10
	do	18492				26.10
	do	19227			26.10	
	do	45818	27.02			
23	do	73647				37.15
	do	74848				37
	do	70791			36	
24	do	72993				37.15
	do	72976				37
	do	70909			36.10	
	do	72806				37.05
	do	74264		38		

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908 Sept. 24	D., L. & W.	70423				35
	do	75383			36.15	
25	do	15076				23
	do	46244			37.16	
	do	70599				35.18
	do	75846				36.10
	do	46552			29.16	
26	do	45698			36.15	
	do	74109				35.05
	do	70709			36	
	do	70143			36.18	
	do	70990				36.18
	do	18388			26.10	
28	do	70723				36.15
	do	70327				36.14
	do	74694			38	
	do	18306				26.05
30	do	46229		26.16		
	do	18294			26.12	
	do	70355				36.03
Oct. 2	do	73797				36
	do	75776			38	
3	do	73691				37.15
5	do	75492		37		
	do	39783			27	
7	do	73524				38.10
	do	74940				36.15
6	do	74652		38		
	do	7374			23	
	do	72724			39	
	do	73978		37.15		
	do	43825				37.05
	do	39731				27
8	do	72621			38.10	
	do	19938				37.08
	do	75496				35.15
	do	12861			23.15	
9	do	42047				28
	do	73025			38.05	
13	do	70098		37.15		
	do	74327		38.07		
	do	74383		38		
		72628				36.05
		45577		37.17		
		73033				37
		70830			36	
		73440				37
		74773			39	
		73684				38.10
14		73043		38.08		
		72621				37
		18039			37	
		74886				36.16
		74164			38	
		72288		38.12		
		72317				38.16
		74882			38.17	
		70982		36		
		73332				37.15
		72287				38.11
		74162		38		
		73782			38.07	
		72605				37
22		74442				38
		73538		37.05		
		43047				22.05
23		43078		21.12		
		43045				21
		43032				22.05
		73596				36.16
22		74756		37.05		
		74804				38.05
24		70702			36.16	
		70595				35.05
		70318		35		
		75741			37.08	
26		73995				36.18
		72892				37.15
		45371			27	
		73129				37.05
		69956		39.16		
		43201				27.11
		43156			27	
27		73158			38.05	
26		75106				37.15
		72289		39		
27		72015				39
		69949				41.05
		72432		39.06		
29		74259			37.17	
28		74923				36.10
		73431		37.05		
		72429				38.15
29		73947		37.10		
		72191				38
		72807				38
		73486				37
30		74990		37.12		
		70645			35.16	
		72885				39
31		72477			39.05	
		74936				39

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908 Oct. 31		75079		37.05		
		70039				37.09
Total				377.13	496.09	1,145.14
Nov. 1		17936	28.05			
		75053			37.15	
		73906		38		
		75774				37.18
		74514			38	
3		73685			37	
		75744				38
		73784		37		
		73583				38.10
		70092			37.05	
		74139		37.10		
		45460				37.15
5		75819				37.05
		74898		37.15		
		73739			38	
		59826	27.18			
		43917				37.05
		45104				28.10
		43540			19	
		72130				38
		43924				27.05
		17903		27		
		44896	27			
		7745		22.05		
		12815			23.10	
		70472				38.12
		76255				37.02
		70221			36.10	
6		18055			27	
		47213				28
		18410		27.15		
		75576				38
		45450			28.10	
		18559		26.15		
		72319				37.18
		44830			27.15	
		19218		27		
		43256				21.10
		43220				21.10
		42295		26.15		
		44832			26.17	
		72317				39
		18240				28
		70191		36.10		
		74195			38.05	
		18904				28.05
		73885		38.08		
		74055				38
		74686			38.02	
		74957				38
		73833		37.16		
		74215			39.06	
		73349				39
		72171			39.05	
		72839		38		
		17798			37.05	
		7456			29.12	
		72835				37
		70192		37.10		
		69993				39.10
		74334			39	
		17831		27.15		
		42227				28.10
		70091			36.02	
		70023				37
10		73743				38
		74047			38.11	
		72154			38.06	
		43522				28
		75233		37.03		
		74285				37.05
		42092		19		
		73787				37
		75523			39.06	
		75249			38.05	
		46281		27.06		
		43801				28
		59573			28.12	
		43951		21		
		12470		22		
13		75110				37.18
		73315		37.04		
		19837			28	
		17627			28.05	
		45225		27.17		
		39783			27	
		17983			27.05	
		18521		27		
		72239				37.10
		17850			27.10	
		45869				28.10
		19161		28		
		70786			37.06	
		19293			27.08	
		70091				27
		70951		36.15		
		71004			38.17	

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908						
Nov. 12		74873				37.18
		72584		38.10		
		42037			27.10	
		45060		27.11		
		43238				22
		72996			38	
13		73042				37.15
		70164		36.18		
		45596			29.05	
		43286				37.02
		44497				21.10
16		15388		19		
		70100			38.05	
		75107			38.15	
		73044				37.05
17		7499				33.10
19		70233			37.10	
		75075		36.05		
		73054			38.05	
21		70883			38.10	
23		74716		37.02		
24		73030		37.14		
		73988			38.17	
		70779				37.10
		70056		37.08		
		12865			24	
		74084			38.15	
		43035				22
		70449			37.15	
		46008			28.05	
		72065		36.15		
		45572				27.18
		70003		36.08		
		72867			39.05	
		74122				37
		74364		37.08		
		73571			38.05	
		70215				35.16
		17849				37.12
		18311		37.14		
		47428				27.15
		45022		27.08		
		38814			28	
		70011		36		
		73032		36.05		
		76202				36.15
		75089			39	
		74280			39.05	
		72214				37.12
		70419			37	
		72661		37.05		
		76057				37
		76011			39	
		17095		37.05		
		73522			39.01	
		76069				36
25		75766			38.08	
		73870				37
		73048			38.15	
		73162		37.08		
		73841				37
		75020			37.10	
		76191		36.04		
		74429			38.10	
26		18729				28
		72807			39	
		75593				38
27		73795			38.15	
28		73884				37
		43166		36.18		
		12816		24		
30		70057			38.15	
	Total		88.03	1,541.05	2,002.13	1,020.06
Dec. 1		70633				37
		70188			38.17	
		70475		37.04		
		73180				37.18
		75971			41.10	
		74567		38.06		
		73214			37.10	
		70187		38		
2		38808			38.15	
		75085		38.10		
		70626				37.15
		72438			38	
3		72708				37.05
		72691		37.15		
		70057			37.10	
		73325			39.04	
		73541				37.05
		74229		38		
		74090			38.05	
		76169				37
		41731			21	
		76230		37.15		
		12832			25	
		72406			39	
		72513				38.05
		70836		38.04		
		72304			39.06	
		40506				28

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908						
Dec. 4		72747		38.03		
		73557				38.10
		74486			39.06	
		70419			37.08	
		75649				
		74688		37.15		
		74967		37		
		73381				36.10
		73497			38.15	
		74775			39	
		70145			38.05	
		73425				37.10
		75611		37.11		
		75211			37.15	
		74660				37.15
		72759		37.18		
		76078			39.06	
		73794				38
		72669			38	
		73886			38	
7		73375			38.10	
		70926		36.06		
		75705				37
		76181			39	
		74375			38.09	
		75300		37.06		
		75125				37
		70851			37.10	
5		73422			38.17	
		70226		36.10		
		45950			35	
		44721				20.10
		75045				25.15
		73161			37.10	
		18134				23.05
8		73384			38	
		74658				37
		70522		36		
		73699		37.15		
10		70405				37
		15444		21.10		
		75370			39.05	
		70970		37.05		
9		72537				38
		74189			39.06	
12		75830				37.15
10		45184				29
		74256			37.05	
		73027		37		
11		70032			38.18	
		74896				38.10
		45689			28.15	
		76118			39	
		70578				39
		75590			38	
		74617		36.15		
		75043		37.10		
		74993			38.10	
		75480				38.05
		74471			39	
		76178		36.10		
		72770			39	
		75606				39.05
12		18275			29	
		73468				39.06
14		73071			38.05	
		17402		28.09		
		70029				37.10
		40575			28.05	
		45447		28		
		70604			37.15	
		73570				36
		41243		21.11		
		74110			38.10	
		75138		37.08		
		40513				29.08
		72517			37	
		46301		28.10		
		70191				38.07
		74543		37.05		
		74747				38.15
		73356			39	
		72784				38.18
17		70807				37.10
		72466				38.05
		72236		38.05		
		45820				28
		42632		21		
		74731				38.05
		70393		36		
19		73316				38.05
21		74198		37		
		74282			38	
		70029				37.10
14		73014			39	
		75860				38.17
		70707			38	
		72995		38.06		
		72923			39	
		74407				37.15
		39035		22.10		
		70831		36		
		74926				28

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908						
Dec. 14		73176			38.17	
		75745		35.15		
		15826				29.05
		18055			28.15	
		74641		36.10		
		74596				36.08
		72093				38.15
		70086				37.08
		73061		37		
22		76248		37.10		
		72097				37
		72644				37.15
29		75925		37		
		73337				38
		72997			39.06	
		18354		28		
		70558				37.15
		69941			38	
		75953		37.10		
		72602				38
		72672		37.15		
		18270				28.05
		12145			27.10	
		70680				37
		17876		28.03		
		70391				36.10
		45679		29		
		70918			38.05	
		70525				38
		72612				38.01
		18880				28
30		75568				38
		73522		37.05		
		75562			39	
		72602				37.15
		73840			38.10	
		74167				37.08
		74388		39		
		75964		36.10		
		75740				37
29		18761			37.05	
31		73969			39	
		73448				37
		46232		28		
		72885				38
		73141			39	
		18097				28
		76210		37.03		
		72275				38.15
		75570			39	
	Total			1,813.12	2,278.10	2,422.13
1909						
Dec. 31		70100				38.12
Jan. 1		74407				37.05
		72406		37		
		72096			38.10	
		69960				38.15
		76135		35.16		
		72670			39.06	
		70352				38.12
		74294			39.05	
		74732				37.10
Dec. 30		44218			38.08	
		45619				27
31		18861		28.15		
Jan. 1		74897				37.05
		32904		27.15		
		72870			39	
		74713				37.05
		75802				37.15
		73968		36		
		73641			38	
		73841				35.15
Dec. 30		71092				35
29		15092		23.06		
Jan. 2		74360		36		
		70416				35.15
		75891		36.05		
		74141			37	
		44094				24
		46433		26.12		
		73870				37.15
		70725				38.15
		70970		36.10		
		72775				38.16
		73873			38	
4		72017				37
		73052			37.15	
		74525				37.15
		70815		36.10		
		70621				36.10
		72244				37.08
		73405			37.15	
		18517		27.06		
		74941				37.15
		72935				37.10
		75347		36.15		
		70283				37.15
		18825			27.15	
		74856				36.15
		70455			35.15	
		75962				37.12

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
Jan. 4		76081				37.15
		74033			37.10	
		73059		35.18		
		75296				36.10
		72722				35.17
		72061			37.10	
6		40569			28.05	
		74351				38.05
		70197		37		
		46019				29.08
		12421				23.10
		45659			29	
		74692				38
		75635			37.10	
		74866				38
		46006		27.15		
		72796				38.10
		73772			37.15	
		72471				37.15
		72771		38		
		74802		37		
		75072			39	
		74088				37
		70596				36
		18419				28
		70465			37.10	
		75102		36.10		
		74496				37.10
		76255				37.05
		75511			38.10	
		73664				38
		74697			37.15	
		73081		37.10		
		74561				37
7		17533			29	
8		72958				35.10
		18873		27.10		
		45449				28
		8120		23		
		75380			37.10	
		72348		36.15		
		75508				36.10
		73054			37	
		70780		35.15		
		75827				36
		41270			28.15	
		16871				27.15
		44948		26		
		40283				21.15
		74600			37	
		72501				37.15
		75342		36.10		
		70013				35.15
		73815			36.15	
		75571				37.15
11		73404				38
		70632			37	
		70368				37.10
		65005		29		
		73290				38.08
		74017			39	
		75197				37.12
		72323				39.05
		75808			39.06	
12		43324				23.10
11		72962				39.06
		72481		39		
12		40662			28.15	
		39654				24
		10176		29		
		70743				38.10
		17944			29	
		32655				29.06
		74901			39.06	
		70613				37
13		72046		38.02		
		72383			38	
		73163				37.10
		70072		37		
		75463				38.15
14		44119			21.15	
		18127				29.05
		74888				37.05
		10239		29.09		
		46358				29
		73039				37.15
		61145		22		
		73487				36.15
		74192				37
15		46873		27.10		
		45977				28.15
		72510		38		
		76061				37.10
		70586		38.17		
		66661				28.05
		75053		37.05		
		66641			38	
16		72749				37
15		17988				29
16		18699			28	
		75715				35.16
		75177				36.10
		72591		37.05		

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909 Jan. 16		70835			35.15	
		74275				37.15
		75909		36		
15		11588				28
		40928		27		
19		70098			37.17	
		73435		36.15		
		18573				29
		40434		29.14		
		44100				23
		46437				38.10
		73418				37
		43398		28.15		
		74798			36.10	
		75714				34.05
		39625				37.10
		74054				34
		73522			31.15	
		73873		32.15		
		74541				34.05
		73017		36.05		
		72409			37.13	
		72733		36		
		55009				27
20		73989				36.04
		17927		27.04		
22		39816				38.04
		17929		37.10		
23		73355			37	
		15862				27.18
		74486		35		
		70799			34.10	
		70016			36.15	
		70083				37
		74787		36.02		
		18587				28.06
		75758		35.10		
		17857			28	
24		73106				35.15
		74516			36.07	
		76108				36.05
		18894		26.10		
		40604				35.14
		46174				37.19
26		72366			39.02	
		70023				35.16
		18160				28.05
		73889				38.04
		74254		35.06		
25		72119				38.06
		39576		18.15		
		43330				29.16
		72939			37.15	
		72228		37		
		74203				37.15
		75669			37.10	
		76183				35.15
		70672		36		
25		75833			36.10	
		75896				37.04
		17106			20.15	
		17907		27		
		19488				28
		46186			38.15	
		17904		28		
		18898				27.16
		46246		28.10		
		71002			40.10	
25		72512				38.10
		72873		36		
		70360				37
		38850			28.13	
		18717				27.10
		18312			27	
26		72463			37	
		74490				36.15
		75899		35.15		
		74114				38.10
		73774			38	
		40992				28.15
		40901				28
		43454		36		
27		70914			38.10	
		74674				37
		42155			30	
28		46023		27.05		
		45920				28.15
		18614		28.10		
		18001				27
		18722		27		
		72210			29	
		70476				38
27		43829		35.15		
		76890			38.06	
		75475				37
		73486				37.15
		43140			29	
		70753				38
		73798			37.10	
		70069		27.06		
		74819				36
28		73629				36.02

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909 Jan. 28		76540		35.05		
		75144				38
27		73515				37
		75296		36		
		70497			36.07	
		73431				38
		73199		35.15		
		75750				38
		74337			37.05	
		76275				35.05
		73245		37		
		70466				35.10
28		75935		36		
		76141				36.10
		70442			38	
		74080		36		
		72198				38
		73508			37	
		76364				36.10
		40576			38	
		72789				37.08
		18869			28.10	
		40766				36
		12866		25		
		74466			28	
		39743				28
		70454		37.10		
30		72197				37
		7373		34		
		76987				36.10
		18680			28	
		18775			29.17	
		7922				25
		73840		37		
		38887				36
		72425			37.17	
		74711				37
		76143		36.15		
		74643			38.10	
Total				2,607.12	2,625.15	4,817.15
Feb. 1		74869				37.16
		44421	20.13			
		74412		37		
4		75675				37.02
		75475				36
5		72224				37.15
		18321		27		
		76378				36
		45656		29		
		40928				29
		76274			38	
		70239		38.10		
		70406			34.10	
		17150				29.10
		74313				37
		76784			38.05	
		76974		36		
		76994			37	
		73343				36
4		73246				36.05
6		18841			37	
		73138				36.15
		72265	36.05			
		73394				36.18
5		73378		36		
		35097			29.02	
		74320				35
		74048		37		
		72229			37	
		72278			38.15	
		70882				37.06
8		74158		37		
		72012				37.04
		76066				36.18
		76029		35.16		
		73655				38
		76375				36
9		73192				36.15
8		69963			37	
		43887		35.10		
		73137				37.08
		76546		36		
		73018			37.03	
9		76046			37.08	
		70020				37.17
		45074				29
		74270		36.04		
		74004		36.07		
		74285				36.17
		46404	28			
		69958			38.03	
		72220				37.06
		41061		25.06		
11		74037			37	
		70217		34.12		
		72210				37.06
		76630				35.19
		80553				24.02
		44982		26.01		
		75250			36.13	
		73470				37.02

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909 Feb. 11		70377				36.19
9		72431				37.05
10		74750		36.12		
		70809				36.03
		41172			38	
		75901		36.02		
		17874				28.02
		45921		26.04		
		72060			36.18	
		74143		36.01		
		76068				37
12		70943			36.02	
		18301		27.10		
		69686				38
		74438			37.04	
		75908				37.01
		70394		36.03		
		73825				36
		72861				37.19
11		74015				36.19
10		19184				27.18
		18636			25.14	
13		15833			28	
		44823			26.07	
		73769				36.05
		73950		35.19		
		75795			37.12	
		75984			36.01	
		70926				37.01
		80528			22	
		74223				35.02
		70850				37.04
		74059		36.14		
		72442				37.15
		73804				36.03
		90528		36.19		
		17824			27.04	
		72281				37.02
		30752		29.03		
15		73185				37.19
		77811				37.08
		46438	27.10			
		72744			36.18	
		74506				36.12
		73136		36		
		72247				38
		73550		35.16		
		73547	35.10			
		17946			27.02	
		45112				27.01
		18440				28.01
		74560		35.10		
		73043				37
		73543			37	
		45577				30.03
		45812		29.05		
		72055				38
		18026			27.01	
		76044		36.12		
		73857				37.09
		73541		28.10		
		42005				28.10
		18354			27.08	
		72328		37.06		
		73765				37.05
		72058				37.03
16		74097				37.05
		75798			36.10	
		75091				36.10
		73416			37	
17		72976			38.03	
		72439				37.02
		72868		36		
		74069				36.18
		75264		36.08		
		75014			37.03	
		73706				37
		73886				35.10
		75408		35		
		73737			37	
		74479		36		
		18343				28.04
		74588			36.10	
		72244			37.03	
		73977		36.02		
		72809				36
		46442			27.08	
18		72946		36		
		18588				26.05
		73917			27.18	
		46254				28
		73233		35.16		
19		74056				36.02
		74060				35.03
		45223			27.10	
		18702				27
		39618			21	
		45041		27		
		18831				26
		75868			37	
		73264				36.01
18		18173			37.02	
		73880				36.07
19		45651		27		
		75766			37	

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909 Feb. 19		45874		27.02		
		72342		36		
		18701			27.05	
		75010				35.16
		39713		29.10		
20		44851				37
		18484		25.14		
		45413			28	
		45070				26.02
		17744		26.02		
		44936			27.08	
		45026		27		
		75700				35.15
		45449			26	
		18576			25	
		70642				36
		75413		34.06		
		75963			36.01	
		72383				36
		46352			27	
		17980				26.07
19		17489			27.10	
		42022				27.05
		72294		35.06		
		46116			27	
		45925			26	
22		15783				26.08
		45393			27.02	
		75371		33		
		46278			28	
		74519				34.15
		70763		35.10		
		45172			27.10	
		72275			37.01	
		70192				34.10
		45781		28.02		
		45266			27.10	
		74100				35
		74621		35.16		
		52300			28.03	
		46164				27
		75634			36	
		75355		34.12		
		70624			37	
		70211				36
23		73753		36.04		
		44857				26.10
		45185			25.18	
		45310		27.15		
		44926				28.10
		17890			26.10	
22		74838			26.10	
		19188		27		
		75673				35
		72568			36.15	
		75103			35.15	
23		41947		18		
		73163			35	
		73446		35.10		
		74250			36.15	
		75429				35
		72899		35.18		
		70661			37	
		43974			20	
		45834		26.15		
24		18647				27
		19250			28.03	
		42435		26.04		
		70848				34
		69918		36.02		
		74666				36.19
		75754				35
		70925			36.01	
		73739		33.19		
		75854				35.19
		70258				34
		72224			31.54	
		72886		34.02		
		74093				35.02
		73501				35.15
		74343			35.06	
		73650			35	
26		70312		35.12		
27		46236				28.01
		45697				26.08
		73501		35.05		
		73376				35.10
		74107		35.03		
		40869				26
		73617				35
		70454				35
		18492		26.04		
		38892				26
		45511		28		
		76235				35.01
		73319		34		
		18535		24.18		
		38885		20.10		
		72886				34
		74347				35
		72335				
Total			174.02	2,404.16	2,429.08	3,785.04
Total all sizes						8,821.10

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
Mar. 1		70600		33.10		
		73314				35
		52229				19.15
2		19205				29.15
3		70501				35.15
		72710		36.12		
		73004				34.05
		74388				34.17
4		73437		36		
		70091				36
		75648		35.15		
		77341				34.15
		17821				26.10
		76251		35.05		
		74640				34.15
		70270		36.08		
		17378				27.15
		44912		28		
		42039		27.15		
		75603				35
5		40183		28.10		
		74979				33.10
		39174		29.05		
		75405		34.16		
		73106				35
		76927		34.18		
		73032				34.10
		72296		35.02		
		42034		26		
		70235			36.01	
		73465				35.01
6		43685			27.01	
		76156				34
		74376			35	
		75021				34
		18305		35.02		
		17651			36.02	
		75092				33.15
		72584		34.15		
		74809				34.15
		36648		35		
		18023			34.08	
		70635				33
		39434			35	
		72709			36	
		74468				34.10
		75369		34		
		76082			35.15	
		42851			36	
		45119				33.10
		17019		26.10		
8		41494			36	
		16338				35
		18149		35.15		
		42216			36	
		70636				34.05
		75244			33.15	
		44602		35.35		
		18833			36	
		46118				35.01
		40500			36.05	
		39735		28		
		74428				33
9		70443		35.14		
		74484			36	
8		72555		35.10		
		80061				33
		74389		36.10		
		74008				33.10
		40502		36.10		
		19122			27.05	
		72255		34.01		
		70143				36.10
9		73033			37	
		76020				36
		73236		35.16		
		73838			36.06	
		18498				34.10
		43533		35.05		
		38138			30	
		72203			25.10	
		18372		36		
		45503			27	
		40259				28
		45568		27		
		46233				26.15
		19131			27.15	
		72941				36.12
		43229		36.15		
		45688				30.14
		73035				26
		70708			36.10	
		72950				35
		72256			37	
		70343				36
		73782				34
		74002		34.10		
		72784			36.02	
		43775				35
		41801			19.15	
		18284	17			
		18372				27.10

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
Mar. 9		72951				28.10
		73911			36.15	
		74777				34.16
		72358			36.13	
		72271			35.10	
		74451				36.10
						36.05
10		76013				35
11		73950				36
13		43407	25.10			
		44882				28
		18454		24.10		
		18402				28
		70031				33.10
12		70992			36.10	
		19216		27.05		
		15834			28.15	
		45060			28.02	
		74421			35.08	
		72286			36.15	
		72520				37
		74308			38.05	
		76135				35.05
15		73334		35		
		72248				
13		18858			28	
		72526				36.15
		74412			37.01	
		73744		35.05		
		72219			36.04	
		70060				34
15		74792			37.08	
		45622	26.17			
		72679				37.15
		75173		34		
		72962			37.02	
		70135				36.02
		12189			23.04	
		42166			21	
		18954				28.01
		76931			39	
		74821				35.01
		18976			27	
		18230				27
16		74891			37.15	
		18224		26.05		
15		72288			36	
		46324				26.15
		76262		31.02		
		42230	26			
		73090				34
		76226		35.07		
16		70146				35.02
		73585				35.15
		71868		35.07		
		73848			37	
		72531				35
		73878				35.10
		38916			27.10	
		39681	25.03			
		70968				36
17		61293				28
		42883		19.05		
		72268				36.12
		44079			29	
		74161		34.10		
16		73899			35	
		17202				26.15
		17840		26		
		74323				34.15
		70865			34.15	
17		60246			26.15	
		61229				27.08
		61391			27.15	
		61508		27.06		
		61303				37.18
		45075				27.10
		80241			23.05	
		45861				27.02
		17302			27	
		19023		26.01		
		49677				27.12
18		76045		35		
		14590			36.10	
		74172				36.04
		13503				34.02
		13375			33.03	
		76036		35.15		
		73033				36.01
		75366			36.02	
		73098				35
		69607			37.01	
		74387				35.08
		73259		34.10		
		72775				36.15
		72992				36
		74046				35
		72194			35.18	
		73165				36.01
		75410				35
		73904			36.15	
		29183	17.18			

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
Mar. 19		73117		34.16		
		75532				35.02
		18347			26.04	
		76240		36		
		40587				35
		19208			26.10	
		41662	17.10			
		76102			35.05	
		70170				35
		74050				34.18
		39865				26.10
		19235				27.10
20		70497			34.10	
		72884			36.05	
		76249				36.05
		76088			36	
		72889				35
		70500		35.10		
		76038				35.10
		15820			26.05	
		18314		27.19		
		73000				35.10
		45058	34.08			
		19102				27.19
		73552			34	
		46138				27
		70826		33		
		74467		34.10		
		75497			36	
		72214			36.04	
		15063				20.07
		72291			36.15	
19		44009			21.05	
18		73604				35
		44309		20.10		
		17116			26.05	
		18949			27.09	
		61387				27
		18008				26.15
		43389		27.04		
		40555				27.10
		42251	17.03			
		18858				29
		69692				36.10
		41260				26.09
		73687		33.11		
		74033				36
		75219				36.13
23		45716				27
		19267			26.04	
		75022				34.05
		70628			34	
		73590			34.03	
		75091				35
		73882			33	
		75094				33
		44082		26		
		70074		35		
		75444				35
		70164				36.04
24		17686				27
		74266			36	
		44468		20.03		
		73095				34
		72369			36.08	
		76035				35.03
		70446		34.16		
		46302			28.05	
		70808				35.12
		74161			35.10	
		76022		34		
		15801			27	
25		73884				35.08
		76009			36.05	
		45507	26.06			
		72377				35.03
24		46172				26
		73370				35.02
		73119			36.05	
		74345		34.14		
		70384			36	
		75025				35
		69695			38.03	
		70214		34		
26		70952			36	
		72274				35.02
		70295			34.18	
		75104		34.16		
		74149			35	
		70714				36.10
		18717				24.09
		73397			35.14	
		72832			36.13	
		45410				27.15
		69952			37.08	
		72739		35.02		
		49907				27
		72241			37.02	
27		73901			34	
		17680		25.16		
		46336				27
		70589			35.15	
		73626				34

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
Mar. 27		70254		35.10		
		75713				34.13
		18558	25			
		45592			27.07	
		75578				34.09
		43941			21.16	
		72720			36.07	
		44617		26		
		75390				34.18
		72488			36.09	
		45060				27.01
19		75929				36.02
28		74125				34.09
		74968			35.18	
		18763		26.16		
		75338				34
		75391			34.10	
		75313				25.01
		68888		33.17		
		70204			36	
		73185				34
27		74885			36	
		72752				35
		72737		32.05		
		45875			27.07	
		42546				27.05
		75042			36.04	
		45903	26.08			
		18663				28.02
		70706				36.10
		76042			36.12	
		45765	25.15			
29		73945			36	
		76276				35
		75890				36
		70748			35	
		72312				34.10
		73921		34		
		75343				34.1
		70648			37.07	
		72913				35
		46411		27.06		
30		73221		35		
29		18497			27.10	
		72148				35
		75658			35	
		45237				27.15
		44584			22	
		72948		36.10		
		75282		33.09		
		73781			35.10	
		70936				38
		75446			36	
		75161				35.10
		74837				35.02
		74124			36	
		72778				35
		74540				34.13
		76759		34		
		76034			36.15	
		19127		24.18		
		18651				26
		72685				35
		74726		33		
		72733			35.07	
		69906		35		
		73738		33.15		
		73141			34.17	
Total			310.18	2,475.16	3,991.17	5,159.16
Total all sizes						11,938.07
Apr. 1		73119				34
		18400	25.12			
		72077		34		
		44861			25.05	
3		73929			33.15	
		70654				35.15
		73794		34.02		
		75897				33
		70071				35.05
		39833				26.05
		44431			30.08	
		75619				34
		75549				34.02
		45587			26.10	
		73685				33.15
4		75996				34
		27224		33		
		76140			34.17	
		40729	25.07			
		72436				35.09
		73634			35.05	
		75338				35
		74861				34
		75887		33		
5		72798				35.10
		75842			35.02	
		75068				35
		76038			34	
		18354			26	
		74833				34.16
		72708			35.12	

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Peas.	Buck.	Rice.	Barley.
1909						
Apr. 4		74805				34.17
5		75769				34
		72903		33		
4		73347			34.18	
		42211				21
		46421				27.15
5		18700				26
		72908			34.15	
		19040				26
		72387				33.05
		18357		25.12		
		73497			35.10	
		74225				34
		74077		33.11		
		70037				34.07
		74019			34.04	
		74054			34.17	
		75822				34.10
		74109				34
6		72867				34
		73992		34.02		
		70758			34	
		76722			33.05	
		76954				32.10
		69045				34.15
		73160				34
		74065		34		
		76074				34
		74876			35.15	
7		74046				34
6		18499	35			
7		46171				26
		70711				35.03
		72009				34.10
		28006		22		
		18077				27.05
6		18419				26.10
		40873			26.07	
		74068				33.17
		72945				33
		70648		34.05		
5		17910	24.14			
7		45106	24.13			
		76073				33.08
		72070		34		
		73748			34.10	
		46378				25.10
6		74431			34.05	
8		39842			26.15	
		75101				33
		73879				33.10
		72239				34.05
		18209		26.04		
		72364				34.10
		45973				33.03
		76380				33.08
		73782				32
		4112	16.10			
		74107		33.04		
		39144				27
		45162			26.10	
		76024				35.01
		73675		34.18		
		18546				26.02
9		73828				33.10
		72862		32.10		
8		18354			35	
		75060				34
		74075				33.15
		18310				26.10
		73792				33.14
		12481		21.17		
		43299				19.13
10		39654				20
		44013			29.03	
		73979				32.10
		73618				35.05
		17874		29.05		
		70440				35.04
		70351			37.15	
		76286				34
		18404				28
		77 [illegible]				27
		7 047			33	
		5735				35
		18142		24.10		
		73506				33
		45148	35.07			
		70635			37.13	
		73845				33.15
12		15152			23	
		19987		25.15		
		73572				33
		74781			34.17	
		76353				33.09
		39741		23.17		
		33747			34.14	
		43863			26.14	
		44896			27	
		70860				35.05
13		45766				27
		45764			27	
		18095				28

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Peas.	Buck.	Rice.	Barley.
1909						
Apr. 13		17914		24.10		
		42182			26.15	
		15854				27.10
		44817			36	
		70083			34.02	
		45578			28	
		73444			34	
12		73798				35.10
		73701			34.02	
		75042				33.17
		74074				34.05
		18442			26.15	
14		18569			26	
		75787				32.10
		17076			26.15	
		72814			34.05	
		70948				36.08
13		45839			24	
		18329		26		
		43125				27.10
		44862				12.02
14		18750			36.02	
		73868			33.10	
		72618				33
		73814		33.05		
		42947			18.10	
		18240			27	
		73543				34
		76115		33.06		
		70951				36.11
		73592			34	
		70896				34.15
		8048		21.05		
15		74078				34
		76397				32.10
		8286		20.10		
		74817			34	
		39622				27
		18454			25	
		72895			33	
		76319			32.06	
		76355				33
		73020		32		
		19207				28
		18650				26.06
		70048			36.10	
		17246				27
		76758				32.10
		76360			33.05	
		74097				33.17
		75074			34.02	
		72285				33
		74093			34	
		76222				34
		41354		16.12		
		75737				33
		75064			33.35	
		72023				34.05
16		73856				32.05
		76091		34		
		73990				33
		76991			34	
15		45408	24			
17		70397				34.10
		74854				37
		75200			33.10	
		75790			34	
		74095			34	
		72434				32.15
		70581		33		
		73567			35.10	
		75559				33.12
		72956			33.15	
		75789		32.18		
		74636			34	
		40915				35.10
		18762				27
		73553			33	
		12857			21.06	
		75762			33	
17		44931			36	
22		45434			31	
21		70168				37.08
		74574		36		
2		73256				39
		73001			40.15	
		18579				39
		74645			40.17	
		43077				23
		45726		28.15		
		74685				39.14
23		75709			40.04	
		18879			28.14	
		74120			40.09	
		70192				37.06
27		38853	29			
		76396			40.13	
		75035		39.12		
		73105			41.12	
		74676				39
		46429			28.15	
		73442				38.12
		72163		39.13		

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Peas.	Buck.	Rice.	Barley.
1909						
Apr. 27		73371			40.14	
		73998				39
		75633		38.13		
26		45560			28.19	
		18343		29.04		
		75359				37.15
		43787			23	
		46333			29.17	
24		74424				37.14
		76170			38.07	
		72144				38.15
26		74662			39.11	
		74815				37.13
		74944		37.10		
		75284				37.16
		70299			38	
		75131			39	
		73589				38.15
		74622			40	
		75030		38.18		
		73837				38.16
23		70421				36
		76318			40.14	
		70957				36.11
		76477			39.06	
		73878		37.14		
		61354				31.01
		75917				38.14
		72899			40.07	
		73495		37		
		41061	27.04			
		18850			28.02	
		74095			40	
		74671				37
		75095		37		
		72408			39.19	
		17856	27.04			
		73822			41	
		72611				40.04
		74090			42	
		72929		40.05		
28		75839				39.05
		75309				38
		72219				40.04
		75001			41.08	
		72772			41.16	
		76509				38.10
30		45193	26.12			
19		74799				38.02
22		74010				38.13
		73075				39.15
	Total		390.03	1,346.04	3,248.14	4,413.02
	Total all sizes					9,399.03
June 1		72845				39.08
		74966				39.05
		72755				39.10
3		73240			38	
		74445				37
		76011			38.12	
2		70368				35.09
		45699		39.04		
		74879			38	
		72107				38.12
		72880			40	
3		87009				21.06
		70374			36	
		70357				34.12
4		75565			37.09	
		70237				35.00
		70071			35.11	
		70189				33
		76323			37.09	
		73104				35
5		73555			39.16	
		75611				37.10
		43229			21.01	
		45679				26.16
		73343		36.13		
		75809			37.12	
		70946				33
		75448			38.13	
7		70822				34.13
		73479			37.06	
		72881				36.10
		45024			27.05	
		18971			27.10	
		45423				28.06
		70620		35.07		
		18879			26.15	
8		17858			27.08	
		36911		29.02		
		38809			27.06	
		15635	21.08			
		73301			38	
		75714				38.02
		41266		27.07		
		45243			27.02	
		46220				28
		45222			27.13	
		18221				26.15
		73913			38.10	

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Peas.	Buck.	Rice.	Barley.
1909						
June 8		73883				37.11
		76215				37
		70443		35.10		
9		73504			37.06	
		17295			27.06	
		15869				26.13
		45105			28.01	
		46345				26.06
		17192			25.12	
10		18332				27.04
		70848				34.10
11		74860				37.15
		73137			38.12	
		70435			37.18	
		75312				37.18
		74768			38.05	
		73835			38.12	
		70110				37.06
		70727			38.15	
		72385			39.03	
12		46426				38.02
		70094			36.03	
		70645				37.02
		70700			34.10	
		72473			38.03	
		72600				38.03
		73659			38.05	
		73790			39.03	
		10190	35.14			
		72844				37.18
		75153			39	
		73595			39.13	
		70227				25.03
		72995			39	
		72092				33.19
		75527			36.18	
14		70933		35.02		
		76536			39	
		74871				38.13
		45180			29.01	
		66088				39.10
		18184			27.09	
		72237			38.13	
		46418				28.06
		74993			38.16	
		73367				37.08
		72875		38.08		
		72186			38.05	
		76822				35.19
15		70991				36.01
		72947			39.03	
		73170				37.18
		72055				39.03
		72269		39.03		
		70388				39.04
		73114			38.14	
		75357			38.15	
		75014				36.16
		72784			38.02	
16		72500				35.10
		73310			38.04	
		72805			38.05	
		73355				37.11
15		15846		27		
		75927			39.02	
		73412				38.13
		72508			38.04	
16		71782			38.18	
		46814		39.11		
		46289				37.10
		39048			37.16	
17		70786			36.03	
		45410	27.13			
		46347				27.07
		73214			37.10	
16		46407				38.02
15		17925			23.14	
16		45846		26.08		
		45923			27.05	
		74291				36.01
		70509			36.04	
		73112			39.09	
		17923		27		
17		75116				36.17
		45816				26.17
		44875			36.09	
		70707			36.09	
		73554			38.06	
		70309				36
		74053		37.01		
18		43072			38.05	
		18397		27.07		
		75403				37.03
		74874			37.11	
		46399			26.11	
		72282			39.01	
		43879		27.12		
		73057			38.04	
		72946				37.17
		19240			25.12	
		72825				38.01
		46235		27.06		
		72477			38.13	

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
June 18		70301				35.18
		70215			38.19	
		75152				38.03
19		18737				36.11
		49257			28.01	
		17794	26.07			
		73931				38.17
		75451			38.04	
		72315			37.02	
		72250				36.18
		72213			36.17	
		18015				36.11
		35795		37.10		
		45914			27.10	
		70781				36.05
		72007			39.11	
		35870				28.02
		45396			38.02	
		70209		34.01		
		70206			34.17	
21		69979				39.03
		40815				27.03
		73852				34.04
		46013			38.02	
		75540			37.15	
		70801				34.18
		74765			36.14	
		74761			38.13	
		74778				37.13
		75389			38.10	
22		76401				38.16
		76349			37.11	
		75339				37.08
		72221			38.01	
		74192				36.04
		76451			35.07	
		72744				37.03
		72720			36.17	
19		70392		33.14		
		70434				35.10
		74466			38.08	
		75452			38.18	
		45311	27.14			
		73479				37.03
		70435		34.09		
22		72249			36.11	
		70272				35.01
		18765		26.01		
		70290			38.13	
		70357				37.02
		72239			36.11	
		45798				27.04
		45237		27.07		
		19212				25.13
		72159			39.09	
		46032	37			
23		46144	25.09			
		73166			37.01	
		74484				38.14
		70841			35.10	
		74568				36.09
		70713		34.14		
24		18708			27	
		72220				37.03
		73478			37.13	
		72940			38.12	
		45313	26.11			
		73239				36.02
		19113				27.05
		45187			27.06	
25		70661		36.04		
		76882			35.07	
		73116			38.05	
		75487				36.17
		75367				36.15
		74366			38.05	
		76104			37.16	
		44956				37.14
		76326			38.15	
28		76438				37
		76173		36.19		
		76198				36.03
		72174		37.16		
		74173			38.04	
29		72834				36.16
		73821	39			
		76192			39.15	
		72149				37.09
		76060			37.02	
		72872			37.16	
		75065				35.13
		73767				37.03
		70386			37	
		72525		38.03		
		72957		38.03		
		74779				36.11
		75029				36.16
		73751	29.03			
		74129			38.04	
		74610			37.02	
		72479				37.06
Total			275.19	898.09	4,090.05	3,403.19
Total all sizes						8,668.03

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
July 1		70014				34.06
		73881			37.02	
		73475				37.17
		74275		36.10		
		75301			38.06	
		74540				34.09
		70407		36.01		
		76111			37.08	
		75068				37.18
		38840	27.09			
2		40002	25			
		45790		27.14		
		75697		36.04		
		17812		27.03		
		72002		39.09		
		18329			35.18	
1		70237			34.17	
		73802			37.11	
2		72288			36.16	
		73877			37.06	
		76480				36.14
		73545				36.04
		73730				35.16
		73436				37.10
		73686				37.14
1		72080				38.01
		75068				36.04
3		75340			36	
		74261			36.07	
		70057				36.14
		68993			39.01	
		70143				34.18
		72096		37		
		72298			37.10	
		74074				38.03
6		70766			34.17	
		72514				37.05
		74679		37.19		
		72753			37.13	
		74449				37.01
		70218				36.01
7		72202			37.04	
		70927		36.04		
		72741				37.06
		17123			27.17	
		39618				22.12
		72035			39	
		44154		22.10		
		73387				38.18
		18816		27.04		
		42931				21.18
		45208				27.03
		41497		28.05		
6		18637			38	
		70040			35.19	
		74865				37.02
		75517	39			
9		72787				37.14
		74345			39	
		39953		28.05		
		73544				35.16
		73702			37.15	
		69931				38.10
		45860			28	
		39742				28.04
		19051		26.18		
		18009				28.09
		73704			38.15	
		70709				33.07
		73177				38.08
		17184				28.18
		45024			26.04	
		18518	27.10			
10		44307		21.10		
		18268				26.12
		46000			37.03	
		73376				37.07
		74848			39.05	
		74065				37.18
12		69379				37.05
		74731				37.18
		74593			38	
		74460			38.05	
		17916		27.17		
		18196	27.10			
		73107			38.17	
		73631				38.03
		75044			37.16	
		75760				39.13
		69614			40.17	
		73188				36.08
		70461			35.02	
		44320	21			
		72968		39.15		
		18225			26.11	
		19662				26.04
13		18638				26
		76076			36.14	
		42029				27
		73199			38	
		75501				38.11
		72959			39.17	
		72617				39.03

Detailed statement of claim for excessive freight rates, etc.—Continued

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
July 13		74032		38.04		
		74038			39.05	
		73356				38.08
		74360	35.14			
14		73016				37.11
		76516				37.05
		18853			27.05	
		72414				36.14
		72318				36.14
		72316		18		
		72131			36.01	
		75106			37	
		74397				36.16
		75297		36.09		
		17788			27.09	
		18658			25	
		72238				38.18
15		73122			38.14	
		74288				36.19
		44886	27.16			
		75200			36.18	
		75303				38.06
		39929		26.18		
		73360				37.09
		76389			38.02	
		72953			37.15	
		43118				20.14
		19281			28	
		17947		26.12		
		75171			36.16	
		18993				27.14
16		17793	25.09			
		45554			28.04	
		18128			26.02	
		72758				39.18
		73053			38.15	
		74511			38.15	
		72499				37.13
		70889		34.14		
		45797		28.02		
		75073				37.01
		70526			36.14	
		70771				37
17		72880			37.10	
		18454				26.14
		61985		25		
		8825			22.12	
		7555			22.03	
		12336				21.06
		8459			21.07	
		12451				22.03
		15110		22.05		
		45903			27.07	
		46133			26.11	
		75793			39.15	
		46275				26.16
		72275			38.05	
		17827	25			
		18265				24.07
		44776		22.02		
		45904			27.17	
		18875				27.12
19		76903				35.14
		45745			26.03	
		71006				33.10
		73239			37.01	
20		74392			37.03	
		7757			22.05	
		19068	25.13			
		74407			38.11	
		73350			37.17	
		73525			35.10	
		75705		37.08		
		72936				37.14
		75051			38.03	
		76078				38.12
		70599			37	
		73948			41	
		73092				38.11
		76102		37.11		
		73788			39.03	
		75877				39.14
		73063			41.03	
		73886				38.05
		73501			40.03	
		74924		38.01		
		73935				38.03
		70502			36.06	
21		43725			23	
		72542				39
		40355			28.17	
		70938			36.07	
		17835			26.11	
		18179	24.12			
		74902		28		
		75053				38.03
		73598			38.10	
		46281				29.03
22		72853			39.13	
		75054				37.14
21		74095			36.15	
		41197			27.18	
		70991				38.03

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
July 21		45685		26.18		
		70582				35.13
		18176			26.16	
		61067				31.05
		45593			28.12	
		73309				38.18
		74095			39.15	
		76591			39.14	
		70108				36.15
		44232		28.05		
		61701			30.08	
		43037				28.16
		18442			29.10	
		44893				28.09
22		44525			28.14	
		19220		28.04		
23		46276				28.02
		73177			40.04	
22		43000	19			
		7589			22.11	
		18180				26.07
		74666			36.09	
		45388		27.03		
		45852	27			
		75119			38.15	
		74133				36.14
		72885				36.08
		70546			35	
		76406				33.01
		73760				38
		18625			25.12	
		18454				25.17
		76516			39.01	
		18638				26.02
		73556			36.10	
		18094			25.15	
		75745				38.03
		75706		37.12		
24		73896				37.01
		74187			38.15	
		18849	26			
		72276			38	
		73831			39.05	
		74800			38.05	
		70953				33.01
26		70499			36.15	
		72890				39.02
24		43455				27
		73400		36.04		
26		18870	26.15			
		74071			39	
		73516			40.09	
		72947				38
		73516			40.07	
		73024		38.08		
		73282				37
		73638				37.03
		74535		37.16		
		73668				37.13
		70198				36.14
		70565			37.01	
		70864		36.05		
		70122			37.00	
		72117				37.17
		73175			38.10	
28		45866			28	
		73246				37
		45241		26.08		
		74085			37.15	
		74483				37.05
		73306				37.15
29		76693			39.06	
		75161				39.05
		75256		37.14		
		73977				39.06
		17789			29.16	
		46141				29.15
		72429			40.04	
		72595				39.10
		73250			38.05	
		70431				36.12
		42715		27.10		
30		18465			27.12	
		45607	28.03			
		43644				27.15
		72452			39.05	
		75636				37
		70385			35.18	
		75513				37.03
		72769				38.03
		70581			35	
		74522				37.15
		75095				36
		7247				23.10
31		19056				26.03
		73287			38.10	
		73967		38.07		
		73237				36.18
		39786		26.13		
		17877			28.05	
		18683		28.02		
		45396				30.08
		17814			29	

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
July 31		74175			39	
		73913				36.05
		19137	26.15			
		73909			38.01	
		46377				37.18
		39593				28
	Total		487.05	1,488.05	4,289.01	4,520.07
	Total all sizes					10,384.16
Aug. 5		40909				27.05
		73835			38	
		73119				37.05
		73509		36.03		
		17089			21.15	
		74494				37.11
		73760				37.02
		72145			38.10	
		19028		25.18		
		73734				36.12
		73785				36.14
		73656				37.11
9		75725			38.01	
		74277			37.09	
		76227				39.18
		43596				28.14
		73155			38.03	
		39869				28
		76734			37.12	
		18998			25.14	
		72204		38.07		
		19098				37
		44755				21.06
		17314	17.12			
		73588				38.05
8		40517				27
9		45824			28.14	
		44243				21.05
9		39659			25.12	
		30819				26
		45237		27		
		45178				26
		12147		21		
		76396				35.04
8		75684				37.15
9		39529				20.05
		44569				20.15
		72439				36.13
10		43981				39.17
		18299				27
9		7417		23.06		
		45861	27.06			
		46211				26
10		19028				25.08
		73399			36.02	
		46355				25.11
		73325				24
		46901		27.19		
10		75468				37
		74803				36.18
		74461		35.05		
12		72061				35
		46055		27.13		
		44485			29.05	
		18756				25.13
		46112				26.19
12		74797			35.06	
12		73096				35.14
		73808				36.12
		46102	28.05			
		45001		27.02		
		72338				36.04
		43651			29.02	
		17091				27.01
		44713				21.01
		17826				26.07
		39751			27	
		75631			35.19	
14		45912				26.03
		46306			25	
12		73600			36.17	
		75794				38.03
14		17824				25.04
		46302				25.16
		45965		26.08		
		74195				37.15
		74963			37	
10		46173		26.18		
		74857				37.07
		45793		27.05		
		73067				36
		44194				21.02
		41574			22.01	
		42304				21
		44508			20.11	
		73886				36.02
		45191			26.02	
		39897		27.02		
		73823				37.02
17		73429				35.13
		75373			37.08	
		74969				36.14
16		68661				39.13

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
July 17		46275	27.10			
		72861				36.11
		43886		27.11		
		46148			26.10	
		39272				29
		42592				28.04
		15823		27.03		
		76169				35.12
21		69684				38.13
		69694			40.01	
		69667				38.05
		40533			27.13	
		76215				37.16
		17059				28
		39758				28.05
20		75909		36		
21		74310			36.16	
		76057				37
		76189				36.08
20		75299				37.02
		70567				36.10
21		70031				34.01
24		45823			36.11	
		55008				25.11
		40820				27.02
		72355			39.05	
		74835				37.15
		75840			40	
		76469				39.08
22		46170				25.04
23		75453			38	
		75773				36.10
		39746			25.16	
		45438		27.15		
		73126			37	
		72998		37.04		
		70920				33.14
		41989			26.14	
		39685				28
		17090				28
25		74101				39
		74212				37
		75580			37.14	
		74905		36.12		
26		76143			37.08	
		75110				37.13
		73939				39.03
		72627			39.15	
25		76050				28
		19186			27.03	
		74002			37.10	
		74246				38.13
		73858			38.17	
21		18811				28.16
		76397				39.05
		76847			39.08	
		70903	31.06			
24		19279			26.07	
		72808				39.06
		74644			40.03	
		17469				28.09
25		45900			28.16	
		41225			28	
		70885				33.14
		70792			35.08	
		73832				37.06
		73076			37.01	
27		73853				37.17
28		75345			38.04	
27		75401				38.18
		76423				37
		18332			26.18	
		75100				39.08
		75292			37.15	
		46126				28.13
28		74417			29.05	
31		73784				39
		76027			39.05	
30		73603				39.10
		76075			39.17	
		70700				37.11
		70167			36.10	
		70042			37.12	
		75040		39.05		
	Total		131.19	628.16	1,851.09	3,115.09
	Total all sizes					5,727.13
Sept. 1		75697				36.10
		73980		33.09		
		90201			38.18	
		70468			34	
		18418				28.18
		76820				39.03
		70278				35.15
		72636				39.10
2		72872		39.03		
		73008				38.05
		7097				36.05
		75791				37
		72520				39.08
		72867			39	
		72295			39.15	

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
Sept. 2		73692				39.18
3		72718			40.16	
		76011				37.01
		76284			40.09	
		75045			40	
		74510				37.05
		72428			37	
		72487			38.17	
		73901				37.15
7		72364			40.05	
		46098				28.02
		74195			39	
		45167				29.05
		46113		29.03		
		18892			28.19	
		45567				26
		41068			21.05	
		74045			38.05	
		70692				36
		75354			39	
		73004		39.10		
		73432				37.12
8		75511			38.15	
		73218				37.05
		18317			28	
		72858				36.18
		73088				39
10		75155				34.15
		70648				32.08
		15902		27.08		
		75900			38.07	
		72736				38.12
		73555			38.19	
		75980		26.08		
		73904				36.15
		70135		35.18		
		70569			35.15	
		70083			34.10	
		70092				37
		73939			38	
		70534				38.12
		73842			38.03	
		72327				38.04
		74169			37.09	
		73994				37.10
		18951				27.07
11		72555			39.05	
		75732				38.03
		73145		38.08		
		72982				38.17
13		17994				28.08
		75563			38.10	
		74355				38.03
		74680		37.16		
		73456				37.04
3		72845			38.15	
		74522				37.16
		76011				37
		74814			37.16	
		74387				35.05
		76342		38		
		73357				37.03
		76327			38.18	
		75170				37.12
		72764			39.15	
		73957				38.11
		75710				37.10
		75702			38.04	
		72899				37.12
		74207		38.10		
15		70701			35.09	
		45703				28.15
		45464				28
		17747				27.10
		74281				38.04
		73448			38.03	
		75054				38.01
		74339		36.11		
16		69994				38.05
		19001			27.05	
		74706				38.03
17		17297				27.07
		46187				27.10
		18815			28.10	
		42280				29.09
		44279				22
		45078			37.17	
		18219				27
		74440				38.05
		46255				27.05
		44067		21.11		
19		75402			38.03	
		76575				38.13
		70182				36.02
20		15268			22.05	
		70908				36.12
		74942			38	
		75221				36
		48072			37.11	
		70072				34.07
		72075				34.18
		72433			38	
		17884				27

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909						
Sept. 20		75031				37.10
		73426			39.18	
		15112				36.07
		73684				35.15
		17331		27.02		
		73826			37.01	
22		74167				37.17
		73423				36.07
		74499	35.08			
		76144		33.17		
		74198				37.18
		73941				36.10
		73971			38.10	
		76334				37
		73475				38.01
		44892				28.12
		76181			38.07	
23		73911				36.15
		76305			36.15	
		70977				37
24		75810				37.15
		76230				37.13
		76309				34.15
		18191		26.02		
		45557				28.18
		17399				27.16
		39929				28.16
		75560				37.07
		39789				27.15
		74042				37.06
		75710			36.11	
		45795				27.13
		73384				37.05
	Total		35.08	556.16	1,699.16	3,018.04
	Total all sizes					5,291.04
Oct. 1		74643				37.04
		17030				26.15
		19262				27
		17785			27	
		72163				36.14
		74952				36.03
		75548				36.13
		74470				36.16
		74201			39	
		45773				27.02
		42277				26.09
		69952			39.05	
		69913				39.13
		72057				38
		74804			37.06	
		76760				36.14
		69943				40.02
3		65011			28.13	
		55062				26.03
		19021		27.17		
		76503				34.10
		70931			33	
		70076			27	
		79020				27.18
		41497		28.13		
		73471				39.03
		74969			38	
		72695				37.09
4		75524				26.05
		40679			27.10	
		18922				26
		18105				25.07
		45785			26.16	
		17173				36.10
		70175			34.10	
5		66040				36.01
		74406				36
		72602				35.07
		76370			36.13	
6		76017				36.09
		74006			37.10	
		74084				35.18
		72523			36.13	
		72368				36.05
		74113			36.00	
		44428				25
		18312		23.06		
7		76310				36.07
		73543			38.03	
		70468				33.14
9		73921			36.12	
		72939				37.05
		72265			36.10	
		70097				33.01
		75752			35	
13		44255			21.16	
		74863				36
		76293			32.12	
		75342			36.19	
		70138				31.03
12		72853				36.12
		70384			36.10	
		46160			25.08	
		46045		25.18		
11		74097			37	
		70477				33

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight.			
			Pea.	Buck.	Rice.	Barley.
1909						
Oct. 11		76148			37.10	
		72291				34.14
		75445			36.15	
		70751				32
		12857			28.05	
		79419			32	
		69549				36.04
14		45175				25.14
		45851		26		
		76221			36.05	
		72402				37
		76465			37.11	
		41995			20.10	
21		73434		37.02		
14		73181			37.08	
		75434				35.07
		73042			25.14	
15		70320				33
		39743			26.18	
12		46150			24.05	
		72742				37.01
		72628			36	
		39642		21		
		42715				26.17
		74824			37.01	
		40569				28.05
		76447			35.05	
		73045				33
25		74409			35.03	
		72114				35.10
		73560		37		
		73921				32.05
26		18116			36.07	
		74850				35.16
		17881		26.11		
		72730			37.17	
17		73918		36.10		
		76876				36.08
		70893			35.07	
		18029			25.09	
		70627				36.18
		70283			34.10	
		72492				38
		72951			37.01	
18		18073			26.16	
		39650			26.14	
		40416		26.12		
		44064			25.09	
		45828				26.03
		76045			37.12	
16		40530			25.01	
		43232				25.14
20		75818			36.10	
		69666				38.10
		70010			35.14	
		73554				36.02
		46230			37	
22		75262			36.10	
		70861				35.01
		72985				35.12
21		40330			27.02	
		70810				35.12
		70922			35.16	
		41030				36.07
		75149			38.17	
20		70322				37
		74201			38.02	
22		74012			37.16	
		44935			27.10	
		70113				37.00
		73131			38.08	
		74028		35.16		
		39280				26.11
		76395			38.03	
		18160				26.00
25		18882			38	
		45345		28.03		
		74893			37	
		40788			25.10	
		46398				26.12
		45006		26.06		
		76879				36.10
		73367			32	
25		74328			34.01	
		73131				33.08
		44824			34.00	
		74468		35		
		70430				34.07
		76792			36.12	
		72745				34.12
		72499				33.07
		73950				36.14
		72843			35.07	
		73362				35.12
		70313		36		
		70811			35	
19		41300			35.12	
		74428		35.16		
		73771			36.04	
25		76835				35.02
		74828				34.15
25		76142			37.10	

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight.			
			Pea.	Buck.	Rice.	Barley.
1909						
Oct. 27		70057		34.17		
28		44843		26.18		
		45482			25.08	
		43923				37.09
		74191				25.06
		73998		36.01		
		42849			27.10	
		45008				24.18
		70231			34.18	
		70180				35.16
		72131		25.12		
		69882				37.10
		45493			26.11	
		76399		37.05		
		73789			36.10	
		74289				37
30		79146				34.10
		74327		35.06		
29		18725				25.18
		76452		36.08		
30		72190		36.09		
28		72522				33.06
Total						6,643.06
Total all sizes				823.05	2,526.03	2,893.18
Nov. 6		46010				37.12
		70044				33.18
		73148			35.10	
		72093		36		
		73350			36	
		73331		35.12		
		76323				35
		17042			28.02	
		73281			37.10	
8		74140			35.12	
		74833		34.11		
		72015				34
		72815		35		
		73569				36.08
9		76334				34.10
		39853		26.16		
		17823				25.06
		72312		37.04		
		73401				35.15
		39764			27.09	
10		43013				25.03
		72860		35.10		
		70039				32.02
		72049				35.10
11		18304		27.05		
		45748				26.03
		76531		35		
		70317			33.02	
		70781	35.15			
		70244		36.15		
		18320				26
		75457		35.16		
		70741				33.05
12		73303		35.10		
		72253				34.04
		72790			37.18	
		72326				36
13		69626				39
		73247			38.08	
		18322			27.12	
		72982				36.04
		19180			25.12	
		73262		36		
		75117				37.02
15		73069		36.04		
		72410				36
		39787			26	
		46904				26.06
		46125			37	
16		76363				36.11
		74616		35.18		
		75009			37.12	
		70807				35.04
		70013				33.12
		76044			36.10	
17		76268				35.05
		73792		36.04		
		73489				35
		72574				37.08
18		17149		37.10		
		70729			36.05	
		70892		34.14		
		70991		36		
		75107				36.17
		70281				35.15
20		72944				36.18
		73379		36.15		
		46117				27.04
		70042		34.05		
		70383				36
		18115				25.10
		46351				26.15
		43086		26.02		
22		45881				36.15
		45363		26.17		
		70052				33.06

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight.			
			Pea.	Buck.	Rice.	Barley.
1909						
Nov. 22		45164		26.02		
		73463		38.01		
		45882				27.05
		73196			38.15	
24		74043			38.15	
		76405				37
		70123		34.04		
23		73132		36.18		
		39734		27.16		
		74297			39.10	
		74502			36.05	
		73380				36.07
		75925		36.04		
		73834				38.05
		73961		36		
		19004		26.07		
		18739			28	
		19102				25.03
26		19193		26		
		75999				36.10
		42108				27.10
		18780		25.15		
		45475			28.15	
		45089				28
Total			35.15	1,444.00	1,075.09	2,235.18
Total all sizes						4,791.02
Dec. 1		70784				35.09
		75646		36		
		72184				36.18
		76062				38.05
2		45093				27
		41344				27.18
		46229				27
3		70964		34.14		
		76113				37.05
1		17856				25.18
8		73015				36.04
5		74575				36.05
10		72782				37.13
		76332				35.09
		70711				35.05
		70409		32.10		
		74225				36
11		74657				35.14
		18380				25.18
10		18068				26.15
8		74030				37.02
13		73319				37
		74061		35.18		
		73357				36.13
		72888				37.11
		70718				36.01
14		76501				35.01
		76073				35.15
		76331				36.13
		73322		36.04		
15		74027				37.03
16		18808		26.04		
		8069				22.06
15		18430				27.05
		70096				32.07
16		45262				26.14
		45150				26.12
17		76191				35.19
16		70551				32
		72406				37.06
		18370				26.10
17		73262		37.02		
		45197				25.04
18		38820				27.13
		70265				34.10
20		18982				27
		39850				27
		81335		21.15		
		46305				26.05
		73292				34.08
		17924		26.18		
		74310				36.15
17		70063				20
22		75134			36.12	
		73613				36.04
23		74603				36.18
22		44496			20.12	
		44010			22	
		43929				21
		44375		21.01		
		41717			21.07	
		44546				20.09
23		42759			20.07	
22		44534			19.17	
23		72120			38.18	
		72932				37.12
		76277			36.06	
		17968				27.18
		72738			38.05	
		18673				27.04
24		72180				36.17
		43704			21	
		18927			27.11	
		75663				36.12

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight.			
			Pea.	Buck.	Rice.	Barley.
1909						
Dec. 24		76213			38.10	
		18133			26.08	
		18795				26.05
		45915	25.12			
27		74115				35.07
		73356				36.13
24		70896		34.07		
		73124			38.10	
27		75422				35.04
		39969		26.15		
		72145				36.05
		74812			35	
		73550			34.05	
		76262			36.03	
29		72813			38.05	
		70856		37.04		
		69959				37.12
28		76421			36.12	
		76308			38.01	
		70841				35
29		75688				34.18
30		74618				36.03
		74809			37	
31		69916				37
		75352				38.05
Total			25.12	406.15	651.08	2,003.03
Total all sizes						3,176.18
1910						
Jan. 3	D., L. & W.	41056			21.15	
	do	73386				36.12
	do	44404				21.10
	do	42476			29	
	do	45795				28.03
	do	73000			37	
	do	74757				36.07
	do	44032		25.07		
4	do	70527				34.17
5	do	73435				37.14
	do	45179				26.18
4	do	75298				34.12
5	do	74508				34.10
6	do	74048				37.12
	do	76077				37.12
7	do	75378				33.16
	do	72453				36.03
8	do	73897				34.06
	do	73199				36.08
11	do	74036				37
	do	42802				18.05
	do	74085				32
10	do	74793				35.06
	do	73402				37.12
	do	75285				36.06
12	do	76171				37.18
	do	70083				34.18
	do	75644				37.12
13	do	18511				26.18
	do	72868				38.01
14	do	45915				27.18
	do	46293				27.14
	do	72634				36.10
	do	75794				36.09
	do	18320				25.18
18	do	45014 or 45084				27.01
	do	74892				36.01
24	do	72968				37.05
22	do	46304				26.07
	do	72310				37.15
25	do	8092				24
24	do	72109				36.03
26	do	46172				26.14
	do	17482				26.15
	do	72256				35.13
27	do	76039				35.17
26	do	70404				35
	do	70776			35.15	
27	do	75223			36	
	do	72747				36.15
	do	70647				34.15
28	do	41081				26.03
	do	19175			27.05	
29	do	45700				26.18
	do	45308			27.06	
	do	44593				39.13
28	do	70196				33
29	do	74239				38.01
	do	75578			34.15	
Total				25.07	239.16	1,662.03
Total all sizes						1,927.06
Feb. 1	D., L. & W.	73067				35.10
	do	73397		33		
	do	74310			34.04	
	do	76462				34.12
	do	75771			35	
	do	76369				34
	do	76237		35.01		

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.		Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910							
Feb.	1	D., L. & W.	76333				35.04
		do	73264			35.14	
		do	73999				35.15
		do	73661				35.10
		do	191146				25.16
		do	75008			34.15	
		do	73501				33
	2	do	70681		33.01		
		do	46977				35.05
		do	73789				35.09
		do	73697			35.05	
		do	73753			33.15	
		do	70194				33
		do	73458			35.02	
		do	74159				36
	3	do	76519				31.05
		do	74122			36.12	
		do	70680				33
		do	70694			34	
		do	70100				34.07
		do	73582		35.07		
		do	43331				26.08
		do	76305			35.06	
		do	72912		35.14		
		do	73672				36.04
		do	73821			35.09	
		do	73720			38	
	4	do	76114				35.15
		do	74381				34.12
		do	72912		36		
		do	75071			36.15	
		do	73040				33
	3	do	46234			29	
		do	75754				34.05
	5	do	70157		34		
		do	73168				34.18
		do	75442				37.11
		do	72745			36.18	
	4	do	72207				35.10
		do	76289		35		
		do	72266			36.06	
		do	70408				36
	5	do	75418				35.05
		do	69496			35.07	
		do	74287				36.12
		do	75071			37.12	
		do	72235		35.12		
		do	45068			27	
		do	69996				37.14
	3	do	73522			37.18	
	7	do	72884				37.08
		do	75474		36.06		
		do	74623			36.12	
		do	77712				35.04
		do	44846				27
	8	do	40569			27.12	
		do	72154		35.10		
		do	18412				37.05
		do	72631				36
		do	73036		37		
	9	do	70436				32.15
		do	73523			36.05	
		do	74565				33.14
		do	74069			37.11	
		do	76090				35.18
		do	43693		30.03		
		do	70633			35.09	
		do	75489				35.04
		do	73261		34.18		
	11	do	44925				26.04
		do	18564				26.08
		do	70045		33.15		
		do	72733				35
	10	do	73858			36.15	
		do	73000				37
		do	70408			33.09	
	11	do	70800			35.05	
		do	73267			36.05	
		do	75434		37.08		
	12	do	44933				26.13
		do	19284			26.15	
		do	72565		36		
		do	73023			38	
		do	70447				36.01
		do	18345				25.10
		do	75783			34.07	
	13	do	76192				33.04
		do	70125				33.01
		do	73368			35.09	
		do	45280		26		
	14	do	19276				24.11
		do	73200		38.05		
		do	72231				36
		do	43595				26.13
		do	73371				34.10
		do	45761			27.03	
		do	74116		35.05		
		do	73439			36.04	
		do	43072		27.18		
		do	46129		29.03		
	15	do	75747			35.16	
		do	72618				35.15
		do	72192				36

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.		Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910							
Feb.	18		18900		26.04		
	19		70417			34	
			46299		27.14		
	18		18057		26.11		
	19		75013				33.12
	18		39225			26.10	
			45694				25.16
			76314			35.02	
			72847				35
	19		76301				35.01
			43537		26		
			73573			35.14	
			44896			25.05	
			73612				34.18
			18649		26.05		
			73846				31.07
			75317			36.15	
			74406				37
			41291		25.04		
			70525				31.05
		D., L. & W.	75668			35.10	
	21	do	70546				34.10
		do	19227			26.04	
		do	70516			35.03	
		do	40372		26.17		
		do	72947				31.16
		do	17622		25		
		do	43936			25.18	
	22	do	17902				26.13
		do	76092			34.03	
		do	75051				32.05
	15	do	44829				26.05
	23	do	46178				28
		do	75087				34.13
		do	74840			33	
	24	do	74040				34.11
		do	70329			34	
		do	75993		34.02		
		do	69937				37.14
		do	70266			34.10	
		do	43899		20.06		
	25	do	45158			25.17	
		do	74049				36.15
	24	do	75049				34.04
		do	17140		26.08		
	26	do	75541				36
	25	do	73021				31.10
		do	72426			36	
		do	74046		34.15		
		do	76502				36.10
		do	74398			35	
	26	do	70181			33.15	
		Total			1,075.19	1,833.16	2,461.19
		Total all sizes					5,371.14
Mar.	1	D., L. & W.	75046			35.15	
		do	75988				35
		do	46180				27.10
		do	76223			34.14	
		do	76022			37.08	
		do	74545				36.03
		do	15788			25.13	
		do	73464				33
		do	76398			37	
		do	76019				32.12
		do	75802		33		
	2	do	72571		36.03		
		do	70635			33.15	
		do	72483				35.09
		do	18502			26.07	
		do	74901			33.18	
	1	do	74140		34.02		
	2	do	43517			20.01	
	1	do	75369				35
		do	74011				35.02
		do	70464			35	
		do	74903				34.02
		do	74459			34.12	
		do	70091				32
		do	70682			32.04	
		do	72099				33
	3	do	72947				36.09
		do	73881			37.12	
		do	72517				36.06
		do	74002			36.10	
		do	74816			36.04	
		do	46939				26.06
		do	17947			25.05	
		do	73602				31.02
		do	74718			35.14	
		do	44863				25
		do	18067		24.07		
		do	74460			35.12	
		do	76495				35.13
		do	42834				25
	5	do	74492				35.18
		do	70970			34.17	
		do	76254				34
		do	73353			38	
		do	46399				26
		do	17781				25.06
	4	do	70657				34.04

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.		Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910							
Mar.	4	D., L. & W.	18428			25	
		do	18459			25	
		do	43483			25	
		do	70021				33.05
		do	46278			28.12	
		do	72285				37.10
		do	18438			25.12	
		do	73184			37	
		do	76196			37.14	
		do	74289				36
		do	72375			30	
		do	73115				36.14
	8	do	75116			37.14	
		do	72459				36.01
		do	76270			38.06	
		do	42045		27.03		
		do	18403			26.18	
		do	18056				27.08
		do	70020			34.04	
		do	73235				37.10
		do	72801			38.02	
		do	75387				36
		do	18089			28.01	
		do	70040				35.06
		do	45466			27	
	9	do	46071			28.00	
		do	72249				38
		do	74443			36.17	
		do	46303		27.16		
		do	46170			28.00	
		do	70704				35.12
		do	76159			38.15	
		do	76358				35.15
		do	44574		21.12		
		do	75923			38.02	
		do	75247			37.05	
		do	75784				36.03
		do	75776			38.01	
		do	74104		36		
		do	46037				27.15
	10	do	70368			38	
		do	44951				29
		do	75301			38.08	
		do	75065				37.16
		do	18785		27.10		
		do	15827			26	
		do	18420			27.10	
		do	46250				26.13
		do	15811			25.10	
		do	72315			37.02	
		do	74429				38.11
		do	74332			35	
		do	70427				33.09
		do	60943			39.03	
		do	72269			39	
		do	43957			28	
		do	73969				37.14
	11	do	45567			28.05	
		do	74163				37.04
		do	70318			37.05	
		do	72787				36.05
	14	do	75001		36.05		
		do	73435				37
		do	18240				26.10
		do	44833				25.10
		do	73171				35.08
		do	18914				27
	11	do	73743			36.17	
		do	76377				36.15
		do	70175			33.18	
		do	73959				36.15
		do	43902			27.14	
		do	73332			38	
		do	76456				37
	12	do	72862				37.11
	11	do	73398			38	
		do	74106			37	
		do	70777				38
	12	do	41291			28.04	
		do	18005				28
		do	42050			28	
		do	73332				38.05
		do	45133		27		
		do	18317				27.16
	15	do	72999				37.03
		do	82405		27.10		
		do	70086			35.08	
		do	73148				34.08
		do	46300				27
		do	44189		21.06		
		do	74614			37.10	
		do	74088				36
		do	72260			35.02	
	16	do	75023				36.12
		do	73353			36.12	
		do	72389				36
		do	45596				27.12
		do	76681			38.03	
		do	39279			27.13	
		do	75040				36
		do	46845				27.10
		do	17408		27.16		
		do	17870		26		

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.		Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910							
Mar.	16	D., L. & W.	70737			33	
		do	73806				34.05
	17	do	73810				36
		do	70329				37.05
		do	24955				36.01
		do	44929		26.08		
		do	18168			28	
	18	do	74990				34.02
		do	70043				34
		do	46191		27.18		
		do	75851			37	
		do	72984				35.18
		do	45169			26.18	
		do	45796		28.14		
		do	84053				28
		do	41000			37.06	
		do	74510				34.05
		do	45529		26		
		do	73322			36.10	
		do	74405			37.07	
		do	72597				37.15
		do	75219			36.15	
		do	76833				34
		do	75682		34.14		
	19	do	19046			27	
		do	72457			37.10	
		do	43925				28.10
	21	do	73565				33
		do	74888		35.12		
		do	70089				32.08
		do	19193		25.08		
		do	76344			36.15	
		do	75643				34.02
		do	72695			38	
	22	do	45681		26		
		do	73432				37
		do	76349			37.14	
		do	73814				35.09
		do	73175			37	
	23	do	73043			37.14	
		do	75801				36
		do	72822		30.15		
		do	73260				36
		do	40523		26.12		
		do	75114			33	
		do	72077		36.06		
		do	73173			35.15	
		do	84115			26	
		do	76000				33.15
	22	do	72222			36.15	
		do	72844			36.04	
		do	75092				35.02
		do	72377			38.02	
	24	do	18070		26.19		
		do	74074				35
		do	46069		28.05		
		do	73371			37.04	
		do	40377				25
		do	75382			38.03	
		do	70221				36.10
		do	10068			27	
		do	19087				26
		do	72502			39	
		do	76383		35.11		
		do	75925			37.15	
		do	73310			37.06	
		do	44015			21	
		do	45748				27
		do	45939				23.10
		do	72779			36.05	
		do	76224			36	
		do	18717				24.12
	26	do	46140			27.03	
		do	70003			34.18	
		do	18313			25	
		do	75294			35	
	25	do	40602				27.09
		do	72988			38.15	
		do	46108		30		
	28	do	73316				34.05
		do	72107			36.11	
		do	74143				35
		do	70783			35.07	
		do	74141				34.13
	30	do	19849			25.18	
		do	74106				34.10
		do	70495			35.17	
	29	do	70973			36.09	
		do	70804				33.02
	30	do	73711			36.18	
		do	73560			36.13	
		do	74126				34
		do	72129		35.06		
		do	73696			34.09	
	31	do	75415			35.08	
		Total			922.13	3,769.15	3,429.02
		Total all sizes					8,121.15
Apr.	1	D., L. & W.	76348			35.04	
		do	45013		28.07		
		do	18829			26.08	
		do	74614				34.15

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910 Apr. 1	D., L. & W.	72580			35.15	
	do	76107				34.15
	do	73973		36		
	do	45836			26.05	
	do	46103				27.18
	do	73283			36.03	
2	do	74365			36	
	do	19664				25.15
	do	17881			26.07	
	do	73114		35		
	do	17959				26.13
	do	69685			37.10	
	do	43459				34.17
3	do	74290		36.01		
	do	76233			34	
	do	46403		28.05		
	do	76967				35.08
	do	74248			36.02	
4	do	74497			34.07	
	do	84096		26.07		
	do	42135		28.12		
	do	70696				34.04
	do	45500			27	
	do	18994		28.05		
	do	73649				35.07
	do	75168			38	
	do	72137				36.12
5	do	45801				36
	do	17889		25		
		75751				35
		76320			35.18	
		84220				27
6		75060				37
		74809			36.11	
		75537				36.01
4		75083				34
		73063			35.12	
		72213				37.11
8		75342			36.02	
		73249		36.04		
		76155		34.12		
		42314		27.06		
		73668				35.15
		70072				35
		70801			33	
6		73775				34.15
		70299			24.08	
		74056				35
		73354		33.11		33.07
7		72441			38.04	
		45243		28.04		
		72127				35
		70694		33		
		74453			36.17	
		75567				34.10
		44550		28		
8		74537				34.03
		75713				36
		42861				19.04
		76110				35
		18701		27		
11		70093		33.15		
		30860				25.13
		70123			35.08	
		73533				36.10
		74927				35.07
		53604		29.15		
12		18815		28.07		
		38828				25.15
		73366		35.09		
		73324			36.07	
		18067				26.05
12		18661		26.13		
12		76367				35
		72470				38
		18669		26.05		
		70686			35	
		74029				35.18
		18701			25.18	
		74697				37
13		70065				36
13		72088			36.12	
		18966				26.15
		41818		28.17		
		46377			26.18	
		73391			35.18	
13		73582				35.02
		72878			38.07	
		75374		37		
		75519				36.01
		73615			39.07	
14	D., L. & W.	73996			34.04	
21	do	70424				34.18
	do	70891			32	
	do	72563				38.02
14	do	19248		25.13		
	do	19186		28		
	do	46156				26.10
	do	73074			35	
	do	70628				36.13
	do	74584				35
	do	75302		35.03		
	do	74165				35.18

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910 Apr. 14	D., L. & W.	19122		26.08		
	do	73134			37.11	
	do	76072			36.18	
	do	75061	35			
	do	70050				34.15
	do	70340			34.12	
16	do	18346				25.07
	do	18013			25.14	
	do	44522				20.07
	do	46264				26.15
	do	45690				26.13
	do	15065	27			
	do	73612			37	
	do	45840				25.15
	do	75989				35
	do	45633			27.18	
	do	74866				34.08
	do	70481			37	
	do	72327				37
	do	69934				36.03
	do	19215		26.15		
	do	74855				36.04
	do	74593				36
	do	74605		36.07		
	do	46005				28
19	do	45181				29
	do	70646				35.19
	do	45067		26.05		
18	do	18573		29.05		
	do	45158				25.10
19	do	70591				35.18
	do	70066			35	
	do	70905		32		
	do	45778				28
	do	70080				35.09
	do	70416			35	
	do	70904				34.12
20	do	70924			35	
	do	46207		26.04		
	do	15832				27.05
	do	74883				36
	do	75840			36.07	
	do	17781		28.18		
	do	74251				34.05
	do	41938		27.06		
	do	73784			36.10	
	do	75735				36
21	do	72506				37
	do	74832			37.06	
	do	70045		35.05		
	do	75527				35.14
	do	74458				38.10
22	do	72220				37
	do	74184			38.06	
	do	76998			37.08	
	do	72431				36.08
	do	69916		38.13		
	do	44164				22
	do	76205		36.10		
	do	73305			37.16	
	do	74398				36
	do	76108				35.15
23	do	73133				36.06
	do	72225				37.10
	do	74247				35.12
22	do	73276				36.11
	do	74359			39	
	do	18606		29.12		
	do	17991		26		
23	do	72357				35.16
	do	70738				36.06
	do	74960			36.10	
25	do	69664				36.07
	do	74685				34.16
	do	73524	35			
	do	70297				35
	do	73569				36.12
	do	73048				34.15
	do	75251			34.16	
26	do	73952				34.18
	do	75777		35.08		
25	do	73356				36.06
26	do	74970				35
	do	74780				35.04
	do	75226		37		
	do	74581			35.04	
27	do	72059				35.06
	do	74766		35.09		
	do	18310		29		
	do	75973				36.18
	do	75739				37
28	do	72930		36.15		
	do	73051			38	
	do	76017			37.18	
	do	75076				34.05
	do	45714			27.09	
	do	72931				35.14
	do	73789			36	
	do	73827				34.17
	do	70208			33.15	
29	do	69933		38.12		
	do	74332				36.12
	do	74737			35.17	

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910 Apr. 29	D., L. & W.	74197				37
	do	18302		26.06		
	do	44703		24		
	do	73840				37.10
30	do	18822			25.09	
	do	18482		26.05		
	do	75993				36
	do	17821			25.15	
	do	19018		27.10		
	do	42488				27.15
	do	84216			26.18	
	do	72133		37		
	Total			1,731.06	2,123.18	3,529
	Total all sizes					7,384.04
May 1	D., L. & W.	72609				37.06
	do	70017			35	
	do	70696		33.10		
3	do	72714				36.17
	do	19185		27		
	do	19230		27.15		
	do	73412				36.05
	do	76754		38.01		
	do	74635				35
	do	74028		36.19		
	do	70612				35
	do	40609		27.06		
	do	73405			36	
	do	76544				32
6	do	39879				26.10
	do	18494				26.14
	do	70977		34.10		
5	do	72533			36.09	
	do	75624		36		
6	do	72127		37.12		
	do	72913				35.18
	do	76422				33.07
	do	76488		37		
	do	75580			34.18	
	do	75885				32.17
	do	69935		38.07		
	do	72742		37.10		
	do	74928			36.12	
7	do	76032				36
	do	72728			36.06	
	do	73344		37.05		
	do	74394				34.12
	do	18187			25	
	do	18479		27.06		
	do	18933			27.15	
	do	75133				36.07
9	do	72904		37.02		
	do	74294			37.12	
	do	72923				35.14
	do	18419		27.07		
	do	75759			36	
	do	73219				33.18
	do	70344			34.11	
	do	15197		23.05		
11	do	18058		27		
	do	74299				35
	do	19145		27.08		
	do	72525			36.16	
	do	73977				36.07
12	do	73173		37.15		
	do	75776				36.08
11	do	70563			33.17	
	do	44236		22.02		
	do	72334				36.07
	do	75170			36	
	do	76240		37.12		
12	do	70293			35	
	do	74653				35.05
	do	18385			26.10	
	do	73562				36
	do	73667		37.04		
	do	76595				34.16
13	do	76783				35.1
	do	75787		35.18		
	do	73902			35.17	
	do	45719				26.18
14	do	18030				25
	do	18746				24.08
	do	45789		27.15		
	do	76491				35
	do	72563				35.09
	do	72257		37.07		
	do	76786		36		
	do	74877				36
	do	72716				36
16	do	75878			36.07	
	do	75079				36.04
	do	73047		37.19		
	do	45346				27.12
	do	45948		27.03		
	do	76604				34
	do	72354			36	
	do	46275				27.13
	do	74319			37.10	
	do	73310		36.07		
	do	73426				35.16
	do	72193			36.18	

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910 May 17	D., L. & W.	69965			38.16	
	do	70410				34
	do	72835			35.12	
	do	41856		24		
	do	17937				23.14
19	do	70349				25.04
	do	75723		37		
	do	72578				35.15
	do	70965				33.02
	do	73124				34.18
	do	75041		35.07		
20	do	45140				26.15
	do	45449			26.12	
	do	74981				35.04
	do	45504		28		
	do	75987				35.07
	do	19115		27.11		
21	do	45923				27
	do	75382		37.08		
	do	46386		28.06		
	do	75771				35.18
	do	75779			38.07	
19	do	72671			34.17	
21	do	74526				35
23	do	76380				36.06
	do	76836		38.10		
	do	72617				35.16
	do	46149		26.10		
	do	72264				36
	do	74015			34.10	
24	do	73460				35
21	do	45220				23
	do	75412		36.19		
	do	75761			35.01	
23	do	70975		35		
25	do	18652		26		
	do	46133				25
	do	45985			26.16	
24	do	19232				25
	do	46183		26.15		
	do	76969				34
	do	72887				35.04
	do	76160				37.02
	do	70576		32.05		
	do	76677				35.05
	do	74761				34
26	do	15851				26
	do	75266		37.03		
	do	70834				34.07
	do	46157			26.11	
	do	18384		26.13		
	do	73837				34.17
	do	72156				36
27	do	18403		27.15		
	do	18290				28
28	do	74714				33.02
27	do	70280				36.18
	do	70765		35.18		
	do	69600				37.15
28	do	72086				35
	do	74572		36.06		
31	do	73630				35.10
	do	72806		37.08		
	do	76215			35.10	
	do	70268				33.15
	Total			1,633	1,659.01	2,365.07
	Total all sizes					5,657.08
June 1	D., L. & W.	70085		34.13		
	do	76338			36	
	do	72084				34
	do	74961			34.14	
	do	71987				33.14
	do	72414			35.15	
	do	73472				75.02
2	do	75897			36.07	
	do	70783				34.04
1	do	73771		37.07		
	do	72225			36.04	
	do	74176				34.09
2	do	72256				34.12
	do	76138			34.09	
	do	73351		37.10		
	do	72709				35.18
3	do	41183		26.17		
	do	70698			33.05	
	do	76955				33.09
2	do	70035				32.11
	do	18410			34.16	
4	do	72406			36.16	
	do	76884				35.09
	do	42161			26.10	
3	do	7552				34.09
	do	70013		33.18		
	do	72453			36	
	do	73194				34.10
4	do	73400				35.16
	do	19019			24.09	
	do	45567		27.03		
6	do	18360			25.06	
	do	70829				34.15
	do	75628				34.02

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910						
June 6	D., L. & W.	72915		36		
	do	75306				33.04
7	do	73713				33.13
	do	75111				34.04
8	do	45379				26
	do	73419				34.06
13	do	70770			33.19	
	do	70899				33
	do	70054		33.10		
14	do	73269			33.10	
	do	76802				33
15	do	74448				34.11
17	do	18134		26.08		
	do	70305				34.02
	do	70503			36	
14	do	72712			36.16	
	do	46186				36
15	do	74121		36.04		
	do	75167				34
	do	76405				35
	do	73088				34.14
16	do	72128				33.16
	do	45865				26.06
18	do	19008				26
	do	45008				27
17	do	45509				26.17
18	do	84208				27
	do	45830			26.07	
17	do	17295				27.05
	do	77056		36.06		
19	do	72573			33	
21	do	45391				25.15
	do	76119				35.09
	do	70153			33.02	
	do	77080				34
	do	76282			35.10	
	do	74223				35
24	do	75302			36.04	
	do	74286				34.17
	do	76440				35.05
	do	43798				21.02
	do	74403				36.06
	do	73711				35.10
	do	45639		27		
	do	76418				35.15
	do	74251				34.15
22	do	72226				36.10
	do	75125			36.14	
24	do	45008		26.11		
	do	74343			34.10	
21	do	42088		26.02		
	do	19095				26.10
	do	74337				36.18
	do	70533				31.12
27	do	74949			35.16	
24	do	70245				32.14
	do	15569				29.11
	Total			445.09	831.19	1,684.19
	Total all sizes					2,962.07
July 1	D., L. & W.	72962				36
	do	40509				27.17
	do	40519				26.07
	do	46149		27.09		
	do	84199				28
	do	76001				35.08
	do	76847			36	
	do	74423				35.02
	do	74494				35.16
	do	72942			36.08	
	do	19229		27.04		
	do	40524		27		
	do	73116				34
	do	74368			35.03	
	do	19050				25.18
2	do	84282		25.05		
	do	73080				33.12
	do	73082			37	
	do	73023				34
	do	73686				35.05
	do	74261			35.10	
8	do	73974				35.06
	do	74002				35
	do	73246				35.09
9	do	76002				34
	do	76323				34.15
	do	72453				33.10
	do	72619				35.04
11	do	74588			36.16	
12	do	76662				34.12
	do	73465		35.08		
13	do	74015				34.15
	do	70885		33.17		
14	do	70150				35.13
	do	73011				35
	do	74076			36.11	
13	do	72538				36.06
	do	72466				35.12
	do	72762		35		
	do	76083				33.06
11	do	76981				35

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910						
July 18	D., L. & W.	70687				32.17
	do	76151				35.02
	do	76461				33.18
	do	70839		32		
20	do	73315				33.02
	do	73312				35.08
23	do	76422				36.18
	do	73346				33
	do	76421			36.08	
	do	74051				35.04
	do	72693			36.02	
25	do	73027				35.14
23	do	73119		35.12		
15	do	76402				33.18
	do	73016		35.10		
14	do	70221				35.16
	do	76123			34	
15	do	74758				36
	do	74811				34.08
16	do	75715				34
	do	70736			33	35
18	do	72747				33.11
16	do	73951		34.16		
	do	73273				37.04
11	do	76083				35
23	do	45782				26.07
	do	76178			36	
	do	72660		36.16		
	do	75949				34.15
27	do	76638			35	
	do	73977				34.18
	do	75754		35.24		
	do	76751				36
28	do	73885				34.14
27	do	78410			34	
	do	72719				35.12
28	do	75376		36.04		
	do	75934				34.11
	do	74827			35.02	
	do	75838				34.18
	Total			457.15	533	1,777.05
	Total all sizes					2,768
Aug. 1	D., L. & W.	73673				35.17
	do	74098		36.15		
	do	75634				35.14
	do	73466				36.12
	do	72882				30
	do	45724				26.15
	do	70148			35	
	do	72839				36.11
2	do	76215			36.17	
1	do	72584				34.11
2	do	75308				34.15
	do	74327				36.09
	do	70888		33.15		
	do	72917				35.06
3	do	45086		26.18		
	do	44921				26.18
	do	46266				27.02
	do	76216				34.03
4	do	18824			35.15	
5	do	76729			37.10	
	do	76733				35.18
4	do	73180			37.05	
	do	76059				35.13
	do	18105		25.18		
	do	73326				36.04
6	do	75372			37.04	
	do	76798				36.18
5	do	69885			37	
	do	74672				35.17
	do	70622			32	
	do	76474				35.16
	do	74522			36.16	
	do	45710		27.09		
	do	74796				34
	do	72778			37	
	do	74401				36.04
6	do	43006				26.15
	do	18872			27	
	do	45913				27.05
	do	70027			34	
8	do	70170				32.04
6	do	45180		26.15		
	do	41718				27.02
	do	84160		27.08		
9	do	74450		37.05		
	do	76252				35.11
	do	70389				33
	do	70878				34
	do	75877			35	
10	do	45068				23
	do	73371			36.17	
11	do	15829		28		
10	do	75044				38.15
	do	83154			28.07	
	do	74703			36	
	do	76900				36
11	do	72284			36	
12	do	74299			36.14	

Detailed statement of claim for excessive freight rates, etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910						
Aug. 13	D., L. & W.	74644			35.12	
15	do	74269				34.10
	do	45272			20	
	do	74706				33
	do	73202				33
16	do	74751				34
	do	73884			36.11	
11	do	73993			36.04	
12	do	75634			35.10	
	do	73466			35.05	
11	do	72564			37.04	
	do	74505			35.18	
	do	76619				37.02
	do	75824				36.05
15	do	73673			36	
	do	73449				35.14
12	do	70772			34.11	
	do	74612				35.18
	do	76256			36.09	
	do	74689		36.06		
	do	73026				34
	do	74937			36.15	
	do	76357				36
	do	75883		35.14		
13	do	73641				35
17	do	19058			26	
	do	75367			37	
	do	76030				34.02
	do	72350				35.14
	do	76070			35.16	
	do	76049				34
	do	45463			28.02	
	do	73699			36.14	
18	do	75482			36.07	
	do	76009				35.14
	do	74465			36.04	
	do	45180		28.10		
	do	75336				35
17	do	18568				27.03
	do	74734			37.11	
	do	76024				33.15
18	do	73915			36.15	
17	do	74800			36	
18	do	70059			35	
	do	70022				34.05
	do	74099			35.15	
19	do	74670				35.06
	do	73750			36.09	
	do	76684				36
	do	72621			25.16	
	do	75652		36.18		
	do	72034			37	
	do	74831				35
20	do	39969			28.07	
	do	18210				26.05
	do	69929			38.04	
	do	75017				36.05
	do	75348		37.06		
	do	75849				35.14
22	do	76746				35.11
20	do	70972		36		
	do	72103			37.02	
25	do	45638				26.14
24	do	76696				35.16
	do	76642			35.07	
	do	70727			26.15	
	do	70946			34.10	
23	do	74249				35.12
	do	73312				36.07
22	do	73311		38		
	do	73831				35.11
24	do	72210				36.10
	do	75770			36.15	
23	do	77095			36.08	
	do	73236				35.15
	do	72310				35.09
	do	73042			36.17	
	do	72523		37.06		
	do	72042			38.08	
25	do	73922			37.05	
26	do	76046				36
27	do	19284		27.10		
	do	70002			37.03	
25	do	74486				35
26	do	73140			37.12	
	do	18720			28.03	
	do	72829			37.05	
27	do	19251				27.10
	do	15841			27.04	
29	do	84287			26.08	
	do	73701				36.07
	do	72429				37
	do	45046				27.05
	do	45479			28	
	do	19168			27.04	
	do	18043				27.11
	do	75163			37.03	
	Total			556.07	2,202.13	2,503.10
	Total all sizes					5,262.10

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Messrs. Low Bros., Lime Ridge, Pa.

[Rate: Pea, $0.80; buck., $0.80; rice, $0.80; barley, $0.80.]

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908.						
July 15	D., L. & W.	45888	27.15			
18	do	45905	27.10			
22	do	18964	27.05			
28	do	43341	27.17			
30	do	46419	28.00			
31	do	43165	21.10			
Sept. 15	do	43047	21.00			
23	do	39974	27.12			
25	do	17780	26.17			
Oct. 26	do	45103	26.05			
Nov. 10	do	44415	21.10			
13	do	39969	28.00			
20	do	43382	28.05			
28	do	41069	27.00			
Dec. 3	do	15819	27.15			
4	do	75514	37.18			
7	do	45112	27.05			
17	do	76111	36.05			
28	do	18578	27.15			
29	do	44830	27.10			
1909.						
Jan. 1	do	18087	27.15			
2	do	43196	21.11			
7	do	45488	26.00			
11	do	18077	28.00			
13	do	12367	20.15			
16	do	45735	28.00			
22	do	39839	27.00			
23	do	39797	26.05			
26	do	44001	20.09			
27	do	18272	28.00			
29	do	39738	26.04			
Feb. 18	do	41965	27.00			
20	do	15840	25.04			
24	do	40005	25.17			
27	do	40538	26.01			
Mar. 3	do	42293	25.08			
5	do	45744	26.02			
8	do	17776	25.13			
8	do	45228	24.00			
9	do	18141	25.00			
10	do	40464	24.15			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to American Car & Foundry Co., Berwick, Pa.

[Rate: Pea, $0.75; buck., $0.75; rice, $0.75; barley, $0.75.]

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908.						
Dec. 15	D., L. & W.	74149			38.05	
1909.						
Jan. 9	do	74170	37.00			
Nov. 30	do	73320			36.12	
Nov. 1	do	75834			37.09	
1	do	75809			35.15	
1	do	72309			34.00	
2	do	75557			36.11	
2	do	75302			36.02	
9	do	74024			36.01	
10	do	74089			35.03	
11	do	76008			37.07	
17	do	76571			38.02	
17	do	76365			37.15	
18	do	74540			37.03	
18	do	76398			37.12	
19	do	75600			38.18	
20	do	74116			37.16	
20	do	74385			38.10	
20	do	74647			38.01	
22	do	73489			37.10	
22	do	72091			40.00	
23	do	75994			39.00	
23	do	76413			37.15	
24	do	76379			37.09	
26	do	76928			39.10	
30	do	73282			38.14	
Dec. 10	do	76220			37.00	
13	do	73763			37.03	
14	do	72672			37.12	
	do	84546			36.00	
16	do	72123			37.18	
	do	72414			37.07	
17	do	75346			38.02	
	do	74279			35.15	
	do	74204			38.15	
18	do	75578			34.18	
20	do	73744			35.15	
21	do	74909			37.18	
	do	74965			37.00	

Line shipments made by the Marian Coal Co., etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910						
Jan. 4	do	73535			36.15	
6	do	73328			35.00	
10	do	74941		34.18		
	do	73.32			37.18	
Jan. 12	D., L. & W.	72849			33.14	
	do	73675			36.04	
13	do	76580			37.16	
	do	74543			36.02	
	do	74440			36.10	
15	do	73189			37.02	
	do	60644			38.04	
18	do	13238			37.12	
22	do	75807			38.18	
	do	72292			36.02	
24	do	76213			37.00	
	do	72741			37.15	
25	do	70409			35.00	
	do	76246			38.14	
26	do	76290			37.02	
	do	73113			36.00	
	do	72254			37.00	
	do	74679		36.10		
27	do	74725			36.15	
28	do	73706		35.17		
	do	72239		37.05		
29	do	72446		36.08		
	do	76126			38.14	
31	do	72311		35.00		
	do	69681			38.11	
Ma.. 14	do	73545			37.00	
14	do	73423			36.05	
14	do	76248			37.00	
14	do	72595			37.08	
14	do	73809			35.15	
14	do	72974			35.00	
15	do	73244			36.18	
16	do	74017			36.15	
17	do	74210			37.12	
18	do	72097			36.00	
21	do	70051			35.00	
22	do	72508			38.00	
22	do	72291			38.00	
23	do	73983			38.10	
28	do	70986			35.00	
28	do	76068			35.07	
29	do	73970			35.15	
29	do	72946			37.00	
Apr. 5	do	73491			36.10	
5	do	70833			34.15	
8	do	72711			33.12	
8	do	70797			36.00	
11	do	73044			36.17	
11	do	73423			36.15	
11	do	74886			36.00	
18	do	74134			37.17	
18	do	76443			38.05	
18	do	76334			35.04	
19	do	72884			35.07	
22	do	74758			37.11	
22	do	70807			35.00	
25	do	72329			38.02	
25	do	73473			35.17	
25	do	76119			36.17	
26	do	72900			36.14	
27	do	74650			38.14	
27	do	72005			37.16	
29	do	73957			35.15	
29	do	74311			35.16	
May 3	do	70883			34.18	
3	do	76429			37.05	
3	do	76485			36.05	
3	do	72558			37.16	
6	do	73349			37.06	
6	do	73403			36.11	
12	do	76075			35.18	
14	do	74993			35.17	
14	do	73141			33.00	
14	do	73492			34.18	
19	do	76892			34.17	
20	do	73900			37.00	
26	do	74135			37.16	
30	do	76128			33.02	
31	do	69948			36.12	
31	do	73883			36.09	
31	do	74312			36.00	
31	do	76942			35.12	
31	do	75781			34.07	
31	do	73880			35.13	
31	do	76828			35.00	
31	do	74102			35.07	
31	do	76876			36.06	
31	do	73537			36.08	
31	do	73626			38.00	
31	do	69981			37.09	
June 2	do	73526			36.00	
7	do	73165			34.00	
8	do	76134			35.00	
8	do	75136			36.16	
15	do	76082			34.06	
16	do	69956			37.16	
17	do	76349			36.12	

Line shipments made by the Marian Coal Co., etc.—Continued.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910						
June 18	D., L. & W.	72903			36.19	
22	do	74443			37.02	
22	do	77010			36.12	
23	do	75373			36.19	
22	do	74726			35.10	
23	do	72460			36.13	
29	do	72917			35.07	
29	do	76184			37.02	
30	do	73283			36.10	
July 9	do	73580			36.00	
9	do	73867			36.05	
12	do	75887			34.18	
12	do	73017			35.00	
13	do	72997			36.13	
13	do	72008			37.15	
14	do	76036			35.12	
14	do	73069			34.10	
18	do	74438			36.06	
19	do	73775			36.07	
20	do	72885			36.15	
20	do	72888			35.00	
28	do	76646			37.00	
30	do	73432			37.16	

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Atlas Portland Cement Co., Northampton, Pa.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909.						
Feb. 26	D., L. & W.	74343			35.06	
26	do	73659			35.00	
26	do	44674		19.00		
26	do	12854			22.10	
27	do	45057			26.12	
27	do	72249			36.05	
27	do	70196			37.02	
27	do	43885			27.05	
26	do	43506			20.10	
Mar. 1	do	74045			35.10	
1	do	44243			21.05	
1	do	74669			34.08	
1	do	45958			27.00	
Mar. 1	D., L. & W.	2846			19.00	
2	do	76958			35.10	
3	do	12877			21.16	
3	do	73835			35.00	
3	do	75437			34.04	
3	do	74898			35.07	
3	do	73176			35.00	
3	do	76397			37.02	
3	do	73349			36.01	
4	do	72750			35.16	
4	do	75938			36.16	
4	do	18575			27.06	
5	do	74344			35.10	
5	do	45273			27.06	
Apr. 7	do	70648			35.15	
8	do	74465			35.00	
8	do	73695			34.00	
8	do	74687			34.10	
9	do	44833			25.07	
9	do	75364			35.15	
9	do	76904			34.02	
10	do	74256			35.00	
10	do	73735			35.00	
21	do	73144			46.05	

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Danville Structural Tubing Co., Danville, Pa.

[Pea, $0.90; buck., $0.80; rice, $0.80; barley, $0.80.]

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909.						
Mar. 3	D., L. & W.	73835		35.00	35.00	
10	do	73479		35.03		
11	do	45757		26.10		
11	do	18826		37.04		
12	do	70677		35.00		
12	do	19216		25.07		
10	do	73412		34.04		
10	do	73664		34.05		

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Messrs. Hawley & Slate, Bloomsburg, Pa.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909.						
Jan. 22	D., L. & W.	76265		36.10		
Feb. 6	do	69900		37.15		
Mar. 3	do	73835		33.12		

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Silver Spring Quarry, Aldmedia, Pa.

[Rate: Pea, $1.43; buck., $1.28; rice, $1.13; barley, $1.13.]

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909.						
Aug. 21	D., L. & W.	19188	26.08			
Sept. 20	do	15087	22.06			
Oct. 18	do	53021	27.09			
Nov. 26	do	17345	27.07			
Dec. 10	do	46902	27.05			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Clark Thread Works, Newark, N. J.

[Rate: Pea, $1.43; buck., $1.28; rice, $1.13; barley, $1.13.]

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910.						
Jan. 11	D., L. & W.	73401			34.08	

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Ballbach Sugar & Refining Co., Newark, N. J.

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1910.						
Feb. 11	D., L. & W.	70685				35.14
11	do	69949				37.09

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Pennsylvania Brakebeam Co., Danville, Pa.

[Rate: Pea, $0.80; buck., $0.80; rice, $0.80; barley, $0.80.]

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909.						
Nov. 14	D., L. & W.	75208		35.14		

Line shipments made by the Marion Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to W. N. Stell, Bloomfield, N. J.

[Rate: Pea, $1.45; buck., $1.35; rice, $1.35, barley, $1.35.]

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908.						
July 25	D., L. & W.	18031	24.09			
1909.						
Oct. 5	do	17957	24.17			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines to Nevins Church Pews, Bloomfield, N. J.

[Rate: Pea, $1.45; buck., $1.35; rice, $1.25; barley, $1.35.]

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909.						
Jan. 27	D., L. & W.	46180		28.00		
29	do	17224			28.00	
Feb. 13	do	72686		37.06		
26	do	45346		27.05		
Mar. 2	do	76058		35.13		
8	do	76299		34.05		
15	do	70853		35.10		
23	do	70819		34.00		

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines to American Clay Product Co., Forty Fort, Pa.

[Rate: Rice, $0.60.]

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908.						
July 24	D., L. & W.	72283			39.06	
Sept. 5	do	70647			36.03	
Nov. 28	do	70984			36.18	
Dec. 15	do	74149			38.05	
1909.						
Jan. 16	do					

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines to O. W. Drake, Bloomsbury, Pa.

[Pea, $0.80; buck., $0.80; rice, $0.80; barley, $0.80.]

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1908.						
Sept. 19	D., L. & W.	69983	26.18			
Oct. 14	do	43133	27.15			
1909.						
Mar. 23	do	18509	25.09			
Aug. 16	do	3706	18.05			
Sept. 7	do	46271	28.12			
Oct. 12	do	44734	27.18			
Nov. 24	do	18153	26.09			
Dec. 24	do	15867	26.06			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Milton Flory, Esq., Bangor, Pa.

[Rate: Nut, $1.60; pea, $1.45; buck., $1.35; rice, $1.35; barley, $1.35.]

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909.						
Nov. 28			27.14			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Messrs. Garfield & Proctor Co., Paterson, N. J.

[Rate: Pea, $1.70; buck., $1.50; rice, $1.50; barley, $1.50.]

Date of shipment.	Car initial.	Car number.	Weight. Pea.	Buck.	Rice.	Barley.
1909.						
Nov. 28	D., L. & W.	18968	27.05			
	do	18483	27.12			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Standard Oil Cloth Co., Athenia, N. J.

Date of shipment.	Car initial.	Car number.	Weight.			
			Pea.	Buck.	Rice.	Barley.
1906.						
Jan. 7	D., L. & W.		26.11			
do			26.00			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Columbia Baking & Manufacturing Co., Columbia, Pa.

Date of shipment.	Car initial.	Car number.	Weight.			
			Pea.	Buck.	Rice.	Barley.
1906.						
Nov. 8	D., L. & W.	45118	26.16			

(Before the Interstate Commerce Commission. Marian Coal Company against the Delaware, Lackawanna & Western Railroad Company. Docket No. 3592.)

The defendant answers the complaint of the complainant herein, as follows:

First. It admits the allegations contained in the paragraph of said complaint marked "1," except that it is not advised as to the exact distance of complainant's washery from the Bloomsburg division of the defendant's railroad, and except that it denies that the Delaware, Lackawanna and Western Coal Company is an organization affiliated with the defendant.

Second. It admits that the defendant is a common carrier, organized under the laws of the State of Pennsylvania, engaged in the transportation of passengers and property by railroad by continuous carriage or shipment between the plant of the complainant to points in the States of Pennsylvania, New York, and New Jersey over its own road, and that it operates, leases, owns, and controls certain railways which are part of its system, issuing tariff sheets over such lines as part of its system, and that as to the interstate part or portion of transportation over such roads it is subject to the provisions of the act of Congress to regulate interstate commerce of the 14th of February, 1887, and acts amendatory thereof and supplementary thereto, in so far as said acts are constitutional and enforceable.

It admits that a large amount of its business is the transportation of anthracite coal. It denies that 90 per cent or any of the coal so transported is produced by the Delaware, Lackawanna and Western Coal Company or that the capital stock of said company or any part thereof is owned by the defendant.

It admits that defendant has established rates for the transportation of the product of complainant from its plant as set forth in D., L. & W. Tariff, I. C. C., No. 6095.

It denies that any of the rates so established constitute an unjust or unreasonable charge for the services rendered or that they are in violation of the first section of the act of Congress to regulate interstate commerce, or of any other law. It denies that any of the rates charged by the defendant for the transportation of anthracite coal are in violation of the law.

It admits that defendant is charging and collecting, and did charge and collect at the time referred to in the complaint, the rates therein set forth on rice and barley coal and for prepared sizes of coal. It is not prepared to answer as to the price of coal f. o. b. Hoboken, as to the cost of preparing barley, rice, and other coal to the complainant or others, or as to the cost of selling thereof, or as to the selling price thereof locally, at and in the vicinity of the place of production, and demands that if deemed material due proof thereof be made. It denies that the complainant is subjected by the defendant to unjust conditions of competition. It denies that it has subjected complainant to switching charges to which it has not subjected shippers of a like product shipping under the same or similar circumstances and conditions, and it denies that in the matter of switching charges, or in other matters, it has subjected the complainant to undue or unreasonable prejudice or disadvantage or discrimination.

Third. It denies each and every allegation contained in paragraph IV of said complaint.

Fourth. As to the allegations contained in paragraph marked "V" of said complaint, defendant denies each and every allegation thereof.

Fifth. It denies each and every allegation in paragraph marked "VI" of said complaint contained, except that it admits that this defendant formerly sold such coal as it purchased from independent operators at the mine, making no charge therefor to such independent operators, and that since August, 1909, the Delaware, Lackawanna and Western Coal Company likewise has sold coal so purchased by contract without making charge therefor to such independent operators.

Sixth. Answering the allegations contained in the paragraph marked "VII" of said complaint, this defendant says that it has no knowledge or information sufficient to enable it to answer the allegations of said paragraph, except that it denies that it has any coal company, that any unjust amounts are charged complainant for freight, or that such charges are sufficient to prevent competition by complainant or other independent shippers in the markets, and it denies that the defendant's officials have protested to complainant's agents when complainant has attempted to ship on the line of the defendant's railroad, or that the defendant's officials have claimed the line trade as its own. Defendant alleges that it is not now and has not been since August 2nd, 1909, in the business of selling coal at any point on its line or elsewhere, except in the State of Pennsylvania.

Seventh. It denies each and every allegation contained in paragraph marked "VIII" of the said complaint.

Eighth. Of the allegations in paragraph marked "IX" of said complaint, the defendant admits that it purchased from the complainant, from time to time during the period referred to in the complaint, various sizes of coal at a fair price for such coal, and that it resold said coal at the best price obtainable. Whether the purchase price or selling price of such coal was as alleged in the complaint this defendant is at this time unable to answer, except to say that such prices are immaterial. It admits that considerable water is required in preparing coal at washeries and that complainant had been using water of a stream passing through or near its property. It further admits that its connecting carriers, or some of them, have refused to put in effect a joint through rate which would absorb any switching charge imposed by the defendant upon complainant's traffic. Defendant has no knowledge as to the reason given by the connecting lines for not joining in a through rate, except that such connecting lines or line refused to absorb any switching charge of the defendant unless such switching charge was added to the charges applicable generally throughout the anthracite region to the transportation of coal therefrom. That it admits that in the latter part of the year 1906 a culm bank on the land of this defendant became ignited, and that there was on or about said time a fire in the culm bank of complainant which consumed considerable material and which was extinguished or cut off by complainant at considerable expense. It further admits that the defendant charged the complainant about 50¢ per ton for hauling its coal from the washery to the connection with the Central Railroad of New Jersey.

It denies each and every other allegation in said paragraph marked "IX."

Ninth. Defendant admits that an officer of the complainant has repeatedly and continuously complained and protested against the defendant's alleged ill-treatment of complainant, including some of the alleged illegal acts herein complained of, and has demanded adjustments in respect to such last-mentioned complaints without success.

It denies, as it has heretofore denied, any illegal acts or injustice in its relations with complainant.

Tenth. As to the allegations of paragraph "XI" of said complaint, defendant says that there is no switching charge at point of origin, in addition to any through rate which it has made, applicable to complainant's coal; that it has not unlawfully discriminated against complainant in any switching charge established. It admits that it has established switching charges at 5¢ and 12¢ per gross ton and of $1.50 and $2.00 per car, but it alleges that the circumstances and conditions surrounding the transportation and traffic covered by such charges are substantially dissimilar to those surrounding the traffic of complainant.

Eleventh. As to the paragraph marked "XII" of said complaint, it alleges that it has not completed its check of the detailed statement attached to said complaint and is unable to admit or deny the accuracy thereof, and demands due proof thereof.

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD COMPANY,
By J. L. SEAGER, *Its Attorney Thereunto Duly Authorized.*

(Opinion No. 1925—Interstate Commerce Commission. No. 3592. Marian Coal Company *v.* Delaware, Lackawanna & Western Railroad Company. Submitted May 16, 1912. Decided June 8, 1912.)

Upon complaint attacking defendant's rates on anthracite coal from the Lackawanna (Wyoming) coal region of Pennsylvania to tidewater, *Held:*

1. That the rates of defendant per long ton on anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J. (f. o. b. vessel), of $1.58 on prepared sizes, $1.43 on pea, and $1.28 on buckwheat, are excessive and unreasonable in and to the extent that they exceed $1.33 on prepared sizes, $1.24 on pea, and $1.09 on buckwheat, and that for the future the latter rates must not be exceeded for such movement.

2. That the complainant is entitled to reparation upon basis of the rates herein found reasonable as applied to such of the shipments embraced in its claim as were delivered within the statutory period of two years prior to the date of filing complaint. No conclusion as to the amount of the award will be given at this time, and this question will be held in abeyance for determination in a supplemental report.

H. C. Reynolds for complainant.
W. S. Jenney and J. L. Seager for defendant.

REPORT OF THE COMMISSION.

MEYER, Commissioner:

The complaint in this proceeding, filed on October 18, 1910, puts in issue the reasonableness of defendant's rates, local and proportional, on anthracite coal from Taylor, Pa., to all points on that line, and specifically seeks the establishment by the commission of rates from the Lackawanna (Wyoming) coal region of Pennsylvania to Hoboken, N. J., f. o. b. vessel there, of not more than 95 cents per gross ton on sizes larger than pea, 90 cents on sizes known as pea and buckwheat, and 75 cents on sizes known as rice and barley. Reparation in the sum of $55,238.27 is asked for the imposition of alleged excessive rates on numerous carload shipments.

On March 13, 1911, the complainant filed another petition, No. 3931, in which it asks that the commission require the defendant herein and other carriers to establish through routes and joint rates from Taylor to specified points without the State of Pennsylvania. This complaint and No. 3592 were heard together, but before the hearing had been concluded it was announced that certain of the defendants would establish through routes and joint rates in connection with the Delaware, Lackawanna & Western Railroad. This intention led to an agreement with the complainant to discontinue further proceedings in No. 3931 unless the routes and rates were not made effective as proposed. It appears that only two of the defendants, the Central Railroad of New Jersey and the Pennsylvania Railroad, have published joint rates to points on their lines. Under the circumstances we can not in justice to the complainant dismiss this case. If an adjustment of the matter, as outlined at the hearing, is not made by all the defendants, as it has been made by the above-named two, the proceeding will be resumed with the view of making an appropriate order. The reasonableness per se of the rates established or proposed is not in issue, and the agreement in question does not prejudice the right of the complainant to test the reasonableness of such rates by the filing of a new petition.

The petitioner is a corporation engaged in the business of cleaning, preparing, shipping, and selling that character of anthracite coal known in the trade as "washery" coal, reclaiming from the refuse discarded in the early history of anthracite mining the small pieces

which at such early period were not marketable, but which are now valuable, especially for steaming purposes, owing to improved methods of preparation and draft grates. The washery of complainant at which such refuse is prepared for the market is located in the borough of Taylor, Lackawanna County, Pa., about 2,500 feet from the Bloomsburg division of defendant's line. It is served by a spur track connecting with such division near Taylor, a point about 3 miles west of Scranton. The Bloomsburg division is that part of defendant's road upon which originates the bulk of its anthracite tonnage, being located in what is known as the "northern" anthracite region, and runs in a northwesterly direction from Northumberland to Scranton, a distance of about 80 miles. The main line of defendant runs in a southeasterly direction from Buffalo, N. Y., through Scranton to tidewater at Hoboken, N. J., a distance of 411 miles.

The present rates per gross ton from Taylor, Pa., to tidewater (f. o. b. vessels, Hoboken N. J.), which complainant specifically seeks to have reduced to the basis before noted, are as follows: Prepared (larger than pea), $1.58; pea, $1.43; buckwheat, $1.28; rice and smaller, $1.13. The distance from Taylor to Hoboken is 147.8 miles, and these rates per ton-mile are 10.6, 9.6, 8.6, and 7.6 mills, respectively, or an average revenue on the four rates of 9.1 mills. On basis of the rates sought by complainant, the ton-mile revenues would approximate 6.4 mills on prepared, 6 mills on pea and buckwheat, and 5 mills on rice and barley.

These proportional rates are also applicable to the transportation of anthracite coal to tidewater from all the collieries and washeries reached by defendant's line, and have been in effect since June 1, 1903. It is urged by complainant that the average distance from these various points to tidewater is 148 miles, but the defendant claims an average of 155 miles, stating that its auditing department figures the average haul as being in excess of 10 miles above the distance from Scranton to tidewater. Accepting the figure advanced by defendant, the ton-mile earnings on these rates will approximate 10.2 9.2, 8.2, and 7.2 mills, respectively, or an average of 8.7 mills. It will be noted that this line haul of 155 miles is not reckoned via the new "cut-off" line, Delaware Water Gap to Netcong. The completion of this cut-off in December, 1911, reduced the distance 12 miles, or from 155 to 143 miles.

In substantiation of the charge that these rates are excessive, the complainant makes numerous comparisons with rates between other points on selected commodities, including anthracite and bituminous coal, sand, etc. These comparisons reveal lower ton-mile earnings than under the rates of defendant, and the complainant asserted that this showing condemns such rates. Comparisons of ton-mile revenues are frequently resorted to by the commission, and several such comparisons are made in this report. Their limitations have repeatedly been pointed out by us in previous cases.

The defendant, in denying the allegations of the petition, attempts to justify its rates on the ground of the expensive character of the service performed, particularly the terminal expenses. The testimony shows that empty cars come into the anthracite region, and are distributed from the yards to the collieries and washeries. These cars are switched and classified on mine spurs. After they are loaded they are assembled at various points and are then forwarded to the so-called classification yards. The assembling point from the Marian washery appears to be the Taylor yards, and the classification point the Hampton yards. The classification performed at these yards appears to be simply the separation of the tonnage moving north toward Buffalo and that moving south to tide, except as to the Buffalo and intermediate points traffic there is a further classification into two sizes of coal, and likewise to local points south of Scranton moving short distances. On the great bulk of the anthracite tonnage, which appears normally to be in the direction of tidewater, the only classification into sizes takes place at Secaucus, N. J., a point on the New Jersey meadows a few miles outside of Hoboken. From that point it is moved to Hoboken for local delivery, or delivered on board ships.

It is claimed that coal, unlike other commodities, is a nonproducing commodity, affording no tonnage other than such as may be supplied by the use of steam generated from it; that on account of the peculiar condition of the trade, cars are often supplied in excess of the actual demand and are held free from demurrage while awaiting loading; reconsignment is permitted without charge; stoppage in transit for storage for an unlimited period is granted free of charge; 97 per cent of the cars are hauled back to the mines empty; and, in general, that the handling of this commodity is different and more expensive than that of other traffic.

While the record supports some of the contentions of defendant, it is not shown that it costs more to handle the coal traffic than other freight. The complainant, to sustain its demand for lower rates, points to the fact that the ton-mile earnings on defendant's coal traffic have been very high. Following is a statement of the ton-mile earnings on all traffic (revenue-earning freight), anthracite traffic, and for all other than anthracite traffic (revenue-earning freight) for the years 1909 to 1911, inclusive, compiled from the annual reports of the defendant to the commission.

Statement compiled from the annual reports filed with the Interstate Commerce Commission in behalf of the Delaware, Lackawanna & Western Railroad Co. for the years ending June 30, 1909, to June 30, 1911.

ALL REVENUE-EARNING FREIGHT TRAFFIC.

Item.	1909	1910	1911
Total tonnage	19,053,696	21,603,849	21,563,915
Total revenue	$24,832,786.66	$26,789,316.44	$26,667,755.87
Ton-mileage	3,363,562,727	3,675,394,577	3,642,161,113
Ton-per-mile revenue.....mills	7.38	7.29	7.16

ANTHRACITE COAL.

Item.	1909	1910	1911
Total tonnage.....gross tons	10,033,827	10,298,870	9,644,864
Revenue	$14,560,031	$14,544,731	$13,637,892
Ton-mileage	1,870,431,785	1,929,304,534	1,828,965,293
Ton-per-mile revenue:			
Mills per ton of 2,240 pounds	7.75	7.54	7.46
Mills per ton of 2,000 pounds	6.92	6.73	6.66

ALL REVENUE-EARNING FREIGHT TRAFFIC OTHER THAN ANTHRACITE COAL.

Item.	1909	1910	1911
Total tonnage	9,019,869	11,304,979	11,919,051
Revenue	$10,272,755.66	$12,244,585.44	$12,429,863.87
Ton-mileage	1,493,130,942	1,746,090,043	1,814,195,820
Ton-per-mile revenue.....mills	6.81	7.01	6.85

That the traffic handled by the defendant has been very remunerative is revealed by the following financial statement and condensed balance sheet compiled from the annual reports of that carrier to the commission for the last four years:

The Delaware, Lackawanna & Western Railroad Co. financial statement for years 1908–1911.

[Compiled from annual reports to the Interstate Commerce Commission.]

	1911	1910	1909	1908
INCOME ACCOUNT.				
Operating revenues	$35,947,066	$36,005,987	$33,553,436	$33,810,254
Operating expenses	21,627,942	19,292,769	18,477,713	19,622,043
Net operating revenue	14,319,124	16,713,218	15,075,723	14,188,211
Net revenue from outside operations	295,524	280,673	304,036	245,165
Total net revenue	14,614,648	16,993,891	15,379,758	14,433,376
Taxes accrued	1,640,564	1,516,000	1,094,400	1,290,300
Operating income	12,973,084	15,477,891	14,285,358	13,143,076
Other income	1,039,552	1,048,960	1,422,827	1,382,884
Gross corporate income	14,013,536	16,526,851	15,708,185	14,525,960
Rents and miscellaneous deductions	5,476,000	5,531,728	5,500,646	5,590,860
Interest on funded debt	6,486	6,486	.....	35,531
Dividends from income [1]	6,028,800	6,028,786	5,240,000	5,240,000
Appropriations for betterments	2,554,375	2,471,920	1,676,375	3,540,120
Balance to profit and loss	[2] 52,125	[2] 2,488,831	[2] 3,291,164	[2] 299,449
PROFIT AND LOSS.				
Balance at beginning of year	32,072,279	29,819,591	31,922,627	28,274,900
Other properties—profit	3,228,958	4,079,377	4,634,635	3,614,063
Dividends from surplus [3]	.....	17,600,000	.....	.....
Credit balance to balance sheet after other adjustments are made	35,362,685	22,072,279	29,819,591	31,922,627
BALANCE SHEET.				
Assets:				
Road and equipment, less reserves for accrued depreciation	42,301,594	38,848,710		
Securities	17,323,041	13,666,707		
Other investments	2,957,897	2,817,450		
Working assets	19,356,547	19,846,994		
Deferred debit items	5,241,117	6,319,291		
Total	87,179,996	81,499,131		
Liabilities:				
Stock	30,347,720	30,347,720		Balance sheet form not comparable with 1910 and 1911.
Mortgage bonds	320,000	320,000		
Working liabilities	6,597,776	6,941,021		
Accrued liabilities not due	3,047,304	2,797,343		
Deferred credit items	179,023	399,656		
Appropriated surplus	11,355,488	8,801,112		
Balance	35,362,685	22,072,279		
Total	87,179,996	81,499,131		

[1] Debit.
[2] Credit.
[3] Rate of dividends from both income and surplus, 1911, 20 per cent; 1910, 85 per cent; 1909, 20 per cent; 1908, 20 per cent.

NOTE.—The capitalization covers both railroad and coal properties. "In former reports an assignment of $10,000,000 was made to other properties, purporting to represent the capital cost of coal properties, etc. The division was purely arbitrary and had no basis. The two interests are inseparable and we do not care to guess how much is applicable to either." (Annual Report, 1908, p. 28.)

This financial statement shows a high degree of prosperity. With practically no bonded indebtedness, the dividends actually paid in four years are nearly one and a half times the par value of the stock. At the same time there have been expended, since June 30, 1907, out of income for improvements over eleven million dollars, leaving a surplus in 1911 of over thirty-five million dollars. It is true that these returns in part come out of the profits of coal mining, but the capitalization covers both the railroad and coal properties. It should be noted, however, that the capitalization of the Delaware, Lackawanna & Western per mile of all tracks is low as compared with roads in this territory, including the other anthracite roads.

In the case of Meeker & Co. *v.* L. V. R. R. Co., 21 I. C. C., 129, the commission reached the conclusion that the rates for the transportation of coal from the Wyoming region of Pennsylvania to Perth Amboy, N. J. (tidewater), of $1.55 per ton on prepared sizes, $1.40 on pea, and $1.20 on buckwheat, were unreasonable so far as they exceeded $1.40 on prepared sizes, $1.30 on pea, and $1.15 on buckwheat. These reductions of 15, 10, and 5 cents, respectively, were on rates which applied for an average distance of 165 miles. The maximum rates established by the commission afford the carrier ton-mile earnings of 8.48, 7.87, and 6.96 mills, respectively. Upon this basis the

rates to tidewater of the defendant herein would be approximately $1.31 on prepared sizes, $1.22 on pea, and $1.08 on buckwheat.

Following is a comparison for the past 10 years of the anthracite coal rates per gross ton maintained by the Lackawanna and Lehigh Valley Railroads and the Central Railroad of New Jersey from the Wyoming region of Pennsylvania to tidewater:

From—	To—	Period.	Prepared sizes.	Pea.	Buckwheat and culm.
Mines on Central R. R. of New Jersey.	Elizabethport, N. J., and Port Johnston, N. J.	Jan. 1, 1902, to Jan. 15, 1905, inclusive.	$1.55	$1.40	$1.20
					Buckwheat No. 1.
		Jan. 16, 1905, to date.	1.55	1.40	1.20
Mines on Lehigh Valley R. R. (Lehigh, Schuylkill, and Wyoming regions).	Perth Amboy, N. J., f. o. b. vessels.	Jan. 1, 1902, to Nov. 15, 1903, inclusive.	1.55	1.40	1.25
					Buckwheat.
		Nov. 16, 1903, to Jan. 9, 1905, inclusive.	1.55	1.40	1.25
		Jan. 10, 1905, to Oct. 14, 1911, inclusive.	1.55	1.40	1.20
Lehigh and Schuylkill regions.	do	Oct. 15, 1911, to date.	1.55	1.40	1.20
Wyoming region.	do	do	1.40	1.20	1.15
	Hoboken, N. J., f. o. b. vessels	June 1, 1902, to Feb. 25, 1912, inclusive.	1.58	1.43	1.28
Mines on Delaware, Lackawanna & Western R. R.	New York Lighterage Station, N. J., f. o. b. vessels.	Feb. 26, 1912, to date.	1.58	1.43	1.28

It will be seen from this table that the tidewater rates on prepared sizes, pea, and buckwheat over these lines have remained unchanged for 10 years past except over the Lehigh Valley, which reduced its rate on buckwheat 5 cents per ton on January 16, 1905, and on October 15, 1911, established the lower rates on the three sizes in accordance with the commission's order in the Meeker case, supra. In this connection it is worthy of note that this carrier confined the latter reduction to the rates from the Wyoming region alone, although it had always, prior to that time, maintained the same rates from the Lehigh, Schuylkill, and Wyoming regions.

The defendant and the Lehigh Valley Railroad also transport anthracite coal from the Wyoming region to the Lake Erie port of Buffalo for shipment beyond. A comparison of the present rates per gross ton for this movement is as follows:

	Prepared sizes.	Pea.	Buckwheat.	Rice and barley.
Mines on Delaware, Lackawanna & Western R. R. to Buffalo, N. Y.	$2.00	$1.75	$1.75	$1.75
Mines on Lehigh Valley R. R. to Buffalo, N. Y., f. o. b. vessel	2.25	2.00	2.00	2.00
Mines on Lehigh Valley R. R. to Buffalo, N. Y., for reshipment via rail	2.00	1.75	1.75	1.75

The distance to Buffalo via the line of the defendant from Wyoming, Pa., which may be taken as a representative point of origin, is 277.6 miles, and the rate per ton per mile on prepared sizes is 7.2 mills, or 3.4 mills less than the rate under attack, from Taylor, Pa., to tidewater, a distance of 147.8 miles. Via the Lehigh Valley from Wyoming, Pa., to Buffalo the distance is 273 miles, and the rate per ton per mile on prepared sizes, for reshipment by rail, is 7.3 mills, and f. o. b. vessel 8.2 mills. The Lehigh Valley rate on prepared sizes from the Wyoming region to tidewater, a distance of 165 miles, was, until reduced by the commission, 9.4 mills. This table shows that on coal to the Lakes no difference is made in the rates on pea, buckwheat, rice, and barley.

A study of the anthracite-coal movement of the principal coal-carrying roads shows that the bulk of the tidewater coal goes to the New York terminals, and that this tonnage is greatly in excess of the aggregate tonnage to all Lake Erie and Lake Ontario ports, including Buffalo, for domestic as well as Canadian destinations. The following is a statement of the total anthracite movement of eight originating carriers for the last two calendar years:

Anthracite coal movement.

Shipments by railroads, via—	1910	1911
	Long tons.	*Long tons.*
Philadelphia & Reading	12,445,733	13,265,738
Lehigh Valley	11,195,765	12,606,000
Central Railroad of New Jersey	8,519,135	9,218,802
Delaware, Lackawanna & Western	9,869,076	9,869,620
Delaware & Hudson	6,578,356	7,206,731
Pennsylvania	6,250,976	6,494,733
Erie	7,564,198	8,800,179
New York, Ontario & Western	2,772,547	2,493,476
Total	64,995,786	69,954,299

The tidewater coal handled at the principal ports was as follows:

Tidewater coal handled.

To—	1910	1911
DOMESTIC SHIPMENTS.		
	Long tons.	*Long tons.*
New York	13,591,495	14,651,401
Philadelphia	1,980,830	2,197,750
Baltimore	271,122	257,025
Total domestic shipments	16,243,378	17,106,176
EXPORTS.		
Baltimore	3,248	4,525
New York	62,807	87,747
Newark, N. J	21,385	36,964
Perth Amboy, N. J	42,591	33,547
Philadelphia	74,733	52,984
Total	209,764	214,867
Total shipments	16,453,142	17,321,043

These figures show the quantities of anthracite coal handled over tidewater docks at New York, Philadelphia, and Baltimore; also exports from these three ports as well as from Newark and Perth Amboy, N. J. Some of these exports, especially at New York, may be contained in the totals of tidewater coal reported by the carriers, but as the exports are relatively small the error resulting from either adding or disregarding the export figures would not be very serious.

The lake shipments of anthracite coal during the same calendar years were as follows:

Lake shipments of anthracite coal.

	1910	1911
TO DOMESTIC DESTINATIONS.		
	Short tons.	*Short tons.*
From Lake Erie ports	3,927,306	4,074,383
From Lake Ontario ports	226,366	254,419
Total domestic	4,153,472	4,328,802
Equivalent in long tons	3,708,904	3,865,002
EXPORTS BY LAKE.		
	Long tons.	*Long tons.*
From Buffalo customs district	320,677	402,588
From Oswego[1] customs district	456,627	778,437
Total, long tons	4,486,208	5,046,027

[1] Figures represent probably exports by lake as well as rail; exports by lake only are not given. The customs district of Oswego includes Sodus Point and Fair Haven.

The foregoing tables have been compiled from data in the possession of the commission.

No definite calculation of initial and terminal expenses was submitted by defendant although it endeavored to show that they are "extremely expensive." It is clear, however, that any possible allowance on account of such extra cost would not bring the total operating expenses to a point where rates of $1.33 on prepared sizes, $1.24 on pea, and $1.09 on buckwheat would not be highly remunerative for the average haul of 155 miles from the mines to tidewater. These rates are based on a consideration of the ton-mile rates established by the commission in the Meeker case, supra, making due allowance for the fact that for a shorter distance the ton-mile rate should be slightly higher.

Considering all the facts of record, we are of the opinion that the defendant's rates per long ton on anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J. (f. o. b. vessel), of $1.58 on prepared sizes, $1.43 on pea, and $1.28 on buckwheat are excessive and unreasonable in and to the extent that they exceed $1.33 on prepared sizes, $1.24 on pea, and $1.09 on buckwheat, and that for the future the latter rates must not be exceeded for such movement.

We are further of the opinion that the complainant is entitled to reparation upon basis of the rates herein found reasonable as applied to such of the shipments embraced in its claim as were delivered within the statutory period of two years prior to the date of filing complaint. No conclusion as to the amount of the award will be given at this time, and this question will be held in abeyance for determination in a supplemental report.

The complaint contains numerous allegations not connected with the rate. All of them relate to the manner of conduct of the carrier's business in certain respects. The commission is charged with the duty of keeping itself informed with respect to the manner in which this business is conducted, and therefore this report might well devote attention to such matters. However, the petitioner is primarily interested in the rates in question, and we are disposing of that feature of its complaint at this time to avoid the delay which a fair consideration of the collateral issues might necessitate. The extent to which, if any, such collateral issues will be dealt with in a formal report is a matter for future determination.

An order will be issued in accordance with the conclusions herein expressed.

ORDER.

(At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 8th day of June, A. D. 1912. No. 3592. Marian Coal Company v. the Delaware, Lackawanna & Western Railroad Company.)

1. This case being at issue upon complaint and answer on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the

commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof, and having found that the above-named defendant's present rates for the transportation of anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J. (f. o. b. vessel), are, to the extent that said rates exceed those named in paragraph 3 hereof, unreasonable and unjust:

2. *It is ordered*, That said defendant be, and it is hereby, notified and required to cease and desist, on or before the 15th day of August, 1912, and for a period of not less than two years thereafter abstain, from exacting their present rates for the transportation of anthracite coal in carloads from the point of origin named in paragraph 1 hereof to the points of destination mentioned in said paragraph.

3. *It is further ordered*, That said defendant be, and it is hereby, notified and required to establish, on or before the 15th day of August, 1912, and maintain in force thereafter during a period of not less than two years, rates for the transportation of anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J. (f. o. b. vessel), which shall not exceed the following per long ton: $1.33 on prepared sizes, $1.24 on pea, and $1.09 on buckwheat.

By the commission:

Secretary.

(Opinion No. 2012—Interstate Commerce Commission. No. 3592. Marian Coal Company v. Delaware, Lackawanna & Western Railroad Company. Decided October 19 1912.)

Defendant's rate per long ton on anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J., f. o. b. vessel, of $1.13 on rice and smaller of sizes found excessive and unreasonable to the extent that it exceeds 98 cents per long ton.

H. C. Reynolds for complainant.
W. S. Jenney and J. L. Seager for defendant.

SUPPLEMENTAL REPORT OF THE COMMISSION.

MEYER, Commissioner:

The original report in this case (24 I. C. C., 140) found that the rates of defendant per long ton on anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J., f. o. b. vessel, of $1.58 on prepared sizes, $1.43 on pea, and $1.28 on buckwheat were excessive and unreasonable in and to the extent that they exceeded $1.33 on prepared sizes, $1.24 on pea, and $1.09 on buckwheat, and that for the future the latter rates must not be exceeded for such movement. No finding was made as to the rate on the smaller sizes, barley and rice, although the complaint also put such sizes in issue.

The complainant has applied for a modification of our order, requesting that we reduce defendant's rate of $1.13 per long ton on rice and smaller from Taylor, Pa., to tidewater, f. o. b. vessel, Hoboken, N. J., to a degree proportionate to the reduction on the larger sizes. We are asked to establish rates on rice, barley, and culm. The original petition does not involve culm, and no testimony covering it was submitted; therefore we can not in this proceeding consider the matter of a specific rate on that grade of coal.

It appears, however, from further investigation that our original findings should be supplemented so as to include a rate on rice and barley. The record shows that the complainant sought the establishment of a rate on these sizes and introduced evidence in support thereof. Our former report embraced a consideration of defendant's rate of $1.13 on rice and smaller (which would apply on rice and barley) and showed that such rate per ton-mile for the distance of 147.8 miles from Taylor to Hoboken amounts to 7.6 mills; also that on basis of the rate sought by complainant the ton-mile revenue would be 5 mills. We further pointed out that the ton-mile earnings on the rate of $1.13 approximate 7.2 mills when we accept defendant's claim of 155 miles as the average distance to tidewater from all the collieries and washeries reached by its line.

A large part of the shipments involved in the original claim for reparation consisted of rice and barley, and the complainant asserts that it still has a considerable tonnage of these sizes to ship. In our former report we found that the rate on buckwheat should not exceed $1.09, and it is apparent that our failure to fix a rate on rice and barley, which are in size and value less than buckwheat, would leave in force the rate of $1.13 on such smaller sizes, or a rate 4 cents greater than the rate fixed by us on the next larger size.

We based our conclusions with respect to the rates on prepared sizes, pea and buckwheat, upon the evidence of record and the facts adduced from our examination and analysis of the annual reports filed by defendant in their relation to the rates on coal. We think such evidence and facts apply with equal force to the rate on rice and smaller, and in consideration thereof it is our judgment and determination that defendant's rate per long ton on anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J., f. o. b. vessel, of $1.13 on rice and smaller is excessive and unreasonable to the extent that it exceeds 98 cents per long ton and that for the future the latter rate must not be exceeded for such movement. An order will be issued in accordance with these conclusions.

We further find that the application of defendant's rate of $1.13 per long ton upon such of complainant's shipments of rice and smaller sizes embraced in its claim as were delivered within the statutory period of two years prior to the date of filing the complaint damaged complainant to the extent of the difference between the amount which it did pay on such shipments and the amount which it would have paid at the rate of 98 cents per long ton herein found reasonable, and that it is entitled to reparation in the sum of such difference. An order awarding reparation will be issued following the receipt and approval by the commission of an itemized statement agreed to by the complainant and defendant which shall show the amount due the complainant under our findings herein.

SUPPLEMENTAL ORDER.

(At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 19th day of October, A. D. 1912. No. 3592. Marian Coal Company v. The Delaware, Lackawanna & Western Railroad Company.)

1. Upon further consideration of the record in the above-entitled case, the commission having found that the above-named defendant's present rate for the transportation in carloads of anthracite coal, rice and smaller sizes, from Taylor, Pa., to Hoboken or New York lighterage station, N. J., f. o. b. vessel, is, to the extent that said rate exceeds the rate named in paragraph 3 hereof, excessive and unreasonable.

2. *It is ordered*, That said defendant be, and it is hereby, notified and required to cease and desist, on or before the 1st day of January, 1913, and for a period of not less than two years thereafter, abstain from exacting its present rate for the transportation in carloads of anthracite coal, rice and smaller sizes, from Taylor, Pa., to Hoboken or New York lighterage station, N. J., f. o. b. vessel.

3. *It is further ordered*, That said defendant be, and it is hereby, notified and required to establish, on or before the 1st day of January, 1913, upon notice to the Interstate Commerce Commission and the general public by not less than five days, filing and posting in the manner prescribed in section 6 of the act to regulate commerce and for a period of two years after said 1st day of January, 1913, to maintain and apply a rate for the transportation in carloads of anthracite coal, rice and smaller sizes, from Taylor, Pa., to Hoboken or New York lighterage station, N. J., f. o. b. vessel, which shall not exceed 98 cents per long ton.

By the commission:

Secretary.

Mr. Manager STERLING. Mr. President, I will offer now all printed documents in the cases Nos. 38 and 39, and in what is known as the Meeker case, about which the witness Snyder, the clerk of Commerce Court, testified on Saturday last. We do not want them printed, and we shall not ask to have them printed in the record and read, but they are here for inspection.

Mr. WORTHINGTON. They should be marked in some way for identification.

The PRESIDENT pro tempore. If it is agreeable to counsel that they shall be simply here for the convenience of counsel without being incorporated into the record——

Mr. WORTHINGTON. It is entirely so if they are marked so that they can not get mixed up. They should be marked as exhibits in their regular order.

The PRESIDENT pro tempore. They will be identified in the way suggested by counsel. Will the managers name the witness next desired.

Mr. Manager CLAYTON. We next desire to examine Mr. Loomis.

TESTIMONY OF EDWARD E. LOOMIS.

Edward E. Loomis entered the Chamber.

The PRESIDENT pro tempore. Mr. Loomis, state your name and address.

The WITNESS. Edward E. Loomis; house address, 160 West Fifty-ninth Street, New York; office address, 90 West Street, New York.

Edward E. Loomis, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Mr. Loomis, please state your name and address.—A. Edward E. Loomis; residence, 160 West Fifty-ninth Street, New York.

Q. State whether or not you are connected with the Delaware, Lackawanna & Western Railroad Co., and if so, in what position?—A. I am vice president of the Delaware, Lackawanna & Western Railroad Co.

Q. I will ask you to state, Mr. Loomis, whether or not you had at any time a conversation with Judge Archbald, or he with you, concerning a proposed settlement of disputes between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co., through an attorney, Mr. Watson?—A. We did.

Q. Now, state fully the circumstances of that conversation; tell all about it in your own way.—A. I think it was in the latter part of August, 1911, on one of my inspection trips in Scranton, I met Judge Archbald either on the street or in the club, I do not recollect which, and in the course of our conversation the question of settling up the pending difficulties with the Bolands was raised.

Q. By "the Bolands," you mean the Marian Coal Co.?—A. Yes; the Bolands—the Marian Coal Co.

Q. Their corporation was called the Marian Coal Co.?—A. Yes, sir. I replied to him that it was the policy of our company to settle all cases out of court if we could do so on a fair basis. The judge stated that he thought possibly the case could be settled on a fair basis now, and suggested that I have some one call on Attorney Watson. I agreed to do that, and on my return to the company's office in Scranton our superintendent of the mining department, who would have been the proper party to call on Mr. Watson, as he was more familiar with the case, being away, in his absence I requested our superintendent, or our assistant general superintendent at that time, to call on Mr. Watson and listen to what he had to say.

Q. Please state the name of this official.—A. Mr. Rine was the assistant general superintendent of the railroad. He is the general superintendent now, and I think he was the superintendent at that time. He reported that he had a very short interview with Mr. Watson, but that Mr. Watson wanted to see him again and would let him know when. Mr. Watson did call on him or he telephoned him later. Col. Phillips, the superintendent of our mining department, had returned from his vacation——

Q. Now, Mr. Loomis, at that point permit to ask you whether Mr. Rine reported to you verbally or in writing?—A. Verbally, as I recollect.

Q. Go on with your statement.—A. Mr. Phillips called on Attorney Watson, discussed the case with him, and reported to me in writing. That letter, I think, is in evidence here; I think it is in the record, and I can read it if you wish.

Q. I am trying to find it. [Handing paper to witness.] Examine that letter and see if that is Mr. Phillips's letter to you.—A. It is.

Q. Now, examine the note attached to it and explain to us what that is.—A. This letter from Col. Phillips reports—do you wish me to read this letter or to state in substance what it contains?

Q. I want you to identify it and explain what the note attached to it meant, and there seems to be another paper attached to it.—A. There is. On receipt of this letter I turned it over to our legal department with a view of ascertaining—there were two claims involved in this settlement; one was the claim——

Q. Just wait a moment. I want to get those documents identified. One of those letters is a letter which you received from Mr. Phillips and the other is the note?—A. The indorsement over to our legal department; yes.

Mr. Manager FLOYD (to Mr. Worthington). Do you wish to examine the letter?

Mr. WORTHINGTON. Oh, no; we have seen the letter.

Mr. Manager FLOYD. Mr. President, we ask that the letter be marked as an exhibit and read in evidence, with the note attached to it.

The PRESIDENT pro tempore. The letter will be marked and read as requested. Is it the manager's desire that the paper be handed back to the witness?

Mr. Manager FLOYD. Yes; he can have it if he desires to refresh his memory. We desire to have it read in evidence at this point. I ask the Secretary to read first the letter and then the note.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read the paper marked "U. S. S. Exhibit 39," as follows:

[U. S. S. Exhibit 39.]

DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.,
COAL MINING DEPARTMENT,
Scranton, Pa., September 1, 1911.

Mr. E. E. LOOMIS,
Vice President, New York, N. Y.

DEAR SIR: I have had two conferences with George Watson, attorney, relative to settlement of Boland's claim against our company. He came in this morning and stated that he had a long conference with the Marian Coal Co. people, and after going over all the claims they have against us, particularly the claims for excessive freight rates, he stated that Mr. Boland says there were 376,000 tons of coal shipped by the Marian washery, for which he had paid an excess freight averaging 43 cents a ton. The total amount of this claim alone is $161,680, and Mr. Boland would agree to sell us his washery, turn over his lease, satisfy all claims, etc., now pending against our company if we would pay him this $161,680. Mr. Watson intimated to me that possibly this could be shaded somewhat, and that he would be pleased to go over the matter with you at your earliest convenience. Mr. Watson strongly recommends that this matter be adjusted, for the reason that the Boland people have considerable data that would not be well to disclose before the Interstate Commerce Commission.

I promised to let Mr. Watson know the early part of next week as to whether he can confer with you further relative to this matter. If there is anything further I can do in this matter, please advise.

Yours, truly,

R. A. PHILLIPS.

The SECRETARY. There is a notation on the outside on a paper attached, with the initials "W. S. J." at the top, which reads:

W. S. J.:

How much, if anything, can we afford to offer?

E. E. L.

The SECRETARY. There is another letter attached to this.

Mr. Manager FLOYD. Let me examine that. I did not know the other letter was attached. [Examining paper.] I find that one is simply a copy of the other.

The PRESIDENT pro tempore. Are they both to be filed or only the original copy?

Mr. Manager FLOYD. Detach the copy; it is not necessary to have them both.

Q. (By Mr. Manager FLOYD.) Now, Mr. Loomis, if you desire to make any further statements about that letter you can do so.

The WITNESS. You notice in that letter he refers to two claims which the Bolands had. One was in connection with the freight rate and pending litigation and the other was in connection with the sale of his washery. Upon receipt of that letter I indorsed it over to our legal department to ascertain what, if any, value there was to the claim in the way of excessive freight rates, in their opinion. They conferred with our traffic people, and replied to me that they thought the claim would amount to approximately $2,700. I then, in order to ascertain the value of the washery which he was trying to sell, wrote another letter to Col. Phillips, or, rather, requested Col. Phillips to make a report as to the value of the washery and the Marian Coal Co.'s plant, which he did, and he reported to me that its value would approximate $11,853. That made the total value of Mr. Boland's claim, first, for the freight claims as estimated by our traffic people at that time, about $4,000, and the claims on account of the washery at approximately between $11,000 and $12,000; so that the total claims, you will note, amounted to only about $15,000, as compared with the claim that they were presenting to settle of $161,000.

Q. Mr. Loomis, did Mr. Phillips report to you verbally or in writing?—A. In writing; and that letter was put in evidence. It is under date of September 25, 1911.

Q. Will you examine that letter for the purpose of identification, Mr. Loomis?—A. (After examining paper.) That is correct, sir.

Mr. Manager FLOYD. Mr. President, we ask that the letter be read in evidence at this point and marked an exhibit.

The PRESIDENT pro tempore. The letter will be marked and read by the Secretary.

The Secretary read the paper marked "U. S. S. Exhibit 40," as follows:

[U. S. S. Exhibit 40.]

(Form C. M. D. 92-A. 10-09. Lackawanna Railroad. R. A. Phillips, superintendent; C. E. Tobey, assistant superintendent.)

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.,
COAL MINING DEPARTMENT,
Scranton, Pa., September 25, 1911.

Mr. E. E. LOOMIS,
Vice President, New York, N. Y.

DEAR SIR: Referring to the additional information relative to the value of the Marian Coal Co. property.

Would call your attention to copy of letter of Master Carpenter Robinson to Superintendent Samson, in which you will note that he places no value on the washery building. Mr. Thornton has made a careful appraisement of the machinery, which, you will note by the statement attached, is $11,853.29.

As to the value of the dump, I call your attention to letter from Chief Engineer L. Monte in which you will note there is about from 20,000 to 30,000 tons of coal yet remaining that could be prepared, but the value of it is nothing more than the royalty value, which should not be considered as any value to us as a purchaser.

Therefore the value of the Marian Coal Co. plant to us as it stands would be appraised value of machinery, as made by Mr. Thornton, viz, $11,853.29.

Mr. George Watson has called upon me two or three times, asking for an answer to his proposition. Also if he can arrange to confer with you on the matter of settlement. Please advise me what answer I shall make him.

Yours, truly,

R. A. PHILLIPS.

Q. (By Mr. Manager FLOYD.) Mr. Loomis, I will ask you to state what action you took when Mr. Phillips made this report on September 25, I believe it was?—A. I wrote Judge Archbald in connection therewith under date of September 27.

Q. Will you examine the paper, which I hand you, and state whether or not that is a copy of the letter which you sent to Judge Archbald?—A. (After examining paper.) That is correct.

Mr. Manager FLOYD. Mr. President, we ask that it be read in evidence at this point and marked an exhibit.

The PRESIDENT pro tempore. It will be marked and read.

The Secretary read the paper marked "U. S. S. Exhibit 41," as follows:

[U. S. S. Exhibit 41.]

SEPTEMBER 27, 1911.

Judge R. W. ARCHBALD, *Scranton, Pa.*

MY DEAR JUDGE: As per our recent interview, I instructed our people to call on Attorney Watson in connection with the Boland case, and I find there is little, if any, prospect of our reaching any settlement of this case, owing to the very great difference of opinion as to the merits of Mr. Boland's claims and the value of his properties.

Thanking you, however, for your good efforts in this direction, I am,

Very truly, yours,

———

Q. (By Mr. Manager FLOYD.) This letter is dated September 27, 1911. Did you also write a letter to Mr. Phillips at that time?—A. I did.

Q. Before we get to that, did you reply to Judge Archbald's letter?—A. That is the reply you just read.

Q. Yes; did he reply to your letter—that is what I mean—did he make any reply by letter?—A. He did; yes, sir; the next day, I think it was, on September 28.

Q. I will ask you to examine the paper which I hand you and state whether or not that is Judge Archbald's letter to you in reply to your letter of September 27.—A. (After examining paper.) It is.

Mr. Manager FLOYD. Mr. President, we ask that it be marked an exhibit and read in evidence at this point.

The PRESIDENT pro tempore. It will be marked and read by the Secretary.

The Secretary read the paper marked "U. S. S. Exhibit 42," as follows:

[U. S. S. Exhibit 42.]

(R. Archbald, judge, United States Commerce Court, Washington.)

SCRANTON, PA., *September 28, 1911.*

MY DEAR MR. LOOMIS: I am very sorry to have your letter stating that you have not been able to effect a settlement with Mr. Boland. I trust, however, that the matter is still not beyond remedy. And if I thought that it would help to secure an adjustment I would offer my direct services. I have no interest except to try and do away with an unpleasant situation for both parties, and I hope that this still may be possible.

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager FLOYD.) Mr. Loomis, I ask you to examine this paper and state if that is the paper that you sent to Mr. Phillips on the same date that you wrote Judge Archbald, September 27.—A. (After examining paper.) September 27; yes, sir.

Mr. Manager FLOYD. Mr. President, I will ask that the letter be marked as an exhibit and read in evidence at this point.

The PRESIDENT pro tempore. The letter will be marked and read by the Secretary.

The Secretary read the paper marked "U. S. S. Exhibit 43," as follows:

[U. S. S. Exhibit 43.]

(E. E. Loomis, vice president. Exhibit 131.)

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.,
90 WEST STREET,
New York, September 27, 1911.

Mr. R. A. PHILLIPS,
Superintendent Coal Mining Department, Scranton, Pa.

DEAR SIR: I send you herewith copy of a letter I have this day written Judge Archbald in connection with the settlement of the Boland case. As you must know, the figures Mr. Watson suggested in settlement are simply ridiculous.

In the first place, you are too familiar with the merits of his claims as to our having set fire to the Holden dump, or diverting water from his washery, or as to our preventing him from selling the washery at an advantageous figure for me to enter into any discussion of them. In other words, I think you will agree with me, he would have a pretty hard time to go into court and make out a case in any of these claims.

Assuming we were obliged to adopt the freight rates which have recently been established by the commission in the Meeker case. In this award the commission reduced the freight rate on buckwheat coal to tidewater to $1.15 per ton. They did not, however, reduce the rates on rice and barley. In other words, they O. K.'d the present rates on these two smaller sizes, and it is fair to assume, after doing so, they will not grant a lower rate to Mr. Boland. Assuming that Mr. Boland is entitled to reparation on the buckwheat shipments he has made over our line since he has been operating his washery, based on the findings in the Meeker case, our freight department state he could not recover but $3,774.64.

As to the purchase of his washery, I think you will agree we are not particularly keen to purchase old washery machinery. We have plenty of that on hand ourselves, and the building and bank seem to be of little or no value.

Taking all the matters into consideration, as enumerated in Mr. Seager's letter, copy of which is attached hereto, I doubt if we care to make any offer to Mr. Watson. I can see no objection, however, to your meeting him and explaining to him our position.

From the above you will note we would not be warranted in paying in settlement of this claim more than from $15,000 to $20,000 instead of $161,680. I do not think we even want to put ourselves in position of making an offer to Mr. Watson of $15,000 to $20,000, but, as stated above, I can see no particular objection to explaining to him the reasons for our position.

Yours, very truly,

———,
Vice President.

The SECRETARY. In the first paragraph of the letter, after the word "figures," there is written in pencil "Mr. Watson," the word "he" being stricken out; and after the words "buckwheat coal to tidewater," in the third paragraph, there is written in pencil "to $1.15."

Q. (By Mr. Manager FLOYD.) Mr. Loomis, please state if, shortly after that letter, you received a letter from Mr. Watson concerning this settlement.—A. Yes; I did.

Q. Will you examine the paper I send you and state whether that is the letter?—A. (After examination.) It is.

Q. Please state the date of the letter.—A. October 2, 1911.

Mr. Manager FLOYD. Mr. President, we ask that this be marked as an exhibit and be read in evidence at this point.

The Secretary read as follows:

[U. S. S. Exhibit 44.]

(George M. Watson, attorney at law, Scranton, Pa. In re claim of Marian Coal Co.)

OCTOBER 2, 1911.

Mr. E. E. LOOMIS,
Vice President Delaware, Lackawanna & Western Railroad Co., 90 West Street, New York City.

DEAR SIR: In relation to a matter existing between the Marian Coal Co. and your road and coal department, and also a claim against the traffic department of your road which I have had under consideration here and with which I presume you are more or less familiar, I decided after a conference with your Mr. Phillips, of the coal department, to ask for a meeting with you and the president of your road, Mr. Truesdale, if convenient, at the earliest time you could find your way clear to meet me either in New York or Scranton. If you will kindly advise me either by wire or letter, I will hold myself in readiness to meet you on a few hours' notice.

I am, very truly, yours,

G. M. WATSON.

Q. (By Mr. Manager FLOYD.) I will ask you to state if about the same time you received a letter from Judge Archbald pertaining to the same subject matter; and, if so, examine the paper I send to you and see whether that is the letter.—A. (After examination.) It is. October 3, 1911.

Mr. Manager FLOYD. Mr. President, I will ask that it be marked as an exhibit and be read in evidence at this point.

The Secretary read as follows:

[U. S. S. Exhibit 45.]

UNITED STATES COMMERCE COURT,
Washington, October 3, 1911.

E. E. LOOMIS, Esq.,
Vice President Delaware, Lackawanna & Western,
90 West Street, New York City.

MY DEAR MR. LOOMIS: I understand that there has been a suggestion that Mr. Watson meet you and possibly also Mr. Truesdale, and that Mr. Watson has written asking for an appointment. It seems to me, if I may be permitted to say so, that this is a very good idea. It will give you an opportunity to discuss the Boland claim with Mr. Watson upon a somewhat different basis than Col. Phillips could representing the coal department.

I have little doubt but that it will appear so to you, and it may be altogether unnecessary for me to write about it. But I am sure you will not take it amiss to have me do so, and I shall hope that a settlement may yet be reached in that way. There is nothing like a personal interview to bring about such a result.

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager FLOYD.) Mr. Loomis, I will ask you to examine this paper and see if that is the letter you received from Mr. Phillips relating to the same transaction.—A. (After examination.) It is; dated September 28, 1911.

Mr. Manager FLOYD. We ask that it be marked as an exhibit and read at this point.

The Secretary read as follows:

[U. S. S. Exhibit 46.]

(Form C. M. D. 92-A. 12-10. Lackawanna Railroad. R. A. Phillips, superintendent; C. E. Tobey, assistant superintendent.)

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.,
COAL MINING DEPARTMENT,
Scranton, Pa., September 28, 1911.

Mr. E. E. LOOMIS,
Vice President, New York, N. Y.

DEAR SIR: I have your letter of the 27th instant relative to conference that I have had with Attorney Watson in connection with Marian Coal Co. matters, and would say that I agree with you in this matter and will arrange to handle it as outlined in your letter.

Yours, truly,

R. A. PHILLIPS.

Q. (By Mr. Manager FLOYD.) Mr. Loomis, to refresh your memory, I will ask you to examine this paper and state if it is a letter from Mr. Rine reporting his action in the matter.—A. (After examination.) It may be; I can not say positively. I assume that it is. It is not on his letterhead, but I assume that it is. I do not recall it.

Mr. Manager FLOYD. We will not offer it at this point, then.

Mr. WORTHINGTON. Will you let me look at it?

Mr. Manager FLOYD. Yes, sir. I say we are not offering it at this point.

Mr. WORTHINGTON. I understand.

Q. (By Mr. Manager FLOYD.) I will ask you to state whether or not you had any other conference or conversation with Judge Archbald in regard to this proposed negotiation or settlement except the one you testified to in the beginning of your testimony; and if so, when and where.—A. One short interview in my office in New York.

Q. As nearly as you can, please state the date when it was.—A. That was between September 1 and October 5. That is as near as I can come to it. It was during the time that I was investigating the actual value of the Boland claim, when I was awaiting my reports from the traffic department and from the coal-mining department.

Q. Then, if I understand you, it was between the 1st of September and the 5th of October?—A. Yes, sir.

Q. What did Judge Archbald say to you in that conference?—A. It was nothing but a friendly conference. We did not enter into the merits or discuss it in any way.

Q. But as nearly as you can remember, how did it come about and what did he say?—A. He simply wanted to know, not having heard from me in any way, what progress was being made, and I told him I would call for these reports, and just as soon as I heard from these people I would let him know.

Q. What progress was being made about what?—A. What progress was being made toward finding out the value of this property. In other words, mind you, Mr. Watson up to that time had received no reply from us. I could make no reply until I received the report of the mining department and the traffic department, and there was some time elapsing, mind you,

and it was during that time that the judge wanted to know what progress was being made. I explained to him that I had called upon these people for the reports, and that as soon as I got the reports I would let him know the conclusions.

Q. What I want to bring out clearly is whether or not his conversation related to the attempted settlement through Mr. Watson and himself.—A. I do not remember whether the judge brought up the point or I brought it up. I simply told him that I had received his letter and we would let Mr. Watson know what our conclusions were.

Q. Well, the conversation related to this Watson settlement?—A. Yes; we referred to it in our conversation.

Q. Or the attempted settlement through Mr. Watson?—A. We referred to it in our conversation; yes.

Q. It related to that; that was the matter you were investigating?—A. Yes, sir. I might add that the judge probably was not in my office 10 minutes, all told.

Q. Do you know what he was doing in New York at that time?—A. I do not.

Q. Did he mention any other business?—A. He did not.

Q. Now, Mr. Loomis, state whether or not the conference with Mr. Truesdale and yourself requested in the letter from Mr. Watson was granted; and if so, state when and where it took place.—A. It was. It occurred in Scranton on October 5.

Q. Who was present?—A. Mr. Watson; Mr. Truesdale; Mr. Phillips, superintendent of the coal-mining department; Mr. Teber, assistant superintendent; and Mr. Reese, attorney; and myself.

Q. And that was held on the 5th of October?—A. The 5th of October, in Scranton.

Q. Did Mr. Watson appear there and submit a proposition to the officials of your company—to Mr. Truesdale?—A. He did.

Q. What was that proposition?—A. A settlement for $161,000, approximately.

Q. How long did that conference last?—A. I do not know that I remember exactly. It was long drawn out. We got nowhere with it, though.

Q. The proposition was turned down by your company?—A. It was.

Q. Just tell as nearly as you can what took place at the conference, what was said, and what was discussed.—A. He presented the case from their standpoint. He tried to impress us with the importance of settling it, which we failed to see and declined to consider. That is practically all that occurred.

Q. What was it that he was trying to settle—all the disputes between the two companies?—A. Yes, sir.

Q. I will ask you to state whether Mr. Watson at that conference presented any data or facts or referred to what is known as the Meeker case as a reason why you should settle?—A. I think he did make some reference to the Meeker case, but I do not remember what it was.

Mr. REED. Mr. President, I desire to send up a question which I should like to have propounded to the witness.

The PRESIDENT pro tempore. The Senator from Missouri sends up a question which he desires propounded to the witness. It will be read.

The Secretary read the question, as follows:

Q. You state that Judge Archbald was in your office only about 10 minutes. Did he have any other business there except to discuss the matters you have referred to?

The WITNESS. I think that was all that was discussed. He passed the time of day, and we may have had some social exchange of courtesies, and that is all. He raised this point, and I told him as soon as I heard from these people I would let him know.

Q. (By Mr. Manager FLOYD.) I will ask you to state if your company at the time these negotiations were being carried on had a suit pending in the Commerce Court or were interested in any litigation before the Commerce Court?

Mr. WORTHINGTON. I think that is to be shown by the record.

Mr. Manager WEBB. That is admitted in the pleadings, Mr. President.

Mr. WORTHINGTON. Then why prove it?

Mr. Manager FLOYD. I think——

The WITNESS. I know only from hearsay. I do not follow that. That is not in my department, and I have nothing at all to do with it, but I understand there was.

Q. (By Mr. Manager FLOYD.) Well, you did know it, as a matter of fact?—A. In a general way, yes. But I never attended any of the meetings.

Q. What was the principal reason that Mr. Watson gave in this conference as to why the settlement should be made?—A. I beg your pardon.

Q. What was the principal reason or argument that Mr. Watson presented to the officials of the railroad company why he thought you ought to settle on a basis of $161,000?—A. He tried to convince us that it was a bargain; that is, that it was worth that. He had an exaggerated idea of the value of the washery.

Q. Did he say anything about the necessity of settling this litigation on account of the ruling of the Interstate Commerce Commission in the Meeker case?—A. I think he did say it was desirable.

Q. He urged that as a reason also?—A. I am not clear on that, but I think he did.

Q. In one of these letters, if I remember correctly reading it, you referred to the proposition as ridiculous to settle on the basis proposed by Mr. Watson. Do you so regard it?

Mr. WORTHINGTON. One moment, please. I object to what he thinks now about it.

Mr. Manager FLOYD. He said in his letter——

Mr. WORTHINGTON. He said in his letter that he thought the claim was absurd. If you want to ask him if he believed what he wrote, there is no objection to it, but I object to your asking him what he thinks about it now.

The PRESIDENT pro tempore. The Chair understands the question to be whether the witness is of the same opinion as to the value at this time.

Mr. Manager FLOYD. That is the question exactly; whether he regards that as an excessive demand to settle the suits—so excessive as to be ridiculous.

Q. (By Mr. Manager FLOYD.) Do you still so regard it?—A. Certainly; his claim as to the value of the washery is ridiculous. As you probably know, the findings in the case of the Lackawanna before the Interstate Commerce Commission were not based on the findings in the Meeker case, so our estimate of the value of the claim from the rate standpoint at that time naturally was not accurate when we got our findings in the Interstate Commerce Commission later. Just what that amounts to I am not prepared to say.

Q. I ask you now if you at this time consider a demand for $161,000 ridiculous or preposterous?—A. I could not answer that without getting a report from our traffic department and see how the findings in the Marian Coal Co. case would work out—the same as I did before.

Q. Then since that letter was written, the case of the Marian Coal Co. has been decided by the Interstate Commerce Commission adverse to your company, has it not?—A. It has.

Q. And you could not tell exactly about that until you had ascertained the effect of those findings; is that what you mean?—A. That is correct.

Q. You say the rates in this case, which was decided against your company, were not based upon the Meeker rates?—A. They were different.

Q. If the Meeker rates were applied in your case, would you regard the proposition submitted by Mr. Watson as ridiculous or excessive?—A. Yes, sir.

Q. I will ask you to state, Mr. Loomis, if the conference on the 5th of October was the end of these negotiations through Mr. Watson, about which Judge Archbald spoke to you?—A. So far as I am concerned; yes, sir.

Q. Did either of the Bolands ever afterwards confer with you looking to further negotiation?—A. No, sir.

Q. To refresh your memory, did C. G. Boland ever call on you afterwards?—A. He called at my office, but we did not go into the details of the settlement of this case, as I testified before.

Mr. Manager FLOYD. That is all.

Cross-examination:

Q. (By Mr. WORTHINGTON.) How long have you known Judge Archbald?—A. I should say for seven or eight years.

Q. Did you formerly live in Scranton?—A. Yes, sir.

Q. Did you know him well there?—A. I knew him as a citizen; yes, sir.

Q. Was Judge Archbald present at any time at any talk you had with Mr. Watson?—A. No, sir.

Q. What do you mean by the expression in one of theses letters read in evidence about setting fire to something?—A. That is one of the claims that Mr. Boland made.

Q. In order that all may know what I am asking about I will read this, which I find in one of these letters.

Mr. Manager FLOYD. On what page is that?

Mr. WORTHINGTON. At top of page 1610. This is your letter of September 27, 1911, to Mr. R. A. Phillips, your superintendent, saying:

In the first place you are too familiar with the merits of his claims—

That is, Boland's claims, I take it—

as to our having set fire to the Holden damp or diverting water from his washery or as to our preventing him from selling the washery at an advantageous figure for me to enter into any discussion of them.

What does that mean?—A. It means what is says. It is a long story. He had filed a lot of claims against us or, rather, he made a lot of claims against us from time to time in connection with all those matters, to which we attached no importance.

Q. You were asked whether this negotiation with Mr. Watson was to settle all the transactions between the two companies. That is what Mr. Watson wanted you to settle. Did you have any transactions between the Marian Coal Co. and the Lackawanna Co. then except the suit in the Interstate Commerce Commission?—A. Yes, sir. The claims he wanted to settle were for selling the Marian washery as well.

Q. But you did not have any litigation with him about the Marian washery?—A. No, sir.

Q. Was his proposition to you to sell the washery or to sell part of the stock of the Marian Coal Co.?—A. To sell the washery.

Q. Did you ever hear anything about any proposition to you or to your company to have the company purchase two-thirds of the stock of the Marian Coal Co.?—A. No, sir.

Q. In reference to the amount of the claim, did you have any inquiry made as to whether Watson's figures were right when you stated in your letter of September 1 that Mr. Boland said there were 376,000 tons of coal shipped by the washery? Did you have any investigation made to see whether that was true?—A. I did not.

Q. When you say the claim was excessive did you mean to express any opinion as to whether or not there were that many thousands of tons that had been shipped by the Marian Coal Co. over your road?—A. That was our traffic department. I called upon them for the value of the claim, and they based it on the Meeker case, which covered only the buckwheat coal.

Q. You were basing your opinion that it was ridiculous upon the report of the traffic department and did not know yourself?—A. No, sir; I never figured it out. I depended upon them for the value of the freight claims.

Mr. WORTHINGTON. That is all.

Mr. Manager FLOYD. That is all.

The PRESIDENT pro tempore. The witness may retire. Do the managers or the counsel desire this witness retained?

Mr. WORTHINGTON. I may say it is almost a certainty that we shall be required to recall him, instead of now asking him questions, under the rulings which have been made.

The PRESIDENT pro tempore. Under the present summons?

Mr. WORTHINGTON. We are perfectly willing that he shall go back to his duties and come here on telegraphic order, if that is satisfactory to him.

The WITNESS. It is satisfactory to me.

Mr. Manager FLOYD. So far as the managers are concerned, we are willing to discharge him under our summons.

The PRESIDENT pro tempore. Does counsel desire his recall for cross-examination or examination in chief?

Mr. WORTHINGTON. I think under the rulings which have been made we will have to call him as our witness.

The PRESIDENT pro tempore. Very well. The witness is then discharged under the present summons, and as the Chair understands it, counsel desires a subpœna for him as a witness.

Mr. WORTHINGTON. I hope we will not be put to that trouble. The witness is perfectly willing to return on telegraphic order.

The PRESIDENT pro tempore. Unless the witness will respond to such a call.

Mr. WORTHINGTON. Very well.

Mr. Manager FLOYD. Call Mr. Rine.

TESTIMONY OF EDWIN M. RINE.

Edwin M. Rine, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Please state your name and place of residence?—A. Edwin M. Rine, Scranton, Pa.

Q. Are you connected in any way with the Delaware, Lackawanna & Western Railroad Co.?—A. Yes, sir; general superintendent.

Q. Were you connected with that railroad company in August, 1911?—A. Yes, sir.

Q. In the same capacity?—A. Assistant general superintendent at that time.

Q. I will ask you to state if some time in August, 1911, or about that time, Mr. Loomis gave you directions to confer with one Mr. Watson, an attorney of Scranton?—A. Yes, sir; he did.

Q. What did he tell you?—A. He asked me if I knew Mr. Watson, an attorney.

Q. What Watson was that?—A. George M., I believe, are his initials. I replied that I did know him. He asked me to see him and see what he had to propose in the way of a settlement of the differences between the Delaware, Lackawanna & Western and the company Mr. Watson represented, which he represented to be the Marian Coal Co.

I called Mr. Watson to my office, and he advised me he had not had time to go over the papers in connection with the case, but that as soon as he had time he would call me up and confer with me. In perhaps 10 days, or perhaps less, he called me up and said he was ready to discuss the matter. I told him Mr. Phillips, the general manager of the coal department, had returned to Scranton, and that he could call him up and confer with him.

Q. Have you repeated all that occurred between Mr. Loomis and yourself when he gave you the instructions?—A. Yes, sir; to the best of my recollection.

Q. Did he give you any information as to why or upon whose recommendation he wanted you to see Mr. Watson?—A. I do not recollect that he did. I would not have asked him. When he asked me to go down and see Mr. Watson I complied with his request.

Q. Did he tell you anything to the effect that he had received information that a settlement could be had through Watson?—A. I do not recollect that he did; no, sir. He asked me to find out what Mr. Watson had to propose.

Q. I will ask you if you did not, when you were before the Judiciary Committee of the House, state in substance that Mr. Loomis told you that it had been intimated to him that a settlement of the case might be made through Mr. Watson and asked you to go to Mr. Watson's office?—A. Whatever I testified to before the Judiciary Committee is correct.

Q. I will ask you to state now, since your attention has been called to it, if you do not remember that Mr. Loomis did tell you that he had some kind of an intimation or suggestion that Mr. Watson was in a position to make a settlement?—A. He may have said so. I can not recollect it at this time.

Q. At page 1653 of the hearings before the Judiciary Committee I will read the question and then read the answer. Listen to it, Mr. Rine:

The CHAIRMAN. State in your own way, Mr. Rine, all that you know regarding the negotiations for the sale of the stock or properties of the Marian Coal Co. to the Lackawanna Railroad, or for the settlement of the case between that coal company and the railroad company before the Interstate Commerce Commission.

Mr. RINE. Mr. Chairman, I know very little about the matter, except that one day Mr. Loomis stated to me that it had been intimated to him that there was a possibility of a settlement of the case, and he requested me to call on Attorney George Watson in reference to the matter.

Did you not so swear before the Judiciary Committee of the House?—A. If it is down there, yes, sir; I swore that. I swore to whatever they took down that day I was here.

Q. It is down here.—A. Then I swore to it.

Q. Is not that a fact?—A. To the best of my recollection.

Q. Now, I will ask you to examine this paper. [Handing paper.] Is it a copy of a letter that you sent to Mr. Loomis in regard to this?—A. (Examining.) I believe it is.

Mr. WORTHINGTON. May I look at it?

Mr. Manager FLOYD. It is Exhibit 136. [Handing paper to the witness.] You say you think that is your letter to Mr. Loomis?—A. (Examining.) I believe it is; yes, sir.

Q. Are you satisfied it is?—A. I could not swear to it unless I had the original.

Q. To the best of your recollection, this is a copy of the letter you sent to Mr. Loomis?—A. To the best of my recollection, I made a report similar to that to Mr. Loomis as a result of my conference with Mr. George M. Watson.

Q. Did you not put this exhibit in evidence before the Judiciary Committee?—A. I do not know whether I put in that or whether it was one similar to it.

Q. Similar to that?—A. Yes; something similar to that.

Q. You put in only one letter?—A. That is all I put in; yes, sir.

Mr. Manager FLOYD. Mr. President, we will ask that it be read, with the notation on it.

The PRESIDENT pro tempore. It will be read, without objection.

Mr. WORTHINGTON. I have not seen the notation.

Mr. Manager FLOYD. It is just the exhibit.

Mr. WORTHINGTON. Very well.

The Secretary read as follows:

[U. S. S. Exhibit 49.]

AUGUST 25, 1911.

Mr. E. E. LOOMIS:

In accordance with your request I met Attorney Watson my office this afternoon; conferred with him re subject we discussed. He has agreed to see Mr. Boland and report results shortly.

Respectfully,

———.

Q. (By Mr. Manager FLOYD.) Mr. Rine, Mr. Phillips, then, as I understand it, took charge of the matter?—A. I assume he did. I never heard anything more about it.

Q. You did not know more about it yourself?—A. No, sir; I did not.

Q. I will ask you to state whether Mr. Loomis informed you as to who had intimated that a settlement could be brought about through Mr. Watson.—A. He did not.

Q. Did you know?—A. No, sir; I had no means of knowing how Mr. Loomis brought this about.

Q. He did not inform you, then, who had intimated to him that a settlement could be made?—A. No, sir; he did not.

Q. And you went and did what he instructed you to do and made your report?—A. Yes, sir.

Q. Is that all you know about the case?—A. All, I think. There is another little item here. I do not want to be called back, and you might as well have it all.

Q. You have in your mind what it is?—A. Yes. Before I called Mr. Watson up I called Mr. Boland on the telephone and asked him if Mr. Watson had been delegated by him to represent him, and he said he had.

Q. Tell us which one of the Bolands.—A. William P. Boland.

Q. After you received your instructions from Mr. Loomis you called him up over the phone?—A. Yes, sir.

Q. And asked him whether or not Mr. Watson was authorized to represent him, and he told you he was?—A. Yes, sir; he told me he was.

Q. Why did you do that, Mr. Rine?—A. I can not say why I did it, any more than——

Q. Did Mr. Loomis instruct you to do that?—A. He did not. I knew Mr. Boland quite well. I wanted to be sure of my ground before I did it. I had seen from the newspapers that Mr. Reynolds had been handling the case and I wanted to be sure there was no mistake.

Q. You knew or had seen in the newspapers that Mr. Reynolds was handling the case?—A. Yes, sir.

Q. Mr. Reynolds did continue to handle the case, did he not?—A. I do not know anything about that.

Q. You wanted to be sure that Mr. Watson had authority?—A. Yes, sir.

Mr. Manager FLOYD. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Rine, did you have any conversation, either verbal or written, with Judge Archbald in relation to the matter at any time?—A. Not to my knowledge.

Mr. SIMPSON. That is all.

Mr. Manager FLOYD. So far as we are concerned, this witness may be discharged.

Mr. WORTHINGTON. That is satisfactory to us, Mr. President.

The PRESIDENT pro tempore. The witness is finally discharged.

TESTIMONY OF REESE A. PHILLIPS.

Reese A. Phillips, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Mr. Phillips, please state your name and place of residence.—A. Reese A. Phillips, Scranton, Pa.

Q. State if you are in any way connected with the Delaware, Lackawanna & Western Railroad Co., and if so, please state your connection with it.—A. I am general manager of the coal-mining department.

Q. Were you occupying the same position with the company in August, 1911?—A. I am not quite sure whether I was general manager then or general superintendent of the coal-mining department, either one of the two.

Q. Either one or the other?—A. Yes, sir.

Q. Now, Mr. Phillips, I will ask you to state whether or not, about August 11, you received any instructions from Mr. Loomis in regard to a settlement of the affairs of the Marian Coal Co. and the railroad company, and if so, just state the facts in regard to it.—A. I had no instructions from Mr. Loomis. Mr. Rine, the superintendent of the railroad department, advised me that Mr. Loomis was in town during my absence and stated that when I returned home I was to get in touch with Mr. George Watson, an attorney at law in Scranton, in relation to receiving a proposition from Mr. Watson toward the settlement of some disputes the Marian Coal Co. had against the Lackawanna Railroad.

Q. Under instructions from Mr. Rine you took that matter up with Mr. Watson?—A. Yes, sir.

Q. Immediately?—A. Immediately; yes, sir.

Q. Just state what occurred, what Mr. Watson proposed.—A. I called Mr. Watson on the telephone a day or two after Mr. Rine notified me, and I think Mr. Watson came to my office and stated he was not prepared at that time to give me a proposition, for the reason that the officials of the Marian Coal Co. were preparing a statement showing the amount of money or the total amount of the various claims that they had against our company. A few days later Mr. Watson called me on the telephone and said he was prepared to meet me, and he came over to the office with a large bundle of papers. He started out by saying that he had an itemized list in his possession of the various claims, and called off a number of claims, that is, the amount of the claims—among them was three hundred and some odd thousand tons of coal at forty and some odd cents per ton that Mr. Boland claimed he had been overcharged in transportation—that amounted to over $161,000. Watson said that they would strike off or reduce that amount somewhat, but he said he would make his claim $161,000; that is, make his proposition $161,000 flat.

Q. Now, state if after he made that proposition you had any investigation made in regard to the property looking to a settlement?—A. I told Mr. Watson at that time that from my knowledge of the Marian Coal Co.'s property his proposition was preposterous, and that I would submit it to Mr. Loomis, our vice president, which I did in a letter.

Q. Mr. Phillips, I will ask you to examine Exhibit 43 [handing paper] and state whether or not that is a copy of the letter.—A. (Examining.) This is not the letter I sent to Mr. Loomis.

Q. I asked you if that was a copy of the letter.—A. No, sir; it is not.

Mr. Manager FLOYD. It is the letter from Mr. Phillips to Mr. Loomis that I wanted.

The PRESIDENT pro tempore. All those letters have been identified, have they not?

Mr. Manager FLOYD. Yes, sir. [To the witness:] Have you a copy of that letter?—A. With me?

Q. Yes, sir.—A. No, sir.

Mr. Manager FLOYD. It is the letter from Phillips to Loomis making a report.

(Exhibit 39 was handed to the manager.)

Q. (By Mr. Manager FLOYD.) Do you remember the date of your report?—A. Some time in September. I do not recall the date.

Q. I will ask you to examine that letter [handing paper] and see whether or not it is the letter you wrote to Mr. Loomis.—A. (Examining.) That is my letter to Mr. Loomis; yes, sir; under date of September 1, 1911.

Q. And in that letter you reported to Mr. Loomis your views about it?—A. Yes, sir.

Mr. Manager FLOYD. The letter is already in evidence, and I do not desire to advert to it further than to identify it.

The WITNESS. That is not the letter I reported my views in. That is the letter the result of the conference I had with Mr. Watson.

Q. (By Mr. Manager FLOYD.) Is there still another letter? Have you a copy of the letter in which you reported your views?—A. I have no copy of any correspondence with me.

The PRESIDENT pro tempore. That letter has been already identified and read in evidence, and it is not disputed.

The WITNESS. I have heard it read.

Mr. Manager FLOYD. It has been read in evidence.

The PRESIDENT pro tempore. It has, and is not disputed.

Mr. Manager FLOYD. Very well; that is sufficient. [To the witness:] Mr. Phillips I will ask you to state any further steps that were taken in regard to this negotiation with Watson in which you were concerned in any way. First, I will ask you to state if you ever had any interview or conversation or conference with Judge Archbald about it in any way whatever.—A. I had a conference or a conversation with Judge Archbald; yes, sir.

Q. Just state when that occurred, how it came about, and what was said.—A. It was some time in September; I think the latter part of September. I recall it was on a Friday evening. I received a telephone message from Judge Archbald, in which he asked me if I would call and see him the next morning at his office. I told him I did not know he had an office in Scranton, and asked where its location was. He stated in the Government building. I told him I would be very happy to call on him the next morning. The next morning when I got to my office I had some other important matters to attend to and I forgot about the appointment I had with Judge Archbald. Saturday noon, while home at lunch, Judge Archbald called me and said, "You forgot to keep your appointment with me this morning." I said, "Yes; I had forgotten about it, and I will call on you in the afternoon." He said he usually went out to the country and to the woods for a walk on Saturday afternoon. I told him I would call and see him Monday morning.

Q. This conversation was over the telephone?—A. This conversation was over the telephone.

Q. Go ahead.—A. He told me he was going to Washington Sunday and would like to know if I would not come over to

his house that evening, which I did about 7 o'clock Saturday evening.

Q. I will ask you to state what occurred. What was said?—A. When I got to Judge Archbald's house he greeted me and took me into his parlor. Mrs. Archbald was sitting in the next room. The doors were open between one room and the other. After talking a few minutes of olden times, old acquaintanceship we had, he finally asked me what was the value of the Holden washery or their plant down at the Holden colliery. I told him I did not think the value of that plant was very much, that if I was going in the coal business I did not know that I would take it for a gift. He finally said, "Boland has a number of claims against you," and I says, "He has stated that he has a number of claims." Says I, "What do you refer to, Judge Archbald, these rate matters, or alleged claims in connection with the burning of the culm bank and diverting water?" He says, "That is what I mean, about the washery; I do not mean anything about the rate question."

I went on then and explained in detail to Judge Archbald all the alleged claims that Mr. Boland had in connection with the operating of the Marian coal washery. When I got through Judge Archbald said, "If that is the case the settlement between the Bolands and your company is very far apart, because, as I understand it from," I think he said, Mr. Christy Boland, "they place the value of the washery at over $60,000," or something to that effect. I told Judge Archbald that I did not care what value the Bolands placed on it, as to my value I had already told him. That was all the conversation I had.

Q. Now, Mr. Phillips, to refresh your memory, did he not state that was the value put on it by Boland and Watson?—A. No; he never said no such thing.

Q. Mr. Phillips, you testified before the Judiciary Committee of the House, did you not?—A. Yes, sir.

Mr. Manager FLOYD. It is on page 1307, Mr. Worthington.

Mr. WORTHINGTON. I have it.

Q. (By Mr. Manager FLOYD.) I will ask you to state if, in response to the following question by the chairman, you did not testify as follows:

> The CHAIRMAN. I do not know that it has anything to do with the case, but what position has his son now?
>
> Mr. PHILLIPS. His son now is assistant mine foreman. The next step will be this special engineer.
>
> I went over to his house, went in and shook hands with the judge and passed the time of evening, and he says, "Colonel, what do you know about the claim of Will Boland against your company?"
>
> I says—

Did you make that statement?—A. Sure. If it is there; yes, sir. That is just about what I said a little while ago, I think.

Q. I am continuing your answer—

> I says, "You mean in connection with his washery or the transportation of coal?" "Oh," he says, "about the washery." He says, "What do you value that washery and culm bank at?" I told him, roughly, what I thought it was worth. Then I recited to Judge Archbald the entire history of the various conversations that I had had with Mr. Boland in that connection from the day he got the lease of the bank up until he filed his suit with the Interstate Commerce Commission. Judge Archbald said, "Well, if that is the case, Colonel, his proposition of settlement, from what I can understand from George Watson and what you tell me, is away off." I said, "Yes, indeed."

Q. Did you not swear to that?—A. I may have said it, but I do not recall ever mentioning Watson's name. I may have done it. If it is in my testimony the chances are that I did say it, because my memory was more fresh then about this transaction than it is now.

Q. I ask you if you did not make that statement before the Judiciary Committee of the House?—A. Sure. If it is there in print there is no question about it. I do not dispute that you have read it correctly, Mr. Floyd.

Q. If you said it then, your memory would be more reliable than it is now?—A. Oh, yes; there is no question about it.

Q. Owing to the lapse of time?—A. Yes, sir.

Q. So he said that to you in that conversation?—A. Yes, sir.

Q. Did you have any other or further conversation with him about it?—A. With Judge Archbald?

Q. Yes, sir.—A. I never had any more conversation with Judge Archbald at all with reference to the matter or any other matter.

Q. You knew or understood that George Watson was attempting to bring about a settlement of this difficulty?—A. Sure; I had had a conference with George Watson prior to my conference with Judge Archbald, if I recall it correctly.

Q. I will ask you to state whether you had had a conference with George Watson just a short time before this conference with Judge Archbald?—A. I think it was a few days before that.

Q. Did you understand from Loomis that Judge Archbald had anything to do in bringing in this settlement or had anything to say?—A. I do not recall that Mr. Loomis ever mentioned Judge Archbald's name to me until after I had this conference at Judge Archbald's residence.

Q. He did after that?—A. He did after that; yes, sir.

Q. Now, I will ask you to state, Mr. Phillips, if after you had made your report there was to your knowledge any further effort made to get a settlement by a further conference?—A. I do not know of any effort that has been made to settle this transaction on the part of our company at all.

Q. That is not the question. I am asking, if through Mr. Watson or Judge Archbald there was a further conference held with Mr. Loomis and Mr. Truesdale?—A. Oh, yes. That was after the conference held with Judge Archbald, you mean?

Q. Yes, sir.—A. Yes, sir.

Q. State what you know about that.—A. In my letter that I wrote to Mr. Loomis—I think it was in that letter, or else I conferred with Mr. Loomis over the telephone, I am not sure which—I told him that George Watson would like to make an appointment to meet Mr. Loomis and Mr. Truesdale in order to take the matter up with them, and that I had told George Watson that I would try and arrange for such a conference. He said, "Well, maybe I had better write to Mr. Loomis myself." I said, "I think maybe you had better do that, George." Mr. Loomis advised me that he and Mr. Truesdale were coming west on an inspection trip and would be in Scranton a certain evening and would meet Mr. Watson in my office the next morning at 10 o'clock. I called up Mr. Watson on the telephone and told him that our people would be here and meet him in my office at that time, 10 o'clock.

Q. Were you present at that conference?—A. I was; yes, sir.

Q. When Mr. Loomis and Mr. Truesdale were there?—A. Yes, sir; it was held in my office, and I was present.

Q. Just state who were there.—A. Mr. Truesdale, our president; the vice president, Mr. Loomis; our counsel, Daniel R. Reese; Mr. Tobey, the assistant superintendent; George Watson, and myself.

Q. Now, state, Mr. Phillips, your recollection of what occurred at that conference, what Mr. Watson submitted, and what reasons he gave for making the proposition.—A. He gave practically the same reason that he gave to me in the conference I had with him.

Q. First state what his proposition was.—A. His proposition was that for $161,000 the Marian Coal Co. would turn over their washery and their bank and withdraw all suits and to put an end to all controversy that was existing at that time between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co. That was Mr. Watson's proposition.

Q. What reason or what argument did he make as to why the railroad company should accept such a proposition?—A. I do not know. He read from this statement he had a number of items, but seemed to base his argument entirely upon the coal rates, and as that subject was entirely foreign to me, I paid very little attention to it.

Q. Did he refer in any way in his argument to what is known as the Meeker case?—A. I think he did. Either he or one of the party referred to the Meeker case as an illustration. I think it was one of our officials referred to the Meeker case as an illustration that the Bolands could not expect to recover any more reparation than the rates allowed in the Meeker case, and that was a part of the basis on which our company calculated the amount of money they would be willing to pay in settlement of the entire matter.

Q. The effect of the Meeker case as applied in the case of the Bolands was discussed, among other things, in that conference?—A. Yes, sir; as I recall it now.

Q. What did Mr. Truesdale say, Mr. Phillips?—A. Mr. Truesdale said that the proposition was ridiculous and he would not consider it. In fact, Mr. Watson did most of the talking.

Q. The proposition was turned down?—A. Oh, yes.

Q. Rejected?—A. Yes, sir.

Q. I will ask you to refresh your memory—if Mr. Truesdale did not say it was a holdup?—A. Positively he did not.

Q. He did not?—A. At least, if he did, I did not hear it, and I was sitting within 4 feet of him.

Q. I was going to ask you if you remember anything that was said?—A. No; I can not remember everything; I am not infallible.

Q. You say now, then, that if he did say that you did not hear him or do not remember it?—A. I did not hear him or I do not recall it.

Q. I will ask you to state if, when you had your conference with Judge Archbald, you told him about your conferences with Watson just a few days before?—A. I do not recall whether I did or not. I may have said that I had had a conference with George Watson with regard to the settlement, and I may not, because all that Mr. Archbald asked me about

was the value of the Marian washery and the claims of the Bolands against our company in connection with the operating of that washery. I may have mentioned Watson's name; I do not know. My evidence before your committee ought to disclose it if I did. My memory was fresher then than it is now.

Q. You said, if I understood you, that you went over in detail the proposition?—A. Not the details, bear in mind, of the proposition, but the details of the claims or the alleged claims that Mr. Boland had against our company in connection with the operating of the Marian washery, such as setting the culm bank afire, of which we owned ourselves 27 per cent, and the drying up of the creek or diverting some water from it, and a number of other claims that I do not recall just at present.

Q. From whom did you get the information about their contentions—from Mr. Watson?—A. What contentions?

Q. About them claiming this.—A. I got that from Mr. Boland. Mr. Boland was operating a little washery that they had down there, and when they were operating it, if he had any grievance, he would always bring it up with me. He imagined that we were trying to stop the wheels of his washery at work. I would go down there and help him and try to do what I could to assist him with his washery.

Q. I am not asking you about that. You said you discussed that matter fully with Judge Archbald and never mentioned Watson's connection with it?—A. I can not say that I mentioned Mr. Watson's connection with the case at all. I may have mentioned his name; I do not recall. If it is in my testimony before the Judiciary Committee, I did; if it is not, I did not.

Q. I am asking you about your present recollection.—A. My present recollection is, as I have told you three or four times, that I do not recall ever mentioning George Watson's name in the conference that I had with Judge Archbald.

Q. In the testimony quoted some reference was made to Judge Archbald's son. He was in the employ of the railroad at that time?—A. Yes, sir.

Q. Mr. Phillips, when you were at the final conference did you understand that Judge Archbald had had anything to do with these Watson negotiations?

Mr. WORTHINGTON. I object to a question about what the witness understood, Mr. President.

Q. (By Mr. Manager FLOYD.) Did you know through the officers of your company that had been investigating this matter that Judge Archbald had any connection with this proposed negotiation or had anything to do with it?—A. I do not think I had any knowledge of it at that time. Later on—it may be a day after that conference or a week or two later—Mr. Loomis inquired of me if I knew why——

Mr. WORTHINGTON. We object to subsequent conversations between Mr. Loomis and the witness.

The PRESIDENT pro tempore. The witness can answer the question whether or not he knew it.

Mr. Manager FLOYD. That is all I am asking.

Mr. WORTHINGTON. What I am bringing out is that this is something which occurred after these negotiations were all over.

Mr. Manager FLOYD. I asked him, "at the conferences before they were over"?

Mr. WORTHINGTON. At the conferences?

Mr. Manager FLOYD. At the final conference.

The WITNESS. No; I do not think so.

Q. (By Mr. Manager FLOYD.) He did not know anything about it?—A. No, sir.

Q. Now, I will ask you to state if, immediately after that conference, you did receive information of Judge Archbald's connection with it?

Mr. WORTHINGTON. I will object to that.

Q. (By Mr. Manager FLOYD.) Or the next day?

Mr. WORTHINGTON. It has already appeared that that terminated Mr. Watson's connection with it. The managers have proved by Mr. Christy Boland that Mr. Watson's connection with this matter terminated immediately after that conference. If this was anything that took place in the way of carrying on the negotiations for that settlement, of course I would not object to it. We have not very much objected to that, but, as I understand, any recital of conversation between persons who had been parties to the conference after it was all over—something that occurred after the negotiations were all over—which had reference to a past transaction, of course can not affect Judge Archbald.

The PRESIDENT pro tempore. The Chair presumes the purpose of the testimony is to show what influences were brought to bear upon representatives of the railroad at that time, and if he did not know it at that time, of course it is not pertinent that he did know it afterwards.

Mr. Manager FLOYD. Mr. President, we have some evidence to show that after that conference Mr. Watson wired Judge Archbald and came to Washington for some purpose. We expect to connect that up.

The PRESIDENT pro tempore. If counsel will state that they propose to do that, then they are at liberty——

Mr. WORTHINGTON. Of course, if they propose to show that he had anything to do with that telegram or with Mr. Watson's coming here, we would not rise for a moment to object. But I should like to interpose here and ask a question of the witness, as I have a right to do, I think, to find out when this conversation occurred, so that we may know whether it is anything that is competent or not. If, for instance, Mr. Loomis and Col. Phillips——

Mr. Manager FLOYD. We object to counsel making a statement. He can ask a question.

The PRESIDENT pro tempore. Counsel can ask the question.

Mr. WORTHINGTON (to the witness). I want to ask you whether or not you did not testify before the Judiciary Committee in this way:

> But several days, or a month, rather, after the conference, Mr. Loomis inquired of me—

To which you referred. Is not that right?—A. That is what I was about to say. It was a week or two afterwards.

Q. It was after the negotiations were all over?—A. After the negotiations were all over; after this conference was over.

Mr. WORTHINGTON. I was going to say, Mr. President, it would be just the same, it seems to me, as if Mr. Loomis and Col. Phillips should have a conversation out in the corridor now about this matter, and then the managers should offer to prove what it was. If it was after the negotiations were all over, it would not make any difference how long it was.

The PRESIDENT pro tempore. The Chair thinks that testimony as to general knowledge upon the part of the officials of the company of Judge Archbald's connection with the matter ought to be received, especially under the statement of the manager that he expects to prove that this matter did continue after that time. The Chair has ruled that the question can be asked.

Mr. Manager FLOYD. Answer the question, Mr. Phillips.

The WITNESS. What question?

Q. I will ask that the question may be read.

The PRESIDENT pro tempore. The Reporter will read the question.

The Reporter read as follows:

> Q. (By Mr. Manager FLOYD.) Now, I will ask you to state if immediately after that conference you did receive information of Judge Archbald's connection with it?

The WITNESS. No, sir; not immediately after.

Q. How soon?—A. Two or three weeks.

Q. I will ask you to state what information you received touching that matter?—A. I think it was two or three weeks after that that Mr. Loomis was again in Scranton. Mr. Boland had made a statement to me on the street in regard to Mr. Loomis, and I reported the result of that statement or the result of the conference that I had had with Mr. Boland to Mr. Loomis. Mr. Loomis said that he could not understand why Boland was so prejudiced or imagined that he was trying to do him harm; and that he had never had any occasion or cause to do Mr. Boland any harm. I told him that I could not account for it except that Boland was a highly excitable sort of man. Then Mr. Loomis asked me, "How is it that Mr. Archbald is interesting himself in this case in behalf of the Bolands?"

Q. Did you understand him to refer to Judge Archbald?—A. Oh, yes; Judge Archbald. I think he mentioned "Judge" Archbald, and not "Mr."

Q. Mr. Loomis inquired of you what?—A. If I knew why.

Q. Did you?—A. I did not, only what I told him what I assumed as the reasons why Judge Archbald was interesting himself in the case in behalf of the Bolands.

Q. You did not know why?—A. No; only my own presumption.

Q. We do not care anything about your presumption if you had no knowledge on the subject.

Mr. Manager FLOYD. That is all.

Cross-examination:

Q. (By Mr. WORTHINGTON.) We do care. What was your answer to the question that Mr. Loomis put to you about Judge Archbald?—A. I told Mr. Loomis that I thought Judge Archbald was interesting himself in this case from the fact that he and the Boland family had lived in the city of Scranton for at least 30 or 40 years; that, to my knowledge, Mr. Christy Boland and Judge Archbald were always looked upon as being pretty close friends, and that Mr. Boland, being in this litigation, I thought he would naturally, meeting Judge Archbald, tell him of it, or ask him what he thought he had better do under the circumstances, and that Judge Archbald told him, "Well, Christy, I think you had better try to settle this case. I know some of the officials of the D., L. & W. Co.; you know some of them; and if I can be of any service in introducing you or bringing them to you I will do so." That was my explanation to Mr. Loomis. I have no reason to think that was true other than it is customary in towns of the size of the city of Scranton for the smaller people who have lived there for a long time, if they have friends who are influential men, either lawyers, judges, or otherwise, they would naturally go to their friends when in trouble. That was my sole deduction about the matter.

Q. Did Mr. Christopher Boland have any talk with you during these negotiations with reference to them?—A. Mr. Christopher Boland called upon me, I think, after the conference in my office, at which time Mr. Truesdale and other officials were there with Mr. Watson.

Q. After the Truesdale conference in your office?—A. Yes, sir.

Q. Well, did he tell you anything then about the condition of his brother in reference to this claim?

Mr. Manager FLOYD. We object.

Mr. WORTHINGTON. Why can we not have all the negotiations, Mr. President?

The PRESIDENT pro tempore. There must be some limitation, and the Chair thinks that is one of them.

Q. (By Mr. WORTHINGTON.) The son of Judge Archbald to whom you refer is not the son who has been present during these proceedings?—A. No, sir.

Q. His son Hugh?—A. Hugh Archbald, mining engineer.

Q. He is not in the employ of the company now, I believe?—A. No, sir; he resigned his position a few months ago. I think he is editor of Mines and Minerals, published in connection with the International Correspondence School.

Q. Now, with reference to the questions that were asked you and read from the record to refresh your recollection, do you now recall that Mr. Watson's name was mentioned at the time? That was referred to in the question that was read to you from the RECORD?—A. Judge Archbald——

Q. You have stated that your recollection was better then than it is now, and that you undoubtedly gave that testimony; but, as a matter of fact, is your memory refreshed so that you now remember it?—A. I really can not say that I remember it.

Q. I will ask you if during your testimony there you did not refer to it in the same way you did here—that is, in this way——

Mr. Manager FLOYD. I ask from what page counsel is about to read?

Mr. WORTHINGTON. Page 1311, at the bottom of the page:

> Mr. PHILLIPS. The judge told me after I had stated, as I have repeated twice already here—he says: "If that is the case, the value of that washery and bank, that I understand Boland is claiming it is worth, is far in excess of what you say it is worth."

A. In fact, I am almost positive that Watson's name was not mentioned; and I think you will find in my testimony there that I there say that I did not mention Watson's name, and that my conference with Archbald was between the conference that we had in my office with George Watson our officials, or something of that kind. I do not recall Watson's name ever being mentioned at Judge Archbald's house.

Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination:

Mr. Manager FLOYD. One moment, Mr. Phillips. Mr. Worthington has asked you about your conversation with Christy Boland. Did you have any conversation with W. P. Boland?—A. Oh, I have had several conversations with W. P. Boland.

Q. I will ask you to state if W. P. Boland did not tell you that Judge Archbald was not in this case by his request or consent?—A. I think he did.

Q. Did you not so swear before the Judiciary Committee?—A. I think he did tell me at the time. He told me that Mr. Loomis came up and went to Judge Witmer and made him hand down the opinion in the Peale case. That was at the same period, and I told him——

Q. You told about a conversation at Judge Archbald's house? Was that the first time you were ever at Judge Archbald's house?—A. The first time I have ever been in Judge Archbald's house in my life.

Q. Before or since?—A. Yes.

Mr. Manager FLOYD. That is all.

Recross-examination:

Q. (By Mr. WORTHINGTON.) Well, what was it that William P. Boland said that you have been asked about? Let us hear all about it.—A. I was coming up from Wilkes-Barre on the Laurel line, and W. P. Boland was coming up on the same car. Nearly every time that Will Boland would meet me we would discuss some features or part of these alleged claims that he has against our company in operating the Marian washery. He was very excitable on this day, and said that Mr. Loomis, our vice president, came from New York, and had Judge Witmer hand down an opinion against the Marian washery in the Peale case.

Mr. Manager FLOYD. We object.

The PRESIDENT pro tempore. The Chair must hold there must be a limitation to the examination, and that certainly has nothing to do with the case.

Mr. WORTHINGTON. I was only asking for the remainder of the conversation.

The PRESIDENT pro tempore. The Chair only interposes in the interest of time.

Mr. WORTHINGTON. I was only asking him a question to finish the conversation of which the managers brought out a part.

The PRESIDENT pro tempore. The conversation evidently has nothing to do with the merits of this case. Is there any other question of the witness?

Mr. Manager FLOYD. We have no further questions.

Mr. Manager CLAYTON. Mr. President, this witness may be discharged.

Mr. WORTHINGTON. We agree.

The PRESIDENT pro tempore. The witness is finally discharged.

TESTIMONY OF JOHN L. SEAGER.

John L. Seager, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Mr. Seager, please state your name and place of residence.—A. John L. Seager; business address, 90 West Street; residence, 256 Prospect Street, South Orange, N. J.

Q. If you are in anyway connected with the Delaware, Lackawanna & Western Railroad Co., please state the position you hold.—A. I am an attorney in the legal department of that railroad.

Q. I will ask you to state, Mr. Seager, if you know anything about the negotiations or attempted negotiations to make a settlement of certain matters between the Marian Coal Co. and your railroad company through one George M. Watson, of Scranton, Pa.?—A. I knew nothing about it until I received a letter from Col. R. A. Phillips, which was sent me by Mr. Loomis.

Q. You first received your information, then, through correspondence?—A. Yes, sir.

Q. With other officials of the company?—A. Yes, sir.

Q. You are acquainted with Mr. Reese?—A. Yes, sir.

Q. Was he at that time representing your company in some capacity?—A. He was, sir.

Q. Please state his position with the railroad.—A. He was known as the general attorney for the State of Pennsylvania for the Delaware, Lackawanna & Western Railroad Co.

Q. Did you have any communication with Mr. Reese in regard to this matter?—A. I did; several.

Q. I will ask you to examine the paper which I hand you, Mr. Seager, and state if that is a letter you received from Mr. Reese in regard to this matter.—A. (After examining.) It is.

Mr. Manager FLOYD. Mr. President, I ask that the letter be marked as an exhibit and be read in evidence at this point.

The PRESIDENT pro tempore. Is there any objection to reading the paper? If not, it will be marked and read.

Mr. WORTHINGTON. Wait a moment until we see what is the date.

The SECRETARY. Scranton, Pa., July 31, 1911.

Mr. WORTHINGTON. I have no objection.

The Secretary read the letter marked "U. S. S. Exhibit 50," as follows:

[U. S. S. Exhibit 50.]

(Daniel R. Reese, attorney.)

DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.,
LEGAL DEPARTMENT,
Scranton, Pa., July 31, 1911.

J. L. SEAGER,
Commerce Counsel, New York City.

DEAR SIR: For your information I inclose herewith copy of my letter to R. A. Phillips, superintendent coal mining department, in relation to a suggestion made by W. P. Boland in a conference between us for the purpose of trying to arrange amicably the differences between him and this company.

Mr. Phillips has agreed that I should proceed to make the arrangements, and will have a conference some day this week, the result of which will be made known to you.

Yours, truly,

D. R. REESE.

Q. (By Mr. Manager FLOYD.) Please examine the paper I hand you and state whether or not that is a letter pertaining

to this matter, and give the date of the letter.—A. A letter dated August 11—a letter which I received from Mr. Reese.

Q. Examine the paper accompanying that. Was that an inclosure with that letter?—A. (After examining.) It was.

Mr. Manager FLOYD. Mr. President, we ask that the letter be marked as an exhibit and read in evidence at this point, together with the inclosure.

The PRESIDENT pro tempore. Without objection, it will be read.

The Secretary read the paper marked "U. S. S. Exhibit 51," as follows:

[U. S. S. Exhibit 51.]

(Daniel R. Reese, general attorney.)

DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.,
LEGAL DEPARTMENT.
Scranton, Pa., August 11, 1911.

J. L. SEAGER, Esq.,
Commerce Counsel, New York City, N. Y.

DEAR SIR: As I wrote to you some time ago, we had a conference with Mr. Boland with reference to adjusting the differences between Mr. Boland and this company. Such a conference was held in Col. Phillips's office, between Mr. Phillips, Mr. Boland, and myself, but nothing of importance developed.

Inasmuch as the adjustment, if it is going to be made, is to be based largely upon matters involved in his action against us before the Interstate Commerce Commission, and consequently as you are familiar with those matters, you are the only one that I know of that can confer with Mr. Boland in relation thereto. Therefore, I am writing to you to ask you to take up these matters with Mr. Boland, either at Scranton or at your office, and I will arrange to have Mr. Boland present, and I understand that he wants his counsel with him. Please advise your wishes in the matter, as Mr. Boland seems to be very anxious to arrange matters amicably, if possible, and has called me on the telephone several times inquiring as to whether I have yet arranged a conference. He advises me that Mr. Reynolds, his attorney, is going away on his vacation soon, and he would like to arrange a conference at once.

Yours, truly,

D. R. REESE.

RO.

(Inclosure.)

JULY 29, 1911.

Mr. R. A. PHILLIPS,
Superintendent Coal Mining Department.

DEAR SIR: While conferring with Mr. W. P. Boland yesterday, concerning another matter, he intimated very strongly that he would like to fix up his differences with the Lackawanna Co. and discontinue further hostilities. He intimated that this could be accomplished by a conference with you and me. I believe Mr. Boland has had a wrong impression as to the attitude of this company, having gotten the idea that we are pursuing him directly and indirectly, but I think he is getting straightened out as to that now and has sent out his flag of truce in order to try and arrange matters amicably.

I believe it is worth while attempting this, and respectfully submit the matter to you for such action as you deem it advisable under all the circumstances to take.

Yours, truly,

R/D.

Q. (By Mr. Manager FLOYD.) Did you make reply to that letter, Mr. Seager?—A. If I recollect aright, I did, sir, some time later.

Mr. SIMPSON. What is the date?

Q. (By Mr. Manager FLOYD.) September 7?—A. I can not remember. I would have to see the letter. [After examination.] I answered the letter just read by one dated September 7, 1911, addressed to Mr. D. R. Reese.

Mr. PRESIDENT pro tempore. Does the manager wish this letter read?

Mr. Manager FLOYD. I ask that it be marked as an exhibit and read in evidence at this point.

The Secretary read as follows:

[U. S. S. Exhibit 52.]

SEPTEMBER 7, 1911.

Mr. D. R. REESE,
General Attorney, Scranton, Pa.

DEAR SIR: In order that there may be some proper ending to your file headed by your letter of July 31, 1911, relative to proposed conference between W. P. Boland and a representative of this company, I would advise that apparently Mr. E. E. Loomis, vice president, through Col. Phillips, has taken up the matter of Mr. Boland's difficulties with George Watson, attorney, with a view of arriving at some settlement thereof. I say apparently because I was handed a letter from Col. Phillips this morning by Mr. Jenney, dated September 1, 1911, containing a report of a conference with Mr. Watson and a tentative proposition by Watson for a settlement with the Marian Coal Co. people and Boland. I might further say that in a conversation which I had with Mr. Loomis some two weeks ago relative to the advisability of conferring with Boland's representative, with a view of coming to some settlement, it was tentatively agreed between us that he should see what Boland was willing to do. Mr. Jenney has now directed me to give Mr. Loomis my views as to the proposition made by Mr. Watson.

Yours, truly,

Q. (By Mr. Manager FLOYD.) This is a letter from Mr. Reese to Mr. Seager dated September 8. Mr. Seager, will you examine this letter and state whether or not it is a letter you received from Mr. Reese concerning this matter?—A. (After examination.) It is a letter I received from Mr. Reese.

Mr. Manager FLOYD. Mr. President, I ask that it be marked as an exhibit and read in evidence at this point.

The Secretary read as follows:

[U. S. S. Exhibit 53.]

(Daniel R. Reese, attorney.)

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.,
LEGAL DEPARTMENT,
Scranton, Pa., September 8, 1911.

Mr. JOHN L. SEAGER,
Commerce Counsel, New York City.

DEAR SIR: I have your kind favor of the 7th instant relative to the proposed conference between W. P. Boland and a representative of this company and am obliged to you for the information contained therein.

Since I have started this matter I have attended one conference, but knew nothing of a Mr. Watson being interested nor of subsequent meetings. However, I have claims against Mr. Boland for $313.32, and I have written him stating that I will institute suit to collect the amount if it is not paid at once. The time limit in which he was to pay this bill has elapsed, and I would like to know whether there is anything in the negotiations referred to in your letter that would interfere with my proceeding to institute suit to collect this amount which he has refused to pay. I would be obliged if you would advise me upon this point.

Yours, truly,

D. R. REESE.

R/D

Q. (By Mr. Manager FLOYD.) Now, Mr. Seager, I will ask you to state if later, January 12, 1912, you received a further letter from Mr. Reese bearing upon that settlement between you and the Bolands?—A. I can not recollect the date, sir.

Q. Examine this letter which I hand you and state.—A. (After examination.) I did, sir.

Mr. Manager FLOYD. Mr. President, we ask that it be marked as an exhibit and that it be read in evidence at this point, with the paper attached, whatever it is.

The Secretary read as follows:

[U. S. S. Exhibit 54.]

(William S. Jenney, vice president and general counsel; Daniel R. Reese, general attorney.)

DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.,
LEGAL DEPARTMENT,
Scranton, Pa., January 12, 1912.

Mr. JOHN L. SEAGER,
Commerce Counsel, New York City.

MY DEAR SEAGER: During a conference which I had with Mr. Boland on Tuesday last in relation to the water proposition that he had in mind, I incidentally mentioned the Marian Coal Co. matters, and intimated to him that if the Marian Coal Co. matter was disposed of it would be easier for me to get the water proposition through, in which latter proposition Boland is very much interested and is anxious to dispose of the land to this company. After a long chat he decided to submit a proposition as to what he would take in settlement of all his claims, both as to freight claims and whatnot and, consequently, he called at my office this afternoon and submitted a letter, of which the inclosed is the first paragraph, the balance of the letter having reference to the water proposition. He declined to give me the letter he had drawn, which was addressed to me, but permitted me to copy the part referring to the Marian Coal Co. matter.

I told him I was going to submit this to our people to see what action they would take in relation thereto, and so I am submitting it to you for such action as you deem advisable, and I would be obliged if you would arrange to advise me whether our people will agree to this proposition or submit a counter proposition.

I hope to be in New York next week and will go over this matter with you, if you desire any further information.

Yours, truly,

D. R. REESE.

R/D

Confirming the suggestion you made that an adjustment might be made between the Delaware, Lackawanna & Western Railroad Co. and the Marian Coal Co. of the differences between them, it is my opinion that the matter might be settled in manner following: For $50,000 of the capital stock of the Marian Coal Co. I believe the persons owning it would be willing to accept $75,000. This would place you in possession of two-thirds of the capital stock of the Marian Coal Co., which would enable you to make such disposition of the Marian Coal Co.'s affairs as you might desire. Out of the $75,000 received for this $50,000 of stock all the just obligations of the Marian Coal Co. will be paid. We have always denied the justice of the claim of John W. Peale. This would, of course, be arranged by the Marian Coal Co. after the transfer of the stock, and would be ultimately paid by you if the claim should be finally established in court. With the payment of this we shall have nothing to do with the claim. I need not say that we would regard an offer of this sort as much less than the stock is really worth; but we are desirous, if possible, of ending a complicated and serious litigation which has been waging between the two corporations.

Q. (By Mr. Manager FLOYD.) Mr. Seager, did you take any action, either yourself or by direction of your superior officers, in regard to that; did you make any proposition?—A. I did.

Q. What was it and on whose authority?—A. I was authorized by Vice President and General Counsel Jenney to make a counter proposition of $25,000. I think it was. I made that proposition, or I telephoned Mr. Reese telling him that that was the counter proposition.

Q. Did anything come of that proposition?—A. No.

Q. Matters remained unsettled. Now I want to ask you if you have any knowledge of your own about Judge Archbald being concerned or associated in any way with Mr. Watson in this negotiation that Mr. Watson undertook to bring about between your company and the Marian Coal Co.?—A. I never knew anything about it until the 27th day of May last.

Q. You never knew anything about it until the 27th of this May, when these hearings——A. After I had been subpœnaed to attend the Judiciary Committee investigation.

Q. State how you got your information about it then, and from whom.—A. Of course, I had seen——

Mr. WORTHINGTON. Mr. President, if we are going to have the information this witness acquired about Judge Archbald long after all negotiations were over——

Mr. Manager FLOYD. I am asking him to give his information as a railroad official, if he got information from any of his associates in the company about it.

The WITNESS. I did.

Q. (By Mr. Manager FLOYD.) State it.

Mr. WORTHINGTON. I object to that. I do not see how the information that this witness acquired long after all the negotiations were over can possibly affect Judge Archbald. Nobody pretends that any negotiations were going on after the last letter that was written, which was in December prior to May, when the witness obtained it. This investigation was then going on. That would certainly be hearsay evidence. It was nothing that was done in the course of this negotiation.

We have not objected to any testimony as to anything done in pursuance of the negotiation, because Mr. Christopher Boland has testified to a certain conversation that occurred in Judge Archbald's office as to a settlement being proposed, and so we have not objected to any evidence as to what was done in carrying on the negotiation. But the time referred to now is months and months after the negotiation was over and while this inquiry was on foot.

The PRESIDENT pro tempore. Testimony is already in from Mr. Loomis as to his knowledge. I suppose this is along that line.

Mr. Manager FLOYD. I asked him just what knowledge he had in regard to it. However, I am not particular about pressing the question.

Q. (By Mr. Manager FLOYD.) Did you, during the time this correspondence was going on, have or not have any knowledge that Judge Archbald was or was not connected with the transaction?—A. I had no knowledge at that time.

Q. None whatever?—A. No, sir.

Q. And yet you were connected with the legal department of your company?—A. I was, sir.

Mr. Manager FLOYD. That is all we wish to ask the witness.

Mr. SIMPSON. We have no questions, Mr. President.

The PRESIDENT pro tempore. The witness may retire.

Mr. Manager FLOYD. This witness may be discharged, I think.

The PRESIDENT pro tempore. The witness is finally discharged.

Mr. Manager FLOYD. Mr. President, Mr. Manager CLAYTON informs me that he desires at this point to have Mr. Loomis recalled, for the purpose of asking him two questions.

The PRESIDENT pro tempore. Recall Mr. Loomis.

TESTIMONY OF EDWARD E. LOOMIS—RECALLED.

Q. (By Mr. Manager CLAYTON.) Mr. Loomis, did Judge Archbald ever call at your office in New York about any other matter or on any other mission except the one time he called about the Marian Coal Co. matter?—A. No, sir.

Q. When Judge Archbald called on you at the time you mentioned did he disclose to you his interest in the matter or why he was interested?—A. No, sir.

Mr. Manager CLAYTON. That is all. The witness may be discharged.

Mr. WORTHINGTON. There is another matter to which my attention has been called, about which I would like to ask him a question.

Q. (By Mr. WORTHINGTON.) What was it about Mr. Morgan Davis coming to you to buy the Marian washery?—A. To buy it? You mean to sell it?

Q. Yes; to sell it, I mean.—A. Morgan Davis called at my office two or three times and asked me if we did not want to change our mind and buy the Marian washery. I told him no, sir; that we did not want to buy it.

Mr. Manager CLAYTON. My recollection is that this is not cross-examination; that we did not go into the matter at all; and hence I feel constrained to object to the question.

Mr. WORTHINGTON. I thought it might save bringing the witness back.

The PRESIDENT pro tempore. It is not in regard to anything elicited on direct examination, and is not now admissible.

Mr. WORTHINGTON. Very well. The witness may have to be recalled, then.

The PRESIDENT pro tempore. The witness is excused subject to recall under the previous arrangement.

The witness withdrew.

TESTIMONY OF WILLIAM S. JENNEY.

William S. Jenney, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Please state your name and place of residence.—A. My name is William S. Jenney; my residence is 638 West End Avenue, New York City; my place of business is 90 West Street, New York City.

Q. Are you connected in any way with the Delaware, Lackawanna & Western Railroad Co.? And if so, state in what way or in what capacity.—A. I am vice president and general counsel.

Q. I will ask you to state what you know about any negotiations looking to the settlement of differences between the Marian Coal Co. and your railroad company in which George M. Watson, of Scranton, participated.—A. Nothing except by hearsay.

Q. Do you know anything through Mr. Loomis, an officer of your company?—A. Yes, sir.

Q. Just state what you learned about it through Mr. Loomis.—A. The only thing I know about the negotiations to which you refer is that a memorandum was sent to me by Mr. Loomis during the summer—some time during the later part of the summer, as I recollect—which has been introduced in evidence. My initials are W. S. J., and that was sent to me. In it Mr. Loomis inquired of our department what, in our opinion, the Marian Coal Co. was likely to get in its proceeding before the commission by way of reparation. I referred it to the commerce counsel of the company, Mr. Seager, and asked him to reply direct to Mr. Loomis on that subject after taking it up with the traffic department. That is the only thing I know personally in connection with any adjustment of that case that was had through Mr. Watson. Everything else I know about it I learned by hearsay either from Mr. Loomis or Mr. Tobey or some other official of the company.

Q. I will ask you what you learned about it through Mr. Loomis, especially whether you heard from Mr. Loomis that Judge Archbald had any connection with that settlement?—A. I did.

Q. State what you learned and what Mr. Loomis said to you on the subject.—A. Nothing further than the fact that Judge Archbald had taken the matter up with him, suggested that we had better take it up, or suggested that our company might obtain an adjustment of the case, and it would be a good thing if we did obtain an adjustment of the case, or something of the kind; I have forgotten just what words Mr. Loomis used. He told me Judge Archbald had taken the matter up.

Q. Mr. Loomis did tell you that Judge Archbald suggested to him to take the matter up with Mr. Watson?—A. I am not sure about that. Mr. Loomis told me that Judge Archbald had spoken to him about the case with a view of having it adjusted. That is about as far as I can say. I can not repeat his language or tell you anything further than that.

Q. I will ask you to state whether or not you, in your capacity as a representative of the legal department, made any inquiries as to what interest Judge Archbald could have in that matter; and if so, state the circumstances.—A. All I can say about that is this, that, as I testified before your committee heretofore, on one occasion, when one of my local counsel in Scranton, Maj. Warren, of the firm of Warren, Knapp & O'Malley, was in my office, as I recollect it, during the fall of last year, and some time after I had heard from Mr. Loomis that Judge Archbald had spoken to him about the case, I inquired of Maj. Warren what possible interest Judge Archbald could have in this case, and Maj. Warren gave me his opinion upon it. That is the only time I ever asked anybody about it.

Q. And that is all you know about it?—A. All I know about it is what Maj. Warren told me. He did not know anything about it; he simply gave me his opinion as to the reason why Judge Archbald had interested himself in the case.

Q. He just gave you an opinion right then and there on the spot?—A. Yes, sir.

Mr. Manager FLOYD. We do not care anything about that.

Mr. WORTHINGTON. I think if it is important to know that an opinion was given it is important to bring out what the opinion was; and I will ask the witness what it was, following his answer to the manager's question.

Mr. Manager FLOYD. I object.

Mr. WORTHINGTON. Then I move to strike out the witness's testimony about that. The manager asked the question.

The PRESIDENT pro tempore. The Chair understood the manager to inquire whether the witness made any inquiries as to the reason for Judge Archbald's interest in the case.

Mr. Manager FLOYD. That is all.

Mr. WORTHINGTON. No; he further brought out the fact that an opinion was obtained.

The PRESIDENT pro tempore. If the opinion is evidence at all, of course it should properly be given in evidence by the man who entertained it. It might be given as a reason for the action of counsel, if any action was afterwards based on that opinion, but other than that the Chair thinks it is wholly inadmissible.

Mr. WORTHINGTON. Then I move to strike out the statement that he gave an opinion. How can it be competent to state that an opinion was given and not state what the opinion was?

The PRESIDENT pro tempore. Counsel asks that the answer be stricken out. The Chair will grant the motion.

Mr. Manager CLAYTON. There is no objection. We did not ask for the testimony.

Mr. Manager FLOYD. That is all.

The PRESIDENT pro tempore. Do you desire that this witness be retained?

Mr. Manager FLOYD. If there is no question on the part of counsel for respondent, we ask that this witness be finally discharged.

Mr. WORTHINGTON. We have no questions to ask, and he may be discharged so far as we are concerned.

The PRESIDENT pro tempore. The witness is finally discharged.

TESTIMONY OF WILLIAM H. TRUESDALE.

William H. Truesdale, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Please state your name and place of residence.—A. William H. Truesdale. My residence is in Greenwich, Conn.

Q. State your connection with the Delaware, Lackawanna & Western Railroad Co.—A. I am president of that company.

Q. Mr. Truesdale, I will ask you to state whether you know anything about an attempted settlement or negotiation carried on by one George M. Watson to settle certain disputes and differences between the Marian Coal Co. and your railroad company.—A. I have known about it; I think perhaps everything of material importance connected with those negotiations. I had very little direct personal dealing with the matter, however, being confined to the——

Q. Well, I will ask you to state it in your own way fully. You got your information or knowledge through the various officers of the company to a certain point?—A. Yes, sir.

Q. Tell all you know about it.—A. All I know personally is confined to the interview with Attorney Watson in the office of the superintendent of our coal-mining department, Mr. Phillips, in Scranton, October 5, 1911, in which Mr. Loomis, Mr. Phillips, Mr. Reese, and myself were present and about which Mr. Loomis has already testified to-day.

Q. I will ask you to state how you got your knowledge of this conference before the conference took place that it was to take place.—A. Through Mr. Loomis.

Q. What did Mr. Loomis tell you?—A. He told me that he had a request first from Mr. Watson for such a conference, and that had been supplemented by a request from Judge Archbald that we appoint a conference with Mr. Watson at Scranton.

Q. He told you that he had first a request from Mr. Watson, and that that was afterwards supplemented by a request from Judge Archbald that you have a conference at Scranton?—A. Yes; that is right.

Q. Now, I will ask you to state, Mr. Truesdale, when that conference at Scranton was held.—A. On the 5th of October, 1911.

Q. Now, you can state what occurred. You were present at that conference?—A. I was.

Q. What occurred and what proposition, if any, was submitted by Mr. Watson? Tell all you know about it.—A. There was a discussion, opened, I think, by Mr. Watson, lasting perhaps an hour or a little more, in which in detail we went over the various points that were covered by the correspondence that has been introduced in evidence here to-day. That was elaborated upon, the merits of it discussed pro and con, and, so far as we were concerned, we again stated what had been previously stated in the letters, that we could not see any chance of a settlement being arrived at.

Q. What was the proposition that Mr. Watson submitted there?—A. It was not very definite. In a general way he had submitted what he thought was a just claim, I presume, amounting to somewhere in the neighborhood of $160,000.

Q. In the neighborhood of $160,000?—A. Yes, sir.

Q. How long did that conference last, Mr. Truesdale?—A. An hour or an hour and a quarter, I should say, or something like that.

Q. And the proposition was turned down on your part, was it?—A. Yes, sir.

Q. Did you make any statement in that conference as to the maximum you would offer for a settlement?—A. I do not think we made any offer at all; in fact, I am sure we did not. We stated that we could not figure——

Q. Did you make any statement as to what would be the maximum in case you should make any offer?—A. I think we stated very plainly that we could not see where there was any claim they had that we could consider for more than $15,000 or $17,000, as has been previously explained by Mr. Loomis.

Q. Did you have any knowledge or information concerning Judge Archbald's connection with this negotiation until Mr. Loomis a few days before that conference, told you that Mr. Watson's request had been supplemented by Judge Archbald?—A. I knew of some previous letters that Judge Archbald had written.

Q. You knew of the previous letters that Judge Archbald had written?—A. Yes; I think I saw them. I think Mr. Loomis showed them to me.

Q. I will ask you to state if that conference was not arranged by reason of Judge Archbald's request?—A. Well, I presume so, although Watson also requested it. I can not say but that we might have held it even if we had not received this special request from Judge Archbald to do so.

Q. Would you have granted that conference but for Judge Archbald's request?—A. I do not know that I can say. I frequently respond to requests like that from people, even when I do not think anything can come of them.

Q. On page 1591, in the hearings before the Judiciary Committee of the House, I will ask you, Mr. Truesdale, if you did not make this response in answer to a question by Mr. Webb:

Mr. WEBB. You knew, of course, that the judge was responsible for this conference?

Mr. TRUESDALE. I knew that he had requested it. I never heard that any responsibility lay upon him for holding it.

Mr. WEBB. I will put it in this way: You had the conference because of the judge's request?

Mr. TRUESDALE. Yes, sir.

Did you so answer before the Judiciary Committee of the House?—A. I presume that was taken down correctly.

Q. Now, is that true?—A. I think it is. I think I made it because of his request, but we might have had it anyhow. I might have attended a conference even at Mr. Watson's request. I think I explained at that time that I was taking a trip upon the road with Mr. Loomis and other officials, and that made it convenient to have a conference in connection with it.

Q. Mr. Truesdale, you understood, through Mr. Loomis and through the correspondence, that the beginning of these negotiations was at the instance of Judge Archbald, did you not, through a request made to Mr. Loomis?—A. At the beginning with Mr. Watson.

Q. With Mr. Watson. It was through Judge Archbald's request?—A. Growing out of that; yes, sir.

Q. You also knew and understood that this final conference was brought about by Judge Archbald?—A. I knew he had requested it; yes, sir.

Q. I will ask you to state what was said at this conference on the 5th of October about the nature of the claim that was presented to you on that occasion. Did you refer to it as a holdup in that conference?—A. I do not think I did, sir.

Q. Did you regard it as excessive?—A. I did.

Q. Did you so say?—A. I think I did; yes, sir.

Q. Was Judge Archbald's connection with the transaction mentioned in that conference?—A. I do not think it was.

Q. You do not think it was?—A. I do not.

Q. You knew about his connection with it?—A. I knew he had asked us to have this conference; yes, sir.

Q. What did you understand Judge Archbald's interest in this matter was and what do you understand now it was?

Mr. SIMPSON. I object, unless it is by reason of something said or done directly or indirectly connecting Judge Archbald with it.

The PRESIDENT pro tempore. The Chair will sustain the objection. The counsel will limit it to specific facts.

Mr. Manager FLOYD. The Chair overrules the question.

The PRESIDENT pro tempore. The manager can address his inquiry as to any particular fact at the conference.

Q. (By Mr. Manager FLOYD.) Do you know what his connection was?—A. I do not.

Q. I will ask you to state what you thought about it.

Mr. SIMPSON. I object for the reason already given, sir. If anything was said or done, I do not object to it, but to ask the witness what he thought about it is certainly irrelevant to this inquiry.

Q. (By Mr. Manager FLOYD.) I will ask you, Mr. Truesdale, if you know of Judge Archbald being connected with any other transaction in your company or trying to effect any other settlement between litigants in your company?—A. No, sir; I never knew of that.

Q. Has it by letter or correspondence ever been brought to your attention that he has been connected with any such matter before?—A. It has not.

Q. This is the first and only instance that you know of?—A. Yes.

Q. Did your company have litigation pending in the Commerce Court at the time?—A. I really do not know whether it had or not.

Q. You do not know whether it had or not?—A. No, sir.

Q. Your company frequently has litigation before the Commerce Court, or is likely to have litigation before the Commerce Court, has it not?—A. We have not had very many, I believe.

Q. It is a court that has jurisdiction over matters in which your railroad is sometimes concerned?

Mr. SIMPSON. Do you think that is a question to ask of the witness?

Mr. Manager FLOYD. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Truesdale, at this conference was not Mr. Watson's claim first that the Bolands had in fact a claim against your company of three or four hundred thousand dollars?—A. I have no recollection of mentioning any such amount as that.

Q. Let me ask you whether this question and answer were not given at the hearing before the Judiciary Committee upon this one point, page 1601:

Mr. WORTHINGTON. You do not remember that his claims amounted to three or four hundred thousand dollars?

Mr. TRUESDALE. I do not. I have an impression that they did amount to something like that, but I have nothing very distinct in my mind on that subject.

Do you remember that?—A. Yes; I do. I remember giving some evidence upon that point.

Q. What was the conference about? Was it to settle differences between your company and the Bolands and the Marian Coal Co., or was it to purchase two-thirds of the stock of the Marian Coal Co.?—A. To settle the claims.

Q. It had no relevancy to stock at all?—A. I never heard of any attempt being made to sell us any amount of their stock. It was not considered at all.

Q. And, as I understand you, the conference itself, so far as the details of it were concerned, was taken up mostly in discussing the rate matter. Is that right?—A. That is my recollection; yes, sir.

Q. But the washery and so on was incidentally spoken of?—A. It was, sir.

Mr. SIMPSON. That is all, Mr. President.

Mr. Manager FLOYD. That is all. This witness may be discharged.

The PRESIDENT pro tempore. The witness will be finally discharged.

TESTIMONY OF DANIEL R. REESE.

Daniel R. Reese appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Mr. Reese, state your name and place of residence.—A. Daniel R. Reese, Scranton, Pa.

Q. I will ask you to state, Mr. Reese, whether you are connected in any way with the Delaware, Lackawanna & Western Railroad Co.—A. I am.

Q. In what capacity?—A. I am an attorney for that railroad.

Q. I will ask you to state if you had certain correspondence concerning an attempted settlement of some differences between the Marian Coal Co. and your railroad company.—A. I had.

Q. Examine this letter of July 31, 1911 [handing paper], and state whether or not you wrote that letter.—A. (Examining.) It is my signature. I wrote the letter.

Q. What is the Senate exhibit mark?—A. Exhibit 50.

Mr. Manager FLOYD. Mr. President, the letter has already been read in evidence. We do not desire to have it read at this time. (To the witness:) I will ask you to examine the paper which I hand you [handing paper] marked "U. S. S. Exhibit 51," and state whether or not you wrote that letter.—A. (Examining.) I did.

Q. (By Mr. Manager FLOYD.) That letter also is already in evidence. [Handing paper to witness.] This is Senate Exhibit 53. Examine that letter and state whether or not you sent it.—A. (Examining.) I did.

The PRESIDENT pro tempore. Is this for the identification of the letters?

Mr. WORTHINGTON. They have already been identified and read in evidence, and we do not object to them.

The PRESIDENT pro tempore. They have already been read in evidence and not objected to.

Q. (By Mr. Manager FLOYD.) You wrote the letters?—A. I did.

Q. Did you have any knowledge of these negotiations that were going on with Mr. Watson?—A. I did not.

Q. You did not?—A. No, sir.

Q. You lived in Scranton?—A. I live in Scranton.

Q. You wrote these letters?—A. Yes, sir.

Q. Mr. Reese, were you present at the conference on the 5th of October?—A. I was.

Q. I will ask you to state, if you know, what the proposition was which was submitted there by Mr. Watson.—A. Mr. Watson submitted a proposition to settle all matters for $161,000.

Q. $161,000?—A. Yes, sir.

Q. Did you not know at that time that the Bolands were willing to settle it for $100,000 or a less amount?—A. I did not.

Q. You did not?—A. No, sir.

Q. You never heard of that?—A. I did not.

Mr. Manager FLOYD. That is all.

Mr. WORTHINGTON. That is all.

Mr. Manager CLAYTON. The witness may be discharged.

The PRESIDENT pro tempore. The witness will be finally discharged.

TESTIMONY OF HELM BRUCE.

Helm Bruce appeared and, having been duly sworn, was examined, and testified as follows:

Mr. Manager CLAYTON. Mr. NORRIS will conduct the examination of this witness, Mr. President.

Mr. Manager NORRIS. Mr. President, this witness's testimony pertains and applies to article 4. We have taken him and the following witness out of order because we want to give them an opportunity to get away. [To the witness:] Mr. Bruce, state your name.—A. My name is Helm Bruce.

Q. (By Mr. Manager NORRIS.) Where do you reside, Mr. Bruce?—A. Louisville, Ky.

Q. What is your business, occupation, or profession now?—A. I am a lawyer.

Q. How old are you, Mr. Bruce?—A. I am 52.

Q. How long have you been a lawyer?—A. 30 years.

Q. Did you in your professional capacity have anything to do with the case before the Commerce Court entitled "The Interstate Commerce Commission and the United States against the Louisville & Nashville Railroad Co."?—A. It was entitled just the other way. It was the Louisville & Nashville Railroad Co. against the Interstate Commerce Commission.

Q. I gave you the title as it appeared in the Supreme Court. Whom did you represent in that litigation?—A. The Louisville & Nashville Railroad Co.

Q. Are you at the present time an attorney for the Louisville & Nashville Railroad?—A. One of its attorneys.

Q. I did not expect you to be more than one.—A. I mean by that that I am not its general counsel.

Q. How long have you been one of the attorneys for this railroad company?—A. I have represented it in different kinds of litigation for something like 20 years.

Q. Mr. Bruce, were you the managing attorney on the part of the railroad company in this particular case to which I have called your attention at the time it was argued and submitted in the Commerce Court?—A. I was.

Q. How long had you been in control of that case on the part of the railroad company?—A. Since the spring of 1910, my recollection is. The case was argued on the 3d and 4th of April, 1911, and submitted on the 4th of April.

Q. What year?—A. 1911.

Q. When did this case get into the Commerce Court with relation to the time of the organization of the Commerce Court?—As soon as the Commerce Court was organized.

Q. It was one of the cases that under the law was sent into that court as soon as it was organized?—A. It was transferred by operation of law.

Q. When was that case argued, did you say?—A. On the 3d and 4th days of April, 1911.

Q. Was it submitted on the 4th day of April, 1911, to the court?—A. It was.

Q. When was the judgment of the court rendered?—A. I do not remember the date, but it was, I think, in the early part of March, 1912, this year.

Q. So that between its submission and the time it was decided it was nearly a year?—A. About 11 months.

Q. Did you argue the case orally before the court?—A. I did.

Q. After it was argued and submitted and before it was decided, while it was pending in the court, did you have any correspondence with Judge Archbald in relation to it?—A. I did.

Mr. Manager NORRIS. I will ask that this letter be marked as an exhibit. [Handing paper to the Secretary.]

The Secretary marked the paper "U. S. S. Exhibit 55."

Q. (By Mr. Manager NORRIS.) Mr. Bruce, I hand to you Senate Exhibit 55 and ask you to examine it and state what it is.—A. (Examining.) It is a letter from Judge Archbald to me.

Q. Is that the first letter that you received from him?—A. Let me see the date of that. [Examining.] Yes, sir.

Mr. Manager NORRIS. We offer this letter in evidence and ask that it be read.

Mr. Manager SIMPSON. What is the date of the letter?

Mr. Manager NORRIS. August 22, 1911.

The PRESIDENT pro tempore. Without objection, the letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 55.]

(United States Commerce Court, Washington.)

SCRANTON, PA., *August 22, 1911.*

HELM BRUCE, Esq.

DEAR SIR: In the New Orleans-Montgomery rate case, referring to Mr. Compton's testimony on page 397 of the stenographer's minutes of the hearing before the commission, will you please confer with Mr. Compton and advise me whether in answer to the first question by Commissioner Clements upon that page Mr. Compton intended to say that they "did" or "did not" apply the combination of locals to protect a through shipment in the case of Mobile and Montgomery? As the record stands Mr. Compton is made to say "We did apply it there." It is rather indefinite what "it" refers to; whether to the word "exception," in the question of Commissioner Clements, or to the word "combination," with which the word "apply" seems to connect it. I would like to have you clear this up if possible.

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager NORRIS.) Mr. Bruce, did you answer that letter?—A. I did.

Q. Did you keep a copy of your answer?—A. I did.

Q. Do you have that copy, Mr. Bruce?—A. No; you had it.

Q. I do not seem to have it here.

Mr. WORTHINGTON. You may read it from the record.

Mr. SIMPSON. It is found on page 1540, and there is no objection to reading it.

Mr. Manager NORRIS. I will ask you, Mr. Bruce, to examine this letter as printed in the record of the proceedings before the House Judiciary Committee and to say whether that is a copy of it?

Mr. SIMPSON. We will admit that it is, Mr. Manager Norris, to save time.

Mr. Manager NORRIS. Very well; then we will have it read. It is admitted that the letter on page 1540 is a copy of the answer of the witness.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read the paper marked "U. S. S. Exhibit 56," as follows:

[U. S. S. Exhibit 56.]

Judge R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: I have yours of the 22d instant concerning the New Orleans-Montgomery Rate case and have just seen Mr. Compton concerning his testimony before the commission to which you refer, being the testimony on page 397. When I called this to his attention he immediately and unhesitatingly said that what he meant was that the company did not apply the combination of locals to protect a through shipment in the case of Mobile and Montgomery. He called attention to the fact that the remainder of his answer shows that such was his meaning, because he immediately proceeds to state that the company has tried, as far as possible, at all times to maintain the relative adjustment in the southeastern territory, which relative adjustment applies to rates between competitive points which are fixed with relation to each other, whereas rates to and from or between mere local points are not involved in the relative adjustment of rates.

You will find this matter very clearly explained by Mr. Compton in his testimony before the special examiner appointed by the circuit court in the present case in answer to question No. 19, beginning on page 173 of the transcript of the testimony before the special examiner. You will see that Mr. Compton there not only states the facts fully, but explains the reasons for them. And this testimony is wholly uncontradicted.

Yours, very truly,

HELM BRUCE.

Mr. Manager NORRIS. Mr. President, we should like to have that letter marked as an exhibit so that it may appear in the record in regular order.

The PRESIDENT pro tempore. It will be so ordered.

Q. (By Mr. Manager NORRIS.) Mr. Bruce, did you have any further correspondence with Judge Archbald about this case while it was pending?—A. I did.

Q. What was the next letter from him to you or from you to him?—A. A letter from him to me.

Q. What is the date of the letter? It is the one written in longhand.—A. It is dated January 10, 1912.

Mr. SIMPSON. There is an intervening letter, Judge Norris.

Mr. Manager NORRIS. I want the next letter, Mr. Bruce.

Mr. SIMPSON. It is found on page 1541 of the record, and I presume you want it in the record.

Mr. Manager CLAYTON. The letter of August 26, 1911, is next.

Mr. Manager NORRIS (to the witness). Does that appear among the letters I gave you, Mr. Bruce?

The WITNESS. What is the date?

Mr. SIMPSON. August 26.

The WITNESS (after examination). There is no such letter here.

Mr. Manager NORRIS. I think there is.

Mr. WORTHINGTON. You may read it from the record; we do not care anything about it.

Mr. Manager NORRIS. Very well; mark it as an exhibit, and we will read it from the printed record.

The WITNESS. Shall I answer the question? You asked me to read the next letter, and I started to read the letter of January 10, 1912. I had overlooked the fact that there was a letter of August 26, 1911, including——

Mr. Manager NORRIS. We will ask that the letter of August 26, 1911, be read.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read the letter, which was marked "U. S. S. Exhibit 57," as follows:

[U. S. S. Exhibit 57.]

(United States Commerce Court, Washington.)

SCRANTON, PA., *August 26, 1911.*

MY DEAR MR. BRUCE: I thank you for your letter of August 24, with reference to Mr. Compton's testimony, about which I wrote you. I was quite sure from the context that the word "not" ought to be in the answer of Mr. Compton, on page 397, to which I referred. I think, however, that the intention to give a negative answer to the idea advanced in the question put is sufficiently evident from the context; and, as you have pointed out, this is fully explained by Mr. Compton in his answer to question 19, found in the testimony taken before the examiner.

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager NORRIS.) Mr. Bruce, what was the next step in this correspondence?—A. The next letter was the one I started to read a moment ago, of January 10, 1912, from Judge Archbald to me.

Mr. Manager NORRIS. Mr. President, I ask that that letter be marked and read.

The letter was marked "U. S. S. Exhibit 58" and read, as follows:

[U. S. S. Exhibit 58.]

(United States Commerce Court, Washington.)

ON BOARD HOUSE BOAT "PIRSOLE,"
Indian River, Fla., January 10, 1912.

MY DEAR MR. BRUCE: The inscription above will betray where I am and the pleasures I am about, while the New Orleans-Mobile-Montgomery rate case remains undecided. But I am where I am by irresistible invitation, and as tender to Mrs. Archbald, who could not go without me, which affords a partial extenuation.

And that I am not altogether oblivious of duty, permit me to make another inquiry about the rate case referred to. On page 69 of your brief you refer to the assertion by the commission in its report that "the building of new railroads and other causes have forced many departures from the adjustment of rates made by the Cooley arbitration." As to which you state that according to the record this is shown to be clearly mistaken. An examination of the tariffs in evidence by one of the members of our court has disclosed, however, a very large number of changes in commodity rates from time to time, which is claimed to refute your argument and sustain the commission, and it is with regard to this that I am writing you.

Assuming that these tariffs have been correctly interpreted by us, would you still affirm the position taken in your brief and upon what theory would you sustain it? That is to say, if there have been these departures from time to time in commodity rates from the adjustment of rates under the Cooley arbitration, would not that of itself be sufficient to warrant the assertion made by the commission, which you say is in the face of the record? Also, have you made such an examination of the tariffs in evidence that you are prepared to give us your views as to whether they have been correctly interpreted by us, and whether they show the numerous changes which I have referred to? And again, is there anything to indicate that the commission did or did not rely on these tariffs for the statements which they make with regard to the alleged departures from the Cooley arbitration? And if there are such departures in commodity rates, whether the commission noted them or not, could it be said that the statement in their report was not sustained by the evidence?

I, of course, have not failed to note the argument you make on the allegations of the bill not being denied by the answer as well as the references made to the testimony of Mr. Compton, Mr. Powell, Mr. Green, Mr. Bannon, and Mr. Hattendorf. But are not the denials of some of the witnesses, for instance, Mr. Compton and Mr. Powell, somewhat qualified, and do they positively declare that since the construction of the Memphis & Birmingham road and the adjustments following it, there have in fact been no further departures?

I regret that we can not have the benefit orally of your answer to these inquiries, and that the matter has to be disposed of by correspondence. But, at the same time, everything is put so clearly in your brief, I have no doubt you will be able to meet what I suggest with equal explicitness, and you will understand through it all that what I want to get at is the effect to be given to these changes in commodity rates—if there have been such—on the general question, whether the statement of the commission to which I refer is indeed in disregard of the record and unsustained by it.

Not having a stenographer, I write under some difficulties, and I will therefore ask you to return with your answers a copy of this letter, or at least a specific answer to each question which I put, stating the question in the same connection.

I am, with much regard, very truly, yours,

R. W. ARCHBALD.

Q. Mr. Bruce, did you comply with the request contained in that letter?—A. I did.

Q. And answered the letter?—A. I did.

Q. What was the date of your reply?—A. January 24, 1912.

Mr. Manager NORRIS. Mr. President, we ask that the letter be marked as an exhibit and read in evidence.

The Secretary read the letter, marked "U. S. S. Exhibit 59," as follows:

[U. S. S. Exhibit 59.]

JANUARY 24, 1912.

MY DEAR JUDGE: Yours of the 10th instant concerning the New Orleans-Mobile-Montgomery case reached me, I think, some days after it was written. I, however, deferred making any attempt to answer until I could have a chance to talk with Mr. Compton about some of the matters to which your inquiries are directed. And, as Mr. Compton was off on one of his testifying expeditions and did not return to his office for several days, the answer to your letter has been delayed much longer than I expected. Otherwise I would have made a brief acknowledgment of it immediately, with promise of an additional answer later.

As your letter was written without the aid of a stenographer, so that you have no copy of it, I will, pursuant to your suggestion, state the substance of your inquiries, so that my answer may be clearly understood.

You refer to the following facts, (1) that the commission in its report stated that the building of new railroads and other causes have forced many departures from the adjustments of rates made by the Cooley arbitration; (2) that in my brief, on page 69, I refer to this assertion by the commission and say it is not according to the record; and (3) that an examination of the tariffs in evidence seems to disclose a large number of changes in commodity rates from time to time, which seem to refute my statement. Having made this reference to the record and the brief, you then ask:

"Assuming that these tariffs have been correctly interpreted by us, would you still affirm the position taken in your brief, and upon what theory would you sustain it? That is to say, if there have been these departures from time to time in commodity rates from the adjustment of rates under the Cooley arbitration, would not that of itself be sufficient to warrant the assertion made by the commission, which you say is in the face of the record? Also, have you made such an examination of the tariffs in evidence that you are prepared to give us your views as to whether they have been correctly interpreted by us, and whether they show the numerous changes which I have referred to? Again, is there anything to indicate that the commission did or did not rely on these tariffs for the statements which they make with regard to the alleged departures from the Cooley arbitration? And if there are such departures in commodity rates, whether the commission noted them or not, could it be said that the statement in their report was not sustained by the evidence?

"I, of course, have not failed to note the argument you make on the allegations of the bill not being denied by the answer as well as the references made to the testimony of Mr. Compton, Mr. Powell, Mr. Green, Mr. Bannon, and Mr. Hattendorf. But are not the denials of some of these witnesses, for instance, Mr. Compton, somewhat qualified and do they positively declare that since the construction of the Memphis & Birmingham road and the adjustment following it there have in fact been no further departures?"

I have not examined the tariffs, filed with any view of ascertaining whether or not, in making commodity rates, there have been departures from the Cooley adjustment, and the reason I did not do so, I believe, was clearly sufficient and shows, as it seems to me, that the matter is not now before the Commerce Court. In the beginning the complaint by the New Orleans Board of Trade embraced both class rates and commodity rates. But the commission, for reasons expressed by it in its report, never passed upon the complaint as to commodity rates, the concluding clause of the commission's report being in the following language:

"In regard to the commodity rates attacked in these proceedings certain adjustments and changes have been made therein by the defendant since the institution thereof, with the view of correcting inequalities or excessive rates found to exist, which adjustments and changes are admitted to have removed the cause of complaint to some extent. It is impracticable in the present state of the record to determine satisfactorily what other changes, if any, respecting commodity rates should be made. These cases will be retained, therefore, for such further investigation and consideration of commodity rates involved as the facts and circumstances may seem to require." (Complainant's exhibit book, p. 89.)

I was not in the case before the commission at all. And I did not come into the case in the circuit court until after the bill was filed and the commission had filed its answer. I did, however, have charge of the taking of proof and the preparation of the case from the time the issues were made. Finding that the commission had decided nothing on the subject of commodity rates, but had expressly reserved that subject for further consideration, and that the equity suit filed by the railroad company attacking the commission's order was therefore necessarily confined to the subject of class rates, to which the commission's order was confined, I never attempted to make any investigation of the subject of commodity rates, or to make any preparation of the case based upon a consideration of them; and I do not see how any question pertaining to commodity rates can now be before the Commerce Court. Whether or not there have been departures from the Cooley adjustment in the fixing of commodity rates is a matter that would require investigation, followed by explanation, but that investigation has not been made for the reasons which seem to me to sufficiently appear from what I have said.

I do not see how it can be possible that the commission, in making the statement it did in its report as to the departure from the Cooley adjustment, could have had reference merely to possible departures in commodity rates, when the language which I have quoted from its report shows it did not have commodity rates under consideration, but had determined to reserve them for future consideration. If it be true that there were no departures from the Cooley adjustment in class rates, except such as resulted from the building of the Kansas City, Memphis & Birmingham road, but there were possible departures in the fixing of commodity rates, it would seem strange that the commission, when dealing solely with class rates, and expressly excluding commodity rates, would refer to a condition which was true solely of commodity rates, but not true of class rates, and give this as the reason for its action taken with reference to class rates.

And if such departures from the Cooley adjustment do exist as to commodity rates, then whether the commission noted and intended to refer to these departures in commodity rates or not, it seems very clear to me that the commission's statement that the Cooley adjustment had been departed from, must be considered as relating to that subject matter upon which it was passing judgment, or expressing a conclusion and which, as we have seen, was confined to the subject of class rates, expressly excluding commodity rates, and therefore in any proper sense it is true that the commission's statement is not sustained by the evidence.

When I at last succeeded in getting hold of Mr. Compton, and asked him about the fact as to whether or not the Cooley adjustment had been departed from in fixing commodity rates, a subject to which I had never before given any attention, he said that that was a question which it was not possible for him to answer without very careful examination, and that any correct treatment of the subject would require a very great deal of very painstaking investigation. He called my attention to the fact that in the tariffs there are a great many pages devoted to commodity rates; that it would be necessary to check over all of these individual rates for the purpose of seeing whether or not any rates on any commodity departed from the Cooley adjustment, and then to ascertain, if possible, the reason why the departure was made in that particular case.

As to the particular tariffs that were filed before the commission, I was not able to call them specially to his attention, because my file is very incomplete as to copies of the tariffs introduced in evidence, and it would of course be an enormous work to read through the entire testimony before the commission for the purpose of picking out here and there where some tariff of this kind may have been referred to. He said, therefore, that while it was a possible thing to check over all of these commodity tariffs prevailing in the southeastern territory, it would involve a work of tremendous labor. And I told him that I did not believe you meant to call for them at this time, especially in view of the situation of this case, as I have heretofore explained. Speaking generally upon the subject, without investigation, he said that there might be some cases where a commodity moved in substantial quantities from one point, such as New Orleans, which did not move in substantial quantities from the Ohio River, or the upper Mississippi River crossing, or vice versa, and that in such cases it might be found that a commodity rate had been put in on the commodity from the point, or points, from which it moved in substantial quantities, while the same article was left in the classified list at points from which it did not move in substantial quantities; and that again there might be some cases where, either through mistake or through oversight, there had been a departure in fixing commodity rates on some specified article; or again, there might be departures upon other commodities intentionally made, but made for some reason that could be explained if the facts were fully investigated; but, as said before, that to check this matter over and get at the truth as to these details would require a great deal of labor and quite a considerable length of time.

As to the testimony of the witnesses in the case at bar, it seems to me it is very clear and positive. In answering my questions as to whether or not there had been any departures from the Cooley arbitration subsequent to those caused by the building of the Kansas City, Memphis & Birmingham Railroad they may have had in mind only departures in class rates—that was certainly what I had in mind in my questions—but their answers seem to me as specific and direct as you could expect of witnesses upon such a subject. One or two of them may have used the expression that since the building of the Kansas City, Memphis & Birmingham road there had been no departures so far as they knew. But that is all that a witness could say. The territory is a large one, and the subject is a large one, but each of these witnesses was a man of very large experience and information in this line, and when they said that there had been no departures within their knowledge it was about as complete testimony as it would be possible to produce in such a case. They were all subject to cross-examination by the counsel for the Interstate Commerce Commission, who had his rate expert at his elbow when the examination was in progress, and if he knew of any departure it was his duty to call attention to it.

I hope I have made myself plain and that I have answered the questions in your mind, as expressed in your letter. If, however, there is any further assistance I can render, it will give me great pleasure to render it if you will indicate how I can serve you or the court.

Yours, truly,

———.

Hon. R. W. ARCHBALD,
Judge United States Commerce Court, Washington, D. C.

Q. (By Mr. Manager NORRIS.) That letter, Mr. Bruce, was signed by you?—A. Oh, yes.

Q. The Secretary has read from a carbon copy. Did you hear from the judge again before this case was finally determined?—A. No.

Q. When did you next hear from him in regard to this case?—A. After the case was decided I wrote the judge a letter and he answered that.

Q. Have you a copy of the letter that you wrote to the judge?—A. Yes, sir.

Mr. Manager NORRIS. I ask that it be marked as an exhibit and that it be read in evidence.

The Secretary read as follows:

[U. S. S. Exhibit 60.]

MARCH 4, 1912.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

MY DEAR JUDGE: Of course, a lawyer is always gratified at winning a case, but I hope that I offend against no rule of propriety when I express my gratification, not simply at the ultimate result, to wit, the annulling of the order of the commission in the case of Louisville & Nashville Railroad Co. *v.* Interstate Commerce Commission (which we know as the New Orleans Board of Trade case), but over the opinion. This seems to me to show a familiarity on your part of the intricate details of this case that is really extraordinary; and your statement of the principles by which the court was guided in acting upon the case is so clear as to leave no doubt in the mind of one who is looking for a guiding rule in such cases.

Yours, truly,

———.

HB-B.

Q. (By Mr. Manager NORRIS.) Mr. Bruce, that letter bore your signature as it was sent?—A. Yes.

Q. Did you get an answer to that?—A. I did.

Mr. Manager NORRIS. We ask that it be marked as an exhibit and read in evidence.

The Secretary read as follows:

[U. S. S. Exhibit 61.]

(R. W. Archbald, Judge, United States Commerce Court, Washington.)

SCRANTON, PA., *March 8, 1912.*

MY DEAR MR. BRUCE: I thank you for your letter and its kind appreciation of the opinion of the court in the New Orleans Board of Trade case; but you fail to take credit for the very important part which you played in the result. Frankly, the case was won on your argument and brief. Your oral argument was one of the best that we have heard, and your brief was an absolute demonstration of the errors committed by the commission, and complete at every point. You can not fail to note how closely the opinion follows and reflects what is there said. As for myself, I am only entitled at the most to a part of the opinion as filed. A considerable portion of it, if not indeed the best, is from the hand of another member of the court, and it is probably there that you find the enunciation of principles which you particularly commend. I regret exceedingly the delay which has occurred in this case; but some time, when I have the pleasure of seeing you again, I will endeavor to explain how it came about.

Very truly, yours, R. W. ARCHBALD.

I hope we shall have the pleasure of hearing you soon in argument again.

Q. (By Mr. Manager NORRIS.) Mr. Bruce, the judge in that last letter speaks of a conference. Did you have that conference?—A. No; I never saw—I never spoke to Judge Archbald in my life, except twice, once——

Q. You never saw him after the receipt of that letter except since you have appeared as a witness here or before the committee?—A. I have never seen him until I saw him before the Judiciary Committee.

Q. Did you give to the other attorneys in the case any notice of this letter or argument that you sent to the judge?—A. I did not.

Q. Do you know whether any of the other attorneys in the case knew anything about the correspondence that was going on while the case was pending?—A. I do not know, but I have no reason to think they did.

Q. In that litigation who represented the United States Government?—A. Do you mean the Government or the commission?

Q. I mean the Interstate Commerce Commission.—A. Mr. William E. Lamb, now of Chicago, then of Washington.

Q. Who instituted this suit originally?—A. The Louisville & Nashville Railroad Co.

Q. There was a complaint made coming from the New Orleans Board of Trade, was there not?—A. Yes; that was the hearing before the Interstate Commerce Commission.

Q. Yes.—A. That was a complaint, or, rather, there were three complaints by the New Orleans Board of Trade against the Louisville & Nashville Railroad Co. before the Interstate Commerce Commission.

Q. Who represented the New Orleans Board of Trade in this litigation, if anybody?—A. In this judicial case?

Q. Yes.—A. Nobody.

Q. They were not represented?—A. No, sir.

Q. Were they represented before the Interstate Commerce Commission, do you know?—A. I know that from having seen a brief filed before the commission by Mr. Smith.

Q. Mr. Smith?—A. He represented the board of trade before the commission.

Q. Do you know his full name?—A. I think it is John Smith.

Q. He lives in New Orleans?—A. Yes. I am not sure of his name.

Q. I will ask explicitly did you notify Mr. Smith or this other gentleman, whose name you have given——

Mr. SIMPSON. Mr. Lamb.

Q. (Continuing). Mr. Lamb, of what was going on in this correspondence?—A. I did not.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Bruce, you have been a practicing attorney how long?—A. Thirty years.

Q. In active practice during the whole of that time?—A. Yes, sir.

Q. In what courts has your practice been principally?—A. Well, all of the courts in my part of the country.

Q. And the Supreme Court of the United States?—A. Yes, sir; and the circuit court, Court of Appeals of Kentucky, the circuit and district courts of the United States, the circuit court of appeals, and the Supreme Court.

Mr. SIMPSON. Mr. President, there are a couple of matters as to which there is no dispute, about which we want to examine the witness. Mr. Bruce is an exceedingly active man. I do not know whether the managers would object to our examining him in regard to these matters at this time or not. It will not be cross-examination.

Mr. Manager NORRIS. I did not hear the statement of counsel.

Mr. SIMPSON. I say there are a couple of matters about which there is no dispute as to which we would like to examine Mr. Bruce at this time. He has been subpœnaed by us. I do not think there will be any dispute about it, but of course we will have to wait until our case comes on if the managers object.

I will state, if you desire, what the points are. In the first place to prove by Mr. Bruce that the first letter which was received by Judge Archbald from him was, in fact, attached to the record in the case.

Mr. Manager NORRIS. There is no dispute about that. We will admit that.

Mr. SIMPSON. And is printed in the record in the Supreme Court. If that is admitted I do not want to ask him about it.

Mr. Manager NORRIS. That is the first letter?

Mr. SIMPSON. Yes; from Mr. Bruce to Judge Archbald.

Mr. Manager NORRIS. Yes; from Mr. Bruce to Judge Archbald.

Mr. SIMPSON. And the second thing is that he received a letter from Judge Mack and wrote a reply, which he has been asked to produce. I would simply like to have the letters identified and copies left here.

Mr. Manager NORRIS. There will be no objection to his doing that. We will not object to Judge Mack's letter, except the objection that may be made on the ground of its immateriality.

Mr. SIMPSON. That is all right.

Mr. Manager NORRIS. We will not require you to identify them. You need not keep him here for that purpose. I do not think it is material.

Mr. SIMPSON. I do not think there is any use of Bruce remaining here.

The WITNESS. Do I correctly understand that you want me to produce the letter?

Mr. SIMPSON. A copy of Judge Mack's letter to you and your reply to him. With that we will let you go.

Mr. WORTHINGTON. He might produce the originals.

Mr. SIMPSON. He would, of course, I suppose prefer to keep the originals.

Mr. Manager CLAYTON. You will let us see those?

Mr. SIMPSON. I have not seen them myself yet, Judge, but I will be very glad to show them to you.

The WITNESS. There are three letters. You asked for only two.

Mr. SIMPSON. I did not know there were three. [To the witness.] Can you leave these letters or send us copies? It does not make any difference which you do.

The WITNESS. I will leave the originals here, and you can return them to me when you get ready.

Mr. SIMPSON. Thank you.

Q. (By Mr. Manager NORRIS.) Referring to this case of the Louisville & Nashville Railroad Co. against the Interstate Commerce Commission, after it was decided by the Commerce Court it went to the Supreme Court, did it not?—A. It did.

Q. And is there pending?—A. Under submission.

Q. Had the case originally been passed upon by the Interstate Commerce Commission?—A. Oh, yes; that is the foundation.

Q. And your client, the Louisville & Nashville Railroad Co., commenced the case by injunction against the Interstate Commerce Commission from enforcing its order; that was the origin of it?—A. That is it.

Q. Mr. Bruce, since your testimony have you talked with the attorneys for the respondent?—A. I have not; except——

Q. Have you had any correspondence with them?—A. (Continuing.) Let me answer the question completely.

Q. All right.—A. When I got to the city, having been subpœnaed by both sides, I notified the managers that I was here and ready to testify; and I also notified Mr. Worthington, counsel for Judge Archbald, that I was here and ready to testify.

Q. Did you communicate to them the fact that you had had some correspondence with Judge Mack?—A. I testified to that before the Judiciary Committee.

Q. I believe you did make reference to that.

Mr. SIMPSON. That is the reason we subpœnaed him to produce them.

The WITNESS. I was served with a subpœna duces tecum to produce those letters.

Q. (By Mr. SIMPSON.) Did you write a letter to Mr. Worthington after your testimony before the Judiciary Committee?—A. I did.

Mr. SIMPSON. I think, gentlemen, you have that letter.

Mr. WORTHINGTON. We should like to have that letter to identify it. It is not in evidence.

Mr. Manager CLAYTON. There will be no trouble about the identification. We will find it or a copy of it.

Mr. SIMPSON. All right.

Mr. WORTHINGTON. The record of the Judiciary Committee will show that this witness did write a letter to me, which I produced at the hearing before the Judiciary Committee. It was turned over to the committee and has been in their possession since.

Mr. Manager CLAYTON. I apprehend we will have no controversy about that unless it be about the admissibility of it in evidence; but about the identification of it or the fact that such a letter was written, there will be no controversy.

The WITNESS. I did not understand you to ask me, Judge, if I had written to Mr. Worthington. Was that the purport of your question?

Mr. Manager NORRIS. I asked you if you had had any correspondence with him.

The WITNESS. I did not understand that. Of course I did write to Mr. Worthington shortly after my appearance before the Judiciary Committee, but I knew the managers knew of that letter, and when you asked me if I had had any correspondence I thought you meant some late correspondence.

Mr. Manager NORRIS. That is all with this witness.

Mr. Manager CLAYTON. The witness may be discharged.

The WITNESS. I should like to ask if my letter which I wrote to Mr. Worthington is in the record.

Mr. WORTHINGTON. No; it is not.

The WITNESS. I think the facts I stated in that letter are material. If I may be permitted to say so, to this matter you have under consideration, because it states the attitude of the parties upon the question on which Judge Archbald wrote to me.

Mr. Manager CLAYTON. This is not in response to anything we have asked; and while it is very interesting, I think we can deal with that matter later. There will, no doubt, be an agreement about the identity of the letter, but any argument predicated on that letter I do not think we care to have at this time.

The PRESIDENT pro tempore. The witness may be finally discharged?

Mr. SIMPSON. Yes.

The WITNESS. Discharged by both sides.

Mr. Manager NORRIS. I have a witness, whose testimony will be very brief, whom we might call at this time.

The PRESIDENT pro tempore. If it is the desire of the Senate, the time can be prolonged. If not, the order of the Senate will require the Senate sitting as a Court of Impeachment to adjourn at 6 o'clock. On the suggestion of the manager that the testimony of his next witness will be short——

Mr. Manager NORRIS. It may be the witness has gone. I think he has gone. We will not ask that he be called at this time.

Mr. LODGE. I move that the Senate sitting as a Court of Impeachment adjourn.

The motion was agreed to.

Thereupon the managers on the part of the House, the respondent, and his counsel retired.

Mr. SMITH of Georgia. I move that the Senate adjourn.

The motion was agreed to, and (at 5 o'clock and 59 minutes p. m.) the Senate adjourned until to-morrow, Thursday, December 12, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December 11, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We bless Thee, Almighty God, our heavenly Father, for the deep and abiding faith which Thou hast implanted in the hearts of Thy children, the inspiration of men to noble and heroic lives, to whom we are indebted for the civilization of our day. We most fervently pray that this faith may grow until it becomes universal, crowding out hate and revenge, doubt and uncertainty, bringing in brotherly love, until all men can say,

I know not where His islands lift
Their fronded palms in air;
I only know I can not drift
Beyond His love and care.

This we ask in the name of Christ the Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVE TO PRINT.

Mr. CANTRILL. Mr. Speaker, I ask unanimous consent to print in the RECORD the argument of the Hon. James M. Beck in the Supreme Court of the United States as to the invalidity of a Federal censorship of the press under the operation of House bill 21279.

The SPEAKER. Is there objection?

There was no objection.

The following is the argument referred to:

(Supreme Court of the United States. The Lewis Publishing Co., a body corporate in law, complainant-appellant, against Edward M. Morgan, postmaster in and for the city of New York, defendant-appellee.)

BRIEF FOR THE APPELLANT.

STATEMENT OF FACTS.

The newspaper law (reprinted in full as an appendix, *post*, p. 51), whose constitutionality is in this suit called into question, is neither in form nor substance a law to regulate the carriage of the mails, but *to regulate journalism.*

In this respect it has the merit of sincerity. It does not pretend to be in aid of the Post Office Department. That department did not seek its enactment, but protested against it. (When the bill was under consideration before the Senate Committee on Post Offices and Post Roads the Postmaster General addressed a formal letter to Senator BOURNE, the chairman of the committee, in which, after discussing other details of the general appropriation bill, he made this specific protest against the passage of the newspaper section: "I also call your attention to that portion of the bill beginning on page 33, line 19, which requires the insertion in newspapers and periodicals of the name of the owner or owners and the managing editor or managing editors, and also that matter for the insertion of which a charge is made by the publishers should be marked as an advertisement or private name of the writer signed thereto. *In my judgment this provision is not only needless, but will be positively harmful, as it will require the continuous use of valuable space in the publication and at the same time be resented as a censorship of the press.* One of the greatest difficulties now encountered in the enforcement of the laws relating to second-class mail privileges is the fact that the Post Office Department is under its duty compelled to make inquiry into many aspects of the private business of publishers. This gives rise to the complaint, though ill-founded, that the Government carries on a needless interference with the privileges of the press. The *only possible service* to be rendered by such a provision would be the identification of the owners and writers of newspapers and periodicals in order to hold them for contractual obligations or for libelous printed matter, both of which would be matter under the jurisdiction of the State and not the Federal authorities. *I am of the opinion that it should be the constant aim, not only of Congress, but of the Post Office Department as well, to lessen the necessity for supervision of the public press in order to administer the postal laws and regulations. I earnestly hope that the provision referred to will not become law.*")

The law in question makes no reference to the mails, except that it uses exclusion therefrom *as a means of enforcing this censorship of the press.*

Even this remote connection is wanting in the latter section of the law, which requires paid reading matter to be formally branded as an advertisement. Its enforcement is left to a criminal action for a penalty.

The law has two plainly avowed objects.

The first is to compel a disclosure to the Government, under oath, of the names and addresses of the editors, publishers, business managers and owners, stockholders, security creditors, and the daily circulation of such newspapers for the preceding six months.

This will be hereafter referred to as the inquisitorial provision.

The second object is to compel a disclosure to the public through newspaper publication of these facts and also whether any editorial or reading matter in such publication has been inserted for a valuable consideration.

This will be hereafter referred to as the publicity provision.

The publicity provision can not be referred to any proper function of the Post Office Department. Its function is to carry the mails and in such carriage it can not matter whether *the public* are advised as to the ownership, editorial direction, and circulation of a newspaper or not, or whether the matter which it publishes is published for a consideration.

The requirement that the publishers shall file a sworn statement on these matters with the Post Office Department was not intended as a means of determining whether a newspaper was in fact entitled to the privileges of second-class rates, for as the Attorney General, in the opinion which he has given to the Postmaster General with reference to this law, plainly points out, the Post Office Department already has all of the inquisitorial power that it needs for this purpose. (The Attorney General says: "Independently of this amending act, in order that the Postmaster General may determine whether or not a publication applying to be admitted to the second class has a legitimate list of subscribers, and is not designed primarily for advertising purposes, or free circulation, or for circulation at nominal rates, the Postmaster General is entitled to require full and complete statements showing the character of the business of the publication, and by section 436 of regulations (edition of 1902) he has required postmasters to secure satisfactory evidence that publications so offered for entry have 'a legitimate list of subscribers approximating 50 per cent of the numbers of copies regularly issued and circulated, by mail or otherwise, made up, not of persons whose names are furnished by advertisers or by others interested in the circulation of the publication, but of those who voluntarily seek it and pay for it with their own money, although this rule is not intended to interfere with any genuine case where one person subscribes for a definite period of several issues for a limited number of copies for another.' And by section 438 the postmasters are directed to require the proprietor or duly authorized representative, on applying for second-class mail privilege, to furnish detail information of a character deemed requisite by the Postmaster General to enable him to determine whether or not the publication falls within the requirements of the acts of Congress. The right of the Postmaster General to exact this information is in no respect impaired or affected by the provisions of the statute under consideration. Those provisions are inserted as a part of the act of 1912, which is apparently designed to insure publicity as to the ownership and control of a publication. This particular clause was inserted by amendment just before the passage of the act, and bears no ascertainable relation to the subject matter of the paragraph in which it was inserted.")

The history of the legislation also makes it clear that the purpose of the act was not to enable the Post Office Department to carry on its work, but to regulate journalism for the supposed benefit of the public.

While resort may not be had to the debates in Congress to determine the *interpretation* of a statute, yet they can be examined when the *object* of a statute is a pertinent matter. The proponents in Congress of this novel law very frankly admitted that the purpose of the act was to regulate journalism, rather than the mails. The debates may be searched in vain for any suggestion that the efficient carriage of the mails was the object of the legislation. (Senator BOURNE, chair-

man of the Committee on Post Offices and Post Roads, said: "I assume the desire is to furnish the public information as to the possible bias of the paper incident to ownership or incident to obligations of the paper or its owners to individuals." Another advocate of the legislation, Senator REED, of Missouri, said that "the purpose of the proposed law was that the people who read the newspapers should be advised of the control back of the newspapers." When the proposed legislation was originally suggested in the House of Representatives, Congressman HENRY of Texas, chairman of the Committee on Rules, stated that its purpose was "that the American people may see the men who stand behind the guns trained against public officials." When the addition with reference to the printing of paid matter was added, its proponent, Congressman BARNHART, of New York, stated as its purpose that this provision "will not cost the people anything, but will conserve honesty and public confidence in one of the greatest educational factors in the world." Congressman VICTOR BERGER, of Wisconsin, said: "It seems to me that the politicians are trying to get even with the newspapers, which are continually prying into the private affairs of the politicians. The politicians want to know everybody connected with the papers and thus get the best of them. You can never do it, gentlemen, because in the end the newspapers will have the last word every time, no matter what you do. If you get the ill will of your own party papers, you might just as well quit the political game. Moreover, there is a grave danger lurking behind the proposition. The freedom of the press is involved.")

The face of the statute shows its true purpose. Religious, fraternal, temperance, scientific or other similar publications are exempted from its provisions, and the requirement as to disclosure of circulation is further limited to daily newspapers.

If it be desirable that the Postmaster General, before admitting a periodical to second-class rates or to the privileges of the mail, shall require a statement of its average circulation, such requirement, so far as the Post Office Department is concerned, must be quite as important in the case of a religious or scientific journal as an ordinary newspaper, and certainly there can be no reasonable distinction as to such publicity between a weekly and daily newspaper. This discrimination shows that the law attempts to regulate the instrumentalities of public opinion, the newspaper press, and that the carriage of the mails or the right to second-class matter was not the object of Congress. It attempts to ascertain who are responsible for daily newspapers, and the extent of their influence as measured by circulation.

Congress sought to censor the press by compelling disclosure and publicity of facts vital to its influence under the penalty of exclusion from the mails, a penalty sufficiently drastic, for such exclusion would wreck any publication. The penalty is not merely exclusion from the privilege of *second-class* rates or a denial of the carriage of the newspaper through the mails. The owners and publishers who refuse to comply with the law are denied the privilege of the mails for any purpose. As to paid matter, they are subject to indictment and a fine.

With the policy of this law this court has no concern. It can only inquire whether it is a valid law under the Constitution.

My argument against its validity will be divided into three propositions:

1. The Constitution has not, either under the post-roads clause or elsewhere, delegated to the Federal Government the power (1) to compel these disclosures and (2) to direct their publication or (3) to compel paid reading matter to be marked as an advertisement.

2. The Constitution not only failed to give such power, but it expressly forbade it by the first amendment prohibiting any law "abridging the freedom of the press."

3. The requirement that a certain class of newspapers shall disclose to the public by publication the most intimate details of their business and use their own capital, labor facilities, and valuable space for such disclosure is a taking of "liberty" and "property" without due process of law and a like taking of valuable property rights for an assumed public use without just compensation.

ARGUMENT OF THE LAW.

I.

The Constitution has not, either under the post-roads clause or elsewhere, delegated to the Federal Government the power (1) to compel these disclosures and (2) to direct their publication or (3) to compel paid matter to be marked as an advertisement.

While no *express* power for such a law will be claimed, the Government will seek to sustain it as an *implied* power necessary to the *express* power "to establish post offices and post roads" (Art. I, sec. 8). It has been well said:

"No other constitutional grant seems to be clothed in words which so poorly express its object or so feebly indicate the particular measures which may be adopted to carry out its design. To establish post offices and post roads is the form of the grant; to create and regulate the entire postal system of the Government is the evident intent." (Pomeroy on Constitutional Law, sec. 411.)

It was originally thought—indeed, as late as the administration of President Monroe—that the only purpose of the grant was to designate the routes over which the mails should be carried and the post offices where it should be received and distributed. At the time the Constitution was framed the carriage of the mails was a private enterprise, although the establishment of post offices was a governmental function. This was the view of President Monroe when he vetoed the Cumberland Road bill on May 4, 1822. The carriage of the mails is therefore in itself an implied power.

These earlier and narrow views of an important governmental power are, however, academic, for I freely concede that, however unhappily expressed, the Constitution meant to give to the Federal Government full power to make a monopoly of the carriage and distribution of the mails, and that all "*necessary and proper*" means are to be regarded as fairly embraced in the power.

The present law as an alleged implied power must therefore be subjected to the acid test of Chief Justice Marshall:

"Let the end be legitimate, let it be within the scope of the Constitution, and all means *which are appropriate*, which are *plainly adapted to that end*, which are not prohibited but *consistent with the letter and spirit of the Constitution*, are constitutional."

Is the enforced disclosure and publication of the most intimate secrets of the ownership and editorial management of a newspaper and the circulation thereof a means "*plainly adapted*" to the carriage of the mails?

Is it an "*appropriate*" method?

Is it "*consistent with the letter and spirit of the Constitution*," in view of the express declaration that the freedom of the press shall not be "*abridged*"?

When governmental powers—only *enumerated* in the Constitution in the broadest and most general way—pass to the stage of necessary definition through judicial decisions, restrictions are imperatively necessary, unless the Constitution itself is to fall into careless ruin.

The commanding genius of Marshall and his associates quickly recognized the absolute necessity of the judiciary confining both the National and State Governments within their respective spheres by so *defining the enumerated powers* as to create a harmonious though dual system.

In the case of McCulloch *v.* Maryland (4 Wheat., 423) the Chief Justice laid down for all time this great and absolutely necessary rule of interpretation, as follows:

"Should Congress, *under the pretext of executing its powers*, pass laws for the accomplishment of objects *not intrusted to the Government*, it would become the painful duty of this tribunal, should a case requiring such a decision come before it, *to say that such an act was not the law of the land*." (Hamilton, in the Federalist, No. 33, said: must, upon their own responsibility, determine whether in any particular case these limits have been passed. 'To what purpose,' it was said in Marbury *v.* Madison (1 Cranch, 137, 176), 'are powers limited, and to what purpose is that limitation committed to writing, if these limits may at any time be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished if those limits do not confine the persons on whom they are imposed and if acts prohibited and acts allowed are of equal obligation.' The courts are not bound by mere forms, nor are they to be misled by mere pretenses. They are at liberty—indeed, are under a solemn duty—to look at the substance of things whenever they enter upon the inquiry whether the legislature has transcended the limits of its authority. If, therefore, a statute purporting to have been enacted to protect the public health, the public morals, or the public safety has no real or substantial relation to those objects or is a palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge and thereby give effect to the Constitution.")

The Government may contend that the later decisions of this court modify, if not altogether abrogate, this primary and vital principle of constitutional construction. The line of cases, of which Veazie *v.* Fenno, 8 Wall., 533, is the leading case, will probably be cited, in which the doctrine is laid down in various forms but substantially to the following effect:

"The judiciary can not prescribe to the legislative departments of the Government limitations upon the exercise *of its acknowledged powers*. The power to tax may be exercised oppressively upon persons, but the responsibility of the legislature is not to the courts, but to the people by whom its members are elected."

It was clearly shown in subsequent decisions that the decision in Veazie *v.* Fenno was amply justified in the exclusive power of the Federal Government to establish an exclusive currency, with the incidental power to "restrain by suitable enactments the circulation money the notes not issued under its own authority." The statement in that case, therefore, that "the judiciary can not prescribe the legislative department of the Government limitations upon the exercise of its acknowledged powers" was mere obiter. This decision means nothing more than that the "acknowledged," *i. e.*, conceded powers, can not be restricted by the judiciary to prevent some supposed injustice. If, therefore, the Constitution had given the Federal Government power to regulate journalism and provide the conditions under which a newspaper could be published, the judiciary could not limit the power because a particular method of enforcing it seemed unwise or unjust. Much less could it invalidate such method because the judiciary believed that the methods of Congress were improper and inconsistent with the spirit of the Constitution.

It must also be remembered that in Veazie *v.* Fenno, Chief Justice Chase also said:

"There are indeed certain virtual limitations arising from the principles of the Constitution itself. It would undoubtedly be an abuse of the power if so exercised as to impair the separate existence and independent self-government of the States *or if exercised for ends inconsistent with the limited grants of power in the Constitution*."

Reading these excerpts from this leading case together, it must be obvious that in considering the constitutionality of any statute we "beg the question" if we first assume the power and then simply deny the right of the judiciary to place limitations upon its exercise. In Veazie *v.* Fenno this court did not hold that the motive and object of Congress might not be very pertinent in determining this primary question of power. On the contrary, this court ruled that if the legislation were clearly within the Constitution the motives of Congress were beyond judicial inquiry. This court has never conceded—and I venture to predict never will concede—that Congress can use a power given only for one purpose for an entirely different and unconstitutional purpose. In this class of cases reasoning in a circle must be carefully avoided.

A later and more striking case is McCray *v.* United States (195 U. S., 27), in which this court, having under consideration the constitutionality of the designedly prohibitive tax upon oleomargarine, held that the judiciary could not inquire into the "*motive or purpose*" of Congress in adopting a statute levying an excise tax within its constitutional power.

There is no necessary inconsistency between these two lines of decisions.

The latter line of cases are generally, if not invariably, instances of *express powers*, like that of taxation or the regulation of commerce, and as to these this court has said that they, being what Marshall called "acknowledged powers," the judiciary *ex necessitate rei* can neither limit them further than they are expressly limited in the Constitution nor impeach the power by questioning the uncertain motives of Congress.

A very different question arises and must arise where the exercise of an *implied* power is under consideration. There the law finds no warrant in the letter of the Federal Constitution. The power has not been expressly granted. It is contested with the tenth amendment, expressly reserving all undelegated powers to the States.

Indeed, implied powers are derived from the Section of the Constitution which gives "power to make all laws *necessary and proper* for carrying into execution the powers expressly granted to Congress or vested by the Constitution in the Government or in any of its departments or officers." While no narrow, literal, and impracticable meaning can new be given to the words "necessary and proper," yet, as Mr. Justice Story said in his great commentary on the Constitution, these words "are at once admonitory and directory,' and they require that the means used in the exercise of an express power 'should be *bona fide* appropriate to the end." (Hepburn *v.* Griswold, 8 Wall., 603, 614.)

"Every valid act of Congress must find in the Constitution some warrant for its passage." (United States *v.* Harris, 106 U. S., 636.)

An alleged implied power, as in the case at bar, must justify itself by showing that it is "necessary and proper" and "plainly adapted" to carrying out some express power. (State powers and Federal powers are mere complements of each other, and to both can be applied the words of this court in Mugler *v.* Kansas (123 U. S., 623): "It does not at all follow that every statute enacted ostensibly for the promotion of these ends is to be accepted as a legitimate exercise of the police powers of the State. There are of necessity limits beyond which legislation can not rightfully go. While every possible presumption is to be indulged in favor of the validity of a statute (Sinking Fund cases, 99 U. S., 700, 718) the courts must obey the Constitution rather than the law-making department of Government, and must, upon their own responsibility, determine whether in any particular case these limits have been passed. 'To what purpose,' it was said in Marbury *v.* Madison (1 Cranch, 137, 176), 'are powers limited, and to what purpose is that limitation committed to writing, if these limits may at any time be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished if those limits do not confine the persons on whom they are imposed and if acts prohibited and acts allowed are of equal obligation.' The courts are not bound by mere forms, nor are they to be misled by mere pretenses. They are at liberty—indeed, are under a solemn duty—to look at the substance of things whenever they enter upon the inquiry whether the legislature has transcended the limits of its authority. If, therefore, a statute purporting to have been enacted to protect the public health, the public morals, or the public safety has no real or substantial relation to those objects or is a palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge and thereby give effect to the Constitution.")

The question in this case, as in every similar case, is not whether this legislation is an exercise of a *delegated* Federal power for some ulterior or improper purpose, but whether, having regard to the Constitution as a whole and giving due effect to all the limitations of the amendments—particularly the tenth—*the specific legislation is within the true definition of the power.*

When therefore a law is passed under the pretense of exercising a Federal power and it is not "necessary and proper," "appropriate," or "plainly adapted" to such power, then the judiciary declares it invalid, not as withdrawing from the Federal Government anything delegated by the Constitution, *but in more accurately defining the nature of the power.*

While this court has with reason exercised this great power sparingly, yet the number of Federal enactments that have been adjudged unconstitutional is sometimes underestimated. Without pretending to have made an exhaustive search of the authorities, I have found 20 cases in which Federal enactments were thus adjudged unconstitutional by this court. In one of these (the Legal Tender cases) the decision was subsequently reversed. Of the remaining 19, 12 were adjudged void for want of power and 7 because they contravened some express constitutional limitation. The cases are:

Marbury *v.* Madison, 1 Cranch, 138; decided 1803. Dred Scott *v.* Sanford, 19 Howard, 393; decided 1857. Ex parte Garland, 4 Wallace, 335; decided 1866. The Alicia, 7 Wallace, 571; decided 1868. Hepburn *v.* Griswold 8 Wallace, 603; decided 1869. Justices *v.* Murray, 9 Wallace, 274; decided 1869. Collector *v.* Day, 11 Wallace, 113; decided 1870. United States *v.* Klein, 13 Wallace, 128; decided 1871. United States *v.* Reese, 92 United States, 214; decided 1875. Trade-mark Cases, 100 United States, 82; decided 1879. United States *v.* Harris, 106 United States, 629; decided 1882. Civil Rights Cases, 109 United States, 3; decided 1883. Boyd *v.* United States, 116 United States, 616; declared invalid 1886. Monongahela Navigation Co. *v.* United States, 148 United States, 312; decided 1893. Income Tax Case, 157 United States, 429; decided 1895. Wong Wing *v.* United States, 163 United States, 228; decided 1896. Fairbank *v.* United States, 181 United States, 283; decided 1901. James *v.* Bowman, 190 United States, 127; decided 1903. Employers Liability Cases, 207 United States, 463; decided 1908. Adair *v.* United States, 208 United States, 161; decided 1908.

In the case at bar the pretense is that the law is an appropriate and necessary means of carrying out the power to regulate the establishment of post offices and post roads and the carriage of the mails. *The declaration of Congress to the effect, while entitled to respect, can not conclude the question.* It remains for the judiciary to determine whether the means are thus "necessary and proper," "appropriate," and "plainly adapted."

This question presents a graver aspect of this constitutional problem than has ever developed before. The idea has in recent years gained ground among many eminent publicists and statesmen that certain powers granted to the Federal Government can be so utilized as to penalize men into submitting to governmental demands which would otherwise be unconstitutional. In other words, that which the Federal Government can not do directly it is attempted to do indirectly.

I call this nullification by indirection. (There is a growing belief in a power of Congress to compel the citizen to do things in themselves beyond the direct powers of the Federal Government, under penalty of a denial of some valuable privilege under the Constitution, such as the facilities of interstate commerce. The section of the Hepburn bill known as the commodities clause was based upon this novel and most dangerous doctrine that Congress, by reflex action, could compel railroad corporations to do that which otherwise Congress had no power to require, under penalty of being denied the privilege of engaging in interstate commerce. On this same theory was based Senator Beveridge's child-labor bill, which in effect attempted to prohibit the interstate transportation of any commodity, however innocent in itself, if it were the product of child labor. This attempt to compel action in matters beyond the scope of the Federal Government, through a species of statutory duress, gained remarkable ground in the congressional discussion of the trust problem, where it was again and again suggested that if the Federal power could not directly interfere with the formation and operations of large domestic State corporations, it could indirectly, by so exercising alleged Federal powers as to make it impossible for the State corporations to exist when they reached the commercial dimensions of a so-called trust. Thus it was suggested that a destructive internal-revenue tax could be imposed as bad been done with the currency of State banks; graded excise taxes were proposed to discourage excessive capitalization; the mails were to be denied to monopolistic trusts. The denial to them of a right of appeal to the Federal courts was also suggested. National banks and other governmental fiscal agencies were to be prohibited from receiving on deposit or accepting as collateral any stocks, bonds, or securities of a trust. It was even suggested that the United States Government should not deposit Government moneys in any bank, which in any manner deals with the stocks, bonds, or securities of a trust. No corporation should engage in interstate commerce without obtaining a Federal charter and subjecting its contracts to the supervision of a Government bureau. Trust-made commodities were to be forbidden access to the channels of interstate and foreign trade. Putting together the two remedies, it must be admitted that they would be sufficiently drastic, for if a large corporation can neither sue in the Federal court, transport its freight on interstate railroad lines, import its raw material in foreign commerce, telegraph a message, mail a letter, or enjoy the usual national-banking facilities, its outlawry would be complete.)

The present case affords a striking illustration of this new gospel of subverting the Constitution by a perversion of Federal powers, at which the framers of the Constitution would have stood aghast. Following the scheme of unconstitutional duress, the law simply provides that the owners of a newspaper must file with the Postmaster General, and later publish in their newspapers, the names and addresses of the editors, owners, creditors, etc., and the amount of the circulation, and shall brand paid reading matter as an advertisement, and, conscious of its inability to enforce such requirements under any *express* grant of the Constitution, Congress attempts to compel the owners of newspapers to submit to these unlawful demands by penalizing them with exclusion from the mails and liability to a fine.

Is such duress within any true definition of Federal powers?

Is it a due regulation of the mails for the Federal Government to say to a citizen, "Unless you do certain things, which we have not otherwise the power to compel you to do, we will deny you the facilities of the mail"?

If such a right exists, then it must be obvious that our Government is not one of effective restrictions. Congress, exercising a group of powers which are absolutely vital to the well being of every citizen, can coerce him into doing anything that Congress requires, under penalty of a denial of the ordinary privileges of a citizen.

Independent of the bill of rights there must be *ex necessitate rei* some restriction of the power to use the mails as a club to secure ends not within the scope of the Federal Government.

Could Congress provide that no physician should use the mails unless he has filed a statement giving his name, address, property holdings, liabilities, the number, names, and ailments of his patients and a declaration that he would only practice as an allopath? If the power over the mails be plenary and absolute, what clause in the Bill of Rights expressly forbids it?

It is not a question of the motives of Congress or the policy of the law. *It is a question of power*, and it is inconceivable that the framers of the Constitution, jealous as they were of the powers of the Government which they had created, would ever have given the Federal Government such power over the private affairs of the American people.

THE AUTHORITIES.

The decisions of this court, from its earliest history, leave no doubt that in a proper case the Supreme Court will not permit such nullification by indirection as results from the perversion of Federal powers to accomplish indirectly unconstitutional ends.

It can not be doubted that if Congress had passed the law now under consideration as a special statute and not as a part of a post-office appropriation bill, and had omitted any reference to the mails, this court would hold that the Constitution not only did not grant such a supervisory power over the press, but by the first amendment had expressly prohibited it.

Can it be possible that what Congress could not do directly it may nevertheless accomplish indirectly by the pretense that such supervision is necessary in order that the Post Office Department may suitably carry on its important function?

As Mr. Justice Brewer, in Fairbank *v.* United States (181 U. S., 283, 294), speaking of the previous decision of Woodruff *v.* Parham (8 Wall., 123), said:

"In other words, that decision affirms the great principle *that what can not be done directly because of constitutional restriction can not be accomplished indirectly by legislation which accomplishes the same result.* * * * The form in which the burden is imposed can not vary the substance. * * * Constitutional provisions, whether operating by way of grant or limitation, are to be enforced according to their letter and can not be evaded by any legislation which, though not in terms trespassing upon the letter and spirit, yet in substance and effect destroys the grant or limitation."

As was said by this court in Union Bridge Co. *v.* United States (204 U. S., 364, 397):

"If the means employed have no real substantial relation to public objects which the Government may legally accomplish, if they are arbitrary and unreasonable beyond the necessities of the case, the judiciary will disregard mere forms and interfere for the protection of rights injuriously affected by such illegal action. The authority of the courts to interfere in such cases is beyond all doubt."

See also Lochner *v.* New York (198 U. S., 45), Mugler *v.* Kansas (123 U. S., 623), Chicago, R. R. *v.* Drainage Commissioners (200 U. S., 561), Reagan *v.* Farmers Loan & Trust (154 U. S., 362). Even where the power asserted is the power to tax—the most sweeping, unlimited, and fundamental of governmental powers—this court has found no insuperable difficulty in determining the difference between a tax and a reasonable fee covering expenses to protect the Government against fraud (Pace *v.* Burgess, 92 U. S., 372); between a tax on exports and a mere stamp duty on a document (Fairbank *v.* United States, 181 U. S., 283); between a tax and a penalty (Helwig *v.* United States, 188 U. S., 605); between a tax and an improper burden on interstate commerce (Atlantic Telegraph Co. *v.* Philadelphia, 190 U. S., 160); between a legitimate regulation of rates and a confiscation of private property (Smyth *v.* Ames, 169 U. S., 466).

Nor can it matter that the law now under consideration may incidentally and to some extent relate to the due administration of the Post Office Department, for even a regulation of interstate commerce may be invalid if its enforcement involves a direct interference with intrastate commerce.

In the Trade-Mark cases (100 U. S., 82) Mr. Justice Miller said:

"When therefore Congress undertakes to enact a law which can only be valid as a regulation of commerce it is reasonable to expect to find on the face of the law, or from its essential nature, that it is a regulation of commerce with foreign nations or among the several States or with the Indian tribes. *If not so limited*, it is in excess of the power of Congress. *If its main purpose be to establish a regulation applicable to all trade*, to commerce at all points, especially if it be apparent that it is designed to govern the commerce wholly between citizens of the same State, it is obviously the exercise of a power not confided to Congress."

Applying the doctrine of these decisions to the case in hand, I submit that this court should hold either—

1. That the law in question is not in substance and effect a regulation of the mails but a regulation of journalism; or

2. That even if the law is to be regarded as an attempt to regulate the mails, the means employed are, to apply the test of McCulloch *v.* Maryland, not "within the scope of the Constitution," not "appropriate," "not plainly adapted to that end," and not consistent "with the letter and spirit of the Constitution," and not "limited" to a fair exercise of Federal power.

I recognize that the power under the post office roads clause has been defined by this court in Public Clearing House *v.* Coyne (194 U. S., 497) as "the regulation of the entire postal system of the country."

But what is the postal system of the country? Is it more than the collection, carriage, and distribution of letters, documents, or other merchandise sent by one citizen to another? It can not be questioned that this power embraces the right to exclude from the mails any matter that is unlawful or immoral. In other words, the Government is not required to be an accessory in distributing immoral literature.

As stated in Public Clearing House *v.* Coyne (*supra*), such regulation includes the power to exclude from the mails any matter that would be "dangerous to its employees or injurious to other mail matter carried in the same packages." But in the opinion in that case, especially in the first clause of the syllabus, it is intimated that the power is not arbitrary, for

"Congress would have no right to extend to one the benefit of its postal service and deny it to another person in the same class and standing in the same relation to the Government."

I concede that in *Ex parte* Jackson, 96 U. S., 727; *In re* Rapier, 143 U. S., 110; Horner *v.* United States, *id.*, 207; Public Clearing House *v.* Coyne, 194 U. S., 497, this court has recognized a sweeping power in the Federal Government to determine what it shall and what it shall not carry in the mails. But in all these cases the law simply provided that matter that was either immoral or fraudulent should not be carried in the mails. It did not pretend to prohibit the publication or circulation in any other way of the matter deemed to be immoral or fraudulent, nor did it attempt otherwise to exercise any police power with reference thereto. It simply declined to give the immoral or fraudulent enterprise the assistance of mail facilities. Those who were engaged in the nefarious traffic could, so far as the postal law was concerned, pursue their way undisturbed, provided they did not attempt to use the mails to further their unlawful ends.

All previous laws have always observed this distinction between regulating an exercise of the Federal power such as the carriage of mails and punishing generally a given evil. Congress has excluded from the mails any newspaper which contained a lottery advertisement, but it has not legislated with reference to lotteries. The line of demarkation has always been drawn and admits of no dispute.

The case at bar, however, the exclusion from the mails is but an incident to the law and is merely introduced into the act as a method of compelling obedience to the other provisions. It seeks to compel newspapers to disclose the secrets of their business, not only to the Post Office Department but to the public, and it requires them to notify the public when any reading matter has been inserted for a consideration.

Are these requirements "*appropriate*" to the carriage of the mails? Are they "*plainly adapted*" to that end? In the collection, carriage, and distribution of newspapers how can it matter to the Federal Government who the editors are, who the mortgage creditors, and what is its circulation?

In the Lottery case (188 U. S., 321) I argued for the Government that the power to regulate interstate commerce was plenary and absolute, but I disclaimed any suggestion that it could be used for any purpose, however arbitrary or remote from the great purposes of the Federal Government. My opponents attempted a *reductio ad absurdum* by arguing that if the power were exclusive and plenary and included a right to prohibit as a regulation, then Congress could "arbitrarily exclude from commerce among the States any article, commodity, or thing of whatever kind or nature or however useful or available which it may choose, no matter with what motive, to declare shall not be carried from one State to another."

This court disclaimed any such conclusion and significantly added:

"We may, however, repeat in this connection what the court has heretofore said, that the power of Congress to regulate commerce among the States, although plenary, *can not be deemed arbitrary* since it is subject to such limitations or restrictions as are prescribed by the Constitution. This power, therefore, may not be exercised so as to infringe rights secured or protected by that instrument. It would not be difficult to imagine legislation that would be justly liable to such an objection as that stated and be hostile to the objects for the accomplishment of which Congress was invested with the general power to regulate commerce among the several States. * * * If what is done by Congress is manifestly in excess of the powers granted to it, then upon the courts will rest the duty of adjudging that its action is neither legal nor binding upon the people."

The attitude of this court, however, can not be doubted since the case of Adair *v.* United States (208 U. S., 161, 178, decided 1908).

Congress had attempted to regulate interstate commerce by a law prohibiting an interstate carrier from discriminating against organized labor, and in its judgment such a law was necessary to prevent obstructions through labor controversies of the free flow of such commerce.

If, therefore, the doctrine of Veazie Bank *v.* Fenno and McCray *v.* United States were, as the Government now contends, that the judiciary can neither inquire into the motive of Congress in determining the question of power nor restrict the exercise of such power within the limits of the Constitution, but must leave these questions wholly to the discretion of Congress, then it would necessarily follow that this attempted regulation of commerce was constitutional, or at least beyond judicial review. This court, however, reached the conclusion that, the declaration of Congress to the contrary notwithstanding, section 10 was not a regulation of commerce. This court said:

"Manifestly, any rule prescribed for the conduct of interstate commerce, in order to be within the competency of Congress under its power to regulate commerce among the States, *must have some real or substantial relation to or connection with the commerce regulated.* But what possible legal or logical connection is there between an employee's membership in a labor organization and the carrying on of interstate commerce? Such relation to a labor organization can not have in *itself* and in the eye of the law any bearing upon the commerce with which the employee is connected by his labor and services. * * * If such a power exists in Congress, it is difficult to perceive why it might not, by absolute regulation, require interstate carriers under penalties to employ in the conduct of its interstate business *only* members of labor organizations or *only* those who are not members of such organizations—a power which could not be recognized as existing under the Constitution of the United States. No such rule of criminal liability as that to which we have referred can be regarded as in any just sense a regulation of interstate commerce. We need scarcely repeat what this court has more than once said, that the power to regulate interstate commerce, great and paramount as that power is, can not be exerted in violation of any fundamental right secured by other provisions of the Constitution. (Gibbons *v.* Ogden, 9 Wheat., 1, 196; Lottery case, 188 U. S., 321, 353.) It results, on the whole case, that the provision of the statute under which the defendant was convicted must be held to be repugnant to the fifth amendment and as not embraced by nor within the power of Congress to regulate interstate commerce, but *under the guise of regulating interstate commerce*, and as applied to this case it arbitrarily sanctions an illegal invasion of the personal *liberty* as well as the right of property of the defendant Adair."

In the Employers' Liability cases (207 U. S., 463, 502), decided in 1907, the same question arose as to the power of the Federal Government to include within an otherwise valid law provisions which were beyond the power of the Federal Government. There a law was under consideration regulating the liability of interstate carriers for injuries to their employees, but in providing a remedy the law was not restricted to employees who were engaged in interstate commerce. This court held that the law as a whole was unconstitutional.

Incidentally it disposed of the contention, which underlies the Government's proposition in the present case, as to whether Congress can so use its conceded powers as to reach objects beyond its scope. Thus it was there contended that when when a carrier engaged in interstate commerce it thereby subjected itself to the power of the Federal Government, not merely with respect to interstate commerce but as to all its business. To this contention this court replied:

"To state the proposition is to refute it. It assumes that because one engages in interstate commerce he thereby endows Congress with power not delegated to it by the Constitution; in other words, with the right to legislate concerning matters of purely State concern. It rests upon the conception that the Constitution destroyed that freedom of commerce which it was its purpose to preserve, since it treats the right to engage in interstate commerce as a privilege which can not be availed of except upon such conditions as Congress may prescribe, even although the conditions would be otherwise beyond the power of Congress. It is apparent that if the contention were well founded it would extend the power of Congress to every conceivable subject, however inherently local, would obliterate all the limitations of power imposed by the Constitution, and would destroy the authority of the States as to all conceivable matters which from the beginning have been, and must continue to be, under their control so long as the Constitution endures."

The language of these two opinions, representing the latest expression of this court, could be applied with little change of language to the present case. As in the Employers' Liability cases, the Government now contends, in substance, that if the newspaper publishers of this country wish to enjoy the facilities of the mails they must do so upon the conditions that Congress imposes and must subject their business details to any regulation which Congress may prescribe as a condition of using the mails.

As in the Adair case, the Government now contends that the mere fact that we wish to enjoy mail facilities makes it competent for Congress to legislate with reference to business details, which have only a very remote, if any, relation to the carriage of the mails. Apart from these recent cases, there are a number of earlier cases equally illuminating. I shall merely select a few. In United States *v.* Fox (95 U. S., 670) the validity of an act of Congress, which made it a penal offense for any person to obtain goods on credit three months before proceedings in bankruptcy, on the false pretense of dealing in the ordinary course of trade, was held invalid, as having no reasonable relation to the Federal power over bankruptcy. Mr. Justice Field said: "Any act committed with a view of evading the legislation of Congress passed in the execution of any of its powers * * may properly be made an offense against the United States. But an act committed within a State, whether for a good or a bad purpose or whether with an honest or fraudulent intent, can not be made an offense against the United States, *unless it has some relation to the execution of a power of Congress or to some matter within the jurisdiction of the United States.*" In United States *v.* Reese (92 U. S., 214) a law passed by Congress in enforcement of the fifteenth amendment was held invalid because it went further than was necessary or proper to carry out the power committed to Congress. Similarly in the case at bar we contend that the act has gone further than is either necessary or appropriate in regulating the carriage of the mails. See also Dent *v.* W. Va. (129 U. S., 114); Cummings *v.* State of Missouri (4 Wallace, 277).

In each of these cases laws were declared invalid because there was no just relation between them and the legitimate object sought to be accomplished.

II.

The Constitution not only failed to give such power but it expressly forbade it by the first amendment, prohibiting any enactment "abridging the freedom of the press."

Assuming, for the sake of argument, that in the absence of the first amendment such a censorship of the press would be an implied power incident to the regulation of the mails, yet such power was expressly withheld by the first amendment, which forbade any law "abridging the freedom of speech or of the press."

All provisions of the Constitution must be read together, and thus read together the Constitution virtually provides that Congress shall have the power "to establish post offices and post roads," and for this power "to make all laws which shall be necessary and proper;" *Provided, however*, That it shall make no law "abridging the freedom of the press."

What is the freedom of the press? To determine this question we must resort to the history of the times when the Constitution was framed, for the expressions used in the 10 amendments must be given the meaning attached to them at the time the Constitution was adopted. (Boyd *v.* United States, 116 U. S., 616.)

Thus interpreted, it can not be questioned that the liberty of the press means the liberty of free discussion in print, without any restraint save that which was imposed by the law of libel and by certain axiomatic principles of morality, such as the prohibition either of fraud or obscenity.

With these exceptions, the liberty of the press was the right to print one's opinions whether they were wise or foolish, whether they were consistent with or contravened accepted ideas or ideals, and to do this *without any restraint by the Government* save that which was clearly and necessarily demanded to prevent either immorality or fraud.

The necessity of this freedom need not be enlarged upon. Our Government rests upon public opinion, and its perpetuity must depend upon the education of that opinion.

It is therefore the policy of our Constitution that no burden shall be imposed upon the press, no restriction upon its rights, no impairment

of its influence, excepting only in matters of axiomatic morality and subject always to responsibility at common law for libelous statements.

The restriction of the press has taken two forms, and the struggle over each has marked a different stage in the long battle for the freedom of the press.

The first stage was the censorship of the press. It acted *by anticipation*, and its essence was a previous restraint of printed thought and not its subsequent punishment. (Recognizing the enormous power of the press, the Crown in England considered that the licensing of the press was a part of the royal prerogative, and it at first attempted to prohibit the printing of anything which was not *vised* by the Government and secondly by vesting the exclusive privilege of printing in a few institutions, as the two universities and the Printers & Stationers' Co. of London. Later the power was fittingly lodged in the Star Chamber, and after the restoration of Charles II a subservient Parliament again vested it in the Crown. (May's Constitutional History of Eng., Vol. II, pp. 102–106; Anstig *v.* Carrington, 19 How. State Trials, 1029; Erskine's speech for Th. Carran; Dices' Law of the Constitution, p. 274.) It was this form of censorship, even at the hands of the Long Parliament, which in 1643 drew from John Milton his Areopagitica, in which he defended the liberty of the press in unrivaled splendor of rhetoric and prophetically anticipated the day when his "noble and puissant nation" would arouse herself "like a strong man after sleep" and "purge and unscale her long abused sight at the fountain itself of heavenly radiance, while the whole noise of timorous and flocking birds with those also that love the twilight flutter about amazed at what she means, and in their envious gabble would prognosticate a night of sects and schisms." The infamous licensing act, against which Milton inveighed in his Areopagitica, was constructed on the same lines as the present act of Congress, for the English act of September 29, 1649, provided that "no person whatsoever should presume to send through *the post*, carriers, or otherwise or endeavor to dispense any unlicensed book," etc. Then, as now, the plan was to strike at the freedom of communication by exclusion from the mails. It is also interesting to recall that almost the last act of the Star Chamber of malodorous memory was its assumed right of juror to restrain and publish what it chose to regard as libelous statements.)

In 1695 Parliament abolished the whole system of censorship, and, as Macaulay has said, this action has "done more for liberty and civilization than the great charter or the bill of rights."

The long and remaining stage of the law battle was the attempt *retrospectively* to censor the press by punishment. Obviously the freedom of the press would be of little value and would be rarely exercised if after freely printing the author or publisher could be subjected to such punishments as were known to the rigor of the English law. It was soon established that no man could be punished for publishing any writing, unless it was at common law either libelous or criminal in character, and the struggle between freedom and tyranny largely turned on the question as to the method of determining whether a publication were libelous. After a memorable contest, which "shook the foundations of Westminster Hall," it was finally decided, in aid of the freedom of the press, that a jury and not a magistrac should determine whether the printed matter was unlawful at common law. (There is no greater battle in the constitutional history of the English race than that which was waged to defend the rights of a jury and to withhold from the judges appointed by the Crown the power to determine the unlawful character of any printed matter. On the one hand was Lord Mansfield, whose great influence induced the 12 judges to claim this vital right for the bench, and on the other hand were the master spirits of the English bar, Chatham, Camden, Burke, Fox, Sheridan, and others. Mansfield's decision in King *v.* Woodfull, in 1770, 20 State Trials, 1895, resulted in an acrimonious debate in Parliament, in which Sargeant Glyn, Dunning, and Burke attacked the decision and Thurlow and Fox defended it. Fourteen years later the question was again debated in the case of King *v.* The Dean of Asaph, in which Erskine made his closing argument, but Erskine's contention had been long ago anticipated in the famous New York case of Philadelphia, in the famous Zenger case. Lord Kenyon, in Rex *v.* Cuthill, 27 State Trials, 675, laid down the rule which was finally adopted, as follows: "After all, the truth of the matter as to the liberty of the press is very simple when stripped of the ornaments of speech, and a man of plain common sense may easily understand it. It is neither more nor less than this, that a man may publish anything which 12 of his countrymen think is not blamable, but that he ought to be punished if he publishes what is blamable. This, in plain common sense, is the substance of all that has been said upon the subject.")

When our Constitutional Convention met the struggle was over. The liberty of the press had triumphed, and it was then universally recognized both in England and America that the liberty consisted not merely in freedom from punishment except by a verdict of a jury *but that it also consisted of exemption from any burdensome or unreasonable restraint.* When, therefore, the new Constitution was adopted without any bill of rights the new Government promptly passed in accordance with the general understanding the first 10 amendments, and it is significant that in the very first there was this clause, that none of the powers preciously granted to the Federal Government should be so exercised as to abridge the freedom of the press.

The word "abridge" is most significant. The prohibition is not directed only to such laws as *destroy* the freedom of the press. If so, it might have been argued that any law which restrained the liberty of printing but did not altogether forbid it were permissible. The fathers, however, used the word "abridge," meaning thereby "to lessen or diminish." *They desired to preserve the full fruits of the long constitutional struggle.* They wished to have the press enjoy complete freedom, subject only to the qualifications above expressed.

What have been the judicial interpretations of the first amendment, and this because the liberty of the press as a basic principle is so rooted in the minds of the public that with two exceptions no party has ever attempted to contravene the first amendment.

In 1798 Congress did pass the sedition law, which sought to make libels upon the United States Government punishable, just as libels against the British Government had always been punishable at common law. The constitutionality of the law was bitterly assailed by Jefferson, Madison, and others, and the political controversy which resulted led to the Virginia and Kentucky resolutions which contained the germ of nullification and secession. The law was repealed before it ever reached this court.

In 1836 the question again arose in the heated antislavery agitation, when an attempt was made to exclude antislavery literature from the mails. It is to the lasting honor of John C. Calhoun, chairman of the special committee, to whom the proposed law was referred, that, notwithstanding his interest in the maintenance of negro slavery, he denied that the Constitution gave Congress any such power except to prevent the delivery of such matter in States where by local laws it was unlawful. (In the debate that followed, Henry Clay said: "When I saw that the exercise of a most extraordinary and dangerous power had been announced by the head of the Post Office and that it had been sustained by the President's message, I turned my attention to the subject and inquired whether it was necessary that the Postmaster General should under any circumstances exercise such a power and whether they possessed it. After much reflection I have come to the conclusion that they could not pass any law interfering with the subject in any shape or form whatever. The evil complained of was the circulation of papers having a certain tendency. These papers, unless circulated and while in the post office, could do no harm. It is the circulation solely—the taking out of the mail and the use to be made of them—that constitutes the evil. Then it is perfectly competent for the State authorities to apply the remedy." To the question of Senator Buchanan, of Pennsylvania, as to whether the post-office power had not given to Congress the right to determine what should be carried in the mails, Clay replied in the negative, adding: "If such a doctrine prevailed, the Government may designate the persons or parties or classes who shall have the benefit of the mails, excluding all others." Senator Davis said: "It would be claiming on the part of the Government a monopoly and exclusive right either to send such papers as it pleased or to deny the privilege of sending them through the mail. Once establish the precedent, and where will it lead to? *The Government may take it into its head to prohibit the transmission of political, religious, or even moral philosophical publications*, in which it might fancy there was something offensive, and under this reserved right, contended for in this report, it would be the duty of the Government to carry it into effect." He also denied "the right of the Government to exercise a power indirectly which it could not exercise directly, and if there was no direct power in the Constitution, he would like to know how they would get the power of the States—legislative power at most." Daniel Webster expressed himself as "shocked" at the unconstitutionality of the proposed law, saying: "Any law distinguishing what shall or what shall not go into the mails, founded on the sentiments of the paper and making a deputy postmaster a judge, I should say is expressly unconstitutional.")

It is to the credit of Congress that after a full discussion the proposed law was voted down by a vote of 25 to 19 on the ground of its unconstitutionality.

I concede that the present form of censorship is mild by comparison with previous forms. I also admit that a large majority of the newspapers could submit to this censorship without any practical impairment of their liberty to print or diminution of their influence. But it is equally true that this form of censorship would in many instances affect disastrously the liberty to print. It is a reasonable possibility that the enforcement of this law might destroy some newspapers. It is certain that with the exception of the limited few newspapers which enjoy an immense circulation this form of censorship would impair the influence of many newspapers.

The clause with reference to printing paid matter as an advertisement would in many instances destroy the opportunity of classes and individuals to get their views before the public.

If these suggestions are true, then the freedom of the press is abridged in that there is not the same full, free, unimpaired right to print and circulate newspapers as existed before the passage of the law.

Without amplifying all of the destructive possibilities of the law, it will suffice to discuss three which are apparent on its face—

1. The law provides that a newspaper must disclose its circulation not only to the Government but to the public. Such disclosures would in many instances go far to destroy the influence of the paper in the minds of the masses, and that without justice or reason. A newspaper having a circulation of 30,000 may have more real influence than a newspaper having a circulation of 300,000. The first newspaper may find its readers among the educated, thoughtful, and influential class, whose views profoundly affect their fellow men. The other newspaper may be read largely for its sporting page or its divorce reports. At present the influence of both papers is measured largely by the comparative character of their editorial utterances, but if it were published to the world that one reached but 30,000 readers and the other 300,000, the influence of the first paper would be substantially impaired.

Such impairment might result in destruction, for it is well known that a newspaper pays its way by advertisements and not by the copies which it sells. The latter, apart from advertisements, are sold at a loss, and anything that destroys the advertising business strikes the newspaper a fatal wound. It is safe to say that there is not a newspaper in the United States that could be continued at a profit, if its advertisements are withdrawn. Manifestly a disclosure of circulation to the public would lessen the business of the paper of small circulation and increase that of the paper with a large circulation, and this notwithstanding the fact that the paper of 30,000 readers might be a far more valuable advertising medium than the one with 300,000.

A great objection to this legislation is therefore that it weakens and tends to destroy the class of papers which most needs freedom from undue interference. The disclosure to the public of the intimate details of business management would in many cases tend to drive the weak newspaper to the wall, for, armed with this knowledge, the strong and wealthy newspaper could readily impair the influence of its weaker rival, secure its business, and drive it to the wall. There is possibly in no industry keener competition than exists between newspapers, and therefore in none is there greater need on the part of the weaker competitors of privacy as to their business details.

There may be no absolute right of privacy, and yet the owner of a business is entitled to safeguard the secrets of his business unless there is some reasonable and just occasion for a compulsory disclosure to the public of his private affairs.

As was said by Mr. Justice Field in *In re* Pacific Railway Commission (32 Fed. Rep., 241, 250):

"Of all the rights of the citizen few are of greater importance or more essential to his peace and happiness than the right of personal security, and that involves not merely protection of his person from assault *but exemption of his private affairs, books, and papers from the inspection and scrutiny of others. Without the enjoyment of this right, all others would lose half their value.*"

This right of privacy and the sanctity of one's books and papers were never better emphasized than in the case of Boyd *v.* United States (116 U. S., 616), where Mr. Justice Bradley, in one of the ablest defenses of personal liberty to which this court ever gave utterance, defended the right of privacy against oppressive Federal regulations, even though they were enacted in execution of the most drastic of all governmental powers—the power of taxation.

There was far more justification, from the standpoint of the public interests, for the legislation which this court condemned in that case than can be urged in behalf of the newspaper statute, whose obvious effect would be to impair the credit of the weaker newspapers, alarm their creditors and advertisers, impair their just influence with their readers, without in any manner assisting the Government in the effective and economical carriage of the mails.

2. The provision that there shall be a public disclosure of the editors and owners of the newspaper abridges the right to disseminate ideas impersonally.

I freely recognize the prejudice which to-day ordinarily and generally justly prevails against anonymity. But even anonymous arguments have played a useful part in past struggles for liberty and progress. To this day we do not know who wrote the letters of "Junius," and yet these letters were some of the most forceful blows struck in the great struggle for English freedom.

When the Constitution was submitted to the people for adoption, the most valuable arguments in its support were those submitted anonymously by Madison, Hamilton, Jay, Sullivan, Winthrop, Gerry, Ellsworth, Roger Sherman, Pinckney, and many others. These were published under such *nom de plumes* as Publius, Cassius, Agrippa, Cato, Cæsar, Sidney, Plain Dealer, Columbian Patriot, Plebian, etc.

It is altogether probable that the Federal Constitution would never have been adopted by a sufficient number of States had it not been for the anonymous political pamphlets written over the *nom de plume* of "Publius," which we now know as the Federalist Papers. While Hamilton's identification with "Publius" was soon suspected by many, it was not until long after his death that it was known that many of these papers were written by Madison, Jay, and others.

Nothing was more familiar to the framers of the Constitution than this method of impersonal pamphleteering.

When the burning issue of neutrality arose in the administration of Washington, Hamilton assailed the Secretary of State in pamphlets written under the *nom de guerre* of "Pacificus," and Madison replied under the name of "Helvedius." It was the exception when any political argument or other reading matter was written over the true name of the author. Franklin, while agent of the colonies in London, published his most effective arguments in their behalf anonymously in the English press. *Tempora mutantur, et nos mutamus*, etc. Constitutional rights do not change and to-day a man has still a right to submit his views impersonally to his fellow men and if his personality unfairly prejudices the intrinsic merit of his facts or opinions he may on occasion be justified in withholding his name in order not to obscure the merits of what he advocates. If this be true of fugitive expressions, it is especially true of a great continuing organ of public opinion like a newspaper.

As in interpreting the Constitution recourse must be had to the standards of thought an conduct of its framers in order to determine its meaning and scope (South Carolina c. United States, 199 U. S., 437) it should be remembered *that no abridgment of the freedom of the press would have excited more opposition among those who framed the Constitution than the compulsory disclosure of authorship.* They would have felt that an invaluable weapon against error had been taken from their hands.

An instance could reasonably be imagined of a man of large means, justly or unjustly unpopular with the masses, who might desire to submit, either in his own defense or for the public good, some facts, ideas, or proposed laws. For this purpose he acquires a newspaper. If the fact of his ownership is known, he will not get any adequate hearing, and his ideas, however intrinsically meritorious, would receive an exceedingly scant hearing. Has he not the same *right* to disseminate through the press his views impersonally as another man has to do so over his signature?

3. The provision as to paid matter goes a step further. Here is an undoubted attempt to impair the freedom of the press by the destruction of its influence. A man can only reach the minds of his fellow men on a large scale through newspapers or periodicals. He may have some idea or plan for the ultimate good of his fellow men, but of which his fellow man, as so often happens, is ignorant. His ideas may be so novel as to excite little interest at first. Perhaps they are also unpopular. It can not be expected that the owner of a newspaper will always donate his space and the labor of his printing establishment without compensation. If the man wishes to reach his fellow men, therefore, he must pay the newspaper for the privilege of using its columns.

The matter referred to may have no reference to merchandise or to anything commercial. In no sense can its insertion be regarded as a commercial advertisement. The opinions which he expresses are reading matter. If marked as an advertisement the influence is largely impaired.

Take, for example, the campaign committee of a political party. It wishes to get before the people of the country certain facts with reference to operations of the tariff. If inserted in the newspaper as an advertisement few will read it, and those few will not give to the paid advertisement the serious attention which the article may deserve. The newspaper publishes it as reading matter and requires the committee to pay the reasonable cost of the service. Does not the requirement that it be printed as an advertisement, with the destructive effect upon its influence as a reading matter which such a branding necessarily entails, involve an abridgment of the freedom of the press? Is that freedom as complete and unimpaired after such a law is passed as before?

III.

The requirement that a certain class of newspapers shall disclose the most intimate details of their business and use their own capital, labor facilities, and valuable space for such disclosure, is a taking of "liberty" and "property" without due process of law and a like taking of valuable property rights for an assumed public use without just compensation.

The post office power must also be regarded as subject to the fifth amendment.

I do not contend that the mere compulsory disclosure of ownership, editorial management, and other business details to the Postmaster General is a taking of property without due process of law.

The act goes further. It compels the newspaper proprietor twice a year to use the valuable space of his paper and his capital and labor facilities to print the statement. To set up the matter, print it, and distribute it all require expenditure of capital. It is an enforced appropriation of valuable space for the assumed benefit of the public. It is as much a taking of property as if it compelled the owner to hire a hall and announce the facts to the public.

Even though this compulsory appropriation of the citizen's property and labor were not strictly a *physical* taking of his property, nevertheless it is a "taking" within the meaning of the Constitution. It was well said by the Court of Appeals of New York, in Forster v. Scott (136 N. Y., 584):

"Whenever a law deprives the owner of the beneficial use *and free enjoyment of his property, or imposes restraints upon such use and enjoyment* that materially affect its value, without legal process or compensation, it deprives him of his property within the meaning of the Constitution. *All that is beneficial in property arises from its use and the fruits of that use, and whatever deprives a person of them deprives him of all that is desirable or valuable in the title and possession.* It is not necessary, in order to render a statute obnoxious to the restraints of the Constitution, that it must in terms or in effect authorize an actual physical taking of the property or the thing itself, so long as it affects its free use and enjoyment or the power of disposition at the will of the owner."

This interpretation of the Constitution only followed the undoubted doctrine of this court, for this court said, in Lawton v. Steele (152 U. S., 137):

"The legislature may not, under the guise of protecting the public interests, *arbitrarily interfere with private business or impose unusual and unnecessary restrictions upon lawful occupations.* In other words, its determination as to what is a proper exercise of its police powers is not final or conclusive, but is subject to the supervision of the courts. Thus an act requiring the master of a vessel arriving from a foreign port to report the name, birthplace, and occupation of every passenger, and the owner of such vessel to give a bond for every passenger so reported, conditioned to indemnify the State against any expense for the support of the persons named for four years thereafter, was held by this court to be indefensible as an exercise of the police power and to be void as interfering with the right of Congress to regulate commerce with foreign nations. (Henderson v. New York, 92 U. S., 259.)"

As was said by Mr. Justice Field in Munn v. Illinois (94 U. S., 141):

"All that is beneficial in property arises from its use and the fruits of that use, and whatever deprives a person of them deprives him of all that is desirable or valuable in the title or possession. *If the constitutional guaranty extends no further than to prevent a deprivation of title and possession and allows a deprivation of use and the fruits of that use, it does not merit the encomiums it has received.*"

This contention is strengthened when it is remembered that no other citizen desiring the use of the mails is subjected to any such requirement. Scientific, religious, and temperance publications are relieved of any such expense, and as to circulation, all but daily newspapers are similarly exempted. The law therefore puts upon daily newspapers an unfair expense and a burden not imposed either upon other publishers or upon any other class of citizens.

Freely granting the power of classification, there is here such an unreasonable discrimination as to amount to a denial of the equal protection of the laws, and that phrase is synonymous with due process of law.

To amplify this argument would require a restatement of all that has been herein said as to the unreasonable character of this regulation. It is enough to say that not only does the act seek to appropriate the space of newspapers without compensation for an assumed public use, but it interferes with the liberty of contract, in that a newspaper owner may not contract with one desiring to use his columns for the insertion of reading matter, except under burdensome conditions.

The law as a whole singles out the owners of newspapers and attempts to aim at them an oppressive postal regulation, which clearly offends the intimation given by this court in Public Clearing House v. Coyne (*supra*), that—

"Congress would have no right to extend to one the benefit of its postal service and deny it to another person in the same class and standing in the same relation to the Government."

CONCLUSION.

I need not emphasize the importance of this case. As already stated, the form of censorship now sought to be imposed upon the press of the country may seem mild by comparison with that of other countries in former times. The concession to Congress of the power to utilize the mails for the purpose of disciplining the free press of the country would mean hereafter a stricter and more dangerous censorship, for in the matter of arbitrary power "the appetite grows by what it feeds on."

The warning words of Mr. Justice Bradley in Boyd v. United States (116 U. S., 616) should never be forgotten:

"Illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed. * * * It is the duty of courts to be watchful for the constitutional rights of the citizen and against any stealthy encroachments thereon. Their motto should be *obsta principiis.*"

Respectfully submitted.

JAMES M. BECK.

NEW YORK, *November 29, 1912.*

APPENDIX.

THE NEWSPAPER LAW.

[Public No. 336; H. R. 21279.]

An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes.

Be it enacted, etc., That the following sums be, and they are hereby, appropriated for the service of the Post Office Department, in conformity with the act of July 2, 1836, as follows: * * *

SEC. 2. * * * That it shall be the duty of the editor, publisher, business manager, or owner of every newspaper, magazine, periodical, or other publication to file with the Postmaster General and the postmaster at the office at which said publication is entered, not later than the 1st day of April and the 1st day of October of each year, on blanks furnished by the Post Office Department, a sworn statement setting forth the names and post-office addresses of the editor and managing editor, publisher, business managers, and owners, and, in addition, the stockholders, if the publication be owned by a corporation; and also the names of known bondholders, mortgagees, or other security holders; and also, in the case of daily newspapers, there shall be included in such statement the average of the number of copies of each issue of such publication sold or distributed to paid subscribers during the preceding six months: *Provided*, That the provisions of this paragraph shall not apply to religious, fraternal, temperance, and scientific, or other similar publications: *Provided further*, That it shall not be necessary to include in such statement the names of persons owning less than 1 per cent of the total amount of stock, bonds, mortgages, or other securities. A copy of such sworn statement shall be published in

the second issue of such newspaper, magazine, or other publication printed next after the filing of such statement. Any such publication shall be denied the privileges of the mail if it shall fail to comply with the provisions of this paragraph within 10 days after notice by registered letter of such failure.

That all editorial or other reading matter published in any such newspaper, magazine, or periodical, for the publication of which money or other valuable consideration is paid, accepted, or promised, shall be plainly marked "advertisement." Any editor or publisher printing editorial or other reading matter for which compensation is paid, accepted, or promised, without so marking the same, shall upon conviction in any court having jurisdiction be fined not less than $50 nor more than $500.

PROTECTING THE COAST LINE.

Mr. MOORE of Pennsylvania. Mr. Speaker, at New London, Conn., in September last, the Fifth Annual Convention of the Atlantic Deeper Waterways Association, which stands for a continuous inland waterway along the Atlantic coast, adopted the following preamble and resolutions:

ATLANTIC INTRACOASTAL WATERWAY.

"We, the members and delegates of the Atlantic Deeper Waterways Association, representing all the States of the Atlantic coast region, from Maine to Florida, inclusive, in fifth annual convention assembled in New London, Conn., do hereby reaffirm to the American people, to the States and municipalities within our territory, and especially to the Congress of the United States, our recognition of the need and our demand for the completion of improved connecting protected waterways, owned and operated by the Nation, along the entire Atlantic coast.

"Within the Atlantic coastal region, comprising all the original American colonies, are now located more than one-third of the total population of the United States, and an even greater proportion of its commerce, industry, and wealth.

POPULATION AND COMMERCE.

"Within these coastal States are situated the most densely populated industrial communities of the country and the most rapidly increasing centers of population. Congestion of population, industry, and commerce require as their first remedy larger, better, and cheaper facilities of transportation. It is now time that such shall be provided within the Atlantic coastal territory.

"The existing lines of railways, splendid as their equipment unquestionably is, and rapidly as it is being expanded, are now, and have been for years past, unable during certain periods to handle the amount of traffic offering with assurance of quick transit, safe delivery, and minimum cost.

"Under these conditions it becomes imperative to seek additional means of transportation, and these are provided by our coastal bays and sounds if connected through the short spaces of intervening lowlands by modern sea-level canals, freely operated as public highways.

THE SACRIFICE TO THE SEA.

"It has been suggested that the ocean is sufficient for the coastal traffic. In reply, it may be stated that our Atlantic seaboard is a lee shore; that it is lined with dangerous shoals; that these shoals are blackened with the wrecks of thousands of ships and bear the bodies of many thousands of American mariners; that the average annual loss is more than 200 human lives and $4,000,000 in property; that this loss in two decades equals the cost of our proposed waterway chain; that, meantime, coastwise shipping is disappearing from the seas, coastwise insurance steadily rising, and coastwise commerce declining. The ocean does not provide the needed facilities of cheap coastwise transportation.

RESOLUTIONS SHOWING PROGRESS MADE.

"With this statement of facts it is hereby

"1. *Resolved*, That we congratulate the Atlantic States upon the favorable report and survey of the Army Engineers now reported to Congress at the insistence of this association, proving the feasibility of its project.

"2. *Resolved*, That we demand the adoption and construction of the Atlantic intracoastal waterway as a national project, and the continuous appropriation by Congress of funds sufficient for its early completion.

"3. *Resolved*, That we commend the initial step taken by Congress in the river and harbor act passed at the recent session, which contained a provision adopting that link in the proposed intracoastal waterway extending from Norfolk, Va., to Beaufort Inlet, N. C., and carrying an appropriation immediately available of $500,000 for the purchase of the Chesapeake & Albemarle Canal, and an additional $100,000 for the improvement and maintenance.

NEXT STEPS TO BE UNDERTAKEN.

"4. *Resolved*, That we demand of Congress at its next session an act acquiring the Chesapeake & Delaware Canal, one of the most essential links in the whole intracoastal chain, one of the most feasible to improve for modern requirements, and the next in logical order of progress northward, all of which is fully shown by the recent report of the United States Army Engineers. And, in event of failure to negotiate a satisfactory contract for the purchase of the canal, we favor the immediate condemnation thereof by the Government or the construction of a canal over an alternative route.

"5. *Resolved*, That we demand of the next Congress the adoption of the New Jersey sea-level canal project, thus connecting southern waters with those of New England and New York.

"6. *Resolved*, That we urge steady progress northward and southward at every session of Congress until the entire route shall be opened to traffic.

THE HUDSON AND HELL GATE.

"7. *Resolved*, That to provide safe passage through the Hudson River for vessels from the Lakes, through the Erie Canal, and to establish a feasible connection with the Intracoastal Waterway, we advocate early completion of the improvement of the upper Hudson as the approach to the Erie Canal, and also of the East River and lower Hudson and Harlem Rivers and the opening of Bronx Kills and Little Hell Gate.

"8. *Resolved*, That we advocate the authorization by Congress of a survey for the extension of the Intracoastal Waterway northwardly from Boston to such point on the coast of Maine as may be deemed desirable and feasible.

NATIONAL WATERWAYS POLICY NEEDED.

"9. *Resolved*, That we demand the adoption of a national policy of waterway improvement which shall gauge the amount of the appropriation according to the commerce, existing and prospective, that will be served by such improvement.

"10. *Resolved*, That the Atlantic Intracoastal Waterway, exceeding as it does in its commercial importance all other projects of waterway improvement, deserves and should receive the means for its completion in a ratio at least equal to that accorded to projects in other sections of the United States.

PROBLEM OF WATER TERMINALS.

"*Resolved*, That we emphatically approve those provisions in the Panama Canal act, approved August 24, 1912, which forbid ownership or control by railroad corporations of competing water carriers, and which provide for joint rates and through bills of lading and a system of prorating between railroads and water carriers, and which forbids railroads to discriminate in favor of and extend special privileges to favored shipping lines at ports, and which confer upon the Interstate Commerce Commission the power to enforce these and other wise provisions of law.

"To the end that the above provisions may be given full effect, and that water commerce may be established as an integral part of our system of transportation, we earnestly urge upon all States and municipalities located upon the intracoastal waterway and other waterways that ample water frontage be acquired and adequate public terminals constructed, owned, and controlled by and for the benefit of the public."

MORE ABOUT THE CHESAPEAKE AND DELAWARE.

In view of their brevity and clearness, Mr. Speaker, I am glad of the opportunity of submitting those resolutions to the House. They will now be laid before the Rivers and Harbors Committee with the hope and expectation that the recommendation of the association for immediate recognition of the Chesapeake & Delaware Canal project will be granted in the next appropriation bill. For five years the Atlantic Association has been laying stress upon the advisability of action in the opening up of this much-needed avenue of communication between the North and the South, and there is now ample reason why the Government engineers should be authorized to open negotiations for the purchase of the existing canal or to construct a new one. At some later period of the session I shall undertake to advise the House more fully of the manner in which commerce between points north and south of the Chesapeake and Delaware Canal is discouraged by high transportation rates and inadequate facilities. I shall also hope to enlighten the House as to the loss of life and the destruction of property along the seaboard.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday. The unfinished business is the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911. The House resolves itself automatically into Committee of the Whole House on the state of the Union, and the gentleman from Colorado [Mr. RUCKER] will take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. RUCKER of Colorado in the chair.

ALLEGATION AND PROOF OF LOYALTY IN CERTAIN CASES.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911. By unanimous consent the debate was limited to two hours, the gentleman from Louisiana [Mr. WATKINS] to control one hour and the gentleman from Illinois [Mr. MANN] to control the other hour.

Mr. WATKINS. Mr. Chairman, will the gentleman from Illinois consume part of his time? We have four gentlemen on this side who want to be heard on the question.

Mr. MANN. Mr. Chairman, the pending bill is the bill to amend section 162 of the judiciary title act, which was passed two years ago. In that act there was inserted in the House a provision conferring on the Court of Claims jurisdiction relating to money in the Treasury under the captured and abandoned property act.

When that bill was before the House the gentleman from Georgia [Mr. BARTLETT] offered as an amendment to the bill to insert section 6, now section 162 of the act. That amendment was agreed to in the House. The gentleman from Pennsylvania [Mr. MOON] had charge of that bill, which was a bill reported from the Committee on the Revision of the Laws. It was a long bill, codifying the statutes. It was on my advice, I believe, that the gentleman from Pennsylvania [Mr. MOON] finally at the time agreed not to oppose the amendment, and it was agreed to.

Now, this proposition is one to amend the law so as not to provide that there shall be proof of loyalty of the claimants. The original proposition was of somewhat doubtful propriety. For many years there has been no right to file a claim in the Court of Claims under the captured and abandoned property act, but it was thought desirable by the House at the time, on the suggestion of the gentleman from Georgia [Mr. BARTLETT], to provide that claims might be filed which, under the language proposed by him, would require the claimants to make proof of loyalty.

There has been considerable discussion as to how these claims arise, and it may be proper to call to the attention of the House the circumstances as to how the claims do arise. By the act of March 12, 1863, known as the captured and abandoned property act, and acts amendatory thereof, the Secretary of the Treasury was authorized to appoint special agents to collect captured and abandoned property in the States then in insurrection, the proceeds thereof to be paid into the Treasury of the United States.

The act provided that the property to be collected under it "shall not include any kind or description which has been used, or which has been intended to be used, for waging or carrying on war against the Uited States, such as arms, ordnance, ships, steamboats, or other water craft, and the furniture, forage, military supplies, or munitions of war."

As a matter of fact, the property which was collected was in the main, if not entirely, cotton. Nine districts were established under this law and an agent appointed in each district.

A large amount of property in the States in insurrection was seized and the proceeds, amounting to over $30,000,000, reported to the Secretary of the Treasury. The money was treated as a trust fund under the control of the Secretary. Under joint resolution approved March 30, 1868, it was provided that all moneys derived from the sale of captured and abandoned property "which have not already been actually covered into the Treasury shall immediately be paid into the Treasury of the United States."

As I understand it, the balance covered into the Treasury under this resolution was nearly $21,000,000.

The third section of the original act of 1863 provided as follows:

Any person claiming to have been the owner of any such abandoned or captured property may, at any time within two years after the suppression of the rebellion, prefer his claim to the proceeds thereof in the Court of Claims; and on proof to the satisfaction of said court of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds, after the deduction of any purchase money which may have been paid, together with the expense of transportation and sale of such property, and any other lawful expenses attending the disposition thereof.

Under this provision of the statute a large number of claims were referred to the Court of Claims and judgments recovered. In a statement which has been made by one of the committees of the House it was stated that the following was believed to be a substantially correct statement of the payments which have been made from the amounts covered into the Treasury under the resolution of March 30, 1868:

On judgments under act of Mar. 12, 1863	$9,852,956.95
On judgments against Treasury agents	65,276.79
Disbursed for expenses under joint resolution of Mar. 30, 1868	242,140.34
Paid on special acts of relief	451,125.38
Paid by Secretary of Treasury under act of May 18, 1872	195,896.21
On judgment Court of Claims, Duffy, Report C. C., 24275	15,270.00
Under private act, 25 Stat., p. 1310	32,669.20
Under private act to Briggs, paid Mar. 24, 1894	88,104.21
Total	10,943,439.08

Which would leave in the Treasury undisposed of $10,028,351.88.

Mr. WATKINS. Will the gentleman yield for a question?

Mr. MANN. I will in a moment. How much of that amount would be affected by the pending resolution I do not believe any one actually knows. I yield to the gentleman from Louisiana.

Mr. WATKINS. That statement covers the point I wanted to ask the gentleman about, whether the amount covered by this bill would be over half that amount, and whether the statement referred to by the gentleman does not include all that was covered into the Treasury?

Mr. MANN. My statement shows that that amount included all that was covered into the Treasury. Just how much this resolution will cover no one will ever be able to find out unless this bill becomes a law and the Court of Claims finds the amount.

Now, Mr. Chairman, this bill would only provide for the payment of claims for property taken subsequent to June 1, 1865, while the amount in the Treasury is included from the date of the captured and abandoned property act, which was passed in 1863.

This is one of a series of propositions, however. This bill proposes simply to abandon the present law requiring proof of loyalty as to the claims subsequent to June 1, 1865. As to the claims subsequent to the date June 1, 1865, there is another bill on the calendar reported from another committee, a bill (H. R. 16820) which goes a little further than the pending bill. I do not know whether it is intended to offer the provisions of that bill in the House as a substitute for the provisions of the pending bill. I was told that that was likely to be done, but the distinguished gentleman from Tennessee, chairman of the Committee on War Claims, which reported the bill 16820, stated on the floor the other day, as I understood him, that if the pending bill was passed the bill reported from his committee would be abandoned.

Among the provisions of the bill reported from the Committee on War Claims, a new proposition, is the one that all judgments rendered on these claims and all payments thereon shall be free from claims of assignees in bankruptcy or insolvency of the original owner of said claim.

There are other bills pending before Congress on the subject, one introduced by the gentleman representing the Tombigbee district, Mr. CANDLER, which introduces a new proposition. As stated by the gentleman from Ohio the other day, the Confederate States purchased large quantities of this cotton, paid for the cotton in the current coin of the realm at that time in the Southern States, but did not take control of the cotton because they did not have the storage facilities, as was stated. There is no question, probably, in reference to the passage of the title of the property. The property was purchased and paid for, but possession remained in the hands of the seller of the property. The Candler bill provides, in addition to dispensing with the proof of loyalty, further, that judgment rendered hereunder shall not be denied by reason of any bill or other conveyance of such property to the Federal Government, in consideration of securities of said Government, unless accompanied and followed by actual delivery of such property.

There are also pending before the House a number of resolutions asking for information from the Treasury Department. There can be no doubt that when the Bartlett amendment to the judiciary title bill became a law that the claim agents got very busy and active. It is invariably the rule that when you excite the claim agents or claim attorneys to the possibility of obtaining the payment of claims in which they become interested, and draw the line arbitrarily at any particular point, the claim agents want to move the line over a little further from time to time so as to provide for the payment of additional claims. The claim agents found under the Bartlett proposition that it was necessary to make proof of loyalty before claims could be allowed. They desired in addition to change the law upon that subject, to obtain all the information of the Treasury Department in reference to the evidence in the possession of that department.

House resolution No. 333, which is only one of a series of resolutions introduced into the House, and a similar series introduced in the Senate, provides:

That the Secretary of the Treasury be, and he is hereby, directed to prepare from records in his possession, either those of the United States Government or those of the late Confederate States, and to transmit to the Speaker of the House of Representatives, as soon as practicable, a list of persons shown to have sold cotton to the Confederate States Government, or to have entered into any agreement to sell cotton to said Government; such list to indicate whether there is shown to have been a completed sale, or only an agreement to sell, and the date of the transaction; to show, when possible, the residence of the person making such sale, or agreement to sell, by county or parish, and State; the amount of cotton covered by such sale or agreement, the price to be paid, and whether or not the payment of the agreed price is shown by such records.

I do not know that these resolutions were prepared by claim agents. I am quite sure they were not introduced by Members of the House at the request of claim agents, but that they were prepared by claim agents and transmitted to claimants, who transmitted them to Members of the House, is quite likely.

I called the attention of the Treasury Department to this series of resolutions endeavoring to obtain information from the Treasury purely for the benefit of claimants and claim agents, and asked them to make investigation of the subject. On January 6 the Secretary of the Treasury transmitted to the Speaker of the House a letter upon this subject, in which he stated among other things::

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, January 6, 1912.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: My attention has been called to House resolution 333, introduced by Mr. HACKNEY December 9, 1911, and referred to the Committee on War Claims, directing the Secretary of the Treasury to prepare from records in his possession, either those of the United States Government or those of the late Confederate States, a list of persons shown to have sold cotton to the Confederate States Government, or to have entered into any agreement to sell cotton to said Government, and also to House resolution 349, introduced by Mr. CANDLER December 19, 1911, and referred to the Committee on Expenditures in the Treasury Department, which calls for the preparation and transmission of all the information specified in House resolution 333, and in addition requires information whether the cotton sold to the Confederate Government was subsequently taken possession of by officers of the United States Government; and if so, the disposition of the cotton, the gross and net proceeds realized from any sales thereof, and whether or not the proceeds now remain in the United States Treasury, and also to show the cotton for which claims have been filed in the Treasury Department, and the names of persons by whom such claims were filed.

The resolutions have a direct bearing upon the cotton claims which, under section 162 of the judicial code approved March 3, 1911 (36 Stat., 1139-1140), were referred to the Court of Claims for adjudication, and as this department is now actively employed in the work of collecting and arranging information for the use of the court in the trial of pending cases, it would seem that neither the interests of the claimants nor of the Government would be subserved by diverting the limited available force of the department from the completion of the information desired by the court, to engage in the preparation of the data specified in the resolutions.

The additional information required by House resolution 349 intended to show the disposition of the cotton, the proceeds realized therefrom and now remaining in the Treasury with a report of all the claims for such cotton heretofore filed, would necessitate a further and separate examination of all Civil War records of the department pertaining to cotton transactions, and of all cotton claims heretofore filed in either the Treasury Department or the courts to determine the claims in which the proceeds of the cotton were refunded by the Treasury Department under general and special laws authorizing such refunds, or paid to claimants upon judgments of the Court of Claims and other courts.

The Secretary of the Treasury goes on to say that it would be a very expensive proposition for the Government to do this. It would require a vast amount of clerical work to ascertain this information, much of which it is assumed by gentlemen who have argued in favor of this bill they already know, and besides that it would furnish to the claimants all the defensive evidence which the Government may possess.

So it is perfectly apparent that having, under the original act of 1863 and the resolution of 1868, covered into the Treasury a certain amount of money, which was then placed by the Secretary of the Treasury as being held in trust by the Government, the men who now are active in extracting money from the Treasury upon every possible excuse are very busily engaged in endeavoring to obtain legislation which will open the doors of the Treasury as to all of this sum of money. It is said by some that the present bill would not cover more than $5,000,000.

It is said by gentlemen in charge of the bill that it would not cover over $1,000,000. I venture to say from the information which I have received that no one knows how much it will cover, though it is quite certain that it would not be over $1,000,000. That is the amount that is in the Treasury. The original act providing for the collection and disposition of this property contained a provision that the claimant for the fund in each case must show that he has never given any aid or comfort to the "present rebellion."

Mr. COX of Indiana. Mr. Chairman, will the gentleman yield for a question? I want information.

Mr. MANN. Certainly.

Mr. COX of Indiana. I have obtained the idea or opinion from statements made on the floor here that the amount of money that is now actually in the Treasury does not exceed $5,000,000. What information has the gentleman on that proposition?

Mr. MANN. The gentleman from Ohio [Mr. WILLIS] presented a report from the Secretary of the Treasury covering certain phases of this proposition, which indicated that there were $5,000,000 in the Treasury.

Mr. COX of Indiana. Right in that connection, if the gentleman will further yield, are all of the claims adjudicated so far as the money now in the Treasury Department is concerned, or if this amendment be adopted by the House will it open up another series of claims to go before the Court of Claims?

Mr. MANN. The original money in the Treasury was turned in by the special agents of the Government in the various districts where the property was seized and sold and the money collected. These claims have been in the main, I think, presented to the Court of Claims. The Court of Claims, as to a large portion of them at least, decided they could not be paid because the claimant had given aid or comfort to the rebellion.

Mr. COX of Indiana. Then the only real question in controversy that will be considered in the future, in the event this amendment finally carries, will be to get possession of the money that is now actually in the Treasury Department. Is that correct?

Mr. MANN. I think that is correct, that there could not be any claim for more than that money, because there could be no possible claim, I think, for property seized and sold where the money was not in fact covered into the Treasury, although we have some claims on the Private Calendar—and whether they will ever get any further I do not know—insisting on the payment of claims upon the ground that property was not properly conserved and sold.

Mr. COX of Indiana. The gentleman answered a moment ago that the gentleman from Ohio made the statement the other day to the effect that this may reach about $10,000,000.

Mr. MANN. No, the gentleman from Ohio said it would be about $5,000,000.

Mr. COX of Indiana. Has the gentleman from Illinois investigated that with a view to determining whether it is accurate or not? I ask for information because I know the gentleman investigates these questions.

Mr. MANN. I have no doubt that is accurate, so far as this bill is concerned. Probably the amount would not exceed $5,000,000. The amount that is in the Treasury is in the neighborhood of $10,000,000, I am informed.

Mr. COX of Indiana. Where does the extra $5,000,000 come in?

Mr. MANN. I do not have sufficient information to differentiate between the two. Whether the $5,000,000 is supposed to cover everything in the Treasury I do not undertake to say. The gentleman from Ohio presented the other day a statement from the Treasury Department upon that subject. On the other hand, I have presented another statement made by the Treasury Department saying that the amount in the Treasury was $10,000,000.

Mr. COX of Indiana. I just came in on the floor and did not hear the gentleman's statement.

Mr. MANN. Just what the differentiation is I am not able to say.

Mr. WATKINS. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. WATKINS. Has the gentleman examined Senate Document No. 3, second session, Forty-third Congress?

Mr. MANN. I have.

Mr. WATKINS. Will not that show actually all those claims which are in the Treasury on which property was seized after June 1, 1865?

Mr. MANN. I think that is a disputed proposition, Mr. Chairman.

Mr. WATKINS. If that does show that, then can not we tell exactly the number of dollars in the Treasury after June 1, 1865?

Mr. MANN. Well, the Treasury proposition upon that is not final. Just how much money there is for property seized after a certain date is not ascertainable until the Court of Claims has passed upon the proposition.

Mr. WATKINS. But the question is this: Does not that report show that amount was paid into the Treasury on the property which was taken after June, 1865?

Mr. MANN. I think likely that is true, but that is not binding upon the Court of Claims or upon the claimants.

Mr. WATKINS. Under this bill can the Court of Claims order paid out any money except that?

Mr. MANN. I have stated half a dozen times, and I do not think it is necessary to repeat, although I will, that this bill only refers to property which was taken subsequent to June 1, 1865, but a statement from the Treasury Department as to when the property was taken, if they have made such a statement, is at the best a guess and is not binding, because the law, if this becomes the law, gives the claimant the right to make proof as to when that property was taken. My opinion is a very large amount of this property was in fact seized after that date. However that may be, the original act provided that no claim should be paid without proof of loyalty.

It was afterwards held by the Supreme Court of the United States that the pardon and amnesty act of President Johnson in effect removed the disability in reference to giving aid or comfort to the rebellion. That was purely a technical ruling by the Supreme Court, was not in conformity with the spirit of the original act, and so far as they were technically entitled to the benefit of the ruling they have obtained it already. It is now proposed to have Congress itself by act provide that the proof of loyalty should not be required in these cases, although the act under which this property was seized and sold provided that every claimant obtaining the money must prove that he has never given any aid or comfort to the rebellion.

Mr. SIMS. May I ask the gentleman a question?

Mr. MANN. Certainly.

Mr. SIMS. Was not that decision on the substance of the act and not a mere technicality as to practice, or something of that sort? How does the gentleman hold it was a technicality if he holds that a certain act does not apply to it or a certain provision does not apply?

Mr. MANN. I hold decidedly that it is quite a technicality when Congress provides that no person shall be given his claim unless he proves loyalty or unless he proves that he has not given aid or comfort to the rebellion when the Supreme Court says that a subsequent proclamation of amnesty removes the necessity of making that proof.

Mr. SIMS. Is the proclamation to be treated as a mere technicality and not substantive law?

Mr. MANN. Certainly not. You get the benefit so far as it was provided by law that is passed. The claimants have already seized the advantage of that as far as they could under the original act. Although President Johnson issued his proclamation of amnesty and the court held that if the claimants filed under that act they were not required to give proof of loyalty, you now want to change that law and apply it to those who were not covered by the Supreme Court opinion. They accepted the Supreme Court opinion in these cases to which it would apply or to which it would be applied, but the purpose of the original act was that those who were engaged in rebellion should not be paid their claims, and there is no differentiation in principle between paying these claims and paying all other claims in the Southern States. I do not undertake to argue one way or the other on the question as to whether for all of these various claimants loyalty should be required, because outside of this special class of cases neither the gentleman from Tennessee nor anybody else on that side of the House dares say he is in favor of paying all claims from the South without proof of loyalty.

Mr. SIMS. But the original act provided for claims arising while war was in actual existence. After the 1st of June, 1865, there was no war, and therefore the question of loyalty should cut no figure as to claims arising after that date.

Mr. MANN. The gentleman takes the opinion of the Supreme Court on one phase, but refuses to take it on the other. The Supreme Court said that the rebellion was not over at this time.

Mr. SIMS. That is a technical question, sure enough.

Mr. MANN. Both technical. There is no reason why the case now should open up the door to the payment of all the southern claims of those who were disloyal to the Union.

Mr. SIMS. Arising after the war; not during the war.

Mr. MANN. I do not propose to fight over the war. I will be very glad if it all could be returned to them. The South went into rebellion, or war, whatever you please to call it, and in the main are willing to abide by the consequences of the war. One of those consequences is that property taken and destroyed is not to be repaid by the country which succeeds to the country which is defeated, or to those who aided the country which was defeated. You propose to reverse that rule, which is practically universal throughout the world, on what you please to call a technicality on the one side, but which I call a technicality on the other side. It was never the intention of Congress to provide that these claims should be paid to those who were disloyal to the Union. The original act expressly provides for it. You wish to remove that provision, and when you remove it in this case you will find that you will be called upon to remove it in all other cases. Whether you will do so or not no one can tell. There are millions and millions of claims which have been presented to the Court of Claims, and millions upon millions of claims which were not presented to the Court of Claims, the allowance of which depends upon the proof of loyalty. You propose in the interest of some claimants to remove the necessity of that proof and open the door so that you will be called upon to remove it in all other cases. I do not believe that the Government of the United States is under any obligation to pay money for property seized during the war to those who were in rebellion against the Government.

Mr. COX of Indiana. What does the gentleman think of the proposition, if he will pardon me, as to the duty of the Government to pay actual bona fide claims arising after the war actually ceased?

Mr. MANN. There is no controversy about that.

Mr. COX of Indiana. I understand that is the controversy here. However, I may be wrong about it.

Mr. SIMS. There is a difference as to when it ceased. We contend it ceased at the time this bill applies, and the gentleman from Illinois [Mr. MANN] claims it did not cease until August, 1866. May I ask the gentleman, inasmuch as he is so kind to permit interruptions——

Mr. MANN. I am always willing to yield.

Mr. SIMS (continuing). After Gen. Lee had accepted the terms of surrender, which was in April, 1865, suppose in June, 1865, private property had been taken from him—that is, prior to August 20, 1866—does the gentleman hold that we ought to require proof of loyalty as to Gen. Lee for years prior to the time of taking that property, in order to pay him for the property taken from him after his surrender and after he had done all that a loyal man could do?

Mr. MANN. I hold distinctly that where the Government seized the property under the provisions of this act of 1863, it was a war measure. They seized the property and converted it and sold it, and took the money under the provisions. The claimant must prove loyalty before he should obtain it, and that should remain the law. This was still a war measure, as the gentleman perfectly well knows.

Mr. SIMS. Although taken after the war had, in fact, ceased.

Mr. MANN. The Confederate Government was still buying this property.

Mr. SIMS. In 1865?

Mr. MANN. After June 1, 1865.

Mr. SIMS. The Confederate Government was buying this property after June 1, 1866?

Mr. MANN. It was. Part of its property was bought by the Confederate Government after 1865.

Mr. SIMS. And also June 1, 1865?

Mr. MANN. June 1, 1865.

Mr. NELSON. Is this the first time the bill has been up in Congress, or have other attempts been made to get this money by removing the bar of loyalty?

Mr. MANN. There have been many attempts made to get money by removing the bar of loyalty or various other ways. But when the House years ago put this provision in the bill it was the distinct understanding of those who understood the matter that it still required proof of loyalty before these claims were to be allowed.

Having obtained that much, professing at the time to be perfectly satisfied with that provision, as soon as the claim agents find that many of the claimants are unable to make proof of loyalty they seek to have that proof no longer required, while at the same time other gentlemen in the House are urging that other defenses of the Government be waived and set aside.

You can not differentiate between these various classes of cases, so far as principle is concerned, and if the Government sets aside the principle of loyalty, it can only be upon the basis that the Government that seized the property sold and holds the money ought to give it to the men who owned the property. If that be the case, this bill does not go far enough. If that is the principle upon which you act, then you ought to allow all of these claimants to enter the Court of Claims, that all of this money should be returned to the claimants.

Unless we adopted this as a war measure we are not justified in keeping 1 cent of the proceeds of the sale of this property. If it was a war measure, as I contend, then the claimants have no rights under it until they prove loyalty. [Applause.]

Mr. Chairman, I reserve the balance of my time.

Mr. WATKINS. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. YOUNG].

The CHAIRMAN. The gentleman from Texas [Mr. YOUNG] is recognized for 10 minutes.

Mr. YOUNG of Texas. Mr. Chairman, with respect to this bill, I think the House ought to be in possession of the real facts upon which it is based and upon which it is asked that it be passed. The gentleman who has just made an argument in opposition to the bill bases his whole argument upon the fact that a war measure is a measure under which he seeks to justify the United States Government in retaining the proceeds of property sold but taken subsequent to June 1, 1865. The book is a sealed book up to the time of the surrender. This measure does not seek to open up any claims, war measures or otherwise, as to property taken during that struggle. But the war is over. The surrender had come. Consternation, it is true, prevailed from one end of the country to the other. Yet, acting presumably under this war-measure proclamation, this property is taken after the surrender and after the war has closed. The Government agent officially proceeds to go about over the country, taking the cotton of the Southern States, selling that cotton, reserving his expense account for it, and then converting into the Treasury the remainder. The war has now ceased. That is private property taken from the people who produced it on the farms. That is property belonging to the people who grew this cotton. The war being over, how can you justify the extension of the war measure when the war drum throbs no longer and the battleflags are furled? [Applause.]

That is the proposition pending before Congress. This property was taken from private citizens. The surrender is had. Their property is taken. Now, what is the sole reason why these private rights can not be exercised as to the money that has been converted into the United States Treasury? They throw themselves back of the technical proposition that loyalty must be proved. Loyalty when? The war is over. Battles have ceased. The property was taken after the surrender. Yet that was private propetry and not property of the Government. It is the fund of the private individuals who grew the crops. It was taken from them after the war had ceased.

Now, shall the United States Congress say to the people who have lost this property that, although you accepted the results of the war, although the surrender has been had, that property does not belong to you? Yet you come after the ceasing of the conflict and take the property of those people and convert it into the Treasury of the United States and say to them, "You must prove loyalty."

This property was on hand after the war closed. It was grown on the farms and sold after the war was over, and yet this money is in the Federal Treasury. I base myself on the proposition of abstract right and wrong. The Southern people who lost this property feel that they have a right to the proceeds that have been put into the Treasury.

We are not asking to take something out of the Treasury that is not ours. We are asking to take out of the Treasury that fund that was placed there after the war ceased, proceeds of sale of our private property, and the vote of this Congress is to determine that fact. We are not opening up what happened during the period of the strife. We are simply opening up the claims for property taken after that strife had ceased. I say, as a matter of right, that the people should have the privilege to go into the Court of Claims and assert their rights to such of these trust funds as they may show themselves entitled.

Mr. HARDY. Will the gentleman yield for a question?

Mr. YOUNG of Texas. Yes.

Mr. HARDY. I wish to ask if it does not appear by the very action of the United States Government itself that it does not claim any title in the money thus covered into the Treasury?

Mr. YOUNG of Texas. It is a trust fund placed in the Treasury, and the United States Government makes no abstract claim of right to it.

Mr. HARDY. Then the secondary question is, If the title is not in the Government it is in somebody, somewhere.

Mr. YOUNG of Texas. That is true. It is a trust fund placed there, and the question is, who has title to it? It is a matter to be determined in the Court of Claims. Let them present their proof.

Mr. BURKE of Pennsylvania. Will the gentleman yield for a question?

Mr. YOUNG of Texas. Yes.

Mr. BURKE of Pennsylvania. Regardless of other questions, has the gentleman any objection to inserting in this bill a provision that the claimant shall assert and prove his loyalty on the date of the so-called confiscation?

Mr. YOUNG of Texas. That amnesty proposition which has been so much discussed has already been promulgated. The war is over, and the decree has gone forth. This is a special list of claims. It is a trust fund there. The Government does not claim it, and this is simply to remove the bar of a technical provision that the claimant may come into court and not be cut off by demurrer raising the question of loyalty. [Applause.]

Mr. WATKINS. I yield to the gentleman from Texas [Mr. SLAYDEN] five minutes.

Mr. SLAYDEN. Mr. Chairman, I agree perfectly with all that my colleague [Mr. YOUNG] has said with reference to the justice of this claim against the Government and the righteousness of the demand that the proceeds of property that was captured and sold and covered into the Treasury be returned to the rightful owners, but in my judgment this measure does not go far enough to do full justice to cases that will appeal to the sympathy of every Member of this House. I believe that if Members will take the time to investigate them they will find that this bill applies to a class of cases that will appeal not merely to the sympathy, but to the active, earnest legislative sympathy of the Members of the House. I have special reference to one case. In order that I may make myself perfectly clear, I will illustrate my meaning by telling of a concrete case.

In November and December, 1865, and January and February, 1866, the armies of the Union came into Texas and camped during that winter on land belonging to a man by the name of Hatch, who lived near Victoria, in southern Texas. It is a prairie country. Timber of any sort is very scarce. Occasionally there would be what we call a "mott" of standing timber down there. This man had an unusually large and valuable one. This Army was encamped on his land, and during that winter they consumed all of his standing timber for firewood. At that time, as we have been able to prove by abundant evidence, wood sold readily in the neighboring market of Victoria at $6 a cord. It was estimated at the time that more than 2,000 cords had been taken from him. Mr. Hatch during his entire lifetime endeavored to recover from the Government for that property which had been taken and used for the benefit of its troops. He failed to do so. I tried for several years to get an appropriation out of the Treasury to settle this claim, the facts in reference to which are undisputed. I failed. It was sent to the Court of Claims and they rendered an opinion agreeing to the facts that were alleged, admitting the truthfulness of our claim with reference to the facts, but they denied payment because of a lack of loyalty on the part of Hatch during the war. That is probably true. Nearly every respectable man in my part of the country was what would be called disloyal at that particular period. But Mr. Hatch has been dead for a number of years. His widow, who is approximately 80 years of age, still lives, in the direst poverty. The Court of Claims says that the Government owes her certainly as much as $3,000, putting a very small estimate on the value of the wood taken at the time, but it denies payment of it because of the disloyalty of Mr. Hatch during the war. Now, it is well to remember that this property was taken more than six months after the surrender of Gen. Lee at Appomattox. There was no state of rebellion existing in Texas at that time and there was no open disloyalty to the Government.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. SLAYDEN. Then, Mr. Chairman, I shall only say that I shall endeavor to have the law amended so as to provide for this widow. [Applause.]

Mr. WATKINS. Mr. Chairman, I yield five minutes to the gentleman from Indiana [Mr. CULLOP].

Mr. CULLOP. Mr. Chairman, the purpose of this legislation is twofold: First, to require a speedy presentation of all the claims coming under the provisions of this act. One of the requirements is that the claims shall be filed prior to January, 1915; if not filed by that time they are barred. This is a trust fund, as I understand it, in the Treasury. It applies to cotton which was abandoned, taken, and sold by the Government after June 1, 1865, after peace had been restored and after the war was over. It is not one of the classes of property that come within the category of what is usually taken in the case of war and where the ownership vests in the Government from its capture as a result of hostilities.

Mr. WILLIS. Will the gentleman yield?

Mr. CULLOP. I will yield to the gentleman from Ohio.

Mr. WILLIS. I should like to have the gentleman state the theory upon which he holds this to be a trust fund, in view of the fact that the Supreme Court of the United States, in Young against the United States, distinctly says that it is not a trust fund. How does the gentleman argue that it is in the face of that decision?

Mr. CULLOP. The statute under which the fund was created makes it a trust fund. Upon the question I am presenting now the Supreme Court has never passed. It was on another class of property altogether, secured under a different provision of law. By direction of the statute the Government was to take

charge of abandoned property, sell it, and deposit the fund in the Treasury Department to be kept for the lawful owners. That is this fund; that is what this legislation applies to and solely to this. That fund is not a public fund to be used in expenditure in the current business of the Government, but is held in trust by the United States Government for the rightful owners of it. The statute authorizing the taking of it so provided.

I desire to call attention to the report of the committee which reported this bill, which clearly and specifically defines its object and the scope of its purpose.

It was evidently the intention of Congress to allow this money to be paid to the claimants from whom the property was taken after June 1, 1865 (after the cessation of hostilities), without the proof of loyalty; but as section 159 of the act approved March 3, 1911, requires such allegation and proof, a conflict of opinion has arisen as to the interpretation of the law upon this point, and it is to settle this question that this bill is presented.

This explains the sole purpose of this bill and expresses the only object of it.

Now, the Supreme Court has stated the different classes of property which were taken during the war and held. They are divided into four classes—

First, that which belonged to the hostile organizations or was employed in actual hostilities on land.

Second, that which at sea became the lawful subject of capture.

Third, that which became subject to confiscation.

This property belonged to neither of those classes.

Fourth, a further description, known only in the recent law, called "captured and abandoned property."

To this latter class of property alone this legislation applies. Now, by virtue of the statute passed in 1863, wherever such property had been found during the continuance of the war it was to be taken and sold, the expenses deducted, and the residue deposited in the Treasury to be held for the lawful owner.

This legislation applies to that class of property which was taken after June 1, 1865, and to no other class of property, and after the war was over, after the proclamation of the President declaring peace had been made. Certainly it is only fair and right that the money now carried in the Public Treasury derived from the sale of such property—the net proceeds of it—ought to be returned to those who have the proper claim to it. The records of the Treasury Department disclose who are the rightful owners and the amount belonging to each claimant.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. WATKINS. Mr. Chairman, I yield to the gentleman from Indiana five minutes more.

Mr. CULLOP. Now, the condition is that all of these claims must be presented before January 1, 1915, and then adjudicated. Claims not presented by that time are barred by this statute, and ought to be barred, and whatever amount there is in the fund be paid pro rata among the owners of the fund as found by the Court of Claims in passing upon the cases presented to it for adjudication.

Why should this fund be continued in the Public Treasury? It is not used for public purposes. It is held there inviolate because it is kept for a specific purpose, and that purpose is to pay back to the owners of this property the residue remaining after deducting the expenses incurred in disposing of the property, the net proceeds remaining in the Treasury from the sale of the same—that is, this fund. It is not a general fund, but a specific fund created by statute, held for a sole and specific purpose, and certainly it ought to be distributed to its rightful owners as a matter of common justice and a magnanimous act of a great Government prompted by the patriotic purpose of a generous people. All this talk about opening the door to the war claims has nothing to do with the case. We are not disturbing in any respect the law by which those claims are adjudicated. That law stands intact as it has stood from the time of its passage, and will, I trust, continue to stand that way; but here is a trust fund that the Government can not use, which has been carried on the books of the Treasury Department for a long time—since some time in 1865—and has continued to be carried there. It is time that the rightful owners of that property under the purpose for which it is carried be determined, and the fund itself be distributed, and that is the purpose of this bill. It will not open the door to wholesale war claims at all. It does not in any way affect the law now on the statute books in regard to southern war claims, but it is simply construing by legislation the statute that has been on the books since 1863 concerning this particular fund. It has no other object and can not be employed for any other purpose.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. WATKINS. Mr. Chairman, in the absence of another gentleman who is to speak, if it is agreeable for him to speak at this time, I will yield to the gentleman from Pennsylvania [Mr. BUTLER] five minutes.

Mr. BUTLER. Mr. Chairman, I understand that Gen. Grant said, when the surrender at Macon, Ga., took place, on the 21st of April, 1865, that all fighting between the North and South then ceased. There was a surrender, I think, of Forrest at Macon, Ga., and, as I recall, it was on the 21st of May, 1865. I may not recollect history correctly. I understand that Gen. Grant has said in his memoirs that after that day there was no fighting between the North and the South; that so far as actual hostilities were concerned the war was then over. I appreciate that it has been held by the Supreme Court of the United States that the rebellion did not cease, as a rebellion, until some time in August, 1866. I would not vote to remove the disability of anyone who gave aid or comfort to the Confederacy prior to April 21, 1865.

To make myself more definite and to endeavor to explain myself more fully, I would not vote to remove the disability of anyone who actually participated in the rebellion while hostilities were carried on or in any way aided or encouraged it. If I am correct, there were no hostilities subsequent to May 21, 1865. I do not permit anyone to charge me with disloyalty to my country or its best interests or halting in the endeavor to take care of its rights as I think they should be taken care of, but I do not think it was right to seize the property of anyone for war reasons after the war was over. Technically it may not have been over prior to August, 1866; yet the great tumult was done. I can understand the feeling, which must have been ill and ugly, among the people of the South after Lee had surrendered at Appomattox, as well as after Forrest and Johnston and other Confederates had surrendered and their men had gone home, after they had put their arms upon the ground and had taken their horses and retired from the fields of conflict to do for themselves. I can appreciate the emotions and the passions of Confederates, inflamed by long fighting and embittered by defeat. They would have been the same within me had I been a Confederate soldier or had lived in the South with my views in accordance with those who had participated in the rebellion. I am disposed to forgive them if their feelings toward the Union were not as they now are. I do not feel, in our advancing years, that we ought to fail to recognize the fact that the southern people suffered a great loss—and they should have so suffered, because they were not loyal to their country—but at the same time we should be slow to criticize them beyond the proper measure or take from them rights which they otherwise would have had were it not for their expression of their views touching their duties toward their Government immediately after actual hostilities were done. They lost their kin in this war, their property was gone, and they had started to work for themselves. It was then, the gentleman has informed us, and then only, that the property in question was seized because of an act of Congress that authorized its seizure. Gentlemen ought to know, and it is stated by them, that this property was seized when there was really no justification for its seizure.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. BUTLER. Mr. Chairman, I did not intend to say anything, but the gentleman from Louisiana offered me the time, and I will now ask him to yield me five minutes more.

Mr. WATKINS. Mr. Chairman, I yield the gentleman five minutes more.

Mr. BUTLER. Mr. Chairman, an old soldier of Lee's armies who had surrendered at Appomattox and who had stacked his gun forever and instead took hold of the rein of the horse which Grant gave him and started for the South no doubt in his heart held hatred toward us, as we held hatred toward him, long after he had surrendered. He may have spoken perhaps as he should not have spoken and as he would not speak to-day. He may have done those things perhaps which he should not have done after he returned to the South, but his fighting days were done. He had handed in his weapon. He was submitting as patiently and quietly as he could, adjusting himself to distasteful conditions, and if he planted his cotton and it was afterwards seized pursuant to war measures, I do not think the act was right, and I am willing to pay him for it. It must not be understood by reason of what I have said that I would vote to remove the disability from any man who bore arms against the Government prior to the cessation of hostilities. The question seems to be, When was the war over? I

think it was when the fighting was done. Others seem to think not until the day of proclamation.

Many of us have always understood—it may be the Supreme Court has ruled otherwise, and I concede it has—that the great conflict was done when Lee surrendered. I do not propose to consider in this dispute any other time, and therefore it is my purpose to vote for this measure. [Applause.] I did not say what I said for the purpose of moving the gentlemen to any kind of demonstration; I said it because I meant it. This money is in the Treasury. It does not belong to the United States Government, but it belongs to somebody, and, as I understand, arises from the proceeds of property taken from the people who now ask to have it returned. I understand by this bill that no one can receive any part of this fund except he who lost his property subsequent to June 1, 1865, and feeling, as I have already said, that hostilities having ceased, property seized after that time was improperly seized, I think the money now in the Treasury, the product of the sale of improper seizures, ought to be returned to the people whose property was seized. That is all I have to say. [Applause.]

The CHAIRMAN. Does the gentleman yield back the balance of his time?

Mr. BUTLER. I yield back the balance of my time.

Mr. WATKINS. Mr. Chairman, I yield to the gentleman from West Virginia.

Mr. HAMILTON of West Virginia. Mr. Chairman, I am heartily in favor of the passage of this bill. It is but an act of justice and equity to a large class of our people living, I presume, principally in the Southern States and to the descendants of those of that class who have passed away.

The rule which prevails throughout the world that one country or one people can, with its armies, take the property of another country or people in time of war between them without being liable for compensation therefor is founded upon necessity and not upon the abstract principles of equity and justice. But in this case even that harsh rule is in nowise applicable. On the 1st day of June, 1865, the war between the States, sometimes known in history as the War of the Rebellion, but, more truly speaking, now denominated as the Civil War between the American States, was ended. Nearly two months before that date the commanding general of the Southern forces had surrendered, and the war was at an end forever.

The pending bill only bears upon property which was taken subsequent to June 1, 1865, by the Federal forces under an act approved March 12, 1863, which provided for the taking of abandoned property, to be disposed of by the Government and the proceeds held for the benefit of the former owners thereof. The bill under consideration only changes existing law in the respect that it provides that the Court of Claims may consider the rights of such former owners to participate in the trust fund arising from the sale of such property, without such claimant having first to prove his loyalty during the rebellion.

Whatever may be said as to property taken under the laws of war during actual hostilities, it seems to me that no greater injustice could be done than by stretching this harsh rule so as to allow the conqueror to take property without compensation after hostilities had ceased.

The proceeds of the property taken under the act of 1863 does not belong to the Treasury of the United States, but it is a trust fund to be disposed of and paid out to the former owners upon the findings of the Court of Claims, and to bar a brave man, who fought on the losing side of that great conflict under the belief and conviction that he was doing his duty to the sovereign State in which he lived and perhaps was born, from the participation in the proceeds of his own property taken not in time of war but after all hostilities had ceased, and when he had returned to his home, laid down his arms, and become a peaceful citizen of the Nation, can not be upheld upon any theory either of necessity or justice, and is abhorrent to the principles upon which this great Republic is founded.

During my short career in this body I think that I can say that I have been liberal upon the question of pensions to the Union soldier, notwithstanding the fact that all my people during the late war were in sympathy with the Southern cause; and if I had been of sufficient age I would have probably been on that side of the conflict. I thought that the Nation owed to those who fought for it a recognition of their services and a substantial remuneration therefor, and have acted accordingly, even at the sacrifice of the political friendship of some people of my district.

Now, it is quite apparent that all pension legislation for soldiers of the Civil War is almost wholly beneficial to residents of so-called Northern States, and I am glad at this time upon this pending bill to do something, however feeble it may be, in justice to the men and their descendants who fought for and were in sympathy with the principles which were finally settled against them by the arbitrament of arms in the great conflict to which I have referred. It is eminently right, in my judgment, that this bill become a law, and I shall vote for it with the greatest of pleasure.

Mr. WATKINS. Mr. Chairman, I yield three minutes to the gentleman from Indiana [Mr. COX].

Mr. COX of Indiana. Mr. Chairman, it seems to me that the crux of the situation, so far as this bill is concerned, is not so much when did the war cease as it is of giving certain people the right to go in and get their rights from the Treasury Department. It strikes me, Mr. Chairman, as being preposterous for us to undertake to hold that hostilities did not cease until August, 1866. The history of our country tells us that it ceased long before that time. The gentleman from Pennsylvania [Mr. BUTLER] brought to my mind a remark which I remember distinctly of reading in Gen. Grant's memoirs when he declared that after Forrest surrendered some time in May, 1865, that marked a complete cessation of hostilities between the North and the South. But even were it not for the declaration of Gen. Grant the history of our country, our common-school history, records the fact that hostilities ceased between the North and the South at the time when Lee surrendered at Appomattox and Joseph E. Johnston surrendered to Gen. Sherman, so it is not a question now as to when the war actually ceased. I think we are all agreed practically upon the proposition that there is a fund in the Treasury which belongs to some one, and that fund does not belong to the Treasury of the United States. I think we are all agreed, or substantially so, upon the proposition that the fund in the Treasury Department is not a general fund, but belongs to certain persons in the South who have a claim to it because of property taken from them after the war ceased. It strikes me, Mr. Chairman, that that is the only question in dispute here: Shall we permit by an amendment to the law as it now stands opportunity to the claimants to go in and prove their rights to this fund, whatever it may be called. I do not care a whit whether it is a trust fund or not, it is a fund that does not belong to the people of the country generally; it belongs to somebody, and, in my judgment, it is the duty of Congress to let that money be paid out to the proper persons after their claims have been adjudicated by the Court of Claims and it has determined who the owners are and the respective amounts due to each. It is our duty, Mr. Chairman, as I view it, to let the Treasury of the United States pay it. [Applause.] As the Treasury concedes the fund now held by it as belonging to certain claimants of the South, what objection is there to paying it out to the claimants. Let them have it.

Mr. WATKINS. Mr. Chairman, I yield such time as he may want to the gentleman from Pennsylvania [Mr. MOON], the ranking minority member of the committee, and I will be glad if the gentleman will inform me what time he desires to use, for the reason there are others who expect to speak.

Mr. MOON of Pennsylvania. Mr. Chairman, as a matter of fact I did not want any time.

Mr. WATKINS. I yield such time as the gentleman may wish.

Mr. MOON of Pennsylvania. Mr. Chairman, I want to say I have not asked for any time in this discussion. I just came upon the floor of the House, and I do not think I have anything of importance to say to this House upon the subject. I was chairman of the Committee on Revision of the Laws upon which, and upon a bill of that committee, section 162 was ingrafted. I was opposed to it, and those who were present will remember I spoke against it on two or three different occasions.

It was adopted, however, by the House by a very substantial majority, and I afterwards stood for it in conference, and acting in obedience to the spirit manifested in this House, I felt it was the intention of the country that the section should be enacted, and it was enacted, into law. I knew nothing whatever of the history of these claims at the time the amendment was offered. It came in the midst of a debate. The gentleman from Georgia [Mr. BARTLETT] offered the resolution. My recollection is that he offered it of an afternoon on a Calendar Wednesday, and that it originally included the elimination of the necessity of the proof of loyalty. We discussed it during that afternoon and no vote was reached. On the following Calendar Wednesday the gentleman withdrew that amendment and submitted another, which was carefully prepared by him and which afterwards became section 162 of the bill. I can only say that in obedience to the spirit manifested in this House I voted for it in conference, and when it came before the revision committee that reports this bill, in view of

that fact I voted for it there, and I propose to vote for it here on the floor of the House to-day. I have no definite, accurate information respecting the history of these claims to give to the House. I had none at the time; I have not had the opportunity since to prepare myself upon them, and I therefore feel that there is nothing more for me to say on this subject.

Mr. WATKINS. Mr. Chairman, I yield to the gentleman from Alabama [Mr. HOBSON].

Mr. HOBSON. Mr. Chairman, I do not desire to go into the details of this question. My purpose is to call attention at this time to the broader aspects which this question involves, namely, the justice that the Federal Government has a chance to render to the people of the South. It is not necessary to remind the Members here that a tax was placed upon cotton during the Civil War, afterwards declared to be unconstitutional, and that the money collected from that tax, amounting to some sixty to seventy millions of dollars, was not refunded to the people from whom it had been unlawfully collected, as the money collected from the income tax recently passed was refunded. That money never has been refunded, and the failure to refund it has worked a harsh injustice upon the southern people. In this present case, Mr. Chairman, the proof of loyalty, it seems to me, might be completely waived if we practiced the same spirit toward our own people that we have practiced toward foreigners. We returned an indemnity of $750,000 to the Japanese Government, part of our share of an indemnity paid in the late sixties, when we made a demonstration in conjunction with Great Britain, France, and the Netherlands in the Straits of Shimonoseki. We never used a dollar of our share. In due time every dollar was returned to the Japanese Government. As a result of the Boxer disturbances, some twelve-odd millions of dollars were likewise paid to the United States for war damages. We did not use that money. I never cast a vote more gladly than the vote to return that money to the Chinese Government.

In the case of Spain we had a perfect right not only to take what territory we had occupied, but, following the precedents of civilized warfare, to demand a war indemnity. Instead we found that Spain was impoverished. Our peace commission practically volunteered and the Nation confirmed that we pay $20,000,000 to a vanquished foe; and we also voluntarily transported all the Spanish soldiers back home to Spain.

And so it has been in all the wars of our country. When we fight we fight with all our might, but when the war is over we do not harbor animosity or hatred, but proceed in a spirit of generosity to reestablish good fellowship with the former foe. Members here realize that since the Civil War pensions have been a large part of the expenditures of this Government, amounting to hundreds and hundreds and hundreds of millions of dollars. The total has gone into the billions. The South pays its pro rata share, which amounts to tens of millions of dollars every year, very little of which ever goes back to the South. It would really be in keeping with the uniform practice of returning war indemnities if this Government could find some way in which the South might be partially recouped for this stupendous permanent burden due to the war. But the South has never asked that. All we say here at this juncture is that a little meed of justice, plain and simple, be done the southern people, the same that every individual would recognize as just and right in his own business relations with his fellows. All we ask is that this Congress now, even at this late date, should do that little amount of justice to the southern people.

Mr. Chairman, I know the Members will not take it amiss if I seize upon this opportunity to point out hardships borne by the South at the hands of the Federal Government. We are a rural section. For decades the general system of taxation, the indirect system of the high tariff, has caused hundreds of millions of dollars of taxes to be collected from the rural sections for the benefit of the great cities. While the Government collects $300,000,000 at the customhouses a year the great special interests, whose activities are located chiefly in the great cities of other sections, collect $1,900,000,000.

Again, the fiscal policies of the Nation as bearing upon banking and currency provide large means for the financing of the business of the banker, the merchant, the manufacturer in the large cities, but there is no means provided for financing the business of the farmer. On the contrary, the national banking law forbids a national bank to loan money on a farm, the best security on earth.

Again, take the question of transportation. The railroads transport goods straight through the small farm to the big city beyond cheaper than they deliver the goods at the little town. In other words, the general taxing policies, the general fiscal policies, the general transportation policies of the Nation have combined to place hardships upon the South.

I will not now raise the specter of the reconstruction and carpetbag days [that followed the war, but all Members will remember how those days carried forward for many years the poverty and devastation produced by the war and made more difficult the steep ascent to prosperity of the southern people. Again, Mr. Chairman, I call attention to the attitude of the Federal Government toward the great world staple of cotton, upon which southern prosperity so largely depends. The Brazilian Government cooperates with its coffee growers to raise the world's price of coffee. The German Government cooperates with its potash producers to raise the world's price of potash. Our Government not only has not raised a finger to help the cotton grower to raise the price of cotton, but has, on the contrary, used the power of the Attorney General's office to prosecute the cotton bulls who tried to produce this result—while it allowed the cotton bears to go scot free when they conspired to put the price of cotton down.

Mr. Chairman, the time has now come for the Nation to do justice to the southern people when they have legitimate claims upon the Government and to extend a cordial godspeed to them as they move out upon a new period of prosperity and empire building.

The CHAIRMAN (Mr. TAYLOR of Alabama). The time of the gentleman has expired.

Mr. HOBSON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. WATKINS. Mr. Chairman, I ask at this time unanimous consent that all gentlemen who speak on the subject of this bill may be permitted to extend their remarks in the RECORD.

Mr. MANN. I am not willing that that be done, Mr. Chairman.

The CHAIRMAN. This is in Committee of the Whole, and that permission can not be granted in committee. The House can do that later on.

Mr. WATKINS. I will make my request later, when we go back into the House.

Now, Mr. Chairman, I yield three minutes to the gentleman from Texas [Mr. HARDY].

The CHAIRMAN. The gentleman from Texas [Mr. HARDY] is recognized for three minutes.

Mr. HARDY. Mr. Chairman, I want to avail myself of the opportunity afforded by these three minutes chiefly to say that I admire the magnanimous spirit of the gentleman from Pennsylvania [Mr. BUTLER] who addressed this House a few moments ago. If we had more of that kind of men, more of that kind of sentiment, which is the sentiment of brave manhood, there would be less of prejudice between the sections than there is to-day, and, thank God, that prejudice is fast passing away. [Applause.]

Mr. BUTLER. Mr. Chairman, will the gentleman permit me right there?

Mr. HARDY. Certainly.

Mr. BUTLER. I do not want any praise for doing what I think is right.

Mr. HARDY. I wish to say to the gentleman that I am not praising him individually, but the sentiment and the manner and the magnanimity of his remarks. I know he was not seeking praise, and that makes his action all the more praiseworthy. Every really generous act or utterance is without desire or care for applause.

I wish to say a word further that is a little bit personal. In 1865 I was a boy 9 years old. One day in June or July of that year I saw my father walk out on his front gallery, send word down to the quarters not far away, and call up the negroes; and when they were all assembled I heard him tell them that, under the proclamation that had been issued by the Government, they were free. He added that it was theirs to go back on the plantation or not, as they saw proper; that if they went back and finished making and gathering the crop, he would do the best he could to compensate them for their labor and to see that they were properly fed and clothed while working.

Now, I could not go into his innermost heart and undertake to prove loyalty or the precise sentiments or feelings that moved him from that time on, but at that time that was his action, and then he went back into the house. His whole fortune was gone, his spirit was broken, and for six months afterwards he scarcely moved from the inner portions of the house, and my mother was the mainstay and the thoroughgoing head of the family. The next year he bought a place on credit, and

many of his old slaves went with him, and they planted the crops of 1866 and 1867.

Now, suppose that after that incident the crops that were being grown under those circumstances were taken. Would it have been right? Was it any more right to take the property of any citizen of the South after he had laid down his arms and thought no more of resistance or war, except as it bore on his desolation or woe?

And now, Mr. Chairman, where property was taken under similar circumstances, and the proceeds of it turned into the Treasury, to give it back to the rightful owner is a simple act of justice, as has been so well spoken by the gentleman from Alabama [Mr. HOBSON.]

This property does not belong to the United States. It was taken without any justification under any principle, of right or just law, among men or between nations, except the idea of taking it to preserve it for the rightful owner. You may call it a trust or what you will. The Government recognizes that it does not belong to it. It belongs to somebody, and it ought to be given in justice to that somebody. Oh, we have been generous—and I am proud of it—with other nationalities and other peoples. To the Japanese we were generous; to the Spanish we were generous; to the Chinese in the Boxer difficulties we were generous, and I glory in the generosity of a great country and a great people. We ought to be able now to be just to each other. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. WATKINS. Mr. Chairman, will the gentleman from Illinois [Mr. MANN] consume some part of his time now?

Mr. MANN. I yield to the gentleman from Pennsylvania [Mr. BOWMAN].

Mr. BOWMAN. Mr. Chairman, I rise for the purpose of asking permission to extend my remarks in the RECORD.

The CHAIRMAN. Unless objection is made, the request of the gentleman will be granted.

There was no objection.

Mr. MANN. Mr. Chairman, I notice that usually these outbursts of friendly feeling between the sections of the country, exhibited by friends from the South, come in connection with an effort to extract some money from the Treasury. They are supposed to be very magnanimous. They are supposed to want to be very magnanimous while they are getting the money. I do not blame them for that, or for complimenting my friend from Pennsylvania [Mr. BUTLER], who stated, without any warrant of authority whatever for it, that this property was improperly seized by the Government agents. I doubt whether he knows the facts in connection with it. I doubt whether he is informed as to whether the property was improperly seized or not, or as to the circumstances surrounding the seizure of the property. My information is that no portion of this property was seized in any part of the South where hostilities had in fact ceased.

Only where the war was in fact still in existence, shortly after the surrender of Lee, was the property in fact seized by the Government, seized from men who were disloyal to the Government at the time, and who were at the time lending aid and comfort to the rebellion; men who had not accepted the surrender of Lee by any means as the ending of the rebellion. The Government agents did not take property from men who were willing to consider that the war was ended, men who had laid down their arms, men who had accepted the surrender of Lee as the final result. Their property was not disturbed. But my friend from Pennsylvania [Mr. BUTLER] says the Government agents improperly seized the property. That is a mere guess on his part.

Mr. BUTLER. It is a mere guess on the gentleman's part, for I used no such language. I refer to the notes of the Official Reporters to verify my statement. I said it was claimed by gentlemen on the other side.

Mr. MANN. I am glad the gentleman disavows the language.

Mr. BUTLER. I leave it to the notes of the Official Reporters to settle it.

Mr. MANN. There is nothing between us to settle. If the gentleman did not make the statement, then I withdraw what I have said. That is the whole assumption, however, of gentlemen who favor this bill. That is the only excuse that can be given for it—that the property was improperly seized by the Government agents, taken from men who were willing to admit that the rebellion no longer existed. The assumption is that this property was seized from men who were in peaceable possession of it, not as an act of war but as an act of confiscation. But no such thing happened, and there is no justification for the claim. No property was taken from those people who were willing to consider the rebellion at an end, but in those cases where property was seized it was seized from men who were then disloyal to the Government, and the gentlemen on the other side of the aisle have refused to agree to an amendment which will amend this bill so as to provide that it shall apply only to those who were not disloyal after the date fixed in the bill.

This is only the beginning of doing away with the proof of loyalty. It has nothing to do with the question of peace between the people of the different portions of the country. I had the honor to introduce in this House the first bill which was passed providing that the General Government of the United States should care for a Confederate cemetery, that is now being cared for by the Government, where only Confederate dead are buried. So far as feeling is concerned, the war ought long since to have been buried, and, so far as I am concerned, was long since buried; but when gentlemen come into the House under the pretense of trying to have peace and magnanimity between different portions of the country for the purpose of extracting money from the Treasury that they know ought not to be paid out, I repudiate the claim that it is necessary in order to be magnanimous to pay money to which they are not entitled. [Applause on the Republican side.]

The Government of the United States seized this property. Aye, it seized millions of dollars' worth of property in the South during the War of the Rebellion. The gentleman from Alabama says that proof of loyalty in these cases ought to be dispensed with. What is the distinction between this case and those cases? Are we to say now, 50 years after the war, in order to prove our magnanimity in the North, that we propose to pay the owners of property in the South for all the property taken from disloyal citizens by the armies of the North? It would take billions of dollars, perhaps. No one knows how much it would take. When you propose to dispense with the proof of loyalty in one case you open the door wide, so you can not refuse to do the same deed of justice in other cases.

I believe that when war is entered into, people ought to abide by the results of the war. And one of the results of war recognized throughout the world is that the country which succeeds does not pay the citizens of the country which loses for the property taken as a result of the war. And that is all this case is. Remove the proof of loyalty, establish now the proposition that no longer is proof of loyalty necessary in order to obtain from the Treasury of the United States payment for property seized by the Government of the United States or its armies in the South from disloyal citizens, and no one can tell how serious and far-reaching will be the result.

It is assumed here that this money is in the Treasury. It is in the Treasury only theoretically. It is carried on the books of the Treasury, but every dollar which is to be paid out on this and other claims must first be taken from the citizenship of the country. The money is not in fact in the Treasury. If its payment is provided, it must be raised by taxation. Those who put down the rebellion must again be called upon to pay the money to the Treasury in order to pay it out to those who sought to destroy the Union. I am not willing to do that in order to curry the favor of my distinguished friends of the South and be called magnanimous. [Applause on the Republican side.]

Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has 11 minutes remaining.

Mr. MANN. I yield five minutes to the gentleman from Pennsylvania [Mr. BURKE].

Mr. BURKE of Pennsylvania. Mr. Chairman, throughout the discussion last Wednesday and to-day there has developed, to a certain extent, an obstinacy on the part of the proponents of this bill with reference to suggested amendments which I can not reconcile with the eloquent expressions made on the floor of this House within the last 30 minutes. The amendment suggested last week was not prompted for the purpose of giving voice to any hatred or animosity. No one on this side of the aisle is more willing to throw over the act of every man, woman, and child in the South the mantle of forgiveness for acts committed during the period of the war prior to June 1, 1865, and no one would do more to cement beyond its ever being severed again the Union to which these people who seek to-day to extract this money from the Treasury claim unquestionably to be loyal.

Mr. HARDY. Will the gentleman yield?

Mr. BURKE of Pennsylvania. Certainly.

Mr. HARDY. Does the gentleman consider it extracting money from the Treasury if the Government should turn over this money to its rightful owner; should give it back to the people who owned it?

Mr. BURKE of Pennsylvania. The question of ownership depends on the manner in which this property was taken and the attitude of the party toward the Government at the time of the confiscation. If the individual who makes this claim to-day was

disloyal to the Government at the hour of the confiscation of his property, it is my contention that he is not entitled to recover in 1912 any more than he was on June 15, 1865.

Mr. HARDY. Does the gentleman conceive that it was necessary for a descendant of the owner—take the illustration I made as to my own father—one, who by his action then showed that the surrender was complete, that resistance was ended, does he contend that some one now should come in and swear that at that time he was thoroughly devoted to the Union?

Mr. BURKE of Pennsylvania. The gentleman from Texas must admit, that in order to recover in these claims, the claimant, whether he be sensitive or not regarding his own personal feelings, must make a charge against the Government of the United States. He must charge the Government with having committed a wrong, and if he is not sensitive about charging the Government with committing a wrong, why should he be sensitive about alleging his own loyalty to the Government at the time?

Mr. HARDY. The claimant makes no claim that the Government does not admit.

Mr. BURKE of Pennsylvania. The Government admits taking the property, but the Government claims that it took it under the color of right.

Mr. HARDY. It took the property under the authority of law, but it admits by its present holding of the property for its owner that it belongs to another.

Mr. BURKE of Pennsylvania. The taking of the property was not in violation of any individual right, and if it was not, then no one has a claim against the money in the Treasury.

Mr. HARDY. What amount of proof would the gentleman want as to the loyalty of the claimant? Would he want some one to swear that he run up the Union flag, or something of that sort?

Mr. BURKE of Pennsylvania. No; I would hesitate to pay the claim from the funds in the Treasury to a man who would be unwilling to admit that he was a loyal citizen of this Republic at the time.

Mr. HARDY. The whole country was at peace, was it not?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. MANN. I yield to the gentleman from Pennsylvania five minutes more.

Mr. BURKE of Pennsylvania. That is a question in controversy. As the gentleman from Illinois stated, arms had been laid down, hostilities had ceased in certain sections, but in other sections there is a question whether the hostilities of certain individuals had not been prolonged beyond this period. The purpose of this amendment is to guard against paying money out of the Treasury to those who are not willing to admit or declare that they followed the generous and brave action of the men of the South, who laid down their arms and became ardent and loyal supporters of a rejuvenated Republic, but prolonged it beyond that period, and as an incident to, and during whose disloyalty, the Government took this property.

Mr. HARDY. The gentleman wishes a statement that the party claiming was not still in rebellion?

Mr. BURKE of Pennsylvania. I will read to the gentleman——

Mr. HARDY. I know what the gentleman's amendment is, but I want the effect of it. The gentleman knows that everybody was at peace, the old soldiers had gone home, they were plowing in the country and trying to build up the waste places and were paying no attention to public affairs.

Mr. BURKE of Pennsylvania. Those are very broad declarations that I believe are hardly justified.

Mr. SLAYDEN. Mr. Chairman, will the gentleman yield?

Mr. BURKE of Pennsylvania. Certainly.

Mr. SLAYDEN. The gentleman from Pennsylvania has made a remarkable statement or proposition about some people in the South continuing in rebellion after the surrender of Lee and Johnston, and I would like to know when and where it was done, for I have heard nothing about it.

Mr. MANN. The records of the War Department will show it.

Mr. BURKE of Pennsylvania. Mr. Chairman, without submitting any evidence on the subject, is it not an inevitable conclusion to which we are driven, when these very claimants refuse to admit that at that time they had laid down their arms and were loyal to the Government?

Mr. SLAYDEN. At what time?

Mr. BURKE of Pennsylvania. Subsequent to June 1, 1865, during the period in which the gentleman claims they are entitled to recover, because they were presumably loyal.

Mr. SLAYDEN. I do not know anything about what any individual may have said, but I do know as a matter of fact that we not only were in complete submission, but that there was no armed insurrection against the Government of the United States. We were in neither the physical nor mental attitude that made such a thing possible. We were not only peaceful, but we were subdued. We were quiet; we were terrified in a way.

Mr. BURKE of Pennsylvania. Taking the gentleman's statement to be an accurate description of the fact, then what harm can come from an admission in the pleadings—the gentleman is a lawyer I take it.

Mr. SLAYDEN. No; I am not.

Mr. BURKE of Pennsylvania. Can any wrong result from a declaration in these pleadings that the people seeking to extract the money from the Treasury or recover it from the Treasury—whatever language you wish to use—were loyal at the time their property was taken?

Mr. SLAYDEN. Mr. Chairman, I am not so much interested in the gentleman's argument as in this strange new history which he is relating. As a student of history I am interested in knowing when and where and by whom that rebellion, subsequent to June, 1865, was carried on.

Mr. BURKE of Pennsylvania. Aside from the records of the War Department the fact is as I say that the proponents of this bill emphatically refuse to put in any provision whatsoever that would safeguard the interests of those who were loyal.

Mr. HARDY. Does the gentleman make that demand of any claimant against the Government except these?

Mr. BURKE of Pennsylvania. The gentleman knows that these claims stand in a class by themselves. They were born in a period, if not of open hostility, then, at least, in a period of doubt.

Mr. MANN. Does the gentleman know of any other claim against the Government growing out of the war where the proof of loyalty is not required.

Mr. BURKE of Pennsylvania. That is a fair question.

Mr. HARDY. The gentleman does not know of any other claims against the Government growing out of the war on account of the seizure of property after the war was ended.

Mr. MANN. Oh, there are lots of claims growing out of the war prior to the time when the war ceased.

Mr. HARDY. What I say is that these claims come from acts after the war had ceased.

Mr. MANN. No; they do not at all.

Mr. HARDY. Unless the gentleman's colleague is fearfully wrong, and unless my reading of history is wrong, they do.

Mr. BURKE of Pennsylvania. That is a controversy in history, as is illustrated by the statements of the two last gentlemen on the floor, both of whose opinions I respect, but which I can not reconcile with each other.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. MANN. Mr. Chairman, I yield the remainder of my time to the gentleman from Ohio [Mr. WILLIS].

Mr. WILLIS. Mr. Chairman, in the one minute that remains I want to call attention to the fact, first, that the Supreme Court of the United States has repeatedly decided and it is now the law of the land that this is not a trust fund, but is the absolute property of the United States. I want to call attention, second, to the undoubted fact, as has been pointed out by the gentleman from Illinois [Mr. MANN], and as I tried to point out one week ago, that this is simply the beginning of a series of bills, some of which have been reported and are now on the calendar, the purpose of which is to absolutely reverse the policy that has obtained heretofore in the handling of these claims. I want to call the attention especially of my distinguished friend from Indiana [Mr. CULLOP], who is the guardian of the Treasury and who undoubtedly by his eloquence has saved the people of this country hundreds of millions of dollars—I want to call his attention especially to the fact that he is now supporting a proposition which if enacted into law neither he nor any other Member of this House can see the termination of. The immediate effect will be that at least $5,000,000 will be open to almost anybody who wants to back his wagon up to the Treasury Department and scoop in the money.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. WATKINS. Mr. Chairman, I yield five minutes to the gentleman from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. Chairman, the gentleman from Illinois [Mr. MANN] has announced that he could not afford to vote for a measure of this kind in order to curry favor with his friends of the South.

Mr. Chairman, his friends of the South are only asking that simple justice be done. This measure does not appropriate one cent. It gives the Court of Claims jurisdiction of claims

that may be filed prior to January 1, 1915. It requires that the people whose property was taken by the Federal forces after the 1st of June, 1865, be paid for their property out of money now in the Treasury for that purpose. Does the gentleman want to deny the South the justice sought in this measure? His own colleagues on the committee voted unanimously in favor of this bill, and those of them who have spoken in this House to-day have championed the measure. The gentleman from Pennsylvania [Mr. BURKE] speaks of throwing the mantle of forgiveness over the South for the part it took in the war between the States. The Federal soldier himself would not speak in that fashion now. He realizes that both sides fought for the right as God gave them the power to see it. [Applause.] An English officer has stated in his history of Stonewall Jackson that if Grant had been reared and educated in Virginia and Stonewall Jackson reared and educated in New England, Grant would have been a Confederate general and Stonewall Jackson a Federal general, saying that it was the viewpoint that each had of the situation. [Applause.] Each fought for the right, according to the lights before him. Dr. Ellis in his history of our country, recently written, and Dr. Ellis is a northern man, says that the question of secession was never settled in the United States until the war settled it. Brave men fought on opposing sides in settling that question, and now, thank God, we have a reunited country. [Applause.] I want to say to these gentlemen on the other side that many northern people do not share in the sentiments that you have uttered to-day. [Applause.] I canvassed eight Northern States in the recent campaign and I found the feeling with most people there strong to bury everything that looks to sectional differences, and the best people in the North and in the South are striving to unite these sections together in the ties of love, loyalty, and the clinging of section to section. [Applause.] Mr. Chairman, let the Members of all sections do simple justice to-day. When the bugle was singing truce at Appomattox Robert E. Lee was not only plighting his faith, but plighting the faith of every Confederate soldier, and plighting the faith of the son of every Confederate soldier to lay down their arms forever. [Applause.] Surely Members of this House can do simple justice to those whose property was taken by the Federal forces. All we ask is that these people have a chance to go into court and ask that court to say whether or not their property was really taken and order pay therefor. June 1, 1865, there were no hostilities anywhere; none after the 1st of May; then why require these people to prove loyalty to the Union. Mr. Chairman, the soldier in blue and the soldier in gray were fighting for what they thought was right; and it is said that when Lee surrendered at Appomattox Lincoln, with tears in his eyes, at the White House said, "Have the band play Dixie." [Applause.] He was hoping that hostilities were over; he was hoping that war was at an end; he was glad that we would have a reunited country; and now, gentlemen, we have that glorious reunited country, and I appeal to gentlemen here to rise to the full measure of your duty toward this meritorious measure.

The South pleads for simple justice to those whose property was taken after Lee's surrender at Appomatox. The South will follow faithfully wherever Old Glory bares her beauty to the breeze; one heart, one hope, and one country—America, the grandest Government on the globe. [Loud applause.]

The CHAIRMAN. The gentleman from Louisiana has six minutes remaining.

Mr. WATKINS. Mr. Chairman, in that length of time I can hardly be able to discuss satisfactorily the legal propositions involved in this case. I have several volumes here before me. If the gentleman from Illinois [Mr. MANN] will not object when we go into the House, I will simply ask to extend my remarks in the RECORD, but if he is going to object I will try in the few minutes I have to cover the question as far as I can.

Mr. MANN. The gentleman can ask leave to extend his remarks now.

Mr. WATKINS. I do ask that permission.

The CHAIRMAN. If there be no objection, leave will be granted. [After a pause.] The Chair hears no objection.

Mr. WATKINS. With that understanding, Mr. Chairman, I——

Mr. MANN. There is no understanding; the gentleman has leave to extend his remarks now.

Mr. WATKINS. If I have leave, then, all right.

Mr. MANN. It has already been granted to the gentleman.

Mr. WATKINS. Mr. Chairman, understanding I have leave to extend my remarks in the RECORD, as the time is so short and the proposition so extensive, I will now ask that general debate be closed and the bill be read for amendment.

The CHAIRMAN. General debate is now closed, and the Clerk will read the bill.

The Clerk read as follows:

Be it enacted, etc., That section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, be amended and reenacted so as to read as follows:

"SEC. 162. The Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the provisions of the act of Congress approved March 12, 1863, entitled 'An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States,' and acts amendatory thereof, where the property so taken was sold and the net proceeds thereof were placed in the Treasury of the United States; and the Secretary of the Treasury shall return said net proceeds to the owners thereof, on the judgment of said court, and full jurisdiction is given to said court to adjudge said claims, any statutes of limitations to the contrary notwithstanding: *Provided*, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims."

Also, the following committee amendment was read:

Line 8, page 1, strike out the words "to hear and determine the claims" and insert in lieu thereof "of any claim therefor filed prior to January 1, 1915."

The CHAIRMAN [Mr. RUCKER of Colorado]. The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to amend, on page 1, line 6, by striking out the words "and reenacted."

The CHAIRMAN. The gentleman from Illinois offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 1, line 6, strike out the words "and reenacted."

Mr. MANN. Mr. Chairman, I hope that is satisfactory to the gentleman. It does not affect the bill at all except the form of it. We have invariably struck out those words where they came in a bill. The enacting clause is sufficient when it says "The section shall be amended to read as follows."

Mr. WATKINS. Mr. Chairman, we are really reenacting the bill, and I see no objections to so stating by vote of the committee.

Mr. MANN. Mr. Chairman, I do not care anything about it in this bill. Somebody conceived the idea a year or two ago of putting this sort of an item in the bill. Every time it has been before the committee it has been stricken out, up to the present time, because it is not necessary to have but one enacting clause to the bill. When you say that "a section is amended to read as follows," that makes it read "as follows" when it is enacted.

Mr. WATKINS. Mr. Chairman, with the statement of the gentleman that this is the custom, I will not oppose the amendment.

The CHAIRMAN. The Clerk will again report the amendment.

The amendment was again read.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to strike out, on page 2, lines 8, 9, and 10, the following language:

And the Secretary of the Treasury shall return said net proceeds to the owners thereof on the judgment of said court.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 2, lines 8, 9, and 10, by striking out the words "and the Secretary of the Treasury shall return said net proceeds to the owners thereof on the judgment of said court."

Mr. MANN. Mr. Chairman, I had intended to call this to the attention of the gentleman from Louisiana [Mr. WATKINS] privately, because I think if I had he would have agreed to it. That language is in the existing law, and was in the original law, I believe. Since that time Congress has repeatedly provided, and that is now the law, that the Secretary of the Treasury can not pay out money from the Treasury until it is appropriated. This purports to give the Secretary of the Treasury authority to return this money without an appropriation. It will simply mislead people, because he will not return it without an appropriation, for the law prohibits paying any money out of the Treasury unless it is appropriated. And the custom will be, whether it is in or out of the law, when claims are allowed by the Court of Claims, they will be certified to the House and will be included by the Committee on Appropriations in the general deficiency bill. There is no other way of paying claims out of the Treasury. This is not an appropriation.

Mr. FITZGERALD. Will the gentleman yield to a question?

Mr. MANN. Certainly.

Mr. FITZGERALD. I have not looked into the matter. Would one of these judgments be such a judgment as would come in as a certified claim?

Mr. MANN. It would be the same as any other judgment against the United States.

Mr. FITZGERALD. If it is a final judgment, then it would be carried as all such judgments are, in the deficiency bill. The practice is to appropriate in the deficiency bills the amount of money required to pay judgments against the United States.

Mr. MANN. As I understand, the practice is to certify the judgment to Congress, and the Committee on Appropriations includes in the deficiency bill these specific items for the payment of these judgments. I do not know that this will do any harm, except it will make people believe they can obtain the money without an appropriation for it.

Mr. CULLOP. Mr. Chairman, if the gentleman's amendment should prevail it would do just what he has been opposing being done all through the debate on this bill. This is a specific fund, raised from a specific object, and for a specific purpose.

The fund is in the Treasury. It is there for a certain and specific purpose, and covers money derived from a specific source. It is there to be paid back to the persons who may be legally entitled to the same, and is not as other funds that are in the Public Treasury, as a general fund. So that if the gentleman's amendment should prevail it would open the door to the very object that he has been opposing all through the consideration of this bill. This fund was raised from the sale of the cotton which had been abandoned by the legal owners. It was sold under a statute which directed that it should be sold and what should be done with the net proceeds arising from the sale, and that was to pay it into the Treasury to be held for the legal owners of it, less the cost and expense of the sale and handling of the property. Now, the purpose of this act is for the Court of Claims to ascertain the amount, the legal ownership of the money of the trust fund in the Treasury, and prorate it among the lawful owners or those who shall assert their right to it by the 1st day of January, 1915. If the gentleman's amendment prevails, it will destroy the entire purpose of the act and leave it subject to wholesale litigation concerning the ownership of that fund, which ought not to occur in the disposition of this particular fund at all. The Treasury Department has the name of each and every owner, the amount derived from each and every sale, when and to whom made, the cost of handling the property, and the net proceeds. If this amendment is adopted, it emasculates the entire object of the measure and will produce confusion in the settlement of this matter. Therefore, instead of clarifying the situation, it will have the opposite effect. So that if his amendment prevails, the condition then would be worse than it is now for the distribution of this fund and the disposition of the matter. I hope, therefore, that the amendment will not prevail.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. HEFLIN having taken the chair as Speaker pro tempore, a message in writing from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries.

ALLEGATION AND PROOF OF LOYALTY IN CERTAIN CASES.

The committee resumed its session.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Georgia [Mr. BARTLETT] moves to strike out the last word.

Mr. BARTLETT. I oppose the amendment offered by the gentleman from Illinois [Mr. MANN].

Mr. Chairman, this section, which it is proposed to amend, was adopted by the last Congress on the codification law bill. This fund, which is now in the Treasury, or which should be there, is not like other assets of the United States in the Treasury of the United States. Under the act of 1863, known as the captured and abandoned property act, proceeds of the property that was taken, after it had been sold and the expense deducted, were to be held as a trust fund for the true owner thereof. Under that law after the close of the war this property was taken and sold and the proceeds turned into the Treasury. I do not mean after the legal close of the war, because with a view of regulating certain matters in the Army—discharges, and so on—it has been decided that the war legally closed on the 21st day of August, 1866. But the war had actually closed on the 9th day of April, 1865, with the cessation of hostilities.

Now, I drew this amendment to the codification bill and presented it to the House, and after a sp'rited debate and discussion for quite a while the House adopted it. The Senate made some amendments to it and then it went to conference, and the conferees agreed to this proposition as it now appears in section 162 of the Civil Code.

Now, I am not going to detain the House with any details of the history of this matter, but I want to say that both Houses of Congress recognized the justice of the claim that after the war was actually over and while the United States Army was simply in possession of the territory of the States of the Southern Confederacy after June 1, 1865, the officers of the United States took this cotton from the farms of the planters and from the warehouses where it was stored and sold it, and that the owners ought to be paid the money on proof of the identity of the persons to whom it belonged. As to the date—June 1, 1865—I fixed that myself, after conference with the chairman of the Committee on the Revision of the Laws, Mr. MOON of Pennsylvania, and some other gentlemen who on that side were actively engaged in that codification work.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. With pleasure.

Mr. BUTLER. If these claimants had availed themselves of the provisions of the act of Congress of 1872, could they not have proven their claims and recovered this property without first having offered proof of loyalty?

Mr. BARTLETT. I think they could.

Mr. BUTLER. Was not the question of loyalty waived by the act of 1872?

Mr. BARTLETT. It was not only waived, but by the decision of the Supreme Court, in Thirteenth Wallace, in the case of Klein, it was held that under the general amnesty of President Johnson, issued with reference to them, they could have recovered without proof of loyalty. But they did not do it, and if my friend from Pennsylvania were familiar with the condition of affairs in the South at that time, where men had lost their all and where people had their property taken from them, he would know that they did not have the means of prosecuting claims before the Court of Claims at Washington in order to recover what belonged to them.

This simply provides, as the act of 1863 provided, that the Secretary of the Treasury shall make payment to the owners upon the judgment of the Court of Claims certifying that they were entitled to it. I do not believe that the Secretary of the Treasury will pay it without an appropriation, but to put this amendment on the bill will simply place those people one step farther away from what it is admitted they should receive—payment for property of which they had for long years been deprived unjustly and without law. [Applause.]

Mr. WATKINS. Mr. Chairman, I object to this amendment. I will state that it would not only destroy the bill as it is now presented, but it would also destroy section 162 of the codification of the laws which we are seeking to amend. It would be acting in the utmost bad faith on the part of the other side of the House to insist on the incorporation of this amendment. A majority of this House voted for the passage of section 162 of the codification, under the head of the judiciary, providing for the payment of these claims. These claims now fall under that section, and the payment of the claims is provided for.

The distinctive feature of this bill is simply and purely that it establishes the principle whether the parties shall be required to prove loyalty at the time the property was taken, after June 1, 1865, and the effort now made is not only to destroy the amendment, but also to destroy the original enactment.

When that enactment was passed, as I stated on a former occasion, when that section passed the House and went over to the Senate, the features in this bill were allowed to remain the same as they were as they came from the House, with a Republican majority in the Senate. Not only that, but on four occasions in the Senate bills of this kind have been reported from Senate committees. This section and the entire codification went into conference, and when it went into conference it was agreed between the conferees that this section should be not only operative, but it should be effective for all intents and purposes; and it was on account of that agreement—and the gentleman from Pennsylvania [Mr. MOON], one of the conferees, and the gentleman from Kentucky [Mr. SHERLEY], another of the conferees, will bear me out in the statement—that the conference report was adopted. If it had not been for the understanding that this section 162 would be carried out in good faith to all intents and purposes practically, that conference report could not have been adopted. Even the conferees themselves would not have agreed to that codification. It would be acting in bad faith to destroy that section 162 by the enactment of this amendment which is now offered. I ask that it be voted down.

Mr. MANN. Mr. Chairman, just a word. The amendment which I have offered does not go in any way whatever to the merits of the bill. It only goes to the form of laws passed by Congress. It was simply an effort on my part to have the House obey the provisions of the Constitution of the United States and conform to them. Possibly the gentleman from Indiana [Mr. CULLOP] is not familiar with that provision of the Constitution, and for his benefit I will read the language in paragraph 7 of Article IX of the Constitution:

No money shall be drawn from the Treasury but in consequence of appropriations made by law.

It is admitted that this money is in the Treasury, and the bill itself so recites. This language is not an appropriation of money, and no one pretends that it is. Everyone at all familiar with legislative proceedings certainly knows that you can not draw the money, even where a judgment has been entered, until the money has been appropriated. There is no reason for the gentleman attempting to fool claimants in this case by making them believe that they can get the money out of the Treasury before an appropriation is made, because they can not. The Treasury Department will continue to follow the provision of the Constitution and will pay no money out of the Treasury until it has been appropriated. If gentlemen desire to have the money paid on a judgment without further appropriation, then the bill itself should carry an item appropriating the necessary money for that purpose.

The CHAIRMAN. The question is upon agreeing to the amendment of the gentleman from Illinois [Mr. MANN].

The question being taken, the amendment was rejected.

Mr. BURKE of Pennsylvania. Mr. Chairman, I offer the amendment which I send to the Clerk's desk to be read.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend by striking out the proviso in lines 12, 13, and 14 on page 2 and insert the following:

"*Provided*, That allegation and proof of loyalty on the date of the taking of the property in question shall be required in the presentation and adjudication of such claims."

Mr. BURKE of Pennsylvania. Mr. Chairman, I do not desire to take the time of the committee. This has been thoroughly thrashed out, but it is submitted in connection with the arguments already offered.

Mr. WATKINS. Mr. Chairman, it is proposed by this amendment to destroy the entire bill. It goes to the very substance of the bill itself.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question being taken, the amendment was rejected.

Mr. MANN. Mr. Chairman, I move to strike out the proviso on page 2, lines 12, 13, and 14, which reads as follows:

Provided, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. MANN].

The question being taken, the amendment was rejected.

Mr. WATKINS. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the amendments, and with the recommendation that the bill as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RUCKER of Colorado, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, and had directed him to report the same to the House with amendments, and with the recommendation that the bill as amended do pass.

Mr. WATKINS. Mr. Speaker, I move the previous question on the bill and amendments to the final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

There was no demand for a separate vote.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the amended bill.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time.

Mr. MANN. Mr. Speaker, I move that the bill be recommitted to the Committee on Revision of the Laws, with directions to that committee to report the bill back forthwith with an amendment to strike out the following language at the end of the bill:

Provided, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims.

The SPEAKER. The Clerk will report the motion to recommit with instructions.

The Clerk read as follows:

Mr. MANN moves to recommit the bill to the Committee on Revision of the Laws, with instructions to strike out, on page 2, the proviso in lines 12, 13, and 14, as follows:

"*Provided*, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims."

Mr. WATKINS. Mr. Speaker, I move the previous question on the motion to recommit with instructions.

The previous question was ordered.

The SPEAKER. The question is on the motion of the gentleman from Illinois to recommit.

Mr. MANN. Mr. Speaker, I make the point of order that no quorum is present.

The SPEAKER. The gentleman from Illinois makes the point of no quorum, and the Chair will count.

Mr. UNDERWOOD. Mr. Speaker, before the announcement is made I ask unanimous consent to make a report and pass a recess adjournment resolution.

Mr. MANN. I have no objection to that.

The SPEAKER. That can be done by unanimous consent. Is there objection to the request of the gentleman from Alabama?

There was no objection.

DISTRIBUTION OF MESSAGES OF THE PRESIDENT.

Mr. UNDERWOOD. Mr. Speaker, I desire to make a privileged report from the Committee on Ways and Means distributing the President's messages.

The SPEAKER. The Clerk will report.

The Clerk read as follows:

House resolution 742 (H. Rept. 1270), relating to the messages of the President of the United States communicated to the two Houses of Congress December 3 and December 6, 1912.

The SPEAKER. The report will be referred to the Union Calendar.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent to consider the resolution which I send to the desk.

ADJOURNMENT FOR THE HOLIDAYS.

The Clerk read as follows:

House concurrent resolution 66.

Resolved, That when the two Houses adjourn December 19, 1912, they stand adjourned until 12 o'clock meridian on Thursday, January 2, 1913.

The SPEAKER. Is there objection to the present consideration of this resolution?

There was no objection.

The resolution was considered and agreed to.

ALLEGATION AND PROOF OF LOYALTY IN CERTAIN CASES.

The SPEAKER. The gentleman from Illinois makes the point that no quorum is present. The Chair has counted, and there are 177 Members present, not a quorum. Under the rule a call of the House is ordered. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 94, nays 174, answered "present" 7, not voting 115, as follows:

YEAS—94.

Ainey	Gardner, Mass.	Mann	Rodenberg
Akin, N. Y.	Greene, Mass.	Martin, S. Dak.	Scott
Anthony	Griest	Merritt	Simmons
Barchfeld	Hamilton, Mich.	Mondell	Sloan
Bartholdt	Helgesen	Moore, Pa.	Smith, J. M. C.
Bates	Hill	Morgan, Okla.	Smith, Saml. W.
Bowman	Hinds	Morse, Wis.	Speer
Browning	Howell	Mott	Steenerson
Burke, Pa.	Hughes, W. Va.	Murdock	Stephens, Cal.
Burke, S. Dak.	Humphrey, Wash.	Needham	Switzer
Calder	Kahn	Neeley	Taylor, Ohio
Cannon	Kendall	Nelson	Thistlewood
Cooper	Kennedy	Nye	Tilson
Crumpacker	Lafean	Olmsted	Towner
Dalzell	La Follette	Patton, Pa.	Vare
Danforth	Langham	Payne	Volstead
Davis, Minn.	Lawrence	Pickett	Wedemeyer
De Forest	Lenroot	Plumley	Wilder
Dodds	Lindbergh	Porter	Willis
Farr	Loud	Powers	Wilson, Ill.
Focht	McKenzie	Pray	Young, Kans.
Foss	McKinley	Prince	Young, Mich.
French	McKinney	Rees	
Fuller	Madden	Roberts, Mass.	

NAYS—174.

Adair	Burnett	Dies	Francis
Alexander	Butler	Difenderfer	Gallagher
Allen	Byrnes, S. C.	Dixon, Ind.	Garner
Ashbrook	Byrns, Tenn.	Doremus	Garrett
Austin	Callaway	Doughton	George
Ayres	Candler	Driscoll, D. A.	Gill
Barnhart	Cantrill	Dupré	Glass
Bartlett	Carter	Dyer	Godwin, N. C.
Bathrick	Cary	Edwards	Goeke
Beall, Tex.	Clark, Fla.	Ellerbe	Goldfogle
Berger	Claypool	Estopinal	Goodwin, Ark.
Blackmon	Cline	Evans	Graham
Boehne	Collier	Faison	Green, Iowa
Booher	Cox, Ind.	Fergusson	Gudger
Brantley	Cox, Ohio	Ferris	Hamilton, W. Va.
Buchanan	Cullop	Finley	Hamlin
Bulkley	Curley	Fitzgerald	Hammond
Burgess	Dent	Flood, Va.	Hardwick
Burke, Wis.	Denver	Foster	Hardy
Burleson	Dickinson	Fowler	Harrison, Miss.

Hay	Lee, Pa.	Ransdell, La.	Stedman
Hayden	Lever	Redfield	Stephens, Miss.
Hellin	Levy	Reilly	Stephens, Nebr.
Helm	Lloyd	Robinson	Stephens, Tex.
Henry, Tex.	Lobeck	Roddenbery	Stone
Hensley	McCoy	Rothermel	Sulzer
Hobson	McDermott	Rouse	Sweet
Holland	McKellar	Ruby	Taggart
Houston	Macon	Rucker, Colo.	Taylor, Ala.
Hull	Maguire, Nebr.	Rucker, Mo.	Thayer
Humphreys, Miss.	Mays	Russell	Thomas
James	Moon, Tenn.	Saunders	Townsend
Johnson, Ky.	Moore, Tex.	Scully	Tribble
Johnson, S. C.	Morgan, La.	Sells	Tuttle
Jones	Murray	Shackleford	Underhill
Kent	Oldfield	Sharp	Underwood
Kinkead, N. J.	Padgett	Sheppard	Watkins
Kitchin	Page	Sherwood	Whitacre
Konig	Palmer	Sims	White
Konop	Pepper	Slayden	Wilson, Pa.
Kopp	Peters	Small	Witherspoon
Lafferty	Post	Smith, N. Y.	Young, Tex.
Lamb	Rainey	Smith, Tex.	
Lee, Ga.	Raker	Sparkman	

ANSWERED "PRESENT"—7.

Anderson	Donohoe	Fields	Talbott, Md.
Bradley	Esch	Stevens, Minn.	

NOT VOTING—115.

Adamson	Fordney	Kinkaid, Nebr.	Pou
Aiken, S. C.	Fornes	Knowland	Prouty
Ames	Gardner, N. J.	Korbly	Pujo
Andrus	Gillett	Langley	Randell, Tex.
Ansberry	Good	Legare	Rauch
Bell, Ga.	Gould	Lewis	Reyburn
Borland	Gray	Lindsay	Richardson
Broussard	Greene, Vt.	Linthicum	Riordan
Brown	Gregg, Pa.	Littlepage	Roberts, Nev.
Campbell	Gregg, Tex.	Littleton	Sabath
Carlin	Guernsey	Longworth	Sherley
Clayton	Hamill	McCall	Sisson
Conry	Hanna	McCreary	Slemp
Copley	Harris	McGillicuddy	Smith, Cal.
Covington	Harrison, N. Y.	McGuire, Okla.	Stack
Crago	Hart	McHenry	Stanley
Craven	Hartman	McLaughlin	Sterling
Currier	Haugen	McMorran	Sulloway
Curry	Hawley	Maher	Talcott, N. Y.
Daugherty	Hayes	Martin, Colo.	Taylor, Colo.
Davenport	Heald	Matthews	Turnbull
Davidson	Henry, Conn.	Miller	Vreeland
Davis, W. Va.	Higgins	Moon, Pa.	Warburton
Dickson, Miss.	Howard	Morrison	Webb
Draper	Howland	Moss, Ind.	Weeks
Driscoll, M. E.	Hughes, Ga.	Norris	Wilson, N. Y.
Dwight	Jackson	O'Shaunessy	Wood, N. J.
Fairchild	Jacoway	Parran	Woods, Iowa
Floyd, Ark.	Kindred	Patten, N. Y.	

So the motion to recommit was rejected.

The Clerk announced the following pairs:

Until further notice:

Mr. MORRISON with Mr. FAIRCHILD.
Mr. LINTHICUM with Mr. REYBURN.
Mr. JACOWAY with Mr. MCCALL.
Mr. HOWARD with Mr. KNOWLAND.
Mr. BROWN with Mr. DRAPER.
Mr. SISSON with Mr. HANNA.
Mr. COVINGTON with Mr. FORDNEY.
Mr. GREGG of Texas with Mr. HARRIS.
Mr. HAMILL with Mr. HENRY of Connecticut.
Mr. HARRISON of New York with Mr. HIGGINS.
Mr. FIELDS with Mr. LANGLEY.
Mr. RICHARDSON with Mr. ESCH.
Mr. PUJO with Mr. MCMORRAN.
Mr. DICKSON of Mississippi with Mr. SLEMP.
Mr. TURNBULL with Mr. WOODS of Iowa.
Mr. O'SHAUNESSY with Mr. SULLOWAY.
Mr. MAHER with Mr. ROBERTS of Nevada.
Mr. WILSON of New York with Mr. WOOD of New Jersey.
Mr. AIKEN of South Carolina with Mr. AMES.
Mr. ANSBERRY with Mr. CAMPBELL.
Mr. BELL of Georgia with Mr. COPLEY.
Mr. BORLAND with Mr. CRAGO.
Mr. BROUSSARD with Mr. CURRIER.
Mr. CARLIN with Mr. DAVIDSON.
Mr. CONRY with Mr. MICHAEL E. DRISCOLL.
Mr. DAVENPORT with Mr. GARDNER of New Jersey.
Mr. HART with Mr. GILLETT.
Mr. HUGHES of Georgia with Mr. GOOD.
Mr. KINDRED with Mr. GREENE of Vermont.
Mr. KORBLY with Mr. GUERNSEY.
Mr. LEGARE with Mr. HAUGEN.
Mr. LEWIS with Mr. HAWLEY.
Mr. LITTLEPAGE with Mr. HAYES.
Mr. MCGILLICUDDY with Mr. HEALD.
Mr. MARTIN of Colorado with Mr. KINKAID of Nebraska.
Mr. MOSS of Indiana with Mr. MCCREARY.
Mr. PATTEN of New York with Mr. MCGUIRE of Oklahoma.
Mr. POU with Mr. MCLAUGHLIN.

Mr. RANDELL of Texas with Mr. MATTHEWS.
Mr. RAUCH with Mr. MILLER.
Mr. SABATH with Mr. MOON of Pennsylvania.
Mr. SHERLEY with Mr. LONGWORTH.
Mr. STANLEY with Mr. VREELAND.
Mr. TALCOTT of New York with Mr. SMITH of California.
Mr. TAYLOR of Colorado with Mr. WEEKS.

For the session:

Mr. TALBOTT of Maryland with Mr. PARRAN.
Mr. ADAMSON with Mr. STEVENS of Minnesota.
Mr. LITTLETON with Mr. DWIGHT.
Mr. RIORDAN with Mr. ANDRUS.
Mr. FORNES with Mr. BRADLEY.

The result of the vote was announced as above recorded.

A quorum being present, the doors were opened.

The SPEAKER. The question now is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. WATKINS, a motion to reconsider the vote by which the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. SISSON, for two days, on account of illness.
To Mr. CAMPBELL, on account of illness.
To Mr. SLEMP, for one week, on account of important business.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted to Mr. HULL to withdraw from the files of the House, without leaving copies, the papers in the case of Martin L. Holt, Sixty-second Congress, no adverse report having been made thereon.

RESIGNATIONS FROM COMMITTEES.

The SPEAKER laid before the House the following resignations from committees:

DECEMBER 11, 1912.

Hon. CHAMP CLARK,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: I herewith tender my resignation as a member of the House Committee on Mines and Mining.

Very respectfully,
W. J. FIELDS.

DECEMBER 10, 1912.

Hon. CHAMP CLARK,
Speaker of the House of Representatives, Washington, D. C.

SIR: I hereby respectfully tender my resignation as a member of the Committee on Merchant Marine and Fisheries, the same to take effect immediately.

Yours, truly,
JAMES YOUNG.

The SPEAKER. Without objection, the resignations will be accepted.

There was no objection.

APPROPRIATIONS AND BALANCES UNDER CONTROL OF STATE DEPARTMENT (H. DOC. NO. 1123).

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Expenditures in the State Department:

To the House of Representatives:

I transmit herewith a statement by the Secretary of State, with accompanying papers, of appropriations, expenditures, and balances of appropriations under the Department of State for the fiscal year ended June 30, 1912, as required by law.

WM. H. TAFT.

THE WHITE HOUSE, *December 10, 1912.*

ORDER OF BUSINESS.

The SPEAKER. The Committee on Revision of the Laws having occupied two Wednesdays, the Clerk will proceed with the call of committees.

The Clerk proceeded with the call of committees.

PATENT TO DESERT-LAND ENTRIES.

Mr. SMITH of Texas (when the Committee on Irrigation of Arid Lands was called.) Mr. Speaker, I desire to call up the bill H. R. 26338.

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 26338) providing for patent to desert-land entries on reclamation projects, and for other purposes.

The SPEAKER. This bill is on the Union Calendar.

Mr. SMITH of Texas. Mr. Speaker, just a moment. This bill was attached to one of the appropriation bills at the last session of Congress and passed, and I would ask that this bill be stricken from the calendar.

The SPEAKER. The gentleman from Texas asks unanimous consent that the bill lie on the table.

Mr. GOLDFOGLE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GOLDFOGLE. Did the Chair state whether unanimous consent was asked for striking the bill from the calendar?

The SPEAKER. No; the Chair took the liberty of stating the question according to the rule—that is, instead of striking the bill from the calendar that the bill lie on the table. Is there objection. [After a pause.] The Chair hears none.

Mr. MANN. There will be no objection to that.

The SPEAKER. Has the gentleman from Texas any more business from that committee?

Mr. SMITH of Texas. Yes, sir; Senate bill 3947——

Mr. MANN. Was consent given to lay this bill on the table?

The SPEAKER. Yes.

BRIDGE ACROSS SNAKE RIVER, IN JACKSON HOLE, WYO.

Mr. SMITH of Texas. Mr. Speaker, I desire to call up Senate bill 3947.

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

S. 3947. An act to provide for a bridge across Snake River, in Jackson Hole, Wyo.

The SPEAKER. This bill is on the Union Calendar, and the House will automatically resolve itself into the Committee of the Whole House on the state of the Union, and the gentleman from Ohio [Mr. COX] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 3947, with Mr. COX of Ohio in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill S. 3947, which the Clerk will report.

The Clerk read as follows:

Whereas in the administration of the act of June 17, 1902, "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," the United States Reclamation Service has constructed at the outlet of Jackson Lake, Wyo., and the source of the Snake River a retaining storage dam; and

Whereas the use of this dam to store the flood waters of Jackson Lake and the Snake River watershed, and the release of the surplus waters thus stored into the channel of the Snake River for utilization in irrigating lands upon lower levels, maintains high water in the Snake River at all periods of the year; and

Whereas through the maintenance of high water the Snake River, previously fordable for parts of each year, in its course through the Jackson Hole region is now rendered unfordable at all times, and the residents of that region, upward of 1,000 in number, are cut off from railroad and other communication for freight and travel: Therefore

Be it enacted, etc., That the sum of $25,000 is hereby appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, to be expended under the direction of the Secretary of War, through the engineer officer in charge of road and bridge construction and maintenance in the Yellowstone National Park, for the construction of a bridge across Snake River, at a point in township 41 or 42 north, range 116 or 117 west, Wyoming, to be determined with a view of best serving the public travel through Jackson Hole and adjacent territory in Wyoming and Idaho: *Provided*, That the local authorities shall cause the approaches to the proposed bridge to be constructed without expense to the United States: *And provided further*, That the local authorities shall provide for the maintenance and repair of the proposed bridge after it is constructed.

The amendment in the nature of a substitute was read, as follows:

Strike out all except the enacting clause and insert:

"That the Secretary of the Interior is hereby authorized to use such portion of the reclamation fund, not to exceed $18,000, and in no event more than one-half the sum that may be necessary for the construction of a bridge across Snake River, at a point in township 41 or 42 north, range 116 or 117 west, Wyoming, to be determined by the Reclamation Service, with the view of best serving the people of Jackson Hole and adjacent territory in Wyoming: *Provided*, That no part of the funds herein authorized to be used, except such as may be necessary for the making of examinations and estimates, shall be expended until the Secretary of the Interior shall have obtained, from the proper local authorities, satisfactory guaranties of the payment by the said local authorities of one-half the cost of said bridge, and that the said local authorities assume full responsibility for and will at all times maintain and repair the said bridge and approaches thereto."

Mr. SMITH of Texas. Mr. Chairman, this is a bill to authorize the Secretary of the Interior, through the Reclamation Service, to construct a bridge across Snake River, in the State of Wyoming, one-half of the cost of the bridge to be borne by the Reclamation Service and the balance by the local authorities in that vicinity. This bill does not authorize, in my judgment, the Secretary of the Interior to do more than the law perhaps already authorizes him to do. The necessity for the construction of this bridge arises from the construction of an irrigation project on Snake River. As I understand it, in the State of Wyoming there is a lake called Jackson Lake, and the Government has constructed a dam at the mouth of that lake, and Jackson River running through that lake is used as a canal for carrying the water to irrigation lands below in the State of Idaho. I believe it is, and it is across this Snake River between the lake and the irrigated lands that this bridge is proposed to be constructed. In the natural state the testimony before the committee showed very clearly that for only a short period during the year this river could be forded by the people in that vicinity, but the storage of the water in the lake and utilization of it through this river channel for the purposes of irrigation below makes the river unfordable and difficult to cross for a much greater period during the year. Now, the Reclamation Service has always exercised the authority under the law of constructing bridges that have been made necessary by the construction of irrigation work, but on account of the peculiar circumstances of this case, where the river was not fordable a part of the year in its natural state, the Reclamation Service thought that perhaps it would not be proper for them to go to the whole expense of building this bridge, and it was concluded by the department that under all of the circumstances it would be proper for the Government to pay half of the expenses, provided the local authorities would pay the other half and provide for the maintenance and repairs of the bridge thereafter.

The Committee on Irrigation of Arid Lands gave the matter very thorough consideration, and finally came to agree with the Reclamation Service that that would be the fair and equitable thing to do. That, I believe, Mr. Chairman, makes a full statement of this matter. I reserve the balance of my time.

Mr. STEPHENS of Texas. I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield to his colleague?

Mr. SMITH of Texas. I do.

Mr. STEPHENS of Texas. Would the building of this bridge across this stream commit the Government to the policy of building roads where they have been submerged by the irrigation caused by building dams on streams? It might be a case where the roads would have to be removed from the streams. In that western country the roads follow the streams, and if they should be submerged by waters from the dams, would that compel the United States Government to go higher up the mountain sides and commit itself to the purpose of building roads that might cost a good deal of money?

Mr. SMITH of Texas. I will say to the gentleman that that is a question of law which he can determine as well as I can, but I understand the Reclamation Service heretofore has provided roads where in constructing an irrigation project it destroyed the roads in existence.

Mr. STEPHENS of Texas. They have already adopted that policy?

Mr. SMITH of Texas. That is my understanding; yes, sir.

Mr. STEPHENS of Texas. I do not believe that should be done. I believe the city or the community or the county where these irrigation plants are located will be sufficiently benefited so that they can build these roads and bridges themselves.

Mr. SMITH of Texas. I call the attention of the gentleman to the fact that all these irrigation improvements are to be paid for by the people themselves, who get the benefit of them, and the Reclamation Service has adopted the policy of restoring the conveniences of the people in those localities where they construct these works wherever they are impaired or destroyed.

Mr. STEPHENS of Texas. Would that be added to the annual amount that has to be paid for the land used by these waters?

Mr. SMITH of Texas. Charged up to the project and paid back by the people.

Mr. STEPHENS of Texas. The same as building ditches and dams, and so forth?

Mr. SMITH of Texas. Yes, sir.

Mr. STEPHENS of Texas. I did not understand what the policy would be.

Mr. SMITH of Texas. That is my understanding of the policy.

Mr. Chairman, I reserve the balance of my time.

Mr. MANN. Mr. Chairman, I think this bill ought to be understood by the House before it passes. I am not opposed to the provisions of the bill, although I desire at the proper time to offer an amendment to it. But because it is practically a new proposition it seems to me it ought to be discussed to some extent on the floor of the House. The Senate bill as it passed the Senate and has come to the House provided for a direct appropriation out of the Treasury of $25,000 for the construction of this bridge across Snake River. The only limitation upon that was that the local authorities should provide the approaches to the bridge and after its construction provide for the maintenance and repair of the bridge. Probably $25,000 is not a sufficient amount with which to construct the bridge. At least the committee of the House proposes what seems to me a very equitable and fair proposition, that there shall be paid out of the reclamation fund, not to exceed $18,000, for one-half the

cost of the construction of the bridge—that is, the amount shall not exceed $18,000 and shall not in any event exceed one-half the cost. The amendment which I propose to offer at the proper time is to insert at the end of the bill:

Provided further, That the amount of the reclamation funds so used shall be charged as a part of the cost of the reclamation project or projects, the construction and development of which caused the necessity for such bridge.

Mr. SMITH of Texas. Mr. Chairman, if the gentleman will permit, I will state that I have no objection myself to that amendment.

Mr. MANN. I think the gentleman has not, and I think the gentleman from Wyoming [Mr. MONDELL] does not object to it either. I think myself that the bill presented here is a fair proposition. What will become of it when it goes to conference I do not know, but I hope that the Senate will be willing to agree to the House amendment. However, it seems to me that this matter is of such importance in the principles involved in it that the RECORD ought to contain a full statement of the reasons for the passage of the bill. I therefore ask the Clerk to read the report of the committee in my time.

The CHAIRMAN. Without objection, the report will be read.

The Clerk read as follows:

Mr. SMITH of Texas, from the Committee on Irrigation of Arid Lands, submitted the following report, to accompany S. 3947:

The Committee on Irrigation of Arid Lands, having had under consideration Senate bill 3947, to provide for a bridge across Snake River in Jackson Hole, Wyo., report the same back with the following recommendation: Strike out all after the enacting clause and insert the following:

"That the Secretary of the Interior is hereby authorized to use such portion of the reclamation fund, not to exceed $18,000, and in no event more than one-half the sum that may be necessary for the construction of a bridge across Snake River, at a point in township 41 or 42 north, range 116 or 117 west, Wyoming, to be determined by the Reclamation Service, with the view of best serving the people of Jackson Hole and adjacent territory in Wyoming: *Provided*, That no part of the funds herein authorized to be used, except such as may be necessary for the making of examinations and estimates, shall be expended until the Secretary of the Interior shall have obtained, from the proper local authorities, satisfactory guaranties of the payment, by the said local authorities, of one-half of the cost of said bridge; and that the said local authorities assume full responsibility for and will at all times maintain and repair the said bridge and approaches thereto."

Strike out the preamble.

As thus amended it is recommended that the bill do pass.

The bill as it is recommended to be amended is identical with H. R. 21171, a bill authorizing the use of the reclamation fund in construction of a bridge across Snake River, in Wyoming; and there is appended hereto and made a part of this report the report made on the said bill by Mr. TAYLOR of Colorado.

The building of the bridge provided for in this bill is rendered necessary by the construction by the Reclamation Service under the reclamation law of a dam at the outlet of Jackson Lake, near the Yellowstone National Park, in northwestern Wyoming; and the change in the character of the flow of Snake River, through which the impounded waters are discharged.

Jackson Lake lies in the northern part of what is known as "the Jackson Hole country," immediately south of the Yellowstone National Park. The lake, which covers approximately 20,000 acres, is formed by the waters of the Snake River flowing from the north, and the water is discharged through Snake River to the south. The Jackson Hole region, through which the Snake River flows, is a comparatively level basin entirely surrounded by high mountains; it is about 50 miles in length and from 15 to 20 miles in width. Through this basin Snake River flows in a southwesterly direction, finally entering the canyon of the Gros Ventre Range and flowing through a deep canyon west into Idaho.

Owing to the topography of the country, the Snake River is not available for irrigation to any considerable extent as it flows through Jackson Hole, but a considerable acreage in the eastern part of the region is irrigated from the waters of the Gros Ventre River, Flat Creek, and other streams. The region supports a permanent population of about 2,000 people and a very much larger population during the tourist and hunting season.

The Reclamation Service is at present prepared to impound nearly half a million feet of water in Jackson Lake, but have in contemplation works which will ultimately impound a million and a half acre-feet. The reservoir is therefore the largest in capacity of any used by the Reclamation Service. The waters thus impounded are all used in the State of Idaho on the Minidoka project of the Reclamation Service and, by arrangement with the Reclamation Service, by two private enterprises, the North Side Twin Falls Land & Water Co. and the American Falls Canal & Power Co.

Prior to the building of the dam at the outlet of Jackson Lake the Snake River was fordable in its course through Jackson Hole most of the year, except a limited period of high water in the spring. Most of the travel through Jackson Hole comes from the west, over the Teton Pass, and for years a ferry has been maintained near Wilson on the road from the Teton Pass to the lower end of the Jackson Hole region.

The use of Snake River as a channel for the carrying of the impounded waters from Jackson Lake into Idaho converts Snake River into a stream too deep to ford during any portion of the summer; and, in addition to that, in regulating the water in Jackson Lake it occasionally becomes necessary for the Reclamation Service to open the gates and discharge large quantities of water in the very early spring. This was done twice this last spring, with the result that the flood, carrying with it accumulated ice, washed out the ferry anchorages and left the people of Jackson Hole without any communication with the outside world for a considerable length of time.

It is very clear that the building of the dam at the outlet of Jackson Lake necessitates the building of a bridge across Snake River, and that but for such construction the people of the region could have forded and ferried the river as heretofore, and that there is at least a moral if not a legal obligation on the part of the Reclamation Service to contribute toward remedying the condition they have created. This is recognized by the Secretary of the Interior, as shown by letters made part of this report. The Reclamation Service is, of course, obliged to build bridges across the canals they construct where public roads cross the same. The service also restores all roads submerged by flooding or interfered with by its construction, but, while acknowledging the obligation on the part of the Government in this case, the service seems to be of the opinion that their obligation is not so clear and direct in the case as to warrant the building of the bridge by the service without the sanction of Congress.

The equities in the case are enhanced by the fact that the small community whose only means of communication with the outside world is rendered difficult, and at times impossible, is in no way even remotely benefited by the new condition from which they suffer, and it seems but just that those who benefit from the waters impounded should pay at least a part of the cost of remedying conditions thus created. The Secretary of the Interior expresses the view that the local community should pay half of the cost of the bridge and agree to maintain and repair it.

In these views the committee concur and have amended the bill accordingly.

Letters of the Secretary of the Interior are appended hereto.

DEPARTMENT OF THE INTERIOR,
Washington, March 16, 1912.

Hon. W. R. SMITH,
Chairman Committee on Irrigation of Arid Lands,
House of Representatives.

SIR: The department is in receipt of your letter of March 8, transmitting copy of H. R. 21171, with a request for the views of the department and any suggestions that may be deemed proper.

This bill is entitled as follows: "A bill authorizing the use of the reclamation fund in construction of a bridge across Snake River in Wyoming."

It provides that such portion of the reclamation fund as may be necessary, in the judgment of the Secretary, may be used for the construction of a bridge across Snake River at a point in T. 41 or 42 N., R. 116 or 117 W., Wyoming, to be determined by the Reclamation Service, with a view of best serving the people of Jackson Hole and adjacent territory in Wyoming.

This bill is substantially the same as S. 3947, except that the latter appropriates the sum of $10,000 for the purpose.

The department on January 4, 1912, reported to Hon. George S. Nixon, chairman of the Senate Committee on Irrigation and Reclamation of Arid Lands, upon the said bill S. 3947, copy herewith.

In this report the conditions are reviewed, and it is shown that the operations of the Reclamation Service have contributed to a change in the conditions such that it seemed reasonable that the United States should bear one-half the expense of construction. As its operation had a material effect upon the conditions of the river during only two months in the year, it seems proper that the county should contribute at least one-half of the expense of construction and assume responsibility for its maintenance.

It is believed, therefore, that the bill should provide that the bridge may be constructed by the Reclamation Service as soon as arrangements have been made with the county by which the latter would deposit one-half the estimated cost and agree to maintain the bridge.

Very respectfully,

SAMUEL ADAMS,
Acting Secretary.

DEPARTMENT OF THE INTERIOR,
Washington, January 4, 1912.

Hon. GEORGE S. NIXON,
Chairman Committee on Irrigation and
Reclamation of Arid Lands, United States Senate.

SIR: By reference of December 20 I am in receipt of bill S. 3947, with request for an expression regarding the advisability of this legislation.

This bill is to provide a bridge across Snake River, Wyo., at a cost of $10,000, to be paid out of the reclamation fund. The demand for such a bridge arises from the fact that the Snake River in its course through Jackson Lake has but few practicable fords. The settlers in this area obtain their supplies by team from towns to the west in the State of Idaho by crossing the Teton Mountains. The pass is traversed with great difficulty by heavy teams excepting for two months in the year, namely, August and September. During these months the settlers, as a rule, drive their stock to market and bring back their year's supplies.

A dam has recently been built under the terms of the reclamation act of June 17, 1902 (32 Stat., 388), for controlling the water in Jackson Lake. Before the lake was thus regulated the river was at a low stage during August and September, but with the storage of floods and turning these down the river during the latter part of the crop season the river is maintained at a height above the normal and many of the fords are impassable, so that it is necessary to make wide detours to reach a ferry.

A reconnoissance has been made of the country and the conclusion reached that a steel bridge can be built at a cost of between $25,000 and $35,000. It is hardly practicable to attempt to construct anything much cheaper, as a bridge which is not well built can hardly be expected to remain long enough to justify the outlay.

It is not wise to attempt the construction of such a bridge until the contemplated railroad has been completed to the town of Driggs, Idaho, from which point material can be freighted in at less expense than from the present railroad stations. It is understood that the railroad will be in operation to Driggs by the end of 1912.

Assuming that there is a moral obligation on the part of the Government to provide a bridge in order to meet the changed conditions in August and September, due to the construction of the Jackson Lake Dam, it is believed that Uinta County, Wyo., in which the bridge is to be located, should not only bear one-half the expense of this construction, but should also be required to assume responsibility for its maintenance. The county should also be required to put in good condition an adequate wagon road and approaches to the bridge.

The payment of half the cost by the county should be required, because the bridge would be available during the entire year, whereas the operations of the Government do not deleteriously affect the river in other months than August and September.

Considering all the conditions, the department is of the opinion that the Government could not be required to construct this bridge unless the county shall cooperate in the manner hereinbefore indicated.

Very respectfully,

WALTER L. FISHER, *Secretary.*

Mr. MANN. Now, Mr. Chairman, while I shall hope at the proper time to hear the gentleman from Wyoming [Mr. MONDELL], who introduced the bill, explain a little more in detail the reasons for its passage, personally it rather appealed to me, although I did think that the objections at the last session of Congress made to the bill by the distinguished gentleman from Oklahoma had a good deal of force in them.

Mr. Chairman, this is Calendar Wednesday, sometimes designated in a ribald spirit as "Holy Wednesday." It is the day upon which the committees have an opportunity to bring up measures in the House. There are various ways of getting a matter before the House. If you put a bill on the Unanimous Consent Calendar and unanimous consent is given, the bill is taken up for consideration. You can get a promise from the Speaker to be recognized to move to suspend the rules, although there has been no such opportunity, I believe, for a year or so, and make use of it. Or you can wait for Calendar Wednesday.

At the last session of Congress the distinguished gentleman from Tennessee [Mr. HULL] introduced a bill entitled "A bill to promote efficiency in the Government service." It provided:

That no officer, agent, clerk, or other employee of the United States Government who holds his or her position by virtue of appointment shall, during the term of such appointment or employment, be or become an accredited delegate of any political party to any national convention held or to be held by such political party for the purpose of nominating a candidate or candidates for the offices of President and Vice President of the United States or President or Vice President of the United States;

With an amendment to section 1:

or become a delegate to any State or district convention at which such national delegates are elected.

Section 2 provided:

SEC. 2. That no officer, agent, clerk, or other employee of the United States Government who holds his or her position by virtue of appointment shall, during the term of such appointment or employment, hold or occupy any official position in any national branch of any political organization organized or constituted for the purpose of influencing, or attempting to influence, in two or more States the nomination or selection of such candidates or candidate.

Section 3 of the bill provided:

SEC. 3. That every such officer, agent, clerk, or employee offending against either of the provisions of the two foregoing sections shall be deemed guilty of a misdemeanor, and shall be fined not exceeding $500, and also shall be summarily discharged from the service of the United States Government.

That bill was referred to the Committee on Reform in the Civil Service, and was favorably reported by the committee to the House with the recommendation that it pass. It was placed on the Unanimous Consent Calendar and was called up on August 19 last. I reserved the right to object. The right to object was also reserved by other Members of the House. The gentleman from Tennessee [Mr. HULL], after some little discussion, made this appeal to me:

Mr. Speaker, before the gentleman finally expresses himself upon the matter, I wish to say, in view of the lateness of the session and of the importance of this bill—I held it up until after the conventions were held so that I would not be in the attitude of seeming to appear to take any interest in the candidacy of any gentleman—I wish to appeal to the wisdom and the statesmanship and the patriotism and, if necessary, to the generosity of the gentleman from Illinois to withhold his objection and allow us to have the present consideration of the bill, and these amendments can be offered in their order.

I will not say that such an appeal as that will not affect me. When a gentleman appeals to my wisdom and statesmanship and generosity it might have an effect. However, another gentleman objected to the then consideration of the bill.

Lo and behold, at that time it was considered extremely important by the Democratic side of the House to introduce, report, and consider this bill to prevent Federal employees from interfering with national conventions. Since that time we have had an election and the Democratic Party has been successful, and we are to have a Democratic President who will sit in wisdom over the Federal officials.

A few moments ago, on the call of committees, the distinguished Committee on Reform in the Civil Service, which reported this bill and tried to pass it under a unanimous-consent agreement, was called by the Clerk, with the privilege of calling this bill up for consideration, and failed to respond. There is a great difference between before and after. Before they had elected their President they wanted to provide that Federal employees should in no case interfere in national conventions. Now, on that side of the House, they hope that the Federal employees will be their employees, and they do not want to prevent their interfering in national or State conventions. When they thought the Federal officials would be Republican officials they were extremely holy in their attitude. They could see the necessity, the wisdom, the patriotism, and the statesmanship of taking up this bill and passing it for the restraint of Republican officials, but when they have been successful, now that they have the right under the rules to call up the bill, they have changed their holy attitude and are not now thinking of the holy side of it, but they are thinking of getting the jobs.

Here in the District of Columbia, where we are sitting, they are having a great squabble over the question who shall be the chairman of the local committee to have charge of the grandstand matters relating to the inauguration. This man and that man are being urged. The chairman of the Democratic national committee is called to Washington for the purpose of deciding the question. After consideration for days he has been unable to determine who shall hold the high and mighty office of presiding over the circus part of the inaugural. Gentlemen are so worked up over getting jobs and patronage that they fall any longer to appeal to my statesmanship, my wisdom, my generosity, and my other things that they may think of to aid in calling up a bill which they did when the gentleman knew there was no time to consider it; but now, when there is time, they fail to rise to the occasion. [Applause on the Republican side.]

The CHAIRMAN (Mr. SAUNDERS). The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, the gentleman from Texas [Mr. SMITH], chairman of the committee in charge of this bill, has so clearly stated the many good reasons for the passage of the pending legislation, and the gentleman from Illinois [Mr. MANN], particularly in the latter part of his remarks, has so illuminated the matter and elucidated all of the problems connected with it, that I shall not take the time of the House at any considerable length in the discussion of the measure.

The Reclamation Service, in carrying out certain projects under the law, used Jacksons Lake, in Wyoming, as an impounding reservoir, and the necessary discharge of the waters of that reservoir through Snake River so changed the character of that stream—which ordinarily could be forded most of the year—as to necessitate the building and maintenance of an expensive bridge.

The country there is very sparsely settled. Most of it is within a forest reserve. The few people there ought not to be called upon to go to the heavy expense necessary for the construction of this bridge, which would not be needed except for the change in the character of the river through the impounding and discharge of the waters from Jacksons Lake. Were the use of the river in connection with this project a little more direct, the Reclamation Service would be entirely justified in building the bridge without calling upon Congress, but under the circumstances they feel as though Congress should pass upon the question. As I understand it, the Reclamation Service is of the opinion that the people who are to be benefited by these projects might very properly be charged with the entire cost of the bridge; but the committee in its wisdom believed that there should be a division of the burden, and that part of the cost should be laid upon the people and the community and a part borne by the people under the project. The bill under consideration, therefore, provides that one-half the cost of the bridge, or not to exceed $18,000, shall be paid out of the reclamation fund, chargeable under the amendment of the gentleman from Illinois [Mr. MANN] to the projects using the water, the balance to be paid by the people locally.

Mr. FERRIS. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. FERRIS. What was the statement of the gentleman with reference to the amendment of the gentleman from Illinois? Have those in charge of the bill agreed to an amendment to let that portion of it be charged to the project?

Mr. MONDELL. I think there is no objection on the part of anyone. As a matter of fact, I think the committee understood—at least, I understood—that the bill without an amendment would be interpreted by the Reclamation Service as authorizing them to charge the cost against the project; but in order that there may be no question with regard to that and to make the matter clear and definite, the gentleman from Illinois [Mr. MANN] has proposed the amendment, which has been reported, and to which I think there is certainly no objection.

Mr. FERRIS. If that be the case, I have no objection to the bill, but the gentleman will recall that I was seriously opposed to it last year.

Mr. MONDELL. I understand.

Mr. FERRIS. The same opposition that I felt then is even more magnified now, if that money is to be taken out of the reclamation fund and never returned to it.

Mr. MONDELL. I think it has not been intended at any time to have the bridge paid for, or any part of it paid for, out of the reclamation fund not reimbursable.

Mr. FERRIS. In the absence of an amendment?

Mr. MONDELL. My opinion is—and I think it is the opinion of the committee—that the language of the bill would justify

the Reclamation Service in charging the sum up to the projects in Idaho that use the water, but under the amendment to be offered by the gentleman from Illinois there can be no question in regard to it.

Mr. FERRIS. I would like to inquire if the gentleman knows how that amendment will fare in conference at the other end of the Capitol?

Mr. MONDELL. I do not think there would be any objection to the amendment anywhere; at least, I hope there would not.

Mr. FERRIS. Was it not seriously fought last year?

Mr. MANN. Last year when the matter came up on the Unanimous Consent Calendar I talked with the gentleman from Wyoming and he was willing to accept this amendment. Perhaps that was not known to the gentleman from Oklahoma, because I think it did not come up on the floor of the House.

Mr. FERRIS. I feel sure that it was not known to me. I thought the contention was that inasmuch as the settlers had already contributed as much as they could, the general reclamation fund ought to contribute this. I do not agree to that, because if that were continued, the reclamation fund would soon be dissipated.

Mr. SMITH of Texas. That was never the contention of anybody before the committee. The view of the committee was that under the bill as it now stands, without an amendment, this amount furnished by the reclamation fund would be paid back by the water users under that project. If there is any doubt about it, we are anxious to insert this amendment in the bill.

Mr. MANN. I thought last summer that the gentleman from Oklahoma objected under a misapprehension of what was going to be done.

Mr. FERRIS. I think this is about the only bill I ever objected to, and I want to be as cautious as I can about making any captious objection. If the proposition was to take the money from the reclamation fund and spend it so that it would not be returned, I would object to it and demand a quorum and do everything I could to defeat it, because I think that is a bad proposition.

Mr. MANN. I would follow the gentleman on that myself.

Mr. MONDELL. Mr. Chairman, having briefly thus explained the provisions of the bill, and I think among us cleared up the misapprehensions in regard to it, I shall not take up any further time of the committee unless there is some objection, and I reserve the balance of my time.

Mr. FERRIS. Mr. Chairman, if I may in my time, I would like to have the amendment of the gentleman from Illinois reported.

Mr. MANN. The amendment has not yet been offered. I read it myself, and I will read it again. It is:

Add at the end of the bill the following:

"*Provided further*, That the amount of the reclamation fund so used shall be charged as a part of the cost of the reclamation project or projects, the construction and development of which have caused the necessity of such project."

Mr. FERRIS. And that is acceptable to the managers of the bill?

Mr. MANN. It is acceptable, as I understand, to the gentleman from Texas and the gentleman from Wyoming.

Mr. RODDENBERY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RODDENBERY. I do not understand the exact status in regard to the amendment. Is the bill being read for amendment?

Mr. MANN. The bill has not been read for amendment.

The CHAIRMAN. The Chair will state that we have not finished the general debate on the bill as yet.

Mr. RODDENBERY. Mr. Chairman, is it in order for me to be recognized on the bill?

The CHAIRMAN. Yes; the gentleman from Georgia is recognized.

Mr. RODDENBERY. Mr. Chairman, on this very important bill providing for a bridge across the Snake River in Jackson Hole, Wyo., the gentleman has very properly discussed an entirely germane matter, treating of the views of distinguished gentlemen as expressed in pending bills with reference to the civil service employees. The remarks of the gentleman were entertaining and very instructive.

In connection with the same subject, if I may in general debate be permitted to do so, and it will not weight down too much a very important piece of legislation that is now proposed by the gentleman from Wyoming in the pending bill, I think there should be added to it a House joint resolution, by unanimous consent, dealing with another question of equal importance to the State of Wyoming and to the country in general.

The resolution to which I make reference is one already introduced by me, providing for an amendment to the Constitution of the United States, with the usual resolving clause, and the article is as follows:

That intermarriage between negroes or persons of color and Caucasians or any other character of persons within the United States or any territory under their jurisdiction, is forever prohibited; and the term "negro or person of color," as here employed, shall be held to mean any and all persons of African descent or having any trace of African or negro blood.

Nothing will contribute more to the popular development and wise administration of a republican government than for the people in their legislatures to have an opportunity, by the adoption of this resolution, to provide that forever hereafter it shall be contrary to the fundamental law of the Republic for a negro or a part negro or an African or a part African to intermarry with a white person, a Caucasian, or any person of like description. The object of this resolution is to submit to the States a constitutional amendment for this purpose.

We have heard a great deal in late days about the white-slave traffic and its enormity in New York, its appalling extent in many of the great cities, particularly in Chicago, wherein it is shown that aliens from France and the more enlightened countries of Europe go to the south of Europe among the more ignorant and impoverished classes and there, under pretense of bringing these helpless girls to the United States, where they have great opportunity for employment and honest labor, transporting them, like cattle, in the holds of vessels, have them landed at Ellis Island and there buried into the slums of these cities. Thus, the innocent, ignorant, homeless, and friendless girls of other lands are brought to fair America by villainous aliens, only to find themselves in the shackles of poverty, in the toils of the libertine and most helpless depravity. It is appalling and unspeakably repulsive that such a thing under our immigration laws or other statutes can be possible in this great country. But, Mr. Chairman, as terrific and revolting as it is, it is not yet so revolting as that occurrence lately in one of the cities of our country—the city of Chicago. Not only is the white-slave traffic carried on, but a white girl of this country is made the slave of an African brute, sanctioned by the laws of the State, and that slavery solemnized by the form of a marriage ceremony. The newspapers, glaring in their headlines, announce that Jack Johnson again marries a white woman. Thank God such an outrage is impossible anywhere in the Southland.

Yet we say that this is a great country, with its morals, its traditions, its virtues, and its examples, deserving to be emulated and envied by other countries of the earth. Behold, if you will, an African prizefighter-saloonkeeper, in defiance of the laws of the State of Illinois—nay, in accordance with the laws of the State of Illinois, in accordance with the municipal regulations—entering the office of a probate magistrate, calling on him to issue—"To me, Jack Johnson!"—a marriage license to wed a young American white woman, a woman of our own blood, of our own race, of our own color. When a clerk says, "But, sir, except under given rules you can not get it," forthwith the African turns to a superior and demands it, and the clerk is directed by his superior to issue to the fiendish brute a legal certificate permitting a white woman in Chicago, U. S. A., to be bound in the wedlock of black slavery.

To-day, Mr. Chairman, during another discussion, we have already heard something from our northern colleagues touching the slavery of the negroes of the South. No brutality, no infamy, no degradation in all the years of southern slavery possessed such villainous character and such atrocious qualities as the provision of the laws of Illinois, New York, Massachusetts, and other States which allow the marriage of the negro Jack Johnson to a woman of the Caucasian strain. [Applause.] Gentlemen, I offer this resolution that the proper committee may consider it and that the States of the Union may have an opportunity to ratify it. This is no amendment peculiarly favorable to one portion of our great land. In that section far to the south of us such is the relation between the two races that no African within all of Dixie land carries in his heart the hope or cherishes in his mind the aspiration that he can ever lead there to the altar of matrimony a woman of Caucasian blood. With all the impositions we are alleged to have placed upon this inferior race, such is our harmony, such is the fellowship between the blacks and the whites of the South, such is the black's respect for the superiority of his former master, that they would commit self-destruction before they would entertain the thought of matrimony with a white girl beneath southern skies.

You have some negro problems up North yourselves. The negro question stands out in the example of Johnson's marriage in Chicago as presenting to you as grave a negro question as ever confronted your brethren in the South; and I say to you, in no bitterness, but in the depths of good fellowship, that we in that far-off land will be glad, in the spirit of love and fraternity, to aid you in its proper and its wise and its permanent solution. The case we cite is not an isolated one. The records of Boston,

of Chicago, and of other cities show that negroes less prominent, of less notoriety, are from time to time binding themselves in matrimony with weak and unfortunate women of the white race. Gentlemen, that does not happen in the South. May God spare you, our brethren of the North, of its recurrence. It does transpire in the North; it does occur in the West; and I say to you that we are ready now, without the arbitrament of war, without an appeal to arms, without a terrific four years' deluge of fratricidal blood, to join with you in peace, in harmony, and in amity in solving this great negro problem that now confronts you in the North and in the West. Every son of the South will offer his life to lift the pall of its infamy from your homes and perish if need be to free your white girls from the accursed thralldom. We will support you in the adoption of an amendment of this character to our fundamental law. There is no place in all our southern country where a negro can not go and find employment and peaceful habitation. There are sections in the northern country and in the State of my friend from Indiana, who sits before me, where they allow no negro to stop. When one comes along seeking a place of residence or a place of abode he is advised peacefully and properly that it is not healthy there for gentlemen of his color. If this presents to you any serious problem, we will be glad to come and in peace and fraternity undertake to aid you in its solution.

My colleagues, it is a source of gratification for a Member from Dixie to observe with what better conception, with what fairer vision, with what greater intelligence you now view and appreciate the difficulties and struggles our southern people went through when we came from the crucible of war to meet and solve the negro question in the ashes of poverty. We are glad to observe your generous spirit, your conciliatory attitude, and happy we are to announce to you that in all these former belligerent States a condition of peace exists between the African and the Caucasian. The negro goes on in his accustomed employment, not only undisturbed, but encouraged. There is no avenue of honorable labor and honorable employment in which he has not an opportunity to go. He is unintimidated, protected by law, aided and helped in every laudable ambition, but he has known through all the generations that wedlock between him and a woman of the South was impossible, yea, more impossible than any other human undertaking to which he could aspire. He knew not only that, but he knew and realized that government and the administration of law properly belong to the white people of those States and he has acquiesced. He largely obeys the law; he is protected; he is secure and he has the fairest opportunity to-day to go forward in industrial progress and moral development that he has ever had and his opportunities for this growth and this progress in the South are superior to that of any other section of this great land. This being true, gentlemen, there comes into our hearts a yearning desire to aid you in the herculean difficulties you encounter in the northern sections of our country with respect to the negro, his relations to society, and your protection against the damning blight of his blood in the veins of your descendants. Do you propose that in all the future years the negro man who can seize upon some weak-minded woman of our race, who can infatuate her, who can over-persuade her and contract her in wedlock, do you propose that these things shall go sanctioned by laws of your States?

If the power, political or otherwise, of the African in those States is so potential, where the division between political parties may be close, that you can not solve it by State constitutional amendments or State legislation, we are ready, from the southern country, with, I apprehend, not a dissenting voice, to join you in adopting a resolution in the Congress submitting to the people of all the States a constitutional amendment that will make it impossible forever hereafter for a brutal African prizefighter to join to his name that of even a fallen American woman. [Applause.] We invite you to this grave question and its fair, nonsectional, but just consideration. Gentlemen, is it possible that in some far day in the distance—three generations, or five generations, or ten generations—is it possible that in those future years, under a legal permission of marriage between the white and the black races, that when your great-great-grandson goes to take unto himself a companion for life he will wonder and not know whether the bride for his young manhood is a pure American girl or corrupted by a strain of kinky-headed blood? Let this condition go on if you will. It will grow; it will spread. At some day, perhaps remote, it will be a question always whether or not the solemnizing of matrimony in the North is between two descendants of our Anglo-Saxon fathers and mothers or whether it be of a mixed blood descended from the orang-utan trodden shores of far-off Africa.

Bestir yourselves for the adoption of the amendment to our Constitution which I am now discussing and which is your haven of safety and for the glory and purity of our whole country.

Moreover, it is detrimental to the highest welfare of both races for such a condition to exist. I put the plain question to you, that if here in this northern city and yonder in that western city and over there in this city bordering on the Mason and Dixon line, with from time to time the journals of the country carrying news of the accomplishment of the relation of husband and wife between white and black, do you apprehend, as thoughtful men, that it will not make an impress upon the vicious element of the negro race? The permission of such a thing by a sovereign State or a republican Government is damning and a danger signal heralding an ill omen for which we can offer no excuse. We can do no greater violence, we can offer no more ill-fated injustice, to the negro in this land than to let our statutes permit him to entertain the hope that at some future time he or his offspring, or she or her offspring, may be married to a woman or a man of the white race. It will bring conflicts in the coming years—black, dark, gruesome, and bloody. Whenever, gentlemen, this condition prevails at the North to such an extent that these ideas and notions begin to creep into the heads of negroes south of the Mason and Dixon line, and whenever we have a foreign tide into the Southland of the white race unacquainted with our customs and traditions, and when they begin to bargain and contemplate matrimony between the whites and the blacks there, know you now that the result will be fraught with disaster, the consequences of which will bring annihilation to that race whom we have protected in our land for all these years. And your States that permit the intermarriage of races will bear their just share of responsibility and odium for such a condition. Are we ready for the broad practice, I ask you again, are we ready for the broad and general practice to exist in this country of intermarriage between whites and blacks? Are you prepared for it? If you are, then well and good. The South is not and never will be. If you are not, I give you warning now when these occurrences are comparatively rare—I give you warning to-day, when just now and then these horrible matrimonial contracts are made—that this is a time for the American Congress to intervene and decree that forever the dominant race in this country shall preserve its veins from even the taint of African blood.

Mr. HEFLIN. Will my friend permit an interruption?

Mr. RODDENBERY. I will.

Mr. HEFLIN. Does the gentleman recall that in the debate between Douglas and Lincoln at Charleston, Ill., in 1858, Mr. Lincoln said:

I have not, am not, and never have been in favor of permitting marriage between the white and black races?

Mr. RODDENBERY. Substantially that language is correct, and it is historic. The same sentiment might be quoted from other of the leading patriots of the retreating past without regard to politics and without regard to their geographical origin or residence. Intermarriage between whites and blacks is repulsive and averse to every sentiment of pure American spirit. It is abhorrent and repugnant to the very principles of a pure Saxon government. It is subversive of social peace. It is destructive of moral supremacy, and ultimately this slavery of white women to black beasts will bring this Nation to a conflict as fatal and as bloody as ever reddened the soil of Virginia or crimsoned the mountain paths of Pennsylvania. It may now be but a small cloud on the western horizon, hanging over the borders of the Great Lakes around that wonderful city; it may be but the vapors apparently rising from the Atlantic above the towering smokestacks around the suburbs of the great city of New York; it may be but an hallucination around the historic and puritanic city of Boston, but if this policy is long indulged by these States and countenanced by our Federal Government permitting by law the sombre-hued, black-skinned, thick-lipped, bull-necked, brutal-hearted African to walk into the office of a magistrate and demand an edict of the courts of his State, guaranteeing him legal wedlock to a white woman, if this proceed henceforth and onward, I challenge any man of wisdom and insight into the future to assert that my language portends a more calamitous culmination than a far-seeing statesman would prophesy. Let us uproot and exterminate now this debasing, ultra-demoralizing, un-American, and inhuman leprosy.

Gentlemen, you may Africanize this great country by continuing in Northern and Western States to sacrifice white women on the altar of the negroes' lustful fires, but, thank God, there are yet 13 States beneath cerulean skies that turn with yearning heart and willing hands to help you strike it down ere it curse you, and in cursing you curse us all forever [applause], and, in cursing you, lest it destroy you and destroy us altogether. No blacker incubus ever fixed its slimy claws upon

the social body of this Republic than the embryonic cancer of negro marriage to white women in certain portions of our country. It even now begins to fester. No more voracious parasite ever sucked at the heart of pure society, innocent girlhood, or Caucasian motherhood than the one which welcomes and recognizes the sacred ties of wedlock between Africa and America. [Applause.]

There is no racial antipathy in this. There is no sectional arraignment here. I am glad to chronicle the fact that many States in these vast prairies to the westward and a number of these States in the hills northeastward and reaching out to New England will not permit Jack Johnson to marry the daughter of their brother. God speed the day when Illinois and her sisters may rise and put their constitutional inhibition or legal prohibition upon it! Lest that day be far off, lest the results be disastrous ere we reach it, I address an appeal to your judgment, to your Americanism, your patriotism, and your wisdom to support a constitutional amendment uprooting totally an evil of the present, thus warding off the disasters of the future. May it please honorable Members to communicate with the Committee on the Judiciary and implead the committee that they report in favor of this resolution, to be speedily acted upon in the House, that we may submit to the sovereign States an opportunity for the people's representatives there to declare that forever hereafter marriage between white man and negro or white woman and negro is prohibited by the fundamental law of this Republic. [Applause.]

And again I say to you, my brethren from all sections of the country, when we of the South are asking no appropriation for the goods that were taken years ago; when we are asking you for no access to the Treasury; when we are submitting to you a problem of the intermarriage between the races, which is unknown in our Southland—again I say to you that there is not a flag or a coat of arms south of Mason and Dixon's line that is not ready now, in peace and in unbroken phalanx, to join the Members from New England, to join the Members from the Mississippi Basin and the valleys below, to join the gentlemen from the Great Lakes and the prairies far to the westward in fixing in the Constitution of our country a provision that shall forever give us undefiled homes, a pure manhood, an uncorrupted womanhood. Do this and, secure in the bonds of brotherhood, we will go forward and onward, living, loving, marrying, and multiplying under the protection of a Government worthy of the sacrifices that Washington and his Colonial armies made to give it existence and establish it, and worthy of the wisdom and the patriotism that Jefferson, Madison, Jackson, Lincoln, and the others bestowed that it might be preserved to us and our posterity in perpetuity forever. [Applause.]

I had not intended to discuss this question just now, but it being apparent from the proceedings that Calendar Wednesday would be consumed entirely with the discussion of a little bill dealing with $18,000 for a bridge across Snake River, around Jacksons Hole, in Wyoming, and regarding the question of supremacy of American manhood, of the insullied purity of the blood of American womanhood as at least of equal dignity with Snake River, or Johnsons Hole, in Wyoming, we have ventured to make these few brief and impromptu observations. [Applause.]

Why, gentlemen, while you are dealing with Snake River the black vulture is gnawing at the vitals of the integrity, and love, and purity of American homes. While you are attempting the appropriation of $18,000 to construct a bridge over Jacksons Hole, in the ruts and hills of Wyoming, the brutal hand of Africa's son is laid about the throat of woman's hope in free America. [Applause.] Therefore I thank the committee for its indulgence while we make these remarks touching what we regard a most serious problem. If strength permitted, with your close attention and with that extreme courtesy that you have shown, we would extend our remarks at a greater length on this important subject. At some future time we trust again, in conjunction with other Members, to undertake to impress the vitality and momentousness of this proposition upon the House of Representatives.

Mr. SMITH of Texas. Mr. Chairman, if no other gentleman desires to address the committee on the bill, I will ask that the bill be read for amendment.

Mr. GOLDFOGLE. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from New York [Mr. GOLDFOGLE] makes the point of no quorum. The Chair will count.

Mr. MANN. I do not suppose the gentleman means to intimate that the last speech drove the Members out of the Hall so that there are not even 100 members of the committee present.

The CHAIRMAN. The Chair ascertains by counting that there are 70 Members present, not a quorum. The Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Adamson	Fairchild	Jacoway	Powers
Aiken, S. C.	Fitzgerald	Kendall	Pujo
Ames	Floyd, Ark.	Kindred	Ralney
Andrus	Fordney	Kitchin	Randell, Tex.
Ansberry	Fornes	Knowland	Ransdell, La.
Anthony	Foss	Konig	Rees
Bates	Fuller	Kopp	Reyburn
Bell, Ga.	Gardner, Mass.	Lafferty	Richardson
Berger	Gardner, N. J.	La Follette	Riordan
Borland	Garrett	Langham	Roberts, Mass.
Bradley	George	Langley	Roberts, Nev.
Brantley	Gill	Lawrence	Rodenberg
Brown	Gillett	Legare	Sabath
Burke, Wis.	Good	Lenroot	Scully
Byrnes, S. C.	Gould	Levy	Sells
Campbell	Gray	Lewis	Sherley
Candler	Green, Iowa	Lindsay	Sisson
Carter	Gregg, Pa.	Linthicum	Slayden
Clark, Fla.	Gregg, Tex.	Littlepage	Slemp
Clayton	Gudger	Littleton	Small
Collier	Guernsey	Longworth	Smith, Cal.
Conry	Hamill	McCreary	Sparkman
Copley	Hanna	McGillicuddy	Stack
Cox, Ohio	Hardwick	McGuire, Okla.	Sterling
Crago	Harris	McHenry	Sulloway
Cravens	Harrison, N. Y.	McKenzie	Talbott, Md.
Crumpacker	Hart	Maher	Taylor, Colo.
Currier	Hartman	Martin, Colo.	Taylor, Ohio
Curry	Haugen	Matthews	Townsend
Daugherty	Hawley	Miller	Turnbull
Davidson	Henry, Conn.	Moon, Pa.	Vreeland
Davis, W. Va.	Henry, Tex.	Morrison	Warburton
De Forest	Higgins	Murray	Webb
Denver	Hill	Norris	Weeks
Dickson, Miss.	Hinds	Olmsted	Whitacre
Difenderfer	Hobson	O'Shaunessy	Wilson, N. Y.
Draper	Howard	Padgett	Wood, N. J.
Driscoll, D. A.	Howland	Parran	Woods, Iowa
Driscoll, M. E.	Hughes, Ga.	Patten, N. Y.	Young, Mich.
Dwight	Humphreys, Miss.	Peters	
Estopinal	Jackson	Pou	

The SPEAKER. The Clerk will call my name.

The Clerk called the name of Mr. CLARK of Missouri, and he answered "Present."

The committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee finding itself without a quorum, he had caused the roll to be called, when 228 Members, a quorum, had responded to their names, and that he reported the names of the absentees to the House.

The SPEAKER. A quorum being present, the committee will resume its session.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3947) to provide for a bridge across Snake River, in Jackson Hole, Wyo., with Mr. SAUNDERS in the chair.

Mr. SMITH of Texas. Mr. Chairman, I ask that the bill be read for amendment.

The CHAIRMAN. The Clerk will report the bill.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent that the amendment in the form of a substitute be read in lieu of the bill.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent that the amendment in the form of a substitute be read instead of the original bill.

Mr. MANN. Mr. Chairman, the bill is very short. Let it be read.

The CHAIRMAN. The gentleman from Illinois objects. The Clerk will report the bill.

The Clerk read the bill, as follows:

Whereas in the administration of the act of June 17, 1902, "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," the United States Reclamation Service has constructed at the outlet of Jackson Lake, Wyo., a dam at the source of the Snake River a retaining storage dam; and

Whereas the use of this dam to store the flood waters of Jackson Lake and the Snake River watershed and the release of the surplus waters thus stored into the channel of the Snake River for utilization in irrigating lands upon lower levels maintains high water in the Snake River at all periods of the year; and

Whereas through the maintenance of high water the Snake River, previously fordable for parts of each year, in its course through the Jackson Hole region is now rendered unfordable at all times, and the residents of that region, upward of 1,000 in number, are cut off from railroad and other communication for freight and travel: Therefore:

Be it enacted, etc., That the sum of $25,000 is hereby appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, to be expended under the direction of the Secretary of War, through the engineer officer in charge of road and bridge construction and maintenance in the Yellowstone National Park, for the construction of a bridge across Snake River, at a point in township 41 or 42 north, range 116 or 117 west, Wyoming, to be determined with a view of best serving the public travel through Jackson Hole and adjacent territory in Wyoming and Idaho: *Provided*, That the local authorities shall cause the approaches to the proposed bridge to be constructed

without expense to the United States: *And provided further*, That the local authorities shall provide for the maintenance and repair of the proposed bridge after it is constructed.

The Clerk read the following amendment, recommended by the committee:

Strike out all after the enacting clause and insert the following:

"That the Secretary of the Interior is hereby authorized to use such portion of the reclamation fund, not to exceed $18,000, and in no event more than one-half the sum that may be necessary for the construction of a bridge across Snake River at a point in township 41 or 42 north, range 116 or 117 west, Wyoming, to be determined by the Reclamation Service, with the view of best serving the people of Jackson Hole and adjacent territory in Wyoming: *Provided*, That no part of the funds herein authorized to be used, except such as may be necessary for the making of examinations and estimates, shall be expended until the Secretary of the Interior shall have obtained, from the proper local authorities, satisfactory guaranties of the payment by the said local authorities of one-half of the cost of said bridge; and that the said local authorities assume full responsibility for and will at all times maintain and repair the said bridge and approaches thereto."

Strike out the preamble.

Mr. MANN. Mr. Chairman, I move to amend the amendment by adding thereto the following:

The Clerk read as follows:

Add to the amendment the following:

"*Provided further*, That the amount of the reclamation fund so used shall be charged as a part of the cost of the reclamation project or projects the construction and development of which have caused the necessity of such project."

The CHAIRMAN. The question is on the amendment to the amendment.

The question was taken, and the amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on the amendment as amended.

The question was taken, and the amendment as amended was agreed to.

Mr. SMITH of Texas. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the recommendation that the amendment be agreed to and the bill as amended do pass.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 3947) to provide for a bridge across Snake River in Jackson Hole, Wyo., and had directed him to report the same back with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The SPEAKER. The question is on the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The question now is on the third reading of the amended Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

The preamble was stricken out.

On motion of Mr. SMITH of Texas, a motion to reconsider the vote whereby the bill was passed was laid on the table.

On motion of Mr. SMITH of Texas, the bill H. R. 21171, a similar House bill, was laid on the table.

ADJOURNMENT.

The SPEAKER. Has the gentleman from Texas any further business from his committee?

Mr. SMITH of Texas. Yes, Mr. Speaker, we have one more bill, which we design to take up next Calendar Wednesday. I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 10 minutes p. m.) the House adjourned until to-morrow, Thursday, December 12, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Pagan River with a view to securing a depth of 12 feet and a turning basin at Smithfield, Va. (H. Doc. No. 1126); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Interior submitting estimate of appropriation to pay the occupants under patents from the State of Michigan for their improvements and possessory rights to lands within the L'Anse and Vieux de Sert Indian Reservation, Mich. (H. Doc. No. 1151); to the Committee on Indian Affairs and ordered to be printed.

3. A letter from the Secretary of War, recommending legislation on the Army appropriation bill authorizing an increase of pay to certain clerks and messengers, citizens of the United States, employed in the Philippine Islands, and requesting authority for the department to employ natives of the Philippine Islands as clerks and messengers of lower grades at reduced compensation (H. Doc. No. 1156); to the Committee on Military Affairs and ordered to be printed.

4. A letter from the Secretary of the Treasury, submitting supplemental estimate of appropriation for equipping the new building for the Bureau of Printing and Engraving, now under construction (H. Doc. No. 1150); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Acting Secretary of Commerce and Labor submitting estimate of deficiencies in appropriations for said department for the fiscal year ending June 30, 1913 (H. Doc. No. 1152); to the Committee on Appropriations and ordered to be printed.

6. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and fact in the French spoliation cases relating to the vessel schooner *Betsey*, George Vincent, master (H. Doc. No. 1147); to the Committee on Claims and ordered to be printed.

7. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner *Commerce*, Samuel Freeman, master (H. Doc. No. 1143); to the Committee on Claims and ordered to be printed.

8. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner *Two Brothers*, Isaac Lockwood, master (H. Doc. No. 1141); to the Committee on Claims and ordered to be printed.

9. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel brig *George*, Richard Quick, master (H. Doc. No. 1136); to the Committee on Claims and ordered to be printed.

10. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner *Dolphin*, N. H. Downe, master (H. Doc. No. 1148); to the Committee on Claims and ordered to be printed.

11. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel brig *Peggy*, Nathaniel Small, master (H. Doc. No. 1139); to the Committee on Claims and ordered to be printed.

12. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel ship *Asia*, Edward Yard, master (H. Doc. No. 1135); to the Committee on Claims and ordered to be printed.

13. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel brig *Philanthropist*, Forrest Richardson, master (H. Doc. No. 1140); to the Committee on Claims and ordered to be printed.

14. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel brig *Mars*, Thomas Bantin, master (H. Doc. No. 1137); to the Committee on Claims and ordered to be printed.

15. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel ship *Hunter*, William Whitlock, master (H. Doc. No. 1134); to the Committee on Claims and ordered to be printed.

16. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner *Lucy*, Eliakin Benham, master (H. Doc. No. 1142); to the Committee on Claims and ordered to be printed.

17. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel brig *Abby*, Harding Williams, master (H. Doc. No. 1138); to the Committee on Claims and ordered to be printed.

18. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel sloop *Orpha*, John Annable, master (H. Doc. No. 1132); to the Committee on Claims and ordered to be printed.

19. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner *Rising States*, Daniel Bradford, master (H. Doc. No. 1145); to the Committee on Claims and ordered to be printed.

20. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel *Dogger Neptune*, F. M. Bargum, master (H. Doc. No. 1131); to the Committee on Claims and ordered to be printed.

21. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel ship *Louisa*, John Clarke, jr., master (H. Doc. No. 1133); to the Committee on Claims and ordered to be printed.

22. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner *Lion*, Peter Frazier, master (H. Doc. No. 1146); to the Committee on Claims and ordered to be printed.

23. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner *Belisarius*, William Bartlett, master (H. Doc. No. 1149); to the Committee on Claims and ordered to be printed.

24. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner *Kitty*, Ezra Finney, master (H. Doc. No. 1141); to the Committee on Claims and ordered to be printed.

25. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on examination and survey of the New York Harbor with a view of securing increased width and depth of water from a point at or near southwest spit northwest of Sandy Hook (H. Doc. No. 1124); to the Committee on Rivers and Harbors and ordered to be printed.

26. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on examination of Potomac River at Colonial Beach, Va., with a view to a proper approach to the landing place (H. Doc. No. 1127); to the Committee on Rivers and Harbors and ordered to be printed.

27. A letter from the Secretary of War, transmitting report of National Forest Reserve Commission for the fiscal year ending June 30, 1912 (H. Doc. No. 1158); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

28. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on examination and survey of Archers Hope River, Va., with a view to securing increased depth from its mouth to Williamsburg (H. Doc. No. 1130); to the Committee on Rivers and Harbors and ordered to be printed.

29. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on examination and survey of Bass Harbor Bar and Deer Island Thoroughfare, Me. (H. Doc. No. 1128); to the Committee on Rivers and Harbors and ordered to be printed.

30. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on examination and survey of Brule Harbor, Wis. (H. Doc. No. 1129); to the Committee on Rivers and Harbors and ordered to be printed.

31. A letter from the Secretary of War, transmitting report of Lieut. Gen. S. B. M. Young, United States Army, retired, president of the Board of Commissioners of the United States Soldiers' Home, upon the financial and other affairs of the military prison at Fort Leavenworth, Kans., together with copies of reports from commanding officer of that prison and the commanding officer of the Pacific branch United States military prison, all for the fiscal year ended June 30, 1912 (H. Doc. No. 1157); to the Committee on Expenditures in the War Department and ordered to be printed.

32. A letter from the Secretary of the Treasury, transmitting the report of the Surgeon General of the Public Health Service for the fiscal year 1912 (H. Doc. No. 971); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

33. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of the Interior, requesting appropriation for the continuation of the investigation of the mineral resources of Alaska (H. Doc. No. 1153); to the Committee on Appropriations and ordered to be printed.

34. A letter from the Secretary of the Treasury, recommending that the urgent deficiency bill provide that the expenses of the annual assay commission for the fiscal year 1913 may be paid from the appropriation, "Contingent expenses, mint at Philadelphia, 1913" (H. Doc. No. 1154); to the Committee on Appropriations and ordered to be printed.

35. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of State recommending that an appropriation be made in the sundry civil bill for the expenses of the International Joint Commission, United States and Great Britain, instead of being made in the consular and diplomatic bill (H. Doc. No. 1155); to the Committee on Appropriations and ordered to be printed.

36. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Port Aransas, Tex. (H. Doc. No. 1125); to the Committee on Rivers and Harbors and ordered to be printed.

37. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors appointed in the State of Indiana for President and Vice President at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. REILLY, from the Committee on the Post Office and Post Roads, to which was referred the bill (H. R. 26819) to regulate the pay of substitute letter carriers in the City Delivery Service and provide for their status when appointed to permanent positions as regular carriers, reported the same without amendment, accompanied by a report (No. 1260), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. ADAIR, from the Committee on Invalid Pensions, to which was referred sundry bills, reported in lieu thereof the bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, accompanied by a report (No. 1267), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. JOHNSON of Kentucky: A bill (H. R. 27063) authorizing the purchase of a site for a post-office building at Hodgenville, Ky.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27064) authorizing the purchase of a post-office site at Elizabethtown, Ky.; to the Committee on Public Buildings and Grounds.

By Mr. KINKAID of Nebraska: A bill (H. R. 27065) providing for the purchase of a site and the erection of a public building in the city of O'Neill, State of Nebraska; to the Committee on Public Buildings and Grounds.

By Mr. CALDER: A bill (H. R. 27066) to amend section 4756 of the Revised Statutes; to the Committee on Naval Affairs.

By Mr. HAMLIN: A bill (H. R. 27067) for the purchase of a site and the erection of a public building in the town of Fayette, Mo.; to the Committee on Public Buildings and Grounds.

By Mr. SMITH of Texas: A bill (H. R. 27068) making appropriation for the construction of additional barracks at Fort Bliss, the Army post at El Paso, Tex.; to the Committee on Military Affairs.

By Mr. MADDEN: A bill (H. R. 27069) to amend the interstate-commerce law; to the Committee on Interstate and Foreign Commerce.

By Mr. ANTHONY: A bill (H. R. 27070) to purchase the Kansas and Missouri bridge at Fort Leavenworth for military purposes; to the Committee on Military Affairs.

By Mr. ADAMSON: A bill (H. R. 27071) to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. AUSTIN: A bill (H. R. 27072) to authorize the President of the United States to appoint, by selection, an additional major general of the United States Army; to the Committee on Military Affairs.

By Mr. MORGAN of Louisiana: A bill (H. R. 27073) for the erection of a Federal building at Hammond, La.; to the Committee on Public Buildings and Grounds.

By Mr. COLLIER: A bill (H. R. 27074) authorizing a survey of Big Black River, Miss.; to the Committee on Rivers and Harbors.

By Mr. HUGHES of West Virginia: A bill (H. R. 27075) to promote the safety of employees and passengers upon railroads

engaged in interstate traffic; to the Committee on Interstate and Foreign Commerce.

By Mr. CLAYTON: A bill (H. R. 27076) to amend section 36 of "An act to codify, revise, and amend the penal laws of the United States," approved March 4, 1909; to the Committee on the Judiciary.

By Mr. SPARKMAN: A bill (H. R. 27077) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or association to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or association; to the Committee on the Post Office and Post Roads.

By Mr. HAYES: A bill (H. R. 27078) to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal.; to the Committee on the Public Lands.

By Mr. CARTER: A bill (H. R. 27079) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or association to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or association; to the Committee on the Post Office and Post Roads.

By Mr. CARLIN: Resolution (H. Res. 744) to pay to Lillie M. Reesch $600 for certain services; to the Committee on Accounts.

By Mr. DUPRÉ: Resolution (H. Res. 745) to provide for printing additional copies of Senate Document No. 972, Rules of Practice for the Courts of Equity; to the Committee on Printing.

By Mr. RODDENBERY: Joint resolution (H. J. Res. 368) proposing an amendment to the Constitution of the United States prohibiting intermarriage between negroes or persons of color and Caucasian or any other character of persons; to the Committee on the Judiciary.

By Mr. GARDNER of Massachusetts: Joint resolution (H. J. Res. 369) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.; to the Committee on the Library.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; to the Committee of the Whole House.

By Mr. ANTHONY: A bill (H. R. 27080) granting an increase of pension to Judson N. Pollard; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 27081) granting an increase of pension to David H. Scott; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 27082) for the relief of the heirs of Elias W. Phares, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27083) for the relief of the heirs of Jesse Phares, deceased; to the Committee on War Claims.

By Mr. BULKLEY: A bill (H. R. 27084) to remove the charge of desertion from the military record of Lora E. Reed; to the Committee on Military Affairs.

By Mr. CARTER: A bill (H. R. 27085) to remove the charge of desertion standing against George W. Smith; to the Committee on Military Affairs.

By Mr. CLARK of Missouri: A bill (H. R. 27086) for the relief of Henry L. Heckmann; to the Committee on War Claims.

By Mr. CLAYPOOL: A bill (H. R. 27087) granting an increase of pension to Barnett A. Hook; to the Committee on Invalid Pensions.

By Mr. DODDS: A bill (H. R. 27088) granting an increase of pension to Charles H. Crandall; to the Committee on Invalid Pensions.

By Mr. DYER: A bill (H. R. 27089) granting a pension to Josephine C. Nixon; to the Committee on Invalid Pensions.

By Mr. FARR: A bill (H. R. 27090) for the relief of Cora Evans; to the Committee on Claims.

By Mr. GARRETT: A bill (H. R. 27091) for the relief of the estates of Nathan Dungan and Rebecca Dungan, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27092) for the relief of William Grant; to the Committee on War Claims.

By Mr. GOEKE: A bill (H. R. 27093) to remove the charge of desertion from the record of William E. Cummings; to the Committee on Military Affairs.

By Mr. GOLDFOGLE: A bill (H. R. 27094) for the relief of Nelson D. Dillon, executor of Harriet A. Dillon, deceased, widow of Robert Dillon, deceased; to the Committee on War Claims.

By Mr. GUDGER: A bill (H. R. 27095) for the relief of Stanley Mitchell; to the Committee on Naval Affairs.

By Mr. HAMLIN: A bill (H. R. 27096) granting a pension to Mary V. Isenberg; to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 27097) granting an increase of pension to Jasper Pitts; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27098) granting an increase of pension to Bridget Scanlon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27099) for the relief of Patrick G. Dollard; to the Committee on Military Affairs.

Also, a bill (H. R. 27100) for the relief of William Richard Hogg; to the Committee on Military Affairs.

Also, a bill (H. R. 27101) for the relief of David Walker; to the Committee on Military Affairs.

Also, a bill (H. R. 27102) for the relief of Albert C. Waltenspiel; to the Committee on Military Affairs.

Also, a bill (H. R. 27103) for the relief of Jasper J. Henry; to the Committee on Military Affairs.

Also, a bill (H. R. 27104) for the relief of John Vreeland; to the Committee on Military Affairs.

By Mr. HENSLEY: A bill (H. R. 27105) for the relief of Henry J. Tucker; to the Committee on Military Affairs.

By Mr. HOWELL: A bill (H. R. 27106) granting an increase of pension to Brigham Lamb; to the Committee on Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 27107) for the relief of the trustees of Bloomfield Lodge, No. 57, Ancient Free and Accepted Masons, of Bloomfield, Ky., the trustees of the town of Bloomfield, Ky., and the trustees of the Bloomfield graded common schools at Bloomfield, Ky.; to the Committee on War Claims.

By Mr. KAHN: A bill (H. R. 27108) granting a pension to William Deable; to the Committee on Pensions.

Also, a bill (H. R. 27109) granting an increase of pension to Belle McP. McCrackin; to the Committee on Pensions.

Also, a bill (H. R. 27110) for the relief of Charles Hellyer; to the Committee on Military Affairs.

By Mr. LEE of Georgia: A bill (H. R. 27111) granting a pension to Stacy Ann Wacker; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 27112) granting an increase of pension to Allen T. Landers; to the Committee on Invalid Pensions.

By Mr. MERRITT: A bill (H. R. 27113) granting an increase of pension to Orlando Burt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27114) granting a pension to Esther Neddo; to the Committee on Pensions.

Also, a bill (H. R. 27115) granting a pension to John Bresett; to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 27116) granting an increase of pension to James H. Pack; to the Committee on Invalid Pensions.

By Mr. MOORE of Texas: A bill (H. R. 27117) for the relief of Mrs. E. J. Amacker; to the Committee on War Claims.

By Mr. NYE: A bill (H. R. 27118) granting a pension to Caroline Fust; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27119) granting an increase of pension to Anna Rebecca Overman; to the Committee on Invalid Pensions.

By Mr. OLDFIELD: A bill (H. R. 27120) to correct the military record of John N. Thompson; to the Committee on Military Affairs.

By Mr. PICKETT: A bill (H. R. 27121) granting a pension to August A. Bemtgen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27122) granting a pension to Lizzie S. Williams; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 27123) granting an increase of pension to James A. Dicus; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27124) granting a pension to Martha Moore; to the Committee on Pensions.

Also, a bill (H. R. 27125) to grant an honorable discharge to John R. Stockstill; to the Committee on Military Affairs.

By Mr. ROUSE: A bill (H. R. 27126) granting an increase of pension to Jennie Reed; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 27127) for the relief of the estate of Adam B. Fullen, deceased; to the Committee on War Claims.

By Mr. SLOAN: A bill (H. R. 27128) granting a pension to Carrie Willett Yates; to the Committee on Invalid Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 27129) granting an increase of pension to Archie E. Booth; to the Committee on Pensions.

By Mr. STEENERSON: A bill (H. R. 27130) granting an increase of pension to James B. Whaley; to the Committee on Pensions.

Also, a bill (H. R. 27131) granting an increase of pension to Daniel W. Brown; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: A bill (H. R. 27132) granting an increase of pension to Cyrena M. Hatfield; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Ohio: A bill (H. R. 27133) granting an increase of pension to William Collins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27134) granting an increase of pension to Thomas J. Reynolds; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27135) granting an increase of pension to Robert A. Powelson; to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 27136) granting an increase of pension to Mary Neace; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27137) granting an increase of pension to Laura J. Ingram; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: A bill (H. R. 27138) granting a pension to Ellen A. Chappell; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BULKLEY: Resolution adopted by the Lake Michigan Sanitary Association, urging the appropriation of $300,000 for the investigation of the extent of the pollution of the waters of the Great Lakes and of the injury to health resulting therefrom; to the Committee on Interstate and Foreign Commerce.

By Mr. DALZELL: Petition of sundry citizens of Allegheny County, Pa., in favor of the passage of the Dillingham immigration bill; to the Committee on Immigration and Naturalization.

By Mr. DAVIS of Minnesota: Petitions of merchants of various cities in Minnesota, protesting against further extension of parcel-post zone act; to the Committee on the Post Office and Post Roads.

By Mr. DYER: Petition of C. F. Blanke, St. Louis, Mo., favoring House bill 22589, appropriating $500,000 to carry out the recommendations of the State Department that the first expenditure under the Lowden Act for the acquisition of embassy, legation, and consular buildings be made at Mexico City, $150,000; Tokyo, $150,000; Berne, $140,000; Hankow, $60,000; to the Committee on Foreign Affairs.

Also, memorial of George W. Burley, a member of the Pure Fabric League, St. Louis, Mo., favoring House bill 25685, for the labeling and tagging of all fabrics and articles of clothing intended for sale which enter into interstate commerce, and providing penalties for misbranding; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Petition of citizens of Wisconsin, favoring the enactment of legislation giving the Interstate Commerce Commission further power toward controlling the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Memorial of the State Council of Pennsylvania, Order of Independent Americans, favoring the Dillingham immigration bill (S. 3175); to the Committee on Immigration and Naturalization.

By Mr. GARRETT: Petition of sundry citizens of Brownsville and other places in the ninth congressional district of Tennessee, favoring the enactment of legislation to give the Interstate Commerce Commission further power toward regulating express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. HAYES: Memorial of H. F. Copeland, of San Francisco; Arthur Rosenblatt Co., of San Francisco; and Grace Edwards, of San Jose, Cal., against the Kenyon bill (S. 4043); to the Committee on the Judiciary.

By Mr. HOWELL: Petition of citizens of Richfield, Utah, in favor of regulation of express rates by Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. LINDSAY: Memorial of the Patriotic Order Sons of America, State Camp of New York, favoring passage of the Senate bill on immigration; to the Committee on Immigration and Naturalization.

By Mr. MOTT: Memorial of the Millers' National Federation, favoring the passage of Senate bill 957; to the Committee on Interstate and Foreign Commerce.

By Mr. NELSON: Petition of citizens of Lodi, Wis., favoring the enactment of legislation to give the Interstate Commerce Commission further power toward regulating express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. POST: Petition of Mason Bros. and others, of Circleville, Troy, and Plainville, Ohio, against the extension of the parcel post; to the Committee on the Post Office and Post Roads.

By Mr. SLOAN: Petition of numerous persons protesting against parcel-post regulation, the same being residents of the following municipalities in the fourth congressional district of Nebraska: Crete, Clatonia, Waco, Hayes, Utica, Gresham, David City, Alexandria, Milford, Wilber, Ohiowa, Strang, Davenport, Carleton, Bradshaw, Tobias, Giltner, Aurora, Benedict, Sheckley, York, Henderson, Surprise, Stockham, Belvedere, Diller, Brenning, Gilead, Harbin, Chester, Filley, Beatrice, and Goshen; to the Committee on the Post Office and Post Roads.

By Mr. WILSON of New York: Memorial of the Lake Michigan Sanitary Association, favoring investigation by authority of Congress of the extent of the pollution of the waters of the Great Lakes by sewage and asking that Congress appropriate $300,000 for such investigation, of which $25,000 shall be for investigation of Lake Michigan; to the Committee on Interstate and Foreign Commerce.

Also, memorial of the State Camp of New York, Patriotic Order Sons of America, favoring the passage by the House of Representatives of the bill now pending in the House restricting immigration; to the Committee on Immigration and Naturalization.

SENATE.

THURSDAY, *December 12, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact and conclusion filed by the court in the following causes:

Katharine B. Thomson, administratrix de bonis non cum testamento annexo of the estate of Francis Beach, deceased, v. United States (S. Doc. No. 975);

Phil Mitchell, administrator de bonis non cum testamento annexo of the estate of William Hoffman, deceased, v. United States (S. Doc. No. 977);

George F. McGinniss v. United States (S. Doc. No. 976); and

Harry Troll, administrator of the estate of Justus McKinstry, deceased, v. United States (S. Doc. No. 978).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

DISTRICT REFORM SCHOOL (S. DOC. NO. 979).

The PRESIDENT pro tempore laid before the Senate a communication from the Commissioners of the District of Columbia, transmitting a copy of a memorandum prepared by the Board of Charities of the District of Columbia, in which they concur as their response to a provision in the appropriation act approved June 26, 1912, relative to the necessity for the construction and operation within the District of Columbia of a reform school for white girls, etc., which, with the accompanying paper, was referred to the Committee on the District of Columbia and ordered to be printed.

CITIZENSHIP FOR PORTO RICO.

The PRESIDENT pro tempore laid before the Senate the following communication, which was read and ordered to lie on the table:

WAR DEPARTMENT,
BUREAU OF INSULAR AFFAIRS,
Washington, December 5, 1912.

The honorable the PRESIDENT PRO TEMPORE OF THE SENATE,
United States Senate.

SIR: Referring to letter from this office of the 2d instant quoting a cablegram received from Porto Rico with reference to the bill now pending in the Senate to grant American citizenship to the people of Porto Rico, I beg to advise you that the following cablegram has now been received from the governor of Porto Rico:

"Referring to telegram from this office * * * by Santiago Iglesias, George R. Colton, governor of Porto Rico, appears erroneously as a signer thereof. Cablegram was merely sent through this office as a matter of courtesy."

Very respectfully,
CHAS. C. WALCUTT, Jr.,
Colonel, United States Army, Acting Chief of Bureau.

PETITIONS AND MEMORIALS.

Mr. NELSON presented resolutions adopted by the Minnesota Board of Forestry, favoring an appropriation for the protection of forested watersheds at the headwaters of navigable streams, which were referred to the Committee on Agriculture and Forestry.

He also presented a petition of sundry citizens of Hawley, Minn., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. CULLOM presented a memorial of Beer Bottlers' Local Union No. 248, of Chicago, Ill., and a memorial of Local Union No. 18, International Union of the United Brewery Workmen, of Chicago, Ill., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of the Woman's Christian Temperance Unions of Sandoval, Cairo, Robinson, of Edgar County, of Morgan County, and of Edwardsville, and of 159 citizens of Robinson, 55 citizens of Morris City, and 117 citizens of Lawrenceville, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. JOHNSON of Maine presented petitions of sundry citizens of Vassalboro, Kittery, and West Newfield, all in the State of Maine, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. McLEAN presented a memorial of Local Union No. 37, International Union of United Brewery Workmen, of New Haven, Conn., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. CURTIS presented petitions of sundry citizens of Osage City and Morland and of the congregation of the Lincoln Street Presbyterian Church, of Wichita, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. NELSON:

A bill (S. 7719) granting an increase of pension to Winchester E. Moore (with accompanying paper); and

A bill (S. 7720) granting an increase of pension to Gustaf Swanson (with accompanying papers); to the Committee on Pensions.

By Mr. SWANSON:

A bill (S. 7721) to appoint Jere Maupin a passed assistant paymaster on the retired list of the Navy; to the Committee on Naval Affairs.

A bill (S. 7722) to promote the efficiency of the Public Health Service; to the Committee on Public Health and National Quarantine.

By Mr. LA FOLLETTE:

A bill (S. 7723) to regulate the hours of employment and safeguard the health of females employed in the District of Columbia in any mill, factory, manufacturing or mechanical establishment, or workshop, laundry, bakery, printing, clothing, dressmaking, or millinery establishment, mercantile establishment, store, hotel, restaurant, office, or where any goods are sold or distributed, or by any express or transportation company, or in the transmission or distribution of telegraph or telephone messages or merchandise; to the Committee on the District of Columbia.

By Mr. PENROSE:

A bill (S. 7724) for the better payment of pensioners; and

A bill (S. 7725) granting a pension to Sarah E. Geiser; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 7726) granting an increase of pension to Sarah McMunigale (with accompanying papers); to the Committee on Pensions.

By Mr. TOWNSEND:

A bill (S. 7727) granting a pension to John Reithmaeir; to the Committee on Pensions.

By Mr. SMITH of Arizona:

A bill (S. 7728) granting a pension to Mary Ann Golding; to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 7729) granting a pension to Neal England, alias Joseph England (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Michigan:

A bill (S. 7730) granting an increase of pension to Mary P. Pierce (with accompanying papers); to the Committee on Pensions.

By Mr. O'GORMAN:

A bill (S. 7731) for the relief of the Morris & Cumings Dredging Co.; to the Committee on Claims.

By Mr. CRAWFORD (for Mr. GAMBLE):

A bill (S. 7732) providing for the disposal of certain lands containing coal and other minerals within portions of Indian reservations heretofore opened to settlement and entry in the State of South Dakota; and

A bill (S. 7733) providing for the disposal of certain lands containing coal and other minerals within portions of Indian reservations heretofore opened to settlement and entry; to the Committee on Public Lands.

By Mr. CURTIS:

A bill (S. 7734) granting an increase of pension to Manerva McWilliams (with accompanying papers);

A bill (S. 7735) granting an increase of pension to Frank West; and

A bill (S. 7736) granting an increase of pension to Allen Meskimen (with accompanying papers); to the Committee on Pensions.

A bill (S. 7737) for the relief of Dr. W. M. Stephens (with accompanying papers); to the Committee on Military Affairs.

By Mr. GUGGENHEIM (by request):

A bill (S. 7738) for the relief of the White River Utes, the Southern Utes, the Uncompahgre Utes, the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uinta Bands of Ute Indians, known also as the Confederated Bands of Ute Indians of Colorado, and to settle and adjust their rights under existing treaties and laws; to the Committee on Indian Affairs.

By Mr. CRANE:

A bill (S. 7739) granting a pension to William Cornell; and

A bill (S. 7740) granting a pension to Charles Franklin White; to the Committee on Pensions.

By Mr. WETMORE:

A bill (S. 7741) granting an increase of pension to Sophronia Dixon (with accompanying papers); to the Committee on Pensions.

By Mr. PAGE:

A bill (S. 7742) granting a pension to John D. Orcutt; to the Committee on Pensions.

FRENCH SPOLIATION CLAIMS.

Mr. CRAWFORD. Mr. President, I desire to present an amendment which I at the proper time expect to propose to the amendment offered by the Senator from Massachusetts [Mr. LODGE], incorporating what are known as the French spoliation claims into the omnibus claims bill. The amendment which I propose strikes from the amendment of the Senator from Massachusetts the claims so far as they ask for the reimbursement of insurance premiums and also freight earnings. Necessarily it is a long amendment. I desire to offer it now so that it may be printed and lie on the table, to be presented in connection with the amendment offered by the Senator from Massachusetts.

The PRESIDENT pro tempore. Without objection, the amendment will be received and ordered printed, as requested by the Senator from South Dakota.

STATUE OF THOMAS JEFFERSON.

Mr. SWANSON. Mr. President, I desire to introduce a resolution to appoint a committee of eight to participate in St. Louis on April 30, 1913, in the unveiling of a statue which has been erected there to Thomas Jefferson. The statue is to be unveiled there upon the one hundred and tenth anniversary of the signing of the treaty for the purchase of Louisiana, with the vast expanse of territory included in it.

The St. Louis Exposition had some funds left, which were contributed by the Federal Government toward aiding in the erection of this statue. By private subscription a fund has been raised amounting to $450,000 for the erection of an appropriate statue of Thomas Jefferson. The Louisiana Purchase Exposition Co. thinks that the Government should be represented upon this interesting occasion. A joint resolution has been introduced in the House of Representatives, at the request of the president of the exposition company and the trustees who have had this fund and the erection of the statue in charge, appointing a committee of eight by the House of Representatives. It seems to me that a committee of eight should be appointed by the Senate also to be present upon that occasion and to

show the interest of the Senate in this splendid tribute to this great American statesman.

In pursuance of that view, which is concurred in by the president of the exposition company and by the trustees who have had the erection of the monument in charge, I introduce a resolution which provides for eight Members as a committee of the Senate to be present at these interesting ceremonies. I have thought it proper that the two Presidents pro tempore of the Senate who have been heretofore exercising this office should be named—the present President pro tempore, the Senator from Georgia [Mr. BACON], and the Senator from New Hampshire [Mr. GALLINGER]. I have thought it proper that the Senator from New York [Mr. ROOT], who is chairman of the Committee on Industrial Expositions, to which the resolution should be referred, should be a member. I have thought it proper that there should be another from the old 13 States, and that the State of Virginia, the birthplace of Thomas Jefferson, should also be represented, and I have named as a member of the committee the Senator from Virginia [Mr. MARTIN]. It is thought that four from the territory that was acquired should be named, and I have named the Senator from Iowa [Mr. CUMMINS], the Senator from Minnesota [Mr. NELSON], and it is thought that it is but proper that the two Senators from Missouri should be there as representing a part of the territory to extend proper courtesy to visiting committees, and so Senators REED and STONE have been named as members of the committee.

These suggestions were made by the president of the exposition company and the trustees in conference with Members of the House and the Senate. I introduce the resolution and ask to have it referred to the Committee on Industrial Expositions.

The PRESIDENT pro tempore. The resolution will be read and then referred.

The resolution (S. Res. 407) was read, as follows:

Whereas the president of the Louisiana Purchase Exposition Co. has informed the Senate that with the approval of Congress, as expressed by an act of March 4, 1909, the Louisiana Purchase Exposition has erected upon the site of the world's fair in the city of St. Louis a memorial to Thomas Jefferson, at a cost of $450,000, in commemoration of the acquisition of the Louisiana Territory; and

Whereas this statue of Mr. Jefferson is to be unveiled and dedicated on the one hundred and tenth anniversary of the signing of the Louisiana purchase treaty, the 30th of April, 1913; and

Whereas the trustees in charge of this great memorial have, through the president of the exposition company, requested the presence of a committee of the United States Senate to participate in the dedicatory services on the day named: Therefore be it

Resolved, That a committee of Senators, to be composed of Mr. ROOT of New York, chairman of the Committee on Industrial Expositions; Mr. BACON of Georgia and Mr. GALLINGER of New Hampshire, the Presidents pro tempore of the Senate; Mr. MARTIN of Virginia, Mr. CUMMINS of Iowa, Mr. REED of Missouri, Mr. NELSON of Minnesota, and Mr. STONE of Missouri, be appointed to attend and represent the Senate in the unveiling and dedication of said memorial.

Mr. CULLOM. I suggest to the Senator that we had as well pass the resolution now.

Mr. SWANSON. Mr. President, if there is no objection I ask unanimous consent for the present consideration of the resolution.

Mr. BRISTOW. Let me inquire if it calls for an expenditure of money?

Mr. SWANSON. I presume it will involve an expenditure.

Mr. BRISTOW. Then, it ought to go to the committee.

Mr. LODGE. It must, under the law.

Mr. BRISTOW. It must go there.

Mr. CLARKE of Arkansas. Then, it must go to the Committee on Contingent Expenses.

The PRESIDENT pro tempore. There is no provision about money in the resolution.

Mr. PENROSE. There is no provision about money in it.

Mr. CULLOM. Then we might as well pass it.

Mr. SWANSON. If the Senator from Kansas objects, it must necessarily go to the committee.

Mr. CULBERSON. I understand the resolution does not make an appropriation.

The PRESIDENT pro tempore. It does not.

Mr. CULBERSON. It is not necessary to refer it, then.

Mr. LODGE. Does it make a charge on the contingent fund?

The PRESIDENT pro tempore. It does not.

Mr. STONE. I think the resolution had better be referred.

The PRESIDENT pro tempore. The resolution will be referred to the committee.

Mr. CLARKE of Arkansas. Did the Chair indicate to what committee it should be referred? I did not catch that part of it.

The PRESIDENT pro tempore. The Senator from Missouri suggests that it should be referred. Of course, one objection would necessitate a reference.

Mr. CLARKE of Arkansas. As to the character of the reference, if it calls for an expense to be paid out of the contingent fund of the Senate it must, under the statute, be referred to the Committee to Audit and Control the Contingent Expenses of the Senate. If the policy of passing it at all is to be considered, I presume the Committee on Industrial Expositions would be the committee to which it should be referred.

The PRESIDENT pro tempore. There is no provision in the resolution for an expenditure.

Mr. CULLOM. None at all.

Mr. CLARKE of Arkansas. Then it should go to that committee.

The PRESIDENT pro tempore. The resolution will be referred to the Committee on Industrial Expositions.

COMMERCIAL ORGANIZATIONS AND AGRICULTURAL ASSOCIATIONS.

Mr. NELSON. I submit a resolution, and ask for its present consideration.

The resolution (S. Res. 406) was read, as follows:

Resolved, That the Secretary of Commerce and Labor is hereby directed to furnish to the Senate not later than February 15, 1913, a list of National, State, and local commercial organizations, also National, State, and local agricultural associations, and that 1,500 copies be printed for the use of the Senate.

Mr. NELSON. Mr. President, I wish to make a word of explanation in reference to the resolution.

In 1906 Senator Frye secured the passage of a resolution of this kind calling upon the Interstate Commerce Commission to furnish the information, which the Interstate Commerce Commission did furnish. The other day I introduced a resolution similar to that of Senator Frye, calling upon the Interstate Commerce Commission to furnish similar information to that which it did in 1907. I have ascertained that the Interstate Commerce Commission has not kept up the data since that time, but that all the data is now in the possession of the Department of Commerce and Labor, who can readily furnish it without any trouble, while the Interstate Commerce Commission is not in the shape it was then.

I therefore ask for the adoption of the resolution.

The PRESIDENT pro tempore. The Senator from Minnesota asks for the present consideration of the resolution. Is there objection?

There being no objection, the resolution was considered by unanimous consent, and agreed to.

OMNIBUS CLAIMS BILL.

The PRESIDENT pro tempore. The morning business is closed.

Mr. CRAWFORD. I move that the Senate resume the consideration of House bill 19115, known as the omnibus claims bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

The PRESIDENT pro tempore. The pending amendment is one offered by the Senator from Massachusetts [Mr. LODGE], which will be read.

The SECRETARY. It is proposed to add, at the end of section 1, the following items:

Velma C. Williams, administrator of the estate of Paul Curtis, $4,128.39.

George T. Sampson, survivor of the firm of George T. and Augustus Sampson, $4,015.38.

Mr. LODGE. Mr. President, I stated yesterday the general character of these claims, based on awards of the Selfridge Board, and I do not know that it is necessary for me to say anything further in regard to them.

Mr. CRAWFORD. Mr. President, the amendment offered by the Senator from Massachusetts and one or two other amendments of the same character growing out of the same conditions were proposed and printed and referred to the Committee on Claims during the last session of Congress. These amendments or claims which they describe were carefully examined and the committee declined to accept them or incorporate them into the bill.

The Senator from Massachusetts in his remarks yesterday and in what he has said this morning refers to the findings of what is known as the Selfridge Board as an award. I do not understand that they can be called an award. These claims grew out of contracts between certain companies and individuals and the Government that were in execution during the Civil War. They were, I think all of them, connected with contracts for building paddle-wheel and side-wheel boats to act as auxiliary boats in connection with the Navy.

There is no pretense whatever that there was any violation of the contract with these people on the part of the Government of the United States. They not only paid the contractors the amount called for under their contract for building these boats,

but in addition to that they allowed considerable sums of money to contractors for extras for things that were shown to have been done or furnished that were not required under the contract, and the Government paid for those.

It appeared after the war was over that these contractors had lost money. Well, many a contractor with the Government, I presume, has made money, and many a contractor who erred in his judgment about the conditions and costs has lost money. One of the claims made by these people was that after they entered into these contracts, and in the execution of the work under them the cost of the labor and the cost of the materials increased, and as an incident to that increase in cost they had to pay more for labor and materials than they contemplated originally, and that, consequently, they lost money.

All that was done upon which it is claimed an award was made was that in 1865, about the close of the war, a board was created, of which Admiral Selfridge was the chairman, called the Selfridge Board. All in the world this board undertook to do was to inquire into the question of whether or not these contractors did lose money, and if the board found that they had lost money or claimed to have lost money, they reported to Congress the amount of their loss. That is all this inquiry was for, that was the scope fixed by the act for the inquiry—to ascertain whether or not the contractors lost money, and if so, how much—nothing more. There was no authority to make an award which would be in the nature of a legal liability against the Government of the United States; there was absolutely nothing of that sort.

The Selfridge Board investigated these several claims and found that these contractors lost such and such sums of money, not that the Government had violated in any degree its contract with them, not that the Government had failed in a single iota to pay its legal obligation to them not only for the work done under the original contract but in the way of recompensing them for the extras furnished. That was found to have been the fact; but the board found that the contractors had lost money. If we appropriate money to pay for the misfortunes of contractors who lost money in executing contracts, our obligation will extend to more people than those included within the findings of the Selfridge Board. Here in recent years, down as late as 1902, and some later than 1902, these claims were sent over to the Court of Claims by resolution of Congress in connection with bills. What did the Court of Claims do with them? The Court of Claims did nothing more than simply to recite the original creation of the board, the execution of the contract, and incorporate the findings of the Selfridge Board; that is all. The Court of Claims has, in other words, added nothing to what we knew before the claim was sent there, because they have simply recited the proceedings of the Selfridge Board.

I want to call attention, now, to another thing. It is incidental, and it in no way reflects upon the claims offered by the Senator from Massachusetts [Mr. LODGE], but it shows how advantage is taken of the Government whenever there is any opportunity to do it. In one of these claims, that of the Portland company, of Portland, Me., they got in some way an appropriation item into one of the general appropriation bills and got it through Congress, appropriating some $80,000 to pay that company, and Congress put an express provision into the bill or into the appropriation that it should only be paid upon the execution of a release of the claim in full. How they got the appropriation through I do not know; but they did. It had, however, as I have stated, the condition attached to it that it should only be paid upon the execution of a release by the claimants of the claim in full. They drew the money and executed a release, and now here is an amendment pending where these people are asking that we give them the other 20 per cent. It is another evidence of the wonderful energy and the lack of anything like modesty on the part either of the claimants or the attorneys who have pushed the matter of trying to get another 20 per cent in the face of an absolute release of the claim. I do not believe that in the case of the Portland company the Government was either legally or morally bound to pay them one dollar; and yet they got $80,000, executed a release for it, and now they have the audacity to come forward with a bill asking for the other 20 per cent after executing that release.

I say that the amendment should be rejected and that the committee should be sustained with reference to it.

The PRESIDING OFFICER (Mr. MCCUMBER in the chair). The question is on the amendment offered by the Senator from Massachusetts [Mr. LODGE].

The amendment was rejected.

Mr. CRAWFORD. Mr. President, I want to say in reference to the amendment proposed yesterday by the Senator from New York [Mr. ROOT], involving the allowance of a small claim, $602.92, to a man named Eddy who, while a sergeant in the Union Army, was detailed to perform the duties of a telegraph operator and thereby shut off from promotion. The Senator from New York made the statement that the bill in reference to that claimant had already passed the Senate. I knew it had at one time been pending before the Committee on Claims, but I had the impression that it had not been reported or that if acted on at all the action had been adverse. I must say, however, that when I went to my committee room and had the matter looked up I found that there had been a favorable report at the last session of Congress made on that bill by the Senator from Kentucky [Mr. BRADLEY], and that it had passed this body. I only state that to put myself right before the Senate. I do not know that I was wrong. I simply did not remember the bill having been acted upon; but so that the Senate may know the actual facts in relation to it—that is, that it was reported favorably from the Committee on Claims and passed the Senate last spring—I now make the statement. The Senator from New York is not here. If that amendment proposed by him may await his return, I think we may then submit it to the Senate.

Mr. GALLINGER. I have a small longevity claim, which I submit as an amendment to the bill.

The PRESIDING OFFICER. The Secretary will state the amendment.

The SECRETARY. It is proposed, on page 232, after line 9, to insert:

To John M. Wilson, of Washington, $3,493.25.

Mr. GALLINGER. Mr. President, the findings of the Court of Claims in this case are unqualified, showing that this money is due Gen. Wilson. I ask that the findings may be inserted in the RECORD if the amendment is agreed to.

Mr. CRAWFORD. Is that for the period of his cadetship?

Mr. GALLINGER. It is.

Mr. CRAWFORD. Then it is absolutely within the class of the other claims.

Mr. GALLINGER. Yes; it is.

Mr. CRAWFORD. And it may go in the bill. I ask that the findings in the case may be printed.

Mr. GALLINGER. I have asked that they be printed.

The PRESIDING OFFICER. It will be so ordered, in the absence of objection.

The matter referred to is as follows:

[Court of Claims. Congressional, No. 15513. John M. Wilson *v.* The United States.]

STATEMENT OF CASE.

The following bill was referred to the court by the Committee on War Claims of the House of Representatives on the 3d day of August, 1911, under the act of March 3, 1883, known as the Bowman Act:

"[H. R. 13657, Sixty-second Congress, first session.]

"A bill for the relief of John M. Wilson, United States Army, retired.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed, on application being made by John M. Wilson, brigadier general, United States Army, retired, to readjust the accounts of said John M. Wilson and allow the sum due said officer, taking into account his entire time of service in the Army, in accordance with the decision of the Supreme Court of the United States in the case of United States against Watson (130 U. S. Repts., p. 80), and to pay to said Gen. Wilson whatever shall be found to be due thereunder, out of any money in the Treasury not otherwise appropriated."

The case was brought to a hearing on its merits on the 8th day of April, 1912.

Richard R. McMahon, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States, residing in the city of Washington, D. C.

That he entered the United States Military Academy July 1, 1855; was appointed brevet second lieutenant First United States Artillery July 1, 1860; was transferred to Ordnance Department October 9, 1860; was transferred to First United States Artillery January 14, 1861; was appointed second lieutenant Second United States Artillery January 28, 1861; was promoted to first lieutenant May 14, 1861; was transferred to Topographical Engineers July 24, 1862; was transferred to Engineers March 3, 1863; was promoted to captain June 1, 1863; to major June 3, 1867; to lieutenant colonel March 17, 1884; to colonel March 31, 1885; to brigadier general and Chief of Engineers February 1, 1897, which he accepted February 5, 1897. He was retired April 30, 1901, after over 45 years' active service.

That during the period of the claimant's service as a commissioned officer of the Army of the United States the following statutory provisions respecting longevity pay were in force:

"That every commissioned officer of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the Army of the United States." (Act of July 5, 1838, sec. 15; 5 Stat. L., p. 258.)

"There shall be allowed and paid to each commissioned officer below the rank of brigadier general, including chaplains and others having assimilated rank or pay, 10 per cent of their current yearly pay for each term of five years' service." (Act of July 15, 1870; now sec. 1262, R. S.)

* * * the actual time of service in the Army and Navy, or both, shall be allowed all officers in computing their pay." (Act of Feb. 24, 1881; 21 Stat. L., p. 346.)

In the settlement of claimant's accounts, the acounting officers of the Treasury did not count his service at the Military Academy from July 1, 1855, to July 1, 1860, in computing his longevity pay and allowances for services prior to February 24, 1881.

That upon the construction of the act of July 5, 1838, by the Supreme Court of the United States, in the case of United States against Watson (139 U. S., 80), application was made to the proper accounting officers of the Treasury for a settlement of the longevity pay and allowances due the claimant in accordance with said decision, and, under the rulings then in force, said claim was disallowed December 22, 1890.

That upon the revocation of the ruling of the comptroller that service as a cadet could not be counted in computing longevity pay and allowances for service prior to February 24, 1881, May 18, 1908, claimant made application to the accounting officers of the Treasury for settlement of the longevity pay and allowances due under the act of July 5, 1838, but, October 29, 1909, the Auditor for the War Department refused to reconsider the settlement of 1890.

That by this action of the accounting officers there has been withheld from the claimant the sum of $5,500, which is justly due.

That this claim has not been paid, assigned, or transferred, in whole or in part, and that claimant has all his life been loyal to the Government of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. Claimant entered the United States Military Academy as a cadet July 1, 1855; graduated therefrom and was appointed brevet second lieutenant First Artillery July 1, 1860; transferred to Ordnance October 9, 1860; transferred to First Artillery January 14, 1861; promoted second lieutenant Second Artillery January 28, 1861; first lieutenant May 14, 1861; transferred to Topographical Engineers July 24, 1862; transferred to Engineers March 3, 1863; promoted captain June 1, 1863; major June 3, 1867; lieutenant colonel March 17, 1884; colonel March 31, 1895; brigadier general February 1, 1897; and retired April 30, 1901. He served as lieutenant colonel and assistant inspector general from May 26, 1864, to August 1, 1865.

II. In the settlement of claimant's accounts by the accounting officers of the Treasury, he was paid on account of longevity periods as follows: First period, from July 1, 1865; second period, from July 1, 1870; third period, from July 1, 1875; fourth period, from July 1, 1880. December 22, 1890, said accounting officers, under their then existing ruling, refused to count the service of claimant as a cadet at the Military Academy in computing longevity pay and allowances for service prior to February 24, 1881.

III. Under the decision of the United States Supreme Court in the case of United States against Watson (139 U. S., 80) claimant's longevity periods should begin on the following dates: First period, July 1, 1860; second period, July 1, 1865; third period, July 1, 1870; fourth period July 1, 1875; and the difference between the amounts actually paid to him and the amounts to which he would be entitled under said decision for said periods is as follows:

First longevity ration, July 1, 1860, to June 30, 1865	$572.20
Second longevity ration, July 1, 1865, to June 30, 1870	614.60
Third longevity ration, July 1, 1870, to July 14, 1870	4.20
Third 10 per cent increase, July 15, 1870, to June 30, 1875	1,624.66
Fourth 10 per cent increase, July 1, 1875, to June 30, 1880	1,250.40
Making a total of	4,066.06
From which the following should be deducted:	
Revenue tax	$14.39
Amount paid by settlement 5918 of May 4, 1883	534.35
Other debits in pay and allowances	17.07
	572.81
Leaving a balance of	3,493.25

BY THE COURT.

Filed May 6, 1912.

A true copy.

Test this 9th day of May, 1912.

[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from New Hampshire [Mr. GALLINGER].

The amendment was agreed to.

Mr. LODGE. I desire to offer as an amendment to the bill an amendment covering what are known as the French spoliation claims. The Senator from South Dakota [Mr. CRAWFORD], I understand, has this morning presented certain amendments to my amendment, and asked that they be printed. Of course, I do not know that I have any objection to these amendments, and very likely I shall accept them.

Mr. CRAWFORD. I want to state to the Senator from Massachusetts that in doing so I was not acting as the representative of the committee.

Mr. LODGE. I understand that.

Mr. CRAWFORD. I simply offered, as a Member of the Senate, an amendment intended to be proposed to the amendment of the Senator from Massachusetts.

Mr. LODGE. Until those amendments are printed and before the Senate it is impossible to deal with this amendment comprehensively or intelligently. I should like to say, Mr. President, that I have no desire to delay the Senate by a protracted discussion of this question, which is a large one and which has been discussed many times. Of course, if it is to be debated, I shall try to make the best case I can for it, and I think it is a very strong one, but I should like to have the amendment read. It could be read to-day and then go over until the morning, by which time the amendment of the Senator from South Dakota will be printed. I send the amendment to the desk to be read.

The PRESIDING OFFICER. The Secretary will read the proposed amendment.

The SECRETARY. It is proposed to add at the end of section 1 the following:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to claimants named in this act the several sums appropriated herein, the same being in full for and the receipt of the same to be taken and accepted in each case as a full and final release and discharge of their respective claims, namely:

FRENCH SPOLIATION CLAIMS.

To pay the findings of the Court of Claims on the following claims for indemnity for spoliations by the French prior to July 31, 1801, under the act entitled "An act to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801," approved January 29, 1885: *Provided*, That in all cases where the original sufferers were adjudicated bankrupts the awards shall be made on behalf of the next of kin instead of to assignees in bankruptcy, and that awards in the cases of individual claimants shall not be paid until the Court of Claims shall certify to the Secretary of the Treasury that the personal representatives on whose behalf the awards are made represent the next of kin, and the courts which granted the administrations, respectively, shall have certified that the legal representatives have given adequate security for the legal disbursements of the awards, namely:

On the vessel schooner Betty, William Manson, master, namely:
Payton S. Coles and David Stewart, administrators of John Stricker, $1,905.

On the vessel ship Washington, Aaron Foster, master, namely:
Lucy Franklin Read McDonnell, executrix, etc., of George Pollock, surviving partner of Hugh Pollock & Co., $980.

On the vessel sloop Two Friends, Peter Pond, master, namely:
George G. Sill, administrator of Peter Pond, $925.25.
Charles F. Adams, administrator of Peter C. Brooks, $1,800.
Seth P. Snow, administrator of Crowell Hatch, $1,000.
George G. Sill, administrator of William Leavenworth, $1,199.25.

On the vessel ship Sally Butler, Alexander Chisolm, master, namely:
Archibald Smith, administrator de bonis non of the estate of James Seagrove, deceased, $6,311.41.

On the vessel brig Neptune, Hezekiah Flint, master, namely:
David Pingree, administrator of Thomas Perkins, deceased, $409.34.
Francis M. Boutwell, administrator of John McLean, deceased, $500.
Arthur D. Hill, administrator of Benjamin Homer, deceased, $1,000.
Thomas N. Perkins, administrator of John C. Jones, deceased, $1,000.

On the vessel ketch John, Henry Tibbetts, master, namely:
Hasket Derby, administrator of Elias Hasket Derby, $12,962.92.

On the vessel ship Ceres, Roswell Roath, master, namely:
Donald G. Perkins, administrator of Daniel Dunham, $7,522.82.
Donald G. Perkins, administrator of Alpheus Dunham, $6,003.84.
Edmund D. Roath, administrator of Roswell Roath, $1,518.98.
Asahel Willet, administrator of Jedediah Willet, $1,518.98.
Charles Francis Adams, administrator of Peter C. Brooks, $700.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $800.
H. Burr Crandall, administrator of Thomas Dickason, $1,000.
William P. Perkins, executor, etc., of Thomas Perkins, $500.

On the vessel brig Eliza, Thomas Woodbury, jr., master, namely:
Arthur L. Huntington, administrator of William Orne, $29,792.46.
Bayard Tuckerman, administrator of Walter Channing, surviving partner of Gibbs & Channing, $750.
Arthur L. Huntington, administrator of James Dunlap, $500.
William Ropes Trask, administrator of Thomas Amory, $1,000.
Archibald M. Howe, administrator of Francis Green, $500.
Harriet E. Sebor, administratrix of Jacob Sebor, $250.
Sarah L. Farnum, administratrix of Leffert Lefferts, $500.
Louisa A. Starkweather, administratrix of Richard S. Hallett, $625.
Walter Bowne, administrator of Walter Bowne, $625.
Robert B. Lawrence, administrator of John B. Bowne, $125.
Walter S. Church and Walter S. Church, administrators of John Barker Church, $2,000.
Thomas W. Ludlow, administrator of Thomas Ludlow, $500.
Francis R. Shaw, administrator of J. C. Shaw, $250.

On the vessel brig Geneva, Warren, Issachar Stowell, master, namely:
Charles F. Adams, administrator of Peter C. Brooks, $6,106.68.
Edmund D. Codman, administrator of William Gray, jr., $1,850.
George G. King, administrator of Crowell Hatch, $960.

On the vessel ship Cincinnatus, William Martin, master, namely:
Richard H. Pleasant, administrator of Aquila Brown, jr., $2,486.75.
William A. Glasgow, jr., administrator of William P. Tebbs, $2,560.20.

On the vessel brig Pilgrim, Priam Pease, master, namely:
Nathaniel H. Stone, administrator of John M. Forbes, surviving partner of the firm of J. M. & R. B. Forbes, $20,692.20.
Russell Bradford, administrator of Joseph Russell, $2,774.44.

On the vessel ship Venus, Henry Dashiell, master, namely:
David Stewart, administrator of William P. Stewart, surviving partner of the firm of David Stewart & Sons, $6,766.50.
Elizabeth Campbell Murdock, administratrix of Archibald Campbell, $6,766.50.
Elizabeth H. Penn, administratrix of Thomas Highlsotham, $3,800.
Nicholas L. Dashiell, administrator of Henry Dashiell, $1,570.

On the vessel sloop Geneva, Giles Savage, master, namely:
Charles F. Adams, administrator, etc., of Peter C. Brooks, $1,300.
George G. King, administrator, etc., of Crowell Hatch, $800.
Thomas N. Perkins, administrator, etc., of John C. Jones, $700.
Francis M. Boutwell, administrator, etc., of Benjamin Cobb, $500.
Margaret R. Riley, administratrix, etc., of Luther Savage, surviving partner of the firm of Riley, Savage & Co., $4,850.

On the vessel ship Aurora, Stephen Butman, master, namely:
Charles Francis Adams, administrator of Peter C. Brooks, $2,500.
Frank Dabney, administrator of Samuel W. Pomeroy, $400.
Henry Parkman, administrator of John Dixwell, $1,000.
George G. King, administrator of Crowell Hatch, $900.
William S. Perry, administrator of Nicholas Gilman, $1,000.
John W. Apthorp, administrator of Caleb Hopkins, $1,500.
Edward I. Browne, administrator of Moses Brown, $400.
Walter Hunnewell, administrator of Arnold Welles, jr., $300.
Nathan Matthews, administrator of Daniel Sargent, $500.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $500.
Daniel D. Slade, administrator of Daniel D. Rogers, $500.
Walter Hunnewell, administrator of John Welles, $300.
William S. Carter, administrator of William Smith, $500.
William I. Monroe, administrator of John Brazer, $400.

A. H. Lorlag, administrator of William Boardman, $105.
Lawrence Bond, administrator of Nathan Bond, $400.

On the vessel ship Jane, James Barron, master, namely:
James L. Hubard, administrator of the estate of William Pennock, $4,601.67.

On the vessel schooner Amelia, Timothy Hall, master, namely:
Julius C. Cable, administrator of William Walter, $1,160.

On the vessel brig Isabella and Ann, William Duer, master, namely:
Alexander Proudfit, administrator of Robert Ralston, $2,716.50.

On the vessel schooner Zilpha, Samuel Briard, master, namely:
Sarah N. Burleigh, administratrix, etc., estate of Samuel Briard, $5,236.24.
Joseph H. Thacher, administrator estate of John Wardrobe, $5,236.24.

On the vessel sloop Abigail, Silas Jones, master, namely:
Brooks Adams, administrator of Peter C. Brooks, $700.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $800.

On the vessel schooner Active, Patrick Drummond, master, namely:
William D. Hill, administrator of Mark L. Hill, $1,640.92.

On the vessel ship Bristol, Edward Smith, master, namely:
Caroline A. Woodard and Frank Woodard, administrators of Thomas Smith, $6,590.

On the vessel schooner Brothers, James Vinson, master, namely:
David Stewart, administrator of James Jaffray, $6,488.
Mary Jane Thurston, administratrix of John Hollins, $490.
Edward C. Noyes and David Stewart, administrators of James Clarke, $490.
Cumberland Dugan, administrator of Cumberland Dugan, $490.
David Stewart, administrator of William Wood, jr., $735.
Charles J. Bonaparte, administrator of Benjamin Williams, $490.
J. Savage Williams, administrator of Samuel Williams, $490.
James Lawson, administrator of Richard Lawson, $367.50.

On the vessel ship Chace, Thomas Johnston, master, namely:
George G. King, administrator of James Tisdale, $18,947.

On the vessel ship Delaware, James Dunphy, master, namely:
C. D. Vasse, administrator of Ambrose Vasse, $814.62.
William D. Squires, administrator of Henry Pratt, surviving partner of Pratt & Kintzing, $191.65.
J. Bayard Henry, administrator of Andrew Pettit, surviving partner of Pettit & Bayard, $588.
George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller & Murray, $182.10.
J. Bayard Henry, administrator of George Randle and Thomas Leech, $222.93.
Francis A. Lewis, administrator of John Miller, jr., $182.10.
J. Albert Smyth, administrator of Jacob Baker, surviving partner of Baker & Conerys, $182.10.
Craig D. Ritchie, administrator of Joseph Summer, surviving partner of Summer & Brown, $153.44.
Charles Prager, administrator of Mark Prager, jr., surviving member of Prager & Co., $191.64.
William Brooke Waln, administrator of Jesse Waln, $182.09.
Sara Leaming, administratrix of Thomas Murgatroyd, $182.09.
D. Fitzleigh Savage, administrator of John Savage, $141.86.
Francis R. Pemberton, administrator of John Clifford, surviving partner of Thomas and John Clifford, $133.44.
The Pennsylvania Company for Insurance of Lives, etc., administrator of Thomas M. Willing, surviving partner of Willing & Francis, $283.70.
Robert W. Smith, administrator of Robert Smith, surviving partner of Robert Smith & Co., $182.09.
John Lyman Cox and Howard Warts Page, administrators of James Cox, $120.72.
Henry Pettit, administrator of Charles Pettit, $111.17.
George Harrison Fisher, administrator of Jacob Ridgway, $92.07.
George McCall, administrator of William McMurtrie, $92.07.
The city of Philadelphia, administrator of Stephen Girard, $28.65.

On the vessel brig Eleanor, George Price, master, namely:
David Stewart, administrator of Francis Johonnet, $133.60.
James Lawson, administrator of Richard Lawson, $133.60.
J. Savage Williams, administrator of Samuel Williams, $204.31.
Charles J. Bonaparte, administrator of Benjamin Williams, $204.31.

On the vessel brig Eliza, Benjamin English, master, namely:
George P. Marvin, administrator of Ebenezer Peck, $952.82.
George P. Marvin, administrator of Stephen Alling, $476.42.
Elihu L. Mix, administrator of Thomas Atwater, $476.42.
John C. Hollister, administrator of Elias Shipman, $238.21.
John C. Hollister, administrator of Austin Denison, $238.21.

On the vessel brig Fair Columbian, Joseph Myrick, master, namely:
Sarah C. Tilghman, administratrix of Joseph Forman, $5,157.33.
Gustav W. Lurman, administrator of John Donnell, $1,470.
Mary Jane Thurston, administratrix of John Hollins, $980.
Cumberland Dugan, administrator of Cumberland Dugan, $980.
Susan R. Groverman, administratrix of Anthony Groverman, for and on behalf of the firm of D'Werhagen & Groverman, $980.
David Stewart, administrator of Edward Johnson, $980.
David Stewart, administrator of Robert C. Bolslundry, $490.
Charles J. Bonaparte, administrator of Benjamin Williams, $490.
David Stewart and Isabella Rutter, administrators of Thomas Rutter, $980.
Nathaniel Morton, administrator of Nathaniel Morton, for and on behalf of the firm of Redford & Morton, $980.
Katharine S. Montell, administratrix of Robert McKim, $980.
David Stewart, administrator of William Lorman, $980.
Louisa T. Carroll, administratrix of William Van Wyck, $320.

On the vessel sloop Flora, Francis Bourn, master, namely:
George F. Chace, administrator of James Chace, $602.06.

On the vessel schooner Huldah, Robert Strong, master, namely:
Edmond D. Codman, administrator, etc., of William Gray, jr., $2,000.
Brooks Adams, administrator, etc., of Peter C. Brooks, $700.
A. Lawrence Lowell, administrator, etc., of Nathaniel Fellowes, $800.

On the vessel brig Jane, Robert Knox, master, namely:
Crawford D. Hening, administrator of James Crawford, surviving partner of James Crawford & Co., $3,866.

On the vessel brig Jason, Edward Smith, master, namely:
James Emerton, administrator of Benjamin West, $2,374.88.
James Emerton, administrator of Benjamin West, jr., $2,374.89.
Ferdinand C. Latrobe, receiver of Aquila Brown, John Sherlock, and George Grundy, representing all the partners underwriting in the Marine Insurance Office, $5,850.

On the vessel brig John, James Scott, jr., master, namely:
James F. Adams, administrator of Seth Adams, $11,439.12.
James F. Adams, administrator of Seth Adams, assignee of Thomas Dickason, jr., William C. Martin, James Scott, William Boardman, Arnold Welles, Arnold Welles, jr., and John Brazer, $19,275.83, the same not being an assigned claim within the meaning of this act, but an asset transferred by the assignors hereinbefore named to Seth Adams prior to the ratification of the treaty of September 30, 1800.
Brooks Adams, administrator of of Peter C. Brooks, $1,500.

On the vessel ship Liberty, William Caldwell, master, namely:
Crawford Dawes Henning, administrator of James Crawford, $8,990.

On the vessel brig Little John Butler, James Smith, jr., master, namely:
Sarah E. Conover, administratrix of John Reed, surviving partner of Reed & Forde, $8,139.34.
Samuel A. Custer, administrator of Joseph Ball, $588.
Sarah Leaming, administratrix of Thomas Murgatroyd, for and on behalf of the firm of Thomas Murgatroyd & Sons, $980.
Henry Pettit, administrator of Andrew Pettit, surviving partner of Pettit & Bayard, $588.
William D. Squires, administrator of Henry Pratt, surviving partner of Pratt & Kintzing, $588.
Francis Brooke Rawle, administrator of Jesse Waln, $980.
James Crawford Dawes, administrator of Abijah Dawes, $490.
Cyrus T. Smith, administrator of William Jones, surviving partner of Jones & Clarke, $588.
Augustus J. Pleasanton, administrator of Joseph Dugan, surviving parner of Savage & Dugan, $490.
Francis A. Lewis, administrator of Peter Blight, $980.
Richard Delafield, administrator of John Delafield, $980.
Benjamin M. Hartshorne and Charles N. Black, executors of Richard Hartshorne, surviving partner of Rhinelander, Hartshorne & Co., $2,450.
John A. Foley, administrator of John Shaw, $980.
George W. Guthrie, administrator of Alexander Murray, surviving parner of Miller & Murray, $588.
Thomas W. Ludlow, administrator of Thomas Ludlow, $490.
Walter S. Church, administrator of John B. Church, $1,960.
John L. Rutgers, surviving executor of Nicholas G. Rutgers, surviving partner of Benjamin Seaman & Co., $490.
Frances R. Shaw, administratrix of John C. Shaw, for and on behalf of the firm of George Knox & John C. Shaw, $490.
Henry E. Young, administrator of William Craig, surviving partner of Henry Sadler & Co., $490.
Elijah K. Hubard, administrator of Jacob Sebor, $490.
Walter Bowne, administrator of Walter Bowne, $245.
Louisa A. Starkweather, administratrix of Richard S. Hallett, $245.
Julia Battersby, administratrix of John B. Desdoitty, $490.
George F. Scrilla, administrator of George Scrilla, for and on behalf of the firm of George Scrilla & William Henderson, $490.

On the vessel schooner Lovely Lass, William Moore, master, namely:
George H. Barrett, administrator of John Foster, deceased, $4,630.
C. Whittle Sams, administrator of Conway Whittle, deceased, $300.
C. Whittle Sams, administrator of Francis Whittle, deceased, $300.
R. Mangon Smith, administrator of Francis Smith, deceased, $300.
James L. Hubard, administrator of William Pannock, deceased, $300.
Barton Myers, administrator of Moses Myers, deceased, $200.
Bassett A. Marsden, administrator of Benjamin Pollard, deceased, $200.

On the vessel ship Madison, Samuel Hancock, master, namely:
Richard S. Whitney, administrator of John Skinner, jr., $9,274.

On the vessel brig Pamela, Samuel Colby, master, namely:
Harry R. Virgin, administrator of Joshua Cox, $1,483.48.
Henry B. Cleaves, administrator of William Chadwick, $1,883.48.
Bassett A. Marsden, administrator of Benjamin Pollard, $405.42.
Joseph S. Webster, administrator of Thomas Webster, $200.
Sarah H. Southwick, administratrix of Samuel F. Hussey, surviving partner of the firm of Hussey, Tabor & Co., $900.
Harry R. Virgin, administrator of Arthur McLellan, $500.
Harry R. Virgin, administrator of Jonathan Stevens and Thomas Hovey, composing the firm of Stevens & Hovey, $200.
Harry R. Virgin, administrator of David Smith, $300.
Stephen Thacher, administrator of Woodbury Storer, $400.
Harry R. Virgin, administrator of Robert Boyd, $450.
Harry R. Virgin, administrator of Hugh McLellan, surviving partner of the firm of Joseph McLellan & Son, $600.
Edmund D. Codman, administrator of William Gray, $500.

On the vessel brig Polly, Joseph Clements, master, namely:
Harry R. Virgin, administrator of Thomas Cross, $3,640.
Harry R. Virgin, administrator of Greeley Hannaford, $3,347.

On the vessel brig Rebecca, John B. Thurston, master, namely:
Sarah N. Haines and B. F. Haywood Shreve, administrators of William Bowne, $12,880.

On the vessel brig Ruby, Luke Keefe, master, namely:
Arthur P. Cushing, administrator of Marston Watson, $1,596.30.
Frederic Dodge, administrator of Matthew Bridge, $9,240.34.
Thomas H. Perkins, surviving executor of Thomas H. Perkins, for and on behalf of the firm of James & Thomas H. Perkins, $117.25.
George G. King, administrator of James Scott, $1,064.20.
Edward I. Browne, administrator of Isaac Thorndike, $532.10.
William Ropes Trask, administrator of Thomas Amory, $1,704.70.
Charles G. Davis, administrator of Isaac P. Davis, $532.10.
Francis M. Boutwell, administrator of Charles Sigourney, $425.68.
Julia A. Cotting, administratrix of Uriah Cotting, $532.10.
William G. Perry, administrator of Nicholas Gilman, $532.10.
John Lowell, administrator of Tuthill Hubbart, $532.10.
Frank Dabney, administrator of Samuel W. Pomeroy, $2,128.40.
Charles A. Welch, administrator of William Stackpole, $640.50.
Brooks Adams, administrator of Peter C. Brooks, $15,856.60.
Walter Hunnewell, administrator of John Welles, $532.10.
James S. English, administrator of Thomas English, $319.26.
Nathan Matthews, jr., administrator of Daniel Sargent, $638.52.
Francis M. Boutwell, administrator of Elkon Preble, $532.10.
Thomas N. Perkins, administrator of John C. Jones, $1,596.30.
Charles A. Davis, administrator of Samuel Brown, $3,192.60.
Robert Grant, administrator of Will Powell, $1,064.20.
Morton Prince, administrator of James Prince, $532.10.
Gordon Dexter, administrator of Samuel Dexter, $532.10.
George G. King, administrator of Crowell Hatch, $1,064.20.
Chandler Robbins, administrator of Joseph Russell, for and on behalf of the firm of Jeffrey & Russell, $1,064.20.
Daniel W. Waldron, administrator of Jacob Sheafe, $532.10.
Edmund D. Codman, administrator of William Gray, $2,128.40.
Francis M. Boutwell, administrator of Benjamin Cobb, $1,064.20.
Archibald M. Howe, administrator of Francis Green, $1,064.20.

On the vessel brig Sally, John V. Villett, master, namely:
Henry Audley Clark, administrator de bonis non of Peleg Clark, $6,600.

On the vessel brig Sally, Eden Wadsworth, master, namely:
James F. Adams, administrator of Seth Adams, $17,624.46.

On the vessel schooner Union, Micajah Lunt, master, namely:
Nathaniel Moody, administrator of John Moody, $1,868.25.
Frances E. Andrews, administratrix of Stephen Tilton, $1,868.25.
Amos Noyes, administrator of Zebedee Cook, $250.
Amos Noyes administrator of William Cook, $100.
Joseph A. Titcomb, administrator of John Well, $200.
Franklin A. Wilson, administrator of John Pearson, jr., $200.
Edmund D. Codman, administrator of William Gray, jr., $1,000.
Charles C. Demuth, administrator of Joseph Toppan, $200.
On the vessel schooner Whim, John Boyd, master, namely:
Frances Hiskell Ridout, administratrix de bonis non of William Wilson, deceased, $10,443.
On the vessel brig William, David Smith, master, namely:
Fritz H. Jordan, administrator of Leonard Smith, $3,343.66.
Joseph A. Titcomb, administrator of John Wells, $90.
Francis A. Jewett, administrator of James Prince, $300.
William A. Hayes, 2d, administrator of Nathaniel A. Haven, $200.
Franklin A. Wilson, administrator of John Pearson, $45.
Benjamin F. Peach, administrator of Moses Savory, $45.
Jeremiah Nelson, administrator of Jeremiah Nelson, $90.
Charles E. Plummer, administrator of William Cook, $45.
Arthur A. Noyes, administrator of Zebedee Cook, $90.
Jane S. Gerrish, administratrix of Edward Tappan, $45.
Helen A. Pike, administratrix of John Pettingell, $135.
Lawrence H. H. Johnson, administrator of William Bartlet, $1,000.
Eben F. Stone, administrator of Nathan Hoyt, $45.
Augusta H. Chapman, administratrix of Reuben Shapley, $200.
Henry B. Reed, administrator of Andrew Frothingham, $50.
On the vessel brig Abigail, Jeremiah Tibbetts, jr., master, namely:
William H. Sise, administrator of Ebenezer Tibbetts, $3,115.
On the vessel sloop Anna Corbin, Thomas Justice, master, namely:
John J. Wise, administrator of John Cropper, $3,300.75.
Henry G. White, administrator of Thomas Cropper, $375.
On the vessel brig Aurora, James Phillips, jr., master, namely:
Henry E. Young, administrator of William Craig, surviving partner of Henry Sadler & Co., $490.
George F. Scriba, administrator of George Scriba, surviving partner of the firm of George Scriba and William Henderson, $980.
John L. Rutgers, surviving executor of Nicholas G. Rutgers, surviving partner of the firm of Benjamin Seaman & Co., $490.
Union Trust Co. of New York, administrator of William Ogden, $490.
D. Fitzhugh Savage, administrator of John Savage, $590.68.
Charlotte F. Smith, administratrix of William Jones, surviving partner of Jones & Clarke, $738.36.
Francis D. Lewis, administrator of John Miller, jr., $738.36.
Sarah Leaming, administratrix of Thomas Murgatroyd, surviving partner of Thomas Murgatroyd & Sons, $738.36.
Charles Prager, administrator of Mark Prager, jr., surviving partner of Pragers & Co., $738.35.
William D. Squires, administrator of Henry Pratt, surviving partner of Pratt & Kintzing, $738.35.
Francis D. Lewis, administrator Peter Blight, $738.35.
A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan & Price, $738.35.
William Brooks Rawle, administrator of Jesse Wain, $738.35.
Frederick W. Meeker, administrator of Samuel Meeker, $590.68.
Charles D. Vasse, administrator of Ambrose Vasse, $738.35.
Craig D. Ritchie, administrator of Joseph Summerl, surviving partner of Summerl & Brown, $531.62.
On the vessel schooner Benja. Samuel O. Row, master, namely:
Charles E. Adams, administrator of Peter C. Brooks, $700.
George G. King, administrator of Crowell Hatch, $600.
Thomas N. Perkins, administrator of John C. Jones, $500.
John Lowell, jr., administrator of Tuthill Hubbart, $500.
Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey & Russell, $500.
Nathan Matthews, jr., administrator of Daniel Sargeant, $500.
William G. Perry, administrator of Nicholas Gilman, $400.
On the vessel brig Betsey, Daniel Boyer, master, namely:
Samuel Abbott Fowle, administrator of the estate of George Makepeace, deceased, assignee of Samuel Dowse, $1,250.75, the same not being an assigned claim within the meaning of this act, but an asset transferred by Samuel Dowse to George Makepeace on the 17th day of May, 1798, for the sum of $11,400, and prior to the ratification of the treaty of September 30, 1800.
On the vessel schooner Betsie, George Hastie, master, namely:
Frederick W. Meeker, administrator of Samuel Meeker, $440.96.
Charles D. Vasse, administrator of Ambrose Vasse, $735.
A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan & Price, $735.
George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller and Murray, $887.55.
William Mifflin, administrator of Ebenezer Large, $443.78.
Henry Pettit, administrator of Andrew Pettit, surviving partner of Pettit & Bayard, $710.04.
Richard C. McMurtrie, administrator of Daniel W. Coxe, $443.77.
William R. Fisher, administrator of William Read, surviving partner of William Read & Co., $621.29.
On the vessel brig Brothers, George Parsons, master, namely:
Brooks Adams, administrator of Peter C. Brooks, $2,100.
Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey & Russell, $500.
Thomas N. Perkins, administrator of John C. Jones, $1,136.70.
David G. Haskins, administrator of David Greene, $1,048.
On the vessel schooner Centurian, Philip Greely, master, namely:
Stuyvesant T. V. Jackson, administrator of Levi Cutter, $777.14.
Mabel Sargent, administratrix of Jacob Mitchell, surviving partner of Boynton & Mitchell, $777.14.
On the vessel schooner Colly, William Mariner, master, namely:
Brooks Adams, administrator of Peter C. Brooks, $4,516.06.
George G. King, administrator of Crowell Hatch, $752.68.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $1,505.36.
George G. King, administrator of James Scott, $376.34.
William P. Perkins, administrator of Thomas Perkins, $376.34.
Charles A. Welsh, administrator of William Stackpole, $376.34.
Walter Hunnewell, administrator of John Wells, $376.34.
Walter Hunnewell, administrator of Arnold Wells, jr., $376.34.
Frank Dabney, administrator of Samuel W. Pomeroy, $376.33.
David G. Haskins, administrator of David Greene, $752.67.
On the vessel schooner Columbus, Benjamin Mason, master, namely:
Samuel M. Came, administrator of John Low, $1,583.
Brooks Adams, administrator of Peter C. Brooks, $425.
George G. King, administrator of Crowell Hatch, $250.
On the vessel brig Diana, John Walker, master, namely:
Francis M. Boutwell, administrator of Thomas Geyer, $2,285.70.
Edmund D. Codman, administrator of William Gray, $2,000.
Thomas N. Perkins, administrator of John C. Jones, $500.
Frank Dabney, administrator of Samuel W. Pomeroy, $500.
William Ropes Trask, administrator of Thomas Amory, $250.
William G. Perry, administrator of Nicholas Gilman, $250.
On the vessel brig Dove, William McN. Watts, master, namely:
George G. King, administrator of Crowell Hatch, $1,000.
Brooks Adams, administrator of Peter C. Brooks, $3,000.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $1,000.
William R. Trask, administrator of Thomas Amory, $500.
William G. Perry, administrator of Nicholas Gilman, $500.
On the vessel brig Eliza, Christopher O'Conner, master, namely:
Samuel Bell, administrator, etc., of John Godfrey Wachsmuth, $2,793.
On the vessel brig Fanny, John Gould, master, namely:
Mary Wise Moody, administratrix of Daniel Wise, $788.18.
Albert M. Welch, administrator of Thomas Perkins, 3d, $1,845.
Edmund D. Codman, administrator of William Gray, $1,883.33.
On the vessel sloop Farmer, John Grow, master, namely:
Francis M. Boutwell, administrator of William Marshall, jr., $2,418.32.
Francis M. Boutwell, administrator of Benjamin Cobb, $405.
William G. Perry, administrator of Nicholas Gilman, $600.
Nathan Matthews, jr., administrator of Daniel Sargent, $465.
Thomas N. Perkins, administrator of John C. Jones, $465.
Frank Dabney, administrator of Samuel W. Pomeroy, $465.
James C. Davis, administrator of Cornelius Durant, $465.
Arthur D. Hill, administrator of Benjamin Homer, $465.
William R. Trask, administrator of Thomas Amory, $651.
George G. King, administrator of James Scott, $465.
Charles K. Cobb, administrator of Stephen Codman, $465.
On the vessel schooner Fortune, William Hubbard, master, namely:
Mary W. Moody, administratrix of Daniel Wise, $108.
Edmund D. Codman, administrator of William Gray, $600.
On the vessel sloop Fox, Nathaniel Dennis, master, namely:
Edmund D. Codman, administrator of William Gray, jr., $600.
Brooks Adams, administrator of Peter C. Brooks, $1,000.
George G. King, administrator of Crowell Hatch, $400.
On the vessel schooner Friendship, William Blanchard, master, namely:
Charles F. Adams, administrator of Peter C. Brooks, $2,100.
Daniel W. Waldron, administrator of Jacob Sheafe, $500.
Thomas N. Perkins, administrator of John C. Jones, $700.
Arthur D. Hill, administrator of Benjamin Homer, $500.
James C. Davis, administrator of Cornelius Durant, $500.
Frank Dabney, administrator of Samuel W. Pomeroy, $800.
George G. King, administrator of James Scott, $500.
William G. Perry, administrator of Nicholas Gilman, $500.
On the vessel brig George, Jacob Greenleaf, master, namely:
Helen N. Pike, administratrix of John Pettingel, $5,153.03.
Joseph W. Thompson, administrator of David Coffin, $100.
Joseph L. Wheelwright, administrator of Moses Savory, $200.
James S. Gerrish, administrator of Edward Toppan, $300.
George Otis, administrator of Joseph Marquand, $100.
Amos Noyes, administrator of Zebedee Cook, $200.
Amos Noyes, administrator of William Cook, $100.
Eben F. Stone, administrator of Nathan Hoyt, $100.
Henry B. Reed, administrator of Andrew Frothingham, $100.
Luther R. Moore, administrator of William Beardman, $100.
Charles C. Donnelly, administrator of Joseph Toppan, $100.
Francis A. Jewett, administrator of James Prince, $500.
Fritz H. Jordan, administrator of Leonard Smith, $500.
Franklin A. Wilson, administrator of John Pearson, jr., $300.
Jeremiah Nelson, administrator of Jeremiah Nelson, $200.
Henry P. Toppan, administrator of Joshua Toppan, $100.
Brooks Adams, administrator of Peter C. Brooks, $2,000.
William Ropes Trask, administrator of Thomas Amory, $1,000.
Thomas N. Perkins, administrator of John C. Jones, $1,000.
On the vessel schooner Greyhound, Sylvanus Snow, master, namely:
George G. King, administrator of Crowell Hatch, $700.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $750.
On the vessel schooner Hannah, James H. Voux, master, namely:
Charles U. Cotting, administrator of David W. Child, $399.27.
Francis M. Boutwell, administrator of William Marshall, jr., $399.28.
Brooks Adams, administrator of Peter C. Brooks, $2,000.
Morton Prince, administrator of James Prince, $500.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $1,000.
Chandler Robbins, administrator of Joseph Russell, for and on behalf of the firm of Jeffrey & Russell, $1,000.
Thomas N. Perkins, administrator of John C. Jones, $1,000.
George G. King, administrator of Crowell Hatch, $1,000.
Nathan Matthews, jr., administrator of Daniel Sargent, $416.67.
Edward I. Browne, administrator of Israel Thorndike, $582.33.
Henry Parkman, administrator of John Lovett, $250.
On the vessel schooner Hazard, Barnabus Young, master, namely:
Joshua D. Upton, administrator of Eben Parsons, $7,218.50.
On the vessel schooner Hero, Convers Lilly, master, namely:
Walter L. Hall, administrator of Samuel Davis, $2,858.50.
Ann W. Davis, administratrix of Jonathan Davis, $2,858.50.
William G. Perry, administrator of Nicholas Gilman, $250.
Daniel W. Waldron, administrator of Jacob Sheafe, $125.
Elisha Whitney, administrator of Thomas Stevens, for and on behalf of the firm of John & Thomas Stevens, $150.
Thomas H. Perkins, administrator of John C. Jones, $150.
William Ropes Trask, administrator of Thomas Amory, $250.
George G. King, administrator of James Scott, $125.
Nathan Matthews, administrator of Daniel Sargent, $125.
Henry B. Cabot, administrator of Daniel D. Rogers, $125.
James C. Davis, administrator of Cornelius Durant, $250.
Edward I. Browne, administrator of Israel Thorndike, $125.
A. Lawrence Lowell, administrator of Tuthill Hubbart, $150.
On the vessel schooner Hiram, Ebenezer Barker, master, namely:
Moses Sherwood, administrator for the estate of David Coley, jr., $2,000.
On the vessel schooner Honor, William Kimball, master, namely:
Charles F. Adams, administrator of Peter C. Brooks, $2,000.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $475.
George G. King, administrator of James Tisdale, $380.
Francis M. Boutwell, administrator of Joseph Coffin, $380.
George G. King, administrator of Crowell Hatch, $475.
On the vessel brig Hope, Joseph Bricht, master, namely:
E. Francis Riggs, administrator of James Lawrason, deceased, surviving partner of Shreve & Lawrason, $749.50.
Lawrence Stabler, administrator of William Hartshorne, deceased, remaining partner of William Hartshorne & Sons, $3,345.

D. Fitzhugh Savage, administrator of John Savage, $490.
Francis A. Lewis, administrator of Peter Blight, $490.
Charles McCafferty, administrator of Samuel Blodgett, $490.
Sarah Leaming, administratrix of Thomas Murgatroyd, $490.
J. Bayard Henry, administrator of John Leamy, $490.
Francis E. Pemberton, administrator of John Clifford, surviving partner of Thomas and John Clifford, $490.
Samuel Bell, administrator of John G. Wachsmuth, $490.
Crawford D. Hening, administrator of James Crawford, surviving partner of James Crawford & Co., $490.
Crawford D. Hening, administrator of Abijah Dawes, $392.
Henry Pettit, administrator of Charles Pettit, $833.
On the vessel ship Hope, Sylvester Bill, master, namely:
Brooks Adams, administrator of Peter C. Brooks, $7,000.
Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey & Russell, $1,000.
Thomas N. Perkins, administrator of John C. Jones, $1,000.
George G. King, administrator of Crowell Hatch, $1,000.
On the vessel schooner Isabella, Lewis Lombard, master, namely:
Charles L. De Normandie, administrator of Benjamin Smith, $1,760.25.
Nathan Matthews, administrator of Daniel Sargent, $338.06.
Thomas N. Perkins, administrator of John C. Jones, $100.
George G. King, administrator of James Scott, $600.
William G. Perry, administrator of Nicholas Gilman, $600.
Jonathan I. Bowditch, administrator of Benjamin Pickman, $500.
Edward I. Browne, administrator of Israel Thorndike, $500.
Augustus P. Loring, administrator of William H. Boardman, $400.
David G. Haskins, administrator of David Greene, $500.
Charles K. Cobb, administrator of Stephen Codman, $400.
A. Lawrence Lowell, administrator of Tuthill Hubbart, $500.
On the vessel sloop James, Robert Palmer, master, namely:
George Meade, administrator of the estate of Anthony Butler, $4,533
On the vessel schooner Jenny, George Walker, master, namely:
Brooks Adams, administrator of Peter C. Brooks, $500.
George G. King, administrator of Crowell Hatch, $500.
Alice S. Wheeler, administratrix of Abiel Winship, $3,670.06.
On the vessel sloop Julia, William Green, master, namely:
Silas R. Holmes, administrator of Ebenezer Holmes, $851.50.
Wilbur S. Comstock, administrator of Phineas Parmalee, $851.50.
Stephen L. Selden, administrator of Richard E. Selden, $851.50.
Franklin Little, executor of Noah Bulkley, $851.50.
On the vessel schooner Juno, William Burgess, master, namely:
Cazenove G. Lee, administrator of James Patton, surviving partner of the firm of Patton & Dykes, $7,066.66.
John W. Apthorp, administrator of William Foster, $1,000.
William I. Monroe, administrator of John Brazer, $1,000.
William S. Carter, administrator of William Smith, $800.
H. Burr Crandall, administrator of Thomas Dickason, jr., $500.
Nathan Matthews, administrator of Daniel Sargent, $500.
Augustus P. Loring, administrator of William Boardman, $1,000.
Lawrence Bond, administrator of Nathan Bond, $500.
David Greene Haskins, administrator of David Greene, $500.
William G. Perry, administrator of Nicholas Gilman, $500.
William A. Hayes, 2d, administrator of Eliphalet Ladd, $500.
Montgomery Fletcher, administrator of John Walter Fletcher, for and on behalf of the firm of Fletcher & Otway, $333.33.
On the vessel schooner Kitty, Jacob Singleton, master, namely:
Ormes R. Keith, surviving executor of Samuel Keith, surviving partner of the firm of William and Samuel Keith, $1,461.76.
On the vessel schooner Liberty, Asa Williams, master, namely:
Brooks Adams, administrator of the estate of Peter Chardon Brooks, deceased, $2,500.
George G. King, administrator of the estate of Crowell Hatch, deceased, $500.
David Greene Haskins, administrator of the estate of David Greene, deceased, $1,960.
On the vessel schooner Little Fanny, Peter Fosdick, master, namely:
Samuel J. Randall, administrator of Matthew Randall, $2,260.
Charles D. Vasse, administrator of Ambrose Vasse, $490.
Charles Prager, administrator of Mark Prager, jr., for and on behalf of Pragers & Co., $980.
Francis A. Lewis, administrator of Peter Blight, $980.
On the vessel brig Lucy, Christopher Grant, master, namely:
Daniel W. Salisbury, surviving executor of Samuel Salisbury, $2,089.83.
Louis Higginson, administrator of Stephen Higginson, $2,089.83.
Charles F. Adams, administrator of Peter C. Brooks, $4,500.
Robert Codman, administrator of William Gray, $1,000.
George G. King, administrator of Crowell Hatch, $1,000.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $1,000.
On the vessel brig Mary, Robert Holmes, master, namely:
Edmund D. Codman, administrator of the estate of William Gray, deceased, $3,960.
William I. Monroe, administrator of the estate of John Brazer, deceased, $115.
On the vessel schooner Neptune, Comfort Bird, master, namely:
Brooks Adams, administrator of Peter C. Brooks, $2,129.08.
George G. King, administrator of Crowell Hatch, $851.63.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $425.82.
Thomas N. Perkins, administrator of John C. Jones, $600.
Frank Dabney, administrator of Samuel W. Pomeroy, $600.
William S. Carter, administrator of William Smith, $532.
John Lowell, administrator of Tuthill Hubbart, $532.
Francis M. Boutwell, administrator of John McLean, $266.
Samuel Abbott Fowle, administrator of George Makepeace, $489.86.
On the vessel brig Peggy, John Hourston, master, namely:
Charles F. Mayer, administrator of Henry Konig, $3,797.87.
Charles F. Mayer, surviving executor of Frederick Konig, $3,797.87.
On the vessel schooner Rebecca, Mildmay Smith, master, namely:
Lewis Christian Mayer, administrator of Christian Mayer, $8,779.77.
Leigh Bonsal, administrator of Adrian Valck, $8,779.77.
On the vessel schooner Sally, Timothy Davis, master, namely:
Charles F. Trask, administrator of Samuel Babson, $2,600.
On the vessel ship Sarah, Joseph Breck, master, namely:
Brooks Adams, administrator of Peter C. Brooks, $1,174.60.
Thomas N. Perkins, administrator of John C. Jones, $250.80.
Francis M. Boutwell, administrator of Benjamin Cobb, $167.80.
James S. English, administrator of Thomas English, $83.90.
Arthur P. Cushing, administrator of Marston Watson, $167.80.
Walter Hunnewell, administrator of John Welles, $83.90.
Morton Prince, administrator of James Prince, $83.90.
Gordon Dexter, administrator of Samuel Dexter, $83.90.
Nathan Matthews, jr., administrator of Daniel Sargent, $116.20.
Daniel W. Waldron, administrator of Jacob Sheafe, $83.
Charles K. Cobb, administrator of Stephen Codman, $83.
George G. King, administrator of James Scott, $83.
Edward I. Browne, administrator of Israel Thorndike, $83.
Arthur D. Hill, administrator of Benjamin Homer, $83.
Henry W. Edes, administrator of John May, $83.
John O. Shaw, administrator of Josiah Knapp, $85.
William Ropes Trask, administrator of Thomas Amory, $166.
H. Burr Crandall, administrator of Thomas Cushing, $66.40.
Jonathan I. Bowditch, administrator of Benjamin Pickman, $83
Arthur T. Lyman, administrator of Theodore Lyman, $83.
Charles K. Cobb, administrator of John Codman, $166.
William G. Perry, administrator of Nicholas Gilman, $166.
Elisha Whitney, administrator of Thomas Stephens, for and on behalf of the firm of John and Thomas Stephens, $99.60.
John Lowell, administrator of Tuthill Hubbart, $83.
Frank Dabney, administrator of Samuel W. Pomeroy, $166.
W. Rodman Peabody, administrator of Daniel D. Rogers, $132.80.
On the vessel sloop Scrub, John Russell, master, namely:
Newton Dexter, administrator of the estate of Joseph Martin, deceased, $300.
On the vessel schooner Swan, Samuel Shaw, master, namely:
George G. King, administrator of Crowell Hatch, $500.
Morton Prince, administrator of James Prince, $300.
William P. Dexter, administrator of Samuel Dexter, $300.
Thomas N. Perkins, administrator of John C. Jones, $400.
On the vessel schooner Sylvan, Edward D. Baker, master, namely:
Nathan Matthews, jr., administrator of Daniel Sargeant, $800.
Thomas N. Perkins, administrator of John C. Jones, $1,700.
Charles K. Cobb, administrator of Stephen Codman, $700.
William G. Perry, administrator of Nicholas Gilman, $700.
Edward I. Browne, administrator of Israel Thorndike, $600.
Henry Parkman, administrator of John Lovett, $300.
John Lowell, jr., administrator of Tuthill Hubbart, $800.
Arthur D. Hill, administrator of Benjamin Homer, $500.
James C. Davis, administrator of Cornelius Durant, $1,400.
Chandler Robbins, administrator of Joseph Russell, $800.
George G. King, administrator of Crowell Hatch, $500.
On the vessel schooner Syren, Jared Arnold, master, namely:
Charles J. Bonaparte, administrator of Benjamin Williams, $3,064.58.
David Stewart, administrator of William Wood, jr., $3,064.58.
David Stewart, administrator of Henry Payson, $3,064.58.
Henry W. Ellicott, administrator of William Ellicott, $532.60.
James Lawson, administrator of Richard Lawson, $532.60.
Richard Dalafield, administrator of John Dalafield, surviving partner of Church & Dalafield, $1,716.80.
On the vessel sloop Townsend, Daniel Campbell, master, namely:
William O. McCobb, administrator of the estate of William McCobb, $2,111.11.
William O. McCobb, administrator of the estate of Joseph Campbell, $1,111.11.
Jennie E. McFarland, administratrix of the estate of Ephraim McFarland, $483.96.
Francis M. Boutwell, administrator of the estate of Benjamin Cobb, jr., $500.
Archibald M. Howe, administrator of the estate of Francis Green, $500.
William Ropes Trask, administrator of the estate of Thomas Amory, $500.
Thomas N. Perkins, administrator of the estate of John C. Jones, $500.
On the vessel schooner Two Cousins, Elijah Devall, master, namely:
Horace E. Hayden, administrator of David H. Conyngham, surviving partner of Conyngham, Nesbit & Co., $8,012.13.
On the vessel schooner Unity, J. W. Latouche, master, namely:
David Stewart, administrator of Henry Messonnier, $4,467.08.
On the vessel schooner Venus, Benjamin Hooper, master, namely:
Brooks Adams, administrator of Peter C. Brooks, $2,000.
James S. English, administrator of Thomas English, $500.
George G. King, administrator of Crowell Hatch, $1,000.
Daniel W. Waldron, administrator of Jacob Sheafe, $500.
Francis M. Boutwell, administrator of Benjamin Cobb, $1,000.
Francis M. Boutwell, administrator of John McLean, $1,000.
W. Rodman Peabody, administrator of Daniel D. Rogers, $500.
Frank Dabney, administrator of Samuel W. Pomeroy, $1,000.
William G. Perry, administrator of Nicholas Gilman, $1,000.
Elisha Whitney, administrator of Thomas Stevens, for and on behalf of the firm of John & Thomas Stevens, $600.
William R. Trask, administrator of Thomas Amory, $500.
Edward I. Browne, administrator of Moses Brown, $500.
Charles K. Cobb, administrator of Stephen Codman, $400.
Thomas N. Perkins, administrator of John C. Jones, $1,900.
A. Lawrence Lowell, administrator of Tuthill Hubbart, $400.
George G. King, administrator of James Scott, $600.
On the vessel schooner William Lovel, John K. Hill, master, namely:
William D. Lee, Thomas D. Lee, Henry A. Lee, Joseph A. Lee, and Virginia Waters, administrators of William Duncan, $628.71.
On the vessel schooner Betsey, Francis Bulkeley, master, namely:
Francis B. Field, administrator of Francis Bulkeley, $6,843.70.
Robert Ogden Glover, administrator of John Morgan, $2,208.11.
Benjamin M. Hartshorne and Charles N. Black, executors of Richard Hartshorne, surviving partner of Rhinelander, Hartshorne & Co., $490.
Thomas W. Ludlow, administrator of Thomas Ludlow, $490.
Gordon Norrie, administrator of Gerret Van Horne, surviving partner of Van Horne & Clarkson, $490.
Harriet E. Sebor, administratrix of Jacob Sebor, $490.
On the vessel schooner Sally, John D. Farley, master, namely:
Frederick H. Allen, administrator of Charles Goodrich, $405.67.
On the vessel brig Drake, Jonathan M. Fredick, master, namely:
Charles E. Batchelder, administrator of William Tredick, $7,073.02.
George W. Haven, administrator of Moses Woodward, $182.86.
Francis E. Langdon, administrator of Clement Storer, $274.28.
J. Hamilton Shapley, administrator of Edward Cutts, $228.57.
James W. Emery, administrator of Thomas Manning, $274.28.
Mary Pickering Harris, administratrix of Jonathan Goddard, $182.86.
Josephine Richter, administratrix of John McClintock, $91.43.
Charles H. Batchelder, administrator of Daniel Huntress, $137.14.
Frederick P. Jones, administrator of Martin Parry, $274.28.
Charles H. Batchelder, administrator of Abel Harris, $45.72
Alfred L. Elwyn, administrator of John Langdon, $274.28.
William Hall Williams, administrator of Elijah Hall, $274.28.
On the vessel brig Two Brothers, Alexander Forrester, master, namely:
Brooks Adams, administrator of Peter C. Brooks, $2,768.49.

Nathaniel P. Hamlin, administrator of Thomas Perkins, $369.14.
Walter Hunnewell, administrator of John Welles, $369.14.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $1,107.40.
George G. King, administrator of Crowell Hatch, $922.83.
William G. Perry, administrator of Nicholas Gilman, $214.
Frank Delaney, administrator of Samuel W. Pomeroy, $214.
On the vessel schooner Willing Maid, Comfort Bird, master, namely:
George G. King, administrator of Crowell Hatch, $806.82.
Thomas N. Perkins, administrator of John C. Jones, $403.41.
Frank Delaney, administrator of Samuel W. Pomeroy, $403.41.
William S. Carter, administrator of William Smith, $806.82.
Henry B. Cabot, administrator of Daniel D. Rogers, $403.41.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $1,706.82.
John Lowell, administrator of Tuthill Hubbart, $403.41.
Charles A. Welch, administrator of William Stackpole, $403.41.
Charles K. Cobb, administrator of Stephen Codman, $242.05.
On the vessel schooner Friendship, Patrick Drummond, master, namely:
William D. Hill, administrator of Mark L. Hill, $416.70.
Francis Adams, administrator of Josiah Batchelder, $416.70.
Charles K. Cobb, administrator of John Codman, $416.70.
James W. Crawford, administrator of Samuel Marcen, $296.70.
Francis Adams, administrator of John Marcen, $296.70.
Francis M. Boutwell, administrator of John McLean, $900.
On the vessel sloop George, John Grant, master, namely:
Joseph Titcomb, administrator of Michael Wise, surviving partner of Wise & Grant, $7,251.77.
John C. Soley, administrator of John Soley, $500.
Augustus P. Loring, administrator of William Boardman, $500.
Francis M. Boutwell, administrator of Joseph Cordis, $500.
Francis M. Boutwell, administrator of William Shattuck, $500.
On the vessel ship Minerva, Solomon Hopkins, master, namely:
George S. Boutwell, administrator of Thomas Cutts, $986.05.
George S. Boutwell, administrator of Thomas Cutts, jr., $986.05.
On the vessel schooner Nancy, Henry H. Kennedy, master, namely:
Charles D. Vasse, administrator of Ambrose Vasse, $1,295.92.
William McMin, administrator of Ebenezer Large, $490.
A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan & Price, $490.
Crawford D. Henning, administrator of Abijah Dawes, $490.
George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller & Murray, $686.
J. Bayard Henry, administrator of John Leamy, $784.
Henry Pettit, administrator of Andrew Pettit, surviving partner of Pettit & Bayard, $588.
William E. Fisher, administrator of William Read, surviving partner of William Read & Co., $490.
Mary Jackson, administratrix of Robert Smith, surviving partner of Robert Smith & Co., $490.
Craig D. Ritchie, administrator of Joseph Summerl, surviving partner of Summerl & Brown, $490.
Janet G. Elbert, administratrix of Paul Beck, jr., $392.
Mary Vanuxem, administratrix of James Vanuxem, surviving partner of Vanuxem & Clark, $490.
John Caldwalader, jr., administrator of Thomas W. Francis, $490.
J. Bayard Henry, administrator of Charles Ross, $392.
J. Bayard Henry, administrator of John Simson, $392.
Frederick W. Meeker, administrator of Samuel Meeker, $490.
The City of Philadelphia, administrator of Stephen Girard, $490.
Robert Wells, administrator of Gideon H. Wells, $980.
The Pennsylvania Co. for Insurance on Lives, etc., administrator of Thomas M. Willing, surviving partner of Willings & Francis, $980.
William Brooke Rawle, administrator of Jesse Waln, $980.
Samuel Bell, administrator of John G. Wachsmuth, $490.
James S. Cox, administrator of James S. Cox, $392.
George H. Fisher, administrator of Joshua Fisher, $490.
George McCall, administrator of William McMurtrie, $490.
On the vessel brig Anna, Benjamin Chase, master, namely:
Mary B. Carter, administratrix of Thomas Carter, $900.
On the vessel schooner Betsey Holland, Samuel Cassan, master, namely:
J. Bayard Henry, administrator of Charles Ross and John Simson, composing the firm of Ross & Simson, $121.62.
George W. Guthrie, administrator of Alexander Murray, for and on behalf of the firm of Miller & Murray, $121.62.
Samuel Bell, administrator of John G. Wachsmuth, $121.62.
Francis R. Pemberton, administrator of John Clifford, for and on behalf of the firm of Thomas & John Clifford, $121.62.
G. Albert Smyth, administrator of Jacob Baker, for and on behalf of the firm of Baker & Comegys, $121.62.
The Pennsylvania Co. for Insurance on Lives, etc., administrator of Thomas M. Willing, for and on behalf of the firm of Willings & Francis, $243.24.
George Willing, administrator of George Willing, $121.62.
Thomas F. Bayard, administrator of Thomas W. Francis, $121.62.
Lewis Bledget, administrator of Samuel Bledget, $194.60.
On the vessel sloop Hiram, Sylvester Baldwin, master, namely:
Sarah R. Shaw, administratrix of Pelatiah Fitch, $2,925.
On the vessel sloop New York and Philadelphia Packet, Caspar Faulk, master, namely:
George A. Faulk, administrator of Caspar Faulk, $417.
Richard C. McMurtrie, administrator of Daniel W. Coxe, $588.
Charles Willing, administrator of Thomas M. Willing, surviving partner of Willings & Francis, $392.
William Brooke Rawle, administrator of Jesse Waln, $784.
J. Bayard Henry, administrator of John Leamy, $490.
John Caldwalader, jr., administrator of Thomas W. Francis, $294.
On the vessel schooner Hannah, Gerald Byrne, master, namely:
Charles D. Vasse, administrator of Ambrose Vasse, $784.
Charles Prager, administrator of Mark Prager, jr., surviving partner of the firm of Prager & Co., $490.
George Harrison Fisher, administrator of Jacob Ridgway, surviving partner of the firm of Smith & Ridgway, $474.32.
William D. Squires, administrator of Henry Pratt, surviving partner of the firm of Pratt & Kintzing, $490.
J. Bayard Henry, administrator of George Rundle, $392.
J. Bayard Henry, administrator of Thomas Leech, $392.
Robert W. Smith, administrator of Robert Smith, surviving partner of the firm of Robert Smith & Co., $784.
On the vessel brig Lively, Michael Alcorn, master, namely:
George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller & Murray, $114.29.
Charles Prager, administrator of Mark Prager, jr., surviving partner of Pragers & Co., $285.71.

A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan & Price, $171.43.
Charles D. Vasse, administrator of Ambrose Vasse, $285.71.
Francis A. Lewis, administrator of Peter Blight, $285.72.
William D. Squires, administrator of Henry Pratt, surviving partner of Pratt & Kintzing, $285.72.
Atwood Smith, administrator of Daniel Smith, surviving partner of Gurney & Smith, $285.71.
William Brooke Rawle, administrator of Jesse Waln, $285.72.
Francis A. Lewis, administrator of John Miller, jr., $285.71.
J. Bayard Henry, administrator of Charles Ross, $142.85.
J. Bayard Henry, administrator of John Simson, $142.86.
Charlotte F. Smith, administratrix of William Jones, surviving partner of Jones & Clarke, $285.71.
Sara Leaming, administratrix of Thomas Murgatroyd, surviving partner of Thomas Murgatroyd & Sons, $285.71.
Frederick W. Meeker, administrator of Samuel Meeker, $285.72.
On the vessel brig Kitty, William Waters, master, namely:
The city of Philadelphia, administrator of Stephen Girard, $11,528.
On the vessel brig William, James Gilmore, master, namely:
David Greene Hacklus, jr., administrator de bonis non of David Greene, deceased, $4,533.
On the vessel schooner Yeatman, Roger Crane, master, namely:
J. Bayard Henry, administrator of Charles Ross, $750.
J. Bayard Henry, administrator of John Simson, $750.
On the vessel brig Sally, James Wallace, master, namely:
The Fidelity Trust Co., administrator of John Gardiner, jr., $7,798.
On the vessel schooner Apollo, Richard H. Richards, master, namely:
Francis R. Pemberton, administrator of John Clifford, surviving member of Thomas & John Clifford, $490.
Crawford D. Hening, administrator of Abijah Dawes, $490.
Charles Prager, administrator of Mark Prager, jr., surviving partner of Pragers & Co., $490.
John Lyman Cox and Howard W. Page, administrators of James S. Cox, $490.
Francis A. Lewis, administrator of John Miller, jr., $490.
Charles D. Vasse, administrator of Ambrose Vasse, $784.
William D. Squires, administrator of Henry Pratt, surviving partner of Pratt & Kintzing, $784.
The Pennsylvania Co. for Insurance on Lives and Granting Annuities, administrator of Thomas M. Willings, surviving partner of Willings & Francis, $882.
On the vessel schooner Alclope, Robert Rice, master, namely:
John A. Dougherty and Catherine McCourt, administrators of Louis Crousillat, $1,962.67.
On the vessel ship Goddess of Plenty, Thomas Chirnside, master, namely:
John A. Dougherty and Catharine McCourt, administrators of Louis Crousillat, $2,059.27.
On the vessel schooner Kitty and Maria, John Logan, master, namely:
Charles P. Keith and Thomas Stokes, administrators of Jacob G. Koch, $640.
On the vessel schooner Nantasket, Asa Higgins, master, namely:
Sally L. S. Wright, administratrix of David Spear, otherwise called Davis S. Spear, jr., $299.20.
Charles F. Adams, administrator of Peter C. Brooks, $1,173.90.
Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey & Russell, $195.65.
Thomas N. Perkins, administrator of John C. Jones, $195.65.
On the vessel brig Hope, John Gould, master, namely:
Mary W. Moody, administratrix of Isaiah White, $2,683.50.
On the vessel ship Sally, Seth Webber, master, namely:
Arthur P. Teele, administrator of Thomas Page, $1,078.
William L. Candler, administrator of Seth Webber, $1,678.
On the vessel schooner Paragon, Nathaniel Wattles, master, namely:
Montgomery Fletcher, administrator of John Walter Fletcher, for and on behalf of the firm of Fletcher & Otway, $1,940.34.
On the vessel schooner Phoenix, John D. Farley, master, namely:
Lemuel Coffin, administrator of Daniel Farley, $1,879.47.
Abby C. Farley, administratrix of John D. Farley, $2,232.67.
James M. Stewart, administrator of Samuel Swett, $1,879.48.
Thomas N. Perkins, administrator of John C. Jones, $503.19.
David Greene Hacklus, administrator of David Greene, $1,006.39.
Edward I. Browne, administrator of Moses Brown, $503.19.
John Lowell, administrator of Tuthill Hubbart, $503.19.
Arthur T. Lyman, administrator of Theodore Lyman, $1,006.39.
William Ropes Trask, administrator of Thomas Amory, $754.79.
William G. Perry, administrator of Nicholas Gilman, $754.79.
William Smith Carter, administrator of William Smith, $865.11.
Charles A. Welch, administrator of William Stackpole, $402.56.
Edward I. Browne, administrator of Israel Thorndike, $301.92.
Lawrence Bond, administrator of Nathan Bond, $503.19.
George G. King, administrator of James Scott, $503.19.
On the vessel schooner Harmony, Enoch Lee, master, namely:
Hester E. Raymond, administratrix of Enoch Lee, $865.
Benjamin M. Hartshorne and Charles N. Black, executors of Richard Hartshorne, surviving partner of Rhinelander, Hartshorne & Co., $2,450.
On the vessel schooner Mermaid, Church C. Tremont, master, namely:
Thomas N. Perkins, administrator of John C. Jones, $164.03.
Arthur L. Huntington, administrator of James Dunlap, $82.01.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $164.03.
Henry B. Cabot, administrator of Daniel D. Rogers, $164.03.
George G. King, administrator of James Scott, $82.02.
On the vessel brig Sophia, Ambrose Shirley, master, namely:
James L. Hubard, administrator of William Pennock, $473.11.
Bassett A. Marsden, administrator of Benjamin Pollard, $294.
John Neely, administrator of John Cowper, surviving partner of John Cowper & Co., $490.
R. Manson Smith, administrator of Francis Smith, $196.
On the vessel brig Franklin, Joshua Walker, master, namely:
Brooks Adams, administrator of Peter C. Brooks, $320.
Thomas N. Perkins, administrator of John C. Jones, $80.
Chandler Robbins, administrator of Joseph Russell, for and on behalf of the firm of Jeffrey & Russell, $80.
Morton Prince, administrator of James Prince, $80.
Gordon Dexter, administrator of Samuel Dexter, $80.
George G. King, administrator of Crowell Hatch, $160.
On the vessel brig Peyton Randolph, Benjamin Cozzens and William Cozzens, masters, namely:
Bayard Tuckerman, administrator of Walter Channing, surviving partner of Gibbs & Channing, $2,194.

Frederic A. de Peyster and Edward de P. Livingston, administrators of Frederic de Peyster, surviving partner of the firm of Frederic de Peyster & Co., $500.
Kortright Cruger, administrator of Benjamin Seaman, for and on behalf of the firm of Benjamin Seaman & Co., $500.
Henry E. Young, administrator of William Craig, surviving partner of Henry Sadler & Co., $500.
On the vessel brig William and Mary, Moses Springer, master, namely:
Jason Collins, administrator of Moses Springer, $2,430.
Jason Collins, administrator of William Springer, $2,430.
Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey & Russell, $697.50.
William S. Carter, administrator of William Smith, $218.75.
H. Barr Crandall, administrator of Samuel Prince, $269.25.
Morton Prince, administrator of James Prince, $270.
John Lowell, administrator of Tuthill Hubbart, $697.50.
John Merton Cilnch, administrator of Perez Morton, $269.25.
Nathan Matthews, jr., administrator of Daniel Sargent, $500.
Francis M. Boutwell, administrator of Benjamin Cobb, $348.75.
Arthur D. Hill, administrator of Benjamin Homer, $348.75.
Thomas N. Perkins, administrator of John C. Jones, $697.50.
William Ropes Trask, administrator of Thomas Amory, $697.50.
James C. Davis, administrator of Cornelius Durant, $697.50.
William G. Perry, administrator of Nicholas Gilman, $500.
Augustus P. Loring, administrator of William H. Boardman, $500.
John O. Shaw, administrator of Josiah Knapp, $500.
Edward I. Browne, administrator of Israel Thorndike, $500.
Frank Delaney, administrator of Samuel W. Pomeroy, $1,000.
Archibald M. Howe, administrator of Francis Green, $348.75.
Francis M. Boutwell, administrator of John McLean, $558.
George G. King, administrator of James Scott, $500.
On the vessel snow Nancy, William Emmons, master, namely:
Montgomery Fletcher, administrator of John Walter Fletcher, for and on behalf of the firm of Fletcher & Otway, $478.94.
John Newport Green, administrator of Frances Whittle, $735.
John Newport Green, administrator of Conway Whittle, $980.
James Young, administrator of James Young, $196.
R. Manson Smith, administrator of Francis Smith, $294.
A. P. Warrington, administrator of John Cowper, surviving partner of John Cowper & Co., $490.
Barton Myers, administrator of Moses Myers, $490.
J. L. Hubard, administrator of William Pennock, $490.
On the vessel ship Six Sisters, Daniel Baker, master, namely:
Brooks Adams, administrator of Peter C. Brooks, $278.10.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $159.05.
George G. King, administrator of Crowell Hatch, $159.05.
William Ropes Trask, administrator of Thomas Amory, $296.10.
William G. Perry, administrator of Nicholas Gilman, $98.60.
On the vessel schooner Alfred, Eldridge Drinkwater, master, namely:
Brooks Adams, administrator of Peter C. Brooks, $2,426.75.
Thomas N. Perkins, administrator of John C. Jones, $1,163.84.
Augustus P. Loring, administrator of William H. Bordman, $387.72.
Nathan Matthews, jr., administrator of Daniel Sargent, $407.69.
William G. Perry, administrator of Nicholas Gilman, $407.69.
Elisha Whitney, administrator of Thomas Stevens, surviving partner of the firm of John & Thomas Stevens, $291.21.
On the vessel schooner Rhoda, Uriah Green, master, namely:
Thomas N. Perkins, administrator of John C. Jones, $800.
William R. Trask, administrator of Thomas Amory, $1,000.
Nathan Matthews, administrator, of Daniel Sargent, $500.
Daniel W. Waldron, administrator of Jacob Sheafe, $500.
Francis M. Boutwell, administrator of John McLean, $500.
George G. King, administrator of James Scott, $500.
William G. Perry, administrator of Nicholas Gilman, $700.

Provided, however, That no French spoliation claim appropriated for in this act shall be paid if held by assignment. But this limitation shall not apply to any claim of a class heretofore paid under the act approved March 3, 1891, entitled "An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1891, and for prior years, and for other purposes," and paid under the act approved May 27, 1902, entitled "An act for the allowance of certain claims for stores and supplies reported by the Court of Claims under the provisions of the act approved March 3, 1885, and commonly known as the Bowman Act, and for other purposes."

Mr. LODGE. Mr. President, as the amendment to the amendment, proposed by the Senator from South Dakota [Mr. CRAWFORD], has gone over and is to be printed, I ask that the amendment which has been read may go over until to-morrow. I understand there are one or two other amendments to be offered, and there will be opportunity to offer them now.

The PRESIDING OFFICER (Mr. KENYON in the chair). The amendment will go over.

Mr. O'GORMAN. Mr. President, I gave notice some days since that I would seek to amend the bill under consideration by inserting, under the heading "New York," the following:

To Dean Sage, executor of the estate of Charles Backman, deceased, the sum of $5,335.71.

The facts upon which this claim is based are substantially these: Some time previous to the 30th of March, 1869, the decedent, one Backman, was the owner of 1,904 barrels of distilled spirits, then in bond in the thirty-second district of New York. On the 30th day of March and the 7th day of April of that year he made formal application for the immediate withdrawal of the same for consumption, but, owing to the fact that the collector of internal revenue for that district was unable to furnish the internal-revenue stamps necessary to be affixed upon the payment of the tax, none of the spirits was inspected or withdrawn until subsequent to April 14 of that year. The amount of the tax paid was $45,000.

At the time that Backman withdrew the spirits he tendered to the collector of internal revenue the aggregate sum of $40,000, the amount which he conceded to be due after making the usual allowance for leakage. This claim grows out of a dispute as to whether he should be allowed the $5,000 which he paid under protest, which he claimed was the amount exacted from him because of the failure to allow him for leakage. Previous to the date that I speak of—April 14, 1869—it had always been the custom to make an allowance for leakage, but on that day, by order, the custom was changed.

From time to time since then an effort has been made to have this $5,000 refunded. A bill for that purpose has been before the House at different times and was favorably reported almost 20 years ago, in the session of 1892. I have a letter here, under date of August 10 of this year, over the signature of the Acting Secretary of the Treasury, in which he states:

I am aware of no reason why this bill should not pass, and am of opinion that it should be enacted.

It is also stated that from time to time bills have passed the Senate on precisely similar facts. If that record be correct, there would seem to be no just reason for withholding the relief asked for in this case.

Mr. CRAWFORD. Mr. President, this amendment was offered during the last session and referred to the Committee on Claims. An investigation of it was made, and the decision of the committee was adverse to incorporating it into the bill. It was not in the bill as it passed the other House. The House committee, having gone through all of these Court of Claims reports and gathered together such as they thought were entitled to recognition, passed their bill and omitted this claim. The Senate Committee on Claims, after investigating this claim, decided against putting it in the bill in the form of an amendment. Now, I understand from the papers which have been presented to me since the Senate committee made its report that it is claimed that there are precedents for allowing this appropriation, in that similar claims have been provided for by appropriation.

Mr. President, the only claims of this character which have been allowed by Congress are the claims which were included in an appropriation act approved July 26, 1886, passed for the relief of Richard T. Ridgway and others. That legislation was successful as legislation in behalf of claims is sometimes successful apparently because it went through under the prestige of a claim that it had been sustained by a decision of the Court of Claims. In the correspondence handed to me by the Senator from New York [Mr. O'GORMAN], coming from the attorney who now presents this claim, the Ridgway case is cited as a reason why this amendment should be allowed, and a citation is made of the decision of the Court of Claims, found in volume 18, on page 767, to sustain that position. When I turned to the decision in volume 18, Court of Claims Reports, of the case of Richard C. Ridgway against the United States, I find that the decision was against Mr. Ridgway. I will only call attention to the closing paragraph, found on page 715:

In the present case the claimant has no such credit on the records of the Internal Revenue Bureau, since the allowance first certified to had been reconsidered when this action was commenced, and his claim has been rejected.

He has therefore no cause of action, and his petition must be dismissed, and judgment will be so entered.

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from New York?

Mr. CRAWFORD. I do.

Mr. O'GORMAN. Will the Senator allow an inquiry as to why provision was notwithstanding made in an appropriation act after the Court of Claims had rejected the claim?

Mr. CRAWFORD. I can only make answer to that in this way: That Congress was probably deceived by just such statements as occur in the letter that was referred to me, where the Ridgway case is pointed to as a precedent for allowing this amendment, where counsel refers as authority for the allowance in this case to the Ridgway decision in the Court of Claims, leaving the impression that the decision of that court was favorable when it was adverse. That is the way Congress gets entrapped into allowing such claims as this.

Now, let me call attention to this statute. The statute which was under construction was approved July 20, 1868, and it was a new provision in relation to the internal tax upon spirits in warehouses. It fixed the tax at 50 cents on each and every proof gallon, to be paid by the distiller or owner or person having possession before he should remove it from the distillery warehouse. The act provided:

And the tax on such spirits shall be collected on the whole number of gauge or wine gallons when below proof, and shall be increased in proportion for any greater strength than the strength of proof spirit as defined in this act.

Before that act was passed there had been a practice in the customhouse offices of making an estimate when liquors were being withdrawn from warehouse as to how much had been lost through leakage or evaporation; and there was a rule

fixed, which had been followed, of making a certain reduction in the amount of tax collected based upon the estimate of this evaporation and leakage. That ran on until April 14, after this law was passed, when this new law had been referred to the Attorney General of the United States and he gave an opinion that there was no right or authority to allow this reduction. So the department issued an order that after April 14 the tax should be collected on all of the spirits withdrawn according to cask measurement, and that such a reduction should not be allowed.

This claimant, Mr. Backman, made a tender of the amount which he would have paid under the old rule, and the internal-revenue collector refused to accept it; he would not permit him to withdraw these spirits unless he paid the full amount of the tax, because it was after the order went into effect on the 14th of April. Because there had been a rule which allowed this discount for evaporation and leakage before that time under this act before it had been construed, he made the claim that they should refund to him this five thousand and odd dollars which he was required to pay. He presented his claim to the Auditor for the Treasury Department and it was rejected. That was away back in 1869. Nothing was done from that time on down to the Fifty-second Congress, when the first bill was introduced.

I ask that the amendment be allowed to remain as a pending amendment, and that we resume consideration of the bill to-morrow after the close of the routine morning business.

Mr. LODGE. Mr. President, I make the point that there is no quorum present.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Curtis	McLean	Simmons
Bacon	Davis	Martine, N. J.	Smith, Ariz.
Bailey	du Pont	Massey	Smith, Ga.
Bankhead	Fletcher	Myers	Smith, Md.
Brandegee	Foster	Nelson	Smoot
Brislow	Gallinger	O'Gorman	Stephenson
Brown	Gardner	Oliver	Sutherland
Bryan	Gronna	Overman	Thornton
Burnham	Hitchcock	Page	Tillman
Chilton	Johnston, Ala.	Penrose	Townsend
Clapp	Kenyon	Perkins	Warren
Clark, Wyo.	La Follette	Perky	Wetmore
Crane	Lea	Poindexter	Works
Crawford	Lodge	Reed	
Cullom	McCumber	Sanders	

Mr. PAGE. I wish to announce that owing to the continued illness of my colleague [Mr. DILLINGHAM], he is unable to be present in the Senate.

Mr. POINDEXTER. I desire to announce that the senior Senator from Washington [Mr. JONES] is engaged in public business upon the committee investigating the Soldiers' Home in California, and has been so engaged since the beginning of this session of Congress.

Mr. BAILEY. I have answered to my name, but I desire at this point to incorporate in the RECORD the statement that I have been absent for several days on account of sickness.

Mr. GARDNER. I desire to state that my colleague [Mr. JOHNSON of Maine] is detained necessarily from the Chamber for a short time.

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] is absent on committee work for the Senate.

The PRESIDENT pro tempore. On the call of the roll of the Senate 58 Senators have answered to their names. A quorum of the Senate is present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 5947) to provide for a bridge across Snake River, in Jackson Hole, Wyo., with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H. R. 16314) to amend section 192 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, in which it requested the concurrence of the Senate.

The message further announced that the House had passed a concurrent resolution providing that when the two Houses adjourn on Thursday, December 19, 1912, they stand adjourned until 12 o'clock m. on Thursday, January 2, 1913, in which it requested the concurrence of the Senate.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Wednesday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. Manager NORRIS. Mr. President, I would like William E. Lamb called as the next witness.

TESTIMONY OF WILLIAM E. LAMB.

William E. Lamb, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager NORRIS.) Give your full name to the Reporter.—A. William E. Lamb.

Q. Where do you reside?—A. Chicago.

Q. How old are you?—A. Forty-two years old.

Q. What business, occupation, or profession have you?—A. I am engaged in the practice of the law.

Q. How long have you been a practicing attorney?—A. A little over 18 years.

Q. Have you been connected with the Government of the United States in your professional capacity?—A. From October 19, 1907, until January 1, 1911, I was an attorney for the Interstate Commerce Commission.

Q. As such attorney, Mr. Lamb, did you take part in the trial of the case of the Louisville & Nashville Railroad Co. against the Interstate Commerce Commission?—A. I did.

Q. Were you in that case from its beginning?—A. I assume that you mean the case of the Louisville & Nashville Railroad Co., which was transferred from the Circuit Court of the Western District of Kentucky to the Commerce Court?

Q. Yes, sir.—A. I was.

Q. You participated in the taking of evidence?—A. Yes, sir.

Q. And you were attorney of record before the Interstate Commerce Commission?—A. No, sir; I was not. I simply represented the commission after the commission's order was entered and the Louisville & Nashville brought suit in the western district of Kentucky to enjoin the commission's order.

Q. Briefly, that case was originated by a complaint made before the Interstate Commerce Commission?—A. It involved three complaints filed by the New Orleans Board of Trade, of New Orleans, against the Louisville & Nashville Railroad Co.

Q. Before the Interstate Commerce Commission?—A. Yes, sir.

Q. Who represented the New Orleans Board of Trade in that proceeding?—A. Before the commission?

Q. Yes.—A. I think John A. Smith, the traffic director of the board of trade.

Q. After the commission had made its order the Louisville & Nashville Railroad commenced an action in the circuit court?—A. It commenced an action in the circuit court of the western district of Kentucky, asking for a temporary injunction to restrain the order of the commission.

Q. When the Commerce Court was provided for by law, by the operation of the law that case was transferred to the Commerce Court?—A. Yes, sir. The case had not been finally submitted in the circuit court, and therefore under the law it was transferred.

Q. Before the circuit court and also before the Commerce Court you were the attorney for the Interstate Commerce Commission?—A. Yes, sir. I may add that in the circuit court, as the law then existed, I appeared as special assistant to the Attorney General, as the Department of Justice then had control of those cases.

Q. In the Commerce Court, where the case was determined, you were the only attorney of record representing the Government or the Interstate Commerce Commission?—A. I was the sole attorney representing the Interstate Commerce Commission, and my recollection is not clear at this time, but since thinking it over it is my impression that Blackburn Esterline and James A. Fowler filed a brief for the Government, for the United States.

Q. In that case?—A. Yes, sir.

Q. Mr. Lamb, do you remember when that case was finally submitted to the Commerce Court?—A. Yes, sir.

Q. Do you know when it was finally determined—judgment rendered?—A. It is my recollection that the opinion in the case was announced at the April, 1912, session of the court, and the opinion, as filed that day, I think, bore date February 28, 1912.

Q. When was it submitted?—A. It was submitted at the April, 1911, term of the court.

Q. About 11 months elapsed after it had been submitted before it was determined?—A. Approximately 12 months had

elapsed from its submission until the time that the opinion of the court was finally filed.

Q. I am not trying to get the definite time, but approximately?—A. I should say about 12 months after its submission, before the opinion of the court was filed.

Q. From the time it was submitted in the Commerce Court up to the time it was decided, did you know of any correspondence that was going on between Helm Bruce, the attorney representing the Louisville & Nashville Railroad Co., and Judge Archbald, one of the members of the Commerce Court?—A. I had no knowledge of any such correspondence.

Q. When did you first learn that such correspondence had taken place?—A. From the newspaper reports of the proceedings before the House Judiciary Committee.

Q. It was not until after this investigation had commenced?—A. I never heard of it until that time.

Q. I will call your attention particularly to United States Senate Exhibit No. 58 and United States Senate Exhibit No. 59. Exhibit No. 58 being a letter written by Judge Archbald on board a houseboat on the Indian River, Fla., dated January 10, 1912, it being addressed to Helm Bruce, and Exhibit No. 59 being the reply made by Helm Bruce, dated January 24, 1912. A. I have not had occasion to examine any of those exhibits and never have had an opportunity to examine them, but I can only say that I never knew of any correspondence between Mr. Bruce and Judge Archbald relative to this case.

Q. You had no notice from any source that after the case had been submitted, and before it was determined, an argument had been made in writing by Mr. Bruce, at the request of Judge Archbald?—A. I knew nothing of that and never had heard of such a thing until I saw in the newspapers the account as testified before the Judiciary Committee of the House.

Mr. Manager NORRIS. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) You were about to say that there were three matters really in issue in that case. Will you tell us what they were?—A. I said there were three complaints filed before the Interstate Commerce Commission by the New Orleans Board of Trade. One complaint assailed the reasonableness of the class rates and some commodity rates from New Orleans to Mobile; another complaint, the reasonableness of class rates and certain commodity rates from New Orleans to Pensacola; and the third concerned the reasonableness of the class rates and commodity rates from New Orleans to Montgomery, Ala.

Q. In point of fact, when the Interstate Commerce Commission decided it, they only decided the question of class rates——A. That is all.

Q. And left the question of commodity rates open?—A. Yes.

Q. And it was in that shape when the petition was filed in the Commerce Court by the Louisville & Nashville Railroad Co.?—A. The commission's order involved only class rates and the application to enjoin and set aside the order was based solely on those class rates.

Q. In point of fact, also, before the Commerce Court, the contention that was made by you in behalf of the United States and by the Interstate Commerce Commission was that the Commerce Court had no power whatsoever to review the findings of fact of the Interstate Commerce Commission?—A. I believe that was one of the contentions. I will qualify that by saying that I never did contend that they did not have a right to see whether or not there was any substantial proof before the commission. I simply said that, based on the facts as shown before the Commission, they had no right to determine the credibility and weight to be given to the testimony and to review and set aside the findings of fact.

Q. The distinction which I understand you to make is that if there was any disputable evidence from which the fact could be found, the Commerce Court's hands were powerless to consider the matter further?—A. Yes; that is my contention.

Mr. SIMPSON. That is all. Thank you.

Mr. Manager NORRIS. I would like to call John A. Smith as a witness. As far as we are concerned Mr. Lamb may be discharged.

Mr. Manager CLAYTON. No; Mr. Worthington informed me yesterday that he desired to interrogate this witness in regard to a letter addressed by Mr. Helm Bruce to the chairman of the Committee on the Judiciary of the House of Representatives and requested me to have that letter in the Senate this morning. I have not been able to find it as yet, but I hope to produce it in a little while, and will produce it if I can find it; and then, Mr. Worthington informed me, he desires to ask this witness some question. We do not know whether that letter is admissible or not, but that question will be raised, if we see proper to raise it, when the letter is offered.

Mr. Manager NORRIS. I would like to suggest to Brother Worthington that this particular count was taken up a little out of its order in order to accommodate Mr. Lamb as much as anything else, because he has very important business in Philadelphia and it is quite necessary that he get away if possible.

Mr. WORTHINGTON. I want to say that the letter to which reference has been made is not, as Mr. CLAYTON recollects, a letter addressed to him, but a letter addressed to me when the hearings before the Judiciary Committee were going on, and I turned it over to the committee.

Mr. Manager CLAYTON. I stand corrected, Mr. President.

Mr. WORTHINGTON. And also, that I did not mean to say that we proposed to cross-examine Mr. Lamb in reference to what was in that letter; but that I wanted to see that letter before we determine whether we want to further cross-examine him. I am informed that the letter will be here in a few moments, and then we will let Mr. Lamb know whether we want to ask him any questions. It is highly improbable that we will want to do so.

Mr. Manager NORRIS. Call John A. Smith.

TESTIMONY OF JOHN A. SMITH.

John A. Smith, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager NORRIS.) Where do you reside?—A. New Orleans.

Q. What is your business?—A. Freight commissioner of the New Orleans Board of Trade.

Q. Are you acquainted with the case of the Louisville & Nashville Railroad Co. against the Interstate Commerce Commission, which was pending in the circuit court and transferred to the Commerce Court at the time of the passage of the law creating the Commerce Court?—A. I am.

Q. Representing the New Orleans Board of Trade, as I understand, you originated that case originally?—A. I did.

Q. Did you appear before the Interstate Commerce Commission when that case was argued and tried there?—A. I represented the New Orleans Board of Trade in the trial of that case at New Orleans and at Montgomery, Ala. The trial of the case was not completed at New Orleans and the commission adjourned to Montgomery, Ala., having cases there; and after the completion of those cases they again took up the case of the New Orleans Board of Trade versus the Louisville & Nashville Co. and completed that case.

Q. You filed a brief in the case before the Interstate Commerce Commission?—A. I did.

Q. After the case was finally submitted in the Commerce Court, and before it was decided, did you have any notice from anyone of any correspondence between Judge Archbald, a member of that court, and Helm Bruce, the attorney who represented the Louisville & Nashville Railroad Co.?—A. I did not.

Q. You had no notice of any argument that was made by Mr. Bruce, at the request of Judge Archbald, during that time?—A. I did not.

Mr. Manager NORRIS. You can take the witness, gentlemen.

Cross-examination:

Q. (By Mr. SIMPSON.) Are you an attorney?—A. I am not.

Q. Did the New Orleans Board of Trade appear at all as either parties or intervenors in the proceedings in the Commerce Court?—A. They did not. We did not do so because the law requires that the Interstate Commerce Commission shall prosecute its own cases.

Q. In point of fact, the Interstate Commerce Commission appeared by their counsel and did defend the case?—A. They did, and so did the Department of Justice.

Q. But you never represented either the Interstate Commerce Commission or the Department of Justice?—A. No, sir.

Mr. SIMPSON. That is all. Thank you.

The PRESIDENT pro tempore. The witness may retire. Do you wish the witness retained?

Mr. Manager NORRIS. We do not, Mr. President.

Mr. WORTHINGTON. Nor do we.

The PRESIDENT pro tempore. The witness is finally discharged.

Mr. Manager NORRIS. Mr. President, I did not expect to produce any other witnesses on this, but the evidence of Mr. Lamb was that there was another firm engaged, and we may want to call them later. They are not in waiting, however, and have not been subpœnaed, but are in the city. We may want to call them.

Mr. WORTHINGTON. I might, in this connection, call attention to a sentence in the answer relating to this article:

He admits that, in so far as he was aware, the fact that either of said letters was so written was not made known to the Interstate Commerce Commission or its attorneys at the time it was so written.

Mr. Manager NORRIS. I suppose it can be admitted that this firm of attorneys mentioned by Mr. Lamb had no notice of it.

Mr. WORTHINGTON. It is admitted. We supposed we admitted that in the answer.

Mr. Manager NORRIS. We understood that it was admitted in the answer, but we felt it our duty to bring this witness in order that Senators might avail themselves of the opportunity to submit any questions; and unless the Senate desires to do that, we will not have these other witnesses called. If the Senate desires them called, however, they are in the city, and we can call them.

The PRESIDENT pro tempore. It will not be necessary, unless some Senator indicates a wish for it.

Mr. Manager FLOYD. We desire to offer a telegram which I will ask to have marked as an exhibit and read in evidence at this point.

Mr. WORTHINGTON. I will state that we admit it.

The PRESIDENT pro tempore. The telegram will be read.

The Secretary read as follows:

[U. S. S. Exhibit 62.]

WASHINGTON, D. C., *October 6, 1911.*

GEORGE M. WATSON, Esq.,
East Stroudsburg, Pa.:

Almost any time you wish.

R. W. ARCHBALD.

8.22 p. m.

Mr. Manager FLOYD. Also the following.

The Secretary read as follows:

[U. S. S. Exhibit 63.]

PHILADELPHIA, PA., *October 7, 1911.*

Hon. R. W. ARCHBALD,
Court of Commerce, Washington, D. C.:

Will be at Hotel Raleigh at 1.30. Leave instructions.

G. M. WATSON.

10.25 a. m.

Mr. Manager FLOYD. We desire to recall Mr. C. G. Boland at this point.

The PRESIDENT pro tempore. The witness will be produced.

CHRISTOPHER G. BOLAND—RECALLED.

Christopher G. Boland, having been previously sworn, appeared.

Mr. Manager FLOYD. Mr. President, I am instructed by the managers on the part of the House to repeat to Mr. Boland the question that I propounded to him the other day and to further insist upon its admissibility.

Mr. WORTHINGTON. At what page?

Mr. Manager FLOYD. Page 364.

Mr. SIMPSON. We renew our objection, Mr. President.

The PRESIDENT pro tempore. The question will first be propounded.

Mr. Manager FLOYD. Shall I proceed?

Mr. WORTHINGTON. Wait until I find it.

Mr. Manager FLOYD. It is on page 364, near the bottom of the page.

Mr. WORTHINGTON. All right.

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's interest or participation in this settlement, and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?

Mr. SIMPSON. We renew the objection which was made, sir.

Mr. Manager FLOYD. Mr. President, I desire to state briefly——

The PRESIDENT pro tempore. Will the manager allow the stenographer to write the question out and hand it to the Chair?

Mr. Manager FLOYD. I desire to state briefly and as nearly as I can the position of the managers in regard to this testimony.

The PRESIDENT pro tempore. The Chair will ask the indulgence of the manager for a moment. Is it in words identically the same question which was propounded before?

Mr. Manager FLOYD. Yes, sir; I read it from the record.

The PRESIDENT pro tempore. Very well. Proceed.

Mr. Manager FLOYD. Mr. President, Judge Archbald is charged in these articles of impeachment with misbehavior in office, and it is our contention that any facts or circumstances pertaining to his conduct that are calculated to bring his office into disrepute or to scandalize that office are admissible, provided we have connected him in any way with such a transaction.

Now, we have shown by the testimony of Mr. Boland, the witness on the stand, that he entered into negotiations with one George Watson to settle the disputes between his company, the Marian Coal Co., and the Delaware, Lackawanna & Western Railway on a basis of $100,000, and if he could settle the controversy for that amount he, the said Watson, was to receive $5,000 as a fee for his services.

We have shown that within a short time thereafter Mr. Boland was called to the office of Judge Archbald in the Federal building in Scranton and Mr. Watson was present, and it was stated by Mr. Watson, in the judge's presence, that Judge Archbald had agreed to assist him in bringing about these negotiations. It was stated by Judge Archbald, in Mr. Boland's presence, that he had agreed to assist Mr. Watson, and that he would do everything in his power to assist him in the matter, and that at that time, or on a subsequent occasion very shortly thereafter, Judge Archbald had called up Mr. Loomis's office over the telephone with a view of getting in touch with Mr. Loomis, the vice president of the railroad company.

This evidence was before the Senate when we submitted the question before, but since this evidence was submitted we have produced other and further testimony connecting Judge Archbald with this transaction. We have shown by the testimony of Mr. Loomis that the first man who ever approached the railroad people in regard to this transaction was Judge Archbald himself; that he met Mr. Loomis upon the streets of Scranton and brought up a conversation about the difficulties and the controversy between the Marian Coal Co. and the railroad company, and suggested that they ought to have a settlement outside of court. Loomis replied that they would gladly settle their disputes outside of court whenever they could on a fair basis.

Then it is in testimony by Mr. Loomis that Judge Archbald told him that if he would see Attorney Watson, Mr. Watson was in a position to settle that controversy on a fair basis. Mr. Loomis immediately took up that matter and investigated it, submitting it first to Mr. Kine, then to Mr. Phillips, both officials of the railroad, and they reported adversely to it. Mr. Loomis reported adversely to it.

Then we find that Mr. Watson, the associate and partner of the judge, makes an appeal to Mr. Loomis to have an interview and a conference with the president of the railroad company. That letter was written on the 2d of October. We find that on the day following Judge Archbald writes a letter calling attention to the fact that he understands that the proposition has been made to take the matter up further with Mr. Loomis and possibly with Mr. Truesdale, and that he thinks it is a good idea and that he hopes that a settlement may be effected; that there is nothing like a personal interview in effecting a settlement.

Then immediately following that, on October 5, is the conference in which it is shown that Mr. Watson appeared and submitted a proposition, not of $100,000, the amount that the Bolands had agreed to take on settlement, but a proposition of $161,000, and that was turned down by Mr. Truesdale, the president of the railroad company.

Then we show that immediately, on the 6th, Mr. Watson telegraphed to Judge Archbald that he will meet him in Washington the next day. Judge Archbald replies on the 7th that he can meet him almost any time he wants to. Then Watson further telegraphs that he will be at the Raleigh Hotel at 1.30 o'clock on that day.

Now, Mr. President, we submit that we have so connected Judge Archbald with this transaction that he is shown to be an associate or partner in the common purpose of bringing about this settlement, and when we have done that we contend that under the plain rules of law we are entitled to prove anything that either of those parties did during the course of those negotiations and anything that either of them said with reference to that transaction.

Upon that ground we insist that this testimony is admissible.

Now, Mr. President, I desire that my associate manager, Mr. STEELING, may be heard briefly.

Mr. WORTHINGTON. Mr. President, if I may interpose for just a moment, we had supposed this matter was concluded——

Mr. Manager FLOYD. Mr. President——

Mr. WORTHINGTON. It is not to reply to anyone, but to ask that the matter may go over for the present.

Mr. Manager FLOYD. I beg pardon.

Mr. WORTHINGTON. We had supposed the matter was at an end, and we are called upon to reply to authorities which were produced here the other day, to show under what circumstances the declaration by one of several alleged conspirators could be introduced in evidence against another, and what is the rule limiting the extent of those declarations. Since the manager has considered this a matter of so much importance, and especially in view of the fact that Mr. Watson

is so ill he can not come here, we should like the argument or debate to go over until to-morrow morning, when we will be prepared to discuss it upon the authorities.

The PRESIDENT pro tempore. Is that suggestion agreeable to the managers?

Mr. WORTHINGTON. I say to-morrow morning; I mean until the meeting of the court to-morrow.

Mr. Manager FLOYD. If the Chair is satisfied with that suggestion, the managers raise no objection to it.

The PRESIDENT pro tempore. The Chair has no objection to it unless the managers have.

Mr. Manager FLOYD. The managers have none.

The PRESIDENT pro tempore. With that understanding, then, the argument will be pretermitted. Is the presence of this witness desired further?

Mr. Manager WEBB. No, sir; he may be excused for the present.

The PRESIDENT pro tempore. The witness will retire for the present.

The witness, Christopher G. Boland, withdrew.

Mr. Manager WEBB. I would like to have S. D. Warriner called as the next witness.

TESTIMONY OF S. D. WARRINER.

S. D. Warriner, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Warriner, what is your connection with the Lehigh Valley Railroad Co.?—A. I have no connection whatever at all at the present time. At the time of the hearing before the Judiciary Committee I was vice president and general manager of the Lehigh Valley Coal Co.

Q. What connection has the Lehigh Valley Coal Co. with the Lehigh Valley Railroad Co.?—A. The Lehigh Valley Coal Co. is a coal-mining company, the stock of which is owned by the Lehigh Valley Railroad Co.

Q. Then, in effect, the Lehigh Valley Railroad Co. owns the Lehigh Valley Coal Co., of which you were the vice president and general manager?—A. It owns all the stock.

Q. Do you know Judge R. W. Archbald?—A. Yes, sir.

Q. How long have you known him?—A. I have known him for a good many years.

Q. State some definite number.—A. I could not say—three or four years.

Q. How far do you live from him when his home is in Scranton?—A. I am now living in Philadelphia. At that time I was living in Wilkes-Barre.

Q. How far from Scranton?—A. Wilkes-Barre is about 18 miles from Scranton.

Q. State whether or not Judge Archbald ever had any negotiations with you with reference to the purchase by your company of the outstanding interest, belonging to the Everharts, in a tract of coal land containing about 800 acres.—A. Yes, sir; he told me one day at an interview on another subject that——

Q. Before that, let me ask you if your company owns a majority interest in such a tract of land.—A. Yes, sir.

Q. How much of the interest is outstanding and has not been purchased by you or your company? About one-fifth, I believe, is it?—A. It was somewhere in the neighborhood of from one-fifth to a tenth—between a fifth and a tenth.

Q. Your company has been anxious for several years to purchase that outstanding interest, has it not?—A. They did purchase several years ago about two-fifths of the outstanding one-half interest, leaving about one-fifth that was not owned by the company, but was held under a lease by the company.

Q. Since that time you have been anxious to purchase the remaining interest which you do not now own and did not own a year ago?—A. Well, I would not say that they were anxious. I would say they had made an offer for it and it had been under negotiation, but that these two small interests had not accepted the terms offered and agreed upon by the other undivided interests in that tract of land.

Q. Have you tried to buy from the Everhart heirs this outstanding interest?—A. We have negotiated, or did negotiate.

Q. You know what I mean. Have you tried to buy that outstanding interest?—A. No; not especially.

Q. Let me ask you if you did not answer this question before the Judiciary Committee last May——

Mr. WORTHINGTON. On what page?

Mr. Manager WEBB. Page 1183.

Mr. WEBB. Did you try to buy the other interests and fail?

Mr. WARRINER. Yes. We have been negotiating with the Everhart estate for a great many years, on account of the complications arising out of the coal leases, and following out a general policy we have been endeavoring to clear up the legal tangle by the purchase of the fee.

A. I would say that we never had any direct negotiation with this especial interest, but we did with the representatives of the other interests who were acting with them, in a sense, and we were perfectly willing and desired to buy, of course, although we had never dealt with them directly.

Q. (By Mr. Manager WEBB.) Indirectly, did you not make them a proposition?—A. Yes; there was a general proposition agreed upon under which all of them were to receive a certain pro rata share in accordance with their interest.

Q. But these particular heirs I am now speaking of, who had not sold, declined to accept your proposition. Is that true?—A. No; they had never declined nor had they every agreed to accept.

Q. They had not accepted?—A. No; they had never accepted.

Q. The truth is you still want to buy that interest, and did want to buy it a year ago?—A. I assume the company would still buy it at that price.

Q. Is it not true that you wanted to buy it a year ago?—A. But it was a matter of very small importance to the company one way or the other whether they did buy it. It was not a vital matter to the company, because it owned the lease for the life of the coal.

Q. It was a matter of $60,000, and not so small after all. I will ask you again if a year ago your company did not desire to buy and undertook to purchase the remaining outstanding interest which you did not own in this tract of land?—A. No; we had made no offer to these people. Mr. WEBB.

Q. You had made to their representatives, had you not?—A. We had to the representatives. There were five interests, and these negotiations grew out of a lawsuit.

Q. Let me ask you if you did not answer this question before the Judiciary Committee?

Mr. WORTHINGTON. On what page?

Mr. Manager WEBB. On page 1184:

Mr. WEBB. Have you tried to buy this one-fifth interest?

Mr. WARRINER. Oh, yes. We made the same offer to these people that we made to the other heirs at the time we bought them out.

A. We did make the same offer.

Q. (By Mr. Manager WEBB.) I will ask you further——

The PRESIDENT pro tempore (to the witness). Answer the question as direct as you can, please. It will save a great deal of time.

The WITNESS. I am trying to do so.

Q. (By Mr. Manager WEBB.) They have not accepted your offer, then?—A. No; they have never accepted the offer.

Q. Do you know James R. Dainty, of Scranton, Pa.?—A. No, sir; I do not.

Q. Have you ever heard of him?—A. I have heard of him. I never saw him.

Q. I will ask you if Mr. James R. Dainty was anxious to secure a mining lease to a certain tract of coal land, consisting of about 325 acres, which is owned by your company and which lease was discussed between you and Judge Archbald at the time he called on you with reference to the sale of the Everhart interest in the 800-acre tract?—A. I do not know whether it was at that time, but at or about that time Judge Archbald told me that Mr. Dainty had spoken to him, and desired to either lease or purchase a tract of land held by the Lehigh Valley Coal Co. known as the Morris and Essex land.

Q. How many acres did that tract contain?—A. I should imagine about 300 acres.

Q. Now, when the judge called on you first did he call you over the phone or did he come to see you with reference to the purchase of the remaining interest of the Everhart heirs in this 800-acre tract?—A. I do not recall whether the appointment was made by telephone or not. I rather assume that it was. I think so. I think it was made by telephone, and we met at my office.

Q. Where did he telephone from? Where was he when he sent for you; do you know?—A. Oh, I do not know.

Q. Where did he see you in person with reference to the purchase of the Everhart interest?—A. At my office, at that time in Wilkes-Barre.

Q. When was that personal interview—what month?—A. I think it was the latter part of last year—November or December; I do not recall, exactly.

Q. About a year ago?—A. Of last year; yes, sir.

Q. Now, tell us what the judge told you when he called on you with reference to the purchase of the Everhart interest in the 800-acre tract.—A. He told me that he wanted to know if we still cared to purchase the outstanding Everhart interest, and I said yes. He said that through his connections in Scranton—whether or not somebody had spoken to him in regard to it I do not recall, but anyway he thought that through his connections in Scranton they could be brought together, and that the negotiations could be carried through successfully. He wished to know at what price we were willing to purchase this land, and I told him that we would buy it at the same price that we had paid the other heirs—on the same pro rata basis.

Q. Now, tell as near as you can everything that was said about Dainty's proposition for a 325-acre lease and the sale or purchase of the Everhart interest.—A. After I had told the judge that, he wanted to know what interest the various heirs held in this outstanding account. I called our engineer in and we figured out together the various interests. It was rather a complicated amount of figuring. We finally arrived at the proportion of these Everharts, with whom we wished to deal—their proportion of the entire property they owned. Then he wanted to know how much money that amounted to, and I told him that I would have Mr. Jessup, our engineer, figure it up, which he did, and which, in accordance with my instructions, he telephoned, I believe, to Scranton and told the judge what that amounted to.

Q. In that conversation did he speak of Dainty?—A. I think he did. It is my recollection that he spoke something in regard to Mr. Dainty; yes.

Q. What did he say about him?—A. Nothing as I recall except that he had been talking with Mr. Dainty, and I rather gathered from what he said that through Mr. Dainty or in connection with Mr. Dainty, whom I had known at that time as having been in various business communications with the Everharts, he was going to see these various people and ascertain whether or not they would sell at that figure.

Q. I will ask you this question: Then, through the judge's association with Dainty, Dainty and the judge were to get the consent of the Everhart heirs to sell you the remaining outstanding interest?—A. That is the way I understood it; yes.

Q. Now, what did Dainty and the judge have to do with the 325-acre tract that it was proposed you should lease to Dainty?—A. Nothing whatever. That was a property that was owned in fee by the Lehigh Valley Coal Co. That came up in this way: When the judge was going out at one of these visits, he told me that Mr. Dainty had spoken to him and would like to get a lease or a sale of this 325-acre tract. I told him that it was not the policy of the company to either sell or lease its coal lands, as we expected to eventually mine this, and that, in any event, it was not a very good piece of land for any individual to mine as it was. The coal-mining conditions there, from an engineering standpoint, were not especially attractive, and I did not think that Mr. Dainty would care to have it very much if he looked into it any further. I promised, however, at that time to consider that further, and later, I think, I told him we would not lease it. I am not sure whether I did or not.

Q. I will ask you did either this man Dainty or Judge Archbald, or both of them, agree with you or suggest to you that they would bring about the sale of this outstanding interest at a sum satisfactory to your company, provided you would lease to them certain coal properties on this land, or on any other land belonging to your company?—A. No, sir.

Q. I ask you if you did not reply to that very question in this language before the Judiciary Committee, page 1187:

Mr. WARRINER. I have an indistinct recollection that afterwards the judge said something to me about Mr. Dainty's wanting to lease what is known as our Morris & Essex tract. I did not recall that before, but that was subsequent to this time, and had, as I understand it, no connection with that. I simply told him I would consider it, and nothing more has ever been done in regard to it.

Mr. WEBB. Do you recall that some such proposition as that was made to you?

Mr. WARRINER. I think it was, afterwards; yes. I believe there was something said, but not in the form of a consideration for this purchase.

A. Yes; there was no connection whatever to my mind, nor has there been the slightest thought that the lease of the 325 acres was to be in any form a consideration for the judge's services or Mr. Dainty's services in purchasing the outstanding Everhart interest.

Q. Why were both propositions discussed in the same conversation if they were not twin propositions and were to be carried along together?—A. One was discussed in one room, and the other was discussed just as the judge was leaving, and was in my outside office, in regard to this Everhart land. He spoke of it just as he was leaving the office. It did not at that time, nor has it since——

Q. He told you Dainty——

Mr. WORTHINGTON. One moment, Mr. President. I submit that the witness should be allowed to finish his answer.

Mr. Manager WEBB. Certainly; I thought he had finished it.

A. It did not at that time nor has it since appeared to me to be a consideration in fact. In explanation of that I would say that the purchase of the outstanding Everhart interest was a matter of comparatively small importance to the company, and the consideration of our giving a lease or a sale of another tract of land did not appeal to me as being a thing of any consideration whatever. It was spoken of as two separate and distinct transactions.

Q. (By Mr. Manager WEBB.) Can you understand why those separate and distinct transactions were always united in every conversation the judge had with you about either one?

Mr. WORTHINGTON. Mr. President, we object to that question. The Chair was not listening, I think, to it.

The PRESIDENT pro tempore. The Chair did listen to it.

Mr. WORTHINGTON. It is an assumption of what the witness has clearly and distinctly denied. He has said that one conversation was over in his office and as the judge was leaving he just made a remark about Dainty wanting to get this other tract of land. The manager has said that in every conversation these things were linked together as twins. I think the manager has no right to make an assumption as to things that are so absolutely inconsistent with the testimony.

Mr. Manager WEBB. The witness can take care of that.

The PRESIDENT pro tempore. The attention of witness being called to it he can guard himself in that. Otherwise the Chair would ask the manager to proponad the question in a different form. The Chair thinks the witness can guard himself. The question will be read.

The Reporter read the question, as follows:

Q. (By Manager WEBB.) Can you understand why those separate and distinct transactions were always united in every conversation the judge had with you about either one?

A. I do not think they were, Mr. WEBB—not to the best of my recollection. The proposition relative to the 325-acre tract was made, as I said, when the judge was leaving the office at the termination of his interview relative to the Everhart lands. That is the only time that it was brought up then, and it was only brought up then for just that minute, and it made no impression whatever upon me. It was not in connection with the other subject, and I never considered that it was a consideration or any form of a consideration.

Q. (By Mr. Manager WEBB.) Do you know what Judge Archbald and Dainty had to do with the sale of the Everhart interest to you?—A. No; I do not. The judge came to me. I had known the judge as a man of responsibility in that district and acquainted with Mr. Dainty and with the Everhart people who lived in Scranton. He asked me if we desired still to purchase those lands. I told him yes. Whether he was doing that for friendship to them or for any other consideration, I do not know.

Q. Were you to pay the judge anything for his interesting himself in your behalf with the Everhart heirs' estate?—A. No, sir.

Q. I ask you again if the judge did not talk to you more than once about the sale of the Everhart interest, and at each conversation he always connected the Dainty lease of 325 acres?—A. No, sir; I do not think so.

Q. Answer the question.—A. I said, No, sir; I do not think so.

Q. In the hearing before the House Judiciary Committee I asked you this question:

Did you not hear the judge mention his [Dainty's] name frequently?

To which you replied:

Mr. WARRINER. I do not know that it was so very frequently——

Mr. WORTHINGTON. From what page is the manager reading?

Mr. Manager WEBB. From page 1189.

He did speak of him as you speak casually of anybody, but not frequently.

Mr. WEBB. You did not understand that he was to lease any part of your coal land?

Mr. WARRINER. As I said before, he spoke about desiring to lease this coal land, but not in consideration of making this purchase, because such a transaction as that, from a business standpoint, would be foolish.

Q. Now, I ask you again how many times did the judge speak to you about this proposition of the sale of the Everhart interest?—A. About the sale of the Everhart interest?

Q. Yes, sir.—A. I think, in regard to the main proposition, only once at the office; in regard to details relative to their interests, the proportion of their interests, two or three times possibly—sometimes on the phone, and he may have been to see me once. I do not recall the exact details of it, but the main matter was settled at one interview.

Q. But he called on you more than once?—A. Well, I rather think he did; yes. I am not sure.

Q. Then I ask you if at each time he called upon you he did not also suggest Dainty's desire to lease the 325-acre Essex tract?—A. No, sir; I do not think he mentioned that except that once; that is the only time. I finally gave him a definite answer on the matter, that the company would not care to make this lease, and not in connection with the Everhart purchase at all.

Q. You told him the company would not care to make the lease, because it was contrary to the policy of your company to make a lease of any of your coal lands. Was that the truth?—

A. I do not recall the reason that I gave him. I told him that we did not care to make the lease.

Q. That was the reason really, was it not?—A. That was probably the main reason.

Q. That it was contrary to the policy of your company to lease your coal lands?—A. The general policy; yes, sir.

Q. Did you ever have any other application from Judge Archbald to lease culm banks belonging to your railroad company or to your coal company?—A. Yes, sir; we had an application from him a year ago last summer to lease some culm banks in Schuylkill County, known as the Packer colliery banks.

Q. Now, before going into that proposition, let me ask you if you made this statement before the Judiciary Committee——

Mr. WORTHINGTON. From what page is the manager going to read?

Mr. Manager WEBB. From page 1194. [To the witness:] Did you make this statement before the Judiciary Committee:

Mr. WARRINER. Well, I don't know what passed through the judge's mind at that time. He simply mentioned to me that Mr. Dainty had spoken to him and that he would like to have that lease; and at that time it is my recollection that I told the judge many people had been after that lease and, personally, I did not think it was a very good mining proposition, but that I would consider it. We never had made efforts to lease it to anybody—it is against our policy to lease any property—but I told him I would consider it.

Is that correct?—A. Yes, sir; I think so.

Q. Now, Mr. Warriner, when was it he made application to you for other property?—A. I think it came up to me in July or August of 1911.

Q. Let me ask you, now, when you were at the Judiciary Committee hearing last May you could not remember anything about the correspondence you had with Judge Archbald about Packer No. 3, could you? You did not remember?—A. The correspondence was presented at the Judiciary Committee hearing—the second Judiciary Committee hearing.

Q. I understand. It was presented, though, after you had gone away from the stand and after evidence had been produced from the Girard estate containing some of your letters. I ask you if you did not tell the Judiciary Committee that you had no correspondence of importance about this matter, and that whatever connection Judge Archbald had with the transaction with yourself was by phone and personal calls?—A. I said there were some letters, but I did not think they were of any importance, and that I had not read them or seen them since the time it had happened. That was my recollection, but I went back and secured the letters. When I was subpenaed to bring them later on I found what was in the files.

Q. When was the first conversation you had with Judge Archbald about Packers No. 3 and No. 4, belonging to the Girard estate and leased to you?—A. I think it was in July or August, 1911.

Q. What was the purport of that conversation?—A. It came up first in the form of a letter addressed to Mr. W. A. Lathrop.

Q. Was that letter dated August 1?—A. I do not recall the date.

Q. Is this [handing a paper to the witness] the letter?—A. (After examining.) Yes, sir; that is the letter.

Q. Is that Judge Archbald's handwriting? I mean is the whole letter in the handwriting of Judge Archbald?—A. I think so; yes, sir.

Mr. Manager WEBB. Mr. President, we would like to have the letter read. I believe the letter is admitted.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary proceeded to read the letter.

Mr. WORTHINGTON. I will say that this correspondence which is about to be offered is all in the previous record, and we have no objection to its being read from the record.

Mr. Manager WEBB. Neither have I any objection.

Mr. WORTHINGTON. It is all omitted. There is no question about it.

Mr. Manager WEBB. Then, I ask the Secretary to take this record [handing volume to the Secretary] and to read from it.

The Secretary resumed and concluded the reading of the paper, which was marked "U. S. S. Exhibit 64," as follows:

[U. S. S. Exhibit 64.]

(United States Commerce Court, Washington.)

SCRANTON, *August 1.*

W. A. LATHROP,
Superintendent Lehigh Valley Coal Co.

DEAR SIR: Would it be possible to lease any of the culm dumps which you control in the neighborhood of the Oxford washery at shaft near Shenandoah? I have an option on this washery, and the culm dump which goes with it is not quite what it ought to be and ought to be strengthened with another. From a talk which I had this morning with my nephew, Col. James Archbald, of Pottsville, I think the concurrence of the Girard estate, etc., could be secured in any fair arrangement.

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager WEBB.) Mr. Warriner, before you answered this letter, did you receive one from Mr. Lathrop, or before you answered Judge Archbald's inquiry?—A. That letter was referred to me by Mr. Lathrop—it was sent to me by Mr. Lathrop.

Q. And is this the letter [handing paper to witness] from Mr. Lathrop to you?

Mr. SIMPSON. While that paper is being identified by the witness, with the consent of Mr. Manager WEBB, may we be permitted to say that, on reading the correspondence, we do not think that Mr. Lamb will be of any further use, and he may be discharged, so far as we are concerned.

The PRESIDENT pro tempore. Mr. Lamb will be so notified. The Secretary will read as requested.

The Secretary read the letter, which was marked "U. S. S. Exhibit No. 65," as follows:

[U. S. S. Exhibit 65.]

437 CHESTNUT STREET,
Philadelphia, August 7, 1911.

Mr. S. D. WARRINER,
Vice President and General Manager
Lehigh Valley Coal Co., Wilkes-Barre, Pa.

DEAR WARRINER: Inclosed I hand you letter I took to Montrose with me on Friday with the intention of handing it to you, but I did not see you.

It is evidently addressed to me under the impression that I am still connected with the Lehigh Valley Coal Co.

I have replied to the effect that the letter has been forwarded to you.

Yours, very truly,

W. A. LATHROP.

(L. P.: Inclosure.)

Q. (By Mr. Manager WEBB.) What was the next communication you had from Judge Archbald, if any, with reference to this matter?—A. I think I got a letter from him next——

Q. Look at that [handing a paper to the witness] and see if that is the letter?

The WITNESS (after examining). Yes; that is the letter.

Mr. Manager WEBB. I ask the Secretary to read exhibit marked "144" before the Judiciary Committee.

The Secretary read the letter referred to, and it was marked "U. S. S. Exhibit 66," as follows:

[U. S. S. Exhibit 66.]

(United States Commerce Court, Washington.)

SCRANTON, PA., *August 11, 1911.*

S. D. WARRINER, Esq.

DEAR SIR: Your company, I am advised, is interested in some culm dumps at shaft near Shenandoah, Pa., in the vicinity of the Oxford washery, these dumps being made in connection with your operations on the Girard estate property. In negotiating with regard to that washery I find that it needs an additional dump, or will in the near future, and I am therefore writing to inquire whether any arrangement could be made with your company for one or more of the dumps which I have referred to. It, of course, would have to be subject, as I understand it, to the approval of the Girard estate, from whom you lease, but I think that this possibly could be secured if the terms were favorable. By mistake I wrote on this subject to Mr. W. A. Lathrop, not being aware of his change over to the Lehigh Coal & Navigation Co., and a letter from him advises me that he has forwarded my letter to you.

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager WEBB.) Did you reply to that letter, Mr. Warriner?—A. I think so; yes.

Q. See if that [handing a paper to the witness] is a copy of the letter you wrote Judge Archbald?—A. (After examining paper.) Yes, sir.

Mr. Manager WEBB. I ask the Secretary to read Exhibit 142 before the Judiciary Committee of the House.

The Secretary read the letter which was marked "U. S. S. Exhibit 67," as follows:

[U. S. S. Exhibit 67.]

AUGUST 14, 1911.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: Replying to your letter of the 11th instant, just received, I beg to say that I will look into the matter soon as possible.

Our superintendent is away for a few days, but as soon as he returns I will have an investigation made and advise you.

Yours, very truly,

———,
Vice President and General Manager.

Q. (By Mr. Manager WEBB.) Did you get another letter from Judge Archbald in answer to that?—A. Yes; I think I did. Yes; there were several letters along that time.

Q. I presume it was not in answer to that letter, because the letter which I am going to offer for identification was dated September 12, and that letter was not written—yes; September 12. Can you state whether it is an answer or not?—A. (After examining paper.) Yes; I received this letter.

Mr. Manager WEBB. I ask that the Secretary read it.

The letter was read and marked "U. S. S. Exhibit 68," as follows:

[U. S. S. Exhibit 68.]

[R. W. Archbald, Judge, United States Commerce Court, Washington.]

SCRANTON, PA., *September 13, 1911.*

S. D. WARRINER, Esq.

DEAR SIR: I do not suppose you have had time as yet to look into the matter of leasing me one or more of the culm dumps of your company on the Girard estate at Shaft near Shenandoah, or I should have heard from you. I do not wish to unduly hurry the matter, but there are one or two things which are dependent upon it, which make me anxious to get a response as soon as possible, and, of course, I hope it will be favorable.

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager WEBB.) Did you answer that letter, Mr. Warriner?—A. I think I did; yes.

Q. See if that [handing a paper to witness] is a copy of the answer you sent him.—A. (After examining paper.) Yes.

Mr. Manager WEBB. I ask the Secretary to please read that letter.

The letter was read and marked "U. S. S. Exhibit 69," as follows:

[U. S. S. Exhibit 69.]

SEPTEMBER 13, 1911.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: Replying to yours of the 12th, I am sorry that our superintendent has been away on vacation and has delayed my answer to your letter. He has now returned, and I will stir him up and get an early reply for you.

Yours, very truly,

———, *Vice President and General Manager.*

Q. (By Mr. Manager WEBB.) Did you write him another letter before hearing from him in answer to that one?—A. I may have; I do not recall.

Q. See if the letter I hand you is a copy of the letter you sent the judge.—A. (After examining paper.) Yes.

Mr. Manager WEBB. Mr. Secretary, will you please read it?

The Secretary read the letter, marked "U. S. S. Exhibit 70," as follows:

[U. S. S. Exhibit 70.]

SCRANTON, PA., *September 27, 1911.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: Replying further to your several letters regarding culm banks at Packer No. 4 colliery, I now have a report from our superintendent on the situation and I think it will be possible for us to accede to your wishes. It is our desire to accommodate your wishes so far as it is possible, but I think an interview will be necessary, at which time I can arrange to have our superintendent present and go over the matter in detail. My reason for this is that there are a number of banks there and we hardly know just what it is you refer to.

If you will kindly set a date on which you can arrange to be at my office, I will be glad to meet you with our superintendent.

Yours, very truly,

———, *Vice President and General Manager.*

Q. (By Mr. Manager WEBB.) That was the 27th of September, Mr. Warriner. Did you receive the letter which I hand you, dated September 28, from Judge Archbald in reply to the letter which has just been read?—A. [After examining letter.] Yes, sir.

Mr. Manager WEBB. Mr. Secretary, will you please read it?

The Secretary read the letter, marked "U. S. S. Exhibit 71," as follows:

[U. S. S. Exhibit 71.]

(R. W. Archbald, Judge, United States Commerce Court, Washington.)

SCRANTON, PA., *September 28, 1911.*

S. D. WARRINER, Esq.

DEAR SIR: I thank you very much for your letter of September 27, stating the possibility of your letting me have a lease on one of the culm banks at Packer No. 4 colliery near Shenandoah, and suggesting that I fix a time when your superintendent may be present to go over the matter. I certainly shall avail myself of the first opportunity for doing so, but just at present I am called to Washington to attend a session of the Commerce Court which opens there on Monday, and shall be detained there a couple of weeks. I will let you know as soon as possible the time of my return, and trust that you will keep this matter open meanwhile.

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager WEBB.) After receiving that letter, did you have a phone conversation with the judge with reference to making a date when he could meet you?—A. I think so; yes.

Q. Do you remember the substance of the conversation?—A. I recall nothing except asking for a day at which to meet our superintendent.

Q. Was the judge in Washington when he phoned you?—A. No; I do not think he was. I think he was in Scranton.

Q. He said in that letter he would be away for a couple of weeks?—A. Yes.

Q. Do you know when it was he phoned you?—A. No, sir; I do not.

Q. With reference to the date?—A. I do not.

Q. Here is a copy of a letter sent by you December 22, 1911. See if you wrote that to the judge, and perhaps that will refresh your memory as to when the phone conversation was.—A. (After examining letter.) It was probably a day or two prior to December 22, which is the date of this letter.

Mr. Manager WEBB. Mr. Secretary, will you read the letter?

The Secretary read the letter, marked "U. S. S. Exhibit 72," as follows:

[U. S. S. Exhibit 72.]

DECEMBER 22, 1911.

Judge R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: Referring to our appointment for Tuesday, the 26th instant, I have an appointment here from 10 to 11, but will be very glad to see you at 11 o'clock or any hour thereafter which suits your convenience.

Yours, very truly,

———, *Vice President and General Manager.*

Q. (By Mr. Manager WEBB.) Mr. Warriner, that letter is dated December 22, referring to an appointment when you would meet the judge. Had you had no personal conversation with him before that time and discussed the terms and conditions under which you would lease him the culm banks, Packers Nos. 3 and 4?—A. No; I do not think so. I do not recall just when the interview was in my office, but I assume that letter was before that time.

Q. Is it your recollection, then, that up to December 22, 1911, you and the judge had not come to any agreement as to your leasing culm banks Nos. 3 and 4?

The WITNESS. May I ask what the date of the last letter was?

Mr. Manager WEBB. December 22, 1911.

The WITNESS. But the letter previous to that?

Mr. Manager WEBB. September 28, 1911.

A. I do not recall just when the date was.

Q. Well, this letter of December 22 speaks of a subsequent time when you would have a conference with him. I ask you if you did not have a personal conference with him before December 22 and agree that he should have culm banks, Packer Nos. 3 and 4?—A. I do not recall whether it was before December 22 or not. I had one or two interviews with him on that matter. Our first interview may have been prior to that time. I think I had probably two interviews with him on the matter, and the preliminary conversation with our superintendent may have been prior to December 22; I do not recall.

Q. I call your attention to the fact that there has been put in evidence here you have probably seen the application—an application to the Girard estate, dated December 19, 1911, in which the judge and his associates said to the Girard estate that they had seen you and that you had agreed to lease them Packer Nos. 3 and 4.—A. If that was dated on December 19, then the interview that I had preliminary, the first interview I had——

Q. Was prior to that time?—A. I should think so; I do not recall the date.

Q. Well, now, what was the object of this interview you speak of in your letter of December 22?—A. That I can not say—whether it was in regard to the first proposition—that is, the lease of the Packer bank or to the sale of the Everhart property. I can not recall when those dates were.

Q. The Everhart transaction, the Dainty transaction, and the Packer No. 3 transaction were all being carried on during the months of September, October, November, and December, were they?—A. Yes; I think the Everhart transaction was carried on in December or about that time. The others dragged along from July until December.

Q. I ask you, Mr. Warriner, if you received the letter which I hand you, from Col. James Archbald, engineer of the Girard estate?—A. (After examining letter.) Yes, sir.

Mr. Manager WEBB. Mr. Secretary, will you please read the letter?

The Secretary read the letter, marked "U. S. S. Exhibit 73," as follows:

[U. S. S. Exhibit 73.]

GIRARD ESTATE,
Pottsville, Pa., December 26, 1911.

S. D. WARRINER, Esq.,
Vice President and General Manager
Lehigh Valley Coal Co., Wilkes-Barre, Pa.

DEAR SIR: I have received an application from R. W. Archbald, James E. Bell, V. F. Petersen, and T. H. Jones, who propose to incorporate as the Jones Coal Co. for a lease of the Packer No. 3 and eastern No. 4 culm banks, in which they state they have the "assurance of your company that on certain terms and conditions, which have practically been agreed upon, it is satisfactory to you to have this lease made." Please advise me if this is correct, and give me a memorandum of what the terms and conditions referred to are, as our board of directors will want to know before making a lease of these banks. As the proposed lessees are anxious to have the matter presented to the committee on the Girard estate without the city at its next meeting on Thursday, January 4, an early reply will be appreciated.

Very truly, yours,

JAMES ARCHBALD, Jr.,
Engineer Girard Estate.

Q. (By Mr. Manager WEBB.) Did you answer that letter, Mr. Warriner?—A. I did; yes.

Q. Please state if what I send to the desk is a copy of the letter you wrote Mr. Archbald.—A. (After examining letter.) Yes, sir.

Mr. Manager WEBB. Mr. Secretary, will you please read it?

The Secretary read the letter, marked "U. S. S. Exhibit 74," as follows:

[U. S. S. Exhibit 74.]

DECEMBER 28, 1911.

Mr. JAMES ARCHBALD, Jr.,
Engineer Girard estate, Pottsville, Pa.

DEAR SIR: I have your letter of the 26th instant at hand. Judge Archbald called to see me recently and said that he would like to rework some of the culm banks at Packer No. 3 colliery. I advised him that if it was the pleasure of the Girard estate to extend to him a lease of this bank we would not interpose any objection, provided he agreed to certain arrangements which we informally discussed.

I did not agree to let him have the No. 4 bank, as we are already letting some of this through the No. 4 breaker.

Yours, very truly,

———, *Vice President and General Manager.*

Q. (By Mr. Manager WEBB.) Mr. Warriner, is that all the correspondence you had with Judge Archbald in reference to this matter?—A. If that is all that I have presented to the Judiciary Committee, it is all that I had. I do not recall whether there were other letters or not.

Q. That is, the correspondence that you told the Judiciary Committee on your first examination before them that was of no moment?

Mr. WORTHINGTON. Mr. President, I submit that, instead of making a statement of what the witness testified to before the Judiciary Committee, it would be fairer to him, and more intelligible to the Senate, to have that read to him and see if that is what he testified to. The words which my friend has used will not be found there.

Mr. Manager WEBB. I will be delighted to read it, Mr. President.

Mr. WORTHINGTON. From what page?

Mr. Manager WEBB. I read from page 1191:

Mr. WEBB. You do not know whether he ever extended his operations or not?—

Speaking of Judge Archbald with reference to the application to you for the bank—

Mr. WARRINER. I think he did take it up. I assume he did, because they asked me and I told them—they asked me whether we desired to sublease this, and I told them no; we did not especially desire it, but were perfectly willing in case the board of directors of the City Trust desired to do this—that we would not stand in the way of the transaction. I never heard anything more about it. I assume it fell through.

Mr. WEBB. You do not know whether they did extend any work over the line or not?

Mr. WARRINER. I know they did not, because they could not do it during the life-time of our lease.

Mr. WEBB. But you did agree, so far as the coal company's interest was concerned, to let him do it?

Mr. WARRINER. I agreed to, within certain lines.

Mr. WEBB. Well, that is agreeing to this request.

Mr. WARRINER. Yes, sir.

Mr. WEBB. Did he ever make any application to you in reference to culm banks?

Mr. WARRINER. No, sir; not that I recall.

Mr. WEBB. Or coal properties?

Mr. WARRINER. No, sir.

Mr. WEBB. Have you any correspondence with him in reference to any leases of culm dumps?

Mr. WARRINER. No, sir.

Mr. WEBB. You have no correspondence with reference to any of these matters that you now speak of?

Mr. WARRINER. No, sir; I have no correspondence, except notes relative to making an appointment or something of that kind—but nothing of any moment at all. In fact, I have not seen any correspondence since it happened. I have not looked it over and know nothing about it. It was done by word of mouth and over the telephone.

You stated that before the committee, Mr. Warriner?—A. Yes; and in explanation of it I simply wish to say—I suppose that I am entitled to explain it.

Mr. Manager WEBB. Yes, indeed, sir.

The WITNESS. In explanation of it I will say that at the time I gave that testimony I had no recollection whatever—it was honest testimony—and I gave no special thought to the matter because the matter never came to a head and never was finished; that most of this correspondence was relative to making interviews and tentative agreements, but nothing relative to the terms of any agreement which was to be made, and to my mind was of no importance in connection with the deal or the negotiations which were being carried on, as the terms had never been reduced to writing.

Mr. Manager WEBB. Exactly. In your previous testimony, when you were asked whether you desired to sublease these you told them "no."

Mr. WORTHINGTON. On what page is that?

Mr. Manager WEBB. Page 1191. When you were first asked to sublease this culm bank to Judge Archbald did you tell them "no, that you did not want to?"

A. I told them just what I said in that letter; that if it was their pleasure to lease these banks we would interpose no objection.

Q. You swore before the Judiciary Committee, as I understand——

Mr. WORTHINGTON. May I ask what is the object of this? Is it to show that the witness is not to be believed on oath or to refresh his memory?

Mr. Manager WEBB. Just to refresh his memory—that is one object—and it is to show that when he was first approached about the matter, he told them that they did not want to lease it, but that afterwards he did lease it; that when the Girard estate asked him, representing the coal company or the railroad company, if they desired to sublease this proposition, this culm bank No. 3, he replied "no," but later did agree to it.

The PRESIDENT pro tempore. Has he not already testified to that?

Mr. Manager WEBB. Well; no, sir; I think not. He did say that he swore to this, but I want to examine him on that particular point.

The PRESIDENT pro tempore. Ask him the question direct whether or not he did.

Mr. Manager WEBB (to the witness). I will ask you this question that, if before the Judiciary Committee——

The PRESIDENT pro tempore. No, ask him the question for the purpose of eliciting the evidence. If he does not answer correctly, the manager can then refresh his memory.

Q. (By Mr. Manager WEBB.) I ask when this proposition was first put up to you with reference to leasing culm bank No. 3, if you did not tell the Girard estate that you did not want to lease it?—A. I told them that we had not, and I think——

The PRESIDENT pro tempore (to the witness). Answer as directly as you can and then make any explanation you wish afterwards.

A. I told them that if it was their pleasure to lease these banks to Judge Archbald we would not interpose any objection, provided the negotiations were carried on in accordance with certain terms and conditions which I had verbally discussed with Judge Archbald.

Mr. Manager WEBB. Now may I ask him that question, Mr. President?

The PRESIDENT pro tempore. I wish you would repeat that question again, and I will again caution the witness to answer the question as asked him, and then make any explanation he wishes after repeating the question to him.

Q. (By Mr. Manager WEBB.) I ask you if when the Girard estate first asked you if you desired to lease the culm bank or Packer No. 3 and No. 4 if you did not reply to them "No," but that if it was agreeable to them you would agree to it?—A. I replied nothing more to them except what was in my letter which has just been read. That was the reply I made to them. I do not think I ever had any other talk with them in regard to it.

Q. Now, then, I ask you if you did not swear this before the Judiciary Committee when they examined you on the first examination? This is at page 1191:

Mr. WARRINER. I think he did take it up.

Evidently referring to Judge Archbald—

I assume he did because they—

I imagined that you referred to the Girard estate—

asked me and I told them; they asked me whether we desired to sublease this, and I told them, no; we did not especially desire it, but were perfectly willing in case the board of directors of the City Trust desired to do this.

A. You might say that the word "no" is a strong interpretation of my letter. I simply said that if the board of the City Trust desired to make the lease we would interpose no objection. The letter has just been read. It is a question of memory.

Q. What were the terms and conditions on which you agreed to lease to Judge Archbald?—A. First, that the limit of the culm to be leased to him should be confined within a certain area and include only such culm as we had no intention of preparing ourselves.

Q. That is not an answer to my question, Mr. Warriner. I asked you the conditions upon which you agreed to lease to Judge Archbald?—A. I am trying to tell you, as near as I can explain to you the terms. First, that there was to be only a certain area of culm leased.

Q. That was Packer No. 3 and Packer No. 4——A. And part of No. 4, and Packer No. 3; yes. Secondly, there should be, I think, 2 or 3 cents a ton royalty to us for the consideration over and above the royalties to be paid by us to the Girard estate; thirdly, that there should be proper provision for the maintenance of the creek flowing in the property, and that the culm and washings should be kept out of the creek; and fourth, I

think, that the transportation of this coal should be via the Lehigh Valley Railroad. Those were the terms, as near as I recollect them.

Q. Had you agreed on those conditions before December 22, 1911?—A. I should imagine I had; yes. I think the judge took it up with the Girard estate after we had discussed those terms and conditions.

Q. Did you discuss this matter or report this matter to Mr. Thomas, your president?—A. I spoke to him. I made no formal report of it, because it had not reached a stage where I was sure that it would be carried through, as the consent of the Girard estate was necessary to it. I had told him that there had been this application for the culm bank and told him the steps I had taken, and he interposed no objection.

Q. But, so far as you were concerned, the agreements were thoroughly understood between you and the judge?—A. Yes, yes.

Q. And that you were willing to recommend this proposition to Mr. Thomas?—A. Yes.

Q. And your recommendation, in a small matter of that sort, goes with the president, does it not?—A. Yes, sir.

Mr. Manager WEBB. I believe that is all we wish to ask this witness.

Cross-examination:

Q. (By Mr. WORTHINGTON.) I want to ask you whether in your testimony before the Judiciary Committee on this question as to at first refusing to consider leasing the culm bank to Judge Archbald this occurred? I read from page 1190 of the record:

The judge—

wished to extend his operations over our lines and to take from us a part of these culm banks which were on this property. I explained to the judge that we were operating that property under a lease which expired in two years; and that we had no right to sublease the property without the consent of the owners of the property; that so far as our own rights were concerned we had no objection in case the owners of the property asked us to vary the line and allow him to take some of those banks—such banks as we did not need or would not put through during the life of our own lease. I suggested to him that he had better take the matter up with the Girard estate afterwards, and that on request from them we would be very glad to consider the matter.

Q. Is that your recollection of what you testified to?—A. Yes.

Q. And of what the fact was?—A. Yes, sir.

Q. In that connection I would ask you whether or not Judge Archbald at any time in these negotiations said to you, or suggested to you, or hinted to you, in any way that there was any secrecy about his connection with this business?—A. No, sir; none whatever.

Q. In his letter to you of September 12, 1911, which has been read in evidence, he says:

I do not suppose you have had time as yet to look into the matter of leasing me one or more of the culm dumps of your company.

Did the negotiations from that time on proceed on the understanding that it—between you and him—that the matter was going on and that he was to lease the dump?—A. I understood that the judge was to lease the dump on behalf of himself and associates who had owned or controlled the Oxford washery.

Q. And in his first letter which was written to Mr. Lathrop and forwarded to you—his letter of August 1—he says:

I have an option on this washery—

That is, the Oxford washery—

and the culm dump which goes with it is not quite what it ought to be and ought to be strengthened with another.

Did you understand from that that he was the person who was dealing with you in the first instance and that he was interested and proposed to lease the dump?—A. Yes, sir.

Q. And I understood you to say that he never at any time intimated or suggested it was a matter which was a secret?—A. No, sir; none whatever.

Q. And was it, as a matter of fact, known to other people in your office that the negotiations were going on?—A. It was known to a great many. A great many other callers came in while the judge was there.

Q. Have you mentioned the name of Mr. Humphrey?—A. I do not think I mentioned his name. I mentioned him as the superintendent.

Q. What is his full name?—A. John M. Humphrey.

Q. What was his position in your company at the time of this correspondence with Judge Archbald?—A. He was a division superintendent.

Q. Do you remember whether or not he was present at any of the interviews you had with the judge on the subject of leasing the Packer dumps?—A. Yes; he was present with the maps at one of the interviews.

Q. Do you remember whether or not at one of those conversations he recommended to you, in Judge Archbald's presence, that it would be better to let the Packer No. 3 go, as your company could not work it satisfactorily or profitably?

Mr. Manager WEBB. Will you repeat that question?

The PRESIDENT pro tempore. The Reporter will repeat the question.

The Reporter read as follows:

Q. Do you remember whether or not at one of those conversations he recommended to you, in Judge Archbald's presence, that it would be better to let the Packer No. 3 go, as your company could not work it satisfactorily or profitably?

A. I would not say that he positively recommended that. I will say, however, that in connection with him we agreed upon a line of the proposed lease which would not interfere with our operation and would include only such coal as we had no intention of mining ourselves and did not consider it profitable to mine during the life of the lease, and that both Mr. Humphrey and myself were agreed upon that.

Q. Is Mr. Lathrop living?—A. No; Mr. Lathrop is dead.

Q. How long has he been dead?—A. He has been dead since last April.

Q. Up to what time was he connected with your company—the Lehigh Valley Coal Co.?—A. He closed his connection with the Lehigh Valley Coal Co. in 1901.

Q. So that he really had not been connected with your company for about 10 years before Judge Archbald wrote this letter under the impression that he was still there?—A. Yes, sir.

Q. Do you remember that as to this Packer No. 3 dump, which is the subject of investigation here, your company had at one time worked it a little while and then stopped?—A. Part of the dump we had worked and stopped. We had worked it from chutes from inside the mine.

Q. Why did you stop?—A. We did not consider it very good coal to mix in with the other coal.

Q. With reference to this earlier transaction, or other transaction, with Judge Archbald, about the claim of the Everhart heirs, you said that that was rather a small or inconsiderable matter, and Mr. WEBB said—I do not know whether you observed his language when he asked you the question—it was a matter of $50,000 or $60,000 and not so small after all. Did the outstanding claims of the Everharts involve fifty or sixty thousand dollars?—A. It was a small matter to the company, because these outstanding interests were held under a coal lease for the life of the property.

Q. And were you paying royalties to the Everharts?—A. We were paying royalties to the Everharts for the coal mined.

Q. And so it was a question whether you would pay the royalties or purchase it and be out the interest on the money. That was the difference to you?—A. That was all that the matter amounted to.

Q. And that did not strike you as being a matter of any great consequence to the company?—A. The only advantage to the company in the purchase of this was to eliminate chances of future lawsuits due to misconceptions of the terms of the lease, which was an old lease.

Q. Do you recall whether, when Judge Archbald saw you about the Everhart interests in your property, he told you that he was interested in getting into communication with the Everharts or getting settlements with them, because they had interests in another culm bank on which he had an option in connection with others or with another—the Katydid, I mean?—A. No, sir; I do not recall that.

Q. If he mentioned that to you——A. If he mentioned it, I have forgotten it. I do not recall it.

Q. I believe it has not been brought out in the testimony here, but James Archbald, to whom you have referred as the engineer of the Girard estate, is a nephew of Judge Archbald?—A. Yes, sir.

Q. A son of his brother?—A. Yes, sir.

Q. In reference to what has been asked you here as to whether you did not testify before the Judiciary Committee that your company was quite anxious to get in the Everhart interest, I will ask you whether this occurred in your examination before the Judiciary Committee on that subject. This is at page 1187:

Mr. WEBB. Your company had been very anxious to secure this outstanding interest for quite a while, had it not?

Mr. WARRINER. Not especially; no.

Do you remember giving that testimony?—A. Yes, sir; I think I said that.

Q. And also, reading on the same subject, at page 1189:

Mr. WEBB. That is, you were not able to buy from the Everharts at this price?

Mr. WARRINER. We made no special effort to buy or sell. It is up to them. It is not a thing of any particular advantage to the Lehigh Valley Coal Co. one way or the other.

The WITNESS. That represents the facts as they existed at the time I severed my connection with the company.

Q. In the conversations you had with Judge Archbald on the subject was there any suggestion that you could be induced to pay the Everharts more for their interest than you had been willing to pay all along?—A. Not that I recall. My recollection is that I told the judge at the start what we had paid the others, and that we had agreed that all interests would be paid alike; and we calculated what that amount was, and Mr. Jessup, our engineer, telephoned to Scranton and told the judge what it amounted to.

Q. Do you remember about how many different interests there were originally in this claim that we call the Everhart claim?—A. The claims were divisible, I remember, by 103. There were so many claims that they were divisible by 103; it was a very complicated question.

Q. And before you had talked to Judge Archbald about it had you got in a majority of those interests?—A. Yes, sir.

Q. You had fixed a certain value for the whole interest?—A. Yes, sir.

Q. And then paid each his fractional part on that basis?—A. Yes, sir.

Q. And your only dealings with Judge Archbald were on the same basis, as I understand you, and no other?—A. Yes.

Q. And they could take that price or take the royalty, as they pleased?—A. Yes, sir.

Mr. WORTHINGTON. That is all, Mr. President.

Mr. Manager WEBB. One or two questions in redirect examination, if you please.

Redirect examination:

Q. (By Mr. Manager WEBB.) You wanted, of course, to get the interests rather than to pay the royalty, and that is why you had bought the other interests?—A. Well, there was not the same advantage, Mr. WEBB, in all frankness, because the small remaining interests in the property were of such comparatively little moment that the danger of any large suit over the interpretation of the original lease was greatly minimized, and we were not so anxious to get those interests as we were the previous interests which we had got prior to that time. But at the same time, I will say, in all frankness, that we were desirous of closing up the entire transaction and getting the fee of the entire property.

Q. That is what I thought; and that is why you went to the trouble of having your engineer make the survey and ascertain the interest which each individual had?—A. Yes; it was a matter that we were not pushing, but would be glad to have closed up.

Q. I ask you, in regard to the outstanding interests, if in any of those conversations Judge Archbald did not tell you or make known to you that this man Dainty had some relations with the Everharts which would enable him to induce them to sell to you? Is not that what the judge told you, and is not that the only reason he mentioned Dainty?—A. Either he told me or I knew that Mr. Dainty had had some dealings with the Everharts in regard to culm banks. I had known of that; it was common gossip.

Q. Did you say you worked part of Packer No. 3?—A. We worked a part of that bank by a chute driven up from the mines inside, and at times had taken a part of this bank through a hole driven up to daylight.

Q. How long ago was that?—A. It was now and then during that time I do not recall——

Q. During what time?—A. Prior to that time—when we had that hole there.

Q. Are you not mistaken in mixing bank No. 3 with bank No. 4? You did work some of bank No. 4, and is not that the bank you speak of now?—A. Well, it is a small bank there. It is the upper part. If you have a map I can show you.

Q. Yes, I have a map. Let me get the location of this, please. There is a creek that ran between your railroad and the Philadelphia & Reading, was there not?—A. Yes, sir.

Q. On one side of the creek, the south side, the Oxford Coal Co. was located?—A. Yes.

Q. And the Oxford washery?—A. Yes, sir.

Q. On the north side there was Packer No. 3, and closely adjoining it, being almost a part of Packer No. 3, was Packer No. 4, a small dump?—A. Yes.

Q. About 48,000 tons?—A. Yes.

Q. And, then, still further south and below your present breaker there was another dump called Packer No. 4, which you did work some and took some of the coal and mixed it with the fresh coal from your colliery?—A. Yes; that is right.

Q. It was Packer No. 4, which you declined to lease to Judge Archbald, that you were working and not Packer No. 3, was it not?—A. Yes; but it is a small bank. As I recall it now, it was the small——

Q. Just look over that drawing, please; was it—this [indicating] is Oxford and this [indicating] Erie Packer No. 4, and there [indicating] is Packer Nos. 4 and 32—A. There is where we had the hole, up here [indicating on map].

Q. You say you worked a part of the little bank adjoining Packer No. 3?—A. Yes.

Q. What is that bank known as?

Mr. WORTHINGTON. Will you let me look at the map you have shown to the witness?

Mr. Manager WEBB. Yes, sir.

Mr. WORTHINGTON. I think that ought to be marked for identification.

Mr. Manager WEBB. That is my own drawing.

Mr. WORTHINGTON. I do not care who drew it. It has been made a part of the evidence, and the witness has answered questions about it, and nobody can understand his testimony without reference to the map. I submit it ought to be marked and become a part of the record, Mr. President.

Mr. Manager WEBB. I shall be glad to have it done, Mr. President.

Q. (By Mr. Manager WEBB.) On one side of this little creek the Oxford people had a washery and on the other side, opposite, rather, the Lehigh Coal Co. had a breaker?—A. Yes.

Q. Did you work what is known as Packer No. 4 in connection with your fresh colliery coal?—A. Yes, sir.

Q. Did you also work what is known as a part of Packer No. 3 and known by your engineers as another No. 4 bank?—A. Yes, sir.

Q. Did you work two banks down there at your breaker?—A. Well, we drove a hole up into that small upper bank and did take some coal from it.

Q. How much?—A. Oh, very little.

Q. Give us an idea. That "very little" is indefinite.—A. I have no idea.

Q. Did you take a few tons?—A. A few tons; yes. It was not a very good bank and we took very little of it.

Q. Do you know whether it is good bank or not—Packer Nos. 3 and 4? Do you not know that the average of prepared coal in Packer Nos. 3 and 4 is 15 per cent above chestnut—that is, prepared sizes?—A. I know that so far as concerns the culm banks the Lehigh Valley Coal Co. has operated wherever the coal was in larger sizes it had to be crushed into smaller sizes, because it was not marketable in the larger sizes.

Q. I ask you if there were not 143,000 tons of prepared coal in this Packer No. 3?—A. I do not know that.

Q. You never knew that?—A. I never did.

Q. If there are 143,000 tons of prepared coal or an average of 15 per cent prepared coal it was a good bank, was it not; an average bank?—A. Well, our——

The PRESIDENT pro tempore. Answer the question; was it or was it not.

A. It would depend entirely on how much slate was mixed with the coal.

Q. (By Mr. Manager WEBB.) I ask you whether, if you find a bank with a proportion of 15 per cent of prepared coal in it, 4 per cent of pea coal, 14 per cent of buckwheat, and 12 per cent of rice, it is not a good average culm bank?—A. That is a good percentage of sizes, it is true; but it depends entirely on the condition of that bank for market purposes. It depends on the amount of rock and refuse with the coal.

Q. I understand that; but you never went into Packer No. 3?—A. We always considered that Packer No. 3 had so much refuse with the coal that at the royalties paid the Girard estate there was not any profit in working it, and so we have never worked it during the life of the lease.

Q. How far was your property from Packer No. 3 and 4 that you speak of; only 800 feet, was it not?—A. I should say that bank was perhaps a little farther.

Q. Well, make it a thousand feet. I ask you if you did not have your breaker within a thousand feet of this Packer No. 3 and No. 4?—A. Somewhere in that neighborhood; yes, sir.

Q. And you were using some of the lower Packer No. 4 in connection with your fresh coal?—A. Yes.

Q. And you could use Packer No. 3 in the same way?—A. No; Packer No. 4 was a much better bank. It was an older bank and contained a very much larger percentage of good coal—marketable coal.

Q. What is the percentage of Packer No. 4?—A. I do not recall those figures.

Q. Well, how do you know it was larger than 15 per cent?—A. With deference to you, I do not think that you understand. I take it from your question you are asking me for the percentage of those marketable sizes.

Q. Yes.—A. Suppose you get a hundred thousand tons of coal mixed in a million tons of refuse, you have to move the whole quantity in order to get out the marketable coal.

Q. I understand that.—A. And that was the trouble with Packer No. 3 as we considered. There was so much refuse in it that we could not afford to move the entire quantity in order to get the marketable coal out of it for shipment.

Q. Do you know the cubical contents of Packer No. 3?—A. No, sir.

Q. If I were to tell you that it was 46,000,000 cubic feet, and that in those 46,000,000 cubic feet there was 472,000 tons of coal to be won and saved, I ask you if it would not be a splendid average culm bank?—A. It certainly would. If there was not too much refuse with it to handle.

Q. Say there are 46,000,000 cubic feet of bank, and in those 46,000,000 cubic feet there are 472,000 tons of coal to be won and marketed, is not that a good average culm bank?—A. I would have to figure that out. I am hardly engaged in the business of calculating that offhand. I simply say to you that as in general charge of that property, the reports of my subordinates had been that that bank was not a desirable bank for the company to operate.

Q. Have you ever read Maj. Archbald's report on banks Nos. 3 and 4?—A. No, sir; I have not.

Q. You would not know anything about it, then, if I were to ask you questions connected with it?—A. No, sir.

Q. Did you ever have any application from anybody else to lease Packer No. 3 or No. 4 or any of those banks lying along on that side of the creek in the neighborhood of your present washery?—A. Yes. We had an application some time prior to that from Madeira, Hill & Co. They wanted to lease the entire bank. They wanted to lease Packer Nos. 4, 3, and Packer No. 2 bank, at which point we intended to put up a washery, and that is the bank they especially desired to get. And the Packer No. 4 we were putting through the breaker, and we declined that proposition.

Q. I ask you if you did not have an application for all those banks, including Packer 2, 3, and 4, and the rest of them?—A. Yes; I think they wanted the whole thing.

Q. You declined to let them have it?—A. Yes.

Q. Either 2, 3, 4, or——

The WITNESS (interrupting). We declined to let them have the whole bunch of banks.

Q. So, although they offered you 10 cents a ton royalty additional to what you were paying the Girard estate—is not that so?—A. I ask you if Mr. Hill, representing the Oxford washery, did not propose that on all sizes above rice taken from your banks—these four banks—they would pay 10 cents per ton on all domestic sizes, and 5 cents a ton on pea and buckwheat in excess of the royalties due by you on these grades to the Girard estate?—A. Is that a copy of the letter?

Q. I suppose so. I was asking the question first.—A. I do not recall. He did make an offer. It may or may not have been 10 cents and 5 cents a ton. He wanted to get all of the banks on that side of the creek.

Q. I ask you if you do not remember that he proposed to give you 10 cents royalty per ton on all domestic sizes, and 5 cents a ton on pea and buckwheat, additional to what you paid the Girard estate if you would agree to let him have those banks, some of which you now say were not good?—A. No; I do not recall the figure. I recall he offered some excess. Have you a copy of the letter?

Q. I will ask you, then, if you received that letter from him [indicating]?—A. (Examining.) Yes, sir; I think that is the letter I received—10 cents a ton on domestic sizes, prepared sizes; 5 cents a ton on pea and buckwheat; no additional royalty on rice.

Q. Then, Mr. Warriner, I will ask you——

Mr. WORTHINGTON. May I see that letter?

Mr. Manager WEBB. Yes. It has been put in evidence.

(The letter was handed to counsel for the respondent.)

Q. (By Mr. Manager WEBB.) That was about a year or a year and a half before Judge Archbald applied to you?—A. Yes, sir.

Q. And you declined to accept from the Oxford people 10 cents a ton royalty on prepared sizes and 5 cents on smaller sizes a year or a year and a half ago, and agreed to let Judge Archbald have it for 2 or 3 cents a ton extra, and in the meantime culm has gone up in price and value?—A. No, sir; I do not think that is a fair statement of it. Mr. WEBB.

Q. Explain it, then, Mr. Warriner.

The PRESIDENT pro tempore. Let the witness answer. [To the witness:] What do you say in response to the first part of the question?

The WITNESS. I say I do not think Mr. WEBB's statement of the question is correct.

Mr. Manager WEBB. I want to be perfectly fair.

The PRESIDENT pro tempore. Answer as to the first part of the question. Let one question be put at a time.

Q. (By Mr. Manager WEBB.) I asked you if about a year or a year and a half before Judge Archbald applied to you for this Packer No. 3 and No. 4 Mr. Hill did not apply to you for these same banks for the Oxford washery and offer you 10 cents a ton in excess of what you were paying the Girard estate on prepared sizes and 5 cents a ton in excess of what you paid the Girard estate on buckwheat, and that you declined it?—A. I declined the proposition made by Madeira, Hill & Co. because it embraced all of the banks on the Girard estate property in that vicinity, and especially the bank which they were very anxious to get and hold of, namely, Packer No. 2. At that time we had contemplated the erection of a washery at that bank, Packer No. 2 being used in connection with Packer No. 4, they being the best banks, in our judgment, to be reworked. They were the banks which Madeira, Hill & Co. were especially anxious to get and were not embraced in the negotiations we had with Judge Archbald. It is true that Judge Archbald also wished these banks, but we declined to give him those banks, agreeing only to give him Packer 3 and the upper part of Packer 4, which were of small value.

Q. At 2 and 3 cents a ton extra royalty?—A. Yes, sir.

Q. Now, did you not want to work all these banks yourselves? Did not your company want to work them all, not only 4 and 2, but did you not want your company and expect your company to work all these banks on the north side of that creek?—A. We did not, because we had never put up a washery on that property. We had contemplated at several times doing it, but we had been in hopes that we might secure a concession in royalty from the Girard estate and had delayed from time to time in putting up a washery at Packer No. 2.

Q. You answered this letter from Mr. Hill to you?—A. I suppose I did. I do not know.

Mr. Manager WEBB. May we put that in evidence and have it read?

The PRESIDENT pro tempore. The letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 75.]

OXFORD COAL CO.,
March 26, 1910.

Mr. S. D. WARRINER,
Vice President and General Manager
Lehigh Valley Coal Co., Wilkes Barre, Pa.

DEAR SIR: Referring to the recent conversation between us in regard to the preparation for market of the coal from your Packer No. 4 culm bank through our Oxford washery——

We will operate this bank for you, pass through the washery and deliver the rice and barley sizes obtained therefrom in cars furnished by you at our plant (of course, assuming that this would not be considered an unfriendly move on our part or be objected to by the Philadelphia & Reading Co.) at prices on the basis of the 65 per cent contract.

We would reenforce this supply with the same sizes of coal from our Oxford bank up to the capacity of our washery. We will find disposition via the Philadelphia & Reading Railway Co. of the sizes of coal above rice taken from your Packer No. 4 bank.

We would pay you on the sizes above rice coal taken from your bank 10 cents per ton on all domestic sizes and 5 cents per ton on pea and buckwheat in excess of the royalties due by you on these grades to the Girard estate.

The life of the proposed arrangement to be that of the life of your present lease with the Girard estate, unless the bank should be exhausted sooner.

Of course, any arrangement made would have to be subject to strike, accident, and water supply conditions. If the above meets with your approval we will take pleasure in closing the matter with you, and in such case will be very glad to take up with you the consideration of our operating for you the Packer No. 2 bank.

Awaiting the favor of an early reply, I am,

Yours, very truly,

———.

Mr. WORTHINGTON. Does it appear by whom the letter was signed?

Q. (By Mr. Manager WEBB.) Who wrote that letter?—A. I think either Mr. Madeira or Mr. Hill, of the firm of Madeira, Hill & Co. I assume that letter is correct.

Q. What are Mr. Hill's initials?—A. Frank, I believe, is his name.

Q. You say he wanted all the banks on the north side of the creek. I ask you if you did not tell them or write to them that you thought it was the best proposition for your company to operate these two banks yourselves?—A. I do not recall what I told them. I declined the proposition.

Q. (Presenting letter.) Mr. Warriner, did you write that letter?—A. (Examining.) Yes; I wrote that.

(The letter was handed to counsel for the respondent.)

Mr. Manager WEBB. I ask that the Secretary read the letter.

The PRESIDENT pro tempore. The letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 76.]

MAY 3, 1910.

(The Lehigh Valley Coal Co., Coxe Bros. & Co. (Inc.), Wilkes-Barre, Pa., S. D. Warriner, vice president and general manager.)

Mr. FRANK A. HILL,
Care of Madeira, Hill & Co., Pottsville, Pa.

DEAR SIR: Replying to your communication of March 6, I beg to say that I have had our division people go over the matter of leasing the culm banks at packer No. 2 and No. 4 and dividing the coal up as suggested by you, very carefully. As a result of their report, I am inclined to believe that our best proposition is to operate these banks ourselves. There are a number of complications which I do not see that we can get around by leasing them to you, and on this account would prefer to take the matter up on our own account.

Yours, very truly,

S. D. WARRINER,
Vice President and General Manager.

Q. (By Mr. Manager WEBB.) Now, Mr. Warriner, you took this matter up with Mr. Thomas, did you not?—A. That matter?

Q. The Oxford washery proposition.—A. I do not recall. I think I probably did.

Q. He turned it down?—A. I think so; yes. I suppose that was it.

Q. Do you not know, Mr. Warriner, that the reason why you leased or agreed to lease this Packer No. 3 to Judge Archbald at a rate of royalty or excess of royalty of 2 and 3 cents was because he was the judge of the United States Commerce Court in Washington and had a suit then pending between your railroad company and the Interstate Commerce Commission?—A. I knew nothing about that suit, Mr. WEBB.

Q. Did you know that he was judge of the United States Commerce Court?—A. I knew he was judge of the Commerce Court; yes, sir.

Q. You did not——A. I considered the proposition on its own merits as a good business proposition for the Lehigh Valley Coal Co.

Q. That is the first time you ever leased one of the culm banks to any man in 35 years?—A. No, sir; we leased a culm bank in the city of Wilkes-Barre about the same time.

Q. Owned by the Girard estate?—A. No, sir; not by the Girard estate.

Q. That is the first time in 35 years that a culm bank was leased by you from the Girard estate, is it not?—A. I do not recall, so far as the Girard estate is concerned, that we ever leased any culm bank; but we had leased other culm banks.

Q. I am speaking about the Girard estate, from which you held these leases.—A. I do not recall. I have not been connected with the affairs of the company that long; but I do not recall any other.

Q. In all your official connection with the company, did you ever know the company to agree to sublease any of the land leased by your company from the Girard estate except in this one instance to Judge Archbald?—A. No; I do not recall any.

Q. Did you and President Thomas speak about Judge Archbald's connection with this proposition and discuss whether you should grant him his request or not?—A. I simply told him at that time that this application had been made. I do not think he gave me any instructions whatever in regard to it. At the time I spoke to him it had not reached a head where it was such a matter as I could definitely take up with him as a finished proposition for his approval or otherwise. I simply discussed it with him in an informal way as simply giving him a piece of information, not with the object of reporting to him or securing instructions from him.

Q. I believe you said he would agree to your recommendations about such matters?—A. Oh, yes.

Mr. Manager WEBB. That is all, Mr. President.

The PRESIDENT pro tempore. The Chair desires to say that hereafter the managers and counsel must confine themselves within the rules of practice ordinarily applied to direct examination. On cross-examination counsel are permitted to reexamine on the matters upon which the witness has been examined; but the Chair will not permit a redirect examination except upon such matters or upon a matter which the managers or counsel state they inadvertently omitted. Otherwise there would be no termination of an examination.

Mr. Manager WEBB. I thought I confined my redirect to the counsel's cross-examination.

Recross-examination:

Q. (By Mr. WORTHINGTON.) Mr. Warriner, two No. 4s have been spoken about here, and I am a little confused and I fear others may be in knowing what you are talking about. When you are talking about No. 4 Packer dump, will you explain what you mean? Is there no designation of one from the other?—A. There were two culm banks, separated by a slate pile, or something of that kind, and locally known as No. 4. The main Packer No. 4, being the larger one, was the dump we were working. The small one we had worked at one time. It is nearer Packer No. 3, but it is locally known as a part of Packer No. 4 dump.

Q. What is the direction of that smaller Packer No. 4 from the larger Packer No. 4?—A. East.

Q. I will speak of it as eastern No. 4 as distinguished from western No. 4. How far is eastern No. 4 from Packer No. 3?—A. It is adjacent to it.

Q. It is close to it?—A. Yes, sir.

Q. This hole that you spoke of, into which you put a part of this material and had worked or used, is between those two, between eastern No. 4 and No. 3?—A. Yes; as I recollect.

Q. Can you tell me whether the Oxford dump is nearer the western No. 4, the main No. 4 dump, than it is to No. 3? Which is the nearer to the Oxford dump, Packer No. 3 or main Packer No. 4 or western No. 4, if you can tell us?—A. I would not want to say.

Q. You say that about the same time that these negotiations were going on your company leased another culm bank?—A. Yes, sir.

Q. I wish you would tell us what bank that was, very briefly, so that it can be identified.—A. We leased a culm bank in the city of Wilkes-Barre to Siebold Dougherty, of Wilkes-Barre. It is a small bank. That was not adjacent to our mining operations.

Q. You also used the expression "We have leased other culm banks." Have you leased others besides that one?—A. We have leased some others, or agreed to. I do not know whether the transaction is finally completed yet or not. There were a number of transactions in process of completion at the time I left the service of the company, and I am not sure whether they have been definitely signed or not. They were banks in the neighborhood of Wilkes-Barre.

Q. I notice in the proposition that was made by Madeira, Hill & Co., which has been read here, there is nothing said about coal being transported over your road. Was there any agreement or understanding of that kind outside of the letter?—A. Not outside of the letter from Madeira, Hill & Co. One of the complications in connection with leasing was whether an arrangement could be made for transporting from the Reading to the Lehigh Valley tracks. There was a complication we did not feel like bringing up at that time.

Q. You have said that Madeira, Hill & Co. offered to lease all your dumps?—A. Yes.

Q. All the packer dumps?—A. Yes; they were very anxious to get them.

Q. I find that in the letter which has been read here there is a proposition to lease only No. 2 and No. 4.—A. 2 and 4; yes. Those are the desirable banks on the property. From a business standpoint packers No. 2 and No. 4 were desirable. They are certainly the best banks.

Q. Packer No. 3 was right across the creek from them, was it not?—A. It was on the north side of the creek. I do not recall how near.

Q. Packer No. 3 was right across the creek from the Oxford dump?—A. They were all close together.

Q. They made you their proposition for No. 4 and No. 2, leaving out No. 3? They did not ask for that?—A. I do not recall how that was.

Q. The letter speaks for itself. Do you know whether or not, as a matter of fact, Madeira, Hill & Co. shipped their products from the Oxford dump over the Reading road?—A. Yes, sir; they shipped on the Reading.

Mr. WORTHINGTON. That is all.

Q. (By Mr. Manager WEBB.) We would like to ask one further question. Did not he, in this proposition submitted to you, agree to take a part of the Oxford output over your road, together with a certain size of coal taken from Packer No. 4 and No. 2?—A. As I understand the letter, it was to be delivered to us; but the Reading were to get a part of the haul.

Q. Exactly.—A. It was not to be mined and shipped on our road.

Q. Exclusively, no.—A. But shipped from the Reading and delivered to us for purchase if we desired it.

Q. With reference to Packer No. 4, mentioned in this letter, the washery of the Oxford people was below this Packer No. 4; in other words, Packer No. 4 was on a hill, and they could work 4 much easier than 3 or east 4. Is not that true?—A. I do not think that is true. All those banks are in a valley.

Q. But Packer 4 and 2 were nearer the Oxford washery than 3, were they not?—A. I can not tell you. I never looked at it with that object in view, and would not be able to tell you.

Mr. Manager WEBB. That is all, Mr. President.

The PRESIDENT pro tempore. The witness may retire.

TESTIMONY OF GEORGE E. KIRKPATRICK.

George E. Kirkpatrick, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Kirkpatrick, what is your position with reference to the Girard estate?—A. I am the superintendent in charge of the Girard estate.

Q. Briefly, what is that?—A. Stephen Girard died in 1831 and left a large estate to the city of Philadelphia in trust. That estate is cared for under an act of the Assembly of the State of Pennsylvania by a board of trustees, 12 of the board appointed by the courts, the other 3 ex officio members of the Philadelphia city government; and I am the officer chosen by that board to manage the property.

Q. Does the estate consist in coal fields or coal property in Schuylkill County, Pa.?—A. It consists of a large amount of real estate in Philadelphia, and a large quantity of coal land in Schuylkill and Columbia Counties, Pa., and a certain amount of personal property.

Q. Have you leased your coal lands, or a part of them, to the Lehigh Valley Railroad Co.?—A. A considerable portion of the coal land in Schuylkill County is leased to the Lehigh Valley Coal Co.

Q. That is owned by the Lehigh Valley Railroad Co.?—A. So I have been given to understand.

Q. Is Packer No. 3 covered by one of these leases?—A. Packer No. 3 is one of those leases.

Q. When does that lease expire?—A. December 31, 1913.

Q. State whether or not you know that the value of culm or culm banks has increased within the last 8 or 10 years.—A. Very decidedly.

Q. Have you with you the original records or letters containing the correspondence between yourself and Maj. Archbald and S. D. Warriner?—A. I have the Archbald letters in the Sergeant at Arms' office and the copies I have with me here.

Mr. Manager WEBB. Please bring them in.

Mr. WORTHINGTON. You may use the copies, as far as we are concerned.

Mr. Manager WEBB. We shall use the copies. [To the witness:] I will ask you, first, if you know what the general policy of coal-owning railroads is with reference to leasing or subleasing or selling their coal property?

Mr. WORTHINGTON. I submit the witness should not be called on to testify as an expert in regard to railroads generally.

The PRESIDENT pro tempore. The question will be read.

Mr. Manager WEBB. I will withdraw it if any objection is made.

Mr. WORTHINGTON. I do object to it.

The PRESIDENT pro tempore. The question is withdrawn.

Q. (By Mr. Manager WEBB.) Mr. Kirkpatrick, go along in your own way and as briefly as possible state your connection and association with Judge Archbald or Maj. James Archbald, your engineer, and give the correspondence between your estate with reference to Packer No. 3. Give the first communication.—A. In the latter part of December, 1911, Judge Archbald made an obligation for a lease or license to work what we call Packer 3 and 4 culm banks. Those culm banks are at present under lease to the Lehigh Valley Coal Co. Judge Archbald said that he had made arrangements with the Lehigh Valley Coal Co. by which we would be permitted to make this lease to him, notwithstanding the fact that——

Mr. WORTHINGTON. The witness, I think, is stating correspondence which is here.

Q. (By Mr. Manager WEBB.) I want you to hand over the correspondence and have it read.—A. I have it seriatim here [producing papers].

The PRESIDENT pro tempore. If it is all in the correspondence, the Chair submits, the facts can be proven in that way and no other.

Mr. Manager WEBB. I think the Chair is entirely right, and that is what I asked the witness to give.

The PRESIDENT pro tempore. Let the letters be identified and read in evidence. The witness ought not to be asked to state orally the contents.

Mr. Manager WEBB. I did not ask that.

Mr. SIMPSON. Let them be identified and read.

Mr. WORTHINGTON. There is no question about the letters.

Q. (By Mr. Manager WEBB.) Is this all the correspondence that you have in reference to this matter?—A. It is.

Mr. Manager WEBB. I ask the Secretary to read it.

The Secretary read as follows:

[U. S. S. Exhibit 77.]

(Girard estate in Schuylkill and Columbia Counties. James Archbald, jr., engineer and agent. Office of the engineers, rooms 404, 405, and 406 Thompson Building.)

POTTSVILLE, *December 26, 1911.*

GEORGE E. KIRKPATRICK, Esq.,
Superintendent Girard Estate, Philadelphia.

DEAR SIR: I inclose an application which I have received from R. W. Archbald, James F. Bell, V. L. Petersen, and T. H. Jones for the lease of the Packer No. 3 and the upper or eastern Packer No. 4 culm banks, shown on blue print which I inclose. R. W. Archbald is my uncle and one of the judges of the United States Commerce Court. I have written him asking him for information regarding his associates in the application, with special reference to their financial responsibility and experience in the coal business. I have also asked him the terms and conditions upon which the Lehigh Valley Coal Co. will agree to release these banks, which it now holds under its leases of Packer No. 2-4 and No. 3 colliieries. I have also written General Manager Warriner, of the Lehigh Valley Coal Co., for this same information. I will forward their replies to you.

These banks are considered among the poorest banks on the Girard estate, though probably better than what is left of the Oxford bank. The Lehigh Valley Coal Co. reclaimed some of the upper No. 4 bank, but gave it up because of the ashes in the bank. I think these are only on top and could be easily removed before the culm is taken. I have had surveys made of these banks, and since I received this application have asked Mine Inspector Weller to make tests, which he will begin to-morrow. From these I can determine with reasonable accuracy the amount of coal in the bank.

Some time ago I suggested to Mr. Frank A. Hill, manager of the Oxford Coal Co., that as these banks were not first rate the Lehigh Valley Coal Co. might be willing to release them, and suggested that the Oxford Coal Co. make an application for them, which, after examining them with Mr. Weller and myself, he intimated that it would do. On receiving the inclosed application, I informed him of it and told him the Oxford Coal Co. should have made an application. He told me it had done so through its Philadelphia representative, Madeira, Hill & Co., to you. As I have heard nothing of it, I presume no consideration has yet been given to it. I feel that the Oxford Coal Co., because of its thorough handling of its bank and rocky bank, deserves all possible consideration on our part, but feel, as does also Mr. Hill, that the Lehigh Valley Coal Co. will only release these banks for preparation through a washery shipping over the Lehigh Valley Railroad, which Oxford could hardly do—that is, from its present plant.

The interests of the Girard estate lie chiefly in having these banks reclaimed as soon as possible at a proper royalty, which would, generally speaking, be the regular colliery royalties on sizes Nos. 2, 3, 4, and 5, with probably some increase on size No. 1, depending somewhat on what the tests show as to their quality.

I shall be glad of an opportunity to discuss this with you if you come up this week.

Very respectfully, yours,

JAMES ARCHBALD, Jr.,
Engineer Girard Estate.

SCRANTON, PA., *December 19, 1911.*

Col. JAMES ARCHBALD,
Engineer of Stephen Girard Estate.

DEAR SIR: We hereby make application for a lease of the culm bank near Shenandoah, known as Packer No. 3, the same to cover also the upper part of the adjoining Packer No. 4 dump. We propose to incorporate as "The Jones Coal Co.," with a capital of $25,000, and to put up a washery which will handle some four or five hundred tons of coal a day. We understand that these dumps are now subject to a lease to the Lehigh Valley Coal Co., which expires December 31, 1913, and which possibly will be renewed. But we have the assurance of that company that on certain terms and conditions, which have practically been agreed upon between us, it will be satisfactory to them to have us lease from you to the extent suggested. We shall expect to pay the current royalties, but we suggest that owing to the character of the dump, which is not the best, the royalties should not be the highest. We shall be prepared, if the lease is made, to put up the washery with reasonable promptness.

Very truly, yours,

R. W. ARCHBALD.
JAMES F. BELL.
V. L. PETERSEN.
T. H. JONES.

DECEMBER 27, 1911.

Mr. JAMES ARCHBALD, Jr.,
Engineer Girard Estate.

DEAR SIR: Your favor of the 26th instant, inclosing statement of rent charges falling due at Girardville January 1, 1912, is duly received, as is also your inclosure of an application of Messrs. Archbald, Bell, Petersen, and Jones for a lease of certain portions of the Packer 3 and 4 culm banks. Messrs. Madeira, Hill & Co. (the Oxford Coal Co.) have repeatedly made verbal application for a lease of these banks, but we have declined to consider their application pending the negotiation of the new leases, which, as now considered, cover these banks.

GEORGE KIRKPATRICK.

[Extract from report of engineer, Dec. 30, 1911.]

PACKER NO. 3 AND PACKER NO. 4 EAST CULM BANKS, APPLICATION FOR LEASE.

On December 26 I forwarded to you an application from Robert W. Archbald, James F. Bell, V. L. Petersen, and T. H. Jones for a lease of the Packers No. 3 and upper or eastern No. 4 culm banks, in which it was stated that the Lehigh Valley Coal Co., which now holds these banks under its colliery leases, would, under certain conditions, consent to release them.

I now inclose letters from Judge Archbald, dated December 27, 1911, and General Manager Warriner, of the Lehigh Valley Coal Co., dated December 28, 1911, with reference to these conditions. Mr. Warriner's statement with reference to the No. 4 bank refers to the western No. 4 bank, which is much better than the eastern. Judge Archbald is a member of the United States Court of Commerce. He is my uncle. With reference to his associates, I inclose letter from him dated December 26, 1911.

Mr. Frank A. Hill, representing the Oxford Coal Co., has spoken to me several times with reference to securing these banks for that company, and I believe that Mr. P. C. Madeira has also made a verbal application to you to the same effect. As the Oxford Coal Co. has handled the very poor bank which it now has so thoroughly and to the advantage of the Girard estate, all possible consideration should be given it on our part, but it is not probable that the Lehigh Valley Coal Co. will consent to release these banks except for preparation through a washery shipping over the Lehigh Valley Railroad, which the Oxford Coal Co. can hardly do from its present plant.

In view of the fact that the banks in question are at present covered by the mining licenses of Packers Nos. 2 and 4 collieries, and will be covered until December 31, 1915, by the proposed new mining licenses of these collieries, and also thereafter, if the new lessees desire to work them, it would seem best to postpone consideration of any other disposition of them until the new mining licenses are made. It is, of course, to the advantage of the Girard estate that these banks be worked as soon as possible at a fair royalty. I have had a survey made of these banks, and Mine Inspector Weller is now making tests of them. From these I will make an estimate of the coal to be won from them, which I will have in your hands by January 3, 1912.

[R. W. Archbald, Judge, United States Commerce Court, Washington.]

SCRANTON, PA., *December 26, 1911.*

Col. JAMES ARCHBALD.

DEAR SIR: In response to your inquiry of December 23 with regard to the experience and financial standing of those who are associated with me in the application for a lease of the culm banks near Shenandoah, permit me to say that Mr. Petersen, who will have charge of the proposed washery, is a man of exceptional ability in coal matters. He was for a long time with the Hillside Coal & Iron Co., and at present has charge of the operations of the Humbert Coal Co., having mines at Jessup, in this county, and others also in Schuylkill. I do not know just where. Mr. Bell is a lawyer and is very conversant with coal matters, and is interested with Mr. Petersen in the Humbert Coal Co. I am advised that their interests in that company ought to make them worth about $25,000 each. Mr. Jones is worth anywhere from $50,000 to $75,000. He has a general acquaintance with coal matters, and is also interested in slate quarries at Slatington, Pa. In addition to these, there are other parties whose names do not appear. One of them, Mr. Howell Harris, is a well-known coal man here in Scranton, and Mr. Hulbet, of New York, is associated with the coal men there who are going to take the product. Mr. T. F. Farrell, a retail coal dealer of New York City, is going to put up the money. Care has been exercised in these selections so as to make a combination that will insure success. Trusting that this will be satisfactory.

Yours, very truly,

R. W. ARCHBALD.

SCRANTON, PA., *December 27, 1911.*

Col. JAMES ARCHBALD.

DEAR SIR: Replying to your inquiry of December 26, permit me to say that the conditions upon which the Lehigh Valley Coal Co. consent to our having culm dump Packer No. 3 and the eastern part of Packer No. 4 are simply these: First, that the coal shall be shipped over the Lehigh Valley Railroad; second, that in addition to the royalties paid to the Girard estate there shall be 2 or 3 cents a ton extra paid to the Lehigh Valley Coal Co.; third, that no slush shall be allowed to get into the stream; fourth, where the creek has to be cleared there shall be a proportionate sharing in the expense; and, fifth, that reasonable diligence shall be exercised in the prosecution of the work.

Yours, very truly,

R. W. ARCHBALD.

THE LEHIGH VALLEY COAL CO.,
CONE BROS. & CO. (INC.),
Wilkes-Barre, Pa., December 28, 1911.

Mr. JAMES ARCHBALD, Jr.,
Engineer Girard Estate.

DEAR SIR: I have your letter of the 26th instant at hand. Judge Archbald called to see me recently and said that he would like to rework some of the culm banks at Packer No. 3 colliery. I advised him that if it was the pleasure of the Girard estate to extend to him a lease of this bank we would not interpose any objection, provided he agreed to certain arrangements which we informally discussed.

I did not agree to let him have the No. 4 bank as we are already putting some of this through the No. 4 breaker.

Yours, very truly,

S. D. WARRINER,
Vice President and General Manager.

[Extract from report of superintendent, Jan. 4, 1912.]

Messrs. R. W. Archbald, James F. Bell, V. L. Petersen, and T. H. Jones (who propose to incorporate as the Jones Coal Co.) have made application for a lease of a portion of the Packer No. 3 and No. 4 culm banks.

They propose to erect a washery capable of shipping four or five hundred tons per day and to pay "current royalties."

These banks are now included in the Packer leases and are also included in our offer to renew, which is now under consideration by the Lehigh Valley Coal Co. The applicants for this lease state that they have arranged with the Lehigh Valley Coal Co. the terms on which that company will assent to this use of the culm banks.

Mr. Percy C. Madeira, for the Oxford Coal Co., has also made application (verbal, but oft repeated) for these banks, proposing to work them through the Oxford washery, already erected and in operation. The answer given to him has been that the banks at present are in the control of the Lehigh Valley Coal Co., which company also has the option of renewal upon the terms approved by the board of directors of city trusts at its meeting of November 8, 1911, and that so long as this option is outstanding the separate leasing of these culm banks can not be taken into consideration.

The fact that the Lehigh Valley Coal Co. has arranged to consent to the working of these banks by Messrs. Archbald et al. somewhat changes the situation, but I believe should not change our attitude, and recommend that action upon this application be postponed until the negotiation for the renewal of the Packer leases has at least made more definite progress.

GIRARD ESTATE, OFFICE OF THE ENGINEER,
January 3, 1912.

GEORGE E. KIRKPATRICK, Esq.,
Superintendent Girard Estate.

DEAR SIR: I inclose estimates referred to on page 9 of my report of December 30, 1911, of the amount of coal contained in and to be shipped from the Packer No. 3 and Packer No. 4 eastern banks. These together make 521,583 tons to be shipped. The royalty value at the present Oxford washery rates would be $122,925, or at the rates proposed under the new mining licenses for the Packer collieries, $159,580.

Very respectfully, yours,

JAMES ARCHBALD, Jr.,
Engineer Girard Estate.

PACKER NO. 4 COLLIERY, EASTERN CULM BANK.

Estimate of coal Dec. 30, 1911.

Sizes.	Total content.		Waste.		Boiler fuel, 6 per cent.	To be shipped.
	Per cent.	Tons.	Per cent.	Tons.	Tons.	Tons.
No. 1. Prepared	15.7	24,890	20	4,978	.....	19,912
No. 2. Pea	4.0	6,341	15	951	.....	5,390
No. 3. Buckwheat	7.8	12,365	10	1,237	.....	11,128
No. 4. Rice	8.7	13,792	5	690	.....	12,275
No. 5. Barley	(1)	(1)	(1)	(1)	[2] 827	.....
Total	36.2	57,388	.....	7,856	827	48,705

[1] Not tested for. [2] Additional fuel from size No. 5.

NOTE. Fourteen tests made by Henry J. Weller, mine inspector, Girard estate. Cubic content, 2,295,260 cubic feet; weight of 1 cubic foot, 57 pounds.

PACKER NO. 3 COLLIERY.

Estimate of coal in culm banks December 30, 1911.

Sizes.	Total content.						Waste.		Boiler fuel		To be won.
	Northern section, 26,006,000 cubic feet.		Southern section, 22,594,000 cubic feet.		Both sections.						
	Per cent.	Tons.	Per cent.	Tons.	Tons.	Per cent.	Tons.	Per cent.	Tons.	Tons.	
No. 1. Prepared	15.1	99,929	14	80,400	180,419	20	36,084	.....	500	143,835	
No. 2. Pea	4.4	29,116	4	23,000	52,116	15	7,817	.....	.....	44,299	
No. 3. Buckwheat	14.6	96,617	10	57,493	154,110	10	15,411	.....	.....	138,699	
No. 4. Rice	12.6	83,381	14	80,490	163,871	5	8,194	6	9,832	145,845	
No. 5. Barley	(1)	(1)	.....	.....	.....	.....	.....	.....	.....	.....	
Total	46.7	309,043	42	241,473	550,516	.....	67,506	.....	10,332	472,678	

[1] Not tested for.

NOTE.—Twenty-eight tests made by Henry J. Weller, mine inspector Girard estate. Weight of 1 cubic foot, 57 pounds.

[Extracts from the minutes of the committee on Girard estate without the city.]

JANUARY 4, 1912.

Superintendent reported:

* * * * * * *

Submitting request of Messrs. R. W. Archbald, J. F. Bell, V. L. Petersen, and T. H. Jones for a lease of portions of Packer Nos. 3 and 4 culm banks, and stating that Mr. Percy C. Madeira, representing the Oxford Coal Co., has also made application for a lease of these banks, but has been held off on the ground that the offer to renew the Packer leases to the Lehigh Valley Coal Co. prevents an immediate consideration of his request. Therefore, recommending that action on the application be postponed.

Postponed.

* * * * * * *

Engineer reported:

That an application from R. W. Archbald and others has been received and forwarded for a lease of portions of Packer Nos. 3 and 4 culm banks, for which banks also the Oxford Coal Co. has made verbal application.

[Extract of letter of George E. Kirkpatrick, superintendent, to James Archbald, jr., engineer, regarding action of committee on Girard estate without the city. Taken on Thursday, Jan. 4, 1912. Letter dated Jan. 9, 1912.]

Consideration of the application of Messrs. R. W. Archbald and others for a lease of the Packer No. 3 and No. 4 culm banks was postponed, pending the conclusion of the negotiations with the Lehigh Valley Coal Co. relative to the renewal of the colliery leases in which these culm banks are now included.

(R. W. Archbald, Judge, United States Commerce Court, Washington.)

SCRANTON, PA., *January 29, 1912.*

GEORGE E. KIRKPATRICK, Esq.

DEAR SIR: I expect to be in Philadelphia next Monday afternoon, February 5, on my way to Washington, and I write to inquire whether I could call and see you briefly with regard to the application recently made by myself and others for a lease from the Girard estate of Packer No. 3 and No. 4 culm dumps at Shenandoah. It would accommodate me if you could fix an hour as soon after 1.30 as possible.

Yours, very truly,

R. W. ARCHBALD.

GIRARD ESTATE, *January 30, 1912.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: I am in receipt of your favor of the 29th, suggesting that I fix an hour on Monday next, February 5, at which I can arrange to meet you at the office of the Girard estate in Philadelphia. At this time I believe that I can, without difficulty, see you at 1.30 p. m. on that day and will do my best to be at your service at that hour. Should anything transpire to prevent my meeting you, I will endeavor to advise you, so that a later hour may be arranged.

Yours, truly,

GEO. E. KIRKPATRICK,
Superintendent Girard Estate.

[Extract from report of George E. Kirkpatrick superintendent to the committee on Girard estate without the city, dated Feb. 8, 1912.]

Judge R. W. Archbald, of Scranton, applicant for a lease of Packer Nos. 3 and 4 culm banks, has called at the Philadelphia office of the Girard estate to urge a consideration of his application, and I repeated to him the conclusion of your committee—that the leasing of culm banks would not be considered until after the closing of the negotiations for the renewal of the colliery agreements, which conclusion had already been sent to him in writing through the Pottsville office.

[Extract from the minutes of the committee on Girard estate without the city, Feb. 8, 1912.]

Superintendent reported.

* * * * * * *

[Packer Nos. 3 and 4 culm banks. Lease of.]

That Judge R. W. Archbald, of Scranton, applicant for a lease of Packer No. 3 and Packer No. 4 culm banks, has called at the Philadelphia office to urge consideration of his application and that the conclusion of the committee has been repeated to him to the effect that the leasing of culm banks would not be considered until after the closing of the negotiations for the renewal of the colliery agreements.

During the reading of the exhibit.

Mr. Manager WEBB. Mr. President, it is agreed between the managers and counsel for the respondent that the table might be printed instead of being read; it can be better understood after having been printed.

The PRESIDENT pro tempore. That will be done without objection.

Q. (By Mr. Manager WEBB.) Mr. Kirkpatrick, I understand from this correspondence in the record that after the application had been made to the Girard estate, setting forth that the consent of the Lehigh Valley Coal Co. had been obtained to the sublease, or re-lease as we would call it, your estate declined to agree to it?—A. That is right.

Q. And after your estate had declined to agree to it, you sent notice of that declination to Judge Archbald at the Pottsville office?—A. Through the Pottsville office.

Q. And that after that time the judge wrote you a letter asking for a date or an hour when he could see you, and did see you; and that you used the language in your report, that he urged you or urged the estate to agree to re-lease to him this Packer No. 3. What language did he use or what did he say?—A. I can not recall the exact language, but the general effect was calling attention to the fact that the quicker a culm bank is worked the better for a landowner, which, of course, we both knew. That is my recollection of the urging, calling attention to the advantage to the Girard estate of making a quick lease of this property.

Q. When the present lease of the Lehigh Valley Coal Co. expires in 1913, I believe, is it?—A. On December 31.

Q. Will you thereafterward get larger royalties?

Mr. WORTHINGTON. I submit this witness is a witness and not a prophet.

Mr. Manager WEBB. I will ask the witness, Mr. President, if he expects to demand larger royalties, if the counsel desires it put in that way.

The WITNESS. If I expect to demand higher royalties?

Mr. Manager WEBB. Yes, sir.

The WITNESS. I have already done so.

Q. (By Mr. Manager WEBB.) Mr. Kirkpatrick, how long have you been associated with the Girard estate?—A. For 34 years.

Q. How long has the Lehigh Valley Coal Co., or the Lehigh Valley Railroad Co., been leasing from your estate?—A. It was leasing through its subordinate corporation, the Philadelphia Coal Co., when I went into the employment of the Girard estate in 1878. I can not offhand say how long before that time.

Q. Did the Lehigh Valley Coal Co. ever before during your experience as manager of the Girard estate consent to a release or sublease of any of the land that you had leased to it?—A. No.

Mr. Manager WEBB. That is all, Mr. President.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Mr. Kirkpatrick, the question was put to you just now by Mr. Manager WEBB that the Girard estate declined to make the lease that was asked for by Judge Archbald and his associates. Now, as a matter of fact, I understand what you did say was to tell him and to tell the Madeira Co. that their applications would not be considered until the question of renewing the lease of the Lehigh Valley Coal Co. was settled.—A. That is a statement of it more exactly.

Q. It was simply postponed?—A. Postponed.

Q. And not declined?—A. Not declined in the offhand manner that the word "declined" would imply.

Mr. Manager WEBB. Temporarily declined.

Q. (By Mr. WORTHINGTON.) I observe in the proposition that was made about leasing this bank, signed by R. W. Archbald, James F. Bell, V. L. Petersen, and T. H. Jones, that Judge Archbald thereby makes known that "we hereby make application for a lease," and so forth; 'that he is a party to it. In any of the communications that you had with Judge Archbald on the subject written or—you put in all the writing, I believe?—A. All the writing was put in; yes, sir.

Q. In all the talk that you had with him—did you talk with him more than once?—A. Only this one time.

Q. That is, when he stopped at Philadelphia on his way down to Washington to the Commerce Court?—A. Yes.

Q. Did he at that time make any suggestion or intimation that the fact that he was one of the parties was to be concealed from the whole world or from anybody?—A. No; not a word.

Q. Did anybody during these negotiations make any suggestion to you that it was not to be known that Judge Archbald was dealing in the matter?—A. No such thought was advanced.

Q. There is an expression here in one of these papers that has been read which I will read. I do not understand it, and perhaps you will explain it. It is an extract from the report of your engineer on December 30, 1911. It reads:

> In view of the fact that the banks in question are at present covered by the mining licenses of Packer Nos. 3 and 4 collieries and will be covered until December 31, 1915.

Is that a misprint or a mistake?—A. It is correct; but it requires possibly a little explanation.

Q. That is what I wanted.—A. In that letter the engineer assumes that the Lehigh Valley Coal Co. will renew its lease. One of the terms in the lease which the Girard estate proposed to the Lehigh Valley Co. was that it should have two years at the beganing of its new lease in which it could work these culm banks; but at the end of these two years if it had not started to work the culm banks they would be taken from them and we would be free to deal with any applicant who chose to appear.

Mr. WORTHINGTON. That is all, Mr. President.

The PRESIDENT pro tempore. Is it desired that the witness shall be retained further?

Mr. Manager WEBB. No, sir; the witness may be excused, so far as the managers are concerned.

The PRESIDENT pro tempore. The witness is finally excused.

Mr. Manager WEBB. Mr. President, we would like to call Mr. V. L. Petersen and Mr. James F. Bell, signers of this application, but we are informed that they are not here, although they have been served.

The PRESIDENT pro tempore. Do you desire to have them called?

Mr. Manager WEBB. Yes, sir.

The PRESIDENT pro tempore. The Sergeant at Arms will call the witnesses.

Mr. WORTHINGTON. Mr. President, I think it is due to the witnesses whose names have been called, or to Mr. Petersen at any rate, to state that we subpoenaed him, and we have, as to our witnesses, communicated with them about the time we want them here. I think it is possible that the reason he is not here may be owing to the fact that he thinks he is not to come until we want him.

Mr. Manager WEBB. Under that explanation I will not ask that an attachment be issued at this time.

The PRESIDENT pro tempore. Does that relate to both witnesses?

Mr. WORTHINGTON. No; Mr. Bell is not on our list.

Mr. Manager WEBB. I should like to have Mr. Bell called, then, Mr. President.

The PRESIDENT pro tempore. The Sergeant at Arms will call the witness.

The SERGEANT AT ARMS. James F. Bell! James F. Bell! James F. Bell! Appear and answer summons.

The PRESIDENT pro tempore. The Chair is informed that the witness has not reported in obedience to the subpoena.

Mr. Manager WEBB. Therefore, Mr. President, I ask for an attachment for this witness. We will prepare the order in a few moments and present it to the Senate.

Mr. WORTHINGTON. Let me make another explanation about Mr. Petersen. I am just told by my associate that his name appears on the list as V. L. Patterson. Probably that is the trouble about his being served on the managers' list.

Mr. Manager WEBB. I will say that he has been personally served, we are informed.

I should like to call Mr. Edward B. Smith as the next witness.

TESTIMONY OF EDWARD B. SMITH.

Edward B. Smith, having been duly affirmed, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Smith, are you a director in the Lehigh Valley Railroad Co.?—A. I am.

Q. Are you a director in the Girard estate outside of the city?—A. I am a member of the board of city trusts, which has charge of the Girard estate and other charities.

Q. Do you know Mr. Eben B. Thomas, president of the Lehigh Valley Railroad Co.?—A. I do.

Q. State if he ever said anything to you about a proposition of Judge Archbald to lease Packer No. 3, and, if so, what it was.—A. I spoke to him about it.

Q. You spoke to him about it. What was said?

Mr. WORTHINGTON. Mr. President, I do not see exactly how——

Mr. Manager WEBB (to Mr. Worthington). You may object to that, if you wish, and I will withdraw it; but I want to ask him for the purpose of showing what conversation took place between Mr. Thomas, president of the Lehigh Valley Railroad Co., and Mr. Smith, director of the Girard estate, with reference to that dump.

Mr. WORTHINGTON. I do object to that unless it is proposed in some way to connect Judge Archbald with it or to show that he had knowledge about it.

Mr. Manager WEBB. We propose to connect this application of Judge Archbald with this conversation, Mr. President; to show that that application at the time of this conversation was pending before the Girard estate, of which this witness was a director; and that the president of the railroad company, who was vice president and general manager of the coal company, who had formally agreed to lease this culm bank, subject to the action of the Girard estate, was then talking to this witness with reference to the very matter that was pending before the Girard estate.

Mr. WORTHINGTON. Of course, you perceive we make no objection to what was done in the way of action, either by the Girard people or by the Lehigh Valley people, on Judge Archbald's application, but when it comes to any talk that was had between persons connected as associates that did not involve action upon it, I do not see how it would be competent to affect us. Suppose we should say that this gentleman had had a conversation with another officer of the Lehigh Valley, or somebody connected with the Girard trust, and that one said, "I think it is proper that the application ought to be granted," we could not offer that.

The PRESIDENT pro tempore. The Chair thinks it would be necessary to connect the respondent with the conversation in some way. The fact that there was an application pending——

Mr. Manager WEBB. I want to show that as a result of this conversation between the witness and the president of the railroad company this witness let the application die or took no more interest in it.

The PRESIDENT pro tempore. He can testify as to the fact that he did do something in consequence——

Mr. Manager WEBB. I am going to ask him that question next.

The PRESIDENT pro tempore. What the conversation was is an entirely different matter.

Mr. WORTHINGTON. I object to that, because it has already been shown what action was taken at a formal meeting of the board of city trusts, which had this matter in charge. All this correspondence and the reports of engineers were submitted to them, and the minutes show that they decided they would postpone the matter until after it was determined whether the Lehigh Valley would get another lease, a continuing lease of the property, and Judge Archbald and his associates were so notified.

The PRESIDENT pro tempore. The objection, then, is to the repetition of testimony; is that it?

Mr. WORTHINGTON. If he expects to repeat it, it is unnecessary; and if he expects to contradict it, it is incompetent.

The PRESIDENT pro tempore. The Chair understands the question to be this: The manager desires to prove that certain action was taken, and then desires to prove what was the cause of that action. The Chair does not understand by that that it goes to the extent of proving what the conversation was. For instance, to take an illustration from the books, a witness can say that he went around a certain corner of a street and that he did so because of something that had been said to him—not to be permitted to state what the particular thing said was, but to give it as a cause for his action. The Chair understands that to be the limit of the manager's question, that the action was taken in consequence of certain transactions.

Q. (By Mr. Manager WEBB.) In consequence of your conversation with Mr. Thomas, president of the Lehigh Valley Railroad Co., what action did you take with reference to this application for Packer No. 3 before the Girard estate?—A. At the next meeting of the committee, of which I was one, the committee on property throughout the city, I remarked——

The PRESIDENT pro tempore (to the witness). Answer the question. The statement you made is not necessary.

The WITNESS. There was nothing done.

Mr. Manager WEBB (to Mr. Worthington). Examine the witness.

Mr. WORTHINGTON. I do not care to do so.

The PRESIDENT pro tempore. The witness may retire.

Mr. Manager WEBB. The witness may be excused, so far as we are concerned.

The PRESIDENT pro tempore. The witness will be excused.

Mr. Manager WEBB. The next witness we would like to have is Mr. Eben B. Thomas, president of the Lehigh Valley Railroad Co.

The PRESIDENT pro tempore. Mr. Eben B. Thomas will be called into the Chamber.

Mr. Manager WEBB. I am informed that Mr. Thomas is not present. Therefore I will call Maj. James Archbald as a witness.

TESTIMONY OF JAMES ARCHBALD.

James Archbald, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Archbald, what position do you hold with reference to the Girard estate, please, sir?—A. Engineer.

Q. Did you ever have any negotiations with Judge Robert W. Archbald with reference to securing from the Girard estate what is known as Packer Nos. 3 and 4?—A. Packer 3 and eastern No. 4 bank; yes, sir—culm banks, not collieries.

Q. Have you any correspondence between yourself and Judge Archbald with reference to the matter?—A. I have; yes, sir.

Q. Have you copies of it?—A. I have.

Mr. WORTHINGTON. We are willing that the Secretary may read them.

The WITNESS. I will say, Mr. WEBB, that I culled out, while hearing Mr. Kirkpatrick, all the letters which he read. I have a full set now. I have picked out only the letters which have not heretofore been read in the case; but if you want all of them——

Mr. Manager WEBB. I shall only call for those.

The WITNESS. There may be one here that Mr. Kirkpatrick read; I am not quite clear as to that. I will say also that two or three of these are personal letters. As you know, they appeared in the record before; but they are really personal letters.

Mr. WORTHINGTON. They may all be read by the Secretary, so far as we are concerned, without proving them further.

The PRESIDENT pro tempore. The letters will be read.

The Secretary read the letters, marked "U. S. S. Exhibit 78," as follows:

[U. S. S. Exhibit 78.]

(United States Commerce Court, Washington.)

SCRANTON, PA., *August 14, 1911.*

MY DEAR JIM: In the negotiations passing with regard to the Oxford washery at Shaft, the question comes up as to whether the lease with the Girard estate contains any provision for a renewal. I understand that the lease runs out in about two years or so and that the dump would not be exhausted by that time. If this is the case and there is no privilege of renewal, would it be possible to secure an assurance from the Girard estate that the lease would be extended to cover the life of the dump? I am addressing you both at Pottsville and at Marthas Vineyard, not knowing just where you are.

I have written to the Lehigh Valley people to see whether I could get any arrangement with them about one or other of the adjoining dumps, but have not heard from them.

Yours, very truly,

R. W. ARCHBALD.

A true copy.

JAMES ARCHBALD, Jr.

(Copy.)

AUGUST 16, 1911.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: Replying to your letter of August 14, relative to the Oxford washery lease, this lease, which expires on December 31, 1913, contains no provision for renewal. It is probable that the bank will be nearly, if not completely, exhausted by that time; but I think the Girard estate will assure the lessee that the lease will be renewed for a period sufficient

cient to allow its complete exhaustion. This can be ascertained upon an application from the lessee for such an assurance, which I would submit to our board of directors. With my present view of the conditions upon this lease I would approve such an application.

Very truly, yours,

JAMES ARCHBALD, JR.,
Engineer Girard Estate.

A true copy.

JAMES ARCHBALD, JR.

—

(United States Commerce Court, Washington.)

SCRANTON, PA., *November 17, 1911.*

MY DEAR JIM: You will remember that I wrote you two or three months ago about trying to make an arrangement with regard to getting one of the dumps of the Lehigh Valley Coal Co. on the Girard estate near Shenandoah. I communicated with Mr. Warriner to that end, and have recently had an interview with him, with the result that if I can get from the Girard estate a lease of the particular dump which I have in mind, which is at Packer No. 3, on favorable—that is to say, current—terms and conditions, the Lehigh Valley will approve of it provided they get transportation and certain other things they ask for. I am not quite in shape as yet to see you definitely, but I thought I ought at the earliest practicable moment to communicate in this way, letting you know what had been done and preparing you for it. For the purpose of having a definite understanding in the matter I shall, of course, expect to come to Pottsville and talk it over with you. And when I am in a position for this I probably will call you up by long-distance telephone and make an appointment. This letter is therefore simply by way of anticipation.

When I see you I will have quite a little to tell you of Commerce Court experiences. I go down to Washington for a day's consultation the middle of next week, but after that I do not expect to be called there until along in January. Perhaps not then, if some of the hot heads carry out their threats to put the court out of business.

Very truly, yours,

R. W. ARCHBALD.

A true copy.

JAMES ARCHBALD, Jr.

—

[Exhibit 12.]

(R. W. Archbald, judge, United States Commerce Court, Washington.)

SCRANTON, PA., *November 22, 1911.*

MY DEAR JAMES: The bank that is recommended to me is Packer No. 3. And this, as pointed out to me by Mr. Warriner on his map, was the one farthest up the creek and on the opposite side from the Oxford washery. As I understand it, it is the largest one there on the Lehigh leases. As described to me, it is a sort of double dump. I think probably that I will ask for a separate lease and not tie up with the Oxford people, and, of course, will have to pay the colliery rate which you mention, the same as others. As soon as I am positive that I can carry the matter through with the parties with whom I am negotiating I will call you up and come down and see you, so as to make a definite arrangement.

Yours, very truly,

R. W. ARCHBALD.

If Mr. Hill is after this dump, please do not let him get ahead of me.

A true copy.

JAMES ARCHBALD, Jr.

—

DECEMBER 23, 1911.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: I have received the application of December 19, of yourself, James F. Bell, R. L. Peterson, and T. H. Jones for a lease to the Jones Coal Co. of Packer No. 3 and Northern No. 4 culm banks. I expect to present this application to the committee on Girard estate without the city at its next meeting, which will be held on January 4, 1912. Please give me, at your earliest convenience, such information as you think I will need with reference to the financial standing of your associates and their experience in the coal business.

Very truly, yours,

JAMES ARCHBALD, Jr.,
Engineer Girard Estate.

A true copy.

JAMES ARCHBALD, Jr.

—

(Girard estate, Geo. E. Kirkpatrick, superintendent, Stephen Girard Building, 21 South Twelfth Street, Philadelphia.)

JANUARY 9, 1912.

Mr. JAMES ARCHBALD, Jr.,
Engineer Girard Estate.

DEAR SIR: At the stated meeting of the committee on Girard estate without the city, held on Thursday, the 4th instant, the following action was taken:

"Consideration of the application of Messrs. R. W. Archbald and others for a lease of the Packer No. 3 and No. 4 culm banks was postponed pending the conclusion of the negotiations with the Lehigh Valley Coal Co. relative to the renewal of the colliery leases in which these culm banks are now included."

* * * * * * *

Yours, truly,

GEO. E. KIRKPATRICK,
Superintendent Girard Estate.

—

(James F. Bell, attorney at law, Scranton, Pa.)

JANUARY 12, 1912.

Col. JAMES ARCHBALD, *Pottsville, Pa.*

DEAR SIR: Judge Archbald, under date of January 2, 1912, wrote me from Florida in regard to the matter he was speaking to you about and for which an application had been made to the Girard estate. In his letter he stated that he had written you and you would advise me of the result of the application, which I should expect shortly after the close of this month. Since the receipt of the judge's letter the other gentlemen interested have been to see me several times regarding it and to see what information I had. I wish you would let me know, if convenient, what disposition was made of the application.

Yours, very truly,

JAMES F. BELL.

A true copy.

JAMES ARCHBALD, Jr.

JANUARY 13, 1912.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: At the meeting of the committee on Girard estate without the city, held on Thursday, January 4, 1912, the following action was taken:

"Consideration of the application of Messrs. R. W. Archbald and others for a lease of the Packer No. 3 and No. 4 culm banks was postponed pending the conclusion of the negotiations with the Lehigh Valley Coal Co. relative to the renewal of the colliery leases in which these culm banks are now included."

Supt. Kirkpatrick and I had a meeting with General Manager Warriner, of the Lehigh Valley Coal Co., yesterday with reference to the renewal of the colliery leases, and it is probable that these will be definitely settled within the next two months.

Very respectfully, yours,

JAMES ARCHBALD, Jr.,
Engineer Girard Estate.

A true copy.

JAMES ARCHBALD, Jr.

Q. (By Mr. Manager WEBB.) Mr. Archbald, your report shows that Packer No. 4 contained 48,705 tons to be shipped or to be won. Is that correct?—A. Yes, sir.

Q. That is Packer eastern No. 4?—A. Eastern No. 4; yes, sir.

Q. Your report shows that in Packer No. 3 there are 472,678 tons to be won; that is, coal to be taken out and shipped?—A. Yes, sir.

Q. A total of something over 520,000 tons in those two dumps?—A. Yes, sir.

Q. Were these Packers about the average Packer dumps?—A. I consider them below the average.

Q. How much below the average?—A. That would be merely a matter of opinion. I would say not very much below. At the time this matter came up, Packer No. 3 dump, which was the larger one, was marked on our maps "slate bank," and we had an idea that it was very much poorer than any bank we had, as you will notice from my statements in the letters; and after making those tests we found that it was practically, as far as concerns where there was coal, an average bank. There are, however, large deposits of rock and slate that are more or less separate banks, but intermixed with the coal banks, so that it is undoubtedly below the average. And No. 4 eastern bank is very much below the average. That is really a slate bank and not a coal bank.

Q. That is the smaller bank?—A. Yes.

Q. The 48,000-ton bank?—A. Yes.

Q. This bank showed 15 per cent prepared sizes, did it not?—A. Yes, sir.

Q. And it showed 14 per cent buckwheat and 12 per cent rice. Is not that a little above the average bank?—A. I think you are wrong about those percentages. They would be bigger than you quote. Those are the percentages of the whole content. The percentages of coal—well, yes; if you do not care to go into detail, it does show better. But, as I explained to you in the committee, the hand tests always show a much larger proportion of prepared coal than we are able to get out of the bank under any conditions. At that time you asked me what the average was and I said between 5 and 10 per cent, and I find on examination last year our banks averaged 8 per cent.

Q. This bank, on hand tests, averaged 15 per cent?—A. Yes, sir; but if I were making that estimate for a buyer or operator, I would cut that down 50 per cent, at least, and say we would get only one-half of that so far as actual shipments are concerned.

Q. That would be about 7½ per cent?—A. Yes; that would be about our average—8 per cent is our average.

Q. Then this is about an average bank, is it not?—A. No, sir.

Q. Within one-half of 1 per cent of an average bank?—A. No, sir.

Q. The difference between 7½ and 8 per cent?—A. No. It contains too much rock to be an average bank.

Q. And yet your hand tests showed 15 per cent prepared sizes?—A. Yes; where there is coal. But a large part of the bank is rock, and it is undoubtedly, in my mind, not an average bank. But not very much below the average. I would say this bank and the Oxford bank are about on a par. I consider the Oxford below the average.

Q. As to whether it is an average bank or not depends on your judgment as to how much refuse is there besides real coal?—A. Yes.

Q. Suppose this bank contains 46,000,000 cubic feet and 472,000 tons of coal to be won; is not that a pretty good average?—A. Yes; but we would not win that much, quite.

Q. That is what your report shows.—A. Very true.

Q. 472,000 tons in Packer No. 3 bank to be won.—A. Very true.

Q. And 48,000 tons in Packer No. 4 to be won?—A. Yes.

Q. And if that much coal can be won out of 46,000,000 feet cubic contents, that is a good content, is it not?—A. Well, I would say it was, off hand, in that respect. It is, however, not an average bank; it is not up to the average.

Mr. Manager WEBB. That is all. The witness is with the respondent.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Had any part of Packer No. 3 culm bank been taken away at any time from the way it was originally made?—A. No; not Packer No. 3.

Q. Not Packer No. 3?—A. Yes; by the Lehigh Valley Railroad Co. It had taken some under a track which they expected to put in that ran through the bank. They took some of that away—the Lehigh Valley Railroad Co.—and delivered it to the Lehigh Valley Coal Co.

Q. Did they use the part that they removed to put their road in there?—A. What the road was built on, of course, they did not remove; but the bank that was rendered unavailable by reason of preparation by the road was removed by them and taken to Packer No. 4 breaker—that is, No. 3.

Q. Mr. Witness, will you look at this letter dated November 20, 1911, purporting to have your signature and to be addressed to Judge Archbald, and tell me whether that is one you have read? I was out of the Chamber part of the time while the letters were being read by the Secretary.

The WITNESS. A letter of Judge Archbald? Let me see it.

Mr. WORTHINGTON. No; a letter from you to Judge Archbald. Let me show it to you.

The WITNESS. No, sir; that was not included: I must have omitted it. I think I have it here. It should have been included.

Q. I would like to have that read, then.—A. I must have taken it out by mistake.

Q. It may be read from the record. Mr. WEBB, I presume, without explaining it?

Mr. Manager WEBB. Oh, yes.

The WITNESS. I overlooked it. I have not got it.

Mr. WORTHINGTON. It is on page 1577.

The Secretary read as follows:

[U. S. S. Exhibit 70.]

NOVEMBER 20, 1911.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

MY DEAR UNCLE WORROW: I received your letter of November 17. I am not sure whether the bank about which you spoke to Mr. Warriner is the Packer No. 3 bank or the upper; that is, eastern No. 4 bank. Neither of these banks is very good, and would hardly warrant a separate operation. It would pay the Oxford Coal Co., however, to take them, which is probably your idea. Mr. Hill, managing director of the Oxford Coal Co., some time ago asked me for the eastern Packer No. 4 bank, and I promised to take the matter up with Mr. Warriner for him as soon as I could make a survey to show the exact location of the bank. This has not yet been done.

The Oxford royalty rates are as follows:

	Cents.
Size No. 1, prepared	45
Size No. 2, pea	30
Size No. 3, buckwheat	15
Size No. 4, rice	7½
Size No. 5, barley	5

The colliery rates, which are also paid on all culm-bank coal prepared by collieries, are at present:

	Cents.
Size No. 1	40
Size No. 2	36
Size No. 3	23
Size No. 4	10
Size No. 5	5

As these two banks are not first class, the Board of Directors of City Trusts may be willing to have them worked under the Oxford royalty rates if taken by the Oxford Coal Co. Otherwise they will probably want the full colliery rates, and that will be increased on size No. 1 when the present leases expire on December 31, 1915.

I shall be glad to see you with reference to this matter whenever you come down. I hope you can arrange to stay overnight with us.

Very sincerely, yours,

JAMES ARCHBALD, Jr.

Q. (By Mr. WORTHINGTON.) Now, Col. Archbald, you spoke on your examination by Mr. WEBB about conclusions reached after making tests. When were those tests made?—A. Very late in December.

Q. Last December?—A. Of 1911.

Q. They were made, then, after this letter of November 20, 1911, was written?—A. Yes, sir. I had to make my report very promptly, and I had no time to go over it personally. The calculations were made in my office and checked up in my office. I did not pass any judgment on what there was.

Q. In this letter you say that neither Packer No. 3 bank nor the eastern No. 4 bank is very good. What was the information you were going on when you wrote that letter?—A. Just my opinion, having looked them over. I had no information at all. As I say, they were marked "slate banks" on my map, and I wanted to warn Judge Archbald that they were not good banks.

Q. When were the Oxford royalty rates, referred to in this letter just read, put in force?—A. I will have to refresh my memory. [After referring to paper.] On July 1, 1904.

Q. Why were those rates adopted for the Oxford instead of taking the rates paid by the Lehigh?—A. They were on the plea of the North American Coal Co., at that time a lessee, that the bank was a poor bank, which we admitted, for the Girard estate, and reduced the rate.

Q. Your judgment now, if I understand you, is that Packer No. 3 and the Oxford bank are about on a par?—A. Yes, sir.

Q. They are about the same?—A. Yes, sir.

Q. Can you tell us anything about any deposit of rock having been made on eastern No. 4 bank?—A. No; not specially. There is a rock all through the bank, and there are ridges of rock running through it. Rock was dumped in one place, coal in another, and so on, and they were not separated very carefully.

Q. Is there not what you call a rock pile adjacent to eastern No. 4?—A. You asked me about No. 3.

Mr. WORTHINGTON. Oh, yes.

A. In our eastern No. 4 bank there is a rock dump right close to it; adjacent to it.

Q. How did that rock get there?—A. It was deposited there by the Lehigh Valley Coal Co.

Q. Do you remember that you stopped them——A. Yes, sir.

Q. When they were piling that rock on the dump?—A. I have had occasion to do so within the past 10 days, again.

Q. You did that on behalf of the Girard estate, the lessor?—A. Yes, sir.

Q. You say the Lehigh Valley has been putting rock over that dump lately?—A. Not over it, but adjacent to it, so as to practically cut it off. The danger would be that they would cut it off so that nobody could take it but themselves.

Q. Yes; and you stopped that again?—A. Yes, sir.

Q. Col. Archbald, it appears in the correspondence that you have read that the name of your uncle, Judge Archbald, was used all through the correspondence. I want to ask you whether at any time there was any suggestion from him or from anybody else that the fact that he was interested in this proposed leasing of Packer No. 3 should be concealed from anybody?—A. No, sir. I said to him, "Of course, you understand that your name will appear," and he said, "Of course, I understand that, and desire it."

Mr. WORTHINGTON. That is all.

Mr. Manager WEBB. That is all, Mr. President. This witness may be excused, so far as the managers on the part of the House are concerned.

Mr. WORTHINGTON. Just one moment.

Q. (By Mr. WORTHINGTON.) Did you have a map made, or did you prepare a map, showing the relative situation of the Oxford dump and the Packer dumps?—A. I did.

Q. Is this the map [exhibiting blue print]?—A. It is.

Q. Is it correct?—A. Yes, sir.

Mr. WORTHINGTON. I should like to have this map marked now simply for identification. We will have to use it when we come to our testimony.

The PRESIDENT pro tempore. It will be so marked.

(The map referred to was marked for identification "U. S. S. Exhibit M.")

Mr. WORTHINGTON (to Mr. WEBB). Do you want to see it?

Mr. Manager WEBB. No, sir.

Mr. WORTHINGTON. It is not put in evidence. It is simply marked for identification. Mr. President, this witness may be discharged.

The PRESIDENT pro tempore. The witness is finally discharged.

JAMES F. BELL.

Mr. Manager WEBB. Mr. President, after you have satisfied yourself that James F. Bell has been subpœnaed to attend this trial, and as he has either failed or refused to do so, we ask for the following order:

The Secretary read as follows:

Ordered, That an attachment do issue in accordance with the rules of the Senate of the United States for one James F. Bell, a witness heretofore duly subpœnaed in this proceeding on behalf of the managers on the part of the House of Representatives.

The PRESIDENT pro tempore. Is there objection to the order just read? If not, it will be considered as agreed to by the Senate, and the attachment will be prepared and will be issued.

SAMUEL D. WARRINER.

Mr. Manager CLAYTON. Mr. President, I believe the witness, Mr. Warriner, who has been examined, was not formally discharged. I will ask now that he may be formally discharged.

Mr. WORTHINGTON. We have no objection.

The PRESIDENT pro tempore. Without objection, it is so ordered. The witness Mr. Warriner is finally discharged.

ORDER AS TO EVIDENCE.

Mr. Manager CLAYTON. Mr. President, I desire to say that we had expected to have several other witnesses right at this

juncture to conclude the testimony under the particular articles now under consideration, but we have just ascertained that several of these witnesses are not present this afternoon. So I have requested—and I hope it meets the approval of the Chair—the Sergeant at Arms to notify all absent witnesses on the part of the managers of the House of Representatives who have not heretofore testified to be in attendance upon the session of the Senate sitting as a Court of Impeachment to-morrow, as we expect to get through with all the testimony which the managers shall offer to-morrow, or certainly by Saturday. We hope and expect to get through with the examination of all of our witnesses by Saturday at the furthest.

In the meantime, Mr. President, we will now examine witnesses touching other counts in the articles of impeachment other than those that have been under immediate consideration this afternoon.

Mr. WORTHINGTON. Mr. President, I should like to have an understanding, if it be agreeable to the Senate and to the managers, that we shall not be expected to begin introducing evidence on behalf of Judge Archbald until Monday morning. It is likely that the testimony on the part of the managers will last until some time on Saturday, and it is very embarrassing to ask witnesses to be here, all of whom of course are very anxious not to come, or to get away as soon as possible. We do not want to have to get them here and keep them over Sunday if it can be avoided.

It would also give us an opportunity to go over the testimony that has been taken and arrange the order of our defense. It would be a great accommodation to us. Perhaps we could eliminate a good deal, because we think the managers have proved a good many things which we expected we would have to prove ourselves.

The PRESIDENT pro tempore. That will be for the determination of the Senate. Could not the respondent have here some one witness whose testimony he knew would be quite lengthy——

Mr. WORTHINGTON. No; we could not do that.

The PRESIDENT pro tempore. And have him in attendance and begin on Saturday? Counsel will realize the fact that expedition is of the utmost importance to the Senate at this time.

Mr. WORTHINGTON. We certainly understand that.

Mr. POMERENE. May I ask counsel how long he anticipates their testimony will take?

Mr. WORTHINGTON. That is an exceedingly difficult question to answer, but I should think we would be able to close it next week.

The PRESIDENT pro tempore. The Chair would not undertake the responsibility of saying that the session would be suspended on Saturday before the expiration of the regular hour. That would be for the Senate to determine.

Mr. WORTHINGTON. Well, I hope that we may have some friend in the Senate who will make that motion. I understand we can not make it.

The PRESIDENT pro tempore. What is the pleasure of the Senate in regard to it?

Mr. Manager CLAYTON. I desire to make one observation.

The PRESIDENT pro tempore. The manager will pardon the Chair for a moment?

Mr. Manager CLAYTON. Certainly.

The PRESIDENT pro tempore. If perchance the managers should conclude to-morrow, it would be a very serious matter to the Senate at this stage to lose a whole day. It might necessitate the loss of the entire time that is usually dedicated to other matters.

Mr. Manager CLAYTON. May I be permitted to say that I do not think we can conclude the examination to-morrow of the witnesses on behalf of the managers on the part of the House. But I expressed the belief and the hope that we would be able to do so at least by Saturday. Since I have conferred with some of my associates, we think it unlikely that we can conclude the examination of our witnesses to-morrow, but we are still of the opinion that we can do so on Saturday.

Of course, the managers will be ready to do whatever the Senate may determine, just as they have heretofore expressed their willingness to always await the pleasure of the Senate in the conduct of this proceeding. If we should conclude Saturday and the Senate should think it wise and proper, or for any other reason sufficient to the Senate, that the examination should be postponed until Monday, the managers would not offer any objection. They simply hold themselves in readiness at all times to meet the wishes of the Senate.

The PRESIDENT pro tempore. Would it be sufficiently early, the Chair would inquire of the counsel for the respondent, to have that matter determined to-morrow?

Mr. WORTHINGTON. Yes, Mr. President.

The PRESIDENT pro tempore. The Chair would suggest that it be postponed until then and an opportunity be given for conference.

Mr. WORTHINGTON. Very well; but the difficulty about that is that most of the witnesses come from Scranton, and in order to get here one day they have to leave there about noon the day before.

Mr. ROOT. Mr. President, I offer the following order.

The PRESIDENT pro tempore. The proposed order will be read.

The Secretary read as follows:

Ordered, That the evidence of the managers upon their case in chief be concluded Saturday, December 14, and the evidence of the defense be commenced Monday, December 16, at 1.30 o'clock p. m.

The PRESIDENT pro tempore. Is there objection to the order just presented?

Mr. Manager CLAYTON. Mr. President, may I be heard, briefly?

The PRESIDENT pro tempore. Mr. Manager.

Mr. Manager CLAYTON. Mr. President, I understand that if that order were adopted now the Senate could, and I apprehend would, for good reasons, modify it to whatever extent might meet the judgment of the Senate.

We are of the opinion that we can conclude the examination of our witnesses in chief in the presentation of this case by the end of Saturday's session. Of course, Mr. President, whether we will be able to do that is dependent upon two things. First, we may not be able to get all our witnesses here by Saturday. We are doing our best. I directed the attention of the Chair this afternoon to the absence of some of them, and mentioned the efforts that we were making further to have those witnesses here.

Assuming that those witnesses are all here, so that we may have the opportunity to examine them, the matter then will be conditioned somewhat upon the length of time occupied in the cross-examination, but we apprehend that the cross-examination will not be very long.

So far as the lights which are now before us can enter into the solution of the question, we think we can agree to get through with the testimony in chief by Saturday.

But I desire to say, Mr. President, that should any good reason appear we may be called upon to ask the Senate at the proper time, should the occasion arise, for a modification of the order.

The PRESIDENT pro tempore. It will always be within the power of the Senate, of course, to modify the order. Is there objection to the order which has just been read? If not, it will be considered as adopted by the Senate. The managers will proceed with the other witnesses.

Mr. Manager CLAYTON. We will call the witness James R. Dainty.

TESTIMONY OF JAMES R. DAINTY.

James R. Dainty appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Dainty, where do you live?—A. Scranton, Pa.

Q. Where were you last May when the House of Representatives sent a subpœna for you to appear before the Judiciary Committee?—A. Fishing.

Q. Where were you fishing?—A. In the Pocono.

Q. Where is that?—A. It is in Monroe County.

Q. Monroe County, Pa.?—A. Pennsylvania, yes; about 40 miles from Scranton.

Q. How long did you fish?—A. I fished most of the season.

Q. You were fishing all the time the Sergeant at Arms was trying to find you, that you might come here and testify in this case?—A. I was fishing most of the time, when I was not automobiling.

Q. You were automobiling and fishing, and you knew the House of Representatives wanted you here to testify in this case?—A. Not of my knowledge.

Q. You had heard of it?—A. Indirectly.

Q. You left your family in Scranton when you went fishing?—A. Some of my family.

Q. They notified you that the Sergeant at Arms had been there hunting for you and looking for you, the papers were full of it, and you kept on fishing and automobiling?—A. They did not.

Mr. WORTHINGTON. Mr. President, I do not quite understand what this has to do with the case, unless it is proposed to show that Judge Archbald was concealing the witness.

Mr. Manager WEBB. I want to show the character of the witness before we examine him.

Mr. WORTHINGTON. If you want to show he is an adverse witness before you ask him questions about the case——

Mr. Manager WEBB. I think I have a perfect right to ask this witness why he did not appear last May when he was subpœnaed by the House of Representatives.

Mr. WORTHINGTON. It seems to me we are not engaged in trying the witness, but Judge Archbald, and if the counsel will show that they propose——

Mr. Manager WEBB. Mr. Worthington tried a witness the other day in this respect very much like it.

The PRESIDENT pro tempore. In view of the facts already brought out, the manager will proceed.

Q. (By Mr. Manager WEBB.) Do you know Judge Archbald?—A. I do.

Q. Have you ever been to his office in Scranton?—A. Yes, sir.

Q. How often?—A. A number of times.

Q. How many?—A. Probably a dozen times or more.

Q. Within what time?—A. Within the past two years.

Q. What did you call on him about? What was your business?—A. Sometimes I would go in while passing by and say, "How do you do?" to him, and go on.

Q. Well, at other times what did you discuss with him in the way of business?—A. Well, I was requested to call there.

Q. By whom?—A. Mr. Williams.

Q. E. J. Williams?—A. Yes, sir.

Q. Did you call?—A. Two or three days after that I did.

Q. You did call, you say?—A. Two or three days afterwards.

Q. You did call, then?—A. Yes, sir.

Q. What did Williams tell you to call there for?—A. He said the judge requested to see me. He did not say what for.

Q. In consequence of what Williams told you, did you go to see the judge, and, if so, what did the judge tell you and what did you tell the judge?—A. I went there to see the judge.

Q. Proceed.—A. He wanted to see me to obtain the address of the Everharts. He was desirous of closing up some matter pertaining to the little Katydid culm bank with the heirs of the Everharts. I said, "Do you expect to write to them and get in communication that way?" He thought so; he said, "Yes." I said he would have a very hard time in getting any satisfaction in correspondence with those people, because most of them were ladies and, to my knowledge, knew absolutely nothing about this particular property in question; that the best thing to do was to see them and explain it to them.

Q. You are referring to the Katydid property now?—A. That is the property that he called me in to talk about.

Q. The Katydid culm bank?—A. Yes, sir.

Q. All right. Go ahead.—A. However, I said maybe I would be going to Philadelphia myself shortly, and if I did I would bring it to their attention and explain it to them. Some two months or so after that I was in Philadelphia and talked the matter over with them, and explained to them their equity as near as I could, assuming that they owned the culm that was on the surface—the one half, of course, the other half belonging to the Hillside. That family, composed of five people, owned one hundred and twenty-fifth part each, and they wanted to know what it was worth. Of course, I knew something of the transaction, of the selling price, and of the purchase price, and I said it was probable that if they got two or three hundred dollars each——

Q. As far as we are concerned, you need not tell your conversation with the Everhart heirs. After you had spoken to the Everhart heirs did you go back and see the judge—after you had gone to Philadelphia to see them?—A. I do not think that I saw the judge after that for a long time. It may have been a month or more.

Q. You went up there for the judge? —A. Went where for the judge?

Q. To Philadelphia to see the Everhart heirs.—A. No, sir.

Q. How did you happen to be interested, then, in the Katydid culm bank after talking with Judge Archbald?—A. I was not interested in the Katydid culm bank after talking with Judge Archbald at all, because I frequently visited the Everharts.

Q. You did go to see the Everharts almost immediately after your conversation with Judge Archbald about the Everhart interest in the Katydid?—A. I said probably two months afterwards.

Q. When was your conversation with the judge?—A. Two months prior to that time.

Q. What month was that?—A. I do not remember the exact date. It was some time during the negotiations of the Laurel line. That probably could fix the date. I do not remember it myself.

Q. That is, the sale of property to the Laurel line?—A. Yes; somewhere along that time.

Q. By Judge Archbald?—A. By Williams or Archbald or whoever was selling it.

Q. That continued from December, 1911; really from November, 1911, until April 13, 1912. Now, can you not tell us a little more definitely when that first conversation of yours was with him?—A. I do not remember when the first conversation was, because it was immaterial and I did not charge my memory with it. I did not think anything of it because I was not interested one way or the other.

Q. Had you before talked with the Everhart heirs about their interest in this Katydid culm bank?—A. No; because no one ever thought they had any interest.

Q. Then was it in consequence of your conversation with Judge Archbald that you went to Philadelphia to talk with them?—A. No; not necessarily so. I was going to Philadelphia. I did not make any special trip to Philadelphia to speak to them in regard to this culm bank.

Q. That is, you did speak to them after you had arrived in Philadelphia because of your conversation with Judge Archbald. Is that it?—A. No; not directly, because I was talking to them about a great deal of other matters that they were familiar with in the land that they owned.

Q. Did you mention their interest in the Katydid culm bank?—A. I certainly did.

Q. Did you not do it because Judge Archbald had spoken to you about it?—A. I had promised the judge that if I went to Philadelphia I would call their attention to it and see what they thought about it.

Q. If you had told that a moment ago——A. I did tell you that before.

Q. After you came back from Philadelphia did you ever have any other deal with Judge Archbald with reference to an 800-acre tract of land owned by the Lehigh Valley Coal Co.?—A. Not 800.

Q. Well, 500 or 300 or whatever number it was?—A. I had no dealings with him in regard to that because that did not belong to Judge Archbald.

Q. No; I understand it did not.—A. The judge in the first interview in talking about things said to me, "Dainty, what became of your Derringer property"? I said I had disposed of it.

Q. Does he call you "Dainty"?—A. Sometimes. I said I had disposed of that property. He said, "Was that not adjoining to the Derringer property"? I said, "Yes, it was—the adjoining tract—some 1,600 acres adjoining the Derringer property." I was very familiar with the Derringer property, being neighbors there for four or five years, and I knew that the Derringers had not transferred over their leases to the Valley. During the conversation he said, "Don't you think you could get the Derringer leases for the Valley? You know the property." I said "Yes, I know the property; I know the people; and, as I understand it, the difference is the price, whether the Valley wants to pay enough money; they could get it."

Q. I want to see if we understand each other. Is the Derringer property the 800 acres in which these Everhart heirs own about one-fifth?—A. Absolutely nothing. The Everhart heirs own absolutely nothing of the Derringer property.

Q. Who do own it?—A. The Derringer heirs; 72 of them.

Q. I do not want to talk about the Derringers.—A. I am getting to it.

Q. All right; go ahead, then.—A. I said it is possible to get that, and at my suggestion I said that the Lehigh Valley has not acquired one of the Everhart heirs in their lease. He said, "I understand not from something I read in the papers," or something of that kind. He said, "Do you know the trouble, why she did not transfer?" I said, "Because they did not make the price large enough, the other brothers and sisters having sold for $100,000 each for the two leases." He said, "You are well acquainted with Mrs. Llewellyn?" I said, "Yes." So he suggested that I go and see Mr. Warriner and talk the matter over with him. I said, "Well, I do not know Mr. Warriner very well. Of course, I know him to see him, but I did not know him well enough to approach him on this matter. However," I said, "if you come in contact with Mr. Warriner at any time, I would thank you if you would mention it, and I will go down later and probably go over the matter with him." He said something about what would be considered for my services. "Well," I said, "I did not know that I wanted any money, but they had a piece of coal at Moosic that was detached from any of their own property, separate and away from their own railroads, which they could not mine under any conditions unless they shipped it over some other road, and not a very choice piece of property, a piece that they have held for a number of years."

Q. That who has held?—A. The Lehigh Valley, with the expectation of making some exchange with one of the other companies for some coal somewhere else more convenient for them

to get. I said if they could see their way clear, I would consider a lease on that property for my services. Of course I realized that there were at least a year or two years' work to accomplish what was set out for.

Q. Well, is that all?—A. That is all.

Q. Did you ever know what became of your request to lease 325 acres? That is the Morris & Essex tract, is it not?—A. It is the Morris & Essex warrant.

Q. Was Judge Archbald to help you get the lease from the Lehigh Valley?—A. He was not.

Q. For the 325 acres?—A. He was not.

Q. Why did you mention it to him that you wanted to get it of the Lehigh Valley for services you were going to render the judge?—A. No, no; for services that I was about to render to the Lehigh Valley.

Q. Then, why should the judge be interested in a proposition in which nobody else seemed to be interested but the Lehigh Valley, yourself, and the Everhart heirs?—A. The only reason I could see that the judge would be interested would be more through friendship. There came one thing after another that developed through our conversation, as I have related.

Q. Friendship for whom?—Probably friendship for myself.

Q. Although he sent for you first?—A. That is true, and I gave him the information he asked.

Q. I ask you if this was not the agreement, that you were to help him clear up whatever little lack of title or cloud of title there was on any land he was interested in, and in turn he was going to help you secure from Warriner this 325-acre lease?—A. No, sir; no, sir.

Q. Why should you have told Judge Archbald what you wanted to get from the railroad in the way of compensation for your services?—A. I have explained that. The judge said, "What would your services be worth for obtaining these leases?" and I said it did not need any money; that I would be satisfied if the Lehigh Valley could see their way clear to make a lease to me of the Morris and Essex property.

Q. And that was your consideration for getting the Everharts to sell to the Lehigh?—A. That was my consideration for getting the Derringers and Everharts and another property that was adjoining on the opposite side of the creek.

Q. And the judge was to help you accomplish those desires, was he not?—A. He was not.

Q. Then tell us why you were telling the judge what you wanted done.—A. I was not telling the judge what I wanted done. I was answering the judge's question.

Q. Why, then, can you tell us, should he have wanted to know what you would request in return for the favors you did the railroad, and you told him that you would like to have the 325-acre tract?—A. I am not a mind reader.

Q. I ask you if Mr. E. J. Williams did not tell you that the judge wanted to see you, and that the judge could help you make that deal?—A. I say no.

Q. Is that all you know about this transaction?—A. That is as far as the transaction went.

Q. You never got the 325 acres?—A. No; never. I did not acquire the lease.

Q. No; that was because, was it not, that about that time it came out in the newspapers that Judge Archbald's conduct was being examined down here in Washington, and this whole thing stopped?—A. Not exactly that.

Q. How near it?—A. If you will give me a chance to explain it, I will tell you.

Q. Yes, sir; proceed.—A. The reason, mostly, was that I had not had an opportunity to get the attention of Mr. Warriner to finally decide and define the interests and what I should get.

Q. Mr. Warriner swore that his engineer did make a report to him, and that he reported to Judge Archbald just what those interests were. Did the judge never tell you what they were?—A. He did not, sir.

Q. You say Mr. Warriner did not swear to that?—A. Not in that respect; no, sir.

Q. I understood Mr. Warriner to say that he had his engineer, Mr. Jessup, or some engineer, calculate the various interests that these heirs owned, and that Mr. Jessup communicated with the judge, or that he communicated with the judge?—A. I know what the Everharts own myself; it was not necessary for the judge to tell me or for Mr. Warriner to tell me. I was not referring to that. My statement was that I had not seen Mr. Warriner to go into the matter to define what interest or how the agreement should be made, providing that I accomplished the work that I set out for—what conditions, what terms, what minimums, what royalties should be placed on this property. There were large and difficult conditions there to contend with.

Q. The reason why you did not pursue it was because this matter came out in the paper that Judge Archbald's conduct was being examined?—A. I have said——

Q. You said a while ago when I asked you that question "Not altogether." Is not that one of the reasons why you did not prosecute your request with Warriner and why the judge did not persist and help you further in it?—A. No; I did not need the assistance of the judge to help me further. If Mr. Warriner was satisfied to do that, to give me that lease in consideration of my obtaining those leases, it was up to Warriner; and if Mr. Warriner said he could not see his way clear to give me that lease, then, of course, I had nothing to do.

Q. In that connection, you can not explain to us what Judge Archbald was to do toward helping you to get the lease, or whether he was to do anything or not?—A. Judge Archbald was to do nothing. What was there to do? I had the work to do.

Q. The thing he wanted done was to get a lease of 324 acres of coal land?—A. The thing that he wanted to do——

Q. Just a moment. You knew that as the policy of the Lehigh Coal Co. was not to lease its lands, you would have to have more influence to get it than your own. Is not that true?—A. If the Lehigh Valley wanted those leases sufficiently bad enough, if it was to their interest to get those leases, it would be naturally to their interest to give me coal in compensation.

Q. Well, you could not have done all that without the judge's intercession?—A. It simply came up in conversation.

Q. Did you know that the judge went to see Warriner about the matter?—A. I did not know that he had been to see Warriner. How should I know?

Q. He never told you that he had been to see Warriner; that he had inquired what the Warriner interest was and whether they were willing to buy them out, and suggested in that connection that you would like to have a lease of 324 acres of the Morris & Essex plant?—A. You get two questions in one.

Q. No, sir; that is one question.—A. It is two questions.

Q. Did the judge ever tell you that he had been to see Warriner about the sale of the Everhart interest in this tract of land to the Lehigh Valley Co.?—A. No.

Q. Did he ever tell you that he had seen Warriner and had told Warriner that you wanted the 324-acre lease?—A. He had not, as I understand, seen Mr. Warriner.

Q. Did he ever tell you that?—A. No; he did not tell me that he had seen Mr. Warriner.

Q. Did he tell you that he would see him in your behalf?—A. No; not in that way.

Q. In what way?—A. In the way that I have suggested. It was my suggestion that he see Mr. Warriner, and ask Mr. Warriner if he would see me when I came down after our talk.

Q. Anyway, he never told you that he had seen Warriner?—A. No.

Q. I ask if you do not know that the reason why these negotiations were cut short was because this whole matter came out in the newspapers and that stopped them? Did you see it in the newspapers about the time you were negotiating?—A. Certainly I had.

Q. And about the time you were carrying on these negotiations?—A. No; the negotiations were prior to the hearing, but they had not matured.

Q. Yes; and the newspapers had it published prior to the hearing, too?—A. Well, not very long.

Q. Not very long; but I ask you this direct question, if that is not the reason why these negotiations were stopped—because Judge Archbald's conduct was being investigated?—A. I will say, then, to you that I knew of these proceedings long long before any paper ever saw it or printed it.

Q. Who told you?—A. I knew all about it.

Q. Who told you?—A. We were all associated together.

Q. Who—you and the judge?—A. No; Mr. Boland and myself and Mr. Williams; and all of us knew of these proceedings long before they matured.

Q. Did Mr. Williams tell you that he had been down here to testify?—A. I knew the proceedings were coming before Mr. Williams ever came to Washington.

Q. I ask you now, again, whether you will answer it—if that is not what stopped the negotiations with the Lehigh Valley Coal Co.?—A. It is not.

Q. Why have you not negotiated since you made your proposition?—A. Because I have not seen or had an opportunity to see Mr. Warriner to go into the matter.

Q. Where have you been since last February or March?—A. I have been in a great many places.

Q. You have not been able to see Mr. Warriner?—A. I have not seen Mr. Warriner; no. Mr. Warriner, you remember, a

short time ago changed his position and went with the Lehigh at Wilkes-Barre.

Q. But you often go to Philadelphia?—A. That is true; but at the present time Mr. Warriner would not be the man to see.

Q. Why did you not pursue your proposition to lease the Morris and Essex tract of land?—A. Because, if you want to know, I was feeling my way to see what I could do on the other hand with the lessors.

Q. Had you any peculiar influence with the lessors—the Everhart heirs?—A. I know what coal property is, and I tried to tell them the value thereof; and it was through my efforts, probably, that the other lease was not sold during those negotiations. There is only one lease to be sold, not two.

Q. Are you any relation to the Everhart heirs?—A. No, sir.

Q. Are you kin to Mrs. Llewellyn?—A. No, sir.

Q. And the only reason why you say you interceded with the Everhart heirs is because you are a coal man and know the coal business?—A. I know the Everhart heirs very closely and visit them very frequently, and I know of all the property that they own.

Q. Well, one more question. The first time you ever had anything to do with this proposition, or that you knew the Lehigh people wanted the Everhart remainder, was when Judge Archbald sent for you to come to his office. Is that right?—A. Yes; but not for that purpose.

Mr. Manager WEBB. That is all the questions we desire to ask the witness.

Mr. WORTHINGTON. We have no questions to ask, Mr. President.

The PRESIDENT pro tempore. The witness may retire.

Mr. Manager WEBB. We shall not excuse this witness, Mr. President. We should like to have him remain.

The PRESIDENT pro tempore. The witness will not be finally excused.

Mr. Manager STERLING. We now desire to call John Henry Jones as our next witness.

TESTIMONY OF JOHN HENRY JONES.

John Henry Jones, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) Where do you live, Mr. Jones?—A. Scranton, Pa.

Q. What is your business?—A. Clerk and bookkeeper.

Q. Clerk of what?—A. I am assessment clerk.

Q. Is that an official position of the county or city?—A. An appointive position.

Q. In the county or city?—A. In the county.

Q. How long have you held that position?—A. Since the 1st of January.

Q. Of what year?—A. 1912.

Q. What was your business before that?—A. Well, doing various jobs, bookkeeping and clerical work, and promoting.

Q. What did you promote?—A. I promoted—one was a culm dump, which is in question, and I am still working on another promotion.

Q. Are there any other projects you had in charge?—A. I can not very well recollect.

Q. Do you know Judge Archbald?—A. I do.

Q. How long have you known him?—A. I have known the judge for a number of years.

Q. Do you know E. J. Williams?—A. I do.

Q. How long have you known him?—A. Well, probably 13, 14, or 15 years.

Q. Did you have a land project in Venezuela in 1909?—A. I did; yes, sir.

Q. Did you talk with Judge Archbald about that matter?—A. I did.

Q. I will ask you if he took any interest in that deal?—A. He did not.

Q. On one occasion when you talked with him about it, did you make a note to Judge Archbald or did he make a note to you?—A. The first time when I took the matter up with Judge Archbald—it was a different time—Judge Archbald did not take any interest in the matter.

Q. That is not what I asked you. During the time of these negotiations, was there a note made by you to him or by him to you?—A. Yes, sir.

Q. About when was that?—A. It would be about the 3d of December, 1909.

Q. A little before that?—A. No, sir.

Q. What was the note?—A. It was a bank not for $500.

Q. Just tell how it was made.—A. It was signed by me, payable to Judge Archbald, and indorsed over to me.

Q. By whom?—A. By Judge Archbald.

Q. Who wrote the note?—A. Judge Archbald.

Q. Was it delivered to you?—A. It was.

Q. What did you do with it?—A. I put it in my pocket until I got to the office where I was working.

Q. Well, what did you do with it then?—A. I presented it at the bank to be discounted.

Q. What bank?—A. The Westside Bank.

Q. Did they discount it?—A. No.

Q. What did you do with it then?—A. An offer came through Edward Williams——

Q. Just tell me what you did with it. To whom did you give it, after the bank refused to discount it?—A. I was just going to recite, Mr. Manager, that an offer came from the Bolands, through Edward J. Williams——

Q. I did not ask about any offer. To whom did you give it?—A. To the man who came with that offer.

Q. Who was it?—A. E. J. Williams.

Q. Do you know what he did with it?—A. All I know is what he said, that he took it over to the Bolands's office, and it was kept there.

Q. To be discounted?—A. Until I requested it back.

Q. Did he take it there to be discounted?—A. Yes; at their request; so he said.

Q. Did he bring you the note back, or money for it?—A. I requested it to be brought back.

Q. The note?—A. Yes.

Q. Do you know whether he took it elsewhere besides the Bolands to get it discounted?—A. No, sir; I do not.

Q. After you got it back what did you do with it?—A. I took it to Mr. Von Storch.

Q. Who is Mr. Von Storch?—A. He is president of the Providence Bank.

Q. And a lawyer?—A. Yes.

Q. At whose suggestion did you take it to Mr. Von Storch?—A. At the suggestion of T. Ellsworth Davies. I did not remember at the time when I testified before the Judiciary Committee, but I have recollected since.

Q. Who is Mr. Davis?—A. A mining engineer of Lackawanna County.

Q. Where did you see Von Storch?—A. In his office.

Q. At his law office?—A. Yes, sir.

Q. He is also president of a bank?—A. Yes, sir.

Q. When you presented the note for discount to Von Storch, what did he say or do?—A. So far as I recollect, he said, "Have you tried it in your own bank where you do business?" and I said, "Yes."

Q. That is the bank which refused to discount it?—A. Well, they refused for reasons.

Q. I am not caring about the reasons now. What did Von Storch say?—A. He said, "Does Judge Archbald wish the note discounted?" I said, "I think Judge Archbald would appreciate it if you would discount it for me." I recited to him what the purpose of it was, and he said, "All right; there will be a bank meeting, and I will let you know after the bank meeting what will be done."

Q. While you were there did Von Storch call up Judge Archbald and talk with him over the phone?—A. No, sir.

Q. Do you know whether he did afterwards or not?—A. I only know from hearsay.

Q. Well, Von Storch discounted it?—A. Yes, sir.

Q. Has the note been paid?—A. Not yet.

Q. Any part of it?—A. Yes, sir.

Q. How long was the note for?—A. I believe it was for four months; I am not sure.

Q. And has it been renewed from time to time until the present time?—A. Yes, sir.

Q. And it is still outstanding, is it, in that form?—A. Part of it; yes.

Q. I will ask you if any part of it has been paid?—A. Yes, sir.

Q. How much?—A. $45.

Q. When was that paid?—A. Well, there were $25 paid before the Judiciary Committee investigation, and there have been $20 paid since.

Q. And the present note is for how much?—A. $455.

Q. Who indorsed the note besides Judge Archbald?—A. An indorsement, an unnecessary indorsement, came on it.

Q. I am not asking you about that. Who indorsed it afterwards?—A. E. J. Williams.

Q. When Williams returned the note to you it bore his indorsement, did it?—A. When he returned it, but not when he received it.

Q. After it became due it was renewed from time to time until the present time in the same form?—A. Yes, sir.

Q. With Judge Archbald and E. J. Williams as indorsers?—A. No; I do not think E. J. Williams's indorsement is on it now.

Q. Has it not been on it at least every time until the last renewal?—A. It was never necessary; it was superfluous.

Q. I am not asking you about that now. Answer my question. Was it on every renewal up until the last one?—A. No; up to the last two renewals.

Q. Were you present when Von Storch testified before the Judiciary Committee?—A. Yes, sir.

Q. Did you not see the note that was running at that time?—A. I did.

Q. You saw Archbald's name and Williams's name both on it then, last August or July?—A. It was on then.

Q. Who has paid the interest on this note?—A. I have.

Q. And who made the two payments of $25 and $20?—A. I paid them.

Q. I ask you if the bank demanded payment?—A. No, sir; they are satisfied.

Q. Did not the bank demand payment at one time?—A. They demanded a reduction, and they got the reduction.

Q. And it was reduced $25?—A. Yes, sir.

Mr. Manager STERLING (to counsel for the respondent). Take the witness.

Cross-examination:

Q. (By Mr. SIMPSON.) The refusal to discount this note by the bank with which you usually dealt had no relevancy to Judge Archbald at all?—A. None, whatever; I can explain that.

Q. Well, it is not necessary to go into the details of the transaction. Did Judge Archbald get any benefit out of that note at all?—A. Not a cent.

Q. What was the money realized used for?—A. I needed it in order to finance myself to go back to England.

Q. In connection with this Venezuela matter?—A. Yes, sir.

Q. And, as I understand you, Judge Archbald had no interest whatsoever in it at any time?—A. No, sir.

Q. Did Judge Archbald have any knowledge of that note being taken to the Bolands?—A. Positively not.

Q. How did it come to be taken there?—A. It came in this manner: E. J. Williams came to me and said that the Bolands were anxious to discount that note—he evidently had mentioned it to them—and that they were anxious to discount that note as a favor to Judge Archbald. Naturally, I allowed him to take the note, and through some ruse or other they got him to indorse that note.

Q. We do not care about that——A. That is not necessary——

Q. He held it how long?—A. He held it for three days, promising that there would be a check for the proceeds coming as soon as it could come back from Buffalo.

Q. At the expiration of the three days is the time when you demanded that it be returned to you and it was returned?—A. Yes.

Q. Was that the first time you had any knowledge of Mr. Williams's indorsement on it?—A. That was the first; when it was returned.

Q. You said Mr. Davies suggested you taking it to Van Storch?—A. Yes, sir.

Q. Had the judge anything to do with that?—A. The judge did not know I was going to take it until—I do not know whether he knew anything until Mr. Van Storch called him up.

Q. As far as you know, he had no knowledge of it prior to the time it was taken and left by you with Mr. Van Storch?—A. No; no knowledge whatever.

Mr. SIMPSON. I think that is all.

Redirect examination:

Q. (By Mr. Manager STERLING.) Who is Mr. Davies?—A. He is a mining engineer.

Mr. Manager STERLING. That is all.

The PRESIDENT pro tempore. Does the counsel for the respondent desire to ask anything further?

Mr. SIMPSON. No, not to ask a question, but that there may be no difficulty about it, to state that the witness is under subpœna from us and we do not wish him to be discharged.

Mr. Manager CLAYTON. The witness may stand aside now.

The PRESIDENT pro tempore. The witness may stand aside.

The witness thereupon retired.

JAMES F. BELL.

Mr. Manager CLAYTON. Mr. President, I ask that the order which was adopted a while ago for an attachment to be issued against Mr. Bell be vacated. I am told that Mr. Bell is away on account of some understanding, and that he has held himself in readiness to come at any time, and that he will be here to-morrow.

The PRESIDENT pro tempore. Without objection, that order will be vacated.

Mr. Manager CLAYTON. Mr. President, the witnesses we had hoped to go on with this afternoon are not here. In fact, I believe we have examined all the witnesses who are in the city. The other witnesses whom we expected to be here are not here this afternoon. They will be here to-morrow, I am informed. Therefore, it being a quarter to 6 o'clock, I suggest to the Chair that we will not be ready to proceed with other witnesses until to-morrow, because they are not here at this time.

There are two witnesses here, Mr. Madeira and Mr. Hill. The testimony taken has so far developed the facts that we will not need those witnesses, and I ask that they be discharged.

Mr. WORTHINGTON. One of those witnesses is under subpœna by us, and he will have to be held, because we want him.

The PRESIDENT pro tempore. He will be discharged, as far as the managers are concerned, but not discharged from his obligations under the summons issued at the request of counsel for the respondent.

Mr. WORTHINGTON. We have no objection to his going back if he will hold himself in readiness to come back when needed here.

The PRESIDENT pro tempore. The witness will be discharged from his obligations to respond under the subpœna issued at the instance of the managers.

Mr. ROOT. I move that the Senate sitting as a Court of Impeachment adjourn.

The motion was agreed to.

Thereupon the managers on the part of the House, the respondent, and his counsel retired.

HOUSE BILL REFERRED.

H. R. 16314. An act to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, was read twice by its title and referred to the Committee on the Judiciary.

LINCOLN MEMORIAL.

Mr. ROOT. I am directed by the Committee on the Library, to which was referred the message from the President of the United States transmitting a report of the Lincoln Memorial Commission and its recommendations upon the location, plan, and design for a memorial in the city of Washington to the memory of Abraham Lincoln, in accordance with the act approved February 9, 1911, to report a concurrent resolution (S. Con. Res. 32), and I submit a report (No. 1071) thereon. I ask that it lie on the table. The papers accompanying the report are already a public document, and it will not be necessary to print them again.

The PRESIDENT pro tempore. The concurrent resolution will be received and take the course indicated by the Senator from New York.

SNAKE RIVER BRIDGE, WYOMING.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 3947) to provide for a bridge across Snake River, in Jackson Hole, Wyo.

Mr. WARREN. The bill refers to a local matter, and I ask that it be not disposed of to-night, because I wish to consult with the parties interested on the other side.

The PRESIDENT pro tempore. It will lie on the table, subject to the call of the Senator from Wyoming.

PROPOSED HOLIDAY RECESS.

The PRESIDENT pro tempore laid before the Senate the following concurrent resolution of the House of Representatives, which was read and referred to the Committee on Appropriations:

House concurrent resolution 66.

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, December 19, 1912, they stand adjourned until 12 o'clock m. on Thursday, January 2, 1913.

Mr. WARREN subsequently said: From the Committee on Appropriations I report favorably the concurrent resolution of the House of Representatives relative to the holiday recess, and I ask for its present consideration.

Mr. LA FOLLETTE. You do not mean to pass it to-night? There is a very slim attendance here.

Mr. WARREN. I can report it from the committee anyway.

Mr. LA FOLLETTE. I move that the Senate adjourn.

Mr. WARREN. If there is objection to the immediate consideration of the concurrent resolution, I ask that it lie on the table, giving notice that I will call it up in the morning. It has been reported in the regular way from the Committee on Appropriations, and the usual course is to ask for its present consideration.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Wisconsin that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Friday, December 13, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December 12, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Eternal God, our heavenly Father, fill us with the holy spirit of truth, that Thy thoughts may be our thoughts, Thy ways our ways, Thy work our work, Thy life our life in intent and purpose, that we may further Thy plans and fulfill our destiny, for it is written all things work together for good to them that love God. For Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

CONTESTED-ELECTION CASE—M'LEAN AGAINST BOWMAN.

The SPEAKER. The unfinished business is the contested-election case of McLean against Bowman. The gentleman from Ohio [Mr. ANSBERRY] has 36 minutes remaining and the gentleman from Iowa [Mr. PROUTY] 34 minutes.

Mr. PROUTY. Mr. Speaker, I yield five minutes to the gentleman from Pennsylvania [Mr. MOORE].

Mr. OLMSTED. Mr. Speaker, I think a matter of this importance ought to be considered by more than a mere handful of Members. I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Pennsylvania makes the point of order that there is no quorum present. Evidently there is not a quorum present.

Mr. ANSBERRY. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adamson	Fairchild	Knowland	Reyburn
Aiken, S. C.	Finley	Konig	Riordan
Allen	Floyd, Ark.	Langley	Roberts, Nev.
Ames	Focht	Legare	Sabath
Bates	Fordney	Levy	Saunders
Bell, Ga.	Fornes	Lewis	Shackleford
Booher	Gardner, N. J.	Lindbergh	Sharp
Borland	Goldfogle	Lindsay	Sherwood
Brantley	Gray	Littleton	Sisson
Broussard	Greene, Vt.	McHenry	Slayden
Brown	Gregg, Tex.	McMorran	Sleman
Campbell	Guernsey	Maher	Small
Clark, Fla.	Hamill	Martin, Colo.	Smith, Cal.
Clayton	Hanna	Martin, S. Dak.	Stack
Conry	Harris	Matthews	Stevens, Minn.
Cox, Ohio	Harrison, N. Y.	Mondell	Sulloway
Cravens	Hart	Morgan, La.	Taylor, Colo.
Currier	Heald	Morrison	Turnbull
Daugherty	Higgins	Norris	Vreeland
Davis, W. Va.	Hobson	O'Shaunessy	Warburton
Dickson, Miss.	Howard	Parran	Webb
Draper	Howland	Patten, N. Y.	Weeks
Dupre	Jackson	Pou	Wilson, N. Y.
Dwight	Jacoway	Pujo	Woods, Iowa
Elberhe	Kindred	Ransdell, La.	Young, Mich.

The SPEAKER. On this roll call 290 Members are present, a quorum.

Mr. ANSBERRY. Mr. Speaker, I move to dispense with further proceedings under the call.

The SPEAKER. The gentleman from Ohio moves to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. WOODS of Iowa, indefinitely, on account of illness.

To Mr. SHERWOOD, for 10 days, on account of important business.

RESIGNATION FROM A COMMITTEE.

The SPEAKER laid before the House the following resignation of a member from a committee:

WASHINGTON, D. C., *December 9, 1912.*

Hon. CHAMP CLARK,
Speaker, House of Representatives.

SIR: I herewith tender my resignation as a member of the Committee on Reform in the Civil Service.

Yours, very respectfully, S. F. PROUTY.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

CONTESTED-ELECTION CASE—M'LEAN AGAINST BOWMAN.

The SPEAKER. In this debate the gentleman from Pennsylvania [Mr. MOORE] is recognized for five minutes.

Mr. MOORE of Pennsylvania. Mr. Speaker, there is scant reason for the unseating of Mr. Bowman as a Member of this House, and far less reason for the seating of his competitor, the contestant in this case, Mr. McLean. There is little that has been adduced in the testimony or in any addresses made upon this floor to warrant the harsh proceedings that are proposed against the seated Member. Surely the gentleman from Pennsylvania [Mr. PALMER], in his eloquent statement of the laws of Pennsylvania and in his personal expressions with regard to general election conditions in that State, has not presented sufficient to warrant the unseating of the gentleman whose seat is contested. He has spoken generally of political conditions which prevail in Luzerne, and admits having been a native of that county from which he removed, perhaps, before he knew of the conditions of which he complains. He is anxious for the improvement of the ballot of the State. I would like to know what Member upon this side of the House is not anxious for a simplification of the ballot of Pennsylvania, or the ballots of other States that have confused the voters in recent campaigns.

Any simplification of the ballot is welcome which gives to the honest voter a chance to fairly express his will at the polls, but the difficulty has been not only with regard to some of the laws of Pennsylvania, but with regard to those of other States, that the man who is a trickster or who is not loyal to his party on one side or the other seems to be the one to take advantage of the very laws of which the gentleman from Pennsylvania complains.

With one fell swoop he would take away from Mr. Bowman 700 votes which were given to him under the heading of the Prohibition Party. By what right are those votes to be taken away, not only from the gentleman who occupies a seat in this House but from those who prefer in their wisdom or according to their preference to vote the Prohibition ticket? If that rule were to be adhered to, or is by your vote to be included in the precedents of the House, then a number of Pennsylvania Representatives would be immediate candidates for unseating, because their names were upon more than one party ticket. It is a matter of regret to many of us who wish ballot reform that this opportunity for tricking at the polls is permitted by law in Pennsylvania or in any other State. But apart from the generalities that have been indulged in by gentlemen upon the other side, particularly those advanced by my friend from Virginia [Mr. HOLLAND], who seems to have based much of his argument upon alleged utterances of Mr. Bowman to agents or third parties, it would seem there is a serious side to this question for the Members of this House.

The contest system as it is encouraged in the House of Representatives is a disgrace to the intelligence of the House and a disgrace to this Nation. [Applause.] It is a positive inducement to crooked men in politics to unseat one who has obtained a majority of the votes of his constituents. [Applause.] First of all, we permit any man who has the desire in his heart or in his political make-up to contest the seat, for instance, of my distinguished friend from Pennsylvania [Mr. PALMER] or my distinguished friend from Illinois [Mr. CANNON], to say, "I will make trouble for him or I will force him to terms with me, and I will do it with the reward that is offered to me by the House of Representatives for annoying and harassing him in his position." It is within the power of any defeated candidate, black or white, who has had the temerity to run against a sitting Member in the South or elsewhere to institute proceedings and to come here with the right to a seat upon this floor. The inducement is $2,000 lawyer's fees for counsel who may have helped to stir up the trouble.

The SPEAKER pro tempore (Mr. RANDELL of Texas). The time of the gentleman has expired.

Mr. MOORE of Pennsylvania. May I have two minutes more? Mr. Speaker, then I ask the privilege of extending my remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. PROUTY. Will the gentleman from Ohio [Mr. ANSBERRY] now use some of his time?

Mr. ANSBERRY. I think the gentleman from Iowa had better proceed to use 20 minutes, and then the gentleman from Maryland [Mr. COVINGTON] will have 20 minutes.

Mr. PROUTY. I yield one minute further to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. Mr. Speaker, in that one minute, getting down to concrete facts in this particular case, I want to say that if you unseat Mr. Bowman and allow $2,000 counsel fees to the attorneys of Mr. McLean you will, in addi-

tion to that. If you seat Mr. McLean, vote to him, for no services performed to this House, $13,125, which he can stick in his own pocket for nothing done whatever except to harass Mr. Bowman. You are going to offer him not only the $2,000 counsel fees, but you are going to give him a premium of $13,125, plus three months' actual service in this House.

Now, if you seat Mr. McLean, and later some majority comes into this House different in political complexion from that which now controls it, the precedent that you set to-day may plague every man who happens to be in the minority. You had better stick to your 30 days' law and tell Mr. McLean and every other contestant that he will have to comply with the law, and that you do not intend to extend the limit in which he may give notice to the seated Member. But you are not going to do it for yourselves or the future if you seat Mr. McLean and unseat Mr. Bowman.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. ANSBERRY. I will ask the gentleman from Iowa [Mr. PROUTY] to use a little more time.

Mr. PROUTY. Mr. Speaker, I yield 10 minutes to the gentleman from Ohio [Mr. WILLIS]. [Applause.]

Mr. WILLIS. Mr. Speaker, it is not possible to do justice to the merits of the controversy involved in this case in 10 minutes. I shall therefore not undertake to discuss the legal phase of the proposition; this has already been done in the discussions heretofore had in this House. I simply refer to the fact that according to a provision of the Revised Statutes, section 105, which reads as follows:

Whenever any person intends to contest an election of any Member of the House of Representatives of the United States he shall, within 30 days after the result of such election shall have been determined by the officer or board of canvassers authorized by law to determine the same, give notice in writing to the Member whose seat he designs to contest, of his intention to contest the same, and in such notice shall specify particularly the grounds upon which he relies in the contest—

and which has been quoted several times, and according to the absolutely unbroken line of precedents, that there is no case pending in this House. The cases upon which the minority of your committee rely are as follows:

[McDonald against Jones, Fifty-fourth Congress; 1 Hinds' Precedents, p. 426.]

The legal time for serving a notice of contest in an election case is extended by the House only for good reason and where there seems to be reasonable grounds for a contest.

On February 28, 1896 (first session Fifty-fourth Congress, H. Rept. 508; Journal, p. 254; RECORD, p. 2281), the Committee on Elections No. 1 reported on the case of McDonald against Jones, from Virginia. In this case the contestant applied for leave to serve notice of contest, which he had not served within the time required by the statutes. The committee concluded that with reasonable diligence the notice might have been served within the prescribed time.

The House, without debate or division, agreed to the resolution of the committee denying the application of the contestant.

[Thomas against Arnell, Thirty-ninth Congress; 1 Hinds' Precedents, p. 875.]

For exceptional reasons the House may authorize an election case to be made up as to notice and answer after the time prescribed by law.

[O'Hara against Kitchin, Forty-sixth Congress, 1 Hinds' Precedents, p. 941.]

Testimony of contestant being taken after the legal time and against contestee's protest, the committee reported that it should not be considered, and that sitting Member's title should be confirmed.

A condemnation by the Elections Committee of oral arrangements between parties to an election case for taking testimony out of time.

[Bradley against Hynes, Forty-third Congress, 2 Hinds' Precedents, p. 123.]

The notice of contest being served after expiration of the legal time and the testimony taken without regard to the statute, the committee did not examine the case.

[Pearce against Bell, Fifty-fourth Congress, 2 Hinds' Precedents, p. 597.]

A contestant giving no notice of contest as required by law and taking no testimony, the House, without further examination, confirmed returned Member's title.

In this case the contestant gave no notice of contest, as required by law, and has taken no evidence to sustain the allegations of fraud and intimidation claimed by him to have been committed.

The 30 days' rule is a rule that has to be set aside only upon reasonable grounds, and I assert and shall undertake to prove that there is no reasonable ground for setting aside the rule in this case. In the first place, the objections of the contestee were made at every stage of the proceedings, as will be found on the first page of the record and at page 749 of the record and in the hearings before the committee. The contestee insisted all the time that, in order to preserve his rights, there was no case pending, because the plain provisions of the statutes had been violated. But it is asserted that the contestant in this case was not able to begin the contest or give notice of contest because he was sick. On this point the minority report says, at page 3:

We insist that this record does not show that Mr. McLean, the contestant, used reasonable diligence. It is true that he was sick, but not so sick but that he transacted other business requiring more energy and concentration than the preparation or the direction for the preparation of a notice of contest. The evidence shows that the contestant was attacked with some intestinal trouble about the 31st of October, 1910. (Evidence, p. 7.)

It shows, however, that on the 5th day of November, 1910, he had so far recovered that two of his political friends, Messrs. McKenna and Kehoe, visited him (p. 624), and that the editor of the Times-Leader had a conversation with him either the 5th or the 6th, and during that time contestant claims to have written a political letter to the editor of the Wilkes-Barre Record (p. 183). The day before election he read, or had read to him, articles from the Record, and personally dictated a political letter for the Times-Leader, and had conferences with his brother manager and others. This was the day before election, which was held on the 8th. On that day he rode out and went to the polls and voted. He was up and around the 9th, the day after the election (p. 9). He personally wrote and signed a check for $25 on the 11th (p. 567). On the 12th he examined bills and wrote and signed several checks, some of them for political bills (p. 710). On that day he learned the official results of the election (pp. 682-683). The contestant was then evidently taken worse, and went to bed on the advice of his doctor (p. 710). During that time he drew at least one political check. Contestant improved rapidly in the few weeks that he was in bed.

By the 28th of November he had so far recovered that he began checking over his political bills and making checks for the same. On the 28th of November he personally drew and signed 30 political checks, and personally made out his political expense account for filing, as provided by the laws of Pennsylvania. This account contained 43 items and was in his own handwriting (p. 631). This was on November 29, 17 days after he knew the result of the election and 13 days before his time was up for serving his notice of contest.

I refer to the undisputed fact, as shown by the evidence and the reliable, carefully prepared brief of the contestee, that on November 11, shortly after the election, the contestant was able to write and sign a political check; that on November 12 he looked over bills and wrote and signed five checks. It appears, then, that he was ill for four or five days. A little bit later, on November 18, the contestant prepared other political checks, went over his expense account, and prepared it for filing—all of this in his own handwriting. I assert, Mr. Speaker, that the contestant was able to do these things, and subsequently was able to make a trip to Florida, stopping a few days in Philadelphia for political conference or otherwise. He was able to say to his manager the three words necessary to start the contest. Those three words were simply "Start a contest."

But the contestant did not do that. He slumed away his day of grace. He was guilty of laches. He slept upon his rights, and it was not until he came back from Florida, early in January, and had conferred with somebody in Philadelphia or Washington, that he received assurances that he could still begin a contest; that the law, the precedents, and the rules of this House would be overturned; and that he would be given an opportunity to obtain a seat herein.

I assert, Mr. Speaker, that it is highly important that the rules of law and the rules of this House should be adhered to in this particular case. The minority say, at page 2 of their report:

There are very many cases cited in Hinds' Precedents confirming the doctrine that where the rule established by the law of 1851 was not applicable or grossly inequitable the House had the power to prescribe different rules and regulations for the penalty. There are several cases where the parties have failed to give notice within the time prescribed by the statutes where the House, for equitable reasons, has fixed another time or mode in which notice might be given, but we believe that there is not a case cited in the precedents where a committee had reported the unseating of the Member where the notice was not given within the time provided by the statutes. We can see that if the contestant had been for any good reason prevented from giving notice in this case, he might have applied to the House for permission to give notice, and that the House had the power to grant additional or different time, but no such request as that has been made of the House. The contestant filed his notice 32 days too late and took his testimony out of order, all under protest by the contestee, and we insist that under the precedents the committee had no power or authority to consider the case. The laws of Congress are certainly binding upon Congress until set aside by Congress itself, but the minority contends that even though the contestant was now presenting to the House the question as to whether or not he was entitled to further and additional time in which to give notice his showing does not entitle him to the application of the equitable rule. There is no showing in this record that would excuse the contestant from giving the notice within the time prescribed by the statutes. Certainly the House would not wish to establish a precedent that would warrant anyone in coming in any time he pleased and filing a contest. This would be unfair. No one would know when his seat was secure. Failure to file a notice might lull the sitting Member into such indifference as would allow the testimony by which he could defend his case to be lost or destroyed. The rule established by the statute is a just one, and this House ought to be slow in establishing another rule.

And then I call attention to another interesting fact, Mr. Speaker, and that is this, that the majority of this committee, a majority made up of distinguished and able gentlemen on that side of the House, after a most careful consideration of this case have declined to bring in a report in favor of seating the contestant.

They give certain reasons in their report, but some other reasons occur to me that are not given in this report. We have heard a great deal in the discussion of this case about the contestee and his acts, and since the contestant has been dragged into the case by the gentleman from Pennsylvania [Mr. PALMER] I propose to say something about what the record shows concerning him. I say that another reason why this House should not decide in favor of seating Mr. McLean is because this record is groaning with evidence of the actual doing by the contestant in this case of the very things which it is merely alleged the contestee did.

Why, take the matters referred to by the gentleman from Pennsylvania [Mr. AINEY]. It is said here that the employment of special watchers by Mr. Bowman is a heinous crime, and yet when they are employed by Mr. McLean and his agents it is altogether good and holy and proper. I ask you to look at page 398 of the CONGRESSIONAL RECORD of December 10. There you will find the items of expenditure for poll men and special watchers:

John Bigelow, Esq., poll man in first district	$100
John Bigelow, Esq., special watchers, first district	60
Roger Devers, Esq., special watchers, first district	100
William S. McLean, jr., poll man, second district	270
George F. Buss, poll man, third district	400
George F. Buss, registration, Pittston City	100
Hon. M. J. Healey, special poll man, Avoca	30
James J. Judge, special watchers, third district	150
R. B. Sheridan, Esq., poll man, fourth district	310
J. J. Moore, poll man, fifth district	315
H. W. Davis, Esq., poll man, sixth district	40
C. M. Horeywell, poll man, sixth district	90
T. P. Macklin, poll man, sixth district	30
J. J. Murray, poll man, sixth district	20
Thomas Walsh, poll man, sixth district	5
Joseph Freeman, poll man, sixth district	100
W. J. Butler, Esq., poll man, seventh district	450
W. J. Butler, Esq., registration, city of Wilkes-Barre	250
Mose Solomon, for special watchers	160

There is an item, "John Bigelow, Esq., special watchers, first district, $60." That is good so long as it is done by the contestant, but when the same thing is done in behalf of the contestee it is alleged to be a crime.

In the next item we see, "Roger Devers, Esq., special watchers, first district, $100," and, following that, "William S. McLean, jr., poll man, second district, $270." William S. McLean, jr., the chairman of the contestant in this case, credits to himself $270 for the employment of poll men. I am quoting here from the official statement filed under the laws of Pennsylvania.

Here is another one: "Hon. M. J. Healey, special poll man, Avoca, $30." These same men, whose employment the gentleman from Pennsylvania [Mr. PALMER] and others have alleged to be unlawful when employed by Mr. Bowman, are hired and paid by Mr. McLean or his representatives, and when it is done by them the employment is claimed to be perfectly proper.

Mr. PALMER. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Will the gentleman yield?

Mr. WILLIS. I yield.

Mr. PALMER. The gentleman knows that the law of Pennsylvania permits three watchers at a polling place, and the gentleman knows also that these items were explained in the testimony. Now, was there any polling place in all Luzerne County where Mr. McLean had more than three watchers, the number allowed by law? And is it not a fact that in district after district Mr. Bowman had in some cases as many as 15 of these watchers?

Mr. WILLIS. Now, Mr. Speaker, some of that is true and some of it is not true; and I am going to tell the gentleman some things that he may not know about his special watchers here. I will refer to the last item on this list, "Mose Solomon, for special watchers, $160." Now, let us investigate about Moses and find out concerning him. You will find this at page 573. Let us see about this:

Q. Are you a Republican in politics?—A. I have been.
Q. You have been. You are not now, are you?—A. I am.

Note first that this $160 is paid by a Democrat to a Republican for his political services. If there is not on the face of that the semblance of bribery, then I do not know what it is. But listen:

Q. I believe you received a sum of money from McLean prior to the election, from George McLean's brother, to use for Mr. McLean's behalf?—A. I did.
Q. How much?—A. $160.
Q. How did you get it—by check?—A. By check.
Q. When did you get it?—A. Either on Thursday or Friday preceding the election.
Q. What were you to do with that money?—A. Hire poll men.
Q. Where?—A. Up in the city wherever I am acquainted.
Q. In the city of Wilkes-Barre?—A. Yes.
Q. Did you hire the poll men?—A. Yes.
Q. For McLean?—A. Yes.
Q. You hired what is known as extra watchers, did you?—A. Yes.
Q. About how many did you hire?—A. I have my receipts here. [Witness produces papers.]
Q. I wish you would give me each man's name.—A. I will, and his residence and occupation.
Q. Just the name, to whom you paid it, where they live, and where they work.—A. William H. Eddy, first district, third ward, $10. He is employed as an electrician and lives on North Welles Street. John A. Miller; his place is on North Welles Street, $10; first district, third ward. I am calling that.
Q. Why did you pay them $10?—A. I always paid my man according to his ability. If I know he is a good worker I give him $10.
Q. Then where you gave a man $10 it was always for himself?—A. Yes.
Q. Who is next?—A. Val Apple. He is an axle worker also in the same district.
Q. How much did you give him?—A. $10.

Further, on page 574, talking about a man by the name of Bausch:

Q. What was he to do with that $5?—A. Bausch was for McLean, talking for McLean, and taking an interest on election day, and I had that paid him.
Q. Then he worked at the polls?—A. Yes; exactly.
Q. He is a Republican?—A. Well, there are lots of Republicans last fall that did that—hundreds of them.
Q. He is a Republican?—A. I don't know.
Q. Don't you know that he was deputy prothonotary; don't you know he was?—A. For Walser, a Democrat.
Q. He was a deputy prothonotary?—A. I know that.
Q. Under a Republican official?—A. Also under a Democratic official.
Q. How long have you known John Bausch?—A. For the last 15 years or more.
Q. And he is known as a Republican, isn't he?—A. I can't tell what he is.
Q. Now, you say you hired these men, and you have accounted for $95. What did you do with the other $65?—A. I considered my own services was worth something. I was working for McLean for nearly five months up to this time, and I hadn't received a penny.

From this it appears that Moses was a thrifty person.

So that, under the guise of decent citizenship and high and holy politics, the contestant in this case pays $160 for a Republican to hire him to work for the contestant, and this man says in his testimony that he went out and hired other Republicans. That is in the name of decent citizenship and good clean politics. [Applause on the Republican side.]

Mr. PALMER. Will the gentleman allow me——

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. WILLIS. I should like a little more time.

Mr. PROUTY. I yield two minutes more to the gentleman.

Mr. WILLIS. Now, Mr. Speaker, in the few minutes remaining I have not time to go in detail into various cases. I simply want to refer to them, and I challenge a denial of what I say by anybody on either side of this House. I say the record shows at page 542 that Mr. Buss, the direct personal representative of Mr. McLean, received $250, and by his own testimony went out and bought men. You will find it on page 542. And yet the gentleman from Pennsylvania [Mr. PALMER] says that we must seat this contestant in the name of decency, in the name of pure politics. I do not understand his notion of pure politics, if receiving $250 to buy men is his conception of it. I want to say to gentlemen on both sides of the House that if you propose to seat Mr. McLean, you are proposing to seat him on the absolute proof of his having done or procured to be done the very things that are simply charged against Mr. Bowman. [Applause on the Republican side.]

But that is not all. At page 542 there is incontrovertible testimony as to buying watchers in the interest of McLean. Somebody look it up and deny it if he can. Mr. Butler, at page 529, says that he had $1,000, a large portion of which came directly or indirectly from Mr. McLean.

At page 654 Mr. Wiegand, of the Stegmaier Brewing Co., says that he spent $750 in Mr. McLean's behalf. At page 591 Mr. Price said he did not hire any watchers, but he visited 140 saloons, spending some $80 or $90. That, I suppose, was in the interest of the pure politics represented by the contestant in this case. At page 582 it is shown that John Bigelow became active in distributing $550 to the faithful.

Mr. Clauss testifies, at page 647, that he had $150.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. WILLIS. I will ask the gentleman from Iowa to give me a minute more.

Mr. PROUTY. I yield to the gentleman two minutes more.

Mr. WILLIS. At page 646 I call attention to the testimony of one William Kelly. It is highly interesting and instructive. He says, pretty well down the page:

Q. What did McLean say to you?

That was the contestant's brother, his manager, his agent. The testimony in full is as follows:

Q. What is your occupation?—A. Driver for the Bartels Brewing Co.
Q. Did you receive any money last summer on behalf of McLean?—A. Previous to the election I received $10 from Walsh; he said it came from McLean.

Q. What were you to do with that?—A. I was to keep it.

Q. And you did?—A. I certainly did.

Q. What were you to do for it?—A. Work in the interest of McLean.

Q. At the election?—A. Yes.

Q. Do you remember coming to McLean's office with Philip Straub?—A. Yes.

Q. How did you come to go there?—A. Why, Assistant Chief of Police Kennedy came to my house, and he told me that Phil Straub wanted to see me, so I went down there, I think, on a Tuesday morning, and he and I went to McLean's office.

Q. What did Straub say when you got to his place?—A. He said McLean wanted to see me, and I went over there and met Will McLean, jr., and we talked in regard to the election, and I was under the impression that I was to hire the watchers in Edwardsville.

Q. In all the wards in Edwardsville?—A. Yes.

Q. What did McLean say to you?—A. He asked me about how much it would cost, and I told a rough estimate would be about $225, and there was nothing doing.

He got the price too high for Mr. McLean.

Q. What else was said to you?—A. There was John Moore and Ed Moore there that day, the first one.

Q. You say the 26 of November you went the first time?—A. I think it was.

Q. Then you were told to come back on the Friday before election?—A. Yes.

Q. And you and Straub came back?—A. He wasn't with me when we went back.

Q. What happened the second time?—A. I told him the price was reduced to $100, that was for the first, third, and seventh, and he said that wouldn't do.

Q. How much did he say he would pay you?—A. He didn't set any price at all.

Q. What did McLean say he sent for you for?—A. As far as I understood, him and Straub were talking over it and he wanted to place men in the borough of Edwardsville, and Straub suggested me, so I went over and we couldn't come to any agreement.

Q. So you didn't meet Straub at McLean's office, as he testified to?—A. No.

Q. Straub took you over?—A. Yes; he took me over.

Q. Now, isn't this the truth, that you and Straub went over there and you said you could deliver the vote for $225 in Edwardsville?—A. No; I couldn't say I could deliver the vote, but the second ward is practically Democratic.

Q. Did you want $225 for the second ward?—A. No; for the whole borough.

Q. McLean was willing to pay $75, wasn't he?—A. Yes; $75.

Q. And the $75 which he was willing to pay was for the vote of the second ward alone?—A. No; he didn't say that.

Q. What did he say he was willing to pay the $75 for?—A. To place watchers.

Q. Isn't it a fact that when you discussed with question, the only question you discussed was getting the vote of the second ward?—A. No; we talked over the whole borough.

Q. And he said he was willing to pay $75?—A. I am not positive whether he said that or not.

Q. You said a minute ago that he did?—A. I am not positive.

Q. Didn't you hear it all?—A. I am not positive whether he did or not.

Q. You said a minute ago that he was willing to pay $75?—A. That is the rumor; I am not positive whether he set that price.

Q. Did you work for McLean at the polls?—A. Yes.

Q. Did you receive any money for it?—A. No.

Q. Except the $10 that Walsh gave you?—A. That was all.

That is in the name of the lofty politics, the lily-white politics represented by the gentleman from Pennsylvania and the contestant in this case. [Applause on the Republican side.]

Mr. PALMER. Will the gentleman yield?

Mr. WILLIS. If I had the time I would be glad to yield to him, but I have not. The gentleman knows I do not want to be discourteous to him.

Mr. PALMER. I did not want the gentleman from Ohio to misquote the evidence.

Mr. WILLIS. I am quoting from the printed record. Now, here is a representative of the Susquehanna Brewing Co., who says he spent $300 in 150 saloons in the interest of the contestant. That is more of the lofty politics and decent citizenship invoked by the gentleman from Pennsylvania. [Applause on the Republican side.]

The SPEAKER. The time of the gentleman from Ohio has again expired.

Mr. WILLIS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. PROUTY. Mr. Speaker, how much time have I left?

The SPEAKER. The gentleman has 14 minutes remaining.

Mr. ANSBERRY. Mr. Speaker, I yield 20 minutes to the gentleman from Maryland [Mr. COVINGTON].

[Mr. COVINGTON addressed the House. See Appendix.]

Mr. ANSBERRY. Mr. Speaker, I am going to use the balance of my time in which to close. Will the gentleman from Iowa [Mr. PROUTY] proceed?

Mr. PROUTY. Mr. Speaker, I yield seven minutes to the gentleman from Pennsylvania [Mr. FARR].

Mr. FARR. Mr. Speaker, I never knew a kinder, more unselfish, more open, frank, straightforward, honest man, in the broadest, deepest sense of these words, than the contestee, Mr. Bowman. [Applause on the Republican side.] I know him better than I know myself. Every waking minute of that gentleman is given to earnest thought and effort for the good of mankind. I believe that he thinks his bounden duty is more to do something for some one else than for himself. You gentlemen have seen that gentleman in his close attendance on the business of this House, even if there were only 20 men here. Before and after the adjournment of the House he has been at his office in strict attendance on public business. Every vote, every thought that the gentleman has given expression to here is an indication of the splendid, good, practical Christian life that he lives every minute of the day. It amazes me to see this brazen, brutal attempt to blacken the character of so good a man as the gentleman from Pennsylvania, Mr. Bowman.

Mr. GUDGER. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. FARR. I regret I can not yield. I have only seven minutes.

Mr. GUDGER. I wish the gentleman would explain why the contestee returned on his oath that he had expended $7,194.40, and then on his oath in the testimony he admitted that he had expended $9,272.70?

Mr. FARR. This discrepancy is a mistake. I can explain that. The contestee filed just what his bookkeeper gave him as properly chargeable to this election—$7,194.40.

As regards the temperance attitude of this gentleman, the contestee, I desire to say that he is as frank and open in that as in any other feature of his life. He has been president of the Antisaloon League of his county this year and last year, and since 1909, and he is a man who lives in truth and action, an honest believer in the cause of temperance.

My friends, that man is not capable of doing a dishonorable thing, and this charging up to him all the money spent by the chairman of the county committee, calling him his manager, is wrong. Mr. Jonathan R. Davis was chairman of the Republican county committee, with 14 or 15 different candidates on that ticket. Mr. Davis is an honest and good man. I know him, and I know him intimately. He represented the 14 or 15 candidates on that ticket, and not Mr. Bowman alone. I think, as chairman of the Republican Party, he was entitled to nearly twice the number of watchers recorded here. Mr. Bowman, as the candidate of the Republican Party, was entitled to three watchers in each district. There are 311 districts in Luzerne County. That would make 933 watchers, and with three regular watchers, not special watchers, for the Prohibition ticket, there would be 933 more, or altogether 1,866 watchers to which they were legally entitled. And then they were entitled to an overseer for each district. That would make 311 more.

Luzerne County has a population of 350,000 people, with 60,000 miners; somebody says slightingly—Ignorant foreigners, and Ignorant Poles and Hungarians, sal; the gentleman from Maryland [Mr. COVINGTON]. I want to tell the Members of the House that the literacy among the foreign-born population of Luzerne County, and in my district, compares favorably with the native-born population of the State of Maryland. [Applause on the Republican side.]

And I want to tell the gentleman from Pennsylvania [Mr. PALMER] that it does not come with good grace from him to talk about the coercive methods upon employees used by a corporation. As I understand, he is the local attorney of the Delaware, Lackawanna & Western Railroad, the greatest anthracite coal producing company of my community, taking in a large part of Luzerne County, and running its great and splendid lines out through the district of the gentleman from Pennsylvania [Mr. PALMER]. The gentleman from Pennsylvania [Mr. PALMER] must not forget the efforts that that corporation, through its officials, made for him at his solicitation.

Mr. PALMER. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman yield to his colleague?

Mr. FARR. I refuse to yield, Mr. Speaker.

Mr. PALMER. But the gentleman will yield.

Mr. FARR. I do not want to see and hear evidences of demagogism and misrepresentation on that side to blacken the character of a man on this side.

Mr. PALMER. Mr. Speaker, does the gentleman say he charges me with having the corporation coerce men to vote for me?

Mr. FARR. I say it comes with bad grace from the gentleman from Pennsylvania to talk about the coercive methods of railroad corporations on their employees.

The SPEAKER pro tempore. The gentleman from Pennsylvania will come to order, and the gentleman from Pennsylvania will cease making personal remarks.

Mr. FARR. Mr. Speaker, I say to the gentleman from Pennsylvania [Mr. PALMER] that——

The SPEAKER pro tempore. The gentleman will be in order.

Mr. FARR. Mr. Speaker, I have my rights on the floor of this House. I said nothing personal about the gentleman from Pennsylvania [Mr. PALMER]. I said that it came with poor grace from the gentleman from Pennsylvania to charge the officials of the Delaware, Lackawanna & Western and other coal corporations with coercive methods in the election of this gentleman, inasmuch as officials of that company worked with might and main for the election of the gentleman from Pennsylvania [Mr. PALMER] himself. [Applause on the Republican side.]

Mr. PALMER. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman from Pennsylvania yield to his colleague?

Mr. FARR. I refuse to yield. I have made my statement, and I am in order.

Now, $9,000 was the total amount expended in this last campaign in the interest of Mr. Bowman and a dozen or more other candidates. Mr. Bowman was generous. He was assessed $5,000 and he contributed it. There were a lot of poor men on that ticket, men running for the legislature, getting about $1,500 for an office lasting two years, and they could not afford to pay this money; and Mr. Bowman was generous and paid in all about $7,000 to the county chairman of the Republican Party toward the election of the Republican State and county tickets in a county of 350,000 people, containing 311 districts.

Where is the chance for corruption? Where is the chance for excessive expenditure? And yet you gentlemen want, some of you, to seat the contestant. Let me tell you something about the contestant.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FARR. I must have a little more time. It is very important.

Mr. PROUTY. I yield to the gentleman seven minutes, the rest of my time.

Mr. FARR. How many saloons did the contestant—Mr. George R. McLean, the contestant in this case—visit? Here is the evidence:

Q. How many saloons did you visit in Avoca with George Buss and Roscoe Conkling Keeling?—A. Really I could not tell you.

Q. About how many?—A. I don't know where Avoca begins and Pittston Township ends, or where Duryea begins.

Q. That day you were out in the automobile how many saloons did you visit?—A. I presume we visited 10 saloons, possibly more.

Q. You spent money in these saloons?—A. I spent money in practically every saloon we went into.

Q. You bought drinks?—A. If a man wanted a drink.

Q. And you spent the money in furtherance of your candidacy?—A. If I hadn't been in the position of a candidate I possibly would not have been in Pittston Township or Avoca or that part of the county at that time.

Q. And the money you spent in there and the other places you visited in the buying of drinks was spent in the furtherance of your candidacy?—A. Mr. Jones, if I should happen to go into a saloon and there would be people around there I knew, I would naturally say, "Will you have a drink with me?"

Q. Didn't you buy drinks in those saloons for men you didn't know?—A. Certainly, there was men I didn't know in there.

Q. And the money spent in that way was in furtherance of your campaign; that is what you were doing it for that day?—A. I was out campaigning.

Q. And this money was so spent in furtherance of your campaign?—A. I presume it was, as a general proposition.

I yield back the remainder of my time to the gentleman from Iowa.

The SPEAKER. The gentleman from Iowa has six minutes remaining.

Mr. PROUTY. Mr. Speaker and gentlemen of the House, I wish to use the six minutes left to me in making just as vivid as I possibly can the parliamentary questions presented to you by the record in this case.

I told you in my opening statement that this notice had not been served until 63 days after the result of the election had been officially declared. This is conceded by the committee in its report, as appears on page 3. I further told you that there was not a precedent in the history of the American Congress where the House had taken jurisdiction of a contest when the notice of contest had been served after 30 days unless the party appeared before the House and asked permission for the setting aside of the statute and the rules of this House, and the House, after hearing the situation, extended the time or provided some other method by which the contest might be taken up.

If you will turn to pages 386 and 387 of the CONGRESSIONAL RECORD of last Tuesday, when the gentleman from Pennsylvania [Mr. PALMER], the only man who discussed this question, was on the floor, you will find that I asked him this question:

Mr. PROUTY. Have you found any case where there was no notice given within the time that the House considered it, unless they prescribed another kind of notice, and that was given?

And after a good deal of firing back and forth I repeated the question again:

Mr. PROUTY. Have you found a case reported in the books where no notice was given where the contest was entertained by the House without prescribing another notice and compliance?

Mr. PALMER. No.

In all the precedents of the House where there has been an extension of time or a different rule prescribed it has never been done except upon equitable grounds, where the giving of the notice was made impossible or impracticable by reason of the peculiar circumstances. There is not the record of a single case where any man has been excused from giving this notice by reason of his own negligence, carelessness, or ignorance, either of himself or his attorney.

The third proposition is this: Even if this man was appearing before the House and asking for time, it has been solemnly found by both the majority and minority of this committee that this man had no such equitable ground or reason for not giving his notice as would justify either the committee or the House in granting the extension.

I call attention to page 3 of the report of the majority, in which it says:

The committee is not, however, satisfied that the reasons alleged by the contestant are sufficient to entirely excuse him from serving upon the contestee his notice of contest within 30 days from the 12th day of November, 1910, and, not believing that he should be the beneficiary of his own negligence, under the findings of the committee, they have not considered the case from the viewpoint of reporting a resolution to seat the contestant.

Had that record been presented to the House they would have found the same—that he had not given that diligence and care to the preparation of his case that the law requires, and if you had followed your committee there would have been no contest in this case.

Now, what have we got? What does the record show? That here is a man who has come in absolute violation of the rules adopted by this House and by this committee, without showing, in the judgment of your own committee, that he has done the things the statute requires, or given an excuse for not doing it, and you say, "We will nevertheless hear his case."

Now, gentlemen, there was an election held on the 5th of November. More than 30 days have now elapsed since that time. I apprehend that most of you feel secure in your seats; but I want to say to you gentlemen that if you vote down the resolution that I have offered here and vote for both of the other resolutions that have been offered from that side no man's seat is free from contest in this House, because a man can come in any time and present his contest, and he need only to cite the record in the case of McLean against Bowman, in the third session of the Sixty-second Congress, as a precedent and justification and possibly an invitation. [Applause.]

The SPEAKER. The gentleman from Ohio [Mr. ANSBERRY] is recognized.

Mr. ANSBERRY. Mr. Speaker, I desire to call the attention of the House to this remarkable situation. The gentlemen who represent the minority on the committee, three in number, have not during the course of this debate disputed a single proposition with reference to the facts in this case as they affect the seat of the sitting Member. Serious charges were made in the majority report. Serious charges were made on the floor of this House, and evidence quoted—not from the brief of counsel for contestant, but from the record—in support of the charges, by the chairman of the committee in your presence in August last, when this matter was being considered. The gentleman from Iowa, a distinguished lawyer, who for years ornamented the bench of his great State before he came into this House, occupied nearly an hour in this debate and never said a single word either in criticism or in answer to the charges made against the contestee, Mr. Bowman. He contented himself with presenting a technical question, which, reduced to the last analysis, means simply that even though corruption and wholesale violations of election laws were resorted to, as was done in this case by contestee—corruption running riot and all law disregarded, he would invoke a technical rule and apply the procedure which obtains in criminal courts of narrow jurisdiction, so that contestee may escape the consequences of his unlawful acts. This House has the undoubted right to act on this resolution, and no technical plea should intervene between contestee and his deserts. This House, with a broad jurisdiction, has the right to take up this question of high privilege at any time, and it should not invoke the strict rule holding a man to 30 days' notice of a contest in the face of proven fraud and corruption. The purpose of this and all rules of this House should be to procure and not prevent substantial justice. The gentleman from Iowa knows that the precedents established by this House are not favorable to his contention; that this House has been memorialized in the middle of a session, after months have

expired, for the purpose of calling attention of the House to some person occupying a seat not entitled to occupy it by reason of fraud and corruption.

The House has taken notice of it. Why? Because the 20-day rule is only to provide an orderly procedure to protect the rights of all parties, not to defeat them, and to procure substantial justice; and in every case where this rule was invoked the usual procedure was, if the House was in session, to procure the consent of the House to begin a contest, and the House, good cause having been shown, gave permission and always directed the time notice should be given and answer filed, and also provided the time in which the contestant should take his depositions and the time that the contestee should answer them. We invoke the common sense rule that a technicality should not prevent substantial justice, and in these days when courts are freeing themselves of absurdities caused by following senseless rules technically applied this House should refuse to entertain the proposition that corruption and violation of election laws should be waved aside simply to preserve from exception a rule of procedure; but I have no doubt the House will turn a deaf ear to such a plea.

The right of the contestee to a seat in this House has not been prejudiced one iota by the failure of the contestant to file his notice within 20 days. So I say the gentleman from Iowa, a lawyer of long experience, defended not his own report on the facts, not the report I referred to as being the weakest reply ever written to an indictment of this character, but he contented himself with raising this technical question. I congratulate the gentleman. I do not see how the gentleman, knowing every word and line of that record of infamy, could come in here and dispute the proposition laid down in the majority report.

And then we have the other member of the committee, my colleague from Ohio [Mr. WILLIS], a man educated in the law, although he never practiced it; a man who taught the law to young men who aspired to that honorable profession in a great university in our State. He likewise was familiar with this testimony. He sat with the committee day after day and heard the testimony discussed and heard the arguments. He has read the record and he knows every line of it, and yet he never raised his voice in defense of his own report on the facts in this case. He never has said one single word in this House, and never will, to controvert the facts set forth in the majority report relative to the corruption practiced by the contestee in this case. The third member of the committee [Mr. MATTHEWS] was incapacitated by sickness and knows nothing of the record, and I suppose signed the minority report as a matter of form. He never said a word in this House, and he never will say it outside if he reads the record; to contradict the majority report with reference to the facts, with reference to the corruption, with reference to the fraud, with reference to the violation of law practiced by the contestee in this case. And so the reply to this indictment was left to whom? To two or three personal friends whose districts are up in the hard-coal regions of Pennsylvania, with the possible exception of one or two men, among whom is the gentleman from Pennsylvania [Mr. MOORE]. His defense was left to these men who know nothing of the record, and their very statements disclose, beyond peradventure, that they are not familiar with the facts in this case. What was that defense? It consisted principally of a high tribute paid to the contestee's character by the gentleman from Pennsylvania representing the Scranton district [Mr. FARR], who, I am sorry to say, has left the Chamber for a moment. He paid contestee a high tribute, but, if I recall correctly, his opinion of this man is discounted by the position which he took in the famous Archbald impeachment case, for he was the only Member of this House who defended by his vote the charges against Judge Archbald.

Mr. FARR. And the Judge will be acquitted in accordance with my prophesy.

Mr. ANSBERRY. If he is, it will be the result of the application of a technicality.

The SPEAKER. The gentleman from Pennsylvania will be in order.

Mr. ANSBERRY. And, now, while I am at it, for the purpose of showing the weight which should be given to my friend from Pennsylvania [Mr. FARR] and who defended the contestee and paid him such a high tribute and who knows nothing of the facts, I desire to refer him to contestee's record with reference to his attitude on the temperance question. The gentleman from Pennsylvania [Mr. FARR] said that contestee is a temperance man; that he was president of the antisaloon league; that he is incapable of a dishonorable action, and that he could not be guilty of the facts contained in the record, because it was not consistent with his character. Let the record in this case—the testimony taken under oath—and not the statement of a personal friend reflect his position. In the record, page 214, is to be found an article which appeared in the Nanticoke News, printed in his district, on the 14th day of October, 1910, under the heading, "Bowman visits Nanticoke":

BOWMAN VISITS NANTICOKE.

Hon. C. C. Bowman, of Pittston, the Republican candidate for Congress, spent a couple of hours in town on Wednesday. He made a very favorable impression on all whom he had the pleasure of meeting. There is but little doubt Mr. Bowman will carry Nanticoke by a handsome majority. The people in this part of Luzerne County are learning more about Mr. Bowman every day, and the more they learn the more they admire him. The attempt made by some political tricksters to arrayy the saloon men and the liquor interests against Mr. Bowman has proved futile. The question of local option will never be heard of in the House of Congress. Should such a measure be introduced, the reputable, law abiding liquor dealers can trust Mr. Bowman. We know his detractors in Pittston can trust him. If you doubt this assertion we refer you to Brewer Dick Hughes and Liquor Dealer John Kehoe.

The gentleman from Pennsylvania [Mr. FARR] asserts with great vehemence that his colleague is not responsible for the acts of Jonathan R. Davis, because Davis was the chairman of the Republican county committee. If the gentleman from Pennsylvania [Mr. FARR] will acquaint himself with the record in this case he will find that contestee sought out Davis and employed him as his manager and that on several occasions he had personal knowledge of the acts of his agent which are now being discussed, and that contestee himself asked Davis to pay money, notably to Lawrence Cosgrove, page 69, for special watchers.

His manager testified that $68.75 was paid to the Nanticoke News for advertising of a political nature. The liquor dealer, John Kehoe, met him on the street afterwards and remonstrated with him and said:

I am holding an office as a Democrat, and you should not have put that in there, Mr. Bowman, because when you did you discounted me with my party, or words to that effect.

Mr. BOWMAN. Mr. Speaker, will the gentleman yield?

Mr. ANSBERRY. I yield; yes. What has the gentleman to say?

Mr. BOWMAN. I would not ask the gentleman to do it if he did not——

Mr. ANSBERRY. Oh, I refuse to yield for a speech.

The SPEAKER. The gentleman declines to yield.

Mr. BOWMAN. I had nothing to do with it at all.

The SPEAKER. The gentleman from Pennsylvania must obey the rules of the House.

Mr. ANSBERRY. I am sorry that the gentleman did not tell Liquor Dealer Kehoe that he had nothing to do with the publishing of the article when he asked him about it, and remonstrated with him. The gentleman's denial of responsibility comes rather late in the day; his attention has been directed to it and his responsibility for it has never been denied under oath.

Mr. BOWMAN. Well, I did.

Mr. ANSBERRY. No; the gentleman did not.

The SPEAKER. The gentleman from Ohio declines to yield.

Mr. ANSBERRY. And then this gentleman who said that he did not authorize that article in the newspapers—this article in which he shows the true position he holds on the temperance question—and the very language in which it is couched, the reading of it, proves beyond question that he did.

Here is another instance of the gentleman's stability on this question. I will read you his own version of it given under oath (p. 163).

Mr. Bowman being on the witness stand.

Answer. I will explain the thing fully, so there will be no misunderstanding. I came down from a meeting that was arranged by the chairman, Jonathan R. Davis; he was anxious that I should meet the liquor dealers of Nanticoke. At his earnest solicitation I agreed to meet them.

I regret to say that he was coerced into doing it; in the midst of this campaign he attended a meeting of—what, do you think? The Anti-Saloon League? No; a meeting of the Retail Liquor Dealers of Luzerne County. He did it under coercion. Jonathan R. Davis compelled him to do it. Jonathan R. Davis, the man the contestee says is a man who is incapable of a dishonorable act, the man who contestee says is a bank director, a business man of means, and active in church work; this man coerced contestee.

So I assume, then, that the gentleman—and the record is silent as to why he conserted with these retail liquor dealers on the eve of the election, why he met with these men and made the speech which he made—I assume that he tried to win them from their wicked ways of selling rum in Luzerne County, Pa.; or did he read them the article from the Nanticoke News? And this manager paid $10 to the secretary of that organization to go out and disseminate information with reference to this gentleman, this "holier-than-thou" sort of person, the man who says that he never offended against his God or the State, and in passing, that he never told a lie. The following

testimony appears on page 89 of the record, Mr. Bowman's campaign manager, Mr. Jonathan R. Davis, being on the witness stand:

Q. Mr. Frank Matejewski, you gave him $10?—A. Yes.
Q. He lives in Nanticoke?—A. Yes.
Q. What is his business?—A. Liquor dealer.
Q. He is in the liquor business, isn't he?—A. Yes.
Q. What relation did he hold to the liquor organization in Nanticoke?—A. He was secretary of the Retail Liquor Dealers' Association in Nanticoke.
Q. And you gave him $10. What for?—A. Disseminating information.

The only person who has sought to refute the statement made by the chairman of this committee when this resolution was first called up in August last was the contestee himself. He stated his position in that speech, and he verifies the correctness of the judgment that the committee reached when they said that the item of $700 for the taxicab and the $50 given to his friend—Glering—were items that he did not put into the report for the reason that they were not political items. What does he say about it in his speech?

The next subject taken up is the matter of an incorrect expense account having been filed by contestee. It is insisted that an item of $700 was left out. Why should it not be left out if it had nothing to do with political matters? If I purchase an auto from the Republican county chairman after election what has that to do with my political expenditures? Other statements regarding this auto are incorrect. I knew the car, having ridden in it when the property of Mr. Shepherd, of my city. Before purchasing it Mr. Davis told me he paid $600 for the car, and that he had spent nearly $200 in improvements, new tires, and so forth, and that it was in good running order. He bought it to help a poor fellow support himself and family. I was glad to help Mr. Davis out by buying the car, as he managed my primary campaign and acted as chairman of the county committee without the promise of reward of any kind or character. The gentleman from Ohio [Mr. ANSBERRY] stated in his address to the House that there was an erasure on the stub of this check. He was mistaken; no erasure has been made upon the stub of that check. The check book and check are open for his inspection or that of any other person. Jonathan R. Davis is incapable of a dishonorable act. He is a business man of means, a bank director, active in church work. During the last year he was appointed by the nonpartisan court as president of the board of assessment and revision of taxes for the whole county, called the richest natural area in the world.

He says that he recognizes it as a political expenditure; and that he sought to conceal these items is proven beyond all question. Contestee is ever ready to throw the cloak of religion over the shoulders of men who are implicated with him in this unfortunate case. I want him to recall the old saw, "A man who exhibits his religion in his show window has mighty little in stock," and to ponder on it well.

Contestee tried to conceal the $700 check by having the bookkeeper write on the stub of the book, "personal," followed by "taxicab for political purposes," all according to his own testimony and according to the testimony of the bookkeeper, all of which testimony was pulled from him and the bookkeeper by the strongest sort of cross-examination. Then the gentleman justifies what I said and the committee's report with reference to the $50 check given Eugene Giering, an editorial or lead writer in one of the Wilkes-Barre papers, in the same way. In his sworn statement of expense contestee said it was a political expenditure and he thus justified the position of the committee.

Contestee likewise fails to satisfactorily explain his failure to account for $50 given to his friends, Hollister and Jennings. He pays his usual high tribute to their character, the same tribute which he has paid to all men who handled his money. An examination of the record will disclose the use to which at least one of these gentlemen put this money. Some of it went to a man by the name of O'Brien, a Democrat and a mine boss, who in turn passed a part of it among the Democratic miners who worked under him, two of whom were named Meehan and Mullin, pages 358 and 359. Their activity is well described by Thomas Rowlands, a member of the board of elections at this election in the third ward of Avoca. His testimony appears on pages 358 and 359. By the way, Rowlands is assistant foreman in the Delaware & Hudson mines and also was a judge of election. He had $10 of contestee's money in his pocket. Mullins, who got a part of the contestee's money through the Hollister route, which you will recall was concealed, had a son who likewise was an official conducting this election in the third ward of Avoca, and this strong Democratic ward was carried by contestee. Many men, probably 35 or 40, were accompanied into the booths by men who helped mark their ballots or who at least witnessed the marking of their ballots, contrary to the letter and spirit of the election laws of the State of Pennsylvania.

Much has been said with reference to Jonathan R. Davis. I say that despite the fact that contestee asserts that Jonathan R. Davis is incapable of a dishonest act the record will show on pages 763, 764, and 765, as sworn to by William J. Trembath, that in 1906 a citizens' committee met and organized in the Hotel Sterling shortly after the election of that year for the purpose of investigating the election frauds and corruption committed at that time. Mr. Trembath said that there was a storm of indignation in Luzerne County over the alleged falsification of returns and the corrupt use of money in the campaign. The men who were active in this committee were apparently some of the most prominent and respected men of Wilkes-Barre, and the testimony shows that the campaign on behalf of the Republican ticket was conducted in that election by one Jonathan R. Davis, and among the accounts excepted to by that committee was the account of Jonathan R. Davis, as chairman of the Republican county committee which conducted that campaign. And the contestee in this case, Charles C. Bowman, subscribed $50 to the fund raised to defray the expenses of the citizens' committee, so that it is only fair to assume that he knew something of the character and reputation of the man whom he chose as his manager when he started out to run for the office of Representative in Congress. The contestee, according to his own testimony, knew of election frauds at Warrior Run in connection with his own nomination, and contestee benefited by these frauds, and his campaign for the nomination was conducted by this same Jonathan R. Davis. Contestee can not plead, as often is done where money is used corruptly in an election, that the money was expended by his manager without his knowledge, as the record is full of admissions by contestee and statements by his manager with reference to his knowledge of these illegal expenditures.

There is no question but that contestee told Fuller Hendershot, an influential member of the Keystone Party, that he—Bowman—stood ready to expend $30,000 if necessary, and on page 166 of the record the cross-examination of the contestee should be read to fully appreciate the contestee's intentions, and the testimony of contestee, on page 167, with reference to a visit which he made to a man by the name of Morgan, an influential Democrat, and the conversation which contestee had and held with Mr. Morgan, as recited on pages 167 and 168, show beyond peradventure that it was his intention to use money in connection with Mr. Morgan's assistance for the campaign.

Mr. BOWMAN. Mr. Chairman, will the gentleman yield?

The SPEAKER. Does the gentleman from Ohio yield?

Mr. ANSBERRY. No——

Mr. OLMSTED. Mr. Speaker——

The SPEAKER. Does the gentleman from Ohio yield to the gentleman from Pennsylvania?

Mr. OLMSTED. Mr. Speaker, I do not ask the gentleman to yield, but I want to make a point of order.

The SPEAKER. The gentleman will state it.

Mr. OLMSTED. The gentleman from Pennsylvania, my colleague, has frequently asked the gentleman from Ohio to yield, but it is evidently owing to the fact that the gentleman from Ohio addressed him by name and in the second person.

The SPEAKER. The gentleman from Ohio ought to refrain from that.

Mr. ANSBERRY. Mr. Speaker, I am quoting Fuller Hendershot. I did not refer to the gentleman from Pennsylvania except as the "contestee," except in quoting.

The SPEAKER. The gentleman will proceed with his argument.

Mr. ANSBERRY. "Now, Brother Bowman," says Fuller Hendershot, "I would like to know your position with regard to the gang here in Luzerne County that has been corrupting the voters," and the contestee answered that he was going to fight; he was against them; and Fuller said, "We ought to fight like hell," or something of that kind. And he mentioned one Heffernan. Contestee is the man who was going to join hands and fight Heffernan, and is the man who six months after he first sat in this House as a Representative recommended for appointment as postmaster at Wilkes-Barre, Pa., this same Heffernan. Contestee's telephonic conversation with his manager, Davis, instructing Davis to pay $150 to Cosgrove, and the contestee's explanation of that transaction will aid any doubting Member to arrive at a correct conclusion as to how he should vote on this resolution. The contestee's attitude and his intentions, as is demonstrated by his cross-examination on pages 21 to 43, 162 to 172, 303 to 312, 228, and 233, can be gleaned from a reading of this testimony. In this connection the testimony of his bookkeeper on pages 43 to 60 and 265 and 273 should be read, and I regret that I have not time to read from this testimony to the House and to comment upon the same. It will suffice to say that the testimony heretofore referred to in connection with the testimony of Jonathan R. Davis, the manager of contestee's campaign, on pages 61 to 78, 83 to 97, 240, 251 to 264, and 394, can not be read by any fair-minded person without reaching the same conclusion that this committee reached in this case.

I am going to print in connection with this argument references to testimony in the record and the pages on which they can be found, and if anyone will take the time to glance through the record it will be found that every statement made by me with reference to this case on the occasions when I have been heard upon it in the House, as well as those contained in the able argument and masterful analysis of the facts made in behalf of the committee by the gentleman from Virginia [Mr. HOLLAND], are true.

Much has been said relative to the manner in which the contestee procured his name to be printed on the ballot as the candidate of the Prohibition Party, and a reading of the testimony of Agib Ricketts, on page 774, and the exhibits printed just below his testimony, as well as the testimony of Frank August, page 776, and the testimony of Agib Ricketts, page 770, will give a correct estimate of one of the causes which contributed to contestee's election to a seat in this House.

Contestee asserts that the expenditure of large sums of money in the way himself and his manager expended it in the 1910 election has grown into a custom in Luzerne County, and perhaps thinks that this may excuse the violations of law on the part of himself and his manager, Davis. He should know that this is no defense. I think that it is high time that this sort of thing should be stopped in Luzerne County. The testimony of Jonathan R. Davis relative to special watchers, in my opinion and in the opinion of the committee, discloses the method by which perhaps the largest number of corrupt votes were procured for the contestee. On page 62 of the record, when asked with reference to the men whom he paid money, Davis himself said that there was so many of them that he does not recall them. He testified that he gave $30 to Bernard Goodstein, a man whom he apparently did not know; that Goodstein came with a letter of introduction from somebody that he, Davis, did not recall; and that after haggling with Goodstein he gave him $30, and he disguised this payment by saying it was for "special watchers," although he admits that he did not specify to Goodstein the districts in which special watchers were to be employed.

Davis also testified, page 67, that he gave $100 to F. J. McCanna, of Pittston; that he knew McCanna was a Democrat, and it leaked out that McCanna had received $150 for assisting the contestee in the primaries at which contestee was nominated; and that he did not know whether McCanna was a resident of Luzerne County, although he later on tried to soften the force of this admission.

On page 68 he admits that he gave $30 to George H. Butler, a lawyer, and that he afterwards gave him $10 more, and Davis said:

I gave it to him for the same purpose, the same purpose that I paid everybody else in the same line.

On page 69 Manager Davis said that in all these districts for which he said he paid money for special watchers there were regular watchers of the party, and the men whom he gave money to as "special watchers" were procured especially for Mr. Bowman.

On page 70 he says that he gave Cyrus Weiss $225 for the employment of special watchers, and that C. A. Marks, a lawyer of Plymouth, was paid $25 for special watchers. This man Marks received $50 from John C. Lewis on behalf of the contestee. This transaction is described in the record on pages 191 and 192 by Lewis, who states that he conducts a saloon, and that Marks came into his place, and despite the fact that there were only the bartender, Marks, and himself present, that he took Marks into a back room and gave him the money secretly, and told him to do what he could for Bowman, and Lewis said that he could give no reason for doing it secretly, although I think the reason is apparent.

On page 71 John W. Crooks, a clerk for a coal-mining corporation, received $100 for special watchers in Hazleton, and D. E. Thomas received $42 for the employment of special watchers, but no place was specified. On page 72 J. D. Cooper received $200 for special watchers in Plymouth Borough; and on the same page it is shown that William Wallace, a mine superintendent, received $60 for the employment of special watchers, and that one of the reasons which made him give Wallace the $60 was that he was superintendent of mines; and on page 72 Davis testified further that he gave Michael Martin $35 for the employment of special watchers, and that he did not know Martin at all, but that somebody brought Martin to him and vouched for him; but Davis could not recall who it was, and said that he would not be surprised at all if told that Martin was a Democrat.

On page 73 appears the admission of Davis that he gave George Jones $10 and that he did not know Mr. Jones. On page 75 appears the testimony of Davis, admitting that he gave $60 to John T. Williams for the employment of special watchers, and that he does not know him, but thinks that somebody whom he has forgotten vouched for him.

On page 76 it is shown that he gave John R. Williams, chief of police of Edwardsville, $75 for the same purpose, and on page 77 he testifies that he gave Thomas Kennedy, assistant chief of police of Edwardsville, $80 for the same purpose, and that he gave John Thompson, whom he did not know, $50, and admitted that he did not know whether his real name was Thompson or not; and he confessed having had a transaction of the same character with Michael Gallagher, whom he did not know. And so on. I could cite similar cases all through the record.

A few districts in which most flagrant violations of the law occurred, and in which the vote returned for Bowman is 1,224 and the vote for McLean 490:

In Foster Township, Northwest district, Drifton district, and Hazlebrook district; in Hazle Township, third district and twelfth district; Duryea Borough, second and fourth wards; Nanticoke Borough, fifth, ninth, and eleventh wards; Plymouth Township, sixth west district; Plymouth Borough, third ward; Edwardsville Borough, second ward; and Wilkes-Barre city, sixth ward, second district, the following instances of illegal acts, bribery, and corruption perpetrated by men in the employ of contestee occur:

Mine boss taking 35 to 40 men into the booths and marking their ballots. (Pp. 447 to 451.)

Clerk of the chief of mines of Pennsylvania marked a large number of ballots. (P. 452.)

One man employed by a mine boss marked a large number of ballots. (P. 453.)

A man took in booth at least 10 voters. (P. 453.)

Another with a large number. (P. 453.)

Another went into booths with voters. (P. 453.)

Watchers went into booths to see that voters voted the way watchers desired. (P. 454.)

A general mine foreman voted a man and prevented Democratic overseer from performing his duties. (Pp. 463–465.)

Permitting watchers to take men into booths over the protest of the Democratic overseer. (P. 459.)

Mine bosses intimidating Democratic watchers and voters. (Pp. 455, 456, and 458.)

Mine foreman marking seven, eight, or nine ballots. (Pp. 467 and 468.)

Brother of judge of election marking ballots. (Pp. 461–463.)

Mine foreman marking ballots all day. (Pp. 404–408.)

Five mine bosses taking men into booths and obstructing view of ballot box against protest. (P. 496.)

Marking ballots by officials of Bureau of Mines. (P. 373.)

The entire registration of a precinct voted, although the voters' list of those who voted show a less number. (Pp. 301–311 and 751.)

Bribing of men to vote for Bowman. (P. 435.)

No Democratic representation on election boards. (Pp. 440 and 374.)

Members of election boards paid money. (Pp. 476–478 and 479.)

Names of election officer who did not serve forged to returns and oath falsely taken. (Pp. 376–377.)

Ballots destroyed. (P. 376.)

Election officers swear returns changed after leaving their hands in favor of Bowman. (Pp. 128 to 129.)

Raising vote of Bowman and changing McLean's. (P. 392.)

Money paid mine boss "because he could deliver the goods." (P. 192.)

Ballot box left unsealed and reversal of vote of Democratic candidate for Senator and Congress, showing a difference against McLean of 148. (P. 393.)

Illegal employment of special watchers for contestee, the number in single precincts running from 6 to 16.

Illegal use of money, in one instance $555, paid for use in a single township, in which there were but 405 voters. Ninety dollars in a single precinct. (P. 140.)

Money paid Polish Club to treat the boys. (Pp. 481, 482, 483.)

Paying Democrats $5 to $150. (Pp. 168, 169.)

Sending out checks with names of payees left blank. (P. 106.)

Paying money to mine bosses to "go out and get Democrats." (Pp. 430, 431, 432, 433.)

In addition to these districts, we find such wrongful, illegal, and corrupt practices as—

Contestee's partner in the coal mine, who estimates his outlay for contestee at $500, admitting that he paid money to 10 or more men, gave boys 50 cents and a dollar to get men to vote for contestee. (Pp. 283, 284, 287, 288.)

At least 50 mine bosses paid money by contestee or his agents in sums of $5 to $375, and his manager admitted that there was only one mine superintendent that he tried to land that he could not. (P. 398.)

Contestee's manager gave money to a mine superintendent to use as he saw fit, who testifies that he "was looking for Democrats to give the money to." (Pp. 219–222.)

One mine official surprised by being given $100 by Davis to do the best he could with it, when he had told Davis that he knew nothing about politics. (Pp. 417, 418.)

Checks from $5 to $90 given out with names of payee left blank. (Pp. 105, 496, 501, 502.)

A mine official given $15 when he said he would work for Bowman if he were paid for it. (P. 188.)

One hundred and fifty dollars reported in expense account as paid to a man in Nanticoke for special watchers, while testimony discloses that this man was directed by Davis to take it to a saloon keeper in another part of the county, who, in turn, was directed to expend it in a little precinct with 93 voters. (Pp. 75, 191, 193.)

Contestee said, in response to question of Hendershot, the independent leader of the district:

If you or anybody else expects to go to Congress, or if anybody else expects to go to the legislature with a Hefferman tag on you, you will be fooled like hell, as far as I am concerned.

I am as good a fighter as you are. I will spend $30,000. I am opposed to this gang the same as you are, and it don't make no difference whether I am elected or not. I am in politics and I am willing to spend $5,000 a year to clean up the corruption in Luzerne. (P. 297.)

This conversation is not denied by contestee.

In conclusion I want to say that I congratulate the minority members of this committee on the fact that they chose members who were not familiar with the record in the case to criticize the majority report relative to the facts. No one having any knowledge of this record save the contestee has sought to defend the actions of the contestee and his manager for the very good reason that the contestee was compelled to and that no one else familiar with the facts would have the hardihood to do so. This resolution should prevail.

Mr. PALMER. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. PALMER. During the debate upon these resolutions the gentleman from Pennsylvania [Mr. FARR] went out of his way to make an attack upon me and upon my character as a Representative, which raises a question of personal privilege.

The SPEAKER. What is the question?

Mr. PALMER. The gentleman from Pennsylvania [Mr. FARR]——

Mr. MANN. Mr. Speaker, I submit that if the gentleman from Pennsylvania [Mr. FARR] violated the rules of the House, it was in order to call him to order. The debate on the floor of the House has not raised a question of personal privilege.

The SPEAKER. Does the gentleman lay down the proposition that nothing that can be said by one Member about another Member on the floor of the House can be made a question of personal privilege?

Mr. MANN. There might be cases where it might be, especially if done in the absence of gentlemen, but in debate an improper reference to a Member of the House is subject to a point of order—subject to have the words taken down and the House dispose of it.

The SPEAKER. There is no question in the world but that the rule provides for offensive language to be taken down.

Mr. MANN. I have no objection whatever to the gentleman from Pennsylvania [Mr. PALMER] making a brief statement which does not relate to this case. It seems to me the debate has been closed upon this case, and it is not in order now for the gentleman from Pennsylvania, on the plea of personal privilege——

Mr. PALMER. I do not propose to discuss this case in any way. I propose to discuss—and very briefly, at that—what my colleague Mr. FARR had to say about me, the first of it in my absence from the House.

The SPEAKER. The Chair will settle the whole thing, as far as he can. It seems to the Chair it would be an outrageous decision to say that a man can stand here as a Member and say anything he happens to think of about another Member and the one who is assaulted shall not have personal privilege of replying. That is a general rule. If the gentleman [Mr. PALMER] will state what the other gentleman from Pennsylvania [Mr. FARR] said, then the Chair will rule whether it is a question of personal privilege.

Mr. CANNON. Mr. Speaker, may I be indulged for a single observation? I do it in all kindness. I did not hear the remarks to which the gentleman from Pennsylvania [Mr. PALMER] refers. Debate having been closed and the House being about to vote, I suggest to my friend from Pennsylvania [Mr. PALMER], in all kindness, would it not be better practice to refrain until after the vote is taken and then present the question of personal privilege?

Mr. PALMER. Mr. Speaker, that would hardly be fair to the Member who is attacked upon the floor. He ought to be entitled to be heard by the same Members who were here listening to the attack, or nearly all, when he was attacked.

Mr. MANN. Mr. Speaker, I will make the further point of order that the House had ordered the previous question upon these resolutions, which requires the vote to be taken at once, and they can not be interfered with by a question of personal privilege. Now, I have no objection, if the gentleman from Pennsylvania [Mr. PALMER] thinks he has been unduly assaulted on the floor of the House, having a few moments by unanimous consent, if the other gentleman shall also have the same length of time.

The SPEAKER. Does the gentleman from Illinois [Mr. MANN] ask unanimous consent for these gentlemen to proceed?

Mr. MANN. How much time does the gentleman want?

Mr. PALMER. Mr. Speaker, I am rising to a question of personal privilege, and if the Chair will permit me to state it, I think the Chair will recognize that I am entitled to be heard on it.

The SPEAKER. The only question in deciding this point of order is whether, the previous question having been ordered on this contest, it brings the transaction to such a conclusion that the gentleman will have to wait until the House gets through voting. That is the point of order last made by the gentleman from Illinois [Mr. MANN].

Mr. PALMER. As I understand, a question of personal privilege is always in order.

Mr. MANN. Oh, not at all. A question of personal privilege can not interfere with the order of the House.

The SPEAKER. The Chair is of the opinion that if there is a question of personal privilege involved, the gentleman ought to be heard on it, notwithstanding the fact that the previous question has been ordered on the pending resolutions.

Mr. PALMER. Mr. Speaker, while the gentleman from Pennsylvania [Mr. FARR] was discussing the election-case resolution I was at the door of the cloakroom and, hearing my name mentioned, came down the aisle, only to hear a part of what the gentleman said about me. I asked him to yield to me, in order to make certain of his language, and he refused to do so. Since then I have secured the Reporter's notes of what the gentleman from Pennsylvania said.

Mr. FARR. Mr. Speaker, may I interrogate the gentleman? I will ask the gentleman if he will yield a moment.

The SPEAKER. Will the gentleman yield to his colleague?

Mr. PALMER. I shall proceed now.

The SPEAKER. The gentleman declines to yield.

Mr. FARR. Will the gentleman permit me to ask him a question?

The SPEAKER. The gentleman declines to yield.

Mr. PALMER. Mr. FARR said:

And I want to tell the gentleman from Pennsylvania [Mr. PALMER] that it does not come with good grace from him to talk about the coercive methods upon employees used by a corporation. As I understand, he is the local attorney of the Delaware, Lackawanna & Western Railroad, the greatest anthracite coal-producing company of my community, taking in a large part of Luzerne County and running its great and splendid lines out through the district of the gentleman from Pennsylvania [Mr. PALMER]. The gentleman from Pennsylvania [Mr. PALMER] must not forget the efforts that that corporation, through its officials, made for him at his solicitation.

Now, Mr. Speaker, in that statement the gentleman charges me with soliciting a great corporation to use coercive methods in my behalf as a candidate for the office of Representative in Congress. I am the local counsel of the Delaware, Lackawanna & Western Railroad Co. I represent it in my own county of Monroe, in Pennsylvania. I have been its counsel there since the day I was admitted to the bar. For 40 years my office—my partner before me—has been local counsel for that company. It is no secret in my community nor anywhere in Pennsylvania. But I want to say that, so far as this statement goes, I have never solicited that corporation or any other to coerce its employees, or influence its employees, or influence anybody else, either to vote for me or to vote for anybody else. It is a willful, deliberate, and malicious falsehood. [Applause on the Democratic side.]

Now, Mr. Speaker, if that charge were true, I ought not to be permitted to sit in this House. If the Delaware, Lackawanna & Western Railroad Co., at my solicitation, coerced its employees to secure my election, as the gentleman plainly implies, I ought to be driven from this House. If the gentleman does not know the truth whereof he states, he ought to publicly apologize. If he believes that it is true, then he ought to be man enough, for

his own sake and for mine and for the sake of this House, to bring charges against me in order to have me driven from it. And I say to him that if he will memorialize the House, or start a contest, or in any other way propose to investigate this question which affects the honesty of my election, I shall not stand here and plead any 30-day rule in which the contest ought to be brought, or any other technical rule of the House. [Applause on the Democratic side.] But I shall be glad to meet any such charge on the part of the gentleman from Lackawanna County, or anybody else. If he has any evidence at all to sustain this outrageous, false, and malicious charge, he ought to present it here now, or publicly admit that he has said something which is not the fact. [Applause on the Democratic side.]

Mr. FARR. Mr. Speaker, I ask unanimous consent to answer the gentleman from Pennsylvania.

The SPEAKER. For how long?

Mr. FARR. Five or 10 minutes; not longer than 10.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to address the House for 10 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FARR. Mr. Speaker, when the gentleman from Pennsylvania [Mr. PALMER] asked me to yield I did yield. I saw him in this assembly, and I did not know that he had gone to the smoking room. I was not taking any advantage of his absence. I wanted him to be here, and I would not have said a word about him if he were not here. In the first place, I want to say that I do not believe they coerce employees in Luzerne County, but I did say and do say that the officials of the Delaware, Lackawanna & Western Co. helped you [Mr. PALMER] to be elected. [Applause.]

Mr. PALMER. Will the gentleman yield?

Mr. FARR. Yes.

Mr. PALMER. Did not the gentleman say that I have no right to speak of the coercive methods of corporations because the Delaware, Lackawanna & Western Co., through its officials, at my solicitation, did work for me?

Mr. FARR. I said it came with poor grace from the lips of the gentleman from Pennsylvania [Mr. PALMER] to talk about alleged coercive methods of officials of the coal companies in another district inasmuch as he, an attorney for the Delaware, Lackawanna & Western Co., had the services of the officials along the line going through his district. That is what I said, Mr. Speaker, and that is what I stand for now. [Applause on the Republican side.] I made that statement to strike at the spirit of demagogism that was shown in the gentleman's remarks relative to this contest.

I would like to tell the House a few more things about the contest, if I had the privilege. I would like to tell you about the political conspiracy that started from a reform movement backed by the gentleman from Pennsylvania [Mr. PALMER] that went through the Democratic State convention and led up to the Baltimore convention and deprived our splendid Speaker of two delegates for the Democratic nomination for President. [Applause.]

I can earmark for you, gentlemen, every move in that conspiracy against this good man, Mr. Bowman. Talk about reform, progressiveness, and being willing to seat the contestant who, under oath, said he spent the money in saloons to further his campaign.

Mr. HARDY. Mr. Speaker, I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HARDY. The gentleman from Pennsylvania is not discussing the matter before the House.

The SPEAKER. The point of order raised by the gentleman from Texas is overruled. [Applause.]

Mr. HEFLIN. Mr. Speaker, I make the point of order that the gentleman from Pennsylvania asked unanimous consent to reply to the gentleman from Pennsylvania [Mr. PALMER], and his speech is not in reply.

The SPEAKER. Has the gentleman from Pennsylvania [Mr. FARR] yielded the floor?

Mr. FARR. I yielded to the other gentleman. I had finished what I had to say, and I stand for what I said originally.

The SPEAKER. The vote will first be taken on the resolution of the gentleman from Iowa [Mr. PROUTY], which the Clerk will report.

The Clerk reported the resolution, as follows:

Resolved, That the case of George B. McLean against Charles C. Bowman, from the eleventh congressional district of Pennsylvania, be dismissed for want of jurisdiction because said alleged contestant gave no notice of contest within the time or in the manner prescribed by law, and because he has not asked or secured the consent of this House or of the committee for proceeding in any other manner than that prescribed by law and has not shown any equitable excuse for his failure to give the notice prescribed by section 105 of the Revised Statutes.

Mr. MANN. Mr. Speaker, upon the substitute resolution offered by the gentleman from Iowa, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 125, nays 147, answered "present" 18, not voting 100, as follows:

YEAS—125.

Alney	Farr	Lawrence	Prince
Akin, N. Y.	Fergusson	Lenroot	Prouty
Anderson	Focht	Lindbergh	Rees
Andrus	Foss	Loud	Roberts, Mass.
Anthony	French	McCreary	Rodenberg
Austin	Fuller	McGuire, Okla.	Scott
Barchfeld	Gillett	McKenzie	Sells
Bartholdt	Good	McKinley	Simmons
Bates	Green, Iowa	McKinney	Sloan
Berger	Greene, Mass.	McLaughlin	Smith, J. M. C.
Boehne	Greene, Vt.	Madden	Smith, Saml. W.
Browning	Griest	Mann	Speer
Burke, Pa.	Hamilton, Mich.	Martin, S. Dak.	Steenerson
Burke, S. Dak.	Hartman	Merritt	Stephens, Cal.
Butler	Haugen	Miller	Sterling
Cannon	Hawley	Mondell	Switzer
Cary	Heald	Moon, Pa.	Taylor, Ohio
Cooper	Helgesen	Moore, Pa.	Thistlewood
Copley	Hill	Morgan, Okla.	Tilson
Cox, Ind.	Howell	Morse, Wis.	Towner
Crago	Hughes, W. Va.	Mott	Vare
Crumpacker	Humphrey, Wash.	Needham	Volstead
Curry	Kahn	Nelson	Weisemeyer
Dalzell	Kendall	Nye	Wilder
Danforth	Kennedy	Olmsted	Willis
Davidson	Kent	Patton, Pa.	Wilson, Ill.
Davis, Minn.	Kinkaid, Nebr.	Payne	Wood, N. J.
De Forest	Kopp	Pickett	Young, Kans.
Dodds	Lafean	Plumley	Young, Mich.
Doughton	Lafferty	Porter	
Driscoll M. E.	La Follette	Powers	
Dyer	Langham	Pray	

NAYS—147.

Adair	Edwards	Johnson, S. C.	Ranch
Alexander	Estopinal	Jones	Redfield
Allen	Falson	Kinkead, N. J.	Reilly
Ansberry	Ferris	Kitchin	Roddenbery
Ashbrook	Fitzgerald	Konop	Rothermel
Barnhart	Flood, Va.	Korbly	Rouse
Bartlett	Foster	Lamb	Ruby
Bathrick	Fowler	Lee, Ga.	Rucker, Colo.
Beall, Tex.	Francis	Lee, Pa.	Rucker, Mo.
Bell, Ga.	Gallagher	Lever	Russell
Bulkley	Garner	Lewis	Scully
Burgess	Garrett	Linthicum	Sheppard
Burke, Wis.	George	Littlepage	Smith, N. Y.
Burleson	Gill	Lloyd	Smith, Tex.
Burnett	Glass	Lobeck	Sparkman
Byrnes, S. C.	Godwin, N. C.	McCoy	Stanley
Byrns, Tenn.	Goeke	McDermott	Stedman
Callaway	Goodwin, Ark.	McGillicuddy	Stephens, Miss.
Candler	Graham	McKellar	Stephens, Nebr.
Cantrill	Gregg, Pa.	Macon	Stone
Carter	Gudger	Maguire, Nebr.	Sweet
Claypool	Hamilton, W. Va.	Mays	Talcott, N. Y.
Cline	Hamlin	Morgan, La.	Taylor, Ala.
Collier	Hardwick	Moss, Ind.	Thayer
Covington	Hardy	Murray	Thomas
Cullop	Harrison, Miss.	Oldfield	Townsend
Curley	Hay	Padgett	Tribble
Davenport	Hayden	Page	Tuttle
Dent	Heflin	Palmer	Underhill
Denver	Henry, Tex.	Patten, N. Y.	Underwood
Dickinson	Hensley	Pepper	Watkins
Dies	Holland	Peters	Whitacre
Difenderfer	Houston	Post	White
Dixon, Ind.	Hughes, Ga.	Ralney	Wilson, Pa.
Donohoe	Hull	Raker	Witherspoon
Driscoll, D. A.	Humphreys, Miss.	Randell, Tex.	Young, Tex.
Dupré	James	Ransdell, La.	

ANSWERED "PRESENT"—18.

Ayres	Evans	Hammond	Murdock
Bowman	Fields	Henry, Conn.	Stephens, Tex.
Bradley	Finley	Hinds	Talbott, Md.
Buchanan	Gardner, Mass.	Longworth	
Esch	Gould	McCall	

NOT VOTING—100.

Adamson	Fairchild	Konig	Sabath
Aiken, S. C.	Floyd, Ark.	Langley	Saunders
Ames	Fordney	Legare	Shackleford
Blackmon	Fornes	Levy	Sharp
Booher	Gardner, N. J.	Lindsay	Sherley
Borland	Goldfogle	Littleton	Sherwood
Brantley	Gray	McHenry	Sims
Broussard	Gregg, Tex.	McMorran	Sisson
Brown	Guernsey	Maher	Slayden
Calder	Hamill	Martin, Colo.	Slemp
Campbell	Hanna	Matthews	Small
Carlin	Harris	Moon, Tenn.	Smith, Cal.
Clark, Fla.	Harrison, N. Y.	Moore, Tex.	Stack
Clayton	Hart	Morrison	Stevens, Minn.
Conry	Hayes	Neeley	Sulloway
Cox, Ohio	Helm	Norris	Sulzer
Cravens	Higgins	O'Shaunessy	Taggart
Currier	Hobson	Parran	Taylor, Colo.
Daugherty	Howard	Pou	Turnbull
Davis, W. Va.	Howland	Pujo	Vreeland
Dickson, Miss.	Jackson	Reyburn	Warburton
Doremus	Jacoway	Richardson	Webb
Draper	Johnson, Ky.	Riordan	Wilson, N. Y.
Dwight	Kindred	Roberts, Nev.	Woods, Iowa
Ellerbe	Knowland	Robinson	

So the substitute resolution was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. CALDER (for Prouty resolution) with Mr. BUCHANAN (against).

Mr. HANNA (for Prouty resolution) with Mr. SISSON (against).

Mr. BLACKMON with Mr. MURDOCK.

Mr. SPEER with Mr. MATTHEWS.

Mr. SHERLEY with Mr. LONGWORTH.

Until January 2:

Mr. STILWOOD with Mr. DRAPER.

Until further notice:

Mr. GOULD with Mr. HINDS.

Mr. O'SHAUNESSY with Mr. SULLOWAY.

Mr. TURNBULL with Mr. WOODS of Iowa.

Mr. PUJO with Mr. McMORRAN.

Mr. RICHARDSON with Mr. ESCH.

Mr. HARRISON of New York with Mr. HIGGINS.

Mr. HAMILL with Mr. HENRY of Connecticut.

Mr. HOWARD with Mr. WOODS of Iowa.

Mr. SIMS with Mr. VREELAND.

Mr. FINLEY with Mr. CURRIER.

Mr. FIELDS with Mr. LANGLEY.

Mr. SMALL with Mr. WARBURTON.

Mr. AIKEN of South Carolina with Mr. AMES.

Mr. RIORDAN with Mr. CAMPBELL.

Mr. BROWN with Mr. FORDNEY.

Mr. BOOHER with Mr. GARDNER of New Jersey.

Mr. CARLIN with Mr. GUERNSEY.

Mr. CLARK of Florida with Mr. HARRIS.

Mr. CLAYTON with Mr. HAYES.

Mr. WEBB with Mr. HOWLAND.

Mr. JACOWAY with Mr. JACKSON.

Mr. JOHNSON of Kentucky with Mr. REYBURN.

Mr. MOON of Tennessee with Mr. WEEKS.

Mr. MORRISON with Mr. SLEMP.

Mr. ROBINSON with Mr. SMITH of California.

For the session:

Mr. HOBSON with Mr. FAIRCHILD.

Mr. FORNES with Mr. BRADLEY.

Mr. LITTLETON with Mr. DWIGHT.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. LONGWORTH. Mr. Speaker, I would inquire if the gentleman from Kentucky, Mr. SHERLEY, voted?

The SPEAKER. He is not recorded.

Mr. LONGWORTH. Mr. Speaker, I have a pair with the gentleman, and therefore I withdraw my vote of "aye" and answer "present."

The Clerk called the name of Mr. LONGWORTH, and he answered "Present."

Mr. HENRY of Connecticut. Mr. Speaker, how am I recorded?

The SPEAKER. The gentleman is recorded in the affirmative.

Mr. HENRY of Connecticut. There was a pair announced, and I desire to withdraw my vote of "aye" and answer "present."

Mr. CLAYTON. Mr. Speaker, I was detained in the Senate in the impeachment proceedings against Judge Archbald, and came into the House Chamber before the second roll call had been concluded, but my name had been passed.

The SPEAKER. The gentleman does not bring himself within the rule.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will report the committee resolution.

The Clerk read as follows:

House resolution 687.

Resolved, That Charles P. Bowman was not elected a Representative in the Sixty-second Congress from the eleventh district of Pennsylvania and is not entitled to his seat therein.

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT. I desire to know if, under the understanding, the resolution offered by the gentleman from Pennsylvania [Mr. PALMER] does not come before that, it being an amendment.

The SPEAKER. No; the resolution of the gentleman from Pennsylvania in the logical sequence comes last.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 153, nays 118, answered "present" 11, not voting 108, as follows:

YEAS—153.

Adair	Doremus	Hull	Ranch
Alexander	Driscoll, D. A.	Humphreys, Miss.	Redfield
Allen	Dupré	James	Reilly
Ansberry	Edwards	Johnson, S. C.	Roddenbery
Ashbrook	Evans	Jones	Rothermel
Barnhart	Faison	Kindred	Rouse
Bartlett	Fergusson	Kinkead, N. J.	Ruby
Bathrick	Ferris	Kitchin	Rucker, Colo.
Beall, Tex.	Fitzgerald	Konop	Rucker, Mo.
Bell, Ga.	Flood, Va.	Korbly	Russell
Bodine	Floyd, Ark.	Lamb	Scully
Bulkley	Foster	Lee, Ga.	Sheppard
Burgess	Fowler	Lee, Pa.	Smith, N. Y.
Burke, Wis.	Francis	Lever	Smith, Tex.
Burleson	Gallagher	Lewis	Sparkman
Burnett	Garner	Linthicum	Stanley
Byrnes, S. C.	Garrett	Littlepage	Stedman
Byrns, Tenn.	George	Lloyd	Stephens, Miss.
Callaway	Gill	Lobeck	Stephens, Nebr.
Candler	Glass	McCoy	Stone
Cantrill	Godwin, N. C.	McDermott	Sweet
Carter	Goeke	McGillicuddy	Talcott, N. Y.
Claypool	Goodwin, Ark.	McKellar	Taylor, Ala.
Cline	Graham	Macon	Thayer
Collier	Gregg, Pa.	Maguire, Nebr.	Thomas
Covington	Gudger	Mays	Townsend
Cox, Ind.	Hamilton, W. Va.	Meeon, Tenn.	Tribble
Cullop	Hamlin	Morgan, La.	Tuttle
Curley	Hardwick	Moss, Ind.	Underhill
Curley	Hardy	Murray	Underwood
Davenport	Harrison, Miss.	Oldfield	Watkins
Davis, W. Va.	Hay	Padgett	Whitacre
Dent	Hayden	Page	White
Denver	Heflin	Palmer	Wilson, Pa.
Dickinson	Henry, Tex.	Pepper	Witherspoon
Dies	Hensley	Post	Young, Tex.
Difenderfer	Holland	Ralney	
Dixon, Ind.	Houston	Raker	
Donohoe	Hughes, Ga.	Randell, Tex.	

NAYS—118.

Alney	Farr	Lawrence	Prouty
Akin, N. Y.	Focht	Lenroot	Rees
Anderson	Foss	Lindbergh	Roberts, Nev.
Andrus	French	McCall	Rodenberg
Anthony	Fuller	McCreary	Scott
Austin	Gardner, Mass.	McGuire, Okla.	Sells
Ayres	Gillett	McKenzie	Simmons
Barchfeld	Green, Iowa	McKinney	Sloan
Bartholdt	Greene, Mass.	McLaughlin	Smith, J. M. C.
Bates	Griest	Madden	Smith, Saml. W.
Browning	Hamilton, Mich.	Mann	Speer
Burke, Pa.	Hartman	Martin, S. Dak.	Steenerson
Burke, S. Dak.	Hawley	Merritt	Stephens, Cal.
Butler	Heald	Miller	Sterling
Cannon	Helgesen	Mondell	Switzer
Cary	Henry, Conn.	Moore, Pa.	Taylor, Ohio
Cooper	Hill	Morgan, Okla.	Thistlewood
Copley	Howell	Mott	Tilson
Crago	Hughes, W. Va.	Needham	Towner
Crumpacker	Humphrey, Wash.	Nelson	Vare
Curry	Kahn	Nye	Volstead
Dalzell	Kendall	Olmsted	Weisemeyer
Danforth	Kennedy	Patton, Pa.	Wilder
Davidson	Kent	Payne	Willis
Davis, Minn.	Kinkaid, Nebr.	Pickett	Wilson, Ill.
De Forest	Kopp	Plumley	Wood, N. J.
Dodds	Lafean	Porter	Young, Kans.
Doughton	Lafferty	Powers	Young, Mich.
Driscoll, M. E.	La Follette	Pray	
Dyer	Langham	Prince	

ANSWERED "PRESENT"—11.

Berger	Esch	Hinds	Stevens, Minn.
Bowman	Fields	Longworth	Talbott, Md.
Buchanan	Hammond	Stephens, Tex.	

NOT VOTING—108.

Adamson	Fornes	Legare	Riordan
Aiken, S. C.	Gardner, N. J.	Levy	Roberts, Mass.
Ames	Goldfogle	Lindsay	Robinson
Blackmon	Good	Littleton	Sabath
Booher	Gould	Loud	Saunders
Borland	Gray	McHenry	Shackleford
Bradley	Greene, Vt.	McKinley	Sharp
Brantley	Gregg, Tex.	McMorran	Sherley
Broussard	Guernsey	Maher	Sherwood
Brown	Hamill	Martin, Colo.	Sims
Calder	Hanna	Matthews	Sisson
Campbell	Harris	Moon, Pa.	Slayden
Carlin	Harrison, N. Y.	Moore, Tex.	Slemp
Clark, Fla.	Hart	Morrison	Small
Conry	Haugen	Morse, Wis.	Smith, Cal.
Cox, Ohio	Hayes	Murdock	Stack
Cravens	Helm	Neeley	Sulloway
Currier	Higgins	Norris	Sulzer
Daugherty	Hobson	O'Shaunessy	Taggart
Dickson, Miss.	Howard	Parran	Taylor, Colo.
Draper	Howland	Patten, N. Y.	Turnbull
Dwight	Jackson	Peters	Vreeland
Ellerbe	Jacoway	Pou	Warburton
Estopinal	Johnson, Ky.	Pujo	Webb
Fairchild	Knowland	Ransdell, La.	Weeks
Finley	Konig	Reyburn	Wilson, N. Y.
Fordney	Langley	Richardson	Woods, Iowa

So the resolution was adopted.

The Clerk announced the following additional pairs:

Until further notice:

Mr. HARR with Mr. SELLS.

Mr. MAHER with Mr. MOON of Pennsylvania.

Mr. STEPHENS of Texas with Mr. WEEKS.

Mr. HELM with Mr. HAUGEN.

Mr. GREGG of Texas with Mr. GREENE of Vermont.

Mr. COX of Ohio with Mr. MCKINLEY.

Mr. CONRY with Mr. HAYES.

Mr. SULZER with Mr. MATTHEWS.

Mr. SISSON (for committee report) with Mr. HANNA (against).

On the Bowman election case:

Mr. ESTOPINAL with Mr. ROBERTS of Massachusetts.

On this vote:

Mr. BUCHANAN (for committee report) with Mr. CALDER (against).

The result of the vote was announced as above recorded.

The SPEAKER. The question recurs on the resolution of the gentleman from Pennsylvania [Mr. PALMER], which the Clerk will report.

The Clerk read as follows:

House resolution 743.

Resolved, That George R. McLean, the contestant, was elected a Representative in the Sixty-second Congress from the eleventh district of Pennsylvania and is entitled to a seat therein.

Mr. MANN. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 88, nays 183, answered "present" 11, not voting 107, as follows:

YEAS—88.

Adair	Davenport	Hardy	Oldfield
Allen	Davis, W. Va.	Harrison, Miss.	Palmer
Ansberry	Dent	Hayden	Pepper
Barnett	Denver	Helm	Post
Beall, Tex.	Difenderfer	Henry, Tex.	Reilly
Bell, Ga.	Dixon, Ind.	Hughes, Ga.	Rothermel
Burgess	Donohoe	Hull	Rouse
Burke, Wis.	Driscoll, D. A.	James	Rucker, Colo.
Burleson	Dupre	Kitchin	Scully
Byrns, Tenn.	Ferguson	Korbly	Sheppard
Callaway	Ferris	Lee, Ga.	Smith, Tex.
Candler	Flood, Va.	Lee, Pa.	Sparkman
Cantrill	Floyd, Ark.	Lewis	Stephens, Miss.
Carlin	Francis	Littlepage	Taylor, Ala.
Carter	Gallagher	Lloyd	Thayer
Claypool	Garner	McCoy	Tribble
Clayton	George	McDermott	Tuttle
Cline	Gill	McGillicuddy	Underwood
Collier	Gocke	McKellar	Watkins
Covington	Goodwin, Ark.	Mays	Wilson, Pa.
Cullop	Gregg, Pa.	Moon, Tenn.	Witherspoon
Curley	Hardwick	Murray	Young, Tex.

NAYS—183.

Aiken	Foss	La Follette	Prince
Akin, N. Y.	Foster	Lamb	Prouty
Alexander	Fowler	Langham	Rainey
Anderson	French	Lenroot	Raker
Andrus	Fuller	Lever	Randell, Tex.
Anthony	Gardner, Mass.	Lindbergh	Ransdell, La.
Ashbrook	Garrett	Linthicum	Redfield
Austin	Gillett	Loback	Reed
Ayres	Glass	Loud	Roberts, Nev.
Barnhart	Godwin, N. C.	McCall	Roddenbery
Bartholdt	Good	McCreary	Rodenberg
Bates	Green, Iowa	McGuire, Okla.	Ruby
Battalck	Greene, Mass.	McKenzie	Rucker, Mo.
Berger	Griest	McKinley	Russell
Bochne	Gudger	McKinney	Scott
Browning	Hamilton, Mich.	McLaughlin	Simmons
Bulkley	Hamilton, W. Va.	Macon	Sloan
Burke, Pa.	Hamlin	Madden	Smith, J. M. C.
Burke, S. Dak.	Hammond	Maguire, Nebr.	Smith, Saml. W.
Butler	Haugen	Mann	Speer
Byrnes, S. C.	Hawley	Martin, S. Dak.	Stedman
Cannon	Hay	Merritt	Steenerson
Cary	Hayes	Miller	Stephens, Cal.
Cooper	Heald	Mondell	Stephens, Nebr.
Copley	Helgesen	Moore, Pa.	Stone
Cox, Ind.	Henry, Conn	Morgan, La.	Sweet
Crago	Hensley	Morgan, Okla.	Switzer
Crumpacker	Hill	Morse, Wis.	Talcott, N. Y.
Dalzell	Holland	Moss, Ind.	Taylor, Ohio
Danforth	Houston	Mott	Thistlewood
Davidson	Howell	Needham	Thomas
Davis, Minn.	Hughes, W. Va.	Neeley	Tilson
De Forest	Humphrey, Wash.	Nelson	Towner
Dickinson	Johnson, S. C.	Norris	Townsend
Dies	Jones	Nye	Underhill
Dodds	Kahn	Olmsted	Vare
Doughton	Kendall	Padgett	Volstead
Driscoll, M. E.	Kennedy	Page	Wedemeyer
Dyer	Kent	Patten, N. Y.	Whitacre
Edwards	Kindred	Patton, Pa.	White
Evans	Kinkaid, Nebr.	Payne	Wilder
Falson	Kinkead, N. J.	Pickett	Willis
Farr	Konop	Plumley	Wilson, Ill.
Fitzgerald	Kopp	Porter	Young, Kans.
Focht	Lafean	Powers	Young, Mich.
	Lafferty	Pray	

ANSWERED "PRESENT"—11.

Buchanan	Estopinal	Longworth	Stephens, Tex.
Burnett	Hinds	Murdock	Stevens, Minn.
Esch	Lawrence	Sims	

NOT VOTING—107.

Adamson	Fordney	Langley	Shackleford
Aiken, S. C.	Fornes	Legare	Sharp
Ames	Gardner, N. J.	Levy	Sherley
Blackmon	Goldfogle	Lindsay	Sherwood
Booker	Gould	Littleton	Sisson
Borland	Graham	McLemore	Slayden
Bradley	Gray	McMorran	Slemp
Brantley	Greene, Vt.	Maher	Small
Broussard	Gregg, Tex.	Martin, Colo.	Smith, Cal.
Brown	Guernsey	Matthews	Smith, N. Y.
Calder	Hamill	Moon, Pa.	Stack
Campbell	Hanna	Moore, Tex.	Stanley
Clark, Fla.	Harris	Morrison	Sterling
Conry	Harrison, N. Y.	O'Shaunessy	Sulloway
Cox, Ohio	Hart	Parran	Sulzer
Craven	Hartman	Peters	Taggart
Currier	Helm	Pou	Talbott, Md.
Curry	Higgins	Pujo	Taylor, Colo.
Dougherty	Hobson	Rauch	Turnbull
Dickson, Miss.	Howard	Reyburn	Vreeland
Doremus	Howland	Richardson	Warburton
Draper	Humphreys, Miss.	Riordan	Webb
Dwight	Jackson	Roberts, Mass.	Weeks
Elder	Jacoway	Robinson	Wilson, N. Y.
Fairchild	Johnson, Ky.	Sabath	Wood, N. J.
Fields	Knowland	Saunders	Woods, Iowa.
Finley	Konig	Sells	

So the resolution was rejected.

The Clerk announced the following additional pairs:

Until further notice:

Mr. PETERS with Mr. WOOD of New Jersey.

Mr. BURNETT with Mr. HARTMAN.

Mr. HUMPHREYS of Mississippi with Mr. LAWRENCE.

Mr. SHARP with Mr. SELLS.

The result of the vote was announced as above recorded.

On motion of Mr. MANN, a motion to reconsider the votes on the various resolutions was laid on the table.

REVISION OF THE TARIFF.

Mr. UNDERWOOD. Mr. Speaker, I desire to ask unanimous consent for the consideration of the resolution which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 747.

Resolved, That the Committee on Ways and Means is authorized to employ such expert, clerical, and stenographic services, and to gather such information, through Government agents or otherwise, as to it may seem fit looking toward the preparation of a bill or bills for the revision of the present tariff law; and said committee is authorized to have such printing and binding done as it shall deem necessary, to require the attendance of the committee stenographers, and to incur such other expenses as may be deemed necessary by said committee; and all expenses of said committee shall be paid out of the contingent fund of the House on the usual vouchers approved as now provided by law; and be it further

Resolved, That after March 4, 1913, those members of the Committee on Ways and Means who are Members elect of the House to the Sixty-third Congress, or a majority of them, are authorized, until the meeting of the first session of the Sixty-third Congress, to employ such expert, clerical, and stenographic services, and to gather such information, through Government agents or otherwise, as to them may seem fit looking toward the preparation of a bill or bills for the revision of the present tariff law; and said committee is authorized to have such printing and binding done as it shall deem necessary, to require the attendance of the committee stenographers, and to incur such other expenses as may be deemed necessary by said committee; and all the expenses of said committee shall be paid out of the contingent fund of the House on the usual vouchers approved as now provided by law.

The SPEAKER. Is there objection to the present consideration of the resolution?

Mr. PAYNE. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Alabama whether it is the purpose or his intention—as I see it stated in the newspapers that he rather invites the filing of briefs before the committee—whether it is the intention to print these briefs from day to day, with the evidence before the committee?

Mr. UNDERWOOD. It is, if it is the desire of the party who files the brief to have it printed, and where the brief is filed before the hearings close.

Mr. PAYNE. Well, is it the purpose of the gentleman to have the evidence taken before the committee and the arguments printed from day to day for the use of the committee?

Mr. UNDERWOOD. I will state to the gentleman from New York that, so far as I am concerned, and I believe it is the intention of the committee, that as to the hearings we will follow the same procedure as was followed in the committee at the time the gentleman himself conducted hearings in the Sixtieth Congress.

Mr. PAYNE. That included the printing of the briefs every day.

Mr. UNDERWOOD. Yes.

Mr. PAYNE. I have no objection.

Mr. FITZGERALD. Mr. Speaker, I call the gentleman's attention to the fact that this House can not, by a simple resolution, authorize expenditures out of the contingent fund after the expiration of this Congress. That is regulated by statute.

It would require a joint resolution to do that. I have looked into that in connection with another resolution which it was proposed to introduce.

Mr. UNDERWOOD. I think the gentleman from New York [Mr. FITZGERALD] is correct about that, and I will amend my resolution by making it read "Resolved by the House of Representatives, the Senate concurring."

Mr. MANN. Mr. Speaker, let me make a suggestion to the gentleman. The first part of his resolution is strictly a House resolution?

Mr. UNDERWOOD. Yes.

Mr. MANN. Providing for the payment of expenditures out of the contingent fund of the House. I would suggest to the gentleman to withdraw the latter part of his resolution and have the House agree to the first part, and then insert the latter part in one of the appropriation bills. There will be no objection to that.

Mr. UNDERWOOD. Mr. Speaker, I accept the suggestion of the gentleman.

Mr. MANN. May I ask the gentleman, in connection with the printing of the evidence, whether it would be practicable, as the hearings go along or are completed, to print the evidence and the briefs submitted according to schedule, so that each schedule would be by itself?

Mr. UNDERWOOD. Well, I will say to the gentleman that I think that would be a good thing to do, and it was done when the former hearings were held, so far as practicable. Of course, sometimes a gentleman will come in and file a brief or give testimony with relation to several different schedules. For instance, he may be discussing the duty on some article where the raw material is in one schedule and the finished product in another, which very often happens. As a general rule that procedure would be followed.

Mr. MANN. What I had reference to was possibly the reprinting of testimony. When witnesses are heard under the ordinary rules the testimony of that day is printed at once; and they are given leave to file a brief, and the brief may not be delivered for a week or 10 days. It is more convenient for Members when they go to examine it to have it all together if it is practicable to do so.

Mr. UNDERWOOD. Well, I will say to the gentleman from Illinois that in the Sixtieth Congress the same thing occurred, and after the hearings were over for the permanent record they were assembled under the different schedules. An effort will be made to do that in this case as far as possible.

Mr. MANN. I understand.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. UNDERWOOD. Mr. Speaker, I ask that the first part of the resolution be read as originally presented at the Clerk's desk. The second part I will ask the Committee on Appropriations to take care of.

The SPEAKER. The Clerk will report the first part of the resolution.

The Clerk read as follows:

Resolved, That the Committee on Ways and Means is authorized to employ such expert, clerical, and stenographic services, and to gather such information, through Government agents or otherwise, as to it may seem fit looking toward the preparation of a bill or bills for the revision of the present tariff law; and said committee is authorized to have such printing and binding done as it shall deem necessary, to require the attendance of the committee stenographers, and to incur such other expenses as may be deemed necessary by said committee; and all the expenses of said committee shall be paid out of the contingent fund of the House on the usual vouchers approved as now provided by law.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

POST OFFICE APPROPRIATION BILL.

Mr. MOON of Tennessee, chairman of the Committee on the Post Office and Post Roads, by direction of that committee, reported the bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, which bill, with accompanying papers, was ordered printed and referred to the Committee of the Whole House on the state of the Union. (H. Rept. 1271.)

Mr. MANN reserved all points of order on the bill.

Mr. MOON of Tennessee. Mr. Speaker, I ask unanimous consent that the bill and report may be printed in the RECORD.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that the bill and report be printed in the RECORD. Is there objection?

Mr. MANN. Reserving the right to object, let me ask the gentleman what is the purpose of printing an appropriation bill in the RECORD?

Mr. MOON of Tennessee. Because there are a few sections of new law in it.

Mr. MANN. But every Member knows that it is available in the document room. I do not think many Members would read it in the RECORD in fine print. I can see no reason for commencing the practice of printing appropriation bills in the RECORD.

Mr. MOON of Tennessee. It is a very short bill, but if the gentleman from Illinois objects to its being printed in the RECORD I shall not insist upon it. The report only contains two pages.

Mr. MANN. I have no objection to the report being printed in the RECORD, and the gentleman may have as many copies of the bill printed as he desires, so far as I am concerned.

Mr. MOON of Tennessee. Then, Mr. Speaker, I ask unanimous consent that the report may be printed in the RECORD.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that the report be printed in the RECORD. Is there objection?

There was no objection.

The report is as follows:

[House Report No. 1271. Sixty-second Congress, third session.]

POST OFFICE APPROPRIATION BILL.

Mr. MOON of Tennessee, from the Committee on the Post Office and Post Roads, submitted the following report, to accompany H. R. 27148:

The Committee on the Post Office and Post Roads, in presenting the bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, submits the following:

The estimates covering this bill may be found on pages 557 to 563, both inclusive, of the Book of Estimates, and aggregate the sum of $281,791,508. The committee recommends $278,889,781, a decrease in amount of the department estimates of $2,901,727.

The increases in the estimates recommended by the department are due in part to the growth of the usual service and in part to the expenses incident to the parcel post to be installed under the provisions of existing law, and to the postal savings bank. The committee has not been able to get an estimate as to the revenues that will likely arise from the parcel post. The estimates made by the department for additional expenses on account of this service are quite large, but of necessity only speculative, as it is impossible to know at this time to what extent the service may be used. The committee has deemed it wise to reduce the estimates because of the fact of the uncertainty of their correctness, and because it is best to let the service develop in a measure before large appropriations are made to meet a service the extent of which is not yet known. Still, it has, in its opinion, been liberal enough in the appropriations.

The report of the Postmaster General shows a small surplus for the fiscal year ending June 30, 1911. The committee, however, acting on the audited accounts, was of opinion that there was a deficiency of about $627,000 instead of a surplus of about $210,000 for that year. The Postmaster General presents an audited postal deficit of $1,785,523.10 for the fiscal year ending June 30, 1912. Accounts chargeable to this year and not yet audited may change this amount.

The tables following show the appropriations for 1913, the estimates of the department for 1914, and the committee recommendations for 1914 in the office of the Postmaster General, and the First, Second, Third, and Fourth Assistants, and in them may be found the separate items of appropriation under the jurisdiction of each of these offices and the total of all appropriations, estimates, and recommendations.

Post Office appropriation bill, 1913.

	Appropriation for 1913.	Estimates for 1914.	Committee recommends for 1914.
POSTMASTER GENERAL.			
Rent suitable buildings	$34,400	$34,400	$34,400
Gas, electric power, etc	5,000	5,000	5,000
Traveling expenses	1,000	1,000	1,000
Post-office inspectors:			
Salaries	704,450	704,450	704,450
Per diem	261,400	261,800	261,400
Clerks at headquarters	99,000	99,000	99,000
Traveling expenses	41,400	41,400	41,400
Livery hire	45,000	45,000	35,000
Miscellaneous expenses	7,500	7,500	7,500
Payment of rewards	15,000	15,000	7,500
Investigating labor-saving devices	$10,000		
Printing Postal Laws and Regulations	55,000		
Postal Savings System:			
Blank books, forms, etc		$140,000	$100,000
Miscellaneous items	400,000	5,000	2,500
Travel and miscellaneous expenses		1,000	500
Total	1,679,150	1,469,550	1,299,650
FIRST ASSISTANT POSTMASTER GENERAL.			
Compensation to postmasters	30,000,000	30,250,000	30,250,000
Compensation, assistant postmasters	3,000,000	3,075,000	3,000,000
Compensation to clerks and employees	39,820,800	40,125,000	40,125,000
Compensation, printers and mechanics	44,100	1,164,000	44,000
Compensation, watchmen, messengers, etc	1,098,000		1,083,000
Compensation, clerks in charge contract stations	320,000	1,250,000	430,000
Do	100,000		700,000
Compensation to substitutes, first and second class offices	175,000	225,000	200,000
Temporary and auxiliary clerk hire	850,000	1,000,000	1,000,000
Separating mails, third and fourth class offices	700,000	700,000	675,000
Unusual conditions at post offices	125,000	125,000	100,000
Allowances, third-class offices	1,725,000	1,725,000	1,725,000
Rent, light, and fuel, first, second, and third class offices	4,550,000	5,650,000	5,000,000

Post Office appropriation bill, 1914—Continued.

	Appropriation for 1913.	Estimates for 1914.	Committee recommends for 1914.
FIRST ASSISTANT POSTMASTER GENERAL—COND.			
Miscellaneous expenses	$350,000	$400,000	$375,000
Rental and purchase canceling machines	310,000	300,000	300,000
Purchase, repair, etc., labor-saving devices	50,000	50,000	50,000
Additional labor-saving devices	12,000		
Rewards to employees for inventions	10,000	10,000	10,000
Pay of letter carriers	32,752,175	34,860,000	34,860,000
Substitutes for letter carriers	1,600,000	2,285,000	2,000,000
Substitute and auxiliary carriers	50,000	75,000	75,000
Horse-hire allowance	975,000	1,550,000	1,375,000
Car fare and bicycle allowance	300,000	300,000	450,000
Street car collection service	10,000	10,000	10,000
Detroit River postal service	6,500	6,500	6,500
Incidental expenses, City Delivery Service	35,000	50,000	50,000
Emergency car fare, special-delivery messengers	12,000	11,000	12,000
Fees to special-delivery messengers	1,600,000	1,825,000	1,800,000
Experimental village delivery	100,000	150,000	150,000
Travel expenses	1,000	1,000	1,000
Total	121,393,075	126,756,100	125,858,100
SECOND ASSISTANT POSTMASTER GENERAL.			
Transportation			
Inland transportation star routes in Alaska	250,000	308,500	450,000
Steamboat	850,700	999,900	875,000
Mail-messenger service	1,681,000	2,167,200	1,900,000
Transmission by pneumatic tube	987,400	962,200	962,200
Screen-wagon service	1,732,000	2,160,000	2,000,000
Mail bags, etc	282,000	355,500	355,500
Labor, mail-bag shops	102,000	108,300	108,300
Rent, light, and fuel, Chicago	2,400	2,400	2,400
Mail locks and keys	12,000	15,000	15,000
Labor, mail-lock repair shop, Washington, D. C	36,500	38,000	38,000
Transportation by railroads	47,646,000	49,061,000	49,000,000
Commission on second-class mail	25,000		
Freight or expressage postal supplies	648,200	500,000	500,000
Railway post-office car service	4,707,000	5,393,000	5,400,000
Railway Mail Service	20,443,200	24,709,600	24,500,000
Travel allowance, railway mail clerks	1,340,743	1,465,000	1,465,000
Temporary clerk hire	67,500	67,500	67,500
Substitutes for clerks on vacation	80,250	85,000	85,000
Acting clerks	130,000	135,000	130,000
Actual and necessary expenses	60,000	95,500	80,000
Rent, light, fuel, etc., division headquarters	20,000	20,000	20,000
Per diem allowance, assistant superintendents	4,531	5,808	4,531
Transportation by electric and cable cars	728,000	847,200	800,000
Transportation, foreign mails	3,748,400	3,981,000	3,900,000
Assistant superintendent, foreign mails	2,500	2,500	2,500
Balance due foreign countries	486,400	475,000	475,000
Delegates International Postal Union	5,000		
Travel expenses	1,000	1,000	1,000
Total	89,149,824	94,762,788	92,796,931
THIRD ASSISTANT POSTMASTER GENERAL.			
Manufacture postage stamps	768,000	822,000	800,000
Manufacture stamped envelopes	1,778,000	1,600,000	1,500,000
Pay of agents and assistants, distributing stamped envelopes	22,800	22,800	22,800
Manufacture postal cards	571,000	225,000	200,000
Ship, steamboat, and way letters	250	250	250
Payment limited indemnity, domestic	45,000	100,000	60,000
Payment limited indemnity, international	17,000		20,000
Travel expenses	1,000	1,000	1,000
Employment special counsel		10,000	
Total	2,603,050	2,955,050	2,704,850
FOURTH ASSISTANT POSTMASTER GENERAL.			
Commission to investigate post roads	$25,000		
Improvement of post roads	500,000		
Stationery	100,000	$105,000	$105,000
Official and registry envelopes	80,000	85,000	85,000
Blanks, blank books, etc., money order	150,000	165,000	165,000
Blanks, blank books and printed matter, registry	4,000	6,500	4,500
Expenses agency for inspection manufacture of envelopes	5,700	5,520	5,520
Supplies, City Delivery Service	100,000	130,000	120,000
Postmarking, etc., stamps	50,000	45,000	45,000
Letter balances, etc	115,000	115,000	115,000
Wrapping paper	15,000	15,000	15,000
Wrapping twine and tying devices	200,000	225,000	225,000
Facing slips, etc	65,000	70,000	70,000
Purchase, exchange, typewriters, etc	70,000	80,000	80,000
Supplies, rural service	40,000	50,000	50,000
Shipment of supplies	110,000	135,000	120,000
Intaglio seals	10,000	10,000	10,000
Star-route service	7,082,000	7,105,000	7,105,000
Carriers, rural service	47,000,000	47,500,000	47,500,000
Travel expenses	1,000	1,000	1,000
Total	55,572,700	55,848,020	55,831,020
SUPPLEMENTAL ITEMS.			
Travel-post equipment	750,000		
Travel-post commission	25,000		
Grand total	271,429,599	281,791,508	278,489,781

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill. And pending that motion, Mr. Speaker, I desire to ask the gentleman from South Dakota whether we can agree on time for general debate; and, if so, what length of time is desired on that side?

Mr. BURKE of South Dakota. I am unable, Mr. Speaker, to state just what time is desired. I prefer, if it is agreeable, to let the general debate run this evening, and perhaps in the meantime we can agree on the time when it is taken up again.

Mr. STEPHENS of Texas. Would it be satisfactory to the gentleman from South Dakota to agree that when the bill is taken up to-morrow we shall begin to read it under the five-minute rule?

Mr. BURKE of South Dakota. We could not get through with the general debate to-night.

Mr. STEPHENS of Texas. I would be willing to agree to one hour on a side, and then we could close to-night.

Mr. BURKE of South Dakota. I do not think there will be any difficulty in agreeing to the time for general debate. We probably will not desire more than an hour on this side, but I prefer not to make any agreement this evening.

The motion of Mr. STEPHENS of Texas was then agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. HULL in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914.

Mr. STEPHENS of Texas. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. OLMSTED] such time as he desires.

Mr. OLMSTED. Mr. Chairman, in pursuance of my determination, made public in December, 1911, I shall on the 4th of next March retire from service in this House. This is, therefore, the last occasion upon which I shall participate officially in the passage of the Indian appropriation bill. Aside from my interest in the general Indian question, I have for many years had a special interest in this bill because of my great interest in the United States Industrial School at Carlisle, which is in my district. At the outset I desire to express my appreciation of the courtesy which I have always received at the hands of the Committee on Indian Affairs. During my service in this House it has had three different chairmen, and they have all been greatly concerned in the welfare of the Indians, devoting their time, labor, and ability to the cause and giving fair hearings and consideration to all concerned. The present chairman, the gentleman from Texas [Mr. STEPHENS], has served upon the committee for many years and is thoroughly familiar with the questions with which it has to wrestle. He was for a long time the ranking minority member of the committee, until his party came into control in the present Congress, when he changed places with the gentleman from South Dakota [Mr. BURKE], who had served so well and ably as chairman. When I entered Congress the Committee on Indian Affairs was presided over by our dear friend, the late James S. Sherman, who continued as chairman until the people of the United States selected him to preside as Vice President over the deliberations of the United States Senate. During my 16 years of service in the House, what a large number of Members have been transplanted from this end of the Capitol to the other! It is becoming more and more universally recognized that service in the House is the best possible training for effective and valuable service in the Senate.

The people of the country, or even of a Member's own district, are not always in position to make a correct estimate of the value of a Congressman's ability or worth. Sometimes the Member is overestimated in his own district or by the country, and oftentimes he is underestimated; but nowhere on earth is a man more fairly estimated than right here in the House by his fellow Members. They know the extent and importance of his labors and counsel in committee, where, after all, a Member's best work is done. They know the sincerity and effectiveness of his utterances upon the floor, and they are able to judge him from a thousand things of which the outside public has little or no knowledge. When a Member stands the test here, when he is popular with and respected and looked up to by his fellow Members, it may be taken for granted that he is well fitted for service in the Senate or anywhere else. And, by the way, judged by that test, there is no man better fitted than the

gentleman from Massachusetts [Mr. MCCALL]. [Applause.] His 20 years of service in this body have been years not only of intelligent and patriotic labor, but of substantial achievement. A gentleman of high ideals, he is never carried away by illusions. If he is interested in the movement of the stars, he nevertheless keeps his feet upon the ground and breathes the air of the people. Upon every important question he has convictions, the courage to express them, and the ability to express them well. When his convictions have been formed he is never moved to an opposite course by the knowledge that it would be more popular. An eloquent and forceful speaker, he always commands the attention of the House. While his addresses are of a high intellectual order, he never permits a thought to be so obscured by the ornament of phraseology as to be lost upon his hearers, but rather he drives it home by the felicity of his expression. Twenty years of faithful and patriotic service in this House have rounded him out into the perfect statesman, and it is a pleasure to know that the glorious traditions of Massachusetts in the United States Senate are likely to be continued in one who is at once so great a scholar and so great a statesman as SAMUEL W. MCCALL. [Applause.]

My object in rising was to say a few parting words upon the subject of the Carlisle Indian School, in which I take so great an interest. This bill carries an appropriation of $152,000 for that school. Its history is interesting. Away back in 1777 there were erected extensive cavalry barracks at Carlisle. The labor was largely that of Hessians, who had been captured by Washington at the Battle of Trenton. In 1846 these barracks had reached such proportions that they were capable of housing 2,000 men and caring for their horses. A cavalry school was maintained there until the Civil War, when the troops at that point were drawn into active service. About the close of the Civil War these barracks were used for the housing of Indian captives in charge of Capt. R. H. Pratt. In the late seventies or the early eighties there was conceived the idea of establishing and maintaining at that point a school for the industrial training of Indian boys and girls. The Government buildings were devoted to that purpose. The progress made in that Indian Industrial School at Carlisle is remarkable. It has become and now is the largest, most celebrated, most useful, and proportionately the least expensive of all the Indian schools. Those persons throughout the entire country most interested, and who have given the most studious thought and care to the welfare of the Indian, have watched with increasing pride and satisfaction the growth, progress, and increasingly useful career of this institution.

Separated from their tribal relations, the Indian pupils have taken a greater interest in acquiring useful knowledge, and have gained greater proficiency. The discipline of the institution is perfect, and the training there given them is of a plain, practical character, fitting them not only to be independent and to make their own living, but to be useful to the communities in which they may ultimately find employment and make their homes.

The location of the school is ideal. The Government owns several hundred acres of land in the beautiful, fertile, and far-famed Cumberland Valley. The buildings are on the edge and, indeed, within the corporate limits of the peaceful, orderly, and attractive borough of Carlisle, and in the heart of as fine an agricultural country as may be found in the United States. The farmers thereabouts are sober, industrious, and thrifty people, setting good examples for the young Indians, many of whom are employed by them during the summer months, earning good wages in every variety of farm work. Although in the early days of the country the Indian depredations and outrages in that vicinity were almost without number, it has come to pass that the inhabitants look with extreme kindness upon these Indian boys and girls and the sentiment toward them is of the very best.

The Government buildings are adequate for the care of 1,200 to 1,500 pupils, but the average number maintained is about 1,000. As the total appropriation carried by this bill for that school is only $152,000, including the care of the buildings, the salary of the superintendent, repairs, and transportation, it will be seen that the average expense is $152 per pupil, which includes, of course, food and clothing.

I have often been asked about the health of these Indians. We hear so much about the tendency of their race to tuberculosis. It speaks well for the healthful climate of Carlisle that there is less of that disease in that school than in any other Indian school in the country—in fact, it is almost unknown. Great care is taken against overcrowding of pupils in the dormitories; and then the outing system which prevails at Carlisle is a wonderful tonic, and outdoor life is, of course, a wonderful preventive of that dread disease.

As I have said, the discipline there is perfect. They have an auditorium holding about 1,200. I wish that every Member of Congress might be present on one of their commencement occasions and see the important changes which have been wrought in those young Indians—a larger proportion of them full blooded than is found in most Indian schools. No one who witnesses one of their commencements is ever in favor of abolishing the Carlisle School. The capacity of the young Indians for learning is quite remarkable. They have a brass band of about 50 pieces, which need not be ashamed to play in the presence of the Marine Band or any other similar organization. When I heard them on a recent occasion I marveled and told the instructor that there must be a lot of "ringers" among them; but he assured me upon his honor that there was not one in the band who had been in the school for more than two years, and not one who had ever blown a horn before he came to the school. The wonderful marching and drilling of the Carlisle Indian cadets would be creditable to the cadets of West Point or Annapolis.

It is something of a tribute, not only to the training and discipline of the school, but also to the health-giving qualities of the pure air and water of the Cumberland Valley, that so many famed athletes are developed there. This country has never known a better baseball pitcher than Bender, or a better catcher than Myers—both Carlisle Indian pupils. In these latter days it has come to pass that the standing of an educational institution is judged largely by the success of its football team. Measured by that test, Carlisle stands in the front rank, for its team has at one time or another defeated the teams of nearly, if not quite, all the great universities. The greatest football player of all is Thorpe—pretty much a whole team all by himself—who so recently brought honor and glory not only to Carlisle but to the whole country at Stockholm, where, winning both the decathlon and pentathlon, he was officially declared the greatest all-round athlete in the world, and probably the greatest the world has ever known. His Carlisle colleague, Tewanima, also took great honors in that international contest.

These young Indians are trained at Carlisle in almost every useful branch of industry. They art taught to make harness, to shoe horses, to build wagons, to lay brick, to cut stone, to make tables, stands, and chairs, to become tinners, carpenters, steam fitters, pipe fitters, and the like; they are taught to be farmers, to milk cows, to plow a straight furrow, to sow wheat, to mow, to reap, to husk corn, and to perform all the other industries known to farm life. The girls are taught to bake, to do laundry work, to do housework of all kinds, and to make their own dresses. They make splendid housekeepers. They are greatly in demand for domestic service. It seems to me that the education bestowed upon them is of the very best for them and best for the country, for it makes them self-sustaining, useful, and independent citizens. The most of the Carlisle pupils do not drift back to the reservations or to the tribes, but find occupation as farmers or in the mechanical trades. Thirty-four Carlisle Indians served in the Spanish-American War.

In the summer months they are permitted to hire themselves out to farmers and others. In that way they not only get healthful occupation, but they acquire practical and valuable experience in farming and they breathe in the healthful and pure air and drink the pure water of that far-famed valley. In this school they are taught frugality. One of the hardest things to teach an Indian is to save money. The Indian is always generous; there is no such thing as a stingy Indian. Here they are taught to be saving, and many of them have done wonderfully well in that regard. They are not permitted to use either liquor or tobacco. The institution is nonsectarian, but there are at Carlisle churches of all denominations, and the ministers are quite willing to take turns in preaching to these young people, so that their moral as well as their physical welfare is carefully looked after.

There has at times since I have been in Congress been great opposition to this school. One Commissioner of Indian Affairs was in favor of abolishing it entirely; another favored reducing it by one-half, and at one time the Senate Subcommittee on Indian Affairs unanimously agreed to a proposition to cut off the appropriation entirely after a stated period. Happily those views were not permitted to prevail, and at the present time there is a disposition to strengthen rather than to weaken or impair this useful institution. My successor, therefore, is not likely to have the troubles which have sometimes beset me in securing its requisite recognition in this appropriation bill. I trust that his experience and relations with the members of the Committee on Indian Affairs, as well as of the House generally, may always be as agreeable and as pleasant as mine have been and are, and that the time may be far distant when

the Carlisle School shall suffer at the hands of any governmental agency.

Mr. STEPHENS of Texas. Will the gentleman from South Dakota use some of his time?

Mr. BURKE of South Dakota. I was hoping that the gentleman from Texas would consume some time. I understood he had one speech that would take about an hour. I was not intending to speak to-day.

Mr. STEPHENS of Texas. Then I will yield. Mr. Speaker, to the gentleman from Mississippi [Mr. HARRISON] 40 minutes.

Mr. HARRISON of Mississippi. Mr. Chairman, I desire to speak upon House bill 19213, a bill introduced by me on February the 1st, this year, the purpose of which bill is to reopen the rolls of the Choctaw and Chickasaw Tribe, and to permit certain Mississippi Choctaws to be enrolled who are, I believe, justly entitled to be put upon the rolls.

The reason why I speak now about this bill is because I expect at the proper time in the consideration of the pending Indian appropriation bill to offer it as an amendment. In presenting this bill at this time I will say it in no way reflects upon the subcommittee of the full Committee on Indian Affairs in this House to whom it was referred, because the subcommittee has held hearings upon the bill and given much attention to its consideration, and the delay in the report is due to no fault of the subcommittee, but I think the fault has been with the Indian Affairs Office in this city. For four or five months it was impossible to get the department to make its report on the bill, and it was only through persistent personal appeals to the department that they filed their opinion on the 24 of July following. I want to say, however, that I am informed that the subcommittee will make its report within the next week, and I have great hopes and reason to believe that it will be favorable.

Prior to 1830 there was a tribe of Indians that lived east of the Mississippi River, known as the Choctaw Tribe; they dwelt mostly in south and east Mississippi. As civilization progressed, the white people desired to move these Indians west, into lands that were afterwards known as the Indian Territory and now Oklahoma. It required almost every kind of argument to persuade this tribe to move out of Mississippi. They loved their native land, their hunting grounds, and revered their burying places. They were an agricultural people, and they wanted to remain in Mississippi, but the white people, as well as the Federal Government, desired to move them, and after every kind of appeal, as well as every kind of argument they finally persuaded the tribe to enter into the treaty of 1830, that permitted those Indians to move into Indian Territory who so desired, and those who wanted to remain in Mississippi and continue to reside there to do so. And I want to say in this connection that this treaty of 1830 would never have been consummated, and I dare say no Member of this House and no member of the Indian Affairs Committee will controvert the statement that the treaty would never have been entered into or agreed to by the tribe, had it not been for the insertion of the fourteenth article of that treaty. The fourteenth article was inserted exclusively for the benefit of the Indians who desired to remain in Mississippi. That article reads as follows:

Each Choctaw head of a family, being desirous to remain and become a citizen of the States, shall be permitted to do so by signifying his intention to the agent within six months of the ratification of this treaty, and he or she shall thereupon be entitled to a reservation of one section of 640 acres of land, to be bounded by sectional lines of survey; in like manner shall be entitled to one-half that quantity for each unmarried child which is living with him, over 10 years of age, to join the location of the parent. If they reside upon such lands intending to become citizens of the States for five years after the ratification of this treaty, in that case a grant in fee simple shall issue. Said reservation shall include the present improvement of the head of the family, or a portion of it. Persons who claim under this article shall not lose the privilege of Choctaw citizens, but if they ever remove they shall not be entitled to any portion of the Choctaw annuity.

Emissaries of the Federal Government, as shown by the history of this tribe prior to 1830, had held frequent conferences with the chiefs of the tribe in order to get every member of the tribe to agree to go into this Indian Territory and leave Mississippi. These agents of the Government used money, whisky, and food to accomplish their purpose, but there was such a desire among certain members of this tribe to remain in Mississippi that the fourteenth article of the treaty was inserted as a compromise—allowing those who would to leave Mississippi, and those who desired to remain could stay in Mississippi. To do so they need only follow the provisions of the fourteenth article of the treaty.

And so I take it that no one will take issue with me that the fourteenth article was included in the treaty for the sole purpose of allowing those Choctaws who desired to continue to live in Mississippi and make it their home, to go to the agent of the Government within six months and signify their intention to do so, and to take up their particular allotment of land and continue to live thereon for five years, and by so doing that they lost none of their tribal relationship, and the only condition imposed in the fourteenth article was that should they ever remove out of Mississippi after they had availed themselves of the fourteenth article by signifying their intention to remain in Mississippi, they would then lose their interest in the Choctaw annuity. The Choctaw annuity was a very small amount. So, I say, that whatever rights the Mississippi Choctaw of to-day is entitled to he gets by virtue of the fourteenth article of this treaty, and I lay it down as an incontrovertible fact that no act of Congress that has ever been passed since 1830 could abridge, change, or take away from the Mississippi Choctaw the rights guaranteed to him by the fourteenth article of that treaty.

The Indian tribe has never attempted to abridge or change in any way this particular treaty, but selfish lawyers representing the Choctaw Nation in the West have tried by persuasion, deception, and lobbying—I might say corruption, as revealed by the hearings had before the Committee on Indian Affairs of this House and of the Senate—to have legislation passed through the Congress of the United States that would take away from the Mississippi Choctaws the rights that are guaranteed to them under the fourteenth article of that treaty. In other words, Mr. Chairman, every act of Congress that has been passed relative to the Mississippi Choctaw has been upon the assumption that they could not be enrolled unless they left Mississippi and went into Indian Territory, thus being forced to violate the very article they had demanded and obtained. There is nothing in that provision that says that the Mississippi Choctaw shall ever have to leave Mississippi in order to continue to have his rights as a member of the tribe.

And every act of Congress that has been passed that committed them to the policy of having to remove out of Mississippi into Oklahoma was contrary to the provisions of the fourteenth article of the treaty. Now, after this treaty was made the United State Government, in 1831, sent an agent of the United States by the name of Ward into Mississippi to allow these Mississippi Choctaws to signify their intention to remain under this article and to allow them to choose their allotment of land for residence and cultivation. The hearings reveal the fact that this man Ward, the agent of the Government, went into that Territory, and the former chairman of the committee [Mr. BURKE] will remember the testimony relative to the acts of Ward. He got drunk, he was incompetent, he was careless, he would not enroll these people who were entitled to be enrolled, but used, on the other hand, every means in his power to prevent these Mississippi Choctaws from being placed on the rolls.

The United States Government, hearing of this agent's actions, sent a board of commissioners to investigate, and in part their report says:

From the great mass of proof offered to the board, there can be no doubt of the entire unfitness of the agent for the station. His conduct on many occasions was marked by a degree of hostility to the claims calculated to deter the claimants from making application to him. His manner to the Indians coming before him for registration was often arbitrary, tyrannical, and insulting, and evidently intended to drive them west of the Mississippi against their will and in violation of the letter and spirit of the treaty.

The agent of the Government, Col. Ward, unfortunately so managed this business that it is left almost entirely to oral testimony to prove the names of those who applied for registration within the six months and the signification of their intention to remain and become citizens of the States. That he kept a book, about foolscap size, containing two or three quires of paper, and which was almost filled with the names of persons registered, is proved, and it is also proved that this book was afterwards partially torn up and used as shaving paper, etc.

After making these investigations and finding that this agent, Ward, was so incompetent and careless, and had acted so badly with respect to the Mississippi Choctaws, Congress passed a law known as the act of 1842, that provided for giving the Mississippi Choctaws that would at that day move to Indian Territory and join their brother Choctaws there, scrip, which scrip entitled them to go into Indian Territory and take up an allotment of land there. Many of the Mississippi Choctaws under this act were induced to leave Mississippi and move to the Territories by the agents of the Government, and 4,144, I believe it was, signified their intention of coming under this scrip act. Notwithstanding the fact that the white people, through acts of Congress and emissaries and agents of the Federal Government, were using and had used every inducement and persuasive method to take from these unfortunates their homes and land in Mississippi, guaranteed to them under article 14 of the treaty of 1830, 4,000 of them still remained and lived in Mississippi in 1847. Various acts of legislation were passed, but none having any bearing on the case under discussion until 1893, when the Congress of the United States passed an act looking to the dissolution of the tribe and the distribution of the funds. They sent commis-

sioners into Oklahoma and Mississippi for the purpose of investigating that matter. Since 1893 only two acts that have any particular bearing on the Mississippi Choctaws have been passed by Congress, one, the act of 1898, known as the Curtis Act, and the other, the act of 1902, that might be styled the McMurray Act. The act of 1898 gave to these Mississippi Choctaws the right they claimed under the treaty of 1830. The latter part of that act reads as follows:

Said commission shall have authority to determine and identify the Choctaw Indians claiming rights in the Choctaw lands under article 14 of the treaty between the United States and the Choctaw Nation, September 27, 1830, and make report to the Secretary of the Interior.

In other words, by the Curtis Act of 1898 commissioners were sent into Oklahoma and into Mississippi to identify these Mississippi Choctaws for enrollment who came under article 14 of the treaty of 1830. The commissioners thought and every one familiar with Indian affairs was under the impression that that section meant identification for final enrollment. Acting under that, 4,192 Mississippi Choctaws were identified; but mark you, although these unfortunates traveled in many instances from Mississippi to Indian Territory and proved their right to be enrolled as members of the Choctaw Tribe, one of the many remarkable things in the history of their treatment and suffering is, that when the rolls were closed in March, 1907, the roll containing the names of these 4,192 unfortunates formed no part of the final rolls. In 1902 it appeared as though Congress was really going to do something for the Mississippi Choctaws, and so the McMurray Act was passed. I want to read it. It is the most adroit instrument, it is the most deceiving piece of legislation that was ever passed by any Congress. I look with complacency upon the smile of my good friend from Oklahoma [Mr. DAVENPORT]. This act of Congress, it is said, was conceived by one of the attorneys representing the Choctaw Nation. It is said that one McMurray, of whom you read in the papers sometime ago in connection with Senator GORE, fathered the act, this man, member of the firm of Mansfield, McMurray & Cornish, who afterwards boasted and said:

As a matter of fact, I am willing to take the responsibility of almost all the Choctaw and Chickasaw people's doings during these years on the firm of Mansfield, McMurray & Cornish. There was hardly a bill affecting the general affairs that was passed we didn't O. K., and there never was a bill suggested by us that was not passed; so whatever there is in this work, good or bad, it rests upon us.

There is the statement in brazen language of Mr. McMurray. Not satisfied with dominating the tribe and obtaining legislation that would necessarily rob certain members of the tribe of their just rights, he must brag and display his talents before the world.

These expressions of his can be found in the testimony he gave in the Sixty-first Congress, third session (H. Rept. 2273, vol. 2).

He conceived the act of 1902. Let me read it to you. On a casual glance it would appear as if it were going to give these poor, distressed, needy people in Mississippi some relief, but it did not. This is the language of the act with reference to the Mississippi Choctaw:

Art. 41. All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of section 21 of the act of Congress approved June 28, 1898 (30 Stat., 495) as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may at any time within six months after the date of their identification as Mississippi Choctaws by the said commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such commission within one year after the date of the said identification as Mississippi Choctaws shall be enrolled by such commission as Mississippi Chactaws entitled to allotment as herein provided for citizens of the tribes, subject to special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior. The application of no person for identification as a Mississippi Choctaw shall be received by said commission after six months subsequent to the date of the final ratification of this agreement, and in the disposition of such application all full-blood Mississippi Choctaw Indians and the descendants of any Mississippi Choctaw Indians, whether of full or mixed blood, who receive a patent to land under the said fourteenth article of the treaty of 1830, who had not moved to and made bona fide settlement in the Choctaw-Chickasaw country prior to June 28, 1898, shall be deemed to be Mississippi Choctaws entitled to benefits under article 14 of the said treaty of September 27, 1830, and to identification as such by said commission, but this direction or provision shall be deemed to be only a rule of evidence and shall not be invoked by or operate to the advantage of any applicant who is not a Mississippi Choctaw of the full blood, or who is not the descendant of a Mississippi Choctaw who received a patent to land under said treaty, or who is otherwise barred from the rights of citizenship in the Choctaw Nation. All of said Mississippi Choctaws so enrolled by said commission shall be upon a separate roll.

That act of Congress said that no person should be enrolled "whose ancestor had not received a patent from the Federal Government," and, mark you, because of the acts of this man Ward, the agent of the Government in 1831, there were only 143 patents issued to the Mississippi Choctaws under Article XIV. Notwithstanding the fact that over 4,000 Mississippi Choctaws were entitled to patents and only 143 actually received them, this act provides that in order to be enrolled their ancestors are required to have actually received a patent. Is that fair, just, or right? The commissioner in 1833 reported the cases of 1,372 Mississippi Choctaws who had actually signified their intention to remain in Mississippi under the fourteenth article and had complied with the provisions of that article; and the evidence in various hearings afterwards showed that 4,144 of these people received scrip, and the scrip was issued in 1842 only to those who had remained in Mississippi after 1830 and signified their intention of taking up these lands in Mississippi under that article of the treaty. Yet, under this McMurray Act of 1902 those who desired enrollment must prove that their ancestors actually received a patent. If they confine it to that, it could only benefit the descendants of 143 people, when it is undisputed that 7,000 of them lived in Mississippi in 1842. But that is not all. The act goes further and says that, notwithstanding the fact that the descendants of these people could prove that their ancestors actually received a patent, that they must not remain in Mississippi and acquire the rights guaranteed to them by Article XIV of the treaty of 1830, but they must move into Indian Territory. By that provision in the act they absolutely nullified every intention of the treaty of 1830. But the McMurray Act did not stop there. It created what was known as a citizenship court. I dislike to mention the name of citizenship court in the presence of my good colleagues from Oklahoma. They have heard the name of it so often in their fair State; they have heard of its scandalous and blackened history. The citizenship court was conceived by this man McMurray, who afterwards boasted how he passed it through this body. That court was created to exclude from the rolls the mere fortunate Mississippi Choctaws who had been placed there. In other words, to exclude from the rolls those who had happened by favoritism or some way to get upon the rolls; and the hearings before the various committees of this House show that over 4,000 of them were excluded by this citizenship court.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. HARRISON of Mississippi. Yes, sir.

Mr. BURKE of South Dakota. I would like to call the gentleman's attention to a peculiar circumstance in connection with the act that he is now referring to—namely, that the sections of the act creating the citizenship court went into effect upon the approval of the act, while the balance of the act did not become a law until it was voted upon and approved by the members of the tribes in Oklahoma.

Mr. HARRISON of Mississippi. Well, it afterwards became a law.

Mr. BURKE of South Dakota. I will repeat. The citizenship-court provision went into effect as soon as the act was approved. In other words, the Indians had no opportunity of proving or disproving that portion of it, while the main part of it did not become a law until they had approved it.

Mr. HARRISON of Mississippi. I understand. I am not surprised at that. Men like Mansfield, McMurray, and Cornish, who represented that tribe, could almost have made it do anything or pass any kind of an agreement through the tribe. I am not surprised that they finally ratified these various articles that afterwards became the law. But the distinguished gentleman from South Dakota [Mr. BURKE], who was formerly chairman of this important committee, remembers full well, as well as the other members of the Committee on Indian Affairs, the hearings which revealed the black history of the citizenship court, and how it excluded so many poor unfortunates from those rolls who were entitled to be enrolled.

It was created to review the final judgments of the United States circuit court, which court had admitted many of these Mississippi Choctaws to the rolls, and this newly created citizenship court was authorized by the act to set aside such judgments if it should find either—

That the chiefs of both tribes (the Choctaw and Chickasaw) had not been notified of the appeal from the commission to the United States court, or that the United States court had heard on the appeal any additional testimony other than that submitted to the commission.

Now, everyone knew that both chiefs of both tribes had not been notified (and there was no reason why they should be), and everyone knew that additional testimony had been heard in many cases on appeal so that the passage of this act in effect set aside and nullified all of these judgments, for the reversal was certain of the judgment of the United States Circuit Court.

One other remarkable feature contained in this McMurray Act of 1902. It gave rise and wonderful opportunity to Mansfield, McMurray & Cornish to sue out injunctions and prevent being done for the unfortunate Mississippi Choctaw what apparently the act gave the right to do.

Under its provisions he might make bona fide settlement within the Choctaw-Chickasaw country within six months after identification, but he could not get any land upon which to settle until after he should be enrolled. How could he settle unless lands were given? The old method of identification by the tribe had been abandoned, and if the Mississippi Choctaw went into Choctaw-Chickasaw country he was liable to be ejected as an intruder because not on the tribal rolls, even if he went to Indian Territory for the mere purpose of identification. The "identification" was held by the Attorney General several years later not to be the identification by the commission, but the final approval by the Secretary of the Interior. I repeat the identification was held to be approved once by the Secretary of the Interior, and yet after the commission had "identified" a number of people and was preparing to enroll them, Mansfield, McMurray & Cornish secured an injunction against the commission enrolling them upon the ground that the "identification" had occurred more than six months prior to that time and that the claimants had not removed to and made settlement within the Indian country within the six months after said identification. This injunction was granted, and thus the claimants were shut off from settlement in the Territory and returned to Mississippi, although more than a year afterwards the Attorney General held that the "identification" contemplated was final "identification" by the Secretary of the Interior.

The persons affected by this injunction who were compelled to abandon their claims were never thereafter notified of a final identification by the Secretary of the Interior. They never thereafter had any opportunity to make settlement.

And so, Mr. Chairman, after requiring the Mississippi Choctaw, contrary to article 14 of the treaty of 1830, to remove to Indian Territory to take up lands there, you will see from this act it was impossible for him to do it. Under this act and the actions of Mansfield, McMurray & Cornish it was a case of "Be damned if you do and be damned if you don't."

I shall not go further into that act. But I would remind this House, Mr. Chairman, that there is one circumstance that explains the activity, shrewdness, and apparent ability of this remarkable firm of attorneys who represented the Choctaw Tribe from 1899 until the last three or four years, and that is, that in addition to a very large annual salary, they were paid certain fees for every person they prevented from being enrolled, or excluded from the rolls. It is a sad commentary, indeed, that the Indian department and the Congress of the United States should ever have allowed people's rights squandered on a commission basis or in such an unpardonable and unjust manner.

Mr. Chairman, I repeat that the Congress of the United States has never dealt fairly or justly with the Mississippi Choctaws. Some one may say that the Mississippi Choctaws by not moving into Oklahoma, lost their tribal relations. Surely no man who is posted on Indian affairs will controvert the proposition that under article 14 of the treaty of 1830 they might not still continue to live in Mississippi and continue to be a part of the tribe. The article expressly states it: "Persons who claim under this article shall not lose the privilege of Choctaw citizens." They had as much right in the funds of the Choctaw Tribe as any man who lived in Oklahoma, and I would cite to those gentlemen who do not believe in that statement the fact that in the year 1881 the Congress of the United States passed a resolution giving to the Choctaw Nation in the West—that part of the Choctaw Tribe that lived in Indian Territory—a right to sue the United States Government for damages done to the Choctaw Tribe in Mississippi in violating article 14 of the treaty of 1830, etc.

And so the Choctaw Tribe in the West did enter suit against the United States for damages done to the Mississippi Choctaws—and, mark you, for damages done to the poor unfortunates for whom in part I plead at your hands to-day. The Choctaw Tribe in Indian Territory sued for $8,000,000, mostly because of Ward's action and because of the action of the other agents of the Federal Government in not enrolling these people in Mississippi and for defrauding them out of their scrip and lands. And, do you know, after taking volumes of testimony and listening to exhaustive legal arguments, that the United States Supreme Court awarded a judgment to the Choctaw Tribe living in Indian Territory for approximately $8,000,000? This judgment was paid to the Choctaw Nation in the West by the United States Government, and the amount of the judgment, less the costs of the suit, went into the funds of the Choctaw Tribe. It is now a part of the funds of the tribe. I say, Mr. Chairman, it is not fair, nor just, nor right for the Choctaw Nation in Indian Territory to obtain a judgment and collect it from the Government amounting to $8,000,000 and put it into its treasury for damages done to the Mississippi Choctaws, and then deny to the Mississippi Choctaws the right to be enrolled and share in those funds.

Oh, it may be said that to reopen these rolls will create an unsettled state in Oklahoma and that it might affect the titles to lands, and so on. My bill does not do anything like that. It does not propose to disturb the title to any piece of land in Oklahoma. In this particular the bill provides that these people shall have the right to go and prove, through some one whom the Government shall send there, that their ancestors in Mississippi received a patent under the fourteenth article of the treaty, or were entitled to receive a patent, and then when they can prove that and are enrolled they shall share in the fund that is now in the hands of the tribe and to the extent that the Indians in the past have gotten by virtue of their allotment of lands. It does not ask for any lands. It only seeks recompense in money; that is all. So that it will create none of that unsettled state that is spoken of. It is a matter of justice that I plead for to this committee, to allow me to present this bill and let it be voted for at the proper time in the consideration of the pending bill, and I appeal to my colleagues from Oklahoma not to make a point of order against my amendment.

Mr. McGUIRE of Oklahoma. Mr. Chairman, will the gentleman yield to me for a question?

Mr. HARRISON of Mississippi. I will.

Mr. McGUIRE of Oklahoma. Does the gentleman's amendment propose to put on the roll any Indians other than those residing in Mississippi? That is, would the Mississippi Choctaws now in Oklahoma be put upon the roll by that amendment that the gentleman proposes to offer?

Mr. HARRISON of Mississippi. My bill provides that for six months after its passage every person who can prove that his ancestor either received a patent under the fourteenth article of the treaty of 1830, or who was entitled to receive a patent under that article, can be enrolled.

It matters not whether he lives in Oklahoma, Texas, Louisiana, Mississippi, or elsewhere. I want to say right here that I have received many letters from parties interested in this matter, not only from my district, but from other States, in reference to this bill and asking for its passage.

Mr. CARTER. Will the gentleman yield?

Mr. HARRISON of Mississippi. Certainly.

Mr. CARTER. Can the gentleman guarantee under his bill that conditions of the land itself and the allotments that have been made would not be disturbed in Oklahoma?

Mr. HARRISON of Mississippi. I can not guarantee anything. All I can say is that my bill does not say that they shall get land, but they are to get a sum of money equal to double the appraised value of the allotment that the Choctaw Indians themselves now enrolled did receive, which would be $2,080.

Mr. CARTER. I understand, but under the gentleman's proposition there would be not less than a hundred thousand applicants for enrollment, and if they were enrolled in any considerable number, the result would be that every allotment in Oklahoma might have to be canceled and sold in order to make the appropriate division of funds among them.

Mr. HARRISON of Mississippi. I would say in answer to that, that throughout all this time there has never been over 25,000 applications filed with the department. I do not care if there were 100,000, that would apply. I say that every man who has rights under article 14 of that treaty should be permitted to prove his rights, and if he does prove them, he is entitled to be enrolled, but I do not believe there would be over 4,000 or 5,000 who would actually get on the rolls.

Mr. CARTER. I am willing to discuss the merits of the case with the gentleman any time, but what I want to know now is how the gentleman is going to warrant that there would be no disturbance of land titles and canceling of patents in Oklahoma. If 20,000 applicants were enrolled, they could not be settled with by the undivided fund that the tribes now have on hand. Consequently they might have to go into the cancellation of allotments and the sale of the land already allotted and upon which patents have been issued.

Mr. HARRISON of Mississippi. In answer to the gentleman, I will say that it is quite an easy matter to say that if 20,000 should be enrolled, it is just as easy to say 100,000; that it is merely conjecture, but I am willing, in order to get my bill passed, to have a clause inserted that it shall not disturb land titles, and that only that amount of funds now on hand and funds to be derived from sale of surface lands and coal lands and other property belonging to the tribe shall be divided.

Mr. CARTER. The gentleman must be able to see the danger that he would get into along that line with his bill.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. HARRISON of Mississippi. Certainly.

Mr. BURKE of South Dakota. Upon what basis do I understand the gentleman would pay these people that might be enrolled under his bill? As I understand, he proposes to pay them from the Choctaw and Chickasaw fund regardless of where it comes from. On what basis?

Mr. HARRISON of Mississippi. Here is the provision of the bill; section 6 provides:

That there shall be paid to each person who enrolls under the provisions of this act such a sum of money out of the funds of the tribe as will equalize said person with the persons now upon the rolls for all distributions of money made to citizens and members of said joint tribe since 1896: *Provided*, That those enrolled under the provisions of this act shall not be entitled to or receive any part of the Choctaw annuity existing under date of September 27, 1830, aforesaid; *Provided further*, That this act shall not apply to persons born since March 4, 1907.

Mr. BURKE of South Dakota. If I understood the gentleman correctly, he would first pay them from funds belonging to the tribes a sum of money equal to double the value of the allotments that were made to the Indians in Oklahoma who are now on the rolls.

Mr. HARRISON of Mississippi. Which was $1,020.

Mr. BURKE of South Dakota. Then in addition you would permit them to share in the funds the same as other members?

Mr. HARRISON of Mississippi. The same as other members.

Mr. BURKE of South Dakota. I would like to say, and I have given a good deal of thought to the subject, if this bill should become a law would it not result finally in a claim being made by these people upon the Federal Government to reimburse them for what they have lost by not being enrolled?

Mr. HARRISON of Mississippi. I do not think so at all. As the gentleman knows, my bill does not ask at the hands of Congress any amount of money out of the Federal Treasury, only out of the funds of the tribes.

Mr. BURKE of South Dakota. Does not the gentleman think that if it was taken from the tribal founds, as the bill proposes, then the tribes would later on present a claim to the United States to be reimbursed for the amount?

Mr. HARRISON of Mississippi. I think if they did it would be an unjust claim and founded on no right.

Mr. BURKE of South Dakota. I think there is a question about it that ought to be considered.

Mr. McGUIRE of Oklahoma. Will the gentleman yield?

Mr. HARRISON of Mississippi. Certainly.

Mr. McGUIRE of Oklahoma. I want to say to the gentleman that I have taken the same position he has taken, that there are many people left off the roll who should have been put on. Is it not a fact that it has been estimated by one Senator, at some time in the past, that the coal mines of these people, undivided tribal property, was worth $1,000,000,000.

Mr. HARRISON of Mississippi. I do not recall, but I have seen an estimate varying from $20,000,000 to $100,000,000.

Mr. CARTER. I would like to ask the gentleman from Oklahoma [Mr. McGUIRE], who always sympathizes with any attempt to loot the Treasury for Oklahoma, if he would be willing to give for these lands out of the Federal Treasury one-tenth of the amount that he says the distinguished Senator has mentioned.

Mr. McGUIRE of Oklahoma. Mr. Chairman, I will answer the gentleman by saying that I hope they are worth four billions of dollars, and my statement was simply that it had been estimated by one distinguished Senator that they were worth four billions of dollars. He and I, however, do not quite agree, although I have never made any estimate, and would not know how to proceed to make an estimate.

Mr. BURKE of South Dakota. What difference does it make what they are worth?

Mr. HARRISON of Mississippi. An opinion was rendered by the department relative to my bill, and in part I want to read what the department says:

The report of the Commissioner to the Five Civilized Tribes for the year ending June 30, 1907, shows, on page 12, that 24,634 persons applied to the Commission to the Five Civilized Tribes for identification as Mississippi Choctaws under the acts of June 28, 1898, and July 1, 1902; that of this number 2,554 were identified as Mississippi Choctaws, and that of the number so identified 1,672 persons failed to remove to the Indian Territory and submit proof of their removal and settlement within the time required by law.

* * * * * * *

I wish to refer, in this connection, to my letter of April 22, 1912, relating to the general subject of enrollment, wherein I pointed out under the heading of "Class III" that there were approximately 10 cases where families of Mississippi Choctaws were identified by the department within the last six months prior to March 4, 1907—some of whom were identified within the last few days prior to said date—and that they were consequently deprived of the usual period of time allowed other Mississippi Choctaws under the agreement of 1902 for removal to the Choctaw-Chickasaw country. These 10 families are in a class by themselves notwithstanding formal adjudication of their rights, they were prevented by the abrupt closing of the enrollment work from taking advantage of the decisions which had been rendered in their favor.

* * * * * * *

As to the 10 families referred to above, it is unnecessary for me to discuss the matter of their enrollment herein, inasmuch as I have fully reported as to them in said report of April 22, 1912. With respect to the 1,070 persons who were identified as Mississippi Choctaws, but who failed to prove the facts of removal and settlement in the Choctaw and Chickasaw country, it may be said that irrespective of their unfortunate condition of poverty and ignorance, that there is grave question whether there is any just ground, legal or equitable, for holding the Choctaw and Chickasaw Nations responsible for their failure to comply with the law.

They are convinced that these rolls have excluded from them many worthy cases; and in that connection I think my good friend from Oklahoma [Mr. CARTER] has a bill introduced to put certain individuals on the rolls. Am I not right in that?

Mr. CARTER. No; I have not. I have a bill introduced for the readjudication of certain cases which did not seem to have sufficient adjudication when they were tried, and the gentleman will always find me ready and willing to adjudicate any real rights of bona fide Indians.

Mr. HARRISON of Mississippi. Yes. I think there are a great many in the same fix. They think the roll ought to be reopened, too, and the people entitled to be enrolled properly enrolled. The department speaks of 10 families that were properly identified but kept off the rolls.

The department by that opinion based its objection to my bill on the ground that these people, 1,070 persons, should not be enrolled, because they had not moved from Mississippi into Indian Territory. They overlooked the fact that the fourteenth article of the treaty of 1830 guaranteed to the Mississippi Choctaw the right to remain in Mississippi, to continue to cultivate his land, and live close to their burial places and accustomed hunting grounds. When the department says that these 1,070 people ought to be kept off the rolls because they had not moved into Indian Territory, I assert that they deny to them the rights guaranteed to them under article 14 of the treaty of 1830.

Mr. DAVENPORT. Mr. Chairman, will the gentleman yield?

Mr. HARRISON of Mississippi. Certainly.

Mr. DAVENPORT. I would like to ask the gentleman if it is not a fact that since the treaty of 1830 was made the Supreme Court of the United States in what is known as the Cherokee trust fund held squarely that if the Indians desired to get the benefits of lands and moneys of the tribe they must remove within the tribe and share the burdens as well as the benefits.

Mr. HARRISON of Mississippi. The gentleman is exactly right, but in that treaty that the Cherokees based their right upon there was no insertion of a similar article like article 14, which said that any person who would go before an agent of the Government within six months and signify his intention to remain in Mississippi could do so, and it is because of that treaty upon which that case was based, which had no such article as the one I refer to, that the decision in the Cherokee case was rendered. I will ask the gentleman if that is not true?

Mr. DAVENPORT. No. The treaty made with the Cherokees had the same reservation. A number of them did remain and take allotments under practically the same language as the Choctaw and Chickasaw treaty.

Mr. HARRISON of Mississippi. Do I understand the gentleman to say that under the fourteenth article of the treaty of 1830 that guaranteed to these Mississippi Choctaws the right to remain in Mississippi that they thereby lost their tribal relationship with the tribe by staying in Mississippi under that guarantee?

Mr. DAVENPORT. I say that the Supreme Court of the United States so held, that they abandoned the tribal autonomy, and that until they reassumed it they had no right to participate in land or tribal benefits.

Mr. HARRISON of Mississippi. I know the gentleman is mistaken in that.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. HARRISON of Mississippi. Yes.

Mr. CARTER. On what particular language in the fourteenth article does the gentleman base his contention that Indians may stay in Mississippi and still participate in tribal benefits?

Mr. HARRISON of Mississippi. I will read it.

Each Choctaw head of a family, being desirous to remain and become a citizen of the State, shall be permitted to do so by signifying his intention to the agent within six months of the ratification of this treaty, etc.

If that is not a clear reservation, then language is not strong enough to make it plain to the gentleman.

Mr. CARTER. How about the closing part of that very article which says:

But if they have removed, shall not be entitled to any portion of the Choctaw annuity.

What removal is contemplated by that language?

Mr. HARRISON of Mississippi. If they moved out of Mississippi, after signifying their intention of taking advantage of article 14 of the treaty, they then gave up their right to share in the annuity. The annuity was a certain fund which the Choctaw Nation derived from the sale of certain lands. It was very small.

Mr. CARTER. But what removal was contemplated by that language—to what country?

Mr. HARRISON of Mississippi. It meant they could not share in the Choctaw annuity if they moved into the Indian Territory; that they then lost their share in the Choctaw annuity, which was a very small amount.

Mr. CARTER. So that the very treaty on which the gentleman bases these rights had in contemplation the fact they must move to Indian Territory before they acquired any rights?

Mr. HARRISON of Mississippi. There is nothing that gives that construction at all; and I want to say to the gentleman from Oklahoma that prior to the treaty of 1830—and I think the distinguished gentleman, the chairman of the subcommittee [Mr. RUSSELL], will bear me out, as well as the other members of that subcommittee [Mr. MILLER and Mr. SMITH of New York]—that in the state papers it shows that many conferences were held prior to 1830 between emissaries of the Federal Government and the Choctaw Nation in order to get the whole tribe to move west, and the tribe would never have entered into this treaty had it not been for the insertion of this article that gave them the right to remain there. I think the gentlemen will bear me out in that. All the evidence shows that, and all the history of the tribe reveals that fact. They never would have had the treaty made had it not been for the insertion of that article; and now, when under a solemn pact of a treaty these rights were given to these Indians, Congress passes acts afterwards which say, "You have got to go to the Indian Territory if you want to continue the tribal relations." Ah! Mr. Chairman, the Choctaw Indians in the West were glad indeed to claim their brothers living in Mississippi by virtue of the fourteenth article in 1881 and 1886, when they sought from the United States Government $8,000,000 to go into their treasury for damages done to the Mississippi Choctaws living in Mississippi. The question of tribal relationship was all right then, because they were getting something; but to-day, when these unfortunates demand their rights to share in these funds, they are told, "Get thee away; you are no part of our tribe."

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. HARRISON of Mississippi. I would like to have five minutes more.

Mr. STEPHENS of Texas. I yield to the gentleman five minutes additional.

Mr. HARRISON of Mississippi. Gentlemen, I wish I could go further into this matter. I know that these people have been grossly mistreated. They have been needlessly neglected at the hands of the Federal Congress. It is not necessary for me to state to you that the Mississippi Choctaw is a part of that great tribe of Indians that never raised a tomahawk against a white man. Always and on all occasions they were at peace with the white people. It is the tribe of Indians that sent 700 of their brave warriors to fight with the whites when the Natchez, that barbarous and warlike tribe along the Mississippi, rose up against the whites; the tribe that sent 30 of its braves to fight under "Mad" Anthony Wayne at Stony Point; that sent thousands of its brave warriors to battle under Jackson at New Orleans; that joined the whites against the Creeks and Seminoles—a tribe that at all times have been the friends of the white people; a tribe that produced that great Indian chief and warrior of whom it is said had neither father nor mother, but that on one occasion the lightning flashed and a bolt struck a tall pine, and from its splintered trunk sprang Pushmataha. And to-day, in speaking of these people of which the Mississippi Choctaw forms a part, no words of mine could better portray the good and true character of these people than the words uttered nearly a hundred years ago by this great and distinguished Indian chief when on his last visit to this Capital City he used these words in speaking to the President of the United States in behalf of his people:

> Father—I have been here some time. I have not talked; have been sick. You shall hear me talk to-day. I belong to another district. You have no doubt heard of me; I am Pushmataha.
>
> Father—When in my own country, I often looked towards this Council House, and wanted to come here. I am in trouble. I will tell my distresses. I feel like a small child, not half as high as its father, who comes up to look in his father's face, hanging in the bend of his arm, to tell him his troubles. So, Father, I hang in the bend of your arm and look in your face, and now hear me speak.
>
> Father—When I was in my own country, I heard there were men appointed to talk to us. I would not speak there; I chose to come here and speak in this beloved House. I can boast, and say, and tell the truth that none of my fathers or grandfathers, nor any Choctaw ever drew bows against the United States.
>
> They have always been friendly. We have held the hands of the United States so long that our nails are long, like birds' claws, and there is no danger of their slipping out. My nation has always listened to the applications of the white people. They have given of their lands until it is very small. I came here when a young man to see my father—Jefferson. He told me if ever we got in trouble we must run and tell him. I am come.

And, Mr. Chairman, shortly after he made this appeal in behalf of his people, the Mississippi Choctaws, he was taken sick. He died in this city. His last request was, "When I am gone let the big guns be fired over me." They were fired over him, and in yonder Congressional Cemetery he lies. Upon his tombstone is written these simple words:

> Pushmataha, a Choctaw chief, lies here. He was a warrior of great distinction. He was wise in counsel, eloquent in an extraordinary degree, and on all occasions and under all circumstances the white man's friend.

And to-day, even though Pushmataha has long since gone to the happy hunting ground, his spirit still lives and animates the breasts of the scattered remnant of his race in the land of his nativity, and, methinks, if he were present to-day he would appeal to his white father in yonder White House, to his brethren in Oklahoma, to his white friends in this Chamber, and say, "Give to the Mississippi Choctaws the rights guaranteed to them under the fourteenth article of the treaty of 1830." [Applause.]

Mr. STEPHENS of Texas. Does the gentleman on the other side wish an hour at this time?

Mr. MANN. I would suggest to the gentleman that we have had a rather strenuous day, and it is now 5 o'clock. There is no one here on this side, and I hope the gentleman will move to rise.

Mr. STEPHENS of Texas. Mr. Chairman, it is evident there is no quorum present, but I would like very much to close the general debate if possible, so that we can take up the bill tomorrow under the five-minute rule.

Mr. MANN. Well, Mr. Chairman, I think there will be no extended general debate. I desire a little time myself in general debate, and I know the gentleman from South Dakota [Mr. BURKE] does. I think there are some others on both sides, possibly, who will desire time. And the gentleman must understand that there was no general debate, or practically none, on the legislative bill.

Mr. STEPHENS of Texas. Can we agree upon some time? I would like very much to do so. When the House meets in the morning we could agree upon an hour on a side, or something of that kind.

Mr. MANN. We may agree; but I think we will want more than an hour on this side.

Mr. BURKE of South Dakota. Mr. Chairman, I want to be entirely fair to the gentleman in charge of the bill, and to state that what I have to say will be upon the bill, and I think there will be gentlemen on that side of the House who will probably want some time. I hope to be able to call attention to a few things that I think certain people will wish to reply to. And I doubt if it would be wise for an agreement to be made, inasmuch as 45 minutes have been consumed on that side of the House, which was debate, but which did not refer directly to the bill.

Mr. STEPHENS of Texas. Would the gentleman be willing to continue in session half an hour, so that this last speech could be replied to if there is any desire to do it?

Mr. BURKE of South Dakota. I do not object to that if they want to use some time on that side, but I do not care to go on this evening.

Mr. STEPHENS of Texas. I will ask the gentleman from Oklahoma [Mr. CARTER] whether or not he desires to reply to any remarks that have been made here this evening?

Mr. CARTER. I may want 20 or 30 minutes.

Mr. STEPHENS of Texas. I desire that the gentleman would reply at the present time. I would like to have you go ahead to-night.

Mr. MANN. Does the gentleman wish to reply to-night?

Mr. CARTER. I would like to do it to-morrow.

Mr. STEPHENS of Texas. Then, Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HULL, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill H. R. 26874, the Indian appropriation bill, and had come to no resolution thereon.

ANNA FINK.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of the following privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 737 (H. Rept. 1273).

Resolved, That there shall be paid, out of the contingent fund of the House, to Anna Fink, widow of James Fink, deceased, late messenger in the House of Representatives, an amount equal to six months of his salary as such messenger, and an additional amount, not to exceed $250, to pay the funeral expenses of said James Fink.

Mr. LLOYD. Mr. Speaker, Mr. Fink was a messenger to the Doorkeeper. He died during the summer, and this is the usual allowance that is made for the widow of an employee.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

FOLDING OF SPEECHES.

Mr. LLOYD. Mr. Speaker, I also offer another privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 723 (H. Rept. 1272).

Resolved, That the Doorkeeper be, and he is hereby, authorized to expend the sum of $2,000 for folding speeches, at the rate of not exceeding $1 per thousand, to be paid out of the contingent fund of the House.

Mr. MANN. Mr Speaker, may I ask what is the occasion for this?

Mr. LLOYD. We need this money for the folding of speeches that may be delivered hereafter. The fund is exhausted for that particular purpose.

Mr. MANN. All of the appropriation for that purpose was used?

Mr. LLOYD. Yes, sir.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Interstate and Foreign Commerce was discharged from the further consideration of House Executive Document No. 1158, and the same was referred to the Committee on Agriculture.

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 2 minutes p. m.) the House adjourned until Friday, December 13, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on saving to be effected by rapid prosecution of work on Dalles Celilo Canal, Oreg. and Wash. (H. Doc. No. 1161); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on examination of Hudson River, N. Y., with a view to securing increased depth (H. Doc. No. 1160); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on survey of Ohio River, Ohio and W. Va., with a view to the selection of sites for additional locks and dams between Lock No. 8 and Lock No. 29, including the last-named lock, and for the preparation of plans and estimates (H. Doc. No. 1159); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

4. A letter from the Secretary of the Treasury, recommending that the urgent deficiency bill provide that the incidental and contingent expenses of the refinery in the San Francisco Mint for the fiscal year 1913 may be paid from the appropriation "Contingent Expenses, San Francisco, 1913" (H. Doc. No. 1162); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting a combined statement of the receipts and disbursements of the Government for the fiscal year ended June 30, 1912 (H. Doc. No. 943); to the Committee on Appropriations and ordered to be printed.

6. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors appointed in the State of Maine for President and Vice President at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 25919) granting a pension to Francis I. Helm, alias Francis Boyd; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 26978) granting a pension to Genovefa Gronnert; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 15319) granting an increase of pension to Giles A. Woolsey; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 25724) granting a pension to Oscar Grear; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. LEVY: A bill (H. R. 27139) to amend the national banking laws; to the Committee on Banking and Currency.

By Mr. RAKER: A bill (H. R. 27140) authorizing the War Department to station Federal troops in the national forests during certain times of each year, and for other purposes; to the Committee on Military Affairs.

Also, a bill (H. R. 27141) making an appropriation for the investigation and improvement of walnuts and walnut trees and methods of walnut production, and for other purposes; to the Committee on Agriculture.

Also, a bill (H. R. 27142) making an appropriation for experiments and investigations and determining methods for the ferreting out and prevention of offenses committed against the property of permittees within the national forests, and for other purposes; to the Committee on Agriculture.

Also, a bill (H. R. 27143) making an appropriation for the investigation, study, and testing sage brush and grease wood, which may be used for producing rubber, and for other purposes; to the Committee on Agriculture.

Also, a bill (H. R. 27144) authorizing the use of the reclamation funds in the construction of a bridge across Willow Creek, in Modoc County, Cal., and for other purposes; to the Committee on Irrigation of Arid Lands.

By Mr. BROWNING: A bill (H. R. 27145) amending section 1 of the act of May 11, 1912, relating to pension of Civil War soldiers and sailors; to the Committee on Invalid Pensions.

By Mr. COX of Indiana: A bill (H. R. 27146) to pay the wives and children a part of the salary of enlisted men in the Army and Navy, etc.; to the Committee on Military Affairs.

Also, a bill (H. R. 27147) to increase the limit of cost for the construction of the Federal building at New Albany, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. MOON of Tennessee: A bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. WATKINS: A bill (H. R. 27149) to carry into effect the provisions of the act of Congress forming the Public Health Service by providing penalties for the pollution of the navigable streams and waters of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. GRAHAM: A bill (H. R. 27150) to authorize the Chicago, Peoria & St. Louis Railway to construct, maintain, and operate a bridge across the Illinois River at or near the city of Havana, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mr. SIMMONS: A bill (H. R. 27151) making it unlawful for any society, order, or association to send or receive through the mails certain matter, and for other purposes; to the Committee on the Post Office and Post Roads.

By Mr. DIES: A bill (H. R. 27152) to authorize the purchase of a site for a public building at Orange, Tex.; to the Committee on Public Buildings and Grounds.

By Mr. RODENBERG: A bill (H. R. 27153) to erect an extension to the post office and Federal court building at East St. Louis, Ill., and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. MORGAN of Louisiana: A bill (H. R. 27154) authorizing a survey of a certain portion of Lake Pontchartrain, in Louisiana; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 27155) authorizing a survey of Pearl River from Bogalusa, La., to Columbia, Miss.; to the Committee on Rivers and Harbors.

By Mr. LAWRENCE: A bill (H. R. 27156) authorizing the Secretary of War to donate to the town of Adams, Mass., one

bronze or brass cannon or fieldpiece; to the Committee on Military Affairs.

By Mr. PRINCE: A bill (H. R. 27157) granting an extension of time to construct a bridge across Rock River at or near Coleta Ferry, in the State of Illinois; to the Committee on Interstate and Foreign Commerce.

By Mr. OLDFIELD: A bill (H. R. 27158) to prevent the sale of boots and shoes as of leather construction when other material is substituted therefor in manufacture, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PETERS (by request): A bill (H. R. 27159) prohibiting officers or directors of a national bank receiving fees, brokerage, commissions, gifts, or other considerations; to the Committee on Banking and Currency.

By Mr. RAINEY: A bill (H. R. 27160) to provide for a site and public building at Havana, Ill.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27161) to provide for a site and public building at Jerseyville, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. GOEKE: Resolution (H. Res. 746) authorizing the printing of 2,000 copies of Senate Document No. 10, Sixty-second Congress; to the Committee on Printing.

By Mr. BARTHOLDT: Joint resolution (H. J. Res. 370) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. HULL: Joint resolution (H. J. Res. 371) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER: A bill (H. R. 27162) for the relief of William Roney; to the Committee on War Claims.

By Mr. ALLEN: A bill (H. R. 27163) granting a pension to Herbert Montgomery; to the Committee on Invalid Pensions.

By Mr. CARTER: A bill (H. R. 27164) for the relief of Mrs. E. B. Ainsworth; to the Committee on Indian Affairs.

By Mr. CRAVENS: A bill (H. R. 27165) granting a pension to Elizabeth Farley; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 27166) granting an increase of pension to Hannah Reeves; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27167) granting an increase of pension to John Keene; to the Committee on Invalid Pensions.

By Mr. DENVER: A bill (H. R. 27168) granting an increase of pension to Stephen G. Lindsey; to the Committee on Invalid Pensions.

By Mr. DODDS: A bill (H. R. 27169) granting a pension to Alice G. Morse; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27170) granting an increase of pension to Julia A. Moffatt; to the Committee on Invalid Pensions.

By Mr. DONOHOE: A bill (H. R. 27171) granting a pension to Anna Jones; to the Committee on Pensions.

By Mr. FOSTER: A bill (H. R. 27172) granting an increase of pension to Washington E. Carothers; to the Committee on Invalid Pensions.

By Mr. FRANCIS: A bill (H. R. 27173) granting a pension to Eloise McKee; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 27174) granting an increase of pension to Gideon Mason; to the Committee on Invalid Pensions.

By Mr. HAMMOND: A bill (H. R. 27175) granting an increase of pension to Delia Case; to the Committee on Invalid Pensions.

By Mr. HULL: A bill (H. R. 27176) granting an increase of pension to Harmon L. Jones; to the Committee on Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 27177) for the relief of the trustees of Bloomfield Lodge, No. 57, Ancient Free and Accepted Masons, of Bloomfield, Ky.; the trustees of the town of Bloomfield, Ky.; and the trustees of the Bloomfield graded common schools of Bloomfield, Ky.; to the Committee on War Claims.

By Mr. KENNEDY: A bill (H. R. 27178) granting an increase of pension to William Thornburg; to the Committee on Invalid Pensions.

By Mr. LANGHAM: A bill (H. R. 27179) granting an increase of pension to Elizabeth Stiles; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27180) granting an increase of pension to Ephraim N. Ritchey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27181) granting an increase of pension to Harvey Haugh; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 27182) granting a pension to Marie Soucie; to the Committee on Invalid Pensions.

By Mr. MARTIN of Colorado: A bill (H. R. 27183) granting a pension to Harry Biggs; to the Committee on Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 27184) granting an increase of pension to Jesse M. Pirkle; to the Committee on Invalid Pensions.

By Mr. MORGAN of Louisiana: A bill (H. R. 27185) granting an increase of pension to Willard W. Mitchell; to the Committee on Pensions.

By Mr. PADGETT: A bill (H. R. 27186) for the relief of S. A. Wilson; to the Committee on War Claims.

By Mr. PALMER: A bill (H. R. 27187) granting an increase of pension to Frank B. Carey; to the Committee on Invalid Pensions.

By Mr. PORTER: A bill (H. R. 27188) granting an increase of pension to Joseph L. Evans; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27189) granting an increase of pension to Benjamin M. Clark; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 27190) granting an increase of pension to Samuel C. Howell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27191) granting an increase of pension to W. H. Nichols; to the Committee on Invalid Pensions.

By Mr. SIMMONS: A bill (H. R. 27192) granting an increase of pension to Otto C. Fredericks; to the Committee on Pensions.

By Mr. SIMS: A bill (H. R. 27193) for the relief of the legal representatives of William Goad, deceased; to the Committee on War Claims.

By Mr. SPEER: A bill (H. R. 27194) granting an increase of pension to Lester W. Bacon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27195) granting an increase of pension to Charles Dalrymple; to the Committee on Invalid Pensions.

By Mr. SWEET: A bill (H. R. 27196) granting an increase of pension to Mary P. Pierce; to the Committee on Invalid Pensions.

By Mr. TALCOTT of New York: A bill (H. R. 27197) granting an increase of pension to Charlotte E. Crowell; to the Committee on Invalid Pensions.

By Mr. TOWNSEND: A bill (H. R. 27198) granting an increase of pension to James McMahon; to the Committee on Invalid Pensions.

By Mr. UNDERWOOD: A bill (H. R. 27199) granting a pension to William T. Melton; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALEXANDER: Papers to accompany bill for relief of William Roney; to the Committee on War Claims.

By Mr. ASHBROOK: Petition of A. Cornett and 7 other merchants of Port Washington, Ohio, asking that Congress increase the power of the Interstate Commerce Commission relative to express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. CURLEY: Resolutions of the Boston City Council, protesting against price of coal and manner of shipment; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: Petitions of Hugh K. Wagner, Cal. M. Shoenberg, and George J. Tansey, of St. Louis, Mo., favoring the purchase of suitable buildings in which the embassies of the United States may conduct the business of this country; to the Committee on Foreign Affairs.

Also, petition of Aaron Waldheim, against the Dillingham immigration bill; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Petitions of sundry citizens of Wisconsin, protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. FITZGERALD: Resolution of the State Camp of New York, Patriotic Order Sons of America, favoring immigration bill passed in Senate last April relative to illiteracy test for immigrants; to the Committee on Immigration and Naturalization.

Also, resolution of the New York Camp of the Patriotic Order Sons of America, favoring legislation relative to immigration; to the Committee on Immigration and Naturalization.

Also, resolutions of the Lake Michigan Sanitary Association, urging an appropriation of $300,000 for the purpose of making an investigation of the extent of the pollution of the lake waters and of the injury inflicted upon the health and the safety of the population of the lake region, $25,000 of which amount is to be appropriated for the investigation of Lake Michigan; to the Committee on Appropriations.

By Mr. FULLER: Petition of the Farmers' Educational and Cooperative Union of America, favoring the Dillingham immigration bill; to the Committee on Immigration and Naturalization.

By Mr. GARRETT: Papers to accompany bill (H. R. 27091) for the relief of the estate of Mrs. Rebecca Dungan, deceased; to the Committee on War Claims.

Also, papers to accompany bill (H. R. 27092) for the relief of William Grant; to the Committee on War Claims.

By Mr. GREGG of Pennsylvania: Petitions of sundry citizens of Irwin, West Newton, Jeannette, Greensburg, and Scottsdale, Pa., favoring the regulation of express rates and express classifications by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. GRIEST: Resolutions of the State Council of Pennsylvania, Order of Independent Americans, and of the Pennsylvania Camp, Patriotic Order Sons of America, urging enactment of legislation in conformity with the provisions of the Dillingham bill (S. 3175); to the Committee on Immigration and Naturalization.

By Mr. HAMMOND: Resolution of the Minnesota State Forestry Board, favoring Federal cooperation in forest-fire prevention; to the Committee on Appropriations.

Also, petitions from citizens of the second congressional district of Minnesota, protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. HOWELL: Petitions of sundry citizens of Utah, favoring the regulation of express rates by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. HANNA: Petition of E. E. Matteson and others, of Coal Harbor; of H. P. Cooper and others, of the federated churches of Casselton; of Martin Romstad and others, of Hatton; of Rev. F. W. Gress and others, of Beach; of Oluf Anne and others, of Reynolds and Buxton; and of C. E. Stinson and O. Hugness and others, all in the State of North Dakota, favoring passage of Kenyon bill (S. 4043); to the Committee on the Judiciary.

By Mr. MOON of Tennessee: Papers to accompany bill for the relief of Jesse M. Pirkle; to the Committee on Invalid Pensions.

Also, papers to accompany bill for the relief of James H. Pack (H. R. 27116); to the Committee on Invalid Pensions.

By Mr. NEELEY: Petition of citizens of Kiowa County, Kans., and of citizens of Ness County, Kans., requesting the passage of Kenyon-Sheppard bill; to the Committee on the Judiciary.

By Mr. REYBURN: Petitions of sundry citizens of Philadelphia, Pa., favoring the Dillingham immigration bill; to the Committee on Immigration and Naturalization.

Also, petition of the Jewish Community of Philadelphia, Pa., remonstrating against further restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. SIMS: Petitions of sundry citizens of Tennessee, favoring the regulation of express rates and express classifications by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. SPARKMAN: Memorial of citizens of Hillsboro County, Fla., in favor of Kenyon bill (S. 4043); to the Committee on the Judiciary.

By Mr. VARE: Petition of Alva B. Johnson, president Baldwin Locomotive Works, and 205 other business firms and individuals of Philadelphia, Pa., in favor of the proposed 1,700-foot dry dock at the Philadelphia Navy Yard; to the Committee on Rivers and Harbors.

Also, resolutions of South Philadelphia Business Men's Association, in favor of the 1,700-foot dry dock at the Philadelphia Navy Yard; to the Committee on Naval Affairs.

SENATE.

FRIDAY, *December 13, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

THOMAS H. PAYNTER, a Senator from the State of Kentucky, appeared in his seat to-day.

The Journal of yesterday's proceedings was read and approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificates of official ascertainment of electors for President and Vice President in the States of Delaware, Georgia, Indiana, Maine, Maryland, Minnesota, New Hampshire, Oklahoma, Oregon, Vermont, and Virginia at the elections held therein on November 5, 1912, and furnished by the governors of these States, which were ordered to be filed.

NOBEL PEACE PRIZE.

The PRESIDENT pro tempore laid before the Senate the following communication from the Secretary of State, which was read and, with the accompanying papers, referred to the Committee on the Library:

DEPARTMENT OF STATE,
Washington, December 11, 1912.

The PRESIDENT PRO TEMPORE OF THE UNITED STATES SENATE.

SIR: At the request of the secretary of the Nobel committee of the Norwegian Parliament, I have the honor to transmit, for the information of the Senate of the United States, a copy of a circular issued by the Nobel committee, furnishing information as to the distribution of the Nobel peace prize for the year 1913. I have the honor to be, sir,

Your obedient servant,
P. C. KNOX.

[SEAL.]

Inclosure as above.

FRENCH SPOLIATION CLAIMS.

The PRESIDENT pro tempore laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting findings of fact and conclusions of law and opinion filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the vessel brig *Philanthropist*, master, Forrest Richardson (H. Doc. No. 1140), and the vessel ship *Asia*, master, Edward Yard (H. Doc. No. 1135), which, with the accompanying papers, were referred to the Committee on Claims and ordered to be printed.

He also laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting the findings of fact and conclusions of law filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the following causes:

Vessel schooner *Lucy*, master, Ellakim Benham (H. Doc. No. 1142);

Vessel brig *Abby*, master, Harding Williams (H. Doc. No. 1138);

Vessel sloop *Orpha*, master, John Annable (H. Doc. No. 1132);

Vessel schooner *Rising States*, master, Daniel Bradford (H. Doc. No. 1145);

Vessel schooner *Two Brothers*, master, Isaac Lockwood (H. Doc. No. 1141);

Vessel schooner *Commerce*, master, Samuel Freeman (H. Doc. No. 1143);

Vessel brig *George*, master, Richard Quirk (H. Doc. No. 1136);

Vessel schooner *Betsey*, master, George Vincent (H. Doc. No. 1147);

Vessel schooner *Dolphin*, master, Nathaniel H. Downe (H. Doc. No. 1148);

Vessel brig *Peggy*, master, Nathaniel Small (H. Doc. No. 1139);

Vessel schooner *Belisarius*, master, William Bartlett (H. Doc. No. 1149);

Vessel schooner *Lion*, master, Peter Frazier (H. Doc. No. 1146);

Vessel schooner *Kitty*, master, Ezra Finney (H. Doc. No. 1144);

Vessel ship *Louisa*, master, John Clarke, jr. (H. Doc. No. 1133);

Vessel dogger *Neptune*, master, Frederick William Bargum (H. Doc. No. 1131);

Vessel ship *Hunter*, master, William Whitlock (H. Doc. No. 1134); and

Vessel brig *Mars*, master, Thomas Buntin (H. Doc. No. 1137).

The foregoing causes were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a resolution adopted by the executive committee of the Woman's Christian Temperance Union of the District of Columbia, requesting the printing of as many copies as may be printed without a concurrent resolution, of Senate Document No. 435 on "The Iowa Injunction and Abatement Law," Sixty-second Congress, second session, with the Kenyon injunction bill (S. 5861) added thereto, which was referred to the Committee on Printing.

Mr. GRONNA presented petitions of sundry citizens of Sterling, Williston, Bathgate, Neche, Steele County, Benson County, Ramsey County, Milnor, Adams, Nelson County, Finley, Ryder, Makoti, Fargo, Traill County, Edgeley, Ellendale, and Sharon, and of the Woman's Christian Temperance Unions of Fargo and Buxton, all in the State of North Dakota, praying for the passage of the so-called Kenyon interstate liquor bill, which were ordered to lie on the table.

Mr. CULLOM presented petitions of the Woman's Christian Temperance Unions of Richland County, Clay County, Monmouth, Palmer Park, Granite City, and Washington, and of sundry citizens of Lebanon, Carrier Mills, Polo, and Monmouth, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented memorials of Local Unions No. 39, of Quincy; No. 335, of Danville, and No. 364, of Rock Island, In-

ternational Union of the United Brewery Workmen, all in the State of Illinois, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. CRAWFORD presented a petition of sundry citizens of Custer County, S. Dak., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of members of the Black Hills Council of the Sioux, North Cheyenne, and Arapahoe Indians of South Dakota, praying that an investigation be made relative to their rights under existing treaties, which was referred to the Committee on Indian Affairs.

Mr. BRISTOW presented petitions of sundry citizens of Athol and Gypsum, in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. McLEAN presented a memorial of Local Union, No. 40, International Union of United Brewery Workmen, of Bridgeport, Conn., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BROWN presented a petition of sundry citizens of Pawnee City, Nebr., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. SHIVELY presented petitions of Edwin L. Meek and 7 other citizens of Greensburg; C. F. Fred, Omer Stoner, R. R. Morgan, and 19 other citizens of McCordsville; and of C. W. Chadwick, R. M. Hogue, Jay Smith, and 155 other citizens of Knox County, all in the State of Indiana, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented memorials of Linton Aerie, No. 578, Fraternal Order of Eagles, of Linton, of the German Alliance Societies, embracing over 150 societies, of the State of Indiana, and of the Central Labor Union of Indianapolis, all in the State of Indiana, remonstrating against the passage of the so-called Kenyon-Sheppard liquor bill, which were ordered to lie on the table.

VOCATIONAL EDUCATION.

Mr. PAGE. Mr. President, I hold in my hand a memorial, and I ask the indulgence of the Senate for just one minute while I explain its scope.

There was held at Philadelphia last week a very large gathering of prominent educators from different sections of the country to consider the question of industrial education. It was held under the auspices of the National Society for the Promotion of Industrial Education. Their gathering lasted for two or three days, and I understand the principal feature of the meeting of the national society was the discussion of Federal aid for industrial education. They adopted resolutions by unanimous consent and have sent them to me for introduction into the Senate as a memorial.

In view of the great prominence of the organization and the fact that the resolutions are very brief, I ask that they be read and referred to the Committee on Agriculture and Forestry.

The PRESIDENT pro tempore. The Secretary will read the resolutions.

The resolutions were read, as follows:

(Resolutions passed by the National Society for the Promotion of Industrial Education at its annual banquet in the city of Philadelphia on the evening of December 5, 1912.)

The National Society for the Promotion of Industrial Education, in annual convention at Philadelphia, facing the great need of widespread vocational education for this country, recognizing that immediate steps must be taken in each of the States to begin this work in an effective way, and believing that Federal aid and encouragement are necessary in order to induce the States to take up the work in such a way that our national prosperity and the welfare of our workers may be continued and assured, do hereby resolve and affirm:

That this need is so pressing and the exigencies of the industrial situation are so great as to demand the passage of Senate bill No. 3, known as the Page bill, by the present Congress.

This measure is fully comprehensive. It provides for the three great elements in the development of the country—the agricultural worker, who is to make the soil yield more abundantly; the industrial worker, who by his greater intelligence and skill is to reduce waste and increase productive efficiency; and the home maker, who is the supreme conserver of American civilization.

The Page bill supplements the Morrill Act, which has done so much for the profession of engineering and for the higher training in agriculture by encouraging through national grants the vocational training of those who toil in the home and in the trades and industries as well as on the farm.

The Page bill extends the liberality of the Government, which has been displayed so wisely in the training of the mature farmer, to the preparation of men and women, boys and girls, to meet the varied needs of productive employments in towns and cities as well as in the rural districts.

Therefore we petition the honorable Senate of the United States to give immediate and favorable consideration to said Senate bill No. 3.

The PRESIDENT pro tempore. The bill having been reported, the resolutions will lie on the table.

FUNERAL EXPENSES OF THE LATE VICE PRESIDENT.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 396, submitted by himself on the 3d instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by direction of the President pro tempore (under S. Res. No. 384, Aug. 17, 1912) in arranging for and attending the funeral of the late Vice President of the United States and President of the Senate, JAMES S. SHERMAN, at Utica, N. Y., on the 2d of November, 1912, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

FUNERAL EXPENSES OF THE LATE SENATOR HEYBURN.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 394, submitted by Mr. BORAH on the 3d instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the Vice President in arranging for and attending the funeral of the late Senator WELDON B. HEYBURN from the State of Idaho, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

FUNERAL EXPENSES OF THE LATE SENATOR RAYNER.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 395, submitted by Mr. SMITH of Maryland on the 3d instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the President pro tempore of the Senate in arranging for and attending the funeral of the late Senator ISIDOR RAYNER from the State of Maryland, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

AMELIA WISSMAN.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 399, submitted by Mr. CULLOM on the 4th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Amelia Wissman, mother of Franklin W. Wissman, late a skilled laborer in the Senate library, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

MARY P. PIERCE.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 397, submitted by Mr. SMITH of Michigan on the 4th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mary P. Pierce, widow of Edwin S. Pierce, late a skilled laborer in the Senate document room, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

MAMIE EISIE.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 398, submitted by himself on the 4th instant, reported it without amendment and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mamie Eisie, widow of Alfred Eisie, late a laborer of the United States Senate, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GALLINGER:

A bill (S. 7743) for the creation of the police and firemen's relief and retirement fund, to provide for the relief and retirement of members of the police and fire departments, to establish a method of procedure for such relief and retirement, and for other purposes (with accompanying papers); to the Committee on the District of Columbia.

By Mr. STEPHENSON:

A bill (S. 7744) to authorize the establishment of additional aids to navigation at Ashland, Wis.; to the Committee on Commerce.

By Mr. WETMORE:

A bill (S. 7745) to authorize the improvement of the light station at Great Salt Pond, R. I.; to the Committee on Commerce.

By Mr. WARREN:

A bill (S. 7746) to provide for agricultural entry of oil lands; to the Committee on Public Lands.

By Mr. LODGE:

A bill (S. 7747) for the relief of Charles Dudley Daly; to the Committee on Military Affairs.

By Mr. MARTINE of New Jersey:

A bill (S. 7748) to authorize the completion of the reestablishment of Passaic Light and Fog-Signal Station, Newark Bay, N. J.; to the Committee on Commerce.

By Mr. LEA:

A bill (S. 7749) granting an increase of pension to John J. Wolfe; to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 7750) to authorize the establishment of a light at or near Dog Island, entrance to St. Croix River, Me.; to the Committee on Commerce.

By Mr. FOSTER:

A bill (S. 7751) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.

By Mr. PAGE (for Mr. DILLINGHAM):

A bill (S. 7752) granting a pension to Henry Gunhouse (with accompanying paper); to the Committee on Pensions.

By Mr. BURTON:

A bill (S. 7753) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.

By Mr. SMOOT:

A bill (S. 7754) for the relief of Joseph Hodges; to the Committee on Public Lands.

A bill (S. 7755) granting an increase of pension to Adolph Lochwitz (with accompanying paper); to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 7756) granting an increase of pension to Michael Hoffman (with accompanying paper); to the Committee on Pensions.

By Mr. PERKINS:

A bill (S. 7757) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes;

A bill (S. 7758) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes;

A bill (S. 7759) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; and

A bill (S. 7760) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.

By Mr. SMITH of Michigan:

A bill (S. 7761) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.

By Mr. NELSON:

A bill (S. 7762) to authorize the establishment of a light station on Navassa Island, in the West Indies;

A bill (S. 7763) to authorize the construction and equipment of a lighthouse tender for general service;

A bill (S. 7764) to authorize the purchase of necessary additional land for light stations and depots of the Lighthouse Service, and for other purposes; and

A bill (S. 7765) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.

By Mr. McLEAN:

A bill (S. 7766) granting an increase of pension to Martha E. P. Blodgett (with accompanying paper); to the Committee on Pensions.

By Mr. SMITH of Maryland:

A bill (S. 7767) for the relief of G. L. Taneyhill; to the Committee on Military Affairs.

A bill (S. 7768) for the relief of the trustees of the Quinn African Methodist Episcopal Church, of Frederick, Md.; to the Committee on Claims.

By Mr. FLETCHER:

A bill (S. 7769) to authorize the establishment of a depot for the Sixth Lighthouse District; to the Committee on Commerce.

By Mr. GALLINGER:

A joint resolution (S. J. Res. 144) authorizing payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess; to the Committee on Appropriations.

DEATH OF THE VICE PRESIDENT.

Mr. ROOT submitted the following resolution (S. Res. 408), which was read, considered by unanimous consent, and unanimously agreed to:

Resolved, That the Senate of the United States acknowledges with grateful appreciation the sympathy of the Senate of Brazil in the loss suffered by the American Government and people in the lamented death of Vice President SHERMAN; and it begs the Senate of Brazil to accept the assurance of its most respectful consideration and friendship.

The Secretary is directed to transmit a copy of this resolution to the first secretary of the Senate of Brazil.

CAUSES OF THE RISE IN PRICES (S. DOC. NO. 980).

Mr. LODGE. I ask to have printed as a Senate document a short article by J. A. Hobson, taken from the Contemporary Review, on the causes of the rise in prices.

The PRESIDENT pro tempore. Without objection, it will be so ordered.

LAND AT HELENA, ARK.

Mr. SMITH of Arizona submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3436) "granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment.

REED SMOOT,
KNUTE NELSON,
MARK A. SMITH,
Managers on the part of the Senate.

JOS. T. ROBINSON,
JAMES M. GRAHAM,
ANDREW J. VOLSTEAD,
Managers on the part of the House.

The report was agreed to.

HOLIDAY RECESS.

Mr. WARREN. I ask to take up House concurrent resolution No. 66, which came over yesterday, relative to the Christmas holiday recess.

The PRESIDENT pro tempore. If there are no concurrent or other resolutions, morning business is closed. The Senator from Wyoming asks unanimous consent to take up for consideration House concurrent resolution No. 66, coming over from the other House, which the Secretary will read.

The Secretary read the concurrent resolution; and there being no objection, it was considered by unanimous consent and agreed to as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, December 19, 1912, they stand adjourned until 12 o'clock m. on Thursday, January 2, 1913.

HISTORY OF SENATE DESKS.

Mr. MARTINE of New Jersey and Mr. CRAWFORD addressed the Chair.

The PRESIDENT pro tempore. The Senator from New Jersey.

Mr. MARTINE of New Jersey. I beg the attention of the Senate for a moment. I find on my desk an amendment submitted by the distinguished Senator from Massachusetts [Mr. LODGE], which reads as follows:

The Assistant Doorkeeper of the Senate is hereby authorized and directed to compile a history of the desks in the Senate Chamber, and the sum of $500, or so much thereof as may be necessary, is hereby appropriated to meet the cost of appropriate engraved plates for each desk.

The PRESIDENT pro tempore. The Chair would ask the Senator from New Jersey if he rises to any resolution or does he desire that a resolution be laid before the Senate?

Mr. LODGE. That is a proposed amendment.

Mr. MARTINE of New Jersey. It is a proposed amendment. I desire simply to speak to the amendment, if it is in order.

The PRESIDENT pro tempore. To what matter does the Senator desire to address himself? The Senate has not taken up any bill.

Mr. LODGE. I rise to a question of order.

The PRESIDENT pro tempore. The Senator from Massachusetts will state it.

Mr. LODGE. This is not a resolution; this is an amendment to the legislative, and so forth, appropriation bill——

Mr. MARTINE of New Jersey. It is an amendment offered by the Senator from Massachusetts.

Mr. LODGE. Which has been referred to the Committee on Appropriations.

Mr. MARTINE of New Jersey. I ask the privilege, then, to speak to the amendment that is proposed.

The PRESIDENT pro tempore. The Senator from New Jersey asks the privilege of addressing the Senate upon the matter which he has indicated. Is there objection? The Chair hears none, and the Senator will proceed.

Mr. MARTINE of New Jersey. Mr. President, in speaking to the amendment that I have read, I beg to say that I have tried to picture in my mind the profound interest future generations will take in reading the marvelous history of this great country, the bloody contest that was waged for liberty, and the sufferings and privations of our fathers. They will read of the splendid bravery of Mad Anthony Wayne; they will be able to fairly hear the clarion voice of Capt. Lawrence crying "Don't give up the ship"; they will also read with breathless interest of the bravery of Molly Pitcher at the Battle of Monmouth; they will also read of the construction of this most beautiful Capitol and the recitals of history that the corner stone was laid by the Father of his Country, the immortal George Washington. With what thrilling emotions they will read of our internecine strife, and they also will read with great satisfaction of the reconciliation and union forever of all the sections of our beloved country.

But, Mr. President, as great as are the subjects I have above cited, how weak and paltry they will seem in comparison to the thrill that will come to the future reader of history, when he comes to the chapter, "History of the desks and cuspidors of the Senate of the United States." [Laughter.] Oh, that we might have but a tracing to-day of the desks of the ancient Greeks and Romans! What stories they would tell of that age and time! How derelict were their historians!

If we could only know whether the mighty Demosthenes stood or sat while delivering those superb orations, whether his desk was made of olive wood, cedar, or stone, how valuable it would be! Oh, that a Loner might have lived in that day! [Laughter.]

But the "History of the desks in the Senate of the United States!" That chapter will tell of heel prints that will reflect the artistic genius of the bootmaker from the North, the South, the East, and the West of our great country. [Laughter.] Then, too, I am informed by the carpenter of the Capitol of a fact that I feel is quite generally unknown, a fact which will show the advance of our civilization; for in the early days of our country, I am told, the artistic genius of the occupant was made apparent through jack-knife designs carved upon his desk. This is now all changed. Their surface to-day reflects the cabinetmakers' art, the polish, the luster of the cultivated period in which we live. Truly, it is great to contemplate.

But seriously, Mr. President, with bread and butter so high in price to the toiler and the breadwinner, I must vote "No" on the amendment proposed by the distinguished and cultivated Senator from Massachusetts.

Mr. LODGE. Mr. President, as I introduced the amendment which has awakened the delightful humor of the Senator from New Jersey [Mr. MARTINE], I think I ought to say a word in explanation.

The proposition of the amendment was to do what some Senators have done of their own accord. The desk directly in front of me has its history. The design is to put a little plate on the different desks giving a list of those who had occupied them. Many of these desks were in use in the old Senate Chamber, which is now occupied by the Supreme Court of the United States. It has seemed desirable to many Senators—in fact the idea did not originate with me, but with our late colleague, Senator Heyburn, of Idaho—that it would be a very interesting thing to have a plate on each desk showing who its occupants had been. That was the harmless purpose of this amendment.

It may not be of the slightest interest to future generations to know that a certain desk was occupied by me or by the Senator from New Jersey, but I think it will be of some interest to future generations if a memorial is kept of the desks that were occupied by men like Webster, Clay, and Calhoun. It is only to preserve those historical memorials, which are always worth preserving if we have a reverence for the history of our country, that this suggestion of a little plate for each desk was brought to me, and I took great pleasure in introducing the amendment upon which the Committee on Appropriations will take action at the proper time.

LINCOLN MEMORIAL.

Mr. CULLOM. I desire to call up the concurrent resolution reported on yesterday by the Senator from New York [Mr. ROOT] from the Committee on the Library, and to ask for its present consideration.

The PRESIDENT pro tempore. The Senator from Illinois asks for the present consideration of a concurrent resolution which will be read by the Secretary.

The concurrent resolution (S. Con. Res. 32) was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the plan, design, and location for a Lincoln Memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, approved.

Mr. CULLOM subsequently said: I ask unanimous consent that the report submitted by the Senator from New York [Mr. ROOT] in connection with the Lincoln Memorial be printed in the RECORD. It is very brief.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The report, submitted by Mr. ROOT on the 12th instant, is as follows:

The Committee on the Library, to which was referred the message of the President of December 5, 1912, transmitting a report of the Lincoln Memorial Commission, have considered and return herewith the message and report, and recommend the adoption of the following resolution:

"*Resolved by the Senate (the House of Representatives concurring)*, That the plan, design, and location for a Lincoln Memorial determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled 'An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln,' approved February 9, 1911, be, and the same are hereby, approved."

The act of February 9, 1911, provided for the erection of a monument in the city of Washington in memory of Abraham Lincoln, and created a commission to determine upon a location and design, subject to the approval of Congress.

The commission now reports that it has determined upon a location on the public land of the United States on the banks of the Potomac; and upon a design, photographs of which are transmitted.

The object of the proposed resolution is to accept this decision.

The present members of the commission are: President TAFT, Senator CULLOM of Illinois, Senator WETMORE of Rhode Island, Senator MARTIN of Virginia, Speaker CLARK, Representative CANNON of Illinois, Representative MCCALL of Massachusetts.

It appears that the commission held 16 meetings and fully considered numerous suggested or possible locations and various designs, and that, as directed by the statutes, it called for and received advice of the Commission of Fine Arts, which, after exhaustive study, agrees with the conclusion now reached.

The report says:

"The commission after a careful examination and discussion of the design presented by Mr. Bacon has adopted it unanimously and recommends that Congress approve the construction of the memorial upon the selected site in Potomac Park in accordance with the plans and designs of Mr. Bacon."

All the members of the commission join in the report.

Acceptance of this decision will bring performance of the long delayed and neglected duty to erect a monument to Abraham Lincoln in this city.

The failure to bring to success any of the repeated attempts to secure such a monument is not altogether creditable.

On the 29th of March, 1869, Congress incorporated a "Lincoln Monument Association," of which the Treasurer of the United States was treasurer. Some money was raised, plans and designs were procured, but the enterprise languished, the chief actors passed away, and an insignificant sum remains in the Treasury of the United States.

On the 28th of June, 1902, Congress created a commission to secure plans and designs for such a monument, but that commission never agreed and never reported.

In the meantime and before the present act was passed many bills for a monument were from time to time introduced in Congress. Some of them died in committee and some were reported and never acted upon.

At last we have a definite conclusion, joined in after great consideration by eminent representatives of both Houses of Congress, by the Executive, and by the trained and experienced advisers whom they were directed by law to consult.

It has long been the policy of our Government to set up in the Capital City suitable memorials to the great men whom the Nation holds in honor.

A memorial to Grant is nearly completed. We already have statues of Sherman, Sheridan, Logan, Thomas, McPherson, McClellan, Hancock, Rawlins, Du Pont, and Farragut of the Civil War period.

Appropriations have passed the Senate for Jefferson and Hamilton memorials. Washington, Marshall, La Fayette, Nathanael Greene, Rochambeau, Von Steuben, Kosciuszko, Pulaski, Paul Jones, Jackson, Scott, and Webster of earlier periods are commemorated.

For Lincoln alone our gratitude and devotion have seemed too weak to overcome small differences of opinion and taste. There must come an end some time to discussion and a yielding of individual preference to the general judgment if there is ever to be action. It is not tolerable that the remaining survivors of the generation that knew Lincoln should pass away and leave no memorial of their reverence and love for him in the city which was the scene of his service and sacrifice.

To reject the conclusions of this commission apparently would prevent the erection of any Lincoln monument whatever.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate resume the consideration of House bill 19115.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. Mr. President, when the Senate discontinued the consideration of this bill yesterday the amendment

offered by the Senator from New York [Mr. O'GORMAN] to incorporate into the bill an item in favor of the estate of Charles Backman to refund certain taxes paid upon distilled spirits was before the Senate, and I had not concluded my remarks in relation to it. I desire to add to what was said yesterday that I have examined two or three cases cited in the brief which was supplied to the Senator from New York by the attorney as justification for the adoption of this amendment, and they have absolutely no bearing upon the question whatever. One case is cited from Supreme Court of the United States Reports 153, on page 457, and is a case which involves nothing more nor less than the right to recover interest where the principal allowed was not at all in dispute. One other case cited from the United States Circuit Court for the Eastern District of Pennsylvania has absolutely nothing to do with the state of facts presented here. It was a case that involved the recovery of interest where the allowance of the principal was not at all in dispute.

As I said yesterday, after the new law was passed the officers of the Government continued for a period to allow a rebate or reduction in taxes upon an estimate made as to the amount of liquors which might have leaked or evaporated while in warehouse. The question of their right to do that was submitted to the Attorney General of the United States, and in an opinion rendered by him he held that under that new law they should collect the entire tax without this reduction. It was after an order of the Treasury Department, based upon this decision of the Attorney General, had gone into effect that tender was made and this claim arose.

The Ridgway case and the group of claims for which appropriation was made in 1886 was after the Court of Claims had decided against Ridgway instead of deciding in his favor. That was in 1886, and no bill was introduced for the relief of this claimant until 1892, nearly a quarter of a century after the claim arose, if it arose at all.

Appended to the papers handed me is a letter from the Acting Secretary of the Treasury, Mr. Curtis, to the Committee on Claims of the House of Representatives, dated August 10, 1912. That was after the report on this bill had been made. This letter from the Secretary of the Treasury in some respects is a rather remarkable communication. It was not called for by the Committee on Claims; it was not written because of any inquiry or doubt that existed in the minds of the members of that committee, but the attorney for this claimant goes to the clerk of the Committee on Claims and suggests to him to write a letter to the Treasury Department asking for certain information. In response to that letter comes this letter, which undertakes to say that the question has been passed upon repeatedly, similar claims allowed, favorable reports made, and so forth. I have no personal knowledge upon the subject, but I doubt if the head of the great Treasury Department, with knowledge, wrote this letter. My own suspicion is that the letter which the attorney requested the clerk of the Committee on Claims to write, drew it out, and that some clerk in the Treasury Department probably wrote it and put it on the desk of the Assistant Secretary and secured his signature to it, because apparently no examination was made there of the real facts in this case; that there was a decision by the Attorney General of the United States that the law of 1868 prevented the rebate of these taxes; that a decision had been rendered by the Court of Claims against Ridgway instead of for him; that no bill for the relief of this claimant had been offered in Congress until practically a quarter of century after the cause of action arose; that the House neglected to put it in the bill and the Senate committee rejected it. I submit that under the statement of fact in the record the claim should be rejected.

I call for a vote on the amendment, and ask that the committee be sustained.

The PRESIDING OFFICER (Mr. LEA in the chair). The Chair is informed by the Secretary that the pending amendment is one offered by the Senator from Massachusetts [Mr. LODGE].

Mr. CRAWFORD. No; I do not so understand it. Is it not the amendment proposed by the Senator from New York [Mr. O'GORMAN] to incorporate in this bill the item in favor of the estate of Backman for the sum of $5,000? The Senator from Massachusetts gave way, saying his amendment would have to lie over until to-day because the amendment which I proposed to it would have to be printed. On that account he asked to have it go over, and in the meantime the Senator from New York, with the knowledge of the Senator from Massachusetts, presented his amendment. I will ask the Senator from New York if that is not his recollection.

Mr. O'GORMAN. That is a correct statement of what transpired yesterday.

Mr. CRAWFORD. The Senator from New York says it is a correct statement.

Mr. O'GORMAN. I may be permitted to say an additional word in reference to this amendment.

Previous to April 14, 1869, a statute was passed preventing the internal-revenue officers from making any allowance for leakage when spirits were taken out of bond. Under the statute of 1868 that rule was to become operative on the 14th of March, 1869.

This claim went before the Court of Claims and was tried, and the court made certain findings, which must now be accepted as the fact. Among these facts it is stated that some few weeks previous to the 14th of April, 1869, the owner of the spirits applied to withdraw them from bond, but owing to the internal-revenue officers not having the necessary revenue stamps there was a delay of a few weeks, which took the actual delivery of the liquors from bond over the date in question, namely, the 14th of April.

As I say, after the 14th of April, 1869, no allowance was to be made for leakage. The entire amount paid by Backman, the owner of the liquor, was about $44,000. Subsequently it was disclosed that if he had been allowed for the leakage he should have had about $5,000 returned to him.

Now, undoubtedly the law of 1868 prevented any allowance for leakage after the 14th of April, 1869, and the only equities, indeed the equity that is presented in this claim, is that the delay which brought the delivery of the liquor in question over the 14th of April, 1869, was caused by the internal-revenue officers being unable to furnish the revenue stamps when they were asked for about two weeks before the 14th of April, 1869.

Now, reference has been made to authorities, and perhaps they may be well disregarded, because this entire controversy is found in the single circumstance which I now present to the Senate—that the delay which brought the delivery of this liquor beyond the 14th of April, 1869, was caused by the internal-revenue officers' inability to furnish the necessary revenue stamps, aggregating $45,000, when the owner of the liquor presented himself before the revenue officers and asked for the stamps.

It is true that no effort was made to secure the refund of this five thousand and odd dollars for many years; perhaps 20 or 25 years; and then from time to time afterwards bills were introduced similar to this proposed amendment. I remember myself 20, surely 18, years ago the committee in the House approved the same, and I am informed that in the last Congess the Committee on Claims approved this claim. That is offered as explanation why there was no appearance before the committee during this Congress. I assume the statement I make is accurate—it was conveyed to me by representatives of the claimant—that at the last Congress the Committee on Claims approved this bill.

But without regard to what has been done in the past, the naked and single question is, considering the fact that the claimant would not have been charged this $5,000 if the internal-revenue officers had had the stamps available when the owner of the liquor presented himself, is it fair or just, in view of those circumstances, that this claimant should have his claim judged by the new rule which became operative on the 14th of April, 1869? That is the sole question with respect to the merits of this claim.

Now, the claimants think it a great injustice that they should be subjected to a rule which was not in force when the owner of the liquor made a demand for the necessary revenue stamps and had the money, $44,000 or $45,000, ready for that purpose. I therefore ask that the bill as reported by the Committee on Claims be amended by the insertion of this provision giving to the executor of the estate in question the sum of $5,335.71.

Mr. CRAWFORD. Mr. President, replying to the Senator from New York, I frankly admit that his statement is correct as to these parties making application to the internal-revenue office for the release of these spirits before April 14, 1869, and that they were not delivered at that time because of the fact that the revenue officers did not have the revenue stamps. I admit that frankly, because, as I recollect, there is a finding from the Court of Claims to that effect. But—and I think it is entirely unintentional, of course—the Senator from New York is in error in another statement which he made, and that was that the law of 1868 did not go into effect until April 14, 1869. The law of 1868 went into effect upon its approval and was the law at the time the internal-revenue officers did not release his liquor because he did not have the revenue stamps.

Mr. O'GORMAN. Mr. President.

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from New York?

Mr. CRAWFORD. I do.

Mr. O'GORMAN. There is no dispute between the Senator from South Dakota and myself with respect to the last statement. Of course the statute of 1868 went into effect immediately upon its enactment, but the procedure of the department under that statute was changed on the 14th of April, 1869, and under the statute and previous to the 14th of April, 1869, internal-revenue officers understood that they had the right to make an allowance for leakage or evaporation when liquors were taken from bond. I believe we are in accord on that proposition.

Mr. CRAWFORD. We are in absolute agreement with the statement that has been made by the Senator.

Mr. O'GORMAN. May I be permitted to make an additional statement at this time?

Mr. CRAWFORD. Certainly.

Mr. O'GORMAN. I assume, in view of the conceded fact, that Congress would not hesitate a moment to allow the relief requested under the facts in the case if there had been a prompt and diligent and early effort to secure the necessary legislation. It is a conceded fact, I believe—the Senator from South Dakota has stated it, and I believe it is accurate—that no attempt was made to secure remedial legislation regarding this claim until 23 or 25 years afterwards. I may say in passing that I have no sympathy with stale claims, and yet there may be a case now and then when a suitable or satisfactory excuse may be offered with respect to the delay.

That brings me to the suggestion that the only reason which would justify this body refusing the desired relief is that the parties slept on their rights during this long period. Of course if you think that is a sufficient reason to withhold the relief you will support the attitude of the chairman of the Claims Committee. If you do not think it a sufficient reason, then, on the merits, eliminating the suggestion as to delay, I can conceive of no good reason why the claimant should not get what he asks for when it is conceded—as it has just been conceded by the chairman of the Committee on Claims—that the circumstance which brought the delivery of this liquor up to the 14th of April, 1869, was the inability of the revenue officers to furnish the necessary revenue stamps when the demand was made upon them two or three weeks before.

Mr. CRAWFORD. Mr. President, upon the merits of the case I can not agree with the Senator from New York, and I desire to say that he has been eminently fair and just in his attitude toward the proper consideration of claims of this character.

But a simple statement shows this: A law had been passed in July, 1868, which made it absolutely obligatory on the part of this claimant to pay the whole $45,000 taxes instead of $40,000 taxes; and that law went into effect in July, 1868. The Treasury Department misconstrued that law or failed up until April, 1869, to enforce it at the time it became the law binding upon internal-revenue officers.

Then the question is whether the Government did not have a right to come back upon these men who had escaped paying what they ought to have paid and compel them to pay the balance. It does not make the transaction lawful because the Treasury Department absolutely failed to enforce a law which was the law at the time and which required the payment of the $45,000 taxes.

Now, when this man went over to get his spirits out of the warehouse, he might have settled, because the officers of the Treasury Department were not enforcing the law, for $5,000 less than he actually did; but how does the fact that, because of the mere circumstances that he could not get his revenue stamps at that time and had to come back on the 14th of April—the Attorney General in the meantime having given his opinion that these men were liable for all these taxes without any reduction and the Treasury Department having in the meantime promulgated this order that after April 14, 1869, they must pay the whole amount—give him any right to ask that this money be taken out of the Treasury of the United States and paid to him when it was just as unlawful to allow for leakage before April 14, 1869, as it was after April 14, 1869? Because of the mere incident that he might have obtained it wrongfully before the 14th of April, if the officers had had the revenue stamps by which to aid him to get it wrongfully does not relieve him, because he would have been violating absolutely the law which went into effect in July, 1868, previous. Now, it seems to me that is absolutely logical.

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from New York?

Mr. CRAWFORD. I do; certainly.

Mr. O'GORMAN. Is it not the fact that allowance was made for leakage and evaporation in every barrel of liquor taken from bond between the date of the enactment of the 1868 statute and the 14th day of April, 1869?

Mr. CRAWFORD. That I do not know, but to a certain extent it was done. However, the Attorney General, when the statute was referred to him, decided that it was done unlawfully and against the statute.

Mr. O'GORMAN. And from that time on there was a change in the procedure observed by the internal-revenue officers?

Mr. CRAWFORD. Yes; that is true; and when this man——

Mr. O'GORMAN. Is it not a fact, may I be permitted to ask the Senator from South Dakota——

Mr. CRAWFORD. Certainly.

Mr. O'GORMAN. Is it not a fact that if two weeks before the 14th of April, 1869, the internal-revenue officers had had the revenue stamps on hand, the tax imposed upon this claimant would have been $5,000 less than he actually paid?

Mr. CRAWFORD. Not lawfully; but he would have succeeded under the practice that had been followed, in violation of this statute, in getting $5,000 that did not belong to him and which belonged to the Government, and to which procedure the Attorney General put a stop by his construction of this statute and which the department enforced on and after April 14 by its order.

Now, there can not be any escape from that. These men were getting a reduction in violation of the statute before that time, a reduction to which they were not entitled; and because the officers were violating this statute and giving these reductions in clear violation of the statute before that time, and this man did not happen to have the good luck to get what did not belong to him before that time, because the officers did not have the revenue stamps, does it make it just for him to get that exemption, when the statute did not give it to him because he did not have the good fortune to find the internal-revenue officers in possession of the revenue stamps, so that they could violate the statute before April 14, 1869?

There is no escape from that, Mr. President, and I ask the Senate to reject the amendment.

The PRESIDING OFFICER. The Secretary will restate the amendment.

The SECRETARY. On page 268, after line 13, insert:

To Dean Sage, executor of the estate of Charles Backman, deceased, the sum of $5,935.71.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from New York. [Putting the question.] The ayes seem to have it.

Mr. CRAWFORD. I demand the yeas and nays. First, I ask for a call of the Senate.

The PRESIDING OFFICER. The absence of a quorum is suggested, and the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Newlands	Smith, S. C.
Bacon	Gronna	O'Gorman	Smoot
Bailey	Jackson	Oliver	Stephenson
Brandegee	Johnston, Ala.	Overman	Stone
Bristow	La Follette	Page	Swanson
Brown	Lea	Penrose	Thornton
Bryan	Lodge	Perkins	Tillman
Burnham	McLean	Perky	Townsend
Clark, Wyo.	Martin, Va.	Pomerene	Warren
Clarke, Ark.	Martine, N. J.	Reed	Weimore
Crane	Massey	Smith, Ariz.	
Crawford	Myers	Smith, Md.	
Fletcher	Nelson	Smith, Mich.	

Mr. PAGE. I regret to be obliged to announce the continued illness of my colleague [Mr. DILLINGHAM]. He is not able to attend the sessions of the Senate.

The PRESIDING OFFICER. Forty-nine Senators have answered to their names. A quorum of the Senate is present.

Mr. CRAWFORD. I will ask the Chair to put the vote again with reference to the adoption of the amendment of the Senator from New York.

The PRESIDING OFFICER. The Secretary will restate the amendment.

Mr. SMOOT. Let the amendment be read.

The SECRETARY. On page 268, after line 13, in the New York items, insert:

To Dean Sage, executor of the estate of Charles Backman, deceased, the sum of $5,935.71.

The PRESIDING OFFICER. The Senator from South Dakota asks for the yeas and nays on agreeing to the amendment.

Mr. CRAWFORD. I ask that the question be put again.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from New York [Mr. O'GORMAN].

The amendment was rejected.

Mr. CRAWFORD. The Senator from Nevada [Mr. NEWLANDS] desired to present an amendment to the bill, and if he is ready to be heard now I should like very much to have it taken up.

Mr. GALLINGER. The Senator from Nevada is not in his seat.

Mr. CRAWFORD. He is in the Chamber.

Mr. GALLINGER. I have a very trifling amendment which I think the Senate will agree to without objection, if the Senator will permit me to offer it.

Mr. CRAWFORD. Very well.

Mr. GALLINGER. I will take the liberty of calling the Senator's attention to the subhead on page 259:

Claims of officers of the United States Army for additional pay, commonly known as "longevity claims," so as to include the period of cadet service in the United States Military Academy at West Point.

I would move to amend that by adding "and enlisted service in the Regular Army." There are two claims——

Mr. CRAWFORD. That is true.

Mr. GALLINGER. I move that amendment on page 259, line 11, to strike out the period and insert the words "and enlisted service in the Regular Army."

Mr. CRAWFORD. There is no objection to that amendment.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 259, in the subheading, after the words "West Point," in line 11, insert "and enlisted service in the Regular Army."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. CRAWFORD. While we are under that head, in behalf of the committee I offer an amendment. It is a longevity claim that came to the committee afterwards and is exactly like the others. I ask that it be adopted.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. On page 266, after line 5, insert the words "North Carolina" and the following:

To Charles J. Allen, of Buncombe County, $2,353.24.

The amendment was agreed to.

Mr. LODGE. If there are no other amendments, Mr. Presidents, I ask that we return to the amendment which I offered yesterday covering the French spoliation claims, which was temporarily laid aside. It has been read. The Senator from South Dakota has offered an amendment to it, which I ask to have read.

Mr. CRAWFORD. In this connection I wish to say that I am a little disappointed in the manner in which my proposed amendment was printed. It does not show where the changes were made, so that one can not tell from an examination of the amendment where it made reductions and what they were, and where it would strike out names what they were. I will ask to have my amendment to the amendment reprinted in that way, because it will be quite necessary, whatever disposition is made now of this matter, to have the record so that it will be easily understood.

Mr. LODGE. I am very glad the Senator is going to do that.

The PRESIDING OFFICER. Without objection the request of the Senator from South Dakota will be complied with and the amendment will be reprinted as suggested.

Mr. LODGE. It will be reprinted as suggested by the Senator from South Dakota so as to show the precise changes made by his amendment in the one I offered.

Mr. CRAWFORD. As introduced a line was drawn through the part stricken out and it had the amounts written out instead of giving them in figures. As presented here it is quite different in its appearance from what I supposed it would be.

Mr. LODGE. I wish to suggest one correction which I think ought to be made at the beginning. It says "strike out all after line 21, page 2." It strikes out merely the descriptive lines on page 2 of the amendment; it strikes out lines 20 and 21, which read:

On the vessel schooner Betty, William Manson, master, namely.

Mr. CRAWFORD. Then lines 20 and 21 should not be stricken out.

Mr. LODGE. They should not be stricken out. That is merely descriptive.

Mr. CRAWFORD. The amendment should begin with line 20.

Mr. LODGE. Precisely.

Mr. CRAWFORD. That was an inadvertence. That is correct. I am glad the Senator has called my attention to it.

Mr. LODGE. If we have printed in that way my amendment with the changes shown as proposed by the amendment of the Senator from South Dakota, then we shall know exactly what we are dealing with. In that case, Mr. President, I shall ask that the amendment go over until to-morrow when we can have a new print.

Mr. CRAWFORD. Mr. President, we have now, with the exception of the French spoliation claims, the amendment the Senator from Alabama [Mr. JOHNSTON] proposed, and one which the Senator from Nevada [Mr. NEWLANDS] has submitted. With those exceptions we have disposed of all the amendments which have been presented. I understand there are a few other amendments, but I do not understand that they involve large amounts.

Mr. PENROSE. I suppose the Senator refers to the amendments I have been talking to him about. I have one or two very simple matters that I should like to submit to the Senator before I even offer them on the floor of the Senate.

Mr. CRAWFORD. Very well, Mr. President. I called attention to that simply to get the situation before the Senate as to the bill. It seems to me that we have reached a point where we might agree upon a time to vote upon it. I am anxious that the bill shall be disposed of by the Senate before the holiday recess. If an agreement could be made as to some day when we might vote upon it before the holiday recess, I should like very much to have that done.

Mr. LODGE. I am ready to agree, as far as I am concerned, being interested in the French spoliation claims amendment. I do not desire to enter into a protracted debate on the French spoliation claims.

Mr. CRAWFORD. I know. The Senator has made that statement to me.

Mr. LODGE. The matter has been discussed here many times, and I think the Senate understands the amendment perfectly. Of course, if the amendment is to be attacked elaborately, it will be necessary for me to make some suitable reply and bring forward the facts; but I should be very glad if we could make an arrangement by which we could escape a protracted debate on that amendment, which might lead to a great deal of debate, as the Senator well knows.

Mr. CRAWFORD. I have not any disposition to thrash all that over again. I will ask unanimous consent that we agree to vote upon the bill and all amendments at the close of the morning business next Thursday.

The PRESIDING OFFICER. The Senator from South Dakota asks unanimous consent that an agreement be reached to vote upon the pending measure and all amendments on next Thursday at the close of the routine morning business. Is there objection?

Mr. SMITH of South Carolina. I should like to ask for information as to the French spoliation claims. Is that the particular feature upon which the bill is asked to go over with the amendment pending?

Mr. LODGE. That amendment is now pending, and it is going over simply to have a print made of the amendment to it offered by the Senator from South Dakota.

Mr. SMITH of South Carolina. So that all amendments pertaining to it will come up to-morrow.

Mr. LODGE. I suppose we shall dispose of the amendment before Thursday.

Mr. CRAWFORD. I hope that we shall dispose of all amendments in the meantime; that we will get them out of the way as fast as we can and not have them all dumped on us at that time. The Senator from Alabama [Mr. JOHNSTON] has an amendment. I hope we may be able to take that up yet this morning. I ask unanimous consent that we vote upon the pending amendment, all amendments offered, and on the bill, without debate, at the close of the routine morning business next Thursday. I do not know what day of the month it is.

Mr. LODGE. The 19th.

Mr. CRAWFORD. The 19th.

Mr. PENROSE. I would suggest to the Senator whether it would not be safer to fix the time at 1 o'clock. The morning business might be prolonged.

Mr. LODGE. I suggest that the debate shall close at 1 o'clock and then the bill and all amendments be voted upon.

Mr. CRAWFORD. Very well, I will put it that way—that all debate shall close and we shall vote on the bill and all amendments at 1 o'clock on Thursday, the 19th.

Mr. BRISTOW. I shall object to that.

Mr. SMITH of South Carolina. Do I understand that all amendments agreed upon to this bill by the Senate will go into conference, and whatever amendments are put into it will have to go to conference for final settlement? After all the amendments are added by the Senate it will go to conference?

Mr. CRAWFORD. There is objection, so that I abandon the request.

The PRESIDING OFFICER. Objection is made.

Mr. CRAWFORD. I would like to have the Senator from Alabama present his amendment.

Mr. JOHNSTON of Alabama. I am not prepared to go on with my amendment this morning. I will take it up to-morrow immediately after the amendment of the Senator from Massachusetts is concluded.

Mr. CRAWFORD. Is the Senator ready to go on with his amendment proposing to incorporate the French spoliation claims?

Mr. LODGE. I am perfectly ready to go on, but the Senator from South Dakota has offered a series of amendments to that amendment, and I should like to see those. I imagine that I shall accept them without further debate.

Mr. CRAWFORD. I have no disposition to take up the time of the Senate in presenting those amendments if it can be avoided. The Senator from Alabama is not ready with his amendment now, I understand.

Mr. JOHNSTON of Alabama. I am not ready now.

Mr. CRAWFORD. Is the Senator from Nevada in the Chamber?

Mr. BRISTOW. Mr. President, I do not understand that the Senator from South Dakota expects to accept the amendment offered by the Senator from Massachusetts [Mr. LODGE] even if the amendments which he has offered to the amendment are accepted.

Mr. CRAWFORD. Oh, no; I simply offer the amendments to the amendment to be acted on by the Senate. Of course, my personal attitude toward the French spoliation claims, except that I object to allowing certain insurance premiums and freight earnings as they are involved, is one of favor, but I am standing with the Committee on Claims. That committee, of which I am a part, considered this whole question and decided that it was inadvisable, on account of the sharp differences there, to incorporate the French spoliation claims in this bill; and, of course, I shall be loyal to the attitude taken by the majority of the committee. That, however, is neither here nor there. I am anxious to have some action taken by the Senate for or against the French spoliation claims amendment, so that we can dispose of it. The Senate will have to determine, of course, in its own way how long we shall discuss it, but I am anxious to get it up, with the idea of having action taken one way or the other.

Mr. LODGE. Mr. President, of course, if the ground is to be taken that we are not to be allowed to vote on the bill if the French spoliation claims are added, we can reach no agreement to vote on the bill.

The pending amendment is that relating to the French spoliation claims, and I ask for the reading of the amendments offered to that amendment by the Senator from South Dakota [Mr. CRAWFORD.]

The PRESIDING OFFICER. The Secretary will read the amendment to the amendment offered by the Senator from South Dakota.

Mr. CRAWFORD. What was the Senator's request?

Mr. LODGE. I want to have the Senator's amendment to my amendment read.

Mr. CRAWFORD. Mr. President, just a moment, please.

Mr. LODGE. If the Senator is going to take that ground——

Mr. CRAWFORD. Would it be possible to arrive at an agreement as to when we shall vote on the French spoliation claims amendment?

Mr. LODGE. Not without an agreement to vote on the bill.

Mr. CRAWFORD. Well, I wanted to find out what was the disposition of the Senator in regard to that.

The SECRETARY. It is proposed to strike out all after line 21, page 2, of said amendment and all of pages 3 to 82, both inclusive, and all of page 83 down to line 20, and insert in lieu thereof the following:

Paxton S. Coles and David Stewart, administrators of John Stricker, $1,230.
On the vessel ship Washington, Aaron Foster, master, namely:
Lucy Franklin Read McDonnell, executrix, etc., of George Pollock, surviving partner of Hugh Pollock & Co., $830.
On the vessel sloop Two Friends, Peter Pond, master, namely:
Charles F. Adams, administrator of Peter C. Brooks, $1,250.
Seth P. Snow, administrator of Crowell Hatch, $700.
George G. Sill, administrator of William Leavenworth, $843.
On the vessel ship Sally Butler, Alexander Chisolm, master, namely:
Archibald Smith, administrator de bonis non of the estate of James Seagrove, deceased, $6,311.41.
On the vessel brig Neptune, Hezekiah Flint, master, namely:
Francis M. Boutwell, administrator of John McLean, deceased, $410.
Arthur D. Hill, administrator of Benjamin Homer, deceased, $880.
Thomas N. Perkins, administrator of John C. Jones, deceased, $880.
On the vessel ketch John, Henry Tibbetts, master, namely:
Hasket Derby, administrator of Elias Hasket Derby, $12,962.92.
On the vessel ship Ceres, Roswell Roath, master, namely:
Donald G. Perkins, administrator of Daniel Dunham, $6,688.61.
Donald G. Perkins, administrator of Alpheus Dunham, $6,003.84.
Edmund D. Roath, administrator of Roswell Roath, $681.77.
Asahel Willet, administrator of Jedediah Willet, $684.77.
Charles Francis Adams, administrator of Peter C. Brooks, $692.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $688.
H. Parr Crandall, administrator of Thomas Dickason, $860.
William P. Perkins, executor, etc., of Thomas Perkins, $430.
On the vessel brig Eliza, Thomas Woodbury, jr., master, namely:
Arthur L. Huntington, administrator of William Orne, $26,742.46.
Bayard Tuckerman, administrator of Walter Channing, surviving partner of Gibbs & Channing, $502.50.
Arthur L. Huntington, administrator of James Dunlap, $375.
William Ropes Trask, administrator of Thomas Amory, $750.
Archibald M. Howe, administrator of Francis Green, $375.
Harriet E. Sebor, administrator of Jacob Sebor, $187.50.
Sarah L. Furman, administratrix of Leffert Lefferts, $375.
Louisa A. Starkweather, administratrix of Richard S. Hallett, $375.
Walter Bowne, administrator of Walter Bowne, 375.
Robert B. Lawrence, administrator of John B. Bowne, $93.75.
Walter S. Church and Walter S. Church, administrators of John Barker Church, $1,500.
Thomas W. Ludlow, administrator of Thomas Ludlow, $375.
Francis B. Shaw, administrator of J. C. Shaw, $187.50.
On the vessel brig General Warren, Issachar Stowell, master, namely:
Charles F. Adams, administrator of Peter C. Brooks, $5,772.45.
Edmond D. Codman, administrator of William Gray, jr., $1,628.
George G. King, administrator of Crowell Hatch, $875.
On the vessel ship Cincinnatus, William Martin, master, namely:
Richard H. Pleasants, administrator of Aquila Brown, jr., $1,625.
William A. Glasgow, jr., administrator of William P. Tebbs, $2,500.20.
On the vessel brig Pilgrim, Priam Pease, master, namely:
Nathaniel H. Stone, administrator of John M. Forbes, surviving partner of the firm of J. M. & R. B. Forbes, $17,552.20.
Russell Bradford, administrator of Joseph Russell, $2,774.44.
On the vessel ship Venus, Henry Dashiell, master, namely:
David Stewart, administrator of William P. Stewart, surviving partner of the firm of David Stewart & Sons, $3,900.
Elizabeth Campbell Murdock, administratrix of Archibald Campbell, $3,900.
Elizabeth H. Penn, administratrix of Thomas Highnotham, $2,600.
Nicholas L. Dashiell, administrator of Henry Dashiell, $1,570.
On the vessel sloop Geneva, Giles Savage, master, namely:
Charles F. Adams, administrator, etc., of Peter C. Brooks, $1,105.
George G. King, administrator, etc., of Crowell Hatch, $680.
Thomas N. Perkins, administrator, etc., of John C. Jones, $395.
Francis M. Boutwell, administrator, etc., of Benjamin Cobb, $125.
Margaret R. Riley, administratrix, etc., of Luther Savage, surviving partner of the firm of Riley, Savage & Co., $3,470.
On the vessel ship Aurora, Stephen Buttman, master, namely:
Charles Francis Adams, administrator of Peter C. Brooks, $1,750.
Frank Dabney, administrator of Samuel W. Pomeroy, $280.
Henry Parkman, administrator of John Duballet, $725.
George G. King, administrator of Crowell Hatch, $420.
William S. Perry, administrator of Nicholas Gilman, $750.
John W. Apthorp, administrator of Caleb Hopkins, $1,120.
Edward I. Browne, administrator of Moses Brown, $260.
Walter Hunnewell, administrator of Arnold Welles, jr., $210.
Nathan Matthews, administrator of Daniel Sargent, $370.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, $250.
Daniel D. Slade, administrator of Daniel D. Rogers, $350.
Walter Hunnewell, administrator of John Welles, $210.
William S. Carter, administrator of William Smith, $350.
William I. Monroe, administrator of John Brazer, $280.
A. H. Loring, administrator of William Boardman, $73.50.
Lawrence Bond, administrator of Nathan Bond, $280.
On the vessel schooner Amelia, Timothy Hall, master, namely:
Julius C. Cable, administrator of William Walter, $760.
On the vessel brig Isabella and Ann, William Duer, master, namely:
Alexander Proudit, administrator of Robert Ralston, $827.37.

Mr. LODGE. The hour of 1.30 having arrived, I make the point of no quorum.

The PRESIDING OFFICER. The Senator from Massachusetts suggests the absence of a quorum. The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Foster	Nelson	Smoot
Bacon	Gallinger	O'Gorman	Stephenson
Brandegee	Gardner	Overman	Stone
Bristow	Hitchcock	Page	Sutherland
Brown	Jackson	Paynter	Swanson
Bryan	Johnston, Ala.	Penrose	Thornton
Chilton	La Follette	Perkins	Tillman
Clapp	Lea	Perky	Townsend
Clark, Wyo.	Lodge	Sanders	Warren
Crane	McLean	Simmons	Wetmore
Culbersen	Martin, Va.	Smith, Ariz.	Works
Cullom	Martine, N. J.	Smith, Ga.	
Curtis	Massey	Smith, Md.	
Fletcher	Myers	Smith, S. C.	

The PRESIDENT pro tempore. On the call of the roll of the Senate 53 Senators have responded to their names. A quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Thursday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. WORTHINGTON. Mr. President, I wish to call attention to an error in the record of yesterday's proceedings on page 505. It is quite obvious, I think, but I would like to have it corrected. It is a remark made by me.

Mr. Manager CLAYTON. On what page?

Mr. WORTHINGTON. On page 505, about one-third of the way down. It reads:

I do not object to that unless it is proposed in some way to connect Judge Archbald with it or to show that he had knowledge of it.

Of course the "not" should not be there. It should read "I do object."

The PRESIDENT pro tempore. The correction will be made.

Mr. Manager CLAYTON. Mr. President, according to the understanding yesterday a legal proposition which was presented yesterday to the Chair was to be argued this morning, but I have conferred with my associate managers and also with counsel for the respondent, and we desire to depart from that arrangement for a brief time in order that we may examine at this time Commissioner Meyer, of the Interstate Commerce Commission, who has some public business that requires him to leave the city, I believe, to-day or to-morrow. I therefore at this time call Commissioner B. H. Meyer as the next witness.

TESTIMONY OF B. H. MEYER.

B. H. Meyer, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager CLAYTON.) You are one of the members of the Interstate Commerce Commission, are you?—A. I am; yes, sir.

Q. Was there a case pending before the Interstate Commerce Commission, of which you are a member, known as the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad in March and April, 1911?—A. There was.

Q. Will you please state, as briefly as you can, what that matter was?—A. The complaint of the Marian Coal Co. alleged unreasonable rates on the carriage of anthracite coal from a point on the Lackawanna near Scranton, known as Taylor, I believe, to tidewater; and the prayer was for a reduction of the existing rate to a figure given in the complaint. I believe it was 95 cents for the larger sizes and lower figures for the smaller sizes.

Q. Up to March and April, 1911, how far had this proceeding progressed before the commission of which you are a member?—A. The greater part of the testimony had been submitted; some statistical exhibits were still to be introduced, and supplementary hearings had, if necessary.

Q. Please state to the Senate if Mr. W. P. Boland called upon you while that matter was before your commission; and if so, where and when.—A. Mr. Boland had appeared as a witness during the course of the hearings, but he called upon me in my office on the morning of January 5, 1912. My confidential clerk, Mr. Cockrell, advised me on that morning that Mr. Boland was in the outer office and desired to see me. I requested Mr. Cockrell to take care of Mr. Boland, if possible, because I soon had to go to a hearing. Mr. Cockrell returned in a few moments and advised me that Mr. Boland had a matter which, according to his view, he could state only to the commissioner.

Q. I wish you would state the whole matter in narrative form. We examined you before the House Judiciary Committee and you know we called for a statement from you in regard to it. Now, I wish you would state what happened between you and Boland, and the whole transaction and what you did after Boland had told you what he desired to tell you.

Mr. WORTHINGTON. Mr. President, I would like to know what is supposed to be the relevancy of the conversations that took place between Mr. W. P. Boland and the commissioner here. There is one object that I can see, and if that is the object, of course, we make no objection. On the cross-examination of W. P. Boland, for the purpose of establishing his bias and his hostility against Judge Archbald, I inquired of him whether he had not made certain statements which he had made. If it is proposed to contradict him about that, I have no objection. If it is for any other purpose, I object to it as being wholly irrelevant here.

Mr. Boland was here. There was a great deal that took place, as I understand, between W. P. Boland and the commissioner and Mr. Cockrell and the Attorney General, and so far as any such thing is proposed to be introduced to contradict or enlighten what has been brought out here by W. P. Boland, we do not object, but for any other purpose we do object.

Mr. Manager CLAYTON. I do not apprehend there will be any serious objection, or any objection at all, to this testimony when I state the purpose.

The counsel for the respondent, in the latter part of his remarks, states one of the reasons why we think this testimony is admissible; and that is for the purpose of showing all that W. P. Boland had to do with the inception of this matter of the inquiry into the conduct of Judge Archbald.

We want to introduce it for a further purpose, Mr. President. As you will recall, several times during the trial the counsel for the respondent has been heard to charge a conspiracy against Mr. W. P. Boland in the matter of inaugurating these proceedings against Judge Archbald. We want to tell all that Mr. Boland did in that matter. We want to show that, while Mr. Boland may have called to the attention of the commissioner certain alleged misconduct on the part of Judge Archbald, the inauguration of this proceeding was actually not had by Mr. Boland. We desire to offer it to rebut the repeated statement of the counsel for the respondent that Boland had inaugurated a conspiracy against the judge, and we want to show how the transaction originated and all about it.

This is the witness to whom Boland made his first complaint, and we want to show, then, the history of it and how it got to the President and how it got to the Attorney General, and how, as the record shows, it finally came to the Judiciary Committee of the House of Representatives. We want to show, in other words, that everything that has been done in this case was done in a proper way, and we think it is due not only to Boland, but is due to the Senate, to know all about it, in view of the oft-repeated charges made by respondent's counsel that this is a conspiracy to ruin Judge Archbald.

Mr. WORTHINGTON. Certainly the manager has not understood me to charge that there was any conspiracy on the part of Mr. Meyer, of the Interstate Commerce Commission.

Mr. Manager CLAYTON. I do not say you have made such a charge, but you charged Mr. Boland with having originated a conspiracy to do it, and we want to show what the facts are and then let the Senate judge whether it was improper and whether or not it is conspiracy, or whether it is a proper proceeding.

The PRESIDENT pro tempore. The Chair would suggest that possibly it might avoid opening the doors to a too wide inquiry if the manager would limit the testimony of the witness, for the present at least, to what the Interstate Commerce Commission, or members of it, did for the purpose of instituting this proceeding.

Mr. Manager CLAYTON. That is all I was going to elicit from this witness.

The PRESIDENT pro tempore. And not testimony as to the conversation between the witness and Boland.

Mr. Manager CLAYTON. Yes, sir. This is a very intelligent witness, as the Chair knows, and he having been examined before, I take it he will confine himself strictly to what he as a member of the commission did and what he and his associates jointly did.

The PRESIDENT pro tempore. The Chair suggests that the manager for the present omit the question as to what was said to him by Mr. Boland; confining it to simply the steps the commissioners saw proper to take upon the information they received.

Mr. Manager CLAYTON. May I then ask him where he got the information?

The PRESIDENT pro tempore. He can state the information was received from such a person without going into it.

Mr. Manager CLAYTON. Very well.

Q. (By Mr. Manager CLAYTON.) You received from W. P. Boland at one time some information that he alleged against Judge Archbald, did you?—A. I did: yes, sir.

Q. When was that?—A. January 5, 1912.

Mr. Manager CLAYTON. Now, the Chair holds that I may not ask the witness what Boland told him?

The PRESIDENT pro tempore. It would be better to have him state what action was taken in consequence of the information received.

Q. (By Mr. Manager CLAYTON.) Then, Mr. Meyer, in your own way, please state in narrative form what you did and what the commissioners did, giving the time, place, and circumstances fully and in as much detail as you can, and at the same time as briefly as possible.—A. Having seen certain photographs which appeared to me to suggest something and to tell something extremely serious, I communicated that feeling to Judge Clements, who was chairman of the commission at that time. At my request Judge Clements met Mr. Boland in my office on the following morning. Both of us together looked at these photographs and again listened to Mr. Boland's explanation. Both of us had to attend sessions of the commission, and I again requested Mr. Cockrell to make note of what Mr. Boland was telling, and in due time he handed me a memorandum embracing those conversations. I thought about possible methods of procedure in this matter, and after some two or three weeks

I told Commissioner Clements that, in my judgment, we should take the entire commission into our confidence, especially as the time for the final hearing was approaching and it was necessary, as the presiding commissioner in that case, to reach a decision.

At the regular monthly conference on February 5, 1912, I circulated among my colleagues a memorandum prepared by Mr. Cockrell. I took it personally to the conference in a sealed envelope and distributed it among them; gave them time to read it, and after they had read it I made a few remarks referring to the photographs which they, of course, could not see, since Mr. Boland was unwilling to leave them there; and I repeated my feeling that the photographs were the serious thing in this situation.

None of us could know to what extent the statements orally made might be found to be erroneous. After some conversation in conference my colleagues advised me to take up this matter directly with the President. As soon as possible after that conference I made an appointment at the White House, and, after some preliminaries, handed to the President this memorandum prepared by Mr. Cockrell. The President, while he was looking it over, asked a few questions, and after he finished reading it asked some more questions, and then in my presence and within my hearing dictated a letter to the Attorney General, directing him to look into the matter and asking him to ascertain what foundation there was for these charges and, if found sufficient, to bring them to the attention of the Judiciary Committee.

In the same letter the President requested the Attorney General to get into touch with me and not to proceed until after he had conferred with me. The President also, in my presence and within my hearing, addressed a letter to me.

On the afternoon of February 13, which is the date on which I took the matter to the President, I had a conference with the Attorney General and related to him much of what I had related to my colleagues in conference. I advised the Attorney General that the final hearing in the Marian case was to be held on February 20, and that in view of the seriousness of this thing I thought it desirable that nothing should be brought out by Mr. Boland on that hearing, as Mr. Boland had suggested he would like to do.

Thereupon I put myself in touch with Mr. Boland's attorney, and without stating what I had in mind, I let him know that I did not desire on that hearing to bring out any of these collateral matters, and that I desired to have the hearing confined strictly to the issues relating to the rate in question. The hearing was held February 20 and was concluded about noon of that day.

I had made an appointment with the Attorney General for Mr. Boland and, if possible, his attorney. On the afternoon of February 20, in accordance with my understanding with the Attorney General, the two Bolands and Mr. Reynolds and Mr. Cockrell proceeded to the Attorney General's office and there I understand certain statements were repeated and a minute made of same.

Some time after that the Attorney General asked me to look over these minutes and to let him know what were my impressions of the statements. This I did, and the Attorney General advised me that Mr. Brown, an investigator in his department, had assumed charge of the case. That in a general way ended my connection with the case.

Mr. Manager CLAYTON. Now, Mr. President, I think that perhaps the Senate will want to know what were the photographs that Mr. Boland showed him, which seem to have attracted the attention of Commissioner Meyer.

The PRESIDENT pro tempore. The Chair does not think that that is a proper matter of investigation now. The sole purpose of the testimony, as the Chair understood, was to show that this proceeding was instituted through the governmental departments and not by a private citizen.

Mr. Manager CLAYTON. Very well. I do not think myself it is very material, Mr. President, but the Chair understands——

The PRESIDENT pro tempore. The opinion of the witness could not be given.

Mr. Manager CLAYTON. No; I do not wish it, but I merely wished to show, and I think I have shown, Mr. President—at least I shall so argue it at the proper time—that Mr. Boland did not inaugurate this proceeding.

The PRESIDENT pro tempore. The Chair understood that to be the object of this testimony exclusively.

Mr. Manager CLAYTON. Very well. The respondent, then, may examine the witness.

Q. (By Mr. WORTHINGTON.) Mr. Commissioner, if I understand your testimony, all the information you had which led you to go to the President with that memorandum came from William P. Boland.—A. Yes, sir. Not orally.

Q. A large part of it was oral, was it not?—A. The matter which was given to me was not oral at all. It rested entirely on photographs, and I believed that the photographs, unless forged, told a very serious story.

Mr. WORTHINGTON. Then I think it is essential that the witness shall identify the photographs, or the managers will perhaps admit them.

The PRESIDENT pro tempore. It is for the counsel for the respondent to identify them.

Mr. WORTHINGTON. I was going to save time merely.

Mr. Manager CLAYTON. We can agree. These photographs have been put in evidence. I did not think it was proper for me to say before, but I can now say that they have been put in evidence. I will let the witness examine them after he leaves the chair, and with the consent of counsel we will make reference to them as a part of the witness's testimony.

Mr. WORTHINGTON. I do not see that that is necessary. We know that those are the photographs. I do not see that it is worth while taking up time about it.

Mr. Manager CLAYTON. But he did not have photographs made of all the letters. He had photographs, as I understand it, of letters to Capt. May and to Mr. Conn, and other letters from Judge Archbald.

Mr. WORTHINGTON. There is no photograph of a letter to Capt. May.

Mr. Manager CLAYTON. Whatever they were—I may be inaccurate—they are here.

Mr. WORTHINGTON. Very well.

Mr. Manager CLAYTON. That is what we had hoped to have done without objection in the beginning. I am glad to say this is a fair, a very fair witness. [To the witness, handing papers:] You will pick out, if you can, from those photographs and say to the Senate which, if any, of those were exhibited to you by Mr. Boland at the time you have referred to. Look at this one [indicating].

The WITNESS. If I might have reference to Mr. Cockrell's memorandum, I could identify each one that was shown to me at that time.

Mr. Manager CLAYTON. Will you give me Mr. Cockrell's memorandum?

Mr. WORTHINGTON. You can read that from the record. We do not care.

Mr. Manager CLAYTON. I think this is the memorandum that you referred to. Examine that and see [handing paper to witness].

The WITNESS (examining). I believe that this was among the photographs which I saw. I would not be positive that they are all the photographs that I saw.

Mr. WORTHINGTON. Give the exhibit number, please.

Mr. Manager CLAYTON. Let us take this paper, which is Exhibit 17, before the House committee.

The SECRETARY. It never has been marked here.

Mr. Manager CLAYTON. This paper, the original of which was Exhibit No. 17 in the proceedings before the House Committee on the Judiciary, is a photograph of the letter from Capt. W. A. May, general manager, dated August 30, 1911, addressed to Mr. E. J. Williams, 625 South Blakely Street, Dunmore, Pa. The original of this letter has been read in evidence, and by agreement with the respondent's counsel, Mr. President, I am authorized to say that the original of this letter having been already printed in the record, we can therefore dispense with the reading of the photographic copy of that letter, but it ought to be identified so that it can be referred to in the argument.

The next is known as Exhibit 19. It was marked, I think, in the House Judiciary Committee proceedings. It is a photographic copy of the agreement in Judge Archbald's handwriting and signed by John M. Robertson and E. J. Williams and witnessed by R. W. Archbald.

Mr. WORTHINGTON. And dated?

Mr. Manager CLAYTON. And dated the 4th day of September, A. D. 1911, and acknowledged before George W. Benedict, notary public, on the 12th day of September, A. D. 1911, the original of which photographic copy, it is agreed, has already been introduced in evidence and is printed in the record.

The next is marked "Exhibit 20" in the Judiciary Committee proceedings of the House of Representatives, I think. At any rate that appears there. It is a photographic copy of the document called an assignment, made the 5th day of September, A. D. 1911, by Edward J. Williams to William P. Boland and a silent party. It is signed by E. J. Williams and witnessed by W. L. Pryor, the original of which, as the counsel for the respondent agree, has been introduced in evidence and is printed in the record.

The other is marked "Exhibit 21" in the proceedings before the Judiciary Committee of the House of Representatives. It is

a letter dated September 20, 1911, addressed to "My Dear Mr. Conn," and is signed by R. W. Archbald. It is agreed by the respondent's counsel that the original of this letter has already been introduced here in evidence, and that this is a photographic copy of that letter which has been printed in the record.

(The papers were handed to the witness.)

Q. (By Mr Manager CLAYTON.) You say that you identify those photographs as being among the photographs that Mr. Boland showed you at the time that you have referred to?—A. Yes, sir.

Q. And upon which your action was based?—A. Yes, sir.

Q. (By Mr. WORTHINGTON.) Can you say whether there were any others?—A. I can not.

Q. Have you the memorandum or a copy of the memorandum which you took to the President?—A. No, sir. I believe this is a copy.

Q. Printed in the record?—A. Marked "Exhibit 28," I think.

Mr. Manager CLAYTON. In the proceedings before the House Judiciary Committee.

Mr. WORTHINGTON. Yes; this is it.

Mr. Manager CLAYTON. It has not been introduced here.

Mr. WORTHINGTON. I propose to have this read in evidence.

Mr. Manager CLAYTON. We have no objection.

Q. (By Mr. WORTHINGTON.) This is a copy of the memorandum which you took to the President?—A. (Examining.) I believe it is.

Mr. WORTHINGTON. It is printed in the record here.

Mr. Manager CLAYTON. I have no objection. On what page is it printed?

Mr. WORTHINGTON. On page 666 of the proceedings before the House Judiciary Committee. I ask that the memorandum be read.

The PRESIDENT pro tempore. The Secretary will read the memorandum.

The Secretary read as follows:

[U. S. S. Exhibit N.]

To the best of my recollection the story related by Mr. Boland is as follows:

Some years ago the Marian Coal Co. (owned by the Boland brothers) had in its employ, as general manager, a man named Peal. The company found that Mr. Peal was unfit to continue in its employ and terminated his services. Some time thereafter, a year or two, as I recall Mr. Boland's statement, Peal filed suit in the Federal court for breach of contract. The attorneys for the coal company filed a demurrer which, if sustained, would mean the termination of the suit.

Before action on the demurrer was had, Mr. Boland was approached by E. J. Williams, representing "A," the judge before whom the case was pending. Williams said that "A" wanted Boland to discount "A's" note for $500. Boland wanted to know why he was asked to discount the note. Williams said that Boland had a suit pending in court, and if he would discount the note he would be saved all of the costs of the suit. Boland did not discount the note, and he understands that it was discounted by a bank at Scranton, the president of which he describes as a politician. The demurrer was not sustained, and the suit is still pending in the Federal court, the costs to Boland to date being about $3,500. (Boland has in his possession an affidavit by Williams, stating the facts as to the note and what Boland would gain by discounting it.)

Boland was aroused at this action prompted by "A," and determined to trap him in some transaction which would prove his unfitness to serve on the bench. He thereupon told Williams that he knew of a culm bank belonging to the Erie road, through direct ownership by the Hillside Coal Co.; that he thought "A" might secure and make a good profit by selling it to some other company. Williams took the matter up with "A," who thought well of it. "A" went to New York and saw Mr. Brownell, vice president of the Erie road, who telephoned Mr. May, superintendent of the Hillside Co., to give Williams an option on the culm bank. "A" returned to Scranton and made out in his own handwriting and signed as witness an option giving Williams the right to purchase the culm bank for the sum of $3,500. "A" called up Mr. Conn, vice president of the Laurel line, and told him that Williams would see him, bearing a letter of introduction from "A," with reference to the sale of the culm bank to the Laurel line. "A" said he was interested in the culm bank and hoped they could arrange a deal. Conn agreed to buy the culm bank for a sum which, after deducting necessary expenses and the original cost of the bank—$3,500—will net about $35,000. This deal will be closed within the next few days, the necessary papers now being prepared.

Under the arrangement Williams made with "A" at the time "A" secured the option on the culm bank the net profits will be divided equally between Boland, who had discovered the culm bank, Williams, who acted as a go-between, and "A," who used his influence as Federal judge to secure the option.

Boland has in his possession a photograph of the option written and witnessed by "A," a photograph of "A's" letter introducing Williams to Conn, and another letter from "A," introducing Williams to Mr. Darling, the Lackawanna attorney at Scranton, and having reference to another culm bank, which Boland says will be secured by "A" very soon, for the purpose of making another sum of money through the use of his influence with the railroads.

Boland expects to secure very shortly the absolute evidence necessary to prove the final consummation of the above-described sale of the culm bank. Boland states that he has told his story and shown his evidence only to Chairman Clements, Commissioner Meyer, and myself.

Extract from letter dated December 6, 1911, to Commissioner Meyer, from J. L. Seager, commerce counsel, Delaware, Lackawanna & Western Railroad Co. * * *

We left Mr. Lyon with the assurance that we would proceed to get together the information requested, so far as it was within our power, and we came back to New York prepared to make good such assurance. Very soon thereafter we were informed from a reliable source that because of the loss of the property of the Marian Coal Co., as the result of litigation with other parties than the Delaware, Lackawanna & Western, and because he was fairly well satisfied with the relief already obtained in the proceedings before the Interstate Commerce Commission against the Delaware, Lackawanna & Western, Mr. Boland did not care to proceed further therein and had dropped the cases. Under these circumstances we felt that the occasion had passed which prompted you to make the request for the information and that you would not desire us to go to the very considerable expense of preparing data, which, so far as appeared, would never be used. For this reason we suspended our preparations to gather the information requested.

Boland says the litigation referred to by Seager is the suit filed by Peal and that Seager has inside advance information of the decision of the court, which has not yet been handed down.

Mr. Manager CLAYTON. Mr. President, in view of the introduction of that in writing, I would like for these photographic copies of letters and documents which have been introduced in evidence this morning to be printed at this point in the RECORD. I do not desire to have them read.

Mr. WORTHINGTON. There is no objection.

The PRESIDENT pro tempore. There is no objection, and it will be so done.

The matter referred to is as follows:

[U. S. S. Exhibit S0.]

(Pennsylvania Coal Co. Hillside Coal & Iron Co. New York, Susquehanna & Western Coal Co. Northwestern Mining & Exchange Co. Blossburg Coal Co. Office of the general manager, Scranton, Pa.)

AUGUST 30, 1911.

Mr. E. J. WILLIAMS,
625 South Blakely Street, Dunmore, Pa.

DEAR SIR: As stated to you to-day verbally, I shall recommend the sale of whatever interest the Hillside Coal & Iron Co. has in what is known as the Katydid culm dump, made by Messrs. Robertson & Law in the operation of the Katydid breaker, for $4,500.

In order that it may not be lost sight of, I will mention that any coal above the size of pea coal will be subject to a royalty to the owners of lot 46, upon the surface of which the bank is located.

It is also understood that the bank will not be conveyed to anyone else without the consent of the H. C. & I. Co., and that if the offer is accepted articles of agreement will be drawn to cover the transaction.

Yours, very truly,

W. A. MAY, *General Manager.*

[U. S. S. Exhibit S1.]

This agreement made and concluded this 4th day of September, A. D. 1911, by and between John M. Robertson, of Moosic, Pa., of the one part, and Edward J. Williams, of Scranton, Pa., of the other part, witnesseth:

Whereas the said party of the first part is the owner of that certain culm dump in the vicinity of Moosic made in the operation by the firm of Robertson & Law of the so-called Katydid mine or colliery. And whereas the said party of the second part is desirous of purchasing the same:

Now this agreement witnesseth that for and in consideration of $1 to him in hand paid, the receipt of which is hereby acknowledged, the said party of the first part hereby grants and conveys unto the said party of the second part, his heirs, executors, administrators, and assigns the right or option to purchase his interest in and to the said culm dump for the price or sum of $3,500, which said option is to be exercised within 60 days from this date, the terms to be cash within 5 days after the exercise of said option. It is understood that this option is intended to cover and include all the interest of the said party of the first part and of the said late firm of Robertson & Law.

In witness whereof the parties hereto have hereunto set their hands and seals this day and year aforesaid.

JOHN M. ROBERTSON. [SEAL.]
E. J. WILLIAMS. [SEAL.]

Witness:
R. W. ARCHBALD.

State of Pennsylvania, county of Lackawanna, ss:

On this 12th day of September, A. D. 1911, personally appeared before me, a notary public in and for said State and county, duly commissioned, residing city of Scranton, county aforesaid, the above-named E. J. Williams, who in due form of law acknowledged the foregoing indenture to be his act and deed and desired the same might be recorded as such.

Witness my hand and official seal the day and year aforesaid.

[SEAL.] GEORGE W. BENEDICT, Jr.
Notary Public.

My commission expires March 10, 1913.

[U. S. S. Exhibit S2.]

Assignment, made this 5th day of September, A. D. 1911, by Edward J. Williams, of the borough of Dunmore, County of Lackawanna and State of Pennsylvania, party of the first part, to William P. Boland and a silent party, both of the city of Scranton, county and State above mentioned, parties of the second part. For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Iron Co., It is agreed by said Edward J. Williams, who is the owner of two options covering a culm bank known as the "Katydid," situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Co., $3,500 and $4,500, respectively, to be divided equally between William P. Boland and silent party mentioned above, their heirs, successors, or assigns, and this shall be their voucher for same.

E. J. WILLIAMS. [SEAL.]

W. L. PRYOR.

[U. S. S. Exhibit 83.]

(R. W. Archbald, Judge, United States Commerce Court, Washington.)

SCRANTON, PA., *September 20, 1911.*

MY DEAR MR. COHN: This will introduce Mr. Edward Williams, who is interested with me in the culm dump about which I spoke to you the other day. We have options on it both from the Hillside Coal Co. and from Mr. Robertson, representing Robertson & Law, these options covering the whole interest in the dump. This dump was produced in the operation of the Katydid colliery by Robertson & Law, and extends to the whole of the dump so produced. I have not seen it myself, but, as I understand it, this dump consists of two dumps a little separate from each other, but all making up one general culm or refuse pile made at that colliery. Mr. Williams will explain further with regard to it, if there is anything which you want to know.

Yours very truly,

R. W. ARCHBALD.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Now, Mr. Commissioner, I find in this memorandum it is stated:

The attorneys for the coal company filed a demurrer which, if sustained, would mean the termination of the suit. Before action on the demurrer was had Mr. Boland was approached by E. J. Williams, representing "A," the judge before whom the case was pending.

Now, did Mr. Boland make that statement to you?—A. That is my confidential clerk's recollection of what Mr. Boland said.

Q. Had you not had a talk with him?—A. Mr. Boland made various statements to me. I do not say now he did or did not say that.

Q. Did you take to the President a memorandum saying that Judge Archbald had overruled a demurrer because the party who filed the demurrer had refused to discount his note, without knowing anything about whether it was true or not?—A. I would take to the President any statement prepared under such circumstances by my confidential clerk; yes, sir.

Q. You would?—A. Yes, sir.

Q. Then you do not know of your own knowledge whether Mr. Boland had made this statement or not?—A. I would not be positive. Mr. Boland made a great many statements.

Q. You stated a little while ago that you relied only on the photographs. Was any photograph submitted to you that tended to support that statement and show that the note was presented to the judge before his action on the demurrer?—A. I intended to say I relied chiefly on the photographs, and in response to your question I say I did not rely only upon oral statements.

Q. After setting forth about his overruling the demurrer after the note had been presented and discount refused, you say that "Boland was aroused at this action, prompted by 'A'"——A. I beg your pardon; I did not say that. The memorandum said that.

Q. You took to the President a memorandum which contained that statement?—A. Yes, sir.

Q. You did not know anything about it except what Mr. Cockrell told you?—A. I have no personal knowledge of that; no, sir.

Q. It also says this—and I should like to know whether you had any information except Mr. Cockrell's report to you as to it—

"A."——

Of course "A" means Judge Archbald.

"A" went to New York and saw Mr. Brownell, vice president of the Erie Road, who telephoned Mr. May, superintendent of the Hillside Co., to give Williams an option on the culm bank.

Did you know anything in advance of that statement except what Mr. Cockrell had put in this memorandum?—A. I can not know telephone messages between Scranton and New York; no, sir.

Q. You took that to the President without knowing anything about it?—A. Yes, sir.

Q. Except Mr. Cockrell said that Mr. Boland said that?—A. I know Mr. Cockrell is a reliable man.

Q. I do not think you have answered my question.—A. Will you kindly repeat it?

Q. The question is whether you took that statement to the President without knowing anything about it except that Mr. Cockrell told you Mr. Boland said that?—A. I presume Mr. Boland told me a good many things. He had a story and I did not hear all Mr. Boland's story. I did not take time to listen to it. It took him a good while and it took more time than I had. A commissioner is a busy man.

Q. Was Mr. Boland in an excited condition about it?—A. I do not think he was.

Q. Did he tell you he came down there for the purpose of having proceedings instituted against Judge Archbald?—A. No, sir.

Q. Did he tell you he came down there for the purpose of giving this information in reference to the suit which he had pending before the commission?—A. I think he said he would like to introduce that as a part of his testimony.

Q. And he made this statement to Mr. Cockrell and to you, and Mr. Cockrell reduced the statement to writing?—A. As told twice by Mr. Boland.

Q. And the purpose, as you understood at the time, was to influence the action of the commission in reference to the suit which was pending before it?—A. I had no such understanding. Mr. Boland never said a word about it, except he expressed the wish to put that in as a part of his testimony.

Q. Was the counsel of the railroad company notified of these proceedings?—A. Of which proceedings?

Q. Of what was going on between you and Mr. Cockrell on the one hand and Mr. Boland on the other, when he was telling you that he wanted it to go into evidence?—A. Thousands, representing petitioners, as well as railway companies, come to the office of the commission in the course of a year.

Q. The question is not answered.—A. I did not know Mr. Boland was coming. I did not know what he wanted. How could I notify anybody, if I desired to do it? There was no occasion to notify anybody, as I saw it.

Q. You listened to him?—A. I listened to him as to any other man who will come to my office, and every man has a right to come there.

Q. After that statement about Mr. Brownell telephoning to Mr. May to give this option, it says:

"A." returned to Scranton and made out in his own handwriting and signed as witness an option giving Williams the right to purchase the culm bank for the sum of $3,500.

You understood that to mean that Judge Archbald wrote out the option which Mr. May was to give?—A. I believe I saw some such document as that.

Q. That is what you understood that memorandum to mean when you took it to the President, that the judge went to Brownell and Brownell telephoned to May to give the option, and the judge wrote out the option and had it signed. Was not that the idea you meant to convey to the President?—A. I meant to convey to the President nothing but what that memorandum contained and what I thought it meant.

Q. This language I will read again:

"A." returned to Scranton and made out in his own handwriting and signed as witness an option giving Williams the right to purchase the culm bank for the sum of $3,500.

Did you think, and did you wish the president to think, that Judge Archbald had written the option which Capt. May was to give on dictation by telephone from Brownell?—A. I paid no special attention to any one special statement, relying primarily on what was in the photographs.

Q. There was nothing in the photographs about the $500 note?—A. I can not say. I would have to examine the photograph.

Q. Was there anything about the demurrer?—A. I suppose not.

Q. Or anything about Mr. Brownell's telephoning to Capt. May?—A. I do not believe that is capable of photographic reproduction.

Q. Now, it says, next:

Under the arrangement Williams made with "A." at the time "A." secured the option on the culm bank the net profits will be divided equally between Boland, who discovered the culm bank, Williams, who acted as a go-between, and "A.," who used his influence as Federal judge to secure the option.

Did Boland say he was entitled to one-third of the proceeds of this transaction?—A. He must have said it, or otherwise Mr. Cockrell would not have written it.

Q. Do you remember whether, when talking to you, he said that?—A. I think he probably did.

Q. Mr. Meyer, I understand that you arranged the meeting with the Attorney General, when Mr. W. P. Boland was to be taken there?—A. Yes, sir; I did.

Q. The suit of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co. was set down for a final hearing on the 20th of February?—A. The 12th.

Q. No; the 20th. You arranged with the Attorney General that after the hearing was over you would take Mr. Boland up to the Attorney General's office?—A. No; I did not arrange to take Mr. Boland to the Attorney General's office, but I arranged for a conference between the Attorney General and Mr. Boland and his attorney. Of this neither Mr. Boland nor his attorney, Mr. H. C. Reynolds, had any knowledge before the meeting.

Q. You had Mr. Cockrell go and attend the meeting?—A. Yes, sir.

Q. At your request?—A. I wanted Mr. Cockrell to show them where the Attorney General was to be found, and he was to be there.

Q. In reference to the last part of this examination, which says:

Boland says the litigation referred to by Seager is the suit filed by Peale, and that Seager has inside advance information of the decision of the court, which has not yet been handed down.

You knew Judge Witmer then had charge of the case and would make the decision, if any were made?—A. I did not know any such thing; no, sir.

Q. You knew that Judge Archbald was then judge of the Commerce Court, did you not?—A. I did.

Q. And there must be some other judge who would be sitting in the middle district of Pennsylvania?—A. I paid no attention to the character of that litigation.

Q. As a matter of fact now, Mr. Meyer, did not Mr. Boland tell you that Judge Witmer was giving information about what he was going to do in the Peale case?—A. He may have said it; I would not be positive; I doubt it.

Q. Did you not omit from the memorandum which you took to the President any reference to Boland's charges against Judge Witmer?—A. I had nothing whatever to do with the preparation of that memorandum and neither included nor omitted anything.

Q. Did you not direct Mr. Cockrell to make the memorandum?—A. Yes, sir.

Q. For the purpose of taking it to the President?—A. Not for the purpose of taking it to the President.

Q. You did take it to the President?—A. Yes, sir.

Q. And you read it?—A. The President read it.

Q. You read it before you took it to the President?—A. Most assuredly, I read it before that, and Judge Clements before that.

Q. You took a memorandum with those charges that a judge was giving advance information to one of the parties to the suit, without knowing who the judge was?—A. Yes, sir.

Q. Is it not a fact that you omitted a reference to the other judge because he was not a judge of the Commerce Court?—A. There was no such purpose as that.

Q. With an important charge against Judge Witmer, the man who was going to give this decision, and it was charged was giving advance information, what reason was there for taking to the President only that part of the story which related to Judge Archbald?—A. Mr. Cockrell listened to Mr. Boland the morning we had the conference. He listened when Mr. Boland told the story to Judge Clements; it was listened to by myself in part and continued with Mr. Cockrell; and based on those two recitations Mr. Cockrell prepared a memorandum as to what he had said, to the best of his recollection. That is all I can say about that memorandum.

Q. Then, if Judge Witmer was intentionally omitted from the memorandum, it was Mr. Cockrell who did it, and not the commissioner?—A. Yes, sir.

Mr. WORTHINGTON. That is all.

Mr. Manager CLAYTON. This witness may be discharged.

The PRESIDENT pro tempore. The witness will retire.

TESTIMONY OF CHRISTOPHER G. BOLAND—CONTINUED.

Mr. Manager FLOYD. Mr. President, we are now ready to further consider the question of the admissibility of the evidence in the testimony of C. G. Boland, and I ask that Judge STERLING be heard on the part of the managers.

Mr. Manager STERLING. Mr. President, it will be remembered that the evidence which we seek is a statement made by George M. Watson to Christopher G. Boland. George M. Watson was the attorney employed by the Bolands and the Marian Coal Co. to settle the suit which that coal company had before the Interstate Commerce Commission and to sell the stock of the Marian Coal Co.

We believe that the testimony is competent on at least two grounds. First, they are statements made by one who was a party with the respondent, Judge Archbald, to do a wrongful thing, and it relates to matters that were done or proposed in furtherance of the doing of the wrongful thing.

A conspiracy is an agreement between two or more persons to do a wrongful thing, and anything that either party to such an agreement does or says in furtherance of the agreement is competent against the other party to the agreement. The two parties to this agreement were Judge Archbald and George M. Watson, and the unlawful thing which they proposed to do was to use the influence of Judge Archbald as a judge of a Federal court to compel or to induce, if you prefer, the Delaware, Lackawanna & Western Railroad Co. to buy this stock and to settle this suit.

We understand, and it is purely an elemental principle of law, that we must prove the conspiracy before we can prove acts and words on the part of one of the coconspirators against the other coconspirators; and the only question that is left is whether we have proven in this case this agreement by Archbald and Watson that Judge Archbald should use his influence as a judge in order to prevail upon this railroad company to engage in this settlement and in the purchase of this stock.

Now, what is the proof? In the first place, immediately after the Bolands employed Watson to represent them in the settlement and in the sale of this stock Watson visits Judge Archbald's office, and some one, Judge Archbald or some other person, while they are there together, telephones Christy G. Boland to come to Judge Archbald's office, and he goes there.

It is stated there in the presence of those three what was to be done, and Christopher G. Boland says that Judge Archbald said that he would help—that was the language of Mr. Boland, that he would help—get this settlement out of the Delaware, Lackawanna & Western Railroad Co. and help to sell them the stock of the Marian Coal Co.

We believe that when we have gone that far we have proven that Judge Archbald is a party to the agreement to do the wrongful thing of using his influence as a judge, it being remembered that at that time the Delaware, Lackawanna & Western Railroad Co. had two lawsuits pending in the court over which Judge Archbald presided; we believe when we have gone that far and proven the express agreement of Judge Archbald to help in that matter we have proven a conspiracy.

But that is not all the evidence in the case. If Judge Archbald had never used that language in the presence of Christopher Boland, we have proven here that immediately after that conference between those three men Judge Archbald meets Loomis, one of the high officials of this railroad company, and suggests this matter of a purchase of the stock and of the settlement of the Marian Coal Co.'s suit in the Commerce Court; then, a few days after that, he telephones to Mr. Phillips, another high official, superintendent of the coal properties of this railroad company, to come to his house, and he talks to him about the proposition of a settlement and a sale; then, when he was in New York he goes to the offices of this railroad company, urging that they settle this suit and purchase this stock; then he writes at least three letters to Mr. Loomis, urging all the time, using all his influence, to carry out this agreement which had been entered into between him and Watson. Even after it was supposed that the matter had fallen through, he still writes to Loomis and tells him that he understands that the settlement has failed; that he regrets it very much, and that if he thought he could do any good he would offer his personal services to carry out that end. He then suggests a personal conference between Truesdale, the president of the company, and Mr. Loomis and Mr. Phillips and Mr. Watson, and says a personal conference very often results in good. He did not only agree, and we have not only proven that he did agree, to help to do this wrongful thing, but we have proven that he carried out the agreement and did all in his power to carry it out.

So in that phase of the case we submit, Mr. President, that we have not only proven a conspiracy, but we have proven that Judge Archbald did his part of the undertaking. For that reason any statement made by his coconspirators in furtherance of this agreement is competent against Judge Archbald in this case.

I shall not weary the Senate with precedents, but I do want to call attention to one precedent which Mr. Manager FLOYD referred to the other day, and which I think is exactly in point in this case. In the impeachment proceedings against President Johnson, one of the charges in the articles was that Andrew Johnson—

did unlawfully conspire with one Lorenzo Thomas with intent unlawfully to seize, take, and possess the property of the United States in the Department of War, in the custody and charge of Edwin M. Stanton.

It was plain there that President Johnson had called Gen. Thomas to his office; had made certain statements to Gen. Thomas; that Gen. Thomas had consented to do what the President had suggested, and that that constituted a conspiracy between President Johnson and Gen. Thomas. Then Gen. Thomas went out and stated to a third person some of the things that President Johnson had said to him. That third person was called as a witness in the trial of the case before the Senate, and the Senate held that he could testify as to what Gen. Thomas told him he had heard President Johnson say. That is exactly the same kind of case as this.

Here is George M. Watson. We charge that he and Archbald made this agreement. Then Watson goes out and tells Christy G. Boland about what they had done and about what they were doing in furtherance of this proposition to get this settlement. It was right along the line of doing the very unlawful thing that we charge in this count, that it was the use of the judge's official power in order to induce litigants in his court to come to their terms. It will not be disputed by these gentlemen, I am sure, that it is a wrongful thing for a judge to use his influence to induce litigants in his court to do anything, whether it be for a consideration to himself or to a friend.

Just one further thing on that point. During the discussion——

The PRESIDENT pro tempore. Will the manager permit the Chair to make an inquiry? The precedent cited by him is where the article of impeachment charged a conspiracy, is it not?

Mr. Manager STERLING. Yes, sir; it charged a conspiracy in the article.

During the discussion the other day it was suggested, I think, or perhaps was in the mind of the Chair, at least, that the evidence was not sufficient to prove that Judge Archbald was to receive any consideration for his part in carrying out this agreement. It is true that in the article to which this evidence relates it is charged that for a consideration Judge Archbald entered into this agreement and agreed to use his influence to get this settlement.

We submit that the words "for a consideration" are not essential to the offense. Those words constitute no necessary element in the offense which we charge. It makes no difference, so far as the completion of the offense is concerned, whether or not Judge Archbald was to participate in the fees or in any moneys derived from this settlement. He knew that Watson was to get $5,000; and if, in order to assist a friend in earning a fee, he would undertake to use his power as a judge to get litigants in his court to come to an agreement or to a settlement, he is guilty of the offense; he is guilty of the gravamen of the charge that is contained in this count. We submit that, although it is a very compelling inference—and we say that it is an unavoidable inference—from all the testimony in this case that Judge Archbald was to share in this money, it is immaterial in this question, because anything he did in the way of using his official power in aiding Watson to earn a fee was a wrongful act. If the Chair will read it again, it will be found that that is the charge in the count, and that the words "for a consideration" are not necessary or essential to the completion of the charge.

Just a word on the other proposition. We believe it is res gestæ.

The PRESIDENT pro tempore. The manager did not understand the Chair as ruling on that ground that the evidence related in any manner to the question ultimately to be decided by the Senate as to whether or not the respondent had been guilty of improper conduct?

Mr. Manager STERLING. No.

The PRESIDENT pro tempore. The Chair did not rule on anything of that kind. The Chair ruled on the question as to the admissibility of this evidence, based, as it is, upon the allegation that Judge Archbald was Mr. Watson's partner.

Mr. Manager STERLING. The court understands that our position has been that it is competent on the ground that I have just stated. I think Mr. Manager FLOYD made that statement the other day. The reason I discussed this proposition with reference to whether or not Judge Archbald was to share in the fee or any part of the money derived from the settlement was because I inferred from what the President said the other day, if I understood him properly, that it had not been sufficiently shown that Judge Archbald was to share in the proceeds of the settlement. I may have been mistaken about that, but in any event——

The PRESIDENT pro tempore. The Chair will repeat his ruling, if the manager so desires. The ruling of the Chair was that there had not been sufficient evidence produced to justify the conclusion that Judge Archbald was the partner of Mr. Watson to such an extent as to permit the sayings of Mr. Watson to be introduced in evidence against him as a partner. The Chair did not go beyond that.

Mr. Manager STERLING. I will say, then, in regard to that, that we trust that now, since the evidence is in—and I believe I have stated it correctly—the Chair will find that we have offered sufficient evidence to prove that there was a conspiracy; that Judge Archbald was a party to it; and the statements that we propose to prove are the statements of one of the coconspirators showing what was done or what was proposed to be done in furtherance of that agreement.

It certainly can not be disputed under this evidence that Watson and Archbald were partners—partners, it is true, to do an unlawful thing, which constitutes the conspiracy itself. They said they would help each other in it; and they did help each other in the proposition. So we submit that they were partners in that respect.

Now, just another word on the question as to whether or not this evidence is res gestæ. It will be understood that Christy Boland is the man who employed George M. Watson for the Marian Coal Co., and this conversation which we are seeking to get from Christy Boland is a conversation containing statements by Watson to Boland with reference to what he had done and what he had proposed to the officers of this railroad company toward carrying out his duty to his clients, and at the same time toward carrying out the agreement which he made with Archbald to use the judge's official influence in order to arrive at a settlement.

It seems to me, Watson being the attorney of Mr. Boland, that what Watson said to Boland about what was being done with reference to the contract of hiring, with reference to the employment, and with reference to what he was doing toward performing his duty in conjunction with Judge Archbald, becomes a part of the res gestæ in this case, and that we are entitled to show now, as a part of the res gestæ, what Watson said to Boland along that line.

I think that is all I have to say, Mr. President, in the matter. It seems to me that it is very clear under the law of conspiracy, and very clear that the Senate in the case to which I have referred, where the question involved was very similar to the one now being argued, held that it was competent under the law of conspiracy; and we submit that we are entitled to have Mr Boland testify to that conversation.

Mr. SIMPSON. Mr. President, the learned manager has only referred to one of the legal principles which are applicable to this case, though he has very fairly referred to that one. He has said to you that there must be, in the first instance, proof of an unlawful conspiracy before there can be admitted the testimony by outside parties of the admissions or declarations or statements of one of the coconspirators as against the other. The difficulty under which the learned manager labors in that statement is that he seems to assume that upon proof of a combination therefore there is proof of a conspiracy. But a conspiracy and a combination are two very distinct and different things. There is embodied in every conspiracy a combination, but there is not embodied in every combination a conspiracy. A conspiracy is a combination to do an unlawful thing, and the very gravamen of the charge in the Johnson impeachment case was that Gen. Thomas, knowing of President Johnson's intention to oust Stanton from his office in violation of the tenure of office act, joined with Johnson in accomplishing that purpose; and that therefore the statements which were made by Thomas were admissible as against Johnson in the impeachment proceedings. Nobody would question that ruling if the matter were parallel here at all, but there is not the slightest parallel. Let us see.

The manager says that there is an unlawful thing here. What constitutes the unlawful thing? That is the primary question which you and the Senate have to meet. If Judge Archbald or you or I or anybody else agreed to assist a friend, is that unlawful? Can there be anything said to be unlawful in relation to that? If such a thing as that is unlawful, sir, then the whole basis of our Christianity is unlawful, because we are commanded to assist our fellow men whenever and wherever we can. There must be back of it something more than mere assistance, and there is where the learned manager fails in his argument. He has produced here nothing whatsoever showing anything further than assistance pure and simple; assistance which Mr. Boland, his witness, himself says was an assistance as a friend to him, Boland, and as a friend to Watson, who was Boland's counsel.

When the managers have proven something beyond that friendly assistance, they may get to the second step in this case, but their failure to show anything beyond that leaves the case outside the rule to which the manager has adverted, namely, that there must be proof of a conspiracy in the first instance before declarations can be admitted at all.

There is a second step, if he passes that one, sir. If it were admitted or proven here that there was a conspiracy, admissions or declarations of one conspirator could not be adduced as against the other unless they were made in furtherance of the conspiracy. The manager stated that himself but has misunderstood its application.

Let us see, sir, whether or not the question which you are considering is or can reasonably be held to be an inquiry in relation to something done in furtherance of a conspiracy. Remember, sir, as I shall read to you in a moment from the authorities, the test is not merely that the conspiracy is a thing in existence and has not entirely culminated. That is only one essential. There must not only be that, but that which is done must also be done in furtherance of the conspiracy. Now, let me read the question before I read the authorities. This is the question:

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's interest or participation in this settlement and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement.

Now, as Mr. Boland has said that he had not himself any talk with Judge Archbald in regard to it, the limit to which that question can possibly go would be that Mr. Watson had said to Mr. Boland that at some time in the past there had been an agreement entered into between Watson and Archbald that

Archbald was to share in the fee to be received or to obtain some "consideration for his services in attempting to make that settlement," if I may use the language of the question. That is a statement which necessarily relates to a past occurrence; and a statement of a past occurrence can not be a statement in furtherance of a conspiracy and can not be admissible, even if there were evidence of a conspiracy, which there is not.

I read, first—the books are here, but for convenience I read from the brief which I have prepared—from a decision of the Supreme Court of the United States in Logan against the United States, One hundred and forty-fourth United States, pages 263 to 309. The exact quotation is on page 309.

Doubtless in all cases of conspiracy the action of one conspirator in the prosecution of the enterprise is considered the act of all and is evidence against all. But only those acts and declarations are admissible under this rule which are done and made while the conspiracy is pending and in furtherance of its object.

Not "or in furtherance of its object," but "and in furtherance of its object." There must coexist two things, a pending conspiracy and a statement or declaration or act in furtherance of the object of the conspiracy while it is pending.

In Brown v. The United States (150 U. S., 98), after quoting the clause which I have just read from the Logan case, and stating the facts, which I will not weary you or the Senate with, the Supreme Court proceeds:

If a conspiracy was sought to be established affecting the plaintiff in error, it would have to be by testimony introduced in the regular way so as to give the accused the opportunity to cross-examine the witness or witnesses. It could not be established by acts or statements of others directly admitting such a conspiracy, or by any statement of theirs from which it might be inferred.

In Greenleaf on Evidence—reading from the paragraph which Mr. Manager FLOYD quoted the other day when this question was raised—I read this:

Declarations of conspirators: The same principles apply to the acts and declarations of one of a company of conspirators in regard to the common design as affecting his fellows. Here a foundation must first be laid by proof sufficient in the opinion of the judge to establish prima facie the fact of conspiracy between the parties, or proper to be laid before the jury as tending to establish such fact. The connection of the individuals in the unlawful enterprise being thus shown—

That is by original proof—

every act and declaration of each member of the Confederacy, in pursuance of the original concerted plan and with reference to the common object, is, in contemplation of law, the act and declaration of them all, and is therefore original evidence against each of them. (Greenleaf on Evidence, 14th Ed., Vol. 1, pp. 149, 150.)

But you will perceive, sir, it is only the things done in furtherance of the conspiracy. First, you must show the conspiracy, then you may admit the declarations made in furtherance of it, but not declarations which are made or statements of things which have preceded the time of the statement.

Now, I read from Taylor on Evidence, because in that and one other authority it is more clearly put than in any I have yet been able to find. In section 593 he says:

Care, however, must be taken to distinguish between declarations, which are either acts in themselves purporting to advance the object of the criminal enterprise, or which accompany and explain such acts, and those statements, whether written or oral, which, although made during the continuance of the plot, are, in fact, a mere narrative of the measures that have already been taken. These last statements are, as before explained, inadmissible. The distinction here referred to may be well illustrated by the case of Hardy, who was prosecuted for high treason. There a letter written by a coconspirator to a private friend, unconnected with the plot, which gave an account of the proceedings of a society to which the writer and the defendant were proved to have belonged and which inclosed several seditious songs stated to have been composed by the writer and sung by him at a meeting of the society, was rejected on the ground that it was not a transaction in support of a conspiracy, but merely a relation of the part which the writer had taken in the plot, and, as such, only admissible against himself.

In the case of State v. Gilmore—and I am reading from 35, Lawyers' Reports, Annotated—at page 1088 this is said:

To render such evidence admissible two conditions are absolutely essential: (1) That the acts or declarations sought to be shown were done or made pending the conspiracy, and (2) they were in promotion of its object or design. * * *

The theory of the State seems to have been that the alleged conspiracy might be shown by declarations of the deceased alone. No authority so holding has been cited, and none can be found. Certainly nothing said in State v. Crawford warrants such a conclusion. There a letter written by the victim of abortion to her paramour, after the latter was shown to have entered into a conspiracy with the defendant therein, was held to be admissible in evidence as tending to establish her connection with the conspiracy; that is, that she was either joining in the enterprise of the other two or entering into an unlawful arrangement with the one addressed. But no one will pretend that this letter alone implicated the defendant therein. Nor is there any ground for saying that the declarations of deceased alone tended to connect this defendant with any conspiracy. As to him, these were in the nature of hearsay, until there was prima facie proof of some unlawful arrangement or agreement between them, in which event they were a part of the res gestæ.

Now, sir, I do not think it worth while to undertake to answer Mr. Manager STERLING's argument that there is some particular weight to be given to the fact that Mr. Watson was attorney for Boland. I care not who he was attorney for. The question which here is raised is, whether or not they were partners or conspirators in an unlawful act, which two were the Judge and Watson.

In closing the argument, sir, I only want to bring home to you an illustration which seems to me will fit exactly everything that appears in this case.

Let us suppose that an indictment is found against a Member of Congress, charging him with misdemeanor in office, in that he has undertaken, for a consideration, to obtain the appointment of some other party to a public position, and upon the trial this proof is adduced: It is shown that the defendant, the Member of Congress, together with the applicant for the office, went to other Members of Congress and to friends of the President, and to the President himself, and urged upon the President that he should appoint this particular man to office, and in that state of the case there was a proffer of proof by a third party, that the applicant had said to him that the consideration for which the Member of Congress was using his influence in the way stated was that he, the Member of Congress, should receive a portion of the salary that the applicant would get if he were appointed to the office.

Now, does anyone suppose for a moment that that evidence would be admitted? And yet that, I submit, is an exactly parallel case to the one that is here. You have two people in each case acting together for a common purpose—to wit, in the one case to obtain an appointment to office; in the other, to settle some pending controversy. You have in the one case a proposition to prove by a third party the statement of one of the persons as to the consideration for which it is said the defendant in the particular case was acting, just exactly as the question which is here read.

The fault in each case—the fault in the offer of proof in the supposed case, and the fault in the offer of proof in this case, entirely outside of the question to which I have adverted somewhat at length, on the subject of the fact that it was something said in the past—the fault in each case rests on the assumption that the endeavor to help a man is a wrong, whether the helping of a man is by a Member of Congress who in the future may obtain favors from the President or from the applicant, or from a judge on the bench who may obtain in the future favors from somebody else, makes no difference whatsoever. There must be shown first that there was existing that which was wrongful; not the mere intention to help, but that that intention to help was wrongful in and of itself because of something connected with it, before there can be admitted the declarations of one party against the other.

Mr. WORTHINGTON. Mr. President, I simply wish to call attention to the precedent cited by Mr. Manager STERLING and which Mr. Simpson had no opportunity to look at. Mr. Manager STERLING did not give us the page or state what the question was, but while Mr. Simpson was speaking I asked Mr. STERLING for it, and he referred to Third Hinds' Precedents, at the top of page 561, where the ruling was made on which he relies, and that is:

At the end of the debate the Chief Justice said:

"The Chief Justice is of opinion that no sufficient foundation has been laid for the introduction of this testimony. He will submit the question to the Senate with great pleasure, if any Senator desires it. The question is ruled to be inadmissible."

Mr. Jacob M. Howard, of Michigan, a Senator, asked that the question be taken by the Senate; and being put, "Shall the question proposed by Mr. Butler be put to the witness?" the yeas were 28 and the nays 22.

So the question was put.

Hinds simply gives the outlines of these things, and it is impossible from what he says of it to know just what the question was. But in the official report of the Johnson trial, in which there is a full statement of everything that took place—by the official reporters, F. and J. Rives and George A. Bailey—published just after the trial, I find the exact language.

Mr. Manager STERLING. Mr. President, may I interrupt the counsel?

Mr. WORTHINGTON. Certainly.

Mr. Manager STERLING. You will find, if you read Hinds, that the question called for statements which President Johnson had made to Thomas and which Thomas had made to this witness—statements about things which had already occurred—and it answers everything that the gentleman said on that side of the case.

Mr. SIMPSON. I would sooner take the Supreme Court of the United States on the question.

Mr. Manager STERLING. The Supreme Court of the United States has not determined differently, either.

Mr. WORTHINGTON. Either. Mr. President, Mr. Manager STERLING is in error about what was decided or he has pointed out to me the wrong decision.

I am going to call attention to what was the question that was decided in the language that I have read. I presume the Members of the Senate remember at least the outlines of the case against President Johnson, so far as it relates to what was involved in this question. The President had undertaken to remove Mr. Stanton from the office of Secretary of War and to appoint Lorenzo Thomas, the Adjutant General of the Army, as his successor, in violation of what was called the tenure-of-office act, which made it a criminal offense for the President to do that; and the President being impeached, charged with having entered into a conspiracy with Gen. Lorenzo Thomas to violate the tenure-of-office act, Gen. Thomas is on the stand and is being questioned, and this is the question:

Shortly before this conversation about which you have testified, and after the President restored Maj. Gen. Thomas to the office of Adjutant General, if you know the fact that he was so restored, were you present in the War Department and did you hear Thomas make any statements to the officers and clerks, or either of them, belonging to the War Office as to the rules and orders of Mr. Stanton?

Mr. Manager STERLING. After reading that, does the counsel for the respondent insist that Gen. Thomas was the witness to whom the question was put? It was a third party.

Mr. WORTHINGTON. No; Mr. Burleigh, a delegate, was the witness. Yes; I made a mistake about that. But it was as to the declarations of Gen. Thomas. Gen. Thomas was a witness, and these questions were raised on his examination, too. But this question was whether the witness was present and heard Gen. Thomas make these statements. What statement? Statements as to what President Johnson had said? Nothing of the kind.

Shortly before this conversation about which you have testified, and after the President restored Maj. Gen. Thomas to the office of Adjutant General, if you know the fact that he was so restored, were you present in the War Department and did you hear Thomas make any statements to the officers and clerks, or either of them, belonging to the War Office as to the rules and orders of Mr. Stanton or of the office which he—Thomas—would revoke, relax, or rescind in favor of such officers and employees when he had control of the affairs therein? If so, state when, as near as you can, it was such conversation occurred, and state all he said as nearly as you can.

The question asked the witness there was whether he heard Gen. Thomas say what he was going to do when he got in control of the War Department and not a word as to what President Johnson had said.

In the report I have here, which I was about to read, there is given what Hinds in his work does not give. It gives not only the question and the discussion and the ruling and the overruling of the Chief Justice by the Senate but the testimony given in reply to the question, and here it is:

The general remarked to me that he had made an arrangement to have all the heads or officers in charge of the different departments of the office come in with their clerks that morning, and he wanted to address them. He stated that the rules which had been adopted for the government of the clerks by his predecessor were of a very arbitrary character, and he proposed to relax them.

And so on about that conversation, about what he was going to do when he got hold of the War Department. Not one word about what President Johnson had said to him. As a matter of fact, in that trial the turning point of the rules of evidence in that case was the great question of whether the President should be allowed to prove the conversation he had had with members of his Cabinet before he undertook to remove Mr. Stanton, and after one of the most able and lengthy discussions ever heard in a court on a question of evidence it was ruled out, and the Senate held the evidence could not be introduced.

So the only precedent that is brought here in support of the contention of Mr. Manager STERLING is one which has not anything to do with the case.

The PRESIDENT pro tempore. The Chair has ruled on this question, and the managers have asked that it be again considered. The present occupant of the Chair is but the mouthpiece of the Senate, and the matter having again been brought to the attention of the Senate for consideration, it being deemed on each side a vital one, the Chair thinks under the circumstances it should be submitted to the Senate. Having once ruled on it, the Chair does not think it would be proper under the circumstances to rule on it again.

Mr. SMOOT. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum. The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Crane	Gronna	McLean
Bradegee	Crawford	Hitchcock	Martin, Va.
Bryan	Culberson	Jackson	Martine, N. J.
Burnham	Cullom	Johnston, Ala.	Myers
Burton	Curtis	La Follette	Nelson
Chilton	Fletcher	Lea	O'Gorman
Clapp	Foster	Lodge	Oliver
Clark, Wyo.	Gallinger	McCumber	Overman
Page	Reed	Smoot	Townsend
Payntor	Root	Stone	Warren
Penrose	Simmons	Sutherland	Wetmore
Perkins	Smith, Ga.	Swanson	Williams
Perky	Smith, Md.	Thornton	Works
Pomerene	Smith, Mich.	Tillman	

Mr. CULBERSON. I desire to state, for the day, that the Senator from Oregon [Mr. CHAMBERLAIN] is detained from the Chamber on business of the Senate.

Mr. BRYAN. Mr. President, I have been requested to announce that the junior Senator from South Carolina [Mr. SMITH] is absent on business of the Senate.

The PRESIDENT pro tempore. Upon the call of the roll 55 Senators have answered to their names. A quorum is present.

The Chair will submit to the Senate the question which was propounded by the managers and which was objected to on the part of the respondent. The Secretary will read the question.

The Chair will state, before the question is read, that this question was propounded by the managers and objected to by counsel in behalf of the respondent; and the question before the Senate is, Shall the testimony be admitted in evidence? The Secretary will now read the question.

The Secretary read as follows:

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's interest or participation in this settlement, and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?

The PRESIDENT pro tempore. Senators, as your names are called, those who favor the admissibility of the evidence will respond "yea," those who are opposed to its admissibility will, as their names are called, respond "nay."

The Secretary called the roll, which resulted as follows:

YEAS—29.

Ashurst	Gronna	Myers	Smith, Ga.
Chilton	Hitchcock	O'Gorman	Stone
Clapp	Johnston, Ala.	Overman	Swanson
Crawford	Kenyon	Perkins	Thornton
Culberson	La Follette	Perky	Tillman
Cullom	Lea	Pomerene	
Curtis	Martin, Va.	Reed	
Foster	Martine, N. J.	Simmons	

NAYS—25.

Bradegee	Gallinger	Page	Townsend
Bryan	Jackson	Penrose	Warren
Burnham	Lodge	Root	Wetmore
Burton	McCumber	Sanders	Works
Clark, Wyo.	McLean	Smith, Mich.	
Crane	Nelson	Smoot	
Fletcher	Oliver	Sutherland	

NOT VOTING—40.

Bacon	Chamberlain	Gore	Percy
Bailey	Clarke, Ark.	Guggenheim	Poindexter
Bankhead	Cummins	Johnson, Me.	Richardson
Borah	Davis	Jones	Shively
Bourne	Dillingham	Kern	Smith, Ariz.
Bradley	Dixon	Lippitt	Smith, Md.
Briggs	du Pont	Massey	Smith, S. C.
Bristow	Fall	Newlands	Stephenson
Brown	Gamble	Owen	Watson
Catron	Gardner	Paynter	Williams

Mr. CULBERSON (after having voted in the affirmative). I will ask if the Senator from Delaware [Mr. DU PONT] has voted.

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. CULBERSON. As I have a general pair with the Senator from Delaware, I withdraw my vote.

Mr. LODGE. Mr. President, I do not understand that pairs can be announced.

Mr. CULBERSON. If it is generally understood that pairs are not to prevail in a matter of this kind, I will let my vote stand.

Mr. GALLINGER. On that point, Mr. President, I will state that I have a general pair, but I did not suppose it applied in this case and so I voted.

Mr. O'GORMAN. Mr. President, may I state, in explanation of the absence of the junior Senator from Maine, [Mr. GARDNER] that he is necessarily absent from the Chamber on public business?

The PRESIDENT pro tempore. On this question there are 29 votes in the affirmative and 25 votes in the negative. So the Senate has ordered that the question be propounded.

Mr. Manager FLOYD. Mr. President, shall I proceed?

The PRESIDENT pro tempore. The manager will propound the question passed upon by the Senate.

Mr. Manager FLOYD. We ask that Mr. C. G. Boland be recalled.

Q. (By Mr. Manager FLOYD.) "Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversation with Mr. Watson relative to

Judge Archbald's interest or participation in this settlement, and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?" You may now answer that question.—A. Yes, sir.

Q. State what those conversations were.—A. The conversation I recall occurred in pursuance of information my brother conveyed to me that explained an increase in price which Mr. Watson proposed over what he was authorized to sell the two-thirds interest of the Marian Coal Co. for.

Q. Do not state what your brother said, but just what Mr. Watson said to you.—A. He asked me to go and see Mr. Watson with him, which I did. Mr. Watson confirmed to me, in his presence, what he had told him regarding the distribution of the increased amount which he proposed to add to the price we had authorized him to ask when he was employed by myself to make the sale of the stock of the company held by the majority interest; that is, two-thirds of the stock in the Marian Coal Co.

Q. Will you not answer the question as to what Mr. Watson said touching the matters referred to in the original question—what Mr. Watson said to you?—A. Mr. Watson said it was necessary to make this addition in order to——

Q. You mean additional increase?—A. Additional increase.

Q. In the price. How much was it?—A. I am not positive now.

Q. About how much?—A. As to what they figured out, it was fixed in my mind as between $40,000 and $50,000 additional.

Q. Now, go ahead and state what he said about that.—A. He said that as the judge was assisting him in the matter he felt that he ought to be compensated, and that he proposed to compensate him by one-fourth of the amount he was to receive in excess of $95,000, which was the price it was to net us.

Q. Was anything further said in that conversation about it?—Not that I now remember.

Mr. Manager FLOYD (to counsel for the respondent). You can take the witness.

Cross-examination:

Q. (By Mr. SIMPSON.) When was this conversation?—A. It was some time in September, I believe, 1911.

Q. At any rate, it was some six months before the time you testified before Mr. Wrisley Brown, which was March 18, 1912?—A. Yes, sir.

Q. Let me read a portion of your testimony before Mr. Wrisley Brown.

Mr. Manager FLOYD. What page do you read from?

Mr. SIMPSON. I am reading from page 247 of Volume I.

Mr. BROWN. Did Watson give you any intimation of what was to become of this large excess over the $100,000?
C. G. BOLAND. No.
Mr. BROWN. You did not concern yourself about it?
C. G. BOLAND. No.

Q. Do you remember that testimony?—A. I do. It was when Mr. Brown first called upon me, and had a stenographer make notes of what I said to him. May I explain further?

Q. I do not care whether you explain or no.—A. In order to avoid any discussion of that matter, which I felt was unfair to Judge Archbald, as I did not want to use any information given me by Mr. Watson to reflect upon the character of the judge, I answered as the record indicates.

Q. Were you sworn before Mr. Brown?—A. No, sir.

Q. Did not you yourself prepare that statement for Mr. Brown?—A. No, sir.

Q. Let me read your testimony before the Judiciary Committee, on page 1034, gentlemen:

Mr. WORTHINGTON. Did you make a statement to Mr. Wrisley Brown?
Mr. BOLAND. I did.
Mr. WORTHINGTON. That was written out and signed?
Mr. BOLAND. He asked me to have it reduced to writing, and I did, at his request.

A. Yes, sir; but the statement which I made and signed, I found only last night in reading the testimony, did not appear in the testimony. It was the stenographer's notes, sworn to by the stenographer, I believe, Mr. Brown used instead of the statement which I signed.

Q. And the stenographer was your niece, your own stenographer in your own office?—A. Yes, sir.

Q. And she swore on April 6, 1912, that that is what you said?—A. Yes, sir.

Q. Was anything like that ever said in Judge Archbald's presence?—A. No, sir.

Q. Or was it ever called to his attention by you or by anybody else, as far as you know?—A. No, sir.

Q. Was it ever said on any other than the one occasion?—A. Not that I remember. You mean, of course, by Mr. Watson?

Q. Yes, by Mr. Watson.—A. I do not recall having had any other conversation with Mr. Watson in regard to it.

Q. Let me read from your testimony before the Judiciary Committee, on page 1017, gentlemen:

Mr. WORTHINGTON. I understood you to say on Friday, Mr. Boland, and I ask you whether it is a fact, as to Judge Archbald having any pecuniary interest in this proposed settlement, all you know is that Watson said he thought he was entitled to some compensation?
Mr. BOLAND. That is all.

Is that true?—A. That is my testimony, undoubtedly.

Q. Is it true? That was my question.—A. Yes; to the best of my recollection that was true.

Q. That was true, and you were sworn before the Judiciary Committee and testified to that May 20, 1912, did you not?—A. Yes, sir; if it be recorded there.

Q. I read again, gentlemen, from page 1018:

Mr. BOLAND. No; the statement of Mr. Watson was that the judge would be very influential in bringing this sale about, and that he intended to have him compensated for it. I think that was substantially the language he used.
Mr. WORTHINGTON. That was all he said, then, that bore upon the question of of Judge Archbald receiving anything out of this?
Mr. BOLAND. Substantially all.

Is that true?—A. That is my recollection.

Mr. Manager FLOYD. Mr. President, the only purpose for which these questions could be asked would be to contradict the witness. That is exactly what I understood him to say. It is not a contradiction of his testimony, but a confirmation of it.

Mr. SIMPSON. Very well; if you find confirmation you can argue accordingly. I propose to argue that it is not.

Mr. Manager FLOYD. Very well.

The PRESIDENT pro tempore. The counsel has the right to cross-examine the witness.

Q. (By Mr. SIMPSON.) I am reading again from page 995:

Mr. LITTLETON. Did you ever talk to Judge Archbald, in the presence of Watson, or to Judge Archbald alone, or in the presence of any other person, about this transaction, when he intimated, or it was intimated in his presence, that he was to receive a financial consideration for the loan of his influence?
Mr. BOLAND. No, sir.

Is that true?—A. It is.

The PRESIDENT pro tempore. The Chair would suggest to counsel that it is proper to interrogate the witness, and then if he does not answer in accordance with his previous testimony to read his former answer to him.

Mr. SIMPSON. I only read it because I thought it would expedite the matter. I would just as leave take it the other way.

The PRESIDENT pro tempore. The Chair merely suggested that the proper manner is to ask the question of the witness and then if he does not answer it according to his previous testimony to read the answer previously given.

Mr. SIMPSON. I was not going to read what he testified to in the question I was about to ask.

The PRESIDENT pro tempore. The Chair begs the counsel's pardon. He misunderstood him.

Q. (By Mr. SIMPSON.) Did Mr. Watson ever say to you that Judge Archbald demanded any consideration for his services in attempting to bring about this settlement?—A. No, sir.

Q. Did you ever testify heretofore that anybody was ever present at any conversation on this subject between you and Mr. Watson, save only you and Mr. Watson?—A. When the conversation occurred my brother was present. I went at his invitation to Mr. Watson.

Q. You are not answering my question. Did you ever testify, in all the elaborate examination which was made of you, that anyone else was ever present at any such conversation except you and Mr. Watson?—A. I do not remember having so testified. I may have.

Q. Have you given the whole of the conversation that took place on that day?—A. I could not say.

Q. Have you given even the substance of it?—A. As near as I can remember; yes.

Q. Did you not testify before that there were other people mentioned who were to get a portion of that consideration?—A. I said that in so far as it referred to Judge Archbald, that was all.

Q. Oh, I did not ask you that. I ask you whether you had given the substance of the conversation which occurred that day. I will ask it of you again. Did you?—A. There were other names mentioned that day.

Q. What other names were mentioned of persons who were to get a part of that consideration?

The WITNESS. Am I obliged to answer that, Mr. President?

The PRESIDENT pro tempore. The Chair is not able to reply unless the witness objects and gives the ground of his objection.

The WITNESS. I objected before the Judiciary Committee to answering this question that was put to me there, and to

giving these names, and I should seriously object unless I am claimed to give that information.

Mr. SIMPSON. I insist upon the question. The witness can not give a part of the conversation.

The PRESIDENT pro tempore. The witness will have to give the testimony unless he can give good grounds upon which he claims the right to be excused.

The WITNESS. I have heard from the other gentlemen mentioned who were alleged to participate in this amount, and my own belief is now that the statement made regarding them was not true. Therefore I do not think it is fair that their names should be given.

Q. (By Mr. SIMPSON.) That is all the more reason why it should be given, and I insist upon your saying what other names were mentioned as people who were to share in this excess over the $100,000?—A. The names mentioned by Mr. Watson were Mr. R. A. Phillips and another gentleman in New York whose name he said he did not want to mention, but I learned he had mentioned to my brother, Mr. E. E. Loomis.

Q. Did you not testify before the Judiciary Committee that it was Loomis who was mentioned?—A. Yes, sir.

Q. Did you not testify before the Judiciary Committee that at this particular conversation, which you said was the only conversation between you and Watson, the three names that were mentioned besides Watson himself who were to share in the excess were Loomis, Phillips, and Judge Archbald?—A. Yes, sir.

Mr. SIMPSON. That is all, sir.

Redirect examination:

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, you say that you made a statement to Mr. Wrisley Brown about this matter in which you answered "no" to some of these questions that you have answered in the affirmative to-day?—A. Yes, sir; when Mr. Brown called——

Q. What is your explanation of that?—A. Mr. Brown came into my office, as I remember, and wanted to know what I knew about this matter of the attempted sale of the stock of the Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co.

Q. Did he have a stenographer with him?—A. He had a stenographer with him. I did not want to go into the matter with him at all, because I felt reluctant to testify in the matter.

Mr. SIMPSON. I object to the thoughts unexpressed of this witness. Mr. Manager FLOYD has not asked for it, but the witness undertakes to explain it.

Mr. Manager FLOYD. I asked him to explain, and that, I think, involves what he is stating.

Mr. SIMPSON. He has a right to say what he did, but not to give the reason unexpressed to anybody.

Mr. Manager FLOYD. We insist on the right of the witness to answer the question.

The PRESIDENT pro tempore. The Chair thinks he can state what motive impelled him to do what he did.

The WITNESS. In relation to these two questions which I find in the record answered "no" by me?

Q. (Mr. Manager FLOYD.) That is what I am asking you about.—A. My reason for answering Mr. Brown in that way was because I did not want to enter into a discussion of that matter with him, and I felt if I answered "yes," as I could have done, it would lead to a discussion which would probably make it necessary for me to reveal to him the information I obtained from Mr. Watson, which I did not want to use as a reflection upon the character of Judge Archbald.

Q. Now, tell us how that statement that you did give Mr. Brown was prepared, whether it was made from the stenographer's notes or whether you prepared it yourself?—A. It was made wholly, I believe, from the stenographer's notes.

Q. Did you include in that statement all that was put down in the stenographer's notes or did you cut out a part?—A. The statement as contained in the record contains all of the stenographer's notes, together with an additional paragraph explaining a mistake of the stenographer when I testified before the Attorney General as to the circumstances under which I refused to discount the $500 note. I find from reading the notes——

Q. Just keep on this other transaction now. Have you any further explanations to make as to why you answered in the negative questions that you now answer in the affirmative?—A. No. I afterwards told Mr. Brown that I would make a statement and sign it. I only wanted to state to him those things which I knew of my own knowledge and which I could prove, and I made up such a statement; but the stenographer's notes of my first conversation with him were used by Mr. Brown and not the statement which I had signed.

Q. I will ask you to state whether or not you were asked by Mr. Brown to swear to the stenographer's notes and whether or not you refused to swear to it?—A. I did.

Q. You refused to swear?—A. Yes, sir.

Q. You refused to swear to the stenographer's notes?—A. He asked me, and I did not think it was necessary to swear to them.

Q. And you did not?—A. No.

Q. They were not made, then, under oath?—A. No, sir.

Q. State whether or not you refused to give Mr. Brown any statement at all at first.—A. I was rather inclined not to give him any statement if I could have avoided it.

Q. Well, why?—A. Because I was reluctant to enter into the matter at all.

Q. Why were you reluctant to enter into the matter?—A. Well, as to that particular question, I was reluctant to enter into it because I would have to give him information obtained from Mr. Watson, which I did not feel ought to be used in the connection in which he was seeking information, because it was only the statement of Mr. Watson as against the judge and these other gentlemen, and I was not sure whether or not it was true.

Q. Then, if I understand you, the reason you answered [illegible] questions in that way was to protect Judge Archbald and the two other gentlemen from the statements made to you by Watson. Is that it?—A. Practically; that is true.

Q. Why were you reluctant to give Mr. Brown any statement at all about the matter?—A. I do not think I was reluctant to give him any statement. I had previously made a statement before the Attorney General here in Washington.

Mr. Manager FLOYD. That is all.

Mr. Manager CLAYTON. We are willing that this witness shall be discharged.

Mr. SIMPSON. This witness is under subpœna by the respondent. I will state, that there may be no misunderstanding about it.

The PRESIDENT pro tempore. Very well; he is only discharged from the present subpœna and not from the other.

Mr. PAYNTER. Mr. President, I entered the Chamber just as the yeas and nays were being taken on the submission of this testimony to the Senate. I refrained from voting because I did not think I was sufficiently advised to pass an opinion upon the question. Since hearing the facts, I should like to be recorded upon the vote.

The PRESIDENT pro tempore. The Chair can not now reopen the vote, but the Senator can make a statement.

Mr. PAYNTER. May I be permitted to state, then, that I would have voted "nay," and I would now vote "nay" on the question.

CHARLES W. GUNSTER.

Mr. Manager STERLING. Mr. President, it is admitted, I believe, that Charles W. Gunster was cashier of the Merchants & Mechanics Bank of Scranton in November and December, 1909, that E. J. Williams presented for discount the $500 note testified to yesterday by John Henry Jones, and that the bank refused to discount it.

Mr. WORTHINGTON. I understood that the testimony which that witness gave before the Judiciary Committee might be read. What the manager states does not fix the date of the transaction.

Mr. Manager STERLING. It was during that time.

Mr. WORTHINGTON. Is there any objection to reading the testimony?

Mr. Manager STERLING. It would take that much time.

Mr. WORTHINGTON. It is very short.

Mr. Manager STERLING. We can call the witness in less time. The managers asked if counsel would admit the material facts.

Mr. WORTHINGTON. I understood the managers to state that the deposition before the Judiciary Committee might be read.

Mr. Manager STERLING. I did not make any such request. We can call the witness in less time. Will the counsel admit the statement?

Mr. WORTHINGTON. I should like to have the exact date given by the witness.

Mr. Manager STERLING. It can not be given by the witness, but it was in the month of November or December, 1909.

Mr. Manager CLAYTON. That is admitted then?

Mr. SIMPSON. Yes; we admit it.

TESTIMONY OF ROLLIN B. CARR.

Rollin B. Carr appeared, and having been duly sworn was examined and testified as follows:

Q. (By Mr. Manager STERLING.) State your name.—A. Rollin B. Carr.

Q. Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. Cashier of the Providence Bank.

Q. In Scranton?—A. Yes, sir.

Q. Who is the president of that bank?—A. C. H. Von Storch.

Q. As cashier of that bank did you discount a note of $500 made by John Henry Jones to Robert W. Archbald and indorsed by Mr. Archbald and E. J. Williams?—A. Yes, sir.

Q. Have you the note with you?—A. No, sir; not the original note.

Q. When was that?—A. If I may refer to my discount ledger. [Examining.] It was December 13, 1909.

Q. Who presented that note?—A. I am under the impression that Mr. Jones did.

Q. John Henry Jones?—A. Yes, sir.

Q. Had you had any communication from the president, Mr. Von Storch, about the note before you discounted it?—A. Yes, sir; I had.

Q. In what way?—A. Over the telephone.

Q. What did the president say to you?—A. He said that there would be a note of John Henry Jones, indorsed by Judge Archbald, for $500 presented to the bank and to cash it for him.

Q. Has that note been paid?—A. No, sir.

Q. Has it been renewed from that time to this?—A. Yes, sir; with a slight reduction on it.

Q. How many renewals have been made?—A. You would have to trace it in periods of about four months from 1909 to the present time.

Q. How often was it renewed?—A. Three months, I think, on the average.

Q. Renewed in the same form?—A. Yes, sir; up to two months ago.

Q. Have you the present renewal?—A. Yes, sir.

Q. With you?—A. Yes, sir.

Mr. Manager STERLING. Just give it to the Secretary.

(The paper was handed to the Secretary.)

Mr. Manager STERLING. I will offer it and ask the Secretary to read it.

The PRESIDENT pro tempore. The Secretary will read the paper.

The SECRETARY. It reads as follows:

[U. S. S. Exhibit S4.]

(Renewal. $455.)

SCRANTON, PA., *December 6, 1912.*

One month after date I promise to pay to the order of R. W. Archbald at the West Side Bank, Scranton, Pa., $455, without defalcation or stay of execution, for value received.

J. HENRY JONES.

A little note in the left-hand lower corner:

January 6.

On the back is the indorsement, "R. W. Archbald," and a number, "11840," with the machine.

Q. (By Mr. Manager STERLING.) That is for one month?—A. Yes, sir.

Q. They were not all 30-day notes?—A. No; only the last three months. I think the last three months it was for a month.

Q. Who has paid the interest on that note?—A. I imagine Mr. Jones.

Q. And who made the partial payment?—A. Mr. Jones.

Q. Is Mr. Von Storch in other business than president of the bank?—A. He is an attorney at law.

Q. Practicing in Scranton?—A. Yes, sir.

Mr. Manager STERLING. That is all.

Mr. SIMPSON. We have no questions to ask.

Mr. Manager STERLING. I should like to ask the counsel if we may have the privilege of putting a copy of this note in the record, and the bank can take it back.

Mr. SIMPSON. Of course, just let the clerk make a copy of it, and that will be the end of it. There is no use of keeping an original paper of that kind.

Mr. Manager STERLING. Just one more question. Is E. J. Williams on that note as an indorser, Mr. Secretary?

The SECRETARY. There is but one indorser on the back of the note—"R. W. Archbald."

Q. (By Mr. Manager STERLING.) When did E. J. Williams cease to indorse the note?—A. I think it was about four months ago.

Q. Up to that time he had indorsed its renewal?—A. Yes, sir.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Carr, will you kindly read the entries in your discount ledger, so that we may just get the facts in regard to it as now appearing in the bank's record?—A. Yes, sir. The note was dated December 3, 1909; the maker was John Henry Jones; and the indorsers were R. W. Archbald and E. J. Williams; it was payable at the Merchants and Mechanics Bank at Scranton; it was for four months; and it was discounted on December 13 for $500.

Mr. WORTHINGTON. In 1909?

The WITNESS. In 1909; yes, sir.

Mr. SIMPSON. That is all we want with the witness, Mr. President.

The PRESIDENT pro tempore. The witness may retire.

Mr. Manager STERLING. Mr. President, there is one more witness, Mr. Von Storch, on articles 8 and 9. He will be here presently. In the meantime I want to call Mr. Lenahan, who is to testify on another article—article No. 7.

TESTIMONY OF JOHN T. LENAHAN.

John T. Lenahan, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) Mr. Lenahan, where is your home?—A. Wilkes-Barre, Luzerne County, Pa.

Q. How far is that from Scranton?—A. About 20 miles.

Q. At the present time you are a Member of Congress?—A. Not now; I was a Member of the Sixtieth Congress.

Q. You are a lawyer?—A. I profess to be.

Q. Do you know Mr. Rissinger?—A. Very well.

Q. W. W. Rissinger?—A. Yes, sir.

Q. Where is his home—A. His home is in Scranton.

Q. You were his attorney in 1908 with reference to some litigation against the insurance companies?—A. Yes, sir.

Q. State briefly what the character of that litigation was.—A. Well, I had several suits for him, but the one bearing upon this question was a case against several insurance companies arising out of a fire on the property belonging to the Plymouth Coal Co., I think the name of it was. The Rissinger Bros. were the stockholders and the sole stockholders in the company. Suits were brought in the local courts of Luzerne County against the insurance companies. Those that could be moved into the United States court, of which I think there were two or three, were moved by the insurance companies into the United States district court at Scranton.

Q. I will ask you was there a separate suit against each insurance company?—A. Yes, sir; on each policy.

Q. When were those that were removable removed to the Federal court?—A. I do not know when they were removed, but they were tried, I think, in October or November, 1908.

Q. Who was the presiding judge of the district court?—A. Judge Archbald.

Q. Did you try the cases?—A. There was one case called. The plaintiff established his case as to this one suit, and a motion was made for a nonsuit, which was overruled. The defendant then called one or two witnesses in the case, and after a cross-examination of one or two witnesses the counsel for the insurance companies suggested to me that we arrive at some terms of settlement. After a good deal of fencing on one side and the other we did arrive at terms of settlement. That counsel represented all the insurance companies. There was a verdict taken under certain stipulations. As I recall it now, if the whole money on all the policies was paid within 15 days, then the amount of money as fixed in that stipulation was to be accepted by us.

Q. What was the amount?—A. I can not recall the amount.

Q. Was it $23,000?—A. The whole thing was something over $20,000; it was somewhere between $20,000 and $25,000. As I recall the stipulation, if it was not paid in 15 days then the whole face of the policies was to be paid.

Q. What was the amount of that?—A. $23,000, if that was the amount; somewhere between $20,000 and $25,000. Not only the amount of the policy involved in that particular trial was to be paid, but also all the other policies, as I recall it.

Q. Was W. W. Rissinger plaintiff in all of those cases?—A. He represented the Plymouth Coal Co.—I think that was the name of it—which was a corporation in which W. W. Rissinger and his brother owned almost all the stock, if not all the stock.

Q. After this case was tried did Rissinger see you with reference to a note signed by Judge Archbald?—A. Mr. Rissinger came to my office in Wilkes-Barre; I can not give dates, but I know it was some time previous to the meeting of the short session of Congress in December.

Q. Let me ask you, was it within the 15 days in which the insurance companies had to pay the judgment?—A. Talking from memory, I believe it was.

Q. Just state what he said to you.—A. He came into my office and asked me if I could get a note of $2,500 discounted for him in a Wilkes-Barre bank. I said to him, "What do you want this money for?" "Why," he said, "I want to raise it in order to pay something on a gold speculation that I have in Honduras." I looked at him, and I said, "No; if I took this note over to my bank"—the bank in which I am a director and vice president—"and told them what you wanted this money for, they would laugh me out of the room, and think that I was as big an idiot

as you are and as are many other idiots that we have in this county and in Lackawanna and the coal regions who put their money in Colorado gold mines and Utah gold mines, and have no return for it," I said, "except simply pure salt." "Sometimes it makes them dryer for more," I said.

Q. Did you look at the note?—A. No, sir; I did not.

Q. Who was on the note so far as you learned from Mr. Rissinger?—A. Mr. Rissinger's mother-in-law and Judge Archbald.

Q. How were they on the note—as makers or as indorsers?—A. I do not know. I did not ask that at all. I do not know whether as makers or indorsers.

Q. What did he say, if anything, about Judge Archbald's connection with the gold scheme in Honduras?—A. I asked him who was in the matter with him, and he said his mother-in-law and Judge Archbald.

Q. Did you discount the note?—A. No, sir.

Q. Did you recommend the discounting of it to your bank?—A. No, sir.

Q. I ask you if, after that, you had a talk with Mr. Reynolds, the attorney for the Marian Coal Co. in the suit which has been testified about here?—A. I think I had; yes, sir.

Mr. SIMPSON. I object to any conversation occurring between Mr. Lenahan and Mr. Reynolds in the absence of Judge Archbald, unless it was brought to Judge Archbald's attention. There is no evidence of any partnership or conspiracy between any of these gentlemen and Judge Archbald.

Q. (By Mr. Manager STERLING.) Was Judge Archbald present when you and Reynolds talked?—A. Oh, no.

Q. Did you ever tell Judge Archbald the substance?—A. No, sir.

Mr. Manager STERLING (to Mr. Simpson). Take the witness.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Lenahan, am I correct in stating that the judgment which was agreed upon between you and your colleague on the one side and Mr. Shattuck, representing the insurance companies on the other side, was entered at once?—A. Well, I suppose it was. I was the trial lawyer, and Mr. Reynolds and Mr. Welles were concerned in the case with me. They were associated with me in it. They drew up all the formal papers. They live in Scranton, and after the verbal arrangement had been entered into I took the next train and went home.

Q. But the whole matter was concluded to go into the form of a judgment, and the only thing that was left open was the delay in payment at the request of the insurance companies' counsel?—A. Yes, sir; that was my understanding.

Q. Now, was there any difficulty about that case?—A. Well, there was difficulty in getting it tried.

Q. You mean the delay in getting it tried?—A. Yes. I was in Congress here, and I could not go up to see to it until the time I did go there.

Q. Was there any substantial merit in the defense?—A. I did not think there was; otherwise, I would not have brought suit against the insurance companies.

Q. Did the counsel on the other side admit to you that there was no substantial merit in the defense?—A. After we got to cross-examining his chief witness, he turned around to me and said, "I guess the bottom has fallen out of our case." I think that is the language he used. Then the negotiation for a settlement was opened.

Q. Your cross-examination of the witnesses produced by the insurance companies, so far as it went, was, I believe, quite severe, was it not?—A. It was understood by me to be very severe.

Q. And it was so severe that Judge Archbald——

Mr. Manager STERLING. We object to taking the time of the Senate now with immaterial things. It is not cross-examination.

Mr. SIMPSON. I think that all that related to that trial, about which Mr. STERLING inquired, is cross-examination. We ask as to a different part of what occurred. You asked him to state but one part of it and left the other out, and we want to have it all.

Mr. Manager STERLING. We asked him to state the character of the litigation.

Mr. SIMPSON. And what occurred at that trial also.

Mr. Manager STERLING. No; I did not.

Mr. SIMPSON. Excuse me, you did; but colloquy is not in order. I beg the Chair's pardon.

Mr. Manager STERLING. We object to the testimony because it is not cross-examination.

Q. (By Mr. SIMPSON.) At any rate, Mr. Lenahan, the presentation of the note to you was some time after the agreement for the entry of the judgment?—A. Oh, yes.

Q. And in accordance with what occurred at that trial?—A. Oh, yes.

Q. Will you please tell us whether or not at that trial there was any partiality shown by the judge toward Mr. Rissinger or his counsel?—A. I do not think so. He called me down.

Mr. Manager STERLING. We object.

Mr. SIMPSON (to the witness). Do not go into the details of it at all. The only reason, I understand, why you declined to discount the note was because of the purpose for which Mr. Rissinger stated to you that the money was to be used, and beyond that you did not care to go any further into it?—A. No, sir.

Q. Was Judge Archbald's name mentioned at all to you when that note was being presented?—A. I asked him who was interested. My recollection is, I said, "Who is interested with you in this gold mine in Honduras," and he told me that his mother-in-law—whose name I can not recall—and Judge Archbald were interested. I said, "Are they on the note?"—that is my recollection—and he said, "Yes." I assume they were on as indorsers and not as makers of the note.

Q. Was what has been said about the only mention made to you of Judge Archbald's name? Was that the only thing that was said?—A. Yes; that was all.

Mr. SIMPSON. I think that is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager STERLING.) He said that Judge Archbald was on this note, did he not?—A. Oh, yes. My recollection is that his mother-in-law and Judge Archbald were not only interested in this Honduras gold mine, but also that they were on the note. I assume they were on as indorsers.

Q. Did you ask Mr. Rissinger why he did not get it cashed at Scranton?—A. Well, now, it is just possible I did, but I can not recall.

Q. Do you remember what Mr. Rissinger said on that subject?—A. No; I do not; but I think it highly probable that I did ask him why he should come to Wilkes-Barre, a strange town to him, and not get his note discounted in his own town.

Mr. Manager STERLING. There is one other subject I want to ask this witness about. [To the witness:] Do you remember the time that a contribution was taken up among the members of the bar at Scranton and in the county for Judge Archbald?—A. Yes, sir.

Q. About when was that?—A. It was when he went to Europe, I think, in 1910.

Q. Were you solicited to contribute to that fund?—A. Yes, sir.

Q. By whom?—A. My recollection is that I received a letter from the clerk of the district court, named Searle, and in response to it I sent him a check. When I testified before the Judiciary Committee I did not know that my attention was to be called to it, and I said it was either $10 or $25 that I sent. I now know that it was $25 that I sent.

Q. You did contribute that $25?—A. Yes, sir.

Q. Who was it that wrote you the letter asking you to contribute?—A. My recollection is that it was Mr. Searle, the clerk of the district court.

Q. What was the date of that?—A. Well, I can not tell. It was a short time before Judge Archbald sailed for Europe; I can not give the date.

Q. Was it while he was district judge?—A. Yes, sir.

Q. Or since he has been on the Commerce Court?—A. I think he was district judge then.

Q. And Searle was the clerk of the court?—A. Yes, sir.

Q. And you were a member of the bar practicing in his court?—A. Yes, sir.

Mr. Manager STERLING. That is all.

Recross-examination:

Q. (By Mr. SIMPSON). Mr. Lenahan, there is one thing on the other branch I forgot to ask you. Could you tell us what year it was that the old Plymouth Coal Co. suit against the insurance company was brought?—A. Yes, sir; I fix that by the fact that it was a month or two before the convening of the short session of Congress. It was either in October or November, 1908.

Q. In this other matter, I understand that you got a letter from Mr. Searle, and you cheerfully complied by sending that check to Mr. Searle?—A. Yes, sir.

Q. To be given with other money to Judge Archbald?—A. I know I contributed the money. It is my recollection that it was to Mr. Searle that I sent the money, and it is my recollection, too, that the solicitation came from Mr. Searle.

Q. Did you have any communication at all with Judge Archbald in regard to it?—A. Judge Archbald wrote me a letter from Florence, Italy.

Q. Acknowledging its receipt?—A. Yes, sir.

Q. But I am speaking now prior to the time when the money was presented to him?—A. Oh, no.

Q. So far as you knew or know now, Judge Archbald had no knowledge of what was going to be done until the money was, in fact, handed to him?—A. I know nothing about Judge Archbald's knowledge of it, except a letter that he wrote me from Florence—it was dated from Florence—thanking me for my contribution.

Q. That was Florence, Italy, you mean?—A. Yes; Florence, Italy.

Q. After he had sailed?—A. I said "Italy," did I not?

Q. You said "Florence." There are several Florences, but I assumed you meant Florence, Italy.—A. I meant Florence, Italy. I know it was not Florence, Ireland.

Q. I do not know that there is one there. Is there one there?—A. No.

Mr. SIMPSON. I was not aware that there was. I believe that is all, Mr. President.

The PRESIDENT pro tempore. Are there any other questions?

Redirect examination:

Mr. Manager STERLING. Just to refresh the witness's recollection I desire to ask him another question. Did you not say this before the Judiciary Committee——

Mr. WORTHINGTON. Give the page, please.

Mr. Manager STERLING. Page 1517, near the top:

Mr. LENAHAN. I asked Rissinger—of course, this was in Scranton, where he was from—I said, "Why don't you get that discounted in Scranton?" He said, "We have tried to, but I can not, and I thought on account of my relationship with you, you could get the money for me here."

A. Yes, sir.

Q. You did say that?—A. Yes, sir. Now, since you call my attention to it, I think that was the answer I made him.

Q. The relationship between you and him at the time was that of attorney and client?—A. Yes; I had been his attorney for some time in several other matters.

Q. And you were his attorney in these cases that had been disposed of?—A. Yes, sir; and in other matters.

Mr. Manager STERLING. That is all.

Recross-examination:

Q. (By Mr. SIMPSON.) I think you testified also, did you not, Mr. Lenahan, that Judge Archbald was not worldly-wise, and that was the reason he acted as he did in some of these matters?—A. That was my judgment about it.

Mr. SIMPSON. That is all. Thank you.

Mr. Manager CLAYTON. Mr. President, this witness may be discharged.

The PRESIDENT pro tempore. The witness is finally discharged.

TESTIMONY OF FREDERICK WARNKE.

Mr. Manager DAVIS. I ask that Frederick Warnke be called.

The PRESIDENT pro tempore. The witness will be called.

Frederick Warnke, having been duly sworn, was examined, and testified as follows:

Q. (By Mr. Manager DAVIS.) Your name is Frederick Warnke?—A. Yes, sir.

Q. Where do you live?—A. Scranton, Lackawanna County, Pa.

Q. What is your occupation?—A. Coal business.

Q. How long have you been in the coal business?—A. Twelve years.

Q. And you are still in that business?—A. To some extent; yes, sir.

Q. What branch of the coal business have you been engaged in?—A. Mining and——

Q. How were you engaged in the years 1910 and 1911?—A. Washing culm banks.

Q. Were you ever the owner of a mining operation at Lorberry, in Pennsylvania?—A. Yes, sir.

Q. What was the character of that operation?—A. The character at the time of our operation was washing the culm banks.

Q. Did it have any other feature aside from the culm-bank operations?—A. Yes, sir. The lease called for mining operations.

Q. Did you own that mine in fee or by lease?—A. By lease.

Q. Who was your lessor?—A. The Philadelphia & Reading Coal & Iron Co.

Q. Do the Philadelphia & Reading Coal & Iron Co. sustain any relation to the Philadelphia & Reading Railroad Co.?—A. I presume they do.

Q. Has it the same officers?—A. Yes, sir.

Q. Who was president of the Philadelphia & Reading Coal & Iron Co.?—A. George F. Baer.

Q. Is he also the president of the Philadelphia & Reading Railroad Co.?—A. Yes, sir; I think he is.

Q. Who was the general manager of the Philadelphia & Reading Coal & Iron Co.?—A. W. J. Richards.

Q. Where does Mr. Richards live?—A. I think his home is, or was, in Wilkes-Barre; I think he probably now lives in Pottsville.

Q. How far from the city of Scranton?—A. Pottsville?

Q. Yes, sir.—A. In the neighborhood of about 80 miles.

Q. Was he living there in the year 1911?—A. Well, his offices were at Pottsville and he is there the biggest part of his time. I can not say whether his residence is there or Wilkes-Barre for sure.

Q. In the course of your operation of this mine at Lorberry did you get into any difficulties with your lessor, the Philadelphia & Reading Coal & Iron Co.?—A. Yes, sir.

Q. What were those difficulties?—A. When we got ready to open up the mining operation we inquired of the engineers for the mining maps to proceed to open up the inside operations. This operation had been opened up before, but had been closed for a great many years. They refused to give us the maps, stating that the lease had been forfeited two years previously under certain sections of the lease.

Q. Had you received any notice of forfeiture?—A. No, sir.

Q. Had you been in continued possession of the property?—A. I am still in possession of the property; that is, to a certain extent; yes, sir.

Q. Were you surprised at the information that your lease was under forfeit?—A. I was surprised; yes, sir; at the time I heard it. A two-thirds interest was purchased from a person by the name of Baird Snyder, who at that time was assistant superintendent of the Lehigh Coal & Navigation Co. He told my attorneys at the time that the Reading would acknowledge the assignment of the lease within a few days, and, being anxious to go ahead with it, I took his word for it; but the assignment to me was never forthcoming; I never got the assignment from the Reading to me of the two-thirds interest; but only two weeks before that the Reading consented to an assignment from the widow of a man named Simon Loch, who had been a representative in the House of Representatives of Pennsylvania which passed what was known as the Loch road bill.

Q. You say "two weeks before"; do you mean two weeks before you received notice of forfeiture?—A. No; before this party, Baird Snyder, sold me the two-thirds interest they consented to an assignment of that interest. At the time I found out that they said that this lease had been forfeited, they wrote me a letter and stated that it had been forfeited two years before I even took possession of the ground, so that under these conditions they consented to an assignment from widow Loch to Baird Snyder two years after the lease had been forfeited; and in that condition——

Q. How long had you been working this property when they gave you this notice?—A. Oh, I suppose probably two years, or around that neighborhood.

Q. After you received that notice upon your application for the mine maps, what did you do, Mr. Warnke?—A. I do not just remember what I did. I think I went to see Mr. Richards about it, but I always had an awful hard time to get any interview with him.

Q. What did he say to you at that interview, if you can remember?—A. I think he told me that he could not do anything in regard to the matter; that the lease had been forfeited long ago; and he would not let us go ahead.

Q. What did you do then?—A. I tried to swap him the lease or give him the rights, providing he would lease me a certain culm bank, which was in the neighborhood——

Q. What was the name of that culm bank?—A. Lincoln.

Q. Who owned it?—A. The Philadelphia & Reading Coal & Iron Co.

Q. Did Mr. Richards agree to that proposition?—A. No, sir.

Q. And, then, what did you do with it?—A. I think I went to see Mr. Baer at Philadelphia.

Q. Mr. George F. Baer?—A. Yes, sir.

Q. What interview had you with him?—A. I went over the whole matter with him, and I think he told me that I would have to take the matter up with Mr. Richards; that that was in his territory, and it was up to him to decide; yet at the time he thought——

Mr. REED. Mr. President, we can hardly hear the witness.

The PRESIDENT pro tempore. The witness will speak louder, so as to be heard not simply by the manager who is conducting the examination but by the whole Chamber.

The WITNESS. I will try to do so. Mr. Baer agreed with me that if what I had said was right Mr. Richards should do something in the matter to straighten it out; but in the meantime he said,

"I will have to talk to Mr. Richards," or "You go to see him." So when I went to see him again I got the same answer—nothing doing.

Q. You went to see him. Did you go back to see Mr. Baer again?—A. No; I believe I sent an attorney then to him.

Q. Did he have an interview with Mr. Baer on this subject?—A. Yes, sir.

Q. With what result?—A. Not any.

Q. Did you have any difficulty in getting an interview with Mr. Richards?—A. Always did have, more or less. I could not seem to get an answer to any of my letters or even get an interview.

Q. Did you ever fail when you went to his office to get an interview at all?—A. Yes, sir; one week I waited three days to get an interview of five minutes.

Q. After your failure to get a personal interview, and after having seen President Baer, did you write to Mr. Richards on the subject?—A. I do not remember any more, really, whether I did or not.

Q. You say you do not remember whether you did or not?—A. No; I do not believe I did; I do not believe I wrote him any letter.

Q. If you did, did you receive any reply?—A. I believe the last letter in reply I got was when he told me that the lease had been forfeited two years previous to my taking possession of the property.

Q. Do you recall that after that time you wrote him another letter to which he did not reply?—A. I do not really know. I may have written him one, but I do not recall one.

Q. You do not remember whether you so recollected when you were before the committee of the House? [A pause.] It is immaterial; I will not press you further about that.—A. I can not recollect.

Q. After you had sent your attorneys to Mr. Baer and they had failed to get any result, did you see any other person on the subject?—A. Yes, probably; but I guess a year afterwards.

Q. Who was that other person?—A. Judge Archbald.

Q. How long have you known Judge Archbald?—A. Oh, as far back as I can remember.

Q. Did you have a personal interview with him about it?—A. Yes, sir.

Q. What, if anything, did you request him to do?—A. I asked him if he ever got to Wilkes-Barre, or, in the first place, I asked him if he knew Mr. W. J. Richards. He said he did, and I asked him if he ran across him or in his way, or if he happened to get to Pottsville, to intercede with W. J. Richards to reopen negotiations with me to try to settle my difficulties.

Q. Did he undertake to do it?—A. He told me that he would be in Pottsville in a few weeks, and if he had time he would call on him.

Q. Did he call on him for you?—A. Yes, he did.

Q. With what result?—A. Oh, I think it was at least six weeks after I had the interview with him that I called him up by phone, and he told me that Mr. Richards had told him that his answer to me was final.

Q. Do you know about what time he had his interview with Mr. Richards?—A. I think it was in December, a year ago this December.

Q. A year ago this December—1911?—A. Yes; I think along there.

Q. And how long after that time was it that you called him up and received this information from him?—A. Oh, it was four weeks after he had seen him, probably.

Q. Did you at any time thereafter give to Judge Archbald a promissory note for $500?—A. No; not I myself.

Q. Did you execute a note to be given to him?—A. The Premier Coal Co. did; yes, sir.

Q. Who is the Premier Coal Co.?—A. Composed of myself, a party by the name of Kizer, and Swingle and Slager.

Q. A corporation or a partnership?—A. A corporation.

Q. Did you indorse the note of the Premier Coal Co.?—A. Yes.

Q. And was it delivered to Judge Archbald?—A. That I do not know.

Q. Of your own knowledge?—A. Of my own knowledge; no, sir.

Q. Do you or do you not know of your own knowledge that he discounted it and received $500 for it?—A. I believe the note was never renewed. It was a four months' note, and I never reindorsed it, so I think when it became payable it was paid. Mr. Swingle was treasurer of the company—yes, treasurer. I guess the note was met. Whether Judge Archbald got it discounted or who did, I do not know. I did not ask and do not know to-day.

Q. When the note was paid, it was paid not to Judge Archbald but to some assignee of his; is that correct?—A. I do not know.

Q. The note was made payable to him in person, was it?—A. The note was made payable to ourselves, I think.

Q. And indorsed over to him?—A. Payable to ourselves.

Q. What is the business of the Premier Coal Co.?—A. Washing a culm bank.

Q. Where?—A. Oh, in Lackawanna County, near the Pittston, Luzerne County, line, on the old Pennsylvania gravity railroad.

Q. How long has it been in that business?—A. Since last spring.

Q. Did it lease or buy a bank for that purpose at that time?—A. It bought a bank under the condition virtually of a lease; the purchase money was $7,500; $2,000 down and the balance to be paid at 20 cents a ton until the other $5,500 was paid. So I could not say whether you would consider that as a lease or a mere equity.

Q. From whom did you get that?—A. The Lacoe & Shiffer Coal Co.

Q. Did you negotiate that for the Premier Coal Co.?—A. Yes, sir.

Q. Tell us briefly how you came to be interested in that property.—A. I went into the office of what is known as the Central Pennsylvania Brewing Co., of the city of Scranton. I have a friend who is president of that company. He told me that there had been a party in a day or so before who offered him the sale of a culm bank, and he wanted me to go down and make a test of it and report on it as an expert. I did. That is how I came to get mixed up with it.

Q. Proceed now with what transpired after that time in regard to your acquisition of the bank.—A. I reported on the bank and told him, if I remember correctly, that it was a very good purchase, and that he had better purchase it at once, as it was a very good bargain and the coal was A1 quality, and the quicker he would purchase it the better he would be off, because I thought it was a very good purchase for him to make.

Q. Well, did he purchase?—A. He took the matter up with the directors and they declined. It kind of hung fire along for about a month, and I asked him one day what he was going to do about it. Excuse me; in the meantime I brought some of this coal up, two loads of it, and they tested it in their boilers. But that was just as it came from the bank. But I asked the president of the Pennsylvania Brewing Co., at the expiration of about four weeks, whether he intended purchasing this property or not. He told me the rest of them did not seem to care much about it, and he was not going to bother. So I said I would try to open up negotiations and purchase it myself, which I did.

I went to John Henry Jones, who first took this property to the Pennsylvania Brewing Co. I saw him about it. I asked him for information, and he told me I could get more from Judge Archbald.

Q. You could get more?—A. Could get better information from Judge Archbald in regard to the property.

Q. Did you go to Judge Archbald about it?—A. Yes.

Q. What sort of information did you go to Judge Archbald for?—A. In the first place, the conditions of the purchase, and also the character surrounding the title of the property.

Q. Why did you go to Judge Archbald about the title to the property?—A. Well, I knew that the Judge in years gone by had been an attorney through there——

Mr. OVERMAN. I can not hear what the witness says.

The PRESIDENT pro tempore. The witness must speak louder.

A. The reason I went to Judge Archbald was that I thought the judge would probably know the information better than I would get or could get by hiring another attorney, which was the question whether the Pennsylvania still owned the right of way through that property or not.

Q. (By Mr. Manager DAVIS.) You were referred to Judge Archbald on that question by John Henry Jones?—A. Not exactly that; but I asked John Henry Jones where I could get more data as to purchase money and the conditions of purchase money, and he said it was not on that account——

Q. Did you not say before the Judiciary Committee that you were referred to him by John Henry Jones on the question of title, and went to him as a lawyer to consult him about it?—A. I do not just remember. I may have said that, but if I did, I do not remember.

Q. What conversation did you have with Judge Archbald?—A. I asked him the price and conditions, and the price of $6,500 first, but that was cash. That was the price put up to the Central Pennsylvania Brewing Co. Then, if it was not cash, afterwards—some few days or a week or more had elapsed—and the price of $7,500, providing $2,000 only was to be paid in cash, and the balance, $5,500, was to be paid at 20 cents a ton royalty.

Q. Did you have any conversation with Judge Archbald on the question of title?—A. We did talk about the matter several times, and he told me he thought there was not any question about it. So I did not even go looking into the matter of title.

Q. Is that all the conversation you had with him?—A. That is about all.

Q. When did that conversation occur?—A. This spring some time—last spring; I believe along in February or March, or somewhere along there.

Q. Did it not occur in the month of December, 1911?—A. Well, I do not remember when that was first brought up; I believe it was in December; yes, it was in December that the proposition was brought to the Pennsylvania Brewing Co. But I think it was in January—it was after that—it was a month after it was brought to them before I went into it. I could not state just what time it was.

Q. How long was this conversation of yours with Judge Archbald?—A. I do not know; several different times. Maybe 10, 20, or 25 minutes at a time.

Q. And all he ever said to you on the question of title was that it was all right?—A. Yes; that he thought it was all right; that he did not think it was worth while to look into the matter.

Q. Did he disclose to you at that time that he was personally interested in the sale?—A. No, sir. The only thing I knew—in the first place, John Henry Jones told me that $500 of the $6,500 was a commission that was to be divided between him and Judge Archbald; but I thought at the time the price was raised to $7,500 that the commission had ceased so far as Mr. Jones and Judge Archbald were concerned.

Q. Did Judge Archbald tell you at any time in that conversation that he was interested in the transaction?—A. No; I do not think exactly; no, sir.

Q. Why did you give Judge Archbald or have a $500 note given to him?—A. In the first place, when John Henry Jones asked me about the $500 commission he was to receive, I told him there was not any—the $7,500, I thought, took the commission away from it, and I thought as long as they felt that way about it, the judge was entitled to something. Therefore, I told our people that we had better give him $500 for services, commission, or whatever they might call it.

Q. What did you give it to him for?—A. I thought I was giving it to him for information in regard to title, but it seems since that it was a little bit different from that.

Q. Why did you think you were giving it to him for information in regard to title?—A. Because I thought the price of $7,500, instead of $6,500, had taken the commission off.

Q. Did you have any conversation when you were at Judge Archbald's office with reference to compensating him for what he had done for you about the title in the course of 25 minutes?—A. I think we did. I told him that I would take care of him; that I would take care of him for the trouble I had put him to.

Q. Did he assent to that?—A. No; he did not consent to it either way; he did not say anything. I think one time he did say that he did not want anything; did not expect anything for that.

Q. All the trouble you had put him to up to that time was an interview of about 20 or 25 minutes.—A. No, sir; I had two or three interviews with him.

Q. Did you say this to the judge at that time?

Mr. SIMPSON. What page?

Mr. Manager DAVIS. Page 1154:

So I asked the judge about the title, and he said he could not be my attorney. I says, "I understand you know something about these right of ways that went through this property, this Lacoe & Shiffer property." He said he did. I says, "All I want is your opinion, whether you think the title is right or wrong." He told me the title as far as he knew, and he went on to explain the right of ways, and how the Pennsylvania became in possession of it, and told me then how it was dated back to Lacoe & Shiffer. I told him then that I was thinking of purchasing this property.

You were then asked what month or year, and you stated it was sometime in December, and proceeded:

Yes. So I told the judge that his information to me, as far as the title was concerned, was just as good for me as to get an attorney, and I would compensate him for it, and he says, "No; you need not do that at all." I says, "I really consider it worth to me just as much as attorney's fees, and I would like to have you accept it from me if I purchase the property."

Q. Is that your statement of the interview?—A. Yes, sir.

Q. Is that correct?—A. Yes, sir.

Q. On that examination, Mr. Warnke, you testified that your reason for giving the Judge this money was the information he had given you, did you not?—A. Well, I thought——

Q. You did so testify, did you not?—A. I did so testify; yes, sir.

Q. Do you desire to modify that statement?—A. I want to modify it this way: At that time I thought that the $500 commission had ceased when the price had raised from $6,500 to $7,500, and therefore I thought he was entitled to something for his trouble.

Q. You dealt with the Lacoe & Shiffer Coal Co. direct, did you?—A. I did after it got to a basis of how much money was to be paid down and the conditions of the lease, and so forth; yes, sir.

Q. What was your reason for calling on Judge Archbald to secure you an interview with Mr. Richards?—A. Well, that I could not exactly explain; any more than I just happened to think of the judge and probably thought that he might be able to have Mr. Richards reopen negotiations with me.

Q. Other men had tried the same thing for you and failed?—A. Yes; an attorney, outside of myself.

Q. And you hoped that he could accomplish for you things that other men could not do?—A. No; I had very little hope. I did not really hope that he could accomplish it. That is one reason I did not call him up for weeks after he had seen him. It was four weeks after he had seen Mr. Richards before I ever saw or heard from Mr. Archbald in regard to his answer from Mr. Richards. So you can imagine it was very little hope that I had.

Q. It was your last shot, in other words?—A. It was my last shot; yes.

Q. The last desperate remedy?—A. Mr. Richards handed it to me.

Cross-examination:

Q. (By Mr. SIMPSON.) How long had you known Judge Archbald when you went to see him and asked him to see Mr. Richards?—A. Oh, as far back as I can remember.

Q. Was he to do anything except to see if Mr. Richards would give you another interview?—A. That was all.

Q. When testifying before the Judiciary Committee, in giving the reason which you were asked to give a moment ago by Mr. DAVIS, did you not say that the reason why you went to Judge Archbald was because everybody loved the man, and you thought as everybody loved him you might get a hearing and have redressed the wrong you thought had been done you?—A. Yes, sir; that was the reason. Judge Archbald was a man that was very well liked in his community, and I thought through that probably I could get some of my wrongs redressed; that Mr. Richards would probably give me another interview and probably fix things up.

Q. How much had you in fact lost in the proceedings by which they took this lease away from you after you had been working for two years?—A. From $65,000 to $75,000.

Q. What connection was there, if any, between the interview you asked the judge to have with Mr. Richards and the matter of the purchase and the giving of the note in the Lacoe & Shiffer Coal Co. matter?—A. Not any whatever.

Q. Was anything promised to the judge for seeing Mr. Richards?—A. No, sir.

Q. And this note, which was given to him, the $500 note, had no connection whatever with his seeing Mr. Richards?—A. No, sir; none whatsoever.

Mr. WORTHINGTON. What did he say?

Mr. SIMPSON. Nothing whatever, he said.

Q. (By Mr. SIMPSON.) Who was the acting agent for the Lacoe & Shiffer Coal Co. in the matter?—A. Mr. Berry really was; when it got down to negotiating the terms and conditions Mr. Berry attended to those himself.

Q. Will you give us his full name, please?—A. I think it is William H. Berry; I am not positive.

Q. Is it not John W.?—A. I am not positive as to the initials.

Q. John W. Berry. The first negotiations, as I understand you, grew out of the proposition made by John Henry Jones to the brewing company?—A. Yes, sir.

Q. And as the brewing company turned it down, you concluded there was enough in it for you to take it up?—A. Yes.

Q. And the negotiations in relation to that matter then occurred between you on the one side and Mr. Jones and Judge Archbald on the other, until it got down to the terms and conditions?—A. Yes.

Mr. REED. Mr. President, I have a question I should like to have propounded to the witness.

The PRESIDENT pro tempore. The Senator from Missouri presents a question to be propounded to the witness, which the Secretary will read.

The Secretary read as follows:

You state you appealed to Judge Archbald to get you an interview with Mr. Richards because everybody loved the judge. What reason do you have for believing Mr. Richards loved Judge Archbald?

The WITNESS. The Senator has got me. I would be willing to state that anybody within 20 miles of our community will bear me out in respect of the honorable Judge Archbald, but as far as the love of Richards is concerned, go ask Mike.

Q. (By Mr. SIMPSON.) Will you tell us whether or not Judge Archbald at any time made any demand upon you for any payment for seeing Mr. Richards?—A. No, sir.

Q. Or ever suggested it to you?—A. No, sir.

Q. He never did. Now, coming back to the point we were at, where was the settlement made of the purchase of the fill from the Lacoe & Shiffer Coal Co.?—A. In the Lacoe & Shiffer office at Pittston.

Q. Who were present?—A. The four members of the firm, and Mr. Berry, and I think Mr. Lacoe or Mr. Shiffer; I do not know which.

Q. Four members of which firm?—A. Four members of the Premier Coal Co.

Q. Of which you were a member?—A. Yes, sir.

Q. Was Judge Archbald present at the time?—A. No, sir.

Q. All the money that was paid was paid to whom?—A. I think a certified check was handed to Mr. Berry.

Q. That was the $2,000 to be paid at the time of the settlement?—A. Yes, sir.

Q. And the $5,500 which was the balance for the consideration was to be paid in royalty at the rate of 20 cents per ton?—A. Yes.

Q. How long was it after that settlement was made that you and your associates gave the Premier Coal Co.'s note, to your own order and indorsed by yourself, to Judge Archbald?—A. It may have been within a month or two; I could not say.

Q. Within a month or two after that date?—A. Yes.

Q. By the way, what connection, if any, has the Lacoe & Shiffer Coal Co. with any railroad?—A. Not any; that is, so far as I know. But I am quite positive they have not any.

Mr. SIMPSON. I think that is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager DAVIS.) Did you give us the exact date, Mr. Witness, when you completed the purchase of the Lacoe & Shiffer dump?—A. I could not. I could not even swear to the month. I believe it was in March. It was the latter end of February or March; I am not positive; I do not remember.

Q. (By Mr. SIMPSON.) That is, of the present year?—A. Of the present year; yes.

Mr. Manager DAVIS. That is all.

Mr. Manager CLAYTON. The witness may be discharged so far as we are concerned.

Mr. WORTHINGTON. No; he is under subpœna from us. Of course, he is only discharged from attendance under the Government subpœna.

The PRESIDENT pro tempore. He is discharged from the subpœna on the part of the managers, but will respond to the subpœna of respondent's counsel.

TESTIMONY OF GEORGE F. BAER.

George F. Baer appeared and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you reside, Mr. Baer?—A. At present in Philadelphia.

Q. What is your occupation?—A. For the purposes of this case I am president of the Philadelphia & Reading Coal & Iron Co.

Q. Are you also president of the Philadelphia & Reading Railroad Co. or Railway Co.?—A. Yes.

Q. You are president of the Reading Co.?—A. Yes.

Q. Is the Philadelphia & Reading Railway Co. a common carrier engaged in interstate commerce?—A. Yes.

Q. What is the character of the Philadelphia & Reading Coal & Iron Co.?—A. It is simply a mining company, engaged in the mining and selling anthracite and bituminous coal.

Q. What is the character of the Reading company?—A. The Reading company is a company incorporated in 1871, and it has the same powers under a special act of the assembly that the Pennsylvania company possesses, the Pennsylvania company being the company that operates the lines of railroad, as I understand, west of Pittsburgh. It is a charter that gives power to do almost any kind of business.

Q. Does the Reading company own a majority of the capital stock of the Philadelphia & Reading Railway Co.?—A. Yes.

Q. And also a majority or all the stock of the Philadelphia & Reading Coal & Iron Co.?—A. Yes; it owns all the stock of both the railway company and the coal and iron company, except such stock as is necessary to qualify directors.

Q. So that they are practically united through that common stock ownership?—A. I will not say yes. I just give you what the facts are.

Q. That is not important. Do you know Frederic Warnke?—A. Yes; I met Mr. Warnke, the gentleman who was on the stand.

Q. Who was just on the witness stand?—A. Yes.

Q. Did you ever have any interview with him with reference to the controversy existing between his company and your own, the Philadelphia & Reading Coal & Iron Co., with reference to a lease held at Lorberry, Pa.?—A. Mr. Warnke came to me and said he had been involved in buying an interest in a washery, and it was impracticable to make that washery pay, with the small culm bank they had, and he wanted me to agree to lease him or his company—I have forgotten what the company was called—the culm bank of the Lincoln colliery. I told him we could not do that, that it was a fixed policy of the Coal & Iron Co. not to lease culm banks unless there was some special reason for it, and I explained what that might be. It might be a culm bank that was adjoining somebody else and we never could use it, and it might be possible therefore to make an exception to the general rule; but in all such cases the report of the vice president of the Coal & Iron Co., who resided at Pottsville and was in direct charge of mining operations, would have to be made, and special authority from the board. I referred him to Mr. Richards. Of course, I do not know what took place between him and Mr. Richards, except that Mr. Richards reported to me what the facts were, and I instructed him to say that under no conditions would we lease that culm bank.

Q. It was reported back to you from Mr. Richards?—A. Mr. Richards reported back to me that Mr. Warnke had been to see him. We discussed at the regular meeting that we generally have once a week in Philadelphia of all the coal superintendents the propriety of leasing, and my instructions to him were peremptory not to entertain the proposition to lease the colliery; that it did not come within any exception.

Q. Were you afterwards approached on behalf of Mr. Warnke by any other person?—A. Several persons. A lawyer from Scranton—I do not remember his name—and a lawyer from Wilkes-Barre came down to see me and pled with me, and had a story of hard luck, and I simply declined. I said that our decision with regard to the matter was final.

Mr. Manager DAVIS. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) Can you tell us about when it was you had that interview with Mr. Warnke?—A. Oh, I can not tell that. It must have been a couple of years ago. I have no idea, Mr. Simpson, frankly, and I would not like to fix the date. Mr. Richards probably can give you the date from his correspondence.

Q. Did you have any correspondence or conversation of any kind with Judge Archbald in regard to it?—A. None whatever.

Mr. SIMPSON. That is all; thank you.

Redirect examination:

Q. (By Mr. Manager DAVIS.) Just one further question. Did Mr. Richards report to you at any time that Judge Archbald had approached him on behalf of Mr. Warnke?—A. After this inquiry was started in Congress, something was said in the papers about this, and one day when Mr. Richards came to Philadelphia, last winter, I believe it was, I asked him about it, and then he simply told me that Judge Archbald had dropped in to see him at Pottsville and asked him whether anything could be done. I had told him that my decision was final in the matter, and that is all he reported to me and all I know about it.

Mr. Manager DAVIS. That is all.

Mr. Manager CLAYTON. The witness may be discharged.

The PRESIDENT pro tempore. The witness may be finally dismissed.

TESTIMONY OF W. J. RICHARDS.

W. J. Richards appeared, and having been duly sworn, was examined, and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live, Mr. Richards?—A. Pottsville, Pa.

Q. How far from the city of Scranton?—A. About 80 miles.

Q. What is your occupation?—A. Vice president and general manager of the Philadelphia & Reading Coal & Iron Co.

Q. Of which Mr. George F. Baer, I believe, is president?—A. Yes, sir.

Q. Do you know Frederic Warnke?—A. Yes, sir.

Q. Do you know Judge Robert W. Archbald?—A. Yes, sir.

Q. Did you have any business transaction with Mr. Warnke in the year 1911 with reference to a coal operation of his at Lorberry, Pa.—A. Yes, sir. He had a lease on a certain coal bank from us and was an applicant for additional rights.

Q. What period of time did those negotiations cover?—A. I should say about four years, probably.

Q. What was the status of the matter in the year 1911?—A. We refused to extend the rights.

Q. What right was it he wanted?—A. He wanted an additional bank, known as the Lincoln Bank.

Q. Was there any controversy about his right to the lease under which he was operating?—A. I did not consider it so. He made some claim that certain——

Q. There was no controversy from your point of view?—A. No, sir.

Q. You claimed his lease had expired?—A. Yes, sir.

Q. He resisted that claim, I believe?—A. I do not know that he resisted it; he contended.

Q. Did he have any number of interviews with you on the subject?—A. Yes, sir; at various times.

Q. What was your response to him at those interviews?—A. That we could not lease this bank.

Q. Did Judge Archbald ever come to see you on the subject?—A. Yes, sir.

Q. When and where?—A. He came to Pottsville to see me on the 27th of November.

Q. 1911?—A. Yes, sir.

Q. Was that visit preceded by any correspondence?—A. Yes, sir; he wrote me a letter.

Q. Have you that letter?—A. Yes, sir.

Q. Produce it.

(The letter was handed to the manager.)

Mr. Manager DAVIS. We offer that letter in evidence without further identification. The Secretary will read it.

Mr. WORTHINGTON. There is no objection.

The Secretary read as follows:

[U. S. S. Exhibit 85.]

(R. W. Archbald, Judge, United States Commerce Court, Washington.)

SCRANTON, PA., *November 24, 1911.*

W. J. RICHARDS, Esq., *Pottsville, Pa.*

MY DEAR MR. RICHARDS: Permit me to inquire whether you are to be at Pottsville Monday afternoon or Tuesday morning next; and, if so, whether I could see you for a few minutes? I am coming down to Pottsville on another matter, getting there Monday afternoon, and I would like to make the one trip serve both ends if possible. I could defer my coming for a day, so as to see you Tuesday afternoon or Wednesday morning, but would prefer the other arrangement. I endeavored to call you up by long distance this morning, but it was reported that you were out of town, and it was not known just when you would be back.

Yours, very truly, R. W. ARCHBALD.

Q. (By Mr. Manager DAVIS.) Did you answer that letter?—A. Yes, sir.

Q. Have you a copy of the reply?—A. (Producing paper.) I have a carbon copy of it.

Q. We will take that in lieu of the original and ask that it be read.

The Secretary read as follows:

[U. S. S. Exhibit 86.]

NOVEMBER 25, 1911.

Hon. R. W. ARCHBALD, *Scranton, Pa.*

MY DEAR MR. ARCHBALD: Yours of the 24th instant received to-day, and I have wired you this afternoon as follows:

"Letter received. Will be away Monday, but will be here Tuesday morning."

It will give me pleasure to meet you on Tuesday morning, as per your letter.

Yours, very truly,

———— ————,

Vice President and General Manager.

Q. (By Mr. Manager DAVIS.) Did Judge Archbald appear in accordance with that engagement?—A. Yes, sir.

Q. What arrangement did you have with him on the subject?—A. He simply asked me as to the status of these negotiations with Warnke, and I told him that we declined to make any further leases.

Q. How long was he in your office?—A. I can not recollect, but I do not think it was more than 15 or 20 minutes.

Q. Had he any other purpose at that interview?—A. No, sir.

Q. No other business, so far as you know?—A. No, sir.

Mr. Manager DAVIS. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) Did you have any other correspondence or conversation with Judge Archbald in regard to this matter?—A. No, sir.

Q. And you have given us, as far as you can now recall it, the substance of all that occurred during the time he was there?—A. Yes, sir.

Mr. SIMPSON. That is all.

Mr. Manager DAVIS. The witness may be discharged.

The PRESIDENT pro tempore. Finally?

Mr. WORTHINGTON. Yes, sir.

The PRESIDENT pro tempore. The witness may be finally discharged.

EBEN B. THOMAS.

Mr. Manager CLAYTON. Mr. President, Mr. Eben B. Thomas we will not need as a witness, and we therefore ask that he may be discharged.

Mr. WORTHINGTON. We have no objection, Mr. President.

The PRESIDENT pro tempore. The order will be entered.

TESTIMONY OF ALTON KIZER.

Alton Kizer appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live, Mr. Kizer?—A. In Scranton.

Q. What is your occupation?—A. Real-estate broker; principally real estate and builder.

Q. Do you know Judge Robert W. Archbald?—A. I do.

Q. Do you know Mr. Frederic Warnke?—A. I do.

Q. Are you a member or a stockholder of the concern known as the Premier Coal Co.?—A. Yes; we have organized a concern that we call by that name.

Q. Who compose that corporation or partnership, whichever it is?—A. Walter Schlager, S. H. Swingle, and Frederic Warnke, and myself.

Q. Who is president of the corporation?—A. Mr. Warnke.

Q. And who is its secretary and treasury?—A. Mr. Swingle.

Q. Where are your offices, Mr. Kizer?—A. Mears Building, 8, 10, and 11, Scranton, Pa.

Q. Did your corporation, to your knowledge, ever execute a note to Judge Robert W. Archbald for $500?—A. There was a note of $510 executed, made payable to ourselves and given to Judge Archbald.

Q. Payable to yourselves and then indorsed by yourselves?—A. Indorsed by ourselves; yes, sir.

Q. And delivered to Judge Archbald?—A. Yes.

Q. When and where was that note delivered to him?—A. At the Mears Building. I do not know just the exact date; some time in April, I believe.

Q. Of this year?—A. Yes.

Q. At your offices?—A. Yes.

Q. Was it delivered to him in person?—A. I think so.

Q. Did he come to your office for the purpose of getting it?—A. Yes.

Q. Who made the delivery to him?—A. There seems to be a little uncertainty about the delivery. Mr. Warnke thought it was me, but it was either Mr. Swingle or myself. At any rate, it was one of us, or both of us.

Q. Were you present at the time?—A. Yes.

Q. Had he any other errand to your office at that time?—A. Well, none that I know of. He might of dropped in to pass the time of day, but that was the principal errand.

Q. Had any arrangement been made in advance for his coming at that time to get the note?—A. I do not know that there had.

Q. Did you deliver it to him of your own motion or by direction of some of your associates?—A. Well, we had agreed. That was a part of the purchase price of the coal bank, and it was simply in readiness. Instead of paying the cash we simply made it in a note and included the discount.

Mr. REED. Mr. President, we can not hear the witness in this part of the Chamber.

The PRESIDENT pro tempore. The witness has been warned three or four times to speak louder.

The WITNESS. I am unable to get my voice up. I am not used to speaking in the Senate Chamber. That seems to be the trouble. I will get more used to it.

The PRESIDENT pro tempore. Proceed with the witness.

Q. (By Mr. Manager DAVIS.) Who wrote the note?—A. The treasurer, Mr. Swingle, as I remember it.

Q. Who signed it on behalf of your company?—A. He would also sign it as treasurer.

Q. Has that note ever been paid?—A. I think so.

Q. To whom?—A. To the bank where it was discounted, I presume.

Q. It was discounted, was it, by Judge Archbald?—A. I think so.

Q. What bank?—A. Well, it is my memory it was the Third National Bank.

Q. Of Scranton?—A. Yes.

Q. How many visits did Judge Archbald make to your office, do you remember, to get this note?—A. I remember one.

Q. Was there any other visit?—A. He might have come, but I remember one distinctly that I was present when he came.

Q. You mean one in addition to the visit when the note was presented?—A. No; I mean just the one.

Q. You do not know whether he made any other visits on the same errand or not?—A. He might have. I do not know that he did, and I do not know that he did not.

Mr. Manager DAVIS. That is all.

Mr. REED. Mr. President, I send a question to the desk to be propounded to the witness.

The PRESIDENT pro tempore. The Senator from Missouri propounds the following question, which will be submitted to the witness.

The Secretary read as follows:

Q. Give the full details of the conversation or conversations between yourself and your business associates relative to the payment to Judge Archbald of the $500.

The WITNESS. We were to pay $8,000 for the bank, out of which $500 was to be paid as commission. We paid $2,000 down, and the balance at 20 cents per ton royalty as it is taken from the dump.

Mr. REED. I should like to have the question read again to the witness.

The PRESIDENT pro tempore. Repeat the question to the witness, so that he may answer it fully.

The SECRETARY. The question is as follows:

Q. Give the full details of the conversation or conversations between yourself and your business associates relative to the payment to Judge Archbald of the $500.

The WITNESS. Well, I have tried to cover that. What point is it——

The PRESIDENT pro tempore. The witness will, so far as practicable, answer the question. A Senator is not allowed to propound a question orally to the witness.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Under the rule, the Senator can only propound a question in writing.

Mr. REED. I understand, Mr. President——

The PRESIDENT pro tempore. The Senator can send an additional question to the desk if he so desires.

Mr. REED. I understand the rule perfectly. I wanted to have this question——

The PRESIDENT pro tempore. The rule of the Senate does not permit the Senator to do further than to send a question to the desk in writing.

Mr. REED. The rule does not prohibit my requesting the Chair to ask the witness to answer again this question. That is what I am asking for.

The PRESIDENT pro tempore (to the witness). Remember the question, and answer it as fully as you can.

The WITNESS. I tried to carry the question, and I tried to answer it.

The PRESIDENT pro tempore. Give the question to the witness; give him the paper.

(The paper was handed to the witness.)

The WITNESS (after reading paper). Well, the full details are that we were simply to pay the $500 as commission on the sale of this bank.

Mr. REED. Mr. President, I desire to propound another question.

The PRESIDENT pro tempore. The question of the Senator from Missouri will be read to the witness by the Secretary when sent to the desk.

The Secretary read as follows:

Q. What did you say to your partners and what did they say to you when you discussed the payment of the $500? What was said about Judge Archbald's connection? Give the facts fully.

The WITNESS. Well, it was simply a commission for the sale of the bank.

Mr. REED. Mr. President, I do not think that is an answer.

The PRESIDENT pro tempore. The witness will look at the question and answer the particular question as to what was said. Read the question and answer it as it is written. There are two questions. Answer the first one first, and then the second.

The WITNESS (after reading the question). Well, as I before stated, we were to pay $8,000 for the bank——

The PRESIDENT pro tempore. Let me see that question. [After examining question.] Mr. Witness, you certainly know what that question means, and you are required to answer it. Answer what was said. Read the question again—the first question. Mr. Witness, that question must be answered by you without further delay.

The WITNESS. I am trying to answer it if I can understand it.

The Secretary again read the question, as follows:

Q. What did you say to your partners and what did they say to you when you discussed the payment of the $500?

The PRESIDENT pro tempore. That is a plain question.

The WITNESS. Well, we said we would pay the $500, and they drew up a note for it—made it in the form of a note.

The PRESIDENT pro tempore. The Secretary will read the second question.

The Secretary read as follows:

What was said about Judge Archbald's connection? Give the facts fully.

The WITNESS. Well, the only connection that I know of that Judge Archbald—we had met over in Judge Archbald's office, and it was agreed among ourselves that we pay $500 commission for the sale of this bank. Seven thousand five hundred dollars was to be paid to Mr. Berry. An arrangement was made with Mr. John W. Berry of $2,000 down and the balance to be paid at the rate of 20 cents a ton to be sure he got his money before the bank would be exhausted.

The PRESIDENT pro tempore (to the witness). You are not heard by the Senate. Why do you not speak louder?

The WITNESS. Well, I am endeavoring to.

Q. (By Mr. Manager DAVIS.) You say you were at Judge Archbald's office?—A. We were at Judge Archbald's office.

Q. When?—A. Well, I can not give the date—just a little before——

The PRESIDENT pro tempore. Before the manager proceeds, there is another question, sent to the desk by the Senator from Missouri [Mr. REED], which will be read by the Secretary.

The Secretary read as follows:

Q. State, as nearly as you can, all that Judge Archbald said when he came to your office; and what was said by you, or in your presence, to him.

The WITNESS. Well, as I remember, Judge Archbald came in, and he was given the note for $500. I do not know just the exact conversation that did take place, but we understood he was to receive the $500. There was some talk as to the title—whether the Pennsylvania Railroad Co. owned the tract or the Laurel Line or Lacoe & Shiffer. We probably went over that. We may have talked with the judge about it. We had an attorney with us who represented us. We were over in the judge's office, and from there finally we went down to—I am getting now to the time when we closed the transaction—we went down to Mr. Berry's office at Pittston, and the matter was closed up, and we made the final payment. We were represented by an attorney. That is the sum and substance of the whole transaction.

Mr. Manager DAVIS. Is there any other question on the part of the Senator?

The PRESIDENT pro tempore. There is no other question on the part of the Senator.

Q. (By Mr. Manager DAVIS.) When was it that you were at Judge Archbald's office?—A. Well, I can not give you just the date; I have not anything to recall the date, except the fact we were there. The date I could not just give you.

Q. How long before you closed the deal?—A. Well, just about that time, because we went down within a day or two or the same day or the following day with Mr. Berry. There were some other little transactions there. There were some things that the attorneys had to look up—the records—to see whether they had full right to it. This had originally been a Pennsylvania Railroad fill, and probably had changed hands once or twice, and the ownership was a question. That is, we thought that it might be a question as to whether Lacoe & Shiffer had the legal right to the fill.

Q. Let me ask you, were you buying the fill outright or buying a lease on it?—A. Well, originally we were to buy it outright; but it finally developed, as we went along the lines, that it was to be in the form of a lease, with a certain payment of $2,000 and the balance at——

Q. Did Lacoe & Shiffer own it outright or did they own it under a mining lease?—A. No; I think they owned it outright.

Q. You say you "think"; you certainly know.—A. They owned it outright; at any rate they signed the papers, and it satisfied our attorneys; so they must have owned it outright.

Q. Who was with you at Judge Archbald's office?—A. Well, I think we were all there—the parties interested.

Q. Name them.—A. Mr. Swingle was there and Mr. Schlager—I am not positive whether Mr. Warnke was or not—and I was there.

Q. Anyone else?—A. Our attorney was there.

Q. Who was your attorney?—A. Mr. Houck.

Q. Why did you go to Judge Archbald's office?—A. Well, it seemed that we went over there with the thought that the judge possibly had something to do with or had some interest in the bank as to the sale of it.

Q. You say you "think" and "possibly." You know why you went to Judge Archbald's office. Why was it?—A. That would be the reason we went there—to try to complete the negotiations for this bank.

Q. Why did you think that Judge Archbald had some interest in the sale of it?—A. Well, going back, this was brought to my attention, that there was a certain bank that might be had. I do not know how it did develop, but, at any rate, it developed that we understood that Judge Archbald had something to do with the sale of this bank. Therefore we simply went over to Judge Archbald's office.

Q. Who brought it to your attention that there was a bank you might get?—A. Mr. Swingle, originally.

Q. Is that all the information you had about Judge Archbald's connection with it before you went to his office?—A. That is practically what we had about it.

Q. He did not own the bank, did he?—A. No; I do not think so.

Q. You knew that fact?—A. I knew he did not own it.

Q. What information had you personally about his connection with the deal before you went to his office?—A. I do not know that I had any, except that he was interested in the sale of the bank.

Q. In what way?—A. Well, that developed later—in the way of a commission.

Q. You did not know at that time, then, that he had a commission on it? Is that true?—A. No; I did not.

Q. What conversation did you have at Judge Archbald's office?—A. Well, it finally developed, as we were along the lines of the negotiation, that we were to pay him the $500 commission.

Q. For what?—A. For the sale of the bank if we completed the negotiations.

Q. What did he have to do with your completing the negotiations?—A. Well, there was considerable to do.

Q. What?—A. They had to find out who was the owner. It is not as easy a thing to find out who is the owner of a culm pile as it seems to be. There is this one claims to own it, and another one claims to own it, and that was the main thing to ascertain, if possible, who was the owner or who to go to.

Q. What help did he give you in ascertaining who was the owner?—A. Well, through his information we got in connection with Mr. Berry, as I remember the exact detail.

Q. Did you not know long before you went to Judge Archbald's office the people who were in charge of the bank were Lacoe & Shiffer and that Mr. Berry was their local representative?—A. Until we went there I had never met Mr. Berry.

Q. That is not my question.—A. No; I did not.

Q. Did you not know you were dealing for the Lacoe & Shiffer dump?—A. No; at the time we went to Judge Archbald's office I had no idea who owned the dump positively.

Q. Of course, your associates knew who you were dealing with?—A. They may have; I do not know; I did not.

Q. Did you have anything at all to do with that transaction before that day?—A. The day we went over?

Q. Yes.—A. We had talked it over, and I had even gone down to look at the dump, but I had not the slightest idea who owned the dump.

Q. Do you mean to say it was not until you got to Judge Archbald's office that you knew with whom you were dealing as owners of that dump?—A. That was about the time that John W. Berry appeared there in person, and it developed that he and Lacoe owned the dump.

Q. John W. Berry appeared where in person?—A. Well, I do not know just where we met Mr. Berry—whether it was on the street, or just where; but about the time Berry came to Scranton, and finally, in the final conclusion, we went down to Mr. Berry's office at Pittston.

Q. You did not meet Mr. Berry at Scranton or somewhere else by any introduction of Judge Archbald, did you?—A. Oh, no.

Q. Then I ask you again what service it was that Judge Archbald was to render you with reference to the purchase of this property?—A. Well, I understood that on the sale of the dump Judge Archbald was to receive a commission on the dump—a pure and simple commission.

Q. And why was he to receive that from you?—A. Well, in buying and selling—we frequently pay a commission on a sale of a house and often have to——

Q. Well, you do not do it unless you have some reason for it, do you?—A. Well, if we want it and have the purchase price, why, we have got to pay it.

Q. Why was Judge Archbald entitled to demand from you a commission on the sale of this property?—A. Well, I do not know as I can say.

Q. Did you never inquire?—A. I must have inquired.

Q. What was your information?—A. I simply understood that he was to receive a commission of $500 on the sale of that culm dump, if it was sold, and we wanted the dump.

Q. What service did he render to you and your associates that entitled him to that commission?—A. Well, first of all, he seemed to have the sale of it.

Q. How did that appear?—A. Well, it appeared that way because we went over to see the judge before it was finally purchased in the way of making terms.

Q. Did he seem to be the agent for the owners of the dump?—A. Well, perhaps not the agent, and perhaps he may have been.

Q. What did you say to him and what did he say to you on that subject?—A. Well, as I remember, he said that Mr. Berry, of Lacoe & Shiffer, had the dump for sale, and we were trying to get together. We wanted to buy it outright for cash originally. That is the way we talked it over first, but it finally developed that it took some talking back and forth, and Mr. Berry wanted a certain amount down and a certain amount per tonnage, and the judge assisted us in getting the arrangement completed.

Q. How did he assist you?—A. Well, by talking the matter over with us.

Q. How many interviews did you have with him at his office or elsewhere?—A. One; I am not positive—possibly two.

Q. And for talking it over with you there at his office and telling you that the Lacoe & Shiffer Co. owned the dump you agreed to pay him $500?—A. We were glad to pay $500 commission to get the bank, and we would have paid more for the bank if we had to. We thought it was good; it was hard to get, and we thought the commission was a fair one.

Q. Could you not have bought the dump without Judge Archbald's assistance?—A. Well, I do not know. The dump had laid there—well, for 40 years.

Q. Could you not have bought it without going over and holding that conversation at Judge Archbald's office, which seems to have been all he did for you?

Mr. WORTHINGTON. I object to the statement of the manager that that seems to be all he did. I think it is not for the manager to testify or speak on that point.

Mr. Manager DAVIS. It seems to me that that was all. But I will qualify my statement.

Mr. WORTHINGTON. Very well, then.

Mr. Manager DAVIS. But it fairly bears that construction without any explanation. Read the question.

The Reporter read the question.

The WITNESS. I do not know whether we could or not. We did not try any other way.

Q. (By Mr. Manager DAVIS.) Was your next interview with Judge Archbald on the subject at the time when he came to your office to get the note?—A. I do not remember.

Q. Do you remember what time of day he came to your office for that purpose?—A. Well, I do not know that I could tell the time of day.

Q. How long was he there?—A. Just a few minutes—probably 5 to 10 minutes—I could not say that.

Q. Did you engage in conversation with him?—A. Not particularly; no.

Q. Did anyone in the office engage in conversation with him?—A. I do not think so.

Q. Do you mean to say that he simply came in and got the note and went out without the exchange of any words?—A. Well, we might have talked the matter over. I do not remember whether we did, or what we said.

Q. Did he ask you for the note?—A. I do not know as to that. We had it ready when he came. He may have or might not.

Q. You do not remember distinctly that that was the only purpose of his presence there?—A. I think so.

Mr. REED. I would like to have this question propounded.

The PRESIDENT pro tempore. The Senator from Missouri submits a question to be propounded to the witness, which will be read by the Secretary.

The Secretary read as follows:

Do you want to be understood as testifying that when Judge Archbald came to your office you simply handed him a note for $500 instead of cash, and that nothing was said? There must have been a conversation about the payment and about why Judge Archbald was to be paid $500, and why a note was given instead of the cash. I want the conversation—what was said—and if you can not give the exact language then give its substance.

The WITNESS. The parties interested had already talked over as to the payment and the amount, and accordingly instead of paying cash we gave a note and included the discount, which made it cash; made the note payable to our order and indorsed it personally.

Mr. REED. I ask to have the question read to the witness and that he be instructed to answer; not to give his conclusions, but what was said.

The PRESIDENT pro tempore. The Secretary will hand the question to the witness so he can read it.

The WITNESS (after reading the question). As to the first item, we had already made arrangements to pay the $500, and had it ready, and I do not know that there was anything said. I do not know that I gave him the note. I do not know that Mr. Swingle did. I do not remember any conversation. As to

the note, instead of cash we considered a note made payable to our order, so there would be no difficulty in discounting.

Mr. REED. I ask that the witness be directed to answer the question.

The PRESIDENT pro tempore. The witness says he does not remember what was said.

Mr. REED. Mr. President, the last part of his answer was a mere conclusion, not the conversation or whether there was a conversation.

The PRESIDENT pro tempore. The witness has stated that he does not remember that there was any conversation.

The WITNESS. I do not remember what conversation was had. I do not remember what was said, if anything.

Mr. REED. Very well. I have one more question that I would like to have propounded.

The PRESIDENT pro tempore. The Secretary will read the question sent to the desk by the Senator from Missouri.

The Secretary read as follows:

Q. Did you understand that Judge Archbald was the agent of the owners of the dump; and if so, how did you get that understanding?

The PRESIDENT pro tempore (after a pause). Give the witness the question to read.

A. (After reading the question.) Well, that must have been my understanding, that Judge Archbald had to do with the sale of the dump; that he probably represented Mr. Berry. I do not know if it would be agent or just how, but we did understand that he was to have the $500 payment commission on the deal. And as to how I got that in mind, I do not know just how it did occur first.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Kizer, do you know what became of the note?—A. Finally.

Q. Yes. After it was paid.—A. We got the note back to the office after it was paid.

Q. Do you know who has it now?—A. I think Mr. Swingle has it here.

Q. You spoke of this as being a fill, possibly belonging to the Pennsylvania Railroad Co.?—A. Yes.

Q. You meant the Pennsylvania Coal Co., did you not?—A. Yes; I wish to correct that—the Pennsylvania Coal Co. Let us see, now. The old gravity——

Q. The old gravity fill?—A. The abandoned bed of the old railroad.

Q. Which the Pennsylvania Coal Co. had for carrying their coal to connect with the other road?—A. Yes. I did not mean to say the Pennsylvania Railroad Co. I meant the Pennsylvania Coal Co.—the old gravity system.

Q. There is no connection between the Pennsylvania Railroad Co. and the Pennsylvania Coal Co?—A. None whatever. It is simply an old abandoned fill.

Q. You were asked as to any conversations in relation to the $500 to be paid. When did you first learn that there was $500 to be paid?—A. Well, I do not know just what time, but it was during the negotiations, and I remember we inquired, and we said——

Q. Just answer my questions, if you please, and we will get along very much better.—A. All right. I do not know.

Q. Who was it who said in your presence that there was $500 to be paid?—A. Well, I do not know but that it was Mr. Warnke.

Q. What did Mr. Warnke say when he said that? Just give as near as you can the substance of what he said.—A. I do not know but that Swingle told me—he or Warnke.

Q. Let us take one at a time and we will get along better. What was it he said, as near as you can remember?—A. Well, that the judge was to have $500.

Q. What did Swingle say?—A. He spoke about it—well, he wanted to know whether there was going to be any more $500.

Q. That is what Swingle said, was it?—A. Yes, sir.

Q. And who answered him?—A. Mr. Warnke, as I remember it.

Q. What did Warnke say in answer?—A. He said, "No; that is all."

Q. "That is all." Was the $500 spoken of afterwards?—A. Among ourselves, do you mean?

Q. Yes; I mean among yourselves.—A. Why, certainly.

Q. Who spoke of it next?—A. Well, we all talked it over.

Q. Can you not tell us who spoke of it next?—A. Well, Swingle told me about the $500, anyway.

Q. What did he say when he told you about it?—A. He said that it had developed that there was $500.

Q. To be paid?—A. To be paid.

Q. Did he say to whom?—A. To Judge Archbald.

Q. To Judge Archbald; and what did you say when Swingle said that?—A. Well, I do not know; I said—let us see. I may have said the bank was worth it, and we were willing to pay it.

Q. You say you may have said it. Do you recall whether you did say it?—A. Yes; I did say it.

Q. You recollect you did say it?—A. Yes.

Q. Was there anything said by anybody else about it?—A. Well, I do not recall any special conversation.

Q. Can you recall any other conversation occurring in your presence on the part of any of the members of your company in which this $500 note was spoken of?—A. Well, I do not just recall any.

Q. Then you think you have given us now as near as you can the language of yourself and associates what it was that was said in all the interviews in which that $500 note was spoken of?—A. That is what I am trying to do.

Q. I am asking you now whether you have given all that was said about that $500 note in all the interviews, as near as you can recall?—A. I think so.

Q. Did you know that Judge Archbald had an option on that gravity fill from the Lacoe & Shiffer Coal Co.?—A. Well, I do not know that I did.

Q. You do not remember hearing that spoken of?—A. I do not know but that I did.

Mr. SIMPSON. I think that is all.

Mr. Manager DAVIS. I think that is all. Mr. President, it is now five minutes of adjourning time. We may have some questions in the morning.

Mr. WORTHINGTON. We are not through.

Mr. SIMPSON. There is one other question that I want to ask the witness, which has been suggested to me by my colleague.

Q. (By Mr. SIMPSON.) Had the Premier Coal Co. or yourself, or, so far as you know, any of your associates except Mr. Warnke, any interest in the matter in dispute between Mr. Warnke and the Philadelphia & Reading Coal & Iron Co.?—A. Nothing whatever. We had no lawsuits pending in any court anywhere.

Q. Was there anything said at any time to the effect that this $500 was to be given or any payment of any kind to be made to Judge Archbald for anything he would do in that other matter?—A. Nothing whatever. It was simply the payment on the sale of the bank.

The PRESIDENT pro tempore. There are two questions sent to the desk by the Senator from South Dakota [Mr. CRAWFORD] that will be propounded, if there is time.

Mr. Manager CLAYTON. Of course I recognize that the managers have not the right to make a motion to that effect, but I respectfully suggest that the managers desire the time of the session of the Senate sitting as a Court of Impeachment extended this afternoon until we have concluded the examination of this witness, which I hope will not be very long.

Mr. Manager DAVIS. I think I have but one additional question, Mr. President.

Mr. GALLINGER. I was about to ask unanimous consent, as it is said a short additional time will be required to complete the examination of this witness, that the order of the Senate be so modified.

The PRESIDENT pro tempore. The Senator from New Hampshire suggests that the Senate sitting as a Court of Impeachment shall prolong its session beyond 6 o'clock until the examination of this witness may be concluded. Is there objection? The Chair hears none, and it is so ordered.

The Secretary will propound the first question which has been sent to the desk by the Senator from South Dakota [Mr. CRAWFORD].

The Secretary read as follows:

Q. Is it customary in your locality for the buyer of property to pay a commission to the agent representing the owner who sells it?

The WITNESS. Will you read it again?

The question was again read.

The WITNESS. It is, very frequently.

The PRESIDENT pro tempore. The Secretary will read the next question propounded by the Senator from South Dakota [Mr. CRAWFORD].

The Secretary read as follows:

Q. Do you mean to say that while Judge Archbald was agent for the seller of the dump he accepted a commission from the buyer of it?

The WITNESS. Well, I do not know that he was agent. He may have had an option, and at any rate I know we paid the——

The PRESIDENT pro tempore. You are not to direct your answer to the Secretary. You are speaking to the Senate now, and you should talk out louder, so that everyone can hear.

The WITNESS. Will you give me that question again? [The question was handed to the witness.] The commission may have been from the fact that he held the option on the thing.

We have frequently paid commissions. I mean to say we paid a commission on the sale of the dump—$500.

Q. (By Mr. Manager DAVIS.) You say one of the questions you took up with Judge Archbald was the matter of the title?—A. We talked it over with Judge Archbald, notwithstanding the fact that we were represented by an attorney.

Q. And your doubt about the title arose from the claims of the Pennsylvania Coal Co. Was the title that you feared the possibility of the title of the Pennsylvania Coal Co.?—A. This portion was a fill on the old Gravity bed, and it had been abandoned. It developed that Lacoe and Shiffer, who owned land around there when the road was abandoned—if the old Gravity Railroad did not have a deed for it, it reverted back to the original owner. Therefore there was a question whether the parties owning the land adjoining it would be the legal owners or it would still remain in the possession of the old Pennsylvania Gravity Railroad, long since out of existence—probably 20 years.

Q. That Pennsylvania Gravity Railroad was the Pennsylvania Coal Co.?—A. Yes; and they used this road to take coal to market.

Q. But you say the Pennsylvania Coal Co. had no connection with the Pennsylvania Railroad Co. I believe that was your statement?—A. No; it was that the Pennsylvania Railroad Co.—what we know now as the Pennsylvania Railroad Co.—has no connection whatever.

Q. It is a fact, is it not, that the Pennsylvania Coal Co. is one of the operating companies owned by the Erie Railroad Co.?—A. They were purchased by the Erie—all the holdings.

Q. It is a fact, is it not, that Mr. W. A. May is vice president and general manager of the Pennsylvania Coal Co.?—A. I believe he is; yes.

Q. Also vice president and general manager of the Hillside Coal & Iron Co.?—A. That is his title, as I understand.

Q. One and the same man?—A. Yes.

Q. I believe that is all.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. REED] has sent a question to be propounded to the witness. It will be read.

The Secretary read as follows:

Is it customary in your country for a man to act as the agent of the owner of property in the sale thereof and at the same time to act as the attorney of the purchaser in the examination of the title?

The WITNESS. As to examining the title, we were represented by an attorney who satisfied us as to the legal points of the title.

The PRESIDENT pro tempore. You are not answering the question, Mr. Witness.

The WITNESS. I would say no.

The PRESIDENT pro tempore. Well, that is an answer to the question. The witness says "No."

Mr. Manager CLAYTON. Mr. President, this witness may be discharged.

The PRESIDENT pro tempore. The witness may be finally discharged?

Mr. Manager CLAYTON. Yes, sir.

The PRESIDENT pro tempore. The witness may be excused finally.

SUBPŒNA AND DISCHARGE OF WITNESSES.

Mr. Manager CLAYTON. Mr. President, I desire that the following witnesses may be discharged: James F. Bell, V. L. Petersen, and W. L. Pryor. We agreed to discharge Mr. Pryor the other day, but there seems to have been some misunderstanding about it. Also John M. Robertson may be discharged.

Mr. WORTHINGTON. Petersen and Robertson are under our subpœna, and we wish to have them kept.

The PRESIDENT pro tempore. The witnesses whose names have been read by the manager will be discharged from liability to the managers, but a summons will be issued on behalf of the respondent to the two who have been named by counsel.

Mr. WORTHINGTON. As far as Pryor and Bell are concerned, we do not care to have them retained.

C. H. VON STORCH AND W. M. RUTH.

Mr. Manager CLAYTON. C. H. Von Storch and W. M. Ruth have been duly subpœnaed on behalf of the managers on the part of the House to appear here as witnesses. The process has been regularly served upon them, as shown by the return of the Sergeant at Arms of the Senate, and I wish them to be called now so that I may move for an order.

The PRESIDENT pro tempore. The Sergeant at Arms will call the witnesses named.

The SERGEANT AT ARMS. C. H. Von Storch! C. H. Von Storch! C. H. Von Storch! Appear and answer the summons.

W. M. Ruth! W. M. Ruth! W. M. Ruth! Appear and answer the summons.

Mr. Manager CLAYTON. I ask for the adoption of the order which I send to the Secretary's desk.

The PRESIDENT pro tempore. The Secretary will read the order.

The Secretary read as follows:

Ordered, That attachments do issue in accordance with the rule of the Senate of the United States for C. H. Von Storch and W. M. Ruth, witnesses heretofore duly summoned in this proceeding on behalf of the managers of the House of Representatives.

The PRESIDENT pro tempore. The order will be issued in accordance, unless there be objection on the part of the Senate.

Mr. GALLINGER. I move that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 10 minutes p. m.) the Senate adjourned until to-morrow, Saturday, December 14, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December 13, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father in heaven, draw us by Thy holy influence to that nobility of soul without which the ideal home can not be, without which the pure patriot can not be, without which the real statesman could not be, without which pure and undefiled religion could not exist; that our homes may be pure and holy, our Republic rich in citizenship, strong in statesmanship, and our faith be deep and ever abiding in Thee, O God our Father. Amen.

THE JOURNAL.

The Journal of the proceedings of yesterday was read.

Mr. MANN. Mr. Speaker, I notice that the Journal shows, from the reading, that on yesterday the gentleman from Ohio [Mr. ANSBERRY] moved to reconsider the last three votes, as I understood, relating to the contested-election case. Mr. ANSBERRY and myself both made motions and asked that they lie on the table. The gentleman from Ohio did not vote with the majority on the last proposition, and would have no right to make a motion to reconsider on that. I take it that if the Journal shows that he did make the motion and no point of order was made upon it that would settle it.

The SPEAKER. The Chair understood, when the gentleman from Ohio [Mr. ANSBERRY] made his motion, that he made it with reference to the committee resolution. Of course the point stated by the gentleman from Illinois is absolutely correct. What suggestion has the gentleman to make?

Mr. MANN. I have no desire to have the Jounal corrected in that respect if the Speaker holds that, the motion having been made and no point of order having been made as to the right of a gentleman to make it, it is too late to make the point of order after the matter is disposed of.

The SPEAKER. The Journal ought to be changed to conform to the fact, and that is that the gentleman from Ohio [Mr. ANSBERRY] made the motion to reconsider on the committee resolution——

Mr. MANN. On the substitute and on the committee resolution, and I made the motion to reconsider on the Palmer resolution.

The SPEAKER. And that the gentleman from Illinois [Mr. MANN] made the motion to reconsider on the Palmer resolution. Without objection, the Journal will be corrected to show the facts as stated by the Speaker.

There was no objection.

The Journal was approved.

EXPLANATION OF VOTE.

Mr. ANDERSON. Mr. Speaker, on page 498 of the RECORD of December 11, on the vote to recommit, I am recorded as voting "present." By arrangement with the gentleman from Mississippi [Mr. COLLIER] I had supposed that I was paired with another gentleman from Mississippi [Mr. SISSON], who was sick. Consequently I did vote "present." I desire to state, however, that by some misunderstanding Mr. SISSON was paired with the gentleman from North Dakota [Mr. HANNA], and that if there had been no such misunderstanding and I had been at liberty to vote, I would have voted "yea" on that motion.

Mr. COLLIER. Mr. Speaker, I would like unanimous consent for one minute and a half.

The SPEAKER. The gentleman from Mississippi [Mr. COLLIER] asks unanimous consent for a minute and a half. Is there objection to the gentleman's request?

There was no objection.

Mr. COLLIER. Mr. Speaker, on the day the gentleman from Minnesota [Mr. ANDERSON] mentions, I was authorized by my colleague, Mr. SISSON, who was sick, to pair him with the gentleman from Minnesota [Mr. ANDERSON]. The gentleman from Minnesota left it to me to attend to the arrangement of the pair, and I thought that he had been properly paired. He stated at the time that he was opposed to the bill. I make this statement in justice to the gentleman from Minnesota [Mr. ANDERSON], because he left the arrangement with me, and I thought he was properly paired.

The SPEAKER. Is there anything that the gentleman from Minnesota asks to have done about this?

Mr. ANDERSON. I do not think that there is anything that can be done, unless it be to leave the statement in the RECORD.

The SPEAKER. The Chair does not see how it could be.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment the following resolution:

House concurrent resolution 66.

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, December 19, 1912, they stand adjourned until 12 o'clock m. on Thursday January 2, 1913.

ALLEGED CRUELTIES IN PERU.

Mr. KINDRED. Mr. Speaker, I ask unanimous consent to print in the RECORD some press notices relative to alleged atrocities and cruelties practiced by the agents of the rubber trade in Peru upon the helpless Indians of that country, to be printed in connection with the resolution that I am going to introduce.

The SPEAKER. The gentleman from New York asks unanimous consent to print certain excerpts from publications concerning alleged cruelties in the rubber trade in South America. Is there objection?

Mr. MANN. How much of this is there?

Mr. KINDRED. It is very short, less than a third of a column.

The SPEAKER. Is there objection?

There was no objection.

COURTHOUSE, HELENA, ARK.

Mr. ROBINSON. Mr. Speaker, I call up the conference report on the bill (S. 3436) to grant to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse.

The SPEAKER. The Clerk will read the conference report.

Mr. ROBINSON. I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from Arkansas asks unanimous consent that the statement be read in lieu of the report. Is there objection?

There was no objection.

The conference report is as follows:

CONFERENCE REPORT (NO. 1268).

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3436) granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment.

JOS. T. ROBINSON,
JAMES M. GRAHAM,
ANDREW J. VOLSTEAD,
Managers on the part of the House.

REED SMOOT,
KNUTE NELSON,
MARK A. SMITH,
Managers on the part of the Senate.

The Clerk read the statement, as follows:

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3436) granting certain lots to Phillips County, Ark., submit the following written statement, explaining the effect of the action agreed upon:

The House amendment is self-explanatory and is as follows:

Add the following proviso to the bill:

Provided, That upon the discontinuance of the use of this property for public purposes it shall revert to the United States.

The effect of the agreement at the conference is to recede from said amendment and to leave the bill as the same originally passed the Senate.

JOS. T. ROBINSON,
JAMES M. GRAHAM,
Managers on the part of the House.

Mr. ROBINSON. Mr. Speaker, I move that the House agree to the conference report.

The motion was agreed to.

PENSIONS.

Mr. ADAIR. Mr. Speaker, I call up the bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, which bill is on the Private Calendar.

The SPEAKER. The Clerk will report the bill.

The Clerk read the title of the bill.

Mr. ADAIR. Mr. Speaker, I move that the bill be considered in the House as in Committee of the Whole, and that the first reading of the bill be dispensed with.

Mr. MANN. As this is the first bill of this character that has been considered at this session, I suggest that the gentleman move that the House resolve itself into the Committee of the Whole. It probably will not take any longer.

Mr. ADAIR. We have been considering these bills in the House as in Committee of the Whole. This is a very short bill.

Mr. MANN. I suggest that it is proper that at least one of these bills be considered in Committee of the Whole.

Mr. ADAIR. Does the gentleman object?

The SPEAKER. It is not a question of objection.

Mr. ADAIR. I move that the House resolve itself into the Committee of the Whole House for the consideration of pension bills.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House for the consideration of bills in order this day under the rule, with Mr. CULLOP in the chair.

Mr. ADAIR. Mr. Chairman, I ask that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read the bill for amendment if no general debate is desired. The Chair hears no request for general debate.

The bill is as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Frank B. Sapp, late of Company F, One hundred and thirty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lewis Thomas, late of Company B, Twenty-ninth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Ellen Weller, former widow of William C. Welch, late of Company F, Sixteenth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jeremiah Gatton, late of Company A, One hundred and eighty-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Charles McIlee, late of Company C, First Regiment Missouri Volunteer Engineers, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Narcisse Menard, helpless and dependent son of John Menard, who served under the name of John Miner, late of Company I, One hundred and twenty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of James R. Eaton, late of Company H, Third Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Gustav Lenau, late of Battery A, New Jersey Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry Dunlap, late of Company A, Twenty-second Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Francis M. Jones, late of Company K, Eleventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Theodore F. Hawley, late of Company B, Forty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Rebecca Cordell, widow of Samuel Cordell, late of Company E, Fifth Regiment West Virginia Volunteer Infantry, and

Company K, First Regiment West Virginia Veteran Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Peter Miller, late of Company H, United States Reserve Corps (Cole County) Missouri Home Guards, and pay him a pension at the rate of $12 per month.

The name of Christina Younkman, widow of John C. Younkman, late of Company F, Seventy-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James F. Smith, late of Company G, Thirteenth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Harriet F. McGinnis, widow of Thomas McGinnis, ordinary seaman U. S. S. North Carolina, Arletta, and Montgomery, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Howell, late of Company H, Second Regiment Tennessee Mounted Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Amos Freese, late of Company K, One hundred and first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Daniel Bennett, late of Company A, Sixty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Wallace R. Kelley, late of Company F, Sixth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Julia A. Ferber, former widow of Richard Kershaw, late of Companies K and G, Sixteenth Regiment Wisconsin Volunteer Infantry, and Company F, Fourth Regiment United States Veteran Infantry, and pay her a pension at the rate of $20 per month.

The name of David McClintic, late of Company A, One hundred and twentieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Adaline Fowle, widow of Joshua Fowle, late of Company I, Twenty-second Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Lewis E. Ward, late of Company H, First Regiment Maryland Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles M. Brookover, late of Company E, One hundred and fifty-ninth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Rebecca A. Jones, helpless and dependent child of Christopher Jones, late of Company D, One hundred and eleventh Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of James B. Armstrong, late of Company I, Fifty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Simon Roth, late of Company H, Fifth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alvena Wiggins, former widow of Albert Miller, late of Company F, Twenty-sixth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Charles Perry, late of Company I, Twenty-eighth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John F. Harper, late of Company L, Thirteenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Julia Schafer, widow of Henry Schafer, late of Company K, Thirty-second Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jesse W. McMichael, late of Company I, Twenty-fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Anna Mary Troup, helpless and dependent child of John Troup, late of Company D, One hundred and seventy-eighth Regiment Pennsylvania Drafted Militia Infantry, and pay her a pension at the rate of $12 per month.

The name of George I. Foster, late of Company D, Seventy-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ira S. Merrill, helpless and dependent child of William F. Merrill, late of Company I, Fourth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $12 per month.

The name of John A. Hall, late of Company A, One hundred and ninety-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Charlotte A. Brandau, widow of Gustavus A. Brandau, surgeon Eleventh Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Sarah J. Kelley, widow of Curtis Kelley, late of Company C, Eleventh Regiment New Jersey Infantry, and the Fifty-seventh Company, Second Battalion Veteran Reserve Corps, and pay her a pension at the rate of $20 per month.

The name of William C. Baxter, late of Company C, Thirty-ninth Regiment Missouri Infantry, and Company G, Fourteenth Regiment Missouri Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Reuben Lyle, late of Company I, One hundred and forty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John Sipple, late of Company H, Nineteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of James H. Fountain, late of Company C, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Elizabeth LaFlesh, widow of Thomas J. LaFlesh, late of Company B, Second Regiment Wisconsin Volunteer Cavalry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Thomas Edwards, late of Company G, Fifth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frances A. Ginther, widow of Sidney Ginther, late of Company D, Eighty-eighth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Robert A. Barnes, late of Company C, One hundred and twenty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Andre C. Chamberlain, late of Company A, Twenty-third Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lyman Cazaley, late of Company K, One hundred and fifty-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Sarah Jones, widow of Moses Jones, late of Company I, Eighty-first Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Joseph H. Parker, late of Company C, Eighteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of William McQualt, late of Company G, One hundred and ninety-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Daniel H. Bee, late of Company A, Sixty-first regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Sarah Crosby, widow of Samuel J. Crosby, late of Company K, One hundred and twenty-fifth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Phoebe Cosgriff, widow of James Cosgriff, late of Company A, Twelfth Regiment Missouri Volunteer Cavalry, and of Detachment Veteran Reserve Corps, and pay her a pension at the rate of $12 per month.

The name of Emily Cook, widow of Albert Cook, late of Company M, Twelfth Regiment United States Colored Volunteer Heavy Artillery, and pay her a pension at the rate of $12 per month.

The name of Conrad Oppermann, late of Company I, First Regiment Missouri Volunteer Infantry, and United States Reserve Corps, and pay him a pension at the rate of $12 per month.

The name of Emily S. Hewett, former widow of Cyrus P. Johnston, late of Company C, Sixth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Andrew S. Harvey, late of Company G, One hundred and sixty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of John Jeffery, late of Company B, Twenty-fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Phebe Bertholf, widow of Charles Bertholf, landsman, late of the ships North Carolina, Penobscot, and Savannah, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John H. Holm, late of Company D, Eightieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ferdinand Hilderbrand, late of Company B, One hundred and eleventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of John H. Zoe, late of Company H, Third Regiment New York Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Locust, late of Company D, One hundred and twenty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Wiet T. McVey, late of Company D, Seventh Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Sue B. Merrill, widow of Sherman M. Merrill, chaplain, One hundred and seventy-seventh Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Benjamin D. Arris, late of Company K, Thirty-second Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George Croft, late of Company F, Thirteenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alexander Ogden, late of Company F, One hundred and eighty-fifth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Deborah A. Baker, widow of John Baker, late of Company K, First Regiment Missouri Volunteer Light Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry L. Lundy, late of Company C, One hundred and fifty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Elias Thompson, late of Company B, Fifty-sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of David W. Weston, late of Company G, Second Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Thomas B. Taylor, late of Company I, Fifteenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Susan Johnson, widow of William Johnson, late of Company F, Third Regiment Maryland Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Arthur Corse, late of Company E, Twelfth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Theodore Gibson, late of Company B, Forty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George Duphorn, late of Company D, Sixty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John F. McConnell, late of Company E, Eighty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Daniel Wesley Williams, helpless and dependent child of Calvin Williams, late of Company G, One hundred and forty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of William Williams, late of Company E, Sixteenth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Isaac D. Combs, late of Company D, Sixth Regiment Missouri Militia Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William E. McDowell, late of Company G, First Regiment Arkansas Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lucretia J. Bean, widow of George W. Bean, alias George Howard, late a seaman of the United States ships Sabine, Eastport, and Black Hawk, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Charles A. Webb, late of Company B, Ninth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin P. Simpson, late of Company F, One hundred and thirty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Hiram Rusk, late of Company F, One hundred and second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ruthem Browne, widow of Henry C. Browne, late of Company F, Eighth Regiment United States Veteran Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John Wiebel, late of Company F, Third Potomac Home Brigade Maryland Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Edward W. Sargent, late of Sixteenth Independent Battery Massachusetts Volunteer Light Artillery, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Margaret Jeffries, widow of John Jeffries, late of Battery A, Fifth Regiment United States Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James E. Siddall, late landsman United States ships Grampus, Neosho, and Peosta, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Chester C. Leach, late of Company B, Ninety-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James F. Conway, late of Company K, Thirteenth Regiment New York State Militia Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Noah Ruhl, late of Company H, One hundredth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Deodamy Findley, widow of Moses M. Findley, late of Company B, First Regiment Alabama Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Caroline M. Batherton, widow of William H. Batherton, late of Company B, Twenty-seventh Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elizabeth Bowles, widow of Dan Bowles, late of Company G, Seventh Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Dorcas Cuppy, former widow of William Quigg, late of Company F, Fifth Regiment Pennsylvania Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of William H. Cole, late of Company F, First Regiment Maryland Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Cornelia F. Huckins, former widow of Jeremiah J. Hathaway, late of Company B, Forty-sixth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Kate R. Forrester, widow of James D. Forrester, late of Company G, One hundred and second Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of George W. Murray, late of Company C, One hundred and thirty-fourth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James Boyer, late of Company D, Fifth Regiment Maryland Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Ansel M. Warren, late landsman, United States Navy, and of Company A, One hundred and twenty-ninth Regiment, Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James M. Laubach, late of Company E, One hundred and thirty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Anna Bishop, former widow of James D. Ross, late of Company I, Eighty-third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Francis Maddox, late of Company K, Sixth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Drury Craig, late of Company H, Third Regiment North Carolina Mounted Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Charles G. Sanders, late of Company H, Twenty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Norval Jones, late of Company M, Seventh Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Rosa S. Warne, widow of James S. Warne, late of Company B, Thirty-first Regiment New Jersey Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Mary E. Faulder, widow of Cyrenus Faulder, late of Company C, Seventy-first Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Thomas H. Nolan, late of Companies A and D, Third Regiment, Massachusetts Volunteer Cavalry, and Eighty-second Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Harvey M. Munsell, late of Company C, Ninety-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Mary E. Sadler, widow of William T. Sadler, late of Company F, Seventeenth Regiment Kentucky Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Noble, late of Company I, Ninety-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alvira F. Mitchell, widow of Sidney R. Mitchell, late of Company B, First Regiment Rhode Island Volunteer Light Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Parson B. Mix, late of Company I, One hundred and Forty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of James H. Humphrey, late of Company A, Second Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jacob Schmidt, late of Company E, One hundred and forty-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Isabella Elliott, dependent mother of James Elliott, late of Company I, Sixteenth Regiment Pennsylvania Volunteer Cavalry, and per her a pension at the rate of $12 per month.

The name of Theodore Couse, late of Company H, Ninety-first Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Augusta E. Fowler, former widow of Anthony Prefontain, late of Company F, Twenty-ninth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Charles D. Copp, late of Company C, Ninth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Henry Sykes, late of Company F, Seventh Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John W. Hartpence, late of Company C, Seventy-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Susan A. Cole, widow of William H. Cole, alias Jesse Cole, late of Company M, Ninth Regiment Missouri State Militia Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John H. Slatton, late of Company K, Fourth Regiment Kentucky Mounted Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Roxanna Dutton Gilbert, former widow of Benjamin F. Quimby, late of Company E, Fourth Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William H. Gilman, late of Independent Battery H, Pennsylvania Light Artillery, and Company C, One hundred and forty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edmond Witherspoon, late of Company C, Fifty-eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ella Scott, widow of Joseph P. Scott, late of Second Regiment Wisconsin Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry H. Welty, late of Company A, Second Regiment Missouri Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin W. Sholtey, late of Company D, One hundred and thirty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Galen S. Huston, late of Company B, One hundred and twenty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John T. Morgan, late of Company C, Fourteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Philena H. Miles, widow of Charles Miles, late of Company K, Ninety-seventh Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Margaret Berg, widow of Frank J. Berg, late of Company D, Ninth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Miriam Brown, widow of Samuel H. Brown, late seaman, U. S. S. Columbia, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah E. Van Orman, widow of Richmond C. Van Orman, late of Company D, One hundred and seventy-eighth Regiment Ohio Infantry, and of Company C, Seventh Regiment Ohio Infantry, and pay her a pension at the rate of $12 per month.

The name of Cornelius Lefever, late of Company E, Two hundred and seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lucy A. Fay, former widow of David F. Atwood, late of Company A, Thirty-third Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Clark Barron, late of Company I, First Regiment New York Veteran Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Elizabeth Hogan, widow of Daniel Hogan, late of Company H, Sixty-ninth Regiment New York State Militia Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Lucinda Tweed, widow of Neolly Tweed, late of Company D, First Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Maria C. Waste, former widow of Daniel Williams, late of Company G, One hundred and fifteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Caroline McPhall, widow of Duncan McPhall, late of Company C, Forty-second Regiment New York Volunteer Infantry, and

pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Rosana Thompson, widow of John Thompson, late of Company C, Fifty-third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Samuel B. Stuyvesant, late of Company A, Sixth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Miles Spain, late of Company C, Twelfth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Rachel Smith, widow of Alexander Smith, late of Company C, Twenty-fifth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Lydia M. Jacobs, widow of William H. Jacobs, late of Company G, Thirty-ninth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jane H. Remis, widow of Jason Remis, late of Company F, Second Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry E. Everts, late of Company D, Thirty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Margaret Scanlon, widow of John Scanlon, late of Company H, First Regiment United States Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Josephine R. Goolman, widow of William P. Goolman, late of Company D, Eighth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Elizabeth A. Campbell, widow of Jefferson N. Campbell, late of Company G, Second Regiment Michigan Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Albert Longley, late of Company G, Nineteenth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lewis C. Pound, late of Company B, Forty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma S. Kipp, widow of Peter Kipp, late of Company I, One hundred and thirty-third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Oliver Bronson, late of Company K, First Regiment New Jersey Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary A. Depuy, widow of Alexander Depuy, late of Company C, Thirty-fourth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William T. Edgemon, late of Company F, Second Regiment United States Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Irene L. B. Fitch, widow of John T. Fitch, late of band, Second Regiment Iowa Volunteer Infantry, and Company C, Twenty-sixth Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Rose Martin, widow of James Martin, late of Company D, Sixth Regiment New York Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Harriet L. Bidwell, widow of Charles D. Bidwell, late of Company D, First Regiment United States Volunteer Sharpshooters, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elizabeth Emery, widow of Angelo Emery, late of Company D, Sixty-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Isabella Chiles, widow of William W. Chiles, late of Company I, Eighth Regiment Iowa Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of David Gruber, late of Company I, Fortieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Adaline A. Stanley, widow of Charles Stanley, late of Company B, Fiftieth Regiment New York National Guard Infantry, and pay her a pension at the rate of $12 per month.

The name of Berl F. Penny, late of Company A, Forty-sixth Regiment, and Company A, Ninth Regiment, Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Margaret J. Holland, widow of John W. Holland, late of Company G, First Regiment Provisional Enrolled Missouri Militia, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Harvey D. C. Skinner, late landsman, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Moses McGinnis, late of Company H, Sixteenth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Mary C. Pierce, widow of Frederick J. Pierce, late of Company G, Second Regiment Connecticut Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mary Brush, widow of Charles Brush, late landsman, U. S. S. Susquehanna and Potomac, United States Navy, and Company F, Seventh Regiment New Jersey Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mahala R. King, widow of Absalom B. King, late of Company K, One hundred and forty-third Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Margaret Scott, widow of James M. Scott, late of Company C, Fifty-sixth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Harriet M. Deuel, widow of John C. Deuel, late of Company C, First Regiment Wisconsin Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Belle Spencer, widow of Daniel O. Spencer, late of Company H, Eighteenth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John W. Morse, late of Company G, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Carver S. Griffin, late of Company I, Thirty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James O. Smith, late of Company F, Fourteenth Regiment Ohio Volunteer Infantry, and Company F, Sixty-eighth Regiment Ohio Volunteer Infantry, and Company D, Fourteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Daniel H. Rankin, late of Company C, Thirteenth Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Sarah J. Cooper widow of James H. Cooper, late of Company H, First Regiment Ohio Volunteer Light Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah J. Hill, widow of Alfred R. Hill, late of Company F, One hundredth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James H. Kinkead, late of Company A, Seventy-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The foregoing bill is substitute for the following House bills referred to the Committee on Invalid Pensions:

H. R. 82. Frank B. Sapp.
H. R. 2354. Ellen Weller.
H. R. 2475. Jeremiah Gatton.
H. R. 3710. Charles McBee.
H. R. 4634. Narcisse Menard.
H. R. 4844. James R. Eaton.
H. R. 4898. Gustav Lenan.
H. R. 5376. Henry Dunlap.
H. R. 5679. Francis M. Jones.
H. R. 5719. Theodore F. Hawley.
H. R. 5833. Rebecca Cordell.
H. R. 6146. Peter Miller.
H. R. 6785. Christina Youmkman.
H. R. 6963. James F. Smith.
H. R. 8188. Harriet F. McGinnis.
H. R. 8434. John Howell.
H. R. 8489. Amos Freese.
H. R. 8527. Daniel Bennett.
H. R. 8562. Wallace R. Kelley.
H. R. 9257. Julia A. Ferber.
H. R. 10462. David McClintic.
H. R. 11286. Adaline Fowle.
H. R. 11340. Lewis E. Ward.
H. R. 11469. Charles M. Brookover.
H. R. 11539. Rebecca A. Jones.
H. R. 12392. James B. Armstrong.
H. R. 12448. Simon Roth.
H. R. 12524. Alvena Wiggins.
H. R. 12627. Charles Ferry.
H. R. 13555. John F. Harper.
H. R. 13633. Julia Schafer.
H. R. 14169. Jesse W. McMichael.
H. R. 14272. Anna Mary Troup.
H. R. 14288. George I. Foster.
H. R. 14580. Ira S. Merrill.
H. R. 14641. John A. Hall.
H. R. 14749. Charlotte A. Brandau.
H. R. 14851. Sarah J. Kelley.
H. R. 14978. William C. Baxter.
H. R. 15190. Reuben Lyle.
H. R. 15654. John Sipple.
H. R. 15665. James H. Fountain.
H. R. 15712. Elizabeth La Flesh.
H. R. 15740. Thomas Edwards.
H. R. 15811. Frances A. Ginther.
H. R. 15843. Robert A. Barnes.
H. R. 16042. Andre C. Chamberlain.
H. R. 16481. Lyman Cazaley.
H. R. 16500. Sarah Jones.
H. R. 16636. Joseph H. Parker.
H. R. 17324. William McQuait.
H. R. 17356. Daniel H. Bee.
H. R. 17561. Sarah Crosby.
H. R. 17647. Phoebe Cosgriff.
H. R. 17976. Emily Cook.
H. R. 18057. Conrad Oppermann.
H. R. 18086. Emily S. Hewett.
H. R. 18120. Andrew S. Harvey.
H. R. 18195. John Jeffery.
H. R. 18246. Phebe Bertholf.
H. R. 18320. Richard M. Johnson.
H. R. 18418. John H. Holm.
H. R. 24335. Roxanna Dutton Gilbert.
H. R. 19086. John H. Zee.
H. R. 19541. William Locust.
H. R. 19748. Daniel W. Oglesby.
H. R. 19789. Wiet T. McVey.
H. R. 19829. Sue B. Merrill.
H. R. 19837. Benjamin D. Arris.
H. R. 20016. George Croft.
H. R. 20062. Alexander Ogden.
H. R. 20073. Deborah A. Baker.
H. R. 20178. George W. Tyler.
H. R. 20304. Henry L. Landy.
H. R. 20426. Elias Thompson.
H. R. 20439. David W. Weston.
H. R. 20507. Thomas B. Taylor.
H. R. 20603. Susan Johnson.
H. R. 20735. Arthur Corse.
H. R. 20744. Theodore Gibson.
H. R. 20880. George Duphorn.
H. R. 20924. John F. McConnell.
H. R. 20973. Daniel Wesley Williams.
H. R. 21205. William Williams.
H. R. 21383. Isaac D. Combs.
H. R. 21410. William E. McDowell.
H. R. 21471. Lucretia J. Bean.
H. R. 21508. Charles A. Webb.
H. R. 21561. Benjamin P. Simpson.
H. R. 21574. Hiram Rusk.
H. R. 21766. Ruthem Browne.
H. R. 21940. John Wiebel.
H. R. 22460. Edward W. Sargent.
H. R. 22405. Margaret Jeffries.
H. R. 22508. James E. Siddall.
H. R. 22547. Chester C. Leach.
H. R. 22567. James F. Conway.
H. R. 22602. Noah Ruhl.
H. R. 22882. Deodamy Findley.
H. R. 22932. Elizabeth Bowles.
H. R. 22987. Caroline M. Rotherton.
H. R. 23141. Dorcas Cuppy.
H. R. 23229. William H. Cole.
H. R. 23253. Cornelia F. Huckins.
H. R. 23323. Kate R. Forrester.
H. R. 23369. George W. Murray.
H. R. 23386. James Boyer.
H. R. 23436. Ansel M. Warren.
H. R. 23496. James M. Laubach.
H. R. 23506. Anna Bishop.
H. R. 23532. Francis Maddox.
H. R. 23558. Drury Craig.
H. R. 23595. Charles G. Sanders.
H. R. 23609. Norval Jones.
H. R. 23666. Rosa S. Warne.
H. R. 23699. Mary E. Faulder.
H. R. 23789. Thomas H. Nolan.
H. R. 23841. Harvey M. Munsell.
H. R. 23869. Mary E. Sadler.
H. R. 23942. John Noble.
H. R. 24055. Alvira F. Mitchell.
H. R. 24100. Parson B. Mix.
H. R. 24159. James M. Humphrey.
H. R. 24169. Jacob Schmidt.
H. R. 24186. Isabella Elliott.
H. R. 24203. Theodore Couse.
H. R. 24209. Augusta E. Fowler.
H. R. 24220. Charles D. Copp.
H. R. 24272. Henry Sykes.
H. R. 24271. John W. Hartpence.
H. R. 24273. Susan A. Cole.
H. R. 24333. John H. Slatton.
H. R. 19923. Ferdinand Hilderbrand.
H. R. 24351. William H. Gilman.
H. R. 24356. Edmond Witherspoon.
H. R. 24419. Ella Scott.
H. R. 24481. Henry H. Welty.
H. R. 24469. Benjamin W. Sholtey.
H. R. 24496. Galon S. Huston.
H. R. 24540. John T. Morgan.
H. R. 24572. Philena H. Miles.
H. R. 24573. Margaret Berg.
H. R. 24815. Miriam Brown.
H. R. 24973. Sarah E. Van Orman.
H. R. 24982. Cornelius Lefever.
H. R. 25059. Lucy A. Fay.
H. R. 25127. Clark Barron.
H. R. 25162. Elizabeth Hogan.
H. R. 25144. Lucinda Tweed.
H. R. 25177. Maria C. Waste.
H. R. 25178. Caroline McPhall.
H. R. 25181. Rosana Thompson.
H. R. 25230. Samuel B. Stuyvesant.
H. R. 25234. Miles Spain.
H. R. 25254. Rachel Smith.
H. R. 25369. Lydia M. Jacobs.
H. R. 25424. Sophia Bemis.
H. R. 25431. Henry E. Everts.
H. R. 25504. Margaret Scanlon.
H. R. 25516. Josephine R. Goolman.
H. R. 25570. Elizabeth A. Campbell.
H. R. 25640. Albert Longley.
H. R. 25654. Lewis C. Pound.

H. R. 25636. Emma S. Kipp.
H. R. 25647. Oliver Bronson.
H. R. 25673. Mary A. Denny.
H. R. 25674. William T. Edgemon.
H. R. 25708. Irene L. B. Fitch.
H. R. 25730. Rose Martin.
H. R. 25745. Harriet L. Bidwell.
H. R. 25826. Elizabeth Emery.
H. R. 25837. Isabella Chiles.
H. R. 25843. David Gruber.
H. R. 25866. Adaline A. Stanley.
H. R. 25867. Berl P. Penny.
H. R. 25890. Margaret J. Holland.
H. R. 25916. Harvey D. C. Skinner.
H. R. 26003. Moses McGlanis.
H. R. 26016. Mary C. Pierce.
H. R. 26077. Mary Brush.
H. R. 26147. Mahala R. King.
H. R. 26215. Margaret Scott.
H. R. 26259. Harriet M. Deuel.
H. R. 26524. Belle Spencer.
H. R. 26523. John W. Morse.
H. R. 26528. Carver S. Griffin.
H. R. 26652. James O. Smith.
H. R. 26692. Daniel H. Rankin.
H. R. 26717. Sarah J. Cooper.
H. R. 26718. Sarah J. Hill.
H. R. 26880. James H. Kinkead.

Mr. ADAIR. Mr. Chairman, I move to strike out lines 19, 20, 21, and 22 on page 7.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Indiana.

The Clerk read as follows:

Amend page 7 by striking out lines 19, 20, 21, and 22.

The motion was agreed to.

Mr. ADAIR. Mr. Chairman, I move to amend by striking out lines 15, 16, 17, and 18 on page 22.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Indiana.

The Clerk read as follows:

Amend, page 22, by striking out lines 15, 16, 17, and 18.

The motion was agreed to.

Mr. TRIBBLE. Mr. Chairman, I move to strike out, on page 32, lines 7, 8, 9, and 10.

The CHAIRMAN. The gentleman from Georgia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 32, by striking out lines 7, 8, 9, and 10, which reads as follows:

"The name of Carver S. Griffin, late of Company I, Thirty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving."

Mr. TRIBBLE. Mr. Chairman, I notice by this report 228 persons provided for who can not receive the amounts provided in this bill under the general pension laws. I call on you to strike name on page 67. The party is 65 years of age; he entered the service February, 1864; he served until July, 1865, after the war; he was pensioned under the act of 1862 at $14 a month.

Now, Mr. Chairman, this man is pensioned under the general pension laws recently enlarged by the Sherwood Act, and this man's property is estimated to be worth $1,800. Usually a man's property is estimated at about one-third of what he is really worth. I dare say in all probability he is worth $5,000. But, take it at the estimate here, at the last term of Congress we passed a general act applicable to all known as the Sherwood Act. This man is not taken out of the class to which that act applies, except he is worth money. Now, then, the committee comes in here and proposes to give this man a bonus because he has got property. The very first opportunity after the passage of the Sherwood Act on the first pension day of this session we have discrimination between soldiers. Members will recall the statements made in the discussion of the Sherwood bill, and the country will remember how pension leaders stood here and promised the House that if it would pass the Sherwood bill they would not bring in any more of these bills, and that special bills would almost disappear from this House; that the Sherwood bill would relieve the need of special pensions. Two hundred and twenty-eight special pensions on the first pension day after the Sherwood bill became a law! And the case I move to strike out discriminates against the old soldier, who has no property and needs help, in favor of a short-service soldier only 65 years old and has property, and I think the House should strike his name from the list.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

The question was taken, and the amendment was lost.

Mr. ADAIR. Mr. Chairman, I move that the committee do now rise and report the bill with amendments to the House, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CULLOP, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, and had directed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any amendment?

There was no demand for a separate vote.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. ADAIR, a motion to reconsider the vote whereby the bill was passed was laid on the table.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill; and pending that motion, I desire to inquire of the gentleman from South Dakota how much time is desired on that side for general debate?

Mr. BURKE of South Dakota. We desire on this side 1 hour and 15 minutes.

Mr. STEPHENS of Texas. Is the gentleman willing to eliminate the speech that was delivered yesterday, which was not specially on the bill?

Mr. BURKE of South Dakota. I do not see how I can.

Mr. STEPHENS of Texas. That would only allow us 25 minutes on this side.

Mr. BURKE of South Dakota. I do not want to take any advantage of the gentlemen on the other side if they think they want more time. I think we can get through in an hour and 15 minutes.

Mr. STEPHENS of Texas. I hope the gentleman will reduce the time to an hour on that side and give us half an hour, for the reason that the speech yesterday, as is well known, ought not to be charged to us.

Mr. MANN. If the gentleman will pardon me, it is one of the few speeches on the subject of Indian affairs that has been delivered in general debate on the Indian bill for some time.

Mr. STEPHENS of Texas. That is true, but I do not think we ought to be charged with it, because it was a speech on the general question involving the rights of Oklahoma Indians known as the Mississippi Choctaws. We are not repudiating the speech at all.

Mr. MANN. How much time is desired on that side?

Mr. STEPHENS of Texas. We will take 30 minutes and allow the other side an hour and 15 minutes.

Mr. MANN. We want the same time on this side that you take on that side.

Mr. STEPHENS of Texas. If we take an hour on this side, how much time will the gentleman take on that?

Mr. BURKE of South Dakota. I was going to suggest that we have an hour and 15 minutes on this side and the gentleman from Texas take 45 minutes.

Mr. MANN. I think the time should be equally divided between the two sides. You will never do away with that principle in the House with my consent.

Mr. BURKE of South Dakota. If the gentleman from Illinois is going to object, we can not make the agreement.

Mr. MANN. Divide the time equally between the two sides; whether it will be all used on this side or not I do not know.

Mr. STEPHENS of Texas. Then we will make this agreement, that on this side we have one hour, and the gentleman take enough on that side to make it even with what we had yesterday—that is, an hour and 45 minutes.

Mr. BURKE of South Dakota. That is entirely satisfactory, and I shall ask for 1 hour and 45 minutes upon this side.

Mr. STEPHENS of Texas. Then, Mr. Speaker, I renew my motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Indian appropriation bill, and pending that ask unanimous consent that general debate be limited to 2 hours and 45 minutes, 1 hour and 45 minutes of that time to be controlled by the gentleman from South Dakota [Mr. BURKE] and 1 hour by myself, this side having already used 45 minutes in general debate on yesterday.

The SPEAKER. The gentleman from Texas moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Indian appropriation bill; and pending that asks unanimous consent that general debate be limited to 2 hours and 45 minutes, he to control 1 hour of that time and the gentleman from South Dakota 1 hour and 45 minutes. Is there objection?

There was no objection.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill, with Mr. ROBINSON in the chair.

Mr. STEPHENS of Texas. Mr. Chairman, I will ask the gentleman from South Dakota to consume some of his time.

Mr. BURKE of South Dakota. Mr. Chairman, I am going to discuss for a few minutes the appropriation bill which is now before the committee, and am going to call the attention of the committee to some conditions that prevail among the Indians in Oklahoma that I think will be of interest to the House, and conditions that ought to be brought to the attention not only of the House but to the attention of the country. I want to say with reference to the pending bill that there is not much in it that does not meet with my approval. The bill, so far as the appropriations are concerned, has been held down so that there can not be very much criticism of the amounts that are carried in it, as a whole. The bill is also free from claims and new legislation, and I will state further that, following precedents established in the Sixty-first Congress, it is drafted with a view, wherever it is possible under the law and without violating treaty obligations, to make appropriations from the funds of the Indians for their support rather than from the Federal Treasury. So, speaking generally, I can say this is a good bill, with one or two exceptions, and it is to the exceptions that I will direct my remarks.

The fact is, Mr. Chairman, in the State of Oklahoma there is about one-third or a little more of our Indian population, and it will be observed in this bill, as well as in other legislation that has been from time to time before the House, that invariably there are exceptions made with reference to the general rule applied to Indian legislation, when it applies to Oklahoma, and this bill departs from the rule adopted by the committee in that it contains one item of important legislation, and the only appropriation that is not estimated for by the Secretary of the Treasury. It also reduces very materially the appropriation for administrative purposes among the Indians in Oklahoma below what has been estimated, and to a point where there is practically not a dollar provided for administering the affairs of the Indians, so far as supervision is concerned. The appropriation proposed is simply to pay the expenses of the commissioner in charge of the Five Civilized Tribes, and the expenses incident to his office for the purpose of closing up their affairs and settling their estates and distributing among them the large sums of money they have to their credit. There is nothing contemplated for supervising the affairs of the individual restricted Indians.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. STEPHENS of Texas. I understand there is a justification of the item to which the gentleman refers. It was filed with the chairman of the committee after the hearings were had the other day and after the bill was reported favorably. It justifies that item.

Mr. BURKE of South Dakota. Mr. Chairman, in the last session of Congress there was an effort made to reduce the appropriation for administrative purposes in the Five Civilized Tribes so as to eliminate what are known as district agents, and if the appropriation carried in the pending bill is adopted the district agents will be discontinued at the end of this fiscal year. I called attention last year to the necessity of continuing the district agents; that it is through them the incompetent or restricted Indians of the Five Civilized Tribes are protected and their affairs are supervised under the direction of the Interior Department, and, as I have just stated, if the appropriation carried in this bill is the amount that is finally appropriated when the bill becomes a law, it will be impossible in the Five Civilized Tribes to continue in the next fiscal year the district agents, and the gentlemen from Oklahoma on the other side of the House do not hesitate on every occasion to state that they want to eliminate the district agents, that they want to drive out of Oklahoma in the Five Civilized Tribes so far as possible Federal supervision of the affairs of the Indians. There is no dispute between us on that point. They frankly acknowledge it.

Mr. MORGAN of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. BURKE of South Dakota. And when I speak of gentlemen from Oklahoma I am referring particularly to gentlemen on that side of the House and did not have in mind my friend from Oklahoma, Mr. MORGAN. I have stated that when we legislate with regard to the Indians we invariably follow a different rule in Oklahoma than we follow with regard to the Indians generally in the country.

I have in mind a general law passed by Congress with reference to administering the estates of deceased Indians. I had something to do with its passage. It placed the jurisdiction exclusively in the Interior Department, but when the law was being considered our friends from Oklahoma, always alert to protect what they believe to be in the interest of their State, excepted from its application the Indians in Oklahoma. An act was passed as to Oklahoma, giving the jurisdiction in such matters to the probate courts of that State. It is the act of May 27, 1908, and it reads as follows:

That the persons and property of minor allottees of the Five Civilized Tribes shall, except as otherwise specifically provided by law, be subject to the jurisdiction of the probate courts of the State of Oklahoma.

Mr. Chairman, on former occasions I and others on this side of the House have questioned the integrity and the honesty of the probate courts of Oklahoma, and I want to say right now in the outset that, in my opinion, the probate courts in that portion of Oklahoma where the Five Civilized Tribes reside some of the judges are corrupt and dishonest and a large number of them are indifferent in the discharge of the duties of their office, so far as the affairs of Indian minors and Indians generally are concerned, and particularly in guardianship matters.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. BURKE of South Dakota. I certainly will be glad to do so.

Mr. MANN. The statement made by the gentleman, or the charge made by the gentleman, of course, is a very serious one—that the probate courts and probate judges in such portions of Oklahoma are either indifferent to the care of the wards of the court or are dishonest and desirous, practically, of depriving the wards of their property. I hope the gentleman will not make such a statement in the House unless he has some proof to submit to the House on that matter.

Mr. BURKE of South Dakota. I will say, Mr. Chairman, if my good friend from Illinois will be patient for a few moments, I think before I conclude that the House will see that I am fully justified in making the statement that I have made.

And I will go further than that, Mr. Chairman, by making this statement: That if a Representative from that portion of Oklahoma where the Five Civilized Tribes reside wants to perpetuate himself in office and make a record that will meet with the approval of his constituents he wants, on all occasions, to see to it that as much money is obtained from the Public Treasury as is possible to be expended in Oklahoma; that he also should see to it that legislation be secured removing from the Indians much of the protection that they have now from the Federal Government, so that there will be very little supervision over their affairs by the Government; and, furthermore, to secure legislation so that expenses for administrative purposes, money for a part of the expenses of administering the affairs of the Indians that heretofore has been paid out of their own funds in accordance with the law, so that in the future it will be paid out of the Federal Treasury. In other words, anything accomplished that will put money into Oklahoma or take away the restrictions from the Indians in that country and compel the United States to pay administrative expenses that otherwise ought to be paid, and have heretofore been paid, out of the funds of the Indians themselves makes whoever is responsible for it popular with the people in eastern Oklahoma. In the pending bill there has been eliminated a provision of the bill that was estimated for and was in last year's bill, which provides that certain expenses of administration, so far as the sale of lands, collection of rents, and so forth, shall be paid from the funds of the Indians, received from the sale of lands, rents, and other sources.

Mr. FERRIS. Will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. BURKE of South Dakota. I yield to the gentleman, certainly.

Mr. FERRIS. Does the gentleman think it is entirely good form for him, the ex-chairman of the Commitee on Indian Affairs and ranking member of the minority on the committee at this time, when every item in this bill was agreed to by unanimous consent, to come on the floor of this House and seek to make any portion of the bill appear bad that he did not try to make appear bad when the bill was under consideration?

Mr. BURKE of South Dakota. I think, Mr. Chairman, without divulging anything that transpired in the committee, the gentleman knows I am not violating any understanding that may have been had among the members of the committee in commenting upon certain provisions of the bill.

Mr. FERRIS. It is a fact that every item in the bill was agreed to unanimously, is it not?

Mr. BURKE of South Dakota. I can not say that, Mr. Chairman. I do not care to go into what transpired, and I understand under the rules of the House it would not be proper to state what did happen in the committee.

Mr. FERRIS. Well, perhaps that is true.

Mr. BURKE of South Dakota. I will discuss that with the gentleman at another time.

Mr. Speaker, I do not wish to be understood as casting any reflections upon our good friends from Oklahoma. The con-

ditions in the communities from which they come, and particularly of the gentlemen who represent that portion of Oklahoma where the Five Civilized Tribes are located, are such that it probably would be impossible for them to be reelected if they took any other position. But I think I will make it apparent before I conclude that it should always be considered what the interest of a Representative may be when any question of importance is before the House. The House is aware of the fact that the Committee on Indian Affairs as now constituted under the new rule, which provides that committees shall be made through a committee instead of being named by the Speaker—three members of that committee are from the State of Oklahoma; in other words, one-seventh of the committee is from that State. I merely mention that in passing.

Mr. Chairman, I have on several former occasions, and other gentlemen have called the attention of the House to the condition of affairs in Oklahoma so far as the administration of the affairs of the Indians in the Five Civilized Tribes is concerned, and particularly with reference to the manner in which the property of Indian minors has been handled through the probate courts.

We have repeatedly cited a number of concrete cases where there was gross neglect if not dishonesty on the part of some of the probate judges, and the gentlemen on the other side answered it by stating that there were a few cases where there had been dishonesty and corruption, but in those cases the judges had been removed or some one else had succeeded them in office. They told us that the State Legislature of Oklahoma had passed a law giving a certain board jurisdiction to look into these questions of administration, and that the machinery for looking after these guardianship matters was entirely adequate under the probate machinery in Oklahoma and that no Federal supervision is necessary, and therefore that there is no need of employing district agents.

It seems, Mr. Chairman, that since the act of 1908 was passed Congress has not caused an investigation to be made in order to ascertain in what manner the affairs of Indian minors were being administered in the probate courts of Oklahoma. But it happens that a few weeks ago the Creek Nation, under some arrangement through the Department of the Interior, caused an investigation to be made of the status of the guardianship cases in the eight counties constituting the Creek Nation. Mr. Chairman, I am going to briefly refer to that report, and will state how it was made, and then I think the gentleman from Illinois [Mr. MANN] will say that I was justified in the statement which I made at the outset as to the probate courts of Oklahoma, at least in eight counties comprising the Creek Nation. This report was submitted to the Secretary of the Interior a few days ago and bears date November 27, and it was made by Mr. M. L. Mott and is signed by him.

Mr. COOPER. Of what year?

Mr. BURKE of South Dakota. 1912. Mr. Mott happens to be the attorney for the Creek Nation. So far as I know he is a good lawyer, and I have never heard his integrity or his ability questioned. This report was made in accordance with an arrangement by which he was authorized by the Secretary of the Interior and the principal chief of the Creek Nation to expend some of the tribal moneys in going into the different counties and making an examination of the files in guardianship cases that are there pending.

Mr. Mott comments on the policy of the law with reference to guardianship matters in Oklahoma and states his objections to it in accordance with the position that I took in advocating legislation for the States generally, where there are Indians, that the administration of such affairs should be in the Department of the Interior instead of in the local courts, and he says in his report that his objections to the law is that he does not think that the local environment is such as to afford the Indian protection. And that, Mr. Chairman, is the situation generally in the Indian country, because the white people, as a rule, are not particularly concerned about their Indian neighbors, except to get what they have, and that condition being general, the policy that prevails in these localities is generally accepted and little attention is paid to what may be done affecting the Indians or their property. This report, Mr. Chairman, was made by 13 men employed under Mr. Mott's direction. They visited the different offices of the clerks of the court in the several counties in the Creek Nation, abstracting and obtaining the following information in a given number o cases: The names of the minors whose affairs are being administered, the name of the guardian, the amount handled, the sale of lands allotted or inherited, fees allowed the attorneys for the guardian, court costs, fees allowed guardians, and the total cost of administration. Accompanying the report are several exhibits which are bound and indexed, filed in the Interior Department, containing an abstract in each case which is referred to in this report, and is accessible to any Member for reference.

This information is divided into three classes. The first class comprises the cases in which administration has been in the hands of professional guardians. By "professional guardians" is meant a class of persons who make a business of acting as guardians to a large extent, and I was informed, when in Oklahoma two years ago, that there is a profession or an occupation in the eastern portion of the State known as that of a "professional guardian." I presume he is generally a pretty good friend of the court or he would not be appointed. I understand these persons are often appointed guardians in several cases at the same time.

The second class of cases is where the administration has been in the hands of competent relatives or business men; that is, where the Indian child has a parent who is competent, or some relative, or where he is perhaps only in a small degree an Indian, and has some person in his family who is entirely capable of acting, and that person becomes the guardian.

Mr. Chairman, in addition to the reports in the cases of Indian guardianship, the report also includes white guardianships; that is, guardianships where there is no Indian question involved. This enables us to compare the cost of the administration in the Indian cases with white cases.

I am going to call attention to the condition of affairs that prevails in Muskogee County, as shown by this report—one of the eight counties in the Creek Nation, one of the Five Civilized Tribes, and before doing so I want to state that out of 6,900 cases, as I recall, the cases, so far as the files were concerned, were complete in only about 2,300. In the other forty-odd hundred cases the papers were either not in the files or no report had been made, and it is my opinion, Mr. Chairman, that some of the files probably never will be returned, and I presume reports will not be forthcoming, and no report will ever be filed unless there is some action taken to compel them to be filed.

In Muskogee County there were 584 guardianships said to be in the hands of professional guardians. The amount handled by this class was $1,172,000.65. The amount of attorney's fees paid in those cases in that one county was $130,350.78. The amount of court costs was $43,000.57, and the amount of guardians' fees was $72,503.91. The cost of administration in that county was 20.13 per cent of the amount handled.

Now, I want the Members of the House to keep in mind the fact that in that county it cost 20.13 per cent of the amount handled to pay the expenses incident to the guardianships of Indians in cases where the guardian is a so-called professional guardian.

Mr. MADDEN. That included the $130,000, the $43,000, and the $72,000?

Mr. BURKE of South Dakota. The whole expense was $246,000, which is 20.13 per cent of the amount handled.

Mr. MANN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. BURKE of South Dakota. Yes.

Mr. MANN. If I understand the gentleman correctly, his statement is that as to these guardianship cases taken together the cost of administration was 20 per cent of the total amount that went through the guardianships?

Mr. BURKE of South Dakota. Yes; of the total amount handled.

Mr. MANN. A little over 20 per cent?

Mr. BURKE of South Dakota. Yes; a little over 20 per cent.

Mr. Chairman, in this county there were 112 guardianships——

Mr. MARTIN of South Dakota. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from South Dakota yield to his colleague?

Mr. BURKE of South Dakota. Yes.

Mr. MARTIN of South Dakota. That percentage and that statement applies, as I understand my colleague, to the administration of these five hundred and odd cases which the so-called professional guardians administered?

Mr. BURKE of South Dakota. This has to do with the cases handled by the 584 so-called professional guardianships.

The report also shows the number of cases in the hands of competent guardians. The number of cases is 112, and the amount handled $225,000, and the cost of administration of those cases was 4.2 per cent of the amount handled.

Mr. MANN. What does the gentleman mean by "competent guardians"?

Mr. BURKE of South Dakota. When I referred to that I explained it by stating that it means the natural guardians where they are competent, or some relative. Some business

man may be the uncle or some other relative of a child. It means anybody but a "professional" guardian.

Mr. MURDOCK. Either Indian or white?

Mr. MARTIN of South Dakota. This applies only to Indians.

Mr. BURKE of South Dakota. I am talking only about Indians now. In addition to these reports in Indian cases we have a report of 49 guardians of white minors in the same county, and the cost of the administration of the amount handled is only 1.7 per cent.

The report shows the cases in each of the eight counties comprising the Creek Nation tabulated in the same form that Muskogee County is tabulated, showing substantially the same information; but I think the important thing is to come down to the aggregate.

Mr. MANN. Before the gentleman does that, will he yield?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. Let us understand it. Do I understand that for the same services, so far as the court and the administration are concerned, in professional guardianship cases the cost is 20 per cent of the amount handled?

Mr. BURKE of South Dakota. Yes.

Mr. MANN. And that in the white cases the cost is less than 2 per cent?

Mr. BURKE of South Dakota. Yes.

Mr. MANN. It looks very suspicious.

Mr. BURKE of South Dakota. That illustrates what I said a moment ago. These probate judges are conducting their offices with a view to causing no criticism from those who elect them to office, but they apparently have little concern for the Indians up in the hills and out in the swamps.

Mr. MURDOCK. Has the gentleman any segregated figures showing what these professional guardians have made in fees and what their pay was in Muskogee County?

Mr. BURKE of South Dakota. I am going to give some figures that will be interesting.

Mr. MURDOCK. Will the gentleman give that?

Mr. BURKE of South Dakota. I may not be able to give just what the gentleman asks for, but I think when I give the aggregate that will be very easy to figure out.

Mr. MANN. The gentleman stated what the guardians' fees were.

Mr. BURKE of South Dakota. Would the gentleman like to know what the attorneys' fees were?

Mr. MANN. No; the guardians' fees.

Mr. MURDOCK. I wanted to know what the professional guardian got out of the transaction.

Mr. BURKE of South Dakota. Before I get through I will give the gentleman some figures on that. Summing up the aggregate of the eight counties—for I have not time to take each county—it shows that the total number of so-called professional guardianships is 2,320.

Total amount of funds handled	$3,896,693.06
Total amount of attorneys' fees	346,095.39
Total court costs	138,205.46
Total guardian fees	279,182.49
Total expense of guardianship	763,483.34

Percentage cost of administration, as I have already stated, 19.3 per cent of the amount handled.

It also shows:

Total number of competent guardianships is 534.

Total amount of funds handled	$1,346,523.07
Total amount of attorneys' fees	21,762.41
Total court costs	11,295.92
Total guardian fees	19,972.58
Total expense of guardianship	53,030.91

Percentage cost of administration, 3.1 per cent of the amount handled.

These two classes include only guardianships of tribal minors.

This aggregate shows the total number of white guardianships is 203.

Total amount of funds handled	$328,536.00
Total amount of attorneys' fees	3,117.94
Total court costs	2,625.51
Total guardian fees	2,021.40
Total expense of guardianship	7,755.85

Percentage cost of administration, 2.3 per cent of the amount handled.

These figures include all guardianship cases in the Creek Nation where the record was available, and, as I have already stated, there are 4,339 cases where the information as to cost of handling could not be obtained, and further on I will refer to how much the aggregate of expenses would be if all the cases were included.

Mr. FERRIS. Will the gentleman yield for a short question?

Mr. BURKE of South Dakota. Yes.

Mr. FERRIS. I can not think that the gentleman cares to mislead the House, and I am sure the House does not want to be misled. Let me call the attention of the gentleman to something which will explain, at least partially, the figures he has just given.

Mr. BURKE of South Dakota. I would rather the gentleman would explain this situation in his own time.

Mr. FERRIS. It will only take a moment, and it ought to go in here.

Mr. BURKE of South Dakota. Very well.

Mr. FERRIS. The gentleman has criticized our courts, from one side of the State to the other, and I know he believes he is justified in doing it; but we, who know the facts, believe that his criticism can not be well founded.

The estates of Indian wards on which administration is had sometimes consists of 5 acres, 10 acres, 17 acres, 4 acres, or 33 acres, the property being probably 50 or 60 miles away from the court. The Indian has on numerous occasions given as high as 8, 10, 12, or 15 conveyances, which must be brought into court and canceled. The Indian gives a multiplicity of conveyances when he has no right to do it, and each of these conveyances puts a cloud upon his title. The administrator has to go and clear up this title, and the cost of administration on a miniature estate sometimes may cost more than 20 per cent of its value.

Mr. BURKE of South Dakota. I am very glad that the gentleman from Oklahoma has some explanation to make of this startling condition of affairs, a condition that I think is appalling, notwithstanding the gentleman's confidence that I am not justified in taking that position.

I want to repeat that in the eight counties the number of so-called professional guardianships is 2,320, and the total amount of funds handled is $3,896,693.06; the total amount of attorneys' fees is $346,095.39; the court costs are $138,205.46; the total guardian fees, $279,182.49; making a total of $763,483.34.

The percentage cost of the administration of the amount handled is 19.3 per cent.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. BURKE of South Dakota. Yes.

Mr. MARTIN of South Dakota. I suppose this summary applies only with reference to professional guardians?

Mr. BURKE of South Dakota. That is all. The percentage cost of administering the cases under competent guardians is 3.1 per cent, and in the white cases 2.3 per cent of the amount handled, as I stated a while ago.

Mr. Chairman, I have stated that there were 4,339 cases where no reports have been filed or the papers were not in the files. I have made a computation of about how much money in the same proportion would be paid out in professional guardian cases in the eight counties in all the cases, and I find it would be about $1,600,000. Now, gentlemen, you can see that the law business ought to be prospering down there in that country, and you must remember that the Creek Nation is only a small part of the Five Civilized Tribes. If the other nations' conditions are similar to the Creek Nation, and I firmly believe they are, think of what an enormous amount of money is paid yearly to guardians, attorneys, and in court costs simply in guardianship cases alone.

Mr. MANN. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. It is sometimes difficult to get figures straight in your head, and therefore the gentleman will pardon me if I repeat something he has said. In the summary which the gentleman makes he computes 19 per cent as the cost of the administration of these cases where professional guardians were appointed by the court and 3.1 per cent in the Indian cases where the natural guardians were appointed, and in the white cases 2 per cent.

Mr. BURKE of South Dakota. Yes; and I call attention to the suggestion made by my friend from Oklahoma, Mr. FERRIS, that in Indian cases, on account of minors having small tracts of land the expenses would be more than in white guardianships, but I submit there is nothing in his argument, because there can not be any difference as to the status of minors whose affairs are in the hands of the professional guardians and those Indian minors in the hands of the natural guardians.

Mr. MARTIN of South Dakota. I suppose that the gentleman from Oklahoma would claim that Indians under natural guardians had not made so many conveyances.

Mr. BURKE of South Dakota. That is the inference from what the gentleman said, but I can not see how there would be any difference, as all are Indians. One would probably have as much land as the other.

Mr. DAVENPORT. Will the gentleman from South Dakota yield?

Mr. BURKE of South Dakota. I will.

Mr. DAVENPORT. Who certifies to the statements of Muskogee County?

Mr. BURKE of South Dakota. I will say for the information of the gentleman that there is an affidavit on file as to each case that has been referred to in this report in the Interior Department bound in book form, and there is a reference in the report where it can be found, and if the gentleman wants the details, he can go to the Interior Department and ascertain what he is asking me for.

Mr. DAVENPORT. Does the affidavit state that the clerk of the court refused to certify to the facts?

Mr. BURKE of South Dakota. I am not going to get into any controversy as to what is in the affidavit. The affidavit is on file. If the gentleman can get anything out of it to controvert the showing I have made, I have no doubt he will do it.

Mr. DAVENPORT. Was the report presented to the Indian Committee while it was considering the bill?

Mr. BURKE of South Dakota. The report was submitted to the chairman of the Committee on Indian Affairs in the House and the Senate yesterday or the day before, though I can not see what that has to do with it.

Mr. Chairman, this report does not contain very much that I think was not pretty well known by a good many members of the committee a long time before this bill was reported. We discussed this question in the last session of Congress within a year and called attention to what we believe, with reference to the manner in which cases of guardianship were being administered in the probate courts, and gave the facts in a number of cases that showed an intolerable condition of affairs.

Mr. NYE. Will the gentleman from South Dakota yield?

Mr. BURKE of South Dakota. I will.

Mr. NYE. What period of time does this report cover?

Mr. BURKE of South Dakota. It covers just about four years.

Mr. NYE. The act conferring jurisdiction on the probate courts was passed by Congress in 1908?

Mr. BURKE of South Dakota. Yes.

Mr. CARTER. Is there any report prior to the act of May 27, 1908?

Mr. BURKE of South Dakota. I have none.

Mr. CARTER. I want to ask the gentleman one question, for I know that he wants to get the facts straight before the House. Is the gentleman aware of the fact that professional guardians were appointed long before Oklahoma was a State; that they were appointed by the Federal judges in Indian Territory?

Mr. BURKE of South Dakota. I leave it to the House to answer that question in the minds of each Member by suggesting that I do not think it makes any difference whether they existed 50 or 20 or 10 years ago. They are there at the present time, and the gentleman admits it by his last statement.

Mr. CARTER. When were they first appointed?

Mr. BURKE of South Dakota. Oh, there has been grafting in eastern Oklahoma ever since the white man went in there, when it was known as the Indian Territory.

Mr. CARTER. The same as they have in South Dakota.

Mr. BURKE of South Dakota. South Dakota has never been accused of allowing its Indians to be robbed, though I have no doubt that there have been people that would not hesitate to take advantage of them if given an opportunity. I never heard of professional guardians in South Dakota, or in any other State except Oklahoma, and the gentleman's excuse for their being there is that they originated under the Federal judges in Indian Territory. He clearly admits that they exist, and I submit that is sufficient to condemn the courts.

Mr. Chairman, I would like the gentleman to point out if it has ever been charged that there has been any grafting in South Dakota.

Mr. CARTER. The gentleman himself admits there has been grafting. It is not necessary to point it out.

Mr. BURKE of South Dakota. There are attempts to graft in every locality where there is an Indian population.

Mr. CARTER. The thing I want to get straight is this: The gentleman has made a general assault on the State of Oklahoma, and what I want understood is that whatever system there may be of professional guardians that he speaks of was inherited from the Federal régime before Oklahoma became a State.

Mr. BURKE of South Dakota. All right—admitted.

Mr. CANNON. But does it justify it?

Mr. BURKE of South Dakota. I leave that to the House.

Mr. MANN. Do I understand the gentleman is making an assault upon professional guardians as a general proposition, or on the administration by these professional guardians?

Mr. BURKE of South Dakota. I should want to say both, to a certain extent, but I want to particularly say that I have never heard of professional guardians outside of the State of Oklahoma. Here is a statement in Mr. Mott's report that refers to a subclass of professional guardians that I want to read:

> There might be as a subclass carved out of the class of professional guardians, one which could be properly described as an incompetent and thoroughly irresponsible class. This class is composed of adult members of the tribe who have dissipated or been swindled out of their own estates after the removal of restrictions, who have little regard for the wards in their care and who can be and are in many instances used by others connected with the administration.

This report also states, and this is general, because there was not time nor opportunity to verify it, viz, to ascertain how much money has been dissipated and squandered of these estates of minors under the item of maintenance, but I apprehend that if we could go into the records and find out what that is, it would be so much greater than this sum that has been expended in attorneys' fees, court costs, and guardianship fees, that this would be a mere bagatelle as compared to what that amount would be. He says:

> Extravagant and totally unwarranted allowances for maintenance and personal expenses of wards have been made, all of which can be verified by the probate records, and where the allowances are aggravatingly large and unnecessary the presumption is that some one other than the ward is getting the benefit of the excessive amount.

Then he makes a statement quoting a man who at one time was a probate attorney for the district agents, that after an extensive investigation he finds there are a great number of instances in which large sums of money of minors have been loaned by guardians on totally inadequate securities, many of the loans being made to guardians themselves and members of their families, and in many instances the bondsmen of the guardians are totally insolvent.

Mr. Chairman, this report further shows in each county a number of cases where the costs are extremely excessive and extravagant, that are above the average, and I presume it will be found upon investigation that it is this class of cases that were handled by these unscrupulous guardians, which he puts in a class by themselves. I find that there are in the first county six cases, the highest cost being 73.8 per cent of the amount handled, and the lowest 39.7. In the next county the highest is 71 per cent and the lowest 22 per cent. In the next one the highest is 70 per cent and the lowest 16 per cent, and then, in the next county, the highest is 60 per cent, and so it runs on through, until we find one case in Okmulgee County, where the cost of administering the amount handled is 90.5 per cent. I might go on giving figures, but it is all on file in the department and there is an abstract of each one of the cases, giving the full details. Mr. MOTT, before submitting his report, took up the matter with 30 States in the Union to ascertain the average cost of administering in guardianship cases, and he has submitted that. He has corresponded with thirty-odd States, and the correspondence is on file in the Interior Department and referred to here as an exhibit, so that it can be examined. In 30 States he finds that the average cost does not exceed 3 per cent.

So it appears, Mr. Chairman, that in Oklahoma, so far as the white population is concerned, the average cost of handling guardianship cases is a little below the average of the other States in the Union, and as to Indian guardianships, where the guardian is competent, it is just slightly above the average for the other States. So, I say again, that the county judges in Oklahoma are apparently quite particular to discharge the duty of their offices to the satisfaction of the people who elect them.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. STEPHENS of Texas. Is it not a fact that there is a vast difference between Indians and Indian estates as distinguished from whites and white estates? Is it not a fact that it is sometimes almost impossible to determine who the heirs of an Indian are? Suppose the Indian has had three or four wives? It would be very hard to determine who the heirs are and to whom the property should go.

Mr. BURKE of South Dakota. In one class of Indian cases, where they are represented by a competent guardian, the cost is 4 per cent or less.

Mr. STEPHENS of Texas. How can a competent guardian better than anyone else determine who are the proper heirs in these Indian affairs? How can it be determined without great cost and expense?

Mr. BURKE of South Dakota. If the gentleman from Texas, in his usual neighborly spirit, big hearted and generous as he always is, desires to help out his friends in Oklahoma and wants to defend the condition of affairs which I am now exposing, I wish he would do so in his own time.

Mr. STEPHENS of Texas. I will certainly do it.

Mr. BURKE of South Dakota. Mr. Chairman, I want to state in passing that some of these so-called professional guardians are lawyers, so that it can not be said that they are incompetent. The expense, though, is just as great for attorney's fees and guardian's fees, as in cases where the guardian is not a lawyer.

Mr. STEPHENS of Texas. Will the gentleman yield for just one question?

Mr. BURKE of South Dakota. I will.

Mr. STEPHENS of Texas. Can the gentleman suggest anywhere that a firm of lawyers obtained more than $750,000 as a fee from the Federal courts which was paid in the gentleman's administration and also $330,000 costs and expenses, and that that firm was indicted in the Federal courts for $30,000 of those costs and expenses, and that the President of the United States, at the instance of the chairman of the executive committee of Texas had that case dismissed against them peremptorily? Can the gentleman state a case similar to that; if he can, I will put in a defense and not before?

Mr. BURKE of South Dakota. I am very sorry my good friend from Texas would add anything to my argument by bringing in that old scandal that happened in Oklahoma several years ago.

Mr. CARTER. It happened up here; it did not happen there.

Mr. CANNON. If the gentleman will permit, is it legitimate as a plea to set off larceny in one place by citing larceny in another?

Mr. STEPHENS of Texas. I admit it is not. I think it was larceny on the part of these attorneys who got that big fee.

Mr. BURKE of South Dakota. I have stated that there has been a consistent effort to obtain legislation to make it easier to take what the Indian has, legislation removing restrictions, legislation that makes it possible for them to sell their lands, legislation that permits them to make leases, to withhold appropriations for employment of district agents who do supervise and look after the affairs of the Indians whose restrictions have not been removed. That is popular in Oklahoma. And why? Why, do you know there are several thousand lawyers practicing in the Five Civilized Tribes? You gentlemen stop and think a minute of having the bar in each county and each town and each city in your district constantly writing to you and calling upon you to secure legislation along a certain line, and then, Mr. Chairman, this vast sum of money that goes to these lawyers and these guardians, professional and otherwise, the court costs, and so forth, that money circulates in the community where the money goes, and therefore if you went down there and called an indignation meeting to expose what this Mott report discloses, you could not get very many to take any interest in it.

Why, because the local environment is so saturated, and has been since the white man went into eastern Oklahoma, that part which was the Indian Territory, that everybody believes, as a witness said to me in our investigation when we were down there two or three years ago, in reply to a comment by me of what I thought reprehensible. He said, "Mr. BURKE, in the West we do not look at this question as you people do elsewhere." I promptly suggested to him that he limit the territory to Oklahoma.

Mr. BURKE of Pennsylvania. Will the gentleman permit a question?

Mr. BURKE of South Dakota. Certainly.

Mr. BURKE of Pennsylvania. In one of these cases the gentleman has stated that 90 per cent of the fund was consumed in the way of commissions and expenditures by the guardian. Now, I am interested to know, as a member of the committee, how the Indian got this 10 per cent, and I would like to know what the items were which constituted the 90 per cent, if the gentleman has them.

Mr. BURKE of South Dakota. I have no information that the 10 per cent is left. I think somebody got it.

Mr. BURKE of Pennsylvania. The gentleman is not certain about the Indians getting it?

Mr. BURKE of South Dakota. One of the things that has been done by Congress is the enactment of legislation removing restrictions, and by reason of the law as it now exists restrictions have been removed from about 8,000 Creek Indians, by reason of which restrictions were removed from one million two hundred and sixty-odd thousand acres of land. That is the amount of lands that the Indians possessed when the restrictions were removed. This report shows, and I don't think anyone will question it, that not one out of eight to-day has an acre of land or a dollar of money, and the Indians are living presumably out of the estates of minors.

Mr. MURDOCK. In how many years?

Mr. BURKE of South Dakota. About four years, I think; three or four years. Seven-eighths of these Indians who had their restrictions removed are to-day without any property or any money, and they do not pay any taxes.

I have said to the gentleman from Oklahoma that if they have not any concern from a moral standpoint of right and wrong in allowing the Indians to be defrauded out of their property, they ought to have some consideration for their own State, because if this thing continues you will soon have a pauper population upon your hands, and I think I can prophesy, and it will not be disputed, that when that time comes you can not come to Congress and have them taken care of at the expense of the Federal Government. They are a rich people with a large sum of money, entirely sufficient to guarantee them against pauperism, and if they are only protected by the Government until such time as they can walk alone, they will not be paupers. But if this condition of affairs prevails, and the condition that some of our Oklahoma friends boast will prevail after March 4 next, the time of this pauperized condition will soon arrive, and I am going to comment upon it further before I conclude.

Mr. CARTER. Will the gentleman yield?

Mr. BURKE of South Dakota. I will yield to the gentleman.

Mr. CARTER. I simply want to make a short observation, if the gentleman will permit. The Federal Government can certainly have no jurisdiction over any Indian except a restricted Indian. Under the present law it is as absolutely impossible to sell the allotted lands of a restricted minor Indian as it is for the gentleman from South Dakota [Mr. BURKE] to go to heaven to-day. He may go there in the future, and I hope he will.

Mr. BURKE of South Dakota. I am going to tell the gentleman why that is so.

Mr. CARTER. Let me finish my statement. If that be true, then how on earth are these children for whom you are pleading ever going to become homeless and paupers?

Mr. BURKE of South Dakota. I think I have satisfied most of the Members of the House, if I have not the gentleman from Oklahoma, that it is possible.

Mr. CARTER. The gentleman refuses to answer the question.

Mr. BURKE of South Dakota. I am answering. There was a bill passed in the last Congress because the existing law was interfering somewhat with the transfer of lands down there in Oklahoma. Therefore a bill was introduced to change the law, and I thought it was a good measure, and I still think so. The courts had passed upon the question, and I thought we could very properly correct the law so that it would do what was intended, according to the court's interpretation. Therefore the bill was passed, and in another body or in conference there was a little amendment slipped into it that resulted in the President vetoing it when it reached the White House, and, I think, very properly. In other words, somebody from Oklahoma, as usual, was on the job, and, while we had passed the bill in good faith——

Mr. CARTER. Did not the gentleman try to help pass the bill?

Mr. BURKE of South Dakota. I have stated that I did.

Mr. CARTER. But after it came back with the amendment, which he said was slipped into it, did he not help to pass the bill through the House in my absence?

Mr. BURKE of South Dakota. Upon the assurance of the gentleman from Oklahoma [Mr. DAVENPORT] and others that the amendment did not do what it in fact did do, as I learned afterwards by examining it.

Mr. CARTER. But "the gentleman from Oklahoma" was 1,500 miles from here when that bill was passed, and did not have anything to do with the amendment.

Mr. BURKE of South Dakota. I did not intend to refer to it at all. The bill was vetoed. In connection with that I find with the message vetoing that law that there is attached to it a letter from the department of charities and corrections in the State of Oklahoma to the Secretary of the Interior, and in it reference is made to a Miss Barnard, and it states that she has been intervening in behalf of approximately 3,000 orphans, nearly all of them Indian children, whose estates were being exploited or disposed of by incompetent and grafting guardians. She goes on to say that they have had many guardians removed, and so forth. The letter states—

> We have been invited to come down in several counties by county judges who do not seem to be able to compel wholesale guardians to report, and while we have not been able to cover the ground as thoroughly as we wish to, yet the number of petitions for the sale of Indian children's properties has been reduced almost to a minimum.

Mr. CARTER. Does that apply to allotted lands?

Mr. BURKE of South Dakota. He says further:

> People are afraid to buy these lands, because they fear that we will intervene and spoil the deal.

So they are not selling nearly as much land, it seems, as they did on former occasions. That, I think, answers the gentleman's [Mr. CARTER] question.

Mr. CARTER. Let us not have any socialistic argument about this. Let us nail down something.

Mr. BURKE of South Dakota. I did not yield to the gentleman.

Mr. CARTER. The gentleman has not answered the question.

The CHAIRMAN. The gentleman from Oklahoma [Mr. CARTER] will address the Chair when he wishes to interrupt the gentleman.

Mr. BURKE of South Dakota. I might refer to the remark of the gentleman, made on the floor of the House yesterday—and I do it in good spirit—which shows the mind of the gentleman. The gentleman from Oklahoma [Mr. MCGUIRE] had the floor, and the gentleman from Oklahoma [Mr. CARTER] rose and said, "I would like to ask the gentleman from Oklahoma [Mr. MCGUIRE], who always sympathizes with Oklahoma in looting the Treasury as much as it can, if he would be willing," and so forth. In other words, he asked his colleague a question, and in that question attempts to compliment him by suggesting or assuming that he is in sympathy with Oklahoma in looting the Treasury as much as it can.

Mr. CARTER. Will the gentleman say that I made that remark seriously?

Mr. BURKE of South Dakota. I have the remark from the Reporter's notes. The gentleman can correct it or withdraw it.

Mr. CARTER. I do not care to withdraw it or to correct it.

Mr. BURKE of South Dakota. Then let it stand.

Mr. CARTER. I just asked the gentleman if he contends that I made that remark seriously.

Mr. BURKE of South Dakota. I refuse to yield further.

Mr. CARTER. Oh, the gentleman refuses to answer.

Mr. BURKE of South Dakota. Mr. Chairman, I am going to quote the gentleman in another statement, and if I misquote him I hope he will correct me. I do not want to do him any injustice. I have stated what the condition is in Oklahoma, and I have stated what the sentiment among the people is. The more legislation you secure to take away the protection that the Indian has the more legislation you enact to secure the money that belongs to the Indians and have it deposited in local banks—and there are several million dollars of their money there now deposited—and the more you do to take away the representatives of the Government who are guarding that money in the banks the higher you stand with the constituencies that sends you here.

Now, the gentleman from Oklahoma [Mr. CARTER] made a speech, or several speeches, in the campaign before the election, and in a speech quoted in an Oklahoma newspaper, at length, he is alleged to have made this statement that I will read. If the gentleman did not make it, I have no doubt he will get up and say that he did not, and I will accept his statement, and I am sure the House will. But in this speech he is quoted as having said in substance this:

The question is not one between Democrats and Republicans, but it is a question of electing Woodrow Wilson and getting the restrictions off the Indians lands and getting the hands of the Federal minions off the affairs of the Oklahoma people.

Mr. CARTER. I will say to the gentleman unqualifiedly that I made no such statement.

Mr. BURKE of South Dakota. Then the gentleman has been misquoted by the press of his State.

Mr. MARTIN of South Dakota. I will ask the gentleman if it would be popular to make such a statement in his district?

Mr. CARTER. I will say that I do not think it would be.

The CHAIRMAN. Gentlemen must first get recognition from the Chair before interrupting a Member.

Mr. BURKE of South Dakota. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has 43 minutes.

Mr. BURKE of South Dakota. Mr. Chairman, I have read in the Oklahoma papers what it is proposed to do after March 4 in Oklahoma with reference to Indian matters, and it is right in line with what I have heard our good friends say as to what they would like to have done, and I will read this for the information of the House. The Muskogee Times-Democrat, of December 9, 1912, from its correspondent here in Washington, received and published what I am now going to read:

WASHINGTON, D. C.

A movement has been started here to bring about the appointment of an assistant secretary of the interior whose headquarters shall be at Muskogee, Okla., and who shall be clothed with full power to act on questions affecting the administration of the Five Civilized Tribes without the necessity of further delay in having the Secretary of Interior in person act upon all matters affecting the various Indian tribes. It is proposed to have the assistant secretary empowered to remove restrictions upon Indian allotments and to decide all questions that are now passed upon by the Secretary of Interior. Senator GORE, of Oklahoma, who is perhaps closer to the incoming administration than any other living man, is heartily in favor of the plan and also favors the appointment of an Oklahoma man who is familiar with the perplexing problems that surround the settlement of the Indian question in eastern Oklahoma. If the scheme is adopted it will make of Muskogee a little Washington, and all persons having business in connection with Indian matters will be required to go to Muskogee instead of the National Capital, as under the present system. The Oklahoma congressional delegation look with favor upon the Gore plan, and it is quite likely that soon after March 4 an assistant secretary of the interior will be located in Muskogee with power to act in all Indian matters, such as the sale of lands, the approval of leases, the removal of restrictions upon Indian allotments, and the direction of the policy to be pursued in connection with the handling of the Indians.

Mr. Chairman, in conclusion I want to say if that is to be the policy of the incoming administration, then God pity the poor Indians in Oklahoma.

This bill now pending proposes to take away an appropriation for the paying of expenses of certain administrative officers who are there now representing the Government in protecting the Indians. Probably very soon after March 4 our Democratic friends will cause to be removed the very efficient commissioner, J. George Wright, who has discharged the duties of his office for a number of years without a suggestion even being made that he has been in any manner corrupt, derelict, or failed in the discharge of his responsibilities, and I may say the same of the Union agent, Mr. Kelsey, who is the man who looks directly after the administration of the affairs of the individual restricted Indians. In fact, from what I have heard from Oklahoma, I believe it is the intention to displace both of these efficient officials if our Democratic friends can bring it about.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. BURKE of South Dakota. I shall be glad to yield if I have any time.

Mr. STEPHENS of Texas. I will yield to the gentleman two minutes, in order that he may tell the Committee of the Whole what Mr. J. George Wright said when he took that position in 1900.

Mr. BURKE of South Dakota. Now, the gentleman from Texas is going to tell us that we did not get through as soon as J. George Wright said we would.

Mr. STEPHENS of Texas. Did he not say in 1900 that if we would give him $600,000 he would close up the business in Oklahoma in two years?

Mr. BURKE of South Dakota. I think the then commissioner did, but it was not J. George Wright.

Mr. STEPHENS of Texas. And that was 12 years ago.

Mr. BURKE of South Dakota. I do not think it was as long ago as that. We passed legislation after that providing that the rolls should not be closed until March 4, 1907.

Mr. STEPHENS of Texas. How many millions of dollars has he spent there since that time, and in the name of God how much longer is he going to take?

Mr. BURKE of South Dakota. Until it can be closed up in an honest and legal manner; the gentleman from Texas knows that the delay in closing up the affairs of the Five Civilized Tribes has not been due in any manner to the failure on the part of the present commissioner to discharge his duty, but because of additional legislation by Congress, litigation and court decisions affecting the property rights of the Indians, and other things that made it impossible to do so, matters that could not be anticipated several years ago. So long as there are lands yet to be sold, allotments to be completed, and collections to be made we ought to, and I believe will, continue the organization we now have in the Five Civilized Tribes, and I sincerely hope that even after the business affairs of the nations are finally settled and the money distributed, that the Government will continue to supervise and protect the unrestricted Indians until such time as they are sufficiently advanced to properly care for and manage their own affairs. [Applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. RAKER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3436) granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse.

The message also announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 32.

Resolved by the Senate (the House of Representatives concurring), That the plan, design, and location for a Lincoln memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to

secure plans and designs for a monument or memorial of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, approved.

INDIAN APPROPRIATION BILL.

The committee resumed its session.

Mr. STEPHENS of Texas. I yield 20 minutes to the gentleman from Oklahoma [Mr. FERRIS].

[Mr. FERRIS addressed the committee. See Appendix.]

Mr. STEPHENS of Texas. Mr. Chairman, I yield 10 minutes to the gentleman from Oklahoma [Mr. DAVENPORT].

Mr. DAVENPORT. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD, inasmuch as in 10 minutes I can not say all that I wish to say.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. DAVENPORT. Mr. Chairman, I have listened with a great deal of interest and with a great deal of patience to the dirge of a departing officeholder who now temporarily resides in my district, whose dirge is transmitted to this House through his proxy, the gentleman from South Dakota [Mr. BURKE]. I refer to Mr. Mott, who now occupies the position of attorney for the Creek Tribe of Indians by appointment from the Secretary of the Interior. Mr. Mott knows that his days are limited, and, like the dying adder, he seeks to cast and throw his venom upon his pursuing foe. The gentleman from South Dakota [Mr. BURKE] and the man who furnished him the data know that when they make charges and insinuations against Tom Leahey, who is the present county judge of Muskogee County, Okla., that the said Leahey is willfully dishonest, they make charges that are willfully false and were known to be falsehoods at the time they were made. [Applause.] You can trace the record of Mr. Leahey from Wisconsin, where he was born and reared, up to the time he came to Muskogee, and nowhere will you find any act committed by him as unworthy of a gentleman, and any insinuation made by the gentleman from South Dakota [Mr. BURKE], furnished him by Mr. Mott, is false, and basely so.

I say to the gentleman from South Dakota [Mr. BURKE] that if the Interior Department, for whom he has spoken on the floor of this House, had such accusations to bring against my constituents, why did not the department bring them in the open, where they could be discussed in the committee, and where the parties against whom the accusations were brought could learn of what they were charged instead of waiting until the last hour to bring reflections and charges which cast reflections upon the entire people of the State of Oklahoma?

I want, further, to call your attention to the fact that when the Indian appropriation bills have been up for consideration in the House for the last few Congresses nothing but accusations and reflections have been brought against the good citizenship of the State of Oklahoma, and especially has it been so with reference to those that lived in that part of Oklahoma which was formerly Indian Territory. I want to say to the gentlemen who make those charges and accusations that there is nowhere to be found a nobler or more upright people than the citizenship of the third congressional district of the State of Oklahoma and the people of the entire State, and you should not seek to cast reflections upon their fair name and the name of the State of Oklahoma solely and only, as I charge here, because the employees of the Interior Department see the power of that department waning in that country and want to cast reflections and try to hold on to their jobs through infamy and falsehoods. [Applause.]

I say there is not a word of truth in the statements. There may be some men in Oklahoma, as well as all other States, who are not honest, and it was but a short time ago that three men were appointed to appraise the Choctaw and Chickasaw segregated coal and asphalt land by the Interior Department upon the recommendation of the chairman of the Republican State committee in Oklahoma, and they were recently removed or resigned because they were dishonest, but because of that fact are you willing to cast insinuation and reflection upon the entire State and its population?

We read in the Good Book that when the Savior came on earth he selected 12 men whom he thought to be fair, upright, and honest, but one proved to be a traitor, yet that fact was not used or taken to cast reflection upon the others. I regret very much we can not discuss legislative bills here without the motives and acts of the good people of Oklahoma being impugned, and I have grown sick and tired of some of the Members of this House and the employees of the Interior Department in this regard.

I want to state here that the charges are untrue, and that no man has the right to come upon the floor of this House and make such base assertions, especially when he knows that if he would take a little time and trouble to investigate his charges he would find that they were untrue, basely made, and false. I asked the gentleman from South Dakota [Mr. BURKE] who, if anyone, had certified to the statements from which he read with reference to the handling of probate cases in the State of Oklahoma, and especially in the county of Muskogee, and he did not answer me and say that no one had certified to it, but indirectly evaded the question by saying that if anyone would go down to the Interior Department the original was on file there and could ascertain its contents and find out who signed the statement. I then asked him if the clerk of the court in Muskogee County had certified to the statement being correct, and why it was that one of the departmental officers, Mr. Mott, who owes his job to the Secretary of the Interior and who is ready and willing to cast reflections and besmirch the fair name of Oklahoma, was taken, and to that he makes no answer, but he is willing to stand up as the mouthpiece of such employees of the Government and let it be published to the world that he asserts facts that are untrue and were known to be untrue by Mott and his crowd when he made them. I am willing to admit that it is the ardent desire of the officeholders of the Interior Department exercising jurisdiction over that part of Oklahoma, formerly Indian Territory, to hold on to their jobs at any cost. It matters not to them whom they may slander or falsely represent. A condition has existed in the department that the decent, respectable, and upright people were compelled to resent, and in that way a feeling has been engendered by the employees of the department which will cause them to do anything to perpetuate their jobs.

Before I conclude on this subject I want to state to the gentleman from South Dakota [Mr. BURKE] that when he attempts to cast a reflection on me or any of the Members from Oklahoma or the good citizens of that State, and say we do not dare to stand up and resist the influence of the citizens down there because of political reasons, his statement is unwarranted and unjustified, and he had no right to make such accusations, because they are untrue. No man can charge, truthfully, that I dare not stand up when a matter of right is involved, even though I may have been stepping upon the toes of some carpetbag officeholder down there and whom I was seeking to kick out of the country. Such statements come with bad grace, and it is the poorest way on God's green earth to legislate. When you get a man to the point of where he is always charging somebody with dishonesty I am reminded of the old adage in ancient history of what some old sage said:

That the best proof he is dishonest is that he is always charging some one else with being dishonest.

I therefore ask the House to beware of those who are always trying to charge their fellow men with impure motives, even though they are the mouthpiece of an Interior Department which has had unlimited control over a certain class of citizens who were the pioneers in this great country of ours.

I now want to speak for a moment upon the question of citizenship, which has been discussed pending this bill, and to lay down the proposition that blood is not sufficient to entitle a party to be enrolled as a member of either of the Five Civilized Tribes of Indians in Oklahoma.

When these tribes were living east of the Mississippi River various treaties were entered into between the tribes and the Government of the United States, finally resulting in a treaty being made whereby all moved west of the Mississippi River and ceded to the United States their lands owned east of the Mississippi River. Article 14 of the treaty between the Choctaw and Chickasaw Tribes of Indians and the Government of the United States, made in 1830, provides for certain citizens that may desire to remain in the States, and among other things provides upon what terms and conditions they may remain and secure their allotments. Article 12 of the treaty between the Cherokee Tribe of Indians and the Government of the United States, made at New Echota, provides in substance the same as the treaties I have mentioned, and provides for those Cherokees who desire to remain east of the Mississippi River. After various treaties were entered into and the tribes had formed their governments west of the Mississippi River the question arose between the Cherokee Indians residing in the States of North Carolina, Tennessee, Mississippi, and Alabama and the Cherokees residing west of the Mississippi River as to the former's rights to participate in certain annuities which were due and should be paid to the Cherokee Tribe of Indians as a tribe west of the Mississippi River. Jurisdiction was conferred upon the United States Court of Claims with the right of appeal to the Supreme Court of the United States, to settle this controversy, and a decision was rendered which is found in volume 117 of the United States Supreme Court Reports at

page 288, the title of which is the "Cherokee trust funds," the parties in interest being the Eastern Band of Cherokee Indians against the United States and the Cherokee Nation, commonly known as the Cherokee Nation West. The court, after reviewing all the treaties and going into the question at length, on page 311 of that report uses the following language:

If Indians in that State, or in any other State east of the Mississippi, wish to enjoy the benefits of the common property of the Cherokee Nation, in whatever form it may exist, they must, as held by the Court of Claims, comply with the constitution and laws of the Cherokee Nation and be readmitted to citizenship as there provided. They can not live out of its territory, evade the obligations and burdens of citizenship, and at the same time enjoy the benefits of the funds and common property of the nation. Those funds and that property were dedicated by the constitution of the Cherokees and were intended by the treaties with the United States for the benefit of the united nation, and not in any respect for those who had separated from it and became aliens to their nation.

For many years before 1896 parties residing in the different States had been making application to the different tribal authorities to be readmitted to citizenship to the tribes upon the ground that they were Indians by blood or descendants of some one of the Indian families that had been a member of the eastern tribe and a great many had been admitted, but many were denied admission upon various grounds. The applications became so numerous that the tribal authorities became dilatory about passing upon the questions, and in 1896, after Congress had provided for the creation of the Commission to the Five Civilized Tribes to negotiate treaties with the Five Tribes, and on the 10th day of June, 1896, Congress passed an act enlarging the jurisdiction of that commission, and among other things they gave to that commission, commonly known as the Dawes commission, power to receive applications for citizenship in the respective tribes and to hear and determine the same, with the right of appeal to the United States district court. The provisions of that act with reference to the power conferred upon the commission are as follows:

That said commission is further authorized and directed to proceed at once to hear and determine the applications of all persons who may apply to them for citizenship in any of said nations, and after said hearing they shall determine the right of said applicant to be so admitted and enrolled: *Provided, however*, That such application shall be made to such commissioners within three months after the passage of this act. The said commission shall decide all such applications within 90 days after the same shall be made. That in determining all such applications said commission shall respect all laws of the several nations or tribes not inconsistent with the laws of the United States and all treaties with either of said nations or tribes, and shall give due force and effect to the rolls, usages, and customs of the said nations or said tribes: *And provided further*, That the rolls of citizenship of the several tribes as now existing are hereby confirmed, and any person who shall claim to be entitled to be added to said rolls as a citizen of either of said tribes and whose right thereto has either been denied or not acted upon, or any citizen who may within three months from and after the passage of this act desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such application within 30 days from the date thereof.

In the performance of such duty said commission shall have power and authority to administer oaths, to issue process for and compel the attendance of witnesses, and to send for persons and papers, and all depositions, affidavits, and other evidence in any form whatsoever heretofore taken where the witnesses giving said testimony are dead or now residing within the limits of said Territory, and to use every fair and reasonable means within their reach for the purpose of determining the rights of persons claiming such citizenship or protect any of said nations from fraud or wrong, and the rolls so prepared by them shall be hereafter held to be the true and correct rolls of persons entitled to the rights of citizenship in the several tribes: *Provided*, That if the tribe, or any person, be aggrieved with the decision of the tribal authorities or the commission provided for in this act, it or he may appeal from such decision to the United States district court: *Provided, however*, That the appeal shall be taken within 60 days, and the judgment of the court shall be final.

Under this authority delegated to the Commission to the Five Civilized Tribes there were filed in the Cherokee Nation alone more than 5,400 separate cases, embracing in all, including the heads of families and children, about 70,000 persons. When the commission investigated the cases and passed upon them, including those that were enrolled by the United States court in the Indian Territory, of the 70,000 who made application about 385 were enrolled. Congress later gave them the right of appeal to the Supreme Court of the United States to test the validity of this legislation, and the Supreme Court sustained the legislation. This ended, so far as the Cherokee Nation was concerned, the question of authority to place anyone on the roll that was not readmitted.

On June 28, 1898, Congress passed an act entitled "An act for the protection of the people of the Indian Territory, and for other purposes," which provided for the making of a final roll of the members of the respective tribes in order that when allotments were made the Government would know to whom they should allot the land, and in one paragraph of section 21 of the said act the following language is used:

No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship: *Provided, however*, That nothing contained in this act shall be so construed as to militate against any rights or privileges which the Mississippi Choctaws may have under the laws or the treaties with the United States.

Subsequent to the passage of this act Congress passed an act authorizing the commission to identify the Mississippi Choctaws in accordance with the provisions of the act of June 28, 1898, and fixed a definite time when the Mississippi Choctaws might come and locate in the Choctaw Nation, west of the Mississippi River.

My contention is that no Indian of either of the Five Civilized Tribes, under existing laws or treaties, is entitled to participate in the lands and funds of either of the tribes unless he complies with the laws and the treaties and returned to the tribe and identified himself with the tribe as he should do under the law or the treaty. It has been repeatedly held by the highest judicial tribunals in the States and by the Supreme Court of the United States that a treaty is nothing more than a law and may be amended and repealed the same as any other law. I am opposed to the opening of the rolls for the purpose of enrolling anyone who has not removed to and in good faith settled with his respective tribe, and who is not a bona fide member of the tribe as provided by the laws and treaties.

There are some few citizens in the Cherokee Nation who have lived all their lives in the Indian Territory and who are Indians by blood, and about which there is no dispute as to their right, and whose cases were in transit between Muskogee, Okla., and the Interior Department at Washington on March 4, 1907, when the rolls were finally closed. All such persons whose cases did not reach the department should, in my judgment, be enrolled by name; but I shall certainly oppose the opening of the rolls generally or give to any department of the Government discretionary power to hear, investigate, and adjudicate the rights of citizenship of anyone claiming citizenship in either of the said Five Civilized Tribes. There is no reason why a list of those who are entitled to be enrolled, as set out above, should not be prepared by the department and submitted to Congress so that they might be enrolled. I would favor enrolling by name those, as herein stated, that come within that class, but I should not be in favor of any general provision opening the rolls. [Applause.]

Mr. STEPHENS of Texas. Mr. Chairman the gentleman yields back the rest of his time. Will the gentleman from South Dakota use the remainder of his time? We have only one more argument on this side.

Mr. BURKE of South Dakota. Mr. Chairman, I yield 10 minutes to the gentleman from Oklahoma [Mr. McGUIRE].

The CHAIRMAN. The gentleman from Oklahoma [Mr. McGUIRE] is recognized for 10 minutes.

Mr. BURKE of South Dakota. Mr. Chairman, before the gentleman uses his time, I would like to inquire how much time I have remaining?

The CHAIRMAN. The gentleman had 41 minutes remaining. The gentleman now has 31 minutes remaining, deducting the time that has been allotted to the gentleman from Oklahoma.

Mr. McGUIRE of Oklahoma. Mr. Chairman and gentlemen of the committee, I simply want to discuss an amendment which will be offered by the gentleman from Mississippi [Mr. HARRISON]. I do not care to go into any of the features or the merits of the appropriation bill.

There has been for a number of years in my State a matter which has challenged the attention of practically all of the citizens of the southeast portion of the State as well as the Members of Congress, both in the Senate and in the House. It is a question which means much to a great many of the citizens of Oklahoma, and one which will not be settled without many complications arising, and it will not be settled without difficulty and much attention. I refer to those who have made application to be placed upon the rolls with the two tribes in the southeast portion of the State, to wit, the Choctaws and the Chickasaws.

The gentleman from Mississippi [Mr. HARRISON], in his discussion yesterday, stated that he exonerated the chairman and other members of the committee, because the Interior Department had failed to make a report with respect to those applications. I have no one to exonerate, for the reason that I think that every one on the committee, regardless of his opinion, is absolutely honest and fair with respect to that opinion. I differ from some gentlemen in my own State and from some of my own colleagues from my State with respect to this matter, for the reason that I have fully and decisively concluded, so far as I am concerned, that a grave injustice has been done to hundreds and thousands of the citizens and persons of Indian blood in my State.

For instance, I hold in my hand excerpts from a report made by the Secretary of the Interior to the Committee on Indian Affairs in the Senate. They designated those people by classes.

The first class are noncompetents, so designated by the Secretary of the Interior, and from a letter of April 22, 1912, to the chairman of the House Committee on Indian Affairs, in class No. 1, known as "incompetents" or designated as incompetents by the Interior Department, they found that 800 persons were excluded from the rolls who were entitled to be placed on the rolls. That is one report from the Interior Department to which the gentleman from Mississippi failed to call the attention of the House.

What do we mean by noncompetents? I will call attention to a few of them. For instance, there were a number of orphans in the schools, supported by the tribes and the Government at that time, who were entirely overlooked, and there never has been an application made by those people, because they were noncompetents, and so they were left off the rolls. Their brothers, their sisters, their relatives, the more capable members of the families, are on the rolls, but those who were absolutely incompetent and those who to-day must have the care of the Government and the tribes, because they were incapable of making applications, are left off the rolls. Somebody is responsible for it.

I did all I could in the committee from time to time to have these people placed upon the rolls. The Interior Department sent one of the most able men in that department to make an investigation, and he remarked to me that he went with the intention of coinciding with the views of the Dawes Commission, to leave them off the rolls, but when he found a state of affairs there that he could not justify he recommended that those 800 incompetents, overlooked because of their incompetency, be placed upon the rolls. They are in class No. 1.

Class No. 2 are designated as delinquent cases. Who are they? There were 52 of them. They were found by the Dawes Commission to be entitled to enrollment, but there was a delay in certifying those names to the Secretary of the Interior, and the rolls closed under the law the day before they reached the Interior Department; and also the 52 cases had been adjudicated; they are to-day off the rolls and receive none of the benefits of tribal lands or money.

Gentlemen, there is no excuse whatever for that, and those 52 people have made their applications persistently and incessantly from the day they were left off in 1907 to the present time, but the Government of the United States has failed to recognize them. Do not forget that these are cases which have been adjudicated, and because they did not reach the Secretary of the Interior in time were left off, and are off to-day.

There is another class of cases, the Mississippi Choctaws: I will not go into details, but they were given six months after they were notified of conditions, laws, and so forth, to reach Oklahoma. Some of them were financially unable to change their residence. Others did not receive their notification until less than six months before the time they were to reach Oklahoma. It was impossible for them to comply with the laws and the regulations, and they are omitted from the rolls.

Class 4 consists of jurisdictional and imperfectly adjudicated cases. This relates to the cases that were disposed of by a tribal court, a court created by Congress. I will have no time to go into the details, but this relates to the Mississippi Choctaws.

The Department of the Interior has written a letter to the chairman of the Committee on Appropriations in the Senate, recommending that in all 2,726 of those Indians who have been left off the roll be placed upon it. So it is not the fault of the Secretary of the Interior, but the fault of the committee.

I ask leave to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Oklahoma [Mr. McGUIRE] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. BURKE of South Dakota. I desire to ask the gentleman in charge of the bill if he expects to use the balance of his time in one speech?

Mr. STEPHENS of Texas. I do.

Mr. FERRIS. If the gentleman will pardon me just a moment, I wanted to ask if he will kindly place in the RECORD the names and addresses of those guardians whom he has asserted to be professional guardians?

Mr. BURKE of South Dakota. That would necessitate printing 2,000 names, and I think it would probably be better at a later time to ask to have all of these exhibits printed as a House document. I would not object to that.

Mr. FERRIS. Let me inquire where they can be found.

Mr. BURKE of South Dakota. They are on file in the Interior Department, as the report will show. Mr. Chairman, I now yield the balance of my time to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, the statement made by the gentleman from South Dakota can not be passed over with such suggestions as have been made on the floor of the House. Gentlemen who have replied to him so far have stated that this report was not presented to the committee until they had reported this bill. What has that got to do with it? There is nothing in the bill on the subject. This bill was reported to the House a few days after Congress convened, practically without any consideration, because the Indian bill is not made up by the Committee on Indian Affairs of the House, but is left in the main to the tender mercies of the Senate. These gentlemen have had for several days the same statement that the gentleman from South Dakota has had. The gentleman from South Dakota, with the assiduity he always uses, gave attention to the report. Gentlemen who ought to have given attention to the report apparently have paid no attention to it until now, and they now say that it ought to have been presented before.

My distinguished friend from Oklahoma [Mr. FERRIS] seems to think that because the gentleman from South Dakota had not filed a minority report that therefore he ought not to say anything on the floor of the House in consideration of the Indian bill, either about an item in the bill or about something that is not in the bill.

Yesterday we had an example in the House of the effect of the report of committees. If there be any partisan proposition which comes before the House it is a report on a contested-election case. An Elections Committee, consisting two-thirds of Democratic members, had considered an election contest, and in making their report had declined to recommend the seating of the Democratic contestant, plainly because he had been guilty of fraud or had not secured the votes. Without a syllable from any committee, without a backing of any report of any portion of this House responsible for its work, a large share of the gentlemen on the other side of the aisle, with no knowledge of the subject whatever, voted to seat a man on the floor of the House. If I am not mistaken, the gentleman from Oklahoma [Mr. FERRIS] voted with that bunch.

I congratulate certain Democratic Members of this House for refusing, in violation of conscience and without any support of the committee, to vote to seat a man who had no right to his seat. These gentlemen stood by the committee. I propose to read and to insert in the RECORD now a roll of honor, consisting of Democratic Members of the House who place conscience above partisanship, and who voted, not on the suggestion of some Member in or out of the House, but who voted according to the report of the committee. They are:

ROLL OF HONOR.

ALEXANDER of Missouri, ASHBROOK of Ohio, AYRES of New York, BARNHART of Indiana, BATHRICK of Ohio, BOEHNE of Indiana, BULKLEY of Ohio, BYRNES of South Carolina, COX of Indiana, DICKINSON of Missouri, DIES of Texas, DOUGHTON of North Carolina, EDWARDS of Georgia, EVANS of Illinois, FAISON of North Carolina, FITZGERALD of New York, FOSTER of Illinois, FOWLER of Illinois, GARRETT of Tennessee, GLASS of Virginia, GODWIN of North Carolina, GUDGER of North Carolina, HAMILTON of West Virginia, HAMLIN of Missouri, HAMMOND of Minnesota, HAY of Virginia, HENSLEY of Missouri, HOLLAND of Virginia, HOUSTON of Tennessee, JOHNSON of South Carolina, JONES of Virginia, KINDRED of New York, KINKEAD of New Jersey, KONOP of Wisconsin, LAMB of Virginia, LEVER of South Carolina, LINTHICUM of Maryland, LOBECK of Nebraska, MACON of Arkansas, MAGUIRE of Nebraska, MORGAN of Louisiana, MOSS of Indiana, NEELEY of Kansas, PADGETT of Tennessee, PAGE of North Carolina, PATTEN of New York, RAINEY of Illinois, RAKER of California, RANDELL of Texas, RANSDELL of Louisiana, REDFIELD of New York, RODDENBERY of Georgia, RUBEY of Missouri, RUCKER of Missouri, RUSSELL of Missouri, STEDMAN of North Carolina, STEPHENS of Nebraska, STONE of Illinois, SWEET of Michigan, TALCOTT of New York, THOMAS of Kentucky, TOWNSEND of New Jersey, UNDERHILL of New York, WHITACRE of Ohio, WHITE of Ohio.

Mr. MURRAY. Will the gentleman yield?

Mr. MANN. I will, but I have only a short time. I am sorry the gentleman is not on the roll.

Mr. MURRAY. May I inquire whether or not the gentleman from Illinois would revise his estimate if he knew that a Member or Members of the House of Representatives had been able to make personal investigation of this contested-election case by a visit to the district affected?

Mr. MANN. I can not see how a visit to the district would help in getting information. If a gentleman of this House went into the district and investigated this case instead of studying the record himself, he was using his time most idly.

Mr. MURRAY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Massachusetts?

Mr. MANN. For a question; not for much discussion.

Mr. MURRAY. May I make a statement?

Mr. MANN. I do not know. I can not give the gentleman much time.

Mr. MURRAY. Just a minute?

Mr. MANN. Proceed.

Mr. MURRAY. Mr. Chairman, during the campaign I was fortunate enough to be assigned by the Democratic national committee to make a speech or speeches in this very district. By reason of my presence in that district I was able to get information, not only from partisan politicians but from a man with whom I was at college and who was more familiar with the conditions than any man outside the district can possibly be, and it was entirely because of the information that I was able to get from those sources that I concluded my vote should be as it was. I simply make the statement, because I think the gentleman is sincere in his estimate of the roll of honor, and I regret that I am not on any sincere roll of honor that he may compile; but I think, as a matter of justice to me as a Representative of a district in this House, I should be permitted to make that statement.

Mr. MANN. Let us see. I have not much time in which to reply to the gentleman. Here is a case that has been heard upon testimony. Both sides have called their witnesses. Each side has cross-examined or had the opportunity to cross-examine the witnesses on the other side. The judges have rendered their decisions, and a gentleman of this House who is, after all, one of the final judges, goes out on the street and asks some college friend, "What ought I to do in this case?" Suppose the judge of a court, after he had heard the testimony of the witnesses and had heard the arguments of counsel, should go into a neighboring saloon and ask the saloon keeper, "How shall I decide this case?" [Laughter on the Republican side.] That is what the gentleman from Massachusetts has done. I am surprised, and I regret that I gave the gentleman the opportunity to insert into the RECORD a thing that so belittles his position.

Mr. MURRAY. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. MURRAY. I rise to say that if the gentleman insists that his comparison of cases is a fair one, I have no criticism of it at this time. I think it is such a ridiculous comparison that it ought not to come from the able leader of the minority in this House.

Mr. MANN. Mr. Chairman, if that is any satisfaction to the gentleman, I am perfectly willing that he should have it. He did not follow a committee acting as judges deciding the case. He followed a gentleman who made a motion in the House purely because he wanted to seat a Democrat, not because the Democrat was elected.

I shall insert in the RECORD at this point, in connection with the roll of honor, a list of the Democratic Members of the House who voted to seat a Democrat who was refused a favorable report by the Democratic Committee on Elections:

MEMBERS WHO VOTED TO SEAT A DEMOCRAT WHO WAS REFUSED A FAVORABLE REPORT BY THE DEMOCRATIC COMMITTEE ON ELECTIONS.

ADAIR of Indiana, ALLEN of Ohio, ANSBERRY of Ohio, BARTLETT of Georgia, BEALL of Texas, BELL of Georgia, BURGESS of Texas, BURKE of Wisconsin, BURLESON of Texas, BYRNS of Tennessee, CALLAWAY of Texas, CANDLER of Mississippi, CANTRILL of Kentucky, CARLIN of Virginia, CARTER of Oklahoma, CLAYPOOL of Ohio, CLAYTON of Alabama, CLINE of Indiana, COLLIER of Mississippi, COVINGTON of Maryland, CULLOP of Indiana, CURLEY of Massachusetts, DAVENPORT of Oklahoma, DAVIS of West Virginia, DENT of Alabama, DENVER of Ohio, DIFENDERFER of Pennsylvania, DIXON of Indiana, DONOHOE of Pennsylvania, DANIEL A. DRISCOLL of New York, DUPRE of Louisiana, FERGUSSON of New Mexico, FERRIS of Oklahoma, FLOOD of Virginia, FLOYD of Arkansas, FRANCIS of Ohio, GALLAGHER of Illinois, GARNER of Texas, GEORGE of New York, GILL of Missouri, GOEKE of Ohio, GOODWIN of Arkansas, GREGG of Pennsylvania, HARDWICK of Georgia, HARDY of Texas, HARRISON of Mississippi, HAYDEN of Arizona, HEFLIN of Alabama, HENRY of Texas, HUGHES of Georgia, HULL of Tennessee, JAMES of Kentucky, KITCHIN of North Carolina, KORBLY of Indiana, LEE of Georgia, LEE of Pennsylvania, LEWIS of Maryland, LITTLEPAGE of West Virginia, LLOYD of Missouri, MCCOY of New Jersey, MCDERMOTT of Illinois, MCGILLICUDDY of Maine, MCKELLAR of Tennessee, MAYS of Florida, MOON of Tennessee, MURRAY of Massachusetts, OLDFIELD of Arkansas, PALMER of Pennsylvania, PEPPER of Iowa, POST of Ohio, REILLY of Connecticut, ROTHERMEL of Pennsylvania, ROUSE of Kentucky, RUCKER of Colorado, SCULLY of New Jersey, SHEPPARD of Texas, SMITH of Texas, SPARKMAN of Florida, STEPHENS of Mississippi, TAYLOR of Alabama, THAYER of Massachusetts, THOMPSON of Georgia, TUTTLE of New Jersey, UNDERWOOD of Alabama, WATKINS of Louisiana, WILSON of Pennsylvania, WITHERSPOON of Mississippi, YOUNG of Texas.

Mr. Chairman, gentlemen can point to these lists, if they desire, to indicate in which one they are to be found. The gentleman from Massachusetts [Mr. MURRAY] takes pride and glory in doing what he has done. After a while he will be ashamed, and other Members of the House who voted with him will be ashamed, of where their names are found, and the roll of honor that goes into the RECORD will be many times pointed to with pride by gentlemen on that side of the House. [Applause on the Republican side.]

Mr. Chairman, the gentleman from Oklahoma [Mr. FERRIS] seemed to believe that the statements made by the gentleman from South Dakota [Mr. BURKE] reflected upon all the citizenship of Oklahoma. Nothing of the sort is true. The gentleman from South Dakota in making his statement undoubtedly hoped that the gentleman from Oklahoma would disavow the dishonest and dishonorable actions of some of the Oklahoma courts, and would come and defend not the rascals but the honest men of Oklahoma.

Mr. PAGE. Mr. Chairman, will the gentleman from Illinois yield?

Mr. MANN. One moment. If it be true that the honest men are so largely in the majority—and I have no doubt they are—they are the ones who need to be defended, and their defense comes by the ascertainment of the facts and the correction of the evil which has been exposed. I now yield to the gentleman from North Carolina.

Mr. PAGE. Mr. Chairman, reverting to the gentleman's statement of a few moments ago and what he termed a roll of honor upon this side of the House—and I am delighted that I am in what in the gentleman's estimation is a roll of honor, because I think he is entirely sincere in characterizing it as such—he has censured certain gentlemen upon this side for not following the report of the committee. How many gentlemen on his side of the aisle could be placed upon a roll of dishonor for not following the committee touching the other case?

Mr. MANN. Mr. Chairman, the gentlemen upon this side of the aisle did not believe the report of the committee was correct as far as it went. The gentlemen upon this side of the aisle followed the report of the Republican members of the Elections Committee.

Gentleman on that side of the aisle, notwithstanding the report of the Democratic members of the committee and a unanimous report from the committee, with no warrant in conscience or fact, voted to seat a man not because he was elected, but because he wore the same political stripe which they do of Democracy. Now, Mr. Chairman, the statements made by the gentleman from South Dakota [Mr. BURKE] can not be brushed aside lightly, and it will not do to say, as suggested by the gentleman from Oklahoma [Mr. FERRIS], that there might be a case here or there where the estate was small and scattered and 15 conveyances illegally had been made. The gentleman referred to 15 conveyances two or three times. I do not know whether that is the regular number of conveyances made illegally in Oklahoma or not. The statement made by the gentleman from South Dakota was the average. There is no honest court in this land, I do not care where it is, which extended over a period of years which will put the expenses of guardianship administration up as high as 20 per cent, or even as high as 10 per cent, and when the statement is made that an investigation shows that the guardianship expenses, the expenses of administration in the probate court, have run up as high as 20 per cent, it should be investigated. We have got a lot of investigating committees going on around the House. We had better investigate this; find out whether these facts as alleged are actual facts; find out whether 20 per cent, one-fifth of the amount involved, is made out to lawyers, to clerks, and professional guardians, because it can not be paid out honestly. This is on the average——

Mr. BURKE of South Dakota. I want to state, if the gentleman will permit, that the law of Oklahoma limits the fee in administration cases, but not in guardianship cases. I omitted to do that in my remarks.

Mr. MANN. Well, whether the law limits it or does not limit it, it is not possible that on the average in thousands of cases the expenses of the administration shall be one-fifth of the total amount which is collected or in question in the estate. The gentleman from Texas [Mr. STEPHENS] brushes it aside by stating that at one time there was a fee paid of $750,000. I remember when I called attention to that fee on the floor of the House and attempted to provide against it and similar fees, but I did not meet with any aid from the gentleman from Texas in regard to it.

Mr. STEPHENS of Texas. The gentleman entirely misapprehends and misstates the matter in connection with that.

Mr. MANN. I neither misstate nor misapprehend it.

Mr. STEPHENS of Texas. If the gentleman will examine the RECORD, he will see I spoke against it and voted against it every time I had the opportunity.

Mr. MANN. I neither misstate nor misapprehend; I remember what took place about these things. I have frequently denounced those big fees. I denounced some the gentleman from Texas proposed to put in the bill at the last session of Congress, some which did go in in conference. But it is no answer to fraud that is now being committed to say that fraud was committed by some one else. The particulars to each case are on file in the office of the Secretary of the Interior. The gentleman from Oklahoma or anybody else can go there and examine the memorandum concerning each case, can examine the files in each case, and those that have been examined presumably are

in the probate court, and the records of the probate court in Oklahoma in these cases will show how much has been paid. Let the gentleman examine these facts, let a committee of this House be appointed to examine the facts; let us know whether it be the purpose of Congress or the administrative officials of the Government to remove the restrictions upon Indians and then either rob them of their property or when they die loot the estates of their children. The gentleman from Oklahoma [Mr. FERRIS] stated that the man who made this report came to Oklahoma from North Carolina with a carpetbag. Pray where did the gentleman from Oklahoma come from into Oklahoma? How long has he lived in Oklahoma?

Mr. FERRIS. Does the gentleman want a reply?

Mr. MANN. Yes; how long has he lived in Oklahoma?

Mr. FERRIS. Mr. Chairman, I am glad to answer the gentleman by saying that I have lived there 12 years and never held a Federal commission, nor did I go there because I had a Federal commission in my pocket.

Mr. MANN. Very well, the gentleman has not lived so long in Oklahoma that he can talk about anybody else coming there with a carpetbag.

Mr. FERRIS. I have lived long enough to consult the people as to what I got and not get it by appointment.

Mr. MANN. The gentleman has not lived long enough to consult the people, but long enough to be elected a Member of this House, and I will say a valuable Member of this House.

I have made no assault upon the gentleman from Oklahoma, but when he says, in answer to the statements made by the gentleman from South Dakota [Mr. BURKE], that they ought not to be considered because they were made by a carpetbagger who came into the State, I say, for God's sake, how long have you been a resident of the State? Because, in the opinion of the old-style southerner, the gentleman from Oklahoma [Mr. FERRIS] is a mere carpetbagger down there. He will have to live a great deal longer than 12 years in one of the Southern States not to be called a carpetbagger. There is no reflection upon the gentleman from Oklahoma going into the State only 12 years ago, and it is no answer for the gentleman to say that the official who made this report went into the State from South Carolina. The question is, Are the facts stated by the gentleman from South Dakota [Mr. BURKE], as set forth in this report, true?

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. MANN. The gentleman has time of his own and endeavors to cut me short; but I will yield to the gentleman.

Mr. STEPHENS of Texas. Well, I will not ask the question.

Mr. MANN. It is no answer to these charges to say that they are made by some man who comes from some other State. As the gentleman from South Dakota [Mr. BURKE] said, it is just a little improbable that the most disinterested statement will be obtained from the average citizen of Oklahoma. How many lawyers are there in the city of Muskogee? Will anybody answer that? How many lawyers are there in that town?

Mr. BURKE of South Dakota. Two hundred.

Mr. MANN. How large a town is it?

Mr. DAVENPORT. About 34,000.

Mr. MANN. Two hundred lawyers for a town with a population of 34,000.

Mr. GRAHAM. Will my colleague yield for a short question?

Mr. MANN. Certainly; I yield to the gentleman.

Mr. GRAHAM. It appears from the discussion up to this time that the paper from which the gentleman from South Dakota [Mr. BURKE] read did not get before the Indian Committee at all. Why did it not?

Mr. MANN. I beg the gentleman's pardon, but he is mistaken in his premises. It appears, on the contrary, that the paper from which the gentleman from South Dakota [Mr. BURKE] read was sent to the chairman of the Committee on Indian Affairs and to various Members from Oklahoma who are on that committee. As I said before, the bill has nothing to do with it. There is no line in the bill on the subject. We are discussing the general proposition, and when fraud is charged and apparently proved, the gentlemen say, "It did not come to us before the bill was reported."

Mr. STEPHENS of Texas. We have had no meetings of the committee since it came to us at all.

Mr. MANN. It is not the fault of anybody but the gentleman himself. Why did you not call a committee meeting?

Mr. STEPHENS of Texas. We did not have an opportunity.

Mr. MANN. The gentleman can call a committee meeting now for to-morrow morning at 10 o'clock. He can call it any day. Is it any answer to these charges to say that they have not considered them? Here are the facts set forth in the report, on file in the Interior Department. The gentlemen say, "We did not know about it." They have had the papers in their possession. Possibly they have not had time to examine them, but that does not answer the charges. Let them have an investigation to see whether these charges are true or not.

Mr. STEPHENS of Texas. We will follow our own course in our own way, without any dictation about it.

Mr. MANN. When the gentleman talks about dictation he gets lippy about it and he violates the rule of the House to be discourteous. He does not know how to be courteous. He knows just about as much about courtesy as he does about the Indian bill, and that is enough.

Mr. BURKE of South Dakota. Will the gentleman yield to me, and I will answer the inquiry of the gentleman from Illinois [Mr. GRAHAM]?

Mr. GRAHAM. I want to know in good faith why that information did not get to the Indian Committee sooner.

Mr. BURKE of South Dakota. The report seems to have been completed in Oklahoma on the 27th day of November. It was brought to Washington three or four days ago by the gentleman who made it. He immediately went to the Secretary of the Interior with the report, and just as soon as they could make the copies they transmitted one by special messenger to the chairman of the Committee on Indian Affairs in the House, another to the committee in the Senate, and also a copy to the two Senators from Oklahoma; and the gentleman from Oklahoma, Mr. FERRIS and Mr. CARTER, each received a copy. I incidentally heard of the report and I asked the Secretary for a copy, and got it.

Mr. MANN. There has to be a time for everything. This report comes down to date. There is no secrecy about it. It has just been made. It could not have been presented last summer; it could not have been presented last winter. The information is only now ascertained. I had expected, when I heard the gentleman from South Dakota [Mr. BURKE] give the facts in his possession, that my distinguished friend from Oklahoma, Mr. CARTER, and my distinguished friend from Oklahoma, Mr. FERRIS, and my distinguished friend from Oklahoma, Mr. DAVENPORT, would do what I believe almost any other Member of this House would have done when the charges were made, and say that this was news to them and that we should investigate it.

If these charges are true, then there ought to be something done about them. If these charges are not true, we want that fact to be published; but instead of suggesting that, each one of the gentlemen is begging the question.

Mr. DAVENPORT. Mr. Chairman, does the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MANN. Not just now. The gentleman from Oklahoma [Mr. DAVENPORT] says he has not examined the report, and yet he denounces it as false.

Mr. DAVENPORT. I want to say that when the gentleman from South Dakota [Mr. BURKE] started to read it, I then heard of it for the first time. That is the first I knew it had been made, and it referred to Indians that belong almost exclusively in the third district, the district which I have the honor to represent. I had no opportunity to investigate it. Had I known such a report had been made I beg to assure the gentleman I would have investigated the report for the reason I have joined the department when it was right and fought it when I thought it was wrong.

Mr. MANN. And the gentleman who has not seen the report takes exception to the courtesy of the department in not having sent him a copy, and brands the statement as "lies and falsehoods."

Mr. DAVENPORT. And I stand by that yet.

Mr. MANN. That is about as close as the gentleman gets to these questions. He says it is "false." Why does he not investigate, why does he not ascertain, if he wants to protect the Indians in his district from paying 20 per cent for expenses?

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I thought, Mr. Chairman, that I had five minutes more. I am short five minutes on the time that was given me. I had 31 minutes.

Mr. BURKE of South Dakota. Mr. Chairman, it was after 2.30 o'clock when the gentleman was recognized.

The CHAIRMAN. The Chair has kept the time, and, according to the time kept by the Chair, the gentleman from Illinois had 29 minutes. He began at 27 minutes past 2.

Mr. STEPHENS of Texas. Mr. Chairman, I yield the rest of the time on this side to the gentleman from Oklahoma [Mr. CARTER].

Mr. CARTER. Mr. Chairman, I want to make a unanimous-consent request. The gentleman from Texas [Mr. STEPHENS] had an agreement with the gentleman from South Dakota [Mr. BURKE], or stated to the gentleman from South Dakota, that he would conclude in one speech. There are two gentlemen who would like to address the House for five minutes each, besides myself, and if it is agreeable and there is no objection,

I would be very glad to have them address the House in my time, the time to be taken from my time. They will discuss a different subject from that which I discussed. Those gentlemen are the gentleman from Massachusetts [Mr. MURRAY] and the gentleman from Georgia [Mr. BARTLETT].

Mr. MANN. Mr. Chairman, I shall have to object, because I have discovered on many occasions that gentlemen on that side of the House do not pretend to keep agreements.

Mr. CARTER. The gentleman must not say that, because I am asking unanimous consent.

Mr. MANN. The gentlemen ought not to ask unanimous consent when they have made an agreement and, after the time has been passed by, then propose to violate it.

Mr. CARTER. I had no part in the agreement.

Mr. BURKE of South Dakota. I have no objection, Mr. Chairman, to the gentleman yielding his time.

Mr. CARTER. I yield to the gentleman from Massachusetts [Mr. MURRAY].

The CHAIRMAN. The gentleman from Massachusetts [Mr. MURRAY] is recognized for five minutes.

Mr. MURRAY. Mr. Chairman, I desire only to speak of so much of the remarks of the gentleman from Illinois [Mr. MANN] as related to my conduct and my action in regard to this contested-election case of McLean against Bowman.

The gentleman from Illinois says that the time will come when I shall be ashamed of that action. I do not believe that is so, Mr. Chairman, although I believe that I shall always regret, as I regret now, that I had to vote to unseat a man in the House of Representatives with whom I have had such pleasant relations as I have had with Mr. Bowman, the gentleman who was unseated yesterday.

Not only were my relations with Mr. Bowman himself pleasant, but he had a son who was a schoolmate of mine when I was a student at the Harvard Law School, and on account of that fact I approached the consideration of this case with the utmost care that I could give to it, and I tried to get exact information in regard to it. It was not possible for me to satisfy myself by following simply the evidence as presented before the Committee on Elections, and the gentleman well knows that it is not possible to make a judicial examination of any question of that sort which is considered by a committee of the House of Representatives.

He criticizes me for going outside of the testimony that was taken and for making an independent investigation, and he likens me to a judge who might be clothed with judicial authority who should go to a saloon for the purpose of determining a judicial dispute after the evidence had been put in. With the limited knowledge of the law that I have as compared with his superior wisdom I call his attention to the fact that there are rules of evidence that should be absolutely and accurately followed when a judicial determination is to be made, but that those exact rules of jurisprudence and those limitations of testimony have no application, as far as I have ever been able to ascertain, to any legislative committee upon which I have ever served. I do not believe there ever was such an application, and I cite as authority from your own side the gentleman from Iowa [Mr. PROUTY] to bear me out in that statement that there was no such limitation of testimony before this committee. I did go outside of the work of the committee to get what I believed to be an impartial and a fair determination of the facts in the case, not because I wanted to take the word of partisan Democrats with whom I am associated and for whom I have high regard, nor because I hesitated to join partisan Republicans, if, indeed, they might be right in their judgment of the case; but I made an independent investigation, just as I believe a man in the legislative branch of the Government ought to do with regard to the problems that are pressing here for solution; and when the gentleman from Illinois [Mr. MANN] compares my conduct to that of a judge who would go to a saloon to determine a judicial dispute, I say he said something to a young man and about a young man that he will be ashamed of long before I am ever ashamed of my conduct in this case. [Applause on the Democratic side.]

Mr. MANN. I told the truth.

Mr. MURRAY. I have heard something here to-day about a roll of honor. I should like to be on any personal roll of honor that might be compiled by the gentleman from Illinois. I admire him and always have admired him since the early days of my service here. I believe that when he is able to get away from the intense partisanship which characterizes most of his conduct here he contributes greatly to the value of membership in this House of Representatives, and when partisanship is not involved I am always most happy to go to him, as I hope I will be able to go to him in the future, to get for my youthful service the benefit of his advice; but I have no ambition to serve on Republican rolls of honor. [Applause on the Democratic side.] I have no ambition to see my name written high on any list of Republican rolls of honor.

Mr. Chairman, before I came here I served in other legislative bodies in a city government and in a State government. I have seen Republican rolls of honor compiled before. I suppose I could climb to a high place on such a roll if I might be willing to stand pat on Schedule K. [Applause on the Democratic side.] I suppose if I should be willing to repudiate the verdict of the American people and refuse to revise Schedule K, that so vitally affects the interests of the people of this land, my name might be written high, but it will never be written by that kind of conduct on my part any more than it will be written by my vote to retain in this House of Representatives a man who, in my honest judgment, ought to be unseated from its membership. [Applause on the Democratic side.]

Mr. CARTER. Mr. Chairman, I have only a few remarks to make, and I ask that I may be given permission to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. CARTER. Mr. Chairman, the gentleman from Illinois lays great stress upon the fact that the two Members of Congress from Oklahoma who addressed this committee to-day did not declare themselves opposed to dishonesty. With all fair-minded men sitting in this House who can rise above partisanship to an impartial survey of men and measures no such asseveration of honesty by Members from the State of Oklahoma is necessary. The two Members from Oklahoma [Mr. DAVENPORT and Mr. FERRIS], I dare say, come as near having the confidence of this House as the gentleman from Illinois himself, and that is saying a great deal.

But, on behalf of them and myself, I will say that if there is any dishonesty in Oklahoma, the Oklahoma delegation in Congress is opposed to it, and the Members of that delegation will stand shoulder to shoulder with the gentleman from Illinois [Mr. MANN], the gentleman from South Dakota [Mr. BURKE], or any other Members of the House or any other body that may have jurisdiction for an investigation of any conditions that may even smack of impropriety or dishonesty in Oklahoma or any other place.

But when this investigation is instituted we shall ask that it be not confined to the probate courts of Oklahoma alone, but that a thorough and searching investigation of the conduct of every man who has had to do with Indian affairs in Oklahoma for the past few years, both State and Federal, be made. We shall ask an investigation of the Indian office at Muskogee. We should like to know what becomes of the million and odd dollars used by this office every year. We should like to know what duties are performed by the more than 500 employees on the Federal pay roll at Muskogee. We should like to know where these 500 employees were when all this robbery of Indians was taking place, which has been so ably exploited by the gentleman from South Dakota [Mr. BURKE]. We would like to know why it is that all these restricted minor Indian estates are being dissipated, when it is the duty of these five hundred and odd Federal officers to see that it is not done. And we would especially like to know why it is that this great dissipation of restricted minor estates is taking place, when no title can pass to any of these lands except by the consent of the Secretary of the Interior, and he will act only upon a favorable recommendation from these Oklahoma Indian agents.

We have heard a great deal of the misconduct of Oklahoma State officers, but there is some other misconduct which has been going on for years, information about which has not been so freely given. While this misconduct comes strictly in the view of the department, strange to say, it never seems to be mentioned by any of the department officers or by gentlemen on that side of the House.

The chief requisite for employment in the Indian service in Oklahoma in the past seems to have been indifference to duty and ignorance of Indian affairs. The people who are sent there to fill those jobs remind me very much of a young newspaper man, whom it was my good fortune to meet on a visit to this city several years ago. I was introduced to him as an Indian. He said, "CARTER, are you a real Indian?" I said, "I am." He then said, "Are you one of those fellows who are on tribal rolls and get lands and money?" I again repeated, "I am." "Well," said he, "I am awful glad to meet you. You know I wrote two articles on the habits, traits, and characteristics of the American Indian, for which I got $250, and you are the first confounded Indian I ever met in my life." [Laughter.]

In the light of past events, I think this gentleman would have made an excellent district Indian agent for Oklahoma.

I have had on my desk for some time charges of a most serious nature against these very district agents, but because most of them had gotten out of the service, because I did not desire to pose as a muckraker, and because I am not inclined to tear down the character of any man, either for political or other purposes, I have never referred to these men by name, but if there is to be an investigation of Indian affairs in Oklahoma past and present conditions certainly demand a turning on of the light, not only on the probate judges, but also upon the entire Federal Indian service in that State.

In view of this situation I think the time is now ripe to present some of the cases of fraud and corruption by this so-called Indian Bureau. I want to call attention first to a gentleman by the name of Charles Knapp, one of the great district agents, always so valiantly defended by our friend from South Dakota, Mr. BURKE. He was located at the city of Hugo, Choctaw County, and drew, I am informed, $2,000 a year from the Federal Treasury, ostensibly for the protection of the Indian. Let us see how he protected them. This young man came to our State from New York, I understand, and, like my newspaper friend, I do not suppose he ever saw an Indian until he went to the State of Oklahoma to supervise them, but he seems to have had abundant knowledge of some other things.

If the charges brought against Mr. Knapp are true, he ought to be behind the bars of a prison cell, for it is said of him that he had a regular scale of prices for which he would give any kind of a recommendation for any kind of an approval of any kind of a matter that an applicant might desire if such applicant would only pay his price. And I am reliably informed that a great many of Mr. Knapp's recommendations were passed upon favorably by the Indian Office and by the Secretary of the Interior.

Perhaps this may account for some of the irregularities referred to by my friend from South Dakota [Mr. BURKE]. However that may be, it has been, in a large measure, the practice of our probate judges to advise and counsel with these district agents with regard to probate matters of Indians. After these charges were preferred against Mr. Knapp, I am informed that he was permitted to resign without trial, and the grand jury of Choctaw County, I understand, has never been able to get any of the facts from the department.

Then there was another district agent at Muskogee, right under the nose of Dana H. Kelsey, who was charged for a long time with similar wrongdoing and who was permitted to resign without an investigation.

Still another district agent at Pauls Valley, I am informed, resigned from his position as district agent, and a short time after his resignation had taken effect large bodies of Indian lands sold by his direction when district agent were transferred to him by the vendee, acting as a dummy for him.

Then, again, at Chickasha a somewhat similar case is reported. I do not give the names. It is immaterial, anyway, since these names can be ascertained at the department. An investigation should be made, not only as to the misconduct of these gentlemen but as to the reasons for the department withholding this information from Congress and the courts of Oklahoma.

And again, Mr. Chairman, since we are to have an investigation, let us, at least, have some light on that crowning iniquity of recent occurrence, the fraudulent appraisement of the surface of the segregated mineral lands. Let us see why it is that these three appraisers have been permitted to shove their hands into the tribal treasury to the extent of $15 per day without accomplishing anything, it seems, except fraud and corruption. Let us see why it is that these men were permitted to resign without an investigation, and let the Secretary of the Interior tell us why it is that no mention of this disgraceful transaction has been presented to Congress.

It is passing strange that none of these shady and fraudulent transactions of Government officials are ever presented to this House by the department. They seem to have no trouble in ferreting out any alleged corruption by State officials, but are woefully short on keeping Congress informed as to the shortcomings of their own officials.

I reiterate we want to correct any evils that may exist in Oklahoma, but we call on you gentlemen to witness that Oklahoma is a new State and our officers, until five years ago, had no experience whatever. There may have been discrepancies by our officers, there may have been even wrongdoing by our officers, but in my opinion these charges are greatly exaggerated, and I certainly believe that an investigation will disclose the fact that little, if any, more fraud exists among the officers of the State of Oklahoma than in many other States.

We are eager for an investigation of these matters, but I ask you, my colleagues, not to condemn the name of a fair State and its officers on such ex parte testimony as has been given in this Chamber to-day.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. CARTER. Yes.

Mr. COOPER. Mr. Chairman, I was called out during a part of the discussion, during the speech especially of the gentleman from South Dakota [Mr. BURKE]. Do I understand that the man who made the investigation and the report of it, to which reference has been made, is an employee in Muskogee?

Mr. CARTER. He is.

Mr. COOPER. Is he in receipt of a salary of $5,000 a year?

Mr. CARTER. He is.

Mr. BURKE of South Dakota. Mr. Chairman, I do not think the gentleman from Oklahoma wishes to mislead the House. The gentleman who made this report is the attorney for the Creek Nation, and is paid a salary of $5,000 a year out of their funds, and, under an arrangement with the principal chief of that nation, he was permitted to use the moneys of the tribe to make this investigation.

Mr. COOPER. Who appointed him, I will ask the gentleman from Oklahoma?

Mr. CARTER. The Secretary of the Interior, at the suggestion of the chief.

Mr. BURKE of South Dakota. I will say, Mr. Chairman, that the only way an arrangement made between the chief and this attorney could be made effective was by approval of the Secretary of the Interior, and he approved, upon the statement having been made to him that this condition existed.

Mr. CARTER. I hope, Mr. Chairman, the gentleman will permit me to conduct my own colloquy. I know the gentleman is well posted upon these matters, but he and I do not agree on many things, and our replies will naturally differ. This man Mott was first appointed by the Secretary of the Interior. That is to say, his original contract required only the approval of the Secretary of the Interior before it was valid. His contract now requires the approval of the President, but that is a difference between tweedle dee and tweedle dum, for the President always leaves these matters of approval of Indian contracts to the Secretary. It is true that the contract must be signed by the tribal chief, but the chief himself, who is a full-blood Indian, not able to speak English, is a creation of the Interior Department, and his head might come off if he did other than what the Interior Department wanted him to do, and the gentleman from South Dakota knows that.

Mr. COOPER. Does the gentleman then think that the investigator was entirely disinterested?

Mr. CARTER. With this attorney sitting in the gallery at the present time, I do not hesitate to say that I feel sure his investigation was conducted with a view, largely, to a continuation of his job and the perquisites that go therewith, as such investigations usually are conducted when they are made ex parte by an employee of the department.

Mr. COOPER. There are 500 employees in Muskogee?

Mr. CARTER. There are more than that.

Mr. COOPER. More than 500—all at Muskogee?

Mr. CARTER. Yes; more than 500 on the pay roll there.

Mr. COOPER. They have supervision of these tribes?

Mr. CARTER. Yes.

Mr. COOPER. One of the great newspapers of the country, the New York Herald, has been making an investigation of this subject for some weeks. I have seen a number of copies of the paper and extracts from the paper, and their investigator reports a dreadful condition, so far as the prevalence of trachoma and other diseases is concerned. For example, at the Kiowa Agency 65 per cent have trachoma. What has the gentleman to say of the supervision and its efficiency under which such an alarming condition of disease exists at that agency?

Mr. CARTER. The disease is prevalent among those tribes; but I want to be perfectly fair and state to the gentleman that the Kiowas and Comanches are not part of the Five Civilized Tribes, but they are Indians in Oklahoma, and the supervision which the gentleman calls attention to is quite characteristic of the supervision that is extended over the Indians in Oklahoma.

Mr. COOPER. They are under Federal supervision.

Mr. CARTER. Yes.

Mr. COOPER. I also read in the reports of this agent or investigator of the New York Herald that the deaths from tuberculosis alone approximated 35 in 1,000 among these Indians. Is that so?

Mr. CARTER. I have not those figures by me, but I assume the gentleman is correct.

Mr. COOPER. He said that he secured that information from officials in Oklahoma and from department officials here. Now, as I am informed, the death rate from all diseases in Panama, supposedly a deadly region, is only about 15 or 16 per

thousand, and yet the statement is that the death rate from tuberculosis alone of Indians there under Federal supervision is 35 per thousand.

Mr. MANN. The gentleman is comparing the percentage of deaths with deaths elsewhere.

Mr. COOPER. I was referring to the percentage of all deaths.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to state briefly—just about half a minute—that last year's appropriation bill carried $40,000 for the purpose of building a hospital for the treatment of these very diseases among the Kiowa and Comanche Indians on the Fort Sill Reservation. We met the very matter concerning which the New York Herald has had so much to say.

Mr. COOPER. I want to ask the gentleman from Oklahoma [Mr. CARTER] another question. What do these 500 officials do; what are the so-called agents doing?

Mr. CARTER. They do the Indians. [Laughter and applause.]

Mr. COOPER. Does the gentleman think this is intentional or unintentional on their part?

Mr. CARTER. I believe they do it with malice aforethought.

Mr. COOPER. Does the gentleman think that there ought to be a substitution of another kind of supervision from that which prevails there now?

Mr. CARTER. Mr. Chairman, I have very clearly in my mind what should be done with the Indians in Oklahoma, the so-called Five Civilized Tribes. It is quite complicated and would entail a lengthy discussion which I have not the time to take up right now. I wish I had. In general, it provides this: The turning loose of all the Indians whom this Congress has legislated upon as legally competent and dividing among them every dollar of money in the Treasury that belongs to them, and then placing them upon their own resources, but continue supervision of the restricted class of Indians until they become competent.

Mr. COOPER. Well, I will say to the gentleman among the articles I read in the Herald on this subject is one from Mr. Leupp and Mr. Meritt and other presumably very expert men of the Indian service, and they all agree and say that in many respects conditions are just as bad as they can be. What has the Indian Committee done to change or looking toward a change of those conditions?

Mr. BURKE of South Dakota. If the gentleman will permit me to say to the gentleman from Wisconsin, this disease of trachoma has only been brought to the attention of Congress within the last few years, and if the gentleman will examine the Indian appropriation bill he will find we have been making an appropriation annually for the purpose of an investigation and the treatment of this disease of which he has spoken.

Mr. COOPER. Will the gentleman permit an interruption?

Mr. CARTER. I will have to refuse to be interrupted further, because I have some other matters to which I wish to call attention, and my time has mostly been consumed in colloquy.

The gentleman from Illinois [Mr. MANN] tells us that he opposed the big fee of $750,000 when it was passed by this House. It is strange that the RECORD does not show something about it. The RECORD shows that the act under which this fee was approved passed this House without any such provision. It went to the Senate without any such provision. It went to the Senate Committee on Indian Affairs, and I am not sure that the matter was inserted there. But when it came back from conference the provision was there under which the $750,000 fee was permitted, and the RECORD shows absolutely no objection to it by the gentleman from Illinois [Mr. MANN].

Mr. MANN. Will the gentleman permit?

Mr. CARTER. Yes, sir.

Mr. MANN. It is not my recollection that the $750,000 fee was ever allowed by Congress.

Mr. CARTER. You are correct as to the fixing of the fee itself.

Mr. MANN. I suppose so. When it was announced that the $750,000 fee was to be paid, I denounced it, and endeavored to secure legislation which would prevent not only the payment of that but any other similar fee.

Mr. CARTER. Ah, Mr. Chairman, that is true; but the gentleman voted for that provision which took the safeguard of approval out of the hands of the Secretary of the Interior and put it in the hands of an unknown court.

Mr. MANN. The gentleman has no authority for saying that I voted for it.

Mr. CARTER. The record shows that the gentleman did not make any objection.

Mr. MANN. I did not have an opportunity to make an objection. I did not know there was such a provision.

Mr. CARTER. The gentleman at the very best, then, stands only on all fours with the gentleman from Texas [Mr. STEPHENS], against whom he made the charge.

Mr. MANN. The gentleman from Texas was on the committee, and it was his business to know.

Mr. CARTER. But the gentleman was not on the conference committee, and this matter was inserted in conference, with no consideration whatever by the Committee on Indian Affairs.

Mr. STEPHENS of Texas. Judge Little, of Arkansas, was on that conference. I was not.

Mr. CARTER. The gentleman from Texas [Mr. STEPHENS] had no better opportunity of getting information about it than the gentleman from Illinois had.

Mr. MANN. I was talking about subsequently.

Mr. STEPHENS of Texas. There were 12 Republicans to 6 Democrats.

Mr. CARTER. To end it all I will say that I think the gentleman from Illinois [Mr. MANN] has been opposed to the fee. But we know the one thing that the gentleman from Texas [Mr. STEPHENS] has continually dinged into our ears ever since that transaction has been the injustice of the big McMurray fee.

Now, Mr. Chairman, I pray the indulgence of the committee for a brief expression of my personal feelings in these premises. I am proud that the blood of the aborigines of this country course through my veins. I believe I feel as keenly my responsibility to defend the Indian and his property from the greed of the unscrupulous grafter as any man on the floor of this House, for they are flesh of my flesh, bone of my bone, and blood of my blood.

But the gentleman from South Dakota has said that political consideration influenced the Members from Oklahoma in deciding these matters between the Indians and whites. The gentleman may speak for himself, but not for me. Let me assure the gentleman that the first consideration coming into my mind, when weighing an Indian question, is not that of political exigency, but that of loyalty and fealty of blood; and if the time should ever come when my hand or my voice should be wittingly raised against the Indian and his interest, may that hand be palsied, withered, and paralyzed, and my tongue be cleft to the roof of my mouth, that I may not in the future give expression to sentiments either for or against them.

But, Mr. Chairman, never was a more thorough and far-reaching effort organized and put into execution to defame and slander the fair name of one of the sister States of this Republic than that attempted by the officials of the Indian Bureau in Oklahoma against that State, and which it appears is being done in a large measure for political consideration.

During the recent campaign letters were sent out under Government frank misstating facts in attempts, as I verily believe, to discredit the candidacy of the three men from Oklahoma, Mr. DAVENPORT, Mr. FERRIS, and myself.

And since the election information has come to me through a reliable source that a large portion of the time of these Indian officials at Muskogee is being consumed in formulating plans to take part in the congressional redistricting of our State, to the disadvantage of some of the gentlemen who now have the honor to represent Oklahoma, and it will give me great pleasure to have each and every one of these leeches opposed to my interests, for I feel certain that the selfishness of their purpose will be so obvious as to work to my advantage.

Now, Mr. Chairman, these Indian Office officials are doing nobody any damage by their political activities, except the Indian himself. For if their time had been employed in honest endeavors to protect the helpless wards left to their stewardship instead of vain political attempts it might not be necessary to listen to such charges of fraud and corruption as have been presented to this House to-day. In other words, the same responsibility that rests on our courts rests on the Indian Bureau, and you can not convict our county judges without incriminating the district agents.

Let me read, if I have the time, just one little quotation from a report of one of the Indian officials to the Secretary of the Interior. He says:

> And now, Mr. Oklahoma citizen, it is time to adopt the recall and oust every Member of the Oklahoma delegation in Congress, barring Republicans.

Are politics being played in the handling of Indian affairs, my friends? I call upon the fair-minded Members of this body to bear witness.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I ask for the reading of the bill under the five-minute rule.

The CHAIRMAN. All general debate on the bill has expired. The Clerk will read the bill for amendment under the five-minute rule.

Mr. HARRISON of Mississippi. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

Mr. STEPHENS of Texas. Mr. Chairman, I make the same request.

Mr. FERRIS. And, Mr. Chairman, I make the same request.

Mr. CARTER. Mr. Chairman, I ask unanimous consent to extend in the RECORD my remarks about the Mississippi Choctaws.

The CHAIRMAN. The gentleman from Mississippi [Mr. HARRISON], the gentleman from Texas [Mr. STEPHENS], the gentleman from Oklahoma [Mr. FERRIS], and his colleague, the gentleman from Oklahoma [Mr. CARTER], ask unanimous consent to extend their remarks in the RECORD. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

> For the survey, resurvey, classification, appraisement, and allotment of lands in severalty under the provisions of the act of February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians," and under any other act or acts providing for the survey and allotment of lands in severalty to Indians; and for the survey and subdivision of Indian reservations and lands to be allotted to Indians under authority of law, $200,000, to be repaid proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purpose and to remain available until expended.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I make this motion for the purpose of asking the chairman of the Committee on Indian Affairs if he can inform me where I can secure a copy of the printed hearings on the bill now before us.

Mr. STEPHENS of Texas. The stenographers' reports have not come in yet. We had extensive hearings last spring before we prepared the bill of last winter, and we also had hearings a few days since, but the stenographers' reports have not been received yet, so that we have not had opportunity to have them printed.

Mr. MONDELL. The gentleman says that the committee had hearings on another bill.

Mr. STEPHENS of Texas. On last year's appropriation bill, with the same language.

Mr. MONDELL. I am speaking of the bill now pending before the House.

Mr. STEPHENS of Texas. The bill now before the House is the Indian appropriation bill for the coming fiscal year. Last year's bill, for the service of the current year, was the same. It was in the same language and for the same amounts, and extensive hearings were printed thereon. We have had short hearings on this bill.

Mr. MONDELL. I understand that the reason why there have been no hearings worth mentioning on this bill and no hearings printed is that the bill is identical this year with the last year's bill.

Mr. STEPHENS of Texas. That is correct, and the circumstances and conditions are the same.

Mr. MONDELL. The bill is so entirely identical with the current Indian appropriation bill that there is no reason why Members and others concerned in the Indian Service should be informed about it, and therefore there were no extensive hearings. Is that the understanding?

Mr. STEPHENS of Texas. There were hearings, as I stated, but we have not had time to print them yet. But they will be printed.

Mr. MONDELL. Were any considerable hearings had in connection with the bill?

Mr. STEPHENS of Texas. When we were not satisfied with any item we had hearings upon it. We cut this item $24,000, because there was an unexpended balance of $24,000 under the other bill.

Mr. MONDELL. There is nothing available here in the way of printed matter whereby anybody in the House can inform himself as to the reasons for allowing or denying any of the items estimated for?

Mr. STEPHENS of Texas. There is in the office now, at the present time.

Mr. MONDELL. In what office?

Mr. STEPHENS of Texas. In my office. There are the printed hearings of last year concerning the same items in the same language. As to this item, we reduced it $24,000.

Mr. MONDELL. I suppose there are also in the gentleman's office the printed hearings of two years ago and of three years ago and of four years ago. But what information could I secure from those printed hearings on the bill that is now before the House? I have been seeking information in regard to this particular bill, and I have been unable to secure it.

Mr. STEPHENS of Texas. If the gentleman from Wyoming had come before the committee a few days ago, when we were considering this item, he would have had the opportunity of being heard upon it.

Mr. MONDELL. How long did the committee consider this item—for five minutes?

Mr. STEPHENS of Texas. Long enough to satisfy ourselves that it was correct.

Mr. MONDELL. What evidence does the committee present in the way of hearings in this particular instance in relation to the bill?

Mr. FERRIS. If I may supplement what the chairman has said, we had quite extensive hearings even this year; not quite as extensive as we had last year.

Mr. MONDELL. What length of hearings does the gentleman call extensive hearings?

Mr. FERRIS. Just let me conclude my statement, and then the gentleman can judge for himself. We had the Commissioner of Indian Affairs, and we had the irrigation people, both Mr. Newell and the irrigation people of the Indian Office. We had three or four different officials from the Indian Office, and asked them in detail about the items.

Mr. MONDELL. Where is all this valuable information to be had?

Mr. FERRIS. The committee stenographers took it down. Of course, the gentleman not being there and not appearing before the committee, any item that he might have been interested in, this or any other, was not presented.

Mr. MONDELL. I am not a member of the committee, and I have no interest in this item any more than any other Member of the House has, but I am interested in the Indian appropriation bill, as I am in all appropriation bills, as a Member of the House. We are accustomed to inform ourselves with regard to appropriation bills by obtaining and reading the printed reports of the hearings. In this case, if there were any hearings, they must have been very brief indeed, because the bill was very promptly reported to the House. I have not been able to secure a copy of whatever hearings there may have been, either in the original notes or in the manuscript or in printed form. I should like to be informed with regard to the matters before the committee.

Mr. MARTIN of South Dakota. The gentleman might have the committee stenographers read their notes to him.

Mr. MANN. Mr. Chairman, I rise to oppose the motion of the gentleman from Wyoming [Mr. MONDELL] to strike out any portion of this bill; but I really would like to know whether the stenographic reports of the hearings before the Indian Affairs Committee have been written out.

Mr. FERRIS. I do not know.

Mr. MANN. Why should we go to the expense of having stenographers to report the hearings unless the hearings are printed?

Mr. STEPHENS of Texas. I will state to the gentleman that most of the stenographic reports of these hearings have been written out and have reached the committee, but not all of them. As soon as they are complete they will be printed.

Mr. MANN. When did they reach the committee?

Mr. STEPHENS of Texas. As fast as the committee stenographers transcribed them.

Mr. MANN. I have had the fortune or misfortune of serving as chairman of one of the committees of the House, and other gentlemen have had similar service. I believe it has always been the invariable custom of the stenographers who take the hearings before the committees on one day to furnish their copy written out the next morning. With every other committee except the distinguished Committee on Indian Affairs it has been the custom to send the transcript of the testimony to the Printing Office and have it printed the next day.

Mr. STEPHENS of Texas. It is not the custom, however, to do that until all of the copy has come in, so that it can be printed all together.

Mr. MANN. It is not the custom of any other committee in the House except the Committee on Indian Affairs to wait until all the testimony is in before it is printed. It is the custom to have the testimony printed as it is taken. What is the use of printing testimony now on the Indian appropriation bill, when the bill will be passed to-day? I should have supposed that the gentleman in charge of the bill would have the testimony printed for consideration in making up the bill or for the membership of the House in the discussion of the bill. However, I have no disposition to criticize the Committee on Indian Affairs. I should like to ask my distinguished friend from Texas [Mr. STEPHENS] whether this item is in the same amount as in the law for the current year?

Mr. STEPHENS of Texas. We reduced the amount $50,000 because there is an unexpended balance and it was not necessary.

Mr. MANN. What is the money used for; what surveys are to be made in the Indian service next year? What authorization is there for making surveys for the allotment of land? The gentleman says there is a $50,000 surplus. Of course, nobody knows what the surplus for the current year will be, because the current year will not end until the 30th of June next.

Mr. KENDALL. They anticipate that surplus.

Mr. MANN. They guess at it, and it may be a good guess.

Mr. STEPHENS of Texas. This money is to go to the General Land Office to reimburse them for having made the surveys for the Indian Office.

Mr. MANN. What surveys are to be made in the next fiscal year? What is the use of appropriating money unless you know something about the necessity for its use?

Mr. STEPHENS of Texas. That is under the jurisdiction of the department at the present time.

Mr. MANN. The department is not authorized to make allotments of land unless authorized by Congress. What allotments are authorized by which money could be used during the next fiscal year?

Mr. STEPHENS of Texas. We have them right here and I will give them to the gentleman.

In this connection attention is invited to the following surveys which should be made at the earliest possible date: Conditions on the various private land grants, confirmed to the Pueblo Indians of New Mexico by the Court of Private Land Claims, require that the boundaries of these grants be determined and marked with permanent monuments at the earliest practicable date. Conflicts are constantly arising between these Indians and white settlers, involving valuable timber and water rights which can only be finally settled, and avoided in the future, by determining and locating the boundaries of these various pueblos. It is estimated by the General Land Office that it will cost approximately $20,000 to survey the boundaries of these pueblos and establish mile and half-mile monuments with iron posts, brass capped.

Then it goes on and itemizes the whole matter, which I will not read.

The Clerk read as follows:

For the construction, repair, and maintenance of ditches, reservoirs, and dams, purchase and use of irrigation tools and appliances, water rights, ditches, lands necessary for canals, pipe lines, and reservoirs for Indian reservations and allotments, and for drainage and protection of irrigable lands from damage by floods, $325,000, to remain available until expended: *Provided*, That no part of this appropriation shall be expended on any irrigation system or reclamation project for which specific appropriation is made in this act or for which public funds are or may be available under any other act of Congress: *Provided further*, That nothing herein contained shall be construed to prohibit reasonable expenditures from this appropriation for preliminary surveys and investigations to determine the feasibility and estimated cost of new projects, for investigations and surveys for power and reservoir sites on Indian reservations in accordance with the provisions of section 13 of the act of June 25, 1910, or to prevent the Bureau of Indian Affairs from having the benefit of consultation with engineers in other branches of the public service or carrying out existing agreements with the Reclamation Service; for pay of one chief inspector of irrigation, who shall be a skilled irrigation engineer, $4,000; one assistant inspector of irrigation, who shall be a skilled irrigation engineer, $2,500; for traveling expenses of two inspectors of irrigation, at $5 per diem when actually employed on duty in the field, exclusive of transportation and sleeping-car fare, in lieu of all other expenses authorized by law, and for incidental expenses of negotiation, inspection, and investigation, including telegraphing and expense of going to and from the seat of government and while remaining there under orders, $4,200; in all, $335,700: *Provided also*, That not to exceed seven superintendents of irrigation, who shall be skilled irrigation engineers, may be employed.

Mr. MANN. Mr. Chairman, I reserve a point of order to that paragraph. Will my friend from Texas give us some information about this item?

Mr. STEPHENS of Texas. It is the general irrigation work. A part of these funds are nonreimbursable; when paid out for the purpose of building ditches and dams for Indians who have no funds they are not reimbursable. But if paid out for Indians who have funds and lands to be sold hereafter, they are expected to recoup the amount of money expended by the United States Government for building the permanent irrigation works. This is an estimate for the whole United States, a great many reservations, and I think it will be unnecessary to read all of them.

Mr. MANN. If the Indians have no lands, what use have they for irrigation works?

Mr. STEPHENS of Texas. The Indians have lands, of course. You could not have irrigation projects unless they had lands.

Mr. MANN. If the Indians have the land, why should not the land pay the cost of irrigation? What further obligation is there on the part of the Government of the United States to build irrigation projects for Indians who are not under governmental supervision, perhaps whose land is allotted to them, than for anybody else out of the Federal Treasury?

Mr. STEPHENS of Texas. The United States is building for white people all over the United States, under the reclamation act, irrigation projects and dams; spending millions of dollars for white persons, and certainly they ought to expend money in the same way for Indians.

Mr. MANN. I think it ought to be spent in the same way as for white persons. Now, for white persons it is all chargeable to the land. All the cost of irrigation projects is charged against the land and is repaid to the Treasury. This item is simply a gratuity to some Indians whose property has been so far looted that they have not very much, or else we propose to present them with something they ought not to have.

Mr. STEPHENS of Texas. It is within the discretion of the Secretary of the Interior to reimburse the Government or not. If the Indians have property out of which it can be reimbursed we put the word "reimbursable" in the bill, but if they can not reimburse or refund to the Government the amount of money used by it we leave the word "reimbursable" out because they are the wards of the Government, and the United States is compelled to supply them with water and therefore irrigation projects.

Mr. MANN. As I understand, this item has nothing to do with reimbursable funds.

Mr. STEPHENS of Texas. It does not.

Mr. MANN. Now, upon what theory do we proceed in authorizing the Secretary of the Treasury to enter upon any new project he pleases to be paid out of the Federal Treasury and not charged to the property that is benefited thereby?

Mr. STEPHENS of Texas. Some of it will be charged and can be charged.

Mr. MANN. By what authority?

Mr. STEPHENS of Texas. It can be done by the Secretary of the Interior under existing laws.

Mr. MANN. Under what law?

Mr. STEPHENS of Texas. There are many streams running through these reservations. By damming these streams we very often create a water power by which electricity can be supplied to adjoining towns and the adjoining country. If that can be sold, then the United States Government will reimburse itself for money already expended on these projects and, at the same time, aid the Indians by giving them water to irrigate their lands.

Mr. MANN. Do I understand the purpose of this item of $325,000 is to dam up rivers somewhere in order to obtain water power to sell lights to adjoining towns?

Mr. STEPHENS of Texas. It has been done. The town of Roosevelt, in Arizona, has been built and an immense water power supplied there.

Mr. MANN. That was not done under any irrigation project, constructed under the provisions of this paragraph of the bill, was it?

Mr. STEPHENS of Texas. But this bill permits that to be done.

Mr. MANN. I know; but is it the policy of the Government to pay out of the Federal Treasury for the construction of dams in order to develop hydroelectric power to sell to neighboring towns, and not even have the fund reimbursable?

Mr. STEPHENS of Texas. It might be done.

Mr. MANN. It might be done, but is that the proper policy for the Government to pursue? We might build Washington monuments in every county, but we will not do it.

Mr. STEPHENS of Texas. It is the policy that has been pursued for some time, and that the Government proposes to pursue in the future, that if they have water running to waste, that can not be used for other purposes than irrigation or for the purpose of producing this power, it should not go to waste. This question of conservation reaches the Indian lands just as it does the public lands of the United States, and ought to be used in the same way.

Mr. MANN. Mr. Chairman, there is no comparison between them. That is to provide funds for the various reclamation projects out of the reclamation fund in the Treasury, which is all reimbursable by the purchasers of the land which is improved.

Mr. STEPHENS of Texas. Let me read to the gentleman what the department says.

Mr. MANN. Just a moment. Here is the proposition. I know the department has been urging it. The Interior Department or the Indian Department is not concerned with principles to be adopted by Congress in disposing of the money in the Federal Treasury. They see something that ought to be done, and they want to do it, or, as the gentleman from Oklahoma says, they see the Indians and want to do them, which I think was a very unwarranted assertion. Shall the Government of the United States pursue the policy of permitting the white people, where the Indians live, to take away their most valuable properties, and then have the Government construct irrigation

projects for their benefit and charge nothing against the land, where the land is improved?

Mr. STEPHENS of Texas. They have already undertaken many of these projects. They are under way at the present time.

Mr. MANN. I know they are—too many of them, altogether.

Mr. STEPHENS of Texas. This money is to carry forward in many instances projects already begun, and the money already expended would be lost unless these appropriations are granted.

Mr. MANN. I am quite willing to assume that those projects which have been commenced can not very well be abandoned, although I think the Government ought to charge the expense against the property which is benefited. But the provisions of this bill authorize the department to proceed with the investigations and surveys in reference to new projects, and having done that they can go ahead with the new projects under the provisions of the bill. The department is not confined in the expenditure of this sum of money for projects already under construction.

Mr. RODDENBERY rose.

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Georgia?

Mr. MANN. In just a moment.

Mr. STEPHENS of Texas. Let me call attention to the fact that no new project can be begun which costs over $30,000 without recommendation to Congress and appropriation for that specific purpose and without surveys having been made.

Mr. MANN. But you can start 10 that cost $25,000 apiece.

Mr. STEPHENS of Texas. The gentleman is not aware of the condition, I presume, in the West. You could not dam up a stream of any size by making an appropriation of $10,000 to furnish irrigation on 20,000 or 30,000 acres of land.

Mr. MANN. As the gentleman well knows, there are a large number of irrigation projects now under construction which cost less than $30,000 under the gentleman's supervision, yet the gentleman asks me how can it be done, and the gentleman is proposing to appropriate money for that very purpose, and that is what I am asking about.

Mr. STEPHENS of Texas. Would the gentleman refuse to give water to the Indians who live in a small district and give it to those who live on a large reservation, where they had large streams?

Mr. MANN. I would not refuse to give it to any of them.

Mr. STEPHENS of Texas. Would he treat all alike?

Mr. MANN. I would treat all alike.

Mr. STEPHENS of Texas. Where it is a project under $30,000 the department has the right to proceed without investigation by Congress. If it is over $30,000 surveys must be made and the matter fully investigated and reported to Congress and an appropriation must be made; otherwise the appropriation is made out of the lump-sum appropriation for irrigation purposes.

Mr. MANN. Now I yield to the gentleman from Georgia [Mr. RODDENBERY].

Mr. RODDENBERY. Mr. Chairman, I was just going to ask the gentleman to what page his motion applies.

The CHAIRMAN. The gentleman has reserved the point of order.

Mr. MANN. At the bottom of page 2 and page 3.

Mr. RODDENBERY. I have not been following the consideration of the bill very closely, but would it be possible to ascertain now from the gentleman who has the floor, the chairman of the committee, if this bill will be completed this afternoon?

Mr. STEPHENS of Texas. We are very anxious to get through with the bill.

Mr. MANN. I see no reason why the bill should not be completed by 5 o'clock.

Mr. STEPHENS of Texas. I will state to the gentleman from Georgia that this bill has no new legislation, has nothing in it that could or should be objected to, and we have very carefully considered it. It is cut more than a million dollars, I believe, from the proposed bill, and there is not a single item here that should not be carried in this bill.

Mr. RODDENBERY. I thoroughly understand the language of the gentleman from Texas, but the countenance of the gentleman from Illinois is very strongly expressive when he states that there is no reason why we should not get through this afternoon. There are about 31 pages of the bill, I believe.

Mr. STEPHENS of Texas. We can proceed with it.

Mr. RODDENBERY. Do I understand the gentleman from Illinois to give it as his opinion that we would complete the bill to-day?

Mr. MANN. I hope so, by 5 o'clock.

Mr. RODDENBERY. Mr. Chairman, I make the point of order that no quorum is present.

The CHAIRMAN. The gentleman from Georgia makes the point of order that there is no quorum present. The Chair will count. [After counting.] Sixty-three gentlemen are present, not a quorum, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Fairchild	Lafean	Rubey
Adamson	Finley	Langham	Rucker, Colo.
Aiken, S. C.	Flood, Va.	Langley	Rucker, Mo.
Ainey	Floyd, Ark.	Lawrence	Sabath
Ames	Fecht	Legare	Saunders
Anthony	Fordney	Levy	Scott
Barchfeld	Fornes	Lindsay	Scully
Barnhart	Gallagher	Littlepaul	Sells
Bartholdt	Gardner, Mass.	Littleton	Shackleford
Bell, Ga.	Gardner, N. J.	Longworth	Sharp
Berger	Gillett	McCoy	Sherwood
Boehne	Gocke	McCreary	Simmons
Booher	Gould	McGillicuddy	Sisson
Brantley	Gray	McHenry	Slemp
Broussard	Gregg, Tex.	McKinley	Small
Brown	Griest	Maher	Smith, Cal.
Buchanan	Hamill	Martin, Colo.	Sparkman
Burgess	Hamilton, Mich.	Matthews	Speer
Burke, Wis.	Hanna	Moon, Pa.	Stack
Burleson	Harris	Moore, Tex.	Steenerson
Butler	Harrison, N. Y.	Morrison	Sterling
Calder	Hart	Moss, Ind.	Sulloway
Campbell	Hartman	Nelson	Sulzer
Clayton	Haugen	Norris	Talbott, Md.
Conry	Heald	Olmsted	Taylor, Ala.
Copley	Helgesen	O'Shaunessy	Taylor, Colo.
Covington	Henry, Conn.	Parran	Taylor, Ohio
Cox, Ohio	Higgins	Patten, N. Y.	Thistlewood
Crago	Hill	Peters	Tilson
Cravens	Hobson	Pickett	Turnbull
Crumpacker	Houston	Plumley	Underwood
Currier	Howard	Post	Vare
Davidson	Howell	Pou	Vreeland
Davis, W. Va.	Howland	Pujo	Warburton
Dent	Hughes, Ga.	Randell, Tex.	Webb
Denver	Hughes, W. Va.	Ransdell, La.	Weeks
Dickson, Miss.	Humphrey, Wash.	Redfield	White
Dodds	Humphreys, Miss.	Rees	Wilder
Draper	Jackson	Reyburn	Wilson, N. Y.
Driscoll, M. E.	Jacoway	Richardson	Wood, N. J.
Dupré	Kennedy	Riordan	Woods, Iowa
Dwight	Kindred	Roberts, Mass.	Young, Kans.
Edwards	Knowland	Roberts, Nev.	Young, Mich.
Ellerbe	Konig	Rodenberg	
Estopinal	Kopp	Rothermel	

Accordingly the committee rose; and the Speaker pro tempore (Mr. MURRAY) having assumed the chair, Mr. ROBINSON, the Chairman of the Committee of the Whole House on the state of the Union, reported that that committee finding itself without a quorum, he had directed the roll to be called, when 290 Members, a quorum, answered to their names, and he herewith reported the names of the absentees to the House.

The SPEAKER pro tempore. The committee will resume its session. The names of the absentees will be entered on the Journal as reported by the Chairman of the Committee of the Whole House on the state of the Union.

The committee resumed its session.

Mr. FERRIS. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman from Oklahoma [Mr. FERRIS] rise?

Mr. FERRIS. For the purpose of proceeding with the bill.

The CHAIRMAN. The gentleman from Illinois reserves the point of order on the paragraph.

Mr. FERRIS. I desire to refer to the pending point of order.

The CHAIRMAN. The gentleman from Oklahoma is recognized.

Mr. FERRIS. The item to which the gentleman from Illinois has a pending point of order is the general appropriation item for scattering bands of Indians, without any funds, in the United States. No part of the money is to be expended in our State of Oklahoma, but it is to be expended wherever Indians can be found here and there without any funds of any kind or character in the irrigable sections, part of which is for the maintenance, part of which is to aid in new projects, and part of which is to develop power purposes, and the other is to maintain projects already begun. The department asked for $360,000. We had them before us, and interrogated them quite at length about it, and we thought the showing which they made did not entitle them to more than they had last year, and therefore we gave them the same amount which they had then.

Mr. MONDELL. Will the gentleman inform the committee of the location of the power plants that are being constructed under this?

Mr. FERRIS. The chairman of the committee read that before the point of no quorum was made, and it is in the RECORD.

Mr. MONDELL. I do not recall that he said anything about the location of the power plant.

Mr. FERRIS. He read that before; but for the benefit of the gentleman I will read it again. I read on page 2 of the justification of the department, as follows:

To pay the proportionate charges for power development and administration building of the Salt River Valley Water Users' Association assessed against 3,900 acres of Indian land. In addition to the cost of the Roosevelt Dam and irrigation distributing system, the water users' association is expending about $1,000,000 in building power plants to get the maximum income from this source at the earliest possible date. It is expected that when this power development shall have become completed the returns will reduce very substantially the cost of maintenance. This power development is borne equally by the whole acreage of the Salt River project.

It is understood that the assessments of $2.40 per acre will cover a period of 10 years, of which two payments have been made.

That is one item. Now, in the hearings before us we had the engineers who are carrying on this irrigation matter from the Indian Office, and they told us that they thought they could truthfully say, and without any exaggeration, that the money expended for this purpose would be returned manyfold within the near future. Whether they are right about that or not the gentleman may know better than we.

Mr. MONDELL. The particular case the gentleman cites is not a case of construction of power plant at all, but it is simply a payment from this fund to the reclamation fund in order to reimburse the reclamation fund for expenditures, or proportionate part of expenditures, at the Salt River Dam for the benefit of Indian lands. Are these Camp McDowell Indians that are referred to?

Mr. FERRIS. I could give the gentleman the items of expense for this particular appropriation if he desires it. They are:

For the salary, per diem, and traveling expenses of the Chief Inspector of Irrigation, $6,100.

For the salary, per diem, and traveling expenses of the Assistant Inspector of Irrigation, $4,000.

That includes both salary and traveling expenses, office of the Chief Engineer, payment of educational and registered employees for special investigations on various reservations, including educational employees and incidental expenses of the field section of the Washington office, $15,000.

Salary, per diem, and traveling and incidental expenses of H. F. Robinson, Superintendent of Irrigation, when on special investigations and inspection, $5,000.

C. R. Oldberg, $5,000.
L. M. Holt, $5,000.
F. R. Schenk, $5,000.
W. S. Hanna, $5,000.
H. W. Deltz, $5,000.

If I may have just a moment further, I will read a further statement to the gentleman.

Mr. MONDELL. Now, the gentleman simply refers to some salaries. He has not referred to any construction whatever.

Mr. FERRIS. I will read to the gentleman the further part of this justification for using the irrigation general fund. These are the reasons given in support of this particular item:

This fund, which is nonreimbursable, is a very important one to the welfare of many needy Indians. It is applicable for work on various reservations where the Indians have no resources which can be used as a basis of credit to obtain loans from the Government. It is used for both irrigation and drainage; also for the protection of irrigable lands from damage by floods; it is also used for the payment of annual reclamation charges for Indian lands under the Truckee-Carson, Nev., and Salt River Valley, Ariz., reclamation projects. It provides for the expenses of the office of the Chief Inspector of Irrigation in connection with the exercise of general supervision over all irrigation work performed on Indian reservations, the preparation of monthly and annual cost reports, covering expenditures made from the general fund, tribal moneys, or special appropriations.

The amounts requested are given on the following pages, from which I have just read to the gentleman the items.

Now, they justify it on the ground that throughout the United States, where irrigable lands are situated, there are scattering bands of Indians that have to have help. The Government is not going to get the money back. It is not reimbursable. It is a proposition of the Government going down into its own pocket and doing for the Indians in the West, and especially in the Northwest, what they can not do for themselves. The theory of it is that it will place these Indians on a sound foundation, where they will be able to make their own living. Possibly they will and possibly they will not. But that is the appropriation that was made in former years, and we have done this year precisely what we have done in former years.

Mr. BURKE of South Dakota. Also, Mr. Chairman, in addition to its being expended in the hope of making these Indians self-supporting, much of this money is paid out for Indian labor, and we are thereby enabling them to support themselves by their own labor.

Mr. FERRIS. Yes. The language provides that Indian labor shall be used wherever practicable.

Mr. BURKE of South Dakota. I want to say to the gentleman from Wyoming [Mr. MONDELL] and other Members interested in the subject that under the provisions of the Indian appropriation act of 1910 the Secretary of the Interior is required annually, before the convening of Congress in December, to transmit to Congress a detailed itemized statement of the expenditures of the lump-sum appropriations. He will find such a document relating to the expenditure of the appropriations for surveys and allotments in House Document No. 1024 of the present third session of the Sixty-second Congress, and the document which gives the details as to the expenditure of the fund for the fiscal year ended June 30, 1912, the last fiscal year, is House Document No. 1034, giving the State, the project, the amount expended, the amount originally estimated, and the amount that has been expended altogether on the several projects; and he will find it very interesting, if he is honestly seeking information relative to how this fund is expended——

Mr. MONDELL. Mr. Chairman, I am surprised at the gentleman's last statement——

Mr. BURKE of South Dakota. And I may say I assume he is honest in his desire for information.

Mr. MONDELL. I assume that the committee endeavored to determine where these funds were being used.

Mr. FERRIS. We did.

Mr. MONDELL. I was endeavoring to secure information as to the reservations on which the expenditures are now being made.

Mr. FERRIS. All I can say to the gentleman is that the Commissioner of Indian Affairs and the department in charge of irrigation have in the past been allowed some latitude, and are allowed in this bill some latitude in regard to these expenditures. None are made in our State, because we have no irrigation projects there, but in different States that have irrigation projects there arise cases where the Indians are totally without funds, some having 5-acre allotments and some 10-acre allotments, and so on, and by the supply of this water by irrigation, through the action of the department, they can be put on their feet. I have no doubt that some of the money will be expended in the gentleman's State. He is very industrious. None of the money is to be expended in our State, where the pot usually boils. We have no part of this fund and no part of the general lump fund.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. I thought that the gentleman from Oklahoma [Mr. FERRIS] had concluded.

Mr. FERRIS. I had. I yield the floor.

Mr. MONDELL. Mr. Chairman, the gentleman from Texas [Mr. STEPHENS], chairman of the Committee on Indian Affairs, does not seem to have a very clear notion as to the character of this particular fund or item of appropriation. At least I got that impression from what he said.

This is clearly a gratuity. I can not understand how any of it under any circumstances would be reimbursable. I imagine it is a fact that none of it has been returned, and that the reimbursement of no part of the fund under this appropriation is contemplated. It is a gratuity, and if wisely expended is a proper and necessary gratuity.

I suppose this is one of the items the gentleman from Texas [Mr. STEPHENS] had in mind when he said that the hearings were not as extensive as they have been in the past, because in many cases the appropriation was the same as last year. The department asked for a considerable increase, but the sum carried in the bill is to a dollar the amount carried in the current law. It strikes me as being a little curious that, without any considerable hearings on the subject, the committee should arrive at the conclusion that this work, scattered over a great many States—and, I suppose, expended on many projects—should for the coming fiscal year receive exactly the amount to a dollar of the expenditure proposed for the current fiscal year.

Mr. STEPHENS of Texas. In the instances where the amount appropriated was the same the department failed to expend the amount appropriated last year, and it would be useless to give them more than they expended last year.

Mr. MONDELL. Can the gentleman inform us where they are now expending this money?

Mr. STEPHENS of Texas. The gentleman from Oklahoma has stated it fully.

Mr. MONDELL. Now, will the chairman of the committee answer another question in regard to this item?

Mr. STEPHENS of Texas. Certainly.

Mr. MONDELL. I notice that it contains a provision that no part of these funds shall be used on any project provided for by specific appropriation, but this item also carries the appropriation for the chief irrigation engineer and his assistants. What is the practice of the department, or of the Indian Office, in those cases where the services of the chief and his assistants

are required in connection with the construction of projects specifically provided for in other items? Does this prohibition of the use of this sum on projects specifically provided for prevent the employment of irrigation engineers on those projects? Or, if not, are the services of the engineers for the portion of the time so employed charged to those specific items and returned to this fund?

Mr. STEPHENS of Texas. If the engineer in charge of a certain project belongs to the Indian service, it is paid for out of this appropriation.

Mr. MONDELL. How can it be done under the provision here that no part of this appropriation shall be expended on any irrigation project for which specific appropriation is made in this act or for which public funds may be available?

Mr. STEPHENS of Texas. They are all for irrigation.

The CHAIRMAN. The Chair desires to direct an inquiry to the gentleman from Illinois [Mr. MANN]. Has the gentleman from Illinois made a point of order against this paragraph?

Mr. MANN. Not yet.

Mr. MILLER. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from Minnesota?

Mr. MILLER. I do not care to have the gentleman from Wyoming yield. I simply want to inquire what we are doing.

The CHAIRMAN. The gentleman from Wyoming is addressing the committee.

Mr. MILLER. On the point of order?

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] reserved a point of order. Does the gentleman from Minnesota make the point of order that the gentleman from Wyoming is not addressing himself to the point of order of the gentleman from Illinois?

Mr. MILLER. I do not want to do that, but it seems to me we should get on with the bill.

Mr. MONDELL. The gentleman has furnished us with such a volume of information with regard to the items of the bill that I suppose we should not take any time at all in the discussion of it; but, unfortunately, I have not been able to get a scrap of information with regard to any of the items of the bill anywhere, and I am seeking now to secure some light with regard to these important propositions, in connection with the discussion of the point of order reserved by the gentleman from Illinois [Mr. MANN].

Mr. FERRIS. Mr. Chairman, I shall not make up my mind that gentlemen are not proceeding in good faith, and it is the duty of the committee to do the best it can to explain fully, and I am going to do what I can and let gentlemen take the responsibility who pursue it further than good faith requires.

The CHAIRMAN. The point of order was reserved by the gentleman from Illinois. The Chair desires to inquire of the gentleman whether he makes the point of order?

Mr. MANN. If the Chair insists upon the point of order being disposed of before information is furnished to Members of the House whether the item ought to remain in the bill, I will make it. In the first place, there is no authority at law for the appropriation, and, in the second place, there is no authority for changing the existing law to provide that the superintendent of irrigation shall be a skilled irrigation engineer or to provide the number which may be employed. The item in the bill proposes to make an indefinite appropriation for the construction of irrigation projects which may or may not have already been undertaken and which would authorize the construction of irrigation projects indefinitely throughout the United States. I had reserved the point of order thinking that gentlemen might give the information which would cause me to withdraw it.

The CHAIRMAN. The Chair desired to know whether the gentleman from Illinois was going to make the point of order. The Chair had no disposition to cut off debate.

Mr. MANN. I would like to reserve the point of order, and I would like to ask a question or two, if I may.

The CHAIRMAN. The point of order is reserved.

Mr. MANN. I would like to ask whether the gentleman is quite certain whether there is any provision in the bill which would authorize the construction of a power plant? I do not find anything in this item.

Mr. FERRIS. That is in the justification, and I think there is language in the bill that implies that.

Mr. MANN. I do not know where it is. I supposed this was an irrigation project. It is true that growing out of irrigation projects there might be incidentally the construction of a power plant. I should not think it desirable to construct power plants primarily for furnishing power, and I hope that was not the intention of the item. What leads the gentleman to believe that it is the expectation to construct a power plant except where the construction of the power plant is incidental to the irrigation project?

Mr. FERRIS. The language I relied upon begins on line 17, which reads as follows:

For the construction, repair, and maintenance of ditches, reservoirs, and dams, purchase and use of irrigation tools and appliances, water rights, ditches, lands necessary for canals, pipe lines, and reservoirs for Indian reservations and allotments, and for drainage and protection of irrigable lands from damage by floods.

Then there is the explanation of the commissioner and of the irrigation engineers which appear in the justification to pay the proportionate charges for power development.

Mr. MANN. That is an irrigation project.

Mr. FERRIS. I will read:

To pay the proportionate charges for power development and administration buildings of the Salt River Valley Water Users' Association assessed against 3,900 acres of Indian land. In addition to the cost of the Roosevelt Dam and irrigation distributing system, the water users' association is expending about $1,000,000 in building a power plant to get the maximum income from this source at the earliest possible date. It is expected that when this power development shall have become complete the returns will reduce very substantially the cost of maintenance. The power development is borne equally by the whole acreage of the Salt River project.

Mr. MANN. That is all in connection with an irrigation project. The construction of a power plant in connection with an irrigation project is one thing. If I thought that this item authorized the Interior Department to construct a power plant without reference to irrigation projects, I should insist on the point of order.

Mr. FERRIS. Now, if the gentleman from Illinois does not care to pursue that, I want to reply to the gentleman from Wyoming.

Mr. MANN. Mr. Chairman, so far as I am concerned, after the explanation made, but with some doubt about it, I shall withdraw the point of order.

Mr. FOSTER. Mr. Chairman, I reserve the point of order.

Mr. MONDELL. Mr. Chairman, the Chair took me off my feet.

The CHAIRMAN. The gentleman from Wyoming had already, by oversight of the Chair, spoken twice as long as he was entitled to speak.

Mr. FERRIS. Mr. Chairman, the gentleman from Wyoming asked in a former part of his remarks where this money was to be expended. In my judgment, that is a legitimate question, and I think it ought to be answered. The gentleman asked me if the McDowell Indians were to have part of it. I have the information now:

McDowell Indians: To pay annual reclamation charges on 1,000 acres of land under the Salt River project, to be signed up for allotments to Indians of the Camp McDowell Indian Reservation, $2,500.

Then there is a note to this effect:

This land has not been signed up, but it has been reserved for allotment purposes. It was proposed to allot Camp McDowell Indians on the Salt River Reservation, but they objected to removing. If they should elect to pay these allotments, this sum would be required to make up the first payment on account of water rights. If Camp McDowell Indians remain on the reservation, this land may be allotted to Salt River Indians, and it will be necessary to pay for water rights from the Roosevelt reclamation project.

In addition to that, there is the Gila Bend Reservation——

Mr. MONDELL. Mr. Chairman, if the gentleman will allow me right there, the gentleman is aware that that allotment to the Camp McDowell Indians on the Salt River project has been under investigation by a committee of Congress, and it was the understanding of the members of that committee——

Mr. RODDENBERY. Mr. Chairman, I desire to submit a point of order. I make the point of order against the paragraph on the ground that it is new legislation and not authorized by law.

The CHAIRMAN. But the gentleman from Wyoming has the floor.

Mr. RODDENBERY. I understood that the Chair ruled that the gentleman from Wyoming had already consumed five minutes.

The CHAIRMAN. The gentleman was recognized for five minutes more.

Mr. RODDENBERY. I make the point of order that the gentleman is not entitled to more than five minutes.

Mr. FERRIS. Mr. Chairman, I submit I have the floor, and I have already yielded to the gentleman from Wyoming.

Mr. RODDENBERY. If the gentleman from Oklahoma has yielded, I have no objection.

Mr. MONDELL. Mr. Chairman, to conclude my statement, it was the understanding of the members of that committee that the Indian Bureau had given up all thought of moving the Indians from the Camp McDowell lands and placing them under the Salt River project.

Mr. FERRIS. I believe the gentleman will observe that it is stated in the alternative—in the event they refuse to be removed and take allotments on the Camp McDowell Reservation, they then can have the money to use to pay for water rights from the Roosevelt reclamation project.

Mr. MONDELL. They already have refused, as I understand it, and we understood the Indian Office did not expect to further press the matter upon them.

Mr. FERRIS. If the gentleman will allow me to proceed, I will give him the information that he asked for, which the House is entitled to know. There is the Gila Bend Reservation, and that is to have $15,000, and the reasons for it are stated.

Mr. MONDELL. That is where they have already expended $500,000.

Mr. FERRIS. Then there is the Maricopa Papagoes, and they are to have $15,000 to expend. There is to be 3,000 acres on Cahuilla Reservation, in California. Those are irrigable lands. Three thousand acres are suitable for irrigation, and 100 acres are irrigated.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. RODDENBERY. Mr. Chairman, I insist upon the point of order.

The CHAIRMAN. The gentleman from Georgia makes the point of order against the paragraph that it is new legislation. The Chair will hear from the gentleman from Oklahoma, if he desires to be heard on the point of order.

Mr. FERRIS. Mr. Chairman, the estimate of the department was for $350,000. The committee allowed it to the amount of $275,000. The language is the same as was carried last year, and this money—most, if not all—is for the purpose of maintenance and carrying on of irrigation projects already begun. It is for the benefit of the Indian service, regularly provided for by existing law. It is estimated for by the Indian Bureau. It is to pay the salaries and expenses of the Irrigation Division of the Indian Bureau, regularly constituted by law and in full operation, as it has been for years. The Indian bill is for the purpose of providing for the Indian Department lawfully created, and I do not think the paragraph is subject to the point of order. I would like to let the argument be concluded by the chairman of the committee, who, perhaps, has the matter better in hand.

The CHAIRMAN. The Chair desires to ask the chairman of the committee in charge of the bill whether this is providing for a continuation of work already begun and authorized?

Mr. STEPHENS of Texas. It is. I do not think there is a new project in here that I remember.

The CHAIRMAN. Does the gentleman from Georgia desire to be heard upon the point of order?

Mr. RODDENBERY. I desire to be heard, Mr. Chairman.

The paragraph, the Chair observes, is on page 2 of the Indian appropriation bill, and while this item was carried in the provisions of the last appropriation bill it does not come under the head of a continuing project nor is it specifically authorized by existing statute to warrant the appropriation. And a further point, Mr. Chairman. It will be observed that this Indian appropriation and this paragraph is providing an appropriation now, in December, 1912, when an appropriation for this specific purpose is already made and will not be exhausted until July 1, 1913. This paragraph provides an appropriation from July 1, 1913, to July 1, 1914, and the bill and this paragraph is subject to the same point, because if the Chair will examine the record he will find that on April 16, 1912, and on June 7, 1912, two bills restricting immigration were reported to the House favorably from the Committee on Immigration and have never been given consideration. I do not now see the leaders of the House on the floor when a filibuster is being conducted on this bill in order to prevent the consideration of those two immigration bills, reported now nearly a year ago. It is not in order, Mr. Chairman, for the Committee on Indian Affairs to bring its bill in here and with it block and hold up for to-day and to-morrow the consideration of the immigration bill, when there is no need for this appropriation for six months.

Mr. FERRIS. Will the gentleman yield?

Mr. RODDENBERY. In just a moment. And under the rules of the House it is improper for this bill to be considered between now and adjournment for Christmas, because on July 25, 1912, the chairman of the Committee on Rules of this House wrote a letter to the chairman of the Committee on Immigration, in which he said:

On behalf of the Committee on Rules I will say as chairman that early in December of the next session of Congress——

Mr. DAVENPORT. Mr. Chairman, I make the point of order that the gentleman is not speaking to the point of order.

Mr. RODDENBERY (continuing):

the bill will be brought by rule before the House of Representatives in order that it may be considered.

The chairman by name designating the Dillingham immigration bill.

The CHAIRMAN. The gentleman from Oklahoma [Mr. DAVENPORT] makes the point of order the gentleman from Georgia is not discussing the point of order.

Mr. RODDENBERY. Mr. Chairman, I will confine myself to the point of order.

Mr. FERRIS. Will the gentleman yield?

Mr. RODDENBERY. In just a moment, Mr. Chairman, because the appropriation in this paragraph is less than was recommended by the department or because it is under the estimate is no reason why it should be in order. Why, the paragraph is much more palpably subject to the point of order than the point of order made against my statement that the leaders were making no effectual effort to force the immediate consideration of the immigration bill. Early in December is now past and gone. The statement that I made that there is now before the House an immigration bill and that the Democratic leaders are submitting to its being stifled is much more in order than the paragraph in this bill seeking to appropriate money that is not needed on the face of the bill for more than six months. Where are the Democratic leaders that they are not here fighting the filibuster against this bill if they want to get to the immigration bill? [Applause on the Republican side.]

Mr. FERRIS. Will the gentleman yield?

Mr. RODDENBERY. Why do not the Democratic leaders help my friend, the chairman of the Immigration Committee, put his bill through if they are not willing to the blocking of immigration legislation, legislation which the chairman of the Committee on Rules has promised the Congress and promised the people should be considered early in December?

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Oklahoma?

Mr. RODDENBERY. In just a moment. Mr. Chairman, this paragraph is out of order for the additional reason that it provides an appropriation for an object that on its face is contrary to law, and there is no authorization in the statute for such an appropriation. I do not understand why the chairman of the Committee on Indian Affairs and my distinguished friend from Oklahoma will stand for preferential consideration of a bill, when the money is not needed for over six months, instead of fighting for an immediate fulfillment of our promise to the people to pass, or at least consider, the bill restricting immigration in this country early in December. [Applause.] I can not understand, Mr. Chairman, how my distinguished friend from Oklahoma [Mr. DAVENPORT] raises the question of order on the line of my efforts, when it is six months before he will need the Indian appropriation, and yet millions of people are asking that the restrictive immigration bill, for which I am contending, be considered, and our chairman of the Committee on Rules, four months ago, has stated, in writing, that early in December it would be considered. Yet it is now the 13th of December, and neither God nor man will see the immigration bill acted on before the Christmas holidays if the pending bill does not give way to it. So you need not say I am helping Mr. MANN conduct a filibuster against this bill. I make the point of order in order to get opportunity to demonstrate to the country, and state it on the floor, that the leaders on the Democratic side are not making the necessary effort to comply with the letter of the chairman of the Committee on Rules or to pass the bill now. [Applause.] It is in the power of the leaders to cause this Indian appropriation bill to be set aside to-morrow for consideration of the immigration bill. I rise to call attention to this only way and opportunity to in any degree live up to the promise of the chairman of the Committee on Rules for early consideration of this immigration legislation.

You shall not bring in these measures and consider them as privileged bills, and thus be in position to fool the people at home and make them believe we in good faith tried to get the immigration bill and could not do it. It can be done to-morrow by yielding this Indian bill to the immigration bill.

Mr. Chairman, on the question of order that I have submitted—— [Laughter.]

The CHAIRMAN. The Chair suggests to the gentleman that he confine himself to the question of order.

Mr. RODDENBERY. I desire to say that it is not in the power of the minority leader, aided by one alleged filibustering Democrat, to prevent the great Democratic leaders of the House from adopting such means as will get a vote on the immigration bill if they want it. This is a Democratic measure, and I am here, Mr. Chairman, saying to my colleagues of the majority and to the gentlemen of the minority, that it is time, by written

promise, by parliamentary precedents, and in pursuance of good faith, to take up this immigration bill and act on it now, and not wait until January or February and then pass a piece of hunting legislation that we know will never be acted on by the Senate.

The CHAIRMAN. The Chair will ask the gentleman to confine himself to the point of order.

Mr. RODDENBERY. Yes, Mr. Chairman, I had digressed slightly. [Laughter.] And I insist again, Mr. Chairman, as stated, that this paragraph is not authorized by law. Nor is it warranted by any statute, whereas a consideration of the immigration bill is promised by our Rules Committee, the promise is now past due, and in good faith the Democrats should perform. I am now standing by and supporting my Democratic chairman of the Committee on Rules and shall continue to do so until this Democratic measure is passed upon.

The CHAIRMAN. The Chair desires to ask the gentleman from Texas [Mr. STEPHENS], the chairman of the committee, what authority exists for this appropriation?

Mr. STEPHENS of Texas. The authority of law for the Indian Bureau. This is a bill making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1913. That carries this item referred to, as follows:

For the construction, repair, and maintenance of ditches, reservoirs, and dams, purchase and use of irrigation tools and appliances, water rights, ditches, lands necessary for canals, pipe lines, and reservoirs for Indian reservations and allotments, and for drainage and protection of irrigable lands from damage by floods, $325,000, to remain available until expended.

Now, these dams, ditches, reservoirs, and so forth, are in the course of construction, and if there are any in here that are not in the course of construction, they are under the amount of $30,000, and the projects can be engaged in under existing law by the department without authorization of Congress. They have general authority of law to put in ditches, dams, reservoirs, and irrigation projects, where the amount does not exceed $30,000, and there is nothing in this bill that does not correspond with the law—nothing above $30,000. The dams, ditches, and so forth, above $30,000 have already been authorized by Congress under existing law.

The CHAIRMAN. The Chair is ready to rule. The Chair overrules the point of order. The Clerk will read.

Mr. BURKE of South Dakota. Mr. Chairman, I desire to offer an amendment, after the word "expended." On line 17, page 2, insert that which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from South Dakota [Mr. BURKE].

The Clerk proceeded to read the amendment.

Mr. BURKE of South Dakota. Mr. Chairman, I understand the point of order was overruled. If so, I will withdraw the amendment. I thought the point of order was sustained.

Mr. MANN. Mr. Chairman, my distinguished friend from Georgia [Mr. RODDENBERY], who apparently admits that he has been filibustering against the passage of this bill for the last hour and ten minutes, did me the honor to couple me with him in this filibustering expedition. I am perfectly willing to admit that the gentleman from Georgia has been filibustering, but I completely deny that I have been doing so. Here is an appropriation bill carrying something over $8,000,000 presented to the House without printed hearings of the committee, without any information whatever furnished in the report from the committee to the House, embracing a large number of important items, and in some cases embracing a policy to be pursued by the Government which will involve hereafter millions, if not hundreds of millions, of dollars.

And when inquiry is made concerning these items in a legitimate manner and not at length, but very briefly, the gentleman from Georgia [Mr. RODDENBERY] considers that filibustering, and thereupon demands a quorum of the committee, and then takes the floor on the point of order and discusses something entirely apart from the point of order, again consuming time. Probably he is correct when he says that he is filibustering. But a legitimate inquiry concerning an item in an appropriation bill, I hope, will never be considered as filibustering by the House of Representatives. That is what we are here for, to a large extent—to furnish the supplies for the maintenance of the Government—and these items of appropriation in these appropriation bills ought to be scanned by somebody. They ought to be explained to the House when explanation is asked for, and the committee ought to be prepared to do it. No one ought to say it is filibustering to consider the items in a bill carrying millions of dollars. I repudiate the idea that in asking questions concerning such matters I am endeavoring to filibuster or delay the consideration of the bill.

Mr. RODDENBERY. Mr. Chairman, I now move that debate on the paragraph and all pending amendments thereto be closed.

Mr. FERRIS. Mr. Chairman, there is nothing before the House.

Mr. RODDENBERY. I move that debate on the paragraph be now closed.

Mr. FERRIS. The paragraph has not yet been read. Mr. Chairman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

To relieve distress among Indians and to provide for their care and for the prevention and treatment of tuberculosis, trachoma, smallpox, and other contagious and infectious diseases, including the purchase of vaccine and expense of vaccination, $90,000.

Mr. FOSTER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] moves to strike out the last word.

Mr. RODDENBERY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RODDENBERY. What line are we on?

Mr. DAVENPORT. On line 9, page 4.

The CHAIRMAN. Line 9, page 4.

Mr. RODDENBERY. Very well; line 9, page 4.

Mr. FOSTER. Mr. Chairman, I observe that last year there was a provision in the bill providing that $10,000 should be appropriated for the purpose of an investigation by the Public Health and Marine-Hospital Service of the prevalence of tuberculosis, trachoma, smallpox, and other contagious diseases among Indians, and that that report was to be made not later than February 1, 1913. I would like to know, Mr. Chairman, if that report has been made. I would like to know if the chairman of the committee can give us any information in reference to it.

Mr. STEPHENS of Texas. The report may have been made, but it has not yet been filed with the committee or reached us.

Mr. FOSTER. It must be made to Congress.

Mr. BURKE of South Dakota. If the gentleman will permit me, I will say that within a very few days I noticed in the press of my State that representatives of this department and a physician and surgeon are now in the Northwest. The physician and surgeon is there at the present time, or has been there within a very few days, at work investigating this question, but I do not think the report has yet been received.

Mr. FOSTER. It has not been completed?

Mr. BURKE of South Dakota. I think not.

Mr. McGUIRE of Oklahoma. If the gentleman will permit, I may say that there has been a limited report made. A copy of it came to my office, I think, on Wednesday from some person designated by the Government to make the investigation in Oklahoma. The parties have been in Oklahoma, and they left there a short time ago. A preliminary report, at least, has been made, I presume, to the department of the Government which has the matter in charge. A copy was sent to me.

Mr. FOSTER. Mr. Chairman, it has been stated a good many times, and I think with some degree of accuracy, in reference to trachoma and tuberculosis among Indians, that there was great prevalence among them of those diseases. What I was trying to get at was some information which would show whether or not the Government has made any progress in its efforts toward the eradication of these diseases, or the prevention of them; whether the Government is lessening the infection of trachoma, and whether there are fewer cases of tuberculosis or more cases now than heretofore.

I would like to know what the Government has been able to do for the Indians in reference to the treatment of these diseases. I realize that it is a difficult matter to lessen diseases among people who can not be taught the importance of sanitary conditions. I would like to know if the Government has been able to do anything or not in the suppression of these diseases.

Mr. McGUIRE of Oklahoma. If the gentleman will permit, I can answer in part the gentleman's inquiry.

Mr. FOSTER. I should be glad.

Mr. McGUIRE of Oklahoma. The report states that trachoma yields to treatment——

Mr. FOSTER. I realize that is the fact, but strict sanitary regulations must be enforced.

Mr. McGUIRE of Oklahoma. And certain recommendations are made. One recommendation in particular is to the effect that professional men, physicians, treat these cases at the homes of the Indians, where the physicians instruct the Indians that they should use individual towels, and instruct them otherwise along the lines of cleanliness, and demonstrate to them that by so doing these cases will yield.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEPHENS of Texas. In reply to the question of the gentleman from Illinois, I desire to state that there is a full report here from the department justifying this appropriation.

Mr. FOSTER. If the gentleman from Texas will excuse me, I am not attacking the appropriation, but what I want is information as to what they are doing in eradicating or preventing these diseases.

Mr. STEPHENS of Texas. It was stated before the committee that during the fiscal year 1912 there were examined for these diseases 61,700 Indians. Of these 8,000, or 13 per cent, had tuberculosis, and 9,255, or 15 per cent, had trachoma. Now, I imagine that these examinations were made among certain tribes where these diseases are more prevalent than elsewhere. In fact, I know that to be the case. Some tribes are almost free from these infections, and the tribes where these examinations were made are in worse condition, so far as these diseases are concerned, than any other tribes in the United States, and these figures do not furnish a fair basis for all the Indians in the United States.

Mr. FOSTER. Can the gentleman inform us whether the hearings which were had in reference to this item, if any were had, show that the amount of money appropriated here is sufficient to take care of this work and whether this work ought not to be done by the Public Health Service?

Mr. STEPHENS of Texas. We gave them just the same amount that we did last year, and we are awaiting the report from the special committee appointed to investigate the question of tuberculosis and ophthalmia.

Mr. FOSTER. It seems to me this is a little different proposition, possibly, from some other items in the bill. Here are a lot of people who are likely to die within the next 12 months, or possibly the next six months, and a lot of others who are likely to become infected with trachoma. Now, in view of these facts I should like to inquire whether or not the present appropriation has been sufficient to produce a decline of these diseases among the Indians, whether they are able to eradicate trachoma and to prevent tuberculosis and smallpox among these people?

Mr. STEPHENS of Texas. There is a considerable medical force now in the employ of the department, and it was stated before the Committee on Indian Affairs that the medical force as it stands at present is still inadequate to cope with the situation, and material improvements over the present conditions must come through a specific improvement in the organization, personnel, and salaries of the medical force. The Indian Service physicians are the poorest paid in the Government, and yet their work is fully as difficult and, in many instances, involves greater hardship than the other service except in time of war. There are at the present time 50 contract physicians and 95 regular physicians. The contract physicians receive $578 per annum on an average, and the regular physicians average $1,154 per annum. The contract physicians do not have the time, nor do they receive sufficient compensation, to enable them to perform the amount of medical work necessary.

That was the statement from which they made up these estimates.

Mr. FOSTER. This $90,000 is in addition to the regular physicians and the contract physicians?

Mr. FERRIS. Yes.

Mr. FOSTER. I realize that you can not get men to give sufficient medical service for $500 a year if there are a great many to treat.

Mr. COX of Indiana. Are they required to devote their entire time to that work?

Mr. FOSTER. I judge that a physician who is in active practice would not be able to render sufficient service for that amount of money.

Mr. COX of Indiana. Does the gentleman know anything about the facts in this case—whether or not they are required to give all their time to the work, or whether they are permitted to practice otherwise?

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURKE of South Dakota. I ask unanimous consent that the time of the gentleman from Texas [Mr. STEPHENS] be extended five minutes.

The CHAIRMAN. Unanimous consent is asked by the gentleman from South Dakota that the time of the gentleman from Texas be extended five minutes. Is there objection?

Mr. RODDENBERY. I object.

Mr. BURKE of South Dakota. Then I ask to be recognized on the amendment. I want to state in regard to the item——

Mr. RODDENBERY. I make the point of order that all debate on this amendment is exhausted.

Mr. FOSTER. I withdraw my pro forma amendment.

Mr. BURKE of South Dakota. I move to strike out the last two words. With reference to this item I want to say that the department estimated that they ought to have $250,000 for this work in the next fiscal year. I did not favor the increase over the appropriation heretofore for this reason. I believe that the investigation that is now being made, when the report comes in, will show a condition of affairs that will perhaps be startling, and that large sums of money will have to be appropriated if we undertake to cope with it in the way of accomplishing much good. I believe the appropriation for the current fiscal year and the next fiscal year is sufficient to carry on the work of investigation, and to some extent to take care of the disease among the Indians.

The reason why I would not favor increasing the appropriation at this time is that in my own opinion if we are to engage in the expenditure of large sums of money in the care of diseased Indians, instead of creating in the Indian Bureau a health department, we ought to expend the money under the health department of the Government rather than in the Indian Office.

I would say to the gentleman that if I could have my way about it this item of carrying on the reclamation work in the Indian Bureau, where large sums of money, going up into the million dollars, are expended, that it would not have been under the Indian Bureau, but under the Reclamation Service.

I want to get away as far as possible from these subjects that ought to be conducted under the department of the Government that is already equipped and that is possessed of the knowledge of the subject which the Indian Office does not have unless it creates a department within a department.

I want to say that about three years ago there was submitted to the Committee on Indian Affairs a plan by the Commissioner of Indian Affairs, in which he proposed a complete department in each of the different divisions of the Indian Office—a health department, a reclamation department, a department that had charge of the timber interests of the Indians, and, I think, an agricultural department, and thus we would have had a bureau of departments.

It is because of that that I have not favored an increase of this appropriation in the use of a large sum of money in the Indian Office. But when we get the information that we will get in a short time, I think, if we have to appropriate large sums, let us do it under the proper department of the Government, and let the Committee on Appropriations make the appropriation.

Mr. FOSTER. I think the gentleman's ideas are exactly right.

Mr. RODDENBERY. Mr. Chairman, I move that all debate on this paragraph be closed.

Mr. MANN. I have a bona fide amendment that I wish to offer.

The CHAIRMAN. The gentleman from Georgia moves that all debate on the paragraph be closed.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were 7 ayes and 31 noes.

So the motion was lost.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to be recognized with reference to this question of tuberculosis.

Mr. MANN. Will the gentleman from Texas yield for an amendment to be offered increasing the amount of the appropriation?

Mr. MONDELL. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Amend, page 4, line 9, by striking out the figures "$90,000" and inserting "$125,000."

Mr. MONDELL. Mr. Chairman, I should not offer this amendment if I felt the committee had an opportunity to fully consider matters involved in this item. The appropriation for the current year is $90,000. The department, with the current year well passed, has concluded that it needs $250,000 for this work for the coming fiscal year. The committee did not increase the appropriation at all, and I think that no member of the committee will justify their failure to increase the appropriation from $90,000 to $250,000, the amount asked for, or any other amount, on the ground that they investigated the matter and have information that justifies a refusal to increase the appropriation. We all realize how important this work is. I know how important it is on the Indian reservation in my State. I know how very important it is on the Indian reservation with which I am familiar in the adjoining State of Montana, particularly in regard to trachoma. The spread of the disease has been alarming.

Yet this appropriation is so small that on the Shoshone Reservation, for instance, with its 2,200 Indians, they pay one surgeon $500 a year for all of the work carried on under this appropriation. That physician is a very competent man, with a splendid practice. I have talked with him about his work, and he is doing this work because he realizes the necessity for it, in spite of the fact that his compensation is so small that it does not at all pay him for the loss that he suffers in his practice generally. I simply mention that as an illustration of the fact that the appropriation is altogether inadequate and certainly ought to be largely increased. The department asks for $250,000. The committee, without investigating the matter at all, refuses to increase the appropriation. I simply ask for half the amount that the Secretary estimated as absolutely necessary.

Mr. MILLER. Mr. Chairman, I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman from Wyoming yield?

Mr. MONDELL. Certainly.

Mr. MILLER. Mr. Chairman, I understood the gentleman to say that a very excellent physician was unable to secure more than $500 for the work that he does under this appropriation.

Mr. MONDELL. Yes.

Mr. MILLER. I assume that the gentleman's idea is that the smallness of the appropriation was the cause of his receiving only $500.

Mr. MONDELL. I assume that he is receiving as much as other physicians receive under this appropriation for the same character of service. That gentleman has never complained to me that he is not receiving enough, but I was on the reservation last fall and I saw the condition of the Indians. I talked with him and I realized then that the appropriation was altogether too small if conditions on other reservations were the same as on that reservation.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MILLER. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended five minutes.

The CHAIRMAN. Is there objection?

Mr. RODDENBERY. Mr. Chairman, I object.

Mr. FERRIS. Mr. Chairman, I desire to be heard in opposition to the amendment. The amendment of the gentleman involves the usual policy of the Indian Office from one end to the other of this bill. They have asked in each case throughout the bill for a much larger amount than they have received at the hands of the committee, and while the gentleman from Wyoming [Mr. MONDELL] complains seriously about some physician on his reservation receiving only $500 a year, I call attention to the fact that they had left over as an unexpended balance last year the sum of $8,258.51 out of a total appropriation of $90,000, the same as we are giving this year. I also wish to call attention to the fact that the following are some of the things they advanced as reasons for this appropriation. It is proposed to expend the money asked for as follows. Their schemes are most of them propaganda and mitried formulas: First, to improve the medical service rendered to Indians and to increase the number and salaries of physicians and nurses, and provide some general attention to school pupils. The fact of the matter is the committee has vigilantly and carefully refrained from increasing the salaries or increasing the number of officers from one end to the other of the bill.

The bill is reduced in size, so that it is a mere pamphlet. Second, they want to improve facilities for medical work by constructing and maintaining dispensaries, hospitals, and hospital camps for the treatment of diseased Indians, and maintaining of sanitarium schools, and also to supply adequate facilities and equipment to physicians and medical workers. They want to build new hospitals and new dispensaries. This is not the proper way to proceed, if they are needed. The provision should be specific. Third, they want to correct the insanitary condition existing in the homes of diseased Indians. I call attention to the fact that that is an indeterminable proposition. They want to provide light and ventilation when required. I presume the committee could well appropriate $5,000,000, which could be used on the 300,000 Indians to build houses and provide sanitary conditions for all of them. Fourth, to provide subsistence for needy, diseased Indians when under treatment. They even want to set up boarding houses and render aid to those in distress. The committee would hardly want to go that far. Fifth, to provide for the expenses incurred in maintaining quarantine, vaccination, and in the enforcement of health regulations. That, I think, is a good provision, but they have got $90,000 this year to do this with. They can employ a few less doctors and clerks and buy more medicine. Sixth, to remove sources of pollution of water supply and improve methods of sewage disposal in the Indian country. I submit that as an indeterminable proposition on which you can expend $500,000 or $1,000,000. There is no stopping, once launched on such an undertaking. Seventh, to provide for the salaries, expenses, and employment of opthalmologists to treat trachoma and eye diseases.

Last year we provided a $40,000 hospital to be erected, and they have not turned a wheel toward erecting it. I assume this will cure some of them, and if it works well, it can be enlarged. Eighth, to carry on a thoroughgoing campaign of education among the Indians for the prevention of disease.

Now, if the committee wishes to enter upon eight indeterminable, unfathomable activities, why, increase this appropriation; otherwise it ought to be held down. I live in a State that has almost two-fifths of all the Indians in the United States, and we think $90,000 will be enough to carry on this work and deal with the troubles we have. At least, we may wait for outstanding reports that are to come, more definite in character.

Mr. McCALL. Mr. Chairman, it seems to me from what the gentleman from Oklahoma has said——

Mr. RODDENBERY. Mr. Chairman, I make the point of order that debate on this amendment has expired.

Mr. McCALL. Mr. Chairman, I have already been recognized and was proceeding to speak.

Mr. RODDENBERY. Mr. Chairman, I make the point of order that the gentleman is not in order.

Mr. McCALL. Mr. Chairman, I move to amend by making it $175,000.

The CHAIRMAN. The gentleman from Massachusetts moves to amend the amendment by inserting $175,000 in lieu of $125,000.

Mr. RODDENBERY. Mr. Chairman, I move to amend by substituting——

Mr. FOSTER. Mr. Chairman, I raise the point of order that the gentleman has no right to interfere in this way.

The CHAIRMAN. The gentleman from Massachusetts is recognized, and he will proceed.

Mr. McCALL. Mr. Chairman, I confess what I do not know about this subject would fill, as the former Speaker of this House would say, a very large library; but I have been impressed by the reading to which I have listened by the gentleman from Oklahoma [Mr. FERRIS] with the belief that the committee should have given a larger appropriation than $90,000. The gentleman from Oklahoma read some eight specifications that the department had in view to cover when it recommended an increase of the appropriation. The gentleman from Oklahoma stated that the objects of these eight recommendations were unfathomable. One of these was the subsistence of sick Indians under treatment. It is recognized everywhere, I believe, that the food, "the subsistence," of a sick person is of more consequence than medicine. It seems to me that most of the objects that the department had in view that he read about from the report were very desirable. This is a very serious subject. It involves the spread of very deadly and loathsome diseases among the Indians. The department has recommended that the appropriation be increased to $250,000. Some gentlemen think that the whole situation is not ideally worked out, and until that has been worked out to their satisfaction they will only make the small appropriation that has been made hitherto. It seems to me it would be the wiser course, until we decide about the health bureau and until we decide the other questions that gentlemen have in mind, that we should have a care for the health of the Indian, and we should give an increased appropriation for the objects that are set out in the recommendations of the department; and I therefore think it the part of wisdom for the committee to increase the amount, and I should prefer to increase it to the amount I have named rather than the amount named by the gentleman from Wyoming [Mr. MONDELL].

Mr. STEPHENS of Texas. Does the gentleman think it would be wise, when the bureau failed to expend $8,000 of the amount last year, to increase it above $90,000 now? They did not expend the $90,000.

Mr. McCALL. Because a trivial balance was left over is no argument whatever. Eight thousand dollars is a very small item. They might not have the organization to carry on this work effectively, and they went on according to the old method, and therefore had a small balance left, but they recommend that the amount be increased from $90,000 to $250,000.

And I do not believe that this House is justified, in view of the amount of property that the Indians have, in view of the great amount of property they have had and from which they have been separated, and in view of the fact that we are their

guardians, in disregarding this proposition of the department in regard to them and not increase the appropriation at all.

Mr. MILLER. Mr. Chairman, I think there are two reasons why this amendment should not be adopted at this time. In the first place, as has already been stated on the floor of the House, a very thorough investigation of this entire subject is now under process of being made by the proper bureau of the Government. The report will be forthcoming in a very few weeks, and it seems to me it is entirely inadvisable for the House to take action in a large way on a big subject until we have before us exact and proper information that will soon be here.

My next objection, Mr. Chairman, is even stronger and greater than that. I have taken occasion as opportunity has presented itself to investigate several bands and Indian tribes, to see what effect the Medical Corps on the part of the Government is having in respect to the diseases among those Indians. I have found a remarkable situation. I am no physician nor a particular judge of physicians, but I am somewhat of a judge of a man when he is trying to work. I have been appalled by the ignorance, the incapacity, and the slovenly way that most of the physicians now attending Indian bands are performing their work. I spent half a day talking this over with the Indian Commissioner, and I arrived at this conclusion: In certain places, like the physician suggested by the gentleman from Wyoming [Mr. MONDELL], who are of high standing in their practice, physicians are performing their work at a sacrifice. That class of men can be paid by the Indian Office, under the law as it now stands, no more than $700 a year, although they may be performing a service worth $7,000. That class of physicians is exceedingly in the minority. A great bulk of the work being done under this paragraph is performed by men who are selected through the civil service, most of them being paid about $1,000 or $1,200 a year. One of the elements that goes into the proposition is composed of young men out of college, who have had no experience, but are trying to get it. The other element in that class consists of physicians who have made a failure, and are out of a job. Neither of those elements should be trusted with a work of this kind. I think we should wait until we have a report from the Public Health and Marine-Hospital Service, and I am sure when that is before us we will take action in a large way, and we will intrust this great and important work—and its importance is fully as great as suggested by the gentleman from Massachusetts [Mr. MCCALL]—to trained men, capable men, who will perform the work not only from a scientific and professional standpoint, but in the interests of humanity. [Applause.]

Mr. HILL. Mr. Chairman, I would like to ask a question of the chairman of the Committee on Indian Affairs, purely for my own information.

I have a distinct recollection of the promises that were made and the statements that were given to the country and to the House with reference to irrigation projects and how the money would return to the Treasury some time in the dim and distant future, from the purchase of rights and use of water, and so forth. I would like to know if there is any money; and if so, about how much in this bill that will be used to pay for water from these original irrigation schemes and be credited to the profit on these transactions? Are we paying for the use of water by the Indians on any of the original irrigation schemes for which we have expended one hundred or two hundred million dollars, or somewhere in that neighborhood? Is there anything in this bill that covers that?

Mr. STEPHENS of Texas. I think not. These are independent projects, so far as I know.

Mr. HILL. The small projects I refer to are independent projects, but does not the language authorize the payment under contract by the irrigation commissioners with the Indian Commissioner for the use of water from the other larger projects?

Mr. STEPHENS of Texas. In a very few cases that is true, where there is large amount.

Mr. HILL. About how much?

Mr. STEPHENS of Texas. Oh, I do not suppose there would be one-fourth of the projects that would fall under that class; very few of them.

Mr. HILL. Then, as a matter of fact, they are taking money out of one pocket and putting it into the other and showing a profit from the irrigation schemes?

Mr. STEPHENS of Texas. I think not. We are correcting that as fast as we can. We have two different systems here—the Indian irrigation system and the white man's irrigation system.

Mr. HILL. I understand that; but are we appropriating anything here under this Indian bill that will look toward a profit to the white man's system?

Mr. STEPHENS of Texas. It is very hard to distinguish between them. I am in favor of putting the Indian lands under the United States irrigation service and under the United States engineers. I think that will be done.

Mr. HILL. I wanted to understand the situation. I supposed that it would work out that way when the irrigation projects were begun, and I wanted to know if we had reached that condition.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Massachusetts [Mr. MCCALL] to the amendment offered by the gentleman from Wyoming [Mr. MONDELL].

The question was taken, and the amendment to the amendment was rejected.

The CHAIRMAN. The question now is on agreeing to the amendment of the gentleman from Wyoming [Mr. MONDELL].

The question was taken, and the Chairman announced that the "noes" seemed to have it.

Mr. MONDELL. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 16, noes 50.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For support of Indian day and industrial schools not otherwise provided for and for other educational and industrial purposes in connection therewith, $1,420,000: *Provided*, That no part of this appropriation, or any other appropriation provided for herein, except appropriations made pursuant to treaties, shall be used to educate children of less than one-fourth Indian blood, whose parents are citizens of the United States and the State wherein they live and where there are adequate free school facilities provided and the facilities of the Indian schools are needed for pupils of more than one-fourth Indian blood.

Mr. STEPHENS of Texas. Mr. Chairman, I only intended to have the paragraph read which has just been read. I desire now to move that the committee rise.

Mr. BURKE of South Dakota. Mr. Chairman, before the gentleman makes the motion to rise, I want to ask unanimous consent to extend my remarks, for the purpose of printing in the RECORD the report of Mr. Mott, with reference to the conditions in the Creek Nation that I referred to in my remarks earlier in the day.

The CHAIRMAN. The gentleman from South Dakota [Mr. BURKE] asks unanimous consent to extend his remarks by inserting the report named. Is there objection?

Mr. FERRIS. Mr. Chairman, reserving the right to object, will the gentleman from South Dakota please call up the Indian Office and have them furnish the names of those designated as "professional guardians"? I think they ought to go in as part of this report.

Mr. BURKE of South Dakota. There are 2,000 of them.

Mr. FERRIS. I hope the gentleman will put them in with it, so that it will be complete.

Mr. BURKE of South Dakota. They are not in my possession, and I can not consent to do that.

Mr. RODDENBERY. Mr. Chairman, reserving the right to object, will the gentleman permit me to inquire of the chairman of the Committee on Indian Affairs if he thinks that when the committee rises this afternoon it will be possible to reach an agreement beforehand that when we come back into the House we recess until 8 o'clock to-night, to proceed to the consideration and final passage of this bill before adjournment to-night, so that we can get to the immigration bill to-morrow?

Mr. STEPHENS of Texas. I will say to the gentleman, Mr. Chairman, that we have no means of ascertaining whether that be done. I doubt if any quorum would be had. There is no quorum present now, and I have refrained from making the point in the desire to expedite the consideration of this matter. I understand that the Committee on Rules has a rule prepared.

Mr. RODDENBERY. They are ready to follow, when they can get recognition, on the immigration bill.

Mr. STEPHENS of Texas. I will say to the gentleman that I am in sympathy with him, but I demand the regular order.

Mr. RODDENBERY. Mr. Chairman, I object to the request of the gentleman from South Dakota.

The CHAIRMAN. The regular order is demanded.

Mr. BURNETT. Mr. Chairman, I would like to ask if the gentleman from Texas is not willing to rise and then let us go on and take up the immigration bill? I have not heard the question of no quorum raised all day.

Mr. RODDENBERY. Mr. Chairman, I withdraw my objection to the request of the gentleman from South Dakota.

The CHAIRMAN. The gentleman from Georgia [Mr. RODDENBERY] withdraws his objection to the request of the gentleman from South Dakota [Mr. BURKE] to extend his remarks in the RECORD by inserting the report which he has named. Is there objection?

There was no objection.

Following is the report referred to:

MUSKOGEE, OKLA., *November 27, 1912.*

The honorable the SECRETARY OF THE INTERIOR,
Washington, D. C.

SIR: The report which I here submit relates directly to the administration of the affairs of the minor members of the Creek Tribe of Indians in the probate courts of Oklahoma under the jurisdiction over such matters conferred upon said courts by the act of Congress of May 27, 1908.

Before proceeding with the facts and details with which the report deals, I think it appropriate to make a brief reference to my position when this matter was under consideration heretofore by Congress and the department in the winter of 1907 and 1908, when the subject was first dealt with after statehood. It was my opinion at that time, as freely expressed to the department and as represented to the committees of Congress, that the best interests of the Indians would not be subserved by conferring the administration of the probate affairs upon the local courts in Oklahoma. My convictions then were due to my observation and knowledge of such matters, which had led me to the conclusion that the Indians' interest can not be properly and adequately protected when administered in tribunals subject entirely to local environments and influences. This well-recognized fact has from the beginning been the ground upon which Federal jurisdiction has been maintained over the Indian and his affairs, and this fact has been recognized by the Supreme Court of the United States from the time of Chief Justice Marshall to the present day, and this is true regardless of the locality or State in which the affairs are administered. The act of May 27, 1908, was the first act pertaining to these affairs passed by Congress after statehood. While that act was pending in Congress and at the time a report upon same was under consideration by the department, I took the position that if practicable to do so, or, in other words, if there were not insurmountable constitutional objections, there should be created and provided a special Federal jurisdiction over the probate affairs of the Indians in Oklahoma, insisting at that time that the probate affairs of the Indians could not be administered to their best interests in purely local tribunals and without Federal supervision. My position, however, on these matters was strongly antagonized at the time by all the members of the Oklahoma delegation in Congress, and I likewise found myself without the support of the other officers and attorneys representing the other Indian tribes in this State. However, the force of my position was at that time appreciated by the department, and as a practical and possible solution the department recommended a provision for district agents, to be appointed by the Secretary, whose duties it should be to give to the Indian all possible assistance consistent with the jurisdiction of the probate courts in the administration and management of his probate affairs and to report and keep the Secretary advised upon those matters. While this agency force has been of great value to the Indians, especially in the assistance given the full bloods and restricted Indians, in the management of their affairs, as the following report will show, it has nevertheless been totally inadequate to the protection of the Indians in the administration of probate matters purely, which I think is partially due to the inadequacy of the plan itself under existing laws and conditions in Oklahoma.

Prior to this time there has never been prepared and promulgated any complete report of the administration of the probate affairs of the Indians under the jurisdiction given the Oklahoma courts in the said act of 1908. I have for a long while been of the opinion that no correct understanding of the situation could be had without such a report and record. As long as two years ago, when the district agents were assembled here in a body for the purpose of making reports, conferring, etc., in regard to their work, I went before them and urged the necessity of their going into the records of the various probate courts throughout the five tribes and preparing correct and complete data as to the administration of the affairs of the Indians in those courts. This I thought was necessary for the proper information of the department, and Congress as well. No action, however, was had on the suggestion leading to anything more than a report on an isolated case here and there, which, of course, is not sufficient as a basis of any general deduction or conclusion. Subsequently and about a year ago at a similar meeting of the agents I renewed the suggestion for a full report on the administration of the probate matters, which was likewise never carried out except to the limited extent above referred to. Still being confident that such a report was necessary to an understanding of the whole situation, on September 5, this year, I submitted to the department, for approval by the President, a supplemental contract authorizing the expenditure under my supervision of a sum not exceeding $5,000 between that date and the 30th day of June, 1913, in investigating the administration of probate affairs of the Indians in the Creek Nation, making report thereof, etc., and for taking other steps for the protection of minors. This supplemental contract was approved and proceedings thereunder began at once. I have in the preparation of the report here submitted expended approximately the sum of $2,500 in compiling data from the records of the various counties.

The general plan of the work, mapped out under the authority of said supplemental contract, was to ascertain from the records of the courts in the various counties, the names of the minors whose affairs are being administered, name of guardian, amount handled, sale of lands, allotted or inherited, fees allowed the attorneys for the guardians, court costs, fees allowed guardians, and the total cost of administration. Accompanying this report is submitted exhibits in the form of bound volumes, one for each county, which includes the data taken from the probate records pertaining to every guardianship case in the county where reports and settlements of guardians have been made. The correctness of the matter contained in these exhibits is verified by the affidavit of the party employed to compile the data, each affidavit showing that the report is a correct statement of facts appearing upon the official records of such courts; and for the purpose of comparison, and that only, data has been taken in each county from the administration of guardianship matters where white people alone were concerned.

The information submitted is divided into three classes: First, cases in which the administration has been in the hands of professional guardians (by which is meant a class of persons who make acting as guardians a business to a large extent); second, where the administration has been in the hands of competent relatives or business men; third (for the mere purpose of comparison), the guardianships in cases where white minors only are involved.

I now call attention to the facts pertaining to guardianship of minors' estates in Muskogee County, Okla., since statehood, so far as the records of same were available, the data of which will be found in Exhibit A submitted herewith.

It will be found that in this county 584 guardianships are in the hands of the class of professional guardians.

The amount handled by this class is	$1,172,000.65
The amount of attorneys' fees paid is	120,350.78
The amount of court costs	43,090.57
The amount of guardian fees	72,503.91
Total expense of guardianship	235,945.26

Cost of administration, 20.13 per cent of the amount handled.

It will be seen also that 112 guardianships are in the hands of competent guardians.

The amount handled by this class is	$225,864.20
Attorney fees paid	4,288.12
Court costs	2,885.17
Guardian fees	3,754.00
Total expense of guardianship	10,927.29

Cost of administration, 4.2 per cent of the amount handled.

These two classes include only guardianships of tribal minors.

It will be seen also that there are 49 guardianships reported in Exhibit A of white minors, this being all the white guardianships available from the records of this county.

The total amount handled	$188,480.72
Attorney fees	1,042.79
Court costs	1,027.87
Guardian fees	1,274.93
Total expense of guardianship	3,345.59

Cost of administration, 1.7 per cent of the amount handled.

The difference in the cost of administration between the competent guardians of the Indian minors and the guardians of white minors, above pointed out, is due, in part at least, to the fact that there are more sales of land in case of the Indian minors, which sales naturally increase the expense of administration; therefore any expense in excess of that in the competent class in upon any theory unjustifiable.

I call attention next to Exhibit B, which contains the official data on minor guardianships in Wagoner County.

It will be found that in this county there are 368 guardianships in the hands of the class of professional guardians.

The amount handled by this class is	$572,393.04
Amount of attorney fees paid is	66,141.51
Amount of court costs	25,182.71
Amount of guardian fees	38,921.73
Total expense of guardianships	140,245.95

Cost of administration, 24.5 per cent of the amount handled.

In Wagoner County there are 43 guardianships in the hands of competent guardians.

The amount handled by this class is	$85,999.56
Attorney fees paid	1,350.89
Court costs	663.12
Guardian fees	682.46
Total expense of guardianship	2,696.47

Cost of administration, 3.1 per cent of the amount handled. These two classes include only guardianships of tribal minors in Wagoner County.

It will be seen also that there are 20 guardianships reported in this exhibit of white minors, this being all the white guardianships available from the records of this county.

Amount handled	$28,377.56
Attorney fees	364.01
Court costs	318.30
Guardian fees	198.52
Total expense of guardianship	880.83

Cost of administration, 3.1 per cent of the amount handled.

In Exhibit C, submitted herewith, will be found the facts pertaining to the guardianship of minors' estates in McIntosh County.

In this county there are 319 guardianships in the hands of the class of professional guardians.

The amount handled by this class is	$282,514.73
Attorney fees paid	22,827.08
Court costs paid	17,040.70
Guardian fees paid	12,736.10
Total expense of guardianship	52,604.48

Cost of administration, 18.6 per cent of the amount handled.

In this exhibit will be found also 67 guardianships in the hands of competent guardians.

The amount handled by this class is	$62,432.87
Attorney fees paid	1,030.25
Court costs	741.00
Guardian fees	458.39
Total expense of guardianship	2,229.64

Cost of administration, 3.5 per cent of the amount handled. These two classes include only guardianships of tribal minors.

In Exhibit C will be found 12 guardianships reported of white minors, the same being the number of such guardianships available from the records.

Amount of funds handled	$11,297.30
Attorney fees	103.90
Court costs	150.80
Guardian fees	15.00
Total expense of guardianship	269.70

Cost of administration, 2.3 per cent of the amount handled.

Attention is next invited to the facts shown by the data collected from Tulsa County, which is found in Exhibit D, submitted herewith.

In this connection it will be noted that there are 203 guardianships in charge of professional guardians.

The amount handled is	$522,134.40
Amount paid as attorneys' fees	37,769.68
Amount paid as court costs	16,574.43
Amount paid as guardian fees	40,521.20
Total expense of guardianship	94,865.31

Cost of administration, 18.15 per cent of the amount handled.

In this county the data collected shows 100 guardianships in the hands of competent guardians.

The amount handled by this class is	$209,608.00
Attorney fees paid	4,768.29
Court costs	1,615.83
Guardian fees	2,079.00
Total cost of administration	8,463.12

Cost of administration, 4 per cent of the amount handled. These two classes include only guardianships of tribal minors in this county.

There are 24 guardianships of white minors reported in this exhibit, the same being the only available guardianships of this class from the records of Tulsa County.

Amount handled	$67,568.19
Attorney fees	897.15
Court costs	695.74
Guardian fees	100.00
Total expense of guardianship	1,692.89

Cost of administration, 2.5 per cent of the amount handled.

The official data with reference to guardianship of minors' estates in Creek County will be found in Exhibit E, submitted herewith.

It will be found that the professional guardians have 245 guardianships in charge in this county.

Amount of funds handled	$431,386.05
Attorney fees paid	29,050.30
Court costs	9,567.22
Guardian fees	40,631.47
Total expense of administration	79,189.00

Cost of administration, 18.3 per cent of the amount handled.

There are 86 guardianships in the hands of competent guardians.

The amount handled by this class is	$579,165.62
Attorney fees paid	5,967.83
Court costs	3,915.20
Guardian fees	11,494.48
Total expense of guardianship	21,377.51

Cost of administration, 3.6 per cent of the amount handled. These two classes include only guardianships of tribal minors.

In this exhibit there will be found 22 guardianships of white minors, being the number available from the records of Creek County.

The amount handled	$15,858.02
Attorney fees	459.25
Court costs	207.51
Guardian fees	374.45
Total expense of guardianship	1,041.21

Cost of administration, 6.5 per cent of the amount handled.

I now call attention to the facts pertaining to the guardianship of minors' estates in Okmulgee County, Okla., since statehood, so far as the records of same are available, the data of which will be found in Exhibit F.

The class of professional guardians have 320 guardianships in charge in this county.

Amount of funds handled by this class	$662,005.31
Attorney fees	49,056.83
Court costs	8,468.75
Guardian fees	56,231.03
Total expense of guardianship	113,756.61

Cost of administration, 18.2 per cent of the amount handled.

It will be seen that there are 50 guardianships in the hands of competent guardians:

The amount handled	$86,013.14
Attorney fees	1,105.93
Court costs	801.38
Guardian fees	947.75
Total expense of guardianship	2,855.06

Cost of administration, 3.3 per cent of the amount handled. Guardianships of tribal minors only are included in these two classes.

In this exhibit will be found seven guardianships of white minors, this being all the white guardianships available from the records of this county:

Amount handled by this class	$7,259.15
Attorney fees paid	128.00
Court costs	52.50
Total expense of guardianship	180.50

Cost of administration, 2.4 per cent of the amount handled.

In Exhibit G, submitted herewith, will be found the facts relative to the guardianship of minors' estates in Okfuskee County.

In this county there are 148 guardianships in the hands of the professional guardian:

Amount of funds handled	$136,860.24
Attorney fees paid	$11,153.63
Court costs	5,096.14
Guardian fees	8,853.40
Total expense of guardianship	25,103.17

Cost of administration, 18.3 per cent of the amount handled.

In this exhibit will also be found 59 guardianships in the hands of competent guardians:

Amount handled by this class	$33,756.26
Attorney fees	1,395.12
Court costs	459.37
Guardian fees	136.50
Total expense of guardianship	1,990.99

Cost of administration, 5.8 per cent of the amount handled. These two classes include only guardianships of tribal minors.

There is no report on the guardianships of white minors included in this exhibit, there being no such guardianships available from the records of Okfuskee County.

I call attention next to Exhibit H, which contains the official data relative to minor guardianships in Hughes County, Okla.

It will be found that in this county there are 133 guardianships in the hands of the class of professional guardians:

Amount of funds handled	$117,398.61
Amount of attorney fees paid	9,804.98
Amount of court costs	3,244.33
Amount of guardian fees paid	8,783.65
Total expense of guardianship	21,833.56

Cost of administration, 18.5 per cent of the amount handled.

It will also be found that there are 17 guardianships in the hands of competent guardians:

Amount of funds handled by this class	$33,683.42
Attorney fees paid	1,855.98
Court costs	244.85
Guardian fees paid	420.00
Total expense of guardianship	2,520.83

Cost of administration, 7.4 per cent of the amount handled.

In these two classes are included only guardianships of tribal minors.

In Exhibit H will be found 10 guardianships reported of white minors, the same being the number available from the records of Hughes County.

Amount of funds handled by this class	$9,695.06
Attorney fees paid	122.84
Court costs	172.79
Guardian fees	49.50
Total expense of guardianship	345.13

Cost of administration, 3.5 per cent of the amount handled.

Summing up the aggregate of the eight counties in the Creek Nation we find that the total number of professional guardianships is 2,520.

Total amount of funds handled	$5,896,693.06
Total amount of attorney fees	346,095.39
Total court costs	138,205.46
Total guardian fees	279,182.49
Total expense of guardianship	763,483.34

Total cost of administration, 19.3 per cent of the amount handled.

The total number of competent guardianships is 554.

Total amount of funds handled	$1,346,523.07
Total amount of attorney fees	21,762.41
Total court costs	11,265.92
Total guardian fees	19,972.58
Total expense of guardianship	53,030.91

Total cost of administration, 3.1 per cent of the amount handled.

These two classes include only guardianships of tribal minors.

The total number of white guardianships is 203.

Total amount of funds handled	$528,536.00
Total amount of attorney fees	3,117.94
Total court costs	2,625.51
Total guardian fees	2,012.40
Total expense of guardianship	7,755.85

Total cost of administration, 2.3 per cent of the amount handled.

The above includes all guardianship cases in the Creek Nation where the record was available, and it should be borne in mind how much this immense cost would in the aggregate have been increased had the records in the 4,339 remaining cases been available.

In the foregoing there has been designated three classes of guardians, namely, the professional guardian, the relative, and the guardian of white minors. There might be as a subclass carved out of the class of professional guardians one which could be properly described as an incompetent and thoroughly irresponsible class. This class is composed of adult members of the tribe who have dissipated or been swindled out of their own estates after the removal of restrictions who have little regard for the wards in their care and who can be and are in many instances used by others connected with the administration.

I suggest, further, in this connection, that in a great many instances in the class of professional guardians the guardians are attorneys, licensed to practice in the courts, and that the extravagance and waste in the administration, which will also be later referred to, is not due to incompetency of guardians, because men qualified to practice law, as a rule, would not be incompetent, and in cases where they are guardians the cost of administration is as high on an average or a little higher than in other cases.

This report is not intended to include the management of the estates of the minors apart from the cost of administration as set forth above, because I have had neither time nor facilities to fully report upon the former question, but sufficient investigation has been made to warrant me in saying that in a great number of instances bad

management and great waste have been the rule. Extravagant and totally unwarranted allowances for maintenance and personal expenses of wards have been made, all of which can be verified by the probate records, and where the allowances are aggravatedly large and unnecessary the presumption is that some one other than the ward is getting the benefit of the excessive amount. Again, in addition to the above, Mr. D. H. Bynum, former chief clerk to the Commissioner to the Five Civilized Tribes and recently probate attorney for the district agents, has reported to me after extensive investigation that in a great number of instances large sums of money of minors have been loaned by the guardians on totally inadequate securities, many loans being made to guardians themselves and members of their families, etc., and that in many instances the bondsmen of the guardians are totally insolvent.

I also call attention here to the fact that in the eight counties of the Creek Nation there are 4,339 cases of guardianships in which the guardian has made no report, or the papers and court files are in the hands of attorneys or guardians and therefore inaccessible, and in all of these cases it has been impossible to make a report because of these facts; and I think it is quite probable that in many of these cases the administration of the affairs of the minor has been so extravagantly and wastefully conducted that the parties responsible therefor have a personal interest in withholding the facts from public record and inspection as long as possible.

To my mind this report in connection with the data upon which it is based reveals an appalling state of affairs with reference to the administration of the affairs of the minor members of the tribe. As pointed out above, in the administration of the estates of white minors the average cost upon the money handled is less than 2½ per cent, while the cost of administration of the estates of Indian minors amounts to the unprecedented amount of 19.3 per cent, both of which are administered in the same jurisdiction and under the same law. It is not necessary for me to comment upon this great discrepancy in the cost of administering the estates of white and tribal minors in the courts of Oklahoma. The facts speak for themselves and show a most unjust and destructive discrimination against the Indian minor. I have made this classification to answer in advance any suggestion or argument that might be made to the effect that the expense of administering such matters is greater in the new State of Oklahoma because of other conditions than elsewhere, which might have been urged had the report contained no data except as to the administration of the estates of Indians. It can therefore not be contended in the face of this discrepancy that such wasteful and unjust expense in the administration of the estates of the Indian minors is due to a natural condition applicable alike to the administration of all estates.

I can not, without extending this report to undue lengths, refer specifically to a great number of individual instances, and yet I can not resist pointing out a few cases as illustrations or examples. It will be seen on examination of Exhibit B, containing the abstract from the records of these matters in Wagoner County, that there are many instances where in the administration of small estates the total cost and expense of administration runs from 25 to 45 per cent upon the gross amount of the funds handled, and this is true in a great number of instances where the amount of funds handled ranges from $500 to $3,000. As an illustration of this situation, I call specific attention to the following cases reported in Exhibit B for Wagoner County:

No. 458. Amount handled, $1,985, at cost of $1,467.35, or 73.8 per cent.

No. 497. Amount handled, $8,385.35, at cost of $3,329.29, or 39.7 per cent.

No. 812. Amount handled, $3,922, at cost of $2,777.26, or 70.8 per cent.

No. 884. Amount handled, $3,980, at cost of $2,172.35, or 54.5 per cent.

No. 1265. Amount handled, $1,474.12, at cost of $1,015.86, or 68.9 per cent.

I also call attention for the same purpose to the following cases found in Exhibit A for Muskogee County:

No. 81(a). Amount handled, $3,404.30, at cost of $1,481.68, or 43.5 per cent.

No. 559. Amount handled, $11,560, at cost of $2,629.85, or 22.7 per cent.

No. 626. Amount handled, $2,085, at cost of $1,494.93, or 71.7 per cent.

Nos. 1411–1412. Amount handled, $65,266.92, at cost of $19,315.23, or 29.4 per cent.

No. 1123. Amount handled, $3,286.94, at cost of $1,721.52, or 52.3 per cent.

No. 1556. Amount handled, $41,502.16, at cost of $21,953.60, or 52.8 per cent.

The following cases will be found in McIntosh County, Exhibit C:

No. 52. Amount handled, $1,328.52, at cost of $937.89, or 70.5 per cent.

No. 310. Amount handled, $600, at cost of $305.50, or 50.9 per cent.

No. 359. Amount handled, $1,960, at cost of $695.50, or 35.4 per cent.

No. 428. Amount handled, $17,944.26, at cost of $3,043.07, or 16.9 per cent.

No. 669. Amount handled, $1,787.50, at cost of $609.49, or 34 per cent.

In Exhibit D, for Tulsa County, will be found the following cases:

No. 7. Amount handled, $14,944.37, at cost of $3,267, or 21.8 per cent.

No. 110. Amount handled, $2,094.28, at cost of $1,274.75, or 60.8 per cent.

No. 275 (a). Amount handled, $9,520.12, at cost of $2,487.67, or 26.1 per cent.

No. 275 (c). Amount handled, $29,296.76, at cost of $6,523.15, or 22.2 per cent.

No. 1014 (b). Amount handled, $19,534.12, at cost of $3,644.30, or 18.6 per cent.

Exhibit E, for Creek County, contains the following cases:

No. 16. Amount handled, $13,675.37, at cost of $3,099.60, or 22.6 per cent.

No. 36. Amount handled, $54,968.10, at cost of $10,650.43, or 19.9 per cent.

No. 182. Amount handled, $64,863.42, at cost of $11,810.59, or 18.2 per cent.

(The above three cases were under the same guardianship.)

No. 42. Amount handled, $1,740, at cost of $793.75, or 45.7 per cent.

No. 188. Amount handled, $1,347.78, at cost of $759.37, or 56.3 per cent.

The cases below will be found in Exhibit F, for Okmulgee County:

No. 10. Amount handled, $8,088.21, at cost of $2,243.85, or 25.8 per cent.

No. 280. Amount handled, $2,855, at cost of $1,038.82, or 36.3 per cent.

No. 152. Amount handled, $1,321.50, at cost of $1,196.50, or 90.5 per cent.

No. 136. Amount handled, $2,026.55, at cost of $778.95, or 38.4 per cent.

No. 540. Amount handled, $2,570, at cost of $1,684.64, or 65.5 per cent.

In Exhibit G, for Okfuskee County, will be found the following cases:

No. 271. Amount handled, $3,270, at cost of $911.96, or 27.8 per cent.

No. 237. Amount handled, $698.00, at cost of $364, or 52.1 per cent.

No. 179. Amount handled, $3,208.05, at cost of $983.10, or 30.6 per cent.

No. 98. Amount handled, $1,674.40, at cost of $482.57, or 28.8 per cent.

I also call attention to the following cases found in Exhibit H, for Hughes County:

No. 223. Amount handled, $2,372.50, at cost of $909.58, or 38.3 per cent.

No. 305. Amount handled, $4,939, at cost of $1,147, or 23.2 per cent.

No. 480. Amount handled, $1,950, at cost of $717.95, or 36.8 per cent.

No. 984. Amount handled, $2,847.79, at cost of $744.44, or 26.2 per cent.

No. 1039. Amount handled, $806.40, at cost of $407.64, or 50.5 per cent.

It will thus be seen that these methods and practices apply generally throughout the Creek Nation, and while they may exist in a greater degree in one county than another, the general situation is substantially the same. It is reasonable to presume also that in that large number of cases, as above pointed out, to wit, 4,339, where no reports of guardians have been made and where files are out, equally bad or even worse conditions prevail.

While the enormity of this extravagance and waste seems to me to be self-evident, I was not satisfied to submit the report without a showing of the comparative cost of the administration of such matters in Oklahoma and other jurisdictions. I thereupon addressed a series of letters to the courts exercising probate jurisdiction in the various States throughout the Union, and my responses to these inquiries furnish data upon the cost of administration in 30 different States, to wit, Arkansas, Colorado, Connecticut, Delaware, Florida, Idaho, Indiana, Iowa, Illinois, Kansas, Kentucky, Maryland, Minnesota, Missouri, Michigan, Nebraska, New York, North Dakota, North Carolina, Ohio, Pennsylvania, Rhode Island, South Dakota, South Carolina, Texas, Vermont, West Virginia, and Wisconsin. I have bound together in a separate volume the reports from these different States, which is marked "Exhibit I" and submitted herewith, and will say in a general way that these reports show that the average cost of administration in kindred matters in those jurisdictions does not exceed 3 per cent, and it is not improper to note in this connection that the administration in those States is not lower than the administration of the affairs of white minors in Oklahoma.

A mere glance at the record upon which this report is based is sufficient to convince any unprejudiced mind that a great injustice and wrong is being suffered by the minors of the Indian tribes in the administration of their property affairs in the probate courts of Oklahoma, but the labor and expense of gathering the data and facts in this report would have been incurred to no purpose, so far as the unrestricted members of the tribe are concerned, unless it shall lead to some plan by which their rights in the future can be protected against the continuation of these wrongs. It has been demonstrated, and this report is sufficient evidence of that fact, that the district agency plan as applied to the administration of the affairs of minors in the probate courts is inadequate for that purpose, but the opposition heretofore maintained to the agents has not been upon the ground of their inability to cope with the subject but upon the ground that the probate courts of Oklahoma were adequate to the protection of all interests coming within their jurisdiction and that the Indian minors need no assistance; but this report is a complete answer also to that position. There can be no doubt that the district agents have been of great service to the department in the administration and handling of the affairs of the restricted Indians and property under the jurisdiction of the Secretary, but as to Indians from whom restrictions are removed whose matters come in these courts, as shown in the report, these agents have not been able to give them the proper protection, though without them the situation might have been even worse.

Now as to the remedy. The jurisdiction of these matters has been fixed. It is too late to deal with that question now. The restrictions have been removed from the Indians and they have passed, in a measure at least, out of the jurisdiction of the General Government. What is done must be done in consistency with those fixed conditions. One thing is evident from the report—that is that a very large item of the extravagant expense of administration since statehood is the item of fees allowed attorneys for guardians, which fees have been equally extravagant where the guardians have themselves been attorneys; nor in such cases have the fees of the guardians been any less than in other cases.

The amount allowed as fees for attorneys for guardians in the Creek Tribe since statehood in the various counties in the cases reported is in the aggregate $367,857.80. In Muskogee County alone the allowance for this purpose amounts to $124,638.90. There are eight counties in the Creek Nation. One properly equipped attorney could render all necessary and proper legal services for all the guardians of Indian minors in any two counties, and four such attorneys could perform such duty for all the guardians of that class of persons in the Creek Nation. This could be done on an annual expenditure, including all expenses, of $25,000; this to include the salary of the attorney, office, traveling, and stenographic expense necessary.

With a force of this kind properly equipped and authorized and with full notice and publication of the fact to all courts and all guardians there would remain no excuse, much less any reason, for guardians not availing themselves of the privilege of this legal advice without expense to their wards; nor would there be any reason why the courts would refuse to cooperate, for it is to be assumed that the courts would be interested in the economical administration of the estates of wards under their jurisdiction and would recommend that they take advantage of the services of counsel thus provided without expense to their wards and would refuse to make allowances for the unnecessary payment of other attorneys. Among the duties of these attorneys would be these: To aid in the selection of proper guardians in the first instance, to bring about the removal of incompetent guardians, to prepare all legal papers on the appointment of guardians and the making of reports, etc., to see that delinquent reports are made as to past transactions, and to cause regular and proper reports to be made in all cases in the

future, and, on the whole, to perform any and all legal services that might be required by any guardian of any Indian minor in the proper administration of the matters in his charge.

I say that four competent men, working under the direction of the tribal attorney, with proper facilities can transact all this business upon the theory that to the extent that the guardians are competent and proper persons for such a position that the work required of an attorney is minimized, and that in many instances, as a matter of course, very little or no service would be required of the attorney except a formal inspection of matters.

In the case of competent guardians the chief work of the attorney would be services in cases of the sale of land and four attorneys would be amply sufficient to perform this service and also have time for other required duties above noted. And such attorneys would not be interested, and would not encourage unnecessary and improvident sales of the minors' lands, of which there have been many. It will be seen from the foregoing that much of the larger part of the allowances for attorneys' services is for such services in connection with the sale of minors' land. In the entire record there are not a half dozen instances where the fees allowed were based upon services rendered in contests over the property rights of the ward where such fees might be justified.

After giving this whole subject much consideration I am thoroughly of the opinion that the plan here suggested presents the only feasible and practical solution of the present deplorable situation, and it is quite probable that the operation of such a plan for a couple of years would be sufficient to break up the present system and bring about healthy conditions, after which there would be little danger of the old system being reestablished.

Now, the next question is, How should the expense of this plan be provided? Should it be paid out of the General Government or borne by the tribes? I have given that matter considerable reflection, and will here submit my observations: There are approximately 7,905 adult members of the Creek Tribe on whose lands restrictions have been removed. The aggregate amount of land received by this number amounts to 1,264,800 acres. I can say with much assurance that of this large acreage not exceeding one-eighth of the amount now remains in the hands of these adults, the remaining part having been disposed of since restrictions were removed. As to those members whose lands have been disposed of, it can be said with equal assurance that they are practically all without property of any kind. This is verified by the tax rolls, as comparatively none of them pay a property tax; and these adults who have disposed of their lands and have dissipated or been swindled out of the proceeds are dependent upon their minor children for homes and abiding places. And because of the large number of adults in this situation who would be benefited by the protection of the estates of the minors, I am satisfied that the expenditure of such an amount of money as suggested out of the tribal estate for the purpose of protecting these minor estates is thoroughly and amply justified; and as a further support to this conclusion it should be stated here that the full-blood minor and restricted Indian are also beneficiaries of the plan, because they would likewise receive the services of these attorneys. Therefore the administration of these affairs in this manner is in the interest and to the benefit of practically all the members of the tribe, and that it could with much accuracy be said to be a tribal matter.

While this report is dealing particularly with the administration of minor Indian probate affairs, it is, nevertheless, apparent that it throws much light upon the Indian situation as a whole in this State, and therefore may afford some guide to the department and Congress in their dealings with Indian matters now still remaining under the control of the Government. The same persistent clamor will be heard for the removal of restrictions from the full bloods and other Indians still under restrictions which was heard in favor of the removal of restrictions from the surplus and homesteads of other members of the tribes. Whenever heretofore the question of the removal of restrictions has been under consideration the claim was tenaciously advanced that the Indian was competent to manage his own affairs, and that his best interest demanded that he be given an opportunity so to do; but the deplorable condition of that large number of adults from whose lands restrictions have been removed, as pointed out above, is a complete answer to that fallacy. In considering any future policy regarding these matters two questions naturally present themselves, because of the fact that there are two interests involved. To the extent that the interests of the white people of Oklahoma are to be considered, then the advantage of removing restrictions does not admit of argument, because it must be conceded that the interests of the white people will be best subserved by the removal of all restrictions from the Indian lands, and even by the sale of all Indian lands and the abandonment of the country by the Indians. As a commercial and sociological question, this is undeniable; but, on the other hand, if the Indians' interest is to be considered, that interest in this State of which the Government is the trustee, then quite a different conclusion is inevitable. This report shows unmistakably and clearly that the greatest wrong and injustice has been visited upon the minor members of the tribe from whose lands restrictions have been removed. If conditions are such in Oklahoma that the minor Indians of the tribe, the most helpless class, will be made the victims of a public policy so vicious that their estates are devastated, what is to be expected when that other helpless class, including their children, have their interests subjected to the same destructive policy? As I said above, this report is intended to deal purely with the present situation, but I can not refrain from making the above suggestion for whatever it is worth in throwing light upon the situation to be dealt with in the future, and I wish to here thank the department for furnishing me the facilities for making this investigation and record before my services to the tribe terminated.

I have taken the liberty of preparing a number of copies of this report for the use of Members of Congress concerned directly with legislation affecting the subject of the report.

For convenience there is attached a blank form of the report secured in each probate case.

Respectfully submitted.

M. L. MOTT,
Attorney for Creek Nation.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. ROBINSON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 23874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, and had come to no resolution thereon.

LEAVE TO WITHDRAW PAPERS—JENNIE M. METZ.

Mr. HARTMAN, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of Jennie M. Metz (H. R. 15513), Sixty-second Congress, no adverse report having been made thereon.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 3436. An act granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse.

SENATE CONCURRENT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, the following resolution was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

Senate concurrent resolution 32.

Resolved by the Senate (the House of Representatives concurring), That the plan, design, and location for a Lincoln memorial, determined upon and recommended to Congress December 4, 1912, by the commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln, approved February 9, 1911, be, and the same are hereby, approved—

to the Committee on Appropriations.

ORDER OF BUSINESS.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. Is it now in order to be recognized to make a motion for a recess until 8 o'clock to-night for the further consideration of the Indian appropriation bill?

The SPEAKER. No; that is not privileged any more under the rules. It can not be done except by unanimous consent.

Mr. RODDENBERY. Mr. Speaker, why is not that motion in order?

The SPEAKER. It used to be a privileged motion, but the change in the rules has knocked that out.

Mr. RODDENBERY. Then I ask unanimous consent that the House take a recess until 8 o'clock to-night for the purpose of further considering and completing the consideration of the Indian appropriation bill, so that we may get to the immigration bill to-morrow, the session to-night not to last later than 11 o'clock.

The SPEAKER. The gentleman from Georgia asks unanimous consent that the House now take a recess until 8 o'clock to-night, the session to continue not later than 11 o'clock, for the further consideration of the Indian appropriation bill. Is there objection?

Mr. CURLEY. Mr. Speaker, I object.

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 49 minutes p. m.) the House adjourned until to-morrow, Saturday, December 14, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, submitting estimate of urgent deficiency appropriation for miscellaneous expenses, Internal-Revenue Service, for the fiscal year ending June 30, 1913 (H. Doc. No. 1163); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of War submitting estimate of appropriation for unveiling and dedicating the statue of Commodore John Barry (H. Doc. No. 1164); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of the Interior submitting estimates of deficiency appropriations required by the Bureau of Mines for continuing the investigation into mine accidents during the fiscal year 1913 (H. Doc. No. 1165); to the Committee on Appropriations and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting copies of communications from the Secretary of War submitting estimates of deficiency appropriations for the fiscal years 1912 and 1913 for the International Waterways Commission and for the relief of sufferers from floods in the Mississippi and Ohio Valleys in 1912, and to reimburse the Medical Department of the Army (H. Doc. No. 1166); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on examination of Eastern Branch of Elizabeth River, Va., from Norfolk & Western Railway bridge to Broad Creek (H. Doc. No. 1167); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

6. A letter from the Secretary of War, transmitting, pursuant to Senate joint resolution 103, report of commission appointed by the War Department to investigate the claims of American citizens for damages suffered within American territory and growing out of the late insurrection in Mexico, etc. (H. Doc. No. 1168); to the Committee on Foreign Affairs and ordered to be printed.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 19907) granting a pension to Eliza P. Cook; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 20463) for the relief of Milton S. Cabell; Committee on Claims discharged, and referred to the Committee on War Claims.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. KINDRED: A bill (H. R. 27200) amending the national bank act; to the Committee on Banking and Currency.

By Mr. KINKAID of Nebraska: A bill (H. R. 27201) providing for the purchase of a site and the erection of a public building in the city of O'Neill, State of Nebraska; to the Committee on Public Buildings and Grounds.

By Mr. SMALL: A bill (H. R. 27202) to provide for the erection of a public building at Edenton, N. C.; to the Committee on Public Buildings and Grounds.

By Mr. HAWLEY: A bill (H. R. 27203) for the relief of certain entrymen on the former Siletz Indian Reservation, Oreg.; to the Committee on the Public Lands.

By Mr. WATKINS: A bill (H. R. 27204) making an appropriation for the improvement of Red River in the States of Louisiana and Arkansas from Fulton, Ark., to the mouth of the river; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 27205) authorizing a survey of Red River in Louisiana and Arkansas from Fulton, Ark., to the mouth of the river; to the Committee on Rivers and Harbors.

By Mr. HENRY of Texas: Resolution (H. Res. 748) for the consideration of S. 3175; to the Committee on Rules.

By Mr. MACON: Resolution (H. Res. 749) authorizing the printing of 1,000 copies of the United States bankruptcy law of July 1, 1898, and amendments thereto to June 25, 1910; to the Committee on Printing.

By Mr. JOHNSON of Kentucky: Resolution (H. Res. 750) authorizing the Committee on the District of Columbia to investigate certain fire insurance companies in the District of Columbia and also the office of the superintendent of insurance of the District of Columbia, and appropriating money for the expense of such investigation; to the Committee on Printing.

By Mr. KINDRED: Joint resolution (H. J. Res. 372) requesting the Secretary of State to furnish information relative to alleged atrocities in the rubber fields of Peru; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 27206) granting a pension to Mary Binder; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27207) granting a pension to Maggie Williamson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27208) granting an increase of pension to Jane Coleman; to the Committee on Invalid Pensions.

By Mr. ANTHONY: A bill (H. R. 27209) granting an increase of pension to Martin Jordan; to the Committee on Invalid Pensions.

By Mr. AYRES: A bill (H. R. 27210) for the relief of F. W. Theodore Schroeter; to the Committee on Claims.

By Mr. BORLAND: A bill (H. R. 27211) granting an increase of pension to Charles Sells; to the Committee on Pensions.

By Mr. COX of Ohio: A bill (H. R. 27212) granting an increase of pension to Henry C. Gray; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 27213) granting an increase of pension to James Light; to the Committee on Invalid Pensions.

By Mr. DAUGHERTY: A bill (H. R. 27214) granting an increase of pension to David Miller; to the Committee on Invalid Pensions.

By Mr. DAVIS of Minnesota: A bill (H. R. 27215) granting a pension to Mary Nachbar; to the Committee on Pensions.

By Mr. DODDS: A bill (H. R. 27216) granting an increase of pension to Marianne F. Morse; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27217) granting a pension to Matilda Howe; to the Committee on Invalid Pensions.

By Mr. DOREMUS: A bill (H. R. 27218) granting a pension to Adelaide A. Harris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27219) granting a pension to Sarah J. Donaghy; to the Committee on Pensions.

Also, a bill (H. R. 27220) granting an increase of pension to James H. Langley; to the Committee on Invalid Pensions.

By Mr. FORDNEY: A bill (H. R. 27221) granting an increase of pension to Reuben Brink; to the Committee on Invalid Pensions.

By Mr. FOSTER: A bill (H. R. 27222) granting an increase of pension to William C. Harned; to the Committee on Invalid Pensions.

By Mr. GOULD: A bill (H. R. 27223) granting an increase of pension to William Acorn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27224) granting an increase of pension to Simon Dyer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27225) granting an increase of pension to Gilbert H. Hodgdon; to the Committee on Invalid Pensions.

By Mr. GUERNSEY: A bill (H. R. 27226) for the relief of Laetitia M. Robbins; to the Committee on Claims.

By Mr. HART: A bill (H. R. 27227) granting an increase of pension to Eelenna B. Petty; to the Committee on Invalid Pensions.

By Mr. HAY: A bill (H. R. 27228) for the relief of Pierre C. Stevens; to the Committee on Claims.

Also, a bill (H. R. 27229) to correct an error in date of original appointment of Maj. William R. Sample, United States Army; to the Committee on Military Affairs.

By Mr. HAYES: A bill (H. R. 27230) granting a pension to Charles A. Reed; to the Committee on Pensions.

Also, a bill (H. R. 27231) granting an increase of pension to Emma McClellan; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 27232) granting an increase of pension to Elizabeth Self; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27233) granting an increase of pension to G. P. Smiley; to the Committee on Invalid Pensions.

By Mr. HOLLAND: A bill (H. R. 27234) for the relief of Albert Johanson; to the Committee on Claims.

By Mr. HOWLAND: A bill (H. R. 27235) granting an increase of pension to Dorothea True; to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 27236) granting a pension to Rose Butcher; to the Committee on Pensions.

Also, a bill (H. R. 27237) granting a pension to Susan E. Cline; to the Committee on Pensions.

By Mr. LANGHAM: A bill (H. R. 27238) granting a pension to Carrie Lourenia Briney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27239) granting an increase of pension to Clara S. McQuown; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 27240) granting an increase of pension to Annie Schott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27241) for the relief of the legal representatives of George W. Surbaugh, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27242) for the relief of the legal representatives of John W. Stricklin, deceased; to the Committee on War Claims.

By Mr. McGILLICUDDY: A bill (H. R. 27243) granting an increase of pension to Eliza M. Black; to the Committee on Invalid Pensions.

By Mr. MONDELL (by request): A bill (H. R. 27244) for the relief of Fred C. and C. Hellen Fisher; to the Committee on the Public Lands.

By Mr. MOSS of Indiana: A bill (H. R. 27245) granting a pension to Clara Ward; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27246) granting a pension to Nancy Walton; to the Committee on Invalid Pensions.

By Mr. MOTT: A bill (H. R. 27247) granting an increase of pension to Edward H. Crandall; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27248) to appoint Bradley Winslow as colonel on the retired list of the United States Army; to the Committee on Military Affairs.

By Mr. OLDFIELD: A bill (H. R. 27249) granting a pension to Elizabeth Kirby; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 27250) granting an increase of pension to William Crom; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27251) granting an increase of pension to Charles W. Jackson; to the Committee on Invalid Pensions.

By Mr. SMITH of New York: A bill (H. R. 27252) granting an increase of pension to Horace G. Hopkins; to the Committee on Invalid Pensions.

By Mr. SPEER: A bill (H. R. 27253) granting an increase of pension to Francis M. Burch; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27254) for the relief of John Mills; to the Committee on Claims.

By Mr. STERLING: A bill (H. R. 27255) granting a pension to Charles C. Sterling; to the Committee on Invalid Pensions.

By Mr. SULLOWAY: A bill (H. R. 27256) granting an increase of pension to John P. Thurston; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 27257) to correct the military record of James A. Church; to the Committee on Military Affairs.

Also, a bill (H. R. 27258) granting an increase of pension to Sarah A. King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27259) granting a pension to Sarah J. Manspeaker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27260) granting a pension to Charles B. Marshall, alias Charles B. Andrus; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27261) granting a pension to Mary V. Doyle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27262) granting a pension to Mary E. Hart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27263) granting a pension to Melissa L. Chase; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27264) granting a pension to James W. Alexander; to the Committee on Pensions.

Also, a bill (H. R. 27265) granting a pension to Thomas J. Campbell; to the Committee on Pensions.

Also, a bill (H. R. 27266) granting an increase of pension to Thomas Higgins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27267) granting an increase of pension to John Hiet; to the Committee on Pensions.

Also, a bill (H. R. 27268) granting an increase of pension to Albert G. Ingraham; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27269) granting an increase of pension to Eli C. Lowe; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27270) granting an increase of pension to John W. Swanson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27271) granting a pension to Mary Adams; to the Committee on Pensions.

By Mr. TALBOTT of Maryland: A bill (H. R. 27272) for the relief of William Henry; to the Committee on Claims.

Also, a bill (H. R. 27273) for the relief of the heirs of Ann Gregory, deceased, widow of Charles N. Gregory, deceased, purchaser; to the Committee on War Claims.

By Mr. WILLIS: A bill (H. R. 27274) granting an increase of pension to James Bartholomew; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of citizens of Gnadenhutten, Ohio, favoring passage of legislation giving the Interstate Commerce Commission power to control the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Wisconsin: Petition of F. C. Schwalbs and 365 other citizens of Plymouth, Wis., protesting against the passage of the amended Kenyon bill (S. 4043); to the Committee on Interstate and Foreign Commerce.

Also, papers to accompany bill (H. R. 3297) granting an increase of pension to Joseph Titus; to the Committee on Invalid Pensions.

Also, papers to accompany bill (H. R. 8281) granting a pension to Catharine Beard; to the Committee on Invalid Pensions.

By Mr. DALZELL: Petition of the Order of Independent Americans, Braddock, Pa., and citizens of Pennsylvania, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. DENVER: Petition of Washington Camp, No. 5, Patriotic Order Sons of America, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. DOREMUS: Petition of the Methodist Ministers' Association of Detroit, Mich., favoring passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

By Mr. ESCH: Petition of citizens of Platteville, Wis., favoring passage of the amended Kenyon bill (S. 4043); to the Committee on the Judiciary.

By Mr. FORNES: Petition of Greenwich Council, No. 24, Junior Order United American Mechanics, and the State Camp of New York, Patriotic Order Sons of America, Binghamton, N. Y., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FRANCIS: Petition of citizens and business men of Beallsville, Ohio, favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

By Mr. FULLER: Petition of the greater Davenport committee, favoring an appropriation of $250,000 for the enlargement of the Federal artillery plant at Rock Island; to the Committee on Military Affairs.

By Mr. HANNA: Petition of citizens of North Dakota, favoring the passage of the amended Kenyon bill (S. 4043); to the Committee on Interstate and Foreign Commerce.

By Mr. HAYES: Petition of the Woman's Christian Temperance Union of San Jose, Cal., asking that the United States recognize the Chinese Republic; to the Committee on Foreign Affairs.

By Mr. HOWELL: Petition of citizens and business firms of Ogden and Layton, Utah, favoring regulation of express rates by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. LINDSAY: Petition of the Central Federated Union of Greater New York and Vicinity, protesting against the passage of the Kenyon-Sheppard bill and other bills of similar character; to the Committee on the Judiciary.

Also, petition of the United Civic and Commercial Organizations, held at Brooklyn, N. Y., favoring the passage of bill changing the pierhead line in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Rivers and Harbors.

By Mr. MOTT: Petition of the Central Federated Union of New York, protesting against the passage of the Kenyon bill (S. 4043); to the Committee on the Judiciary.

Also, petition of the Farmers' National Congress, protesting against restrictions on the freedom of the press; to the Committee on the Post Office and Post Roads.

Also, papers to accompany bill for the relief of Edward H. Crandall; to the Committee on Invalid Pensions.

By Mr. SPARKMAN: Petition of citizens of Hillsboro and De Soto Counties, Fla., favoring the passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

By Mr. TILSON: Petition of the Connecticut Editorial Association, favoring the passage of legislation repealing the newspaper publicity law; to the Committee on the Post Office and Post Roads.

By Mr. WATKINS: Petition of citizens of Sabine Parish, La., favoring the passage of the Kenyon-Sheppard liquor bill; to the Committee on the Judiciary.

By Mr. WILLIS: Papers to accompany bill (H. R. 26998) granting pension to Bateman Soule; to the Committee on Invalid Pensions.

SENATE.

SATURDAY, *December 14, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

CLAIMS OF AMERICAN CITIZENS.

The PRESIDENT pro tempore (Mr. BACON). The Chair lays before the Senate a communication from the Secretary of War, transmitting papers relative to damages to American citizens. The Chair will state that it is the package on the desk. The communication will be read.

The Secretary read as follows:

WAR DEPARTMENT,
Washington, December 5, 1912.

The PRESIDENT PRO TEMPORE UNITED STATES SENATE.

SIR: In response to Senate joint resolution No. 103, directing the Secretary of War to investigate the claims of American citizens for damages suffered within American territory and growing out of the late insurrection in Mexico, etc., I have the honor to transmit herewith

reports of the commission appointed by paragraph 27, Special Order No. 205, c. s., War Department, to investigate such claims.

Similar reports have been transmitted to the Speaker of the House of Representatives.

Very respectfully,
HENRY L. STIMSON,
Secretary of War.

(Inclosures: 4, 5, 6, 7, and 8 of 27110 W. D., and 5-27 of 1982096 A. G. O.)

The PRESIDENT pro tempore. Is it the pleasure of the Senate that this package of papers shall be printed?

Mr. GALLINGER. I think it ought to be printed. It is a very important matter.

The PRESIDENT pro tempore. The Chair will not put the question as to whether the illustrations should be printed until the Committee on Printing shall have the opportunity to examine them. So that will not be included, without special motion. Without objection the communication and accompanying papers will be printed and referred to the Committee on Military Affairs.

ASCERTAINMENT OF ELECTORS IN ARKANSAS.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of the electors for President and Vice President appointed in the State of Arkansas at the election held therein on November 5, 1912, which was ordered to be filed.

WITHDRAWAL OF PUBLIC LANDS (H. DOC. NO. 1172).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the lands withdrawn from settlement, location, sale, or entry under the provisions of the act approved June 25, 1910, which, with accompanying paper, was referred to the Committee on Public Lands and ordered to be printed.

COMMERCIAL ASSOCIATIONS IN THE UNITED STATES (H. DOC. NO. 1173).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, pursuant to law, a report by Commercial Agent E. A. Brand, containing the results of an investigation of the promotive activities of 70 commercial associations in the United States, which, with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

COTTON INVESTIGATIONS (H. DOC. NO. 1175).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, pursuant to law, a report by Commercial Agent John M. Carson, containing the results of investigations in the packing and marketing of cotton in the United States, which, with accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

TRADE WITH CUBA (H. DOC. NO. 1174).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, pursuant to law, a report by Commercial Agent A. G. Robinson, containing the results of investigations in the trade situation in Cuba, with special reference to the promotion of American commerce with that island, which, with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. SHIVELY presented petitions of Edwin L. Meek and 7 other citizens of Greensburg; C. F. Fred, Omer Stoner, R. R. Morgan, and 19 other citizens of McCordsville; and of C. W. Chadwick, R. M. Hogue, Jay Smith, and 155 other citizens of Knox County, all in the State of Indiana, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented memorials of Brewery Engineers and Firemen's Local Union No. 223, Beer Bottlers' Local Union No. 230, Beer Drivers and Stablemen's Local Union No. 220, Brewery Laborers and Ice House Employees' Local Union, No. 249, and Brewers' Local Union No. 77, of Indianapolis; of Brewery Workers' Local Union No. 78, of Logansport; of Local Union No. 283, of Anderson; and of Brewery Workers' Local Union No. 272, of South Bend, International Union of the United Brewery Workmen of America; and of members of the Turnverein, of South Bend, all in the State of Indiana, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of Rev. John O. Mosier, president, and Rev. A. G. Schafer, secretary, of the Ministerial Association, representing the Protestant churches of South Bend and Mishawaka; of T. J. Giblett and 26 other citizens of Mishawaka; of John S. Burns and 12 other citizens, of M. Clyde Horst and 13 other citizens, of J. H. Evans and 19 other citizens, of W. F. Stauffer and 36 other citizens, and of William G. Garten and 21 other citizens, of South Bend; of E. R. Atkins and 110 other citizens, of Mays and vicinity, Rush County; of W. L. Parker, H. B. Sylvester, and Frank Hanlon, of Avilla; of Dr. A. A. Thompson, Rev. B. F. Richer, and 18 other citizens, of Tyner; of Rev. A. B. Arford and Rev. S. P. De Vault, and 6 other citizens; of J. E. Fisher and 16 other citizens, of New Castle; and of Rev. John O. Mosier and 15 other citizens, of South Bend, all in the State of Indiana, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. HITCHCOCK presented petitions of sundry citizens of Weeping Water and Pawnee City, in the State of Nebraska, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. GALLINGER presented petitions of the Woman's Christian Temperance Union of Franklin, and of sundry business men of Lincoln, Woodstock, and Thornton, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of members of the National Society for the Promotion of Industrial Education, praying for the enactment of legislation providing for cooperation with the States in encouraging instruction in agriculture, the trades, and industries, etc., which was ordered to lie on the table.

Mr. WARREN presented memorials of sundry citizens of Cokeville, Wyo., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BRISTOW presented petitions of sundry citizens of Fostoria, Harlan, Greenleaf, Meridan, Richland, Ottawa, Finney, Lovewell, Republic, Barnard, Woodston, Concordia, and Clayton, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BROWN presented petitions of sundry citizens of Pawnee City, Hastings, Mitchell, and Weeping Water, all in the State of Nebraska, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a telegram in the nature of a memorial from members of the German-American Alliance Societies of Nebraska, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. McLEAN presented petitions of Local Grange No. 50, of Wapping; Central Pomona Grange, No. 1, of Plainville; Local Grange No. 51, of Bridgewater; and of Shetucket Grange, No. 69, of Scotland, all of the Patrons of Husbandry, in the State of Connecticut, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were ordered to lie on the table.

Mr. CURTIS presented petitions of sundry citizens of Hill City, Muscotah, Wakeeney, Potwin, Hoxie, and Lebanon, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. LODGE presented a petition of members of the class in sociology, Boston University, Boston, Mass., praying for the passage of the Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. MARTIN of Virginia presented sundry papers to accompany the bill (S. 4515) for the relief of Ida Banks, which were referred to the Committee on Claims.

SUPPORT OF AGRICULTURAL COLLEGES.

Mr. SMITH of Georgia, from the Committee on Agriculture and Forestry, to which was referred the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto, reported it with an amendment and submitted a report (No. 1072) thereon.

PAY OF EMPLOYEES.

Mr. WARREN. From the Committee on Appropriations I report back favorably, without amendment, the joint resolution (S. J. Res. 144) authorizing payment of December salaries to officers and employees of the Senate and House of Representatives on the date of adjournment for the holiday recess. I ask for the present consideration of the joint resolution.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 7770) for the erection of a public building at Highland, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. ROOT:

A bill (S. 7771) to authorize certain improvements at the general lighthouse depot, Tompkinsville, Staten Island, N. Y.; to the Committee on Commerce.

By Mr. GALLINGER:

A bill (S. 7772) to authorize the condemnation of land for a park at the intersection of Twenty-sixth Street, Twenty-seventh Street, and Q Street NW. and a highway from said park along the boundary of Oak Hill Cemetery and across the north part of square 1284 to Twenty-ninth and R Streets (with accompanying papers); to the Committee on Public Buildings and Grounds.

By Mr. McCUMBER:

A bill (S. 7773) providing for a commission to settle certain claims between the United States Government and the Sisseton and Wahpeton Indians and the Sioux of the Medawakanton and Wahpekoota Bands; to the Committee on Indian Affairs.

By Mr. DU PONT:

A bill (S. 7774) granting a pension to Mary Bottino; to the Committee on Pensions.

By Mr. PAGE:

A bill (S. 7775) granting an increase of pension to John B. Ladeau; to the Committee on Pensions.

By Mr. O'GORMAN:

A bill (S. 7776) granting an increase of pension to William H. Wheeler (with accompanying paper); to the Committee on Pensions.

AMENDMENT TO LEGISLATIVE APPROPRIATION BILL.

Mr. NEWLANDS submitted an amendment proposing to appropriate $6,350 for the maintenance of a mint at Carson, Nev., intended to be proposed by him as an amendment to the legislative appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

WITHDRAWAL OF PAPERS—ANTON W. STUMPE.

On motion of Mr. FLETCHER, it was

Ordered, That permission is hereby granted to withdraw from the files of the Senate papers in the case of Anton W. Stumpe, Senate bill 3866, Sixty-second Congress, no adverse report having been made thereon.

PANAMA CANAL TRAFFIC AND TOLLS.

Mr. BRANDEGEE. Mr. President, I have received a letter from Prof. Emory R. Johnson, the special expert on Panama Canal traffic and tolls, which I will send to the desk and would like to have the Secretary read, and then I will offer a resolution.

The PRESIDENT pro tempore. The Secretary will read the communication.

The Secretary read as follows:

(Maj. F. C. Boggs, Corps of Engineers, United States Army, chief of office.)

ISTHMIAN CANAL COMMISSION,
WASHINGTON OFFICE,
December 13, 1912.

Senator FRANK B. BRANDEGEE,
United States Senate, Washington, D. C.

DEAR SENATOR BRANDEGEE: The report which I prepared by direction of the President upon Panama Canal traffic and tolls is now complete, and the tolls have been fixed by the President upon the basis of the data contained in this report. A limited edition of the report has been issued by the Isthmian Canal Commission. It may possibly be the desire of Congress to have this report printed as a public document.

There is a very general public interest in the question of Panama tolls, and it is certain that the request for the report will exceed the supply which the Canal Commission thought justified in having printed. It will not be expensive to issue this report as a public document, because the printing office now has the electrotype plates from which the Canal Commission's edition was printed. Moreover, the lithograph plates from which the maps accompanying the report were printed can also be used in printing the maps for the report when printed as a public document.

Very truly, yours,
EMORY R. JOHNSON.

Mr. BRANDEGEE. I have the report of which Mr. Johnson speaks in my hand. I have looked it through. I think it is of more than temporary value; I think it will be of permanent value to many industries and commercial bodies and legislators all through the country. I have spoken to the chairman of the Committee on Printing in relation to the matter, who has had some estimate of the cost made. I offer the resolution which I send to the desk and ask that it may be referred to the Committee on Printing together with the report which I have sent to the desk.

The resolution was read, as follows:

Senate concurrent resolution 33.

Resolved by the Senate (the House of Representatives concurring), That there shall be printed and bound in cloth, with accompanying maps, 6,000 copies of the Report upon Panama Canal Traffic and Tolls prepared for the President by Emory R. Johnson, special commissioner on traffic and tolls; that the copies here ordered shall be printed from plates recently prepared for the Isthmian Canal Commission and now in the possession of the Government Printing Office; and that of the copies printed 1,000 shall be for the use of the Senate, 2,000 for the use of the House of Representatives, and 3,000 shall be delivered to the superintendent of the House document room for distribution.

The PRESIDENT pro tempore. The resolution will be referred to the Committee on Printing, together with the document presented by the Senator from Connecticut.

HOUR OF MEETING ON MONDAY.

Mr. KENYON. I desire to make a motion that the Senate shall meet at 11 o'clock on Monday. I do this because a very important bill has been made the special order for Monday, and it will take some time for consideration.

The PRESIDENT pro tempore. The Senator from Iowa moves that when the Senate adjourns to-day it adjourn to meet at 11 o'clock a. m. on Monday.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. 3436) granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse, and it was thereupon signed by the President pro tempore.

ELECTION OF PRESIDENT PRO TEMPORE.

Mr. SMOOT. I offer the following order, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SUTHERLAND in the chair). The order will be read.

The Secretary read as follows:

Ordered, That JACOB H. GALLINGER, a Senator from the State of New Hampshire, be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including December 16, 1912, to and including January 4, 1913; that AUGUSTUS O. BACON, a Senator from the State of Georgia, be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including January 5, 1913, to and including January 18, 1913; that JACOB H. GALLINGER be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including January 19, 1913, to and including February 1, 1913; that AUGUSTUS O. BACON be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including February 2, 1913, to and including February 15, 1913; and that JACOB H. GALLINGER be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including February 16, 1913, to and including March 3, 1913.

Mr. BRISTOW. I ask that the order go over, Mr. President.

Mr. SMOOT. Does the Senator desire to have the order considered Monday, or shall I withdraw it?

Mr. BRISTOW. I want to consider it somewhat. I may not object to the order Monday, but I do want to consider it.

Mr. SMOOT. Then, I ask that the order go over and lie on the table.

The PRESIDING OFFICER. The Senator from Utah asks that the order lie on the table. Without objection, it is so ordered.

HOUSE BILL REFERRED.

The following bill of the House of Representatives was read twice by its title and referred to the Committee on Pensions:

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate resume consideration of House bill 19115, known as the omnibus claims bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. ROOT. Mr. President, I understand that the chairman of the Committee on Claims has examined the amendment which I presented a few days ago for the payment to the widow of Charles G. Eddy, and is satisfied that the Committee on Claims has passed upon it and that it is a proper amendment to be admitted. I move the adoption of the amendment.

The PRESIDENT pro tempore. The amendment submitted by the Senator from New York will be read.

The SECRETARY. On page 268, after line 9, insert:

To Elizabeth B. Eddy, widow of Charles G. Eddy, deceased, $602.92.

Mr. CRAWFORD. Mr. President, the other day after the Senator from New York brought this matter up I referred it to the clerk of my committee and found that the Senator's statement was correct, that the bill had been reported favorably from the Committee on Claims and had passed the Senate, so that the Senate committee and the Senate are committed to the bill. I have no authority from the committee to accept it except as it may be found in a statement of that kind; but I am willing that the expression of the Senate should be taken upon it.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRAWFORD. I understood from the Senator from Alabama [Mr. JOHNSTON] that he was going to present his amendment this morning.

Mr. JOHNSTON of Alabama. I propose the amendment to the bill which I send to the desk, to come in on page 267, at the end of line 16, after the words "this act."

The PRESIDING OFFICER (Mr. SUTHERLAND in the chair). The amendment proposed by the Senator from Alabama will be stated.

The SECRETARY. On page 267, at the end of line 16, after the word "act," it is proposed to insert:

And section 3480 of the Revised Statutes, so far as applicable to these claims, is hereby repealed.

Mr. JOHNSTON of Alabama. Mr. President, that amendment comes in at the conclusion of the following proviso:

Provided, That in the settlement of claims for longevity pay and allowances on account of services of officers in the Regular Army arising under section 15 of an act approved July 5, 1838, entitled "An act to increase the present military establishment of the United States, and for other purposes," and subsequent acts affecting longevity pay and allowances, the accounting officers of the Treasury shall credit as service in the Army of the United States, within the meaning of said acts, all services rendered as a cadet at the United States Military Academy and as an enlisted man or commissioned officer in the Regular and Volunteer Armies, and no settlement heretofore made shall preclude a settlement under the terms of this act.

Mr. President, this proviso was offered because the accounting officers of the Treasury had refused a large number of officers this pay, amounting, as I am informed, to a million dollars. My amendment provides for the repeal of section 3480, so far as this pay for longevity allowance shall apply to officers who resigned from the Regular Army and afterwards joined the Confederate Army. The amendment is exactly in line with the amendment brought in by the committee. It applies to the same subject, and to that alone. It applies to officers who resigned from the Regular Army and afterwards joined the Confederate Army. Some of them resigned before the commencement of the war and not for the purpose of joining the Confederate Army, but afterwards did join it. I remember one case, that of Gen. D. H. Hill, who had resigned one or two or three years before the war commenced and afterwards took service in the Confederate Army.

This amendment makes no sort of provision for the payment of these claims, but it is simply for the accounting to be allowed, notwithstanding section 3480 of the Revised Statutes. That section has been twice modified in regard to other claims.

I want to say that the amount involved in the amendment, so far as I am informed, is a little over $100,000, to pay small sums to the children and grandchildren of the officers of the Confederate Army who were graduates of West Point or who were in the Army before the war commenced.

I think it is time that such discriminations as this should cease. I read here as amongst a few officers who would get some small stipend or whose descendants would get it Archibald Gracie, who was a brigadier general in the Confederate Army and the father of the man who came near losing his life on the *Titanic*. He would get $60.60. The descendants of Stonewall Jackson would get $292; the descendants of Fitzhugh Lee would get $438; and those of Joseph Wheeler would get $219.

It seems to me, Mr. President, that as to some of these gentlemen it is a curious time, because of their participation in the so-called rebellion, to make objection to the payment of sums that were actually due them from the United States, when they afterwards bore arms in behalf of the United States, as was the case with Gen. Fitzhugh Lee and Gen. Joseph Wheeler.

It seems to me also that it is time that this prohibition which was raised by this statute passed immediately after the war, when the feelings of all were aroused and when the passions had not cooled down, should be finally settled and a just claim against the United States should not be denied to the descendants of these men who served their country faithfully while they were in the Regular Army of the United States. I therefore want to see this amendment prevail.

There is no appropriation provided for in the amendment—none at all. It simply permits the accounting officers to audit these claims. The question of whether these men shall be paid or not will arise when their claims shall have been adjusted by the auditors and presented to Congress for payment. I hope, Mr. President, that there will be no objection to the amendment.

Mr. CRAWFORD. May I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from South Dakota?

Mr. JOHNSTON of Alabama. Certainly.

Mr. CRAWFORD. Is the object of the amendment simply to give these men such standing that their claims may be referred to the Court of Claims, audited there, and the amounts found due them ascertained there and returned here, so that their claims may be brought up for consideration in the future?

Mr. JOHNSTON of Alabama. It certainly is, sir. It merely puts them on the ground that no charge of disloyalty shall be held up in the face of these just claims which they have against the United States.

Mr. CRAWFORD. It seems to me that there would be no sound objection to having them go to the Court of Claims to ascertain the amount that is due to them if they are in the class of these other officers, and let Congress take care of them in the future.

The objection I have to the amendment, as I understand it, is that it is not germane to the purposes of the pending bill—that it is outside of the scope of the bill. It is seeking not to allow and pay claims that have been established, but to repeal a statute for the purpose of having these claims investigated. While I have considerable sympathy with what the Senator from Alabama has said about discriminations against men like Fitzhugh Lee and Gen. Wheeler, my objection to the amendment is that the committee has never considered it; that it is not within the scope of the purposes of this bill; and I do not like to open the door for matters that it seems to me are, as I have said, outside of the legitimate scope of the bill.

Mr. JOHNSTON of Alabama. Mr. President, this is exactly in line with the proviso of the committee that certain officers whose claims had been adversely adjudicated by the Treasury Department should have the right to have an accounting made of their claims. It is not a question of res adjudicata; and this is a poor time, it seems to me, for the Senate of the United States to say that these men who rendered services before the war commenced, and to whom the Government of the United States was greatly indebted, shall not have an accounting and an ascertainment of their claims, and then have the question of their payment considered when that accounting comes in. I hope that there is no Senator here who will object to such a just provision as the one which I have proposed.

Mr. LODGE. Mr. President, as I understand, this amendment will have the effect of putting the claims which the Senator from Alabama [Mr. JOHNSTON] has described on the same footing as all other claims which are covered by the proviso offered by the committee on page 267.

Mr. JOHNSTON of Alabama. Precisely.

Mr. LODGE. That is, when proved, they shall be paid. I understood that the committee had brought in a general provision here, as I read the proviso, in order to prevent these claims being brought forward one by one, as they have been, on this bill, and to make a general law which shall cover them all as they are liquidated by the accounting officers of the Treasury.

Mr. President, the amendment which the Senator from Alabama proposes repeals a statute. That statute now prevents the class of claims for longevity pay which he has described from being treated by the accounting officers of the Treasury. It seems to me that the question involved goes beyond any mere matter of claims or of the payment of money. The amount of money involved is not large, but the question of feeling involved is very large indeed. The statute which the Senator seeks to repeal is a statute which was passed in war times, or immediately after the war. I think we can all say now that at that time it was a natural statute to be passed, but it was distinctly a punitive statute; and it seems to me that now the time has come when we can remove from our statutes all that were of a punitive nature.

There have been one or two propositions offered here with a most admirable purpose, directed toward the obliteration, if they are not already obliterated, of the old feelings of Civil War times. I have thought sometimes that some of those propositions might have the very opposite effect; that they might tend to do the very thing that they were intended to prevent; that they might reawaken old feelings which ought to slumber and renew the remembrance of a bitterness which we all desire to forget; that they might revive the memory of the old, unhappy, far-off things and the battles of long ago, which we had rather not remember except as history.

No such objection can possibly apply in this case. This is, as I have said, a penitive statute—it is half a century now since the war—and I think we had better efface it from the statute book, not for the purpose of giving these small sums of money—that is not, to my mind, the real object to be attained—but to remove that result of the old war-time feeling from the statute book.

The men or the descendants of the men who will be benefited by this action—and the benefit is not large in any individual case—would appreciate, I think, the feeling that was manifested a great deal more than the trifling sum of money which they would receive.

Some of those men, as the Senator from Alabama has said, wore the uniform of the United States in the War with Spain. Fitzhugh Lee and Joseph Wheeler were generals of the United States. They were glad to put on the old uniform again, and we were glad to have them do it; and I should be glad to have the statute in question removed, so that their descendants may receive the trifling amount of money which would come to them. I think that after those men—I take those two as examples—have worn the uniform of the United States, the time has come to wipe from the statute book any statute which reflects in any way upon their conduct in an earlier day. There are sons of some of these men, if I am not mistaken, who are now in the Army of the United States; there were others, younger men, descendants of the men who are affected by this statute, who certainly were in the Spanish War to my knowledge, in addition to the two very distinguished men whom I have mentioned.

I think under those circumstances, Mr. President, that it is a good thing for us as a country to remove that particular clause from the statutes of the United States. I am not concerned with the money, but I am concerned with obliterating something which now, 50 years afterwards, still embodies in the cold lines of the statute a feeling which, however natural at the time, we all want to feel, and we do feel, is now dead forever.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alabama [Mr. JOHNSTON].

The amendment was agreed to.

Mr. CRAWFORD. Now, Mr. President, with the exception of an amendment about which the Senator from Nevada spoke—and he is not present to-day and was not yesterday—the French spoliation amendment is the only one pending not disposed of.

Mr. LODGE. Mr. President, the amendment proposed by the Senator from South Dakota to the French spoliation claims amendment has now been printed in proper form, and I suppose the amendment ought to be read. I ask that the amendment be read as proposed. It amounts in substance to a substitute.

Mr. CRAWFORD. Mr. President, I wish to say to the Senator——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from South Dakota?

Mr. LODGE. Certainly.

Mr. CRAWFORD. I wish to say to the Senator that we have just now discovered that the amendment is not printed correctly. It is in worse shape than it was yesterday.

Mr. LODGE. I have not examined it.

Mr. CRAWFORD. I am amazed to find that an amendment like this can not be brought back here in a form somewhere near like the way in which it was submitted. Whole paragraphs are divided, and parts of items that belong under one ship are in a clause under another ship. I insist that we have this amendment brought back here in proper form. I did not leave it in an unintelligible condition when I handed it up. We went over it carefully to determine how it should be printed and brought back here, but it is in worse condition this morning than it was yesterday.

Mr. LODGE. If the Senator will allow me, of course when I referred to the amendment as being in proper form I had not examined it, but I assumed that it was in proper form. If, however, it is all in confusion——

Mr. CRAWFORD. It is in confusion.

Mr. LODGE. I do not see how we can possibly undertake to deal with it now.

Mr. SMOOT. I will say to the Senator from South Dakota that I will send immediately for the printing clerk and have the original copy of this amendment returned from the Printing Office, and ask the Senator to call attention to where the mistakes are. I suppose we might get the copy back—it will probably be impossible to get it back by 1.30 o'clock—but we could get it some time later this afternoon.

Mr. LODGE. I think we ought to have the amendment in proper form if we are going to deal with it.

Mr. SMOOT. Entirely so.

Mr. LODGE. Then, the amendment will have to go over for the present.

Mr. CRAWFORD. I will call the Senator's attention to an item here. Here is the vessel ship *Six Sisters*, Daniel Baker, master.

Mr. SMOOT. On what page is it?

Mr. CRAWFORD. Page 96. Now, there is only one ship *Six Sisters*, with Daniel Baker, master. That we all know. That is on page 96. On page 99 is the item, "the vessel ship *Six Sisters*, Daniel Baker, master," again; and when the items of loss in that vessel are given they are different items from those on page 96.

Mr. LODGE. That is a repetition.

Mr. CRAWFORD. It is a repetition of the name of the vessel, but not a repetition of the items under the name.

Mr. LODGE. It is a repetition of the items without the Senator's amendment, and it ought not to be in both places.

Mr. SMOOT. It is a repetition?

Mr. LODGE. It is a repetition.

Mr. CRAWFORD. Page 98 is all in error.

Mr. LODGE. Of course, we can not deal with the amendment in that shape.

Mr. SMOOT. It will be impossible to do so, and it will have to go over.

Mr. CRAWFORD. It does not seem to me that because of the errors in printing the amendment it is necessary to delay the discussion, unless we are going to discuss individual items.

Mr. LODGE. I confess I for one would like to know the Senator's reason in some of these cases, at all events.

Mr. CRAWFORD. I can give it now.

Mr. LODGE. I know the Senator has given a great deal of attention to the matter. In fact, I have seen his pamphlet on it.

Mr. CRAWFORD. I can do that in general and in reference to the purposes of my amendment. It is not necessary to wait until it is reprinted in order to do that.

Mr. LODGE. I should be very glad to have the Senator explain some of the items.

Mr. CRAWFORD. I call attention, in the first place, to the difference in the character of some of these claims, even for property losses. I call attention to one of the cases which I think presents the strongest sort of case that is found in the whole list, the vessel schooner *Betsey*, which is No. 50 in the list reported by the committee, and which is included in the amendment.

Mr. TOWNSEND. On what page?

Mr. CRAWFORD. On page 70 of the separate pamphlet, and it is No. 50 in the division of the report which deals with French spoliations, page 309 of the committee report. Here was a vessel that was on a peaceful commercial voyage from Boston to Cape Francais, in the West Indies. Upon her arrival at Cape Francais she was confiscated by order of the French administration there. After this vessel—sailing from Boston, Mass., to Cape Francais, and carrying a cargo of pork, hogs' lard, butter, bacon, cheese, soap, candles, fish, beef, flour, and pine boards—arrived at Cape Francais, one of the West Indies Islands, she was seized by the French Government on that island, and they took the cargo and confiscated it.

They did it for the purpose of relieving the French garrison, which was without provisions and destitute. They did not do it as a hostile act. They did it as an act of necessity to prevent the garrison from actually starving for want of food. The commander of the garrison promised the captain of this vessel that the cargo would be paid for by the French Government at current prices. It was never paid for. The commander of that ship was an American citizen. That vessel was a registered American vessel sailing out of Boston, Mass. The records show that and show its value, and that apparently was agreed upon between the parties.

The owner of the vessel was Samuel Dowse, an American citizen. The owners of the cargo were American citizens.

That claim comes down to us. It has no insurance risks involved in it. It has no question of freight earnings involved in it. It has no great sum paid as a premium upon insurance on it. It is a clean-cut case of these people depriving the Americans of this property, and there is no indication that it was done in time of war.

Now, I call attention to that as a type of claim which you will find in this bill. I want to call attention to another one of a good deal the same character, and that is the sloop *Farmer*, which is No. 60 in this report. You will find this in regard to the sloop *Farmer* on page 325 of the report.

This sloop was on a peaceful commercial voyage from Boston, Mass., to Trinidad. She was seized by a French privateer and taken to Guadaloupe, and there the vessel and cargo were condemned by a French prize tribunal sitting at Bassaterre. No grounds whatever are shown. The examination by the French authorities of the master and supercargo shows that the vessel had not violated her obligations of neutrality. These are matters of record, because these prize tribunal proceedings were matters of record and the records are in existence, and so there can not be any dispute in regard to it. No grounds are given for the seizure. The vessel had not violated her obligations of neutrality. Her voyage was peaceful. No part of her cargo was contraband. None of her papers were thrown overboard or concealed. The owners of both vessel and cargo were American citizens.

The report of the prize master of the privateer shows that the *Farmer* did not resist search or try to escape and that she carried a register, sea letter or passport, agreement with the crew, invoice of her cargo, and a certificate of clearance from the custombouse at Boston and Charlestown.

Mr. LODGE. From what page is the Senator reading?

Mr. CRAWFORD. Page 325 of the committee's report.

This was a registered American vessel, built in the State of Connecticut in 1791 and owned by American citizens. Her cargo consisted of beef, bacon, lard, flour, tobacco, rice, gin, hams, butter, salmon, biscuit, shingles, boards, wine, staves, hoops, soap, and plank, all owned by William Marshall, jr., an American citizen.

William Marshall, jr., had a half interest, as I understand, in the vessel. They found the value of the vessel and the value of the cargo to be $6,940.57. Now, that man got insurance on that cargo and one-half interest in the vessel amounting to $6,500. His loss was simply the difference between $6,940.57 and $6,500. That was his actual property loss—$440.57. But the court found that he had a half interest in the freight earnings of that ship. It is not clear whether value found on the cargo was the value at the place of shipment or the value at the place of seizure or at the place of destination. He owned a half interest in the vessel, and he owned this interest in the cargo, which was his property.

But now, in addition to allowing him his actual property loss, which I think is clearly established, they allow him one-half of the freight earnings of that vessel, and then they find in his favor the amount that he paid as premium on this insurance, which was a premium paid at the rate of 17 per cent. Mr. Marshall, in order to get that insurance upon his cargo, paid the underwriters 17 per cent, and the premium which he paid amounted in the aggregate $1,105.

I am opposed to giving back to the estate of Mr. Marshall $1,105. If that vessel had been destroyed in a tornado and these insurers had reimbursed him under the policy, they would have paid him his property loss. They might under some rule, perhaps, have paid him freight earnings, or a certain portion of them, but they would not have paid him the $1,105 premium which he had given to them. He paid that for his protection. He paid that for his policy under which he recovered for his property loss and freight earnings. He could not have recovered it under any other circumstances in the world; and I am opposed, even in a good, clear case, as I think this is, if we eliminate the question upon which my friend from Kansas and I differ about there being an actual state of war, to the repayment of the premium. I insist that he has no equity and no right to claim, in addition to being absolutely restored and repaid the loss he sustained, to be repaid the amount he paid to the insurance company for protection which he received. So my amendment strikes out that item of $1,105.

Mr. TOWNSEND. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Michigan?

Mr. CRAWFORD. Yes.

Mr. TOWNSEND. Do I understand the Senator to say that he would be willing to pay $950 freight earnings?

Mr. CRAWFORD. No; I would strike that out. I give him the actual property loss. I think in this case the honor of the country will be vindicated and the rights of these people, which they are entitled to have recognized, will be sufficiently recognized if at this late day we pay them back their actual property loss. That is my own view of that.

Now, I want to call attention to another case. There is some curious and interesting reading here.

Mr. SMOOT. Will the Senator yield?

The PRESIDING OFFICER. Does the Senator from South Dakota yield?

Mr. CRAWFORD. I do not want to be interrupted too much, because if I am we will get into a discussion that will be unduly long.

Mr. SMOOT. This will not take very long. It is not a discussion as to these claims, but refers to the printing.

Mr. CRAWFORD. Very well.

Mr. SMOOT. I have here the amendment offered by the Senator from South Dakota, and I notice that the Public Printer has printed the original amendment exactly as it is.

Mr. CRAWFORD. Let me see it.

Mr. SMOOT. The reason I speak of it is that I should like to ask the Senator if he has somebody whom he would like to go over this with the printed amendment.

Mr. CRAWFORD. Yes. My clerk understands it thoroughly, and can go over it and check it up. It would have been better, perhaps, to have brought the proofs to us.

Mr. SMOOT. I have the original here.

Mr. CRAWFORD. Then the clerk will go over it.

Mr. SMOOT. The other amendment here, on page 3, I find is also correct. If the clerk of the committee will, with the printing clerk, run over them hurriedly, as to the errors, perhaps we can have them fixed without reprinting. I do not think there will be very many.

Mr. CRAWFORD. Very well; any way so that we can get it fixed up. But it is annoying to have this confusion in the amendment.

Mr. President, I wished to call attention to a case, but I can not turn to it just now.

Here is another case. A vessel went from one of our American ports to French Guinea. At Guinea the French seized the vessel, seized the cargo, and sold both of them. It did not even divide the money among the prize crew, but put it into the treasury of the Provincial Government and reported it to the French Government. A letter was received from Talleyrand himself saying that this was an act of embargo and sequestration. "There is no war existing between France and America." That was the declaration of the French minister. That money was never turned over to those owners, and so far as the record discloses is still in possession of that Government, if that Government is still in existence. It was a cold-blooded case of seizing the property.

There is no question about its being a vessel of American registry or about the shipowners being American citizens and of the owners of the cargo being American citizens. There is the letter from Talleyrand that there was no existing war between the two countries, and that fund, which was not even given to the prize crew, was paid into their treasury, and they have got it yet.

That is another type of case in this bill. I call those good cases, but I want to call attention to some that I think are wholly unwarranted cases. For instance, No. 23. I think my amendment strikes out this claim entirely. Here was the *Chace* going from Boston to Norfolk and arrived at Norfolk. Disposing of her cargo there, she reloaded with tobacco, which was carried to Havre de Grace, France, by way of Falmouth, England. Disposing of her tobacco at Havre de Grace, she then solicited freight carriage to and from ports in France, Spain, and England, and made trips to Bremen and Portugal; she carried cargoes of freight, but not contraband, back and forth between ports in these countries. She left Boston July 29, 1794, and started from Lisbon for Baltimore September 20, 1797. On January 17, 1798, while steering for the harbor of Bassaterre, island of Guadaloupe, for water and provisions, she was seized by a French privateer, and a French prize tribunal at Bassaterre condemned both vessel and cargo, which became a total loss to the owners. The alleged grounds for condemnation were that she did not go to her place of destination and had altered her course, and was suspected of being in connivance with the enemies of the French Republic in France and elsewhere; also that her master did not have a sea letter. At the time of seizure her cargo was salt and mats. The names of the owners of her cargo are not given, and it does not appear whether they were American citizens or not. No claim is made in their behalf.

Now, with reference to the ownership of the vessel, there is not any satisfactory proof. It is not shown that the cargo belonged to American citizens, and when it comes to the ownership of the vessel the Court of Claims finds:

V. It is alleged that one Joseph Blake and David Greene effected insurance in the office of Peter C. Brooks in the sum of $10,000 on said vessel and $4,000 on her freight for the voyage from Lisbon to Baltimore, paying therefor a premium of 6 per cent, by policies underwritten by sundry persons, citizens of the United States, and were afterwards

paid by said underwriters the sum of $14,000 as and for a total loss by reason of the premises. It does not appear that David Greene and Joseph Blake had any interest in said vessel or the freight; neither does it appear that they acted as agents for the owners of the vessel.

These men were paid insurance, and it is not shown they had any interest in the vessel or in the freight. It is not shown that the owners of the freight were American citizens. They come in here and ask to have their losses repaid to them. I think there is a total failure to prove the essential facts in that case. They prove the value of the vessel; they prove the insurance paid by these men, but they do not prove ownership either of the vessel or cargo.

Now, here is another one, No. 40. It involves one of these insurance premiums I am citing these as types. No. 40 is a case in which the owner of the cargo and vessel was a man named Matthew Bridge. Matthew Bridge was an American citizen; the vessel was a registered American vessel; and apparently the confiscation was absolutely without any justification. The loss of the cargo and all that is proved by the records from the prize court. But Matthew Bridge, who owned this vessel and a part of the cargo, himself had insurance. It was covered by insurance. Let me read:

Value of vessel	$5,292.00
Value of portion of cargo owned by Matthew Bridge	14,081.56

So that the total value of his holdings there was $19,373.56.

He had freight earnings, he claims—and it is always a doubtful question whether they enter into the value which is found or whether they do not. That is never made clear here. But he had freight earnings, he claims, of $2,520. Now, Briggs paid as premium on insurance on the cargo $2,880. There was a rescue of this vessel by an English vessel after she had been captured by the French, and then there was the salvage rule, which applies in that case, and the insurance companies paid the expenses in that proceeding. Here is what they paid him altogether. They paid him $16,000 as insurance. That overpaid his property loss and his freight earnings both added together. It overpaid both those items to the amount of $433.27. He got that much of his insurance premium back; and he has an item in this bill to give him the rest of the insurance premium which he paid.

I can not believe that this country is obliged, or that any country would be obliged, after Mr. Briggs had received from the insurance companies the value of the vessel, the value of the cargo, of his freight earnings, and $433 out of what he paid for premium, that they should give him about $1,500 in addition to that to reimburse him for his premium. So my amendment here is to strike out that claim for premium.

Now, with reference to underwriters. These underwriters frequently charge as high as 60 per cent. It was a time of great risk when these vessels were being preyed upon, and in a good many instances they charged as premium 60 per cent; very often they charged 30, more often they charged 25, and as a general rule the premiums would run from 15 to 17½ and 20 per cent.

Now, in a clear case where the underwriter paid these losses and it was a clear case of spoliation without justification, I for one believe they ought to be repaid their actual loss, but they ought not to be allowed, in addition to their actual loss, to keep in their pocket 60 per cent of profit. I do not believe it is either moral or legal; and we can not discuss mere technical questions of international law in dealing with a question over 100 years old; we should discuss it as a question of simply preserving the good name of our country and acting honorably toward these people. I think we ought to deal in a spirit of substantial justice, but when it comes to paying men all their actual losses and then, in addition to that, allowing them to keep the premiums, amounting to 60 per cent and 30 per cent and 25 per cent and 17½ per cent and 15 per cent, I do not believe in that. So I move to strike it out.

Now, here is another instance. Here was an old slaver in 1798 that went over to the Gold Coast of Africa and got, I think, 160 negroes aboard—stole them, of course—and was bringing that cargo to Savannah, Ga., when they put in at one of the West India ports to get water, and the privateers seized the vessel and took the negroes and turned them over to the governor of the Province, and he used them on their plantations.

Now, this man's children come up here in the twentieth century, when we look back upon that period as one of horror, and they ask that he be reimbursed his freight earnings on those negroes from the West Coast of Africa and for his losses in a business of that kind. It is true that there was a statute which legalized the slave trade in that period, but I do not think we are under any obligations in preserving the good name and honor of the United States to pay the descendants of the owner of that ship for what he lost because the Frenchmen stole his negroes away from him when he had stolen these negroes from their native land on the coast of Africa and was bringing them to this country for profit. I would strike that out.

Mr. LODGE. I will say to the Senator, if he will allow me to interrupt him, that I am not in favor of any claims of a slaver.

Mr. CRAWFORD. I knew the Senator would not be. I do not say this in any vaunting spirit at all, but I believe I am the first Member of the Senate who has ever sat down and taken those reports from the Court of Claims and gone through each case carefully to see actually what it contains. I am inclined to think that is true. At least I think if it had been done before items like this old slave trader's claim would not be in this bill. Now, I strike that out.

I strike out of the amendment all the claims that are for nothing but insurance premiums that the man paid for the protection which he got, and I strike out when I come to reimburse——

Mr. POINDEXTER. Will the Senator allow me to ask him a question?

Mr. CRAWFORD. Certainly.

Mr. POINDEXTER. It is true, is it not, that if there had not been any seizure of the ship in such a case, the man would have paid the insurance premium?

Mr. CRAWFORD. Certainly.

Mr. POINDEXTER. It made no difference whatever; the premium must be paid.

Mr. CRAWFORD. It made none whatever. I called attention to that. I am not willing to allow the children of these underwriters to keep 60 per cent profit and restore to them what they paid in adjusting the loss. I want to deal with this matter in a broad spirit of justice to these people, and I think we do it when we repay their actual property losses. So I have proposed in my amendment to strike out insurance premiums, to strike out freight earnings, and to reimburse them in the claims. In only two or three cases have I stricken out the entire claim. That is the principle I would apply in this case.

I want to be honest with myself and honest with the Senate. I believe profoundly that those old sailors have never been justly treated as to their actual property losses; I do not believe their descendants have been justly treated; but I stood with the other members of the committee in considering the whole question as to whether or not it was wise to put this amendment on the bill. Considering the decided difference in views in regard to it, the intense hostility to it in the House of Representatives, as we wanted to dispose of many of these claims and get some provisions in the statute which seem to be demanded, I accepted the judgment of the committee that it was not advisable to put the French spoliation claims amendment on this bill, and I am going to remain loyal to the committee on that proposition. But I think before the Senate commits itself on an amendment like that offered by the Senator from Massachusetts it should adopt my amendment to it cutting out those excesses which I do not believe have any foundation in justice here. I have given these instances to show the general purpose of my amendment, and that is all I desire to say at this time in regard to it.

Mr. LODGE. Mr. President, if I had the time and opportunity to go over each one of these claims and examine them with the Senator from South Dakota I have no doubt we could agree on a good many of them. I certainly would agree about the slaver. I do not know whether there is any other slaver case or not.

Mr. CRAWFORD. There is only one slaver claim.

Mr. LODGE. There is only one. It ought to be stricken out, of course. There is, however, something to be said on the general proposition. I have looked into the law of the matter somewhat. These claims are carefully examined by the Court of Claims. All the points the Senator speaks about—freight earnings, insurance premiums, and insurance—have been elaborately argued. The Government of late years, through the Department of Justice, has resisted these claims in the court. It has carried on a very strenuous opposition there, and had one case after another most elaborately argued. Those arguments have not been made before the Committee on Claims. They have no knowledge beyond the bare findings as to just the reasons of the Court of Claims for reaching their decisions on all these points.

Moreover, the Court of Claims has shut out a great many claims that were made of different kinds—for personal injuries and things of that sort. Of course, if we are going to reopen all the decisions of the Court of Claims and review them here we reopen them for the claims which they have ruled out as well as for the claims they have admitted. I do not suppose,

perhaps, there is much danger of that in these cases, but this would make a precedent for other cases.

Now, I desire to call attention to what the Court of Claims have excluded and to what the Court of Claims have admitted and why they have admitted them. I am speaking now of some of those items of claims that the Senator from South Dakota has been speaking about and which he thinks ought to be stricken from the bill.

I will take, first, some of the claims which were thrown out and which the claimants, at least, believed should have been allowed on every ground of equity and morals. Take, first, the claims for vessels and cargoes captured between September 30, 1800, and July 31, 1801. The title of the jurisdictional act of January 20, 1885, which is now the Twenty-third Statute at Large, page 283, is "An act to provide for the ascertainment of claims of American citizens for spoliation committed by the French prior to the 31st day of July, 1801." The date given in the title of the act is repeated in the first section of the act. There was a reason for fixing that date of July 31, 1801, and not some previous date. It was based upon the fact that the commission which distributed the French indemnity of 1831, which was in payment for spoliations committed by the French subsequent to the date of those which were released as against France by the treaty concluded in 1800 and ratified in 1801, excluded from consideration all claims for spoliations committed prior to the 31st day of July, 1801. This was done on the ground that France had been by the treaty of 1801 released and discharged from the payment of all claims for spoliations arising previous to that date.

Yet, in the face of this fact and in the face of the intention of Congress, shown in the jurisdictional act, to bring in all claims down to the 31st day of July, 1801, the Court of Claims decided in the case of the schooner *Jane*, Israel Snow, master (23 Ct. Cls., 236), that France was obligated by the treaty of 1800 and 1801 to restore or pay for all property captured after September 30, 1800, and that therefore these claims were not among those released to France by the treaty of those years. The owners of ships who had their cargoes captured between September 30, 1800, and July 31, 1801, were thus unable to obtain redress from France under the treaty of 1831, because the commission had held that France was not liable for their payment.

They have equally been unable under the act of 1885 to obtain payment from the United States for the reason, as it is held by the Court of Claims, that France was liable under the treaty of 1800-1801, and that the United States was not liable under the act of 1885. Thus these claims, and claims which rest on substantially the same ground as the others, were left out without any possible means of redress to the claimants.

In my judgment, those people are certainly entitled, if anyone is entitled—and we have already paid $4,000,000 to settle such claims—to claim that they were unfairly dealt with by reason of the way in which they have been shut out of the Court of Claims under the act and then shut out by the commission of 1831 under the old treaty. That is one of the decisions of the Court of Claims which has shut out a whole class of these claims; and if we are going to reopen them here and pay no attention to the decisions of the Court of Claims, except when they are adverse to the claimants, we run the risk of reopening all those claims again, and they probably will be reopened.

Now, I take another class. I am doing this, Mr. President, to show that the Court of Claims has not put these cases through without discrimination or without the sense of duty toward the Government. I am going to show that they have excluded large classes of claims; then I am going to show the grounds on which they have supported the claims for freight earnings and premiums.

The second class of claims relates to land seizures. The claims described in section 1 of the act of 1885 are those "arising out of illegal captures, detentions, seizures, condemnations, and confiscations." These words, as the Senate will see, make no distinction between captures on land and those on sea. Neither is there a single word in the act which has any reference to the sea any more than to the land. France did not pay for seizures on land any more than she did for those at sea.

Claims for land seizures were abandoned as against France for a valuable national consideration by the treaty of 1800-1801. The claimants for seizures on land lost their redress against France just as completely as those whose property was captured on the high seas. Under the terms of the treaty they were entitled to redress just as much as for losses by sea, and under the terms of the act there was no discrimination, yet the Court of Claims, in the case of the Leghorn Seizures (27 Ct. Cls., 224), decided that where American property was deposited on neutral soil, to wit, in Italy, after having been safely carried across the ocean, and was then arbitrarily seized by the French Government and used by it for its own purposes, there could be no recovery under the French spoliation act of 1885. The court said:

> The claimants' cases are exceedingly hard cases.

Not a reason can be given, in my judgment, why these claims for seizures on land should not receive satisfaction; but the court, for reasons of their own, shut them out; and if the Court of Claims exists for any purpose, it is that their decisions in a measure should be final certainly, and that we should follow the decisions of the court as nearly as possible.

If claims allowed by the Court of Claims should be reopened, certainly those land claims for the seizure of our goods in neutral territory by the French ought also to be reopened.

The third class of claims which the court also excluded are claims for personal injuries. I quoted at the beginning of what I was saying the language of the statute of 1885, which conferred jurisdiction upon the Court of Claims, in order to show that it made no distinction between land and sea captures. It is also true that the terms of that act make no distinction between claims for damages to property and those for injury to persons. On no subject have nations been more jealous, or more properly so, than in regard to the personal treatment of their citizens or subjects. On the face of the treaty and under the jurisdiction conferred by the act of 1885 there was no more distinction made in regard to personal injuries under what I have read than there is a distinction drawn between seizures on land and seizures at sea.

The records of the Court of Claims are full of evidence of maltreatment of American citizens. I have had some of them copied, because I think they are not without interest. We need not indeed go further than this very report for evidence of it.

In the case of the brig *Kitty*, William Waters, master, No. 113, page 398, it is stated:

> The master and his men were frequently insulted and badly treated by the French.

And so forth.

In the case of the schooner *Rebecca*, John Hall, master, No. 85, page 359, it is found:

> She was seized by a French privateer and taken to the island of St. Martin. They took away her captain and supercargo, carried them to Basseterre, and threw them into prison. On the way from St. Martin to Basseterre, the French kept the captain and supercargo in irons, fed them on bread only without water, kept them on deck exposed to the sun and to the waves rolling over the vessel.

In the case of the schooner *Juno*, William Burgess, master, No. 77, pages 346 and 347, the master of the vessel was abused so badly by the French that he died.

Yet in the face of evidence of personal injuries of the most serious character which formed one of the principal subjects of diplomatic complaint at the time, the Court of Claims has decided in the case of the briggs *Fanny* and *Hope* (46 Ct. Cls., 214) that no claim for personal injuries can be maintained under the French spoliation claims act.

I think that is rather a severe decision; but I quote it in order to show that, in addition to shutting out land seizures, the Court of Claims have also shut out the personal injuries.

Mr. President, having shown that the Court of Claims has shut out three classes—I mentioned only two, the claims between the dates of September, 1800, and July 31, 1801—a large class of land seizures and of personal injuries, showing that they have protected the Government in the case in regard to certain claims which are very large in amount and which on their face are as good claims as could possibly be made, I am going to show the reason, if I can, why they have made the allowances, to some of which the Senator from South Dakota [Mr. CRAWFORD] objects.

As there are only two minutes before the meeting of the Court of Impeachment, if the Senator has no objection, I should like to stop here before going on with the remainder of the argument.

Mr. CRAWFORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from South Dakota suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Clarke, Ark.	Gardner	McLean
Bacon	Crane	Gronna	Martin, Va.
Bailey	Crawford	Jackson	Martine, N. J.
Brandegee	Cullom	Johnston, Ala.	Myers
Bristow	Curtis	Kenyon	Nelson
Bryan	du Pont	La Follette	O'Gorman
Burnham	Fletcher	Lea	Oliver
Clapp	Foster	Lodge	Page
Clark, Wyo.	Gallinger	McCumber	Perkins

Perky	Sanders	Smoot	Wetmore
Poindexter	Simmons	Sutherland	Works
Pomerene	Smith, Ariz.	Thornton	
Reed	Smith, Ga.	Townsend	
Root	Smith, Mich.	Warren	

Mr. PAGE. I am compelled to report that the continued illness of my colleague [Mr. DILLINGHAM] prevents his presence at the sessions of the Senate.

The PRESIDENT pro tempore. On the call of the roll of the Senate 55 Senators have responded to their names. A quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

Mr. Manager DAVIS. Mr. President, I desire to suggest a correction found in the serial of Senate impeachment proceedings on page 741 and on page 552 of the CONGRESSIONAL RECORD. The question:

Q. You are president of the Reading Coal & Iron Co.?

Should read:

You are president of the Reading Co.?

Eliminating the words "Coal & Iron."

The PRESIDENT pro tempore. The correction will be made as suggested.

Mr. Manager CLAYTON. Mr. President, I find on page 545 a verbal inaccuracy. On that page, in column 1, about the middle of the column, where the witness answered:

A. He said that as the judge was assisting him in the matter he felt that he ought to compensated.

The word "be" is omitted before the word "compensated." It is clearly an omission, and in order to make sense and to let the answer be as the witness said it, I want it corrected so that the word "be" will come in before the word "compensated" and right after the word "to."

The PRESIDENT pro tempore. The correction will be made as suggested.

Mr. WORTHINGTON. I also suggest a correction. Mr. President. It is in reference to the testimony of Mr. Meyer, and I make it in justice to him. I find that on page 540 of the RECORD, on the left-hand column, about one-third of the way from the bottom, I asked this question:

Q. Was Mr. Boland in an excited condition about it?

The answer here is:

A. I think he was.

What he said was "I do not think he was." That is my understanding. I say that in justice to Mr. Meyer. I rather expected the answer that is here, but I am quite satisfied that it was not the answer I got.

Mr. LA FOLLETTE. I think counsel is right about it.

Mr. WORTHINGTON. The Senator from Wisconsin says that I am right about that.

Mr. Manager CLAYTON. Very well. I have no recollection of it, but I will be quite content to take the statement.

Mr. WORTHINGTON. I would be more than content to have it stand as it is here, but I am quite sure that the answer was as I have indicated, and, in justice to Mr. Meyer, I make the correction.

The PRESIDENT pro tempore. The answer will be corrected as indicated. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Friday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. Manager NORRIS. We would like to call C. Larue Munson. We have called this witness at his request, so that he may get away. He has sickness in his family, I understand. His testimony will not relate to the particular articles upon which we were offering testimony, but will in due time be connected with other testimony in relation to the articles about which we have not yet offered any evidence.

TESTIMONY OF C. LARUE MUNSON.

C. Larue Munson, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager NORRIS.) Mr. Munson, where do you reside?—A. Williamsport, Pa.

Q. What is your business?—A. I am a lawyer.

Q. How long have you resided in Williamsport and how long have you been a practicing attorney?—A. I have lived there 41 years. I have been a lawyer 37 years.

Q. Are you acquainted with Judge Archbald?—A. I do know him very well.

Q. You were a resident of Williamsport in the spring of 1910?—A. I was.

Q. And Judge Archbald at that time was United States district judge in Scranton?—A. He was.

Q. Do you know, Mr. Munson, anything about a contribution that was raised by attorneys practicing in that court about that time to give to Judge Archbald upon the occasion of his taking a trip to Europe?—A. I do not know it in just that way, but I do know this much and this much only, that some time in the month of April or May, 1910, I was called on the telephone and asked if I would subscribe to a purse or a fund to be presented to Judge Archbald when he went abroad, which fund was being raised without his knowledge, and I declined.

Q. Who was it called you on the telephone?—A. Mr. Searle.

Q. Who is Mr. Searle?—A. Mr. Searle at that time was the clerk of the district court of the United States.

Q. The district court of the United States?—A. And also the circuit court of the United States.

Q. Did you say you declined to contribute?—A. I did.

Q. Mr. Munson, do you know whether that communication was by telephone or by letter?—A. It was by telephone.

Q. You are satisfied of that, are you?—A. When you inquired of me the same question in my examination before the Judiciary Committee of the House, I could not answer definitely. Since then I have examined my files and I find no letter either to me from him or from him to me, so I am sure it was by telephone.

Q. So you concluded it was by telephone?—A. Yes.

Q. Was there any specific amount asked for by the clerk?—A. My impression is that it was $50, but I do not think anything was definitely suggested.

Q. Mr. Munson, I will be glad if you will tell exactly what Mr. Searle said to you in that conversation over the telephone.—A. As near as I can recollect, he stated to me he was raising, or possibly there was being raised, a fund or a purse to be presented to Judge Archbald when he sailed for Europe on a trip, and that it was being raised entirely unknown to Judge Archbald. That is my recollection of the substance of what he said.

Q. Now, can you tell us just what you said in reply?—A. I said I did not care to subscribe to that fund, or I declined.

Q. And that was all of it?—A. That was all, to my recollection.

Q. How far is Williamsport, where you live, from Scranton, where the judge lives?—A. By rail, I should say, about 130 miles.

Q. It is in Judge Archbald's judicial district, or was then?—A. My county?

Q. Yes.—A. Yes.

Q. Were you a practitioner in the judge's court?—A. I was.

Q. And had been for some time?—A. Since its creation.

Mr. Manager NORRIS. I think you may inquire, gentlemen.

Cross-examination:

Q. (By Mr. SIMPSON.) Did you have any cases pending in that court at that time?—A. I had not. Oh, I beg your pardon, I have had cases pending, at issue all the time for 10 years, but I had no cases on the then pending trial list.

Q. I find on reading your testimony given before the Judiciary Committee that you said this in answer to a question by Mr. NORRIS [reading]:

Mr. NORRIS. Was there any amount stipulated he wanted you to pay?
Mr. MUNSON. No, sir; no amount.

A. That is probably correct, because my recollection would be more distinct some months ago than now.

Q. Will you tell us why you declined to pay the money?—A. I had then, and I still have, a high respect and admiration for Judge Archbald, and I did not care to embarrass him to either accept or refuse it. That was my reason.

Q. You thought that no matter which course was taken he would be embarrassed in either aspect of it?—A. I thought so; that he would be very much embarrassed. I want to say, if I may be allowed to say it, as I said before, that I have tried many cases before Judge Archbald, both when he was a State judge and when he was a Federal judge. He was always absolutely impartial and fair, and I have never tried a case before a more honorable, upright judge than he. I have regarded him as my friend. I knew him when he was a lawyer. He was my correspondent in Scranton. I have tried cases before him for 25 years. He came to Williamsport twice a year to hold district or circuit court, and in going from his hotel——

Mr. Manager NORRIS. Mr. President, I do not object to a reasonable amount of that kind of testimony, but we have not

inquired on this point, and it is not material at all in this case. There must be a limit somewhere to the witness explaining his opinion of Judge Archbald.

Mr. SIMPSON. I shall not ask him to go any further. I understood he was explaining, sir, why from his knowledge of the judge he thought, no matter whether he refused or accepted the contribution that Mr. Searle was gathering, it would be embarrassing.

The PRESIDENT pro tempore. Counsel will recognize the fact that the rules of law are very clear as to the manner in which proof of character must be made.

Mr. SIMPSON. Yes, sir; and I did not ask the question that brought out that answer. It was the suggestion of the witness.

Mr. Manager NORRIS. That is true; counsel did not ask it. The witness volunteered it.

The WITNESS. I volunteered it.

Mr. Manager NORRIS. If it is agreeable to the respondent, this witness may be excused. Have you any further use for him?

Mr. SIMPSON. None at all. I am very sorry you have to go.

The PRESIDENT pro tempore. The witness is finally discharged.

Mr. Manager NORRIS. Now, Mr. President, we have other witnesses, of course, on this point, but we want to revert now to where we were yesterday when we adjourned.

Mr. Manager DAVIS. We will call Mr. Swingle.

TESTIMONY OF SAMUEL H. SWINGLE.

Samuel H. Swingle, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live?—A. Scranton, Pa.

Q. What is your occupation?—A. Real estate and builder, and in the coal business on the side a little.

Q. Are you one of the stockholders of the Premier Coal Co.?—A. Yes, sir.

Q. Who are associated with you in that enterprise?—A. W. L. Schlager, Frederic Warnke, and A. F. Kizer.

Q. What official position do you hold, if any, in the corporation?—A. I am treasurer.

Q. When was the corporation organized?—A. April, 1912.

Q. What property did it take over?—A. We took over a fill known as the Big Fill, in Corey Hollow, Lackawanna County.

Q. What was the name of the former owner?—A. The Lacoe & Shiffer Coal Co.

Q. Do you know Judge Robert W. Archbald?—A. Yes, sir.

Q. Did he participate in the negotiations you had about that coal fill?—A. Yes, sir.

Q. Did your corporation, to your knowledge, ever execute to him a note for $500 or $510?—A. Yes, sir.

Q. Have you the note in your possession?—A. Yes, sir.

Q. Will you produce it?

(The witness produced the note referred to.)

Mr. Manager DAVIS. Will the Secretary please read it?

The Secretary read as follows:

[U. S. S. Exhibit 87.]

$510. SCRANTON, PA., *April 6, 1912.*

Four months after date we promise to pay to the order of A. F. Kizer, S. H. Swingle, W. L. Schlager, and Fred Warnke $510 at the Lackawanna Trust & Safe Deposit Co., without defalcation, for value received.

PREMIER COAL CO.,
By FRED'K. WARNKE, *Pres.*
S. H. SWINGLE, *Treasurer.*

No. —. Due ———.

[Indorsed.]

A. F. Kizer, S. H. Swingle, Fred'k. Warnke, W. L. Schlager, R. W. Archbald.

Q. (By Mr. Manager DAVIS.) Has that note been paid, Mr. Swingle?—A. Yes, sir.

Q. When was it paid?—A. At maturity.

Q. And paid to whom?—A. To the Third National Bank of Scranton.

Q. Had it been discounted at that bank by the judge?—A. Yes, sir.

Q. Who delivered that note to Judge Archbald, if you know?—A. I delivered the note to Judge Archbald.

Q. Please explain where and under what circumstances you delivered the note to him.—A. He came to our office regarding his commission on the bank, and wanted the money, and I told him that we were not prepared to pay the money at that time; that we had understood that we were to give him the first earnings out of the company. He said he did not understand it that way. I said: "Well, it does not make any difference; we are going to pay you, anyway. If the other boys are satisfied to go along on a note, I am satisfied, and I will talk it over with them and let you know in a day or so." He said: "All right." I spoke to Mr. Kizer and Mr. Schlager and Mr. Warnke, and we made the note up, and the judge, I think, came in in about two days and got the note.

Q. Did you personally make the arrangement with the judge by virtue of which he was to receive this note?—A. No; it was preliminary. It was made before I went into the company, with Mr. Warnke, I think, although I understood that the bank had to be bought through Judge Archbald, and that he would get a commission for selling it.

Q. From whom did you understand that?—A. From Mr. Warnke, after our first audience with the judge.

Q. You say after your first audience with the judge?—A. Yes, sir.

Q. Where and when did that audience occur?—A. February 12, 1912, at the judge's office; and after we went out the judge and Warnke had a conversation, and the latter came out—we originally thought the bank was to be $7,500—and said: "I did not tell you that the judge has to have a commission of $500 for selling it." I said, "I did not understand that." He says: "Yes. I did not tell you, though." I said: "Is there any other $500 to be paid on this?" He said: "No; that is the only one." I said, "Well, I am satisfied to go along on that basis," and we accordingly went along, and there was nothing more said about the judge's fee other than I wanted it paid in that way at that time. I did not want to put any more money in cash into the proposition than I had to.

Q. Then you heard nothing more of it until the judge came to your office to collect the sum?—A. I took it up later with Kizer and Schlager. I was talking at that time for myself, but when we decided to form a corporation, and all go in, then we talked it over, and it was satisfactory to all.

Mr. Manager DAVIS. You may inquire.

Cross-examination.

Q. (By Mr. SIMPSON.) Was there any connection whatsoever between the payment of this commission by the note of $510 and an interview that Judge Archbald had for Mr. Warnke with Mr. Baer or with Mr. Richards, of the Philadelphia & Reading Railroad Co.?—A. None whatever.

Mr. SIMPSON. That is all, sir.

Redirect examination:

Q. (By Mr. Manager DAVIS.) You say none whatever, of your own knowledge?—A. No; none whatever.

Q. How do you know?—A. Well, of my own knowledge. That is all I know. Was not that the way the question was put—how did I know? It was never discussed in any way, either pro or con, regarding the railroad companies. In fact, I did not know at that time that Warnke had taken up anything of that kind with the judge.

Q. You do not yourself know what the arrangement was between the judge and Mr. Warnke, made in your absence?—A. No.

Q. It was made in your absence?—A. Yes.

Mr. Manager DAVIS. That is all, I believe. This witness may be discharged, as far as the managers are concerned.

The PRESIDENT pro tempore. The witness will be finally discharged.

TESTIMONY OF FRED W. JONES.

Fred W. Jones appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live, Mr. Jones?—A. Scranton.

Q. What is your occupation?—A. Colliery clerk for the Delaware & Hudson Coal Co.

Q. How long have you been so engaged?—A. For about a year and a half.

Q. Do you know a man named John Henry Jones?—A. Yes, sir.

Q. Do you know Judge Robert W. Archbald?—A. Yes, sir.

Q. Did you at any time have anything to do with a coal dump or culm dump known as the Lacoe & Shiffer fill?—A. Yes, sir.

Q. What connection had you with it?—A. I think it was in the months of February, March, and April I was working for the county commissioners——

Q. What year?—A. 1911. John Henry Jones was working there at the same time. I happened to hear him tell of dealing in lumber and different things and I drew his attention to this culm fill. I told him I would have to show him where it was. He was very anxious to know in the meantime where it was. I told him as soon as we got through I would take him down and show it to him. We got through in about a week and I took him down and told him the people who owned it and the people he had to go see about it and who were looking after this deal, Lacoe & Shiffer.

Q. Whom did you tell him he would have to see about it?—A. Mr. Berry. I told him several parties were looking after

that and they would have a hard time to get it. He said he knew a party who had an option on it, but he did not tell me who the party was at the time. Then after an inquiry in Courthouse Square, Scranton, I met him and he said the judge had an option on it.

Q. What judge did he say had an option on it?—A. Judge Archbald.

Q. At the time you talked with John Henry Jones was anything said about the way of getting to and from this dump?—A. Not at that time.

Q. After he told you that Judge Archbald had an option on it, what did you do?—A. He took me over to the judge's office, just right there adjoining, in Courthouse Square. We talked it over there that I had to get some compensation for the information I gave them, and talked over what I should get, and it was agreed that we should have some papers drawn up to that effect.

Q. Who was present at that time?—A. Judge Archbald, myself, and John Henry.

Q. That was in Judge Archbald's office?—A. Yes, sir.

Q. What discussion did you have about what you were to get out of it?—A. They agreed to give me that, and I agreed to take it.

Q. Was there a written contract drawn?—A. Yes, sir.

Q. When and where?—A. In City Solicitor Davis's office, Municipal Building.

Q. Was it drawn the same day?—A. Yes, sir.

Q. Who was there with you at the time it was prepared?—A. The city solicitor, Davis, and the stenographer and myself and John Henry.

Q. Had you agreed in Judge Archbald's office upon the terms of that contract?—A. Before we went up there; yes, sir.

Q. Why did John Henry Jones take you to Judge Archbald's office to discuss the amount you were to receive?—A. I suppose on account of the judge getting the option. He told me the judge was getting the option on the culm bank.

Q. Look at the paper I hand you [presenting paper], bearing date the 25th day of April, 1911, and state if that is the contract you refer to.—A. (Examining.) It is.

Mr. Manager DAVIS. I offer that in evidence, and ask the Secretary to read it into the record.

The PRESIDENT pro tempore. It will be read.

The Secretary read as follows:

[U. S. S. Exhibit 88.]

Whereas Fred W. Jones, of Scranton, Pa., has on divers occasions rendered valuable services to me in the matter of locating and securing a culm dump, located in the borough of Moosic, Pa., between Plains Nos. 4 and 5; and

Whereas in consideration of said services it was agreed that upon the sale and disposal of said dump said Fred W. Jones was to be compensated:

Now, therefore, I hereby agree in the event of said dump being sold by me for a sum in excess of $12,000 to pay said Fred W. Jones 6 per cent of the amount of the price, and in the event of said dump being sold for the sum of $12,000, or any portion thereof, I agree to pay to said Fred W. Jones 5 per cent of the price or sum so received.

In witness whereof I have hereunto set my hand and seal this 25th day of April, A. D. 1911.

J. HENRY JONES. [SEAL.]
FRED W. JONES. [SEAL.]

Witness:
R. M. SPEICH.

Q. (By Mr. Manager DAVIS.) After that agreement had been made, did you have any further dealings about it?—A. What is that question again?

Q. After that agreement had been made and delivered to you, what further connection, if any, did you have with the transaction?—A. Only I told him I knew a party who might buy this culm dump. He wanted to know who it was, and I told him Charles Stone, and he called him up several times on the telephone at his home, and they met at Judge Archbald's office and talked the matter over there.

Q. Did you have any conversation with John Henry Jones and Stone other than in Judge Archbald's office?—A. Only in Judge Archbald's office.

Q. What conversation, if any, did you have in Judge Archbald's office on the subject?—A. Well, in regard to the price of the dump and the right of way to haul from the ground over the land to the Sauquoit, who wanted to sell the fuel—that is, in case we bought the dump.

Q. What was said about the right of way for the shipment?—A. He thought at the point it started it was the D. & H. Co., and naturally he thought the D. & H. might stop hauling over their ground.

Q. What is the D. & H.?—A. The Delaware & Hudson Coal Co.

Q. Or the Delaware & Hudson Railway Co.?—A. The usual term is the Delaware & Hudson on the inside and the Hudson Coal Co. on the outside.

Q. What was said about it?—A. He spoke about it to the judge, and the judge thought it was not an easy matter to settle that and draw over the right of way. He thought he could fix it.

Q. With whom did the judge say he could fix it?—A. Well, he would have it to fix with the D. & H. Co. That is what we talked about.

Q. Who is at the head of that company?—A. C. C. Rose.

Q. Is that company controlled by the Delaware & Hudson Railroad Co.?—A. Yes, sir.

Q. Had John Henry Jones said anything to you before you went to Judge Archbald's office about this Delaware & Hudson right of way?—A. Not then; but he did after we come out of Judge Archbald's office.

Q. What did he say about it?—A. Stone looked at the prospects of buying, him and John Henry and me. I said there will be a little trouble about the right of way. Oh, he said, the judge is in a position he thought he could fix that all right.

Mr. Manager DAVIS. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) What do you mean by right of way?—A. I suppose going over another party's land.

Q. Then you do not mean by right of way what everyone else means by it; that is, the roadway of a railroad company?—A. A wagon road, if you have to come over the D. & H. Co.'s land.

Q. It is not the trackway of any railroad company that you are talking about?—A. No, sir.

Q. Do you not know that the Delaware & Hudson Co. had no interest whatever in the surface of that land but only mining rights under it?—A. I do not.

Q. You do not know that?—A. No, sir.

Q. You do not know that there is a wagon way which was there for many years, more years than you are old, and is used by anybody who chooses to use it?—A. Not that I know.

Q. That you do not know?—A. No, sir.

Mr. SIMPSON. I think that is all.

Q. (By Mr. Manager DAVIS.) One question. Mr. Jones. Did you ever receive any compensation when this property was sold?—A. No, sir.

Q. You have realized nothing under this agreement up to this time?—A. No, sir.

Q. (By Mr. SIMPSON.) There was nothing said in the judge's presence at all about this agreement, after it was made, was there?—A. He come back and it was read over to the judge. John Henry and me come back and read it over to the judge, and it was satisfactory to him.

Q. Did you not testify precisely the reverse of that?—A. No, sir.

Q. Let us see whether you did or not. I am reading from page 1172, gentlemen:

Mr. JONES. John Henry said that he would give me something.
Mr. WEBB. Was anything said in the judge's presence?
Mr. JONES. Not in his presence, but to me.

Is that a mistake?—A. Please read that over again.

Q. (Reading):

Mr. JONES—

That is yourself testifying—

John Henry said that he would give me something.
Mr. WEBB. Was anything said in the judge's presence?
Mr. JONES. Not in his presence, but to me.

That is correct?—A. That is right.

Q (By Mr. Manager DAVIS.) I object to reading only that portion of the testimony to the witness. You were asked this question following what has just been read:

Mr. WEBB. Then did the judge simply agree that you should have some pay for your part in the transaction?
Mr. JONES. Yes, sir.

Did you so answer?—A. Yes, sir.

Q. You were further asked:

Mr. WEBB. Did he know you and John Henry Jones were going to Davis's office to get this contract drawn?
Mr. JONES. John Henry Jones said we were going up to see City Solicitor Davis.
Mr. WEBB. Was that in the presence of the judge?
Mr. JONES. Yes, sir.
Mr. WEBB. Then the judge knew where you had gone?
Mr. JONES. Yes, sir.

Did you so answer?—A. Yes, sir.

Mr. Manager DAVIS. That is all.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. REED] has asked that the witness be interrogated by the following question, which will be propounded to him by the Secretary.

The Secretary read as follows:

What price was asked for the dump by Judge Archbald?

The WITNESS. $12,000 in the first place, and I think reduced to about nine or ten thousand. I could not say exactly.

Q. (By Mr. SIMPSON.) You had nothing to do with its ultimate sale?—A. No, sir; nothing at all to do with it.

Mr. Manager DAVIS. We have nothing further from this witness. He may be discharged so far as the managers are concerned.

The PRESIDENT pro tempore. And also as far as counsel for the respondent are concerned?

Mr. SIMPSON. All right.

The PRESIDENT pro tempore. The witness may be finally discharged.

TESTIMONY OF CHARLES H. VON STORCH.

Charles H. Von Storch appeared, and, having been duly sworn, was examined, and testified as follows:

Mr. Manager STERLING. I believe this witness is here under an attachment. I suppose he ought to be discharged from it before we examine him.

The PRESIDENT pro tempore. The attachment can be vacated.

Mr. Manager STERLING. I ask to have the attachment vacated.

The PRESIDENT pro tempore. The order of the attachment will be vacated at the request of those who moved it.

Q. (By Mr. Manager STERLING.) What is your name?—A. Charles H. Von Storch.

Q. Where do you live?—A. Scranton, Pa.

Q. How long have you lived there?—A. All my life.

Q. What is your business?—A. Attorney at law and president of the Providence Bank.

Q. Where is the Providence Bank?—A. It is in a suburb of Scranton, about 2 miles out from the center of the town.

Q. How long have you been practicing law in Scranton?—A. Since 1886 or 1887.

Q. Are you acquainted with Judge Archbald?—A. I am.

Q. Do you know John Henry Jones?—A. Very slightly.

Q. How long have you known him?—A. The first time I ever saw him to remember was in December, 1909.

Q. Did you have some business transaction with Jones at that time?—A. Indirectly, yes.

Q. Just state the nature of the business.—A. Mr. Jones came into my office in the early part of December, 1909——

Q. Was that at your bank or at your office?—A. At my law office; and began to talk about some Central American timber proposition. I really paid very little attention to what he did say until he produced a note with Judge Archbald's indorsement and asked if it could be discounted at the Providence Bank. I doubted a little whether the note was genuine or not, so I called up Judge Archbald to see. He said it was all right, and that he would take it as a favor if it was discounted. So I told Mr. Jones to take the note to the bank. That is about all the business I have had with Mr. Jones. I have met him occasionally on the street since or when here.

Q. Was Jones a depositor or customer at your bank at that time?—A. No, sir.

Q. Was Judge Archbald a depositor or customer of your bank?—A. I think not.

Q. How far from your office is your bank?—A. About 2 miles.

Q. Had you been practicing law in Judge Archbald's court?—A. In the common pleas court when he was common pleas judge.

Q. Had you practiced law in his court after he was district judge?—A. No, sir.

Q. Had you had any litigation in his court on your own account?—A. One case.

Q. When was that?—A. Well, that ran from about 1904, I think, when it was started, until finally decided about January, 1909—possibly December, 1908.

Q. It was decided, then, in the same year in which this other business transaction occurred?—A. I think it was in January of that year. The note was discounted in December.

Q. Did you see the note yourself?—A. Yes, sir.

Q. Can you describe it?—A. It was John Henry Jones, maker, payable to Judge Archbald, and indorsed by him.

Q. By whom?—A. By R. W. Archbald.

Q. And for what amount?—A. Five hundred.

Q. Have you got the note?—A. No, sir. Oh, the bank has it. It was here yesterday, I believe, with the cashier.

Q. Who is the cashier?—A. Rollin B. Carr.

Q. It is in evidence then. Has that note been paid?—A. No, sir. It has been reduced slightly.

Q. It has been renewed from time to time?—A. Yes, sir.

Q. Every 90 days?—A. Perhaps 60 or 90; I am not sure about that.

Q. Who has paid the interest?—A. I understand Mr. Jones.

Q. And the installments on the principal?—A. Yes, sir.

Q. Have you received any appointment from Judge Archbald in recent years?—A. I was appointed receiver in bankruptcy in October, 1910.

Q. That was the October following the discounting of this note?—A. Yes, sir; following the discounting of the note.

Q. Was that appointment of the receivership an important appointment?—A. It was probably a fifteen or twenty thousand dollar business failure. It was not particularly important. I was soon after elected by the creditors, when they met, as trustee.

Q. Were you not appointed referee in bankruptcy?—A. No, sir.

Q. Just receiver?—A. Receiver.

Mr. Manager STERLING. Take the witness.

Cross-examination:

Q. (By Mr. SIMPSON.) You are president of the Providence Bank?—A. Yes, sir.

Q. That bank was the principal creditor, was it not, in the bankruptcy proceeding?—A. No, sir.

Q. Was it a creditor in that proceeding?—A. No, sir. Yes it was. Yes. No. Well, I will have to explain that. The bank had some notes in which the bankrupt was liable, and those notes are still being carried by the indorsers on them and reduced occasionally.

Q. The bankrupt was the maker of the notes?—A. I think so, in some cases.

Mr. SIMPSON. That is all.

Redirect examination:

Q. (By Mr. Manager STERLING.) Mr. Von Storch, in whose handwriting was the original note?—A. I think in Judge Archbald's, or some parts of it.

Q. You know his handwriting?—A. Yes, sir.

Q. Have not the renewals been in his handwriting?—A. I have not seen them all, but I believe so.

Q. All you have seen were in his handwriting?—A. Yes, sir.

Q. And all indorsed by him in just the same way?—A. The indorsements were the same.

Q. Going back to the litigation which you had, what was the nature of the case you had in the judge's court?—A. It was the case of the Risden Iron Works against a cousin and myself claiming liability, as directors of a Montana corporation, on a question of filing an annual statement.

Q. It was determined in your favor?—A. Yes, sir.

Q. Why did you suspect this note when it was brought to you by John Henry Jones?—A. I did not think that a man of John Henry Jones's appearance would be carrying Judge Archbald's note around.

Q. Still you recognized the handwriting?—A. It looked like it; yes.

Q. The body of the note was written by Judge Archbald?—A. Yes, sir; I think so.

Q. And it was made payable to him?—A. Yes, sir.

Q. Still you suspected it?—A. I did.

Q. Did you inquire what it was given for?—A. I did not inquire; I was told that by John Henry Jones.

Q. What did he say it was given for?—A. To pay his expenses to Europe—London, I believe—on a business expedition to finance some South American timber proposition.

Q. That was the Venezuela proposition?—A. I presume that was it.

Mr. Manager STERLING. That is all.

Recross-examination:

Q. (By Mr. SIMPSON.) Mr. Von Storch, was there any appeal taken from the final judgment in the Risden Iron Works case?—A. No, sir.

Mr. SIMPSON. That is all.

Mr. ROOT. Mr. President, I wish to have a question asked that I send to the Chair.

The PRESIDENT pro tempore. The Senator from New York presents a question which he desires to have propounded to the witness, and the Secretary will read it to him.

The Secretary read as follows:

Why did you not obey the summons of the Senate to appear as a witness without waiting to be attached?

The WITNESS. I understood that was settled by the withdrawal of the attachment. I will answer the question.

The PRESIDENT pro tempore. The witness will answer the question.

The WITNESS. I obeyed the summons as soon as I could after getting the official notice, which was about 11.30 Thursday night.

Q. (By Mr. Manager STERLING.) You had been summoned long before that?—A. Yes, sir.

Q. You were summoned before this case commenced the 3d of December?—A. Yes, sir.

Q. Had you been excused?—A. It was Mr. Julian, I believe, who served the summons, and I thought I would probably get further notice when they needed me. I have a telegram or two from Gen. FARR, our Congressman, stating to come on further notification. I got your official notice, and I telegraphed Judge

CLAYTON I was coming. I do not know whether he received it or not.

Q. That was Thursday night?—A. Yes, sir; Thursday night.

Q. You did not get here until to-day?—A. Last night.

Mr. Manager CLAYTON. Mr. President, I think this witness ought not to be penalized under the circumstances. The Chair knows the difficulties under which we have labored; he knows the multitude of witnesses, and as Mr. Von Storch says, I think that his Representative in Congress had agreed to notify him when to come. He says that immediately after he received the notice on Thursday he endeavored to come here. I think that his case does not call for any punishment, and that the order should be vacated.

The PRESIDENT pro tempore. The order has already been vacated. The Senator from Missouri [Mr. REED] presents a question which he desires to have propounded to the witness, and the Secretary will read it to him.

The Secretary read as follows:

How much was involved in the Risden Iron Works case?

The WITNESS. About $10,000.

Mr. REED. Mr. President, I have a further question to ask.

The PRESIDENT pro tempore. The Senator from Missouri presents a further question to be propounded to the witness, which will be read to him by the Secretary.

The Secretary read as follows:

Why have you not collected the Archbald note?

The WITNESS. Oh, we felt no great anxiety about it yet. Instead of collecting it, as long as Mr. Jones is paying moderately on it, we would rather see it go that way and give him an opportunity to pay if he can.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. REED] presents a further question, which will be propounded to the witness, and which the Secretary will read to him.

The Secretary read as follows:

Is Jones regarded as financially responsible?

The WITNESS. I think not.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. REED] presents a further question, which will be propounded to the witness by the Secretary.

The Secretary read as follows:

Who are you then indulging; Archbald or Jones?

The WITNESS. Archbald.

The PRESIDENT pro tempore. Are there further questions to be propounded to the witness?

Mr. Manager STERLING. We have no further questions.

The PRESIDENT pro tempore. Are there any on the part of the respondent?

Mr. SIMPSON. We have none.

The PRESIDENT pro tempore. Is there further need of the witness?

Mr. Manager STERLING. No, sir.

Mr. SIMPSON. There is none.

The PRESIDENT pro tempore. The witness will be finally discharged.

TESTIMONY OF W. W. RISSINGER.

W. W. Rissinger appeared and, having been duly sworn, was examined and testified as follows:

Mr. Manager STERLING. Mr. President, the testimony of this witness and the two next witnesses relates to article No. 7. [To the witness.] Where do you live, Mr. Rissinger?—A. Scranton, Pa.

Q. How long have you lived there?—A. About 30 years.

Q. What is your business?—A. I am in the coal business now.

Q. How long have you been in the coal business?—A. Six or eight years.

Q. What did you do before that?—A. I worked for the Lackawanna Railroad in their coal department.

Q. Are you acquainted with Judge Archbald?—A. Yes, sir.

Q. How long have you known him?—A. Ever since I have been in Scranton.

Q. Are you connected now with any coal company?—A. Yes, sir.

Q. What company?—A. Rissinger Bros. & Co. (Inc.), the Ridgewood Coal Co., and the Yost Mining Co.

Q. Do you belong to any other coal company or are you connected with any other?—A. Well, I have some stock in the Evans Mining Co.

Q. Did you at one time have connection with other coal companies?—A. I think not—oh, yes; I did with the Old Plymouth Coal Co.; yes, sir.

Q. Now, what was the Old Plymouth Coal Co.?—A. The Old Plymouth Coal Co. was a washery company, washing coal from a culm dump.

Q. What connection had you with that?—A. I was treasurer.

Q. How long were you treasurer?—A. During the whole period, I think.

Q. Did the Old Plymouth Coal Co. have a case in the Federal court at Scranton when Judge Archbald was presiding there as district judge?—A. Yes, sir.

Q. When was that?—A. I do not remember the year.

Q. Well, about what time was it?—A. It was several years ago.

Q. What was the nature of that suit?—A. It was for insurance.

Q. For a fire loss?—A. Yes, sir.

Q. Against whom was that suit?—A. Well, there were about a dozen companies; I do not remember the names of them.

Q. Who was your attorney in that suit?—A. H. C. Reynolds.

Q. Did you have charge of it for the Old Plymouth Coal Co.?—A. Well, I worked with Mr. Reynolds. Mr. Reynolds had other attorneys associated with him; but he was the main attorney.

Q. What connection did John T. Lenahan have with it?—A. He was associated with Mr. Reynolds.

Q. He was one of your attorneys in that litigation?—A. Yes, sir.

Q. How many insurance companies were involved in the suit?—A. About a dozen, I think.

Q. Was it in one suit or was it brought separately against the different companies?—A. I do not remember how that was; but they were all brought together, I think, and they were brought in Luzerne County, and then the insurance company——

Q. In what court?—A. In the Luzerne County court, and the insurance company removed some of those suits to the United States court.

Q. Do you know when those cases were removed from the State to the Federal court?—A. No, sir; I do not.

Q. To refresh your recollection, I will ask you if it was not on October 3, 1908, or about that time?—A. I do not remember the time.

Q. Do you know when the suit was tried?—A. I do not know the exact time; no, sir.

Q. Can you tell the month or the year in which it was tried?—A. No; I can not remember the month nor the year.

Q. Well, you did try one of the cases?—A. Yes, sir.

Mr. SIMPSON. Mr. President, we are quite willing that the manager may put in the docket entries as found in the printed book, if he so desires.

Mr. Manager STERLING. In that connection, I want to prove some of these facts now. [To the witness:] I will ask you if it was on October 3, 1908, that the case went from the Luzerne County court to the Federal court?

The WITNESS. I do not remember the date.

Q. Do you think it was about that time?—A. I do not remember the date.

Q. How did it come to go to the Federal court?—A. The insurance companies had the cases removed to the Federal court.

Q. How long after the removal to the Federal court was it until it came up for trial?—A. I do not remember.

Q. About how long?—A. I do not remember.

Q. Well, was it five years?—A. I do not remember how long it was.

Q. You know it was not five years, do you not?—A. I know it was not five years. I know it was within——

Q. Why do you say you do not remember when it was only four years ago the case was tried?—A. Well, if I do not remember, that is the proper thing to say, is it not?

Q. Well, you certainly know something about when it was that this case came up for trial.—A. I suppose these matters are on record. I do not remember the time.

Q. I want your recollection.—A. I do not remember.

Q. Can you give the year?—A. No, sir; I can not give the year.

Q. Can you give it within two years of the time?—A. Well, I judge it was about four years ago.

Q. Judge Archbald was sitting in that court when it was tried?—A. Yes, sir.

Q. And during the trial a settlement was brought about of all the cases, was it not?—A. Yes, sir.

Q. About how long did the case pend from the time it was removed to the Federal court until the settlement came?—A. I do not remember how long it was.

Q. About how long was it?—A. A couple of months, I guess—two or three months.

Q. During that time, while the case was pending in the Federal court, did you have some conversation with Judge Archbald about a gold-mining scheme in Honduras?—A. Why, we had some conversation; yes, sir. I do not know what talk it was, except that——

Q. Well, it was while the case was pending in his court?—A. Well, I do not know whether it was or not.

Q. Was it before that time?—A. It may have been.

Q. It might have been after that time?—A. It might have been after or it might have been before; I do not remember.

Q. Were there any writings developed from those conversations?—A. All that I know is that I had a writing there, a letter from a man in New York that he was coming up.

Q. Coming up to Scranton?—A. Yes.

Q. What for?—A. Well, about this gold-mine proposition.

Q. Did you introduce him to Judge Archbald?—A. Yes, sir.

Q. He talked with Judge Archbald about it?—A. Well, several others; there were more than one——

Q. Well, did he talk with Judge Archbald about it?—A. Yes, sir.

Q. Did you previously talk with Judge Archbald about it?—A. I think so; yes, sir.

Q. And you sent for the man in New York, who was the promoter of the scheme, to come up and see the judge, and he did so?—A. Yes, sir.

Q. Were you present when he talked to the judge about it?—A. Yes, sir.

Q. What was said?—A. I do not remember what was said. We just talked in a general way; that was all.

Q. Can you state anything that was said?—A. No; I can not remember anything at all.

Q. Can you state the substance of anything that was said?—A. No, sir.

Q. Did Judge Archbald conclude to take an interest in it at that time?—A. I do not remember whether he did or not.

Q. Well, did you go back and talk to Judge Archbald after the New York man had left?—A. I do not remember that, either.

Q. Do you remember whether Judge Archbald did finally consent to take an interest in it?—A. Well, I do not know whether he consented to take an interest in it or not.

Q. You know he did take an interest in it, do you not?—A. I know that I had some stock transferred to Judge Archbald; yes, sir.

Q. How did you come to transfer stock to Judge Archbald?—A. It was on account of a note that was indorsed by Judge Archbald, a note that was given by myself and indorsed by Mrs. Sophia J. Hutchison and Judge Archbald. I think, as I recollect the matter, I wanted to do something in this promotion or help along with this stock business, of which I was to have a part, and the judge consented to indorse a note, which I was also to have indorsed by Mrs. Sophia J. Hutchison.

Q. What was the amount of that note?—A. Twenty-five hundred dollars.

Q. It was made by you?—A. It was made by me.

Q. By whom was it written?—A. I do not remember by whom it was written—it was written by myself, I suppose.

Q. Have you got the original note?—A. No, sir.

Q. Where is it?—A. I do not know where it is.

Q. Did you pay it off?—A. Yes, sir.

Q. Did you pay the note or just renew it?—A. I paid the note.

Q. Is the note paid now?—A. Yes, sir.

Q. When was it paid?—A. It was paid within about a month.

Q. A month ago?—A. Yes, sir.

Q. You did renew it a number of times?—A. Yes, sir; I renewed it a number of times.

Q. How often?—A. Well, whenever it came due I renewed it.

Q. Every three months for the last four years?—A. Yes, sir.

Q. When you renewed it the first time, what did you do with the original note?—A. I have no recollection about it.

Q. Have you looked for it?—A. I do not think I had the original note.

Q. You renewed it, did you not?—A. Yes, sir.

Q. Did you not take up the old note?—A. I think the note was held as a judgment.

Q. Was it a judgment note?—A. I think it became a judgment note; yes, sir.

Q. And was filed in the court there and judgment confessed on it?—A. I think so; yes, sir.

Q. Now, the body of the note was written by Judge Archbald, was it not?—A. Well, I do not know about that, whether it was or whether I wrote it myself.

Q. To whom was the note payable?—A. It was payable to Mrs. Sophia J. Hutchison and Judge Archbald—R. W. Archbald.

Q. Who is Sophia J. Hutchison?—A. My mother-in-law.

Q. Where does she live?—A. Scranton, Pa.

Q. As I understand it, you gave a note of $2,500 to Judge Archbald and to your mother-in-law?—A. Yes, sir.

Q. About November, 1908?—A. I do not recollect the date of it.

Q. And then Judge Archbald and Mrs. Hutchison, your mother-in-law, indorsed the note. What did you do with it then?—A. I had the note discounted.

Q. At the bank?—A. Yes, sir.

Q. And by paying the note you mean that you went to the bank and paid it off there?—A. Yes, sir.

Q. Did you give Judge Archbald any money for that note?—A. No, sir.

Q. Or did any money pass from him to you for it?—A. No, sir.

Q. How, then, did that note pass as a consideration for any interest in the gold-mining project?—A. Well, he was an indorser on the note, and that I considered some consideration afterwards.

Q. Well, he did not pay any of it?—A. No, sir.

Q. You paid it all yourself?—A. I paid it all myself.

Q. But you did give him some stock, did you not, in that Honduras mining scheme?—A. Yes, sir.

Q. How much?—A. Well, I do not remember how much it was. The secretary of the company is here, and he can state.

Q. Have you a recollection of about how much?—A. No, sir.

Q. How much did you agree to give him?—A. I do not remember anything about the agreement.

Q. Do you remember anything that was said at the time you talked with him, or at the time you and the New York man talked to him, about how much stock he was to take?—A. No, sir; I do not remember.

Q. What was the face value of the stock?—A. The face value of the stock was $20 a share.

Q. Do you remember how many shares were given to Judge Archbald?—A. No, sir.

Q. Was there more than one kind of stock?—A. Yes, sir.

Q. Preferred and common?—A. Common and preferred stock; yes, sir.

Q. Do you know which kind Judge Archbald took?—A. No; I do not remember.

Q. Did he take some of both kinds?—A. I do not remember that, either.

Q. Now, give us your best recollection as to the number of shares that Judge Archbald was to get in this arrangement you had with him?—A. I have not got any recollection about it at all.

Q. How is that?—A. I have not got any recollection about how much it was at all.

Q. You testified before the Judiciary Committee, did you not?—A. Yes, sir.

Q. You testified there that there was issued to Judge Archbald about $800 worth of stock at its face value, did you not?—A. I testified there from my memory, and it might not have been right.

Q. Did you not testify then that about 40 shares had been issued to him?—A. I do not know. Whatever I testified may not have been right.

Q. You remember you were questioned about it?—A. Yes; I know.

Q. And after you were questioned about it, did you look the matter up in the stock book?—A. I have got my own certificates, and I believe the secretary of the company is here and he can tell how much has been issued to Judge Archbald, but I do not remember.

Q. Have you looked to see how much it was?—A. No, sir.

Q. Well, you are the president of this company, are you not?—A. Yes, sir.

Q. What is the title of the company?—A. The Scranton Honduras Mining Co.

Q. Is it incorporated?—A. Yes, sir.

Q. And you are the president?—A. Yes, sir.

Q. How many shares of this stock have you in it?—A. Here are my certificates.

Q. Well, how many shares have you?—A. There are 37½ shares of the common in one certificate, 458 common in another certificate, and 33 shares of preferred in another certificate.

Q. That is all the stock you have?—A. Yes, sir.

Q. Something like 500 shares?—A. Yes, sir.

Q. Have you paid any money for that stock at all?—A. Yes, sir.

Q. How much?—A. I do not remember how much it was.

Mr. REED. We can not hear, Mr. President.

The WITNESS. I do not remember just how much it was.

Q. (By Mr. Manager STERLING.) Have you paid any money on that stock outside of what you got on this $2,500 note that the judge indorsed?—A. I think I did; yes, sir.

Q. Well, how much?—A. Well, I do not remember how much that was, either.

Q. Have you got any idea?—A. No, sir.

Q. Not the remotest idea?—A. No, sir.

Q. Was it $50,000?—A. I know it was not $50,000.

Q. Was it $20,000?—A. I know it was not $20,000.

Q. Was it $5,000?—A. No, sir.

Q. What did you do with the $2,500 when you discounted this note at the bank?—A. The bulk of that went to pay for the stock.

Q. The bulk of it—how much is "the bulk" of it?—A. I do not remember just how much.

Q. About how much?—A. Well, probably about $2,000 of it.

Q. Now, that went altogether on your stock?—A. It went to pay for the stock I held at that time.

Q. Did it go to pay anything on the shares that were issued to Judge Archbald?—A. Well, I do not know how that was. I think they were issued to Judge Archbald afterwards.

Q. How is that?—A. I think what was issued to Judge Archbald I issued to Judge Archbald afterwards.

Q. Yes; I think they were issued afterwards, but where did you send this money that you got on the note?—A. It went to New York.

Q. To this man whom you had come to Scranton?—A. Yes, sir.

Q. What is his name?—A. Russell.

Q. And you do not know just how much you sent? Was it as much as $2,000?—A. Well, I would not swear to that, but I think it probably was; yes, sir.

Q. Do you say none of that was to be applied on the stock that was issued to Judge Archbald?—A. Well, it was applied on the stock that I held.

Q. That you held?—A. Yes, sir.

Q. Is the stock which Judge Archbald received a part of the stock which had been issued to you?—A. Yes, sir.

Q. So, after he indorsed this note for $2,500, you issued to him, under date of February 27, 1909, certificate No. 6, for 42 shares of preferred stock, did you not?—A. I do not remember what it was or how much, but it was issued.

Q. Would you say that was about the time?—A. Yes, sir.

Q. Did Judge Archbald give you any money at the time the stock was delivered?—A. No, sir.

Q. Then, again, on certificate No. 9, you transferred 42 shares of the common stock on February 27, 1909, the same date as the other, did you not?—A. It probably was September 27, because that is the date of my certificate.

Q. February 27, you mean?—A. February 27, and they were probably split on that day.

Q. So on that date you issued to him 84 shares of stock altogether?—A. I do not remember how much it was.

Q. Did you deliver it to him in person?—A. I do not remember that either.

Q. Did he pay you any money for it?—A. No, sir.

Q. Did he give you a note for it?—A. No, sir.

Q. And has he paid you any money or given you any note for it since that time?—A. No, sir.

Q. Did he tell you he would pay you for it?—A. No, sir.

Q. Do you expect him to pay you for it?—A. No, sir.

Q. And this note of $2,500 which he indorsed, you paid all of that yourself?—A. Yes, sir.

Q. He never paid any part of the principal or the interest?—A. No, sir.

Mr. POMERENE. Mr. President, I submit the question which I send to the desk.

Q. (By Mr. Manager STERLING.) When was this corporation formed?—A. I do not remember when it was formed.

Q. Well, was it formed about the time that you had this conversation with Judge Archbald?—A. The secretary of the company has the books, and he can tell you the time it was formed.

Q. Let me refresh your recollection. Was it not organized November 10, 1908?—A. I do not remember.

Q. And was it not just about that time that the man from New York came up there and had the conference with you and Judge Archbald?—A. I think it was before that that the man came up.

Q. Before the corporation was organized?—A. Yes, sir.

Q. It was probably in October that he was up there?—A. In September.

Q. You think it was as early as September?—A. Yes, sir.

Q. And this note for $2,500, which was made payable to Judge Archbald and your mother-in-law and indorsed by them, was dated November 28, 1908, was it not?—A. I do not remember the date.

Q. Would you think about that time?—A. I think the banker has the date of the note.

Q. Well, we will prove that by him. That note you took to the Providence Bank?—A. No, sir.

Q. What bank was it?—A. The County Savings Bank.

Q. The County Savings Bank. Did they discount it right away?—A. I do not remember whether they did or not.

Q. Do you not remember that they inquired who Mrs. Hutchison was?—A. I do not remember.

Q. Did you not write to some real estate men down at—where does she live?—A. She lives in Scranton.

Q. Did you write a letter to some real estate men inquiring as to her financial standing, which you presented to the bank?—A. I think there was an inquiry; yes, sir.

Q. Well, who made the inquiry?—A. I do not know.

Mr. Manager STERLING. Mr. President, is there pending a question submitted by a Senator?

The PRESIDENT pro tempore. The Senator from Ohio [Mr. POMERENE] presented a question, which will be read to the witness by the Secretary.

The Secretary read the question, as follows:

Q. At the time of the trial of the case of the Old Plymouth Coal Co. v. The Equitable Fire & Marine Insurance Co. did the defendant, or its officers or attorneys, know that you and Judge Archbald were engaged in the gold-mining enterprise in Honduras?

The WITNESS. I do not think that any of the others concerned had anything to do with it but myself.

Q. (By Mr. Manager STERLING.) Now, I will ask you did you not yourself write a letter to Crisman & Myers, dated December 4, 1908?

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. The witness will repeat his answer. He was not heard.

Mr. POMERENE. Mr. President, I do not think the witness answered the question as it was asked.

The PRESIDENT pro tempore. The question will be again propounded and the witness will answer the question. Mr. Witness, if you do not understand it, read it again. Answer the question as propounded.

The WITNESS (after examining the question). Only myself knew about that.

Mr. SMITH of Maryland. Mr. President, please have the question stated again.

The PRESIDENT pro tempore. The Secretary will again read the question, and the answer of the witness will then be read by the Reporter.

The Secretary again read the question, as follows:

Q. At the time of the trial of the case of the Old Plymouth Coal Co. v. The Equitable Fire & Marine Insurance Co., did the defendant or its officers or attorneys know that you and Judge Archbald were engaged in the gold-mining enterprise in Honduras?

The PRESIDENT pro tempore. Now the Reporter will read the reply which the witness made.

The Reporter read as follows:

A. Only myself knew about that.

Q. (By Mr. Manager STERLING.) Now, Mr. Rissinger, does not the letter which I hand you refresh your recollection that the bank refused to discount the note at first until they had made inquiry about Mrs. Hutchison's financial standing?—A. I recollect about an inquiry, since you speak of it.

Q. Just look at the letter and state if it is not a copy of the letter which that real estate firm wrote you on the subject.—A. (After examining letter.) Well, it may be a copy of the letter, but I do not know whether it is or not.

Q. It is addressed to you, is it not?—A. Yes, sir.

Q. Signed by Crisman & Myers?—A. Yes, sir.

Q. And dated December 4, and it states that the property which your mother-in-law owns up in that town is worth about $18,000, does it not?—A. Yes, sir.

Mr. Manager STERLING. I will ask that the letter be read. Mr. President. [To counsel for the respondent.] Do you wish to see it, gentlemen?

Mr. SIMPSON. No.

Mr. Manager STERLING. I will have the Secretary read the letter.

The Secretary read the letter, marked "U. S. S. Exhibit 89," as follows:

[U. S. S. Exhibit 89.]

[Crisman & Myers, real estate, fire, plate-glass, and boiler insurance; collections and loans. Renting a specialty. New telephone 1533. Residence, No. 266 Chestnut Avenue; No. 313 Rutter Avenue, Kingston, Pa. Rooms 44 and 45 Wells Building.]

WILKES-BARRE, PA., *December 4, 1908.*

Mr. W. W. RISSINGER.

DEAR SIR: We estimate [that] the properties of Mrs. Sophia J. Hutchison, located in the boroughs of Kingston and Donaneiton, Luzerne County, Pa., to be worth at least $18,000.

Very truly, yours,

CRISMAN & MYERS.

Q. (By Mr. Manager STERLING.) You do remember getting that letter?—A. I remember of some such letter. I do not know whether that is a copy of it or not.

Q. I will ask you if this note which you took to the bank was not a plain promissory note, and they refused to accept it?—A. I do not remember whether it was or not.

Q. And when they refused to accept it, did they not say that if you would bring a judgment note and the report with reference to Mrs. Hutchison was satisfactory they would discount it for you?—A. I do not remember, except that they got a judgment note I know.

Q. They gave you a judgment note and put it in judgment?—A. Yes, sir.

Q. Against whom?—A. Against myself and Mrs. Hutchison.

Q. Was the judgment confessed against Judge Archbald?—A. No sir.

Q. Although he had indorsed the note with you and Mrs. Hutchison?—A. Yes, sir

Q. Why was not judgment taken against Judge Archbald also?—A. Well, I do not know; they did not ask for it in that way.

Q. Could they have taken it against Judge Archbald on that note?—A. I do not know.

Q. Did you have any conference with the bank about not taking the judgment against the judge?—A. Well, I do not remember that I asked them questions about it, except that I gave it the way they asked for it.

Q. How is that?—A. I do not remember that I asked any questions about it, except that I gave it to them the way they asked for it.

Q. So you do remember now that you changed the form of the note from a plain note to a judgment note?—A. I do not know whether I changed it or whether that is the way it was.

Q. You say John T. Lenahan was one of your attorneys in the Old Plymouth Coal Co. case in that suit pending before the judge?—A. Yes, sir.

Q. Did you present this $2,500 note to anybody else for discount before you took it to the savings bank?—A. I did not present it to John T. Lenahan, but I think I asked him about it.

Q. You did what?—A. I think I asked John T. Lenahan about it.

Q. What did you ask him about it?—A. I asked him if he could have his bank at Wilkes-Barre discount the note.

Q. You told him what it was?—A. I think I told him what indorsers I would get on it, or something.

Q. Were they not already on it?—A. I do not think that I had any note. I simply asked him about it.

Q. And did you not show him the note?—A. I do not think so.

Q. And tell him that Judge Archbald was an indorser?—A. I do not think so.

Q. Did you tell him the amount?—A. I do not remember.

Q. Did you tell him what the note was given for?—A. I do not remember that either.

Q. Did he not ask you then why you did not discount the note in your town, and did you not tell him that you had tried to do so and could not?—A. I do not remember.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Rissinger, the Scranton Honduras Mining Co. was a subcompany, was it not?—A. Yes, sir.

Q. The original concession granted by the legislative authority of Honduras was to an entirely different company?—A. Yes, sir.

Q. And you got a subconcession from this original company?—A. Yes, sir.

Q. Did this Scranton Honduras Mining Co. hold any meetings?—A. Yes, sir.

Q. Where did it hold its meetings?—A. It held them in the office of John R. Wilson.

Q. Did it have any bank account?—A. Well, it transacted some business.

Q. Answer my question, please. Did it have any bank account?—A. (After a pause.) Well, money went through the bank. I do not recollect about the bank account, but money went through the bank.

Q. Money went through the bank. Whose bank account was it that it went through?—A. I think the money was paid to New York.

Q. Paid to New York?—A. Yes.

Q. You said you do not think you paid the whole $2,500 to New York? Did any part of that $2,500 come back to Judge Archbald at all?—A. No, sir.

Q. Who kept the balance of it, whatever it was?—A. I did.

Q. Have there been any profits made by that company?—A. No, sir.

Q. In point of fact, is it not true that a party was sent down to investigate the matter in Honduras, and he found the title was defective?—A. I think so; yes, sir.

Q. So that, so far as concerns anything coming out of the matter, there is simply outstanding a company called the Scranton-Honduras Mining Co., that has issued a lot of stock and as to which there is nothing in it. Is not that correct?—A. It issued some stock.

Q. It issued some stock?—A. Yes. I do not know how much was issued.

Q. The balance of the stock which you got, a part of which you gave to Judge Archbald and part of which Mr. Russell got, was kept in the company's treasury as treasury stock, was it not?—A. I do not remember as to that. Probably that is so.

Q. The proceeds of that note and the moneys of your own, whatever amount it was that was paid, was paid by you directly to this man Russell, that you speak of, was it not?—A. Yes.

Q. What connection, if any, was there between the trial of the old Plymouth Coal Co. case against those various insurance companies and the Honduras matter?—A. Nothing at all.

Mr. SIMPSON. That is all.

Redirect examination:

Q. (By Mr. Manager STERLING.) The corporation is still in existence, is it not?—A. Which corporation?

Q. This coal-mining corporation.—A. No, sir.

Q. When did it dissolve?—A. I do not believe that it has ever formally dissolved, but——

Q. They just stopped mining gold——A. Do you mean the gold-mining company?

Q. Yes; the gold-mining company.—A. The corporation is in existence, but there has never been anything done with it. It is formally in existence, but in reality it is not.

Mr. Manager STERLING. That is all.

The PRESIDENT pro tempore. The witness is finally discharged.

TESTIMONY OF WALLACE M. RUTH.

Mr. Wallace M. Ruth appeared.

Mr. Manager STERLING. Mr. President, I think this witness also is here on an attachment. So far as we know, we have no objection to his being discharged from the attachment.

The PRESIDENT pro tempore. Upon the suggestion of the managers the attachment will be vacated.

Wallace M. Ruth, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) What is your full name?—A. Wallace M. Ruth.

Q. Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. Cashier County Savings Bank.

Q. How long have you been cashier of that bank?—A. Since last May.

Q. Were you connected with the bank in November and December, 1908?—A. I was.

Q. In what capacity?—A. Assistant cashier.

Q. Have you here the records of the bank during that time—the discount records?—A. I have a copy.

Q. I wish you would look and see whether or not a $2,500 note was discounted, the note being made by W. W. Rissinger to Judge Robert W. Archbald and Mrs. Hutchison.—A. The records of the bank show that on December 12, 1908, we discounted a $2,500 note made by W. W. Rissinger and indorsed by R. W. Archbald and Sophia Hutchison. The date of the note was November 28, 1908.

Q. What was the date of the note?—A. November 28, 1908.

Q. When the note was first presented to the bank for discount, in what form was it?—A. Just as I have read it off to you.

Q. Was it a judgment note at that time?—A. No, sir; an ordinary promissory note.

Q. What was done with reference to the form of the note after that, and why?—A. Mr. Rissinger offered—or possibly I asked him, not knowing Mrs. Hutchison very well, she being a woman—he offered, I think, her judgment note to be entered of record in Luzerne County, where her property was.

Q. Was that in addition to the plain promissory note?—A. That was additional security.

Q. The note which was discounted?—A. Yes.

Q. Was that done?—A. It was done.

Q. What was done with the judgment note?—A. It was entered on the records of Luzerne County.

Q. Against whom?—A. Against Mrs. Hutchison and W. W. Rissinger, I think. I have a copy of it here.

Q. When the note was first presented to you did you cause inquiry to be made as to the financial standing of Mrs. Hutchison?—A. I believe I did. I asked Mr. Rissinger.

Q. I wish you would look at Exhibit No. 89 and state if that is a copy of the letter which you presented to the Judiciary Committee as a copy of the letter which Mr. Rissinger gave you on that subject.—A. It is. I have the letter.

Q. You have the original letter?—A. Yes, sir; I have the original letter.

Mr. Manager STERLING. I guess there will be no dispute about this being a true copy?

Mr. SIMPSON. None at all.

Q. (Mr. Manager STERLING.) Look at Exhibit No. 90 and state if that is a copy of the original note.—A. (After examining.) No, sir; this is a copy of a renewal.

Q. What renewal?—A. A renewal dated March 1, 1912. The original note was dated back in 1908 and was renewed every three or four months, possibly.

Q. Is that the note which was standing as a renewal when you were before the Judiciary Committee?—A. This is the note that was in force when I was here in May.

Q. Look at Exhibit No. 91 and state what that is. I think you presented it to the committee.—A. This is a copy of the transcript of judgment entered against Mrs. Hutchison and Mr. Rissinger in Luzerne County.

Q. In what court?—A. In the court of common pleas.

Q. Why was judgment not taken against Judge Archbald?—A. We knew the Judge. We did not think it necessary. The Judge's name on a note was good.

Q. Could you have taken judgment on the judgment note which was given you, or did he sign the judgment note?—A. Who? Judge Archbald sign the judgment note?

Q. Yes.—A. No. Mrs. Hutchison and Mr. Rissinger signed the judgment note. The judge was merely an indorser on the promissory note.

Q. If you regarded Judge Archbald's indorsement good on the $2,500 note, why did you go to the trouble to inquire about Mrs. Hutchison's standing and why did you require a judgment note from her?—A. Well, a bank never hesitates about strengthening a paper that they take, and this was an offer, as I remember——

Q. Then there was a little doubt in your mind about it being good?—A. I do not think so.

Q. It was not quite strong enough? Is the note paid? Is the debt paid?—A. The note was paid the 30th of November this year.

Q. Who paid it?—A. Mr. Rissinger.

Q. Who kept the interest paid during these renewals?—A. Mr. Rissinger.

Q. Has Judge Archbald ever paid anything on the note?—A. He never has. I never saw him in connection with it.

Q. You have never seen him?—A. I have never talked with him or——

Q. In whose handwriting were the original note and the renewals?—A. Mr. Rissinger's.

Q. Always?—A. I think so.

Q. But Judge Archbald was always an indorser?—A. Just as an indorser; yes, sir.

Q. Let me ask you again, as it is not clear, who was the payee on all the notes?—A. The note was drawn payable to R. W. Archbald and Sophia J. Hutchison.

Q. And signed by Mr. Rissinger?—A. Signed by Mr. Rissinger.

Q. And indorsed by all three?—A. Indorsed by two—Mrs. Hutchison and Judge Archbald. I do not know whether Rissinger was an indorser on it or not.

Q. Was Mrs. Hutchison an indorser?—A. Yes.

Q. And Judge Archbald?—A. Judge Archbald.

Q. And Rissinger?—A. And Rissinger.

Mr. SIMPSON. We have no questions.

Mr. Manager STERLING. Mr. Swingle, who presented a note in evidence, desires to withdraw it, leaving a copy with the Secretary.

Mr. SIMPSON. That is entirely satisfactory to us.

The PRESIDENT pro tempore. It will be so ordered, by consent of the parties.

TESTIMONY OF JOHN R. WILSON.

John R. Wilson, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) What is your full name?—A. John R. Wilson.

Q. Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. Lawyer.

Q. How long have you practiced law there?—A. Since 1898.

Q. Were you connected in any way with the Scranton-Honduras Mining Co.?—A. I am the secretary of it.

Q. You are still the secretary of it?—A. Yes, sir.

Q. Have you been secretary of the corporation since it was organized?—A. Yes, sir.

Q. When was it organized?—A. November 10, 1908.

Q. You issued the stock that was issued, did you not?—A. Yes, sir.

Q. What connection did Mr. Rissinger have with that company?—A. He was the president.

Q. Was there a vice president?—A. There was not.

Q. Who was treasurer?—A. Mr. Harry S. Day.

Q. Who were the directors?—A. Mr. Rissinger, Mr. Day, and myself.

Q. Was Mr. Russell, of New York, a director?—A. No, sir.

Q. I will ask you if you have your stock book with you?—A. Yes, sir.

Q. State whether or not any stock was issued to Judge Archbald.—A. Yes, sir; there was.

Q. How many kinds of stock are there?—A. There are two kinds—preferred and common.

Q. Was any of the preferred stock issued to the Judge?—A. Yes, sir.

Q. What was the number of the certificate?—A. Certificate No. 6.

Q. For how many shares?—A. Forty-two.

Q. What was the date?—A. February 27, 1909.

Q. What was the face value of the stock?—A. Twenty dollars per share.

Q. And that would amount to $840, would it not?—A. Yes, sir.

Q. Did Judge Archbald pay that into the company?—A. I do not know.

Q. Did he ever pay it to you?—A. No, sir.

Q. Was any other stock issued to him?—A. Yes, sir.

Q. How much and when?—A. Certificate No. 9, for 42 shares of the common stock, issued February 27, 1909.

Q. Did Judge Archbald pay anything for that, so far as you know?—A. No, sir.

Q. You know, as a matter of fact, he did not?—A. I do not know.

Q. As secretary of the company, you never understood that he paid any money?—A. I did not handle any money.

Q. But you understood he did not pay anything for the stock, did you not?—A. That was my understanding at the time.

Q. For either the preferred or common stock?—A. No, sir; he paid nothing.

Q. You understand that he did not give a note for either of those certificates, do you not?—A. I do not know; I never saw any note passed.

Q. But you understood from your connection with the company that there never was any note passed?—A. Yes, sir.

Q. And you understand that there is an agreement that he never shall pay anything for it, do you not?—A. I do not know. No agreement is on file with the company to that effect.

Q. And from your connection with the company you understand there is no obligation on his part to pay any part of it?—A. No, sir.

Mr. Manager STERLING. I think that is all.

Cross-examination:

Q. (By Mr. SIMPSON.) In point of fact, these shares were a part of the shares belonging to Mr. Rissinger and were issued in Judge Archbald's name at Mr. Rissinger's request, were they not?—A. Yes, sir.

Q. Did this company ever do any business?—A. No.

Redirect examination:

Q. (By Mr. Manager STERLING.) Look at Exhibit No. 92, and state if you made that.—A. (After examination.) Yes, sir.

Q. And you presented it to the Judiciary Committee when you were here last summer?—A. No, sir; I gave it to Mr. WEBB the former part of this week.

Q. What is it?—A. It is a memorandum of stock outstanding of the Scranton Honduras Mining Co.

Q. You took it from your books?—A. Yes; it is a copy from the stock book.

Q. And it is correct?—A. Yes, sir.

Mr. Manager STERLING. I will offer that. I do not care to have it read.

Mr. WORTHINGTON. Let us see it, then.

The PRESIDENT pro tempore. Hand it to the counsel for the respondent.

The papers were handed to Mr. Worthington.

The paper referred to is as follows:

[U. S. S. Exhibit 92.]

(Memorandum. Stock outstanding. Scranton-Honduras Mining Co.)

Preferred, $20 per share.

Certificate No. 4.	Harry S. Day	100 shares;	issued Dec. 19, 1908.
Certificate No. 5.	John R. Wilson	50 shares;	issued Dec. 19, 1908.
Certificate No. 6.	R. W. Archbald	42 shares;	issued Feb. 27, 1909.
Certificate No. 7.	W. W. Rissinger	33 shares;	issued Feb. 27, 1909.
Certificate No. 8.	Harry S. Day	50 shares;	issued Mar. 12, 1909.

Common, $20 per share.

Certificate No. 3.	W. W. Rissinger	37½ shares;	issued Dec. 19, 1908.
Certificate No. 4.	Harry S. Day	50 shares;	issued Dec. 19, 1908.
Certificate No. 5.	John R. Wilson	25 shares;	issued Dec. 19, 1908.
Certificate No. 7.	Harry S. Day	500 shares;	issued Feb. 27, 1909.
Certificate No. 8.	John R. Wilson	500 shares;	issued Feb. 27, 1909.
Certificate No. 9.	R. W. Archbald	42 shares;	issued Feb. 27, 1909.
Certificate No. 10.	W. W. Rissinger	458 shares;	issued Feb. 27, 1909.
Certificate No. 11.	Harry S. Day	25 shares;	issued Mar. 12, 1909.

The PRESIDENT pro tempore. The Senator from Ohio [Mr. POMERENE] desires that a question be propounded to the witness. It will be read.

The Secretary read as follows:

Q. Why was this stock given to Judge Archbald?

The WITNESS. The stock was transferred or ordered to be transferred by William W. Rissinger to Judge Archbald, for what purpose I know not. I know nothing about why it was given.

Mr. Manager STERLING. Is that all?

Mr. WORTHINGTON. I have no questions.

Mr. Manager STERLING. That is all we care for from this witness.

The PRESIDENT pro tempore. The witness is finally discharged.

Mr. Manager STERLING. Mr. President, I desire to offer in evidence, as Exhibit No. 93, a certified copy of the orders taken in the several cases of the Old Plymouth Rock Coal Co. against the insurance companies; also in the case of the Risdon Iron & Locomotive Works against T. C. Von Storch. I do not care to have them read.

Mr. SIMPSON. Will you allow us to see them, please?

Mr. Manager CLAYTON. We want them printed.

Mr. Manager STERLING. I desire to have them printed in the RECORD.

Mr. WORTHINGTON. In reference to the transcript in the case against Mr. Von Storch, with respect to which it has been stated that the judgment was rendered in his favor, it appears at the end of the transcript that there was a judgment rendered against the defendant for eight hundred and some odd dollars.

Mr. Manager STERLING. I think there are two cases.

The PRESIDENT pro tempore. Is there any objection to the introduction of the paper?

Mr. WORTHINGTON. We have no objection.

Mr. Manager STERLING. I think if counsel will examine the papers he will find that there are quite a number of judgments.

Mr. WORTHINGTON. I looked at the last one.

Mr. SIMPSON. The Risdon case.

Mr. Manager STERLING. Do you object?

Mr. WORTHINGTON. We have no objection.

The PRESIDENT pro tempore. The papers referred to will be printed in the RECORD.

The papers are as follows:

[U. S. S. Exhibit 93.]

(Docket entries. In the Circuit Court of the United States for the Middle District of Pennsylvania. In re Old Plymouth Coal Co. v. The Pacific Fire Insurance Co. of the City of New York. No. 163. October term, 1908.)

H. C. Reynolds, Welles & Torrey, John T. Lenahan, for plaintiff; C. Comegys, Frank R. Shattuck, John M. Garman, for defendant.

October 5, 1908. Exemplified record from Luzerne County to No. 624, February term, 1908. Order directing that defendant file a plea within five days and that case be placed on the trial list.

October 6, 1908. Plea: Non assumpsit, etc.

November 19, 1908. Jury called and sworn. (See minutes.) Jury is discharged upon the settlement of the case by the parties.

November 23, 1908. Agreement of counsel that judgment be entered in favor of the plaintiff in the sum of $2,500 with interest. The judgment to be satisfied and discharged of record on the payment of $2,129.63 within 15 days. Judgment entered.

December 3, 1908. Plaintiff's bill of costs filed in No. 159, October term, 1908.

December 14, 1908. Final record. 29 folios.

Certified from this record this 15th day of May, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*

Per S. W. HOFFORD, *Deputy Clerk.*

—

(Docket entries. In the Circuit Court of the United States for the Middle District of Pennsylvania. In re Old Plymouth Rock Coal Co. v. The Globe & Rutgers Fire Insurance Co. of New York. No. 164. October term, 1908.)

H. C. Reynolds, Welles & Torrey, and John T. Lenahan, for plaintiff.

C. Comegys, Frank R. Shattuck, and John M. Garman, for defendant.

October 5, 1908. Exemplified record from the common pleas of Luzerne County to No. 622, February term, 1908. Order directing that plea be filed by defendant within five days and that case be placed on trial list.

October 6, 1908. Plea filed.

November 19, 1908. Jury called and sworn. (See minutes.)

November 21, 1908. Jury is discharged upon settlement of the case by the parties.

November 23, 1908. Agreement of counsel that judgment be entered in favor of the plaintiff in the sum of $5,000, with interest, the judgment to be satisfied and discharged of record on the payment of $4,259.25 and costs within 15 days. Judgment entered.

December 3, 1908. Plaintiff's bill of costs filed in No. 159, October term, 1908.

December 14, 1910. Final record. 28 folios.

Certified from the record this 15th day of May, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*

Per S. W. HOFFORD, *Deputy Clerk.*

—

(Docket entries. In the Circuit Court of the United States for the Middle District of Pennsylvania. In re Old Plymouth Coal Co. v. The Niagara Fire Insurance Co. of New York. No. 159. October term, 1908.)

H. C. Reynolds, Welles & Torrey, Scranton, Pa.; John T. Lenahan, Wilkes-Barre, Pa., for plaintiff.

C. Comegys, Scranton, Pa.; Frank R. Shattuck, Philadelphia, Pa.; John McGarman, Wilkes-Barre, Pa., for defendant.

October 3, 1908. Exemplified record from Luzerne County to No. 625, February term, 1908. Order that the defendant plead within five days and that the case be placed on the trial list.

October 6, 1908. Plea: Non assumpsit, etc.

November 19, 1908. Jury called and sworn. (See minutes.) Jury discharged, the matter having been settled between the parties.

November 23, 1908. Agreement of counsel that judgment be entered in favor of the plaintiff in the sum of $2,500 with interest. The judgment to be satisfied and discharged of record on payment of $2,129.63 and costs within 15 days.

November 23, 1908. Jury and witness list.

December 3, 1908. Bill of costs amounting to $42.30.

October 21, 1910. Final record recorded in final record book No. 1, law, pages 292, continued to pages 313 to 316, inclusive, 37 folios.

Certified from the record this 15th day of May, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*

Per S. W. HOFFORD, *Deputy Clerk*

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(Docket entries. In the circuit court of the United States for the middle district of Pennsylvania. In re Old Plymouth Coal Co. v. The Camden Fire Insurance Association of Camden, N. J. No. 161. October term, 1908.)

H. C. Reynolds, Welles & Torrey, John T. Lenahan, for plaintiff.

C. Comegys, Frank R. Shattuck, John M. Garman, for defendant.

October 5, 1908. Exemplified record from Luzerne County to No. 616, February term, 1908.

October 5, 1908. Order directing defendant to plead within five days and that case be placed upon the trial list.

October 6, 1908. Plea: Non assumpsit, etc.

November 19, 1908. Jury called and sworn.

November 21, 1908. The parties having settled the case, the jury is discharged.

November 23, 1908. Agreement of counsel that judgment be entered in favor of the plaintiff in the sum of $2,500, with interest. The judgment to be satisfied and discharged of record on the payment of $2,129.63 and costs within 15 days. Judgment entered.

December 3, 1908. Plaintiff's bill of costs filed in No. 159, October term, 1908.

December 14, 1910. Final record. 28 folios.

Certified from the record this 15th day of May, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*

Per S. W. HOFFORD, *Deputy Clerk.*

—

(Docket entries. In the Circuit Court of the United States for the Middle District of Pennsylvania. In re Old Plymouth Coal Co. v. Royal Exchange Assurance of London, England. No. 162. October term, 1908.)

H. C. Reynolds, Welles & Torrey, John T. Lenahan, for plaintiff.

C. Comegys, Frank R. Shattuck, John M. Garman, for defendant.

October 3, 1908. Exemplified record from Luzerne County to No. 619, February term, 1908. Order that plea be filed by defendant within five days and that case be placed on trial list.

October 6, 1908. Plea: Non assumpsit, etc.

November 19, 1908. Jury called and sworn. (See minutes.)

November 21, 1908. The jury is discharged, the parties having settled the case.

November 23, 1908. Agreement of counsel that judgment be entered in favor of the plaintiff in the sum of $2,500. The judgment to be satisfied and discharged of record on the payment of $2,129.63 and costs within 15 days. Judgment entered.

December 3, 1908. Plaintiff's bill of costs filed in No. 159, October term, 1908.

December 14, 1910. Final record. 28 folios.

Certified from the record this 15th day of May, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*

Per S. W. HOFFORD, *Deputy Clerk.*

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(Docket entries. In the Circuit Court of the United States for the Middle District of Pennsylvania. In re Old Plymouth Coal Co. v. The Stuyvesant Insurance Co. of New York. No. 160. October term, 1908.)

H. C. Reynolds, Welles & Torrey, Scranton, Pa.; John T. Lenahan, Wilkes-Barre, Pa., for plaintiff.

C. Comegys, Scranton, Pa.; Frank R. Shattuck, Philadelphia, Pa.; John M. Garman, Wilkes-Barre, Pa., for defendant.

October 3, 1908. Exemplified record from Luzerne County to No. 620, February term, 1908. Order that the defendant plead within five days and that the case be placed on the trial list.

October 5, 1908. Plea: Non assumpsit, etc.

November 19, 1908. Jury called and sworn. (See minutes.)

November 21, 1908. The parties having settled the case, the jury is discharged.

November 23, 1908. Agreement of counsel that judgment be entered in favor of the plaintiff in the sum of $2,500 with interest. The judgment to be satisfied and discharged of record on the payment of $2,129.63 and costs within 15 days. Judgment entered.

December 3, 1908. Plaintiff's bill of costs filed in No. 159, October term, 1908.

December 14, 1910. Final record. 28 folios.

Certified from the record this 15th day of May, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*

Per S. W. HOFFORD, *Deputy Clerk.*

(In the Circuit Court of the United States for the Middle District of Pennsylvania. In re the Risdon Iron & Locomotive Works, a corporation organized and existing under and by virtue of the laws of the State of California and being a resident and citizen of the State of California, e. T. C. Von Storch and C. H. Von Storch, both residents and citizens of the State of Pennsylvania. No. 8, January term, 1904.)

Welles & Torrey for plaintiff.

Willard, Warren & Knapp for defendants.

January 7, 1904. Praecipe for summons filed. Summons exit returnable the second Monday of January, 1904.

January 9, 1904. Summons returned; served on January 9, 1904.

January 11, 1904. Praecipe for appearance of Willard, Warren & Knapp, attorneys for defendant.

May 5, 1904. Plaintiff's statement.

May 31, 1904. Affidavit of defense.

January 12, 1907. Praecipe of plaintiff's attorney to place case upon the trial list for the next term of court at Scranton, Pa.

February 1, 1907. Order directing plea of general issue.

February 19, 1907. Rule and interrogatories for commission to Frank Woody, notary public of the city of Missoula, Mont., on 15 days' notice to the plaintiff or his attorney. Copy of rule, etc., returned. Service accepted by attorneys for plaintiff. Rule issued.

August 29, 1907. Rule and interrogatories for commission to M. M. Minkler, Esq., notary public at No. 4206 Fourteenth Avenue NE., Seattle, Wash., on 15 days' notice to plaintiff's attorneys. Rule issued.

September 26, 1907. Rule and interrogatories for commission to D. B. Richards, Mendsock Building, San Francisco, Cal., on 15 days' notice to plaintiff. Rule and interrogatories for commission to Henry C. Stiff, Missoula, Mont., on 15 days' notice on behalf of plaintiff. Rule and interrogatories for commission to M. M. Minkler, 4206 Fourteenth Avenue NE., Seattle, Wash., on 15 days' notice on behalf of plaintiff, issued. Amended complaint.

October 5, 1907. Exceptions to amended complaint.

October 9, 1907. Now, October 9, 1907, after argument by W. J. Torrey, Esq., for the plaintiff, and H. A. Knapp, Esq., for defendants, the exceptions to the amended declaration are overruled and the amendment allowed. Exceptions noted for the defendants.

October 12, 1907. Commission and interrogatories issued to M. M. Minkler. Commission and interrogatories issued to D. B. Richards.

October 19, 1907. Commission and interrogatories issued to Henry C. Stiff. Depositions taken before M. M. Minkler.

October 30, 1907. Depositions taken before Henry C. Stiff returned and filed. Depositions taken before D. B. Richards returned and filed. Depositions taken before M. M. Minkler returned and filed. Agreement of attorneys that action be tried by the court without a jury.

September 5, 1908. Rule to take depositions of Henry C. Stiff, Missoula, Mont.

September 21, 1908. Rule and commission issued.

October 5, 1908. Depositions of W. H. Smith, Esq.

January 29, 1909. Opinion and order directing judgment to be entered against the defendants in the sum of $882.19. Now, January 2, 1909, judgment is hereby entered on the verdict in favor of the plaintiff, Risdon Iron & Locomotive Works, and against the defendants, T. C. Von Storch and C. H. Von Storch, in the sum of $882.19.

Now, May 19, 1909, the plaintiffs acknowledge to have received satisfaction in full of the above judgment, debt, interest, and costs, and the judgment is hereby satisfied of record.

WELLES & TORREY,
Attorneys for Plaintiff.

Attest:

G. C. SCHEUER, *Deputy Clerk.*

Certified from the record this 14th day of May, A. D. 1912.

[SEAL.] G. C. SCHEUER,
Clerk United States District Court.

EDWARD R. W. SEARLE.

Edward R. W. Searle, being duly sworn, was examined, and testified as follows:

Q. (By Mr. Manager NORRIS.) Where do you reside now?—A. In the city of Scranton, Pa.

Q. How long have you resided there?—A. About 11 years.

Q. What is your business?—A. Attorney at law.

Q. How long have you been an attorney at law?—A. Since June, 1879.

Q. Have you been practicing law at Scranton during all that time?—A. No, sir.

Q. What portion of the time have you been in Scranton?—A. I came to Scranton in May, 1901.

Q. And have been there ever since?—A. Yes, sir.

Q. What official position did you occupy in the United States district court there?—A. Clerk.

Q. When were you appointed clerk?—A. At the organization of the court.

Q. That was at the time that Judge Archbald was appointed as judge?—A. Yes, sir.

Q. Did you occupy that position all the time he was the district judge?—A. Yes, sir.

Q. Mr. Searle, what do you know about a present or a fund that was raised as a present on the part of the bar, which was given to Judge Archbald at the time of his trip to Europe, in the spring of 1910?—A. I was one of the contributors to that fund, sir.

Q. Did you have anything to do with the gathering together of the fund?—A. Somewhat; yes.

Q. Tell us just what you did in connection with it.—A. As I understand it now more fully than I did in my examination before your committee in August last, after consulting with several of the contributors to that fund, a number of attorneys, personal friends of Judge Archbald, thought that they would give Judge Archbald a dinner on his going abroad. I think that was in the early spring of 1910. Subsequently a number of the attorneys could not attend when they came to give the dinner, and it dwindled down to about nine or ten, and then they thought it would be very nice to make up a purse of practically the amount that the banquet or the dinner would cost them. The first I knew of that was that they came to me and asked me whether I thought the judge, under the circumstances that they were going to give it to him, would accept that money, and from that time on I was more or less active in completing the fund—that is, in this way: Not as a solicitor, in that light, but more in gathering it together, because they had already agreed upon what they would give; but to get it together, so that it would be given to the judge upon his sailing for Europe, and that was all I had to do with it.

Q. You spoke of "they." Whom do you mean?—A. I mean those who contributed to the fund.

Q. Tell me who they were.—A. As well as I can remember, the firm of O'Brien & Kelley, Welles & Torry, Willard, Warren & Knapp, Watson, Diehl & Watson, Mr. Samuel Price, Mr. Rymer, Mr. Martin, Merritt Dimmick, Gov. Watres, Wheaton, Darling & Woodward, and C. S. Sprout. That is all that I can recall at this moment.

Q. Have you any idea that there were others besides those you have mentioned?—A. There might have been.

Q. You have not mentioned Mr. Lenahan?—A. No, sir.

Q. Did he contribute?—A. He did through Wheaton, Darling & Woodward.

Q. Did he do that through the firm or some member of the firm?—A. When I was here before it was my impression I had nothing to do with Mr. Lenahan in any shape or form and knew nothing about his contribution until his contribution came in at the close of the affair. I called Mr. Woodward on the telephone last Wednesday, when it was intimated that I was to come here, to see whether I was right or not in my recollection of the affair. Mr. Woodward declared to me that he did not send me Mr. Lenahan's check and had nothing to do with it. I said to Mr. Woodward, "You go and look at your check book." I told him it was either April or May when he issued that check. "Then," I said, "refer to your letter of that date and you will find you are mistaken. I will hold the phone." He did so, and he came back and said, "Ed, you are absolutely right"; that he wrote the letter to me; that he inclosed Judge Wheaton's check and his check, and also a check of $25 for Mr. Lenahan.

Q. That was Mr. Woodward?—A. That was Mr. Woodward. That is all I know of Mr. Lenahan having any connection with that fund in any shape or form.

Q. Mr. Searle, who is Mr. Woodward?—A. He is an attorney of Wilkes-Barre, of the firm of Wheaton, Darling & Woodward.

Q. Is that in the judicial district over which Judge Archbald has presided?—A. Yes, sir; the middle district of Pennsylvania.

Q. What official position in that court did Mr. Woodward hold at that time?—A. He was jury commissioner, from the organization of the court down until Judge Archbald left.

Q. At the time you were here before the Judiciary Committee you could not remember any of these names which you have given me to-day, could you?—A. I think you refer to my testimony.

Q. To your testimony.—A. I gave a large number that I have given to-day; but I could not remember, and told you so, that I could not call it to my mind. Since I went home I took pains to inquire and I find I left out a few names.

Q. As a matter of fact, you gave us practically no names at that time, except Mr. Woodward and Mr. Lenahan.—A. I gave you Gov. Watres's name; I gave you Mr. Dimmick's name; I gave you Watson, Diehl & Watson's name; I gave you Mr. Price's name; I gave you Mr. Martin's name; I gave you Mr. Rymer's name; and I gave you O'Brien & Kelley's name.

Q. In fact, most of those names were asked you in the form of questions as to whther they did not contribute?—A. No, sir; not that I recall it, sir.

Q. How much did each one of those men contribute?—A. I can not recall the amount; but no one gave over $50, and none gave less than $25.

Q. Give us the first attorney's name you mentioned who did contribute?—A. Who was that?

Q. Take up any of them. I do not care about the order. Who was some one who contributed through you?—A. Mr. Price.

Q. How much did Mr. Price contribute?—A. I could not say whether it was twenty-five or fifty.

Q. Do you know how he happened to contribute?—A. Yes, sir.

Q. Did you talk with him about it?—A. Yes, sir.

Q. He gave the money to you?—A. Yes, sir.

Q. Now, take up some other man.—A. O'Brien & Kelley.

Q. They are in Scranton?—A. Yes, sir.

Q. Did they contribute to you?—A. I think they did.

Q. Did they give you a check?—A. Yes, sir.

Q. For how much?—A. $50.

Q. Do you know anybody in Williamsport by the name of Munson?—A. Yes, sir.

Q. Did you solicit a contribution from him?—A. I have no recollection of having any conversation with Mr. Munson whatever in relation to this fund. He and I talked the question over right out here less than two hours ago. I pointed out to him how easy it was to be mistaken. I called his attention, for instance, to Mr. Lenahan's mistake, as I read it in his testimony in the CONGRESSIONAL RECORD, and told him how easy it was to be mistaken. I am as firm in my statement that I had nothing to say to Mr. Munson as I know I had nothing to say to Mr. Lenahan.

Q. Now, Mr. Searle, from the very nature of things, you might have forgotten your conversation over the phone, and if he had been asked to contribute and had refused he certainly, if he remembered it at all, could not be mistaken about it.—A. Whom do you have reference to?

Q. Mr. Munson.—A. The reason I am so firm in that, Mr. C. S. Sprout, of Williamsport, looked after that entirely, as I understood it, and I paid no attention to anybody in Williamsport, neither did I pay attention to anybody in Luzerne County.

Q. Did Mr. Sprout contribute?—A. He did, sir.

Q. Did he pay to you?—A. Yes, sir.

Q. How much?—A. $25.

Q. Now, give the amount paid by these other attorneys.—A. I can not give you the exact amount. It is my impression that the firms that I speak of gave $50.

Q. How much did you get altogether?—A. $500.

Q. Just exactly $500?—A. I am not sure about that. It was either $500 or $525.

Q. Did you contribute, Mr. Searle?—A. I did.

Q. How much did you contribute?—A. $25.

Q. Did you get a letter of acknowledgment afterwards from Judge Archbald?—A. I did.

Q. After he had arrived in Europe?—A. Not strictly an acknowledgment of the $25; but I was the clerk of his court, and he wrote me I should say once or twice a week while abroad, and in the first letter I received from him he mentioned what a nice thing his friends did in that matter. Do you want me to tell what else was in that letter?

Q. I do not care for it. Have you the letter?—A. I have not the letter.

Q. You remember all those things now and you did not know anything about those when you testified before the Judiciary Committee?—A. The question was not asked me, sir.

Q. Did you testify before the Judiciary Committee as to the amount that these various attorneys had contributed?—A. I think I did, sir, as far as I could remember.

Q. Mr. Searle, do you know who contributed or who paid the expenses of Judge Archbald's trip when he went abroad?—A. Yes, sir.

Q. Who was it?—A. Mr. Cannon, a cousin of Judge Archbald's wife.

Q. Henry W. Cannon?—A. Yes, sir.

Q. Of New York City?—A. Yes, sir. I should like to say in that regard that when the first letter came to Judge Archbald, inviting him to go to Mr. Cannon's villa in Florence——

Q. Did you see the letter?—A. I saw the letter.

Q. Was the letter written to you?—A. No, sir.

Q. To whom was it written?—A. It was written to Judge Archbald.

Q. Do you know where it is now?—A. I do not.

Q. When did you see it?—A. It must have been along in February prior to his going.

Q. When did he go, as a matter of fact?—A. I can not give the month. It was either April or May, 1910.

Q. Do you know what ship it was?—A. The *Kaiser Wilhelm der Grosse*, I think.

Q. The letter came in February, inviting him to go with Mr. Cannon?—A. Yes, sir.

Q. Written to Judge Archbald?—A. Yes, sir. He showed the letter to me and asked me what I thought of it. I said, "Judge, go by all means." He hesitated. He said he had no means of his own, and he was afraid to accept that invitation for fear that the people he owed would misconstrue it; that he ought to pay——

Q. He did not owe anybody?—A. Yes, sir; my understanding is that Judge Archbald has been financially bad for 30 years—that is, he had no surplus money.

Q. As a matter of fact, do you not know his name is good on a $2,500 note in bank in Scranton?—A. Judge Archbald's name is always good in our community, sir, not only prior to this investigation but to date.

Q. Always good?—A. Always good, sir.

Q. Why was he afraid, if that was the case, that somebody would criticize him for going abroad; do you know?—A. I told you the reason for it. He was afraid some people he might owe would misconstrue it and say the money he used for a trip abroad should be applied upon his indebtedness.

Q. He did not owe anybody he could not pay and he did not owe anybody who was crowding him for money, did he?—A. I could not say as to that.

Q. If he did, his name was not so good on a note?—A. I say I have never seen the time yet but what his name was good.

Q. If his name was good and nobody was complaining about his name being bad——A. I could not tell you what other people were thinking of or what other people were saying.

Q. Very well. I am asking you, if they were complaining, then his name was not good, was it?—A. It does not necessarily destroy a man's credit if A, B, and C might complain about him.

Q. But I understand you there were no such instances.—A. I did not say that. I said I did not know whether there were or not.

Q. I thought you did know that his name was absolutely good.—A. I do say that, sir, unhesitatingly.

Q. You do not know, however, but what A, B, and C and a good many other fellows are complaining about his not paying his debts?—A. That might be, sir.

Q. Notwithstanding that you do know that his name is absolutely good on a note in any of the banks of Scranton?—A. Yes, sir.

Q. Is it true that the judge hesitated about accepting the money from Mr. Cannon to make his trip because he was afraid his creditors would complain?—A. That was what the judge talked with me in discussing whether he ought to go under the circumstances.

Q. Did he tell you who his creditors were?—A. No, sir.

Q. Did you know who they were?—A. Some of them.

Q. Just in a general way, did he owe a great deal of money?—A. Yes; I think there is a mortgage on his house for some thirteen——

Q. That was not due, was it?—A. I could not say whether it was due or past due.

Q. Do you know that there was any note or any claim that was crowding him at that time?—A. No, sir; I do not.

Q. Do you not know, as a matter of fact, that there were no claims crowding him then?—A. I could not say that, because I had no means of knowing it.

Q. I suppose you would if you knew about his credit being so good. How much did Mr. Cannon pay him to make this trip, if you know?—A. I could not tell you anything about that.

Q. You do not know how much he paid?—A. I have no knowledge whatever, sir.

Q. Do you know when Mr. Woodward was appointed jury commissioner?—A. I told you, sir, at the organization of the court.

Q. He was appointed by Judge Archbald?—A. Yes, sir.

Q. He was an attorney, of course?—A. Yes, sir; and his father before him.

Q. Of what railroad company was Mr. Woodward general attorney?—A. I could not say, only what I know transpired in our court. He is attorney, as I understand, for the Lehigh Valley Coal Co., and also for the Lehigh Valley Railroad Co.

Q. The Lehigh Valley Railroad Co. owns the Lehigh Valley Coal Co.?—A. It is supposed to.

Q. It is really one and the same, is it not?—A. I can not say that, but that is the general impression of people who live in the coal country.

Q. How long has he been attorney for this railroad company?—A. I should say Mr. Woodward is the third. His grandfather represented them in bygone days, and his father until he went on the bench. I should say all the time he has been admitted to the bar.

Q. He was such attorney at the time he was appointed jury commissioner?—A. Yes, sir.

Q. He has been such attorney ever since?—A. Yes, sir.

Q. Do you know whether he represented any other railroad company as attorney?—A. I could not say that, sir; that is, to be sure of it.

Q. Do you know anything about it?—A. I was told after Judge Wheaton resigned from the common pleas bench and came back to this firm—before he went on the bench he was a member of the old firm of Woodward, Darling & Woodward, but after he retired from the common pleas bench he went back to this firm, and after he went into private practice again the

Pennsylvania Railroad Co. had removed, on account of ill health, Gen. Palmer, who was general counsel for a great many years, and appointed Judge Wheaton.

Q. About when was that, Mr. Searle?—A. I could not tell you. It would be only a guess. I should say three years ago, or such a matter. It was when Mr. Palmer left Congress. It was at that time his health broke down.

Q. Mr. Searle, referring again to these attorneys with whom you consulted and who contributed this money, all of the money contributed to this fund was contributed by attorneys?—A. Absolutely, sir.

Q. They were all practitioners at the court over which Judge Archbald presided?—A. No, sir.

Q. Where they not?—A. No, sir.

Q. Who were not?—A. Well, there was Mr. Dimmick.

Q. Who is Mr. Dimmick?—A. Mr. Dimmick is a member of our bar.

Q. Where?—A. Scranton.

Q. He is a practicing attorney, is he not?—A. Not for the last 12 or 15 years. He is in the banking business.

Q. He is a banker?—A. Yes, sir; he is president of the Lackawanna Trust Co., Scranton.

Q. Give us another one.—A. Gov. Waires.

Q. Where does he live?—A. He lives in Scranton—ex-lieutenant governor of Pennsylvania.

Q. Has he quit the active practice?—A. Yes, sir; some 15 or 16 years.

Q. What is his business?—A. He is president of the Spring Brook Water Co.

Q. What is the Spring Brook Water Co.?—A. It is the water company that furnishes water for Wilkes-Barre and Pittston and all the cities below Scranton—small mining towns. He is president of the Title Guarantee & Surety Co. of Scranton, and a number of other companies of that character, all of which I can not recall at this moment.

Q. He is connected with a number of corporations there?—A. Yes, sir.

Q. What other attorney contributed to this fund?—A. I do not recall any just now.

Q. All the balance of them were practitioners in Judge Archbald's court?—A. More or less, sir.

Q. These men, you say, at first decided to have a dinner?—A. Yes, sir.

Q. Was there a meeting?—A. I could not tell you about that. Mr. Sprout, of Williamsport, could tell you more about that than I.

Q. Most of those attorneys were in Scranton, were they not?—A. No, sir.

Q. They had a meeting in Scranton to talk about the dinner?—A. I could not tell you.

Q. Did you attend any meeting in regard to a dinner?—A. No, sir. I knew nothing about it.

Q. You never heard of such a meeting?—A. No, sir.

Q. As a matter of fact, while you were clerk and lived there in Scranton and were associated in an official capacity with all the attorneys who did business in the court, whether they lived in Scranton or otherwise, you never heard of any meeting of any attorneys making arrangements to give a dinner in honor of Judge Archbald instead of making a contribution of money direct?—A. Yes, sir; I did.

Q. Where?—A. I heard the lawyers talking about it. I think the first I heard about it——

Q. I wish you would answer my question.

Mr. WORTHINGTON. Mr. President, I submit that this witness should occasionally be allowed to complete his answer before he is interrupted.

Mr. Manager NORRIS. The witness was not answering my question.

Mr. WORTHINGTON. I submit that he was.

Mr. Manager NORRIS. I submit that he was not.

The PRESIDENT pro tempore. The Chair will hear the question and decide.

Mr. WORTHINGTON. All right, let the Chair pass upon it.

The PRESIDENT pro tempore. The Chair thought that the particular question was answered, but the Chair would like to have the stenographer's notes read to see if he is correct.

The Reporter read the two questions and answers given above.

Mr. Manager NORRIS. I submit the witness has not attempted to answer the question.

The WITNESS. You stopped me.

The PRESIDENT pro tempore. The witness will complete his answer now.

The WITNESS. As I understand your question, the first intimation I had of what they were doing at all was talk——

Mr. Manager NORRIS. That is not an answer to my question. I want an answer to my question. The question is, Where was this meeting? The witness said he knew of a meeting, and my question is, Where was it?

The PRESIDENT pro tempore. The witness will answer the question, and then he can explain.

The WITNESS. I never knew where there was any meeting, but I overheard a conversation of attorneys while at Williamsport talking about a banquet for the judge, and my understanding of the talk of the attorneys was that this whole affair was originated not in Scranton but by the members of the bar who were attending the supreme court at Philadelphia, and there is where they first talked about this banquet.

Q. Where did you get that understanding, and from whom did you get it?—A. I got it from the man who started it, Mr. Sprout, of Williamsport.

Q. Of Williamsport?—A. Yes, sir; he told me.

Q. How many men did Mr. Sprout see in getting these contributions?—A. I can not tell you.

Q. Do you know whether he saw anybody?—A. I do not know whether he saw anyone.

Q. Is it not true that Mr. Sprout's activity was entirely with regard to the dinner and had nothing to do with the collection of the cash contributions?—A. I could not say that, sir. All that I recall of it is that he did send me his check for his contribution for the purse.

Q. That is all you know of his doing?—A. So far as the money end is concerned.

Q. That is what I mean.—A. Because I do not live there and had no means of knowing.

Q. As a matter of fact there was no dinner given?—A. No, sir.

Q. You said in your testimony a while ago that these men thought they might as well contribute this money; that it would be about the same they would pay if they had a dinner.—A. That was my understanding of it.

Q. Was the judge notified as to who had made these contributions?—A. Well, now, when do you mean?

Q. At any time.—A. At any time?

Q. Yes.—A. My understanding was this money was turned over to Judge Searle and he put it in an envelope and sealed it and delivered it to Judge Archbald on board the boat in Jersey City, and in the envelope there was a letter, typewritten, wishing him bon voyage, with the names of the contributors, with no amount signed opposite the names at all. That is my understanding of it. And on the outside of the letter was written, "Hon. R. W. Archbald. Sailing orders: Not to be opened until two days at sea."

Q. Then the idea was that he should not know who the contributors were until he had gotten away from land?—A. Yes, sir.

Q. And then he was able to tell exactly who it was who contributed the money?—A. If he read the letter he would.

Q. Do you know Thomas Darling?—A. I do, sir.

Q. Is he a practicing lawyer?—A. Yes, sir.

Q. Where?—A. Wilkes-Barre.

Q. Was he one of the contributors to this fund?—A. I could not say, unless he was included in the firm's check.

Q. As soon as the fellows up at Wilkes-Barre contributed to Mr. Woodward, as I understand, he sent the money down to you?—A. Yes, sir.

Q. And the man up at Williamsport sent his money down to you?—A. Yes, sir.

Q. Were there any other attorneys coming from other towns outside of Scranton who contributed to the fund?—A. All that I recall are those I have named.

Q. They sent their contributions to you, did they not?—A. Yes, sir.

Q. As a matter of fact, you had in your possession all of the contributions that were made, did you not?—A. Before it was turned over to Judge Searle, I think I did, with the exception of probably there might be one or two. I know I did not have Judge Searle's contribution.

Q. Now, Mr. Darling is in partnership with Mr. Woodward, the jury commissioner, is he not?—A. I could not tell you that. The firm is Wheaton, Darling & Woodward.

Q. Is not Thomas Darling a member of the firm?—A. I think his name is there, but whether he is an active partner or not I can not say.

Q. I want to ask you if this man, Mr. Darling, the partner of Mr. Woodward, is not attorney for a railroad company other than the railroad company for which Mr. Woodward is an attorney?—A. I never knew Mr. Darling representing any corporation while I have been in Scranton.

Q. Is he not attorney for the Lehigh Valley Railroad Co.?—A. I could not say.

Q. You do not know whether he is or not?—A. I do not know.

Q. When did this talk first begin about getting a dinner for the judge?—A. Of course, I am unable to state when it started.

Q. I should like to get, if I can, about the length of time that elapsed from the beginning of the agitation of this subject until the judge finally sailed?—A. I can not give you that, but it was a short time before he sailed. I do not think it was over three weeks before that. I have no recollection of it.

Q. The judge did not know anything about the talk about the dinner, either?—A. Absolutely none.

Q. He never knew anything about this work that was going on, gathering together this money to contribute to him?—A. As far as I know, never.

Q. You never told him of that?—A. Never.

Mr. FLETCHER. Mr. President, I send to the desk a question.

The PRESIDENT pro tempore. The Senator from Florida presents a question to be propounded to the witness, which the Secretary will read to him.

The Secretary read as follows:

What are the duties of a jury commissioner, how many are there, and for what term are they appointed to serve?

The WITNESS. The duty of a jury commissioner of the United States court is to gather a certain percentage of names from each county in the district and put them in the wheel as the venire of the court is called for. Their appointment is for no stated term. It is for life or until removed. At each term of the United States court the court issues a venire calling for a certain number of grand jurors and a certain number of petit jurors. The clerk certifies that to the jury commissioners, of which the clerk is one. They notify the marshal, and at the drawing of the jury the number of names commanded by the venire is placed into the wheel and the wheel closed and shaken up, and the number drawn out according to the mandate of the venire.

Q. (By Mr. Manager NORRIS.) As a matter of fact, there is only one jury commissioner in the judicial district?—A. Two, sir.

Q. The clerk is one, is he not?—A. Yes, sir. The law provides that there shall be two jury commissioners in each Federal district, and the court shall appoint the second jury commissioner.

Q. I mean besides the clerk.—A. There is only one besides the clerk, sir.

Q. That is what I mean. The clerk is ex officio one of those commissioners?—A. Yes, sir.

Q. Then the law provides that the judge shall appoint some one of the opposite political faith from the clerk as another jury commissioner?—A. Yes, sir.

Q. Now, then, in this judicial district you as clerk and Mr. Woodward as the other jury commisioner selected all the names of all the jurors in that judicial district, did you not?—A. Yes, sir.

Mr. Manager NORRIS. I think that is all.

Cross-examination:

Q. (By Mr. SIMPSON.) That is to say, you selected the names that were put in the wheel?—A. Certainly.

Q. And then, after a revolution, they were drawn out, and by the chances thus evolved they became jurors?—A. Yes, sir.

Q. The marshal was the man who drew out the names from the wheel, was he not?—A. Yes, sir.

Q. What is your politics?—A. Republican.

Q. And Mr. Woodward's?—A. Democrat.

Q. And he belongs to a Democratic family of Pennsylvania running back for generations, does he not?—A. Yes, sir.

Q. His grandfather was chief justice for many years of the supreme court?—A. Yes, sir.

Mr. Manager CLAYTON. I submit that is exceeding anything we brought out on the direct examination. It all may be very interesting to have the family history of Mr. Woodward, but it is consuming the time of the Senate.

Mr. WORTHINGTON. I might say it has been very interesting to listen to all that was brought out by the witness, but not a word has been brought out that there has been any attempt to connect Judge Archbald with.

Mr. Manager CLAYTON. That will be determined later.

Q. (By Mr. SIMPSON.) You spoke of the firm of Watson, Diehl & Watson. Is Mr. George M. Watson a member of that firm?—A. No, sir; he has no connection with it; he is no relation.

Q. In the beginning of your examination you were asked if the judge would accept money if it was given to him. What did you say in response to that question?—A. As near as I can recall it, I told them that I thought under the circumstances, the fund emanating from lifelong friends, men who were pure in character, and the manner in which it was to be given, I could see no harm in his taking it and I thought he would.

Q. In point of fact the difficulty was in so getting it into his hands that he could not turn it back?—A. That is all we apprehended, that he would throw it back on the boat.

Q. Is that the reason why it was put in an envelope with the indorsement on it as stated, "Sailing orders, not to be opened until two days at sea"?—A. Absolutely; and Judge Searle was selected to do that. They thought that coming from a man of his character he would accept it.

Q. Judge Searle is judge of what court?—A. He is the present judge of the common pleas court of Wayne County, Pa.

Q. So far as you are aware, did Judge Archbald have any knowledge or intimation whatsoever that this money was to be given to him?—A. None, absolutely.

Mr. SIMPSON. That is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager NORRIS.) I have a question to ask. You stated, in answer to a question, that these contributions came from men who were pure in character. Did you make any investigation, when a contribution was offered, as to the purity of the character of the man who contributed it?—A. I have known them all for over 40 years personally.

Q. They were all of that kind of men, were they?—A. Every one of them.

Q. Did anybody offer to contribute to the fund who did not get an opportunity to do it?—A. I could not say as to that, sir.

Q. You did not refuse anybody's money, did you?—A. No, sir. I have had some lawyers complain that they did not have a chance to contribute to this fund.

Q. That is very natural; I should think they would.—A. And I will tell you the reason why I did not ask them: So far as I am concerned personally, it was because they were all young men and had not any more money than their own families needed.

Q. And even the men, then, who did not have enough, or at least not more than enough to supply their families, were anxious to contribute to this fund?—A. Yes, sir.

Q. Do you have any idea that the anxiety of any of these attorneys to contribute to the fund was moved in any degree by their desire to have the court hold a friendly opinion of them?—A. Not in the least, sir.

Q. It seems, though, that there were men who did not get an opportunity to contribute, who were quite poor, and whom you thought could not afford to pay, who complained because they did not have an opportunity to pay?—A. Yes, sir.

Mr. Manager NORRIS. That is all.

Mr. SIMPSON. That is all, sir.

The PRESIDENT pro tempore. The witness will be finally discharged.

Mr. Manager NORRIS. I wanted to question Mr. Lenahan next, but I have just been told by the Sergeant at Arms that he was discharged.

Mr. Manager CLAYTON. Mr. Lenahan was examined touching this matter.

HENRY W. CANNON.

Mr. Manager NORRIS. Under article 10 we had a witness subpœnaed—Mr. Henry W. Cannon. We are in receipt of a telegram from the United States marshal in New York City, stating that he is not able to serve Mr. Cannon; that he is informed by his secretary at his office in New York City that Mr. Cannon is now on his house-boat somewhere in Florida. The only testimony we wanted to show by Mr. Cannon was along the line of this one article 10, but we will not ask to delay the Senate by hunting further for Mr. Cannon. We will not call him.

J. B. WOODWARD, JURY COMMISSIONER.

I want now to offer in evidence, Mr. President, a certified copy of the appointment, and his oath, of Mr. J. B. Woodward as jury commissioner.

Mr. WORTHINGTON. We do not care anything about it.

Mr. SIMPSON. We do not object to that.

The PRESIDENT pro tempore (to Mr. Manager NORRIS). Do you desire the paper read?

Mr. Manager NORRIS. I should like to have the appointment read. I do not care to have the certificate read.

The Secretary read the paper, which was marked "U. S. S. Exhibit No. 94," as follows:

[U. S. S. Exhibit 94.]

In re jury commissioner for the district court of the United States for the middle district of Pennsylvania.

MIDDLE DISTRICT OF PENNSYLVANIA, *ss:*

I hereby appoint J. B. Woodward, Esq., of Wilkes-Barre, a citizen of good standing, residing in said district and a well-known member of

the Democratic Party, to be the jury commissioner of the said middle district.

R. W. ARCHBALD, *District Judge.*

APRIL 9, 1901.

Certified from the record this 12th day of December, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*
Per S. W. HOFFORD, *Deputy Clerk.*

(In the district court of the United States for the middle district of Pennsylvania. In the matter of the appointment of John Butler Woodward, of Wilkes-Barre, Luzerne County, Pa., jury commissioner of the district court of the United States for the middle district of Pennsylvania.)

UNITED STATES OF AMERICA, *Middle District of Pennsylvania, ss:*

I, John Butler Woodward, having been appointed jury commissioner of the district court of the United States for the middle district of Pennsylvania, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

JOHN BUTLER WOODWARD.

Sworn to and subscribed before me this 9th day of May, A. D. 1901.

R. W. ARCHBALD,
Judge of the District Court of the United States for the Middle District of Pennsylvania.

Certified from the record this 12th day of December, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*
Per S. W. HOFFORD, *Deputy Clerk.*

Mr. Manager NORRIS. We have another witness, Mr. President, but I do not believe it is necessary to wait for him. Mr. Woodward is not here.

Mr. Manager WEBB. Mr. President, I should like to have Mr. T. F. Farrell called as a witness.

TESTIMONY OF THOMAS F. FARRELL.

Thomas F. Farrell, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) What is your name, Mr. Farrell?—A. Thomas F. Farrell.

Q. Where do you live?—A. New York City.

Q. What is your city address?—A. 147 West Ninety-third Street.

Q. It has been shown in evidence in this proceeding that application was made to the Girard estate for Packer No. 3, being a culm bank in Shenandoah, Pa. I wish you would state to the Senate what your connection with that transaction was as to the formation of this company and the securing of this culm bank, Packer No. 3?—A. I had no connection whatever with the securing of that culm bank nor with the formation of that company. I was interested in that company to the extent that I agreed to loan to the company about to be formed or thereafter to be formed enough money to build and equip a washery on that culm bank Packer No. 3.

Q. What was your first negotiation with reference to this furnishing of money, and with whom was that negotiation—when and where?—A. In my office in New York City with Mr. Jones—Mr. T. H. Jones. He came to my office with a man from New York; he was introduced to me by a man from New York City in the coal business, he having heard that I was interested in such property, I being in the coal business. I asked him where the property was, and he told me in Shenandoah. I asked him about how much coal, and he did not know how much coal. I asked who was in the company, or who was to be in the company, and he mentioned to me that Judge Archbald, of Scranton, was to be in the company. I said to him, "Is that the Judge Archbald before whom I sat as a grand juror in New York City here last July?" He said, "I guess it is." "Well," I said, "if that is the same Judge Archbald that I served before, and he is interested in the company, I would be willing to go along, but I would like to see the men"—I was a little bit skeptical about some people in Scranton. A meeting was arranged, and I went to Scranton, if my memory serves me rightly, about this time last year—just before the Christmas holidays.

Q. How far is it from New York to Scranton?—A. Oh, about 150 miles, I guess.

Q. All right, sir, proceed.—A. I called at Judge Archbald's office.

Q. With whom?—A. With my friend from New York, who was interested, Mr. Hellbut, my son, and I do not remember whether Mr. Jones was with us or whether we met him there, but he was there.

Q. Where was this meeting—in Judge Archbald's office, you say?—A. In Judge Archbald's office.

Q. Who was present when the conference began?—A. Judge Archbald——

Q. Was V. L. Petersen there?—A. Judge Archbald, Mr. V. L. Petersen, Mr. Jones, Mr. Hellbut, my son, and myself.

Q. Now, proceed and tell us what took place at that meeting when Judge Archbald was present.—A. At that meeting I said that I thought I was in the right place, because the judge was the man that I thought he was. I recalled to the judge my having served under him, and he remembered that he had been sitting in that court at that time. I said that I was looking for a proposition of this kind, and I was quite willing to advance the money necessary to put the plan in operation.

Q. How much was that?—A. Well, about $20,000, possibly a little more than that; not over $25,000—about $20,000.

Q. The application to the Girard estate states that it was $25,000. Would that be correct?—A. Well, it may have been $25,000, but my memory is that it was about $20,000, or a trifle over that—whatever money was required or would be required to build this washery. For putting in that money I was to have an interest in the profits of the company and I was to be repaid my money. We discussed there that night how I would be repaid and how much profit I should get. I asked, I think, at first about half the profit. I finally agreed—I do not remember whether it was that night or at a subsequent meeting—to take 20 per cent of the profit, and to have my money repaid with interest at 20 cents per ton as the coal came out, so that at any time the company was not operating it would not be handicapped by meeting my payments. I was not to be interested in the company in any way, however. I was to take the entire stock of the company as collateral security for my loan.

Q. Was Petersen to put up any money?—A. I do not know. I think I was to put up all the money.

Q. Was Judge Archbald to put up any money?—A. I do not know. As I said before, I think that I was to furnish all the funds to build the washery.

Q. You do know what agreement was had at this particular time you are talking of, do you not?—A. I do know the agreement that was had between these people representing this company and myself.

Q. Well, was Judge Archbald expected to put up any money at the time that you had the conference with him in his office at Scranton?—A. At that time it was not stated that anybody was to put up any money but myself.

Q. Well, tell me what Judge Archbald was to do—what was agreed or suggested or stated that Judge Archbald was to do?—A. Well, we talked in a general way. The talk was quite general. We talked over the royalties that were to be paid and over the leases that were to be made; and, as I understood it then and remember it now, we were to receive a lease from the Girard estate.

Q. Who was to get that lease?—A. I think Judge Archbald. The company was to get it.

Q. I understand that, but who was to secure it?—A. I think Judge Archbald was to secure it.

Q. Was there any other lease or consent?—A. Well, I do not know whether we had to have a consent from the Lehigh Valley Railroad or not; that is not clear to me; but Judge Archbald was to see Mr. Warriner. Just what for, whether it was to fix a royalty, or just what, I do not know.

Q. Did you know at that time that Mr. Warriner was the vice president and general manager of the Lehigh Coal Co.?—A. I did not know what Mr. Warriner's position was. I never heard his name mentioned before that time, but I gathered from our talk that night that he was an officer in that railroad.

Q. Did you know that Col. James Archbald, engineer of the Girard estate at that time, was a nephew of Judge Archbald?—A. I incidentally heard that that night; I never knew it before.

Q. How did you come into possession of that information?—A. Well, naturally the Girard estate was spoken about, and we did not know going to that meeting exactly where the culm dump was, and our idea was to see the dump for ourselves, which we did the following morning. We were then told—and I do not remember who in the conference said it—that it belonged to the Girard estate; but incidentally it was mentioned that Col. Archbald was the engineer for the Girard estate. I inquired who Col. Archbald was, and was informed—I do not remember whether it was by Judge Archbald or by somebody else present—that he was Judge Archbald's nephew. I had never heard of him before that night.

Q. Did you visit Packer No. 3 the next day?—A. I did.

Q. Who was with you?—A. Mr. Hellbut, my boy, and myself visited there, accompanied by or directed by this man Jones.

Q. Did the judge go with you?—A. No, sir.

Q. At that time had the name of the company been fixed upon as the Jones Coal Co.?—A. No, sir; the first I heard of the Jones Coal Co. was when I read of this case in the paper.

Mr. Manager NORRIS. That is all, Mr. President.

The PRESIDENT pro tempore. The witness is with the respondent.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Mr. Farrell, I should like to have the date of that meeting if you can give it to us—the meeting at Scranton, when Judge Archbald was present.—A.

Well, as nearly as I can remember, it was just a few days before the Christmas holidays; I could not give you the date.

Q. The question was put to you as to whether Judge Archbald was to see Mr. Warriner. As a matter of fact, were you not informed that he had already seen him?—A. Well, I do not know whether I had been informed that he would see him or that he had already seen him.

Q. Was the agreement that you arrived at at that meeting reduced to writing at all?—A. No, sir.

Q. Why not? What became of the matter?—A. Well, we were not sure about it.

Q. Well, you learned not long after that, did you not, that the matter had to await the termination of the existing lease of the Lehigh Valley?—A. Oh, yes; I telephoned Judge Archbald at Scranton and asked him what was new. I was anxious for this coal. I had at that time other things in view if I could not reach this. What I was after was coal. I telephoned to Judge Archbald, and he told me that we would have to wait, for the reason that the Girard estate would not make a lease with us until the lease about to expire with the Lehigh Valley Railroad for the Packer mine had been renewed.

Q. Well, now, if I understand what that verbal agreement reached there was, you were to get your money back, of course, in the way you have described?—A. Yes, sir.

Q. But outside of that you were to have a one-fifth interest in the company?—A. No; I was to have no interest in the company.

Q. But you were to have 20 per cent of all the profits?—A. Exactly.

Q. And the other parties were to have the other four-fifths, or 80 per cent, of the profits?—A. The company itself.

Q. Yes; the company itself. Now, did you understand who all were to be in the company?—A. I did not.

Q. You understood that Judge Archbald was one?—A. What is that?

Q. You understood Judge Archbald was one?—A. Yes.

Q. And Mr. Petersen one?—A. It is not clear to me whether I was told he was to be one or that he was to manage; but I was told that he was to manage the operation.

Q. You do not recollect that he was to manage it and that that was to be the consideration for the interest that he was to have in the company?—A. It may have been that way. I do not recall.

Q. Did you understand that Mr. Jones was to have an interest?—A. Yes.

Q. And others, perhaps?—A. Yes.

Q. You understood perfectly well not only that Judge Archbald was not to put up any money that was to be required, but none of the others were?—A. Yes; I was to put up the entire amount of money required to build that operation.

Q. You were to put up all the money that was needed?—A. Yes, sir.

Q. You were anxious to get the contract?—A. Positively.

Q. Why?—A. Because I wanted the coal. Mr. Helbutt and myself had agreed before we went there that his firm, Robinson, Haydon & Co., of New York, would have the entire output of the washery, and I in turn arranged with Robinson, Haydon & Co. that I would have my requirements, whatever they might be, of the output, and I felt that I was fairly secure, for if at any time I could not use all of the coal I could take what I wanted and turn the rest over to Robinson, Haydon & Co., they to look for a market for it.

Q. Was this the only transaction of this kind that you were engaged in where you were to put up the cash or concerned in putting it up?—A. No, sir.

Q. How many others?—A. One other.

Q. About the same time or before or since?—A. I had taken up a matter of that kind on that same basis about the 1st of November.

Mr. Manager WEBB. Mr. President, I do not see what that has to do with the question at issue.

Mr. WORTHINGTON. I imagined, Mr. President, that it was supposed to be some reflection upon Judge Archbald that he was to go into a transaction of this kind where another person was putting up the money and he was getting an interest in the company without doing anything. I have already shown that, as to this company, there were a number of others who were in the same relation, and I propose to show that it is the common and usual thing to make arrangements of that kind in dealing with coal properties in the anthracite region. If this witness can tell us of the practice and custom and state that men in New York who have the money are anxious to get a chance to do that very thing—to put up all the money that is required, take some interest in the venture, and let the rest go to the people who have brought the proposition to them, I think it is entirely competent.

The PRESIDENT pro tempore. The Chair thinks, under the circumstances, that counsel is justified in bringing out the fact that there are such other transactions, but the Chair would hardly consider it proper to go into details.

Mr. WORTHINGTON. I would not desire to do so at all.

Q. (By Mr. WORTHINGTON.) There was one other transaction you say about the same time?—A. Yes, sir.

Q. And where was the coal property in that case?

Mr. Manager WEBB. Mr. President, counsel is going into details, and I object. I think he has a right to show the general custom or general reputation or general practice, but certainly not to go into details.

Q. (By Mr. WORTHINGTON.) Will you tell me, then, whether it is customary in transactions of that kind for one man to put up all the money, or find all of it, and another man to find the coal property and then divide the profits?—A. I have known of it in two cases.

Q. Besides this?—A. Yes.

Q. And recently?—A. About that same time.

Mr. Manager WEBB. Mr. President, counsel is going into details again.

The PRESIDENT pro tempore. The Chair does not think that counsel is going too far.

Mr. WORTHINGTON. Under the intimation of the Chair, and in the interest of time, I will not go——

The PRESIDENT pro tempore. The Chair thinks the counsel is not going too far.

Mr. WORTHINGTON. Well, I will want to ask about that other transaction. [To the witness:] From what company was the other property in which you said you were immediately concerned obtained?—A. The Pennsylvania Coal Co.

Q. Who was general manager of that company?—A. Well, now, I really do not know.

Q. Do you know Capt. May?—A. I do not; but that is the company.

Q. The Pennsylvania Coal Co.?—A. I do not know any official in that company.

Q. Where was the property?—A. The property was on the railroad fill, the old gravity railroad that runs from Honesdale to Hawley. Our operation is at Hawley.

Q. Did that transaction go through?—A. Yes; we are working it.

Q. You put up the money, and you are now working at the fill?—A. Yes, sir.

Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager WEBB.) That is one of the old gravity abandoned fills?—A. Yes, sir.

Q. Abandoned many, many years ago?—A. I heard that this fill was made about 50 years ago.

Q. And abandoned by the gravity railroad company. Now I will ask you, Mr. Farrell, if you do not know that it was agreed that night in the judge's office—was the conference at night?—A. At night; yes.

Q. I ask you if that night in the judge's office it was not agreed that Thomas Howell Jones should have an interest in this corporation and its profits for finding you or finding the money?—A. No, sir. If that was agreed to, it was not spoken of in my presence.

Q. Mr. Jones, I believe, swore that that was what he was to do.—A. That may be.

Q. I ask you if it was not also agreed in that conference and talk that V. L. Petersen should have an interest in it because he was to supervise it?—A. V. L. Petersen—that is very clear to me—was to supervise it, because I questioned him very thoroughly about his capability for supervising it.

Q. And that Judge Archbald should have an interest in it for securing the leases?—A. No, sir; there was no stipulation as to what any of these men were to have a part in the company for.

Q. Well, did you say awhile ago that all that you heard the judge was to do was to secure the leases, to see Warriner and his nephew, Col. Archbald?—A. The words "secure the leases" were never mentioned. It was not put quite that way.

Q. How was it put?—A. Judge Archbald was to see the Girard estate people and also Mr. Warriner.

Q. The only reason why the judge could see Mr. Warriner or the Girard estate was for the purpose of securing the lease of this bank, was it not?—A. That is my understanding.

Mr. Manager WEBB. You may stand aside.

Recross-examination:

Q. (By Mr. WORTHINGTON.) Was there anything said there about Judge Archbald being a judge and his being a judge

of the Commerce Court have anything to do with it, or anything of that kind?—A. At that time I did not know that Judge Archbald was a judge in the Commerce Court.

Q. You did not even know that?—A. There was nothing whatever said about his being a judge of any court, except what I myself said in my introduction to the judge.

Q. That you had been on the jury in his court?—A. Yes, sir.

Mr. WORTHINGTON. That is all, Mr. President.

Q. (By Mr. Manager WEBB.) Did you tell us when you were on the jury in New York before the judge?—A. Yes; the previous July. July and August of the previous year, 1911. I served as grand juror under Judge Archbald in the criminal term of the Federal court in the post-office building in New York City.

Q. He was then acting as circuit court judge, I imagine?—A. I do not know. I thought that Judge Archbald was a Federal district court judge.

Mr. Manager WEBB. The witness may be discharged finally.

The PRESIDENT pro tempore. The witness is finally discharged.

CHARLES B. SQUIRE.

Mr. Manager CLAYTON. Mr. President, that completes the examination-in-chief by the managers, with one exception. We had expected at this time to examine Mr. Charles B. Squire. He was duly served with a subpoena on yesterday, to be here immediately, but he is not here. We think, however, Mr. President, that his testimony will be largely, if not altogether, in rebuttal, although we had expected to examine him in the chief examination, in order to be perfectly fair to the respondent in the case. But I do not think it is advisable that we detain the Senate. We hope to examine him in rebuttal, and we think that likely all of the questions which we desire to ask of him will be permissible in the rebuttal examination. As he is not here, in order to insure his attendance I shall, as soon as I can prepare it, submit an order to the Senate for an attachment against him.

Now, Mr. President, I ask that Mr. E. J. Williams, Mr. J. R. Dainty, Mr. John W. Berry, Mr. Thomas Darling, and Mrs. Hutchison be finally discharged.

Mr. WORTHINGTON. We have subpœnaed Mr. Berry, and desire him to be kept here, and also Mr. Darling.

The PRESIDENT pro tempore. The Chair was about to limit it to such subpœnas——

Mr. WORTHINGTON. The witnesses are very apt to misunderstand.

The PRESIDENT pro tempore. The Chair was about to limit it to such subpœnas as have been issued at the instance of the managers.

Mr. Manager CLAYTON. We had expected to examine Mr. Watson, but he is sick, as we understand.

The PRESIDENT pro tempore. The Chair has not made an announcement as to those other witnesses. As the Chair understands, it is the desire of the managers that the witnesses be discharged from any further attendance under their subpœna.

Mr. Manager CLAYTON. The understanding of the Chair is correct.

The PRESIDENT pro tempore. The witnesses named, so far as they are under summons in pursuance of subpœnas issued at the instance of the managers, will now be discharged from obligation under those particular subpœnas. Of course, if they are under subpœna from the respondent they are still under obligation to respond to the same. Now the manager will proceed as to the other matter.

Mr. Manager CLAYTON. Here is an order, Mr. President, that I desire to submit.

The PRESIDENT pro tempore. The Secretary will read it.

The Secretary read as follows:

Ordered, That an attachment do issue in accordance with the rules of the Senate of the United States for one Charles B. Squire, a witness heretofore duly subpœnaed in this proceeding on behalf of the managers of the House of Representatives.

The PRESIDENT pro tempore. Does the manager desire that that be immediately returnable, or returnable at such time as he can utilize the witness?

Mr. Manager CLAYTON. I can only answer upon surmise, Mr. President, and upon that surmise I think that it may not be made returnable before Tuesday next.

The PRESIDENT pro tempore. The Sergeant at Arms will take notice of the fact and act accordingly. The question is upon agreeing to the order proposed by the manager.

The order was agreed to.

Mr. Manager CLAYTON. Mr. President, that is all the testimony in the examination in chief the managers desire to offer at this time.

The PRESIDENT pro tempore. Under the order which has previously been adopted by the Senate the counsel for the respondent will not present their witnesses until Monday.

Mr. GALLINGER. Mr. President, I move that the Senate sitting as a Court of Impeachment adjourn.

The motion was agreed to.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 34 minutes p. m.) the Senate adjourned until Monday, December 16, 1912, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *December 14, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty God our heavenly Father, we thank Thee for the gracious privilege of coming to Thee in prayer. May it be in the spirit of Him who taught us when we pray to say Our Father who art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done in earth, as it is in heaven. Give us this day our daily bread. And forgive us our debts, as we forgive our debtors. And lead us not into temptation, but deliver us from evil: For Thine is the kingdom, and the power, and the glory, forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

RESIGNATION OF A MEMBER.

The SPEAKER laid before the House the following communication:

Hon. CHAMP CLARK,
Speaker House of Representatives, Washington, D. C.

SIR: I have the honor to advise you that on December 12, 1912, I tendered to the governor of the State of New York my resignation as a Representative in Congress from said State, the resignation to take effect on the 31st day of December, 1912. With assurances of respect, I have the honor to be,

Yours, very truly,
WM. SULZER.

DECEMBER 12, 1912.

Hon. JOHN A. DIX, *Albany, N. Y.*

MY DEAR GOVERNOR: I hereby resign my seat in the House of Representatives from the tenth congressional district of the State of New York, to take effect the 31st day of December, 1912.

Very truly, yours,
WM. SULZER.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. TUTTLE, for 10 days, on account of serious illness in his family.

To Mr. KNOWLAND, indefinitely, on account of illness.

To Mr. DAVENPORT, indefinitely, on account of important business.

IMMIGRATION.

Mr. HENRY of Texas. Mr. Speaker, I submit a privileged resolution from the Committee on Rules.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 752.

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into Committee of the Whole House on the state of the Union for the consideration of S. 3175, with the amendment reported by the House Committee on Immigration and Naturalization; that there shall be four hours' general debate, to be divided equally between those favoring and those opposing the measure. At the expiration of said four hours' general debate the same shall be considered under the five-minute rule, as follows: The amendment proposed by the House committee shall be first read for amendment and perfected. After same has been so perfected the vote shall be taken upon the question of the adoption of said amendment. If same shall be adopted then the Senate bill shall not be read, but the committee shall rise and report the measure to the House. If it shall not be adopted then the Senate bill shall be considered for amendment under the five-minute rule, and when perfected the committee shall rise and report the same to the House. Immediately upon the perfected measure being reported to the House the previous question shall be considered as ordered upon the bill and all pending amendments to final passage without intervening motion, except one motion to recommit. But a separate vote may be demanded upon any amendment or amendments thereto adopted by the Committee of the Whole.

Mr. HENRY of Texas. Mr. Speaker, I would like to ask the gentleman from Illinois how much time they would like to have for the discussion of the rule. The Committee on Rules has unanimously reported the resolution.

Mr. MANN. There are a number of Members who have made requests to be heard upon the rule.

Mr. HENRY of Texas. How much time would the gentleman suggest?

Mr. MANN. I think it would be proper to have a reasonable amount of debate on the rule.

Mr. GARNER. Is this a unanimous report from the Committee on Rules?

Mr. HENRY of Texas. It is. I suggest to the gentleman from Illinois that 30 minutes on a side be allowed, as that is all the request we have had on this side for time.

Mr. MANN. Make it at least 45 minutes on a side.

Mr. HENRY of Texas. That would be an hour and a half.

Mr. GOLDFOGLE. Mr. Speaker, I would like to suggest to the gentleman from Texas that there ought to be a little more time than that.

Mr. HENRY of Texas. I thought that an hour, half an hour on a side, would be enough.

Mr. GOLDFOGLE. I think it is fair, in view of all the circumstances attending the bill, the work that has been done by this Committee on Immigration, of which I am a member, that we should have a little more time, and I would suggest that it would do no harm if the gentleman from Texas makes it two hours.

Mr. GARNER. You are going to get four hours general debate.

Mr. GOLDFOGLE. But that is a short time for debate on a bill of this importance.

Mr. MANN. I will say to the gentleman from New York [Mr. GOLDFOGLE] that if I have control of 45 minutes of time I shall yield a part of it to him.

Mr. HENRY of Texas. I believe an hour and a half is a sufficient time.

Mr. SABATH. Has the gentleman from Illinois taken into consideration the fact that I desire a few minutes myself?

Mr. MANN. I have. I appreciate the fact that ordinarily 45 minutes on a side on a rule is considered a liberal allowance of time.

Mr. HENRY of Texas. Mr. Speaker, I will submit the request for an hour and a half to be allowed, 45 minutes on each side, for the discussion of the rule.

The SPEAKER. Who is to control the time?

Mr. HENRY of Texas. I ask that 45 minutes be controlled by myself and 45 minutes be controlled by the gentleman from Illinois [Mr. MANN].

The SPEAKER. The gentleman from Texas asks unanimous consent that debate on this rule be limited to one hour and a half, 45 minutes thereof to be controlled by himself and 45 minutes by the gentleman from Illinois [Mr. MANN].

Mr. GOLDFOGLE. Mr. Speaker, in the rule as originally proposed by the gentleman from Texas, I observed that there was a provision with regard to time for general debate, but I did not, during the reading by the Clerk, notice whether there was any such time allowed. I ask the gentleman whether or not there is a provision of that kind in the rule?

Mr. HENRY of Texas. There is no limit to time or amendment under the five-minute rule.

Mr. GOLDFOGLE. In the original resolution which the gentleman has now amended, or which he proposes to amend, is it provided as to how that time shall be controlled?

Mr. HENRY of Texas. That is, the general debate?

Mr. GOLDFOGLE. Yes. I ask whether that is in the resolution as now read?

Mr. HENRY of Texas. Yes.

Mr. BARTHOLDT. Mr. Speaker, reserving the right to object, I should like to inquire whether under this rule any other amendment except that offered by the committee will be in order?

Mr HENRY of Texas. Any amendment may be offered. The rule is so drawn that it leaves the bill wide open to amendment.

Mr. MANN. Mr. Speaker, that is hardly a fair statement. No other amendment is in order if the committee amendment be agreed to, except amendments to the committee amendment.

Mr. HENRY of Texas. That was not the question the gentleman asked. If the committee amendment be agreed to, of course that settles it, and that is the stronger measure in the House.

The SPEAKER. Inasmuch as a number of Members have come in since the resolution was first read, the Chair will direct the Clerk to again report the resolution.

The Clerk again reported the resolution.

Mr. MOORE of Pennsylvania. Mr. Speaker, it would seem that under that rule if the House committee amendment is adopted, then there will be no opportunity to amend.

Mr. HENRY of Texas. If those who are not in favor of the committee amendment are not strong enough to adopt an amendment, of course they are too weak to carry their side of the proposition.

Mr. MOORE of Pennsylvania. There would be no opportunity, under this rule, to amend the House amendment.

Mr. GARNER. Oh, yes; there would.

The SPEAKER. The Chair will state, for the benefit of all concerned, that this House amendment is in the nature of a substitute, and any Member can offer any amendment to it that is germane. It is really a bill.

Mr. MADDEN. It is subject to any kind of amendment until it is adopted in place of the Senate amendment. After that, of course, it is not subject to amendment.

Mr. HENRY of Texas. Mr. Speaker, I ask that the Chair put my request.

The SPEAKER. The gentleman from Texas asks unanimous consent that debate upon this rule shall be limited to 1 hour and 30 minutes, to be controlled one-half by himself and one-half by the gentleman from Illinois [Mr. MANN].

Mr. HENRY of Texas. And that the previous question be ordered at that time.

The SPEAKER. And that the previous question shall be considered as ordered at the end of one hour and a half.

Mr. RODDENBERY rose.

Mr. MANN. Mr. Speaker, I hope the gentleman from Texas will give us a chance to vote on a substitute resolution.

Mr. HENRY of Texas. Mr. Speaker, I could not agree to that. This is the usual request. This is a unanimous report from the Committee on Rules.

Mr. MANN. I know; but the gentleman ought to be willing to let the House vote on a substitute resolution.

Mr. HENRY of Texas. I am willing that we shall have an hour and a half in which to discuss the resolution, but I can not agree to that request. This is a unanimous report from the Committee on Rules.

Mr. MANN. I can not agree, as far as I am concerned, to a proposition which would prevent the House from amending the rule if it so desired.

Mr. HENRY of Texas. Does the gentleman object?

Mr. MANN. I am waiting to hear what the gentleman from Georgia [Mr. RODDENBERY] has to say.

Mr. HENRY of Texas. The gentleman from Georgia rose, and I take it that he has some question that he wishes to ask.

Mr. RODDENBERY. Mr. Speaker, I desire to reserve the right to object in order that I may make an inquiry of the chairman. While this rule is longer and more liberal than any special rule for the consideration of a single bill that I have seen in the three years I have been a Member of Congress, yet does not the gentleman from Texas think that on the adoption of the rule itself the usual debate is sufficient?

Mr. HENRY of Texas. If the rule be adopted, then we will proceed to consider the bill. We go into the Committee of the Whole to consider the bill.

Mr. RODDENBERY. Does not the gentleman think that an hour's debate upon the adoption of the rule is entirely sufficient?

Mr. HENRY of Texas. Does the gentleman mean the bill or the special rule?

Mr. RODDENBERY. I mean the rule. I understand the gentleman has preferred a request for unanimous consent that an hour and 30 minutes be agreed to for debate, pending the adoption of the rule.

Mr. HENRY of Texas. On the rule.

Mr. RODDENBERY. Well, now, is an hour and 30 minutes the usual parliamentary time consumed in debate on the adoption of a rule?

Mr. HENRY of Texas. Well, 40 minutes is the usual time—20 minutes to a side.

Mr. RODDENBERY. Now, the question I propounded to the gentleman is, although the rule might be somewhat complicated, Does the gentleman not think 40 minutes is entirely adequate for the consideration of this rule?

Mr. HENRY of Texas. The committee thought this was about the plainest rule that has been drawn for a good many years.

Mr. RODDENBERY. It is quite plain, but it is more lengthy than you will find in the CONGRESSIONAL RECORD in three years for any one bill.

Mr. HENRY of Texas. Mr. Speaker, evidently the gentleman has not read the rule or heard the rule read.

Mr. RODDENBERY. I make the statement again, you can not find in the RECORD in three years as long a rule for any one bill——

Mr. HENRY of Texas. Mr. Speaker, I ask that the question be put.

The SPEAKER. Is there objection?

Mr. RODDENBERY. I object.

Mr. HENRY of Texas. Mr. Speaker, I move the previous question on the adoption of the rule.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 87, noes 41.

Mr. MANN. Mr. Speaker, I make the point of order there is no quorum present.

The SPEAKER. Evidently there is not, and the Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 194, nays 82, answered "present" 5, not voting 108, as follows:

YEAS—194.

Adair	Fergusson	Kitchin	Roddenbery
Alexander	Ferris	La Follette	Rothermel
Allen	Finley	Lamb	Rouse
Ansberry	Flood, Va.	Lawrence	Rubey
Ashbrook	Floyd, Ark.	Lee, Ga.	Rucker, Colo.
Austin	Focht	Lever	Rucker, Mo.
Ayres	Foss	Lewis	Russell
Bartlett	Foster	Linthicum	Saunders
Bathrick	Fowler	Littlepage	Shackleford
Beall, Tex.	Francis	Lloyd	Sharp
Bell, Ga.	Fuller	Longworth	Sheppard
Blackmon	Gardner, Mass.	McCall	Simmons
Borland	Garner	McKellar	Sims
Buchanan	Garrett	McKenzie	Slayden
Burgess	Gill	McKinney	Small
Burleson	Gillett	McLaughlin	Smith, J. M. C.
Burnett	Glass	Macon	Smith, Tex.
Butler	Godwin, N. C.	Maguire, Nebr.	Sparkman
Byrnes, S. C.	Goeke	Martin, S. Dak.	Stanley
Byrns, Tenn.	Goodwin, Ark.	Mays	Stedman
Callaway	Greene, Vt.	Moon, Tenn.	Steenerson
Candler	Gregg, Pa.	Moore, Tex.	Stephens, Cal.
Cantrill	Gudger	Morgan, La.	Stephens, Miss.
Carlin	Guernsey	Morgan, Okla.	Stephens, Nebr.
Carter	Hamlin	Moss, Ind.	Stephens, Tex.
Cary	Hammond	Mott	Sterling
Claypool	Hardwick	Murdock	Sweet
Clayton	Harrison, Miss.	Needham	Switzer
Cline	Hawley	Neeley	Taggart
Collier	Hay	Oldfield	Talbott, Md.
Covington	Hayden	Padgett	Taylor, Ohio
Cox, Ind.	Hayes	Page	Thayer
Cullen	Helm	Palmer	Thomas
Danforth	Henry, Conn.	Parran	Tribble
Daugherty	Henry, Tex.	Patton, Pa.	Underhill
Davenport	Hensley	Payne	Underwood
Davis, Minn.	Hill	Pepper	Warburton
Dent	Hinds	Plumley	Watkins
Denver	Holland	Porter	Webb
Dickinson	Houston	Post	White
Dies	Howell	Powers	Willis
Difenderfer	Hughes, Ga.	Pray	Wilson, Ill.
Dixon, Ind.	Hughes, W. Va.	Prince	Wilson, Pa.
Doremus	Hull	Ralney	Witherspoon
Doughton	Johnson, Ky.	Raker	Wood, N. J.
Edwards	Johnson, S. C.	Ransdell, La.	Young, Kans.
Evans	Jones	Rauch	Young, Tex.
Falson	Kent	Redfield	
Farr	Kinkaid, Nebr.	Robinson	

NAYS—82.

Akin, N. Y.	Dyer	Lafferty	Rees
Barchfeld	Estopinal	Lee, Pa.	Reilly
Barnhart	Fitzgerald	Lenroot	Roberts, Mass.
Bartholdt	French	Lindbergh	Saboth
Bates	Gallagher	Lobeck	Scully
Berger	George	Loud	Sells
Bochne	Goldfogle	McCoy	Sherley
Booher	Good	McDermott	Smith, Saml. W.
Broussard	Graham	McGuire, Okla.	Stone
Bulkley	Greene, Mass.	Madden	Talcott, N. Y.
Burke, S. Dak.	Hamilton, Mich.	Mann	Thistlewood
Burke, Wis.	Hardy	Miller	Tilson
Cannon	Haugen	Mondell	Towner
Cooper	Howland	Moore, Pa.	Townsend
Copley	Humphrey, Wash.	Morse, Wis.	Volstead
Crago	Kahn	Murray	Wedemeyer
Cullop	Kendall	Nelson	Whitacre
Curley	Kennedy	Nye	Wilder
Davidson	Kinkead, N. J.	Peters	Young, Mich.
De Forest	Konop	Pickett	
Driscoll, M. E.	Korbly	Prouty	

ANSWERED "PRESENT"—5.

Andrus	Esch	McMorran	Stevens, Minn.
Bradley			

NOT VOTING—108.

Adamson	Dickson, Miss.	Hanna	Langham
Aiken, S. C.	Dodds	Harris	Langley
Ainey	Donohoe	Harrison, N. Y.	Legare
Ames	Draper	Hart	Levy
Anderson	Driscoll, D. A.	Hartman	Lindsay
Anthony	Dupré	Heald	Littleton
Brantley	Dwight	Hedin	McCreary
Brown	Ellerbe	Helgesen	McGillicuddy
Browning	Fairchild	Higgins	McHenry
Burke, Pa.	Fields	Hobson	McKinley
Calder	Fordney	Howard	Maher
Campbell	Fornes	Humphreys, Miss.	Martin, Colo.
Clark, Fla.	Gardner, N. J.	Jackson	Matthews
Conry	Gould	Jacoway	Merritt
Cox, Ohio	Gray	James	Moon, Pa.
Cravens	Green, Iowa	Kindred	Morrison
Crumpacker	Gregg, Tex.	Knowland	Norris
Currier	Griest	Konig	Olmsted
Curry	Hamill	Kopp	O'Shaunessy
Davis, W. Va.	Hamilton, W. Va.	Lafean	Patten, N. Y.
Fess	Rodenberg	Smith, N. Y.	Turnbull
Fujo	Scott	Speer	Tuttle
Randell, Tex.	Sherwood	Stack	Vare
Reyburn	Sisson	Sullloway	Vreeland
Richardson	Slemp	Sulzer	Weeks
Riordan	Sloan	Taylor, Ala.	Wilson, N. Y.
Roberts, Nev.	Smith, Cal.	Taylor, Colo.	Woods, Iowa

So the previous question was ordered.

The Clerk announced the following pairs:

For the session:

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. FORNES with Mr. BRADLEY.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. LITTLETON with Mr. DWIGHT.

Mr. RIORDAN with Mr. ANDRUS.

For the vote:

Mr. HEFLIN (for previous question) with Mr. DANIEL A. DISCOLL (against).

Mr. JACOWAY (for previous question) with Mr. SMITH of New York (against).

Mr. LAFEAN (for previous question) with Mr. CONRY (against).

Mr. KOPP (for previous question) with Mr. LEVY (against).

For the day:

Mr. JAMES with Mr. OLMSTED.

Until further notice:

Mr. BRANTLEY with Mr. BROWNING.

Mr. BROWN with Mr. AINEY.

Mr. CLARK of Florida with Mr. ANTHONY.

Mr. COX of Ohio with Mr. CALDER.

Mr. CRAVENS with Mr. BURKE of Pennsylvania.

Mr. DICKSON of Mississippi with Mr. CURRIER.

Mr. DONOHOE with Mr. CAMPBELL.

Mr. DUPRÉ with Mr. CRUMPACKER.

Mr. ELLERBE with Mr. DODDS.

Mr. GREGG of Texas with Mr. FORDNEY.

Mr. HAMILL with Mr. GARDNER of New Jersey.

Mr. HART with Mr. GREEN of Iowa.

Mr. HOWARD with Mr. GRIEST.

Mr. HUMPHREYS of Mississippi with Mr. HARRIS.

Mr. KINDRED with Mr. HARTMAN.

Mr. KONIG with Mr. HEALD.

Mr. LEGARE with Mr. HELGESEN.

Mr. LINDSAY with Mr. JACKSON.

Mr. MCGILLICUDDY with Mr. LANGHAM.

Mr. MARTIN of Colorado with Mr. MATTHEWS.

Mr. MAHER with Mr. MCKINLEY.

Mr. MORRISON with Mr. MERRITT.

Mr. O'SHAUNESSY with Mr. MOON of Pennsylvania.

Mr. PATTEN of New York with Mr. ROBERTS of Nevada.

Mr. POU with Mr. RODENBERG.

Mr. RANDELL of Texas with Mr. SCOTT.

Mr. STACK with Mr. SLEMP.

Mr. MCHENRY with Mr. SMITH of California.

Mr. TAYLOR of Alabama with Mr. SPEER.

Mr. TAYLOR of Colorado with Mr. SULLOWAY.

Mr. WILSON of New York with Mr. WEEKS.

Mr. DAVIS of West Virginia with Mr. MCCREARY.

Mr. SISSON with Mr. HANNA.

Mr. SULZER with Mr. KNOWLAND.

Mr. HARRISON of New York with Mr. HIGGINS.

Mr. RICHARDSON with Mr. ESCH.

Mr. PUJO with Mr. MCMORRAN.

Mr. TURNBULL with Mr. WOODS of Iowa.

Mr. AIKEN of South Carolina with Mr. AMES.

Mr. FIELDS with Mr. LANGLEY.

Mr. GOULD with Mr. HINDS.

The result of the vote was announced as above recorded.

A quorum being present, the doors were opened.

IMMIGRATION.

The SPEAKER. The gentleman from Texas [Mr. HENRY] is recognized for 20 minutes.

Mr. HENRY of Texas. Mr. Speaker, I yield five minutes to the gentleman from Georgia [Mr. HARDWICK].

Mr. HARDWICK. Mr. Speaker, and gentlemen of the House, the question presented by this rule is in no sense a party question. The issue is in no sense a partisan issue, and the rule comes here in no partisan manner. It comes as the unanimous report of the Committee on Rules, every Republican as well as every Democrat on that committee voting to report the rule. It comes, Mr. Speaker, I believe, as one of the fairest and most liberal rules that has ever been presented to the House on this or any other question. It opens wide the questions involved in this legislation for debate and for amendment, with the utmost freedom and the utmost liberality. No man can justly cry "gag law" or "gag rule" at any feature of this rule.

But it might be suggested in opposition to the rule that the Committee on Rules has given preference in the order of consideration to the measure reported by the committee of the House rather than to the bill proposed by the Senate. It seems to me that that is not only the custom but that it is proper; that in endeavoring to perfect this measure we should give first consideration to the measure proposed by our own committee, with only five dissenting votes out of the entire committee.

Provision is made that when this measure, reported by the Committee on Immigration and Naturalization, is considered in the Committee of the Whole House on the state of the Union and perfected by the adoption of such amendments as any Member on either side may desire to offer and that the House will accept, a test vote shall be taken to see whether the measure proposed by the House committee can receive a majority of the votes of this Chamber. If it shall not receive that approval, then the Senate bill shall be taken up and perfected in like manner; so that, Mr. Speaker and gentlemen, it seems to me that we could present no fairer proposition, we could give to the various gentlemen on both sides of this Chamber entertaining various views on this great question no fairer opportunity to find expression on this floor and to find expression in the vote of this House. I predict now, as the result of this rule, that the will of the House, of a majority of the Members present and voting, will be absolutely ascertained and carried out.

It seems to me that when your Committee on Rules has discharged that function you could not ask it to do its duty in a better manner.

Mr. Speaker, there is only one other observation that I desire to submit in reference to this matter. It seems that the question back of this rule, the question of admitting aliens into our country, is a most important one. It is one of far-reaching importance, and it seems to me that we ought to have on a question of that kind neither party action nor prejudiced action, but free and untrammeled action and free and untrammeled opportunity for each and every Member of this House to express his own views and to stand in his own place, representing his own district, offering what he thinks is best for the common good of all the country. [Applause.] And your Committee on Rules, in carrying out that policy, reported this substitute resolution, which we think frees the House and frees the individual Members of the House, and makes it impossible for this House to adopt by any rule or trick or scheme anything except something that the majority of its Members on a fair test vote shall say is for the best interests of the whole country.

I believe, Mr. Speaker, that when we shall have done that we shall have discharged our duty to the House, and when it comes to the solution of the great question back of this bill the Members of the House, unshackled by this rule, will have full opportunity for both debate and amendment and will be able to give effect to the will of the American people. And surely in a Democratic House we could wish for no more. [Applause.]

The SPEAKER. The time of the gentleman from Georgia has expired. The gentleman from Texas [Mr. HENRY] is recognized.

Mr. HENRY of Texas. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. GILLETT].

Mr. GILLETT. Mr. Speaker, I favor this bill for the fundamental reason that it is a check on immigration, and while it is fairly subject to criticism, yet none of the critics can point out any other check which is not still more objectionable. Therefore I accept this as the best check which can now be devised. I think the enormous immigration which is inundating us is perilous and must be lessened. I recognize how it has stimulated our growth and been the cause of our greatness. But we all know there is something more vital than size or wealth. The spirit of the people is what determines permanent prosperity. We are a Nation of immigrants. But those who first established our Government a hundred and twenty years ago had inbred in them from the struggle of a thousand years the self-reliant and self-restraining spirit essential to successful democracy. They recognized that respect for law is essential to real liberty. They recognized that even for themselves, who were of such a character, that under any form of government they would find essential liberty. They recognized that even for themselves restraints were necessary; that their impulses must not be allowed to run unchecked, and therefore they wrote in constitutions certain clear principles which should restrain even themselves. They recognized their own weaknesses and liability to err and voluntarily fettered themselves by their Constitution against such excesses. That is what a constitution is or should be—a recognition of certain fundamental principles which no temporary gust of passion or self-interest shall be allowed to violate.

But nowadays, with a population which few would maintain was as trustworthy or as fit to follow its impulses as our forefathers, there is an attempt to abolish constitutions and let the momentary will of the people always prevail. I think our vast immigration has made that unsafe. Millions have come to us who had never experienced or inherited any training in self-government or in self-control. The ability to recognize that present individual desires must yield to future general good, that permanent law must prevail over temporary impulse is essential to a successful republic. That spirit is not instinctive. It must be cultivated. It is sadly lacking in many of our cities whose population consists largely of recent immigrants. It is lacking in most of the immigrants who are now flocking to us, and we need time to cultivate that spirit in our present population before we dilute it further. Therefore I believe that to check immigration is one of our most pressing duties. I would vote for any reasonable bill which would accomplish that result. I think the pending bill is the best feasible step in that direction, and it has my hearty support.

The SPEAKER. The gentleman from Illinois [Mr. MANN] is recognized.

Mr. MANN. Mr. Speaker, how much time have I?

The SPEAKER. The gentleman will be recognized for 20 minutes.

Mr. MANN. Mr. Speaker, I yield four minutes to the gentleman from New York [Mr. GOLDFOGLE].

The SPEAKER. The gentleman from New York [Mr. GOLDFOGLE] is recognized for four minutes.

Mr. GOLDFOGLE. Mr. Speaker, the gentleman from Georgia [Mr. HARDWICK], in asking the adoption of this rule, said, if I remember rightly, that every Member of the House would be afforded a full and fair opportunity to stand in his place and express his opinion fully and voice the sentiments of his district upon this great question. Yet a reading of the rule shows that it will not permit that full, complete, and untrammeled opportunity which the gentleman from Georgia said was to be afforded this House. The rule provides for the consideration, first, of the substitute reported by the House committee, and, if the substitute of the House committee be voted down, then a consideration of all the provisions of the Dillingham bill as it came from the Senate.

There are many provisions in the Senate bill as it came over to the House that were exceedingly obnoxious to the views of those Members of this body who favor the Burnett literacy bill, and these matters ought to receive full attention and consideration. Yet the rule provides for but four hours' general debate, each side to have one-half. Is that the full, free, and untrammeled debate which the gentleman from Georgia [Mr. HARDWICK] said might be had under the rule in this House? Is that the opportunity which he believes was to be given to every Member—I use his own words, "To every Member of the House"—who, he says, may stand in his place and voice the sentiments of his district.

Mr. BURNETT. Will the gentleman yield?

Mr. GOLDFOGLE. I should like to, but I have only a few minutes left.

Mr. BURNETT. I will take only a moment.

The SPEAKER. The gentleman declines to yield.

Mr. GOLDFOGLE. As a general rule I have always been opposed, ever since I have been a Member of this House, to these special rules, and I can see no reason why one should be adopted now. On next Wednesday, in the regular order, the Committee on Immigration will be reached, and this bill can then come up in the usual and regular way and receive fair consideration and proper time can be had to debate its provisions and the various phases that underlie the subject. Nothing has arisen which calls for urgency in this matter. There is no emergency which requires this bill to be rushed through the House.

The Committee on Immigration held many hearings on this bill and a number of men from different sections of the country, representing diverse views, came before that committee, both in favor and in opposition to the measure. There has come no one, so far as I am aware, from the city of New York, into which city come the largest proportion of the immigrants to this land, who have favored restriction of immigration. On the contrary, the sentiments of those who came from the city and appeared before the committee were in vigorous opposition to the bill.

The rule is drastic in its provisions, and under it we can not have that freedom of debate, that unlimited discussion which could be obtained if in the regular order of things the bill came before the House. Highly important legislation awaits the attention of this body, and yet with undue haste it is proposed that this bill to restrict immigration be hurried through. The

rule does not afford, in many respects, the same opportunity for the consideration of the amendments as would be afforded were the bill to come up in the regular order, and——

The SPEAKER. The time of the gentleman has expired.

Mr. HENRY of Texas. Mr. Speaker, I yield five minutes to the gentleman from Tennessee [Mr. GARRETT].

Mr. GARRETT. Mr. Speaker, of course there are differences of opinion with respect to immigration legislation, and I do not propose now to discuss that question, but I propose to discuss the rule which is before the House. And I wish especially to refer to some of the remarks made by the gentleman who has just taken his seat, my good friend, the gentleman from New York [Mr. GOLDFOGLE]. He refers to this as a drastic rule; he refers to this as a rule cutting off amendments; he refers to this as a rule cutting off debate. Mr. Speaker, there was never brought into this House from the Committee on Rules since I have been a Member of the House a rule that was simpler or more liberal in its terms than the rule which is presented here for consideration now.

The gentleman from New York [Mr. GOLDFOGLE] is mistaken about this rule cutting off amendment. Upon the contrary, the bill is thrown wide open for amendment. The gentleman from New York is mistaken about this rule being drastic. Upon the contrary, the gentleman can not find, either in the special rules that have been brought in or in the general rules of the House, a more liberal policy laid down than is laid down in this particular rule.

The rule has been explained by the gentleman from Texas. It is simple in its terms and it is liberal in its policy. In effect, it merely brings this matter before the House for consideration. It is true it limits general debate. It ought to limit general debate. If it were not limited in that way, the general debate would be limited in some other way. The rule in itself gives every opportunity to every man to offer any amendment that he may see proper that is germane to this legislation. It seems to me that there can be no objection to this rule except from those who do not desire to consider immigration legislation at all. [Applause.]

Mr. HENRY of Texas. I will ask the gentleman from Illinois [Mr. MANN] to use some of his time.

Mr. MANN. I yield to the gentleman from Missouri [Mr. BARTHOLDT] four minutes.

Mr. BARTHOLDT. Mr. Speaker, it seems to me that even those who are inclined to favor the proposed legislation could well afford to vote against this special rule. As long as I can remember it has been the practice of this House not to bring in special rules except in cases of emergency or when the legislation sought to be enacted could not be reached in any other way.

Neither of these excuses can be pleaded in justification of the rule now pending. There certainly is no emergency for the further restriction of immigration at a time when American labor is fully employed and when the cry comes up from all American industries for more men; when, in fact, in the very industries which usually give employment to new immigrants the complaint is loudest about the great scarcity of labor existing at the present time, and when the real problem is not how to keep out immigrants but how to get them.

Therefore, unless it is intended to throttle the American industries even more quickly and more effectually than Democratic tariff legislation will accomplish it, there is no need of this rule and no need of this legislation, for I hold that to keep out the willing hands so necessary for the future industrial growth of this country will be a most grievous wrong and an act of the greatest political folly. Will anyone contend that this bill can not be reached in regular order? What is the parliamentary situation? The Committee on Irrigation now has the floor, and, as I understand, it has but one more bill to consider. We would take that up next Wednesday and dispose of it, so that on the very first Wednesday after the holidays the Committee on Immigration, which is the next committee on the list, will be called and this bill disposed of, and this would be fully two months before the final adjournment of this Congress.

What, then, is the reason for this unseemly haste? Do not the rules as they stand permit the Democratic majority to inflict punishment swift enough upon the naturalized citizens who, during the last campaign, dared to find fault with some of the writings of the President elect, and could not the gentlemen on the other side of the aisle decently wait at least a few weeks longer before they repudiate the apologies offered to the so-called foreign element by their candidate for the Presidency on account of what he had written on the subject of immigration?

Mr. Speaker, while I have the floor I might ask further, What do our Democratic friends propose to enact into law?

The SPEAKER pro tempore (Mr. HAY). The time of the gentleman has expired.

Mr. MANN. I yield to the gentleman one more minute.

Mr. BARTHOLDT. What is it they propose to enact into law? The written opinion of Prof. Wilson on the subject of immigration or the verbal explanations of Candidate Wilson made during the campaign? If the latter, you had better keep hands off this bill, because in that event it would be more consistent for you to appoint a reception committee and send them to Ellis Island to conduct every new immigrant to the Waldorf-Astoria or some other great hotel. But I appreciate that the campaign is now over and the votes of the foreign element are no longer needed, and therefore they are again to be degraded to the level of "the coarse crew," as Mr. Wilson called them, and they are going to have swift punishment meted out to them by legislation of this kind. [Applause.]

[Mr. FOCHT addressed the House. See Appendix.]

Mr. HENRY of Texas. Mr. Speaker, I yield three minutes to the gentleman from Pennsylvania [Mr. DALZELL].

Mr. DALZELL. Mr. Speaker, the gentleman from Missouri who lately addressed himself to this proposition objected to it evidently on the ground that he objects to the legislation to which it relates. The gentleman from New York who preceded him objects to the rule on the ground that it was drastic. Both gentlemen are mistaken. This is not, as the gentleman from Missouri seemed to insinuate when he spoke of what the gentlemen on the other side of the aisle were about to do, partisan legislation in any sense. It is, as the gentleman who preceded me has said, a measure of the greatest public importance, and one in which the members of both parties, Democrat and Republican, and in which the people of this country are immensely interested at this time.

Mr. GOLDFOGLE. Will the gentleman yield?

Mr. DALZELL. I will, but I have only three minutes.

Mr. GOLDFOGLE. What is the necessity for haste in this matter?

Mr. DALZELL. Because this is a measure of great public importance, and the session is drawing to an end. It ought to be, as it will be, enacted into law as speedily as possible. [Applause.] So far as the rule itself is concerned, I venture to say that no more liberal method of procedure was ever introduced into this House than is embodied in the provisions of this rule. If I had the time I would call attention to the rule under which, on June 25, 1906, the immigration bill now on the statute book was considered, and also the rule under which the great pure-food bill, on July 20, 1906, was considered. In both instances the consideration of the House was restricted to the measure reported by the House, excluding consideration of the measure reported by the Senate, while in this case the broadest opportunity is afforded to express the preference of the House as between the Senate bill and the House bill. General debate of four hours is liberal, but we all know that general debate means nothing, and, so far as debate under the five-minute rule is concerned, it is unlimited under the provisions of the rule, and will proceed as long as the Members in Committee of the Whole desire to offer amendments and to consider the provisions of the bill. If, in the first instance, the Committee of the Whole shall see fit to adopt the measure which has been reported by the House committee, then well and good; it will be reported to the House and passed upon by the House. If, on the other hand, the Committee of the Whole shall see fit to reject the proposition reported by the House committee, then the bill is wide open for discussion of amendments to be offered to the bill sent to us by the Senate.

Mr. CANNON. Mr. Speaker, will the gentleman yield for a question?

Mr. DALZELL. Certainly.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HENRY of Texas. Mr. Speaker, I yield one minute more to the gentleman from Pennsylvania.

Mr. CANNON. Is it not true that the House amendment is one amendment?

Mr. DALZELL. Yes.

Mr. CANNON. And is it not true that at any time after 10 minutes have expired it is perfectly competent under the rules of the House to close all debate upon that and all other amendments?

Mr. DALZELL. Mr. Speaker, I would say, in reply to the gentleman, that the length of time of debate on any proposition is entirely within the control of the Committee of the Whole at any time and at all times, and unless the gentleman assumes that the Committee of the Whole is going to do an injustice there can be no objection to this rule upon that ground.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. DALZELL. Mr. Speaker, I ask unanimous consent to extend and revise my remarks in the RECORD.

The SPEAKER pro tempore. Without objection it is so ordered.

There was no objection.

Mr. MANN. Mr. Speaker, I yield three minutes to my colleague from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Speaker, with very few exceptions I have at all times voted against special rules, and I see no reason why I should or why we should vote for this rule. Being a member of the Committee on Immigration, I feel satisfied that within the next few days our committee will be reached; and should it not be reached on next Wednesday it will surely be reached immediately after the holidays, and I am positive that ample opportunity will be given our committee to consider this and all other legislation which pertains to immigration. Some of the Members of this House seem to believe that this restrictive legislation is demanded by the people of our country. To these gentlemen I desire to say that they are mistaken. There is no such demand, unless it be on the part of a few misinformed residents of districts where there are now no foreign-born citizens and to which sections immigration does not go. I feel confident that had these gentlemen the same information upon this question that I have and were they so familiar with the existing conditions as I am they would not be here to-day pleading for and demanding this special rule. The people of the country instead of being opposed to immigration are in favor of it, for they know that it is immigration that has built up our country and made it the greatest of them all. Coming as I do from the second largest city in the United States, one which has a population of nearly two and one-half millions, nearly 60 per cent of which population is of foreign birth or foreign parentage, there is no question but what were there any sentiment in favor of imposing restrictions upon immigration that I would be aware of it. Yet I have heard not a single resident of my city express himself as being opposed to the coming of these people into our city or this country, nor have I received a single communication from the inhabitants of Chicago advocating the passage of legislation tending to prohibit these immigrants from availing themselves of the opportunities offered in our country. However, on the other hand I have received hundreds of resolutions from commercial, professional, educational, and fraternal organizations protesting in the strongest possible terms against the pending restrictive measures and branding the Dillingham and Burnett bills as unfair, unjust, and un-American. Mr. Speaker, it is impossible for me to vote for this rule, for I do not feel that there is a demand for the enactment of legislation of this nature. And aside from that, I do not see the necessity of bringing this bill before the House, at this time, for, undoubtedly, it will be reached in the regular course of business within a very short while.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. MANN. Mr. Speaker, how much time remains on the two sides?

The SPEAKER pro tempore. The gentleman from Texas [Mr. HENRY] has five minutes remaining and the gentleman from Illinois eight minutes.

Mr. MANN. Mr. Speaker, ordinarily I should not oppose a rule for the consideration of the immigration bill, under the rules of the House, although under the ordinary rules of the House, without a special rule, the immigration bill could be taken up on next Wednesday for consideration; but when gentlemen, like the gentleman from Georgia [Mr. HARDWICK] and the gentleman from Pennsylvania [Mr. DALZELL], say that this is not a drastic rule it occurs to me that they have not very carefully examined the rule for which they voted in the committee. If the previous question had not been ordered upon the rule, I should have offered for the consideration of this bill, as a substitute, a rule copied from one of those drastic rules reported by the gentleman from Pennsylvania [Mr. DALZELL] in his palmy days in the House, when the Democratic side of the House was accusing him of all sorts of tyranny. The gentleman from Texas [Mr. HENRY] declined to permit that to be offered, and he insists upon this drastic gag rule that is now pending. The rule which I should have offered would be:

That for the remainder of this session, bill (title, etc., S. 3175) shall have the same privilege for consideration that is enjoyed by bills reported from committees under power to report at any time.

That would have given the House an opportunity to consider this bill upon the same plane and on the same terms as are appropriation bills or bills raising revenue, and would have given the House full power to consider and amend the bill. What is the proposition now pending? That there shall be four hours' general debate and at the end of that time the House committee substitute shall be read for amendment. Read for amendment, mind you, under the rules of the House. Under the rules of the House if an amendment be offered to this House committee amendment it must be germane to it. The House committee amendment considers only one subject in the Senate bill. The Senate bill is a bill 58 pages long, containing many provisions which have been asked for by those in favor of restricting immigration. The House amendment contains one proposition.

It is open to amendment. Amendment in what regard? Is it open to amendment on the other subjects contained in the Senate bill or are amendments confined to being germane to the House amendment upon the one subject? When an amendment is offered to the House amendment after it has been discussed for 5 minutes or 10 minutes, one man in favor and one against, the House itself in Committee of the Whole can not extend the time for debate. There will be no such thing as moving to strike out the last word and getting the floor, because that would be an amendment in the third degree and any Member of the House, like my distinguished friend from Georgia, can object to further debate upon the proposition. Talk about debate under the rules of the House! It is a gag rule to prevent debate and prevent amendment. [Applause on the Republican side.]

Mr. GARRETT. Mr Speaker, will the gentleman yield?

Mr. MANN. I have not the time to yield. It was not I who limited the time for debate. I asked for liberal debate. Mr. Speaker, I congratulate the gentleman from Georgia [Mr. RODDENBERY], who has proved himself the master of the House. Yesterday he applied the lash to the backs of the leaders on the Democratic side of the House, and to-day, with their wounds still open, they bow in submission before the gentleman from Georgia and bring in a rule, as the gentleman from Georgia desires, to prevent debate, to prevent amendment, and prevent consideration. The gentleman from Georgia is entitled to congratulation and the gentleman from Texas [Mr. HENRY] and the gentleman from Georgia [Mr. HARDWICK] to sympathy and condolences. [Applause on the Republican side.] What is the proposition in this? Here is a Senate bill, 58 pages long, containing many provisions not only with reference to the admissions of aliens, but in reference to the administration of the immigration laws. Under the rule, when the House has voted upon the House amendment to the bill, the bill is to go to conference. The bill, the law, is to be written in conference without any opportunity on the part of the House to vote on the propositions in the Senate bill which are not embraced in the House substitute. It is true, as will be suggested by gentlemen who defend the rule, that the House in the committee by voting down the House committee amendment can then proceed to consider the Senate bill. In other words, it is true that if the House on a vote on the House amendment votes against the thing they want then they can proceed to consider something else. That is a false attitude in which to put Members of the House. Those Members who are in favor of the one proposition embraced in the House substitute have to vote for that or vote against it against their consciences, and when they have voted for it they thereby cut themselves out from the opportunity of considering or amending the many other propositions contained in the Senate bill and turn that over to the gentleman from Alabama [Mr. BURNETT] and possibly the gentleman from Massachusetts [Mr. GARDNER] to settle in conference with the Senate amendment. I would like to call attention now to the proposition that perchance those who are opposed to the immigration bill shall have the right to be represented on the conference committee. Here is a proposition to take the Senate bill, containing many propositions upon many subjects, fixing a head tax, doing many other things which the gentlemen interested in immigration desire to be heard upon, and turning that all over to the conference committee without any opportunity on the part of the House to express its opinion upon the subject. Then in the expiring days of this Congress we will be asked to vote up or down the conference report without anyone here knowing anything about the jokers in it.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BURNETT. Will the gentleman permit a question right there?

Mr. MANN. I will if you will give me the time.

Mr. BURNETT. The gentleman from Illinois [Mr. SABATH] is the second man on the committee, and will no doubt be on the conference committee, so the statement of the gentleman along that line is entirely gratuitous.

Mr. HENRY of Texas. Mr. Speaker, I yield the remainder of my time to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Speaker, it is very clear to me that the opposition to this rule comes wholly from the fact that those who are opposed to this rule are opposed to any consideration or action upon this bill at this session of Congress.

As a matter of fact, this rule, as has been said heretofore, is one of the most liberal that has ever been proposed by the Rules Committee since I have been a Member of Congress. It conforms to the practice of the House ever since I have been a Member, namely, it gives preference and precedence to a substitute reported by the House committee, and nothing more, and provides that that shall be first considered, throws it wide open for amendment, throws it wide open for consideration, and then provides that that shall first be voted upon, and unless it is rejected the Senate bill shall not be considered.

Now, Mr. Speaker, why is it that the opponents of this bill desire consideration of the Senate bill? Not because they desire to see it passed. I am frank to say I would vote against it. Its provisions are much more drastic than are the provisions of the House bill. But, Mr. Speaker, there are 59 pages of that bill; there are 39 sections in it, and the opponents of this bill know that if they could invoke the rules of the House, using every parliamentary technicality that the rules permit, they could prolong the discussion and consideration of those 59 pages and 39 sections until such time that this House would not have an opportunity to vote upon the question at all during this session of Congress.

Now, the gentleman from Illinois [Mr. MANN] made, or attempted to make, some point that, because here was a committee amendment that would be first acted upon, that only one amendment to it could be proposed, and therefore, he inferred, or meant the House to infer, that there would be a curtailing of the right of consideration. But I call the attention of the House to the fact that the very proposition which he himself suggested, that he would simply make this bill privileged, would be subject to the same charge, so that the restriction, whatever it might be, does not grow out of anything that you find in this rule, but in the rules of the House itself.

Now, as I said, Mr. Speaker, if this House desires to consider the substitute bill, the rule gives them an opportunity to do it, and to do it with unlimited power under the rules of the House which the gentleman from Illinois [Mr. MANN] is so solicitous about. If it desires to consider the Senate bill, the rule gives the same opportunity as it does the House bill.

Now, Mr. Speaker, I have been one who, ever since I have been a Member of Congress, has stood for liberalization of rules. Where I believed they were too strict my purpose has always been to secure consideration, deliberation, and action. And wherever, Mr. Speaker, any rule of this House, instead of expediting deliberation and action is proposed to be used by the opponents of a bill in a filibuster to prevent action, I am for curtailing such rules to the same extent as I am for liberalizing them where necessary.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has expired; all time has expired. The question is on agreeing to the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 101, noes 19.

So the resolution was agreed to.

The SPEAKER. Under the rule, the House will resolve itself automatically into the Committee of the Whole House on the state of the Union for the consideration of the bill which is made a special order, and the Speaker appoints the gentleman from Virginia [Mr. HAY] to preside.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States," with Mr. HAY in the chair.

Mr. BURNETT. Mr. Chairman, I ask that the first reading of the substitute be dispensed with.

Mr. MANN. Mr. Chairman, reserving the right to object, I would suggest that the substitute is very short, and I doubt whether many Members of the House have examined it. Therefore I would like to have it read.

The CHAIRMAN. The Clerk will read the substitute.

The Clerk read as follows:

Strike out all after the enacting clause and insert the following:

"That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit: All aliens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

"SEC. 2. That for the purpose of ascertaining whether aliens can read or not, the immigrant inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plain type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip.

"SEC. 3. That the following classes of persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit through the United States; (c) all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory.

"SEC. 4. That an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came, in the manner provided by section 19 of "An act to regulate the immigration of aliens into the United States," approved February 20, 1907."

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the gentleman from Alabama [Mr. BURNETT] whether he intends to have an understanding with regard to the disposition of time, or whether that is wholly in the province of the Chair?

Mr. BURNETT. Mr. Chairman, I desire to suggest—and I was just going to ask, for the purpose of having an understanding, Can that understanding be made in Committee of the Whole?

The CHAIRMAN. It can not, under the rule. The rule does not provide how the time shall be disposed of. That will have to be controlled by the Chair, although the Chair would be very glad if gentlemen would agree in regard to it.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to inform the Chair, as well as the gentleman from Alabama [Mr. BURNETT], that, being the only minority member on the Committee on Immigration and Naturalization, who is opposed to the bill, I have received several requests for time, and I presume those requests ought to be complied with, if it is possible to do so.

The CHAIRMAN. The Chair thinks that the chairman of the committee [Mr. BURNETT] and the gentleman from Pennsylvania [Mr. MOORE] ought to control the time, and the Chair will recognize the gentleman from Alabama [Mr. BURNETT] for two hours and the gentleman from Pennsylvania [Mr. MOORE] for two hours.

Mr. MANN. Mr. Chairman, the Chair has not the power to recognize a gentleman for more than two hours except by unanimous consent.

The CHAIRMAN. The Chair will designate gentlemen to control it.

Mr. BURNETT. The rule says that there shall be two hours on a side. It was my purpose and desire, Mr. Chairman, that the gentleman from Illinois [Mr. SABATH], the ranking member on the committee, should control the time on his side of the question.

The CHAIRMAN. The Chair will read the rule:

That there shall be four hours' general debate, to be divided equally between those favoring and those opposing the measure—

And the Chair will therefore control the time himself.

Mr. MADDEN. Mr. Chairman, does that mean that when a Member is recognized he will be recognized for an hour?

The CHAIRMAN. Yes; under the rule of the House.

Mr. MANN. I take it, Mr. Chairman, that under the rule the gentleman from Pennsylvania [Mr. MOORE], in opposition to the bill, will be entitled to an hour, and the gentleman from Illinois [Mr. SABATH] will be entitled to an hour, and divide the time up.

Mr. SABATH. Do I understand, Mr. Chairman, that the time will be divided in this matter so that the gentleman who favors the bill, Mr. BURNETT, of Alabama, the chairman of our committee, will be entitled to half of the time and be recognized for the present for one hour, and the gentleman from Pennsylvania [Mr. MOORE] and myself, who are opposed to the measure, will be entitled to the other two hours?

The CHAIRMAN. No. The gentleman from Alabama [Mr. BURNETT], the chairman of the committee, is recognized for one hour.

Mr. GOLDFOGLE rose.

The CHAIRMAN. For what purpose does the gentleman from New York rise?

Mr. GOLDFOGLE. To make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GOLDFOGLE. Mr. Chairman, I understand that the four hours are to be thus divided——

The CHAIRMAN. That is not a parliamentary inquiry, the Chair will say to the gentleman.

Mr. GOLDFOGLE. I am about to put the inquiry. I will put it after I make my statement. The time is to be equally divided. I understand the gentleman from Alabama [Mr. BURNETT] to have asked that he have two hours and that the other two hours be controlled by some one in opposition to the measure. I then understand that the gentleman from Illinois [Mr. SABATH] asked that the time be divided in the way indicated by him. If that is so, does the Chair entertain the request of the gentleman from Illinois?

The CHAIRMAN. The Chair has already stated that under the rules of the House and under this rule the Chair will recognize gentlemen for two hours on one side and for two hours on the other side; and the Chair recognizes the gentleman from Alabama [Mr. BURNETT] under the rules of the House for one hour.

Mr. GOLDFOGLE. Who shall control the time in opposition?

The CHAIRMAN. The gentleman controls his own hour, and he is recognized for an hour. If the gentleman sits down before the hour is up, he yields the floor. The balance of that time will be given to those who are in favor of the bill.

Mr. MOORE of Pennsylvania. Mr. Chairman, may I be indulged for just one moment? I think this matter can be very readily cleared up.

The CHAIRMAN. The Chair thinks there is no trouble about it. It is a very plain proposition.

Mr. MOORE of Pennsylvania. I think so, too, Mr. Chairman, but there have been requests for more than two hours' time on a side, and the Chair says he will assign the distribution of two hours to one gentleman and two hours to another. Gentlemen seem to be concerned about whether they can speak in opposition to the bill after the first hour.

The CHAIRMAN. Why, of course.

Mr. MANN. Mr. Chairman, I ask unanimous consent that when the gentleman from Alabama [Mr. BURNETT] takes the floor he be authorized to consume two hours, or to have that time under his control; that when the gentleman from Pennsylvania [Mr. MOORE] takes the floor he be authorized to control two hours. That is within the power of the committee. We can extend the time of a Member in Committee of the Whole.

The CHAIRMAN. The committee can extend the time; yes.

Mr. MANN. That is all I am asking. That arrangement is frequently made in Committee of the Whole.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the time of the gentleman from Alabama [Mr. BURNETT] be extended to two hours, and that the time of the gentleman from Pennsylvania [Mr. MOORE] be extended to two hours. Is there objection?

Mr. BURNETT. A parliamentary inquiry, Mr. Chairman. That would not prevent my yielding time to any Member and reserving the remainder of the time, would it?

The CHAIRMAN. The Chair understands that it would not. The Chair will recognize any gentleman indicated by the gentleman from Alabama.

Mr. SABATH. Mr. Chairman, in what position does that place me?

The CHAIRMAN. The gentleman from Illinois will have to secure his time by having it yielded to him by the gentleman from Alabama [Mr. BURNETT] or the gentleman from Pennsylvania [Mr. MOORE].

Mr. SABATH. I am the ranking member of the committee, and I am opposed to this measure.

Mr. MANN. I thought that arrangement was satisfactory to the gentleman from Illinois [Mr. SABATH].

Mr. MOORE of Pennsylvania. I will comply with any reasonable request of the gentleman from Illinois. I will yield time to him.

Mr. GARRETT. Reserving the right to object, I wish to make this statement. I think gentlemen are unduly confused about the matter of time. I have no doubt that the Chair will recognize the gentleman from Alabama [Mr. BURNETT] for one hour, the gentleman from Pennsylvania [Mr. MOORE] for one hour, the gentleman from Massachusetts [Mr. GARDNER] for one hour, and the gentleman from Illinois [Mr. SABATH] for one hour, and these gentleman in turn will yield such time as they choose to yield. I have no doubt that is the plan which the Chair will follow. It seems to me we are losing a great deal of time which could be devoted to the debate.

Mr. MANN. It is rather awkward to have to appeal to two gentlemen for time. That is the only trouble about it. I do not want any time myself.

Mr. BARTHOLDT. We can not go to two men to get time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Alabama [Mr. BURNETT] is recognized for two hours.

Mr. BURNETT. Mr. Chairman, I shall be glad if Members will give attention to this question, because I feel that no more important matter has been approached by Congress than this since 1906, when a similar proposition was sidetracked for an investigating immigration commission.

Gentlemen in discussing the rule have inveighed against it because they said that it cut off debate, and that there was undue haste in insisting upon the passage of the bill.

Mr. Chairman, no gentleman can truthfully say that I have manifested any disposition to precipitate, improperly and unjustly, action upon this bill; but, on the other hand, it comes with poor grace for gentlemen to insist that the bill should take its regular course on call of committees, when those same gentlemen have time and time again tried to prevent its taking just that course.

Last Wednesday week and last Wednesday being Calendar Wednesdays, I sat in my place hour after hour waiting for the Committee on Immigration and Naturalization to be called. Some gentlemen who have to-day spoken so ardently about its coming on in its regular order were also present then, and upon a little bill involving, I believe, a bridge across the Snake River the gentleman from New York [Mr. GOLDFOGLE], who has been loudest and longest in speaking against this rule, made the point of no quorum and delayed the House for perhaps an hour, so as to prevent the call from reaching my committee. Yet that same gentleman to-day comes up and says that the bill ought to take its regular course on the regular call of the committees and that perhaps my committee will be called next Wednesday.

Mr. Chairman, this committee should have been called last Wednesday, and perhaps but for the action of the gentleman who is so insistent it would have been called at that time. The gentleman from Missouri [Mr. BARTHOLDT] undertakes to give this question a political turn by talking about what the Democratic House is seeking to do, and he says now that it proposes to impress on legislation the views of the recently elected Democratic candidate for President of the United States. I remember just before adjournment of the last session of Congress the gentleman from Illinois [Mr. RODENBERG] attempted to arouse the foreign vote of the country against President Wilson by a similar attack on the floor of this House. I have no doubt but that that speech had much to do with reducing the electoral vote of the candidate of the gentleman from Missouri and the gentleman from Illinois to that of two of the least States in the Union. Who knows but that that speech also relegated the gentleman from Illinois to private life and came near sending the gentleman from Missouri [Mr. BARTHOLDT] to furnish him illustrious company?

I am sorry, Mr. Chairman, that any gentleman should undertake to inject partisan politics into this question, that to my mind is of far more importance than any issue that confronts the American people. But if the gentleman wants to impress that kind of an idea, I refer him to the result of the last election, to meditate whether the declaration of the President elect, in the book to which the gentleman from Missouri referred, did not have something to do with the tremendous majority that he received over the party that elected the gentleman from Missouri.

I call attention to the further fact that a Republican Senate six months or more ago passed the bill with this same illiteracy test in it, a bill more drastic than the bill substituted by the Committee on Immigration and Naturalization, a bill which a distinguished Republican member of the Committee on Rules said was too drastic for most of the Members of the House to support. And yet, in order to hold up this Democratic House to the opposition of those affected by the legislation, the gentleman astutely forgets the fact that the Republican Senate passed that bill by a vote of 58 in favor to 9 in opposition to it. Hence the gentleman may have all the sweet consolation that he desires from the action that is being brought about by reason of the fact that the Democrats control this House. I was glad that one gentleman on the other side rebuked the argument of the gentleman. A gentleman, a Republican, who stated here that it had no political bearing, and a gentleman, a member of the Committee on Rules, on the other side, showed that the rule that was now adopted was much less drastic than the same rule adopted by the Republican House of Representatives some years ago when we wanted to get a fair consideration of a similar bill.

Now, in regard to the bill itself. I do not desire to consume more than 25 minutes, because other gentlemen have asked for time. In 1906 a bill of a similar character was before this House. Under the rules of the House at that time there was a substitute proposed and carried by which a commission was created to investigate the question of immigration and naturalization and report to the House. I opposed the commission, because I knew the purpose of that amendment was to delay legislation and perhaps defeat it. I was a member of that commission, and we made our investigations and reported. As a result of the investigations the commission wound up its conclusions by this terse statement:

The commission as a whole recommend restriction as demanded by economic, moral, and social considerations, furnishes in its report reasons for such restrictions, and points out methods by which Congress can attain the desired result if its judgment coincides with that of the commission.

Even the gentleman from New York, Mr. Bennet, a former Member of this House and a member of the commission, concurred in that statement, although he and he alone of the nine members, dissented from the conclusion of the commission, which is as follows:

A majority of the commission favor the reading and writing test as the most feasible single method of restricting undesirable immigration.

After citing various methods of restriction, a majority of the commission favored the reading and writing test as the most feasible single method of restricting undesirable immigration.

The gentleman, in arguing the rule a few moments ago, said there was no demand for this legislation except in localities where there were none of these foreign immigrants. I want to read you what the leader of the American Federation of Labor has said on that very point. He quotes a resolution of that great body of workingmen as follows:

[From the American Federationist.]

IMMIGRATION—UP TO CONGRESS.

(By Samuel Gompers.)

THE A. F. OF L. ON IMMIGRATION.

Resolution 77, passed at the annual convention held at Toronto, Ontario, November, 1909:

"Whereas the illiteracy test is the most practical means for restricting the present stimulated influx of cheap labor, whose competition is so ruinous to the workers already here, whether native or foreign; and

"Whereas an increased head tax upon steamships is needed to provide better facilities, to more efficiently enforce our immigration laws, and to restrict immigration; and

"Whereas the requirement of some visible means of support would enable immigrants to find profitable employment; and

"Whereas the effect of the Federal Bureau of Distribution is to stimulate foreign immigration: Therefore be it

"*Resolved by the American Federation of Labor in twenty-ninth annual convention assembled*, That we demand the enactment of the illiteracy test, the money test, an increased head tax, and the abolition of the Distribution Bureau; and be it further

"*Resolved*, That we favor heavily fining the foreign steamships for bringing debarable aliens where reasons for debarment could have been ascertained at the time of sale of ticket."

He then says:

The final inning of the tug of war over immigration has now begun. In this contest tremendous forces are engaged. On the side of America are the upholders of two distinctive American sentiments—the maintenance of the American standard of living for our wageworking classes and the maintenance of American institutions as they are, unimpaired through the financial degradation of the working classes. On the pro-immigration side is the powerful immigration machine, composed of the transocean combine, with all its thousands of agents and other innumerable parasites, the bankers, padrones, etc., who are coining money out of the millions of immigrants coming in the course of years into this country from Europe.

The center of this tug of war has at last shifted to Congress. No longer is the discussion indefinite, casual, or partisan, or without an immediate object, conducted through the press and other insufficient agencies of information and debate. No longer, either, is it backed up merely by individual impressions or the partial investigations heretofore promoted by various private institutions. The Federal Government undertook four years ago the solution of the immigration question through scientific means. It set out to ascertain the undeniable facts, and after three full years of research its commission has brought forward no less than 40 volumes on the subject, covering every possible phase. Its recommendations it has brought forward in concise form in a separate pamphlet.

A reading of these recommendations confirms the facts of the case as they have been accepted by the American Federation of Labor after the serious study its members had given the question for decades. The local and then the international unions and finally the annual conventions of the American Federation of Labor itself have had immigration up for consideration as one of the principal labor topics on literally thousands of occasions. The membership as a whole, from upholding the sentiments the great majority once entertained, namely, that this country could go on indefinitely absorbing the entire possible stream of immigration, have reluctantly, in view of the facts, passed over to the sway of the sentiment that their own good heartedness toward the immigrants and the laborers of the Old World was being exploited by large employers for the purpose of reducing wages as well as by the steamship combine and its myriad of parasites for the sake of their own profits. At last the great body of the American industrial wageworkers have come to see one fact above others, which is that the immigrants are assimilated in America through the wageworking class. This means that the American-born wage earners and the foreign wage earners who have been here long enough to aspire to American standards are subjected to the ruinous competition of an unending stream of men freshly arriving from foreign lands who are accustomed to so low a grade of living that they can underbid the wage earners established in this country and still save money. Whole communities, in fact whole regions, have witnessed a rapid deterioration in the mode of living of their working classes consequent on the incoming of the swarms of lifelong poverty-stricken aliens. Entire industries have seen the percentage of newly arrived laborers rising until in certain regions few American men can at present be found among the unskilled.

By the commission's report it is shown that in many communities as high as 50 and even 70 per cent of the children in the public schools are the offspring of foreign fathers. This remarkable change in America, it must be kept in mind, is almost wholly in the wageworking class. It was recognized by our wageworkers in many parts of the country that this radical change in population was taking place, and hence delegates to the trade-union conventions began some years ago to give their testimony as to the need of restriction of the evidently assisted or artificially promoted immigration. Opposition to those who supported these views brought about a continual sifting and searching for the truth as it affected trade-unionism and the general wage level. At work in advance of the investigators of the Immigration Commission were the representatives of labor as most deeply interested investigators in the cause of labor. Not only in a general way but most strikingly in certain occupations and in certain districts of the country what had been brought home to trade-unionists as going on through immigration was the rapid change in the membership of the unions as well as in population. In no country on the face of the globe do such rapid transitions in industry and in population take place as in ours. Therefore in time the general opinion among union men on immigration had come to be such as was expressed in the resolution passed at the Toronto convention.

The United States Immigration Commission, after its protracted studies, perfectly agrees with this opinion. The commission as a whole, in its own words, "recommends restriction as demanded by economic, moral, and social considerations, furnishes in its report reasons for such restriction, and points out methods by which Congress can attain the desired result if its judgment coincides with that of the commission."

Further:

On behalf of American labor it is to be said that the action of the trade-unions in this country on this most delicate international question involves a step that touches the heart of every man contemplating it. That step, the advocacy of exclusion, is not prompted by any assumption of superior virtue over our foreign brothers. We disavow for American organized labor the holding of any vulgar or unworthy prejudices against the foreigner. We recognize the noble possibilities in the poorest of the children of the earth who come to us from European lands. We know that their civilization is sufficiently near our own to bring their descendants in one generation up to the general level of the best American citizenship. It is not on account of their assumed inferiority, or through any pusillanimous contempt for their abject poverty that most reluctantly the lines have been drawn by America's workingmen against the indiscriminate admission of aliens to this country. It is simply a case of the self-preservation of the American working classes.

That would seem to refute the idea that distinguished gentlemen have that this cry originates from among those where there is none of that class of immigration. All over the country the demand comes up. From the great patriotic organizations that are perhaps more numerous in the North it comes. From the granges, the representatives of the farmers' organizations all over the North, it comes. From some 3,000,000 members of the American Federation of Labor, expressing themselves through Mr. Gompers, and by positive resolutions the declaration is made that it has come to be a question of life and death between the American workingman and the man who is imported here for the purpose of beating down the price of American wages and beating down the standard of living of his wife and children. [Applause.]

Mr. SABATH. Mr. Chairman, will the gentleman yield?

Mr. BURNETT. For a question.

Mr. SABATH. Is it not a fact that to-day the wages of unskilled laboring men are higher than ever before in the history of our country? [Applause.]

Mr. BURNETT. That may be true, and why not? What the wage earner has to pay for the necessaries of life is more than double what the increase of wages has been. [Applause.]

Mr. SABATH. Is the immigrant responsible for the high cost of living?

Mr. BURNETT. Is the immigrant responsible?

Mr. SABATH. Or the laboring man? Is not that due to the trusts and combinations?

Mr. BURNETT. That is going into a field of politics that I would like to eschew, and I shall not follow the example of the distinguished gentleman from Missouri in undertaking to go into that. But one thing I desire to say, and that is, that no man denies that the wages of the wage earner of the country are too low; and I have no doubt, as is said by Mr. Gompers and representatives of labor, that that influx of undesirable labor from southern Europe has been to a great extent responsible for keeping those wages down. I had an experience myself lately which I desire to relate.

Mr. PALMER. Mr. Chairman, will the gentleman yield?

Mr. BURNETT. In one moment. A mine operator near Birmingham said to me not long since that he was using labor from different nationalities. I said: "What is the best?" He said: "The Welsh, the Irish, the English, the Scotch, the American, the German, and the Scandinavian." I said: "Who is your poorest laborer?" He replied: "The south Italian." I said: "Worse than the negro?" He said: "Infinitely worse."

I said: "Why, then, do you employ him?" His answer was: "For the purpose of regulating the price of labor." And it is that demand for the pauper labor of Europe. Mr. Chairman, that is coming up from all over this country by the great industries.

Mr. POWERS rose.

Mr. BURNETT. First I yield to the gentleman from Pennsylvania [Mr. PALMER].

Mr. PALMER. Mr. Chairman, I want the gentleman to understand that I am for his bill, but I want some information. Does the Committee on Immigration find that the same situation exists now as existed at the time of the report of the Immigration Committee, namely, that there is an oversupply of unskilled labor in this country?

Mr. BURNETT. Mr. Chairman, I will answer that in this way: I was at Ellis Island just last spring. The commissioner of immigration there told me that a family had come over in which some members represented themselves as being carpenters. The question was whether they ought not to be deported because of their liability to become a public charge. He said he thought he had a right to take into consideration among other things the condition of the labor market. He went out into the city of New York and found that last spring there were 3,000 carpenters in that city who were absolutely unemployed.

Mr. GOLDFOGLE. Mr. Chairman, will the gentleman yield?

Mr. PALMER. That is not unskilled labor.

Mr. BURNETT. It is the lower class of carpenter's labor he had reference to.

Mr. CURLEY rose.

The CHAIRMAN. To whom does the gentleman yield?

Mr. BURNETT. To the gentleman from New York [Mr. GOLDFOGLE].

Mr. GOLDFOGLE. Mr. Chairman, it would enlighten the members of this committee if the gentleman from Alabama would answer the question put by the gentleman from Pennsylvania. As I recall it, as a member of that committee going there——

Mr. BURNETT. Oh, I will ask the gentleman not to make a speech.

Mr. GOLDFOGLE. There was no investigation.

Mr. BURNETT. The gentleman has his own time, and he should make his speech in his own time and not try to make a speech in my time.

Mr. GOLDFOGLE. I should like the gentleman from Alabama to answer the question of the gentleman from Pennsylvania, as it will avoid another question by me.

Mr. BURNETT. I think undoubtedly there is an oversupply of unskilled labor, and I illustrate it by the fact that these men who were coming to work as carpenters were not skilled; they were underlings working in the lower strata of the carpenter's trade. That is illustrated, I believe, all over this country. I must decline to yield further, because gentlemen will have time of their own and I will not have enough time to answer all these questions that are injected into this discussion.

Mr. CURLEY. Will the gentleman yield?

Mr. BURNETT. I can not yield. Here is the further statement that Mr. Gompers made:

The illiteracy test advocated by the American Federation of Labor was added to the bill and passed by the Senate. The head tax for immigrants was increased from $4 to $5. The bill was then referred to the House Committee on Immigration where, after prolonged consideration, it was decided, on June 6, to strike out several important features. Many conflicting opinions developed in the House on the advisability of giving the amended measure consideration during the session. Many futile efforts were made to have the bill called up in the House, the general cause given being that other committees held the calendar ahead of the Immigration Committee. Efforts were made to obtain a special rule from the Rules Committee so that the bill could be then brought before the House. Hon. JOHN L. BURNETT, chairman of the Committee on Immigration and Naturalization, made vigorous endeavors to obtain action, and in response to his request before the Committee on Rules, he finally secured the positive proposition that a special rule would be reported early in December of the next session of Congress.

Earnestly I urge our organizations to bring the subject matter of this bill to the attention of their Representatives and emphasize the request for an early passage of this reasonable regulation or restriction of immigration.

Now, Mr. Chairman, I desire for just a few moments to call attention to what the propositions of the bill are. The Dillingham bill, as has been stated by gentlemen, was composed of about 58 pages, 39 sections. We had first the Burnett bill before the committee and after lengthy hearings before the Dillingham bill ever came to the committee that bill was ordered reported. The Dillingham bill came and we gave hearings of two or three days on the Dillingham bill, and after careful consideration the friends of restriction, the friends of the illiteracy test decided that all after the enacting clause of the Dillingham bill ought to be stricken out and what is known as the Burnett bill should be substituted in its place. For the information of gentlemen who perhaps have not done us the honor of reading that bill, I want to call your attention to what it proposed. It reads:

That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States the following persons shall also be excluded from admission thereto, to wit: All aliens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

Now I will read section 3:

SEC. 3. That the following classes of persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit through the United States; (c) all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory.

Mr. BATHRICK. Will the gentleman yield for a very short question?

Mr. BURNETT. All right, sir.

Mr. BATHRICK. In the first paragraph, referring to those who will be permitted to enter, should not the daughter not widowed or the son left on the other side be permitted to land?

Mr. BURNETT. Those under 16 years of age do not have the illiteracy test applied, whether it be a son or a daughter. The idea is that a son over 16 years old is able to take care of himself, whereas an unmarried or widowed daughter should be allowed to come in on account of the fact of their dependence. Mr. Chairman, this is a conservative bill. The records at our ports show—I will not state it accurately, but I am going to give you just about the ratio in which they will be excluded. Those who come here without their families will, as a rule—many of them—be excluded. Take, for instance, the south Italian. About 56 per cent of those over 16 years of age who come to our ports are unable to read a word of their own language; of the north Italian, however, who is a Caucasian, less than 7 per cent of them would be excluded. Of the Sicilians, whom we class with the south Italians, about the same number will be excluded. Of the Poles and the Greeks and the Syrians perhaps something like 40 per cent will be excluded. It is that class of people, Mr. Chairman, along the borders of the Mediterranean Sea, whom the illiteracy test will keep out. Now, how about those who are my ancestors and yours? Less than 1 per cent of the Irish, Scotch, English, and Welch would be kept out; less than 2 per cent of our splendid German citizenship of this country would be kept out; less than 1 per cent of the Bohemians will be kept out; less than one-half of 1 per cent of the Scandinavians, who have built up and made to blossom as a rose our great northwest territory, will be excluded under this bill. Of the Jewish people the greater number will come in, because this very paragraph says those who can read the Yiddish and Jewish may come in, and Jewish gentlemen before our committee stated that almost every Jew of over 16 years of age could read his Yiddish Bible or Hebrew Bible.

Hence, my friends, they would be let in. For fear that there might be some who would be excluded by chance that ought not to be we make provision that those who were shown to be fleeing from religious persecutions should not be subject to that test. Now, Mr. Chairman——

Mr. CURLEY. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Alabama [Mr. BURNETT] yield to the gentleman from Massachusetts?

Mr. BURNETT. I yield.

Mr. CURLEY. Mr. Chairman, personally I feel that the Burnett bill is simply a sugar-coated pill, and that in conference the Dillingham bill will be substituted. Is there any provision in the Dillingham bill that provides for the admission of a person who can read the Hebrew or Yiddish dialect?

Mr. BURNETT. There is no doubt of its being the desire of the framers of the Dillingham bill to permit such people to be admitted. I have not read the Dillingham bill in quite a while, but I think so.

Mr. TOWNSEND. Will the gentleman yield for a moment?

Mr. BURNETT. For a question; yes.

Mr. TOWNSEND. In view of the fact that "illiterates" and "unskilled laborers" have been used here as interchangeable terms, I wanted to ask the gentleman if he contends that literacy is necessary in the making of a skilled, and a very efficiently skilled, laborer?

Mr. BURNETT. Not absolutely. That is not the proposition, Mr. Chairman. The gentleman overlooks the proposition that this strikes not at the particular individual on account of his illiteracy. Many of the best men of my southern country and yours, Mr. Chairman, are illiterates because of the titanic struggle, the fratricidal war from 1861 to 1865, from which we have not yet recovered. But the proposition here is that those who are the unskilled laborers, those who know nothing of our standards of morals, those who are the undesirables, those that come from that section of Europe, are, many of them, plying the black hand; and those that are not become the victims, and they will be the ones that will be excluded.

Mr. CURLEY. Mr. Chairman——

Mr. BURNETT. Mr. Chairman, I decline to yield further now, because I must yield finally in a few moments to other gentlemen.

Another reason why this bill ought to pass is that it is certain and definite. We have propositions in our laws as they exist for turning back those who are liable to become a public charge. The people on the other side do not know when they leave what interpretation will be put upon that. They come under the invitation of our laws, and when they come here they are turned back, and some of the most deplorable cases are those where the Commissioner of Immigration has had to execute that law and has turned back thousands of those people in one year. But, Mr. Chairman, we have here a test that is definite and fair to the immigrant and fair to the American wage earner and the American citizens, who do not desire to see the standards of living in this country broken down by those whom one great German characterized as the "spittoons of Europe that were being emptied upon this country."

Mr. GOLDFOGLE. Mr. Chairman——

Mr. BURNETT. Mr. Chairman, the gentlemen on the other side know that they are going to have time, and it is unfair to undertake to consume more of my time by questions when they have two hours. No doubt the gentleman from New York [Mr. GOLDFOGLE] will have his share. I wanted to get the bill up last Wednesday in order that he might have unlimited debate, but he did not want it to come that way.

The man on the other side of the ocean knows whether he can read or not. This bill does not call for the writing test, because it was a matter of record that nearly all those who can read can write. We thought this was enough to strike at the evil. Only yesterday I received a resolution from some of the labor leaders in this city, the Knights of Labor.

In the South we have the Farmers' Union, composed of some 3,000,000 people; the Federation of Labor, also composed of some 3,000,000 people. We have them all over the country, my friends, and they are asking for the passage of this bill, and it is not only fair to them, but it is fair to the man who is coming to this country to know before he ever leaves his shores whether he can be admitted to American shores. And this will bring that about. It is definite; it is certain; it strikes down the very class that we believe to be undesirable, and at the same time it continues to open wide our ports to the splendid civilization from northwestern Europe that none of us desires to keep out.

Now, Mr. Chairman, how much time have I consumed?

The CHAIRMAN. The gentleman has consumed 20 minutes.

Mr. BURNETT. I reserve the balance of my time.

Mr. GARDNER of Massachusetts. Mr. Chairman, before the gentleman sits down I would like to ask him a question.

The CHAIRMAN. Does the gentleman from Alabama yield?

Mr. BURNETT. There is one statement, Mr. Chairman, that I forgot to make, and I am afraid it will slip me. A number of amendments may be offered to this bill. Some Members state that it does not go far enough, and some members of the committee think it does not go far enough. I wish to say before I take my seat that I hope there will be no amendments offered by a friend of this bill. Let the bill go through as it is. It is a step in the right direction. Mr. Chairman, and let us pass it and get it over to the Senate. I hope no very drastic amendment will be put upon it by the conferees; and if I am one of them, I will try to prevent the adoption of drastic amendments in conference that may endanger the passage of the bill.

There are some propositions in the Dillingham bill—propositions such as the Root amendment—that I am not in favor of. I am not in favor of loading this bill down with amendments that might endanger its passage in the House. It is results that I am after, more than anything else, and if there are amendments offered here, either by friends or foes, I hope the friends of this measure, from beginning to end, every time a vote is taken, even if it takes all summer or all winter, will vote them down and stand here and insist on getting a measure such as the people of this country are demanding at our hands.

The Christmas holiday vacation is coming in a few days, and it looks to me as though opponents of the bill were endeavoring to lay over the consideration of this measure until next Wednesday, as was suggested by the gentleman from Missouri [Mr. BARTHOLDT], hoping that Members will leave the city for their holiday vacation, and in that way to defeat this bill. I hope they will be voted down, whether we feel in our hearts that such amendments ought to be accepted or not, in the interest of passing this bill and securing legislation. [Applause.]

Mr. GARDNER of Massachusetts. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Alabama yield?

Mr. BURNETT. I do.

Mr. GARDNER of Massachusetts. So far as the gentleman as chairman is able to speak of the policy of the committee, the policy of the committee will be to vote against the amendments, in the interest of getting legislation?

Mr. BURNETT. That is my desire, sir.

Mr. GARDNER of Massachusetts. And will the gentleman allow me to say, so far as I can speak of the minority membership of the committee, that our policy will be exactly the same? And speaking for myself, who believe in far greater restrictions than this bill carries, I shall vote against every amendment that is more drastic than the bill, because I do not want to see the bill defeated by being overweighted.

Mr. BURNETT. Mr. Chairman, I reserve the rest of my time.

Mr. Chairman, the committee has had before it several times the question to which the gentleman from Pennsylvania has referred. There is legislation pending at the present time which will be passed, I have no doubt. A bill has passed the House and has gone over to the Senate which will no doubt be enacted into law. I think that bill will cover every imaginary trouble, and it is unnecessary to adopt this amendment at this time. I hope the amendment will be defeated.

Mr. MOORE of Pennsylvania rose.

The CHAIRMAN. The gentleman from Pennsylvania is recognized.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask to be notified at the expiration of 10 minutes.

The CHAIRMAN. The gentleman from Pennsylvania will be notified.

Mr. MOORE of Pennsylvania. Mr. Chairman, my opposition to this bill is based upon grounds of patriotism equal to those of any of the patriotic or labor associations that have advocated its passage, and upon the higher ground of humanity itself. I want no better authority to quote to the gentleman from Alabama [Mr. BURNETT], who has advocated this new restriction of immigration, than the great leader of the Democratic Party, Thomas Jefferson, who, in that immortal document, the Declaration of Independence, drafted in my city, set out, among other grievances against the existing King George, that—

He has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither; and raising the conditions of new appropriations of land.

We have, all and every one, whether our blood be as blue as that of the very oldest family in the land, descended in some degree from those who came to these shores as foreigners under conditions similar to those whom you propose to forbid to-day. In this bill, substituted for the so-called Dillingham bill, the committee proposes to do what, boiled down in the crucible, is just this: To exclude from the United States, from the opportunities presented here to all of our forefathers and to us—

All aliens over 16 years of age physically capable of reading, who can not read the English language or the language or dialect of some other country, including Hebrew and Yiddish.

Do you propose to bar the anarchist? No. His case is covered by existing law. Do you propose to exclude the criminal? No. He is forbidden by existing law. Do you propose to keep out any who are morally undesirable? No. That is all covered by existing law. But in order to make good the report of the expensive commission that went to Europe to investigate this question, and in order to have something to hinge your case upon, you propose to exclude from the United States these not morally unfit, those who have committed no crime, those whose offense has been no greater than that of your ancestors, and whose only fault and misfortune, downtrodden as they are, is that they can not read or write. [Applause.]

Mr. POWERS. Will the gentleman yield?

Mr. MOORE of Pennsylvania. I have but 10 minutes, I am sorry to say, and I can not yield just now.

The CHAIRMAN. The gentleman declines to yield.

Mr. MOORE of Pennsylvania. Speak to me of patriotism, and I quote to you the Declaration of Independence, upon which most of the patriotism of this country to-day is founded. Speak to me of humanity, and I speak of that uplift which you preach, but which in this instance you do not intend to practice, since you propose to shut the door of hope and opportunity to the downtrodden.

You intend to bar all those over 16 years of age for no crime except that they can not read. My friends, you may protect your State lines; you may protect your national lines, but you can not protect your consciences against an act of barbarism, against men of the same race, who ask the same right under God to exist and prosper which you and your forbears have had.

And what penalty do you propose to inflict upon these unfortunates? They are asking for help, for opportunity, for life, for education, and you say, "Back, back to the land of oppression; back to the conditions which are so deplorable. There is no hope for those who attempt to enter here."

But to the crook who is educated, to the schemer, the anarchist, and the special pleader; to the man who can write an essay; to the fellow with a college education whose character will not stand the test, you say, "You may come in, because we need you in this country. We are in need of learned men, even if they have disturbed the order and the peace of other countries."

You propose to turn down the willing and the plodding laborer who will be an efficient workman in the United States and who will carry on that toilsome grind with which you will not stain your hands, while you open the door to him who will meet the test you impose and who will then start in on the work of undermining you and your Government. You are going to extend the hand of welcome to the Black Hand, for, I will say to the gentleman from Alabama [Mr. BURNETT], that the business of the Black Hand is the writing of letters, and the Black Hander can read and write and meet every condition imposed by this bill. You do not stop him. You stop only the innocent poor who can not read and write, who are incapable of concocting a Black Hand letter, but who become the victims of the Black Hander the moment they undertake to live honestly and to prosper in the United States. [Applause.]

Patriotism to the winds, humanity overthrown; this is the proposition. I am patriotic when the line is drawn against the morally undesirable, but I would rather stand with my conscience and my God with those who are asking light and help, even as they did when following the Master 2,000 years ago. I would not bar the door of hope against the worthy or shut the gate of opportunity on mankind. [Applause.]

Mr. Chairman, I yield 20 minutes to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Chairman, if I thought immigration was detrimental to our country or to any class of people in this country, I would not raise my voice against the passage of this bill, but I firmly believe that all those who have come to these shores as immigrants, from 1620 down to the present time, have aided in the development of our country. The same hue and cry that we hear to-day against immigration and the immigrant was raised nearly a century ago. I have here a book containing reports of commissions investigating the subject of immigration as early as 1819, nearly 100 years ago. I am not going to take up your time by reading all of the reports of the various commissions, wherein at that early period it was asserted that it was high time our doors were closed to the undesirable immigrants; but I wish to call my colleague's attention to the statement therein appearing, taken from the Second Annual Report of the Managers of the Society for the Prevention of Pauperism in New York City, 1819, and which is, in part, as follows:

First, as to the emigrants from foreign countries, the managers are compelled to speak of them in the language of astonishment and apprehension. Through this inlet pauperism threatens us with the most overwhelming consequences * * *.

This country is the resort of vast numbers of those needy and wretched beings. Thousands are continually resting their hopes on the refuge which she offers, filled with delusive visions of plenty and luxury. They seize the earliest opportunity to cross the Atlantic and land upon our shores. * * * What has been the destination of this immense accession to our population, and where is it now? Many of these foreigners have found employment; some may have passed into the interior, but thousands still remain among us. They are frequently found destitute in our streets; they seek employment at our doors; they are found in our almshouses and in our hospitals; they are found at the bar of criminal tribunals, in our Bridewell, our penitentiary, and our State prison. And we lament to say that they are too often led by want, by vice, and by habit to form a phalanx of plunder and depredations, rendering our city more liable to increase of crime, and our houses of correction more crowded with convicts and felons.

And let me quote an extract from a paper quoted in these reports, entitled "Imminent Dangers to the Institutions of the United States Through Foreign Immigration," and so forth, by "An American," S. F. B. Morse, 1835.

In speaking of the immigration of previous years as compared with that of the day:

Then we were few, feeble, and scattered. Now we are numerous, strong, and concentrated. Then our accessions of immigration were real accessions of strength from the ranks of the learned and the good, from enlightened mechanic and artisan and intelligent husbandman. Now immigration is the accession of weakness, from the ignorant and vicious, or the priest-ridden slaves of Ireland and Germany, or the outcast tenants of the poorhouses and prisons of Europe.

I would be more than pleased if all of you gentlemen could find time to read these reports, in order that you might compare the prophecies which they contain with the actual results of this immigration and see how uncalled for and unwarranted were their fears.

Though it has been proven again and again that the fears of these men were not based upon any actual facts which would warrant their making these statements, and while practically the same conditions exist to-day, yet certain people, who should be informed on the subject but who apparently are not, repeatedly make the unfounded charges that immigration is detrimental to the welfare of our country. To those misguided individuals and the others who genuinely believe this to be a fact I wish to say that their fears are groundless.

A few moments ago the chairman of my committee, Mr. BURNETT, stated that the large influx of immigration is detrimental to our laboring people; that it keeps the wages down. I will say to him, as I have before, that all who have studied the history of our country and are not blinded by prejudice admit that notwithstanding the large numbers of immigrants who have come to our shores within the past 10 years the wage of all skilled, as well as unskilled, labor is higher in America to-day than ever before. He quotes the report of the late Immigration Commission. Mr. Chairman, that commission made its report on conditions as they existed during the years of 1907 and 1908, and their report does not represent the facts as they exist at the present time. I admit that in 1907 and in 1908 and 1909, during the panic, that there were people without employment, but to-day you will not see many men idle in any of the large centers which receive the largest proportion of the immigrants entering this country. At present in practically all of the larger cities and in the industrial centers there is a great demand for labor; in fact, to-day in the city which I have the honor in part to represent we are paying from $2 to $2.75—yes, as high as $3—a day for unskilled labor, and I am informed that there are hundreds of manufacturers and employers of labor that are seeking daily for additional laborers, both skilled and unskilled, and yet are not able to procure them.

Mr. Chairman, I have here the Chicago News, which contains over 1,000 advertisements appearing under the caption "Help wanted." There appeared in the New York Times of May 20 last a dispatch from Pittsburgh stating that "Pittsburgh is experiencing a labor famine so serious that many big industries are advertising far and wide to get men," and a little further on the article said:

The employing agent of one corporation said he could give work to 7,000 laborers.

The report by the commissioner of licenses in New York City on employment agencies, made during the first part of this year, states that—

the difficulties of the servant problem are increasing, due to the dearth of servants. In New York City more than 100,000 servants could find work, in addition to those already employed.

Would these figures give one the impression that there is an oversupply of labor in America at the present time and that the labor markets are flooded? Most assuredly not.

What, then, would be the result were we to enact this proposed legislation, which its supporters state would bar out at least 250,000 immigrants a year? Where, then, would it be possible to secure people to fill these positions?

As concerns the literacy test incorporated in this bill, let me quote here a portion of an editorial in the New York American with reference to these restrictive measures:

It is doubtful if a more deceptive and unworthy measure ever passed the American Senate than the Dillingham-Burnett immigration bill, with its Root amendment.

It is smooth and harmless upon the surface, as corrupt legislation always is.

And its foolish educational test, which would have kept the mother of Abraham Lincoln out of the country, is designed to keep out of our country millions of honest, earnest, sincere men and women that the country needs.

And the Washington Post had the following to say in its editorial columns regarding this bill:

If the United States made any pretensions to being a country dedicated exclusively to the "upper classes," the erudite, and the fastidious, the immigration bill which has been included in the Demo-

cratic program for the present session would be an accurate reflection of such sentiments. If, however, the United States is to remain what it was intended to be—a haven for the oppressed, the lover of liberty and freedom, the toiler, and the ambitious—then the present bill is a step backward toward an exclusiveness which, if exercised 100 years ago, would have paralyzed the growth of the Nation.

The illiteracy test would have robbed the country of some of its strongest and greatest men. Some of the ablest lawyers at the bar, the noblest humanitarians, the best and most progressive business men of to-day are the progeny of parents who could neither read nor write when they came to the United States.

The country needs as many healthy European immigrants as will come here, and the only tests that should be applied are those of health and morality.

Again, let me quote from an editorial appearing in this same paper:

If the same test were to be applied to common laborers in the cotton States, that section would be paralyzed industrially, as the North will be to no small extent if the Burnett bill becomes a law. However repugnant total ignorance in the foreign born may be, the second generation finds them well on the road to assimilation.

It is amusing, Mr. Chairman, to find that the great objections that are made to immigration as a rule come from gentlemen who reside in sections of our country to which no immigration goes.

As an example of this, I wish to refer to some figures which I have, showing the foreign population in the districts of three of the prominent supporters of this bill. I find that in the district of the chairman of our committee, Mr. BURNETT, there are 197,409 people, and out of that number only 1,572 foreigners, about seven-tenths of 1 per cent. Then I turn to the district of my friend from Georgia, Mr. RODDENBERY, and I find his population 297,805; while out of that entire number there are only 555 foreigners.

Next, let me refer to the district which is represented by my colleague, Mr. DIES, of Texas, and I find that his population is 273,842, and there are only 4,981 foreigners.

Mr. DIES. Will the gentleman yield?

Mr. SABATH. Yes.

Mr. DIES. How many foreign population does the gentleman find in his own district?

Mr. SABATH. I find in my district a great many of them, and I desire to say that it was not necessary for me to secure the report as to my district, because there is no one in my district that objects to their coming there, for they recognize the fact that these people have helped to build up that section of the city, that they have helped to build up the entire city, and that the Nation as a whole has been materially benefited as a result of their coming. Yes; they have helped to build up the State from which the gentleman comes, the State which to-day has land valued at $150 an acre; land which could have been purchased for $1.50, $2 and $3 an acre before the immigrants commenced to settle and develop the State.

Mr. DIES. I thought, in view of the fact that the gentleman was quoting the number of immigrants in my district as an enlightenment of my views on the question, he might enlighten us as to the source of his inspiration by giving the number of foreigners in his district.

Mr. SABATH. I have stated that there are a great many in my district and my city; and, notwithstanding that, I have not, nor has anyone else, heard a single word in favor of the Dillingham or Burnett bills coming from my city. The people that come in contact with these people do not object to their coming. They are glad they have come, for as a rule they make good citizens. We know in our own city—and the people in all large centers to which immigration comes are agreed—that these people do the hardest work; that they are the people who do the work which the American laboring man, as a rule, does not care to do, and they thus secure for the American workmen better positions.

Mr. DIES. Mr. Chairman, will the gentleman yield?

Mr. SABATH. Yes.

Mr. DIES. I believe the Burnett bill would cut out about 250,000 illiterate immigrants, about 85 per cent of whom come from southern and eastern Europe. Does the gentleman believe that those 250,000 illiterate immigrants from southern and eastern Europe are capable of self-government, and does the gentleman believe that their coming will help to hold up the standard of American living and wages?

Mr. SABATH. Yes, I do; because they have been able to do so for many centuries. [Applause.] They come from sections of Europe where they had an excellent form of government before this country was ever discovered. As to wages, I wish to say that they do not lower wages. Statistics will prove that wages in the sections of our country which are blessed with immigration are from 50 to 100 per cent higher than in the gentleman's district.

Mr. DIES. To what country has the gentleman reference—Italy?

Mr. SABATH. Yes; Italy, Greece, Bohemia, Germany, Ireland, Poland, and other countries.

Mr. DIES. Certainly the gentleman does not pretend that for a thousand years they have been capable of self-government as manifested in their form of government?

Mr. SABATH. If the gentleman will read up on their history, he will satisfy himself of that.

Mr. Chairman, personally, as the chairman of my committee has said, the Burnett bill would not directly affect to any great extent the class of people in whom I am interested. I venture to say that the people whom I directly represent would suffer but very little, as I have no Italians, no Sicilians, no Greeks in my district, and the majority of the people there come from a section of the country that statistics will show has only a small percentage of illiterates. The Bohemians have only a little over 1 per cent of illiterates, and the same thing is true of the Germans and the Irish and the Swedes and the Hollanders. There may be a larger percentage among the Jewish and the Polish people, but I can not give the exact figures as to these races. It is not because of the effect the passage of this bill will have upon the classes of people who reside in my district that I oppose it, but for the reason that I believe an effort will be made to substitute the Dillingham bill for the Burnett bill, and I feel confident that there is no one here who has studied the Dillingham bill who would be willing, if he be thoroughly familiar with the provisions of it, to vote for it. The chairman of the Immigration Committee has stated, and I have always found him to be sincere, that he is in favor of and will insist upon his bill, not only in the House, but I hope also in the conference to which it will go.

Mr. Chairman, it has been stated that great demands are being made by laboring people of this country for the enactment of this legislation. I venture to say that in my city there are more labor organizations than exist in any other city in the United States, yet I have not heard a single voice raised in support of this measure, nor have I received communications from a single organization in my city which is in favor of the enactment of this restrictive legislation. It is true that I have had sent me some resolutions adopted by organizations in other sections, but let us consider these for a minute and see what a small percentage of the people they represent and how little importance should be attached to them.

I have before me now an open letter addressed to Members of Congress by Mr. John W. Hayes, general master workman, Order of Knights of Labor, Washington, D. C., in which he urges the passage of the Dillingham bill. Here is a man professing to be the leader of a labor organization, and yet this communication is printed by a nonunion firm, surely an indication that this organization does not live up to the doctrine which it preaches. And how many members has this organization, whom does it represent, and how large a percentage of our population, can anyone tell me that? Personally I do not know of a single Member of this House who has received this information from any of these organizations.

Here I find a letter signed by a Mr. H. E. Willis, stating that various railroad employees' organizations have adopted resolutions in favor of the literacy test, but every sincere friend of labor should hesitate before accepting this man's indorsement. This Mr. Willis is the same gentleman who was lobbying here last winter for the commission, or Brantley, workmen's compensation bill—a bill that has been denounced by practically every labor organization to whose members it has been explained. It is a bill which provides compensation in name only and which was not drafted in the interest of the thousands of unfortunate workmen that are killed and maimed each year, but solely in the interest of the railroads.

I might also mention two or three resolutions adopted by farmers' cooperative unions, of which I doubt if any of you have ever heard, and those adopted by the Order of Independent Americans and other organizations similar in character to this latter order, all of them composed of dissatisfied individuals who are steeped with prejudice and who will not permit themselves to look at this question in an unbiased way.

In contrast to the attitude of a few bigoted organizations let me quote from an article sent out last spring from Omaha, which says in part:

Western and Southern States are crying out for more farm workers. We need agricultural producers in Nebraska, and should do everything possible to induce them to come and till the soil. This is true of every midwest State. In an area comprising nearly the western half of Nebraska the last census shows that there are not more than six people to the square mile.

For eight years foreigners have been coming into America at the rate of over 1,000,000 a year, and nearly half of them were tillers of the soil in the old country. The West needs these men. If we expect to develop our agricultural resources we must have more farmers. Future growth depends upon increased agriculture.

Mr. Chairman, it is not true, as stated by some of these supporting this measure, that the incoming immigrants all flock to the large cities, there to increase the present congestion. It may be true that they go first to the cities, but their residence there is only temporary. Gentlemen, I state, without fear of contradiction, that there is nothing closer to the heart of the incoming immigrant than his desire to become possessed of a piece of land which he can call his own, and he does this at his very first opportunity. Hundreds, yes thousands, of these people are leaving the cities each year and settling on farms.

Statistics will show that our native-born Americans are leaving the farms in large numbers and are now seeking the smaller towns and cities. No one will deny that one of our greatest problems to-day is that of securing men to put into cultivation the thousands upon thousands of acres which are now lying dormant. The Canadian Parliament appropriates over $1,000,000 annually to encourage immigration to their country, and see the wonderful growth they have undergone during the past few years.

Let me quote from the statement made before the Committee on Immigration and Naturalization by George H. Fairchild, senator of the Territory of Hawaii, on April 25, 1912, what he has to say regarding the admission of illiterate immigrants to Hawaii:

It would be difficult to find under the American flag a more progressive, better educated, and thoroughly Americanized body of men, but one generation removed from the European stock, than are the second generation * * * the sons of the sturdy but illiterate farmers brought to Hawaii.

I have before me a copy of a message that was sent to the House of Representatives on March 2, 1897, by that great leader of Democracy, the first Democratic President since the war, Grover Cleveland, in vetoing a similar bill. Time does not permit me to read his message, but he, together with thousands upon thousands of intelligent Americans, after a careful study of this momentous question, has gone on record against this unfair legislation.

Mr. BURNETT. Mr. Chairman, will the gentleman yield for a question?

Mr. SABATH. Yes.

Mr. BURNETT. Is it not true that at the time Mr. Cleveland vetoed that bill the entire immigration to this country was not as much as the Italian and Greek immigration is now?

Mr. SABATH. In proportion to the population of our country, the immigration to-day is not any greater than it was then.

Mr. LOBECK. Mr. Chairman, will the gentleman yield?

Mr. SABATH. Yes.

Mr. LOBECK. Was it not also a fact that at that time the price of labor in this country was so low that immigration did not come and there was not the demand for labor that there is now, and that was one of the reasons why they did not come?

Mr. SABATH. I think that is true; but right here I desire to say that from all the information I have and from all the information I can secure and from all the statistics I have studied, I can not find wherein immigration has ever reduced the price of labor, but, on the contrary, you may go over the immigration figures from year to year and you will find that whenever the immigration was large wages were higher.

Mr. POWERS. Will the gentleman yield?

The CHAIRMAN. Does the gentleman yield to the gentleman from Kentucky?

Mr. SABATH. I will yield to the gentleman from Kentucky.

Mr. POWERS. Is not it true that the foreign wages of immigrants from foreign countries have mostly driven out the American wage earners in all of western Pennsylvania, and is it not a fact that three-fourths of the wage earners in the basic industries are foreigners? And is not it further true that they get 42 cents a day less than the American wage earners in the Middle States employed in the same occupations?

Mr. SABATH. I can not agree with the gentleman. I desire to say that they have supplanted them as common laborers, but they have provided for the American laboring men higher and better employment, and the statistics again will show that, due to immigration, the American laboring man has been advanced to a higher position.

Mr. MOORE of Pennsylvania. And is it not also true that the average American boy does not want to work as a common laborer?

Mr. SABATH. Of course, that is true, and they are acting as foremen, bookkeepers, timekeepers, superintendents, and so forth.

No one who has carefully studied the condition of our country can successfully deny that the tremendous progress and development of this Nation is largely due to the foreign-born people and their descendants. In fact, this proposition does not admit of dispute. But, even had they not contributed so much to the country's welfare, shall we not extend welcome to humanity which seeks freedom and emancipation from governmental oppression and despotism?

Our Government guarantees, under and by virtue of the Constitution, liberty; and liberty is the goal which the alien strives to reach, and which when reached serves as an incentive for improvement, and within a short time he becomes Americanized and is ideal material for American citizenship. It is only a short time until he becomes one of us, and no one can question his patriotism, honesty, industry, and progress.

Mr. Chairman, in order to maintain the progress of this great Nation it is imperative that we do not further restrict desirable immigration. The industry of the country requires the labor of the foreigner, and the presumption that the immigration is a competitor of our American labor is erroneous. On the contrary, the employment of immigrant labor creates a demand for a better grade of labor, and it is productive of better wages for the American workingmen. The work performed by the immigrant is that of the hardest kind, work of a character for which it is well-nigh impossible to secure American labor, yet which nevertheless must be performed. It is variously estimated that over 550,000 workingmen are either killed or injured each year in the course of their work, and the grim law of necessity requires that these unfortunate men who are claimed by our commerce and industry must be replaced. What would be our position were we not favored with immigrant labor? It is this class of labor which makes it possible for our manufacturers to compete with the world, thereby creating new fields and new markets for our goods and products. These statements may be denied by some prejudiced restrictionists, but any unbiased man will admit that the wages of the laboring men are higher to-day than ever before and the standard of living has increased accordingly.

To show how our country has been benefited by this immigration, I wish to insert here some figures compiled by the Hon. O. P. Austin, Chief of the Bureau of Statistics, and contained in an article entitled "Progress of American Commerce and Industries, 1870 to 1912." This article appears in full in the CONGRESSIONAL RECORD of July 17, 1912, having been printed therein at the request of my esteemed colleague, Mr. J. HAMPTON MOORE, of Pennsylvania. These figures follow:

Statistical statement comparing conditions in 1870 with those of the latest available year.

	1870	1911
Population	38,558,371	95,410,503
Wealth, estimated (latest official figures)	$30,098,518,000	$130,000,000,000
Money in circulation	$676,284,427	$3,276,786,613
Per caplita	$17.51	$34.26
Individual deposits in all banks	$2,182,512,744	$15,906,274,710
Deposits in savings banks	$549,574,358	$4,212,583,350
Depositors in savings banks	1,630,846	9,507,185
Imports, total	$435,958,408	$1,653,426,174
Crude materials for manufacturing, imported	$55,615,202	$511,362,140
Manufactures for use in manufacturing, imported	$55,569,071	$287,785,652
Manufactures ready for use, imported	$173,614,888	$361,422,180
Exports, total (domestic and foreign)	$392,771,768	$2,204,222,088
Manufactures for use in manufacturing, exported	$13,711,708	$309,151,980
Manufactures ready for use, exported	$56,329,137	$598,367,852
Manufactures, total (except foodstuffs) exported	$70,040,845	$907,519,841
Farms	2,659,985	6,361,502
Farms and farm property, value of	$8,944,857,749	$40,991,440,000
Farm produce, value of	$1,958,030,927	$8,417,000,000
Manufactures produced, gross value	$4,232,325,442	$20,672,051,570
Wages paid in manufacturing	$775,584,343	$3,427,037,884
Spindles in operation in cotton mills	7,132,000	29,625,000
Coal mined ....gross tons	29,400,054	447,837,000
Petroleum produced ....gallons	220,951,290	8,891,354,016
Pig iron produced ....gross tons	1,665,179	23,649,547
Iron and steel manufactures, exported	$13,483,103	$230,725,532
Railways, mileage in operation	52,922	249,922
Imports of all countries except the United States	$6,000,000,000	$16,000,000,000
Value of internal commerce of the United States (estimated)	$7,000,000,000	$23,000,000,000

I also wish to quote one of his concluding paragraphs, which is headed "Energy of the American citizen." The paragraph follows:

ENERGY OF THE AMERICAN CITIZEN.

The next and final feature which I shall mention in our claim to special advantages in production and commerce is that of energy. This is a product not easily measured in figures or terms; but when it is remembered that the population of the United States is formed by a combination of selected energy from the whole world, we may lay claim to a greater average supply of that important factor than any other country. The energy and determination which prompted the early settlers of America to leave their firesides and friends in Europe and undergo the hardships and dangers of establishing homes for themselves in the New World surely mark them as above the average in the supply

of this characteristic. This is also true of a large share of the 30,000,000 of people who have come from other countries during the past century to establish themselves in the United States. Not only have they made valuable citizens and aided in the wonderful development which I have just outlined, but their intermingled blood flows in the veins of a large share of our present population, and carries with it an energy which, when vitalized by the work of our magnificent educational system, must tell for the future prosperity of the country.

It can be readily seen from these statistics and the conclusions drawn by Mr. AUSTIN that the wonderful development which this country has undergone is due to a great extent to the large numbers of people who have come from other countries to establish themselves in the United States. Should we now enact legislation which would halt our progress as a nation?

That immigration has been and is now of great benefit no one can gainsay, and you gentlemen must admit that immigration has brought about our great wealth and prosperity, and not alone has it benefited the country at large, but all of us as individuals have profited by it. Some people say that the wealth these immigrants create is not fairly distributed and that only a small percentage of our people are gainers thereby. That, Mr. Chairman, is not their fault, but ours, and I hope in the near future it will be remedied.

Before immigration commenced millions and millions of acres of land in the Middle West, Northwest, and West were dormant and unproductive. These lands could have been purchased then for two or three dollars an acre, while to-day the same lands, due to immigration, have increased in value a hundredfold. The thousands upon thousands of honest, thrifty, and industrious immigrants who settled amid untold hardships upon the prairies and swamps of this country have converted these lands, heretofore useless and practically of no value, into veritable gardens, rich and productive farms, and large and enterprising cities.

Mr. Chairman, the problem of immigration is one which settles itself. I believe that it is entirely unnecessary to legislate any further in this matter, for the present laws are strict enough in every respect. We now exclude all idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had two or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all government, or of all forms of law, or the assassination of public officials; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons called contract laborers who have been induced or solicited to migrate to this country by offers or promises of employment or in consequence of agreements, oral, written, or printed, expressed or implied, to perform labor in this country of any kind, skilled or unskilled; those who have been, within one year from the date of application for admission to the United States, deported as having been induced or solicited to migrate as above described; any person whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes and that said ticket or passage was not paid for by any corporation, association, society, municipality, or foreign government, either directly or indirectly; all children under 16 years of age unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe.

Instead of considering bills of a restrictive nature, we should pass H. R. 15126, a bill which I introduced during the last session of this body, and which provides for the improvement of the deplorable conditions existing in the steerage quarters of the vessels which bring these immigrants to our shores. The bill provides for many changes and improvements which would compel the steamship companies to reduce their efforts to unlawfully stimulate immigration and will suppress enforced, speculative, adventurous, and spasmodic immigration. Then let us pass my other bill, which provides for a bureau of information and distribution, and within a short space of time you will hear no complaints against immigration.

Our country has unlimited resources, which it will take centuries to develop, and we have thousands upon thousands of acres of land lying idle now for lack of sufficient people to till them. Personally, I am of the opinion that the inducements being offered to immigrants by Canada and our neighboring Republics will soon result in a marked increase of immigration to those countries, with a resulting decrease in the numbers coming to the United States. In fact, there has been a marked decline in the immigration during the last four years, and this will undoubtedly continue in the future. To substantiate this statement, let me read from the annual report of the Secretary of Commerce and Labor for 1912, in which he says that—

It appears from the report of the Commissioner General of Immigration that 838,172 immigrant aliens entered the United States during the past fiscal year, compared with 878,587 in the fiscal year 1911, the decrease being 40,415. The months in which immigration was heaviest were March, April, May, and June, the figures for which range from about 91,000 to 114,000 per month. In addition to the 838,172 immigrants, 178,983 aliens of the nonimmigrant class entered, making a total of 1,017,155, compared with 1,030,399 for the previous fiscal year. During the year, however, there departed from the country 615,292 aliens, of whom 333,262 were of the emigrant and 282,030 of the nonemigrant class. In the previous fiscal year 518,215 aliens left the country, of whom 235,666 were of the emigrant and 222,549 of the nonemigrant class. A comparison of these figures shows that the actual increase in the alien population for the fiscal year 1912 was 401,863, as compared with 512,085 for the fiscal year 1911 and 817,619 for the fiscal year 1910.

The prejudice against the immigrant from southern and southeastern Europe which now asserts itself is identical with that which was prevalent in the early days of German and Irish immigration; restrictive legislation is being urged by that self-same element which in the past leaped to conclusions without familiarizing itself with pertinent facts and data. The good qualities of these immigrants were not known at that time, but to-day who can deny that the Germans and the Irish possess the very best qualifications for American citizenship? Within the last 50 years, and since the inception of Bohemian and Polish immigration, these people have conclusively demonstrated their worthiness of American hospitality. Five years ago I succeeded in overcoming the prejudice and bias which had previously been exhibited toward Bohemian immigrants by showing that they are worthy in every respect of our consideration, and in this I am borne out by statistics which prove that they are far above the average in education, industry, and thrift.

I dare say that no one can successfully contradict the assertion that the Germans, the Irish, the Bohemians, the Poles, Swedes, and Norwegians, and the Danes are desirable immigrants. They have all proven beyond doubt their worthiness, and their citizenship has given us eminent satisfaction. Every student of economics knows and every historian is cognizant of the fact that Jewish immigration has greatly aided and benefited our country by opening and enlarging our commercial marts, finding new markets for our products, and in other ways has helped to make this country the first commercial country in the world. The progressiveness of the Jewish immigrant has in numerous other ways resulted advantageously to the entire country.

Then there is the Polish immigrant, ever loyal, sincere, and industrious. Long before the emigration of the Pole to America was his worth and desirability demonstrated, for in the days of the Revolution those eminent and valiant Poles, Gen. Thaddeus Kosciusko and Count Casimir Pulaski, whose statues were unveiled in this city a few months ago, together with many of their countrymen, fought by the side of the immortal Washington for our freedom from the despotism and oppression of England.

Mr. Chairman, these inhabitants of southern and southeastern Europe surely deserve our sympathy rather than our condemnation. It goes without saying that some of them are guilty of criminal offenses, but you will find in these races as great a proportion of law-abiding citizens as in any others. Humanity was never destined to be perfect, and we must allow for a certain percentage of weaklings in any nationality. I am not in love with the members of the Black Hand, nor members of any other criminal class, but every nation numbers among its citizens a certain proportion of criminals, while statistics will show that there is less crime in the districts where foreign-born citizens reside than in sections tenanted almost entirely by our so-called "pure" Americans. I desire to quote in this connection some pertinent statistics contained in a special report of the Census Bureau, published in 1907:

White prisoners of known nativity.

	Per cent native.		Per cent foreign born.	
	1890	1904	1890	1904
Continental United States	71.5	76.3	28.3	23.7

These figures are based upon investigations which were made in 1904, and conclusively demonstrate that the percentage of foreign-born inmates of our reformatory and penal institutions has been constantly decreasing, for they show that while the foreign population has increased, the percentage of offenders has decreased. On the other hand, the percentage of native prisoners has increased. And this report shows that the crimes of a grave nature committed by foreign-born prisoners is extremely small, most of the convictions being upon minor charges, usually the infraction of municipal ordinances. I have frequently heard certain gentlemen before our committee charge that the present immigration is below the standard of the immigration which we received prior to 1890; that it fills our charitable and penal institutions. These are but bare statements unsupported by facts, and are easily disproven by the data compiled by our Bureau of the Census. I wish to quote here some statistics taken from the report of the Commissioner General of Immigration for 1911, showing that the deportations for the fiscal year 1910-11 were as follows:

African (black)	24
Armenian	14
Bohemian and Moravian (Czech)	22
Bulgarian, Servian, and Montenegrin	19
Chinese	146
Croatian and Slovenian	56
Cuban	9
Dalmatian, Bosnian, and Herzegovinian	6
Dutch and Flemish	57
East Indian	36
English	248
Finnish	68
French	211
German	229
Greek	86
Hebrew	266
Irish	133
Italian (north)	48
Italian (south)	238
Japanese	176
Lithuanian	43
Magyar	46
Mexican	157
Polish	177
Portuguese	6
Roumanian	12
Russian	35
Ruthenian (Russniak)	44
Scandinavian (Norwegians, Danes, and Swedes)	94
Scotch	62
Slovak	24
Spanish	16
Spanish-American	4
Syrian	32
Turkish	8
West Indian (except Cuban)	7
Other peoples	6
Total	2,788

This is conclusive proof that the opposition to present-day immigration on the part of restrictionists and my Republican friends HAYES, GARDNER, FOCHT, and AUSTIN, and my Democratic friends BURNETT, DIES, and RODDENBERY, is unjust and unfair. For the percentage of deportations of those who are regarded by the restrictionists of the so-called "desirable" races, namely, the English, the French, and so forth, is far in excess of that of the—by them—so-called "undesirable" races. To be better understood I will give it in round numbers: Of 141,000 English who arrived in three years, 259 were deported, making 18.3 per 10,000 arrivals; of 203,000 Germans, 268 were deported, or 13.2 per 10,000 arrivals; of 53,000 French, 186, or 34.8 per 10,000, were deported; of 106,000 Irish, 186, or 11.9 per 10,000 were deported; of 4,000 Mexicans, 344, or 88.1 per 10,000, were deported; of 245,000 Hebrews, 232, or 9.4 per 10,000, were deported; and of 468,000 South Italians, 219, or 4.8 per 10,000, were deported. I do not deal with the North Italians, since they are considered "desirable." So that we find that the English, German, Irish, and Scotch, the so-called "desirable" races, had a larger number of deportations than the Hebrews and South Italians, alleged "undesirables."

It is true that a certain percentage of these people are illiterate, but that is not their fault. In their native countries they are deprived of every opportunity for mental advancement. We are sending our missionaries abroad and spending millions of dollars to educate people in uncivilized countries who are nowhere as near to us in race, color, and inherent ability as these new arrivals, and our unsolicited charity is there resented. The spirit of our institutions is best subserved by helping these people who of their own volition seek to throw off the yoke of ignorance and oppression which is forced upon them in their native countries.

The immigration of Slovenians, Croatians, Italians, and Lithuanians is but of recent origin. These people are helping along the progress of our Nation—they are producers. They are all thrifty and industrious, and idleness is wholly unknown to them. They are not beggars, and they do not subsist upon charity; they work, and work hard, to support themselves and their loved ones, and no doubt within a few years they, too, will demonstrate to the country that they are unjustly classified as "undesirables." They will without question prove their worth.

Mr. Chairman, my motive for presenting the cause of these people before you arises purely from the standpoint of justice and fair play. They are good people; they are hard workers, industrious, honest, and law-abiding. They live in model homes, neat and clean and well furnished—the report of the Immigration Commission will show this. They make every effort to properly educate their children, and they are rapidly accustoming themselves to American ways and manners.

Mr. Chairman, the present demand for the restriction of immigration has not arisen as a result of unsound industrial or social conditions in the country, but is merely the prolongation of a wail that has been dinned into the ears of Congress from the day the first Congress took up its task of legislation.

The birth of the Republic and the inception of the agitation for the exclusion of immigrants were coeval. The demand has been insistent, unreasonable, and unsubsiding. Born of prejudice, this desire to shut out foreigners grew up with eyes closed to the light, blindly ignoring all knowledge that would demonstrate the folly of its reasoning. In the earlier days its advocates stubbornly refused to read with unprejudiced eyes a single page of the country's history upon which was chronicled a patriotic deed or which recited an achievement of any character that was the contribution of the class marked for their disfavor. Impelled by motives that were completely out of harmony with the fundamental principles of the Republic, this element never gave thought nor consideration to the economic effect of exclusion or restriction of immigration, but persisted with a zeal that bordered upon the fanatical in their attempts to foist upon the country views that were narrow and ill-advised. The question of fixing upon a sound policy for the treatment of immigration has ever been a vexatious one, not so much because it involves such difficult problems of legislation, but rather because of the peculiar and impracticable methods of solution urged by those who insist upon their especial qualifications to treat the subject. Statesmen of every decade of our national life have been confronted with it, but to their everlasting credit, those clothed with power and exercising influence in shaping legislation have turned deaf ears to the prayers and threats of the exclusionists and continued the liberal policy adopted by their forefathers, in whose immortal pronunciamento to King George the latter declared that—

all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and pursuit of happiness.

When independence was secured to them, no heed was given to the clamor against the admission of immigrants.

Their forefathers declared on those memorable July days of 1776 that America was the asylum for the oppressed, and when it came to framing the organic law not a line was written which was not in thorough accord with that sentiment. Indeed, the framers of the Constitution sanctioned immigration and the early Congresses based their legislation upon the idea that America was intended by a merciful Providence as a haven of hope for the downtrodden who fled unhappy lands where tyranny's edicts made life unbearable. The new Nation was consecrated by the founders as a home for all, where liberty was assured and opportunity was open to all who, entering, manifested the proper spirit.

A minority in the days of the first administration of Washington insisted that the country was endangered by the coming of vast numbers of immigrants from Europe, and from that day to this the restrictionists have been abroad in the land. As we look back now to the days when it was argued by some misguided individuals that the German immigrants who were coming to Pennsylvania were undesirable and should be barred out, we see how ridiculous was the stand they took on this subject; and yet we have to-day men who are insisting that we must call a halt in the immigration which is now coming to our shores, and they, too, cry out that certain classes of these people are "undesirables." Gentlemen, I doubt not that the majority of us will live to see the time when these men who are to-day urging the passage of this bill will have been proven to be as much in the wrong as were those in the early days who wanted to keep out the Irish and the Germans for fear they would ruin the country.

I am satisfied that America is greatly benefited because of this infusion into our body politic and social of the blood of the sturdy people who have come to us from the various nations of Europe. This infusion of new blood and the amalgamation of these races has created a race of people which no one can successfully deny stands to-day without a peer among the nations of the world. To nothing else can we attribute the fact

that Americans are recognized to-day to be the most able people on the globe and the most highly developed, both mentally and physically. Learned scientists are all agreed that the introduction of new blood results in a race which embodies all of the desirable qualities of its progenitors, while the objectionable characteristics are gradually eradicated.

It is this continuous introduction into this country of these foreign-born people that has made America what it is to-day; and yet those seeking the passage of this bill wish to bar thousands of them, not because they are unfit to become citizens of this country, not because they are weaklings whose introduction might lower the high standard of physical perfection which we now maintain, not because they are criminals and would lower our moral standards—no; not for any of these reasons, but solely because in their oppressive lands they have been deprived of an opportunity to secure an education, and on this account are classed as "undesirables."

Mr. Chairman, are the supporters of this bill under the impression that our country is becoming crowded and it is necessary to shut out some of those who seek to secure for themselves the liberty which we now enjoy and which we have no right to deny them? Let me call their attention to the figures contained in the last census report, which show that in 1910 the land area of the continental United States was 2,973,800, while the population was 91,972,266, or a population per square mile of 30.9. In the face of these figures do they dare to contend that we are in danger of overcrowding? In the European countries they support without difficulty as many as 500 people to the square mile. Think what that would mean in the United States—a population of 1,485,352,000.

Mr. Chairman, I wish to emphasize the fact that this legislation is not needed and is not desired by the majority of the people. The opposition to immigration has been created by those who are prejudiced in their views and who have not the best interests of the Nation at heart. Let us consider what immigration has done for this country, how without it we would have never been able to become the power that we now are. Consider the incomparable loss this country would have suffered had there been laws of this kind enacted in days gone by; think of the thousands of men who are now influential citizens who would have been denied admittance.

Mr. Chairman, I wish to quote here a portion of the speech made in opposition to this bill by my esteemed colleague, Mr. NYE, whose judgment we all value so highly:

> We are prone to attribute the ills of our social life to anything and everything but ourselves. It is always the other fellow. But our national perils are not from without so much as from within. The clever native-born American, who is often as unscrupulous as he is clever, may well claim our attention when we study the causes which menace our national happiness. To get rich quick or to get something for nothing is not strikingly peculiar to our foreign-born population, and especially the working classes. These have no monopoly of vice and crime. Virtue is more often the companion of industry than of idleness, and the people we seek to exclude by this bill are as a rule industrious. Jefferson believed in an aristocracy of virtue and talent rather than an aristocracy of wealth. The foreigner as a rule gives us a constant lesson of industry and economy, which many of the native born may well emulate. He lives within his means and generally saves from his earnings, even if they are small; and while we are wasteful he is frugal, while we are idle he works. He adapts his expenses to his income, and he succeeds where we fail. I do not mean this is true in all cases, but everywhere in country and city it is so common that none can fail to observe it. I would not disparage the native-born citizen, but let us not be blind to our weaknesses nor ignore our faults or the vices of our civilization which we are responsible for. The New World is the child of the Old. We are united by millions of family ties, which every law of nature forbids we should sever by narrow and arbitrary enactments of law. The hardships the foreigner must undergo in leaving his home and native land and fighting the battle of life after he gets here is in itself proof that he is good for something. We are not getting the most wealthy of Europe, but the most worthy—men of mettle, men of grit and perseverance. The sturdy sons of northern Europe give strength and character to our citizenship, while southern Europe, the land of historic genius in painting, sculpture, music, literature, and philosophy, gives her best blood to the New World to make complete the foundations of a future civilization whose possibilities are beyond the dreams of men. May we not hope that in this land, so richly endowed by Heaven and under a diviner democracy than any yet known to the children of men, the Old World may find its renovation in the New and the New gather inspiration from the Old? Patriotic, liberty-loving America of the future, the land that holds the hope of humanity, must answer this question.

Mr. Chairman, the illiteracy test provided in the bill will not serve to keep out the viciously inclined, the criminal, or the otherwise really undesirable alien.

Experience has demonstrated the fact that, with the educational facilities afforded in this land, thousands of illiterates who, unhappily, were denied educational opportunities in their native lands, have learned to read and write here, have shown an eagerness to acquire knowledge and fit themselves to become good citizens. It will also be noted that the exceptions provided in the bill are not broad enough to fully guard against the separation of families, though the majority of the committee admit that on humane and moral grounds separation of families should, as far as possible, be avoided and prevented. In my opinion, the desirable immigrant is the healthy, law-abiding worker, who comes to this country in good faith, and the undesirable immigrant is the clever and educated schemer, who lives by his wits and preys upon his countrymen, and this proposed restriction will not affect this latter class.

It is my firm belief that not only is this measure uncalled for, but it is also unfair, unjust, and un-American, and should be decisively defeated, thus continuing America as the asylum of all the oppressed and persecuted of other nations.

Mr. BURNETT. Mr. Chairman, I yield 25 minutes to the gentleman from Massachusetts [Mr. GARDNER] to dispose of as he desires.

Mr. GARDNER of Massachusetts. With authority to dispose of the time as I may wish?

Mr. BURNETT. That is the statement I made—that the gentleman may dispose of the 25 minutes as he sees fit.

Mr. GARDNER of Massachusetts. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to extend his remarks in the RECORD.

Mr. GARDNER of Massachusetts. Mr. Chairman, I am only going to say a very few words about this bill. The gentleman from Pennsylvania is clearly right when he says that an honest, illiterate workman is a better citizen than a clever, educated scoundrel. I admit the truth of that argument, but I do not admit its force. The question is whether a million men who do not know how to read and write contain as good qualifications for citizenship as a million men who do know how to read and write. To say that a million illiterate men are equally qualified for citizenship with a million educated men is to impeach our whole common-school system. I doubt whether this bill, if enacted into law, is going to cut down immigration in this country as much as some people expect. I believe that immigration will be reduced in consequence by perhaps 200,000 souls at the outside. Our immigration expands and shrinks from year to year a great deal more than 200,000 souls. But whether an illiteracy test would exclude 100 men or 1,000,000 men, this bill introduces a new principle which I welcome. If we adopt this measure, the United States for the first time will recognize the principle that immigration ought to be cut down, even if in so doing we exclude many men whom we all acknowledge would make desirable citizens. In other words, for the first time we shall declare that there are too many people coming into this country, even if they are all of them the best and most desirable material for citizenship. For the first time we shall admit that good immigration as well as bad immigration must be cut down. Inasmuch as I believe that good immigration as well as bad immigration ought to be diminished, I welcome this bill as a broad entering wedge destined, I hope, to be followed by more restrictive legislation. It is my belief that the volume of immigration must be substantially reduced or else suspended for a term of years. The maintenance of the American standard of living is of transcendent importance. Beware of permitting it to be undermined by that reckless policy which permits unlimited immigration.

I yield the remainder of my time to the gentleman from California [Mr. KENT].

The CHAIRMAN. The gentleman from California [Mr. KENT] is recognized for 21 minutes.

Mr. KENT. Mr. Chairman, it must occur to anyone who has given the question thought that the increase in our population through the introduction of foreigners is the most important matter that our Federal Government can possibly consider. We have spent entire sessions on the question of the importation of goods, and now we find ourselves facing the grave problem of importation of people, with but four hours at our disposal for its consideration on the floor of the House. One would suppose from the relative amount of time given to the questions that people were made for goods rather than goods for people.

In the few minutes granted me by the courtesy of the gentleman from Massachusetts [Mr. GARDNER] I shall keep away from statistics and shall endeavor to consider the more fundamental propositions that underlie the question. It is folly to attempt to maintain that our problems are the same or demand the same treatment at this time, when we have a hundred million people and congested populations as they were in the days when 3,000,000 of us resolved to set up in business as an independent Nation.

First of all, we are living in what we call a democracy, a system of government that is intended to give reasonable equality of opportunity to all people living under it, a scheme which must recognize the inherent needs of human nature and the scope of human life. Granted equality of opportunity,

there must follow as a correlative that people should be recognized in accordance with the services they render society and that their reward, whether it be in financial terms or in the more subtle and illusive terms of the esteem of their fellow men, should be gauged by their usefulness. In other words, that, starting equally under the law, men may rise or fall in accordance to their fitness for the social scheme.

It is because the influx of foreigners has an influence on all questions confronting our democracy that I apparently diverge from the bill to what lies back of it.

The wealth of any nation must consist essentially of three elements: First of all, its natural resources. Second, the intelligently directed industry of its people, supplemented in the case of a democracy by another item—the necessity of reasonable distribution of the results of resources and labor. No one can deny the inherent richness of our country in natural resources. No one can deny the intelligent industry of our people. The troubles we seek to remedy come from failure properly to provide for a rational distribution that helps to realize our democratic ideals.

We can not be called dreamers when we insist that in a country as rich as ours, blessed with an intelligent and industrious population, human needs should be adequately supplied to those who are neither victims of their own folly nor of a fate beyond human remedy. We are safe in assuming that childhood should be sheltered; that playtime and opportunity for education, upon which must rest the welfare of future generations, can and should be supplied; that old age, the inevitable concomitant of years, should be cared for by society, so that no one may look forward to assuming more than his fair share of the risks of life. We are safe in assuming that well-applied labor should lead to comfort, to reasonable hours of employment, to freedom from such suffering as is unnecessarily entailed by remediable bad conditions; that the accidents and misfortunes, that are to a certain extent unavoidable, should be shared by a society that enjoys the benefit of the productive enterprise of each of its members.

We know perfectly well that these conditions are not met in this Nation of abounding wealth. No comfort can be taken in aggregate figures of national wealth so long as those aggregate figures do not point to average well-being, or at least to an increasing ratio of average well-being, rather than the present tendency toward an increase of undue accumulation on one side of the scale and unnecessary want at the other. We are steadily fighting in the name of democracy and humanity to overcome the inequalities of life in a nation which can abundantly supply a livelihood to all of its citizens.

It is my desire to submit to this body, in short measure, some of the means whereby the introduction of a vast number of aliens tends to prevent our progress toward real democracy.

When we consider the question of oriental immigration we find our people practically united at the present time as against the introduction of any more race problems into our country. Entirely outside of any economic argument we are convinced that those whose blood may not mingle with ours should not be admitted, for this must necessarily upset our democratic scheme. Races that can not intermingle must necessarily find themselves in strata, with the superior race superimposed on the inferior. There can be no complete democracy under such conditions, as has been amply proven in the South.

We on the Pacific coast were not slow to perceive this danger, and our protest has been heard. At the present time we have a Chinese exclusion act that is satisfactory. The Japanese Government is now acting in good faith in keeping its people at home. As a matter of courtesy and not in any way abrogating our rights in the premises, we are justified in providing Japanese exclusion that should be automatically exercised should Japan ever relax its stringent denial of passports to those of its people whom we would and should exclude. This question of exclusion of irreconcilable races ought never to lead to international friction. Our exclusion of Japanese or Chinese or any other races should not carry with it the implication that these races are our inferiors; it simply means that we believe that, being barred by racial characteristics from mingling with us, their introduction is hostile to the democracy toward which we aspire.

I have always resented the assumption that we have an inherent right to force our people, whether capitalists, missionaries, teachers, or working folk, on nations who do not desire their admission. Our American dollars are no more sacred in this respect than our American people, although the "dollar diplomacy" of the present administration would lead us to suppose that we had a right to land the American currency of our Wall Street bankers in any foreign country, and thereafter to protect it with its accrued interest by force of arms.

The Pacific States are now being deluged with an influx of Hindus for whom much less can be said, socially or economically, than for Chinese, Koreans, or Japanese. The present bill will doubtless exclude many of these undesirables, but there should be complete restriction and the bill should be amended in that particular.

My colleague, Mr. HAYES, of California, an old and esteemed member of the Immigration Committee, has stated to me his intention of introducing an amendment to this bill which would exclude from entry all those not eligible to become citizens. This would at once, and without offense, cover the whole problem of oriental immigration. I am strongly in favor of this amendment and believe it to be the simplest method of handling this matter.

Let us consider the economic side of the question, as apart from the vastly important social questions. We have heard a great deal about protected American industries that are being protected for the benefit of American labor, the utter fallacy of which claim has been proven by the facts produced in the steel inquiry and in the investigation of the strike at Lawrence, not to mention the story of the continuing breakdown of livable conditions in the coal-mining industry of Pennsylvania and other States. The industries most highly protected have been the most prompt to avail themselves of free trade in labor and the result has been the creation of many industrial hells.

History goes to show that it was to overcome the "benevolent" assimilation of continually lower grades of foreign labor by protected industries that the contract-labor law was passed. Mr. Carnegie and his protection compeers were rapidly getting to the bottom of the human scale, were getting workmen who would accept lower and lower standards of living, and who through illiteracy were slow to realize why and how they were abused. Just as fast as the American atmosphere caused a demand for more humane conditions, men of growing intelligence were replaced by others who lacked the enlightenment to demand of a great and prosperous country a fair share of the product of their toil. The necessity for the contract-labor law is the same necessity that confronts us in the general question of exclusion of immigration at the present moment. At a time when labor is struggling through organization and agitation to increase the welfare of the workers in the various trades, a continuing influx of people who do not understand the language nor appreciate nor demand the standard that we are trying to reach, comes in to break down the structure as fast as it is erected.

We are constantly told of the ever-increasing demand for cheap or common labor. Our industrial corporations and our railroads are continually pointing out the need of obtaining people who will work at wages that will not support an American family on any rational basis. While we are striving to raise all the people of the country to a plane where they may live under reasonable American conditions, the work is destroyed by continuing immigration. Here is a conflict that can not be reconciled. Either we must abandon democratic ideals, or else we must stop the influx of those who make the accomplishment of these ideals impossible.

We are always hearing and telling of the good old pioneer times when people attended to their own wants. Whoever heard about the dirty work of those days? The work that had to be done was done by the best people in the community and was not regarded as dirty work. We never heard of vast armies of private servants in those days, nor of butlers nor buttons, nor footmen. If every one in the community had not been profitably engaged, the result would have been hunger and suffering. Just as long as we can import footmen and butlers and buttons, men to fill occupations which no pioneer would accept, some of us insist upon so doing and would bewail the exclusion of persons willing to take up unnecessary tasks.

In passing it is well to take note of the fact that some of this work that Americans will not do is really dirty work which ought not to be done; that there is a vast amount of personal service which ought to be obviated; and that persons employed in such unnecessary labors must be supported by those productively employed.

There is no reason why the work of railway building and track laying, the work of section hands, of street laying, or sewer building should be considered dirty work or below an American standard. These tasks are certainly not harder or more disagreeable than that of the mining of precious metals, in which thousands of native Americans are engaged. If, first of all, employers insist upon an inadequate wage scale, and then the work is called dirty work and deemed socially beneath any but newly arrived immigrants, we may be sure that it is we who have created a demand for conditions that go to destroy democracy—conditions that call for continuing importations

of people willing to live below what we consider an American standard—and, with this constant influx, all our efforts to establish social and economic justice come to naught.

The protected sugar industry in the western part of our country and also in the Hawaiian Islands is a remarkable example of this insistence upon an inadequate wage scale as a prerequisite to employment. We find here that the tariff privilege works social damage as well as economic injustice.

In whose interest, from our own American standpoint, is the cry raised for ever-increasing multitudes of people that do not understand our institutions, that can not learn nor appreciate their own rights until a vast amount of unpaid labor is extorted from them?

First of all, we find the trans-Atlantic steamship companies making their rake-off from the transportation business. It has been abundantly shown how vigorous they are in their campaign for assisted immigration. There follow the railroads, that can hardly be brought to realize that track-laying can be done by the inhabitants already in the country if only adequate wages are paid. I have already noted the walls of the protected sugar industry for any sort of labor that will work cheaply. Those holding land for speculation have an obvious interest in filling the country up as rapidly as possible.

Everywhere we cast our eyes it is the privileged that have an interest in obtaining cheap labor in forcing the increase in population. We must ultimately define privilege as any system whereby one man may secure an unfair proportion of the product of another's toil.

The argument I have heard on the floor of this House, the argument that I have heard from my earliest recollections of the discussions of this immigration question, is that the foreigners who come in to accept the so-called menial occupations, to do the so-called dirty work, and thereby displace the Americans engaged in these pursuits, force their predecessors into higher positions of employment. This may be well upheld as an aristocratic argument but never as a democratic one. We are striving to establish justice all down the scale. All of us can not be statesmen, nor capitalists, superintendents, nor even section foremen, nor mine bosses. If this proposition of pushing our own people up be analyzed clear through it will be shown that it has pushed out at the financial top the parasites known as the idle rich; that all along the line it has provided an existence for those that prey upon the unpaid toil of the immigrants, whether he be capitalist, padrone, or employment-agency shark. It is not a benefit to our people to spend their energies in distribution rather than in production. It is a great evil that so many of us refuse to work at all, and that we are dependent on newly arrived foreigners for necessary labor.

It should be our aim to make every necessary employment a fit employment for our own people, one which we would not feel that our own children were disgraced in pursuing any more than our pioneer ancestors felt disgraced by the tasks they were forced to perform in simpler times.

Taking the question from another angle, no one can doubt but that the relative welfare of our country has been due to its natural resources, that our opportunities have largely come from the possibility of our people scattering out into pioneer conditions and taking up lands in the West. The energetic have usually been able to better their condition by taking on the pioneer life. There was a time when, as a Nation with too much land for the population and weak from our smallness of numbers, we did well to invite the able and energetic to share with us. But the situation is largely changed in this respect.

It is hard to find good public land where homesteads may be established, and if the unwholesome congestion of our cities were relieved by placing the surplus population on the land the accommodations would prove still narrower.

The time has come when under existing conditions increasing our population is simply watering the capital stock of the Nation, granting to each person less and not more of the common wealth. I have no doubt but that under different social and economic conditions our country could support vastly more people in a higher average of social well-being than it does at the present time, but until we provide conditions different from those that now obtain increases of population simply lead to greater privilege on one side and greater want on the other.

Mr. GOLDFOGLE. Mr. Chairman, just for information only, would the gentleman inform me how many foreign born there are in his district, approximately?

Mr. KENT. There are a large number of foreign born in my district.

Mr. GOLDFOGLE. About what percentage of your population is foreign born?

Mr. KENT. I can not tell you the percentage, but I imagine 30 to 50 per cent.

Mr. BARTHOLDT. Will the gentleman yield for just a moment?

Mr. KENT. Yes, sir.

Mr. BARTHOLDT. I understood him to say that a much larger number of population could be accommodated in the United States than there are at present, if the system were changed, and if justice were established. I suppose that is what he means?

Mr. KENT. Certainly.

Mr. BARTHOLDT. Belgium is supporting 650 people to the square mile and we are supporting 25. How about that?

Mr. KENT. I do not know how well to do the people in Belgium are. They may have a more advantageous, a juster system than we have. They may not live on a scale that we are justified in demanding.

Mr. GOLDFOGLE. Another question.

The CHAIRMAN. Does the gentleman from California yield to the gentleman from New York?

Mr. KENT. I will not yield further until I have finished.

It is for the reasons enumerated that I would favor almost complete exclusion of foreign immigration. If it were possible to select immigrants in the line of the most enlightened policy, I should favor selecting them from nations that are most likely to blend in with our social system and to appreciate our democratic ideals—people whose history has shown them to be inherently capable of self-government. Personally, I should vastly prefer, as an immigrant, an illiterate from one of these nations to the best educated Hindoo or Turk—this, as a national matter and not on the ground of any personal prejudice.

But as one means of curbing the introduction of more immigrants than our national digestion can assimilate, I shall gladly vote for the literacy test. There is one argument for this test that justifies its application. It is the ignorance of our foreign immigrants that has been chiefly responsible for their exploitation. Those capable of passing a literacy test would be less likely to lie down under the conditions that have been shown to exist in some of our centers of hothouse industry.

Another point was raised here about the influence of immigrants on the cost of living. There is no question in the world but what the bad distribution of population, especially the increase in the cities, is largely responsible for the increased cost of food. There are too many people eating and too few people producing food. Inasmuch as a vast proportion of our immigration lodges in the cities, those immigrants certainly have a great influence on the cost of living as found in the prices of food.

The tremendous and ultimate importance of the food supply is shown in the history of the ancient city nations which went to pieces from the fact of their being forced to seek food supplies by war, to introduce oppression and slavery that overgrown cities might be fed.

Mr. GOLDFOGLE. The country districts should be happy that we are consuming their products.

Mr. KENT. I can not for a moment indorse the exemption proposed in this bill, which provides that those fleeing from religious persecution shall not be subject to a literacy test. It is illogical and inherently contrary to good public policy. We are either legislating for foreigners or for our own country. It is fair to assume that we are true to our oaths of office and are legislating for this Nation. We are proposing a test that is supposedly for our own interest. If a person under this test is unfit for admission to this country, or if, to put it more mildly, we do not believe it good public policy to admit such a person, it is hard to understand why one who has failed to pass the literacy test should be rendered available for admission by the mere fact of having been subject to religious persecution. Either in this particular case we are not exercising our function of legislating for our own country, but rather in the interests of certain foreigners, or else religious persecution must produce civic effects of which we have as up to date remained in ignorance. It is more than probable under such an exemption as is here proposed, that thousands upon thousands of Turks would knock at our doors, claiming right to admission on the ground of religious persecution by the victorious Servians, Bulgarians, Greeks, and Montenegrins. It is also highly probable that many thousands of Turks will cross over into Asia Minor and there will proceed to commit new atrocities upon the Armenians, who will have an added reason for demanding admission to our country on the ground of being subject to religious persecution.

No amount of oratory, no amount of appeal to the early history of our country, can overcome the cold logic of this proposition. It seems to me impossible that any person can, in calm judgment, pretend that religious persecution of itself can render eligible for admission to the privileges of this Nation those found by other tests to be unfit. [Applause.]

Now, if there are gentlemen who wish to ask me questions and I have any more time, I shall be glad to answer.

Mr. MADDEN. Mr. Chairman, I would like to ask the gentleman this question: He stated in the course of his remarks that the high cost of living was largely due to the fact that people assembled in the cities instead of in the country.

Mr. KENT. I said "the high cost of food." The high cost of living is largely found in the cost of food. I specified food.

Mr. MADDEN. Does the gentleman think there is any means by which we can legislate the distribution of the people to the sections of the country to which they do not wish to go?

Mr. KENT. No; I doubt if there is, but we are accentuating the trouble by bringing in people who mostly gather in the cities.

The CHAIRMAN. The time of the gentleman from California has expired.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. ANSBERRY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate joint resolution No. 144, authorizing payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess.

IMMIGRATION.

The committee resumed its session.

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. CANNON].

Mr. CANNON. Mr. Chairman, in 10 minutes it is almost impossible to discuss a measure such as this. I wish it could be considered after further general debate under more liberal terms than we have under the 5-minute rule, but the majority have decreed otherwise.

In the 10 minutes allotted me I can only hope, in substance, to say that, in my judgment, this bill should not be enacted. I do not agree with the gentleman from Massachusetts [Mr. GARDNER] in his opinion that the time has come to prohibit not only undesirable but desirable immigration. Gentlemen are greatly afraid that we are going to be greatly crowded in the United States. The fact is we have just scratched this country. With half of the railways in the world, we have about one-fifteenth of the population of the world—100,000,000 people. When we are as thickly settled as is Europe we shall have 500,000,000 people.

I have lived pretty well through two generations, and the fear manifested by the gentleman from Alabama [Mr. BURNETT], and by the gentleman from California [Mr. KENT], and by the gentleman from Massachusetts [Mr. GARDNER], and the gentleman from Georgia [Mr. RODDENBERY] is not new to me. I grew up on the Wabash. I have heard more eloquent speeches made with greater preparation, perhaps, at least more lengthy, than that made by the gentleman from California, when passion was torn to tatters, against immigration when we had less than 20,000,000 people in this country.

Now, I quite agree with and voted for legislation to exclude the Chinese. I believe the Japanese under our policy are properly excluded. But I am not afraid of the Caucasian race, our race, from wherever they come, who are willing to live in the sweat of their faces under our policies in this country, rendering an equivalent for that which they receive.

I am not in love with the Black Hand, whether American or foreign born. I am not in love with the assassin; I am not in love with the man that commits crime; I am not in love with the man who would get something for nothing. But I do love the man who renders an equivalent in muscle, crossed on brain, for that which he receives, and I am here to tell you right now that I have no fear about the first generation that is willing to work, and I have less fear about the second generation, because the common-school system of the United States and the growing intelligence of the first generation and their desire to better their condition and that of their children will take care of their future.

In one part of my district—in the coal-mining district—there is an output of from three to four million tons annually; the labor is furnished by the Slav, by the Italian, by those who come from Hungary, in the main, and that is good labor. I went to an old settlers' meeting in that locality a year or two ago, riding out from the little railway station where the old settlers had gathered, and as we passed along the road we saw on one side a three-story schoolhouse of large dimensions, accommodating hundreds of children, and the children were playing outside. I was riding with a man who was greatly disturbed about the development that was taking place among these foreigners who were coming in to do that work, which, I will say in the main, American-born labor does not do. I said, "My, what a drove of children! Who are the parents of those children?" He said, "I don't know. I suppose their parents are these people in the main who have come here and are doing this work." I said, "Look at them. Can you tell which are the American born of this generation? Pick me out the Italian, pick me out the Slav child, pick out the American child." We stopped, and my friend said, "I can't tell one of them from the other."

I say again, I do not agree with the gentleman from Massachusetts [Mr. GARDNER] that we should shut out desirable immigration. There is room for it.

Nor am I in harmony with those who call themselves labor leaders who protest against this immigration. Many of them were born upon the other side. Some of them are the children of those who were born on the other side. They want to shut out competition. Why, gentlemen, you can not get those labor leaders and the great mass of people who federate with them to work upon the construction of the railways or in the coal mines. When we speak of common labor we mean unskilled labor. All labor is honorable that renders an equivalent for what it receives. If you curtail this unskilled labor, I suggest to you that you tend to impair the wage of the skilled laborer, because all kinds of labor must be done and some one must do this unskilled labor.

By the by, I am told that down in Texas they are so anxious to have people to pick cotton and perform other labor there that the Mexicans come over. You in Texas could not do very well without that labor probably. In New England they come over from Canada, and they come as far as St. Louis and out into Chicago, the second great manufacturing city of this country. Now, although I can not say what I desire to in the 10 minutes allotted to me, I wish to refer to one feature of this bill. There are exceptions and modifications in it, viz:

Aliens who have been lawfully admitted to the United States and who shall go in transit from one part of the United States to another through foreign contiguous territory—

are not included in this bill. I suppose that would continue to allow the Mexicans to come over and cross every day back into Mexico. I suppose that would cover the case of Canadians who are not naturalized and who desire to go back to Canada and then come again, because they have been lawfully admitted heretofore.

Mr. GARDNER of Massachusetts. Is the gentleman familiar with the decisions on those questions?

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. CANNON. If I may be allowed a moment, I will say perhaps there is a good deal that I do not know about this bill, and if it is necessary for me to know more than I now do in order to agree with gentlemen who favor this bill, whose ancestors are not a century old in this country, and whose descendants, having received the benefits of citizenship in the United States, would deny the same privileges to their kin from abroad, then I do not want to have that degree of knowledge to which the gentleman from Massachusetts refers. [Applause and laughter.].

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman from Alabama [Mr. BURNETT] use some of his time?

Mr. BURNETT. Mr. Chairman, how much time has been used?

The CHAIRMAN. The gentleman from Alabama [Mr. BURNETT] has used 59 minutes, and the gentleman from Pennsylvania [Mr. MOORE] has used 39 minutes.

Mr. BURNETT. I prefer that the gentleman from Pennsylvania should use some more of his time.

Mr. MOORE of Pennsylvania. I yield 20 minutes to the gentleman from New York [Mr. GOLDFOGLE]. [Applause.]

[Mr. GOLDFOGLE addressed the committee. See Appendix.]

Mr. BURNETT. Mr. Chairman, will it be in order in the committee to ask that all gentlemen who speak be allowed to extend their remarks?

The CHAIRMAN. That request must be made in the House.

Mr. BURNETT. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. DIES].

Mr. DIES. It seems to me, Mr. Chairman, that this question can be simplified by a very brief statement of what the bill proposes. The bill proposes to keep out those who can neither read nor write in any language, and the effect of the bill would be to keep out about 250,000 persons, largely from the south and east of Europe, who are being dumped into the congested centers of population in the United States. There are but two phases to the discussion——

Mr. SABATH. Will the gentleman yield?

Mr. DIES. My time is quite limited, and I can not yield.

The CHAIRMAN. The gentleman declines to yield.

Mr. DIES. There are just two phases to this discussion, Mr. Chairman. One is the labor question and another is the question of the effect upon the institutions under which we live. I am amazed at my friend from Chicago [Mr. SABATH] and my friend from New York [Mr. GOLDFOGLE], who contend that the dumping of 250,000 illiterate immigrants into the labor markets of the United States from countries where they receive less than one-fourth that they receive here would help the labor market into which the 250,000 are dumped. That, Mr. Chairman, is a new process of reasoning, a new deduction of political economy, and startlingly different to anything I have ever heard advocated before. It is just as true, sir, that the dumping of large numbers from the cheap-labor markets of Europe into our labor market would lower our scale of wages as it is that water will seek its level.

The other phase of this question relates to the effect which this mass of illiterate immigration will have upon the free institutions of the Government under which we live. I have yet to hear a gentleman contend that the 250,000 illiterate immigrants designed to be excluded by the provisions of this measure are capable of self-government. In most cases they come from countries where the people as a whole have demonstrated their inaptitude and incapability for self-government. Those to be excluded by the terms of this bill are the least capable of the peoples in the nations from which they come. Surely if all the people of one of these migrating nations are incapable of governing themselves, the ignorant ones can not take on the attributes of self-governing ability by a simple voyage across the ocean.

But the opponents of this measure, disregarding the rights of the laboring millions of this country; disregarding the jeopardy in which this influx of ignorance places our free institutions, still contend that we ought to admit them, in obedience to the principle that this Nation is an asylum for the oppressed of all the nations of the earth. Mr. Chairman, my heart goes out to the downtrodden of every corner of the earth. I would to God that all the children of men over all the earth were in the possession and enjoyment and capable of maintaining free government. But, sir, our duty is first to the hundred million of human beings who constitute this Republic. They say I am not a friend to the foreign element. Mr. Chairman, in the light and wisdom of history I believe I am a better friend to the 10,000,000 foreign born who inhabit this Republic than those gentlemen who would add another 10,000,000 from the ignorant of foreign lands. This asylum for the oppressed is full to overflowing, and I warn gentlemen that it is high time we were taking measures to protect the ones we have already admitted.

My friend, the gentleman from New York [Mr. GOLDFOGLE], says, in effect, that because I represent a district that has but a small foreign element I know nothing about the immigration question. If that is good reasoning, Mr. Chairman, the gentleman himself would be but a poor judge of Americanism, for he comes from a district where almost the entire population is foreign born. [Applause.] For myself, I believe that this great old ship of state is already heavily loaded with the freight of ignorance. I feel that we owe a duty to those on board, whose chosen representatives we are. That duty is to secure the safety of the voyage. It may seem harsh and cruel to those who are clamoring to be put aboard, but our greater duty is to safeguard against sinking the ship by taking on these weighty cargoes of vice and ignorance.

Mr. Chairman, however much I commiserate the downtrodden peoples of the earth, I am unwilling to put the liberties of my own country in peril by opening wide its gates to the ignorant hordes who flee from a tyranny they are helpless to oppose to a free Republic, whose institutions they are powerless to maintain.

You who profess that the people should have more power should remember, my progressive friends, that the people can safely have power in proportion only to their intelligence and to their patriotism, and that every time you unload a cargo of ignorant illiterates from the south and east of Europe into this Republic you make it necessary to take a part of the power away from the people who are already here.

The power of self-government is the power of intelligence and the power of patriotism based upon intelligence. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURNETT. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky [Mr. POWERS].

Mr. POWERS. Mr. Chairman, it has been said by one of America's most distinguished sons, ex-President Theodore Roosevelt, that next to the conservation of our natural resources immigration was our most important national problem. In the minds of many immigration is even more important than conservation, because it goes a long way in settling the kind of people who will make up the population of this country now and in the future; and the kind of people there are in a country inevitably determines the kind of citizenship, the kind of government, and the kind of civilization the country has; and the kind of citizenship determines the liberty, the sort of happiness, and the measure of progress which prevail in it. The importance therefore of the subject of immigration can readily be appreciated by every thoughtful American. A little history of the legislation of this country on the subject of immigration may not be amiss.

The immigration to the United States is naturally divided into two periods:

First. The immigrants arriving before the year 1880, known as the old immigration; and

Second. Immigrants after that time, known as the new immigration.

From the first settlement of this country down to about 1835 immigrants came here as a matter of course. Practically up to that time the only legislation enacted, and practically all that was proposed, was the law of 1819 regulating steerage passengers at sea and making provision for recording statistics relative to immigration. None were kept before this.

From 1835 to 1860 the subject of immigration to this country was much discussed, and there sprang up what was known as the "native-American" and "know-nothing" movements, largely basing their opposition to immigrants to this country who embraced the Catholic faith. These movements soon assumed the form of a political organization known in history as the American Republican Party and later the "Know-Nothing Party." As a result of these organizations, in the main, affiliating with the new political movement, the United States Senate in 1836 passed a resolution directing the Secretary of State to collect information respecting the immigration of foreign paupers and criminals to the United States.

The House of Representatives in 1838 agreed to a resolution instructing the Judiciary Committee of the House to consider the propriety of passing a law prohibiting the importation of vagabonds and paupers into this country as well as to considering the expediency of making our loose naturalization laws more stringent. This resolution was referred to a committee of seven Members, and their favorable report was the first congressional report ever made concerning any phase of the immigration question.

A bill was introduced in Congress upon the recommendation of the majority report of the committee, which bill provided that any master of a vessel who took on board an alien passenger who was an idiot, lunatic, maniac, or one afflicted with an incurable disease or one convicted of an infamous crime, with the intention of transporting such person to the United States, should, upon conviction, be fined $1,000 or be imprisoned from one to three years. This bill was not even considered by Congress, and for some 10 years following little attempt was made to secure immigration legislation; but the great increase in immigration to this country from Europe from 1848 to 1850 put new life and fears in the breasts of those fighting immigration; and it is recorded that in 1855 both the governors and Legislatures of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, California, and Kentucky were "Know-Nothings." The slogan of the "Know-Nothing Party" was that Americans must rule America, and their greatest strength was in the Thirty-third Congress, from 1854 to 1856, when they claimed 43 Representatives and 5 Senators. Ten years later, however, in the Thirty-eighth Congress, there was not a "Know-Nothing" Representative in the House, and the "Know-Nothing Party" disappeared without having accomplished anything against immigration. The truth is that in 1864 Congress passed a law to encourage immigration, especially the importation of contract labor. This law was repealed, however, in 1868, leaving on the statute books the act of 1819, amended slightly by the acts of 1847 and 1848, providing improved conditions in the steerage of immigration ships. The law of 1864 stands out as the only attempt on the part of the National Government to promote immigration. The States, however, have frequently made such attempts. New York, in 1824, passed a law requiring all masters of vessels arriving at the port of entry to make a written report, giving the name, age, and last residence of every person on board during the voyage, and whether any of the passengers had gone on board any other vessel with a view of proceeding to New York.

Another section of the law gave the mayor of New York City the power to require bond of every master of a vessel to indemnify the mayor and the overseer of the poor from any expense incurred for passengers brought in and not reported. This law was held to be constitutional by the Supreme Court of the United States, and in 1829 the State of New York passed another law, which provided that the master of every vessel arriving from a foreign port should pay to the health commissioner $1.50 for every cabin passenger, $1 for every steerage passenger, mate, sailor, or marine, and 25 cents for every person on a coasting vessel.

In 1837 Massachusetts passed a law requiring the owner of a vessel to pay $2 for each alien passenger brought to her ports and to give bond that certain immigrants should not become a public charge. Both the New York and the Massachusetts statutes were later held in part to be unconstitutional. California and Louisiana passed statutes looking to the limitation of immigration, which were held to be unconstitutional. In California the question of Chinese immigration was so acute that recourse was had to the Federal Government, which resulted in the Burlingame treaty, which was proclaimed on July 28, 1868, and which was the first treaty to deal with Chinese immigration to the United States.

The attitude of the United States in this treaty toward Chinese immigration was not popular in the Pacific Coast States, and they continued their agitation for further restriction of Chinese immigrants, which resulted in the Congress of the United States passing the act of March 3, 1875, aimed at immigrants from China, Japan, and other oriental countries. This law prohibited the importation of convicts, women for immoral purposes, coolie labor, and Chinese and Japanese subjects without their free and voluntary consent, and fixed heavy penalties for a violation of the provisions of the statute. Later other treaties and Chinese and Japanese exclusion acts forbade the immigration of Chinese and Japanese to this country as well as Korean laborers, skilled or unskilled. And that is the way the matter stands to-day. So the bill now before the House is not intended to exclude Chinese, Japanese, or Korean laborers, skilled or unskilled, as that is already provided for.

And while the National Government was experimenting with immigration in this way the various States had from time to time, as I have said, tried their hands at it. New York, Massachusetts, California, Louisiana, and other States passed immigration statutes of one form and another, the constitutionality of a number of which in time reached the Supreme Court of the United States for final decision. It became apparent that the subject of immigration was too big for State control, and in a very unusual decision of the Supreme Court of the United States on March 20, 1876, that court decreed that—

> We are of the opinion that this whole subject—
>
> Of immigration—
>
> has been confided to Congress by the Constitution; that Congress can more appropriately and with more acceptance exercise it than any other body known to our laws, State or national; that by providing a system of laws in these matters applicable to all ports and to all vessels, a serious question which has long been a matter of contest and complaint may be effectively and satisfactorily settled.

This decision virtually put the subject of immigration under Federal control, and on July 6, 1876, following the decision of the Supreme Court in March of that year, Senator Conkling and Representative Cox, of New York, introduced bills in Congress for the national regulation of immigration. No legislation, however, of this sort was put on the statute books until August 3, 1882. This law provided, among other things, that a head tax of 50 cents each be levied on all aliens entering the ports of the United States to defray expenses of regulating immigration and caring for needy immigrants after landing; that lunatics, idiots, convicts—except for political offenses—and persons likely to become public charges should not be permitted to land, and that the Secretary of the Treasury be charged with executing the provisions of the act, and that he be empowered to enter into contracts with such State offices as the governor of any State might designate to take charge of the local affairs of immigration within such State.

On February 26, 1885, the first act of Congress was approved forbidding the importation of contract labor to the United States. This law was defective in that no arrangement was made for its general execution, no inspection of the alien was provided for, nor deportation of the contract laborer, if found so to be. This act, however, was amended by an act of February 23, 1887, which gave the Secretary of the Treasury authority to deport within one year from landing any alien who had come to this country contrary to the provisions of the contract-labor act.

In 1889 a standing committee on immigration was established in the Senate of the United States, and a select committee on immigration and naturalization was established in the House.

In 1890 these committees were authorized to make a joint investigation of the immigration question, and especially to look into the various State laws on the subject. These committees, in making their report, suggested that while no very radical changes in the immigration laws were at that time advisable, still they found that throughout the country there existed a strong sentiment for a stricter enforcement of these laws.

The fact is that in the year 1890 one or more political parties in 23 different States demanded additional regulation of immigration. Responsive to this demand for stricter immigration laws and regulations, the Congress of the United States passed, and it was approved on March 3, 1891, an additional immigration act amendatory of previous acts. This act added to the list of aliens heretofore excluded those "suffering from a loathsome or contagious disease," "polygamists," and those "whose ticket or passage is paid for with the money of another or who is assisted by others to come," except, however, that any person living in the United States could pay the way of a relative or friend, provided, of course, that the relative or friend did not belong to some of the excluded classes. This act strengthened further the existing contract-labor law by prohibiting the encouragement of immigration by promises of employment through advertisements published in any foreign country, and steamship companies were forbidden under penalty to solicit or encourage immigration.

The law of 1891 also created the office of Superintendent of Immigration, and instead of some State officer, by appointment of the governor, having charge of the execution of the immigration laws in that State, as provided for in the act of 1882, the whole question of immigration for the first time was completely under Federal control.

This act also provided that the commanding officer of every vessel carrying aliens to our shores should furnish to the proper immigration officials the name, nationality, last residence, and destination of all immigrants on board; that medical examination of immigrants at United States ports should be made by surgeons of the United States Marine-Hospital Service, and within one year after arrival any immigrant might be returned who had come to this country in violation of law, and that, too, at the expense of the transportation company that brought him. For the first time inspection of immigrants on the Mexican and Canadian borders was established. While this was the most stringent immigration act passed by Congress up to this time, still the subject of immigration continued to be much discussed, and a strong movement for further restriction developed, owing largely to the industrial depression from 1890 to 1896. Investigations more or less extensive were conducted by joint committees of Congress and also by the Industrial Commission.

In 1894 an act was passed raising the head tax from 50 cents to $1, but President Cleveland vetoed another bill passed by both branches of Congress providing for a literacy test.

Based upon the report of the Industrial Commission made to Congress February 20, 1902, a bill was introduced in the House providing for a complete codification and rearrangement of all immigration acts from March 3, 1875, to the act of 1894. An amendment was offered to this bill and passed by the House by a vote of 86 to 7 providing that all persons over 15 years of age who were unable to read the English language or some other language should be excluded, making an exception in favor of wives, parents, grandparents, and children under 18 years of age. The bill so amended passed the House May 27, 1902. When it reached the Senate it eliminated the educational test, raised the head tax from $1 to $2, and made it unlawful for any person to assist in the entry or naturalization of alien anarchists. The House agreed to these amendments, and the bill was approved by the President March 3, 1903.

It was not until February 20, 1907, that any other immigration act of much import was passed by Congress, although by an act of February 14, 1903, the Department of Commerce and Labor was established and the Commissioner General of Immigration was placed under that department, his official position being that of a head of a bureau. On June 29, 1906, the Bureau of Immigration was changed to the Bureau of Immigration and Naturalization, a uniform rule for the naturalization of aliens was provided for, and the administration of the new naturalization law was charged to this bureau.

A little history of the immigration act of February 20, 1907, the latest now on the statute books, with a small amendment of March 26, 1910, and the one sought to be amended by the bill we are now considering, may not be amiss:

A bill introduced by Senator DILLINGHAM, of Vermont, was favorably reported by the Senate committee on March 29, 1906. This bill sought to amend the immigration act of 1903 by increasing the head tax from $2 to $5, by adding imbeciles, feebleminded persons, children under 17 years of age unaccompanied, and persons "who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of such a nature which may affect the ability of such alien to earn a living," were added to the excluded classes. The section of existing law ex-

cluding prostitutes was amended by adding "women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose."

A Division of Information was created in the Bureau of Immigration and Naturalization, and steamship companies were for the first time required to furnish to the proper immigration officials lists of outgoing passengers. In the Senate the bill was amended by the insertion of literacy tests very similar to the one this House is now considering and which I will later quote, and the Senate bill as amended by the literacy test passed the Senate May 23, 1906.

When the bill reached the House it was referred to the Committee on Immigration and Naturalization, and they amended it by substituting one of their own, in many respects similar to it, including the literacy test. In the conference between the House and the Senate conferees the head tax was made $4, the literacy test eliminated, and a commission composed of nine members was authorized to make a complete investigation of the immigration question and report its findings to Congress. Composing this commission were to be three Members of the House, appointed by the Speaker, three Members of the Senate, appointed by the President of the Senate, and the other members of the commission to be appointed by the President of the United States. This commission, after an extensive investigation, both in this country and in Europe, costing $1,000,000 and covering a period of four years, made a voluminous report covering 42 volumes of printed matter, covering all phases of the immigration question. This commission, after a most thorough investigation of the immigration question, found certain facts to exist and made some specific recommendations to Congress.

In the first place, the commission found that there were too many immigrants coming to this country; that there is now an oversupply of unskilled labor in the basic industries of the United States; that restrictive legislation ought to be passed by Congress; and that the literacy test was the best single method of accomplishing the desired end. Let me quote the exact words of the commission:

The investigations of the commission show an oversupply of unskilled labor in basic industries to an extent which indicates an oversupply of unskilled labor in industries of the country as a whole, a condition which demands legislation restricting the further admission of such unskilled labor. It is desirable in making the reduction that a sufficient number be debarred to produce a marked effect upon the present supply of unskilled labor.

And after enumerating more than a half dozen ways by which this reduction could be brought about, the commission added:

A majority of the commission favor the reading and writing test as the most feasible single method of restricting undesirable immigration.

And this is not a partisan political report for political purposes. It is a report by men of both parties after a most careful and painstaking investigation. The fact is that the question of immigration is not a political one.

I have briefly reviewed the legislation on this question, and before taking up and beginning to discuss the merits of the bill now pending before this House I want to adduce some proof to show that the question is nonpolitical and that restrictive legislation has been demanded in the national platforms of the two dominant political parties in this country. Away back in 1896, more than an eighth of a century ago, when the evils of immigration were not so great and not so well known as now, the Republican Party in its national platform of that year not only demanded a restriction of immigration but specifically indorsed the reading and writing test as a means to accomplish that end. The plank in the platform to which I refer is as follows:

For the protection of the quality of our American citizenship and of the wages of our workingmen against the fatal competition of low-priced labor we demand that the immigration laws be thoroughly enforced and so extended as to exclude from entrance to the United States those who can neither read nor write.

This is one of the planks in the platform upon which the beloved McKinley was elected, and in his inaugural address he specifically indorsed the immigration plank and recommended an intelligence test to alien immigrants, to the end that American citizenship be protected and American institutions preserved.

In the Republican national platform of 1900 we find this language:

In the further interests of American workmen we favor a more effective restriction of the immigration of cheap labor from foreign lands, etc.

In his first message to Congress in 1901 ex-President Roosevelt indorsed unequivocally the restriction of immigration and an educational test. He used this pointed language:

The second object of a proper immigration law ought to be to secure a careful, and not merely perfunctory, educational test; some intelligent capacity to appreciate American institutions and act canely as American citizens.

The Republican national platform this year (1912), the latest expression of the party on the subject, reads as follows:

We pledge the Republican Party to the enactment of appropriate laws to give relief from the constantly growing evil of induced or undesirable immigration, which is inimical to the progress and welfare of the people of the United States.

That the Republican Party stands for a restriction of immigration there is no room to doubt.

The Democratic Party, too, has put itself on record in regard to this great question. In its national platform of 1896 it used this language:

We hold that the most efficient way of protecting American labor is to prevent the importation of foreign pauper labor to compete with it in the home market.

In its national platform of 1900 the Democratic Party, while containing no plank upon the general subject of immigration, indorsed the Chinese exclusion law and recommended its application to the same classes of all Asiatic races.

And the Democratic national platform of 1904 contained no plank upon the general subject of immigration, but did specifically oppose the admission of Asiatic immigrants in this language:

We are opposed to the admission of Asiatic immigrants, who can not be amalgamated with our population.

The Democratic national platform of this year (1912) indorses more stringent immigration laws.

This is the latest expression of the Democratic Party on this important subject of immigration. Not only have the two dominant political parties in this country repeatedly expressed themselves in their national platforms in favor of restricting immigration, but the Republican platform of 1896 and the Republican President elected upon the Republican platform of 1900 have in express terms favored the literacy test—such a literacy test in substance that we are now considering. And what is that literacy test and what are the terms of the bill now before us? Before the adjournment of the second session of the Sixty-second Congress the Senate of the United States passed, on April 19, 1912, an immigration bill known as the Dillingham bill, which covered many phases of the immigration question. That bill was sent over to the House on April 20, 1912, and referred to the Committee on Immigration and Naturalization. For reasons which will appear later, the House committee amended the Senate bill by striking out all of it except the enacting clause and substituted the Burnett literacy bill, which reads as follows:

That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States the following persons shall also be excluded from admission thereto, to wit: All aliens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

SEC. 2. That for the purpose of ascertaining whether aliens can read or not the immigrant inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plain type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip.

SEC. 3. That the following classes of persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit through the United States; (c) all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory.

SEC. 4. That an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came in the manner provided by section 19 of "An act to regulate the immigration of aliens into the United States," approved February 20, 1907.

The Burnett bill does not differ materially from a provision in the Dillingham bill providing for an educational test, except that the Dillingham bill provides that the immigrant should be required to read not less than 20 nor more than 25 words of the Constitution of the United States before being admitted, while the Burnett bill does not require the immigrant to read so many words of the Constitution of the United States, with the terms, meaning, and expressions with which the immigrant is unfamiliar, but only requires that the immigrant read from 30 to 40 words "in ordinary use printed in plain type" in some language or dialect, which the immigrant himself has the right to select.

This literacy test for the purpose of preventing objectionable foreigners from coming to this country is not a new proposition, as I have already observed. Not only have political parties in their national platforms specially declared for it, but Congress itself has unequivocally indorsed it.

The House, in the Fifty-fourth Congress, passed such a measure by the decisive vote of 195 to 20, while the Senate passed it by a vote of 52 to 10.

That literacy-test bill would have become a law but for the veto of President Cleveland.

In the Fifty-fifth Congress an immigration bill again passed the Senate, which carried a literacy-test provision, by a vote of 45 to 28.

In the Fifty-seventh Congress an illiteracy-test amendment to an immigration bill passed the House by the sweeping majority of 87 to 7.

The fact is that at no time in the history of the country has a literacy-test provision in any immigration bill ever been defeated by either House of Congress.

Upon the contrary, such a provision has invariably been passed by decisive majorities when the question was submitted to a vote.

And the various votes by both Houses of Congress on this subject is but a reflection of public opinion on the question.

Not all the newspapers, periodicals, and magazines of the country favor this legislation, but I think I am safe in saying that the bulk of the press do favor it.

Resolutions, petitions, memorials have poured in upon Congress, expressing their views and making known the wishes of large and representative bodies of our citizenship on this momentous and far-reaching question.

The Legislatures of the great States of Ohio, Tennessee, Vermont, and other States have memorialized Congress to pass more stringent immigration laws, and have specifically indorsed the literacy test.

The various farmers' organizations throughout the length and breadth of the land, the great labor organizations all over the country, the patriotic societies, powerful bodies representing charity, commerce, and the like, have upon divers occasions passed resolutions memorializing Congress to enact a law embodying an educational test and more stringent immigration laws generally.

There are a greater number of the people of the United States engaged in agriculture than in any other calling. The Farmers' National Congress, a body representing the highest ideals in agriculture in all the States of the Union and composed of representative farmers and students of agriculture from all the States, holds a national convention each year. Delegates are selected to attend these conventions by the governors of the various States as well as by the great agricultural organizations and bodies from the most skilled and scientific agriculturists in the whole country.

At these national gatherings they discuss the various problems affecting the welfare of the farmer, and often express their views in the form of resolutions.

At the last National Farmers' Congress they passed the following resolution:

Whereas the congressional Immigration Commission's report of 40 volumes has just been published and recommend the very measures which this organization has been advocating in its resolutions for years to judiciously restrict undesirable immigration:

Resolved, That we enthusiastically approve the commission's legislative recommendations that the head tax be increased, the illiteracy test be enacted, the foreign steamships be fined for bringing undesirables, and that other judicious measures be adopted, which are hereby urged upon the Congress of the United States.

The Farmers' Educational and Cooperative Union has a membership of over 3,000,000.

This is possibly the most powerful in point of members and influence of any of the farmers' organizations in this country. This organization has been much interested in restrictive immigration laws and has frequently indorsed the literacy test.

At a recent meeting of this organization it expressed itself in this fashion:

Whereas the Immigration Commission, after a four years' investigation at home and abroad, involving an expenditure of a million dollars, reports that "many undoubtedly undesirable persons are admitted every years"; that "there is a growing criminal element in this country, due to foreign immigration"; and that "substantial restriction is demanded by economic, moral, and social considerations"; and

Whereas that commission recommends increasing the head tax, excluding illiterate adults, requiring some visible means of support, fining the foreign steamships for bringing undesirables that could be rejected on the other side, and other measures, law in other new countries, and urged for years by this organization in its resolutions, before congressional committees, and otherwise; and

Whereas it is proposed to relieve the Northeast of its intolerable immigration evils and to continue the unloading of undesirables upon this country by diverting and distributing the incoming, ever-increasing influx from southern Europe, Asia, and northern Africa over the agricultural sections of the South and West.

Then it goes ahead to pass strong resolutions and asks Congress to put on the statute books the laws they desire on this subject.

The American Federation of Labor, the largest labor organization in this country, has for years at its annual gatherings been passing resolutions and petitioning Congress to pass more strict immigration laws, and it has specifically indorsed the educational test—in substance the test we are now considering.

The Grand International Brotherhood of Locomotive Engineers, the Junior Order of United American Mechanics, the Knights of Labor, and other organizations have repeatedly passed resolutions specifically indorsing the literacy test and memoralized Congress to make it a law.

And what are the reasons for this widespread interest in favor of stricter immigrations? Why has the American Congress from 1819 to 1907 been adding one restriction after another to the continued stream of immigrants flocking to our shores?

The law of 1819 was but a little makeshift, regulating steerage passengers at sea.

The law of February 20, 1907, the latest on the statute books and the one we now promise to amend by adding a literacy test, provides in section 2:

That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had two or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all government, or of all forms of law, or the assassination of public officials; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons hereinafter called contract laborers who have been induced or solicited to migrate to this country by offers or promises of employment or in consequence of agreements, oral, written, or printed, expressed or implied, to perform labor in this country of any kind, skilled or unskilled; those who have been, within one year from the date of application for admission to the United States, deported as having been induced or solicited to migrate as above described; any person whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes and that said ticket or passage was not paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; all children under 16 years of age unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving turpitude: *Provided further*, That the provisions of this section relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign Government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *And provided further*, That skilled labor may be imported if labor of like kind unemployed can not be found in this country: *And provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denominations, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants.

This section debars many undesirables, but it needs further amendment.

Even under its provisions there reaches the shores of our country every year in the neighborhood of 1,000,000 alien immigrants, from 30 to 40 per cent of whom can neither read nor write.

In my judgment, Mr. Chairman, the gentleman from Texas [Mr. DIES] struck at the root of this proposition in his remarks a few moments ago. The question is not the excluding of immigration entirely; the question is not as to the excluding of desirable immigrants; but the question is, Shall this country be flooded each year with some 250,000 ignorant immigrants from the old country? As I have observed, the character of citizenship of any country in the world determines the character of its civilization, the character of its institutions, and the character of its government. Will the dumping of 250,000 foreign immigrants into the United States yearly who can not even read and write add to the standard of American citizenship? If they will do it, then this bill and all that pertains to it is wrong in principle. If, upon the other hand, the bringing into this country and dumping upon our shores yearly 250,000 people who know nothing of American institutions and who are incapable of learning much about American institutions and American life will injure the character of American

labor and American ideals, then this bill ought to be supported by every man who wants to elevate the standard of American citizenship, because the purpose of it is to exclude this character of foreign immigration.

The distinguished gentleman from New York [Mr. GOLDFOGLE] in his remarks but a few moments ago said that this country owes much of its greatness to those who come to our shores from Europe and other countries. That is unquestionably true; but the gentleman ought to remember that away back yonder in 1869 there was less than 1 per cent of the character of immigrants which this bill proposes to exclude that came to this country. This bill in its operation will exclude the north Italians—those of them who can not read—and the south Italians, and the Poles. And in the year 1869 there was less than 1 per cent of this character of immigrants coming to America, while 75 or 80 per cent of the desirable immigrants—the English, the Scandinavians, and the others—at that time constituted the large part of the immigration coming into this country. But year by year the north Italians and the South Italians, and the Poles, and the Slavs increased in number, and from year to year the desirable immigrants decreased in number, until in 1911 about 80 per cent—I am not exactly sure as to the accuracy of the percentage—but, in the neighborhood of 80 per cent of the immigrants coming to this country were immigrants from southern and eastern Europe, composed of the north Italians, south Italians, Poles, and Slavs.

Mr. SABATH. Will the gentleman yield?

Mr. POWERS. I yield to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Is it not a fact that the same objections that are made now to the present immigrants were made to the desirable immigrants which you have mentioned, who came to this country up to 1869? Were they not also called then undesirable and vicious?

Mr. POWERS. In answer to the gentleman from Illinois, I want to say that in part the same objections possibly were made, but not in the whole. If the gentleman from Illinois remembers, about five years ago, on the floor of this House, men who were then opposing the literacy test, as men are opposing the literacy test now, opposed a bill similar in character to the bill now under consideration, and succeeded in having a commission appointed to investigate the whole subject of immigration. That commission was appointed, composed of three Members of the House, three Members of the Senate, and three men appointed by the President of the United States. And after four years of investigation by them in this country and in Europe the commission came to the unanimous conclusion that there was an oversupply of unskilled labor in this country, and that the foreign immigration should be largely curtailed.

Mr. SABATH. That was in the years of 1907 and 1908, during the Republican panic.

Mr. POWERS. In further answer to the gentleman from Illinois, I desire to say that this commission was appointed at the instance of men who were then opposed to the literacy test, and that commission, appointed by men opposed to the literacy test, made a report in which they stated that the best single method possible of restricting immigration was by means of the literacy test.

Mr. KAHN. Will the gentleman yield for a question?

Mr. POWERS. I yield.

Mr. KAHN. Will the gentleman inform the committee what the percentage of illiteracy is in his own State, in all persons over 10 years of age for 1910?

Mr. LOBECK. In his own district.

Mr. POWERS. I have not the figures at hand, Mr. Chairman.

The gentleman from California [Mr. KAHN] wants to know if it is not true that there is a large percentage of illiteracy in Kentucky—as much as 10 per cent among the whites and 30 or 40 per cent among the colored—and the gentleman from Kentucky [Mr. CANTRILL] also stated that while Kentucky has as good a class of citizenship as any State in the Union, still he added that the mountain section of the State—the Republican section—was where the high percentage of illiteracy abounds.

In reply to these gentlemen and the gentleman from Nebraska [Mr. LOBECK], I desire to say that no section of this Union has braver or better people than live and dwell in the mountains of old Kentucky. There is there this day the purest reservoir on the American Continent of pure old Anglo-Saxon blood. They may fall a little below the people of certain other sections of the Union on technical book information—they have not had the advantages of some other sections—but in education, in the true sense of the word, they are inferior to none.

They are educated in hand and educated in heart, educated in honesty and educated in industry. In homely virtues they have no peers. In strength of manhood and purity of womanhood they have no equals. I will enter no further defense of the people of the mountains of Kentucky. They need none. They are destined to control the affairs of the State politically and financially.

It comes with bad grace from the gentleman from California or any other gentleman to prate about the illiteracy of the colored people in Kentucky or elsewhere. Ground down with the chains of slavery for 250 years, denied, aye, forbidden, to read a printed page, no wonder there exists some illiteracy among them now.

But few races in the world have made more progress than the colored people since the master's lash was taken from their bare backs and them given an opportunity to make some strides along educational and other lines.

But if it be true, as contended here by gentlemen opposing the literacy test for immigrants, that there is a high degree of illiteracy in the South, and that for that reason we ought not to insist on an educational test for immigrants, my answer is that that is all the more reason why we should insist upon it.

If there is much illiteracy in the South, why add more to it by admitting a horde of illiterate foreigners? Should it not be our duty rather to get rid of what we already have by educating our own people? If the education test had been applied to foreign immigrants years ago, no negro slaves would have been brought from Africa. There would have been no negroes in the South. We would not have had any Civil War, and there would not to-day be 30 or 40 per cent of uneducated negroes in the South, as stated upon this floor. But I am digressing. I have just laid the foundation for a discussion of this question of immigration, and before the Dillingham and Burnett bills finally pass this House I shall ask the indulgence of the House for a more extended discussion of this question.

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield 18 minutes to the gentleman from Massachusetts [Mr. CURLEY].

The CHAIRMAN. The gentleman from Massachusetts [Mr. CURLEY] is recognized for 18 minutes.

Mr. CURLEY. Mr. Chairman, a very pertinent question was asked the gentleman from Kentucky [Mr. POWERS] by the gentleman from California with reference to the degree of illiteracy in the State of Kentucky, and the answer furnished by the gentleman from California was that it was more than 10 per cent.

Mr. KAHN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. CURLEY. The singular part of the illiteracy project is that the figures stand out clearly and indisputably that in the so-called dumping ground for the illiterates, namely, New York, the percentage of illiteracy among children of foreign born is but 5.9 per cent, while in Louisiana, in the South, it is nearly 30 per cent.

Mr. DYER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. CURLEY. Surely.

Mr. DYER. I want to ask the gentleman if it is not a fact that the statistics for 1910 show that in the State of Kentucky the illiterates numbered 87,516?

Mr. CURLEY. If the gentleman says that is so, I will accept his statement.

Mr. CANTRILL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. CURLEY. I regret I can not yield. The total number of illiterate native whites of native parents was 29,188, or 9.2 per cent, in the State of New York. The total number of illiterate whites of foreign-born parents was 18,162 in the State of New York, or only 5.7 per cent, so that the higher percentage of children of foreign-born parents who are illiterate is only a little less than one-half as great as that of the native born in New York, and that is the section of the country from which the great hue and cry arises in favor of shutting out the illiterates. Louisiana, in your southern section, has the highest percentage of illiteracy of any section in the entire Union, namely, 38.5 per cent.

I have sat here and listened to the talk about the Black Hand. Why, Mr. Chairman, I can not distinguish any difference in the disregard to established law between a lynching bee in the South and the operation of the Black Hand in New York. If the Black Hand of New York is bad, its evil does not exceed the evil of the lynching bees in the South.

Mr. BURNETT. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Massachusetts yield to the gentleman from Alabama?

Mr. CURLEY. Yes.

Mr. BURNETT. The gentleman forget to refer to an infamous lynching that occurred in Pennsylvania a short while ago. Does the gentleman forget that?

Mr. CURLEY. Mr. Chairman, there are exceptions to every good rule, and apparently lynchings are a good rule in the South.

Now, I listened to the gentleman from Texas [Mr. DIES], who said that the immigration that is coming here is incapable of assimilation, and I want to say that I can not understand from what examination and upon what phase of that question he draws the deduction that he presents here, for after all, Mr. Chairman, the study of the Italian race is the most interesting study for persons who desire full and complete knowledge of all that is best in art, in literature, in science, and in government.

Those whom you term the representatives of a despised race and whom you claim are unassimilable stand predominant among all the races of the entire world. Is it undesirable to perpetuate the blood, the memorials, and the traditions of the greatest Empire of antiquity, which spread the light of its civilization from the Mediterranean to the North Sea and the Baltic? Do the gentlemen who cast the stigma upon Italians recall that this stock was the fountainhead of the Renaissance that dispelled the gloom of the Middle Ages? What authority proscribes the land that gave birth to Galileo, the most forceful demonstrator of the earth's motion and orbit, or decries the achievements of Columbus and the Cabots, who brought an unknown world to light, to redress and restore the balance of the Old World?

Strange is this flood of prejudice—because, after all, it is prejudice—and every fair-minded man will admit that this propaganda was put in operation and the support of organizations of labor was enlisted, including that of the Brotherhood of Railroad Trainmen, to make successful the move of the new proscriptive organization known as the Junior Order of American Mechanics.

Is there a man here who would like to see our Government go back to the days when, because Roger Williams was a Baptist and believed in doing kindness, he was led to the outskirts of Massachusetts Bay Colony in the dead of a New England winter and, without even food or sustenance, told to find a new abode? Is there a man here who would have this Nation return to the witchcraft days of old Salem? It is the same old cry. It was raised against the Germans when they were weak. It was raised against the Irish when they were weak. It is raised to-day against the Poles and against the Italians and against the Jews because they are weak, and those who are most desirous that a literacy test be applied display their ignorance by questioning the ability of the Italian people to conduct a government.

How strange, Mr. Chairman, is this flaunt of prejudice in the faces of Dante and Tasso and Petrarch, of Raphael and Michael Angelo and Canova, of Verdi and Rossini, Bellini and Donizetti, of Ristori and Duse and Salvini and Rossi, of Alfieri and Gicometti, of Cavour and Mazzini. [Applause.]

I should like to ask these brilliant exemplars of literature, of science, and of art, who never heard of an Italian civilization, who never heard of Italian government, who never heard of Rome, who never heard of its arts, of its literature, of its science, what freak of conceit ignores historians like Carlo Botta and Pasquale Villari, romancists like Manzoni and D'Annunzio, masters of language like Bartelli and De Amicis, and overlooks astronomers like Schiaparelli and electricians like Ferraris and Marconi on the loftiest ranges of applied science? In the field of railway engineering there are no more extraordinary memorials than the three grand passageways of the Mount Cenis, St. Gothard, and Simplon tunnels, the enduring monuments of "southern Latin" engineers and constructors, who are said to be unassimilable. [Applause.]

What country owes more to Italy for its impulse than the so-called boasted Anglo-Saxon England? The foremost English poets and dramatists—Chaucer, Wyatt, Surrey, Spencer, Greene, Webster, Ford, and Cyril Tourneur—show distinctively the Italian molding in poetry and drama. Even the master minds of greatest force and fertility, Bacon and Shakespeare, would frankly acknowledge their debt. "Shakespeare's most romantic heroines, Juliet and Desdemona," observes Wilfred Scawen Blunt in The Speaker, "were both borrowed, as we know, and not without the loss of dignity, from Bandello's Italian originals."

Dante, Petrarch, Boccaccio, and Aristo became English household words through translations and imitations. From the dawn of early English art and literature Italy has been a mecca for her artists and scholars. The lofty imagination of Milton first expanded in Italian air. Here, too, the restless and embittered heart of Byron sought solace. All that is mortal of Shelley and Keats lies under the shadow of Rome. In Florence the genius of Browning reached its zenith, and his memorial tablet in Venice bears the lines of his poem, "Open my heart and you will see graved inside of it Italy." The influence of the leader, even in decadence, was deathless.

Mr. POWERS. Will the gentleman yield?

Mr. CURLEY. If I felt that it would add to the sum of human knowledge I would gladly do so, but I regret that I do not think it will. Therefore I refuse to yield.

And can America forget her distinctive indebtedness? The New World owes to Italy the debt of the old and more. May she not well remember that it was the son of a Genoese wool comber whose unflagging spirit revealed her existence to Europe; that the Florentine, Amerigo Vespucci, was her godfather, and that the voyages of the Cabots and Verrazano first traced the North American coast line and cleared the way for pioneer immigration. There must be a strange lack of memory and of recognition of service when prejudice against southern Latin origin would put up an irrational bar of entry in the face of the countrymen of Columbus. [Applause.]

The Italian by training and environment is a child of sunshine, and is less responsible for the slum conditions obtaining in our large cities than is the owner of the property or makers of laws which allow insanitary conditions to obtain.

Wherever Italian colonies have been founded success has attended their labors, as in the case of the Asti Colony, of Sonoma, Cal., which to-day boasts the largest dry-wine vineyard in California, where for two months each year are pressed 300 tons of grapes each day.

And this product carefully matured is now shipped to all parts of the world, even to France, where it finds a ready market in competition with the home product.

Forty-five thousand Italians are now living in the 56 counties of California, own 2,726 farms, conduct 837 business concerns, and have an invested capital of $20,000,000.

The Canadian Government in 1903 expended $642,913 to promote immigration, and their success, in this country at least, is a good cause for apprehension, as we are annually losing 100,000 of our best citizens.

In the year ended June 30, 1903, of 233,546 Italians admitted, 197,267 were between the ages of 14 and 45 years, so that it is wrong to contend that we are a dumping ground for the criminal, the aged, and the infirm.

And if the economic value of an able-bodied immigrant over 20 and under 35 years is $1,000, then Italy's contribution has been tremendous.

We expend millions in the construction of irrigation canals to provide proper distribution of water, yet we do not expend any money for proper distribution of immigration, whereas if our water supply were choked off in the same manner that we now propose choking off immigration, our country would necessarily be less productive than it is now.

The healthy, honest, willing laborer in any field of employment is an addition to the Nation's working capital.

We embellish our public buildings with names dear to lovers of all that is grand and great in art, science, and literature, and the names occupying the most prominent places are those of Italians, today termed undesirable.

When our tourists go abroad they gaze enraptured at the sculpture, art, and architecture of Rome, preserved through rapine, savagery, and fanaticism by the undesirables, so called, and I venture to say if the gentlemen so anxious to proclaim by law their physical and mental superiority ever do visit the center of art and the birthplace of those they consider as undesirable beings, a realizing sense of their own inferiority will cause them forever to regret the step to-day contemplated.

The heavy burden of this ill-timed and ill-advised legislation will fall heaviest upon the liberty-loving Jew, who, denied the advantages of education by the tyrannical rule of monarchial government abroad with all its unspeakable rapine and savagery, is to be denied an asylum in this land of the free by reason of a force of agencies that are wholly beyond his control.

It is the glory of these United States that since the establishment of the Republic in 1776, and even before the promulgation of the Federal Constitution, freedom of religion has absolutely prevailed in this Nation, and this insidious law would prevent the entry of a splendid type of the Jewish race, for a haven of free religious worship, and carry out the same vindictive and iniquitous policy of his barbarous conqueror across the seas.

The disappearance of persecution, the era of tolerance, the very recrudescence of liberality—this is the message of the day and hour, and this infamous bill would turn back the pages of American history to the odium attending a policy of proscription which thrived during the early days of the nineteenth century, and when the outcome, politically considered, was, thank God, the complete extinction of the party organization

which had fostered it and the permanent, endless discredit in the eyes of the American Nation of the political leaders who had promoted it.

Why, almost a hundred years before the Pilgrims landed at Plymouth Rock the Jews, driven forth by relentless persecution, had made their homes in the Spanish Provinces, whence they came to the United States. And in the dedication of the little colonies to freedom there the Jewish pioneer shared the hardships and perils of the new land with his compatriots.

Such was the story of Dutch New Amsterdam, the wilds of Georgia, the ancient Providence plantations, and the Quaker colonies of Pennsylvania.

The duty of good citizenship has been the heritage of the Jewish race in every State within this Union since the foundation of the Republic.

The Jewish population of America to-day is a determining civic entity, a moral sinew, and a splendid material asset for all that is best in manhood, character, and the highest development of the American citizen.

Every great national movement that has marked the history of this Republic and which has moved forward and upward for the strengthening and the maintenance of the Government of our land has found the Jew in the forefront as an active participant.

They fought in the War of the Revolution and sacrificed their lives and gave freely of their means that there should be established a true liberty and the greatest free government that has ever marked the children of destiny.

Whenever affliction has beset the American Nation, the Jew has ever been in the forefront, giving generously of wealth for the succor of the unfortunate.

As a distinguished American economist has both well and truly said—

> The Jews have not only found liberty in America in the fullest sense, but a brotherhood among the composite population of the United States. And in return for this liberty and brotherly treatment the Jew has given this great Republic one of its highest types of citizenship. The American Hebrew statistically is proven to be the most valuable kind of a citizen. He is among our largest property holders and taxpayers; he is in the vanguard of all progressive moral and material movements; he is a large contributor to philanthropy, education, and charity. The Jew is everywhere acknowledged to be a first-class American citizen, and since the foundation of our American national life his exemplary conduct as citizen and man has earned for him the respect and fellowship of all self-respecting Americans.

And this bill would deny to hundreds of liberty-loving Jews an asylum in America, driven hence by a passion-blinded populace, and compelled—as 5,000,000 of them are abroad—to live in a district embracing but one-twenty-third of the ruling Empire.

With starvation and discontent ever rife through this ill-judged crowding of the Jewish race abroad, this bill will deny a haven for the oppressed, who are driven to either starvation or emigration by the despotic Government of the Czar.

What a shameless contrast this proscriptive bill presents when compared with the writings of George Washington, the father of our liberties. In a letter written to the Hebrew congregations of the city of Savannah, Ga., in 1790, Washington said:

> I rejoice that a spirit of liberality and philanthropy is much more prevalent than it formerly was among the enlightened nations of the earth, and that your brethren will benefit thereby in proportion as it shall become still more extensive; happily the people of the United States have in many instances exhibited examples worthy of imitation, the salutary influence of which will doubtless extend much farther if gratefully enjoying those blessings of peace which under the favor of heaven have been attained by fortitude in war, they shall conduct themselves with reverence to the Deity and charity toward their fellow creatures.
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> May the same wonder-working Deity, who long since delivered the Hebrews from their Egyptian oppressors, planted them in a promised land, whose providential agency has lately been conspicuous in establishing these United States as an independent Nation, still continue to water them with the dews of heaven, and make the inhabitants of every denomination participate in the temporal and spiritual blessings of that people whose God is Jehovah.

A little more of the magnanimity of Washington would not be out of place in this day and generation of ours.

Washington later in August, 1790, writing the Hebrew congregation of Newport, R. I., said:

> It is now no more that toleration is spoken of as if it were by the indulgence of one class of people that another enjoyed the exercise of their inherent natural rights, for, happily, the Government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens in giving it on all occasions their effectual support.
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> * * * * * * *
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> May the children of the stock of Abraham who dwell in this land continue to merit and enjoy the good will of the other inhabitants, while everyone shall sit in safety under his own vine and fig tree, and there shall be none to make him afraid.

Why, my friends, the towering shaft that commemorates the first battle of the Revolution at Bunker Hill in my own city was made possible by the liberal contribution of a Jew, Judah Touro, who was seriously wounded at New Orleans in the War of 1812, and of the gross sum of $55,000 donated for the monument, he himself contributed $10,000.

And a body of no less distinguished Americans than John Quincy Adams, Daniel Webster, Joseph Story, Edward Everett, and Franklin Dexter were appointed a committee to prepare an inscription for a tablet to be placed within the monument in behalf of the liberality of this benevolent Jew.

To the economic side of this question a word is also certainly due. It stands to reason that every immigrant becomes a customer of those already occupying the same vantage ground. And further, that as each must produce as much as he consumes, the community is in the end an inevitable gainer by his presence. And as a very large majority produce more than they consume, it is manifest that in their earnings the community gains doubly by their presence.

American history emblazons no more heroic figures than Pulaski, who, after vainly striving to lead his own countrymen against the Russian tyrant in 1768, came to America to give up his life in our great contest for liberty, and of Kosciusko, who came here to fight for the independence of our country and then returned to fight vainly for the freedom of his own land.

While the financial contribution of Haym Salomon to the Treasury of the country during the War of the Revolution was the largest individual aid extended Washington by any resident of the thirteen States, and came at a crucial time, when the Colonial Army was disintegrating from sheer force of poverty, and history records no finer example than that of Manuel Mordecai Noah, of South Carolina, who, unsheathing his sword as a member of Gen. Washington's staff, gave his fortune of approximately $100,000 to advance the cause of the colonists.

While there were but 3,000 Jews in the Colonies at the outbreak of the Revolutionary War, we find that no less than nine Jews were enrolled when the first nonimportation resolutions were signed as a material protest to the exactions of Great Britain—Benjamin Levy, Samson Levy, Joseph Jacobs, Hyman Levy, jr., David Franks, Mathias Bush, Michael Gratz, Barnard Gratz, and Moses Mordecai.

In the War of the Revolution we find Joseph De Leon, of South Carolina, a most distinguished officer; and when Gen. De Kalb fell mortally wounded at Camden he, with Maj. Nones and Capt. de la Motta, all Jews, carried the wounded De Kalb from the field under fire. Samuel Benjamin was an ensign of the Eighth Massachusetts, and Benjamin Aaron served in a like capacity with the Eighth Connecticut. Maj. Benjamin Nones served with marked gallantry upon both the staffs of Gens. Washington and La Fayette. Col. Solomon Bush served with great bravery in the Pennsylvania Militia.

Maj. Lewis Bush was a first lieutenant of the Sixth Pennsylvania, and, after establishing a wonderful record in the field, fell mortally wounded at Brandywine.

Jacob Cohen served gallantly with Gens. Moultrie and Lincoln; Philip Jacob Cohen was a distinguished Georgia colonist, and Mordecai Davis an ensign of the Second Pennsylvania Battery.

Reuben Etting enlisted at Baltimore when 19 years of age, served in the North with gallantry, was made prisoner at Charleston, was captain of the Independent Blues of Maryland, and later served as marshal of his State under appointment by President Jefferson.

Col. Isaac Franks, of Philadelphia, served as aid-de-camp to Gen. Washington, and with the title of colonel served throughout the war. His residence at Germantown was for some time occupied by President Washington as his home.

Col. David Franks was also an aid-de-camp upon Gen. Washington's staff, and served with conspicuous gallantry.

David Hays, jr., served with great ability upon Long Island with the Colonial Army, and his house and store were both burned by the British.

Moses Isaacks, of Newport, R. I., was a very active supporter of the Colonial Army and entertained Gen. Washington at his home.

Isaac Israel was first lieutenant of the Eighth Virginia and served also in the Fourth Virginia in the same capacity, while Jacob Leon was a staff officer serving with Gen. Lasky. Asher Levy was ensign of the First New Jersey Regiment and Nathaniel Levy a member of Lafayette's command.

Israel de Lieber rose from the ranks to a position of honor and trust under Washington, Benjamin Moses served on the staff of Gen. Pulaski, while Isaac Moses gave almost his entire property of $15,000 to the Army.

Emanuel de la Motta served both in the War of the Revolution and the War of 1812 and was promoted from the ranks for marked bravery to positions of great trust and honor, while Jacob de la Motta was a captain upon the staff of Gen. Pulaski.

Philip Moses Russell was a distinguished surgeon, and cared for the Continental Army during the terrible winter at Valley Forge—1777 and 1778.

Joseph Sampson was a lieutenant of Cotton's Massachusetts Regiment and Ezekiel Sampson a lieutenant of Baldwin's Artillery, and many other Jews served their adopted country with marked valor upon every field of battle.

It is well to bear in mind among the last words of the late ex-President Cleveland, his expression upon the position of the Jew in American life. He said:

> I know that human prejudice, especially that growing out of race or religion, is cruelly inveterate and lasting. But wherever in the world prejudice against the Jews still exists, there can be no place for it among the people of the United States, unless they are heedless of good faith, recreant to the underlying principles of their free Government, and insensible to every pledge involved in our boasted equality of citizenship.

Mr. SHARP. Will the gentleman yield for a question?

Mr. CURLEY. I will yield to the gentleman from Ohio.

Mr. SHARP. If the immigrants who are now coming from Italy to our shores are the worthy successors of the distinguished men whom the gentleman from Massachusetts has named, is there any particular hardship imposed by this bill in requiring them to read and write? [Applause.]

Mr. CURLEY. I will answer by saying that if the restriction that is proposed in this bill had been in operation a hundred years ago undoubtedly the gentleman from Ohio would not be here now, and certainly I would not. [Applause.] I believe that applies with equal force to 90 per cent of the men in this House. Yet the cry which goes up from one end of the country to the other is the cry for labor. The chairman of the committee says we are not getting desirable immigrants from northern Europe. It is more profitable for the immigrant to remain where he is in his own country. Denmark, Norway, Sweden, the countries that the gentleman cites as furnishing the higher type of immigration, are to-day countries of immigration and not emigration, and what is true of those countries is true of England, Scotland, Germany, France, and Ireland, and every one of the countries that possess what are termed desirable immigrants were as undesirable 50 years ago as the Italian and the Jew are to-day.

The German is not coming here, because they have harnessed the streams and Germany has developed manufactures, and it is more profitable for the German to remain at home. The Irish are not coming here because I guess nearly all of them are here at the present time. [Laughter.]

By the way, it is a funny thing, but my friend's question recalls a peculiar thing. We talk about immigration. I find here a book on Rochambeau that was published by order of the House. I was amused in looking over the book to find the names of the Frenchmen who accompanied Rochambeau to this country. There was the regiment De Dillon.

The colonel was Le Comte Dillon; the second was Théobald Chevalier Dillon; the lieutenant colonel was Barthelemy Dillon; the major was Jacques O'Moran; the paymaster was Barthelemy Moncarelly; and the captains were Moore, Purdon, Bancks, Nugent, Swigny, Shee, Moore, O'Neill, O'Brien, and Taaffe—all Frenchmen. [Laughter.]

Of the second captains there were Mandeville, MacGuire, Macdermot, O'Reilly, Kelly, MacDermot, Noolan, O'Doyer, Lynck, and Coghlan.

Then there was another regiment—the regiment De Walsh. The colonel was Thaddeous O'Brien, the captains De Fitzmaurie, De Walsh, O'Neil, De Nagle, O'Brien, and D'Orcy.

The second captains were O'Croly, O'Connor, and the lieutenants Plunkett and O'Riordan, and second lieutenants O'Gorman and MacCarthy—all patriotic Frenchmen. [Laughter.]

When these men offered their services for the cause of human liberty, was there anybody to rise up and say, "You can not live here; you can not come here because you can not read and write"? [Applause.]

I hate to destroy all illusions, Mr. Chairman. I have no respect for the man who dispels the old story of Santa Claus or St. Nicholas. But I was amused the other day to find that the shot that was fired at Lexington that was heard around the world was fired at Fort William and Mary in 1774, under the command of a man by the name of Sullivan, and 80 Irishmen, and no man asked if they could read or write. Instead of the shot being fired at Lexington that could be heard around the world, it was fired at Portsmouth, N. H., December 13, 1774.

I have read of the Boston tea party and always supposed it emanated from an indignation meeting at the old South Church, but I have discovered that it was concocted in John Duggan's Tavern in Corn Court, Boston, afterwards known as the Hancock Tavern; and if the men disguised as Indians who threw the tea overboard were properly characterized, it would be "John Duggan's tea party" instead of "the Boston tea party." [Laughter and applause.]

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. BURNETT. Mr. Chairman, I now yield 15 minutes to the gentleman from California [Mr. HAYES].

Mr. HAYES. Mr. Chairman, I listened with great interest to the rehearsal by the gentleman from Massachusetts of the great names and great deeds of some Italians, and I beg mildly to suggest to the gentleman from Massachusetts and to the committee, that no one of those great Italians would have been excluded from the United States under the present bill. They would all be admissible if this bill were a law.

I intend to vote for this bill, not because I am wholly satisfied with it, for I am not. I am not fully satisfied with the methods proposed for weeding out undesirable immigrants as the best that could be devised. I am not satisfied with it, further, because I should be glad to see other provisions in this bill than are found in it, but I believe it is a step in the right direction.

Mr. Chairman, 30 years ago the immigration to this country was made up largely, if not entirely, of young men in whose breasts the spirit of liberty was stirring, and who looked to this land of the free as a place for larger opportunity and for the better facilities it offered of acquiring a competency and the pursuit and enjoyment of happiness. While this condition existed it constituted a method of natural selection that secured for this country the very best elements of the populations of the countries from which they came; and if that condition still existed I should be opposed to this legislation or any other legislation that would prevent the coming to this country of immigrants of the character of those of that time, but that condition is entirely changed. Mr. Chairman, I desire to send to the Clerk's desk and have read in my time a paragraph from the report of the Commissioner General of Immigration of the United States for 1911, which expresses the present situation in this regard.

Mr. SABATH. Mr. Chairman, is that Mr. Keefe's report?

Mr. HAYES. It is.

The Clerk read as follows:

SOURCES OF AND INDUCEMENTS TO IMMIGRATION.

> Considerable space has been devoted in previous reports to this important and interesting subject. It has been shown that (1) the sources of our immigration have undergone a decided change in recent years, one which is of great significance to the country and its people, and (2) much of the immigration which we now receive is artificial, in that it is induced or stimulated and encouraged by persons and corporations whose principal interest is to increase the steerage-passenger business of their lines, to introduce into the United States an overabundant and therefore cheap supply of common labor, or to exploit the poor, ignorant immigrant to their own advantage by loaning him money at usurious rates; or, as now so frequently happens, in the organized and systematized state of the business, a combination of the three elements, so that money lenders and ticket agents abroad, the transportation companies, and the labor brokers and large employers of common labor here each receive their portion of the benefits and proceeds. Meanwhile the alien and the country suffer—the alien by being thrown into new and untried conditions, not conducive to his health or happiness, under circumstances which place him at a serious disadvantage by reason of being loaded with debt, which, unless promptly settled, multiplies with interest, and which he knows must soon destroy his own or his family's property mortgaged in security, and the country by having its standards of labor wages, and living not only temporarily lowered but permanently injured—and who can question the economic axiom that injury to its wage earners is a direct injury to a country?

Mr. HAYES. Mr. Chairman, it has been demonstrated by the hearings before the Committee on Immigration and Naturalization of this House that the statement just read is absolutely true. We have had evidence tending to show not only great misrepresentation on the part of the steamship companies and their agents in nearly all the countries of Europe in order to stimulate immigration, but evidence has been produced to show that in this country men having confederates on the other side do a large business in inducing immigration in order that the ignorant immigrant, when he comes here, may be subject to the exploitation of those who are in this conspiracy.

Mr. SABATH. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield.

Mr. SABATH. The gentleman has stated that it has been demonstrated before the Immigration Committee that the report of the Immigration Commission is true. Will the gentleman kindly state by whom it has been demonstrated?

Mr. HAYES. Oh, I have no time, Mr. Chairman, to go into those details. We have had large numbers of people before us.

Mr. SABATH. Mention two or three.

Mr. HAYES. I do not care to stop to mention anybody.

Mr. SABATH. Mention only one; that will not take much time.

Mr. HAYES. I can not stop for such interrogatories.

The CHAIRMAN. The gentleman declines to yield.

Mr. HAYES. As I say, it has been demonstrated, to a larger extent than my colleague from Illinois will admit and to a much larger extent I have no doubt than is known to most Members on the floor of this House, that this sort of work is going on in this country, and the immigrant is brought in not for his good, not for the good of this country, but in order that he may add to the income of the steamship companies and be exploited generally by his own countrymen in this country, who make it a business to prey upon the ignorant and unprotected immigrant who comes here. I think there is no question about it. I am surprised that my colleague would deny that this is the fact.

Mr. SABATH. I say this, that the commission that has investigated the conditions does not say so.

Mr. HAYES. I beg the gentleman's pardon. If I can read the English language, it says so; but I can not yield further.

The CHAIRMAN. The gentleman declines to yield.

Mr. HAYES. Mr. Chairman, it must be patent to everybody that it is the ignorant, those who can not read and write, and, therefore, who know nothing about the ways of the world and the wiles of the dishonest people who would make use of them for profit, who become the victims of these conspiracies and these frauds, and so, I say, this legislation will not only be beneficial to the country in weeding out at least some of those who will become undesirable citizens, but it will be a great benefit to, by preventing the coming here of, the ignorant immigrant, when by reason of his ignorance he is unable to protect himself from the dishonesty and chicanery that he finds here among his own countrymen who are engaged in the business of boatage or peonage, a thing which the immigration authorities have found it hard to prove even when they know it exists.

It has been sought to show on this floor that this legislation is championed by only one side of this House. I believe this question is too big to be a partisan question, and I beg to state that the Republican Party has gone on record for years in favor of this legislation. I read from the platform of the Republican Party for the year 1900:

For the protection of the equality of our American citizenship and of the wages of our workingmen against the fatal competition of low-priced labor, we demand that the immigration laws be thoroughly enforced and so extended as to exclude from entrance into the United States those who can neither read nor write.

Mr. SABATH. That is also true of the platform of the Republican Party of 1912, is it not?

Mr. HAYES. It is not; but I wish it were.

Mr. SABATH. It has been in there.

Mr. HAYES. It has been repeatedly incorporated in substance in the Republican platforms in this country. That is the Republican doctrine, as I understand it. Following that I call attention to the first annual message of President McKinley in the year 1897, in which he states:

Our naturalization and immigration laws should be further improved to the constant promotion of a safe, a better, and a higher citizenship. A grave peril to the Republic would be a citizenship too ignorant to understand or too vicious to appreciate the great value and beneficence of our institutions and laws, and against all who come here to war upon them our gates must be promptly and tightly closed. Illiteracy must be banished from the land if we shall attain that high destiny as the foremost of the enlightened nations of the world under Providence we ought to achieve.

I also call attention to the message of President Roosevelt in 1901, where he states in his annual message addressed to the Congress of the United States:

The second object of a proper immigration law ought to be to secure by a careful, and not merely perfunctory, educational test some intelligent capacity to appreciate the American institutions and act sanely as American citizens.

So, Mr. Chairman, I might continue with quotations from the leaders of the Republican Party and from its platform to demonstrate that the Republican Party stands for this kind of legislation as well as the party on the other side of the aisle. I have received thousands of communications from not only my own district and State, but from all over the land asking my support of the provisions of this bill. I know that this legislation is demanded by all patriotic societies, without a single exception; also by the Farmers' Educational and Cooperative Union, by the Grange, by the American Federation of Labor, and, as I believe, by a very large majority of the population of the United States without regard to party; this legislation is being now considered here in obedience to an overwhelming popular demand.

Mr. BARTHOLDT. Will my friend yield for a question?

Mr. HAYES. I will.

Mr. BARTHOLDT. Has the gentleman from California ever studied the statistics on births in this country? If the Chinese are excluded on the western coast and Europeans are excluded on the eastern coast of this country what would be the annual increase of population in this country without immigration?

Mr. HAYES. Is the gentleman through?

Mr. BARTHOLDT. I will tell you what it would be.

Mr. HAYES. The gentleman is not a prophet; he can not tell, and neither can any man.

Mr. BARTHOLDT. I can say this, that according to scientists the increase should be 1½ per cent; that the surplus of births over deaths should be 1½ per cent where social conditions in the country are right; but in the United States but for immigration the increase would be only one-half of 1 per cent.

Mr. HAYES. I think the gentleman is stating it much too low. I have not the figures at hand, so I can not controvert the statement he has made.

Mr. BARTHOLDT. And that one-half of 1 per cent is mostly found among the immigrants.

Mr. HAYES. All that has nothing to do with the subject. I disclaim any prejudice against any nation or against foreigners in general, but I am jealous of the interests of my country; I am anxious that the highest possible citizenship should find residence within its borders, and therefore I am anxious that those only who are capable of becoming self-respecting, self-governing American citizens should be allowed to come here, and those who have not the intelligence or the capacity to become such should be excluded. I am glad to support this bill and any other proper measure looking in the same direction.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield five minutes to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Chairman, I come from a city which is peopled by men and women from every nation in the world. I have lived in that city long enough to see its population grow from 100,000 to 2,500,000—the second city in the Union—and its people are as law-abiding as any people throughout the world. I have seen immigrants come who were unable to read and write. I have watched their children through their childhood and into manhood and womanhood. After having been educated in the public schools of our great city, we find that no better citizens live anywhere, and that is true as to every nationality. To restrict the opportunity of men and women to live under the freedom enjoyed by American citizens is unjust. Many of us would not be here if our people had been required to read and write when they were admitted to this country. We boast that this is the land of opportunity. A man's moral worth is not gauged by the amount of education he has. A man who can neither read nor write may be an infinitely better citizen than the man who can read and write in every language. Let those who live where no opportunity is given them to secure an education come to our shores where they can have the benefit of our public institutions of learning, where they can learn the grandeur of American institutions. We have in the city of Chicago 200,000 children of foreign-born parents attending our public schools. They are quick to learn; they soon become filled with love for the adopted land of their parents; they grow up to be our best citizens; we are proud of them. I say, let their parents come; there is no danger in admitting them to our shores.

It has been said by the gentleman in charge of this bill that the men who are allowed to come to the United States under the present immigration laws cheapen labor. No such thing. He says they glut the labor market. Not at all. He would make no such statement if he understood the situation. Those wishing to employ labor everywhere throughout the United States to-day are unable to find it. The price of labor was never so high in America as it is to-day. Opportunities for employment never were so great. The standard of living never so high. We boast that this is the land of opportunity; then give those of the Caucasian race who want to come the opportunity. Let their children mingle with ours in the public schools. Give them the opportunity for the enjoyment of the liberty of which we are so proud. Teach them to proclaim this liberty to their less fortunate fellows in other lands. Make them missionaries to carry the light of liberty to every quarter of the globe. Let them become the instrumentalities through whom we may show the world that here in free America we make men as well as merchandise. We need have no fear of our inability to assimilate all who come. The industrial development of the Nation goes on apace. We need the men if we are to keep step with the onward march of progress. There is room and to spare for all who come. The price of labor is not lowered by their coming. Immigration is greatest in the years of our greatest prosperity. When labor is not in demand they do not come.

The percentage of immigration is no greater now than at any other period of the Nation's history, population considered. It is complained that immigrants congregate in the great centers of population and thereby reduce the chances of employment for

those already there. It is the demand for labor which attracts them to the centers. If that demand was in the rural districts, there they would go. The man who comes here to work becomes an asset, not a liability; he helps to create the wealth of the Nation. The question of whether the immigrant can read is not of as much importance as is the question of whether his heart is right. It is through the hearts of men that our citizenship is made great. To the hearts of those who come, then, we must appeal. We must teach them love of liberty, love of our institutions; show them that here all men are to be encouraged in the race for success; that all are to be measured at their true worth. No; immigration is not a menace. It is but one more evidence that the liberty we proclaim has reached the peoples of less favored lands and that they come here to take advantage of its privileges. Let them come. I have not the time nor the knowledge to make the careful analysis of the immigration question which its importance justifies, but I thoroughly agree with the able analysis made by Isaac A. Hourwich, Ph. D., in his work on Immigration and Labor, and I print his Summary Review, found on pages 1 to 39 of his book, as a part of my remarks. I am sure it will prove interesting and instructive and convincing.

It is the purpose of this review to state briefly for the benefit of the busy reader the results of our inquiry into the various phases of the immigration question. Such a summary must necessarily be dogmatic in form. Every proposition is advanced here, however, merely as a theorem, whose demonstration is presented in its proper place in another part of the book.

It is recognized on all sides that the present movement for restriction of immigration has a purely economic object; the restriction of competition in the labor market. Organized labor demands the extension of the protectionist policy to the home market in which "hands"—the laborer's only commodity—are offered for sale. The advocates of restriction believe that every immigrant admitted to this country takes the place of some American workingman. At the inception of the restrictionist movement, in the eighties and the early nineties, they were avowedly opposed to immigration in general. The subsequent decline of immigration from the British Isles, Germany, and the Scandinavian countries and the increase of immigration from southern and eastern Europe have diverted the attack from immigration in general to "the new immigration" from southern and eastern Europe and the Asiatic Provinces of Turkey. Yet while the root of all evil is now sought in the racial make-up of the new immigration, as contrasted with the old, every objection to the immigrants from southern and eastern Europe is but an echo of the complaints which were made at an earlier day against the then new immigration from Ireland, Germany, and even from England. Three-quarters of a century ago, as to-day, the only good immigrants were the dead immigrants.

There is no real ground for the popular opinion that the immigrants of the present generation are drawn from a poorer class than their predecessors. It is a historical fact that prior to 1820 the great majority of the immigrants were too poor to prepay their passage, which never cost as much as $50 per steerage passenger; the usual way for a poor man to secure transportation for himself and family was to contract to be sold into servitude after arrival. The next generation of immigrants was not much better off. According to contemporary testimony, the millions of Irish and Germans who came in the middle of the nineteenth century were ignorant and accustomed to a very low standard of living. Since the races of southern and eastern Europe have become predominant among immigrants to the United States, the steerage rates have been doubled, the increase being equivalent to a heavy head tax. The higher cost of transportation must have raised the financial standard of the new immigration, as compared with the immigrants of the seventies and the early eighties. This inference is borne out by the fact that the percentage of illiteracy is much lower among the immigrants than among their countrymen who remain at home. Illiteracy is generally the effect of poverty. The higher literacy of the immigrant may be accepted as evidence that economically the immigrant must be above the average of his mother country.

The complaint that the new immigrants do not easily "assimilate" is also as old as immigration itself. To-day the Germans are reckoned by courtesy among the "English-speaking races." But as late as the middle of the nineteenth century the growth of German colonies in all large cities caused the same apprehension in the minds of their American contemporaries as the Jewish, the Italian, and the Slav colonies of our day. Statistics show, however, that the new immigrant races number among them as large a percentage of English-speaking persons as the Germans who have lived in the United States the same length of time.

The only real difference between the old immigration and the new is that of numbers. To the workman who complains that he has been crowded out of his job by another it would afford little comfort to feel that the man who had taken his place was of Teuton or Celtic rather than of Latin or Slav stock. The true reason why the "old immigration" is preferred is that there is very much less of it.

As stated, the demand for restriction proceeds from the assumption that the American labor market is overstocked by immigration. Comparative statistics of industry and population in the United States show, however, that immigration merely follows opportunities for employment. In times of business expansion immigrants enter in increasing numbers; in times of business depression their numbers decline. The immigration movement is further balanced by emigration from the United States. As a rule, the causes which retard immigration also accelerate the return movement from this country. It is customary to condemn the "bird of passage," but so long as there are variations in business activity from season to season and from year to year, the American wage earner has no cause to complain of the immigrants who choose to leave this country temporarily while there is no demand for their services, thereby reducing unemployment in its acutest stage.

It is broadly asserted by restriction advocates that the hundreds of thousands of Slav, Italian, Greek, Syrian, and other immigrant mine and mill workers have been "imported" by capitalists—in other words, that they are all contract laborers. This belief offers to the student of folklore a typical example of twentieth century myth building. None of the official investigations of immigration has disclosed any evidence of importation of laborers under contract on a large scale, although prior to the enactment of the law of 1885, excluding contract laborers, there was no reason to conceal the fact. It is quite conceivable that in the case of a strike a great corporation might have resorted to the importation of a large force of strike breakers regardless of cost. As a general rule, however, with hundreds of thousands of immigrants coming to this country annually, it would be a waste of money to "induce" immigration. The few actual violations of the contract labor law that elude the vigilance of the immigration authorities can not affect the labor market.

The real agents who regulate the immigration movement are the millions of earlier immigrants already in the United States. It is they that advance the cost of passage of a large proportion of the new immigrants. When the outlook for employment is good, they send for their relatives or encourage their friends to come. When the demand for labor is slack, the foreign-born workman must hold his savings in reserve, to provide for possible loss of employment. At such times no wage earner will assume the burden of providing for a relative or friend, who might for a long time be unable to secure employment. It is in this way that the business situation in the United States reacts upon the volume of immigration. The fluctuating supply of immigrant labor, like that of any other commodity, may sometimes outrun the demand and at other times lag behind it, yet, if we compare the totals for industrial cycles, comprising years of panic, of depression, and of prosperity, within the past 60 years, we find that the ratio of immigration to population has been a well-nigh constant. In the long run immigration adjusts itself to the demand for labor.

This proposition seems to be inconsistent with the presence at all times of a vast number of unemployed. Apparently, there are already more men than jobs in the United States; every new immigrant, in order to live, must take away the job from some one else who has been here before. On closer study, however, it is found that unemployment is not the effect of an absolute surplus population. It arises, notwithstanding a growing demand for labor, from the fluctuations in the distribution of the demand. The most generally recognized cause of unemployment is seasonal variation of business activity. There are trades dependent largely upon climatic conditions and partly upon social customs. In the period of maximum activity the demand for labor in such trades may often so far exceed the supply as to necessitate overtime work; yet this shortage of labor will not save a portion of the force from idleness at other times of the year. The only class of labor which is capable of shifting from one industry to another in response to variations in demand is unskilled labor. But the localization of industries sets a limit to the mobility of unskilled labor. In order to eliminate unemployment it would be necessary to dovetail the busy and the slack seasons in the various industries upon such a plan as would produce an even distribution of the work of the Nation over all seasons of the year. This might be possible if all mines, mills, and transportation lines were operated by one Nation-wide trust. So long, however, as production is controlled by many competing employers, each subject to his own vicissitudes of business, insecurity of employment is inevitable. The normal state of every industry is to have a larger force than can ever find employment in it at any one time. The labor reserve is as much a part of the industrial system as the regular force.

Still, the labor market being normally overstocked, it sounds plausible that the immigrant, who is accustomed to a lower standard of living at home than the American workman, will be able to underbid and displace his American competitor. If this view were correct, we should find, in the first place, a higher percentage of unemployment among the native than among the foreign-born breadwinners. Statistics, however, show that the proportion of unemployment is the same for native and foreign born wage earners. The immigrant has no advantage over the native American in securing or retaining employment. In the next place, we should find more unemployment in those sections of the United States where the immigrants are most numerous. In fact, however, the ratio of unemployment in manufactures is the same in the North Atlantic States with a large immigrant population as in the South Atlantic States where the percentage of foreign born is negligible. Coal miners are thought to have suffered most from immigration. Yet it appears that Pennsylvania, which is among the States with the highest percentages of foreign-born miners, has the second lowest percentage of unemployment. The highest ratio of unemployment, according to the latest published census data, was found in West Virginia, where the percentage of foreign-born miners was next to the lowest. A similar relation between unemployment and the proportion of immigrants is observed among cotton-mill operatives and common laborers; immigrants are not attracted to those States where opportunities for regular employment are less favorable.

Furthermore, if there existed a causal connection between immigration and unemployment, there should have been more unemployment in those years when immigration was greater, and vice versa. The figures show, on the contrary, that there was less unemployment during the first seven years of the present century were immigration at a high tide than during the preceding decade when immigration was at a low ebb.

Still, an oversupply of labor may produce a latent form of unemployment which could be described as underemployment; all employees may be kept on the rolls, and yet be idle a part of every week. Again, however, we find that the average number of days of employment per wage earner increases as immigration increases and declines as immigration declines.

The relation between immigration and unemployment may thus be summed up in the following propositions: Unemployment and immigration are the effects of economic forces working in opposite directions; those which produce business expansion reduce unemployment and attract immigration; those which produce business depression increase unemployment and reduce immigration.

Yet it may be said that while immigration is not a contributory cause of unemployment, restriction of immigration might nevertheless reduce unemployment. This supposition is negatived by the experience of Australia, where emigration exceeds immigration. Australia is a new country with an area as great as that of the United States, while its population at the census of 1906 was half a million short of the population of New York City at the census of 1910. Yet Australia has as much unemployment as the State of New York, which is teeming with immigrants. It is evident that unemployment is produced by the modern organization of industry even in the absence of immigration.

There is a widespread belief that, although on the whole the United States is in need of immigrant labor, "the new immigration" has a tendency to stagnate in the overpopulated cities, while there is a keen demand for hands in agricultural sections. A retrospective view of the history of immigration shows that this tendency is not peculiar to "the new immigration." For the past 90 years public men and social theorists have sought to relieve unemployment in the cities by directing

the current of immigration to the farm, but the immigrants have always preferred to seek employment in the cities. The popular mind which accounts for individual conduct by the "free will" of the individual applies the same criterion to social phenomena; the Italians and the Slavs concentrate in the cities because they have a "racial tendency" to concentrate in the cities. That most of the immigrants of those nationalities have grown up in agricultural communities and that many of them after working a few years in a great American city return home and go back to the soil argues against the assumption of "racial" dislike for agriculture. The real cause of the concentration of immigrants in the cities is economic. Even the "desirable" immigrant from northern and western Europe who lands with a capital of fifty and odd dollars lacks the funds to rent a farm. At best he can obtain employment only as a farm hand. Since the early days of Irish and German immigration, however, the growing industries of the cities have offered a better market for labor than agriculture.

The industrial development of the United States has manifested itself in a relative, and in some sections an absolute, depopulation of rural territory. There is a large migration of native Americans of native stock from country to city. This movement is the result of the revolution in American farming conditions and methods, which has tended to reduce the demand for labor on the farm. The American farm of the first half of the nineteenth century was the seat of a highly diversified industry. The members of a farm household made their own tools and part of the furniture; they were spinners and weavers; they made their own clothes and soap, and candles for their own use. With such a variety of occupations there was work for a hired man at all seasons of the year. But industrial differentiation has removed from the farm one industry after another. The time during which a hired man can be kept employed on the farm has been reduced to a consequence to a few months in the year. Still, until the middle of the nineteenth century the mills were quite commonly run by water power, which made for decentralization of manufactures. The small country towns accordingly offered to the farm laborer a prospect of employment when work was scarce on the farm. But the general substitution of steam for water power led to the removal of factories from small towns to great commercial centers. The opportunity to earn a full year's wages in a rural community was gone.

While in manufacturing the invention of labor-saving machinery has resulted in the gradual displacement of the small proprietor by the wage earner, in American agriculture, on the contrary, the machine has tended to eliminate the wage earner. As late as the middle of the nineteenth century the agricultural methods of the American farmer differed little from those of his ancestors. Grass was mowed with a scythe. Grain was cut with a sickle and thrashed with a flail. Flailing and winnowing grain was the chief farm work of the winter. Corn was planted by hand, cultivated with the hoe, and shelled by scraping the ears against the handle of a frying pan. The cultivation of a farm in this primitive way sustained a demand for steady farm help in all seasons. To-day there is some implement or machine for every kind of farm work. It is estimated that the quantity of labor saved by machinery represents the services of 1,500,000 men working every week day in the year.

In consequence of limited demand, agricultural labor is the least remunerative of all occupations. The hours of labor on the farm are longer than even in the steel mills of Pennsylvania. Small pay, long hours, and irregular employment is what the immigrant can expect on a farm. His preference for city work which pays better can be easily explained without delving into the mysteries of race psychology. It merely confirms the rule that immigration follows the demand for labor.

The effect of immigration upon labor in the United States has been a readjustment of the population on the scale of occupations. The majority of Americans of native parentage are engaged in farming, in business, in the professions, and in clerical pursuits. The majority of the immigrants, on the other hand, are industrial wage earner. Only in exceptional cases has this readjustment been attended by actual displacement of the native or Americanized wage earner. In the course of industrial evolution some trades have declined owing to the introduction of new methods of production. In such cases there was naturally a decrease of the number of native as well as of foreign born workers. As a rule, however, the supply of immigrant labor has been absorbed by the increasing demand for labor in all industries without leaving a surplus sufficient to displace the native or older immigrant wage earner. There were but few occupations which showed an actual—not a relative—decrease of native Americans of native stock. This decrease was due to the disinclination of the young generation to follow the pursuits of their fathers; the new accessions from native stock were insufficient to replace the older men as they were dying off, and the vacancies were gradually filled up by immigrants. But for every position given up by a native American there were many new openings filled by native American wage earners.

The westward movement of American and Americanized wage earners and the concentration of immigrants in a few Eastern and Central States have been interpreted as the "displacement" of the English-speaking workmen from the mills and mines of the East by the new immigration. An examination of the figures shows, however, that during the past 50 years mining and manufacturing grew much faster in the West and South than in the East and drew some of the native workers and earlier immigrants from the older manufacturing States. But the demand for labor grew in the old States as well. The places left vacant by the old employees who had gone westward had to be filled by new immigrants.

The desertion of mills and factories by native American girls has also been explained as their "displacement" by immigrants. The motive assigned is not economic, but racial; it is the social prejudice against the immigrant that has forced the American girl to quit. It seems, however, that this explanation mistakes cause for effect; the social stigma attaching to working association with immigrants is not the cause but the effect of the desertion of the mills and factories by native American women. The psychological interpretation overlooks one of the greatest economic changes that has taken place in the United States since the Civil War—the admission of women to most of the pursuits which were formerly regarded as peculiarly masculine. For every native woman of American parentage who left the mill or clothing factory there were 40 women of the same nativity who found new openings. The increase of the number of native American professional women was nearly five times as great as the decrease of the number of native American factory girls. The marvelous progress of the American educational system has fitted the native American woman for other work than manual labor and has at the same time opened to her a new field in which she does not meet the competition of the immigrant.

There is absolutely no statistical proof of an oversupply of unskilled labor resulting in the displacement of native by immigrant laborers. No decrease of the number of common laborers among the native white of native or foreign parentage appears in any of the great States which serve as receptacles for immigration. The same is true of miners. In none of the States affected by the new immigration has there been a decrease in the number of native miners. Such States as Pennsylvania and Illinois showed large increases in the number of native miners, both of foreign and native parentage. The iron and steel mills are another industry from which the recent immigrants are popularly believed to have forced out the native workmen and older English-speaking immigrants. The fact is, that in the earlier period of the industry, when immigration from southern and eastern Europe was negligible, the number of American employees increased very slowly; during the recent period, on the contrary, since the immigrants from southern and eastern Europe have been coming in large numbers, the number of American-born employees of every nativity has more than doubled. The increased employment of native Americans is recorded in the figures for every important iron and steel producing State, as well as for every city holding a leading place in the iron and steel industry.

The effect of immigration upon the occupational distribution of the industrial wage earners has been the elevation of the English-speaking workmen to the status of an aristocracy of labor, while the immigrants have been employed to perform the rough work of all industries. Though the introduction of machinery has had the tendency to reduce the relative number of skilled mechanics, yet the rapid pace of industrial expansion has increased the number of skilled and supervisory positions so fast that practically all the English-speaking employees have had the opportunity to rise on the scale of occupations. This opportunity, however, was conditioned upon a corresponding increase of the total operating force. It is only because the new immigration has furnished the class of unskilled laborers that the native workmen and older immigrants have been raised to the plane of an aristocracy of labor.

Yet, while the number of native American workmen in all industries has increased, it is true that in some occupations there has been an actual decrease of the number of English, Welsh, Irish, and German workers, which has been construed as "displacement" of these skilled workers by immigrants from southern and eastern Europe with a lower standard of living. This interpretation overlooks the fact that native workers of native parentage, presumably with as high a standard of living as the Irish, are found in the same occupations in larger numbers than formerly. Another fact that controverts the popular view is the increase of the number of Scotch immigrants in those very occupations which show a decline in the number of English and Irish. Judged by any standard, the Scotch are not inferior to other immigrants from the United Kingdom. The increased employment of the Scotch in the principal occupations, including even common laborers, warrants the conclusion that the decline in the numbers of English and Irish must have been due to other causes than the competition of recent immigrants with lower standards of living. A farther fact that must be considered in this connection is that the English, Welsh, and Irish farmers exhibit a greater decrease, both absolute and relative, than any other occupational group among the same nationalities. Evidently no new farmers came to fill the places of their countrymen who were carried off by death, although the aliens from southern and eastern Europe kept away from the farming sections and left the field open for English, Welsh, and Irish immigrants.

The real explanation of the decrease in the number of immigrants from northern and western Europe in the occupations which rank lowest in the social scale is that the earlier immigrants have worked their way upward. Among the breadwinners born in northern and western Europe, farmers, business men, professional men, and skilled mechanics outnumber those who are employed in the coarser grades of labor. The latter have been left to immigrants from southern and eastern Europe.

There has been a great deal of speculation to the effect that had immigration from southern and eastern Europe been kept out of the United States, the immigrants from northern and western Europe would, as of old, have supplied the demand of American industry for unskilled labor. The fallacy of this assumption becomes apparent from consideration of the comparative growth of population in the United States and in the countries of northern and western Europe, as well as of the economic conditions in those countries. As stated before, immigration in the long run bears a constant relation to the population of the United States. Inasmuch, however, as this population increases faster than the population of Europe, especially that of the emigration countries, the rate of emigration from those countries must increase much faster than their population in order to supply the American industries with the number of immigrants they can employ. Yet the volume of emigration from any country can not increase beyond a certain limit set by the size of its population. When that point is reached, further industrial expansion in the United States must draw upon the labor supply of other countries. In order to replace the immigrants from southern and eastern Europe that were absorbed by the industrial expansion of the past decade, immigration from Great Britain, Germany, and the Scandinavian countries should have risen to the Irish level, whereas Ireland ought to have been depopulated at a greater rate than in the years of the Irish famine. The recent development of those countries, however, has had a decided tendency to check emigration.

In the closing years of the nineteenth century Germany ceased to be a country of emigration, and became a country of immigration. Inasmuch as Germany draws her immigrant supply from the same sources as the United States, it is evident that the German wage earner does not stay away from the United States in order to escape the competition of the immigrant from southern and eastern Europe. The transformation of Germany from an emigrant-furnishing nation to a country of immigration is the direct result of her recent economic development. Until the middle of the nineteenth century Germany was principally an agricultural country. About that time German agriculture reached the point where the growth of land values made the traditional methods of the peasant unprofitable and necessitated a transition to intensive systems of cultivation. Many a peasant who, lacked the requisite capital for a change of methods was forced to dispose of his land and to seek a new home in the United States. In Prussian Poland this crisis came in the seventies and the early eighties and drove large numbers of Polish peasants to the United States. But the rapid growth of manufacturing and mining during the last 25 years has absorbed the whole natural increase of the rural population. At the same time, German agriculture has also made substantial progress. As a result, there is a scarcity of agricultural laborers during the busy season. The combined effect of all these causes, coupled with the disappearance of cheap lands in the United States, has been reflected in a decline of the emigration of farmers and farm laborers to the United States. The increased demand for labor has resulted in a substantial increase of the rates of wages, simultaneously with a marked reduction of the working day. These gains are in no small way due to the progress of organization among German wage earners, which was practically prohibited prior to 1890. Since that time the membership of labor organizations has advanced by leaps and bounds, leaving behind the older British and American trade-unions. The growth of the labor movement in Germany has directly and indirectly stimulated labor legislation, which has conferred material benefits upon the German wage earner. Whereas industrial progress in modern times has generally led to the elimination of the independent artisan who has been pushed into the ranks of wage earners, in Germany this process has been checked by the development of cooperation. The general improvement of the economic conditions of all classes of the working people necessarily affected the rate of emigration for the past 20 years.

Yet it is worthy of note that while immigration from Germany to the United States has in recent years been much below the level of the early eighties, the average annual immigration from Germany was much higher during the past decade than during the last decade of the nineteenth century. In other words, German immigration increased with the increase of Italian and Slav immigration to the United States.

Coming next to Scandinavian immigration we find that the number of breadwinners coming to compete in the American labor market virtually reached its maximum during the past decade. The only change is that, whereas the earlier Scandinavian immigration was mostly of a family type, among the recent Scandinavian immigrants single persons vastly predominate. This change is due to the fact that the old Scandinavian immigrants came largely to settle on farms, where a family was a help, while the new Scandinavian immigrants, like the new immigration from southern and eastern Europe, come chiefly to seek industrial employment. That Scandinavian immigration to the United States was in no way affected by immigration from southern and eastern Europe is evidenced by the change in the direction of the former; whereas prior to 1890 the greater part of Scandinavian immigration was directed to the agricultural States of the Central West and Northwest, since 1890 the majority of the Scandinavian immigrants follow the current of immigration from southern and eastern Europe. The bulk of the Scandinavian immigrants are laborers from agricultural districts or farm workers without special mechanical skill. It is these unskilled Scandinavian laborers that have in recent years sought employment in competition with unskilled Slav and Italian laborers. The reason why the number of these Scandinavian immigrants has not grown fast enough to keep pace with the needs of American industry must be sought in the economic conditions of the Scandinavian countries. Some opportunity eventually to secure a homestead in the United States is a prime consideration with the agricultural laborer who is dissatisfied with his condition must seek employment in industry. And here the recent industrial progress of the Scandinavian countries offers him many an opportunity at home.

The industrial development of Sweden is contemporaneous with the latest progress in engineering, which has harnessed the water power furnished in abundance by her mountains. The growth of Swedish industries has far outrun the increase of her population. As a result, Sweden has become a country of immigration. The immigration to Sweden has in recent years left a surplus over emigration.

In Denmark the last 15 years of the nineteenth century witnessed a rise of the peasant farmer, due chiefly to the rapid spread of cooperation in all branches of farming. The progress of agriculture has attracted immigration to Denmark. During every agricultural season considerable numbers of Polish peasants come to work on the farms in Denmark.

While the wave of emigration from Great Britain and Ireland to the United States has receded from the high-water mark reached in 1880–1889, yet, eliminating that exceptional decade, we find that during the 20-year period 1890–1909, marked by the influx of immigrants from southern and eastern Europe, the United States received more immigrants from Great Britain and Ireland than during the 20-year period 1860–1879. Another fact that must not be lost sight of is the recent development of Canada, Australia, New Zealand, and South Africa, which has naturally drawn a part of the emigration from Great Britain and Ireland. The policy of restriction adopted in Australia, New Zealand, and South Africa has conferred a special privilege upon immigrants of British nationality. On the other hand, the Governments of Canada and Australia are making systematic efforts to induce and assist immigration from the mother country. That the financial assistance offered to immigrants from the United Kingdom has diverted a part of them from the United States is but natural.

The decline of Irish immigration began as far back as 1861. It rose again in the eighties, in the turbulent years of the Irish Land League agitation, and once more during the past decade. That the "new immigration" to the United States was not the cause of the decline of Irish immigration is clear from the fact that the emigration movement from Ireland in other countries has also declined, while, on the other hand, of those Irish who did emigrate the proportion destined to the United States was higher during the period of the great influx of immigrants from southern and eastern Europe than in 1876–1890, when immigration from southern and eastern Europe was negligible. There have been forces at work to reduce the number of Irish seeking to better their condition away from home. The great Irish unrest of the eighties forced the British Parliament to enact remedial legislation, which gave to the tenant-at-will a legal title to his holding, besides reducing his rent, and converted about one-third of the tenants into land owners. These far-reaching reforms in a country with a predominantly peasant population sufficiently account for the decline of emigration from Ireland.

It can be seen from this brief survey that immigration from northern and western Europe has declined, not because the condition of labor has deteriorated in the United States, but because those countries have become better homes for their citizens.

Another popular fallacy is the theory originated by Gen. Walker, that the immigrants have displaced unborn generations of native Americans. It rests on no other foundation than a computation made in 1815 from the increase of the population of the United States between 1790 and 1810. During the century that has elapsed the declining birth rate has become a world-wide social phenomenon. In the Australian Commonwealth, with her vast continent as yet unsettled, with a purely Anglo-Saxon population and practically no immigration, the decline of the birth rate has been as rapid as among Americans of native stock. Prof. Wilcox has proved by an analysis of population statistics that the decrease in the proportion of children began in the United States as early as 1810. The native birth rate has declined with the increase of the urban population and the relative decrease of the number of farmers. The rearing of children on a farm requires less of the mother's time and attention than in the city. Moreover, the child on a farm begins to work at an earlier age than in the city. A numerous family on a farm has the advantages of a cooperative group, whereas every addition to the family of the wage earner or of the salaried man with a fixed income tends to lower the family's standard of living. It is significant that the decline of the birth rate is universal among those classes which are scarcely, if at all, affected by immigrant competition. Their standard of living is higher than that of the wage earner. Yet it is precisely the desire to preserve this higher standard that accounts for the practice of race suicide. Granting, for the sake of argument, that the absence of immigration in the past would have raised the native wage earner's standard of living to that of the middle class, it does not follow that the natural increase among the native born would have sufficed to supply the needs of the rapidly expanding industries of the United States.

There was clearly no other source from which American industry could have drawn its labor supply than immigration from the countries of southern and eastern Europe. Without the immigrants from those countries the recent development of American industry would have been impossible.

An invidious distinction is drawn between the old and the new immigrants by reason of the fact that the bulk of the latter are incapable of any but unskilled work. A comparative statistical study of immigration shows that the old immigrants, like those of the present generation, were mostly unskilled laborers and farm hands. The proportion of skilled mechanics has at no time within the past 50 years been as high as one-fourth of all immigrant breadwinners, for the very obvious reason that the demand in the American labor market has been mainly for unskilled laborers. Invention of machinery has had the tendency to reduce the demand for mechanical skill, and most of that demand has been supplied by native Americans. In the industrial army the commissioned and noncommissioned officers are outnumbered by the privates. It is a misconception of modern industrial organization to confuse lack of "skill," i. e., ignorance of a trade, with "low efficiency." If every immigrant were a skilled mechanic, most of them would nevertheless have to accept employment as unskilled laborers. The special skill of the engineer would give him no superiority at leading coal over a common laborer, nor would the ability to read Shakespeare in the vernacular assure higher wages to a mule driver.

The objection to the unskilled immigrant is based upon the belief that because of his lower standard of living he is satisfied with lower wages than the American or the older immigrant. It is therefore taken for granted that the effect of the great tide of immigration in recent years has been to reduce the rate of wages or to prevent it from advancing. The fallacy of this reasoning is due to the attempt to compare the wages and standard of living of the unskilled laborer with those of the skilled mechanic. In order to prove that the new immigrants have introduced a lower standard of living, the latter ought to be compared with the standard of living of unskilled laborers in the past. Housing conditions have been most dwelt upon in the discussion of the standard of living of the immigrant, because they strike the eye of the outsider. Historical studies of housing conditions show, however, that congestion was recognized as a serious evil in New York City as far back as the first half of the nineteenth century. The evil was not confined to the foreign-born population. American-born working women lived on filthy streets in poorly ventilated houses, crowding in one or two rooms, which were used both as dwelling and workshop. No better were the living conditions of the daughters of American farmers in the small mill towns of New England. They lived in company houses, half a dozen in one attic room, without tables, or chairs, or even washstands. Comparative statistics of house tenancy in Boston show that in the middle of the nineteenth century the tenement-house population was as numerous, in proportion, as in our day. The conversion of the old single-family residence into a tenement house, where a whole family was jammed in every room, was productive of filth. The inconvenience suffered by the people of New York City during the recent strike of the street cleaners was but a faint reminder of the normal conditions of the immigrant sections of New York or Boston half a century ago. These conditions are a thing of the past. The typical tenement house in the Jewish and Italian sections of New York to-day is a decided improvement upon the dwellings of the older immigrant races in the same sections a generation or two ago. On the other hand, in the South, where many of the coal mines are operated without immigrant labor, and native white Americans are employed as unskilled laborers, their homes are primitive and insanitary.

It is evident that the cause of bad housing conditions is not racial, but economic. Congestion in great cities is produced by industrial factors over which the immigrants have no control. The fundamental cause of congestion with all its attendant evils is the necessity for the wage worker to live within an accessible distance from his place of work. In mining towns the mine company is usually the landlord, and the mine worker has no choice in the matter of housing accommodations. In so far, however, as housing conditions might affect the rates of wages of native and immigrant workmen, it is the amount of rent, not the equivalent in domestic comfort, that has to be considered. And here it is found that immigrants have to pay the same rent as, and often a higher rent than, native American wage earners. A certain proportion among the immigrants seek to reduce their rent by taking in boarders, but the practice is not universal, and the wages of the others must therefore provide for the payment of normal rent. Moreover, the recent immigrants are mostly concentrated in great cities, where rent is high, while the native American workmen live mostly in small towns with low rents.

Nor are the food standards of the recent immigrant inferior to those of native Americans with the same income. Meat, the most expensive article of food, is consumed by the Slav in larger quantities than by native Americans. Rent and food claim by far the greater part of a workman's wages. It is thus apparent that whatever may have been the immigrant's standard of living in his home country, his expenditure in the United States is determined by the prices ruling in the United States. Contrary to common assertion, the living expenses of the native American workmen in small cities and rural districts are lower than those of the recent immigrants in the great industrial centers. It is therefore not the recent immigrant that is able to underbid the native American workman, but it is, on the contrary, the latter that is in a position to accept a cheaper wage.

There is, of course, a difference between the expenses of a single and of a married workman. The necessary expenses of a single man are lower than those of one who has a family to support, and a large proportion of the recent immigrants are either single or have left their families abroad. But, while an unmarried American workman may either save or spend the difference, the recent immigrant is obliged to save a part of his earnings. He must repay the cost of his own passage; if he has left a family at home, he must save up money to pay for their passage, besides supporting them in the meantime. So when the recent immigrant is seen to deny himself every comfort in order to reduce his personal expenses to a minimum, it is a mistake to assume

that he will accept a wage just sufficient to provide for his own subsistence. The Italian section hand who lives on vegetables does not save money for the railroad company. The economic interests of the American wage earner are therefore not affected by the tendency of the recent immigrant to live as cheaply as possible and to save as much as possible. Whether he spends his wages for rent and dress, or saves his money to buy steamship tickets for his family; whether he invests his savings in a home in the United States or sends them to his parents for improving the home farm, his wants in one case are as urgent as in the other, and he must demand a wage which will enable him to satisfy them.

On the other hand, though the standard of living of the native or Americanized wage earners be higher than that of the new immigrants, this difference is not necessarily indicative of a higher rate of wages; the higher standard is very often maintained with the earnings of the children, whereas the southern and eastern European immigrants are mostly young people whose children have not reached working age. The supposed difference in the standard of living can therefore have no effect upon the comparative rates of wages of English-speaking workmen and of recent immigrants.

But it is argued that the newly arrived immigrant must have work at once, and is therefore glad to accept any terms. The immigration commission, after a study of the earnings of more than half a million employees in mines and manufactures, has discovered no evidence that immigrants have been hired for less than the prevailing rates of wages.

The primary cause which has determined the movement of wages in the United States during the past 30 years has been the introduction of labor-saving machinery. The effect of the substitution of mechanical devices for human skill is the displacement of the skilled mechanic by the unskilled laborer. This tendency has been counteracted in the United States by the expansion of industry; while the ratio of skilled mechanics to the total operating force was decreasing, the increasing scale of operations prevented an actual reduction in numbers. Of course this adjustment did not proceed without friction. While, in the long run, there has been no displacement of skilled mechanics by unskilled laborers in the industrial field as a whole, yet at certain times and places individual skilled mechanics were doubtless dispensed with and had to seek new employment. The unskilled laborers who replaced them were naturally engaged at lower wages. The fact that most of these unskilled laborers were immigrants disguised the substance of the change—the substitution of unskilled for skilled labor—and made it appear as the displacement of highly paid native by cheap immigrant labor.

To prove that immigration has virtually lowered the rates of wages would require a comparative study of wages paid for the same class of labor in various occupations before and after the great influx of immigration. This, however, has never been attempted by the advocates of restriction. In fact, the chaotic state of our wage statistics precludes any but a fragmentary comparison for different periods. In a general way, however, all available data for the period of "the old immigration" agree in that the wages of unskilled laborers, and even of some of the skilled mechanics, did not fully provide for the support of the wage earner and his family in accordance with their usual standards of living. The shortage had to be made up by the labor of the wife and children.

If the tendency of the new immigration were to lower the rate of wages or to retard the advance of wages, it should be expected that wages would be lower in great cities where the recent immigrants are concentrated than in rural districts where the population is mostly of native birth. All wage statistics, concur, however, in the opposite conclusion. Since the United States has become a manufacturing country average earnings per worker have been higher in the cities than in the country. The same difference exists within the same trades between the large and the small cities. Country competition of native Americans often acts as a depressing factor upon the wages of recent immigrants. This fact has been demonstrated in the clothing industry, in the cotton mills, in the coal mines, etc.

Furthermore, if immigration tends to depress wages, this tendency must manifest itself in lower average earnings in States with a large immigrant population than in States with a predominant native population. No such tendency, however, is discernible from wage statistics. As a rule, annual earnings are higher in States with a higher percentage of foreign-born workers.

The conditions in some of the leading industries employing large numbers of recent immigrants point to the same conclusions. In the Pittsburgh steel mills the rates of wages of various grades of employees have varied directly with the proportion of recent immigrants. The wages of the aristocrats of labor, none of whom are southern or eastern Europeans, have been reduced in some cases as much as 40 per cent; the money wages of the skilled and semiskilled workers, two-thirds of whom are natives or old immigrants, have not advanced notwithstanding the increased cost of living, while the wages of the unskilled laborers, the bulk of whom are immigrants from southern and eastern Europe, have been going up.

Another typical immigrant industry is the manufacture of clothing. The clothing industry has become associated in the public mind with the sweating system, and since the employees are, with few exceptions, immigrants from southern and eastern Europe, the conclusion is readily reached that the root of the sweating system is in the character of the new immigration. Yet the origin of the sweating system preceded the Jewish clothing workers by more than half a century. Throughout the second quarter of the past century native American and Irish women worked in the sweat shops of New York, Boston, and Philadelphia for only board and lodging, or even for board alone, depending upon their families for other necessities, whereas the Jewish factory girls of the present day are at least self-supporting.

In the cotton mills of New England the last quarter of the nineteenth century, when the operatives were practically all of the English-speaking races, was a period of intermittent advances and reductions in wages; on the whole, wages remained stationary. The first years of the present century, up to the crisis of 1908, were marked by the advent of the southern and eastern Europeans into the cotton mills, and by an uninterrupted upward movement of wages. The competition of the cheap American labor of the southern cotton mills, however, tends to keep down the wages of the southern and eastern Europeans, Armenian, and Syrian immigrants employed in the New England mills.

As a general rule the employment of large numbers of recent immigrants has gone together with substantial advances in wages. This correlation between the movements of wages and immigration is not the manifestation of some mysterious racial trait, but the plain working of the law of supply and demand. The employment of a high percentage of immigrants in any section, industry, or occupation is an indication of an active demand for labor in excess of the native supply. Absence of immigrants is a sign of a dull labor market.

To be sure, the rise in wages is paralleled by a similar movement of prices. The employer of labor seeks to recoup the advance in wages by advancing the price of his product to the consumer. When the advance in the price of manufactured products becomes general, the wage earner as a consumer is forced in effect to give up a part or all of his gain in the money rate of wages. The increased cost of living then stimulates further demands for advances in wages. Since combinations of capital in all fields of industry have reduced competition among employers of labor to a minimum, the wage earners have been at a disadvantage in this continuous bargaining. In general it has been observed by economists that wages, as a rule, do not rise as fast as prices. That this rule holds true irrespective of immigration is illustrated by the movement of wages and prices during the Civil War. With the exception of the first year, the period was one of prosperity in every branch of industry. The wage earners were apparently in a favorable situation. If, the Army drew hundreds of thousands of workers from industrial pursuits, while immigration declined. There were at that time no immigrants from southern and eastern Europe, nor was there any oversupply of unskilled labor. Yet while the depreciation of the currency caused a rapid increase in the cost of living, money wages did not keep pace with prices. In other words, real wages decreased. It must be noted that during the war a lively labor agitation was going on; strikes were usually successful. Withal, labor was unable to win increases in wages commensurate with the increased cost of living.

Among the factors tending to depress the rate of wages child labor holds a prominent place. The most significant fact to be noted concerning the relation between child labor and immigration is the large proportion of children employed in factories in States where there is practically no immigrant population, whereas the lowest per cent is found in New York, which is overrun by immigrants. The growth of manufacturing industries in the South being restricted by the natural increase of her native population, the manufacturers, in order to extend their operations, must resort to the employment of children, as did their predecessors in New England a century ago, before immigration came to supply the needs of American industry. This situation is by no means confined to the South. Absence of foreign immigration has created a demand for the labor of native American children in the canneries and shoe factories of rural and semirural Missouri. The principal inducement for locating such shoe factories in rural districts of Missouri appears to be the availability of the cheap labor of native American women and children, who can underbid the male immigrants employed in the shoe factories of Massachusetts. On the other hand, taking the United States as a whole, we find that during the 10-year period from 1890 to 1900, with its unprecedented immigration, the average number of children employed in factories did not increase, while their relative number decreased.

An unerring measure of the effects of immigration on labor conditions is furnished by the length of the working day. Aside from the benefits of shorter hours for the physical and mental well-being of the wage earner, every reduction of the hours of labor, even when not accompanied by an increase of the daily or weekly wage, is equivalent to an increase of the hourly wage. Going back to the beginning of the factory system in the United States, when the operatives were sons and daughters of American farmers, we find that the hours of labor in the factories were from sunrise to sunset, the same as on the farms to-day. The retirement of the native element and their replacement by Irish immigrants was followed by a reduction of the hours of labor in the textile mills. In recent years the mills have been run with a polyglot help made up of representatives of all the races of southern and eastern Europe and Asiatic Turkey. Compared with the time when the operatives were mostly Irish, the factory workers have again won a reduction of an hour and a quarter a day. One need not take an optimistic view of labor conditions in the Massachusetts textile mills to recognize that 54 hours a week is a great stride in advance since the time when the regular working day was from sunrise to sunset.

The effects of the recent immigration upon the length of the working day can be best observed in the State of New York, which is affected by immigration more than any other State in the Union. The first decade of the present century has witnessed the greatest volume of immigration known in the history of the United States, and the bulk of that immigration has come from the countries of southern and eastern Europe. And yet the reports of the factory inspectors of the State of New York, covering an average of nearly a million factory employees annually, show for that decade a gradual reduction of the hours of labor in the State of New York. Comparing the city of New York with the remainder of the State, we find that the population of southern and eastern European birth in the great city increased during the same period from one-sixth to about one-fourth of the total population, whereas in the State outside the city of New York the immigrant population from southern and eastern Europe constituted in 1910 only one-sixteenth of the total population; yet after a decade of "undesirable immigration" more than two-thirds of all factory operatives in New York City work 10 hours or less on week days with a half holiday on Saturday, whereas in the remainder of the State, with a working population predominantly native, the majority still work longer hours. The lower wages of the native American wage earners in small cities and country towns might be explained by the lower cost of living, which permits the country workers to enjoy a greater measure of comfort than the more highly paid recent immigrant living in a large city. But the longer hours of the native American wage earner in the country admit of no such explanation.

Among the many charges against the recent immigrants not the least important one is that their ignorant acquiescence in dangerous and insanitary working conditions is a menace to the safety of the older employees. The immigration commission has accepted without criticism the employers' defense in work accidents, viz, that the majority of accidents arise from the negligence, the ignorance, and inexperience of the employees. There is, however, another side to the question. Many experts hold that most of the risks are humanly preventable, and their continuance is due to economic conditions beyond the control of the employee. Effective prevention of accidents in mines presupposes a carefully planned equipment involving considerable expense. But competition forces the mine operator to follow unsafe mining methods, which inevitably result in unnecessary sacrifice of human life. It is not the carelessness of the mine workers, but the carelessness of mine operators and their representatives that is, according to expert opinion, the cause of the high fatality rate in American mines. Similar dangerous conditions once existed in France and Belgium, but they were removed by stringent legislation and by an effective enforcement of the law. The theory which shifts the blame for accidents from the mine operator to the Slav miner tends to prevent the enactment of such legislation in the United States.

In the iron and steel mills there is the same popular disposition to shift the responsibility for accidents to "the ignorant foreigner," whereas expert opinion views the tremendous speed at which the plants are run as the real cause of danger. The greatest risk of death and personal injury is assumed by railway trainmen, who are all either Americans or natives of northern and western Europe. They have strong organizations and could not be replaced by non-English-speaking immigrants. Yet "acquiescence in dangerous and insanitary working conditions" appears to be the general attitude of organized and unorganized workers alike, irrespective of nationality. Obviously, organized labor does not feel strong enough to make demands which would involve large outlays by employers for safe equipment.

Organization of labor is nowadays generally recognized in the United States as the most effective of all existing agencies for the increase of wages and improvement of working conditions. It would therefore be a cause for grave concern if, it were true, as claimed, that the recent immigrants were not organizable, and that their employment threatened the existing labor organizations with disruption. The fact is, however, that the origin and growth of organized labor in the United States are contemporaneous with the period of "the new immigration," and that the immigrants from southern and eastern Europe are the backbone of some of the strongest labor unions. A notable example is the coal-mining industry, where the mine workers' organization has gained strength only since the southern and eastern Europeans have become the predominant element among them. One of the most troublesome problems which the organization of these immigrants has had to face has been the competition of the unorganized Americans of native stock.

Before 1880 all labor organizations were small in membership and their effect upon economic conditions was negligible. Like everywhere, during the infancy of organized labor, a union would spring into existence under the impulse of a strike, would flourish for a while, if successful, and would soon disintegrate. The work of organization has since been proceeding at an ever-increasing pace. During the first decade of the new immigration, 1880–1890, more labor unions were organized than throughout the previous history of the United States. The majority of the trade-unionists and Knights of Labor were of foreign birth, whereas the native Americans contributed less than their quota to the membership of labor organizations. The greatest success rewarded the efforts of union organizers during the first decade of the present century, the membership of labor organizations growing faster than the number of wage earners. Thus the greatest activity in the field of organization coincided with the unparalleled immigration of the past decade. The best field for observation of the effects of immigration upon trade-unionism is the State of New York, which receives more than its proportionate share of immigrants from southern and eastern Europe. A comparative study of trade-union statistics compiled by the New York Bureau of Labor and of the Federal immigration statistics shows that union membership rises and falls with the rise and fall of immigration. The fluctuations of union membership depend upon the business situation, which likewise determines the fluctuations of immigration. The harmonious movement of immigration and organization among wage earners is thus accounted for by the fact that both are stimulated by business prosperity and discouraged by business depression.

The question arises, however, whether the progress of trade-unionism would not have been greater had there been no immigration from southern and eastern Europe during the past decade of industrial expansion. An answer to this question is furnished by the comparative growth of trade-union membership in New York and in Kansas. The ratio of foreign born in Kansas has been steadily decreasing since 1880. At the same time Kansas has shared in the recent industrial expansion. Statistics show that the relative number of organized workmen is much higher in New York with its large and growing southern and eastern European population than in Kansas, where more than nine-tenths of the population are of native birth.

The comparison proves that recent immigration has not retarded the progress of trade-unionism, except, of course, when it is the policy of the unions to exclude the recent immigrants by prohibitive initiation dues and other restrictive regulations intended to limit the number of competitors within their trades.

Language is nowadays no longer a bar to organization among immigrants. The membership of every union includes a sufficient number of men of every nationality through whom their countrymen can be reached.

Many of the more recent immigrants from southern and eastern Europe had acquired familiarity with the principles of organization in their home countries. In Italy organization has lately made rapid progress not only among industrial workers, but also among agricultural laborers. In Russia, previous to the revolution of 1905, labor organizations and strikes were treated as conspiracies, but the revolutionary year 1905 outstripped the labor-union record of any other country. The strikes of that year affected one-third of all the factories employing three-fifths of all factory workers. The total number of strikers, at a conservative estimate, exceeded three and a half millions. The strikers drew together wage earners of all those nationalities which make up the bulk of our immigration from Russia—Hebrews, Poles, Lithuanians, Russians, and Ruthenians (Little Russians). In this connection it is worthy of note that the organizations of clothing workers in New York City, nearly all of whom are Russian and Polish Jews and Italians, comprise a higher proportion of the total number employed in the industry than the average trade-union in the United States.

If organized labor in the United States has not succeeded in welding together a majority of the wage earners, the fault is neither with immigration in general nor with immigration from southern and eastern Europe in particular. The primary cause is the substitution of machinery for human skill, which is taking the ground from the craft union. The latter, however, as a rule, does not seek to organize the unskilled laborers. Situations have arisen where the interests of the craft union have been antagonistic to organization among the unskilled. That organization among the unskilled is feasible, however, has been demonstrated in the coal-mining industry and recently in the Lawrence strike.

Another obstacle to the progress of trade-unionism is that the principal industries to-day are controlled by combinations, which have reduced competition among employers of labor to a minimum. In a contest of endurance between a trust and a trade-union the former is able to hold out longer, since it can shift the losses to the consumers. The only successful strikes against trusts have been those in which the majority of the strikers were immigrants from southern and eastern Europe, viz, the strikes in the anthracite coal mines of Pennsylvania and in the woolen mills of Lawrence.

One of the reasons for the greater power of resistance exhibited by the southern and eastern Europeans is the predominance among them of men without families. (The proportion of married men among the recent immigrants employed in bituminous coal mines varied from 49.4 per cent to 77.2 per cent; the proportion of married men whose families were living abroad averaged 27.6 per cent for all races, varying from 19.5 to 80.4 per cent.—Reports of the Immigration Commission, vol. 6, Tables 102 and 104.) The single European wage earner who manages to save a portion of his earnings can fall back on his savings if necessary. This relieves the pressure upon the strike fund. On the other hand, the families of recent immigrants, being inured to the most simple life in their home countries, can more easily endure the hardships of a strike than the families of native American wage earners. The southern and eastern European strikers are therefore able to hold out longer in a wage contest than the native wage earner.

The defeat of many strikes is charged against the immigrant, who, though supposedly too tractable under normal conditions, is said to be inclined to violence when aroused. Suffice it to say that strike riots are as old as strikes in the United States.

On the other hand, however, the United Mine Workers of America, whose members are mostly immigrants from southern and eastern Europe, has put into practical operation an industrial parliament, with separate representation for employers and employees, for the orderly regulation of the terms of employment. And lately another organization of recent immigrants, the Union of Cloak, Suit, and Skirt Makers, has created a joint executive body for the sanitary control of workshops. It can not be said, then, "as a general proposition * * * that all improvement in conditions and increases in rates of pay have been secured in spite of the presence of the recent immigrant." (Reports of Immigration Commission, vol. 1, p. 541.)

The results of the preceding discussion can be summed up as follows:

(1) Recent immigration has displaced some of the native American wage earners or of the earlier immigrants, but has only covered the shortage of labor resulting from the excess of the demand over the domestic supply.

(2) Immigration varies inversely with unemployment; it has not increased the rate of unemployment.

(3) The standard of living of the recent immigrants is not lower than the standard of living of the past generations of immigrants engaged in the same occupations. Recent immigration has not lowered the standard of living of Americans and older immigrant wage earners.

(4) Recent immigration has not reduced the rates of wages, nor has it prevented an increase in the rates of wages; it has pushed the native and older immigrant wage earners upward on the scale of occupations.

(5) The hours of labor have been reduced contemporaneously with recent immigration.

(6) The membership of labor organizations has grown apace with recent immigration; the new immigrants have contributed their proportionate quota to the membership of every labor organization which has not discriminated against them, and they have firmly stood by their organizations in every contest.

There is consequently no specific "immigration problem." There is a general labor problem, which comprises many special problems, such as organization of labor, reduction of hours of labor, child labor, unemployment, prevention of work accidents, etc. None of these problems being affected by immigration, their solution can not be advanced by restriction or even by complete prohibition of immigration.

The advocates of restriction are conscious of the fact that without immigration the industrial expansion of the past 20 years would have been impossible. But they believe that the pace of progress has been too fast and that the interests of labor would be furthered by a slower development of industry which would dispense with southern and eastern European unskilled laborers. This is the gist of the recommendations of the immigration commission.

The weak point in this argument is that it takes no cognizance of the cardinal principle of modern division of labor, viz, that in every industrial establishment there is a fixed proportion of skilled to unskilled laborers. Were the immigration of skilled mechanics to continue as heretofore, while the expansion of the industry slowed down in consequence of a reduced supply of unskilled labor, a corresponding proportion of the skilled immigrants could find no employment at their trades. The skilled crafts whose organizations favor the exclusion of unskilled immigrants would be the first to suffer in consequence. The effects of the disproportion in the immigrant labor supply would be temporary, but a slow growth of industry would tend to curtail the opportunities for advancement of the wage earners who are already here.

On the other hand, the unemployed could gain nothing from a slow growth of industry. Seasonal and cyclical variations in the general demand for labor, as well as variations in the demands of individual employers, would continue on a reduced scale of national production. The mere exclusion of unskilled immigrants, and even of all immigrants, will not provide employment for sailors in the winter, or for the full winter force of a Wisconsin logging camp in the summer; nor will it revolutionize the world of fashion. In order to provide regular employment for all workers, it would be necessary to run all industries upon a common time schedule, like railway trains are run on connecting lines. No plan of such a readjustment has as yet been worked out that would appeal to practical people, nor are the advocates of immigration restriction ready to incorporate Edward Bellamy's scheme into the pending immigration bill. Certainly an adjustment of the busy and slack seasons of a quarter of a million factories will not spring up spontaneously from an act of Congress closing the gates against immigrants.

As a theoretical proposition, it seems quite plausible that if restriction of immigration resulted in a scarcity of labor, employers would be forced to pay scarcity rates of wages. It is needless, however, to indulge in abstract speculation on the possible effects of a reduced supply of unskilled immigrant labor, when such a condition actually exists in the United States throughout the agricultural sections. Few immigrants seek employment on the farms. The number of southern and eastern European farm laborers in the United States is negligible. Moreover, there is a constant stream of native labor from the farms to the cities, which has led to an actual decrease of the rural population in many agricultural counties. Farmers generally complain of scarcity of farm labor during the agricultural season. Nevertheless, the wages of farm laborers are lower than the wages of unskilled laborers in mines and mills, where the proportion of recent immigrants is rapidly increasing. Scarcity of labor has not forced the farmer to pay scarcity wages, but has merely retarded the growth of farming. The shutting out of unskilled immigrants would have similar effects in manufacturing and mining.

Scarcity of unskilled labor would hasten the general introduction of mining machinery. The labor that would thus be displaced would form one substitute for immigration.

The mines and mills of the Southern States which have failed to attract immigrants utilize the labor of farmers and their sons. The

two million tenant farmers offer great possibilities as an industrial reserve available during the winter months. The farm being their main source of subsistence, they are able and willing to offer their labor during the blue winter months more cheaply than freshly landed immigrants. The efforts of trade-union organizers among this class of English-speaking workers have met with scant success. The substitution of the cheap labor of the American farmer for the labor of the Slav or Italian immigrant would tend to weaken the unions and to keep down wages.

The discontinuance of fresh supplies of immigrant labor for the mills and factories of New England would give a new impetus to the establishment of factories in the South, where there is an abundant supply of child labor, and in the rural districts of agricultural States with an available supply of cheap labor.

The employment of all these substitutes for regular wage earners certainly has its limitations. But there is in the United States, as in all industrial countries, a steady flow of labor from rural to urban districts. In the absence of immigration of unskilled laborers the depopulation of the rural districts would be accelerated. A stimulated movement of labor from the farm to the factory would check the growth of farming; the prices of foodstuffs would rise in consequence, which would tend to offset the advantages to the wage earners from a possible rise of wages.

Still, should all the substitutes for immigration prove inadequate, it does not necessarily follow that scarcity prices would rule in the American labor market. It must be borne in mind that capital is international. Parallel with the immigration and emigration of labor to and from the United States, there has been going on an immigration of European capital to the United States and an emigration of American capital abroad. It is estimated that the total amount of European capital invested in the United States is approximately $6,500,000,000. In other words, European capital came together with European labor to assist in the development of American industry. Should there arise a scarcity of labor in the United States, new investments of European capital will seek other fields. On the other hand, billions of American capital are already invested in foreign enterprises. At present these investments can not compare with the profits of American industries annually reinvested at home. If, however, a scarcity of labor were created in the United States, more American capital would seek investment abroad.

The increased investment of American capital in the industrial development of foreign countries with cheap labor must eventually react upon labor conditions in the United States. Certain of the most important American industries depend in part upon the export trade. A scarcity of labor in the United States would induce many American manufacturers to follow the example of their English, French, Belgian, and German competitors who have found it more profitable to establish factories in foreign countries than to export their products to those countries. Such an emigration of American capital would materially affect the export trade of the United States and eventually throw out of employment a number of American wage earners dependent upon that trade.

It is evident that while restriction of immigration can limit the supply of labor, it is powerless to prevent a corresponding limitation of the demand for labor.

A suggestion of the probable effects of a reduced demand for labor can be gained from the experience of the recent crisis. When the operations of the steel mills were reduced, a great many men were laid off. The skilled men, however, were offered positions as laborers. Notwithstanding their high American standard of living, their efficiency, and their high standard of wages, they were glad to turn to unskilled occupations at 15 cents, and even at 12 cents, an hour. The distribution of the steel workers into skilled and unskilled would obviously have been the same, if, as a result of restriction of immigration, the operating force had never grown beyond the number employed during the last crisis. The skilled men who were forced down the scale of occupations by the crisis would never have risen above the grade of unskilled labor.

It must be borne in mind that for eight months during the crisis emigration from the United States exceeded immigration, the effect being the same as if all immigration had been prohibited. No scheme of restriction could be so far-reaching. And yet even the net emigration of over 100,000 aliens within eight months reduced the number of industrial wage earners only about 1 per cent. The literacy test passed by the United States Senate would still let in the vast majority of unskilled laborers, while the exclusion of the rest would eventually be made up for by a corresponding falling off in the number of returning immigrants. The net result would still be far in excess of the average immigration for the decade 1891–1900. Yet the complaint against "oversupply" of labor was then as strong as to-day, and restriction of immigration was urged as a remedy. It is evident that the literacy test for immigrants, if adopted, will leave the labor situation unchanged.

Mr. BURNETT. Mr. Chairman, I yield five minutes to the gentleman from North Carolina [Mr. SMALL].

[Mr. SMALL addressed the committee. See Appendix.]

Mr. MOORE of Pennsylvania. Mr. Chairman, is the gentleman from Alabama [Mr. BURNETT] ready to go on?

Mr. BURNETT. I prefer that the gentleman use some of his time now.

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield 12 minutes to the gentleman from Missouri [Mr. BARTHOLDT].

The CHAIRMAN. The gentleman from Missouri [Mr. BARTHOLDT] is recognized for 12 minutes.

Mr. BARTHOLDT. Mr. Chairman, never before in the history of our country has an attempt been made to restrict immigration at a time of great prosperity and when American labor was fully employed. Thus far such efforts have been confined to periods of industrial depression, when our own labor was unemployed or when an influx of foreigners would accentuate hard times. Therefore it is inconceivable to me why the fundamental policy of this Government with respect to immigration should be changed now, when new immigrants are so largely in demand in nearly all parts of the country.

There is certainly no economic reason for further restriction, and the arguments occasionally advanced by the American Federation of Labor in favor of such a policy, while comprehensible at other times, have really no application to present conditions, and a careful survey of the industrial field, I am sure, would convince our labor leaders of that fact.

Ponder as I may, I can find no excuse for the proposed action of the majority, except it be political expediency. It is intended perhaps to clear the deck, so to speak, and to relieve the incoming administration, which has blown hot and cold on this subject, of a vexatious problem. If the immigration bill is disposed of now, assuming that the Senate would also pass it, there will be divided responsibility, inasmuch as the House is Democratic and the Senate is Republican. This would enable our Democratic friends to wash their hands of the whole business and to avoid the necessity of assuming the burden at a time when they will have full control of all branches of the Government.

It has been argued, and with a great deal of justification, that after the people have decided on a change of parties in the Government no more important action should be taken by the old régime; and no one is more zealous in the advocacy of this view than the gentlemen on the other side of this aisle. In deference to this contention, our Democratic friends even go so far as to refuse in the other House to confirm presidential appointments such as are regularly and legally made under powers conferred upon the President by the Constitution.

Under these circumstances, I say, the question certainly arises whether the Republican minority of this House should aid the Democratic majority in what seems to be purely a political game, and whether it would not be right and proper for the Republican minority to refuse this aid when it comes to the solution of a fundamental problem and the change of a traditional policy of the Government. My own judgment is that the immigration problem should be left to the next Congress to solve, a Congress which will come fresh from the people and which will be controlled by a party that has received a popular mandate to decide such questions, not as we wish to decide them but as the newly selected Representatives see fit to solve them.

There is only one other explanation for the precipitate action of the majority in this matter, which, however, I can not quite reconcile with my conception of American public spirit. Could it be possible, Mr. Chairman, that Members have been intimidated by certain secret societies, by organizations which are proscribing people on account of their religion, and are opposing immigration on such un-American grounds? I can hardly persuade myself that the great Democratic Party, which, the same as the Republican Party, has always stood for freedom of conscience and religious liberty, should have fallen to the depth of heeding those who are daily preaching a religious war. I know this to be an issue in this country at the present time, although few have the courage to speak about it. For one, I shall not hesitate to speak out, however, for it has been my firm conviction that if the proud temple of our liberties should ever crumble to dust it will not be because of those who publicly assail it, but it will be because public men, as well as the public press, are afraid to discuss and warn the American people of the hidden dangers which are threatening our liberties.

I speak from my experience during the last campaign. About a month before the adjournment of the last session of Congress I received a circular in which certain questions were propounded; among others, whether I favored an educational test for immigrants. There was no name given. Merely a post-office box was mentioned, to which I was expected to direct my answer.

I replied courteously that I should be glad to answer all their questions, but before doing so must request them to mention at least one name, as I had made it a rule of my official as well as private life never to answer anonymous communications. I never received a reply. Not one member of that organization was man enough to step to the front and mention his name.

No sooner had the campaign begun in earnest than an anonymous circular made its appearance and was distributed in hundreds of thousands of copies all over my district in which I was blacklisted as a "pro-Romanist," with a footnote to the effect that I had "always voted for pro-Roman immigration." This, Mr. Chairman, in spite of the fact that no immigration bill has been voted on in this House for many years.

I am sure the membership of this House will agree with me when I say that if a public man is to be stabbed in the back with daggers hidden under the cloak of "Americanism" simply because he refuses, in legislating on the subject of immigration, to make religious distinctions, we are confronted with a problem much more serious than is the problem of immigration, for if acquiesced in it would signify the death at the hands of a political mafia of religious liberty; and it will also be conceded, I hope, that those who make the assault on him on such

grounds are a danger to American institutions, because they are violating the spirit and genius of true Americanism. I am a Lutheran. My father and mother were Lutherans. My wife is a Lutheran, and my child was christened in that faith. I believe in a complete separation of church and state, and in this belief go so far as to assert that the daily prayers in this House, as well as all Sunday laws, are unconstitutional, because they signify a mixing of church and state. These views, although Lutheran doctrine, I hold not as a Lutheran, but as an American who reveres the Constitution. As such, too, I believe in religious freedom and religious tolerance. Therefore, and I say it with utmost deliberation, when I am called upon to violate the oath which I have made 10 times in this House to uphold the Constitution, when I am asked to discriminate between citizen and citizen because of their religion and to vote to restrict immigration because part of it happens to come from Catholic countries, rather than comply with such a demand, Mr. Chairman, I would resign my seat in this House, take pen in hand, and write editorials against such an infamous proposition. [Applause.]

Whatever may be the fate of this bill, whatever motives or reasons there may be in your minds for its passage or defeat, I sincerely trust that among the Members who favor it there is not a single one to be found who is impelled by fear of an un-American Black Hand in his district such as I have described. I say again, the men who from religious prejudice practice such intimidation on political candidates and by implied threats and dark-lantern methods exact pledges from them at election time are enemies of our institutions; and a public servant, by allowing himself to be thus coerced, would be faithless to the Constitution and to one of the most sublime American ideals. [Applause.]

And now, Mr. Chairman, permit me briefly to discuss the merits of this bill. It is needless to say that in dealing with immigration we are dealing with a very grave subject. It means to interfere artificially with a natural phenomenon caused by an inherent instinct of humanity—their migration. We are playing not with material interests or dollars but with souls—in fact, with human lives. One line in an immigration bill might affect the fate of thousands, and one word might change the life career of as many human beings. The question of immigration is one which, in my judgment, is more talked about and less understood than almost any other problem before the American people. As a rule people only see the surface without grasping its deeper significance. Its dark side is systematically paraded and its bright side hidden from view. When we have to deal with a sincere demand for restriction, based upon economical conditions, the problem is perhaps not so difficult to solve, but when, as is undoubtedly the case, a good part of the opposition to immigration is based upon what I believe to be innate prejudice, then the difficulties presented become insurmountable, because neither reason nor arguments will be of any avail.

I am in favor of restricting immigration to the extent it is now restricted; I want to see excluded all the classes now mentioned in the laws, but I am opposed to further radical restriction, because I think that, under present conditions, particularly at this time, it is no longer the serious problem it was even a few years ago. Before I go into facts and figures to make good that statement, I want to lay down a few fundamental propositions: In the first place, we must remember that every immigrant is really a valuable addition to the capital of this country. Europe is paying the expense of raising and educating men and women, and then when they become old enough to pay back the outlay to European society these men and women emigrate to the United States to identify themselves with our institutions, to offer us their brain and brawn for the purpose of aiding us in building up our country. They must naturally be an asset to us.

Another suggestion I should like to make to determine the value of immigration. It is this: Whenever in cities and towns of this country the census figures show an increase in population there is general rejoicing; in other words, the people regard such an increase as an evidence of growth and progress and prosperity. And they also have a right to regard it as indicating an increase in values, because it is population which makes values. Take half of the people out of the city of New York and the property of that city would be worth but one-half of what it is worth to-day. If you would put 10,000,000 people into Texas to-day, the value of property in that State would rise from $50 an acre to probably $500 an acre. In other words, population determines values. The more people the higher the value of land and property.

We have not sifted the facts connected with immigration up to something like 20 years ago. Until that time people came in, and the supposition was that the vast majority came for the purpose of bettering their condition; in other words, they were people imbued with energy and a desire for aiding themselves. As Bismarck once said, "Immigration does not consist of the poorest classes of Europe by any means." By that the great German statesman meant to say that the man who is able to raise enough money to defray the expenses of the trip to the New World for himself and family is not a pauper in the sense in which we accept that term. He must be a man of some push and energy; and these, I submit, are the very qualities which count in life and which we welcome to these shores. From my study of the subject, extending over 40 years, I believe I can truthfully say that even to-day the vast majority of the immigrants come with the idea in their minds of bettering their economic condition.

We are all agreed, I believe, that immigration has been a great boon, if not the greatest, to this country, and that of all the factors which have contributed to its wonderful growth and development none has been more important. Even to-day immigrants or the sons of immigrants are performing half of the real hard work of the country and they assimilate so rapidly that the second generation are as good Americans as we are. And in the whole history of the country no instance can be cited of any serious trouble caused by lack of assimilation or nonassimilation. There have been labor troubles, yes, but they were always of an economic and not a racial nature and merely proved my contention, often made on this floor, that if an immigrant finds—and he discovers this soon after his arrival—that he has to pay American prices for American goods, he will also demand American wages. It is my deliberate judgment that if you seriously restrict immigration, and this is the avowed purpose of this bill, you do not solve a problem, but you create a new one, and a problem much more serious than the one you complain of now. But I shall speak of this phase later

One of the arguments in favor of restriction is the possibility of overcrowding the United States. Let me say a word on that subject. In the United States we now have 25 heads to the square mile, figuring the present population at 90,000,000. In Germany they support 308 heads to the square mile, and Belgium supports 650 people to the square mile. If the United States should ever become as densely populated as Belgium is to-day, we could support a population of 2,342,593,500 people. The fact is, Mr. Chairman, that you can move all the people of the United States into the State of Texas, and then Texas would not be populated as densely as Belgium is to-day; and I claim that that country represents the highest type of civilization which is able decently to support the largest number of people to the square mile.

Of course if we eye immigration askance, if we regard these waves of humanity as a sort of hostile invasion, then all these arguments would have no value with us. If those who hold such views are right, then it would be better and more consistent to shut the doors of the Republic altogether. But I am one of those who still believe in immigration, because we can not do without it. There is congestion in the large cities, true; but that same congestion exists in London, Berlin, Vienna, St. Petersburg, and all other large cities of the Old World, yet there no attempt has ever been made to exclude foreigners.

Last year I was passing through a part of Germany where they were building a railroad, and I talked to one of the men, trying to find out what character of labor they were employing. Although I addressed the man in German, he could not understand me. He pointed out the foreman to me, who I found was a German, and I asked him what kind of labor he was employing. He replied they were Italians, every one of them. Says I, "Italians? Can't you find labor in such a densely populated country as Germany?" "No," he said, "Germans are doing a better class of work; they will not build railroads; we can not get them for this purpose." And he said that the Italians were sober, industrious, and reliable, and particularly competent in railroad construction work, and for these reasons they employed them. There you have a country with 308 people to the square mile, and yet not one word of protest is raised on the part of labor against the employment of these Italians, while here, in a country with but 25 people to the square mile, the cry is persistently kept up that immigration should be stopped on the ground that it is a serious competition with American labor.

If you will look at the latest bulletin, the October bulletin, issued by the Department of Commerce and Labor, you will find a very remarkable fact, Mr. Chairman, in relation to the departures. I am glad the figures are now being given in regard to the departures. At the time I was chairman of the Immigration Committee, 18 years ago, we could not get any figures on the departures of emigrants. In this bulletin you will find that in the year ended June 30, 1911, 155,000 laborers—I only give the round numbers—came to this country, and in the same year 172,000 laborers departed; in other words, 18,000 more laborers

left our country than came here as immigrants. Now, is not that a very important fact? And this strange phenomenon seems permanent. Look at the figures for the fiscal year 1912. You find in the official reports that of the class of immigrants styled "laborers" there arrived during the year ended June 30, 1912, 135,726, while in the same period 209,279 departed. In other words, over 73,000 more left this country than arrived in that period of time.

These figures certainly show that immigration is no problem at this time. The total immigration last year was 878,000. Deduct from that number the 295,000 who returned to their native countries and we have 582,000 left. Deduct from that number the 246,000 women and children, who certainly should not be counted as competitors with American labor, and there is left a total of only 336,000. I do not believe there is a civilized country on earth that does not get just as many foreigners as that number represents every year. And I go further, and say there is not a country on earth which would not be glad to receive them at the present time. A few years ago at Bremen one of the captains of industry of that city told me they could find immediate employment in the city and its surrounding territory for at least 8,000 men.

We see them pass through here—

He said—

but no inducements of any kind will stop them. They are bent on embarking for America, although we are offering them high premiums for staying with us.

I now come to the question whether we need this influx of laborers or whether we can get along without them. Let us see. I hold in my hand a number of newspaper clippings. A Pittsburgh dispatch to the New York Times says:

Pittsburgh is experiencing a labor famine so serious that many big industries are advertising far and wide to get men. Last week the shortage in the Connellsville coke region necessitated the blowing out of 1,200 ovens at a time when record prices are being charged for foundry and furnace sizes. Contractors having big jobs are offering higher wages than have been paid since the boom years preceding the panic of 1907. Some concerns in the Pittsburgh district sent agents to accost men walking in the streets who appeared to be idle. The employing agent of one corporation said he could give work to 7,000 laborers.

The New York Evening Post says:

There is almost universal complaint in the iron and steel industry that it is difficult to secure a sufficient supply of labor, and this is true not only of the foundries, rolling mills, steel works, and blast furnaces, but of the coke works as well. Indeed, according to the Iron Trade Review the scarcity of labor is particularly pronounced in the Connellsville coke region.

In another New York paper I find the following, under the headline:

NEW YORK NEEDS 100,000 SERVANTS.

An exhaustive report on New York employment agencies, which Commissioner of Licenses Herman Robinson has prepared, was turned in to Mayor Gaynor yesterday by the commissioner. The servant problem, which is dealt with in detail, shows that there is a great scarcity of servants. More than 100,000 of them could find employment if they were here.

The New York Herald contains, under the headline "All industries need men—Prosperity that is sweeping country causes enormous demand for labor," the following:

From every direction reports continue to come in showing that in various industries there is much more labor to be performed than there are men for the jobs, although wages paid to-day are higher and more attractive than at any other time in the history of the country.

Construction work is suffering from perhaps the greatest dearth of labor ever experienced; machinery factories, steel mills, cement works, brickyards, lumber yards, stone quarries, and innumerable other lines of trade and industry are crying for workmen. The shortage includes all lines of labor, skilled and unskilled.

Mr. Chairman, these are only a few samples of the reports to be found in the newspapers of all sections of the country. Therefore am I not right in saying that the real problem to-day is not how to keep out immigrants, but how to get them and to keep them here? And is it not pure folly to try and restrict immigration at such a time?

The advocates of restriction lay great stress on the fact that many of the new immigrants do not remain with us, but return to their home countries after they have accumulated a little money. For one, I should not like to criticize what is a natural impulse of the human heart—the longing for home, the desire of a man to visit again the scenes of his childhood. And from an economical standpoint the going and coming of certain immigrants is even desirable. They go where there is work to do, but if the opportunity for employment becomes limited these "birds of passage," as they have been called, go back home and leave the field to American labor, only to come again when times become better. In this manner immigration regulates itself. And as to the money they take to Europe, let us be just and remember that they have given an honest equivalent for every dollar they have in their pockets. Why should we criticize those poor people when we remain indifferent to the example of the wealthy nabobs who go to London and Paris to spend their American money and actually look with scorn upon American democracy and American institutions after having once basked in the sunshine of royal splendor? For one I would find less cause for criticism in the longing for home of the poor fellow who has earned his few dollars in the sweat of his face than in the extravagances of the rich man, who, though a native American, forgets his own country in lavishing his wealth upon European society.

I want to discuss this question fully from the standpoint of the laboring man, Mr. Chairman, but before doing so let me say a word about the illiteracy test. The advocates of restriction know full well that the ability to read is no test of character. They know that to impose it would admit the anarchist, the nihilist, the crook, and the man who for some reason or other has to leave his own country, while it would bar out the unfortunate but honest poor man who comes with two strong arms and a healthy mind and a willingness to identify himself and his children with our institutions.

I regard an illiteracy test not only as a hardship on the very men we want and need, but I consider it unwise and unjust besides. In imposing it we are practically punishing a lack of opportunity. A man has been raised under conditions in Europe which have made it impossible for him to acquire the faculty of reading. That is his misfortune, of course, but when he comes to this country and we propose to punish him for his unfortunate lack of opportunity by shutting our doors in his face, is this not adding injury to his misfortune? This lack of opportunity is brought about by conditions over which he has no control. He has been raised in such poor circumstances that his parents were unable to send him to school; he had to work, perhaps, from the time he was 8 or 10 years old, and he has had no opportunity to learn to read and write. Now, this illiteracy test does not apply to Germans, because I do not think more than half of 1 per cent of Germans would be kept out of this country if the test were applied; nor would it affect the Scandinavians, Irish, English, and so on; it mainly applies to immigrants from southern and southeastern Europe. I do not believe that those who can read would make better Americans, from the standpoint which we should consider, than those who can not. We have, of course, educated classes and schooled laborers in great sufficiency in the United States, but it is a question whether the educational test would not keep out the very men we need most. It would not apply so much to skilled laborers; it would mainly affect unskilled labor, and that, I believe, is the very kind we want and need in the United States, namely, men who will perform work which your son and my son and even the son of the German and Irish immigrant will not do—the rough and the menial work of the country.

It has been well said that the newcomers are lifting upon their shoulders those who had come previously and enabling them to secure a better kind of employment. I have always been opposed to the illiteracy test for the reasons I have stated, but one time in my career I was compelled to report a bill which provided an illiteracy test. I was outvoted in my committee, but as chairman of the committee I was compelled to report that bill, and I have been sorry for it ever since. That bill passed both Houses, but President Cleveland vetoed it, and there are many citizens of this country who give Cleveland credit, even to-day, for that message, in which he took the ground that the anarchist, the agitator, the man who makes long fingers, the man who has certain reasons for wanting to leave the Old World would be fully competent to pass this test, while the desirable emigrant, the man who comes, as I have said, to offer us his muscle and brawn, would be barred and shut out.

The New York American says of the pending bill, among other things:

And its foolish educational test, which would have kept the mother of Abraham Lincoln out of the country, is designed to keep out of our country millions of honest, earnest, sincere men and women that the country needs.

Fortunately the bill will not pass. The House retains enough of honest Americanism to stamp it out of existence by a vote, and if the House should fail, the President is compelled to retain his consistency and self-respect by stamping it out of existence by a veto.

I believe the illiteracy test to be hypocritical pretext. What its advocates have in view is not education, but restriction. They want to keep out immigration, and as they can not discriminate between the different countries, as it would be a violation of international comity to say, "We want no more immigrants from Italy," they have resorted to the subterfuge of a test which, if applied early in our history, would have kept out of the country some of its very best blood, and probably many of the ancestors of those who are on this floor to-day. If the Germans and Irish and Scandinavians were still coming in large numbers, some other pretext would be devised to keep them out, for what is the objection to the Italians? Is it right and just to proscribe a whole nation because of the misdeeds of a few? Who are the dynamiters, the lynchers, the White Caps,

the moonshiners? Are they Italians? Not one of them. In fact, there is not an immigrant among them. They are all Americans.

The vast majority of the immigrants from Sicily and southern Italy are like the immigrants from other countries—honest, thrifty, and industrious people. Like every other element of the population they may have occasional fights, yet the police records of the large cities show them on the whole to be good, sober, law-abiding, and hard-working people; and as to their assimilation, I have seen them in the schools of St. Louis when on the Fourth of July they carried aloft the Stars and Stripes and sang American songs, and I made up my mind then and there that these future citizens of our country would be just as good Americans as I am or anybody else can possibly be.

Now, Mr. Chairman, let me say a word about the competition of immigration with American labor. You will admit that if restriction is to be resorted to because of such competition partial restriction would afford but partial protection. In that case nothing short of total prohibition would cure the evil, and as a friend of the wageworker I should be the first to advocate such radical legislation. It might be a violation of principle, of good morals, of the spirit of liberty, and of international comity, but self-preservation, being the first law of nature with nations as well as with individuals, would justify the closing of the doors of the Republic. But how easy it is to prove the fallacy and absurdity of these arguments.

In the fifties, and more especially under Buchanan's administration, when the Know-nothing movement was at its height, this country witnessed the same outcry, even more furious than now, against the admission of foreigners, only at that time it was more justified because the country passed through a crisis, many factories being closed and labor being unemployed. Congress was asked to stop immigration, which was erroneously regarded as the source of the trouble. But the appeal was unheeded, and how fortunate for the country, for the 50 years which have since elapsed no one will deny were destined to be the most glorious, the most prosperous period in our history in spite of—some will even assert because of—the fact that immigration had practically remained unrestricted.

If the influx of foreigners tends to a reduction of wages and to an increase of the number of unemployed and is generally detrimental to the country, why is it that during the last 50 years, the period of the largest immigration, wages were higher than ever before, labor more universally employed, and the American people more prosperous than at any previous time? Answer these questions in your own mind, and you will irresistably be led to the conclusion that immigration and prosperity are corelated factors. Of course, we Republicans know that the change from hard to good times, wrought in spite of continued immigration, was mainly due to a change of our economic policy from free trade to protection; but this is not what I wish to discuss here, except in as far as it has a bearing on the pending question. Under free trade Europe, of course, manufactures to a greater extent for the American market, and then the influx of immigrants always decreases, because Europe itself furnishes better opportunities for employment, while under the protective system and the consequent better times Europe's idle laborers are naturally attracted hither. This fact, by the way, is frequently forged into a weapon against the protective system. We exclude the fabrics, they say, but let the hands that make them come in. Suppose this is so. Is it not infinitely better than if we were to admit the fabrics and leave the hands that make them in Europe to spend their money there? It must be remembered—and this most important factor is generally overlooked by the restrictionists—that every immigrant is a producer and a consumer at the same time. Every newcomer brings, as Speaker Reed once tersely expressed it, his job with him. He needs food, clothing, and shelter, and while he himself produces he at the same time consumes the products of others. The vast majority of the newcomers enter upon their life here by performing menial labor; consequently the competition with American skilled labor is ridiculously small. But if their coming should result in some competition, is not this counterbalanced by the fact that the needs and necessities of an additional half a million people are to be supplied by the American market?

There was a time when workingmen were induced to smash the machines which temporarily threw them out of employment. To-day they ridicule the idea, because they have learned, first, that hands are required to construct the machines, and, second, because all labor-saving inventions have so increased the consumption of the articles manufactured by their aid as to leave just as much work to be done as before. It is exactly the same with immigration. The increase of productive power caused by it is practically neutralized by augmented consumption. So the machine and the immigrant bring their own salvation with them. When the time comes, however—and no doubt it will come—that labor-saving appliances will be so perfected as to bring about a continuous excess of the world's supply over the world's demand, then the only logical remedy will be a reduction of the hours of labor. But never will I believe that the voice of labor, of intelligent American labor, will in seriousness be raised against the downtrodden of the Old World who knock at our doors begging for the privilege of breathing under the sun of a free country. American labor cherishes its constitutional rights of "life, liberty, and the pursuit of happiness," and will never deny them to others. It will never kick shipwrecks, while attempting to board our well-supplied craft, back into the roaring sea.

For these reasons, Mr. Chairman, and many others which I have not time to discuss, let us as a Nation of immigrants adhere to the great doctrine, the genuine American doctrine, that the man who comes to us with strong arms and a stout heart and a determination to better his condition by honest labor is a valuable and welcome addition to our population, and do not let us forget what we owe to immigration; how since 1840 it has changed the face of this continent; how it has turned deserts into flower gardens, forests into thriving towns; how it has removed the line of civilization from the Mississippi to the Pacific Ocean; how it has added by hard, manual work, by energy and untiring effort, to make this Nation the greatest industrial nation of the world. "The American of a hundred years from now," said Rev. De Witt Talmage, "is to be different from the American of to-day. German brain, Irish wit, French civility, Scotch firmness, English loyalty, Italian æsthetics, packed into one man, and he an American! It is this intermarriage of nationalities that is going to make the American Nation the greatest nation of the ages."

Remember, also, that besides its brain and muscle, which represent untold amounts of capital, immigration brings millions upon millions of cash to our shores, and let no one forget that the wealth of this country in land, forest, and mountain is barely scratched; that where some now think we have room for no more will in the future be found the happy homes of millions of people. [Applause.]

Mr. BURNETT. Mr. Chairman, I yield five minutes to the gentleman from Tennessee [Mr. AUSTIN].

Mr. AUSTIN. Mr. Chairman, I am going to give this bill my support and, in the brief time allowed me, will give some of my reasons. My only regret is that it does not go far enough and include a character test as well as an educational test. The Republican Party, 16 years ago, in national convention, when it nominated William McKinley for President, declared as follows:

For the protection of the quality of American citizenship and the wages of our workingmen against the fatal competition of low-priced labor we demand that the immigration laws be thoroughly enforced and so extended as to exclude from entrance to the United States those who can neither read nor write.

Following that declaration our leader, the leader of the party to which I owe my allegiance, the good, wise, and beloved McKinley, sent this message to Congress:

Our naturalization and immigration laws should be further improved to the constant promotion of a safe, a better, and a higher citizenship. A grave peril to the Republic would be a citizenship too ignorant to understand or too vicious to appreciate the great value and beneficence of our institutions and laws, and against all who come here to war upon them our gates must be promptly and tightly closed. Illiteracy must be banished from the land if we shall attain that high destiny as the foremost of the enlightened nations of the world under Providence we ought to achieve.

President Roosevelt, in his message to Congress, said:

The second object of a proper immigration law ought to be to secure by careful and not merely perfunctory educational test some intelligent capacity to appreciate American institutions and act sanely as American citizens.

The great Republican Party, in its convention at Chicago in 1912—this good year—wrote this declaration or pledge:

We pledge the Republican Party to the enactment of appropriate laws to give relief from the constantly growing evil of induced or undesirable immigration, which is inimical to the progress and welfare of the people of the United States.

Mr. BARTHOLDT. Will the gentleman yield?

Mr. AUSTIN. I have only five minutes. Had I as much time as my genial friend from Missouri, I would gladly yield to him. This is not a political question. It is not a religious question. This is a patriotic question in which is involved the civilization, the progress, and the happiness of the American people.

Who demands this legislation? We created a commission composed of three Senators, three Members of the House of Representatives, and three leading citizens from private life, and they spent a million dollars of the money of the taxpayers in four long years carefully studying this great question here and abroad. Of that commission composed of nine men, eight of them favored the provisions of the Burnett law and recommended favorable action on the part of Congress. At the other

end of the Capitol practically a united Senate, composed of Democrats and Republicans alike, passed a bill in line with the declarations and pledges of the Republican Party.

Who else demands it? The Democratic Party is on record in its platform of 1896 in favor of legislation along these lines.

The Knights of Labor favor this measure. The American Federation of Labor, with more than 2,000 delegates——

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. AUSTIN. May I have two minutes more?

Mr. BURNETT. I yield the gentleman two minutes more.

Mr. AUSTIN. I say the American Federation of Labor, with more than 2,000 delegates in convention, demand the educational test, a money test, an increased head tax, and the abolition of the Distribution Bureau in the Department of Commerce and Labor.

The Farmers' Union, with a membership of 3,000,000, demand it; the National Grange, the Farmers' National Congress, the Junior Order of American Mechanics, with a membership of over 400,000, demand it; and I deny the statement that this patriotic organization is anti-Catholic or antireligious.

The Brotherhood of Locomotive Engineers, the Order of Railroad Conductors, the Trainmen's Association, and the Patriotic Sons of America—practically every labor organization and every patriotic organization—both political parties, Democratic and Republican, are on record demanding this legislation.

Mr. Chairman, prior to 1883, 2.7 per cent of our foreign immigrants were illiterates. To-day 33 per cent are illiterates. Out of 1,500,000 immigrants from Italy 800,000, or 54 per cent, are illiterates. How many of them seek American citizenship under our naturalization laws? Practically none.

Mr. SABATH. Mr. Chairman, will the gentleman yield?

Mr. AUSTIN. If the gentleman will yield me some time, I will be glad to do it.

Mr. SABATH. I wish I had some time to yield the gentleman.

Mr. AUSTIN. Seven-tenths of these Italians do not naturalize or attempt to secure American citizenship. [Applause.]

Mr. BURNETT. Mr. Chairman, I yield three minutes to the gentleman from Kentucky [Mr. CANTRILL].

Mr. CANTRILL. Mr. Chairman, it was not my intention to engage in this debate until the distinguished gentleman from California [Mr. KAHN] saw fit to cast a slur upon the good old State of Kentucky, and so long as I am a Member upon this floor coming from that State no other Member of this House can cast aspersions upon my old Kentucky home without a word of protest from me. [Applause.] It was very unfortunate in the gentleman from California to raise the question of illiteracy in Kentucky, because if he will examine the statistics he will find that that portion of Kentucky where he says this illiteracy exists is the solid Republican portion of Kentucky, and the Democratic Party in Kentucky to-day is giving its energy to bringing about a reform in our educational matters. As our educational standing progresses, so the Democratic vote in Kentucky progresses. But, Mr. Chairman, it is a fact that the citizenship of eastern Kentucky, where this illiteracy in large extent exists, is the purest American blood in this Nation.

It is the peer of any citizenship in the Nation, and as a citizen of Kentucky I stand here to say that to-day it is a problem in our Commonwealth, to the solution of which all of our citizens, Democrats and Republicans alike, are directing their energies, and we have dedicated ourselves to educating our illiterate citizenship of our State, regardless of any political conditions and regardless of the color of that citizenship. Our people after the Civil War, with their estates swept away, did not have the opportunities that you gentlemen of the North had. You left upon our hands an ignorant, uneducated people, several hundred thousand negroes, and the Democratic Party in Kentucky to-day makes no discrimination in its rate of school taxation on account of color. We are endeavoring to educate that burden which you put upon our shoulders. I am here to make the prophecy that within the next 25 years the eastern portion of Kentucky, with its noble citizenship, the purest American blood in this Nation, when the coal mines have been developed, will stand without a peer in this whole Nation. We in Kentucky have been doubly taxed. You gentlemen have not been. We are taxed by the Federal Government to support the Union soldier; we are taxed by our State government to support the needy Confederate soldier. We cheerfully submit to both. We in Kentucky are levying heavy taxes for education, and striving hard to work out the great problem before us. It ill becomes anyone on this floor, when the patriotic citizens of Kentucky are to-day struggling along under a double taxation to put that State in the front rank of the States of the Nation, to cast a slur upon it. And we will put Kentucky in the front ranks of the States of this Union, where she rightly belongs. [Applause.]

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield five minutes to the gentleman from Minnesota [Mr. NYE].

Mr. NYE. Mr. Chairman, I think it was Whittier who said:

> It is the heart and not the brain,
> That to the highest doth attain.

The world's permanent betterment and advancement will come through the hearts of men rather than through that which we call education; and I think that one of the most practical tests of the heart of a man, his motives in life, is the fact that he intends to be a useful man to any country in which he lives, and to the world. The workingmen, whether they come from Italy or Poland or Ireland or Germany or France, the men who come here with their families or without their families, for the honest purpose of work, whether it is within an organization or out of it, may, as a rule, be counted as men of pretty good hearts and good motives in life. If these men whom you intend to exclude by this bill are fundamentally and constitutionally wrong in their hearts and motives and in their purposes to earn a living, you are liable, so far as the bill is concerned, so far as you educate them, to place a weapon in their hands for injury.

Educated villainy is more dangerous than honest ignorance; and many of our own people, I think we must admit, are using the weapon of education to wrong and oppress their fellow men. I believe that usefulness wherever a man lives is true education. The useful hand and the useful brain—and true education is that in which the hand and brain work together—are a benefit to any country. And we can not in human legislation pick out the man of genius or the man whose work is to be most effective in the advancement of civilization. Marconi was an Italian; his father an Italian, his mother an Irish peasant girl from northern Ireland. Luther, whom my friend from Missouri [Mr. BARTHOLDT] honors and respects in his religion, was the child of poor miner peasants in Germany. Lincoln was born in the heart of obscurity and came up out of the wilderness of poverty and pain. Genius is often born in the hovel. God takes the weak things to confound the mighty, and for us by this species of legislation to say that a man who can barely read may be admitted and that this is to be the test of his citizenship seems to me puerile. I do not believe in it. I believe that this country is destined to amalgamate and bring out of many races the glory of the future ages. Some people laugh at what we call the "melting pot." Call it what you will. I call it that spirit which comes from the best heart of America to unify mankind and to establish a fraternal relation by means of which we are to solve this and other perplexing problems of to-day. It is true we are a Nation of extremes. We have abnormal wealth at the top and resentment and, perhaps, bitterness at the bottom. We have wrong and injustice here and resentment there, but the human brain and that which we call education will not solve it. It must come from the hearts of men. It must be the spirit that unifies men; it must be in the spirit of good will to men. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. NYE. Mr. Chairman, I ask leave to extend my remarks in the RECORD.

The CHAIRMAN (Mr. SAUNDERS). The gentleman from Minnesota asks unanimous consent to extend his remarks in the RECORD. Is there objection. [After a pause.] The Chair hears none.

Mr. NYE. We are prone to attribute the ills of our social life to anything and everything but ourselves. It is always the other fellow. But our national perils are not from without so much as from within. The clever native-born American, who is often as unscrupulous as he is clever, may well claim our attention when we study the causes which menace our national happiness. To get rich quick or to get something for nothing is not strikingly peculiar to our foreign-born population, and especially the working classes. These have no monopoly of vice and crime. Virtue is more often the companion of industry than of idleness, and the people we seek to exclude by this bill are as a rule industrious. Jefferson believed in an aristocracy of virtue and talent rather than an aristocracy of wealth. The foreigner as a rule gives us a constant lesson of industry and economy, which many of the native born may well emulate. He lives within his means, and generally saves from his earnings, even if they are small; and while we are wasteful, he is frugal; while we are idle, he works. He adapts his expenses to his income, and he succeeds where we fail. I do not mean this is true in all cases, but everywhere in country and city it is so common that none can fail to observe it. I would not disparage the native-born citizen, but let us not be blind to our weaknesses nor ignore our faults or the vices of our civilization

which we are responsible for. The New World is the child of the Old. We are united by millions of family ties, which every law of nature forbids we should sever by narrow and arbitrary enactments of law. The hardships the foreigner must undergo in leaving his home and native land and fighting the battle of life after he gets here is in itself proof that he is good for something. We are not getting the most wealthy of Europe, but the most worthy—men of metal, men of grit and perseverance. The sturdy sons of northern Europe give strength and character to our citizenship, while southern Europe, the land of historic genius in painting, sculpture, music, literature, and philosophy, gives her best blood to the New World to make complete the foundations of a future civilization whose possibilities are beyond the dreams of men. May we not hope that in this land, so richly endowed by Heaven and under a diviner democracy than any yet known to the children of men, the Old World may find its renovation in the New and the New gather inspiration from the Old? Patriotic, liberty-loving America of the future, the land that holds the hope of humanity, must answer this question.

Mr. MOORE of Pennsylvania. Is the gentleman from Alabama ready to go on?

Mr. BURNETT. Not now.

Mr. MOORE of Pennsylvania. I yield five minutes to the gentleman from Illinois [Mr. GALLAGHER].

Mr. GALLAGHER. Mr. Chairman, in the majority report of the committee on this bill they say, "It will be seen that the main purpose of the bill is to exclude from the United States alien immigrants over 16 years of age who are unable to read their own language or dialect." This is hardly the fact. The real object of the bill is to stop, in part, the flow of immigrants to this country from Russia, Poland, Italy, Greece, and the other countries of the southern and eastern part of Europe.

It is certainly amusing to one who personally knows many of these people who have come from these countries to listen to some of the arguments which are made by gentlemen in support of this bill.

I represent more of these people than any other man upon this floor. I have more Poles in my district than there are in any other congressional district in the United States. I have more Italians in the district—from the south of Italy at that. I have most of the Greeks in our city. I have the Germans and the Irish. I have as many Jews as in any other district. In fact, I have a scattering of every nationality on the face of the earth. I know very few Americans in the district. We have in that district just as many schools, just as good colleges, just as magnificent churches as there are in any other congressional district, attended by just as law-abiding people as in any other section of the country. We have merchants there engaged in business, with beautiful stores, great business houses. We have immense manufacturing plants, comparing favorably with those of any other district. They are owned largely by these people. They have comfortable homes of their own there, wherein there is as much contentment and happiness as is found in any other district.

So I say it is amazing and surprising to listen to these people talk of improving conditions by shutting out a few people who can not read or write. We have people there who can not read or write but who have made just as much progress and are just as comfortably situated, and many of them have just as much money and are just as patriotic as they are in any other district. They are good citizens, who understand the duties, responsibilities, and privileges of citizenship under our form of government. Besides, we have a number of banks there, where the savings accounts of these thriving and industrious people will compare favorably with the deposits in other banks. Now, the fact that a man can not read and write is no evidence of character. Because a man can not read and write is no reason that you are going to improve conditions by shutting him out. If you are going to shut out undesirable people, shut them out. Because a man is ground down to poverty and has not had an opportunity to improve himself, is it a crime? Many immigrants come from countries where public education is unknown. Does anybody believe that poverty is a crime? Still you would be led to believe so in listening to the speeches of the gentlemen in the interest of this bill. We have in our neighborhood children in the schools who are making as much progress as they are in any of the schools in this country. I have had the honor to serve on the board of education, in Chicago, for years. Our night schools are filled by immigrants, many of them men and women, striving to learn the English language—to read and write it.

In our colleges and universities their children are preparing for a life work in all the different professions, as well as in music, in art, and in the sciences. In the public life of our city, county, and State immigrants and the sons of immigrants can be found in offices of trust and responsibility, from the governor of our State down. Remove from this body the foreigner and his direct descendant and a quorum will not remain. Hull House and Chicago Commons, settlement houses, are great institutions that have no comparison. They are in my district, and they are doing a splendid work for the benefit of mankind. We have public playgrounds for our children in my district, with baths and athletic equipments of all kinds—none better in the world. Do you wish to deprive them of the opportunities so freely offered and so gladly enjoyed by them? We are producing a manhood that fears no race suicide.

I have seen Chicago grow from a quarter of a million to over two millions and a quarter in population. It is largely made up of people from every quarter of the globe. Does anybody believe that we have not as much progress, as much prosperity, and just as good citizenship in Chicago as they have in any other city in America? [Applause.] There is no man who visits that city, who knows its history and its possibilities, who does not feel proud of the progress that we have made. From a village on the prairie it has become a great metropolis within the memory of many now living and ranks fourth or fifth among the world's greatest cities. Many who were engaged in making my home city what it is were, no doubt, deprived of an opportunity for education in the country from which they came. And still there are people here talking about undesirable citizens. One-third of the population of the United States is composed of immigrants or the sons of immigrants. The population west of the Mississippi River, take it in its entirety, would not compare with the immigration that has come here and made this country prosperous and the Nation what it is. I do not like the kind of argument made here. I do not believe there is anything in it. If you are going to shut out the characters that are undesirable, bring in legislation that will shut them out; but do not fool yourselves that this class of legislation is going to shut out undesirable citizens. Let me read for your benefit the views of the minority of your committee on this bill. They are as follows:

> The illiteracy test provided in the bill will not serve to keep out the viciously inclined, the criminal, or the otherwise really undesirable alien.
>
> Experience has demonstrated the fact that, with the educational facilities afforded in this land, thousands of illiterates who, unhappily, were denied educational opportunities in their native lands have learned to read and write here, and have shown an eagerness to acquire knowledge and fit themselves to become good citizens. It will also be noted that the exceptions provided in the bill are not broad enough to fully guard against the separation of families, though the majority of the committee admit that on humane and moral grounds separation of families should, as far as possible, be avoided and prevented. In our opinion the desirable immigrant is the healthy, law-abiding worker, who comes to this country in good faith, and the undesirable immigrant is the clever and educated schemer, who, immediately upon arrival, begins to find fault with our institutions.

You propose by this bill to prohibit the landing of immigrants who can not read or write. Let me ask, Where do you expect to obtain the help that is required to do the work that these men are now doing? With the tendency toward compulsory education and free textbooks, will our public-school system prepare our youth for such work? Will our graduates do it? Who will clean the streets of our cities, lay our sewers, and do such work? Will our graduates go to our mines or upon our farms? Will they build our railroads? Will they become domestic servants? Reports from the argicultural districts show that crops are rotting for want of men to gather them. Does the farmer's son stay on the farm? My observation is that he is anxious to live in our cities. When you look around for men to do the work that the immigrant now does you will find very few to do it if this bill becomes a law.

The foundation for our present Bureau of Immigration was an act approved July 4, 1864, a most fitting day, which itself suggests freedom to worthy and downtrodden human beings. It was introduced by Mr. Washburne, a Representative from my State, who served in this body for 16 years. He was a friend of Lincoln; also Secretary of State under Grant. President Lincoln, in his message to Congress, December 6, 1864, speaking in reference to this act that had for its object the encouragement of immigration, states:

> The act passed at the last session for the encouragement of immigration has, so far as was possible, been put in operation. It seems to need amendment which will enable the officers of the Government to prevent the practice of frauds against the immigrants while on their way and on their arrival in the ports, so as to secure them here a free choice of avocations and places of settlement. A liberal disposition toward this great national policy is manifested by most of the European States, and ought to be reciprocated on our part by giving the immigrants effective national protection. I REGARD OUR IMMIGRANTS AS ONE OF THE PRINCIPAL REPLENISHING STREAMS WHICH ARE APPOINTED BY PROVIDENCE TO REPAIR THE RAVAGES OF INTERNAL WAR AND ITS WASTE OF NATIONAL STRENGTH AND HEALTH. ALL THAT IS NECESSARY IS TO SECURE THE FLOW OF THAT STREAM IN ITS PRESENT FULLNESS, AND TO THAT END THE GOVERNMENT MUST IN EVERY WAY MAKE IT MANIFEST

THAT IT NEITHER NEEDS NOR DESIGNS TO IMPOSE INVOLUNTARY MILITARY SERVICE UPON THOSE WHO COME FROM OTHER LANDS TO CAST THEIR LOT IN OUR COUNTRY.—Abraham Lincoln.

It must be seen by observing people that the main purpose of this bill is not to exclude from the United States immigrants who are unable to read and write their language or dialect. It must be for some other purpose. It is said it will tend to improve labor conditions of this country. Will it be contended that the men advocating the passage of this bill on this floor are anxious to pass legislation that will benefit labor? "Beware of the Greeks bearing gifts." I have always endeavored to assist and aid labor on all occasions in securing legislation for shorter hours and for improving their conditions in general. I doubt if many of the people speaking in favor of this bill can say as much.

Our immigrants are law-abiding citizens and just as loyal to our Government as any other people. They have taken part in our wars and have shown themselves to be as brave as the most gallant defenders of the Stars and Stripes. This is borne out by our country's history, and many of the monuments which serve to beautify our Capital City perpetuate their devotion to the cause of liberty and freedom.

They come here among us and they ask us to give them the same greeting as accorded other unfortunates who have come. They have joined with us to make this country free and independent, and have worked for the upbuilding, advancement, and general welfare of every part of our country. Let us still welcome them to our shores and extend to them the freedom we enjoy. The immigrants were with us in the Revolutionary War, the Civil War, and the War with Spain, and in the struggle that may yet come they will be found ready and willing to answer our country's call. [Applause.]

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield to the gentleman from Connecticut [Mr. REILLY].

Mr. REILLY. Mr. Chairman, I am opposed to this bill because I am opposed to any bill that will prevent the coming to this country of honest men who may from any cause be in the so-called ignorant class, but under which educated crooks of all kinds can come in without restriction.

Under this bill thieves, cutthroats, and blackmailers at heart who happen to thus far escape arrest or conviction, who have been lucky enough to keep out of the clutches of the law, can come in freely and without restriction of any sort, because forsooth they can read or write, but the poor honest fellow, who is good at heart and wants to come to be a law-abiding resident—and ultimately a citizen—here, as he has been in his native country, is kept out because, unfortunately, he can not stand the literacy test.

That sort of law is not American. It is not for the good of all or any of the people of this country. It is not in keeping with the spirit of those who gave their lives to free and later preserve the Union.

This Burnett bill excludes all aliens over 16 years of age who are unable to read English or the language or dialect of some other country, and permits an admissible alien to bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, his unmarried or widowed daughter whether able to read or not, and is therefore inconsistent.

The gentleman from Massachusetts [Mr. GARDNER] favors the bill or a restriction for a period of 10 years. He wants to keep the United States for the so-called Americans. If the United States were to depend for its increase of population upon the class or classes for whom he wishes to keep it, it would not be long before this great country would be showing a decrease in its population.

I have been waiting for the chairman of the committee and father of this bill and other advocates to say something about the effect of foreigners upon the labor situation. It is just as well they have not, in view of the fact that the worst enemy of organized labor is prison-contract competition, which has its highest exemplification in States from which some of the advocates of this bill come, and of which the ball and chain, the striped uniform, and the mounted guard are the badges.

There was a time in the history of this country, a time of dire distress, when men were needed to save it from enemies within and without. In the call to arms there was no prohibition because the volunteer could not stand a literacy test. He was not asked if he could read or write. He was asked if he was loyal, if he was strong of heart and body, and if he could shoot.

There was no talk of restriction then; there should be none now.

This country is big enough for all who care to come and who are honest at heart. If perchance some get in who are bad at heart, who are undesirable, that is not a sufficient reason to pass a law that would exclude all who can not stand certain tests of education, no matter how honest they may be. But the bad come if they can read.

Pass this bill and in due time will come its logical successor—the raising of the test until it will necessitate the possession of a university diploma to permit landing on these sacred shores.

What do some of the leading men of our country think of this literacy test? Here is a brief extract from the report of Secretary Nagel, of the Department of Commerce and Labor:

> I believe it is intended as a piece of legislation for wholesale exclusion, and I don't believe in that kind of legislation. If you want to exclude certain nationalities, say so, and meet the issue squarely. I don't believe literacy is a fair test for the admission of an immigrant. I will say again what I said a year ago, that I care more for the sound body and the sound mind, and the straight look out of the eye, and the ability and willingness to work, as a test than any other test that can be given.

In his veto message in 1897 President Cleveland said:

> A radical departure from our national policy relating to immigration is here presented. Heretofore we have welcomed all who came to us from other lands, except those whose moral or physical condition or history threatened danger to our national welfare and safety. Relying upon the jealous watchfulness of our people to prevent injury to our political and social fabric, we have encouraged those coming from foreign countries to cast their lot with us and join in the development of our vast domain, securing in return a share in the blessings of American citizenship.

President-elect Wilson, writing to Dr. Adler, says:

> * * * I am in substantial agreement with you about the immigration policy which the country ought to observe. I think that this country can afford to use and ought to give opportunity to every man and woman of sound morals, sound mind, and sound body who comes in good faith to spend his or her energies in our life, and I should certainly be inclined, so far as I am concerned, to scrutinize very jealously any restrictions that would limit that principle in practice. * * *

Here is part of a great speech on this question by Hon. Bourke Cockran:

> We who oppose the educational test believe the man who works with his hands, who is trained to efficiency in labor, is the desirable immigrant. The test that we wish to impose is one that will establish his ability and his willingness to work. * * * There is not a vicious man in any community outside of the poorhouse that is not more or less educated. He can not live by his wits rather than by his hands unless those wits are trained to some extent. Any unlettered immigrant shows that he must have virtuous instincts by the very fact that he comes here, for he can have no other purpose than to support life by his toil.

Among others who oppose this proposed legislation are Cardinal Gibbons; ex-President Eliot, of Harvard University; President Hinmel, of Georgetown University; President Schurman, of Cornell University; United States Senator O'GORMAN, of New York; and United States Senator STONE, of Missouri. Many leading newspapers have pointed out the danger of this sort of restriction.

Restriction of time prevents me from further discussing this un-American bill. It is inherently wrong, because it keeps out good men and admits bad men to the benefits of our great country, that has long been considered the refuge of the wronged and oppressed of all nations, who are honest at heart and come here with high motives. It is not American; it is not democratic, and should not be passed by a House that is supposed to represent the truest Democracy.

Mr. MOORE of Pennsylvania. Mr. Chairman, in behalf of those who wish to be heard in opposition to the bill, I desire to say that there will not be sufficient time within the limit fixed by the rule for all to be recognized, but I think it is fair to announce that the gentleman from Wisconsin [Mr. BERGER], the gentleman from Texas [Mr. BURLESON], the gentleman from Illinois [Mr. GRAHAM], the gentleman from Missouri [Mr. DYER], the gentleman from Massachusetts [Mr. MURRAY], the gentleman from Connecticut [Mr. TILSON], the gentleman from New Jersey [Mr. SCULLY], and the gentleman from Nebraska [Mr. LOBECK] all would have spoken in opposition to the bill.

Now, Mr. Chairman, I understand the gentleman from Alabama [Mr. BURNETT] proposes to make a motion.

Mr. BURNETT. What was the statement of the gentleman about the gentlemen he has mentioned?

Mr. MOORE of Pennsylvania. I stated that they all desired to be heard in opposition to the bill, and that they would not have an opportunity in view of the time fixed by the rule.

Mr. BURNETT. Is your request to extend remarks?

Mr. MOORE of Pennsylvania. No; I made no request for them. I announced that they desired to be heard, but would not have an opportunity under the limitation of time fixed by the rule.

Mr. BURNETT. All right. Will the gentlemen proceed now?

Mr. MOORE of Pennsylvania. If the gentleman wishes to make a motion——

Mr. BURNETT. How much time is there left, Mr. Chairman?

The CHAIRMAN. The gentleman from Alabama [Mr. BURNETT] has 20 minutes, and the gentleman from Pennsylvania [Mr. MOORE] 15 minutes.

Mr. MOORE of Pennsylvania. Mr. Chairman, then I will ask the gentleman if he intends to conclude the general debate to-night?

Mr. BURNETT. As we have to go over to another day, I think we might as well conclude now.

Mr. MOORE of Pennsylvania. A motion to rise now would be entirely satisfactory to this side.

Mr. RODDENBERY. Mr. Chairman, I could not quite understand the colloquy.

The CHAIRMAN. The Chair will state that the time for debate continues to run while this is going on.

Mr. BURNETT. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HAY, the Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill S. 3175, entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States," and had come to no resolution thereon.

IMMIGRATION OF ALIENS.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to have printed in the RECORD, following this debate to-day, the bill H. R. 13500, relating to immigration. That bill will be discussed when the present bill on immigration is discussed under the five-minute rule, and I desire it should be printed in order that the matter may then be before the House.

The SPEAKER. The Clerk will read the title of the bill.

The Clerk read the title of the bill, as follows:

A bill (H. R. 13500) to amend an act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907.

The SPEAKER. Is there objection?

Mr. SABATH. Mr. Speaker, may I ask what the request is for?

The SPEAKER. The request is that the bill H. R. 13500 be printed in the RECORD.

Mr. RAKER. It is in relation to Asiatic immigration and the rules and regulations covering the admission of that kind of immigrants.

Mr. MANN. Mr. Speaker, reserving the right to object, may I ask the gentleman if it is his intention to offer the provisions of that bill as an amendment to the House substitute for the bill now under consideration?

Mr. RAKER. That is my purpose, if I can get the recognition of the Chair.

Mr. MANN. I shall not object.

Mr. GARDNER of Massachusetts. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman from Illinois [Mr. MANN] if he thinks that would be germane?

Mr. MANN. I have not examined it. It will be printed in the RECORD.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Following is the bill referred to:

A bill (H. R. 13500) to amend an act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907.

Be it enacted, etc., That section 2 of the act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907, is hereby amended so as to read as follows:

"SEC. 2. That the following classes of aliens shall be excluded from admission into the United States: All Asiatic laborers; all idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had two or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; persons afflicted with tuberculosis or with a loathsome or dangerous disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all government, or all forms of law, or of the assassination of public officials; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons hereinafter called contract laborers who have been induced or solicited to migrate to this country by offers or promises of employment or in consequence of agreements, oral, written, or printed, expressed or implied, to perform labor in this country of any kind, skilled or unskilled; those who have been, within one year from the date of application for admission to the United States, deported as having been induced or solicited to migrate as above described; any person whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes, and that said ticket or passage was not paid for by any corporation, association, society, municipality, or foreign government, either directly or indirectly; all children under 16 years of age unaccompanied by one or both parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this section relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *And provided further*, That skilled labor may be imported, if labor of like kind unemployed can not be found in this country: *And provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants."

SEC. 2. That the act entitled "An act to regulate the immigration of aliens to the United States," approved February 20, 1907, is further amended by the addition of the following sections: *Provided*, That the provisions of said additional sections shall be regarded as supplemental to the general provisions of the act hereby amended, which general provisions shall also be enforced against Asiatic aliens to the same extent and in the same manner as against other aliens:

"SEC. 45. That it shall be the duty of all Asiatic laborers to apply to such officers of the United States as may be designated in their respective districts for that purpose by the Commissioner General of Immigration and Naturalization, with the approval of the Secretary of the Department of Commerce and Labor, within one year after the passage of this act, for a certificate of residence; and any Asiatic laborer who, after the expiration of said year, shall be found within the United States without such certificate of residence shall be deemed to be unlawfully within the United States and shall be taken into custody upon the warrant of the Secretary of Commerce and Labor, whenever and wherever found, and unless it shall be satisfactorily established that the failure of such person to procure a certificate of residence as herein provided was by reason of accident, sickness, or other unavoidable cause, shall be deported upon the warrant of the Secretary of Commerce and Labor to the country of which he is a citizen or subject, at the expense of the United States.

"Should it appear that said Asiatic laborer had procured a certificate and such certificate had been lost or destroyed, he may be granted a duplicate thereof under such conditions as the Secretary of Commerce and Labor may prescribe, and upon receipt of such duplicate he may be discharged: *Provided*, That no Asiatic laborer who has been convicted in any court of the States, Territories, or insular possessions of the United States, or of the District of Columbia, of a felony, and has not been pardoned therefor by legal authority, shall be permitted to register under the provisions of this act; persons of Asiatic descent who claim birth in the United States may also be registered under the provisions hereof on satisfactorily proving such claim, and such persons hereafter born in the United States may likewise be registered.

"Certificates of residence issued under the provisions of this act shall be so prepared under regulations of the Secretary of Commerce and Labor as to prevent counterfeiting, and shall contain such descriptions of the persons to whom issued as will readily identify the holders thereof, including photographs of such holders, both full face and profile, upon a portion of which photographs shall be superimposed the seal of the Department of Commerce and Labor, also a print in indelible ink of the front part of each thumb, commonly known as a 'thumb print.'

"SEC. 46. That no certificate of residence other than a duplicate of one satisfactorily proved to have been lost or destroyed shall be issued under the provisions of this act after the expiration of one year from the date of the taking effect of this act, unless it is established in accordance with the provisions of section 45 hereof that the failure to secure the certificate within the time specified was due to accident, sickness, or other unavoidable cause.

"SEC. 47. That for the purpose of this act all Asiatic aliens shall be regarded as laborers, unless it is shown that they are, in their personal capacity, of the following status or occupations: Government officers, ministers of the gospel, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, capitalists, and travelers for curiosity or pleasure. Every Asiatic alien who is entitled by this act to enter the United States shall obtain the permission of and be identified as so entitled by the Government of which he is a subject or citizen, such permission and identification in each case to be evidenced by a certificate issued by such government, which certificate shall be in the English language, shall show that the person to whom issued is entitled to come to the United States under the terms of this act, and shall contain a photograph of and the following data regarding the person to whom issued: Family and individual name or names in full, title or official rank, if any, age, height, physical peculiarities, former and present occupation or profession, and when and where and how long pursued, and place of residence. If the alien applying for the certificate is a merchant, said certificate shall, in addition, state the nature, character, and estimated value of the business carried on by him prior to and at the time of his application therefor. The term 'merchant' wherever used in this act shall mean a person engaged in buying and selling merchandise at a fixed place of business and who performs no manual labor other than that necessarily incident to the conduct of such business. If the person applying is a student, such certificate shall, in addition, state the nature of the studies theretofore pursued, the nature of the studies to be pursued in the United States, and where they will be pursued, and that provision has been made for the care and maintenance of the student, as such, in this country. If the certificate be sought for the purpose of travel for curiosity, it shall also state whether the applicant intends to pass through or travel within the United States, and his financial standing in the country issuing such certificate. The certificate and the identity of the person named therein and whose photograph is attached thereto shall, before such person goes on board any vessel to proceed to the United States, be visèed by the indorsement of the diplomatic representative of the United States in the foreign country from which said certificate issues, or of the consular representative of the United States at the port or place from which the person named in the certificate is about to depart, or of an official of the Immigration Service detailed for that purpose; and it shall be the duty of such diplomatic representative or consular representative or immigration official before indorsing such certificate to examine into the truth of

the statements set forth therein, and if he shall find upon examination that any statement therein contained is untrue, it shall be his duty to refuse to indorse the certificate. The said certificate, visèd as aforesaid, shall be prima facie evidence of the facts set forth therein, and shall be produced to the immigration official in charge at the port of the United States at which the alien named therein shall arrive, and shall be the sole evidence permissible on the part of such person to establish a right of entry into the United States; but said certificate may be controverted and the facts therein stated disproved by the United States authorities. The said certificate shall be taken up by the immigration official by whom the person presenting same is admitted to the United States, and there shall be issued in lieu thereof a certificate of identity containing a complete personal description and a photograph of the admitted person, which certificate of identity shall be retained by him as evidence of his lawful entry to the country and of his right to reside therein so long as he maintains a status or occupation placing him within the excepted classes enumerated therein.

"The legal wives and natural-born children under 16 years of age of members of the excepted classes herein mentioned shall be regarded as partaking of the status of the husband and father, respectively, so long as coverture continues or they remain under the age stated and shall, if in all other respects admissible, be admitted to the United States upon satisfactorily establishing that they sustain the claimed relationship to a person of the said excepted classes residing within the United States or seeking admission thereto in company with them and that coverture exists or they are of the age hereinbefore stated at the time of application: *Provided*, That no such wife or child shall be admitted to the United States as of that status unless accompanied by, or coming to join, the husband or father, and, if the husband or father is already in the United States, unless it is satisfactorily shown that such husband or father is lawfully entitled to be and remain in the United States, and shown by the testimony of at least two witnesses other than Asiatics that such husband or father is and has been for at least three years a bona fide member of an exempt class: *Provided further*, That Asiatic aliens admitted to the United States as the natural-born children of members of the said exempted classes shall not at any time establish and maintain themselves in any other status or occupation than one which will constitute them members themselves of the said excepted classes, otherwise they shall be subject to deportation in accordance with the provisions hereof.

"It shall be unlawful for any Asiatic who shall have entered the United States as a member of the excepted classes herein enumerated to thereafter work for gain as a laborer; and any person so doing shall be deported in the manner provided in section 45 of this act.

"In every case where any person is excluded from admission into the United States, or is ordered deported from the United States, under the provisions of this act or of any law or treaty now existing or hereafter made, the decision of the appropriate immigration officials, or of the Secretary of Commerce and Labor in appeal and warrant cases, shall be final.

"SEC. 48. That any Asiatic alien, whether a member of the excepted classes enumerated in section 47 hereof or not, who obtains a certificate of residence in accordance with the provisions of this act, and any Asiatic alien admitted to the United States as a member of the excepted classes in accordance with section 47 hereof, or who is admitted as and continues to be the wife or child of such a member of the excepted classes in accordance with the terms of said section, shall be permitted to leave the United States at any time and through any seaport, or through any land border port designated by the Commissioner General of Immigration as a port of entry for aliens under this act, and, if admissible under the general provisions of this act, to return to and reenter the United States at any future time upon the following conditions: He shall at the time of departure deposit with the immigration official in charge at the port through which he departs his certificate of residence or certificate of identity, obtaining in lieu thereof a return certificate of a character and form to be prescribed by the Commissioner General, and shall reenter through such port of departure and satisfactorily identify himself at the time of return as the person to whom the certificate of residence or certificate of identity so deposited relates.

"SEC. 49. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or who shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, or who shall conceal or harbor, or attempt to conceal or harbor, or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this act or of the act hereby amended shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by a fine of not less than $500 nor more than $3,000, or by imprisonment for a term of not less than one year nor more than three years, or by both such fine and imprisonment for each and every alien to whom this section is applicable. Every vessel, boat, railway car, or other vehicle or conveyance of whatever description, the master, owner, lessee, or bailee of which shall use the same in violating any of the provisions of this act shall be deemed forfeited to the United States, and shall be liable to seizure and condemnation in any district of the United States into which such vessel, boat, railway car, or other vehicle may enter or in which it may be found.

"SEC. 50. That any person who shall substitute any name for the name written in any certificate herein required, or any photograph for the photograph attached to any such certificate, or shall in any manner alter any such certificate, or forge any such certificate, or falsely personate any person named in any such certificate, or issue or utter any forged or fraudulent certificate, or present to an immigrant inspector or other Government official any forged or fraudulent certificate, and any person other than the one to whom there has been duly issued any certificate prescribed by this act who shall present to an immigrant inspector or other Government official any such certificate, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding $1,000 and be imprisoned for a term of not less than one nor more than five years.

"SEC. 51. That the provisions of this act shall be enforced in the insular territory as well as the continental territory of the United States. Asiatic aliens not members of the excepted classes enumerated in section 47 hereof shall not be permitted to enter the continental territory from the insular territory of the United States nor to enter one group of islands from another group, and members of the said excepted classes shall be permitted to enter the continental territory from the insular possessions only upon compliance with the terms of section 47 hereof by obtaining from officers to be designated for that purpose by the governors of the respective insular possessions a certificate of the character prescribed in said section: *Provided*, That said laws shall not apply to the transit of Asiatic aliens from one island to another island of the same group, and any islands within the jurisdiction of any State or the Territory of Alaska shall be considered a part of the mainland of the United States.

"SEC. 52. That this act shall take effect 30 days after its passage and approval. All acts and parts of acts inconsistent with this act and the act hereby amended are hereby repealed on and after the taking effect of this act: *Provided*, That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceeding brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters the laws or parts of laws repealed or amended by this act are hereby continued in force and effect.

"SEC. 53. That the sum of $250,000 is hereby appropriated, out of any moneys not otherwise appropriated in the Treasury of the United States, for the enforcement of those provisions of this act relating to the exclusion of Asiatic laborers."

LEAVE TO PRINT.

Mr BURNETT. Mr. Speaker, I ask unanimous consent that all gentlemen who have spoken or who will speak on this immigration bill may have five legislative days in which to print their remarks.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] asks unanimous consent that all gentlemen who speak on the immigration bill shall have five legislative days after the disposition of the bill by the House in which to extend their remarks. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, I think a request of that kind ought properly to come after the consideration of the bill is concluded, and for the present I shall object.

The SPEAKER. Does the gentleman object?

Mr. MANN. I just stated that I did.

DECEMBER SALARIES, HOUSE AND SENATE EMPLOYEES.

Mr. FITZGERALD. I ask that the Speaker lay before the House Senate joint resolution 144, to pay the employees of the House and Senate their December salaries on the day of adjournment for the holiday recess.

The SPEAKER. The Chair lays before the House Senate joint resolution 144, which the Clerk will report.

The Clerk read as follows:

Joint resolution (S. J. Res. 144) authorizing payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess.

Resolved, etc., That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, authorized and directed to pay the officers and employees of the Senate and House of Representatives, borne on the annual and session rolls, including the Capitol police, their respective salaries for the month of December, 1912, on the day of adjournment for the holiday recess; and that the Clerk of the House of Representatives is authorized to pay on the said day Members and Delegates their allowance for clerk hire for the said month of December.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution.

The SPEAKER. The gentleman from New York asks unanimous consent for the present consideration of the resolution. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, I merely wish to ask the gentleman from New York if it is customary for this resolution to emanate in the Senate?

Mr. FITZGERALD. It usually originates in the House.

Mr. MANN. I thought that was one of the prerogatives of the House.

Mr. FITZGERALD. This is not an appropriation.

Mr. MANN. I understand; and lots of others are not. I shall not object.

Mr. FITZGERALD. I did not think it worth while to raise that objection.

Mr. MANN. If I were in the gentleman's place I would raise it.

The SPEAKER. Is there objection to the consideration of the resolution?

There was no objection.

The SPEAKER. The question is on the third reading of the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. FITZGERALD, a motion to reconsider the vote whereby the Senate joint resolution was passed was laid on the table.

ORDER OF BUSINESS.

Mr. GARDNER of Massachusetts. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARDNER of Massachusetts. Will this bill or the ordinary Monday business have the right of way on Monday, in the opinion of the Chair?

The SPEAKER. The Unanimous Consent Calendar, suspension of the rules, and the Discharge Calendar will have the right of way on Monday.

ADJOURNMENT.

Mr. BURNETT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 30 minutes p. m.) the House adjourned until Monday, December 16, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, submitting an estimate of urgent deficiency in the appropriation for expenses Revenue-Cutter Service for the fiscal year ending June 30, 1913 (H. Doc. No. 1170); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, submitting a partial report on the water supply for the District of Columbia, said investigation being directed by the District of Columbia appropriation bill approved June 26, 1912. A supplemental report will be furnished when the investigation is completed (H. Doc. No. 1171); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of the Interior, submitting report on lands withdrawn from settlement, location, sale, or entry under act approved June 25, 1910 (H. Doc. No. 1172); to the Committee on the Public Lands and ordered to be printed.

4. A letter from the Acting Secretary of Commerce and Labor, transmitting report of E. A. Brand, commercial agent of the Department of Commerce and Labor, on commercial organizations, etc. (H. Doc. No. 1173); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

5. A letter from the Acting Secretary of Commerce and Labor, transmitting report by A. G. Robinson, commercial agent of the Department of Commerce and Labor, on "Cuba as a buyer and seller," with special reference to the promotion of American commerce with the island (H. Doc. No. 1174); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

6. A letter from the Acting Secretary of Commerce and Labor, transmitting report of John M. Carson, commercial agent of the Department of Commerce and Labor, on "Packing and Marketing Cotton Within the United States" (H. Doc. No. 1175); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

7. A letter from the Secretary of the Treasury, transmitting supplemental estimates for public buildings for the period from March 4, 1914, to June 30, 1914, in amount $3,634,000 (H. Doc. No. 1169); to the Committee on Appropriations and ordered to be printed.

8. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors appointed in the State of Arkansas for President and Vice President at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

9. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors appointed in the State of Minnesota for President and Vice President at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

10. A letter from the Secretary of State, transmitting, pursuant to law, authentic certificate of the final ascertainment of electors appointed in the State of Oregon for President and Vice President at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 14517) granting an increase of pension to Daniel O'Connor; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 24610) granting a pension to Michael McDonald; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 26709) granting a pension to Ezra R. Fuller; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FLOOD of Virginia: A bill (H. R. 27275) authorizing the Secretary of War to donate to the town of Fincastle Va., two cannon or fieldpieces; to the Committee on Military Affairs.

Also, a bill (H. R. 27276) authorizing the Secretary of War to donate to the town of Cumberland, Va., two cannon or fieldpieces; to the Committee on Military Affairs.

Also, a bill (H. R. 27277) authorizing the Secretary of War to donate to the town of Buckingham, Va., two cannon or fieldpieces; to the Committee on Military Affairs.

By Mr. JOHNSON of Kentucky (by request of the Commissioners of the District of Columbia): A bill (H. R. 27278) to authorize the condemnation of land for a park at the intersection of Twenty-sixth Street, Twenty-seventh Street, and Q Street NW., and a highway from said park along the boundary of Oak Hill Cemetery and across the north part of square 1284 to Twenty-ninth and R Streets; to the Committee on the District of Columbia.

By Mr. KINKAID of Nebraska: A bill (H. R. 27279) to amend the second clause of section 4 of chapter 784 of the United States Statutes at Large, volume 32, page 195; to the Committee on Agriculture.

By Mr. MOTT: A bill (H. R. 27280) to amend section 2 of public law No. 336, approved August 24, 1912, entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes"; to the Committee on the Post Office and Post Roads.

By Mr. PETERS: A bill (H. R. 27281) to regulate the hours of employment and safeguard the health of females employed in the District of Columbia in any mill, factory, manufacturing or mechanical establishment, or workshop, laundry, bakery, printing, clothing, dressmaking, or millinery establishment, mercantile establishment, store, hotel, restaurant, office, or where any goods are sold or distributed, or by any express or transportation company, or in the transmission or distribution of telegraph or telephone messages or merchandise; to the Committee on Labor.

By Mr. PALMER: A bill (H. R. 27282) providing for the erection of a public building at the city of Bethlehem, Pa.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27283) providing for the erection of a public building at the city of South Bethlehem, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. CARY: A bill (H. R. 27284) fixing the price for use of telephones at private residences within the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

Also, a bill (H. R. 27285) to change the name of oleomargarine to margarin; to change the rate of tax on margarin; to protect the consumers, dealers, and manufacturers of margarin against fraud; and to afford the Bureau of Internal Revenue more efficient means for the detection of fraud and the collection of revenues; to the Committee on Agriculture.

By Mr. DOUGHTON: A bill (H. R. 27286) to purchase a post-office site in Lenoir, N. C.; to the Committee on Public Buildings and Grounds.

By Mr. STANLEY: A bill (H. R. 27287) to amend an act entitled "An act to regulate commerce, approved February 4, 1887, as amended June 18, 1910"; to the Committee on Interstate and Foreign Commerce.

By Mr. LEVER: A bill (H. R. 27288) to provide for the erection of a public building in the city of Columbia, S. C.; to the Committee on Public Buildings and Grounds.

By Mr. BRANTLEY: A bill (H. R. 27289) for the survey of Cumberland Sound and the St. Marys River and Amelia River, adjacent thereto; to the Committee on Rivers and Harbors.

By Mr. BEALL of Texas: Resolution (H. Res. 751) authorizing the Committee on Expenditures in the Department of Justice, or a subcommittee thereof, to conduct certain investigations outside of the District of Columbia; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANSBERRY: A bill (H. R. 27290) granting a pension to Clara Fisher; to the Committee on Pensions.

By Mr. CRAGO: A bill (H. R. 27291) granting a pension to Jennie McMurtrie; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27292) granting an increase of pension to Elijah Watters; to the Committee on Invalid Pensions.

By Mr. CURRIER: A bill (H. R. 27293) granting an increase of pension to James B. Kellogg; to the Committee on Invalid Pensions.

By Mr. DICKINSON: A bill (H. R. 27294) for the relief of William R. Coble; to the Committee on War Claims.

By Mr. FRENCH: A bill (H. R. 27295) granting a pension to John F. Keeton; to the Committee on Invalid Pensions.

By Mr. HULL: A bill (H. R. 27296) for the relief of the heirs of Samuel Kimbro, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27297) for the relief of the legal representatives of A. D. Boulton; to the Committee on War Claims.

Also, a bill (H. R. 27298) for the relief of the legal representatives of William E. Nance; to the Committee on War Claims.

By Mr. LANGLEY: A bill (H. R. 27299) granting an increase of pension to Rachel Robbins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27300) granting an increase of pension to Virginia Sowards; to the Committee on Invalid Pensions.

By Mr. LOUD: A bill (H. R. 27301) granting a pension to the seven minor children of Albert Ocha; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27302) granting an increase of pension to George M. Rood; to the Committee on Invalid Pensions.

By Mr. McKINNEY: A bill (H. R. 27303) to amend the military record of Francis M. Jennings; to the Committee on Military Affairs.

By Mr. MOORE of Pennsylvania: A bill (H. R. 27304) granting an increase of pension to Jacob M. Davis; to the Committee on Invalid Pensions.

By Mr. MOTT: A bill (H. R. 27305) granting an increase of pension to Horace W. Freeman; to the Committee on Invalid Pensions.

By Mr. POWERS: A bill (H. R. 27306) for the relief of the heirs of James T. Ashinhurst, deceased; to the Committee on War Claims.

By Mr. PRINCE: A bill (H. R. 27307) granting an increase of pension to Earl Klock; to the Committee on Pensions.

By Mr. RUBEY: A bill (H. R. 27308) granting a pension to W. Woolsey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27309) granting an increase of pension to Jerry W. Tallman; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 27310) granting a pension to Abbey Israel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27311) granting a pension to Annie Eggers; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 27312) granting a pension to Murray Peiree; to the Committee on Pensions.

Also, a bill (H. R. 27313) granting an increase of pension to Martha Jane Collins; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 27314) granting an increase of pension to Jane L. Gettins; to the Committee on Invalid Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 27315) granting an increase of pension to Jonathan Milbourn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27316) granting an increase of pension to Edwin Collar; to the Committee on Invalid Pensions.

By Mr. STEPHENS of Nebraska: A bill (H. R. 27317) granting an increase of pension to Edgar V. Harris; to the Committee on Invalid Pensions.

By Mr. SWEET: A bill (H. R. 27318) granting an increase of pension to John H. Scott; to the Committee on Invalid Pensions.

By Mr. THAYER: A bill (H. R. 27319) granting an increase of pension to Julia J. Kendall; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Ross & Hill and 12 other merchants, of Dennison, Ohio, favoring legislation giving the Interstate Commerce Commission further power over express rates; to the Committee on Interstate and Foreign Commerce.

Also, papers to accompany bill (H. R. 26882) for conferring upon James R. Ross the congressional medal of honor; to the Committee on Military Affairs.

By Mr. AYRES: Petition of the Knights of Labor, of Washington, D. C., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. BARNHART: Petition of citizens of Indiana, favoring the passage of the Kenyon liquor bill (S. 4043) preventing shipment of liquors into dry territories; to the Committee on the Judiciary.

Also, petition of the South Bend Turn Verein, protesting against the passage of the amended Kenyon bill (S. 4043) preventing shipment of liquors into dry territories; to the Committee on the Judiciary.

By Mr. BURKE of Wisconsin: Petition of the Milwaukee Chamber of Commerce, Milwaukee, Wis., protesting against the passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

By Mr. BURNETT: Petition of the Pennsylvania State Camp, Patriotic Order Sons of America, and of the State Council of Pennsylvania, Order of Independent Americans, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. CALDER: Petition of Phillips & Sons, New York, N. Y., and the Boston Chamber of Commerce, Boston, Mass., favoring the passage of Senate bill 957, known as the bill-of-lading bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of the State Camp of New York, Patriotic Order Sons of America, Binghamton, N. Y., and the State Council of Pennsylvania, Order of Independent Americans, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. CLARK of Florida: Petition of citizens of nine counties of Florida, favoring the passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

By Mr. DICKINSON: Petition of W. A. Kimberlin and other citizens of Garden City, Mo., in opposition to the pensioning of former Presidents of the United States and the chief engineers of the Panama Canal; to the Committee on Pensions.

By Mr. DYER: Petition of the National Wholesale Liquor Dealers' Association of America, protesting against the passage of the Kenyon liquor bill (S. 4043) preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

Also, petition of More-Jones Brass & Metal Co., St. Louis, Mo., and of Hugo Muench, judge of the circuit court, St. Louis, Mo., favoring the passage of bill (H. R. 22589) making an appropriation for the building of consular and diplomatic buildings; to the Committee on Foreign Affairs.

By Mr. ESCH: Petition of the Federation of Jewish Farmers of America, New York City, favoring enactment of legislation establishing a rural credit system; to the Committee on Banking and Currency.

Also, petition of the Chamber of Commerce, Milwaukee, Wis., protesting against the passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

Also, petition of the American Federation of Labor, favoring passage of bill giving Federal aid to vocational education; to the Committee on Agriculture.

By Mr. FOSS: Petition of Julius Rosenwald and 4 other Jews, of Chicago, Ill., protesting against the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the National Wholesale Liquor Dealers' Association of America, protesting against the passage of the amended liquor bill (S. 4043); to the Committee on the Judiciary.

By Mr. FRENCH: Petition of citizens of Pocatello, Blackfoot, Preston, Malad, Montelier, Boise, Caldwell, Middleton, Emmett, New Plymouth, Payette, Weiser, Council, Cambridge, Midvale, American Falls, Idaho, favoring passage of legislation giving the Interstate Commerce Commission further power toward controlling the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of J. D. Clark, Harvard, Ill., favoring the passage of the military telegraphers' pension bill; to the Committee on Invalid Pensions.

Also, petition of Henry Hoerner, Peru, Ill., protesting against the passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

By Mr. GREGG of Pennsylvania: Petition of John R. Young & Son, and others, of Philadelphia, Pa., protesting against the passage of the Kenyon liquor bill preventing shipment of liquors into dry territories; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of the Order of Knights of Labor, Washington, D. C., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. MOORE of Pennsylvania: Petition of the Pennsylvania Wholesale Liquor Dealers' League, of Philadelphia, protesting against the passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

By Mr. MOTT: Petition of the American Federation of Labor, favoring the passage of the vocational educational bill (S. 3); to the Committee on Agriculture.

Also, petition of the Knights of Labor, Washington, D. C., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. O'SHAUNESSY: Petition of the Federation of Jewish Farmers of America, New York, N. Y., favoring the establishment of farmers' credit unions; to the Committee on Banking and Currency.

By Mr. REYBURN: Petition of the Pennsylvania Wholesale Liquor Dealers' League, Philadelphia, Pa., protesting against the passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

By Mr. SPARKMAN: Petition of citizens of nine counties in Florida, favoring the passage of the Kenyon amended liquor bill (S. 4043); to the Committee on the Judiciary.

Also, petition of the Board of Trade of Eustis, Fla., favoring the reducing of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

By Mr. THAYER: Petition of the Men's Brotherhood of Union Church, Worcester, Mass., favoring the passage of the Kenyon bill relative to cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. TILSON: Petition of the National Vehicle Association of the United States of America, Chicago, Ill., relative to the reorganization of the Consular and Diplomatic Service; to the Committee on Foreign Affairs.

SENATE.

MONDAY, *December 16, 1912.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

JONATHAN BOURNE, Jr., and GEORGE E. CHAMBERLAIN, Senators from the State of Oregon, and WESLEY L. JONES, a Senator from the State of Washington, appeared in their seats to-day.

ELECTION OF PRESIDENT PRO TEMPORE.

Mr. LODGE called the Senate to order as Presiding Officer.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LODGE). The Senator from Utah suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	Lodge	Richardson
Bacon	Culberson	McCumber	Root
Bankhead	Cullom	Martin, Va.	Sanders
Borah	Curtis	Martine, N. J.	Simmons
Bourne	Dixon	Massey	Smith, Ga.
Brandegee	Fletcher	Nelson	Smith, Mich.
Bristow	Gallinger	Newlands	Smith, S. C.
Brown	Gore	O'Gorman	Smoot
Bryan	Gronna	Oliver	Stephenson
Burnham	Guggenheim	Overman	Stone
Burton	Jackson	Owen	Sutherland
Chamberlain	Johnson, Me.	Page	Swanson
Chilton	Johnston, Ala.	Paynter	Thornton
Clapp	Jones	Perkins	Tillman
Clark, Wyo.	Kenyon	Perky	Townsend
Clarke, Ark.	La Follette	Poindexter	Wetmore
Crane	Lea	Reed	Works

Mr. PAGE. I am compelled to announce the continued illness of my colleague [Mr. DILLINGHAM] and his necessary absence from the sessions of the Senate.

The PRESIDING OFFICER. Sixty-eight Senators have answered to their names. A quorum of the Senate is present. The Chair will ask the Secretary to read an extract from the Journal of the Senate.

The Secretary read from the Journal of the Senate of Thursday, May 11, 1911, as follows:

The PRESIDING OFFICER (Mr. LODGE in the chair) called the attention of the Senate to the fact that, having been called to the chair by the Vice President before the Senate had proceeded to the election of a President of the Senate pro tempore, he did not under clause 2 of Rule I of the Senate have the right to occupy the chair at this time.

On motion by Mr. BAILEY and by unanimous consent,

Ordered, That clause 2 of Rule I of the standing rules of the Senate be suspended, and that the present occupant of the chair should preside during the election of a President of the Senate pro tempore.

The question being the election of a President of the Senate pro tempore.

On motion by Mr. SHIVELY, and by unanimous consent,

Ordered, That clause 2 of Rule I of the standing rules of the Senate be suspended, and that the present occupant of the chair preside during the proceedings connected with the election of a President of the Senate pro tempore.

Whereupon,

The Presiding Officer (Mr. LODGE in the chair) directed the roll to be called. (Senate Journal, May 11, 1911.)

The PRESIDING OFFICER. The entry of May 15, 1911, will be read.

The SECRETARY. Page 239 of the Journal. The proceedings in the CONGRESSIONAL RECORD, page 1204, are as follows:

The PRESIDING OFFICER. The Senate will proceed to the election of a President pro tempore.

The Chair desires to say, before action is taken, that on Thursday last the Senate, by unanimous consent, suspended clause 2 of Rule I, which provides that the Secretary shall take the chair pending the election of a President pro tempore, and continued in the chair its present occupant. Whether that action was intended to be continuous, covering all proceedings connected with the election of a President pro tempore, or was for that day only, it is not for the Chair to determine. It is for the Senate to determine that question before we proceed further.

Mr. SHIVELY. I ask unanimous consent that clause 2 of Rule I be suspended and that the senior Senator from Massachusetts [Mr. LODGE] occupy the chair during the proceedings to elect a President pro tempore.

The PRESIDING OFFICER. The Senator from Indiana moves that the present occupant of the chair continue to occupy it during the proceedings——

Mr. SHIVELY. If the Chair please, I made no motion. I asked unanimous consent.

The PRESIDING OFFICER. The Senator from Indiana asks unanimous consent that clause 2 of Rule I be suspended, and that the present occupant of the chair continue to occupy it during the proceedings connected with the election of a President pro tempore. Is there objection? The Chair hears none, and it is so ordered. (Proceedings of Senate, May 15, 1911.)

The PRESIDING OFFICER. Acting under that resolution, as the term for which the Senator from Georgia [Mr. BACON] was chosen President pro tempore has expired, the present occupant of the chair has called the Senate to order for the purpose of choosing a President pro tempore.

Mr. SMOOT. On Saturday, December 14, I offered an order and asked for its immediate consideration——

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. The Secretary will read the resolution submitted by the Senator from Utah.

Mr. BRISTOW. I rise to a point of order.

The PRESIDING OFFICER. The Senator from Kansas will state it.

Mr. BRISTOW. There is no business in order except to proceed by ballot to elect a President pro tempore under the rule.

Mr. SMOOT. I asked on Saturday that the order might lie on the table, and now I ask that it be presented to the Senate.

Mr. BRISTOW. I make the point of order that that is not in order until a President pro tempore has been elected, and the way to elect a President pro tempore under the rule is by ballot.

The PRESIDING OFFICER. Will the Senator read the rule?

Mr. BRISTOW. Page 84, Jefferson's Manual:

In the Senate a President pro tempore, in the absence of the Vice President, is proposed and chosen by ballot.

The PRESIDING OFFICER. The first rule of the Senate states that the Senate shall choose its Presiding Officer, which is the language of the Constitution. No method is stated either in the rule or in the Constitution as to the manner in which the Senate shall choose. In the opinion of the Chair the Senate may choose by ballot, by calling the roll, or by resolution, and the last course has been followed over and over again. The Secretary will read the resolution offered by the Senator from Utah.

The Secretary read the order submitted by Mr. SMOOT on the 14th instant, as follows:

Ordered, That JACOB H. GALLINGER, a Senator from the State of New Hampshire, be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including December 16, 1912, to and including January 4, 1913; that AUGUSTUS O. BACON, a Senator from the State of Georgia, be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including January 5, 1913, to and including January 18, 1913; that JACOB H. GALLINGER be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including January 19, 1913, to and including February 1, 1913; that AUGUSTUS O. BACON be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including February 2, 1913, to and including February 15, 1913; and that JACOB H. GALLINGER be, and he hereby is, elected President of the Senate pro tempore to hold and exercise the office from and including February 16, 1913, to and including March 3, 1913.

The PRESIDING OFFICER. The question is on the adoption of the resolution.

Mr. BRISTOW. I ask for a roll call on the resolution.

The PRESIDING OFFICER. The Senator from Kansas asks for the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. GALLINGER (when his name was called). I have a general pair with the Senator from Arkansas [Mr. DAVIS] and will withhold my vote.

Mr. LEA (when his name was called). I have a general pair with the junior Senator from Rhode Island [Mr. LIPPITT] and therefore withhold my vote.

Mr. OLIVER (when Mr. PENROSE's name was called). My colleague [Mr. PENROSE] is detained from the Senate to-day by important business in Pennsylvania. He is paired with the junior Senator from Mississippi [Mr. WILLIAMS].

Mr. POINDEXTER (when his name was called). I should like to make a parliamentary inquiry, whether or not it is in order to cast a vote for some other person than one named in the resolution?

The PRESIDING OFFICER. Not on this question. The question is on the adoption of the resolution.

Mr. POINDEXTER. A further inquiry. Does not that deprive the Senate of the privilege of voting by ballot for the presiding officer?

The PRESIDING OFFICER. The question is on the adoption of the resolution. The Chair thinks nothing else is in order.

Mr. POINDEXTER. I vote "nay" on the resolution.

Mr. CLARK of Wyoming (when Mr. WARREN's name was called). My colleague [Mr. WARREN] is unavoidably detained from the Senate.

Mr. CHILTON (when Mr. WATSON's name was called). My colleague [Mr. WATSON] is absent. He is paired with the senior Senator from New Jersey [Mr. BRIGGS].

Mr. WILLIAMS (when his name was called). I have a general pair with the Senator from Pennsylvania [Mr. PENROSE], but I am informed by his colleague that if he were present he would vote "yea." I shall therefore vote. I vote "yea."

The roll call was concluded.

Mr. CULBERSON. I note the absence of the Senator from Delaware [Mr. DU PONT], with whom I have a general pair. Therefore I withhold my vote.

Mr. CHAMBERLAIN. I desire to state on behalf of the Senator from New Mexico [Mr. CATRON] that he is absent now, and has been for two weeks, on business of the Senate.

Mr. MYERS. I wish to inquire if the Senator from Connecticut [Mr. McLEAN] has voted.

The PRESIDING OFFICER. The Chair is informed that that Senator has not voted.

Mr. MYERS. Then I announce that I am paired with the Senator from Connecticut [Mr. McLEAN] and withhold my vote.

Mr. BRYAN. I should like to inquire if the Senator from New Mexico [Mr. FALL] has voted.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. FALL] has not voted.

Mr. BRYAN. I am paired with that Senator, but I transfer my pair to the senior Senator from Maryland [Mr. SMITH] and vote "yea."

Mr. JOHNSON of Maine. I wish to announce that my colleague [Mr. GARDNER] is necessarily absent from the Senate and that he has a general pair with the junior Senator from Massachusetts [Mr. CRANE].

Mr. CURTIS. I wish to announce that the Senator from Kentucky [Mr. BRADLEY] is paired with the Senator from Indiana [Mr. KERN]; that the Senator from New Jersey [Mr. BRIGGS] is paired with the Senator from West Virginia [Mr. WATSON]; that the Senator from New Mexico [Mr. CATRON] is paired with the Senator from Indiana [Mr. SHIVELY]; and that the Senator from Delaware [Mr. DU PONT] is paired with the Senator from Texas [Mr. CULBERSON].

The result was announced—yeas 51, nays 18, as follows:

YEAS—51.

Bailey	Crawford	Martin, Va.	Simmons
Bankhead	Cullom	Massey	Smith, Ga.
Borah	Curtis	Nelson	Smith, Mich.
Bourne	Fletcher	Oliver	Smoot
Brandegee	Foster	Overman	Stephenson
Brown	Guggenheim	Owen	Stone
Bryan	Hitchcock	Page	Sutherland
Burnham	Jackson	Paynter	Swanson
Burton	Johnson, Me.	Perkins	Thornton
Chamberlain	Johnston, Ala.	Pomerene	Tillman
Chilton	Kenyon	Richardson	Wetmore
Clarke, Ark.	Lodge	Root	Williams
Crane	McCumber	Sanders	

NAYS—18.

Ashurst	Gore	Newlands	Smith, S. C.
Bristow	Gronna	O'Gorman	Townsend
Clapp	Jones	Perky	Works
Clark, Wyo.	La Follette	Poindexter	
Dixon	Martine, N. J.	Reed	

NOT VOTING—25.

Bacon	Dillingham	Lea	Smith, Ariz.
Bradley	du Pont	Lippitt	Smith, Md.
Briggs	Fall	McLean	Warren
Catron	Gallinger	Myers	Watson
Culberson	Gamble	Penrose	
Cummins	Gardner	Percy	
Davis	Kern	Shively	

The PRESIDING OFFICER. The Senate adopts the resolution. The Senator from New Hampshire [Mr. GALLINGER] will take the chair.

Mr. GALLINGER thereupon took the chair as President pro tempore.

THE JOURNAL.

The PRESIDENT pro tempore (Mr. GALLINGER). The Secretary will read the Journal of the proceedings of Saturday last.

The Secretary proceeded to read the Journal of the proceedings of Saturday last.

Mr. McCUMBER. I ask unanimous consent that the further reading of the Journal may be dispensed with.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from North Dakota?

Mr. REED. I object, Mr. President.

The PRESIDENT pro tempore. The Senator from Missouri objects. The reading will be continued.

The Secretary resumed and concluded the reading of the Journal, which was approved.

PRESIDING OFFICER FOR IMPEACHMENT TRIAL.

The PRESIDENT pro tempore. Senators, for reasons sufficient to the Chair, the Chair begs to be relieved from the duty of presiding over the Senate while it sits as a Court of Impeachment in the trial of Robert W. Archbald, and asks that the Senate shall select a Senator to preside over such proceedings.

Mr. LODGE. Mr. President, in view of the statement just made to the Senate by the President pro tempore, I offer the resolution which I send to the desk, and ask unanimous consent for its present consideration.

There being no objection, the resolution (S. Res. 409) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Hon. AUGUSTUS O. BACON, a Senator from the State of Georgia, be, and he is hereby, appointed to preside during the trial of the impeachment of Robert W. Archbald, circuit judge of the United States.

ELECTION OF PRESIDENT PRO TEMPORE.

Mr. SMOOT submitted the following resolution (S. Res. 410), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretary wait upon the President of the United States and inform him that the Senate has elected JACOB H. GALLINGER, a Senator from the State of New Hampshire, President of the Senate pro tempore, to hold and exercise the office from and including December 16, 1912, to and including January 4, 1913; that the Senate has elected AUGUSTUS O. BACON, a Senator from the State of Georgia, President of the Senate pro tempore, to hold and exercise the office from and including January 5, 1913, to and including January 18, 1913; that the Senate has elected JACOB H. GALLINGER President of the Senate pro tempore, to hold and exercise the office from and including January 19, 1913, to and including February 1, 1913; that the Senate has elected AUGUSTUS O. BACON President of the Senate pro tempore, to hold and exercise the office from and including February 2, 1913, to and including February 15, 1913; and that the Senate has elected JACOB H. GALLINGER President of the Senate pro tempore, to hold and exercise the office from and including February 16, 1913, to and including March 3, 1913.

Mr. SMOOT submitted the following resolution (S. Res. 411), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretary notify the House of Representatives that the Senate has elected JACOB H. GALLINGER, a Senator from the State of New Hampshire, President of the Senate pro tempore, to hold and exercise the office from and including December 16, 1912, to and including January 4, 1913; that the Senate has elected AUGUSTUS O. BACON, a Senator from the State of Georgia, President of the Senate pro tempore, to hold and exercise the office from and including January 5, 1913, to and including January 18, 1913; that the Senate has elected JACOB H. GALLINGER President of the Senate pro tempore, to hold and exercise the office from and including January 19, 1913, to and including February 1, 1913; that the Senate has elected AUGUSTUS O. BACON President of the Senate pro tempore, to hold and exercise the office from and including February 2, 1913, to and including February 15, 1913; and that the Senate has elected JACOB H. GALLINGER President of the Senate pro tempore, to hold and exercise the office from and including February 16, 1913, to and including March 3, 1913.

ANNUAL REPORT OF THE INTERSTATE COMMERCE COMMISSION (H. DOC. NO. 946).

The PRESIDENT pro tempore laid before the Senate the Twenty-sixth Annual Report of the Interstate Commerce Commission, which was referred to the Committee on Interstate Commerce and ordered to be printed.

DEMOTION OF WILLIAM HALL AND OTHERS.

The PRESIDENT pro tempore laid before the Senate a communication from the Postmaster General, stating, in response to Senate resolution of December 4, 1912, calling for the correspondence in the possession of the Post Office Department relative to the demotion of William Hall, C. H. Erwin, J. J. Negley, and C. P. Redman, clerks in the Railway Mail Service,

that the papers will be furnished at the earliest date practicable, which was referred to the Committee on Post Offices and Post Roads.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the joint resolution (S. J. Res. 144) authorizing the payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented resolutions adopted by the city council of Boston, Mass., relative to the high price of coal, which were referred to the Committee on Education and Labor.

He also presented a memorial of sundry citizens of Cincinnati, Ohio, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. SMITH of Michigan. Mr. President, I send to the desk a telegram, which is one of many I have received bearing upon the same subject. I ask that it be read for the information of the Senate.

There being no objection, the telegram was read and ordered to lie on the table, as follows:

LANSING, MICH., *December 14, 1912.*

Hon. WM. ALDEN SMITH,
United States Senator, Washington, D. C.:

At a conference of committee representing the following State organizations—Michigan State Sunday School Association, Woman's Christian Temperance Union, Anti Saloon League, and State prohibition committee—held in Battle Creek December 9, the following action was taken:

Resolved, We request our Senators and Representatives in Congress to vote for the passage of the Kenyon interstate liquor shipment bill.

E. K. WARREN, *Chairman.*
F. W. COREAT, *Secretary.*

Mr. SANDERS. I offer resolutions passed at a meeting of the National Woman's Christian Temperance Union on December 15, with the request that they be read and printed in the RECORD.

There being no objection, the resolutions were read and ordered to lie on the table, as follows:

Resolutions passed at a meeting of the National Woman's Christian Temperance Union, December 15, 1912:

Whereas the shipment of alcoholic liquors into prohibition States to be sold contrary to the laws of those States is the greatest hindrance to the enforcement of the prohibitory law; and

Whereas it is manifestly wrong for out-of-State liquor makers and liquor sellers to have the protection of Federal law in sending alcoholic liquors into States to be sold contrary to law:

Resolved, That we respectfully petition the United States Congress to pass the amended Kenyon bill or some similar measure.

Mr. BRISTOW. I have a very large number of petitions in favor of the passage of the Kenyon-Sheppard bill. Several thousand citizens of Kansas petition for it. I will not ask to have them read, but that they be noted and filed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The petitions are as follows:

From sundry citizens of Monument, Arkansas City, Holton, Winona, Lebanon, Norton, Scott City, Sylvia, Ransom, Graham County, Wichita, Agra, Hoxie, Muscotah, Hill City, Potwin, Atchison, Utica, Glade, Mankato, Harvey, Sedgwick, Wellington, Ozawkie, and Osage City, all in the State of Kansas.

Mr. GRONNA. I have received a large number of petitions and resolutions signed by citizens of my State for the passage of the so-called amended Kenyon bill. I will not ask to have the petitions read, as they all bear on the same subject matter. I ask, however, that the heading of one of the petitions be embodied in the RECORD and that the remainder be appropriately referred.

There being no objection, the petitions were ordered to lie on the table, and the heading of one of the petitions was ordered to be printed in the RECORD, as follows:

To the Hon. A. J. GRONNA,
United States Senate, Washington, D. C.:

The undersigned, citizens and residents of the State of North Dakota, realizing the evil effects of the liquor traffic and the difficulty of enforcing the prohibition law of this State under the present interstate-commerce law, earnestly request you, as our representative, to use all legitimate means within your power to secure the passage of the bill known as the amended Kenyon bill, No. 4043, which will come up in the United States Senate on December 16 next.

Mr. TOWNSEND. Mr. President, I have sent for some petitions in behalf of the Kenyon-Sheppard liquor bill, which I desire to have noted and filed as soon as I can get them.

The PRESIDENT pro tempore. Permission is granted.

Mr. CLAPP. Mr. President, as I understand the rule, either petitions or private claims bills may be filed with the Secretary at any time during the sessions of the Senate.

The PRESIDENT pro tempore. They can be filed with the Secretary under the rule.

Mr. CLAPP. And they do not have to be presented in open session?

The PRESIDENT pro tempore. The Senator is correct.

Mr. TOWNSEND presented petitions of the Michigan State Sunday School Association, of the Woman's Christian Temperance Union, of the Antisaloon League, and of the State Prohibition committee, of Lansing; of the congregation of the First United Brethren Church of Grand Rapids; of the Christian Endeavor Union of Detroit; of the board of directors of the Petoskey Federation of Woman's Clubs; and of sundry citizens of Detroit, Harbor Springs, Lansing, Holly, Scotts, Petoskey, Kalamazoo, Caro, Prescott, and Battle Creek, all in the State of Michigan, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. STONE presented memorials of sundry citizens of Seneca; of Local Union No. 43, Beer Drivers and Stablemen, International Union of United Brewery Workmen of America; of Local Unions Nos. 237, 246, and 279, International Union of United Brewery Workmen of America, all of St. Louis; of the Trade Assembly of Joplin, all in the State of Missouri, and of the National German-American Alliance of Missouri, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of sundry citizens of Westboro, West Plains, and Versailles, of the Civic League of Norborne, of the Lone Star Union, of the Woman's Christian Temperance Union of Albany, and of the congregation of the Methodist Episcopal Church South, of Elkins, all in the State of Missouri, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. JOHNSON of Maine presented petitions of sundry citizens of Turner Center, Stockholm, and Nobleboro, all in the State of Maine, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a memorial of the local branch of the German-American Alliance of Lisbon Falls, Me., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. McLEAN presented a petition of 22 citizens of Yalesville, Conn., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of the Social Service League of Salisbury, Conn., and a petition of Manchester Grange, No. 31, Patrons of Husbandry, of South Manchester, Conn., praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were ordered to lie on the table.

Mr. CULLOM presented memorials of Local Unions No. 21, of Belleville, and No. 337, No. 344, and No. 342, of Chicago, of the International Union of the United Brewery Workmen of America, of the joint executive board of Brewery and Distillery Workmen, of Peoria and Pekin, and of the United Societies for Local Self-Government, and the Personal Liberty League of Illinois, all in the State of Illinois, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of the Woman's Christian Temperance Unions of Savanna, Percy, Downers Grove, Jackson County, Naperville, Galena, Aurora, Springfield, and Gridley; of the Brotherhood of the First Methodist Episcopal Church of Champaign; of the congregation of the Central Congregational Church, of Galesburg; of the Sabbath school convention at Monmouth; of the congregation of the Methodist Episcopal Church of Keensburg; and of sundry citizens of Galesburg, Valmeyer, Middlegrove, and Harvard, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. CURTIS presented petitions of the congregations of the First Presbyterian Church of Olathe, the Baptist Church of Olathe, the First Baptist Church of McPherson, and the Methodist Episcopal Church of Caldwell, and of sundry citizens of McPherson, Olathe, Denison, Hillsboro, Augusta, Holton, Winona, and Norton, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. ROOT presented a petition of the New York State Canners' Association, praying for the establishment of a bureau of inspection to inquire into the sanitary condition of the canning and preserving factories in that State, which was referred to the Committee on Agriculture and Forestry.

Mr. STONE presented sundry telegrams in the nature of memorials from Strandberg, McGreevy & Co., the Southwestern National Bank of Commerce, the Densmore Hotel Co., Edward J. McMahan, the Bauer Machine Works, the Commerce Trust Co., the Niles & Moser Cigar Co., the First National Bank, the Knapps Insurance Agency, the H. P. Wright Investment Co., the Hodes Planing Mill, the A. J. Shirk Roofing Co., the Kupper Hotel Co., Charles Campbell, the Central Brass Works Co., Rothenberg & Schloss, the C. C. Yost Pie Co., and the Ridley Machine Works Co., all of Kansas City, in the State of Missouri, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. SMITH of Maryland presented a petition of sundry citizens of Maryland, praying for the adoption of certain amendments to the patent laws, which was referred to the Committee on Patents.

Mr. SHIVELY presented petitions of the Ministerial Association of Terre Haute; of General Canby Post, No. 2, Grand Army of the Republic, of Brazil; and of Henry E. C. Cade, William H. McCord, Rev. Owen Wright and 8 other citizens of Veedersburg, all in the State of Indiana, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. GALLINGER presented petitions of sundry citizens of New Hampton, Claremont, Keene, and East Jaffrey, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BRISTOW:

A bill (S. 7777) granting an increase of pension to Eben S. Welch (with accompanying papers); to the Committee on Pensions.

By Mr. CLAPP:

A bill (S. 7778) to authorize the Minnesota River Improvement & Power Co. to construct dams across the Minnesota River; to the Committee on Commerce.

A bill (S. 7779) granting an increase of pension to Thomas C. Aldrich (with accompanying papers); to the Committee on Pensions.

(By request.) A bill (S. 7780) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or association to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal, the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or association; to the Committee on Post Offices and Post Roads.

By Mr. PAGE:

A bill (S. 7781) granting an increase of pension to Christopher P. Brown (with accompanying papers); to the Committee on Pensions.

By Mr. BURTON:

A bill (S. 7782) for reduction of postage rates on first-class mail matter; to the Committee on Post Offices and Post Roads.

By Mr. WETMORE:

A bill (S. 7783) granting an increase of pension to George W. Hale (with accompanying papers); to the Committee on Pensions.

OMNIBUS CLAIMS BILL.

Mr. CHILTON (for Mr. WATSON) submitted three amendments intended to be proposed by him to the omnibus claims bill, which were ordered to lie on the table and be printed.

Mr. REED submitted 42 amendments intended to be proposed by him to the omnibus claims bill, which were ordered to lie on the table and be printed.

AMENDMENTS TO THE LEGISLATIVE APPROPRIATION BILL.

Mr. BURTON submitted an amendment proposing to increase the salaries of certain employees in the office of the assistant treasurer at Cincinnati, Ohio, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

JOHN W. CUPP.

Mr. CLAPP. On July 16 last the bill (S. 3159) for the relief of John W. Cupp was reported adversely from the Committee on Claims, and it was postponed indefinitely. But I understand, in talking with members of the committee, that possibly it was inadvertently done. Therefore, notwithstanding the adverse report, I ask unanimous consent to reconsider the vote by which the bill was postponed indefinitely, and I move that the Secretary of the Senate be directed to transmit to the clerk of the Committee on Claims the papers in connection with it, and that the bill be referred to the Committee on Claims.

The PRESIDENT pro tempore. Without objection, the action of the Senate indefinitely postponing the bill will be reconsidered and the request of the Senator from Minnesota will be complied with.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia. Mr. President, I desire to give notice that on Wednesday, immediately after the morning business, with the consent of the Senate, I desire to address the Senate upon the bill (H. R. 22871) to establish agricultural extension departments in connection with the land-grant colleges in the several States.

MEMORIAL ADDRESSES ON THE LATE SENATOR TAYLOR.

Mr. LEA. Mr. President, I desire to give notice that on Friday, February 7, 1913, I will ask that the business of the Senate may be suspended in order that fitting tribute may be paid to the memory of my late colleague, ROBERT LOVE TAYLOR.

PROCEDURE IN IMPEACHMENT TRIALS.

Mr. SUTHERLAND. I offer the resolution which I send to the desk, and ask to have it read.

The PRESIDENT pro tempore. The resolution submitted by the Senator from Utah will be read.

The Secretary read the resolution (S. Res. 412) as follows:

Resolved, That the Judiciary Committee of the Senate is instructed to prepare and report to the Senate such amendments and additions to the rules for impeachment trials as are necessary and appropriate to provide that in all impeachment cases hereafter instituted, except when the President or Vice President of the United States, a member of the Cabinet, or a member of the Supreme Court of the United States is impeached, the testimony may be taken by the Judiciary Committee and together with findings of fact reported to the Senate for its consideration and judgment.

Mr. SUTHERLAND. Mr. President, the provision of the Constitution with reference to impeachment is as follows:

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the Members present.

Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.

That is the only provision of the Constitution with reference to the functions of the Senate in trying impeachment cases. I see no reason why the Senate may not take testimony as testimony is taken by a court of equity, for example, by reference, in the case of a court of equity, to a master, and in the case of the Senate by reference to a special committee or to a standing committee. I think it is very desirable that that course should be followed in the future, except where the high officers named in the resolution should be involved.

The Senate has been occupied in the present trial for two or three weeks. Its time has been taken away from the important business of the Senate. Many of the Senators could not be present to hear the testimony, and of necessity they are obliged to read it before they can act. The same result, it seems to me, would be obtained by referring the case in the first instance to the Judiciary Committee to take the testimony and report it to the Senate. Of course, the findings of fact which might be presented by the Judiciary Committee would only be advisory, and not binding on the Senate.

I have not been able to find any discussion on the subject except what is very briefly said in Jefferson's Manual, at page 153 of the Senate Manual. Speaking of the practice of the British Parliament in this respect, under the head of "Witnesses," it is said:

The practice is to swear the witnesses in open House, and then examine them there; or a committee may be named who shall examine them in committee, either on interrogatories agreed on in the House or such as the committee in their discretion shall demand.

I ask that the resolution be referred to the Judiciary Committee.

Mr. BAILEY. Mr. President, before the resolution is referred, I want to express the hope that it will never be adopted. In the first place, a proceeding of that kind would utterly fail to impress the country, and it would degenerate into something like a contested-election case. I indulge the hope—and I think that hope is justified by the history of the country—that impeachment trials will not become frequent enough to seriously interfere with the Senate in the discharge of its ordinary duties. But when a President or Vice President or a civil

officer of the United States is impeached by the House of Representatives, I think the inquest held by this body should be as solemn and impressive as possible, and I believe the open Senate—sitting, if you please, as a Court of Impeachment—is the place where every witness should be heard. To send the witnesses in a matter of this dignity to the privacy of a committee room is to make the proceeding less impressive than it ought to be, and, in my opinion, it would give some ground, now and then, for people to allege that the proceedings were not as fair and not as open as the nature of the proceedings requires.

I sympathize with the desire of the Senator from Utah [Mr. SUTHERLAND] to save the time of the Senate; but I do not myself know how the Senate could better spend its time than in trying a case like this. It is one of the duties devolved upon us by the Constitution, and it is one of the most solemn which we can perform. I hope we will never commit the most important part of it to any committee of this body.

Mr. BORAH. May I ask what disposition is to be made of the resolution?

The PRESIDENT pro tempore. The Senator from Utah made the request that it be referred to the Judiciary Committee. That will be done, without objection. The resolution will go to the Committee on the Judiciary.

Mr. REED subsequently said: I ask for another reading of the resolution offered by the Senator from Utah.

The PRESIDENT pro tempore. Without objection the resolution will again be read.

The Secretary read as follows:

Resolved, That the Judiciary Committee of the Senate is instructed to prepare and report to the Senate such amendments and additions to the rules for impeachment trials as are necessary and appropriate to provide that in all impeachment cases hereafter instituted, except when the President or Vice President of the United States, a member of the Cabinet, or a member of the Supreme Court of the United States is impeached, the testimony may be taken by the Judiciary Committee and, together with findings of fact, reported to the Senate for its consideration and judgment.

Mr. REED. Mr. President, as a matter of information, I wish to inquire whether it was the purpose of the Senator from Utah to have a rule reported making it obligatory that these proceedings should go to the Judiciary Committee, or simply to have a rule drafted which would permit such reference by a vote of the Senate?

Mr. SUTHERLAND. Mr. President, the resolution probably would be construed as directing an obligatory rule. I think myself it ought to be a permissive rule, that the Senate may do it in any particular case. However, if the rule should be obligatory, the Senate, of course, could at any time suspend it and try any particular case without referring it to the Judiciary Committee.

Mr. REED. I have simply this suggestion to make: It seems to me it would be better to have that rule, if it is reported, so drawn that proceedings of this nature should not go to a committee except by an order of the Senate, leaving, at least in some form, a discretion in the Senate that could be exercised without repealing the rule.

I think there is a great deal of wisdom in the proposition advanced by the Senator from Utah, but I think the modification I have suggested or something of that nature ought to be embodied in it.

Mr. BACON. Mr. President, I would suggest to the Senator from Utah that there ought to be a change in the phraseology of one part of his resolution. I do not discuss in any manner now the question as to the propriety of the resolution, but the propriety of a change is because there is no such officer known to our law as a Cabinet officer. The designation of the officer as a Cabinet officer can not be found in the law, and could not be created as such by Congress, because Congress could not impose upon the President the selection of those whom he will choose to be his advisers. He has chosen voluntarily without any statute to have the heads of the departments as his constitutional advisers. They are constitutional only in the sense that the Constitution says he may require services at the hands of the heads of departments in the giving of information, and so forth. These gentlemen are heads of departments, and the phraseology of the resolution, it seems to me, should be changed to conform thereto.

There is in other countries a similar body, which is in either of those countries in fact a cabinet. Such cabinets are in fact the ruling influences of the governmental affairs of the country, the executive being merely nominal. It is different with us. The Executive here is an actual Executive, and these are his advisers simply, and we call them Cabinet officers merely by courtesy. It is well recognized who they are when we speak of them as such, and there is no impropriety in speaking of them as such as a matter of courtesy; but in a legal document, especially one that seeks to prescribe the method by which impeachment proceedings should be taken against them, we should be accurate. It seems to me the only proper phraseology there would be to use the words "heads of departments" instead of "Cabinet officers."

Mr. SUTHERLAND. I am well aware of the correctness of what the Senator from Georgia says. The law designates the so-called Cabinet officers as heads of departments. I have chosen in the resolution, which, of course, is not a rule, but simply a direction to the Judiciary Committee to prepare a rule, to use the term by which they are popularly known rather than the name by which they are legally known, and I take it the Judiciary Committee will have no difficulty in understanding what is meant.

Mr. THORNTON. Mr. President, I ask that the resolution submitted by the Senator from Utah, referring to the future conduct of impeachment proceedings, be read again to the Senate. There are many who, like myself, do not understand what its effect would be if adopted.

Mr. KENYON. Mr. President, I rise to a question of order.

The PRESIDENT pro tempore. The Senator from Iowa rises to a question of order. The Senator will state it.

Mr. KENYON. It is that this debate is not in order as a part of the unfinished business.

The PRESIDENT pro tempore. Debate can proceed only by unanimous consent, the resolution having been referred.

INTERSTATE SHIPMENT OF LIQUORS.

The PRESIDENT pro tempore. Under the special order of the Senate the consideration of the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases will be proceeded with. The bill will be read.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the shipment or transportation in any manner or by any means whatsoever of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, including beer, ale, or wine, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, enacted in the exercise of the police powers of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.

Mr. SANDERS. Mr. President, Senate bill 4043, entitled "A bill to prohibit interstate commerce in intoxicating liquors in certain cases," stripped of its verbiage, would read:

Be it enacted, That the shipment of intoxicating liquor from one State into any other State by any person, to be received or used in violation of any law of such State, is hereby prohibited.

SEC. 2. That all intoxicating liquors transported into any State shall, upon arrival within the boundaries of such State and before delivery to the consignee, be subject to the operation of the laws of such State.

This bill relates to nothing but the shipment of intoxicating liquors from one State into another State where it is to be sold in violation of State laws concerning same.

It does not relate to the personal use of liquor. The personal-liberty cry does not therefore properly come into this discussion. With only a few exceptions, none of the States have yet attempted to prohibit the drinking of liquor, and it is not the intention of the advocates of this bill to ask the Federal Government to take such action in advance of the States.

Parts of States to which State prohibition laws do not apply, commonly known as "wet territory," are not affected by this bill.

The disposition of the States to limit or prohibit the sale of liquors is so general that the question can not be considered a sectional or local matter. Every State has more or less territory where the sale of intoxicating liquors is prohibited. This is commonly known as "dry territory."

Eight States have State-wide prohibition. Only six States have more wet than dry territory. These wet and dry States are scattered over the entire country.

As an evidence of the demand for such legislation, it is sufficient to call attention to the fact that 71 per cent of the area of the United States is now under State prohibition laws, and by the further fact that a majority of all the people of the United States live in dry territory.

The evils attending the use of intoxicating liquors are so well known and so generally admitted that nothing need be said on that part of the subject in the consideration of this bill.

The State I have the honor to represent is perhaps a fair example of the various States to which this bill applies is a

greater or less degree. It has a State-wide law against the sale of intoxicating liquors to persons within the State. These laws are enforced in most of the counties fairly well, but are violated in the many counties, especially those having large cities, on account of the corrupting influence of the large number of mail-order liquor houses in these cities, which are in the alleged business of selling to persons in other States. The violations of the law over the State are almost all by keepers of soft-drink stands, hotels, boarding houses, restaurants, livery stables, and bawdyhouses. To these are to be added the bootlegger class, made up of loafers and other like characters.

The centers of liquor distribution were originally the saloons. They, with their attending evils, have been banished from the larger part of the country. But with their going there has grown up what is known as the "mail-order liquor business." This is even more insidious than the saloons. It came as an afterthought.

Persons who were formerly in the saloon business in one capacity or another are now running mail-order houses or are engaged in the unlawful sale of liquor as described. The supply of liquor for almost all this business is traceable to the interstate shipment of liquor for sale in violation of the State law.

Persons in this business seek opportune times for getting liquor from the express offices, and secrete it in all manner of ways, then sell it clandestinely, making it exceedingly difficult for State officials to enforce the State laws. Under the present Federal laws this liquor is not subject to the State laws until it is delivered to the consignee, and there is, therefore, no opportunity for its detention while in transit after it comes into the State or while it is in the express office awaiting delivery.

In smaller towns numbers of persons order whisky by mail from outside of Tennessee and have it shipped to themselves in small quantities by express. The large mail-order whisky houses flood the State with their advertising matter for the purpose of getting this trade. The various wholesale liquor dealers who ship into Tennessee keep traveling representatives in the State, who visit the dealers and bootleggers and take orders from them for whisky. These orders are transmitted by the agent to his house, and the goods are shipped directly to the person ordering the same. The agent collects from the purchaser at such times as they may agree upon.

The quality of liquors sold in Tennessee at this time is generally below the standard. Large quantities of high-proof spirits are shipped into the State, which are taken by the various rectifiers and reduced in proof and, in most instances, foreign substances are added, rendering the whisky inferior in quality and frequently deleterious to the consumer, physically and mentally. This is done because of the large increase in quantity secured thereby, which largely increases the profit. The States are not able to protect their people from fraud and imposition of this kind.

I suppose no one will say that intoxicating liquors should be sold to minors. The States all have laws against such sale. Minors are not allowed in saloons. The mail-order liquor houses send their advertising matter to minors, and in this way minors everywhere are led to buy liquor. On account of this children come out from under the restraint and protection of the law and practically from under parental restraint.

This mail-order business goes on all over the country. An example of its volume is found in the report of the Interstate Commerce Commission, opinion No. 1596, as to the business of this kind in the Southern States, showing a total sale of more than 6,000,000 gallons annually. This would indicate that the total of this mail-order liquor business for the whole United States is about 20,000,000 gallons per annum.

I now read from the report:

The mail order business in packages of liquor in this country had its beginning about a quarter of a century ago. At that time it was of small proportions, very few packages being shipped, and those only to short distances. It was the spread of the prohibition movement that gave vitality to this character of traffic in liquor. Local option first drove the dealers from the localities where they had carried on a retail business to settle on the outskirts of the proscribed territory and ship liquor into it. As the prohibitive area spread the shippers were driven farther and farther back, but their business became more extended in the territory covered and larger in the volume of traffic. With State-wide prohibition came the interstate traffic in liquor. The decision of the Supreme Court that this traffic was interstate and, therefore, superior to interference by the State governments gave the industry a tremendous impetus and established the express companies as the carriers of practically the whole of this traffic.

The proportions of the business throughout the country at the present time can not be estimated with any degree of accuracy, but figures presented by the Southern Express Co. may be made the basis of a fair approximation. Jacksonville, Fla., probably the largest shipping point for liquor in the South, sends out between three and four thousand packages of 1 or 2 gallons daily, or a total of about one and one-half million gallons a year. Chattanooga ships about 796,000 gallons; Richmond, 546,720 gallons; Petersburg, 268,128 gallons; Pensacola, 267,760 gallons; New Orleans, 255,856 gallons; Augusta, 215,150 gallons; and Norfolk, Va.; Cairo, Ill.; Emporia, Va.; Louisville, Ky.; Portsmouth, Va.; Roanoke, Va.; and Savannah, Ga., ship more than 100,000 gallons each annually.

This report also states:

These packages are sent express, charges paid, direct to the consumers on orders, in most cases, paid for in advance of shipment. The movement is much more active in the South than in other sections of the country, partly because of the extent of the prohibition territory in that section, partly because of the large quantities of very cheap whisky manufactured and shipped there for the consumption of the negro population. While it is not the function of this commission to be influenced in its conclusions by the moral aspect of the question, it is impossible not to recognize in this traffic one of the important factors in the race problem of the South—the evil spirit back of that problem in more ways than one. Generally speaking, the evidence presented at these hearings went to show a distinct cleavage in the industry; in the West a high grade of liquor was shipped and a better clientele appealed to; in the South both whisky and consumers were on a considerably lower grade.

The following letter, received from the largest mail-order liquor house in Chattanooga, is an acknowledgment of the fact that they know themselves to be shipping liquor into other States, to be sold in violation of the laws of such States. It also shows the extent of this pernicious business:

Allow me to write you in behalf of our business. Chattanooga is the second largest mail-order whisky center in the South, and if the Kenyon bill passes the House, which comes up before the Senate December 16, it means that our business will practically be destroyed, and I am writing to ask that you carefully consider this matter.

We certainly will appreciate anything that you can do for us, and with best wishes I remain,

Yours, very truly, _____ _____.

P. S.—We have 150 white employees here in our store in Chattanooga. This will give you some idea of the magnitude of the mail-order business out of Chattanooga.

The sale of pistols is prohibited by every State, but mail-order houses sell and ship them into every State in the same way as intoxicating liquors, and not infrequently a man orders them by the same mail, receives both by the same express, and a homicide follows.

I notice with great satisfaction that in the parcel-post regulations just issued both whisky and pistols are declared nonmailable.

This bill is not all that is wished by the temperance people of the country. It only stops the business of selling liquor within dry territory by persons outside that territory in violation of law. The evil of interstate sales to consumers yet remains. When it is remembered that the Federal Government can absolutely prohibit all interstate shipments of liquor the liquor manufacturers and dealers should be gratified that the more advanced proposition of prohibiting the interstate shipments of liquor to consumers is not in this bill.

If a mail-order man feels aggrieved he has his remedy. He can require cash in advance for both the price of the liquor and the freight on same. Then he is in no danger of loss by reason of the intent of the consignees being of an unlawful nature.

As it is now no person in Tennessee can lawfully sell intoxicating liquor in Tennessee, but a person in Kentucky can sell in Tennessee. Should a citizen of Kentucky have more rights in Tennessee than a citizen of Tennessee? No man should have the personal liberty of violating the laws of any State.

As it is a State can protect its citizens against one another, but not against outsiders. A State can regulate the quality of liquor sold within the State, but it can not regulate the quality of liquor sold from outside the State.

It is the moral duty of the Federal Government to protect the States in the enforcement of their laws. There is here an invasion of State rights and a helplessness of States to protect themselves. They must therefore look to the National Government for relief. That is the object of this bill.

A Senator from New York once said:

No man can overestimate the importance of maintaining each and every one of the sovereignties of the States, and no one can overestimate the importance of maintaining the sovereignty of the Nation.

Applying this statement to the matter under discussion, I wish to add, the sovereignty of the Nation is invoked to maintain the sovereignty of the States.

Mr. McCUMBER. Mr. President, the purpose of this bill is to meet a condition. The condition is of the same character as that which necessitated and brought about the enactment of the pure food and drug law. The statutes of practically every State in the Union contained enactments designed to protect the people of such States against fraudulent, adulterated, misbranded, or deleterious foods and drugs. The purposes of each State law were broad and comprehensive, and had it not been for certain Federal interference would have been sufficient to accord proper protection to the people of such State.

The construction of the interstate-commerce clause of the Constitution to the effect that the jurisdiction of the Federal Government over an article entering into interstate commerce continued, not only until the article had been received by the

consignee, but also until it had actually passed out of his hands and mingled with the mass of the property of the State, rendered the State law ineffective as a preventive measure. The law could punish the innocent retail merchant but could not prevent the commission of the offense, nor reach the source of the evil, the manufacturer, in another State. The greater proportion of all food and drug products were consumed in States other than that in which they were manufactured. They came from the factory often adulterated, often mislabeled, and were quite often deleterious to health.

The retail merchant had a right to assume, when he ordered a few hundred dollars' worth of maple sirup, and when it came to him marked "Pure Vermont Maple Syrup," that he was receiving just what he ordered and not colored and flavored glucose. The State could with very little grace impose a fine upon an innocent retailer and make him suffer for an offense committed by another upon him. Nor did this vicarious punishment in any way remedy the wrong which had been perpetrated upon the consumer. It was impossible for the State authorities to watch every train at every station within its borders every day in the year to ascertain what goods were being imported into the State which were condemned by their laws. The condition demanded a remedy. The pure-food law was introduced and passed to meet the condition. It has been eminently successful.

When I drafted the bill which became the final law with almost no change, I did not draft it along the lines of this bill to prohibit interstate commerce in intoxicating liquors in certain cases. I had examined the authorities governing the question which had been decided at that time, and I believed that a proposal that the articles should become subjected to the police powers of a State the moment they crossed the line and before they reached the hands of the consumer of doubtful constitutionality. At that time the courts had gone so far as to hold in the Leisy against Hardin case, One hundred and thirty-fifth United States, that the power of Congress over interstate commerce extended not only from the time the consignor began to ship the goods to the time of their delivery, but also followed them in the original packages until they had passed by sale out of the hands of the consignee.

Nor did those who supported the pure-food act feel entirely safe at that time in being able to meet the claim that it would be a delegation of congressional power to authorize the divers State laws to lay hold, upon an article of interstate commerce the moment it crossed a State line.

There was what we considered a much safer, if not sounder, foundation for a Government law which should meet the necessities of that situation. It had been held in many cases that the power of Congress over interstate commerce was exactly of the same character and potency as the power of Congress over foreign commerce; that under the authority of Congress to regulate and control foreign commerce Congress had again and again enacted legislation which absolutely prohibited certain kinds of goods from entering into commerce. The courts had clearly established the doctrine that the right to regulate commerce carries with it in proper cases the right to prohibit commerce. The lottery case had already been decided, One hundred and eighty-eighth United States, page 321.

In this case the court say:

If lottery traffic carried on through interstate commerce is a matter of which Congress may take cognizance and over which its power may be exercised, can it be possible that it must tolerate the traffic and simply regulate the manner in which it may be carried on? Or may not Congress, for the protection of the people of all the States under the power to regulate commerce, devise such means within the scope of the Constitution and not prohibited by it as will drive that traffic out of commerce among the States?

The court decided that Congress had such power, that it could so outlaw a commodity for the protection of the people of all the States.

Justice Harlan in that case states:

What clause (in the Constitution) can be cited which in any degree countenances the suggestion that one may of right carry or cause to be carried from one State to another that which will harm the public more or less? * * * Surely it will not be said to be a part of any one's liberty, as recognized by the supreme law of the land, that he shall be allowed to introduce into commerce among the States an element that will be confessedly injurious to public morals.

Again:

As a State may, for the purpose of guarding the morals of its own people, prohibit all sales of lottery tickets within its limits, so Congress, for the purpose of guarding the people of the United States against the widespread pestilence of lotteries, and to protect the commerce which concerns all the States, may prohibit the carrying of lottery tickets from one State to another.

Mr. SUTHERLAND. Mr. President——

The PRESIDENT pro tempore. Will the Senator from North Dakota yield to the Senator from Utah?

Mr. SUTHERLAND. Will it interrupt the Senator if I ask him a question?

Mr. McCUMBER. I will allow the interruption at this time, but I wish to close before half past 1, and therefore I may not be able to yield to all interruptions.

Mr. SUTHERLAND. The Senator said a moment ago, as I understood him, that the power to regulate interstate commerce is of the same potency as the power to regulate foreign commerce.

Mr. McCUMBER. That is the statement, Mr. President.

Mr. SUTHERLAND. Does not the Senator recognize that while the language of the constitutional provision with reference to interstate and foreign commerce is the same the objects to which the language is directed are different; that the Government of the United States in dealing with a foreign nation deals in its sovereign capacity; that it may absolutely prohibit the importation of any goods from foreign countries or from any particular foreign country, but that it could not, it seems to me—I ask the Senator his view of it—absolutely prohibit the transmission of all goods from one particular State to another particular State?

Mr. McCUMBER. Congress may prohibit importations or fix any condition upon any foreign importations. The power of Congress over interstate commerce, as over foreign commerce, is plenary, is full and complete; and while Congress may not, and I have not claimed it is necessary that Congress may prohibit commerce in any and all things, there are certain things in which, exercising its plenary power, it may prohibit to enter interstate commerce.

Mr. SUTHERLAND. Congress may pass an embargo against the importation of all goods from France to this country, but does the Senator think that Congress can pass a law putting an embargo upon all goods from New York to any other State?

Mr. McCUMBER. Not by any means, as I will show before I get through; but Congress can prohibit some things from entering into interstate commerce, and intoxicating liquors is one of the things.

We were able to apply this reasoning directly to the pure food and drug act. No citizen had a right under the Constitution to use the channels of commerce to deceive or injure others. That will apply to this case. He had no inherent right to defraud the people of another State by selling to its citizens an article, which was falsely labeled or adulterated, for the genuine article.

And so we invoked the inherent power of Congress to prohibit entirely interstate commerce in any article designed or calculated to deceive. We held that Congress had the power to prevent the citizens of one State from perpetrating a fraud upon either the pocketbook or the stomach of the citizens of another State. This wholesome law has been upheld by the courts.

Mr. President, I have read over most hurriedly the legal arguments both pro and con given before the Committee on Interstate Commerce. To understand the force of those arguments one must understand the purpose of the bill and what condition it is sought to meet. The condition is almost the same as that which presented itself as the reason for the pure-food and drug act, except that in the latter case the law was designed to protect the citizens of one State against the unlawful, fraudulent act of a citizen of another State, while in the present case the design of the law is to protect the citizens of a State against the crimes and unlawful acts of its own citizens, committed in conjunction with citizens of another State. The desire of the State is not alone to punish for the offense of the illegal sale of liquor, but to prevent the illegal sale. It has been found impossible to effectively enforce the prohibition laws of a State if the State is compelled to await its action until the offense prohibited has been committed, the property sold and mingled in the mass of the property of the State. The State seeks to reach the property before it has reached the hands of the consumer—to reach it in bulk. It desires to issue its process against the property itself and to determine beforehand whether or not it is there for an unlawful purpose; and if so, to enjoin that purpose—to proceed against it by an action in rem and condemn it as a nuisance.

This bill is not a bill to prevent interstate commerce in intoxicating liquors. The State of North Dakota is a prohibition State, made so under its constitution. So long as that law remains a law of the State of North Dakota it is my duty as a Representative of that State to assist in the enforcement of that law and to assist in the enactment of any legislation by the Federal Government which is necessary for the State to enforce its police powers. I say our State is a prohibition State; but it is prohibition only in the sense that it prohibits the sale of intoxicating liquors as a beverage. It prevents no man and no family from importing any liquors and consuming

them in the home or elsewhere. It is not aimed at the right to consume liquor, but is leveled against the open saloon. This law will not affect the importation of intoxicating liquors into the State to be used as they always have been used since we became a State. Its only effect will be to assist the officials of the State in enforcing the prohibition law against blind piggism, bootlegging, and so forth.

For the same reason that the State laws were ineffective to prevent a contemplated breach of them and called for a Federal pure food act, so the State laws are ineffective to properly protect the people against the evils which the majority of the people of such State say flow from the sale of intoxicating liquors. This is so because the State is often compelled to await action until the sale has been completed and the injury has been done.

Assuming that the State has the right to enforce its own laws by such method as will be effective, namely, by an action in rem against the property before it reaches the consignee or the consumer, we are met directly with the question whether Congress can legally subject an article in interstate commerce to the police power of the State while it is still in transit or before it has mingled with the mass of the property of the State.

In the consideration of this question we must admit every claim made by the opponents of the measure which have had the real sanction of the Supreme Court of the United States. We must admit that the court has held that an article is in interstate commerce until it has actually been sold in original packages, and that until it has been so sold the State laws have no control over it. To be sure, in a subsequent case the court held that Congress could authorize the State laws to attach to the property before its final sale in original packages and after its delivery to the consignee: that the sale was merely an incident to commerce and not, strictly speaking, commerce itself, and therefore the Congress could relinquish to the State authority over the article over which Congress might, if it saw fit, retain exclusive control. That is my construction of the Rahrer case.

The court has also held that Congress has no authority to delegate its power over interstate commerce to a State.

I, however, base my claim of the constitutionality of this proposed law upon a legal proposition which, I think, was not discussed, or at least but barely touched upon, in the argument before the committee.

First. That Congress has power to absolutely prohibit interstate commerce in intoxicating liquors. That is my position and the fundamental basis of my argument to uphold the constitutionality of this proposed measure.

Second. Having power to prohibit interstate commerce in intoxicating liquors it has the lesser power, which must be included in the greater, of allowing interstate commerce in intoxicating liquors under certain conditions, and those conditions may be that the commodities shall be subjected to the police powers of a State the moment they cross the State line; not that the State law shall be the effective law and be approved by Congress, but Congress shall relinquish its hold upon the articles upon certain conditions when they arrive within a State.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Idaho?

Mr. McCUMBER. I yield, Mr. President.

Mr. BORAH. The proposition which the Senator has just been stating is covered, I take it, by the first part of the bill; that is, section 2.

Mr. McCUMBER. Yes.

Mr. BORAH. That is a prohibition against shipping liquors into a State where they are intended to be used in an unlawful way.

Mr. McCUMBER. Yes.

Mr. BORAH. It seems to me that Congress has that power, and I am in favor of exercising that power. But when you come to the second section it has occurred to me that there is a clause in that section which militates against the strength and effect of the first section and might involve a question of constitutionality. I do not see the necessity of section 2, and I do not believe it to be constitutional.

Mr. McCUMBER. I do not think the second section is at all necessary, and I think it is of doubtful constitutionality in one of its provisions; but I do not desire to argue that question at this time. If the act is made clear that we do not put into effect a State law when the commodities arrive in such State, or do not delegate our authority in any manner to a State, but simply provide a condition under which the commodity may lose its commercial character, and thereby become subject to the laws of the State, the second section may be so framed as to be held constitutional.

Mr. KENYON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Iowa?

Mr. McCUMBER. I yield to the Senator.

Mr. KENYON. I simply want to say, Mr. President, to the Senator from North Dakota that section 2 is the committee amendment.

Mr. McCUMBER. I understand that.

Mr. KENYON. I have thought of the same suggestion that the Senator from Idaho [Mr. BORAH] has made. While the first section prohibits the shipment of intoxicating liquors with the intention to violate the law of the State, the second section would seem to recognize the transportation of liquors and at the same time apply the police powers. There is some incongruity between the two sections.

Mr. McCUMBER. One would seem to rather transfer the congressional authority over to the State, and that construction we should avoid, if possible.

Mr. BORAH. Just a word, Mr. President.

The PRESIDENT pro tempore. Does the Senator from North Dakota yield further to the Senator from Idaho?

Mr. McCUMBER. I yield.

Mr. BORAH. As I have said, so far as the first section is concerned, it seems that the bill provides that Congress shall retain the control of the commerce; it says it shall not go into a State under certain conditions; it fixes the rate and regulation itself; but in the second section it is provided:

> That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival within the boundaries of such State or Territory and before delivery to the consignee—

The prohibition which has been made in the preceding section is, in a sense, abrogated in the second, and liquor is recognized as an article of commerce. Recognizing it as an article of commerce, and one which may go into the State, then the question is, Can you stop it and turn it over to the State before it is finally delivered to the consignee? In the first section you make it contraband of commerce when it is being shipped for unlawful use. In the second you recognize it as an article of commerce, but turn it over to the State before it is delivered to consignee. I do not think this aids the law in its efficiency, and I believe it unconstitutional.

Mr. McCUMBER. The whole question is our authority to attach a condition to it in order to give it a right to enter into interstate commerce.

Third. That imposing the condition that the goods shall be so subjected to the laws of a State is not in any sense whatever delegating authority to the State to control by its legislation interstate commerce. It is the penalty prescribed in the condition by congressional action.

Fourth. That having a right to prohibit interstate commerce in intoxicating liquors it has the lesser right, which is included in the greater, of declaring as a condition for the allowance of the article to enter into interstate commerce that it shall be divested of its Federal protection as a commodity in interstate commerce whenever certain conditions arise, and that the condition which will so divest it may be that it is intended to be used in violation of the police powers of the State.

This bill reads:

> That the shipment or transportation in any manner or by any means whatsoever of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, including beer, ale, or wine, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof into any other State, Territory, or District of the United States, * * * which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State, * * * is hereby prohibited.

That is the gist of the proposed law.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield further to the Senator from Idaho?

Mr. McCUMBER. I yield, Mr. President.

Mr. BORAH. What is the necessity of anything further after that is done?

Mr. McCUMBER. What is the question?

Mr. BORAH. I say, what is the necessity of anything further in the bill after liquor is prohibited from being shipped into the State? What is the necessity of section 2?

Mr. McCUMBER. I had stated, if the Senator will pardon me, when he first called my attention to it, that I doubted the constitutionality of section 2 and that I did not see the necessity of it. It was no part of the bill when it was introduced, but is a committee amendment. I think it is rather dangerous than

beneficial. It may be open to the construction that it is a delegation of congressional authority.

Mr. BORAH. I did not catch the Senator's full statement.

Mr. McCUMBER. Mr. President, I stand upon the broad proposition that all of the provisions of the bill which subject the article to the laws of the State are simply conditions imposed upon the article as conditions precedent to its right to enter the channels of interstate traffic. That is under section 1 of the bill.

Under the first proposition, this question naturally arises: Have the citizens of one State any inherent right to do a business in another State, which business is specifically prohibited by the constitution or laws of the State in which it is to be carried on and is denied to every citizen of that State? I can hardly conceive that anyone will claim such a right. The majority of the people of the State of California do not like the Celestial. The Representatives of that State insist upon a national law which will prohibit the Chinese from coming into California. Now, a great many Californians want the people there. They want them as laborers. They want them in the fruit-picking season. But when they insist on their personal privilege to hire whomsoever they will, the majority say, "These people debase our State citizenship and we will not have them." The majority of the people of North Dakota, of Kansas, of Oklahoma, say they do not want intoxicating liquors shipped into their States for sale; that the sale of liquors injures their citizens. What moral right has California to insist that no Chinaman shall come into her territory because of his bad influence and then object to North Dakota or Oklahoma saying that California wines and other intoxicants shall not come into their respective territories because of their bad influence?

I do not for one moment question that where the right of Congress under the interstate commerce law attaches to a commodity it will prevail over any police power of the State. But what I do claim is that in a certain class of commodities, which are more or less under the ban of public opinion and which a great proportion of the people do not recognize as property whatever, Congress has a right to prohibit such commodities from entering into interstate commerce, and the right of prohibition carries with it the lesser power to impose conditions.

Suppose that nitroglycerine is imported into any State. The State authorities have ample evidence that it is to be used for the purpose of blowing up bridges or great works under construction. Is Congress compelled to say to the State authorities, "You must not lay your hands on this article until it has reached the hands of the consignee; you must then keep watch over the consignee to see that he does not use it for the purpose intended, and if you fail, and surreptitiously he gets some of it into the hands of a McManigal and a public building is blown up and many lives lost, you must content yourselves with punishing the perpetrator"? That punishment does not bring back the lives that are lost. The punishment of the blind pigger—the illicit seller—does not rehabilitate the homes he has destroyed nor alleviate the influence for lawlessness which his action has created. I am not asking whether the State can insist on applying its law to an article before it leaves the hands of a common carrier, without permission of Congress, but can Congress relieve the State from this onerous condition? It is a question of the authority of Congress to grant, not of the State to demand.

Has Congress the right to prohibit intoxicating liquors from entering into interstate commerce? If it has no such power, then I am willing to concede that it has no power to subject that liquor to the condition sought in the bill. If intoxicating liquors as a commodity have inherently all of the rights that clothing or bread could have, then we may well doubt the constitutionality of this law.

I know that courts have held that intoxicating liquors are recognized and legitimate subjects of interstate commerce; that it is not competent for any State to forbid any commercial carrier to transport such articles from a consignor in one State to a consignee in another. But the courts have never held that Congress could not cease to recognize them as legitimate subjects of interstate commerce. I insist that Congress may cease to recognize liquors as proper subjects of interstate commerce. While it is held that it is not competent for a State to forbid any common carrier to transport such articles from a consignor in one State to a consignee in another State, it has not been held that Congress has not that authority.

Congress has again and again assumed a right to determine that a certain commodity should be deprived of its right to enter the channels of commerce. In 1897 and in the Payne bill of 1909 Congress prohibited the importation of any goods that were made in whole or in part by convict labor. Here the provision applies, even though there is no evil whatever inherent in the goods themselves. We do not need to go that far in this case.

Mr. WILLIAMS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Mississippi?

Mr. McCUMBER. I do.

Mr. WILLIAMS. If the Senator from North Dakota will pardon me, while he is on that point I desire, in furtherance of his argument, to show how far Congress has gone in the policy of cooperating with rather than obstructing the States in the execution of their police powers.

In the first decade of this century this state of affairs existed: Some people in some of the slave State were freeing their negroes and carrying them to free States, carrying them into free States which had laws against the residence of free negroes within those States. Congress passed a law forbidding the importation of free negroes into any State where they were not permitted by law to reside, and that law was signed by no less a strict constructionist than Thomas Jefferson himself.

Mr. McCUMBER. I thank the Senator for calling my attention to that fact.

Mr. President, can anyone doubt for a moment, if the power of Congress over interstate commerce is coextensive with its power over foreign commerce, and under its authority to regulate foreign commerce it prohibits the entry of any goods into the United States which were manufactured by foreign convicts, that it can not prohibit any interstate commerce in goods which make convicts?

We have laws which have been in force more than 50 years providing for a forfeiture of any vessel which shall be brought into the United States intended to be used in the slave trade.

By section 241 Congress prohibited the importation of the mongoose, the so-called flying foxes or fruit bats, the English sparrow, the starling, and other birds and animals, and provides that all such birds or animals upon arrival at any port in the United States shall be destroyed or returned at the expense of the owner.

Section 242 prohibits a common carrier from transporting from any State any foreign animals or birds the importation of which is prohibited, or dead bodies or parts thereof of any wild animals or birds where such animals or birds have been killed or shipped in violation of the laws of the State.

I do not know that that particular section has been passed upon by the Supreme Court, but it is a law of Congress in force at the present time.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from California?

Mr. McCUMBER. I yield, Mr. President.

Mr. WORKS. Apparently the Senator from North Dakota is discussing this bill upon the theory that it expressly forbids the shipment of intoxicating liquors into dry territory. Does the Senator so understand it?

Mr. McCUMBER. Oh, no. I have not discussed it on that theory, but have discussed the conditions under which liquors would be shipped.

Mr. WORKS. The weakness of the bill, Mr. President, it seems to me, is the very fact that it does not do that very thing. The qualifying clause in the first section of the bill is quite material and takes away most of the strength and efficacy of the bill itself by the use of this language:

> Which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States.

That is to say, in order to convict under this statute, if enacted as such, you must prove that the person to whom it was shipped or by whom it was possessed had the intention at the time to sell it unlawfully.

I am not satisfied, Mr. President, to limit a law of this kind to that extent unless we are compelled to do so by the Constitution. A bill so worded will have very little effect, it seems to me, in checking or preventing the evil we are trying to reach.

Mr. McCUMBER. The Senator must admit that if Congress has power to absolutely prohibit, of course it has the power to allow with any conditions it sees fit to impose.

Mr. WORKS. Mr. President, I have no doubt of that at all. What I question is whether Congress should stop short of absolute prohibition against the shipment of liquors into dry territory.

Mr. McCUMBER. That can be answered by the statement that probably not a single State in the Union prohibits the use of liquors in the State. Whenever a State goes so far as

to absolutely prohibit the use of liquors in the State, then Congress may properly, under its authority, prohibit their importation into that State, but I know of no State in the Union that has gone to that extent. They do not prohibit the personal use of intoxicating liquors; they only prohibit their being sold contrary to law.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield further?

Mr. McCUMBER. I yield.

Mr. WORKS. All the States make certain exceptions in the case of the sale of intoxicating liquors. To that extent the shipment of the liquors would not be in violation of the law of the State. No doubt Congress in enacting a law of this kind should make that same exception, but certainly it should go no further than that.

Mr. McCUMBER. I do not think Congress should go further than the laws of the States themselves go. This bill, if it is passed and becomes a law, will be for the benefit of the States, and therefore we should not under our general power and authority over commerce assume to say that certain goods should not go into the State, when the State law welcomes them into the State under certain conditions. All we should do is to say that if we allow them to enter into interstate commerce it should be with the understanding that they should not violate the conditions imposed by the State.

Mr. LODGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Massachusetts?

Mr. McCUMBER. Certainly.

Mr. LODGE. In connection with the point made by the Senator from California, which seems to me to have a great deal of force, how is it to be determined what is the intention of the person to whom the liquor is shipped? That compels the shipper to know the intention of the person. It seems to me that is going to be a matter of great difficulty to determine.

Mr. McCUMBER. That is getting at the merits. We are now discussing the authority of Congress. I suppose we will determine the intention of either party to a transaction in the courts, the same as we always determine those things. It will simply be a matter of evidence.

Mr. BAILEY. But Congress could not make the Senator guilty of a crime for some intention which I had in my mind.

Mr. McCUMBER. Not at all.

Mr. BAILEY. That is what I understood to be the question of the Senator from Massachusetts.

Mr. LODGE. That was my precise point. They make the shipper guilty of a crime because he fails to know the intention of the person to whom he ships.

Mr. McCUMBER. Oh, no.

Mr. LODGE. It seems to me it would be very difficult to get at.

Mr. McCUMBER. I do not think the Senator has read the bill, or he would not make that assertion.

Mr. LODGE. I have read the bill through two or three times.

Mr. McCUMBER. I would ask the Senator to quote any portion of the bill which makes the shipper responsible for a crime on account of an intent in which he did not take part.

Mr. LODGE. The bill says that the shipment or transportation of the articles named——

Mr. McCUMBER. Is prohibited. That is not a crime——

Mr. LODGE. Is prohibited. If the bill is without a penalty clause, then it is——

Mr. McCUMBER. It is not intended to create a penalty. It is intended, Mr. President, to divest the shipment of its interstate character whenever it can be ascertained in a court proceeding in any State that it is within that it is sought to be used in violation of the laws of that State.

Mr. LODGE. Does the Senator mean that the shipper who ships in violation of this act is not subject to any penalty?

Mr. McCUMBER. If he desires to sell on credit entirely, and depends on a lien on the property in the State in which it is to be paid, he might possibly lose the property in an action in rem.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator yield to the Senator from South Dakota?

Mr. McCUMBER. I yield.

Mr. CRAWFORD. I have been reading the bill, and I simply want to ascertain if my impression of it is correct. I do not understand that it is a criminal statute at all.

Mr. McCUMBER. Not at all.

Mr. CRAWFORD. It does not undertake to provide any penalties at all.

Mr. McCUMBER. None.

Mr. CRAWFORD. But fixes the status of such liquors as come within the inhibition of the act.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator yield to the Senator from California?

Mr. McCUMBER. I will yield this time, and then I desire to finish my remarks.

Mr. WORKS. The trouble is not, as suggested by the Senator from Massachusetts, that the burden is on the shipper of the liquor to prove or disprove the intention of the person to whom it is shipped, but that the burden is imposed upon the prosecution in a case of that kind, and, in order to convict, the prosecution must prove the intention of the person to whom the liquor is shipped.

Mr. KENYON. Mr. President——

Mr. McCUMBER. It does not necessarily need to be the intention of the shipper. Ordinarily, it is not very difficult to prove the intent of a blind pigger, when he receives great quantities of liquor and when it is known that he is running an establishment which we designate by that name.

Mr. BAILEY. Will the Senator from North Dakota permit me to ask him a question now?

Mr. McCUMBER. Certainly.

Mr. BAILEY. I know very little about the criminal statutes of the United States; but I have an impression that there is some general provision providing a penalty where there is a prohibition or where any given act is made unlawful and there is no specific penalty attached to that act in the law prohibiting it, because, as I understand, a criminal statute without any penalty is mere brutum fulmen. It is nothing. To say a thing is prohibited and to give no sanction to your prohibition signifies nothing. I may not know as much about criminal law as a Senator ought to know, but still I know quite as much about it as I want to know.

Mr. McCUMBER. I think the Senator will undoubtedly agree that there could be no penalty unless the law itself fixed the penalty. The object of this law is to fix the status of the property itself as to what time it shall lose its character as an article of interstate commerce, and the moment it loses its interstate commerce character, the moment it ceases to be a commercial commodity, it then of itself falls under the laws of any State in which it is at that time situated.

Mr. CURTIS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Kansas?

Mr. McCUMBER. I do.

Mr. CURTIS. It is not the intent of the proposed act to make it criminal. If the act was made criminal and declared to be a misdemeanor, without penalty, the penalty fixed by the common law must control.

Mr. CRAWFORD. I do not want to delay the Senator from North Dakota——

Mr. McCUMBER. I will say I must close my remarks before half past 1, and I therefore ask that I may proceed without further interruption.

Mr. ROOT. I wish to ask the Senator from North Dakota a question.

Mr. McCUMBER. I will yield this time.

The PRESIDENT pro tempore. The Chair will take the liberty of suggesting to the Senator from North Dakota that at 1 o'clock the unfinished business will be laid before the Senate.

Mr. McCUMBER. I presume, Mr. President, it will be laid aside that hour.

Mr. ROOT. I should like very much to know what are the views of the Senator from North Dakota as to the effect of this prohibition upon contracts. Would a contract of sale or a contract of shipment or the obligations involved in a contract of shipment be valid and enforceable if the transaction were the transaction such as described in this section, or would the contract be made invalid by reason of the fact that they are contracts to violate a law of the United States?

Mr. McCUMBER. Even under the present law of any of the States which have passed prohibition laws, a contract for the sale of intoxicating liquors to be used in violation of the laws of the State would be invalid and could not be enforced. This neither enlarges nor does it contract that rule. The contract of sale would hardly include anything concerning any disposition by the purchaser, and hence they would not be contracts to violate a United States law. If the contract was that they were to be shipped to sell in violation of a State law, of course, that would be a violation of this act.

Mr. President, I have just read section 242 of the Revised Statutes of the United States, which prohibits interstate commerce in any birds or animals killed in any State against the

laws of that State, and I hardly think anyone would contend that this prohibition is a delegation of authority to the State. It is simply a condition under which the shipments may or may not be made.

Sections 238, 239, and 240 of the penal code require that there shall be a bona fide consignee for intoxicating liquor shipments in interstate commerce; there shall be no collect on delivery shipments, but there shall be a plain branding, and so forth.

These are the conditions which we have already passed as conditions precedent to the shipment of intoxicating liquors, and we may go to any extent and require any condition that Congress in its wisdom may see fit.

Mr. President, Congress by the enactment of this bill will declare its legislative judgment that intoxicating liquors are articles which may seriously harm the public; the same as it did in the lottery cases. Where the subject on which the legislative power acts admits of a grave doubt as to whether it ought to be withheld from public use, the right to determine that question is a legislative right and not a judicial right.

Opium is useful; it is even necessary in many instances to preserve life. Its general use, however, its promiscuous sale, is productive of an evil that overbalances any good obtained from its use many hundred fold. Does anyone doubt the power of Congress to protect the people of all the States, to outlaw the article and declare it shall have no commercial right, to treat it as it would a pestilence; and could any court override that legislative judgment? Wherein does the power of Congress over one kind of an intoxicant differ from its power over another kind of intoxicant?

Suppose Congress should declare that intoxicating liquors shall no longer be considered fit subjects for interstate commerce, what authority is there to override the decision of Congress in that respect? Who is to determine when an article is to be deemed unfit for interstate commerce? Is it the court or the legislature? Under anything but the most extreme cases the answer must be that the determination of this question is a function solely for the legislature to perform. This does not mean that the legislature can act in an arbitrary manner. This does not mean that the legislature can declare that wheat or corn or clothing should not be subjects of interstate commerce—things which are absolute necessities and which are injurious to no one; but it does mean that the legislature alone has the right to determine when a given kind of business, like the sale of lottery tickets, so affects public morals, so affects public welfare, that it needs the interposition of the legislative power to protect the morals or the health of the people. There was a time when lotteries were recognized both by the law and by the public as perfectly legitimate methods of raising money. Churches were supported by them. States derived their revenues from them. The Federal Government itself incorporated them and authorized them to carry on their business. While the Federal Government was so authorizing them undoubtedly a State could not interfere with lottery tickets so long as they remained wholly subject to the jurisdiction in which they were created and had not yet been subjected to the laws of a State. But Congress, responding to an awakened public conscience, responding to the known evils of the lottery system, responding to the universal condemnation of the influence of the lottery, outlawed the system by prohibiting the interstate shipment of lottery tickets.

In the lottery case Mr. Justice Harlan said:

> If a State, when considering legislation for the suppression of lotteries within its own limits, may properly take into view the evils that inhere in the raising of money in that mode, why may not Congress, invested with the power to regulate commerce among the several States, provide that such commerce shall not be polluted by the carrying of lottery tickets from one State to another?

The decision in that case answered that question affirmatively. If that could be answered affirmatively, how can the court avoid answering this question in the affirmative? If a State, when considering legislation for the suppression of the traffic in intoxicating liquors within its own limits, may properly take into view the evils that result from the promiscuous sale of intoxicating liquors, the commission of crimes, the debauching of manhood, the destruction of the health of its citizens, the ravages of disease affecting the weakened condition of the excessive users of intoxicating liquors, why may not Congress, invested with the power to regulate commerce among the several States, provide that such commerce shall not be polluted by the carrying of intoxicating liquors from one State to another? Has not Congress the same right to recognize the injurious effects of alcoholic drinks as it had to recognize the injurious effects flowing from the sale of lottery tickets? Are there not practically as large a proportion of the public of the land opposed to the sale of intoxicating liquors as there were to the sale of lottery tickets? Have not the public, either through an awakened conscience or as the result of scientific exposition of the evils of the liquor habit, arrived at a conclusion that the evils must be stamped out in the only legitimate way, that of preventing its excessive use through the medium of public or private sale? I insist that the power to absolutely prohibit interstate commercial privilege to intoxicating liquors is clearly a congressional right, and if exercised by Congress the courts would not assume to declare that Congress had overstepped its legitimate authority. And if it has the right of prohibition, it must necessarily have the lesser right of imposing conditions.

In the case of Mugler v. Kansas the court says:

> And so, if in the judgment of the legislature the manufacture of intoxicating liquors for the maker's own use, as a beverage, would tend to cripple, if it did not defeat, the effort to guard the community against evils attending the use of such liquors, it is not for the courts upon their views as to what is best and safest for the community to disregard the legislative determination of that question, so far as from such a regulation having no relation to the general end sought to be attained.

In the case of Champion v. Ames, the lottery case, Congress specifically exercised its power to regulate interstate commerce to the point of prohibition. They held that lottery tickets could be declared by Congress to be outlawed, page 7.

Crowley v. Christian (137 U. S., 89) the court said:

> It is not a right of a citizen of the United States to engage in traffic in intoxicating liquors. That is not a right of a citizen of a State or a citizen of the United States.

That could not be said as to bread or as to clothing, but it can be said as to this character of property.

Again Justice Field says, in the same case:

> It is urged that as the liquors are used as a beverage, and the injury following them, if taken in excess, is voluntarily inflicted and is confined to the party offending, their sales should be without restrictions, the contention being that what a man shall drink, equally with what he shall eat, is not properly matter for legislation.
>
> There is in this position an assumption of a fact which does not exist, that when the liquors are taken in excess the injuries are confined to the party offending.

Therein it differs from the case of the sale of other articles—

> The injury, it is true, first falls upon him in his health, which the habit undermines; in his morals, which it weakens; and in the self-abasement which it creates. But as it leads to neglect of business and waste of property and general demoralization it affects those who are immediately connected with and dependent upon him. By the general concurrence of opinion of every civilized and Christian community there are few sources of crime and misery to society equal to the dram shop, where intoxicating liquors in small quantities, to be drunk at the time, are sold indiscriminately to all parties applying. The statistics of every State show a greater amount of crime and misery attributable to the use of ardent spirits obtained at these retail liquor saloons than to any other source. * * * As it is a business attended with danger to the community it may, as already said, be entirely prohibited or be permitted under such conditions as will limit to the utmost its evils. The manner and extent of regulation rest in the discretion of the governing authority.

And that I claim, Mr. President, is true with reference to the authority of Congress under the general provision relating to interstate commerce to either prohibit its shipment or to allow it under any conditions it sees fit to enact.

Again, this bill does not attempt to prohibit interstate commerce in intoxicating liquors, provided they are not to be used for unlawful purposes. I do not think any one can doubt the right of Congress to say that any article may enter into interstate commerce for one purpose and may not enter into it if designed for another purpose. It might well say that a dead and putrid carcass of a steer or hog might be transported from one State to another for the purpose of converting it into a fertilizer or into axle grease, but it should not enter commerce for the purpose of being sold to the public for meat. If Congress can do this it has the equal power to say that an article entering into interstate commerce may be divested of its commercial protection upon certain contingencies. It may say that a barrel of pork entering into interstate commerce for the purpose of legitimate sale in another State shall lose its commercial character if it becomes putrid or unfit for use, unless there should be a guaranty that it should not be used for individual consumption. It has equally the power to say that intoxicating liquors may be recognized as legitimate subjects of interstate commerce, but that if at any time while in transit it becomes apparent that the use designed is an immoral one, an illegal one, it may provide that it shall be divested of that interstate-commerce protection. In that case it does not adopt the law of any State. It does not delegate its power to a State. It recognizes its own authority over the article as an article of interstate commerce and says it is no longer a subject of commerce, and being no longer a subject of commerce it falls of itself under the law of the State in which it is then located.

Mr. President, I can see nothing in the claim that Congress, by taxing intoxicating liquors gives them an interstate privilege that prohibits Congress itself from determining that they shall not enter particular States for illegal purposes. It may be admitted that by taxing the liquors or taxing the business of selling them is a recognition by Congress of their commercial char-

after, so that a State could not hamper their shipment, but that does not prevent Congress from conditioning their shipment. By the enactment of this bill Congress will not be prohibiting interstate commerce in intoxicating liquors, but will simply enact that they shall not be imported into any State for the purpose of violating the laws of such State.

Mr. President, I believe that this bill, designed to assist the States in enforcing their own police powers by authorizing the importation of liquors into such States on the condition that they shall not be imported with intent to violate State laws, and that wherever such intent is established they shall be deprived of their commercial protection and be subjected to the laws of the State, will stand the test of any constitutional objection and that the bill should become a law.

Mr. SUTHERLAND. Before the Senator takes his seat I should like to ask him one question. Suppose this bill is passed and some citizen in a prohibition State concludes that a shipment of liquor has been made which it is the intent of the consignee to use or dispose of in violation of the law of the State, what steps or what proceedings would that citizen institute in order to enforce this law under the provisions of the law?

Mr. McCUMBER. I will give one concrete example that I find in hurriedly reading over the evidence taken before the committee. In Tennessee, I believe it was, there was shipped in the name of one person several barrels, and each barrel contained 50 pint bottles of whisky. Those we will say are found at the station. They have not yet been delivered to the consignee. The State authorities fully understand that the man who receives this special consignment of 50 pints in a barrel and several barrels can not necessarily need them all for his home consumption during his Christmas holiday, and, knowing his business to be a vender of liquors, these officials of the State may desire to seize that property before it enters into his hands—before he has had an opportunity to dispose of it—and they may, by an appropriate action—an action in rem against the property itself—desire to test the question as to whether it has been shipped for legal purposes or for the purpose of sale by this blind pigger.

Mr. SUTHERLAND. Under what law is that, the State law?

Mr. McCUMBER. Of course it would be the State law.

Mr. SUTHERLAND. Then, Mr. President——

Mr. McCUMBER. One would hardly expect that the State authorities would proceed under a national law.

Mr. SUTHERLAND. But I understand the regulation of interstate commerce consists in prescribing a rule which governs commerce. In the case the Senator supposes would not recourse be had to the law of the State, and would not then the law of the State be the rule which regulated commerce?

Mr. McCUMBER. Oh, no.

Mr. SUTHERLAND. And not a law of the United States.

Mr. McCUMBER. It would not be a rule which regulated commerce, because before or at the time that that shipment was made, if it be established that it is made for an unlawful purpose, it is not in interstate commerce, and is so declared by this very law, and therefore is not subject to the protection that it would receive ordinarily as an article of interstate commerce.

The point I tried to make clear in all this argument and as briefly as possible was that Congress has the authority to say when an article shall cease to be a subject of interstate commerce and when it would loosen its own control over that article. When the facts established that the commodity came within that prohibition whereby Congress had relieved it from its authority, it would then of itself fall under the laws of the State.

Mr. SUTHERLAND. But the effect of the law which the Senator proposes is to allow the State jurisdiction to attach an interstate shipment of liquor whenever it passes the State line, dependent upon the intention of the consignee. If the consignee intends to violate a State law, then immediately, according to the law which the Senator is favoring, the power is given to the State to seize the goods.

Mr. McCUMBER. No.

Mr. SUTHERLAND. And that seizure of his goods——

Mr. McCUMBER. No; Mr. President, therein the Senator is mistaken. No power is given the State. Immediately it ceases to be an article of interstate commerce the State authorities can operate upon it. There is the distinction. Nothing is given to the State by Congress. The State authority exists independent of Congress and attaches the moment the Federal power over the shipment is terminated, and it is terminated upon a breach of the condition under which the shipment is authorized.

Mr. SUTHERLAND. Well, Mr. President, I will not pursue that further at this moment, but I wish to ask the Senator another question.

This bill applies to foreign commerce as well as interstate commerce. We have laws which permit the importation of liquors into the United States upon paying certain duties. Suppose there is imported from France a shipment of wine. The importer has paid the duty, but it is the intention of somebody connected with it, not necessarily the importer, because the bill does not so provide——

Mr. McCUMBER. No.

Mr. SUTHERLAND. It is the intention of somebody directly or indirectly connected with the transaction to violate a law of the State. Would the Senator say, in such a case as that, it would be within the power of Congress to permit that to be done?

Mr. McCUMBER. Yes; Mr. President, I say it would be within the power of Congress, undoubtedly. I can hardly conceive of such a case arising, but should a case of that kind arise I do not doubt for one moment the power of Congress to say that it has lost its protected condition as a commodity of interstate commerce.

Mr. SUTHERLAND. Is not assuming the power of Congress likely to result in a great deal of confusion?

Mr. McCUMBER. No; I think not, because I think most of the shipments that are made from a foreign country to this country are not shipped into a particular State for a particular sale. They are shipped to be sold in this country at any point where there may be a demand for them. They are seldom ever shipped directly into some prohibition State from a foreign country. If they were, it would, of course, fall under the same rule as an interstate shipment.

Mr. SUTHERLAND. Let me ask the Senator another question, because I want to get his view of the construction of the bill. The bill provides that this shipment or transportation shall be prohibited where the liquor "is intended by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received"——

Mr. TOWNSEND. Mr. President, that is very interesting, no doubt, and we would like to hear it in this part of the Chamber.

The PRESIDENT pro tempore. The Senator from Michigan complains that the Senator can not be heard.

Mr. SUTHERLAND. The bill provides that the transportation of intoxicating liquors shall be prohibited wherever it is "intended by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used," and so forth, contrary to the law of the State. What is the Senator's idea as to the scope of that provision? Does it extend beyond the consignee; and if so, to what person or persons, bearing what relation to the transaction?

Mr. McCUMBER. They must bear a relation to the shipment, because that is stated in the provision itself.

Mr. SUTHERLAND. I know.

Mr. McCUMBER. There must be an interest or relation in the shipment itself, and then if any person has any relation to that shipment or has an interest in it, of course he is affected by it. That, of course, does not mean the common carrier, but either the consignor or the consignee.

Mr. SUTHERLAND. I read the language, of course, but I wanted to know if the Senator would not give me an illustration where it would extend beyond the consignee.

During the delivery of Mr. McCUMBER's speech,

The PRESIDENT pro tempore. The Senator from North Dakota will kindly suspend. The hour of 1 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. LODGE. I ask that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Massachusetts asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none. The Senator from South Dakota will proceed.

After the conclusion of Mr. McCUMBER's speech,

Mr. KENYON. Mr. President, I wish to answer the suggestion of the Senator from Utah. The words "or in any manner connected with the transaction," in my judgment, should be omitted from the bill, and I had proposed to move to strike them out at the proper time, leaving the intention to the person interested therein directly or indirectly, the consignor or consignee, having a direct interest in the matter. I do not think that a railroad brakeman or the man who moves the liquor from the depot to the place of destination would be such a person as intention on his part should have anything to do with destroying the interstate commerce feature of the commodity.

Mr. McCUMBER. The Senator does not think that that possibly may be the construction anyway.

Mr. KENYON. I think not, but I think those words should be out.

Mr. SUTHERLAND. Suppose we strike out the words "or in any manner connected with the transaction," so that the bill will read "by any person interested therein, directly or indirectly." The consignor is evidently interested directly; the consignee is evidently interested directly. Who is interested indirectly?

Mr. KENYON. That is to cover a subterfuge, or some matter of that kind which might arise in a particular case. It would be governed by the particular circumstances that might arise in any particular case.

Mr. SUTHERLAND. A subterfuge would not prevent the consignor or consignee from being interested directly. That is a matter of proof.

Mr. KENYON. Of course the words are rather sweeping, but I think the intent and purpose was that there may be no subterfuge in the matter, but it should apply to one who has a real interest.

Mr. SUTHERLAND. It says an indirect interest.

Mr. KENYON. I understand it is to provide against any question of subterfuge.

Mr. SUTHERLAND. We ought not, as it seems to me, in a statute of this character put in provisions that none of us understand the meaning and the application of. I should like to hear from some of the proponents of the bill as to just what is meant by an indirect interest in one of these shipments. If it means nothing, then it ought to go out.

Mr. WILLIAMS. If the Senator from Utah will pardon me, I think I can give him an illustration. Suppose a man by the name of John Jones is carrying on a blind-tiger business in a prohibition State, and knowing that the State authorities are pretty well cognizant of his affairs he gets John Smith to order liquor and act as consignee. In that case John Jones is indirectly the criminal, and if it would affect nobody but the direct consignee of course the real criminal in the case would escape all punishment and the stool pigeon would be the only one punished.

Mr. SUTHERLAND. In the case the Senator supposes it seems to me that a person would be directly interested in it and not indirectly; he would have a direct interest.

Mr. WILLIAMS. He would be indirectly interested in the shipment and directly interested in the unlawful business.

Mr. SUTHERLAND. The bill says any person interested therein directly or indirectly; that is, in the shipment or transportation of liquor, and so on.

Mr. KENYON obtained the floor.

Mr. MARTINE of New Jersey. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New Jersey?

Mr. MARTINE of New Jersey. Will the Senator yield to me?

Mr. KENYON. How long will the Senator take?

Mr. MARTINE of New Jersey. Five minutes or thereabouts.

Mr. KENYON. I had intended to consider this bill at some length. Since the hour is now approaching for the impeachment proceedings, five minutes are about all I will have in any event to-day. I am willing to give the Senator two of those five minutes.

Mr. MARTINE of New Jersey. With the Senator's permission, I should like to say a few words.

Mr. KENYON. Mr. President, I can not yield.

The PRESIDENT pro tempore. The Senator from Iowa declines to yield.

Mr. KENYON. I would yield for a question but not for remarks.

Mr. MARTINE of New Jersey. I have no questions, but I have only a few remarks that I desire to submit.

Mr. KENYON. I decline to yield.

Mr. MARTINE of New Jersey. The Senator declines?

Mr. KENYON. I am sorry, but I decline to yield.

Mr. MARTINE of New Jersey. Very well.

The PRESIDENT pro tempore. The Senator from Iowa will proceed.

Mr. KENYON. Mr. President, I realize I can not get far in the discussion of this measure this morning, on account of the approaching hour for the impeachment trial. I think this is a much misunderstood bill among the general public, judging from the letters and documents and printed matter that we are all probably receiving. It is charged in some that the bill is to prevent personal use of liquor and prevent use in families of intoxicating liquors, and the last carefully prepared document I received was that it was in disguise a bill to dissolve the Federal Union. Of course, if these things are true it is a very bad bill, and it ought not to receive any support. However, none of these things are true.

Now, I think no lawyer who is honest with himself and perfectly frank will deny that there are very close constitutional questions involved in this bill, and especially as to section 2. Every forward measure must run the gauntlet of constitutional objection.

The evil which this bill seeks to strike at is apparent, and the purpose, it seems to me, is commendable. In its ultimate analysis the bill is simply to permit the States to exercise their reserved police power without interference by the Federal Government; in other words, to subject interstate commerce in certain articles to the laws of the several States. This Government is one of delegated powers. It has been asserted by constitutional writers of great eminence that one of the incentive reasons for the adoption of the Constitution was to give free channels to commerce and not permit the States by various regulations to block commerce.

The power of the State in its reserved police power is one which Congress does not give and is one which Congress can not take away. It can not add one particle to or detract one iota from the police power of the States. These powers belong to the States; the right to make such laws concerning the health, life, and safety of its citizens as its legislative power in its wisdom may determine. This is just as much a right in the State as the constitutional right to regulate commerce is in Congress. The "police power zone" of the State, if such an expression might be used, may at times lap over and intrude upon the "interstate commerce zone" of the Federal Government. If such conflict ever does arise, the Federal Government, of course, is supreme.

This bill if enacted would not be a law to bring about prohibition. It would not be a law to stop personal use of intoxicating liquors, nor to prohibit the shipment of intoxicating liquors for personal use, nor to stop the use of intoxicating liquors for sacramental purposes. Its purpose, and its only purpose, is to remove the impediment existing as to the States in the exercise of their police powers regarding the traffic or control of intoxicating liquors within their borders.

It is the spirit of our times and the genius of our institutions that each State should exercise its police power free from the impediments that might spring from a narrow construction of the interstate-commerce clause. Where a State has determined that intoxicating liquors shall not be manufactured or sold within its borders, is it not manifest that the citizens of other States should not be granted greater privileges in that State than its own citizenship enjoy?

Mr. President, I realize that the hour of half past 1 has approached, at which time the impeachment trial is to proceed, and I give notice that I shall conclude my remarks at a morning session hereafter.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I wish to give a notice. It is that at the close of the morning business to-morrow I will ask the Senate to resume the consideration of the omnibus claims bill.

Mr. LODGE. Mr. President, I make the point of no quorum.

The PRESIDENT pro tempore. The Senator from Massachusetts makes the point that there is no quorum present. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Martine, N. J.	Smith, Ariz.
Bacon	Curtis	Massey	Smith, Ga.
Bailey	Dixon	Myers	Smith, Md.
Bankhead	Fletcher	Nelson	Smith, Mich.
Borah	Foster	Newlands	Smith, S. C.
Bourne	Gallinger	O'Gorman	Smoot
Brandegee	Gore	Oliver	Stephenson
Bristow	Gronna	Overman	Sutherland
Brown	Hitchcock	Page	Swanson
Bryan	Johnson, Me.	Paynter	Thornton
Burnham	Johnston, Ala.	Perkins	Tillman
Burton	Jones	Perky	Townsend
Chamberlain	Kenyon	Pomerene	Wetmore
Chilton	La Follette	Reed	Williams
Clapp	Lea	Richardson	Works.
Clark, Wyo.	Lodge	Root	
Crane	McCumber	Sanders	
Crawford	Martin, Va.	Simmons	

Mr. SMITH Arizona. I wish to announce the absence of the Senator from New Mexico [Mr. FALL], and to state that he is detained from the Senate on account of sickness.

The PRESIDENT pro tempore. Sixty-nine Senators have answered to their names. A quorum of the Senate is present.

Under the terms of the resolution adopted by the Senate, the senior Senator from Georgia [Mr. BACON] will kindly take the chair.

Mr. BACON took the chair as Presiding Officer.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDING OFFICER (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The Secretary read the Journal of Saturday's proceedings of the Senate sitting as a Court of Impeachment.

Mr. WORKS. Mr. President, some days ago an order was passed by the Senate requiring the managers on the part of the House and the counsel for the respondent to file with the Secretary their briefs or citations of authorities for the immediate use of Senators. I should like to inquire whether that order has been complied with.

The PRESIDING OFFICER. The Chair will make the inquiry of the managers and of counsel for the respondent.

Mr. WORKS. Well, Mr. President, if you will allow me, first, I desire to say that on the part of the managers a printed copy of the citations of authorities up to a certain point has been furnished to me personally, but with the statement that the managers desired to add further authorities.

Mr. WORTHINGTON. Mr. President, I must confess that if such an order was made it escaped my observation. I know that there was a colloquy here about it, but we have been so busily engaged in——

The PRESIDING OFFICER. The Chair will interrupt counsel to the extent of saying that as the Chair was about to submit the question as to the correctness of the Journal the Senator from California [Mr. WORKS] addressed the Chair, and the Chair supposed he was going to direct his remarks to that question. If counsel will permit the Chair, he will now ask whether there are any inaccuracies in the Journal? If not, it is approved.

Counsel will proceed.

Mr. WORTHINGTON. I was about to say that some of us, as the Presiding Officer and the Senate know, have been so much occupied with preparing the facts in the case that we have had very little time to devote to the preparation of the law. We have, of course, dealt with it before this trial began, and it will take us a very short time when we conclude the questions in relation to the facts to prepare a brief, to submit it, and to have it printed.

The PRESIDING OFFICER. The counsel will do so at their earliest convenience.

Mr. WORTHINGTON. And as the Senate, as I understand, has determined to adjourn upon the 19th of this month to the 2d of next month we can certainly arrange so that our brief can be in the hands of all Senators very soon after the adjournment.

Mr. WORKS. Mr. President, of course I do not desire to ask anything unreasonable of the managers or of counsel, but, so far as I am individually concerned, I should be glad to have an opportunity to examine with some deliberation the authorities that are to be relied upon, and I suppose other Senators have the same feeling about it. I assumed that both the managers and the counsel for the respondent had such authorities as they expected to rely upon and that they could conveniently furnish them at any time.

Mr. Manager CLAYTON. Mr. President, I have before me a brief prepared some time ago on behalf of the managers, and I have undertaken to furnish copies of it to the Senators who have indicated to me a desire to see that brief. I had withheld the printing of that brief in the RECORD for the purpose, as the Senator from California has well said, of making some additions to it, and the Chair is quite well aware of the conditions under which we have worked since the trial of this case has actually begun. If it is the desire of the Senate, I am quite willing that the brief, to which we desire to add something later along, may go into the RECORD at this time.

The PRESIDING OFFICER. It is not so desired.

Mr. Manager CLAYTON. Then I will withhold it; but I may say that, in my opinion and in the opinion of my associates, not later than two days after the Christmas recess begins we shall have this brief prepared and printed and get it into the hands of the Senators. I hope that the respondent's counsel will do the same thing, to wit, have their brief in the hands of the Senators at that time also.

Mr. WORTHINGTON. I can say, Mr. President, we can certainly have that done this week. May I ask now, as the Senate will not then be in session, is it proposed that these briefs shall be printed separately or be handed to the Secretary to be incorporated in the record? I would suggest that it would be a very good thing if the Senate could make the order, if it is necessary to make an order, that these briefs shall be printed separately, so that they may be distributed to the Senators without reference to the vast bulk of the record as to the evidence.

Mr. WORKS. The order was passed some days ago, and as counsel is not familiar with it I suggest that the order may be read for his information.

The PRESIDING OFFICER. The Secretary will read the order which was passed on that subject.

Mr. Manager CLAYTON. Mr. President, if I may be permitted to say so, I think the counsel for the respondent understands the order, and I think he agrees with me that at the latter end of this week we shall both furnish these briefs, so that they will be printed under the previous order made by the Senate. Am I correct?

Mr. WORTHINGTON. So far as what the manager states as to what we propose to do, he is correct. So far as the order about printing these briefs separately is concerned, I have no recollection about it.

The PRESIDING OFFICER. The Chair will state that, unless there is objection, the order will be that the briefs be printed separately.

Mr. Manager CLAYTON. They will both be incorporated into the proceedings and the record of this proceeding.

Mr. WORKS. It will be necessary in that case, Mr. President, to vacate the order already made.

The PRESIDING OFFICER. The Chair submitted it for the unanimous consent of the Senate only. The Chair had no right to order it otherwise, and, with the permission of the Senator from California, as the Secretary can not now immediately find the order, the proceedings will be continued, and the order will be presented a little later.

Mr. WORKS. I shall not insist upon that, and I am perfectly willing that the order shall be so changed as to require the briefs to be printed separately. I have not objected. I was only suggesting the fact that an order was in existence to the contrary.

The PRESIDING OFFICER. The present order to print the briefs separately will not conflict with the prior order, as the Chair understands. The prior order wil be carried out, and the present order, passed unanimously by the Senate itself, without objection, will be for a separate printing for the convenience of managers, counsel, and Senators.

The Chair understands that the managers have concluded their evidence, and counsel for the respondent will now present evidence on behalf of the respondent.

Mr. SIMPSON. We desire to call a witness a little out of order because of important engagements which he has. I will ask that Mr. E. E. Loomis be called.

TESTIMONY OF E. E. LOOMIS—RECALLED.

Mr. E. E. Loomis, having been previously sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Loomis, on Friday last Mr. C. G. Boland testified that he had been informed by Mr. George M. Watson that yourself, Mr. Phillips, and Judge Archbald were to receive a portion of an excess claim which he, Watson, had presented to your company over and above the amount which his clients had told him to claim. Will you please——

Mr. Manager FLOYD. Mr. President, we object——

Mr. SIMPSON. Excuse me, if you please, until I finish the question. The witness need not answer until directed to do so. [To the witness.] Will you please tell us whether or not there was any agreement or understanding, express or implied, of any kind or character that you were to get any portion of the money which was claimed from the Delaware, Lackawanna & Western Railroad?

Mr. OVERMAN. Mr. President, I will ask counsel to talk a little louder. He can not be heard here.

Mr. SIMPSON. That is the first time that it was ever said that my voice was so low that it could not be heard, and I shall endeavor to make it the last.

Mr. THORNTON. Mr. President, the reason counsel can not be heard is the noise in the rear part of the Chamber.

The PRESIDING OFFICER. The Chair will request Senators and others who desire to converse to retire to the lobby. It is impossible for the proceedings to be conveniently had with audible conversation progressing in the Chamber.

Q. (By Mr. SIMPSON.) Will you kindly state, Mr. Loomis, whether or not there was any agreement or understanding of any kind or character, express or implied, by which you were to get any part or portion of any sum of money which was recovered or paid to Mr. Watson on behalf of the Marian Coal Co. or Mr. Boland or anyone else?

Mr. Manager FLOYD. We object to the question, Mr. President.

The PRESIDING OFFICER. On what ground?

Mr. Manager FLOYD. Upon the ground that it is irrelevant and incompetent. We are not trying Mr. Loomis for anything in this matter, and it is immaterial and irrelevant whether Mr. Loomis was to get anything or not.

The PRESIDING OFFICER. If the Chair recalls the fact correctly, the evidence as to Mr. Loomis having any participation in this matter was brought out by counsel for the respondent.

Mr. SIMPSON. Only by asking the witness to state the whole of a conversation when he undertook to state a part of it on the suggestion of the managers.

The PRESIDING OFFICER. If the evidence had been brought out by the managers, the Chair would hold that the counsel would have a right to reply to it; but as the evidence to which it relates was brought out by the respondent and it is irrelevant, the Chair does not think that it is now competent.

Mr. SIMPSON. Will the Chair allow me a moment before finally ruling upon the question? I would concede, sir, without a doubt that if that which was brought out on behalf of the respondent was entirely separate and distinct from that which was brought out by the managers, that rule would be directly applicable; but when the managers asked for a fraction of the conversation and the other side simply asked for the whole of the conversation to be brought out, I submit, sir, that the managers being the ones who introduced the matter, the rule to which the Chair has adverted does not apply, and that we are entitled to have it known whether or not the statement which the witness undertook to make has a basis of truth or not as to everyone who was referred to in the conversation which the managers themselves, in the first instance, had brought out.

The PRESIDING OFFICER. Counsel undoubtedly would have a right to bring out the full conversation so far as the actual conversation relates to the case; but the Chair does not think that that part of the conversation was relevant to the case; it was brought out voluntarily by the counsel for the respondent. The remedy of the respondent, if the counsel will permit the suggestion, is to move to rule out the former testimony which was received on that subject as to Mr. Loomis which had nothing to do with the case whatever.

Mr. SIMPSON. It was a part of a full conversation, sir; but if the Chair has ruled on it, of course, I will not undertake to argue it further.

The PRESIDING OFFICER. The Chair is only the mouthpiece of the Senate; and, if the Chair has wrongly decided, the Senate is the authority to so determine.

Mr. WORTHINGTON. Mr. President, as it does not clearly appear, perhaps, to the minds of all here as to what was brought out, it was this: Mr. Boland was asked, and under the ruling made by the Senate he was allowed to be asked, about the use by Watson of Judge Archbald's name, and he said that Watson had said that he thought Judge Archbald ought to be compensated for what he was doing in helping to bring about that settlement. Then, on cross-examination, he was asked for the full conversation, and he said what was said was that this witness and Mr. Phillips and Judge Archbald were all to be paid. That was one statement.

Now, Mr. President, it seems to me that we ought to be allowed to contradict that statement at all points where we can touch it. Otherwise it would leave us in the attitude of denying that it was true as to Judge Archbald, but might leave everybody to think that it was true as to Mr. Loomis and true as to Mr. Phillips, and thereby give very much color to the proposition that it was also true as to Judge Archbald.

The conversation which related to Judge Archbald was all brought out by the managers, and we brought out that which related to Mr. Loomis and to Mr. Phillips, but it was all one word, one sentence, one breath.

The PRESIDING OFFICER. Counsel at that time had the right to object——

Mr. WORTHINGTON. The Senate, as we understood, ruled by a vote that was taken when the question was submitted to the Senate by the Chair that that conversation was competent.

The PRESIDING OFFICER. No; only as to Judge Archbald. The Chair has the question before him. The Chair will read the question which the Senate ruled was admissible. The Chair had previously ruled that it was inadmissible; and when again offered, while still of the same opinion, the Chair submitted the question to the Senate, and the Senate ruled that it was admissible. This is the question:

Q (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's interest or participation in this settlement, and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?

That was all the Senate passed upon. The Chair did not feel authorized, as the counsel was bringing out the testimony on his own side, to interpose. The Chair thought at the time that it was altogether irrelevant and would have sustained the motion if it had been made at that time to exclude it from the testimony as to Mr. Loomis; and the Chair would entertain such a motion now, for that matter.

Mr. WORTHINGTON. I am unable to see how we can make a motion without moving to strike out what the Senate formerly voted to admit.

The PRESIDING OFFICER. The Chair would not entertain that, of course; but the Chair would entertain a motion to strike out everything that has been said about Mr. Loomis, because that is not within the limit of the question ruled in by the Senate.

Mr. WORTHINGTON. Well, I will have to consider, Mr. President, about that. We may bring the matter up at a later stage.

The PRESIDING OFFICER. But if this were admitted the managers would have a right to take issue upon it, introduce evidence in regard thereto, and where would the end be?

Mr. SIMPSON. We have no further questions to ask this witness, then.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF JOHN M. ROBERTSON.

Mr. WORTHINGTON. I ask that Mr. John M. Robertson be called.

John M. Robertson, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) State your full name, please, Mr. Robertson.—A. John M. Robertson, Scranton, Pa.

Q. How long have you lived about Scranton?—A. Since 1866.

Q. What is your business, and what has been your business?—A. Coal operator.

Q. Did you have anything to do with the production of the Katydid culm dump near Moosic?—A. Yes, sir.

Q. What?—A. Under an arrangement of lease with the Hillside Coal & Iron Co. I started the Katydid in 1885——

Mr. WORTHINGTON. I am afraid you can not be heard. Will you please speak louder?

The PRESIDING OFFICER (to the witness). It is absolutely necessary that every Senator should hear what you say.

The WITNESS. Under an arrangement of lease with the Hillside Coal & Iron Co. I started the Katydid in 1885. The breaker was built in 1886, and the beginning of this dump was made then.

Q. What is a breaker?—A. A structure for the purpose of breaking and preparing coal.

Q. Did you mine the coal?—A. Yes, sir.

Q. You took it out of the ground?—A. Took it out of the ground.

Q. Very well, go ahead.—A. This operation was worked under my own name until 1891, when Mr. Law came into partnership with me, and we worked under the firm name of Robertson & Law until the close of the colliery. He, however, retired in 1904, and I continued the operation alone.

Q. Until what time did you continue after 1904?—A. Until 1908.

Q. What happened then?—A. The breaker was burned by a fire from a dump belonging to the Hillside Coal & Iron Co.

Q. Had you attempted before the breaker burned down to utilize the culm dump?—A. In 1905 I built a washery and commenced to prepare the dump and wash the dump.

Q. What is the distinction between a breaker and a washery?—A. The one is generally dry—the coal is prepared dry; and in the other case water is used in the preparation of smaller sizes.

Q. Well, you began in 1905, then, to wash this dump?—A. Yes.

Q. To get coal out of the dump?—A. Yes, sir.

Q. To segregate it from the waste?—A. Yes.

Q. Well, how long did you continue?—A. Until 1908.

Q. Did the fire burn down the washery, too?—A. Yes.

Q. Well, what did you do after that?—A. I did not do anything.

Q. Why?—A. Well, I could not see that there was use in running the dump alone. The coal was pretty near worked out, and it would scarcely pay to build another structure.

Q. What would it have cost to build a washery?—A. In the neighborhood of $20,000, the cheapest way you could do it, I think.

Q. Now, I wish you would tell the Senate what you know about the value—the Katydid dump stands now as it did when you left it, does it not?—A. Yes, sir. At present, of course, there is only half of the dump; we washed one-half between the years 1905 and 1908.

Q. Tell the Senate what you know about the quantities of different kinds of coal in that dump now, or since you stopped washing it in 1908, and about its value, if it has any.—A. The first half that was washed was naturally the best. It was laid down first and was the better part; the better sizes were in it; the larger sizes; so that what is remaining now is really very small, principally No. 3 buck and smaller.

Q. How many sizes are there of buck?—A. Four.

Q. What are the sizes of coal supposed to be in the dump, beginning at the largest size?—A. There could not be anything gotten larger than buck No. 1. We tried to make chestnut coal and also pea from the dump—from the washings of the dump—but we found it was so poor when it was incorporated with the fresh mined coal that we could not market it.

Q. Is it possible, then, in your judgment, to get any chestnut coal out of that dump as it stands now?—A. It is not.

Q. What would you say about getting $17,000 worth out of it?—A. I do not think you could get any.

Q. Not any?—A. Not profitably.

Q. Why could you not get it profitably?—A. It would be possible, perhaps, to get a little and sell it at retail, but it would not be marketable. It would not be fit for the market.

Q. Why do you say you could not get any of the size you call pea?—A. For the same reason.

Q. Do you know anything about a rock pile that forms a part of the dump?—A. Yes. There are two rock piles forming a part of it.

Q. Do you see the map back there?—A. Yes, sir.

Q. That is an enlargement of the map made by Mr. Rittenhouse and introduced in evidence. I wish you would go back to the map and with a pointer tell us what you are talking about. [The witness did as requested.]—A. There is a large rock dump and ash dump in the bottom of this pile [indicating on map].

Q. You say there is a large ash dump in the bottom of it?—A. Yes, sir.

Q. It is not culm at all, then?—A. No, sir.

Q. I mean the bottom.—A. Yes; the bottom.

Q. What is there besides ash at the bottom?—A. Rock and ashes. The ash was formed from the boilers, coming out from here [indicating], and we afterwards——

Q. Please talk so I can hear you.—A. The rock and ash pile were dumped in here, and we afterwards had to hoist or convey the slashings, and so we put in some refuse coal—small, fine coal—and made a large conical dump of this [indicating].

Q. Take that conical dump by itself. What is it worth to anybody who tries to get some coal out of it?—A. There is only a small quantity of No. 3 buck in it.

Q. Would it pay to get it out?—A. I do not think so.

Q. Very well. Go on with the rest of it.—A. Then we sunk a long slope coming in on it in this direction [indicating], and all the rock that was taken from that slope was dumped in here [indicating]. It would be absolutely impossible for any surveyor coming there and seeing that dump as it is to-day to make a correct estimate unless he knew the topography of that ground before the dump was laid down.

Q. Go ahead. What about the rest of it?—A. Then the rest out in this direction [indicating] contains nothing but No. 3 buck.

Q. Take that Katydid dump as a whole. I ask you again whether, in your judgment as the man who made it and a man who has been in this business, there is enough coal there to pay for getting it out?—A. Well, I do not consider that there was.

Q. What is the situation there as to water? You say it is a washery and you need water. How is it situated with reference to that necessity?—A. When the washery was commenced we had been able to secure a large quantity of water by means of a barrier pillar existing between the Delaware & Hudson and the Hillside Coal & Iron Co., with which we were working. I think in 1907 the Delaware & Hudson broke through that barrier pillar and took all our water away, so that it became very difficult to run the washery.

Q. I understand that you still hold that dump?—A. Yes, sir.

Q. Claim the ownership of it, at least, subject to a royalty to the Hillside Coal & Iron Co. of 37½ cents a ton?—A. Decidedly.

Q. Has there been anything in the last four years to keep you from working it and paying that royalty and getting the profit there was in it, if there was any?—A. No, sir; I think not.

Q. Do you know anything about an effort that was made to sell this dump to the Du Pont Powder Co.?—A. Yes, sir.

Q. When was that?—A. In 1908, after the breaker and washery were burned.

Q. What was there about that?—A. The Du Pont Powder Co. were erecting a large new powder mill close to the property we were mining on. Indeed, some of it is on that property, and Mr. Belin, who is one of the managers of the Du Pont Powder Co.——

Q. I am not able to hear, Mr. Robertson.—A. (Continuing.) Mr. Belin asked me if I was willing to sell the dump. They thought of using it for the——

Q. Well, I do not care about the details of that. What I want to get at is whether any offer was made by you and the Hillside Coal & Iron Co. to sell it to the Du Pont Powder Co.?—A. Yes, sir.

Q. What was the proposition?—A. The proposition was I offered it to them for $10,000, including the royalty, and they would then own the dump complete.

Q. That is, they would actually get your title and the Hillside Coal & Iron Co.'s title?—A. Yes, sir.

Q. How did you arrange that with the Hillside Coal & Iron Co.? What were they to get out of the $10,000?—A. I saw Mr. May, the general manager of the Hillside Coal & Iron Co., and I told him about the offer, and he sent his engineers down, and they measured the dump and found the quantity of coal they thought it contained. By means of screening they found out the quantity of the different sizes, and, based on these reports, they figured out that their value in the dump was about $2,000.

Q. Did the Hillside Coal & Iron Co. authorize you then to sell that dump for $10,000—to keep $8,000 yourself and give them $2,000?—A. Mr. May said he would recommend that.

Q. Mr. May said he would recommend that? That is what he said here.

Mr. Manager STERLING. I object to the statement of the counsel for two reasons.

Mr. WORTHINGTON. I will withdraw it, then.

Mr. Manager STERLING. First, it is improper, if true, and, in the second place, he never said anything of the kind.

Mr. WORTHINGTON. I do not want to get into an argument with counsel, but there is a letter here of March 31, in which he says that he would recommend the sale of the interest of his company for $4,500.

Mr. Manager STERLING. I never saw the letter. He said on the witness stand that he did not recommend it. I have never seen any such letter. There is here, Mr. President, a letter in which he says he would recommend the sale for $4,500.

Mr. WORTHINGTON. I say that is what he said here about the sale to Judge Archbald and Mr. Williams.

Mr. Manager STERLING. He is now talking about the Du Pont sale.

Mr. WORTHINGTON. Counsel misunderstood what I meant, probably. I was only saying that Mr. May in this case had recommended the sale of the interest of the Hillside Coal & Iron Co. for $4,500.

Mr. Manager STERLING. That is not what counsel said at all. He said the witness said what Mr. May said.

Mr. WORTHINGTON. Well, let us go on with the evidence, and I will withdraw my remark.

Q. (By Mr. WORTHINGTON.) Why was not that sale made, then?—A. The Dupont Powder Co. was also trying to find out for how much they could buy their electricity direct from the Scranton Electric Co., and they found that was the cheaper way to get it, and they are getting it from them now.

Q. They determined to get their coal some other way. Did you at any time in 1911 give an option to anybody on this dump or your interest in it?—A. In nineteen hundred and——

Q. In 1911, to Mr. Williams?—A. Yes; I gave Mr. Williams an option.

Q. Tell us how that came about.—A. In April or May, I think it was, certainly in the early part of 1911, Mr. Williams came to my office and he asked if the dump was still for sale. I told him it was. He wanted to know if I would give him an option on it, and I said no; and he said then that he had some parties in with him.

Q. Keep your voice up; I can not hear you.—A. He said there were some parties with him that he thought I would lease to. I said, "Well, you had better tell me who they are, because I certainly can not deal with them unless I know who they are." He told me Judge Archbald wanted to get it. He told me they had some parties they thought they could sell it to.

Q. Did you agree to give him any option or privilege about it?—A. I did.

Q. What was it?—A. I gave him an option, I think, in September.

Q. What did you tell him when he came there in the spring?—A. I told him that I had a good deal of difficulty at first in finding out who was with him. I asked him if Mr. Bone was connected with it, and he said no. Then he told me Judge Archbald was.

Q. Did you then make any proposition or say what you would do? I know you did not give him any written option until later, but did you in the spring tell him what you would do?—A. I think I offered him the dump first for $5,000, and then he came to me a little later and said the deal would be consummated in about two weeks. I said, "Well, if you can pull it through in two weeks, I will give you a reduction; I will make it $3,500."

Q. Did you consider $3,500 was a fair sum for your interest in the dump at that time?—A. I considered it was reasonable; I was willing to take it.

Q. You later gave him a written option, which is in evidence here?—A. Yes, sir

Q. That was in September?—A. Yes, sir.

Q. You gave him a paper which is in the handwriting of and witnessed by Judge Archbald?—A. Yes; I did.

Q. Did you ask him any compensation for giving him that option?—A. No, sir.

Q. Why did you give him authority of that kind without getting any compensation for it?—A. Well, by this time I understood whom they were trying to sell it to, and I was willing to help the think along in any way.

Q. To whom did you understand they were trying to sell it?—A. The Erie & Wyoming Valley Railroad. I think that is the name.

Q. The Lackawanna & Wyoming Valley, is it not?—A. Yes; the Lackawanna & Wyoming Valley.

Q. What is called the Laurel line for short?—A. Yes.

Q. A little line between Wilkes-Barre and Scranton?—A. Yes, sir.

Q. I believe you have been here throughout this trial?—A. Yes.

Q. Under subpœna by the managers?—A. Yes.

Q. Have you stated to them what you know?—A. Not on this occasion, I have not; no, sir.

Q. Oh, you did that before the Judiciary Committee?—A. Yes.

Q. You were examined there by the managers?—A. Yes, sir.

Mr. Manager STERLING. I do not think the last few questions are material at all. We did not use him because we did not think anything he knew was material to the case. We ask, for that reason, to have the last few questions stricken from the record.

Mr. WORTHINGTON. I will not take up any time on that with the managers. If the managers insist upon that motion I will withdraw the question.

The PRESIDING OFFICER. The Chair understands counsel to withdraw the question.

Mr. WORTHINGTON. I understood Mr. Manager STERLING to say he did not consider it material. I supposed if it was material for Mr. Rittenhouse to give his opinion as to the value of the dump, it was material to get the opinion of the man who made it as to its value.

Mr. Manager STERLING. I was objecting to the last few questions. My objection did not go to the other matter at all.

Mr. WORTHINGTON. I make no objection to the motion to strike out the question to the witness about being subpœnaed by the managers on the part of the House.

The PRESIDING OFFICER. It will be so ordered.

Q. (By Mr. WORTHINGTON.) Did you at any time receive any notice from anybody about what is called the Everhart claim upon this dump?—A. Yes, sir; I did.

Q. Have you got this notice?—A. Yes, sir; I have.

Q. When did you receive it?—A. I think——

Q. (Interposing.) Well, you have them, have you? They will show for themselves.—A. Yes, sir; I have them.

Q. Where are they—in your pocket?—A. Yes, sir.

(The witness produced certain papers.)

Mr. Manager STERLING (after examining the papers). We have no objection to them.

Mr. WORTHINGTON. I ask that these be marked and that the Secretary read them. There are others that come later.

The Secretary read as follows:

[U. S. S. Exhibit O.]

(Walter S. Bevan, attorney and counselor, Scranton, Pa.)

APRIL 11, 1912.

MESSRS. ROBERTSON & LAW.
Moosic, Pa.

GENTLEMEN: Having learned that you are about to sell and dispose of the interests you represent in lot No. 46, certified Plttston Township, you are hereby notified that Mr. Charles P. Holden, who owns certain interests in said lot, opposes said sale and hereby protests against the same, and he further notifies you that the sale will in no wise change or affect his interests in said lot and that the said sale will be made without his approval or consent.

You will therefore govern yourselves accordingly.

Very truly, yours,

WALTER S. BEVAN,
Attorney for Charles P. Holden.

Mr. WORTHINGTON. In connection with the letter, I should like to have in evidence the envelope, in order to show that it was mailed on the day it bears date.

The Secretary read as follows:

[U. S. S. Exhibit O—part 2.]

(Walter S. Bevan, attorney and counselor, Scranton, Pa.)

Messrs. Robertson & Law,
Moosic, Pa.

Stamped on the front: "Scranton, Pa., Apr. 11, 5 p. m., 1912."
Stamped on the back: "Moosic, Pa., Apr. 12, 8 a. m., 1912, rec'd."

The PRESIDING OFFICER. The Secretary will read the next exhibit.

The Secretary read as follows:

[U. S. S. Exhibit P.]

(The Everhart Brass Works, established 1857. Mine and mill supplies a specialty. Scranton, Pa.)

APRIL 11, 1912.

ROBERTSON & LAW,
Moosic, Pa.

GENTLEMEN: In reference to the five twenty-fourths interest in the coal in lot 46 and the culm derived therefrom, I, as administrator for the James Everhart estate, beg to notify you that we claim ownership of the above amount and not to dispose of the same without our consent.

Yours, very truly, JAS. E. HECKEL, *Administrator.*

Mr. WORTHINGTON. This [indicating] is the envelope in which that letter was supposed to be inclosed.

The Secretary read as follows:

[U. S. S. Exhibit P—part 2.]

(The Everhart Brass Works, established 1857. Mine and mill supplies a specialty. Scranton, Pa.)

Messrs. Robertson & Law,
Moosic, Pa.

Stamped on front: "Scranton, Pa., Apr. 11, 7.30 p. m., 1912."
Stamped on the back: "Moosic, Pa., Apr. 12, 8 a. m., 1912. Rec'd."

The PRESIDING OFFICER. The next exhibit will be read.

The Secretary read as follows:

[U. S. S. Exhibit Q.]

(Gaston, Snow & Saltonstall, Shawmut Bank Building, Boston.)

APRIL 13, 1912.

MESSRS. ROBERTSON & LAW,
Connell Building, Scranton, Pa.

GENTLEMEN: Please take notice that Nina D. E. Jones and R. M. Saltonstall, the undersigned, as guardians of the minor children of John F. Everhart, deceased, claim an interest in the culm pile on lot 46, Pittston Township, Luzerne County, Pa.

This notice is given to you at this time as we understand that you are contemplating attempting to make a sale of the culm pile and in order to protect our rights in the premises. We should be glad to hear from you in reply to this letter at your early convenience.

Very truly, yours,

R. M. SALTONSTALL,
Per O.

Mr. WORTHINGTON. I offer the envelope which inclosed the letter.

The Secretary read as follows:

[U. S. S. Exhibit Q—part 2.]

(After five days return to Gaston, Snow & Saltonstall, Shawmut Bank Building, Boston, Mass.)

Messrs. Robertson & Law,
Connell Building, Scranton, Lackawanna County, Pa.

Registered No. 11527.
9038.

Stamped on the front: "Boston, Mass."
Stamped on the back: "Boston, Mass., Apr. 13, 1912. Registered."
"Scranton, Pa., Apr. 15, 1912. Registered."

The PRESIDING OFFICER. The next exhibit will be read.

The Secretary read as follows:

[U. S. S. Exhibit R.]

(Night letter.)

NEW YORK, N. Y., *April 11, 1912.*

ROBERTSON & LAW,
Connell Building, Scranton, Pa.:

Please take notice that I claim an interest in the culm dumps situated on lot 46, certified Pittston, Luzerne County, Pa., by virtue of an option given me by E. & G. Burke Land Co.; also on behalf of my wife, Mary E. Holden.

CHAS. P. HOLDEN,
625 Commonwealth Avenue, Boston, Mass.

11.19 p. m.

Q. (By Mr. WORTHINGTON.) After your washery burned down, in 1908, what, if anything, did you do in the way of exercising ownership over that bank?—A. Well, I still have a scale there.

Q. Did you take anything away from it from time to time?—A. Yes; I sold some small bunches of coal from wagons.

Q. In reference to Judge Archbald's connection with this matter, I want to know if at any time anybody suggested to you that the fact that he was interested was to be kept quiet or covered up in any way?—A. No, sir.

Q. And did you, as a mater of fact, undertake to keep it from anybody?—A. No; I made no secret of it.

Q. It appears that the option which you gave to Mr. Williams, and which is in Judge Archbald's handwriting and witnessed by him, was recorded. Did you have anything to do with the recording of it?—A. No.

Q. You did not?—A. I did not know it was recorded until I saw it here at the previous inquiry.

Mr. WORTHINGTON. That is all, Mr. President.

The PRESIDING OFFICER. The witness is with the managers.

Mr. Manager STERLING. Mr. President, I desire to move that all the testimony of this witness be stricken from the record. The reason for the motion is this: There is no charge in this count that the dump was sold to Judge Archbald and to Mr. Williams at less than it was worth or for more than it was worth, and under the charge in this count it is wholly immaterial as to what the value of the dump was.

It is not sufficient for counsel to say that we offered testimony of an engineer to show the amount of coal there. If it was not material to the issue, they could have objected to it then, and it would have gone out of the record. The fact that we offered immaterial testimony does not justify them in offering immaterial testimony in answer to immaterial testimony. The charge in the count is that Judge Archbald used his official influence to induce the railroad companies to sell this property to them—to Mr. Williams and Judge Archbald—and it is wholly immaterial whether he induced them to sell it for less or for more than it was worth. The offense exists in either event, and we say this testimony is wholly immaterial. We ask a ruling of the Chair on the question.

Mr. WORTHINGTON. Mr. President——

The PRESIDING OFFICER. The Chair does not desire to hear from counsel on this motion.

As the Chair recollects, there has been a great deal of evidence on the subject of the culm bank. The Chair denies the motion.

Mr. WORTHINGTON. Notwithstanding the rule that one should never argue with a court that has decided in his favor——

The PRESIDING OFFICER. It is dangerous.

Mr. WORTHINGTON. I wish not to make an argument, but to state what happened here.

I objected to Mr. Rittenhouse's testimony on the very ground that counsel argues in favor of the motion to strike this out, and counsel resisted my objection to keep out the evidence. The President sustained their contention, to the effect that it was claimed by the managers that the railroad company had agreed to sell this dump to Judge Archbald for less than it was worth, and that as that was evidence in this direction it should be admitted. Now, when they come to see where they are going to land on the proposition, they think there ought not to be any evidence on the subject in the record.

Mr. Manager STERLING. We are not concerned about where we will land. Counsel admits it is immaterial.

Whether counsel made the objection at the time, I do not remember. But it certainly ought to go out if both sides admit it is immaterial.

Mr. WORTHINGTON. It is a late day, Mr. President, after the Senators have heard the testimony about the great value of the dump, now to move to strike it out, when it can not be gotten out of their minds. I submitted it too late for the managers to change front——

Mr. Manager CLAYTON. It is no change of front on the part of the managers.

Mr. WORTHINGTON. When it appears that, instead of offering to sell it to Judge Archbald for less than it was worth, they were giving him a gold brick.

The PRESIDING OFFICER. The Chair has overruled the motion to strike out. The Chair thinks it is admissible on both sides—that offered by the managers and that offered by the respondent.

Cross-examination:

Q. (By Mr. Manager STERLING.) Mr. Robertson, you did have negotiations with the Du Pont Powder Co. for the sale of this culm bank?—A. Yes.

Q. That was in 1908?—A. Yes.

Q. And you priced it at $10,000?—A. Yes, sir.

Q. If that sale had gone through, you were to get $8,000 and the Hillside Coal & Iron Co. $2,000?—A. That is correct.

Q. Have coal dumps increased in value in the last two or three years?—A. I think they have a little.

Q. And the coal dump was probably worth more in 1911, when you had your negotiations with Williams, than it was in 1908?—A. Probably a little; they are in greater demand to-day than they were then.

Q. And notwithstanding that you were to get $8,000 for your share of the coal dump in 1908, three years later, after the value had advanced, you agreed to take $3,500 for your share, did you not?—A. That is true.

Q. You testified before the Judiciary Committee, did you not, that the coal dump was worth more than $10,000 in 1908, when you were about to sell it to the Du Pont people?

Mr. WORTHINGTON. I submit that if the witness is asked what he said there it ought to be shown to him.

Mr. Manager STERLING. I do not have to show it to him. I can ask him and then show it to him.

The WITNESS. That would depend upon who was buying it.

Q. (By Mr. Manager STERLING.) On the market. I am not asking what it was worth. Did you not say before the Judiciary Committee that it was worth more than $10,000 in 1908? Did you say that or not?—A. I think I did, Mr. STERLING.

Q. That was true, too, was it not?—A. Yes. It is also true——

Q. What is that?—A. There have been larger sums than that paid for dumps.

Q. I am not asking you that. But what you said before the Judiciary Committee was true?—A. I think so.

Q. And it was worth more than $10,000 then, and it had increased in value in 1911, had it not?—A. Yes, sir.

Q. You say you submitted to Mr. May, superintendent of the Hillside Co., a proposition that he sell his interest for $2,000?—A. He made that offer to me.

Q. Just answer my question. Did you not say on your direct examination that you suggested to Mr. May he could sell it for that price, if he would take $2,000 for his share? Did you say that?—A. That I could sell it?

Q. Yes.—A. Yes, sir.

Q. And you said that Mr. May said he would recommend the proposition?—A. He did.

Q. Do you know whether he ever did recommend it or not?—A. No; it fell through.

Q. That does not answer my question. Do you know that he recommended it?—A. I do not know that he did.

Q. Did you ever inquire if he did?—No; I never did.

Q. How long after that was it until it fell through?—A. I think about a month, or two months, perhaps, certainly not more than three.

Q. When Mr. May said he would recommend it he did not say whether he would approve it, did he?—A. No; he only said he would recommend it.

Q. Did he say he would recommend it or submit it?—A. Recommend it, I think.

Q. If Mr. May testified that he did not recommend it and did not approve it, do you not think that you could be mistaken?

Mr. WORTHINGTON. I object to trying to get one witness to testify upon what some other witness said about it.

Mr. Manager STERLING. I will withdraw the question. Perhaps it is not within the rule. [To the witness:] When Williams came to you, in 1911, to buy this dump, you would not price it to him until you found out who was interested in it?—A. No, sir.

Q. You did ask him who was interested in it?—A. I did.

Q. Whom did he tell you was interested?—A. At first he refused to tell me, and afterwards told me Judge Archbald.

Q. What did he say when you first asked him?—A. He said if I knew the party he thought I would be willing to sell to them.

Q. I do not understand your answer.—A. He said if I knew the party with whom he was connected he thought I would be willing to sell to him.

Q. Is that all he said then?—A. A great deal was said. I do not remember it all.

Q. Did he refuse to give the names of his partners?—A. He did at first.

Q. What reason did he give for not giving the names?—A. I think he wanted the option for himself first.

Q. Just for himself?—A. Yes.

Q. Would you have sold it to him?—A. No, sir.

Q. Why?—A. I did not think he was responsible.

Q. Now, what difference did it make, Mr. Robertson, whether Williams was responsible or not if you understood that you

were not to get any money out of it until he had sold it to somebody else?—A. I did not care to deal with Mr. Williams.

Q. Did he tell you that Boland was interested?—A. No, sir.

Q. Did he tell you that Archbald was interested?—A. He did.

Q. Later?—A. Finally.

Q. How long after the first conversation was it until he told you that Archbald was interested?—A. This was all in the first conversation.

Q. It was all in the first conversation?—A. Yes, sir.

Q. He finally told you that Judge Archbald was interested?—A. Yes, sir.

Q. Then you were willing to sell it?—A. Yes.

Q. What reason did you have for refusing to sell it to some persons and being willing to sell it to others?—A. Well, I wanted to be sure that I got a party that would not make any trouble for the Hillside Coal & Iron Co.

Q. How was that?—A. I wanted to be sure I got parties interested who would not make any trouble for the Hillside Coal & Iron Co.

Q. What difference did it make to you whether they made trouble for the Hillside Coal & Iron Co. or not?—A. The Hillside Coal & Iron Co. had leased me this property and I did not want them to get into trouble.

Q. When he suggested that Judge Archbald was one of the purchasers, you knew he would not make any trouble for the Hillside Coal & Iron Co. or the Erie Railroad Co., did you not?—A. Yes, sir.

Q. You were therefore willing to sell to him?—A. Yes, sir.

Q. You say that there was no secrecy about the fact that Judge Archbald was interested?—A. Not any.

Q. You drew up the option, did you not, personally?—A. No.

Q. Who did?—A. Judge Archbald.

Q. And you noticed that in the written option Judge Archbald's name was not there?—A. I did; yes.

Q. So that, so far as the option itself shows, nobody was buying this option but Williams?—A. It was what the option showed; yes.

Q. During these negotiations did you go to Judge Archbald's office?—A. I did.

Q. He sent for you, did he?—A. Yes, sir.

Q. When was that?—A. That was very shortly after I first saw Williams.

Q. And you talked with him fully about the transaction?—A. I did; yes.

Q. And was it then you priced it at $3,500?—A. No; I had priced it to Mr. Williams before that.

Q. You priced it to Mr. Williams?—A. Yes.

Q. When you had the negotiations with the du Pont people you were claiming that you and the Hillside Coal & Iron Co. owned all the title to this dump?—A. Yes, sir.

Q. Except the Everharts?—A. The Everharts then did not enter into it.

Q. Were they getting any royalty?—A. I never had any transaction with the Everharts, although I knew they were getting a royalty for the coal that was mined, some part of the coal.

Q. You knew, then, their claim, did you not?—A. Not as the fact stands to-day.

Q. You knew they had a claim of some kind then?—A. Not in the dump; no, sir.

Q. Did you put anything in the option which you gave to these parties about the Everhart interest?—A. I did not.

Q. But the Hillside Coal & Iron Co. did, did they not?—A. I believe they did.

Q. You knew they had been paying royalty to the Everhart estate on the coal that was mined, did you not?—A. On sizes above pea.

Q. And that they had paid that to the Everharts for years, did you not?—A. Yes.

Q. You say that on or about April 11, 1912, you got some notices from Holden & Holden's attorney and other persons about the sale of this property?—A. I did.

Q. Did that deter you from selling the property in any way?—A. Well, I did not make any further attempt to sell it.

Q. That did not deter you, did it? It was not the notices that deterred you, was it?—A. Well, I would have taken some advice before I sold it.

Q. Did you notify Mr. Williams to return the option you had given him for your interest in the dump?—A. No, sir.

Q. As Bradley did?—A. The option had expired by that time.

Q. You did not make any effort to withdraw the option, but just allowed it to stand?—A. I did not consider there was any existing option at all then. It had expired some time previously.

Q. Did you know Holden?—A. No, sir.

Q. When you got this letter from him, it was the first you knew of him?—A. Yes.

Q. Did you learn he had been to May's office on the 11th and May had notified him that they were about to sell?—A. I think Mr. May told me he had had letters from them.

Q. That is not the question. Did you know he had been to May's office and May notified him he was about to sell it?—A. No; I did not know he had been at his office at that time.

Q. Do you know whether or not May suggested to Holden that he had better get in his notice about the claim and have other persons get in their notices?—A. No; I did not learn that.

Q. When did you first learn that the investigation was going on of these transactions?—A. When it first came out in the papers. I do not remember the exact date.

Q. This notice from Bevans & Co. reached you on the 12th or 14th?—A. About that time.

Q. Do you know which date?—A. No, I do not, Mr. STERLING. I kept all the envelopes. The date would be right on the envelopes.

Q. As to this letter from Heckel, administrator, you knew that was the interest on which the Hillside Coal & Iron Co. had been paying royalty for years, did you not?—A. Yes. I did not know anything about the heirs. I did not know who the heirs were until then. I presume these are only a small portion of them.

Q. You knew about the Everhart interest, did you not?—A. Oh, yes.

Q. Had you ever heard of R. M. Saltonstall before?—A. Never.

Q. When you got that letter did you know he had any interest in it?—A. I could not tell whether he had or not.

Q. Do you know what interest he has?—A. No; I do not.

Q. Have you inquired since that time as to what he based his claim on?—A. No, sir.

Q. The reason of it is because you care nothing about it to know that he has no interest?—A. I do not say that; no.

Q. Did you not testify before the Judiciary Committee that yourself and the Hillside Coal & Iron Co. owned all the title to this property?—A. I did. I believed that then.

Q. You believe it now?—A. I do.

Q. Except the Everhart interest?—A. I do.

Q. Therefore, these notices had not any effect at all on you with reference to your attitude toward the sale to Williams and Archbald?—A. The sale to Williams and Archbald?

Q. Just answer my question. Did that have any effect on your mind?—A. I scarcely catch that.

Q. Did the fact that you got these notices on the 11th or 12th have any effect on you with reference to your attitude in regard to going ahead and making this sale to Williams and Archbald?—A. Before?

Q. When you got the notices.—A. Before I received these notices I considered that Williams's option had expired.

Q. I am not asking you about that. You were still willing to carry it out, were you not?—A. I do not think they asked me to carry it out.

Q. You were willing to do it if they had asked you? You knew that Bradley was proceeding to sell the Hillside interest, did you not?—A. I do not think I would have carried it out without consulting my lawyer.

Q. You have never conceded any interest in any of this matter to the Everharts, have you?—A. No.

Q. And you are not conceding anything now?—A. No.

Q. In the option which you made to Williams and Archbald you did not pretend to make any warranty, did you?—A. No, sir.

Q. You were just selling that interest, were you not?—A. That was all.

Q. And if you had gone on and made the sale, and if these persons tried to lay claim then to some title, that would not have affected you in any way, would it?—A. I had nothing to do, only with the mining part of the dump, the mining interest.

Q. You did not pretend to be selling any of their interest anyhow, did you?—A. No.

Q. You talked with Mr. May about the negotiations from time to time, did you not?—A. Yes, sir.

Q. You talked with him about whom you were selling it to, did you not?—A. Yes.

Q. It was understood by you and May right along that you were selling it to Judge Archbald and Williams?—A. Perfectly; yes.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Have you made any effort to sell your interest in the Hillside Coal & Iron Co. to Capt. May?—A. I have.

Q. Had you before you gave Williams the option?—A. Yes.

Q. For how long?—A. Ever since the Du Pont people had given up.

Q. He would not buy it?—A. He said that they were not ready to take it; that they had no washery at that time.

Q. You said you first learned of this investigation when it came out in the papers. In what papers did you see it first?—A. I think in the Scranton papers.

Q. So if we find when it first came out in the Scranton papers we will find when you first knew of it?—A. The first I knew of it.

Q. You said you would not have gone on with this negotiation without consulting counsel. Why would you not?—A. I would scarcely care to sell an interest in it until I knew just where the Everharts stood.

Q. I need hardly ask you, but you are not a lawyer?—A. No, sir.

Q. After getting this notice you never undertook to go on with the sale?—A. No, sir.

Q. And you would not have done so until you consulted counsel?—A. I do not think I would.

Q. You said May never did recommend $2,000, so far as you know. Did he not authorize you to go on and complete arrangements with the Du Pont Powder Co. to sell for $10,000 his whole interest?—A. Yes. He understood——

Mr. Manager STERLING. We object to the witness stating what Capt. May understood.

The WITNESS. I had told Mr. May I would sell it to them if they were willing to take it, of course.

Q. (By Mr. WORTHINGTON.) Had you told him you were willing to sell to the Du Pont Powder Co. for $10,000?—A. Yes.

Q. You arranged with May what, if you effected that sale, he would recommend?—A. Yes.

Q. That is, to sell the interest of his company for $2,000?—A. That was understood.

Q. As the counsel asked you, without reading, what you said before the Judiciary Committee, I will read your testimony from page 833:

The CHAIRMAN. Do you know what the Katydid culm bank is worth?

Mr. ROBERTSON. I have no figures to base it on, but I should say it is worth just that $10,000 that I originally offered it for, including royalty.

The CHAIRMAN. You do not know whether it is worth more or not?

Mr. ROBERTSON. It might possibly be worth a little more. These things are gradually increasing in value.

That is what you said?—A. Yes, sir; I said that.

Mr. Manager STERLING. That is what I said, too.

Mr. WORTHINGTON. That is all, Mr. President.

The PRESIDING OFFICER. The witness may retire. Is there any further need for this witness?

Mr. Manager WEBB. Not on our part.

Mr. WORTHINGTON. There is something further we may need him for, but not now. It may raise some question. I want to wait and bring it up at another time.

The PRESIDING OFFICER. The witness will wait until he is further called.

TESTIMONY OF WILLIAM LAW.

William Law appeared, and having been duly sworn was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Law, where do you live?—A. Chevy Chase, Md.

Q. Have you at any time lived at Scranton?—A. Yes, sir. I was born in Scranton and lived in that section until 1904.

Q. Were you at any time connected with Mr. Robertson, who has just left the stand, of the firm of Robertson & Law?—A. Yes, sir; from 1891 until 1904; the Katydid colliery.

Q. You have been down here quite a while, Mr. Law?—A. I have lived in Chevy Chase for three years.

Q. You see the map which is right opposite you on the wall? Do you recognize it as a map of the Katydid culm dump?—A. Yes; it looks like it. It has been changed some since I was there.

Q. Your connection with it ceased in 1904?—A. In 1904; that is, before they commenced to wash any of it.

Q. So you do not know much about the contents or value of the bank?—A. No.

Q. You see marked on that map, down in the southwest corner, I might call it, a "conical dump"?—A. Yes, sir.

Q. Do you know what that is made of?—A. I do not know what the cone is made of above ground, but I know what is underneath.

Q. What is it?—A. Ashes and rock.

Q. Can you give us any idea about how high up that ashes and rock come from the surface of the ground?—A. Well, there was a hollow there, you know, and the ashes from the fireroom were hauled out and dumped there for all the years that I was in the business.

Q. How about the rock?—A. The rock was brought there from the Grover slope, what we called the Klondike slope, and the corner slope between 450 and 500 feet deep, 7 feet by 12 in solid rock. That rock is all in that dump. It is not all under that conical pile, but it is all in the dump.

Q. It is somewhere in the Katydid dump?—A. Yes; in the Katydid dump.

Q. Where it can not be seen?—A. Where it can not be seen. It was covered over with culm.

Q. You had ashes below and piled rock on that, and afterwards coal or culm was put on top of the rock? Is that it?—A. Yes, sir.

Mr. WORTHINGTON. That is all, Mr. President, that we have to ask of this witness.

Cross-examination.

Q. (By Mr. Manager STERLING.) Mr. Law, you severed your connection with Robertson in 1904?—A. Yes, sir; I think in June, 1904.

Q. Have you given any attention to this colliery since then?—A. No, sir.

Q. Have you seen it?—A. I have seen it once or twice, but I guess it has been four years ago since I was there.

Q. The colliery was operated for four years after you left it, was it not?—A. Yes.

Q. They continued to add culm there to that dump for four years after you severed your connection with it?—A. Yes; but I might say in explanation——

Mr. Manager STERLING. You have answered the question. That is all I want.

Q. (By Mr. WORTHINGTON.) What was it you might say? I should like to hear it.—A. I say, when I sold out my interest in the mining proposition—that is, the coal in the ground—the reason I sold my interest was that we had that nearly mined.

Q. What you did subsequently was in the way of washing the dump?—A. The tonnage had declined so Mr. Robertson built the washery in order to keep up the output of material.

Q. (By Mr. Manager STERLING.) They did operate the colliery for four years after you left?—A. Yes, sir.

Mr. Manager STERLING. That is all, Mr. President.

Mr. WORTHINGTON. That is all for this time.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF JOHN MONIE.

John Monie appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Monie, where do you live, please?—A. Moosic, Pa.

Q. How far is that from Scranton?—A. About 6 miles.

Q. How long have you lived there?—A. For the last 40 years.

Q. How old are you, by the way?—A. Between 50 and 51 years of age.

Q. Were you at any time in the employ of the firm of Robertson & Law?—A. Yes, sir.

Q. In what capacity?—A. Foreman.

Q. Foreman of what?—A. Outside foreman at their colliery.

Q. Where was that?—A. At Moosic.

Q. We want to find out something about the Katydid dump.—A. All right; I will answer the questions if I can.

Q. How?—A. I will tell the truth.

Q. You have not yet mentioned the Katydid dump. Did you have anything to do with it?—A. Yes, sir; I was foreman for 16 years.

Q. You were foreman while that dump was being constructed?—A. Yes, sir.

Q. You see the map on the wall back there?—A. I do.

Q. I wish you would go back to it—you will find a wooden pointer there—and tell us about the material in the different parts of that dump, as far as you know.—A. (Standing at the map and indicating.) Under this conical dump there is an ash pile. They dumped their ashes for about, it may be, 15 to 16 years before that dump was put there. This dump is composed of the slate from the breaker; and the barley is still there, but all sizes above barley were taken out.

Q. Above what?—A. Barley or buckwheat No. 3.

Q. All the chestnut has been taken out?—A. Yes, sir.

Q. The pea?—A. Yes, sir; all sizes such as could be taken out.

Mr. Manager STERLING. I object to the form of examination by counsel, and I think he ought to observe the rule of testimony to some degree.

The PRESIDING OFFICER. What is the objection of managers?

Mr. WORTHINGTON. I will ask that the questions be answered. Go ahead, Mr. Monie, and tell us.—A. There is also

a part of a rock dump here. There has been a slope sunk here [indicating] called the Klondike slope. When that slope was first started we hauled the coal from down about here, up along on this side [indicating] and landed it away up about here [indicating]. We had rock cut, it may be an average of 4 feet deep and about 100 feet long, through here [indicating]. We dumped the refuse from that rock cut in here [indicating]. We had to make a fill there [indicating] to make a grade for the mine track. We took the mined rock from other mines that they had and filled in here, I will say, in the neighborhood of 100 feet. Then at the same time we were making this fill from this side we hauled the culm from the breaker. The breaker stood in around here [indicating].

Q. You hauled what?—A. The culm and slate, and dumped it in here to make this fill. Then we saw we did not have enough of track room out here to make the back branch for the mine cars. We took the rock from this slope and dumped it along. We dumped culm and rock at the same time to form this back branch. That runs out to about here, right in around here some place [indicating]. Then, after that we got a point of dumping ground for the culm, and we decided then to make a fill out through here [indicating]. We also saw that by making a fill through here, instead of hauling the coal up to the breaker in this direction, we could haul it around this way. In order to do that we had to make quite a high fill here. We took the mine rock from all the operations that they had and filled down in around here [indicating]; it may be 100 to 150 feet. I would not say just the exact distance. We came from this point [indicating] and met. That made the track then come around the opposite direction. The reason we had for doing that was it saved a lot of switching. We could hitch on the locomotive and pull up to the breaker, and we would have had to do a lot of switching to go the old way. There is the Klondike slope as they call it [indicating]. That is nearly solid with rock. There is very little of the slush washed down on top of it. It might be 3 or 4 feet deep, but it is practically solid with mined rock; and along in here, from the mouth of the mine, we had to make some filling on the grade [indicating]. All through here, I am not quite sure, but more in this direction, we dumped the rock and the culm side by side to make this back branch. You can see some of the mine rock right about here, I think [indicating]. That is about all I know about it.

Q. Did you remain there until the washery burned?—A. Not until the washery burned. They stopped operations at the end of June, 1908.

Q. The washery burned when?—A. I could not say exactly when, but it was a considerable time after that.

Q. They stopped work before the washery burned?—A. Yes, sir. I was away before that. I stayed with them until July 30, 1908, a month after they stopped.

Q. Did I understand you to say that they had stopped operation before the washery burned?—A. Oh, yes.

Q. Why?—A. Because they were short of water. They only had water enough to run about two hours a day, and it did not pay to run it like that.

Q. How long were you there while they were engaged in washing coal from that bank, trying to win some coal from it?—A. All the time they run; that is, all the time they washed it. I made the changes.

Q. You were in charge of that operation?—A. Yes, sir.

Q. Tell us what you know about getting the size which is called chestnut out of that bank.—A. At the beginning we tried to make chestnut, and we failed utterly.

Q. Why?—A. Because we could not take the slate out to bring it down to the standard that the inspector called for.

Q. What did you do with it then?—A. We just stopped trying to make it and run the stuff back out in the bank.

Q. What is the best part of a culm bank? The old part or the new part, or what?—A. The old part.

Q. The old part is better? Why?—A. Because at one time they did not try to make buckwheat at all. They did make down as low as pea when I went there.

Q. Were there larger sizes on the old dump rather than on the new one?—A. Not any more than what we got out mixed in with the slate.

Q. Tell now what part of the bank was it that Mr. Robertson worked while you were there; was it the old part, the new part, or part of each?—A. That is, which they washed?

Q. Yes.—A. They washed the old part.

Q. They washed the better part?—A. Yes; they washed along in here [indicating]. They stopped their operation when their conveyor line was out here [indicating]. This was considered the best part of the bank right here [indicating].

Mr. WORTHINGTON. That is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager STERLING.) Mr. Monie, point to the southwest corner of the map. You say that is a fill?—A. This was covered with ashes to the depth——

Q. No; that is not answering my question. I understood it was a fill. Did you say that?—A. Yes, sir; there is a fill from this point here [indicating] running through there [indicating] where it runs out. It took a swing around right out to about there [indicating].

Q. Just show what part of that figure in the southwest corner is a fill; run your pointer around that part of it which is a fill.—A. In about that direction [indicating] probably to about there [indicating].

Q. How wide was that?—A. About 8 feet on the top.

Q. About 8 feet on the top?—A. Yes, sir.

Q. And you filled that up with rock and ashes?—A. With mine rock; yes, sir.

Q. The rock which you got from the colliery?—A. Yes, sir; from the mine.

Q. How high is that conical dump there in the southwest corner?—A. On this side here [indicating] I would say in the neighborhood of 30 feet, or something like that. I do not know the exact height, you understand. I just state that from memory.

Q. How high is it on the other side?—A. Well, it is fully 20 feet more than that—20 or 25 feet.

Q. Fifty feet, then, you would say?—A. Oh, yes; it is fully that.

Q. Fifty or sixty feet?—A. Yes, sir.

Q. And how far across is that part called the conical dump the narrow way?—A. Across this way [indicating]?

Q. Yes.—A. At the top or at the bottom?

Q. Well, both—how wide is it?—A. Well, at the top I should say it is around 20 feet.

Q. And how wide is it at the bottom?—A. Well, I think the natural spread would be about 1½ to 1.

Q. That would be about 30 feet?—A. Oh, it is more than that; a long distance. It is over a hundred feet, I think.

Q. A hundred feet wide and 20 feet high?—A. I think it must be.

Q. You speak about a fill along the northeast line of the map?—A. Right here [indicating].

Q. How deep was that fill?—A. Well, a bluff runs along through here [indicating].

Q. Just run your pointer along the line of the fill.—A. The fill originally, I should say, was in around here and along there [indicating].

Q. How deep is it?—A. Well, from memory I would say it must be 50 feet there [indicating], may be more. It is all of 50 feet, I think, at the higher part.

Q. And how wide?—A. About 8 feet.

Q. And you filled that in with stone?—A. We filled this in with mine rock; yes, sir; for about 100 feet—more or less.

Q. Beginning at the northwest corner of the map where you see the word "culm."—A. Right here [indicating]?

Q. Yes, sir. That indicates that that which is included within that space is culm?—A. It is culm and slate that has been picked out at the breaker.

Q. It is what you call culm, is it not?—A. Yes, sir.

Q. And the space at the right, the figure in the northeast corner there?—A. Along here [indicating]?

Q. Yes.—A. That is culm with the exception of the part here [indicating].

Q. With the exception of the fill, I understand; and through the center, running from the northeast to the southwest?—A. Through here [indicating]?

Q. No; not the slush bank. I am not talking about that.—A. Northeast; here [indicating]?

Q. No; you see the word "culm" about the center of the map?—A. Well, yes; there [indicating].

Q. That is the culm in there, is it not?—A. Well, partly. On that side [indicating] is culm, and on this side [indicating] is rock taken from the mine to help make the fill.

Q. Now, listen to my question. That which is inclosed within the line marked "culm" is culm, and the rock is the rest of the figure there just below the word "culm," is it not? That is the rock, is it not?—A. In around here [indicating]; yes, sir.

Q. Now, the slush bank; what does that mean?—A. That should have been rock bank instead of slush bank.

Q. Well, people do not sell rock banks nor slush banks, either, do they?—A. No, sir.

Q. That is no part of this culm, is it?—A. No, sir. That is almost solid rock.

Q. This culm bank was made in the operation of the Katydid colliery, was it not?—A. Yes, sir.

Q. And it was made just as all culm banks are made at anthracite mines?—A. With the exception of those fills.

Q. By throwing together the coal, the rock, and the slate and whatever comes from the mine?—A. Throwing out the impurities.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Mr. Monie, do you mean to say that the proportion of rock, slate, and so forth, to coal is the same in all culm banks?—A. Well, no.

Q. Some are much worse than others?—A. Oh, yes.

Q. From your knowledge of these things, is this a good one or a bad one?

Mr. Manager STERLING. We object. The witness has not stated that he knows anything about any other culm bank than this one.

Mr. WORTHINGTON. One moment. [To the witness:] Do you know anything about any culm banks except this one?—A. Well, I have worked around anthracite collieries nearly all my life.

Q. How does this bank stand for proportion of rock, ashes, and that sort of thing in it, as compared with others?—A. Along here [indicating] it was considered a good dump; that is, rich in fine sizes; but that was all washed in before the colliery stopped. We washed in right through to this point [indicating]. Along in around here [indicating] there is a piece there that is right in the fine sizes. All through here [indicating] and all through here [indicating] there is nothing but barley. There is some rice in here [indicating], but not much. Everything was taken out with the exception of the rice and the barley in this part [indicating], and everything with the exception of the barley, or buck No. 3, as some people call it, in this part [indicating]. So that this [indicating] is of very little value. This [indicating] is a little better, but not much. Right here [indicating] there is a spot that is quite good.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF FRANK A. JOHNSON.

Mr. WORTHINGTON. Call Mr. Johnson, please.

Mr. Frank A. Johnson, being duly sworn, was examined and testified as follows.

Q. (By Mr. WORTHINGTON.) Mr. Johnson, give us your full name, please.—A. Frank A. Johnson.

Q. Where do you live?—A. Moosic, Pa.

Q. Near Scranton?—A. Yes, sir.

Q. How are you employed now?—A. I am the general coal inspector for the Hillside Coal & Iron Co.

Q. How long have you been general inspector of the Hillside Coal & Iron Co.?—A. About nine years.

Q. Did you at any time make any examination of the Katydid dump near Moosic?—A. Yes, sir.

Q. When and why?—A. I made an examination and tested the Katydid dump on April 4, 1911.

Q. At whose request; did you say?—A. Mr. May's chief clerk instructed me to do so.

Q. On April 4, 1911?—A. I believe that was the date; yes, sir.

Q. What knowledge had you before that time about this dump and where it was built or made?—A. Well, I had been on that ground daily or weekly for 17 or 18 years.

Q. Did you see the dump as it went along building from day to day?—A. Yes, sir.

Q. For that length of time?—A. Yes, sir.

Q. Now, I wish you would state when you went there, on or about the 4th of April, 1911, what did you do and what conclusion you reached?—A. Mr. May's chief clerk instructed me to meet Engineer Merriman there, and that I should sample the bank, which Mr. Merriman was going to measure.

Q. Mr. Merriman, I believe, is dead. I may ask you here?—A. Yes, sir. I met Mr. Merriman on the morning of April 4, and he, knowing that I was familiar with the surface and the contour there and conditions generally, asked me to tell him all I could about such conditions to enable him to make a good, accurate measurement of the bank, and I did. I think I spent about an hour with Mr. Merriman; walked over the bank with him and pointed out any conditions that I knew about.

Q. Do you know about what kind of material is in the different parts of the dump as it stands now? I will ask, in the first place, if you know?—A. Yes, sir.

Q. I wish you would go back to the map which you see on the wall opposite you, Mr. Johnson. There is a pointer there which I wish you would use and let us know what your knowledge on that subject.

Mr. CLAPP. Mr. President, I desire to call the attention of the managers and counsel for the respondent, if it is proper to do so, to the fact that in the examination of the last witness, outside of where the witness accompanied the physical act of using the pointer with some word upon that map, there can be nothing in the record to show what part of the map he pointed to. There are Senators who are engaged in committee work who can not be here; and it occurred to me to suggest that the description that "there is some coal here and not much there" would be absolutely useless to those who read the record. It would seem to me that wherever a witness points to some one place on the map it should be accompanied by some statement or designation by which those who read the record may know just where the witness pointed. I feel that there is no impropriety in making the suggestion.

Mr. WORTHINGTON. I am obliged for the suggestion, and I will say that counsel for the respondent appreciate the fact to which the Senator has alluded. I will suggest that the witness be given a red lead pencil and that he mark the places on the map, which the Reporter may take down.

Q. (By Mr. WORTHINGTON.) Now, if you will go ahead, Mr. Johnson, I will tell you when you are to make a mark, or you can of your own motion make a mark. I suggest that you make letters.—A. Well, I walked all over this bank with Mr. Merriman and while, of course, I do not know what the words I used at that time were——

Mr. WORTHINGTON. I do not hear you.

The WITNESS. While I do not know what words I used or just exactly how I stated the case to Mr. Merriman at that time, I probably told him all I knew, which was that over in here [indicating] was mine rock.

Mr. WORTHINGTON. Put the letter "A" on the map right there.

The WITNESS. On that over in here [indicating on the chart] the mine rock extended under the culm, and somewhere over in here [indicating on the chart], or I should say about in there somewhere [indicating]——.

Mr. SIMPSON. Put the letter "B" there.

The WITNESS. Very well. On that over in here [indicating] there was also a quantity of mine rock under the culm, and also under this high bank here [indicating]——

Mr. WORTHINGTON. That is what was called the "conical dump," is it not?

The WITNESS. Yes, sir. And that under this bank here [indicating], was a quantity of mine rock and ashes; also a portion of this bank here [indicating] had been through the operation a second time, and was what you might call waste. I do not remember of any other particular condition that I told Mr. Merriam about.

Q. Did you have any personal knowledge of the laying down of two banks there together, one of rock and one of culm?—A. Yes, sir; I did.

Q. That was where?—A. Where was that done?

Q. Yes, sir; in what part of the bank?—A. Under the culm, in here [indicating] and under the culm in here [indicating], as I remember, and also under this bank here [indicating].

Q. Is the rock of which you speak that was used in building that bank or laid there visible from the surface? You spoke of rock and culm being laid down together.—A. No, sir; it is not visible now, or was not when we estimated the bank.

Q. Is there any way of telling where the ashes and rock are without digging down for them or unless a person had seen it before the culm was put on the dump?—A. No, sir; it is completely covered.

Q. I wish you would explain what the effect would be as to a person making a survey of the quantity of culm in the bank of having the rock laid where you say it was in connection with the culm, side by side.—A. Well, if the man making the measurements would include this rock, which is in three places in the bank, of course, he would very materially increase the amount of culm which he would suppose was there.

Q. Why?—A. Well, because it is not culm or material that can be redeemed.

Q. Well, would not the appearance of the culm in one be very different from what it was in the other?—A. Oh, yes; it would drop off here [indicating], instead of sloping off.

Q. I am referring particularly to the point where you put the letter "B."—A. Right in here [indicating]. Well, that would be about the same thing, as I remember it. Those two piles were made together, parallel rock and culm.

Q. So much for the history of the bank. Now, what did you do in the way of taking samples in trying to find out what was in this bank when you went there with Mr. Merriman?—A. I took six samples from the bank—that is, this part of the bank [indicating]. I did not take any samples from that part [indicating], because Mr. Merriman told me he was not going to include it in his measurements.

Q. That he was not going to include what?—A. This part here [indicating]; this bank here.

Q. He left that bank out altogether, did he?—A. He told me that he was going to leave it out.

Q. You say "this part." You mean the part marked the "conical dump" on the map?—A. Yes, sir.

Q. He left that out altogether?—A. Yes, sir; I understand he did; he told me at that time that he was going to do so.

Q. While on this subject, had you had any instructions from Capt. May or from anybody else in regard to finding out just what coal was there, so that Mr. May would know what property his company had?—A. Mr. May's chief clerk told me to go and sample the bank.

Q. Did you know what the object was or for whom it was intended?—A. No, sir; as I remember now, I did not know whether the bank was being sold or bought.

Q. Had you any object in view when you went there to make a report to Capt. May except to estimate truthfully and definitely, as nearly as you could, the amount of coal that could probably be won from that bank?—A. No, sir; I was after, as nearly as I knew how to get it, the exact condition of the material.

Q. You made the tests. Have you got a result of your test?—A. Yes, sir; I have.

Q. I should like to have it, please.—A. I have in my pocket the figures I set down.

Q. Have you that computation?—A. I have the figures as I put them down that day on the culm pile.

Q. Have you had them copied?—A. I made a report to Mr. May on the next day. I do not know where that report is; but I have a copy of the report that was sent to Mr. May in my pocket.

Q. Very well. That shows your figures, does it?—A. Yes, sir.

Q. Does it agree with those you made that are in your memorandum book?—A. It does; yes, sir.

Q. Well, let us have that; it is the same thing.

Mr. WORTHINGTON. May I ask the managers if they did not get from Capt. May the original report which this witness made to him?

Mr. Manager STERLING. I do not think that we ever had it, Mr. Worthington.

Mr. WORTHINGTON. I offer this in evidence and request the Secretary to read it.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

[U. S. S. Exhibit S.]

DUNMORE, PA., *April 5, 1912.*

Mr. W. A. MAY, *General Manager.*

DEAR SIR: In accordance with instructions from your office I yesterday examined and made tests on the culm bank of the abandoned Katydid operation. The Katydid Co. worked a scraper line through the center of the largest part of this bank, and I was enabled to get samples yesterday which I believe give a very good average of the condition of the whole pile. There is no indication of present or past fire, and what coal the bank contains is of good appearance and quality.

Record of tests for sizes.

Sample No.—	Stove and above, over 1¼-inch mesh.			Chestnut through 1¼-inch, over ¾-inch.			Pea through ¾-inch square, over 5/16-inch round.	
	Coal.	Bone.	Slate.	Coal.	Bone.	Slate.	Coal.	Slate.
	Per ct.		*Per ct.*	*Per ct.*		*Per ct.*	*Per ct.*	*Per ct.*
1	3	0	5	0	0	0	2	0
2	2	0	8	2	0	4	1	0
3	5	0	7½	1	0	4	1	1
4	0	0	0	0	0	0	0	0
5	4	0	4	0	0	0	0	0
6	0	0	0	0	0	0	0	0
Total	16	.....	24½	3	.....	8	4	1
Average	2.6	.....	4.1	0.5	.....	1.3	0.7	.....

Sample No.—	Buckwheat coal through 3/16-inch round, over 1/16-inch round.	Rice coal, through 1/16-inch round, over 1/32-inch round.	Barley coal through 1/32-inch round, over 1/64-inch round.	Culm through 1/64-inch round.
	Per cent.	*Per cent.*	*Per cent.*	*Per cent.*
1	30	14	20	24
2	10	11½	33	28½
3	5	7½	32½	35½
4	7½	17½	35	40
5	10	12	32½	37½
6	10	14	34	42
Total	72½	76½	187	207½
Average	12.1	12.7	31	34.6

Yours, very truly,

F. A. JOHNSON,
General Inspector.

During the reading of the table,

Mr. Manager STERLING. Let us have the interpretation of those initials as the reading proceeds, Mr. Worthington.

Mr. WORTHINGTON. Very well. Let the witness state what the initials are.

The WITNESS. "R D" means round instead of square mesh. "C., B., S." means coal, bone, and slate.

Q. (By Mr. WORTHINGTON.) Mr. Johnson, what did Mr. Merriman do in connection with this investigation? What was his branch of the inquiry you made there?—A. His work was to measure and estimate the amount of culm.

Q. Did he make measurements?—A. Yes, sir.

Q. Were his report and yours turned over to anybody?—A. My report was turned over to Mr. May.

Q. What conversation did you have with Mr. May about it?—A. I do not remember of ever having any conversation at that time.

Q. Why did you omit the conical dump?—A. Because, as I have said, a good part of the conical dump had been worked over the second time. It had been through the operation twice, and therefore was very poor. Again, the good part of it, the best of it I might say, was composed of material entirely worthless. We talked that over at some length. I remember distinctly that we did.

Q. Did you both agree in your conclusion that it would not pay to try to get anything out of it?—A. We did; yes, sir.

Q. Did you so report to Capt. May?—A. Not at that time; no, sir.

Q. It was later?—A. Some time later; yes, sir; we did.

Q. Can you give us your opinion as to whether or not it is possible to work any of the prepared sizes of coal out of this dump; what you call chestnut or over?—A. No; I do not believe it is practicable to win the large sizes, because I have personal knowledge of the fact that the Robertson & Law Co. tried to do that and failed.

Q. Did you later have a conversation with Mr. May about this investigation or the result of it?—A. I did.

Q. When was that?—A. Some time later; I should say about a month or six weeks; it might have been two months; I do not know. Mr. May came to my office in Dunmore, which is next to his, and he had the reports, Mr. Merriman's report and some other papers in his hand, and he referred to a note which was either on Mr. Merriman's report or map; I do not remember which; and he asked me what that note meant. I remember the note. I believe I had——

Mr. BRYAN. Mr. President, it is very difficult to hear the witness.

The PRESIDING OFFICER. The witness will speak louder. He will speak as loud as he can.

Q. (By Mr. WORTHINGTON.) What was the note you saw on these papers that Capt. May asked you about?—A. As I remember it, the note read, "55,000 tons, not including slush and rock heap, as per recommendations of F. A. J."

Q. "F. A. J." being yourself?—A. Yes, sir. Mr. May pointed to that notation and asked me what it meant. I told him that it meant the high pile of refuse at what I think was the southwest end of the big pile. I told him that it meant that pile of slush and rock which had been put out of late years and was very poor, and we left it out, because we did not believe it ought to be included in the regular bank. He said he wanted to be sure of that. He said that he wanted to be sure that Mr. Merriman did not mean 55,000 tons of material outside of the refuse reported in my percentages.

Mr. WORTHINGTON. That is all of this witness, Mr. President.

Cross-examination:

Q. (By Mr. Manager STERLING.) I wish you would look at this report, Exhibit S. There you have the average per cent of the different grades of coal, have you not?—A. Yes, sir.

Q. Begin and read the average percentage of the different grades, beginning with the larger-sized coals—just the coal and nothing else.—A. Stove and above, 2.6 per cent; chestnut, five-tenths of 1 per cent; pea coal, seven-tenths of 1 per cent; buckwheat, 12.1 per cent; rice, 12.7 per cent; barley, 31 per cent; culm, 34 per cent.

Q. What is culm? Is that coal?—A. No, sir. That is what we call what we get when we wash—slush.

Q. I am asking you about the coal only. You would not count that culm as a part of the merchantable coal?—A. No, sir.

Q. What is the total percentage of merchantable coal that you have read from that report, including all kinds?—A. I could not state without putting the percentages together here now.

Q. Never mind it, then, for the present. What official position do you hold with the Hillside Co.?—A. I am the general coal inspector in charge of the coal inspection for the Hillside Co.

Q. Who was the engineer of that company at that time?—A. Mr. Merriman.

Q. And you went with Mr. Merriman at one time to view this Katydid dump?—A. Yes, sir.

Q. When was that?—A. April 4, 1911.

Q. You talked with him for some hours there on the dump?—A. About an hour, I should think.

Q. You told him where the culm was?—A. I did not tell him where the culm was so much as where the other material was.

Q. You told him where the fill was in the southwest corner of the map that runs up into the part called the conical dump?—A. Yes, sir.

Q. You told him that was filled with rock and ashes?—A. Yes, sir; I believe I did.

Q. You showed him the fill on the east side of the map and told him it was filled with rock?—A. Yes, sir; I believe I did.

Q. You pointed out to him all those parts of the pile that were made up of slate and stone and ashes?—A. Yes, sir; I believe I did.

Q. Then it was your duty to take samples of this and wash it?—A. Not to wash it.

Q. What did you do with it? How did you separate the coal?—A. I took each sample and kept it by itself; dried it on pieces of canvas, and then put it through hand screens.

Q. You cleaned out the coal?—A. Yes, sir.

Q. You did that in six different places?—A. Yes, sir.

Q. And you got the result which you have just read?—A. Yes, sir.

Q. Then what was the engineer's duty?—A. His duty was the measuring of the contents of the pile.

Q. To measure the number of cubic feet in the culm bank?—A. Yes, sir.

Q. He did not measure those parts of the culm bank that you pointed out to him were stone and ashes and slate?—A. I do not know.

Q. He would not naturally do that, would he?—A. No, sir; I do not think he would.

Q. He was not expected to find out the cubic feet of any of those materials?—A. No, sir; I presume not. I do not know.

Q. How many cubic feet did he find there were in the culm bank?—A. I can not say.

Q. Did you not see his report?—A. Yes, sir; possibly I did.

Q. Did not Mr. May show his report to you and call your attention to a note on the report?—A. No, sir. As I remember, he showed me a map which said "55,000 tons." I do not know whether the map said the number of cubic feet.

Q. Fifty-five thousand tons of what?—A. Of material.

Q. Coal or culm?—A. Altogether, coal and culm.

Q. Do you know whether that meant that there were 55,000 tons in all of it, outside of the conical dump, or in certain parts of it? [A pause.] All you know about it is what you saw on the map?—A. Yes, sir; that is all.

Q. Did you make an estimate or did you get any data from this engineer's report from which you made an estimate of the amount of coal?—A. No, sir. My report was turned over to the engineer and he made an estimate.

Q. Just take time to figure up the percentage of coal there, will you, Mr. Johnson?—A. (After a pause.) I make it 59.6 per cent.

Q. Fifty-nine and six-tenths per cent of coal?—A. Yes, sir.

Q. Did you ever see Mr. Rittenhouse's report?—A. Yes, sir; I have read it.

Q. Do you know or have you any knowledge of the number of tons in the bank—I mean gross tons now?—A. Only as I remember that figure on the map—55,000 tons.

Q. As a matter of fact, did not your engineer's report say there were 80,000 tons of culm?—A. I do not know that it did.

Q. Did you not know that he submitted it to Robertson and that Mr. Robertson said it was 80,000 tons?—A. No, sir; I do not know anything about that.

Q. You do not know whether the 55,000 tons meant coal or gross, do you?—A. Yes, sir; I believe I do.

Q. Do you know it from anything the map said?—A. Yes. I understood the note of Merriman's to say that.

Q. State now what the note said.—A. I will have to state it from memory. I have never seen it from that day to this.

Q. State it from memory.—A. I believe it said "55,000 tons, not including slush and rock heap, per F. A. J."

Q. What does "F. A. J." mean?—A. That means me.

Q. Now, would it not necessarily mean that that was the amount of coal, because you had tested the amount of coal that was in this material?—A. No, sir; I do not think it would.

Q. Had you anything to do with determining the amount of gross tons or the amount of cubic feet in the dump?—A. Nothing whatever.

Q. Not a thing?—A. Not a thing.

Q. Then, inasmuch as it said "per F. A. J.," meaning yourself, who had tested the percentage of coal, it must necessarily have meant that there were 55,000 tons of coal. Do you not think that would be the reasonable interpretation of it?—A. No, sir; I do not.

Q. Did you ever compare your report of 59 per cent with Mr. Rittenhouse's return of 51 per cent?—A. No, sir; I have not. I have never put them together until this morning.

Q. Did you ever know that you made 8 per cent more coal in that dump than Mr. Rittenhouse said?—A. No; I did not.

Q. You say that your engineer did not measure the cubical contents of the conical dump in the southwest corner of the map at all?—A. He told me that he was not going to measure it.

Q. And you told him——A. That I was not going to sample it.

Q. And you did not sample it?—A. No, sir.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Did you know Mr. Rittenhouse had figured on a very much larger proportion of valuable coal than you had?—A. I did.

Q. You knew that?—A. Yes, sir.

Mr. Manager STERLING. We object.

Q. (By Mr. WORTHINGTON.) What did you understand was meant by the term "F. A. J." in that memorandum?—A. I understood it to mean my recommendation on that conical pile.

Q. That was the reason it was omitted?—A. Yes, sir.

Q. Do you know why it is we have not got Mr. Merriman's report?—A. No; I do not.

Q. Do you know whether or not it was brought down here by Capt. May—all those papers—before the Judiciary Committee last spring?—A. I do not know anything about it, sir.

Mr. Manager STERLING. Do I understand counsel to claim that that was submitted to the committee?

Mr. WORTHINGTON. That is my information, that those papers——

Mr. Manager STERLING. I should like to know what it is.

Mr. WORTHINGTON. The next witness, I understand, has some light on that subject, and we will ask him.

Q. (By Mr. WORTHINGTON.) Can you give us an idea about the gross tons in that conical dump we have been talking about—about what the whole amount of material in it was?—A. Just as it stands now?

Mr. WORTHINGTON. Yes.

The WITNESS. I should say 15,000 tons.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. Is it desired that this witness shall be retained?

Mr. WORTHINGTON. No, Mr. President.

The PRESIDING OFFICER. The witness is finally discharged.

Mr. WORTHINGTON. Call Mr. Jennings.

TESTIMONY OF JOSEPH P. JENNINGS.

Joseph P. Jennings, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Where do you live, please?—A. Moosic, Pa.

Q. May I ask your age?—A. 32 years of age.

Q. How long have you lived in that neighborhood?—A. I have lived in Moosic for the past seven years.

Q. What is your business now?—A. I am general inspector of mines for the Hillside Coal & Iron Co.

Q. How long have you held that position?—A. Since February 1 last.

Q. Before that what was your position?—A. Before that time I was superintendent of the Avoca district for the Pennsylvania Coal Co.

Q. In those positions have you become familiar with the coal business in the region, and especially that part which pertains to coal dumps?—A. Yes.

Q. Did you have anything to do with the Katydid dump, near Moosic, when it was building or making?—A. When it was making?

Q. Yes.—A. Nothing more than at that time I was working on the engineer corps and I passed there from time to time.

Q. Have you recently made any efforts for us to find out what is in that dump and what it is worth?—A. I have.

Q. What have you done?—A. In the early part of November Mr. May handed me Mr. Merriman's notebook and a little map that Mr. Merriman had made of a survey of the Katydid dump, and he asked me to go over Mr. Merriman's work and verify it.

Q. Was that last November?—A. That was in November past; yes, sir.

Q. Mr. Merriman is dead?—A. Mr. Merriman is dead; yes. He died last September.

Q. Where did you get his figures?—A. From the original notebook.

Q. Have you them here?—A. No, sir; I have not.

Q. Where are they?—A. They are at the office in Dunmore.

Q. Did you make a report to Mr. May after you made the investigation?—A. I did.

Q. When did you do that?—A. A few days after that.

Q. Where is that report, Mr. Jennings?—A. I have a copy of it in my pocket.

Q. I know; but where is the original now?—A. Here is the report [producing paper].

Q. Very well. Let us have it. Do you know whether Mr. Merriman made a report from the material he had?—A. I understood he did, and I understood from Mr. May that it was left here with the rest of his papers.

Q. When?—A. When he was here before the House committee.

Mr. Manager STERLING (after examining paper). We object to it.

Mr. WORTHINGTON. May I ask on what ground?

Mr. Manager STERLING. It is not Mr. Merriman's report. It is just what this gentleman said he drew from Mr. Merriman's report. It is nothing but hearsay evidence.

Mr. WORTHINGTON. We have proved that Mr. Merriman is dead, and that his investigation was made for the Hillside Coal & Iron Co., and this gentleman has taken his figures.

Mr. Manager STERLING. That does not excuse you from producing his report here. If the witness had the report there from which to make his estimate, you have the report.

Mr. WORTHINGTON. The witness says that Capt. May brought it down here and left it with the Committee on the Judiciary of the House of Representatives.

Mr. Manager STERLING. He never did.

Mr. Manager WEBB. This estimate was made in November.

Mr. Manager STERLING. This was made in November, since the committee held its meetings, which were last summer.

Mr. WORTHINGTON. Mr. Merriman made his report——

Mr. Manager STERLING. No; the witness said he made this estimate in November.

The WITNESS. I made that report [indicating].

Q. (By Mr. WORTHINGTON.) You made this up from Mr. Merriman's notebook, and not from his report?—A. Not his report. I took the notes he made on the field and worked up the information from it.

Q. That notebook was left with the company and was found, after Mr. Merriman was dead, as a part of the papers of the company?—A. Yes, sir.

Q. It is one of the papers upon which Capt. May acted in what he did in this matter?—A. Yes, sir.

Mr. WORTHINGTON. I submit, inasmuch as the charge here is that Capt. May undertook to favor Judge Archbald by giving him this dump for less than it was worth, that the Senate ought to have the information Capt. May had when he made his recommendation or agreed to make it.

The PRESIDING OFFICER. The Chair understands that this evidence is sought to be introduced because of the death of the man who made the original paper.

Mr. WORTHINGTON. The man who made the original report is dead. His official report to Capt. May was on file, and this gentleman took that report and from it prepared this paper.

Mr. Manager STERLING. Our objection to it is that it is purely in the nature of hearsay evidence. We do not know whether he has correctly computed it from the notes made by Mr. Merriman. We are not bound by what he says as to what those notes indicate. We are entitled to the notes, if they are competent evidence at all, which we are not admitting at present.

The PRESIDING OFFICER. The Chair is unable to see how the death of Mr. Merriman would affect it in any way. It would still be competent for some other person to make the same examination.

Mr. WORTHINGTON. What we wish to bring out is what information Capt. May had when he made that recommendation.

The PRESIDING OFFICER. That can be proved by Mr. May.

Mr. WORTHINGTON. And if it was that the dump was worth only $5,000——

The PRESIDING OFFICER. If Capt. May was on the stand and the question was put to him upon what he made his estimate, it would be legitimate testimony, but not as an independent piece of testimony.

Mr. WORTHINGTON. He has already testified that when he received the letter of March 31 from Judge Archbald, which is in evidence, asking if the dump was for sale, he directed this investigation to be made; and it was on this investigation and the result communicated to him that he took the action he did.

Mr. Manager STERLING. But it was not on this report that Mr. Jennings presents now, because this was not made until November last.

Mr. WORTHINGTON. Jennings is simply presenting his calculations based on Mr. Merriman's notebook.

Mr. Manager STERLING. Then I presume the Senate will have to interpret it.

Mr. WORTHINGTON. Then we will have to let this witness stand aside and send for the notebook on that point.

Q. (By Mr. WORTHINGTON.) You can get that notebook and have it sent here?—A. Yes, sir; I can get it.

The PRESIDING OFFICER. The Chair does not wish to be understood as holding that the notebook would be competent evidence.

Mr. WORTHINGTON. No.

The PRESIDING OFFICER. The Chair simply went to the extent of saying that Capt. May would, in the opinion of the Chair, be a competent witness as to the information upon which he based his action.

Mr. WORTHINGTON. I think he has already done that.

The PRESIDING OFFICER. That, I think, is as far as can be done. It is still competent for counsel for the respondent to prove the value by some other witness. That fact is equally ascertainable by some other witness. It is not in the sole knowledge of the person who is dead.

Q. (By Mr. WORTHINGTON.) Mr. Jennings, have you had anything to do with what is called the Consolidated Washery operation which is in the vicinity of the Katydid culm bank?—A. I have, sir.

Q. What did you have to do with it?—A. The washery was built under my supervision. I had charge of the consolidated colliery from March 1, 1909, until February 12, 1912.

Q. Will you tell me whether that washery is equipped to handle coals of the size of chestnut and above?—A. We can handle some chestnut, but none above.

Q. As a matter of fact, have you been handling any chestnut?—A. We have handled some.

Q. Why do you not handle more of it?—A. Because we can not clean it; we can not do anything with it.

Q. Why?—A. Well, the amount of coal in the material is so small that we can not clean it. If you have a mixture of coal and rock, say 10 or 15 per cent of coal and the balance rock, it takes an enormous amount of machinery to get that coal out of the rock, or the rock out of the coal.

Q. Which is the richer bank, the one the Consolidated is working or the Katydid?

Mr. Manager STERLING. We object to that as immaterial.

Mr. WORTHINGTON. I remember hearing something very early in the course of this trial about objections not being made here of the kind that are made in the ordinary courts of justice; but it seems that we have got away from that now. Mr. Rittenhouse's estimate, which Capt. May got when he took the action about this matter, has been introduced in evidence, and it shows by a computation, and it was given in testimony, that there were over $17,000 worth of chestnut coal in the Katydid dump. We have given some evidence in regard to it, and now we want to show that another bank in this immediate vicinity, operated by the Consolidated Washery, that was referred to by Mr. Rittenhouse—a much richer bank—can not be worked so as to get the chestnut out of it to any advantage, and that it is much more impossible to do it than the Katydid dump.

Mr. Manager STERLING. We object to it as plainly immaterial, as to what another bank of any quality, any kind of coal, may be.

The PRESIDING OFFICER. Counsel for the respondent will recognize that if that were admitted in evidence the managers would be entitled to take issue on it, and then the whole investigation would necessarily be had as to what was the value of the coal in another bank.

Mr. WORTHINGTON. I remember when I objected to Mr. Rittenhouse's testimony. I said we would get into a long wrangle on expert evidence as to the value of the Katydid bank, and as to matters about which Judge Archbald did not know anything; that it would take a great deal of time; and I remember that the Chair reminded me that the fact that it would take a great deal of time would not justify the exclusion of any relevant testimony.

The PRESIDING OFFICER. That is true, if it was relevant, but it certainly is not competent to go into the contents of every other bank with which counsel might desire to compare this bank.

Q. (By Mr. WORTHINGTON.) Let me put it this way: Tell me to what extent, if at all, it is possible to reclaim from the Katydid dump coal of chestnut size and over to be marketed.—A. It is not practicable to reclaim it.

Q. Why?—A. It would cost many times—it would cost four times more to get it out than what you would get for it.

Q. Why?—A. Because there is so little coal compared with the amount of rock that the immense size of the buildings and the costly appliances you would have to buy in order to separate them to start with would cost four times as much as the coal is worth.

Q. Did you go on this dump at any time with Capt. May?—A. I did; yes, sir.

Q. When was that?—A. It was along the latter part of May, 1911.

Q. Will you tell us whether or not you communicated to him at that time the views you have expressed here about this dump?—A. I did. He told me there was a chance to sell that dump, and he took me down and went over the ground and asked me what I thought of it, and I told him that I thought he had better sell it.

Q. Did you tell him why—give him any reasons?

Mr. Manager STERLING. We object to that as immaterial.

Mr. WORTHINGTON. Here, Mr. President, we are getting a communication right to Capt. May by his trusted subordinate.

The PRESIDING OFFICER. What was the question?

Mr. WORTHINGTON. The whole theory about this matter on the part of the managers is that Capt. May undertook to favor Judge Archbald by selling him what he would not otherwise sell.

The PRESIDING OFFICER. What was the question?

Mr. WORTHINGTON. I am asking whether he was on the dump on the 23d of May, 1911, or about there, months before Mr. May had written this letter of August 30, in which he said he would recommend this sale; that his trusted subordinate, who had examined it and knew all about it, advised him to sell it, and he did not know, I take it, any more about Judge Archbald's connection with it than I did.

The PRESIDING OFFICER. The Chair thinks it is competent, but will hear from the managers.

Mr. Manager STERLING. I can not conceive how a conversation between this witness and Capt. May is competent in any view of the case. Neither of them was a party to this proceeding. The very fact that he was the confidential adviser of Capt. May is the main reason why it is not competent in this case at all. We can not be bound by anything that he said; that one witness said to another; that one person said to another, who is not a party to this proceeding. It was purely a conversation between this man and May. It does not go to the issue at all in this case.

The PRESIDING OFFICER. The Chair thinks that the general proposition stated by the managers is correct, but that it is competent for counsel to show what was the information upon which Mr. May acted.

Q. (By Mr. WORTHINGTON.) I do not remember how far you had gone. What did you say to Capt. May at that time on the subject of the sale of the dump?

The WITNESS. I told him that when Robertson & Law started again to wash that dump, all we would get would be the royalty we would pay, and it was just a question with us of waiting to get our money by actual shipment or taking the money; that is, we had a very unstable agreement upon which we operated this mining, at least a part of it, on lot 46; and if we sold it it would be off our hands and we would have the money.

Q. At that time did you know anything about Judge Archbald having any communication with Capt. May about this matter?—A. No, sir.

Q. Or having any interest at all in it?—A. No, sir.

Q. I will ask you this question, without reference to that particular dump: Do you know what the custom is in culm dumps as to trying to save chestnut and above?

Mr. STERLING. I object.

The PRESIDING OFFICER. The counsel will repeat the question.

Mr. WORTHINGTON. I am asking what is the practice in the dumps in that anthracite region as to attempting at all to save or win, as the word they use, chestnut or sizes above from these culm dumps, to show that it is the universal practice and custom there to refuse to do it because it is impossible to do it to advantage. I understand the Chair has already ruled we can not show specially this or that particular dump; but certainly I ought to be allowed to show the custom in that matter, because, as a particular item of value of this dump, the expert Rittenhouse makes it over $17,000 for chestnut coal.

The PRESIDING OFFICER. The Chair thinks that counsel is entitled to show whether or not it was worth anything.

Q. (By Mr. WORTHINGTON.) I will put it this way. Tell us what was the market value of chestnut coal in culm dumps in the neighborhood of Scranton in 1911.—A. I know one fellow that washed a car of chestnut coal——

The PRESIDING OFFICER. The question is whether the witness knows the value of it.

Mr. WORTHINGTON. I put it that way because the Chair ruled I could not put it the way I did. What was the market value of coal of the size of chestnut or above in the culm banks in that region in 1911?—A. Anything you could get for it.

Q. What could you get for it?—A. I do not know. We never sold any.

Q. You never sold it?—A. Only to the local trade.

Q. We have had some testimony here about the possibility of taking the coal from the Katydid dump to the consolidated washery and doing it to advantage. You are quite familiar with the washery and with that whole region, I believe?—A. Yes, sir.

Q. I would like to have your judgment as an expert and one having a full knowledge of the situation as to whether or not that would be a practicable thing.—A. It would not be practicable.

Q. Why?—A. It would cost too much to get it up there.

Q. How much would it cost, and why would it cost so much?—A. The first installation would cost well up to $10,000 to get started.

Q. Do you say under $10,000?—A. Well on to $10,000, in round figures, to build what we call scraper lines from the consolidated washery down to the Katydid dump. The scraper lines are made in sections of about 500 feet, depending upon the kind of ground you have to operate on. The ground to the Katydid dump runs quite a grade, from big ledges of rock. I do not think you could get over 400 feet to a section. The shape of the Katydid dump is very irregular and the scraper lines would have to be moved in straight lines, so that it would take five or six lines to get hold of the dump. With each of these lines you would have to put in engines to drive it. You would have to put in pipe lines and pumps, in order to wash the culm. A steam line from our consolidated scraper down right through would cost about $10,000 to get started.

Q. What would that material which cost $10,000 be worth when you got through and the culm was washed out?

Mr. Manager STERLING. We object, because this witness could not possibly state what it would be worth. He could not know what condition it would be in.

Q. (By Mr. WORTHINGTON.) Do you know anything about the value of scraper machinery?—A. Yes, sir.

Q. Does your experience in that business qualify you as an expert?—A. In our experience in the business, after a scraper is used in mining, what we have to use——

Mr. Manager STERLING. Mr. President, we object to any such testimony as this, asking what the machinery would be worth after it had been used. How can the witness tell what it would be worth? How can any human being tell?

Q. (By Mr. WORTHINGTON.) Is it possible to tell about what a scraper line is worth after the dump to which it has been built is exhausted?—A. It is.

Q. I will take your word for it, as far as I am concerned, and ask you what that scraper line would be worth after the dump is exhausted?

Mr. Manager STERLING. I object.

Mr. WORTHINGTON. Our friends on the other side insisted upon putting Mr. Rittenhouse on the stand and giving expert testimony that, among other things, it was a great favor to Judge Archbald to offer to sell the interest of the Hillside Coal & Iron Co. in this dump to him for $4,500, because it could have built a scraper line down to the consolidated washery and operated it themselves and made money. Is it not competent to show, as we have shown, that they would have had to put in an extra plant and bring the washery around at a cost of $10,000, when we find here somebody who knows, and ask him what that scraper line would be worth when the dump to which it was built was gone?

Mr. Manager STERLING. Mr. President, how is it possible for this witness to know what condition it would be in after it had been used for this purpose? I say it is absolutely impossible for him to know, unless he knows what condition it would be in, what the market price of those things would be at that time. It might be 10 years from now. We do not know how long it would take to operate it. We should not have witnesses come on the stand and guess about such things. It is what Senators can guess about.

In regard to this testimony, while I have the floor, Mr. President, I desire to say this. Counsel say the purpose of the testimony is to show the knowledge which Mr. May acted on when

he made this proposition. Mr. May has testified in this case, and he testified himself that, in his judgment, there were 45,200 tons of coal, and it is in the record, and I read it from his testimony. He testified to it before the Judiciary Committee and said it was true that there were 45,200 tons of coal. Are counsel trying to rebut the testimony of May himself, who says that is the knowledge he had and on which he acted when he made the proposition?

The PRESIDING OFFICER. The Chair thinks the question would be too indefinite unless counsel can indicate the degree of use, the length of use, and also fix the standard of prices by which the matter was to be determined.

Mr. WORTHINGTON. The witness says he knows and he can tell.

The PRESIDING OFFICER. The Chair was speaking of the frame of the question. The evidence sought to be elicited must necessarily be relieved from the charge of being too indefinite. It must specify the degree of use, after which would follow the condition of the machinery, with reference to a standard price at a future time.

Q. (By Mr. WORTHINGTON.) Would the value of that scraper line depend on the way it was used and the extent it had been used at all?—A. Yes, sir; it would. We use mine water, water that is high in sulphuric acid, and it eats the iron away in a short time. An ordinary scraper line would last about a year.

Q. How long would it take to work this Katydid dump in that way, building a scraper line and taking the culm down to the consolidated and putting it through your washery there?—A. It would take about a year; it might be a little longer. It is an awkward dump to get hold of.

Q. The scraper line would last about a year?—A. About a year.

Q. I have asked you about the cost of the equipment and so on. What would be the cost of operation per ton?—A. To pick up the Katydid dump in my judgment would cost 50 cents a ton.

Q. What do you mean, coal or culm?—A. Of prepared coal.

Mr. WORTHINGTON. That is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager STERLING.) What is your first name, Mr. Jennings?—A. Joseph.

Q. Are you connected with the Hillside Coal & Iron Co. now?—A. I am.

Q. In what capacity?—A. I am general inspector of mining.

Q. How long have you had that position?—A. Since February 1, 1912.

Q. You are not an engineer, are you?—A. I am.

Q. A mining engineer?—A. I am.

Q. How long have you followed that business?—A. I worked on the engineering corps back in 1899, and in 1900 I went to Lafayette College, at Easton, and took an engineering course and graduated in 1904.

Q. You have not held any position as a mining engineer, have you?—A. Not what you would mean by mining engineer.

Q. I mean just what I say. You have not had the position of mining engineer of any coal company or railroad company?—A. No, sir; not the exact position.

Q. You know what report Mr. Johnson made of the amount of chestnut coal in this dump, did you not?—A. I saw it. I did not pay much attention.

Q. It is one-half of 1 per cent, is it not?—A. Something like that.

Q. So the question as to whether or not the chestnut coal should be won would not affect the value of the dump very much one way or the other, would it?—A. The chestnut coal?

Q. Yes, sir; if it is only one-half of 1 per cent?—A. It would affect it just that much.

Q. You say you had a talk with Mr. May about the advisability of selling this—A. Yes, sir.

Q. And you told him that one reason for selling it was the instability of the agreement which you had?—A. Yes, sir.

Q. What did you mean by that?—A. We were operating on lot 46; we owned a one-half undivided interest, and there was no lease. There was just the letter that was given a long time ago, and we did not know when that agreement would be changed.

Q. And the effect of it was that it affected the title to the dump. Is that your idea?—A. I do not know. I am not lawyer enough to know just how to put that, but I always understood——

Q. When you were——

Mr. WORTHINGTON. I submit that the witness be allowed to finish.

Mr. Manager STERLING. He has answered.

Mr. WORTHINGTON. He said he understood and was cut off.

The PRESIDING OFFICER. The witness before he finishes will be allowed to make any explanation he wishes.

Mr. WORTHINGTON. He started to make an explanation, but was cut off, and I submit that he ought to be permitted to finish his answer.

The PRESIDING OFFICER. The witness will finish his answer and state what he understood.

The WITNESS. I always understood that our right to work lot 46 was liable to be terminated at any time.

Q. (By Mr. Manager STERLING.) Dependent upon this agreement with the Everhart heirs? That is your idea?—A. Yes, sir.

Q. So it did affect the title in that way?—A. I do not know what the title was.

Q. So the principal reason you gave May for selling it was the very reason May gave here for not selling it, is it not?

Mr. WORTHINGTON. I submit this witness is not to criticize Capt. May upon a question of argument.

Mr. Manager STERLING. I am not undertaking to criticize Capt. May. It will be remembered that Capt. May testified that when the notice came in he thought the title might be a question.

Mr. WORTHINGTON. In due time we can read Capt. May's statement and contrast his testimony with that of this witness.

Q. (By Mr. Manager STERLING.) I will put the question in this form. I am sure I can satisfy my friend here. The reason why you advised him to sell it was because you thought there were questions about the title. Is that it?—A. No; not exactly that. We knew that the arrangement we were working under could be changed and easily changed. That was the reason, it could be easily changed.

Q. You thought you wanted to get rid of it for that reason?—A. Not only that, but it would affect a number——

Mr. Manager STERLING. I am talking about this one.

Mr. WORTHINGTON. The witness was interrupted again in the midst of his sentence. I submit he has a right to finish it.

Mr. Manager STERLING. If we do not confine the witness to the questions he will be on the stand the whole afternoon.

The PRESIDING OFFICER. The manager has a right to confine the witness as nearly as he can to answer the question, and then it is fully competent for the counsel for the respondent to bring out all that the counsel thinks important to have his testimony thoroughly understood. The managers have the right to confine their examination within certain lines so far as answers to their questions are concerned.

Mr. WORTHINGTON. We make no question about that, but I contend that the witness was properly answering the question and was interrupted while in the middle of it just as before.

The PRESIDING OFFICER. The witness will answer the question as directly as possible. There will be every opportunity to explain everything.

Mr. Manager STERLING. Let the Reporter read the question and answer.

The question and answer were read by the Reporter.

Q. (By Mr. Manager STERLING.) Was that one of the reasons you recommended to Mr. May to sell this dump?—A. Yes, sir.

Mr. Manager STERLING. Take the witness.

Mr. WORTHINGTON. That is all, Mr. Jennings. We will have to detain you and have you send for that notebook of Mr. Merriman's.

The WITNESS. The notebook and the little map?

Mr. WORTHINGTON. Yes.

Mr. Manager STERLING. One question I forgot to ask Mr. Robertson. I ask that he may be recalled.

TESTIMONY OF JOHN M. ROBERTSON—RECALLED.

John M. Robertson recalled.

Q. (By Mr. Manager STERLING.) Mr. Robertson, you saw the report of the engineer of the Hillside Coal & Iron Co. as to the number of tons of material in this dump, did you not?—A. I do not remember that I ever saw the report; I knew of it.

Q. Well, you testified before the Judiciary Committee, did you not, that——

Mr. WORTHINGTON. From what page does the manager read?

Mr. Manager STERLING. From page 830. [To the witness:] You testified as follows:

> Mr. ROBERTSON. The Hillside Coal & Iron Co. put their engineers on the dump, measured it, and found that it contained 80,000 gross tons of material—that is, culm—composed of fine dust and the various sizes running up—probably there might be a little up to pea. There might be some little chestnut.

You swore to that before the Judiciary Committee, did you not?—A. Yes, sir.

Q. And that is true, is it not?—A. That is true to the best of my knowledge.

Q. Mr. Robertson, if there were 80,000 gross tons of material in the dump and 59 per cent of it was coal, as testified by Mr. Johnson, then it is a simple question of mathematics to determine how much coal there was in the dump, is it not?—A. Yes, sir.

Q. It would be a little over 47,000 tons of coal, would it not?—A. That is right; yes, sir.

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. That is all, Mr. Robertson.

TESTIMONY OF J. BUTLER WOODWARD.

J. Butler Woodward, being duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Woodward, what is your business?—A. I am a lawyer.

Q. You are a member of what firm?—A. Of Wheaton, Darling & Woodward.

Q. How long have you been a lawyer?—A. I have been practicing for 25 years.

Q. What is your politics?—A. I am a Democrat.

Q. Were you a jury commissioner in the middle district of Pennsylvania?—A. I was.

Q. Appointed by whom?—A. By Judge Archbald.

Q. When?—A. When the middle district was first formed. I think it was in 1901.

Q. You continued as such jury commissioner until when?—A. Until Judge Archbald went on the Commerce Court, until he went off the district court bench, when I handed in my resignation to his successor, Judge Witmer.

Q. Did you continue any time after that?—A. Yes, sir. He asked me to continue, and I continued some time after that.

Q. Will you tell the Senate, please, what are the duties of a jury commissioner?—A. The jury commissioner and the clerk fill the wheel, and the marshal draws the names of jurors from the wheel. When we first started in we put in 300 names, equally divided between us, as required by law. To get my share of the names, I wrote to either the judge or some lawyer, whose name I got from a lawyer's list in each of the 32 counties composing the district. From those lists the names were copied in a book. We each had a book. He was in Scranton; I was in Wilkes-Barre. In that book was the name, occupation, and address of each juror. A slip was torn off, with the number on the slip, containing the name of the juror and the number that was put in the box. Then, whenever a jury was drawn, it required 63 names, 23 for the grand jury and 40 for the petit jury. Before the marshal drew, the clerk and I would each put in half of the 63 names, or divide the 63 names between us. Sometimes I would take 31 names, and sometimes 32, and put those in the wheel before we drew out. Then an equal number were drawn out by the marshal. If the name and number appeared in my book, it was checked off of my book, and if it appeared in his book it was checked off of his book. Those names I got from the judges and from the lawyers. The judges and the lawyers were unknown to me, and the names were of people whom I knew nothing about. I would give the list to the stenographer; he would enter it in the book, and when we went into Scranton to draw the jury they would be drawn in that way.

Q. Then, if I get it straight—I want in as few words as possible to fix it—there were originally 300 names put in, and then each time of the drawing 63 additional names were put in and 63 taken out, leaving always 300 names in the wheel?—A. Yes, sir.

Q. What kind of a wheel was it? Just very briefly describe it.—A. It was a sort of tin octagonal arrangement, about that long [indicating].

Mr. Manager NORRIS. Mr. President, I think we had better not ask this witness that question. He is only stating what the law is in regard to the selection of a jury.

Mr. SIMPSON. No; he was going further. The allegation here, Mr. President, is that Judge Archbald is guilty of a high crime or misdemeanor in that he appointed this gentleman as a jury commission, who was counsel for a railroad company ostensibly—for we could not get any other thought out of it—because this gentleman would, in some way or other, use his influence by reason of having been counsel for a railroad company to pack that wheel for the benefit of the railroad company or companies for which he was counsel, and I propose to show——

Mr. Manager NORRIS. Mr. President——

Mr. SIMPSON. Excuse me a moment, Mr. NORRIS. I propose to show just exactly what he did; to show that it was impossible—and following it up by later questions—for the thing, by innuendo charged here, to have occurred.

Mr. Manager NORRIS. Mr. President——

Mr. CRAWFORD. I should like to propose a question to the witness.

The PRESIDING OFFICER. Does it relate to the question of the admissibility of this evidence?

Mr. CRAWFORD. Not to the admissibility of the evidence, but it relates to this subject.

The PRESIDING OFFICER. Until this is disposed of——

Mr. SIMPSON. The question here is simply how to describe a wheel. That is the question that is now before the Senate.

Mr. Manager NORRIS. Mr. President, if the questions would have a tendency to elicit from the witness anything that is material on this particular account there would be no objection. The argument that counsel makes in reality has nothing whatever to do any more than his question has with the point at issue in this particular article. The witness has been asked to describe a wheel. There has been no charge that that wheel or that method of selecting a jury is contrary to law or that it selected any jurors contrary to law. This testimony is only taking up the time of the Senate, as I look at it; it can hurt nobody; it can do no one any good. So far as having anything to do with the selection of the names, the witness has already told how he selected them. If there is anything wrong in the selection of any particular man as a juror it would come in in that way and not in the wheel. We have not charged that when the men's names were put in the wheel there was any manipulation of that wheel or that there was a possibility of manipulating it.

Mr. SIMPSON. Under the disclaimer of Judge NORRIS I will withdraw that question, sir. Does the President desire to submit the question which the Senator from South Dakota desires propounded to the witness before I proceed?

The PRESIDING OFFICER. The Senator from South Dakota desires to propound a question, which will be read to the witness.

The Secretary read as follows:

It would be possible, would it not, for a jury commissioner to gather names of jurymen who were biased in favor of railway companies?

The WITNESS. Not to any great extent in 32 counties. The jury commissioner would have to have a rather large acquaintance to get jurymen biased in favor of railroad companies.

Q. (By Mr. SIMPSON.) Was there any gathering of names of jurors at any time you were acting as jury commissioner who were biased in favor of railroad companies?—A. Not to my knowledge.

Q. There was none by you?—A. There was none by me.

Q. Did you know any of the names of the jurors that you put in the wheel?—A. I did some that I put in from my own county.

Q. Were any of them connected with or biased in favor of railroad companies?—A. Well, I do not recall any now.

Q. Would you have put any such names in the wheel if you had known them to be so?—A. I do not think I should. The charge is that I was appointed jury commissioner while general attorney for the Lehigh Valley Railroad Co.

Q. Yes; I was coming to that in a moment. You can go on and explain it in your own way.—A. I was not general attorney for the Lehigh Valley Railroad Co. I was local counsel for the Lehigh Valley Railroad Co. I never had a case for them in the United States court, and I would not have tried the case if they had had any there. They would have had their local counsel in Scranton or Wilkes-Barre, wherever the court sat. The court did not sit at Wilkes-Barre. I never had but two cases in the United States court—one was a jury trial, and in the other case we agreed to withdraw it from the jury and to try it before a board of engineers, because it involved technical questions.

Mr. CRAWFORD. Mr. President, I desire to submit another question.

The PRESIDING OFFICER. The Senator from South Dakota submits a question, which will be read by the Secretary.

The Secretary read the question, as follows:

Q. If he set about it with the intention to select that class of men as jurors who would be biased in favor of railway companies, it would be possible for him to do so, would it not?

The WITNESS. As I said before, it would be possible to get some names of people who were biased in favor of railroad companies, but if you get the representation from 32 counties that they were entitled to, and which they got, it would be difficult to get a large representation biased in favor of railroad companies.

Mr. CRAWFORD. Mr. President, I submit that that is not a full answer to the question. I think, if the witness will listen to the question carefully, he will see that it is capable of a more direct answer.

The PRESIDING OFFICER. The question will be submitted to the witness. He will read the question and endeavor to answer directly.

The WITNESS (after reading the question). Yes; I should think it would.

Q. (By Mr. SIMPSON.) You spoke of having had two cases in the United States court. That covered what period of years?—A. Well, I have been practicing 25 years, and those are the only two I ever had.

Q. Covering the whole period of 25 years?—A. Yes, sir.

Mr. KENYON. Mr. President, I would like to submit a question.

The PRESIDING OFFICER. The Senator from Iowa submits a question, which will be read to the witness by the Secretary.

The Secretary read as follows:

Did you get any names for jurors from any local attorneys of railroads in the various counties?

The WITNESS. I had no knowledge of any. They may have been attorneys for railroads. I took them from a list published in New York, called the Lawyers List. Those that I did not get from the judges of the county I got from some lawyer whose name appeared on that list. The lawyers were unknown to me and the judges were unknown to me. Whether they represented any corporation or not, I do not know. I asked them to send me names of good men for the United States jury, and whether they represented corporations or not I do not know.

Mr. CRAWFORD. I desire to present another question.

The PRESIDING OFFICER. The Senator from South Dakota submits a question, which will be read by the Secretary.

The Secretary read as follows:

The railway companies had local attorneys in each of the counties in the district, did they not?

The WITNESS. I do not know.

Q. (By Mr. SIMPSON.) There was one case you said you tried. What became of that case?—A. There was one case tried for the Lehigh Valley Coal Co., in which I was associated in the trial, but it was withdrawn from the jury and submitted to a board of arbitrators composed of three engineers. It involved mining questions.

Q. That was the end of the case, so far as the court was concerned?—A. Yes; that was the end of the case, so far as the court was concerned. The first time we tried it the counsel for the plaintiff labored for several days to make out a case and failed, and we thought we were entitled to a nonsuit. Judge Archbald allowed the jury to be withdrawn and the case continued, so that they might prepare their case in a way that it might be presentable.

Q. Do you remember the purse which was made up at the time Judge Archbald was going to Europe?—A. Yes, sir; I might say——

Mr. REED. Mr. President, I desire to submit a question to the witness.

The PRESIDING OFFICER. The Senator from Missouri submits a question, which will be read by the Secretary.

The Secretary read as follows:

Q. Did you think it proper to permit lawyers who might have cases to try before a jury to recommend and thus practically select the jurors?

The WITNESS. I did. The question is whether I thought it proper, is it not?

The PRESIDING OFFICER (to the witness). You may read the question.

The WITNESS (after reading the question). Yes, sir; I thought it was proper.

Mr. JOHNSTON of Alabama. Mr. President, I desire to submit a question.

The PRESIDING OFFICER. The Senator from Alabama submits a question, which will be read by the Secretary.

The Secretary read as follows:

Q. Did you apply to Democratic or Republican lawyers to furnish you names of jurors in the various counties?

The WITNESS. I knew nothing about their politics, whether they were Democratic or Republican lawyers. I had no knowledge of them, except that this was supposed to the best list of lawyers that was published, and I took the names from a book. I might say that the office of jury commissioner in all the United States courts of Pennsylvania was at that time, until I resigned, held by lawyers.

Q. (By Mr. SIMPSON.) And do you happen to know whether or not the names of jurors were selected to be put in the wheel in other districts in the same way that you did?—A. I have no knowledge of how it was done in other districts.

Q. Coming, then, to the question that I started to ask you about, you were a contributor to the purse that was given to Judge Archbald when he went to Europe?—A. Yes, sir; I contributed to that purse. I had nothing to do with getting it up, as charged in the twelfth—I think it is the twelfth—article. I did no soliciting for it and I had nothing to do with its presentation. I was asked over the telephone by Mr. Searle to contribute, and I said I would. He told me that Judge Wheaton and John T. Lenahan were also willing to contribute, or had said they would contribute. I spoke to Mr. Wheaton, who occupies the next office, who said that he had been spoken to by Mr. Searle. There was an interval then before I heard anything more about it. Then I got another telephone message from Mr. Searle, asking me to send my check and Judge Wheaton's check and Mr. Lenahan's check. I got Judge Wheaton's check and telephoned to Mr. Lenahan to send me his check. He did so, and I forwarded it to Mr. Searle.

Q. Is that all the connection you had with the matter?—A. That is all the connection I had with it from the first.

Q. How long had you known Judge Archbald?—A. I should think for 25 years or more, or before that. I think we graduated at the same college; but he was before my time.

Q. Has the acquaintance been merely the acquaintance of lawyer and judge, or more than that?—A. I never had but those two cases before him. It has been made a social acquaintance. I have met him at college dinners and at various times.

Q. And that acquaintance of that character has been continued during the whole of this time you have mentioned—25 years or so?—A. Yes, sir. I can not tell exactly when I met him.

Mr. REED. Mr. President, I desire to submit a question.

The PRESIDING OFFICER. The Senator from Missouri submits a question, which will be read by the Secretary.

The Secretary read as follows:

Q. If you did not represent the railway company in court, what did your employment embrace?

The WITNESS. My employment by the railway company? I did represent them in the court of Luzerne County; tried their cases there, and did other business. I had no retainer from them and I had no salary. I transacted whatever business came to the office and sent them a bill, the same as I did to other clients.

Mr. SIMPSON. I think that is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager NORRIS.) Mr. Woodward, what was the amount you contributed to this fund?—A. $50.

Q. When Mr. Searle telephoned to you, did he name any amount?—A. I think not; I have no recollection that he did.

Q. Do you remember the amount of the other contributions that you forwarded to Mr. Searle?—A. Yes, sir.

Q. What were they?—A. Judge Wheaton $50 and J. T. Lenahan $25.

Q. So you remitted $125 to Mr. Searle?—A. Yes, sir.

Q. Did you get any acknowledgment?—A. Yes, sir; I heard from Judge Archbald. I do not know where the letter was dated, but afterwards I got a letter from Judge Archbald. That was the first I knew that the names of the contributors had been disclosed to Judge Archbald. I take it there was no impropriety——

Q. Have you that letter?

Mr. WORTHINGTON. Let him finish his previous answer.

A. I do not know, sir; I may have it in my office at home. I made no search for it. I do not know whether I can find it or not.

Q. Mr. Worthington has suggested that I interrupted you in your answer. If you were not through, please finish it now.—A. I was about to say that there would have been no impropriety about the gift of the purse, or it would not have placed Judge Archbald in an embarrassing position, if the names of the contributors had not been disclosed.

Q. That, as a matter of course, those who have to pass on it will have to judge, I presume. The fact is, your name was disclosed to him?—A. I believe so; yes, sir. I did not know it until——

Q. Otherwise, you would not have been able to get an answer from him?—A. Yes, sir; I knew when I got an answer from him that the names——

Q. I was asking you about that letter. Can you produce the letter that you got from Judge Archbald?—A. I said I may be able to produce it. I do not know. I will have to search through my files.

Q. Have you made any effort to get it?—A. I have not.

Q. When did Judge Archbald appoint you as jury commissioner?—A. Just after the middle district was formed.

Q. That is, when he first went on the bench?—A. Yes. He asked me if I would take the position as jury commissioner of his court. He made a rather personal matter of it, and I said that I would. He said it would not take much time, and I thought I could give that time to the service. I considered the office of jury commissioner an important office in the administ-

tration of justice and an office that in our counties there in Pennsylvania has been very much neglected.

Q. As a matter of fact, what was the salary connected with the office?—A. Five dollars a day for every day employed.

Q. And about how many days in the year would you be employed to attend to the official duties?—A. I would make about fifty or sixty dollars a year.

Q. So that you did not accept it principally on account of the financial consideration?—A. No, sir.

Q. What salary did you get as railroad attorney?—A. I got no salary at all as railroad attorney.

Q. Were you attorney for the Lehigh Valley Railroad Co. at the time you were appointed jury commissioner?—A. I was.

The PRESIDING OFFICER. The Senator from Missouri [Mr. REED] submits a question that will be propounded to the witness, if the manager will suspend a moment.

The Secretary read as follows:

State fully in what courts you represented the railway company.

The WITNESS. The courts of Luzerne County, Pa., and in the appellate courts of Pennsylvania, where appeals were taken from the Luzerne County courts.

The PRESIDING OFFICER. The Senator from Missouri submits another question, as follows:

The Secretary read as follows:

Did you so represent the company during all the time you were jury commissioner?

The WITNESS. Yes, sir.

The PRESIDING OFFICER. The Senator from Iowa [Mr. KENYON] submits a question which will be propounded to the witness.

The Secretary read as follows:

Q. Did you have railroad passes while you were jury commissioner?

The WITNESS. Yes, sir; on the Lehigh Valley.

The PRESIDING OFFICER. The manager will proceed with his examination.

Q. (By Mr. Manager NORRIS.) You had partners all the time, Mr. Woodward, did you not?—A. Yes, sir.

Q. Who were the other members of your firm?—A. At present?

Q. No; at the time of this appointment.—A. I think Judge Wheaton went on the bench in 1901 and came back to practice in 1907. While he was out of the firm I had Mr. James L. Morris and my father, Judge Woodward.

Q. Was you father connected as an attorney with any railroad company?—A. When he was in the firm of Woodward, Darling & Woodward, he was.

Q. For what company was he attorney?—A. The Lehigh Valley Railroad Co.

Q. This same company?—A. Yes, sir.

Q. Was he their general attorney?—A. No, sir.

Q. He was, like you, paid for the business that was turned over to him in accordance with the terms of employment?—A. When I spoke of representing the company I meant our firm represented it.

Q. Your other partner was Judge Wheaton, I believe?—A. Yes.

Q. Was he attorney for some railroad company when he was in that firm?—A. Yes, sir.

Q. What railroad company was he attorney for?—A. The same—the Lehigh Valley Co. He was when he was a member of the firm, and he has since become the attorney for the Pennsylvania Railroad Co., since Hon. Henry W. Palmer——

Q. What other men were members of your firm?—A. Thomas Darling.

Q. He is a member now?—A. Yes.

Q. Was he a member during the time or a portion of the time you were serving as jury commissioner?—A. Yes, sir.

Q. He was a member of your firm then?—A. He was.

Q. Did he represent any railroad company?—A. Only as a member of the firm.

Q. I suppose, yes; as attorney.—A. As I said, the firm represented the Lehigh Valley Railroad Co.

Q. Did he represent any other railroad company?—A. I think not.

Q. In the actual trial of the cases, when you say you only had two cases, do you mean the firm only had two?—A. Yes; I think that was all the firm had.

Q. But you were not the general attorney, you say?—A. No, sir.

Q. It was your business to try any lawsuits that occurred in Luzerne County?—A. Yes, sir.

Q. And when they went up to any other court you followed them, did you?—A. In our appeal courts in the State of Pennsylvania; yes, sir.

Q. Clear through to the supreme court, if they went that far?—A. Yes, sir.

Q. If they went into the Federal court, did you follow them there?—A. I suppose I would have done so. I never knew one to go into a Federal court; that is, if they had started in Luzerne County, I suppose I would have followed them into the Federal court.

Q. This judicial district consisted of 32 counties, did it not?—A. I believe so.

Q. This Lehigh Valley Railroad had branches and lines in practically all of those counties?—A. No, sir.

Q. Well, in a large portion of them?—A. No, sir.

Q. Well, how many of them?—A. Luzerne, Bradford, Susquehanna, Carbon. These are all I can think of.

Q. How many was that?—A. Carbon, Luzerne, Susquehanna, Bradford, and possibly some others. Those are all I can think of now.

Q. As a matter of fact, in every one of those counties the Lehigh Valley Railroad had a local attorney?—A. Yes, sir.

Q. The same as they had in Luzerne County, where you represented them, did they not?—A. Yes, sir.

Q. Tell us again what was that book from which you selected the names?—A. It was a book in which was entered from these lists the name, address, and occupation of the juror. Then there was a perforated slip on the other side containing the name and the number; the number also in this stub.

Q. Did you use that list exclusively in selecting lawyers' names to make inquiry about the jurymen?—A. That lawyers list I spoke of, that book?

Q. Yes.—A. Yes; I think so. There may have been one or two counties where I had personal acquaintance with some lawyer.

Q. I was speaking of the lawyers list.—A. Yes, sir.

Q. That you used in selecting a lawyer to whom to write to give you a list of jurors?—A. I understand.

Q. Is it not true, Mr. Woodward, that in most of these counties you were personally acquainted with the members of the bar?—A. No, sir.

Q. Were you personally acquainted with the members of the bar in Susquehanna County, for instance?—A. No, sir. I knew a few, one or two, two or three, perhaps.

Q. And in Bradford County?—A. I know possibly three or four in Bradford County.

Q. And in Carbon County?—A. In Carbon I know two or three.

Q. As a matter of fact, you knew the name of the railroad attorney of this company in every one of the counties where it had a railroad attorney, did you not?—A. Yes; I think I did.

The PRESIDING OFFICER. The Senator from South Dakota [Mr. CRAWFORD] submits a question which will be propounded the witness.

The Secretary read as follows:

Q. During the time that you were jury commissioner did the law firm of which you were a member act as counsel for mining or railway or other corporations which had or were likely to have cases pending in the Federal court of that district?

The WITNESS. No, sir. The corporations that I represented were Pennsylvania corporations. They very seldom got into the United States court, because the suits we had to do with largely were by citizens of Pennsylvania, and there was no diversity of citizenship.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. HITCHCOCK] wishes to propound a question which the Secretary will read.

The Secretary read as follows:

How many cases involving the Lehigh Valley Co. were pending or to be tried by jury during the time you selected the jurors?

The WITNESS. As I say, there was none for the Lehigh Valley Co. that our office had anything to do with. One that concerned the Lehigh Valley Coal Co. I understand there were two or three other cases during that time in the United States court which the counsel in Scranton had charge of that I knew nothing about. I never heard of them at all.

Q. (By Mr. Manager NORRIS.) As a matter of fact, though, in those cases with which you had nothing to do as attorney, you had selected the list or one-half the list from which the jury had been picked?—A. Yes; all the jurors——

Q. You selected one-half the names?—A. I did not select the names for the jury. I put the names in the wheel.

Q. That is what I mean, you selected one-half the names that were put in the wheel?—A. Yes, sir.

Q. For all juries that were drawn anywhere in Judge Archbald's court?—A. Yes, sir.

Q. And it would have been impossible to have had a name on the regular panel unless either you or the clerk had selected that name. Is not that true?—A. That is correct.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. GALLINGER] wishes to propound a question.

The Secretary read as follows:

Q. In calling on attorneys for lists of names did you select railroad attorneys in preference to others?

The WITNESS. No, sir; I had no knowledge whether they were railroad attorneys or not. I had no acquaintance with them and did not know what kind of attorneys they were except they appeared in this list.

Q. (By Mr. Manager NORRIS.) You did know the railroad attorneys in these four counties?—A. Yes; I did.

Q. So, in selecting attorneys there you did know whether they were railroad attorneys or not?—A. I do not know that I selected attorneys that were railroad attorneys. I do not remember.

Q. You do not remember as to that?—A. No, sir. I think I got their names also from this list.

The PRESIDING OFFICER. The Senator from Iowa [Mr. KENYON] propounds the following question.

The Secretary read as follows:

A. Was the claim agent of the Erie Railroad or of the Lehigh Valley Railroad, or any of their assistants, intimate friends of yours during the time you were jury commissioner?

The WITNESS. No, sir. I do not know who they were.

Q. (By Mr. Manager NORRIS.) Mr. Woodward, can you furnish us with the names of attorneys to whom you wrote in these different counties for, let us say, the last five years?—A. I think I can. I am not sure.

Q. Have you the list with you?—A. No, sir. I can furnish you a list of the names that were put in the jury wheel. I turned them over to my successor. I can get them for you.

Q. That is the list of the names of the men that were put in the wheel?—A. Yes.

Q. I do not care for that. I am inquiring about the names of the men——A. I understand.

Q. To whom you wrote to get these lists.—A. I am not sure. I think, though, that I probably have copies or that they will appear on the address book, perhaps. I am not sure about that. I would have to look it up.

Q. Can you give us the name of any lawyer in Susquehanna County to whom you wrote to get a list of names?—A. No, sir; I can not.

Q. Can you give us the name of a lawyer in Bradford County?—A. No, sir. I think I wrote to the judge in Bradford County. I am not sure.

Q. You wrote a good many different times to that county, did you not?—A. Yes.

Q. How many years were you performing this duty?—A. From 1901 until Judge Archbald went off the bench. I think that was in 1910.

Q. You did not get any pay even for writing these letters and getting these names?—A. That was included in the $5 a day.

Q. Writing these letters was a part of the time and you were working for $5 a day?—A. Yes, sir.

Mr. Manager NORRIS. I think that is all, Mr. President.

The PRESIDING OFFICER. The Senator from Missouri [Mr. REED] presents the following question, which will be propounded to the witness.

The Secretary read as follows:

Q. Do you want it to be understood that you discharged your duties as jury commissioner by permitting lawyers about whom you knew nothing except that you found their names printed in a lawyers' list to make the selections for you?

The WITNESS. Yes; that is a fact.

Mr. REED. Here is one more question, Mr. President.

The PRESIDING OFFICER. The Senator from Missouri presents a further question to be propounded to the witness.

The Secretary read as follows:

Q. What guarantee, then, did you have that those who made the selection were men of character or that they had selected good men for jurors?

The WITNESS. Only the guarantee of this lawyers' list, which war formerly gotten out by the firm of Potter, Hughes & Dwight, of New York, who got it out purely as a list of responsible lawyers. As I understood, they got nothing for making the list or distributing it. Afterwards Potter, Hughes & Dwight severed their connection with it, or gave it up, and it was continued as this lawyers' list, and then I think we paid $25 a year for it. We have several lawyers' lists in the office, but that was the most reliable and the best lawyers' list, the list on which the most reputable lawyers' names appeared.

Redirect examination:

Q. (By Mr. SIMPSON.) Mr. Woodward, you were asked whether or not the salary of this office was the principal reason for your accepting it and you told us no. Tell us, please, what was the principal reason for your accepting it.—A. Well, it was Judge Archbald asking me in a way, he put it on personal grounds. That was one of the reasons. Another reason was he said it would not take much time, and I was willing to give that much time to the service.

Q. What service do you mean?—A. The service of getting good jurors for the United States.

Q. So far as you can now recall, did you ever send to get any names of jurors from any of the local counsel for the Lehigh Valley Railroad in the other counties?—A. I may have; I do not recall now; but I think I got their names from this lawyers' list, as well as the other names, except possibly where I would get the names from the judges.

Q. Tell us, please, whether during all the time you were jury commissioner there were ever any complaints made of the jurors thus selected.—A. I never heard of any.

Q. Did you know at the time you made the contribution to the purse that was given to Judge Archbald when he went to Europe that the names of the contributors were to be disclosed?—A. I did not.

Recross-examination.

Q. (By Mr. Manager NORRIS.) Do you know they were not going to be disclosed?—A. No, sir; I did not know.

Q. You did not have any idea on that subject?—A. No, sir.

Q. You had received no information along that line?—A. No, sir.

Mr. Manager NORRIS. That is all.

Mr. SIMPSON. That is all. The witness may be discharged so far as we are concerned.

Mr. Manager CLAYTON. We do not desire him further.

The PRESIDING OFFICER. The witness may be discharged finally.

TESTIMONY OF J. B. DIMMICK.

J. B. Dimmick appeared and having been duly sworn was examined and testified as follows:

Q. (By Mr. SIMPSON.) What is your business, Mr. Dimmick?—A. I am in banking and manufacturing.

Q. Were you a member of the bar?—A. I was, and I am.

Q. How long has it been since you practiced at the bar at all?—A. It must be fully 25 years.

Q. You were in what official capacity in the city of Scranton?—A. I was mayor for three years.

Q. Elected on the reform ticket, I think?—A. Assuming that is synonymous with the Republican ticket, yes.

Q. Do you know Judge Archbald?—A. I have known him ever since I resided in Scranton.

Q. Did you and he go to the same college?—A. We did.

Q. What college was it?—A. Yale University.

Q. What was your relation to him outside of that?—A. I have been a personal friend of Judge Archbald and have known him intimately for fully 30 or 32 years.

Q. Did you contribute to the purse which was given to him at the time he went to Europe?—A. I did, believing that the motives behind it were purely personal rather than professional, and that belief was confirmed by the fact that I was included in the list, although I was not and had not been for many years practicing at the bar.

Q. At whose request did you make the contribution?—A. I think it was Mr. Searle.

Q. What was the amount that you contributed?—A. I am a little uncertain about that, but I think it was $50.

Q. Did you know whether or not the names of the contributors were to be disclosed to him at the time you made your contribution?—A. I did not.

Q. Did you get an acknowledgment from him afterwards?—A. I did.

Q. Written from where?—A. Written from the steamer.

Q. That was therefore some time after he had sailed?—A. I did not receive it for some weeks, because I was abroad myself. We were not in touch, but it came to me and was forwarded to me.

Mr. SIMPSON. That is all, sir, on our part.

Cross-examination:

Q. (By Mr. Manager NORRIS.) You live in Scranton, Mr. Dimmick?—A. I do, sir.

Q. How long did you practice law there?—A. Not over two or three years.

Q. What business are you engaged in now?—A. I am president of a trust company.

Q. It is a banking institution?—A. A banking institution.

Q. And doing business in Scranton?—A. Doing business in Scranton. I am president of a manufacturing company.

Q. What manufacturing company?—A. The Scranton Lace & Curtain Co.

Q. Doing business now in Scranton?—A. Yes, sir.

Q. You have been in that business and in the trust company ever since you retired from active practice?—A. Not at all. I retired from active practice owing to poor health. I lived abroad for about five years. Recovering it, when I came back I felt that I had lost too much time to compete with my competitors, so I drifted into affairs by degrees. I have been in the manufacturing business about 15 years.

Q. You have known Judge Archbald for many years?—A. Yes; since before I came to Scranton, which was 29 years ago.

Q. How much was your contribution to this fund?—A. To the best of my recollection it was $50.

Q. How did you happen to subscribe to it?—A. I was asked to join in the purse on the part of Judge Archbald's intimate friends, to be given to him in lieu of other steamer gifts. If I had not, I presume I probably would have sent him some fruit; I could not have sent him cigars, but something in that nature.

Q. Who made that request of you?—A. I think it was Mr. Searle.

Q. Did anybody else make a request of that kind of you?—A. I do not recall.

Q. Did you attend a meeting of men for the purpose of deciding what should be done?—A. I was communicated with either by letter or over the telephone personally.

Q. By Mr. Searle?—A. That is my recollection.

Q. Now, tell us what Mr. Searle said to you.—A. To the best of my recollection, he said that some of Judge Archbald's intimate friends were proposing to get up a purse to give to him upon this theory and upon this fact, that he had been asked to make a visit by a relative of his wife, Mr. Cannon, in Florence. It was known among Judge Archbald's intimate friends that he had never been abroad. I myself had frequently urged their going, even to taking the trouble of showing them how it could be done economically.

Q. I asked you about the communication from Mr. Searle, and you are telling what you said.—A. His communication, to go back, was to the effect that his intimate friends intended to raise a purse that would help him—permit of his traveling in addition to his visit at Florence.

Q. Now, you knew at that time that Mr. Cannon was furnishing the money for him to make this trip, did you?—A. Oh, no; I did not know.

Q. You did not know anything about it?—A. No, sir.

Q. Then were you mistaken just a moment ago in your description of what Mr. Searle had told you?—A. I said he was asked to make this visit to Mr. Cannon. I did not know at the time that Mr. Cannon urged it. I do not know that he paid his way over.

Q. Did Mr. Searle tell you how much he wanted you to pay?—A. I do not recollect whether he did.

Q. Then you understood when you contributed this amount that it was to be a cash contribution and to be turned over to the judge in cash?—A. I did.

Q. There was nothing said to you about raising this money for the purpose of getting a dinner for the judge, was there?—A. What do you mean about getting a dinner? I do not quite understand.

Q. Paying the expense of a dinner in his honor?—A. There is nothing I recall of that nature.

Mr. Manager NORRIS. That is all.

Mr. SIMPSON. That is all. The witness may be discharged so far as the respondent is concerned.

The PRESIDING OFFICER. The witness is discharged.

TESTIMONY OF J. BUTLER WOODWARD—RECALLED.

J. Butler Woodward, having been recalled, testified further, as follows:

Q. (By Mr. Manager NORRIS.) Mr. Woodward, I wanted to ask you to tell us, if you know, what Mr. Searle said when he asked you to make this contribution to the judge?—A. I can not——

Q. Just wait a moment, please. I wish to know if he said anything as to the purpose of the contribution?—A. Yes, sir; he said that Judge Archbald was going abroad and they were making up a purse for him.

Q. Did he say anything about giving a dinner or banquet in the judge's honor?—A. No; I think not. It was short.

Q. You understood that this money was to be contributed in cash to the judge, did you?—A. Yes, sir; in the form of a purse.

Mr. Manager NORRIS. That is all.

Mr. SIMPSON. That is all.

The WITNESS. I would like to qualify the answer that I made to the question whether it was possible to fill the wheel with jurors who were affiliated with railroads or favorable to them. I said yes; it was possible. It would be quite difficult and take a lot of time and be complicated, but I suppose it could be done. I think it was possible.

TESTIMONY OF THOMAS DARLING.

Thomas Darling appeared, and having been duly sworn was examined and testified as follows:

Q. (By Mr. SIMPSON.) What is your business or profession, Mr. Darling?—A. Lawyer.

Q. Where do you reside?—A. Wilkes-Barre, Pa.

Q. Do you remember receiving a letter from Judge Archbald August 3, 1911, introducing Mr. Edward J. Williams to you?—A. I believe it was at that date; yes, sir. I gave the letter to the Judiciary Committee and presume they have it.

Q. I show you, Mr. Darling, Exhibit No. 9 [presenting paper] in this proceeding. Is that the letter you received?—A. (Examining.) That is the letter; yes, sir.

Q. This letter, I notice, introduces Mr. Williams to you, who wishes to talk with you about a culm dump which you control. What culm dump was that?—A. That was the culm dump known as the Diamond dump, situated on the lands of the Hollenback Coal Co.

Q. Had any railroad company any connection whatsoever with that dump?—A. Not that I know of.

Q. What relation had you to the Hollenback Coal Co.?—A. I was attorney for the company, and also the secretary of the company.

Q. And had been for how long?—A. About 20 years.

Q. When Mr. Williams presented that letter to you, what occurred?—A. He wanted to lease that bank. It was quite a valuable bank, containing between two hundred and fifty and five hundred thousand tons of good coal. I told him that I could not do anything with him, because we had already leased the bank.

Q. How long preceding this time had you leased it?—A. I think it was about two years.

Q. Did you have any communication with Judge Archbald in relation to any other culm banks at any time?—A. None whatever.

Q. Did you have any communication from Judge Archbald in relation to this matter after the one that is referred to?—A. Not that I recall.

Q. How long have you known the judge?—A. About 25 years; perhaps more.

Q. In what way had you known him?—A. I know him slightly at college, met him at our reunions since, and I have been entertained at his house in Scranton on one or two occasions. I think that is the extent.

Q. You mean that you were students in the same college?—A. Yes.

Q. In what college?—A. Yale.

Q. Is he older or younger than you?—A. He is a little bit older; not very much, I guess.

Q. Did you ever have any cases to try before him as judge?—A. I never had a case before him.

Q. Tell me, please, whether or not there was any lawsuit over this Hollenback culm dump in order to determine its title?—A. Yes, sir.

Q. With what person or company was it?—A. The Lehigh & Wilkes-Barre Coal Co.

Q. And that is connected with what railroad?—A. The Reading and the Jersey Central.

Q. The result of that litigation was what?—A. To establish the title of the culm dump. There was some question as to whether it belonged to the lessor, Hollenback, or the lessee, the Wilkes-Barre Coal Co.

Q. The decision was what?—A. In our favor.

Q. In favor of the Hollenback Coal Co.?—A. In favor of the Hollenback Coal Co.

Q. How long a time before you got this letter of August 3, 1911, was it that you had that litigation over the bank?—A. It must have been at least three or four years, because the lease of the bank was made at least two years prior to the date of that letter.

Mr. SIMPSON. I think that is all, sir.

The PRESIDING OFFICER. The witness is with the managers.

Cross-examination:

Q. (By Mr. Manager WEBB.) What railroad are you counsel for?—A. The Lehigh Valley is the only road I am counsel for.

Q. The firm is Wheaton, Darling & Woodward?—A. Yes, sir; Wheaton, Darling & Woodward.

Q. How long have you represented the railroad?—A. Twenty-four or twenty-five years. I do not recall exactly.

Q. You were the counsel for the Hollenback estate?—A. I was counsel for the Hollenback Coal Co., not the Hollenback estate.

Q. Was that the Diamond dump that Mr. Williams brought you a letter from the judge about?—A. I presume so; although

I can not swear to that, because I do not remember the dump he had in mind. But I presume that was the one he had in mind, as several people had been after it.

Q. Had you leased it to John W. Peale theretofore?—A. Yes.

Q. I presume that is the one. Did you ever have any correspondence with the judge later or before that time about the Hollenback estate or coal dump we speak of?—A. No correspondence or conversation.

Q. Nor conversation?—A. No, sir.

Q. Is this Exhibit 9 the only letter you ever received from him?—A. How is that?

Q. Is this Exhibit 9 the only letter you ever received from him?—A. Now is that?

Q. Exhibit 9, which has just been referred to, is the only letter you ever received from the judge about a culm dump?—A. I think it is the only letter I have ever received from the judge.

Q. This is dated Scranton, August 3. Was that 1911?—A. I do not recall. I presume so.

Mr. SIMPSON. Other evidence in the case shows it, Mr. WEBB.

Q. (By Mr. Manager WEBB.) I will ask you if you did not receive this letter from the judge also [producing paper]?—A. (Examining.) Yes.

Q. It is in the judge's handwriting?—A. Yes; I received that letter also. I was mistaken. There were two letters I received.

Q. You received two, then, about the culm dump?—A. I do not know whether that is about the culm dump or not. Let me see it again, please. This letter is asking a reference to the case which I had argued in the Supreme Court, but it has nothing to do with the culm pile whatever, any more than that.

Q. "Washington, February 27." What year was that?—A. I do not recall.

Q. You do not know how long ago it has been since you received that letter?—A. It was after the first letter, according to my recollection.

Mr. Manager WEBB. Will you read that letter, Mr. Secretary?

The PRESIDING OFFICER. The letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 95.]

UNITED STATES COMMERCE COURT.
Washington, February 27.

MY DEAR DARLING: I failed to get the other day the reference to the Hollenback culm dump case which I intended. Please send me at Scranton a memorandum of where it is to be found in the reports, at your leisure. I am here for a day's court and a couple of days of consultation, and shall be back at home by the end of the week.

Very truly, yours,

R. W. ARCHBALD.

Q. (By Mr. Manager WEBB.) He speaks of a conference or a conversation with you a few days prior to the writing of that letter. Was that about a culm dump?—A. No; it was about this lawsuit I had had.

Q. Why did the judge want to know anything about this lawsuit with reference to the Hollenback culm dump?—A. I really do not know what he did want.

Q. You do not know?—A. I have not the slightest idea. My idea was that he had it in mind as bearing on some other lawsuit he probably had in his hands. That would be natural and only——

Q. A lawsuit before his court?—A. I do not remember whether he had been appointed to the Commerce Court at that time or not.

Q. Exhibit 9 is dated August 3, 1911?—A. Yes.

Q. Exhibit 85 in the Senate here you say was written after August, 1911. So he is bound to have been on the Commerce Court bench at the time?—A. He probably wanted it in that connection.

Mr. WORTHINGTON. I submit that the witness ought not to be asked to guess.

The WITNESS. It is the only thing I can do, to guess.

Mr. Manager WEBB. I did not want to stop him from guessing. [To the witness.] You do not know why he wanted to know about the Hollenback culm dump and the reference in the case?—A. I do not.

Mr. Manager WEBB. I think that is all we want to ask this witness.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF GEORGE RUSSELL.

George Russell, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Russell, you were connected with the Honduras Mining Co.?—A. I had some connection with a Honduras mining company.

Q. And there was a subconcession which was held by Mr. Rissinger and those connected with him?—A. A sublease which was under a concession.

Q. It was testified that there was a visit made to Scranton, Pa., by you in relation to that matter. Do you remember that visit?—A. I do.

Q. Will you tell us, please, what the date of that visit was?—A. Probably about the middle of September, 1908, or possibly before that——

Q. That is, during the month of September, but about the middle and possibly before?—A. Or a little before; in the month of September, 1908.

Q. That is all we wished to ask—just simply to fix the date. How do you fix the date?—A. By receipt of a check from Mr. Rissinger on account of his investment in this mining concession which I received on September 28, 1908.

Q. Was there anything said about that time in relation to Judge Archbald taking an interest in this Honduras scheme?—A. I did not gather from the conversation that he had determined to go into the matter.

Mr. SIMPSON. That is all, sir.

Cross-examination:

Q. (By Mr. Manager STERLING.) How long had you known Mr. Rissinger?—A. Several years.

Q. And he was connected with you in this gold-mining scheme down in Honduras?—A. He was not. A friend of mine procured a concession in Honduras and brought it to my office in New York. I introduced him to Mr. Rissinger, who happened about that time to call on me on some business.

Q. Well, were you connected with the enterprise?—A. I was about to become connected with it.

Q. You went to Scranton, Pa., at the request of Rissinger, did you not?—A. I do not recall whether I went at the request of Mr. Rissinger or of Mr. Hamilton, the friend of mine who brought the business to me, and who had been negotiating with Mr. Rissinger.

Q. But you saw Rissinger there?—A. I saw him there.

Q. You had never met Judge Archbald before that, had you?—A. Never.

Q. And you were in Scranton on this matter of the Honduras gold mine, were you not?—A. I think at that time that was the matter I was there on.

Q. You had no other business there at that time?—A. Not that I recall.

Q. And Mr. Rissinger took you to Judge Archbald?—A. Yes.

Q. And introduced you?—A. He did.

Q. You think that was in September?—A. I know it was in September.

Q. How do you fix the date?—A. By the receipt of the check from Mr. Rissinger.

Q. Did Rissinger give you a check at that time?—A. He sent me a check which I received on September 28.

Q. On September 28 of what year?—A. 1908.

Q. For how much?—A. For $2,000.

Q. Do you know where he got that money?—A. No, sir.

Q. Do you not know that he never got that money until the 12th day of December, when he cashed Archbald's note?—A. No, sir; I know nothing about it.

Q. Where is the check?—A. The check went back to him in due course.

Q. Have you got any entries in your books in regard to the transaction?—A. I have got the check book here.

Q. Have you any entries there?—A. I have, but you will have to excuse me while I go and get the book.

Q. Did you enter the receipt of this $2,000 in any book?—A. In my check book as a deposit.

Q. Well, does that show the date of the deposit of the check from Rissinger?—A. Yes.

Q. Let us see it.

Mr. SIMPSON (to the witness). Where is the check book?—A. It is in one of the rooms out here.

Mr. SIMPSON. I presume, Mr. President, we can excuse the witness for a moment to go and get the check book.

(The witness retired from the Chamber and returned with a check book.)

Q. (By Mr. Manager STERLING.) Now, you have there the stubs of what you were using at that time as a check book?—A. Yes, sir.

Q. How did you come to enter this receipt of the $2,000 on the stub of your check book?—A. I deposited it as cash through my bank account.

Q. How?—A. It was deposited by me as cash through my bank account.

Q. You mean that your book simply shows that you deposited it in your bank?—A. Yes, sir.

Q. Did you not simply deposit the check you got from Rissinger in the bank?—A. That is what I spoke of.

Q. How did that appear on the stubs of your check book?—A. Because the money passed through my hands.

Q. Did you draw a check on it?—A. I drew checks on my bank account when disbursing that money later on.

Q. So what you have got there, then, is where you paid the money out?—A. Where I received the money and subsequently paid it out.

Q. (After examining the check book.) Mr. Russell, have you got memoranda on the back of your check stubs of any other entries where you had received money, except the Rissinger entry?—A. Nothing except that of Rissinger and that of Mr. Day, of Paterson, in this same matter.

Q. Do you say that Rissinger gave you a check for $2,000 when you were at Scranton?—A. No; he mailed it to me to my office at New York.

Q. How does that fix the time when you were up there, then?—A. Because it was before that about 10 days to two weeks.

Q. You are, then, fixing it by comparison?—A. Yes.

Q. You received a number of checks from Rissinger sending you money, did you not?—A. Yes.

Q. And this one that you have on that particular stub is dated September what?—A. September 28, 1908.

Q. You received another check from him in October, did you not?—A. Yes, sir.

Q. October 24, did you not?—A. On October 24; yes.

Q. That was for a thousand dollars?—A. For a thousand dollars; yes.

Q. And you received another check from him in December?—A. On October 26.

Q. That was for a thousand dollars?—A. That was for $500.

Q. When did you receive the next check from Rissinger?—A. That was the last.

Q. What is the date?—A. It was October 26, 1908.

Q. Might you not have received checks from him later than that and not have a memorandum of them?—A. No, sir.

Q. Did you not receive a check from him after the 12th of December for $2,000?—A. No, sir.

Q. There is no pretense, then, that this check for $2,000 in September was the Archbald money or the money realized on the Archbald note, is there?—A. I had no idea where it came from, except it came from Mr. Rissinger.

Q. You did not know whether it came from that note or whether it came from other stockholders?—A. I knew of no note.

Q. You did not know whether it came from any transaction with Judge Archbald or whether it came from money paid in by other stockholders?—A. No, sir. I only knew Mr. Rissinger in the case.

Q. Do you say now, as a matter of memory, that you never did receive a check from Rissinger in December?—A. I have no record of it. I am not depending on my memory; I am going on my record, and I have no record of it.

Q. Now, the record you have there is simply memoranda written on the back of your check stubs, is it not?—A. Yes, sir.

Q. Have you entered in the back of those check stubs all the receipts of money you got during the time you were using that book?—A. Yes; I have.

Q. Can you point to a single memorandum there that indicates where the money came from except in the case of Rissinger's money?—A. Yes, sir; November, 1908, proceeds of Hutchins Panama draft, $125.

Q. Well, that is one. Turn to some more.—A. T. M. H. loan, $75.

Q. That is two.—A. Frederick Neuberger and H. S. Day, $500 each.

Q. That is four; there are two in that memorandum.—A. Fidelity Casualty Co., $650; same, $100; Western Union Telegraph Co., refund, 40 cents; draft on Panama, $200——

Q. Does your memorandum show who that came from?—A. Which?

Q. The item you just read.—A. Yes, sir. It is Mr. Hutchins's draft on Panama. Hutchins is the man on whom I drew it.

Q. Go ahead.—A. B. B. Co. tolls—I do not recall what B. B. Co. stands for—$33.50

Q. You do not know what that means?—A. No, sir. J. D. Elwell, $100, January 5, 1909; T. M. Hamilton, Honduras settlement, $825; deposit, $750.

Q. What is the date of that?—A. January 15, 1909. Advanced on Honduras agreement by J. D. Elwell Co., January 19, 1909, $500.

Q. Run it down to the end of January.—A. February 26, 1909, W. W. Rissinger, $42.90. That was for professional services.

Q. That was from Rissinger?—A. For professional services.

Q. What kind of professional services?—A. I am a public accountant.

Q. That was paid to you for work you had done?—A. Yes, sir.

Q. That is far enough. Now, let us see what these other memoranda indicate. Here is $1,200.—A. That is the balance carried forward.

Q. Some of these figures are on the back of the memoranda. What do they indicate—receipts of money?—A. No; that is the balance, and here is the total [indicating].

Q. Do any of the items on the back of these stubs where there is no name mentioned indicate the receipt of money?—A. No, sir.

Q. Do the items that you have read show all the money that you received from September down to the last of February?—A. Yes, sir.

Q. All the money that you took in?—A. Yes, sir.

Q. And you say you did not get any from Rissinger after the 12th of December?—A. I did not.

Q. Well, do you know whether any of the money that you got was money from Archbald?—A. No, sir.

Q. Or whether it was to pay for stock which Judge Archbald took?—A. I knew nobody but W. W. Rissinger in the matter at all.

Q. You know who the subscribers were?—A. No, sir.

Q. None of them at all?—A. I knew nothing about them forming a company of their own. About that I knew nothing.

Q. You talked with Judge Archbald about this matter when you were up there?—A. I talked with Judge Archbald once or twice in Scranton.

Q. Was Rissinger there then?—A. Yes, sir.

Q. And you explained to him the purpose of this organization?—A. Of which organization?

Q. That they were getting up there to mine gold down in Honduras?—A. That Mr. Rissinger was getting up? I did not know anything about it.

Q. Where did you suppose this money was coming from?—A. I did not have an idea, but I supposed it was coming from Mr. Rissinger. Rissinger, to my knowledge, had means.

Q. Did you know that he was organizing a corporation there?—A. I did not.

Q. He never told you about that?—A. I knew later on. I never knew when this first payment was made.

Q. But when you were with Rissinger in Judge Archbald's office you talked about the organization of a local corporation, did you not?—A. No, sir; not when I was there. We talked about the character of the concession and passed on the validity of it. It was an old concession, and this friend of mine had made a lease under that concession, and I questioned whether it was of any value or not.

Q. Did you tell Judge Archbald you questioned whether it was of any value?—A. We discussed it over very freely.

Q. And still you took money for the stock that was being sold?—A. We had a lease from the owners of the concession, and we considered it perfectly good after investigating it.

Q. You and Rissinger explained to the judge that this was a placer gold-mining claim, did you not?—A. Yes, sir.

Q. And you told him and Rissinger told him that they mined gold down there just as they gleaned coal out of the coal dumps in Pennsylvania, did you not?—A. I did not; I did not know anything about it myself.

Q. Did not Mr. Rissinger tell him that they mined that gold down there just as they got the coal out of coal dumps in Pennsylvania?—A. Not in my hearing.

Q. He did not tell you that in your hearing?—A. No.

Mr. Manager STERLING. I believe that is all.

Redirect examination:

Q. (By Mr. SIMPSON.) Mr. Russell, in order to get it clear upon the record, on the check-stub side of your checkbook you put the checks that you have drawn, for what purpose they were drawn, the name of the payee, and the amount?—A. Yes, sir.

Q. On the other side you put in the deposits, the date of the deposit, the person from whom received, and the amount?—A. Yes, sir.

Q. Then, before you turn over to the next page, you add up the checks and deduct them from the amount of money that is supposed to be in the bank?—A. Exactly.

Q. Then you carry over that balance to the next page and repeat that, page after page, throughout the book?—A. Yes, sir; on each page.

Q. That is what that book shows that we have seen here?—A. Yes, sir.

Q. As I understand your statement, you fix the interview that was had with Judge Archbald at a time before the first payment which was made by Mr. Rissinger?—A. Before I received any money.

Mr. Manager STERLING. We object. He proved all of that in the first instance.

Mr. SIMPSON. I am not going to repeat it, but I want to get the thing clear.

Q. (By Mr. SIMPSON.) Mr. STERLING has asked you whether or not the money which was paid was paid for stock. Was there any stock which Mr. Rissinger or his friends were buying from the principal company or was it the concession which they bought?—A. No, sir; it was for a lease of a part of the property which this party who brought it to me owned.

Q. That lease was from whom to whom?—A. From the lessee of the original concessionaire to Mr. Rissinger.

Q. And the moneys which were paid were in payment of that lease?—A. On account of that lease.

Mr. WORTHINGTON. Call Mr. Belin, please.

TESTIMONY OF FRANK L. BELIN.

Frank L. Belin, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. I am in the explosives business.

Q. With what corporation or concern?—A. The Du Pont Powder Co. of Pennsylvania.

Q. What is your position with that company, Mr. Belin?—A. Vice president.

Q. Were you connected with that company in 1908?—A. I was.

Q. In the same position?—A. I was the assistant to the president at that time.

Q. Can you give us any information about the attempted or projected purchase by that company of the Katydid culm dump near Moosic, Pa.?—A. Late in the fall of 1908 or early in 1909, I am not sure which, we entered into negotiations with Mr. Robertson for the purchase of this dump, and it was offered to us for $10,000. We were expecting to build a plant, in fact had started to build a plant, near this dump, and we thought we would build a power plant there and use the culm from the Katydid culm bank for fuel, and we had it examined by experts and they did not think——

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. The witness can state what action he took upon information given.

Mr. WORTHINGTON. He said an examination had been made by an expert, and the expert will be the next witness. We do not ask this witness to tell what the expert did.

The WITNESS. Partly on the recommendations of the expert we declined to purchase this Katydid dump.

Q. (By Mr. WORTHINGTON.) Who was the expert?—A. Mr. Saums, of Wilkes-Barre.

Q. Were you advised at that time that the Hillside Coal & Iron Co. had some interest in this bank?—A. I had a vague idea that they were somewhat interested, but to what extent I did not know.

Q. Did you understand that they were to be compensated?—A. I believe they were to be paid for royalties.

Q. Out of the $10,000?—A. Out of the $10,000.

Q. Why did you not buy?—A. As I say, partly on the recommendation of Mr. Saums.

Q. On what other ground?—A. And partly because we found we could make a better proposition by buying our power from the Scranton Electric Co.

Q. Did you have any dealings direct with the Hillside Coal & Iron Co.?—A. None whatever.

Q. Only through Mr. Robertson?—A. That is all.

Mr. WORTHINGTON. That is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager STERLING.) Your company decided afterwards that you would not buy your own fuel, but you would just buy the power you needed?—A. Yes.

Q. Where was your factory?—A. Near Moosic.

Q. Near this dump?—A. Within about half a mile of it.

Q. So instead of buying the coal that was in this dump you bought your power from some power plant that was at Moosic?—A. No. At Scranton.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Was that done after you got the report of your expert?—A. Yes.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF HEZEKIAH W. SAUMS.

Hezekiah W. Saums, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) What is your full name?—A. Hezekiah W. Saums.

Q. Where do you live?—A. Wilkes-Barre, Pa.

Q. What is your business?—A. Coal business—the coal washery business.

Q. Do you mean by that that you operate washeries, or what?—A. Superintendent of coal washeries; yes.

Q. How long have you been engaged in the coal-washery business?—A. Between 11 and 12 years.

Q. That involves washing coal dumps, I suppose?—A. Yes, sir.

Q. Did you at any time make an examination of what we call here the Katydid culm dump near Moosic, Pa.?—A. Yes, I did; about four years ago.

Q. At whose instance?—A. For Mr. Belin, for F. L. Belin, of Scranton.

Q. Did you make a written report?—A. I did.

Q. Have you that report or a copy of it with you?—A. I have one. I have the estimate of the tonnage; but my letter to him, the last letter I wrote to him, I did not find.

Q. Have you a copy of it?—A. No. I have not a copy of the letter.

Q. Did you make more than one report?—A. Yes, sir; I did.

Q. Why were there two?—A. He first called me up by telephone and asked me to look over the Katydid culm dump and give an approximate idea as to the value of the coal there. I reported. Later on he called me up again and asked me if I would not have a survey made of it and test the bank out and report more accurately, which I did.

Q. How far apart were the two investigations you made?—A. It was some time in February when I made the first examination, and the second was made on the 1st of March, 1909.

Q. They were both in 1909, were they?—A. Yes, sir.

Q. Tell us what conclusion you reached from your first visit.—A. Why, I——

Mr. Manager STERLING. Mr. President, I think we should have here the copy of the report which he submitted to these people.

Mr. WORTHINGTON. If you have anything in the way of reports, I want it.

The WITNESS. Yes, sir; I have a copy of my first report.

Mr. Manager STERLING. We are entitled to see it.

Q. (By Mr. WORTHINGTON.) Is the paper you are holding your final or second report, or a copy of it?—A. It is my first report.

Q. This is your first report?—A. Yes, sir [witness producing paper].

Mr. WORTHINGTON. The paper is dated February 12, 1909. I would like to have that read in evidence, gentlemen.

Mr. Manager STERLING. Let us see the other report now.

Mr. WORTHINGTON. I offer this first and ask to have it read.

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. What is the objection?

Mr. Manager STERLING. My objection is this: In the first place, the witness has not qualified. He has not said that he is a mining engineer. In the second place, he makes that estimate not from any test, but simply from looking over the dump; and he says that he has a report which he made on a thorough examination, which I think we are entitled to see before any of this is admitted in evidence.

Mr. WORTHINGTON. It does not appear, Mr. President, that Judge Archbald ever had a measurement of this dump made and a calculation of the number of tons of the different kinds of coal and what they were worth. The managers went into this line of testimony, giving the opinion of persons who had examined that dump for the purpose of giving evidence in this case. So far as the objection of this witness not being qualified is concerned, I will examine him further as to that. I expect the second report to follow and to put them both in evidence.

Mr. Manager STERLING. If you expect to do that, why should not we see it and let them all go in together?

Mr. WORTHINGTON. The only objection I have to that is that I do not like the manager to instruct me about the manner in which I shall produce my evidence.

Mr. Manager STERLING. The managers will have to insist on trying the case according to the rules of evidence.

The PRESIDING OFFICER. If the witness is properly qualified as an expert, he can certainly give his testimony as to the value of this bank; but the Chair does not understand that that necessarily admits as documentary evidence a paper which he wrote on the subject. The witness can use that to refresh his memory, and the counsel can cross-examine him as to each item on it.

Mr. WORTHINGTON. I was proceeding in exactly that way. I asked him if he had examined the bank and made a report, and he said he had. I then asked him to state what he found on examining that bank. Then the manager objected and called for the report, and now, when it is produced and I ask to have it read in evidence, they object. Now, I must go back to where I was when the objection was made. I would like very much to please them, but they will have to be a little more consistent before I can do it.

Mr. Manager STERLING. Let us see who is consistent. We offered the written report made by Mr. Rittenhouse; counsel for the respondent objected, and the Chair sustained the objection.

Mr. WORTHINGTON. I have a vague recollection that the report of Mr. Rittenhouse is in the record.

Mr. Manager STERLING. No. It was offered——

Mr. WORTHINGTON. Very well. Then I will go back where I was when the objection was made.

Q. (By Mr. WORTHINGTON.) I will ask you to state when you examined that bank in the first instance, what you found there, and what information you acquired as to the quantities of the different kinds of coal there and the value?—A. My first examination, which was purely estimated?

Q. Yes. I want that first, and then I will follow it up with the second. I understand that you may look at your reports or any memoranda you made at the time, for the purpose of refreshing your memory.—A. I can not remember the exact figures. I want to say, sir, that I accepted the figures as given to me by Mr. Robertson's representative—I do not recall his name—as to the tonnage, which I placed at that time at 85,000 tons.

Q. That was on the first visit?—A. That was on the first visit; yes.

Q. Do you mean 85,000 gross tons, or coal?—A. Eighty-five thousand gross tons.

Q. That many tons of culm?—A. Made up of 13,850 tons of slate; 20,740 tons of dirt; 1,338 tons of nut coal; 1,825 tons of pea; 6,825 tons of buck; 17,000 tons of rice; and 23,353 tons of barley, making a total—dropping several fractions—of 85,000 tons.

Q. Did you figure what that was worth?—A. I figured that at that time that the total value of the coal would be $32,299.99 on the ground.

Q. Go on and tell about your second investigation. What was the difference between the manner in which you made your examination the second time and the way you made it the first time?—A. My first examination was purely guesswork. I looked the bank over and examined the culm and made this estimate which I have just read. On the second estimate, I was directed by Mr. Belin to have a survey made, and I employed Mr. Smith, of the firm of Smith & Wells, of Wilkes-Barre, to make the survey. I used his figures for the tonnage. I made the test, however, myself. In my second test, which I think is fairly accurate, I subdivided the bank into two parts. I found that one portion of the bank was much richer than the other. Therefore I drew an imaginary line across and called that bank—or rather, we surveyed it, and we called it 15 per cent of the total.

Q. Can you see this map opposite you on the wall, the map of that bank?—A. Yes, sir.

Q. You are looking at the wrong one I think.—A. That is the one I am looking at, over there.

Q. Could you show where that line was drawn?—A. Very close to it; yes.

Q. I wish you would go and do it, then. Take a pencil and draw, in imagination, the line as near as you can.—A. (Witness indicating on map.) There was a channel cut out here, where they had a conveyer line down here. This was partly washed out on both sides, and, as I recall it now, this portion in here [indicating] up to a point, I would say along there somewhere [indicating], was what I called the old bank, and from there on up; this portion over here I call the new bank.

Q. Which do you say was the richer?—A. This was [indicating].

Q. The old bank?—A. The old bank.

Q. That is enough. Now please go back to the witness stand. [The witness did so.]

Q. Do you notice on the map what is called the conical dump? Can you see it from where you are? It is in the southwest corner.—A. Yes, sir.

Q. Do you include that in what you call the richer part?—A. No, sir.

Q. Now go on, please. You say you divided it into two parts and you gave different figures on the two different parts?

The PRESIDING OFFICER. The Chair would inquire whether it is desired to finish the examination of this witness at this sitting? If so, it will be necessary to extend the time.

Mr. WORTHINGTON. No. It will take some little time further to conclude.

Mr. Manager STERLING. I would like to ask counsel if they will not submit those reports to us in the meantime? It will save time to-morrow.

Mr. WORTHINGTON. Certainly.

Mr. Manager STERLING. We will be glad to have them.

Mr. SMOOT. I move that the Senate sitting as a Court of Impeachment do now adjourn.

The PRESIDING OFFICER. It is not necessary to make the motion. The Chair will declare that the hour of 6 o'clock having arrived, the Senate sitting as a Court of Impeachment stands adjourned until 1.30 o'clock to-morrow.

Thereupon the managers on the part of the House, the respondent, and his counsel withdrew.

Mr. CULLOM. I move that the Senate adjourn.

The PRESIDENT pro tempore. The Senator from Illinois moves that the Senate adjourn.

The motion was agreed to, and (at 6 o'clock and 1 minute p. m.) the Senate adjourned until to-morrow, Tuesday, December 17, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

MONDAY, *December 16, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We invoke Thy blessing, Almighty Father, upon the people of our great Nation. Be with all who are in sorrow and distress to comfort them. Let Thy benediction be upon the President and all others in authority and upon this legislative branch of our Government. Let Thy spirit come mightily upon each individual Member, that all may be guided to the highest conceptions of right and duty, that the interests of those whom they represent may be faithfully and efficiently served; in the name and spirit of Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday, December 14, 1912, was read and approved.

CALENDAR FOR UNANIMOUS CONSENT.

The SPEAKER. This being the day for the consideration of the Unanimous Consent Calendar, the Clerk will report the first bill on that calendar.

PUBLIC BUILDING AT DENVER, COLO.

The first business on the Calendar for Unanimous Consent was the bill (S. 3974) to increase the limit of cost of the United States public building at Denver, Colo.

The Clerk read the title of the bill.

Mr. ASHBROOK. Mr. Speaker, the gentleman from Alabama [Mr. BURNETT] who reported this bill is not in the Chamber at this moment, although he will be here soon. I therefore yield to the gentleman from Colorado [Mr. RUCKER].

Mr. MANN. Nobody has the floor yet.

The SPEAKER. That is absolutely correct.

Mr. ASHBROOK. I ask unanimous consent that this bill be temporarily passed without prejudice.

The SPEAKER. The gentleman asks unanimous consent to pass the bill temporarily without prejudice. Is there objection?

Mr. RUCKER of Colorado. I should like to know what is meant by the parliamentary phrase "passed without prejudice."

The SPEAKER. It means that as soon as anybody wants to call it up after the gentleman from Alabama [Mr. BURNETT] comes in the matter will be taken up. Is there objection to passing the bill without prejudice?

Mr. MANN. I think we had better dispose of it.

The SPEAKER. The gentleman objects to passing it without prejudice. Is there objection to the present consideration of this bill?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. RUCKER of Colorado. I ask unanimous consent to consider this bill in the House as in Committee of the Whole.

Mr. MANN. Mr. Speaker, I object to that.

The SPEAKER. The gentleman from Illinois objects.

Mr. RUCKER of Colorado. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3974) to increase the limit of cost of the United States public building at Denver, Colo., with Mr. CLARK of Florida in the chair.

The bill was read as follows:

Be it enacted, etc., That the limit of cost fixed by the act of Congress approved May 30, 1908 (35 Stat., 545), for the new public building at Denver, Colo., for the accommodation of the post office, United States courts, and other governmental offices, be, and the same is hereby, increased $400,000.

Mr. BURNETT. Mr. Chairman, I yield to the gentleman from Colorado [Mr. RUCKER], who will explain the propositions involved in this bill.

Mr. RUCKER of Colorado. Mr. Chairman, I have considerable confidence that I can get the ear of the Committee of the Whole at this time upon the theory that the third time is the successful one. This is the third time we have undertaken to get this bill considered. I have confidence also for the further reason that just before Christmas the heart expands and the fullness of all our goodness comes to the surface. And again I have hope, for the reason that you would act as promptly to the request for this appropriation as my constituents for my retirement.

About 30 years ago an appropriation was passed for a public building in Denver, costing a little over $600,000. It was about 11 years in building. Before it was completed Denver had risen from a population of 30,000 to something over 110,000. Long before its completion the local postal service was very much impaired because of the circumscribed condition of accommodations there.

Not counting the present value of the building, the ground upon which it is situated is now, according to the estimates made by a committee appointed by the chamber of commerce and the real estate exchange, worth $400,000—exactly the sum that we are asking in this bill as an increased appropriation. That is saying nothing about the material in the old building—amounting to considerable—on one of the choicest corners next to the Tabor Grand Opera House and in the most thickly settled portion of the business center of Denver.

Mr. MANN. Will the gentleman yield?

Mr. RUCKER of Colorado. I will.

Mr. MANN. I did not quite catch the gentleman's statement. Did I understand the gentleman to say that the site of the old building was sold for $2,000,000?

Mr. RUCKER of Colorado. No; that it can be sold for $400,000, the amount asked for in this bill. Then, further, Mr. Chairman, we are paying about $50,000 a year for rentals at the present time for additional space and rooms for the different departments that usually are housed in a public building. We have some 24 apartments that the Government now occupies in the different buildings throughout the city of Denver, at a cost to the Government of $50,000, which, as it will be observed, is about 11½ per cent that the Government is paying by reason of not letting go of this money in the Treasury—this $400,000. Eleven and a half per cent is a very considerable interest for the Government to be paying.

We have also, Mr. Chairman, since the original appropriation of $1,600,000, the authorization being $2,000,000, encountered some difficulties concerning the building and necessity for different changes, which I will briefly state. The architect having charge of the building had sounded the ground as much as possible in order to determine the kind of soil and whether a suitable foundation could be obtained for the structure, and he was well satisfied that no difficulties would be encountered.

But after one wall had been erected it was discovered, when placing the other wall, that they had run across a running sand or gravel which not only necessitated more work but actually necessitated the increase of the area of the building, at an extra cost of from $100,000 to $150,000.

Then, again, the circuit court of appeals having been established there, the judges demanded of and procured, by what means I am not going to stop to inquire and I trust it will not be criticized because the matter is ended. They required five times as much space as had been originally assigned—one large library, four chambers, and one lawyer's room. That necessitated a further increase in the size of the building which necessarily increased the cost.

There is some confusion here, if you will take up the hearings, with reference to whether the architect had changed the construction of this building from one kind of stone to that of marble. The fact is that that is not strictly true. The Chief Architect of the Treasury Department only advertised for the lowest bid in marble, and the bids came in, and it was given to a certain firm who were to give us in this building Colorado marble from the Yule Co., one of the greatest quarries of marble in the United States.

I should not say one of the greatest, but it is the greatest. It occupies the same relation to this country as does the range of mountains producing Carara marble in Italy.

It is a singular fact that we have a marble in Colorado superior to that of Italy for all purposes. The superimposed weight, apparently of former ages, has so ingrained this marble as to make it superior to anything they have in Italy. A few years ago I was in Florence and was astonished, when I went to one of the marble factories to see the works of art, to discover the fact, when I was commenting upon the fine marble found there, in being told that there was one State in the United States that had a superior marble to their marble. Upon inquiry I found that that was my own State.

It is so superior a marble that the courthouses at Cleveland and Youngstown, Ohio, and the municipal building of 35 stories in New York, are being built of Yule marble or substantially used in their construction. It has been shipped to nearly all parts of the United States as well as to foreign countries, even as far off as Australia, its superiority having been discovered. Therefore, it was no wonder that the architect chose this Colorado marble. It is not surprising that he would not engage in the "carrying of coals to Newcastle." That is about the only criticism that has been made, namely, that we confine ourselves to Colorado marble.

Now, I have here in my possession a number of photographs taken on the 12th day of November, showing how this building is incomplete, and documentary testimony showing that the Government is now losing, as the postmaster there says, $50,000 per year by this delay, and other evidence that if this building is completed within the present appropriation, we having only $380,000 on hand at the present time, the interior must necessarily be completed of inflammable material, such as wood, making it therefore combustible and nonfireproof. This is the uncontradicted testimony of all architects. More than that it not only will be nonfireproof, but in a few years' time, at best, business will require the Government to tear out this inferior material, and the $380,000 will be an entire loss to the Government. Now, I hope the committee will consider this as your building. It is a Government building—it is not our own building—in which all sections should share in the pride. Here is a photograph of it, as much of it as you can see, and it gleams in the sunshine as white as snow on Diana's Temple, and architecturally is one of the if not the most beautiful Government buildings in the United States. I want to say further, in conclusion, that we are turning in to the Government as much—determined from last year's receipts from this office—as $800,000 a year. Those are the net receipts from this post office, after paying all expenses incident to it. We are turning in to the Government twice as much per year as we are now asking in this bill for its completion. I would be glad to be questioned by anyone. I have a mass of information here, obtained since the hearings before the committee, the last of which was but a few days ago, when Gov. Shafroth went before the committee and made a statement.

Mr. FOSTER. Will the gentleman permit?

Mr. RUCKER of Colorado. Surely.

Mr. FOSTER. This increased cost is due, I understand from the gentleman's statement, to the change of material to be put in this building?

Mr. RUCKER of Colorado. No, sir.

Mr. FOSTER. That is, part of it?

Mr. RUCKER of Colorado. No, sir.

Mr. FOSTER. None of it?

Mr. RUCKER of Colorado. No, sir; none of it. I want to assure the gentleman from Illinois that the original estimates and the bids asked upon it were made on this same material of white marble, and that it was not the change of material.

Mr. FOSTER. It is on account——

Mr. RUCKER of Colorado. On account of the increased size, owing to the fact that the circuit court of appeals requires so much more room, and this extra excavation I told you about on account of running across a running sand or gravel soil.

Mr. FOSTER. Well, has this court of appeals been located there since the building was authorized?

Mr. RUCKER of Colorado. No; the bill was passed before, but when it came to choosing quarters there they seemed to have not anticipated that the circuit court of appeals would require so much more room than was allowed. The exterior of the building thus far has been completed with a view of putting in the library for the circuit court of appeals and four additional rooms, as the architect says five times the space they had assumed the court of appeals would require.

Mr. FOSTER. Well, is this building under construction now?

Mr. RUCKER of Colorado. It is under construction now, but upon the 31st day of this month the contract will have expired. The gentleman from Illinois doubtless is familiar with these things. They let these contracts by the piece. For instance, the exterior of the building is let and then they let the interior, or such portion of it, the electrical appliances, lighting wells, and so forth.

Mr. FOSTER. Well, this does not affect the exterior of the building at all, this increase of appropriation?

Mr. RUCKER of Colorado. No; the exterior of the building is entirely finished.

Mr. FOSTER. I observe they speak of increased cost of materials. Does that have reference to increased cost of materials for finishing the exterior of the building?

Mr. RUCKER of Colorado. That has reference to this, I will say to the gentleman from Illinois, that within the present appropriation the building can be completed, and the architect says it can be completed, but it can not be completed in conformity with the original plans to make the interior fireproof. He says it will have to be made of wood now on account of so much more money having been spent upon the exterior by reason of the size, and so on.

Mr. FOSTER. I thought the statement of the gentleman was the increased appropriation asked for was not on account of the exterior but on account of the interior, so I judge that they spent more than they originally thought was necessary for the exterior.

Mr. RUCKER of Colorado. It was on account of the increased size of the building.

Mr. FOSTER. Not on account of the change of material?

Mr. RUCKER of Colorado. No.

Mr. FOSTER. How about the increased cost of material; does that enter into it?

Mr. RUCKER of Colorado. I do not understand that the increased cost of material has had anything to do with that; in other words, that price of the marble has not gone up. Now, I want to say in this connection that the original contract for construction was between 48 and 50 cents a cubic foot, and this increase in size required 800,000 cubic feet more than was originally contemplated, which at 50 cents per cubic foot would amount to this $400,000.

Mr. FOSTER. I observe that the Assistant Secretary of the Treasury in 1908, which is some time ago, said:

In view of the increased cost which has taken place in the cost of materials, the department is of the opinion that a building of the dimensions indicated will now cost $2,000,000.

Mr. RUCKER of Colorado. Now, I want to say that in 1908 was when we got the appropriation, you understand, for $1,600,000, and there was, of course, an increase in the cost of material. But that was not figured upon when they came to let the contract. The contract was all fair. There is no squabble between the contractors and the Government. It is simply, in the last analysis, as the architect says, that the reason for the increased appropriation is because of the necessity for increasing the size of the building.

Mr. FOSTER. That is his later statement?

Mr. RUCKER of Colorado. Yes, sir.

Mr. FOSTER. This is the only one that is published with the report, and so I was unable to state——

Mr. BURNETT. And not the Supervising Architect, I understand, but the architect, in the actual construction of the building, made that statement before the committee. The principal increase in the cost was on account of this new court being established and having to erect a building that was larger than was contemplated when the authorization was made.

Mr. FOSTER. Is this architect a Government architect or is he one employed on the outside?

Mr. RUCKER of Colorado. The gentleman from Alabama [Mr. BURNETT] can answer that. I think he was the one employed on the outside.

Mr. BURNETT. What was the question of the gentleman?

Mr. FOSTER. Is this architect who has been in charge of the building a Government architect or one employed on the outside?

Mr. RUCKER of Colorado. A private architect; but we have the statement of the Architect of the Treasury Department as well as the architect of the building, and both of them coincide in that that was the reason for the increased cost.

Mr. FOSTER. Can the gentleman inform us how much has been paid for the plans and specifications on this building? I suppose these plans and specifications may have been made under the Tarsney Act.

Mr. RUCKER of Colorado. If the gentleman will subtract $380,000 from $1,600,000, he will have all that has been expended. We have $380,000 on hand now.

Mr. FOSTER. That does not answer my question, unless I am unable to understand. I was asking this: That it has been said many times upon the floor of the House that under the Tarsney Act these public buildings cost us a great deal of money for plans and specifications, and that much money could be saved to the Government if that act was repealed. Now, what I am asking is: Were the plans and specifications of this particular building turned over to an outside party or were they made by the architect of the Government, with the authority or consent of the Government.

Mr. RUCKER of Colorado. The architect of the Government approved of the plans.

Mr. FOSTER. I know. Certainly I would understand that, possibly, but were they made by the architects of the Government or were they made by outside architects?

Mr. RUCKER of Colorado. Well, now, I am sure I do not know about that, but if they were made by the outside architects it must be assumed—and the gentleman from Illinois will readily accede to it—that the Government would finally have to approve all those plans of the outside architect.

Mr. FOSTER. Yes; I understand that.

Mr. RUCKER of Colorado. So that it might as well have come directly from the Government architect as the other.

Mr. FOSTER. That does not answer my question as to whether the gentleman from Colorado [Mr. RUCKER] can inform us what the cost of the architect was on this particular building.

Mr. BURNETT. I do not remember the fees of the architect employed to construct the building, or supervise it.

Mr. RUCKER of Colorado. I do not think we had any testimony on that subject whatever.

Mr. BURNETT. I think not.

Mr. FOSTER. So you are unable to tell that?

Mr. RUCKER of Colorado. Under the Tarsney Act, as it existed then, and before it was repealed, they had a perfect right to employ an outside architect.

Mr. FOSTER. What I am getting at is the cost, and whether or not there was a great deal of money paid for architects' fees in this case that might create a deficiency in this public building.

Mr. RUCKER of Colorado. Now, I want to say to the gentleman from Illinois that I am wholly unable to answer his question, as I said before, but there has not been from the beginning, or anywhere along the line, any scandal, either in connection with this or any other work—any scandal whatever.

Mr. FOSTER. I did not mean a scandal. They were entitled under the law to certain fees. Now, whether or not——

Mr. COX of Indiana. Six per cent.

Mr. FOSTER. Six per cent; that would mean?

Mr. COX of Indiana. Six per cent of the total contract price. It was 5 per cent until a few years ago. Then they formed a kind of trust and increased it to 6 per cent.

Mr. FOSTER. Yes; it was 5 per cent until a few years ago; so that the amount of 6 per cent on $1,600,000 has been paid to the architect?

Mr. RUCKER of Colorado. I am unable to answer even that question. I assume that the architect would be one of the first fellows that would be paid, and doubtless he has received at least a certain part of what was due him. At any rate, I say we have $380,000 on hand. If the Government is determined to have us complete this building out of all sort of proportion to its exterior finish, and have us put in wooden partitions and the cheapest kind of doors, as the architect says, we have to-day, in order to complete it in that fashion, $380,000. But then it will become a fire trap, and anybody knows that when this marble is subjected to great heat it will disintegrate. The gentleman has only to go down here and see the Washington Monument and examine the marble put into that structure. Even on account of the rays of the sun the Government in a few years will have to reenforce the lower portion of the Washington Monument. As I say, we could build this building with this $380,000. The architect says so. But in completing it he would put in the cheapest kind of material, and it would be a disgrace to this Government and we would face a menace always incident—fire.

Mr. FOSTER. How tall is this building? How many stories has it?

Mr. RUCKER of Colorado. Four stories.

Mr. FOSTER. So that with the present appropriation they would be unable to complete this building without putting in inflammable material, such as wood, on the inside?

Mr. RUCKER of Colorado. That is the uncontradicted testimony from all sources.

Mr. FOSTER. Are not these partitions that are put in when the building is constructed put in with brick or stone, or whatever the material may be?

Mr. RUCKER of Colorado. Part of them, undoubtedly; but these extra rooms, of course, have not been finished.

Mr. FOSTER. Is this to put in metal window sash and copper work, and all that?

Mr. RUCKER of Colorado. Well, a list has been furnished of the materials used and of what additional material is needed. I will furnish the list to the gentleman.

Mr. FOSTER. I suggest that the gentleman just read it, so that we will understand it.

Mr. RUCKER of Colorado. Masonry, plastering, and carpentry work, $223,000; ornamental and miscellaneous work,

ironwork, $90,000; marblework, $40,000; mechanical equipment, $200,000. That goes to the very question that the gentleman asked. Then an estimate is made for elevators, $70,000; sash and glass, $60,000; terrace and approaches, $120,000.

Mr. FOSTER. That provides, then, for the proper equipment of such a building, or the finish of such a building, as is in keeping with the dignity and the importance of the city of Denver, Colo.?

Mr. RUCKER of Colorado. Yes.

Mr. FOSTER. I realize, as the gentleman from Colorado does, that that is an enterprising city—one of the most enterprising in the United States—and I will agree with the gentleman that I would not like to see a building put up there that would not be in keeping with the surroundings of that great State and that great city.

Mr. RUCKER of Colorado. Well, I am quite sure that the gentleman from Illinois does not stand alone in that opinion. After a further discussion, if any other information is wanted that is within my power to furnish or the power of the committee, it will be forthcoming.

As I said in the beginning, I believed you would pass this bill, but in order that you may be fortified against any attack that may hereafter be made upon you in your long official lives, and I hope they will be commensurate with your desires, and I know they can not approach your deserts, I ask to append to my remarks certain notes to which I have been referring.

REASONS FOR THE NECESSITY OF AN INCREASED APPROPRIATION FOR THE UNITED STATES POST OFFICE AND COURTHOUSE AT DENVER, COLO.

The original competition drawings, as approved by the Secretary of the Treasury, called for a building of approximately 3,100,000 cubic feet, the rear of which was finished in the simplest manner without columns, and the light courts were without architectural elaboration. Subsequent to the award of the competition, which was based on the appropriation of $1,600,000 during and after trips to Denver by one of our firm, certain additional accommodations were demanded which increased the cubage of the building from 3,100,000 to 3,900,000, and a greater elaboration of the Champa Street façade and of the interior courts was demanded.

(a) Five times as much accommodation for the judges and officials of the court of appeals was demanded by the judiciary department over and above the amount allowed for in the competitive drawings.

(b) A law library of large size was added.

(c) Rooms for the use of lawyers engaged in the court were demanded.

(d) The necessity of a mailing platform below the terrace level instead of at the grade level on the Champa Street façade and the terrace itself added materially to the cubic contents.

(e) The increased size of the foundations made necessary by the poor quality of the soil was a great increase both in the cubic contents and in the cost.

(f) At the time of our visit to Denver there was a great deal of agitation in favor of making the Champa Street façade as important as that on Stout Street. Various meetings of the board of trade and other organizations were held, and the Treasury Department was urged very strongly to see to it that all sides of the building should be of equal importance and beauty, and, furthermore, the citizens of Denver were opposed to the mailing platform being placed on the grade level in view of those passing on Champa Street, claiming their property on Champa Street would be greatly depreciated thereby, which appeared would be the case, due to the teaming and the noise of the mail-delivery wagons. In order to meet these objections the mailing platform was placed under a terrace, entirely out of sight of anyone passing on Champa Street. This necessitated not only extra cubage, but a considerable elaboration in the way of terraces, approaches, and grading, and also made necessary various electric lifts and appliances for the handling of mail not before contemplated. Also in order that the Champa Street front should be effective architecturally as the Stout Street façade, a continuous portico of 16 columns, with the necessary elaboration in the entablature, was placed on the Champa Street façade in place of the large openings and plain wall surface shown on the competitive drawings and as originally contemplated. It was also thought advisable to have the interior light courts echo to a certain extent the architecture of the exterior, although these light courts have been finished in limestone instead of marble.

(g) When it became time to let the contract for the exterior, strong pressure was brought by the entire State of Colorado to have local materials used in the construction throughout. Estimates were taken in various marbles, granites, and limestones, but we found upon careful examination that there was no local stone in the State of Colorado suitable for the construction of such a monumental building, and calling, as it did, for blocks of large size and great soundness, except the marble obtained from the quarry of the Colorado-Yule Marble Co. By the authorization of the department the contract for the exterior was let in Colorado marble at some increase of cost.

Now, it is apparent that in spite of the elaboration indicated above the necessity for the increase of limited cost is due entirely to the increase of the size of the building. As above noted, this increase is approximately 800,000 cubic feet, which, at 50 cents a cubic foot, the approximate figure allowed in the competition program, amounts to $400,000, the amount asked for.

From the above it is very clearly shown that the present available money to finish the building, $380,000, would supply only a temporary and easily combustible interior finish, as out of this $380,000 the steam heat, electrical, and mechanical plants must be supplied, interior doors, windows, post-office screens, and everything to make a habitable interior finish from the money left, which of necessity would be nothing more than an extremely cheap character, necessitating wood partitions and the cheapest kind of doors and windows. In other words, this interior finish would only be temporary and later on would have to be torn out, as shown by the Supervising Architect's statement before the Committee on Public Buildings and Grounds, and replaced by the finish necessary and equal to the elaborate exterior of the building, and consequently would necessitate a greater authorization and appropriation than that now asked, $400,000, a part of the $380,000 being absolutely wasted, besides endangering the expensive exterior by a probable fire.

The authorization for the increase of this building is now absolutely necessary for the reason that the present contracts on the building are nearly completed, or will be on or about September 1, which would leave the building open to inclement weather for the coming winter, or necessitate an unwarranted expenditure of temporarily closing it in, and require the services of a superintendent and watchman in order that the property may be taken care of and protected until such time when the work can proceed.

TRACEY, SWARTWOUT & LITCHFIELD,
By EDGERTON SWARTWOUT.

(Re expenses and receipts, post office.)

UNITED STATES POST OFFICE,
Denver, Colo., December 5, 1912.

Mr. J. S. FLOWER, *Denver, Colo.*

DEAR SIR: In response to your inquiry of even date, permit me to advise as follows:

Gross receipts, year ended Sept. 30, 1912	$1,262,384.25
Expenses on account of this office, same period	466,802.14
Balance due the Government	795,582.11

Trusting this information will be of assistance to you, and if there is anything further I can do for you do not hesitate to call on me, I am,

Yours, very truly, JOS. H. HARRISON, *Postmaster.*

DENVER CHAMBER OF COMMERCE,
Denver, Colo., December 4, 1912.

Hon. ATTERSON W. RUCKER,
United States Representative, Washington, D. C.

MY DEAR MR. RUCKER: Replying to your telegram which has just reached the Denver Chamber of Commerce and the special committee which is working on the post-office matter, of which I have the honor to be chairman, would say that the present Denver post office was erected about the year 1895. It took nearly 10 years to complete this building, and during that period Denver's population increased from less than 50,000 to upward of 105,000, so that when the building was ready for occupancy it was even then hardly large enough for the purpose.

The city has steadily grown in population since then until Denver's post office is now serving about 250,000 people. The business of the post office meanwhile having grown enormously, a few years ago it was found necessary to build an addition to the present post-office building, which is now occupied by the money order and registry divisions.

Postmaster Harrison informs me that he last week submitted to the Post Office Department at Washington a report upon the crowded conditions of the Denver post office, calling their attention by a diagram to the conditions under which they are working in the Denver post office and showing that he would have to rent a great deal of extra space outside beginning January 1, 1913, to enable the post office to take care of the parcel-post business, which beginning then will increase, to a very large extent, the number of fourth-class pieces now handled by the post office. He goes on to show in his letter, of which he has forwarded me a copy, how nearly as much again room is needed for the various departments than is now possible. He shows that he is not able to get good work out of his employees working under the crowded and insanitary conditions in which they are at present placed.

The receipts of the Denver post office have grown from about $360,000 in 1893, with 70 carriers and 54 clerks, to total receipts of about $1,300,000 for 1912, with now 181 letter carriers and 203 clerks.

Postmaster Harrison also tells me that a recent order from the Postmaster General increases the work and business of the Denver post office very largely in connection with the handling of packages from foreign countries subject to duty, involving, as the order does, the receipt at the Denver post office of all matter routed to all portions of the State; while formerly they were carried direct to the destination, the Denver post office being now required to distribute them. This, of course, adds to the necessity for more working space and will require some more employees.

It seems to the Denver Chamber of Commerce committee that with the large amount of outside office space which the various United States departments not directly connected with the post office are being obliged to rent, owing to lack of space in the post-office building, that the saving which would be effected by having the new post office finished, in which these other departments would occupy space, would be a good rate of interest on this $400,000 appropriation for which we are now asking.

I do not know whether this covers in full the information for which you ask, but this Denver Chamber of Commerce committee, of which Postmaster Harrison is a member, will be very glad to give you all the information you require, and if we haven't it, will obtain it for you here. Wire us freely for any further details, and if anything can be gained by sending a Denver man or a committee from the Denver Chamber of Commerce down to Washington to represent the chamber of commerce in this matter, we will have such man or committee go to Washington.

Thanking you for the interest you are taking in this matter, I am,

Yours, cordially,

CHARLES H. HOWE,
Chairman Committee on New Post Office,
Denver Chamber of Commerce.

THE DENVER REAL ESTATE EXCHANGE,
Denver, Colo., December 5, 1912.

Hon. A. W. RUCKER,
United States Congress, Washington, D. C.

DEAR SIR: In responding at a moment's notice to your telegram to the Denver Real Estate Exchange for data on the new Federal building we find it quite a task to get together the facts which you need and we desire to supply in the time at our disposal, for truly the situation is a big one, needing careful handling.

As you well know our present post office was finished about 1890 and was in the course of erection about eight years. It was started when Denver had a population of approximately 50,000 and when it seemed that our city would hardly ever exceed 100,000 souls in number.

To show that conditions change very rapidly in Denver, I shall, with other papers, inclose to you a circular covering the post-office proposi-

tion January 1, 1904, when I was president of the Denver Real Estate Exchange and our citizens were bending their energies in effort to get Congress to give them a new building. That has been nearly nine years ago, and yet, though our population has increased till we now have a quarter million population, our Federal building drags with that degree of unwillingness almost indicating a dependent and unsupporting people, when the facts are and Mr. Harrison's (our postmaster) statement, inclosed, shows that over and above all costs of running we turn over to the Government this year alone $800,000 net cash.

It is hardly conceivable that a grand and generous Government could be so tardy and so slow and so scrutinizing in dealing with its own people who supply so bounteously the Government in cash. It must be that our Nation's governors do not know true conditions here, and you are asked to inform them. This slowness in putting up our building is a dead loss to the Government, for in the following list of a hundred or more office rooms it is forced to rent outside of its own building, because of its having no place of its own in which to house the departments, it is plain to be seen that no less than $50,000 a year is now being paid by the Government for rents for the departments, as follows:

United States Bureau of Mines, 502 Foster Building.
United States Navy recruiting, 210 Quincy Building.
United States Army paymaster, 313 Majestic Building.
United States Quartermaster General, 220 Majestic Building.
United States purchasing commissary, 218 Majestic Building.
United States Army recruiting, 1705 Larimer Street.
United States Bureau of Animal Industry and Meat Inspection, 311 Stock Exchange Building.
United States Bureau of Animal Industry, field division, 318 Opera House Building.
United States forest reserve, 637 Majestic Building.
United States forest reserve and Pike's Peak National Forest, 518 Majestic Building.
United States General Land Office, chief of division, 712 Ernest & Cranmer Building.
United States Geological Survey statistician, 311 Chamber of Commerce.
United States Geological Survey, water-resource branch, 304 Chamber of Commerce.
United States Immigration Bureau, 312 Temple Court Building.
United States Indian service, 513 Kittredge Building.
United States internal-revenue agent, 402 Central Savings Bank.
United States Marine Corps, 1605 Larimer Street.
United States naturalization bureau, 448 Railroad Building.
United States Reclamation Service, cement-testing laboratory, 408 Commonwealth Building.
United States Reclamation Service, engineering, 520½ Commonwealth Building.
United States superintendent of construction, 503 Symes Building.
United States surveyor general (whole floor), eighth floor Railroad Building.
United States Weather Bureau, 414 Boston Building.
United States Department of Justice, 425–428 Cooper Building.
United States commissioner, 1212 (suite) Foster Building.
United States pension department.
About a dozen subpost offices.

Nearly all of the above could be housed in the new Federal building. Some few could, perhaps, not be.

Now as to the status of the new building: As you know, it was started nearly three years ago, and as to its present condition I send you a series of photographs but recently taken, and I send a number so that the Congressmen may have an opportunity to see what is being done.

You understand that up to date the only contract let is that of Hedden & Co., which takes in merely the superstructure, concrete floors, etc., and rought plumbing in the cellars. Excepting a small amount of carving on the marble and some little slate to go on the roof, the contract is about finished on their part, and I am informed that by December 31 this company will have boarded up the building and be ready to retire to New York unless the Government gives the necessary appropriation now being asked for, $400,000.

Our city should not be charged with asking for more than originally expected, for in the report of your congressional committee—in Mr. Swartwout's testimony—it is to be seen that the size of the original building was added to by about 650,000 cubic feet, necessitated by added governmental requirements, and if we much longer delay these requirements will grow and add to till Congress will see the necessity of even another building, perhaps. Our eastern friends do not seem to understand that Denver is a fruitful city with each year a big growth.

Postmaster Harrison's letter of November 23, 1912, addressed to us says: "A few days ago I submitted to the department at Washington a report upon the crowded condition of our working space, calling their attention, by a diagram which I had prepared, to the exact conditions under which we are working, with a view to their considering the necessity for renting space outside to enable us to take care of the parcel-post business which, after the 1st of January next, will increase to a very large, though uncertain, extent the number of fourth-class pieces now handled by the post office, etc."

So it will be seen that growth is added to growth and the necessity strains for relief.

The photographs will enlighten as to our new building to date. If we can afford further information, please call for it, and oblige

Yours, very truly,

J. S. FLOWER,
Chairman the Denver Real Estate Exchange's Public Improvement Committee.

Mr. BURNETT. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CLARK of Florida, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration Senate bill 3974, increasing the limit of cost of the public building at Denver, Colo., and had come to no resolution thereon.

Mr. BURNETT. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of further considering the bill (S. 3974) to increase the limit of cost of the United States public building at Denver, Colo., and that in its consideration all debate be limited to 15 minutes.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of House bill 3974, and pending that he moves that the general debate be limited to 15 minutes.

Mr. MOORE of Pennsylvania. May I ask, Mr. Speaker, what this bill is?

The SPEAKER. It is a bill to increase the limit of cost of the public building at Denver, Colo., by $400,000.

Mr. MANN. Mr. Speaker, I move to amend the motion of the gentleman from Alabama [Mr. BURNETT] by striking out "fifteen" and inserting "thirty."

The SPEAKER. The gentleman from Illinois moves to amend the motion of the gentleman from Alabama by increasing the limit of general debate to 30 minutes instead of 15 minutes.

The question being taken, the Speaker announced that the noes appeared to have it.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees. Those in favor of the amendment of the gentleman from Illinois [Mr. MANN] will vote aye, those opposed will vote no, and the Clerk will call the roll.

Mr. BURNETT. Mr. Speaker, a parliamentary inquiry. Is this vote on the amendment offered by the gentleman from Illinois?

The SPEAKER. This vote is on the amendment offered by the gentleman from Illinois, changing the limit of general debate from 15 minutes to 30 minutes.

The question was taken; and there were—yeas 132, nays 118, answered "present" 11, not voting 128, as follows:

YEAS—132.

Ainey	Garrett	Lenroot	Prince
Anderson	George	Lindbergh	Rees
Barchfeld	Gillett	Lobeck	Reyburn
Bartlett	Goldfogle	Longworth	Roberts, Mass.
Berger	Good	McDermott	Rodenberg
Booher	Greene, Mass.	McGuire, Okla.	Rucker, Colo.
Borland	Greene, Vt.	McKenzie	Russell
Browning	Guernsey	McKinney	Saunders
Burke, Pa.	Hamilton, Mich.	McLaughlin	Scott
Burke, S. Dak.	Hamilton, W. Va.	McMorran	Sells
Burke, Wis.	Hammond	Madden	Simmons
Calder	Haugen	Mann	Sims
Callaway	Hawley	Martin, S. Dak.	Smith, J. M. C.
Cannon	Hayes	Miller	Smith, Saml. W.
Cary	Heald	Mondell	Stephens, Cal.
Cooper	Helgesen	Moore, Pa.	Stephens, Miss.
Crago	Henry, Conn.	Morgan, Okla.	Stephens, Nebr.
Curry	Hill	Morse, Wis.	Sterling
Danforth	Houston	Mott	Stone
Davidson	Howell	Needham	Sweet
Davis, Minn.	Hughes, Ga.	Neeley	Talcott, N. Y.
Davis, W. Va.	Humphrey, Wash.	Nelson	Thistlewood
De Forest	Johnson, Ky.	Nye	Tilson
Dies	Kahn	Page	Towner
Donohoe	Kendall	Palmer	Volstead
Doughton	Kennedy	Patton, Pa.	Watkins
Driscoll, M. E.	Kent	Payne	Wilder
Dyer	Kinkaid, Nebr.	Peters	Willis
Fitzgerald	Kitchin	Pickett	Wilson, Ill.
Foss	Konop	Plumley	Wilson, Pa.
Fowler	La Follette	Post	Witherspoon
French	Lawrence	Powers	Young, Kans.
Fuller	Lee, Pa.	Pray	Young, Mich.

NAYS—118.

Adair	Dent	Heflin	Randell, Tex.
Alexander	Denver	Helm	Ransdell, La.
Allen	Dickinson	Henry, Tex.	Rauch
Ansberry	Difenderfer	Hensley	Redfield
Ashbrook	Dixon, Ind.	Holland	Reilly
Austin	Doremus	Hull	Roddenbery
Ayres	Dupré	Humphreys, Miss.	Rothermel
Bathrick	Edwards	James	Rouse
Beall, Tex.	Estopinal	Johnson, S. C.	Ruley
Bell, Ga.	Evans	Kinkead, N. J.	Rucker, Mo.
Blackmon	Faison	Lafferty	Sabath
Broussard	Fergusson	Lee, Ga.	Scully
Buchanan	Ferris	Lever	Sharp
Bulkley	Finley	Lewis	Sheppard
Burgess	Floyd, Ark.	Linthicum	Sisson
Burnett	Foster	Littlepage	Slayden
Byrnes, S. C.	Francis	Lloyd	Smith, Tex.
Byrns, Tenn.	Gallagher	McCoy	Stedman
Candler	Garner	Macon	Steenerson
Cantrill	Glass	Maguire, Nebr.	Stephens, Tex.
Carter	Godwin, N. C.	Mays	Thayer
Clark, Fla.	Goeke	Morgan, La.	Thomas
Claypool	Goodwin, Ark.	Morrison	Townsend
Clayton	Graham	Moss, Ind.	Tribble
Cline	Gregg, Pa.	Murray	Underwood
Collier	Hamlin	Oldfield	Whitacre
Cox, Ind.	Hardy	Padgett	White
Cullop	Harrison, Miss.	Pujo	Young, Tex.
Curley	Hay	Rainey	
Daugherty	Hayden	Raker	

ANSWERED "PRESENT"—11.

Andrus	Hinds	Shackleford	Talbott, Md.
Dwight	Langley	Stanley	Webb
Esch	McKinley	Stevens, Minn.	

NOT VOTING—128.

Adamson	Fields	Kopp	Richardson
Aiken, S. C.	Flood, Va.	Korbly	Riordan
Akin, N. Y.	Focht	Lafean	Roberts, Nev.
Ames	Fordney	Lamb	Robinson
Anthony	Fornes	Langham	Sherley
Barnhart	Gardner, Mass.	Legare	Sherwood
Bartholdt	Gardner, N. J.	Levy	Slemp
Bates	Gill	Lindsay	Sloan
Boehne	Gould	Littleton	Small
Bradley	Gray	Loud	Smith, Cal.
Brantley	Green, Iowa	McCall	Smith, N. Y.
Brown	Gregg, Tex.	McCreary	Sparkman
Burleson	Griest	McGillicuddy	Speer
Butler	Gudger	McLemy	Stack
Campbell	Hamill	McKellar	Sulloway
Carlin	Hanna	Maher	Sulzer
Cary	Hardwick	Martin, Colo.	Switzer
Copley	Harris	Matthews	Taggart
Covington	Harrison, N. Y.	Merritt	Taylor, Ala.
Cox, Ohio	Hart	Moon, Pa.	Taylor, Colo.
Cravens	Hartman	Moon, Tenn	Taylor, Ohio
Crumpacker	Higgins	Moore, Tex.	Turnbull
Currier	Hobson	Murdock	Tuttle
Dalzell	Howard	Norris	Underhill
Davenport	Howland	Olmsted	Vare
Dickson, Miss.	Hughes, W. Va.	O'Shaunessy	Vreeland
Dodds	Jackson	Parran	Warburton
Draper	Jacoway	Patten, N. Y.	Wedemeyer
Driscoll, D. A.	Jones	Pepper	Weeks
Ellerbe	Kindred	Porter	Wilson, N. Y.
Fairchild	Knowland	Pou	Wood, N. J.
Farr	Konig	Prouty	Woods, Iowa

So the amendment to the amendment was agreed to.

During the roll call the following occurred:

Mr. BURNETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURNETT. Is it too late for me to agree to accept the suggestion of the gentleman from Illinois?

The SPEAKER. It is. The point of no quorum has been suggested and determined.

The following pairs were announced:

For the session:

Mr. FORNES with Mr. BRADLEY.
Mr. ADAMSON with Mr. STEVENS of Minnesota.
Mr. RIORDAN with Mr. ANDRUS.
Mr. LITTLETON with Mr. DWIGHT.
Mr. HOBSON with Mr. FAIRCHILD.
Mr. TALBOTT of Maryland with Mr. PARRAN.

Until further notice:

Mr. HARRISON of New York with Mr. HIGGINS.
Mr. CONRY with Mr. LAFEAN.
Mr. PATTEN of New York with Mr. MCCALL.
Mr. LEVY with Mr. KOPP.
Mr. GOULD with Mr. HINDS.
Mr. FIELDS with Mr. LANGLEY.
Mr. AIKEN of South Carolina with Mr. AMES.
Mr. TURNBULL with Mr. WOODS of Iowa.
Mr. PUJO with Mr. MCMORRAN.
Mr. SULZER with Mr. KNOWLAND.
Mr. RICHARDSON with Mr. ESCH.
Mr. PEPPER with Mr. PROUTY.
Mr. BARNHART with Mr. WEDEMEYER.
Mr. HOWARD with Mr. OLMSTED.
Mr. BOEHNE with Mr. ANTHONY.
Mr. BRANTLEY with Mr. BARTHOLDT.
Mr. BROWN with Mr. BATES.
Mr. BURLESON with Mr. BUTLER.
Mr. CARLIN with Mr. COPLEY.
Mr. COX of Ohio with Mr. DALZELL.
Mr. COVINGTON with Mr. CRUMPACKER.
Mr. DAVENPORT with Mr. CURRIER.
Mr. DANIEL A. DRISCOLL with Mr. DODDS.
Mr. ELLERBE with Mr. FARR.
Mr. FLOOD of Virginia with Mr. FOCHT.
Mr. GREGG of Texas with Mr. FORDNEY.
Mr. GUDGER with Mr. GARDNER of New Jersey.
Mr. HAMILL with Mr. GREEN of Iowa.
Mr. HARDWICK with Mr. CAMPBELL.
Mr. HART with Mr. GRIEST.
Mr. JACOWAY with Mr. HANNA.
Mr. KINDRED with Mr. HARRIS.
Mr. KONIG with Mr. HARTMAN.
Mr. KORBLY with Mr. HOWLAND.
Mr. LEGARE with Mr. HUGHES of West Virginia.
Mr. MCGILLICUDDY with Mr. JACKSON.
Mr. MCKELLAR with Mr. LANGHAM.
Mr. MAHER with Mr. LOUD.
Mr. MOON of Tennessee with Mr. MCCREARY.
Mr. O'SHAUNESSY with Mr. MATTHEWS.
Mr. PATTEN of New York with Mr. MERRITT.
Mr. POU with Mr. MOON of Pennsylvania.
Mr. ROBINSON with Mr. PORTER.
Mr. SHERLEY with Mr. ROBERTS of Nevada.
Mr. SMITH of New York with Mr. MURDOCK.
Mr. SMALL with Mr. SLOAN.
Mr. SPARKMAN with Mr. SMITH of California
Mr. TAGGART with Mr. SLEMP.
Mr. TAYLOR of Alabama with Mr. SPEER.
Mr. TAYLOR of Colorado with Mr. SULLOWAY.
Mr. TUTTLE with Mr. SWITZER.
Mr. UNDERHILL with Mr. TAYLOR of Ohio.
Mr. WILSON of New York with Mr. VARE.
Mr. DICKSON of Mississippi with Mr. VREELAND.
Mr. MOORE of Texas with Mr. WARBURTON.
Mr. MARTIN of Colorado with Mr. WEEKS.
Mr. LAMB with Mr. WOOD of New Jersey.

Ending January 2:

Mr. SHERWOOD with Mr. DRAPER.

Mr. LANGLEY. Mr. Speaker, I am paired with the gentleman from Kentucky, Mr. FIELDS. I withdraw my vote of "aye" and answer "present."

The result of the vote was then announced as above recorded.

The SPEAKER. The Chair will ask all Members who appear in the area before the desk after a roll call to change their votes to state how they voted in the first instance. The Chair does not care, but the clerks have to know in order to keep the tally correctly. A quorum is present. The Doorkeeper will open the doors. The question is on the amendment offered by the gentleman from Alabama, as amended by the gentleman from Illinois to close general debate in 30 minutes.

The question was taken, and the amendment as amended was agreed to.

The SPEAKER. The question now is on the motion of the gentleman from Alabama to go into Committee of the Whole House on the state of the Union.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3974) to increase the limit of cost of the United States public building at Denver, Colo., with Mr. CLARK of Florida in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3974) to increase the limit of cost of the United States public building at Denver, Colo., and by order of the House general debate has been limited to 30 minutes.

Mr. BURNETT. Mr. Chairman, I only want a minute or two to concur in the statement of the gentleman from Colorado [Mr. RUCKER]. When the bill was first before the committee and there was an intimation that an increase in the limit of cost was to be made on account of a change in the material for the construction of the building, I was opposed to the proposition. But on further examination of witnesses who were familiar with the matter it developed that almost the entire change was made necessary on account of the fact that the court of appeals had been required to sit there and had to have larger quarters and the building had to be enlarged on that account. It was also stated by the architects that they had been assured that the soil for the foundation was good, but as a matter of fact it was not, and necessitated a change which cost $100,000 or $150,000. I believe that the bill ought to pass, because I think that the increased amount was necessitated by reason of this additional expense that could not have been contemplated at the time of the original authorization.

Mr. FOWLER. Mr. Chairman, I desire to ask the chairman of the committee, if he will yield——

Mr. BURNETT. I yield.

Mr. FOWLER (continuing). How it was that there was a change in the plan of the building—that is, the material out of which it was to be constructed? I understand it was originally planned to be constructed out of Indiana limestone or limestone.

Mr. BURNETT. Well, I think, Mr. Chairman, in response to the question, that the Treasury Department would have the right to change any plans of construction so long as the construction was within the original authorization, and the Supervising Architect stated it could be constructed within the authorization, but that it would be done in such a way that the interior would be of a very inferior quality of material, and perhaps have to be torn out later, and then come to Congress for changes after the building, possibly, had been constructed.

Mr. FOWLER. Did not the architect say that the authorization of $1,600,000 was ample to construct it out of the material which was originally intended to be used?

Mr. BURNETT. Which architect; the Supervising Architect?

Mr. FOWLER. Yes.

Mr. BURNETT. I do not think so. He said they could construct it out of the new material, but that the interior would be of such an inferior quality that it ought not to be so constructed.

Mr. FOWLER. But the entire building could have been constructed and finished according to the original plans for the authorization of $1,600,000. Is not that his statement?

Mr. BURNETT. Of the architect?

Mr. FOWLER. Yes.

Mr. BURNETT. Yes; with this inferior finish.

Mr. FOWLER. But finished in harmony with the material?

Mr. BURNETT. No; I do not think he stated that.

Mr. FOWLER. I think I understood that to be his statement; and, further, is not it stated by one of the gentlemen from Colorado that the change was made from limestone to marble on account of State pride?

Mr. BURNETT. Yes.

Mr. FOWLER. And that it could have been finished out of the original material for the amount authorized?

Mr. BURNETT. Yes; that was stated by Mr. TAYLOR of Colorado, but if you will notice in the questions I put to him I showed my disapproval of any such increases made on account of any State pride in the use of Colorado marble; but the architect in charge of the work, whom I thought knew more about it than any of those Members of Congress did, followed with the statement that almost the entire increase was necessitated by reason of the enlargement of the building and by reason of the expense of making the excavation.

Mr. FOWLER. Now, does not the architect say that the whole increase asked for is on account of the additional space taken in, which will necessitate about 800,000 cubic feet?

Mr. BURNETT. The Supervising Architect?

Mr. FOWLER. Yes. Does not he also say that the cost per foot is 48 cents by contract?

Mr. BURNETT. That is, the architect in charge of the construction.

Mr. FOWLER. Now, according to his own statement, does not he ask for $16,000 more than will be required to finish it up inside with the additional new material, Colorado marble?

Mr. RUCKER of Colorado. There is a very small difference between 48 cents per cubic foot and 50 cents per cubic foot, and he uses them interchangeably——

Mr. FOWLER. The difference is $16,000, and it will amount to a good deal.

Mr. RUCKER of Colorado. But it would not be used if they could get it at 48 cents.

Mr. FOWLER. If it is appropriated it will be used. I never saw any turned back into the Treasury yet.

Mr. RUCKER of Colorado. Well, I have not had much experience in getting it out of the Treasury.

Mr. FOWLER. Mr. Chairman, I desire to ask the gentleman if the architect did not get $96,000 as a fee out of this appropriation?

Mr. BURNETT. I do not know, Mr. Chairman. I think that matter was not brought out, but that was allowed under the Tarsney Act, and my understanding is the Tarsney Act was repealed by the appropriation bill that was passed last session. I will ask the gentleman from New York [Mr. FITZGERALD] if I am correct that the Tarnsey Act no longer exists. I think it was an outrage, and the great expenditures in buildings was on account of the allowances under the Tarsney Act, but it was the law at that time and the committee had nothing to do with that. If the Committee on Appropriations had not repealed the Tarsney Act it was the purpose of our committee in an omnibus bill, which we will report, to repeal that act.

Mr. FOWLER. Now, do you think that this $400,000 is necessary to complete this two-story building?

Mr. BURNETT. Well, all I know, Mr. Chairman, is that it was so stated by the architect in control of the work.

Mr. FOWLER. That would make $2,000,000 for a two-story building?

Mr. BURNETT. Yes; but it covers a whole block of ground on one side, I think, and perhaps a good part of it on the other.

Mr. FOWLER. Do you really think there has been the kind of economy in the construction of this building that ought to have been carried on by good workmen?

Mr. BURNETT. I have very serious doubts about that—very.

Mr. MANN. Mr. Chairman, an explanation, I think, is due to the House as to the motion which I made a few moments ago to increase the limit of time upon this bill, and I wish to make this statement: When the House first resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill, the gentleman from Alabama [Mr. BURNETT] was entitled to and took the floor. He yielded the time to the gentleman from Colorado [Mr. RUCKER], who occupied about 40 minutes. Thereupon the gentleman from Alabama [Mr. BURNETT] moved that the committee rise, and then moved to go into Committee of the Whole House on the state of the Union again and to limit debate to 15 minutes, which would have given him control of that 15 minutes and given to the minority side of the House no time at all.

Gentlemen on the other side of the aisle ought to have experience enough to know that on ordinary matters they never gain anything in the way of time by endeavoring to prevent the minority from having any time at all to discuss a bill. Fortunately on this occasion some of the more experienced gentlemen on the other side of the aisle voted in favor of the amendment which I had offered, and if they had not so voted, and the amendment had not prevailed, I dare say we would have had another roll call upon the motion of the gentleman from Alabama [Mr. BURNETT] to limit debate to 15 minutes, and probably another roll call on the passage of the bill. It always pays, so far as time is concerned, to be somewhat fair to the minority. And when the gentleman in charge of the bill proposes to give himself an hour's time and no time to the other side, he makes a mistake, possibly not intentionally, but certainly a mistake.

Mr. RUCKER of Colorado. May I interrupt the gentleman from Illinois? I do not know but what I may be blamed personally for having taken up so much of the time. I am quite sure I had no understanding with the gentleman from Alabama [Mr. BURNETT] that I would take an hour or any great portion of it. But the gentleman from Illinois will remember that I was kept on my feet by his colleague from Illinois [Mr. FOSTER] a considerable part of that time. I was ready to quit very much earlier than I did.

Mr. MANN. I think no one attaches any blame to the gentleman from Colorado, nor am I seeking to attach blame to anyone. I am simply stating the situation.

This bill proposes to increase the limit of cost of the Denver post office, a new building, from $1,600,000 to $2,000,000, and the bill itself is quite a commentary upon some of the administrative methods, and possibly some of the legislative procedure of Congress. In January, 1908, before the original limit of cost was fixed, the acting Secretary of the Treasury addressed a letter to the chairman of the Committee on Public Buildings and Grounds of the Senate, as follows:

TREASURY DEPARTMENT,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, January 11, 1908.

CHAIRMAN COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS,
United States Senate.

SIR: Referring to your request for a report in connection with S. 2299, providing for the erection of a public building at Denver, Colo., for the use of the post office and other United States offices, at a cost not to exceed the sum of $2,500,000, I have the honor to inform you that under date of February 3, 1906, this department reported as follows:

"It is estimated that a four-story-and-basement building having 45,000 square feet ground area will be sufficient, and that such a building of fireproof construction will cost $1,800,000."

In view of the marked increase which has since taken place in the cost of materials, the department is of the opinion that a building of the dimensions indicated will now cost $2,000,000.

Respectfully,

J. H. EDWARDS, *Acting Secretary.*

Thereupon that item was inserted in the public buildings bill. I do not now recall whether it was inserted in the Senate or came from the committee in the House in the first place, at $1,600,000. The committee had the recommendation, Congress had the recommendation of the department, that $2,000,000 be appropriated for this building. Congress in its wisdom, or lack of wisdom, whichever it may be, decided to authorize this building at the limit of cost of $1,600,000, paying no attention whatever to the law passed by Congress on this subject fixing the limit of cost, and an outside architect, employed by the Treasury Department under the so-called Tarsney Act, proceeded to prepare plans for the $2,000,000 building.

Mr. BURNETT. Mr. Chairman, may I interrupt the gentleman just one moment right there?

Mr. MANN. Certainly.

Mr. BURNETT. There may have been, Mr. Chairman, a wrong impression given as to the fees of the architect coming out of this particular amount.

Mr. MANN. I said nothing about the fees of the architect.

Mr. BURNETT. I know; but some remark that I made in answer to the question of the gentleman from Illinois a moment ago might be misunderstood. That $96,000 does not come out of this fund, and no part of it, as I am informed by the chairman of the committee, who consulted the Supervising Architect. It was deducted.

Mr. MANN. I do not know as to that; but I supposed the fees of the architect would come out of the sum. I made no such statement.

Mr. BURNETT. I know the gentleman did not, but it was made.

Mr. MANN. Now here is a case where the committees of the House and Senate and the House and Senate themselves, with all the information before those bodies practically which is now before them, decided in arranging for the construction of public buildings throughout the country to authorize a building at Denver to cost $1,600,000. It is quite true that they could construct a building sufficiently large at Denver to accommodate the public business for $1,000,000 and thus save the $600,000. It is also quite true that Congress determined to allow the $1,600,000 to construct a monumental building.

Now, gentlemen say it is not quite fine enough. They say, "We want a little better building." The same is true as to almost every building that is authorized. When Congress has acted upon these recommendations, with practically no new developments, is the action taken by Congress to be reversed because, perchance, the local architect desires to have a more ornate building or desires to pay a higher price for some local marble, quarried in the State of Colorado?

My distinguished friend from Colorado [Mr. RUCKER] says that they have a marble quarry in that State where they produce marble finer than the Carrara marble. That may be; I do not know. But I see no occasion for constructing these buildings out of Carrara marble, and I doubt the advisability, where Congress, in the first place, otherwise provided, of constructing them out of marble better than Carrara marble, if it is to cost $400,000 more. When we act upon these public buildings—and, goodness knows, we authorize enough of them which we could do without, so far as expense is concerned—when we do act upon them, unless there has been some development after the action of Congress, the limit of cost ought not, ordinarily at least, to be increased.

I do not know how far this building has progressed. May I ask my friend from Colorado?

Mr. RUCKER of Colorado. Does the gentleman ask me now?

Mr. MANN. Yes.

Mr. RUCKER of Colorado. I will exhibit a photograph, taken on the 12th day of this month, showing that the exterior, barring the fact of the windows and doors, has been completed, and I am informed that the work is absolutely at a standstill now, awaiting the determination of the question whether this bill will pass, to allow the finish to be made in conformity with the exterior.

Mr. MANN. Of course I know the gentleman is accurate about his statements. I have no doubt that if this bill is passed at all, it ought to pass now. May I ask the gentleman from Colorado also if he knows how much of the original cost of the building has been expended?

Mr. RUCKER of Colorado. One million six hundred thousand dollars, minus $380,000, or $1,220,000 has been expended.

Mr. MANN. How long has the building been at the point where it construction has stood still?

Mr. RUCKER of Colorado. It is not even so now. They are at work, but the contract expires on the 31st day of this month. The building has been three years in course of construction.

Mr. MANN. Mr. Chairman, this building was authorized a good while ago—nearly five years ago. It ought to have been finished long before this. It has been held up for a long while, with a deliberate purpose of attempting to coerce Congress to adopt the original plans which were submitted to Congress and which Congress refused to agree to.

Mr. RUCKER of Colorado. Will the gentleman allow me for a moment?

Mr. MANN. Certainly.

Mr. RUCKER of Colorado. I beg leave to call the gentleman's attention, in view of his last statement, to the fact that the bill in the Senate was introduced only on March 18, 1912, and my bill in the House was introduced on January 3, 1912, so that there has not been any "holding up," as the gentleman expresses it. I appreciate fully what the gentleman is saying, but we are in a condition now where you have got to determine how this building shall be completed.

Mr. MANN. This bill itself has been pending for almost a year.

Mr. RUCKER of Colorado. The gentleman knows that he is himself partly to blame for that. He knows that on two different occasions a point of order was made against the consideration of this bill by the gentleman from Illinois. But we have been trying all the time to get this bill passed. It has only been pending here for nine months.

Mr. MANN. Mr. Chairman. I do not quite recall what took place, but I never made a point of order against the consideration of this bill. The gentleman is mistaken about that. I do not now recall whether I objected to the consideration of it on the Unanimous Consent Calendar. Whether I did or not, there were a number of Members who were intending to do so at the time, not so much to prevent the consideration of the bill, but in order that when it came up there might be some discussion on the question. I think we ought to know what the policy of the House is to be. There are four bills on this Unanimous Consent Calendar, all of the same character, increasing the limit of cost of public buildings. There may be some special reasons in some of these cases, but when we act on a public-building bill and provide a limit of cost that ought to remain the limit of cost unless some exceptional reason can be given for the change. If, in the first place, the department had made an error and recommended a building at $1,600,000, and then discovered that the amount ought to be increased, I would not complain; but in this case the department originally started out to have this building cost $2,000,000, and, flagrantly disregarding the action of Congress, the outside architect provided plans for a $2,000,000 building. Now they say, "We have got the building held up. We are paying so much rent. It is costing you so much to provide accommodations for the Government offices there. Give us this money. We demand it of you."

I am not in favor of being held up by the outside architect or the Supervising Architect of the Treasury Department, although there are times when I am almost willing to submit to being held up by my distinguished friend from Colorado [Mr. RUCKER].

Mr. RUCKER of Colorado. And this being one of the times, I thank the gentleman.

Mr. MONDELL. Mr. Chairman, I understood the gentleman from Illinois to say that Congress should not ordinarily increase the limit of cost originally fixed for a public building unless there were reasons and conditions arising subsequent to the action of Congress which would justify such an increase.

I do not pretend to know as much about the history of this building as some of the gentlemen who have discussed it, but it seems to me that there are conditions surrounding the project which have arisen since Congress originally acted and which furnish a most excellent and convincing argument for the granting of the increase.

I will refer, first, however, to an argument—not of the character suggested by the gentleman from Illinois [Mr. MANN]. That is the fact that the Supervising Architect originally estimated the building at $1,800,000. Congress, for some reason or another, fixed a limit of cost of $1,600,000. Probably that was done with a view to helping to keep the total of the public-building appropriation within some total agreed upon. There could have been no other very good reason for fixing the limit of cost below the amount estimated by the department.

It seems from the report that since that time the building has been enlarged, or at least it has been found necessary to provide additional accommodations in the building over and above those contemplated at the time of the estimate. It has been found necessary, by reason of legislation enacted since this building was authorized, to provide for the housing of the United States Court of Appeals. No provision, I assume, was made for this court at the time of the original estimate or at the time the limit was fixed.

The CHAIRMAN. The time of the gentleman has expired. Under the order of the House all time has expired. The Clerk will read the bill under the five-minute rule.

The Clerk read the bill.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. In addition to the reason I have just stated for the increase of the limit of cost of the building—that is, the necessity for the housing of the Federal court of appeals—we find that the Supervising Architect calls attention to the fact that it became necessary to further enlarge the building beyond what was originally contemplated on account of the considerable increase in the various branches of the Government business being conducted in Denver. In that connection I might call attention to the increase of accommodations required for the Forest Service, for the Reclamation Service, and for other services which have branches of considerable magnitude and require considerable space at Denver, which is the center of many Government activities in that intermountain country.

The Supervising Architect also calls attention to the fact of a very inconsiderable increase in the cost of material, an increase known to us all, since the item limiting the cost was fixed. This increase has necessitated an increase of limit of

cost in quite a number of cases, and has operated to a greater extent, perhaps, in the western country to increase the cost of buildings than in some other parts of the country.

This is a magnificent building; it is a splendid monument as well as an exceedingly necessary and useful structure. This building is constructed of very beautiful marble now being extensively quarried in Colorado. The use of that marble did not very materially increase the cost of the building, but did add to its beauty, and the enhancement of beauty of the exterior of the building does add force to the request and suggestion of the Supervising Architect and the view of the committee that the interior of the building should be finished in keeping with its magnificent exterior.

Mr. MADDEN. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. MADDEN. How much did the use of marble increase the cost of the building?

Mr. MONDELL. I have no knowledge that it increased it at all. Possibly it did. Some other gentleman here can perhaps inform the gentleman.

Mr. MADDEN. I understood the gentleman from Wyoming to say it did not increase it at all.

Mr. MONDELL. I said it was my opinion that it did not very materially increase the cost.

Mr. MADDEN. I do not know about it, but it must have very materially increased the cost.

Mr. MONDELL. Not necessarily, for the increase now asked for is only $400,000, and the building is larger than originally contemplated; there are more departments of the Government cared for. An additional court room is provided, and in the meantime there has been a general increase in the cost of material throughout the country, an increase that has been greater in the mountain country than elsewhere.

In addition, Congress originally fixed the limit of cost at $200,000 less than the estimate of the Treasury Department, based on careful plans. It is one of the most beautiful of our recent public buildings. It is a great credit to the Government, and it would be very unfortunate not to allow this increase, now that its size has been increased, its cost increased by the increase of the cost of material, and the desire to provide for the decoration of the interior in a manner entirely in harmony and in keeping with the beautiful, majestic, and imposing character of the structure as a whole.

Mr. MADDEN. Mr. Chairman, I move to strike out the last two words. I am inclined to think that when the Government constructs a building it ought to so construct it that it will be a credit to the community in which it is being erected. I think it ought to set the pace for the local community so that every private structure will be such as to enhance the beauty of the locality. I understood the gentleman from Alabama [Mr. BURNETT] to say that one of the reasons why only $400,000 is being asked now is that from a statement of the architect it appears that in testing the quality of material upon which this building is to be constructed it was ascertained that the foundation was to be laid on a kind of earth that would not carry the weight unless the foundations went deeper than it was originally intended them to go. I want to say in this connection that such a statement ought to subject the architect, or any other official connected with the construction of this building, to censure by Congress. If the architect or Treasury Department understood their business they would know in advance the kind of foundation upon which this building was to be constructed, and they would not be required, if they knew that, to come to Congress and ask $150,000 more because of their lack of information in the first instance.

The mere statement of the architect to the effect that he overlooked this important feature of the cost of the building now being erected in Denver gives evidence of his lack of ability to construct a public building at all. No well-informed architect would attempt to lay the foundation of a great structure without first ascertaining the quality of the material upon which that structure was to be built. No architect having any respect for his reputation as an architect would come to Congress and admit that he failed to furnish himself with this very important information.

Mr. RUCKER of Colorado. Will the gentleman yield?

Mr. MADDEN. I will.

Mr. RUCKER of Colorado. The gentleman, of course, talks intelligently about this. Now, to get some information upon that point, how would he determine as to the kind of soil on which the foundation was to be placed?

Mr. MADDEN. It is the easiest thing in the world to make borings.

Mr. RUCKER of Colorado. How often?

Mr. MADDEN. I would make them sufficiently often on the land upon which the building was to be erected to know exactly what kind of material the foundation is to be laid upon.

The CHAIRMAN. The time of the gentleman has expired. Without objection, the pro forma amendment will be withdrawn.

There was no objection.

Mr. BURNETT. Mr. Chairman, I move that the committee do now rise and report the bill with the recommendation that it do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CLARK of Florida, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill S. 3974, and had directed him to report the same to the House with the recommendation that it do pass.

The bill was ordered to be read a third time, and was read the third time.

The SPEAKER. The question now is on the passage of the bill.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 48, noes 17.

So the bill was passed.

PUBLIC BUILDING, DUBLIN, GA.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 17683) to increase the limit of cost for the post-office building heretofore authorized at Dublin, Ga.

The Clerk read as follows:

Be it enacted, etc., That the limit of cost as now fixed for the acquisition of a site and the erection of a public building for a post office at Dublin, Ga., be, and the same is hereby, increased by the sum of $8,000.

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent that this bill be passed without prejudice.

The SPEAKER. The gentleman from Ohio asks unanimous consent to pass this bill without prejudice.

Mr. MANN. Why not dispose of it?

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object——

Mr. ASHBROOK. I will say to the gentleman from Illinois that the gentleman from Georgia [Mr. BRANTLEY], the author of this bill, is not present, and it is in deference to him that we ask that the bill be passed.

Mr. MANN. I think the gentleman is capable of making a statement about the bill and the House can determine its policy about the matter, and I do object.

Mr. ASHBROOK. Then I will say to the gentleman that I understand the building has been completed and that the money will probably not be asked for.

Mr. MANN. On that statement I will make no objection.

Mr. BURNETT. The gentleman from Georgia [Mr. BRANTLEY] stated to me when objection was made before that if it was not passed then they would be too far along with the building to be of any benefit this year, but I will confer with him and see if that is the case.

Mr. MANN. I do not object to passing the bill over, then.

The SPEAKER. Is there objection to passing this bill without prejudice? [After a pause.] The Chair hears none.

PUBLIC BUILDING, RICHFORD, VT.

The next business on the Calendar for Unanimous Consent was the bill (S. 6899) increasing the limit of cost for the erection and completion of a public building in the city of Richford, State of Vermont.

The Clerk read as follows:

Be it enacted, etc., That the limit of cost for a public building in the city of Richford, State of Vermont, authorized under section 4 of the act of May 30, 1908, be, and the same hereby is, increased from $60,000 to $74,000, and that the sum of $14,000 to provide for such increased cost be, and the same hereby is, appropriated.

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent that this bill be considered in the House as in Committee of the Whole House on the state of the Union.

The SPEAKER. The gentleman from Ohio asks unanimous consent that this bill be considered in the House as in Committee of the Whole House on the state of the Union. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, let us have a statement about the bill. I do not think it will be necessary to go into the Committee of the Whole House.

Mr. ASHBROOK. Mr. Speaker, this bill is to increase the appropriation for the erection of a public building and custom-house at Richford, Vt. The amount appropriated for the building was $60,000. The contract was let and the work on

the erection of the building was commenced. Shortly after the work on the excavation was begun rock was struck, which it was found would increase the cost of the erection of the building if the basement was put down to the depth provided for in the specifications, and work thereupon ceased by order of the Secretary of the Treasury until an additional appropriation could be secured. This bill was passed by the Senate and it was favorably recommended by the House Committee on Public Buildings and Grounds with a recommendation from the Treasury Department that $14,000 more be appropriated for the purpose of bringing the building down to the proper grade of the street, and so forth. In letting the contract the amount appropriated was so small that the Treasury Department was compelled to substitute wood cornice for terra cotta and brick. The citizens of this enterprising little city are also very anxious that the building should be trimmed with limestone or gray-faced brick and not with the ordinary plain red brick the same as is used on all the mercantile houses of that city.

The total cost for limestone trimming is $4,000. The other items of expense, which include the nonconducting covering of the plumbing and some marble finishing on the interior and reinstating other important omitted features, in the total aggregate only $14,000. This city is one of considerable importance in that State. It is the port of entry of the Canadian Pacific Railway, with customs receipts amounting to nearly $500,000 a year, and the amount appropriated, in the opinion of the committee, was very small in the first instance, and the committee therefore thought the additional amount asked was most reasonable and ought to be appropriated.

Mr. MANN. Does the gentleman object to my asking the gentleman from Vermont [Mr. GREENE] a question about it?

Mr. ASHBROOK. No.

Mr. MANN. I suppose the gentleman from Vermont [Mr. GREENE] is personally acquainted with the situation?

Mr. GREENE of Vermont. I am. I live within 28 miles of the town.

Mr. MANN. I think it is desirable sometimes to have gentlemen give information, and I will be glad if the gentleman can give very briefly any reason for increasing this amount.

Mr. GREENE of Vermont. Why it should be favored?

Mr. MANN. Yes.

Mr. GREENE of Vermont. As I understand it, and as the people of Richford have explained it to me, this first appropriation was made by a compromise in the first place. It was before my legislative experience here; but I understand that by some process, by which there was a horizontal reduction in the general measure, it was included in that bill. Then it was agreed they should erect this building at $60,000. The excavation was begun, and they got down a few feet and found rock. Ordinarily in New England anywhere, and particularly in Vermont, you might expect to dig down a little way and find rock, because Vermont is founded on a rock. But there were a few Republican things that went through this time that did not strike much trouble, and this was one of them. But they got the rock. The Treasury Department estimates that it will cost somewhere along about $6,000, as I understand it, to go down the 2 feet which it is necessary in order to make a cellar out of this present hole in the ground.

Mr. MADDEN. Is the architect of the Treasury Department in charge of the construction of this building? Are the plans drawn by him?

Mr. GREENE of Vermont. I understand so. I do not know enough about the previous legislative history——

Mr. MADDEN. What is the size of the building? What is the limit of cost on the building?

Mr. GREENE of Vermont. Sixty thousand dollars now. The original appropriation was for $74,000, and the request is made now, in view of the fact——

Mr. ASHBROOK. It is $60,000.

Mr. MADDEN. And now they want $68,000?

Mr. ASHBROOK. They want $14,000 more.

Mr. MADDEN. The $14,000 additional is required because of the fact that they found rock when excavating for the foundation?

Mr. ASHBROOK. Not entirely, but there were several substitutes they were compelled to make to hold the contract within the small amount of $60,000.

Mr. MADDEN. Who was the man who wrote the statement that they found rock after they began to excavate?

Mr. KENDALL. Within 2 feet.

Mr. GREENE of Vermont. Not within 2 feet. It is 2 feet lower.

Mr. MADDEN. Because they found rock it was costing more to excavate?

Mr. ASHBROOK. I can not answer the gentleman. This bill passed the Senate, and the report from the Senate committee to the Senate is practically the same as the report of the House committee to the House.

Mr. MADDEN. The purpose of my question is whether the statement was made by the Supervising Architect of the Treasury Department, and if he made such a statement, then to show he was negligent in the performance of his duty.

Mr. KENDALL. The gentleman from Vermont [Mr. GREENE] says that when they had gone down "2 feet." It was a "few feet."

Mr. GREENE of Vermont. They went down within 2 feet of the required distance, and then found rock.

Mr. MADDEN. Why did not the Supervising Architect make a preliminary boring down as far as it was necessary to go with the foundation?

Mr. GREENE of Vermont. Ordinarily you would strike rock in Vermont, but this is a river bottom and alluvial soil.

Mr. MADDEN. Well, they would not be able to build a foundation at all, on alluvial soil, for a great building.

Mr. GREENE of Vermont. It is not a great building. It is a building to cost $60,000.

Mr. MADDEN. It seems to me the architect ought to know what kind of earth this building was to be erected upon before he began its erection.

Mr. GREENE of Vermont. Would the gentleman penalize the city of Richford because of that?

Mr. MADDEN. No. I am simply calling attention to the negligence of the office of the Supervising Architect, and say that either because of his lack of knowledge or his failure to perform his duty the people of the United States are being taxed to pay more money for a building than they would otherwise be called upon to pay. That is what I am calling attention to. I am not saying that I am opposed to the allowance of this appropriation, but I am opposed to the methods that are pursued by the men who are supposed to understand what kind of material there is in the foundation upon which a building is to be erected.

Mr. PLUMLEY. Mr. Speaker, will the gentleman yield to me?

The SPEAKER. Does the gentleman yield?

Mr. MADDEN. I have not the floor.

Mr. PLUMLEY. I desire to ask the gentleman whether, if the Supervising Architect had known this before, he would not simply have had to ask before for this additional sum? Is not that true?

Mr. MADDEN. The very fact that he did not know it before is evidence of the prior fact that he did not understand his business or that, if he did understand it, he did not attend to it.

Mr. PLUMLEY. I am not here to represent the Supervising Architect's Office and I do not hold a brief from him. I simply wanted to ask the gentleman that question.

Mr. COOPER. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. MADDEN. Yes.

Mr. COOPER. I will ask the gentleman from Illinois if he does not think the negligence, if any, is attributable to the inspector in charge of the work and not to the office of the Supervising Architect in Washington?

Mr. MADDEN. No. In making a plan for a building, the first thing to be determined is what kind of material the building is to be founded on, and borings must be made to ascertain that fact. The inspector can have no knowledge of such facts until the building is under way. He is appointed to supervise the construction of the building after construction is commenced, and not to know what kind of material the building is to be constructed upon.

Mr. COOPER. Does the gentleman know the particular instructions that were issued to the inspector or supervisor?

Mr. MADDEN. No.

Mr. COOPER. Suppose the inspector failed to carry out the specifications. In that case no fault can be attributed up here to the office of the Supervising Architect.

Mr. MADDEN. This is the fact, as stated by the Chairman of the Committee on Public Buildings and Grounds, that when they reached a certain stage in the excavation of the foundation they discovered rock 2 feet below the surface. They should have discovered that before they got to digging at all.

Mr. ASHBROOK. Mr. Speaker, if the gentleman will permit, I do not think I said "2 feet" below the surface. I said "a few feet."

Mr. KENDALL. How can the supervisor in charge of the building know of the character of the soil without a previous investigation?

Mr. MADDEN. He could not.

Mr. KENDALL. Then there must have been a previous investigation.

Mr. MADDEN. If there was not, there ought to have been.

Mr. ASHBROOK. I have no brief to defend the Supervising Architect or excuse this condition of affairs. But the fact is that unless this bill is passed, the building can not be constructed.

Mr. MADDEN. I do not oppose the granting of the appropriation, but I desire to call attention to the fact that somebody somewhere has neglected to perform his duty.

Mr. ASHBROOK. I quite agree with the gentleman.

The SPEAKER. Is there objection to the consideration of this bill in the House as in Committee of the Whole?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 6899) increasing the limit of cost for the erection and completion of a public building in the city of Richford, State of Vermont.

Be it enacted, etc., That the limit of cost for a public building in the city of Richford, State of Vermont, authorized under section 4 of the act of May 30, 1908, be, and the same hereby is, increased from $60,000 to $74,000, and that the sum of $14,000 to provide for such increased cost be, and the same hereby is, appropriated.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. ASHBROOK, a motion to reconsider the vote whereby the bill was passed was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolution:

Resolved, That the Secretary notify the House of Representatives that the Senate has elected JACOB H. GALLINGER, a Senator from the State of New Hampshire, President of the Senate pro tempore, to hold and exercise the office from and including December 16, 1912; that the Senate has elected AUGUSTUS O. BACON, a Senator from the State of Georgia, President of the Senate pro tempore, to hold and exercise the office from and including January 5, 1913, to and including January 13, 1913; that the Senate has elected JACOB H. GALLINGER President of the Senate pro tempore, to hold and exercise the office from and including January 10, 1913, to and including February 1, 1913; that the Senate has elected AUGUSTUS O. BACON President of the Senate pro tempore, to hold and exercise the office from and including February 2, 1913, to and including February 15, 1913; and that the Senate has elected JACOB H. GALLINGER President of the Senate pro tempore, to hold and exercise the office from and including February 16, 1913, to and including March 3, 1913.

CHANGES IN HOMESTEAD ALLOTMENTS OF CHOCTAW AND CHICKASAW INDIANS, OKLAHOMA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25507) to authorize certain changes in homestead allotments of the Choctaw and Chickasaw Indians in Oklahoma.

The title of the bill was read.

Mr. FOSTER. Mr. Speaker, the gentleman from Oklahoma [Mr. CARTER] who is in charge of this bill was compelled to go away, and he asked me to request the House that the consideration of this bill be passed to-day. I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] asks unanimous consent that the consideration of this bill be passed without prejudice. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the next one.

TO PROVIDE FOR AN ENLARGED HOMESTEAD.

Mr. FOSTER. Mr. Speaker, unless there is some objection, I wish to state that the gentleman from Colorado [Mr. TAYLOR] who introduced the next bill on this calendar has written me a letter requesting that that bill go over until such time as he can be here. He is now at his home in Denver, Colo.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] asks unanimous consent to pass without prejudice the next bill on the Calendar for Unanimous Consent, which is the bill (H. R. 23351) to amend an act entitled "An act to provide for an enlarged homestead." Is there objection?

Mr. MONDELL. Reserving the right to object, I wish to say that this legislation ought to pass. I do not feel disposed to allow it to go over by unanimous consent unless such action will tend to its ultimate enactment.

Mr. FOSTER. If there is no objection to the consideration of this bill it may be considered and passed, but the gentleman from Colorado [Mr. TAYLOR] wrote me that letter, and I desired to state the situation to the House. He is at home, and I understand that his whole family have been in the hospital, and he is there now.

Mr. MONDELL. Do I understand that the gentleman from Illinois [Mr. FOSTER], in case his request is not granted, is disposed to interpose an objection to the consideration of the bill at this time, and therefore cause it to be stricken from the calendar?

Mr. FOSTER. I do not know that I should do that; no. I would not like to strike the bill from the calendar by objecting to its consideration, but I merely make this statement in justice to the gentleman from Colorado [Mr. TAYLOR], who wrote me in reference to this matter some time ago. I consulted with a friend of his, who thought that possibly the bill ought to go over until the gentleman from Colorado [Mr. TAYLOR] was here. If, after hearing this statement, the gentleman from Wyoming [Mr. MONDELL] thinks the bill had better be taken up for consideration at this time, I shall not object, and will withdraw my request.

Mr. MONDELL. The entire western country is interested in this legislation. I do not want to agree to any action which would prevent or delay the passage of the act. If objection is likely, and the bill is to be stricken from the calendar unless it is passed over, of course I prefer to have it passed over without prejudice.

Mr. FOSTER. I shall not object to its consideration.

Mr. MONDELL. The situation, as the gentleman will see, is somewhat embarrassing.

Mr. MANN. Perhaps it would be well to have the bill reported before we decide what we will do with it.

Mr. FOSTER. I simply made my statement for the purpose of saving time.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill (H. R. 23351) to amend an act entitled "An act to provide for an enlarged homestead."

The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. FOSTER] to pass this bill over without prejudice?

There was no objection.

The SPEAKER. The Clerk will report the next bill.

BRIDGE ACROSS HUDSON RIVER BETWEEN NEW YORK AND NEW JERSEY.

The next business on the Calendar for Unanimous Consent was the bill (S. 5659) to supplement and amend an act entitled "An act to authorize the New York and New Jersey Bridge Cos. to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey," approved June 7, 1894.

The SPEAKER. Is there objection to the consideration of this bill?

Mr. SABATH. I reserve the right to object.

Mr. MANN. Reserving the right to object, a parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MANN. This appears on the Unanimous Consent Calendar twice.

Mr. MICHAEL E. DRISCOLL. I will explain that.

Mr. MANN. It appears on the Unanimous Consent Calendar as No. 411 and also as 435. My inquiry is whether the Clerk in making up the Unanimous Consent Calendar was authorized to place the bill upon the calendar the second time. I do not know whether it may have been done inadvertently, but I wish to ask whether as a matter of right a bill can be placed on the calendar a second time?

The SPEAKER. The Chair is informed that it came about in this way——

Mr. MANN. Evidently it may have been a mistake; but has a Member the right to put a bill on the Calendar for Unanimous Consent twice?

The SPEAKER. The Chair does not think a bill ought to be allowed to appear twice on the same calendar, and if it is disposed of at this point, then it goes off the calendar in both places.

Mr. MICHAEL E. DRISCOLL. It was placed on the calendar twice as the result of a misunderstanding, and it was an accident.

The SPEAKER. The Chair has ruled on that proposition that you can not put the same bill on the calendar twice.

Mr. MICHAEL E. DRISCOLL. This bill and bill Calendar No. 434 are really companion bills and ought to be considered at the same time.

Mr. MANN. It is not possible to consider two bills at the same time.

Mr. MICHAEL E. DRISCOLL. I mean one after the other.

Mr. MANN. The other one will follow this.

The SPEAKER. Are these bills the same?

Mr. MICHAEL E. DRISCOLL. They are not the same, but they are both bridge bills for bridges over the Hudson River.

The SPEAKER. Is it the same bridge?

Mr. MICHAEL E. DRISCOLL. No; there are two bridges. The bills are Calendar Nos. 434 and 435, and I ask unanimous

consent that bill Calendar No. 411 be postponed until it is reached as No. 435, and it be then considered.

Mr. MANN. Mr. Speaker, reserving the right to object, let me ask why is it desirable to have this bill considered after the other bill instead of having the other bill considered after this one?

Mr. MICHAEL E. DRISCOLL. I would just as lief have the other bill considered after this.

Mr. MANN. If there is any reason, I do not object.

Mr. MICHAEL E. DRISCOLL. It is immaterial to me.

Mr. GOLDFOGLE. Mr. Speaker, my colleague [Mr. MICHAEL E. DRISCOLL] is right in his statement concerning the character of the bills, and I should join in the request that he makes that the bill which has now been called be passed over until No. 435 is reached, just as he has requested.

Mr. FITZGERALD. Mr. Speaker——

The SPEAKER. The Chair will recognize the gentleman from New York in a minute. What the Chair wants to find out in order to make a correct ruling, and I suppose the first he has ever made on the subject, is, are these two bills the same?

Mr. GOLDFOGLE. They are evidently for the same purpose, namely, to construct bridges across the North River, or rather to extend the life of the charter.

Mr. MANN. I think the Speaker misunderstands. One bill is on the calendar and another bill similar is on the calendar in another place, but one bill is on twice.

The SPEAKER. The Chair rules without any qualification that you can not put the same bill in two places on this Unanimous Consent Calendar.

Mr. BURKE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURKE of Pennsylvania. If objection is made to this particular bill, and it is stricken from the calendar, would it not facilitate matters to take the other number up when it is reached in its regular order, or would objection to this bill work automatically to strike the other bill from the calendar?

The SPEAKER. It would work automatically.

Mr. MANN. I understand the gentleman from New York now asks unanimous consent to strike Calendar No. 411 off the calendar and leave on the calendar No. 435.

Mr. MICHAEL E. DRISCOLL. That is the request.

The SPEAKER. For what purpose did the gentleman from New York [Mr. FITZGERALD] rise?

Mr. FITZGERALD. I wished to ask somebody why either one of those bills should pass? A couple of companies in New York have been fooling around this franchise for over 20 years pretending they wanted to build a bridge across the Hudson River——

Mr. MANN. We have not reached that yet.

Mr. FITZGERALD (continuing). And I did not know but it might be pertinent, before anything else is done, to inquire why these franchises should be bucketed about; why does not somebody build a bridge if they want to do so and not hold up those who want to build a bridge and not be coming here asking us to extend the time with nothing in evidence that the bridge is to be built?

Mr. MICHAEL E. DRISCOLL. That is exactly what we do not want to be done, and if they do not commence this bridge within three years they forfeit their franchise.

Mr. FITZGERALD. They have been here every two or three years since 1894 and it is about time somebody decided whether they intend to build one of these bridges. If they do not, let their rights expire and perhaps somebody will come along who is willing to build a bridge across the Hudson River.

Mr. MICHAEL E. DRISCOLL. These extensions were 10 years at a time.

The SPEAKER. What is the request of the gentleman from New York [Mr. MICHAEL E. DRISCOLL]?

Mr. MICHAEL E. DRISCOLL. My request is that this bill, No. 411, be stricken from the calendar and the same bill, No. 435, be left on the calendar.

The SPEAKER. The gentleman from New York asks unanimous consent to strike the bill, Calendar No. 411, from the calendar without prejudice to the bill where it appears as 435. Is there objection. [After a pause.] The Chair hears none. The Clerk will strike the bill, Calendar No. 411, from the calendar and report the next one.

MAKING LABOR DAY A LEGAL HOLIDAY.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25937) making the first Monday in September, Labor Day, a legal holiday.

The Clerk read as follows:

Be it enacted, etc., That the first Monday in September in each year, the day celebrated and known as Labor Day, be, and is hereby, declared to be a legal holiday, and that the employees of the Navy Yard, Government Printing Office, Bureau of Engraving and Printing, and all other per diem employees of the Government of the United States, at Washington or elsewhere in the United States, shall be allowed a holiday on the said first Monday in September in each year and shall receive for that day the same pay as for other days.

With the following committee amendment:

Strike out all after the enacting clause and insert the following:

"That all per diem employees of the Government of the United States shall receive for all legal holidays, including the first Monday in September, known as Labor Day, the same pay as for other days."

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. COX of Indiana. Mr. Speaker, reserving the right to object, I would like to ask some one in charge of the bill if he has investigated with a view of seeing how much additional cost this will entail upon the Treasury?

Mr. GILLETT. Mr. Speaker, if there is nobody here representing this bill, I will say that I know something about it, because I introduced a similar bill myself and I can explain what the purpose of it is.

I introduced a joint resolution, which is practically the same as this bill amended by the committee, and it simply means to cure what I think was an unintentional defect in the present law. The law to-day provides that on holidays, such as Christmas, Fourth of July, and Thanksgiving Day, the employees of the Government on duty in the navy yards and arsenals, and so forth, if they are called upon to work shall be paid extra—that is, if they do not work at all they get their regular pay—but, if because of some exigency they are called upon to work on the holiday they get not only their regular pay but they get an extra day's pay. It so happens that when the law was passed making Labor Day a holiday it did not have in it—undoubtedly by oversight—the provision which allowed laborers who were called upon to work upon Labor Day their extra pay. The comptroller being called upon to rule, ruled that they could not; that if they were called upon to work on Labor Day they just got their regular Labor Day pay the same as if they had not worked at all. So this is simply to cure that defect and put Labor Day on the same par as Christmas, Thanksgiving, the Fourth of July, and Washington's Birthday.

Mr. COX of Indiana. Will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. COX of Indiana. Under the law as it exists now do these employees when they do not work on Labor Day get any pay?

Mr. GILLETT. Certainly; they get their regular per diem.

Mr. COX of Indiana. If they do work on Labor Day, they get this extra pay?

Mr. GILLETT. They ought to get two days' pay. In other words, they get the pay for the holiday—that is, they would if this bill became a law—and also get an extra day's pay. If a man is called upon by some exigency in a navy yard, if there is a stress in getting out a ship, and he works on Labor Day, he would get two days' pay for that work. They would get the holiday pay and the pay for working. And that applies to all the holidays now except Labor Day, and this is to put Labor Day on that same footing.

Mr. COX of Indiana. Could the gentleman make any estimate as to what it would cost?

Mr. GILLETT. You can not, Mr. Speaker, make such an estimate, of course, because it is a thing that probably will not happen very often that many men in these Government establishments will be called upon to work on Labor Day; but if there does come a sudden stress and exigency, then I think it is no more than fair that that holiday shall be treated the same as the others. There probably will not be many.

Mr. COX of Indiana. Does the gentleman know about how many employees it might likely affect?

Mr. GILLETT. Of course, it would affect all of the employees in the Government navy yards and in all of the Government arsenals if they were called upon to work in case of war, for instance, on Labor Day. It would affect them all. Their reason for this law is that occasionally now a man does have to work—some few workmen always have on Labor Day—and they feel it to be unfair to them if they are called upon to work when the rest of their fellow employees do not have to work and get just the same pay.

Mr. COX of Indiana. It is to satisfy him under those conditions?

Mr. GILLETT. No; it is to put them all on the same footing.

Mr. MADDEN. Will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. MADDEN. The Government of the United States does not recognize Labor Day and pay men who are in its service if they are not employed on that day, does it?

Mr. GILLETT. Oh, yes.

Mr. MADDEN. Now?

Mr. GILLETT. Now.

Mr. MADDEN. It is not a national holiday?

Mr. GILLETT. It is a national holiday.

Mr. MADDEN. What is the reason for this bill?

Mr. GILLETT. I think the gentleman did not hear me. It is because, as I explained, the bill that made this day a holiday did not provide for this holiday as on all other holidays—that if a man did work on this holiday he should be paid double.

Mr. MADDEN. It is a State holiday.

Mr. GILLETT. It is a national holiday.

Mr. COX of Indiana. Do I understand that a man gets paid on all other holidays when he works?

Mr. GILLETT. Yes.

Mr. COX of Indiana. And this is to equalize it?

Mr. GILLETT. Yes. It is to put him on exactly the same footing on this day as on other holidays.

Mr. MANN. Mr. Speaker, I ask for the regular order.

Mr. GILLETT. This bill is the regular order.

The SPEAKER. The regular order is, Is there objection to the present consideration of this bill? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. MANN. Mr. Speaker, if nobody else does, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of this bill.

The motion was agreed to.

The SPEAKER. The House resolves itself into the Committee of the Whole House on the state of the Union, and the gentleman from Florida [Mr. CLARK] will take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 25937, making the first Monday in September (Labor Day) a legal holiday, with Mr. CLARK of Florida in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 25937. The Clerk will report the bill.

The title of the bill was read.

Mr. FITZGERALD. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent to dispense with the first reading of the bill. Is there objection?

There was no objection.

Mr. MANN. Mr. Chairman, this bill, as introduced, proposes to declare Labor Day a legal holiday. It was introduced by my friend from New York [Mr. REDFIELD], but I assume that that gentleman did not prepare the bill, because he undoubtedly knows that Labor Day is already a legal holiday. Whoever did prepare the bill was not fully informed on the subject. I wondered whether the committee that reported the bill—the Committee on the Judiciary, which has no jurisdiction over matters of this sort concerned in the amendment—knew what they reported when they reported this bill.

The bill provides—

That all per diem employees of the Government of the United States shall receive for all legal holidays, including the first Monday in September, known as Labor Day, the same pay as on other days.

I presume the purpose was to increase the compensation paid to per diem employees. But unless I am mistaken, the effect of the bill may be to decrease the compensation. Those employees of the Government who now work on holidays, most of them, get a larger compensation for their holiday work than they do on other days. I think in the Government Printing Office they probably get time and a half. This bill proposes to cut down the extra compensation they get on legal holidays when they work on legal holidays, and pay them only the same amount as they receive on other days. Is that the intention of the two distinguished gentlemen who father the bill?

Mr. SHARP. The verbiage there is "for other holidays."

Mr. MANN. No; it is "for other days." I will ask my friend from Ohio, who is or has been a large employer of labor, whether, if that bill were passed and applied to him and a man now receiving time and a half for a holiday worked then on a holiday, he would feel compelled to pay him simply for time and not time and a half? Is that the purpose of the bill?

But I would like to know, further, whether those who are now engaged in working on piecework will be affected by the provision in reference to the compensation on holidays. We included in the legislative bill that was passed a few days ago an item for piecework in the office of the Auditor for the Post Office Department, with a provision that the people so engaged should be allowed compensation on holidays equal to the average which they receive. And in that connection I may say that when that matter came up in the House the distinguished gentleman from South Carolina [Mr. JOHNSON], who had charge of the legislative bill, stated that he had never heard any complaint from the people engaged in the office of the Auditor for the Post Office Department on piecework.

I questioned whether it was entirely satisfactory to require the people who operate tabulating machines in the office of the Auditor for the Post Office Department to do it by the piece? Since that time I have been called up on the telephone numerous times by people engaged in that department and have received a number of letters, the contents of which, of course, can not be divulged, all complaining that under the piecework system in force in the office of the Auditor for the Post Office Department the people who operate these machines, in order to receive the same amount of compensation which they used to receive and which is paid to other similar employees of the Government, have to go to work at 8 o'clock in the morning and, with very little time for lunch, some of them have to work until comparatively late at night; not in the afternoon, but at night, and that is a disgrace to the Government, if it be the case.

Mr. COX of Indiana. Of course, I do not inquire of the gentleman the sources of his information; but is not that objection based on the ground that while the machines work all right the mistakes made by postmasters throughout the country in regard to the money orders make it impossible to tabulate them with the machines?

Mr. MANN. I do not know what is the ground of the complaint, and I have never met any of the ladies who do this work. I think most of it is done by ladies. The statement is made that under that piecework system the allowance of compensation is based upon the ability of those who can do the most rapid work, at the very top notch, and that the others, in order to make anything like a living wage, have to work excessively long hours.

I reserve the balance of my time.

Mr. REDFIELD. Mr. Chairman, the gentleman from Illinois [Mr. MANN] is entirely correct in his criticism of the bill in the form in which it comes from the Committee on the Judiciary. The bill was introduced because of the actual case of a man who had worked by special request upon a number of holidays, and who was paid double time for all of those holidays except for several Labor Days, for which the Comptroller of the Treasury refused to pay him more than single time, giving as his reason that the law was defective in the respect that a clause had been omitted from the act which made Labor Day a holiday, which provided the method of paying upon that day. The Comptroller of the Treasury called my attention to it, and in an interview said it ought to be corrected. This bill in its original form was drawn by me and was approved by the Comptroller of the Treasury. It went to the Judiciary Committee, and I have never seen it since then until to-day. The effect of it as it now reads would be to undo all that was attempted to be done. I wish to offer an amendment, which will restore the bill to its original purpose, I think.

The CHAIRMAN. The Chair will state that amendment is not in order now.

Mr. REDFIELD. At the proper time I will offer the amendment.

The CHAIRMAN. If there is no further general debate the Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That the first Monday in September in each year, the day celebrated and known as Labor Day, be, and is hereby, declared to be a legal holiday, and that the employees of the Navy Yard, Government Printing Office, Bureau of Engraving and Printing, and all other per diem employees of the Government of the United States, at Washington or elsewhere in the United States, shall be allowed a holiday on the said first Monday in September in each year and shall receive for that day the same pay as for other days.

With the following committee amendment:

Strike out all after the enacting clause and substitute the following: "That all per diem employees of the Government of the United States shall receive for all legal holidays, including the first Monday in September, known as Labor Day, the same pay as for other days."

Mr. REDFIELD. Mr. Chairman, I desire to offer an amendment to the amendment.

The Clerk read as follows:

Amend the amendment by striking out the word "days," in line 4, and inserting in lieu thereof the word "holidays," and by striking out in line 2 "all legal holidays, including."

Mr. REDFIELD. I ask the Clerk to read it as it will read when amended.

The CLERK. The amendment as amended will read:

That all per diem employees of the Government of the United States shall receive for the first Monday in September, known as Labor Day, the same pay as for other holidays.

Mr. BUCHANAN. I suggest that the gentleman insert the word "legal" before "holidays."

Mr. GILLETT. I think it is unfortunate that the committee which reported this bill is not represented here to explain and defend it.

Mr. MANN. I will say in this connection they are over in the Senate representing this body in the impeachment proceedings.

Mr. GILLETT. That is correct. I did not think of that, and I was not submitting any criticism, but it is still unfortunate; and I think, Mr. Chairman, the gentleman from New York [Mr. REDFIELD] is wrong, and the committee is right in its amendment, because, although at first blush it appears as he suggests that this would not provide for the same pay as on other holidays, yet the amendment which the committee has inserted follows exactly the original law applying to other holidays which has been construed already by the comptroller. Here is that law. I only read the last part of it:

The 1st day of January, the 22d day of February, the 4th day of July, the 25th day of December, and such days as may be designated by the President as national days of Thanksgiving, and shall receive the same pay as on other days.

Exactly the language which is put into this bill. Now, that has been interpreted already by the Comptroller of the Treasury, and under that interpretation the men are allowed, if they work on those holidays, double pay. Therefore I think it is wise to leave the amendment as the Committee on the Judiciary, who undoubtedly had investigated the previous statutes and the decisions of the comptroller originally reported it. It is always well, if possible, to use language which has already been tested and interpreted by a court.

Mr. MADDEN. The intention of the law, I suppose, is to provide they shall receive the same pay on these legal holidays as they did on other days when they are not at work on legal holidays?

Mr. GILLETT. And when they do work they get double pay.

Mr. MANN. The gentleman will recall in a great many instances it has been provided specifically where employees work on holidays they shall be paid extra time or time and a half or double time for those days.

Mr. GILLETT. That is true.

Mr. MANN. Now those employees, if they work on other holidays and Labor Day, now receive an extra day's pay.

Mr. GILLETT. They receive it under this law, which I read as to Thanksgiving and all other holidays except this.

Mr. MANN. That extra day's pay goes to everybody alike?

Mr. GILLETT. Yes.

Mr. MANN. We have special provision, I think, concerning the Government Printing Office that people who work on a holiday shall receive extra compensation.

Mr. GILLETT. Very likely they do.

Mr. MANN. Under this provision, as the committee reported it, it would take that away from them.

Mr. GILLETT. No——

Mr. KENDALL. I do not think they are inconsistent.

Mr. GILLETT. I do not think so, because it follows exactly the law of all other holidays which has been construed by the comptroller. I have just read it. Now, is not it wiser to follow the exact law as it is to-day than to make a law on the floor of this House without investigation?

Mr. MANN. I suggest the amendment now offered by the gentleman from New York [Mr. REDFIELD] would not change that law at all. It only provides that Labor Day shall be treated as other holidays. That is all.

Mr. GILLETT. I do not see why it does not accomplish the same result. I do not care which language is used if the result is reached.

Mr. MANN. His amendment only provides Labor Day shall be treated as other holidays. It does not change any of the other laws.

Mr. GILLETT. I will agree to that; I do not think it does.

Mr. CANNON. Is not there a law now that the man who works on Labor Day in the Government Printing Office shall not only get his pay as of the holiday but shall get his pay for the day's work double?

Mr. MANN. There is a law if he works on the Fourth of July that shall happen to him.

Mr. CANNON. On the Fourth of July or Christmas he gets three days' pay or two days' pay?

Mr. MANN. He gets pay for the holiday and then he gets two days' pay for working on that day.

Mr. GILLETT. No; he gets pay for the holiday and he gets one day's extra pay. In other words, if he works he gets double pay.

Mr. MANN. He gets one day's pay because of the holiday; if he works, he may get two days' pay in addition.

Mr. GILLETT. Oh, no.

Mr. FITZGERALD. If he does not work, he is paid for the day's work; if he works, he gets paid for another day—that is, double time.

Mr. MANN. He gets holiday pay in addition.

Mr. GILLETT. He does not under this law which I read.

Mr. MANN. He gets paid for working extra time; that is under special statute, but not under this statute.

Mr. KENDALL. Not under this statute. Let me suggest to the gentleman from Massachusetts that, it seems to me, the most expeditious way to meet this situation is simply to amend the gentleman's resolution by inserting, after the words "25th day of December," the words "Labor Day or the first Monday of September."

Mr. MANN. The amendment now offered by the gentleman from New York [Mr. REDFIELD] is practically that.

Mr. GILLETT. Yes; I think they all accomplish the same result.

Mr. KENDALL. This joint resolution has been interpreted by the Comptroller of the Treasury, and no confusion could arise if that should be done.

Mr. MANN. That is practically what his amendment is, namely, that Labor Day should be treated as other days.

Mr. GILLETT. I suggest an amendment to the gentleman from New York to his amendment, and that is it should provide, as I provided originally in the resolution which I submitted, "on duty in the United States." You have it in yours "elsewhere than in the United States." I do not think this is meant to apply outside of the United States. Although the committee did not have that in their amendment, I think you have it in yours.

Mr. REDFIELD. It is not in the amended bill.

Mr. GILLETT. I think it ought to read "duty in the United States," so it should not apply——

Mr. REDFIELD. Should it not apply to the Government employees in Hawaii?

Mr. MANN. Hawaii is a part of the United States.

Mr. REDFIELD. It is a Territory of the United States.

Mr. GILLETT. It should not apply to the Philippines or the Canal Zone.

Mr. REDFIELD. I will accept that amendment.

Mr. WILDER. Is it not a fact that the workmen in Government employment at this time receive extra pay?

Mr. GILLETT. Yes; that is what I have been saying.

Mr. WILDER. If they did work on a holiday they would receive double pay for it?

Mr. GILLETT. The gentleman has not been here to hear the discussion.

Mr. WILDER. I have heard every word of it.

Mr. GILLETT. This is to provide that they shall get double pay on Labor Day as on other holidays.

Mr. WILDER. If it is a holiday they get double pay.

Mr. GILLETT. No; they do not. The comptroller has ruled that way.

Mr. REDFIELD. Does the gentleman from Massachusetts wish to offer that as an amendment?

Mr. GILLETT. I suggest it to you.

Mr. REDFIELD. Then I will leave it as it stands.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. REDFIELD].

Mr. BUCHANAN. Mr. Chairman, I suggest to the gentleman whether it is necessary to put the word "legal" in there or not.

Mr. REDFIELD. I agree to that, namely, that the word "legal" should be inserted before the word "holiday."

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from New York [Mr. REDFIELD].

Mr. CANNON. How will it read?

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the committee amendment by striking out, in line 2, the words "all legal holidays including," and in line 4 strike out the word "days," and insert the words "legal holidays."

Mr. REDFIELD. Will the Clerk please read it as amended?

Mr. SABATH. How will the bill read now?

The CHAIRMAN. The Clerk will read the bill as it will read when amended.

The Clerk read as follows:

That all per diem employees of the Government of the United States shall receive for the first Monday in September, known as Labor Day, the same pay as for other legal holidays.

Mr. GILLETT. Mr. Chairman——

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from New York [Mr. REDFIELD].

Mr. GILLETT. Mr. Chairman, I addressed the Chair before the vote was put. I do not like to seem too critical, but I wonder if the gentleman is not making a mistake there? As I understand, you are going to put "legal holidays" at the end?

Mr. REDFIELD. Yes.

Mr. GILLETT. That is what this means. This means they shall get the same pay as they are getting on other days. That is, one workman may get on the holiday the same pay he is getting every day.

Mr. FOWLER. And the effect of the bill is to place the laborer on Labor Day so that he can receive the same pay he does on any other holiday?

Mr. GILLETT. Yes.

Mr. FOWLER. And then if he should work on the holiday he receives the holiday pay in addition?

Mr. GILLETT. Well, yes; he does.

Mr. FOWLER. That is what the effect of the bill is now, without the amendment?

Mr. KENDALL. Not at all.

Mr. GILLETT. I do not think that amendment is necessary.

Mr. FOWLER. I do not think so either.

Mr. CANNON. Does that apply to the people employed in the Philippines?

Mr. REDFIELD. As it now stands it would.

Mr. CANNON. And with the amendment?

Mr. REDFIELD. As it now stands it would.

Mr. CANNON. Somebody said it would not, under some proposed amendment.

Mr. REDFIELD. As it now stands, I will say to the gentleman from Illinois, that it applies to all of the per diem employees of the Government of the United States.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from New York [Mr. REDFIELD].

The amendment was agreed to.

Mr. BURKE of Pennsylvania. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. BURKE] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 2, line 3, after the word "day," by inserting the following: "And the 12th day of October each year, to be known as Columbus Day."

Mr. MANN. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. BURKE] desire to be heard on that point of order?

Mr. BURKE of Pennsylvania. Well, Mr. Chairman, so far as the point of order is concerned, it seems to me the purpose of this bill, despite its title, is to fix the pay of Government employees on a certain class of days. It does not refer to any one specific day. That class, it seems to me, can be enlarged in this bill. It affects the Treasury and it affects the status of those employees on certain days of the year. The purpose of this amendment is to carry that provision one day beyond those already provided in the bill itself.

The CHAIRMAN. The Chair sustains the point of order. The question now is on the adoption of the committee amendment as amended.

The committee amendment as amended was agreed to.

Mr. REDFIELD. Mr. Chairman, I move that the committee rise and report the bill, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CLARK of Florida, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 25957) making the first Monday in September (Labor Day) a legal holiday, and had instructed him to report back the same with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. The question is on agreeing to the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill providing for pay for per diem employees of the Government of the United States."

On motion of Mr. REDFIELD, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The SPEAKER. The Clerk will report the next bill.

APACHE PRISONERS OF WAR.

The next business on the Calendar for Unanimous Consent was the bill (S. 6776) for the relief of the Apache Indians held as prisoners of war on the Fort Sill Military Reservation, in Oklahoma, and for other purposes.

The Clerk read the title of the bill.

Mr. FERRIS. Mr. Speaker, the substance of that bill was provided for in last year's Indian appropriation bill, and I think it might as well be stricken from the calendar.

Mr. MANN. Why not lay it on the table?

Mr. FERRIS. I ask unanimous consent, Mr. Speaker, that the bill lie on the table.

The SPEAKER. The gentleman from Oklahoma [Mr. FERRIS] asks unanimous consent to lay the bill on the table. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the next bill.

PUBLIC BUILDING AT OLYMPIA, WASH.

The next business on the Calendar for Unanimous Consent was the bill (S. 6283) increasing the cost of erecting a public building at Olympia, Wash.

The Clerk read the bill, as follows:

An act (S. 6283) increasing the cost of erecting a public building at Olympia, Wash.

Be it enacted, etc., That the limit of cost heretofore fixed for the erection of a public building at Olympia, Wash., be, and the same is hereby, increased to $150,000.

Mr. CLARK of Florida. Mr. Speaker, I ask unanimous consent that this bill may be considered in the House as in Committee of the Whole.

The SPEAKER. Leave to consider it at all has not been granted yet. Is there objection to the present consideration of this bill?

Mr. MANN. Reserving the right to object, I should like to hear a statement as to the reasons, either from the gentleman from Florida [Mr. CLARK] or the gentleman from Washington [Mr. WARBURTON].

Mr. CLARK of Florida. Mr. Speaker, this was one of the emergency bills reported at the extra session of Congress by the Committee on Public Buildings and Grounds. The report of the committee sets forth the necessity for it, and I will call the attention of the House to it:

By this bill it is proposed to increase the limit of cost heretofore fixed for the erection of a public building at Olympia, Wash., $20,000. Olympia is the capital of the State of Washington, and a contract for the erection of the building was awarded May 24, 1912, for the sum of $92,700. The sum heretofore authorized does not permit the construction of a fireproof building, and the Treasury Department, in a letter of July 6, 1912, which is herewith appended and made a part of this report, states that, in order to make the building fireproof and to provide for gutters, drains, and other alternates that are named in said letter, legislation must be enacted at this session of Congress or work must be suspended pending further legislation. As the contract has already been let, the committee is of the opinion that it would not be right to suspend the work until Congress could act at some subsequent session and therefore believes that this is an emergency case and that the bill should be passed at this session.

Now, as to what has been done since that time I should like to have the gentleman from Washington [Mr. WARBURTON] make an explanation.

Mr. WARBURTON. By direction of the Secretary of the Treasury some four or five months ago work was stopped on the public building at Olympia, Wash., pending further action by Congress. The bill originally provided for a limit of $130,000 for building and grounds. The architect had reported that it would require $120,000 to construct the building, but there was only appropriated $130,000 for the building and the site. The site cost $30,000, leaving only $100,000 for the building itself, and the department was unable to construct a fireproof building for that amount. It will simply be a frame building, if the work proceeds under the present authorization.

A strong effort was made by the department before a bid was secured. I think it was submitted three different times. They were unable to get a bid which would permit the building of a fireproof structure.

The city of Olympia is the capital of the State of Washington. That State is building a $3,000,000 State capitol there now, and I think it would be a great mistake to build a building that would not be fireproof, or a building that was entirely disproportionate to the other buildings. The appropriation itself is small for a post-office building in the capital of the State. The city of Olympia has about 10,000 inhabitants, and before the building is completed there will probably be double that number of people in the capital. The city is growing very rapidly. The postal receipts last year, I think, amounted to $35,000.

Mr. MANN. What is the size of Olympia?

Mr. WARBURTON. It has, I think, nearly 10,000 people. It is growing very rapidly. For a number of years it did not grow rapidly, but of late it has been growing very rapidly.

Mr. MANN. How rapidly has it grown?

Mr. WARBURTON. I think it has doubled in the last 10 years.

Mr. MANN. From what did it increase, to what?

Mr. WARBURTON. I think it was about 5,000 people in 1900 and about 10,000 in 1910.

Mr. MANN. Is that increase due to the number of office seekers who go to the capital of the State?

Mr. WARBURTON. Undoubtedly it is due to that in part, but it is a thriving city, growing rapidly. Manufactures are springing up there.

Mr. MANN. Is the gentleman able to say whether the limit of cost included the site?

Mr. WARBURTON. The architect originally reported that the building would cost $130,000, but only $130,000 was appropriated for the building and the site. They had not selected their site, but when they did so they paid $30,000 for it, and I think the same ground to-day would cost perhaps $60,000.

Mr. MANN. Was that included in the $130,000?

Mr. WARBURTON. That was included in the $130,000. There was only $130,000 appropriated altogether, although it was estimated at the time that the building would cost $130,000.

Mr. MANN. The report from the department gives very little information on matters that we want to know about. It seems, however, that a contract for the building was let for $92,000.

Mr. WARBURTON. Yes.

Mr. MANN. I wondered what had become of the rest of the $130,000; but if $30,000 was paid for the site, of course that explains it.

Mr. KENDALL. The site cost a third as much as the building, which was altogether out of proportion.

Mr. MANN. I should think $30,000 for a site in a city of 10,000 inhabitants was not at all unprofitable to those who sold the site.

Mr. WARBURTON. Well, I think if the Government should buy it to-day it would cost over $45,000.

Mr. KENDALL. The man who sold it lost no money.

Mr. WARBURTON. No; but he did not make any. It is about where it ought to be in the city and covers an entire block. I think an entire block.

Mr. FOSTER. May I inquire of the gentleman whether this building has been begun?

Mr. WARBURTON. The foundations only, I think. I saw it when it was just above ground.

Mr. FOSTER. I see they substituted certain sandstone for granite. Is that on the building outside?

Mr. WARBURTON. I do not know about that. I am not able to say, but the increased amount is to make it fireproof; I know that.

Mr. FOSTER. Well, I do not know that is so or not. Let us see. They substituted sandstone for a certain granite, and I do not know that either one of those is combustible.

Mr. WARBURTON. The building will be nothing more than a frame building unless the appropriation is granted. There is no question about that.

Mr. FOSTER. The gentleman from Washington does not mean to say this will be a frame building?

Mr. WARBURTON. It will be a frame and stone building; that is exactly what it will be. That is the way I understand it.

Mr. FOSTER. Is it the gentleman's information that this extra amount is for the purpose of making it fireproof?

Mr. WARBURTON. The sole purpose, I understand.

Mr. FOSTER. That it will be a frame building, and this extra amount would make it fireproof?

Mr. WARBURTON. That is exactly what I understand; it is for the purpose of making it a fireproof building. They will have to use a good deal of wood unless they have the appropriation.

Mr. FOSTER. The gentleman says a frame building. This $92,700 is seems to me would build a pretty good frame building; a pretty large one in Washington, I think, could be built for $92,700.

Mr. WARBURTON. No——

Mr. FOSTER. Now, the gentleman says they need this additional amount in order to make this fireproof.

Mr. WARBURTON. Oh, the outside is stone.

Mr. FOSTER. The gentleman has not said so; he said frame building.

Mr. WARBURTON. I said a frame and stone building.

Mr. FOSTER. You mean frame inside; that the floors, etc., will be frame?

Mr. WARBURTON. I think that is the correct name of it.

Mr. FOSTER. Let us see a little further. Now, it seems as though some explanation was needed. There is a certain kind of material that does not seem to be changed in order to get fireproof material. Can the gentleman point out in these extras where it is now combustible and they are going to make a fireproof structure out of this building?

Mr. WARBURTON. I only know what the architect tells me.

Mr. FOSTER. I am going by what the Assistant Secretary of the Treasury states.

Mr. WARBURTON. This is the report of Mr. Bailey:

A contract for the construction of the building was awarded May 24, 1912, for the sum of $92,700, the following alternates being accepted at the deductions indicated in order to bring the cost within the present limit and reserve a sufficient balance for contingencies:

Alternate A. Omitting gutters and drains, etc., in stone cornice and floor of portico	$500
Alternate B. Substituting wood frames and cast-iron grille for bronze at main entrance	1,500
Alternate C. Substituting sandstone for certain granite	3,300
Alternate I. Substituting ornamental terra cotta for sandstone entablature	3,800
Alternate J. Substituting terra cotta for sandstone column caps	600
Omit work specified under "Lighting fixtures"	1,100

Mr. JAMES. Regular order, Mr. Speaker.

Mr. WARBURTON. The outside of the building. I will say, is granite, and they substituted sandstone because it is cheaper.

Mr. FOSTER. The granite is cheaper?

Mr. WARBURTON. The sandstone is cheaper.

Mr. FOSTER. So that the——

Mr. WARBURTON. That is only a small part of the $30,000.

Mr. FOSTER. The increase of $30,000 is to make it fireproof.

Mr. WARBURTON. To make it fireproof, according to the original plan.

Mr. KENDALL. The first estimate for the building was $130,000, and that amount was appropriated, and $30,000 was absorbed in the site, and now it is contemplated to increase the original appropriation $30,000 to make up that deficiency. Is that about it?

Mr. WARBURTON. That is exactly it.

Mr. FOSTER. There is remaining $92,700 for the buildings, and the difference between $130,000 and $92,700 has been paid for the site. Is that correct?

Mr. WARBURTON. That is correct.

Mr. KENDALL. You said it was, in round numbers, $30,000?

Mr. FOSTER. Thirty-six thousand dollars.

Mr. WARBURTON. My letter from Senator POINDEXTER says $30,000.

Mr. KENDALL. Does that include architect's fees? Of course, I concede this site is extortionate——

Mr. FOSTER. Can the gentleman inform the House whether plans for this building have been made under the Tarsney Act?

Mr. WARBURTON. I do not know.

Mr. KENDALL. I do not know what these payments in this case were. I am simply speculating——

Mr. FOSTER. The gentleman is simply supposing.

Mr. KENDALL. I am simply surmising, but the gentleman from Illinois ought to consider the fact this is a State capital in a growing State, and the necessities for a creditable public building there are very apparent.

Mr. FOSTER. I have seen some growing States where the State capital did not grow very much.

Mr. JAMES. Regular order, Mr. Speaker.

Mr. KENDALL. This is growing now quite rapidly.

The SPEAKER. Is there objection to the consideration of this bill? [After a pause.] The Chair hears none.

Mr. CLARK of Florida. Mr. Speaker, I ask unanimous consent that the bill will be considered in the House as in the Committee of the Whole.

Mr. MANN. I think as long as the gentlemen were engaged in the debate on the bill and shut off the regular order that we had better have the regular order now.

Mr. CLARK of Florida. Then, Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 6283) increasing the cost of erecting a public building at Olympia, Wash.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill, with Mr. Cox of Indiana in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the limit of cost heretofore fixed for the erection of a public building at Olympia, Wash., be, and the same is hereby, increased to $150,000.

Mr. FOSTER. Mr. Chairman, I would like to ask the gentleman from Washington, so as to get this matter in my mind thoroughly, if this increased cost is entirely for the purpose of making a fireproof building?

Mr. WARBURTON. That is exactly what the architect tells me.

Mr. FOSTER. And not for the purpose of putting on a lot of ornaments that some architect has thought ought to be put on in order to make the building look a little better in this enterprising city?

Mr. WARBURTON. I understand that it will be difficult, even with the appropriation, to complete it, but they think they can do so with $30,000.

Mr. FOSTER. And now you propose to increase the appropriation $30,000 for the building?

Mr. WARBURTON. Yes. The original plan was $130,000 for the building. This would make it $160,000, all told.

Mr. FOSTER. If this $30,000 goes on the building?

Mr. WARBURTON. When we passed the bill we only had $130,000 for the building and grounds.

Mr. KENDALL. This makes the total investment $160,000.

Mr. FOSTER. One hundred and sixty thousand dollars.

Mr. WARBURTON. And the revenues last year were $32,000.

Mr. FOSTER. Is there a court at Olympia, or just a post office?

Mr. WARBURTON. There is no United States court there now, but undoubtedly there will be in a short time.

Mr. FOSTER. Why does the gentleman say that?

Mr. WARBURTON. We have a United States district court for the southern division, and at the present time it only holds court in one place. There is quite a demand for it to be held in two other places, and it ought to be, and I think there will be such a demand that it will be held at Aberdeen and Olympia.

Mr. KENDALL. The reason why they had not held it there was that there was no suitable room.

Mr. FOSTER. There is no provision for holding court there.

Mr. WARBURTON. The Department of Justice can at any time, I think, compel it to be done.

Mr. JAMES. It is unusual for the Federal court not to be held in the capital. It ought to be held there.

Mr. WARBURTON. It ought to be, in order to save cost to litigants. We have the one court, holding terms in one city, and it could just as well hold it in two other cities.

Mr. MANN. Mr. Chairman, if the gentleman will give me a little information, I would appreciate it. I notice that in the report there is included a letter from the Assistant Secretary of the Treasury, dated July 6 last, in which he states:

The contractor expressed his intention of beginning work on the 1st instant, and if it is desired to provide for fireproofing the entire building, it will be necessary to enact appropriate legislation at this session of Congress in order not to delay work on the construction, as it is necessary to install the fireproofing during the construction of the work, and it can not be placed afterwards.

Now, the gentleman from Washington tells us that the increased amount is for the purpose of fireproofing the building, and the Secretary of the Treasury informed us that there is no use to make that appropriation unless it was made at the last session of Congress. That session has long since expired and we have a new one. Did the Secretary of the Treasury only bluff when he said that, or was that a statement of fact which has been verified by subsequent events?

Mr. WARBURTON. It was a statement of fact. As a matter of fact, the Secretary of the Treasury, under an agreement with the contractor, stopped the work so that they could fireproof if if this appropriation passed.

Mr. MANN. The work has not progressed?

Mr. WARBURTON. Not since some time in August.

Mr. MANN. Then it was a pure bluff.

Mr. WARBURTON. I would not want to say that about the Secretary of the Treasury.

Mr. MANN. It was said that this appropriation should be made at that session, if made at all, because it could not be used if not made then. He said to Congress:

If it is desired to provide for fireproofing the entire building, it will be necessary to enact appropriate legislation at this session of Congress.

Mr. WARBURTON. He might have already stopped the work.

Mr. MANN. Of course, everybody knows it would stop the work. The appropriation might be made 10 years hence.

Mr. CLARK of Florida. Mr. Chairman, will the gentleman permit me to read for a moment? The gentleman did not read far enough.

Mr. MANN. I read the entire paragraph.

Mr. CLARK of Florida. The Assistant Secretary wrote:

It will be necessary to enact appropriate legislation at this session of Congress in order not to delay work on the construction.

Mr. MANN. I read that to the end.

Mr. CLARK of Florida. Not the last time.

Mr. MANN. But that does not change the meaning of it at all—"in order not to delay work on the construction." Now, they did delay work on the construction.

Mr. CLARK of Florida. I understand from the gentleman from Washington [Mr. WARBURTON] that the failure to enact appropriate legislation at the last session has delayed the work of construction, because they need a fireproof building there, and it is perfect folly for this Congress to appropriate money to build a fire trap in any State capital in the Union.

Mr. MANN. That is begging the question. Nobody expects the department to build a fire trap. It is not necessary to have $130,000 to build a fireproof building. What are some of the items left out that they now want to put in to make it fireproof? They want to put bronze grills at the entrance in place of cast-iron grills. They want to substitute granite for sandstone.

Mr. KENDALL. What is the additional cost of those items?

Mr. MANN. The latter item is $2,300. Then they want to put in sandstone entablature instead of ornamental terra cotta. That is $3,800.

Mr. WARBURTON. I think the gentleman from Illinois is mistaken. They have cut out granite and substituted sandstone, as I understand it.

Mr. MANN. The contract was let for $92,700 on an alternative bid where they could make these substitutions, and under that contract they say that in order to complete the building within the original limit of cost they had to make substitution of grills of cast iron for bronze and sandstone for granite and terra cotta for sandstone in certain cases.

Mr. KENDALL. That effected a saving of those amounts.

Mr. MANN. But they do not wish to save those amounts. They wish us to appropriate the money for the purpose. All that I rose and took the floor for was for the purpose of inquiring whether that "bluff" of the Secretary of the Treasury came probably from the activities of the gentleman from Washington, and whether it "went" or whether, as a matter of fact, not having secured the money they held up the building until another session of Congress.

Mr. WARBURTON. Mr. Chairman, in response to what the gentleman has just stated I will say this, that instead of doing that I advised him personally that we did not ask for the extra appropriation because we did not think we could get it through.

Mr. MANN. The gentleman will then be agreeably surprised.

Mr. WARBURTON. I hope so.

Mr. CLARK of Florida. Mr. Chairman, I move that the committee do now rise.

Mr. FOSTER. Mr. Chairman, we have not had the bill read yet.

The CHAIRMAN (Mr. COX of Indiana). The Clerk will report the bill.

The bill was again read, as follows:

An act (S. 6283) increasing the cost of erecting a public building at Olympia, Wash.

Be it enacted, etc., That the limit of cost heretofore fixed for the erection of a public building at Olympia, Wash., be, and the same is hereby, increased to $150,000.

Mr. CLARK of Florida. Mr. Chairman, I move that the committee do now rise and report the bill to the House with a favorable recommendation.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. COX of Indiana, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 6283) increasing the cost of erecting a public building at Olympia, Wash., and had instructed him to report the same back to the House without amendment, with the recommendation that it do pass.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. CLARK of Florida, a motion to reconsider the vote whereby the bill was passed was laid on the table.

LEAVE TO WITHDRAW PAPERS—JOHN S. DRAPER.

Mr. HULL, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of John S. Draper, Fifty-ninth Congress, no adverse report having been made thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. GREEN of Iowa, until the holiday recess, on account of important business.

To Mr. AKIN of New York, indefinitely, on account of illness.

To Mr. BROWN, indefinitely, on account of illness.

POST-OFFICE BUILDING AT DUBLIN, GA.

Mr. ASHBROOK. Mr. Speaker, when the bill H. R. 17683, No. 348 on the Calendar for Unanimous Consent, was reached to-day, it was passed without prejudice. I now ask unanimous consent to recur to this bill and for its present consideration.

The SPEAKER. The gentleman from Ohio asks unanimous consent for the present consideration of the bill (H. R. 17683) to increase the limit of cost for the post-office building heretofore authorized at Dublin, Ga. Is there objection?

Mr. MANN. Reserving the right to object, I understood the gentleman's request was to recur to the bill. Will he let us know something about it?

Mr. ASHBROOK. This morning, when the request was made to pass the bill without prejudice, I stated that I understood that the building was nearly completed and the money would not be needed.

Mr. MANN. I understand that.

Mr. ASHBROOK. I based that statement on a letter dated August 14, 1912, from the Supervising Architect, in which he stated that the building was then 92 per cent completed. The gentleman from Georgia [Mr. BRANTLEY], who represents the district in which this building is located, was not present, and it was indirectly stated to me that he had said that unless the bill was passed at the last session the money could not be used. Since the bill was passed on the calendar this morning, however, the Supervising Architect has telephoned to a member of the Public Buildings Committee that, while the building was practically completed, a mere makeshift had been used, including a metal cornice, that should be stone, and that it was very urgent that the amount be appropriated in order that the building might be properly completed.

Mr. MANN. If the gentleman will pardon me, in order to save time I will state that I made this memorandum concerning the bill when it was placed on the Calendar for Unanimous Consent at the last session:

No report from the department on the bill at all; no statement of cost or the limit of cost of the building; no information about the city—

I am speaking of the report—

no reason given in the report why the betterment was not covered by the contract.

This was information which ought to have been contained in the report when submitted to the House.

Mr. ASHBROOK. It is quite likely that the report was not as complete as it should be, but it is a fact that the bid was so much in excess of the amount appropriated that numerous substitutes had to be made, which consisted principally in the substituting of a metal cornice for a stone cornice. This report was made to the committee, which probably should have been included in our report to the House.

After the 4th of March next the district in which Dublin is situated will be represented by the gentleman from Georgia [Mr. HUGHES], who has personal knowledge of the situation there, and I will therefore yield to the gentleman from Georgia.

Mr. HUGHES of Georgia. Mr. Speaker, I wish to say to the gentleman from Illinois that I have personal knowledge of the matters relating to this post-office building at Dublin, Ga. Judge BRANTLEY now represents that district, but after March 4 I shall have the honor of representing it.

Mr. MANN. We are all very glad to have the gentleman have the honor to represent any district.

Mr. HUGHES of Georgia. I thank the gentleman. He is very kind. I wish to say that during Judge BRANTLEY's absence I called him up over the phone, and he reported what has already been stated. I think the $8,000 additional appropriation ought to be granted, and to be candid, I think it should be really $16,000.

Mr. MANN. How much of a town is Dublin? I confess that there are little towns grown up in the country that I am not familiar with.

Mr. HUGHES of Georgia. If the gentleman from Illinois will come down to Dublin I undertake to say that I will show him one of the best towns that he ever had the pleasure of visiting.

Mr. MANN. And in the meantime, suppose the gentleman tells us something about it, for we can not know about all of these towns. The truth is, until this bill was introduced, I confess my ignorance of the fact that there was such a town as Dublin, Ga. That is not to the discredit of Dublin, but I would like to hear about it from the sweet and smiling gentleman who has the floor.

Mr. HUGHES of Georgia. Dublin, Ga., is located on the Oconee River. It is a town of importance, from the fact that there are five railroads there, and it also has water facilities and is growing in every particular.

Mr. COX of Indiana. What is the population?

Mr. HUGHES of Georgia. About eight thousand.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Ohio asks unanimous consent that the bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. ASHBROOK, a motion to reconsider the vote whereby the bill was passed was laid on the table.

YUMA INDIAN RESERVATION, CAL.

The next business on the Calendar for Unanimous Consent was the bill S. 4488, an act to authorize the setting aside of a tract of land for a school site and school farm on the Yuma Indian Reservation in the State of California.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. RAKER. Mr. Speaker, reserving the right to object, I want to ask the chairman of the committee a question. I see on page 1, line 6, of the bill that you have changed 320 acres to 80 acres. The report of the Acting Secretary of the Interior is in favor of 320 acres. Was there any evidence in addition to this report of the Secretary about that?

Mr. STEPHENS of Texas. We had before us Mr. Abbott, and also the irrigation engineer who belongs to the Indian service. They thought as this was very valuable land it would be better to give only one-half that amount for the school and let the rest of it go to the Indians, because the amount of irrigable land would be more valuable to the Indian individual than it would be for a farm of that kind, and they thought that 80 acres would be sufficient.

Mr. RAKER. Is not one of the great drawbacks to these Indian schools, which are for the purpose of providing for Indians so that they may get some knowledge, the fact that they have not land enough and that they are all the time seeking to get additional lands for the Indian schools? Does not the gentleman think that now while it is Government land it ought to be turned over to the school, so that they will have sufficient land to run the school in proper shape and teach them to conduct a farm and let them participate in it?

Mr. STEPHENS of Texas. I think not. There is a school double the size in Phoenix, Ariz., and they have not, I think, exceeding 60 acres. I think 80 acres of as good land as that will be sufficient for them, owing to the value of the land and the facilities that they have there and the products of that farm and that country.

Mr. RAKER. Is it not a fact that the school must be large enough to give the Indians plenty of opportunity to learn to become farmers on the school land, under the supervision of Indian teachers?

Mr. STEPHENS of Texas. From my experience in the western country, 80 acres would be more than sufficient for the purpose of teaching the Indians how to properly cultivate their land. I will state that at the Salem school there are more Indians than at this school, and there they have about 300 acres and not more than 80 are in cultivation, and that school is 20 years old.

Mr. RAKER. How about the school at the Sherman Institute?

Mr. STEPHENS of Texas. The Sherman Institute school has some 60 acres.

Mr. RAKER. I was there the other day myself. Is it not one of the complaints of these schools that they have not sufficient land to give the Indians an opportunity to learn how to become farmers, and that that is what they are seeking to do? The superintendent of the Sherman Institute told me that they wanted more land in the fertile valley in order that they might teach the Indians how to become farmers.

Mr. STEPHENS of Texas. They are not now cultivating the amount of land that they already have.

Mr. RAKER. The gentleman has no objection to letting it go through at 320 acres, has he?

Mr. STEPHENS of Texas. I stand on the committee report. This is a report offered by the committee after a full hearing upon this matter.

Mr. RAKER. The hearings were not printed, were they?

Mr. STEPHENS of Texas. I have them right here in print.

Mr. RAKER. I have no objection.

The SPEAKER pro tempore. The Chair hears no objection. This bill is on the Union Calendar.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent to consider the bill in the House as in Committee of the Whole House on the state of the Union.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MANN. Mr. Speaker, I think it ought to be considered in the Committee of the Whole House on the state of the Union.

The SPEAKER pro tempore. The gentleman from Illinois objects.

Mr. STEPHENS of Texas. Mr. Speaker, I now move to go into the Committee of the Whole House on the state of the Union for the purpose of considering this bill.

The motion was agreed to; accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 4188, with Mr. HOUSTON in the chair.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized to set aside for the Indian school and as a farm on the Yuma Indian Reservation, in the State of California, not exceeding 320 acres of irrigable land, in addition to the tract of land, including the buildings, situate on the hill on the north side of the Colorado River, formerly Fort Yuma, now used as an Indian school.

SEC. 2. That all acts and parts of acts in conflict herewith are hereby repealed.

Mr. MANN. Mr. Chairman, the committee of the House recommended striking out 320 acres and inserting 80 acres. Of course, this is irrigable land, but the purpose of this bill is to authorize the setting aside of a certain amount for an Indian school and as a farm. I take it the purpose is to have the Indian school and farm connected with the school and have the pupils of the Indian school study practical farming. Well, you can not do very much on 80 acres, even if it be irrigable land. The department which recommended this recommended 320 acres, and the land will still remain the Indian land, and I doubt whether it can be used for any other purpose as profitably as to teach the young Indians how to farm on that land. It seems to me that the committee amendment ought not to be agreed to.

Mr. STEPHENS of Texas. Will the gentleman permit me to state this? At first there were 5 acres allotted to each Indian. We increased that two years ago to 10 acres to each Indian, and that leaves a very small amount, and there are some Indians unprovided for, and if we take 320 acres it will not leave enough to give the Indians 10 acres of good land, which the law now provides.

Mr. MANN. I do not find that information in the report of the Secretary on this bill.

Mr. STEPHENS of Texas. The gentleman will remember two years ago we enlarged the amount to these Indians from 5 to 10 acres. That restricts the amount that can be irrigated. They have a large amount of land up on the mesa, but you can not reach it with water; but there is a certain amount of land which you can place under the ditches that will be valuable for farming purposes.

Mr. BURKE of South Dakota. If the gentleman from Illinois will permit an interruption, I will say when the bill was considered in the committee the committee was not satisfied that there should be as large a tract reserved for a farm on those two reservations as 320 acres. That is a very large amount of land as an irrigated farm, and we concluded we would make the amount 80 acres, and the bill could go to conference. The conferees would have an opportunity to go into the matter fully, and they could agree upon the maximum amount of acreage, or some amount between the two, that would perhaps be nearer right than either 320 or 80 acres. The gentleman will observe this takes in another reservation, the Colorado Reservation, in Arizona.

Mr. MANN. The committee amendment?

Mr. BURKE of South Dakota. The committee amendment; and the feeling was unanimous, I may say, in the committee that so far as the information we had at hand goes 80 acres was sufficient. Now, I do not think that the committee is particularly insistent about its amendment, but you must recall that this is not Indian land any longer. The law provided that all unallotted land should be disposed of under the reclamation law, and if we create a farm of 320 acres we take that much acreage out of the reclamation area which is to be reclaimed at the expense of the United States, and we ought not to do it unless we need it.

Mr. MANN. Mr. Chairman, I do not know how much information the committee had before it when they reduced this amount from 320 to 80 acres, but the original bill upon this subject provided for taking 320 acres at one place. The land which is described in the bill now is land which was suggested by the Interior Department and is not the land which was included in the original Senate bill as it was introduced. The department recommended that these 320 acres be set aside for the purpose in the main of a school farm.

Now, certainly, there is a very wide divergence between 320 acres for a school farm and 80 acres. It does not seem to me that it requires any very extensive knowledge of farming to know that. A very small school would do the work for an 80-acre farm.

Mr. COX of Indiana. Does the gentleman know how many Indians there are on the reservation, or does anyone else know?

Mr. MANN. I do not know.

Mr. COX of Indiana. That might throw some light on the subject as to the amount of land that is required.

Mr. HAYDEN. I can furnish the gentleman that information approximately. There are four or five hundred Indians on the Colorado River Reservation, and about 800 on the Yuma Reservation.

Mr. MANN. That means a good number of children.

Mr. COX of Indiana. Does that mean the total population?

Mr. HAYDEN. Yes.

Mr. BURKE of South Dakota. Will the gentleman from Arizona [Mr. HAYDEN] tell us what constitutes an irrigated farm in that locality as a rule?

Mr. HAYDEN. The allotment to each Indian is 10 acres.

Mr. BURKE of South Dakota. Is there any other land under irrigation?

Mr. HAYDEN. On the Yuma Reservation, near the town site of Bard and not far from the Fort Yuma Indian School, the farm unit is 10 acres, and a little farther from the town the farm unit is 20 acres of land. This land has been sold to white people.

Mr. BURKE of South Dakota. The reclamation project contemplates that the land shall be disposed of to settlers in 10 and 20 acre units?

Mr. HAYDEN. On the Yuma Reservation; yes, sir.

Mr. BURKE of South Dakota. That quantity of land is supposed to be sufficient for a man and his family in order to subsist?

Mr. HAYDEN. That is the theory of the Reclamation Service.

Mr. MANN. Now, as I understand, the Yuma Reservation has a larger number of Indians than the Colorado River Reservation?

Mr. HAYDEN. Yes, sir.

Mr. MANN. Yet the Secretary of the Interior only last May recommended that on the Colorado River Reservation, which has the smallest number of Indians, there be set aside 320 acres of irrigable land for school and farm purposes. He says:

It is recommended, therefore, that the bill be amended by inserting a section to be numbered 2, as follows:

"SEC. 2. That the Secretary of the Interior is hereby authorized to set aside for school, agency, and demonstration farm purposes not to exceed 320 acres of irrigable or nonirrigable land in the Colorado Indian Reservation, Ariz."

Now, we are proposing to expend millions of dollars a year in teaching practical farm demonstration to the white people of the country. While we have this Indian land under our control I can see no other purpose for which it can be so usefully utilized as teaching the Indian children how to really farm.

Mr. BURKE of South Dakota. Will the gentleman permit a suggestion?

Mr. MANN. I will.

Mr. BURKE of South Dakota. I wish to say to the gentleman from Illinois that the Indian Office for some time was advocating a large appropriation for the purpose of establishing what are known as "demonstration farms," right in line with the policy to engage in a number of other things that are already provided for under some other bureau or department of the Government, and the policy of the Indian Committee has been to not appropriate or recommend appropriations for demonstration farms inasmuch as under the Agricultural Department we have certain experimental stations and experimental farms. This amendment which the gentleman just read includes demonstration farms, so that whoever prepared it had in mind that we are going to have a demonstration farm out there.

Mr. MANN. That is what any farm is where a school is located. It is a demonstration farm. That is the purpose of having a farm put in connection with a school. Now, I have on several occasions in this body opposed some of the appropriations for teaching the Indians farming, because I could not see at that time a very good excuse for taking out of the Federal Treasury money for teaching a certain class of people particular information not to be given to the rest.

But here is a proposition where we have the right to reserve title to some of the lands for Indian instruction in farming. I can imagine nothing that will do them more good than keeping this land for them and teaching them how to farm.

The proposition involves 320 acres. I suppose it is not very valuable land at best. If we dispose of it and do not reserve it, it will be only a little while until we are asked to buy it back out of the General Treasury. The gentleman has a bill pending now to set aside, I think, several hundred thousand dollars for a purpose like this. I believe that while we have the Indian property which can be diverted to their use without injury to them we had better divert some of it to their use without attempting to pay it all out of the General Treasury.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Mr. Chairman, will the gentleman from Illinois yield to me for a moment for a suggestion along this line?

Mr. MANN. I yield the floor to the gentleman.

Mr. RAKER. Mr. Chairman, in regard to this matter, it seems to me now is the opportune time to give a sufficient amount of land to make a farm for the purpose of having each Indian in the school learn how to farm. By a personal examination of the Indian schools I may say I have seen them, as stated by the chairman of the Committee on Indian Affairs, and have just left recently the Sherman Institute, in southern California; and one of their needs to-day is from 60 to 80 acres of land for the purpose of working; not only demonstrating the process of working, but to take out each Indian and give him a tract of land that he may learn as a boy how to work it and how to handle it, so that when he becomes of age and leaves the school he can go out and cultivate his own allotment.

In this particular case here is land already in the control and under the supervision of the Government. They are asking to turn over 320 acres to the Indian Department for the purpose of conducting not only an Indian school, but an Indian farm, where there are many Indians who ought to receive the benefit of the white man's knowledge as to how to conduct a farm. If it is turned over later in 10-acre tracts, he has to go to the white man and learn how to handle it. It can do him no damage or injury.

The statement is made that there will not be enough land to go round in 10-acre tracts, or in 5-acre tracts. But here you reserve a large piece of land for school and farming purposes. I am making the statement now from a personal inspection of the Indian schools. In some places it means to have a sufficient tract of land upon which they can raise their own grain. The Indians are instructed under the supervision of the teachers of the schools. I appreciate what it means at this time to teach young Indians how to raise hay and how to take care of their crops.

Mr. BURKE of South Dakota. As I understand, the number of Indians on this reservation is not over 600. If all the children on that reservation were in one school, how many children would there be?

Mr. RAKER. That is a mathematical question.

Mr. BURKE of South Dakota. It is a simple matter.

Mr. RAKER. I am not any more versed in figures than the gentleman is.

Mr. BURKE of South Dakota. It would be a small school, would it not?

Mr. RAKER. Yes; it would be a small school.

Mr. BURKE of South Dakota. If 10 acres is considered sufficient for a family to live on, does not the gentleman think that four times or eight times as much would be sufficient to do just the thing he is taking about—to meet the necessities so far as the school is concerned, which at best would not contain more than 60 or 80 pupils?

Mr. RAKER. I know; but this idea of 5 or 6 acres of land being sufficient to maintain a man and his family is a good deal imaginary, except the land be under the highest state of cultivation.

Mr. BURKE of South Dakota. I will say to the gentleman that that is the provision of law regarding those lands under which these reservations are being disposed of. The gentleman from Oklahoma tells me that it is 10 acres within a certain range and 20 acres outside of that.

Mr. RAKER. I understand that the unit is 10 acres, and sometimes 20 acres. But this is a farm to be handled by the school, not only in the demonstration work but to go out and actually farm under the supervision of the teachers of the school. It is one of the things that this country is trying to do with its citizens. It is what we are trying to do all over the land—to purchase land upon which we can educate our boys in agriculture—and it ought to be done. But there is no opportunity and no place for it in many of the cities. There is no land available for demonstrating by actual work the processes by which they may become farmers and go out in the country and become producers of this Nation.

Mr. BURKE of South Dakota. Exactly; but does not the gentleman believe 80 acres would be quite sufficient for either one of these schools to do everything that he proposes?

Mr. RAKER. No; honestly I do not.

Mr. BURKE of South Dakota. The gentleman will observe that in the amendment transmitted by the Secretary, which is section 2 of the bill, he uses the word "demonstrated," evidently showing that the department had in mind a demonstration farm, and the committee cut that out. A demonstration farm, in the mind of the party in the Indian Office who made this recommendation, would be an extensive farm, ostensibly for the general welfare of all the Indians in the country, and it would be contemplated undoubtedly to expend very large sums of money upon this demonstration, whereas I do not suppose that outside of the Indians on that reservation there would ever be any other Indian who would see it.

Mr. STEPHENS of Texas. Is it not a fact that you have demonstration farms all over California and in this vicinity? One of these bands of Indians is on one side of the Colorado River in Arizona and the other is on the other side in California. Now, is it not a fact that you have demonstration farms in this valley, and near this place, kept up by the United States Government, so that all the Indians would have to do would be to go to the Government farm a few miles away, and possibly in the same township, in order to see what is being done by the funds of the United States? If we enter into this project will we not be duplicating? If we give them 320 acres to start an experimental farm, will we not be duplicating exactly what we are doing now for the white people? Why should we discriminate? Why should we have two farms, one for the whites and one for the Indians, with a duplication of the expense of the farmers and all the paraphernalia that goes with these experimental farms? What is the necessity for it?

Mr. RAKER. To make myself plain, so that the gentleman may understand it, it is not a question of taking one of these Indian boys out and driving him up and down the lawn, walking him over the grass and telling him, "This is what we have done; now you go and do likewise." The idea is that the boys are in the school. They are old enough to take tracts of land of 2 or 3 or 4 acres while they are at school and actually farm the land under the direction of the superintendent. Twenty or forty boys can each of them be running tracts of from 1 acre to 5 acres on that farm, and by actual personal experience attain some benefit. That is the opportunity they ought to have, in affairs of that kind, so that they can obtain results.

Mr. MONDELL. Will the gentleman from California yield to allow me to make an inquiry of the chairman of the committee?

Mr. RAKER. I will do so with pleasure.

Mr. MONDELL. Can the gentleman from Texas tell how many children are attending this school for which this farm is to be provided?

Mr. STEPHENS of Texas. There are 200 in one place, and I suppose there would be about 10 children to each 100. I suppose there would be 12 children in the small reservations, and there would not be more than 50 or 60 in the others.

Mr. MONDELL. Do I understand that there are only from 10 to 15 Indian children attending these schools?

Mr. STEPHENS of Texas. I do not know, because they have been sent to various boarding schools. They are under the control and direction of the Secretary of the Interior, and the Indian Bureau can farm them out wherever they please.

Mr. MONDELL. But, as I understand it, this is a farm in connection with a specific school. How many children are there?

Mr. STEPHENS of Texas. They have schools on the reservations. I do not know the extent, because I have not been on every one of them. The gentleman from Arizona [Mr. HAYDEN] has been on them.

Mr. MONDELL. The area necessary for a school farm depends entirely upon the number of children employed or attending the school, if it is intended to be used as a farm on which the Indian boys are to be taught agriculture. There are only 10 Indian boys in one of these schools. A farm of 80 acres might be large enough to afford 10 boys an opportunity to mow and reap and plant and cultivate. But if there are 100 or 200 boys, then a larger farm would be necessary to give the boys employment and an opportunity to learn the methods of agriculture.

Mr. BURKE of South Dakota. Will the gentleman permit me to give him the information he asks for?

Mr. MONDELL. I only have the floor through sufferance of the gentleman from California.

Mr. RAKER. I will yield to the gentleman from South Dakota to ask a question.

Mr. BURKE of South Dakota. Not to ask a question, but to answer the question that the gentleman from Wyoming asked a while ago as to the number at the two schools. The average attendance at Yuma for the last fiscal year was 115 and at the other school 71.

Mr. MADDEN. Making 186 in all.

Mr. RAKER. I want to say, Mr. Speaker, that the land is there now and in control of the Government.

Mr. MADDEN. It will be there anyway, will it not?

Mr. RAKER. Not under the same title. It will go to other individuals and the title will be conveyed. The title is now in the Government, and we can reserve that amount of land, and if it becomes necessary later to eliminate some of it it can be done. Practically all the schools in my part of the State are clamoring for more land for the purpose of giving the Indians that attend these schools some information in the line of what was the intent and purpose of the Government, to teach them how to become agriculturists.

Mr. MONDELL. Will the gentleman from California yield to me for a suggestion?

Mr. RAKER. I will.

Mr. MONDELL. I have in my hand the hearings on the Indian appropriation bill. On page 141 of those hearings is information in regard to the Shoshone Indians in my State. That school has an attendance of 173. The area of the farm is 1,200 acres. The land is all irrigable and all irrigated and is all farming land, and produced, above the cost and above the value of the products used in the school, products to the amount of over $9,000 last year.

I do not pretend to be very well informed as to the area necessary in this particular case, but I will say that a 1,200-acre farm is not found too large for the purposes of a school with 173 pupils. The practice is to employ these boys on the farm during the vacation, and also to give them practical instruction on the farm during the school period. They work on the farm half a day, the forenoon of one week, and in the afternoon of the next week, and the farm is not found any too large for the purpose of instruction in agriculture on that reservation.

Mr. RAKER. Mr. Speaker, I want to say in that connection that I visited an Indian school at one place in my district. The superintendent said: "RAKER, isn't there some way, somehow, that this Government can provide a farm in connection with this school to the end that we may teach these boys how to become farmers; that we may have some cows around this institution; that we may have an orchard growing here so that we can teach them how to become horticulturists; that we may have some land where we might put in potatoes, and instead of the boys being idle in the summer time, running over the country, wasting their time, and the girls as well, they may be employed on the farm? We can not employ them now, because we have no land. There is no land attached to a number of these schools for the purpose of agriculture."

You are telling these people all the time that you are going to try to educate them and improve them, and there never was a better time than in the case of this kind, where the land is now in the hands of the Government, to equip this school, where these boys and these girls can have an education and learn how to do all the things necessary on a farm.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to ask the gentleman a question.

Mr. RAKER. I will yield.

Mr. STEPHENS of Texas. I desire to ask the gentleman if he has any experimental farms in his State?

Mr. RAKER. Yes; the finest on earth.

Mr. STEPHENS of Texas. How many boys and girls in the nearest one to the gentleman's home?

Mr. RAKER. Well, it is quite a little ways from my home.

Mr. STEPHENS of Texas. How far?

Mr. RAKER. About 400 miles.

Mr. STEPHENS of Texas. That is not very far in California. How many acres of land does that agricultural school have?

Mr. RAKER. I do not know the number now, but I will insert it in the RECORD.

Mr. STEPHENS of Texas. The gentleman is not certain about that?

Mr. RAKER. I can not give the exact number.

Mr. STEPHENS of Texas. Well, that is 2½ acres each. Now you propose to give more to these Indians?

Mr. RAKER. It is their land, and the object is not to affect the title so it can be taken from them. It is better to hold it while you have it and dispose of it later by allotment, if it becomes necessary. These people are appealing to this Congress and will appeal before adjournment that you appropriate money for the purpose of buying land that they might have a farm in connection with the school, and why should we now, with the right given to the Congress, with the land in our control, and when the Government says they ought to have this amount of land—why should we turn around now and cast it aside and give it up and let it be put to some other purpose when we can retain the title and make it an Indian school and an Indian farm, not only as a matter of name but in fact. And if it becomes necessary later to eliminate some of this land because it may not be necessary, why, it is easy to do it, and the title then will go to these allottees who are entitled to it. I could not with consistency permit the reduction of the acreage knowing, as I do, the conditions in the northern part of the State as well as at the Sherman Institute, with its magnificent buildings and grounds, roads, concrete sidewalks, and boulevard that is not excelled in the United States. The superintendent said to me that one of the reasons and one of the objections to the proper education of these boys and girls is that they have not sufficient ground and they ought to have another 80-acre tract, to the end that it might be conducted as a farm instead of sending these boys and girls out over the country to receive no benefits during the summer but acquiring bad habits and bad conditions. You have a large appropriation bill for the Indians. Let us go right at it in a proper way and put them on the farm; let them learn to be farmers in deed and not in thought or on paper. [Applause.]

Mr. BURKE of South Dakota. Mr. Chairman, I will not detain the committee but to make an observation or two in regard to this bill. The condition with these two reservations is that the Indians have been or are being allotted irrigable lands so that each Indian will receive ultimately his own irrigated tract. Now, it was proposed when that legislation was enacted for the irrigating of these Indian lands that the surplus irrigable lands could be sold for sufficient to recoup to the Treasury the cost of the work of reclamation. Now, the gentleman wants to take 640 acres of this irrigable land and set it aside ostensibly because it is necessary in connection with this Indian school, but after they have improved this land and after Congress has spent thousands and thousands of dollars perhaps in buildings up there and an experimental farm, then our friends from California and Arizona will come in here with a bill that the school is no longer needed as an Indian school and a proposition to donate it to their respective States; and I will say, Mr. Chairman, that the committee in reporting this bill took into consideration what they believed was required for the needs of the various respective schools, and the committee thought that 80 acres was sufficient, and the committee, I think, still thinks so. Therefore I hope the amendment of the committee will prevail, and I will say to the gentleman from California [Mr. RAKER] and other gentlemen who are apprehensive perhaps that 80 acres is not sufficient that the bill after it passes the House in the form in which it is reported will go to conference, where there will be an opportunity to increase the amount from 80 acres up to some point not exceeding 320 acres. So I say, in view of all the circumstances, the amendment proposed by the committee ought to be accepted and adopted.

The CHAIRMAN. The Clerk will read the bill for amendment.

The bill was read.

The following committee amendment was read:

Amend, in line 6, by striking out the words "three hundred and twenty" and inserting in lieu thereof "eighty."

The question was taken, and the chairman announced the ayes seemed to have it.

On a division (demanded by Mr. MANN and Mr. RAKER) there were—ayes 13, noes 8.

So the amendment was adopted.

The Clerk read the following committee amendment.

Strike out all of section 2 and insert in lieu thereof the following:

"SEC. 2. That the Secretary of the Interior is hereby authorized to set aside for school, agency, and farm purposes not to exceed 80 acres of irrigable land in the Colorado River Indian Reservation, in the State of Arizona: *Provided*, That the withdrawal authorized hereby may include not to exceed 5 acres each for the use of duly recognized religious organizations now engaged in mission work on said reservation."

Mr. MANN. Mr. Chairman, I reserve a point of order on the amendment. The amendment is clearly subject to the point of order.

Mr. STEPHENS of Texas. Certainly.

Mr. MANN. I would like to ask the gentleman from Arizona whether he is satisfied that 80 acres of irrigable land at this reservation will be sufficient for the school, agency, and farm purposes?

Mr. HAYDEN. Personally I would like to provide for a little more land, but the committee had an idea the matter would be taken care of in conference.

Mr. MANN. Oh, well, we do not pass bills upon the idea, when we insert something in the House, that the work is to be done somewhere else. If the gentleman does not know what he wants and expects to leave it to some other body to determine, then I shall try to get it out on a point of order.

Mr. HAYDEN. The bill is a department measure; it is not my bill.

Mr. MANN. The gentleman is mistaken about it being a department bill. This provision is not what the department recommended. I do not think the gentleman or the Committee on Indian Affairs ought to recommend an amendment with a view of having the real question settled by another body. Have we not sense enough to have our own idea upon this subject? Is the gentleman satisfied with 80 acres of land for his reservation?

Mr. HAYDEN. I think that strictly for farm purposes it might be enough. The letter of the Secretary of the Interior mentions certain land for school and agency purposes, so that more than 80 acres might possibly be required.

Mr. MANN. The gentleman made the report in which he recommended the adoption of an amendment to give 80 acres of irrigable land in this reservation for school and farm purposes where they ask for 320. If the gentleman is satisfied with 80 acres, I am satisfied. If he is not, then let him say what is needed.

Mr. HAYDEN. I shall be satisfied if the bill passes as recommended by the committee.

Mr. MANN. Very well. I make the point of order against the amendment. My point of order is that this bill is to set aside a tract of land for school-site and school-farm purposes on the Yuma Indian Reservation in the State of California, a particular proposition. This is an amendment to set aside for school, agency, and farm purposes a tract of land on an entirely different reservation, with no relation to the first; and it is a familiar principle of parliamentary law, as practiced in the House of Representatives, that a bill relating to one special subject can not be amended by introducing another special subject.

Mr. KENDALL. Why not amend the title of the bill?

Mr. STEPHENS of Texas. Will the gentleman yield? Why can not we amend the title of the bill and agree with you on some amount so that we can amend the bill in conference and get it through?

Mr. MANN. But the gentleman from Arizona [Mr. HAYDEN] does not know what he wants.

Mr. STEPHENS of Texas. The gentleman is a member of the committee, and when he accedes to a report of the committee he will not go back on it. Would the gentleman do that himself——

Mr. MANN. Oh, if I had made a report——

Mr. STEPHENS of Texas (continuing). If he had joined in a report?

Mr. MANN (continuing). I think I would tell you what I thought. But I am not asking the gentleman to do anything out of the way, but quite the contrary. I have no criticism of the gentleman for standing by the report. If the committee made a report with the intention of letting the Senate fix the amount instead of taking the responsibility themselves, I do not agree to that.

Mr. STEPHENS of Texas. Will the gentleman agree to permit us to amend the title and to strike out "eighty" and put in "one hundred and sixty" acres, if agreeable to the gentleman from South Dakota [Mr. BURKE]? We are being held up on this matter. We had better take what we can get.

Mr. BURKE of South Dakota. I will state, so far as the title is concerned, that I had prepared an amendment.

Mr. MANN. That does not go to the point of order.

Mr. BURKE of South Dakota. I want to say to the gentleman that the committee's action in fixing the amount of 80 acres was on the theory that 80 acres was sufficient for a farm, and section 1 only provides for the farm. Section 2 includes language to set aside for "school, agency, and farm purposes."

There was absolutely no information that any land was required there for anything but a farm. The gentleman from Arizona [Mr. HAYDEN] says that he believes that 80 acres is sufficient for a farm, but if land is necessary for agency purposes perhaps more land would be required, and he thinks in view of the possibility of the land being needed for agency purposes, the acreage perhaps ought to have been 160 acres.

Mr. MANN. I think the distinguished gentleman from Arizona [Mr. HAYDEN] has handled himself very well. He has stated what his position is in reference to this. I make the point of order.

Mr. STEPHENS of Texas. I hope the gentleman will not do that. We would rather give the 160 acres than let the matter go over in this way, because then we will have to introduce a bill and go over the same thing again.

Mr. MANN. The gentleman can introduce a bill and get a report from the department on the subject.

Mr. STEPHENS of Texas. I understand, and it has always been my own impression that Congress is the judge of its own actions, and we do not have to look to the executive departments of this Government to ascertain what we should do. Otherwise we should disband Congress.

Mr. MANN. If the House of Representatives fixes an amount with the idea of having it really fixed by the Senate afterwards, we had better disband here, I will say to the gentleman.

Mr. STEPHENS of Texas. Does not the gentleman from Illinois understand that every bill is made possible of enactment by agreement between the House and Senate? Is not the gentleman aware of that fact?

Mr. MANN. I suppose the gentleman is asking for information on that subject.

Mr. STEPHENS of Texas. I am.

Mr. MANN. Very likely; and I could probably acquire a great deal of information from my distinguished friend in relation to the handling of bills.

The CHAIRMAN. Under the rules of parliamentary law, to the effect that you can not amend one distinct proposition by another, the Chair sustains the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BURKE of South Dakota. What becomes of section 2?

Mr. MANN. That is a separate committee amendment that has not been acted upon.

Mr. BURKE of South Dakota. I thought that was what we were acting upon at this present moment. The amendment of the committee was to strike out section 2 and substitute in its place what has been read.

Mr. MANN. That is true; and that amendment has been ruled out on a point of order. The gentleman can move to strike out section 2 if he desires.

Mr. BURKE of South Dakota. That is the object of my parliamentary inquiry. Do I understand that section 2 is now in the bill, after the Chair has ruled that the amendment is not in order? As I understand it, Mr. Chairman, a point of order made against section 2 of the bill, providing that all acts and parts of acts in conflict are hereby repealed, has been sustained?

The CHAIRMAN. The point of order was made to the amendment offered. The amendment offered was to strike out those lines and insert the amendment proposed by the committee. The point of order was against that amendment to strike out, and the Chair sustains it. That leaves the section as it was before.

Mr. BURKE of South Dakota. Then I move to strike out section 2.

The CHAIRMAN. The gentleman from South Dakota [Mr. BURKE] moves to strike out section 2. The question is on agreeing to that motion.

The question was taken, and the Chairman announced that the "noes" seemed to have it.

Mr. BURKE of South Dakota. A division, Mr. Chairman.

The committee divided; and there were—ayes 11, noes 0.

So the motion was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise and report the bill as amended, with a favorable recommendation, to the House.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HOUSTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 4488) to authorize the setting aside of a tract of land for a school site and school farm on the Yuma Indian Reservation, in the State of California, and had instructed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any amendment? If not the Chair will put them in gross. The question is on agreeing to the amendments.

The question was taken, and the Speaker announced that the "noes" seemed to have it.

Mr. HAYDEN. A division, Mr. Speaker.

The House divided; and there were—ayes 21, noes 9.

So the amendments were agreed to.

The SPEAKER. The question is on the third reading of the Senate bill as amended.

The Senate bill as amended was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. STEPHENS of Texas, a motion to reconsider the vote whereby the bill was passed was laid on the table.

WATER IN THE DESERT PUBLIC LANDS.

The SPEAKER laid before the House a request that the Committee on Irrigation of Arid Lands be discharged from the further consideration of the bill (H. R. 12826) providing for the discovery, development, and protection of streams, springs, and water holes in the desert and arid public lands of the United States, for rendering the same more readily accessible, and for the establishment of and maintenance of signboards and monuments locating the same, and that the same be referred to the Committee on the Public Lands.

Mr. MANN. Mr. Speaker, this is an old bill. It was introduced a year and a half ago. What is the reason for the proposed change of reference at this time?

The SPEAKER. This change of reference was suggested by the chairman of the committee to which the bill was referred, and by the gentleman from California [Mr. STEPHENS].

Mr. MANN. It may have been his bill.

Mr. STEPHENS of California. It was my bill, and during the last session I tried to have a hearing upon the bill, but did not succeed, because the committee were busy with some other things.

Mr. MANN. I do not think that is a very good reason.

Mr. STEPHENS of California. When I waited upon the committee at this session the chairman of it said he believed the bill should be referred to the Committee on the Public Lands. Therefore the request is made.

Mr. MANN. Of course, everybody knows that the Committee on Irrigation of Arid Lands have not been nearly as busy as the Committee on the Public Lands, so the reason that the gentleman has given—that the committee which has the bill is too busy and that the other committee is not—is hardly a sufficient reason.

Mr. STEPHENS of California. I did not make the request in that way.

Mr. MANN. I think the matter is of sufficient importance to lie over, so that we may have a chance to look at the bill.

The SPEAKER. The gentleman from Illinois objects.

Mr. MANN. The gentleman may make his request later, when we have had a chance to look at the bill.

The SPEAKER. The Clerk will report the next bill.

EXCHANGE OF LANDS FOR SCHOOL SECTIONS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25738) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MANN. I will reserve the right to object, or I will object at once, just as the gentleman from California [Mr. RAKER] desires. I wish to accommodate the gentleman. If he prefers, I will object at once, although I am willing to hear what he has to say.

Mr. RAKER. I would not prefer that the gentleman object to the bill.

Mr. MANN. I am willing to hear the gentleman's statement as to how this bill is differentiated from the bill to which I did object once or twice.

Mr. RAKER. There is considerable difference.

Mr. MANN. If the House will bear with us, I am willing to hear how this bill is differentiated from the other bills.

Mr. RAKER. I am satisfied that the Members of the House will hear us for a few moments, anyhow, because gentlemen are always courteous.

I call the attention of the gentleman to the fact that since the introduction of this bill and its favorable report by the Committee on the Public Lands, the Senate and the House have passed in the appropriation act an appropriation of $28,000 for the purpose of inspecting these listed lands. Since this appropriation there have been about 16 high-class, competent men in the field making an examination of the lands that were thus listed by the State for the purpose of exchange, and it is practically all completed with the exception of a general going over of the same in the office of the Secretary of the Interior. We expect that to be completed in a short time. When that is done, the provisions of this bill will give the Secretary of the Interior the power to make the exchanges and to approve the selections, provided that under the examination that has been made in the field by Government experts within the last six months the land is shown to be nonmineral in character.

Mr. MADDEN. May I ask the gentleman a question?

Mr. RAKER. Yes.

Mr. MADDEN. The gentleman says the investigation is now being made, but that it is not complete?

Mr. RAKER. Yes.

Mr. MADDEN. Does not the gentleman think it would be a good idea to let this legislation go over until the investigation is complete?

Mr. RAKER. No; and for this reason.

Mr. MADDEN. Well, this is important legislation. Does not the gentleman think this ought to be passed under some rule by which it could be given some consideration and not by unanimous consent?

Mr. RAKER. Let me say to the gentleman that the people in California who are interested have not raised their voices, but are in favor of it.

Mr. MADDEN. I do not make the claim that the people of California have made objections, but I think that the legislation is of such far-reaching importance that it ought not to be considered under the Unanimous Consent Calendar. It ought to be considered at a time when every phase of the legislation can be properly looked into, and I feel constrained to object to the present consideration of the bill.

Mr. MANN. If my colleague will pardon me, the gentleman from California [Mr. KNOWLAND], I think, is interested in this bill, and he is detained at home on account of illness. I think it would be as well to let it go over.

Mr. MADDEN. I am perfectly willing to let it go over without prejudice.

The SPEAKER. Is there objection to this bill being passed over without prejudice? [After a pause.] The Chair hears none.

JUDICIARY.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23186) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 28 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, be, and the same is hereby, amended so as to read as follows:

"SEC. 28. That any suit of a civil nature, at law or in equity, arising under the Constitution or laws of the United States, or treaties made or which shall be made under their authority, of which the district courts of the United States are given original jurisdiction by this title which may now be pending or which may hereafter be brought in any State court may be removed by the defendant or defendants therein to the district court of the United States for the proper district. Any other suit of a civil nature, at law or in equity, of which the district courts of the United States are given jurisdiction by this title, and which are now pending or which may hereafter be brought in any State court may be removed into the district court of the United States for the proper district by the defendant or defendants therein being nonresidents of that State. And when, in any suit mentioned in this section, there shall be a controversy which is wholly between citizens of different States and which can be fully determined as between them, then either one or more of the defendants actually interested in such controversy may remove said suit into the district court of the United States for the proper district. And where a suit is now pending or may hereafter be brought in any State court in which there is a controversy between a citizen of the State in which the suit is brought and a citizen of another State, any defendant being such citizen of another State may remove such suit into the district court of the United States for the proper district, at any time before the trial thereof, when it shall be made to appear to said district court that, from prejudice or local influence, he will not be able to obtain justice in such State court, or in any other State court to which the said defendant may, under the laws of the State, have the right, on account of such prejudice or local influence, to remove said cause: *Provided*, That if it further appear that said suit can be fully and justly determined, as to the other defendants, in the State court without being affected by such prejudice or local influence, and that no party to the suit will be prejudiced by a separation of the parties, said district court may direct the suit to be remanded, so far as relates to such other defendants, to the State court to be proceeded with therein. At any time before the trial of any suit which is now pending in any district court, or may hereafter be entered therein, and which has been removed to said court from a State court on the affidavit of any party plaintiff that he had reason to believe and did believe that, from prejudice or local influence, he was unable to obtain justice in said State court, the district court shall, on application of the other party, examine into the truth of said affidavit and the grounds thereof and, unless it shall appear to the satisfaction of said court that said party will not be able to obtain justice in said State court, it shall cause the same to be remanded thereto. Whenever any cause shall be removed from any State court into any district court of the United States, and the district court shall decide that the cause was improperly removed and order the same to be remanded to the State court from whence it came, such remand shall be immediately carried into execution, and no appeal or writ of error from the decision of the district court so remanding such cause shall be allowed: *Provided further*, That no case arising under an act entitled 'An act relating to the liability of common carriers by railroad to their employees in certain cases,' approved April 22, 1908, or any amendment thereto, and brought in any State court of competent jurisdiction shall be removed to any court of the United States: *Provided further*, That no suit against a corporation or joint-stock company, brought in a State court of the State in which the cause of action arose, shall be removed to any court of the United States on the ground that the parties are citizens of different States if the suit is brought in the county where the cause of action arose or within the county where the defendant is served with process and the plaintiff resides."

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask whether there is anything in this bill not in the existing law except the last proviso?

Mr. GARRETT. I was just about to say that that is all there is in the bill. All the new legislation is in the last proviso, beginning in line 9, page 4, which reads:

Provided further, That no suit against a corporation or joint-stock company, brought in a State court of the State in which the cause of action arose, shall be removed to any court of the United States on the ground that the parties are citizens of different States if the suit is brought in the county where the cause of action arose or within the county where the defendant is served with process and the plaintiff resides.

Mr. MANN. Suppose a controversy existed as to where the cause of action arose, would that be for the Federal court to determine?

Mr. GARRETT. I should think that that was a question of fact for the Federal court to determine.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. GARRETT, a motion to reconsider the vote whereby the bill was passed was laid on the table.

IMMIGRATION SERVICE.

The next business on the Calendar for Unanimous Consent was the bill H. R. 21220, a bill to extend the power of the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor.

The SPEAKER. Is there objection to the present consideration of the bill just reported? [After a pause.] The Chair hears none.

Mr. SABATH. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole House.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the power of establishing rules and regulations for protecting the United States and aliens migrating thereto from fraud and loss, conferred upon the Commissioner General of Immigration, subject to the direction and with the approval of the Secretary of Commerce and Labor, by section 22 of an act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907, shall be, and the same is hereby, extended to the supervision of the transportation of alien immigrants to their respective places of destination in the interior of the United States, and of their safe conduct upon arrival at such places, and the Secretary of Commerce and Labor may establish stations for the purpose of such supervision within the limits of the amount that may be appropriated for that purpose and subject to the terms and conditions of the act making such appropriations.

SEC. 2. That for the establishment and maintenance of such a station in the city of Chicago for the fiscal year ending June 30, 1913, there is hereby appropriated, from moneys in the Treasury not otherwise appropriated, the sum of $75,000, which shall be expended in such manner consistent with the purposes hereof as the Secretary of Commerce and Labor may direct.

SEC. 3. That for succeeding years estimates of the appropriations necessary for the service hereby established shall be included in the estimates for the Immigration Service annually submitted to Congress.

Mr. SLAYDEN. Mr. Speaker, reserving the right to object——

The SPEAKER. There is no chance to object; that question has been passed, and also the request to consider it in the House as in Committee of the Whole.

Mr. SABATH. Mr. Speaker, I dare say that the gentleman from Texas desires information as to the bill, and I shall be pleased to give it to him as soon as the amendments have been reported.

The Clerk reported the committee amendments, as follows:

Page 1, line 12, to the word "alien" affix the letter "s" and strike out the word "immigrants" next preceding.

Page 2, line 5, insert the following proviso after the sentence ending with the word "appropriations": "*Provided*, That nothing in this act shall be construed as authorizing the Commissioner General of Immigration to pay the cost of transportation of any arriving alien."

Page 2, line 9, strike out the word "appropriated" and in lieu thereof insert the word "authorized."

The committee amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the amended bill.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. SABATH, a motion to reconsider the vote whereby the bill was passed was laid on the table.

Mr. MANN. Mr. Speaker, would it be in order now to ask my colleague the gentleman from Illinois [Mr. SABATH] to explain the bill?

The SPEAKER. That stage of the proceeding has passed.

Mr. MANN. Then it seems to me it would be a good thing to quit; it is 5 o'clock.

The SPEAKER. The Clerk will report the next bill.

Mr. MANN. Unless some gentleman on that side desires to adjourn the House, I shall desire to have a quorum here.

Mr. BURKE of Pennsylvania. Does the gentleman think Chicago is a good stopping place?

Mr. SABATH. Mr. Speaker, not wishing to detain the House, I am going to ask unanimous consent to extend my remarks in the RECORD, so that the gentleman can read what I have to say about the bill in to-morrow's RECORD.

The SPEAKER. The gentleman from Illinois [Mr. SABATH] asks leave to extend his remarks.

Mr. MADDEN. I ask unanimous consent to extend my remarks.

Mr. BURKE of Pennsylvania. On what subject?

Mr. MADDEN. On this bill.

The SPEAKER. The gentleman from Illinois [Mr. MADDEN] makes the same request. Is there objection? [After a pause.] The Chair hears none.

Mr. MADDEN. The House has passed much important legislation to-day, but no bill considered at this session is as far reaching in importance as the bill now under consideration, which extends the power of the Commissioner General of Immigration to the supervision of the transportation of aliens to their respective places of destination in the interior of the United States, and of their safe conduct upon arrival at such places, and authorizing the establishment of stations for the purpose of such supervision.

The section of the bill authorizing the establishment and maintenance of such a station in Chicago, and authorizing the appropriation of $75,000 for the fiscal year ending June 30, 1914, and for such appropriations as may in future years be recommended in the estimates to Congress for the Immigration Service is a step in the right direction. Chicago is the distributing point for the Central West and the Northwest and Southwest. A large percentage of the immigrants arriving in this country come to and pass through Chicago. Up to the present time they have had no adequate protection. The supervision of immigrants between the ports of entry and their final destination has been in the hands of the railroad companies. Many abuses creep into the supervision now in vogue. It can not be otherwise under the existing system. Extortion is frequently practiced against the immigrant passing through a strange land, speaking a strang tongue. Women and young girls are often taken advantage of by unscrupulous people whose business it is to traffic in their virtue. Before they become aware of what has befallen them they have been led into lives of shame from which they are freed only by death. At present and for some years past a number of patriotic citizens in Chicago have contributed of their time and means in an effort to protect aliens coming to our city, but the work of this voluntary organization has been far from adequate to meet the needs of the case. The enactment of this legislation will enable the Federal authorities to perform a most important work—a work the value of which can not be measured in dollars. It will save those who come to our shores from many unpleasant experiences, give them a feeling of security in their movements from the ports of entry to the point of final destination, will enable them in many cases not now possible to locate their friends; it will, in fact, be a blessing to every alien, and with the strong arm of the Government as their friend and protector many innocent women and young girls will be spared from what is worse than a living death. The House is to be congratulated for giving consideration to this salutary measure, and on behalf of the good people of the country who in the past have devoted themselves to the care and protection of incoming aliens and particularly on behalf of those who have done and are doing that patriotic service in Chicago I wish to thank the Members.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to have printed in the RECORD, so it can be considered to-morrow, if it is germane, two amendments to the Burnett immigration bill.

The SPEAKER. The gentleman from California [Mr. RAKER] asks unanimous consent to print in the RECORD two amendments to the Burnett immigration bill.

Mr. MANN. Reserving the right to object——

Mr. RAKER. Oh, well, the Dillingham bill.

Mr. MANN (continuing). I desire to say the gentleman printed in the RECORD of yesterday morning a very long amendment which I dare say nobody in the House will read.

Mr. RAKER. Neither of these I now desire to put in are over about five lines apiece.

Mr. MANN. I say, the gentleman yesterday morning printed in the RECORD a very long amendment which I dare say nobody will read. I merely wish to inquire whether these amendments are to be a few lines or a few volumes long.

Mr. RAKER. I would like to inform the gentleman from Illinois one of these amendments is only about five lines long and the other about six lines, and I am sorry to state—I will withdraw that.

Mr. MANN. The gentleman can state anything he pleases, but I have very little respect for the man who does much work who will read anything printed in the RECORD in small type.

Mr. RAKER. Well, I can not get it in in any larger type.

The SPEAKER. Is there objection to the request of the gentleman from California to print these amendments in the RECORD? [After a pause.] The Chair hears none.

The amendments are as follows:

Amend Senate bill 3175, "An act to regulate the immigration of aliens to and the residence of aliens in the United States," as follows:

"1. By inserting, on line 14, page 58, after the semicolon and before the word 'All,' the following: 'All aliens, native of any part of Asia, or the islands adjacent to Asia, or in Asiatic seas, and the descendants of such natives, who can not read and write in some European language, including Hebrew or Yiddish'; to be followed with a semicolon, and change the capital 'A' to a small 'a' in the word 'all,' in line 14, same page.

"2. In section 2, line 10, page 59, add between the words 'dialect' and 'no,' the following paragraph: 'Provided, That for the purpose of ascertaining whether the aliens, native of any part of Asia, or the islands adjacent to Asia, or in Asiatic seas, and the descendants of such natives, can read and write in any European language, including Hebrew or Yiddish, the immigration inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plain type, in some European language or in Hebrew or Yiddish, and each such alien shall be required to read and write the words printed on such slip.'"

INSURANCE COMPANIES.

Mr. HENRY of Texas. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The SPEAKER. The gentleman from Texas asks unanimous consent for the consideration of a resolution which the Clerk will report.

The Clerk read as follows:

House resolution 756 (H. Rept. 1274).

Authorizing the Committee on the District of Columbia to conduct an investigation of the affairs of the office of the superintendent of insurance of the District of Columbia and of certain fire insurance companies doing business in the District of Columbia.

Resolved, That the Committee on the District of Columbia of the House of Representatives, or any subcommittee thereof which the chairman of said committee may appoint, is hereby authorized and directed to investigate the conduct, management, history, records, and affairs of the Commercial Fire Insurance Co. of Washington, D. C., and of the First National Fire Insurance Co. of the United States, Washington, D. C., both doing business in the District of Columbia, and of the office of the superintendent of insurance of the District of Columbia, and of Tuttle, Wightman & Dudley (Inc.), doing business in the District of Columbia, together with those of their associates, representatives, and agents, and to examine the books, papers, accounts, and affairs of the aforesaid companies and of the superintendent of insurance of the District of Columbia; to appraise the property, real and personal, belonging to said corporations, or either of them. Said committee, or such subcommittee thereof as may be selected, is authorized to sit during the sessions of the House and during any recess of Congress. The hearings shall be open to the public, and it is authorized and empowered to employ counsel, expert accountants, appraisers, and such other clerical, stenographic, and expert assistance as it may deem necessary; also to compel witnesses to attend and testify, and to send for such persons and papers and to administer oaths to witnesses as the committee may deem best. The expense incident to the investigation herein authorized shall not exceed $10,000, and shall be paid out of the contingent fund of the House upon vouchers signed by the chairman of the committee and approved by the Committee on Accounts.

Mr. HENRY of Texas. Mr. Speaker, I ask for a vote on the resolution.

The SPEAKER. The gentleman from Texas [Mr. HENRY] asks unanimous consent for the present consideration of the resolution.

Mr. CANNON. Mr. Speaker, I do not know anything about it or anybody connected with any of these corporations. But why not just enlarge it so as to investigate everything in the District of Columbia and pay for it from the contingent fund?

Mr. HENRY of Texas. I think I can satisfy the gentleman in just a few words as to this resolution. The resolution was prepared and introduced by the chairman of the Committee on the District of Columbia. The Committee on Rules heard the chairman of that committee and two of the members of the committee, and also heard the attorney of the insurance companies designated in the resolution. The two insurance companies are also desirous of having a speedy investigation just as provided for in the resolution. There is no opposition to the investigation from any source. The Committee on Rules was convinced that the best thing to do would be to bring in the resolution providing for a prompt investigation.

Mr. MANN. There are very serious charges here in reference to the matter, and they ought to be investigated.

Mr. HENRY of Texas. And the sooner the better.

Mr. BURKE of South Dakota. Reserving the right to object, will the gentleman permit an inquiry?

Mr. HENRY of Texas. I will be glad to do so.

Mr. BURKE of South Dakota. In listening to the reading of the resolution I think it provides for the employment of counsel. I would like to ask the gentleman if it is customary in reporting these resolutions of investigation to authorize committees to employ counsel, and, furthermore, is there necessity for it in this case?

Mr. HENRY of Texas. It is customary. I do not know what the intentions of the committee are in that regard, whether they wish to employ counsel or not, but we thought it better to give them that privilege. It is a very important matter, and justice to both sides demands that prompt action be taken, I think, in these cases.

Mr. CANNON. Mr. Speaker, my understanding is that here are two corporations created by virtue of Federal law and operating under it. If there is fraud upon the stockholders or if they are wasting the funds of the institution, the courts are open. The reason I asked any question about it at all, without having any knowledge of it, was that here is a proposition to pay for an investigation from the contingent fund of the House by a resolution without further explanation. It seems to me if there is something wrong full redress could be obtained through the courts under the law. But here, on mere suggestion of somebody, not of the corporations, I presume, and also asked for by the corporations themselves—I suppose to establish, perchance, a credit which they think they have not—it is proposed to investigate and pay for the investigation out of the contingent fund of the House. And I doubt very much, from any knowledge that I have in the premises or any information that has been furnished to the House, the propriety or the wisdom of adopting a resolution that would set a committee of the House at work, with the privilege to employ counsel. I apprehend the committee would not abuse its privilege; at least, I hope it would not; but the employment of counsel in many of these cases, without knowledge, has raised in my mind, in some investigations that have been made by the House, a suspicion that it is a genteel way of blackmailing and giving false information.

Mr. HENRY of Texas. Now, Mr. Speaker, just a moment. I think I can help the gentleman out a little as to that.

Mr. CANNON. I will be very glad.

Mr. HENRY of Texas. This matter has been given publicity in the newspapers. Here are two financial institutions in the District of Columbia, and an institution of this sort is a very sensitive kind of plant, so to speak, when such publicity is given as has been given concerning these two insurance companies in the newspapers. They are just as anxious to have this investigation as is the Committee on the District of Columbia. The Commissioners of the District are also pressing for the investigation, and the Committee on Rules did not see proper to go into the detailed charges and allegations pro and con, but they have thought, after examining everything which was brought before them and hearing everything that has been said, that it was a better plan to authorize the District Committee to make this investigation and ascertain what the real facts are.

Mr. CANNON. Whether or not these newspaper reports are damaging to the insurance companies I do not know, as I have no familiarity with them. I have not read the newspaper articles touching this matter.

But if there is something rotten touching these companies it seems to me, on the part of the policyholders and upon the part of the stockholders, there is certainly ample room for people to employ their own counsel and to go into the courts and have a judicial hearing.

Mr. HENRY of Texas. There is a good deal more than private rights involved here.

Mr. MANN. Will the gentleman from Texas yield to me?

Mr. HENRY of Texas. Certainly.

Mr. MANN. I am informed that there is a company engaged in selling stocks. I know I have seen their advertisement within the last month, and as a part of the credit they have obtained for themselves, in order to induce the purchase of stock, they have inflated the value of the Southern Building, in the city, $2,000,000, as against a purchase by them of the Southern Building subject to a mortgage of something less than a million and

a half dollars, making, with just one stroke of the pen, an extra credit of $500,000, which they use as an inducement to people to purchase the stock. Now, what are the facts?

Mr. HENRY of Texas. I do not know, but I have heard a good deal more about it. What the facts are I do not undertake to say, but it is something that can not be investigated by a court, so far as these questions are concerned, and it seems to me they ought properly to be investigated by a committee of Congress.

Mr. CANNON. We might, with great propriety, investigate at the same time all the mining ventures in the country.

Mr. HENRY of Texas. If the gentleman will permit me right there, this resolution also provides for an investigation of the insurance commissioner of the District, a public officer.

Mr. BURKE of South Dakota. As to his conduct in connection with the two institutions?

Mr. HENRY of Texas. Yes; and some public matters as well. If there ever was a case demanding investigation, it seems to me that this one is plain.

Mr. KENDALL. Mr. Speaker, will the gentleman yield for a question?

Mr. HENRY of Texas. Yes.

Mr. KENDALL. These insurance companies are required to make reports at some specific time to some authority in the District? What is that authority? Is it not the insurance commissioner?

Mr. HENRY of Texas. Yes; but I do not know whether he has required it to be done.

Mr. KENDALL. Is delinquency on the part of that officer charged?

Mr. HENRY of Texas. It has been charged.

Mr. KENDALL. He should be included in the investigation.

Mr. BURKE of Pennsylvania. I would say that the resolution provides for the investigation of his office.

Mr. MURRAY. Mr. Speaker, may I inquire of the gentleman from Texas [Mr. HENRY] whether there is any likelihood of a report being made by the Committee on Rules on the New England transportation problem?

Mr. HENRY of Texas. In answer to the gentleman's inquiry, I will say that I hardly think the committee will be able to take that matter up until after the holiday recess. Some time in January we hope to consider it.

The SPEAKER. Is there objection?

Mr. CANNON. I do not object, for the reason that the minority leader, on the one hand, and the gentleman from Pennsylvania [Mr. BURKE] and the gentleman from Texas [Mr. HENRY], on the other, seem to think that this investigation ought to be made. I must say that I haltingly subordinate my judgment in withholding an objection.

The SPEAKER. Is there objection. [After a pause.] The Chair hears none.

Mr. MANN. Mr. Speaker, in this connection I would like to say a word upon another matter relating to this insurance company. I hold in my hand an advertisement of the Merchants' Fire Insurance Co. of the District here, an advertisement such as can be found, I think, any day in any of the daily newspapers in Washington. I notice by this that there is published as a director of this company Hon. George W. Atkinson, justice of the United States Court of Claims, and as a director and vice president Hon. Ashley M. Gould, justice of the Supreme Court of the District of Columbia. I simply wish to put on record my opinion, that it is wholly improper for those on the bench to be appointed or selected as directors and officers of life-insurance companies or other companies, especially those that are involved in business complications and seeking to sell stock by employing the names of honorable and eminent gentlemen as directors. [Applause.]

I know these men. I have no especial desire to criticize them. I think if they apprehend their duties they will resign from these positions at once. [Applause.]

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

ENROLLED JOINT RESOLUTION SIGNED.

The SPEAKER announced his signature to enrolled joint resolution of the following title:

S. J. Res. 144. Joint resolution authorizing payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess.

ADJOURNMENT.

Mr. HENRY of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 14 minutes p. m.) the House adjourned until to-morrow, Tuesday, December 17, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of Commerce and Labor submitting an amended estimate of appropriation for pay, etc., of officers and men, vessels Coast and Geodetic Survey, for the fiscal year ending June 30, 1914 (H. Doc. No. 1176); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of War, transmitting copy of communication from the Chief of Ordnance recommending certain addition to appropriation "Automatic machine rifles" in Army appropriation bill for the fiscal year ending June 30, 1914 (H. Doc. No. 1177); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting an estimate of urgent deficiency in the appropriation for contingent expenses, District of Alaska, for the fiscal year ending June 30, 1913 (H. Doc. No. 1178); to the Committee on Appropriations and ordered to be printed.

4. A letter from the chairman of Interstate Commerce Commission, submitting twenty-sixth annual report (H. Doc. No. 946); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting an abstract of the official emoluments of the officers of the customs service received by them during the fiscal year ended June 30, 1912 (H. Doc. No. 1179); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. PARRAN: A bill (H. R. 27320) to authorize the widening and opening of Western Avenue; to the Committee on the District of Columbia.

By Mr. CLINE: A bill (H. R. 27321) to regulate the shipping of live stock; to the Committee on Interstate and Foreign Commerce.

By Mr. STONE: A bill (H. R. 27322) to provide for the purchase of a site for a public building at Spring Valley, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. McGILLICUDDY: A bill (H. R. 27323) to provide for refund or abatement under certain conditions of penalty taxes imposed by section 38 of the act of August 5, 1909, known as the special excise corporation tax law; to the Committee on Ways and Means.

By Mr. LEWIS: A bill (H. R. 27324) providing for the erection of a public building at the city of Frederick, Md.; to the Committee on Public Buildings and Grounds.

By Mr. GARDNER of Massachusetts: A bill (H. R. 27325) to provide for an addition to the post-office building at Haverhill, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. BEITGER: Resolution (H. Res. 753) relative to the New York, New Haven & Hartford Railroad; to the Committee on Interstate and Foreign Commerce.

By Mr. ROTHERMEL: Resolution (H. Res. 754) authorizing the Committee on Expenditures in the Department of Commerce and Labor to pay clerk hire during the recess of Congress; to the Committee on Accounts.

By Mr. COOPER: Resolution (H. Res. 755) requesting the Committee on the District of Columbia to inform the House as to the status of the calendar of said committee; to the Committee on the District of Columbia.

By Mr. DE FOREST: Joint resolution (H. J. Res. 373) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BATHRICK: A bill (H. R. 27326) granting an increase of pension to Edson A. Cook; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27327) to correct the military record of Charles Sloat; to the Committee on Military Affairs.

Also, a bill (H. R. 27328) to correct the military record of W. S. Krake; to the Committee on Military Affairs.

By Mr. CALDER: A bill (H. R. 27329) for the relief of Roscoe V. Wickes; to the Committee on Naval Affairs.

By Mr. CARLIN (by request): A bill (H. R. 27330) for the relief of George A. Nowland; to the Committee on Claims.

Also, a bill (H. R. 27331) for the relief of R. T. Cook; to the Committee on Appropriations.

By Mr. COLLIER: A bill (H. R. 27332) for the relief of the heirs of John Wixon, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27333) for the relief of the estate of W. L. Johnston, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27334) for the relief of the estate of James M. Brabston and Roche H. Brabston; to the Committee on War Claims.

By Mr. CULLOP: A bill (H. R. 27335) granting an increase of pension to James E. Speake; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27336) granting an increase of pension to Josiah Asdell; to the Committee on Invalid Pensions.

By Mr. DENVER: A bill (H. R. 27337) granting an increase of pension to Charles H. Pickerell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27338) granting an increase of pension to Franz Joseph Rice; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27339) granting an increase of pension to Dana A. Smalley; to the Committee on Invalid Pensions.

By Mr. MICHAEL E. DRISCOLL: A bill (H. R. 27340) granting an increase of pension to William Welch; to the Committee on Invalid Pensions.

By Mr. FAIRCHILD: A bill (H. R. 27341) granting an increase of pension to Charles Black; to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: A bill (H. R. 27342) granting a pension to Sophronia Murray; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27343) granting an increase of pension to Hannah Millett; to the Committee on Invalid Pensions.

By Mr. GLASS: A bill (H. R. 27344) to appoint Jere Maupin a passed assistant paymaster on the retired list of the Navy; to the Committee on Naval Affairs.

By Mr. GOULD: A bill (H. R. 27345) granting a pension to Mary L. Palmer; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 27346) granting an increase of pension to John McArthur; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27347) granting an increase of pension to Almira M. Brayton; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 27348) granting a pension to Andrew McCue; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27349) granting an increase of pension to Mary E. Hughes; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27350) granting an increase of pension to Emma Frymire; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27351) granting an increase of pension to Mary A. Stitzel; to the Committee on Invalid Pensions.

By Mr. LAFEAN: A bill (H. R. 27352) granting a pension to Susanna Olewiler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27353) for the relief of Salome Myers Stewart; to the Committee on War Claims.

By Mr. LLOYD: A bill (H. R. 27354) granting an increase of pension to James F. Davis; to the Committee on Invalid Pensions.

By Mr. LOUD: A bill (H. R. 27355) granting a pension to Oscar E. Harper; to the Committee on Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 27356) granting an increase of pension to Lucy A. Smith; to the Committee on Invalid pensions.

Also, a bill (H. R. 27357) granting an increase of pension to Genevra E. Gray; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27358) granting an increase of pension to Rachel Ripley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27359) granting an increase of pension to Alphonzo L. Drake; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27360) granting an increase of pension to Jane M. Drown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27361) granting an increase of pension to Mary Hazzard; to the Committee on Invalid Pensions.

By Mr. SHACKLEFORD: A bill (H. R. 27362) for the relief of the county of Boone, State of Missouri; to the Committee on War Claims.

By Mr. STONE: A bill (H. R. 27363) granting an increase of pension to George Martin; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Joint petition of the Traffic Bureau, the Industrial Bureau, and the Board of Trade, Nashville, Tenn., favoring the passage of Senate bill 957, for regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also (by request), petition of the Tulsa Commercial Club, favoring passage of bill for Federal aid for the proposed development of the Arkansas River; to the Committee on Rivers and Harbors.

Also (by request), petition of the Boston City Council, favoring an investigation by Congress of the present coal monopoly; to the Committee on Rules.

By Mr. ANSBERRY: Petition of the Ohio State legislative board, Brotherhood of Locomotive Engineers, Galion, Ohio, protesting against the passage of the compulsory workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, for the regulation of the telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

By Mr. ASHBROOK: Petition of the Baltimore Department Store and 13 other merchants of Newcomerstown, Ohio, asking the Congress to increase the power of the Interstate Commerce Commission toward controlling the express rates; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, regulating the telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, papers to accompany bill (H. R. 26958) for the relief of Mary C. Kaiser; to the Committee on Invalid Pensions.

By Mr. AYRES: Petition of the National Grain Dealers' Association, favoring the passage of Senate bill 957, regulating bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Grain Dealers' Association, favoring the passage of the Cary bill regulating telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Wisconsin: Papers to accompany bill (H. R. 25575) to remove the charge of desertion against Peter Gumm; to the Committee on Military Affairs.

Also, papers to accompany bill (H. R. 26763) granting an increase of pension to Thomas P. Wentworth; to the Committee on Invalid Pensions.

By Mr. CARLIN: Papers to accompany bill for the relief of R. T. Cook; to the Committee on Appropriations.

By Mr. COLLIER: Papers to accompany bill for the relief of the estate of James M. Brabeston; to the Committee on War Claims.

Also, papers to accompany bill for the relief of W. L. Johnston; to the Committee on War Claims.

By Mr. DYER: Petition of the St. Louis (Mo.) branch of the American Federation of Catholic Societies and of Edward V. P. Schneiderhahn, St. Louis, Mo., protesting against the passage of the Jones bill, giving the Philippine Islands their independence; to the Committee on Foreign Affairs.

Also, petition of the order of Knights of Labor, Washington, D. C., favoring passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the National German-American Alliance, protesting against the passage of the amended Kenyon bill (S. 4043) preventing shipment of liquors into dry territories; to the Committee on the Judiciary.

Also, petition of Elias Michael, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of George Warren Brown, St. Louis, Mo., favoring the passage of the Kenyon-Sheppard bill, preventing shipment of liquors into dry territories; to the Committee on the Judiciary.

Also, petition of J. H. Hoskins, favoring the passage of House bill 22589, making appropriation for the building of legation and consular buildings; to the Committee on Foreign Affairs.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, for the regulation of the telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Petition of the Maritime Association of the port of New York, favoring the passage of the bill providing for the relocation of the pierhead line of the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Grain Dealers' Association, favoring the passage of House bill 3010, for regulating telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Grain Dealers' Association, for the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

By Mr. FOCHT: Petition of citizens of Pennsylvania, favoring the passage of the amended Kenyon bill (H. R. 4043) preventing the shipment of liquor into dry territories; to the Committee on the Judiciary.

Also, petition of citizens of Pennsylvania, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FULLER: Petition of the Illinois Daughters of the American Revolution, favoring passage of the Cox bill, preventing the desecration of the American flag; to the Committee on the Judiciary.

Also, petition of Charles W. Helmig, of Peru, Ill., in opposition to the passage of the amended Kenyon liquor bill (H. R. 4043) for preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

Also, petition of 4 veterans of the Civil War, of Auburn, Me., favoring the passage of House bill 1339, for pension limbless veterans; to the Committee on Invalid Pensions.

By Mr. HENSLEY: Petition of the German-American Alliance and citizens of Missouri, protesting against the passage of the Kenyon-Sheppard bill, preventing the shipment of liquors into dry territory; to the Committee on the Judiciary.

Also, petition of J. T. Evans and 60 other citizens, of Farmington, Mo., favoring the passage of the Kenyon-Sheppard liquor bill; to the Committee on the Judiciary.

By Mr. HOUSTON: Petition of citizens of Rutherford County, Tenn., favoring the passage of the old-age pension bill; to the Committee on Pensions.

Also, petition of citizens of Tennessee, favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territories; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of the Grain Dealers' National Association, favoring the passage of Senate bill 975, for regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, regulating the telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

Also, petition of William Knappmann & Co. (Inc.), Brooklyn, N. Y., protesting against the proposed reduction in duty on whiting and Paris white; to the Committee on Ways and Means.

Also, petition of veterans of the Civil War, of Auburn, Me., and Troy, Ohio, favoring the passage of House bill 1339, providing a pension for the limbless veterans; to the Committee on Invalid Pensions.

By Mr. LOUD: Papers to accompany bill granting a pension to Oscar E. Harper; to the Committee on Pensions.

By Mr. PARRAN: Papers to accompany the bill (H. R. 24513) granting a pension to Herman Behn; to the Committee on Pensions.

By Mr. PAYNE: Petition of the New York State Canners' Association, favoring passage of legislation for the establishment of a bureau of inspection of the canning industries; to the Committee on Agriculture.

By Mr. REYBURN: Petition of the Grain Dealers' National Association, favoring passage of Senate bill 957, for regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring passage of House bill 3010, for regulation of telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of New York: Petition of the Buffalo Chamber of Commerce and citizens of Buffalo, favoring the passage of House bill 26277, creating a United States final court of patent appeals; to the Committee on the Judiciary.

Also, petition of the Buffalo Chamber of Commerce, favoring the passage of the Pomerene substitute bill (S. 957) for regulating bills of lading; to the Committee on Interstate and Foreign Commerce.

By Mr. SPARKMAN: Petition of citizens of Florida, favoring the passage of the Kenyon liquor bill, preventing shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. TILSON: Petition of the Social Service League, Salisbury, Conn., favoring the passage of Senate bill 3, providing for vocational education; to the Committee on Agriculture.

By Mr. TRIBBLE: Petition of William R. Mackay and others, favoring the passage of Senate bill 4043, to stop illegal shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. WILLIS: Papers to accompany bill (H. R. 26997) granting an increase of pension to Lemuel M. Mahan; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting a pension to James Bartholomew; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: Petition of the Grain Dealers' National Association, Norfolk, Va., favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, relative to controlling messages and communications by telegraph or telephone; to the Committee on Interstate and Foreign Commerce.

SENATE.

TUESDAY, *December 17, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CULLOM and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

Mr. CULLOM. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore (Mr. GALLINGER). The Senator from Illinois suggests the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	McCumber	Smith, Ariz.
Bacon	Crawford	McLean	Smith, Ga.
Bailey	Culberson	Martin, Va.	Smith, Mich.
Borah	Cullom	Massey	Smith, S. C.
Bourne	Curtis	Myers	Smoot
Brandegee	Dixon	Newlands	Stephenson
Bristow	du Pont	O'Gorman	Stone
Brown	Gallinger	Oliver	Sutherland
Bryan	Guggenheim	Overman	Swanson
Burnham	Hitchcock	Page	Thornton
Burton	Johnson, Me.	Perkins	Tillman
Chamberlain	Johnston, Ala.	Perky	Townsend
Chilton	Jones	Poindexter	Warren
Clapp	Kenyon	Richardson	Wetmore
Clark, Wyo.	La Follette	Root	Works
Clarke, Ark.	Lodge	Sanders	

Mr. PAGE. I must again announce the illness of my colleague [Mr. DILLINGHAM] and his necessary absence from the sessions of the Senate.

Mr. BRYAN. I desire to state that my colleague [Mr. FLETCHER] is absent on public business.

The PRESIDENT pro tempore. Sixty-three Senators have answered to their names. A quorum of the Senate is present.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of certificates of final ascertainment of the electors for President and Vice President in the States of Alabama, Idaho, and Illinois at the elections held therein on November 5, 1912, and furnished by the governors of these States, which were ordered to be filed.

FINDINGS OF THE COURT OF CLAIMS (S. DOC. NO. 981).

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of Conrad B. Fischer, administrator of estate of John Hoey, deceased, v. United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills:

S. 3974. An act to increase the limit of cost of the United States public building at Denver, Colo.;

S. 6283. An act increasing the cost of erecting a public building at Olympia, Wash.; and

S. 6899. An act increasing the limit of cost for the erection and completion of a public building in the city of Richford, State of Vermont.

The message also announced that the House had passed the bill (S. 4488) to authorize the setting aside of a tract of land for a school site and school farm on the Yuma Indian Reservation, in the State of California, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 17683. An act to increase the limit of cost for the postoffice building heretofore authorized at Dublin, Ga.;

H. R. 21220. An act to extend the power of the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor;

H. R. 23186. An act to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; and

H. R. 25937. An act providing pay for Labor Day for per diem employees of the Government of the United States.

ENROLLED JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. J. Res. 144) authorizing the payment of the December salaries to officers and employees of the Senate and the House of Representatives on the day of adjournment for the holiday recess, and it was thereon signed by the President pro tempore.

CREDENTIALS.

Mr. THORNTON presented the credentials of JOSEPH E. RANSDELL, chosen by the Legislature of the State of Louisiana a Senator from that State for the term beginning on the 4th day of March, 1913, which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. CULLOM. I present a letter signed by Daniel Braxton Turney, of Decatur, Ill., on the subject of the traffic in intoxicating liquors. I ask that the letter lie on the table and be printed in the RECORD.

There being no objection, the letter was ordered to lie on the table and to be printed in the RECORD, as follows:

To the Members of the Senate and the House of Representatives of the United States in Congress convened.

HONORABLE GENTLEMEN: Believing, in common with a majority of the best informed people, that the traffic in intoxicating beverages is clearly destructive of morality and the public welfare, and that it will be infamously iniquitous before God to permit liquor dealers to outrage every principle of right and justice by continuing to vend intoxicating beverages where the people have made such traffic a legal crime by deliberately sending such beverages into prohibition territory, I hereby respectfully petition your honorable body to adopt the amended Kenyon bill.

I can not believe that national lawmakers, guided by the reverence due to God and the people and abundantly able to hinder the evil complained of, will suffer a longer overriding of State laws which are admittedly constitutional by men who defy every form of law, human and divine, and connive at every known crime for the sake of revenue.

Respectfully,

DANIEL BRAXTON TURNEY.

DECATUR, ILL.

Mr. CULLOM presented sundry telegrams in the nature of memorials from citizens of Peoria, Chicago, and Pekin, all in the State of Illinois, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. SWANSON. I present a communication signed by the committee representing the delegation appointed by Gov. Mann, of Virginia, to the conference in Washington, D. C., December 16 to 18, 1912, on the subject of interstate liquor legislation in Congress. I ask that the communication lie on the table and be printed in the RECORD.

There being no objection, the communication was ordered to lie on the table and to be printed in the RECORD, as follows:

To the Senators and Representatives of Virginia in Congress:

We, the committee representing the delegation appointed by Gov. William Hodges Mann, of Virginia, to a conference in Washington, D. C., December 16 to 18, 1912, on interstate liquor legislation in Congress, and consisting of the Anti-Saloon League, the Woman's Christian Temperance Union, the Woman's Temperance League of America, the Independent Order of Good Templars, and business men, manufacturers, farmers, and educators, hereby respectfully ask you to use your influence in procuring the passage of the Kenyon-Sheppard-Webb-McCumber bill, now pending before the United States Senate and known as Senate bill No. 4043; further, that we request that this memorial be presented to Congress and be made a part of the record thereof.

D. H. BARGER, *Chairman.*
A. H. BLANCHARD, *Secretary.*
MRS. GEORGIA MAY JOBSON.
T. H. ELLETT.
H. E. MCWORS.
MRS. HOWARD M. HOGE,
President Virginia Woman's Christian Temperance Union.

Mr. HITCHCOCK presented a petition of the Woman's Christian Temperance Union of Nehigh, Nebr., and a petition of sundry citizens of Burchard, Nebr., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. CHILTON presented a petition of the Woman's Christian Temperance Union of Weston, W. Va., and a petition of sundry citizens of Parkersburg, W. Va., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BRISTOW presented a memorial of sundry citizens of Ellinwood, Kans., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of the students and faculty of the University of Ottawa, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. POINDEXTER presented a petition of the Woman's Christian Temperance Union of Seltice, Wash., praying for the passage of the Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BURTON. I present a protest signed by 8,474 citizens and firms in the State of Ohio, urgently protesting against the passage and enactment into law of Senate bill No. 4043, known as the Kenyon liquor bill. I move that the memorial lie on the table.

The motion was agreed to.

Mr. CRAWFORD presented petitions of sundry citizens of Platte, Mitchell, Castlewood, and Vermillion, all in the State of South Dakota, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. OVERMAN. I have a telegram signed by the secretary of the Winston Salem Ministers' Union, of North Carolina, representing and speaking for the churches of that city, requesting the passage of the Kenyon-Sheppard liquor bill without amendment. I ask that the telegram lie on the table. I also have other petitions on the same subject matter which I desire to offer later.

The PRESIDENT pro tempore. Without objection, the petitions will be received when presented by the Senator from North Carolina.

Mr. OVERMAN presented a petition of sundry citizens of Charlotte, N. C., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. STEPHENSON presented a resolution adopted by the United Commercial Travelers of America at Milwaukee, Wis., favoring a change in the date of the national elections, which was referred to the Committee on the Judiciary.

He also presented memorials of the Order of Eagles, of Milwaukee; of Local Union, International Union of United Brewery Workmen, of Milwaukee; and of the Chamber of Commerce of Milwaukee, all in the State of Wisconsin, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of the Wisconsin Sunday School Association and a petition of the faculty of Beloit College, Beloit, Wis., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a resolution adopted by the Lake Michigan Sanitary Association, favoring an investigation into the extent of the pollution of the waters of the Great Lakes, etc., which was referred to the Committee on Public Health and National Quarantine.

Mr. BRANDEGEE presented petitions of the Men's Sunday Club of South Church, New Britain, and of sundry citizens of New Milford and Ellington, all in the State of Connecticut, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a resolution adopted by the Social Service League of Salisbury, Conn., favoring the enactment of legislation providing for cooperation with the States in encouraging instruction in agriculture, etc., which was ordered to lie on the table.

He also presented a petition of Quinebaug Pomona Grange, No. 2, Patrons of Husbandry, of Chaplin, Conn., and a petition of Central Pomona Grange, No. 1, Patrons of Husbandry, of Plainville, Conn., praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were ordered to lie on the table.

Mr. STONE presented a memorial of Local Union No. 6, International Union United Brewery Workmen of America, of St. Louis, Mo., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented petitions of sundry citizens of Tarkio, Westboro, Eversonville, Sedalia, and Mound City, all in the State of Missouri, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. McLEAN presented a petition of 36 citizens of South Manchester, Conn., and a petition of 23 citizens of Ellington, Conn., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of Cawasa Grange, No. 34, Patrons of Husbandry, of Collinsville, Conn., praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were ordered to lie on the table.

Mr. PERKINS presented a telegram in the nature of a petition of the Fruit Growers' Convention and of the State Commission of Horticulturists of California, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was ordered to lie on the table.

Mr. SHIVELY presented the petition of J. M. Staples, Merritt C. Beale, A. N. Stamm, and 28 other citizens of South Bend, Ind., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BROWN presented petitions of sundry citizens of Alliance, Neligh, Hastings, Burchard, Ravenna, Gering, Mitchell, and Scotts Bluff, all in the State of Nebraska, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. LODGE presented the petition of H. A. Wilder and John F. Brant, of Newton, Mass., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. SMITH of South Carolina presented a petition of sundry citizens of Brunson, S. C., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. DU PONT presented a petition of the New Castle County Pomona Grange No. 1, of Delaware, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. GALLINGER presented the petition of Samuel W. Dart, of Gilsum, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

DEPOSITS OF BORAX.

Mr. MASSEY, from the Committee on Mines and Mining, to which was referred the bill (S. 4002) defining the manner in which deposits of borax, borate of lime, borate of soda, and borate material may be acquired, reported it with an amendment and submitted a report (No. 1074) thereon.

PAPAGO INDIAN RESERVATION, ARIZ.

Mr. JONES. On the 9th instant the Secretary of the Interior transmitted a special report on the irrigation and flood protection of the Papago Indian Reservation, Ariz., and it was referred to the Committee on Irrigation and Reclamation of Arid Lands. I move that the committee be discharged from the further consideration of the report and that it be referred to the Committee on Indian Affairs.

The motion was agreed to.

MONUMENT TO POCAHONTAS.

Mr. SWANSON. From the Commitee on the Library I report back favorably without amendment the bill (S. 2118) to aid in the erection of a monument to Pocahontas at Jamestown, Va., and I submit a report (No. 1073) thereon. I ask for the immediate consideration of the bill.

The PRESIDENT pro tempore. The bill will be read.

The Secretary read the bill, as follows:

Be it enacted, etc., That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $5,000 to the Pocahontas Memorial Association to aid in completing and erecting at Jamestown, Va., a suitable monument to commemorate the preservation of the first permanent settlement of the English-speaking people on the Western Hemisphere at Jamestown, Va., through the intervention of the Indian princess, Pocahontas.

SEC. 2. That the Secretary of the Treasury be, and is hereby, authorized and directed to pay said sum to the treasurer of the said Pocahontas Memorial Association: *Provided*, That the treasurer of the said Pocahontas Memorial Association shall, before receiving the amount hereby appropriated, or any part thereof, give a bond to the United States in the sum of $5,000, with surety or sureties to be approved by the Secretary of the Treasury, conditioned upon his faithfully disbursing the money hereby appropriated for the purpose and in the manner herein specified and rendering an itemized account of such disbursements, with satisfactory vouchers, to the Auditor of the Treasury for the State and Other Departments, said account to be first certified and approved by the legal counsel of the said Pocahontas Memorial Association: *Provided further*, That the design of said monument, together with the site upon which it is to be erected, shall first be approved by the Secretary of the Treasury and the said Pocahontas Memorial Association: *Provided further*, That no part of the money hereby appropriated shall be so paid until the said Pocahontas Memorial Association shall have raised and paid on said monument an equal sum of $5,000, and satisfactory vouchers therefor presented to the Secretary of the Treasury: *Provided further*, That no part of said money shall be paid until the site upon which said monument shall be erected shall have been donated, granted, or otherwise set apart and secured for said purpose: *And provided further*, That when said monument is erected, the responsibility for the care, keeping, and preservation of the same shall be and remain with the Pocahontas Memorial Association, it being expressly understood that the United States shall have no responsibility therefor.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. BAILEY. Mr. President, I suppose it would be ungracious to object, and I will not prevent the consideration of this bill; but I am opposed to it, and as I do not intend to ask that the roll be called I will occupy time enough to say that if Congress enters upon a policy like this it will soon happen that many persons and many events of small importance will be commemorated by monuments, and they will become so common that it will be no special honor to the memory of a person or an event to have a monument.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. SMOOT. I will ask the Senator from Virginia if there is any particular reason why this bill should be acted upon so hastily?

Mr. SWANSON. Mr. President, I will say that a bill similar to this passed the Senate unanimously in 1908. The Pocahontas Memorial Association is an organization that has collected $5,000 to erect a monument to Pocahontas by a noted sculptor. They have a deed to the land upon which to erect it and the monument is now waiting in New York the payment of an additional $5,000. The United States Government in 1907 erected a monument at Jamestown Island to John Smith, and it was thought by this patriotic association, composed of ladies and men from every part of the United States, that it would be appropriate to have at Jamestown Island a suitable memorial to Pocahontas.

She is not an ordinary personage in American colonization. The colony there would have been repeatedly destroyed but for her courage, her bravery, and her privation. She made possible the first permanent English settlement in America.

Mr. BAILEY. That is a poor compliment to your ancestors.

Mr. SWANSON. The ladies of America feel that we have been very recreant to our duty not to have a suitable memorial anywhere.

Mr. SMOOT. I am not objecting——

Mr. SWANSON. This association is desirous of getting this measure through at the present session of Congress. The bronze statue is now in New York, in the studio of a noted artist; the land has been deeded; the pedestal is there; and these ladies understood that if they would raise half the Federal Government would raise the other half. The Senate in 1908 unanimously passed a similar bill. The Library Committee of the House reported it unanimously, but it failed of passage on account of the lateness in the session and the pressure which usually characterizes the passage of bills near the close of a session.

I hope the Senator from Utah will not object. It would seem to me that the monument ought to be erected by the United States Government itself. These patriotic ladies have gotten up an organization and furnished half the money; they have the land and the pedestal; and all that is asked is $5,000 to commemorate the heroic achievements of this Indian princess. It seems to me that we should certainly appropriate this small sum of money.

Mr. SMOOT. Mr. President, I have no objection at all to the appropriation of the money for this purpose, but I do not see why a bill just reported to the Senate at this time, when everything is so congested, should be put on its passage. Other Senators have bills on the calendar in which they are just as much interested, and I do not see why this bill should be considered here by unanimous consent without going to the calendar. That is the only reason why I mention the fact.

Mr. SWANSON. I hope the Senator will not object and that the bill may go through.

The PRESIDENT pro tempore. The Chair will ask, Is there objection to the present consideration of the bill?

Mr. SMOOT. Under the circumstances I will not object.

There being no objection, the bill was considered in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. POINDEXTER:

A bill (S. 7784) granting an increase of pension to Katherine M. Gray; to the Committee on Pensions.

By Mr. JONES:

A bill (S. 7785) confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes; to the Committee on Public Lands.

A bill (S. 7786) granting an increase of pension to Victoria L. McHone; and

A bill (S. 7787) granting a pension to Effie M. Crail; to the Committee on Pensions.

By Mr. BURTON:

A bill (S. 7788) granting an increase of pension to Joseph H. Alexander; and

A bill (S. 7789) granting an increase of pension to Emily S. Reider; to the Committee on Pensions.

By Mr. TOWNSEND:

A bill (S. 7790) granting an increase of pension to Clara A. Long (with accompanying paper); to the Committee on Pensions.

By Mr. HITCHCOCK:

A bill (S. 7791) granting an increase of pension to Allen Price; to the Committee on Pensions.

By Mr. TILLMAN:

A bill (S. 7792) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C.; to the Committee on Commerce.

By Mr. GUGGENHEIM:

A bill (S. 7793) granting an increase of pension to Benjamin F. Jay (with accompanying papers); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 7794) granting an increase of pension to Ellen M. Kilbourne;

A bill (S. 7795) granting an increase of pension to Sophia H. Burgess; and

A bill (S. 7796) granting an increase of pension to Eliza J. Quimby; to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 7797) for the relief of Frederick J. Ernst; to the Committee on Claims.

Joint resolution (S. J. Res. 145) to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913 (with accompanying paper); to the Committee on the District of Columbia.

OMNIBUS CLAIMS BILL.

Mr. NEWLANDS submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

ADDRESS BY FRANCIS T. A. JUNKIN (S. DOC. NO. 982).

Mr. SUTHERLAND. I send to the desk a short address by Francis T. A. Junkin delivered at the one hundred and thirty-fourth commencement of Kenyon College, June 17, 1912, the subject being, Is Our Representative Government Imperiled? I ask that the address be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE WHITE-SLAVE TRAFFIC (S. DOC. NO. 982).

Mr. CURTIS. I have a copy of an address by Hon. Stanley W. Finch, chief of the bureau of investigation of the Department of Justice, delivered before the World's Purity Congress, Louisville, Ky., May 7, 1912, on the white-slave traffic. I ask that the address be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MEMORIAL ADDRESSES ON THE LATE SENATOR NIXON.

Mr. NEWLANDS. I desire to give notice that on Saturday, February 8, 1913, I will ask that the business of the Senate be suspended that fitting tribute may be paid to the memory of my late colleague, Hon. GEORGE S. NIXON.

SNAKE RIVER BRIDGE, WYOMING.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 3947) to provide for a bridge across Snake River, in Jackson Hole, Wyo.

Mr. WARREN. I move that the Senate disagree to the amendment of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the President pro tempore appointed Mr. JONES, Mr. WARREN, and Mr. NEWLANDS conferees on the part of the Senate.

HOUSE BILLS REFERRED.

H. R. 21220. An act to extend the power of the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, was read twice by its title and referred to the Committee on Immigration.

H. R. 23186. An act to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, was read twice by its title and referred to the Committee on the Judiciary.

H. R. 17683. An act to increase the limit of cost for the post-office building heretofore authorized at Dublin, Ga., was read twice by its title and referred to the Committee on Public Buildings and Grounds.

H. R. 25937. An act providing pay for Labor Day for per diem employees of the Government of the United States was read twice by its title and referred to the Committee on Education and Labor.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate proceed to the consideration of House bill 19115, known as the omnibus claims bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. Mr. President, to get the RECORD as it should be in form, I wish to state that the Senator from Massachusetts [Mr. LODGE] offered an amendment to this bill proposing to incorporate into it what are known as the French spoliation claims. That offer has been made and is properly before the Senate. I had introduced, and there had been laid on the table, an amendment which I desired to propose to the amendment offered by the Senator from Massachusetts. I now desire to formally offer that amendment and move its adoption, so that the RECORD may be complete. Then, without in any way displacing the position of the pending bill, I shall give way to the Senator from Iowa [Mr. KENYON], who desires to conclude the remarks he began on yesterday.

Mr. LODGE. Mr. President, I merely desire to make an inquiry. The amendment offered by the Senator from South Dakota to my amendment has, I think, been read?

The PRESIDENT pro tempore. It has been read.

Mr. CRAWFORD. It has been read, Mr. President, and its items appear in the RECORD.

Mr. LODGE. I merely wanted to be sure that the amendment to the amendment had been read.

The PRESIDENT pro tempore. Does the Senator from South Dakota offer his amendment at the present time?

Mr. CRAWFORD. I do; and I move its adoption. I desire to be heard upon it later, but will now yield the floor to the Senator from Iowa, who, as I have stated, desires to conclude the remarks he began on yesterday.

The PRESIDENT pro tempore. Then the amendment proposed by the Senator from South Dakota [Mr. CRAWFORD] to the amendment of the Senator from Massachusetts [Mr. LODGE] will be the pending amendment when the bill is again taken up for consideration.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. KENYON. Mr. President, I thank the Senator from South Dakota [Mr. CRAWFORD] for his kindness in the matter.

The PRESIDENT pro tempore. The bill to which the Senator from Iowa is about to speak will be read by title.

The SECRETARY. A bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases.

Mr. KENYON. Mr. President, at the conclusion of the morning hour yesterday I was trying, in my feeble way, to discuss the constitutional power of the Federal Government as to local commerce where there was an apparent conflict with the police powers of the States in the regulation of their internal affairs. While it is true that one State can not by its laws have extraterritorial effect upon contracts made and executed in another State, yet is it not equally true that one State should not have extra-

territorial power to break down and destroy the laws of another State under the pretense that they were protected by the interstate-commerce clause of the Constitution? The need of such an act was expressed by the distinguished senior Senator from Georgia, who has presided over the Senate with such ability and fairness, in his views submitted to Congress some years ago when Congress had under consideration a number of similar bills, and he stated it so much better than I am able to state it, that I make bold to use his language:

> Briefly stated the conditions which demand the passage of this or some similar bill are these: Every State in which the traffic in liquors has been prohibited by law is deluged with whisky sent in by people from other States under the shelter of the interstate-commerce law. There are daily trainloads of liquors in bottles, jugs, and other packages sent into the State consigned to persons, real and fictitious, and every railway station and every express company office in the State are converted into the most extensive and active whisky shops, from which whisky is openly distributed in great quantities. Liquor dealers in other States secure the names of all persons in a community, and through the mails flood them with advertisements of whisky, with the most liberal and attractive propositions for the sale and shipment of the same. Freed from the expense of the middleman, the distiller or dealer in other States is enabled to sell to the individual in the prohibition State at a less price than the purchaser formerly paid to the domestic whisky dealer. It is evident that under such circumstances the prohibition law of a State is practically nullified, and intoxicating liquors are imposed upon its people against the will of the majority.

If further distinguished authority was needed in this era of Democratic jubilation, I think no better authority could be produced than an extract from the veto message of the governor of New Jersey, who so narrowly escaped being unanimously elected to the Presidency. In New Jersey an act to enable wholesale liquor dealers to extend their trade outside of the licensing unit was vetoed by Woodrow Wilson on April 2, 1912, in the following words:

> There is a very strong argument for the range proposed in this bill in the fact that the policy of the Federal Government in respect of interstate commerce permits liquor dealers outside of the State to deliver their wares at pleasure inside of the State, thus unquestionably working a hardship on their competitors within the State, but it does not seem to me a mistaken and hurtful Federal policy justifies an imitation of that policy by the State itself. It seems to me imperative upon the principle of self-government to preserve the integrity and autonomy of the several licensing districts and that that autonomy is seriously impaired by this act.

I am not concerned at all with the question of whether a State in the exercise of its police power might adopt a law prohibiting the manufacture or sale of intoxicating liquors. If it does do so, it ought to be able to make that law effective. If it adopts the contrary policy, it should be permitted to make that effective. If intoxicating liquors can be freely shipped into a State which has a prohibitory law and the State government is powerless to prevent it, and the Federal Government is likewise powerless to prevent it, if this liquor is to remain in the twilight zone between Federal and State jurisdiction, then, indeed, it is time for some further amendment to our Constitution.

I call attention in this connection to a circular issued by a wholesale liquor house in the State of Utah. It is illuminated with pictures of Uncle Sam, some 10 in number, in various pleasing and satisfactory poses, and announces at the top of the circular that "Uncle Sam is our partner." The circular is as follows:

UNCLE SAM IS OUR PARTNER.

THE FRED J. KIESEL CO., OGDEN, UTAH.

Mail order liquor department.

> To meet the surprisingly increasing demand from dry Idaho counties and other dry sections we have increased our bottled in bond and blended whisky stock and are ready to supply all demands from the thirsty, be they bankers, merchants, tradesmen, laborers, ministers, bootleggers, or even politicians, from the governor down to the least official.
>
> Our list includes the following well-known brands: Sunny Brook, Old Crow, Old Kiesel, Hermitage, Our Joe, Guckenheimer, Paul Jones, and Chicken Cock.
>
> Pabst Blue Ribbon, "the beer of quality."
>
> Idan-ha, the monarch of table and medicinal waters; also finest of wines and brandies from our own winery at Sacramento, Cal.
>
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I refer to this, Mr. President, because of the significant words at the top of the circular, "Uncle Sam is our partner." The partnership of the Federal Government with the bootlegger ought to be permanently dissolved. The assistance of the Government in maintaining "holes in the walls" and "speak easies" ought to cease. That is the purpose of this bill. It would seem as if the purpose would meet the approval of everyone, whether engaged in the liquor business or opposed to it. There is no purpose in this bill, and the language can not be distorted into the idea so freely circulated in the literature now being distributed by those opposed to this bill, that it destroys the right of a man to the personal use of intoxicating liquor. No State in the Union has passed an act prohibiting the personal use of liquor. It is not made a crime for one to purchase liquor, and the right to use it is only affected as it might be incidentally by the prohibition of sale. I assume that no State ever will pass a law prohibiting the personal use of intoxicating liquor, up to the point at least where a man by so doing might become a drunkard or make a nuisance of himself. This bill goes no further than State law; it leaves the question entirely with the States; it does not attempt to say whether liquor shall be sold or used or given away. It is drawn on the theory and to carry out the purpose that the police powers of a State should not be made impossible of operation by the failure of Congress, in the interest of the general public welfare, to remove from commerce an article which might impede the carrying out of those powers in the State. It never was intended by the Constitution in conferring upon Congress an exclusive power to regulate interstate commerce, to take away from the various States the right to make reasonable laws concerning the health, life, and safety of its citizens, even though such legislation might indirectly affect foreign or interstate commerce.

In Sherlock *v.* Alling (93 U. S., 99) it was said:

> And it may be said generally that the legislation of a State not directed against commerce or any of its regulations, but relating to the rights, duties, and liabilities of citizens, and only indirectly and remotely affecting the operations of commerce, is of obligatory force upon citizens within its territorial jurisdiction, whether on land or water, or engaged in commerce, foreign or interstate, or in any other pursuit.

With these preliminary observations, I desire to take up the legal and constitutional questions involved, and they group themselves about as follows:

First. Has Congress the power, under the commerce clause of the Constitution, to prohibit the transportation in commerce of any commodity which it may desire?

Second. If Congress has not that full power, then has it power to prohibit in commerce between the States those articles which are generally considered injurious in and of themselves to the general public?

Third. Are intoxicating liquors so recognized as articles of commerce that Congress can not include them among those subjects which are in themselves or by their use deleterious to public welfare?

Fourth. Would the prohibition of the shipment in interstate commerce of intoxicating liquors violate any of the inhibitions of the Constitution?

Fifth. Can the contract of shipment be invalidated by the undisclosed intention of one of the parties to violate the law of a State?

Sixth. Must Congress, if it attempts to prohibit in any degree the transportation of liquors intended to violate the law of a State, go further and absolutely prohibit them?

Seventh. Has it power to turn over to a State regulation the question of when such liquors shall cease to be a part of commerce?

Eighth. Does the bill in section 2 not delegate to the States the power to regulate interstate commerce?

Ninth. Is it within the power of Congress to say when the interstate-commerce transaction shall cease, and can it divest an article of the interstate-commerce character while it is in actual, physical transportation?

Tenth. Does section 2 not recognize the right of transportation into the State and at the same time permit the police power to prohibit transportation?

Eleventh. Has Congress the power as to the fundamental aspect of interstate commerce, namely, the actual, physical transportation, to say that that commerce shall cease before the commodity reaches the consignee?

These suggestions go, I think, to all the objections raised to this bill, and I have suggested those things which might be considered as against the constitutionality of the bill, as well as those which might make in its favor. I have no pride of opinion in this bill. The bill originally was drafted by a distinguished lawyer of the State of Oklahoma. Believing in the principle thereof, I introduced the bill. The committee struck out some parts of the original bill and added thereto as an amendment section 2, which was drafted by the distinguished Senator from Tennessee [Mr. SANDERS]. I have no desire, nor has he, that the bill pass if the Senate is of the opinion that it is unconstitutional.

I have no patience with merely passing a bill that we may regard as unconstitutional and pass it up to the Supreme Court and let them determine the question. I do not believe any Senator should vote for any bill where he believes it is unconstitutional; but if there is a serious question in his mind with relation thereto, and it is a question of such general public interest that the Supreme Court should pass thereon, then it would seem to me the proper procedure to pass the bill and invite the judgment of the Supreme Court thereon in a proper case. In no other way could great constitutional questions ever be determined, because good lawyers will always differ thereon as well

as good judges, as is evidenced by the fact of the large number of dissenting opinions in practically all the cases where great constitutional questions have been involved.

My answer to the first one or two questions, I think, answers them all as well as I can answer them. Has Congress the power to take intoxicating liquors out of the domain of interstate commerce? My proposition as to the first section of the bill is this: Congress has the absolute power to take intoxicating liquors out of interstate commerce. Now, if Congress has that power, then it makes absolutely no difference what kind of a regulation Congress may make, because the lesser regulation is included within the greater.

Section 8, Article I, of the Constitution, enumerating the powers of Congress, says:

To regulate commerce with the foreign nations and among the several States and with the Indian tribes.

There is, as was suggested by the distinguished Senator from Utah [Mr. SUTHERLAND], some distinction between the power of Congress, acting with respect to foreign commerce and among the Indians and acting among the States, but it is a distinction without a difference. It is the theory that we act as to Indian tribes and act as to foreign nations in the capacity of a sovereign. But the decisions of our Supreme Court would seem clearly to indicate the thought of that court—that Congress practically deals as a sovereign or at least has the power of sovereignty with relation to commerce between the States.

Congress, in its power to regulate commerce with Indian tribes, may exclude any selected article from such commerce as deleterious. See:

United States v. Holliday (3 Wall., 407). Sarlis v. United States (152 U. S., 570). United States v. Maynard (154 U. S., 552).

Congressional power over commerce among the States is analogous to the same power over foreign commerce, so held in Crutcher against Kentucky, One hundred and forty-first United States, page 57; Brown against Houston, One hundred and fourteenth United States, page 622; Gibbons against Ogden, Ninth Wheaton, page 1. Congress may regulate interstate commerce in any manner it pleases without having its reasons questioned. (Bartemeyer v. Todd, 94 U. S., 555.)

The provision of the Constitution as above set out gives to Congress plenary power over interstate commerce, and that power knows no limitation except the restrictions of the Constitution. The question, then, is not one of discretion, but merely a question of power, and an unbroken line of decisions from almost the commencement of the Republic to the present time ought to set at rest the proposition that there is absolutely no limitation to this power except the limitations of the Constitution.

For instance, as constitutional limitations, all duties, imposts, and excises shall be uniform throughout the United States. No preference shall be given by any regulation of commerce to the ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another. Other constitutional inhibitions would be under the fifth amendment, providing that no person should be deprived of life, liberty, or property without due process of law; or the fourteenth amendment, providing that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

The earliest discussion of this question was the famous case of Gibbons v. Ogden (9 Wheat.). This was a case with relation to navigation, and the discussion is under the commerce clause of the Constitution, and the court said, speaking through its great Chief Justice:

We are now arrived at the inquiry. What is this power? It is the power to regulate; that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution. These are expressed in plain terms and do not affect the questions which arise in this case or which have been discussed at the bar. If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States.

It is, of course, true that when the subjects of commerce are national in character and require uniformity of regulation affecting alike all the States the power of Congress is absolutely exclusive. It would seem useless to enter into a discussion of the numerous cases from Gibbon v. Ogden down through all the years where the courts have reiterated over and over again that the power of Congress over interstate commerce is plenary. Under this clause safety-appliance acts, employers' liability acts regulating contracts between master and servant, hours-of-service acts, pure-food acts, pure-drug acts, white-slave acts, acts prohibiting transportation by railroads of coal mined by them, have been upheld and are indicative of how this great power of Congress has been used to bring about legislation for the benefit of mankind. Progressive legislation has gone forward under this clause of the Constitution. I call attention to only a few of these decisions:

In the Northern Securities case (193 U. S., 335), Justice Harlan, in the majority opinion, uses the following vigorous language (quoting in his opinion with approval some of the words of Marshall from the Gibbons v. Ogden case):

By the express words of the Constitution Congress has power to "regulate commerce with foreign nations and among the several States and with the Indian tribes." In view of the numerous decisions of this court there ought not at this day to be any doubt as to the general scope of such power. In some circumstances regulation may properly take the form and have the effect of prohibition. In re Rahrer, 140 U. S., 545; Lottery case, 188 U. S., 321, 355; and authorities there cited. Again and again this court has reaffirmed the doctrine announced in the great judgment rendered by Chief Justice Marshall for the court in Gibbons v. Ogden (9 Wheat., 1, 196, 197), that the power of Congress to regulate commerce among the States and with foreign nations is the power "to prescribe the rule by which commerce is to be governed"; that such power "is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution"; that "if, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States"; that a sound construction of the Constitution allows to Congress a large discretion, "with respect to the means by which the powers it confers are to be carried into execution, which enable that body to perform the high duties assigned to it in the manner most beneficial to the people"; and that if the end to be accomplished is within the scope of the Constitution "all means which are appropriate, which are plainly adapted to that end and which are not prohibited, are constitutional.

It will be noted the opinion confirms the doctrine that regulations in some circumstances may take the form and have the effect of prohibition. In the Commodity Clause case (213 U. S., 415) the court in construing the commodity clause of the Hepburn Act, which provided that it should be unlawful for any railroad company to transport from any State, Territory, or the District of Columbia to another State, and so forth, any article and commodity other than timber, and the manufactured products thereof, mined or produced by it, or which it may have any interest in, directly or indirectly, except to be used in the conduct of its business, says:

We then construe the statute as prohibiting a railroad company engaged in interstate commerce from transporting in such commerce articles or commodities under the following circumstances and conditions: (a) When the article or commodity has been manufactured, mined, or produced by a carrier or under its authority, and at the time of transportation the carrier has not in good faith before the act of transportation dissociated itself from such article or commodity; (b) when the carrier owns the article or commodity to be transported in whole or in part; (c) when the carrier at the time of transportation has an interest, direct or indirect, in a legal or equitable sense in the article or commodity, not including, therefore, articles or commodities manufactured, mined, produced, or owned, etc., by a bona fide corporation in which the railroad company is a stockholder.

The question then arises whether, as thus construed, the statute was inherently within the power of Congress to enact as a regulation of commerce. That it was we think is apparent. * * *.

Without elaborating we hold the contention that the clause under consideration is void because the exception as to timber and the manufactured products thereof is without merit. Deciding, as we do, that the clause, as construed, was a lawful exercise by Congress of the power to regulate commerce we know of no constitutional limitation requiring that such a regulation when adopted should be applied to all commodities alike. It follows that even if we gave heed to the many reasons of expedience which have been suggested in argument against the exception and the injustice and favoritism which it is asserted will be operated thereby, that fact can have no weight in passing upon the question of power. And the same reasons also dispose of the contention that the clause is void as a discrimination between carriers.

It will be noted in this opinion that the action of Congress in excepting timber, while including other commodities, under this act did not render it void; that Congress had the power to prevent transportation in commerce of such a well-recognized article as coal. It would be difficult to find a more complete exercise of plenary power by Congress than in the commodity clause case. It might well be claimed under these decisions sustained by the lottery case, to which I will refer later, that if Congress desired it could prohibit the transportation of any article in commerce between the States. I do not so claim, but it is true that a strong argument could be made, as there has been by good lawyers, sustaining this proposition. There is great force in the position.

The Constitution does not limit Congress in its regulation to those things which may be harmful in themselves, and it may well be claimed that Congress must have power over every article of commerce in order to give it power over any. Likewise the character of the article to be transported would not

have anything whatever to do with the question of power. Power is given by the Constitution, not because of the nature of any article, but simply because it was deemed necessary to have this power somewhere. The action of Congress may be called out by certain conditions, but those conditions do not give the grant of power. And it is claimed by those who take this radical view that Congress has the same power to prohibit the shipment of corn, wheat, of pure meats, of nonexplosives as well as explosives; that there is absolutely no exception and no limitation except as heretofore indicated. It is not to be presumed that Congress would ever use such power, as it is composed of intelligent individuals who would not do absurd or unreasonable things, but that is no reason for saying that the power does not exist. For instance, Congress is given the power to declare war. If it declared war to-morrow against Turkey or China or any other power, it would be an unreasonable thing, but because this would be ridiculous is no reason for saying that the power is not there to declare war when the necessity arises; but it is not going to declare war except under such circumstances as would satisfy the conscience of the people, nor would it prohibit the shipment of corn or wheat or bread unless under such circumstances as would always satisfy the conscience of an enlightened nation; so the fact that power may be wrongfully used is no argument against the existence of the power. I do not desire, however, in this argument to go to that extent. It is not necessary to sustain this bill, and I am not satisfied in my mind that an attempt on the part of Congress to prohibit the transportation of wheat, corn, bread, and those articles that are recognized as necessities to sustain human life could be sustained. It occurs to me that there would be a constitutional right in the preservation of life to contract with citizens of other States for bread or wheat or corn and have them shipped in interstate commerce and that Congress could not prevent the same or attempt so to do without an invasion of the liberty of the citizen, and hence violate the Constitution.

I prefer to pass that question with what has already been said and base the argument on the proposition that intoxicating liquors are recognized by practically, if not all, the States of the Union as differing from bread or wheat or corn. If this is not true, and if it is not so commonly recognized by mankind, then why license the sale of liquor any more than the sale of bread; why have regulations for closing hours; why prohibit the sale to minors; why prohibit sales on Sunday; why any of the hundreds of regulations that the various States and municipalities seek to adopt? Why does Congress make it an offense to introduce liquor into Indian country? Why prohibit sale to Indians? It is quite apparent and beyond successful argument that intoxicating liquors do not stand on the same plane with bread and wheat and other commodities, and all courts have recognized this fundamental distinction, and so has Congress.

I desire on this subject to use not my language but the language of some of the courts of the United States, including the Supreme Court of the United States in a number of cases, with reference to this. In the case of Welsh v. State (126 Ind., 72) the court says that—

the unrestricted sale of intoxicating liquors results in much evil and is detrimental to society—

And in the latter it says that—

the license law treats the traffic as dangerous, as dangerous to public and private morals, and as dangerous to the public peace and the good order of society.

In The State v. Gerhardt (145 Ind., 439) the court says:

The unrestricted traffic in intoxicating liquors has been found by sad experience to be fraught with great evil and to result in the most demoralizing influence upon private morals and the peace and safety of the public.

In Mugler v. Kansas (123 U. S., 623, 658-662) the Supreme Court of the United States said:

It is not necessary for the sake of justifying the State legislation now under consideration to array the appalling statistics of misery, pauperism, and crime which have their origin in the use or abuse of ardent spirits. * * * For we can not shut out of view the fact within the knowledge of all that the public health, the public morals, and the public safety may be endangered by the general use of intoxicating drinks; nor the fact established by statistics acceptable to everyone that the idleness, disorder, pauperism, and crime existing in the country are in some degree at least traceable to this evil.

Again, the Supreme Court of the United States, in Crowley v. Christensen (137 U. S., 86), says:

By the general concurrence of opinion of every civilized and Christian community there are few sources of crime and misery to society equal to the dramshop, where intoxicating liquors in small quantities, to be drunk at the time, are sold indiscriminately to all parties applying. The statistics of every State show a greater amount of crime and misery attributable to the use of ardent spirits obtained at these retail liquor saloons than to any other source.

That there is no constitutional right to sell intoxicating liquors at retail or to manufacture and sell, and that the same does not inhere in citizenship, is held in Mugler v. Kansas (123 U. S., 205). In Crowley v. Christensen (137 U. S., 86) the court said:

There is no inherent right in a citizen to thus sell intoxicating liquors by retail; it is not a privilege of a citizen of the State or of a citizen of the United States.

This was cited with approval in Cronin v. Adams (192 U. S., 108); also in Bartemeyer v. Iowa (85 U. S.).

Mr. President, it can not be questioned that the power to regulate is plenary.

THE POWER TO REGULATE EMBRACES THE POWER TO PROHIBIT.

This proposition is held in the Northern Securities case, heretofore cited; likewise in what is known as the Lottery case (188 U. S., 321). The court there recognized the changed sentiment of the Nation with respect to lotteries. As showing changed conditions, it is interesting to note that Congress once authorized a lottery in the District of Columbia, but in later years the Supreme Court took judicial notice of the change in the sentiment of the country with relation thereto.

It is a matter of some historic curiosity that at one time Congress permitted or licensed a lottery in the District of Columbia, but in the decision in the lottery case the Supreme Court took judicial notice of the change of sentiment in this country with relation thereto.

In the Riverside Mills Co. against the Atlantic Railroad Co. the court recognized the sentiment of the Nation with respect to the condemnation of the practice of railway companies in making contracts for shipment where liability was limited to their own line, and so with other propositions that might be suggested where the court itself keeps in touch with the changed spirit of the times and takes judicial notice thereof. In the Lottery case the court said:

We have said that the carrying from State to State of lottery tickets constitutes interstate commerce, and that the regulation of such commerce is within the power of Congress under the Constitution. Are we prepared to say that a provision which is, in effect, a prohibition of the carriage of such articles from State to State is not a fit or appropriate mode for the regulation of that particular kind of commerce? If lottery traffic, carried on through interstate commerce, is a matter of which Congress may take cognizance and over which its power may be exerted, can it be possible that it must tolerate the traffic and simply regulate the manner in which it may be carried on? Or may not Congress, for the protection of the people of all the States and under the power to regulate interstate commerce, devise such means within the scope of the Constitution, and not prohibited by it, as will drive that traffic out of commerce among the States?

* * * * * * *

If a State, when considering legislation for the suppression of lotteries within its own limits, may properly take into view the evils that inhere in the raising of money in that mode, why may not Congress, invested with the power to regulate commerce among the several States, provide that such commerce shall not be polluted by the carrying of lottery tickets from one State to another? In this connection it must not be forgotten that the power of Congress to regulate commerce among the States is plenary, is complete in itself, and is subject to no limitations except such as may be found in the Constitution. What provision in that instrument can be regarded as limiting the exercise of the power granted? What clause can be cited which, in any degree, countenances the suggestion that one may, of right, carry or cause to be carried from one State to another that which will harm the public morals? We can not think of any clause of that instrument that could possibly be invoked by those who assert their right to send lottery tickets from State to State except the one providing that no person shall be deprived of his liberty without due process of law. We have said that the liberty protected by the Constitution embraces the right to be free in the enjoyment of one's faculties; "to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation, and for that purpose to enter into all contracts that may be proper." (Allgeyer v. Louisiana, 165 U. S., 578, 589.) But surely it will not be said to be a part of anyone's liberty, as recognized by the supreme law of the land, that he shall be allowed to introduce into commerce among the States an element that will be confessedly injurious to the public morals.

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It is a kind of traffic which no one can be entitled to pursue as of right.

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That regulation may sometimes appropriately assume the form of prohibition is also illustrated by the case of diseased cattle, transported from one State to another. Such cattle may have, notwithstanding their condition, a value in money for some purposes, and yet it can not be doubted that Congress, under its power to regulate commerce, may either provide for their being inspected before transportation begins or, in its discretion, may prohibit their being transported from one State to another. Indeed, by the act of May 29, 1884 (chap. 60), Congress has provided: "That no railroad company within the United States, or the owners or masters of any steam or sailing or other vessel or boat, shall receive for transportation or transport from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any live stock affected with any contagious, infectious, or communicable disease, and especially the disease known as pleuropneumonia; nor shall any person, company, or corporation deliver for such transportation to any railroad company, or master or owner of any boat or vessel, any live stock knowing them to be affected with any contagious, infectious, or communicable disease; nor shall any person, company, or corporation drive on foot or transport in private conveyance from one State or Territory to another, or from any State into the District of Columbia, or from the District into

any State, any live stock knowing them to be affected with any contagious, infectious, or communicable disease, and especially the disease known as pleuropneumonia." (Reid v. State of Colorado, 187 U. S., 137, present term.)

* * * * * * *

In Rhodes v. Iowa (170 U. S., 412, 426) that statute—all of its provisions being regarded—was held as not causing the power of the State to attach to an interstate-commerce shipment of intoxicating liquors "whilst the merchandise was in transit under such shipment, and until its arrival at the point of destination and delivery there to the consignee."

Thus under its power to regulate interstate commerce, as involved in the transportation, in original packages, of ardent spirits from one State to another, Congress, by the necessary effect of the act of 1890, made it impossible to transport such packages to places within a prohibitory State and there dispose of their contents by sale, although it had been previously held that ardent spirits were recognized articles of commerce and, until Congress otherwise provided, could be imported into a State, and sold in the original packages, despite the will of the State. If at the time of the passage of the act of 1890 all the States had enacted liquor laws prohibiting the sale of intoxicating liquors within their respective limits, then the act would necessarily have had the effect to exclude ardent spirits altogether from commerce among the States; for no one would ship, for purposes of sale, packages containing such spirits to points within any State that forbade their sale at any time or place, even in unbroken packages, and, in addition, provided for the seizure and forfeiture of such packages. So that we have in the Rahrer case a recognition of the principle that the power of Congress to regulate interstate commerce may sometimes be exerted with the effect of excluding particular articles from such commerce.

* * * * * * *

It is said, however, that if, in order to suppress lotteries carried on through interstate commerce, Congress may exclude lottery tickets from such commerce, that principle leads necessarily to the conclusion that Congress may arbitrarily exclude from commerce among the States any article, commodity, or thing, of whatever kind or nature, or however useful or valuable, which it may choose, no matter with what motive, to declare shall not be carried from one State to another. It will be time enough to consider the constitutionality of such legislation when we must do so. The present case does not require the court to declare the full extent of the power that Congress may exercise in the regulation of commerce among the States. We may, however, repeat in this connection what the court has heretofore said, "that the power of Congress to regulate commerce among the States, although plenary, can not be deemed arbitrary, since it is subject to such limitations or restrictions as are prescribed by the Constitution."

This power, therefore, may not be exercised so as to infringe rights secured or protected by that instrument. It would not be difficult to imagine legislation that would be justly liable to such an objection as that stated and be hostile to the objects for the accomplishment of which Congress was invested with the general power to regulate commerce among the several States. But, as often said, the possible abuse of a power is not an argument against its existence. There is probably no governmental power that may not be exerted to the injury of the public. If what is done by Congress is manifestly in excess of the powers granted to it, then upon the courts will rest the duty of adjudging that its action is neither legal nor binding upon the people. But if what Congress does is within the limits of its power, and is simply unwise or injurious, the remedy is that suggested by Chief Justice Marshall in Gibbons v. Ogden, when he said: "The wisdom and the discretion of Congress, their identity with the people, and the influence which their constituents possess at elections are in this, as in many other instances—as that, for example, of declaring war—the sole restraints on which they have relied ... secure them from its abuse. They are the restraints on which the people must often rely solely in all representative governments."

There is no reason why Congress can not act as to liquors exactly the same as to lottery tickets. These decisions would seem to clearly establish the proposition that the right to regulate is the right to prohibit. Were further authority needed, the numerous cases arising under the Sherman Antitrust Act would be in point. Congress, then, having the power to prohibit the transportation in interstate commerce of all intoxicating liquors—in other words, to remove them as articles of interstate commerce—can it be seriously questioned that it may make a lesser rule or regulation with respect thereto? The present bill does not seek to prohibit the transportation of all intoxicating liquors, but only those liquors shipped with the intent to violate the laws of a State. Having the power to absolutely prohibit, the power must exist to make any kind of a regulation.

To prohibit the transportation of all liquors that had not been kept for a certain length of time, or liquors that had not been inspected by some designated authority; in fact, any kind of a regulation that it might make would be within its power. While the intent question as involved in this bill may be difficult of proof, may make the law unwieldy, may be considered by some as ridiculous and absurd, yet that has no relationship whatever to the question of power. If the State prohibits the sale of intoxicating liquors, then where they are shipped with intent to be sold they have no protection under the interstate-commerce clause. If liquors are shipped with the intent to be used by the person for his own personal use and in no way to violate the law of a State, then they are subjects of commerce. In other words, any shipment intended by those interested therein to be used in violation of the law is not a subject of interstate commerce. I realize the difficulties involved in the intent proposition and the force in the argument that an innocent consignor ought not be compelled to suffer in any way for the undisclosed intention of a consignee. As a matter of practice, of course, the consignor well knows, with reference to the shipment he has made, whether it is made for personal use or to violate the law. He is amply protected by securing his charges in advance. So would a railroad company be protected by securing its freight in advance, and the railroad company has a right to extend credit to one and not to another without being guilty of any discrimination, just as a man has in any other kind of business.

A large number of statutes passed by Congress recognize, as of course they must, the intent question. The fact that intent is difficult to prove does not destroy such laws. For instance, section 245 of the Criminal Code prohibits the shipment of certain drugs intended to be used for certain purposes. Other statutes make unlawful the removing of timber from public lands with intent to export or dispose of same. Others for equipping vessels with intent to bring in slaves. Others punish those who with intent to defraud falsely make, forge, counterfeit, or alter any obligation of the United States. Others punish those who with intent to defraud pass or attempt to pass falsely made obligations; the carrying on of correspondence with foreign Governments with intent to influence measures or conduct of foreign Governments in relation to disputes with nations at peace with the United States. Others provide for the punishment of those who fit out or arm vessels with intent that such vessels be employed in the service of foreign powers to war against those with whom the United States is at peace. So that Congress recognizes the question of intent in a large number of its statutes.

The question of intent is merely a question of fact to be determined from all the circumstances and evidence in each particular case. Nor does the act violate any constitutional right. The question of the contract has been raised here. The Supreme Court of the United States has many times said that there is no liberty of contract in this country.

In the case of Louisville & Nashville R. R. Co. v. Motley (219 U. S., 467) the court goes fully into the question where the proposition is the violation of contract rights arising under a contract for a pass given by the Louisville & Nashville Railroad before the enactment of the Hepburn Act.

Time forbids entering into a discussion of it, but this was a case where the railroad company had made a contract for a life pass. When the Hepburn Act came into force and effect the railroad company ceased to give the pass. A suit was brought, and the Supreme Court held that contracts of that nature were made subject to the possibility that even if valid when made, Congress may, by exercising its power, render them invalid. That there was no violation of the fifth amendment because contracts were invalidated which conflicted with the public policy declared in the act. In Knox v. Lee (12 Wall., 551) the court said:

> In a state of civil society, property of a citizen or subject is ownership, subject to the lawful demands of the sovereign, so contracts must be understood as made in reference to the possible exercise of the rightful authority of the Government and no obligation of a contract can extend to the defeat of legitimate Government authority.

This act would not infringe upon the constitutional liberty of the citizen to make contracts in any way. There is no liberty of contract where the contract may be contrary to the declared public policy of the Government.

In Glozza v. Tierman (148 U. S., 661), a Texas case, the court said:

> The privileges and immunities of citizens of the United States are privileges and immunities arising out of the nature and essential character of the National Government and granted or secured by the Constitution of the United States, and the right to sell intoxicating liquors is not one of the rights growing out of such citizenship.

Nor can it be contended that this act would be in violation of the fourteenth amendment. In Powell v. Pennsylvania (127 U. S., 678), it was said that—

> the fourteenth amendment was not designed to interfere with exercises of the police power by the State for the protection of health * * * and the preservation of public morals. * * * The power which the legislature has to promote the general welfare is very great, and the discretion which that department of the Government has in the employment of means to that end is very large. * * * The possibility of abuse of legislative power does not disprove its existence.

In the Atlantic Coast Line Railroad Co. v. Riverside Mills (219 U. S., 186), construing what is known as the Carmack amendment, making the carrier liable for loss or damage to merchandise received for interstate transportation beyond their own lines, notwithstanding any contract of exemption in the bill of lading, the court held it to be a valid exercise of such power and not in conflict with the due-process provision of the fifth amendment. The court there said, referring to the various decisions:

> It is obvious from the many decisions of this court that there is no such thing as absolute freedom of contract. Contracts which contravene public policy can not be lawfully made at all. * * * The power of government extends to the denial of liberty of contract to the extent of forbidding or regulating every contract which is reasonably calculated to injuriously affect the public interest.

Therefore it would seem clear as to section 1 of this act that there could not be serious doubt as to the power of Congress to

pass the same without violating any constitutional provisions. It would meet the difficulty which has arisen in the enforcement of prohibition laws in the various States, and prevent, when liquor within the borders of the State—to be used in violating the laws of the State—is seized by the State in the exercise of its police power, the defense thereto being made that such articles were protected by the interstate-commerce clause. The power exists to remove all intoxicating liquors from interstate commerce. The lesser power only is used. No constitutional rights are infringed. Why, then, simply because the question of intent would be difficult of ascertainment, refuse to pass such a law and give the relief demanded? It is no more uncertain than "reasonable restraint" of trade under the Sherman Act. What divinity is there that surrounds a shipment of liquors from one State intended to be used in violating the law of another State? What reason is there in common sense why a State should not deal with this troublesome proposition as it pleases, so long as it does not infringe constitutional rights? Why not have the privilege to exercise its laws free from the impediment now imposed by the interstate-commerce clause? It is not revolutionary; it may be novel, as much legislation nowadays is novel to those who can not see or understand that the only purpose of government and the only reason for its existence is to serve the people who comprise that government.

REVIEW OF CASES RELATING TO THIS SUBJECT.

Probably no more perplexing problem has ever been presented to the courts than the question of just what a State may do in those cases which might affect interstate commerce more or less. Nearly all the States have in the exercise of their police power passed laws in the last few years for the regulation of the traffic in intoxicating liquors. Many of the States have passed laws absolutely prohibiting the carrying on of the liquor business within the State. Some of the States have adopted prohibition as a part of their constitution, and as late as the last election, the State of West Virginia, by over 90,000 majority, adopted a constitutional amendment prohibiting the manufacture and sale of intoxicating liquors. It is quite apparent that these various laws have given rise to many controversies and many decisions, and I shall attempt to review only the more important ones. As late as December 2 of this year the Supreme Court of the United States, in the case of Purity Extract & Tonic Co. v. Lynch, after citation to various authorities, with reference to the police power of the State, said:

> That the State in the exercise of its police power may prohibit the selling of intoxicating liquors is undoubted. * * * It is also well established that when a State, exerting its recognized authority, undertakes to suppress what it is free to regard as a public evil, it may adopt such measures having reasonable relation to that end as it may deem necessary in order to make its action effective. It does not follow that because a transaction separately considered is innocuous it may not be included in a prohibition the scope of which is regarded as essential in the legislative judgment to accomplish a purpose within the admitted power of the Government.

As far back as 1847 the States of Massachusetts, Rhode Island, and New Hampshire passed laws with relation to the regulation of the liquor traffic and the licensing thereof. The various laws of these States are summarized in the syllabus of Thurlow v. Massachusetts (5 How., 504):

> Laws of Massachusetts providing that no person shall presume to be a retailer or seller of wine, brandy, rum, or other spirituous liquors, in a less quantity than 28 gallons, and that delivered and carried away all at one time, unless he is first licensed as a retailer of wine and spirits, and that nothing in the law should be so construed as to require the county commissioners to grant any licenses, when in their opinion the public good does not require them to be granted. * * *
>
> Of Rhode Island, forbidding the sale of rum, gin, brandy, etc., in a less quantity than 10 gallons, although in this case the brandy which was sold was duly imported from France into the United States and purchased by the party indicted from the original importer. * * *
>
> Of New Hampshire, imposing similar restrictions to the foregoing upon licenses, although in this case the article sold was a barrel of American gin, purchased in Boston and carried coastwise to the landing at Piscataqua Bridge and there sold in the same barrel. * * *
>
> All adjudged to be not inconsistent with any of the provisions of the Constitution of the United States or acts of Congress under it.

For 50 years it never was questioned by the bar of this country that the States had this full police power; that the silence of Congress gave to the States this power, but when the Bowman case was decided, in One hundred and twenty-fifth United States, page 465, this policy was reversed, and there a statute of the State of Iowa requiring a certificate of relation to the shipment of liquor was held to be an interference with interstate commerce, and was therefore void.

One of the most important cases that has arisen is Bowman v. Chicago & Northwestern Railroad Co. (125 U. S., 465), where the Iowa statute, prohibiting transportation except upon a certificate from the auditor of the county where consignee resided that the consignee had the right to sell, was held unconstitutional as being an attempted regulation of interstate commerce, and the court (Justice Matthews) said:

> Sec. 1553. If any express company, railway company, or any agent or person in the employ of any express company, or of any common carrier, or any person in the employ of any common carrier, or if any person knowingly bring within this State for any other person or persons or corporation, or shall knowingly transport or convey between points or from one place to another within this State for any other person or persons or corporation, any intoxicating liquors without first having been furnished with a certificate from and under the seal of the county auditor of the county to which said liquor is to be transported or is consigned for transportation, or within which it is to be conveyed from place to place, certifying that the consignee or person to whom said liquor is to be transported, conveyed, or delivered is authorized to sell such intoxicating liquors in such county, such company, corporation, or person so offending, and each of them, and any agent of such company, corporation, or person so offending shall, upon conviction thereof, be fined in the sum of $100 for each offense, and pay costs of prosecution, and the costs shall include a reasonable attorney fee, to be assessed by the court, which shall be paid into the county fund, and stand committed to the county jail until such fine and costs of prosecution are paid. The offense herein defined shall be held to be complete, and shall be held to have been committed in any county of the State through or to which said intoxicating liquors are transported, or in which the same is unloaded for transportation, or in which said liquors are conveyed from place to place or delivered. It shall be the duty of the several county auditors of this State to issue the certificate herein contemplated to any person having such permit, and the certificate so issued shall be truly dated when issued, and shall specify the date at which the permit expires, as shown by the county records.

In the case of Mugler v. Kansas (123 U. S., 623, 657) it was said: "That legislation by a State prohibiting the manufacture within her limits of intoxicating liquors to be there sold or bartered for general use as a beverage does not necessarily infringe any right, privilege, or immunity secured by the Constitution of the United States is made clear by the decisions of this court rendered before and since the adoption of the fourteenth amendment. * * * These cases rest upon the acknowledged right of the States of the Union to control their purely internal affairs, and in so doing, to protect the health, morals, and safety of their people by regulations that do not interfere with the execution of the powers of the General Government or violate rights secured by the Constitution of the United States."

However this may be the rule has been asserted with great clearness that whenever the subjects over which a power to regulate commerce is asserted are in their nature national or admit of one uniform system or plan of regulation, they may justly be said to be of such a nature as to require exclusive legislation by Congress. (Cooley v. Port Wardens, 12 How., 299; Crandall v. State of Nevada, 6 Wall., 42.) Surely transportation of passengers or merchandise through a State or from one State to another is of this nature.

Upon this point the observations of Mr. Justice Catron in the License cases (5 How., 504, 599) are very much to the point. Speaking of the police power as reserved to the States and its relation to the power granted to Congress over commerce, he said:

> "The assumption is that the police power was not touched by the Constitution, but left to the States as the Constitution found it. This is admitted; and whenever a thing from character or condition is of a description to be regulated by that power in the State then the regulation may be made by the State, and Congress can not interfere. But this must always depend on facts subject to legal ascertainment, so that the injured may have redress. And the fact must find its support in this, whether the prohibited article belongs to and is subject to be regulated as part of foreign commerce or of commerce among the States. If from its nature it does not belong to commerce or if its condition, from putrescence or other cause, is such when it is about to enter the State that it no longer belongs to commerce, or, in other words, is not a commercial article, then the State power may exclude its introduction. And as an incident to this power, a State may use means to ascertain the fact. And here is the limit between the sovereign power of the State and the Federal power. That is to say, that no thing which does not belong to commerce is within the jurisdiction of the police power of the State and that which does belong to commerce is within the jurisdiction of the United States. * * *

It may also be admitted, as was said in the case of Railroad Co. v. Husen (95 U. S., 465, 471), that the police power of a State justifies the adoption of precautionary measures against social evils. Under it a State may legislate to prevent the spread of crime or pauperism or disturbance of the peace. It may exclude from its limits convicts, paupers, idiots, and lunatics, and persons likely to become a public charge, as well as persons afflicted by contagious or infectious diseases; a right founded, as intimated in the Passenger cases (7 How., 283), by Mr. Justice Grier in the sacred law of self-defense.

* * * * * * *

It is conceded, as we have already shown, that for the purposes of its policy a State has legislative control, exclusive of Congress, within its territory of all persons, things, and transactions of strictly internal concern. For the purpose of protecting its people against the evils of intemperance it has the right to prohibit the manufacture within its limits of intoxicating liquors; it may also prohibit all domestic commerce in them between its own inhabitants, whether the articles are introduced from other States or from foreign countries; it may punish those who sell them in violation of its laws; it may adopt any measures tending, even indirectly and remotely, to make the policy effective until it passes the line of power delegated to Congress under the Constitution. It can not, without the consent of Congress, express or implied, regulate commerce between its people and those of the other States of the Union in order to effect its end, however desirable such a regulation might be.

* * * * * * *

It is easier to think that the right of importation from abroad, and of transportation from one State to another, includes by necessary implication the right of the importer to sell in unbroken packages at the place where the transit terminates; for the very purpose and motive of that branch of commerce which consists in transportation is that other and consequent act of commerce which consists in the sale and exchange of the commodities transported. Such, indeed, was the point decided in the case of Brown v. Maryland (12 Wheat., 419), as to foreign commerce, with the express statement in the opinion of Chief Justice Marshall, that the conclusion would be the same in a case of commerce among the States. But it is not necessary now to express any opinion upon the point, because that question does not arise in the present

case. * * * It is enough to say that the power to regulate or forbid the sale of a commodity after it has been brought into the State does not carry with it the right and power to prevent its introduction by transportation from another State.

* * * * * * *

That the right of importation carries with it the right to sell the article imported does not appear to me doubtful. Of course, I am speaking of an article that is in a healthy condition, for when it has become putrescent or diseased it has ceased to be an article of commerce, and it may be destroyed or its use prohibited. To assert that, under the Constitution of the United States, the importation of an article of commerce can not be prohibited by the States, and yet to hold that when imported its use and sale can be prohibited, is to declare that the right which the Constitution gives is a barren one, to be used only so far as the burden of transportation is concerned, and to be denied, so far as any benefits from such transportation are sought. The framers of the Constitution never intended that a right given should not be fully enjoyed.

* * * * * * *

Assuming, therefore, as correct doctrine that the right of importation carries the right to sell the article imported, the decision in the Kansas case may, perhaps, be reconciled with the one in this case by distinguishing the power of the State over property created within it, and its power over property imported—its power in one case extending, for the protection of the health, morals, and safety of its people, to the absolute prohibition of the sale or use of the article, and in the other extending only to such regulations as may be necessary for the safety of the community until it has been incorporated into and become a part of the general property of the State. However much this distinction may be open to criticism, it furnishes, as it seems to me, the only way in which the two decisions can be reconciled.

It will be noted that a strong dissenting opinion was filed in the Bowman case by Justice Harlan, concurred in by Associate Justice Gray, in which this language was used:

This court has often declared that the most important function of government was to preserve the public health, morals, and safety; that it could not divest itself of that power, nor, by contract, limit its exercise; and that even the constitutional prohibition upon laws impairing the obligation of contracts does not restrict the power of the State to protect the health, morals, or the safety of the community, as the one or the other may be involved in the execution of such contracts. (Stone v. Mississippi, 101 U. S., 814, 816; Butchers' Union Co. v. Crescent City Co., 111 U. S., 746, 751; New Orleans Gas Co. v. Louisiana Light Co., 115 U. S., 650, 672; Mugler v. Kansas, 123 U. S., 623, 664.) It is inconceivable that the well-being of any State is at the mercy of the liquor manufacturers of other States.

* * * * * * *

The purpose of committing to Congress the regulation of commerce was to insure equality of commercial facilities by preventing one State from building up her own trade at the expense of sister States. But that purpose is not defeated when a State employs appropriate means to prevent the introduction into her limits of what she lawfully forbids her own people from making. It certainly was not meant to give citizens of other States greater rights in Iowa than Iowa's own people have.

And that was a statement from one of the greatest jurists who ever sat on that bench.

While dissenting opinions do not make good law they oftimes express excellent common sense. While the Bowman case merely went to the question of the certificate required by the Iowa statute, being an interference with interstate commerce, the deduction was fair to be drawn therefrom that shipments in original packages could not be disturbed until after delivery to the consignee and sale by him. On page 485 of the Bowman case is this significant language:

So far as these regulations made by Congress extend, they are certainly indications of its intention that the transportation of commodities between the States shall be free, except where it is positively restricted by Congress itself or by the States in particular cases by the express permission of Congress.

Indicating the thought of the court that Congress might give permission to the States to restrict transportation of commodities between the States. Of course, this may very properly be said to be mere obiter dictum. While the Bowman case was determined upon the question of the Iowa law relating to certificates being a regulation of interstate commerce, the indication from the court's opinion was rather strong that the State could not interfere with the shipment in the original package, even after delivery to the consignee, until it was sold and became commingled with the common mass of property within a State. It was therefore natural that circumstances would arise leading to the decision in Leisy v. Hardin (135 U. S., 100). This was likewise a case arising from Iowa. The court there squarely held that the right to import liquors from a sister State and the sale in the original unbroken package was beyond the power of the State law to stop; that the protection of interstate commerce extended even to the sale. And it had been the law that the sale was as much a part of the protection of interstate commerce as the actual transportation. There was nothing startling in this decision, as all the decisions heretofore with relation to the subject of interstate commerce had held that the sale was just as much a part of the commerce as the actual physical transportation. The fact that the sale was an incident to commerce had not at that time been suggested. Under this decision the State was absolutely without power to stop the sale of intoxicating liquors transported from one State into another while they remained in the original package. The bootlegger had an unparalleled era of prosperity. Express offices became distributing points; prohibition laws in the various States amounted to nothing, and the alleged constitutional right to break down State laws enacted for the public health, morality, and sobriety of the people reigned supreme. It was stated by a distinguished Senator from Kansas [Mr. BRISTOW] a few days ago on the floor of the Senate, that while the Constitution was in theory the supreme law of the land, yet the will of the people was in fact the supreme law, and nowhere has it been better exemplified than in the demand of the people for relief from the situation arising under the Leisy v. Hardin case (135 U. S., 100). If the constitutional right to transport in interstate commerce involved the right likewise to sell, as was held in the Leisy case, then there was absolutely no relief for the people from this situation.

Some of the language of the court in that case is instructive as well as interesting, although the language of the court seemed to indicate that legislation might be enacted by Congress prohibiting importation from abroad or from a sister State. The court said:

That ardent spirits, distilled liquors, ale, and beer are subjects of exchange, barter, and traffic, like any other commodity in which a right of traffic exists, and are so recognized by the usages of the commercial world, the laws of Congress, and the decisions of courts is not denied. Being thus articles of commerce, can a State in the absence of legislation on the part of Congress prohibit their importation from abroad or from a sister State or when imported prohibit their sale by the importer? If the importation can not be prohibited without the consent of Congress, when does property imported from abroad, or from a sister State, so become part of the common mass of property within a State as to be subject to its unimpeded control?

* * * * * * *

Articles in such a condition as tend to spread disease are not merchantable, are not legitimate subjects of trade and commerce, and the self-protecting power of each State therefore may be rightfully exerted against their introduction, and such exercise of power can not be considered a regulation of commerce prohibited by the Constitution; and the observations of Mr. Justice Catron, in the License Cases (5 How., 504, 599), are quoted to the effect that what does not belong to commerce is within the jurisdiction of the police power of the State, but that which does belong to commerce is within the jurisdiction of the United States.

Quoting with approval, Mr. Justice Matthews, in Bowman case, thus proceeds (p. 493): "For the purpose of protecting its people against the evils of intemperance, it has the right to prohibit the manufacture within its limits of intoxicating liquors; it may also prohibit all domestic commerce in them between its own inhabitants, whether the articles are introduced from other States or from foreign countries; it may punish those who sell them in violation of its laws; it may adopt any measures tending, even indirectly and remotely, to make the policy effective until it passes the line of power delegated to Congress under the Constitution. It can not, without the consent of Congress, express or implied, regulate commerce between its people and those of the other States of the Union in order to effect its end, however desirable such a regulation might be." * * *

* * * * * * *

The conclusion follows that, as the grant of the power to regulate commerce among the States, so far as one system is required, is exclusive, the States can not exercise that power without the assent of Congress, and, in the absence of legislation, it is left for the courts to determine when State action does or does not amount to such exercise; or, in other words, what is or is not a regulation of such commerce. When that is determined, controversy is at an end.

* * * * * * *

* * * the responsibility is upon Congress, so far as the regulation of interstate commerce is concerned, to remove the restriction upon the State in dealing with imported articles of trade within its limits, which have not been mingled with the common mass of property therein, if in its judgment the end to be secured justifies and requires such action.

* * * * * * *

The plaintiffs in error are citizens of Illinois, are not pharmacists, and have no permit, but import into Iowa beer, which they sell in original packages, as described. Under our decision in Bowman v. Chicago, etc., Railway Co., supra, they had the right to import this beer into that State, and in the view which we have expressed they had the right to sell it, by which act alone it would become mingled in the common mass of property within the State. Up to that point of time we hold that in the absence of congressional permission to do so the State had no power to interfere by seizure, or any other action, in prohibition of importation and sale by the foreign or nonresident importer. Whatever our individual views may be as to the deleterious or dangerous qualities of particular articles, we can not hold that any articles which Congress recognizes as subject of interstate commerce are not such, or that whatever are thus recognized can be controlled by State laws amounting to regulations while they retain that character; although at the same time, if directly dangerous in themselves, the State may take appropriate measures to guard against injury before it obtains complete jurisdiction over them. To concede to a State the power to exclude, directly or indirectly, articles so situated, without congressional permission, is to concede to a majority of the people of a State, represented in the State legislature, the power to regulate commercial intercourse between the States by determining what shall be its subjects, when that power was distinctly granted to be exercised by the people of the United States, represented in Congress, and its possession by the latter was considered essential to that more perfect union which the Constitution was adopted to create. Undoubtedly there is difficulty in drawing the line between the municipal powers of the one government and the commercial powers of the other.

It must be noted that a strong dissenting opinion was filed by three of the justices in this case, Justice Gray saying, among others:

The police power extends not only to things intrinsically dangerous to the public health, such as infected rags or diseased meat, but to

things which, when used in a lawful manner, are subjects of property and of commerce, and yet may be used so as to be injurious or dangerous to the life, the health, or the morals of the people. Gunpowder, for instance, is a subject of commerce and of lawful use, yet, because of its explosive and dangerous quality, all admit that the State may regulate its keeping and sale. And there is no article the right of the State to control or to prohibit the sale or manufacture of which within its limits is better established than intoxicating liquors. (License cases, 5 How., 504; Downham v. Alexandria Council, 10 Wall., 173; Barrmeyer v. Iowa, 18 Wall., 129; Beer Co. v. Massachusetts, 97 U. S., 25; Tiernan v. Rinker, 102 U. S., 123; Foster v. Kansas, 112 U. S., 201; Mugler v. Kansas and Kansas v. Ziebold, 123 U. S., 623; Kidd v. Pearson, 128 U. S., 1; Ellenbecker v. Plymouth County Court, 134 U. S., 31.)

* * * * * * *

Nor is the case affected by the fourteenth amendment of the Constitution. As was said in the unanimous opinion of this court in Barbier v. Connolly, after stating the true scope of that amendment, "But neither the amendment, broad and comprehensive as it is, nor any other amendment, was designed to interfere with the power of the State, sometimes termed its police power, to prescribe regulations to promote the health, peace, morals, education, and good order of the people, and to legislate so as to increase the industries of the State, develop its resources, and add to its wealth and prosperity." (113 U. S., 27, 31.) Upon that ground the amendment has been adjudged not to apply to a State statute prohibiting the sale or manufacture of intoxicating liquors in buildings long before constructed for the purpose or the sale of oleomargarine lawfully manufactured before the passage of the statute. (Mugler v. Kansas, 123 U. S., 623, 663; Powell v. Pennsylvania, 127 U. S., 678, 685, 687.)

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If the statutes of a State restricting or prohibiting the sale of intoxicating liquors within its territory are to be held inoperative and void as applied to liquors sent or brought from another State and sold by the importer in the original packages, the consequence would seem must be that an inhabitant of any State may, under the pretext of interstate commerce, and without license or supervision of any public authority, carry or send into, and sell in, any or all of the other States of the Union intoxicating liquors of whatever description, in cases or kegs, or even in single bottles or flasks, despite any legislation of those States on the subject, and although his own State should be the only one which had not enacted similar laws. It would require positive and explicit legislation on the part of Congress to convince us that it contemplated or intended such a result.

And it is important in all this language of the court, particularly the majority opinion, to note that while they held the right to import carried with it the right to sell in the original package, yet they used such language as—

We hold, that in the absence of congressional permission to do so * * *.

Again—

Without congressional permission,

And, quoting the language in an opinion of Mr. Justice Matthews:

It can not without the consent of Congress, express or implied, regulate commerce between its people.

So the implication can readily be drawn from this case, and it is strong, that the court thought the power rested with Congress to take an article out of interstate commerce. The outcry against the opinion in this case was so strong that Congress was moved shortly thereafter, and within five or six months to pass what is known as the Wilson Act, found on page 3177, volume 3 of the United States Statutes, and that act was as follows:

Be it enacted, etc., That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State and Territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

It is quite apparent that it was the intention of Congress, and it so appears from the debates, that the police power of the States in dealing with the regulation of intoxicating liquors should attach before sale or even before delivery. An action was commenced soon thereafter to test the constitutionality of the Wilson Act, and practically the same claims were made as to the harrowing and destructive effect of that act and the unconstitutionality thereof as are now made with reference to this bill.

This case came up from the State of Kansas and was argued by eminent counsel, and is perhaps one of the most important cases ever determined by the Supreme Court with reference to the commerce clause of the Constitution. The court held the Wilson Act to be constitutional, using the following significant language (In re Rahrer, 140 U. S., 545):

The power of the State to impose restraints and burdens upon persons and property in conservation and promotion of the public health, good order, and prosperity is a power originally and always belonging to the States, not surrendered by them to the General Government nor directly restrained by the Constitution of the United States, and essentially exclusive.

The fourteenth amendment, in forbidding a State to make or enforce any law abridging the privileges or immunities of citizens of the United States or to deprive any person of life, liberty, or property without due process of law, or to deny to any person within its jurisdiction the equal protection of the laws, did not invest and did not attempt to invest Congress with power to legislate upon subjects which are within the domain of State legislation.

* * * * * * *

The power of Congress to regulate commerce among the several States, when the subjects of that power are national in their nature, is also exclusive. The Constitution does not provide that interstate commerce shall be free, but, by the grant of this exclusive power to regulate it, it was left free except as Congress might impose restraint. Therefore, it has been determined that the failure of Congress to exercise its exclusive power in any case is an expression of its will that the subject shall be free from restrictions or impositions upon it by the several States.

* * * * * * *

And the fact must find its support in this, whether the prohibited article belongs to and is subject to be regulated as part of foreign commerce or of commerce among the States. If from its nature it does not belong to commerce, or if its condition, from putrescence or other cause, is such when it is about to enter the State that it no longer belongs to commerce, or, in other words, is not a commercial article, then the State power may exclude its introduction. * * * And here is the limit between the sovereign power of the State and the Federal power. That is to say, that which does not belong to commerce is within the jurisdiction of the police power of the State, and that which does belong to commerce is within the jurisdiction of the United States. And to this limit must all the general views come, as I suppose, that were suggested in the reasoning of this court in the cases of Gibbons v. Ogden, Brown v. The State of Maryland, and New York v. Miln.

* * * * * * *

By the adoption of the Constitution the ability of the several States to act upon the matter solely in accordance with their own will was extinguished and the legislative will of the General Government substituted. No affirmative guaranty was thereby given to any State of the right to demand as between it and the others what it could not have obtained before; while the object was undoubtedly sought to be attained of preventing commercial regulations partial in their character or contrary to the common interests. And the magnificent growth and prosperity of the country attest the success which has attended the accomplishment of that object. But this furnishes no support to the position that Congress could not, in the exercise of the discretion reposed in it, concluding that the common interests did not require entire freedom in the traffic in ardent spirits, enact the law in question. In so doing Congress has not attempted to delegate the power to regulate commerce or to exercise any power reserved to the States or to grant a power not possessed by the States or to adopt State laws. It has taken its own course and made its own regulation, applying to these subjects of interstate commerce one common rule whose uniformity is not affected by variations in State laws in dealing with such property.

* * * * * * *

No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so.

* * * * * * *

The framers of the Constitution never intended that the legislative power of the Nation should find itself incapable of disposing of a subject matter specifically committed to its charge. The manner of that disposition brought into determination upon this record involves no ground for adjudging the act of Congress inoperative and void.

* * * * * * *

Congress did not use terms of permission to the State to act, but simply removed an impediment to the enforcement of the State laws in respect to imported packages in their original condition, created by the absence of a specific utterance on its part. It imparted no power to the State not then possessed, but allowed imported property to fall at once upon arrival within the local jurisdiction.

* * * * * * *

This is not the case of a law enacted in the unauthorized exercise of a power exclusively confided to Congress, but of a law which it was competent for the State to pass, but which could not operate upon articles occupying a certain situation until the passage of the act of Congress.

It will be observed, in passing, that the Wilson Act, construed in the Rahrer case, is the same as the second section of the present bill, with the exception that the words are added in this bill, "and before delivery to the consignee." Practically the same arguments were brought against that act as are now brought against this bill. The court recognized in this case that an article may be taken out of commerce by Congress; that Congress has the power to remove such article from commerce; that by such legislation Congress does not delegate the power to regulate commerce or to exercise any power reserved to the States, or to enlarge the police power of the States, or grant a power not possessed by them; that Congress has made its own regulation, the uniformity of which is not affected by the variations in the State laws dealing with such property, and particularly significant is the language of the court, that—

No reason is perceived why, if Congress chooses to provide that certain subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within the competency of Congress to do so.

That suggestion of the court has never been answered by the opponents of this class of legislation. The next important case dealing with this question is that of Rhodes v. Iowa (170 U. S., 412), and the court there held that the term "upon arrival within the State" meant delivery to the consignee and separated interstate commerce for the first time into two divisions—the fundamentals of interstate commerce and the incidents thereof—holding that the sale was a mere incident of such commerce, and that the actual transportation was the fundamentality. It is difficult to understand why the protection of the commerce clause should apply to the transportation and not the sale. Transportation without sale is ineffective, and had been

to recognized for the last 50 years of decisions. In the Rhodes case the court said:

While it is true that the right to sell free from State interference interstate-commerce merchandise was held in Leisy v. Hardin to be an essential incident to interstate commerce, it was yet but an incident, as the contract of sale within a State in its nature was usually subject to the control of the legislative authority of the State. On the other hand, the right to contract for the transportation of merchandise from one State into or across another involved interstate commerce in its fundamental aspect, and imported in its very essence a relation which necessarily must be governed by laws apart from the laws of the several States, since it embraced a contract which must come under the laws of more than one State. The purpose of Congress to submit the incidental power to sell to the dominion of State authority should not without the clearest implication be held to imply the purpose of subjecting to State laws a contract which in its very object and nature was not susceptible of such regulation, even if the constitutional right to do so existed, as to which no opinion is expressed.

* * * * * *

And it was doubtless this construction, which caused the court to observe in the opinion in In re Rahrer (140 U. S., 545, 552) that the act of Congress "divests them (objects of interstate-commerce shipment) of that character at an earlier period of time than would otherwise be the case." We think that, interpreting the statute by the light of all its provisions, it was not intended to and did not cause the power of the State to attach to an interstate-commerce shipment while the merchandise was in transit under such shipment and until its arrival at the point of destination and delivery there to the consignee; and, of course, this conclusion renders it entirely unnecessary to consider whether, if the act of Congress had submitted the right to make interstate-commerce shipments subject to State control, it would be repugnant to the Constitution.

It will be noted that the court does not determine the question, but leaves it expressly undecided whether, if the act of Congress had submitted the right to make interstate-commerce shipments subject to State control, it would be repugnant to the Constitution; but the inference might be drawn fairly from the case that the court had such thought in mind. It is interesting, likewise, to note that a strong dissenting opinion was filed in this case by Justices Gray, Harlan, and Brown, who did not take the same view of the term "arrival in the State," but took the following view, as expressed by them:

The opinions heretofore delivered in this court upon the effect of the act of Congress of 1890, although they do not decide, clearly imply that the "arrival in such State" contemplated and intended by the act is an arrival within the territorial limits and jurisdiction of the State.

The statute under which the Rhodes case was decided is practically the same as the statute under which the Bowman case was decided. It will be noted that the court interpreted the Wilson Act as not intending to or causing the power of the State to attach to an interstate shipment whilst the merchandise was in transit under such shipment. The distinction between fundamental and incidental commerce had not before been referred to. As to the constitutional aspect of the application of a law or principle which recognized the power of a State operating through its police power to stop a shipment at the border thereof and thus entirely prevent interstate commerce, is related to be discussed in relation to the second section of this act.

In American Express Co. v. Iowa (196 U. S., 133) the question of the operation of the Iowa law under this Wilson Act as to a C. O. D. shipment from the State of Illinois is discussed. The court held that the contract was complete in Illinois, that the shipment into Iowa constituted interstate commerce, and that there was the right to sell in the original package.

The last important case dealing with this subject is Louisville & Nashville Railway Co. against Cook Brewing Co. Kentucky had a statute prohibiting common carriers from transporting intoxicating liquors from dry points in Kentucky. The court held this to be a valid enactment as to the intrastate shipment but not effective as to the interstate shipment, but as to that was an unconstitutional interference with interstate commerce. The court says:

By a long line of decisions, beginning even prior to Leisy v. Hardin, it has been undisputably a detriment.

(a) That beer and other intoxicating liquors are a recognized legitimate subject of interstate commerce.

(b) That it is not competent for any State to forbid any common carrier to transport such articles from a consignor in one State to a consignee in another.

(c) That until such transportation is concluded by the delivery to the consignee such commodities do not become subject to State regulation restricting their sale or disposition.

The court plants its decision upon the ground that the Wilson Act does not apply before actual delivery to the consignee. The language of this case would seem upon casual reading to be strongly against the purpose of the present bill, but a careful analysis thereof would indicate that it is not at all conclusive as to the bill in question. That beer and other intoxicating liquors are a recognized subject of interstate commerce is not questioned, but they would not be a recognized subject of interstate commerce if Congress in its power over that subject removed them from interstate commerce. True, of course, is division (b) that a State can not forbid a common carrier to transport from one State to another such articles, but the complete answer to this is that Congress may forbid. Division (c) is answered by the thought that the term "State regulation" is expressly used, but, as in the Rahrer case, there is no reason why Congress may not remove from interstate commerce articles which otherwise would be under the protection of that clause until delivery and sale, and the court seems to emphasize the thought that the receiving for transportation to consignees in Kentucky from consignors in other States could not be prohibited by any State law, and why? Simply because it would be an unlawful regulation of interstate commerce not authorized by Congress. No power exists to remove that impediment or to regulate that interstate commerce but Congress, and Congress by this bill establishes a uniform rule of regulating interstate commerce by removing the impediment to the exercise of the police power.

In Delamater v. South Dakota (205 U. S., 93) the question arose as to the law of South Dakota imposing an annual license charge on traveling salesmen offering for sale or soliciting orders for intoxicating liquors in quantities less than 5 gallons. It was held that this was a police regulation and not a taxing act and was constitutional and within the purview of the Wilson Act. The court said:

It is settled by a line of decisions of this court, noted in the margin, that the purpose of the Wilson Act, as a regulation by Congress of interstate commerce, was to allow the States, as to intoxicating liquors, when the subject of such commerce, to exert ampler power than could have been exercised before the enactment of the statute. In other words, that Congress, sedulous to prevent its exclusive right to regulate commerce, from interfering with the power of the States over intoxicating liquor, by the Wilson Act adopted a special rule enabling the States to extend their authority as to such liquor shipped from other States before it became commingled with the mass of other property in the State by a sale in the original package.

* * * * * *

That act, as we have seen, manifested the conviction of Congress that control by the States over the traffic of dealing in liquor within their borders was of such importance that it was wise to adopt a special regulation of interstate commerce on the subject. When, then, for the carrying out of this purpose the regulation expressly provided that intoxicating liquors coming into a State should be as completely under the control of a State as if the liquor had been manufactured therein, it would be, we think, a disregard of the purposes of Congress to hold that the owner of intoxicating liquors in one State can, by virtue of the commerce clause, go himself or send his agent into such other State, there, in defiance of the law of the State, to carry on the business of soliciting proposals for the purchase of intoxicating liquors.

* * * * * *

The ruling thus made is particularly pertinent to the subject of intoxicating liquors and the power of the State in respect thereto. As we have seen, the right of the States to prohibit the sale of liquor within their respective jurisdictions in and by virtue of the regulation of commerce embodies in the Wilson Act is absolutely applicable to liquor shipped from one State into another after delivery and before the sale in the original package. It follows that the authority of the States, so far as the sale of intoxicating liquors within their borders is concerned, is just as complete as is their right to regulate within their jurisdiction the making of contracts of insurance. It hence must be that the authority of the States to forbid agents of nonresident liquor dealers from coming within their borders to solicit contracts for the purchase of intoxicating liquors which otherwise the citizen of the State "would not have thought of making" must be as complete and efficacious as is such authority in relation to contracts of insurance, especially in view of the conceptions of public order and social well-being which it may be assumed lie at the foundation of regulations concerning the traffic in liquor.

In Adams Express Co. v. Commonwealth of Kentucky (214 U. S., 218) the decision was based on the Wilson Act. The court there followed the Rhodes case in holding that the State law would not attach to any interstate shipment until the completion of the transit by delivery to the consignee.

I have attempted in this to review impartially all the cases of the Supreme Court dealing with this important question. They are difficult to reconcile. An interesting discussion of this matter is found in the statement of the distinguished Senator from Maryland, who has so lately been called to his reward, when this question was before the Judiciary Committee of the United States Senate some years ago. As great a lawyer as Senator Rayner—and no better, in my judgment, has ever graced this Senate—was unable to harmonize these various cases. Speaking to the committee of the fundamental and incidental right as set forth in the Rhodes case, he said, and his language will be found on page 6 of the report:

There is no separation between them, because a matter of sale is not an incident; a sale is a fundamental right, and if you destroy a matter of sale you destroy a right under the Constitution. * * * I do not see any difference between a package before it gets into the hands of a consignee and that package after it gets into the hands of a consignee and is opened. I think if you can stop the right to sell it you can stop it in transit. I can not get into my mind the slightest distinction between an incidental right and a fundamental right under the Constitution, because there is a line of cases which I have read in which the Supreme Court has held that the right of sale is absolutely a fundamental right and not an incident.

The following interesting conversation took place, or, rather, statements:

Senator RAYNER. The same courts have held that we could absolutely stop the sale of whisky. In the Indian Tribe cases they come right down

to the doctrine of the absolute prohibition of the sale of whisky. Now, the question I want to submit to the committee is this: Assuming that we can stop the sale of whisky——

Senator NELSON. In the Indian cases that was put upon the ground that the Indians were our wards.

Senator RAYNER. No; I have got the briefs and records, and they show that point was not argued at all. It was assumed that we could stop the sale of whisky any place we wanted to, either to the Indians or to anybody else.

Senator BACON. In the United States?

Senator RAYNER. Yes. Now, could we pass a law to-day prohibiting the sale of whisky?

Senator FULTON. You mean prohibiting its entering into interstate commerce?

Senator RAYNER. Yes. Then, if we can do the greater, why can we not do the less? If we can pass a law prohibiting the sale of whisky from State to State, why can we not pass a law removing an impediment, so far as the States are concerned, and make whisky subject to the police regulations of the State when it reaches the boundary of the State? Does not whisky stand on a different footing from an innocuous article?

That is a point that has given me trouble. Would a law passed by Congress to-day, stopping the sale of whisky, be a valid law? If it would be a valid law, why can we not say to the State that it can pass a law prohibiting the importation of whisky into the State or say to it that we give the State the right, when the article reaches its boundaries, to subject it to the police regulations of the State? I have not come to any conclusions, in my mind, upon that question. I have examined the question thoroughly.

I am satisfied, however, that Senator Rayner had serious doubt as to the constitutionality of this law. This emphasizes the fact heretofore expressed by me, that honest lawyers, frank with themselves, must concede that the questions involved are exceedingly troublesome; but inasmuch as the Supreme Court has expressly left open the question, it would seem that this was a proper case to place the matter squarely before them in order that a question of such great importance might be determined.

THE QUESTION OF PERSONAL USE.

It has been claimed by opponents of this measure, in literature which they have industriously circulated, that this bill would prevent a person securing intoxicating liquor for his own personal use. It would be sufficient answer to this contention to ask a careful reading of the bill from anyone upon whom the attempt was made so to deceive. I am not here to argue either for or against the right of a person to have intoxicating liquors for his or her own use. No State has attempted to prevent the personal use of liquors except in so far as it might be said the prevention of sales might indirectly affect it. But if a State should undertake to penalize a person for the use of liquors (of course excluding questions of where he becomes drunk and a nuisance) it would, in my judgment, violate the constitutional right which inheres in citizenship, so that if a State should pass such law the present measure could not affect it, as such State law would in all probability be held unconstitutional. Were the State to pass such a law, and if the same should be upheld by the courts, then, of course, this bill would affect it, but it is a far-fetched conclusion. Men differ on the question as to the right to use liquor for personal use being a right protected by the Constitution. Two interesting cases on this proposition have arisen, one the case of Scott v. Donald (165 U. S., 107) and the other Vance v. Vandercook (170 U. S., 436). Both cases arose under the South Carolina statutes, and in the Vance v. Vandercook case the court said that:

The right of persons in one State to ship liquor into another State to a resident for his own use is derived from the Constitution of the United States, and does not rest on the ground of State law.

The Supreme Court had held in the Rhodes case that under the Wilson law Congress had not submitted intoxicating liquors shipped for sale to the jurisdiction of the State into which they were shipped until delivery to the consignee. In Vance against Vandercook the court was viewing the situation where the delivery of a package of liquor to the original consignee was interfered with by the State statute. The State statute imposed conditions on such shipment, and the only importations that could be made for sale were to the officers of the State. It is quite apparent that the case did not turn upon the question of personal use, but rather upon the conditions imposed upon the shipment to an original consignee in the original package, and such legislation clearly interfered with such shipment.

In Scott against Donald the court said:

It is sufficient for the present cases to hold, as we do, that when a State recognizes the manufacture, sale, and use of intoxicating liquors as lawful, it can not discriminate against the bringing of such articles in and importing them from other States; that such legislation is void as a hindrance to interstate commerce and an unjust preference of the products of the enacting State as against similar products of the other States.

And there the law was held unconstitutional solely because it discriminated against the bringing of such articles in and importing them from other States and not because the articles were intended for personal use. The court further said:

It is not a law purporting to forbid the importation or manufacture, sale, and use of intoxicating liquors as articles detrimental to the welfare of the State and to the health of the inhabitants, and hence it is not within the scope and operation of the act of Congress of August, 1890.

These cases were again referred to in Pabst Brewing Co. v. Crenshaw (198 U. S., 25). There the court, in construing the Wilson law, said:

In so far, however, as the State law imposed burdens on the right to ship liquor from another State to a resident of South Carolina, intended for his own use, and not for sale within the State, the law was held to be repugnant to the Constitution, because the Wilson Act, whilst it delegated to the State plenary power to regulate the sale of liquors in South Carolina, shipped into the State from other States, did not recognize the right of a State to prevent an individual from ordering liquors from outside of the State of his residence for his own consumption and not for sale.

In Heyman v. Southern Railway Co. (203 U. S., 270), the liquors in controversy were seized before delivery, so that the case was similar to the Rhodes case, and they quoted, with approval from Vance against Vandercook, as follows:

It follows that under the Constitution of the United States every resident of South Carolina is free to receive for his own use liquor from other States and that the inhibitions of a State statute do not operate to prevent liquors from other States from being shipped into such State for the order of a resident for his use.

And they refer to the ruling in Vance against Vandercook, as upholding the right of a citizen of one State to bring from another State into the State of his residence and keep therein for his personal use the merchandise referred to in the Wilson Act.

It has been decided, as reference has heretofore been made in Mugler against Kansas, that the right to manufacture intoxicating liquors for one's personal use was not an inalienable right.

In Kidd against Pearson, it was held that there was no right in a citizen to manufacture liquors contrary to the laws of his State, notwithstanding the fact that they were intended for exportation. There is no practical trouble with the personal-use question. There is no attempt on the part of anybody to construct a law that shall prevent personal use or prevent shipment for personal use, and this bill does not do so.

Mr. President, I had very much hoped to finish my remarks to-day, and I had hurried about as fast as I could, but have not covered everything I wanted to cover. I think I can finish in 10 or 15 minutes to-morrow morning, and at that time I am going to ask the Senator from South Dakota [Mr. CRAWFORD] to yield to me. I will not occupy over 10 minutes.

Mr. CRAWFORD. Mr. President, I give notice that, at the conclusion of the routine morning business to-morrow morning, I shall ask the Senate to resume the consideration of the omnibus claims bill, and I shall be glad to have the Senator from Iowa [Mr. KENYON] conclude his remarks.

Mr. LODGE. I call attention to the fact that the Senator from Georgia [Mr. SMITH] has given notice of a speech to-morrow morning, but I understand it is to be a very brief one.

Mr. CRAWFORD. Of course I do not desire to interfere with a notice of that kind.

Mr. LODGE. I make the point of no quorum, Mr. President.

The PRESIDENT pro tempore. The Senator from Massachusetts makes the point of no quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	Lodge	Smith, Ariz.
Bacon	Curtis	McLean	Smith, Ga.
Bailey	Dixon	Martin, Va	Smith, S. C.
Bourne	du Pont	O'Gorman	Smoot
Brandegee	Fletcher	Oliver	Stephenson
Bristow	Gallinger	Overman	Sutherland
Brown	Gronna	Page	Thornton
Bryan	Guggenheim	Paynter	Townsend
Chamberlain	Jackson	Perkins	Warren
Chilton	Johnson, Me.	Perky	Wetmore
Clapp	Johnston, Ala.	Richardson	Works
Clark, Wyo.	Jones	Root	
Clarke, Ark.	Kenyon	Sanders	
Crane	La Follette	Simmons	

The PRESIDENT pro tempore. Fifty-three Senators have answered to their names. A quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDING OFFICER (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDING OFFICER. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Monday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDING OFFICER. Are there any inaccuracies in the Journal? If not, it will stand approved. Counsel for the respondent will proceed.

Mr. WORTHINGTON. Mr. President, when the Senate sitting as a Court of Impeachment adjourned yesterday Mr. Saums was under direct examination. I should be very glad if he might be allowed to stand aside for the present. We have a number of gentlemen here whose time is of great importance and we should like to examine them first.

Mr. Manager STERLING. I understand Mr. Saums is not to be excused.

Mr. WORTHINGTON. No; he is not to be excused. My direct examination has not been finished.

Mr. President, I wish to introduce Mr. M. J. Martin, of the Scranton bar, who is associated in the defense of Judge Archbald and who has been kept away thus far by circumstances over which he had no control.

The PRESIDING OFFICER. The name of Mr. Martin will be entered in the record as of counsel for the respondent.

Mr. WORTHINGTON. I ask that Col. Phillips be called.

REESE A. PHILLIPS—RECALLED.

Reese A. Phillips, heretofore sworn, was recalled and was further examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Did you have a conversation with Christopher G. Boland after the Truesdale meeting you told us about on the 5th of October, 1911?—A. Yes, sir.

Q. How long after that?—A. Two or three weeks.

Q. I want to ask you what took place at that conversation—if there was anything said on the subject of the claim of the Marian Coal Co. against the railroad company?—A. Yes, sir.

Mr. Manager FLOYD. We object. Counsel is inquiring about a subsequent transaction and is asking about something that Mr. Boland said to the witness. We fail to see wherein that could be material or in rebuttal of anything we have brought out.

Mr. WORTHINGTON. Mr. President, the Truesdale conference, which of course the Chair will remember, when Mr. Watson presented his claim to the president of the Lackawanna road and other officials, was held on the 5th of October, and the evidence shows that shortly after that time Mr. Watson ceased to have anything to do with that matter.

There is also in evidence here a letter written by Judge Archbald, dated the 13th of November, addressed to C. G. Boland, under the name of "My Dear Christy," in which he refers to the interview he had with an official of the Lackawanna road in presenting this claim, Mr. Loomis being the person referred to, and informing Mr. Boland that his efforts were unsuccessful.

We stated in the opening here that we expected to show before we got through with this case that Christopher G. Boland, after Mr. Watson had ceased to have anything to do with this matter, came to Judge Archbald and implored him to go on and try to bring about a settlement, because the troubles with the railroad company were affecting the mind of his brother, William P. Boland. Now, we wish to show that at the same time and before this letter of November 13 was written, Christopher G. Boland came to the official of the railroad company and urged a settlement upon precisely the same grounds.

Now, since Mr. Boland has been upon the stand here to substantiate the claim of the managers that the whole effort on the part of Judge Archbald to bring about this settlement was for the purpose of using his influence with the railroad company to get them to pay something that they did not owe, I think it is very important for us and proper for us to be allowed to show that Christopher G. Boland himself went to the railroad company and was making the representations at the same time without any intervention of Judge Archbald.

I read from page 412 the ruling the Chair made at the time:

The PRESIDENT pro tempore. Do the managers expect to connect Judge Archbald with this particular matter in any way?

Mr. Manager FLOYD. With this particular proposition that was made we do not. This was a proposition made by Mr. Boland on his own responsibility after the negotiation in which Judge Archbald had participated had entirely failed.

The PRESIDENT pro tempore. It is not the purpose then to hold Judge Archbald responsible?

Mr. Manager FLOYD. Not to hold him responsible in any way for this particular transaction.

The PRESIDENT pro tempore. The testimony on the part of the managers might be admitted, in the opinion of the Chair, to complete their witness.

And then he went on to tell——

The PRESIDING OFFICER. What page is that?

Mr. WORTHINGTON. Page 412, about the top of the page.

On page 411, the middle of the page, appears the question on which this discussion arose:

Q. (By Mr. Manager FLOYD.) Did you, in conferring with the officers of the Delaware, Lackawanna & Western Railroad Co., namely, Mr. Phillips and Mr. Loomis, make a proposition of settlement to either of them and did they make a counter proposition to you? If so, state what the propositions were.

That was objected to, and was held to be competent.

Now, we want to give Mr. Phillips's account of that conversation, which is important, because Christopher G. Boland was allowed to testify to it, and more important for the reasons I have stated.

The PRESIDING OFFICER. The Chair will hear from the manager.

Mr. Manager FLOYD. Now, Mr. President, we think it would be perfectly competent to prove by Mr. Boland——

The PRESIDING OFFICER. If the manager will permit, the Chair will ask the Reporter to read the question.

The Reporter read the question as follows:

Q. I want to ask you what took place at that conversation; if there was anything said on the subject of the claim of the Marian Coal Co. against the railroad company.

Mr. Manager FLOYD. Now, Mr. President, we think it would be competent for them to prove by Mr. Boland what he may have said, but counsel is seeking to prove by this witness some conversation or conference between this witness and Mr. Boland. It does not seem to me that that kind of testimony is admissible, unless its purpose be to contradict something Mr. Boland said about it. If that is his purpose, then it might, and I think would, be admissible; but if it is simply to confirm something that Mr. Boland said it is in the nature of purely hearsay, and would not be admissible. That is why we object to it.

The PRESIDING OFFICER. The Chair would inquire of counsel if it is proposed by this testimony to contradict what Mr. Boland said?

Mr. WORTHINGTON. It is to give a very different account of the same conversation he was asked about.

The PRESIDING OFFICER. Is it for the purpose of contradicting him?

Mr. WORTHINGTON. Yes, sir.

The PRESIDING OFFICER. The Chair does not know what the evidence is to be.

Mr. WORTHINGTON. I have stated the substance of the evidence. I have said that we offer to prove that Mr. Boland implored Mr. Phillips to bring about a settlement of the claim of the Marian Coal Co. against the railroad company, not because of anything Mr. Boland said there, but because the troubles of the Marian Coal Co. were affecting his brothers' mind; and he implored him on account of his feeling for his brother to bring about a settlement of the claim.

The Chair must remember that we expect to prove that at almost the identical time Mr. Boland was making the same sort of an appeal to Judge Archbald to induce him to go to see Mr. Loomis on this last occasion, and then comes here—well, I will not say what he comes here for. That is apparent.

The PRESIDING OFFICER. If it is for the purpose of contradicting a witness, the counsel would have the right to proceed.

Mr. Manager FLOYD. As I understand the conversation, the matter to which counsel for the respondent refers, he himself objected, and we were permitted only to prove that there was a proposition submitted and the amount. That is my recollection of the matter and the conversation. What was said, what was discussed, was excluded, and only the mere fact that a proposition was made was admitted, and the witness was allowed to state the amount.

The PRESIDING OFFICER. The Chair finds upon reference to the page stated by the counsel that the witness was not permitted to go into the details of the conversation, but only to state the fact. The Chair thinks, however, that without going into the matter in detail, counsel should be permitted to prove any fact that would tend to contradict the testimony of a former witness.

Mr. WORTHINGTON. In that case I must lead the witness's mind to the precise point instead of asking him to state what occurred.

The PRESIDING OFFICER. Yes.

Q. (By Mr. WORTHINGTON.) State whether at that interview anything was said by Christopher G. Boland in reference to the reason why he wanted the claim settled.—A. Yes, sir.

Q. What was it?—A. He stated that his brother——

Mr. Manager FLOYD. We object.

The PRESIDING OFFICER. If counsel would call attention to the particular testimony that this is intended to contradict the Chair would be in a better position to rule upon it. The simple fact of a conversation was all that was proved before.

Mr. WORTHINGTON. I understand him to say that is all he did—that he went there and made a proposition.

Mr. Manager FLOYD. It was all he was permitted to say.

Mr. WORTHINGTON. It seems to me if they were allowed to prove that he went there and made a proposition he ought to be allowed to finish the sentence. If he said, "We went

there and made the proposition because," I think he ought not to be cut off at the "because."

The PRESIDING OFFICER. The Chair will admit the testimony.

Q. (By Mr. WORTHINGTON.) State any reason Mr. Christopher G. Boland gave you on that occasion for wishing to have the claim of the Marian Coal Co. against the railroad company settled.—A. He stated in a very affecting way, with tears rolling and coursing down his cheeks, that he was worried and fretting about his brother Will; that he was afraid he would lose his mind.

The PRESIDING OFFICER. The Chair limits it to the distinct proposition as to what the witness proposed and the reason he gave for it; not all the possibilities.

Mr. WORTHINGTON. I hope the Chair did not misunderstand me. I claim only that he ought to be permitted to finish the sentence. When he said he made his proposition and said he wanted it carried through "because," we ought to be allowed to follow up the word "because"; and this is following it up.

The PRESIDING OFFICER. The Chair thinks the witness could not go further than the rule would permit. He can state what he desired and his reason without going into the detailed conversation. If it was because of the interest of his brother it would be sufficient for him to state that.

Mr. WORTHINGTON. With that ruling of the Chair, I have nothing further to ask the witness.

The PRESIDING OFFICER. It would be an interminable matter if all possible conversations of the parties were admitted.

Mr. Manager FLOYD. We have no questions, Mr. President.

Mr. WORTHINGTON. Mr. President, I feel bound to ask this witness a question since he is here. [To the witness:] Do not answer for the present. Having tendered him as a witness I feel bound to ask him whether he was to receive any of the $60,000 that has been referred to in the testimony.

Mr. Manager FLOYD. We object.

The PRESIDING OFFICER. The Chair thinks——

Mr. WORTHINGTON. I do not want it said hereafter that we brought him here and did not offer to ask him that question.

The PRESIDING OFFICER. If he should say "no," that would be an issue upon which the other side would be justified in introducing evidence. There would be no termination to a proceeding of that kind.

Mr. WORTHINGTON. Very well. Then I have no further questions to ask.

Mr. Manager FLOYD. We have no questions.

Mr. WORTHINGTON. Call Maj. Warren.

TESTIMONY OF EVERETT WARREN.

Everett Warren, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Where do you reside?—A. I reside in the city of Scranton, Pa.

Q. What is your profession?—A. I am a practicing lawyer; in general practice.

Q. In Scranton?—A. In Scranton and elsewhere.

Q. How long have you been practicing there and elsewhere?—A. I have been practicing law for a little over 30 years.

Q. And mainly in Scranton?—A. I should say mainly in Scranton; yes, sir.

Q. And to what other bailiwicks has your practice extended?—A. I have tried cases in other counties than Lackawanna County, which is the county of which Scranton is the county seat, and in several counties in the State, and in the Federal courts in Pennsylvania, and indeed in some other jurisdictions.

Q. Are you in practice by yourself or in a firm?—A. I am now a member of the firm of Warren, Knapp & O'Malley.

Q. Composed of whom besides yourself?—A. Composed of myself, Judge Knapp, Mr. O'Malley, and Mr. Hill.

Q. How long have you been a member of that firm?—A. The firm was changed after the death of Judge Willard, the senior member of the firm, in 1910. The firm had been Willard, Warren & Knapp for a good many years, except while he was a member of the Superior Court of Pennsylvania.

Q. In a very general way, what is the nature of your practice?—A. We have a general practice up in the provinces; I might say we run the whole gamut of the law. We represent in Scranton the Erie Railroad as its local counsel, the Hillside Coal & Iron Co., the capital stock of which I understand is controlled by the Erie.

Mr. Manager CLAYTON. I should like to know from the respondent's counsel the purpose of interrogating the witness in detail about his business. I suppose he intends to ask him about the character of Judge Archbald, to which we have no objection, but, to go into the character of this witness, giving an account of his business and giving the range of it and the scope of it, we do not think is proper. We think he should come at once to the character of the judge, and unless respondent's counsel can indicate the purpose of the range of this examination and the necessity for it, we shall have to object.

Mr. WORTHINGTON. As I had finished all I wished to ask the witness on that point, I will not reply to the manager's objection.

The PRESIDING OFFICER. The Chair would suggest that that line of inquiry is certainly not elucidating any issue, and will very largely encumber the record if it is pursued in each case, a possibility it might be well to try to avoid.

Mr. WORTHINGTON. As I have already said, Mr. President, since I have already asked all I intend to ask on that line, I will not make any argument upon it. If the question arises hereafter, I may want to be heard upon it. The learned manager assumed that I did not intend to ask this witness anything except about the character of Judge Archbald.

Mr. Manager CLAYTON. I did not indulge in any such assumption, but I thought that was what counsel was next going into; and I made the objection, so that the court could direct the attention of counsel for the respondent to the point to which the manager has directed it, so my brother might not be guilty of that error hereafter.

Mr. WORTHINGTON. When I am convicted by the court I will plead guilty.

Q. (By Mr. WORTHINGTON.) Are you acquainted with Judge Archbald?—A. I am very well acquainted with him.

Q. In a general way what is the nature of your acquaintance with him?—A. I have known Judge Archbald ever since I was a small boy. I have been before him in a great many causes. As I was saying when objection was made, I am in general practice and I have been in very active practice, and, generally speaking, for the last 20 or 25 years I have been the trial lawyer of the firm; I do not mean to say exclusively, but generally, and as such I have been before Judge Archbald in many, many cases.

Mr. Manager NORRIS. I want to renew the objection.

The PRESIDING OFFICER. The Chair thinks that the personal history of the witness is not a matter that is at issue here, or his personal character or professional work.

Mr. Manager CLAYTON. Mr. President, may I say——

The PRESIDING OFFICER. The Chair sustains the objection.

Mr. Manager CLAYTON. I want to say that this witness is a lawyer, and ought not to offend against the ruling of the Chair.

Mr. WORTHINGTON. I insist that everything this witness has testified to is proper and competent from our point of view.

This witness, Mr. President, is one who contributed to that purse, and is it not important for us to show what were his relations to Judge Archbald, so that the Senate may judge whether it was intended as an honorable and proper gift or as a bribe?

The PRESIDING OFFICER. Yes.

Mr. WORTHINGTON. It is on that line, among others, that I am examining this witness.

The PRESIDING OFFICER. If counsel will confine himself within those limitations, he will be proceeding in order. He may proceed.

Q. (By Mr. WORTHINGTON.) Tell us whether or not you did contribute to the purse that was presented to Judge Archbald in 1910 before he went to Europe?—A. I did; yes, sir.

Q. Tell us the circumstances of it.—A. I want to say that that purse originated with some of his friends at the bar. I can not now recall just the particular person who suggested it to me, but I remember that at one time some of us were together in one of the anterooms waiting for the court to meet. I remember the occasion. We had been advised that his wife's relative—I can not remember now what the relationship was—invited them to go to Europe at the expense of this relative of Mrs. Archbald, and I remember the suggestion was made that it would be very desirable for us to do something to make it at least enjoyable to the judge. We knew he had not been there, and we knew something of his life, something of his frugality, et cetera. Various suggestions were made, and finally it was thought desirable that we should try to raise a purse. The understanding, of course, was that it was not to be known to him or from whom the purse arranged for came.

I contributed to this proposition. I remember talking with some of my brethren at the bar. I remember asking the clerk, as he had more time than we did, that he communicate with some of the gentlemen around the district whom he knew and felt would desire to be contributors, and I think he did so.

Q. Now, Maj. Warren, I want to ask you to tell us, from your long acquaintance with Judge Archbald and your observation of him as a judge, what were his principal characteristics as a judge as to integrity, ability, and industry.

Mr. Manager NORRIS. Mr. President, I object to the question as immaterial and irrelevant. The counsel has a right to ask the witness as to reputation, but I do not believe he can go beyond that.

Mr. WORTHINGTON. Mr. President, I would not be prepared to argue this matter except for a word or two that fell from the Chair the other day when a witness who had volunteered a statement about Judge Archbald's character was on the stand.

While I recognize the fact that in the ordinary tribunals and in ordinary cases you are confined in asking about the reputation of a party to a formal stereotyped question as to what his reputation is in the community in which he lives, and whether it is good or bad, and you stop there, which amounts to nothing, I contend that in this case no such rule is applicable or ought to be applied, and that Senators who are to vote upon the question of the guilt or innocence of Judge Archbald ought to know a little more about him than that, and ought to know what kind of a judge he is and what kind of a man he is.

I do not mean to go into great detail about it; I could have this witness say all that I expect to have him say in less time than I have been talking about it; but inasmuch as I expect to ask the same question of several other witnesses who are here in attendance, lifelong associates at the bench and bar and in private of Judge Archbald, I would like to take up the time of the Senate for a moment or two in stating why in this case we think the rule should be more liberal.

I have examined the history of this matter in other impeachment cases. I have here the report of the trial of Judge Chase, who was, as you, Mr. President, well know, a member of the Supreme Court of the United States, and was tried in the Senate, charged with various offenses in his judicial character. On page 297 of this book I find what I shall read, and I should remind the Chair and the Senate that in this trial, which took place in 1805, there were in the Senate, as Members of the Senate and as counsel in the case, men who had been members of the Constitutional Convention which framed our Constitution, and who were presumed to have some idea of what was meant by the impeachment clauses of the Constitution.

I find this sort of examination by Mr. Harper, one of the counsel for Judge Chase:

Mr. HARPER. Please to inform this honorable court whether you are accustomed to practice law in the courts where Judge Chase presides?

Mr. PURVIANCE. I am, sir.

Mr. HARPER. Is it not his practice frequently to interrupt counsel?

Mr. PURVIANCE. I think so, but I always attributed it to his quickness of apprehension, which induced him rather to anticipate counsel than to listen to them; this I always ascribed to his superior sagacity.

Mr. HARPER. Have you seen any difference in his interruptions between counsel with whom he was supposed to be on ill terms and those with whom he was on good terms?

Mr. PURVIANCE. I never observed any difference in his conduct arising from a consideration of persons, but it always appeared to me to arise from the manner in which gentlemen treated the subject. (Trial of Samuel Chase, Vol. I, p. 305.)

I happened upon that passage in opening the book at random, and I give it as a sample of what is there.

I have here the record of the impeachment trial of Judge Peck, district judge of the United States, whose trial occurred in 1831. He was charged with having punished a lawyer for criticizing one of his opinions. I find this precise question was raised there, and this is the way it was disposed of. A lawyer, the Hon. Spencer Pettis, was under examination. I read from page 211 of the report of the trial, published at the close of it, in 1833:

A. I have practiced before him ever since he has been on the bench.

The witness had said that he practiced law before Judge Peck.

Q. Does not his manner usually become more earnest as he proceeds in the course of an extensive discussion?

This was objected to as a leading question, and in that form it was waived.

Q. What is the effect on Judge Peck's manner when delivering an extended answer to a protracted argument at the bar (for this argument had occupied two days). I ask; what is his usual manner in such cases as he advances?—A. His usual manner, when he says but little and does not speak at length, is very mild, smooth, and easy; but it always occurred to me as a fault in the judge that, in delivering an opinion at great length, he becomes warm and gesticulates much. I remember many cases of this kind, and this manner struck me very forcibly; his usual manner is to become much excited and to use a great deal of gesture.

Q. Have you known the judge long and well?—A. Ever since I have been in Missouri. I am intimately acquainted with him. (Report of the trial of James H. Peck, p. 211.)

There was a situation presented in that case which was exactly what we have here. Then this question was asked:

Q. Is his disposition that of an arbitrary and oppressive man?

Mr. BUCHANAN. We object to that question.

Mr. WIRT. Do you? Then we must take a question upon it.

(Here a discussion took place between the managers and the counsel, when the form of the question was changed.)

Q. What is the habitual disposition of the judge as to mildness and patience or arbitrary and oppressive propensities?—A. I always viewed him as one among the mildest men I ever knew in my life. He is very patient in the arguments held before him and in all that I know of him. He is a man who shows firmness, however, on all occasions. He is very firm but very mild in his dispositions. In these remarks I speak of Judge Peck both in his judicial and his private character. (Report of the trial of James H. Peck, p. 211.)

Now, Mr. President, the chairman of the managers in that case was Mr. Buchanan, who at that time held the office my distinguished friend holds here now as chairman of the Judiciary Committee of the House. I need not say anything as to who the counsel was, Mr. Wirt, who with Mr. Buchanan framed that question as a proper one to be asked, nor need I remind the Senate that among the Senators learned in the law was Daniel Webster, at that time chairman of the Judiciary Committee of the Senate.

But, Mr. President, going far beyond what I have given is the decision of the Senate itself in a vote taken during the trial of Secretary Belknap. I read from page 261 of the report of that trial as published by authority of Congress. It will be remembered, of course, that Mr. Belknap was charged simply with having received bribes while he was Secretary of War from one who, it was claimed, he had appointed to office where he had large opportunities to make money, something in the nature of selling sutlers' supplies. This question arose in the examination of a witness in that case:

Q. From all you know of the subject, and from all you know of Gen. Belknap, I ask you what has been the general character of his administration of the War Department?

Mr. Manager JENKS. Stop. The objection I make to that is that a witness must testify to character instead of to the specific acts of this man or general acts. He must know what has been said by those who are familiar with his administration in that office, instead of how has he done the business.

Mr. BLACK. It is character in the sense of reputation we are asking about.

Mr. Manager JENKS. It is character in the sense of reputation that you should confine yourself to.

Mr. Manager HOAR. We understand also that it should be the opposite of the particular offense charged. If a man is charged with adultery, his reputation for chastity; if he is charged with perjury, his reputation for veracity. We suppose the question should be, "What is the reputation of the Secretary for official integrity?" (CONGRESSIONAL RECORD; containing the proceedings of the Senate sitting for the trial of William W. Belknap, p. 261.)

That is what these learned managers say we should be tied down to in this case.

Mr. CARPENTER (to the witness). Answer the question.

The WITNESS. I ask the question to be read.

The question was read by the Reporter.

Mr. Manager HOAR (to Mr. Carpenter). That question we understand you modify.

Mr. CARPENTER. No; we do not.

Mr. Manager JENKS. It must not be the personal knowledge of the witness, but reputation.

Mr. Manager McMAHON. "What do other people say of him?" is the question.

Mr. CARPENTER. That opens up a very large question which I am certainly in no condition even to state to-day. We shall claim when we come to sum up this case that the general management of the War Department by Gen. Belknap is a proper subject of consideration; that if they could establish this particular charge we could still prove the general management and official conduct of the department, and then appeal to the Senate upon the whole record of the administration of that office whether this man shall be driven out into a little corner of his life or whether his whole conduct in the office is to be considered.

Mr. Manager HOAR. We do not understand that it is competent to prove by a subordinate officer in the Army as an expert the general character of the administration of a great officer of state. There is no such thing as an expert in such an administration. We object to the question unless it is limited to the reputation of the Secretary for official integrity.

Mr. BLACK. For integrity.

Mr. Manager HOAR. Well, you may leave out the word "official" if you prefer. We will not object.

The PRESIDENT pro tempore. Does the counsel modify the question?

Mr. CARPENTER. No, sir.

Mr. Manager HOAR. Then we object to it.

The PRESIDENT pro tempore. Objection is made. The question will be read by the Reporter.

The question was read, as follows:

Q. From all you know of the subject and from all you know of Gen. Belknap, I ask you what has been the general character of his administration of the War Department?

The PRESIDENT pro tempore. The question is, Shall this interrogatory be admitted?

The question was decided in the affirmative. (CONGRESSIONAL RECORD, containing the proceedings of the Senate sitting for the trial of William W. Belknap, p. 261.)

It appears there was not even enough opposition to the question in the Senate to bring about a vote and that the Senate practically unanimously held that it was competent to go into the general administration of the War Department by Gen. Belknap.

The PRESIDING OFFICER. The Chair will inquire the page.

Mr. WORTHINGTON. I stated the page when I began. It is page 261.

Now, that remark of Mr. Carpenter, Mr. President, was a hint of what he proposed to go on and show if it was necessary, but it does not seem to have been necessary, because the Senate admitted the evidence at once.

I ask you to remember, Mr. President, that we are not trying this case before a jury. We are trying this case before a tribunal which is the judge of the law and the judge of the facts, and the tribunal which is to inflict the sentence as well. The question when we come to the end of this case will not be simply whether certain things are proved against Judge Archbald which he should not have done, but as to the character of the man, and upon the whole evidence and the whole case what judgment should be rendered, not only whether the respondent shall be removed from the honorable position he has held so long as a Federal judge, but whether there shall be put upon him the brand of infamy as being not fit ever to hold office of any kind under the Government of the United States.

When my distinguished friend here, the chairman of the managers, was district attorney of the United States in Alabama, prosecuting offenders in the time of the Cleveland administration, I knew that with his big heart if any man had been brought up for sentence who was the meanest man whoever crawled around his district, and had offered to show it was the first offense or something else that might affect the mind of the court in sentencing the accused it would not have been denied.

The question which the Senate is to determine at the end of this case is not the mere question whether this or that thing is proved, but whether, upon the whole, taking into consideration the character of the man, the good that he has done, the kind of judge that he is, what the people in and about Scranton think of him and know of him, he shall be deprived of office and be held forever incapable of showing his head as a reputable man because of the contention that has been made here that he is not fit to hold any office of any kind under the Government of the United States.

Now, one thing more, it seems to me, takes this entirely out of the considerations which are invoked in ordinary courts of justice when a similar question arises: When our forefathers framed this Constitution of ours they put into it the provision that the trial of persons accused of crime shall take place in the districts where the crime was committed. I do not know how well many of us remember the origin of that clause in the original Constitution. It was because in the time of Henry VIII a statute had been enacted which had become obsolete at the time of the Revolutionary War, or just before that, when the Parliament of England undertook to revive it and to take the early patriots of 1774 and 1775 to England for trial. The fact is that when Gen. Gates set out from Boston the 18th of April, 1775, with that detachment which marched to Lexington and Concord one object of that expedition was to arrest John Hancock and Samuel Adams, who were living in a house near Lexington, and that Paul Revere came down to them on his celebrated ride, and they got out just in time to escape capture. The purpose of that raid was, among other things, to arrest those men and take them to England for trial instead of being tried in Massachusetts, where they lived and had committed the offenses and where everybody knew what kind of men they were.

Because of that this clause was put in the Constitution of the United States, and when the Constitution was before the State conventions for ratification objection was made to it because it did not provide that accused persons should be tried by a jury of the vicinage.

Let me recall what was said in one of those State conventions. Everybody will recall what was in the minds of all our forefathers at the time. This was said by Mr. Tredwell in the convention held in New York for the purpose of considering the ratification of the Constitution:

Have we not neglected to secure to ourselves the weighty matters of judgment or justice by empowering the General Government to establish one Supreme and as many inferior courts as they please, whose proceedings they have a right to fix and regulate as they shall think fit, so that we are ignorant whether they shall be according to the common, civil, the Jewish, or Turkish law? What better provisions have we made for mercy when a man, for ignorantly passing a counterfeit continental note or bill of credit, *is liable to be dragged to a distant county, two or three hundred miles from home, deprived of the support and assistance of friends, to be tried by a strange jury, ignorant of his character, ignorant of the character of the witnesses, unable to contradict any false testimony brought against him by their own knowledge of facts, and with whom the prisoner, being unacquainted, he must be deprived totally of the benefit of his challenge? And, besides all that, he may be exposed to lose his life merely for want of property to carry his witnesses to such a distance.*" (2 Elliott's Debates, 400.)

Now, Mr. President, in this case the trial has to be here in the Senate Chamber. This defendant can not have the benefit of being tried by his neighbors, the people who know him and know the witnesses against him. In that case I think it safe to say the trial would not have lasted 24 hours.

We can not take the Senate to Scranton, but we do want to bring to this trial the atmosphere of Scranton so far as relates to Judge Archbald's reputation and as far as we can give him the benefit of that which the meanest criminal throughout the Union has—to be tried in the place where the crime was committed, and among people who know him and who know those who testify against him. We can not go there, where the witnesses generally know the man. We want Senators to know what the men who have spent their lives in and around Scranton, practicing before Judge Archbald—his neighbors and friends—think of him and what his reputation is throughout the whole State of Pennsylvania.

Let me, in conclusion, remind the Senate of something that has been said in this case on the question of the rules of evidence. I refer first to what was said by Mr. Manager WEBB, on page 135:

Mr. President, later on, I think, it will be developed that it will be absolutely necessary to ask the Senate to cross-examine this witness. I shall conform as far as possible to the ordinary rules in an ordinary court, but, of course, we realize that this court has no limits as to its discretion as to what evidence shall be introduced.

So, again on page 153, Mr. Manager CLAYTON, in arguing against some objection we had made as to the admissibility of evidence, said:

It is said by some of the writers that this court renders a mixed verdict; that is, in reaching a verdict and judgment the court pronounce both upon the law and the evidence in the case.

Mr. President, that at once lifts this tribunal above the atmosphere of a mere petty courthouse trial where a $5 pettifogging lawyer may undertake in the defense of a criminal to interpose all sorts of technical objections, and where the judge is to pass upon the law and the jury upon the facts. This is a different tribunal from that. It is higher than that. This tribunal wants to know all the facts.

Mr. President, I would not do myself the discredit nor would I reflect upon the intelligence nor the good intentions of this great body by suggesting that the public wish to know all the facts pertaining to the conduct of their high judicial officer. This is more than a mere petty criminal case.

I could follow with more to the same effect scattered through this record. I submit that in determining the great question in this case, as to what kind of a man this is who is on trial, the Senate ought to know, not only the mere naked fact as to whether his reputation is good or bad, but what manner of man he is, what kind of a man he is known to be to these gentlemen who have known him so well during the 28 long years he has been on the bench, and in order that the Senate may judge whether it is likely that he would have gone to see Mr. Brownell for the purpose of making Mr. Brownell think that if he granted him some sort of a favor he would decide cases in his favor before the great Commerce Court, or as to whether he would have gone to Mr. Richards on behalf of poor Warnke and ask him to give Mr. Warnke another hearing with the expectation that Mr. Richards would do that for Mr. Warnke with the understanding, implied or expressed, that he would get paid for it when some of the Reading Co. cases would come up in the Commerce Court.

On this ground, Mr. President, I submit that we ought to have more than the mere naked, formal question I have referred to. We do not ask that the witness go very far or take much time, but we want to show what the witnesses know of this man, so that the Senate may sit as nearly as possible in the same position they would be in if they were citizens of Scranton sitting in Scranton to try this case.

Mr. Manager NORRIS. Mr. President, counsel has wandered very far afield, it seems to me, in this proposition and is attempting to carry the Senate away from the real issue that is to be determined here. In the first two impeachment cases that he cites, tried in the Senate, the question involved the very issue that was to be determined. The charge in each of those cases was a usurpation of power. The conduct of Judge Chase on the bench as a judge and the method of his demeanor there were in issue, and the questions asked and the answers admitted by the Senate bear directly on the issue involved.

There is no such issue involved here. There will be no objection on the part of the managers to the proper questions that are admissible in every court of justice as to the character of a defendant. Everyone must concede that the question the counsel has now propounded to the witness is not such a question.

Moreover, one of the charges in this case, perhaps several of them, relate to the Delaware & Lackawanna Railway. The witness, as it is already in evidence, is one of the attorneys of that corporation. He is asked now a question that under any circumstances in any court of justice would not be admissible. The attorney of one of the parties named in the indictment is asked now to state whether Judge Archbald is a good or a bad judge.

Mr. President, if we start out in this direction there will be no end to this trial. If this question is proper, then it is proper to follow this man's court decisions from the time he was a judge of the State court in Pennsylvania, years and years ago, up to the present time. It will be proper to take every case and follow it from its inception to its ending, whether in that court or in a superior court. It would be absolutely a limitless range that would never end.

All courts, as far as I know, without any exception, have confined this kind of questions to the reputation of the man in the neighborhood where he resides pertaining to the particular thing at issue.

If we were allowed and if they are allowed to go into this question, more than a thousand witnesses could properly be examined on this question. As I said, it is leading the Senate away from the issue. It seems to me that counsel for the respondent, in his argument, is trying to take the Senate away from the issue that is here at stake.

Now, Mr. President, I should like to have the Reporter read the question to which objection has been made, so that it may appear just exactly what it is.

The PRESIDING OFFICER. The question will be read by the Reporter.

The Reporter read the question, as follows:

Q. Now, Maj. Warren, I want to ask you to tell us, from your long acquaintance with Judge Archbald and your observation of him as a judge, what were his principal characteristics as a judge, as to integrity, ability, and industry?

Mr. Manager NORRIS. Mr. President, just think of the question! It is what is the witness's opinion as to his characteristics as a judge. There is no charge made here that on the bench he is abusive, as there were in the cases the counsel has cited us to. There is no charge made here that as a judge he is wild and abuses witnesses or attorneys, or that he takes any advantage in that respect of his judicial position. That is not charged. Yet the witness, an attorney representing one of the corporations with whom some of the wrongdoings and misbehaviors are alleged to have been committed, is asked to state his opinion as to his integrity as a judge.

It seems to me, Mr. President, it is so plain on the face of it that it does not need argument and ought not to receive a moment's consideration.

I would be glad to have Manager CLAYTON say a few words on the subject. He has given some attention to this particular branch of the case.

Mr. Manager CLAYTON. Mr. President, it is perhaps unnecessary for me to state the general rules governing the admission of character testimony, and perhaps it is also unnecessary for me to state the questions which have generally been propounded in such matters of inquiry and recognized as proper in places where character is put in issue.

I may say, Mr. President, in the beginning, that we have not controverted the good character of Judge Archbald. Perhaps if we had controverted that a larger range would be permissible for the respondent in reply to that controversy raised by the managers. But the managers have not raised that question.

So, Mr. President, I take it that the rules of evidence are to be applied by the Senate in this case, first, for the purpose of doing justice both to the managers who represent the accusation, the House of Representatives, or the people, if you please, or the Government of the United States, if you please, and of also doing justice to this respondent. Secondarily, and perhaps just as important, these rules are for the expeditious disposition of the cause. It is not to militate against the doing of justice in this case that we raise this question. We say that justice can be done within the rules which permit ordinary questions which are asked in ordinary cases about character and the answers thereto. There is enough latitude in that to do justice to both sides in this controversy, especially to the respondent, where the managers have not assailed his character by introducing evidence for that specific purpose.

Mr. President, the next reason to which I have adverted is for the dispatch of this case. Any rule looking to the speedy termination of this case ought to be enforced unless its relaxation would favor the doing of more ample justice to all parties concerned. In this case I take it that the Senate will consider the respondent as having gotten all he is entitled to when he proves by those who know him the fact that they know him, the fact that they know his general reputation and that his general reputation and his character, predicated upon that general reputation, is good. We have not controverted that, and therefore it does not seem to me that there is any necessity here for the enlargement of the rule.

Mr. President, the cases referred to by the learned counsel for the respondent are not applicable here. Of course, we know that there are no two cases alike. I need not remind so good a lawyer as the one who now occupies the chair that there are rarely ever any cases exactly parallel. I have no doubt that the present occupant of the chair, as well as other good lawyers, are frequently wearied by the expression of the small-case lawyers who come into the courts and say that they have a case "on all fours" with the case pending.

That is, Mr. President, hardly ever true. The "all fours" lawyer and the "parallel" lawyer lose sight of the principles involved in the case. The question that a lawyer and a judge wants to know is, not so much what was said in Smith against Jones or Brown against Jenkins, but he wants to know the reason. There may be parity of reason, and that decision may be persuasive by reason of the parity of reasoning and logic enunciated in the particular case which is brought to the attention of the court; but after all, Mr. President, the question is the trial of the case at bar, the particular question at bar. So let us examine these cases to which the counsel has referred.

Take, first, the Belknap case. There is no parity of reasoning here, and if there were, Mr. President, I may say that that was a case decided by the Senate at one time, and counsel might as well invoke the verdict in that case as a precedent for acquittal here as to invoke any other ruling in that case for the guidance of the Senate here.

There is no reason here for such a claim. We have not charged that while actually sitting on the bench Judge Archbald was guilty of these several misbehaviors. We have charged misbehaviors when he was not sitting on the bench. The whole case is his misbehavior, aside from the discharge of his mere official duties, while actually sitting, to wit, dickering with parties litigant, or probable parties litigant, in the matter of acquiring culm dumps to make money, and so on through the list of charges. The only case which it could be said by any sort of stretch relates to his act as judge on the bench, as I remember the articles, is the appointment of the jury commissioner. It is not even charged that he did that while on the bench; it is not charged that he did that while he was judge of the Commerce Court; but during his incumbency in the office of district judge he appointed a railroad attorney to be jury commissioner.

Mr. President, in the case of Judge Chase, his demeanor on the bench was in issue. Therefore it was perhaps proper to inquire as to his general demeanor on the bench. That comes up to the rule of evidence as laid down in the horn books, Greenleaf and others, that the question of character must be responsive to the particular charge; and that rule invoked, I think, in some of the cases cited.

In this case there is no charge that Judge Archbald demeaned himself with ill-temper or that he was drunk while on the bench or that he was guilty of profanity while on the bench, as there was in the case of Judge Pickering and in the case of Judge Peck. I do not now recall whether the counsel referred to that as a case in point.

Mr. WORTHINGTON. I cited from the Peck case.

Mr. Manager CLAYTON. In that case the Chair knows that the accusation against Judge Peck was the imprisonment of a lawyer for contempt of court. Mr. President, I fail to see the parallel between that case and this case here. This case here is the conduct of the judge. Every one of the charges, with possibly the exception I have named, relates solely to what this judge did while not sitting as judge.

Mr. President, I do not think it necessary to detain the Senate longer. I insist that, inasmuch as his good character is not controverted, this range of examination sought here by the counsel is not permissible. If it be permissible, Mr. President, I respectfully suggest that it will be well-nigh interminable. The Senate will have to end some time or other an examination so latitudinarian in its scope.

Mr. WORTHINGTON. Mr. President, so far as showing——

Mr. Manager NORRIS. Mr. President, is not the discussion on this subject ended now? Is not any further debate out of order under the rule?

Mr. WORTHINGTON. I certainly am surprised to hear that argument made from that side of this Chamber now. There has not been——

The PRESIDING OFFICER. The Chair will hear counsel.

Mr. Manager NORRIS. The managers are entitled to the closing, as I understand.

The PRESIDING OFFICER. The Chair will hear the counsel for the respondent.

Mr. WORTHINGTON. Mr. President, what has been said makes it necessary for me to remind the Senate just in a general way of what these charges are. Besides the charge that Judge Archbald entered into negotiations with railroad companies for the purpose of purchasing their coal property, or some of it, the charge is that he used his influence as a judge—that is the language of the articles—that, being a judge of the Commerce Court and having the cases of those railroad companies pending before him, he used his influence as a judge of that court to negotiate favorable arrangements with them.

As to the Boland note, you will remember that the charge there is that Judge Archbald allowed that note to be taken for discount to persons who had suits pending in his court for the purpose of having it negotiated, for the purpose of getting his judicial action in their favor.

So as to the Rissiager note. The charge there is that when Judge Archbald sat on the trial of those insurance company cases he had negotiations with Rissinger, and that immediately after the close of the trial he indorsed the note and got something for it, the implication being that he acted in that case in favor of Rissinger and was rewarded for it in that way.

So as to the Woodward appointment, which has already been referred to, which was clearly a judicial act.

Then remember, Mr. President, the Bruce case. There the charge is that the judge corruptly entered into negotiations with counsel who were on one side of the case after the case had been argued and while the court was considering its opinion—while he was engaged in writing the opinion.

Then, as to the raising of the purse, the charge is that he corruptly received a sum of money from a number of the members of the bar who had cases before him, meaning nothing more nor less than that he received that money with the understanding that those who gave it would benefit by his judicial action.

If we have not enough there Mr. President, here is the very opening statement made by Mr. Manager CLAYTON, found on page 111 of the record in this proceeding:

In short, Mr. President, he has attempted by various transactions to commercialize his potentiality as judge, and has not hesitated to use his official power and influence to drive bargains with those who had or had had or would probably have litigation before his court. He has degraded his high office, has destroyed the confidence of the public in his judicial integrity.

Mr. Manager CLAYTON. May I remind counsel that that was just a conclusion of the statement, not of the articles of impeachment at all, by way of argument or ornamentation to the manager's address to the Senate?

Mr. WORTHINGTON. The learned manager forgets that is his opening statement to the Senate of what he was going to prove and claim in this trial—and not a quotation from the articles of impeachment—which he now seems to think it is his best policy to say that he has not any idea of proving or claiming.

Mr. Manager CLAYTON. I wish the learned counsel for the respondent would accept the view of the law in this case that the manager holds. There would be very little trouble about reaching a conclusion as to the facts if he would assent to my law. I am glad to be quoted with approval by him, Mr. President.

Mr. WORTHINGTON. I would find it very difficult to assent to my friend's judgment of the law, because I would not know whether to take what he said then or what he says now.

Mr. President, the managers have entirely missed the point of the previous impeachment cases from which I have read. I read from them for the purpose of showing that you are not limited to evidence of reputation. In each one of those cases the lawyer who testified about the judge was permitted to tell—in one case by agreement of the managers and counsel after objection had been made, and in the other by a formal vote of the Senate—his experience with the judge on the trial of cases before him. Now we want to hear from the men who have practiced before Judge Archbald during 28 years what has been their experience as to his being a partial or an impartial, a fair-minded, an honorable, and an upright judge and man.

My friend says that this witness is a member of the bar who has represented some of the railroad companies. That goes to the weight of his evidence, if the managers think that the Senate will be affected by that; but we are to follow this, Mr. President, by a number of other witnesses as to whom no such imputation as that can be made or suggested by anybody; and if the evidence is admissible at all, it is admissible as to every witness who can testify to it. As to the witness's relations with the judge or with railroad companies, that may be argued when we get through as to the weight of the evidence.

Now, I submit, Mr. President, that, in view of the conclusion that may be arrived at in this case and as to which the learned managers have not seen fit to mention anything, and for the reasons formally adjudicated to be sufficient by the Senate in the Belknap case, we ought to be allowed to go into the question of the general characteristics of Judge Archbald, so far as they relate to matters which are under investigation here.

As to the length of time that will be taken, we would have been through, Mr. President, with all that we want to ask on this subject by this time if the learned managers had not made their objection.

The PRESIDING OFFICER. The Chair is ready to rule on the question now, unless the managers desire to be heard further.

Mr. Manager NORRIS. I do not care to be heard if the Chair is ready to rule.

The PRESIDING OFFICER. The Chair will read the question in order that it may appear in connection with the ruling:

Q. Now, Maj. Warren, I want to ask you to tell us, from your long acquaintance with Judge Archbald and your observation of him as a judge, what were his principal characteristics as a judge as to integrity, ability, and industry?

The Chair thinks there is, of course, basis for the contention that rules should be liberal in practice in certain circumstances. Nevertheless, generally the rules of law must be applied. The Chair thinks that the rule generally as to proof of character is, first, that anyone who is accused of misconduct may put in issue his general character, irrespective of what the charge is, because general character always is involved in any question of violation of law or misbehavior. Further, he may put in evidence his character as to the particular quality or characteristic which will elucidate the particular charge. With that view, the Chair thinks it is perfectly competent for the counsel to prove the general reputation of the respondent, as to whether or not he bears a good character in the broadest sense of that term, and also that he may prove his general reputation as to the particular matter involved in issue.

Now, as the Chair understands, the particular matter involved here is a question of judicial integrity. So the Chair would not, if the Senate approves the opinion of the Chair, limit the counsel to proof of reputation for general good character, but would recognize the right of the respondent also to prove his general reputation for judicial integrity. But the Chair knows of no rule of law which permits a witness to give his individual opinion of the character of an accused. If there is any such case, the Chair has failed absolutely to learn of it in such experience as he has been fortunate enough to have.

This particular question is as to the opinion of the witness himself. If the counsel would limit his question to the witness's knowledge of the general character of the respondent for judicial integrity, the Chair would think that was competent; but this question not only asks the individual opinion of the witness, leaving aside the question of general reputation, but it goes farther and asks for the opinion of the witness, not only as to integrity, but as to ability and industry, none of which characteristics or features are involved, as the Chair understands, in any issue before the Senate at this time. The Chair is, therefore, obliged to sustain the objection to this particular question, but will recognize the right of the respondent to proceed along the lines indicated, with every disposition to be as liberal as the rule will possibly permit.

Mr. WORTHINGTON. Well, Mr. President, I will take the matter up in detail and perhaps we will not have any further trouble.

Q (By Mr. WORTHINGTON.) Maj. Warren, are you acquainted with the general reputation of Judge Archbald in that community in which he has been a judge for the last 28 years, as to integrity?—A. I am, sir.

Q. And what is it?—A. Good. I should say, if I might be permitted to amplify that——

Mr. Manager NORRIS. No; Mr. President——

Mr. WORTHINGTON. I do not want——

The PRESIDING OFFICER. The witness will suspend. The Chair inquires what is the objection?

Mr. Manager NORRIS. Under the ruling of the Chair, as I understand it, the witness has no right to go on and give his reasons. He has answered the question, and that is as far as he has a right to go on direct examination.

Q. (By Mr. WORTHINGTON.) You say it is good. That is a general expression. How good is it?

Mr. Manager NORRIS. Mr. President, I object to the witness making any explanation of what the word "good" means.

The PRESIDING OFFICER. The Chair thinks, while the witness can not make any explanation of it, he can state

whether the reputation of the respondent is moderately good or very good.

Mr. WORTHINGTON. Or extra good.

The PRESIDING OFFICER. Or excellent.

Mr. Manager CLAYTON. We do not object to an adverb being thrown in.

Q. (By Mr. WORTHINGTON.) Now, particularly as to his judicial honor and integrity, what do you know of his reputation as to that?

Mr. Manager NORRIS. Is not that what the witness has answered?

Mr. WORTHINGTON. I asked him as to Judge Archbald's general reputation, that is, as a man. Now, I am asking the witness as to his reputation for integrity as a judge.

The PRESIDING OFFICER. The former question was as to his general reputation, and this one is as to his judicial integrity. Counsel can inquire as to each, and it makes no difference as to the order.

Q. (By Mr. WORTHINGTON.) I want to ask you particularly as to what his reputation has been during all those years, and is still for integrity as a judge?

The WITNESS. Do I understand that I must limit myself to one noun or a verb?

The PRESIDING OFFICER. No.

The WITNESS. I should like to say that it is that of a painstaking——

The PRESIDING OFFICER. No; stop, Mr. Witness. The witness will answer the question directly as to whether it is good or bad.

The WITNESS. Good.

The PRESIDING OFFICER. He can state how good if he wishes.

Q. (By Mr. WORTHINGTON.) I will ask you the question how good it is?—A. Of the highest kind; the best kind.

Q. Now, I ask you a question that may lead to some detail. You contributed to this purse?—A. I have already said that I did.

Q. That was in 1910?—A. I think in the spring of 1910; yes, sir.

Q. Did you try cases before Judge Archbald after that?—A. I tried two cases before him or was associated in a case before him when he was a member of the Commerce Court after that. I can not recall, but I think I tried a case in the district court in Scranton after that—I am quite sure I did when I come to think of it.

Q. I want to know whether, after you had made that contribution to him, you observed any evidence of partiality in his treatment of you?

Mr. Manager NORRIS. I object to that question as immaterial and incompetent.

Mr. WORTHINGTON. This is another proposition. The charge is that Judge Archbald corruptly received the money from these lawyers, which could only mean that he favored them in the subsequent trial of cases in which they were counsel. To dispose of such a proposition as that, after it has been brought out that the judge knew who they were and wrote them letters before he came back home, can I not find out from the gentlemen who contributed to the purse whether, as a matter of fact, he exhibited any favor or partiality to them afterwards, so that we may know whether he received that money innocently or corruptly, as the charge is?

Mr. Manager CLAYTON. Mr. President——

The PRESIDING OFFICER. The Chair thinks, with the permission of the manager, unless there is a particular charge of the respondent having shown partiality to a particular lawyer or a particular client, that can not be put in issue. It is a general matter only. If there is any charge in the articles of impeachment that the respondent did corruptly show partiality or preference to any counsel or to any litigant, then, of course, that would be a matter to be proven by a specific denial.

Mr. WORTHINGTON. How could he receive it corruptly except on the understanding that the judge was to give favors for it when counsel came before him in the trial of cases?

Mr. Manager NORRIS. Mr. President, one way to show that he did not grant favors, and to show that that is not true, is to show that he did not receive it. I submit to counsel that that is the best way to show it, if such is a fact. I can not understand, Mr. President, why this witness should be allowed to state that after he had made that contribution he had received any different treatment than he had before, unless there is somewhere in some article an allegation that such had been the case.

The PRESIDING OFFICER. The Chair has already ruled that it is not admissible.

Mr. Manager NORRIS. Then, I have nothing further to say.

Mr. OLIVER. Mr. President, I desire to submit a question.

The PRESIDING OFFICER. The Senator from Pennsylvania submits a question, which will be read to the witness by the Secretary.

The Secretary read as follows:

What was the result in the cases which you argued before Judge Archbald after your contribution to the fund?

Mr. WORTHINGTON and Mr. Manager CLAYTON addressed the Chair.

The PRESIDING OFFICER. Counsel will proceed.

Mr. WORTHINGTON. Mr. President, I object to that question being answered, unless I am allowed to pursue the inquiry which I had propounded to the witness.

The PRESIDING OFFICER. If the manager rose to object, the Chair did not have opportunity to hear him.

Mr. Manager CLAYTON. The Chair has anticipated my purpose.

The PRESIDING OFFICER. No; the Chair did not anticipate the manager. Does he desire to reply to the suggestion of counsel?

Mr. Manager CLAYTON. I understood the Chair to say that the manager probably had risen to object. If I was in error—and perhaps I was—I may say, Mr. President, on my own responsibility that I did rise for the purpose of interposing objection to that question. It involves the same legal proposition, the way I view it, which was involved in the question awhile ago on which the Chair ruled. I think the Chair was correct; and for the same reason, without arguing it, I think this question is objectionable.

The PRESIDING OFFICER. Does the counsel for the respondent wish to be heard on the question?

Mr. WORTHINGTON. On consultation with my colleagues, I withdraw my objection to the question being answered.

The PRESIDING OFFICER. The Chair thinks the question is inadmissible on the same ground that the other question was ruled out.

Mr. WORTHINGTON. Very well.

Q. (By Mr. WORTHINGTON.) Do you know Mr. Woodward, the jury commissioner who was in that position so long?—A. I have known him for many years.

Q. Has there been any complaint, so far as you know——

Mr. Manager NORRIS. Mr. President, I would respectfully ask that counsel ask his questions so that I can hear them. I can not hear his questions. He has his hand over on this side of his face, and I can not hear what he says.

Mr. WORTHINGTON. I will keep my hand away.

Mr. Manager NORRIS. What was the question?

Mr. WORTHINGTON. I was about to ask the witness whether he observed during the time Mr. Woodward was commissioner any unfairness or complaint of unfairness as to the juries which were drawn in that way under his administration?

Mr. Manager NORRIS. I object to that as incompetent, immaterial, and irrelevant.

The PRESIDING OFFICER. The Chair sustains the objection, unless counsel desires to be heard.

Q. (By Mr. WORTHINGTON.) What was the reputation of Judge Archbald generally as to——

Mr. Manager NORRIS. I object to that question as having already been gone into and answered.

Mr. WORTHINGTON. Mr. President, if the manager knows what the question was, he knows more than I do, because I had not completed it.

Mr. Manager NORRIS. Under that confession, Mr. President, I think he ought to be precluded from asking any further questions.

The PRESIDING OFFICER. Counsel will proceed.

Q. (By Mr. WORTHINGTON.) I want to ask you what generally was the reputation of Judge Archbald during the time he was a Federal judge there as to the fair and impartial administration of the duties of his office?

Mr. Manager NORRIS. Objected to, as already having been answered.

Mr. WORTHINGTON. That goes a little further, it seems to me, Mr. President, than what the witness has yet stated. That involves what all these charges relate to, the general fairness of his administration of the duties of his office. The witness has said that Judge Archbald's reputation for integrity is good, and there I had to stop. Now, a man might have a reputation for being a moral man, and yet it might be said that he did not properly or fairly administer the duties of his judicial office. The managers disclaim charging that he ever did anything in his judicial capacity that was not entirely right and proper, but at the same time all their charges relate to his judicial influence or his judicial action outside of court.

Mr. Manager NORRIS. Mr. President, I do not care to take up the time of the Chair to argue over again a question which

I am under the impression has been determined by the Chair and which the witness has answered.

The PRESIDING OFFICER. The Chair would say that the question should be limited to the matter of judicial integrity and not to the manner in which he dispatched business or attended to the business of his court.

Mr. WORTHINGTON. Very well, Mr. President, that is all I have to ask Maj. Warren.

Cross-examination:

Q. (By Mr. Manager NORRIS.) How long have you lived in Scranton?—A. I was born there.

Q. You have known Judge Archbald all your life?—A. I have known him since I was about 10 years of age. I think perhaps I ought to say I have lived there 53 years. That is the length of my life. In other words, I am in my fifty-fourth year.

Q. You have lived there——A. I have lived there all my life; but I did not quite answer your question. I have lived there nearly 54 years.

Q. You are still living there?—A. I am, sir.

Q. Mr. Warren, did you hear any talk in and about Scranton among people who know Judge Archbald about his association with Edward J. Williams?—A. Well, I——

Mr. WORTHINGTON. Go on.

The WITNESS. I am glad to answer it. Yes, sir.

The PRESIDING OFFICER. The Chair thinks that counsel for the managers should be limited in the application of the rule in the same way that the rule is enforced on the respondent.

Mr. Manager NORRIS. Well, Mr. President, of course the question itself perhaps does not bear directly——

The PRESIDING OFFICER. No; the question is not a legal question. The proper question is simple. The counsel is limited in the inquiry as to the opportunity of this witness to know the general character and also as to the witness's sincerity in his testimony—his opportunity and his truthfulness. That is the limitation. Those are the only two lines of questions that are admissible.

Mr. Manager NORRIS. I do not know that I understand. I do not want to violate the injunction of the Chair, of course, and I will ask that the question be read, so that we may get the idea of the Chair.

The PRESIDING OFFICER. The Chair thinks the rule of law is this: Proof of general character must depend upon the general reputation of the party. Then, the other side are limited to questions of the witness's opportunity to know the fact and his truthfulness in stating the fact.

Mr. Manager NORRIS. Does the Chair mean to hold by that that I am precluded from asking the witness as to specific acts that have developed in evidence or have not developed in evidence to which I want to call his attention and ask him if he has heard of them?

The PRESIDING OFFICER. Only in so far as it will elucidate the question of his general character.

Q. (By Mr. Manager NORRIS.) Mr. Warren, have you heard any talk in the neighborhood where Judge Archbald resides in regard to his association with various persons in buying coal dumps and using his influence as a judge to dispose of them or to purchase them?—A. I have never heard in my life any talk in that community of Judge Archbald using his influence as a judge—the potentiality of his office—either to buy or sell culm dumps or any other thing.

Q. Have you heard any talk in that community about Judge Archbald being associated with Mr. Rissinger in a Honduras mining scheme at the time litigation was pending in his court to which Rissinger was a party?—A. I have read of the testimony that was taken before your Judiciary Committee as to that transaction. I think it is the transaction to which you refer.

Q. Well, please answer my question. That is not an answer to my question. That is not a question.—A. Do you mean to say, have I heard it discussed?

Q. Yes.—A. As reflecting upon the judge?

Q. Whether it is reflecting or not; have you heard it discussed?—A. I happened to know of the discount of a note——

Q. That is not an answer to my question. Please answer the question.—A. Yes; I have. As director of the County Bank, of which I have been a director for 15 years, I remember a note being presented to our board for discount. I heard, therefore, of a discounted bill, Judge; but that is the only thing I ever heard about it. If that is what you mean—I am trying to answer you—I never heard of it in any other way than that.

Q. Have you heard any talk in Scranton as to Judge Archbald's connection with the Amity Coal Co.?—A. I have. I was counsel in the case. I imagine you have the book before you. I was counsel in the case against Judge Archbald. So, of course, I know of that. The firm of which I was a member brought suit for the live stock company. You have the report——

Q. You are familiar with what the supreme court said in that case?—A. I argued it in the supreme court and I am familiar, yes, with the two opinions. It was reargued and there were two decisions, or two opinions filed, I should say, by our supreme court.

Q. By Mr. Justice Williams?—A. Mr. Justice Williams; yes, sir.

Q. You are familiar with both of them?—A. Quite so. I got them as soon as they were handed down.

Q. Now, Mr. Warren, did the facts as they developed in that case, as they are cited in these two opinions, have any effect on you or on your mind as to his reputation for general integrity and honesty in that community?—A. They did not, Judge. The supreme court, if the opinion is before you, took pains to say that there was nothing in the case to indicate——

The PRESIDING OFFICER. The Chair is compelled to interpose. The witness is not permitted, under the rules, unless the Chair is in error, to discuss particular cases. The manager is justified in asking whether or not he heard of certain things as matters of general reputation. That is proper for the purpose of testing whether he has in good faith answered a question previously propounded to him; but in a particular instance, as to the effect it had upon the mind of the witness, that is not a legitimate question, in the opinion of the Chair. That would only be admissible to show the effect upon the general opinion of the community, as to whether or not he was correct in his general unlimited statement with respect to the general reputation of Judge Archbald.

Mr. Manager NORRIS. Mr. President, I desire to ask the witness whether he heard any talk in the neighborhood about particular parts of this opinion, which I desire to read to the witness.

The PRESIDING OFFICER. That would be legitimate. But the Chair understood the manager to ask the witness's opinion as to the effect upon his mind. The effects upon the community is a different thing.

Mr. WORTHINGTON. If the opinion is to be read, I object to reading excerpts and insist that the whole opinion should be read.

Mr. Manager NORRIS. In answer to that I will say we offer now, as part of the cross-examination of this witness, the two opinions rendered in that case by Mr. Justice Williams, of the Pennsylvania Supreme Court.

Mr. WORTHINGTON. We have no objection, understanding that it is as to its effect upon the general public. We understand that this is to be read, but as we understand the Chair, only for the purpose of showing its effect upon the general reputation of Judge Archbald for integrity as a man and as a judge.

The PRESIDING OFFICER. Yes.

Mr. WORTHINGTON. Very good.

Mr. Manager NORRIS. I think it bears directly on it. I will not have the opinions read now but will have them printed for the information of the Senate, unless some one desires them read now, and all Senators can read them in the RECORD.

The opinions referred to are as follows:

Hill, Keiser & Co. v. S. N. Stetler et al. Error to the court of common pleas of Lackawanna County.

Argued February 23, 1888. Decided April 2, 1888.

Reargued February 25, 1889. Affirmed May 29, 1889.

Pennsylvania State Reports, 127, Crumrine, 12, 1889, page 145.

Opinion, Mr. Justice Williams:

The defendants are sued as partners. They claim the immunity from liability as individuals which the act of 1874 confers on persons associating themselves in a joint stock or limited partnership association, alleging that they have fully complied with its provisions. This is the question on which the plaintiffs' right to recover depends. The court below held that the organization of the Amity Coal Co. (Ltd.) had been in full compliance with the provisions of the statute, and that the only remedy of the plaintiffs was by action against the association, and then against the stockholders severally for the amount unpaid upon their stock subscriptions. A compulsory nonsuit was accordingly entered against the plaintiffs which the court declined to take off, and this action of the court is the error assigned.

The act of 1874 provides that when persons "desire to form a partnership association for the purpose of conducting any lawful business * * * by subscribing and contributing capital thereto, which capital shall alone be liable for the debts of such association," they shall make and subscribe to a statement in writing, in which they shall set forth, among other things, the full names of the persons so associating themselves together; "the amount of capital stock of said association subscribed by each, the total amount of capital, and when and how to be paid." In section 2 it is provided that the members of the association shall not be individually liable for any debt of the association until the joint property has first been exhausted, and then only to the extent to which they may be indebted upon their subscriptions to the capital stock. To the end that the subscribers may be protected and their liability kept within the prescribed limits, no execution can issue against them until an order has been made by the court in which the judgment is entered, or a law judge thereof, on notice to the person

to be affected, and after full hearing, fixing the amount due upon his subscription and awarding the writ. In order that this question may be disposed of correctly, the act requires every such association to keep a "subscription-list book" that may be produced in court, and that shall be "open to inspection by the creditors and members of the association at all reasonable times."

The Amity Coal Co. (Ltd.) was organized by three persons, viz, Stetler, Fuller, and Archbald, who subscribed and acknowledged the statement in due form. This statement set out the following facts for the information of the public: "The amount of the capital stock of said association is $25,000 payable in lawful money on the execution hereof." The persons subscribing to the stock and the amount subscribed by each was stated as follows: "The said Samuel N. Stetler subscribes for $8,000, said Edward L. Fuller subscribes for $8,000, and the said Robert W. Archbald subscribes for $9,000." The business to be done by the association is stated to be "the owning and leasing of mines and coal lands, and the mining, preparing, shipping, buying, and marketing of anthracite coal, together with all matters incident thereto." This statement followed the act of assembly, and as to its form was entirely regular, but the proofs show that not one dollar was paid by either of the subscribers to the stock. It was, nevertheless, recorded, and the Amity Coal Co. (Ltd.) entered upon its business career without a farthing in its treasury or an article of property in the world. This was not a compliance in good faith with the requirements of the act of 1874. The purpose of that act was to foster legitimate and honest undertakings where capital was "subscribed and contributed" by persons desiring to engage in business, and not to bring into life a brood of associations without capital, without a treasury, and possibly without a solvent subscriber. But this association was not merely an empty shell, for its statement was misleading and deceptive. It provided for a capital of $25,000, which was made payable on the execution of the statement. It was subscribed and acknowledged and then regularly recorded, without the payment of a dollar of the subscribed capital. The only source of information, besides the statement which the law provides for, is the "subscription-list book" which all such associations are required to keep, but which this one never opened. The fair import of the language of the statement that the subscribed capital was payable "on the execution hereof" is that it was to be paid down; and the subsequent recording of the statement is an assertion that the subscribers have performed their promise and paid their subscriptions into the treasury. To enter upon business with the credit which the possession of a paid-up capital of $25,000 would give the association, when, in fact, nothing had been paid, either in money or property, was an evasion of the law and a fraud upon the public.

In saying this we do not impute an intention to defraud, or reflect upon the motives of the gentlemen by whom the Amity Coal Co. was organized. They may have supposed themselves to be complying with the provisions of the act. Our business is not with their motives, but with what they did; and our inquiry is whether this association was organized in accordance with the fair interpretation of the act of 1874. The act provides for the protection from personal liability of those who "subscribe and contribute" a capital to be employed in any lawful business. The "capital" is staked upon the success of the business, but because the amount of the capital appears upon the statement on record and the "subscription-list book" on the desk of the association, all who have occasion to deal with it may know the amount of actual capital within reach and determine to what extent the association is entitled to credit. But persons who subscribe yet never contribute, and who, by failing to keep a "subscription list book," withhold from the public all means of knowing the truth, can not be within the protection of the act. They really put nothing into the enterprise except the credit of a capital that is actually withheld. They mislead the public and induce confidence to which they are not entitled. In other words, the credit they obtain rests not upon a subscribed and contributed capital, but upon a fraudulent appearance of such capital in their statement.

We do not hold it necessary to a valid organization that the entire subscribed capital should be paid into the treasury before an association can begin business. The act of 1874 contemplates the possibility of unpaid balances and provides a method by which creditors may reach them; but we do hold that an association has no right to enter upon business until some part of the subscribed capital has been actually paid. The statement should show when and in what amounts the subscriptions are to be paid, and the subscription-list book should thereafter show the payment or the failure to pay the installments falling due after the recording of the statement, so that members and creditors may see at any time the exact situation of the association. These are the terms upon which the statute promises individual immunity from the debts of the concern, and they must be complied with fairly and honestly. Where persons seek the benefits of an act of assembly they must take them upon the terms which the act prescribes or not at all. In Malony v. Bruce (94 Pa., 252) Paxson, judge, said: "If parties seek to have all the advantages of a partnership and yet limit their liability as to creditors, they must comply strictly with the act."

Under the limited-partnership act of 1836 the same rule was repeatedly held: Richardson v. Hogg (78 Pa., 153), Gaillou v. Peterson (88 Pa., 162). The recent case of the appeal of the Hite Natural Gas Co. (Ltd.) (118 Pa., 436) is very nearly in point. In the recorded statement Hite's subscription for $80,000 of the capital stock was stated to be paid by the transfer to the company of the right of way for the pipe line, etc., when in fact the right of way had not been procured. This was a false statement as to the material fact affecting the capital of the company, and it was held that it rendered the subscribers liable to creditors as partners.

But it is urged that Mr. Strong, who was not a subscriber to the stock, paid fairly and fairly for the interest which he subsequently bought in the association, and that he ought not to be held liable for the misrepresentations of the original subscribers. The organization took place on June 18, 1885. On the 17th of November following Mr. Strong purchased 10 shares and paid $1,000, their par value, into the treasury. He did not purchase from one of the subscribers who held the entire stock and pay to him for his shares, but he paid to the treasurer. He had notice thereafter that the stock which was issued to him had never been paid for. If he had made inquiry, as he was bound to do, into the manner in which the association had been organized, and whether the act of 1874 had been complied with in good faith, he would have learned the facts; and he is chargeable with notice of all that such an inquiry would have disclosed. He then had notice in law, if not in fact, that not one dollar had ever been paid by the subscribers, either at the execution of the statement or at any intermediate date, and that the association was without money or property with which to conduct business or pay its liabilities. With this notice he purchased an interest in the association and subsequently became one of its managers.

It is not easy to see upon what principle he can be said to stand on better ground than his associates. He bought into an association organized in disregard to the act of 1874, doing business without a capital and as a matter of speculative adventure. It was an empty shell, a sham, and Mr. Strong's position is the same as if he had bought into any other insolvent firm. He did not become liable for debts contracted before he became a member, but for debts contracted afterwards, he and his associates are liable as partners. Mr. Strong's honest payment for his interest can not cure the vice which infected this association from its organization or relieve him from the legal consequences of his connection with an insolvent firm.

Judgment reversed and venire facias de novo awarded.

On May 14, 1888, a reargument of the foregoing cause was ordered on motion of the defendants.

Mr. Everett Warren and Mr. J. Vaughan Darling (with them Mr. Edward N. Willard and Mr. Charles H. Welles) for the plaintiffs in error.

Mr. W. H. Jessup and Mr. John G. Johnson (with them Mr. E. B. Sturgess and Mr. William Strong) for the defendants in error.

Opinion, Mr. Justice Williams:

The persons composing a partnership may agree with each other to invest a certain fixed sum each in the common venture, and no more. Such an agreement may limit the interest of each in the property and profits of the firm, but it will not limit the liability of any for the firm debts. Each member will be liable individually for the entire indebtedness of the firm. The act of 1874 was passed to relieve against the risk and inconvenience attending general partnerships by providing a mode by which individuals might invest a fixed sum in a business enterprise without liability to loss beyond the sum of the characteristics of a partnership and some of a corporation.

The process by which this new organization is brought into business existence is plainly laid down in the statute. Three or more persons may agree to form such an association. They must put their agreement in writing, in the form not of a contract with each other, but of a certificate for the information of the public. This must be signed by every member of the association, and, as a further assurance of its truth, it must be acknowledged by them. It must set out, among other things, the names of the persons uniting in the enterprise and the name by which the new artificial person is to be known, the total capital subscribed and the amount subscribed by each member, and a statement showing when and how it is to be paid. When the certificate has been prepared, signed, and acknowledged, and when the payment of capital into the treasury has been made in accordance with its terms, the preliminary work of organization is completed, and the association is ready to be called into life by the organic act, the recording of the certificate. This gives it existence and a name in the business world. Thenceforward the promoters cease to act as individuals or as partners in the common business, but through and in the name and upon the credit of the joint-stock association. When the association enters upon its business life it should have in its treasury the capital, or so much thereof as the recorded certificate endows it with at the outset, and the balance remaining unpaid, in accordance with the terms of the certificate, should appear upon the stock subscription book provided for by the act, so that a creditor or anyone interested to know could determine whether and to what extent the new business agency was entitled to credit.

In the case of business corporations, the certificate that at least 10 per cent of the subscribed capital has been paid in goes to the governor, and he then issues letters patent, which impart life to the corporation. In the case of joint-stock associations, the members are trusted by the law to certify directly to the public without the intervening agency of the governor, and thus to give life to their own creature. Under such circumstances the courts should require absolute good faith and an honest compliance with the law from those who claim exemption from individual liability as members of a joint-stock association. If no capital has been put into the concern, no actual cash with which to begin business, it has no right to begin business. The subscribers have no right to record the certificate, and to do so is a fraud upon the law and a fraud upon the public. We do not say that the entire capital must be paid down. The law does not say so, but seems to contemplate a payment by installments. What we do say is that until some part of the capital has been paid in conformity with the certificate the recording of the certificate is not authorized by the law and can give no business life to the limp and empty framework of the association. In analogy to the business corporations of the State, 10 per cent of the subscribed capital would seem to be the minimum amount to be actually provided for and paid into the treasury before the recording of the certificate, which, as we have already said, should show the times of subscription truly and should be complied with fully and honestly before it goes upon the record.

This was substantially said when this case was before us one year ago. A fresh examination of the subject, aided by an elaborate reargument, has not persuaded us that we were in error in the views then expressed.

Turning now to the facts of this case, they seem to leave us no alternative under the salutary rule laid down. This certificate, when prepared, put the capital stock at $25,000. It gave the names of the subscribers and the amount of stock subscribed by each. In obedience to the statutory requirement to state when and how the subscribed stock was to be paid, it stated "to be paid on the execution hereof." Now, the first thing to be done was to execute the certificate. After that was done, it was to be acknowledged as an assurance of its truth; then it was to be recorded as the certificate of those signing it, made to the public, that its provisions had been complied with. The recording of the certificate was therefore a distinct affirmance that the capital to be paid on its execution had been paid and that the association was entitled to the credit which its capital should command. The fact was, however, that neither of the stockholders paid one cent on the execution of the certificate, nor at its acknowledgment, nor when it was recorded, nor yet when they began business in the name of the association.

It is useless to argue that such conduct is a compliance with the requirements of the act. It is a palpable disregard of the act of 1874 and of the requirements of business honesty.

We speak of the facts as they appear upon this record. The case goes back for a new trial. If upon such trial, with attention directed to this point, a different showing is made and the facts necessary to a legal organization are made to appear, the case may be taken out from the operation of the rule; but, on the facts before us, we hold that the subscribers to the stock in this association, by reason of their disregard of the law under which they attempted to organize, acquired no rights under it, but became liable as general partners for all the debts contracted in the name of the association. Nor do we see our way clear to relieve one who bought an interest in the concern months afterwards and honestly put his money into its business. Like one buying into an ordinary mercantile partnership, he was bound to inquire into

the organization and condition of the concern in which he was about to invest his money.

The order heretofore made reversing the judgment of the court below remains in full force.

Mr. Chief Justice Paxson and Mr. Justice Mitchell dissent.

Q. (By Mr. Manager NORRIS.) Now, Mr. Warren, I will ask you if you heard any talk in the community in reference to this particular statement contained in Mr. Justice Williams's opinion, commencing at the bottom of page 157.

Mr. WORTHINGTON. I certainly shall object to that—reading from a particular statement in a particular case.

Mr. Manager CLAYTON. We are going to print it all, and you can read it all then.

The PRESIDING OFFICER. The Chair understands the manager to inquire of the witness whether he heard any general talk in the community about it. That, I presume, is for the purpose of testing the former testimony as to the character of this respondent.

Mr. Manager NORRIS. I think it bears directly on this witness's statement that the respondent's reputation is good.

The PRESIDING OFFICER. Whether it establishes what the witness has previously testified to or controverts it.

Mr. Manager CLAYTON. Or tends to do so.

The PRESIDING OFFICER. And for that purpose only. It is not evidence as to the truth of what is therein stated. The manager is authorized to propound that question for the purpose of ascertaining whether that was a matter of common knowledge and comment in the community.

Mr. Manager NORRIS (reading):

The Amity Coal Co. (Ltd.) was organized by three persons, viz, Stetler, Fuller, and Archbald, who subscribed and acknowledged the statement in due form. This statement set out the following facts for the information of the public: "The amount of the capital stock of said association is $25,000, payable in lawful money on the execution hereof."

Then the justice, in commenting upon that, concludes quite a lengthy discussion by saying:

To enter upon business with the credit which the possession of a paid-up capital of $25,000 would give the association, when in fact nothing had been paid, either in money or property, was an evasion of the law and a fraud upon the public.

Did you hear any discussion among the people of Scranton as to that particular part of the opinion of the supreme court?—A. I heard a discussion with reference to it among some of the members of the bar. I can not recall that I ever heard it spoken of generally in the community. I heard discussion, that it was thought that Judge Archbald had a mistaken conception. Those articles, you will recall, were found way back in 1881 or 1882. If the case is before you, I think you will find that it has been 25 years since the case was decided. I may be mistaken, but I think it was in 1887 or 1888.

Q. Well, it was during the time you have known him about which you have testified as to his reputation?—A. Permit me to finish saying what I heard discussed.

Q. I do not care for that.—A. Will you not be fair enough to let me finish?

Q. I am willing you should do that, but you were not doing it?—A. Let me finish one sentence, please. I was trying to say that I heard it discussed. It was when Judge Archbald was a practicing lawyer that he drew those articles, and I remember discussion among some of the lawyers that he had not properly prepared the articles; that he had been mistaken in his conception of the statute of 1874, under which they were framed.

Q. You will not answer my question. I asked you whether you heard any discussion about this particular language of the opinion which I have read. I did not ask you whether you had heard discussion about the organization of the company.—A. Did I not say that I had heard discussion among some of our lawyers, but that I did not think I had in the community generally?

Mr. Manager NORRIS. If that is as far as you know, that is where you ought to have stopped.

The WITNESS. I beg your pardon. I wanted to say what the discussion was.

The PRESIDING OFFICER. That is as far as the witness should go. The Chair thinks all the narration of the witness should be excluded from the record.

Q. (By Mr. Manager NORRIS.) You are a member of what firm?—A. Warren, Knapp & O'Malley.

Q. Your firm is attorney for the Lackawanna Railroad?—A. We are not the local attorneys for the Lackawanna Railroad, but we represent them in most of the important cases in our county. They have their own local law office there, with Mr. Reese in charge. He has been a witness here, I think. He is their local counsel and he has a staff of assistants.

Q. You are acquainted with Mr. Jenney?—A. Very well. He is the general counsel of the company in New York.

Q. You are aware that he testified in this proceeding that your firm were the local attorneys of this company?

Mr. WORTHINGTON. We are taking up a great deal of time in recounting the testimony of other witnesses.

The WITNESS. Not at all. I am not aware of that, although he may have said it.

Q. What was the truth about it?—A. I just tried to say that they had their local law department there, of which D. R. Reese is in charge as general attorney for Pennsylvania, located at Scranton. He has two assistants there. A Mr. Oliver and a gentleman whose name has gone from me for the moment, associated as the legal department for the company; but in the trial of cases in our county I have appeared in most, but not all, of their important cases for the last 10 years. Prior to the organization of the local law department, say, about 10 years ago, we were the local counsel.

Mr. Manager NORRIS. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) I think you have not stated what, if any, effect that opinion or the extracts from it which were read had upon the general reputation and standing of Judge Archbald in the community as a man of integrity and as an honest judge.

Mr. Manager NORRIS. Mr. President, I object to that as incompetent and immaterial.

Mr. WORTHINGTON. I understood the Chair to rule that that was the only purpose for which it was to be referred to; and it seems to me that is so——

Mr. Manager NORRIS. What effect it would have is not for the witness to determine, it seems to me.

The PRESIDING OFFICER. General opinion is made up of the aggregate of individual opinions. It is competent for counsel to show, if he can, anything which would go to show it was not the universal opinion, but the opinion of the witness himself would not be competent.

Mr. WORTHINGTON. I am not asking for his opinion. I am asking him what he observed as to the effect of that opinion upon the reputation of Judge Archbald as an honest judge and as an honest man.

Mr. Manager NORRIS. Well, Mr. President, if that is competent, the same question could be propounded about every particular item that would go to make it up. Now, that is not for a witness to determine, as I understand—as to just how much——

The PRESIDING OFFICER. The witness has testified without qualification that Judge Archbald's character was of the very best and has not qualified that statement. That is as far as it is necessary for him to go.

Mr. Manager NORRIS. It is understood that at this point in the proceedings——

Mr. WORTHINGTON. May Mr. Warren be finally discharged?

Mr. Manager NORRIS. Just a moment. I forgot one thing I wanted to ask on cross-examination.

Recross-examination:

Q. (By Mr. Manager NORRIS.) Mr. Warren, you were a contributor to this fund?—A. Yes; I said that.

Q. How much did you contribute?—A. My recollection is $25.

Q. To whom did you contribute it?—A. As I remember it, I sent it to Mr. Searle, who, I believe, is now Judge Searle, but who at that time was assistant district attorney at Scranton.

Q. Did you send anybody's else contribution besides your own?—A. Come to think, I think our contribution was by a firm check. I remember now; I think it was a firm check.

Q. Have you not the Searles mixed; did you not make that contribution to the Searle who was clerk of the court?—A. You mean send it to him?

Q. Either send it or give it to him?—A. I did not send it at all. My recollection is that Mr. Knapp, or some one of our office force, was phoned to by, my recollection is, Judge Searle, not E. R. Searle, the clerk, and that some one, our messenger boy or some one, took it over. That is my best recollection.

Q. You knew, did you not, that Mr. Searle was collecting the contributions in Scranton and that he lived there?—A. I know that he had been asked by us to do the work of phoning around. I do not know the extent he did it; no.

Q. Did he turn any money over to you?—A. Not a cent; no, sir.

Q. You do not remember whether your contribution was turned over to him or to Judge Searle?—A. I will not say positively, but my best recollection is that it was sent over to the man who is now Judge Searle. In other words——

Q. Did you get an acknowledgment of it from anyone?—A. Yes, sir. That is, I got a letter from Judge Archbald. My impression is now it was written on the steamer—I am not sure about that—some time afterwards. That is the only acknowledgment I got.

Q. When you contributed the money you understood it was to be a cash purse to be given the judge?—A. Oh, quite so; yes, sir.

Q. You had no idea it was a contribution for the purpose of defraying the expenses of a dinner?—A. That was the first talk between Mr. Sprout, a lawyer, and myself. There were others, but I remember Mr. Sprout. It was thought we could not very conveniently get a very large proportion of our bar to go to New York, and then it was thought it would be a good idea to put it in the form of a purse. But it was never for a moment supposed that the names of the contributors would reach the judge. It was affirmatively said by some, "Now, we do not want him to know who are the contributors," because we had a realization of his sense of the proprieties.

Mr. Manager NORRIS. This is all.

Mr. SIMPSON. The witness may be finally discharged.

The PRESIDING OFFICER. The witness may be finally discharged.

TESTIMONY OF GEORGE GRAY.

George Gray, being duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) What is your profession?—A. My profession is that of a lawyer.

Q. You are now occupying what official position under the United States?—A. Circuit court judge of the United States for the third judicial circuit.

Q. You are the president judge of the circuit court of appeals of that circuit?—A. Yes, sir.

Q. Do you know Judge Archbald?—A. Yes.

Q. How long have you known him?—A. I have known him since—I do not know the date when he was appointed district judge, whenever that was.

Q. That was in 1901, the evidence shows.—A. Shortly after that—I do not know how long—he was assigned, either generally or specially, to sit on the bench of the court of appeals in the absence of the circuit judge. I met him then, and I have met him at intervals since when he has been assigned to similar duty.

Q. Do you know other people who know him?—A. I do.

Q. Will you tell us, please, what is his general reputation for honesty and integrity?

Mr. Manager NORRIS. Mr. President, I think the question ought to be limited to some locality.

Mr. Manager CLAYTON. And ought to be brought within the knowledge of the witness, too. The witness has not said that he knows the respondent's reputation.

Mr. SIMPSON. I think that the witness has already said that he knows his general reputation.

The WITNESS. No.

Mr. SIMPSON. I beg your pardon. I was intending to ask him that. I will put it directly.

Q. (By Mr. SIMPSON.) Do you know his general reputation for honesty and integrity?

Mr. Manager NORRIS. Now, Mr. President, I submit that the question ought to state where. His reputation in San Francisco might depend on an entirely different thing from his reputation in the community where he lives.

Mr. SIMPSON. This is a very, very little world of ours, after all, as Mr. Manager NORRIS knows.

The PRESIDING OFFICER. Frame the question as you wish to put it.

Q. (By Mr. SIMPSON.) I will put the question this way: Do you know his general reputation for integrity and honesty in the circuit covered by the third judicial circuit?—A. I never heard it discussed. I never heard any aspersion on it.

Q. Will you please tell us what is his reputation for integrity and partiality as a judge, if you know?

Mr. Manager NORRIS. I object to that as incompetent. The witness has already disclosed that he does not know.

Mr. SIMPSON. He has not disclosed that. I understood him to say that he knews.

Mr. Manager NORRIS. He said he has never heard it discussed.

The PRESIDING OFFICER. The Chair thinks, however, that the question transcends the limitation. The witness is asked the question as to his impartiality. The Chair thinks it ought to be limited as to his reputation for integrity as a judge.

Mr. SIMPSON. I will withdraw that word. I thought the Chair had allowed that question——

The PRESIDING OFFICER. No.

Q. (By Mr. SIMPSON.) Will you tell us, please, what is his general reputation as a judge for integrity?

Mr. Manager NORRIS. He has not yet said he knew. Counsel has not qualified him.

The PRESIDING OFFICER. The question ought to be preceded, of course, by the question whether he knows his reputation.

Mr. SIMPSON. I do not mind so preceding it, but the witness has already testified that he sat with Judge Archbald on the bench a number of times.

Q. (By Mr. SIMPSON.) Judge, do you know his reputation for integrity as a judge?—A. I know he has a reputation of being a judge of integrity.

Mr. Manager CLAYTON. If the Chair please, I do not wish to transcend the rule as laid down by the Chair, but I desire, if permissible—and I rise for the purpose of inquiry before I propound a question—to ask Judge Gray several questions which, of course, relate to the conduct of Judge Archbald in certain matters. I desire to ask him if a judge were guilty of those things it would be in keeping or in consonance with judicial integrity.

The PRESIDING OFFICER. The Chair would not recognize the propriety of those inquiries.

Mr. Manager CLAYTON. Very well, Mr. President.

Cross-examination:

Q. (By Mr. Manager CLAYTON.) Judge Gray, how often have you heard Judge Archbald's character discussed by anyone?—A. I could not tell you, Mr. Manager.

Q. Did you ever hear his character discussed at all before the inception of these impeachment proceedings?—A. I never heard his general character discussed before the commencement of these impeachment proceedings.

Q. Did you ever hear his general character for integrity as a judge discussed before these impeachment proceedings?—A. I have heard his character as a judge discussed or spoken of.

Q. Will you be kind enough to tell us by whom and where?—A. No; I can not, Mr. Manager; I can not.

Q. What was said?—A. I have heard him spoken of as a good judge.

Q. You do not recall now who you heard say that, or when or where he said it?—A. No; I can not.

Q. Or the reason that led to that declaration?—A. I have never heard his general character discussed.

Q. At all?—A. At all.

Q. At any time?—A. At any time. I do not think an honest man generally has his character discussed.

Q. Did you ever hear, in any talk about his character, anything said about his dealings with people for the acquisition of coal dumps, and the like of that?

Mr. WORTHINGTON. You mean before this trouble came up?

Mr. Manager CLAYTON. Yes.

The WITNESS. Never.

Q. (By Mr. Manager CLAYTON.) Of course, I assume that everybody who reads the newspapers has heard something about it since the inception of this case. Did you ever hear, when you heard his character mentioned, anything said about the case of Hill, Keizer & Co. against S. N. Stetler?

Mr. SIMPSON. Mr. President, I think that is within the ruling of the President. The witness has already said that he never heard his character discussed at all.

Mr. Manager CLAYTON. Mr. President, I am doing it for the purpose of refreshing the witness's mind and drawing his attention to a particular matter of public notoriety, and asking the witness if he had heard that matter mentioned.

The PRESIDING OFFICER. The manager will proceed.

Q. (By Mr. Manager CLAYTON.) This case is reported in the Pennsylvania State Reports, volume 127, the title of which I have just read you. Did you ever hear any mention of his character and a discussion of that case in regard to it?—A. I can not say, Mr. Manager, that I did. I do not know that case by name. I ought to say, perhaps, that at the time Judge Archbald was appointed to the Commerce Court I did hear some one speak of a case in which he had been animadverted on by a judge of one of the courts of Pennsylvania—the supreme court or some other court. I never saw the case, but the person who spoke of it said that it had done great injustice to Judge Archbald; that it was entirely undeserving.

Q. Who was the person you have just referred to?—A. Judge Buffington.

Q. Who is Judge Buffington?—A. A circuit judge of the third judicial circuit.

Q. Of the State or country?—A. He is of Pennsylvania, sir. I must say that was no conversation about it. It was just an allusion to the case, and Judge Buffington expressed himself as I have just stated and seemed to be familiar with the facts of the case.

Mr. Manager CLAYTON. Now, Mr. President, may I propound to the witness a further question and read the statement which Mr. Manager NORRIS read to the other witness?

The PRESIDING OFFICER. The Chair would ask whether it goes to the question of reputation?

Mr. Manager CLAYTON. That is the purpose. [To the witness:] This is from the opinion in the case, and I desire to direct your attention to it so that it may refresh your memory as to whether or not you heard Judge Buffington refer to this matter:

> The Amity Coal Co. (1.1d.) was organized by three persons, viz. Stetler, Fuller, and Archbald, who subscribed and acknowledged the statement in due form. This statement set out the following facts for the information of the public: "The amount of the capital stock of said association is $25,000, payable in lawful money on the execution hereof." The persons subscribing to the stock and the amount subscribed by each was stated as follows: "The said Samuel N. Stetler subscribes for $8,000, said Edward L. Fuller subscribes for $8,000, and the said Robert W. Archbald subscribes for $9,000."

Then the court goes on:

> The fair import of the language of the statement that the subscribed capital was payable "on the execution hereof" is that it was to be paid down, and the subsequent recording of the statement is an assertion that the subscribers have performed their promise and paid their subscriptions into the treasury. To enter upon business with the credit which the possession of a paid-up capital of $25,000 would give the association, when in fact nothing had been paid, either in money or property, was an evasion of the law and a fraud upon the public.

Did Judge Buffington direct your attention to that language used by the Supreme Court of the State of Pennsylvania?—A. I never saw that case or heard what you have just read, Mr. Manager. I only assume that it must have been that case to which he referred. He spoke of it as having been used by some one in aspersion of his character.

Mr. WORTHINGTON. May I ask the manager whether in justice and fairness he ought not to read the next sentence and not stop where he did?

Mr. Manager CLAYTON. We have had the whole opinion printed in the record, but I have no objection to reading it all except that it would take time.

Mr. WORTHINGTON. I think the next sentence qualifying what has just been read ought to be read before the Senate in the same connection. Let me read it, if you will not.

Mr. Manager CLAYTON. Very well; I will read the whole opinion.

Mr. WORTHINGTON. Only the next sentence that qualified what you have just read.

Mr. Manager CLAYTON. I read as follows:

> To enter upon business with the credit which the possession of a paid-up capital of $25,000 would give the association, when in fact nothing had been paid, either in money or property, was an evasion of the law and a fraud upon the public.
>
> In saying this we do not impute an intention to defraud or reflect upon the motives of the gentlemen by whom the Amity Coal Co. was organized.

Mr. WORTHINGTON. That is what I wanted read.

Mr. Manager CLAYTON. Of course very naturally the Supreme Court wanted to qualify what it said.

Mr. WORTHINGTON. Mr. President, I object to argument.

The PRESIDING OFFICER. The Chair has grave doubt of the propriety of reading extracts from that case except so far as it may be intended to show what was generally known to the public.

Mr. Manager CLAYTON. That is the fact, and I merely desire to know of the witness, and I read it solely for the purpose of knowing, whether Judge Buffington, who was a judge in Pennsylvania, had directed the attention of the witness to that case or if anything was said about it.

The PRESIDING OFFICER. But the witness's own opinion is not a matter in controversy.

Mr. Manager CLAYTON. I am not asking for the witness's opinion, but he has referred to a conversation he had with Judge Buffington, and I am merely asking him, on cross-examination, if Judge Buffington said anything about that particular matter. I think it is entirely a proper question. What did I understand the witness to say?

The WITNESS. I never read that case, and, of course, not the language that has just been read by the manager, nor did I ever hear it read. I heard only just what I have said, that Judge Buffington spoke of that case as having been brought up by some one when Judge Archbald was appointed to the Commerce Court; and he said to me that he knew all the facts in the case, and that in his opinion there was nothing in it. That is the only time I ever heard any allusion to what I presume to be the case the manager has referred to.

Mr. Manager CLAYTON. Mr. President, we are willing that the witness shall be excused.

Mr. WORTHINGTON. One minute.

Q. (By Mr. SIMPSON.) Did I understand, Judge Gray, that this conversation between you and Judge Buffington was on a matter in relation to this or some case that was brought up as an objection to Judge Archbald before he was appointed to the Commerce Court?—A. Yes.

Q. And it resulted in the defeat of his appointment?—A. No.

Mr. SIMPSON. I think that is all. The witness may be finally excused.

The PRESIDING OFFICER. The witness is excused.

TESTIMONY OF J. B. M'PHERSON.

J. B. McPherson appeared, and having been duly sworn was examined and testified as follows:

Q. (By Mr. SIMPSON.) You are circuit judge of the United States?—A. Yes, sir.

Q. In what circuit?—A. Third circuit.

Q. Located in Pennsylvania, in the city of Philadelphia?—A. Yes, sir.

Q. Do you know Judge Archbald?—A. Yes; I have known Judge Archbald for about 20 years at least.

Q. Do you know him socially as well as a judge?—A. I do.

Q. Can you tell us, please, in very brief language, how well you have known him socially?

The PRESIDING OFFICER. In the opinion of the Chair that is not a proper question.

Mr. SIMPSON. It is simply to lead up to show the extent of his acquaintance with the judge.

The PRESIDING OFFICER. Counsel should ask the witness if he knows his general reputation.

Mr. SIMPSON. But I have to lead up to that.

The PRESIDING OFFICER. No.

Mr. Manager CLAYTON. I suggest that the question be put without any leading at all.

Mr. SIMPSON. Well, the manager may not know there are two senses of the phrase "lead to."

The PRESIDING OFFICER. The counsel will propound the question in proper form.

Q. (By Mr. SIMPSON.) Do you know other people who know him?—A. To some extent.

Q. How long have you known other people who knew him?—A. About as long as I have known him myself.

Q. Will you please tell us what his general reputation is for integrity?

The PRESIDING OFFICER. First, does the witness know his general reputation?

Q. (By Mr. SIMPSON.) Do you know his general reputation for integrity?—A. I know it in the sense that I know about it as I know about the reputation of many other people. I have never heard it questioned.

Q. Have you sat with him as a judge?

Mr. Manager NORRIS. I object to that as immaterial. I think the witness has answered the question.

The PRESIDING OFFICER. What is the purport of the question?

Mr. Manager SIMPSON. It is simply to lead up to his general reputation.

The PRESIDING OFFICER. Can not the question be propounded without the counsel leading up to it?

Q. (By Mr. SIMPSON.) What is his general reputation for integrity as a judge?—A. I make the same answer that I made to the other question. I never heard it questioned.

Mr. SIMPSON (to the managers). Cross-examine.

Mr. Manager NORRIS. That is all.

The PRESIDING OFFICER. The witness is excused.

TESTIMONY OF D. NEWLIN FELL.

D. Newlin Fell appeared.

Mr. Manager NORRIS. Now, I want to inquire of counsel if this witness is to be examined along the same line.

Mr. SIMPSON. This witness and a number of other witnesses to follow are to be examined along the same line.

Mr. Manager NORRIS. Mr. President, this will make the fourth witness on this line. I wish to call the attention of the President and of the Senate to the fact that the managers will not offer any testimony on this subject, except what we have offered on the cross-examination of the first two witnesses, and therefore we feel that a limit ought to be placed upon the number of witnesses that can be used by the respondent for this particular purpose. We ask that that limit be fixed to four witnesses. I think that is the usual number everywhere.

The PRESIDING OFFICER. In this case the Chair would not take the responsibility of fixing it unless the Senate indicates a purpose to that effect. The respondent will go on.

Mr. SIMPSON. I can assure the Chair we will not infringe any fair rule.

D. Newlin Fell was sworn, and examined as follows:

Q. (By Mr. SIMPSON.) You are Chief Justice of the Supreme Court of Pennsylvania?—A. I am.

Q. Do you know Judge Archbald?—A. I do.

Q. How long have you known him?—A. Some 30 years.

Q. Do you know other people who know him?—A. I do.

Q. Do you know what his general reputation for integrity is?—A. I do.

Q. What is it?—A. Very good. I never heard it questioned.
Mr. SIMPSON (to the managers). Cross-examine.
Mr. Manager NORRIS. No questions.
Mr. SIMPSON. That is all. I thank you, Judge.

TESTIMONY OF CHARLES E. RICE.

Charles E. Rice appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) You are president judge of the Superior Court of Pennsylvania?—A. Yes, sir.
Q. Do you know Judge Archbald?—A. Yes, sir.
Q. How long have you known him?—A. More than 35 years.
Q. Do you know other people who know him?—A. Very well.
Q. Do you know what his general reputation for integrity is?—A. I think I do.
Q. What is it?—A. Good.
Q. How near to him have you lived during this period?—A. I live in the adjoining county.
Q. How far away—how many miles?—A. Eighteen or nineteen miles.
Q. Do you know his general reputation for integrity as a judge?—A. I do.
Q. What is it?—A. Good.
Mr. SIMPSON (to the managers). Cross-examine.
Mr. Manager NORRIS. That is all.
Mr. WORTHINGTON. I take it that these witnesses as to reputation may be considered as discharged when they leave the stand.
The PRESIDING OFFICER. The witnesses will be finally discharged unless otherwise specified.

TESTIMONY OF M. J. HOBAN.

M. J. Hoban appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) What is your profession, please?—A. I am bishop of the Catholic Church.
Q. Where?—A. In Scranton.
Q. Do you know Judge Archbald?—A. I have known him for 16 years.
Q. Do you know other people who know him?—A. Several; yes, sir.
Q. What do you mean by "several"?—A. I have no doubt all the prominent people of Scranton know him.
Q. Do you know his general reputation for integrity?—A. He has a reputation for integrity in Scranton.
Q. What is his reputation?—A. His reputation is good.
Mr. SIMPSON (to the managers). Cross-examine.
Mr. Manager NORRIS. That is all.
Mr. SIMPSON. That is all. We are much obliged to you. You will be discharged.

TESTIMONY OF W. W. SCRANTON.

W. W. Scranton appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) State your name, please.—A. W. W. Scranton.
Q. Where do you reside?—A. I live in Scranton.
Q. Do you know Judge Archbald?—A. Yes; I have known him about 35 years.
Q. Do you know other people who know him?—A. Oh, yes.
Q. Do you know what his general reputation for integrity is?—A. I think so.
Q. Well, you tell us, please, what it is.—A. His reputation for integrity is good. I think it is as good as possible.
Mr. SIMPSON (to the managers). Cross-examine.
Mr. Manager NORRIS. That is all.
Mr. SIMPSON. That is all. You may be discharged.

TESTIMONY OF ALONZO T. SEARLE.

Alonzo T. Searle appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) You are one of the judges of the State of Pennsylvania?—A. I am.
Q. Of what county?—A. The twenty-second district, Wayne County.
Q. Are you any relation to Edward R. W. Searle?—A. I am not.
Q. You were one of the contributors to the purse that was given to Judge Archbald when he sailed for Europe some years ago?—A. I was.
Q. Will you tell us, please, what your connection with that matter was?—A. Two or three days before Judge Archbald sailed I received a phone message from the clerk of the court stating that the judge was to sail on a certain day and if convenient that he would like to have me come down to New York and see the judge off. It was convenient, and I went down to New York. I met the clerk of the court at the Hotel Marlborough the evening before the judge sailed. He then told me that some of the judge's friends and attorneys had raised a purse to be given to him on that trip. Then I went to my own hotel. The next morning I went over to the Hotel Marlborough and Mr. Searle and I went down to the boat. The money that Mr. Searle had the next morning was in a package all done up. What was in the package, whether $1 or $500, I do not know, only as Mr. Searle said. I did not know what was in the package. He asked me if I would hand it to Judge Archbald and make a few remarks. I said I would not make a few remarks, but we wrote upon it, either he or I, I do not know who: "Hon. R. W. Archbald; sailing orders; not to be opened until 24 hours at sea." This I handed Judge Archbald.
Q. When you handed it to him and until the ship left the wharf was, so far as you know, the package still sealed up?—A. It surely was.
Q. Did you know that there was included in that package the names of the subscribers to that fund?—A. I did not. I would say I noticed Maj. Warren testified I was at that time assistant United States attorney. I was judge at that time.
Q. Did Judge Archbald say anything to you when you handed it to him, that you recall?—A. I think he said, "What does this mean?" and I said, "A good sailor never questions his orders."

Cross-examination:

Q. (By Mr. Manager NORRIS.) Judge, you heard Maj. Warren's testimony in regard to his contribution?—A. Yes.
Q. Was he mistaken about it?—A. He certainly was.
Q. You did not get any contribution from Maj. Warren?—A. Not from anybody, and I never heard of the matter until I met the clerk of the court at the Hotel Marlborough the night before.
Q. The only person with whom you had any conversation, either directly or indirectly, was Mr. Searle, the clerk of the judge's court?—A. It was.
Q. You did not know how much money there was in the envelope?—A. I did not.
Q. You did not make any contribution yourself, did you?—A. I did.
Q. Did you give that to the clerk?—A. I gave a check to the clerk that night, because I knew nothing about the matter, and I gave him a check.
Q. At whose request?—A. I do not think he asked me for money. I think I said I would be glad to contribute. I do not think he asked for any money.
Q. He did not suggest that you should?—A. I do not think he did.
Mr. Manager NORRIS. That is all.
Mr. SIMPSON (to the witness). You may be discharged.
The WITNESS. May I be discharged?
Mr. Manager NORRIS. Yes, sir.

TESTIMONY OF JOHN VON BERGEN.

John Von Bergen appeared and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Mr. Von Bergen, you reside in Scranton?—A. Yes, sir.
Q. What official position do you hold at the present time?—A. At present I am mayor of Scranton.
Q. How long have you been acquainted with Judge Archbald?—A. Well, since I was quite a small boy—perhaps 25 years.
Q. Are you acquainted with the speech of the people of that community?—A. Fairly well; yes.
Q. You are acquainted with people who know Judge Archbald?—A. Yes, sir.
Q. Do you know his reputation in that community?—A. I know it in so far as it can be judged by the speech of the people whom I have met.
Q. What, from the speech of the people, is his reputation for honesty and integrity?—A. Ask the question again, please.
Q. What, from the speech of the people in that community, is his reputation for honesty and integrity?—A. I would say it was good.
Mr. MARTIN (to the managers). Cross-examine.
The WITNESS. I want to say that I never heard his reputation for integrity under question until this matter came up.
Mr. Manager CLAYTON. The witness may be excused.
Mr. MARTIN. That is all.

TESTIMONY OF SAMUEL J. M. M'CARRELL.

Samuel J. M. McCarrell appeared and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Where do you reside, Judge McCarrell?—A. Harrisburg, Pa.
Q. Are you acquainted with Judge Archbald?—A. I am.
Q. How long have you been acquainted with Judge Archbald?—A. For 15 or 20 years.
Q. Are you acquainted with other people who know Judge Archbald?—A. I am.

Q. Are you acquainted with his reputation?—A. I am.
Q. What is it——
The PRESIDING OFFICER. The counsel has not propounded the question in proper shape. The question is if the witness knows his general reputation, and then——
Mr. MARTIN. I will see if I get the meaning of the Chair. [To the witness.] What is his reputation for honesty and integrity, if you know?
The WITNESS. Good.
Q. What was your answer, sir?—A. Good. I never heard it questioned by anyone.
Q. What is his reputation for honesty and integrity as a judge, if you know?—A. Good. I never heard it questioned by anyone.
Mr. MARTIN (to the managers). Cross-examine.
The WITNESS. I may say that——
Mr. Manager NORRIS. That is all.
Mr. MARTIN. What were you about to say?
The WITNESS. I was about to say——
Mr. Manager CLAYTON. Mr. President, I think that is enough.

W. D. RUSSELL.

Mr. Manager CLAYTON. Mr. President, while we are waiting for the next witness, I ask that the witness W. D. Russell, who was subpœnaed on behalf of the managers, may be finally discharged at this time.
The PRESIDING OFFICER. It will be so ordered.

TESTIMONY FROM JOHN M. GARMAN.

John M. Garman appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Where do you reside?—A. Wilkes-Barre, Pa.
Q. How far is that from Scranton?—A. Eighteen miles.
Q. Are you acquainted with Judge Archbald?—A. Very well.
Q. How long have you known him?—A. About 30 to 32 years.
Q. Are you acquainted with the speech of the people in the community in which he has lived and moved with reference to his honesty and integrity?—A. I am.
Q. What, from the speech of the people, is his reputation for honesty and integrity?—A. Good.
Q. What, from the speech of the people in that community, is his reputation for judicial honesty and integrity?—A. Good.
Mr. MARTIN (to the managers). Cross-examine.
Mr. Manager CLAYTON. The witness may be excused.
The PRESIDING OFFICER. The witness is finally excused.

TESTIMONY OF WILLIAM A. STONE.

William A. Stone appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Where is your place of residence?—A. Pittsburgh, Pa.
Q. You were at one time governor of the State of Pennsylvania?—A. Yes, sir.
Q. Do you know Judge Archbald?—A. I do.
Q. How long have you known Judge Archbald?—A. I have known him at least 21 years. I do not know but that I have known him a little longer, but at least 21 years.
Q. Do you know other people who know Judge Archbald?—A. Yes, sir; a great many people.
Q. What, from the speech of those people who know him, is his reputation for honesty and integrity?—A. Good.
Mr. MARTIN (to the managers). Have you any questions?
Mr. Manager CLAYTON. The witness may be excused.
The PRESIDING OFFICER. The witness is finally excused.
Mr. Manager CLAYTON. I should like to be heard briefly.

Mr. President, the managers have offered no character witnesses anywhere in these proceedings; it is not their purpose to offer any character witnesses. Ten character witnesses have been examined. The rule adopted, or the practice, I may say, to be more accurate, in all the courts of justice, so far as I know, is that the court has the discretionary power to limit the number of witnesses as to character. I take it that that power is an inseparable incident of the court to regulate its proceedings and for the purpose, among others, of bringing the trial to an end.

In so far as I know, all courts permit a reasonable number of witnesses to be examined on character; but where the testimony of the character of the party is not controverted the court has always, after a reasonable number of witnesses have been examined, held that no more should be examined on that particular matter. Some of the courts of the Union hold that four character witnesses are sufficient where the testimony of those witnesses is not controverted.

We have another instance. The Supreme Court of Illinois is permitted to prescribe rules, and among the rules that they have prescribed is that there can be only eight character witnesses examined where the question of character is not controverted. That rule of the Supreme Court of Illinois has the force and effect of a statute there. That is the most liberal rule that I can now call to mind on the subject obtaining in any of the courts.

So, Mr. President, I respectfully submit to you and to the Senate that after these gentlemen have examined 10 witnesses on character and when the testimony of those character witnesses is not disputed, is not controverted, and when the managers tell the Senate it will not be controverted, it seems to me that the further examination of character witnesses might well be dispensed with.

The PRESIDING OFFICER. The Chair recognizes, of course, that the practice is such as the manager has indicated, and the necessity of it is apparent. Otherwise the time of a court might be indefinitely taken up through the introduction of innumerable witnesses. At the same time, the Chair recognizes that in this case the character of the respondent is necessarily in issue, and on account of the gravity of the case and the peculiar position which the Presiding Officer holds, simply as the mouthpiece of the Senate, the Chair does not feel authorized to take the responsibility of shutting off the respondent in the proof which he seeks to make upon this line. The Senate has full control over the matter whenever it sees proper to exercise it.

Mr. Manager CLAYTON. Mr. President, not desiring to discuss the question as to which the Chair has indicated his ruling, I desire to respectfully submit to him another reason. This evidence as to character is not only not controverted, but will not be controverted by the managers; but the evidence is merely cumulative, and the courts have always held that there was a right to limit cumulative testimony.

The PRESIDING OFFICER. The Chair assumes that counsel for the respondent will not exceed proper limits in this regard. In the absence of direction from the Senate, the Chair will not interfere with counsel in their proper presentation of their defense in this particular according to their judgment of the best way to do it.

JAMES H. TORREY SWORN.

Mr. REED. Mr. President, I submit the order which I send to the desk.

The PRESIDING OFFICER. The Senator from Missouri presents an order in which he asks the concurrence of the Senate. The order will be read.

The Secretary read as follows:

Ordered, That the number of character witnesses shall be limited to 15.

Mr. GALLINGER. Mr. President, I raise the question of a quorum. There is no quorum present.

Mr. SIMPSON. We will limit, if I may——

The PRESIDING OFFICER. Counsel will suspend. The Senator from New Hampshire has made the point of order that there is no quorum present. Under the rule the Secretary will proceed to call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	O'Gorman	Smith, S. C.
Bacon	du Pont	Oliver	Smoot
Bailey	Gallinger	Overman	Stephenson
Borah	Guggenheim	Page	Stone
Bourne	Hitchcock	Perkins	Sutherland
Brandegee	Johnson, Me.	Perky	Swanson
Bristow	Johnston, Ala.	Pomerene	Thornton
Bryan	Jones	Reed	Tillman
Chamberlain	Kenyon	Richardson	Townsend
Chilton	La Follette	Root	Warren
Clapp	Lodge	Simmons	Wetmore
Clark, Wyo.	McCumber	Smith, Ariz.	Works
Clarke, Ark.	Martin, Va.	Smith, Ga.	
Crane	Myers	Smith, Md.	
Crawford	Newlands	Smith, Mich.	

Mr. BRYAN. I desire to announce that my colleague [Mr. FLETCHER] is absent from the Senate Chamber on business of the Senate.

The PRESIDING OFFICER. On the call of the Senate 57 Senators have responded to their names. A quorum of the Senate is present.

The Senator from Missouri [Mr. REED] presents an order, which will be read to the Senate.

The Secretary read as follows:

Ordered, That the number of character witnesses shall be limited to 15.

Mr. WORTHINGTON. Mr. President, if it will save any time we are perfectly willing to limit ourselves to 15 character witnesses without any order of the Senate.

The PRESIDING OFFICER. It will be so ordered, without objection.

Mr. MARTIN. In view of the adoption of the order to limit the number of character witnesses, we should like to withdraw Mr. Torrey, who has just been sworn, inasmuch as he was to testify as to another matter. We desire now that Henry Belin, jr., may be called.

TESTIMONY OF HENRY BELIN, JR.

Henry Belin, jr., having been duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Mr. Belin, where do you reside?—A. Scranton.

Q. Are you acquainted with Judge Archbald?—A. Yes.

Q. How long have you known him?—A. About 35 years.

Q. Are you acquainted with other people who know Judge Archbald?—A. Yes.

Q. From the speech of those people who know him, what is his reputation for honesty and integrity?—A. Perfectly good.

Mr. MARTIN. Do the managers desire to examine this witness?

Mr. Manager WEBB. I do not care to ask him any questions.

Mr. MARTIN. Then he may be discharged.

The PRESIDING OFFICER. The witness will be discharged.

TESTIMONY OF W. L. CONNELL.

W. L. Connell, having been duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Mr. Connell, where do you live?—A. Scranton, Pa.

Q. How long have you lived there?—A. I have lived there all my life—50 years.

Q. During that time have you been acquainted with Judge Archbald?—A. I have known Judge Archbald practically all my life.

Q. Are you acquainted with other people there who know him?—A. I am.

Q. What, from the speech of those people who know him, is his reputation for honesty and integrity?—A. It is very high.

Mr. MARTIN. Is it desired by the managers to cross-examine the witness?

Mr. Manager WEBB. We have no questions, Mr. President.

Mr. MARTIN. The witness may be discharged.

The PRESIDING OFFICER. The witness will be discharged.

TESTIMONY OF E. B. STURGES.

E. B. Sturges, having been duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Mr. Sturges, do you live in Scranton?—A. Yes, sir; I make that my headquarters.

Q. Are you acquainted with Judge Archbald?—A. I am.

Q. How long have you been acquainted with Judge Archbald?—A. Over 46 years.

Q. Are you acquainted with other people who know him?—A. I am.

Q. What is your business, Mr. Sturges?—A. By profession I am a lawyer. I practiced law in Scranton for about 25 years. My health gave out. As some one said, I wanted to get honest, and I went into other business.

Q. What, from the speech of people who know Judge Archbald in that community, is his reputation for honesty and integrity?—A. I do not think you could find a man who knows Judge Archbald well that would not——

Mr. Manager WEBB (to the witness). Just answer the question.

The PRESIDING OFFICER. The witness will suspend.

Mr. Manager WEBB. I insist on the question being answered categorically, according to the rule.

The PRESIDING OFFICER. The witness will please respond to the question directly without commenting.

The WITNESS. Will you allow me to make an apology?

The PRESIDING OFFICER. No, sir; proceed with your testimony.

The WITNESS. His reputation could not be better, in my judgment.

Mr. MARTIN. Is it desired by the managers to cross-examine the witness?

Mr. Manager WEBB. We have no questions, Mr. President.

Mr. MARTIN. The witness may be discharged.

The PRESIDING OFFICER. The witness will be discharged.

TESTIMONY OF JOSEPH O'BRIEN.

Joseph O'Brien, having been duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Mr. O'Brien, you live in Scranton?—A. I do.

Q. What is your profession?—A. Practicing law.

Q. Are you acquainted with Judge Archbald?—A. I am.

Q. For how many years have you been acquainted with Judge Archbald?—A. For 30 years.

Q. Are you acquainted with other people in that community who know Judge Archbald?—A. I am.

Q. What, from the speech of those people who know Judge Archbald, is his reputation in the community for honesty and integrity?—A. The very best.

Mr. MARTIN. You may cross-examine, gentlemen.

Cross-examination:

Q. (By Mr. Manager NORRIS.) Where did you say you reside?—A. In the city of Scranton, sir.

Q. Are you a member of a firm of attorneys there?—A. A member of the firm of O'Brien & Kelly.

Mr. Manager NORRIS. That is all.

Mr. MARTIN. The witness may be discharged.

TESTIMONY OF A. LEO WEIL.

A. Leo Weil, having been duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Where do you live, Mr. Weil?—A. In Pittsburgh.

Q. You know Judge Archbald?—A. I do.

Q. How long have you known Judge Archbald?—A. I have known him over 10 years.

Q. Do you know other people who know him?—A. I do.

Q. What, from the speech of the people who know him, is his reputation for honesty and integrity?—A. Excellent.

Mr. MARTIN. You may cross-examine, gentlemen.

Cross-examination:

Mr. Manager NORRIS. I did not hear the name of this witness.

Mr. MARTIN. A. Leo Weil.

Q. (By Mr. Manager NORRIS.) Where do you reside?—A. Pittsburgh.

Q. Are you acquainted with the reputation of Judge Archbald in Scranton?—A. No, sir.

Q. Do you know what his reputation is in Pittsburgh?—A. I do.

Q. Have you heard his reputation discussed by anybody in Pittsburgh?—A. I have.

Q. By whom?—A. I can not recall any names, but when Judge Archbald came to Pittsburgh to hold court the bar and those connected with the court discussed his character as a judge.

Q. Was there any member of the bar there who knew or professed to know anything about his reputation for honesty?—A. They professed to know because they declared his reputation was of the highest.

Q. Can you tell why there was any occasion for the discussion in Pittsburgh of his reputation for honesty?—A. Yes, sir; I can.

Q. Had there anything arisen in which his reputation as an honest man was in dispute?—A. When a judge from another district comes to a city like Pittsburgh to hold a Federal court we naturally discuss what kind of a man he is before whom we are to try our cases.

Q. Exactly; but how do you find out anything that is said about his honesty by men who necessarily were not acquainted with him?—A. There were undoubtedly some there who were acquainted with him.

Q. There were some?—A. Undoubtedly.

Q. Do you know who they were?—A. I do not recall their names at this time.

Q. Had you heard anyone who was acquainted with him talk about his reputation when he came there to hold court?—A. I had, because the first time he came there to try a case I had a most important case to try, and I was naturally anxious to know the kind of a man before whom it was to be tried.

Q. And you looked up his reputation for honesty in Pittsburgh at that time?—A. No; but I paid attention to what members of the bar said his reputation was.

Q. How often did he come there to hold court?—A. Oh, I can not say—a number of times.

Q. Was he there long at any time?—A. Sometimes for several weeks.

Q. That was not in his district, was it?—A. No; he was in the middle district, and Pittsburgh is in the western district.

Q. Was that when he was Federal judge or State judge?—A. Federal judge.

Q. You never heard of him until he came there to hold court, did you?—A. Oh, I had heard his name simply, but nothing more.

Q. Was the reputation which you heard discussed connected with the times and the incidents when he was there holding Federal court?—A. Yes, sir.

Mr. Manager NORRIS. That is all.

Mr. MARTIN. That is all, Mr. Weil.

Mr. WORTHINGTON. Mr. President, Mr. Saums was on the stand when we adjourned last night, and I obtained from him some of his papers which we wanted to use. I handed them to Mr. Manager STERLING, so that he might have them overnight, as he desired to examine them. We can not proceed with the examination without the papers.

Mr. Manager WEBB. Mr. President, Mr. Manager STERLING has been here all afternoon, and is in the corridor now, I think.

Mr. WORTHINGTON. Suppose, then, in order to save time, that we have Mr. Torrey called back and examine Mr. Saums afterwards.

TESTIMONY OF JAMES H. TORREY.

James H. Torrey, having been previously sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Torrey, give your full name, please.—A. James H. Torrey.

Q. And your residence.—A. Scranton.

Q. And your business.—A. I am an attorney at law.

Q. Member of what firm?—A. Welles & Torrey.

Q. How long have you been practicing law in that town, Mr. Torrey?—A. Thirty-six years.

Q. And you have been with Mr. Welles how long?—A. Since 1898.

Q. Is your practice there of a general character—in the city courts, in the Federal courts, and so on?—A. It is; yes, sir.

Q. Did you at any time represent Mr. Conn, who is an officer of the Laurel line, as it is called?—A. We are regularly retained by that line; yes, sir.

Q. By the corporation?—A. Yes, sir.

Q. That is the company that has a little line running from Wilkes-Barre to Scranton?—A. Yes, sir; the Laurel line.

Q. There have been some questions asked here of Mr. Conn as to how he found out that I had a certain contract. I will show you the paper, and perhaps you can throw some light on that subject. I show you United States Senate Exhibit No. 22.

The WITNESS (after examining the paper). I recognize the paper; yes, sir.

Mr. WORTHINGTON. I think I should state, Mr. President, in order that the Senate may know what we are talking about, that that is the contract which it has been testified was drawn up by Judge Archbald when it was expected to make the sale to Conn, in which he recites that it was between him and Williams on the one hand and Conn's company on the other; and there were some pencil interlineations in that paper, about which we had some testimony.

Q. (By Mr. WORTHINGTON.) Now, Mr. Torrey, will you tell me whether you were consulted by Mr. Conn in reference to that proposed purchase?—A. We were; yes, sir.

Q. And what did you do about it?—A. I think either Judge Archbald or Mr. Conn came to me, in the first instance, saying that they had agreed upon the terms embodied in this contract, subject to the examination of the title, and requested that our firm examine the title. I was especially busy at that time, and turned it over to Mr. Welles, who made the examination of title and found that there were defects in it. After he had reported that—I do not know just when it was—Judge Archbald came to me to inquire what our report was and what could be done about it. I told him that one of three things could be done, and only those—either we must get a warranty conveyance from the Hillside Coal & Iron Co. of the dump, or, regarding it as personal property the title to which passed upon delivery, we would take the lease of it at the royalty mentioned on this contract, paying for it as we got it; or, if it was to be a down payment, that we must have some indemnity. He could not comply with any one of those three suggestions. The Hillside Co. would not give any warranty of any title whatever in the dump; they would simply sell their interest. They had to have the down payment in order to pay the purchase money, and so they could not let us pay for it as we got it, and Judge Archbald said they were not in a position to give us indemnity, and that ended it.

Q. Then you advised Conn what?—A. Then we advised him not to sign the agreement.

Q. In that connection, did anything come to your notice about the claim of the Everhart heirs?—A. I believe that was the principal reason why Mr. Welles refused to pass the title.

Q. Do you know it to be a fact that your partner refused to pass that title to Conn because of the outstanding interest of the Everhart heirs?—A. I do; yes, sir.

Q. Now, in reference to the history of that paper, do you know in whose handwriting the pencil interlineations there are?—A. I would not know myself; no, sir.

Q. You only know from hearsay?—A. I only know from report.

Q. Did you receive that paper from anybody with the request that you trace it back and see in whose handwriting the pencil memoranda were?—A. When you were in Scranton preparing this case shortly before it began——

Q. When I was in Scranton?—A. Yes, sir; when you were in Scranton, Mr. Worthington, you showed the paper to me, and asked me if I knew in whose handwriting it was. I told you it was not in the handwriting of any member of our firm.

Q. You say "handwriting"; you mean the pencil interlineations?—A. The pencil interlineations; yes, sir. I said if you would give me time I thought I could find out. I sent it to Judge Knapp's office, of the firm of Warren, Knapp & O'Malley, to see if it was in the handwriting of anyone there. I thought possibly it might be in Judge Knapp's handwriting, though I did not think it was. I then sent my youngest son, a member of the firm, to Mr. Conn's office to ascertain if it was in the handwriting of anyone there, knowing that it had been in his possession. Mr. Conn was out of town, but his private secretary told him——

Mr. Manager DAVIS. Mr. President, I submit that this is clearly incompetent. The witness may identify the handwriting, if he knows it, and, of course, if he does not, what he learned from other people is not competent.

Mr. WORTHINGTON. The honorable manager directed a long question to Mr. Conn as to how the paper found its way into Mr. Worthington's possession. Just what he meant I do not know, but counsel seemed to think it was important and wanted to know whether Mr. Conn was in collusion with Judge Archbald's counsel in the matter.

Mr. Manager DAVIS. If this examination is simply to relieve the feelings of counsel in the matter, I am willing to do that at once and to state that it was not asked because of any presumed impropriety on the part of counsel, but simply in an endeavor to get Mr. Conn to state the history of the document; and he further stated, if it is necessary to relieve counsel's feelings, that these interlineations were in his handwriting.

Mr. WORTHINGTON. I am not concerned now about the feelings of the managers or in whose handwriting it was, but there was a very protracted examination of Mr. Conn on this point, apparently on the line that there was something wrong in his knowing that I had the paper, but I showed it to him as he testified, just before he went on the stand.

Q. (By Mr. WORTHINGTON.) Do you say that you sent this paper to Mr. Conn's office by your son and partner?—A. Yes; and the report came back that his private secretary ——

Mr. Manager DAVIS. I object.

Mr. WORTHINGTON. I do not care what the report was.

Q. (By Mr. WORTHINGTON.) But did you send it with the information that I wanted to know whose handwriting it was on the paper?—A. Exactly; yes, sir.

Q. You spoke about Judge Archbald coming there, and Judge Archbald's name is used as one of the contracting parties there?—A. It is.

Q. I should like to know whether there was any suggestion that Judge Archbald's connection with the proposed purchase from the Hillside Coal & Iron Co. and Robertson & Law and the sale to Conn was a matter that was to be kept quiet or concealed in any way?—A. Not at all. He frankly said that he was interested with Mr. Williams.

Q. Was that known generally in your office?—A. It was.

Q. To how many people?—A. Well, to at least three.

Q. Were you one of the contributors to the purse which was presented to Judge Archbald when he was about to sail for Europe in the spring of 1910?—A. I was.

Q. I wish you would tell your connection with that.—A. Mr. Searle, the clerk of the court, called at my office and said that such a purse was being contemplated and some of the lawyers had subscribed to it, and asked if we desired to do so; and I think after consulting with my partner, Mr. Welles, I drew a firm check, or had it drawn, and gave it to him.

Q. Did you understand it was a presentation of a sum of money which was to be made to Judge Archbald?—A. I did; yes, sir.

Q. You were told about the circumstances under which it was to be given?—A. I do not think so.

Q. You had no communication with Judge Archbald on the subject?—A. Not at all.

Q. Did you know that it was thought best to conceal it from him until he was about to sail?—A. I did not know anything about that. I assumed—and I am not quite sure I did not say to Mr. Searle—that it would be wiser not to let Judge Archbald know the names of the contributors; and I certainly assumed that he would not know.

Mr. WORTHINGTON. You may cross-examine.

Cross-examination:

Q. (By Mr. Manager DAVIS.) What was the amount of your contribution, Mr. Torrey?—A. If I recollect aright, it was $25.

Mr. Manager DAVIS. We have no further questions.

Mr. WORTHINGTON. That is all. The witness may be discharged. Please call Mr. Welles and finish up this phase.

TESTIMONY OF CHARLES HOPKINS WELLES.

Charles Hopkins Welles, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Do you reside in Scranton?—A. I do.

Q. How long have you lived in that burg?—A. Since 1861.

Q. What is your business?—A. I am a lawyer.

Q. You are a partner, I believe, of Mr. Torrey, who has just left the stand?—A. I am.

Q. And have been for how many years?—A. Twelve or fifteen.

Q. Are you acquainted with Judge Archbald, the respondent here?—A. I am.

Q. And you have known him how long?—A. All his life, I think.

Q. Well, or only incidentally?—A. Very well.

Q. Do you remember anything about the submission to your firm by Mr. Conn, of the Laurel line, of a proposed contract in reference to the Katydid culm dump?—A. I do.

Q. What did you have to do with that, Mr. Welles?—A. It was given to me to look up the question of the title to the property.

Q. Given to you by whom?—A. By Mr. Conn as representing, I believe, the Lackawanna & Wyoming Valley Railroad Co.

Q. The so-called Laurel line?—A. The so-called Laurel line.

Q. Up there they called it the Laurel line for short?—A. Yes.

Q. Did you investigate the title?—A. I did.

Q. And reported to Mr. Conn?—A. I did.

Q. What was your conclusion so communicated to him?—A. That there was no title that they could sell.

Q. What was the trouble, Mr. Welles?—A. As soon as it came into my hands I went to Judge Knapp's office to see if I could get the lease under which this culm dump was produced. I found in Judge Knapp's office Judge Archbald, Mr. Beyea, the real estate agent of the Pennsylvania Coal Co., and I asked for the lease. I was told by Judge Knapp that the Hillside Coal & Iron Co. owned one half of this property in fee; that the other undivided half was owned by others. I asked them there under what authority; if the Hillside Coal & Iron Co. had any lease of the property; and they smiled and said they had a letter. I wanted to see the letter, and they said that they had just been calling up Mr. W. A. May, the general superintendent, and the letter could not be found. I asked them from whom the letter came, and they said it came from Mr. Darling—E. P. Darling—way back in 1882 or 1883, I think it was—somewhere in the early eighties—and it was simply a letter that authorized the Hillside Coal & Iron Co. to mine on payment of a certain royalty; I do not remember the amount. I asked them if they could not furnish me a copy of this letter, and they said they could not. I said I could not pass the title on such a record as that. Before I communicated that to Mr. Conn——

Q. Judge Archbald was there all the time, I understand?—A. Judge Archbald was there all this time. Before I communicated that to Mr. Conn I had a call from Mr. John M. Robertson. He said that Robertson & Law owned the culm dump and that they could give a good title to it. I said I begged to differ with him, and I asked him this question: "Did you not relinquish this property several years ago?" He said yes; they had. I said, "How can you claim, then, to be in possession of that dump?" He said, "We have on several occasions gone there and taken away a wagonload of culm." I said, "As long as you have withdrawn from the property, I can not understand how you can make any claim to it." Then a man by the name of E. J. Williams came in. He said, "We have got good title to that property." I said, "I beg to differ with you; I do not think you have any title at all." I communicated these facts to Mr. Conn, and Conn said that somebody representing a portion of this undivided half, through whom the letter of Mr. Darling came, claimed to be the owners of it and would not consent to its being sold, and that ended all of the negotiations with reference to it.

Q. If I understand you, you found nobody had the title?—A. I said to Mr. Beyea, in Judge Archbald's presence——

Q. Mr. Beyea was an officer of the Hillside Coal & Iron Co.?—A. He was the real estate agent of the Hillside Coal & Iron Co. I said to him, "If you will allow the Lackawanna & Wyoming Valley Railroad Co. to take the culm away and pay for it as they take it, my clients will consent to take it under those circumstances." He said, "No; we will sell our interest in it, and that is all we will sell." I said, "Will you give an agreement that we can remove all of that culm?" He said no; that they would give no agreement; that all they would do would be to sell what interest they had in it. This culm dump had been produced by Robertson & Law on a corner of the property that could not be reached by the mining operations of the Hillside Coal & Iron Co., and I believe it was all mined out; that there was nothing left, and this was the only thing that remained, and it was known as the Katydid dump.

Q. The upshot of it was that you advised Mr. Conn what?—A. That he could not safely purchase it.

Q. Did he afterwards consult with you further about it, or was that the final conclusion?—A. Several times we consulted about it, and it was thought that the interests might be harmonized, and he get the title; but it could not be brought about.

Q. Who were the other persons who had the other interests; I think you have not mentioned them.—A. The Everhart heirs.

Q. The Everhart heirs?—A. The Everhart heirs had a certain portion, and some family that lived near Birdsboro, not far from Reading, owned the other undivided interests in it. It never got so far that I looked up the title at all as to the ownership of the land from which the coal was produced.

Q. What suggestion was made by anybody, if any was made, with respect to the fact that Judge Archbald was interested in this matter, and that his dealing with you in regard to it was something that should be kept quiet?—A. Never anything of the kind occurred.

Q. As a matter of fact how many people about your office and Judge Knapp's office knew it, to your knowledge?—A. There were five in our firm. We all knew it.

Q. How was it in Judge Knapp's office?—A. Judge Knapp knew of it and Mr. Beyea, of the Hillside Coal & Iron Co., knew of it.

Q. By the way, do you know about the condition of Mr. Beyea's health now?—A. I do not. I know that he was very ill at Atlantic City. I think it was said to be paralysis; but I am not certain about that.

Mr. WORTHINGTON. That is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager DAVIS.) When you were instructed to investigate this title you went first to the office of Mr. Knapp, as I understand?—A. I had nothing from which I could get any reference to the title, and I went to Judge Knapp knowing he was the attorney of the Hillside Coal & Iron Co. He was on the second floor above——

Q. And in his office, at that interview, you found Mr. Beyea, of the Hillside Coal & Iron Co., and Judge Archbald?—A. And Judge Archbald.

Q. And you discussed this matter in this conversation you have narrated?—A. Yes, sir.

Q. And it occurred in the presence of those three gentlemen?—A. Yes, sir.

Q. You found that the original paper from which the Hillside Coal & Iron Co. derived its rights could not be found?—A. To the undivided half that was in the Everharts and this other family; the Hillside Coal & Iron Co. owned half of it in fee and the other half was owned by the others.

Q. I say you could not find the original document?—A. I could not find anything which showed they had any right to mine it at all, except their undivided half.

Q. And you found their statement as to their possession unsatisfactory to you?—A. Yes.

Q. And on those two grounds you refused to advise the purchase of the property?—A. Yes.

Q. And that is as far as you went in the way of the examination of the title?—A. Yes, sir. It was admitted that the Hillside Coal & Iron Co. only owned half of it.

Q. But held the other half under this paper which could not be produced?—A. Under this letter, they said. It was a very remarkable thing, in my mind.

Q. They told you, did they not, that in accordance with that letter they had paid royalty upon the operation for a great many years?—A. No.

Q. Royalties had been paid and received by virtue of that paper?—A. I do not know.

Q. What was the exact date of this conference?—A. Sometime, I think, early in this year. I went through my records to see if I could find any communications with Mr. Conn. We always keep carbon copies of our correspondence. I could not find anything. I think all my communications with Mr. Conn were verbal in my office.

Q. You say in the month of January?—A. I think it was a little later than January. As I say, I have no way of ascertaining. We made no charges, because we are general counsel for the Lackawanna & Wyoming Valley Railroad Co., and this came under our general charge.

Q. Can you say whether it occurred before or after the 1st of March?—A. I could not fix it more definitely than I have done.

Mr. Manager DAVIS. We have nothing further.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Can you say really that it did not occur in November or December, 1911?—A. I can not say. I thought at first that it was in December, but I have nothing to refresh my memory from that would fix the date.

Q. If I understand you about the letter concerning which Mr. Manager DAVIS asked you, you said it was a remarkable letter and that it could not be produced.—A. No; I said that they should mine coal under a letter written by an attorney and not by the owner of the property.

Q. Was that letter produced?—A. No, sir.

Q. They could not find the letter?—A. They could not find the letter or give me a copy of it.

Q. When you say the Hillside Coal & Iron Co. had a one-half interest in the land, was it the land that the coal was mined from——A. Yes, sir.

Q. (Continuing.) Or on which it was placed, or both?—A. Both.

Q. And the other one-half was outstanding?—A. The other half was outstanding.

Q. And Robertson & Law were claiming to own it by virtue of having made the dump?—A. They were claiming that they made the dump and that they had been in possession of it, and that they could sell it and give a good title. I differed with them.

Q. I think you differed with Mr. Williams about the title, too.—A. I believe I did; yes. I told him that I did not think he knew much about the law in reference to those things.

Mr. WORTHINGTON. That is all.

The WITNESS. May I be excused?

Mr. WORTHINGTON. You can be finally discharged, Mr. Welles.

Mr. Manager CLAYTON. Yes.

Mr. WORTHINGTON. While we are on this let us call Judge Knapp.

TESTIMONY OF HENRY A. KNAPP.

Henry A. Knapp, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Judge Knapp, your full name is Henry A. Knapp?—A. Yes, sir.

Q. And you live in Scranton?—A. Yes; I live in Scranton.

Q. You are a member of the bar?—A. I am.

Q. How long have you been practicing that profession?—A. About 37 years—between 37 and 38 years.

Q. Of what firm are you a member?—A. Warren, Knapp & O'Malley.

Q. How long has that firm been in existence, if you remember?—A. In that form the firm has been in existence only about two or three years, since Judge Willard died. Prior to his death the firm was Willard, Warren & Knapp, and in that way it had been in existence something over 20 years.

Q. In 1911 was your firm so unfortunate as to represent any railroad companies in that region?—A. Oh, yes; we did some business for what is called the Lackawanna, which is the Delaware, Lackawanna & Western Railroad, although, as Maj. Warren has said, they have their own legal department there; but still we do some of their business. We also do some business for the Erie Railroad Co. and sometimes we do some business for the Lehigh Valley Railroad Co.

Q. Do you remember anything that took place with reference to the examination of the title or inquiries about the title to the Katydid dump, when it was expected that a sale might be made to Mr. Conn's company, the Laurel line?—A. Yes, sir. I remember Capt. May speaking to me about the matter, but I do not think there was any real examination made of the title beyond what Capt. May explained to us as to the manner in which this dump had been formed by the operation of the coal company and by Robertson & Law. I do not think we made any examination of the title such as you would make—to examine the records—but we simply took the statement of Capt. May and tried to form some conclusion as to the ownership of the culm pile.

Q. Are you able to reach any conclusion now?—A. Well, I thought then, and I still think, that it was a matter which was involved in a good deal of doubt.

The truth of the matter is that when that culm pile was formed such things were not considered worth very much, and nobody paid very much attention to the ownership of it; but I should say that Robertson & Law certainly had an interest. It is probable that the Hillside had an interest, so far at least as the royalty was concerned, on the small sizes of coal. And whether or not the Everhart heirs and the E. & G. Brooke Land Co. had an interest would be a matter about which lawyers might differ, I think.

Q. Very well. Is it still an open question?—A. I regard it as quite so.

Q. Is there anything certain about the Hillside Coal & Iron Co.'s interest in it except that it certainly would have the royalty which it had been receiving?—A. No; I think Robertson & Law might very well claim that they had the entire right to the dump, only paying royalties upon such sizes as under their arrangement with the Hillside Coal & Iron Co. they had agreed to pay royalties upon. But, of course, that would mean washing it out, you know, and they had no intention of washing it out, because they did not care to go to the expense necessary to put up the appliances for that purpose.

Q. Do you remember, in connection with this title, Judge Archbald being at your office or being in communication with him about it?—A. I remember his being there once on the matter; yes.

Q. Do you remember who was present?—A. I remember that Mr. Conn was present and Mr. Welles and Judge Archbald. Whether anybody else was present I do not remember, but I do not think there was. I think it was confined to the four besides myself.

Q. Is that the only time, so far as you recollect, that you came into immediate contact with Judge Archbald about that matter?—A. I do not recall that at any other time I ever said a word to him or he to me in relation to the matter. I do not think so.

Q. On that occasion did he come in by the front door or slip in some back way?—A. Oh, he came in the front door, as he always does.

Q. Was there any sort of an attempt to conceal the fact that he was interested in this matter?—A. None whatever.

Q. And was trying to get this title fixed up?—A. Not the slightest.

Q. How many people in your office knew all about it?—A. Why, everybody that had—well, I do not know about that. I think Maj. Warren knew about it at the time; he had a certain amount of familiarity with it; and I know I drew some papers which would make the stenographers somewhat knowing about it—although I do not know that his name was in the paper—but I drew the contract of sale. But certainly there was no attempt at concealment or anything of that kind.

Q. Do you recall Capt. May consulting you in reference to any written communications that had reached him as to this Katydid dump?—A. I remember that Capt. May said to me after, as I supposed they had practically agreed upon a sale, that the Everhart heirs were giving him notice, or had given him notice, or that he had received notices from several of them, and that they all raised very strong opposition to his doing any such thing; and I remember his taking the matter up with me in consultation for advice on the subject.

Q. What advice did you give him?—A. I told him that I did not think his company, the Hillside Coal & Iron Co., could afford to get into a controversy with the Everhart heirs, and that if they objected to his selling the dump I thought he had better not sell it. I can give the reason why I told him that.

Q. That is what I want to know. You understood that the company was proposing to convey only its interest in the Katydid dump?—A. That is true, and if the whole thing was confined to that one dump there was no necessity whatever of taking any notice of any notices by the Everhart heirs. But the difficulty was that the Hillside was mining coal from the same property, and they were cleaning coal from the same property by some kind of a washery, and their tenure, or their agreement, with the Everhart heirs and with the E. & G. Brooke Land Co., the other owners of the property, was very indefinite. I did not regard that the Hillside had a very good contract with these people, you understand. It was nothing but an old letter, written a great many years ago, giving no term, and might be terminated at any time. At any rate, they might put up the claim that they could terminate it at any time. For that reason it seemed to me to be very unwise on the part of the Hillside to get into any controversy with them over this culm dump.

Q. Do you remember whether at that time Capt. May told you that he had sent out a form of a contract to be executed?—A. Well, I know that he got a form of contract, because I drew it.

Q. You drew it yourself?—A. Yes.

Q. Was this conversation in which you advised him not to sell after you drew the contract?—A. Yes.

Q. Can you fix the time at all?—A. I think it was early in April; I should say about the 10th or 11th.

Q. Was it before or after the fact that these charges against Judge Archbald were to be investigated came out in the Scran-

ton newspaper?—A. It was about 10 days or 2 weeks before, or something like that.

Q. I want particularly to ask you whether in the advice you gave about that matter you were governed at all by anything you had heard or heard rumored about Judge Archbald?—A. Not the slightest. I had not heard anything. I had not heard a thing at that time.

Q. Was there any reason, except what you have stated, that there was danger that your client might get into trouble with the Everhart heirs?—A. No reason except what I have stated.

Q. How did the value of this other property to which the Everhart heirs had some claim and which the Hillside Co. was operating under some arrangement, compare with the value of the Katydid dump?—A. Vastly in excess.

Q. You know Mr. Beyea, the real estate agent of the Hillside?—A. I know him very well.

Q. Do you know his condition at the present time?—A. Yes, sir. I know that he is in a very precarious condition of health. He was seized with some kind of mental trouble in New York some few weeks ago and was moved to a hospital in Philadelphia, where he was attended to by his brother, who is a physician. I saw a letter which he recently wrote to Mr. Beyea, in which he said he thought if Mr. Beyea could be kept quiet for two or three months he might get well, but it would be absolutely impossible for him to do any business in that time.

Mr. WORTHINGTON. That is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager DAVIS.) I understood you to say, Judge Knapp, that in your opinion Robertson & Law had the right to wash this dump and take the coal from it, paying royalty to the Hillside?—A. I should think so. It is usually covered, you understand, by a written contract. Here there was no contract, either between the Everharts and the Hillside or between the Hillside and Robertson & Law; so that the matter was not covered. But usually the operator who takes out the coal, the result of which operation is the making of a culm pile, is entitled to the sizes of coal in the culm pile which are smaller than the royalty sizes; that is, they are smaller than those upon which a royalty has been reserved. I think Robertson & Law would have been entitled, but the difficulty was their washery or something or other burned down, and they kind of left the place. There was a good deal of talk for a time about their having abandoned it. Of course, if they had abandoned it they would have lost all interest in it; but then the Hillside never set up a claim they had actually abandoned it. They were perfectly willing they should proceed in it if it could be settled and some money got out of it.

Q. Of course, if Robertson & Law had that right, their assignee would have the same right, with the consent of the Hillside Co.?—A. Oh, yes; if they had a right there an assignee would have the right.

Q. You knew, of course, the facts about the status of that title before you drew the contract between these parties?—A. I believe I did.

Q. You knew at the inception of the negotiations everything you knew when the negotiations ended?—A. Well, I imagine I did, although I do not know that I can recall whether I learned anything during the time the negotiations were under way or whether I did not; but all I knew I learned from Capt. May, who asked me to do this business for his company.

Q. And the contract which you drew only provided for the sale of the Hillside Coal & Iron Co. of its right, title, and interest in the property?—A. That is my recollection.

Q. You knew, of course, that such a contract could not affect the title of the Everhart heirs, if any title they had?—A. Yes.

Q. Therefore there was no just ground of protest on their part against any transaction of that kind?—A. While perhaps the contract could not affect their rights, yet the situation might be such as to call for their interference. I will explain that this way: If somebody had gone to work taking away that culm under this contract, for instance, if it had been turned over to the Laurel line, or whoever purchased it, and they had gone to work to take it away, the Everharts would have then been put to a lawsuit. They would have had to get out an injunction in court or to have done something about it. It was always, I believe, the claim and hope of the Everharts that all the parties would be united, and with some division of the purchase money, so that they would be recognized as part owners in that dump and get their money without any lawsuit.

Q. They would have been put to a lawsuit, which, I gather from you, there would have been no foundation for, in your judgment.—A. I am not so sure about that. They were owners of an interest in the land from which this culm pile had been taken.

Q. You have already expressed your opinion that the producers or makers of this culm pile owned it without reference to the ownership of the land on which it rested.—A. That is true. If they are mining coal under a coal lease, and get a lease in this way, that the operator shall get all the coal, it has been decided that under such a lease the operator is entitled to the small sizes of coal upon which no royalty is reserved. But the Hillside Co. did not even have that from the Everharts. The E. & G. Brooke Land Co. simply had a letter a great many years old, in which it was stated that they might mine the coal and pay a certain royalty to the coal owners. Now, that letter I never had seen, nor a copy of it. It was simply a matter of information that such a letter had been written by Mr. Darling, who was a prominent lawyer in Wilkes-Barre a great many years ago. His son was on the stand yesterday. He has been dead some years. Mr. E. P. Darling, when an attorney for the E. & G. Brooke Land Co. and the Everhart heirs, had written a letter to the Hillside Coal & Iron Co. stating that they might mine this coal and pay a certain royalty to those interests. You understand that as long as they took those royalties month by month it closed up the past, but it did not open out the future.

Q. You knew in all the years the company had been mining there never had been any dispute about the terms on which they had been doing it. You knew the contents of that letter, whether in existence or not, and that it was perfectly understood between the lessors on the one hand and the company on the other, did you not?—A. I am not so sure. I have never seen the letter or a copy of it. If I could have seen the letter perhaps I could have come to a little more definite conclusion as to the matter.

Q. Is there any phase of this matter on which you are sure?—A. You can not say that I ought to be sure of a letter I never saw or of which I have never seen a copy. I am only stating what I believe to be the fact.

Q. Did you ever draw an option or contract for sale from the company to E. J. Williams?—A. My recollection is that the one I did draw was to E. J. Williams.

Q. When was that drawn?—A. I can not fix the time exactly. I should say it was early this year.

Q. It was the 10th of last April, was it not?—A. I presume it was about that time. I would not say for sure. I think it was about that time.

Q. That paper was drawn for the purpose of empowering Williams to dispose of the Hillside interest in this property, was it not?—A. No; I did not so regard it. I should rather regard it as a contract of sale to Williams by the Hillside Coal & Iron Co.

Q. An assignable contract, of course?—A. Well, I believe so. I have not seen it since. I can not state.

Q. You knew at that time that Judge Archbald was a party in interest, I suppose?—A. As I have said, I knew he was interested in the matter some way, but how I did not know. The only way I knew he was interested in it was because he called at my office on a day when Mr. Welles and Mr. Comi, of the Laurel Line, were there. The nature of his interest I did not know.

Mr. Manager DAVIS. That is all.

Q. (By Mr. WORTHINGTON, presenting paper.) I will ask you to look at this paper, U. S. S. Exhibit No. 5 in this case, and tell me whether that is the contract about which you have been testifying and which you drew for Capt. May?—A. (Examining.) I believe this is it. I have not read it through, but certainly it has every appearance of it. I believe this is the one. It is the one. I recognize it.

Q. In the questions you have been asked by Mr. Manager DAVIS, as I understood your answers, you have been referring to the Katydid dump and the title to it, the ownership of it?—A. Yes, sir.

Q. I want to ask you what you have to say about the interests of the Everharts and the danger you feared as to the other more important, more valuable——

Mr. Manager DAVIS. I object to that.

Mr. WORTHINGTON. On what ground?

Mr. Manager DAVIS. On the ground that it has all been gone over in chief.

Mr. WORTHINGTON. Perhaps it was. I did not know it was the manager's recollection of the examination in chief.

The WITNESS. Is that all?

Mr. WORTHINGTON. That is all, Judge Knapp. The witness may be discharged. It is possible he may have to come back.

TESTIMONY OF L. A. WATRES.

L. A. Watres appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Watres, you are a member of the bar?—A. Yes, sir.

Q. How long since you have been in active practice?—A. About 15 years. I have been practicing but very little in 15 years.

Q. Do you remember the purse that was given to Judge Archbald on his sailing to Europe some years ago?—A. I do.

Q. Were you one of the contributors to that purse?—A. I was.

Q. Will you tell us, please, the circumstances under which your contribution was asked for and received?—A. Mr. E. R. W. Searle, who was at that time the clerk of the court, the district court, called upon me to solicit a contribution to the fund. After some hesitation I told him that if it was a fact that the names of the contributors were not to be given to the judge I would very gladly subscribe, and I did subscribe. He told me that the matter would be attended to. I presumed it would be. I gave him my check.

Q. Had you been a personal friend of Judge Archbald's?—A. For 30 years and over. I have known him for over 40 years. I lived in the same community with him for over 40 years.

Q. Do you represent any railroad or other companies?—A. No, sir; I do not think so at the present time.

Mr. SIMPSON (to the managers). Cross-examine, gentlemen.

Cross-examination:

Q. (By Mr. Manager NORRIS.) You reside at Scranton, Mr. Watres?—A. Yes, sir.

Q. You are a practicing attorney?—A. I have not been in active practice for about 15 years.

Q. Did anyone else talk to you about making a contribution to this fund except the clerk, Searle?—A. No one but Mr. Searle.

Q. He was clerk of Judge Archbald's court at that time?—A. He was the clerk of that court; yes, sir.

Q. Did you hear any talk in Scranton about it by any other persons?—A. I did not.

Q. You did not know of any meeting of attorneys whatever in regard to it?—A. I did not.

Q. You did not hear of any meeting where they discussed the advisability of getting up a dinner, and finally abandoned it because they could not get the fellows together?—A. I think Mr. Searle spoke of it in a casual way at the time. I do not recall what was said.

Q. All you know about it is what Mr. Searle told you?—A. That is all. He is the only one I ever talked to about it.

Q. What was the amount of your contribution?—A. $50.

Q. Did he tell you when he solicited the contribution that it was to be given to the judge as a purse in cash?—A. I believe he did; yes, sir.

Q. Did you get any acknowledgment of your contribution?—A. I received from the judge a letter from Europe, I do not recall just where, a few weeks after he landed there. The letter was giving a description of his trip and mentioning the purse, and he seemed to be quite embarrassed in that letter.

Q. Have you that letter?—A. I have not; no, sir.

Q. Have you made any effort to get it?—A. No, sir. If I recall it aright, that letter was not preserved.

Q. It was not preserved?—A. I believe not, as I recall it. As I do with many such letters, I threw it in the wastebasket as of no consequence to file.

Mr. Manager NORRIS. I think that is all.

Mr. SIMPSON. That is all. The witness may be discharged, Mr. President.

The PRESIDING OFFICER. The witness will be discharged.

TESTIMONY OF WILLIAM J. FITZGERALD.

William J. Fitzgerald appeared and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Fitzgerald, you are a member of the bar?—A. I am.

Q. Of what firm?—A. O'Brien & Kelly.

Q. Do you remember the case of Peale against the Marian Coal Co.?—A. I do.

Q. What connection had O'Brien & Kelly with that case?—A. We were of counsel for the plaintiff.

Q. What connection had you with it personally?—A. I personally assisted in the trial of the case.

Q. Will you look at this book [presenting book] which I hand you and tell us, please, what that is?—A. (Examining.) That is a printed copy of the record as prepared by the appellant in the circuit court of appeals, in the case of the Marian Coal Co., appellant, versus John W. Peale, appellee, in the third circuit, being an appeal from the case of Peale versus the Marian Coal Co. before the middle district of Pennsylvania.

Q. I call your attention in this book to the order which is made by Judge Archbald on January 27, 1911, on page 44. Were you present when that order was made?—A. I was.

Q. Will you state the circumstances leading up to the making of the order and what occurred at the time it was made?—A. Prior to that date——

Mr. Manager NORRIS. Mr. President, may I ask the attorney what the object of this evidence is. I do not want to object to it if it is proper, but I do not see its relevancy or materiality.

Mr. SIMPSON. Mr. Boland, when upon the witness stand, testified that—I will not say the principal objection, but the first objection which he made and which caused him to feel his enmity toward Judge Archbald was the requirement to go to New York made by Judge Archbald. This is the particular order to which he refers. I am referring simply to that.

Mr. Manager NORRIS. Mr. President, if I am not mistaken, that evidence was brought out on cross-examination. It is immaterial evidence, and I do not believe that counsel ought to be allowed to controvert it.

Mr. SIMPSON. I will not say that the point was not brought out in cross-examination; that is to say, voluntarily stated by Mr. Boland; but in point of fact, the connection of this case was the act of the managers then, and it is referred to by the managers in the second article of impeachment.

Mr. Manager NORRIS. But the reference to the order was only for the purpose of connecting the dates or something of that kind. I think all those are in the RECORD, and there is no dispute about them. As far as the order that was made, that is not in controversy here. We have no contention in regard to that.

The PRESIDING OFFICER. The Chair remembers there is no issue raised in the articles of impeachment as to the improper conduct of Judge Archbald in that particular case. If the Chair recollects correctly, the counsel for the respondent endeavored to show by Mr. Boland that he was prejudiced against Judge Archbald, and that there was, in fact, a conspiracy on his part to institute proceedings against Judge Archbald. No issue was raised by the managers as to any connection with that case, and the Chair does not think that this evidence would elucidate any issue raised in this case.

Mr. SIMPSON. The allegation, if the Chair please, in the articles of impeachment is that Judge Archbald was sitting as a judge in the district court and acted in this particular matter while sitting as a judge in the district court, and at the same time had caused or consented to the presentation to Mr. Boland of a note for $500 to be discounted while he was sitting as a judge in relation to this particular matter.

When Mr. Boland was examined in chief he was asked about this particular case. He did not go, as I recall, in fairness to the managers, into any details in relation to that matter, but he was asked about the particular case, and when in cross-examination his attention was called to the particular case then he made the remark which I referred to awhile ago.

Now, the thought on behalf of the respondent is that we are justified in showing the facts in relation to the matter about which Mr. Boland had built up his complaint, namely, that the fact as he stated it was not so; that there was no such order made as he said was made, but on the contrary that this identical order, the one he referred to, was entirely different and distinct from that which he said it was.

The PRESIDING OFFICER. If the managers had offered evidence on that subject and the respondent had objected to it, the Chair would certainly have ruled it out. Now, if counsel bring in what is irrelevant testimony, the Chair does not think that it is competent for them to proceed further with the elaboration of that matter. If the fact indicated by the question were established by the evidence it would not affect the case in any manner, because there is no charge in the articles of impeachment of any improper conduct of Judge Archbald in that particular case, as the Chair recollects.

Mr. WORTHINGTON. I want to offer this evidence in an entirely different light. I was endeavoring, from the statements made by Mr. Boland, to show that he was biased and prejudiced against Judge Archbald. The Chair ruled that I could not do that by asking him, but that I must prove that as an independent fact when the time came for us to introduce our testimony.

William P. Boland has testified here that because of what Judge Archbald did when this order about which we are now asking this witness was made he made up his mind that Judge Archbald was dishonest, and that he proceeded from that time to watch him to try to prove that that was so. Now, we propose to prove by this witness Boland's prejudice and bias against

Judge Archbald. It is competent, without any reference to what the articles of impeachment say, because he is a witness in this case, to show that, so far from it being the fact that Judge Archbald at that time did anything as to which the witness could properly reach any conclusion that he was not honest, in everything he did he was perfectly fair and just and did all that William P. Boland's counsel wanted him to do, and that instead, as Mr. Boland claimed, of cutting off Boland from taking testimony or getting at the facts he wanted, he was given every opportunity that his counsel asked.

It will show, therefore, in the strongest light that William P. Boland is prejudiced against Judge Archbald, and that no word that he says should weigh against Judge Archbald a feather's weight when we find the absolute lack of foundation there is for the kind of statements William P. Boland is making and has made.

This whole proceeding, according to William P. Boland and what we know of this case so far as we have gone, grows out of the fact that William P. Boland says that in what Judge Archbald did when that order was made he showed to William P. Boland that he was not honest. Let me remind the Chair what happened on cross-examination when I was asking questions of Mr. Boland. I read from page 450 of the record:

Mr. WORTHINGTON. I do not wish to be persistent about it, but certainly I have a right at some time or other to show that this witness has a deadly bias and prejudice, an unreasonable bias, as I think, against Judge Archbald.

The PRESIDENT pro tempore. There is no question about the counsel's right in the matter.

Mr. WORTHINGTON. The President holds that I can not do it on cross-examination, and the question is how it may come up later.

The PRESIDENT pro tempore. The Chair does not rule on that, but the Chair rules that the counsel can not do it by the infraction of another rule. The counsel can cross-examine the witness in any way that may disclose that fact without going into subjects matter relating to this case which were not brought out in the direct examination. Counsel are not concluded by that. There are two ways in which counsel can reach all that is wanted. One is by proving the same by other parties and the other by introducing the witness as his own.

Now, I want to prove by other parties what it was thus ruled I could not prove out of the mouth of William P. Boland himself. And I want to make this the starting point in proving that everything William P. Boland says Judge Archbald did that was wrong is a falsehood, and to show that he can not stand here for one minute on the theory that he is testifying as an impartial witness, as he pretended to be, against the judge, but is his deadly enemy. Certainly his testimony is here, put in here by the managers, and Senators ought to know all they can know that will tend to show that he is biased and prejudiced in the highest possible degree against Judge Archbald, so that they may consider whether his evidence is worth anything.

The PRESIDING OFFICER. The Chair does not think that this evidence is admissible. Issue can not be raised upon a matter which is not in issue at all. The same latitude now sought would open the case to an interminable investigation as applied to other features of the case.

Mr. SIMPSON. I think, sir, under the ruling of the Chair, there is no other question that we wish to ask this witness, and he may therefore be discharged.

I desire, sir, not for the purpose of having it printed in the record, but for the purpose of use hereafter in the argument, to offer this transcript [producing a volume], which completes the record as offered in evidence on behalf of the managers. Their's was only a part——

Mr. Manager CLAYTON. Will you let us see that, please?

Mr. SIMPSON. Certainly. It is the official transcript of the record.

Mr. Manager CLAYTON. In what case?

Mr. SIMPSON. The Peale case.

Mr. Manager NORRIS. We object to that, Mr. President, as being immaterial. This is the record in the Peale case?

Mr. SIMPSON. It is the record in the Peale case.

Mr. Manager NORRIS. The case of the Marian Coal Co. against Peale?

Mr. SIMPSON. The case of Peale against The Marian Coal Co.—the record of the circuit court of appeals on appeal.

Mr. Manager NORRIS. Everything that is of any materiality that would be shown by that is already in evidence, such as dates, and so forth, but the record of that case, Mr. President, is certainly not material in this case; it has not anything whatever to do with it that I can see. Besides, it is a record of I do not know how many pages.

Mr. Manager CLAYTON. About a thousand pages.

Mr. Manager NORRIS. Of printed matter.

Mr. Manager CLAYTON. To be accurate, I can give the number of pages—1,094, I think it is.

Mr. Manager NORRIS. In addition, it is objectionable for other reasons. It is objectionable because it would unnecessarily encumber the record.

Mr. SIMPSON. I did not ask to have it printed at all.

Mr. Manager NORRIS. Then how do you expect it to be considered?

Mr. SIMPSON. The same as the evidence you offered which was left with the Secretary but not to be printed—in exactly the same way and in no other way.

Mr. Manager CLAYTON. I desire to call attention to what this is. The title of it is:

In the United States Circuit Court of Appeals for the Third District. Marian Coal Co., appellant, v. John W. Peale, appellee. Appeal from the Circuit Court of the United States for the Middle District of Pennsylvania.

The following is a transcript of the record of the above case appealed from the Circuit Court of the United States for the Middle District of Pennsylvania.

This case was not in the Commerce Court at all. We insist that it is not proper evidence.

The PRESIDING OFFICER. Are counsel prepared to show in what way this case has any bearing upon the case the Senate is now investigating?

Mr. SIMPSON. The managers have offered in evidence here, sir, a portion of the docket entries in this particular case; it is only a portion of the docket entries which they have offered. This record shows the remainder of the docket entries and the matter to which the docket entries relate.

The PRESIDING OFFICER. The Chair would inquire if the docket entries in this case have been put in evidence?

Mr. SIMPSON. A portion of them have been by the managers.

Mr. Manager CLAYTON. I think that some of them have, I may say.

The PRESIDING OFFICER. The Chair thinks, if that is the case, and only a part of the entries have been introduced, that the suggestion of counsel is a reasonable one; that the matter shall be subject to use just as were the other voluminous documents which were offered by the managers—not to go into the record, but with permission to use them in argument.

Mr. SIMPSON. That is all I wish, sir.

Mr. Manager NORRIS. I have not examined the document, but I presume it contains all the evidence that was taken in that case.

Mr. SIMPSON. If you are going to argue from the evidence, you are going to do more than I am. I am simply offering this as a complete record.

Mr. Manager NORRIS. I want to fix it so that you can not.

The PRESIDING OFFICER. The suggestion of the Chair is to apply the same limitations as were applied to the voluminous documents presented by the managers—simply that the document may be referred to by counsel in argument without being incorporated in the record.

Mr. Manager CLAYTON. We think it is not admissible to go into a discussion of the evidence in that case here.

Mr. SIMPSON. We will not do so, Mr. Manager CLAYTON.

Mr. Manager CLAYTON. We will claim the right, Mr. President, to restrict the use of that document in the argument and in the trial of the case.

Mr. Manager NORRIS. Mr. President, in fairness to the managers, we ought to know something of the use to which this record is to be put. Here is a document of over a thousand pages, and, by virtue of its admission, counsel can use any part of it they may desire. We have not examined it; it would take us a week to do so if we took the time to do it, and we ought to know or have some indication as to what they are going to use it for and what particular parts they expect to use, in order that we may, if we see fit, call for evidence in rebuttal of it or in explanation of it. It would be unreasonable for us, with the information we have now, to be compelled to go through this large volume of documentary evidence and to see what evidence we might be called upon to offer in rebuttal at our peril.

The PRESIDING OFFICER. The Chair only gave that direction because of the fact that the managers had been allowed similar liberty as to four or five different books that were presented, as the Chair recollects.

Mr. Manager NORRIS. I am not aware of that.

Mr. WORTHINGTON. There were introduced in evidence a pile of briefs and other documents in a case before the Interstate Commerce Commission—the lighterage case—a pile of printed matter about that high [indicating], without the slightest suggestion to us as to what use the managers were going to make of it.

Mr. Manager NORRIS. That was confined to the printing on the outside of the briefs.

Mr. WORTHINGTON. It was not confined to the printing on the outside of the briefs; but they produced all of the documents, and they were all admitted in evidence, not to be printed

but to be used as occasion might require. I may say the great bulk——

Mr. Manager NORRIS. I think that counsel——

Mr. WORTHINGTON. The great bulk of this record here is made up of the evidence in the case. Of course we are not going to refer to that in any way, and that narrows it down to a few pages which show the proceedings in the case. Those proceedings are very material in this trial. They figure in a great many ways. That was the case which was pending when the $500 note which has been referred to was presented to Boland for discount; that is the case as to which Mr. Boland has testified that he thought Judge Archbald was dishonest because of certain orders that he made in it; that is the case as to which Judge Witmer delivered a final opinion upon the merits in the summer of 1911, and as to which Mr. Boland charges that a decree or judgment was brought about by the interposition of Judge Archbald under the command of Mr. Loomis.

Mr. Manager NORRIS. Now, Mr. President, I want to object to the——

The PRESIDING OFFICER. Counsel and the managers will proceed one at a time in order.

Mr. Manager NORRIS. I want to object, Mr. President, to the statement which counsel is making and which he has made a great many times in regard to what that evidence shows.

Mr. WORTHINGTON. You deny that William P. Boland——

Mr. Manager NORRIS. We deny distinctly that we brought it out. It was all brought out on cross-examination. Counsel have set up here a straw man of their own, and are now proceeding to knock it down. We did not bring it out; we are not responsible for it; we have never denied that Mr. Boland was a prejudiced witness and had a bias against Judge Archbald. I think he admitted it himself; at least we have never controverted it; and we do not want to be put to the trouble now, at our peril, of overlooking to answer a whole lot of evidence in another case which we have never examined, which has never been called to our attention, and as to which, even now, in over a thousand pages it is not suggested what part counsel expect to use either in argument or in quotations to the Senate.

The PRESIDING OFFICER. If counsel will indicate the parts which they desire to use, the Chair will then pass upon the question.

Mr. WORTHINGTON. Very well, we will do that later.

Mr. Manager CLAYTON. So it is not admitted in evidence at this time?

The PRESIDING OFFICER. Not under the statement of the managers.

Mr. Manager NORRIS. May we not have an understanding that by the meeting of the court to-morrow counsel will indicate what parts of it they desire to introduce and take the matter up then?

The PRESIDING OFFICER. Counsel will indicate at their convenience the parts which they wish to introduce, and they will have an opportunity to do so.

Mr. WORTHINGTON. I think we can do that by the time we again meet to-morrow.

The PRESIDING OFFICER. Then it can be passed on to-morrow.

Mr. Manager NORRIS. That is satisfactory.

The PRESIDING OFFICER. The Chair only gave the direction which he indicated because of the fact that similar books had been presented in a similar way and there had been no objection made on the other side; but objection now being made, counsel will have to indicate the portions they wish to introduce.

Mr. WORTHINGTON. Mr. President, in order that the RECORD may be complete I wish to ask now for the final discharge of the following witnesses, who were summoned with a view of giving evidence as to reputation and character, but whom, under the rule in which we have acquiesced, we can not examine: Henry M. Edwards, E. C. Newcomb, Frederick W. Fleitz, and W. W. Watson, all of Scranton; Joseph C. Fraley, of Philadelphia; and Henry C. Niles, Harold M. McClure, Charles M. Clement, and W. J. Schaffer.

The PRESIDING OFFICER. The witnesses named, summoned on the part of the respondent, will be finally discharged.

CHARLES B. SQUIRE.

Mr. Manager CLAYTON. Mr. President, the witness Charles B. Squire, for whom an attachment was issued the other day, is now in attendance upon the sessions of the Senate sitting in the trial of this case. After a personal conversation with him, I have every reason to believe that the following are the facts in the case, as he has stated them to me: That his mother, who is, I believe he says, of the advanced age of 87 years, was very ill; that he thought his presence was necessary there, which detained him a day or two; that as soon as her condition permitted he had bought his ticket and was in the act of starting to Washington to obey the subpœna when the officer stepped into his office and served the attachment upon him. Those facts being true—and I have no reason to doubt them, and after talking to the witness I believe they are true—I therefore ask that the order of attachment be vacated, but I do not wish the witness discharged at this time.

The PRESIDING OFFICER. Under the statement made, without objection, the order of attachment will be vacated, but the witness will remain in attendance.

TESTIMONY OF JOHN P. KELLY.

Mr. SIMPSON. I ask that John P. Kelly be called.

John P. Kelly, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Are you a practicing attorney?—A. Yes, sir.

Q. Of what bar?—A. Lackawanna County, Pa.

Q. And what is the name of the firm?—A. O'Brien & Kelly.

Q. You know Judge Archbald?—A. Very well.

Q. How long have you known him?—A. About 30 years.

Q. Were you one of the contributors to the purse which was given to him at the time he sailed for Europe some years ago?—A. I was.

Q. Will you please tell us the circumstances under which your contribution was made?—A. Well, as I remember, Mr. E. R. W. Searle, the clerk of the court, spoke to me about it. He said that Judge Archbald was going to take a trip to Europe and that some of his friends were getting up a present or testimonial or purse, or something of that kind—I have forgotten the exact language—and he wanted to know if I wanted to be in it, and I told him I certainly did. We talked it over a little while, about the kind of present he was to get. He spoke about his getting a present of money, and I expressed my idea that that was all right, or words to that effect, and I gave Mr. Searle our firm check for $50. I spoke to Mr. O'Brien about it, but I do not remember whether I spoke to him about it before or since, but the check covered both our contributions.

Q. Will you tell us whether or not you knew that the names of the contributors were to be disclosed to Judge Archbald?—A. Well, I am not clear about that, but my recollection is that they were not. I am not at all clear about it. It did not make very much of an impression upon my mind.

Q. You were on the bench for a while with Judge Archbald?—A. Yes; for about a year.

Mr. SIMPSON. Cross-examine, gentlemen.

Cross-examination:

Q. (By Mr. Manager NORRIS.) Did you talk with anybody else about it except Mr. Searle, the clerk of the court?—A. I do not remember talking to anybody else, except my partners, Mr. O'Brien and Mr. Fitzgerald. I think I spoke to Mr. Fitzgerald about it afterwards.

Q. They were your partners?—A. Yes, sir.

Q. There was not anybody else who suggested any contribution except the clerk, was there?—A. Not to me; not that I have any recollection of.

Q. You did not know of anybody else making any such suggestion, did you?—A. I have no recollection of anyone else.

Mr. Manager NORRIS. That is all.

Mr. SIMPSON. Mr. President, the witness may be discharged.

The PRESIDING OFFICER. The witness is finally discharged.

TESTIMONY OF FRANK R. SHATTUCK.

Mr. SIMPSON. I ask that Frank R. Shattuck be called.

Frank R. Shattuck, being duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Shattuck, you are a member of the bar?—A. I am, in Philadelphia.

Q. Were you counsel in the various suits brought by the Old Plymouth Coal Co. against various insurance companies?—A. I represented all the defendants.

Q. Did you take any part in the trial in the one case that was tried?—A. The cases in the United States court were tried as one. I tried for the defendant and Mr. Lenahan for the plaintiff.

Q. How many cases, roughly speaking, were there altogether?—A. I think there were 13 suits brought in the Lackawanna court, and I removed 6, involving over $2,000, to the United States court.

Q. Now, will you tell us, please, in as brief a way as you possibly can, the circumstances attending that trial?—A. The trial had proceeded three or four days until the afternoon of a Friday—I think it was the 19th of November—when Mr. Lenahan, who sat within 3 or 4 feet of me, made the suggestion that if I would make him an offer they might be able to settle,

I told him I never made offers for insurance companies, but if he would submit one I would see what I could do.

He then proposed to take the face amount of the policies, without interest—that was $27,000—and there was something over $2,000 of interest. My first offer was $20,000. He then came to $25,000, and then I agreed to split the difference, at $22,500. A remark was made by him, to the effect, "I suppose you would go $500 more to help to pay counsel fees." I said: "Yes; $500 does not make much difference where there is so much involved." So I offered $23,000. Mr. Lenahan said he was only the trial lawyer; that the real attorney was a gentleman named Reynolds, and that they were very stubborn, and he could not do much with them, but he suggested that we wait over until morning and they might be able to arrive at a settlement.

The next morning I recall was Saturday morning, and the plaintiff's side were quite late coming in. They were, I think, in an outside room debating this thing. But when they came in Mr. Lenahan stated they would take $23,000. Mr. Reynolds, who was there then, said, "What security have we that the amount will be paid?" I told him that in Philadelphia they generally took my word for that. He said that he was afraid of the financial responsibility of some one. So I made the suggestion that I would give him confessions of judgment, my understanding being that they were to be merely security; that if I did not pay in 15 days he would enter up the judgments. As a matter of fact, the total amount was paid, but, contrary to my understanding, he entered up the judgments. We afterwards had some acrimonious correspondence about the costs——

Mr. SIMPSON. Never mind that.

The WITNESS. This is merely important as showing that they were not satisfied afterwards with the settlement.

Q. Who removed the cases from the county court to the United States court?—A. I did.

Q. You were the counsel for the defendant insurance company?—A. Yes, sir; I removed all cases involving over $2,000. There were six.

Q. Will you tell us please whether during that time there was any favor shown to the plaintiff by Judge Archbald?

Mr. Manager STERLING. We object to the question. It is wholly immaterial whether there was any favor shown or not.

The PRESIDING OFFICER. The Chair will hear from counsel for the respondent on that objection.

Mr. SIMPSON. I am a little in difficulty how to present it to you. As I understand the article of impeachment, it is claimed that Judge Archbald while acting with Mr. Rissinger, who was a party in interest, as shown by the managers, in the Old Plymouth Coal Co., undertook to sit as judge while interested in this particular matter, thereby, I assume, undertaking to show that there was some partiality or prejudice or something on Judge Archbald's part in behalf of the plaintiff in this case. If the managers disclaim that, of course this question goes out; I do not want to ask it.

The PRESIDING OFFICER. Will counsel for the respondent point to the particular allegations in the article to which he refers?

Mr. WORTHINGTON. I have it here. Article 7 says:

That the said coal company was principally owned and entirely controlled by one W. W. Rissinger, which fact was well known to said Robert W. Archbald; that on or about November 1, 1908, and while said suit was pending, the said Robert W. Archbald and the said W. W. Rissinger wrongfully and corruptly agreed together to purchase stock in a gold-mining scheme in Honduras, Central America, for the purpose of speculation and profit.

Just what "wrongfully" and "corruptly" entering into a speculation means, of course, we have to speculate about. Then it goes on:

That in order to secure the money with which to purchase said stock, the said Rissinger executed his promissory note in the sum of $2,500, payable to Robert W. Archbald and Sophia J. Hutchison, which said note was indorsed then and there by the said Robert W. Archbald, for the purpose of having same discounted for cash; that one of the attorneys for said Rissinger in the trial of said suit was one John T. Lenahan; that on the 23d day of November, 1908, said suit came on for trial before said Robert W. Archbald, judge presiding, and a jury, and after the plaintiff's evidence was presented the defendant insurance company demurred to the sufficiency of said evidence and moved for a nonsuit, and after extended argument by attorneys for both plaintiff and defendant the said Robert W. Archbald ruled against the defendant and in favor of the plaintiff, and thereupon the defendant proceeded to introduce evidence before the conclusion of which the jury was dismissed and a consent judgment rendered in favor of the plaintiff for $2,500, to be discharged upon the payment of $2,120.63 if paid within 15 days from November 23, 1908, and on the same day judgments were entered in a number of other like suits against different insurance companies, which resulted in the recovery of about $28,000 by the Old Plymouth Coal Co.; that before the expiration of said 15 days the said Rissinger, with the knowledge and consent of said Robert W. Archbald, presented said note to the said John T. Lenahan for discount, which was refused and which was later discounted by a bank and has never been paid.

All of which acts on the part of the said Robert W. Archbald were improper, unbecoming, and constituted misbehavior in his said office as judge, and render him guilty of a misdemeanor.

We have been wondering in our camp ever since this proceeding opened just what they meant by that and what there was corrupt or wrongful that they intend to charge; and the only thing we can find that they could allege is that because of the relations which they say existed between Rissinger and Judge Archbald he manifested some favoritism in the trial of that case. If it does not mean that, it ought to be pitched out of the court.

Mr. Manager STERLING. I think I can make it clear to the gentleman what there is wrong about it. It will be observed that we do not charge in that count that Judge Archbald extended any favors to the plaintiff in that case, and we are not saying now that he extended any favors to him; but we say this: While Rissinger or his company was a plaintiff in Judge Archbald's court in a number of cases—and it seems from this witness that there were six of them—Judge Archbald entered into a partnership with W. W. Rissinger, and that Judge Archbald got 84 shares of stock in this gold-mining scheme, and that the negotiations were going on while this case was pending in his court; that they began the latter part of September, according to Russell, who was here from New York yesterday; that Mr. Rissinger brought Russell down from New York to talk to Judge Archbald about a transaction; and while those cases were pending in his court before him this man Rissinger negotiated this deal, by which Judge Archbald got 84 shares of stock, which was delivered to him; soon after these cases were terminated, without paying one cent for the stock.

That may not look bad to counsel on the other side, but it does to me, and that is the charge in this count. We have not alleged that Judge Archbald extended the plaintiff any favors and we are not going to try to prove that he extended the plaintiff any favor.

Mr. WORTHINGTON. Or that he agreed to?

Mr. Manager STERLING. It is wholly immaterial whether he extended him any favors or not in this case.

Mr. WORTHINGTON. Or whether he agreed to?

Mr. Manager STERLING. Well, it is pretty hard always for the prosecution to prove the intent; but we will draw our inference; and we believe, and we say now, and we will argue to the Senate when the time comes, that there was an understanding. Why, these men are gentlemen; they do not have to say, "Here, these cases are before you, now you help me along in these cases and we will give you some stock." Gentlemen understand each other.

That is what we say about it, and what we will argue in this case. It looks bad to the managers for a party to a lawsuit, and without knowledge now on the part of the defendant—this gentleman will not say that he had any knowledge of these negotiations going on between the plaintiff and Judge Archbald—to have these transactions with Judge Archbald by which he, without paying anything, gets an interest in this gold-mining scheme.

Mr. WORTHINGTON. It seems to me that nothing can more clearly demonstrate the necessity of this evidence than what the honorable manager has said. He said there was an implied understanding between them—being gentlemen, he said, they need not say so—that the plaintiff would be favored. Now, what stronger piece of circumstantial evidence could we offer tending to show that there was no such agreement between them, implied or expressed, than that in the case Judge Archbald acted as an honest and upright judge and favored neither side. In fact Mr. Lanahan, who was one of Rissinger's counsel in the case, testified, as you will remember, that he was called down by the judge when he was examining a witness because he was too sharp about it. And we want to follow that up with the testimony of this gentleman, who was one of the counsel, as to the conduct of Judge Archbald during the trial, so that the Senate may be able to determine whether there is anything in the inference the managers seek to draw from the negotiations about that stock, and that as a matter of fact it was understood between Rissinger and the judge that the judge would favor him in his suit.

The PRESIDING OFFICER. The Chair will ask to have the question read exactly as it was propounded.

The Reporter read as follows:

Q. Will you tell us, please, whether during that time there was any favor shown to the plaintiff by Judge Archbald?

Mr. Manager STERLING. We make the further objection that it would be purely a matter of opinion on the part of the gentleman whether there were any favors extended or not. It is not a matter of fact, but a matter of opinion whether there were any favors rendered or not.

Mr. WORTHINGTON. That can be fixed up by changing the form of the question.

The PRESIDING OFFICER. The Chair is unable to see how that issue could very well be tried out by a question of that

kind. If the issue is a legitimate one, the only way it could be determined would be by taking up the trial and going through it step by step to show whether the judge decided each point properly and whether in any case he decided corruptly. The Chair does not think general testimony as to whether the conduct of the case was or was not fair is sufficiently definite or could be made certain. It is not the subject matter of testimony. The Chair, however, will state this: As the Chair understands the issue made by the pleadings, it is that a certain agreement alleged to have been made between the respondent and a litigant in his court was an improper agreement to be made between a judge and a litigant regardless of what may have happened afterwards. I understand that to be the claim.

Mr. Manager STERLING. And regardless of whether or not it influenced the court's decision.

Mr. WORTHINGTON. If that is all they claim——

The PRESIDING OFFICER. And there is no allegation that there was a corrupt decision made by the judge in this case. If there was, of course the evidence would be admissible and a good deal more on the same line.

Mr. WORTHINGTON. The manager has just said that he was going to argue to the Senate, from the evidence as now in, that Rissinger and the judge understood each other; that without anything being said he was to be favored. Now, if it is necessary in behalf of Judge Archbald to go through every step in the trial and show what questions arose and how he decided them, I submit that even if it should take a week or a month it ought to be done, and they ought not to be allowed to go to the Senate and convict Judge Archbald of that implied agreement without having the benefit of what he did and what rulings he made while the trial went on. As a matter of fact, it will take only a few minutes to show what he did, and then the Senate will be able to conclude from what he did if he had a corrupt intention in his mind.

The PRESIDING OFFICER. The Chair thinks it is competent for counsel to show anything that was done, and that the question as to any particular act that was done is competent; but the general question as to whether or not the judge was fair or unfair on the trial is, in the opinion of the Chair, too indefinite. It is asking the witness to testify to a conclusion.

Q. (By Mr. SIMPSON.) Mr. Shattuck, in the seventh article of impeachment in this case it is averred that there was a motion made for nonsuit, and after extended argument by the attorneys for both the plaintiff and the defendant the said Judge Archbald ruled against the defendant and in favor of the plaintiff. Will you tell us, please, exactly what was done in that regard?—A. The suit was brought to recover on insurance policies for the amount covering a washery building and the machinery therein. The washery building had been a breaker belonging to some railroad company, the Delaware & Hudson or the Delaware & Lackawanna, I forget which. The evidence was that they had given to the Rissingers the use of it; that thereupon the Rissingers incorporated this company, and the Rissingers had testified that after they got the old breaker from time to time they put in new boards—the old jackknife proposition, really, as to whether it was the same building or a new building. I made a motion in the usual way for a nonsuit on the ground that the evidence had disclosed the fact that the building was not completely and entirely repaired or rebuilt and therefore was the old building.

Judge Archbald denied the motion for a nonsuit on the ground that if the jury believed that the building which was burned was the old building the verdict must be for the defendant; but that the question was one entirely for the jury; that he would not pass on it.

I should say there was only one real legal proposition that came up in that case and that proposition Judge Archbald decided for the defendant. It was whether an insurance policy covering two items written for a single premium was an entire contract; and he ruled that it was; and therefore that if the Rissingers could not recover the policies were void under the building item; also that they were barred from recovering on the machinery item. Their claim had been some $18,000 on building and $14,000 on machinery. He ruled they could not recover for the machinery if they could not for the building.

Q. What part, if any, did Judge Archbald take in the negotiations for and leading up to the compromise?—A. He had nothing whatever to do with it. It was entirely between Mr. Lenahan and me.

Mr. SIMPSON. You may cross-examine, gentlemen.

Mr. Manager STERLING. That is all.

Mr. SIMPSON. The witness may be discharged, Mr. President.

Mr. WORTHINGTON. I would like to examine Miss Mary Boland this afternoon, if possible. Her examination will be very short. She is very anxious to get away, and I have just a single question I wish to ask her.

The PRESIDING OFFICER. It lacks three minutes of the time for adjournment. Is it the pleasure of the Senate to extend the time long enough to examine this witness?

Mr. WORTHINGTON. I will not ask that, Mr. President.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. ROOT. I move that the Senate sitting for the consideration of the articles of impeachment adjourn.

The motion was agreed to.

Thereupon the managers on the part of the House, the respondent, and his counsel withdrew.

Mr. CULLOM. I move that the Senate adjourn.

The motion was agreed to, and (at 6 o'clock p. m.) the Senate adjourned until to-morrow, Wednesday, December 18, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December 17, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father of faith and hope and love, we wait upon Thee for the bread of heaven, the water of life, the light that makes bright the dark, smooths the rough way, and inspires to good thoughts and noble deeds, that we may contribute somewhat to the public weal and be reckoned among the benefactors of mankind, thus leaving our footprints along life's way for the inspiration of those who shall come after us. So may the peace that passeth understanding be ours and glory and honor and praise be Thine forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

Mr. SLAYDEN. Mr. Speaker——

Mr. MANN. Mr. Speaker, I make the point of order that no quorum is present.

The SPEAKER. The Chair will ask the gentleman from Illinois to withhold that suggestion for the present until a few minor matters can be disposed of.

Mr. MANN. I will withhold it for the present.

THE LATE SENATOR RAYNER.

Mr. LINTHICUM. Mr. Speaker, I offer the following resolution, which I send to the Clerk's desk.

Mr. SLAYDEN. Mr. Speaker, I respectfully suggest that I have been recognized.

The SPEAKER. The gentleman from Illinois made the suggestion that there was no quorum, and at the request of the Chair reserved it, as the Chair asked him to do so until two or three formal matters that will take no time can be disposed of. After that the Chair will recognize the gentleman from Texas. The Clerk will report the resolution offered by the gentleman from Maryland.

The Clerk read as follows:

Ordered, That Sunday, February 2, 1913, at 12 o'clock noon, be set apart for addresses on the life, character, and public services of Hon. ISIDOR RAYNER, late a Senator from the State of Maryland.

The order was agreed to.

VIEWS OF MINORITY ON OUTAGE BILL.

Mr. RAINEY. Mr. Speaker, I ask unanimous consent of the House to file minority views on the outage bill, reported by the Committee on Ways and Means.

The SPEAKER. The gentleman from Illinois [Mr. RAINEY], a member of the Ways and Means Committee, asks leave to file views of minority on the outage bill. Is there objection?

There was no objection.

Mr. MANN. Mr. Speaker, I now renew my point that no quorum is present.

Mr. FITZGERALD. I move, Mr. Speaker, a call of the House.

The SPEAKER. Evidently there is no quorum present, and the gentleman from New York moves a call of the House.

The motion was agreed to.

Accordingly the doors were closed, the Clerk called the roll, and the following Members failed to answer to their names:

Adamson	Brown	Dougherty	Fairchild
Aiken, S. C.	Burgess	Davenport	Focht
Akin, N. Y.	Burke, Pa.	Davidson	Fordney
Ames	Cannon	Davis, W. Va.	Fornes
Anthony	Conry	Dickson, Miss.	Gardner, N. J.
Barnhart	Copley	Dodds	Gould
Bradley	Cox, Ohio	Draper	Gray
Brantley	Cravens	Driscoll, D. A.	Green, Iowa
Broussard	Currier	Ellerbe	Greene, Mass.

Green, Tex.	Knowland	Merritt	Smith, N. Y.
Griest	Korbly	Moon, Pa.	Sparkman
Gudger	Lafean	Moon, Tenn.	Speer
Guernsey	Lamb	Murdock	Stack
Hamill	Langham	Norris	Stanley
Hanna	Lawrence	Olmsted	Sulloway
Hardwick	Lee, Ga.	O'Shaunessy	Sulzer
Harris	Legare	Palmer	Talcott, N. Y.
Harrison, Miss.	Lenroot	Parran	Taylor, Ala.
Harrison, N. Y.	Lever	Patten, N. Y.	Taylor, Colo.
Hart	Levy	Plumley	Taylor, Ohio
Hartman	Lindsay	Pou	Thayer
Haugen	Littleton	Pronty	Turnbull
Hawley	Lloyd	Pujo	Tuttle
Hedin	McCall	Ransdell, La.	Vare
Higgins	McCreary	Reilly	Wedemeyer
Hill	McGuire, Okla.	Reyburn	Weeks
Hobson	McHenry	Riordan	Whitacre
Howard	McKellar	Roberts, Nev.	Wilson, N. Y.
Howell	McKinley	Scully	Wood, N. J.
Howland	McLaughlin	Sells	Woods, Iowa
Humphrey, Wash.	McMorran	Sherwood	Young, Mich.
Humphreys, Miss.	Maher	Simmons	Young, Tex.
Jackson	Martin, Colo.	Siemp	
Johnson, S. C.	Martin, S. Dak.	Small	
Kindred	Matthews	Smith, Cal.	

The SPEAKER. Two hundred and fifty-two Members are present, a quorum.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.

CHANGE OF REFERENCE—LINCOLN MEMORIAL.

Mr. SLAYDEN. Mr. Speaker, I respectfully invite the attention of the Chair to what I conceive to have been an improper reference of Senate concurrent resolution 32, respecting the Lincoln memorial. On Friday, December 13, the Speaker referred this concurrent resolution to the Committee on Appropriations, and cited as an authority for doing so clause 2 of Rule XXIV.

The SPEAKER. The Chair will take the liberty of suggesting that he did not cite any authority at all, according to his recollection.

Mr. BORLAND. Mr. Speaker, I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. BORLAND. It seems to me, from what the gentleman from Texas has already stated, that his purpose is to ask a correction of an erroneous reference, or a reference which is claimed to be erroneous, on a matter referred to the Committee on Appropriations by the Speaker. The rule points out how that change of reference may be made, and among other things it is required that it shall be made immediately after the reading of the Journal. I was present in the Chamber and I saw the gentleman from Texas rise, and I understood that the Chair agreed to recognize the gentleman from Texas.

The SPEAKER. That part of the gentleman's point of order will be overruled, because if there is any trouble about it the Chair is responsible for it.

Mr. BORLAND. Mr. Speaker, I was about to say that the Chair agreed to recognize the gentleman from Texas after certain preliminary business was transacted, but, strictly speaking, the intervention of the motion in regard to the late Senator Rayner would have been intervening business. I do not intend to raise that point of order because the gentleman wishes to raise the question of change of reference, but I do raise this point, that it must be done in accordance with the rules of the House by a motion or by unanimous consent and without debate.

Mr. SLAYDEN. That is all true.

Mr. MANN. The gentleman from Texas can ask unanimous consent.

Mr. BORLAND. But that does not give the gentleman any right to make a statement.

The SPEAKER. The point of order is sustained.

Mr. SLAYDEN. Mr. Speaker, I ask unanimous consent for the privilege of making a brief statement in reference to the matter.

The SPEAKER. The gentleman from Texas asks unanimous consent to make a brief statement. Is there objection?

Mr. BURNETT. Mr. Speaker, I shall be compelled to object.

Mr. BORLAND. Mr. Speaker, I object.

The SPEAKER. The gentleman from Alabama and the gentleman from Missouri object.

Mr. SLAYDEN. Mr. Speaker, a motion to correct a reference would be in order at any time, would it not?

The SPEAKER. Yes; by direction of the committee.

Mr. BORLAND. By the direction of the committee claiming jurisdiction.

Mr. SLAYDEN. Mr. Speaker, to be perfectly frank there has not been any formal direction by the committee, although every member of the committee is cognizant of my purpose to do this thing, and is not only willing to have it done but is desirous.

The SPEAKER. The present occupant of the chair ruled last summer, after a good deal of debate, after examining the authorities, that the sanction of the committee had to be had. The Chair so ruled in a matter which was raised by the gentleman from Alabama [Mr. HEFLIN].

Mr. BORLAND. Mr. Speaker, I shall withdraw any point of order on the formal action of the committee represented by the gentleman from Texas. We do not make any point upon that.

Mr. RODDENBERY. Mr. Speaker, I raise the point of order that the gentleman from Missouri can not withdraw the point of order so as to bind the Speaker or the House.

Mr. GARDNER of Massachusetts. Mr. Speaker, I suggest to the gentleman on the committee that he withdraw his motion.

Mr. FITZGERALD. But the gentleman has not yet made any motion.

The SPEAKER. The Chair rules that Rule XXIV ought to be strictly enforced.

Mr. SLAYDEN. Mr. Speaker, then I shall make no motion at this time, but will endeavor to get the formal direction of the committee.

The SPEAKER. The Chair will recognize the gentleman the first thing after the reading of the Journal on Thursday morning next.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 3175, the immigration bill.

Mr. GARDNER of Massachusetts. Mr. Speaker, pending that, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARDNER of Massachusetts. The rules of the House state that an amendment in the Committee of the Whole can only be debated for 10 minutes. Ordinarily that difficulty is obviated by moving to strike out the last word from the amendment proposed, but in the case of this bill such a motion would appear to be an amendment in the third degree. Unless some agreement is made before we go into the Committee of the Whole, it seems to me that we are making it impossible to debate any amendment for more than 10 minutes. My parliamentary inquiry is as to the Chair's view of the situation.

The SPEAKER. The Chair agrees with the gentleman that if the rule about five minutes' debate was strictly enforced that there would be five minutes' debate on each side and no more, but in the 18 years that the Chair has been here it is only on very rare occasions that that rule has been enforced. The Chair has seen it done two or three times. The Chair knows he endeavored to get five minutes himself once and the gentleman from New York [Mr. PAYNE] objected on the ground that time was too precious.

Mr. GARDNER of Massachusetts. The Chair remembers that is usually obviated by moving to strike out the last word.

The SPEAKER. The situation is this, that the House inserted a substitute to take the place of the Senate bill. Now, in a parliamentary sense that is an amendment. Then somebody—the gentleman from Massachusetts [Mr. GARDNER], for instance—offers an amendment to the substitute. That apparently exhausts the range of the amendment. Now, nobody the Chair knows of ever considered striking out the last word a bona fide amendment. Of course, we all understand what it is; it is simply a way to contravene the general rule.

Mr. MOORE of Pennsylvania. There will be no objection to striking out the last word on this side. We are anxious to have a little bit of discussion on this bill.

The SPEAKER. The Chair understands, but the gentleman from Massachusetts is trying to find out apparently what would happen if somebody raises a point of order against an amendment to strike out the last word.

Mr. GARDNER of Massachusetts. Precisely.

Mr. MANN. I apprehend the gentleman from Massachusetts knows what will happen; the Chair will be compelled to hold the motion to strike out an amendment which was offered to an amendment was an amendment in the third degree and hence not admissible.

The SPEAKER. Of course.

Mr. MANN. I thought the gentleman was going to ask unanimous consent.

Mr. GARDNER of Massachusetts. If the gentleman will permit, the minority leader raised this point with me in discussion the other day, and I entirely agreed with him as to the construction of the rules.

The SPEAKER. There is no doubt about the construction being right.

Mr. GARDNER of Massachusetts. In that event, before we go into the Committee of the Whole, I desire to ask unanimous consent that the pro forma amendment shall not be considered as an amendment in the third degree.

Mr. UNDERWOOD. Mr. Speaker, I shall be compelled to object to that. I do not think it would be good practice. When you get into the Committee of the Whole the committee itself can give unanimous consent to any man speaking, and that is all that is necessary.

Mr. GARDNER of Massachusetts. Ah, but, Mr. Speaker——

Mr. UNDERWOOD. Mr. Speaker, I ask for the regular order.

The SPEAKER. The regular order is the vote to go into the Committee of the Whole House on the state of the Union.

Mr. GOLDFOGLE. Mr. Speaker, pending that, I ask unanimous consent that general debate may be extended 30 minutes, one-half to be controlled by each side. Allusions were made which I think call on me for reply, and I would like to have some little time, and therefore I submit this request.

The SPEAKER. Now, who is to control this 30 minutes?

Mr. GOLDFOGLE. To be controlled as it was controlled before.

The SPEAKER. The gentleman from New York [Mr. GOLDFOGLE] asks unanimous consent——

Mr. GARDNER of Massachusetts. Mr. Speaker, the regular order has been demanded by the gentleman from Alabama.

Mr. MANN. The gentleman has submitted a request since then.

Mr. GARDNER of Massachusetts. Mr. Speaker, I demand the regular order.

Mr. GOLDFOGLE. I understand the gentleman from Alabama is willing I shall submit this request.

The SPEAKER. The demand for the regular order is equivalent to an objection and the gentleman from Massachusetts demands the regular order, and the regular order is, Will the House go into the Committee of the Whole House on the state of the Union?

The question was taken, and the motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States, with Mr. HAY in the chair.

Mr. MOORE of Pennsylvania. Mr. Chairman——

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MOORE] is entitled to 15 minutes, and the gentleman from Alabama [Mr. BURNETT] to 20 minutes.

Mr. MOORE of Pennsylvania. Before taking advantage of the 15 minutes I should like to ask the gentleman from Alabama [Mr. BURNETT] whether we could not come to an agreement that there should be an extension of time for general debate, say half an hour on each side?

Mr. BURNETT. Not unless we can come to an agreement that there should be a close of debate within a reasonable time and this bill voted on this afternoon.

The CHAIRMAN. The Chair will state to the gentleman from Pennsylvania [Mr. MOORE] that that can not be agreed to in committee. Does the gentleman from Pennsylvania desire to be heard?

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to be heard in a matter of parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOORE of Pennsylvania. The effect of the demand for the regular order as made by the gentleman from Massachusetts [Mr. GARDNER] was to prevent my making the request in the Committee of the Whole House on the state of the Union for the extension of time.

The CHAIRMAN. The Chair does not think that is a parliamentary inquiry. Does the gentleman from Pennsylvania [Mr. MOORE] desire to take the floor?

Mr. MOORE of Pennsylvania. I want to take advantage of even the 15 minutes in which I have a right to speak to ask the gentleman from Alabama [Mr. BURNETT] if he will not agree, without regard to the parliamentary status, to an extension of time of 30 minutes on a side?

The CHAIRMAN. The Chair will state to the gentleman that that can not be done in the Committee of the Whole House on the state of the Union. The committee is proceeding under a rule, and it is impossible for the committee to change that rule even by unanimous consent.

Mr. SABATH. Mr. Chairman——

Mr. MOORE of Pennsylvania. Mr. Chairman, I still want to ask the gentleman from Alabama [Mr. BURNETT], chairman of the committee, whether he proposes to conclude his general debate in one speech?

Mr. BURNETT. No; I will yield five minutes now to the gentleman from Indiana [Mr. ADAIR], and then afterwards will conclude in one speech.

Mr. MOORE of Pennsylvania. Will the gentleman take that five minutes now?

Mr. BURNETT. Yes. Mr. Chairman, I yield five minutes to the gentleman from Indiana [Mr. ADAIR].

The CHAIRMAN. The gentleman from Indiana [Mr. ADAIR] is recognized for five minutes.

Mr. MANN. Mr. Chairman, a parliamentary inquiry. How much time remains for general debate on the respective sides?

The CHAIRMAN. The gentleman from Alabama [Mr. BURNETT] is entitled to 30 minutes and the gentleman from Pennsylvania [Mr. MOORE] to 15 minutes. The gentleman from Indiana [Mr. ADAIR] is recognized for 5 minutes.

Mr. ADAIR. Mr. Chairman, I believe the subject of immigration is one of the most important questions before the American people to-day. I shall vote for this bill, and in doing so I feel that I am casting a vote in the interest of American citizenship and in the interest of American institutions. I have listened with great interest and pleasure, and I might say with much profit, to the very able and eloquent discussion of this subject by the gentleman from New York [Mr. GOLDFOGLE] and the gentleman from Illinois [Mr. SABATH]. While I agree with much they have said upon this subject, I do not yet fully understand how they can justify their opposition to this meritorious bill. I am willing to concede that the marvelous growth and development of the two great cities to which they have referred—New York and Chicago—are largely due to the enterprise, the ability, the capacity, and the progressiveness of many citizens of foreign birth. I am proud of their achievements in both business and professional life. Their loyalty to our country and their devotion to our flag have attracted the attention and won the admiration of all our people. But I do not see how they can oppose this measure. That there are undesirable citizens in every country in the world no one will deny.

We have many of them in the United States, American-born citizens, who contribute but little, if anything, to our country's welfare, and what right have we to unload our undesirable citizens upon any other country, or what right have other nations to unload their undesirable citizens upon us?

You can not make me believe that the dumping of 250,000 illiterates upon our shores annually will not lower the standard of American citizenship and the standard of American living. If this be not true, then our boasted system of schools in this country is a failure, and we are annually wasting millions of dollars of the people's money in their maintenance. You can not tell me that bringing into this country 250,000 illiterates each year and throwing them in direct contact and direct competition with American labor will not reduce the wages of American workmen and the standard of their living. I can see no reason why any Member should oppose this legislation.

Mr. SABATH. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. ADAIR. I can not yield. I have only five minutes.

The CHAIRMAN. The gentleman from Indiana declines to yield.

Mr. ADAIR. Mr. Chairman, I believe this bill is not only in the interest of all American citizens, both of native and foreign birth, but I also believe it is in the interest of illiterate foreigners who expect at some time in the future to make this country their home. It will have a tendency to stimulate and develop a better system of schools the world over and will result in causing thousands of foreigners who desire to become American citizens to prepare themselves for admission.

The bill under consideration reads as follows:

[H. R. 22527, Sixty-second Congress, second session.]

A bill to further restrict the admission of aliens into the United States.

Be it enacted, etc., That after four months from the approval of this act in addition to the aliens who are by law now excluded from admission into the United States the following persons shall also be excluded from admission thereto, to wit: All aliens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

SEC. 2. That for the purpose of ascertaining whether aliens can read or not the immigrant inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more 40 words in ordinary use, printed in plain type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip.

SEC. 3. That the following classes of persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit through the United States; (c) all aliens who have been lawfully admitted to the United States and who later shall

go in transit from one part of the United States to another through foreign contiguous territory.

SEC. 4. That an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came in the manner provided by section 19 of "An act to regulate the immigration of aliens into the United States," approved February 20, 1907.

It will be seen that the main purpose of the bill is to exclude from the United States alien immigrants over 16 years of age who are unable to read their own language or dialect. In order that there might be no doubt about the Hebrew and Yiddish being considered as either a language or dialect, they are expressly embraced in the bill.

From the requirement of the illiteracy test in the bill, there are several exceptions which the committee thought wise to make. We believe that those who are fleeing from religious persecution should find a city of refuge on our shores. Hence the provision excepting immigrants of that class from the test where they are otherwise admissible.

Out of regard for marital and other close family ties and the duties and obligations arising therefrom, as well as high moral considerations, the committee thought proper to make the other exceptions embraced in the bill.

A bill in its main features similar to this was considered by the House on February 20, 1907. The House felt that before action of that nature should be taken there ought to be careful investigation of the question, both in this country and in Europe. An amendment was offered by those opposed to the illiteracy test, providing for a commission for that purpose, and it was adopted.

The commission, after nearly four years of investigation and study of the question both in this country and in Europe, made its report to Congress more than a year ago. There were nine members of that commission, and they were unanimous in the following statement:

The commission as a whole recommends restriction as demanded by economic, moral, and social considerations, furnishes in its report reasons for such restrictions, and points out methods by which Congress can attain the desired result if its judgment coincides with that of the commission.

Eight out of the nine, after citing various methods of restriction, concurred in the following report:

A majority of the commission favor the reading and writing test as the most feasible single method of restricting undesirable immigration.

It is certainly interesting, and I believe important, to know some of the reasons which led the commission up to these conclusions, and I will make a few extracts from the "Brief statement of conclusions and recommendations of the commission." On page 25 of this statement they say:

The proportion of the more serious crimes of homicide, blackmail, and robbery, as well as the least serious offenses, is greater among the foreign born. The disproportion in this regard is due principally to the prevalence of homicides and other crimes of personal violence among Italians and to the violation of city ordinances previously mentioned.

On pages 29 and 30 they say:

It is certain that southern and eastern European immigrants have almost completely monopolized unskilled labor activities in many of the more important industries. This phase of the industrial situation was made the most important and exhaustive feature of the commission's investigation, and the results show that while the competition of these immigrants has had little, if any, effect on the highly skilled trades, nevertheless, through lack of industrial progress and by reason of large and constant reenforcement from abroad, it has kept conditions in the semiskilled and unskilled occupations from advancing.

Several elements peculiar to the new immigrants contributed to this result. They came from countries where low economic conditions prevailed and where conditions of labor were bad. They were content to accept wages and conditions which the native Americans and immigrants of the older class had come to regard as unsatisfactory. They were not, as a rule, engaged at lower wages than had been paid to the older workmen for the same class of labor, but their presence in constantly increasing numbers prevented progress among the older wage-earning class, and as a result that class of employees was gradually replaced. An instance of this displacement is shown in the experience in the bituminous-coal mines of western Pennsylvania. This section of the bituminous field was the one first entered by the new immigrants, and the displacement of the old workers was soon under way. Some of them entered other occupations and many of them migrated to the coal fields of the Middle West. Later these fields were also invaded by the new immigrants, and large numbers of the old workers again migrated to the mines of the Southwest, where they still predominate. The effect of the new immigration is clearly shown in the western Pennsylvania fields, where the average wage of the bituminous coal worker is 42 cents a day below the average wage in the Middle West and Southwest. Incidentally, hours of labor are longer and general working conditions poorer in the Pennsylvania mines than elsewhere. Another characteristic of the new immigrants contributed to the situation in Pennsylvania. This was the impossibility of successfully organizing them into labor unions. Several attempts at organization were made, but the constant influx of immigrants to whom prevailing conditions seemed unusually favorable contributed to the failure to organize. A similar situation has prevailed in other great industries.

Like most of the immigration from southern and eastern Europe, those who entered the leading industries were largely single men or married men unaccompanied by their families. There is, of course, in practically all industrial communities a large number of families of the various races, but the majority of the employees are men without families here and whose standard of living is so far below that of the native American or older immigrant workman that it is impossible for the latter to successfully compete with them. They usually live in cooperative groups and crowd together. Consequently, they are able to save a great part of their earnings, much of which is sent or carried abroad. Moreover, there is a strong tendency on the part of these unaccompanied men to return to their native countries after a few years of labor here. These groups have little contact with American life, learn little of American institutions, and aside from the wages earned profit little by their stay in this country. During their early years in the United States they usually rely for assistance and advice on some member of their race, frequently a saloon keeper or grocer, and almost always a steamship ticket agent and "immigrant banker," who, because of superior intelligence and better knowledge of American ways, commands their confidence. After a longer residence they usually become more self-reliant, but their progress toward assimilation is generally slow. Immigrant families in the industrial centers are more permanent and usually exhibit a stronger tendency toward advancement, although, in most cases, it is a long time before they even approach the ordinary standard of the American or the older immigrant families in the same grade of occupation. This description, of course, is not universally true, but it fairly represents a great part of the recent immigrant population in the United States. Their numbers are so great and the influx is so continuous that even with the remarkable expansion of industry during the past few years there has been created an oversupply of unskilled labor, and in some of the industries this is reflected in a curtailed number of working days and a consequent yearly income among the unskilled workers which is very much less than is indicated by the daily wage rates paid; and while it may not have lowered in a marked degree the American standard of living, it has introduced a lower standard which has become prevalent in the unskilled industry at large.

On pages 33 and 34 they say:

ASSIMILATION OF IMMIGRANTS.

It is difficult to define and still more difficult to correctly measure the tendency of newer immigrant races toward Americanization, or assimilation into the body of the American people. If, however, the tendency to acquire citizenship, to learn the English language, and to abandon native customs and standards of living may be considered as factors, it is found that many of the more recent immigrants are backward in this regard, while some others have made excellent progress. The absence of family life, which is so conspicuous among many southern and eastern Europeans in the United States, is undoubtedly the influence which most effectively retards assimilation. The great majority of some of these races are represented in the United States by single men or men whose wives and families are in their native country. It is a common practice for men of this class in industrial communities to live in boarding or rooming groups, and as they are also usually associated with each other in their work they do not come in contact with Americans, and consequently have little or no incentive to learn the English language, become acquainted with American institutions, or adopt American standards.

On page 37 they say:

As a result of the investigation the commission is unanimously of the opinion that in framing legislation emphasis should be laid upon the following principles:

1. While the American people, as in the past, welcome the oppressed of other lands, care should be taken that immigration be such both in quality and quantity as not to make too difficult the process of assimilation.

2. Since the existing law and further special legislation recommended in this report deal with the physically and morally unfit, further general legislation concerning the admission of aliens should be based primarily upon economic or business considerations touching the prosperity and economic well-being of our people.

3. The measure of the rational, healthy development of a country is not the extent of its investment of capital, its output of products, or its exports and imports, unless there is a corresponding economic opportunity afforded to the citizen dependent upon employment for his material, mental, and moral development.

4. The development of business may be brought about by means which lower the standard of living of the wage earners. A slow expansion of industry which would permit the adaptation and assimilation of the incoming labor supply is preferable to a very rapid industrial expansion which results in the immigration of laborers of low standards and efficiency, who imperil the American standard of wages and conditions of employment.

Mr. Chairman, I believe this bill is in the interest of America. I believe it is in the interest of American institutions. I also believe it is in the interest of the illiterate foreigner who may in the future desire to make this country his home, and I believe it will help make the American home the most magnificent product of American civilization, and believing this, I shall give it my hearty and enthusiastic support. [Applause.]

Mr. BURNETT. Mr. Chairman, I yield to the gentleman from Kentucky [Mr. LANGLEY].

[Mr. LANGLEY addressed the committee. See Appendix.]

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield two minutes to the gentleman from Louisiana [Mr. ESTOPINAL].

The CHAIRMAN. The gentleman from Louisiana [Mr. ESTOPINAL] is recognized for two minutes.

Mr. ESTOPINAL. Mr. Chairman, I rise to correct a statement made by the gentleman from Massachusetts [Mr. CURLEY] in the debate on this bill on Saturday, where he cited figures purporting to show illiteracy in Louisiana as compared with illiteracy in the State of New York. His figures were both incorrect and misleading.

Mr. Chairman, he stated the illiteracy to be 38.5, whereas it is but 29. The figures 38.5 were probably correct according to the census which was taken in June, 1900, more than 12 years ago; but, by these later figures, from the census of 1910, it is seen that illiteracy has been reduced 25 per cent since the census of 1900. I wish to show how this illiteracy is divided, as between the whites and the negroes; for it is known that Louisiana has a large black population, with illiteracy running very much higher than with

the white population. The percentage of illiteracy in the negro population in 1900 was 61.1. In 1910 it had fallen to 48.4. The percentage of illiteracy in the native whites in 1900 was 20.04. In 1910 it was 15. Contrary to the figures submitted by the gentleman from Massachusetts, showing a smaller illiteracy percentage in foreign-born whites on the Atlantic coast—or, rather, at New York—than of the native born, the percentage of illiteracy in the foreign born in Louisiana is higher than in native-born whites, being 24 in the foreign born as against 15 in the native whites.

Since illiteracy in youth nearly always means illiteracy through life, it is an exceptionally good showing for a State to reduce its percentage of illiteracy one-fourth within 10 years. I am glad to say that we are spending more money in Louisiana and are getting more results during this decade than during any other decade of her existence; and, doubtless, when the next census is taken, the illiteracy among the native whites in Louisiana will be considerably less than 10 per cent.

There are topographical peculiarities in Louisiana which are largely responsible for the comparatively large illiteracy among the whites—deep bayous, large rivers, and coast lines of great extent and isolation.

While the matter of Black Hand outrages is doubtless one that should be considered in connection with immigration, there is no reason that the United States should deny any honest man the right to come to these shores, seeking a home, simply because he has not had the opportunity to acquire an education from books. I would very strongly draw the line against doubtful or criminal immigration, enforcing, with pressing diligence, the capable laws we now have and supplementing these with others if needed. But if a man has two good strong arms, and is honest, he has the making of a good citizen and is needed in the development of this country. To deny him this opportunity would be an act of uncharity at variance with the traditions of our country.

Having been raised in a State where we have had to face the problem of extensive illiteracy among the negroes, and among whites proportionately large as compared to the illiteracy of the whites throughout the entire country, I have found that it is not the illiterate man that is the criminal. The illiterate man is usually a common laborer or fisherman, generally living in isolated communities; but he is nearly always a peaceable citizen, and while living meagerly he lives honestly, and is ambitious for his children to receive the education which circumstances denied to him.

But, Mr. Chairman, let us examine where the tide flows back to our forefathers. Let us see something of the illiteracy conditions among those who laid the first foundation of our institutions, banished the Indians, conquered the forests, and, finally, whose descendants, the still closer progenitors of gentlemen here who are now seeking to deny to others these same rights and opportunities of becoming citizens, gained for us our liberties and established us as a Nation on a broad and lasting foundation.

A bulletin of the United States Bureau of Education dealing with the Dutch schools of New Netherlands and colonial New York, by Prof. William Heard Kilpatrick, contains the figures from which I quote. It says:

The showing of the American Dutch in the matter of illiteracy is better than found in some other colonies. In Albany, of 360 men's names examined, covering the years 1654–1675, 21 per cent made their marks. Of 274 men's signatures at Flatbush, covering a longer period, 10 per cent made their marks.

Of the German immigrants in Pennsylvania, it is shown that in an examination of 11,823 names 26 per cent made their marks.

The historian Bruce, who compiled the Institutional History of Virginia in the seventeenth century, shows that of 2,165 male adults who signed jury lists 46 per cent made their marks, and of 12,445 male adults who signed deeds and depositions 40 per cent made their marks.

In the case of women among the Dutch at Flatbush, of 55 persons whose names were secured 32, or 56 per cent, made their marks. Thirty-three Albany names among women gave 55 per cent illiteracy. Another case of 46 women showed an illiteracy of 66 per cent. Thus, putting all the Dutch women together, we get a percentage of illiteracy of 60 per cent. Prof. Bruce, the historian mentioned, found in Virginia in 3,066 women signers of deeds and depositions an illiteracy of 75 per cent. In Suffolk County (Boston), Mass., of the deed signers but 11 per cent of the men failed to sign their names; but among the women illiteracy was 58 per cent in some names secured about 1650 and 38 per cent among some collected near the close of the seventeenth century.

It must be recalled that in most of these instances names were taken from signatures to deeds and conveyances, which indicate a property-holding class. Literacy, of course, rules higher in that class than those taken promiscuously from all grades of population; therefore if our glory has descended in large part from those who could not even sign their names, it is evident that there is no great menace to our admitting men and women of honesty and physical strength who are thus similarly hampered.

Mr. Chairman, here is a simple statement in this bulletin of Prof. Kilpatrick's which contains a moral of much force:

A further significant result appeared from our study of illiteracy, namely, that the male Dutch inhabitants of Flatbush made continuous improvement in this respect, the percentage of illiteracy decreasing gradually from 40 per cent in 1675 to about 5 per cent in 1738.

Now, Mr. Chairman, here is a decrease from 40 to 6 per cent in the course of a little more than 50 years, and as the discussion of this bill seemed to point in its application to the backward Latin and other southern and western European races, I maintain that if the Dutch at that early period of this country, when education was nothing like as well developed in science and practical application as it is to-day, could reduce their illiteracy from 40 to 6 per cent in a little over 60 years, it holds no menace to this country to admit honest people lacking literacy in books yet otherwise competent for citizenship. The history of these people and the present advance of these countries is ample guaranty of their capacity for progress with us.

I can readily understand the apparent demand for this restrictive legislation which has arisen from our failure to properly distribute the immigrants who have come to our shores. There are millions with us to-day, crowded in tenements in industrial centers, and working in occupations entirely foreign to their experience, for they were raised as peasants, as farmers, and in the range of opportunities which this country gives they ought to still be farmers with us, and remain so. The solution of this problem lies not in denying the illiterate and honest immigrant an entrance to these shores, but in seeing that he has the opportunity to gain a home under the best conditions for his own prosperity and the prosperity of our country.

Mr. Chairman, I protest against any measure that will prevent a sound and honest man from seeking to better himself in finding a new home, protection, and prosperity under the beneficent folds of Old Glory. [Applause.]

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield 13 minutes to the gentleman from California [Mr. KAHN].

The CHAIRMAN. The gentleman from California [Mr. KAHN] is recognized for 13 minutes.

Mr. KAHN. Mr. Chairman, I am just as anxious as any other Member of this House to keep from our shores the criminals, the vicious, and the physically and mentally defective; I would exclude these classes as much as any gentleman who favors this bill. But I do not believe that the illiteracy test will have the effect of keeping out undesirable immigrants.

The member of the mafia, the member of the camorra society, the black hander, the anarchist, and the dynamiter can invariably read and write.

This matter of the restriction of immigration is not a new subject, and the present agitation is but a recrudescence of antiforeign agitation that has occurred periodically from the very beginning of our Government. On Saturday the gentleman from New York [Mr. GOLDFOGLE] called the attention of the committee to the fact that Benjamin Franklin, in 1753, had deprecated the great influx of Germans into Pennsylvania. A few years later, in 1776, the same Benjamin Franklin was a member of that committee of five that reported the Declaration of Independence to the Continental Congress, and one of the leading causes of complaint against the King of England named in that Declaration of Independence was that—

He has endeavored to prevent the population of these States, for that purpose obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the condition of new appropriations of land.

It is a strange thing, Mr. Chairman, to see gentlemen upon this floor who are descendants of some of those Pennsylvania Germans—and their ancestors made mighty good citizens—inveighing against the immigration that is coming to these United States to-day and insisting upon the passage of this law for a literacy test.

Mr. RUCKER of Colorado. Will the gentleman from California yield?

Mr. KAHN. I have only a few minutes. I desire not to yield just at present. I may later on.

The cry against the immigrant has made itself heard in nearly every period of the existence of the Republic. In 1819 the managers of the Society for the Promotion of Patriotism in the city of New York made their second annual report. I quote a few sentences from that document:

An almost innumerable population beyond the ocean is out of employment. * * * This country is the resort of vast numbers of

these needy and wretched beings. * * * They are frequently found destitute in our streets; they seek employment at our doors; they are found in our almshouses and in our hospitals; they are found at the bar of our criminal tribunals, in our bridewell, our penitentiary, and our State prison, and we lament to say that they are too often led by want, by vice, and by habit to form a phalanx of plunder and depredations, rendering our city more liable to increase of crimes and our houses of correction more crowded with convicts and felons.

That language did not refer to the immigrants from eastern and southeastern Europe, against whom the present bill is said to be aimed. That language referred to the immigrants from Ireland, from Germany, from France, from Scandinavia, from those countries that sent that class of immigrants whom the gentlemen who are in favor of this bill say was a splendid immigration. I agree that it was a splendid immigration; but the quotation that I have just read might have been written to-day against the immigration that is sought to be prevented under the terms of this bill. The language used to-day against the immigrants from eastern and southeastern Europe is not stronger in its terms of condemnation.

Later on the outcry against the Irish and the Germans grew louder. The churches of the Irish were desecrated. Their children were subjected to petty persecution in the public schools. The Germans were publicly denounced. Their newspapers were mobbed, their Turner halls were wrecked. And yet gentlemen who profess to see something awful in the immigration from eastern and southeastern Europe claim that there was no opposition to the immigrants from northern and western Europe.

In 1853 this feeling against foreign immigrants had grown so acute that the Know-Nothing Party was organized. It was directed expressly against foreign immigrants. In the elections of 1854 it was very successful, and elected a large number of Members of Congress. In 1856 it had grown strong enough to put up a candidate for the Presidency, Millard Fillmore, but he only carried the electoral vote of one State—Maryland.

It may interest some of the Members of the House to know how far this doctrine of Know-Nothingism was carried at that period. Let me call their attention to the picture, the mural decoration on the extreme right of this Chamber. It is by Brumidi, whose frescoes are such a prominent feature of the decorative work in the Capitol Building. It represents a scene at Washington's headquarters at Yorktown. The date is said to be October 17, 1781. Lord Cornwallis has just sent a flag of truce and has requested the cessation of hostilities for 24 hours that commissioners might be appointed to settle upon terms of surrender. Washington, believing it to be but a subterfuge to await reenforcements from New York, grants Cornwallis an armistice of only two hours. This was coupled with a stipulation that at the end of that time he must transmit, in writing, definite proposals.

The painting is a fresco. While it is not the best of Brumidi's work in this Capitol, it may be interesting to note the fact that the artist, incensed at the attacks that were made upon foreigners during that exciting period, signed the painting "C. Brumidi, Artist, Citizen of the U. S.," so as to emphasize his citizenship and his patriotism.

I merely cite this incident to show how bitterly the patriotic foreigners of the Know-Nothing period resented the petty, narrow, unpatriotic, un-American attacks that were made upon them at that time.

As late as 1898 one of the trades-unions of New York protested against the Swedes and the Danes on the ground that they—

interfered very much with the keeping up of the wages in our trade. That is the principal thing we find fault with.

Now those Swedes and Danes were not immigrants from eastern or southeastern Europe. They were immigrants from northern Europe, and yet they were found fault with as late as 1898. It is a surprising thing that many of the advocates of the pending legislation are themselves of foreign birth; many of them, if they be of native birth, can not go back farther than one generation to foreign parentage.

The educational test, in my judgment, is no test at all. Nancy Hanks, the mother of Abraham Lincoln, was an illiterate. Andrew Johnson, who became President of the United States, was an illiterate until after his marriage. Many of the colonists who settled Virginia and the other colonies were illiterates; they could not read nor write, and yet to-day their descendants are proud of their ancestry, as they have a right to be. [Applause.]

Education is a matter of opportunity; it is also a matter of environment. The Russian Government positively refuses higher education to many of its citizens.

It is a surprising thing to me that many of the Members of this House who favor this legislation come from rural districts, and the statistics of the Bureau of the Census for 1910 show absolutely that there is 10.2 per cent of illiteracy in the rural districts in this country as against 5.1 per cent of illiteracy in the urban centers of the country. It is evident that those illiterate emigrants, so much objected to by Members who represent rural constituencies, usually settle in the urban centers and do not locate in the rural communities.

Mr. Chairman, the distinguished gentleman from Kentucky [Mr. CANTRILL], in speaking for his side on Saturday, said that the 10.7 per cent of illiterates among the native whites of the State of Kentucky, to which I had referred, were found largely in the eastern section of that State, and that that was the Republican section. I did not attempt to bring politics into this question, but the gentleman from Kentucky called to the attention of the House that it was the Republican section of Kentucky that is illiterate. Well, Kentucky has been under Democratic domination for many years, and I daresay that if the Democrats had furnished proper schools in the eastern section of Kentucky, there would have been less illiteracy in that State than there is to-day.

Mr. LANGLEY. Will the gentleman yield?

Mr. KAHN. I have only a short time, but I will yield for a question.

Mr. LANGLEY. We have good schools in the mountains of eastern Kentucky, just as good as they have in the western or any other part of the State, and just as high a standard of education, too. My colleague, Mr. CANTRILL, is entirely mistaken when he says that most of the illiteracy of the State is there, or that politics has anything to do with it. His defense of Kentucky would have been much more appreciated if he had omitted that statement.

Mr. KAHN. I am glad to hear the gentleman's statement. In the matter of schools Kentucky has not given education to 27.6 per cent of the negro laborers in her corn fields and her cotton fields.

But it can be said that Alabama has no Republican section whatever. Alabama is the home of the distinguished author of the pending bill, Mr. BURNETT. In that State the illiteracy among the native white population of native parentage is 10.1 per cent according to the census of 1910, while the illiteracy among the native whites of foreign or mixed parentage in that State is only 2.3 per cent. But in Alabama the illiteracy among the negroes in 1910 is 40.1 per cent. The State of Georgia has no Republican district, but the illiteracy among the native whites of native parentage in that State in 1910 was 8 per cent, as against 1.6 per cent among the native whites of foreign or mixed parentage. The illiteracy among the negro laborers of Georgia in that year was 36.5 per cent.

The illiteracy in Tennessee among the native whites of native parentage in 1910 was 9.9 per cent. The illiteracy among native whites of foreign or mixed parentage in that State in 1910 was only 1.8 per cent, while the illiteracy among the negro laborers of that State was 27.3 per cent.

I mention these figures because distinguished gentlemen from those States have arisen on this floor in advocacy of the illiteracy test. It seems to me that one could well exclaim, "Physician, heal thyself!" to any of these gentlemen. Among the negro laborers of the South in the year 1910, 33½ per cent were illiterate. They are the men who do the rough, unskilled work that no one else can or will do in that section of the country.

Many of the illiterate whites who come to these shores under our present immigration laws are the unskilled laborers who work in our mines and who lay railroad tracks across the prairies and the plains under the burning rays of the summer sun in the Northern States. The American will not do it, and the second generation of the foreign immigrant will not do it. It is this foreign element, this illiterate foreign element, that does this class of work not alone in our own country, but in Germany, in England, and in the progressive industrial nations of the world.

Comment has been made upon this floor that many of these arrivals from eastern and southeastern Europe are assisted immigrants; that the agents of steamship companies, by holding out inducements for bettering the conditions of these people, persuade them to come to our shores. To me that is rather a sign of ambition on the part of the man who makes up his mind to come here by reason of such solicitation. If he did not feel that he could better his condition in life, the arguments that are submitted to him would fall upon deaf ears. If he had no ambition to better himself, he would spurn the offer of the agents and would continue his humdrum existence in the land of his nativity. But he desires to seek to free himself from the prison of his mean estate. He wants to buy his ransom from "those twin jailers of the daring heart, Low Birth and Iron Fortune." And so he comes to this land of freedom and of opportunity; and hundreds of thousands of his countrymen succeed in their efforts to better their condition in life and make good citizens of the Republic.

Mr. Chairman, in 1910 12.7 per cent among the foreign-born whites were illiterate. The illiterates among the native whites of native-born parentage in the United States were 3.7 per cent of our population, while the percentage of illiteracy among the native whites of foreign or mixed parentage was only 1.1 per cent. These figures show that the immigrants seek education for their children. They recognize, if they be illiterate, that they are seriously handicapped in the struggle for existence by reason of their educational disadvantages, and they determine that their children shall not suffer by reason of similar handicaps. And so they promptly send them to our schools to be educated. They learn to know and to love our institutions. They have repeatedly demonstrated their readiness to die for the flag when the country has called them to the colors of the Republic.

Mr. Chairman, the bill that is now under consideration will not accomplish the purpose of keeping out the really undesirable immigrant. For that reason I shall vote against it.

Mr. MOORE of Pennsylvania. Mr. Chairman, is the time exhausted on this side?

The CHAIRMAN. It is; the gentleman from California used 13 minutes.

Mr. BURNETT. Mr. Chairman, has the gentleman from Pennsylvania consumed all of his time?

The CHAIRMAN. The time on that side is exhausted.

Mr. BURNETT. How much time have I remaining?

The CHAIRMAN. The gentleman has 14½ minutes.

Mr. BURNETT. Mr. Chairman, I desire to state at the outset that on account of the shortness of the time which I have left I shall decline to yield to anyone.

Mr. GOLDFOGLE. Mr. Chairman——

Mr. BURNETT. Mr. Chairman, I can not yield. Gentlemen, especially the gentleman from Pennsylvania, have referred to the fact that this bill does not keep out the Black Hand. This bill does not enlarge or liberalize the law against the Black Hand. We have laws now by which it is sought to keep out that class of immigrants, and if they are not sufficient the gentleman from Pennsylvania, who has been on the Committee on Immigration for a long time, could certainly have introduced and had reported some bill for that purpose if he had wanted to strengthen that law. That is always the dodge that is taken when the literacy test is up—that it does not keep out the Black Hand.

Well, Mr. Chairman, it does keep out those who are the pliant victims and easy dupes of the Black Hand. If this bill had been the law, it would have kept out many of those who last winter at Lawrence were following the banners on which was inscribed the motto "No God, no master." Those are the kind of people that follow Black Hand and anarchist leaders so easily, and it would have kept out in New York the motley horde that last summer were trampling the American flag under foot while they were following the lead of men who hate the Stars and Stripes because it is the emblem of law and order. Ninety-two per cent of those people in Lawrence who defied the law were foreigners, and eighty-odd per cent of that 92 per cent were from the southern and eastern sections of Europe.

Gentlemen have referred to the message of President Cleveland vetoing a bill of similar character—much less liberal, however, than this. At that time the records show that during the year 1897, when the veto message was signed, the total immigration to this country was only 230,832, while in 1911 it was 878,000, and the south Italians and Polish were 241,000 alone, or 11,000 more than came from all nationalities during the year 1897. The gentleman from Nebraska [Mr. LOBECK], in explanation of the fact that so few came that year, remarked that times were so hard then that there was no work for them to do and people were not coming here. That is one trouble with these birds of passage. Whenever the bow of prosperity spans our country they come in hordes for the purpose of crowding out our laborers and beating down American standards and wages and living, and as soon as adversity comes to our country they fold their tents like the Arabs and as silently steal away, and sometimes steal everything else they can lay their hands on. [Laughter and applause.]

Mr. Chairman, the alien insane that are filling the asylums of New York and other sections of the country are among this class of people.

Mr. MURRAY rose.

The CHAIRMAN. Does the gentleman from Alabama yield to the gentleman from Massachusetts?

Mr. BURNETT. No. I have stated that I would not yield, and the gentleman must have understood that. In regard to the insane aliens, the New York Times on March 28, 1912, said:

The Times is informed by Secretary McGarr, of the State Commission in Lunacy, that of the 31,432 insane patients under treatment in the 14 State hospitals on February 10 last, 13,163, or 41.9 per cent, were aliens. Foreign-born patients have increased since the Federal census of December 31, 1903, by 1,552, or 13.4 per cent. In the two State hospitals for the criminal insane there were 1,236 patients on February 10, of whom nearly 44.4 per cent were of alien birth; the Federal census of 1910 showed a percentage of aliens to total population in this State of 29.9 per cent.

The prevalence of insanity among immigrants is evidently much greater than among the native born. Of the 5,700 patients admitted to the civil hospitals for the year ending September 30, 1911, 2,737, or 48 per cent, were aliens, and 1,481, or 26 per cent, were of alien parentage, while only 1,224, less than 26 per cent, were of native stock. Of the whole number, the nativity of but 218, which is 3.8 per cent, was not ascertainable. Insanity among the foreign peoples of this city occurs in a still larger percentage of cases. Of the first admissions to the hospitals 2,006 out of 3,221 residents of the city were of foreign birth; that is 64.1 per cent, although the foreign-born population is but 40.4 per cent of the whole.

Mr. SHERLEY. How many of those were illiterate?

Mr. BURNETT. Many of them; as the records of the New York Board of Lunacy shows that a large per cent of them came from those countries that are sending most of the illiterates.

Mr. Chairman, the gentleman from Massachusetts [Mr. CURLEY] has referred to the Junior Order of American Mechanics being A. P. A. The gentleman would not yield to some gentleman who wanted to ask him a question, because he thought it would not add to the sum of human knowledge. I notice that the gentleman has eliminated from the RECORD some of the harsh things he said in regard to that order. Perhaps he thought those remarks would not add to the sum of human knowledge. I just want to read a little extract.

Mr. CURLEY. Mr. Chairman, will the gentleman yield?

Mr. BURNETT. I do not yield. I have stated that time and time again.

Mr. CURLEY. The gentleman is not afraid to yield on that, is he?

Mr. BURNETT. Mr. Chairman, may I have order? Mr. John Weitzel, the national councilor of the Junior Order, said before our Immigration Committee at one time:

I desire to call the committee's attention to the friendly feeling existing between three conventions of Catholics, Juniors, and Daughters of America, which happened to meet in Canton, Ohio, September, 1906.

The Junior Order is not an antireligionist society; it is no more anti-Catholic than the Knights of Pythias, Elks, Odd Fellows, or the American Federation of Labor for that matter, every one of which have members of the Catholic faith and favor the enactment of more restrictive immigration laws. The Junior Order is a patriotic, fraternal, benevolent, and beneficiary organization, dating back almost a century. It cares for its sick, buries its dead, looks after their widows and orphans, provides insurance, stands for compulsory education, believes in freedom of conscience and liberty of worship, advocates good naturalization laws and the judicious restriction of undesirable immigration. Its motto, "Virtue, liberty, and patriotism," appeals to the very highest sentiment and to the very best in man.

I am an honorary member of that organization. Could the gentleman, or anyone else, find any A. P. A. matter in the enunciation of these doctrines? I know that there is nothing that is sectarian or that is opposed to any particular nationality in it. That is not the only organization that has declared for this bill. Certainly the gentleman would not say that the 3,000,000 members of the American Federation of Labor were A. P. A.'s. Certainly he would not say that the Grange and the Farmers' National Congress of the North and the members of the Farmers' Union of the South are A. P. A.'s. Certainly he would not say that John Mitchell and Mr. Gompers and Mr. Morrison are A. P. A.'s. Certainly he would not say that Charles P. Neill, a member of our commission, who agreed with us in every one of these propositions, himself a splendid Catholic, is an A. P. A. Certainly no one would say that the gentleman from Kentucky [Mr. JOHNSON], a man by whose friendship I am honored on the floor of this House, who earnestly favors this bill, is an A. P. A. The gentleman would not say that Vice President Marshall, in the splendid speeches he made throughout the country during the last campaign, decrying the influx of foreign pauper labor, was an A. P. A., and that the Legislatures of Vermont, Ohio, Virginia, Tennessee, West Virginia, and 14 or 15 other States of the Union were composed of members of the A. P. A.

But, Mr. Chairman, the unkindest cut of all was when the gentleman from Massachusetts [Mr. CURLEY] spoke of the lynching bees that he wanted to hold the South responsible for. Here is his language:

I have sat here and listened to the talk about the Black Hand. Why, Mr. Chairman, I can not distinguish any difference in the disregard to established law between a lynching bee in the South and the operation of the Black Hand in New York. If the Black Hand of New York is bad, its evil does not exceed the evil of the lynching bees in the South.

In the first place, Mr. Chairman, these lynching bees are not confined to my section of the country, but they occur North and South whenever a black brute outrages a white woman; yet the gentleman says that he can see no difference between them. Mr. Chairman, the Black Hand is an organization composed of men banded together for the purpose of loot or for the purpose of revenge, with a stiletto in one hand and dynamite in the

other, to strike down human beings. The other is a protest and an effort to avenge, either North or South, the attacks of black brutes on white mothers, daughters, and wives of my country. Yet the gentleman says he can see no difference between the two. I believe, Mr. Chairman, that he did not represent that splendid Celtic race from which he sprang when he made the statement, nor did he represent the sentiment of the splendid citizenship of the city of Boston, whose commission he holds. I am opposed to mob law anywhere, but there is no comparison between the Black Hand and those who strike to avenge the desecration of the chastity of white women.

Gentlemen have told us that Nancy Hanks would have been kept out and other very distinguished and celebrated people would have been kept out by the illiteracy test. They would not have been, because those people were every one of them Americans. And the American boy—my boy and your boy—whether he be in Kentucky or Alabama, has to live here 21 years before he can vote to make the laws or make the lawmakers of this country, and yet an alien may come here and after a few years can file declaration papers and become a citizen to put the lawmakers and laws upon the people of this whole country. Gentlemen talk about un-Americanism, and the gentleman from Illinois [Mr. SABATH] referred to the fact that some of us come from sections of the country where there are but few of these immigrants and therefore know nothing about them. By this same token, Mr. Chairman, I might say the gentleman himself certainly knows nothing of Americans, on account of the fact that he has seldom come in contact with American people by whom the rest of us are surrounded. Some gentlemen have denounced principles as un-American here to-day when on account of the citizenship of their particular districts about all they learn of Americans and Americanism is when they associate with the Members of the American House of Representatives in this Congress assembled. Now, Mr. Chairman, I think——

Mr. MANN. How unfortunate that is.

Mr. BURNETT. I think so myself; but especially is it fortunate that the scales may sometimes fall from their eyes by association with Americans, so they can learn something outside of the environments that surround them. Mr. Chairman, in regard to the difference of the ideas that these illiterate and irresponsible birds of passage have of our land and its conditions and those of our native-born and our northwestern European citizens, I can not more forcefully express it than by reading an extract from a speech made in the Senate on this subject by the former great Democratic leader of this House, JOHN SHARP WILLIAMS. He said:

It is true that education is not all gotten from books. Nor is culture. The most perfect gentleman I ever knew in my life could not write a word, except to sign his name. I frequently said he was also one of the wisest men from a citizenship standpoint I ever knew. He was. But when you come to the consideration of the knowledge that men have as to how to govern a country, there is a school far superior to the schools wherein instruction is given from the books. The old immigrants who came to us came principally from England and Ireland and Scotland and Wales, Switzerland, and countries of that sort—Scandinavians and Germans—and although some of the Scandinavians and most of the Germans never had a republican form of government, nor even a free representative government, in the sense in which we speak of it in England and here, they were the people of all Europe who possessed in the highest degree, and do now, personal liberty, and cherish it.

If you were to take an illiterate man who came from Norway, England, Scotland, or Ireland, he would not necessarily be an ignorant man, because he has attended this great school of the common people in free countries. What is that school? In our own country it is the school of jury service; it is the school of public discussion of political and social matters, where all matters can be and are discussed. It is the school of talking about and participating in elections, where men learn from one another.

The gentleman from Minnesota [Mr. NYE] has spoken eloquently of a character test, and yet he has never introduced a bill to establish such a test, nor has any other gentleman. Should he try to frame such a test, its futility would become evident in every line he would write. On this point I again quote from the great speech of Senator WILLIAMS, in which he says:

If I had any way of determining how much better one man was than another, how much more nearly honest one man was than another, how much truer and more loyal to principle one man was than another, how much more unselfish one man was than another, how much more courageous one man was than another—if I had any way of ascertaining all that, I should gladly write it into a statute and let the literacy and all other tests go to the winds.

But what foolishness it is to talk to lawmakers about writing a character test in words and letters into a statute. How shall it be done? I can write a physical test, that the man must not be diseased; I can write a political test, a social test, that he must not be an anarchist, that he must not be an enemy of organized government; I can write an intellectual test, that he must be able to read and write in some language, so that he is not shut off from communication with current printed thought; but I can not write a character test. There is nobody but God who can look into a man's heart and tell what his character is.

I might be able to write a reputation test, if I could bring over the man's whole neighborhood in order to have them bear witness to what his reputation was. But all of us are standing demonstrations of the fact that reputation and character do not always go together.

I have heard much about this thing of admitting or refusing to admit men "on their character" and not on their information. If any man is wise enough to tell me how to prescribe a character test, then, in my opinion, he is a wiser man—mere man—than ever lived on the surface of this earth. "The outward and visible signs of an inward and spiritual grace" or of character is a thing I defy any legislator to write into a statute, and when you go beyond that and want to write "the inward and spiritual grace" or character itself, there is nobody in the world who can write it except God, and He has been too merciful to mankind thus far to do it.

Gentlemen will search in vain for a better test to keep out those who know nothing of the genius of our institutions, who know nothing of the flag of country and the Constitution of our fathers.

After groping in darkness in the futile search for such a test the fair-minded student of justice and truth will be forced, as our commission was forced, to turn to the test embraced in this bill.

I want immigrants to come to our hospitable shores; but I want those who, in the language of our beloved President elect, come voluntarily to become citizens and to build up our material prosperity and support our free institutions and not those induced by the agents of steamship companies to fill their coffers, and to breed anarchy and crime.

The people who will be kept out by this bill are mainly those who care nothing for America or Americans only so far as they may fill their wallets with American gold and return it and themselves to the lands whence they came.

To show how little they appreciate the blessings of American citizenship, I call your attention to what the records show as to how many ever become naturalized citizens. Prof. Jenks, a member of the Immigration Commission, makes the following statement from records which he has compiled:

The lack of political or civic interest of southern and eastern Europeans is shown by the following percentages of fully naturalized representatives of some of the principal races with a residence of 10 years or longer: Croatians, 28.6 per cent; South Italians, 31 per cent; Magyars, 26.9 per cent; Russians, 33.6 per cent; Slovaks, 25.3 per cent.

In contrast with these he shows that—

more than three-fourths of the Bohemian and Moravian, Danish, German, Irish, Norwegian, Swedish, Scotch, and Welsh races who have been in the United States 10 years or longer have been fully naturalized.

Can we look on this comparison with other than fear for the perpetuity of our cherished institutions?

Sad indeed is the story told by the reports of the insane asylums of the States where the low and illiterate hordes are being dumped. Only yesterday the press brought the news that the governor of New York is about to call a meeting of representatives from 15 States to adopt some method by which Congress can be compelled to make provision for the insane that are filling their asylums. This is contemplated in all seriousness. Think of the injustice of forcing the people of Indiana and of Mississippi to be taxed to care for the insane to whom New York City wants to open wide its gates.

Think of the gentleman from Massachusetts taunting my people of the South with the illiteracy which we are struggling to overcome and yet asking that the illiterates in Alabama and Kentucky be taxed to maintain the insane aliens to whom he wants the gates of Boston to be opened wide.

I quote the following from page 22, Report of New York Board of Aliens, for the year ending September 30, 1911:

For the first few years after the commencement of that remarkable migration of the races of southern and eastern Europe to this country—to which Austria-Hungary, Italy, and Russia have contributed nearly 500,000 persons a year—it is noted that the increase of patients of those nationalities in the State hospitals was gradual. By 1905, however, it was possible to predict that when the effects of the "new immigration" commenced to be felt the "old immigration"—of Germans, Irish, and Scandinavians—would be outdone in the numbers of insane added to the foreign-born population of our State hospitals. Today that prediction is fulfilled, and during the year more than 55 per cent of the aliens deported by the United States Immigration Service were natives of those three countries.

On December 17, 1912, the New York American printed the following:

IMMIGRANTS BLAMED FOR INSANITY INCREASE.

BINGHAMTON, N. Y., *December 16.*

The chief cause of the increase in insanity in New York State is the admission of immigrants who are insane when admitted or who become insane soon after admission, usually from causes existing prior to admission. There has been little, if any, increase in insanity in the native population during recent years.

CHARLES D. WAGNER, M. D.,
Superintendent Binghamton State Hospital.

In a letter to me, written December 18, 1912, Dr. George B. Campbell, medical examiner of the State Hospital Commission of the State of New York, referring to the great increase of insane patients among new immigrants, says:

It is shown by the State hospital commission's report that this increase dates back to about 1903. This is the time that the new immigration from southern and eastern Europe commenced.

The New York Sun of May 26, 1912, said that a conference between representatives of the steamship companies and the

insane hospital would result in sending to Europe in the coming year 2,000 alien insane from that State. This is to be done at the expense of the State. How much better for the State had these people been kept out in the first instance, and this bill would have kept a great part of them out.

With such official statements before us, can anyone doubt that something must be done?

Gentlemen have referred in this debate to the achievements of great Italians, Greeks, and other foreigners in the fields of literature, art, oratory, and on the martial field. But they forget that the South Italians of to-day are not descendants of those who followed Caesar's triumphant eagles, but they are descendants of the foreign slaves who came to Rome chained to the chariot wheels of his victorious armies.

The Greeks of to-day are not the Greeks who fought and died at Thermopylæ, but they are descendants of those who have mixed their blood with an alien and an inferior race.

The Syrians of to-day are not the Phoenicians who were once the inventors of letters and the lords of the sea, but they are the products of an amalgamation with inferior races to the westward.

The fate of these people should be a warning to those who love America and American civilization.

The preservation of the sacred heritage transmitted to us by the fathers demands that the ax be put to the very root of the tree, and let no patriot shirk his duty now.

In conclusion, I will insert the resolutions of the Legislature of Vermont:

Joint resolution requesting the Vermont delegation in Congress to advocate and aid in the passage of an immigration bill containing the illiteracy test.

Resolved by the Senate and House of Representatives:

Whereas there were admitted to the United States during the fiscal year ending June 30, 1911, 1,030,300 persons as immigrants. That prior to 1883 among the immigrants coming to this country there was only 2.7 per cent of illiteracy. That for the past five years, illiteracy has alarmingly increased to more than 36 per cent, and that of the 1,500,000 south Italians, who came here from 1899 to 1909, over 800,000, or more than 54 per cent, could not read and write; 54 per cent of the Syrians could neither read nor write; 35 per cent of the Poles could neither read nor write; 68 per cent of the Portuguese; 38 per cent of the Ruthenians; 51 per cent of the Russians; 58 per cent of the Turks; 27 per cent of the Greeks; and 41 per cent of the Bulgarians and Servians and Montenegrins could neither read nor write; and

Whereas Congress, by its act of February 20, 1907, created an Immigration Commission, composed of three Senators, three Members of the House of Representatives, and three persons to be appointed by the President of the United States, for the purposes of making a careful and searching investigation into the entire question of immigration, both in this country and abroad, and now, after several years of painstaking investigation at a cost of more than a million dollars, said commission has rendered its exhaustive report of 40 massive volumes to Congress, and urgently recommends the passage of a measure which will greatly restrict the admission of those less likely to become desirable citizens; and

Whereas the commission, with a single dissenting opinion, suggests and recommends that the illiteracy or reading and writing test is the one single measure best calculated to restrict undesirable immigration; and

Whereas the Hon. WILLIAM P. DILLINGHAM, senior Senator from Vermont, who was chairman of the Immigration Commission, has introduced into the Senate of the United States a bill containing the illiteracy requirement, and that said bill has passed the Senate and is now pending in the House of Representatives under the title of the Burnett bill: Therefore

Resolved, That the congressional delegation from Vermont are urgently requested to advocate and aid in the passage of an immigration bill containing the illiteracy requirement; and be it further

Resolved, That the secretary of state is hereby directed to forward a copy of these resolutions to each Member of the Vermont delegation in Congress and a copy to the chairman of the Senate and House Committee on Immigration.

FRANK E. HOWE,
President of the Senate.
CHARLES A. PLUMLEY,
Speaker of the House of Representatives.

Approved December 10, 1912.

ALLEN M. FLETCHER, *Governor.*

STATE OF VERMONT,
Office of the Secretary of State.

I hereby certify that the foregoing is a true copy of "A joint resolution requesting the Vermont delegation in Congress to advocate and aid in the passage of an immigration bill containing the illiteracy test," Approved December 10, 1912, as appears by the files and records of this office.

Witness my signature and the seal of this office, at Montpelier, this 18th day of December, 1912.

[SEAL.] GUY W. BAILEY,
Secretary of State.

The CHAIRMAN. The time of the gentleman has expired. All time has expired.

Mr. BURNETT. Mr. Chairman, I ask leave to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. GOLDFOGLE. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. GOLDFOGLE. Before the bill is read I would like to inquire of the gentleman from Alabama whether he has any objection to this committee rising——

The CHAIRMAN. The gentleman is not in order, and the Clerk will read the committee amendment.

The Clerk read as follows:

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Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Is not the committee amendment an amendment to strike out all after the enacting clause of the Senate bill and to insert the matter which the committee recommended to be inserted?

The CHAIRMAN. The Chair thinks the rule expressly provides that the committee amendment shall be read and not the substance that was stricken out by the committee.

Mr. MANN. What is the committee amendment? Is not the committee amendment an amendment to strike out and insert?

The CHAIRMAN. The Chair is proceeding under the rule adopted by the House.

Mr. MANN. Well, the rule only refers to the committee amendment; the rule does not define the committee amendment.

The CHAIRMAN. Does the gentleman from Illinois make the point of order?

Mr. MANN. Well, I am making a parliamentary inquiry.

The CHAIRMAN. The Chair has already answered the gentleman's parliamentary inquiry.

Mr. MANN. Does the Chair hold that the——

The CHAIRMAN. The Chair holds that under the rule adopted by the House the amendment of the committee shall be read, and by the committee amendment it means the part of the bill that has been reported as a substitute by the Committee on Immigration.

Mr. MANN. Yes; but my parliamentary inquiry is, What is the amendment reported by the committee? Is not the amendment reported by the committee an amendment to strike out and insert?

The CHAIRMAN. The committee is now proceeding under the rule.

Mr. MANN. I beg the Chair's pardon, but the rule does not define what is the committee amendment. I am not seeking to have the bill read for amendment. The Chair must not misunderstand me. The rule provides for the consideration of the committee amendment. Now, what is the committee amendment? Certainly it contemplates and proposes to strike out the language of the Senate bill after the enacting clause and to insert other matter in its place.

Mr. GARRETT. Mr. Chairman, will the gentleman permit? I wish to submit this observation: That the rule under which the committee is now proceeding must be construed as a whole, and, being construed as a whole, I submit to the Chair that the clear intent of the rule and of the House in adopting the rule was that the amendment—the substance—the bill proposed by the House committee should be first read, because it provides in express language and express terms that if it be adopted the Senate bill shall not be read. If the contention for which the gentleman from Illinois [Mr. MANN] seems to be standing were to prevail, then, if I follow it correctly, it would necessitate the reading of the Senate bill, a thing which this rule was especially designed to prevent except in a certain contingency.

Mr. MANN. I think the rule was designed to prevent the reading of the Senate bill for amendment under the five-minute rule until the committee amendment had been disposed of. The rule provides for the consideration of the committee amendment. Now, this committee must act upon the motion to strike out the Senate bill after the enacting clause, or else there is no striking out. You either strike out or you do not.

Mr. GARRETT. Mr. Chairman, will the gentleman permit?

Mr. GARDNER of Massachusetts. Mr. Chairman——

The CHAIRMAN. The Chair is ready to rule. However, the Chair will recognize the gentleman from Massachusetts [Mr. GARDNER].

Mr. GARDNER of Massachusetts. I wanted to know if the gentleman from Illinois was claiming a right to demand a division of the motion?

Mr. MANN. I was not. The rule expressly provides that the motion to strike out and insert is not divisible. I am not asking for that. But I am asking to have the committee amendment reported as the committee made it—to strike out the Senate bill and insert.

The CHAIRMAN. The rule reads:

The amendment proposed by the House committee shall be first read for amendment and perfected. After same has been so perfected the vote shall be taken upon the question of adoption of said amendment. If same shall be adopted, then the Senate bill shall not be read.

And the Chair thinks that under the terms of that rule it is not necessary, and was not contemplated, that the Senate bill should be read. The Clerk will read.

Mr. MANN. I appeal from the decision of the Chair.

Mr. UNDERWOOD. Mr. Chairman, I move that the appeal be laid on the table.

Mr. MANN. That is not in order in the committee. I desire, Mr. Chairman, to be heard.

The CHAIRMAN. The Chair will recognize the gentleman.

Mr. MANN. I have no doubt the ruling of the Chair is erroneous, although I have no doubt the ruling is in consonance with the intention of the committee that reported the rule. It is not, however, what the rule says. But here is a proposition which says that the committee shall be called upon to vote to strike out the bill which has passed the Senate, and been sent to the House for consideration, without even reading it. Gentlemen say that immigrants coming here shall be required to read or write. For what purpose? You do not propose here even to read the language you intend to vote upon. [Applause.] You do not propose to give any consideration to the bill which has come from the Senate, but you insist upon a ruling of the Chair that the very bill passed by the Senate, and which is here for consideration, shall be voted upon without reading. What more ridiculous position could be presented in a supposed deliberative body? [Applause.]

Mr. GARDNER of Massachusetts. Mr. Chairman, I move to close debate on the motion of the gentleman from Illinois [Mr. MANN].

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken, and the decision of the Chair was sustained.

The Clerk read as follows:

On page 58, line 11, of the Senate bill: "That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States the following persons shall also be excluded from admission thereto, to wit: All aliens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land."

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. The committee amendment consists of four sections, although it is one committee amendment. Is it in order to offer an amendment at the conclusion of the reading of the first section of the committee amendment?

The CHAIRMAN. The Chair thinks so. The Chair thinks it is clearly the intention to take up the bill as other bills are taken up—by sections.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MOORE] offers an amendment, which the Clerk will report.

Mr. MOORE of Pennsylvania. It is to be inserted after the word "land," on page 58, line 24.

The Clerk read as follows:

Amend, page 58, line 24, after the word "land," by inserting the following: "*And provided further*, That the provisions of this act shall not apply to peaceful and industrious and law-abiding immigrants whose moral character is established by the accredited authorities of the countries from which they come."

Mr. MOORE of Pennsylvania. Mr. Chairman, before speaking on this amendment, I want to say to gentlemen on the other side that I sincerely trust there may be no application of that third-degree rule which was referred to by the gentleman from Massachusetts [Mr. GARDNER], which will close fair debate under the five-minute rule. Give us a chance, who had no opportunity under general debate, to speak our minds with regard to this important and, in some respects, inhuman proposition that is now before us.

I have offered an amendment which is vital to this bill; an amendment that proposes that the real test to be imposed on those coming into the United States shall be a moral test and not a sumptuary one. [Applause.] Nothing in the bill has any regard whatever to the morality or the good intent of the man or woman seeking in the United States a haven from foreign shores, but the language and the spirit of the bill are the language and spirit of proscription and prohibition.

My amendment brings up squarely to the Members of the House the proposition whether, by the passage of this bill, we shall impose upon the unfortunate and the burdened a return to conditions of darkness and oppression which we did not impose upon our own forefathers and which was not imposed upon many of us.

I contend, and believe the American spirit supports the contention, that the real test of a man's worth is not whether he can read and write, but whether he is law-abiding, God-fearing, and well intentioned amongst his fellow men. A gentleman near me says, "It will sound well."

It is well if we would live and seek to continue to live in the spirit of brotherly love, or, if you please, in that spirit of brotherhood which ought to hold amongst men.

This measure proposes to turn aside from these shores those who have committed no crime and whose only offense is inability to read, an accomplishment which they can acquire readily enough if they are permitted to land here as your forefathers landed. The suppressed hopes of those who have been crowded down upon foreign shores find vent here under our American educational institutions. There is no lack of study in the districts congested by those who come from foreign shores. They soon learn to stand the test imposed by American conditions.

The CHAIRMAN. The time of the gentleman has expired.

Mr. POWERS. Mr. Chairman, on last Saturday, when the House was considering this immigration question and being enlightened and entertained by the distinguished gentleman from Massachusetts [Mr. CURLEY] I interrupted him for the purpose of asking a question. He refused to yield, as he had a right to do, but he had no right to assault me in the same breath. In refusing to yield he made this statement:

If I felt that it would add to the sum of human knowledge I would gladly do so, but I regret that I do not think it will. Therefore I refuse to yield.

A mere question, Mr. Chairman, is not supposed to add to the sum total of human information. A question implies information sought, and if the able gentleman had not forgotten the common courtesies of debate and had permitted the question to be asked and then, out of the profundity of his information, his extended scholarship, and great learning, had proceeded to answer and enlighten the House, no doubt the world to-day would be under a debt of lasting gratitude to him. [Applause.]

But, Mr. Chairman, since there is such a panting desire in the swelling breast of the able gentleman from Massachusetts to add to the sum total of human information, this House would like to know, and the country would like to know, why on last Saturday he made the statement in his speech that the Junior Order of United American Mechanics was a new A. P. A. or anti Catholic order and then in his printed remarks that went to the people of his district and the entire country he eliminated any such statement? The gentleman knows, or at least he ought to know enough to know, that the Junior Order of United American Mechanics was organized in the year 1852, and that the A. P. A. was organized in the year 1887, 35 years after the organization of the Junior Order. It is therefore clear that the Junior Order of United American Mechanics is not a new A. P. A. order; and in behalf of the Juniors all over this land and country I deny that the order is anti-Catholic or anti any religion.

Was it the purpose of the gentleman from Massachusetts to array against the Burnett bill, now under consideration here, the Catholic Members of this body by charging that the Junior Order of American Mechanics, an order much interested in the success of this measure, is but a new A. P. A. movement? Why make the statement in the presence of the Members here that the Junior Order of American Mechanics is a new A. P. A. movement and then leave the statement out of the RECORD that goes to his district and before the world?

The gentleman knows that the Junior Order of American Mechanics is not anti-Catholic.

On February 19, 1912, there appeared before the House Immigration Committee, of which Mr. CURLEY is a member, Mr. William B. Griffith, State vice counselor for the Junior Order of American Mechanics for the State of New York, and in his statement in the presence of the gentleman from Massachusetts Mr. Griffith said:

In the first place, let me say that we are strictly nonpartisan and nonsectarian. Any American of any religious faith, be he Jew, Gentile, or Catholic, can become a member if he comes under the tongue of good repute and is a good citizen.

The Representative from Massachusetts was present when Mr. Griffith made that statement, for he asked Mr. Griffith a number of questions on other matters. At no time did he challenge or ask about the statement on the part of Mr. Griffith that the Junior Order of American Mechanics was strictly "nonpartisan and nonsectarian."

Mr. John J. Weitzell, national counselor of the Junior Order of American Mechanics, together with a great number of representative Juniors, appeared before the House Immigration Committee on February 2, 1912, and Mr. Weitzell in his statement before the committee said:

We are nonsectarian and nonpartisan.

The Rev. M. D. Lichliter, of Harrisburg, Pa., chaplain of the national council of the Junior Order of United American Mechanics, in his remarks before the committee on that day said:

We have nothing to do with anybody's religion. We believe in the Constitution—that every man has a right to worship God according to his conscience.

These statements went unchallenged, unquestioned.

If the gentleman from Massachusetts wants to add to the sum total of human knowledge he might tell this House why he wrongfully branded the Junior Order of American Mechanics as the new A. P. A. movement in his speech on the floor here and then failed to have it appear in his written speech in the RECORD. There could be but one purpose in his statement to the Members here. The Junior Order of American Mechanics favor the passage of this legislation, and he hoped to prejudice the Catholic Members of this House by the statement to which I have made reference.

Does the gentleman mean to say that the demand for this legislation is based on opposition to Catholicism on the part of the American Federation of Labor, among whose national officials are to be found strong Catholics like John Mitchell and John J. O'Connell?

The State Legislatures of Ohio, Pennsylvania, Tennessee, Vermont, and others have passed resolutions favoring the literacy test, and have memorialized Congress for the passage of this legislation. Was the movement on the part of these legislatures anti-Catholic? Does the gentleman mean to have this House understand that the eight members of the Immigration Commission who recommended this very legislation were trying to discriminate against the Catholic religion when every Catholic on the commission recommended it and when the only dissenting voice was that of an ardent Presbyterian? The gentleman might add to the sum total of human knowledge by telling this House why he wrongfully charged the Junior Order of American Mechanics with being a new A. P. A. movement and why he has tried to drag a religious question into a discusion of a subject that ought to demand legislation of the highest patriotism and wholly removed from all religious prejudices and predilections.

Mr. GOLDFOGLE. Mr. Chairman, while I was out of the room——

The CHAIRMAN. The Chair will state that the time on this amendment has expired.

Mr. GOLDFOGLE. I move to strike out the last word.

The CHAIRMAN. That is not in order.

Mr. GOLDFOGLE. I ask unanimous consent that I may proceed for five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that he may proceed for five minutes. Is there objection?

Mr. MONDELL. Mr. Chairman, there are many Members of the House who have not had an opportunity to speak at all on this important question. There are some Members of the House who have spoken at very considerable length on the subject. I have no desire to prevent any Member speaking. I am anxious that all may have the opportunity; but I think if we are to extend time to those who have already occupied a considerable amount of time it should be understood that others who have not had the opportunity to speak at all may at least be recognized briefly.

The CHAIRMAN. Does the gentleman from Wyoming object?

Mr. MONDELL. With these suggestions I do not object.

Mr. RODDENBERY. Reserving the right to object, Mr. Chairman, is it generally understood that we will reach a final vote on this bill to-day?

Mr. GOLDFOGLE. I want to say to the gentleman that I will use no obstructive measures whatever. [Applause.]

Mr. RODDENBERY. I have no objection.

The CHAIRMAN. The Chair hears no objection. The gentleman from New York is recognized for five minutes.

Mr. GOLDFOGLE. Mr. Chairman, while I happened to be absent for a few minutes last Saturday the gentleman from Texas [Mr. DIES] undertook to say in the course of his speech, which has not yet been printed in the RECORD, that—

A great many of the wards in the asylums, as far as their constituencies are concerned—

Having reference to the constituencies of my colleague on the committee [Mr. SABATH] and of mine—

are already filled, and some of them sleeping on cots and some of them wandering aimlessly through the corridors of the asylums seeking some place to rest.

Never was there a greater libel or baser slander uttered against a people or against any class of people. [Applause.] The statement made by the gentleman from Texas [Mr. DIES] was born of a fevered imagination. It has neither foundation nor justification in fact. It was a flight of vivid imagination that never ought to have found utterance in this Chamber. The gentleman from Texas knows nothing about these constituencies, for if he did he could not have indulged in this extravagance of speech.

Speaking for my constituency, I want to say the people of my district are a good, honest, thrifty, and industrious class of men and women. They toil honorably, and that is to their credit. They are home-loving people who merit the community's respect. They need no defense at my hands. Yet in the face of the unfounded statements concerning them and of the unwarranted aspersions cast on them, it may not be out of place, while the immigration bill is under discussion, to say that these people are as finely healthy in body and mind as any constituency represented in this House. That constituency, sir, consists of a decent, honorable citizenship, a credit to my city and to the country whose institutions they admire, respect, and revere. [Applause.]

Mr. DIES. Mr. Chairman——

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Texas?

Mr. GOLDFOGLE. I have only five minutes.

The CHAIRMAN. The gentleman declines to yield.

Mr. GOLDFOGLE. Is it for a question only?

Mr. DIES. I wish to ask the gentleman whether he can distinguish the difference between an asylum for the oppressed and an asylum for the insane?

Mr. GOLDFOGLE. The gentleman in his utterances made on the floor had reference to an asylum for the insane, and he knows it. [Applause.] He undertook also to declare that 95 per cent of the foreign born do not know anything about Americanism in this country. Again the gentleman is grievously mistaken. I thought I had covered that subject fully last Saturday, when under general debate I held the floor. The gentleman perhaps ought to be pardoned for his serious error. I have computed the number of foreign born in his district from the census figures and find them just 212. I take it the gentleman can know little or nothing about the foreign born. Had the gentleman traveled broadly, had he gone on journeys such as Members of Congress ought to take, to become acquainted with their country and learn its people in the different sections of it, he would have learned that most of the foreign born have a realization of what American citizenship stands for, but that they come with law-abiding hearts and minds to dwell in peace and happiness, to build for themselves and their families, and that when they become enrolled into American citizenship they evince a patriotic love of country and are loyally devoted to our flag. [Applause.]

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Pennsylvania.

Mr. MURRAY rose.

The CHAIRMAN. For what purpose does the gentleman from Massachusetts rise?

Mr. MURRAY. To discuss the amendment.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. LANGLEY. Mr. Chairman, can we have the amendment again reported?

The Clerk again reported the amendment.

Mr. MURRAY. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. That motion is not in order. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. MOORE of Pennsylvania) there were 45 ayes and 65 noes.

Mr. MOORE of Pennsylvania demanded tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. MOORE of Pennsylvania and Mr. BURNETT.

The committee again divided; and the tellers reported that there were 52 ayes and 84 noes.

So the amendment was not agreed to.

Mr. HAYES. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by inserting in line 14, page 58, between the words "to wit" and the word "all," the following:

"Persons who are not eligible to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into; but this provision shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes, shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided by law."

Mr. BURNETT. Mr. Chairman, I make the point of order that the amendment is not germane to the amendment reported by the committee.

Mr. HAYES. Mr. Chairman, it seems to me that the amendment is germane. The committee amendment to the Senate bill is an amendment providing additions to the classes that shall be included under the immigration law. This simply adds another class to those that are to be excluded.

Mr. Chairman, on Saturday last the gentleman from Illinois [Mr. SABATH] asked that I name some one of the persons who have appeared before the Committee on Immigration and Naturalization who testified to facts which demonstrated the truth of the extract from the annual report of the Commissioner General of Immigration, which I caused to be read by the Clerk. I had not then the record of the hearings at hand. It seems to me unreasonable to expect a Member to remember, among many scores of witnesses, the names of those who testified to certain facts, especially when the testimony of the witnesses covers a long period of time. Now, in reply to the gentleman's inquiry I desire to state that Mrs. Mary Quackenbos, an attorney of New York, was one such witness, among several. I read the following extracts from her testimony before the committee in the Sixty-first Congress:

To continue: Nevertheless, from my experience in this work, I knew very well that immigration was stimulated abroad by steamship and private employment agencies. For nearly three years I had assisted the Department of Justice in the prosecution of peonage cases, and had sole charge of the cases in New York City against labor agents who had lured ignorant foreigners into peonage camps. As an attorney for the Department of Justice, I filed charges against these agents before the commissioner of licenses in New York City and various licenses were revoked. Immigrants had been horribly defrauded, in some instances, by their own countrymen. I do not find that they are defrauded by Americans. Through the courtesy of the Department of Justice, I have brought over some records of these cases, taken from the files. Before reading the records, I will say that when I was engaged upon this work we found no Federal statute under which we could prosecute these agents and have their licenses revoked.

* * * * * * *

As to immigration, it is not induced at all by the Federal distribution bureau, but I will prove to you how it is induced. There is a way of stopping abnormal immigration, and upon this point I have much information which I shall be glad to give to this committee at another time.

Mr. BURNETT. Induced by whom?

* * * * * * *

Mrs. QUACKENBOS. By the steamship agents abroad. There are 13,000 of them in Italy alone. There is generally one in every Province, and he has many subagents and runners.

* * * * * * *

The unconscionable steamship agent abroad, who lives in the Province with the peasant, who tempts him to leave his native land and his family and often to mortgage his old home in order to secure money for the ticket, from which the agent will get a commission—he is the man who helps induce our abnormal immigration. His friend, or business associate, the labor agent, on this side of the water, preying upon the immigrant after he is admitted in a like unconscionable way, too frequently dominates him and defrauds him and lives at the expense of this his less enterprising countryman. In this miserable business both agents become well to do. The worst evil is not wrought by the immigrant, but is suffered by him.

The CHAIRMAN. The Chair will hear the gentleman from Alabama.

Mr. GARDNER of Massachusetts. Mr. Chairman, that which is sought to be amended is the committee substitute, which provides solely for an illiteracy test. Now the gentleman from California proposes to amend that illiteracy test by providing a test based on a question of eligibility for naturalization in the United States.

If the Chair will turn to page 454 of volume 5 of Hinds' Precedents, at the bottom of the page he will find section 5870, which reads as follows:

5870. To a provision excluding immigrants unable to read and write and requiring a certificate with each immigrant admitted, an amendment to exclude all foreign-born laborers was held not to be germane.

Even without that decision, which relates to a matter on all fours with the question now before us, it seems to me that under general parliamentary law the situation is clear enough. To amend an illiteracy test by superimposing a test relating to naturalization is surely a linking together of unrelated subjects.

Mr. MANN. Mr. Chairman, it seems to me that the Chair is called upon to determine again what is the committee amendment. When I raised the point this morning to the Chair on a parliamentary inquiry, the Chair, I think, in a way sidestepped the proposition. Is the committee amendment an amendment to strike out the Senate bill and insert other matter, so that the whole subject matter of the bill is before the committee, or is the committee amendment an addition to the Senate bill, so that amendments must be germane solely to the new matter inserted by the committee? The gentleman from Massachusetts has cited paragraph 5870 of Hinds' Precedents. I call the attention of the Chair to paragraph 5873 of the same volume:

And amendments providing for an educational test for immigrants was held to be germane to the bill to regulate the immigration of aliens into the United States. On May 22, 1902, the Committee of the Whole House on the state of the Union was considering the bill (H. R. 12199) to regulate the immigration of aliens into the United States, when Mr. OSCAR W. UNDERWOOD, of Alabama, proposed an amendment providing an educational qualification, there being no such qualification in the bill.

A point of order was made that the amendment was not germane. The Chair has the ruling before him, in which the Chairman of the Committee of the Whole held that the bill being a bill upon the general subject of immigration, it was a germane amendment to provide that persons should not be permitted to enter into the United States who could not read and write. Is the general subject of immigration before us on this proposition now? Certainly, if the committee amendment is one to strike out the Senate bill and to insert something else, the whole subject matter of the Senate bill is before the committee, and any amendment which is germane to the general subject of immigration is a germane amendment to the committee amendment, the whole subject of immigration being now under consideration.

I will wonder continually whether the new rules of the House of Representatives, which were advertised to enlarge the freedom of consideration by the House and committees of bills, are to be so construed that when an immigration bill is brought before the committee and the House the Chair will be constrained to hold nothing can be offered to the subject matter of this general bill relating to immigration unless it relates to a specific proposition which has been recommended by the committee.

The CHAIRMAN. The Chair is of the opinion that the whole subject of immigration is not before the House under the rule before the committee, which was adopted by the House, and is of opinion that an amendment to be in order must be germane to the amendment of the committee. The Chair, therefore, sustains the point of order.

Mr. RAKER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend by inserting, on line 14, page 58, after the semicolon and before the word "All," the following: "All aliens, native of any part of Asia or the islands adjacent to Asia or in Asiatic seas, and the descendants of such natives, who can not read and write in some European language, including Hebrew or Yiddish"; to be followed with a semicolon, and change the capital "A" to a small "a" in the word "all," in line 14, same page.

Mr. GARDNER of Massachusetts. Mr. Chairman, I raise the point of order that in its present form that amendment is not germane on account of the words "and write." That can be easily remedied, to be sure. However, I am going to ask the gentleman to withdraw that amendment before the Chair rules on the question of order.

Mr. RAKER. Mr. Chairman, if the Chair holds it is not in order, then I shall reintroduce it with the words "and write" stricken out, but I am thoroughly convinced personally that it is in order.

Mr. GARDNER of Massachusetts. I would be inclined to agree with the gentleman that it is in order, but it is of such vast importance, and being especially anxious that the gentleman who is acting with us and has been acting with us right along, should not do anything that will give aid and comfort to the enemy, I ask him to withdraw it.

Mr. RAKER. If the gentleman will pardon me, I do not agree with him respecting his expression, "aid and comfort to the enemy." In the first place, I do not believe there can be a man in the House to-day who will not vote for this amendment.

Mr. GARDNER of Massachusetts. I shall not vote for it.

Mr. RAKER. That being the case, we ought to adopt this amendment, and then let the House be in a position to pass upon the proposed substitute of the gentleman from Alabama with this attached to it. Then we get before the Congress an illiteracy test that really amounts to something.

Mr. GARDNER of Massachusetts. Mr. Chairman, I withdraw my point of order.

Mr. BURNETT. Mr. Chairman, I make the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. RAKER. Then, Mr. Chairman, I reoffer the amendment with the words "and write" stricken out.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend by inserting, on line 14, page 58, after the semicolon and before the word "All," the following: "All aliens, natives of any part of Asia or the islands adjacent to Asia or in Asiatic seas and the descendants of such natives, who can not read in some European language, including Hebrew or Yiddish;" to be followed with a semicolon, and change the capital "A" to a small "a" in the word "all," in line 14, same page.

Mr. BURNETT. Mr. Chairman, I make the point of order against that.

The CHAIRMAN. The Chair sustains the point of order.

Mr. RAKER. Mr. Chairman, I would like to be heard upon the point of order.

Mr. KENDALL. Regular order!

The CHAIRMAN. The Chair is very clear that the gentleman's amendment is not in order, but if the gentleman desires to be heard the Chair will hear him.

Mr. RAKER. Mr. Chairman, of course ordinarily after a judge has decided a matter it is difficult to get him to change his mind, but I have always, when he permits a hearing, gone at it with the same confidence as though he had not expressed his opinion, for I know the judge will pass upon the matter in the same way as though he had not passed upon it in the first instance.

The very object and purpose of this bill is an illiteracy test. It does not specify in the bill any particular locality where they should come from, and this amendment simply intends to cover the whole subject of illiteracy and not make it specific. It seems to me that when the bill covers that question of reading, this, then, is an amendment that would make it definite, more certain, and it would be germane when it does not curtail the reading of the bill nor the language of it.

It relates to the Hebrew and Yiddish language, relates to the subject of those who are permitted to enter when they are in a condition to read, and I can not for the life of me see——

The CHAIRMAN. What has the gentleman to say to the fact that this amendment practically points out people who live in Asia and the islands adjacent to Asia?

Mr. RAKER. Well, that is intended to reach out and make it more extensive instead of including those of the south of Europe. It just extends across in an imaginary line and takes in Asia instead of making it those of Europe, as the present bill does. This amendment proposes and says that it shall sweep that entire country and make a great distinction to those in Asia and a little different rule than those in the southern part of Europe. That is the object and purpose of it, and I can not see how if they could limit it to one State in the old country it would not be germane to say you can step over an imaginary border and exclude those in an adjoining State.

The CHAIRMAN. The Chair will yet hear the gentleman from Alabama if he has anything to say. The Chair overrules the point of order; he was wrong before.

Mr. FITZGERALD. I ask to have the amendment reported which has been held to be in order.

The CHAIRMAN. The Clerk will again report the amendment.

The amendment was again reported.

Mr. RAKER. I want to call the committee's attention to the fact that this amendment is in substance the law that to-day is the law of Australia, that is the law to-day of Cape Colony and Natal, that it is the law that is adopted and acted upon by British Columbia so far as the Province is concerned, and, notwithstanding the objections of England to the addition of such a provision in the laws of Australia, the people finally carried it out, and that is the law to-day, and the record shows that it practically excludes from the United States of Australia coolie labor.

Mr. KAHN. Will my colleague yield?

Mr. RAKER. I yield to the gentleman from California.

Mr. KAHN. I simply desire information from the gentleman. As I recall, the Chinese exclusion laws exclude all coolies whether they can read or write. There is an agreement with Japan that she keep all of her coolies at home. How does the gentleman believe that his amendment is going to be of any particular advantage in the exclusion of oriental aliens?

Mr. RAKER. Why, surely. Where do you find that agreement between Japan and the United States?

Mr. KAHN. Well, there is an agreement between Japan and the United States, which is known as a gentleman's agreement, that she entered into after the Congress had passed a law prohibiting orientals from coming from our insular possessions to the mainland of the United States.

Mr. RAKER. Do I understand the gentleman to say that there is any agreement that can be obtained or that exists anywhere between the United States and Japan to that effect?

Mr. KAHN. There is such an agreement, and Japan is refusing to give passports to any of her laborers to come to the mainland of the United States under that agreement.

Mr. RAKER. Of course it is easy to say there is such an agreement, and it would be just as easy for me to say there is not, because I have been investigating and trying to find out and obtain that information.

Mr. GARDNER of Massachusetts. Does the gentleman say there is no such agreement?

Mr. RUCKER of Colorado. There is no such record agreement.

Mr. RAKER. There is no record of any such agreement, I mean.

Mr. MANN. The gentleman had printed in the RECORD the other day an amendment to be offered to this bill. Does the gentleman propose to offer it?

Mr. RAKER. I am going to offer it if I get the chance.

Mr. MANN. I did not know whether this amendment took the place of it or not.

Mr. RAKER. Not at all.

Mr. MOORE of Pennsylvania. I would like to have the gentleman answer a question.

Mr. RAKER. I yield.

Mr. MOORE of Pennsylvania. Would not the effect of the adoption of his amendment be at once to involve the United States in a controversy with the Empire of Japan?

Mr. RAKER. Why, no. What are you passing here to-day on your immigration bill? Does it not include every nation on earth? Do you make any distinction? Are you going to ask any particular foreign power whether or not you shall say that no citizens of their country who can not read shall be admitted into the United States? With as much propriety why should you not go and ask whether or not the coolie labor of India, that is coming and has been coming into the western country, and which is such a detriment to us, should not be excluded?

The CHAIRMAN. The time of the gentleman has expired.

Mr. DIES. Mr. Chairman——

Mr. GARDNER of Massachusetts. Mr. Chairman——

The CHAIRMAN. The Chair will recognize the gentleman from Massachusetts, a member of the committee.

Mr. GARDNER of Massachusetts. Mr. Chairman, in the first place, the gentleman is entirely mistaken. The coolie agreement is a matter of record between the United States and Japan. I have here a copy of the treaty with Japan, proclaimed April 5, 1911.

Mr. FITZGERALD. Has it been ratified?

Mr. GARDNER of Massachusetts. The treaty has been ratified. It is not confidential. I invite the committee's attention to the following declaration made when the treaty was signed:

In proceeding this day to the signature of the treaty of commerce and navigation between Japan and the United States the undersigned, Japanese Ambassador in Washington, duly authorized by his Government, has the honor to declare that the Imperial Japanese Government are fully prepared to maintain with equal effectiveness the limitation and control which they have for the past three years exercised in regulation of the emigration of laborers to the United States.

Y. UCHIDA.

FEBRUARY 21, 1911.

Now, Mr. Chairman, if this amendment is adopted——

Mr. RAKER. Will the gentleman yield right there?

Mr. GARDNER of Massachusetts. I can not yield.

Mr. RAKER. Only for a question.

Mr. GARDNER of Massachusetts. We have only five minutes, and I can not yield. This amendment, if it were to become law, would embroil us with Russia, with Turkey, with Persia, with Holland, with France, with Great Britain, and with Siam. All of those countries have innumerable subjects in Asia who can not read any European language. The proposal of the gentleman from California is to make the subjects of all those nations, born in Asia, read the European language. Am I incorrect?

Mr. FITZGERALD. I think the gentleman's amendment reads "native," as it was reported from the desk.

Mr. GARDNER of Massachusetts. "Native and descendants." Now, no man born in Persia, for instance, according to the gentleman's amendment could come into the United States unless, perchance, he was able to read some European language. His amendment goes further than the Chinese-exclusion laws. It excludes not only coolies, but it excludes every man in China, in India, or in the East, unless he can read some European language, which is an unusual accomplishment for Asiatics. In other words, merchants could not come here; lawyers could not come here—nobody could come here—unless he could read in some European language. Furthermore, as if that were not enough, this amendment clearly violates Article I of our treaty with Japan, which says:

The citizens or subjects of each of the high contracting parties shall have liberty to enter, travel, and reside in the territories of the other to carry on trade, wholesale and retail; to own or lease and occupy houses, manufactories, warehouses, and shops; to employ agents of their choice; to lease land for residential and commercial purposes, and generally to do anything incident to or necessary for trade upon the same terms as native citizens or subjects, submitting themselves to the laws and regulations there established.

Now, Japan, if the amendment were adopted, would be at perfect liberty to-morrow to discontinue this agreement which I have read to you and to denounce us as having violated the treaty. Furthermore, Mr. Chairman, I am in favor of Mongolian exclusion, as is the gentleman from California [Mr.

RAKER], but the result of adopting this amendment would entail a succession of events. First, the bill would go to conference. Even supposing that the Senate conferees were to accept this amendment, it is extremely unlikely that before the 4th of March the Senate would agree to any bill with such a provision in it. Even if the Senate did so, the President would be almost certain to veto it.

I ask every man in this House who sincerely desires to see this bill enacted into law to vote down the amendment of the gentleman from California. [Applause.]

The CHAIRMAN. The time of the gentleman has expired. All time has expired. The question is on the amendment offered by the gentleman from California [Mr. RAKER].

The question was taken, and the amendment was rejected.

Mr. MOORE of Pennsylvania, Mr. MADDEN, and Mr. MONDELL rose.

The CHAIRMAN. The Chair recognizes the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

Mr. GARDNER of Massachusetts. Mr. Chairman, I desire to make the point of order that the motion is out of order.

The CHAIRMAN. The Chair overrules the point of order.

Mr. MOORE of Pennsylvania. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOORE of Pennsylvania. Is it in order to recognize a gentleman to strike out when there is no amendment pending?

Mr. MONDELL rose.

The CHAIRMAN. That is the only time a gentleman can be recognized for that purpose—when there is no amendment pending. The gentleman from Wyoming [Mr. MONDELL] is recognized.

Mr. MONDELL. Mr. Chairman, I voted against the rule brought in by the Committee on Rules for the consideration of this bill, because it was, in my opinion, under the circumstances, entirely indefensible. I shall, however, vote for the bill as reported by the Committee on Immigration, not because I consider it ideal legislation, but because, under existing conditions, it is at least worthy of a trial.

No one has greater confidence than I in the efficacy of free institutions in the preparation of the mind and the molding of the character of immigrants for the honest and intelligent discharge of the duties of citizenship under a republican form of government.

My firm belief in the good intentions of the great majority of mankind, our experience as a people, my own personal observation, all fortify and strengthen my faith in the marvelous efficiency of the air and the institutions of liberty in the evolution of a patriotic and useful citizenship from seemingly crude and oftimes doubtful material.

We must all admit, however, that there is a limit to the capacity of even the best of free institutions and the widest of opportunities to assimilate and harmonize with our ideas and ideals those who, through no fault of their own, perhaps, yet none the less clearly, are lacking in the information and training which all admit are so essential to the intelligent exercise of the duties and responsibilities of our citizenship.

The question before us is, therefore, Have we in the recent past, and are we likely in the future, with no further restriction of immigration than we now have, to receive a tide of unprepared immigration in excess of our capacity to train, prepare, and assimilate into useful citizenship? Our opinion on this question must be formed in the light of the unfortunate fact that the burden of the assimilation of uneducated immigration is not distributed anything like equally over our entire area or population. If it were, I for one should doubt the necessity or advisability of further restriction. It falls largely on a limited number of communities, mostly in large cities and populous industrial centers. These oftimes fail to afford the immigrant that contact with the body of our native or thoroughly amalgamated foreign-born population, or opportunity for instruction in or familiarity with our institutions, which all admit are essential to his preparation for his future responsibilities.

I freely admit that the educational test is not an ideal one, that it will not exclude the educated knave, or incompetent, and that it will exclude some ignorant but honest and competent people whom we would gladly welcome to our shores. But no test can be devised which will search men's hearts and reveal their intentions. This test will at least reduce the number of those who are, by reason of their inability to read, handicapped in securing the knowledge that they should have of our institutions. It will diminish the number of those who, while themselves generally well meaning, are oftentimes the instruments and frequently the victims of the vicious and designing, the criminal and the trouble maker, both native and foreign born.

If our experiences under a law such as this shall prove unsatisfactory and fail to provide the results expected, it can be repealed. It is altogether possible that such a restriction as this may have a stimulating effect on the intending immigrant in the pursuit of the limited educational requirement of the law. If such is the effect, that fact alone will largely justify its enactment. At any rate it will tend to challenge attention to the value of the opportunities which our land and institutions afford. After the lapse of the brief period necessary to enable the intending immigrant to inform and prepare himself, the reading test will exclude few, if any, who possess the ambition and determination which form a part of the equipment of those we invite to share with us the opportunities and blessings of liberty under law. [Applause.]

Mr. CANNON. Mr. Chairman, I have been surprised at many statements made during this debate abounding not in fact, but statements made either in ignorance or otherwise.

I want to call attention to the great outcry that has been made as to the harm that will come and the bad conditions that will come with respect to wages in labor centers unless immigration is checked. It is an economic question. Will anybody tell me why the native American, born on the farm and in the country, goes to the labor center? It is because he receives there more uniform and better pay than he gets on the farm and in the smaller city and village. That is the reason, and that is also the reason why the immigrants go to the labor centers—for more uniform employment at a better wage.

Will anybody tell me why it is that this immense immigration to this country does not go South? I can tell you. It is because the wage in the North is better than it is in the South. The wage in the factory North is better than it is South. So, after all, I do not see why our southern brethren are so insistent upon shutting out labor that comes to this country willing to be employed.

Have wages been reduced with this great immigration coming to this country—greater in the aggregate from 1900 up to the present time than in any other 12 years in the history of the Republic? No. Wages have greatly increased notwithstanding that immigration. Gentlemen misapprehend what the facts are. It is an economic question so far as the immigration is concerned, not a racial question.

I want to say again to our southern brethren that I rejoice in their advance from the material standpoint. But there are shorter hours to-day in the Northland than there were before this great block of immigration came, and there is better employment at a better wage.

Mr. MADDEN. And shorter hours also than in the Southland.

Mr. CANNON. Yes; shorter than in the Southland.

Mr. MADDEN. And better working conditions.

Mr. CANNON. Yes; better working conditions. The working conditions are improving constantly, and will continue to improve. I am surprised at many gentlemen who are familiar with the influence that has come from this immigration in the Northland. I am surprised that they are protesting and agonizing. I say it in all kindness, not to criticize; I say it is my judgment that if a hundred thousand or more of this immigration that comes to this country could go into the Southland occasionally it would better your condition.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTHOLDT. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Missouri [Mr. BARTHOLDT] offers an amendment, which the Clerk will report. The pro forma amendment will be withdrawn.

The Clerk read as follows:

On page 58, line 14, after the word "all," insert the word "male."

Mr. BARTHOLDT. Mr. Chairman, the effect of my amendment would be to limit the operation of this bill to male immigrants, and I offer the amendment for the reason that certainly none of the classes in this country who are now looking upon immigration as a hostile invasion or as unwelcome competitors with American labor would have any objection to the coming hither of female servants.

I read in a New York paper the other day the following:

NEW YORK NEEDS 100,000 SERVANTS.

An exhaustive report on New York employment agencies which Commissioner of Licenses Herman Robinson has prepared was turned in to Mayor Gaynor yesterday by the commissioner. The servant problem, which it deals with in detail, shows that there is a great scarcity of servants. More than 100,000 of them could find employment in New York City alone.

And the same condition prevails all over the United States. Certainly it would look almost ludicrous for the American Congress to insist upon a servant girl being able to read or write when she comes to this country. I think all the objects which gentlemen want to accomplish would be attained if the bill should be limited to male immigrants.

While I am on my feet I want to say that our friends of the restrictive persuasion always lay great stress upon the total number of immigrants who are coming every year, but not one of them has yet told the House, and I have not heard it stated during the whole debate, how many are going back every year. I have the figures here, reported by the Department of Commerce and Labor, which show that in the year ending June 30, 1911, 155,000 laborers arrived in this country and 172,000 laborers departed during the same time. In the reports for the fiscal year 1912 you will find that 135,726 laborers arrived in the United States and 209,279 departed from the United States. In other words, many more laborers are departing than are coming at the present time, and I believe there is no country in Europe that does not receive more immigrants than this country receives at the present time. What is the reason? The reason is the inimical spirit which is being displayed toward the men who are coming here in good faith, with good intentions, with their muscle, their brawn, and their brain fitted to aid us in building up our country.

Mr. SLAYDEN. Will the gentleman yield?

Mr. BARTHOLDT. I can not yield.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SLAYDEN. If the gentleman's time has expired, then he must yield to the gavel of the Chairman.

Mr. DIES. Mr. Chairman, I join with my distinguished friend, the chairman of the Committee on Immigration, in the hope that all amendments to this measure will be voted down. The bill itself is a long step in the right direction. It is true some gentlemen seem to misunderstand its terms. My friend from New York [Mr. GOLDFOGLE] seems obsessed with a misunderstanding of some terms of the bill and of some remarks I made about it on yesterday. He seemed unable to distinguish between an asylum for the oppressed of all nations and an insane asylum for the inmates of his particular district. Of course, I am not responsible for that. He says I do not know how to look at this question because I have no immigration into my district. Mr. Chairman, in all seriousness, standing upon a corner of Broadway in the city from which the gentleman comes and beholding the shivering forms of the bread line at Fleischmann's corner had something to do with the opinion that I have formed about the desirability of restricting immigration into this great country.

Mr. GOLDFOGLE. Is that all the gentleman knows about it?

Mr. DIES. And traveling through the gentleman's district, on the east side of New York, and beholding the unclad and shivering forms of his constituents, who, I am told, live partially, at least upon rotten bananas and orange peels, I felt that in their behalf something ought to be done to stop the competition which had driven them to that desperate strait.

Mr. Chairman, I sympathize with the idea of maintaining this great Republic as an asylum for the oppressed of the nations of the earth, but in the interests of constituencies like those of my friend from the east side of New York [Mr. GOLDFOGLE], I believe that the time has come when the master should hoist the gangway and declare that the ship is loaded to its gunwale. If I were the gentleman from New York, instead of looking to the ports of eastern Europe for new objects of pity to come into my district, I should take steps to relieve the condition of those already here and protect their labor and their living against the further importations of the pauper and the cheap labor of Europe to this country. [Applause.]

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Missouri [Mr. BARTHOLDT].

The question was taken, and the amendment was lost.

Mr. MURRAY. Mr. Chairman, if I thought the pending bill would cure illiteracy and do away with the necessity for the free bread line, if I thought the pending amendment to the Senate bill would cure of itself those ills so graphically described, I would not rise to oppose this legislation, which proposes to exclude from admission to our country those over 16 years of age who can not read or write. I believe it is pertinent to inquire as to what classes of aliens may already be excluded, and for that purpose I want to remind this House that there are already 20 causes of exclusion of persons who may come to this country seeking admission to its shores.

I was surprised to find by a cursory reading of the October Immigrant Bulletin, published by the Commissioner General of Immigration, which every one of you can obtain even as I have obtained it, that aliens may be deported because they are idiots, imbeciles, and feeble-minded; because they are insane or epileptics; because they are afflicted with tuberculosis, even though it is noncontagious; that aliens may be deported because they are loathsome or have dangerous contagious diseases. If they are professional beggars or likely to become a public charge, they can be deported. They can also be deported if there is a surgeon's certificate of defect, mental or physical, which may affect the alien's ability to earn a living.

If they come here as contract laborers, they can be deported. If they come here accompanying aliens who may also be excluded, they can be deported. They can not be admitted if they are under 16 years of age and unaccompanied by a parent. Assisted aliens may be deported. Criminal aliens may be excluded. All polygamists may be excluded, as also anarchists. Prostitutes and females coming for any immoral purpose may be deported. Aliens who procure or attempt to bring in prostitutes or females for any immoral purpose can be excluded. People are not admissible without passports, and those under the provisions of the Chinese exclusion act, as also those supported by proceeds of prostitution, may be deported.

Now it is proposed to add to that already extensive list those who may not be able to read and write a given language if they happen to be over 16 years of age. The gentleman from Texas [Mr. DIES] has talked to us most interestingly and eloquently, but he has said nothing that was not said in my own Commonwealth of Massachusetts in 1855. I have here the inaugural message of the governor of that Commonwealth in 1855, when he took the oath of office to serve as governor of that State. I can state to him the statements that were made in that inaugural, and also the inaugural of 1856, and ask him whether any thought he uttered is new or strange to the period that these messages were written. I ask any man whether he would have this country go back to the conditions that did exist in 1855 and 1856 in its early development as contrasted with the glorious advances we have made in the present century and what we have gained since that time.

I have lived to the day when those who were objects of hostile legislation in Massachusetts in 1855 and 1856 have produced descendants who are the pride and glory of our citizenship. I shall not lend my aid nor give my vote to any measure that is designed to keep out Italians and Hebrews because they may not be able to read and write. And I predict that the time will come when the descendants of these Italians and Hebrews, now the object of hostile legislation, will have shown their worth and won their right to be classed as real contributors to the glory of American citizenship.

Mr. BURNETT. Mr. Chairman, I move that all debate on the pending paragraph and amendments thereto be concluded in five minutes.

The CHAIRMAN. The gentleman from Alabama moves that all debate on the paragraph and amendments thereto be concluded in five minutes.

The question was taken; and on a division (demanded by Mr. MANN) there were 66 ayes and 52 noes.

Mr. MANN. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. BURNETT and Mr. MANN.

The committee again divided; and the tellers reported that there were 67 ayes and 52 noes.

So the motion was agreed to.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend, page 58, line 24, after the word "alien," by inserting the following: "That the word 'alien' wherever used in this act shall include any person not native born or a naturalized citizen of the United States."

Mr. MOORE of Pennsylvania. Mr. Chairman, I should like to have the attention of the gentleman from Alabama [Mr. BURNETT]. It has been brought to my attention that the Supreme Court has decided that the word "alien" does not embrace seamen, and the purpose of the amendment is to cover that loophole. I think the gentleman will understand that there is a great deal of complaint with regard to the administration of the law as it affects alien seamen, and that much of the difficulty that arises from the whole immigration question is due to the admission in some subterranean way of men who come in as seamen; and the Supreme Court having decided that a seaman is not necessarily an alien, the amendment is offered to cover that point.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the amendment was rejected.

Mr. MADDEN. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Amend, by adding on page 58, line 24, after the word "land": "*Provided further*, That this (act) shall not be applicable to any person who shall emigrate from any country wherein persecution is directed against the religious denomination to which he belongs, by means of laws, customs, regulations, orders, or otherwise, nor to any person seeking to avoid persecution because of political beliefs or activities."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

Mr. BURNETT. Mr. Chairman, that is entirely taken care of.

Mr. MANN. Mr. Chairman, I call the gentleman to order.

The CHAIRMAN. Debate is not in order.

Mr. MANN. On the gentleman's own motion he cut off debate.

Mr. KENDALL. It is not taken care of on the political part of it.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. MADDEN) there were—ayes 27, noes 70.

Mr. MANN. Mr. Chairman, I ask for tellers.

The CHAIRMAN. The gentleman from Illinois asks for tellers. As many as favor ordering tellers will rise and stand until counted. [After counting.] Eighteen gentlemen have risen, not a sufficient number, and tellers are refused.

Mr. KENDALL. There is one more back there, Mr. Chairman.

Mr. SABATH. Were there not 20 Members rose? I have counted 19, with the gentleman from California [Mr. KAHN].

Mr. BARCHFELD. Mr. Chairman, I do not think the Chair counted me.

The CHAIRMAN. The committee will be in order. The Chair counted the gentleman from Pennsylvania. The Chair has already ruled.

Mr. SABATH. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read, and I know there is no gentleman who will vote against this amendment. I will ask the Clerk to read it carefully.

The Clerk read as follows:

Page 58, after the word "land" on line 24, add: "*Provided*, That in no case shall any alien be excluded if such exclusion would separate him or her from his or her parent or parents; if parent, from his or her children, or if such parent or parents or the majority of the members of such family are entitled to be admitted into the United States: *Provided, however*, That such alien is not insane or afflicted with a loathsome or dangerous contagious disease or convicted of a felony involving moral turpitude.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. SABATH) there were—ayes 32, noes 72.

Mr. SABATH. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed the gentleman from Illinois [Mr. SABATH] and the gentleman from Alabama [Mr. BURNETT] to act as tellers.

The committee again divided; and the tellers reported—ayes 28, noes 62.

So the amendment was rejected.

Mr. WILLIS. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

In line 15, page 58, after the word "reading," insert the words "and writing."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Ohio.

The question was taken, and the amendment was rejected.

Mr. BARTHOLDT. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 58, lines 16 and 17, after the word "language," strike out the words "or the language or dialect of some other country" and insert in lieu thereof the words "or any other language."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Missouri.

Mr. BARTHOLDT. Mr. Chairman, I ask unanimous consent for two minutes. This is an important amendment to cure a defect in the bill.

Mr. BURNETT. Mr. Chairman, I object.

The question was taken, and the Chairman announced the noes seemed to have it.

Mr. MANN. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 23, noes 67.

Mr. BARTHOLDT. Mr. Chairman, I demand tellers.

The CHAIRMAN. Eighteen gentlemen have risen; not a sufficient number, and tellers are refused.

Mr. MANN. Mr. Chairman, I make the point of order there is no quorum present in the committee.

The CHAIRMAN. The gentleman from Illinois makes the point of order there is no quorum present. The Chair will count. [After counting.] One hundred and forty-five Members are present, a quorum, and the Clerk will read.

The Clerk read as follows:

SEC. 2. That for the purpose of ascertaining whether aliens can read or not the immigrant inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plain type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

After the words "Section 2," page 59, line 1, insert: "Each alien shall be examined to ascertain whether he can read."

Mr. MOORE of Pennsylvania. Mr. Chairman, the purpose of this amendment is to perfect the bill. There is nothing in the bill directing that immigrants shall be examined.

The question was taken, and the amendment was rejected.

Mr. GOLDFOGLE. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. GOLDFOGLE. The gentleman from Texas [Mr. DIES], in attempting a portrayal of New York conditions, indulged in language so extravagant that I am led to doubt that he ever was in New York. Blinded to real conditions—I say willingly blinded to conditions—and guided, I fear, by that spirit which, sad to say, is inborn in some, which breathes racial prejudice and religious hatred, he stood on this floor misrepresenting the living conditions in my city, especially in the district I represent. There are no conditions over there such as he described. I can not understand what could have led him to venture to describe a situation which exists only in dream and fanciful imagination. If, Mr. Chairman, the gentleman ever was over to the East Side of New York he came, it is true, to a crowded section, but to a locality filled with the homes of a decent people and an honest working class. Yes, and there, too, dwell professional men who have earned for themselves name and fame for ability and skill and character. It is a cosmopolitan population, but there are no such pitiful sights there as the gentleman from Texas would have you understand are there.

In that district, Mr. Chairman, you will find the homes of a good people, in whose dwellings pure and becoming family life is observed and wherein domestic peace and virtue are enshrined. You will find a people alive to civic duty, of patriotic impulse, and who value and esteem American citizenship as a boon and a blessing. You will find the schools—the day and the evening schools—filled with children eager to learn, remarkably apt at study, bright and intelligent. You will find students in colleges and universities winning honors and prizes for their educational attainments. You will find homes for the aged, hospitals for the sick, and sheltering homes for the immigrant. You will find a people who largely aid in helping the poor and the distressed and maintain with credit institutions which are a credit to our great metropolis. You will find in that district highly prosperous banks, and in the neighborhood you will find busy mechanics, artisans, tradesmen, storekeepers, and manufacturers all actively at work. And there, too, you will find good lawyers, excellent physicians, and professional men generally whose abilities well qualify them for their professions.

Mr. Chairman, in that district we have the establishments of a number of foreign-language newspapers, and those who can not yet read the English find there the newspapers that are published in their native tongue. They are well edited and convey, as does the so-called metropolitan press, the news of the day, and contain reading matter which not only is enlightening and interesting but tends to the better Americanization of the newcomer amongst us.

In that district, Mr. Chairman, though the territory of it is comparatively small, we have a number of libraries and educational institutions. These libraries are packed nightly with men and women, with boys and girls. Had the gentleman from Texas been over there really to see what conditions prevail there he would have observed these splendid libraries. In the hurry in which I must necessarily make these remarks I shall mention but a few of the many illustrations I could cite.

In the Seward Park (N. Y.) Public Library branch the circulation for the year 1911 was one-half million. This is said to be the largest number of books circulated in any branch library in

the world. In the Rivington Street branch 265,405 volumes were taken out, 60 per cent being drawn by children and 40 per cent by adults, during the year. And think of it! Many of these were textbooks selected by young men and young women anxious to prepare for the civil service or regent examination.

In the Hamilton Fish branch during 1911 there was a total circulation of 350,539 volumes, of which 215,712 were taken out by children.

Think of it! Only 7 per cent of the books circulated in this library in the section where so many foreign born dwell are in foreign languages.

This, Mr. Chairman, in a very meager way, gives you and the Members of this House an insight into conditions in my district, and though it is far from thorough, yet the statement suffices to refute what has been asserted against the people over there.

The gentleman from Texas talks of illiteracy. In the district he represents I find the rate of illiteracy exceeds——

Mr. BURLESON. Mr. Chairman, I desire to direct the attention of the gentleman from New York to the fact that Mr. DIES is not upon the floor.

Mr. FITZGERALD. The gentleman from Texas spoke a few moments ago.

Mr. GOLDFOGLE. Mr. DIES spoke a few moments ago and should have remained here. He took advantage of my absence during general debate the other day to villify and slander the district I represent.

Mr. BURLESON. I am quite sure he did not take advantage of the gentleman's absence to say anything he would not have said had the gentleman been present.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GOLDFOGLE. I ask unanimous consent for five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BURNETT and Mr. YOUNG of Texas. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Texas objects.

Mr. GOLDFOGLE. Mr. Chairman, I ask unanimous consent that I may extend the remarks made to-day in the RECORD.

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend the remarks he made to-day in the RECORD. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, I merely wish to say if it is the evident intention to cut off debate I shall object hereafter to any requests to extend remarks in the RECORD.

Mr. DIES. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. GOLDFOGLE] be given five minutes more in which to conclude his remarks. [Applause.]

The CHAIRMAN. The gentleman from Texas [Mr. DIES] asks unanimous consent that the gentleman from New York may proceed for five minutes. Is there objection?

Mr. GARDNER of Massachusetts. I object.

Mr. RUCKER of Colorado. Mr. Chairman——

The CHAIRMAN. The gentleman from Colorado [Mr. RUCKER] is recognized.

Mr. RUCKER of Colorado. Mr. Chairman, for two days in this debate I have been bowing my head in humble prayer that out of this great aggregation of farmers in this Congress [applause] somebody would get upon his feet and make the speech that I now propose to deliver.

Mr. Chairman, I have been employing farm labor for 35 years. I have never found the laborer getting more than he was worth. I have never been compelled to pay him more than he ought to be paid. I have never discovered that the increase of population of this country has tended to decrease his daily wage.

Nobody has greater respect for the gentleman from Pennsylvania [Mr. MOORE] than I have, and I was surprised the other day when he quoted from the Declaration of Independence, written by the immortal Jefferson. I was gratified to find a Republican who would quote from him, but he sticks in the bark, it seems to me. The gentleman from California [Mr. KAHN] this morning also quoted from Franklin. Why, both Franklin and Jefferson were dealing with a situation then very different from what it is now. If I read aright, Franklin must have gotten mixed up in his mathematics in determining how much he owed for wine in Paris and how much he owed this Government when he got away from there. Nevertheless, Thomas Jefferson was of the opinion that coincides very much with the remarks of the gentleman from Massachusetts [Mr. GARDNER], that there ought to be a limit of time upon the immigration into this country. I am not at all enamored with this idea of putting on an educational qualification. But Thomas Jefferson was in favor of limiting the time to a 27-year period in order to keep out Europeans who were possibly destructive not of social relations in this country so much, but more particularly of political relations. And I want to say in apology to the gentleman from Pennsylvania [Mr. MOORE] that I had to vote against his amendment fixing a moral qualification, because that touches me very closely.

I came from progenitors who would have come in here under the literacy clause easily enough, because in this country are men of letters and learning, as you will easily observe by the remarks of one of them; but as I read the history of my family, they were the most notorious pirates that ever plowed the great seas. [Laughter.] Therefore, out of respect for my progenitors, I did have to vote against the gentleman's amendment fixing the moral standard.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RUCKER of Colorado. I am glad of it, Mr. Chairman. [Laughter.]

Mr. WILLIS. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Ohio offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 59, line 2, by inserting after the word "read" the words "and write."

Mr. WILLIS. Mr. Chairman, this amendment is offered in perfect good faith and not at all for the purpose of embarrassing friends of the bill. I am in favor of the bill; I am in favor of financial, physical, and moral tests for admission of immigrants; and I think there ought also to be a literacy test, but that ought to include a writing just as well as a reading test. In my judgment, that is what the people of the country expect; and what they want when they ask for a literacy test is for it to include both reading and writing. I hope that the amendment will be accepted by the gentlemen in charge of the bill and agreed to by the committee and the House.

Mr. GARDNER of Massachusetts. Mr. Chairman, as a matter of fact, on the figures of last year the amendment of the gentleman from Ohio would exclude only 3,024 more persons than are excluded under a reading test. In other words, almost everybody who knows how to read can also write. After consulting with immigration officials in New York some years ago the Committee on Immigration came to the conclusion that the extra cost and difficulty of the writing test overbalanced the very slight additional advantage. Furthermore, Mr. Chairman, if this amendment is adopted it will be necessary to revert to the previous paragraph and amend it in conformity with this paragraph.

MESSAGE FROM THE SENATE.

The committee informally rose; and, Mr. ADAIR having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 3947) to provide for a bridge across Snake River, in Jackson Hole, Wyo., asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. JONES, Mr. WARREN, and Mr. NEWLANDS as the conferees on the part of the Senate.

IMMIGRATION.

The committee resumed its session.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. WILLIS].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. MANN. Mr. Chairman, I ask for a division on this important question.

The committee divided; and there were—ayes 17, noes 70.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Page 59, line 13:

"SEC. 3. That the following classes of persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit through the United States; (c) all aliens who have been lawfully admitted to the United States and who later shall go in transit from one point of the United States to another through foreign contiguous territory."

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MOORE] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 59, line 18, after the word "religious," insert the words "or political."

Mr. MOORE of Pennsylvania. Mr. Chairman, very many of the immigrants who come to this country come because of religious persecution abroad, but an equal number, perhaps, come because of political persecution, which at times is even more harsh than religious persecution. It is a difference of opinion between those who do not agree with the crowned heads or the potentates of foreign countries and those who are subservient thereto, and it would seem a fair inclusion to admit the man who comes to this country because of political convictions differing from those of the ruling dynasties, as well as those who come because of religious beliefs that do not conform to the established standard.

It seems to me this amendment ought to be adopted, and that we should not deny admittance into the United States of those who come because of political persecution in foreign lands. [Applause.]

Mr. GARDNER of Massachusetts. Mr. Chairman, the line of reasoning of the gentleman from Pennsylvania [Mr. MOORE] is precisely that of a distinguished anarchist who appeared before our committee some years ago from my own State [laughter], in which he held that the objection to anarchy was purely political; that it was a political persecution which they were trying to escape abroad, and that now we are politically persecuting them by excluding them here.

Now suppose, Mr. Chairman, you had an inspector who agreed with that gentleman, and the stranger were admitted. It is very clear that under the amendment offered by the gentleman from Pennsylvania——

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. GARDNER of Massachusetts. Yes.

Mr. MOORE of Pennsylvania. The gentleman is perfectly aware, I am sure, that anarchists are explicitly excluded from the United States under existing law.

Mr. GARDNER of Massachusetts. They are already excluded, but under a subsequent statute, I think, it would be held that there would at least be some question as to whether they would be admitted or not, provided they did not admit themselves to be anarchists.

Mr. MOORE of Pennsylvania. But the gentleman knows that I am as much opposed to the admission of anarchists as the gentleman himself is. I am speaking of men, not anarchists, who differ in their political views from their oppressors.

Mr. KENDALL. Like the men of 1848 in Germany?

Mr. MOORE of Pennsylvania. Yes.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania [Mr. MOORE].

The question was taken, and the Chairman announced that the "noes" seemed to have it.

Mr. MOORE of Pennsylvania. A division, Mr. Chairman.

The committee divided; and there were—ayes 26, noes 67.

So the amendment was rejected.

Mr. TOWNER. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, section 3, page 59, by striking out from lines 15 and 16 the following words: "Shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they"

Mr. TOWNER. Mr. Chairman, my amendment is intended to make effective this provision in the exception of the bill relating to those who flee from religious persecution. In my judgment, those who really favor the bill and are in favor of the exception ought to accept this amendment.

It will be noted that there are three exceptions in section 3. It will also be noted that the language which I have asked to have stricken out, with regard to the particular section that refers to those who are seeking these shores for the purpose of escaping religious persecution, applies only to this particular section. It gives to the immigration officer the power of determining to his satisfaction whether or not the person is fleeing from religious persecution. It puts upon the immigrant the burden of proving beyond a reasonable doubt that he is so doing.

Since the determination of the case of Ju Toy, the Chinese exclusion case, the courts have held that immigration officers who had this power committed to them acted with absolute and complete authority, such authority that the courts themselves could not interfere with it. The case of the United States v. Ju Toy (198 U. S.) decides that—

Even though the fifth amendment does apply to one seeking entrance to this country, and to deny him admission may deprive him of liberty, due process of law does not necessarily require a judicial trial, and Congress may intrust the decision of his right to enter to an executive officer.

That is what this language does. It gives to the executive officer the absolute right to determine. But it goes still further than that. It provides that this proof must be to the satisfaction of this officer. Those words go further, I think, than gentlemen could have supposed them to go, because the courts have decided that when that kind of language is used it means, in effect, not only that there shall be a preponderance of proof, but that the proof shall be beyond a reasonable doubt.

I want to quote from a decision delivered in the State of the chairman of this committee [Mr. BURNETT]—the case of Torrey against Burney, 113 Alabama, 496—in which that court, in interpreting the word "satisfied," said:

"Satisfied," as used in a statement that one party to a cause must satisfy the jury of the existence of a certain material fact, means to relieve of all uncertainty or doubt.

I want to quote also from another authority, the case of Kelch against State, an Ohio case reported in American State Reports, 680, in which it is stated that—

The word "satisfy," when used in the sense of satisfying a body of men of the truth of a disputed fact, means to free the mind from doubt regarding that fact—to set it at rest. The word implies much more than a preponderance of the evidence.

There is another decision from Wyoming that I desire to quote, in which the court says:

To satisfy the mind, we think the evidence must be such as to remove all reasonable doubt. The general definition of the word, as given in Webster's Dictionary, is "to fill up the measure of a want of a person or thing," and, more specifically, "to free from doubt, suspense, or uncertainty; to give assurance to, to set at rest the mind; to convince."

So we give now, under the terms of this act as it stands, the power to determine this question so that no court can interfere with it, and then we put upon the immigrant the burden of proving beyond a reasonable doubt that he is fleeing from religious persecution. The effect of this will be to make valueless the exception and to put it within the power of the immigration officer to exclude anyone who fails to satisfy his mind that he or she is seeking here an asylum from religious persecution.

Mr. BURNETT. Mr. Chairman, in regard to the question as to the official to whom the proof that the immigrant is fleeing from religious persecution must be made, it seems to me it is in the interest of the immigrant himself that that proof should be made to some proper immigration officer or to the Secretary of Commerce and Labor. Under the amendment offered by the gentleman, as I caught the reading of it, it simply would leave it up in the air as to whom this proof should be made. The bill simply says it shall be made to the proper immigration authority or the Secretary of Commerce and Labor. The immigrant would have the right of appeal to the Secretary of Commerce and Labor if the inferior immigration authority should decide against him.

Mr. MANN. Will the gentleman yield?

Mr. BURNETT. Certainly.

Mr. MANN. Under the provision of the bill I take it that the decision of the Secretary of Commerce and Labor is final.

Mr. BURNETT. Yes; and under a number of other provisions in the general immigration law.

Mr. MANN. I am not criticizing that. I am simply trying to get it straight in my own mind. If the gentleman's amendment prevails, the decision in the first instance, of course, would have to be made by the immigration service?

Mr. BURNETT. Certainly.

Mr. MANN. Would there then be an appeal to the courts on the claim made by the man that he was trying to escape religious persecution?

Mr. BURNETT. I think not; he would have the right of habeas corpus, and it would be the same as the law with relation to one afflicted with contagious disease and other diseases. It puts him in the same category as a man in that class.

Mr. MANN. This is really a pretty wide door anyhow.

Mr. BURNETT. I think we are giving a pretty wide door in favor of the immigrant.

Mr. MANN. I mean in favor of the immigrant. If this means anything at all, there ought to be somebody to enforce it.

Mr. BURNETT. I think there is under the law. I think it ought to be as it is. It is in favor of the immigrant, in the interest of the Government, and in the interest of all that there should be some specific person designated to whom this proof may be made.

I do not think the authorities bear the gentleman from Iowa out in regard to his construction of the law that the word "satisfaction" of the proper immigration officer means satisfaction beyond a reasonable doubt. It may not mean by a preponderance of evidence, but whatever evidence he may have, if it convinces the proper immigration officer to his satisfaction, not as in the criminal law beyond a reasonable doubt, but as in civil cases, to a reasonable certainty, that is sufficient. I

think that is all that this means and all that it implies. That is what our courts have held—what would satisfy a reasonable man.

The fact that there is a persecution of the Jews in Russia, of which the whole country knows, it would be a matter of common knowledge if such persecution was given as a reason for the entry of the immigrant; that of itself would satisfy a reasonable man. I do not think that it imposes any hardship. It does not say that he must satisfy him beyond a reasonable doubt; but when it is proved to a reasonable certainty or the satisfaction of a reasonable man, that would be all that the immigrant inspector would require.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was lost.

Mr. TILSON. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I oppose this bill, in the first place, because even if it should become a law as it passes this House I regard the literacy test provided for in the bill as incorrect in principle and unwise. In the second place, I oppose it because as it will finally pass both Houses it will be very different from what it is now, and I fear not nearly so good. It really makes little difference what the bill contains when it leaves this Chamber. When it arrives at the other end of the Capitol it will be disagreed to, and the bill that finally becomes a law will be written by the conferees of the two Houses. It will go out of this House like the evil spirit out of the man described in Holy Writ. It will pass through the dry places of the other end of the Capitol and the conference room, and, having taken unto itself seven or more other spirits, probably more wicked than itself, will return to us in the dying hours of this session, and, like the man in the Scriptures, our last state will be worse than the first.

I am much opposed to unrestricted immigration. I am in favor of every fair restriction that is founded upon sound economic or social principles. I favor a physical test that will keep out imbeciles, epileptics, diseased persons, weaklings, and any others that will tend to lower our race in physical strength and vitality. We must have a physically strong and vigorous people. I favor every reasonable and effective requirement that can be made as to character, for it is even more important that we be a people of strong moral fiber. I would keep out the crook, the criminal, the anarchist, the Black Hander, but this bill aims at nothing in this direction. Its entire force is directed against the poor unfortunate man or woman who has not had the opportunity of learning to read and write.

Although I favor a broad humanity, I believe in beginning at home and measuring outward. I stand for this country first and foremost; and if I believed, as it seems some gentlemen do, that European immigration is an unmixed evil and that its effect is altogether harmful, then I should favor absolute exclusion. If I believed that to be true, I should favor building a wall around this country so high that no alien could scale it. One country in history literally adopted such a program, but no one cites China as a model for a progressive country.

I believe that in the present state of our economic, industrial, and social development, the immigration of virile able-bodied young men and women of good moral character from Europe is one of the requisites of our continued progress. This is no new question. There has been scarcely a time since the establishment of our Government that this question was not a living one. The pages of our history are filled with it. Read some of the political literature of the first half of the last century. You will think some of the eloquent proponents of this bill have been plagiarizing, only substituting the downtrodden peoples of southern and eastern Europe for the then equally hated German, Irish, and other immigrants of the period. As we look back through the years and scan the record of accomplishment of those immigrants and their immediate descendants, observing how large a place they have filled and are filling in our national life, we bow our heads in shame at the narrow-mindedness of some of our forbears. Know-Nothingism and A. P. A.-ism have gone to join witch burning, or at least I had supposed they had until this debate began. As I look out into the future and see a strong, virile, self-reliant, self-governing Nation of 200,000,000 people made up of the blood of all Europe, but all Americans, loyal to the same flag and ready to die for it, I can fancy the broad-minded statesmen of that time looking back upon this day with much the same feelings with which we look back upon the antiforeign demonstrations of the earlier days.

The ability to read has no correlation with sound bodies, clear intellects, and good morals, and these are the basic requisites of a great people. If a literacy test had been applied in this country from the beginning, how many of us would be here to-day? Go back through the probate and land records of the last two and a half centuries and see how many of your own ancestors made their cross in lieu of a signature.

I was born in the mountainous section of Tennessee. The purest American blood on all this continent is found there to-day. The people there are the direct descendants of the men who fought the Battle of Kings Mountain and of the men who were with Jackson at New Orleans, and yet within the memory of men still living comparatively few of them could read or write even so much as their names. My dear old father—still living there at a ripe old age—was the first to teach in his community the three R's to those brave, capable people. Such men as they laid the foundations of our earlier new Commonwealths, and comparatively few of them could either read or write. Would you shut out such men if they came to us now across the seas? You would if this bill were a law.

Some of you gentlemen who are casting such bitter aspersions upon the immigrants now coming here from the countries of southern and eastern Europe do not know what you are talking about. They are not a "coarse crew," neither are they the "scum" or "offscourings" of Europe, as they are so flippantly called. They are from among the best people of those countries. True, they do not come largely from the nobility nor from the broken-down aristocracy, but of the dregs of those countries they are not. They are largely from the substantial, rugged middle class, the kind making up the bone and sinew of every country. Though not of the poorest class—for these can not pay the cost of passage—it is admitted that most of them are poor, but pray since when was it a crime to be poor? If poverty were a crime, I was born a criminal and have never been pardoned or paroled from the consequences of it.

The percentage of illiteracy to-day is very high among the mountaineers of western North Carolina, eastern Tennessee, and eastern Kentucky; much higher, in fact, than it is in the cities of the East, which are supposed to be flooded with these illiterate immigrants. Would you argue that these mountain people are undesirable citizens on that account? Illiterate, many of them are; but ignorant, no. There is a difference. If there are people in this Union well qualified to govern themselves and others, it is those same brave, independent, generous mountain people. Many of them have had to face poverty both as individuals and as communities. School facilities have been inadequate and inconvenient; but keep your eye on the mountaineers, they are coming. So with many of our best immigrants. School facilities have been lacking in the land from which they come. They have had to endure poverty, and poverty hinders education; in fact, it precludes it in many countries outside of our own. Is it a mark of depravity that these people wish to come here to better their condition in life and enable their children to be educated?

It is seriously claimed here that these illiterate immigrants are crowding out our native skilled laborers and mechanics by competing with them in the labor market. What a compliment to the immigrant and what a reflection upon our native-born artisans. I do not believe it. From the beginning the immigrant of whatever nationality has done the hard, undesirable, though absolutely necessary, work. His continued coming, entering at the lower industrial level, has not forced the older immigrant and the native born down or out, but upward. Behold the course of the immigrant of half a century ago! First he dug the ditches and did the hard work in constructing the railroads. When other immigrants came to dig the ditches and build the railroads they pushed him up to be a gang boss, foreman, a contractor, or a policeman. Then, still others kept coming and kept crowding him, always upward, until now he is in Congress, and the end is not yet.

The coming of the immigrant furnishes the opportunity for the bright and capable among the native born and older immigrants to rise in the industrial scale. Somebody must do the work at the bottom of the scale, and there is much of such work to be done in a great and growing country like ours. Who shall do it? It is honorable, as all honest work is honorable; but it is hard and yields the smallest return. Yet it must be done, or industry must languish or stop altogether. Shall we by legislation attempt to make it necessary that a large share of this work be done by men already fitted for a higher grade of work? In my judgment, no worse blow could be struck at our skilled laborers and mechanics than to shut off the stream of able-bodied immigrants.

Admitting that it would be an industrial mistake to unreasonably restrict immigration, some have argued that in spite of that fact the restrictions of this bill should be imposed for social and political reasons. It is said with much fervid rhetoric that the very existence of our free institutions is threatened by this influx of immigration. I am not at all alarmed. All sorts of

dire consequences to our social order are predicted if these illiterate immigrants are not shut out. The Prophet Jeremiah was an optimist compared with some of these gentlemen. Again I say, gentlemen, you do not know these people. Last Saturday, when the gentleman from Massachusetts [Mr. CURLEY] called the Italian and Hebrew rolls of honor, it was suggested that the immigrants of to-day are not to be compared with those worthies. You make a serious mistake if you think we are not receiving some excellent material now, not only Italian and Hebrew, but other nationalities as well. Come with me to the city of my home and there call for a list of the men who are doing things worth while, making good in their chosen fields of activity, helping to make city, State, and Nation a better place to live in. High up on the list will be found representatives, not a few of the very people sought to be excluded by this legislation. Some of the very highest places in the learned professions, as well as in business, are held by men of these nationalities, either immigrants themselves or the sons of such immigrants. They are just as good Americans as you or I. Those of you who have had no opportunity to know such men can not appreciate them. I know them. They are my friends and neighbors, and the country is not in danger from the coming of their friends and former neighbors who are willing to do for a while the very hardest work in order to have a part in making this the greatest as well as the best country in all the world. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. TILSON. I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent to extend his remarks in the RECORD. Is there objection? The Chair hears none.

Mr. TILSON. Under the leave to extend just granted I desire to have printed as a part of my remarks an editorial from Financial America, as follows:

BILLINGHAM-BURNETT BILL.

With a persistency worthy of a better cause each recurring session of Congress in recent years witnesses the introduction of a bill, or bills, to restrict immigration by means of a so-called educational test. This year it is the Dillingham-Burnett bill, and Mr. BURNETT assures us that an overwhelming majority of the House is pledged to its support. In discussing a measure of this sort it is well to look facts as they exist squarely in the face. What is the evil sought to be overcome by this bill? Ostensibly crime, we suppose; but where are the statistics to warrant the test proposed of a preponderance of fraud and crime among the new arrivals? They are not at hand, nor may they be produced, for they are wholly nonexistent. On the other hand, is it sought by this measure to assure the laborer in this country benefits now enjoyed by him or to grant him an improved condition? We can not assent to either proposition, for our experience and common sense prevent us.

In the first place, the vast majority of new arrivals in this country are not skilled workmen, and, accordingly, do not clash with the labor unions. In the second place, the preponderating number of aliens are unskilled in any particular training and are ready and willing to do manual work of almost any grade. We need man for employment of this character, and we have not a sufficiency among our own native or those of foreign nativity now with us. Our educational system unfits our youth for common labor and trains few as skilled mechanics. Our public school and high-school graduates, in the main, do not become mechanics or artisans. They seek and usually obtain more "genteel" employment. Only a few are content to do real common laboring work, and such is the spirit of our system of education and present living tendencies, these would not be so employed if their limitations permitted otherwise. We know, without any extended argument, that these things are so; and we should know that the lower grades of human employment in this country are taken by the immigrants who come to us, and that if they were not here to render us the service they do and have done, the country's industrial development would be measurably retarded and its commercial expansion visibly restrained.

How many of our public or high school graduates clean the streets of our cities, dig the mines of the country, build the roads of the Nation, lay the tracks and ties and make the necessary excavations and borings which our railroads need to meet the demands of an ever-increasing commerce? How many of them act as domestic servants, gather the harvests of the Nation, work in our iron and steel mills, factories, and other producing concerns which employ unskilled labor by the thousands? The answer is—pitifully few. The alien does the bulk of this necessary work, and he does it without the aid of an education, which untoward circumstances and an unkindly fate denied him in the country of his nativity. But he brings us his brain—none the worse for not being cultivated after our scholastic standards, perhaps; his brawn—without which our great development could not have been attained; his heart, which in a marvelously high percentage makes him respect the country, its laws, its flag, and its institutions, the while he is grateful to us as a people for giving him an asylum which raises him from the brute level and gives him an opportunity to become a free man; and he brings with him a conscience which no country's sons or daughters lack, for it is God-given; and that conscience among many millions of foreign arrivals in America has been well used in the maintenance and observance of principles and rules of conduct which make for peace, prosperity, contentment, and civilization.

True, he is oftimes illiterate. But which are the cases where this condition is handed down by him? If there is one fact that speaks well for the immigrant in this country it is his earnest endeavor, his persistent struggle, and his zealous desire to send his children to school and keep them there. He knows what it is to have had no schooling and he is not going to raise his children untutored while he can send them to our free public schools. An economic consideration of this country's demand for labor shows this bill to be unwise, if not positively injurious. The farmers can not obtain the help necessitated by our bumper crops; the steel mills have actually gone to the prisons and paid the fines of minor offenders to procure their services, so difficult is it for these concerns to secure necessary labor. The commissioner of licenses in this city reports a shortage of 100,000 in the ranks of domestic service. Aliens are the class from whom the farmer, the steel mill, the coke works, and the mistress obtain the help they require. Pass the Dillingham-Burnett bill and you will intensify the difficulties now existing through a shortage in the supply of manual labor or inferior employment.

If an alien is moral, law abiding, healthy, and honest, although lacking an education, we should permit him to enter, for we have need of his services. Indeed, his educational handicap is a badge of his earnestness and industry, for he must work to live. On the other hand, almost every "crook" can read and write some language. As between a crook passing the proposed test and an honest laborer failing to meet it, is the country the gainer by the admission of the former and the rejection of the latter? The educational test is necessary for citizenship. For mere admission it is not necessary, but, on the contrary, is a departure from earlier and long-established precedent, and a discrimination against unfortunate human beings who differ from us merely in the fact that they never enjoyed our opportunities. It is unworthy of America, unworthy of the spirit of '76, a reproach to the civilization we enjoy, to evolve which millions of aliens have nobly done their part, and a menace to our commercial and industrial expansion.

Mr. DYER. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 15 strike out the word "who," and in line 16 strike out the word "or" and insert in lieu thereof the words "with right of appeal."

Mr. DYER. Mr. Chairman, if the amendment is agreed to, the paragraph will read as follows:

All aliens shall prove to the satisfaction of the proper immigration officer, with the right of appeal to the Secretary of Commerce and Labor, that they are seeking admission to the United States solely for the purpose of escaping from religious persecution.

In other words, Mr. Chairman, it makes the language plain and puts it in such a way that there can be no mistake in the meaning that Congress desires the alien to have the right to appeal from the decision of the inspector wherever it is wanted. In many of the ports, and as well in inland places, the inspector passes upon the rights of the alien to stay in this country without opportunity to be represented fully in the premises. It would ofttimes be a sad miscarriage of justice to deport aliens under this act, if it does become an act—which I hope it does not, however—if there was no opportunity to have the case or cases appealed for consideration by the Secretary of the Department of Commerce and Labor. These people are usually ignorant of their rights in the premises, and it is not an unusual thing for the inspector to be anxious to deport them.

If this section should remain as it is in the bill and become a law, it will, in fact, be very doubtful if there is the right of appeal to the Secretary of the Department of Commerce and Labor to review or reconsider de novo the decision of the immigration officers. I hope that the chairman of the committee will allow the amendment to be adopted. I think it will help this section and help the bill. If the bill is to become a law, it will be of some benefit. I hope, of course, that the bill will not pass, for I believe it is pernicious to the spirit of the American people to provide educational tests for those who desire to come and seek opportunities in this country.

If the illiteracy test had been in operation in this country in the past, it would have robbed us of some of our best citizens and of some of our ablest and greatest patriots. In my city—St. Louis—some of the ablest of our professional and business men are the progeny of parents who could neither read nor write when they landed here from foreign shores. To-day they are as good citizens of this country as there can be found. The illiteracy test will neither cheapen nor degrade American labor. It will not keep out the undesirables. It will hinder and in many cases prevent good emigrants from coming to this country. We want all the good ones we can get. They are needed in the city factories and mills and to build railways, and they could, many of them, be used to advantage in the South on the plantations and otherwise. Read our country's history and learn of the great patriots that came to these shores without any education. This proposed test is wrong in principle and un-American, in my judgment, and I trust it will not prevail, Mr. Chairman.

Mr. GARDNER of Massachusetts. Mr. Chairman, touching the gentleman's first amendment, striking out the word "who," it will destroy the sense, as the gentleman will see if he will read the first part of the section. The bill provides as follows:

That the following classes of persons shall be exempt from the operations of this act, to wit, (*a*) all aliens who shall prove to the satisfaction, etc.

Is the gentleman not convinced that that word should remain there?

Mr. DYER. That, perhaps, should remain there.

Mr. GARDNER of Massachusetts. I think the gentleman was probably correct in the other amendment which he offers; that is, the substitution of the words "with the right of appeal" for the word "or."

Mr. BURNETT. Mr. Chairman, I would not object to the right of appeal to the Secretary of Commerce and Labor, but this gives the immigrant an advantage—even at that—because it allows him in the first instance to make his proof to the proper immigration officer or to the Secretary of Labor. I will be willing to have the further statement made, that if he has tried in the first instance——

Mr. MANN. But if the gentleman will permit. Does not the language of the bill authorize the Secretary of the department to make general rules concerning what proof is necessary?

Mr. BURNETT. I think so.

Mr. MANN. It could not be done if the amendment offered by the gentleman from Missouri were agreed to.

Mr. BURNETT. That is true. I think that is a dangerous proposition.

Mr. DYER. But I will say that there are now instances where the immigration authorities have the full power to act upon these cases, and to have these people deported, and if there is no right of appeal to the Department of Commerce and Labor, in lots of cases men will be sent back, as they have been sent back wrongfully, where if they had an opportunity to present their case before the Secretary or even before a chief or the Board of Immigration and Naturalization great wrongs would never have happened as they have happened.

Mr. BURNETT. They have now under the general law that right of appeal.

Mr. DYER. Oh, I beg to differ from the gentleman.

Mr. GARDNER of Massachusetts. Yes; except in surgical matters.

The CHAIRMAN. The time of the gentleman from Missouri has expired. Does the gentleman from Alabama desire to oppose the amendment?

Mr. BURNETT. I think it is unnecessary to oppose it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

Mr. MOORE of Pennsylvania. Mr. Chairman, is it too late to move to strike out the last word?

The CHAIRMAN. It is not in order to move to strike out the last word. This is an amendment to the amendment. If the gentleman is opposed to the amendment of the gentleman from Missouri, the Chair will hear him upon that.

Mr. MOORE of Pennsylvania. I am not opposed to it.

Mr. GARDNER of Massachusetts. Mr. Chairman, I rose in opposition to the amendment.

The CHAIRMAN. The Chair understood that the gentleman from Massachusetts spoke in the time of the gentleman from Missouri.

Mr. DYER. Mr. Chairman, I yielded the floor, and the gentleman from Massachusetts took the floor in his own right.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

The question was taken, and the amendment was rejected.

Mr. CALDER. Mr. Chairman, I am opposed to this bill for two reasons. First, because it is against the broad American spirit which has always opposed class distinction. If enacted into law, it will not prevent the coming into this country of the anarchist, the ultrasocialist, who we believe is a menace to the institutions of our country, members of the Mafia and Black Hand organizations of southern Europe, all of whom are able to read and write. What it will do is to shut the door of opportunity to the men or women who have never had a chance and who in the past have come to this country, the haven of the oppressed, to be afforded the opportunity to work out their own and their children's future. This whole movement, in my judgment, is a prejudice on the part of unthinking people against the so-called foreigner. This prejudice has existed since the establishment of the country. In the minds of some people it has always been a habit to say that we want America for the Americans. Those who have adopted that shibboleth have forgotten that their ancestors, struggling for the opportunity to serve God and work out their own salvation, were immigrants themselves.

An examination of the record from the beginning of the last century down to this very late day will show many periods in the country's history when apparently this whole matter would come up and be discussed. I recall reading in the CONGRESSIONAL RECORD a discussion which took place over 100 years ago on this very subject, when a distinguished Representative in Congress in referring to the large immigration from Ireland expressed alarm at the effect of the coming of the "wild" Irish on our institutions; he referred to their herding in the large cities, saying they would control our politics and were even then being elected to Congress. He was certain that if we permitted it to continue the Nation would be destroyed. The subsequent developments showed he was in error, and so during all the years that have gone the agitation over the large Irish, German, Scandinavian, and French immigration has disappeared, and the opposition now seems to be centered against the Jew, the Italian, and the Pole.

The strange thing about it all is that the Representatives in this House from the districts where there is no foreign population are the ones that are advocating this legislation, while those from the great cities of the country, who have to deal with the problem in everyday life, are opposed to the enactment of this legislation, which will put upon the illiterate alien this most unjust discrimination.

In the city of New York the difficulty of the assimilation of the immigrant is a great problem, but it is being worked out. A reference has been made by some of the advocates of this legislation to crime committed in our city, but when you stop to consider the fact that we have a population of nearly 5,000,000 within the limits of the city and another one and one-half million within a radius of 25 miles, the crime in proportion to the population is not excessive. We are proud of the city of New York; we are proud of the progress it has made as the greatest metropolis of the world; we are proud of its manufacturing industries, of its art and literature, of its great financial institutions; we are proud of the fact that our people are able and willing to leave open the door of opportunity for the strong and healthy of Europe who are willing to come here to work. We build and maintain at great expense a system of public schools, which is the greatest leveler of the human race, and which has done and is doing more to inculcate the true spirit of this country into the sons and daughters of the illiterate alien than anything else we know of. We ask no assistance to take care of them, and if the people of the rest of the country would take a broader view of this important subject and do their part they would not only be happier, but more prosperous. If their communities were like our great city, they would develop more rapidly.

The following is an interesting table of the population in the city of New York, furnished me by the Census Bureau, showing the native and foreign born of that city. You will observe the foreign born in 1880 was about 33 per cent and that in 1910 it has only increased to about 38 per cent, in spite of the immigration of the last 30 years:

New York City.

Boroughs.	1880		1890	
	Total.	Foreign born.	Total.	Foreign born.
New York	1,206,299	478,670	1,515,301	639,943
Kings	599,495	188,312	838,547	272,895
Queens	90,574	22,001	128,059	35,146
Richmond	38,991	10,961	51,693	14,779
Grand total	1,935,359	699,944	2,533,600	962,763

Boroughs.	1900		1910	
	Total.	Foreign born.	Total.	Foreign born.
New York	2,050,600	850,884	2,762,522	1,265,904
Kings	1,166,582	355,697	1,634,351	574,730
Queens	152,999	44,812	284,041	79,329
Richmond	67,021	18,687	85,969	24,394
Grand total	3,437,202	1,270,080	4,766,883	1,944,357

My second reason for opposing this legislation is that it is economically wrong. The recent immigration has not displaced the native American wage earner and the earlier immigrant, but has only covered the shortage of labor resulting from the excess of the demand over the domestic supply. I am competent, I believe, to discuss this question. I have studied it from every phase as affecting the business interests of New York City and the wage earning of the American workman; neither has it increased the hours of labor of the so-called skilled American workman. The real fact in the matter that can be demonstrated clearly is that this immigration has tended to actually decrease the hours of labor and increase the wages of the skilled American workman. I am engaged in the building business in New York City, and from my own observation have noted in the past 25 years first a reduction of the hours of labor of men engaged in that industry from 10 to 8 hours and an actual increase in compensation for every branch of labor of from 30 to 100 per cent. The following are a few of the trades

picked out at random showing how much the compensation has increased during the time above indicated:

Common laborer, with pick and shovel, from $1.25 to $2.25 per diem.
Hod carrier, from $1.75 to $3.25 per diem.
Stonemason, from $3 to $4.50 per diem.
Bricklayer, from $4 to $5.60 per diem.
Plasterer, from $4 to $5.60 per diem.
Plumber, from $3.50 to $5 per diem.
Carpenter, from $3 to $4.50 per diem.
Roofer, from $3 to $4.50 per diem.
Tile layer, from $3 to $5.25 per diem.

Take the first item, the commonest kind of labor, the man who works with a pick and shovel. Twenty-five years ago he received $1.25 a day and worked 10 hours, and we had all of the men we needed for this character of work. To-day we pay the same man $2.25 and in many cases $2.50, and he works 8 hours a day, and at present we are 25 per cent short of the required number of men needed for this work. This is the kind of work the illiterate men of Europe do for us. Only last week I talked with a contractor in New York City who had 125 laborers engaged in excavating work. One hundred and fourteen of these were foreign born and 96 could neither read nor write. We have employed in common labor, building our great subway systems of New York City, thousands of men who work with the pick and shovel. We are unable to get anywhere near the number of men we need for this character of labor, and if immigration is cut off 25 per cent you are going to severely cripple the building of railroads, besides the numerous private enterprises of the country. These illiterate immigrants are not men who are threatening our institutions, but from close intimate observation I know them to be law-abiding citizens, easy to manage; they live quietly and unpretentiously, so that in the main they stay here, send their children to school, and in the second generation are assimilated by the people of our great city.

I have here a statement furnished me by the Department of Commerce and Labor relative to the number of immigrants who arrived at the port of New York between 1881 and 1910:

Years.	Number of arrivals.	Number of illiterates over 14 years of age.	Percentage of illiteracy.
Total immigration, 1881 to 1890	5,246,613	.....	.....
Total immigration, 1891 to 1900	3,687,564	.....	.....
Total immigration, 1901 to 1910	8,795,386	2,126,153	27.5
Italian, South, 1901 to 1910	1,761,948	843,300	53.9
Italian, North, 1901 to 1910	342,261	36,121	11.6
Total Italians, 1901 to 1910	2,104,209	879,421	46.9

It will be observed by this statement that 27 per cent of the immigrants coming here between 1901 and 1910 were illiterate, and of a total of 2,126,153 illiterate immigrants 843,300 were from southern Italy, the people who furnish the common labor in America. The additional fact has not been brought out that at least one-half of these illiterate immigrants return to their homes, so that, after all, the sum total of the increase is hardly perceptible, taken throughout the country as a whole.

I can sum up the situation in no better way from the economical side of the question than to read the following extract from an article by Dr. Isaac A. Hourwich, printed recently in one of the current magazines:

1. Recent immigration has displaced none of the native American wage earners or of the earlier immigrants, but has only covered the shortage of labor resulting from the excess of the demand over the domestic supply.
2. Immigration varies inversely with unemployment; it has not increased unemployment.
3. The standard of living of the recent immigrants is not lower than the standard of living of the past generations of immigrants in the same occupations. Recent immigration has not lowered the standard of living of Americans and older immigrant wage earners.
4. Recent immigration has not reduced the rates of wages, nor has it prevented an increase in the rates of wages; it has pushed the native and older immigrant wage earners upward on the scale of occupations.
5. The hours of labor have been reduced contemporaneously with recent immigration.
6. The membership of labor organizations has grown apace with recent immigration; the new immigrants have contributed their quota to the membership of every labor organization which has not discriminated against them, and they have firmly stood by their organizations in every contest.

Mr. Chairman, this is a big question and one not to be considered in a spirit of prejudice, but to be worked out in keeping with the great principles of our American institutions. If I were to be influenced in my vote on this question by the number of letters I have received from my constituents favoring the bill as against those opposed to it, I would vote for this amendment, but I am convinced that in principle it is wrong and that it will work great harm to the country; it will injure rather than help American labor; that it will be more detrimental than beneficial to our institutions, and will be a step backward, and I can not bring myself to vote for it.

The discussion of the day seems to indicate that it will be passed by an overwhelming vote, in view of the agitation now being worked up in its favor, and unquestionably go to the President for his action. I hope he may take the broad ground that others before him have, and see what I believe to be a situation that in the end will work great harm to us.

I am the grandson of immigrants myself, and glad of the fact that my Irish and Scotch ancestors came here in the early part of the last century, and confident of the fact that they helped, with others of their race, to work out the problems of their day and generation, and certain the immigration of this period is beneficial rather than injurious to this country, and hopeful in the end this legislation will not become a law.

The reasons that I have already given are the chief reasons which ought to occur to any broad-minded observer and true lover of his country. They are the reasons which actuate me in my capacity as a Representative, not only from the State of New York but as a Representative for the benefit of the whole United States. Each Representative, however, is not only a national Representative but the representative of the interests of his State and of his district. I deem it proper, therefore, to call the attention of the House to the additional reasons which actuate a Representative from New York State and from New York City. Not only have we there now an absolute dearth of labor, but we are confronted by the fact that our State has just voted to bond itself in the sum of $50,000,000 for additional good roads and that our city within 30 days will have signed contracts for the building of new subways costing $300,000,000. The bulk of this vast sum of $350,000,000 will be spent for labor, and the greater portion of that labor will be unskilled labor. If, coming from Brooklyn, I vote to cut down the supply of unskilled labor, I vote to postpone the coming of our sorely needed additional subways. If there were no other reason for voting against this amendment, I would not vote on the eve of these great public works to exclude healthy, clean-minded, hard-working, unskilled laborers simply because they can not read, especially when I note from the reports of the Commissioner General of Immigration for 1910, 1911, and 1912 that the increase of population through immigrants is steadily decreasing, having been 817,619 in 1910, 512,085 in 1911, and but 440,000 in 1912. What justification is there for further restriction, as such, in the face of an increased demand for labor and a decreasing supply?

Mr. RAKER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk proceeded to read the amendment, as follows:

Amend by inserting the following at the end of line 22, on page 59, as new sections, and numbered section 4 and section 5:

"SEC. 4. That section 2 of the act entitled 'An act to regulate the immigration of aliens into the United States,' approved February 20, 1907, is hereby amended so as to read as follows:

"SEC. 2. That the following classes of aliens shall be excluded from admission into the United States: All Asiatic laborers; all idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within"——

Mr. BURNETT. Mr. Chairman, I rise to a point of order. The reading thus far makes it apparent it is out of order, and I make the point of order at this point that it is not germane.

Mr. RAKER. Mr. Chairman, is it not ordinarily the custom to read the bill before the Chair is able to determine?

The CHAIRMAN. The Chair will hear the amendment read.

Mr. BURNETT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BURNETT. If the reading of the bill proceeds far enough to make it apparent that it is not germane, is not it in order to make the point of order at that time? If it were a little short amendment I would not care, but I do not care to have a long bill read to kill time.

The CHAIRMAN. The Chair will state to the gentleman from Alabama that the Chair will hear it read a little further.

The Clerk continued to read as follows:

"five years previous; persons who have had two or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars"——

The CHAIRMAN. The Chair is clearly of the opinion that this amendment is not germane, and therefore sustains the point of order.

Mr. MANN. Before the Chair sustains the point of order I would like to be heard on it.

The CHAIRMAN. The Chair is ready to rule.

Mr. MANN. Well, the Chair ruled awhile ago, and then after hearing it argued reversed himself. The Chair is very positive that he knows how to rule upon an amendment that he has not heard read.

The CHAIRMAN. The Chair does not ask the gentleman from Illinois to instruct him on that point.

Mr. MANN. That is the duty of the Chair to be instructed by gentlemen of the House.

The CHAIRMAN. The gentleman from Illinois will come to order.

Mr. MANN. The gentleman from Illinois is in order. I appeal from the decision of the Chair.

Mr. RODDENBERY. Mr. Chairman, I move to lay the appeal upon the table.

The CHAIRMAN. That is not in order in the Committee of the Whole House on the state of the Union.

Mr. MANN. Mr. Chairman, the Chair declined to grant me the courtesy of a hearing; I take it in my own right. Here is a proposition to forbid the admission of aliens over 16 years of age physically capable of reading who can not read the English language, and so forth. Now, the gentleman from California offers an amendment excluding other aliens. Is the Chair prepared to rule that no alien can be excluded except those specifically provided for in this amendment? Is that the liberality of amendment under the provisions of this rule which we were told would obtain when the gentleman from Wisconsin [Mr. LENROOT] defended the rule? Here is a proposition excluding certain classes of aliens, and it is now ruled by the Chair that no other alien can be excluded; that no proposition can be put into this by way of amendment which enlarges in any way the provisions of the committee amendment. By the same token of reasoning the Chair might equally well rule that you could not take anything out of this provision; that you could not enlarge and you can not decrease the number provided for by the committee amendment; and yet we were told the other day that this was not a gag rule; that this permitted liberal amendment; that this permitted the House to act as it pleased upon the questions which should come before it; that the House could determine who and what they would put into the bill. The Chair rules you can not add to it; that you can not detract from it. A liberal rule! I said the other day the rule was a gag rule. The Chair construes it to be a gag rule. There never was a rule introduced into this body more of a gag rule, which cunningly provides that the Chair shall rule you can not add to it and you can not take away from it.

The CHAIRMAN. The question is, Shall the judgment of the Chair stand as the decision of the committee?

The question was taken, and the decision of the Chair was sustained.

Mr. CURLEY. Mr. Chairman, I move to strike out the last two words. Mr. Chairman, I regret exceedingly, as a Member of this body, that the majority Members who are in favor of this restrictive legislation are not basing their position on a sound economic theory. Representative WYATT AIKEN of South Carolina, as a Member of this House, on April 22, 1904, said this in support of a bill authorizing the Commissioner General of Immigration to establish an information bureau on Ellis Island for the better enlightenment of the immigrants and for their better distribution throughout the land:

The land area of the South is 585,310,000 acres. In 1900 the total farm acreage was 387,690,426 acres. The total improved acreage was only 145,185,599 acres, leaving 242,000,000 acres of farm land to be put into profitable cultivation.

And speaking of the immigrants that to-day are condemned by men from the South as undesirable, he said:

Until latterly considerable prejudice existed against the Italian, but with most favorable testimony in his behalf from Georgia, Louisiana, and a number of other Southern States, our people look with a great deal more favor on these hardy industrial agriculturists.

Now, then, Mr. Chairman, if that was the position some 10 years ago, I do not know in what particular that condition has changed. I believe, Mr. Chairman, if this question is to be determined on an economic theory, an economic basis of a sound character, then the real question is one of distribution and not discrimination. Establish laws in your State that will prohibit the employment of women and children at night, that will prohibit the employment of boys and girls under 18 years of age, and you will compel the settlement and the development of your farm lands.

The gentleman from Alabama [Mr. BURNETT] wants to know why I changed what I said in my remarks when I referred to the Junior Order as an A. P. A. society, or a proscriptive society, and I will say to him that I was informed by one of the delegates attending the convention in this city that it was not an A. P. A. organization. I presumed the gentleman was telling the truth. I sent to the library and I have here a history of that order. I am surprised when you talk about the liberality of the Junior Order of American Mechanics. The first principle of your organization—

Is to maintain and promote the interests of Americans and shield them from the depressing effects of unrestricted immigration.

The second section reads:

To assist them [Americans] in obtaining employment.

Third section:

To encourage them [Americans] in business * * *. To uphold the American free public-school system, to prevent any interference therewith, and to encourage the reading of the Holy Bible therein.

Is there any reason why an Episcopalian, a Methodist, a Catholic, or an Israelite should be compelled to attend school and because of his attendance read the Bible of some other religion than the religion in which he believes if this is a country where free religious belief exists? You talk about your chivalry, and you fear the competition of the foreigner. You make provisions, further, here so that encouragement shall not be given to anyone who furnishes employment or assistance in securing employment for anyone other than a member of the Junior Order of American Mechanics. And, further, here in your criticism in this book, you refer to ex-Speaker David B. Henderson, whom I never met, and say that he was the champion of the Roman Catholic Church, and made a very bitter speech, and complimented the Junior Order of United American Mechanics on their part in defeating the sectarian amendments by denouncing it as a secret society that works in the dark.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DYER. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CURLEY. Now, then, Mr. Chairman, some reference has been made to my reference to the question of the Black Hand. I have believed, Mr. Chairman, that the ignorant man, not possessed of education, the man who is always with his back to the wall, is a different class of man to deal with than the man who has the advantages of our public-school system, the advantages of association with men of intelligence, men of culture, and men of refinement. And I am surprised that the distinguished gentleman from Alabama [Mr. BURNETT] should see fit to bring that up as a subject for comparison. There is no comparison between the intelligence of the South and the ignorance of the foreigner landing on our shores, who has had no opportunity for education and no opportunity for the refining influences that are to be found in our public-school system and in our American associations.

With reference to the gentleman from Kentucky [Mr. POWERS], I had a perfect right to determine whose questions I should answer and whom I should permit to ask questions of me. And I yielded to those who in my opinion I believed might ask a question, as I said, that might contribute something to an intelligent discussion of this question. And I take nothing back from that proposition.

Now, then, Mr. Chairman, if this question were to be determined on merit, I believe that every man in the South knowing the development that has taken place in the West through the influx of the immigrant and through the influence of the immigrant would vote for this proposition to make Dixie land what it should be—the fairest and the finest of any section of the entire earth.

You are blessed by divine Providence with sunlight for a longer period of the year than any other section of the country.

Mr. DIES. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Massachusetts yield to the gentleman from Texas?

Mr. CURLEY. Yes; I yield.

Mr. DIES. May I ask the gentleman this question: Does the gentleman believe that these 250,000 who are sought to be excluded by the provisions of this bill will by their coming help to maintain the standard of wages and living in this country? And does the gentleman believe they are capable of self-government and can help us to solve the difficult problems of the free institutions of America?

Mr. CURLEY. Mr. Chairman, on that proposition I submit that the best evidence obtainable is the evidence of a Representative of the gentleman's own district who served in Congress, on whose own admission the land of the South is as yet scarcely scratched.

There is no section where the immigrant has taken up an abode that has not become enriched materially. The presence of the immigrants makes of them a contributing factor to the entire community. Even allowing that they send money home occasionally, the fact remains that they do bring their families here. And it is not the scum of the earth that we get here. Of the 232,000 immigrants who arrived in 1903, 197,600 were from Italy and were between the ages of 15 and 45, and the

immigration commissioner of Italy made the statement that every male Italian coming here between the ages of 15 and 35 represented a loss to the Italian Government of at least $1,000 in each individual case. If he represented that loss to the Italian Government, then he represented that gain to this Government.

You have no immigrant problem to disturb you in the South, and the Representatives from New York are in no wise disturbed over the immigration in New York, which they are handling to their entire satisfaction.

Mr. LINTHICUM. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. CURLEY. With pleasure.

Mr. LINTHICUM. I want to ask the gentleman if the voters of his own State are not required to sign their own names and to read the Constitution of the United States before they can register as a preliminary preparation for voting?

Mr. CURLEY. In answering that question I will refer the gentleman to the parent organization of our dear Junior Order once more and to the provision that insisted that an immigrant should live in this country for 21 years before he could acquire the right to take out naturalization papers and thereby secure the advantages of citizenship.

The principles of the Native American Association, as adopted in 1837 and modified in 1844, were as follows:

First. We maintain that the naturalization laws should be so altered as to require of all foreigners who may hereafter arrive in this country a residence of 21 years before granting them the privilege of elective franchise; but at the same time we distinctly declare that it is not our intention to interfere with the vested rights of any citizen or lay any obstruction in the way of foreigners obtaining a livelihood or acquiring property in this country, but, on the contrary, we would grant them the right to purchase, hold, and transfer property and to enjoy and participate in all the benefits of our country (except that of voting or holding office) as soon as they declare their intention to become citizens.

Second. We maintain that the Bible, without note or comment, is not sectarian; that it is the fountainhead of morality and all good government and should be used in our public schools as a reading book.

Third. We are opposed to union of church and state in any and every form.

Fourth. We hold that native Americans only should be appointed to office and to legislate, administer, and execute the laws of the country.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. SABATH. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended five minutes.

The CHAIRMAN. The gentleman from Illinois [Mr. SABATH] asks unanimous consent that the time of the gentleman from Massachusetts [Mr. CURLEY] be extended five minutes. Is there objection?

Mr. LANGLEY. I object.

Mr. BUCHANAN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. BUCHANAN] moves to strike out the last word.

Mr. BUCHANAN. Mr. Chairman, the solution of the immigration question is one that has been taxing the intellectual ability of the best men in the country. Those who have been active in the organized-labor movement of this country almost from the beginning of the success of that movement, men who have been earnest and honest in exercising their influence for the uplift of the working people of the country, have favored a limited restriction of immigration, not because they are enemies of the foreign element but because they want to protect the foreign element against a condition under which they are brought here in their ignorance to be exploited by greedy, profit-seeking corporations.

This amendment, Mr. Chairman, probably will not produce the results that are desired by the labor people of this country—and when I say "the labor people" I mean those who have studied the labor questions; those who favor the improvement of the conditions of the wage earners of this country. It may not, as I stated, do all that they hope it will do, but it certainly is not an unreasonable amendment, this educational test. It ought to encourage the foreign nations to educate their people if they want them to come here. It ought to fit them the better for citizenship.

I would probably favor something which should provide for a minimum-wage scale, or prohibit these foreign workingmen from working for less than the prevailing wage. In my judgment, that would tend to solve this problem. But the constitutionality or the validity of such a provision would probably be successfully attacked. Hence the labor people who have studied this question from the point of view of labor's interests in this country are in favor of this limited restriction, and therefore, with that view in mind—the protection of the laboring people against the exploitation of profit-seeking corporations—I favor this measure.

Mr. Chairman, I do not care to take up further time, and so I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Illinois [Mr. BUCHANAN] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. DYER. Mr. Chairman, I would like to ask the gentleman a question.

Mr. MANN. Mr. Chairman, I ask that my colleague have five minutes more.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the time of his colleague be extended five minutes. Is there objection?

Mr. BUCHANAN. I do not care to take the five minutes.

The CHAIRMAN. Is there objection?

Mr. DYER. I would like to ask the gentleman a question.

Mr. BUCHANAN. I yield to the gentleman.

Mr. DYER. Does the gentleman believe that the enactment of this bill, providing for a literacy test, will decrease the price of labor in this country or increase it?

Mr. BUCHANAN. Well, I am of the opinion that it will tend to improve our citizenship, and that means that it will improve the condition of the working people. If the foreign working people who are educated and who desire to come here and secure a home for themselves and become citizens of the United States would endeavor to understand our institutions and exercise an influence for the improvement and betterment of the working people, instead of permitting themselves to be used to reduce the standard of wages, legislation of this sort would probably be less desired, but since facts prove that there has been rapid deterioration in the mode and standard of living of the working classes consequent on the incoming swarms of lifelong poverty-stricken aliens I believe that the educational test should be adopted, since it would tend to eliminate to a great extent the undesirable element of foreign countries coming here and thus tend to again place the social life of the American working people up to the standard that we desire.

The organized-labor movement has always been in favor of a restriction of immigration by means of the literacy test. At the Pittsburgh convention of the American Federation of Labor in 1905 the following resolutions were adopted:

A further check should be put upon assisted immigration. The law now permits the passage of an alien to be paid by any relative or "friend" living in this country. Every employer who wants to bring in cheap laborers is of course a "friend" to them, or can find somebody to play the part. It is one of the readiest means of evading the contract-labor law. The privilege of paying the passage of others should be restricted to the nearest relatives—fathers, mothers, and children, brothers and sisters, husbands and wives.

In accordance with the views here outlined, we recommend that you authorize your officers to use all honorable means for the amendment of our immigration laws so as to exclude persons physically unfit, to check the evil of assisted immigration, to introduce an educational test, and to provide that ports of entry shall be confined to those on the Atlantic and Pacific oceans and the Gulf of Mexico.

In the 1909 convention of the American Federation of Labor at Toronto, Canada, these resolutions were indorsed:

Whereas the illiteracy test is the most practical means for restricting the present stimulated influx of cheap labor, whose competition is so ruinous to the workers already here, whether native or foreign; and

Whereas an increased head tax upon steamships is needed to provide better facilities, to more efficiently enforce our immigration laws, and to restrict immigration; and

Whereas the requirement of some visible means of support would enable immigrants to find profitable employment; and

Whereas the effect of the Federal bureau of distribution is to stimulate foreign immigration: Therefore be it

Resolved by the American Federation of Labor in twenty-ninth annual convention assembled, That we demand the enactment of the illiteracy test, the money test, an increased head tax, and the abolition of the distribution bureau; and be it further

Resolved, That we favor heavily fining the foreign steamships for bringing debarable aliens where reasons for debarment could have been ascertained at time of sale of ticket.

The following extract from the annual report of President Gompers, of the American Federation of Labor, which was indorsed at the recent convention held at Rochester, N. Y., November 11-23, 1912, with reference to Senate bill 3175, explains the present position of the organization in regard to the matter:

The illiteracy test advocated by the American Federation of Labor was added to the bill and passed by the Senate.

In the January, 1911, issue of the American Federationist, under the title of "Immigration—Up to Congress," President Gompers, of the American Federation of Labor, says:

The final inning of the tug of war over immigration has now begun. In this contest tremendous forces are engaged. On the side of America are the upholders of two distinctive American sentiments, the maintenance of the American standard of living for our wage-working classes and the maintenance of American institutions as they are, unimpaired through the financial degradation of the working classes. On the proimmigration side is the powerful immigration machine, composed of the transocean combine, with all its thousands of agents and other innumerable parasites, the bankers, padrones, etc., who are coining money out of the millions of immigrants coming in the course of years into this country from Europe.

The center of this tug of war has at last shifted to Congress. No longer is the discussion indefinite, casual, or partisan, or without an immediate object, conducted through the press and other insufficient agencies of information and debate. No longer, either, is it backed up merely by individual impressions or the partial investigations heretofore promoted by various private institutions. The Federal Government undertook four years ago the solution of the immigration question through scientific means. It set out to ascertain the undeniable facts, and after three full years of research its commission has brought forward no less than 40 volumes on the subject, covering every possible phase. Its recommendations it has brought forward in concise form in a separate pamphlet.

A reading of these recommendations confirms the facts of the case as they have been accepted by the American Federation of Labor after the serious study its members had given the question for decades. The local, and then the international unions, and finally the annual conventions of the American Federation of Labor itself have had immigration up for consideration as one of the principal labor topics on literally thousands of occasions. The membership as a whole, from upholding the sentiments the great majority once entertained, namely, that this country could go on indefinitely absorbing the entire possible stream of immigration, have reluctantly, in view of the facts, passed over to the sway of the sentiment that their own good heartedness toward the immigrants and the laborers of the Old World was being exploited by large employers for the purpose of reducing wages as well as by the steamship combine and its myriad of parasites for the sake of their own profits. At last the great body of the American industrial wageworkers have come to see one fact above others, which is, that the immigrants are assimilated in America through the wageworking class. This means that the American-born wage earners and the foreign wage earners who have been here long enough to aspire to American standards are subjected to the ruinous competition of an unending stream of men freshly arriving from foreign lands who are accustomed to so low a grade of living that they can underbid the wage earners established in this country and still save money. Whole communities, in fact whole regions, have witnessed a rapid deterioration in the mode of living of their working classes consequent on the incoming of the swarms of lifelong poverty-stricken aliens. Entire industries have seen the percentage of newly arrived laborers rising, until in certain regions few American men can at present be found among the unskilled.

The following is the most significant passage of the United States Immigration Commission's report (p. 39):

"The investigations of the commission show an oversupply of unskilled labor in basic industries to an extent which indicates an oversupply of unskilled labor in the industries of the country as a whole, and therefore demands legislation which will at the present time restrict the further admission of such unskilled labor."

The commission also believes that in order "to protect the immigrant against exploitation, to discourage sending savings abroad, to encourage permanent residence and naturalization, to secure better distribution of alien immigrants throughout the country," the States should enact laws strictly regulating immigrant banks and employment agencies, and that aliens who attempt to persuade immigrants not to become American citizens should be made subject to deportation, and that the division of information should cooperate with the States desiring immigrant settlers.

At the recent St. Louis convention of the American Federation of Labor the president in his report called the attention of the delegates to the fact "that a veritable flood of bills" designed to check immigration had been introduced in the last session of Congress, and the report of the executive council on the president's report expressed the hope that this flood of bills and the work of the Immigration Commission would result "in the enactment of legislation which will protect the workers in this country from the unfair competition resulting from indiscriminate immigration."

In behalf of American labor it is to be said that the action of the trade-unions in this country on this most delicate international question involves a step that touches the heart of every man contemplating it. That step, the advocacy of exclusion, is not prompted by any assumption of superior virtue over our foreign brothers. We disavow for American organized labor the holding of any vulgar or unworthy prejudices against the foreigner. We recognize the noble possibilities in the poorest of the children of the earth who come to us from European lands. We know that their civilization is sufficiently near our own to bring their descendants in one generation up to the general level of the best American citizenship. It is not on account of their assumed inferiority, or through any pusillanimous contempt for their abject poverty, that, most reluctantly, the lines have been drawn by America's workingmen against the indiscriminate admission of aliens to this country. It is simply a case of the self-preservation of the American working classes. Changes are constantly going on in Europe for the uplift of the men of labor, and it can well be believed that each country in Europe is in position to solve its own labor questions in the way best for itself. A fact now obvious in this country is that American labor and European labor have both been made the subject of a colossal bunco game played by avaricious exploiters of the poor. The sounding phrase, "protection of American labor," has of recent years been a standing insult to the intelligence of the American wage earners with millions upon millions of newcomers arriving here through promoted immigration. Considering the opportunities now existing in Europe for the advance of the working classes, the net gains, on the whole, to be made by European immigrants to this country are to be questioned. The manifold acute sufferings of immigrants, their sacrifices to enable them to come to America, the trials of the ocean voyage, the discouragements of seeking work in the United States, in getting a foothold in the wage-working ranks, in the oppression they suffer at the hands of employers, and in their sickness and death rate, all of these drawbacks serve to counterbalance much of whatever success may come to them. Of the 30 or 40 per cent of immigrants that return to Europe, an enormous number go back, by the evidence of the commission, defeated, disheartened, ruined.

The first annual report of the New York Bureau of Industries and Immigration, a branch of the State department of labor, was submitted to the New York Legislature while in session. The year reported for closed September 30, 1911. The summary read as follows:

In the matter of distribution of labor, that this State is without any machinery for distribution or supervision of private distribution agencies, except through a law administered by separate cities according to the standard and belief of each individual mayor, although a great part of the furnishing of labor is intercity and interstate.

In the matter of transportation, that the combination of steamship agents, emigrant hotels, runners, porters, expressmen, and cabmen throughout out the country, operating chiefly through New York City, forms one of the most stupendous systems for fleecing the alien from the time he leaves his home country until he reaches his destination in America, and vice versa.

In the matter of living and labor conditions in labor camps and colonies, that aliens are discriminated against in regard to housing, sanitation, food supplies, and employment methods, being denied the ordinary decencies of life; that in regard to labor conditions, aliens are checked and tagged, amounts ordered by the padroni are deducted from their wages without their knowledge or express sanction, and exploitations occur in hospital charges and the purchase of supplies.

In the matter of industrial calamities and personal injuries, exploitation by lawyers and their runners and claim agents and collection agents bear heavily on the alien because of his alienship and international complications with his family and property in his home country.

In the matter of savings, that the private banking laws are affording only a small measure of protection, owing to evasions of the law, and no protection whatever outside of cities of the first class; that frauds in the sale of homes to aliens by means of the solving of puzzles or by means of excursions arranged to interest aliens in "show" pieces of property, or by other means, are widespread; and that the settlement of affairs in the old country, when an alien wishes to settle here, is in the hands of a most unscrupulous class of lawyers, notaries public, collection agents, information bureaus, and protective leagues.

In the matter of education for children, that inadequate provisions exist for taking care of groups of people who collect with the starting of new industries in remote places, such as mines and quarries, and that adults outside of cities are wholly neglected in matters of instruction in English, civics, and naturalization. There are no systematic assimilation processes by the State and cities under way except in the largest cities.

Commenting on the above report in the American Federationist for November, 1912, Mr. Gompers, president of the American Federation of Labor, said:

The reader of this indictment of America's civilization may well wonder if there could be worse conditions for the bureau to investigate and describe. In the body of the report, of which there are 184 pages, and diagrams besides, the details bear out the ugly summary. If there are any bodily ills or human brutishness or crooked customs or skin games to which the immigrants are not exposed, from their landing at Ellis Island until they either go back home to Europe or get away from the clutches of the harpies that beset them here, it would be interesting to have them set forth. The record of the ills under which they suffer, as given in the report, is sickening, and the thought that most of them come from the immigrants' own countrymen or from men who should be their protectors is, in the extreme, discouraging.

The question naturally arises, Why do the immigrants come at all, when their experiences are so outrageously bad as here officially given? Do they know beforehand the risks they run of misfortune in endless forms? Or, bad as conditions are for them here, are they possibly worse off in their own country?

Of coures there are immigrants and immigrants. The attention of the bureau is naturally taken up with the case of the poorest, most ignorant, most helpless. But of these there are great numbers. The moving sentiments of the chief investigator, Frances E. Kellor, with regard to the immigrants are well known. They are humanitarian. We all sympathize with her work. As a fact, on reading her statements one is seized with the feeling that there is urgent need for her work, and nothing else is to be done but have her go on with it. She is tackling, in a way creditable to her heart, one phase of immigration.

One phase only. There are larger phases. The one having the closest interest to American labor is the bearing that immigration has upon American labor—a matter frequently dealt with in this magazine. We make note of it now merely to denote our position and not to dwell upon it or even to restate it. It is unchanged. But when we contemplate the fate of the horde of immigrants arriving in New York we do not feel proud of what is being done with them by our country. The opportunity for the poor of all lands, of which our people once boasted, is a sadly dwindled vision.

Organized labor for more than a quarter of a century has persistently sought the passage by Congress of restrictive immigration laws. Some steps in that direction have been taken, but as yet they have been entirely inadequate for the protection desired. Every commission that has been appointed by our Government has recommended that immigration be restricted, and about all, if not all, have recommended the educational test as the most feasible. The provisions of this bill are very moderate, and it seems to me that no patriotic American who understands the need of solving this immigration question can find reasonable grounds for opposing this mild modification of our immigration laws.

It has been argued here by some that we need these poor foreigners for the purpose of doing our drudgery. In other words, these men seem to favor unlimited immigration, so that the shackles of industrial slavery may be clamped upon the incoming foreigners as fast as they arrive, and this, in my opinion, is far more brutal than the negro-chattel slavery which existed before the Civil War. To their further contention that Americans will not do the work that the foreign pauper labor is employed to do, I say that if a sufficient wage scale were maintained and the men were employed under equitable working conditions, such as an eight-hour day, and so forth, it would not be difficult to find willing American workmen on hand to do the work. And if it were possible to effect a law that would require the payment of a fair minimum wage and an eight-hour day the employers of this country would not desire to employ foreigners in preference to Americans, as is the case to-day with the United States Steel Trust and other large industrial cor-

portions, and evidence of which is found in the following advertisement appearing in the Pittsburgh papers not long ago:

Men wanted; tinners, catchers, and helpers; to work in open shops. Syrians, Poles, and Roumanians preferred. Steady employment and good wages to men willing to work. Fare paid and no fees charged.

In an article in the Federationist for January, 1911, containing the above advertisement, John Mitchell, ex-president of the United Mine Workers of America, says:

The suggestion that American labor is not wanted is likely to arouse a sentiment of hostility against the foreign workers whose labor is preferred by the companies responsible for advertisements of this character. Nothing but evil can come from discord and racial antagonism. At the same time that the American workman recognizes the necessity of reasonable restriction upon the admission of future immigrants, he realizes that his own welfare depends upon being able to work and to live in harmony and fellowship with those who have been admitted and are now a part of our industrial and social life.

There is perhaps no group in America so free from racial or religious prejudice as the workingmen. It is a matter of indifference to them whether an immigrant comes from Great Britain, Italy, or Russia; whether he be black, white, or yellow; whether he be Christian, Mohammedan, or Jew. The chief consideration is that, wherever he comes from, he shall be endowed with the capacity and imbued with the determination to improve his own status in life, and equally determined to preserve and promote the standard of life of the people among whom he expects to live. The wage earners, as a whole, have no sympathy with that narrow spirit which would make a slogan of the cry, "America for the Americans"; on the contrary, we recognize the immigrant as our fellow worker; we believe that he has within him the elements of good citizenship, and that, given half a chance, he will make a good American; but a million aliens can not be absorbed and converted into Americans each year; neither can profitable employment be found for a million newcomers each year, in addition to the natural increase in our own population.

The great labor leaders of this country, who have fought the battles of labor against the concentrated power of predatory wealth for many, many years, see the need of a law restricting immigration in this country, not alone for the protection of the American workingman but for the protection of the immigrants themselves. When we are prepared to protect these ignorant immigrants against the avarice and greed of the commercial pirates and industrial highbinders that seem to be in control of our industries to-day, and prevent them from being exploited to lower the standard of living and character of the American workingmen, we may eliminate the restriction; until then let us at least have the mild modification for which this bill provides.

Mr. LINTHICUM. Mr. Chairman, I am in favor of this bill, and hope to see it passed by this House. I represent a district in the city of Baltimore, of which I am justly proud, embracing in its boundaries people of many nationalities, each pursuing his chosen profession or business and with great credit to himself and to the city of his birth or adoption. They have made names for themselves in the business and professional world, they have become eminent in the law, the arts and sciences, in manufacture and commerce, and in carrying to successful fruition the vast enterprises of our Maryland metropolis. The artisans and laborers have performed their duty with equal ability and are to-day building a greater Baltimore, which will be even more beautiful than ever before.

Immigration and immigrants are not new to me. During my boyhood days my father employed many of them—first, the Germans, then the Poles, and after them the Bohemians. I know them to be good workmen and honest toilers, and I am familiar with their habits, their troubles, and their enjoyments. Many of them have accumulated wealth; others are still toiling, and quite a number have passed that solemn bourn from which no traveler returns. They make good citizens and they have always had my sympathy and assistance. I am not, therefore, like some Members have said of others on this floor—unfamiliar with the immigration question.

I would not vote to do anything which would prevent any desirable immigrant from coming here who wishes to come here and take part in the further development of our country. I do not believe the Burnett bill will keep from our shores very many aliens who wish to make this their home. The alien is required only to read in his own language, including the Hebrew and Yiddish, some 30 or 40 words, and this, I believe, can be done by almost the entire body of aliens. Besides this, the bill provides:

That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

This would enable any alien now in this country, or who may hereafter come and be admitted under the provisions of this bill, to send for those of his family whom he has left behind and to bring them in, whether they can read 30 or 40 words or not, because under the bill they would not be required to perform this task. We therefore find that practically any member of a family who can read in his own language a few words can bring in the members of his family who can not do so, and which, I believe, would cover almost any person who desires to be admitted and who is not prohibited under the provisions of the present immigration laws.

The literacy test is not new in this country. Our very naturalization law requires that a man must be able to speak the English language, and the very State from which the able and distinguished gentleman from Massachusetts [Mr. CURLEY] comes requires that a man must be able to sign his name and read the constitution of the State of Massachusetts before he can register and be qualified to vote and take part in the affairs of that State.

Mr. MURRAY. Will the gentleman yield?

Mr. LINTHICUM. I will yield for a question.

Mr. MURRAY. I ask the gentleman from Maryland in how many States of this great Union the naturalization law he speaks of is a prerequisite to the right of suffrage?

Mr. LINTHICUM. In nearly all the States. I do not know how many do not require it, but they are very few.

Mr. MURRAY. May I inquire of the gentleman if the reading and writing test is required in the great State of Texas, represented by the gentleman [Mr. DIES] who sits by his side?

Mr. LINTHICUM. It is not required in the State of Texas, and it is not required in my State.

Mr. MURRAY. If the gentleman will allow me——

Mr. LINTHICUM. I can not yield further, I have only five minutes.

As I was saying, Mr. Chairman, the great State of Massachusetts requires a man to be able to sign his own name and read the constitution of that State before he can register and vote. The requirements of the bill before us are certainly not as drastic as these, in that he is required only under this bill to read a few words in his own language. But that is not all. This bill does not keep out or require this literacy test if the alien is fleeing from persecution. In that event he is allowed to come into this country, although he may be absolutely illiterate and unable to read. We in nowise shut our gates to those of other nations who are seeking a place of refuge from persecution in their own land, and were we I should certainly not vote for the bill.

I believe this bill will help us to improve upon the character of our immigration. I do not believe it will keep out any desirable citizens, and I do believe that it will be of great benefit, not only to those native-born Americans of our country but those who make this their home and intend to live with us.

I can not but be surprised at the inconsistency of some Members who have been talking upon this floor for lo these many years about protecting American labor from foreign competition by keeping out goods of foreign make, which they claim are manufactured or made by pauper labor, and yet they would keep down the bars and let illiterates and all others who may desire to come to this country come in without any hindrance except those debarred by our immigration laws, and here, upon our own soil and in our own midst, compete with our American labor, whether native or foreign born. As for myself, I prefer to keep out the class aimed to be excluded by this bill and to spend my time and my efforts in the further protection of those aliens now with us, through granting to them salutary laws and more healthful surroundings, than to permit illiterates from every country of the globe to be dumped upon us, flooding our labor market and depreciating the value of the labor now performed by our citizens, both native and foreign. I would rather have our people happy and prosperous than to see them competing with every class of illiterates which might be brought in by the steamship and railroad corporations who are engaged in promoting immigration to this country, and whose supreme object in bringing them here is the profit they derive from the charge for their transportation.

Furthermore, I do not believe it is in the interest of the illiterate aliens themselves to be encouraged to come to this country by stories of vast wealth and large wages and thereby induced to leave a country where they have lived all their lives in comparative prosperity, happiness, and contentment. We know that many come because they believe that here fabulous fortunes are to be amassed with ease, and when they get here they experience a bitter awakening and find that the work is just as hard, and after the expenses of living have been deducted there is but little left toward those savings to which, under false pictures, they looked forward with such happy anticipations.

Mr. BURNETT. I move that all debate on the pending paragraph and amendments thereto be closed in five minutes.

The CHAIRMAN. The gentleman from Alabama moves that all debate on the pending paragraph and amendments thereto be closed in five minutes.

Mr. SHERLEY. I offer an amendment to close the debate immediately. I do not see any reason why it should continue for five minutes, if there is to be no more debate than that.

Mr. BURNETT. I accept the amendment.

Mr. SHERLEY. I think that is better, if we are not going to have any debate.

Mr. MANN. Let the amendment be reported, Mr. Chairman.

The CHAIRMAN. The question is upon the motion made by the gentleman from Alabama that the debate on this paragraph and all amendments thereto close in five minutes, to which motion the gentleman from Kentucky moves an amendment to close debate immediately.

Mr. MOORE of Pennsylvania. Mr. Chairman, I desire to oppose that amendment.

The CHAIRMAN. The gentleman knows that it is not debatable. The question is on the amendment offered by the gentleman from Alabama.

The question was taken; and on a division (demanded by Mr. MANN) there were 85 ayes and 46 noes.

Mr. MOORE of Pennsylvania. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. BURNETT and Mr. MOORE of Pennsylvania.

The committee again divided; and the tellers reported that there were 78 ayes and 39 noes.

So the amendment was agreed to.

Mr. SABATH. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. I understood the gentleman from Alabama made a motion to close debate, and the gentleman from Kentucky offered an amendment.

The CHAIRMAN. The gentleman from Alabama accepted the amendment of the gentleman from Kentucky.

Mr. MANN. The gentleman from Alabama could not accept the amendment.

The CHAIRMAN. Does the gentleman from Illinois desire that the question be put?

Mr. MANN. No; not if it has already been disposed of; but I like to see matters disposed of according to the rules.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. SABATH].

The Clerk read as follows:

Page 59, after line 22, insert the following:

"*Provided*, That any alien excluded from admission into the United States under the provisions of this act shall have all the rights of appeal conferred upon aliens by the act approved February 20, 1907, entitled 'An act to regulate the immigration of aliens into the United States.'"

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. SABATH].

The question was taken, and the amendment was lost.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 4. That an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came in the manner provided by section 19 of "An act to regulate the immigration of aliens into the United States," approved February 20, 1907.

Mr. BARTHOLDT. Mr. Chairman, I move to strike out the last word, and I do it for the purpose of calling attention to what has been done here this afternoon. I offered an amendment to correct what I believed to be a serious defect in this bill. I called the attention of the distinguished chairman to it, but the amendment was voted down. I merely want to call the attention of the House to the fact that under the phraseology of section 1 not a single Pole can be admitted into the United States, whether he can read and write or not, because the language is that he must speak either the English language or the language of some other country. As we all know, Poland is no country; it is only a historical conception, so that the Polish language is a language without a country, and a man from any one of the three provinces which in the last century have been divided between Russia, Prussia, and Austria who would come to our ports would have to be rejected because he could not read the English language or the language of another country.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. BARTHOLDT. Yes.

Mr. MOORE of Pennsylvania. If the gentleman's argument in regard to Poland is true, would not the same argument apply to that country in which we are all so much interested—Ireland?

Mr. BARTHOLDT. It might apply to Ireland; I have not investigated the question, but under the phraseology of this bill which you have adopted neither Kosciusko nor Pulaski, the great Revolutionary heroes, to whose memory we have erected monuments in this great Capital, could have been admitted to the United States.

Gentlemen who have spoken here representing districts in Chicago who are in favor of this bill and voted against my amendment I am sure have a large number of Poles in their district, and this matter will surely be brought to their attention when they return home, because under this bill no Pole could be admitted to the United States, and no judge would construe the language differently, in my judgment, from what I construe it, and as every man who reads the language must construe it.

Mr. LENROOT. Mr. Chairman, we have come to the close of the consideration of this substitute, and I greatly fear that some members of the committee have been laboring under a misunderstanding as to what the power of this committee is over this bill. The statement of the gentleman from Illinois [Mr. MANN] a few moments ago should not go unchallenged at this time. Mr. Chairman, the rule we are operating under in the consideration of this bill is not a gag rule. This committee has it within its power to consider every line and every word of the Senate bill if it so chooses to do it. The consideration that has been given to that substitute bill this afternoon, Mr. Chairman, has not been under this special rule at all. It has been under the general rules of the House. All that the special rule does, all that the rule did, is to give precedence in consideration to this substitute bill offered by the House committee, and that is all. If this committee shall desire to consider the Senate bill, desire to amend it, desire to do anything they choose with it, the way is open for doing so by rejecting the substitute bill, and the Senate bill is then wide open. Furthermore, let me say, if the committee desires to do that thing, they have lost nothing by rejecting the substitute, because every provision in this substitute is found somewhere in this Senate bill; and, Mr. Chairman, if the committee desires, as I believe they will and as I shall vote to do, to adopt this substitute, saying by their votes they do not propose to consider the Senate bill, that is the right of the committee so to do, and it is not a curtailment of the power of the committee in any sense. [Applause.]

The CHAIRMAN. The question is on the substitute offered by the committee.

Mr. MANN. Mr. Chairman, before that is voted upon I have an amendment which I desire to offer which is in the nature of a new section.

Mr. MOORE of Pennsylvania. Mr. Chairman, I have an amendment to the paragraph.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment to the paragraph, which the Clerk will report.

The Clerk read as follows:

Page 60, line 1, strike out the word "section" and insert in lieu thereof the words "sections 15 and."

Mr. MOORE of Pennsylvania. Mr. Chairman, unless this amendment is adopted there will be no authority of law permitting or authorizing immigrant inspectors to go upon vessels for the purpose of the particular tests provided for in this act, and the master of any vessel could forbid the test being made. Mr. Chairman, I desire by way of extending my argument to send to the Clerk's desk and have read in my time a letter from the Hon. William S. Bennet, formerly a Member of this House and a member of the Committee on Immigration and Naturalization and also of the Immigration Commission, that is reported to favor this bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

BENNET & COOLEY,
ATTORNEYS AND COUNSELORS AT LAW,
New York, December 16, 1912.

Hon. J. HAMPTON MOORE,
House of Representatives, Washington, D. C.

MY DEAR MOORE: I was somewhat amused and very much interested last week to be told that some of the New York papers were alluding to the Burnett literacy test as the "Bennet bill." Of course the confusion grows out of the similarity of names; but I find that there are those who actually believe that the Burnett bill is one drawn and approved by me, and that some of those people and other people have the impression that I joined as a member of the Immigration Commission in that commission's approval of a reading and writing test. As a matter of fact, I dissented from that approval. Mr. BURNETT on Saturday so stated, but I would be glad if the fact could be brought even more emphatically to the attention of the House, in which there are many still who were my colleagues in one or more Congresses. I find also that there is a widespread belief that the Burnett bill was in form approved by the Immigration Commission. This impression is not well founded. I do not doubt that there are individual members of the commission who would approve the form, but there was never any discussion of the form in the commission. I, of course, want to make it very clear that Mr. BURNETT does not claim and never has claimed that the form of his literacy test had the approval of the Immigration Commission.

Inasmuch as there is the impression that in some way the Burnett literacy test is mine, I feel that I ought to point out briefly some rea-

sons why I do not desire to have that belief prevalent. Irrespective of the principle, the bill is distinguished for bad English, and in addition to that is drawn without apparent knowledge of or reference to existing law and conditions, and worst of all, is unworkable.

As to the question of English, take section 2 on page 59 alone. Why the words "or not" on line 2? On line 3 the draftsman speaks of "uniform slips" when the whole context shows that the slips are to be different; doubtless what the draftsman meant was slips of uniform size, but he has not said it. Take the phrase "each containing not less than 30 nor more than 40 words in ordinary use printed in plain type in the various languages and dialects of immigrants"; what the draftsman meant evidently was to insert after the word "in," where it occurs the second time, on line 6, the words "some one of," but he forgot to do it. On line 7 the word "may" is used when "must" is meant. Under the language as it stands there is no penalty if the alien neglects to make the choice so politely given him, if he picks out the slip he is required to read, but as nowhere in the bill is an examination directed, nothing happens unless he picks out the slip. I could multiply instances in this and other sections of the faulty construction and bad English of this test framed on the idea that the people desired in this country are experts in language.

As to collisions with existing laws and conditions I note, among other things, that it applies to the Canal Zone. The immigration law excepts the Canal Zone. It applies to the Philippines and provides for the enforcement of the act by immigrant inspectors; there are no immigrant inspectors in the Philippines. It applies to the ambassadors, ministers, and other officials of foreign Governments, their suites, families, and guests; the immigration law excepts these from all other tests, but if a member of the household or a servant of a foreign minister can not read back he goes. It does not recognize that Canadians and Mexicans cross our border daily; if this bill passes each Mexican or Canadian coming into the United States will have to read his daily slip as regularly as he eats his daily breakfast, and a Canadian lady coming in a sleeper must be waked up in the middle of the night and made to read her "not less than 30 nor more than 40 words." Russia is the only country that now does anything as brutal as that. There are many other defects of this character in the bill; chiefly they come from trying to pass the literacy test as a separate act, thus taking it away from the limitations, exemptions, and provises which 20 years of experience has engrafted on the immigration law.

The bill is unworkable in practice. The immigration law provides that a steamer which does not comply with that law can not clear, but there is no such provision in this act except as to deported persons. Examinations must be on shipboard because the provisions of the immigration law concerning temporary landing are not a part of this act. Immigrants speak altogether more than 45 different languages, and as no two on the same ship can read from the same slip ships which bring in 2,000 aliens will require 90,000 slips, although they will use but 2,000. Imagine inspectors going out into the middle of the harbor with those 90,000 slips as a part of their equipment to steamers which the law does not compel to receive them for the purpose of such an examination.

These criticisms are not captious; not one of them would have applied to section 38 of the Gardner bill of 1906; that test was equally bad in principle, but its English was good; it did not collide with other provisions of the immigration law, and being made a part of the immigration law it would have been workable. The Burnett bill is much the least desirable in form and draftsmanship of any of the literacy tests which have been considered in the House during the past eight years.

Very truly, yours, WILLIAM S. BENNET.

During the reading of the foregoing letter the time of Mr. Moore of Pennsylvania expired, and by unanimous consent sufficient time was granted to enable the Clerk to conclude the reading of the letter.

Mr. MOORE of Pennsylvania. Mr. Chairman, under general leave I also offer the following protests against the bill:

PHILADELPHIA, PA., *December 17, 1912.*

Hon. J. HAMPTON MOORE,
House of Representatives, Washington, D. C.:

Philadelphia Board of Trade appeals by unanimous vote to oppose passage Dillingham-Burnett bill restricting immigration.

WM. M. COATES, *President.*

PHILADELPHIA, PA., *November 27, 1911.*

A remonstrance against further restriction of immigration.

In view of a number of propositions now pending in Congress for the further restriction of immigration, the Jewish Community of Philadelphia, a representative organization constituted by delegates from many congregations, educational institutions, charitable associations, benevolent orders, and other societies, begs leave to submit to the Senators from Pennsylvania and the Representatives from the congressional districts of Philadelphia the following considerations:

I. Existing law prohibits the incoming of criminals, paupers, lunatics, persons of immoral life, those afflicted with contagious diseases, and all others who may reasonably be regarded as dangerous to the public welfare or likely to become burdens upon the public purse. These provisions are sufficient for the exclusion of all unfit immigrants, and any further restriction must inevitably result in inhumanity and wrong.

II. Two of the proposed restrictive measures are especially objectionable, namely, the imposition of an educational test and the increase of the head tax.

(a) With regard to the literacy requirement, it is submitted that this is not a fair measure of moral worth, of economic value, of mental capacity, or civic virtue.

Experience proves that moral soundness—simple honesty—is independent of intellectual culture. The vast majority of those ignorant of letters are morally sound, while a minority of the literate are morally defective, despite their education.

(b) With respect to the proposed increase of the head tax, it is submitted that for the special purpose of providing for the cost of administering the immigration law the present head tax of $4 furnishes a large surplus and is therefore more than enough. As a source of revenue for general purposes it would be essentially unjust, putting an undue burden upon those least able to bear it.

III. Many important economic objections might be urged against these proposed restrictions, but the Jewish Community prefers to base its opposition upon the fundamental principles of our free Government and upon the history and traditions of our country. It has been the consistent will and policy of the people of the United States that this land should ever be a refuge for the oppressed and persecuted of the earth. It is inconceivable that a free and prosperous people whose institutions are founded upon the broadest humanity and the most explicit recognition of the rights of man could wish to close its ports against peaceable, honest, worthy, and industrious men and women seeking for themselves and their children political, religious, and industrial freedom. To turn them back because of defective education in the oppression and misery from which they are escaping, or to diminish by an unnecessary tax the remnant of their possessions, already depleted by official robbery in their native lands, would be for this Nation stultification and shame.

While beyond our concern for the national character and national honor we have a particular interest in our brethren the Jews fleeing from persecution and massacre in Russia, we do not limit our remonstrance against these cruel and unjust proposals by any consideration of nation or creed.

Respectfully submitted by committee representing the Jewish Community.

Dr. S. Solis Cohen, chairman; Adolph Eichholz, Dr. B. L. Gordon, Joseph Gross, Joseph L. Kun, Rabbi B. L. Levinthal, Louis E. Levy, William Gerstley, B. N. Berman, Wolf Klebansky, Com. B. Hackenburg, Abraham Ellis, Max Herzberg, Ellis Gimbel, Edwin Wolf, Harry Nathanson, Samuel D. Lit, Ralph Blum, August B. Loeb.

Mr. GARDNER of Massachusetts. Mr. Chairman, I rise to oppose the amendment offered by the gentleman from Pennsylvania. The sections to which he referred have to do with vessels' manifests. As to the Gardner bill being in better shape than the Burnett bill, it is not unnatural that the gentleman who wrote that letter should think so. He had a large hand in drafting the Gardner bill. As to the Burnett bill, there was complete collaboration between the gentleman from Alabama [Mr. BURNETT] and myself. Much as I like the former Member from New York, Mr. Bennet, I do not think that any of his criticisms, except one or two minor ones, are very important. To be sure, I myself formerly contended that Canada and Mexico should be exempted from the provisions of the bill; but if I recollect rightly the very people who objected to that exemption are the very ones who now are desirous of amending the bill so as to exempt Canada and Mexico. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the amendment was rejected.

Mr. HEFLIN. Mr. Chairman, I am heartily in favor of this legislation. My colleague, Mr. BURNETT, the author of the bill, is entitled to the thanks of the whole country. The time has arrived when the American people must pay some attention to the kind of people who come here from foreign countries. We are not opposing the coming of people who are fleeing the persecution of other countries, seeking this land of liberty and opportunity, with the intention of becoming good citizens and of supporting our institutions. This bill does not strike at them, but it strikes at a class of people dangerous to peace and order in the United States. Gentlemen here know, and I know, that under the present immigration law undesirable people are coming into our country, poisoning our civilization and striking at the very vitals of this Republic. [Applause.] Mr. Chairman, the time has come when we must guard our liberties and protect our civilization in the United States. [Applause.] Some of the opposition to this bill does not arise from sympathy with the downtrodden, as the term is used.

Mr. Chairman, some of the steamship companies are opposing this bill because they want unrestricted immigration so that this traffic in human beings may continue. They are not thinking of the good of society in the United States. They are not considering the danger to our civilization that will come by an indiscriminate class of foreigners coming into our country. [Applause.] They favor unrestricted immigration because it furnishes to them a lucrative trade. They now send agents abroad, who urge every class and condition of people to come to the United States—no thought of the well-being of the people in America; no thought of the perpetuity of this Republic inspires them when they are seeking to load their ships in foreign lands. [Applause.]

The American people have seen and felt the evils of unrestricted immigration, and they are determined to provide ways and means for safeguarding American ideals and institutions. We must have some standard by which the foreigner seeking our country can be measured. There must be a test of fitness. We must determine who shall or shall not come here and take up his abode in our country. [Applause.] Some gentlemen here are unnecessarily alarmed. We are not trying to keep out the man or woman inspired by the love of liberty and actuated by the desire to better his or her condition and support our institutions, but we are striving to safeguard our institutions, protect our civilization, and to prevent this front becoming the dumping ground for the unfit and criminal hordes of other countries. [Loud applause.]

Mr. FITZGERALD. Mr. Chairman, I wish to oppose the amendment of the gentleman from Alabama. Mr. Chairman, the gentleman from Alabama has given utterance to the keynote of much of the discussion on this bill, which shows how erroneously some gentlemen reason. He states that the object of this bill is to keep out the undesirable immigrants, and his remarks are predicated upon the belief that the mere capacity to read 30 words of the Constitution of the United States in any language is a proper criterion of whether a man will be a desirable or an undesirable acquisition to this country. One of the great minds of England, who has given considerable attention to the effect of culture upon morals in his well-known work on the Study of Sociology, Herbert Spencer, has written as follows upon the question:

Are not fraudulent bankrupts educated people and getters up of bubble companies, and makers of adulterated goods, and users of false trademarks, and retailers who have their light weights, and owners of unseaworthy ships, and those who cheat insurance companies, and those who carry on turf chicaneries, and the great majority of gamblers? Or, to take a more extreme form of turpitude, is there not among those who have committed murders by poison within our memories a considerable number of the educated, a number bearing as large a ratio to the educated classes as does the total number to the total population?

This belief of the moralizing effects of intellectural culture, flatly contradicted by the facts, is absurd a priori. What imaginable connection is there between learning that certain clusters of marks on paper stands for certain words and the getting of a higher sense of duty? What possible effect can acquirement of faculty in making written signs or sounds have in strengthening the desire to do right? How does knowledge of the multiplication table or quickness in adding and dividing so increase the sympathies as to restrain the tendency to trespass against fellow creatures? In what way can the attainment of accuracy in spelling and parsing, etc., make the sentiment of justice more powerful than it was? Or why, from stores of geographical knowledge, perseveringly gained, is there likely to come increased regard for truth?

Mr. Chairman, this bill will not accomplish what those who advocate it desire. I come from a very cosmopolitan district. Those I represent and I myself favor legislation that will keep out the undesirable elements of other countries that are detrimental to our citizenship, but the mere capacity to read will not do so. The most expert agriculturist, who might be highly desirable to every section of the country, if perchance he can not read will be excluded; experts in mining and other arts, highly desirable to this country, would be excluded.

Mr. Chairman, many men of this House are descendants of a race who when their ancestors came to this country it was a penal offense for Irishmen in Ireland to attend any school, and they were educated in the hedge schools of Ireland by the persecuted priests who were not tolerated in the Kingdom because of their religious beliefs. I regret to find in this House to-day the descendants of such people attempting to exclude from this country honest, desirable, capable men because unable to read. They aspire as earnestly as those who are here for the opportunity of developing and bringing up their children in a country whose institutions appeal to them most forcibly. They leave behind all that is associated with the love of native land and devotion to ancestry and, striking out hopefully and enthusiastically, come here that they may be a part of a government and of a country and of a people which reflects so gloriously and creditably upon the ability of all men when given an opportunity to rise to that high state which God intended they should have on this earth. [Applause.]

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is recognized to offer an amendment.

The Clerk read as follows:

The word "alien" wherever used in this act shall include foreign-born, unnaturalized seamen. That the term "United States," as used in the title as well as in the various sections of this act, shall be construed to mean the United States, including the Territories of Alaska and Hawaii; and if any alien shall attempt to enter the United States from the Canal Zone, the Philippines, Porto Rico, or any other place outside of the United States but subject to the jurisdiction thereof, such alien shall be permitted only on the conditions applicable to aliens entering the United States from a foreign country.

That nothing in this act shall be construed to apply to accredited officials of foreign governments nor to their suites, families, or guests.

Mr. MANN. Mr. Chairman, that merely defines the term "alien" in the act, and includes one other thing, namely:

That nothing in this act shall be construed to apply to accredited officials of foreign Governments nor their suites, families, or guests.

Of course, it is not to be presumed that these officials shall not be able to read or write, but under the language of the bill when they enter they shall be subjected to the trial as to whether they can read or not. They shall be handed a slip to see whether they can read. I do not believe the House ought to be inclined to take the position that the ambassador of Great Britain when he enters the port of New York, or Boston or Philadelphia, shall be required to show to the immigrant inspector that he is able to read the English language.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was rejected.

Mr. MANN. I offer a further amendment as a new section.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read a portion of the amendment, as follows:

SEC. —. That there shall be levied, collected, and paid a tax of $5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle. The tax imposed by this section——

Mr. BURNETT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BURNETT. I do not think the amendment is germane to the bill under consideration. It provides for a head tax, as I catch the meaning of it, and I do not think it is germane to the bill. I make the point of order that it is not germane.

The CHAIRMAN. The Clerk will complete the reading of the amendment.

Mr. MANN. I do not think it is necessary to read the amendment through after that point of order has been made.

The CHAIRMAN. The Chair will be glad to hear the gentleman from Illinois [Mr. MANN] on the point of order.

Mr. MANN. Mr. Chairman, the rule under which we are operating provides:

The amendment proposed by the House committee shall be first read for amendment and perfected. After same has been so perfected the vote shall be taken upon the question of the adoption of said amendment. If same shall be adopted, then the Senate bill shall not be read, but the committee shall rise and report the measure to the House.

It says that, when it is perfected, the committee shall rise and report the same to the House. Immediately upon the perfected measure being reported to the House the previous question shall be considered as ordered upon the bill, and so forth.

Now, the Chair is called upon to rule as to whether, in the consideration of the proposition pending in the committee, it is in order to offer any amendment which may not be germane to the committee substitute but is germane to the original bill. I did not offer this as an amendment to the committee substitute. I offered it as a new section to the bill. The rule provides that the committee amendment shall be perfected. After the same shall have been so perfected a vote shall be taken upon the question of the adoption of said amendment. Is it a gag rule to prevent any other matter being offered as an amendment? If it were a bill pending before the House, it would be in order to offer this amendment.

The gentleman from Wisconsin [Mr. LENROOT] a moment ago assured the House that this gave the widest latitude to the House. Here is an amendment, admittedly germane to the bill, admittedly germane to the general proposition of immigration, but which I admit is not germane to the mere literacy test, but which is germane to the matters involved in the bill and germane to the committee amendment, which proposes to strike out all of the Senate bill, and it seems the rule could have no purpose unless the purpose was to prevent the House from having a chance to consider proper provisions relating to immigration and to gag the House.

I have heard my distinguished colleague from Illinois [Mr. CANNON], the ex-Speaker of the House, repeatedly state in the House that the majority of the House at any time could do anything it pleased. I wondered when I heard my friend from Wisconsin [Mr. LENROOT] repeat that speech, because many times have I heard him in the House declare that the rules ought to give protection to the minority in the House; ought to give the House an opportunity to vote on questions in which the House is interested. We shall be called upon, presumably, in the end to vote upon a conference report covering this and other matters. Have we taken away from ourselves by a rule the power to express in committee our opinion upon these matters upon which later we will be compelled to vote in the House?

Mr. LENROOT. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired. The Chair is ready to rule. The Chair is of opinion that this amendment is not germane to the committee amendment. If the committee votes down the committee amendment, then this amendment could be made to some portion or some part of the Senate bill. The Chair therefore sustains the point of order. The question is on the adoption of the committee amendment.

Mr. MANN. That does not require a vote, Mr. Chairman. I beg the Chair's pardon, but that does not require a vote; does it, now?

The CHAIRMAN. The Chair thinks so.

Mr. MANN. I take it that so long as it was read section by section it would follow the ordinary course—that when it is not voted out it stays in.

The CHAIRMAN. The Chair will read to the gentleman:

After same has been so perfected, the vote shall be taken upon the question of the adoption of said amendment.

The question is on the adoption of the amendment.

The question was taken, and the amendment was agreed to.

Mr. GOLDFOGLE rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. GOLDFOGLE. To strike out the last word.

The CHAIRMAN. But the amendment is agreed to.

Mr. SABATH. Mr. Chairman, I rise to offer an additional amendment.

Mr. BURNETT. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with the amendment, with a recommendation for its passage.

The motion was agreed to.

Mr. SABATH. I offer an amendment. This is a new section, Mr. Chairman.

The CHAIRMAN. An amendment to what?

Mr. SABATH. To the bill; a new section.

The CHAIRMAN. But the committee has already adopted the committee amendment, and no other amendment is now in order. The motion that the committee rise has been agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HAY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration Senate bill 3175, to regulate the immigration of aliens to and residence of aliens in the United States, and had directed him to report the same back with the amendment proposed by the Committee on Immigration, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The SPEAKER. Under the special rule that the House is operating under, the vote will be taken on the committee amendment, which is in the nature of a substitute. The question is on agreeing to the substitute.

The question was taken, and the Speaker announced that the "ayes" seemed to have it.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Under that rule a provision is inserted to the effect that—

A separate vote may be demanded on any amendment or amendments thereto adopted by the Committee of the Whole.

The Chair did not put the question whether a separate vote was asked for. There was an amendment or two adopted in Committee of the Whole.

The SPEAKER. The Clerk informed the Chair that no amendment was adopted to the amendment.

Mr. MANN. I thought I heard the Chair declare that an amendment was adopted.

The SPEAKER. No; the thing which the Chair was talking about is really what is the bill. Under that special rule this amendment from the committee is treated and considered as a bill.

Mr. MANN. If the Chair will pardon me, I think that the Chair is in error. The rule provides that "a separate vote may be demanded on any amendment or amendments thereto."

The SPEAKER. That is to the committee amendment.

Mr. MANN. To the committee amendment adopted by the Committee of the Whole.

The SPEAKER. The Clerk informs the Chair that none was adopted. The Clerk is the source from which the Chair gets official information.

Mr. MANN. If I am mistaken, I beg the Chair's pardon. I ask for a division.

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands a division. Those in favor of adopting this committee amendment will rise and stand until they are counted. [After counting.] One hundred and forty-one gentlemen have risen in the affirmative. Those opposed will rise and stand until they are counted. [After counting.] Forty-seven gentlemen have risen in the negative.

Mr. MANN. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 201, nays 62, answered "present" 3, not voting 123, as follows:

YEAS—201.

Adair	Buchanan	Collier	Edwards
Alney	Burke, S. Dak.	Cooper	Evans
Alexander	Burnett	Cox, Ind.	Faison
Allen	Butler	Crago	Farr
Anderson	Byrnes, S. C.	Cullop	Ferris
Ashbrook	Byrns, Tenn.	Dalzell	Fields
Austin	Callaway	Danforth	Finley
Ayres	Candler	Davis, Minn.	Flood, Va.
Bartlett	Cantrill	Dent	Floyd, Ark.
Bathrick	Carter	Denver	Focht
Beall, Tex.	Cary	Dickinson	Foss
Bell, Ga.	Clark, Fla.	Dies	Foster
Blackmon	Claypool	Difenderfer	Fowler
Borland	Clayton	Dixon, Ind.	Francis
Browning	Cline	Doughton	French
Fuller	Humphrey, Wash.	Morse, Wis.	Sheppard
Gardner, Mass.	Humphreys, Miss.	Moss, Ind.	Simmons
Garner	Jacoway	Mott	Sims
Garrett	James	Needham	Sisson
Gillett	Johnson, Ky.	Nelson	Slayden
Glass	Johnson, S. C.	Oldfield	Sloan
Godwin, N. C.	Jones	Padgett	Small
Goeke	Kennedy	Page	Smith, J. M. C.
Good	Kent	Patton, Pa.	Smith, Saml. W.
Goodwin, Ark.	Kinkaid, Nebr.	Payne	Smith, Tex.
Greene, Vt.	Kitchin	Pepper	Stedman
Gregg, Pa.	Kopp	Pickett	Steenerson
Griest	Lafferty	Plumley	Stephens, Cal.
Hamilton, Mich.	La Follette	Porter	Stephens, Miss.
Hamilton, W. Va.	Lamb	Post	Stephens, Tex.
Hamlin	Langley	Pou	Sterling
Hardy	Lawrence	Powers	Sweet
Harrison, Miss.	Lee, Ga.	Pray	Switzer
Haugen	Lenroot	Prince	Talbott, Md.
Hay	Lever	Rainey	Taylor, Ala.
Hayes	Lewis	Raker	Taylor, Ohio
Heald	Lindbergh	Rauch	Tribble
Heflin	Linthicum	Redfield	Underhill
Helgesen	Littlepage	Rees	Underwood
Helm	Longworth	Robinson	Warburton
Henry, Conn.	McGuire, Okla.	Roddenbery	Watkins
Henry, Tex.	McKenzie	Rothermel	Webb
Hensley	McKinney	Rouse	White
Hill	McLaughlin	Rubey	Willis
Hinds	Macon	Rucker, Colo.	Wilson, Pa.
Holland	Maguire, Nebr.	Rucker, Mo.	Witherspoon
Houston	Martin, S. Dak.	Russell	Young, Kans.
Howell	Mondell	Scott	Young, Tex.
Hughes, Ga.	Moore, Tex.	Sells	
Hughes, W. Va.	Morgan, Okla.	Shackleford	
Hull	Morrison	Sharp	

NAYS—62.

Ansberry	Dyer	Lee, Pa.	Rodenberg
Barchfeld	Estopinal	Lobeck	Sabath
Bartholdt	Fergusson	Loud	Scully
Berger	Fitzgerald	McCoy	Sherley
Booher	Gallagher	McDermott	Stone
Bulkley	George	Madden	Talcott, N. Y.
Burke, Wis.	Gill	Mann	Tilson
Burleson	Goldfogle	Miller	Towner
Calder	Graham	Moore, Pa.	Townsend
Campbell	Greene, Mass.	Morgan, La.	Vare
Cannon	Hammond	Murray	Volstead
Curley	Hawley	Nye	Whitacre
Curry	Kahn	O'Shaunessy	Wilder
Donohoe	Kinkead, N. J.	Peters	Young, Mich.
Doremus	Konig	Ransdell, La.	
Dupré	Konop	Roberts, Mass.	

ANSWERED "PRESENT"—3.

Kendall	McGillicuddy	McMorran

NOT VOTING—123.

Adamson	Driscoll, D. A.	Lafean	Richardson
Aiken, S. C.	Driscoll, M. E.	Langham	Riordan
Akin, N. Y.	Dwight	Legare	Roberts, Nev.
Ames	Ellerbe	Levy	Saunders
Andrus	Esch	Lindsay	Sherwood
Anthony	Fairchild	Littleton	Slemp
Barnhart	Fordney	Lloyd	Smith, Cal.
Bates	Fornes	McCall	Smith, N. Y.
Boehne	Gardner, N. J.	McCreary	Sparkman
Bradley	Gould	McHenry	Speer
Brantley	Gray	McKellar	Stack
Broussard	Green, Iowa	McKinley	Stanley
Brown	Gregg, Tex.	Maher	Stephens, Nebr.
Burgess	Gudger	Martin, Colo.	Stevens, Minn.
Burke, Pa.	Guernsey	Matthews	Sulloway
Carlin	Hamill	Mays	Sulzer
Conry	Hanna	Merritt	Taggart
Copley	Hardwick	Moon, Pa.	Taylor, Colo.
Covington	Harris	Moon, Tenn.	Thayer
Cox, Ohio	Harrison, N. Y.	Murdock	Thistlewood
Cravens	Hart	Neeley	Thomas
Crumpacker	Hartman	Norris	Turnbull
Currier	Hayden	Olmsted	Tuttle
Daugherty	Higgins	Palmer	Vreeland
Davenport	Hobson	Parran	Wedemeyer
Davidson	Howard	Patten, N. Y.	Weeks
Davis, W. Va.	Howland	Prouty	Wilson, Ill.
De Forest	Jackson	Pujo	Wilson, N. Y.
Dickson, Miss.	Kindred	Randell, Tex.	Wood, N. J.
Dodds	Knowland	Reilly	Woods, Iowa
Draper	Korbly	Reyburn	

So the amendment was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. HARDWICK (for Burnett bill) with Mr. VREELAND (against).

Mr. MONDELL (for Burnett bill) with Mr. MAHER (against).

Mr. GUERNSEY (for Burnett bill) with Mr. MCGILLICUDDY (against).

Mr. LAFEAN (for Burnett bill) with Mr. CONRY (against).

Mr. KOPP (for Burnett bill) with Mr. LEVY (against).

Mr. LLOYD (for Burnett bill) with Mr. KENDALL (against).

Mr. PARRAN (for Burnett bill) with Mr. WEDEMEYER (against).

Mr. THOMAS (for Burnett bill) with Mr. BOEHNE (against, only on final passage of bill).

Mr. MCCALL (for Burnett bill) with Mr. COPLEY (against).

Mr. GUDGER (for Burnett bill) with Mr. DANIEL A. DRISCOLL (against).

Mr. PALMER (for Burnett bill) with Mr. REILLY (against).

Mr. JACOWAY (for Burnett bill) with Mr. SMITH of New York (against).

Mr. HOWARD (for Burnett bill) with Mr. THAYER (against).

For the session:

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. AIKEN of South Carolina with Mr. AMES.

Mr. RIORDAN with Mr. ANDRUS.

Mr. FORNES with Mr. BRADLEY.

Mr. LITTLETON with Mr. DWIGHT.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. PUJO with Mr. MCMORRAN.

Until further notice:

Mr. RICHARDSON with Mr. ESCH.

Mr. PEPPER with Mr. PROUTY.

Mr. TAGGART with Mr. HARTMAN.

Mr. BARNHART with Mr. BATES.

Mr. BRANTLEY with Mr. BURKE of Pennsylvania.

Mr. BROUSSARD with Mr. CRUMPACKER.

Mr. BROWN with Mr. CURRIER.

Mr. COVINGTON with Mr. DE FOREST.

Mr. COX of Ohio with Mr. DODDS.

Mr. DAVENPORT with Mr. GARDNER of New Jersey.

Mr. DAVIS of West Virginia with Mr. GREENE of Iowa.

Mr. GOULD with Mr. HANNA.

Mr. GREGG of Texas with Mr. HARRIS.

Mr. HAMILL with Mr. HIGGINS.

Mr. HARRISON of New York with Mr. HOWLAND.

Mr. HART with Mr. JACKSON.

Mr. HAYDEN with Mr. KNOWLAND.

Mr. KINDRED with Mr. LANGHAM.

Mr. LEGARE with Mr. MCCREARY.

Mr. MCKELLAR with Mr. MCKINLEY.

Mr. MARTIN of Colorado with Mr. MATTHEWS.

Mr. MOON of Tennessee with Mr. MERRITT.

Mr. NEELEY with Mr. MOON of Pennsylvania.

Mr. PATTEN of New York with Mr. MURDOCK.

Mr. RANDELL of Texas with Mr. OLMSTED.

Mr. STACK with Mr. REYBURN.

Mr. SAUNDERS with Mr. ROBERTS of Nevada.

Mr. STEPHENS of Nebraska with Mr. SLEMP.

Mr. SULZER with Mr. SMITH of California.

Mr. TAYLOR of Colorado with Mr. SPEER.

Mr. TURNBULL with Mr. SULLOWAY.

Mr. TUTTLE with Mr. WEEKS.

Mr. WILSON of New York with Mr. WILSON of Illinois.

Mr. LINDSAY with Mr. WOODS of Iowa.

Mr. BURGESS with Mr. MICHAEL E. DRISCOLL.

Mr. KORBLY with Mr. WOOD of New Jersey.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. STANLEY with Mr. ANTHONY.

Until January 10:

Mr. MAYS with Mr. THISTLEWOOD.

The result of the vote was then announced as above recorded.

The SPEAKER. The question is on the third reading of the Senate bill as amended.

The question was taken, and the bill was ordered to be read the third time.

Mr. MANN. Mr. Speaker, I ask for the reading of the engrossed bill.

The SPEAKER. The gentleman from Illinois demands the reading of the engrossed bill. He has that right, but the engrossed bill is not here.

Mr. MANN. I suppose the Senate engrossed bill is here.

The SPEAKER. What is it the gentleman from Illinois demands to have read?

Mr. MANN. Everything that I have the right to demand. I have the right to demand the reading of the Senate engrossed bill.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 3974. An act to increase the limit of cost of the United States public building at Denver, Colo.; and

S. 6899. An act increasing the limit of cost for the erection and completion of a public building in the city of Richford, State of Vermont.

LEAVE OF ABSENCE.

Mr. THAYER, by unanimous consent, was given leave of absence, indefinitely, on account of sickness.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 38 minutes p. m.) the House adjourned until to-morrow, Wednesday, December 18, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Illinois at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

2. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Idaho at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

3. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Alabama at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. CULLOP, from the Committee on Industrial Arts and Expositions, to which was referred the bill (H. R. 26190) to provide for participation by the Government of the United States in the National Conservation Exposition, to be held at Knoxville, Tenn., in the fall of 1913, reported the same with an amendment, accompanied by a report (No. 1275), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MCKENZIE: A bill (H. R. 27364) to extend the time for the construction of a dam across Rock River, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mr. RUCKER of Missouri: A bill (H. R. 27365) to amend paragraph 447 of an act entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war," approved August 23, 1912; to the Committee on Invalid Pensions.

By Mr. CULLOP: Resolution (H. Res. 757) providing for the appointment of a committee of the House of Representatives to attend and represent the House at the dedication and unveiling of a memorial statue to Thomas Jefferson at St. Louis, Mo., April 30, 1913, in commemoration of the acquisition of the Louisiana territory; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARTHOLDT: A bill (H. R. 27366) for the relief of Mrs. H. C. Sankey; to the Committe on War Claims.

Also, a bill (H. R. 27367) granting a pension to Herman J. Wacker; to the Committee on Pensions.

Also, a bill (H. R. 27368) granting a pension to James H. Ross; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27369) granting a pension to Malinda Rogers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27370) granting a pension to Helen Paus; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27371) to correct the military record of Abraham Hoover; to the Committee on Military Affairs.

Also, a bill (H. R. 27372) granting an increase of pension to McQuiller Green; to the Committee on Invalid Pensions.

By Mr. CARY: A bill (H. R. 27373) granting an increase of pension to Barbara Cordes; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 27374) granting an increase of pension to David La Boutle; to the Committee on Invalid Pensions.

By Mr. DIXON of Indiana: A bill (H. R. 27375) granting a pension to Allen Roseberry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27376) granting a pension to William B. Adams; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27377) granting a pension to Merit C. Welsh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27378) granting an increase of pension to Mary B. Lawless; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27379) granting an increase of pension to Henry C. R. Rudolph; to the Committee on Invalid Pensions.

By Mr. ESCH: A bill (H. R. 27380) granting an increase of pension to Martin H. Johnson; to the Committee on Pensions.

Also, a bill (H. R. 27381) granting an increase of pension to Royal E. Dake; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 27382) granting a pension to Richard King; to the Committee on Invalid Pensions.

By Mr. HEALD: A bill (H. R. 27383) granting an increase of pension to Jacob C. Wilson; to the Committee on Invalid Pensions.

By Mr. HOBSON: A bill (H. R. 27384) for the relief of William W. Prude; to the Committee on Military Affairs.

By Mr. KENNEDY: A bill (H. R. 27385) granting an increase of pension to Elizabeth Willett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27386) granting an increase of pension to Henry Cooper; to the Committee on Invalid Pensions.

By Mr. KINKAID of Nebraska: A bill (H. R. 27387) granting a pension to Sophia F. C. Mather; to the Committee on Invalid Pensions.

By Mr. LAFFERTY: A bill (H. R. 27388) granting a pension to John W. Avis; to the Committee on Pensions.

By Mr. McKENZIE: A bill (H. R. 27389) granting a pension to Margerit R. Bennett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27390) granting an increase of pension to Fred J. Harris; to the Committee on Invalid Pensions.

By Mr. MARTIN of South Dakota: A bill (H. R. 27391) for the relief of George H. Grace; to the Committee on Claims.

By Mr. NYE: A bill (H. R. 27392) granting a pension to John A. Kelly; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 27393) granting an increase of pension to Ann M. Regan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27394) granting an honorable discharge to Amos Maker; to the Committee on Military Affairs.

By Mr. PARRAN: A bill (H. R. 27395) granting a pension to Elizabeth Freeman; to the Committee on Invalid Pensions.

By Mr. RODENBERG: A bill (H. R. 27396) granting an increase of pension to Mary E. Edmonds; to the Committee on Invalid Pensions.

By Mr. RUBEY: A bill (H. R. 27397) granting a pension to Sarah E. Burress; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 27398) granting an increase of pension to William H. Simmons; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27399) granting an increase of pension to Charley C. Gullic; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27400) granting an increase of pension to Joseph Bundy; to the Committee on Invalid Pensions.

By Mr. SLOAN: A bill (H. R. 27401) granting a pension to Sarah I. Smith; to the Committee on Invalid Pensions.

By Mr. VREELAND: A bill (H. R. 27402) granting an increase of pension to Silas H. Hamilton; to the Committee on Invalid Pensions.

By Mr. WARBURTON: A bill (H. R. 27403) granting an increase of pension to Isaiah Elwood; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27404) granting an increase of pension to G. W. Bering; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27405) granting an increase of pension to Lydia A. Harris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27406) granting an increase of pension to James C. Montgomery; to the Committee on Invalid Pensions.

By Mr. WILLIS: A bill (H. R. 27407) granting an increase of pension to Marinda Lowe; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27408) granting an increase of pension to Daniel S. Poling; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. AYRES: Petition of the American Peat Society, asking a topographical survey of the swamp lands of the United States; to the Committee on Agriculture.

Also, petition of the Merchants' Association of New York City, favoring the passage of House bill 25106, providing for the incorporation of a chamber of commerce of the United States of America; to the Committee on the Judiciary.

By Mr. CALDER: Petition of the New York Board of Trade and Transportation, favoring the passage of House bill 21479, making appropriation for international investigation of the high cost of living; to the Committee on Foreign Affairs.

By Mr. CARY: Petition of the National Society for the Promotion of Industrial Education, favoring the passage of Senate bill 3, giving Federal aid to vocational education; to the Committee on Education.

By Mr. COLLIER: Papers to accompany bill (H. R. 27332) for the relief of John Wixon; to the Committee on War Claims.

By Mr. FULLER: Petition of Jacob L. Link, of Pern, Ill., protesting against the passage of the amended Kenyon bill, preventing the shipment of liquor into dry territories; to the Committee on the Judiciary.

Also, petition of Amos D. Curran, favoring the passage of legislation giving Federal aid to vocational education; to the Committee on Education.

Also, petition of the Rockford (Ill.) Manufacturing & Shipping Co., favoring the passage of House bill 26277, to create a final court of patent appeals; to the Committee on Patents.

By Mr. LAFFERTY: Petition of Alice E. McKennon and other residents of Union, Oreg., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territories; to the Committee on the Judiciary.

By Mr. LINDSAY: Petitions of E. E. Kesley and William F. Irvin, of Melrose, Mass., and H. A. A. Cozzens, of Brooklyn, N. Y., favoring the passage of House bill 1339, granting a pension to veterans of the Civil War who have lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of the American Talking Machine Co., Brooklyn, N. Y., protesting against the passage of the Oldfield bill, changing the present patent laws; to the Committee on Patents.

Also, petition of the Merchants' Association of New York, favoring the passage of House bill 25106, for the incorporation of a chamber of commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of Holmes Beckwith, of New York, N. Y., and the National Society for the Promotion of Industrial Education, favoring the passage of Senate bill 3, for promotion of industrial education; to the Committee on Education.

By Mr. LINTHICUM: Petition of the Eutaw Place Baptist Church, of Baltimore, favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

By Mr. MANN: Petition of the Chicago Woman's Aid, favoring legislation amending the tax on oleomargarine to not exceed 2 cents per pound; to the Committee on Agriculture.

By Mr. MOTT: Petition of the Federated Men of Oneida, favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territories; to the Committee on the Judiciary.

Also, petition of the Merchants' Association of New York, favoring the passage of House bill 25106, for incorporation of a chamber of commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, for the regulation of the telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Society for the Promotion of Industrial Education, favoring the passage of Senate bill 3, for industrial education; to the Committee on Agriculture.

By Mr. PARRAN: Papers to accompany bill (H. R. 26845) granting a pension to Mary Eva Keyes; to the Committee on Pensions.

Also, papers to accompany bill (H. R. 26846) granting a pension to Martha A. Rea; to the Committee on Invalid Pensions.

By Mr. SHARP: Petition of the Elyria Chamber of Commerce, Elyria, Ohio, favoring the passage of Senate bill 3, for vocational education; to the Committee on Agriculture.

Also, petition of Mansfield Council, No. 13, United Commercial Travelers of America, favoring the passage of House bill 20590, changing the date of the national elections; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. TILSON: Petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

By Mr. UNDERHILL: Petition of the Woman's Christian Temperance Union of Horseheads, N. Y., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

SENATE.

WEDNESDAY, *December 18, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of the electors for President and Vice President appointed in the State of Kansas at the election held therein on November 5, 1912, which was ordered to be filed.

ANNUAL REPORT OF THE RECLAMATION SERVICE (H. DOC. NO. 948).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, the Eleventh Annual Report of the Reclamation Service, which was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed.

JOINT COMMITTEE ON INQUIRY INTO PARCEL POST.

The PRESIDENT pro tempore. The Chair announces the appointment of Mr. TOWNSEND to fill the vacancy occasioned by the resignation of Mr. BRIGGS on the Joint Committee to make Further Inquiry into the Subject of Parcel Post, so that the Senate members will now be Mr. BRISTOW, Mr. BRYAN, and Mr. TOWNSEND.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House insists upon its amendments to the bill (S. 3947) to provide for a bridge across Snake River, in Jackson Hole, Wyo., disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SMITH of Texas, Mr. RUCKER of Colorado, and Mr. KINKAID of Nebraska, managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

S. 3974. An act to increase the limit of cost of the United States public building at Denver, Colo.; and

S. 6899. An act increasing the limit of cost for the erection and completion of a public building in the city of Richford, State of Vermont.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented the memorial of Capt. Joseph B. Sanborn and 21 other citizens of Fremont, N. H., praying for the adoption of an amendment to the Constitution prohibiting a third term for President and Vice President of the United States, which was referred to the Committee on the Judiciary.

Mr. CULLOM presented petitions of the congregations of the Presbyterian Church of Baldwin; the Congregational Church of Pittsfield; the Methodist Episcopal Church of Farina; the Methodist Episcopal Church of Pittsfield; the Congregational Church of Payson; the Methodist Church of Essex; the First Christian Church of Galesburg; of sundry churches of Clayton; of the Baptist Church of Kinderhook; the Methodist Episcopal Church of Kinderhook; the Presbyterian Church of Clayton; the Swedish Methodist Church, of Galesburg; of sundry churches of Raritan; of the Methodist, Congregational, and Lutheran Churches of Mendon; of sundry churches of Charleston; of the Ministerial Association of Peoria; of the Ministers' Association of Lawrence County; of the Swedish Evangelical Mission Church, of Galesburg; of the First Baptist Sunday school of Jerseyville; of the Bible school of the Christian Church of Clayton; of the Methodist Episcopal Sunday school of Savanna; of the Epworth League of the Church of Clayton; of the Woman's Christian Temperance Unions of Elgin and Pittsfield; of the Olivet Public Welfare Club, of Chicago; and of sundry citizens of Streator and Momence, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard Interstate liquor bill, which were ordered to lie on the table.

He also presented memorials of Local Union No. 149, International Union of the United Brewery Workmen, of Joliet; of the Chicago Engraving Co.; of the Holt Caterpillar Co., of Peoria; of E. G. Isch & Co., of Peoria; of the Drill & Seeder Co., of Peoria; of the Herschel Manufacturing Co., of Peoria; of Suffern, Hunt & Co., of Decatur; of the Criterion Publishing Co., of Chicago; and of sundry citizens of Peoria and Chicago, all in the State of Illinois, remonstrating against the passage of the so-called Kenyon-Sheppard Interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of the Woman's Christian Temperance Unions of Bethel, Galesburg, Barry, and Bellflower; of the congregations of the Protestant churches of Galena; of the First Congregational Church of Elgin; the First Presbyterian Church of Geneseo; the First Congregational Church of Sterling; of members of the New Hebron circuit, Lower Wabash Conference of the United Brethren Church, of New Hebron; of sundry citizens of Plainfield, Champaign, Galena, and Springfield; and of the men's Bible class of the First Methodist Episcopal Church of Grant Park, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard Interstate liquor bill, which were ordered to lie on the table.

Mr. BROWN presented a petition of members of the Omaha Ministerial Union, representing 60 churches in Nebraska, praying for the passage of the so-called Kenyon-Sheppard Interstate liquor bill, which was ordered to lie on the table.

Mr. WARREN presented a memorial of Local Union No. 273, United Brewery Workmen, of Sheridan, Wyo., remonstrating against the passage of the so-called Kenyon-Sheppard Interstate liquor bill, which was ordered to lie on the table.

Mr. McLEAN presented petitions of Whigville Grange, No. 48, of Bristol; of Local Grange No. 29, of Meriden; of Local Grange No. 138, of North Stonington; of Local Grange No. 149, of Easton; of Local Grange No. 45, of Harwinton; of Hillstown Grange, No. 87, of Hartford; of Local Grange No. 144, of Prospect; and of Local Grange No. 49, of Farmington, all of the Patrons of Husbandry, in the State of Connecticut, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were ordered to lie on the table.

Mr. JOHNSON of Maine presented a petition of sundry citizens of Columbia, Me., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented memorials of sundry citizens of Portland, Glenwood, Frankfort, Waterville, and Richmond, in the State of Maine; of Washington, D. C.; Cincinnati, Ohio; St. Louis, Mo.; Girard, Ala.; and Rochester, N. Y., remonstrating against the passage of the so-called Kenyon-Sheppard Interstate liquor bill, which were ordered to lie on the table.

Mr. CRAWFORD (for Mr. GAMBLE) presented sundry papers in support of the bill (S. 7467) for the relief of George H. Grace, which were referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. WETMORE, from the Committee on Naval Affairs, to which was referred the bill (S. 7169) to transfer Capt. Frank E. Evans from the retired to the active list of the Marine Corps, reported it without amendment and submitted a report (No. 1077) thereon.

Mr. WARREN, from the Committee on Appropriations, to which was referred the bill (S. 7493) for the relief of Thomas G. Running, asked to be discharged from its further consideration and that it be referred to the Committee on Claims, which was agreed to.

HENRY E. RHOADES.

Mr. LODGE. From the Committee on Naval Affairs I report back adversely the bill (S. 3027) placing Henry E. Rhoades, assistant engineer, United States Navy, on the retired list with an advanced rank. I ask to have the accompanying letters from the Secretary of the Navy printed in the RECORD, and then the bill may be indefinitely postponed.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
Washington, August 5, 1911.

The CHAIRMAN COMMITTEE ON NAVAL AFFAIRS,
United States Senate.

MY DEAR SENATOR: In reply to that portion of the committee's letter of July 15, 1911, requesting the department's opinion on bill (S. 3027) placing Henry E. Rhoades, assistant engineer, United States Navy, on the retired list with an advanced rank, your attention is respectfully invited to the department's letter of May 24, 1911, to the committee, giving its opinion and recommendation on a bill (S. 2028) of May 4, 1911, for the relief of Henry E. Rhoades, a retired officer of the Engineer Corps, United States Navy. For reasons fully set forth therein it is recommended that the present bill (S. 3027) be not given favorable consideration.

A copy of the department's letter referred to is herewith inclosed.

Faithfully, yours,

BEEKMAN WINTHROP,
Acting Secretary of the Navy.

MAY 24, 1911.

The CHAIRMAN COMMITTEE ON NAVAL AFFAIRS,
United States Senate.

MY DEAR SENATOR: Referring to your letter dated May 5, 1911, inclosing a bill (S. 2028) for the relief of Henry E. Rhoades, a retired officer of the Engineer Corps, United States Navy, and requesting the department's opinion thereon, I have the honor to inform you that Mr. Rhoades was appointed an acting third assistant engineer in the Navy February 11, 1865, and was honorably discharged October 3, 1865; he was reappointed in the same grade December 19, 1866, and was mustered out April 22, 1869. Subsequently, on February 25, 1871, he was appointed in the Regular Navy.

After a cruise in the Arctic on the U. S. S. *Juniata* Mr Rhoades appeared before a naval retiring board on November 20, 1874, and the medical members thereof found him subject to frequent epileptic attacks, accompanied with neuralgia of the chest and palpitation of the heart, shown to have existed prior to his entry in the Navy, and therefore not originating in the line of duty. The full board found that his incapacity did not originate in the line of duty or from any incident of the service. In pursuance of this finding of the board, it was optional with the President, under the provisions of the act of August 3, 1861 (12 Stat., 291, sec. 23), either to retire Mr. Rhoades on furlough pay or wholly to retire him from the service; and the then President, exercising his discretion, directed, under date of December 26, 1874, that Mr. Rhoades be retired on furlough pay.

Under date of January 28, 1893, the then Secretary of the Navy, Mr. Tracy, in reporting to the committee upon a bill (H. R. 980, Fifty-second Congress, first session) authorizing the name of Mr. Rhoades to be placed upon the list of officers who have been retired on account of incapacity of service origin, as provided in section 1588 of the Revised Statutes, stated that the department perceived no objection to the proposed legislation. At the same time the committee was furnished with a copy of the record of proceedings of the retiring board before which Mr. Rhoades was examined in November, 1874. Subsequently, however, under date of April 21, 1896, Mr. Secretary Herbert, and on April 1, 1897, Mr. Secretary Long, in reporting upon bills similar to H. R. 980, viz, H. R. 5192, Fifty-fourth Congress, first session, and S. 1304, Fifty-fifth Congress, first session, did not recommend favorable action thereon.

Following the department's policy in cases of this character, adopted particularly in view of the provisions of the act of August 5, 1882, that "hereafter there shall be no promotion or increase of pay in the retired list of the Navy, but the the rank and pay of officers on the retired list shall be the same that they are when such officers shall be retired," the then pending measure was not commended to the committee's favorable consideration, the more especially as it provided that the increase of pay authorized therein should take effect from the date of the beneficiary's retirement, nearly 30 years before. The foregoing recommendation was made on April 1, 1904, and again reiterated February 1, 1906.

It might be stated that on a number of occasions favorable reports were made by committees of Congress on bills for the transfer of Mr. Rhoades from the half-pay to the three-quarters-pay list of retired officers, on the theory, apparently, that the finding of the retiring board that his disability was not of service origin was erroneous; and that when the measure by which he was finally so transferred, viz, H. R. 9297, Fifty-ninth Congress, first session, was under consideration in the House of Representatives a motion to recommit it for an amendment providing that the increased retired pay take effect from the date of the passage of the bill (instead of from the date of the officer's retirement) was defeated by a large majority. (CONGRESSIONAL RECORD, May 18, 1906, p. 7298.)

That bill became a law on May 26, 1906, and on June 2, 1906, Mr. Rhoades was transferred from the half-pay to the 75 per cent pay list of retired officers under the provisions of section 1588 of the Revised Statutes, to take effect from December 30, 1874, the date from which he was originally transferred to the retired list. Under this authority Assistant Engineer Rhoades received the sum of $13,695.72.

After the passage of the act of June 29, 1906, increasing the rank and pay of certain officers "retired on account of wounds or disability incident to the service," etc. (34 Stats., 554), Mr. Rhoades was nominated to and confirmed by the Senate to receive the rank of the next higher grade, viz, that of passed assistant engineer with the rank of lieutenant.

In a decision rendered by the Comptroller of the Treasury on September 20, 1907 (14 Comp. Dec., 162), in a similar case, that of Lieut. Jerome E. Morse, it was held that upon the passage of a special act of Congress approved June 10, 1902, transferring Lieut. Morse from the 50 to the 75 per cent retired pay list, "such officer thereby became an officer retired on account of disability originating in the line of duty from the date of the passage of said act, and, being otherwise qualified within the act of June 29, 1906, possessed the qualifications which enable the President and Senate, under the act of June 29, 1906, to advance him in rank and pay on the retired list one grade above that actually held by him at the time of retirement, and is entitled to the pay of such higher grade from June 29, 1906."

On March 13, 1909, upon request of this department, the Attorney General rendered an opinion holding that a special act of Congress, approved January 5, 1909, transferring Assistant Engineer Jabez Burchard, United States Navy, from the half-pay list to the 75 per cent pay list of retired officers "to take effect from the date of his retirement," did not operate to change the officer's original cause of retirement, and that Mr. Burchard was not therefore entitled to the rank and pay of the next higher grade under the act of June 29, 1906, he having been retired for disability not incident to the service.

This opinion of the Attorney General was applied by the Comptroller of the Treasury to the case of Lieut. Jerome E. Morse, who, because of a special act of Congress transferring him from the half-pay list to the 75 per cent pay list, as hereinbefore referred to, had been nominated to and confirmed by the Senate to receive the rank and retired pay of the next higher grade, under the act of June 29, 1906. The comptroller reopened and reversed his prior decision, stating in explanation thereof that the opinion in the Burchard case "is accepted as the proper construction of the law and will be followed in this and similar cases."

In view of the foregoing considerations Mr. Rhoades was informed by the department on May 27, 1909, that it clearly appeared that he was not entitled to the benefits of the act of June 29, 1906, and that his erroneous nomination and confirmation thereunder did not therefore affect his status on the retired list, which was then, as it had been prior thereto, that of an assistant engineer with the rank of lieutenant (junior grade).

It will be observed that the Attorney General held that the special act of Congress transferring Assistant Engineer Burchard "from the half-pay list to the 75 per cent pay list of retired officers, under section 1588 of the Revised Statutes of the United States, to take effect from the date of his retirement," "did not make him an officer of the Navy who had heretofore been 'retired on account of wounds or disabilities incident to the service' * * *," the fact being, as the record shows, that, although unadvisedly or erroneously, Mr. Burchard was definitely retired for a physical disability which was not due to an incident of the service." The case of Mr. Rhoades was similar to that of Mr. Burchard.

Under the law then and now existing, namely, the act of June 29, 1906, Mr. Rhoades was not entitled to advancement on the retired list to the rank and pay of the next higher grade, i. e., to the rank and pay of a passed assistant engineer on the retired list with the rank of lieutenant.

Notwithstanding that Mr. Rhoades does not come within the terms of the existing law upon the subject, as just stated, the bill under consideration proposes not only to give him what the present law itself does not now provide, but also aims to secure for him, though retired for disability not incident to the service, advantages which Congress has not deemed it proper to provide for officers retired for disability which was incident to the service, a bill for the latter during the last session (H. R. 31598, 61st Cong., 3d sess.) having failed of enactment.

Mr. Rhoades has received every proper consideration, both from the department and from Congress, even generous treatment when it is recalled that he was (1) retained on the retired list on furlough pay in 1874, when, in the President's discretion, he might have been wholly retired, i. e., separated completely from the service; and (2) that he was, by special act of Congress of May 18, 1906, transferred from the furlough or half-pay list to the 75 per cent pay list to take effect from the date of his retirement 32 years before, whereby he received nearly $14,000 from the Government and a continuing substantial increase of pay.

In view of all the foregoing facts and of the additional fact that this measure comes within that class of special legislation the enactment of which is not thought desirable, it is recommended that the committee do not take favorable action upon the bill here under consideration.

Faithfully, yours,

_____
Secretary.

The PRESIDENT pro tempore. Without objection, the bill will be indefinitely postponed.

LANDS OF FORT ASSINNIBOINE MILITARY RESERVATION.

Mr. DIXON. From the Committee on Public Lands I report back favorably with amendments the bill (S. 5138) authorizing the Secretary of the Interior to survey the lands of the abandoned Fort Assinniboine Military Reservation and open the same to settlement, and I submit a report (No. 1075) thereon. On account of the somewhat urgent situation I should like to ask immediate consideration. The bill is accompanied by a unanimous report from the committee.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr WORKS. Mr. President, I did not rise to object, but I call the attention of the Senator from Montana to the fact that there seems to be a mistake in the bill as I heard it read.

Mr. DIXON. This is the original bill. The amendments will now be read.

Mr. WORKS. The bill should read "$1.25 an acre."

Mr. DIXON. The amendments which the committee have reported will now be read.

Mr. GRONNA. Mr. President, I do not rise to object to the consideration of the bill, but I should like some information from the author of the bill. Is it a local measure affecting only the State of Montana or is it general in its scope?

Mr. DIXON. It merely opens the abandoned Fort Assinniboine Military Reservation to settlement under the usual terms.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendments were, on page 2, line 13, before the word "dollars," to strike out "two" and insert "one"; on page 2, line 14, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 15, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 17, to strike out the words "two dollars and fifty cents" and insert the words "one dollar and twenty-five cents"; on page 2, strike out line 24, and on page 3, to strike out lines 1 and 2 up to and including the word "two"; on page 3, after the word "Montana," in line 22, to strike out the period and insert a comma and the following words, "upon the payment by the State of Montana of the sum of $2.50 per acre," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized and directed to immediately cause to be surveyed all of the lands embraced within the limits of the abandoned Fort Assinniboine Military Reservation, in the State of Montana.

SEC. 2. That before said lands are opened to entry the Secretary of the Interior shall have said lands classified by an inspector or special agent of the Department of the Interior into two classes—first, agricultural lands; second, timber lands—and in making such classification all lands susceptible of cultivation that do not contain in excess of 75,000 feet of merchantable timber to the 40-acre tract shall be classified as agricultural lands, and all lands containing in excess of 75,000 feet of merchantable timber to the 40-acre tract shall be classified as timber lands.

SEC. 3. That when so classified, all of said lands classed as agricultural land shall be opened to settlement and entry under the homestead laws of the United States: *Provided, however*, That the enlarged homestead act, approved February 19, 1909, shall not apply until six months after said land has been opened to settlement and entry as aforesaid.

SEC. 4. That entrymen upon said lands shall, in addition to the regular land-office fees, pay the sum of $1.25 per acre for said land, such payments to be made as follows: Twenty-five cents per acre at the time of making entry and 25 cents per acre each and every year thereafter until the full sum of $1.25 per acre shall have been paid. In case any entryman fails to make annual payments, or any of them when due, all right in and to the lands covered by his entry shall cease; and any payments theretofore made shall be forfeited and the entry canceled, and the land shall be again subject to entry under the provisions of the homestead law at the fixed price thereof: *Provided, however*, That the commutation provision of the general homestead law shall be applicable to all persons making homestead entry on said land under the provisions of this act, save and excepting entries made hereunder in accordance with the provisions of the enlarged homestead act, approved February 19, 1909, which shall not be subject to commutation.

SEC. 5. That this act shall not apply to an area of 640 acres embracing the Government buildings at Fort Assininiboine.

SEC. 6. That if, within five years from the date of the approval of this act, the State of Montana shall, by act of its legislative assembly, agree to establish and maintain any agricultural, manual-training, or other educational or public institution at the present site of Fort Assininiboine, then, in that event, the President of the United States is authorized and directed to transfer, grant, and set over its right, title, and interest of, in, and to the said 640 acres of land hereby reserved and embracing the buildings at Fort Assininiboine to the State of Montana, upon the payment by the State of Montana of the sum of $2.50 per acre.

SEC. 7. That sections 16 and 36 of the land in each township within said abandoned Fort Assininiboine Military Reservation shall not be subject to entry, but shall be reserved for the use of the common schools of the State of Montana, and are hereby granted to the State of Montana.

SEC. 8. That the lands shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereon; and no person shall be permitted to settle upon, occupy, or enter any of said land except as prescribed in said proclamation.

SEC. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $20,000, or so much thereof as may be necessary, for the survey and classification of said lands and for the expenses incident to their opening to settlement and entry.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LANDS RESERVED FOR RESERVOIR PURPOSES.

Mr. NELSON. From the Committee on Public Lands I report back favorably, with an amendment, the bill (S. 7448) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and its tributaries, and I submit a report (No. 1076) thereon. I ask for the present consideration of the bill.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment was, on page 2, line 11, after the word "law," before the period, to insert a comma and the following words: "for the period of 90 days following the time fixed hereunder for the restoration of the lands," so as to make the bill read:

Be it enacted, etc., That there is hereby restored to the public domain, subject to the easement provided for in section 2 hereof, any and all lands hitherto reserved by Executive order in connection with the construction, maintenance, and operation of reservoirs at the headwaters of the Mississippi River and its tributaries the restoration of which the Secretary of War has recommended or may hereafter recommend to the Secretary of the Interior.

SEC. 2. That the lands hereby restored shall forever be and remain subject to the right of the United States to overflow the same or any part thereof by such reservoirs as now exist or may hereafter be constructed upon the headwaters of the Mississippi River, and all patents issued for the lands hereby restored shall expressly reserve to the United States such right of overflow.

SEC. 3. That the time when such restoration shall take effect as to any of such lands shall be prescribed by the Secretary of the Interior; and in all cases where actual settlement has been made on any of said lands prior to January 1, 1912, and improvements made the said settlers shall have a preferred and prior right to enter and file on said lands under the homestead law for the period of 90 days following the time fixed hereunder for the restoration of the lands.

SEC. 4. That no rights of any kind, except as specified in the foregoing section, shall attach by reason of settlement or squatting upon any of the lands hereby restored to entry before the hour on which such lands shall be subject to homestead entry at the several land offices, and until said lands are opened for settlement no person shall enter upon and occupy the same except in the cases mentioned in the foregoing section, and any person violating this provision shall never be permitted to enter any of said lands or acquire any title thereto.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 7798) granting an increase of pension to Alfred J. Adair (with accompanying papers); and

A bill (S. 7799) granting a pension to Eliza Fosha (with accompanying papers); to the Committee on Pensions.

By Mr. MASSEY:

A bill (S. 7800) for the relief of Fred E. Jackson (with accompanying paper); to the Committee on Claims.

By Mr. SANDERS:

A bill (S. 7801) for the relief of George T. Larkin; to the Committee on Claims.

By Mr. PENROSE:

A bill (S. 7802) to amend section 103 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

A bill (S. 7803) granting a pension to William F. Woolsey (with accompanying papers);

A bill (S. 7804) granting an increase of pension to Jennie M. Metz (with accompanying papers); and

A bill (S. 7805) granting an increase of pension to Delphine R. Burritt (with accompanying paper); to the Committee on Pensions.

By Mr. BORAH:

A bill (S. 7806) granting an increase of pension to James M. Wells (with accompanying papers); to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 7807) granting a pension to Ellen Barrett (with accompanying papers); and

A bill (S. 7808) granting an increase of pension to Orman F. Hibbard (with accompanying papers); to the Committee on Pensions.

By Mr. DU PONT:

A bill (S. 7809) for the relief of the Virginia Military Institute, of Lexington, Va.; to the Committee on Claims.

By Mr. CURTIS:

A bill (S. 7810) to correct the military record of Eli Lewis; and

A bill (S. 7811) for the relief of Albert H. Dooley (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 7812) granting a pension to Mary R. Mayhall;

A bill (S. 7813) granting an increase of pension to William H. Ruckle;

A bill (S. 7814) granting an increase of pension to Luke Morrisey (with accompanying paper);

A bill (S. 7815) granting an increase of pension to Allen Brown (with accompanying papers);

A bill (S. 7816) granting a pension to Elizabeth Davis (with accompanying papers);

A bill (S. 7817) granting an increase of pension to William A. Douglass (with accompanying papers);

A bill (S. 7818) granting an increase of pension to George B. Olney (with accompanying paper);

A bill (S. 7819) granting a pension to Elizabeth U. Burson (with accompanying papers); and

A bill (S. 7820) granting an increase of pension to Jefferson Hurst (with accompanying papers); to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 7821) to provide for a nominating election for postmasters; to the Committee on Post Offices and Post Roads.

By Mr. BRANDEGEE:

A bill (S. 7822) granting an increase of pension to Lillie D. Thompson; to the Committee on Pensions.

By Mr. CHILTON:

A bill (S. 7823) granting an increase of pension to Mary E. Workman; to the Committee on Pensions.

By Mr. CHILTON (for Mr. WATSON):

A bill (S. 7824) granting an increase of pension to Oakaley Randall (with accompanying papers); and

A bill (S. 7825) granting a pension to William R. Swearingen (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MYERS submitted an amendment proposing to appropriate $20,000 for suport and civilization of the Indians at the Blackfeet Agency, Mont., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $250,000 to encourage industry among the Indians and to aid them in the culture of fruits, grains, and others crops, etc., intended to be proposed by him to the Indian appropriation

bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. GUGGENHEIM submitted an amendment proposing to appropriate $400,000 for the enlargement, extension, remodeling, or improvement of the post-office building under present limit at Denver, Colo., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

CLAIMS OF JOHN GLANZMAN AND OTHERS FOR EXTRA TIME ON PUBLIC BUILDINGS.

Mr. NEWLANDS. I desire to have printed as a public document a statement or memorandum, with accompanying documents and quotations, regarding certain claims for extra time of certain employees on public buildings, including John Glanzman, of Nevada, an amendment covering which claims was offered by me on the 17th day of December, 1912, to the omnibus bill, H. R. 19115, reported by the Committee on Claims.

The PRESIDENT pro tempore. Is there objection to the request made by the Senator from Nevada that the papers he sends to the desk be printed as a public document? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS.

The PRESIDENT pro tempore. If there are no further concurrent or other resolutions the morning business is closed.

Mr. CULLOM. I desire to make a motion to-day for an executive session, but I understand that the Senator from Iowa [Mr. KENYON] is almost through with his speech, and I yield to him for that purpose. I observe that the Senator from Georgia [Mr. SMITH] has also given notice that he desires to speak this morning, and I will give way to him, too.

Mr. KENYON. Mr. President——

Mr. CRAWFORD. Is the morning business closed?

The PRESIDENT pro tempore. The morning business is closed. The Senator will be recognized for morning business.

Mr. CRAWFORD. No; I move to take up House bill 19115, the omnibus claims bill, so that it may maintain its place, and then I will yield to the Senator from Iowa.

The PRESIDENT pro tempore. The Senator from South Dakota moves that the Senate resume the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts. Without objection, it is agreed to.

Mr. CRAWFORD. I will yield to the Senator from Iowa to conclude his remarks.

Mr. SMITH of Georgia. Mr. President, I desire to occupy the attention of the Senate briefly this morning under the notice I have given, for the purpose of calling to the attention of the Senate——

The PRESIDENT pro tempore. The Chair had recognized the Senator from Iowa. Does the Senator from Iowa yield to the Senator from Georgia?

Mr. KENYON. For a speech or argument?

Mr. SMITH of Georgia. Yes.

Mr. KENYON. I will say to the Senator from Georgia I desire to finish the remarks I was making at the close of the morning hour yesterday.

Mr. SMITH of Georgia. Then I would be glad to yield to the Senator from Iowa, but give notice that after he concludes I will follow him.

The PRESIDENT pro tempore. That order will be made. The Chair lays before the Senate the bill called up by the Senator from Iowa.

INTERSTATE SHIPMENT OF LIQUORS.

The Senate, as in Committee of the Whole, resumed consideration of the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases.

Mr. KENYON. Mr. President, on yesterday, to complete my argument by the close of the morning hour, I proceeded perhaps a little more rapidly than I otherwise would have done, but I think I made my position reasonably clear. I wish to devote just a few moments in closing to section 2 of this act, which is the committee amendment.

Section 2 of this act is the committee amendment. It is identical with the Wilson law, except in the present bill are found the words "and before delivery to the consignee." Otherwise there is no difference. This bill clearly states, by section 2, what was in fact the object and purpose of the framers of the Wilson bill. In the Rahrer case the court sustained the Wilson Act, rather destroying its effect, however, in the Rhodes case. There can be no reasonable doubt, from the reading of the interesting debates, as to the purpose in mind of Congress with refence to the Wilson Act. Senator Wilson, the author thereof, said:

> It is a bill to grant to the States what may be called a local option, to allow them to do as they please in regard to the liquor question.

They could have prohibition, high license, local option, or free liquor, as they please. It was the intention that each State should be free to determine its own policy in regard to the liquor traffic. If the State wanted prohibition, that was its business; if it wanted license, that was its business; if it wanted free liquor, that was its business. Senator Vest argued that the bill was a delegation of the power to the States to regulate interstate commerce, and asked this significant question:

> Can the Congress of the United States delegate a constitutional power exclusively vested in it to any of the States?

The distinguished Senator Hoar said:

> Mr. President, if this bill be not within the constitutional power of Congress, I think we must all agree that the condition of the American people in regard to this particular subject is more miserable than that of any other civilized nation on the face of the earth. I suppose there does not exist a community where men live together under law where the danger of permitting the unrestricted sale of intoxicating liquor is not recognized and guarded against by public authority.

Senator Edmunds, of Vermont, who had as profound regard for the Constitution as any other man, in discussing the bill, said:

> Now, where is the line? The line is, I think, a line which the Supreme Court of the United States appears to have gone over—that when your act of transportation, your act of commerce among the States or from foreign nations has become complete and the word "among" no longer applies, and the commodity is in the State where its transportation is ended, and it is in the hands of its owner there, whether that owner be a citizen of one State or another makes no difference, it is then just like the commodity of the same nature, all the laws being equal, in the hands of the citizen of the State who made it there himself, the subject of State law; and that is what the Supreme Court of the United States within the next 20 years will come to. * * *

This has proved prophetic, indeed, as the Supreme Court came to that proposition in a later case. Senator Edmunds continued:

> The objection that has been made to this bill is that we are delegating it to a State.
>
> That is an objection that has been raised as to the pending bill—
>
> I deny the proposition. I say that by this bill, although its mere terminology is not what I would have adopted, but in substance it comes to the same thing, Congress is undertaking to regulate the traffic among the States of things by saying, "We employ the agency of the people through its legislative authority, the State of Missouri, for instance, to say whether it is wise to admit this thing in the community that is there from the State of Illinois or not." We say to the State of Vermont, "We employ you as the agent of Congress in the regulation of this traffic to determine whether the condition of things as to the state of public morals there will warrant that thing."
>
> Congress, therefore, instead of delegating a power is exerting the same power in respect of internal commerce that it has always exerted in respect of external commerce, to authorize somebody to determine how and under what conditions this commerce, if you call it that, shall be carried on. Giving no preference to one State over another, not as a remitted or delegated authority but as the exertion of the power of Congress to regulate this traffic among the States, on the theory of the Supreme Court, it says to one body of people, "You may carry it into that State if our agents there think it right to admit it; you may not carry it into another if our agents there think it right to exclude it." So in whatever aspect you look at it, if the power to provide for the safety and regulate the transactions among men in the several States is in the States, as I think it is, it can not be touched at all; but on the strength of these decisions, and assuming it to be in Congress, we are exerting the very power which gentlemen say belongs to Congress exclusively in making an elastic regulation which is equal among all and applies to everybody as to the terms upon which this internal commerce shall be carried on.
>
> It does not appear to me, therefore, that in any aspect of the case there ought to be any difficulty in our relieving the people of the United States, in each State according to its own local needs and necessities. If it be free liquor in Missouri, free liquor it is, Congress says; and if it be prohibition in Vermont, prohibition it is—equal everywhere, according to the adjustments that the needs of the societies in the various States require.

Senator Faulkner, of West Virginia, to whom I referred yesterday, offered the following amendment, showing that the debate ranged around the very question that was afterwards determined in the Rhodes case:

> Strike out all after the enacting clause and insert: "That when fermented, distilled, or intoxicating liquids or liquors are transported or conveyed by a common carrier as an article of commerce from a State or Territory into another State or Territory, such fermented, distilled, or intoxicating liquids or liquors so transported or conveyed shall be considered as incorporated as a part of the common mass of property within such State or Territory and subject to its regulation, control, or taxation in the exercise of its police powers on delivery of the original package by the common carrier to the owner or consignee."

This amendment of Senator Faulkner's embodied exactly what the Supreme Court subsequently held in the Rhodes case, and this amendment was voted down by the Senate, showing that the construction subsequently put upon the Wilson Act in the Rhodes case was exactly what the Senate did not intend. It is claimed by opponents of this measure that section 2 is a delegation of power to the States to regulate interstate commerce; that the section recognizes transportation into the State and yet permits the police power to operate upon the commodities while in transportation; that interstate commerce in its fundamental aspect continues until delivery to the consignee; and that Congress can not change the actual fundamental of interstate commerce. These objection are answered to some extent by the Rahrer case in the language therein used. It must be remembered, as has heretofore been argued, that prior to Leisy against Hardin the sale was an essential ingredient of interstate commerce just as much as the transportation, and that same doctrine as to practically everything but intoxicating liquors has been reaffirmed by the Supreme Court of the United States within the last few years. As late as the 225th United States, in the case of Savage against Jones, it was said:

> The protection accorded to this commerce (interstate) extended to the sale by the receiver of the goods in the original package.

This had been the unbroken precedent of the courts, and if the court could cut off the sale as a part of commerce, why can Congress not further restrict and say that the article shall cease to be a matter of commerce 50 miles from destination, 10 miles from destination, or 5 miles within the State?

I do not say that it can; but in the Rahrer case the court used language which would indicate that that might be done.

Senator NELSON, of Minnesota, in his report some years ago to Congress on this question, stated that matter from that standpoint so clearly that I use his language. He said:

> Under the Wilson law the Federal Government relinquished a portion of its control over interstate commerce, and under the proposed legislation it proposes to relinquish an additional portion. In neither case is there a delegation to the State; in both cases it amounts merely to a declaration on the part of Congress that interstate commerce in intoxicating liquors shall only be free to the extent that it does not interfere with or embarrass the police power of the State.

It is pertinent to call attention to a decision in the case of In re Vliet (43 Fed. Rep., 763), which follows the case of In re Rahrer (140 U. S., 561-564):

> It is competent for Congress, under the grant of power to regulate commerce among the States, to determine when a subject of that commerce shall become amenable to the law of the State in which the transit ends.

In the Rahrer case it will be remembered the court said:

> No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so.

If the power is, in fact, in Congress to divest articles of their interstate-commerce character at any period, at any place, or at any time, then why can not Congress, as is done in section 2, provide that the police power shall apply before delivery to the consignee, or, in other words, that the interstate-commerce character shall cease before delivery to the consignee?

Mr. SUTHERLAND. Mr. President, will the Senator from Iowa permit me a single question?

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Utah?

Mr. KENYON. Certainly.

Mr. SUTHERLAND. Interstate transportation, as I understand, begins when the article is delivered by the consignor in the State from which it is shipped and ends, and only ends, when it is delivered to the consignee in the State to which it is shipped. Now, if Congress may divest an article of its interstate character and surrender to the State the power to regulate it and deal with it as it pleases immediately after it has crossed the line of the State in which it is shipped, may it not, by the same reasoning, surrender the power to the State from which the article is shipped until the time it reaches the State line? If that be true, would it not result in Congress surrendering to the two States the whole power of interstate commerce?

Mr. NELSON. Mr. President, will the Senator from Iowa yield to me for a moment?

Mr. KENYON. Very gladly.

Mr. NELSON. The Senator from Utah [Mr. SUTHERLAND] fails to state the entire proposition in its integrity. The Supreme Court, in the case of Leisy against Hardin, held that interstate commerce extended until the consignee had disposed of the goods in the original package; and in the case of Rahrer, under the Wilson law, the Supreme Court held that Congress had relinquished its power over a part of interstate commerce, to wit, the sale of the unbroken package.

In that case the Supreme Court held that it was not a delegation of legislative authority, but that under the terms of the Wilson law the goods had not arrived within the State until delivery to the consignee. In the case of Leisy against Hardin the Supreme Court decided that the sale by the consignee in the unbroken package to the retail trade was a part of interstate commerce, and just as much subject to the protection of Congress as the transit by rail to the point of destination. In that case Congress chopped off a part of interstate commerce; it chopped off the sale in the unbroken package; and in section 2 of this bill it is simply proposed to go a step further. So that the question propounded by the Senator from Utah did not cover the whole case; it did not cover one part of interstate commerce that was eliminated by the Wilson law.

Mr. SUTHERLAND. Let it cover that element, then, and then does the Senator from Minnesota say that Congress has the power to surrender to the State in which the shipment originates the power to regulate it until it reaches the State line?

Mr. NELSON. There was a surrender in that case of a part of interstate commerce, and there is no reason why Congress can not surrender another portion. The question of the delegation of legislative authority was discussed by the court in the Rehrer case, and the court held that there was no delegation of legislative authority.

Mr. SUTHERLAND. Then Congress may surrender to both States the entire power of interstate transportation?

Mr. NELSON. There is no doubt about that.

Mr. KENYON. Mr. President, I want to get into this joint discussion. My answer to that is perhaps not as good as that of the Senator from Minnesota [Mr. NELSON]. There can be an interstate shipment that is not protected by the interstate commerce clause, such as putrid meats. There is no delegation of power any more than the bankruptcy law results in a delegation of power, to which I will refer in a moment.

If the Supreme Court should take a different view of the proposition, yet it could sustain section 2, and I assume it would try to save any constitutional infirmity by holding that the fundamental of commerce is the actual physical transportation, and that from the point of destination to the hands of the consignee was but a mere incident of commerce. If they could hold as contrary to the unbroken line of decisions that a sale was a mere incident of commerce, then they certainly could hold that when the actual physical transportation ended, the delivery to the consignee was a mere incident of commerce. If section 2 did, in fact, as the Senator from Utah [Mr. SUTHERLAND] seems to assume, delegate to the States the power to regulate interstate commerce. I do not believe anyone would claim that it could be constitutional, although some of the language in the case of Leisy against Hardin, as the Senator from Minnesota has suggested, would seem to indicate that the States might act as agents of the Government in the regulation of commerce.

The language used there, as he suggests, is that the States can not exercise that power

> without the assent of Congress—

And further—

> to concede to a State power to exclude, directly or indirectly, articles so constituted without congressional permission is, etc. * * *

Without criticizing in any way the decision in Leisy against Hardin, it has always seemed to me that the minority opinion was the better law. I do not think it can be successfully claimed that this statute is a delegation of power. It is a mere rule prescribed by Congress, removing the impediment to the exercise of certain police powers by providing that intoxicating liquors to be used in violation of law are a pollution of interstate commerce and will not be permitted. Congress has passed other acts analogous to this, for which some of the best constitutional lawyers in this branch of Congress as well as in the other voted—for instance, the Lacey Act, providing that dead bodies of foreign game or the dead bodies of any wild game transported into any State or Territory or remaining therein for use, consumption, sale, or storage, should upon arrival in such State be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police power. I do not find that this act has received consideration by the Supreme Court, but the Federal court had passed upon and upheld it in One hundred and eighty-first Federal, page 87; and the court of appeals of New York, with reference to said act and the Federal enactment in The People of the State of New York v. Hill (184 N. Y., 126), said, among other things:

> That Congress can authorize an exercise of the police power by a State which without such authority would be an unconstitutional interference with commerce has been expressly decided by the Supreme Court of the United States in the matter of Rahrer, 545.

Further, the court says:

> The object of the legislation, reference to the Lacey Act, was to enable the States by their local law to exercise a power over the subject of the preservation of game and song birds, which without that legislation they could not exert.

Further:

> By the Lacey Act Congress determined to aid the States in the enforcement of their game laws, but did not deem it wise to enact a game law of its own, and this for the very obvious reason that the game laws of the different States vary greatly, a variation justified in no small degree by the varying climatic conditions."

Likewise reference might be made to the practice in the Federal courts conforming under statute to the practice of the various States; likewise bankruptcy proceedings and exemptions under the bankruptcy law.

In the case of Hanover National Bank v. Moyses (22 Sup. Ct. Rept., 857), the court had the very question as to the recognition of the local law in the matter of exemptions, dower, priority of payments, and the like; whether it rendered the bankruptcy act in question void as an attempt by Congress unlawfully to delegate its legislative power.

The provision as to exemptions, for instance, is that they shall be controlled by the existing State law at the time of the institution of the proceedings. That would obviously be an adoption of State laws yet unenacted.

Nor can we perceive—

Says the court—

> in the recognition of the local law in the matter of exemptions, dower, priority of payments, and the like, any attempt by Congress to unlawfully delegate its legislative power. (Re Rahrer, 140 U. S., 545; 35 L. Ed., 572, 576; 11 S. C., 865.)

The real difficulty with section 2 is this: The section recognizes the transportation of liquors into the State and then permits the operations of the police power that might stop the liquor at the State line, thus keeping it out of interstate commerce. The first section takes certain liquor out of commerce and the second section seems to recognize it as being in. There is some incongruity in this. That is the proposition on which I have had great difficulty in harmonizing my views.

Mr. McCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from North Dakota?

Mr. KENYON. Certainly.

Mr. McCUMBER. I think the Senator agrees with me that the only way we can sustain the constitutionality of section 2 is on the assumption that Congress has divested the article of its interstate character the moment that it crosses the line. Do I correctly understand that to be the Senator's position?

Mr. KENYON. I agree with the Senator from Minnesota that a strong argument can be made under the Rahrer case, and in the language of the court in the Leisy case, that the interstate feature may be removed some time in the journey.

Mr. McCUMBER. That is correct.

Mr. KENYON. I do not myself so argue.

Mr. McCUMBER. That is correct; but it must be in the act itself which divests it of its interstate character.

Mr. KENYON. That is done by section 1.

Mr. McCUMBER. I have no doubt of the authority of Congress to divest it of its interstate character.

Mr. KENYON. I have no doubt of that.

Mr. McCUMBER. But as section 2 now appears is it not open to the possibility, at least, of a construction that it is not a delegation of authority and that there is no attempt to really divest it of its interstate character; and could we not cure that by a simple amendment, such as was suggested by Senator Edmunds in the argument which you have just read, by a clear and definite declaration that it shall cease to be an object of interstate commerce the moment it crosses the State line? With that declaration, I believe that the constitutionality of it may properly be sustained.

Mr. NELSON. Will the Senator yield to me for a moment?

Mr. KENYON. I will be very glad to yield.

Mr. NELSON. I want to call the attention of the Senator from North Dakota to what the Supreme Court stated in the Rahrer case. The language is significant and right to the point. Here is what the court said, speaking about the Wilson law:

> The Constitution does not provide that interstate commerce shall be free, but, by the grant of this exclusive power to regulate it, it was left free except as Congress might impose restraint. Therefore it has been determined that the failure of Congress to exercise this exclusive power in any case is an expression of its will that the subject shall be free from restrictions or impositions upon it by the several States. * * * Congress now has spoken and declared that imported liquors or liquids shall, upon arrival within a State, fall within the category of domestic articles of a similar nature. Is the law open to constitutional objection? * * * No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so. * * * We recall no decision giving color to the idea that when Congress acted its action would be less potent than when it kept silent. The framers of the Constitution never intended that the legislative power of the Nation should find itself incapable of disposing of a subject matter specifically committed to its charge. * * * Congress did not use terms of permission to the State to act, but simply removed an impediment to the enforcement of the State laws in respect to imported packages in their original condition, created by the absence of a specific utterance on its part. It imparted no power to the State not then possessed, but allowed imported property to fall at once upon arrival within the local jurisdiction.

In other words, the court could see no reason why Congress could not by its legislation divest an article of that kind of its interstate commerce privilege at an earlier time than it otherwise would lose that character.

Now, if in that case Congress could divest it of the right of sale in the unbroken package, why can it not go a little further and say that the article shall be subject to the laws of the State before it comes into the hands of the consignee?

Mr. KENYON. Would it have become interstate commerce if it never got over the boundary line of the State? That is the proposition that occurs to me.

Mr. McCUMBER. Will the Senator yield to me further?

Mr. KENYON. I do.

Mr. McCUMBER. The opinion read by the Senator agrees exactly with my proposition, that it may be divested, but that the law itself should show the congressional intent that it should be divested of its commercial character the moment it crosses the line. I am not arguing against the authority of Congress to divest it of its commercial character, but I insist that there should be such an amendment, or the language should be clear that the purpose is to divest it of its commercial character the moment that it crosses the line, and not leave it open to the implication that we are allowing it to proceed further as an article of interstate commerce, and yet be subject to the authority of the State.

I think there is no disagreement between the opinion the Senator has just read and the suggestion I make.

Mr. KENYON. The Senator from North Dakota will agree with me, will he not, that the Supreme Court, of course, would try to save any constitutional infirmity?

Mr. McCUMBER. Yes; but I think the act should be made wholly clear by a little statement that the article shall be divested of its commercial character the moment it arrives within the State. That would make it so clear there could be no question.

Mr. KENYON. What would be the need of that if the first section, which divests it of its interstate character, became a law?

Mr. McCUMBER. The only difference, as I understand, is that those who favor this section 2 desire to keep the article out of the State entirely or make it subject to the laws of the State the moment it gets into the State without the necessity of having to prove an intent, and if that can be done it is better than the first section.

Mr. KENYON. Mr. President, I have felt that this section could be sustained by the Supreme Court on the theory I have advanced, of holding the delivery at the end of the actual physical transportation, from there to the consignee, as an incident of commerce. But outside of this troublesome question, and one on which I confess I have no abiding legal conviction, it seems to me very clear that the power is in Congress to absolutely prohibit, as has been argued, the transportation of intoxicating liquors in commerce. In other words, to take such liquors out of interstate commerce. This full plenary power existing, it is within its power, as a part thereof, to make any regulation it may desire with reference to such intoxicating liquor, and hence it has the right to prohibit, as is done in this measure, the transportation of liquors intended by the parties interested therein to be used in violation of the law of a State.

Mr. President, the whole question was epitomized in just a few words which I want to read in closing from the dissenting opinion of Justice Harlan, in the Bowman case. I think no man has ever occupied a position on our Supreme bench or on any bench in any government in the world who in all his utterances has rung out so true for the right thing and for the human side of legislation and of law as did that great-bodied, great-hearted, great-brained Kentuckian.

Twenty-five years ago in the Knight case he painted, in a dissenting opinion, an accurate picture of the condition of this country if the majority opinion of that court as to trusts and combinations was to prevail. And looking over the condition in this country to-day and reading the views of Justice Harlan in that dissent, it would seem as if he was endowed with almost prophetic vision.

His voice rang out again in the Northern Securities case, and in his dissenting opinion in the Standard Oil and the Tobacco Trust cases. He believed that the conservation of human rights was as much the concern of legislation and of the courts as the conservation of property rights, and he said, with reference to this very question, and it ought to be final, in his dissenting opinion in the Bowman case:

> If, consistently with the Constitution of the United States, a State can protect her sound cattle by prohibiting altogether the introduction within her limits of diseased cattle, she ought not to be deemed disloyal to that Constitution when she seeks by similar legislation to protect her people and their homes against the introduction of articles which are, in good faith and not unreasonably, regarded by her citizens as "laden with infection" more dangerous to the public than diseased cattle, or than rags containing the germs of disease.

And he further said:

> Does the mere grant of the power to regulate commerce among the States invest individuals of one State with the right, even without the express sanction of congressional legislation, to introduce among the people of another State articles which by statute they have declared to be deleterious to their health and dangerous to their safety? In our opinion, these questions should be answered in the negative.

Then, Mr. President, in one sentence he states this proposition that this bill seeks to reach:

> It is inconceivable that the well-being of any State is at the mercy of the liquor manufacturers of other States.

That is the whole problem in this bill. That is the problem which this Congress is asked to meet, and in my humble judgment this measure will help to meet it.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia. Mr. President, I desire very briefly to bring to the attention of the Senate the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and acts supplementary thereto.

Fifty years ago the Morrill Act was passed. Under it a land-grant college was established in each State of the Union. Twenty-five years ago the Hatch Act was passed. Under it an experiment station was established in each State of the Union.

In most of the States these two institutions work in close association. They have conducted investigations and made tests bearing upon many important questions connected with the farm, and their investigations and tests have been especially with reference to conditions in their respective States. They have studied plants and determined with accuracy the foods upon which they live and mature crops. They have analyzed different classes of soil in their respective States to determine the plant food contained, and have learned how to make it valuable. They have ascertained defects of soils and how to remove them. They have worked out improvements in seeds, and have found the way to resist plant diseases. They have tested stock, cattle and hog foods and diseases. They have found what foods will bring the best results, and have advanced in the treatment of diseases.

The National Government has spent on the agricultural colleges and experiment stations, in round figures, $70,000,000. It spends now upon them nearly $4,000,000 annually. From State appropriations and other sources they receive even a larger sum, but most of this last-named amount is required for new buildings and equipment.

The Government appropriates $15,000,000 a year for carrying on the exclusively agricultural work of the Department of Agriculture. Much the larger portion of this amount is spent in investigation and experimentation. Information of great value to the rural interests of the country is secured, but an apparently small sum is devoted to showing those at work upon the farms how to apply this information. There are students at these colleges who are obtaining much aid from the instruction which they receive, but there is no sufficient provision to carry to the farmers at their homes the valuable information which has been and will be obtained by the work of the colleges and experiment stations.

Dr. True, Director of the Office of Experiment Stations, is authority for the statement that for several years the officers of the colleges and experiment stations have been pressed with the demand to carry the result of their research to the home of the farmers. A number of the colleges have secured small amounts to do this work in a partial way, but, he declares, "their work was limited by lack of sufficient funds." It is of vital importance to carry promptly to the farmers the knowledge acquired at these institutions.

A number of bills have been introduced in Congress in recent years seeking to meet this pressing want of the agricultural interests. Last fall a bill was perfected by the executive committee of the colleges and experiment stations, by officers of the Agricultural Department aided by officers of the National Soil Fertility League and Congressman LEVER and myself. I introduced the bill in the Senate, and he introduced it in the House.

The bill under consideration this morning is substantially the bill perfected, as I have just stated, the only changes of importance being two amendments, one which provides that this work from the colleges shall not interfere with the demonstration work now being done by the Department of Agriculture, and, farther, that 75 per cent of the money appropriated shall be used in actual demonstration work.

The bill under consideration provides for the establishment and maintenance in each of the land-grant colleges of agriculture of an extension department to give instruction in agriculture and home economics to the farmers at their homes. This instruction is to be given by demonstration work on their own land in the local farm communities. It provides for a fixed appropriation from the Treasury of $10,000 annually, unconditionally, to each State. It provides for an appropriation beginning with $300,000 a year, July 1, 1913, to be prorated among the States on a basis of rural population. This appropriation is to be increased each year $300,000 until the maximum of $3,000,000 is reached in 1923. No State is to receive a pro rata of this sum unless it provides an equal amount for the same purpose. The money is to be expended by the State colleges of agriculture through their extension departments in each State. Seventy-five per cent of the money must be used in actual field demonstration, 5 per cent may be used in printing and publications, and the remaining 20 per cent for instructions in household economics or for further field demonstration.

The bill provides that any Federal money lost or misused must be made good by the State, and it prohibits the use of the money for purposes except those specified. It provides for reports from the colleges to the Secretary of Agriculture, and through the Secretary of Agriculture to Congress.

According to the plans of the bill, the representatives of the colleges in the various States will enlist farmers, who, under the direction of the representative of the agricultural college, will test the value on their own land of the information brought by the representative of the college. The farmer will be invited to plant under the direction of the representative of the college. The character of the soil will be tested, the nature of the fertilizer to be used explained, the selection of seed advised, and the time of planting and manner of cultivation suggested, and demonstrations will be made which will teach and prove the value of the knowledge acquired at the colleges and experiment stations. In another place the representative of the college will teach, and by experimentation demonstrate, the best manner of caring for fruit trees. In another place the best system for feeding cattle and stock, and dairying and butter making may be the subject of the demonstration. Demonstration will also be made in home economics and labor-saving machines.

The colleges of agriculture and experiment stations in each State have been devoted to a study of the peculiar conditions in the localities of their States and will, through their representative, carry to the farmer in his home the accurate information which experimentation has demonstrated, and in turn give practical demonstrations in the locality before the farmer and his neighbors of the value of the information acquired and how to use it.

This class of work will be supplemented by printed discussions of the best mode of farming, on hygiene, and on household economics, and the means available will be used to give those on the farm all that research can develop which will be of service to them.

The value to the agriculture of the country of such work is not a matter of experiment. It has been tried and proved in our own country to a limited extent. To a far greater extent it has been tried and proved in other countries. In many parts of Europe the representatives of the colleges and experiment stations are constantly engaged in the field among the farmers showing the grown farmers what has been learned at the colleges and experiment stations. I will take Belgium as an illustration. For 20 years this course has been pursued there. Information gathered at the Department of Agriculture shows the fact that as a result of this work in Belgium the production per acre in 20 years' time has increased 30 per cent and the cost of production has been decreased.

Let us think what this would mean for our country. The annual value of our agricultural products is, in round figures, $9,000,000,000. If the increase as the result of this work were only 20 per cent, we would have an increased value of $1,800,000,000, or a sufficient sum to meet the proposed appropriation for 600 years.

The colleges of agriculture and experiment stations sent their representative to appear before the congressional committee to tell us that they were ready for the work, could do the work, and how valuable it would prove.

This measure has been indorsed by the Association of American Agricultural Colleges and Experiment Stations, by the International Dry Farming Congress, by the New England Conference on Rural Progress, by the Tri-State Grain Growers' Convention, comprising Minnesota and the two Dakotas; by the State Grange, the State Federation of Farmers' Clubs, and

the State Horticultural Society, of Michigan; by the Farmers' Union; by the Third Wisconsin Country Life Conference; and by the Eastern Fruit Growers' Association, and by the National Grange.

It received the approval of the Secretary of Agriculture, who, referring to this bill, said:

Unquestionably such a plan, if properly carried out, would result in great good and would do much toward making useful and valuable the rapidly growing store of knowledge developed along agricultural lines.

The farm lands of our States are occupied by over 49,000,000 men, women, and children. A large number of them struggle to earn a livelihood and can not afford to experiment for the purpose of learning things that are new. If we will only carry to them those truths which have been demonstrated in the colleges of agriculture and experiment stations, they can be shown how to double the yield of their lands and at the same time lessen the cost of production.

I believe that the greatest power and chief hope of this country are found in our farm population. We have made the investment and prepared for the work. Shall we carry the results of the investment to the people who need it?

I am sure that no piece of legislation has been before Congress in years which will bring larger results for the amount spent.

There are measures we may support because we believe they are right, but we may know that this is right. There are measures we may support because we believe that they will do good, but we may know that this will do good. Most measures have possible harm connected with them. This has no possible harm.

I urge the speedy adoption of this measure, feeling sure that not alone the tiller of the soil but the people of our entire country will feel the beneficient effects of the operation of this bill.

Mr. SMITH of Arizona. Before the Senator from Georgia takes his seat, I will ask, for information, if the bill provides that on the gift by the Federal Government of $10,000 to a State the State must also give $10,000 in order to reap the benefit of the bill?

Mr. SMITH of Georgia. No. I explained at the outset that the bill gives $10,000 unconditionally to each State. The further appropriations are conditioned upon like appropriations from the States, but the $10,000 appropriation is to go to each of the States unconditionally.

PROPOSED EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

Mr. SMITH of Georgia. I desire to suggest that there is no quorum present.

The PRESIDENT pro tempore. The Senator from Georgia suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Martin, Va.	Root
Bailey	Curtis	Martine, N. J.	Sanders
Bankhead	Dixon	Massey	Smith, Ariz.
Borah	du Pont	Myers	Smith, Ga.
Bourne	Gallinger	Nelson	Smith, Mich.
Brandegee	Gore	Newlands	Smith, S. C.
Bristow	Gronna	O'Gorman	Smoot
Brown	Guggenheim	Oliver	Stone
Burnham	Johnson, Me.	Overman	Sutherland
Burton	Johnston, Ala.	Page	Swanson
Chamberlain	Jones	Penrose	Townsend
Clapp	Kenyon	Perkins	Warren
Clark, Wyo.	La Follette	Perky	Wetmore
Crane	Lodge	Pomerene	
Crawford	McCumber	Reed	
Culberson	McLean	Richardson	

Mr. KENYON. I desire to state that my colleague [Mr. CUMMINS] is detained at home by serious illness in his family.

Mr. PAGE. I wish to announce that my colleague [Mr. DILLINGHAM] is detained on account of illness.

Mr. SMITH of Michigan. The Senator from New Mexico [Mr. FALL] is in the performance of special service, for which he was designated by the Senate, and he is obliged to be absent from the sessions. I desire the RECORD to show that his absence is due entirely to official business outside the Chamber.

The PRESIDENT pro tempore. Sixty-one Senators have answered to their names. A quorum of the Senate is present. The question is on the motion made by the Senator from Illinois, that the Senate proceed to the consideration of executive business.

Mr. MARTINE of New Jersey. I ask for the yeas and nays.

Mr. REED. Let us have the yeas and nays.

Mr. CULBERSON. Have the yeas and nays been ordered?

The PRESIDENT pro tempore. The yeas and nays have been demanded. Is there a second to the demand?

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CRANE (when his name was called). The Senator from Maine [Mr. GARDNER], with whom I am paired, is absent. In his absence, I refrain from voting.

The PRESIDENT pro tempore (Mr. GALLINGER, when his name was called). The present occupant of the chair is paired with the Senator from Arkansas [Mr. DAVIS]. He transfers that pair to the Senator from South Dakota [Mr. GAMBLE], and will vote "yea."

Mr. McCUMBER (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. PERCY]. I transfer that pair to the junior Senator from Maryland [Mr. JACKSON] and vote. I vote "yea."

Mr. MASSEY (when his name was called). I have a pair with the Senator from Virginia [Mr. SWANSON]. In his absence I refrain from voting. My vote would be in the affirmative if the Senator from Virginia were present.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. As he is absent from the Senate, I will withhold my vote.

The roll call was concluded.

Mr. CLAPP (after having voted in the affirmative). I notice that the senior Senator from North Carolina [Mr. SIMMONS], with whom I have a general pair, is not in the Chamber. I therefore feel compelled to withdraw my vote.

Mr. PENROSE (after having voted in the affirmative). I notice that the junior Senator from Mississippi [Mr. WILLIAMS], with whom I am paired, has not voted. Therefore I withdraw my vote.

Mr. McLEAN (after having voted in the affirmative). I notice that the junior Senator from Montana [Mr. MYERS], with whom I am paired, is not in the Chamber. When I voted I thought he was present. I therefore withdraw my vote.

Mr. OLIVER (after having voted in the affirmative). I notice that the junior Senator from Oregon [Mr. CHAMBERLAIN], in company with most of the Senators on the other side, is out of the Chamber, and having a general pair with him, I am compelled to withdraw my vote.

Mr. ROOT. Mr. President, I think all those Senators were here when the roll call began. I think they were in the Chamber and that they are probably now in the cloak room. I do not know why.

Mr. JONES. I desire to state that my colleague [Mr. POINDEXTER] is detained from the Chamber by important business. I do not know how he would vote if present.

The result was announced—yeas 29, nays 2, as follows:

YEAS—29.

Borah	Crawford	Kenyon	Smoot
Bourne	Cullom	Lodge	Sutherland
Brandegee	Curtis	McCumber	Townsend
Bristow	du Pont	Nelson	Warren
Brown	Gallinger	Page	Wetmore
Burnham	Gronna	Root	
Burton	Guggenheim	Sanders	
Clark, Wyo.	Jones	Smith, Mich.	

NAYS—2.

Martin, Va. Martine, N. J.

NOT VOTING—63.

Ashurst	Dillingham	McLean	Richardson
Bacon	Dixon	Massey	Shively
Bailey	Fall	Myers	Simmons
Bankhead	Fletcher	Newlands	Smith, Ariz.
Bradley	Foster	O'Gorman	Smith, Ga.
Briggs	Gamble	Oliver	Smith, Md.
Bryan	Gardner	Overman	Smith, S. C.
Catron	Gore	Owen	Stephenson
Chamberlain	Hitchcock	Paynter	Stone
Chilton	Jackson	Penrose	Swanson
Clapp	Johnson, Me.	Percy	Thornton
Clarke, Ark.	Johnston, Ala.	Perkins	Tillman
Crane	Kern	Perky	Watson
Culberson	La Follette	Poindexter	Williams
Cummins	Lea	Pomerene	Works
Davis	Lippitt	Reed	

The PRESIDENT pro tempore. Twenty-nine Senators have voted in the affirmative and 2 in the negative—not a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	McLean	Root
Bacon	Culberson	Martin, Va.	Sanders
Bailey	Cullom	Massey	Smith, Ga.
Bankhead	Curtis	Myers	Smith, Mich.
Borah	du Pont	Nelson	Smith, S. C.
Bourne	Fletcher	Newlands	Smoot
Bristow	Gallinger	O'Gorman	Stone
Brown	Guggenheim	Oliver	Sutherland
Burnham	Hitchcock	Overman	Swanson
Burton	Johnston, Ala.	Page	Tillman
Chamberlain	Jones	Penrose	Townsend
Clapp	Kenyon	Perkins	Warren
Clark, Wyo.	Lodge	Reed	Wetmore
Crane	McCumber	Richardson	

Mr. OLIVER (during the calling of the roll). If it is in order now, I call attention to the fact that my pair is here, and I therefore ask to have my vote recorded on the vote just taken.

The PRESIDENT pro tempore. It is too late for the Senator to vote. The roll is now being called to determine whether a quorum is present.

Fifty-five Senators have answered to their names. A quorum of the Senate is present. The Senator from Georgia [Mr. BACON] will please take the chair to preside over the impeachment proceedings.

Mr. BACON assumed the chair as Presiding Officer.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDING OFFICER (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDING OFFICER. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Tuesday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDING OFFICER. Are there any inaccuracies in the Journal? If not, it will stand approved. Counsel for the respondent will proceed.

TESTIMONY OF DWIGHT J. BEARDSLEE.

Mr. WORTHINGTON. I ask that Dwight J. Beardslee may now be called.

Dwight J. Beardslee, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Give us your full name, please. Mr. Beardslee.—A. Dwight J. Beardslee.

Q. Where do you live?—A. Peckville, Pa.

Q. What is your business?—A. I am in the coal business.

Q. In what species or department of the coal business?—A. In the washery business.

Q. Washing culm dumps?—A. Yes, sir.

Q. Do you know what is called the Katydid culm dump, near Moosic, Pa.?—A. I do.

Q. Did you ever have occasion to examine it with a view to determining its value?—A. Yes; I looked it over.

Q. When was that?—A. I think it was some time last April.

Q. At whose instance?—A. A man by the name of Davis.

Q. Do you know his full name?—A. I believe the man's name was Jones. I had that wrong. It was Mr. Jones. I do not know the man's first name.

Q. Do you know whether it was Thomas Star Jones, or——A. I believe that was what they called him; but I am not sure about it.

Q. Did you go alone or were you in company with somebody else?—A. I was in company with somebody else.

Q. Who?—A. C. C. White, Robert Davis, and Mr. Jones.

Q. What kind of an examination did you make of the dump?—A. I looked the dump over. I did not examine it particularly, only just as I walked around it, to see the size of it.

Q. About how much time did you spend on the examination or around the dump?—A. About two hours.

Q. Tell us what conclusion you reached, if you reached any?—A. I could not find any water. That was the first thing I asked about. And the next thing, I thought the dump was too small to warrant an operation.

Q. Why too small to warrant an operation; what does that mean?—A. It was too small a tonnage to pay for building a plant there, I thought.

Q. What would it have cost to have built a plant and operated it properly and to have gotten the water up to it?—A. I do not know what it would have cost to get the water, because I did not know where you could get it. To build a plant there would have cost from $15,000 to $18,000.

Q. Fifteen to eighteen thousand dollars to build the plant?—A. I should think so.

Q. And for the water an additional sum, whatever it would cost?—A. Yes, sir.

Q. But you did not see where you could get it at all?—A. I did not that day; no, sir.

Mr. WORTHINGTON. That is all.

Mr. Manager CLAYTON. We have no questions.

The PRESIDING OFFICER. The witness is excused.

TESTIMONY OF REESE ALONZO DAVIS.

Reese Alonzo Davis, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. I am office man for my brother, mining engineering office.

Q. Have you had any experience in the matter of ascertaining the value of coal dumps in that region?—A. Just a little.

Q. Tell us briefly what your experience has been.—A. Well, I used to look after the mines we operated ourselves for several years. I used to look after the mines mostly.

Q. You say the mines "we operated"?—A. My brother and myself.

Q. For how many years were you engaged in that way?—A. About the mines?

Q. Yes.—A. All my life.

Q. You say all your life. Might I ask how old you are?—A. Forty-two.

Q. And for twenty-odd years you have been engaged in that sort of business?—A. Yes.

Q. Did you at any time have occasion to visit the Katydid dump near Moosic, Pa.?—A. Yes, sir.

Q. When was that?—A. April 6, 1912.

Q. At whose instance did you go there, for what purpose?—A. Mr. Jones, of Scranton—Thomas H. Jones—came in the office one day and said that he had a culm dump with 150,000 to 200,000 tons of culm; and I said, "If you have a dump like that I have got a purchaser." So I got Mr. Beardslee in the office and we went down to look it over, and when we got there I could not see any value in it myself. I did not measure it up, did not test it, but just paced it off.

Q. You paced it and examined it, and reached your conclusion in that way, did you?—A. Well, we saw the tonnage was not there, and we did not bother.

Q. What do you mean by saying you saw the tonnage was not there?—A. The tonnage that Mr. Jones claimed. He claimed about 150,000 to 200,000 tons. Mr. Beardslee said it was not worth while to bother with it; he said he would not take it for a gift.

Q. Mr. Beardslee has been here and told us what he thought about it, but I would like to have your judgment about it.—A. Those are the very words he said. He said he would not take it as a gift.

Mr. Manager NORRIS. We object to that kind of an examination.

The PRESIDING OFFICER. That will be excluded.

Q. (By Mr. WORTHINGTON.) I do not want that. Of course, that is not an answer to my question. What we want to know is the conclusion you reached as to the quantity and value.—A. I did not think there was much value there, because it would not pay to put up a washery to operate it; at least, I did not think so.

Q. Do you know about the cost of washeries?—A. No, sir; I have not been in that line—in the operating line—for the past eight years. Therefore I am not versed on the price of material and stuff to-day.

Q. Have you had experience in estimating the quantity of material in these dumps?—A. A little; yes, sir.

Q. As foreman, you said, or acting for your brother?—A. Acting for my brother; I worked for him.

Q. Did you form any conclusion as to how much material there was in the dump when you looked at it?—A. We just paced it off; did not measure it, you understand. We did not test it, but just paced it off.

Mr. Manager STERLING. Then I object to any question along that line. Evidently the witness knows nothing about it.

Mr. WORTHINGTON. I understand the witness has testified he has had some experience.

The PRESIDING OFFICER. He can give his estimate of the value of the property, and it will be a question as to how much weight his opinion is entitled to.

Mr. WORTHINGTON. I am asking him more particularly about the quantity.

The WITNESS. I think there was about 20,000 tons. That is, fair coal.

Q. (By Mr. WORTHINGTON.) That much fair coal?—A. Yes; below pea coal.

Q. You say below pea coal?—A. Yes.

Q. Did you form any estimate about the pea and sizes above?—A. No; I did not. We just pushed it over with our feet when we were walking over it, and we could not see——

Q. I want to find out why you say you estimated the quantity below pea. Did you find no pea and no chestnut there?—A. Well, we could not see any.

Mr. WORTHINGTON. That is all.

Cross-examination:

Q. (By Mr. Manager STERLING.) Do you know Mr. Rittenhouse?—A. I know him to see him, but not personally.

Q. Is he a competent engineer?—A. As to that I can not say.

Q. If he measured it and tested it and found 49,000 tons of coal there, you would say you did not know much about it, would you not?

Mr. WORTHINGTON. I object to asking one witness what he thinks about the testimony of another. In view of the objections made yesterday to our questions, I think it is a little surprising that such a question should be put.

Mr. Manager STERLING. If you bring witnesses here and put them on the stand and do not qualify them as experts, I do not think you have a right to ask them their opinion.

Mr. WORTHINGTON. I do not think the manager has a right to ask him what conclusion he draws from the testimony of other witnesses whom he has not heard.

The PRESIDING OFFICER. The manager might ask him, if he thought it proper to do so, whether the fact that the estimate of another person was so and so, and that was brought to this witness's knowledge, it would cause him to change his mind.

Q. (By Mr. Manager STERLING.) If an estimate and a mechanical test made by Mr. Rittenhouse showed 49,000 tons, then you would say you were mistaken in your judgment?—A. No, sir; I would not. I would take my own judgment.

Q. You can tell better by just looking at the dump than a mining engineer can tell by actual measurement and test?—A. Not necessarily; no.

Q. If Mr. Saums, the engineer who measured it and tested it for the Du Pont Powder Co., disclosed 90,000 gross tons and 55,000 tons of coal, then would you say that your judgment was wrong?—A. No.

Mr. Manager STERLING. That is all.

The WITNESS. I take my own judgment.

Q. (By Mr. Manager STERLING.) Yes; you would go out and just look at a dump and step it off and then take your judgment in preference to any engineer's, would you?—A. No; not necessarily so.

Q. Just answer that question.—A. If I thought the dump was of any value when I took a man down there to purchase it, then it would be worth while to measure it.

Q. Just answer my question——A. I am trying to.

Q. Would you take your judgment based on the examination you made against the judgment of any competent engineer who had measured it and tested it; would you do that?—A. If it was necessary I would go down and measure it myself.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) One question about Mr. Rittenhouse. Do you know something about him?—A. I do not know Mr. Rittenhouse only to see him. I am not personally acquainted with him.

Q. Do you know anything about his reputation up there?—A. No; I do not.

Q. As an expert?—A. I do not.

Mr. WORTHINGTON. Well, then, I can not ask you about it. That is all.

The PRESIDING OFFICER. The witness may retire, and is finally excused.

TESTIMONY OF OSCAR WENDEROTH.

Oscar Wenderoth, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) You are the Supervising Architect of the Treasury?—A. I am, sir.

Q. Have you been subpœnaed to bring here from your office the plans of the Federal building in Scranton?—A. I have, sir.

Q. Where the offices of the judges there are located?—A. Yes, sir.

Q. And the post office?—A. Yes.

Q. Have you them with you?—A. I have brought what we call in the office the assignment plans—a complete set of plans of the building—the original office copy, showing the assignment of space and the arrangement of the building. I brought a duplicate.

Q. You have a duplicate set which you can leave here?—A. I was not sure whether you would demand the originals. I have a duplicate, with a certification that it is a true copy.

Mr. WORTHINGTON. As far as I am concerned, we can use the duplicate, and let the witness take the originals back with him.

Mr. Manager FLOYD. We object, unless we know the purpose of it.

Mr. WORTHINGTON. Let us have the plans identified first, and then when we offer them it will be time enough to raise any question. We can identify them and let the witness go.

Mr. Manager FLOYD. Certainly.

Q. (By Mr. WORTHINGTON.) What is this [indicating]?—A. That is a photograph of the building, in case it should be called for.

The PRESIDING OFFICER. Speak louder, so everyone can hear.

The WITNESS. I brought a photograph of the building in case there should be a call for it and two sets of plans, one an original office copy and the other a certified duplicate of the original office copy.

Mr. WORTHINGTON. I ask to have these plans marked now simply for identification, and the question of offering them in evidence will come up later. Take the photograph first. I am having the certified copies marked, not the originals, which I propose to let the witness take back with him, unless there is objection.

Mr. Manager FLOYD. You are not offering them in evidence now?

Mr. WORTHINGTON. No; I am not offering them in evidence now. I called this witness at this time so that he may be allowed to go. He is in charge of the office up there, and we ought not to keep him waiting any longer than is necessary. So far as we are concerned, the witness can go. It is perfectly understood these papers are not now offered in evidence; they are merely marked for identification.

Mr. Manager FLOYD. I desire to say, Mr. President, on behalf of the managers, that we did not object to them on the ground that they were certified copies instead of the originals, but we desire to reserve the right to object to the testimony for other reasons when it is offered.

Mr. WORTHINGTON. Then the witness may be discharged.

The PRESIDING OFFICER. The witness may be finally discharged.

TESTIMONY OF CLARENCE S. WOODRUFF.

Clarence S. Woodruff, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) What is your full name?—A. Clarence S. Woodruff.

Q. Where do you reside?—A. Scranton, Pa.

Q. What is your business?—A. I am an attorney at law.

Q. In what building there is your office?—A. In the Republican Building.

Q. How far is that from the office of W. P. Boland?—A. Right next to it.

Q. Do you know him?—A. Very well.

Q. And his brother?—A. Yes, sir.

Q. He has an office there, too?—A. Yes.

Q. Where is it?—A. Next to Mr. Christy Boland is Mr. Will Boland's office.

Q. I will ask you whether or not, about the 1st of November, last, you had an interview Mr. Christopher G. Boland, and he took you into his office in the Republican Building?—A. I did.

Q. And shut the door, and then had a conversation with him?—A. Yes, sir.

Mr. Manager FLOYD. I object to any conversation between this witness and Christopher Boland.

Mr. WORTHINGTON. When Mr. Christopher Boland was on the stand I laid the foundation for this evidence——

Mr. Manager CLAYTON. Where did you lay it?

Mr. WORTHINGTON. By asking him on cross-examination whether he did not have this interview with this witness at this time and make the statement that I now offer to prove he did make.

Mr. Manager CLAYTON. What page?

Mr. WORTHINGTON. I do not remember. Mr. Simpson will give it to you in a moment.

Mr. Manager FLOYD. I do not object to his repeating to this witness the question he asked Mr. Boland.

Mr. WORTHINGTON. That is what I propose to do.

Mr. Manager FLOYD. If that is what he is proposing to do, go ahead with the question. If it is for the purpose of contradicting Mr. Boland, I do not object, and I presume that is the object.

Mr. WORTHINGTON. That is the purpose and the sole purpose of it—to contradict Mr. Christopher Boland.

Mr. Manager FLOYD. We do object, because that is a matter that counsel brought out on cross-examination.

The PRESIDING OFFICER. Counsel for the respondent may proceed. Objection has been made, and counsel for the respondent has the floor.

Mr. WORTHINGTON. I will now proceed to state the question I propose to ask. You will not answer until——

Mr. Manager STERLING. Will counsel give us the date on which that question was asked?

Mr. WORTHINGTON. We are looking for it. We will have it in a moment. While they are looking for that let me ask you about another matter.

Q. (By Mr. WORTHINGTON.) Is your office on the same side of the Republican Building; is it on the side next to the Federal building?—A. Yes, sir.

Q. Where Judge Archbald had offices while he was judge there?—A. Yes, sir.

Q. Do you know about the relation of the office of William P. Boland to the office the judge occupies?—A. I do.

Q. What is that relation?—A. It is about 60 feet back from the street from Judge Archbald's window, and the distance between the Republican Building, where Mr. Boland's office is, and the Federal building, where Judge Archbald's office is, is 50 feet, so that the distance across would be the hypotenuse of a right angle, one side being about 50 feet and the other side about 60 feet.

Q. Do you know about Judge Archbald's offices there, those he formerly occupied and those he has occupied since he became a judge of the Commerce Court?—A. Yes, sir; I do.

Q. What change was made then?—A. A change was made from the office in front to an office in the rear; about 50 feet.

Q. I ask you if that change was made about the time he became a judge of the Commerce Court? As a matter of fact, do you know when it was made?—A. I do not remember just when it was made.

Q. Do you remember that it was made last spring?—A. It was made recently; yes; since he became judge of the Commerce Court.

Q. You do not know just when it was made?—A. I think some time last spring. My office is just across from where he is now.

Mr. Manager FLOYD. On what page?

Mr. WORTHINGTON. I am trying to find it. [After a pause.] It is page 420. I will ask the witness the question in the language in which I asked it to Christopher Boland. Do not answer, you understand, until you hear it, whether there is objection to the question. [To the witness:] I will ask you whether on or about the 1st of November last, in Christopher G. Boland's office in the Republican Building, he requested you to see Judge Archbald, and to state to Judge Archbald for him that if the suit of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co. was settled he, Christopher, would withdraw from all impeachment proceedings against Judge Archbald, and asked you to communicate that message to Judge Archbald.

Mr. Manager FLOYD. I object.

Mr. Manager WEBB (to Mr. Worthington). What does Boland say?

The PRESIDING OFFICER. The manager objects.

Mr. WORTHINGTON. Shall I go on and read what he said?

The PRESIDING OFFICER. No; the Chair understands that counsel is now proposing to answer the objection of the manager.

Mr. WORTHINGTON. The manager asked me what Christopher Boland said in response to that.

Mr. Manager WEBB. Never mind; I know.

Mr. WORTHINGTON. I will remind the Chair and the Senate that later the senior Senator from Texas asked the witness a question about that on page 422, and the witness gave an answer which covers three-fourths of a page.

Mr. Manager FLOYD. On what page is the first question?

Mr. WORTHINGTON. At the top of page 420 is the first question. The question put to him by the Senator from Texas is on page 422. Do you object?

Mr. Manager FLOYD. Yes, sir; we object.

Mr. WORTHINGTON. I am waiting to hear the objection. I propounded the question.

The PRESIDING OFFICER. Which question is it that was asked the witness?

Mr. WORTHINGTON. I paraphrased the question put to Christopher G. Boland at the top of page 420.

Mr. Manager FLOYD. Mr. President, to that we object. We object to this testimony because we think it is on a collateral matter and is wholly immaterial and irrelevant to the issue in this case. We can not impeach a witness on immaterial matters. That is a well-known rule of law. As to whether at some subsequent time he had a conversation with Mr. Boland in which Mr. Boland made any such statement or request of this witness, it seems to us, is wholly immaterial to the issue in the case, and for that reason we object to it. We concede the right of counsel to contradict a witness upon material matters, unless they have brought them out themselves on cross-examination, and then we do not concede that right. That is one reason for objecting, Mr. President.

The PRESIDING OFFICER. The counsel for the respondent will proceed.

Mr. WORTHINGTON. The managers were consulting together, apparently, as to whether they would say anything further.

Mr. Manager CLAYTON. We reserve the right to be heard at the end of your remarks.

Mr. WORTHINGTON. Christopher G. Boland, as the President remembers, was a witness called on behalf of the managers, and gave testimony which they considered of great importance and which the Senate thought of sufficient importance for a vote to admit. I had always supposed until now that there was no question that when any witness is put on the stand his adversary may show whether that witness has done anything which shows that he is interested in the result of the case or has attempted to bring about a result in that case by unfair means.

If Christopher G. Boland, for instance, had come to Judge Archbald and said to him, "If you will pay me $100,000 I and my brother will withdraw from these impeachment proceedings," I take it for granted nobody would deny that that was competent evidence to show the kind of a man he is and to show what credibility should be attached to his evidence. That is just in substance what he did. We contend, and we offer to prove by this witness, that he asked Mr. Woodruff to come down into his office, took him into his office, where there was no one else, and carefully shut the door, and then said to him, "I want you to go and see Judge Archbald and tell him that if the claims of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co., the rate case before the Court of Commerce of which we have heard so much, could be settled, he and his brother would withdraw from the impeachment proceedings. What is that but an attempt of the witness to get somebody to bribe him and to come here and give testimony because he was not bribed. We expect to follow that up by showing that the witness, as a matter of fact, did communicate his message to Judge Archbald in the presence of another witness, who is here. So far as that is concerned, that is another matter. The question now is whether we may prove that Christopher G. Boland, a witness for the managers, undertook in this way to get money from or through Judge Archbald for the purpose of stifling his testimony here.

Mr. Manager WEBB. Mr. President, the absurdity of the answer to that question is perfectly evident from the fact that the case which counsel speaks of was settled by the Interstate Commerce Commission last summer and could not have been pending when this conversation took place last month, as is alleged.

It is a universal rule of evidence, Mr. President, that wherever counsel on cross-examination brings out collateral testimony they are forever bound by the answers of the witness with reference to all collateral matters. This is purely, of course, a collateral question which Mr. Worthington brought out from Mr. C. G. Boland, and he is bound by those answers. The only object that he has now in the introduction of this witness is to contradict Mr. Boland about a purely collateral matter, and it is a universal rule of practice and of evidence that that can not be done. If that were not so, we could be piling up straw men here from one year to another to knock them down.

If Mr. Boland made a false statement about a matter which is purely collateral, he could not be indicted for perjury, because it is not a material statement. Therefore the rule is wise that wherever counsel draws out from a witness on cross-examination a collateral matter counsel can not put up additional evidence to contradict that. The only object of this testimony is to contradict what Mr. Worthington brought out from the witness on a collateral question entirely. Therefore we say that it is not competent in any view of the case.

The PRESIDING OFFICER. The Chair thinks that for the purpose of contradicting a witness upon a collateral matter it is clearly inadmissible; but independently of the fact that the witness, Boland, had testified one way or the other on this particular point, it seems to the Chair that the counsel is entitled to show any fact which would indicate bias on the part of the witness.

The Chair puts his ruling on that ground exclusively, not on the ground that counsel has not a right to contradict it; but if the witness had not been interrogated as to that matter at all by the counsel, it appears to the Chair that counsel would

have a right to show any facts which would prove bias on the part of the witness. The Chair will state to counsel in the beginning that the question whether or not the witness ultimately communicated to the respondent has nothing to do with this case.

Mr. WORTHINGTON. Well, I will have to restate the question, I presume. The Reporter would probably have to hunt some time for it. [To the witness:] Mr. Woodruff, I will ask you whether, on or about the 1st of November last, Mr. Christopher G. Boland took you into his office in the Republican Building——

The PRESIDING OFFICER. The Chair would suggest to counsel that in view of the ruling of the Chair the question ought to be asked independent of any interrogatory which was propounded to the other witness.

Mr. WORTHINGTON. Very well.

The PRESIDING OFFICER. It is purely on the ground that it is to show bias.

Mr. WORTHINGTON. I have simply made a memorandum for myself to frame the question on. [To the witness:] I will ask you, then, whether or not, on or about the 1st of November last, Mr. Christopher G. Boland invited you into his office in the Republican Building in Scranton, and whether you went with him, and then he shut the door?—A. Yes, sir.

Q. Nobody else was present?—A. I think not.

Q. I will ask you whether or not he then and there said to you in substance that he wanted you to see Judge Archbald?

Mr. Manager NORRIS. Mr. President, I object to the form of the question. I think under the ruling of the Chair the question counsel has asked and which the witness has answered is wrong. He can not put the answer into the witness's mouth.

Mr. WORTHINGTON. The witness had already testified that he went there. I will not ask the witness whether he said anything that might prejudice this case. I ask him whether or not he said anything in relation to the claim of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co., and the settlement thereof.

Mr. Manager FLOYD. We object. I do not see how that could have any relation to the showing of bias.

The PRESIDING OFFICER. The Chair thinks the question is legitimate on the line already indicated.

Mr. WORTHINGTON. Now, Mr. Woodruff——

The WITNESS. What he said might result in substance to that, but I did not take in that way what he said to me.

Mr. WORTHINGTON. Tell us what he did say.

Mr. Manager STERLING. Mr. President, we object. He can only answer "yes" or "no" to the question which is asked. If we desire on cross-examination to know what he did say we can draw it out. There is just one question the counsel can ask—the direct question he asked of Boland—and this witness can answer "yes" or "no."

The PRESIDING OFFICER. The Chair would rule that the question is not for the purpose of contradicting the former witness Boland, but for the purpose of showing bias, and for that purpose the counsel has a right to show what the witness said. The counsel for the respondent will proceed.

Q. (By Mr. WORTHINGTON.) Will you proceed to state what Mr. Christopher G. Boland said to you on that occasion?—A. He said that there had been negotiations made between Morgan Davis, of Scranton, and the Delaware, Lackawanna & Western Co. in reference to the purchase of the Marian coal dump. He said that that had been going on for some three months, and that it had virtually come to an end. He said that his brother in Wilkes-Barre had been very anxious about making the sale, as he himself was, and that he had seen Judge Wheaton, of Wilkes-Barre, and Judge Wheaton had suggested that some one should see Maj. Warren, who was the attorney for the Delaware, Lackawanna & Western Co., and suggested my name, so Mr. Boland said, with a view that the sale might be made, and that, as that was the bone of contention in this matter, this trial here might be obviated and done away with, and I should also see Judge Archbald and tell him for Mr. Boland what his feelings were in the matter.

Mr. Manager WEBB. Mr. President, do you think that shows bias?

The PRESIDING OFFICER. It is not for the Chair to determine. It is for the Senate to determine.

Mr. Manager WEBB. I ask you to rule out the answer. It does not show bias, and is not the way to show bias if it did show bias.

Mr. WORTHINGTON. I had supposed, as the Chair ruled a few moments ago, it had been settled for the purposes of this case we might show bias in the way indicated.

The PRESIDING OFFICER. The counsel will proceed.

Q. (By Mr. WORTHINGTON.) Mr. Woodruff, you made a statement to me in Scranton about this proposition, did you not?—A. I did.

Q. On the 22d of November last?—A. Some time; I do not know just when it was.

Q. About the 22d of November?—A. Yes, sir; about that time.

Q. In the Hotel Casey in Scranton?—A. Yes, sir.

Q. Mr. Simpson was present?—A. Yes, sir.

Q. And Mr. R. W. Archbald, jr.?—A. Yes, sir.

Q. I want to know whether or not at that time you did not tell us that what Christopher G. Boland said on that occasion was this——

Mr. Manager WEBB. We object to that, Mr. President. The counsel is going to impeach his own witness now.

Mr. WORTHINGTON. I listened to my friends the managers arguing the other day when their witness was upon the stand.

The PRESIDING OFFICER. The counsel will confine his question.

Mr. Manager WEBB. He could only be permitted to do it on the ground that the witness is unfriendly, but he has no unfriendly witness before him now.

Mr. WORTHINGTON. Nearly every witness examined in this case on behalf of the managers, as soon as he did not say anything, was hauled up by what he said before the Judiciary Committee of the House.

Mr. Manager STERLING. We object to that kind of a remark.

The PRESIDING OFFICER. The counsel will proceed.

Mr. WORTHINGTON. I wish to read this question to the witness and refresh his memory by it, and then ask him if he did not say that and if it is not true. It is precisely the line of examination pursued by the managers, as to which we objected, but the Chair decided that it was proper.

The PRESIDING OFFICER. The Chair thinks counsel has a right to question the witness along the line he is pursuing.

Q. (By Mr. WORTHINGTON.) I will ask you whether or not you did, on the occasion I have referred to, at the Hotel Casey, on or about the 22d of November last, in the presence of the gentleman I have mentioned, say to me that on the occasion concerning which you have just testified, Christopher G. Boland said to you this in substance, that he was about to go on a trip, and he requested you to attend to the matter right away; that he requested you to see Judge Archbald and Maj. Warren and tell them that if the case of Boland against the Delaware, Lackawanna & Western Railroad before the Interstate Commerce Commission could be settled, he and his brother, W. P. Boland, would withdraw from the impeachment proceedings against Judge Archbald?

Mr. Manager WEBB. Mr. President, we object to that on two grounds. First, it is a leading question; and it contradicts what the witness has already sworn.

The PRESIDING OFFICER. The Chair does not understand it to be a leading question except that in so far as refreshing the memory of the witness there is necessarily always a suggestion to the witness. That can not be avoided. The latter question is not admissible, in the opinion of the Chair.

Q. (By Mr. WORTHINGTON.) In order that there may be no misunderstanding, Mr. Woodruff, I repeat the former question, and that is whether or no at the Hotel Casey in Scranton, at the time in question, November 22 last, or thereabouts——

The PRESIDING OFFICER. The Chair thinks that the question should be put in a different way. That is not properly refreshing the witness. The counsel does not need any suggestion from the Chair as to putting it in such a shape as will make it admissible. Refresh the memory of the witness and then ask him what is the fact.

Q. (By Mr. WORTHINGTON.) Well, Mr. Woodruff, to refresh your memory, I will ask you whether you did not tell me at the Hotel Casey, on the occasion in question, that Christopher G. Boland——

The PRESIDING OFFICER. The Chair does not think that is the proper question. The counsel can read to the witness the words before him, and then ask him, if his memory is refreshed, what does he now say as to the conversation.

Q. (By Mr. WORTHINGTON.) Let me, as a preamble to that, ask the witness this question: Did you observe that while you were making the statement I was making notes and apparently writing down what you said—A. I did, sir.

Q. I will read this to you and see whether it refreshes your memory of it, so that you can recall what actually happened when you were talking with Christopher G. Boland:

He requested me to see Judge Archbald and Maj. Warren and tell them that if the case of Boland against the Lackawanna & Western

Railroad Co. before the Interstate Commerce Commission could be settled he and his brother, W. P. Boland, would withdraw from the impeachment proceedings against Judge Archbald.

A. I knew nothing from Christy Boland at the time about the case in the Interstate Commerce Commission at all. There was nothing of that sort mentioned. The only question was as to the sale being perfected of this Marian Coal Co. to the Delaware, Lackawanna & Western Co., which he said had been going on for three or four months through Morgan Davis, and that if that could be accomplished, so that they would be wiped out entirely from that, the bone of contention in this case here would be ended.

Q. That is, if the Lackawanna Railroad Co. would buy their claim——

Mr. Manager WEBB. Mr. President, I object.

Mr. WORTHINGTON. And buy their property——

The WITNESS. Yes.

The PRESIDING OFFICER. The manager objects to the question.

Mr. WORTHINGTON. I should correct that.

Mr. Manager WEBB. Let the witness explain what next he did, and let the Senate interpret what the words mean.

The PRESIDING OFFICER. Counsel has a right to interrogate him without putting a leading question.

Q. (By Mr. WORTHINGTON.) Did Christopher G. Boland at that time say anything to you about what would happen if the Lackawanna Railroad Co. would buy the property of the Marian Coal Co.?—A. He did not say what would happen, but he said he was sick and tired of this thing, and that he wanted to be entirely free from it, and that if that could be done he thought that the source of contention would be ended. I said to him, "Christy, does Will feel the same way?" and he said, "I think he does."

Q. Now, as to taking you into his room and shutting the door and having that conversation with you, did he not tell you to go and see Judge Archbald and make the proposition to him?—A. No; he said to make a proposition to Maj. Warren, as he was the attorney for the Delaware, Lackawanna & Western Co., and then he said, "Go to see Judge Archbald about it. I want him to know just how I feel in this matter."

Mr. WORTHINGTON. I understand, Mr. President, you have already held that I can not ask him whether he did go to Judge Archbald and what took place.

The PRESIDING OFFICER. The Chair does not think that is material.

Q. (By Mr. WORTHINGTON.) Very well, I will not press it. [To the witness:] What was it he said that he was sick and tired of?—A. I do not know what he said, but I inferred, and I think rightly, the impeachment proceedings.

Q. Did Mr. Christopher G. Boland tell you anything about going away—the trip he was about to make at that time?—A. Yes, sir.

Mr. Manager WEBB. We object to that, as it comes within your honor's ruling as to showing bias.

The PRESIDING OFFICER. If it is for the purpose of showing bias, the Chair will hold that it is in order.

Mr. WORTHINGTON. Nothing that I have said will amount to much, unless I show that he did report to Christopher G. Boland after he came back from that trip and that his proposition of settling this case in that way would not be accepted or considered, and hence his bias and prejudice when he comes here on the stand as a witness against Judge Archbald. I think it is absolutely essential for me to show that. I do not ask him to say whether he saw Judge Archbald, but when Christopher G Boland returned from that trip, what he did report to him about this matter. Then we have the foundations for the bias and prejudice of Christopher G. Boland in this case.

The PRESIDING OFFICER. The Chair thinks when testimony is admitted showing the proposition which has been testified to, the whole limit has been reached. The question what was afterwards done does not affect the question whether or not he was biased. The fact of bias would be shown by testimony already adduced if it is sufficient for that purpose, and would not be added to by showing that it was communicated to the respondent.

Mr. WORTHINGTON. This was only a short time ago, and if nothing further transpires to show that the result was communicated to him it might be that he would still suppose there was a chance to effect a settlement in that case.

The PRESIDING OFFICER. The Chair does not think it is admissible.

Q. (By Mr. WORTHINGTON.) Well, I bow to the decision of the court. [To the witness, presenting paper.] I wish to show you the plan of the second floor of the Federal building which has been identified here and ask you to point out on that the rooms which Judge Archbald formerly occupied and those to which he changed last spring.—A. (Examining paper.) I——

Mr. WORTHINGTON. Wait a moment. Please indicate with the letter A the office Judge Archbald occupied before he changed last spring.

The WITNESS. I mark the "A" here.

Mr. WORTHINGTON (exhibiting). Mark "A" is the office formerly occupied. The witness marked with red pencil the letter "A." [To the witness.] Now, please mark with the letter "B" the office to which he changed last spring.

Mr. Manager CLAYTON. The document is not offered in evidence yet?

Mr. WORTHINGTON. Not yet. As soon as I have exhibited these marks to you I propose to offer it in evidence.

Mr. Manager CLAYTON. Let us get through with the witness.

Mr. WORTHINGTON. That is all.

Q. (By Mr. Manager CLAYTON.) Mr. President, I desire to ask the witness a question. [To the witness:] What is your feeling toward Judge Archbald?—A. Very friendly.

Q. Did you not intercede with the President to prevent an investigation, which has led to these impeachment proceedings?—A. I wrote a letter to the President, but not until afterwards. I simply set forth the feeling that the community had as regards Judge Archbald in Scranton.

Mr. WORTHINGTON. Mr. President, I think I will have to call for that letter unless——

Mr. Manager CLAYTON. I have not offered any letter. I was just asking him about his feeling for Judge Archbald. I never referred to the letter.

The PRESIDING OFFICER. The manager will proceed.

Mr. Manager CLAYTON. That is all I desire to ask. The witness has answered my question. I called for no letter.

Mr. WORTHINGTON. Unless he has stated the contents of the letter he may have to strike out what he has said as to what the letter was, on the ground that the letter is the proper evidence.

Mr. Manager CLAYTON. We have no objection to that. We do not call for the letter. It was merely to show the friendly bias of this witness toward Judge Archbald. I have accomplished that, and I have no further question to ask.

Mr. WORTHINGTON. There is a question that I should have asked before I announced that I was through with this witness. I want to ask him about his relation with Christopher G. Boland and William P. Boland up to the present, and to show that he is friendly to them.

The WITNESS. We have been the very best of friends always.

Q. (By Mr. WORTHINGTON.) Let me ask you another question. Since Christopher G. Boland was asked this question, has he not been to talk with you about it?

Mr. Manager WEBB. Mr. President, we object to that.

Mr. WORTHINGTON. Is not that to show bias, when our friends are trying to prevent this witness from giving testimony in this case——

The PRESIDING OFFICER. The Chair does not understand the question to be of that character.

Mr. WORTHINGTON. That is the question I do mean to ask him.

The PRESIDING OFFICER. It is the proper way to ask it.

Q. (By Mr. WORTHINGTON.) Has Christopher G. Boland approached you since he testified in this case in reference to the question which I asked about—this conversation with you?—A. No, sir.

Q. He has not?—A. No, sir.

Mr. WORTHINGTON. It is suggested—and I think it is wisely suggested—that the witness mark the position on this map of the office of William P. Boland.

(The map was handed to the witness.)

Mr. WORTHINGTON (to the witness). Put the letter "C" on it.

The witness marked the letter "C" on the paper.

Mr. Manager CLAYTON. The managers were unable to hear the conversation between the respondent's counsel and the witness. As he was doing something there on the suggestion of respondent's counsel, I would like to know what it was.

Mr. WORTHINGTON. The nefarious suggestion I made was to put the letter "C" on this map about where the office of Boland would be. I think the President heard me. I will submit the nefarious result to the managers.

(The paper was handed to the managers.)

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. The witness may retire. He is finally excused.

TESTIMONY OF CHARLES B. WITMER.

Charles B. Witmer appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Judge Witmer, you are the United States district judge for the middle district of Pennsylvania?—A. I am.

Q. When were you sworn in as such judge?—A. On the 8th of March, 1911.

Q. You have been such district judge ever since?—A. Yes, sir.

Q. Before you were appointed district judge what office in connection with the administration of justice in the United States courts in that place did you hold?—A. I was United States marshal from July, 1906, until December, 1908, and district attorney from 1908 until I was appointed to the district bench.

Q. United States district attorney?—A. Yes, sir. I was also assistant United States district attorney in the Department of Justice before I was appointed marshal, in the administration of Attorney General Knox.

Q. Now, will you please tell us during the time you were United States marshal who it was that drew from the jury wheel the names of jurors who served in that court?—A. I did so.

Q. That was in every instance, was it?—A. In every instance.

Q. There is a question I am going to ask, Judge Witmer, which kindly do not answer until there is an opportunity to object to it. It has been testified here that in the case of Peale against the Marian Coal Co. the decision——

Mr. Manager STERLING. We object to that question. It is wholly immaterial what has been testified to here.

The PRESIDING OFFICER. Counsel has already cautioned the witness not to answer until objection may be made.

Mr. SIMPSON. It has been testified here that in the case of Peale against the Marian Coal Co. the decision of that case, which was rendered by you on August 24, 1911, was so rendered at the dictation or under the direction or influence in some way of Judge Archbald. Now, do not answer, please, until the managers can object. Will you please tell us whether that is so?

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. The Chair will hear from counsel for the respondent.

Mr. SIMPSON. If the Chair please, the managers have put in evidence in this case the docket entries in this particular matter—in the matter, I mean, of Peale against the Marian Coal Co. They have asked Mr. Boland in their own case whether or not—I want to put that accurately, and it is a little difficult to do it—they have asked Mr. Boland in their own case whether the decision of that case did not affect him in that which he did in relation to this particular matter—I mean the matter which has resulted in this impeachment. When he was turned over for cross-examination, he himself then volunteered, not in answer to any question which Mr. Worthington had asked, but, in fact, volunteered—and it remains upon this record—the statement that I have embodied in the question which is now before the witness. It seems to us that it ought to be known, so that the Senators may give such effect to it as to them seems best, whether or not there was any such influence brought to bear against the Bolands as was intimated or stated in that question. That is the reason for asking this particular question of the witness.

The PRESIDING OFFICER. The Chair will state that the testimony was brought out by the counsel for the respondent, and the respondent's counsel now state that the evidence was volunteered. That evidence would have been ruled out by the Chair as immaterial if counsel had so requested. It being immaterial and having been brought out in that way, the Chair does not think that the question as now propounded is admissible.

Mr. WORTHINGTON. On another ground, Mr. President, I ask that the witness be allowed to answer this question. The honorable managers produced as a witness here Mr. Meyer, and proved by him the steps which were taken in the Interstate Commerce Commission, between the Interstate Commerce Commission and the President, for the purpose, they said, of giving the Senate the history of this transaction. In the memorandum made by Mr. Cockrell, Mr. Meyer's confidential clerk, and which Mr. Meyer, on behalf of himself and the other members of the Interstate Commerce Commission, took to the President, there is this:

Boland says the litigation referred to by Seager is the suit filed by Peale, and that Seager has inside advance information of the decision of the court, which has not yet been handed down.

Now, it seems to me, Mr. President, since the managers have introduced the history of the case for the purpose of showing that it was properly and fairly presented, we ought to be allowed to show that they took to the President that astounding piece of information, which was wholly untrue.

The PRESIDING OFFICER. That is not evidence in this case as to any matter in issue; that is simply the history of the steps taken which resulted in this proceeding on the part of the House of Representatives. It is not in any manner evidence as to any issue here. The Chair still thinks the question is inadmissible.

Mr. SIMPSON. There is no other question we desire to ask, in view of the Chair's ruling.

The PRESIDING OFFICER. The witness may retire, unless the managers desire to question him.

Mr. Manager STERLING. We do not care to ask the witness any questions.

Q. (By Mr. SIMPSON.) There is one other question which I had overlooked. Can you tell us when it was that the room which was formerly occupied by Judge Archbald in the Federal Building in Scranton was changed so that you thereafter occupied it?—A. I do not believe that I am able to state that correctly.

Q. Can you approximate it?—A. It was done about nine months after I was appointed to the office and accepted the position.

Q. About nine months after?—A. About nine months after I entered upon the duties of my appointment.

Mr. SIMPSON. That is all. Thank you.

Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF FRANK E. DONNELLY.

Frank E. Donnelly, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Donnelly, you are a lawyer, practicing in Scranton, Pa., I believe?—A. Yes, sir.

Q. How long have you been doing so?—A. Since 1900.

Q. You were attorney for the Marian Coal Co. in the case of Peale against the Marian Coal Co., which has been referred to here?—A. I was.

Q. During what period did you act as attorney for the Marian Coal Co. in that case?—A. The suit started in the early part of March, 1909, and I continued to act as attorney for the Marian Coal Co. until the 31st of July, 1912.

Q. Do not answer the question I am about to put to you until we see whether or not it is objected to, Mr. Donnelly. It has been stated here that you were in collusion with Judge Archbald against your own clients in that case. I want to ask you what you have to say about it?

Mr. Manager STERLING. We object. It is very apparent counsel knows it is improper, or he would not have presented it in that form.

Mr. WORTHINGTON. I do not quite like that statement, Mr. President. I had anticipated that the Chair would rule out this conversation, but I thought, in view of what had been stated in this public place and practically all over the country about this gentlemen, that I would not do my duty by him unless I gave him a chance on the stand to say what he has to say about it.

The PRESIDING OFFICER. The Chair does not think that counsel have the right to ask the question. The managers having objected, does counsel for the respondent desire to say anything further on the question of admissibility?

Mr. WORTHINGTON. No; I think we have argued that matter.

The PRESIDING OFFICER. Conforming to the prior ruling, the Chair will rule out the testimony.

Mr. WORTHINGTON. Then, we have nothing further to ask this witness, Mr. President.

Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF C. E. SPROUT.

C. E. Sprout, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Sprout, what is your business or profession?—A. I am a practicing lawyer.

Q. Where?—A. At Williamsport, Pa.

Q. Do you know Judge Archbald?—A. I know Judge Archbald.

Q. Were you one of the contributors to a purse given to him at the time of his going to Europe a few years ago?—A. I was.

Q. Will you tell us, please, how you became such contributor?—A. The matter was first brought to my attention at the Bellevue-Stratford Hotel early in the spring of 1910 by Maj. Everett Warren, of Scranton, who testified here yesterday. Mr. Warren stated to me that Judge Archbald was about to go abroad, and that a plan had been conceived by some of his friends in Scranton and Wilkes-Barre to give him a complimentary dinner in New York prior to his sailing. He asked me whether I would see one or two of the prominent lawyers in Williamsport and ascertain whether they wanted to participate in this function. Subsequent to that time I had one or two telephonic conferences with Maj. Warren, and one also, I think, with Judge Frank Wheaton, of Wilkes-Barre. In those conferences we ascertained that the plan had been changed; that, instead of giving him the complimentary dinner as originally contemplated, on account of the difficulty of getting a sufficient number to attend, they would put into a purse or a fund the amount of money which it was thought the dinner would cost and give it to Judge Archbald prior to his sailing under such circumstances as would not disclose to Judge Archbald what had been done nor the names of the donors until after he had sailed from New York Harbor.

Q. Did you contribute?—A. I did.

Q. How much?—A. $25.

Q. Did you know that the names of the contributors were to be told to him?—A. On the contrary, I was informed that the names of the contributors were not to be told or to be disclosed to Judge Archbald at all.

Q. Do you know C. La Rue Munson?—A. Very well, sir.

Q. Was he one of those to whom you made application after the plan had been changed from a dinner to a contribution?—A. I did see Mr. Munson.

Q. And he declined to make any contribution?—A. And he declined to make any contribution.

Q. What were your relations with Judge Archbald?—A. My relations were those of a practicing attorney in his court.

Q. Had you known him long?—A. I had known him since 1885.

Mr. SIMPSON. Cross-examine, gentlemen.

Cross-examination:

Q. (By Mr. Manager NORRIS.) To whom did you give your contribution?—A. I am not certain about that; but my best recollection is that I gave it to Mr. Searle, the clerk.

Q. The clerk of the court?—A. The clerk of the court.

Q. There are two Searles. To whom did you give it? You do not mean Judge Searle?—A. Not Judge Searle. I gave it either to Maj. Warren or to Ed. Searle, the clerk of the court.

Q. How much was your contribution?—A. $25.

Q. Did you give a check for it or the cash?—A. I think I gave a check; I am certain that I gave a check.

Q. Where do you reside?—A. Williamsport, Pa.

Q. Did you talk with Mr. Munson, of Williamsport, about it?—A. Since the occurrence?

Q. Well, I had reference to about the time of the occurrence.—A. As I said a moment ago, I did see Mr. Munson and requested him to make a contribution, telling him that I intended doing so and that other members of the bar in Scranton and Wilkes-Barre were doing likewise. I did not speak to him at the time when it was contemplated giving the judge a dinner.

Q. Your contribution was made with the understanding that it was going to be a cash contribution, was it not?—A. At the time given; yes, sir.

Q. Did you learn that Mr. Searle, the clerk of the court, had put in the envelope containing the contributions the names of those who had subscribed to the fund?—A. I did not learn that until a long time after the occurrence. After Judge Archbald had sailed and while he was abroad I received a letter from him. That was the first intimation I had that he had any knowledge of the fact that I had been one of the contributors.

Q. Was your first conversation with anyone in regard to this with Mr. Searle, the clerk of the court?—A. My first conversation was with Maj. Warren.

Q. He did not live at Williamsport, did he?—A. He lived at Scranton; I lived at Williamsport, and we met in Philadelphia. We were both there attending court at that time—the supreme court.

Q. But that conversation had no relation to a cash contribution to the judge, did it? Was that not in reference to a dinner?—A. That was entirely in reference to a dinner; but, of course, that transaction was the initiative of the movement which resulted in the cash contribution.

Q. Well, so far as the cash contribution was concerned, was not that initiated by the clerk of the court?—A. So far as I know, it was initiated by Maj. Warren himself.

Q. At your meeting in Philadelphia?—A. No; subsequently, when I telephoned him. The first information I had of it was in a telephonic conversation with Maj. Warren, I being at Williamsport and he at Scranton. He told me that they had found it impossible to get a sufficient number of Judge Archbald's friends to go to New York to the dinner, and that they had therefore modified the plan.

Q. How did you happen to get in communication with the clerk about it? Do you remember that?—A. I think I had a letter from Maj. Warren, or information by telephone, that he had turned the matter over to Clerk Searle, to gather contributions, and that I should send mine to him.

Q. And you acted accordingly?—A. And I think I acted accordingly.

Mr. Manager NORRIS. That is all.

Mr. SIMPSON. That is all, Mr. President.

Mr. CULBERSON. Mr. President, I desire to ask the witness a question.

The PRESIDING OFFICER. The Senator from Texas submits a question which he wishes to have propounded to the witness. The Secretary will read the question.

The Secretary read as follows:

Q. What was the purpose in raising the fund? What was it to be used for? What was the fund actually used for by Judge Archbald?

The WITNESS. Of course, I can only answer that question in part. I am not able to say how Judge Archbald used the fund. It was contemplated to give Judge Archbald a complimentary dinner——

The PRESIDING OFFICER (to the Secretary). Hand the witness the question.

The Secretary handed the witness the question.

The WITNESS (after examining the question). I will answer the questions in their order. "What was the purpose in raising the fund?" It was supposed to be a testimonial of respect to Judge Archbald by a number of his friends who had been practicing in his court. "What was it to be used for?" I apprehend that I could not answer that. "What was the fund actually used for by Judge Archbald?" I experience the same difficulty in answering that question.

The PRESIDING OFFICER. Is there any other question for the witness? If not, he may retire.

Mr. SIMPSON. And he may be discharged, sir.

The PRESIDING OFFICER. The witness is finally discharged.

TESTIMONY OF WILLIAM G. VANDEWATER.

William G. Vandewater, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Vandewater, what is your business?—A. Auditor of the coal department of the Delaware, Lackawanna & Western Railroad Co.

Q. What are your duties as such auditor?—A. To keep account of the production of the coal mined.

Q. Will your books show the extent of the coal shipped by the Marian Coal Co.?—A. Our books will show the production of the Marian Coal Co. and certain of their shipments; yes, sir.

Q. Can you tell us what the amount of——

Mr. Manager FLOYD. We object, Mr. President.

Mr. SIMPSON. Wait until I finish the question and then object to it, if you please.

The PRESIDING OFFICER (to the witness). Do not answer the question until directed so to do.

Q. (By Mr. SIMPSON.) Will you tell us, please, from your books what was the production of the Marian Coal Co. Now, do not answer until directed to do so.

Mr. Manager FLOYD. We object, Mr. President; we do not think the question is relevant.

The PRESIDING OFFICER. Will counsel please state the materiality of that question?

Mr. SIMPSON. There was a letter, Mr. President, offered in evidence by the managers, under date of September 1, 1911, written by Mr. Phillips, of this same company, to Mr. Loomis, of the company, setting forth what Mr. Watson's claim was, which is the matter referred to in the second of the articles of impeachment. I desire to show how that claim was made up. The purpose of this offer is to show that the books of the Delaware, Lackawanna & Western Railroad Co. show that the production of this washery was in accord with the amount stated in that letter, for the purpose of showing that Mr. Watson did not present, as is claimed by the managers, a highly exorbitant claim, but that he presented a claim in accordance with the figures which appeared upon the books of this particular company.

The PRESIDING OFFICER. The Chair does not understand that the question of whether or not Mr. Watson's claim was an exorbitant one can elucidate the issue at all.

Mr. SIMPSON. That is one of the very contentions that is made here, and that is a contention in regard to which we had a very considerable argument at length the other day, as the Presiding Officer may remember. The contention of the managers is that Mr. Watson was directed in presenting his claim to

the Delaware, Lackawanna & Western Railroad Co. to claim only $100,000, but that, in point of fact, he presented a claim for a very considerably larger amount, and that the amount above the amount which he was originally directed to present was to be divided up in the way that is stated in the testimony, without referring further to it here.

The purpose of this evidence is to show that that claim was made up in fact from the figures which appear in the letter which the managers themselves offered in evidence, in order to avoid the contention that it was then an exorbitant claim, in the way which the managers stated.

The PRESIDING OFFICER. Has counsel finished?

Mr. SIMPSON. Yes, sir; I have finished.

The PRESIDING OFFICER. The Chair did not understand that the contention was as to the exorbitancy of the demand, but as to the difference between the amount agreed upon and the amount which the lawyer afterwards demanded. The Chair does not think it relevant to this issue.

Mr. SIMPSON. Of course, sir, if the managers take the view that the Chair does upon that main question, then this question would not be admissible at all and would not be thought of, and if that is a matter disclaimed, of course, I am content and do not wish to ask this witness any question.

The PRESIDING OFFICER. The Chair can not rule on anything except the testimony. The Chair does not recall any testimony to the effect of any issue being raised as to whether or not $161,000 was, in fact, more than the party was entitled to receive. The previous testimony was as to the discrepancy between the amount which was originally agreed upon as that to be demanded and that which was ultimately demanded.

Mr. SIMPSON. It is unfortunate, perhaps, that counsel understood it differently from the way the Chair does. If that is the situation, of course this witness ought not to be called.

Mr. WORTHINGTON. Mr. President, excuse me a moment; I was out of the Chamber at the time this question was asked.

The PRESIDING OFFICER. The Chair has no knowledge as to the purpose of the managers. The Chair was simply going on what evidence has been adduced.

Mr. SIMPSON. I understand the Chair's position exactly, but I want to avoid argument if I can when the final argument comes in this case. It will be long enough, in all conscience, even then.

Mr. WORTHINGTON. Mr. President, may I add one word to what has been said? We are here in the very embarrassing position of having this testimony given against Mr. Watson, when he is, as I think everybody understands, on his deathbed, and it is impossible even to communicate with him. It does seem to me that if we can show, as we offer to show, that the reduction per ton which was claimed on the part of the Bolands amounted to $161,000, it would be a very important piece of circumstantial evidence which the Senate ought to have for the purpose of considering its weight along with the other evidence. Of course, I recognize the fact that a man may have a claim of $300,000 or $400,000 against somebody and be willing to compromise it for $100,000, but when it is denied that there was any such difference and, as we contend, that there is no truth in the statement, it seems to me the Senate ought to have the information as to what the facts are out of which the claim grew.

There is in evidence, I think, a letter to which Mr. Simpson was referring as I was coming into the Chamber, from Mr. Phillips to Mr. Loomis, dated in September, in which he says he has seen Mr. Watson and the claim which Mr. Watson has obtained from the Bolands is a claim for 43 cents a ton for 376,000 tons of coal which they had shipped. It seems to me we ought to be permitted to show that that was a fact so as to indicate that Watson got these figures immediately from the Bolands and could not have got them anywhere else. It is not conclusive one way or the other, but in the situation in which we are placed, where Mr. Watson is as incapable of being used as a witness here as if he were in his grave, that fact ought to be known to the Senate.

The PRESIDING OFFICER. The question is whether or not the issue can properly be raised and determined in this case as to the output of the Marian Coal Co. If so, it could be gone into fully, just as fully as we have gone into the question of the contents of the culm dump, and there would be no end to it. If the witness is authorized to give his testimony as to what the output was, the managers will have a right to join issue on that, and to go just as fully into that question as we have gone into the question of the contents of the culm bank, which would be manifestly improper; and if it is improper to go into it fully, it is improper to go into it at all. The Chair excludes the evidence.

Mr. SIMPSON. There is no other question we want to ask this witness, then.

Mr. Manager WEBB. The witness may be excused, so far as we are concerned.

The PRESIDING OFFICER. The witness is finally discharged.

TESTIMONY OF MISS MARY F. BOLAND.

Miss Mary F. Boland, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) You are the niece of William P. Boland and Christopher Boland, are you?—A. Yes, sir.

Q. And have been a stenographer, I believe, in William P. Boland's office for some years?—A. Yes, sir.

Q. Were you there in September, 1911?—A. Yes, sir.

Q. I will ask you whether or not on or about the 18th day of September, 1911, Mr. Edward J. Williams in that office made the following statement in substance——

Mr. Manager WEBB. What page is that?

Mr. WORTHINGTON. I am looking at the page in the proceedings of the Judiciary Committee for the purpose of getting those notes.

Mr. SIMPSON. About page 1087.

Mr. Manager FLOYD. We object to any such statement, Mr. President.

The PRESIDING OFFICER. What is the question?

Mr. WORTHINGTON. When Mr. Williams was on the stand he testified that after his visit to Capt. May on the 31st of March, when he took that letter from Judge Archbald, which is in evidence, he went back at once to Judge Archbald, and that while there on Judge Archbald's desk he saw a paper, which he has referred to as a brief and sometimes as a trial list, upon which there was the word "lighterage," and then that the conversation followed, which the Chair will remember.

It has already appeared that that lighterage case was not in the Commerce Court until the middle of the month of April, and also that the trial list on which it appeared was made up about the middle of the month of September following, after Judge Archbald's interview with Mr. Brownell and after Capt. May had given the paper here, which is called an option, dated the 30th day of August, 1911.

Now, I propose to show that it is a mistake entirely of dates on the part of Mr. Williams as to that, and to show that he appeared in the office of Mr. William P. Boland first on the 18th of September, and then on the 28th of September, and then said that he had then just seen that paper; so as to show that if this conversation did occur and this thing happened, it had no possible effect upon what is in dispute here about Capt. May's action.

I laid the foundation by asking Mr. Williams the question when he was on the stand.

The PRESIDING OFFICER. Does the manager desire to say anything on the subject?

Mr. Manager FLOYD. Mr. President, our objection to that is this: That they are attempting to contradict Mr. Williams, not by any fact within the knowledge of this witness, but by proving by this witness that at some time Mr. Williams came in there and had some conversation which she, as a stenographer, noted in her notebook. We do not object to his asking this witness about any facts within her knowledge that may contradict Mr. Williams; but it might be that the first conversation was never noted; it might be that he had a dozen conversations on the same subject, and that some subsequent conversation was noted. So we object to it as hearsay and as not tending to contradict the proposition by any knowledge within the mind of this witness referred to by counsel for the respondent.

The PRESIDING OFFICER. The Reporter will please read the question.

The Reporter read as follows:

I will ask you whether or not on or about the 18th day of September, 1911, Mr. Edward J. Williams, in that office, made the following statement, in substance.

The PRESIDING OFFICER. The Chair does not pass on the question whether or not the substance of the conversation can be read, but the Chair thinks it is admissible to prove what Mr. Williams then said. The objection of counsel is a legitimate argument as to the weight of it, but it does not affect the question of its admissibility.

Q. (By Mr. WORTHINGTON.) Then, Miss Boland, I will ask you whether on or about the 18th day of September, in Mr. William P. Boland's office in Scranton, Mr. E. J. Williams said in your hearing, "I was in this morning"; that he had seen the judge, Judge Archbald, and he showed him a brief he was preparing for the Erie Railroad Co.?—A. My recollection is that he did tell me that.

Q. I beg your pardon.—A. My recollection is that he did tell me that.

Q. I will ask you whether or not on the 28th of September, 1911, Mr. E. J. Williams was again in the office, and said he was going to the judge's office to look at a brief the judge was preparing for the Erie Railroad Co., and said he would see it that afternoon?—A. Yes, sir.

Q. And whether later in the day he came back and said he saw the brief and that it was about a case against the Erie Railroad Co., about a lighterage charge?—A. Yes, sir.

Q. That happened?—A. Yes, sir.

Q. Now, Miss Boland, did you make note of those conversations at the time, so that you are sure of the date?—A. Yes, sir; I did.

Mr. WORTHINGTON. That is all.

Cross-examination:

Q. (By Mr. Manager WEBB.) Did you make this additional note at the same time——

Mr. WORTHINGTON. I object to that. I have asked the witness everything on the subject of the brief. Miss Boland made a great many notes and, of course, they are not competent evidence in this case, unless they are made competent by something brought out by us. If they can find anything in these notes which refers to the matter concerning which I have asked the witness, that I have not read, I will consider it a part of the evidence introduced by us.

The PRESIDING OFFICER. Was this on the same occasion?

Mr. Manager WEBB. Yes; on the same occasion and on the same visit.

Mr. WORTHINGTON. Oh, that is an entirely different matter.

The PRESIDING OFFICER. Does it relate to the same matter?

Mr. WORTHINGTON. No.

Mr. Manager WEBB. I do not know that I can say that.

The PRESIDING OFFICER. If not, the manager will have to introduce this witness as his own witness. He can only interrogate the witness—and that is the rule the manager himself has invoked—about matters inquired about on direct examination. If the manager desires to inquire further as to the continuance of this conversation, he will have to introduce the witness as his own.

Mr. Manager WEBB. The way I look at it is this: The respondent's counsel has shown about four lines of a notation the stenographer has made. There are three or four more lines——

The PRESIDING OFFICER. If it relates to the same subject matter, the manager has a right to ask the witness about it; but if it does not relate to the same subject matter, then he has not such a right.

Mr. Manager WEBB. It relates to the relationship she noted, or what Mr. Williams said of the relationship, between him and the judge. It is immediately following her notation of the visit to the judge's office to see the brief, and is part of the same conversation—the same minute.

The PRESIDING OFFICER. That would make it admissible whenever the manager recalls the witness. The rule is plain that the counsel can only cross-examine the witness about matters upon which the witness has been interrogated on direct examination.

Mr. WORTHINGTON. Is that all?

Mr. Manager WEBB. Yes; I think that is all.

Mr. WORTHINGTON. Then the witness may be finally discharged.

The PRESIDING OFFICER. No; the witness will not be finally discharged. The witness can retire, subject to call.

Mr. Manager STERLING. I suggest that counsel permit us to make her our witness now, so as to save this young lady from coming back.

Mr. WORTHINGTON. I object to that.

The PRESIDING OFFICER. Counsel for the respondent may proceed with their case.

Mr. REED. Mr. President, may I ask by way of inquiry why the Senate has not now the right to make an order——

The PRESIDING OFFICER. If the Senator from Missouri has any order to propose to the Senate, the Chair will submit it to the Senate. That is the only way it can be brought to the attention of the Senate under the rule.

Mr. REED. Is there a rule which denies a Senator the right to propound an inquiry?

The PRESIDING OFFICER. Except in writing.

Mr. REED. I mean to the Chair. I am not asking the witness a question; I am asking the Chair——

The PRESIDING OFFICER. If it is a question or order.

Mr. REED. Very well; that is what I am inquiring—whether it is not within the power of the Senate to direct by a vote at this time that this witness shall be examined by the managers without requiring her to return at a subsequent time?

The PRESIDING OFFICER. Undoubtedly the Senate has a right to do whatever it sees fit to do.

Mr. REED. Very well.

Mr. WORTHINGTON. Another objection, Mr. President, to what the counsel is about to ask is that it is a matter about which the learned manager——

The PRESIDING OFFICER. It is not now before the Senate.

Mr. WORTHINGTON. Very well. If it is not before the Senate, I will not occupy the time of the Senate.

The PRESIDING OFFICER. The Senator from Missouri [Mr. REED] presents an order, which he asks the Senate now to adopt. It will be read.

The Secretary read as follows:

Ordered, That the witness now on the stand, Miss Mary F. Boland, be at this time interrogated by the managers relative to that part of the conversation sought to be elicited.

Mr. WORTHINGTON. Mr. President, if the order asked for were that the managers be now allowed to make her their own witness, without waiting for their turn, we should say nothing; but that determines the question of the admissibility of the evidence, and certainly the Senate is not going to say whether the evidence shall be admitted before it finds out whether it is competent. The evidence is as to the declaration of Williams with respect to his relations with Judge Archbald.

The PRESIDING OFFICER. The Chair did not understand it to go further than the right of the manager to now examine the witness.

Mr. WORTHINGTON. And not to pass upon the question of whether or not the testimony is competent?

The PRESIDING OFFICER. The Chair does not understand that it includes that question.

Mr. WORTHINGTON. Very well, then.

The PRESIDING OFFICER. What is the pleasure of the Senate; does the Chair hear objection to the adoption of the order? [A pause.] The Chair hears no objection, and the order read will be considered unanimously adopted. Counsel will proceed with the examination.

Q. (By Mr. Manager WEBB.) On September 18, 1911, Mr. Worthington has asked if you made this notation:

E. J. W. was in this morning and said he saw the judge, who showed him a brief he was preparing for the Erie Railroad Co.

I ask you if that is all of that notation as to what Mr. Williams said about the judge?—A. I really could not say without looking at it. I could not recall it now.

Q. We can not hear you.—A. I say I do not recall it just now.

Q. Can you look at your notes and tell—September 18, 1911?—A. Yes, sir. Do you want me to read it?

Q. I will ask you, first, if what Mr. Worthington asked you as to what Mr. Williams said about seeing the brief in the judge's office was all the notation on that day?—A. I just do not remember Mr. Worthington's question. I thought he asked me if Mr. Williams did not tell me that on that day.

Q. Yes.—A. And I answered him "yes, sir."

Q. Will you tell us what the notation is you have on that day that Mr. Worthington asked you about?—A. He asked me about the first part of the notation.

Q. Well, read that first part, then.—A. "E. J. W. was in this morning and said he saw the judge, who showed him a brief he was preparing for the Erie Railroad Co." That is all he asked me about.

Q. That is all Mr. Worthington asked you about?—A. Yes.

Q. I ask you to read, if it is another two lines or more, the remainder of the notation.

Mr. WORTHINGTON. I object, on the ground that it is not at all pertinent to the part of the conversation I have introduced in evidence; on the ground that the managers had their time to offer any evidence they pleased as to the relation between Judge Archbald and Mr. Williams, and they exhausted that subject; and on the further ground that there is no rule of evidence in any court of the United States that makes it competent evidence to prove the relations between A and B by offering evidence as to what A said about it somewhere when B was not present.

The PRESIDING OFFICER. The Chair would undoubtedly hold that to be correct if it was not a part of the same conversation. If it is a part of the same conversation, the Chair would consider it competent.

Mr. OLIVER rose.

The PRESIDING OFFICER. Does the Senator desire to propound a question before the other question is answered?

Mr. OLIVER. I think it is proper that it should be propounded now. It is something that occurs to me.

The PRESIDING OFFICER. The Senator from Pennsylvania submits a question which will be propounded to the witness.

The Secretary read as follows:

Are you reading from your original notes or from a transcript?

The WITNESS. From a transcript. Do you want me to read from the notes now?

Q. (By Mr. Manager WEBB.) Have you your original notes with you now?—A. Yes, sir.

Q. Please read from your original notes the conversation with Mr. Williams which you noted.

Mr. WORTHINGTON. I am objecting to them.

The PRESIDING OFFICER. Yes. Wait a moment.

Mr. WORTHINGTON. Does the Chair rule that because it was said in the same conversation it may be read, no matter what it relates to?

The PRESIDING OFFICER. Yes; if it is related in any manner to this matter. Of course if it relates to a matter entirely foreign to the subject it would not be admissible.

Mr. WORTHINGTON. The Chair has not been advised what it is. How can the Chair rule upon the question whether it is a part of the same subject matter when the Chair has not heard what it is? It is a statement that Mr. Williams was said to have made as to the relation between him and Judge Archbald. Does the Chair hold it is admissible?

The PRESIDING OFFICER. Yes. The Chair thinks it is sufficiently cognate to make it a part of the conversation.

Q. (By Mr. Manager WEBB.) Read the note.—A. The whole note?

Q. Yes.—A. "E. J. W. called this morning. Said he talked with Judge A. He showed him a brief he was preparing for the Erie Railroad Co. He said the judge would tell him most anything. He has no confidence in John Henry Jones."

Mr. Manager STERLING. Some of the Senators did not hear the witness.

The PRESIDING OFFICER. When the witness is through the Chair will direct the Reporter to read it to the Senate.

Mr. Manager STERLING. It is suggested that the clerk read from the transcript.

Mr. Manager WEBB. I would like to have it read so that the Senate can hear it.

The PRESIDING OFFICER. The Chair has just stated that that would be done.

Mr. Manager STERLING. Excuse me; I did not hear it.

The Reporter read the answer, as follows:

E. J. W. called this morning. Said he talked with Judge A. He showed him a brief he was preparing for the Erie Railroad Co. He said the judge would tell him most anything. He has no confidence in John Henry Jones.

Q. (By Mr. Manager WEBB.) Miss Boland, do you remember anything about writing the contract in which the words "silent party" were used?—A. Yes, sir.

Mr. WORTHINGTON. I object to that. That was all gone into—about that silent-party paper—through W. P. Boland and Mr. Pryor. Are we to reopen the whole case?

The PRESIDING OFFICER. The Chair does not know what the question is to be. The Senate has ordered that this witness be interrogated in chief by the managers. Of course, the question of the admissibility of any evidence is open under the understanding at that time. But unless the question is proposed to elicit evidence that is not properly admissible, the Chair will hold that the manager may proceed.

Q. (By Mr. Manager WEBB.) Do you remember drawing a contract dated September 5, 1911, signed by E. J. Williams, to W. P. Boland and a silent party?—A. Yes, sir.

Mr. WORTHINGTON. I object. All about that silent-party paper was asked of Mr. W. P. Boland and of Mr. Pryor, who was examined as a witness, and Miss Mary Boland was here at the time under subpœna of the managers and was not called and asked about that paper.

I submit that under such circumstances, unless there be some extraordinary and good reason for it, the case ought not now to be reopened for the purpose of starting the trial over again. Of course, it is a matter entirely within the discretion of the Senate, as it is of any court, to hear evidence at any stage of the case; but I have heard no reason why the managers, who knew all about the connection of the witness with reference to that paper, when they were putting in their case, before we were called upon to reply, did not examine her then.

The PRESIDING OFFICER. Has counsel finished?

Mr. WORTHINGTON. Yes, sir.

The PRESIDING OFFICER. This particular contract has been inquired about by the respondent, and evidence has been introduced in response to the evidence introduced by the managers. The Chair can not tell what question is going to be asked by managers; but witnesses on the part of the respondent have been asked as to this contract.

Mr. WORTHINGTON. It is my recollection and that of my associates that we have not introduced a particle of evidence about the "silent party" contract.

Mr. Manager WEBB. You asked Mr. E. J. Williams about it, and brought out the response that he did not know anything about it.

Mr. WORTHINGTON. Oh, that was on cross-examination.

Mr. Manager WEBB. Certainly.

Mr. WORTHINGTON. Mr. Williams is not our witness; he is the managers' witness.

Mr. Manager WEBB. We disclaim him.

Mr. WORTHINGTON. You disclaim him? I did not know whether the remark was intended for me or for the Senate.

Mr. McCUMBER. Mr. President, I would like to ask the Chair to have the order which was just adopted by the Senate read again to see whether the case was opened simply for that subject matter or whether it was opened up for the whole case.

The PRESIDING OFFICER. Yes. The attention of the Chair has been called to the wording of the order. The Chair thinks the Senator from North Dakota is right in thinking that the order extended only to the notation made of the conversation at the particular time referred to.

Mr. Manager WEBB. Yes; I think that is true. My purpose was simply to ask this witness one or two questions about this contract, and finally dismiss her, without having to call her in rebuttal.

The PRESIDING OFFICER. Consequently the witness will not now be examined upon any other matter.

Mr. WORTHINGTON. Is the witness to be retained? She is anxious to get away, and I ask on her account.

Mr. Manager WEBB. Yes; we do not excuse the witness at present.

The PRESIDING OFFICER. The witness is temporarily excused.

TESTIMONY OF JAMES E. HECKEL.

James E. Heckel, being duly sworn, was examined, and testified as follows:

Q. (By Mr. WORTHINGTON.) What is your full name?—A. James E. Heckel.

Q. Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. Manufacturing.

Q. Manufacturing what?—A. Brass; mine and mill supplies.

Q. Have you any connection with a family known here as the Everharts?—A. I have.

Q. In a brief way what is your relation to that family?—A. Administrator.

Q. Of whom?—A. Five twenty-fourths interest of the James Everhart heirs.

Q. And as such administrator have you at any time set up a claim to an interest in the Katydid culm dump near Moosic, Pa.?—A. I have.

Q. I wish you would look at "U. S. S. Exhibit E" in this case, a letter dated April 11, 1912, addressed to Capt. May of the Hillside Coal & Iron Co., and purporting to be signed by you as administrator; and I ask you whether that is your signature?—A. (After examination.) It is.

Q. Did you send that notice?—A. I did.

Q. I also show you another exhibit, "U. S. S. Exhibit P," in this case, being a letter of the same date, addressed to Robertson & Law, and purporting to be signed by you, and ask you if that is your signature?—A. (After examination.) That is.

Q. Will you tell us under what circumstances you sent those notices to Robertson & Law?—A. To protect the five twenty-fourths interest that I represented in the Katydid dump.

Q. Were these notices mailed on the day they are dated?—A. They were mailed, I think, on the day they are dated.

Q. Why did you send those notices on that particular day? How did it happen?—A. Happen? On consultation with my bookkeeper, Mr. Holden, and myself we thought it was best to send them—not just at that time, but it happened to be that time—April 11.

Q. I wish you would tell us fully—because there is some question made here, I understand, about the honesty of these notices—how they happened to be sent on that day.—A. As a matter of business we sent the notices.

Q. But what brought the subject to your attention at that time?—A. A consultation with Mr. Holden.

Q. Who is Mr. Holden?—A. C. P. Holden, of Boston, Mass.

Q. Who is he, and what is his connection with this business?—A. He represents a one twenty-fourth interest.

Q. Of the Everhart heirs?—A. His wife.

Q. His wife is one of the Everhart heirs?—A. Yes.

Q. Did you see him the day these letters were written?—A. I saw him that day.

Q. Where?—A. In the office and at the Delaware, Lackawanna & Western depot in Scranton.

Q. In what office?—A. My office.

Q. What took place between you and him that resulted in the sending of these notices?—A. We thought it best to send the notices to the different parties who were selling the dump.

Q. What was said about the sale of the dump or the sale that was about to be made?—A. In what way?

Q. Well, you referred to selling the dump. I want to know what sale was talked about?—A. A sale of the Katydid dump on lot 46.

Q. The sale by whom?—A. By the Hillside and Robertson & Law.

Q. It was Mr. Holden, then, coming to your office that brought the matter to your attention at that time, was it?—A. He brought the matter to my attention then.

Q. At that time what did you know, if anything, of the investigation that was soon afterwards made public in regard to the conduct of Judge Archbald?—A. At that time, nothing; it had not come out then.

Q. When did you first hear in any way of the charges against Judge Archbald?—A. That was a month later, I think, and only by the papers.

Q. Only by the papers?—A. Only by the papers.

Q. In what paper did you see it?—A. I think in the Scranton Tribune. It was in all the papers.

Q. Are you able to say, then, that when it first appeared in the Scranton papers was when you first learned about it?—A. That was about the first.

Q. About the time of these notices?—A. I could not give the exact date, but about that time. It was about a month after this notice was given.

Mr. Manager STERLING. We object to all this testimony. It can not possibly be material in this case. No one on this side of the case has intimated that he ever knew anything about it.

Mr. WORTHINGTON. With that disclaimer, I have no further question to ask this witness on that subject.

Q. (By Mr. Manager STERLING.) What is your name?

Mr. WORTHINGTON. But on another subject.

Mr. Manager STERLING. Excuse me.

Q. (By Mr. WORTHINGTON.) Did you have any dealings with Judge Archbald himself about this Katydid culm dump or your interest in it?—A. I did.

Q. Was that before or after these letters which I have just called your attention to were written?—A. Before.

Q. How long before?—A. Four months.

Q. What did you have to do with Judge Archbald about that Katydid dump or your interest in it?—A. He inquired of the heirs of that interest, who they were, their names, and addresses.

Q. Did he make that inquiry of you?—A. He did.

Q. Did he tell you why he was making the inquiry?—A. In order to purchase the interest.

Q. Did he make any offer in reference to the interest?—A. There was no amount decided upon.

Q. Did he say why he was making those inquiries, why he wanted to get that information?—A. No, sir; not just exactly.

Q. Just what did he say?—A. Well, what did he say?

Q. Yes: if you remember?—A. I think in order to buy the Katydid dump. I think so.

Q. Now, when he was making that proposition to you to buy the Katydid dump and if he could get the interest of the Everhart heirs, what, if anything, did he say about keeping quiet the fact that he was making this offer or having the conversation?—A. He did not say anything about keeping quiet.

Q. Was any suggestion of any kind made not to speak about it to anybody?—A. Not that I know of.

Q. Do you know Capt. May?—A. I do.

Mr. WORTHINGTON. I do not see any necessity of pursuing that in view of the disclaimer made by the managers a moment ago.

Cross-examination:

Q. (By Mr. Manager STERLING.) Your name is Heckel?—A. Yes, sir.

Q. You are administrator of the Everhart estate?—A. Of the Everhart estate.

Q. And Mr. Holden's wife is one of the Everhart heirs?—A. Yes, sir.

Q. And you and he talked about sending these notices. That was immediately after Holden had been down to Scranton?—A. At the same time he was there.

Q. How?—A. We talked about these notices the same day they were sent.

Q. Do you live at Scranton?

Mr. WORTHINGTON. I do wish to ask the witness about the matter I started to ask him. Would the manager prefer that I should do it now or that I should wait until he gets through?

Mr. Manager STERLING. I will wait.

Q. (By Mr. WORTHINGTON.) You say you know Capt. May?—A. I do.

Q. Did you have any communication with him of any kind before sending out these notices?—A. None whatever.

Q. (By Mr. Manager STERLING.) But Mr. Holden did have communication with him, did he not?—A. I do not know.

Q. Did not Holden come to the office and tell you he had just been to Capt. May's office, and Capt. May told him they were about to sell this property?—A. He did not.

Q. Who was it first introduced the subject of sending these notices?—A. I think Holden.

Q. Who told you that the sale was pending?—A. The sale was pending, I learned from Judge Archbald.

Q. How is that?—A. I learned the sale was pending from Judge Archbald.

Q. When did you learn it was pending?—A. I think the last of December.

Q. And it was on the 11th of April——A. That the notices were given.

Q. And it was on the 11th of April that Holden went to May's office?—A. I do not know if he did.

Q. Do you know whether May sent for Holden to come down?—A. I do not.

Q. You do not know?—A. I do not.

Q. But you do know he was down there and talked with May?—A. I do not know.

Q. Did not Holden tell you he had been to May's office and May had talked about the contract that was then on his desk for the sale of this property to Bradley?—A. He did not.

Q. He did not tell you about that?—A. No, sir.

Q. How did you happen to write on the 11th, the day that contract was sent out?—A. By the consultation we had.

Q. You had the consultation on that day?—A. Yes; on the——

Q. And the consultation was just after Holden's visit to May's office?—A. If it was, I do not know anything about it.

Q. Are you sure Holden did not tell you he had been to May's office?—A. I am sure he did not.

Q. And May had told him that this was about to be consummated, and had the contract on his table?—A. He did not tell me that about his visit in the office.

Mr. Manager STERLING. That is all.

Q. (By Mr. WORTHINGTON.) Do you know anything about Mr. Holden's condition of health now?—A. I understand he is very sick.

Q. He lives in Boston?—A. He lives in Boston.

Mr. WORTHINGTON. That is all.

Mr. Manager CLAYTON. Mr. President, I move to exclude that as irrelevant testimony, which has no bearing on this case.

The PRESIDING OFFICER. This testimony, if objected to, must go out.

Mr. WORTHINGTON. I wish to show why the witness is not here to-day. He has been subpœnaed.

The PRESIDING OFFICER. That is not the way to show it.

Mr. WORTHINGTON. Very well; if the managers object, we will try to send evidential evidence.

The PRESIDING OFFICER. The witness may retire. He is finally excused.

TESTIMONY OF WALTER S. BEVAN.

Walter S. Bevan appeared, and having been duly sworn was examined, and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Bevan, give your full name.—A. Walter S. Bevan.

Q. Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. Practicing attorney.

Q. Have you any relations with what are known as the Everhart heirs?—A. I represented Mr. Charles P. Holden, who is married to one of the Everhart heirs.

Q. You represented him as his attorney?—A. Yes, sir.

Q. Look at this paper [presenting paper], which is in evidence here, "U. S. S. Exhibit F," a letter, dated April 11, 1912, to Capt. May, purporting to be sent by you as attorney for Charles P. Holden. State whether that is your signature.—A. (Examining.) It is.

Q. Did you sign that letter and send it on the day it bears date?—A. I did.

Q. Why?—A. At the request of Mr. Charles P. Holden.

Q. Did he make any explanation as to the circumstances which he thought required the notice to be sent?—A. He told me that he had learned that the Hillside and the other interests in the Katydid culm bank were about to be sold. He said he was in a hurry to go to New York, and asked me if I would not write these letters to Capt. May and Robertson and Law.

Q. Please look at "U. S. S. Exhibit O," in this case [presenting paper], and tell me whether that is a letter which you sent to Robertson & Law at the same time and with your signature as attorney?—A. (Examining paper.) It is.

Q. At that time what, if anything, did you know about the investigation or charges against Judge Archbald which have resulted in this trial?

Mr. Manager STERLING. Mr. President, we object to that as wholly immaterial.

Mr. WORTHINGTON. You do not claim that he had an interest?

Mr. Manager STERLING. We do not claim it, and we never have claimed it.

Mr. WORTHINGTON. Very well. We are getting wiser as we go along, Mr. President.

Mr. Manager STERLING. Is that all you want to ask the witness?

Mr. WORTHINGTON. That is all.

Cross-examination:

Q. (By Mr. Manager STERLING.) You say Mr. Holden first told you about this sale?—A. Yes, sir.

Q. He said he had just been down to May's office, and May told him about the closed deal with Bradley?—A. No; he did not say that.

Q. Where did he say he had learned it?—A. He did not say where he had learned it.

Q. Did you ask him where he had learned it?—A. I did not.

Q. That was on the 11th of April?—A. It was.

Q. Did you learn afterwards that that was the day Holden went down there to May's office?—A. I did not. I did not know he had been there.

Q. Did you learn that May had sent for Holden and told him that they were about to sell and he had better get these notices in?—A. I did not.

Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness is finally excused.

TESTIMONY OF WILLIAM A. MAY—CONTINUED.

William A. May was recalled.

Q. (By Mr. WORTHINGTON.) Capt. May, is it a fact that you turned over some papers relating to this matter to the managers when you were here before the Judiciary Committee?—A. I did.

Mr. WORTHINGTON (to the managers). Have you the papers now, gentlemen?

Mr. Manager CLAYTON. Will you indicate them, Mr. Worthington?

Mr. WORTHINGTON. I want all the papers that were turned over by Capt. May that relate to this matter of the Katydid dump.

Mr. Manager CLAYTON. Some of the papers have already been introduced in evidence.

Mr. WORTHINGTON. The blue print of the Katydid dump is the particular paper I was looking for.

Mr. Manager CLAYTON. We have just found that. I would be glad to oblige you by giving all of them to you. Will you indicate them? We have so many papers turned over to us that I do not recall just what papers Mr. May turned over.

Mr. WORTHINGTON (examining papers). This is a very large Katydid dump according to this map. It begins at Malue and ends in Missouri. I think it must be the wrong production.

Mr. Manager CLAYTON. I see this is a topographical map.

Mr. Manager FLOYD (handing papers to Mr. Worthington). See if these are the papers.

Mr. WORTHINGTON (examining). These have been offered in evidence, have they not?

Mr. Manager CLAYTON. Mr. President, we have looked through the papers here, and I think possibly the particular papers the counsel has referred to may be at the room of the Committee on the Judiciary. I have sent word to ascertain whether they are there or not, and as soon as I can get them, if I have them, they shall be produced.

The PRESIDING OFFICER. Can counsel proceed with other parts of the examination? The managers have indicated that they purpose to produce the papers if possible.

Mr. WORTHINGTON. It would be somewhat difficult, Mr. President. I probably can supply the place with a paper in the possession of another witness, Mr. President.

(Robert W. Archbald, jr., left the Chamber and, returning, handed a paper to Mr. Worthington.)

Q. (By Mr. WORTHINGTON.) I wish you would look at this paper [presenting paper], which purports to be a map of the Katydid culm bank, and tell me if you recognize that and know whence it comes.—A. (Examining.) That is a sketch of the Katydid dump, I presume, from which the blue print was made that they are searching for.

Q. This is the original, then, from which that blue print was made?—A. So far as I know, it is the original sketch.

Q. Do you know who made that paper?—A. It was found among Mr. Merriman's papers, the man who made the survey of the dump.

Mr. Manager WEBB. The witness is not answering the question.

Mr. WORTHINGTON. He says it was found among the papers of Mr. Merriman. [To the witness:] Mr. Merriman was what?—A. He was surveyor for the land department.

Q. Of the Hillside Coal & Iron Co.?—A. Yes, sir; of the Hillside Coal & Iron Co.

Q. He is now dead?—A. He is now dead.

Q. It was found among the papers in his office?—A. Yes; among the papers in his office.

Mr. Manager CLAYTON. May I not inquire of counsel whether the document now before the witness is not the original of the document of which the committee was furnished a copy?

Mr. WORTHINGTON. Yes; we have stated that.

Mr. Manager CLAYTON. You had that in your possession when you asked for the copy?

Mr. MARTIN. No.

Mr. WORTHINGTON. I am informed, however, I will say in reply to the suggestion my respected friend has just made, that there are notations on that blue print which was given to the managers which are not on the original. We would like to have it.

Mr. Manager CLAYTON. I think we will be able to produce the copy in a few moments.

Mr. WORTHINGTON. I want to have that offered in evidence.

Mr. Manager WEBB. Mr. President, I believe we will object unless this witness knows who made it.

Q. (By Mr. WORTHINGTON.) Did Mr. Merriman at any time for you make an investigation as to the Katydid dump?

The PRESIDING OFFICER. Wait a moment.

Mr. WORTHINGTON. I am not going on with the paper, but I want to lay a further foundation for the introduction of it.

The PRESIDING OFFICER. The counsel for the respondent will proceed.

The WITNESS. What was the question?

Q. (By Mr. WORTHINGTON.) I ask you whether Mr. Merriman at any time for you or under your directions made an investigation of the Katydid dump to ascertain its cubical contents?—A. Mr. Merriman made an investigation at my direction.

Q. And did he make any report to you?—A. The only report was the blue print that——

Mr. Manager STERLING. We object.

The WITNESS. We made no——

The PRESIDING OFFICER. Wait a moment. What is the objection?

Mr. Manager STERLING. We do not object to that statement, but the witness was going on to state what the report was, as I understood it. That is what I object to.

The PRESIDING OFFICER. The Chair does not understand that the objection relates to the testimony as far as it has been elicited.

Mr. WORTHINGTON. The fact about it, as I understand it, Mr. President, is that the blue print was what the official gave to his superior, Capt. May, and Capt. May says he has turned that paper over to the managers.

The PRESIDING OFFICER. That is evidence already in.

Mr. WORTHINGTON. And he finds the original, from which the official made the blue print. The managers said they would find the blue print, and when they have not found it they object to our using that which had been made.

Mr. Manager STERLING. We have not objected. We do not know the purport. We have just objected to the witness giving this report. That is all we objected to.

Mr. WORTHINGTON. The purpose is to show the amount of material in the dump which was reported at that time by this official of the Hillside Coal & Iron Co., who is now dead, and that investigation as has already appeared we made in connection with the proposal to sell this Katydid dump to the Du Pont Powder Co. [To the witness:] I am right about that, Capt. May, am I not?

The WITNESS. Excuse me, I did not get your question.

Q. (By Mr. WORTHINGTON.) I say this examination and report was made with reference to this proposed sale to Judge Archbald and Mr. Williams. That is true, is it, Capt. May?—A. It was.

Q. Did you see this paper at the time, after his investigation?—A. No, sir; I did not.

Q. What he gave to you was a blue print?—A. It was a blue print.

Q. Was the blue print a copy of this?

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. The Chair thinks that the witness can state whether it is a copy of that or not.

Mr. WORTHINGTON. Let me make sure, Mr. President. [To the witness:] That blue print, you say, you did turn over to the managers?—A. It was in my file that I turned over to the managers.

Mr. WORTHINGTON. We seem to be blocked. Evidently we have traced the paper into the hands of the managers and the managers say that they have it not, and they object to our using the original.

The PRESIDING OFFICER. The managers expect to produce the copy in a short time.

Mr. WORTHINGTON. I understand. I am not suggesting any concealment of anything on the part of the managers, of course. I should say we gave notice to the managers yesterday that we understood the papers had been turned over to them and that we would like to have them to-day.

Mr. Manager CLAYTON. Counsel did not specify yesterday what particular papers, but spoke in a general way, and we loaded down one messenger with every conceivable paper that I thought related to the subject and brought them here. Unfortunately, the particular paper now specified is not in the bundle that we have.

The PRESIDING OFFICER. Can the counsel for the respondent proceed further without the production of the paper?

Q. (By Mr. WORTHINGTON.) When you were here before you testified as to the information you had showing 85,000 tons of material in this dump. Where did you get that?—A. I did not testify that we had 85,000; I testified 80,000.

Q. Eighty thousand; I beg your pardon.—A. The 80,000 tons, that amount, I got from what Mr. Robertson said in his letter. The engineer had made an estimate of about 80,000 tons.

Q. And who was that engineer?—A. The engineer I think he referred to was Yewens.

Q. So you only know as to that what Mr. Robertson and Mr. Yewens reported to him?—A. And Mr. Yewens reported to him.

Q. Your testimony in that regard was based upon hearsay information?—A. It was based upon the information in that letter.

Q. Did Yewens make any report to you?—A. He did not.

Q. Was he in the employ of the Hillside Coal & Iron Co.?—A. He was.

Q. How did he come then to make a report to Robertson and not to you?—A. He did Robertson's work as well as ours.

Q. When you turned this blue print over to the managers were there any other papers attached to it?—A. I turned my file, that I had with me, over to them. I do not know now what papers were in it.

Mr. WORTHINGTON. I think that is as far, Mr. President, as we can proceed with this witness until we learn whether the blue print can be produced.

The PRESIDING OFFICER. Does the counsel for the respondent care to withdraw the witness temporarily and proceed with other matters?

Mr. WORTHINGTON. Yes; Mr. President.

The PRESIDING OFFICER. That being the case, the cross-examination had better be postponed until the witness can again be put upon the stand. He will retire temporarily.

Mr. WORTHINGTON. Capt. May is very anxious to get away.

Mr. Manager STERLING. I have a suggestion to make to counsel which, I believe, will shorten all this matter. I propose that we put in the evidence the report made by the engineer, Rittenhouse; the report made by Mr. Saums, the Du Pont engineer; the report made by Mr. Marion, the Katydid engineer; and the report made by Mr. Yewens, who made the report for Robertson & Law. There are the reports of four engineers. The Rittenhouse report has been ruled out, and I suppose they had better all be ruled out; but I suggest that all four go in together in the record now, if counsel will agree to that.

Mr. WORTHINGTON. I decline to accept that suggestion, Mr. President. The Rittenhouse report was ruled out as a report, but he was allowed to read from it to refresh his recollection, and it practically went in.

I find Capt. May exceedingly anxious to get away to-day, if that paper could be found.

The PRESIDING OFFICER. Possibly within a few moments it can be produced.

Mr. WORTHINGTON. We will proceed with Mr. Saums, whose testimony was interrupted when we adjourned day before yesterday.

Mr. Manager CLAYTON. Mr. President, I have now the papers which the counsel wanted. I deliver them [handing papers to Mr. Worthington]. There is the envelope addressed to Capt. May, with certain writing on it, and here is the blue print I presume you were talking about. In fact, this is the lot of papers that I suppose Capt. May referred to as his file; and they, together with the papers which have already been introduced in evidence, are all the papers that came into the possession of the committee or the managers from Capt. May that I can now recall. I think I may state as a fact that they are all. They are all, to my best recollection.

Q. (By Mr. WORTHINGTON.) Capt. May, I now show you the paper which the managers have found [presenting paper], which purports to be a blue print representing the Katydid culm dump. I ask if that is the paper which your engineer gave to you as indicating, so far as it goes, what he found at the Katydid culm dump?—A. (Examining.) That is the blue print that he turned in to me.

Q. And was that the paper before you and a part of the information upon which you acted?—A. It was.

Q. When you wrote the letter of August 30, stating that you would recommend the sale of your company's interest in that dump for $4,500?—A. It was

Mr. WORTHINGTON. I offer that in evidence.

Mr. Manager CLAYTON. Let me see it, please, Mr. Worthington.

Mr. WORTHINGTON. You have had time enough to see it.

Mr. Manager CLAYTON. I know, but it is some time since we examined it critically. Give us the jacket the papers were in.

Mr. Manager STERLING. We object to the introduction of the blue print.

The PRESIDING OFFICER. The Chair will hear from counsel for the respondent, if he desires.

Mr. WORTHINGTON. Mr. President, the claim here is that Capt. May, because of Judge Archbald's position on the Commerce Court, agreed to recommend the sale of this dump for less than it was worth. Is it not competent to show what Capt. May had before him when he said he would make the recommendation, so that the Senate may determine whether it was made in good faith or with a view of giving a benefit to Judge Archbald? So far as article 1 is concerned, this is the gist of the whole matter.

The PRESIDING OFFICER. The counsel is undoubtedly entitled to show by the witness that he made the report or based his action, whatever that might be, upon the fact that he received information from a certain party; but the rule does not go to the extent of saying that that information can be introduced in evidence. If that were the case, any secondary evidence would always be introduced. The fact that some one acted upon that report does not make it evidence any more than the report of any other man would be evidence. It may be a reason why he acted, but that does not go to the extent of saying that the paper itself should be put in evidence.

Mr. WORTHINGTON. Mr. President, if this report had shown that Capt. May was informed by his engineer that this culm dump was of such kind and quality and size that it was worth $100,000, would it not be competent for the managers to put it in evidence to show that he did not make that recommendation to sell it for $4,500 in good faith? The mere fact that that report was made upon it helps us in no wise to determine whether Capt. May was acting in good faith or bad faith, unless we know what the information was.

The PRESIDING OFFICER. The Chair does not think that secondary evidence may be gotten in in that way. The only object of the evidence at all is in explanation of why a certain thing was done by a witness, as illustrated by the books as referred to by the Chair on another occasion of this trial. A witness may say that, in consequence of certain information given to him by a certain party, he went to a certain place; but he can not state what that statement was. It would be the introduction of secondary evidence, if he did.

Mr. WORTHINGTON. I think, perhaps, the indication of the Chair prevents me from asking the question in any form, but I should like, in order to make sure of that, to put it in another form. [To the witness.] Capt. May, I will ask you the question in another way, but you will not answer until you find out whether you are permitted to answer it. I want

to ask, when you said in your letter of August 31, 1911, in evidence, to Mr. Williams that you would recommend the sale of the interest of your company in the Katydid culm dump for $4,500, what was your knowledge at that time as to quantity of material in that dump?

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. The Chair thinks counsel can ask the witness whether or not he knew it of his own knowledge, but secondary evidence can not be gotten in by that form of question.

Q. (By Mr. WORTHINGTON.) Well, captain, what did you know of your own knowledge about the Katydid dump?—A. I had seen the dump. I had never made a measurement of it. I had seen it a number of times, but took no measurement of any kind.

Q. You had made no measurement of any kind?—A. No, sir.

Q. Had you formed, from your examination of it, any estimate as to the quantity of material in it?—A. I did not.

Q. None at all?—A. No, sir.

Q. When you made that recommendation, then, you were guided entirely by information you had received from your engineers, were you?—A. Yes, sir.

Q. And the question of whether you made it in good faith or bad faith depends upon that information?

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. What is the question?

Mr. WORTHINGTON. That is a question of law, perhaps. If that is the ruling of the Chair, and the Senate does not think it of sufficient importance——

The PRESIDING OFFICER. There are four reports here, and it is sought to introduce one of them as evidence simply because it has been seen by this witness.

Mr. WORTHINGTON. Mr. President, I am not concerned about what was in that dump, but I am concerned about what Capt. May thought was in it and what his information was when he agreed——

The PRESIDING OFFICER. The witness has testified fully as to that, that he did not act upon his own personal knowledge.

Mr. WORTHINGTON. I do not know of anything else I can ask this witness, Mr. President, under the rule which has been laid down.

Mr. OLIVER. Mr. President, is it in order to submit an order that this evidence be admitted?

The PRESIDING OFFICER. It is.

Mr. OLIVER. I submit the order, which I send to the desk.

The PRESIDING OFFICER. If it is the desire of the Senate that the question be submitted, it is not necessary to pass an order. The Chair will submit it to the Senate.

Mr. OLIVER. Then I suggest that the question desired to be asked by the counsel for the respondent be submitted to the Senate.

The PRESIDING OFFICER. The Chair will submit to the Senate, at the request of the Senator from Pennsylvania, the question whether or not the paper now offered in evidence shall be admissible in evidence.

Mr. OLIVER. It is only, Mr. President, for the purpose of showing the basis upon which he made his offer of $4,500.

The PRESIDING OFFICER. That is the right of the Senate, and the Chair will always submit a question when any Senator so desires.

Mr. LODGE. I desire to make an inquiry. Is this one of the four reports?

The PRESIDING OFFICER. It is one.

Mr. LODGE. Have all the reports been admitted?

The PRESIDING OFFICER. None has been.

Mr. OLIVER. But, Mr. President, if I may be allowed to state, as I understand this is the only report that was submitted to the——

The PRESIDING OFFICER. It is not in order to discuss the question.

Mr. WORTHINGTON. May I state to the Senate what is the purpose of this question?

The PRESIDING OFFICER. Yes.

Mr. WORTHINGTON. The purpose of this question is to have the Senate see the only report which was before this witness, which was the report of his proper officer, made after investigation, under his direction, for the purpose of letting him know what this dump was worth before he decided what he would ask for it. The Rittenhouse report, which has been referred to, was made long afterwards by instructions of somebody representing the Department of Justice. No one of them was before him or known to him at the time that he made this recommendation or agreed to make a recommendation. We offer the report which was made to him by his engineer for the purposes of showing that he acted honestly, in good faith, when he made the recommendation that he did.

It will be remembered—and the Senate must remember this in order to pass intelligently upon the question—that when Judge Archbald wrote his letter of the 31st of March to Capt. May, asking him whether the dump would be sold; and if so, at what figure, Capt. May has already testified that he then directed an investigation to be made so that he might know what the dump was worth. This is the result of that examination accordingly made and submitted to Capt. May by his officer. After receiving that, he then decided what in his mind was a proper sum to ask for the dump. The other reports have nothing to do with the question whether in making that recommendation or agreeing to make it he acted in good faith or in bad faith.

Mr. Manager STERLING. I trust I may be permitted to say a word.

The PRESIDING OFFICER. The Manager will proceed.

Mr. Manager STERLING. Counsel say that the question is whether Mr. May acted in good faith. The question is not whether Mr. May acted in good faith, but, although we have said all along whether he was paying less or more than the dump was worth was not material, if we go into the question of the value of the dump, the question is what Judge Archbald thought about it, whether, by committing the offense which is charged in the article—that is, unduly influencing these railroad companies to sell the dump—he expected to make a profit out of it. It is not a question as to what Mr. May thought about it at all; the only question is, if we are going into the value of the dump, whether Judge Archbald thought he was getting it for less than it was worth. Mr. May is not on trial at all. If there is any question that is important here as to the value of this dump, it is to find out the real value of the dump, and we can best get it from all of these reports.

It was suggested yesterday by counsel on the other side that this Rittenhouse report was manufactured for the purpose of evidence, and it was proven on the witness stand that Mr. Rittenhouse did not know for whom he was making the report or for what purpose he was making it.

I suggest, in all fairness, that if this report goes in, all of these other three reports should also go in. We have made the proposition to let them all go in, and I trust that the Senate will permit the other three reports to go in in the same connection, so that the Senate can see side by side the estimates of these three engineers.

Mr. WORTHINGTON. Mr. President, I do not know what reports the honorable manager is speaking of, except three. So far as the Rittenhouse report is concerned, Mr. Rittenhouse, with his report before him, read into the record its contents, refreshing his recollection by having the report before him.

Mr. Manager STERLING. Then, may I state, the other two?

Mr. WORTHINGTON. Let me finish. Another report was one made by Mr. Saums, who investigated the dump for the purpose of informing the Du Pont Powder Co. as to what it was worth when that company proposed to buy it early in 1909. We have Mr. Saums on the stand now, with this interruption, for the purpose of putting that report in evidence.

The third report is the one which is now before this witness, which we are proposing to put in evidence. If there is any other I do not know what it is.

Mr. Manager STERLING. I merely want to say to the counsel that the other two reports are the report made by Mr. Saums for the Du Pont Powder people when they were about to buy it and the report made by Yewens.

Mr. WORTHINGTON. Where is Yewens's report.

Mr. Manager STERLING. Your witness just testified about it awhile ago. I do not know anything about it.

Mr. WORTHINGTON. Just one moment on this point, please. Perhaps this matter can be settled right here. Capt. May has testified that his officer, Yewens, made an investigation of this dump for Mr. Robertson, and made a report to Mr. Robertson, he being also in the employ of Robertson. That report has not been produced. It is not in evidence and nobody has seen it, so far as I know.

Mr. Manager STERLING. Then, confine it to the other three reports, if that report can not be had.

Mr. WORTHINGTON. I have just stated that the Rittenhouse report is already in evidence. We have Mr. Saums here for the purpose of putting his report in evidence, and had offered it day before yesterday, when the managers asked to examine the report before they passed on the question of whether they would object to it; and this is the third one.

Mr. Manager STERLING. Mr. President, the counsel is entirely mistaken about the Rittenhouse report being in evidence. We offered it, but it was objected to and ruled out.

Mr. WORTHINGTON. As to the material in the dump and the value thereof?

Mr. Manager STERLING. The written report which we are presenting and have here now.

Mr. WORTHINGTON. He made a report on a good many other things besides the value and material of the dump. So far as that is concerned, we have no objection at all to his report. He has already testified fully in regard to it.

Mr. Manager STERLING. Then, what do you say about Mr. Saums's report?

Mr. WORTHINGTON. I had Mr. Saums on the stand for the purpose of putting his report in evidence, but it was objected to by the managers, and the matter held up here the night before last until they could examine the reports.

Mr. Manager STERLING. Then, I understand counsel accepts the proposition to put the Rittenhouse report, the Saums report—that is, the report Saums made after his investigation—and the report of Mr. Merriman in the record.

Mr. WORTHINGTON. If the manager confines himself to the report Rittenhouse made as to the quality and quantity of material in this dump and its value, we consent.

Mr. Manager STERLING. If there is anything else in the report except that we might, on inspection, strike out some of it, but it relates to that matter entirely. It was made for no other purpose than to find the value of the dump.

Mr. WORTHINGTON. I have stated, Mr. President, what we are perfectly willing to do, what we understand is proposed, and what we understand is practically done, that the Rittenhouse report as to the quantity of material in that dump and its value, if it is not in evidence, shall go in evidence. I am about to offer the Saums report in evidence, and had Mr. Saums on the stand for that purpose when interrupted, and this is the third report which we are now offering.

Mr. Manager STERLING. Mr. President, here is the report which Mr. Rittenhouse made. It covers the subject and nothing else. It all goes to the value of the dump, the quantity of coal in it, and the different grades of coal.

Mr. WORTHINGTON. I find, Mr. President, on examination, that a matter which I had supposed was in the Rittenhouse report is not in it; so we have no objection to the whole report going in, but we had supposed that it was already in substance before the Senate.

Mr. Manager STERLING. It is just as he made it.

Mr. WORTHINGTON. Very well.

Mr. Manager STERLING. Then, Mr. Saums's last report and the report of Mr. Merriman——

Mr. WORTHINGTON. I propose to examine Mr. Saums on direct examination and will bring his report in in connection with his testimony.

Mr. Manager STERLING. In order that the Presiding Officer and the Senate may understand our proposition, it will be remembered that Mr. Saums made two reports. One was after he had gone out and stepped the dump and then estimated it. We object to that report. He afterwards measured the dump definitely and tested it mechanically. As to that report, we have no objection.

Mr. WORTHINGTON. Very well; but as to the first report he has already testified, and we were about to prove the second one when the interruption occurred day before yesterday.

The PRESIDING OFFICER. Is it agreed that the four reports shall go in?

Mr. WORTHINGTON. The three reports. There is no fourth report.

Mr. Manager STERLING. Mr. Yewen's report does not seem to be here.

The PRESIDING OFFICER. Then it is agreed that the three reports shall go into the record?

Mr. WORTHINGTON. That is agreed.

Mr. Manager STERLING. It is agreed that those three reports shall be admitted.

Mr. OLIVER. I withdraw the order which I submitted, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania withdraws the order submitted by him, and the three reports will be put into the record.

Mr. Manager STERLING. With the understanding that it does not apply to the first report which Mr. Saums made.

Mr. WORTHINGTON. That is already in evidence.

Mr. Manager STERLING. The report is not in evidence.

Mr. WORTHINGTON. His figures are.

Mr. Manager STERLING. He testified from it, but the report was not submitted as an exhibit.

Mr. WORTHINGTON. Very well. Now, may I have this blue print [exhibiting] marked as an exhibit?

The paper was handed to the Secretary and marked "U. S. S. Exhibit V."

Mr. WORTHINGTON. This map, Mr. President, contains what purport to be the outlines of the Katydid culm dump, with a number of figures which I will not read, and below is the inscription:

Katydid culm dump, near Consol. BR. Avoca, Pa., April 15, 1911. Estimate, 55,000 gross tons (available), exclusive of slush, rock, dirt, etc., of no value, as per Mr. Johnson, inspector.

[To Mr. Manager STERLING.] Do you want to see this?

Mr. Manager STERLING. I want it when I cross-examine.

Mr. Manager CLAYTON (to Mr. Worthington). Are you through with the witness?

Mr. WORTHINGTON. Yes, that is all.

Cross-examination:

Q. (By Mr. Manager STERLING.) Mr. May, you testified before the Judiciary Committee that there were from 80,000 to 85,000 gross tons in this culm dump, did you not?—A. I stated that an engineer made an estimate of 80,000 tons.

Q. You meant Merriman?—A. No.

Q. You did understand, then, that an engineer had estimated it at 80,000 tons?—A. Yes, sir; that was based upon——

Q. What does that mean—80,000 gross tons?

Mr. WORTHINGTON. One moment, Mr. President, the witness was in the midst of answering the question when the manager interrupted him with another.

The PRESIDING OFFICER. The question was answered, and the witness went on as to another matter. The manager desires to interrogate him on that particular line. The witness will have an opportunity before he gets through to state fully anything he wishes.

Mr. WORTHINGTON. I did not think the manager knew the witness was still answering the question.

The PRESIDING OFFICER. No; the witness started on an explanation.

Q. (By Mr. Manager STERLING.) You read the notation on the bottom of this plat marked "Exhibit V," did you not?—A. I did.

Q. And it says "estimate 55,000 gross tons." By "gross tons" did you understand is meant all the material in the bank?—A. I did.

Q. Well, do you not think that has a different meaning here?—A. No; I do not think it has.

Q. All the material in the bank means the rock, the dirt, the slush, the coal, and the slate, does it not?—A. I think he referred to——

Q. I am not asking what he referred to, but in ordinary language, when you speak of gross tons, it means everything in the culm dump, including dirt and everything else?—A. No, sir.

Q. What does it mean?—A. What he meant——

Q. I am not asking you what he meant.

The PRESIDING OFFICER. The witness ought to be permitted to answer.

Mr. Manager STERLING. I did not ask him that question. My question is what does it ordinarily mean?

The WITNESS. It ordinarily means a ton of 2,240 pounds.

Q. And the term "gross material in the bank" includes all of it, does it not?—A. It would include 55,000 tons of material of 2,240 pounds to the ton.

Q. Do you not think it has a different meaning here for this reason? The notation is "Estimate 55,000 gross tons (available)"?—A. No; I do not.

Q. He means that there are 55,000 gross tons of coal, does he not?—A. No; I do not think so.

Q. Then, let us add the next clause, "Exclusive of slush, rock, dirt, etc., of no value."—A. Well, he meant——

Q. Taking that in connection with the "55,000 gross tons (available)" it means that he thought that there were 55,000 gross tons of coal; do you not think so?—A. No, sir.

Q. When you exclude the "slush, rock, dirt, etc., of no value," what else is there left in the dump?—A. Culm.

Q. What is culm?—A. Culm is the material that is made from breaking down the coal.

Q. Well, do they not generally call that slush?—A. No, sir.

Q. So you think that includes everything, then, except what you call the culm? It is fine coal, is it not?—A. Fine coal.

Q. And it is used?—A. It is sized and marketed.

Q. And used and marketed, is it not?—A. Yes.

Q. So you think he means there 55,000 tons, exclusive of everything in the dump, excepting the culm?—A. He means 55,000 tons of culm.

Q. How is that?—A. In my opinion, he means 55,000 tons of culm; that is before it is sized. It is the gross material.

Q. Not including rock?—A. No, sir; not including rock.

Q. Not including dirt?—A. Nor including dirt.

Q. It includes all the coal material?—A. All the coal material.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Did you understand by that that there were 55,000 tons of coal there which could be utilized and sold?—A. Of culm before it was sized.

Q. What percentage of that would be waste? How does it run in these dumps?—A. It runs differently in different dumps. Mr. Johnson's test shows just how much slush there would be in it. They call it that; it is the material that would pass through a three thirty second inch mesh; that would be waste, and that was included in this.

Q. That was included?—A. Yes.

Q. Mr. Johnson has given us the figures as to what proportion of this 55,000 tons would be material that could be sold?—A. I think that is in evidence.

Q. I know it is. Now, did you talk with Mr. Merriman when he made this report to you?—A. Not particularly. I took his report because we always make our reports in gross—I mean taking the entire culm bank—and I took that as the quantity there.

Q. When you received that, you understood it to mean 55,000 tons of culm?—A. I did.

Q. And not 55,000 tons of coal?

Mr. Manager STERLING. We object. The witness has just said that that meant all coal material in the culm.

Mr. WORTHINGTON. Yes; but I submit, Mr. President, that is not fair to the witness, because, while he says it means culm, he says a large part of that would be waste which would not be available at all. That is what you say, is it not, Capt. May?

A. Yes; that it is culm; but in that culm there would be material that would pass through a three-thirty-second-inch mesh which we could not market. That means the gross amount of culm. I can not make it any plainer than that.

Recross-examination:

Q. (By Mr. Manager STERLING.) But this report of your engineer says 55,000 tons are available. That is what you had before you when you made this offer, is it not—that 55,000 gross tons were available?—A. Of culm; not of marketable material.

Q. What does he mean by "available," Mr. May?—A. Well, I understood that he meant material that could be used.

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. That is all, Capt. May.

The WITNESS. May I be excused?

Mr. WORTHINGTON. So far as we are concerned, we will be very glad to have Capt. May finally discharged.

The PRESIDING OFFICER. Do the managers desire that the witness shall be detained further?

Mr. Manager CLAYTON. The witness may be discharged, Mr. President.

The PRESIDING OFFICER. The witness is finally discharged.

TESTIMONY OF H. W. SAUMS—CONTINUED.

Mr. WORTHINGTON. Now, we should like to have Mr. Saums recalled if we may.

H. W. Saums, having been previously sworn, was recalled and testified as follows:

Q. (By Mr. WORTHINGTON.) Will you look at this letter, dated February 12, 1909, purporting to bear your signature, and addressed to Mr. Henry Belin, jr., president of the E. I. Du Pont Powder Co.? Is that your signature?—A. (After examining letter.) It is; yes, sir.

Q. Is that the letter which you sent to Mr. Belin at that time, after you had made an investigation of the Katydid dump?—A. Yes, sir.

Q. I will show you another paper dated February 12, 1909, addressed "Dear Sir" only, and purporting to be signed by you. Is that your signature and your report in this matter?—A. (After examining paper.) Yes, sir.

Q. I show you another paper, without date, which is entitled "Estimate of different sizes of coal and value of same contained in the Katydid culm dump," purporting to have your signature. Is that your signature?—A. (After examining paper.) It is; yes, sir.

Q. Do these several papers contain the result of your investigations into the Katydid dump or only the result of the first investigation and not the second?—A. This last [indicating] has reference to the second examination that I made, and this [indicating] has reference to the first.

Q. That is the letter to Mr. Belin of February 12, 1909, and the paper addressed "Dear Sir" of that date referred to the first investigation?—A. Yes, sir.

Mr. WORTHINGTON. Now, Mr. President, conforming to our understanding of a few moments ago, I first offer in evidence his report after the second examination, as to which we agreed.

Mr. Manager STERLING. That is included in the agreement. We do not object to that.

Mr. WORTHINGTON. Very well. Then I will ask to have that marked and read now, and then we will see whether we can get the rest of it in.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read the paper, marked "U. S. S. Exhibit W," as follows:

[U. S. S. Exhibit W.]

Estimate of the different sizes of coal and value of the same contained in the Katydid culm bank.

Number of gross tons in old bank, being 15 per cent of the total, 14,500.

Composed of—	Tons.
18.7 per cent slate	2,735
17 per cent culm	2,295
7 per cent coal larger than pea	945
.6 per cent pea	81
21.2 per cent buck	2,862
21.5 per cent rice	2,902
14 per cent barley	1,890
100.0	13,500

Number of gross tons in new bank, being 85 per cent of the total, 76,500.

Composed of -	Tons.
15 per cent slate	11,475
28 per cent culm	21,420
2.9 per cent coal larger than pea	2,219
.3 per cent pea	229
8.1 per cent buck	6,196½
23.3 per cent rice	17,977½
22.2 per cent barley	16,983
100.0	76,500

Total number tons of each size in both banks and value of same on the ground.

Slate	14,000	tons.	
Culm	43,715	tons.	
Coal larger than pea	3,164	tons, at $1.80	$5,695.21
Pea	310	tons, at $1.50	465.00
Buck	9,058½	tons, at $1.10	9,964.35
Rice	20,879½	tons	14,615.65
Barley	18,873	tons	5,661.90
	90,000		36,402.11

H. W. SAUMS.

Q. (By Mr. WORTHINGTON.) Mr. Saums, from your investigation of this dump and your knowledge of the subject, what do you say as to whether or not that dump at the time you made that investigation which resulted in the report just read was one that would pay to put a washery to work?

Mr. Manager STERLING. We object. It is wholly immaterial.

Mr. WORTHINGTON. I suppose the question whether this dump was worth anything would depend, in the first place, upon the material in it and the value of that material, and then what it would cost to get it out.

The PRESIDING OFFICER. Upon that the witness would be justified in testifying as to what he thought was the value of the dump, and he could give as his reason the amount of material to be found there and the cost of extracting it. In other words, the Chair thinks the question of counsel asks him to testify to a conclusion. He ought to state the facts and let the Senate find the conclusion.

Mr. WORTHINGTON. I am asking him what would be the cost of a proper washery to take out that dump and wash the material in it.

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. The Chair thinks that that is legitimate.

Q. (By Mr. WORTHINGTON.) Answer my question.—A. Shall I answer that question?

Q. Yes; the President rules that you may answer the question.—A. May I ask whether you refer to the washery alone or the complete plant?

Q. I mean the complete plant.

The PRESIDING OFFICER. The witness will answer the question as asked.

Q. I mean whatever construction would be necessary to get the coal that is merchantable out of the material that was not merchantable, separate it, and have it ready to sell.—A. In the neighborhood of $35,000.

Q. Have you given any consideration to the question of a scraper line to take that material—you have seen the consolidated washery near the Katydid dump?—A. Yes.

Q. You know all about that situation, do you?—A. I am somewhat familiar with the location there; yes, sir.

Q. Have you made any calculation as to whether or not a scraper line from the Katydid dump could be utilized in connection with that Consolidated washery?—A. Oh, yes; it could be done. What would the cost of a conveyer line be from the Katydid bank to the consolidated breaker?

Q. Yes; that is the first question.—A. About $4.50 a foot. In other words, between eight and ten thousand dollars.

Q. And that scraper line would be valuable for what when you got through with it?—A. Scrap, generally.

Q. Would you require anything but the mere track itself?—A. Yes. The $8,000 to $10,000 would be exclusive of the pump and water pipes.

Q. Well, what would the whole thing cost? I mean, to do whatever was necessary to get the culm from the Katydid dump to the Consolidated washery.—A. Between $10,000 and $11,000.

Q. Do you know whether or not when you get the coal there to the Consolidated washery it is equipped to get out the larger sizes of coal above pea?—A. I do not.

Q. You do not know?—A. No.

Q. In the calculation that you have made in the report which is in evidence, "U. S. S. Exhibit W," what size mesh did you have in mind when you put the item "barley" at 18,873 tons?—A. Through three-sixteenths round and over one-sixteenth round.

Q. Is that the customary size of the mesh?—A. It is what we use, sir.

Q. There is another subject I wish to ask you about, Mr. Saums, and that is as to what extent, if at all, you can get out chestnut coal—coal of the chestnut size and above—in a dump like this, or in this particular dump?—A. You can get a certain per cent of chestnut, but not prepared so it will enter into competition with freshly mined chestnut.

Q. Why is that?—A. Owing to its appearance. The larger size—nut coal—for instance, made from the washery is composed largely of different grades of bone with some pure coal, of course, and it carries a much larger per cent of ash than the freshly mined coal. Therefore we have never found it practicable to prepare this coal clean enough to have it compete with freshly mined coal. We sell it for from 75 cents to $1 a ton less than the circular price for freshly mined coal of that size.

Q. I notice in this report of yours, which is in evidence, you have put this "coal larger than pea, 3,164 tons," at $1.80. Why do you put it at $1.80, in view of what you have just said?—A. In making that report for Mr. Belin he gave me to understand that he did not wish to erect a washery there, but he wished to use this fuel for a power plant he proposed to locate back across the hill.

Q. Of the Du Pont Powder Co.?—A. Yes, sir. And he wanted to use this material—coal, slate, and culm all mixed together—and he asked me to put a value on it. Therefore I had to classify it to a certain extent, you see.

Q. In reference to his use?—A. In reference to his use; yes.

Q. If you were computing it with reference to putting it on the market generally——A. (Interrupting.) I would have computed it as per my first report.

Q. And what would that be?—A. $2.30. I believe I used for nut coal.

Q. Suppose the scraper line to have been constructed as you have estimated, from the Katydid dump to the consolidated washery, what would be the cost of operation? You have told us now what would be the cost of the construction required to get the coal from the Katydid dump to the consolidated washery. What would be the cost of operation per ton?—A. I think 30 cents would be about right.

Q. According to your estimate that would cost how much—30 cents a ton for how many tons? Let us see what the ultimate result would be.—A. (After calculation.) $15,685.50.

Q. Does that estimate include the cost of operating the scraper line or the scraper line and the washery, both?—A. That includes all of the operating expense.

Q. Now, in reference to the map to which you referred yesterday, you see in the southwest corner of it, as it hangs on the wall, is a part called the conical dump. Do you see that?—A. Yes.

Q. Did you include that in your estimate?—A. Yes.

Q. As of the same average quality as the rest of it?—A. Yes, sir.

Q. You knew nothing, as a matter of fact, as to what was in the core of that conical dump?—A. No, sir; I did not. I assumed that everything that could be seen was coal.

Mr. WORTHINGTON. That is all.

Cross-examination:

Q. (By Mr. Manager STERLING.) And if your assumption was correct, and according to the testimony in the case, you think that your estimate of the amount of the coal in that conical dump is correct, do you not?—A. According to my test; yes, sir.

Q. You did not test the material that was down in the draw there, did you? The testimony is that they filled up a draw there. There was a fill there under the conical dump. You did not test anything down there?—A. No, sir.

Q. And you did not estimate for it, did you?—A. No, sir; because I knew nothing about it.

Q. You made this investigation for the Du Pont Powder Co.?—A. For Mr. Belin, of the Du Pont Powder Co.; yes, sir.

Q. And at that time the Du Pont Powder Co. was a prospective purchaser?—A. I presumed so.

Q. And you estimated the value of this coal at what you thought it would be worth to them for their use?—A. I estimated what I thought it would be worth on the ground, the cost of picking it up.

Q. I understood you to say that this coal, which you estimated at $1.80 a ton, would be worth $2.30 on the market?—A. Yes, sir.

Q. It would be worth 50 cents more a ton, would it, on the market than your estimate here?—A. Allow me to explain, if I may.

Q. Answer my question first and then you may explain. Is that what I am to understand?—A. Not in that size, sir.

Q. The size that you have estimated at $1.80, I understand you say, would be worth $2.30 on the market; is that right?—A. That represents sizes from what we call broken——

Q. I am not asking you what sizes. But this coal which in your report you estimated at $1.80, for the Du Pont Powder Co. purposes, you would consider worth $2.30 on the market?—A. If it was reduced to nut coal; yes, sir.

Q. Now you may make any explanation you see fit about sizes.—A. Very well, sir. This coal larger than pea is composed of various sizes, from what we call steamer and broken size down to nut size. In washery practice, all these sizes, promiscuously, are run through a set of rolls and reduced down to nut. We do not find it practicable to make any size larger than nut coal from a washery. In this process of grinding a great deal of it, of course, is reduced into small sizes, and some goes off in dirt, in waste. That is why I made that difference of 50 cents—the difference between $1.80 and $2.30 a ton.

Q. And you say chestnut coal is not worth so much when you get it from a culm dump as when you get it from the mine?—A. No, sir.

Q. That it is worth 75 cents to $1 less per ton on account of its appearance. Now, what was chestnut worth at that time in Scranton from the mine?—A. I can not answer that question. The circular price at that time was about $3 a ton, I think.

Q. About $3 a ton there?—A. At tide; I am speaking of tide.

Q. Mr. Saums, you have divided the culm dump into two parts. I wish you would add the percentages in both parts, of everything except what you have marked as slate. That is, all the different kinds of coal; add the percentages in both parts. What is the percentage of coal in the old part, that which you have marked the old part of the culm; what is the total of the percentages of coal material in the old part of the dump, according to your report?—A. I do not think I understood you right at first.

Q. Well, I will ask you to add the percentages.—A. The total percentage is 100 per cent.

Q. I said of the coal; I said excepting slate.—A. Oh, I beg your pardon.

Q. Just deduct the slate from 100.—A. All right, sir.

Q. How much is the percentage in the old part?—A. 82.30 per cent.

Q. What is the percentage in the new part?—A. Sixty-seven per cent.

Q. What is the total number of tons of coal in both parts, according to your report; that is, of everything—of all the kinds of coal material in the dump?—A. Exclusive of the——

Q. Exclusive of the slate. That is the only thing you marked there as waste, I think. How many tons of coal are there in the dump, according to your report?—A. In both dumps?

Q. In both of them together?—A. (After calculation.) 52,285 tons.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Does that mean coal or culm?—A. Coal.

Q. Can you tell us what proportion of that would be of a size under pea?—A. Seventy-six and a fraction per cent of that would be under pea size.

Mr. WORTHINGTON. That is all.

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. This witness may be discharged, as far as we are concerned.

The PRESIDING OFFICER. The witness is discharged finally.

Mr. WORTHINGTON. Now, we will call Mr. Jennings.

TESTIMONY OF JOSEPH P. JENNINGS—RECALLED.

Q. (By Mr. WORTHINGTON.) Since you were upon the stand have you obtained the original figures of the engineer who made the estimate upon which you based your figures?—A. Yes, sir; I have.

Q. Have you it with you?—A. I have the notebook.

Q. Whose figures are those; whose book?—A. That book was used by Mr. Merriman.

Q. Where did you get it?—A. I sent to Scranton and got it from the office.

Q. From the Hillside Co.'s office, where you were employed?—A. Yes.

Q. From where he was employed?—A. Yes.

Q. I wish you would go on with the calculation you were making when you were on the stand and was stopped because we did not have the original document here. Have you gone over his figures?—A. I had that map.

Q. That is the map of which a blue print copy is in evidence.—A. And Mr. Merriman's notes as he made them on the field at the time he made the survey of the dump.

Mr. WORTHINGTON. The map to which the witness refers is the one identified by Capt. May, which was left at the office of the Hillside Coal & Iron Co. when Mr. Merriman died.

Mr. Manager STERLING. We object to this witness testifying from those notes, for the reason that we have Mr. Merriman's report in there, and this is purely secondary evidence. He does not know whether they are correct or not. Inasmuch as Mr. Merriman's report itself is in evidence, I can see no purpose in offering any secondary testimony, even if it was competent.

Mr. WORTHINGTON. If the objection is insisted upon, as I understand, Mr. President, we will have to ask the witness to step down once more and take that blue print, which the witness could not use because it was in the possession of the managers, and have him go over the calculation which he has made, based on the plat from which the blue print was made and the original figures. The question was made in the cross-examination of Capt. May by the manager who has just been speaking for the purpose of leading to the conclusion that the 55,000 tons reported by Mr. Merriman on the blue print, or stated on the blue print, was coal. This witness has gone over the figures which Mr. Merriman put upon his map and which are upon the blue print of the dump, and has gone over the calculations to verify them. He has made the calculation himself, and finds that it means the cubical contents of the pile and not the coal. He has found some slight errors in the calculation, making the total cubic content of it a little more than that figured out by Mr. Merriman himself on the blue print which is in evidence.

Mr. Manager STERLING. That puts counsel in this attitude——

Mr. WORTHINGTON. And, further, that Mr. Jennings has testified already that he went upon the ground himself and examined the dump, so that he is in a position to determine with absolute certainty the question whether 55,000 means coal or means culm.

Mr. Manager STERLING. That is a different question, what he saw personally. The other question puts them in this attitude—of putting in the report of Mr. Merriman, the engineer, and then he being dead they bring some one else on to contradict him; and it being purely secondary evidence, we object to it.

The PRESIDING OFFICER. The Chair thinks the witness could be used to testify to anything on that paper which is in evidence.

Mr. WORTHINGTON. I do not understand the Chair.

The PRESIDING OFFICER. The Chair thinks the witness can be interrogated as to any matter on the paper which is already in evidence.

Mr. WORTHINGTON. Then we will ask him to step aside and give him that paper, and ask him to make his calculation from that paper.

The PRESIDING OFFICER. Of course, so far as his calculations are based on any paper in evidence, he can testify to that. The Chair does not think that loose notes are admissible. There is no evidence that those are the notes on which the calculation was based. They may or may not be. It would be secondary evidence.

Mr. WORTHINGTON. Without pressing that matter now, and without abandoning our claim that the book might be put in evidence, we will pass the matter until he has an opportunity to look at the blue print in evidence and see whether we can get along with that and without the other.

Mr. Manager STERLING. I will say to the counsel that we shall certainly object to this witness interpreting what is on the blue print. The Chair and the Senate can interpret that as well as the witness. We shall certainly object to that testimony.

Mr. WORTHINGTON. Here is a memorandum at the bottom of the blue print, which says "55,000 tons available"; and the man who made it is not alive, and the managers contend that it means 55,000 tons of coal, Capt. May says that the notation on it means 55,000 tons of culm, and this engineer, having the figures from which the calculation was made, has gone over it and can show it means culm and not coal.

The PRESIDING OFFICER. The figures founded on that report, of course, are subject to examination, but not otherwise, in the opinion of the Chair, and the calculations can be made by counsel and used in the argument as well as if produced by the witness.

Q. (By Mr. WORTHINGTON.) While the witness is here there is another matter about which I wish to examine him. You have examined this dump, Mr. Jennings?—A. Yes, sir.

Q. When did you make an examination of it and in what way?—A. Do you mean an examination as to this map?

Q. No; I mean the dump itself. Did you go on the ground and examine the Katydid dump itself?—A. Yes, sir; I went there over a year ago with Mr. May, and I went there in November of this year.

Mr. Manager WEBB. I think the witness has testified to that already.

Mr. WORTHINGTON. That was my recollection, but my associate thought he had not.

Mr. Manager WEBB. I think he had.

Q. (By Mr. WORTHINGTON.) How long ago was your last visit?—A. Two or three days before Thanksgiving Day.

Q. You had information at that time that there were 55,000 tons of culm in it?

Mr. Manager STERLING. We object.

Mr. WORTHINGTON. I want to ask him if he made a calculation as to the portion of culm, assuming that it was culm.

The PRESIDING OFFICER. What is the question?

Mr. WORTHINGTON. The question is, from the examination this witness made of the pile, assuming that there were 55,000 tons of culm in it, what proportion of it was coal of different sizes and what proportion was culm. It is in evidence that there were 55,000 tons of something there, according to the report of a man who is dead, and it is a question for the Senate to pass upon, probably, whether that means 55,000 tons of culm, as Capt. May says he understood it, or 55,000 tons of available coal, as the managers seem to contend. We have a right, and I am only asking this witness——

The PRESIDING OFFICER. The witness may testify as to anything within his own knowledge.

Mr. WORTHINGTON. We are asking him upon an examination made of the dump to testify as to the proportions of the different kinds of coal in it. That is all.

The PRESIDING OFFICER. Of his own knowledge?

Mr. WORTHINGTON. Yes.

Mr. Manager STERLING. The question involves this: The counsel asked the witness to assume that there were 55,000 tons of gross material, and for him to make an estimate on that assumption is simply for the witness to interpret the meaning of the report made by Mr. Merriman, in which he undertakes to assume that that was gross material, when, as we insist, the report plainly shows it was available coal. For him to make an estimate of the coal on the assumption that that report means that there were 55,000 tons of gross material would simply be interpreting that for the Senate which we say the Senate themselves must interpret.

The PRESIDING OFFICER. The Chair thinks the witness ought to limit his testimony to what he knows from his own knowledge of the case.

Q. (By Mr. WORTHINGTON.) Perhaps we can work this out. [To the witness:] Did you have this paper with you when you went on the dump?—A. I did.

Q. Did you find stakes there?—A. I did.

Q. Agreeing with those indicated on the map?—A. I did. I found nearly all of them. There are one or two I could not find, but I found nearly all of them.

Q. So you are able to say that the map is substantially correct?—A. Yes, sir.

Mr. WORTHINGTON. I offer that map in evidence.

Mr. Manager STERLING. It is offered in evidence?

Mr. WORTHINGTON. Yes. The witness says he took it to the dump and saw the stakes there and compared them with those on the map, and he told us of his own knowledge that the map is substantially correct. I offer it in evidence.

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. What is the ground of the objection?

Mr. Manager STERLING. For the reason that this witness testified he has no knowledge. He only found that in the office of the engineer. We think that because a man found certain stakes on this culm dump, and the stakes are correct as indicated on the map, does not indicate anything about whether the map is correct otherwise or not. It is purely secondary evidence. You are proving a map by some one who knows nothing about it.

The PRESIDING OFFICER. The Chair thinks the witness must prove the correctness of the map, as to the measurements and everything else, if the map is to be introduced in evidence.

Q. (By Mr. WORTHINGTON.) To what extent, Mr. Jennings, can you state whether that map is or is not a correct representation of the dump?—A. I took these notes and worked it up.

Mr. Manager WEBB. The notes are not in evidence and have been excluded.

The PRESIDING OFFICER. The witness may testify as to whether or not he has verified all the details of the map, and if he has done so it is admissible in evidence.

Q. (By Mr. WORTHINGTON.) What do you say to that, Mr. Jennings?—A. I have not verified every detail of this map. I could not go and measure all those distances.

The PRESIDING OFFICER. Unless he has done so, the map is not admissible in evidence. If he has, it is.

Mr. WORTHINGTON. Let us see the memorandum book. [To the witness, handing book:] Do you know whether or not that is in the handwriting of Mr. Merriman and that is the book he kept while in the performance of his duties?—A. (Examining.) Yes, sir; that is the book.

Q. It was his custom to make those entries at that time?—A. Yes, sir.

Q. In the course of his business, at the time he made the investigations?—A. Yes, sir; that is the book. He itemized it.

Mr. WORTHINGTON. I think, under all the rules of evidence, that book, being a record made in the course of the performance of the duties of Mr. Merriman while making this investigation, and which were among his papers found in the office of the Hillside Coal & Iron Co. after his death, is competent evidence of the facts stated in it just as much as the book entries of a bookkeeper or a record of marriages made by one whose business it was to keep an account of marriages or the performance of any other thousand and one things for which books are put in evidence to prove the truth of the facts stated in them.

The PRESIDING OFFICER. The Chair thinks that it is perfectly competent for parties who desire to prove the correctness of that map to have those measurements verified by a living witness, and unless that is done, in the opinion of the Chair, the map is not admissible in evidence.

Mr. WORTHINGTON. Very well. That is all, Mr. President.

The PRESIDING OFFICER. It is not a case of proof as to a matter which rested within the knowledge of somebody now dead and where the proof could not be made by others. It is perfectly competent to have the measurement now made to verify that map.

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. That is all, Mr. Jennings. I should like to have it understood that this witness is not discharged.

The PRESIDING OFFICER. He will be so notified.

TESTIMONY OF V. L. PETERSEN.

V. L. Petersen appeared and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Petersen, your full name, please.—A. V. L. Petersen.

Q. Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. Mining and real estate.

Q. Mining what?—A. Coal.

Q. In what department of mining have you been engaged?—A. All departments.

Q. Including washeries?—A. Yes, sir.

Q. Have you any personal knowledge of the Consolidated washery, which is situated in the neighborhood of the Katydid culm dump?—A. That was built after I left the Hillside Coal & Iron Co.

Q. When were you connected with the Consolidated, or with the Hillside, so that you knew about the operations of the Consolidated?—A. Up until 1909—June, 1909.

Q. How many years had you been there prior to June, 1909?—A. I had been in the employ of the Hillside Iron Co. for something better than 25 years.

Q. Did you have charge of that particular plant, the Consolidated?—A. It is one of the plants I had charge of.

Q. Were you engaged there at the time Mr. Robertson was working or washing the Katydid dump?—A. I was.

Q. What can you tell us, of your own knowledge, as to whether or not in that operation he did not win chestnut coal from that dump?—A. When they first started to work the Katydid dump they tried to win chestnut and other sizes, but found that that was not commercially practicable.

Q. Why?—A. Because they could not make it pay.

Q. Why could they not make it pay?—A. Because there was so much impurity and waste to be handled in proportion to the small amount of coal that could be won, that it was not commercially feasible.

Q. What sizes then could be commercially produced from that dump?—A. From No. 1 buckwheat down.

Q. Now, can you tell us from your observation there whether he was working an average part of the dump or the better part of it, or the worst part of it?—A. He was working the better part of the dump.

Q. What would you say as to the part of the dump which remained there, as to whether it is possible to win chestnut coal from it to any extent or of any value?—A. Not commercially.

Q. What do you mean by "not commercially?"—A. That you can not make it pay.

Q. Did you have any connection with the negotiations for the purchase of the dump known here as Packer No. 3, near the Oxford washery?—A. Not the negotiations; no.

Q. Did you have anything to do with that business in connection with Judge Archbald?—A. I went down twice to examine the dumps.

Q. The Packer No. 3?—A. Packer Nos. 3 and 4.

Q. Well, go on and tell just what you had to do with that, Mr. Petersen, as your name figures here in the matter?—A. A friend of mine, Mr. J. F. Bell, an attorney in Scranton, I think, was the first one who spoke to me about this dump or these dumps, and asked me if I would go down and look them over, which I did in company with Mr. Jones.

Q. Which Jones?—A. His first name is Thomas, Thomas Jones.

Q. Thomas H. Jones?—A. I think that is it.

Q. Very well.—A. I made an examination, a cursory examination, not a thorough one, and came back and reported to Mr. Bell on the contents of the dump as I found them and the estimated amount of coal.

Q. Do you remember what your estimate was?—A. I took some notes, but I have not been able to lay my hands on them.

Q. You do not recollect, do you, right now, what conclusion you reached?—A. Not definitely, I think.

Q. Very well; I will not ask you to guess it. Go on, then, and tell what followed. We want to know what your connection was with this proposed purchase of Packer No. 3 from the beginning to the end.—A. I told Mr. Bell I would like to go down again, before the matter was finally determined, to look over the dump again, which I did. After I came back I was asked by Mr. Bell or Mr. Jones, I do not know who, to meet Judge Archbald in his office in Scranton, in the Federal building. The three of us met Judge Archbald there one forenoon.

Q. The three of you were whom?—A. Mr. Bell, Mr. Jones, and myself.

Q. All right. Proceed.—A. While there we spoke about the dump and about the proposed organization of a company to wash it out, and I was asked whether I would take charge of the operation if a lease were consummated for the dump. I said I would, provided the salary, and so forth, was satisfactory. That was all until some time later another meeting was held in Judge Archbald's office, where Mr. Bell, Mr. Jones, and two gentlemen from New York, Judge Archbald, and myself were present.

Q. Do you remember the names of the gentleman from New York? Was Mr. Farrell one?—A. Mr. Farrell was one—the coal dealer. I do not remember the name of the other gentleman.

Q. Very well.—A. We spoke about the selling of coal and about the financing of the undertaking. Mr. Farrell said that he would finance it with the understanding that I was to handle it on the ground. That is all that I know about it.

Q. Do you remember signing an application to Judge Archbald and Mr. Jones and Mr. Bell?—A. Yes, sir.

Q. For that lease?—A. Yes, sir.

Q. I should like to ask you if anything was said about that time about keeping quiet or concealing Judge Archbald's connection with that proposed purchase?—A. Not at all.

Q. Did you ever hear from any source any suggestion or intimation of that kind?—A. No, sir.

Q. Have you any personal knowledge as to whether this was an unusual or a usual transaction, having one man put up all the money——

Mr. Manager WEBB. We object to that, Mr. President.

Mr. WORTHINGTON. Will you not allow me to ask the question?

Mr. Manager WEBB. You have asked it. It is for the Senate to say whether it is unusual.

The PRESIDING OFFICER. The counsel will complete the question.

Mr. WORTHINGTON. On that question, Mr. President, when Mr. Farrell was on the stand he was asked precisely the same question and gave testimony. I do not remember whether we had any contention then about it or not.

Mr. Manager WEBB. We did.

Mr. WORTHINGTON. Mr. Manager WEBB says we did. The question was answered and Mr. Farrell told what he knew about it.

Mr. Manager WEBB. No; Mr. Farrell finally said he had but two transactions of the same kind, and that is all he said. The counsel for the respondent asked him what the general custom or habit was, and the reply was that he had had only two transactions like it. He never did answer the counsel's question.

The PRESIDING OFFICER. What is the question put by counsel?

Mr. WORTHINGTON. The question is if he knows whether it is a usual or an unusual thing in that anthracite country, of which Scranton is the center, for one person to put up all the money for exploiting a coal operation and others who produce the property and find it to share with him in the benefits of it? I understand the suggestion to be made here that Judge Archbald has done something that he ought not to have done, something criminal, because he did not put any money into this business.

The PRESIDING OFFICER. The Chair thinks the counsel can lay the foundation for that question by asking to what extent the witness has knowledge of other transactions or how general his knowledge might be.

Mr. WORTHINGTON. That is what I am asking him. I may call attention here to the previous ruling upon this question. Mr. Farrell was on the stand. It is at the top of page 805:

The Chair thinks, under the circumstances, that counsel is justified in bringing out the fact that there are such other transactions, but the Chair would hardly consider it proper to go into details.

The PRESIDING OFFICER. The Chair thinks the question ought to be as to how many transactions of this kind he has known or as to which he has knowledge.

Q. (By Mr. WORTHINGTON.) How many other similar transactions have you known about, Mr. Petersen; that is, similar in the respect that one man puts up the money and others share the benefits?—A. I know of two quite recently.

Q. And have you known of others?—A. Yes; but I do not know that I could recall them.

Q. You have known of others, but you can not recall now who they were?—A. Not just who they were.

Q. Can you give us any idea?

The PRESIDING OFFICER. The Chair thinks that it would be better to ask the witness how many he has known of that kind.

Q. (By Mr. WORTHINGTON.) How many altogether would you say you have known of?

Mr. Manager WEBB. He has said two.

Mr. WORTHINGTON. He says two recently, and others the details of which he could not remember. [To the witness.] About how many would you say you have known of altogether, Mr. Petersen?

The WITNESS. Why, I should think possibly a half dozen at least.

Mr. WORTHINGTON. That is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager WEBB.) You say you remember two recently? When were the other four?—A. Some time in the past.

Q. What were they?—A. What were they?

Q. Yes; the other four.—A. Money put up for the purpose of developing coal lands.

Q. What was the name of the company, corporation, or joint-stock company of each of the four?—A. Pardon me, I told the counsel that I could not recollect.

Q. Then you only recollect two; that is the fact, is it not?—A. I could not recollect the names of them.

Q. Well, can you recollect the amounts of the other four?—A. I may not have known the amounts.

Q. Can you recollect the men who were in them?—A. Yes; I recollect, for instance, one.

Q. Well, now, one; who was that?—A. That is a coal company up at Peckville.

Q. Were you in that company?—A. No; I have been employed by them.

Q. That is one. Now, do you remember any other?—A. I do not know that I can give it offhand.

Q. Are you a partner or a stockholder in the two recent ones?—A. I am not.

Q. Were you interested in the formation of the recent ones?—A. Not in their formation.

Q. So all you can remember now are three companies where some other man has put up the money—that is, three definite ones?—A. Yes, sir.

Q. You have been in the coal business 25 or 30 years?—A. Yes, sir.

Q. Now, getting to the Katydid dump, Mr. Petersen—you do not think the Katydid dump is worth anything, do you?—A. Oh, yes; it is worth something.

Q. You think it is worth something?—A. Yes, sir.

Q. What do you think it is worth?—A. Offhand, not having measured it or tested it, I would not pay $10,000 for it.

Q. You would not pay $10,000. Would you pay $5,000?—A. Yes; I would pay $5,000.

Q. Would you pay $6,000?—A. Yes, sir.

Q. How much do you think it is worth?—A. Well, I think five or six thousand dollars is all it is worth.

Q. That is all it is worth?—A. Yes, sir.

Q. You have never measured it; you have never examined it; you have never had an engineer to survey it?—A. No; but I know it quite well.

Q. Now, coming to Packer No. 3, when was the first time you saw Judge Archbald with reference to the corporation that was to be known as the Jones Coal Co.—or did you know that it was to be called that?—A. Yes, sir; I heard that.

Q. You heard it?—A. Yes, sir.

Q. Did you not know it when you signed your application to the Girard estate?—A. Possibly; I do not know whether that was mentioned in there or not.

Q. When was the first time you talked to Judge Archbald about it?—A. Some time in the late spring or early summer of 1911.

Q. In the spring or summer of 1911?—A. Yes, sir.

Q. When was it you made your application finally to the Girard estate?—A. All I know about that application is that letter that I signed there.

Q. That is, the application of December 19, 1911. Then, if your application was signed December 19, 1911, Judge Archbald and you had been negotiating or had been discussing the formation of a coal company to take over Packers Nos. 3 and 4 from the spring of 1911 until December, 1911; is that right?—A. Possibly you are right. It might have been later than that. I thought it was early in the summer; but it might have been later than that. I am not positive about that.

Q. When you and Mr. Farrell and Mr. Thomas Howell Jones met in Judge Archbald's office one night in Scranton about this matter, it was agreed that you should supervise the work of the corporation?—A. Yes, sir.

Q. It was agreed that Farrell should put up the money?—A. Yes, sir.

Q. It was agreed that James F. Bell should be the attorney to look after the legal business?—A. I am not positive as to that.

Q. That is the only reason you know of why he would have been in it, is it not—he is an attorney at law?—A. It is possible that was spoken of there; I do not know.

Q. And that Judge Archbald should secure the consent of the Lehigh Valley Railroad Co. to sublease it? Is not that what he was to do?—A. No; he was to get the lease, if possible, from the Girard estate.

Q. They had already gotten it from Mr. Warriner, acting for the Lehigh Valley people?—A. That I do not know.

Q. Who was to get it from the Lehigh Valley people, Mr. Petersen?—A. I do not know that.

Q. Was Farrell to get it?—A. I can not tell you.

Q. You knew he was not, but that he was to put up the money?

Mr. WORTHINGTON. I submit, Mr. President, that the witness should do the testifying and not the manager.

Mr. Manager WEBB. I am asking the question on cross-examination.

Mr. WORTHINGTON. The manager said "You knew he was not."

Mr. Manager WEBB. I raised my voice, Mr. President, indicating it was a question. [To the witness:] I say you knew that Mr. Farrell was to put up the money and that that was the end of his connection with the business, because he was not one of the incorporators?—A. No; I did not know that that was to end it.

Q. Do you know what Farrell was to do?—A. I know that he was to put up the money, but I do not know anything else.

Q. Do you know what Judge Archbald was to do then?—A. Only that he was to try to get the lease from the Girard estate.

Q. Did you know at that time that it was necessary to get the consent of the Lehigh Valley Coal Co. from Mr. Warriner before you could get it from the Girard estate, or vice versa?—A. No; I understood that the Lehigh Valley were quite willing to consent to the re-leasing of the dump, not only to the proposed Jones Coal Co., but to all others, provided the coal was shipped over their road.

Q. You need not go outside of that to make a defense. Who told you that? Did Judge Archbald tell you that he had gotten the consent of the Lehigh Valley Coal Co. to sublease it in case the Girard estate agreed to it?—A. No; I do not recollect that he did.

Q. Then did you not know when you signed that application that Mr. Warriner or the Lehigh Valley Coal Co. had already agreed to sublease it if the Girard estate were willing?—A. I did not; no, sir.

Mr. Manager WEBB. I will ask the Secretary to give me the number of the exhibit showing the application.

The SECRETARY. It is Exhibit No. 27.

Q. (By Mr. Manager WEBB.) I believe you said that you did not know at the time you signed this application to the Girard estate that the Lehigh Valley Coal Co. had agreed to sublease to you?—A. I do not remember that I did; no.

Q. I will ask you if you did not sign this statement, which is directed to the Girard estate:

But we have the assurance of that company—

Referring to the Lehigh Valley Coal Co.—

But we have the assurance of that company that on certain terms and conditions, which have practically been agreed upon between us, it will be satisfactory to them to have us lease from you to the extent suggested. * * *

* * * * * * *

R. W. ARCHBALD.
JAMES F. BELL.
V. L. PETERSEN.
T. H. JONES.

Q. Did you not sign that?—A. I have no doubt I did, if my signature is there; but I do not remember what was in that paper.

Q. Do you mean to say you signed an important application for a culm bank containing about 500,000 tons of coal without knowing what you were stating to the Girard estate?—A. As to that part of it, yes.

Q. Run over the application, Mr. Petersen, and see if that is what you signed. [Handing paper to witness.]—A. (After examining paper.) Yes, sir.

Q. Now, do you tell us that you do not remember that the expression that you had the assurance of the Lehigh Valley Coal Co. that their consent could be gotten was not in this application when you signed it?—A. I say that I do not remember it.

Q. You do not remember?—A. Of course, it was there; certainly.

Q. Now, perhaps, you can refresh your recollection after you have read that. Do you not remember that Judge Archbald told you that he had already secured the consent of the Lehigh Valley Coal Co., and that the next step was to get the consent of the Girard estate, and that is why you signed this application in this form and made that statement in it?—A. He may have said that.

Q. Did he not say it?—A. I would not be positive that he did.

Q. Was anything like that said?—A. Possibly, but I am not sure.

Q. You are an old coal miner there and know that the railroads or coal companies own these banks, and do you mean to say that you would have applied to the Girard estate without first knowing that you had assurances from the coal company that you could get the sublease?—A. I think that ought to have been the first step taken.

Q. The first step that was taken?—A. No; the first step that ought to have been taken—to apply to the Girard estate.

Q. Precisely, but it was not. Evidently somebody had gotten the consent of the coal company for their lease before you applied. Now, who was it that got that consent?—A. I do not know; I did not.

Q. You do not know?—A. No, sir.

Q. Then, you do not know why you signed such a statement as that to the Girard estate, telling them that you had already received assurances from the Lehigh Valley Coal Co.?—A. I was asked to sign that paper there, and that is all that I know about it.

Q. Did you read it over at all?—A. I think I did.

Q. But you do not remember that statement?—A. No; I have no recollection of it.

Q. Is it not a fact, Mr. Petersen, that you do remember that statement very well and remember the fact that Judge Archbald's part in this transaction was, first, that he had received the consent of the Lehigh Valley Coal Co. to sublease it, and the next step was to apply to his nephew, Col. James Archbald, to receive the consent of the Girard estate, and then the matter would be complete, and you would go to work?—A. I believe there was some such understanding as that, but I am not positive about it.

Mr. Manager WEBB. I think you can stand aside, Mr. Petersen.

Redirect examination:

Q. (By Mr. WORTHINGTON.) One moment. Have you any recollection at all as to what was said about Mr. Bell's consideration for his interest in the proposed company? You said it might have been stated that he was to act as attorney; that that is what he was to do. Do you recollect that anything was said on the subject?—A. No; I am not sure about that.

Mr. WORTHINGTON. That is all.

Recross-examination:

Q. (By Mr. Manager WEBB.) Did you state that you had been in the employ of the Hillside Coal & Iron Co. for 25 years?—A. Yes, sir.

Q. That is the company that is owned by the Erie Railroad?—A. It is a subsidiary company of the Erie Railroad; yes, sir.

Q. Have you been employed by any other railroad or coal company during that time?—A. I was superintendent of the New York, Susquehanna & Western Coal Co., which was also a subsidiary.

Q. All of the companies you have been employed by belong to the Erie Railroad Co.?—A. Yes, sir.

Mr. Manager WEBB. That is all.

Mr. WORTHINGTON (to the witness). How are you employed now?

The WITNESS. I am in business for myself.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF HENRY E. MEEKER.

Henry E. Meeker, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Meeker, will you give us your full name?—A. Henry Eugene Meeker.

Q. Where do you live?—A. New York.

Q. And your business?—A. Coal merchant.

Q. How long have you been a coal merchant?—A. For 22 years.

Q. In that business have you had dealings with people who furnish coal in the anthracite region around Scranton?—A. Yes.

Q. What can you tell us, if anything, as to transactions in which persons in New York put up all the money to operate some coal plant, and other persons who find the plant share with the persons who put up the money in the profits of the operation?

Mr. Manager WEBB. We object to that on the ground that counsel has not asked the question based upon a similar transaction to this. We do not deny that independent coal companies may be formed when coal land is bought, but counsel certainly can not ask a question on all fours, as we would say, with this proposition, where it has been shown in evidence that it required some effort or influence to secure from a coal-owning railroad their consent to sublease their coal land. We do not think the case can possibly be parallel and therefore in point.

The PRESIDING OFFICER. The witness can testify generally; and then it will be competent for counsel to show in what respect this particular case is to be differentiated from the general rule. The Chair thinks it is better, however, for counsel to ask the witness as to his particular knowledge of such cases, instead of as to his general knowledge.

Q. (By Mr. WORTHINGTON.) Well, Mr. Meeker, do you know of your own knowledge of cases in which that has been done?—A. I do.

Q. How many?—A. Well, I know of three of my own knowledge that I have done myself. I know of several outside of that from hearsay.

Q. Are any of those cases in which the coal property was owned or controlled by a railroad company?—A. In one case part of the property was controlled by a coal company which was owned by a railroad company.

Q. What coal company was that?—A. The Pennsylvania Coal Co.

Q. That is the one of which Capt. May is the vice president, is it not?—A. I think so; I do not know.

Q. Owned by the Erie Railroad Co.?—A. Yes.

Q. How long ago was that transaction?—A. That was about 18 months ago.

Q. How large an operation was it?—A. Well, I think we have about 200,000 tons of coal there.

Q. Now, tell us the others of which you have personal knowledge.—A. The other two were 15 years ago. They were down near Plymouth. One was a mining proposition and the other was a washery proposition.

Mr. WORTHINGTON. That is all, Mr. President. I do not care to go into the details of any of these transactions. The managers can ask for them if they so desire.

Cross-examination:

Q. (By Mr. Manager WEBB.) Mr. Meeker, what did the company you formed 18 months ago propose to work—a culm bank or coal property?—A. They proposed to work what is called a fill, which was composed of coal that was dumped by the Pennsylvania Coal Co. many years ago to make the gravity road.

Q. And abandoned when the old gravity railroad was taken up?—A. Yes.

Q. And, therefore, the Pennsylvania Coal Co. did not own an interest in it, because it had abandoned it 25 or 30 or 40 years ago. Is not that true?—A. One bank, as I understand, was leased by the Pennsylvania Co. to an individual, and the people who came to me had bought from that individual their lease.

Q. Who was that individual—V. L. Petersen?—A. I could not say off hand; I think it was, but I am not sure.

Q. He was the man who was on the stand awhile ago and employed——A. I would not want to say that. I have the papers, and I can find out for you. My recollection is that there is a Petersen fill there, or what is known as "Petersen's fill," but whether Petersen was the individual who had the lease that was sold to a man named Mumford I do not know.

Q. You know, as a matter of fact, do you not, that the old fills along the gravity railroad were abandoned by the Pennsylvania Coal Co. many years ago?—A. I do.

Q. And that when they abandoned the fills they lost possession of them?—A. I do not know that as a matter of fact.

Q. Well, did anybody else claim this fill, or did you get a lease from anybody else, besides the Pennsylvania Coal Co.?—A. I did not get any lease. Mr. Mumford and others had a lease.

Q. Did you see the lease?—A. I saw the lease, or my attorney saw the lease.

Q. Whom was it from—who made the lease?—A. The Pennsylvania Coal Co. made the lease.

Q. To whom?—A. You say it was to Mr. Petersen. I can not give you the name now.

Q. I ask you if it was not Petersen, and Petersen leased or deeded it to some trustees, did he?—A. No; he leased—no; Mr. Petersen did not lease to anybody. To be perfectly frank with you, I have forgotten entirely. I have the papers; if you would like me to give those names, I could give that to you from the papers.

Q. Have you them here?—A. Upstairs; yes, sir.

Q. I will be glad to see them after you stand aside to-night. Do you know anything about the title to the old gravity fill?—A. I do not.

Q. You do not know what interest the Pennsylvania Coal Co. had in it after it was abandoned, but you do know it was abandoned by them years ago?—A. I do know that from general knowledge.

Redirect examination:

Q. (By Mr. WORTHINGTON.) You do know that this lease under which this operation was to be carried on was a lease from the Pennsylvania Coal Co. on the——A. Part of the lease; yes.

Q. Is it not a fact that the dump was called not the Petersen dump but the Patterson dump; was not that the dump?—A. No; the Patterson fill is the name; I know that.

Q. What kind of material was the fill?—A. It was all culm.

Q. It was culm?—A. Yes. But I do not believe the lease was in Mr. Petersen's name, as I recollect it.

Recross-examination:

Q. (By Mr. Manager WEBB.) How far is this fill from the railroad?—A. About 2 miles.

Q. What railroad?—A. From the Erie road.

Q. (By Mr. WORTHINGTON.) Was the coal that was made from the fill shipped by the Erie?—A. Yes. The washery is on the Erie. The culm is moved to the washery.

Q. (By Mr. Manager WEBB.) I will ask you if you do not know that it is a universal policy of the coal-owning roads in Pennsylvania not to sell or lease their properties?

Mr. WORTHINGTON. I object to that as not being cross-examination. I did not ask him anything about that. I ask that the cross-examination be confined to the subject to which the direct examination was addressed.

The PRESIDING OFFICER. The point is well taken.

Mr. Manager WEBB. That is all we care to ask him.

Q. (By Mr. WORTHINGTON.) I will ask you one other question. Are you the Mr. Meeker of the Meeker case that we have heard something before the Interstate Commerce Commission?—A. Yes, sir.

Mr. WORTHINGTON. That is all.

The WITNESS. May I be excused?

Mr. WORTHINGTON. Yes; so far as we are concerned.

The PRESIDING OFFICER. Is it desired that this witness should be retained for any purpose?

Mr. Manager WEBB. Yes, sir; it is, Mr. President.

The PRESIDING OFFICER. The witness will be temporarily excused but not finally discharged.

Mr. WORTHINGTON. If after reading the papers the managers do not want him, he may be discharged so far as we are concerned. He need not wait on our account.

Mr. Manager WEBB. Very well, then; the arrangement is satisfactory.

TESTIMONY OF MORITZ RICHARD HELLBUT.

Moritz Richard Hellbut, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Please give us your full name.—A. Moritz Richard Hellbut.

Q. Where do you live?—A. Red Bank, N. J.

Q. What is your business?—A. Coal business.

Q. What branch of the coal business?—A. Selling coal.

Q. How long have you been engaged in that business?—A. Nearly all my life—for 25 years.

Q. Did you have any connection with the proposed purchase, in the year 1911, of what is known as Packer No. 3 dump?—A. I did.

Q. Near the Oxford washery?—A. I did.

Q. Tell us about that, please.—A. I was trying to get a dump for Robertson, Haydon & Co., the firm in which I was interested, and I tried to find a good dump. I was told about this dump through a man named T. H. Jones.

Q. T. H. Jones?—A. T. H. Jones. He wrote me a letter about it, and I told him that if the dump was as he represented it I could find him some money to get this dump. He asked me, then, on the 20th of December last year to come to Scranton with my party and see Judge Archbald about it, who was partly interested in this dump. We got to Scranton and saw the judge at his office in Scranton that evening. We spoke over the proposition, talked it all over, and decided to go the next day up to Shenandoah, where the dump is, and inspect it. After we inspected it we considered——

Q. Who inspected it with you?—A. Mr. Farrell was with me, and Mr. Jones and Mr. Farrell's son, and we measured the dump and found, I think, it was about 700 square feet. We considered that it was a safe proposition to put in the amount of money that was to be required to build the washery.

Q. You say, "We considered it a safe proposition." Whom do you mean by "we"?—A. Mr. Farrell asked my advice on it. That is the reason I say "we."

Q. And you did agree then to put in the money?—A. Yes.

Q. What were you to get for your money?—A. Mr. Farrell put in also some money and he was to get 20 per cent of the profits of the company and 6 per cent on his money.

Q. And the rest was to go to whom?—A. The rest was to go to the stockholders. Mr. Jones proposed to give him a share of the stock, but he said he would not take it. He said he did not want any stock, only wanted a profit in the company.

Q. He did not want to become a stockholder?—A. He did not want to become a stockholder.

Q. Do you know of other transactions of that kind—I mean where one person or a set of persons find a coal property and other persons put up all the money necessary to operate it?—A. I am interested in another one now where exactly the same thing happened.

Q. Where is that?—A. At Hawley, Pa.

Q. In a general way, what is the extent of that operation; is that a large or small operation?—A. Quite a large one, considerably more than $30,000.

Q. And from what company or concern does that property come?—A. In some part directly from the Pennsylvania Coal Co., and in some part from sublessees of the Pennsylvania Coal Co.

Q. Is that the operation in which Mr. Farrell is interested with you, too?—A. Yes.

Q. And as to which he has testified?—A. Yes; I guess he has.

Q. Do you know through what party or parties that interest comes from the Pennsylvania Coal Co.?—A. I think through Mr. Petersen.

Q. You think through Petersen?—A. I think so, but——

Q. You know Mr. Petersen has been on the stand?—A. Yes.

Q. Is that the man?—A. Yes; that is the man.

Q. Do you know of any other cases of this kind, where one person or party finds the property and gets somebody else to put up the money?—A. I know of Mr. Meeker——

Q. Do you know of any others?—A. I only have heard about other cases. I could not say positively.

Q. Do you know of a case in which a man named Hildebrand was concerned?—A. His case is a little different from that. We had a case——

Mr. Manager WEBB. Never mind about that, unless the counsel wants it.

Mr. WORTHINGTON. No; I do not care about troubling you about that, Mr. Hellbut.

Q. (By Mr. WORTHINGTON.) I want to know if anything was said at the meeting where you met Judge Archbald or at any other time, for that matter, by anybody about keeping quiet the fact that Judge Archbald was an interested party in this transaction?—A. Not at all.

Mr. WORTHINGTON. That is all, Mr. Manager.

Cross-examination:

Q. (By Mr. Manager WEBB.) The reason why you put your money in it was because Judge Archbald was one of the incorporators?—A. I did not put my money in. You mean Mr. Farrell?

Q. You found the man who put his money in?—A. Yes.

Q. That is the reason why he put his money into the proposition?—A. Oh, no.

Q. Because Judge Archbald was interested in it?—A. No, sir; he did not put his money in for that reason. He put it in because he thought the proposition was a good one.

Q. But he had to have somebody back of the proposition before he would get his money out of it?—A. He had full security. We had to hold the stock in escrow until all his money was paid back. The whole stock was in escrow until his money was paid back at 20 cents a ton, with interest.

Q. I understood that Mr. Jones found you and you found Mr. Farrell and Mr. Farrell furnished the money. Is that right?—A. That is right.

Q. You spoke about a fill containing something like 200,000 tons. Is that one of the old gravity railroad fills?—A. Yes; one of the old gravity railroad fills.

Q. One of the old fills that the Pennsylvania Coal Co. abandoned?—A. It is 12, 13, and 14, and, I think, 15, too.

Q. An abandoned gravity fill?—A. Yes; an abandoned gravity fill; one of the best coals in the market.

Q. Abandoned 35 or 40 years ago?—A. Abandoned, I think, 30 years ago—about.

Q. Do you not know that the Pennsylvania Coal Co. does not own the land or the coal that you are working now?

Mr. WORTHINGTON. I submit this witness can hardly be expected to know.

Mr. WEBB. I ask him if he does, and he can answer that.

The PRESIDING OFFICER. It is put interrogatively.

The WITNESS. May I have that question asked again?

Q. (By Mr. Manager WEBB.) Do you not know that the Pennsylvania Coal Co. does not now own either the land on which this fill is or the culm in it?—A. No; I do not.

Q. You do not know whether it owns it or not?—A. I am told—and I have leased of the Pennsylvania Coal Co.—I have seen a lease of the Pennsylvania Coal Co. where they claimed to own it.

Q. They claimed to own it?—A. Yes.

Q. And the lease you have is through this man Petersen, who has been employed by them for 25 years?—A. I have not the lease from Petersen; I have the lease from the Pennsylvania Coal Co. Mr. Beyea signed the lease as land agent.

Q. How does Mr. Petersen figure in it?—A. There was some part of the fills which was sublet locally, and he got them all together so as to make a tonnage which would justify building a washery to take care of any amount of coal.

Q. Have you a lease from Petersen?—A. We have no lease from Petersen.

Q. What has he to do with, or did he have to do with, the forming of the company?—A. The forming of the company he had nothing to do with.

Q. How did he figure in the transaction, then? You spoke of him a while ago.—A. Mr. Petersen figured in the transaction in this way: He has gotten together from four or five people there the leases which they owned.

Q. Four or five people, you say?—A. Yes; four or five different people—the leases which they owned.

Q. And Petersen leases to you?—A. No. He had the people turn the leases over to us direct. Mr. Petersen is not in it at all.

Q. He turns these leases over to you directly?—A. Yes.

Q. And if the Pennsylvania Coal Co. had any interest, they have leased that to you, too?—A. They approve the leases, and they were turned over to us.

Q. Do you not know that those individuals that leased to Petersen owned the land, and because the Pennsylvania Coal Co. abandoned it 35 or 40 years ago they also abandoned their right to the culm, and those individuals own both the culm and the land?—A. That is new to me.

Q. Do you know what proportion the Pennsylvania Coal Co. claims in the bank—what interest they claim?—A. What interest, you mean, they own in the land?

Q. I want to know if you know what interest the Pennsylvania Coal Co. claims in this old gravity fill that you are working?—A. That they own it all.

Q. What interest do the individuals have who give you the lease?—A. They did not claim to own anything. The Pennsylvania Coal Co. has the right of way, as I understand, on each side for 25 feet. They own the actual land, I am told.

Q. What did the individual own?—A. The individual had a lease from the Pennsylvania Coal Co.

Q. When were these leases made?—A. Ten years ago, I think, some; eight years ago. They screened it locally, with hand screens, for local consumption, and left everything below pea and even pea in that screening.

Q. Then if individuals were leased this fill by the Pennsylvania Coal Co. and you owned the individuals' leases, why did the Pennsylvania Coal Co. make you a lease direct?—A. On part of it the Pennsylvania Coal Co. did not have any leases given out.

Q. What part? That is what I asked you awhile ago.—A. I think it was the twelfth level. I will have to look that up. And the thirteenth and fourteenth plane.

Q. What proportion in decimal figures would that be of the dump, if you know?—A. I never have figured it all together. I did not figure it especially, you know.

Q. All you know is, then, that the Pennsylvania Coal Co. claimed an interest in the fill; you do not know what it is?—A. I know we have the fill from the Pennsylvania Coal Co. direct and the re-lease from others, with the consent of the Pennsylvania Coal Co., which is required.

Mr. Manager WEBB. All right, sir; stand aside.

Q. (By Mr. WORTHINGTON.) Who do you say signed the lease for the Pennsylvania Coal Co.?—A. Mr. Beyea, the land agent.

Q. (By Mr. Manager WEBB.) Have you that lease with you?—A. No; there is a set of leases. There is not only one lease; there are quite a few leases.

Mr. Manager WEBB. All right, sir. Stand aside.

The PRESIDING OFFICER. Is there a desire to retain this witness?

Mr. WORTHINGTON. No, sir.

The PRESIDING OFFICER. He may be finally excused.

Mr. WORTHINGTON. The examination of the next witness will probably take somewhat longer than the time we have remaining before 6 o'clock.

The PRESIDING OFFICER. It lacks three minutes of the adjourning time, or two minutes and a half. What is the pleasure of the Senate?

Mr. NELSON. I offer the following order.

The PRESIDING OFFICER. The Senator from Minnesota offers the following order, which will be read by the Secretary.

The Secretary read as follows:

Ordered, That the proceedings in this case, printed in pamphlet form, be indexed and bound, for the use of the Senate, during the holiday recess of Congress, ready to be furnished Senators, managers, and counsel for the respondent by the 2d of January, 1913.

The PRESIDING OFFICER. The Chair will state for the information of the Senate that the committee which has had charge of the details of this proceeding has already had a clerk engaged in the work of indexing. In view of that fact, it may

not be necessary that the full order be adopted as written, unless it is made to cover the work already done.

Mr. NELSON. It will cover that, Mr. President.

The PRESIDING OFFICER. The question is on the adoption of the order just read. Is there objection?

Mr. REED. Is it not possible to have the time of delivery shortened, so that we can have that record to read before the Senate reconvenes and the trial is resumed? Will it not be possible to have it delivered five or six days sooner than the time stated?

Mr. NELSON. I do not know as to that. I presume it can be printed as soon as it is ready. The object is to have these loose copies bound in a book with an index for our use. I will ask to have the words "as soon as possible" substituted for the words "by the 2d of January, 1913."

The PRESIDING OFFICER. Is there objection to the adoption of the order as modified? If not, it will be considered as unanimously ordered by the Senate. The hour of 6 o'clock has arrived and the Senate sitting as a Court of Impeachment stands adjourned until 1 o'clock and 30 minutes p. m. to-morrow.

The managers on the part of the House of Representatives and the respondent and his counsel retired.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. 6283) increasing the cost of erecting a public building at Olympia, Wash., and it was thereupon signed by the President pro tempore.

REGULATION OF IMMIGRATION.

Mr. LODGE. I ask that the immigration bill as amended by the House of Representatives, which has just been received, may be laid before the Senate.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, which was to strike out all after the enacting clause and insert a substitute.

Mr. LODGE. I move that the Senate disagree to the amendment of the House and ask for a conference, and that the Chair appoint the conferees on the part of the Senate.

Mr. STONE. Mr. President, I ask that this action be not taken at this time.

Mr. LODGE. Mr. President——

Mr. STONE. Just a moment. I do not care to move, at least I would rather not now move, that the Senate concur in the amendment of the House. I should like to have the bill as passed by the House lie on the table until to-morrow.

Mr. LODGE. The House has struck out all of the Senate bill except the illiteracy test, and that the House has inserted in a slightly different form, but in substance the same. Unless we are prepared to abandon all the administrative features of the bill, which no one suggests, I think concurrence is out of the question. We adjourn to-morrow for the holiday recess, and it is very important that the House should have the opportunity to appoint their conferees to-morrow. They have sent the bill here to-day on that account.

Mr. STONE. Of course, we can not dispose of the bill at this session.

Mr. LODGE. At this session of Congress?

Mr. STONE. I mean before the holiday recess.

Mr. LODGE. There is not the slightest intent of even taking it into conference before that time. The object is merely to get conferees appointed.

Mr. STONE. They can be appointed to-morrow, perhaps, as well as to-day. I should like to have the bill go over, so that I may confer with several Senators who have spoken to me about it on this side before that action is taken. I ask that it may lie on the table.

Mr. LODGE. Mr. President, I do not want to assent to that delay in action on the bill.

The PRESIDENT pro tempore. The Senator from Massachusetts moves that the Senate disagree to the amendment made by the House of Representatives and ask for a conference on the disagreeing votes of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

Mr. STONE. I make the point of no quorum.

The PRESIDENT pro tempore. The Senator from Missouri raises the question of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Nelson	Smith, S. C.
Bacon	Hitchcock	Oliver	Smoot
Brandegee	Johnston, Ala.	Overman	Thornton
Bristow	Jones	Page	Townsend
Bryan	Lodge	Pomerene	Warren
Crawford	Martin, Va.	Root	
Fletcher	Martine, N. J.	Smith, Ga.	

The PRESIDENT pro tempore. On the call of the roll 26 Senators have answered to their names—not a quorum.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to, and (at 6 o'clock and 8 minutes p. m.) the Senate adjourned until to-morrow, Thursday, December 19, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December 18, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, keep us, we beseech Thee, in all our intercourse with our fellow men in touch with Thee, lest we forget the admonition, "Judge not, that ye be not judged; for with what judgment ye judge, ye shall be judged; and with what measure ye mete, it shall be measured to you again"; that we may put into our daily life that sublime injunction, "All things whatsoever ye would that men should do to you, do ye even so to them; for this is the law and the prophets."

Thus may we hallow Thy name, in the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

ONE HUNDRED YEARS OF PEACE.

Mr. MOORE of Pennsylvania. Mr. Speaker, I ask unanimous consent for leave to print in the RECORD an address on One Hundred Years of Peace Among English-Speaking People, delivered in New York recently by the Hon. WILLIAM D. B. AINEY, a Member of this House from the State of Pennsylvania.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to print in the RECORD the address by his colleague [Mr. AINEY] on One Hundred Years of Peace. Is there objection?

There was no objection.

Address of Hon. WILLIAM D. B. AINEY, Member of Congress, at the dinner given by the American committee for the celebration of one hundred years of peace among English-speaking people to Ambassador Bryce, Hotel Astor, New York, December 13, 1912, Hon. Alton B. Parker, presiding.

Your Excellency, Mr. Chairman, ladies, and gentlemen. It affords me a high sense of privilege to be present with you on this occasion, distinguished and graced by the British ambassador, who has consented to be your guest, and to unite with you in behalf of my colleagues in the Congress of the United States in expressions of felicitation and encomium and in conveying to him America's tribute of great affection.

I am deeply appreciative of the harmonious blending of thought and expression, of person and place, of illustrious guest and purposeful host in this complimentary dinner rendered to Ambassador Bryce by the American committee for the celebration of one hundred years of peace among English-speaking peoples.

America is not unmindful of the diplomatic brilliancy of the distinguished guest; it will not forget him as one deeply versed in history—a man of letters. He will be remembered for his charm of manners and engaging personality, but the emphasis of his accomplished work among us has been in a sense, perhaps, to him unknown. He has interwoven the fibers of his own generous sympathies into the very fabric of American heart life and bound the English-speaking peoples by the cords of love.

A hundred years of peace between elbow-touching nations, wherein the thoughts and purposes of each have run in parallel lines in unbroken course, notes a great era of the world.

The signing of the treaty of Ghent marks a new source from whence spring the fountains of English-speaking history. Since that day the two mighty rivers of Anglo-Saxon life and influence have flowed steadily on and, side by side, never overflowing their banks, but in their onward course bound in the very nature of things to mingle their waters in the great ocean of a common destiny and accomplishment.

It would be interesting to follow them in their history under this figure of speech from small beginnings to the mighty present, and peer, as far as the mere human may, into the region of the coming days.

The similarity is so apparent that it has been oftimes remarked, common in language, literature, history, and traditions, with similar religious and ethical conceptions, possessed of the same ideas as to the fundamentals in government, they have both sought, through all these means of expression, to obtain and give that liberty which means the exaltation of the individual life to a place where it may fulfill the duty of its created purpose.

The common goal is quite apparent, the waters may overflow the banks, and, God forbid it, wars may come to hinder and delay; but as surely as the day is day, as right is right, and rivers flow to ocean, the Anglo-Saxon problem will ultimately find solution in the broadest and deepest unity of purpose.

Among the world's great thinkers of other races the peculiar aptitude of the Anglo-Saxon to grasp the thought of his own and others' rights in his quest for liberty has been pointed out. He has been intensely but not selfishly individualistic in his views. To him personal liberty has meant individual liberty, if one may here differentiate in terms. Not merely the liberty to throw off restraint, but liberty to do and be and think and to acquire; liberty to express himself in life and influence, to reach the topmost rung, to climb the highest peak, to fulfill within himself the high possibility of his created being.

One hundred years of peace have not been years of sluggish sleep. Great problems have been met and solved, and these in turn have made new problems, which now meet the English-speaking peoples. During this lapse of time the Anglo-Saxon has contributed largely to modern civilization, and in turn received of its benefactions. He has demanded for himself liberty, and he has attained it and has increased in stature by the attainment. With liberty came enlightenment, and this gave him a vision of opportunity, and he has seized upon it.

The rank and file have answered to the Anglo-Saxon cry to step up higher. Thus far their destiny is accomplished. It has brought an influx of great numbers, the inevitable result of our conception of personal liberty, into the activity incident to national governments, and so influencing the international relations. And now they are turning the wheels of our body politic. National consensus of opinion, always potent, rests not now with the few but with the many.

The spirit of unrest, concerning which so much has been said, comes as a necessary sequence in the development of the liberty thought among the English peoples, and it has caused some to question whether after all we have not made a bad solution. I have no fears, nor would I retrograde in Anglo-Saxon purpose, but meet the issue squarely.

The problem is profoundly international; it is intensely national; it is preeminently individual; involved in it are the principles which sustain world peace.

Referring again to the accepted and well-recognized similarity between British and American conditions and thought, as elements contributing materially to a continuance of English peace, it may well be said that men who think alike have little chance to dispute. So strong is this that were the boundary lines of government suddenly removed with their attendant prejudices, the English-speaking people would coalesce, as by the law of attraction, to a common thought and interest.

The point, then, is for us to know that we think alike. This brings international confidence. If we do not know that our neighbor across the line is thinking similar thoughts, having similar hopes, actuated by similar ambitions, we have no common interest in each other. But when we find that he grows roses and we like roses, the door opens and we may go back and forth in newborn comity.

History, travel, commerce, intercommunication, arbitral treaties, and arbitrations lead nations to know each other better and bring about a common understanding—an international public opinion.

Nations express themselves through their peoples and public opinion, considered in the light of the greater number of those whose thought create it, it is more powerful than ever before. It is the power which hereafter can influence war or sustain peace between the English-speaking peoples. It must be addressed; it must be considered; it must be reckoned with.

Mankind yields to two great influences—the intellectual, which affects his judgment, and the moral, affecting his sentiment. The world has ever strongly emphasized the first and too oft minimized the second as being effeminate and intangible.

It has been the intangible, if you please, sympathy, love, honor, patriotic devotion, high unselfishness, which has left its impress in every step of progress in individual or world development. On no other basis can the brotherhood of man be established and maintained; on no other consideration can world peace and home peace be assured. To its gentle attractions the multitudes have ever yielded a ready response; but if it be not offered to the people, what then? There soon is found a lodgment for the world-destroying counterfeit—war-producing hate.

To bring about an international understanding, using the apt term formulated by Dr. Nicholas Murray Butler, so freighted in meaning as to be quickly seized by the English world, we need an "international mind."

We may not stop here, else we fail in our philosophy to realize how much the great world hangs its activities upon the broad sympathies of mankind; the potency of the emotional in man; its quick response to words of love or hate, to kiss or blow; the ready yielding of both men and nations to the common influence of a kindred feeling.

Some years ago an article touching the relations between the United States and Great Britain appeared in the Atlantic Monthly. It closed with a sentiment so high and exalted that I bring it here:

"Though our countries may have no formal alliance,
They have a league of hearts."

The author was your distinguished guest, the sentiment a page from his great heart and life and work.

Let it be paraphrased and then enthroned beside the other one.

Give us then—

An international mind to understand,
An international heart to feel,

and our hundred years of peace are but the beginning of an endless day of peace on earth, good will to men.

DIRECT ELECTION OF UNITED STATES SENATORS.

Mr. RODDENBERY. Mr. Speaker, I ask unanimous consent to print in the RECORD a report of the committee on resolutions, adopted by the General Assembly of Georgia, relative to the proposed amendment to the Constitution of the United States providing for the direct election of United States Senators by the people. It is the official action of the Legislature of Georgia on that question.

The SPEAKER. The gentleman from Georgia asks unanimous consent to print in the CONGRESSIONAL RECORD the proceedings of the Georgia Legislature on the subject of the constitutional amendment affecting the election of United States Senators by direct vote of the people. Is there objection?

There was no objection.

The report is as follows:

Report of the joint committee of the Legislature of Georgia relative to the resolutions of Congress proposing an amendment to the Constitution of the United States providing for the election of Senators by the people of the several States.

To the General Assembly of Georgia:

Your committee to whom was referred the resolution of the Congress proposing to amend the Constitution of the United States in the matter of the election of the Senators, with instructions to inquire and report whether the amendment is proposed according to the terms of the Constitution report as follows:

In the year 1776 the 13 American Colonies, then subject to the British Crown, jointly published to the nations of the world a declaration of their purpose to sever their connection with the mother country for reasons fully set forth in that instrument. The declaration made was in these words:

"That these United Colonies are and of right ought to be free and independent States; that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is and ought to be totally dissolved, and that as free and independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which independent States may of right do."

The Colonies were not at that time united by any other bond than as allies in war.

Upon the issue made by this declaration wager of battle was joined with the State of Great Britain, and the war terminated by a treaty of peace signed at Paris in the year 1783, whereof the first article was as follows:

"His Britannic Majesty acknowledges the said United States, viz: New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia to be free, sovereign, and independent States; that he treats with them as such, and, for himself, his heirs, and successors, relinquishes all claim to the government, propriety (?), and territorial rights of the same, and every part thereof."

During the continuance of the war, to wit, in the year 1777 the delegates to the several States agreed tentatively upon certain articles of confederation erecting a form of government mutual to them all, and these articles, being afterwards separately considered and consented to by the several States, each for itself, were signed on the 9th day of July in the year 1778 by the respective delegates of the States, each delegation acting in that matter, in pursuance of specific instructions from their own States directing them so to consent.

The government thus created was styled by these articles "a firm league of friendship." It was in fact but little more than such a league, and in the second article of it specifically maintained the status of the several States as described and recognized in the treaty of Paris in these words:

"ART. II. Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this confederation expressly delegated to the United States in Congress assembled."

By the fifth of these articles it was provided that each State should annually, and *in such manner as its own legislature should determine*, appoint delegates to a Congress of the United States "for the more convenient management" of their general interests, the number so selected by any one State to be not less than two nor more than seven, each State maintaining its own delegates, and each State having one vote in the Congress and no more.

The government created by these articles did not prove adequate to its own necessities, and in the year 1787 delegates were selected from the several States to meet in convention at Philadelphia under a resolution of the Congress adopted February 1, 1787, in these words:

"*Resolved*, That in the opinion of Congress it is expedient that on the second Monday in May next a convention of delegates, who shall have been appointed by the several States, be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures such alteration and provisions therein as shall, when agreed to in Congress and confirmed by the States, render the Federal Constitution adequate to the exigencies of Government and the preservation of the Union."

In response to this expression from the Congress 12 of the States did send delegates to such a convention, and the present Constitution, except the amendments thereto, was the result of its deliberations, being proposed by the convention in September, 1787, and afterwards, and before the end of the year 1788, ratified and agreed to by 11 of the States, and the new Government put into operation between them. Afterwards, in November, 1789, the State of North Carolina acceded to the new Government, and Rhode Island did likewise in May of the year 1790.

There can be no doubt that the States all showed during the entire period of the negotiations and proceedings extreme solicitude for the preservation unimpaired of their respective sovereignties and an almost jealous apprehension of any possible assumption by the Federal Government of any authority not expressly delegated to it by the free consent of all the States. This solicitude, indeed, found expression in an amendment agreed to so early and so earnestly insisted upon in the ratification of many of the States as a condition upon their consent as to be practically a part of the original Constitution. That amendment stands in these words:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

Nor can there be any doubt that prior to the final adoption of the Constitution no State could be subjected to any new subtraction from its sovereignty except by its own free consent. That is to say, no change in the Constitution could be imposed upon any State prior to that time without its own consent, even though all other States so decreed; a principle clearly illustrated in the fact that, although 11 States agreed at first to the new Constitution as a substitute for the old, no attempt was made to impose its obligation upon Rhode Island or North Carolina.

This principle that no State could ever have any alteration of the Constitution imposed on it except by its own consent was departed from for the first time by the terms of the Constitution of 1787, and then only by the free consent of every State. It is therefore pertinent to look to the question of how this alteration occurred, and see to it that no extension be consented to by implication beyond the exact terms of the original grant.

When the convention of delegates, representing only 12 States, formulated the Constitution, they fully recognized their own want of authority to impose its changes upon any State, and took notice at the same time of the fact that it was impossible to foresee which States would and which would not accede to the new Government. Therefore they wrote into it as the last article this provision:

"The ratification of the convention of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

The ninth State to ratify the Constitution, New Hampshire, did so on June 21, 1788, but Virginia and New York did likewise on June 26, and the new Government went into operation between 11 States.

The fifth article of this Constitution made the first provision ever contemplated for the United States or any of them for the amendment thereof without the unanimous consent of the States, and therefore was the first authority that the States ever consented to for the imposition upon any one of them of any dereliction from its own sovereignty by a vote of the others or of any number of the others. That provision remains of force.

Bearing in mind the historic reluctance of the several States to part with any of their reserved powers, or to permit any impairment of the sovereignty and independence they had wrested in war from the British Crown and so jealously safeguarded in the formation of this Government, it seems but a prudent and proper adherence to our just and honorable traditions to make no further concessions upon this subject and consent to no changes in the fundamental law except such as are made in strict conformity to its terms.

The provisions on this subject to which our fathers agreed are expressed in the following words:

"The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

Before any State can have imposed upon it any alteration of the Constitution, it is provided by this article that three-fourths of the States must so decree. If three-fourths do so decree, and that decree is effected in the method pointed out by the Constitution, a State may have new terms imposed upon it or its sovereignty altered or impaired in any way and to any extent whatsoever, except in the sole particular of its right to equal representation in the Senate. The vast possibilities of this power of amendment, therefore, ought to warn every State, in case of proposed amendments, to insist upon exact compliance with every prerequisite stated by the Constitution, and that such insistence should be as jealous and as scrupulous as was the traditional care of our fathers to preserve to each State every vestige of its sovereign power not deemed necessary to be surrendered for the general good.

The obvious prerequisite without which no number of States can impose any alteration in the frame of government on any one of them is in this, that the first step for setting in motion the machinery of amendment shall be in its proposal by two-thirds of each House of Congress. Unless two-thirds do so propose an amendment, it seems hardly open to question that no amendment is possible without a violation of the terms of the covenant.

The only possibility of difference in this matter lies in the question whether the requisite two-thirds means two-thirds of those present in each House or two-thirds of the entire membership of each. The language of the Constitution is "two-thirds of both Houses," and it is at least certain that a literal construction of these words could not mean "two-thirds of those present in each House" or "two-thirds of those present and voting in each House." If there were no other light in the Constitution by which to interpret these words, it would at least be a fair argument to contend that if the framers had intended "two-thirds of those present" they would have said so in unambiguous words.

But it happens that there is other light in that great instrument, for by the third section of the first article, dealing with the question of impeachment, it provides that "no person shall be convicted without the concurrence of two-thirds of the Members present." In like manner the power to make treaties, granted to the President in the second section of the second article, has this condition, "Provided two-thirds of the Senators present concur." By all the approved rules of legal construction, sanctioned by the wise experience of a thousand years, these passages ought to solve all doubts unless some other clause be found to raise a just renewal of the question.

The provision in the fifth section of the first article which constitutes a majority of each House a quorum to do business can not be considered to raise such question, for, obviously, that section refers only to the general ordinary course of normal legislation, and if it had any application to extraordinary matters no necessity would have existed for the provision that in case of impeachment the two-thirds required to convict means two-thirds of those "*present*."

Impeachments are in the nature of bills of attainder, of such high authority as are not necessary to be based on previous statute defining and prohibiting the offense, and are therefore extraordinary in their nature. The treaty power is perhaps most dangerous to the reserved sovereignty of the States, for under it the President, with the requisite advice and consent, may exercise far-reaching power over them. Amendment of the Constitution, for reasons already stated, is in much higher degree an extraordinary power. Indeed, we feel safe in saying, in view of the history herein set forth, that to no subject whatever did the prudent men who framed the Government give more cautious attention than to the fixed purpose that each State should reserve its sovereignty undiminished and incapable of abatement except upon its own consent. All these acts of Congress therefore require a larger vote than any ordinary legislation. In two of them the consent of two-thirds of those "present" is required. In the other the consent of two-thirds of each House is needful. It seems impossible to doubt that the difference in the language used by the exact men who wrote the Constitution was designed.

These considerations, it seems to us, are greatly emphasized by the fact that, if the meaning we have attached to the Constitution in this regard be not the true one, then it follows that barely more than one-third of each House could set in motion the extraordinary machinery which might result in the subtraction from a State of some vital portion of its sovereignty without its own consent. Such a possibility is wholly inconceivable as having been consented to by the grave and cautious men who framed the Constitution and so jealously guarded the sovereignty of the several States thereto.

The amendment proposed by the Congress and referred to this committee did not receive two-thirds of each House and therefore was not proposed to the States in the manner pointed out by the Constitution for its own amendment.

This fact raises the unavoidable inquiry as to what course should now be taken by the States to whom the amendment is proposed. Without regard to the merits or demerits of the proposal, and although the legislatures of them all might desire the amendment made, it seems to your committee to be but a matter of reasonable prudence to determine that those States are jealously mindful of their rights and scrupulous to observe the Constitution and preserve it unimpaired, should decline to take action at all on the proposed amendment until it shall have first been submitted exactly in the method pointed out by the Constitution. To do otherwise is to consent to an unauthorized power never delegated by the States to the Congress and to disregard the solemn teachings of experience. In interpreting the Constitution on this subject the States are not bound by the precedent of any congressional determination.

But the terms of the resolution direct this committee further to report whether the proposed amendment, if properly initiated and ratified, will involve any surrender by this State of any measure of control over its own suffrage.

The first step in the selection of a Senator now occurs at the ballot box, when we choose our legislature. It is certain that Congress is wholly without authority at the present time for interference there. It can not prescribe the qualifications of the electors nor can it be pretended that it can interfere in any way with the registration or the balloting. It can not now determine the time nor manner in which we set in motion or conduct this initial step in our selection of our own peculiar representatives.

But the Constitution does not confer upon the Congress now the power to prescribe the time and manner in which the legislatures of the several States shall choose their Senators. If we consent, as is proposed, to eliminate the authority of the legislature now interposed between the people at the ballot box and the choosing of the Senator, and do not at the same time stipulate for a withdrawal of the power heretofore delegated to the Congress in this particular in the fourth section of the first article of the Constitution, a grant of power will take on a different quality, not belonging to it now upon any just interpretation of its terms, and will by inevitable consequence give to Congress a power it has not now, and will subtract from the State a power which the State now holds by unquestionable right, to wit, the power to fix the time and manner in which the people of Georgia shall indicate at the ballot box their choice for their own Senators.

What will be the extent and meaning of this power to fix the manner of election if such change is made as is proposed will be a question open at least to doubt. We ourselves should not be disposed to think that it would include the right to regulate the terms and manner of the registration, but language recently used upon the floor of the Federal Senate, in answer to an inquiry from one of our own Senators, warns us to expect at least the possibility of interpretations to be attempted far more strained than that. Warned by past experience, the State of Georgia ought not to forget that in times of high political excitement partisans are able to find strange powers in the instrument of union and justify themselves in the doing of things that in more tranquil seasons they would themselves condemn as being directly violative of its prohibitions. There are times when to doubt should be to be resolved.

It seems to your committee that this is a case in which it is necessary to change the language of the Constitution in order to preserve its meaning. If we alter the constitutionally appointed method of choosing Senators, as is proposed, and do not withdraw the power of statutory regulation, the statute is likely to be more potent than the Constitution, and the power delegated be something other than was meant in its delegation.

If your committee could believe it to be within the scope of its instructions to consider or report upon the wisdom of the policy of delegating to the Federal Congress any authority over the time, place, or manner in which a State shall choose its own Senators and Representatives, we think it might well be doubted whether there ever was any necessity or just reason for such a delegation of authority, or whether any good purpose is attained even in the case of Representatives in the more numerous branch of the Congress. But we conceive our instructions to have been complied within this matter when we point out, as we have endeavored to do, the exact particulars in which the adoption of the proposed amendment derogates anew from our reserved powers and adds to the authority of Congress.

Your committee believes that it can safely declare the people of Georgia to be very largely in favor of so amending the Constitution of the United States as to provide for the popular election of Senators. Indeed the people of this State, under the operation of their voluntary party primaries, have used to so elect for many years; and it seems to us hardly possible to doubt that they are almost unanimous in favor of such change. We believe it to be almost equally as certain that neither for that nor any reason whatsoever would any considerable number of the people of Georgia ever endure the suggestion that we ought to surrender the least vestige of our control over our own suffrage or our own elections. It is not needful that we discuss the reasons for this attitude of our people. It is, in our judgment, a closed question in Georgia.

In view of the considerations expressed in this report we recommend that the general assembly agree to this report as in the nature of a preamble and to the following resolutions based thereon:

1st. That the Legislature of Georgia can not consent to receive or act upon any proposal for the amendment of the Federal Constitution, until the same is made by two-thirds of the full membership of each House of the Congress, and conceives it to be in derogation of the reserved rights of the States for any amendment to be proposed until it receives such vote.

2d. That the governor be, and he is hereby, directed to return to the proper office of the United States from which it emanated, the communication proposing an amendment as to the election of Senators, with the respectful protest of this State against the proposal as having been made by less than the requisite vote and therefore in derogation of the Constitution.

3d. That a copy of these resolutions and of the report in which the same are embodied be communicated to our Senators and Representatives in the Congress, with the request that the same be brought to the attention of that body.

4th. That the governor be, and he is hereby, directed to communicate like copies to the governors of the several States of the Union, with

the request that the same be laid before their respective legislatures as an expression of the sentiment of this State, and in the hope that all the States may join with Georgia in earnest insistence that the Congress do not hereafter propose amendments to the Federal Constitution otherwise than upon the vote of two-thirds of the entire membership of each House thereof.

5th. That in the interest of candor we conceive it proper to say that the State of Georgia will be prompt to agree to the election of Senators by the people of the respective States, if the proposal therefor be made in what we conceive to be the method provided by the Constitution for its own amendment, but not in any terms which derogate in any degree whatsoever, directly or consequentially, from our reserved right of entire and unqualified control over our own suffrage, registration, and elections.

Respectfully submitted.

J. E. SHEPPARD,
W. T. ROBERTS,
Committee on behalf of Senate.
HOOPER ALEXANDER,
J. RANDOLPH ANDERSON,
Committee on behalf of House.
JOHN N. HOLDER,
Speaker of House.
JOHN T. BOIFEUILLET,
Clerk of House.
JOHN M. SLATON,
President of Senate.
C. S. NORTHEN,
Secretary of Senate.

Approved August 19, 1912.

JOSEPH M. BROWN, *Governor.*

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the bill (S. 2118) to aid in the erection of a monument to Pocahontas at Jamestown, Va., in which the concurrence of the House of Representatives was requested.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. 2118. An act to aid in the erection of a monument to Pocahontas at Jamestown, Va.; to the Committee on the Library.

BRIDGE ACROSS SNAKE RIVER, JACKSON HOLE, WYO.

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 3947) to provide for a bridge across Snake River, Jackson Hole, Wyo., with House amendments thereto, insist on the House amendments, and agree to the conference asked for by the Senate.

The SPEAKER. The gentleman from Texas asks unanimous consent to take from the Speaker's table the bill S. 3947, with House amendments thereto, insist on the House amendments, and agree to the conference asked for by the Senate. Is there objection?

There was no objection.

The SPEAKER appointed the following conferees on the part of the House: Mr. SMITH of Texas, Mr. RUCKER of Colorado, and Mr. KINKAID of Nebraska.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday.

Mr. BURNETT. Mr. Speaker, I move that the House dispense with Calendar Wednesday for this day.

Mr. MANN rose.

The SPEAKER. The gentleman from Illinois is entitled to five minutes.

Mr. MANN. Mr. Speaker, on various occasions there have seemed to be reasons for dispensing with Calendar Wednesday. I remember when the railroad bill was before the House in 1910 the House was very anxious to proceed with the consideration of that bill. The House was considering it on a Tuesday. I desired to obtain the consent of gentlemen on the Democratic side to dispense with Calendar Wednesday on the following day, in order that we might proceed with the railroad bill. Objection was made by gentlemen at that time. I think it was the understanding at that time, although that bill was of the greatest importance, that the House ought not to break down the rule for Calendar Wednesday. It is quite certain that if the House, because it has a bill under consideration that it desires to pass, begins to dispense with Calendar Wednesday when Calendar Wednesday stands in the way, that Calendar Wednesday will have passed out of existence, practically, because it will seldom happen that Tuesday night will come without some measure under consideration which might be continued on Wednesday morning. The country hailed with delight the reform in the rules providing for Calendar Wednesday, for the purpose of insuring one day in the week on which bills reported from committees might be considered without either asking the Speaker for recognition or the Committee on Rules for a special rule.

Now it is proposed by the gentleman to dispense with Calendar Wednesday. The gentleman who makes the motion might have called up his bill on Calendar Wednesday. Instead of that he chose to resort to the Committee on Rules, and he now proposes to take a step backward and abolish Calendar Wednesday. As long as the rules provide for a calendar day called Wednesday it seems to me the House ought to stand in favor of maintaining the integrity of that rule and that day. [Applause on the Republican side.] The gentleman has the right to proceed with his bill to-morrow, and it is not necessary in order to pass the immigration bill to break down this day. I regret that some gentlemen may assume that my opposition to the motion now is because I have not favored the House amendment to the immigration bill; but we have had this question up in the House on several occasions when the House desired to pass a bill and yet refused to break down the rule for Calendar Wednesday. All of the reforms proposed by the other side of the House to the rules they are gradually dispensing with. We had a great reform in a rule for a committee discharge. They have taken out of that all that amounts to anything. There has been no opportunity in this House for a year to move to discharge a committee from further consideration of a bill. You have ruined that reform that you proposed and you now propose to take the bowels, the whole life, out of the rule providing for Calendar Wednesday, and I protest against that——

Mr. GARDNER of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. MANN. And the distinguished gentleman from Massachusetts [Mr. GARDNER] who now interrupts me was one of the men favoring the rule then and now proposes to knife it.

The SPEAKER. The time of the gentleman has expired.

Mr. BURNETT. Mr. Speaker, it comes with poor grace from the gentleman from Illinois, after the motion he made and the attempt he made yesterday to prevent the consideration of the immigration bill, for him to talk about it being an outrage to dispense with Calendar Wednesday and call up this bill. [Applause on the Democratic side.] We were right on the eve of the passage of the bill. Many gentlemen made their arrangements to go to their homes last night and to-night. Now, if we pass this bill over until Thursday, there might not be a quorum here. I do not say that is the motive of the gentleman, but that would practically be the result. Calendar Wednesday is no more sacred than the rule which provides for dispensing with Calendar Wednesday by a two-thirds vote. It is part of the rule creating Calendar Wednesday, and there is no more important measure, Mr. Speaker, before this Congress or before the American people [applause on the Democratic side] than this immigration bill. We have had a six-year filibuster against this bill, and now we have come to the point of its passage, concerning which the country is so insistent and so urgent, and therefore I insist that we can certainly suspend one Calendar Wednesday in order that we may meet the demands of the people and of right for the passage of this bill. Mr. Speaker, I ask for a vote. [Applause on the Democratic side.]

Mr. MARTIN of South Dakota. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MARTIN of South Dakota. If the pending motion prevails, will the call on next Wednesday morning be precisely where it is this morning?

The SPEAKER. It would, undoubtedly.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 71, noes 33.

Mr. MANN. Mr. Speaker, I make the point of order there is no quorum present.

The SPEAKER. Evidently there is not. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 157, nays 67, answered "present" 8, not voting 157, as follows:

YEAS—157.

Adair	Byrnes, S. C.	Dent	Foss
Alexander	Byrns, Tenn.	Denver	Fowler
Allen	Callaway	Dickinson	Francis
Ashbrook	Candler	Dies	French
Austin	Contrill	Difenderfer	Gardner, Mass.
Ayres	Carlin	Dixon, Ind.	Garner
Bartlett	Clark, Fla.	Edwards	Garrett
Bathrick	Clayton	Evans	Gillett
Beall, Tex.	Cline	Falson	Glass
Bell, Ga.	Collier	Farr	Godwin, N. C.
Blackmon	Cox, Ind.	Ferris	Gocke
Borland	Cullop	Fields	Goodwin, Ark.
Buchanan	Dalzell	Finley	Greene, Vt.
Burnett	Danforth	Flood, Va.	Gregg, Pa.
Butler	Davis, W. Va.	Floyd, Ark.	Hamilton, W. Va.

Hamlin	La Follette	Padgett	Slayden
Hardy	Lamb	Page	Smith, J. M. C.
Harrison, Miss.	Langley	Payne	Smith, Saml. W.
Hay	Lenroot	Pepper	Smith, Tex.
Hayden	Lever	Plumley	Stedman
Hayes	Lewis	Porter	Stephens, Cal.
Heflin	Lindbergh	Post	Stephens, Miss.
Helgesen	Linthicum	Powers	Stephens, Nebr.
Helm	Littlepage	Pray	Stephens, Tex.
Henry, Conn.	Lloyd	Prince	Sterling
Henry, Tex.	Longworth	Raker	Sweet
Hensley	McKenzie	Robinson	Talbott, Md.
Hinds	McKinney	Rodenberg	Townsend
Holland	McLaughlin	Rothermel	Tribble
Houston	Macon	Rouse	Underhill
Hughes, Ga.	Maguire, Nebr.	Rubey	Watkins
Hughes, W. Va.	Martin, S. Dak.	Rucker, Mo.	Webb
Hull	Moore, Tex.	Russell	White
Jacoway	Morgan, Okla.	Saunders	Willis
James	Morrison	Shackleford	Wilson, Pa.
Johnson, Ky.	Morse, Wis.	Sharp	Witherspoon
Johnson, S. C.	Moss, Ind.	Sheppard	Young, Tex.
Jones	Neeley	Simmons	
Kent	Nelson	Sims	
Kopp	Oldfield	Sisson	

NAYS—67.

Almy	Fergusson	Kinkaid, Nebr.	Rees
Ames	Fitzgerald	Klukead, N. J.	Reilly
Anderson	Foster	Konop	Roberts, Mass.
Bartholdt	Fuller	Lee, Pa.	Rodenberg
Booher	George	Loud	Rucker, Colo.
Bulkley	Goldfogle	McCoy	Sabath
Burke, S. Dak.	Good	McDermott	Sherley
Burke, Wis.	Graham	Madden	Sloan
Burleson	Greene, Mass.	Miller	Steenerson
Campbell	Hamilton, Mich.	Mondell	Stone
Cannon	Hammond	Moore, Pa.	Talcott, N. Y.
Crago	Hill	Morgan, La.	Tilson
Crumpacker	Howell	Mott	Towner
Davis, Minn.	Howland	Murray	Volstead
Dupré	Kahn	Needham	Whitacre
Dyer	Kendall	Nye	Wilder
Estopinal	Kennedy	Peters	

ANSWERED "PRESENT"—8.

Browning	Dwight	McGillicuddy	Olmsted
Driscoll, M. E.	Lobeck	Mann	Stevens, Minn.

NOT VOTING—157.

Adamson	Driscoll, D. A.	Langham	Roberts, Nev.
Aiken, S. C.	Ellerbe	Lawrence	Scott
Akin, N. Y.	Esch	Lee, Ga.	Scully
Andrus	Fairchild	Legare	Sells
Ansberry	Focht	Levy	Sherwood
Anthony	Fordney	Lindsay	Slemp
Barchfeld	Fornes	Littleton	Small
Barnhart	Gallagher	McCall	Smith, Cal.
Bates	Gardner, N. J.	McCreary	Smith, N. Y.
Berger	Gill	McGuire, Okla.	Sparkman
Boehne	Gould	McHenry	Speer
Bradley	Gray	McKellar	Stack
Brantley	Green, Iowa	McKinley	Stanley
Broussard	Gregg, Tex.	McMorran	Sulloway
Brown	Griest	Maher	Sulzer
Burgess	Gudger	Martin, Colo.	Switzer
Burke, Pa.	Guernsey	Matthews	Taggart
Calder	Hamill	Mays	Taylor, Ala.
Carter	Hanna	Merritt	Taylor, Colo.
Cary	Hardwick	Moon, Pa.	Taylor, Ohio
Claypool	Harris	Moon, Tenn.	Thayer
Conry	Harrison, N. Y.	Murdock	Thistlewood
Cooper	Hart	Norris	Thomas
Copley	Hartman	O'Shaunessy	Turnbull
Covington	Haugen	Palmer	Tuttle
Cox, Ohio	Hawley	Parran	Underwood
Cravens	Heald	Patten, N. Y.	Vare
Curley	Higgins	Patton, Pa.	Vreeland
Currier	Hobson	Pickett	Warburton
Curry	Howard	Pou	Wedemeyer
Daugherty	Humphrey, Wash.	Prouty	Weeks
Davenport	Humphreys, Miss.	Pujo	Wilson, Ill.
Davidson	Jackson	Rainey	Wilson, N. Y.
De Forest	Kindred	Randell, Tex	Wood, N. J.
Dickson, Miss.	Kitchin	Ransdell, La.	Woods, Iowa
Dodds	Knowland	Rauch	Young, Kans.
Donohoe	Konig	Redfield	Young, Mich.
Doremus	Korbly	Reyburn	
Doughton	Lafean	Richardson	
Draper	Lafferty	Riordan	

So, two-thirds having voted in favor thereof, the motion was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. COVINGTON (in favor) with Mr. DOREMUS (against).

Mr. HARDWICK (in favor) with Mr. VREELAND (against).

Mr. GUERNSEY (in favor) with Mr. MCGILLICUDDY (against).

Mr. LAFEAN (in favor) with Mr. CONRY (against).

Mr. SWITZER (in favor) with Mr. BERGER (against).

Mr. PARRAN (in favor) with Mr. WEDEMEYER (against).

Mr. HOWARD (in favor) with Mr. THAYER (against).

Mr. KITCHIN (in favor) with Mr. LOBECK (against).

Mr. PALMER (in favor) with Mr. SMITH of New York (against).

Mr. GUDGER (in favor) with Mr. DANIEL A. DRISCOLL (against).

Mr. MCCALL (in favor) with Mr. COPLEY (against).

Mr. DOUGHTON (in favor) with Mr. MAHER (against).

For the session:

Mr. LITTLETON with Mr. DWIGHT.

Mr. PUJO with Mr. MCMORRAN.

Mr. RIORDAN with Mr. ANDRUS.

Mr. FORNES with Mr. BRADLEY.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. SCULLY with Mr. BROWNING.

Until further notice:

Mr. MOON of Tennessee with Mr. OLMSTED.

Mr. STANLEY with Mr. ANTHONY.

Mr. KORBLY with Mr. WOOD of New Jersey.

Mr. BURGESS with Mr. MICHAEL E. DRISCOLL.

Mr. UNDERWOOD with Mr. MANN.

Mr. SHERWOOD with Mr. DRAPER.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. RICHARDSON with Mr. ESCH.

Mr. AIKEN of South Carolina with Mr. BARCHFELD.

Mr. ANSBERRY with Mr. BATES.

Mr. BARNHART with Mr. BURKE of Pennsylvania.

Mr. BOEHNE with Mr. CURRIER.

Mr. BRANTLEY with Mr. CALDER.

Mr. BROUSSARD with Mr. CARY.

Mr. CARTER with Mr. DE FOREST.

Mr. CLAYPOOL with Mr. DODDS.

Mr. COX of Ohio with Mr. FOCHT.

Mr. CURLEY with Mr. FORDNEY.

Mr. DAVENPORT with Mr. GARDNER of New Jersey.

Mr. GILL with Mr. GREEN of Iowa.

Mr. DONOHOE with Mr. HARRIS.

Mr. ELLERBE with Mr. HANNA.

Mr. GALLAGHER with Mr. HAUGEN.

Mr. GOULD with Mr. HAWLEY.

Mr. HAMILL with Mr. HEALD.

Mr. HARRISON of New York with Mr. HUMPHREY of Washington.

Mr. HART with Mr. HIGGINS.

Mr. HUMPHREYS of Mississippi with Mr. JACKSON.

Mr. KINDRED with Mr. KNOWLAND.

Mr. KONIG with Mr. LANGHAM.

Mr. LEE of Georgia with Mr. LAWRENCE.

Mr. LEGARE with Mr. MCCREARY.

Mr. LEVY with Mr. MCGUIRE of Oklahoma.

Mr. MCKELLAR with Mr. MCKINLEY.

Mr. MARTIN of Colorado with Mr. MATTHEWS.

Mr. O'SHAUNESSY with Mr. SULLOWAY.

Mr. PATTEN of New York with Mr. MERRITT.

Mr. POU with Mr. MOON of Pennsylvania.

Mr. RAINEY with Mr. PATTON of Pennsylvania.

Mr. RANDELL of Texas with Mr. MURDOCK.

Mr. RANSDELL of Louisiana with Mr. PICKETT.

Mr. RAUCH with Mr. PROUTY.

Mr. BROWN with Mr. WOODS of Iowa.

Mr. TAGGART with Mr. HARTMAN.

Mr. TAYLOR of Alabama with Mr. ROBERTS of Nevada.

Mr. TAYLOR of Colorado with Mr. SCOTT.

Mr. THOMAS with Mr SELLS.

Mr. TURNBULL with Mr. SLEMP.

Mr. TUTTLE with Mr. SMITH of California.

Mr. WILSON of New York with Mr. SPEER.

Mr. LINDSAY with Mr. TAYLOR of Ohio.

Mr. DICKSON of Mississippi with Mr. VARE.

Mr. CRAVENS with Mr. WILSON of Illinois.

Mr. SULZER with Mr. WEEKS.

Mr. SMALL with Mr. YOUNG of Michigan.

Until January 10:

Mr. MAYS with Mr. THISTLEWOOD.

Mr. BROWNING. Mr. Speaker, I voted "yea.". I am paired with my colleague the gentleman from New Jersey, Mr. SCULLY, and I wish to withdraw my vote of "yea" and vote "present."

The name of Mr. BROWNING was called, and he answered "Present."

Mr. OLMSTED. Mr. Speaker, I have a general pair with the gentleman from Tennessee, Mr. MOON. Not knowing how he would vote if present, I do not feel at liberty to vote, and desire to be recorded as present.

The name of Mr. OLMSTED was called, and he answered "Present."

Mr. MANN. Mr. Speaker, may I ask if the gentleman from Alabama, Mr. UNDERWOOD, voted?

The SPEAKER. He is not recorded.

Mr. MANN. I have a general pair with the gentleman. I voted "nay," and I desire to withdraw my vote and vote "present."

The name of Mr. MANN was called, and he answered "Present."

Mr. LOBECK. Mr. Speaker, I voted "nay." I am paired with the gentleman from North Carolina, Mr. KITCHIN, and I wish to withdraw that vote and vote "present."

The name of Mr. LOBECK was called, and he answered "Present."

The result of the vote was announced as above recorded.

A quorum being present, the doors were opened.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 6283. An act increasing the cost of erecting a public building at Olympia, Wash.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Arid Lands was discharged from further consideration of the bill (H. R. 12826) providing for the discovery, development, and protection of streams, springs, and water holes in the desert and arid public lands of the United States, for rendering the same more readily accessible, and for the establishment of and maintenance of signboards and monuments locating the same, and the bill was referred to the Committee on Public Lands.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. SCOTT, for two days, on account of illness.

To Mr. COOPER, indefinitely, on account of illness in his family.

To Mr. WARBURTON, until January 10, in order to visit the Panama Canal.

IMMIGRATION.

The SPEAKER. The unfinished business yesterday was the demand of the gentleman from Illinois [Mr. MANN] for the reading of the engrossed copy of the immigration bill.

Mr. MANN. Mr. Speaker, I withdraw the demand for the reading of the engrossed copy of the bill.

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

An act (S. 3175) to regulate the immigration of aliens to and residence of aliens in the United States.

Mr. MANN. Mr. Speaker, I move to recommit the bill to the Committee on Immigration and Naturalization, with instructions to that committee to report the bill back forthwith with an amendment striking out all after the word "That" and inserting the language which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Amend by striking out all of the bill after the word "That" and inserting the following:

"The word 'alien' wherever used in this act shall include foreign-born, unnaturalized seamen. That the term 'United States,' as used in the title as well as in the various sections of this act, shall be construed to mean the United States, including the Territories of Alaska and Hawaii; and if any alien shall attempt to enter the United States from the Canal Zone, the Philippines, Porto Rico, or any other place outside of the United States but subject to the jurisdiction thereof, such alien shall be permitted to enter only on the conditions applicable to aliens entering the United States from a foreign country. That the term 'seaman' as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign port or place. That nothing in this act shall be construed to apply to accredited officials of foreign Governments nor to their suites, families, or guests.

"SEC. 2. That there shall be levied, collected, and paid a tax of $5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line."——

Mr. GARDNER of Massachusetts. Mr. Speaker, I raise the point of order that it is not permissible, by a motion to recommit, to attempt to adopt that which was not germane when considered by the House in the first place. I make the point of order that the bill has been read sufficiently far to show that it is not germane to the substitute.

The SPEAKER. The Chair will hear the gentleman from Illinois.

Mr. MANN. Mr. Speaker, the rule that was adopted by the House in reference to the consideration of this bill does not affect the present situation at all. The only application of that rule was that the previous question should be ordered on the bill when reported from the committee. It is true that the Chairman of the Committee of the Whole House on the state of the Union ruled that any amendment which was offered to the committee amendment must be germane to the committee amendment, but he expressly stated that he made that ruling because of the rule that had been adopted by the House governing the action of the Committee of the Whole. That rule applied only to the action of the Committee of the Whole in the committee.

Here is the situation: Here is a bill, a Senate bill, to regulate the immigration of aliens and the residence of aliens in the United States—a general bill. The Committee of the Whole has recommended and the House has agreed to that bill, striking out all of the original bill and inserting other language. I claim that the entire subject is before the House now. The House is not cut off from the consideration of any portion of it by the rule, because the rule limiting consideration to the committee amendment applied only in the Committee of the Whole. The rule limiting the consideration does not apply to the House. The whole bill is before the House.

I am surprised that the gentleman from Massachusetts [Mr. GARDNER] should make the point of order as to a bill covering the entire subject of immigration pending before the House that it is improper in the House to offer to that bill an amendment which relates to any portion of the immigration subject at all. The whole subject is before the House.

Under the rule that the House has adopted it is true that in accordance with the ruling of the Chair you could only add, by way of amendment, something which was germane to the committee amendment. But here the rule provides that there may be a motion to recommit. We have the entire subject before the House. I do not believe that the Speaker will rule that when a Senate bill covering the entire subject of immigration is under consideration by the House a motion to recommit must apply only to something germane to an amendment which the House has adopted.

The SPEAKER. The Chair will hear the gentleman from Massachusetts.

Mr. GARDNER of Massachusetts. Mr. Speaker, not having anticipated this situation, I have not been able to consult Hinds' Precedents with regard to a motion to recommit; but I am very clear in my own mind that the whole principle of that motion lies in a purpose of giving the House a final review of that which it has decided upon. That which is not permissible for the House to do directly, either in committee or in the House itself, may not subsequently be done under the guise of a motion to recommit. The recommittal stage is in the nature of a fourth reading.

I can not quote the precedents in this case, but I am very confident that the general principle that you may not seek to accomplish by a motion to recommit that which you could not have accomplished directly, either in the Committee of the Whole or in the House, is based on many decisions, which I suppose are easily available.

Mr. MANN. Mr. Speaker, let me call the attention of the Speaker to this fact: The gentleman says that a motion to recommit is not in order which could not have been offered by way of amendment. I agree with that proposition; but the right of amendment in this case was cut off by the previous question. If the previous question had not been operating, it is perfectly clear to anyone that when it was proposed to strike out all of the bill and insert other language any amendment germane to the original bill would have been in order in the House. The previous question being in operation, no such amendment could be proposed; but any motion to recommit is in order, which would have been in order as an amendment if the previous question had not been operating. The proposition here was to strike out the entire Senate bill, a bill covering the general subject of immigration. It is true that no amendment could be offered in the House, because the previous question would shut out the right; but the motion to recommit was preserved, because the Committee on Rules could not report differently.

Under section 5873 of Hinds' Precedents an amendment providing for an educational test for immigration was held to be germane to a bill to regulate the immigration of aliens into the United States. The Chair, in ruling upon it, stated that it being—

> a general bill on the subject of immigration, it is not the province of the Chair to pass on the merits or demerits of any amendment or its wisdom or justice. It appears to the Chair that this amendment is clearly, distinctly, and logically connected with the general scope of a bill regulating the immigration of aliens into the United States, and under these circumstances the Chair feels constrained to overrule the point of order and hold that the amendment is germane to the bill.

The SPEAKER. What was the amendment?

Mr. MANN. The amendment was to apply the educational test to a bill regulating the immigration of aliens.

The SPEAKER. That was a general bill regulating immigration.

Mr. MANN. That was a general bill regulating immigration, just exactly like this one.

The SPEAKER. And the educational test was offered as an amendment.

Mr. MANN. The educational test was offered as an amendment.

The SPEAKER. What section of Hinds' Precedents did the gentleman read from?

Mr. MANN. Section 5873.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. MANN. Certainly.

Mr. FITZGERALD. Is the gentleman's motion a motion to direct the committee to report the text of the Senate bill?

Mr. MANN. It is not the text of the Senate bill. Even I would know better than to try to do that. [Laughter.] It is very largely similar in many provisions, and is certainly germane to the provisions of the Senate bill and certainly germane to the general subject of immigration.

Mr. HILL. Mr. Speaker, I should like to call attention to what seems to me to be a parallel case. In 1909 the gentleman from New York brought in what was known as the Payne tariff bill, and by a vote of the House certain portions of it were allowed to be voted upon and the rest were not. Of course, those portions only were subject to amendment in the consideration of the bill in accordance with the vote of the House, but when the bill came back into the House the gentleman now occupying the chair [Mr. CLARK of Missouri] offered a motion to recommit proposing an entirely different policy, and it was admitted and voted on. It seems to me that the case is almost parallel to this.

The SPEAKER. The Chair will jog the gentleman's memory a little by stating that nobody raised a point of order against it.

Mr. HILL. I admit it, but the principle is the same, and in this case the same policy is pursued.

The SPEAKER. In that case the gentleman from Connecticut and his confrères were so sure that they could vote down the motion to recommit that they never took the trouble to make a point of order against it.

Mr. HILL. Is not that the condition now?

The SPEAKER. No; the situation is different. The Chair thinks, to add to the story, that if anybody had raised the point of order against the motion to recommit the Speaker would have been compelled to bowl it out and give permission to offer one that was in order.

Mr. GARDNER of Massachusetts. Mr. Speaker, I invite the attention of the Chair to a ruling made on the 8th of May, 1911, by Speaker CLARK. It will be found on page 1120 of the RECORD of the first session of this Congress. The gentleman from Illinois [Mr. MANN] offered a motion to recommit a tariff bill—the farmers' free-list bill, I think—inserting as section 2 of the bill a certain paragraph. After a good deal of discussion the Speaker decided the question as follows:

> It is not necessary for the Chair to pass any opinion on the wisdom or unwisdom of this new rule. It is his duty to decide according to the rule. It is clear that the amendment offered by way of a motion to recommit under this rule would not have been in order if offered as an amendment, and on the high authorities of Speaker Reed and Speaker CANNON, I sustain the point of order made by the gentleman from Alabama.

The gentleman from Illinois [Mr. MANN] appealed from the decision of the Chair, and the Chair was sustained by a vote of 209 as against 129. The gentleman from Massachusetts voted in the negative.

Mr. MANN. Mr. Speaker, the gentleman from Massachusetts is in error as to what rule the Speaker was referring to when he referred to this new rule. The gentleman from Massachusetts says he had reference to the motion to recommit; that was not the case, as I remember it. The gentleman has the papers before him, and I do not have, but he can correct me if I am in error. My recollection is that the Speaker had reference to this rule, which was a new rule, the motion to recommit being as old as the hills. It is the rule under which the Speaker decided that question:

> No amendment shall be in order to any bill affecting revenue which is not germane to the subject matter in the bill; nor shall any amendment to any item of such bill be in order which does not directly relate to the item to which the amendment is proposed.

When I offered the motion to recommit at that time I did it for the purpose of emphasizing the fact that a rule had been adopted specially relating to tariff legislation which took that kind of legislation out from the general provision in reference to offering amendments and motions to recommit.

The Speaker was probably right in his ruling on that question, but that was under the special rule limiting the right of amendment on tariff legislation, and by itself indicates that without that special rule the motion to recommit, such as I have offered, is germane on other matters.

This is not an entirely new proposition. When the immigration bill was before the House in the Fifty-ninth Congress there was a provision in it with reference to an educational test. The bill was considered under a special rule providing for amendment, I believe, to two sections of the bill, one of them being the educational test. The gentleman from Ohio, Mr. Grosvenor, proposed an amendment to strike out the section providing for the educational test and to insert in place of it a new section providing for a commission to study the whole subject of immigration. The gentleman from Massachusetts at that time made the same point of order which he makes now, that the proposed amendment offered by the gentleman from Ohio, Mr. Grosvenor, was not germane. But the Chairman ruled that it was germane, and held it in order, and it was adopted, although it was not germane to the particular section. It was germane to this bill, it being a general immigration bill, and on the strength of that the Chair held, and properly held, that it was a proper amendment. The same kind of amendment would have been in order in Committee of the Whole at this time if it had not been for the gag rule which was passed to prevent amendments except the one that the Committee on Rules favored. But the operation of that rule has ceased, except so far as the previous question applies.

Mr. GARDNER of Massachusetts. Mr. Speaker, the decision to which the gentleman from Illinois alludes is distinctly the worst decision I ever heard made in that chair.

Mr. MANN. Many people think that when they are overruled. They always "cuss" the court.

Mr. GARDNER of Massachusetts. Will the gentleman yield to me?

Mr. MANN. If the gentleman desires, I will be glad to yield to the gentleman, although I dislike to hear him libel a splendid former Member of Congress and one of the greatest Chairmen we ever had.

Mr. GARDNER of Massachusetts. Mr. Speaker, I am familiar with that decision, because it was at the time of the hair-pulling match six years ago upon this educational test. By the terms of the special rule under which we were operating at that time only 2 sections of the long bill of 38 or more sections were open to amendment. Nobody on earth thinks a provision for an immigration commission is germane to an educational test, and yet it was practically so decided at the time. The Chair in his ruling began by saying that inasmuch as no one had seen fit to raise a point of order against a certain previous amendment offered by Mr. Littauer, therefore Members were estopped in the case of the Grosvenor amendment. The Chair admitted that the Littauer amendment was not strictly in order, and clearly indicated his belief that the Littauer amendment and the Grosvenor amendment involved the same question of order. Then he went on to say that owing to the exceptionally narrow rule under which the bill was being considered, permitting, as it did, amendments to only 2 out of some 38 sections, he considered the case worthy of exception, and so he held the Grosvenor amendment to be in order.

Mr. MONDELL. Mr. Speaker, will the Chair indulge me for a moment upon this question?

The SPEAKER. The Chair will hear the gentleman briefly, although the Chair is ready to rule.

Mr. MONDELL. Mr. Speaker, it seems to me this matter is very clear. The House is about to vote on the bill S. 3175, an act to regulate the immigration of immigrants into the United States—an act covering the entire subject. A motion to recommit is offered by the gentleman from Illinois [Mr. MANN] under paragraph 4 of Rule XVI.

The SPEAKER. What does the gentleman from Wyoming say is before the House?

Mr MONDELL. The bill S. 3175.

The SPEAKER. Is that whole bill before the House?

Mr. MONDELL. Clearly, Mr. Speaker, it is, as I was going on to elucidate. Assuming that the statement I have made is a correct statement, that the House has before it this bill and is about to vote upon it, the gentleman offers a motion to recommit under the rule. That motion is in order if germane to this bill and its provisions, and clearly the motion made by the gentleman from Illinois is germane to the general provisions of the bill. It is true, Mr. Speaker, that we considered this bill under a special rule, but that special rule can not be construed to in any way affect paragraph 4 of Rule XVI. There is a provision of the rules that no special rule shall take away or modify the rights under the motion to recommit. After the motion for the previous question prevailed the special rule ceased to operate. The House is now considering this measure as though it had been taken up in the usual way under the rules. As a matter of fact, if we are to assume that the special rule still operates, still the motion is in order, because the special rule simply gave precedence to a certain amendment and did not, as the gentleman from Wisconsin assured us, and as the gentleman from Massachusetts assured us, prevent the House

from the consideration of the entire subject matter contained in the Senate bill after the privileged amendment offered by the committee had been considered. The fact that the House did not see fit to consider the Senate bill does not change the situation. So whichever way you take it, even assuming that we are operating under the rule, and I do not believe we are, the gentlemen who defend that rule all insist that the rule has no other effect, that nothing else was intended but to give the House an opportunity to first take up a certain amendment, and then, if it so desired, to consider the entire matter. But if we take the other horn of the dilemma, assume the other, which I believe to be the correct view of the matter, that we are now proceeding under paragraph 4, Rule XVI, independent of the special rule, then clearly the House has before it this bill and all it contains and any motion to recommit germane to the general proposition contained in the bill is in order.

The SPEAKER. The Chair is ready to rule. The rule about motions to recommit is simple enough in its statement, though it is sometimes difficult to apply it. It is that the propositions contained in a motion to recommit must have been germane to the subject matter of the bill if offered as an amendment. The special provision which the gentleman from Illinois has cited on two or three occasions in his argument, that in revenue bills the amendment must be germane both to the particular item that is pending as well as to the general bill, has nothing to do with this controversy. That was a special provision, made for special reasons. The situation in this case is very peculiar. The Chair does not believe that a similar situation has arisen in the 18 years he has been in the House. In the first place, this special rule is peculiar. It contains a provision that the Chair does not remember ever to have seen in one before; and while the House got out from under that rule when it got back into the House, still the Chair will read the rule and see what the House was trying to do and what the House intended to do:

> *Resolved*, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 3175, with the amendment reported by the House Committee on Immigration and Naturalization.

Of course, everybody who paid any attention to the debate knows the amendment was a substitute and covered everything the House wanted to do.

> That there shall be four hours' general debate, to be divided equally between those favoring and those opposing the measure. At the expiration of said four hours' general debate the same shall be considered under the five-minute rule as follows: The amendment proposed by the House committee shall be first read for amendment and perfected. After same has been so perfected the vote shall be taken upon the question of the adoption of said amendment. If same shall be adopted, then the Senate bill shall not be read—

That is the remarkable statement in that rule. If it ever was in any other, the Chair has forgotten it—

> If same shall be adopted then the Senate bill shall not be read, but the committee shall rise and report the measure to the House. If it shall not be adopted, then the Senate bill shall be considered for amendment under the five-minute rule, and when perfected the committee shall rise and report the same to the House. Immediately upon the perfected measure being reported to the House the previous question shall be considered as ordered upon the bill and all pending amendments to final passage—

And there was only one amendment, that is the committee amendment, and it was not changed in a single respect—

> and all pending amendments to final passage without intervening motions, except one motion to recommit. But a separate vote may be demanded upon any amendment or amendments thereto adopted by the Committee of the Whole.

The only purpose of reading that rule was to show what the House was trying to get at. Evidently the intention of the House was to consider the educational test and nothing else. The Senate bill has never even been read to the House. The question before the House is evidently this educational test and nothing else.

Mr. MANN. Will the Speaker pardon me for making a suggestion?

The SPEAKER. Certainly.

Mr. MANN. The rules reserve the right of the minority to make a motion to recommit. Under the rules the Committee on Rules can not even report a rule which affects the right of the minority to make a motion to recommit.

The SPEAKER. The Chair knows that, but that is a stringent provision to safeguard the rights of the minority—not the political minority but the legislative minority—on any particular measure.

Mr. MANN. I understand; but the adoption of a rule by the House can not affect the right of the minority to make a motion to recommit, which they would have the right to make if no rule was adopted in the House, because the majority, under the rule, can not take away by special rule the right of the minority to test the sense of the House on a motion to recommit, but if the Speaker holds that having adopted a special rule whereby the minority lost a portion of its right to recommit, that rule will be rendered somewhat innocuous.

The SPEAKER. The Chair does not mean to rule that the minority lost any of their rights. The Chair says this, that the propositions contained in a motion to recommit must have been propositions which would have been germane if offered as amendments.

The Senate bill discusses the whole question of immigration. It defines the terms to be used. It has a section in it as to what shall happen to people in the Philippines, and so on, and so on, to the end of the bill. But the House indicated its intentions to hold this matter down to the educational test. That is all the Chair reads this special rule for. Under the rule the gentleman from Illinois [Mr. MANN] could not offer the propositions in this motion to recommit as amendments in the Committee of the Whole. The House was so determined that it would not consider the Senate bill that it provided it should not be even read—a most extraordinary provision.

There is another thing about this. The Chair has held—this occupant of the chair, and it was held before, although not quite so elaborately as the present Speaker stated it, because the matter had not been argued, I suppose, so vociferously—but on one occasion the Chair held that you could not do by indirection, in a motion to recommit, what you could not do by direction, and the Chair was backed up by the authority of a long line of illustrious Speakers. They did not go into it as fully as I did. You can not take a proposition that has been ruled out directly by the House and put it back again by a motion to recommit.

As far as the suggestion of the gentleman from Connecticut [Mr. HILL] is concerned, when the Payne tariff bill reached the proper stage I offered a motion to recommit, largely for the sake of expressing my own opinion about the tariff subject, and I set forth in that motion to recommit most of the propositions that I thought ought to be put into a tariff bill. Some of them had nothing to do with the things which properly would have been in a motion to recommit, and I knew it as well as anybody else did when I offered it.

I supposed that somebody on that side would raise the parliamentary point against it. If that had been done, I had another motion in my pocket to recommit that would have been in order. But nobody raised the point, and consequently they voted on my motion to recommit and voted it down by a substantial majority, which I expected they would do.

In this case clearly the only thing about immigration before this House is the educational test. If the general Senate bill had been pending and the previous question had not been ordered, and the gentleman from Illinois [Mr. MANN] or any other gentleman had offered the educational test as an amendment to a general immigration bill, the Chair would have held it in order, because it would have been in order. But this situation turns the question squarely around. The matter pending before this House is on the educational test. This motion of the gentleman proposes to recommit with an entire immigration bill as an amendment. Consequently the point of order is sustained. [Applause.] The question is, Shall the bill pass?

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. BURNETT. Division, Mr. Speaker.

The House divided; and there were—ayes 123, noes 37.

Mr. SABATH. Mr. Speaker, I raise the point of no quorum.

Mr. MOORE of Pennsylvania. Mr. Speaker——

The SPEAKER. Evidently there is not a quorum present.

Mr. MOORE of Pennsylvania. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MOORE of Pennsylvania. If there is a call of the House now it would mean that we would vote "yea" or "nay," I understand, on the bill before the House?

The SPEAKER. Of course.

Mr. MOORE of Pennsylvania. May I ask whether the vote will be in favor of the Senate bill and the House amendment?

The SPEAKER. The practical effect of it is to adopt the House bill, if you get a majority in favor of it.

Mr. MOORE of Pennsylvania. Pardon me one moment, Mr. Speaker. Several times in the early stages of the discussion, and particularly in the Chair's announcement of his decision on the point of order raised by the gentleman from Illinois [Mr. MANN], the Speaker referred to the House amendment as a substitute to the bill.

The SPEAKER. The Chair referred to it as being in the nature of a substitute.

Mr. MOORE of Pennsylvania. That left the impression upon the minds of many of the Members that they were to vote

ultimately on the House amendment which embodied the educational test.

The SPEAKER. That is all they are voting on.

Mr. MOORE of Pennsylvania. Then there is nothing——

Mr. GARRETT. Did the Chair announce that there was no quorum?

The SPEAKER. The Chair did not formally announce it.

Mr. GARRETT. I understood the Chair announced that there was no quorum present.

The SPEAKER. Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. Those in favor of the bill as amended—that is, this House substitute—will vote "yea" and those opposed "nay."

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MOORE of Pennsylvania. When we vote now do we vote only upon the question of the educational test as embodied in the House amendment or does that vote include——

The SPEAKER. That is exactly what you vote upon.

Mr. MOORE of Pennsylvania. And not upon the Senate bill, which has not been discussed?

The SPEAKER. Technically you are voting on the Senate bill, but really you are voting on the House bill.

Mr. LANGLEY. Of course, everybody understands that this is the last vote on the proposition.

Mr. CANNON. Does this vote pass the House bill?

The SPEAKER. Yes; the House amendment has already been adopted.

Mr. JAMES. The regular order, Mr. Speaker.

Mr. MOORE of Pennsylvania. Then we are compelled to vote on both bills.

The SPEAKER. If you are in favor of the educational test, on this roll call vote "yea"; and if you are opposed to it, vote "nay."

The question was taken; and there were—yeas 179, nays 52, answered "present" 8, not voting 150, as follows:

YEAS—179.

Adair	Ferris	Humphreys, Miss.	Post
Alney	Fields	Jacoway	Pou
Alexander	Finley	James	Powers
Allen	Flood, Va.	Johnson, Ky.	Pray
Ames	Focht	Johnson, S. C.	Prince
Anderson	Foss	Jones	Raker
Ashbrook	Foster	Kennedy	Rauch
Austin	Fowler	Kent	Redfield
Ayres	Francis	Kinkaid, Nebr.	Rees
Bartlett	French	Kopp	Roberts, Nev.
Bathrick	Fuller	La Follette	Roddenbery
Beall, Tex.	Gardner, Mass.	Lamb	Rothermel
Bell, Ga.	Garner	Langley	Rouse
Blackmon	Garrett	Lawrence	Ruhey
Borland	Gillett	Lee, Ga.	Rucker, Colo.
Browning	Glass	Lever	Rucker, Mo.
Buchanan	Godwin, N. C.	Lewis	Russell
Burke, S. Dak.	Gooke	Lindbergh	Saunders
Burnett	Good	Linthicum	Shackleford
Butler	Goodwin, Ark.	Littlepage	Sharp
Byrnes, S. C.	Greene, Vt.	Lloyd	Sheppard
Byrns, Tenn.	Gregg, Pa.	Longworth	Simmons
Callaway	Hamilton, Mich.	McGuire, Okla.	Sims
Candler	Hamilton, W. Va.	McKinney	Slayden
Cantrill	Hamlin	McLaughlin	Small
Carlin	Hardy	Macon	Smith, J. M. C.
Carter	Harrison, Miss.	Maguire, Nebr.	Smith, Saml. W.
Clark, Fla.	Hay	Martin, S. Dak.	Smith, Tex.
Collier	Hayden	Mondell	Stedman
Cox, Ind.	Hayes	Moore, Tex.	Stephens, Cal.
Crago	Heflin	Morgan, Okla.	Stephens, Miss.
Cullop	Helgesen	Morrison	Stephens, Tex.
Dalzell	Helm	Morse, Wis.	Sweet
Danforth	Henry, Conn.	Moss, Ind.	Talbott, Md.
Davis, Minn.	Henry, Tex.	Mott	Tribble
Dent	Hensley	Needham	Underhill
Denver	Hill	Neeley	Warburton
Dickinson	Hinds	Nelson	Watkins
Dies	Holland	Oldfield	White
Difenderfer	Houston	Padgett	Willis
Dixon, Ind.	Howell	Page	Wilson, Pa.
Edwards	Hughes, Ga.	Payne	Witherspoon
Evans	Hughes, W. Va.	Pepper	Young, Kans.
Falson	Hull	Plumley	Young, Tex.
Farr	Humphrey, Wash.	Porter.	

NAYS—52.

Ansberry	Dyer	Lee, Pa.	Roberts, Mass.
Barchfeld	Estopinal	Loud	Rodenberg
Bartholdt	Fergusson	McCoy	Sabath
Booher	Fitzgerald	McDermott	Scully
Bulkley	Gallagher	Madden	Sherley
Burke, Wis.	George	Miller	Stephens, Nebr.
Burleson	Goldfogle	Moore, Pa.	Stone
Campbell	Graham	Morgan, La.	Tilson
Cannon	Greene, Mass.	Murray	Towner
Curley	Hammond	Nye	Townsend
Curry	Kendall	O'Shaunessy	Volstead
Donohoe	Kinkead, N. J.	Peters	Wilder
Dupré	Konop	Reilly	Young, Mich.

ANSWERED "PRESENT"—8.

Burgess	Dwight	McGillicuddy	Sloan
Driscoll, M. E.	Lobeck	Mann	Stevens, Minn.

NOT VOTING—150.

Adamson	Ellerbe	Langham	Sells
Aiken, S. C.	Esch	Legare	Sherwood
Akin, N. Y.	Fairchild	Lenroot	Sisson
Andrus	Floyd, Ark.	Levy	Slemp
Anthony	Fordney	Lindsay	Smith, Cal.
Barnhart	Fornes	Littleton	Smith, N. Y.
Bates	Gardner, N. J.	McCall	Sparkman
Berger	Gill	McCreary	Speer
Boehne	Gould	McHenry	Stack
Bradley	Gray	McKellar	Stanley
Brantley	Green, Iowa	McKenzie	Steenerson
Broussard	Gregg, Tex.	McKinley	Sterling
Brown	Griest	McMorran	Sulloway
Burke, Pa.	Gudger	Maher	Sulzer
Calder	Guernsey	Martin, Colo.	Switzer
Cary	Hamill	Matthews	Taggart
Claypool	Hanna	Mays	Talcott, N. Y.
Clayton	Hardwick	Merritt	Taylor, Ala.
Cline	Harris	Moon, Pa.	Taylor, Colo.
Conry	Harrison, N. Y.	Moon, Tenn.	Taylor, Ohio
Cooper	Hart	Murdock	Thayer
Copley	Hartman	Norris	Thistlewood
Covington	Haugen	Olmsted	Thomas
Cox, Ohio	Hawley	Palmer	Turnbull
Cravens	Heald	Parran	Tuttle
Crumpacker	Higgins	Patten, N. Y.	Underwood
Currier	Hobson	Patton, Pa.	Vare
Daugherty	Howard	Pickett	Vreeland
Davenport	Howland	Prouty	Webb
Davidson	Jackson	Pujo	Wedemeyer
Davis, W. Va.	Kahn	Rainey	Weeks
De Forest	Kindred	Randell, Tex.	Whitacre
Dickson, Miss.	Kitchin	Ransdell, La.	Wilson, Ill.
Dodds	Knowland	Reyburn	Wilson, N. Y.
Doremus	Konig	Richardson	Wood, N. J.
Doughton	Korbly	Riordan	Woods, Iowa
Draper	Lafean	Robinson	
Driscoll, D. A.	Lafferty	Scott	

So the bill was passed.

The Clerk announced the following additional pairs:

For this vote:

Mr. SWITZER (in favor of Burnett bill) with Mr. BERGER (against).

Mr. HOWARD (in favor of Burnett bill) with Mr. THAYER (against).

Mr. COVINGTON (in favor of Burnett bill) with Mr. DOREMUS (against).

Mr. PARRAN (in favor of Burnett bill) with Mr. WEDEMEYER (against).

Mr. LAFEAN (in favor of Burnett bill) with Mr. CONRY (against).

Mr. THOMAS (in favor of Burnett bill) with Mr. BOEHNE (against).

Only on final passage of bill:

Mr. MCCALL (in favor of Burnett bill) with Mr. COPLEY (against).

Mr. GUDGER (in favor of Burnett bill) with Mr. DANIEL A. DRISCOLL (against).

Mr. HARDWICK (in favor of Burnett bill) with Mr. VREELAND (against).

Mr. GUERNSEY (in favor of Burnett bill) with Mr. MCGILLICUDDY (against).

Mr. DOUGHTON (in favor of Burnett bill) with Mr. KAHN (against).

Mr. KITCHIN (in favor of Burnett bill) with Mr. LOBECK (against).

Mr. PALMER (in favor of Burnett bill) with Mr. SMITH of New York (against).

Until further notice:

Mr. AIKIN of South Carolina with Mr. FORDNEY.

Mr. HARRISON of New York with Mr. DE FOREST.

Mr. CLINE with Mr. HAUGEN.

Mr. GREGG of Texas with Mr. LAWRENCE.

Mr. RANSDELL of Louisiana with Mr. SULLOWAY.

Mr. ROBINSON with Mr. GRIEST.

Mr. SISSON with Mr. MCKENZIE.

Mr. TALCOTT of New York with Mr. LAFFERTY.

Mr. MANN. Mr. Speaker, may I inquire if the gentleman from Alabama, Mr. UNDERWOOD, voted?

The SPEAKER. He is not recorded.

Mr. MANN. I am paired with that gentleman. I voted "no," and I desire to withdraw my vote, and to be recorded "present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum being present, the Doorkeeper will open the doors.

On motion of Mr. BURNETT, a motion to reconsider the last vote was laid on the table.

Mr. BURNETT. Mr. Speaker, I ask unanimous consent that all gentlemen who have spoken on this bill may have five legislative days in which to extend their remarks.

The SPEAKER. The gentleman from Alabama asks unanimous consent that all gentlemen who have spoken on this bill may have five legislative days in which to extend their remarks in the RECORD. Is there objection?

Mr. MANN. Reserving the right to object, I should like to ask the gentleman from Alabama who there is who has spoken who has not obtained leave to extend already? I think everybody who spoke has obtained leave to extend, with one exception. I should be glad to have leave extended to the gentleman from Maryland [Mr. LINTHICUM].

Mr. BURNETT. I think the gentleman from Missouri [Mr. DYER] did not get leave.

Mr. MANN. I thought he did.

Mr. BURNETT. I think there are several gentlemen who did not, and I am not sure that I did.

Mr. MANN. I think the gentleman did.

The SPEAKER. Is there objection?

Mr. MANN. I shall object to the general request. I have no objection to specific requests.

Mr. LINTHICUM. Mr. Speaker, yesterday when I asked leave to extend there was objection. I now ask for leave to extend my remarks in the RECORD.

Mr. DYER. I make the same request.

The SPEAKER. The gentleman from Maryland [Mr. LINTHICUM] and the gentleman from Missouri [Mr. DYER] ask unanimous consent to extend their remarks in the RECORD. Is there objection?

There was no objection.

Mr. BURNETT. In view of the lateness of the session I move that the House appoint a committee of conference.

Mr. MANN. I make the point of order that that motion is not in order.

Mr. BURNETT. The same course was pursued in the immigration bill when the gentleman from Indiana, Mr. Watson, was in the chair.

The SPEAKER. For what reason does the gentleman from Illinois object?

Mr. MANN. I make the point of order that the motion is not in order.

The SPEAKER. Why is it not in order?

Mr. MANN. There is no disagreement as yet between the two Houses. We have amended the Senate bill, but they have not disagreed, and until the point of disagreement is reached conferees can only be appointed by unanimous consent. It is sometimes done by unanimous consent, but conference comes from disagreement. Neither body can appoint a conference committee until there is a disagreement and an insistence upon the position which that body takes. The Senate may agree to the House amendment, but until the Senate disagrees and insists upon that it is not in order to appoint conferees.

Mr. GARDNER of Massachusetts. Mr. Speaker, the rule is perfectly clear. There is no disagreement necessary. It is an old principle of parliamentary law that conferees may be appointed and a conference asked for before disagreement. I invite the attention of the Chair to Jefferson's Manual. I am reading from paragraph 5264, volume 5, Hinds' Precedents, as follows:

A conference may be asked before the House asking it has come to a resolution of disagreement, insisting or adhering. In which case the papers are not left with the other conferees, but are brought back to be the foundation of the vote to be given.

This same question arose on the 25th of June, 1906. The point of order was not made against the motion of Mr. Watson, who, after being Chairman of the Committee of the Whole, moved to appoint conferees. But I, knowing that the motion was to be made at the time, had inquired in an informal way of parliamentarians in the House, and I found that there was no disagreement whatever as to the power of the House to appoint conferees before the resolution of disagreement had been arrived at. If the syllabus at the beginning of the paragraph 6254 in this precedent is read the third paragraph says distinctly:

A conference may be asked before the House has come to a resolution of disagreement.

Mr. SHERLEY. Will the gentleman yield?

Mr. GARDNER of Massachusetts. Certainly.

Mr. SHERLEY. Was that a case where the House that could disagree was asking for the conference? Is not this a case where the House has already acted?

Mr. GARDNER of Massachusetts. No; the case was absolutely parallel.

Mr. SHERLEY. What the gentleman read does not seem to indicate it.

Mr. GARDNER of Massachusetts. Certainly; they have either got to insist, adhere, or recede.

Mr. SHERLEY. That is a case where the Senate might ask for a conference, but this is a case where the House asks for a conference on a bill of the Senate that it has amended.

Mr. GARDNER of Massachusetts. I have told the gentleman that that was an exactly parallel case. The House had amended a Senate bill by substitution.

Mr. SHERLEY. I understand, and that was done by unanimous consent. I am asking the gentleman if what he reads from Jefferson's Manual——

Mr. GARDNER of Massachusetts. It is the general principle; it says "the House," which means the Chamber, as the gentleman knows from his long familiarity with Jefferson's Manual.

Mr. SHERLEY. The gentleman does not know it, and if the gentleman from Massachusetts will permit me, I think he may get my point. The reference there to the House is to the House that may agree or disagree and not to the House that has acted on a matter, as this House has.

Mr. GARDNER of Massachusetts. It is especially after action, before coming to the resolution of disagreement. There is no intermediate stage. "A conference may be asked before the House asking it has come to a resolution of disagreement to insist or adhere."

Mr. SHERLEY. This is a case where the House has come to a resolution of disagreement by amendment.

Mr. GARDNER of Massachusetts. All right. Then it is clearly a resolution of disagreement, and you can ask for a committee of conference.

Mr. SHERLEY. The point that I desire to suggest to the gentleman is this——

Mr. MADDEN. Mr. Speaker, suppose the Senate should agree——

Mr. GARDNER of Massachusetts. One gentleman at a time. I can not answer too many at once.

The SPEAKER. Will the gentleman from Massachusetts yield to the gentleman from Illinois?

Mr. GARDNER of Massachusetts. I yield to the gentleman from Kentucky.

Mr. SHERLEY. The suggestion I desire to make is that the paragraph that the gentleman read from Jefferson's Manual indicates that the House would have before it the question of whether it would recede from its position or insist, and that in that case it could ask for a conference before acting on it by receding or further insisting.

This is a case of a House having a bill from the other body and having amended it. There is nothing that this House can now do until the Senate has asked for a conference or has receded from its position and agreed to the position of the House.

Mr. MONDELL. Mr. Speaker, will the gentleman yield?

Mr. GARDNER of Massachusetts. Not until I have answered the gentleman from Kentucky. There are only two possible stages in which a House can find itself—either that it has come to a resolution of disagreement or that it has not come to a resolution of disagreement. A mere disagreement is not a resolution of disagreement. After a resolution of disagreement had been arrived at, I have never heard it disputed that it was in order to ask for a conference. I have heard it disputed this morning by the gentleman from Illinois [Mr. MANN], whether you might ask for a conference before a resolution of disagreement had been arrived at. There are three resolutions of disagreement, to wit, to insist, to adhere, or to recede. The question as to the ability of the House to ask for a committee of conference after one of those three votes has been taken is undoubted, and unquestionably, if we are to follow Jefferson's Manual, it is also in order to ask for a conference before it is arrived at.

To continue:

A conference may be asked before the House asking of it has come to a resolution of disagreement, insisting or adhering, in which case the papers are not left with the other conferees, but are brought back to be the foundation of the vote to be given. And this is the most reasonable and respectful proceeding, for, as was urged by the Lords on a particular occasion, "it is held vain and below the wisdom of Parliament to reason or argue against reasonable resolutions and upon terms of impossibility to persuade." So the Commons say, "An adherence is never delivered at a free conference, which implies debate." And on another occasion the Lords made it an objection that the Commons had asked a free conference after they had made resolutions of adhering. It was then affirmed, however, on the part of the Commons that nothing was more parliamentary than to proceed with free conferences after adhering, etc.

Mr. SHERLEY. Mr. Speaker, I suggest to the gentleman that there is not presented to this House the question of whether the House shall recede or shall insist upon the disagreement. That question is presented to the Senate, and there the proposition that the gentleman is here presenting would

be, under the authority he cites, in order; but it is not a condition that confronts this House at all.

Mr. GARDNER of Massachusetts. The gentleman is familiar with the reference to 3 Hatsell.

Mr. SHERLEY. I do not know that I know that particular reference, but I am familiar with what the gentleman has just read.

Mr. GARDNER of Massachusetts. Has the gentleman ever known of an occasion where the right of the House to appoint conferees before arriving at a resolution of disagreement has been questioned?

Mr. SHERLEY. I do not recall any instance except the one that the gentleman recites. The absence of precedents would indicate that it was never before thought of.

Mr. GARDNER of Massachusetts. Until the gentleman from Illinois suggested it, I thought it was an indisputable right.

Mr. MONDELL. Mr. Speaker, will the gentleman now yield?

Mr. GARDNER of Massachusetts. Certainly.

Mr. MONDELL. Mr. Speaker, I voted with the gentleman from Massachusetts, and I hope to see this measure enacted into law, but aside from the question of the regularity of procedure now proposed, is not the gentleman prejudicing his measure by what he proposes? I do not know anything as to the state of mind at the other end of the Capitol——

Mr. GARDNER of Massachusetts. It seems to me that the gentleman is discussing the merits of the motion and not the point of order. I am willing to discuss the point of order with the gentleman.

Mr. MONDELL. Will the gentleman allow me to make a very brief statement? It is altogether possible that the measure passed by the House might be acceptable at the other end of the Capitol. The motion proposed by the gentleman precludes the possibility of an agreement and postpones in any event the final enactment of the legislation.

Mr. GARDNER of Massachusetts. Has the gentleman finished?

Mr. MONDELL. Yes.

Mr. GARDNER of Massachusetts. I now yield to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Speaker, I was simply going to ask if it was not possible that the Senate might accept the action of the House and in that case there would not be anything for a conference. In view of that possibility of the Senate accepting the action of the House, would it not be unwise to ask for a conference in advance of our knowledge of what the Senate will do?

Mr. GARDNER of Massachusetts. The wisdom of the action is a question to be decided after the point of order is settled.

The SPEAKER. The Chair is ready to rule.

Mr. MANN. Mr. Speaker, I was waiting until I might say a word without offending the sensibilities of the gentleman from Massachusetts [Mr. GARDNER].

The SPEAKER. The Chair will hear the gentleman from Illinois.

Mr. MANN. Mr. Speaker, I was waiting until the gentleman from Massachusetts had yielded the floor. He seems to dislike to have anyone interrupt him, and hence I did not interrupt him. The first object of a conference is that there should be a disagreement between the two bodies. It is true, as stated in Jefferson's Manual in one place, "A conference has been asked after the first reading of a bill. This is a singular instance." That is the language of Mr. Jefferson, not mine. Then preceding that is a footnote by the parliamentary clerk, "Obsolete provision as to a conference on first reading." What is a conference on matters pertaining to legislation on bills and amendments? It is to compose differences between the two bodies. The House may ask for a conference with the Senate on an immigration subject if it pleases. It is wholly within the power of the House to ask for a conference with the Senate on the subject of whether the President should be removed or whether his term should be extended or shortened, or a constitutional amendment, but the purpose of this conference is to compose differences relating to the amendments to the bill. There are no differences between the House and the Senate. The House has passed an amendment and until the Senate disagrees to that amendment there is no disagreement between the two bodies.

The SPEAKER. The Chair will not bother the gentleman from Illinois for further argument. The proper function of a conference committee is to settle differences between the two Houses, and there are no differences between the two Houses as far as has been developed. For all the House knows or all the Chair knows the Senate will accept this amendment, and therefore the point of order is sustained. A motion to insist would have been in order, and the Chair will not say that in an emergency as to time or any other thing of the sort he would not hold the pending motion out of order, but no emergency exists, and this bill should take the usual course.

TOLLS ON PANAMA CANAL.

Mr. GOLDFOGLE. Mr. Speaker, I ask unanimous consent to have printed in the RECORD an interview published in the New York Herald of Sunday, December 15 of this year, with the Hon. STEVEN B. AYRES, one of my colleagues from New York, on the subject of tolls on the Panama Canal.

The SPEAKER. The gentleman from New York asks to have printed in the CONGRESSIONAL RECORD an editorial from the New York Herald of a certain date containing an interview with his colleague Mr. AYRES. Is there objection? [After a pause.] The Chair hears none.

The interview is as follows:

Great Britain's protest against the decision of Congress to give American vessels in the coastwise trade free passage through the Panama Canal has found strong support in the press of the United States. Many of the great newspapers are urging that the action of Congress be rescinded or that the question be sent to The Hague for arbitration. The reason given is that the word of the United States has been pledged by the Hay-Pauncefote treaty and that if we now do not live up scrupulously to the terms of that treaty we shall stand before the world a faithless Nation.

It is easy to sympathize with a sentiment so admirable, because every citizen desires to uphold the honor of his country. But in the present instance this sentiment is beside the mark; it is not properly called forth, since the honor of our Government is not involved.

Congress has in its action on this question followed a precedent long ago established, well known to Great Britain, and acquiesced in by her Government for 95 years. The protest now lodged is specious and undoubtedly made in the same spirit which has animated Great Britain in all the marine treaties and conventions she has hitherto negotiated with us. And it is to be observed that the grounds upon which this formal protest are made are different from those stated last summer, when the tentative protest was filed. Then it was stated that a repayment by the United States of the tolls charged to American vessels would be violative of the spirit of the treaty. But since then Great Britain has perceived that the temper of the American people is adverse to the repayment of tolls or the payment of any subsidy whatever to our merchant vessels, and that the contention has therefore been abandoned as academic.

OPPOSES AMERICAN MERCHANT MARINE.

In considering this subject it must be remembered that Great Britain has always been hostile to any effort of ours to establish an American merchant marine and share with her the carrying trade of the world. After the formation of our Constitution the earliest measures adopted at the first session of Congress in 1789 were those granting differentials in duties and tonnage dues to American ships.

These differentials, and the fact that Great Britain was constantly involved in marine warfare with other European nations, so built up our merchant marine that by 1810 our ships not only carried 90 per cent of our own commerce but also a large percentage of the indirect trade of the world. And it was to drive our ships out of this indirect trade, where we were keen competitors, that the War of 1812 was forced upon us. That war was disastrous to us and absolutely successful to her, because it almost entirely destroyed our indirect carrying trade and we were compelled to negotiate and assent to the reciprocity treaty of 1815. This treaty declared, among other matters:

"There shall be between the territories of the United States of America and all the territories of His Britannic Majesty in Europe a reciprocal liberty of commerce. * * *

"No higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States nor in the ports of any of His Britannic Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels."

SAVING COASTWISE TRADE.

Now, this is absolutely the same spirit breathed in the Hay-Pauncefote treaty—equality of tolls and charges, the same to one country as to the other. Yet what followed? Our foreign commerce was prostrated at the termination of the war. Many of the vessels remaining lay rotting at the wharves of Boston and New York and Philadelphia. Therefore, in 1817, Congress enacted a law which absolutely prohibited British vessels from engaging in our coastwise trade—the trade from one American port to another. This law reads:

"No merchandise shall be imported, under penalty of forfeiture thereof, from one port of the United States to another port of the United States in a vessel belonging wholly or in part to a subject of any foreign power."

This law was entirely subversive of that portion of the treaty of 1815 which stated that "no higher or other duties" shall be charged on British ships than on those of the United States. It established for the first time, and perhaps for all time, our own coastwise trade. Yet the law stood, and it has been acquiesced in by Great Britain since that time.

Congress has now adapted the same policy precisely with regard to the Hay-Pauncefote treaty. As I view the matter, by the paragraph in the Panama Canal act granting free tolls to our coastwise marine Congress abrogated each part of that treaty as conflicted with the Panama Canal act, just as the law of 1817 abrogated that part of the reciprocity treaty of 1815 with which it was in conflict.

STATUS OF A COMMERCIAL TREATY.

Now, those persons who believe that this conflict involves the honor of the Nation—and their motives are of the highest—do so from a misconception of what a commercial treaty really is. A commercial treaty is not a document like a promissory note, in which a promise is made for a consideration to do or perform certain acts. A commercial treaty is merely a statement, agreed to and signed by the agents of the contracting parties, of the terms upon which the contracting parties find it most desirable and most comfortable and most advantageous to have relations with each other. When either of the contracting parties finds that it is undesirable to continue such relations, it is its right to give notice of such fact and terminate such relations.

And by inserting the free-toll provision in the Panama Canal act Congress merely gave notice, at least two years before it became effective, of its intention to abrogate that portion of the Hay-Pauncefote treaty. And the remission of tolls was not considered as a gift or subsidy to our domestic merchant marine, because it is well understood that competition between lines now in existence and those which will come into existence will lower the marine freight rates by precisely the amount of the remitted tolls.

What Congress then believed was that the lower the marine rates could be kept between the two coasts the better chance shippers would have of emancipation from transcontinental railroads and that farther inland would be moved the zone of competition between rail and marine rates. In other words, Congress believed that the remission of tolls was not to be so direct a benefit to the coastwise marine as to the merchants and consumers who pay the freights. The reason Great Britain protests against the remission of tolls is because her economists know, better than the great bulk of our people yet know, what an effect the Panama Canal is to have on our commerce with South America. That commerce is now largely carried by British ships, and her statesmen fear, and well may fear, the effect upon her indirect carrying trade of the opening of the Panama Canal with free tolls to vessels of the United States. Even the prospect of this condition has given an impetus to American shipbuilding that it has never had since steel vessels were built.

The interesting, the suggestive fact is that for the first time since the era of iron steamships began American capital has now just begun to take an interest in marine investments. In the last year, for the first time in our history, steam cargo vessels built in American shipyards, officered by American citizens, flying the American flag, have been chartered to carry American products to European ports. Great Britain has bested us in the past, with commercial treaties cleverly drawn, because the eyes of her plenipotentiaries have been fixed upon marine advantages, while our attention has been monopolized by the undeveloped resources of our land. But this will not be true much longer. We are just beginning anew to struggle with Great Britain and with Germany for the commerce and the carrying trade of the world. And no paper conventions, made without valid consideration and at a time when our envoys did not realize our needs, must be allowed to hamper the destiny of the great Republic.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to call up the bill H. R. 26874, and move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Indian appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill, with Mr. SAUNDERS in the chair.

Mr. STEPHENS of Texas. Mr. Chairman, we arrived at the end of line 20, page 4, and I ask for the reading of the bill.

The Clerk read as follows:

For construction, lease, purchase, repairs, and improvements of school and agency buildings, and for sewerage, water supply, and lighting plants, $300,000.

Mr. RAKER. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I notice in the bill which was passed last year there was an appropriation of $480,000 for this same purpose. This year it is $300,000. Would the chairman of the committee permit a question upon the matter?

Mr. STEPHENS of Texas. Certainly.

Mr. RAKER. I desire to ask why the reduction in the appropriation?

Mr. STEPHENS of Texas. The gentleman will notice that of the appropriation for the fiscal year 1912 $130,000 remained unexpended. There is quite an unexpended balance, and, again, there are numerous items carrying appropriations for new buildings, and we have not put in any new buildings at all. Those two reasons show the reason why we have not granted the full amount.

Mr. RAKER. From the report of the committee and bill one would not be advised as to what buildings these are that are under construction or intended to be constructed under the appropriation for last year.

Mr. STEPHENS of Texas. I will state to the gentleman that each one of the superintendents having charge of these agencies and schools has made recommendation for new buildings and the enlargement of buildings, and so forth, requiring new construction, but we did not feel that it was the best thing to do at the present time.

Mr. RAKER. Do I understand from the committee that it is the intention of the committee at this time to oppose all new improvements about and around the schools?

Mr. STEPHENS of Texas. We have not appropriated for a single new building or for the enlargement of plants now.

Mr. RAKER. I ask the chairman's attention to this. For instance, where it is really and absolutely for the life and condition of the school, as for the construction of a septic tank, the building of dormitories for the boys, and so forth, as, for instance in a school there is one large building, the girls in one end and the boys at the other, and they have to go up the same stairs in the same building.

Now, the superintendent of this particular school is very desirous, for the proper handling and conduct of the school, that there be built for this particular location a dormitory for the boys.

Mr. STEPHENS of Texas. Is not that school separately appropriated for?

Mr. RAKER. No; it is not.

Mr. STEPHENS of Texas. Then it can be paid out of the lump-sum appropriation?

Mr. RAKER. The trouble with it is that they do not pay it out unless we especially provide for it.

Mr. STEPHENS of Texas. Your trouble is with the Commissioner of Indian Affairs.

Mr. RAKER. These appropriations are all parceled out to the schools generally.

Mr. STEPHENS of Texas. Let me state to the gentleman that the department, under "new construction," used last year $155,722 for repairs, $105,671 for rents, and elsewhere $35,560, and they failed to take the appropriation of $130,000, which is remaining unexpended. Why do they want more money when they did not expend last year the money that was given them?

Mr. RAKER. Suppose that in a particular case, now, there is no apportionment by the Indian Bureau—the Department of Indian Affairs—for the various schools; or, suppose it has been made, it is so insufficient that these improvements can not be made. If the department recommends such new improvement and it is necessary for the proper conduct of the school, I apprehend that the committee would not seriously oppose such legislation, would they?

Mr. STEPHENS of Texas. We have given them more money than they used last year by $130,000, and if they had seen proper to do so they could have built the stairways and additional improvements, as you suggest. We have furnished them the money. As you state, your schools are under the general appropriation act, and they have appropriated a lump sum for that purpose. Therefore you ought to get this out of the lump-sum appropriation.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

I called attention the other day when this bill was under consideration to the fact that there were no printed hearings. Since that time I have been furnished with a copy of what purports to be hearings before the committee. In regard to this particular item, I find there were no hearings, but that the Commissioner of Indian Affairs furnished the committee with a statement in justification of the increase of $120,000 asked, and the committee's reply to that was a reduction of $180,000. The commissioner sets forth in detail the expenditures that he desires to make under this head, and the committee does not seem to have interrogated the commissioner or anyone else as to the necessity for those buildings and improvements, or any portion of them, but have reduced the item from $480,000 last year to $300,000 this year, although the commissioner had asked me for an increase of $600,000.

Mr. STEPHENS of Texas. If the gentleman will examine the statement from the commissioner, on page 26, next to the last paragraph, he will find this language:

It will be noted that of the appropriation for the fiscal year 1912, $130,000 remains unexpended.

Now, if they had that much money left that had not been expended last year, why should we increase it this year?

Mr. MONDELL. He refers to unforeseen and unfortunate conditions or circumstances which prevented him from spending the money for construction and betterments for which it was appropriated. But the money he is asking for now is for other and further construction and improvement.

Mr. STEPHENS of Texas. Will the gentleman permit me to state that at the top of this same page—page 26—we find for new construction, $155,742.45? We did not give them that because we thought it was not necessary. We thought the schools as they now exist, with the great amount for repairs and improvements on the school buildings, was sufficient.

Mr. MONDELL. Did the committee interrogate the commissioner at all in regard to the necessity in any of these cases?

Mr. STEPHENS of Texas. We had him before us and went over the various items, and the subcommittee had a few hearings with him.

Mr. MONDELL. I can not find out. Perhaps the chairman of the committee can point out the place in the hearings where the commisioner was interrogated in regard to these items.

Mr. STEPHENS of Texas. I am not certain that we had a stenographer present at the time the commissioner was interrogated about this item, but we notified him that it was not the intention of the committee to construct any new buildings outside of Indian reservations. I think that policy is the correct one, and that all the money expended for school purposes should be expended on buildings erected on Indian reservations. I am

opposed to spending more money in building schools outside the reservations and to removing the Indians from the reservations to the outside boarding schools. I think the money can be much better expended on the reservations than off the reservations.

Mr. MONDELL. Do I understand that it is the chairman's understanding that this money is to be used for construction off of reservations? My understanding was exactly to the contrary. I would like to be set right in the matter if I am wrong.

Mr. STEPHENS of Texas. As I stated, we have not put any new buildings in this bill at all. It was our policy to leave that out this year.

Mr. MONDELL. But I understood the chairman of the Committee on Indian Affairs to say that the committee had provided for no new construction off of reservations.

Mr. STEPHENS of Texas. Only lump-sum appropriations.

Mr. MONDELL. But this item is for improvements on reservations, is it not?

Mr. STEPHENS of Texas. This appropriation is on the reservations.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAKER. Mr. Chairman, I move to strike out, at the end of line 23, page 4, the words "three hundred thousand dollars" and substitute therefor the words "three hundred and sixty thousand dollars."

Now, Mr. Chairman and gentlemen, upon that matter I want to follow that amendment with other amendments, and I want to call the matter to the attention of the committee. This is not a personal matter with me, but it is a matter of the proper government and proper improvement of these schools. The first one is the school at Greenville, in Plumas County, some 200 miles south of where I live. I am familiar with the location. It is located at the side of a valley, in the foothills, and is a small piece of land of 6 or 7 acres, without a spear of grass on it, but with some oak trees and a considerable number of large pine trees on it. There is plenty of land right adjacent in the valley where we could get 20 or 30 acres for the purpose of demonstrating and teaching them how to become farmers, and get some use out of the school. This is in the heart of the Indian country. The Indians are living all about there, within 5 or 10 or 15 or 20 miles, on their allotments. If we obtain a sufficient tract of land to allow them to have a dairy and an orchard and raise grain and vegetables we will do them some good.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. RAKER. Yes.

Mr. STEPHENS of Texas. On page 10 of the bill, section 3, under the head of "California," the gentleman will find this item:

SEC. 3. For support and civilization of Indians in California, including pay of employees, and for the purchase of small tracts of land situated adjacent to lands heretofore purchased, and for improvements on lands for the use and occupancy of Indians in California, $57,000.

Mr. RAKER. Yes.

Mr. STEPHENS of Texas. There is a special fund for the gentleman's State, and it covers the exact reasons that the gentleman gives for the acquisition of this additional land.

Mr. RAKER. The general idea is all right, but the superintendent wants that for other purposes, and ours would be excluded entirely.

Now, I believe that the committee and the House do not want to appropriate money unnecessarily. The object is to benefit those who attend the schools. In the first place there is no water supply, and in the next place there is no laundry here, with one hundred and some odd pupils, and there is no place to teach the boys to be efficient in blacksmithing and in learning to repair their wagons and doing some work out on the farm. If you are going to have your school—and it is there—why not have a blacksmith shop in connection with the school, as they have at other places? While there is $57,000 appropriated generally in the main bill, it does not provide for it for these other schools. I shall ask $26,800 for this particular school at Greenville, first for the construction of a septic tank and sewerage system, $3,000; for an employees' building, to be used for employees' quarters, club, kitchen, and dining room, $4,000; for shop building for instructing boys in blacksmithing and carpentry, $1,200.

Right in that connection, can there be anything better done than to give these young Indian boys practical lessons in carpentry, so that when they go on their allotments, which they all have, or when they go to their homes, they may be competent to build upon their allotments and may become blacksmiths, with sufficient knowledge to repair wagons and tools as white men do.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAKER. I shall not take up much more of the time of the committee, but I should like to have unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STEPHENS of Texas. I should like to ask the gentleman a question in that connection.

Mr. RAKER. I submit for a question.

Mr. STEPHENS of Texas. Is it not a fact that these schools which the gentleman mentions are not specially provided for?

Mr. RAKER. They are not specially provided for.

Mr. STEPHENS of Texas. Then they come under the general lump-sum appropriation. Is the gentleman aware that this language is carried in the bill, beginning in line 10, page 4:

For support of Indian day and industrial schools not otherwise provided for.

That covers your schools, as I understand from your statement.

Mr. RAKER. Yes.

Mr. STEPHENS of Texas. It provides:

And for other educational and industrial purposes in connection therewith, $1,420,000.

Now, is not that sufficient to cover the case you mention?

Mr. RAKER. In answer to the question of the chairman, I will say that I have been to see the superintendent and the Indian Commissioner, and I am informed by the commissioner, "We have these amounts specified and carried in this bill, and this school is entirely eliminated from any amount for new buildings. We can only make the necessary repairs, and if you desire to have your schools improved, you must get an additional amount included in the bill."

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. RAKER. I yield to the gentleman from South Dakota.

Mr. BURKE of South Dakota. Is the gentleman aware of the fact that in the last fiscal year ending June 30, 1912, about $1,700 was expended at this school in the construction of new buildings?

Mr. RAKER. Not this school, but the one 200 miles north.

Mr. BURKE of South Dakota. I am asking about Greenville.

Mr. RAKER. I did not quite understand the gentleman's question.

Mr. BURKE of South Dakota. The Greenville school had an average attendance of 90 pupils. Is that correct?

Mr. RAKER. About that number; yes.

Mr. BURKE of South Dakota. And there was expended for new buildings—in the construction of new buildings—$1,673, and a little less than $700 for repairing.

Mr. RAKER. I think that is right.

Mr. BURKE of South Dakota. So we are doing something in connection with the building up of the school; and in one school in the gentleman's State last year there were new buildings constructed from this general appropriation amounting to $6,000 or $7,000.

Mr. RAKER. That was a long distance off, where it was needed. In this school the floors are worn out. When I was there in October they were putting down a new floor where the floor was worn out entirely. They put up a small new building for the superintendent's private office. Now, continuing—

For school farm: For maintaining the school stock and small dairy herd and for raising fruits, grains, and vegetables, $7,000; for a school and assembly building for general meetings and entertainments, $8,000—

There is no place now where you can assemble these pupils all together—

for a complete steam-heating plant for school and accessory buildings, $6,000; for a boys' dormitory with a capacity of 75, $5,000—

There is nothing of that kind there now. You have got these young men and women there. In the first place, you ought to keep them thoroughly clean. You ought to teach them to do these things—to keep their clothes in proper shape—

for a steam laundry, with a capacity of washing and ironing for 150 persons, $2,600.

Mr. MONDELL. Will the gentleman yield?

Mr. RAKER. Certainly.

Mr. MONDELL. I notice the last item was a steam laundry. I have followed the gentleman with interest, and generally with full accord in his views; but when he proposes a steam laundry at a place where he is trying to teach Indian girls how to carry on and perform the duties of the household, it seems to me that he is not in harmony with the views he has generally expressed. Does not the gentleman think it would be very much better to invest the money in washtubs and washboards

and teach the girls how to wash? Can they have a steam laundry in each tepee when they get back to the reservation? What advantage to them is it to see a steam laundry in operation?

Mr. RAKER. I will answer the gentleman's question. The gentleman's argument is fallacious. He evidently has not been in an Indian school where they have a steam laundry.

Mr. MONDELL. Oh, yes; I have.

Mr. RAKER. He does not realize that they have the washtubs also; he does not realize that it teaches them how to do general laundry work.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. MONDELL. Mr. Chairman, I rise to support the amendment. I am in favor of this increase, but I hope it will not all be used at one school in California, and particularly not for the construction of a laundry. Now, I do not mean to say that steam laundries are not necessary about Indian schools, but I have more than once on the floor of the House, and several times when about Indian schools, called attention to the fact that we do better, if instead of paying quite so much attention to elaborate up-to-date machinery for carrying on the work, teach these Indians, boys and girls, to do the things they must do when they go back to the farms.

We are educating them with a view of their being able to support themselves on their lands. We ought to educate them on the reservation, and we ought to keep them, so far as we can, with their families while we are educating them, so that the daily contact will not only improve the mind and the character of the pupil, but improve and elevate the people at home. We ought to teach the young girls how to use the washtub and the washboard; the boys to farm, mend harness, do iron and wood work.

Mr. RAKER. Will the gentleman yield?

Mr. MONDELL. I have only five minutes, and there are other points that I want to discuss. I think the chairman did not intend to say a moment ago that this appropriation was for schools not on Indian reservations. If I am rightly informed, it is for schools on Indian reservations. These are reservation schools, and nonreservation schools are provided for in a separate item. There are, however, reservation schools that are also provided for in separate items. Among such schools there is one in my State. The committee in its wisdom did not grant what the commissioner asked for—a new dairy barn at that school. The present dairy barn is about to fall down; it is propped up. I saw it a few months ago, and it was in a sadly dilapidated condition.

Mr. STEPHENS of Texas. It is a nonreservation school, is it?

Mr. MONDELL. It is one of the reservation schools carried in a separate item.

Mr. STEPHENS of Texas. Separately appropriated for?

Mr. MONDELL. Yes; and we can get nothing out of this appropriation for that barn, and the committee did not see fit to provide for the appropriation in a separate item. We shall get no benefit for that dairy barn, even though the amendment of the gentleman shall prevail. When we reach the other item, I hope the committee will give me an opportunity to call their attention to the fact that it is a needed structure, serving an exceedingly useful purpose—that of housing the dairy stock on the reservation—and that it needs rebuilding. They have a fine herd of cows; they are producing butter and, I think, cheese, and doing many useful things. As that barn can not be built from this appropriation, I hope the committee, when they reach the other, will provide for it.

Mr. STEPHENS of Texas. We have already allowed you $4,000.

Mr. MONDELL. That is for general repairs on a great reservation. The chairman is sufficiently familiar with these matters to know that that amount is necessary for general and ordinary repairs, but what is wanted is a special item of $4,000 for this barn.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. BURKE of South Dakota. I would like to ask the gentleman if there are other buildings on the reservation besides school buildings, agency buildings, and so forth?

Mr. MONDELL. Yes.

Mr. BURKE of South Dakota. They may be repaired and new buildings constructed out of the appropriation. The appropriation for the school can only be used at that particular school.

Mr. MONDELL. The gentleman understands that the Indian Office holds that they can not use any of the general appropriation for such construction as I have referred to.

Mr. BURKE of South Dakota. They can not use any of the general appropriations for any schools that are specifically appropriated for.

Mr. MONDELL. This barn is in connection with the school.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I hope that this amendment will be voted down.

Mr. CANNON. Mr. Chairman, I move to strike out the last word. I pick up the report, and I find the following:

This bill carries appropriations payable from the Federal Treasury as follows: For gratuity appropriations, $6,652,393.28; for fulfilling treaty stipulations, $740,560; for reimbursable items, $850,000; and further appropriations aggregating $489,075.07 payable from Indian trust funds now on deposit in the United States Treasury.

The reimbursable item is smaller, I think, than is common—smaller than it used to be. Reimbursements formerly did not materialize to any great extent. I think that most of the Indians now have citizenship, have they not?

Mr. STEPHENS of Texas. A great many of them have.

Mr. CANNON. And their last estate is worse than their first, as a general rule. The best Indians, the richest Indians from a material standpoint, and perhaps from every other standpoint, are in Oklahoma, and I recollect a few days ago hearing what was not encouraging in reports from that State, so far as the Indian is concerned. I was led to believe that the time is not far distant when great blocks of these people will be absolutely without property, a charge upon the Federal Treasury, or a charge upon the State of Oklahoma. I know there are exceptions. The Indians, of course, are human beings. Away back in 1885 I was upon a committee to make investigations of the Indian Service. We made a very thorough investigation. Judge Holman was the chairman of that committee. Great amounts of money were being expended to educate the Indian. He received an education that he did not utilize after he had received it. Of course there was an exception here and there. I speak from a general standpoint. We found that when the Indian went out of the public schools it seemed to be a matter of pride to have him become an ordinary Indian, and the educated schoolgirl to go back to her former state or to the estate of her mother and grandmother. We must walk before we can run.

I wish every Indian school in this country were abolished. I refer to the kind of schools that are covered by the amendment. I would have education such as would pay and would be practical. It will take generations for the Indians to grow as it took generations for our forebears to grow. It is not very encouraging——

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. CANNON. Yes.

Mr. FERRIS. Mr. Chairman, I gather from what the gentleman says that he feels that some line of industrial pursuits would bring about more civilization and advancement among the Indians than would be this intense education.

Mr. CANNON. Precisely.

Mr. FERRIS. In that I am in full accord with the gentleman. Does not the gentleman think that a way could be devised among the incompetent Indians where their annuities and appropriations might be withheld from them, payable to them according to the amount of industry they manifested on their own allotments? Of course this could only reach the able-bodied ones, and perhaps only be administered among the incompetent ones.

Mr. CANNON. I wish some such plan could be worked out. Some years ago I was more familiar with these appropriations than I am now, given under treaties and as gratuities, such as were given to that great Sioux people in South Dakota and to kindred tribes. They were receiving treatment and relief without labor, and were being treated in such a way as would have made paupers of a similar number of white people, even with all our great civilization.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. RAKER. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. CANNON. Certainly.

Mr. RAKER. Mr. Chairman, I agree with what the gentleman has said after personal observation of 25 or 30 years. Does not the gentleman believe that wherever we can put an industrial school for these boys and girls that that would be the best education we could give them?

Mr. CANNON. No; I do not think so; especially if you are going to bunch them together and have your steam laundries

and your higher mathematics at the same place, together with a great many other things that they will never utilize. The truth is that, like the white man, on the average they do not prosper except where under the necessity of ordinary employment pretty soon after they leave the cradle the child should begin to learn that by industry they live.

I would rather have the chances of an American boy, to say nothing of Indians, who under the hand of necessity sells newspapers upon the streets or blacks boots, I would rather have his chances than those of a boy who never earned a dollar and goes to the higher schools with his automobile [applause] and all that kind of thing.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. CANNON. And I will make this remark, and I do not believe it can be successfully contradicted, if you go to every man in this House and every man in the Senate and every man in considerable public life in the United States and in our respective States and ask him, "Where did you have your genesis." On the farm or in the factory a genesis that involves labor and saving so that he could walk alone and develop to a good manhood. Now, I think that the treatment that the Indians have is to continue. I suspect it is to continue to pauperize them. What would I do? I do not know. I think I would have the education about where the Indian parents live and educate the parents while I was educating the boy, and I would give him subsistence according to his effort of muscle and brain.

Mr. RAKER. Will the gentleman yield?

Mr. CANNON. I do.

Mr. RAKER. Now, the schools I speak of, the ones that are involved here, are right in the center of the territory where these boys' and girls' parents live. Most of the parents and most of the boys and girls, no matter how young they are, have allotments of public lands. Now, is not it better to put them in the position that when they get old enough that they may go out and use these allotments just like you give your boy and girl some opportunity to make a good livelihood? I agree with the gentleman as to the best start in helping the Indians to-day on these reservations in competition with the white men, but he has not the opportunity no matter if he does make good.

Mr. CANNON. Oh, I tell you if a man lives on 40 acres or 20 acres and holds it, whether it is allotted to him or given to him, or whether he earned the money and bought it, he and his wife and his children are better off if they are living upon that 40 acres, and if it is necessary to train them or to give them additional knowledge that they may apply it and earn their living in the sweat of their faces do so, and if they establish that character and become competent and become thus trained they will grow and continue to grow as they have matured. May I just cite one instance. In Douglas County, Ill., way back 54 years ago there were several large tracts of land where the title was obtained frequently by men who could not read and write, a section, two sections, three sections—by military land warrants—all black lands costing about 70 cents an acre and worth now from $200 to $250 an acre.

There was one man, whom I will call Jones—I will not give his true name—who could not read and write. He was a great cattleman who had three sections of land. He knew how to farm. There was another man, his brother-in-law, named Smith, I will call him—that was not his name—who had about an equivalent amount of land. Their families grew up. Jones taught his boys how to handle stock; the other man tried to do so. Finally Jones came up into my office one day and I said, "How is it down in your township; how are you getting along?" He replied, "Oh, pretty well." "Well, how is Smith getting along? He has a large family and you have a large family." "Oh, first rate," says he. "But he is going to send three girls and two boys over to Asbury University." "Well," I said, "that is all right; he has worked hard and has got the money to send them." "Yes," he said, "it is all right, but they have got the notion that they do not care about farming, and he will send them over there and when they come out of Asbury College"—that was over at Greencastle, Ind.—this man was a very profane man—"they will jist come back damn eddicated idjits"; and they did. [Laughter and applause.] And the property of that family was all divided and squandered. Now, those were white folks, and how could we expect the Indians to do better than white folks? If a man gets a common-school education and learns how to make a living he will prosper and be a good citizen. If he desires to follow a specialty and requires more education by utilizing the schools, nothing can stop him. If he does not utilize the higher training, the time is wasted in attaining it.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. STEPHENS of Texas. Mr. Chairman, I hope that the amendment of the gentleman from California [Mr. RAKER] will not prevail.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Line 4, page 23, strike out the figures "300,000" and insert in lieu thereof "360,000."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from California.

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. MANN. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 3, noes 22.

So the amendment was rejected.

Mr. MANN. Mr. Chairman, there are only five more Members present than there are on the Committee on Indian Affairs, and I make the point of no quorum.

Mr. STEPHENS of Texas. I hope the gentleman will withdraw that motion.

The CHAIRMAN. There is evidently not a quorum present. The Clerk will call the roll.

The roll was called, and the following-named Members failed to answer to their names:

Adair	Esch	Kopp	Ransdell, La.
Adamson	Estopinal	Korbly	Reyburn
Aiken, S. C.	Evans	Lafean	Richardson
Akin, N. Y.	Fairchild	Lafferty	Riordan
Andrus	Flood, Va.	Langham	Roberts, Mass.
Anthony	Floyd, Ark.	Lawrence	Roberts, Nev.
Barnhart	Fordney	Legare	Robinson
Bartholdt	Fornes	Levy	Rodenberg
Bartlett	Foss	Lewis	Rucker, Colo.
Bates	Garner	Lindsay	Sabath
Bell, Ga.	Gill	Littleton	Scott
Berger	Godwin, N. C.	Lloyd	Sells
Blackmon	Goldfogle	Loud	Shackleford
Boehne	Gould	McCall	Sherley
Bradley	Gray	McCreary	Sherwood
Brantley	Green, Iowa	McDermott	Simmons
Broussard	Greene, Mass.	McGillicuddy	Sisson
Brown	Greene, Vt.	McHenry	Slemp
Burgess	Gregg, Pa.	McKellar	Smith, Cal.
Burke, Pa.	Gregg, Tex.	McKenzie	Smith, N. Y.
Burnett	Griest	McKinley	Sparkman
Calder	Gudger	McLaughlin	Speer
Cary	Guernsey	McMorran	Stack
Claypool	Hamill	Maher	Stanley
Clayton	Hamilton, W. Va.	Martin, Colo.	Sterling
Conry	Hanna	Matthews	Sulloway
Cooper	Hardwick	Mays	Sulzer
Copley	Harris	Merritt	Switzer
Covington	Harrison, N. Y.	Moon, Pa.	Taylor, Ala.
Cox, Ind.	Hart	Moon, Tenn.	Taylor, Colo.
Cox, Ohio	Hartman	Moore, Pa.	Taylor, Ohio
Cravens	Hay	Moore, Tex.	Thayer
Currier	Heald	Moss	Thistlewood
Curry	Higgins	Murdock	Thomas
Danforth	Hill	Murray	Towner
Daugherty	Hobson	Needham	Tribble
Davenport	Howard	Norris	Turnbull
Davidson	Howell	Olmsted	Tuttle
Davis, W. Va.	Howland	O'Shaunessy	Underwood
De Forest	Hughes, Ga.	Palmer	Vare
Dent	Hughes, W. Va.	Parran	Vreeland
Denver	Humphrey, Wash.	Patten, N. Y.	Webb
Dickson, Miss.	Humphreys, Miss.	Patton, Pa.	Wedemeyer
Dies	Jackson	Pepper	Weeks
Difenderfer	James	Peters	Whitacre
Dixon, Ind.	Jones	Pickett	White
Dodds	Kahn	Plumley	Wilder
Doremus	Kennedy	Porter	Wilson, Ill.
Doughton	Kindred	Pou	Wilson, N. Y.
Draper	Kinkaid, Nebr.	Prouty	Witherspoon
Driscoll, D. A.	Kitchin	Pujo	Wood, N. J.
Dupré	Knowland	Rainey	Woods, Iowa
Ellerbe	Konig	Randell, Tex.	Young, Mich.

Thereupon the committee rose; and Mr. FITZGERALD, as Speaker pro tempore, having assumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having had under consideration the bill H. R. 26874, the Indian appropriation bill, and finding itself without a quorum, he had caused the roll to be called, and he therewith reported a list of absentees.

The SPEAKER pro tempore. The Chairman of the Committee of the Whole House on the state of the Union reports that 179 gentlemen have answered to their names, a quorum of the committee, and the Chairman reports the names of the absentees to be entered on the Journal in accordance with the rule.

Mr. MANN. Would it not be in order to report the names? They have not been reported.

The SPEAKER pro tempore. The Chairman reported the list of names. The uniform practice of the House is for the Chairman to report the names in a list, and that has been done.

Mr. MANN. The rule provides that the names be reported.

The SPEAKER pro tempore. The names have been reported.

Mr. MANN. I would not want to take advantage of the present occupant of the chair.

The committee resumed its sitting with Mr. SAUNDERS in the chair.

The CHAIRMAN. The question now recurs, a quorum of the committee being present, on the amendment offered by the gentleman from California [Mr. RAKER].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For collection and transportation of pupils to and from Indian schools, and for the transportation of Indian pupils from any and all Indian schools and placing them, with the consent of their parents, under the care and control of white families qualified to give such pupils moral, industrial and educational training, $70,000. The provisions of this section shall also apply to native pupils of school age under 21 years of age brought from Alaska.

Mr. MADDEN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. MADDEN] moves to strike out the last word.

Mr. MADDEN. Mr. Chairman, I wish to inquire of the gentleman from Texas [Mr. STEPHENS] in charge of the bill whether this money appropriated in this item is taken out of the Indian funds or whether it is taken out of the Treasury of the United States?

Mr. STEPHENS of Texas. This is a gratuity.

Mr. MADDEN. This is given by the United States Government?

Mr. STEPHENS of Texas. This is a gratuity, given for the purpose of collecting the Indian children from all parts of the United States and sending them to these schools, nonreservation schools, mostly. Of course, it is necessary to take them from the reservations to the schools. This appropriation is for that purpose.

Mr. MADDEN. And the Indian children who are taken to these schools are taken from reservations, where Indians on the reservations have funds of their own, are they not?

Mr. STEPHENS of Texas. That is a gratuity for the purpose of sending them to the nonreservation schools, and after they are there they can be distributed among white farmers for the purpose of having the white farmers teach them to acquire the habits of civilized life.

Mr. MADDEN. Are not the parents of these young Indians able to pay the cost of their transportation to and from the schools out of their own funds?

Mr. STEPHENS of Texas. I do not think that is the case, for the reason that where the Indians have property of their own the parents, in order to keep them at home and prevent them from being sent to distant places, will pay for their education at near-by schools out of their own funds.

Mr. MADDEN. Then this is a compulsory attendance on schools away from home that is to be paid for?

Mr. STEPHENS of Texas. I would not say that it is compulsory. The Indian Department urges parents who are not able to take care of their children at home to send them away to the nonreservation schools. The school at Carlisle, Pa., accommodates about 1,000 pupils. It requires considerable money to get the children there and take them back. During the vacations the children are sent out amongst farmers, who take care of them and teach them the arts of living, and so forth, and the practice is found to be very beneficial to the Indians.

Mr. MADDEN. I know of a great many children of white families throughout the United States who would be glad to have the Government extend its fostering care over them and pay the cost of transportation charges of their children to and from school and board them while they are away and send them back again, and while they are not attending the school teach them the arts of farming and all of those other things that would make them useful citizens in the future.

Mr. STEPHENS of Texas. For the reason that they are the wards of the Government, and we feel ourselves under the obligation, and have for a hundred years felt ourselves under the obligation, to take care of these Indians, and it is only a part of the duty we have assumed. Whether wisely or not, it is too late to change it. We have assumed it and are carrying it out to the very best of our ability.

Mr. MADDEN. It is all very well for us to protect the Indians in every way that is proper and right, but it seems to me that to pay transportation charges from one point in the country to another is going outside of the duty of the Government of the United States, and this appropriation surely ought not to be made.

Mr. STEPHENS of Texas. I will state to the gentleman that if I had had the making of the laws 30 or 40 years ago I would not have launched into the building of these nonreservation schools, but would have instructed the Indians on the reservations. But having the schools on our hands, having organized them and having hundreds of thousands of dollars invested in industrial plants, I think it would be wrong to stop the schools or cripple them in any way. We had better pursue the course on which we have started.

Mr. MADDEN. I am not in favor of stopping the schools, and I should like to see granted to the Indians all the educational facilities they ought to have to the fullest extent. What I am opposed to is the payment of the expenses of transportation by the Government to the schools and back from the schools to their homes. The gentleman has stated that he would not have been in favor of the establishment of these schools if he had had his way. Would it not be wise for him as chairman of the Committee on Indian Affairs to provide some means by which the Government can save the expense of transporting these children back and forth? I am in favor of the maintenance of the schools.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, I rise to oppose the amendment of the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. I have offered no amendment.

Mr. MONDELL. This item is a gratuity. A moment ago the gentleman from Illinois [Mr. MADDEN] called attention to the fact that the great bulk of these appropriations are gratuities. It is a remarkable fact that although many of the Indians in the United States are very wealthy, of the amount carried in this bill $6,084,000 is in the form of gratuities, the reimbursable items amounting to only $850,000 out of the total appropriation of $7,674,000. Our school items in Indian appropriation bills have for many years been in the main gratuities. Perhaps that is a good policy and a wise policy, possibly not in all cases.

The item we have just passed, $300,000 for school buildings, is entirely a gratuity, although some of the buildings contemplated are for Indians like the Crows and the Shoshones, who have hundreds of thousands of acres of valuable land and large sums of money in the Treasury. But it seems to have been the rule of the committee and the practice of Congress in the matter of school appropriations to provide for them gratuitously, without regard to the ability of the Indians to provide for themselves.

That may be justifiable, but I question whether we are justified in expending large sums of public money for the construction of works enhancing the value of the property of the Indians, where such Indians have great areas of land, and in cases where they have cash in the Treasury.

There is a very considerable item in this bill for the construction of irrigation works on Indian reservations.

Mr. MILLER. That is not contained in this paragraph.

Mr. MONDELL. Not in this paragraph, but in a provision which we have passed. I did not have the opportunity to discuss it as I should have liked to discuss it at that time, so I propose to discuss it briefly now.

Among the reclamation works proposed under that item is, for instance, the project for the irrigation of lands of the Navajos under the San Juan project. These Indians have 14,000,000 acres of land, according to the statement of the Commissioner of Indian Affairs. We have already spent $97,363.77 for that project, and its estimated cost is $140,000. In addition to that it was necessary to spend from this appropriation last year some $25,000 to repair temporarily a break in the dam that is being constructed.

Mr. MILLER. How much is that land worth an acre?

Mr. MONDELL. There is a good deal of it that would not bring much per acre. Out of the 14,000,000 acres owned by these Indians there is a considerable amount of land that is of small value.

There are no richer lands on the face of the earth, however, than the lands on the San Juan, where this irrigation project is located. It is the site of an ancient irrigation work, one of the most interesting in the country, where there is an ancient waterway 40 or 50 miles in length, still well preserved; along the line of that canal in the ancient times lived a large population and were many pueblos.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I move that all debate on this paragraph be closed in five minutes.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent that I may proceed for five minutes.

The CHAIRMAN. The gentleman from Texas moves that all debate on the paragraph close in five minutes.

The motion was agreed to.

The CHAIRMAN. The gentleman from Wyoming is recognized.

Mr. MONDELL. Mr. Chairman——

Mr. MILLER. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. MILLER. The land as it stands is practically valueless, but when irrigated it becomes extremely valuable, and therefore the project must be one of merit. Is not the gentleman aware that it is reimbursable; that the Treasury will be reimbursed?

Mr. MONDELL. On the contrary, I do not understand that a single penny of the appropriation I have referred to is reimbursable, and certainly it can not be held to be reimbursable under the terms of the bill, if the gentleman will read it. The gentleman is a member of the committee and knows perfectly well that no part of that appropriation is reimbursable.

Mr. MILLER. Practically, or under the terms of the bill?

Mr. MONDELL. Practically, or under the terms of the act. No demands can be made on the Indians to return it. There can be no question about that. No demand has ever been or ever will be made on any Indian under this item of appropriation to reimburse the Treasury for the amount expended unless the language shall be changed.

And not only have the Navahos 14,000,000 acres of land, a portion of which is of considerable value, but, in addition to that, they are an industrious people, as Indians go. They have been accustomed to labor; they make great quantities of the finest rugs in the world down there on the Rio Las Animas and the San Juan, and we pay large prices for them. They have a very considerable income, and they live very well, indeed.

I know of no reason why these Indians can not pay for their own irrigation works. I believe it would be better for them if they did. Now, I am not inclined to be parsimonious in the matter of these appropriations. I will go as far as any Member of the House will go in giving the Indians an opportunity to earn a livelihood, but we simply pauperize the Indians when we say to men with large landed estates running into millions of acres, owning some of the fairest valleys on the continent, men who are accustomed to work, families accustomed to work, producing some of the finest specimens of the Indian art, earning a fairly good livelihood, that we will tax the people of the United States for the purpose of building irrigation works for irrigation and fertilization of their land. They have no funds now, but the expenditure for the irrigation of their lands should be made a charge against them, to be paid in the future. This is not the only item under this appropriation where it is proposed to build irrigation works for Indians having enormous landed estates. The Northern Cheyennes are to receive $8,000 out of this item. They own several hundred thousand acres of very excellent land. There is no reason on earth why the Northern Cheyennes should not reimburse the Government.

Another proposition. It is my opinion that if the Government never did receive all of these sums, if they never were all paid back into the Treasury, the very fact known to the Indians that there was an obligation on their part in the matter, that they were expected to return the money to the Treasury, would in and of itself enhance the value of the property in their eyes, and would tend to teach them and lead them to give better attention to this property and value it more highly than they now do.

The item, among other things, provides for maintenance charges and proposes to expend money to maintain these projects after we have built them. Is it not quite enough to build irrigation works for the Indian and to put it in condition to be used? Must we tax the people forever to pay for their maintenance? If so, it seems to me the expenditure is useless, and instead of accomplishing any worthy or valuable or useful purpose we are simply tending further to pauperize the Indians and build up in their minds the notion that they are getting something for nothing. Build these works by all means, but with the understanding that the Indians are to pay for them.

The CHAIRMAN. The time of the gentleman from Wyoming has expired, and the Clerk will read.

The Clerk read as follows:

All moneys appropriated herein for school purposes among the Indians may be expended, without restriction as to per capita expenditure, for the annual support and education of any one pupil in any school.

Mr. MANN. Mr. Chairman, I reserve the point of order on this. I believe this is current law. What is the effect of this? How does it work out? It was put in in the first place, I believe, as an experiment.

Mr. STEPHENS of Texas. It was formerly restricted to $167 per capita for each Indian who was taken off the reservation and put into these boarding schools.

Mr. MANN. I understand that is the law.

Mr. STEPHENS of Texas. That limit has been taken off.

Mr. MANN. I think that limit has not been taken off except in the current appropriation law each year. The limit remains, I think. What is the effect of this? It was tried as an experiment. What is the cost of educating these Indians?

Mr. STEPHENS of Texas. In the northern countries, where they have long winters and very cold weather, it is much harder to maintain the Indians, on account of the better clothing they require, than it is in the southern country, in Arizona and New Mexico. That is the difference. I find this memorandum covering this item:

The memorandum covering this item explained that the per capita allowance of $167 per pupil was adopted by Congress about 25 years ago, and was probably legitimate and proper for many years following. Within the last decade, however, conditions have so altered that the restriction became injurious to the welfare of the schools. With the increasing cost of supplies the necessity was imposed on superintendents of filling their schools in order to maintain a sufficiently full attendance therein to conduct the plant properly and to provide the usual necessities for the school and the Indian children.

Congress has a legitimate check upon the expenditure of any given school in that it requires annually a statement of its cost.

Mr. MANN. The general law provides that the expense of the pupils should not exceed $167.

Mr. STEPHENS of Texas. That is true.

Mr. MANN. What is the effect of it? Of course, we all know that under ordinary conditions a school that is fairly well filled up can probably get along for $167 per pupil, but it will cost you a great deal more than that if you maintain a school for one pupil. What is the effect of it all? What has been the actual experience under this experiment?

Mr. BURKE of South Dakota. Perhaps I can answer the gentleman, if the chairman will yield?

Mr. MANN. I have no doubt the chairman of the committee can answer, but I would be very glad to hear from the gentleman from South Dakota.

Mr. STEPHENS of Texas. The larger the school, the less the expense. The gentleman is correct in that statement. Some schools cost more than $167 per pupil to maintain, while others get along with less, some of them falling as low as $122 and some running over the limit of $167. We thought it would be wise to take that limit off and let the matter be adjusted by the department.

Mr. MANN. Is the gentleman able to give the House the per capita expenditure at each of these Indian schools?

Mr. STEPHENS of Texas. We have each one of them provided for here that this would apply to under the heading of the various States.

Mr. MANN. It might be well to let this item remain, then, until after the other matters have been disposed of.

Mr. STEPHENS of Texas. I think not; because this is the existing law, the current existing law, as stated by the department. In each State as we reach it we can give the cost per capita of the schools. Each school is especially provided for, and each is given, stating how many students are in that school, and the amount appropriated for the school.

Mr. MANN. If this item goes in the bill before we take up the others it is beyond us.

Mr. STEPHENS of Texas. I think not.

Mr. MONDELL. Mr. Chairman, will the gentleman yield for a suggestion?

Mr. STEPHENS of Texas. Yes.

Mr. MONDELL. It seems to me the gentleman's statement that the cost depends a good deal on the climate, being higher in the north, is scarcely borne out by the facts. For instance, at the Shoshone Reservation, on the Wind River, Wyo., the cost is $167, and at Santa Fe and Carson City, Nev., the cost is $175.

Mr. STEPHENS of Texas. The department is to blame for that. If there are such conditions the supplies have cost more there than in the gentleman's country.

Mr. KENDALL. It depends on what is taught in the school, does it not?

Mr. STEPEHNS of Texas. Perhaps so. If one is an industrial school it costs more money to run it.

Mr. FERRIS. Mr. Chairman, the gentleman from Illinois is undoubtedly striking at the question of whether it is advisible to remove this limitation.

Mr. MANN. Yes.

Mr. FERRIS. Dealing with this school item, the commissioner has liberally furnished with justifications and just what it costs at each school. The expense per capita varies to a marked degree. It runs from $122 up to as high as $247, I think, at one place, but there might be a reason for that which I think would satisfy the gentleman. In other words, at one school they have a school farm and they raise a part of what they eat there. That naturally reduces the grocery bill and expenses of running the school. At another place they have to

haul their provisions farther from the market, so the drayage and hauling facilities cost more, and while there is some danger attached to removing a limitation of this kind there are a good many advantages. The commissioner who appeared before us went to great lengths and was unusual in his insistence that that remain, so he might do full justice to each particular school. For instance, when a tribe has diminished or intermarried or gradually coalesced and joined the white people, as some are in some localities, the Indian school becomes less and less in numbers all the while, but the commissioner has power to recommend the discontinuance of these schools, and if it reaches the stage where Congress will no longer provide for it, Congress will discontinue them.

Mr. MANN. He has the power to recommend the discontinuance, but he has no power to discontinue them.

Mr. FERRIS. I did not assert he had that power.

Mr. BURKE of South Dakota. If the gentleman from Illinois will permit, supplementing what the gentleman from Oklahoma has stated, we went into this matter very closely in the hearings on the last year's appropriation bill, and we found we were not spending any more for education now than we were when the limitation was in force and educating just as many children; but, as the gentleman says, in some instances it exceeds $167.

Mr. MANN. This item was inserted in the Indian appropriation a few years ago, and it was then stated, as I recall, that it was to be in the nature of an experiment and at the proper time the House would be given full information as to that experiment and the effect of making this change. So far we have had no information upon the subject, except in a general way. The gentleman has made a statement, but it seems to me this limitation either ought to go out of the bill or else be postponed until the House has acted upon the specific appropriations.

Mr. FERRIS. Does not the gentleman think that due to the method of making the estimates, handling each school as an entity and each State as a separate matter, that the question of dealing with the per capita expenses is, as it should be, in each respective State and each respective school?

Mr. MANN. Oh, I think it is desirable to do it in the way the committee has done it in that respect, but I am not sure it is desirable to remove the restriction of $167, which ought to be, in the ordinary course, the full amount of the expenditure for each pupil in the school.

Mr. FERRIS. Well, I know of no particular grievances to any people with whom I am acquainted if this was stricken out, but the Commissioner of Indian Affairs was exceedingly insistent about this.

Mr. KENDALL. Is not that because he claimed experience justified the change, because it has been demonstrated that $167 in some localities under circumstances referred to by the gentleman from Texas is not sufficient for the purpose?

Mr. FERRIS. Precisely.

Mr. KENDALL. There is no danger, I think, in adopting the modification made by the committee or recommended by the committee. These sums are to be safeguarded as they always have been.

Mr. FERRIS. This is not a new matter. It is a matter which has been carried in the bill for several years, and we merely reincorporate it at the strong solicitation of the commissioner himself, who insisted that some latitude in dealing with these different schools should be allowed.

Mr. MANN. Mr. Chairman, I do not like to put my own judgment in these cases against the committee's judgment, although I had hoped that the committee would explain why the per capita expenditure at certain schools was much above the limit authorized by law.

Mr. McGUIRE of Oklahoma. Will the gentleman permit a suggestion? I call his attention to one particular instance, and that is the Cushman School in Washington, where some time ago they added what they called a mechanical department, and a great number of pupils are being employed now in that part of the institution, where they have installed machinery and where they are making things of iron and wood. I was talking to the superintendent the other day and he told me that had increased the cost per capita, but that ultimately there would be no increase.

There is a disposition now on the part of the heads of these institutions to increase the number of things taught in order that the pupil may be made more practical; that is, by teaching him carpentry and blacksmithing and all that sort of thing. Heretofore they have been instructing them in agriculture, and that was about all. But where they add these things, there is an additional cost, and I know nothing as to whether that additional cost would continue, except from the statement of superintendents.

Mr. MANN. I understood the gentleman to say that the Cushman School put the Indians at work doing blacksmithing and other labor in connection with ironwork on the institution, and therefore that added to the cost of maintaining the pupils.

Mr. McGUIRE of Oklahoma. In making things, perhaps not alone for the institution.

Mr. MANN. For other people?

Mr. McGUIRE of Oklahoma. For other people.

Mr. MANN. Who got the benefit of that?

Mr. McGUIRE of Oklahoma. The installation of the machinery is an additional cost.

Mr. MANN. By what authority? We make an appropriation for the installation of machinery, and if any pupils did that the school gets paid for it.

Mr. McGUIRE of Oklahoma. That is true; but I take it that certain installations may be made without any specific legislation. There is a general appropriation for these institutions, and the commissioner is allowed some discretionary power.

Mr. MANN. Does my friend from Oklahoma maintain that these pupils could be employed by the school, adding something new to the buildings, and that that should be charged to the maintenance of the school?

Mr. McGUIRE of Oklahoma. I do not mean to say that the fact of the additional things taught of itself would increase the cost per capita to the pupil. But if they installed new machinery that would temporarily increase the cost, whether they made them for the school or any other purpose. While I think the item ought to go out, in deference to the gentlemen of the committee I will withdraw the point of order.

Mr. MADDEN. I reserve the point of order so as to ask the chairman of the committee a question. I wish to know whether $167 limit of cost for the education of each Indian pupil includes the cost of transportation.

Mr. STEPHENS of Texas. It does not. There is a separate fund here.

Mr. MADDEN. What is the cost per capita for transportation?

Mr. STEPHENS of Texas. It varies according to distance.

Mr. MADDEN. There must be a cost per capita.

Mr. STEPHENS of Texas. Some of them are from Oregon or from Washington, and they travel to Carlisle, for instance.

Mr. MADDEN. There must be so much per capita.

Mr. STEPHENS of Texas. The figures are here, and the gentleman could very easily ascertain the amount.

Mr. MADDEN. I thought maybe the committee knew, and we might be able to get the information through the channel that had it.

Mr. STEPHENS of Texas. As I understand the matter, these men are sent out from the schools, and they gather up all the Indians that can be had in various communities and take them on the cars and carry them to the schoolhouse, and when the schools are out, unless they are distributed over the country among the farmers, they are sent back. As I understand the matter, all the expense is railroad expense of transporting the pupils and the expense of the man who attends them.

Mr. MADDEN. Can the gentleman state whether it is $50 per capita, or $100, or $25?

Mr. STEPHENS of Texas. It would be as impossible to state as it would be to state how much the average amount is that we draw for mileage here. I do not think that has ever been averaged up.

Mr. MADDEN. Oh, yes.

Mr. STEPHENS of Texas. Per capita for each individual Member of the House?

Mr. MADDEN. Yes.

Mr. STEPHENS of Texas. I have never done it, and I have never seen such a statement.

Mr. MADDEN. We know the amount of mileage which is paid and the number of men, and all you would have to do would be to divide one by the other and get the per capita cost.

Mr. BURKE of South Dakota. At the Carlisle School, including the cost of transportation, the pupils being brought long distances, in many instances, the education is as low or lower than at any other school in the service.

Mr. MADDEN. What does that mean?

Mr. BURKE of South Dakota. It means it is a large school, and that the sources of supply are nearer available than at some of these other schools. The Government is not losing anything, because the per capita cost, as I have stated, is lower than at any other school, I think, that we have in the country.

Mr. KENDALL. The gentleman means not losing anything in comparison with other schools?

Mr. BURKE of South Dakota. Other schools.

Mr. MADDEN. Would it not be economy to transfer the Carlisle School to a place more adjacent to the people to be educated?

Mr. BURKE of South Dakota. If it was not for the Carlisle School, I would not be in favor of an appropriation to build a school at Carlisle.

Mr. MADDEN. The gentleman thinks the expenditure for the maintenance of these schools and the transportation of the pupils from one point to the other is justified?

Mr. BURKE of South Dakota. I do.

Mr. MADDEN. But nobody knows the cost per capita.

Mr. STEPHENS of Texas. I think I can give the gentleman the information right here. The amount required for the transportation of pupils for 1914 is $82,000. The enrollment of the nonreservation schools for the fiscal year ending June 30, 1911, was 7,134, and for the fiscal year ending June 30, 1912, it was 8,212.

Mr. MONDELL. Was the gentleman inquiring as to the cost per capita at the schools?

Mr. MADDEN. Yes; and the cost of transportation per capita.

Mr. STEPHENS of Texas. The transportation cost is about eight and one-third dollars for each pupil.

Mr. MADDEN. How many pupils is the man who gathers them up supposed to bring in one cargo?

Mr. STEPHENS of Texas. I do not think they could possibly have any definite rule about that. They gather them in the different reservations in the best way they possibly can.

Mr. MADDEN. Do any of these pupils go to the schools from their homes without any attendant?

Mr. STEPHENS of Texas. I do not quite understand the gentleman.

Mr. MADDEN. I understood the gentleman from Texas to say that they had men in charge who were responsible for gathering the pupils up in the places where they live and taking them to the schools in the various parts of the country.

Mr. STEPHENS of Texas. They are competent men in the lines along which they are educated, and they become good citizens.

Mr. MADDEN. What I want to know is whether any of these Indian children go to the schools without a guide?

Mr. STEPHENS of Texas. Oh, it is only the smaller children who are supposed to be incompetent to take care of themselves and require guides. The smaller ones do have guides.

Mr. BURKE of South Dakota. Mr. Chairman, last week during the general debate on the Indian appropriation bill in connection with some remarks I brought to the attention of the House a report made by Mr. M. L. Mott, tribal attorney for the Creek Nation, showing a deplorable condition of affairs with reference to extravagance on the part of guardians in the handling of Indian minor estates in the probate courts in the several counties comprising the Creek Nation. The gentleman from Oklahoma [Mr. DAVENPORT], without attempting to defend the charges contained in the report, assailed the author of it, Mr. Mott, and attempted to make it appear that he is not responsible, and I think it was charged that he is a "carpetbagger." I am just in receipt of a letter from Moty Tiger, principal chief of the Creek Nation, in which he states that Mr. Mott has been the attorney for the tribe since 1904, and that his services have been entirely satisfactory, and that though he—the principal chief—is a Democrat and Mr. Mott a Republican that he will continue Mott as attorney for the tribe while it is within his power to do so; and in this letter he mentions a number of important matters where Mr. Mott has succeeded in protecting the Indians against legislation that had been enacted relating to taxation of their lands and other important matters, and that he had done so in several cases by going to the Supreme Court of the United States and securing a favorable decision, notwithstanding the Supreme Court of the State of Oklahoma had decided against the Indians. For the purpose of giving the House the opinion of the principal chief as to his estimate of Mr. Mott and to show some of the things that Mr. Mott has accomplished for the Indians, I send to the Clerk's desk and ask to have read the letter I have referred to:

WASHINGTON, D. C., *December 17, 1912.*

Hon. CHARLES H. BURKE,
United States House of Representatives,
Washington, D. C.

MY DEAR SIR: I noticed in the proceedings of the House on last Thursday, and when a report by Mr. Mott on probate conditions was under consideration, that members of the Oklahoma delegation expressed a desire to get rid of Mr. Mott as attorney for the Creek Tribe of Indians, and declared that they would gladly pay the cost of transporting him out of the State of Oklahoma. That you and Congress should have some idea of the value of the services rendered the Indians in Oklahoma by Mr. Mott, I hand you this communication.

Mr. Mott was appointed attorney for the Creek Tribe by General Porter, late chief of the Creek Tribe, in May, 1904.

The treaty of 1902 provided that none of the surplus lands of members of the Creek Tribe should be alienable for a period of five years. In 1904, two years after the ratification of this treaty by Congress and just a month before Mr. Mott's appointment, Congress removed the restrictions on the surplus lands of all freedmen members of the tribe. Within 60 days of the passage of this act there was not one adult freedman in ten who owned an acre of his surplus lands or had a dollar in money to show for it.

The conditions following this legislation were so disastrous and destructive that Mr. Mott determined to use every effort to extend the period of restriction on the lands of the Indian members of the tribe beyond the five-year period provided for in said treaty or agreement, and thereupon he, together with the chief of the Creek Tribe and the Creek delegation, came to Washington and prevailed upon Senator McCUMBER to offer an amendment to the Indian appropriation bill of 1906 extending the restrictions on full-blood Indians of the Five Tribes for a period of 25 years.

Senator McCUMBER stated on the floor of the Senate that he was not sure of the constitutionality of the legislation, but insisted that the legislation should pass, and in support of the necessity for the same had read from the Clerk's desk and inserted in the RECORD a statement by Mr. Mott of the conditions in Indian Territory and what would be the result when the restrictions were taken off these lands. There were also published in the RECORD at the time statements by the chief and the delegation. The amendment was passed and became a law, and but for this amendment there would not be one member of the tribe in ten who would to-day own a foot of land other than his restricted homestead.

The constitutionality of the McCumber amendment was attacked in the Marchie Tiger case. The courts sustained and upheld the amendment.

Prior to the act of May 27, 1908, the Indian land grafters in Oklahoma had secured from full-blood Indians deeds to thousands of tracts of inherited lands. These deeds were secured by all kinds of fraud and for comparatively no consideration, and the lands so conveyed were worth into the millions.

Mr. Mott took the position that all conveyances by full-blood Indians prior to the act of May 27, 1908, were void unless the same had been approved by the Secretary of the Interior, and in accordance therewith there was filed a suit contesting the legality of these conveyances.

In this case, commonly known as the Marchie Tiger case, the State Supreme Court of Oklahoma held these deeds to be good and valid. On a writ of error the case was brought to the Supreme Court of the United States, and this court, in an undivided opinion, reversed the Supreme Court of Oklahoma and held all these deeds and conveyances to be absolutely void, and thereupon millions of dollars were saved to the full-blood Indians of the Five Tribes.

When in 1908, the first year after statehood for Oklahoma, Congress, upon the earnest and persistent insistence of the Oklahoma delegation, removed restrictions from much of the land of the members of the Five Tribes and declared such lands subject to taxation, Mr. Mott resisted this legislation and insisted to the department and the committees of Congress that under the agreements of the Government with the Indians to exempt certain lands from taxation for a certain period Congress, under the Constitution, had no authority to authorize the State of Oklahoma to tax said lands.

One year in advance of any action by anyone else Mr. Mott secured from the Creek council an appropriation of funds to resist the taxation of these said lands. Injunction suits were filed in all the counties comprising the Creek Nation. Subsequently like suits were filed in the Choctaw and Chickasaw Nations.

The Supreme Court of Oklahoma held the lands to be taxable. On a writ of error the Creek case was brought to the Supreme Court of the United States. The Choctaw and Chickasaw cases followed, and were later advanced to be heard with the Creek case.

Only the homesteads of Creek citizens being involved, whilst both the allotments and homesteads of the Choctaw and Chickasaws were involved, the court handed down the decision in the Choctaw case and, in an undivided opinion, reversed the Supreme Court of Oklahoma, holding that said lands were not taxable and legislation by Congress authorizing their taxation to be unconstitutional, thus saving to the Indians of the Five Tribes many millions of dollars in taxes. And it is within my knowledge that the department gives to Mr. Mott the full credit for the institution of this litigation and the benefits accruing therefrom to the tribe.

Mr. Mott, in 1906, after numerous efforts, caused to be had an investigation of the fraudulent scheduling of town lots in the Creek Nation. This investigation resulted in the filing of a large number of suits by Mr. Mott against many prominent citizens, including the former governor of the State. These civil suits resulted in the indictment of a number of these prominent citizens. The indictments finally went out of court on the statute of limitations, pleaded by the defendants.

A number of the civil cases are still pending; a number have been settled, and in such settlements Mr. Mott has collected, in round numbers, $100,000, and turned the same over to the Secretary of the Interior, and which has been deposited in the Treasury to the credit of the Creek Nation. There has also been secured decrees of the court on ninety-odd lots, valued at not less than $60,000. An additional recovery of $125,000 on the remaining suits is a conservative estimate. And it is for these things that thousands in Oklahoma would rejoice to see Mr. Mott's services to the Indians terminated. He is in the way of those who want to despoil and plunder my people.

Mr. Mott is a Republican. I am a Democrat. But I am first and last for my oppressed people. And so long as I am chief, Mr. Mott, if he desires and I can have my way, will remain the attorney for the Creek Tribe.

I desire to express to you my deepest appreciation for your stand on behalf of the Indians in the State of Oklahoma.

Very respectfully, yours,

MOTY TIGER,
Principal Chief of the Creek Nation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

To conduct experiments on Indian school or agency farms designed to test the possibilities of soil and climate in the cultivation of trees, grains, vegetables, and fruits, for the purposes of preserving living and growing timber on Indian reservations and allotments, and to advise the Indians as to the proper care of forests: *Provided*, That this shall not, as to timber, apply to the Menominee Indian Reservation in Wisconsin; for the employment of suitable persons as matrons to teach

Indian women housekeeping and other household duties, and for furnishing necessary equipments and renting quarters for them where necessary; for the employment of practical farmers and stockmen, in addition to the agency and school farmers now employed; and to superintend and direct farming and stock raising among Indians, $300,000: *Provided further*, That not to exceed $5,000 of the amount herein appropriated may be used to conduct experiments on Indian school or agency farms to test the possibilities of soil and climate in the cultivation of trees, grains, vegetables, and fruits: *Provided also*, That the amounts paid to matrons, farmers, and stockmen herein provided for shall not be included within the limitation on salaries and compensation of employees contained in the act of June 7, 1897.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illionis [Mr. MANN] reserves a point of order on the paragraph.

Mr. MONDELL. Mr. Chairman, I move to strike out, on line 24, page 5, the words "$300,000," and insert in lieu thereof the words "$400,000."

The CHAIRMAN. The question is on the point of order.

Mr. STEPHENS of Texas. I hope, Mr. Chairman, that the amendment will not prevail.

The CHAIRMAN. The question is on the point of order made by the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, may I ask the gentleman from Texas in charge of the bill just what is the necessity of continually providing that the salaries paid to the officials employed under this appropriation shall not be included within the limitation of salaries provided by law? How much is paid, as a matter of fact, in the way of salaries to the persons employed as matrons, farmers, and stockmen?

Mr. STEPHENS of Texas. The question is why?

Mr. MANN. Yes; both why and how much.

Mr. STEPHENS of Texas. I will give the statement that is printed here:

This estimate provides mainly for the continuation of those positions which are now in force and the establishment of other positions at places where the present force is inadequate or where no farmers are employed at all.

We are following up the old law, with the same salaries and with the same amounts as heretofore. They have repeatedly asked for more salaries, and we have refused to allow them in this bill and in other bills. This is simply a repetition of the law as it has existed for several years.

Mr. MANN. Of course under this language they could pay as much salary as they pleased. The commissioner could double the salary if he chose to do so. What are the salaries now paid to the matrons, farmers, and stockmen?

Mr. STEPHENS of Texas. I will give the gentleman what the department says here:

Two hundred and thirty thousand dollars of the $400,000 appropriated for the current fiscal year was set aside for agricultural and stock purposes, $120,000 for forestry work, and $50,000 for the employment of field matrons. One supervisor, at $3,000 per annum, and one superintendent of live stock, at $2,000, are paid from this appropriation. These men have no particular districts assigned to them, but are subject to the direction of the Commissioner of Indian Affairs, and visit all the reservations. In addition to their salaries the supervisors of farming and superintendent of live stock receive per diems ranging from $3 to $2.50, respectively, in lieu of subsistence when away from their headquarters.

Mr. MANN. What is the gentleman reading from, may I inquire?

Mr. STEPHENS of Texas. I am reading from page 29 of the hearings on the Indian appropriation bill, where this item is explained by the department. Those are the items given by the department to the committee.

Mr. MANN. The postponement of the consideration of the bill the other day has accomplished one good thing, and that is it has enabled the members of the committee to get copies of the printed hearings.

Now I want to ask another question. This is a legitimate question, especially in view of the attitude of the gentlemen on the other side and their probable action after the 4th of March next. How much pay do the matrons receive? How much do the farmers get paid and how much do the stockmen get paid? How can the gentleman from Texas and his colleagues on that side tell whether they would wish to recommend their constituents for appointment to these places unless they know how much the compensation is?

Mr. FOSTER. Is my colleague able to give to this side of the House the same information that that side of the House has enjoyed for some years?

Mr. MANN. I can give some information to my colleague from Illinois.

Mr. FOSTER. I will say to my colleague that after we get in we shall be able to find these places without any difficulty. [Laughter.]

Mr. MANN. I am asking for information.

Mr. STEPHENS of Texas. The amount of $50,000 is given for the payment of field matrons. Does that answer the gentleman's question?

Mr. MANN. No. What is the salary of the matron? What is the salary of the farmer? What is the salary of the stockman?

Mr. STEPHENS of Texas. Fifty thousand dollars is paid to the matrons.

Mr. MANN. How many of them are there?

Mr. FOSTER. Probably in the past they have just been apportioning this $50,000 on that side as they saw fit.

Mr. MANN. I can remember when I used to ask the chairman of the Committee on Indian Affairs on this side the same questions in former years, and the information was forthcoming, and I am sure it will be forthcoming now.

Mr. STEPHENS of Texas. I will give the gentleman the information, which comes from his side of the House, if he wants to put it in a political sense. The salaries have all been fixed by the Indian Bureau. Certainly the gentleman has no right to complain.

Mr. MANN. I am not complaining. I am asking for information.

Mr. STEPHENS of Texas. I am trying to give it to you.

Mr. MANN. "Trying" is a good word.

Mr. STEPHENS of Texas. The salaries of the expert farmers range from $1,000 to $1,500 per annum. There is only one man employed, however, at $1,500, and this man has charge of the demonstration farm on the Fort Berthold Indian Reservation, established in pursuance of the act of June 1, 1910, and also has general supervision of the farming operations throughout the reservation. He is not confined to one place, but has charge of everything.

Mr. MANN. That is, one man?

Mr. STEPHENS of Texas. The usual salary paid such employees is $1,200 a year.

Mr. MANN. Is that for farmers or stockmen?

Mr. STEPHENS of Texas. The salaries of expert farmers range from $1,000 to $1,500. The salaries of stockmen range from $720 to $1,200 per annum. While the figures for the fiscal year 1912 are not yet complete, the reports which are being received from the various reservations indicate that there has been a revival of interest in agricultural pursuits on the part of the Indians, and there is in some localities need for the employment of more men to direct the operations of the Indians and advise them, not only in the proper method of cultivating their crops and the care and upbreeding of their live stock, but also in helping them find markets where the best returns may be procured for their products.

Mr. MANN. What are the salaries of the matrons?

Mr. STEPHENS of Texas. The sum of $50,000 is appropriated to pay the matrons on the various reservations. Each reservation has a certain number of matrons allotted to it.

Mr. MANN. The gentleman has not the information as to the amount paid each one?

Mr. STEPHENS of Texas. The department does not give that information.

Mr. MANN. That answers the question.

Mr. STEPHENS of Texas. Therefore I can not state.

Mr. MANN. I am very much obliged to the gentleman.

Mr. STEPHENS of Texas. I can not state it for the reason that it is given under the head of the various reservations.

Mr. MANN. I am not complaining. I am very much obliged to the gentleman for the information, and in view of the information I withdraw the point of order.

Mr. FOWLER. I renew the point of order.

Mr. DIES. I should like to know, Mr. Chairman, who has the floor.

Mr. STEPHENS of Texas. I think the gentleman from Illinois [Mr. MANN] took the floor to interrogate the chairman of the committee.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] took the floor and reserved a point of order.

Mr. MANN. I now withdraw the point of order.

Mr. FOWLER. And I have renewed it.

Mr. MONDELL. Mr. Chairman, may I be recognized on my amendment?

Mr. FOSTER. The gentleman from Illinois [Mr. FOWLER] has reserved a point of order.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] has renewed the point of order.

Mr. FOWLER. I reserve the point of order. I desire to ask the chairman of the committee if the $1,420,000, provided for on page 4, for day and industrial schools carries with it also

the power to use a portion of that money to teach Indians how to farm?

Mr. STEPHENS of Texas. I do not think it does.

Mr. FOWLER. My understanding has always been that in connection with the industrial schools farming is taught.

Mr. DIES. Mr. Chairman, I make the point of order that the gentleman from Illinois is not discussing the point of order.

Mr. FOWLER. Mr. Chairman, I had reserved a point of order, and if the gentleman from Texas had been listening he would not have interrupted this committee on his point of order.

The CHAIRMAN. The gentleman from Illinois will proceed.

Mr. DIES. Mr. Chairman, I would like to know if the gentleman from Illinois is not discussing the point of order what right he has to the floor?

The CHAIRMAN. The gentleman from Illinois reserved the point of order, and is engaged in making some inquiries of the chairman of the committee, the gentleman from Texas.

Mr. FOWLER. I desire to ask if it is not a fact that agriculture is taught in the industrial schools instituted for the benefit of the Indians?

Mr. FERRIS. If the gentleman will pardon me, I will say that the $1,420,000 provided for the Indian schools, some of which are industrial schools, and some of the money in the natural course of things is spent in connection with what they call the school farm—that is, the farm used in conjunction with the schools. The item under discussion particularly relates to individual field matrons and field farmers and those who go out and help the Indians who try to carry on agriculture on their own hook.

As the gentleman knows, a great many Indians are out on allotments, and as they begin to settle they get advice and help of the Indian farmers and the matrons and the Indian farmers.

Mr. FOWLER. I call the attention of the gentleman from Oklahoma to the fact that the paragraph begins as follows:

To conduct experiments on Indian schools or agency farms.

Mr. DIES. Mr. Chairman, I renew my point of order that the gentleman from Illinois is not proceeding according to the rules.

The CHAIRMAN. The gentleman from Illinois is recognized under the familiar practice in the Committee of the Whole to extend recognition, when requested, to a Member reserving a point of order. Strictly speaking under this recognition the gentleman is not entitled to five minutes, if objection is made. But the usual practice allows him to proceed in the absence of objection for certainly as much as five minutes.

Mr. STEPHENS of Texas. If the gentleman will look further he will find that the funds are to be expended on Indian reservations and on Indian allotments and for giving advice to the Indians on the proper care of forestry, and so forth.

Mr. FOWLER. That is true, but the committee provides specifically for experiments on Indian schools and agency farms. What I am trying to get at is that I do not want any lapping in this matter. If there is an appropriation made for the benefit of teaching the Indians farming in connection with these industrial schools, then I can not see what use there will be in making appropriations again for the same purpose under a different item.

Mr. FERRIS. I can readily see from the reading of the language that it looks as if there might be a lapping over and a conflict, but practically there is not. The money they use in connection with the school farm is independent of the matrons and the agents and what they call farmers. For example, in my own county we have an Indian school.

Mr. FOWLER. An industrial Indian school?

Mr. FERRIS. It is. They have alfalfa and raise corn, and so forth.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FERRIS. I ask unanimous consent that the gentleman from Illinois have five minutes more.

Mr. DIES. I object.

Mr. FERRIS. I hope the gentleman from Texas will not object.

Mr. DIES. I object because I do not think the gentleman from Illinois properly had the floor.

The CHAIRMAN. The Chair will say to the gentleman from Texas that the gentleman from Illinois rose, obtained recognition, and thereupon reserved a point of order. Under our practice, he was thereupon entitled to proceed for five minutes, and longer if no objection was made. This practice is a mere convention, a system of informal procedure which has grown up as a matter of convenience, and is favored because in the main it really expedites business. The gentleman from Illinois has used his time to make inquiries of the gentleman relating to the paragraph just read. This is in conformity with what the Chair understands to be a practice of long standing, and general acquiescence. The five minutes having expired, the Chair called the attention of the gentleman from Illinois to that fact.

Mr. FERRIS. Does the gentleman from Texas still object?

Mr. DIES. I do object.

Mr. FERRIS. Mr. Chairman——

The CHAIRMAN. Just one moment. Does the gentleman from Oklahoma ask unanimous consent to reply to the gentleman from Illinois for five minutes?

Mr. FERRIS. Mr. Chairman, I move to strike out the last word.

Mr. MONDELL. But that motion is not in order.

Mr. FERRIS. Then, Mr. Chairman, I move to strike out the last two words.

Mr. MONDELL. That is not in order.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent to reply to the gentleman's point of order.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to reply to the gentleman from Illinois. Is there objection?

Mr. DIES. Mr. Chairman, I object, for the reasons stated.

The CHAIRMAN. Objection is heard.

Mr. CAMPBELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CAMPBELL. Mr. Chairman, I think we may as well settle the question of order here. I ask the question that we may settle the question of order. The gentleman from Illinois reserved the point of order and proceeded to ask the chairman of the committee in charge of the bill some questions, as he had a right to do. It was the right of the Chair to shut him off at any time he saw fit. The gentleman from Oklahoma now has a perfect right on a question of order, the point of order not having been withdrawn, to proceed without unanimous consent, as I understand the rules and practice of the House, and to proceed within the discretion of the Chair, not for 5 minutes, not for 10 minutes, but for an hour, if the Chair will permit the discussion.

The CHAIRMAN. The gentleman from Illinois reserved a point of order to the paragraph, and asked to be recognized. Recognition was extended. Some objection being made, the Chair stated that the recognition would be limited to five minutes. At the expiration of five minutes, the gentleman from Illinois was so informed. The gentleman from Oklahoma asked unanimous consent to proceed for five minutes, and the Chair put that request to the committee and objection was made. That is the exact parliamentary situation.

Mr. MANN. Mr. Chairman, will the Chair recognize me for a suggestion?

The CHAIRMAN. The gentleman from Illinois is recognized.

Mr. MANN. The Chairman stated, and stated correctly, that in the practice of the House where a point of order is reserved gentlemen are recognized on the floor for a discussion for five minutes. Any gentleman at any time can insist upon the point of order being determined by making the point of order himself. Until some one does make the point of order or insists upon a ruling I think the practice is that the Chair recognizes gentlemen on the floor to discuss the merits for five minutes, under which provision the gentleman would be entitled to be heard.

The CHAIRMAN. There was no request upon the Chair for recognition to discuss the merits. The gentleman from Oklahoma asked unanimous consent to proceed and that was refused.

Mr. FERRIS. I now ask to be heard on the point of order that has been reserved.

Mr. DIES. Mr. Chairman, I make a motion to strike out the last word.

The CHAIRMAN. The Chair does not see how the gentleman can be heard on a point of order that has been reserved and not made.

Mr. FERRIS. I thought it was agreed, both by the Chair and also by the suggestion of the gentleman from Illinois, that it was within the discretion of the Chair to hear gentlemen so long as the point of order was reserved.

The CHAIRMAN. The Chair does not see how the gentleman can be heard on a point of order that is reserved. There is nothing before the committee.

Mr. FERRIS. The practice is so uniform here in the House that when a point of order is reserved almost universally, I think, different Members proceed to explain the section, and that is what I am seeking to do now—to explain away the objections of the gentleman from Illinois. I think that is the uniform practice.

The CHAIRMAN. The Chair understands the conventions of the committee; but when objection is formally made quite a different situation is presented.

Mr. FERRIS. Have I not, within the province of the Chair, the right to proceed, independently of objection, in my own right, so long as the point of order is not made?

The CHAIRMAN. In respect to what?

Mr. FERRIS. In respect to the section on which the point of order is reserved.

The CHAIRMAN. The point of order was reserved by the gentleman from Illinois, and his rights, if any, were exhausted, in the opinion of the Chair, at the expiration of five minutes. There is no point of order to discuss, none having been made.

Mr. FERRIS. I think the practice has been otherwise. Mr. Chairman; and if I may, I would like to proceed to reply to the gentleman.

Mr. CARTER. Mr. Chairman, is there not just as much now before the committee as there was when the gentleman from Illinois was addressing the committee a few moments ago?

Mr. FERRIS. The reservation of the point of order, under the convention of the House, gives the gentleman who reserves the point of order the right to the floor for five minutes, informally. That has been the practice of the committee.

The CHAIRMAN. But not after objection is made.

Mr. CARTER. Objection had not been made.

The CHAIRMAN. Objection has been made by the gentleman from Texas [Mr. DIES]. The gentleman from Texas asked how the gentleman had the floor, and the Chair explained the situation to him.

Mr. DIES. Mr. Chairman, I move to strike out the last word.

Mr. FOSTER. Mr. Chairman, I call for the regular order.

The CHAIRMAN. The gentleman from Oklahoma asked recognition of the Chair.

Mr. MANN. Mr. Chairman, it seems to me we ought to have more Members present, and therefore I make the point of order that there is no quorum present.

Mr. RODDENBERY. Mr. Chairman, I desire to make a parliamentary inquiry. Under the ruling of the Chair, at the expiration of five minutes——

The CHAIRMAN. The gentleman from Georgia will state his parliamentary inquiry.

Mr. MANN. I submit a parliamentary inquiry can not be made when a point of order of no quorum present is made.

The CHAIRMAN. Well, the gentleman from Illinois was not recognized by the Chair, but the gentleman from Georgia was recognized to state a parliamentary inquiry. He is now stating it.

Mr. MANN. I beg the Chair's pardon; he does not have to be recognized to make a point of order of no quorum present.

The CHAIRMAN. The Chair recognized the gentleman from Georgia to propound a parliamentary inquiry.

Mr. MANN. But I can take the gentleman off the floor——

The CHAIRMAN. The Chair has recognized the gentleman from Georgia to propound a parliamentary inquiry.

Mr. MANN. Mr. Chairman, I make the point of order that there is no quorum present in the committee.

The CHAIRMAN. The gentleman from Georgia will state his parliamentary inquiry.

Mr. MANN. Mr. Chairman, I call attention to the fact that there is no quorum present in the committee.

The CHAIRMAN. The gentleman from Georgia will propound his parliamentary inquiry.

Mr. RODDENBERY. Under the ruling of the Chair that the gentleman from Illinois having reserved a point of order and by the reservation having been recognized is entitled to five minutes, that time having expired the gentleman from Oklahoma having addressed the Chair and having been recognized might have obtained the floor by himself reserving the point of order, could he not?

The CHAIRMAN. The matter contained in the gentleman's inquiry is no longer before the committee. It is not a present question, but a moot one. The Chair of course when objection is made can require a Member reserving a point of order to proceed to state it.

Mr. MANN. Mr. Chairman, I make the point of order there is no quorum present in the committee.

The CHAIRMAN. The Chair will count. [After counting.] The Chair sustains the point of order, and the Clerk will call the roll.

The Clerk began the calling of the roll.

Mr. BUCHANAN. Mr. Chairman, I move that the committee do now rise.

Mr. STEPHENS of Texas. Mr. Chairman, I make the point of order against the motion of the gentleman for the reason that the roll call is in progress.

The CHAIRMAN. The Chair had directed the roll to be called, and in due course this was being done. The point of order is sustained.

Mr. STEPHENS of Texas. The Clerk had called one name.

The roll was called, and the following Members failed to answer to their names:

Adair	Driscoll, D. A.	Kendall	Pujo
Adamson	Edwards	Kennedy	Rainey
Aiken, S. C.	Ellerbe	Kent	Randell, Tex.
Akin, N. Y.	Esch	Kindred	Ransdell, La.
Ames	Estopinal	Kitchin	Rayburn
Anderson	Evans	Knowland	Richardson
Andrus	Fairchild	Konig	Riordan
Ansberry	Finley	Korbly	Roberts, Mass.
Anthony	Floyd, Ark.	Lafean	Roberts, Nev.
Barchfeld	Focht	Lafferty	Robinson
Barnhart	Fordney	Langham	Rodenberg
Bartholdt	Fornes	Langley	Rothermel
Bartlett	Foss	Lawrence	Rouse
Bates	Francis	Legare	Rucker, Mo.
Bathrick	Fuller	Levy	Scott
Bell, Ga.	Gallagher	Lewis	Scully
Berger	Gardner, Mass.	Lindsay	Sells
Bochne	Garner	Linthicum	Shackleford
Boeher	George	Littlepage	Sharp
Bradley	Gill	Littleton	Sherwood
Brantley	Gillett	Longworth	Simmons
Broussard	Glass	Loud	Sisson
Brown	Gocke	McCall	Small
Burgess	Goldfogle	McCreary	Smith, Cal.
Burke, Pa.	Goodwin, Ark.	McHenry	Smith, N. Y.
Burke, Wis.	Gould	McKellar	Sparkman
Burleson	Graham	McKenzie	Speer
Calder	Gray	McKinley	Stack
Carlin	Green, Iowa	McLaughlin	Stanley
Cary	Greene, Mass.	McMorran	Stephens, Nebr.
Claypool	Greene, Vt.	Maher	Sterling
Clayton	Gregg, Pa.	Martin, Colo.	Sulloway
Cline	Gregg, Tex.	Matthews	Sulzer
Conry	Griest	Mays	Switzer
Cooper	Gudger	Merritt	Taggart
Copley	Guernsey	Moon, Pa.	Talbott, Md.
Covington	Hamill	Moon, Tenn.	Taylor, Ala.
Cox, Ohio	Hanna	Moore, Pa.	Taylor, Colo.
Crago	Hardwick	Moore, Tex.	Taylor, Ohio
Cravens	Harris	Moss	Thayer
Crumpacker	Harrison, N. Y.	Murdock	Thistlewood
Curley	Hart	Murray	Thomas
Currier	Hartman	Norris	Towner
Dalzell	Haugen	Nye	Turnbull
Daugherty	Hedin	O'Shaunessy	Tuttle
Davenport	Henry, Conn.	Page	Underwood
Davidson	Higgins	Palmer	Vare
Davis, W. Va.	Hobson	Parran	Vreeland
De Forest	Houston	Patten, N. Y.	Warburton
Dent	Howard	Patton, Pa.	Webb
Denver	Howland	Payne	Wedemeyer
Dickson, Miss.	Hughes, Ga.	Pepper	Weeks
Difenderfer	Hughes, W. Va.	Pickett	Whitacre
Dixon, Ind.	Humphrey, Wash.	Plumley	Wilson, Ill.
Dodds	Humphreys, Miss.	Porter	Wilson, N. Y.
Donohoe	Jackson	Pou	Witherspoon
Doremus	Johnson, Ky.	Pray	Wood, N. J.
Doughton	Johnson, S. C.	Prince	Woods, Iowa
Draper	Kahn	Prouty	Young, Mich.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, having under consideration the bill H. R. 26874, the Indian appropriation bill, reported that the committee, finding itself without a quorum, he had directed the roll to be called, and that upon the roll call 154 Members answered to their names, and that he therewith reported a list of the absentees.

The committee resumed its session.

Mr. DIES. Mr. Chairman, I move to amend by striking out the last word.

Mr. MANN. Mr. Chairman, I make the point of order that the motion is not in order at this time.

Mr. STEPHENS of Texas. Mr. Chairman, I move that all debate on this section be closed in five minutes.

The CHAIRMAN. What is the point of order the gentleman from Illinois [Mr. MANN] makes?

Mr. MANN. My colleague, Mr. FOWLER, had a point of order pending on the paragraph, which I understood was not yet disposed of.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is correct. Does the gentleman from Illinois [Mr. FOWLER] insist on his point of order?

Mr. FOWLER. Mr. Chairman, I was desiring information concerning this appropriation, so that I might determine as to whether the point of order ought to be made against the paragraph. There are questions, Mr. Chairman, requiring an appropriation which is not provided for by law, and yet the appropriation ought to be made in good conscience. If that information can be had, then the party reserving the point of order can determine as to whether he ought to make it or not. I was seeking that information, Mr. Chairman, at the time when I was taken off the floor.

Mr. OLMSTED. Mr. Chairman, I ask for the regular order.

Mr. DIES. I make the point of order, Mr. Chairman, that the gentleman is not discussing the point of order.

The CHAIRMAN. The Chair will again state that the gentleman from Illinois was recognized, in conformity with an established practice in the Committee of the Whole. Having been recognized the gentleman from Illinois proceeded in the usual manner, made his inquiries, and discussed informally the replies received. All of this was in accord with established practice. At the end of five minutes his time expired. The Chair does not recall any ruling on this precise point, but in reason a Member recognized in connection with the reservation of a point of order should not have more than five minutes, save by the acquiescence of the committee. Strictly speaking, on objection made he may be required to make his point of order without proceeding for five minutes.

Mr. OLMSTED. If the Chair will permit me, just for the purpose of raising a point of order, I demand the regular order.

The CHAIRMAN. The regular order is that the gentleman from Illinois shall state his point of order, as requested by the Chair.

Mr. OLMSTED. If the Chair will permit me, I was just going to cite the law upon this point, which seems to be much misunderstood by everyone who has discussed it. The parliamentary law is that no gentleman can reserve a point of order at all, except by unanimous consent, which is either expressly given or is assumed.

The CHAIRMAN. That is in conformity with what the Chair has already stated. I have so ruled.

Mr. OLMSTED. It is often the practice to assume unanimous consent, but when objection is made and the regular order is demanded, then all debate ceases and the point of order is passed upon.

The CHAIRMAN. That is precisely what the Chair has held, and the gentleman from Illinois [Mr. FOWLER] has been informed that he must state his point of order, if he insists upon the same.

Mr. OLMSTED. I understood a little while ago when the gentleman from Texas [Mr. DIES] objected, that the Chair held that the Member reserving the point of order was entitled to five minutes of debate.

The CHAIRMAN. The Chair was careful to state that his ruling was in conformity with the conventional procedure in Committee of the Whole. Being temporarily in the chair, the present occupant would not depart from this practice, even if so disposed, which he is not.

Mr. OLMSTED. The Chair did so state. I find in Hinds' Precedents, Volume V, section 6869, the following:

A point of order may not be reserved by a Member if another Member insists on an immediate decision.

That was decided by Mr. DALZELL, who was in the chair at the time. Mr. UNDERWOOD reserved a point of order and Mr. Hepburn of Iowa objected, and after discussion the Chair [Mr. DALZELL] said:

The Chair thinks the gentleman can not reserve the point of order in the face of an objection on the part of any member of the committee. If the gentleman from Alabama [Mr. UNDERWOOD] desires to insist on his point of order and the gentleman from Iowa, Mr. Hepburn, insists that it shall not be reserved, it must be disposed of now.

The CHAIRMAN. The ruling cited is in conformity with parliamentary law, as the Chair understands it.

Mr. OLMSTED. Mr. Chairman, I withdraw my demand for the regular order, as I have no desire to cut off debate.

The CHAIRMAN. In conformity with the authority quoted, the Chair rules now, as it has ruled heretofore, that the reservation of a point of order is not a matter of right under the rules, but of general acquiescence. All proceedings under such a reservation are a form of unanimous consent. Objection having been made, the gentleman from Illinois [Mr. FOWLER] is requested to state his point of order.

Mr. FOWLER. Mr. Chairman, on page 4 of the bill there is a provision appropriating $1,420,000 for day and industrial schools.

Mr. DIES. Mr. Chairman, I make the point of order that the gentleman is addressing himself to a paragraph that has been passed, and I make the further objection that the five minutes indicated by the Chair have elapsed.

The CHAIRMAN. The gentleman from Illinois is merely referring to a paragraph that has been read. He has been requested to state his point of order, and as the Chair understands, is now proceeding to do so.

Mr. FOWLER. That is the case, Mr. Chairman.

The paragraph under consideration provides for an appropriation of $300,000 for the purpose of conducting experiments on Indian school farms or agency farms. It would appear, Mr. Chairman from a reading of these two sections that there is a double appropriation. Certainly the appropriation of $1,420,000, a portion of which is to be applied to industrial schools for the purpose of teaching the Indians farming, is for the same object as is provided for in the paragraph under discussion.

Also, Mr. Chairman, the proviso concluding that paragraph is—

That the amounts paid to matrons, farmers, and stockmen herein provided for shall not be included within the limitation on salaries and compensation of employees contained in the act of June 7, 1897.

Mr. Chairman it would seem also that there was an attempt at a double appropriation in that portion of this paragraph. Under the explanation given by the gentleman from Texas [Mr. STEPHENS], the chairman of the Committee on Indian Affairs, and by the gentleman from Oklahoma [Mr. FERRIS], I withdraw the point of order.

Mr. MONDELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MONDELL. At the time the gentleman from Illinois [Mr. FOWLER] reserved a point of order—as a matter of fact, before he reserved a point of order, I think—I was recognized. At any rate, I offered an amendment to this paragraph. Am I not entitled to an opportunity to discuss this paragraph?

The CHAIRMAN. The gentleman from Wyoming has not been recognized, but of course the present occupant of the chair intends to recognize him in due course. The Chair will state that the amendment referred to must have been offered while the present occupant of the chair was temporarily out of the Chamber.

Mr. MONDELL. It was certainly offered while the Chairman was in the chair.

The CHAIRMAN. As the gentleman from Wyoming will recall, the gentleman from Missouri [Mr. RUBEY] occupied the chair for some moments, and doubtless the amendment to which the gentleman refers was offered during that time.

Mr. MONDELL. Doubtless that is so.

Mr. RUBEY. Mr. Chairman, I want to state to the Chair that the gentleman from Wyoming was in fact recognized, and had sent up an amendment, when the gentleman from Illinois [Mr. FOWLER] reserved a point of order, and then the gentleman from Wyoming was taken off the floor——

Mr. MANN. And before the amendment was offered.

The CHAIRMAN. As the Chair has stated, all of this occurred during the present Chairman's temporary absence from the Chamber.

Mr. DIES. Mr. Chairman, I am glad the item I have referred to in the bill is for an appropriation to teach farming rather than to teach parliamentary law; else I should be tempted to support the substitute. [Laughter.] It provides that $300,000 shall be appropriated for the purpose of teaching agriculture. And, Mr. Chairman, in view of the hue and cry heard all over this country with regard to the high cost of living, I think the item is deserving and ought to be appropriated.

It seems to me that if there is a science that ought to be taught in this Republic to-day it is the science of agriculture. Those who inhabit the cities of our country and who complain of the high price of potatoes ought to know that land can be had in the West at from $5 to $10 an acre that will produce 300 bushels of potatoes to the acre. Those who look to the new administration for a decrease in the price of beef ought to know that the best way to decrease the price of beef is to go into the farming business and raise beef cattle. Those in the great crowded cities who are making a propaganda for a decrease in the price of eggs ought to know that the only sure way to bring about a reduction in the price of that commodity is to understand the poultry business.

So, Mr. Chairman, if there is one piece of information that the people of this country ought to have in this day of false Republicanism and blind bull mooseism, it is that the cost of living can be reduced by an increase of production rather than by a ferment of political agitation. Why, sir, the old earth upon which we live stands ready to respond to the touch of the husbandman. Down in the South and out in the West lie with beckoning hospitality the untilled acres of the earth bidding the inhabitants of the teeming cities to come and raise hay and horses and eggs and beefsteak. Mr. Chairman, you will get more good results by teaching the people to raise the necessities of life than by this maudlin agitation about the high cost of living. Sir, in the community in which I live 500 gallons of sirup can be produced upon a single acre of land that can be bought for $10 or $15. Surely to teach the poor Indian that he can get out and go to work and reduce the high cost of living will do him more good than a dissertation upon the tariff or upon international arbitration for the purpose of determining the high cost of living.

I am sincerely glad, Mr. Chairman, that this item is in the bill, and I hope some poor Indian will read and get the benefit of it, and that instead of joining societies to break the egg market he will get him some young pullets and feed them hot mash in the morning and take care of them and harvest his eggs and learn that that is the best way to reduce the price of eggs. [Applause.]

Mr. STEPHENS of Texas. Mr. Chairman, I move that all debate on the paragraph and all amendments thereto be closed in five minutes.

Mr. MONDELL. Is it the desire of the gentleman from Texas to cut off all amendment to the paragraph and all debate?

Mr. STEPHENS of Texas. I understand that the gentleman from Wyoming has offered his amendment, and I am willing——

Mr. MONDELL. The Chair informed "the gentleman from Wyoming" that he had not offered his amendment, and he has certainly had no opportunity to discuss it, and there has been no discussion whatever of the paragraph.

The CHAIRMAN. The Chair desires to say that the gentleman from Wyoming is in error. The Chair did not state that the gentleman from Wyoming had not offered his amendment, but that the amendment was not offered while the present occupant of the chair was in the House. The gentleman from Missouri [Mr. RUBEY] stated that during his occupancy of the chair the amendment of the gentleman from Wyoming was sent to the desk.

Mr. MONDELL. I have had no opportunity to discuss it.

Mr. STEPHENS of Texas. Then I will move that the debate be limited to 10 minutes instead of 5.

The CHAIRMAN. The gentleman from Texas moves that all debate on this paragraph and amendments thereto be concluded at the expiration of 10 minutes.

The motion was agreed to.

Mr. MONDELL. Mr. Chairman, I offer my amendment.

The CHAIRMAN. Does the gentleman desire to have his amendment reported?

Mr. MONDELL. I do.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 5, line 15, after the word "Indians," by inserting "in the growing and care of agricultural crops and."

Mr. FERRIS. Mr. Chairman, I reserve a point of order on that.

Mr. MONDELL. Mr. Chairman, I think the amendment ought to be adopted, and I hope the committee will not object to it.

Mr. FERRIS. It is subject to a point of order.

Mr. MONDELL. I had intended to offer an amendment increasing the appropriation $100,000. I should offer that amendment now if I thought there was any hope of its being adopted, but in the present temper of the Committee of the Whole I fear there is no hope of that. But, Mr. Chairman, I will say to my friend from Illinois that this is the only appropriation carried in the Indian appropriation bill providing for the employment of farmers and matrons and other employees to instruct the Indians. The provision is unfortunate in that while the services of farmers, stockmen, and matrons are employed in instructing the Indians, there is not anything in the paragraph that authorizes any expenditure except in connection with the agency farms.

Mr. FOWLER. Will the gentleman yield?

Mr. MONDELL. In just a moment. I offer this amendment in order to make it clear that these people are to be employed—as a matter of fact they are employed—in the instruction of Indians generally. The most important part of their work is the instruction of Indians in agricultural pursuits.

It is much more important to have these people go about among the Indians and instruct them on their own farms a portion of the time than it is to have them spend all the time in experiments on the agency farms. They are so employed and yet a strict construction of this paragraph would not allow such employment. I simply want to amend the paragraph so that these people can be employed as the House contemplates that they shall be, and, as a matter of fact, they are being employed.

Mr. STEPHENS of Texas. Will the gentleman permit me to ask him a question?

Mr. MONDELL. Certainly.

Mr. STEPHENS of Texas. Does not this language cover it, in lines 21 to 24, page 5:

For the employment of practical farmers and stockmen, in addition to the agency and school farmers now employed; and to superintend farming and stock raising among the Indians.

Mr. MONDELL. I do not think so, in view of the fact that the first part of the paragraph states how the money shall be expended.

Mr. STEPHENS of Texas. But this part that I have read says, "in addition to the agency and school farmers now employed."

Mr. MONDELL. That says that farmers, in addition to farmers employed in other parts of the bill, paid for out of the tribal funds. These are in addition to that, and I do not think that the language would necessarily justify the Commissioner of Indian Affairs employing these people, and why not make it plain?

Mr. STEPHENS of Texas. I think it is as plain as language can make it. It says:

In addition to the agency and school farmers now employed; and to superintend and direct farming and stock raising among the Indians.

Mr. MONDELL. That does not control the appropriation in general, and in my opinion the Commissioner of Indian Affairs might hold, and is likely to hold, that he has no authority to use these funds for any other purpose than to conduct experiments on the farm. This is an important appropriation, and, as a matter of fact, it ought to be largely increased, and I hope that the amendment will be adopted.

Mr. FERRIS. Mr. Chairman, personally I have no serious objection to the amendment of the gentleman from Wyoming. The language, however, in line 18, beginning with the words "for the employment of suitable persons" and ending on line 24, with the figures $300,000, certainly give them ample power to expend these moneys in aid of the individual allottees and give them ample power to go out in the field and aid individual Indians living on the allotments, showing them when to plant, when to sow, and when to reap, and when to cultivate, and all the other things that the individual Indians ought to know. I know from personal observation, from my own experience and actual contact with them, that that is the purpose for which this money is paid out, in at least that part of the country. I think it is used for this purpose everywhere.

The justifications—we have five or six pages of reasons and explanations which disclose that the money has been and will be spent as the gentleman hopes for—are all to the effect that the money is actually used to assist the individual allottee.

We have adopted precisely the language that has been carried right along. There has been no complaint of it. The Indian Commissioner advocates it and says it works well, and it is the same language that was used last year.

Mr. FOWLER. Mr. Chairman, I desire to inquire if the $300,000 is to pay for teaching Indians farming and rotation of crops, regardless of the age of the Indians?

Mr. MONDELL. What item is the gentleman from Oklahoma giving figures upon?

Mr. FERRIS. I beg the gentleman's pardon, the figures I quoted were wrong. I will give him the correct figures. The estimate is for $625,000. Last year we gave them $400,000. This year we give them $300,000. The increase they ask for was to create some new positions and to increase some salaries. The committee thought that we should not at the short session of Congress increase any salaries or create any new positions. I think there was something of this fund left over from last year.

Mr. FOWLER. Mr. Chairman, I desire to know what this $300,000 is intended for. Is it intended for teaching Indian children how to farm or old men how to farm?

Mr. FERRIS. Both, on their individual allotments. I think I replied to the gentleman partially a while ago what it is used for. The individual farmers are employed to go out to each Indian and show him when to plant and when to reap and when to sow and how to breed stock and how to improve stock, and so forth.

Mr. FOWLER. Regardless of the age of the Indian?

Mr. FERRIS. I think irrespective of age; that is, they teach the entire families and instruct them in all these things. The old Indians that are incompetent need education along these lines on their allotments the same as the children.

Last year we appropriated sixteen and one-half millions of dollars to educate white people in agriculture. Here we have $300,000 with which to educate the Indian people in agriculture. The language of the paragraph is just as it was last year. It works well. It should be continued. The language is that of the commissioner.

Mr. FOWLER. That provision for industrial schools I desire to inquire about. Does anybody attend them except children under 21 years of age?

Mr. FERRIS. I think not.

Mr. FOWLER. And this $300,000 is to go further than that?

Mr. FERRIS. Yes.

Mr. FOWLER. And instruct the Indians above the age of 21 years?

Mr. FERRIS. Yes; those that live on their individual allotments. They need the help more than words can tell. However, I would always limit it to incompetent ones.

Mr. FOWLER. Is there any provision under the law giving authority for making such appropriation?

Mr. FERRIS. I think the general installation of the Indian Bureau is to instruct not alone children, but incompetent Indians, whether they be between the ages of 6 and 21 years or between the ages of 21 years and 60 years, if they need the assistance of instruction in agricultural pursuits.

Mr. FOWLER. Has this amount or a similar amount been carried by the appropriation bills in past years for the same purpose?

Mr. FERRIS. Yes; and the language is identical with that in former years. We gave a smaller amount this year than was asked for. We allowed no increase of salaries; no new positions will be created. I think the paragraph is and will be acceptable to both the department and this Congress.

The CHAIRMAN. The time of the gentleman has expired. The question is on agreeing to the amendment offered by the gentleman from Wyoming [Mr. MONDELL].

The question was taken; and on a division (demanded by Mr. MONDELL), there were—ayes 4, noes 27.

So the amendment was rejected.

Mr. MONDELL. Mr. Chairman, I move to amend by striking out the sum of $300,000 in line 24, and inserting $400,000.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Wyoming.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For witness fees and other legal expenses incurred in suits instituted in behalf of or against Indians involving the title to lands allotted to them, or the right of possession of personal property held by them, and in hearings set by United States local land officers to determine the rights of Indians to public lands, $2,000: *Provided*, That no part of this appropriation shall be used in the payment of attorney fees.

Mr. MANN. Mr. Chairman, I reserve the point of order on the paragraph.

Mr. FOSTER. Mr. Chairman, I desire to ask the chairman of the committee a question. This item provides for expenses incurred in suits instituted in behalf of or against Indians when the title is involved to lands allotted to them, and I think the bill of last year provided for the contingency of where there was some question raised respecting the title. Why is that left out? That is, the word "question" before the word "title" was left out.

Mr. STEPHENS of Texas. Mr. Chairman, a great many Indians have gone on the public domain of the United States, as they have a right to do, and have taken up lands, the same as white men, under the same rules and regulations, and so forth. If the right of those Indians is contested in the local land offices and the matter should get into the courts, this is for the purpose of determining their right or title, whatever it may be, to the lands they have located.

Mr. FOSTER. Why was that word left out?

Mr. STEPHENS of Texas. We thought it was unnecessary.

Mr. MADDEN. Mr. Chairman, this is a very complicated question, and I think we ought to have between now and tomorrow morning to properly consider it. I therefore make the point that there is no quorum present.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26874, the Indian appropriation bill, and had come to no resolution thereon.

CHANGE OF REFERENCE.

The SPEAKER laid before the House a request for unanimous consent on the part of the Committee on Rules to be discharged from further consideration of H. Res. 757, appointing a committee to attend the unveiling of a statue of Thomas Jefferson in St. Louis, and to have the same referred to the Committee on Industrial Arts and Expositions.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker, I reserve the right to object to that.

Mr. MANN. Mr. Speaker, I shall have to ask that that go over for the present.

The SPEAKER. Objection is heard.

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 25 minutes p. m.) the House adjourned until to-morrow, Thursday, December 19, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Interior, transmitting, pursuant to law, Eleventh Annual Report of the Reclamation Service (H. Doc. No. 948); to the Committee on Irrigation of Arid Lands and ordered to be printed.

2. A letter from the Secretary of the Treasury, submitting estimates of urgent deficiencies in appropriations required by the Department of Public Health Service (H. Doc. No. 1181); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of a circular issued by the Nobel committee of the Norweglan Parliament furnishing information as to the distribution of the Nobel peace prize for the year 1913 (H. Doc. No. 1180); to the Committee on Foreign Affairs and ordered to be printed.

4. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Kansas at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. MURRAY, from the Committee on the Public Lands, to which was referred the bill (H. R. 26812) to provide for State selection of phosphate and oil lands, reported the same with amendment, accompanied by a report (No. 1276), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. KINKAID of Nebraska: A bill (H. R. 27409) providing that the marriage of a homestead entryman to a homestead entrywoman shall not impair the rights of either to a patent; to the Committee on the Public Lands.

By Mr. LAFFERTY: A bill (H. R. 27410) limiting the hours of labor in the District of Columbia; to the Committee on the District of Columbia.

Also, a bill (H. R. 27411) to create a minimum wage commission for the District of Columbia, and to provide minimum wage schedules; to the Committee on the District of Columbia.

Also, a bill (H. R. 27412) to create a public-service commission for the District of Columbia; to the Committee on the District of Columbia.

By Mr. LOBECK (by request): A bill (H. R. 27413) for the extension of Maryland Avenue east of Fifteenth Street to M Street NE.; to the Committee on the District of Columbia.

By Mr. DYER: Resolution (H. Res. 758) providing for the appointment of a committee of Representatives to attend and represent the House of Representatives at the unveiling and dedication of a memorial statue to Thomas Jefferson at St. Louis, Mo., April 30, 1913, in commemoration of the acquisition of the Louisiana territory; to the Committee on Industrial Arts and Expositions.

By Mr. JOHNSON of Kentucky (by request of the Commissioners of the District of Columbia): Joint resolution (H. J. Res. 374) to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AMES: A bill (H. R. 27414) granting an increase of pension to Martha Rogers; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 27415) granting a pension of Louisa Squires; to the Committee on Invalid Pensions.

By Mr. CRAGO: A bill (H. R. 27416) granting an increase of pension to Allen Bollen; to the Committee on Invalid Pensions.

By Mr. DONOHOE: A bill (H. R. 27417) granting an increase of pension to Frederick Sachsenheim; to the Committee on Invalid Pensions.

By Mr. DOREMUS: A bill (H. R. 27418) granting a pension to Catharine McCricket; to the Committee on Invalid Pensions.

By Mr. FLOOD of Virginia: A bill (H. R. 27419) for the relief of the Virginia Military Institute, of Lexington, Va.; to the Committee on Claims.

By Mr. FORDNEY: A bill (H. R. 27420) granting an increase of pension to William H. Loomis; to the Committee on Invalid Pensions.

By Mr. GARRETT: A bill (H. R. 27421) granting an increase of pension to Hugh Hayes; to the Committee on Pensions.

By Mr. GILL: A bill (H. R. 27422) granting a pension to Joseph A. Lloyd; to the Committee on Pensions.

By Mr. GOEKE: A bill (H. R. 27423) granting an increase of pension to Caroline Seib; to the Committee on Invalid Pensions.

By Mr. GUERNSEY: A bill (H. R. 27424) granting an increase of pension to Herbert Wadsworth; to the Committee on Invalid Pensions.

By Mr. HART: A bill (H. R. 27425) granting a pension to William H. Adam; to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 27426) granting a pension to Gertrude M. Farrar; to the Committee on Invalid Pensions.

By Mr. KINKAID of Nebraska: A bill (H. R. 27427) granting a pension to Emily J. Walton; to the Committee on Invalid Pensions.

By Mr. LA FOLLETTE: A bill (H. R. 27428) confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes; to the Committee on the Public Lands.

By Mr. LITTLEPAGE: A bill (H. R. 27429) granting an increase of pension to John F. Grayum; to the Committee on Invalid Pensions.

By Mr. LLOYD: A bill (H. R. 27430) to correct the record of H. J. Stanly; to the Committee on Military Affairs.

By Mr. LONGWORTH: A bill (H. R. 27431) granting a pension to Thomas Pryor; to the Committee on Pensions.

Also, a bill (H. R. 27432) granting a pension to John McManus; to the Committee on Pensions.

Also, a bill (H. R. 27433) granting a pension to Sarah A. Shlakle; to the Committee on Pensions.

Also, a bill (H. R. 27434) granting a pension to Sarah M Mounts; to the Committee on Invalid Pensions.

By Mr. LOUD: A bill (H. R. 27435) granting an increase of pension to Cornelius Howard; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 27436) granting an increase of pension to Lavina Sharp; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27437) granting an increase of pension to J. Milton Carlisle; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 27438) granting an increase of pension to William M. Duff; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 27439) granting a pension to Elmie Bylington; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27440) granting an increase of pension to Francis L. Lewis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27441) to correct the military record of Michael Houlihan; to the Committee on Military Affairs.

By Mr. RUSSELL: A bill (H. R. 27442) granting an increase of pension to George W. Blair; to the Committee on Invalid Pensions.

By Mr. SIMS: A bill (H. R. 27443) for the relief of the heirs of W. H. Sneed; to the Committee on War Claims.

By Mr. STEENERSON: A bill (H. R. 27444) for the relief of Arthur Brose; to the Committee on Claims.

By Mr. STEPHENS of California: A bill (H. R. 27445) granting a pension to Harry E. Low; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of a mass meeting held in Cleveland, Ohio, favoring an investigation of the present disturbances in the mining regions of West Virginia; to the Committee on the Judiciary.

Also (by request), petition of the Woman's League, Carmel, Cal., with reference to the trial of E. G. Lewis; to the Committee on the Post Office and Post Roads.

Also (by request), memorial of Joseph J. O'Brien, member of the Franklin Institute and the National Geographic Society, relative to the failure of the Panama Canal system of elevated engineering works; to the Committee on Interstate and Foreign Commerce.

By Mr. ASHBROOK: Petition of the Ransom Dry Goods Co. and 22 other merchants of Coshocton, Ohio, favoring legislation giving the Interstate Commerce Commission further power toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. CALDER: Petitions of the Buffalo Chamber of Commerce, Buffalo, N. Y.; J. J. Castellini, Cincinnati, Ohio; and the Merchants and Manufacturers' Association of Birmingham, Ala., favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: Petition of the president of the National Conservation Exposition, Knoxville, Tenn., favoring an appropriation for the erection of a Government building, etc., at the conservation exposition; to the Committee on Public Buildings and Grounds.

Also, petition of the National Society for the Promotion of Industrial Education, favoring the passage of Senate bill 3, for the promotion of industrial education; to the Committee on Agriculture.

By Mr. FITZGERALD: Petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, for regulating the telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for the regulations of bills of lading; to the Committee on Interstate and Foreign Commerce.

By Mr. FLOOD of Virginia: Petition of citizens of Augusta County, Va., favoring the passage of the amended Kenyon bill, preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

By Mr. FULLER: Petition of Frank Reyes and 5 other citizens of Porto Rico, favoring the enactment of legislation making the executive council of Porto Rico elective; to the Committee on Insular Affairs.

Also, petition of T. A. Wright, president of the National Conservation Exposition, favoring an appropriation for the erection of a Government building, etc., at the conservation exposition; to the Committee on Public Buildings and Grounds.

Also, petition of George M. Bridgeman, Kintland, Ind., favoring the passage of House bill 1339, giving pensions to the one-armed and one-legged veterans of the Civil War; to the Committee on Invalid Pensions.

By Mr. GARRETT: Papers to accompany bill granting an increase of pension to Hugh Hoyds; to the Committee on Pensions.

By Mr. HAMILTON of West Virginia: Petition of citizens of Parkersburg and vicinity, favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

By Mr. HAYES: Petition of Frederick J. Koster, San Francisco, Cal.; of W. E. Wretmann, San Jose, Cal.; of Albert Dickerman, Watsonville, Cal., favoring the passage of House bill 22589, making appropriation for the building of proposed diplomatic buildings; to the Committee on Foreign Affairs.

Also, petition of Woman's Christian Temperance Union, of San Francisco, Cal., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

Also, petition of Weil Bros. & Sons, San Francisco, Cal., protesting against the passage of the amended Kenyon liquor bill (H. R. 4043) preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

Also, petition of the Junior Order United American Mechanics and the State Council of California, Junior Order United American Mechanics, favoring the passage of the Burnett immigration bill for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the State Council of Pennsylvania, Order of Independent Americans, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. KAHN: Petition of John H. Miller, of San Francisco, Cal., protesting against the passage of House bill 26277, to establish a final court of United States patent appeals; to the Committee on the Judiciary.

By Mr. LEVY: Petition of the Brooklyn League, Brooklyn, N. Y., favoring the passage of legislation relocating the pier headline in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Rivers and Harbors.

Also, petition of the Farmers' National Congress, Chicago, Ill., protesting against any restriction of the press; to the Committee on the Post Office and Post Roads.

By Mr. LINDSAY: Petition of veterans of the Civil War of Franklin, Ohio, and Bedford Hills, N. Y., favoring the passage of House bill 1339, granting pension to limbless veterans of the Civil War; to the Committee on Invalid Pensions.

Also, petition of Ludwig Nissen & Co., New York, favoring the passage of House bill 25193, incorporating a chamber of commerce of the United States; to the Committee on the Judiciary.

By Mr. MOTT: Petition of the president of the National Conservation Exposition, favoring appropriation for the purpose of erecting a Government building at the National Conservation Exposition; to the Committee on Public Buildings and Grounds.

By Mr. REYBURN: Petition of Washington Camp, No. 533, Patriotic Order Sons of America, Philadelphia, Pa., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. REILLY: Petition of the Social Service League of Salisbury, Conn., favoring the passage of Senate bill 3, for promotion of industrial education; to the Committee on Agriculture.

Also, petition of the Federation of Jewish Farmers of America, favoring the passage of legislation establishing systems of farmers' credit unions; to the Committee on Banking and Currency.

By Mr. TILSON: Petition of the Federation of Jewish Farmers of America, favoring enactment of legislation establishing a system of farmers' credit unions; to the Committee on Banking and Currency.

By Mr. WILLIS: Papers to accompany bill (H. R. 27408) granting pension to Daniel S. Poling; to the Committee on Pensions.

SENATE.

THURSDAY, *December 19, 1912.*

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the following prayer:

Our heavenly Father, now as always we are in Thy presence, as always, so now, we borrow strength from Thee. But now, our Father, we know ourselves to be in Thy presence, now we accept the strength and the opportunities of this day as gifts from Thee, which we in turn consecrate to Thy service. And as we part for a season, do Thou watch over us and guard us from all evil. If it be Thy will, bring Thou us together again when, by Thy grace, we will again offer unto Thee the sincere gratitude of trusting and obedient hearts. Amen.

THOMAS B. CATRON, a Senator from the State of New Mexico, appeared in his seat to-day.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CRAWFORD and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of ascertainment of the electors for President and Vice President appointed in the State of Massachusetts at the election held thereon November 5, 1912, which was ordered to be filed.

CONTINGENT EXPENSES, NAVY DEPARTMENT (S. DOC. NO. 936).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Navy submitting supplemental estimates of appropriations for inclusion in the legislative appropriation bill for the fiscal year ending June 30, 1914, under the title of "Contingent expenses, Navy Department," $17,875, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

RECORD OF SALES OF COTTON (S. DOC. NO. 937).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of April 22, 1911, the report of sales of cotton to the Confederate States, which, with the accompanying papers, was referred to the Committee on Claims and ordered to be printed.

PROPOSED EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

Mr. SMITH of Georgia. Mr. President——

The PRESIDENT pro tempore. The motion is not debatable.

Mr. SMITH of Georgia. I suggest that there is no quorum present.

The PRESIDENT pro tempore. The Senator from Georgia makes the point of no quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Clark, Wyo.	La Follette	Root
Bacon	Crane	Lodge	Sanders
Bailey	Crawford	McCumber	Smith, Ga.
Borah	Culberson	Martin, Va.	Smith, Mich.
Bourne	Curtis	Martine, N. J.	Smoot
Brandegee	du Pont	Massey	Stone
Bristow	Fletcher	Myers	Sutherland
Brown	Gallinger	Nelson	Swanson
Burnham	Gronna	Oliver	Warren
Burton	Hitchcock	Page	Wetmore
Catron	Johnston, Ala.	Penrose	Works
Chamberlain	Jones	Perkins	
Clapp	Kenyon	Poindexter	

Mr. PAGE. I am compelled again to announce the continued illness of my colleague [Mr. DILLINGHAM]. He is unable to be present.

The PRESIDENT pro tempore. Fifty Senators have answered to their names. A quorum of the Senate is present. The question is on the motion made by the Senator from Massachusetts.

Mr. BAILEY. I ask the Senator from Massachusetts to withhold his motion until I can dispose of a matter of morning business.

The PRESIDENT pro tempore. Does the Senator from Massachusetts withhold his motion?

Mr. LODGE. I will withhold it for the Senator from Texas, but I can not do it again.

THE INITIATIVE AND REFERENDUM.

Mr. BAILEY. I offer the following resolution, which I will ask the Secretary to read.

The resolution (S. Res. 413) was read, as follows:

Resolved, That such a system of direct legislation as the initiative and referendum would establish is in conflict with the representative principle on which this Republic was founded, and would, if adopted, inevitably work a radical change in the character and structure of our government.

Mr. BAILEY. Mr. President, I ask that the resolution remain on the table, because at the Senate's convenience I desire to speak to it; and unless something occurs to prevent it I shall ask the Senate to hear me after the morning business on the 21 day of January.

The PRESIDENT pro tempore. The resolution will be printed and lie on the table, subject to the call of the Senator from Texas.

EXECUTIVE SESSION.

Mr. LODGE. I renew my motion that the Senate proceed to the consideration of executive business.

Mr. SMITH of Georgia. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CLAPP (when his name was called). Owing to the absence of my pair and not knowing how he would vote, I withhold my vote.

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The Chair is paired with the Senator from Arkansas [Mr. DAVIS]. He transfers that pair to the Senator from South Dakota [Mr. GAMBLE] and votes "yea."

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. He being absent, I withhold my vote.

Mr. SMITH of South Carolina (when his name was called). I am paired with the Senator from Delaware [Mr. RICHARDSON] and withhold my vote. If he were here, I would vote "yea."

The roll call was concluded.

Mr. CURTIS. I wish to announce the pair of the Senator from Kentucky [Mr. BRADLEY] with the Senator from Indiana [Mr. KERN]; of the Senator from New Jersey [Mr. BRIGGS] with the Senator from West Virginia [Mr. WATSON]; of the Senator from Rhode Island [Mr. LIPPITT] with the Senator from Tennessee [Mr. LEA]; of the Senator from Wisconsin [Mr. STEPHENSON] with the Senator from Indiana [Mr. SHIVELY]; of the Senator from Delaware [Mr. RICHARDSON] with the

Senator from South Carolina [Mr. SMITH]; and of the Senator from Vermont [Mr. DILLINGHAM] with the Senator from South Carolina [Mr. TILLMAN].

Mr. SIMMONS. I vote "yea." I desire to state that my colleague [Mr. OVERMAN] is absent on important business.

The PRESIDENT pro tempore. Forty-five Senators have answered to their names, not a quorum. The list of Senators not voting will be called.

The Secretary proceeded to call the names as directed.

Mr. CLAPP (when his name was called). I vote "yea."

Mr. JOHNSTON of Alabama (when his name was called). I vote "yea."

Mr. LA FOLLETTE (when his name was called). I vote "yea."

Mr. PERKINS (when his name was called). I transfer my pair with the junior Senator from North Carolina [Mr. OVERMAN] to the senior Senator from Iowa [Mr. CUMMINS] and will vote. I vote "yea."

The Secretary concluded calling the roll, and the result was announced—yeas 49, nays 0, as follows:

YEAS—49.

Ashurst	Clark, Wyo.	McCumber	Simmons
Bacon	Crane	Martin, Va.	Smith, Ga.
Bailey	Crawford	Martine, N. J.	Smith, Mich.
Borah	Curtis	Massey	Smoot
Bourne	du Pont	Nelson	Sutherland
Brandegee	Gallinger	Newlands	Thornton
Bristow	Gronna	Oliver	Townsend
Brown	Jackson	Page	Warren
Burnham	Johnston, Ala.	Penrose	Wetmore
Burton	Jones	Perkins	Works
Catron	Kenyon	Poindexter	
Chamberlain	La Follette	Root	
Clapp	Lodge	Sanders	

NOT VOTING—45.

Bankhead	Fall	McLean	Smith, Ariz.
Bradley	Fletcher	Myers	Smith, Md.
Briggs	Foster	O'Gorman	Smith, S. C.
Bryan	Gamble	Overman	Stephenson
Chilton	Gardner	Owens	Stone
Clarke, Ark.	Gore	Paynter	Swanson
Culberson	Guggenheim	Percy	Tillman
Cullom	Hitchcock	Perky	Watson
Cummins	Johnson, Me.	Pomerene	Williams
Davis	Kern	Reed	
Dillingham	Lea	Richardson	
Dixon	Lippitt	Shively	

So the motion was agreed to, and the Senate proceeded to the consideration of executive business. After one hour and five minutes spent in executive session the doors were reopened.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore. The hour of 1.30 having arrived, the senior Senator from Georgia [Mr. BACON] will kindly take the chair to preside over the impeachment proceedings.

Mr. BACON took the chair as Presiding Officer.

The PRESIDING OFFICER (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

Mr. JONES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Washington suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Clapp	Martin, Va.	Pomerene
Bacon	Crawford	Martine, N. J.	Reed
Bailey	Curtis	Myers	Root
Borah	Fletcher	Nelson	Sanders
Bourne	Gallinger	Newlands	Smith, Ariz.
Brandegee	Gronna	O'Gorman	Smith, Ga.
Bristow	Hitchcock	Oliver	Smith, S. C.
Brown	Jackson	Owen	Sutherland
Bryan	Johnson, Me.	Page	Swanson
Burnham	Johnston, Ala.	Paynter	Thornton
Burton	Jones	Penrose	Townsend
Catron	La Follette	Perkins	Warren
Chamberlain	Lodge	Perky	Wetmore
Chilton	McCumber	Poindexter	Williams

The PRESIDING OFFICER. On the call of the roll of the Senate 56 Senators have responded to their names. A quorum of the Senate is present. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Wednesday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDING OFFICER. Are there any inaccuracies in the Journal? If not, it will staud approved. Counsel for the respondent will proceed.

Mr. WORTHINGTON. I wish to call attention to an error in the record of the proceedings of day before yesterday, on page 726 of the CONGRESSIONAL RECORD, in an expression by the witness Knapp. As it reads it says, "I remember that Capt. May said to me often, as I supposed," and so forth. It should read, "I remember that Capt. May said to me after," and so forth. I may say that I have called the attention of the Official Reporters to this, and they have shown me, by producing the copy sent to the Printing Office, that it was an error made in the Printing Office. The context shows clearly what was meant and that it is an error.

Mr. Manager CLAYTON. It occurs on page 726, in the second column, a little above the middle of the page, and I think it is clearly an error and that the correction ought to be made.

The PRESIDING OFFICER. The correction will be made in the permanent RECORD.

TESTIMONY OF JOHN W. PEALE.

John W. Peale, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) State your full name.—A. John W. Peale.

Q. Where do you live?—A. New York City.

Q. What is your business?—A. Coal business.

Q. In what branch of the coal business?—A. In both branches—anthracite and bituminous.

Q. Do you mine, or buy, or sell, or what?—A. We buy and sell anthracite and mine bituminous.

Q. Do you know the respondent here, Judge Archbald?—A. Yes, sir.

Q. And do you know John Henry Jones, who has been a witness here?—A. Yes, sir. I met both of them on Monday of this week.

Q. I wish to show you some correspondence, and see if you can identify it. In the first place I show you a letter dated March 8, 1911, purporting to have been written by John Henry Jones to you. I ask you whether you can identify that letter?—A. Yes, sir.

Q. Did you receive that letter from John Henry Jones about the time it bears date?—A. Yes, sir.

Mr. WORTHINGTON. I ask to have it marked for identification.

Q. (By Mr. WORTHINGTON.) Please look at the letter I show you, dated March 23, 1911, purporting to be from Judge Archbald to you, and state whether or not you received that letter from him about the time it bears date.—A. (After examination.) Yes, sir.

Mr. WORTHINGTON. Let the letter be marked for identification.

Q. (By Mr. WORTHINGTON.) Please look at what purports to be a carbon copy of a letter dated March 30, 1911, addressed to Judge Archbald, and let me know whether that is a carbon copy of a letter which you sent to Judge Archbald about that time.—A. (After examination.) Yes, sir.

Mr. WORTHINGTON. I ask that that be marked, please.

Q. (By Mr. WORTHINGTON.) Finally, I show you a letter dated April 29, 1911, purporting to be from John Henry Jones to you, and ask you whether you received that letter from the writer about the time it bears date?—A. (After examination.) Yes, sir.

Mr. WORTHINGTON. Let that be marked, please. I now offer these four letters in evidence.

Mr. Manager STERLING. We desire to read them first.

The PRESIDING OFFICER. If counsel has other questions to put to this witness, he may proceed while the managers are examining the letters

Mr. WORTHINGTON. Very well.

Q. (By Mr. WORTHINGTON.) Mr. Peale, have you any knowledge, as a man in the business in which you say you have been engaged, with respect to transactions relating to the purchase of coal property in the anthracite region about Scranton, where some persons put up all the cash, and the persons who merely find the property share with the other persons in the ultimate profits of the venture?

Mr. Manager STERLING. We object to this line of examination as wholly immaterial. It is wholly immaterial what they do in other cases.

The PRESIDING OFFICER. The Chair would suggest to counsel that that testimony has been adduced from a number of witnesses and so far has not been contested by the managers. There ought to be a limitation to evidence of that kind. It could be continued indefinitely. Counsel will recognize that fact.

Mr. WORTHINGTON. This is the last witness we expect to examine on this subject. If the managers will say——

The PRESIDING OFFICER. With that statement by counsel the Chair suggests that he ask the same question that he asked other witnesses as to the practice.

Mr. WORTHINGTON. Very well. I asked him in the first place if he knew of any, and then I was going to ask him how many.

Q. (By Mr. WORTHINGTON.) Will you state whether you have personal knowledge of any such transactions?—A. Yes, sir.

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. The manager objects. What is the objection?

Mr. Manager STERLING. On the ground that it is not at all material in this case what was done in reference to other cases.

The PRESIDING OFFICER. Similar testimony has been elicited from a number of other witnesses. We would have to go back and rule it all out if the objection were insisted upon and sustained.

Mr. Manager STERLING. If I am not mistaken, the Chair yesterday ruled against this kind of testimony.

The PRESIDING OFFICER. No; the testimony was admitted. The Chair did suggest that it would be better for counsel to inquire of the witness to what extent he had known that, in order that the Senate might judge whether or not it was general rather than to have the witness testify that it was general. That was the extent of the ruling.

Mr. Manager STERLING. I will say that, while we know nothing about it and contend that it is wholly immaterial, we are willing to admit that other cases of that kind have occurred, how many, I do not know. I do not suppose the witness knows how many. If the Chair holds that it is competent, we are willing to say now that we have no doubt it has been done in other cases.

Mr. WORTHINGTON. We started out on this inquiry by asking the witnesses if it was the custom, as customs are known, and it was ruled that we could not ask about the general custom, but had to bring out particular instances—how many they knew of—and that is why we are pursuing this line of inquiry.

Mr. Manager STERLING. May I ask counsel what is the purpose of this testimony?

Mr. WORTHINGTON. Evidence is offered on the part of the managers and in one of the articles of impeachment, article No. 3, that Judge Archbald in connection with John Henry Jones, Mr. Bell, and Mr. Petersen had entered into an arrangement by which they were to get considerable interest in Packer No. 3 dump without putting up any money.

The PRESIDING OFFICER. The Chair will permit the question unless the managers——

Mr. Manager STERLING. Will the Chair hear me just briefly on that point? I do not want to unnecessarily take time.

That does not go to the question which is involved in this count at all. What Mr. Petersen and John Henry Jones might have done and what they did do I have no doubt was perfectly proper in this transaction. Those gentlemen are private citizens, and they had a right to go to the Lehigh Valley Railroad Co. or any other company they saw fit and persuade the railroad company to sell them this property, and it would not constitute an offense. It would not constitute even bad practice in a private citizen. But for Judge Archbald to do it, being a judge and using his influence to persuade railroad companies to do this, is the offense charged in this count.

Now, unless Mr. Worthington can prove that it is the practice and the custom among judges in Pennsylvania and elsewhere to make transactions of this kind, the evidence does not relate to the count at all. For that reason we object.

The PRESIDING OFFICER. The Chair thinks the suggestions of counsel address themselves to the question of the weight which shall be given to the testimony and the effect of it, rather than to its admissibility. The testimony is admitted.

Q. (By Mr. WORTHINGTON.) State how many such transactions you had had personal knowledge of, Mr. Peale.—A. I have advanced the money myself twice, and I know of several other instances.

Q. May I ask if with one of those the Marian Coal Co. had anything to do?—A. Yes, sir.

Q. What was that?—A. I advanced the Marian Coal Co. $35,000.

Q. Was that dump in operation when you purchased it?—A. I did not purchase it. I loaned $35,000.

Q. You loaned the money to operate it?—A. Yes, sir.

Mr. Manager STERLING. Is that all?

Mr. WORTHINGTON. That is all on that point. I want now to read these letters in evidence.

Mr. Manager STERLING. We object to them as immaterial.

Mr. WORTHINGTON. Let me have the letters.

Mr. Manager STERLING. Mr. WEBB has them now.

We think they are not material at all, but we withdraw any objection to them if it will save time.

Mr. WORTHINGTON. We do not consider it material whether the managers think the letters are material or not.

The PRESIDING OFFICER. The letters will be read from the desk.

The Secretary read as follows:

[U. S. S. Exhibit X.]

(J. Henry Jones. Expert reports furnished on timber, rubber, and plantations, 318 Twelfth Avenue.)

SCRANTON, PA., *March 8, 1911.*

Mr. JOHN W. PEALE,
No. 1 Broadway, New York City.

DEAR SIR: In reply to yours to hand would say that the coal dump referred to is a going concern. I give you the following detail: It is estimated that there is from 300,000 to 400,000 merchantable coal in the dump. There is a washery on the property, with a capacity of 500 tons per day. They are now shipping 20 cars daily. The property would be delivered free from debt for the sum of $75,000.

The owners feel they would not care to have it generally known in the trade that their property is on the market, therefore would like our parties, if interested, to act for themselves and not go from place to place offering same for sale. We have assured them that this would not be done.

I would like to have you call at Judge R. W. Archbald's office in the Federal building, Scranton, at your earliest convenience or have some one delegated to do so, and the judge would go into the matter of negotiation with you at once, he having the power to sell.

The property is located not far from Shamokin, or Shenandoah. It is really first class.

Yours, very truly,

J. HENRY JONES.

[U. S. S. Exhibit Y.]

(R. W. Archbald, district judge, United States courts, middle district of Pennsylvania, Scranton.)

SCRANTON, *March 20, 1911.*

JOHN W. PEALE, Esq.

DEAR SIR: I regret to learn through your letter to Mr. John Henry Jones, of this city, that I was out when you called to see me about the culm-dump washery about which he wrote you recently. This dump is located at Shaft, near Shenandoah, Pa., and is the property of the Oxford Coal Co. Mr. Jones has given you the price and the particulars. It is a going property, with plenty of coal left in the dump, and with more in the vicinity, I believe, although I am not sure about the latter. I have to go to Washington on April 1 to attend a session of the Commerce Court, of which I am a member, and hope that you will be able to let us know something as to your intentions in the matter before I leave.

I expect to be at home here at Scranton every day until that time, and if I do not happen to be at my office, I can be readily summoned.

Yours, very truly,

R. W. ARCHBALD.

[U. S. S. Exhibit Z.]

NEW YORK, *March 30, 1911.*

Hon. R. W. ARCHBALD,
Scranton, Pa.

DEAR SIR: Pardon delay in reply to yours of the 23d instant, which is due to my absence, and sorry that I was unable to see you when I was at Scranton the week before last. I note the culm bank mentioned by Mr. Jones and am fairly well acquainted with this Oxford proposition, which I examined before purchased by its present owner. There is so much rock mixed with the coal in this dump that I do not believe it could be worked to advantage, at least that was my conclusion when I examined it several years ago. Therefore, while I am obliged to you for writing me on the subject, I do not believe that it would be a profitable venture for me to take up at this time.

Truly, yours,

[U. S. S. Exhibit AA.]

(J. Henry Jones. Expert reports furnished on timber, rubber, and plantations, 318 Twelfth Avenue.)

SCRANTON, PA., *April 29, 1911.*

Mr. JOHN W. PEALE,
No. 1 Broadway, New York.

DEAR SIR: Yesterday I invited Mr. Winn to accompany me on a dump or an old filling between plane No. 4 and No. 5 of the old gravity which is located between Virginia and Rocky Glen on the Laurel line running between Scranton and Wilkes-Barre. The filling is a very excellent one, and Winn took a sample of it in order to forward same to you. It is estimated at various figures; some claim there is 125,000 tons, others ranging from 80,000 to 100,000 tons; but I think the most accurate figure would be about 60,000 tons merchantable coal. The option on the property is held by Judge Archbald and myself, and we wanted to make you the following proposition: That if you will advance $12,500 on the understanding that you are to receive this amount back in coal or royalty, as we will agree upon, that you are to receive 45 per cent of the stock which would be figured at a capitalization of not exceeding $25,000. All chestnut and a certain quantity of pea coal could be shipped to your orders and loaded at a switch near by on the Laurel line, which transfers to the D., L. & W. While in reality all the small sizes can be sold by the company to the sagwolt Silk Mill, the Lackawanna Woolen Mills, and other concerns of this city. While the pea coal could be all delivered at Minooka for local trade at a good profit, the distance for delivery being less than a mile. Could you spend few hours some day next week to accompany the judge and myself on the dump I am satisfied that you will be readily convinced that it will be a big money maker for all parties concerned.

Thanking you in anticipation of an early reply, I remain, dear sir,

Yours, very truly,

J. HENRY JONES.

Q. (By Mr. WORTHINGTON.) In reference, Mr. Peale, to this letter, which has been marked "Exhibit X," of March 8, 1911, from John Henry Jones to you, I wish you would identify the dump which is referred to when he says, "I give you the following detail. It is estimated that there is from 300,000 to 400,000 merchantable coal in the dump." Do you want to look at the letter?—A. That is the Oxford dump.

Q. Have you personal knowledge as to whether that is the so-called Oxford dump which is near the Packer dumps of the Lehigh Valley or the Girard estate?—A. I do not know anything about where the Packer dumps are at all.

Q. In this letter of April 29, 1911, from Jones to you, there is a mention of a fill. Are you able to identify that piece of property?—A. No, sir; I do not know where it is. I never looked at it at all.

Q. It is referred to as the "old gravity, which is located between Virginia and Rocky Glen, on the Laurel line." You do not know just what that was?—A. I do not know. I never have seen it; no, sir.

Q. You did not proceed with that matter?—A. I did not proceed with it at all.

Mr. WORTHINGTON. Very well. That is all, Mr. President, I think for this witness at present.

Cross-examination:

Q. (By Mr. Manager STERLING.) Mr. Peale, where is this Oxford dump?—A. I do not remember. I could not describe to you where it is, because it has been some time ago, and I do not really remember. It was near some station on the Philadelphia & Reading Railroad.

Q. You stated in one of these letters that you had seen it at one time?—A. Yes, sir; I had been there at one time.

Q. But you forget where it was?—A. I forget what station on the Reading road it was.

Q. At the time of this correspondence which has been read I understand that John Henry Jones and Judge Archbald owned that dump. Is that your understanding from the correspondence?—A. I think so; yes, sir.

Q. Did they own it or just have an option on it?—A. I really do not know that.

Q. Who owned it before them?—A. I think it was originally operated by the North American Coal Co.

Q. What railroad company is the North American Coal Co. connected with?—A. I do not think any, sir.

Q. Do you know where Jones and Archbald got this dump?—A. I do not; no, sir.

Q. Do you know how long they had had it?—A. I do not; no, sir.

Q. As a matter of fact, you understood they simply had an option on it and were holding the option until they sold it?—A. I presumed so.

Q. From whom did they get it, do you know?—A. I really do not know.

Q. You say that you have known personally of two other transactions where persons bought coal dumps and got some other party to furnish the money on certain terms?—A. Yes, sir.

Q. Was Judge Archbald a party to either of them?—A. No, sir; I think not.

Q. Was any other judge in Pennsylvania or elsewhere concerned in it at all?—A. I do not think so; no, sir.

Q. Those two that you know of were obtained from the railroad company without the use of Judge Archbald's influence or any other judge's influence?—A. I do not think they were obtained from railroad companies.

Q. They never did belong to railroad companies?—A. I do not think so, sir.

Q. They belonged to mining companies?—A. I think so.

Q. Do you know of your own knowledge of any other instances of transactions of that kind where persons bought dumps but bought them of railroad companies—interstate railroad companies—without the influence of Judge Archbald?—A. I do not know of any that were obtained from railroad companies, except dumps obtained from the Central Railroad of New Jersey by the North American Coal Co.

Q. Is that the one——A. There were several——

Q. That Jones and Judge Archbald afterwards owned?—A. No, sir.

Q. Your name is John W. Peale?—A. Yes, sir.

Q. You are the same party who was plaintiff in the Peale case that was pending in the Federal court at Scranton?—A. Yes, sir.

Q. Against the Marian Coal Co.?—A. Yes, sir.

Q. The correspondence which has been read was had during the time that case was pending, was it not, or had the case been disposed of?

Mr. WORTHINGTON. I submit that it is shown by the record when the suit was brought and when it was pending.

Mr. Manager STERLING. It is much easier for this witness to state it.

Mr. WORTHINGTON. I submit that it is much easier to tell the dates from the record.

The PRESIDING OFFICER. Is it already in evidence?

Mr. Manager STERLING. I do not think it is. I do not remember.

Mr. WORTHINGTON. All these letters, Mr. President, bear date after Judge Archbald had left——

Mr. Manager STERLING. Mr. President, I object to the attorney interfering. If he has an objection, let him state it.

The PRESIDING OFFICER. What is the objection to the question?

Mr. WORTHINGTON. I object to endeavoring to fix dates by the recollection of the witness, when they are exactly fixed by the record already put in evidence.

The PRESIDING OFFICER. The record is the highest evidence.

Mr. Manager STERLING. I did not hear the remark of the President.

The PRESIDING OFFICER. The Chair says the record is the highest evidence, of course.

Mr. Manager STERLING. We are entitled to have this witness's recollection with reference to the time it occurred.

The PRESIDING OFFICER. There is no objection to asking as to the relative date, or anything of that kind, whether before or since.

Q. (By Mr. Manager STERLING.) This correspondence occurred during the time this case was pending in the Federal court?—A. Let me see. That correspondence, I think, was March, 1911, and I think the decision in that case was in August, 1911.

Q. It was before the case was disposed of?—A. Yes; I think so.

Q. And it was after Judge Archbald had overruled the demurrer in that case, was it not?—A. I do not know anything about the demurrer, sir. That was entirely——

Q. You do not know about that?—A. No, sir.

Q. What railroad company was it that owned this dump which was sold to the North American Coal Co.?—A. I think it was the Central Railroad of New Jersey.

Q. Has it any lines in Pennsylvania?—A. Yes, sir.

Q. Into the coal fields of Pennsylvania?—A. Yes, sir.

Q. And goes to this dump?—A. What dump do you refer to?

Q. The one that Jones and Judge Archbald owned——A. Oh, I think not.

Q. Or had an option on?—A. I think not.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Mr. Peale, I think you have said you have visited this Oxford dump?—A. Yes, sir.

Q. Do you remember who was in control of it at the time you made your visit?—A. I do not remember the man's name. I think it was some engineer at Scranton.

Q. Do you remember the name of Madeira, Hill & Co.?—A. Yes, sir.

Q. Was that it?—A. No; Madeira, Hill & Co., I understood, bought it after that.

Q. Oh, after that?—A. After I had seen it.

Q. Do you know whether Mr. W. P. Boland owned it at that time?—A. Well, he may have had an interest in it. I do not know.

Q. You did not know?—A. No, sir.

Q. You say none of these cases in which money was advanced to get coal property were in the matter of coal property that came from railroads? From whom did the Marian Coal Co.'s dump come?—A. It was three undivided interests, I believe—the Hoysradt estate, the Felts estate, and the D. & L. Railroad Co.

Q. The Delaware, Lackawanna & Western Railroad Co.?—A. Yes, sir.

Q. They had sold their interest in that dump, or leased it, at least?—A. No; I think at that time the Marian Coal Co. had leased only all the interest of the Felts estate, an undivided interest.

Q. You took over the management of that dump?—A. No, sir.

Q. Or the sale of the coal?—A. I did not.

The PRESIDING OFFICER. The Chair permits this examination simply because objection has not been made.

Mr. Manager STERLING. We will object now.

The PRESIDING OFFICER. It seems to be going to a great extent.

Mr. WORTHINGTON. The Chair will remember that it was on cross-examination this witness was asked if he was the Peale of the Marian Coal Co. I had not asked——

The PRESIDING OFFICER. The Chair had reference to the examination prior to that time. The Chair thinks all this testimony about the Oxford matter is entirely irrelevant, and he does not exclude it, only because no objection has been made to it. The Chair does not feel that he is justified in excluding it without an objection made to it.

Mr. WORTHINGTON. I was not asking the witness about the Oxford dump. It was about the Marian Coal Co. I was asking him when I was interrupted just now.

The PRESIDING OFFICER. The Chair did not think that those letters were material or admissible.

Mr. WORTHINGTON. We had not been heard on that subject, and probably the Chair——

The PRESIDING OFFICER. The Chair does not propose to rule them out. He is simply stating what seems to be very clear to him.

Mr. WORTHINGTON. I understood the Chair to say they would have been excluded if objection had been made. The Chair certainly could not have done that without knowing the object for which they were offered. We consider them a very important and material part of this case.

The PRESIDING OFFICER. The Chair will not make any ruling in regard to it. The Chair simply desires, if possible, to arrest what appears to be an unduly extended examination.

Mr. WORTHINGTON. Well, we are through with the witness, Mr. President.

Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF MICHAEL W. SCANLON.

Michael W. Scanlon appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Give your full name, please.—A. Michael W. Scanlon.

Q. You live here in Washington?—A. About 12 years.

Q. You are connected with what hotel?—A. The Grafton.

Q. The Grafton Hotel, at Connecticut Avenue and De Sales Street, this city?—A. Yes, sir.

Q. Were you connected with that hotel in the spring of 1912?—A. I have been; yes, sir.

Q. In what capacity were you then connected with that hotel?—A. Chief clerk.

Q. Have you brought with you any information which will enable us to show at what time, if at all, Judge Archbald was stopping at that hotel in the spring of 1912?—A. (Producing paper.) Yes, sir; a leaf from our ledger.

Q. I do not care for the paper itself. Can you tell us?—A. Very good, sir.

Q. During what time was he stopping at your hotel last spring from that?

Mr. Manager WEBB. May we ask the object of this testimony? If he is going to read that long list, it will be a waste of time unless it is material.

Mr. WORTHINGTON. I do not expect the witness to read any long list, but just to state whether Judge Archbald was stopping at that hotel in Washington during certain days in April last, and they happen to be days when the Bradley contract was about to be completed and was recalled.

Mr. Manager STERLING. That is wholly immaterial. We have never charged that he was anywhere else. We have never charged that Judge Archbald was in Scranton at that time.

The PRESIDING OFFICER. The Chair will permit the evidence in explanation to show where the respondent was at the time.

Q. (By Mr. WORTHINGTON.) Now, will you answer the question, please. At what time was Judge Archbald stopping at your hotel last spring?—A. He arrived on the 12th of April for dinner and left on the 20th.

Q. The 20th of the same month?—A. Yes, sir; April.

Q. Can you state whether he was there continuously or not?—A. Yes, sir; he was, to the best of my knowledge, sir.

Q. Do not your books show?—A. I received him personally and roomed him and saw him daily from the time he arrived until he departed.

Mr. Manager STERLING. Mr. President, the testimony seems to prove he was not there at the date this contract was rescinded—the 11th of April.

The PRESIDING OFFICER. That is a matter of argument.

Q. (By Mr. WORTHINGTON.) I do not recall the dates you spoke of. Between what dates?—A. He arrived on the 12th of April.

Q. And remained until when?—A. Until the morning of the 20th, after breakfast.

Mr. WORTHINGTON. The rest of the time we will cover by the evidence of another hotel. Judge Archbald changed his residence from one hotel to another. That is all we wish to ask this witness.

Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness is discharged.

TESTIMONY OF T. ELLSWORTH DAVIES.

T. Ellsworth Davies appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Ellsworth Davies is your name?—A. T. Ellsworth Davies.

Q. Where do you live, Mr. Davies?—A. Scranton, Pa.

Q. How long have you lived there?—A. Forty-four years—all my life.

Q. What is your business?—A. Mining engineer.

Q. How long have you been a mining engineer?—A. I began about 15 years of age.

Q. And how continuously have you been engaged in the business of a mining engineer?—A. Practically ever since.

Q. Practically all the time?—A. Yes, sir.

Q. Where?—A. At Scranton.

Q. What position do you hold now, if any?—A. I am the official mining engineer for Lackawanna and Luzerne Counties and Susquehanna County, and consulting engineer for the State tax board of Pennsylvania.

Q. What do you mean by saying you are mining engineer for those counties? What are your duties?—A. To fix areas and conditions and appraise the valuation of coal in the ground, improvements, and so on.

Q. What other position do you say you hold?—A. Consulting engineer for the State tax board.

Q. What are your duties as such, in a general way?—A. To fix values.

Q. Of coal property?—A. Yes, sir.

Q. Did you ever visit the Katydid coal dump near Moosic, Pa.?—A. Yes; I did one time, about a year ago.

Q. For what purpose?—A. For the purpose of examining and reporting on it.

Q. For your own use or at the request of somebody else?—A. At the request of a party from New York.

Q. Who was the party?—A. A man by the name of Hanley.

Q. What kind of an investigation or examination of that dump did you then make?—A. I spent two hours going over the ground and looking at the dump—looking at the dump from every standpoint and every side.

Q. What conclusion did you reach?—A. I reached——

Mr. Manager STERLING. Mr. President, we object, for the reason that this witness has not qualified to testify about the dump.

Mr. WORTHINGTON. It appears this is a man who was employed by several of those counties up there and by the State for the purpose of valuing coal property for taxation, and has for several years, and besides has been engaged in business 35 or 40 years for himself. He went and examined this bank for the very purpose of determining its value there as the advisor of a prospective purchaser. He certainly had as much information about it as anything here tends to show Judge Archbald had. As it was stated here yesterday by one of the managers, the main thing is about Judge Archbald's information and views about this matter at the time he entered into the transaction in connection with it.

The PRESIDING OFFICER. The Chair thinks the counsel can show by the witness the value of the dump, but as to whether the witness shall state his general conclusions or state what he found there is possibly a matter of some doubt. The Chair will suggest that counsel examine the witness as to what he found.

Mr. WORTHINGTON. I asked him to state the result of his investigation, and by that I mean what he found there, and also as to what he found there was worth—the character of the dump.

The PRESIDING OFFICER. If the witness is prepared to state the value of it after examination, the Chair thinks that counsel is entitled to bring that out.

Q. (By Mr. WORTHINGTON.) State, in the first place, what you found there.—A. I found about 90,000 tons of material, vein and vein matter, in the bank, scattered about in four or five separate banks, with a large bank of silt near by.

Q. What do you mean by "vein and vein matter," Mr. Davies?—A. Well, the coal and the refuse as it came from the mine.

Q. You found about 90,000 tons there altogether?—A. I did, sir; to the best of my judgment.

Q. Did you investigate it and reach a conclusion as to what proportion of that 90,000 tons could be utilized for the market?—A. Yes; I found that it would contain about 50 to 55 per cent, not more than 60 per cent, of all sizes of coal that could be taken out of it.

Q. What proportion of those did you estimate were sizes of what are called prepared sizes, above pea?—A. I did not find that it ran more than 1½ to 2 per cent of chestnut.

Q. Did you reach a conclusion also as to about what the dump was worth?—A. I did.

Q. As it stood and as it stands?—A. I reported to my people that they should not touch it.

Q. Why?—A. Because it was not worth the money asked.

Q. What was asked?

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. The witness can state what in his opinion was the value.

Mr. WORTHINGTON. Very well; that is what I want to get at.

The WITNESS. From $2,500 to $3,000.

Q. (By Mr. WORTHINGTON.) Now, Mr. Davies, do you know Mr. Von Storch, who is a lawyer and banker in Scranton?—A. Mr. Charles H. Von Storch?

Q. Yes, sir.—A. Yes, sir.

Q. Do you know John Henry Jones?—A. I do.

Q. Do you remember any occurrence in relation to a $500 note in which you and they figured?—A. I do.

Q. Tell us about that, please.—A. In the latter part of November or the beginning of December of last year John Henry Jones came to me with a note and asked me if I knew where he could have it discounted—cashed. I told him I did not know at the time, and he went away. In a day or two I met him on the street again. I said to him, "Have you taken that to Charlie Von Storch's bank? Go and see Charlie Von Storch." He said, "I do not know him." We were then within a block of Mr. Von Storch's office. I said, "I will go with you." I went with him and introduced him to Mr. Von Storch, and left him. That is all I know about it.

Q. What do you say was the date of that occurrence, according to your recollection?—A. I think it was the latter part of November or the beginning of December, 1911.

Q. Are you clear about the year?—A. No; 1909. I beg your pardon.

Q. What motive or information had you which led you to suggest taking that note to Von Storch?—A. I had none whatever.

Mr. Manager STERLING. We object to the evidence as immaterial.

The PRESIDING OFFICER. The witness says he had none.

Mr. WORTHINGTON. Very well. [To the witness:] What communication, direct or indirect, had you with Judge Archbald?—A. None whatever, sir.

Q. And what had he to do with your suggestion in taking that note to Von Storch?—A. Not any. I had not seen Judge Archbald for a year, perhaps, before that.

Q. Did you see the note?—A. No; I do not think I did.

Q. Did anything of that kind happen more than once?—A. No, sir.

Q. Do you know whether Judge Archbald was on the note? Was anything said about that?—A. No, sir; I can not say that I do know Judge Archbald was on the note.

Q. Do you know whether John Henry Jones was on the note?—A. John Henry Jones told me that he had a note indorsed by a party, and he would like to know where to take it.

Q. What do you know about John Henry Jones? What was his position at that time?—A. John Henry Jones was then connected with the Maplewood Lumber Co., if I remember aright.

Q. Connected in what way?—A. He was a stockholder and, I think, secretary of the company.

Q. In a general way, is that a small or a large company?—A. That was a concern that did business——

Mr. Manager STERLING. We object, Mr. President, to this testimony.

Mr. WORTHINGTON. Well, the learned managers put Von Storch on the stand and asked him about John Henry Jones and elicited the statement by Von Storch that John Henry Jones was a man of such appearance that he doubted whether the note which he brought there was Judge Archbald's signature or if it did not have the forged signature, thereby implying, I suppose, that John Henry Jones is such a character that for Judge Archbald to have anything to do with him implies guilt on his part. John Henry Jones is to be the next witness, and Senators can judge of his appearance, and his business, and so forth, can be stated by him. I want to show by this witness, who knows all about Mr. Jones, that he is not such a man as that Judge Archbald or anybody else in Scranton might not have business with and be on notes with him without any reflection on his judgment or his conduct.

The PRESIDING OFFICER. The Chair is not informed as to the evidence to which counsel refers. Of course, if there was evidence to that effect counsel would be entitled to show to the contrary. The Chair is not informed as to whether or not that is in the record.

Mr. WORTHINGTON. I will read it, at the top of page 769 of the record in this trial, from Von Storch's evidence:

> Q. Why did you suspect this note when it was brought to you by John Henry Jones?—A. I did not think that a man of John Henry Jones's appearance would be carrying Judge Archbald's note around.

He had already said that he suspected it was a forgery, and being asked why he suspected that he answered:

> I did not think that a man of John Henry Jones's appearance would be carrying Judge Archbald's note around.

Now, necessarily that must carry to the minds of Senators the notion that for Judge Archbald to be having business transactions, or to be in a transaction on which his name and the name of John Henry Jones were on a note——

The PRESIDING OFFICER. The Chair does not desire to hear further from counsel on that.

Mr. Manager STERLING. I think the fact is, if I remember, the testimony which counsel has read was in the direct examination.

Mr. WORTHINGTON. It is in the direct examination by the managers.

Mr. Manager STERLING. It is in the direct examination. Now counsel intimates that the managers had caused Von Storch to elicit the fact that Jones was a man of bad appearance. Counsel himself called that evidence out. Now he brings this witness on to sustain the character of the man whom his own witness impeached.

Mr. SIMPSON. It was your witness, Mr. Manager STERLING.

Mr. Manager CLAYTON. I know, but you called it out.

Mr. Manager STERLING. You called it out.

Mr. Manager CLAYTON. You called him as a witness; we did not.

Mr. WORTHINGTON. It was called out by the managers. God forbid that we should call that out about John Henry Jones.

Mr. Manager STERLING. You just stated, did you not——

Mr. WORTHINGTON. You said that was on direct examination, and I said "yes."

Mr. Manager STERLING. In any event, how can what this witness thinks of John Henry Jones be material?

Mr. WORTHINGTON. We are not going to prove what he thinks of him, but what he knows his position and standing in Scranton are.

Mr. Manager STERLING. I should like to say what I have got to say, if counsel will give me an opportunity. It is not very much.

John Henry Jones testified to all these things himself. He told what lumber companies he had been interested in, but that does not give him a good character. What this gentleman may say about his appearance does not give him a good character or anything of the kind. It is utterly immaterial to any issue in this case.

The PRESIDING OFFICER. The Chair will admit the evidence.

Q. (By Mr. WORTHINGTON.) Mr. Davies, what position, if you know, did John Henry Jones hold in Scranton at that time?—A. At present?

Q. At the time of this transaction and since?—A. At that time he was promoting some lumber companies. He was connected with two or three, I think. I think there was another lumber company or two that he was connected with.

Q. You said he was secretary of some company?—A. I think he was secretary at the time of the Maplewood Lumber Co.

Q. I was about to ask you, when interrupted, whether that was a large or a small concern.—A. It was a concern, as I understand it, that sold quite a little timber and lumber for breaker building, washery construction, and so forth.

Q. Has he held any official position in Scranton?—A. Yes; for the last year or two he has been a chief clerk in the county commissioner's office there in charge of the county assessments.

Q. And holds that position now?—A. He does, sir.

Q. Has he been at any time a man of property there in Scranton?—A. Oh, yes; I think so; I believe so. He owns his

own home, and I think he had some other property there besides.

Q. Let me ask you this question, which you need not answer: Whether, until now, you ever intimated that on account of his appearance and standing there it was a disgrace to anybody to have business with him or to be seen with him?

Mr. Manager STERLING. We object.

Mr. WORTHINGTON. It has gone so far here that the witness, Von Storch, intimated that he was led to the conclusion that Judge Archbald's name on this note was a forgery, because John Henry Jones brought it to him.

Mr. Manager STERLING. We will admit that it was not a forgery. We have claimed all the time that it was Judge Archbald's signature to this note. He signed it himself. There has never been any pretense on our part that it was a forgery.

Mr. WORTHINGTON. I am not talking about whether it was a forgery or not, but whether it was a justification for the suspicion that it was a forgery because John Henry Jones's name was connected with it.

Mr. Manager STERLING. I do not know how you can better prove it than to prove that it was not a forgery, which we admit.

The PRESIDING OFFICER. The Chair permitted the counsel to prove the business character of Mr. Jones, but it is not proper to put in evidence the opinion of the witness.

Mr. WORTHINGTON. Well, then, I will not pursue the matter further, and the managers may cross-examine.

Cross-examination:

Q. (By Mr. Manager STERLING.) Your name is Davies?—A. Yes, sir.

Q. Are you a banker?—A. No, sir; I am a mining engineer.

Q. John Henry Jones met you on the street one day with a $500 note, and wanted you to cash it?—A. He did; yes.

Q. And asked you if you knew where he could cash it?—A. That is, he told me had a note for several hundred dollars. I did not know it was for $500. He told me it was a note for several hundred dollars, and wanted to know where he could cash it.

Q. You did not know whether it was Judge Archbald's note or not?—A. No, sir; I did not.

Q. And you do not know whether it was for $500 or not?—A. I could not swear that it was.

Q. You answered Mr. Worthington that Jones did meet you and asked where he could cash a $500 note. Did he?—A. If I said that I made a misstatement. I meant a note for several hundred dollars.

Mr. Manager STERLING. I move that the testimony of this witness be stricken out, because there is no proof that it relates to the note in question.

Mr. WORTHINGTON. We can not prove everything at once. I think it is sufficient now to identify the transaction. John Henry Jones will be the next witness, and he will not leave any doubt as to whether it was this note.

The PRESIDING OFFICER. The Chair will permit the testimony to stand for the present, at least.

Q. (By Mr. Manager STERLING.) Did Jones tell you he had been trying to cash the note?—A. No, sir; he did not.

Q. And you told him you did not know where he could cash it?—A. I did not, then; no.

Q. And you met him the next day and told him that Von Storch might cash it?—A. Yes, sir.

Q. You understood from what he had told you that he had been hawking that note around Scranton for some time?—A. No, sir; he never told me that he had.

Q. And he could not find anybody who would cash the $500 note—Mr. Jones's note with Judge Archbald's name on it?—A. No, sir; I did not know that he had.

Q. You went with him, then, to Von Storch's law office and introduced him to Von Storch?—A. I did.

Q. And Von Storch called up Judge Archbald?—A. Not in my presence. I introduced him and then left.

Q. You left then, did you?—A. Yes, sir.

Q. In looking over this dump you found there were 30,000 tons of material in it?—A. I figured it; yes, sir.

Q. You thought it would measure or test out some 55 or 65 per cent of coal?—A. Yes, sir; about that.

Q. That would make about 54,000 or 55,000 tons of coal in it, would it not?—A. Yes, it would; in that neighborhood.

Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness is excused.

MICHAEL W. SCANLON—RECALLED.

Mr. Manager WEBB. We should like to recall Mr. Scanlon for one question.

The PRESIDING OFFICER. As a witness for the managers?

Mr. Manager WEBB. No; the witness has just left the stand a few moments ago. He is the clerk at the Grafton Hotel. We merely wish to ask him one question.

Michael W. Scanlon, having been previously sworn, was recalled and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Scanlon, from your record what hour of the day or what time of the day did Judge Archbald arrive at your hotel?—A. Just before dinner. Our dinner hour is from 6 to 8.

Q. He arrived for the evening meal?—A. For the evening meal.

Mr. Manager WEBB. That is all, Mr. President.

Q. (By Mr. WORTHINGTON.) Was he alone or in company with some one else?—A. Mrs. Archbald was with him.

TESTIMONY OF JOHN HENRY JONES.

John Henry Jones, having been previously sworn, was further examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Your name is John Henry Jones?—A. Yes, sir.

Q. You have already been examined as a witness in this case?—A. Yes, sir.

Q. How are you at present engaged? What is your present business?—A. I am in charge of the assessment department for Lackawanna County.

Q. Is that an appointive or an elective office?—A. It is an appointive office.

Q. You were appointed by whom?—A. By the county commissioners.

Q. How long have you held that office?—A. Since the 1st of January.

Q. Before that what was your business or vocation?—A. Various jobs in the clerical line—bookkeeping or anything of that nature.

Q. Have you been at any time connected with any lumber companies or anything of that kind?—A. I have.

Q. Just state in a very general way what companies and in what way you were connected with them.—A. I was secretary and stockholder in two companies.

Q. Give the names of them, please.—A. The Maplewood Lumber Co. and the Paupac Lumber Co.

Q. And those companies were engaged in business where?—A. In Wayne County, Pa.

Q. How far is that from Lackawanna County?—A. Well, from the city of Scranton to where our offices were, one of them would probably be in the neighborhood of 18 miles and the other about 35 miles.

Q. Mr. Jones, did you at any time have anything to do in connection with Judge Archbald in relation to a dump called the Oxford dump?—A. I believe I did.

Q. What do you recollect about that so far as Judge Archbald's connection with it is concerned?—A. Well, my recollection is this: That a certain party came to me one day and said that there was a dump or a going concern that could be gotten down somewhere near Shenandoah, and I found out as to who the owner was and mentioned the matter to Judge Archbald.

Q. You mentioned the matter to Judge Archbald?—A. I did; yes, sir.

Q. Go on and tell us what followed so far as his connection with it was concerned.—A. My impression is that Judge Archbald opened up negotiations with the owner and got the right to offer it for sale. He was acting at my request.

Q. Who was the party who first spoke to you about it? You said "a party"—who was it?—A. If my memory serves me right, it was a man named Gray.

Q. Well, go on and tell about what took place with relation to that Oxford dump matter.—A. I think the judge said that I could offer it for sale, and I wrote a letter, I think, to Mr. Peale on the subject, and when I received his reply it was of such a nature that it ended there, so far as I was concerned.

Q. I wish you would look at this letter, which is U. S. S. Exhibit X in this case, a letter dated March 8, 1911, from you to Mr. Peale, and I will ask you if that is the letter you wrote to Mr. Peale and sent to him about that date in connection with this matter?—A. (After examining letter.) Yes, sir; that is the letter.

Q. I will show you a letter dated April 29, 1911, purporting to be signed by you and addressed to Mr. Peale, and being "U. S. S. Exhibit AA" in this case, and will ask you if you wrote that letter and sent it to Mr. Peale at about the time the letter bears date?—A. Yes, sir; but this is pertaining to another matter.

Q. Yes; I am going to ask you about that; but before I take up the other matter I want to finish what there is to say about the Oxford dump. You have told us that you took the matter

to Judge Archbald and he authorized you to offer it for sale, I think you said?—A. Yes, sir.

Q. Go on and tell what followed.—A. I wrote a letter to Mr. John W. Peale, whom I knew and had known for 11 years, and I placed the matter, as the letter states, before him as a business proposition. His reply was such—he had already——

Mr. Manager WEBB. Mr. President, we think the best evidence is the letters which counsel have introduced, and we need no explanation of them.

Mr. WORTHINGTON. His reply is here, so we need not bother about that. [To the witness:] Go on and state what followed after the negotiations with Peale.

The WITNESS. After I received Mr. Peale's reply?

Q. Yes.—A. That ended it, so far as I was concerned.

Q. Do you remember anything in connection with a man named Connor?

Mr. Manager WEBB. We object.

Mr. WORTHINGTON. Well, I believe there is——

The PRESIDING OFFICER. The manager objects. What is the objection?

Mr. Manager WEBB. That it is immaterial and has nothing to do with the case, so far as we can possibly see. A question is asked about a man by the name of Connor.

The PRESIDING OFFICER. What is the question?

Mr. WORTHINGTON. I suppose anything is irrelevant which relates to a man named Connor, but nothing has appeared except Mr. Connor's name. I want to ask also whether an effort was made to sell to him on behalf of Judge Archbald or this witness?

Mr. Manager WEBB. We object to that. It does not make any difference to whom they undertook to sell the Oxford dump. It is irrelevant and immaterial. We are discussing the Katydid dump and culm bank No. 3; and to whom he offered to sell the Oxford dump is an entirely different proposition and is wholly immaterial.

Mr. WORTHINGTON. Well, Mr. President, we despair of finding anything that seems to the managers to be relevant, but I ask to call the attention of the Chair and of the Senate to what one of the issues in this case is. It is charged in the third article that Judge Archbald wrongfully, corruptly, and unlawfully applied to the Lehigh Valley Coal Co. for the privilege of leasing from the Girard estate, with the consent of the company, Packer No. 3 dump; and it is charged in another article that after Judge Archbald became a member of the Commerce Court he formed a scheme to go to work and apply to other railroads to get all the culm dumps he could, using his influence as a judge to get them. We have shown as to one of the two cases in which he was concerned—the Katydid culm dump—that the suggestion of his being interested in that came from Mr. William P. Boland through Mr. Williams, and that it was not anything which was formed in his own mind. As to this dump, the answer sets up that Judge Archbald had entered into—I was about to state what my recollection is of the answer, but my associate says it is not in the answer. I think it is. But whether it is in the answer or not, it is part of our reply to that article. Judge Archbald had become interested, in the way which has already appeared, in the Oxford dump, with which no railroad had had anything whatever to do, and was negotiating to sell that or to form a company to operate it when his attention was called, as will appear, to the fact that there was, across the creek from the Oxford dump, this Packer No. 3 dump, or the Packer dumps; and in that way he was led by force of circumstances or by a chain of circumstances, being advised that the Oxford dump and Packer No. 3 dump could be worked profitably together when the Oxford dump could not be worked profitably by itself, to endeavor to secure that dump.

The PRESIDING OFFICER. The Chair would inquire of counsel if he offers this in support of his contention against article 3?

Mr. WORTHINGTON. Article 3. I have already said, Mr. President, that I am informed by my associate that I am mistaken in what I was about to say is in the answer. We do not, of course, have to set up all the details of the evidence in the answer. The answer does deny that the respondent unlawfully, or corruptly, or maliciously, or wickedly, or whatever those adverbs are, undertook to use his influence as a judge to induce railroad companies to consent to his securing a lease.

The PRESIDING OFFICER. Does this testimony relate to Packer No. 3?

Mr. WORTHINGTON. All the testimony relating to the Oxford dump is to show how Judge Archbald was led to become interested in Packer No. 3. The witness, Thomas Star Jones, has already given considerable evidence along this very same line when on the witness stand.

The PRESIDING OFFICER. If it is for that purpose it would fall within the terms of the article. The Chair understood counsel to say that there was a general charge as to endeavoring to lease a number of culm dumps. That is not in article 3.

Mr. WORTHINGTON. That is in the last article. After setting forth various alleged improper dealings about culm dumps, then there is a general charge in the last article that as soon as Judge Archbald became a judge of the Commerce Court he formed in his mind the intention to go to the railroads which would have business before the Commerce Court and get culm dumps from them. We have succeeded in showing two cases——

The PRESIDING OFFICER. Counsel will proceed if the purpose is to elucidate the manner in which the respondent was induced to become interested in Packer No. 3.

Mr. WORTHINGTON. That is precisely the object, Mr. President.

Q. (By Mr. WORTHINGTON.) Did you have any communication with Thomas Star Jones about this Oxford dump?—A. I mentioned——

The PRESIDING OFFICER. Counsel will——

Mr. WORTHINGTON. Mr. President, Thomas Star Jones has already been examined in reference to his connection with it. It is impossible to show how Judge Archbald was led up to this without connecting the different parts of it together. [To the witness:] What did you say about Thomas Star Jones?—A. I met Tom Star Jones in the post-office building one day and he asked me whether I knew of a dump that he could secure somewhere; that he had a purchaser ready; that he was delegated to locate one for him. I told Jones that I was informed that there was one, and I named the Oxford to him.

Q. Was that after or before you had been in communication with Judge Archbald about the Oxford dump?—A. After I had asked the judge to see whether I could have the right to sell and after I had written to Mr. Peale. That is my best recollection.

Q. After Mr. Peale had turned down the proposition?—A. Yes, sir; after he had turned it down.

Q. Have you any recollection or knowledge as to Packer No. 3 dump being mentioned afterwards in connection with the Oxford dump?—A. I have not.

Q. You were not concerned with that yourself?—A. No, sir.

Q. Now, did you have anything to do with the matter of the old gravity fill of which the Lacoe & Shiffer Co. were formerly the owners?—A. I did.

Q. In connection with Judge Archbald?—A. Yes, sir.

Q. Now, tell us all about that Mr. Jones.—A. That fill was called to my attention, if I remember correctly, somewhere about February, March, or April, 1911, by a man named Fred Jones. He and I worked together on the tax duplicates, and one day he told me he knew where there was a good fill, and that if I could secure it he had a purchaser that was ready to hand over the cash and buy it the next day; that he had been trying to secure it, and could not. That was his story to me. He took me and showed me the fill. Of course, I had known the fill before I knew Fred Jones, so far as showing me anything I did not know was concerned; but when we started, I did not know where he was going. I located the owner or the man with whom I could get in touch from a man who lived there, and not from any information that Fred Jones gave me as to whom I should communicate with. I found it out from a man who lived there.

Q. Get down to Judge Archbald's connection with it, Mr. Jones.—A. I did not know Mr. Berry personally, then——

Q. What had Mr. Berry to do with it?—A. I was informed by this man who lived there that Mr. Berry was the agent for Lacoe & Shiffer.

Q. For the owner?—A. For the owner.

Q. Now, get to Judge Archbald's connection with it.—A. Then I happened into Judge Archbald's office, and I asked Judge Archbald whether he knew John W. Berry, of Pittston. I do not remember whether the judge said yes or no; but, in any event, the judge got in touch with Mr. Berry and I also got Mr. Berry on the new phone myself.

Q. Go on and tell what connection you had with that gravity-fill transaction, so far as Judge Archbald was concerned with it.—A. Outside of securing that first right to sell, I proceeded——

Q. Now, you say "outside of getting that first right to sell." You have said, I think, that Judge Archbald got in communication with Mr. Berry about it?—A. Yes, sir.

Q. Did he get the right to sell or not?—A. I understood he did.

Q. You proceeded on that theory afterwards, did you?—A. On the ground that the judge said I could go ahead and sell it,

I proceeded to find a buyer. The buyer, Fred Jones, had fallen down; he did not want it.

Q. Who was he?—A. A man named Charlie Stone.

Q. Jones failed to sell to Stone. Then what happened?—A. That ended it at that time. I think, then, that I wrote to Mr. Berry, through his old coal inspector, named Billy Wynn. I happened to speak to Billy Wynn about it, and he said that he had been speaking——

Q. No matter about that. You then wrote this last letter to Judge Peale, which you have identified and which does refer to the old gravity fill transaction?—A. Yes, sir.

Q. Did Peale go on with that transaction, or did he say he did not want it?—A. No, sir; it was too small.

Q. I want to get down to the real question. We have information of two who did not buy. What happened then?—A. Then after several months, I took the matter up with the Central Pennsylvania Brewing Co. and Mr. Robinson.

Q. We have heard all about that. That afterwards led up to Mr. Warnke, did it not? Now, come down to the Warnke transaction. That is what we want to know about really.—A. Well, Mr. Warnke and I went and examined the property; we went over it thoroughly, and I informed him that, so far as fixing a price was concerned, I would put him in touch directly with the owners, with the understanding that he was to pay—it made no difference to us how low he could get it or what he would pay for it, but that he would have to pay $500 commission.

Q. Well, go on, then, and tell about what followed. You have told you made this bargain with Warnke. What was done?—A. I should like to correct right here a statement I made before the Judiciary Committee.

Q. You need not correct anything here that you said anywhere else unless you are asked to do so. I do not care anything about that now. Tell what is your personal recollection about it.—A. Well, I worked on it, I think, probably for two months. Finally it came to a point where they were ready to close the deal.

Q. Who was ready to close?—A. Warnke; and in the final settlement they made a note——

Q. Now, one moment. Who made a note? Did Warnke buy it?—A. So far as I knew, I was dealing with Warnke alone, who was going to organize a company that was not organized at that time, and finally they made a note which was handed over to Judge Archbald, out of which I received $250.

Q. Before you go on about that, do you know whether or not the Premier Coal Co. was the name of that company which Warnke and his associates organized?—A. Yes, sir.

Q. That is what you are referring to?—A. Yes, sir.

Q. Did the Premier Coal Co. buy the gravity fill from the Lacoe & Shiffer Co. through Mr. Berry?—A. Yes, sir.

Q. Then where did the $500 come from?—A. For commission.

Q. From whom?—A. From the purchasers.

Q. From the Premier Coal Co.?—A. Yes, sir.

Q. Do you recollect who received that, whether Judge Archbald received it or you?—A. That is what I want to correct.

Q. Never mind about correcting anything, Mr. Jones. Tell us your present recollection upon the subject.—A. Judge Archbald received the note.

Q. Did you get anything out of it?—A. I got $250.

Q. And he retained the other $250?—A. He did.

Q. And that was your commission for effecting this sale?—A. Yes, sir.

Q. Now, did you know, as a matter of fact, whether or not Judge Archbald had a written option from Mr. Berry as representative of the Lacoe & Shiffer Co., authorizing him to make this sale?—A. Well, I would not like to say.

Q. Very well; we will get that from some one else, perhaps. I will not press you if you do not know about it. In reference to the division of that $500, was there anything that entered into the transaction except the services that you and he had rendered in making this sale of the gravity fill from the Lacoe & Shiffer Co. to the Premier Coal Co.?—A. Nothing whatsoever.

Q. Were those companies railroad companies or companies composed of private individuals?—A. Private individuals.

Q. Both of them?—A. On each side.

Q. Do you remember going to Judge Archbald's office with Fred Jones in connection with this transaction?—A. I do.

Q. I do not care to go into details of it, but I want to know what, if anything, was said there about any railroad company or any rights any railroad had in connection with this gravity-fill dump transaction?—A. Nothing whatever there.

Q. Was there anything said on that subject at any time in Judge Archbald's presence, as far as you know?—A. No, sir.

Q. Or by Judge Archbald?—A. No, sir.

Mr. WORTHINGTON. You may cross-examine, gentlemen.

Cross-examination:

Q. (By Mr. Manager WEBB.) Where were you born?—A. In Wales.

Q. Are you a man of property and were you a man of property two years ago?—A. Just the same as I am now.

Q. Two years ago you were not worth anything, were you?—A. Well, I was in one sense, and you may think, like a good many others, that I was not.

Q. I think I can bring you down to the point, Mr. Jones.—A. All right.

Q. Four years ago you had a little stock in a lumber company, did you not?—A. Yes.

Q. A thousand dollars' worth?—A. Yes, sir.

Q. But you never got anything out of it—the lumber company was closed out?—A. Well, I have since. I will get something.

Q. How much?—A. Well, I will have now coming of the amount that I spoke of as a loss something like $1,200.

Q. You will have it, but you did not have it then, and you thought three years ago you had lost it all.—A. Well, I had the right to expect it and count upon it.

Q. You swore before the Judiciary Committee that your stock had turned out to be worth nothing and that you had a home up there in Scranton, but your wife owned it, and nothing could be made out of you by execution under the laws of Pennsylvania.

Mr. WORTHINGTON. Mr. President, I respectfully suggest that this witness was not asked anything on direct examination that justifies this cross-examination.

Mr. Manager WEBB. I submit that is exactly what counsel did ask him.

Mr. WORTHINGTON. I asked him his connection with a single company, and he has told us about that. I did not examine him about his financial responsibility.

Mr. Manager WEBB. You examined Mr. Davies fully about how many different corporations he was connected with and what his financial standing was supposed to be, and I want to show the contrary on cross-examination.

Mr. WORTHINGTON. I do not understand that one witness can be cross-examined about the direct examination of another witness. That is a new idea to me.

The PRESIDING OFFICER. The managers will have a full right to examine him on their own behalf.

Q. (By Mr. Manager WEBB.) As a matter of fact, when the note signed by Judge Archbald, yourself, and Mr. Williams was executed and presented for discount, you were execution proof, were you not, and owed more money than you could pay?—A. I will answer "Yes" conditionally; but there are thousands who have been worse off a good deal.

Q. Is it not true, Mr. Jones, that you knew that you were insolvent when this note was signed, and that to your bank, the bank you had been dealing with, you owed something like $1,200 or $1,500, and therefore your bank would not discount the note?—A. That is not true.

Q. Well, what is true about it?—A. The bank would not discount the note for the simple reason that I had two notes which came to the bank as reverses, and I had exceeded the limit of my discount. That is the reason.

Q. Exactly. You owed them more money than you could pay them?—A. Exactly; but it was an asset nevertheless. It had gone bad, but was still outstanding.

Q. But still at that time you owed your bank more money than you could pay, and that is the reason they would not discount the $500 note.—A. No; that was not the condition at all.

Q. Then why did you not get it discounted at your bank?—A. For the simple reason that just previous to that two notes I had had discounted for a customer, which had become due, turned out to be bad, and consequently it was up to me to straighten that out without going further. It did no prove——

Q. But you did not have the money to do it?—A. I guess I had pretty near.

Q. Why did you not do it and have the note discounted?—A. Because I went and got it somewhere else. It was good at another bank.

Q. But you presented it to your bank for discount?—A. Yes, sir.

Q. Why did not you get it discounted?—A. For the reason I have already told you.

Q. That is, for the reason that you did not have the money to pay what you already owed them and they would not let you get any deeper in debt to them?—A. Would that be anything new in business?

Q. Well, is not that true?—A No; not from that standpoint, the way you take it.

Q. Were you solvent at that time?—A. I consider that I was.

Q. Did you have any property, real estate, at that time?—A. Just the same as now.

Q. That is, your wife owned it? In Pennsylvania they can not collect your debts from your wife's property, can they?—A. But I can show my solvency in the same way.

Q. That is, if your wife is solvent you are solvent?—A. Well, if I have the right to use it I am solvent.

Q. If you have the right to give a mortgage on your wife's property, you are solvent to the extent of that property?—A. Or if I can get her to sign with me.

Q. Is there a mortgage on your wife's property?—A. Yes, sir; certainly.

Q. And you still say you were solvent four years ago when you presented that note for discount?—A. If I put the assets against the liabilities, I was solvent then and I am solvent now.

Q. You are solvent now?—A. Yes, sir; on the same grounds.

Q. Your assets are purely speculative, you say, and may realize on them some time, because you may recover something on the option in Venezuela?—A. Not necessarily, but I will recover out of the losses, which will offset the liabilities.

Q. You say you found Davies on the street, who finally directed you to go to Von Storch and get your note cashed?—A. I asked Mr. Davies the question; I told him, because we were familiar, that I had a note for discount, and I believe I told him that I had presented it at the West Side Bank, and gave the reasons, and he suggested that I go to Von Storch——

Mr. WORTHINGTON. One moment. Since my friends the managers have been so critical about matters not brought out on the direct examination, I will say that I do not remember that I went into this on direct examination.

The PRESIDING OFFICER. The Chair rules that the manager can interrogate the witness on his own behalf and examine him fully, but not on this point on cross-examination.

Mr. WORTHINGTON. I object to examining him any further on it on cross-examination.

The PRESIDING OFFICER. The Chair will repeat the ruling. The managers can reintroduce the witness. It is competent testimony, but it must be brought out in a different way. It must be brought out by them by an examination in chief and not on cross-examination.

Mr. WORTHINGTON. Very well. I submit it is not the managers' time for putting in their testimony, and I object to their proceeding further along this line now.

Mr. Manager WEBB. My recollection is that three or four or five days ago the question was asked him as to who directed him to the bank of Von Storch, and he replied that Davies did.

The PRESIDING OFFICER. If the present cross-examination relates to any matter which was gone into on the previous examination of the witness in chief it would be in order, otherwise it would not be.

Mr. Manager WEBB. I am quite sure the Chair will find that when he was put on the witness stand by the respondent the question was asked, who directed him to the bank of Von Storch, and he replied, "Davies."

Mr. SIMPSON. He was your witness before.

Mr. Manager WEBB. It came out on cross-examination.

Mr. SIMPSON. No.

Mr. WORTHINGTON. No. You will find on page 692 that it was gone into on direct examination by the managers.

Mr. Manager WEBB. He has stated prior to this time, Mr. President, that a man by the name of Davies directed him to the Von Storch Bank, and they have examined Mr. Davies with particularity.

Mr. WORTHINGTON. We did not examine him about that transaction. We did not ask him anything about this $500 note transaction.

Mr. Manager WEBB. You asked him, Mr. Davies, about it?

Mr. WORTHINGTON. Oh, no.

The PRESIDING OFFICER. The Chair has enforced the rule when the managers objected to counsel for respondent cross-examining witnesses on matters not brought out on direct examination, and it must apply it to the other side.

Mr. Manager WEBB. Very well, sir.

Q. (By Mr. Manager WEBB.) Now, we want to know something about the Oxford coal dump. Who owned it?

Mr. WORTHINGTON. I object to that unless this witness is shown to have examined the title. I have asked with whom he had dealings, but nothing about the title, as to which, of course, this witness could not know.

Q. (By Mr. Manager WEBB.) You know that the railroad companies did not own the Oxford dump, do you not?—A. That the railroad did not own the dump?

Q. You know that no railroad owned it?—A. I do not think they do.

Q. Or ever did?—A. I do not think so, but I do not know. I am not an authority on the subject.

Q. Did you ever hear that a railroad company owned the Oxford dump?—A. No, sir.

Q. And you have been around Scranton for how many years?—A. I have been around there for 18 or 19 years.

Q. You say Thomas Star Jones is the first man who ever suggested this packer No. 3 dump to you?—A. Thomas Star Jones never suggested anything to me. I said that I directed Thomas Star Jones in reference to the Oxford dump. That was my answer.

Q. As a result of your direction to Thomas Starr Jones about the Oxford dump, did Judge Archbald secure an option or purchase the Oxford dump?—A. I had taken up the matter with Judge Archbald with reference to the rights of sale prior to that.

Q. Did Judge Archbald ever secure an option on the Oxford dump?—A. That I do not know.

Q. Did he ever tell you he did?—A. My impression is that the judge said that he had the rights to sell.

Q. Did he ever tell you he had secured an option on the Oxford dump?—A. I think the judge told me that he had the rights to sell.

Q. Did he ever tell you that he had an option on it?—A. That I can not recollect—outside of the rights to sell, which is equivalent; one is as good as the other.

Q. Do you know from whom he got the option or the right to sell, as you call it?—A. I do not.

Q. Did you have anything to do with Packer No. 3 dump?—A. No, sir.

Q. You know nothing about that?—A. No, sir.

Q. You spoke of Berry gravity fill. Let me ask you if this is not the way you came to learn about the gravity fill, and if these are not the facts about it: Fred W. Jones was the first man who ever mentioned to you the Berry gravity fill, owned by the Lacoe & Shiffer Co.?—A. No.

Q. I thought you stated a while ago that Fred Jones was the first man to mention it.—A. No; my statement was that Fred W. Jones told me—he did not use the word "fill"; he used the word "dump"—and when he took me over to it, I had known that fill before I knew Fred Jones.

Q. What time in the year did he take you over to it?—A. I believe it would be somewhere around March—February, March, or April; somewhere around there. It was in the spring of the year.

Q. Can you not come nearer than within three months of the time?—A. Sir?

Q. Can you not come nearer than within three months of the time; was it in April, March, or February?—A. I believe it would be—we were working at the courthouse in February and March—in April, to the best of my recollection.

Q. What time in April?—A. I would not confine myself to dates.

Q. The first part or the last part, or the middle?—A. It may be the first part.

Q. It may be the first part?—A. Yes.

Q. You think now it was the first part, do you not?—A. Well, I believe that would be somewhere near the mark.

Q. All right. Now, then, immediately after Fred Jones spoke to you about this gravity fill, you communicated with Judge Archbald?—A. I did.

Q. And Judge Archbald immediately picked up the phone and communicated with Mr. Berry, the agent for Lacoe & Shiffer. Is not that so?—A. I do not remember how it was done.

Q. Well, you saw Judge Archbald often, did you not?—A. I did.

Q. I ask you if that was not done—if Judge Archbald did not tell you that he had phoned Mr. Berry immediately after you communicated to him that you had found the fill?—A. I do not remember how it was done, because, in the first place, the judge could not telephone from the office there, because he would have to do it on the new phone, and he did not have the new phone in his office.

Q. My recollection is that the judge admits in his answer that he did phone him.—A. Then, the judge is right. I am not supposed to know that.

Q. You did not hear him phone Mr. Berry?—A. No, sir.

Q. Anyway, after you and the judge had taken up the sale of the fill that Fred Jones had told you about, you finally sold it to Warnke?—A. Yes, sir.

Q. When you sold it to Warnke there was a $500 commission coming?—A. There was.

Q. A commission—was that your money or the judge's?—A. Well, it was half and half.

Q. Half yours and half the Judge's?—A. Yes, sir.

Q. Did Warnke know that you were to get half of it?—A. Warnke knew when I negotiated the deal that he was to pay $500 commission.

Q. Did Warnke know that you were to get half of $500 commission?—A. He was supposed to know.

Q. Did he know?—A. Well, I do not—whether he recognized the fact or not is immaterial. He was supposed to know, because I was negotiating the deal with Fred Warnke.

Q. Upon whose authority were you negotiating the deal?—A. I was negotiating the deal on my own as well as Judge Archbald's.

Q. Had you ever taken it up with Mr. Berry, the agent for Lacoe & Shiffer?—A. I myself talked with Mr. Berry on the phone.

Q. And did he tell you that Judge Archbald had an option on it?—A. I can not remember.

Q. What did Mr. Berry tell you?—A. I understood from Mr. Berry that I had the right to go ahead and sell.

Q. Then you understood you had an option from Mr. Berry?—A. No, sir; I did not say that.

Q. If you had a right to sell that is a verbal option, is it not?—A. I had the rights to sell on the information given me by Judge Archbald.

Q. Then you would not have had any right to sell except that Judge Archbald gave you the right to sell?—A. In a sense; no.

Q. Then you were the agent of Judge Archbald, is that it?—A. No. It would look a great deal better if you would put it that I was interested with him in that particular deal.

Q. Were you a partner with the judge, then?—A. That would look better.

Q. You were a partner with him?—A. On that particular deal; yes.

Q. And you got $250?—A. Yes, sir.

Q. And the judge got $250 out of the deal?—A. Yes, sir; that is correct.

Q. And that $250 was yours, and you kept it?—A. I did.

Q. What did Judge Archbald do to entitle him to $250?—A. He secured the rights to sell, which is the first essential point.

Q. He secured it from Mr. Berry?—A. Yes, sir.

Q. Do you know how he secured the right?—A. I have said already that I do not know.

Q. You do not know. When was this deal consummated with Mr. Warnke?—A. I think it was some time in 1912. I am not sure. I would not be positive on that.

Q. Two hundred and fifty dollars is a good big amount for you to make at one time, is it not? Do you not remember when you got the money?—A. Oh, I have handled more than that.

Q. I know; but that was a pretty fair amount. Do you remember when you got the $250?—A. I got it in 1912.

Q. This year?—A. Yes.

Q. Was it January, February, or March?—A. I think it would be somewhere around March, or somewhere around that way, or April, may be; I would not be sure. The note is the best evidence on that time.

Q. Do you know what Mr. Warnke was to pay for this fill?—A. That was a matter to be decided between Mr. Berry and himself.

Q. Berry and whom?—A. Warnke and his partners.

Q. Did not Judge Archbald have anything to do with the price?—A. It was a case of make the best bargain you can. That is what I understood.

Q. In all these dealings you did not know the price that Warnke paid to Judge Archbald and Berry for the fill?—A. I did.

Q. You did?—A. Yes; I did; on the information of Fred Warnke himself.

Q. I will ask you if you did swear before the Judiciary Committee that you did not know what the price was?—A. As far as I personally am concerned I would not, because the negotiation would be on one side of the purchaser from the seller. I would have to learn it from the purchaser, which I did.

Q. After all that circumlocution let me ask you if you swore this before the Judiciary Committee last May:

Mr. WORTHINGTON. What page?

Mr. Manager WEBB. Page 641.

The ACTING CHAIRMAN. How much was paid for this filling?

Mr. JONES. Now, I couldn't really say, because the price was left between the purchaser and the owner. There was no option, so far as price was concerned, to me or price to them; let them make the best bargain they could.

The WITNESS. That is what I have answered to-day.

Q. And that is so?—A. Yes, sir.

Q. But you did not know at the time this contract was completed what the fill was being sold for or how much Warnke was paying for it?—A. I said that I had learned that from them; that I had no personal knowledge. I had to learn it from the other side—from the purchaser.

Q. Did you get this $500 note cashed that was signed by Warnke's coal company?—A. No, sir.

Q. Who got it cashed?—A. Judge Archbald.

Q. Judge Archbald?—A. Yes, sir.

Q. Did you give him the money or did he give you the money?—A. The judge gave me the money.

Q. You have got that mixed, too, have you not?—A. No. That is what I want to explain. I was mixed on that before the Judiciary Committee.

Q. Yes. Before the Judiciary Committee you swore you got the note cashed and turned over $250 to the judge as a present.—A. That is where, as I said before, I got confused——

Q. Let me see if this is what you said——

Mr. WORTHINGTON. I submit that the witness ought to be allowed to finish his answer, and I ask that the stenographer read the answer as far as the witness has gone.

Mr. Manager WEBB. I thought he had finished.

The PRESIDING OFFICER. The witness may finish his answer.

Mr. Manager WEBB. Go ahead and explain what you want to explain.

The WITNESS (continuing). I got confused as to how that note passed; I had it in my mind all the time that I admitted that the judge got the note and that I received my share of it, but when I received the congressional report I found out that I had made a mistake on that point, and that is why I asked to correct that to-day.

Q. Then, what you did swear to before the Judiciary Committee was that the $500 was just for selling the fill?—A. Yes, sir.

Q. And that you made the judge a present of $250?—A. That was forced in by the Judiciary Committee.

Q. Now, let us see how much force there was. Let us see if you did not swear this, on page 641:

Mr. FLOYD. Do you mean to say, Mr. Jones, that you proposed to Judge Archbald that you were going to make this deal and going to give half of your profits or commission to him without any consideration or services on his part?

Mr. JONES. Yes, sir. His accommodation to me was well worth it when I needed it.

The accommodation, I may add there, was his signing of the $500 note for you which you finally had discounted by Von Storch.

Mr. WORTHINGTON. I object to the manager stating what the witness said. He did not say that.

Mr. Manager WEBB. Read the following questions and answers, and it will show that he did say that.

Mr. WORTHINGTON. I have no objection to reading the questions and answers, but I object to the manager stating what he said.

Mr Manager WEBB. I will read it.

Mr. FLOYD. What did he tell you when you told him you were going to give him the $250 in return for the accommodation he had rendered you in signing that note for you?

Mr. JONES. He said he was not doing it for that purpose.

Mr. FLOYD. What do you say?

Mr. JONES. He said he did not do the favor for that purpose.

Mr. FLOYD. But when you had made the deal and received your commission of $500 you personally turned over $250 to him?

Mr. JONES. Yes, sir.

Mr. FLOYD. And he accepted it?

Mr. JONES. Yes, sir.

Mr. FLOYD. Did he protest against taking it?

Mr. JONES. No; because I simply said that that was what I proposed to do. It was unsolicited on his part.

Mr. FLOYD. Did he take it with the understanding that it was to be applied on your note or as a gift?

Mr. JONES. No, sir.

Mr. FLOYD. Just as a gift?

Mr. JONES. Yes, sir.

The WITNESS. That is why I said it was the Judiciary Committee that put in the word "gift," and I simply, to get rid of it, said "Yes, sir."

Q. (By Mr. Manager WEBB.) I ask you if you did not swear before that committee on more than three of four occasions that this $250 you gave to Judge Archbald at the time of the Warnke deal was a mere gift to him for his having signed for you the $500 note for your speculation in Venezuela?—A. There are two ways of answering that question, and this explains it.

Q. That would be a conclusion. Did you not swear that in effect before the Judiciary Committee?—A. Just as it says. That is the answer.

Q. Now, you want to change it?—A. I can explain it without changing it.

Q. Go ahead and explain it.—A. I took this view: That when the matter was terminated and, as I testified there, that Judge Archbald had lost all confidence in that fill and he did not think it could be sold. I took the view that when I took it up months later with Fred Warnke it was an entirely different proposition. There was no option right at that time.

Q. There was no what?—A. There was no option on it at that time, at the time I sold it. That had lapsed.

Q. Mr. Berry's option had expired?—A. Yes. Consequently, I was working on my own hook, in a sense, and I could look at it from two standpoints and be consistent with that answer.

Q. Then you gave the $250, as I understand you now, partly as a reward for his having signed your $500 note and partly for his services in the sale of the Warnke fill. Is that right?—A. No. Looking at it from the other angle, of his agreement with me and mine with him, when he secured the right to sell, it was no gift, it was no present; it was his just rights.

Q. But you have just stated that his option from Berry had expired and he had no right to it at all?—A. That does not change the condition so far as the result of the sale is concerned.

Q. Can you now give any reason for paying the $250 to Judge Archbald?—A. Because he was entitled to it for services rendered in securing the rights to sell.

Q. Then it was not a gift to him, as you swore before the Judiciary Committee?—A. As the Judiciary Committee formed it, I said "yes," to get rid of the answer.

Q. Do you mean to say that because of the way the question was formed you swore falsely?—A. I can show the answers in the CONGRESSIONAL RECORD where my first answer to that was—why I gave the judge $250; I said that was his share. You will find my answer to that. Why did they not accept it instead of pushing the issue down to the present point of business?

Q. I have just read you what you swore—on page 644—where you said it was a gift to Judge Archbald in consideration of his kindness in signing the note.—A. I would not be ashamed to own that that is correct.

Q. Was your answer there correct?—A. From one angle it may be and from the other angle it may not be.

Q. Then, after all, the Judiciary Committee did not make you swear falsely?—A. I recognized that all that was needed at the time was something that was incriminating, and the other might not be so acceptable.

Q. That is the answer you make to that question, is it?—A. Yes, sir.

Q. That the Judiciary Committee was looking for something incriminating, and you thought you would give it to them?—A. I thought I would not volunteer it.

Q. Let me ask you if you did not say this, on page 647:

Mr. RUCKER. Then in March, 1912, when you made this deal by which you made a profit of $500, a commission of $500, you tell the committee that a man in your financial condition went to Judge Archbald and voluntarily made him a donation of $250?

Mr. JONES. Yes, sir.

Mr. RUCKER. Without consideration, except that he had signed the note for you?

Mr. JONES. Yes, sir; positively.

The WITNESS. There is nothing inconsistent in that with the answer I have made.

The PRESIDING OFFICER. The Chair thinks the witness has gone over this ground a half a dozen times.

Mr. Manager WEBB. I think he has said as much as I can get from him.

Q. (By Mr. Manager WEBB.) When Jones told you where this fill was you agreed to give him quite a commission on the sale of it?—A. Yes; if he could fulfill his part of the contract.

Q. I ask you if you did not propose to give him a commission on this property?—A. Yes, sir.

Q. If it was sold for over $12,000, for having rendered service to you in the past?—A. Yes, sir.

Q. For pointing out the fill?—A. The contract read that way.

Q. You went to Judge Archbald and drew it?—A. No, sir.

Q. Did you go to Judge Archbald's office and tell him what your contract with Fred Jones was?—A. I told Judge Archbald—and Jones was with me—that I had been with Fred Jones and we had seen the fill, and that I proposed to compensate Fred Jones on the understanding that he delivered his customer, which he failed to do. He never had him to deliver.

Q. I will ask you if you and Fred W. Jones did not sign this agreement, witnessed by R. M. Speich, which was made in the presence of Judge Archbald?—A. No, sir.

Q. Did you not tell Judge Archbald you were going to give him this contract?—A. The chances are that I did so.

Q. Never mind about the chances. Did you not tell Fred W. Jones, in Judge Archbald's presence, that you were going to give him this contract?—A. I am not clear on that.

Q. And he said "We will go down to Mr. Davis's office and get it drawn up?—A. Positively no.

Q. Was anything of that kind said in the judge's presence?—A. There was not.

Q. Did the judge know you had given Jones this contract?—A. It had not been given at the time I am referring to.

Q. Did the judge know you had given the contract to Jones?—A. No.

Q. Did you discuss it in the judge's presence?—A. We discussed it from the standpoint I indicated, to give something to Fred Jones.

Q. Did you tell him that?—A. I do not think I did. I may have, but I would not be sure of that.

Q. Did you ever give Fred anything?

Mr. WORTHINGTON. I do not want to have the time taken up in discussing the division of commissions between this Jones and Fred Jones. It strikes me that it is too much Jones.

Mr. Manager WEBB. There are three Joneses, and I want to get them distinct. I want to show that this witness signed an agreement with Fred W. Jones, and the judge knew about it, to give him 6 per cent of the sale over $12,000 and 5 per cent below $12,000. Did you sign that kind of a contract?

Mr. WORTHINGTON. I object. We are not called upon to go into the question about the division of a commission between Fred Jones and this witness or anybody else. The question is whether, when Judge Archbald received $250, he received it on account of something he had done or was supposed to have done in connection with the purchase of the gravity fill, or whether, as charged in the article with which we are dealing now, he received it as a reward for having gone in behalf of this witness to a railroad official some months before and asked him to give the man a hearing.

Q. (By Mr. Manager WEBB.) Let me ask you, Did you sign this contract there?

The PRESIDING OFFICER. Wait a moment. The counsel has objected.

Mr. Manager WEBB. I did not know that he objected to my asking him if he signed this contract.

Mr. WORTHINGTON. I did object. It is a contract between Fred Jones and this witness in relation to Fred Jones's commission. We are now dealing, I understand, with the question whether this witness treated Fred Jones properly about Fred Jones's connection with this matter.

The PRESIDING OFFICER. The counsel is not objecting to the contract.

Mr. WORTHINGTON. I am objecting to the contract, and talking about the relation between this witness and Fred Jones. The only question properly to ask the witness about this transaction is whether he was at the office of Judge Archbald, and if anything was said there about the right of any railroad in reference to the approaches to this gravity fill. That was all. I purposely avoided going into this transaction in which Fred Jones was a party. It is a side issue to a side issue.

Mr. Manager WEBB. But he said that Fred Jones was the first man who mentioned this matter to him. Now, I am entitled to bring out the whole conversation and the agreement with Fred W. Jones. Mr. President, you will remember it is our contention, in one aspect of this case, that this $500 which we are discussing now was paid by this man Warnke to Judge Archbald for his influence with the Philadelphia & Reading Railroad—with its vice president, one Richards. The President will at least see that there is something peculiar or shadowy about this $500 note, from the fact that this contract was given to Fred W. Jones by John Henry Jones, and that no money has ever been paid from the sale of this contract is some evidence at least that it was not a commission; that it was a pure gift to Judge Archbald for some other purpose.

The PRESIDING OFFICER. The counsel will remember that the Chair requested the manager to make his examination as concise as possible.

Mr. Manager WEBB. I will do that. This witness has been examined upon four different propositions, and it is tedious I know. [To the witness:] Now, Mr. Jones, did you sign this agreement with Fred W. Jones, dated April 25, 1911?

The WITNESS. I did.

Mr. Manager WEBB. Read it, Mr. Secretary, please.

Mr. WORTHINGTON. I object to reading it. The original document the witness should see before he is asked whether he signed it or not.

Mr. Manager WEBB. I think the counsel admitted that all documents published in the record were correct and could be read from the book. I did not know he was making that captious objection.

Mr. WORTHINGTON. I am very much obliged for the suggestion of making a captious objection. I supposed it was

a very proper remark, when the witness was asked as to whether he signed the document and the original document is here that it should be shown to him.

Mr. SIMPSON. It is Exhibit 88.

The PRESIDING OFFICER. It will be read.

The Secretary read as follows:

[U. S. S. Exhibit 88.]

Whereas Fred W. Jones, of Scranton, Pa., has on divers occasions rendered valuable services to me in the matter of locating and securing a culm dump, located in the borough of Moosic, Pa., between Plains No. 4 and 5; and

Whereas in consideration of said services it was agreed that upon the sale and disposal of said dump said Fred W. Jones was to be compensated:

Now, therefore, I hereby agree in the event of said dump being sold by me for a sum in excess of twelve thousand dollars ($12,000) to pay said Fred W. Jones 6 per cent (6%) of the amount of the price, and in the event of said dump being sold for the sum of twelve thousand dollars ($12,000), or any portion thereof, I agree to pay to said Fred W. Jones 5 per cent (5%) of the price or sum so received.

In witness whereof I have hereunto set my hand and seal this 25th day of April, A. D. 1911.

J. HENRY JONES. [SEAL.]
FRED W. JONES. [SEAL.]

Witness:
R. M. SPRICH.

Q. (By Mr. Manager WEBB.) Mr. Jones, when you and Fred W. Jones met at the judge's office did you tell him and Fred Jones that if there was any difficulty about getting a right of way over the railroad property to haul away the coal from the fill that Judge Archbald had agreed to attend to that with the D. & H. Railroad?—A. Never.

Q. Did you tell him outside the judge's presence?—A. No, sir.

Q. Was the D. & H. Railroad ever concerned or discussed in connection with the gravity fill?—A. Will you allow me to explain how that occurred?

Q. If it is not too long, I have no objection.—A. After we left Judge Archbald's office there was no mention of right of way there, but Charlie Stone and I and Fred Jones went down to a placed called the Backus, and while in there Stone mentioned that he was doubtful as to whether he would be permitted to get across the land.

Q. The land of whom?—A. To get out to the main road.

Q. From the D. & H. railroad property?—A. I think he said it would be necessary to get the right of way from the D. & H. I said, "First of all, Mr. Stone, make up your mind to buy the property or refuse, and then talk about getting out afterwards." That is all that was spoken.

Q. Did you tell him the judge had told you that he would take care of that?—A. No, sir; never.

Q. The judge had discovered the D. & H. right of way with you, had he not?—A. No, sir.

Q. He had not?—A. No, sir.

Q. Was this Berry fill one of the old gravity-railroad fills?—A. It is an old gravity-railroad fill.

Q. I understand. I want to bring it out clearly—you seem to know—that that fill was abandoned along with other fills by the gravity railroad some 30 or 40 years ago?—A. Yes, sir.

Q. And now the landowners claim to own the fills on which the coal is deposited?—A. Yes, sir.

Q. And Lacoe & Shiffer owned this particular fill?—A. They owned the land all around there as well as the fill.

Q. Is this near the Schmit fill? Do you know where the Schmit fill and the Petersen fills are?—A. No; it can not be close by.

Mr. Manager WEBB. That is all, Mr. President.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Just one question. I want to ask you, Mr. Jones, whether before the Judiciary Committee on this subject you further testified, as I find on page 660, as follows:

Mr. RUCKER. How did you pay Judge Archbald? Did you pay him in cash or give him a check?

Mr. JONES. The judge got the note. I gave the note to the judge to deposit.

Mr. RUCKER. You sold him the note, then?

Mr. JONES. Yes.

Mr. RUCKER. They gave you a note for $500?

Mr. JONES. Yes, sir.

Mr. RUCKER. And you delivered that to Judge Archbald, and he gave you $250 and kept the note?

Mr. JONES. Yes, sir.

Mr. RUCKER. And has the note; or, at least, did have it?

Mr. JONES. Yes, sir.

Mr. RUCKER. That is the way it was paid?

Mr. JONES. Yes, sir.

Did that happen? Is that the way you testified before the Judiciary Committee?—A. Yes; because the——

Q. I do not ask you to qualify or explain it now. I also ask you whether you did not further testify in the very last words of your examination before the Judiciary Committee——

Mr. Manager WEBB. On what page?

Mr. WORTHINGTON. I read from pages 664 and 665, beginning at the bottom of page 664:

Mr. WORTHINGTON. In reference to the $500 note, of which Judge Archbald got $250, you gave him that note, and you said he paid you $250 for it?

Mr. JONES. Yes, sir.

Mr. WORTHINGTON. As a matter of fact, did he not take it and get it discounted?

Mr. JONES. He took the note and got it discounted.

Mr. WORTHINGTON. And turned over the proceeds to you, and you gave him $250; or did he retain it out of the discount?

Mr. JONES. He retained his $250, and gave me mine out of it.

Mr. WORTHINGTON. That is all, Mr. Chairman.

Mr. NYE. You say he retained his $250; what do you mean?

Mr. JONES. $250 that I had agreed he was to have.

Mr. MCCOY. What do you mean when you say you had agreed he should have that?

Mr. JONES. That, I told him, was going to be his; I was going to give him that.

Mr. MCCOY. On the note?

Mr. JONES. On the deal; on the sale of the dump, of the fill.

Those were the last words of your examination before the Judiciary Committee?

The WITNESS. Yes.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. The witness may retire. He is finally excused.

TESTIMONY OF ROBERT N. PATTERSON.

Robert N. Patterson appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Patterson, where do you live?—A. At the Hamilton Hotel.

Q. The Hamilton Hotel in this city?—A. Yes, sir.

Q. Are you employed there?—A. Yes, sir.

Q. In what way, please?—A. I am head clerk there.

Q. How long have you been head clerk?—A. Four years.

Q. Have you at our request looked at your records to see whether Judge Archbald was there last April?—A. Yes, sir.

Q. Have you brought with you your record to show what the fact is in that regard?—A. Yes sir [producing paper].

Q. And what is it?—A. He was with us from the evening of the 8th of April until after breakfast on the morning of the 12th.

Q. Was he alone when he was at the Hamilton House on that occasion?—A. He was; yes, sir.

Mr. WORTHINGTON. That is all.

Cross-examination:

Mr. Manager WEBB. May we see your record, Mr. Patterson?

(The paper was handed to the manager.)

Q. (By Mr. Manager WEBB.) I wish you would just read the record you have there. Read the record on your register book.—A. I have him registered here from the evening of the 8th——

Q. Just read the figures you have.—A. Room 39, lodging, fourth month, eighth day, breakfast, until after breakfast, fourth month, twelfth day. Board, three and one-half days.

Q. Who was with him?—A. He was alone. That is, according to our record he was alone with us.

Mr. Manager WEBB. That is all.

Mr. WORTHINGTON. You have not stated the year.

The WITNESS. 1912.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. The witness may be excused.

Mr. GALLINGER. Mr. President, may I be permitted to make an observation?

The PRESIDING OFFICER. Under the rules the Senator is authorized to submit any order he wishes to the Senate, but if he wishes to discuss anything the rules prescribe that it shall be done in another way.

Mr. GALLINGER. It was not to offer an order; but I think inquiry has been made of the counsel for the respondent whether or not they could get in their testimony to-day.

Mr. WORTHINGTON. Mr. President, I should like to say it is utterly impossible to finish to-day, if we should sit until midnight, with our evidence. When we started in with our evidence Monday morning we had expected to be able to finish, but the cross-examinations have been so long that where we calculated on 20 witnesses a day we have examined only a dozen or less. I do not mean in the slightest degree to criticize or to find fault with the managers, but simply to show that we were in error in our calculation as to what would probably happen. I would myself say it would be a very great accommodation to us, and especially to me personally, if at this time we could stop the taking of testimony in this case and let it go over until the 3d of January. There are but a few of us here, and the labors we have been engaged on have been very trying, especially upon me. It would be a personal accommodation to me if we could stop now.

Of course, Mr. President, in a case which has lasted so long and where there have been so many witnesses and so many facts gone over, it is very important for us, in justice to our client, to go over what has been done and see what it is necessary for us to offer or whether we have covered all the points in the case.

For all these reasons we had intended to suggest in a few moments what has already been suggested to the Chair, that the proceedings in this case should stop at or about this time.

I should like to say further, Mr. President, while I am on my feet, I understand the two Houses have decided to adjourn to-day until the 2d of January. It is our purpose when the Senate meets, after presenting a little more testimony that we have, to place Judge Archbald himself upon the stand, and we would very much dislike to do that on the 2d of January when, as I think, we may take it for granted it will be very difficult to have a full attendance of the Senate just after the 1st of January. In the same connection I may state that Senators have said to us openly that they wish to be here when Judge Archbald is examined. For that reason I urge that as a further reason why when the court adjourns to-day it shall be until the 3d of January instead of the 2d.

Mr. Manager CLAYTON. Mr. President, the managers are entirely agreeable to what I believe to be the wish of the Senate at this time. It is now nearly 4 o'clock, and I understand the session was to close this afternoon probably at 5, certainly not later than 6. In view of the statement made by the respondent's counsel that he can not conclude this afternoon, perhaps it would serve the convenience not only of the respondent's counsel but of the court itself that a recess of the court be had at this time.

Mr. President, there is one observation the respondent's counsel has made that perhaps I should make an observation in the nature of a reply to, and that is as to the length of time consumed by cross-examination. I think that if the record were examined since the respondent has been introducing his witnesses it would reveal the fact that a very little time of the Senate has been occupied in cross-examination. A considerable part of the time was used in the discussion of admissibility of testimony. That was not the fault of the managers. In about nine cases out of ten the objection of the managers, I think, was sustained by the Chair.

So, Mr. President, if it meets the wishes of the Senate that the court do now adjourn until the 3d of January, the managers have no objection to that at all, but will cheerfully acquiesce in that determination.

Mr. CLARK of Wyoming. Mr. President, I offer the following order and ask for its adoption.

The PRESIDING OFFICER. The Senator from Wyoming submits an order for the consideration and action of the Senate. The Secretary will read it.

The Secretary read as follows:

Ordered, That when the Senate sitting as a Court of Impeachment adjourns to-day it be to meet at 1 o'clock and 30 minutes p. m. January 3, 1913.

The PRESIDING OFFICER. Is there objection to the order? If not, it will be considered as having been unanimously so ordered by the Senate.

Mr. GALLINGER. I move that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to, and (at 3 o'clock and 50 minutes p. m.) the Senate sitting as a Court of Impeachment adjourned until Friday, January 3, 1913, at 1 o'clock and 30 minutes p. m.

The managers on the part of the House and the respondent and his counsel retired.

WORK OF EXECUTIVE DEPARTMENTS OF THE GOVERNMENT (S. DOC. NO. 989).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, ordered to lie on the table, and be printed:

To the Senate and House of Representatives:

This is the third of a series of messages in which I have brought to the attention of the Congress the important transactions of the Government in each of its departments during the last year and have discussed needed reforms.

HEADS OF DEPARTMENTS SHOULD HAVE SEATS ON THE FLOOR OF CONGRESS.

I recommend the adoption of legislation which shall make it the duty of heads of departments—the members of the President's Cabinet—at convenient times to attend the session of the House and the Senate, which shall provide seats for them in each House, and give them the opportunity to take part in all discussions and to answer questions of which they have had due notice. The rigid holding apart of the executive and the legislative branches of this Government has not worked for the great advantage of either. There has been much lost motion in the machinery, due to the lack of cooperation and interchange of views face to face between the representatives of the Executive and the Members of the two legislative branches of the Government. It was never intended that they should be separated in the sense of not being in constant effective touch and relationship to each other. The legislative and the executive each performs its own appropriate function, but these functions must be coordinated. Time and time again debates have arisen in each House upon issues which the information of a particular department head would have enabled him, if present, to end at once by a simple explanation or statement. Time and time again a forceful and earnest presentation of facts and arguments by the representative of the Executive whose duty it is to enforce the law would have brought about a useful reform by amendment, which in the absence of such a statement has failed of passage. I do not think I am mistaken in saying that the presence of the members of the Cabinet on the floor of each House would greatly contribute to the enactment of beneficial legislation. Nor would this in any degree deprive either the legislative or the executive of the independence which separation of the two branches has been intended to promote. It would only facilitate their cooperation in the public interest.

On the other hand, I am sure that the necessity and duty imposed upon department heads of appearing in each House and in answer to searching questions, of rendering upon their feet an account of what they have done, or what has been done by the administration, will spur each member of the Cabinet to closer attention to the details of his department, to greater familiarity with its needs, and to greater care to avoid the just criticism which the answers brought out in questions put and discussions arising between the Members of either House and the members of the Cabinet may properly evoke.

Objection is made that the members of the administration having no vote could exercise no power on the floor of the House, and could not assume that attitude of authority and control which the English parliamentary Government have and which enables them to meet the responsibilities the English system thrusts upon them. I agree that in certain respects it would be more satisfactory if members of the Cabinet could at the same time be Members of both Houses, with voting power, but this is impossible under our system; and while a lack of this feature may detract from the influence of the department chiefs, it will not prevent the good results which I have described above both in the matter of legislation and in the matter of administration. The enactment of such a law would be quite within the power of Congress without constitutional amendment, and it has such possibilities of usefulness that we might well make the experiment, and if we are disappointed the misstep can be easily retraced by a repeal of the enabling legislation.

This is not a new proposition. In the House of Representatives, in the Thirty-eighth Congress, the proposition was referred to a select committee of seven Members. The committee made an extensive report and urged the adoption of the reform. The report showed that our history had not been without illustration of the necessity and the examples of the practice by pointing out that in early days Secretaries were repeatedly called to the presence of either House for consultation, advice, and information. It also referred to remarks of Mr. Justice Story in his Commentaries on the Constitution, in which he urgently presented the wisdom of such a change. This report is to be found in Volume I of the Reports of Committees of the First Session of the Thirty-eighth Congress, April 6, 1864.

Again, on February 4, 1881, a select committee of the Senate recommended the passage of a similar bill, and made a report, in which, while approving the separation of the three branches, the executive, legislative, and judicial, they point out as a reason for the proposed change that, although having a separate existence, the branches are "to cooperate, each with the other, as the different members of the human body must cooperate with each other in order to form the figure and perform the duties of a perfect man."

The report concluded as follows:

This system will require the selection of the strongest men to be heads of departments and will require them to be well equipped with the knowledge of their offices. It will also require the strongest men to be the leaders of Congress and participate in debate. It will bring these strong men in contact, perhaps into conflict, to advance the public weal, and thus stimulate their abilities and their efforts, and will thus assuredly result to the good of the country.

If it should appear by actual experience that the heads of departments in fact have not time to perform the additional duty imposed on them by this bill, the force in their offices should be increased or the duties devolving on them personally should be diminished. An under secretary should be appointed to whom could be confided that routine of administration which requires only order and accuracy. The principal

officers could then confine their attention to those duties which require wise discretion and intellectual activity. Thus they would have abundance of time for their duties under this bill. Indeed, your committee believes that the public interest would be subserved if the Secretaries were relieved of the harassing cares of distributing clerkships and closely supervising the mere machinery of the departments. Your committee believes that the adoption of this bill and the effective execution of its provisions will be the first step toward a sound civil-service reform which will secure a larger wisdom in the adoption of policies and a better system in their execution.

GEO. H. PENDLETON. M. C. BUTLER.
W. B. ALLISON. JOHN J. INGALLS.
D. W. VOORHEES. O. H. PLATT.
J. G. BLAINE. J. T. FARLEY.

It would be difficult to mention the names of higher authority in the practical knowledge of our Government than those which are appended to this report.

POSTAL SAVINGS BANK SYSTEM.

The Postal Savings Bank System has been extended so that it now includes 4,004 fourth-class post offices, as well as 645 branch offices and stations in the larger cities. There are now 12,812 depositories at which patrons of the system may open accounts. The number of depositors is 300,000 and the amount of their deposits is approximately $28,000,000, not including $1,314,140 which has been withdrawn by depositors for the purpose of buying postal savings bonds. Experience demonstrates the value of dispensing with the pass book and introducing in its place a certificate of deposit. The gross income of the postal savings system for the fiscal year ending June 30, 1913, will amount to $700,000 and the interest payable to depositors to $391,000. The cost of supplies, equipment, and salaries is $700,000. It thus appears that the system lacks $390,000 a year of paying interest and expenses. It is estimated, however, that when the deposits have reached the sum of $50,000,000, which at the present rate they soon will do, the system will be self-sustaining. By law the postal savings funds deposited at each post office are required to be redeposited in local banks. State and national banks to the number of 7,357 have qualified as depositories for these funds. Such deposits are secured by bonds aggregating $54,000,000. Of this amount, $37,000,000 represent municipal bonds.

PARCEL POST.

In several messages I have favored and recommended the adoption of a system of parcel post. In the postal appropriation act of last year a general system was provided and its installation was directed by the 1st of January. This has entailed upon the Post Office Department a great deal of very heavy labor, but the Postmaster General informs me that on the date selected, to wit, the 1st of January, near at hand, the department will be in readiness to meet successfully the requirements of the public.

CLASSIFICATION OF POSTMASTERS.

A trial, during the past three years, of the system of classifying fourth-class postmasters in that part of the country lying between the Mississippi River on the west, Canada on the north, the Atlantic Ocean on the east, and Mason and Dixon's line on the south has been sufficiently satisfactory to justify the postal authorities in recommending the extension of the order to include all the fourth-class postmasters in the country. In September, 1912, upon the suggestion of the Postmaster General, I directed him to prepare an order which should put the system in effect, except in Alaska, Guam, Hawaii, Porto Rico, and Samoa. Under date of October 15 I issued such an order which affected 36,000 postmasters. By the order the post offices were divided into groups A and B. Group A includes all postmasters whose compensation is $500 or more, and group B those whose compensation is less than that sum. Different methods are pursued in the selection of the postmasters for group A and group B. Criticism has been made of this order on the ground that the motive for it was political. Nothing could be further from the truth. The order was made before the election and in the interest of efficient public service. I have several times requested Congress to give me authority to put first, second, and third class postmasters, and all other local officers, including internal-revenue officers, customs officers, United States marshals, and the local agents of the other departments, under the classification of the civil-service law by taking away the necessity for confirming such appointments by the Senate. I deeply regret the failure of Congress to follow these recommendations. The change would have taken out of politics practically every local officer and would have entirely cured the evils growing out of what under the present law must always remain a remnant of the spoils system.

COMPENSATION TO RAILWAYS FOR CARRYING MAILS.

It is expected that the establishment of a parcel post on January 1 will largely increase the amount of mail matter to be transported by the railways, and Congress should be prompt to provide a way by which they may receive the additional compensation to which they will be entitled. The Postmaster General urges that the department's plan for a complete readjustment of the system of paying the railways for carrying the mails be adopted, substituting space for weight as the principal factor in fixing compensation. Under this plan it will be possible to determine without delay what additional payment should be made on account of the parcel post. The Postmaster General's recommendation is based on the results of a far-reaching investigation begun early in the administration with the object of determining what it costs the railways to carry the mails. The statistics obtained during the course of the inquiry show that while many of the railways, and particularly the larger systems, were making profits from mail transportation, certain of the lines were actually carrying the mails at a loss. As a result of the investigation the department, after giving the subject careful consideration, decided to urge the abandonment of the present plan of fixing compensation on the basis of the weight of the mails carried, a plan that has proved to be exceedingly expensive and in other respects unsatisfactory. Under the method proposed the railway companies will annually submit to the department reports showing what it costs them to carry the mails, and this cost will be apportioned on the basis of the car space engaged, payment to be allowed at the rate thus determined in amounts that will cover the cost and a reasonable profit. If a railway is not satisfied with the manner in which the department apportions the cost in fixing compensation, it is to have the right, under the new plan, of appealing to the Interstate Commerce Commission. This feature of the proposed law would seem to insure a fair treatment of the railways. It is hoped that Congress will give the matter immediate attention and that the method of compensation recommended by the department or some other suitable plan will be promptly authorized.

DEPARTMENT OF THE INTERIOR.

The Interior Department, in the problems of administration included within its jurisdiction, presents more difficult questions than any other. This has been due perhaps to temporary causes of a political character, but more especially to the inherent difficulty in the performance of some of the functions which are assigned to it. Its chief duty is the guardianship of the public domain and the disposition of that domain to private ownership under homestead, mining, and other laws by which patents from the Government to the individual are authorized on certain conditions. During the last decade the public seemed to become suddenly aware that a very large part of its domain had passed from its control into private ownership, under laws not well adapted to modern conditions, and also that in the doing of this the provisions of existing law and regulations adopted in accordance with law had not been strictly observed, and that in the transfer of title much fraud had intervened, to the pecuniary benefit of dishonest persons. There arose thereupon a demand for conservation of the public domain, its protection against fraudulent diminution, and the preservation of that part of it from private acquisition which it seemed necessary to keep for future public use. The movement, excellent in the intention which prompted it, and useful in its results, has nevertheless had some bad effects, which the western country has recently been feeling and in respect of which there is danger of a reaction toward older abuses unless we can attain the golden mean, which consists in the prevention of the mere exploitation of the public domain for private purposes while at the same time facilitating its development for the benefit of the local public.

The land laws need complete revision to secure proper conservation, on the one hand, of land that ought to be kept in public use and, on the other hand, prompt disposition of those lands which ought to be disposed in private ownership or turned over to private use by properly guarded leases. In addition to this there are not enough officials in our Land Department with legal knowledge sufficient promptly to make the decisions which are called for. The whole land-laws system should be reorganized, and not until it is reorganized will decisions be made as promptly as they ought or will men who have earned title to public land under the statute receive their patents within a reasonably short period. The present administration has done what it could in this regard, but the necessity for reform and change by a revision of the laws and an increase and reorganization of the force remains, and I submit to Congress the wisdom of a full examination of this subject, in order that a very large and important part of our people in the West may be relieved from a just cause of irritation.

I invite your attention to the discussion by the Secretary of the Interior of the need for legislation with respect to mining claims, leases of coal lands in this country and in Alaska, and

for similar disposition of oil, phosphate, and potash lands, and also to his discussion of the proper use to be made of water-power sites held by the Government. Many of these lands are now being withheld from use by the public under the general withdrawal act which was passed by the last Congress. That act was not for the purpose of disposing of the question, but it was for the purpose of preserving the lands until the question could be solved. I earnestly urge that the matter is of the highest importance to our western fellow citizens and ought to command the immediate attention of the legislative branch of the Government.

Another function which the Interior Department has to perform is that of the guardianship of Indians. In spite of everything which has been said in criticism of the policy of our Government toward the Indians, the amount of wealth which is now held by it for these wards per capita shows that the Government has been generous; but the management of so large an estate, with the great variety of circumstances that surround each tribe and each case, calls for the exercise of the highest business discretion, and the machinery provided in the Indian Bureau for the discharge of this function is entirely inadequate. The position of Indian commissioner demands the exercise of business ability of the first order, and it is difficult to secure such talent for the salary provided.

The condition of health of the Indian and the prevalence in the tribes of curable diseases has been recently exploited in the press. In a message to Congress at its last session I brought this subject to its attention and invited a special appropriation, in order that our facilities for overcoming diseases among the Indians might be properly increased, but no action was then taken by Congress on the subject, nor has such appropriation been made since.

The commission appointed by authority of the Congress to report on the proper method of securing railroad development in Alaska is formulating its report, and I expect to have an opportunity before the end of this session to submit its recommendations.

DEPARTMENT OF AGRICULTURE.

The far-reaching utility of the educational system carried on by the Department of Agriculture for the benefit of the farmers of our country calls for no elaboration. Each year there is a growth in the variety of facts which it brings out for the benefit of the farmer, and each year confirms the wisdom of the expenditure of the appropriations made for that department.

PURE-FOOD LAW.

The Department of Agriculture is charged with the execution of the pure-food law. The passage of this encountered much opposition from manufacturers and others who feared the effect upon their business of the enforcement of its provisions. The opposition aroused the just indignation of the public and led to an intense sympathy with the severe and rigid enforcement of the provisions of the new law. It had to deal in many instances with the question whether or not products of large business enterprises, in the form of food preparations, were deleterious to the public health; and while in a great majority of instances this issue was easily determinable, there were not a few cases in which it was had to draw the line between a useful and a harmful food preparation. In cases like this, when a decision involved the destruction of great business enterprises representing the investment of large capital and the expenditure of great energy and ability, the danger of serious injustice was very considerable in the enforcement of a new law under the spur of great public indignation. The public officials charged with executing the law might do injustice in heated controversy through unconscious pride of opinion and obstinacy of conclusion. For this reason President Roosevelt felt justified in creating a board of experts, known as the Reinsen Board, to whom in cases of much importance an appeal might be taken and a review had of a decision of the Bureau of Chemistry in the Agricultural Department. I heartily agree that it was wise to create this board in order that injustice might not be done. The questions which arise are not generally those involving palpable injury to health, but they are upon the narrow and doubtful line in respect of which it is better to be in some error not dangerous than to be radically destructive. I think that the time has come for Congress to recognize the necessity for some such tribunal of appeal and to make specific statutory provision for it. While we are struggling to suppress an evil of great proportions like that of impure food, we must provide machinery in the law itself to prevent its becoming an instrument of oppression, and we ought to enable those whose business is threatened with annihilation to have some tribunal and some form of appeal in which they have a complete day in court.

AGRICULTURAL CREDITS.

I referred in my first message to the question of improving the system of agricultural credits. The Secretary of Agriculture has made an investigation into the matter of credits in this country, and I commend a consideration of the information which through his agents he has been able to collect. It does not in any way minimize the importance of the proposal, but it gives more accurate information upon some of the phases of the question than we have heretofore had.

DEPARTMENT OF COMMERCE AND LABOR.

I commend to Congress an examination of the report of the Secretary of Commerce and Labor, and especially that part in which he discusses the office of the Bureau of Corporations, the value to commerce of a proposed trade commission, and the steps which he has taken to secure the organization of a national chamber of commerce. I heartily commend his view that the plan of a trade commission which looks to the fixing of prices is altogether impractical and ought not for a moment to be considered as a possible solution of the trust question.

The trust question in the enforcement of the Sherman anti-trust law is gradually solving itself, is maintaining the principle and restoring the practice of competition, and if the law is quietly but firmly enforced, business will adjust itself to the statutory requirements, and the unrest in commercial circles provoked by the trust discussion will disappear.

PANAMA-PACIFIC INTERNATIONAL EXPOSITION.

In conformity with a joint resolution of Congress, an Executive proclamation was issued last February, inviting the nations of the world to participate in the Panama-Pacific International Exposition to be held at San Francisco to celebrate the construction of the Panama Canal. A sympathetic response was immediately forthcoming, and several nations have already selected the sites for their buildings. In furtherance of my invitation, a special commission visited European countries during the past summer, and received assurances of hearty cooperation in the task of bringing together a universal industrial, military, and naval display on an unprecedented scale. It is evident that the exposition will be an accurate mirror of the world's activities as they appear 400 years after the date of the discovery of the Pacific Ocean.

It is the duty of the United States to make the nations welcome at San Francisco and to facilitate such acquaintance between them and ourselves as will promote the expansion of commerce and familiarize the world with the new trade route through the Panama Canal. The action of the State governments and individuals assures a comprehensive exhibit of the resources of this country and of the progress of the people. This participation by States and individuals should be supplemented by an adequate showing of the varied and unique activities of the National Government. The United States can not with good grace invite foreign governments to erect buildings and make expensive exhibits while itself refusing to participate. Nor would it be wise to forego the opportunity to join with other nations in the inspiring interchange of ideas tending to promote intercourse, friendship, and commerce. It is the duty of the Government to foster and build up commerce through the canal, just as it was the duty of the Government to construct it.

I earnestly recommend the appropriation at this session of such a sum as will enable the United States to construct a suitable building, install a governmental exhibit, and otherwise participate in the Panama-Pacific International Exposition in a manner commensurate with the dignity of a nation whose guests are to be the peoples of the world. I recommend also such legislation as will facilitate the entry of material intended for exhibition and protect foreign exhibitors against infringement of patents and the unauthorized copying of patterns and designs. All aliens sent to San Francisco to construct and care for foreign buildings and exhibits should be admitted without restraint or embarrassment.

THE DISTRICT OF COLUMBIA AND THE CITY OF WASHINGTON.

The city of Washington is a beautiful city, with a population of 352,936, of whom 98,667 are colored. The annual municipal budget is about $14,000,000. The presence of the National Capitol and other governmental structures constitutes the chief beauty and interest of the city. The public grounds are extensive, and the opportunities for improving the city and making it still more attractive are very great. Under a plan adopted some years ago, one half the cost of running the city is paid by taxation upon the property, real and personal, of the citizens and residents, and the other half is borne by the General Government. The city is expanding at a remarkable rate, and this can only be accounted for by the coming here from other parts of the country of well-to-do people who, having finished

their business careers elsewhere, build and make this their permanent place of residence.

On the whole, the city as a municipality is very well governed. It is well lighted, the water supply is good, the streets are well paved, the police force is well disciplined, crime is not flagrant, and while it has purlieus and centers of vice, like other large cities, they are not exploited, they do not exercise any influence or control in the government of the city, and they are suppressed in as far as it has been found practicable. Municipal graft is inconsiderable. There are interior courts in the city that are noisome and centers of disease and the refuge of criminals, but Congress has begun to clean these out, and progress has been made in the case of the most notorious of these, which is known as Willow Tree Alley. This movement should continue.

The mortality for the past year was at the rate of 17.80 per 1,000 of both races; among the whites it was 14.61 per thousand, and among the blacks 26.12 per thousand. These are the lowest mortality rates ever recorded in the District.

One of the most crying needs in the government of the District is a tribunal or public authority for the purpose of supervising the corporations engaged in the operation of public utilities. Such a bill is pending in Congress and ought to pass. Washington should show itself under the direction of Congress to be a city with a model form of government, but as long as such authority over public utilities is withheld from the municipal government it must always be defective.

Without undue criticism of the present street railway accommodations, it can be truly said that under the spur of a public utilities commission they might be substantially improved.

While the school system of Washington perhaps might be bettered in the economy of its management and the distribution of its buildings, its usefulness has nevertheless greatly increased in recent years, and it now offers excellent facilities for primary and secondary education.

From time to time there is considerable agitation in Washington in favor of granting the citizens of the city the franchise and constituting an elective government. I am strongly opposed to this change. The history of Washington discloses a number of experiments of this kind, which have always been abandoned as unsatisfactory. The truth is this is a city governed by a popular body, to wit, the Congress of the United States, selected from the people of the United States, who own Washington. The people who come here to live do so with the knowledge of the origin of the city and the restrictions, and therefore voluntarily give up the privilege of living in a municipality governed by popular vote. Washington is so unique in its origin and in its use for housing and localizing the sovereignty of the Nation that the people who live here must regard its peculiar character and must be content to subject themselves to the control of a body selected by all the people of the Nation. I agree that there are certain inconveniences growing out of the government of a city by a national legislature like Congress, and it would perhaps be possible to lessen these by the delegation by Congress to the District Commissioners of greater legislative power for the enactment of local laws than they now possess, especially those of a police character.

Every loyal American has a personal pride in the beauty of Washington and in its development and growth. There is no one with a proper appreciation of our Capital City who would favor a niggardly policy in respect to expenditures from the National Treasury to add to the attractiveness of this city, which belongs to every citizen of the entire country, and which no citizen visits without a sense of pride of ownership. We have had restored by a Commission of Fine Arts, at the instance of a committee of the Senate, the original plan of the French engineer L'Enfant for the city of Washington, and we know with great certainty the course which the improvement of Washington should take. Why should there be delay in making this improvement in so far as it involves the extension of the parking system and the construction of greatly needed public buildings? Appropriate buildings for the State Department, the Department of Justice, and the Department of Commerce and Labor have been projected, plans have been approved, and nothing is wanting but the appropriations for the beginning and completion of the structures. A hall of archives is also badly needed, but nothing has been done toward its construction, although the land for it has long been bought and paid for. Plans have been made for the union of Potomac Park with the valley of Rock Creek and Rock Creek Park, and the necessity for the connection between the Soldiers' Home and Rock Creek Park calls for no comment. I ask again why there should be delay in carrying out these plans? We have the money in the Treasury, the plans are national in their scope, and the improvement should be treated as a national project. The plan will find a hearty approval throughout the country. I am quite sure, from the information which I have, that, at comparatively small expense, from that part of the District of Columbia which was retroceded to Virginia the portion including the Arlington estate, Fort Myer, and the palisades of the Potomac can be acquired by purchase and the jurisdiction of the State of Virginia over this land ceded to the Nation. This ought to be done.

The construction of the Lincoln Memorial and of a memorial bridge from the base of the Lincoln Monument to Arlington would be an appropriate and symbolic expression of the union of the North and the South at the Capital of the Nation. I urge upon Congress the appointment of a commission to undertake these national improvements and to submit a plan for their execution; and when the plan has been submitted and approved and the work carried out Washington will really become what it ought to be—the most beautiful city in the world.

WM. H. TAFT.

THE WHITE HOUSE, *December 19, 1912.*

EXTENSION OF CAPITOL GROUNDS (H. DOC. NO. 1186).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the acquirement of title to certain property necessary to enlarge the Capitol grounds and the receipts therefrom from the time of such acquirement, which, with the accompanying paper, was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. PERKINS presented a resolution adopted by the Chamber of Commerce of Oakland, Cal., favoring the recognition of the Chinese Republic by the United States, which was referred to the Committee on Foreign Relations.

Mr. BRISTOW presented a petition of the congregation of the First Presbyterian Church of Garnett, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. CURTIS presented a petition of the congregation of the United Presbyterian Church of Garnett, Kans., praying for the passage of the so-called Kenyon red-light injunction bill, which was referred to the Committee on the District of Columbia.

Mr. GRONNA presented petitions of sundry citizens of Dazey and Northwood, in the State of North Dakota, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. WETMORE presented a petition of Lime Rock Grange, No. 22, Patrons of Husbandry, of Pawtucket, R. I., and a petition of Lime Rock Grange, No. 22, Patrons of Husbandry, of Lincoln, R. I., praying for the passage of the so-called Lever agricultural extension bill, which were ordered to lie on the table.

Mr. OLIVER presented petitions of the congregations of the First United Presbyterian Church of Sharon and the Croton Avenue Methodist Episcopal Church, of New Castle; of the Men's League of the Covenant United Brethren Church, of Lancaster; of the Presbyterian Ministers' Association of Philadelphia; and of sundry citizens of Mercer County, Butler, Garland, Windber, Edinburg, and Milroy, all in the State of Pennsylvania, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a memorial of Pennsylvania Wholesale Liquor Dealers' League, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. CRAWFORD presented a memorial of members of the Black Hills Trades Assembly, of Lead, S. Dak., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. SMITH of Maryland presented a petition of the congregation of the Eutaw Place Baptist Church, of Baltimore, Md., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

REPORTS FROM COMMITTEES.

Mr. PENROSE, from the Committee on Finance, to which was referred the bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909, reported it without amendment.

He also, from the same committee, to which was referred the bill (H. R. 24137) to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty, reported it without amendment.

Mr. SMOOT, from the Committee on Public Lands, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 7568. A bill to validate certain homestead entries (Rept. No. 1078); and

H. R. 45. A bill affecting the town sites of Timber Lake and Dupree, in South Dakota (Rept. No. 1079).

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PERKINS:

A bill (S. 7826) to provide for the participation of the United States in the Panama-Pacific International Exposition; to the Committee on Industrial Expositions.

By Mr. STONE:

A bill (S. 7827) to provide for furnishing modern approved and efficient artificial limbs and apparatus for resection to persons injured in the United States service; to the Committee on Military Affairs.

By Mr. JONES:

A bill (S. 7828) to extend the time for the completion of the Alaska-Northern Railway, and for other purposes; to the Committee on Territories.

By Mr. SIMMONS:

A bill (S. 7829) to establish a fish-cultural station on Lumber River in Moore County, N. C.; to the Committee on Fisheries.

By Mr. CHILTON:

A bill (S. 7830) to regulate the collection of internal revenue; to the Committee on Finance.

By Mr. BORAH:

A bill (S. 7831) to authorize further advances to the reclamation fund, and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes; to the Committee on Irrigation and Reclamation of Arid Lands.

A bill (S. 7832) granting an increase of pension to Sarah A. Bailey (with accompanying paper); and

A bill (S. 7833) granting an increase of pension to Mary M. Hancock (with accompanying paper); to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 7834) granting a pension to Joseph McCoonse (with accompanying papers); to the Committee on Pensions.

A bill (S. 7835) for the relief of certain Shawnee and Delaware Indians; to the Committee on Indian Affairs.

A bill (S. 7836) to establish the legislative reference bureau of the Library of Congress and the congressional corps of legislative investigators, and to maintain them until July 1, 1913; to the Committee on the Library.

By Mr. FLETCHER:

A bill (S. 7837) granting a pension to Loretto L. Watt; to the Committee on Pensions.

By Mr. WILLIAMS:

A bill (S. 7838) for the relief of the heirs of W. H. Sneed, deceased; to the Committee on Claims.

By Mr. CATRON:

A bill (S. 7839) granting an increase of pension to Mrs. M. L. Mann;

A bill (S. 7840) granting an increase of pension to Annie J. Jones;

A bill (S. 7841) granting a pension to Benjamin F. Gumm; and

A bill (S. 7842) granting a pension to Alvina McCabe; to the Committee on Pensions.

By Mr. LODGE:

A bill (S. 7843) granting a pension to William E. Powell; and

A bill (S. 7844) granting a pension to Catharine T. Laffan; to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 7845) relating to the adjudication of homestead entries in certain cases; to the Committee on Public Lands.

By Mr. CRAWFORD:

A bill (S. 7846) granting an increase of pension to Mary J. Hubbard (with accompanying paper); to the Committee on Pensions.

By Mr. OLIVER:

A bill (S. 7847) granting a pension to William S. Shaffer (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Maryland:

A bill (S. 7848) for the relief of Henry A. Garheart (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 7849) for the relief of the widow of Joseph Culley; to the Committee on Claims.

By Mr. HITCHCOCK: A bill (S. 7850) to provide for paving with a proper material the Fort Crook Military Boulevard from Fort Crook Military Reservation to the south city limits of South Omaha, Nebr., so as to perfect a continuous paved highway from Fort Crook Military Reservation to Fort Omaha Military Reservation; to the Committee on Military Affairs.

By Mr. LA FOLLETTE:

A bill (S. 7851) to make it unlawful for foreign corporations to own or control the capital stock, bonds, or indebtedness of local public utility corporations of the District of Columbia; to the Committee on the District of Columbia.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CURTIS submitted an amendment proposing to appropriate $40,000 for the purchase of a site and the completion of the post-office building at Osage City, Kans., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. OWEN submitted an amendment proposing to appropriate $10,000 to pay Ivy L. Merrill, a quarter-blood Pottawatomie Indian, Pottawatomie County, Okla., in full compensation for injuries received while in the employ of the United States Government, etc., intended to be proposed by him to the Indian appropriation bill, which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Indian Affairs.

Mr. JONES submitted an amendment proposing to appropriate $20,000 for repair and improvement of the road to Fort Canby, Wash., etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $45,260 to defray the expenses of the First Legislative Assembly of the Territory of Alaska, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to increase the salary of the Second Assistant Commissioner, Indian Office, from $2,250 to $2,750, intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to authorize one assistant in preparing for publication the American Ephemeris and Nautical Almanac to act as or be appointed director of the Nautical Almanac Office, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

SNAKE RIVER DAM, WASH.

Mr. JOHNSTON of Alabama. I have a copy of a speech delivered by Hon. Henry M. Teller, of Colorado, in the Senate of the United States March 31 and April 2, 1908, on the question of authorizing the Benton Water Co. to construct a dam across Snake River in the State of Washington. I ask that the speech be printed as a Senate document and that 500 additional copies be printed for the use of the Senate.

The PRESIDENT pro tempore. Without objection it is so ordered.

Mr. JOHNSTON of Alabama subsequently said: I made a request for the printing as a Senate document of a speech made by an ex-Senator. I am informed that under the custom of the Senate such matter has not been printed as public documents, and I withdraw the request.

The PRESIDENT pro tempore. The request is withdrawn.

POSSIBILITIES OF A DEMOCRATIC ADMINISTRATION (S. DOC. NO. 988).

Mr. SMITH of Georgia. I ask to have printed as a Senate document an article by Senator NEWLANDS, published in the Independent Magazine, on the Possibilities of a Democratic Administration.

The PRESIDENT pro tempore. Without objection it is so ordered.

REGULATION OF IMMIGRATION.

Mr. LODGE. I ask that the message from the House which was not disposed of yesterday be laid before the Senate.

The amendment of the House of Representatives to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, which was to strike out all after the enacting clause and to insert a substitute, was laid before the Senate by the President pro tempore.

The PRESIDENT pro tempore. The amendment has already been read and a motion made by the Senator from Massachusetts. It is that the Senate disagree to the amendment made by the House of Representatives, ask a conference on the dis-

agreeing vote of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the President pro tempore appointed Mr. LODGE, Mr. DILLINGHAM, and Mr. SMITH of South Carolina conferees on the part of the Senate.

UNITED STATES COURT FOR PORTO RICO.

Mr. POINDEXTER. I report from the Committee on Pacific Islands and Porto Rico the bill (H. R. 10169) to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge favorably without amendment.

Mr. President, in explanation I should like to say that the bill is for the purpose of enacting legislation to enable the President to fill the temporary vacancy in the district court of Porto Rico, an emergency existing by reason of the fact that there is no other judge who can be appointed under the law to take the place of the judge who is absent or disqualified to try a case. There is a great deal of important litigation pending in that court. Among other matters are receiverships of a number of large companies, which require the constant supervision of the court.

This bill has been passed by the House of Representatives and has been reported favorably, unanimously, by all the members of the Senate committee who are in the city. I submit the report, and ask to have printed the accompanying letter as a part of the report of the committee, and ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. In the absence of objection, the report will be received. Does the Senator from Washington desire to have the letter to which he refers printed in the RECORD?

Mr. POINDEXTER. No, sir; I simply desire that it shall be printed as a part of the report of the committee.

The PRESIDENT pro tempore. In the absence of objection that order will be made.

Mr. SMOOT. Let the bill be read by title.

The SECRETARY. A bill (H. R. 10169) to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. BAILEY. Mr. President, my attention was diverted for a moment, and I am not sure whether the bill provides for the designation of this judge by the judges of the Supreme Court of Porto Rico or for an appointment by the governor.

Mr. POINDEXTER. By the governor.

Mr. BAILEY. Mr. President, I venture to say that we could not authorize the governor of Porto Rico to appoint an officer of the United States. The only way anybody can become an officer of the United States is either through appointment by the President, confirmed by the Senate, or Congress may vest the appointment in the President alone or in the head of a department or in the courts of law. I think Congress could authorize the supreme court of that island to designate a judge, or it could authorize the Attorney General here to do it, but I am not of the opinion that Congress can authorize the governor of Porto Rico to appoint any officer of the United States. I therefore suggest to the Senator that we might have a court there which would be no court at all.

Mr. POINDEXTER. Mr. President, I can hardly agree with the view taken by the Senator from Texas as to lack of power in Congress to authorize the governor of Porto Rico to assign a judge who is already in office to act as a temporary judge of another court. There are a great many precedents for laws of that kind. The Senator from Texas is familiar with the act constituting the Court of Commerce, which authorizes and directs the Chief Justice of the Supreme Court of the United States——

Mr. BAILEY. I do not doubt that we can authorize the courts to do it; the Constitution expressly provides that. I do not doubt that we could authorize the head of a department to do it; the Constitution expressly authorizes that; but the difficulty I have in this matter is, that here we propose to authorize the governor of Porto Rico to designate this officer. It may be that this judge, already being an officer of the United States, can be designated in this way to hold the court. I will ask the Senator from Washington if there is any supreme court in that island?

Mr. POINDEXTER. There is.

Mr. BAILEY. Then why not let the chief justice of that court designate one of the members to perform this duty?

Mr. NELSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Minnesota?

Mr. POINDEXTER. I yield.

Mr. NELSON. If Senators will permit, I will state that the same objection would lie against that supreme court as against the governor, because it is not a Federal court; it is a court local to Porto Rico. This appointee is to act in the place of a Federal judge. If the objection of the Senator from Texas is valid, the appointment ought to be made by one of our Federal judges or by the Department of Justice. The supreme court of the Territory of Porto Rico is exactly in one sense in the same condition as the governor. It is not a Federal office.

Mr. BAILEY. Mr. President, none of these Territorial officers are Federal judges, as we commonly understand the term under the Constitution; in other words, they are appointed not in virtue of the judicial clause of the Constitution. If they were appointed so, they must be appointed for life. They are appointed under our authority to govern the Territory, and I imagine that we could authorize the court there to make this appointment. The point is purely that this man is to be an officer of the United States. I would have absolutely no doubt in my mind on the question if he was not already an officer and thus simply assigned. I am not very confident that, being an officer of the United States, he could not be assigned by the governor under the authority of an act of Congress; but I have no doubt whatever that if he were not an officer the governor of Porto Rico could not appoint him an officer of the United States, because he does not fall within any definition of the head of a department or a court of law.

Mr. BACON. Mr. President, I will hand to the Senator from Texas the section of the Constitution, which he has practically stated the substance of, in order that he may read it to the Senate.

Mr. BAILEY. Very well—

He shall have power—

The language refers to the President—

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

Now, obviously the governor of Porto Rico is not the head of a department, nor is he a court of law, and consequently he can not, under the Constitution, appoint an officer of the United States.

Mr. SUTHERLAND. Mr. President——

Mr. POINDEXTER. Just one moment, if the Senator will permit me.

I understood that the Senator from Texas had about concluded, but, if he will permit me, I should like to comment upon that portion of the Constitution which he has just read and upon which the Senator seems to rely. The phrase authorizing Congress to provide for the appointment of inferior officers by the President alone or by the heads of the departments or by the judiciary evidently does not include Federal judges.

Mr. BAILEY. This is not a Federal judge as we ordinarily understand that term. Although a Federal judge of a circuit court or a district court is an inferior officer, or, at least, is an officer of an inferior court, the Constitution expressly authorizes Congress to establish inferior courts—that is, as contradistinguished from the Supreme Court of the United States—and I am rather inclined to think that, under the plain language of the Constitution, if Congress were unwise enough, it could authorize the President alone to appoint the judges of our inferior Federal courts; but, as I have said, the officer affected by the pending bill is not such an officer as we commonly mean when we speak of a Federal judge; he is a Territorial judge.

Mr. POINDEXTER. Mr. President, in either alternative, whether this judge is one of the higher officers, the appointment of whom can not be delegated by Congress, in which case the constitutional provision which the Senator cites has no application whatever——

Mr. BAILEY. It applies to all officers of the United States.

Mr. POINDEXTER. It only applies to inferior officers; it does not apply to the chief officers of the United States, as I understand.

Mr. BAILEY. If they are not inferior, then the President would have to appoint them with the consent of the Senate.

Mr. POINDEXTER. If they are not inferior, then the instance which I cited of the selection of circuit judges to sit as members of the Commerce Court is a precedent for such legislation. The Senator then turns to this express provision of the Constitution, which he says is applicable because it includes inferior officers.

Mr. BAILEY. The Commerce Court judges were appointed by the President and confirmed by the Senate. They thus become judges under the judicial clause of the Constitution, and what the Chief Justice of the Supreme Court does with respect to them is merely to assign them.

I stated frankly to the Senator in the beginning, although I am not very confident about it, that this officer, already being an officer of the United States, a Territorial judge, Congress might authorize the governor to assign him; but certainly if he is not already an officer of the United States the governor can not make him one; and, although I shall not insist upon it, I think it would be safer to let the court designate the judge. Then, whether it be an appointment or a designation, he would be safe in law; or, upon proper certificate, allow the Attorney General or the President alone to designate or appoint this judge. I do not know while on my feet here exactly what duties are prescribed for these different judges. Of course, if this new duty is added to any of the duties which judges in Porto Rico must now perform, we have ample authority to pass this bill; and the only question in my mind is simply whether this amounts to an appointment of this particular judge as an officer of the United States.

I recall years ago when, under the anomalous conditions then existing in the Indian Territory, it was sought to provide for cases in which the judge might be disqualified by authorizing the bar to elect a judge. I thought then it was not competent, and upon a discussion of the matter the House recommitted that bill to the Judiciary Committee, concurring in my view that it was not competent to authorize the bar of the court to elect a judge. I know it is not competent to authorize the governor of Porto Rico to appoint a judge of a United States court, but I do not express any very confident opinion that this is such a case. This may be within the power of Congress upon the ground that it is merely the designation of a judge already an officer of the United States to perform another duty as that same officer of the United States. That may be the case.

Mr. POINDEXTER. Mr. President, I think there is not a great deal of difference of opinion between the Senator from Texas and myself about this matter. It seems to me that the effect of the bill is simply to enlarge the duties of a judge of the Supreme Court of Porto Rico, and providing that under certain circumstances, namely, when he is designated by the governor, he may ex officio perform certain duties in addition to those which are now provided for in the organic act. I want to read just a paragraph of a statement made by a lawyer of Porto Rico, which is confirmed by the Attorney General and by the head of the Bureau of Insular Affairs, as to the importance of some immediate action on this matter.

Mr. BAILEY. I can understand that.

Mr. SUTHERLAND. Will the Senator from Washington permit me a moment?

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Utah?

Mr. POINDEXTER. I yield to the Senator.

Mr. SUTHERLAND. As I recall, under the system which we had for the appointment of judges in the various Territories, judges were appointed to the Territorial supreme court, and the governor assigned them to their respective districts. Is not that correct?

Mr. POINDEXTER. Yes.

Mr. SUTHERLAND. Now, would this be any more than that?

Mr. POINDEXTER. It seems to me, Mr. President——

Mr. SUTHERLAND. As I understand from reading the bill, the judge has already been appointed in pursuance of the Constitution; and this bill simply provides that the governor may assign him to certain judicial duties.

Mr. POINDEXTER. To sit in place of another judge.

Mr. SUTHERLAND. It seems to me that is nothing more than Congress did repeatedly in dealing with the Territories, appointing the judge first as a judge of the supreme court, and then permitting the governor to assign the different supreme court judges to the various districts.

Mr. NELSON. Will the Senator yield to me for a moment?

Mr. POINDEXTER. I yield to the Senator from Minnesota.

Mr. NELSON. It is my recollection, although I may be mistaken, that I was a member of the committee at the time we passed the organic act for Porto Rico. The judge referred to in the bill is distinctly a Federal judge. He has simply jurisdiction in such cases as a district judge would have in one of the States. They have a Territorial or local supreme court and an independent judicial system. This one judge is a Federal judge in exactly the same sense as is a United States district judge in one of the States.

Mr. BAILEY. He could not be.

Mr. NELSON. I mean his jurisdiction is the same.

Mr. BAILEY. That might be.

Mr. NELSON. That is what I meant. His jurisdiction is the same; but he does not have jurisdiction like judges in our Territories, who have a Territorial side and a Federal side. This judge has strictly a Federal side and Federal jurisdiction over what in a State would be Federal cases.

Mr. BAILEY. Mr. President, the statement of the Senator from Minnesota——

Mr. POINDEXTER. Before the Senator from Texas begins, I should like to read just a paragraph from the organic act, so that the Senator will have in mind the structure of these courts.

Mr. BAILEY. I have not that in my mind now.

Mr. POINDEXTER. I read from the organic act of Porto Rico:

Provided, however, That the chief justice and associate justices of the supreme court and the marshal thereof shall be appointed by the President, by and with the advice and consent of the Senate, and the judges of the district courts shall be appointed by the governor, by and with the advice and consent of the executive council.

Mr. BAILEY. Then, those courts last mentioned must not be courts of the United States, and their officers must not be officers of the United States, because, if so, the governor can not be authorized to appoint them.

But, Mr. President, another thing occurs to me just here, and that is, that I am not so certain that all the officials who serve in Porto Rico are considered officers of the United States. Certainly the judges who are appointed by the governor of that Territory and confirmed by the council of it are not officers of the United States.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from California?

Mr. BAILEY. I do.

Mr. WORKS. It seems to me that the constitutional provision limiting the power of appointment to office has no bearing upon this question at all, for the simple reason that this is not an appointment to an office. There might be some question about the power to vest in a judge having one jurisdiction the power to preside over a court having an entirely different jurisdiction, one of them being a Federal court and the other not. That would seem to me to be a much more serious question than the one raised by the Senator from Texas under the Constitution.

Mr. BAILEY. There could be no debate; there could be no difference of opinion upon the question which I originally raised; and that is if this were the appointment of an officer of the United States, then plainly the governor of that Territory could not be authorized to make the appointment. It seems, as we discuss it, that this is not the appointment of an officer, but is a proposal to designate an officer already appointed and existing to perform the duties of another office.

The difference between these two offices and these two jurisdictions does raise the further question which the Senator from California has suggested; but that was not in my mind, and probably it would have been just as well if I had not raised any question about it, because I frankly say to the Senate that I have never examined the organic act of Porto Rico, and I am not sure upon what theory it proceeds.

The extract which the Senator from Washington has just read presents to my mind the usual condition of a Territorial government, where some of the officers hold their appointments from the United States and other officers hold their appointments from the governor, who is himself appointed by the President of the United States.

I would not have the slightest doubt in my mind about the power of Congress, under its authority to govern this Territory, to give to the people of the Territory, or to any of the functionaries of the Territory, the right to appoint officers or elect officers for the Territory. That procedure is familiar to us all, and has been for many years, in all of our Territories. But those officers are not officers of the United States; they are officers of the Territory; and evidently some of the judges concerning whose appointment the Senator has read from the organic act were not judges of the United States. They are not officers of the United States, but they are judges of the Territory of Porto Rico, just as when Utah was a Territory they had their local officers. I have no doubt they elected some of their judges. They certainly elected members to their Territorial legislature. They elected their sheriffs and constables. But those sheriffs and constables and those members of the legislature were officers of the Territory of Utah and not officers of the United States.

Mr. SUTHERLAND. Mr. President——

Mr. NELSON. Mr. President——

Mr. SUTHERLAND. The Senator will permit me for just a moment?

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Minnesota?

Mr. POINDEXTER. I do.

The PRESIDENT pro tempore. The Senator from Washington is entitled to the floor.

Mr. SUTHERLAND. Will the Senator from Washington yield to me for a moment?

Mr. POINDEXTER. Certainly.

Mr. SUTHERLAND. In the system by which we appointed Territorial judges provision was made for the appointment of judges of the supreme court. Then each of the Territories was authorized to create districts and fix the limits of the districts, and so on, and the governor was authorized, until otherwise provided by law—that meant the law of the Territory—to assign the judges to those various districts. So if the assignment of the judges to those various district courts and, indeed, the creation of the districts themselves could in any manner be said to be appointments, that would have been as objectionable under the constitutional provision as the bill to which the Senator has called attention.

Mr. BAILEY. Oh, no; that is not my view of it at all. In other words, the President of the United States might be given the power to appoint a Territorial officer, but no power in the Territory could be given the right to appoint an officer of the United States, it being expressly provided in the Constitution how a man may become an officer of the United States.

Mr. SUTHERLAND. But these were officers of the United States——

Mr. BAILEY. No——

Mr. SUTHERLAND. Only, the Senator very well said, they were not appointed under the judicial clause of the Constitution, and therefore they did not hold a life tenure.

Mr. BAILEY. They held for a term of years.

Mr. SUTHERLAND. Yes; they held for a limited term of years provided by the law. But still they held office, as I understand it—the Senator from Washington knows about it better than I—precisely the same way as these judges in Porto Rico, for a term of years.

Mr. BAILEY. Then, if they do, if this judge is an officer of Porto Rico, we can have him appointed as we please, in my opinion; but I am not sure whether they are treated as officers of the United States there. My understanding is that there is not a form of real Territorial government there.

Mr. POINDEXTER. There is a form of Territorial government there.

Mr. BAILEY. I said a form of real Territorial government.

Mr. LODGE. Porto Rico is not a Territory.

Mr. SUTHERLAND. Were the judges referred to in the bill appointed for a term of years?

Mr. BAILEY. I am sure they are.

Mr. POINDEXTER. I am not advised as to whether it was for a term of years or for life.

Mr. NELSON. Mr. President, I have before me——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Minnesota?

Mr. POINDEXTER. I do.

Mr. NELSON. I have here the section of the organic act under which this judge was appointed. It was not read by the Senator from Washington. Here is the language:

SEC. 34. That Porto Rico shall constitute a judicial district to be called "the district of Porto Rico." The President, by and with the advice and consent of the Senate, shall appoint a district judge, a district attorney, and a marshal for said district, each for a term of four years, unless sooner removed by the President. The district court for said district shall be called the district court of the United States for Porto Rico and shall have power to appoint all necessary officials and assistants, including a clerk, an interpreter, and such commissioners as may be necessary, who shall have like power and duties as are exercised and performed by commissioners of the circuit courts of the United States, and shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizant in the circuit courts of the United States, and shall proceed therein in the same manner as a circuit court.

And so on.

With the exception of being appointed for a four-year term, the jurisdiction of this judge is limited strictly to what appertains to a Federal district judge in the States, and he has no jurisdiction of cases arising under local or Territorial law.

Mr. BAILEY. That is exactly what we have always known in this country as a United States court for a Territory, and that is exactly what that is now in Porto Rico. It is a United States court for the district of Porto Rico, and the officers of that court are officers of the United States, undoubtedly.

Mr. LODGE. But they are not constitutional judges.

Mr. BAILEY. But, of course, not constitutional judges. While I know the governor could not appoint an officer of that court—because the officer of that court is an officer of the United States—I am not so clear that the governor may not be authorized to designate an officer of the United States court to perform some duty with respect to the local jurisdiction of that island. At any rate, Mr. President, I am not clear enough about it to resist the passage of the bill.

I am sure it would be better, if the Senator were willing to amend it, to vest that power of designation in the chief justice of the court if you please rather than in the governor; but I leave it.

Mr. WORKS. As I understand the effect of this bill, it provides for the appointment by the governor of a judge who has been appointed by the governor to preside over a Federal court in the place of a judge appointed by the President and confirmed by the Senate.

Mr. BAILEY. Then he could not preside in the Federal court. That is certain.

Mr. LODGE. Excuse me. The governor is to designate.

Mr. WORKS. I understand. I do not mean "appoint."

Mr. LODGE. It is not a judge appointed by the President and confirmed by the Senate.

Mr. WORKS. The governor is to have the power to assign to another jurisdiction a judge appointed entirely by his own power and authority.

Mr. LODGE. He is to assign him to another jurisdiction.

Mr. WORKS. Certainly. The question in my mind is whether he has the power to assign such judges appointed by a different power and having entirely different jurisdiction to preside over a Federal court.

Mr. POINDEXTER. The Senator from California is in error as to the appointment of Supreme Court judges of Porto Rico. The organic act provides that they shall be appointed by the President by and with the advice and consent of the Senate.

Mr. WORKS. But, as I understand, it authorizes the appointment of other judges as well.

Mr. POINDEXTER. Which provision—that of the organic act?

Mr. WORKS. No.

Mr. POINDEXTER. The bill?

Mr. WORKS. The bill.

Mr. POINDEXTER. No; not of other judges, only a judge of the Supreme Court of Porto Rico. The effect of the bill is simply adding a duty to the functions of the supreme court judge of Porto Rico. I apprehend that there can be no contention made that it is not within the power of Congress at any time to enlarge the functions of any court of the United States, and that the judge holding that office would have authority, although he had been previously appointed, to perform those additional duties. It is not an appointment to office, but simply makes him eligible to perform additional duties and to provide that in case of emergency he shall be designated therefor by the governor of Porto Rico.

The designation is a mere administrative act. Somebody has to designate the judge, and Congress has power, undoubtedly—there is nothing in the Constitution in conflict with it—to say what authority shall designate the particular supreme judge to temporarily perform the duties of the district court. Both judges are Federal judges in the sense that they are holding office under the Federal law. Both are appointed by the President; both are confirmed by the Senate.

I have here a letter, from which I will read just a few lines, from an attorney practicing in Porto Rico, who says:

I am an attorney, practicing at the bar at San Juan, P. R., and am interested in various matters of litigation before the United States court of the island, and among other interests there are at present two sugar companies, one of them having properties valued at more than a million dollars, which are at present being operated by receivers under the orders of the Federal court, and which receiverships require constant attention and orders from the Federal court in order to attend to the interests of the interested parties.

It is obvious that it is an emergency case and that there ought to be some immediate action. I think there is a great deal of merit in the suggestions of the Senator from Texas, but if the bill is amended in accordance with those suggestions, it will have to go back to the House of Representatives. This is not my bill. I did not prepare it. It is a House bill. It came to the Senate. If amended, it would have to go over until after the holidays, and under the procedure and the pressure of business in the House of Representatives a considerable length of time might elapse then before it could be taken up.

If there is a serious defect in the procedure provided for by this bill, which I do not think there is, it can be taken care of,

of course, by an amendment to the act which can be passed at any time.

Mr. WORKS. I have no desire to oppose the passage of the bill. I made my suggestions with respect to it, and I shall not object to its passage this evening.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, and was read the third time.

The PRESIDENT pro tempore. The question is, Shall the bill pass?

Mr. BAILEY. Mr. President, I merely wish to say, out of an abundance of caution, that I desire to be regarded as voting against the passage of the bill. If I had the time to read it carefully, I might agree to it.

The PRESIDENT pro tempore. The question is, Shall the bill pass?

The bill was passed.

REGISTRATION OF TRADE-MARKS.

Mr. BRANDEGEE. From the Committee on Patents I report back favorably, without amendment, the bill (H. R. 10648) amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes, and to protect the same," and I ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. BRANDEGEE. I will simply say that that section is reenacted with an amendment which appears in the bill, commencing in line 9, page 1, with the last two words in the line, "or of," and including line 17, the effect of which is to insert this language in the law as it stands at present, to wit:

Or of any name, distinguishing mark, character, emblem, colors, flag, or banner adopted by any institution, organization, club, or society which was incorporated in any State in the United States prior to the date of the adoption and use by the applicant: *Provided*, That said name, distinguishing mark, character, emblem, colors, flag, or banner was adopted and publicly used by said institution, organization, club, or society prior to the date of adoption and use by the applicant.

It is a bill which has passed the House, having been unanimously reported by the House Committee on Patents, and is reported with the approval of all the members of the Senate committee who are now in town, which are five members out of the seven.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 50 minutes p. m.) the Senate adjourned, the adjournment being, under the concurrent resolution of the two Houses, until Thursday, January 2, 1913, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate December 19, 1912.

UNITED STATES ATTORNEY.

Fred C. Cubberly, of Florida, to be United States attorney for the northern district of Florida. (A reappointment, his term expiring January 12, 1913.)

RECEIVERS OF PUBLIC MONEYS.

George P. Bennett, of Rapid City, S. Dak., to be receiver of Public moneys at Rapid City, vice Myron Willsie, term expired.

William M. Enright, of Billings, Mont., to be receiver of public moneys at Billings, vice Luther T. Hauberg, temporary appointee. (Reinstatement.)

Julius H. Weiss, of Colorado, to be receiver of public moneys at Del Norte, Colo., his term expiring January 5, 1913. (Reappointment.)

D. J. Murl, of Montana, to be receiver of public moneys at Miles City, Mont., vice Joseph C. Auld, term expired.

Hugh Taylor, of Colorado, to be receiver of public moneys at Denver, Colo., his term expiring February 27, 1913. (Reappointment.)

Charles E. Arnold, of Arizona, to be receiver of public moneys at Phoenix, Ariz., his term expiring January 5, 1913. (Reappointment.)

REGISTERS OF THE LAND OFFICE.

Harry H. Mitchell, of Springfield, Mo., to be register of the land office at Springfield, vice Cornelius N. Van Hosen, deceased.

Charles L. Harris, of Billings, Mont., to be register of the land office at Billings, his term expiring December 16, 1912. (Reappointment.)

UNITED STATES MARSHAL.

Gilbert B. Deaus, of Alabama, to be United States marshal, southern district of Alabama. (A reappointment, his term having expired.)

ASSISTANT AGENT ALASKA SALMON FISHERIES.

Carl P. Henkel, of Missouri, to be assistant agent Alaska salmon fisheries, Division of Alaska Fisheries, Bureau of Fisheries, Department of Commerce and Labor, vice Ward T. Bower, nominated for promotion to agent.

ASSISTANT COMPTROLLER OF THE TREASURY.

Walter W. Warwick, of Ohio, to be Assistant Comptroller of the Treasury in place of Leander P. Mitchell, deceased.

COLLECTOR OF CUSTOMS.

Lewis Crandall, of Connecticut, to be collector of customs for the district of New London, in the State of Connecticut, in place of Thomas O. Thompson, deceased.

JUDGE OF THE CIRCUIT COURT OF HAWAII.

Selden B. Kingsbury, of Hawaii, to be judge of the Circuit Court of the Second Circuit of the Territory of Hawaii. (A reappointment, his term expiring February 8, 1913.)

UNITED STATES CIRCUIT JUDGE.

George A. Carpenter, of Illinois, to be United States circuit judge, seventh circuit, vice Peter S. Grosscup, resigned.

UNITED STATES DISTRICT JUDGE.

Charles S. Cutting, of Illinois, to be United States district judge, northern district of Illinois, vice George A. Carpenter, nominated to be circuit judge.

SURVEYOR OF CUSTOMS.

Joseph G. Gardner, of Iowa, to be surveyor of customs for the port of Des Moines, in the State of Iowa, in place of George L. Godfrey, whose term of office has expired by limitation.

SURVEYOR GENERAL OF ALASKA.

William L. Distin, of Illinois, to be surveyor general of Alaska, his term expiring December 17, 1912. (Reappointment.)

PROMOTIONS IN THE ARMY.

MEDICAL CORPS.

Lieut. Col. William D. Crosby, Medical Corps, to be colonel from December 7, 1912, vice Col. William W. Gray, retired from active service December 6, 1912.

Maj. Champe C. McCulloch, jr., Medical Corps, to be lieutenant colonel from December 7, 1912, vice Lieut. Col. William D. Crosby, promoted.

Capt. Perry L. Boyer, Medical Corps, to be major from December 7, 1912, vice Maj. Champe C. McCulloch, jr., promoted.

INFANTRY ARM.

Maj. Waldo E. Ayer, Second Infantry, to be lieutenant colonel from December 12, 1912, vice Lieut. Col. Lawrence J. Hearn, Third Infantry, who died December 11, 1912.

Capt. William F. Grote, Eighteenth Infantry, to be major from December 12, 1912, vice Maj. Waldo E. Ayer, Second Infantry, promoted.

COAST ARTILLERY CORPS.

Second Lieut. George L. Van Deusen, Coast Artillery Corps, to be first lieutenant from November 16, 1912, vice First Lieut. Francis B. Upham, resigned, November 15, 1912.

Second Lieut. Belton O'N. Kennedy, Coast Artillery Corps, to be first lieutenant from November 19, 1912, vice First Lieut. George M. Morrow, jr., transferred to the Field Artillery.

QUARTERMASTER CORPS.

Capt. David B. Case, Quartermaster Corps, to be major with rank from November 1, 1912.

Capt. William Elliott, Quartermaster Corps, to be major with rank from November 1, 1912.

Capt. James A. Logan, jr., Quartermaster Corps, to be major from November 1, 1912.

APPOINTMENT IN THE ARMY.

CHAPLAIN.

Rev. Jeremiah Augustine Lenehan, of Kansas, to be chaplain with the rank of first lieutenant from December 12, 1912, vice Chaplain Laurence L. Denning, Coast Artillery Corps, resigned September 1, 1912.

APPOINTMENT, BY TRANSFER, IN THE ARMY.

Second Lieut. Walter F. Winton, Seventh Cavalry, to be second lieutenant of Field Artillery, with rank from July 23, 1912.

PROMOTIONS IN THE NAVY.

Asst. Paymaster Maj. C. Shirley to be a passed assistant paymaster in the Navy from the 23d day of August, 1912, to fill a vacancy.

Lieut. Commander Francis L. Chadwick to be a commander in the Navy from the 1st day of July, 1912, to fill a vacancy.

Medical Inspector Francis W. F. Wieber to be a medical director of the Navy from the 28th day of October, 1912, to fill a vacancy.

Surg. Luther L. von Wedekind to be a medical inspector in the Navy from the 28th day of October, 1912, to fill a vacancy.

COMMISSIONERS ON INDUSTRIAL RELATIONS.

GEORGE SUTHERLAND, of Utah; George B. Chandler, of Connecticut; Charles Simon Barrett, of Georgia; Frederic Adrian Delano, of Illinois; Adolph Lewisohn, of New York; Ferdinand Charles Schweitman, of Missouri; Austin Bruce Garretson, of Iowa; John B. Lennon, of Illinois; James O'Connell, of the District of Columbia, to be Commissioners on Industrial Relations, under the provisions of the act approved August 23, 1912.

MINISTER.

Montgomery Schuyler, jr., of New York, now secretary of the embassy at Mexico, to be envoy extraordinary and minister plenipotentiary of the United States of America to Ecuador, vice Evan E. Young, resigned.

SECRETARIES OF EMBASSIES.

Nelson O'Shaughnessy, of New York, now second secretary of the embassy at Mexico, to be secretary of the embassy of the United States of America at Mexico, Mexico, vice Montgomery Schuyler, jr., nominated to be envoy extraordinary and minister plenipotentiary to Ecuador.

Ralph B. Strassburger, of New York, now secretary of the legation and consul general to Roumania, Servia, and Bulgaria, to be second secretary of the embassy of the United States of America at Tokyo, Japan, vice Charles Campbell, jr., nominated to be secretary of the legation and consul general to Roumania, Servia, and Bulgaria.

Henry F. Tennant, of New York, now third secretary of the embassy at Mexico, to be second secretary of the embassy of the United States of America at Mexico, Mexico, vice Nelson O'Shaughnessy, nominated to be secretary of the embassy at Mexico.

Cyrus F. Wicker, of New York, now secretary of the legation at Tangier, to be secretary of the legation of the United States of America at Panama, Panama, vice William W. Andrews, appointed secretary of the legation at Lisbon.

SECRETARY OF LEGATION AND CONSUL GENERAL.

Charles Campbell, jr., of Virginia, now second secretary of the embassy at Tokyo, to be secretary of the legation and consul general of the United States of America to Roumania, Servia, and Bulgaria, vice Ralph B. Strassburger, nominated to be second secretary of the embassy at Tokyo.

CONSULS GENERAL.

Carl Bailey Hurst, of the District of Columbia, now consul at Lyon, to be consul general at large of the United States of America, vice Fleming D. Cheshire, appointed consul general at Canton.

P. Merrill Griffith, of Ohio, now consul at Pernambuco, to be consul general of the United States of America at Callao, Peru, vice William H. Robertson, nominated to be consul general at Moscow.

William H. Robertson, of Virginia, now consul general at Callao, to be consul general of the United States of America at Moscow, Russia, vice John H. Snodgrass, nominated to be consul general at Sydney, Australia.

John H. Snodgrass, of West Virginia, now consul general at Moscow, to be consul general of the United States of America at Sydney, Australia, vice John P. Bray, nominated to be consul at Manchester.

CONSULS.

John P. Bray, of North Dakota, now consul general at Sydney, Australia, to be consul of the United States of America at Manchester, England, vice Church Howe, resigned.

John W. Dye, of Minnesota, now a consular assistant, to be consul of the United States of America at St. Johns, Quebec, Canada, vice Andrew J. McConnico, nominated to be consul at Owen Sound.

William Dawson, jr., of Minnesota, to be consul of the United States of America at Sierra Leone, West Africa, vice William J. Yerby, nominated to be consul at Mersina.

Paul H. Foster, of Texas, to be consul of the United States of America at Teneriffe, Canary Islands, vice William W. Kitchen, deceased.

Cornelius Ferris, jr., of Colorado, now consul at Asuncion, to be consul of the United States of America at Malta, Maltese Islands, vice James Oliver Laing, nominated to be consul at Maracaibo.

Claude E. Guyant, of Illinois, now consul at Salina Cruz, to be consul of the United States of America at Ensenada, Mexico, vice Frederick Simpich, nominated to be consul at Nogales.

Arminius T. Haeberle, of Missouri, now consul at Tegucigalpa, to be consul of the United States of America at Vladivostok, Siberia, vice John F. Jewell, nominated to be consul at Tsingtau.

James W. Johnson, of New York, now consul at Corinto, to be consul of the United States of America at St. Michaels, Azores, vice Edward A. Creevey.

John F. Jewell, of Illinois, now consul at Vladivostok, to be consul of the United States of America at Tsingtau, China, vice James C. McNally, nominated to be consul at Hanover.

James Oliver Laing, of Missouri, now consul at Malta, to be consul of the United States of America at Maracaibo, Venezuela, vice John A. Ray, nominated to be consul at Corinto.

Stuart K. Lupton, of Tennessee, now consul at Karachi, to be consul of the United States of America at Tampico, Mexico, vice Clarence A. Miller, nominated to be consul at Pernambuco.

James C. McNally, of Pennsylvania, now consul at Tsingtau, to be consul of the United States of America at Hanover, Germany, vice Albert H. Michelson, nominated to be consul at Milan.

Andrew J. McConnico, of Mississippi, now consul at St. Johns, Quebec, to be consul of the United States of America at Owen Sound, Ontario, Canada, vice Augustus G. Seyfert, resigned.

Lucien Memminger, of South Carolina, now a consular assistant, to be consul of the United States of America at Salina Cruz, Mexico, vice Claude E. Guyant, nominated to be consul at Ensenada.

Clarence A. Miller, of Missouri, now consul at Tampico, to be consul of the United States of America at Pernambuco, Brazil, vice P. Merrill Griffith, nominated to be consul general at Callao.

Albert H. Michelson, of Massachusetts, now consul at Hanover, to be consul of the United States of America at Milan, Italy, vice Charles M. Caughy, resigned.

Edward I. Nathan, of Pennsylvania, now consul at Mersina, to be consul of the United States of America at Karachi, India, vice Stuart K. Lupton, nominated to be consul at Tampico.

Kenneth S. Patton, of Virginia, now a consular assistant, to be consul of the United States of America at Asuncion, Paraguay, vice Cornelius Ferris, jr., nominated to be consul at Malta.

John A. Ray, of Texas, now consul at Maracaibo, to be consul of the United States of America at Corinto, Nicaragua, vice James W. Johnson, nominated to be consul at St. Michaels.

Henry P. Starrett, of Florida, to be consul of the United States of America at Tegucigalpa, Honduras, vice Arminius T. Haeberle, nominated to be consul at Vladivostok.

Frederick Simpich, of Washington, now consul at Ensenada, to be consul of the United States of America at Nogales, Mexico, vice Alexander V. Dye, resigned.

Frederick Van Dyne, of New York, now Assistant Solicitor for the Department of State, to be consul of the United States of America at Lyon, France, vice Carl Bailey Hurst, nominated to be consul general at large.

William J. Yerby, of Tennessee, now consul at Sierra Leone, to be consul of the United States of America at Mersina, Turkey, vice Edward I. Nathan, nominated to be consul at Karachi.

POSTMASTERS.

ALABAMA.

Thomas U. Baskin to be postmaster at Union Springs, Ala., in place of Thomas U. Baskin. Incumbent's commission expired May 11, 1912.

James B. Sinquefield to be postmaster at Lockhart, Ala., in place of Robert H. Trammell. Incumbent's commission expired December 16, 1912.

CALIFORNIA.

Jessie H. Dugan to be postmaster at Woodland, Cal., in place of Jessie H. Dugan. Incumbent's commission expires February 9, 1913.

John M. Jolley to be postmaster at Oceanside, Cal., in place of John M. Jolley. Incumbent's commission expired December 14, 1912.

Sarah Jane Sherrill to be postmaster at Davis, Cal., in place of Joseph J. Gallagher, resigned.

Homer C. Trippett to be postmaster at Roseville, Cal., in place of Homer C. Trippett. Incumbent's commission expires January 28, 1913.

Samuel G. Watts to be postmaster at East Auburn, Cal., in place of Samuel G. Watts. Incumbent's commission expires January 22, 1913.

J. H. Williams to be postmaster at Compton, Cal., in place of J. H. Williams. Incumbent's commission expired December 14, 1912.

CONNECTICUT.

Alexander B. Gardner to be postmaster at Milford, Conn., in place of Alexander B. Gardner. Incumbent's commission expired December 14, 1912.

Charles C. Georgia to be postmaster at West Farmington (late Unionville), Conn., in place of Charles C. Georgia, to change name of office.

Harvey S. Halligan to be postmaster at Seymour, Conn., in place of Harvey S. Halligan. Incumbent's commission expired December 14, 1912.

William H. Kelsey to be postmaster at Clinton, Conn., in place of William H. Kelsey. Incumbent's commission expired December 14, 1912.

FLORIDA.

Charles E. Barnes to be postmaster at Plant City, Fla., in place of Charles E. Barnes. Incumbent's commission expired December 17, 1912.

Newell B. Hull to be postmaster at Starke, Fla., in place of Newell B. Hull. Incumbent's commission expired December 17, 1912.

GEORGIA.

William T. Johnson to be postmaster at Collegepark, Ga., in place of William T. Johnson. Incumbent's commission expired February 27, 1912.

IDAHO.

Nettie B. Carpenter to be postmaster at Grangeville, Idaho, in place of Nettie B. Carpenter. Incumbent's commission expired December 17, 1912.

Joseph R. Collins to be postmaster at Moscow, Idaho, in place of Joseph R. Collins. Incumbent's commission expires January 13, 1913.

Charles C. Moore to be postmaster at St. Anthony, Idaho, in place of Charles C. Moore. Incumbent's commission expired December 17, 1912.

James Nye to be postmaster at Paris, Idaho. Office became presidential October 1, 1912.

A. T. Shane to be postmaster at Idaho Falls, Idaho, in place of A. T. Shane. Incumbent's commission expired December 17, 1912.

ILLINOIS.

Harry K. Alexander to be postmaster at Palestine, Ill., in place of Harry K. Alexander. Incumbent's commission expired March 24, 1912.

John F. Ashwill to be postmaster at Toledo, Ill., in place of John F. Ashwill. Incumbent's commission expired December 14, 1912.

Henry C. Bogue to be postmaster at Vermont, Ill., in place of Henry C. Bogue. Incumbent's commission expired December 14, 1912.

Theodore Boltenstern to be postmaster at Cambridge, Ill., in place of Theodore Boltenstern. Incumbent's commission expired December 14, 1912.

H. G. Hotchkiss to be postmaster at Prophetstown, Ill., in place of Edgar Rodec. Incumbent's commission expired December 14, 1912.

Henry C. Jones to be postmaster at Marion, Ill., in place of Henry C. Jones. Incumbent's commission expired December 14, 1912.

William A. Kelly to be postmaster at West Frankfort, Ill., in place of William A. Kelly. Incumbent's commission expired December 14, 1912.

William Knigge to be postmaster at Area (late Rockefeller), Ill., in place of William Knigge, to change name of office.

Robert L. Lutton to be postmaster at Clifton, Ill., in place of Robert L. Lutton. Incumbent's commission expired December 14, 1912.

Mary S. McClymonds to be postmaster at Kirkwood, Ill., in place of John Holliday. Incumbent's commission expired December 14, 1912.

Henry P. Miller to be postmaster at Cobden, Ill., in place of Henry P. Miller. Incumbent's commission expired December 14, 1912.

Leander W. Niles to be postmaster at Bethany, Ill., in place of Leander W. Niles. Incumbent's commission expires January 14, 1913.

Paul P. Shutt to be postmaster at Paris, Ill., in place of Paul P. Shutt. Incumbent's commission expired December 14, 1912.

J. W. Thompson to be postmaster at Granite City, Ill., in place of J. W. Thompson. Incumbent's commission expired December 14, 1912.

George E. Wiedman to be postmaster at Zion City, Ill., in place of George E. Wiedman. Incumbent's commission expired December 11, 1911.

INDIANA.

A. G. Coffman to be postmaster at Roachdale, Ind., in place of Charles McCaughey. Incumbent's commission expires January 13, 1913.

Elmer Ferguson to be postmaster at Albany, Ind., in place of William A. Hayes, deceased.

Timothy C. Fesler to be postmaster at Morgantown, Ind. Office becomes presidential January 1, 1913.

George M. Foland to be postmaster at East Chicago, Ind., in place of Moses Specter. Incumbent's commission expired December 17, 1912.

Clem D. Fosler to be postmaster at South Whitley, Ind., in place of Cash M. Graham. Incumbent's commission expired February 12, 1911.

Charles A. Frazee to be postmaster at Rushville, Ind., in place of Charles A. Frazee. Incumbent's commission expires January 12, 1913.

James Gastinau to be postmaster at Lyons, Ind., in place of Charles T. O'Haver, deceased.

Charles E. Hillstrom to be postmaster at Chesterton, Ind., in place of Charles E. Hillstrom. Incumbent's commission expired December 17, 1912.

Ada McCain to be postmaster at Kentland, Ind., in place of Richard C. McCain. Incumbent's commission expired April 22, 1912.

Leonard E. Moore to be postmaster at Shirley, Ind., in place of Leonard E. Moore. Incumbent's commission expires February 1, 1913.

Ora Myers to be postmaster at Greenfield, Ind., in place of George W. Duncan, removed.

Howard H. Newby to be postmaster at Sheridan, Ind., in place of Howard H. Newby. Incumbent's commission expires January 13, 1913.

W. G. Pettijohn to be postmaster at Arcadia, Ind., in place of W. G. Pettijohn. Incumbent's commission expires January 25, 1913.

Knode D. Porter to be postmaster at Hagerstown, Ind., in place of Knode D. Porter. Incumbent's commission expires January 13, 1913.

Phineas O. Small to be postmaster at Laporte, Ind., in place of Phineas O. Small. Incumbent's commission expired December 17, 1912.

Plin L. Truesdell to be postmaster at Hobart, Ind., in place of Harry C. Linkhart, deceased.

Shad Young to be postmaster at Cicero, Ind., in place of Shad Young. Incumbent's commission expires January 14, 1913.

IOWA.

George Banger to be postmaster at Laporte City, Iowa, in place of George Banger. Incumbent's commission expired December 14, 1912.

Charles O. Barry to be postmaster at Walker, Iowa, in place of Charles O. Barry. Incumbent's commission expired December 14, 1912.

Robert A. Gardner to be postmaster at West Point, Iowa, in place of Robert A. Gardner. Incumbent's commission expires January 26, 1913.

Frank A. Nimocks to be postmaster at Ottumwa, Iowa, in place of Frank A. Nimocks. Incumbent's commission expires January 26, 1913.

Lewis W. Sley to be postmaster at Oxford Junction, Iowa, in place of Lewis W. Sley. Incumbent's commission expired December 14, 1912.

Charles Smith to be postmaster at Clarence, Iowa, in place of Charles Smith. Incumbent's commission expired December 14, 1912.

W. H. Vance to be postmaster at Winterset, Iowa, in place of W. H. Vance. Incumbent's commission expired December 14, 1912.

Don R. Whitmore to be postmaster at Olin, Iowa, in place of Dennis Bittner. Incumbent's commission expired December 14, 1912.

KANSAS.

Ulysses S. Davis to be postmaster at Morrill, Kans., in place of Ulysses S. Davis. Incumbent's commission expires January 12, 1913.

David D. McIntosh to be postmaster at Marion, Kans., in place of David D. McIntosh. Incumbent's commission expired December 9, 1911.

Frank S. McKelvey to be postmaster at Gas, Kans., in place of Frank S. McKelvey. Incumbent's commission expired December 17, 1912.

Benson L. Mickel to be postmaster at Soldier, Kans., in place of Benson L. Mickel. Incumbent's commission expires January 28, 1913.

Lewis Pickrell to be postmaster at Minneapolis, Kans., in place of Lewis Pickrell. Incumbent's commission expired December 17, 1912.

Guy A. Swallow to be postmaster at Fort Leavenworth, Kans., in place of Guy A. Swallow. Incumbent's commission expires January 14, 1913.

KENTUCKY.

Felix G. Begley to be postmaster at Hazard, Ky. Office became presidential October 1, 1912.

Isaac N. Bryant to be postmaster at Corbin, Ky., in place of Isaac N. Bryant. Incumbent's commission expires February 20, 1913.

Charles Crowell to be postmaster at Earlington, Ky., in place of Charles Crowell. Incumbent's commission expired December 14, 1912.

W. S. Griffith to be postmaster at Benton, Ky., in place of W. S. Griffith. Incumbent's commission expires January 14, 1913.

H. G. Hicks to be postmaster at Olive Hill, Ky., in place of H. G. Hicks. Incumbent's commission expired December 14, 1912.

William Henry Jones to be postmaster at Glasgow, Ky., in place of William Henry Jones. Incumbent's commission expires February 9, 1913.

John D. Littlejohn to be postmaster at Grayson, Ky., in place of John D. Littlejohn. Incumbent's commission expired December 14, 1912.

Robert L. Oelze to be postmaster at Cloverport, Ky., in place of Robert L. Oelze. Incumbent's commission expires January 22, 1913.

John S. Welch to be postmaster at Smiths Grove, Ky., in place of William J. Wade. Incumbent's commission expires January 14, 1913.

MAINE.

Charles E. Atwood to be postmaster at Biddeford, Me., in place of Charles E. Atwood. Incumbent's commission expires January 11, 1913.

Montrose E. Hill to be postmaster at Old Orchard, Me., in place of Montrose E. Hill. Incumbent's commission expires January 5, 1913.

George D. Libby to be postmaster at Gardiner, Me., in place of George D. Libby. Incumbent's commission expired December 16, 1912.

LOUISIANA.

James F. Moore to be postmaster at Logansport, La. Office became presidential October 1, 1911.

MARYLAND.

Samuel Hambleton to be postmaster at Rising Sun, Md., in place of Samuel Hambleton. Incumbent's commission expired February 21, 1912.

Charles H. Holtzman to be postmaster at Cumberland, Md., in place of William Pearre, removed.

Oscar Leser to be postmaster at Baltimore, Md., in place of William H. Harris. Incumbent's commission expires January 11, 1913.

Mary W. West to be postmaster at Northeast, Md., in place of Jesse West. Incumbent's commission expires January 11, 1913.

MASSACHUSETTS.

Henry W. Dolliver to be postmaster at Whitinsville, Mass., in place of Henry W. Dolliver. Incumbent's commission expires February 9, 1913.

Asa B. Fay to be postmaster at Northboro, Mass., in place of Asa B. Fay. Incumbent's commission expired December 14, 1912.

Edwin F. Lilley to be postmaster at Milford, Mass., in place of George G. Cook, resigned.

George E. Ricker to be postmaster at Merrimac, Mass., in place of George E. Ricker. Incumbent's commission expired December 14, 1912.

George M. Solomon to be postmaster at Hinsdale, Mass., in place of George M. Solomon. Incumbent's commission expired December 14, 1912.

William F. Wiley to be postmaster at Peabody, Mass., in place of William F. Wiley. Incumbent's commission expired December 14, 1912.

MICHIGAN.

Louis Basso to be postmaster at South Range, Mich., in place of William Trevarthen. Incumbent's commission expired December 14, 1912.

Winthrop A. Hayes to be postmaster at Rochester, Mich., in place of Winthrop A. Hayes. Incumbent's commission expired April 25, 1912.

Jens Hemingsen to be postmaster at Grant, Mich., in place of Jens Hemingsen. Incumbent's commission expired December 14, 1912.

William T. Hosner to be postmaster at Romeo, Mich., in place of William T. Hosner. Incumbent's commission expires January 5, 1913.

John A. Sherman to be postmaster at Ludington, Mich., in place of Frank P. Dunwell, deceased.

MINNESOTA.

Marion G. Crawford to be postmaster at Lakefield, Minn., in place of Marion G. Crawford. Incumbent's commission expired December 14, 1912.

Olaf H. Dahl to be postmaster at Lyle, Minn., in place of Burton J. Robertson, resigned.

James M. Diment to be postmaster at Owatonna, Minn., in place of James M. Diment. Incumbent's commission expires January 22, 1913.

Charles Hoegh to be postmaster at Spring Grove, Minn., in place of Ole B. Tone. Incumbent's commission expired January 23, 1912.

Osborne A. Walker to be postmaster at Ellsworth, Minn., in place of James Walker. Incumbent's commission expired December 14, 1912.

MISSISSIPPI.

James W. Bell to be postmaster at Pontotoc, Miss., in place of James W. Bell. Incumbent's commission expires February 9, 1913.

Jasper F. Butler to be postmaster at Holly Springs, Miss., in place of Jasper F. Butler. Incumbent's commission expires January 29, 1913.

Walter A. Collins to be postmaster at Hattiesburg, Miss., in place of Walter A. Collins. Incumbent's commission expires February 24, 1913.

Harvey E. Fitts to be postmaster at Aberdeen, Miss., in place of Harvey E. Fitts. Incumbent's commission expires February 9, 1913.

Truman Gray to be postmaster at Waynesboro, Miss., in place of James R. S. Pitts. Incumbent's commission expired January 14, 1912.

Monroe L. Lott to be postmaster at Sumrall, Miss., in place of Monroe L. Lott. Incumbent's commission expires February 9, 1913.

Lillie W. Nugent to be postmaster at Rosedale, Miss., in place of Lillie W. Nugent. Incumbent's commission expires January 13, 1913.

Alexander Yates to be postmaster at Utica, Miss., in place of Alexander Yates. Incumbent's commission expires January 11, 1913.

MISSOURI.

J. Orval Ferguson to be postmaster at Willow Springs, Mo., in place of Charles Ferguson, resigned.

Arthur W. Schmidt to be postmaster at Clayton, Mo., in place of Frederick W. Denser, removed.

Franklin E. Smelser to be postmaster at Doniphan, Mo., in place of Otis M. Gary. Incumbent's commission expires January 12, 1913.

MONTANA.

Ithel S. Eldred to be postmaster at Deer Lodge, Mont., in place of Ithel S. Eldred. Incumbent's commission expires January 11, 1913.

Alice B. Hensley to be postmaster at Moore, Mont., in place of Patrick H. Tooley, deceased.

L. L. Mayland to be postmaster at Chester, Mont. Office became presidential April 1, 1911.

Horace A. Moulton to be postmaster at Lewistown, Mont., in place of Albert Pfaus. Incumbent's commission expires January 11, 1913.

Edward Stubban to be postmaster at Medicine Lake, Mont. Office became presidential October 1, 1912.

NEBRASKA.

George H. Borden to be postmaster at Beaver Crossing, Nebr., in place of George H. Borden. Incumbent's commission expired December 17, 1912.

Benton Cotterman to be postmaster at Petersburg, Nebr., in place of Benton Cotterman. Incumbent's commission expires January 11, 1913.

Charles C. Craig to be postmaster at Morrill, Nebr., in place of Walter L. Minor, resigned.

Estella M. Davisson to be postmaster at Long Pine, Nebr., in place of Estella M. Davisson. Incumbent's commission expires January 11, 1913.

James W. Fairfield to be postmaster at Mason City, Nebr., in place of James W. Fairfield. Incumbent's commission expires January 14, 1913.

Charles W. Gibson to be postmaster at Litchfield, Nebr., in place of Charles W. Gibson. Incumbent's commission expires January 12, 1913.

Darwin C. Grow to be postmaster at Loup City, Nebr., in place of Darwin C. Grow. Incumbent's commission expires January 11, 1913.

Peyton A. Montgomery to be postmaster at Edgar, Nebr., in place of J. J. Walley. Incumbent's commission expired May 15, 1912.

Isaac Roush to be postmaster at Kimball, Nebr., in place of Isaac Roush. Incumbent's commission expired December 17, 1912.

Clifton F. Stockwell to be postmaster at Bassett, Nebr., in place of Clifton F. Stockwell. Incumbent's commission expired December 17, 1912.

NEVADA.

Jessie E. Burnett to be postmaster at McGill, Nev., in place of Jessie E. Burnett. Incumbent's commission expired December 14, 1912.

Eugene L. Dutertre to be postmaster at Goleonda, Nev., in place of Mary E. Langwith, resigned.

NEW JERSEY.

Isaiah Apgar to be postmaster at Califon, N. J., in place of Isaiah Apgar. Incumbent's commission expires January 13, 1913.

Frederick W. Bohlen to be postmaster at Maurer, N. J., in place of Frederick W. Bohlen. Incumbent's commission expired December 16, 1912.

Charles F. Burney to be postmaster at Bradley Beach, N. J., in place of Charles F. Burney. Incumbent's commission expired December 16, 1912.

Leslie I. Cooke to be postmaster at Hackettstown, N. J., in place of Leslie I. Cooke. Incumbent's commission expired February 10, 1912.

Louis H. Donnelly to be postmaster at Atlantic City, N. J., in place of Harry Bacharach, resigned.

Joseph E. Fulper to be postmaster at Washington, N. J., in place of Joseph E. Fulper. Incumbent's commission expired December 16, 1911.

Thomas Graham to be postmaster at Point Pleasant, N. J., in place of Thomas Graham. Incumbent's commission expired December 16, 1912.

Howard V. Locke to be postmaster at Swedesboro, N. J., in place of Howard V. Locke. Incumbent's commission expires January 13, 1913.

Theodore S. Moore to be postmaster at Stockton, N. J., in place of Theodore S. Moore. Incumbent's commission expired May 11, 1912.

NEW MEXICO.

E. L. Ozanne to be postmaster at Santa Rita, N. Mex., in place of L. H. Bartlett, who declined appointment.

NEW YORK.

Arthur C. Agan to be postmaster at Fayetteville, N. Y., in place of Arthur C. Agan. Incumbent's commission expired December 16, 1912.

H. Putnam Allen to be postmaster at Fulton, N. Y., in place of William E. Hughes, resigned.

George W. Armstrong to be postmaster at Manlius, N. Y., in place of George W. Armstrong. Incumbent's commission expires January 29, 1913.

Clarence E. Bird to be postmaster at Sidney, N. Y., in place of George A. McKinnon. Incumbent's commission expires January 21, 1913.

Thomas A. Braniff to be postmaster at New Brighton, N. Y., in place of Thomas A. Braniff. Incumbent's commission expired December 16, 1912.

Elbert D. Crane to be postmaster at Addison, N. Y., in place of Charles L. Crane, resigned.

Fred A. Davis to be postmaster at Fort Edward, N. Y., in place of Fred A. Davis. Incumbent's commission expired December 16, 1912.

Fred A. Green to be postmaster at Copenhagen, N. Y., in place of Fred A. Green. Incumbent's commission expires January 21, 1913.

Norval D. Hart to be postmaster at Mexico, N. Y., in place of Wilfred A. Robbins, resigned.

Allen K. Hoag to be postmaster at Orchard Park, N. Y. Office became presidential October 1, 1912.

Melbourne Hutton to be postmaster at Nanuet, N. Y., in place of William Hutton, jr., resigned.

William B. Le Roy to be postmaster at Cohoes, N. Y., in place of William B. Le Roy. Incumbent's commission expired February 15, 1911.

Jonathan B. Morey to be postmaster at Dansville, N. Y., in place of Jonathan B. Morey. Incumbent's commission expired December 16, 1912.

J. Johnson Ray to be postmaster at Norwich, N. Y., in place of J. Johnson Ray. Incumbent's commission expired December 16, 1912.

Andrew B. Saxton to be postmaster at Oneonta, N. Y., in place of Charles F. Shelland. Incumbent's commission expired January 14, 1912.

Richard J. Shanahan to be postmaster at Syracuse, N. Y., in place of William Cowie. Incumbent's commission expired December 16, 1912.

Frank Stumpf to be postmaster at Stillwater, N. Y., in place of Frank Stumpf. Incumbent's commission expired December 16, 1912.

Mortimer R. Tefft to be postmaster at Greenwich, N. Y., in place of Mortimer R. Tefft. Incumbent's commission expired December 16, 1912.

Charles K. Williams to be postmaster at Phoenix, N. Y., in place of Charles K. Williams. Incumbent's commission expired December 16, 1912.

Judson S. Wright to be postmaster at Tully, N. Y., in place of Judson S. Wright. Incumbent's commission expires January 29, 1913.

William G. Wright to be postmaster at Milford, N. Y., in place of George Mumford. Incumbent's commission expired December 16, 1912.

NORTH CAROLINA.

William H. Jenkins to be postmaster at Henderson, N. C., in place of William H. Jenkins. Incumbent's commission expired June 22, 1910.

NORTH DAKOTA.

Robert D. Beery to be postmaster at Mott, N. Dak., in place of Frank I. Bonesho. Incumbent's commission expires January 27, 1913.

Anna Callahan to be postmaster at Casselton, N. Dak., in place of Anna Callahan. Incumbent's commission expires February 20, 1913.

William T. Cameron to be postmaster at Aneta, N. Dak., in place of William T. Cameron. Incumbent's commission expires February 20, 1913.

Henry Engelter to be postmaster at New Salem, N. Dak., in place of Henry Engelter. Incumbent's commission expires January 11, 1913.

Alice Gilbertson to be postmaster at Towner, N. Dak., in place of Alice Gilbertson. Incumbent's commission expires January 11, 1913.

Anthony Hentges to be postmaster at Michigan, N. Dak., in place of Maggie Fox. Incumbent's commission expires January 11, 1913.

Mads C. Knudsen to be postmaster at Esmond, N. Dak., in place of Mads C. Knudsen. Incumbent's commission expired February 4, 1912.

OHIO.

W. A. Carpenter to be postmaster at Athens, Ohio, in place of Charles H. Bryson, removed.

E. C. Gething to be postmaster at Hubbard, Ohio, in place of E. C. Gething. Incumbent's commission expired December 17, 1912.

Roscoe G. Hornbeck to be postmaster at London, Ohio, in place of Roscoe G. Hornbeck. Incumbent's commission expires January 13, 1913.

OKLAHOMA.

Sydney L. Bristow to be postmaster at Maud, Okla. Office became presidential January 1, 1912.

Alfred M. Clark to be postmaster at Gage, Okla., in place of Alfred M. Clark. Incumbent's commission expired December 17, 1912.

Erastus G. McRee to be postmaster at Granite, Okla., in place of Erastus G. McRee. Incumbent's commission expired December 17, 1912.

Downey Milburne to be postmaster at Coweta, Okla., in place of Downey Milburne. Incumbent's commission expired December 17, 1912.

George Ruddell to be postmaster at Weatherford, Okla., in place of George Ruddell. Incumbent's commission expired December 17, 1912.

S. C. Thompson to be postmaster at Dewey, Okla., in place of James M. Lusk, resigned.

Benjamin F. Williams to be postmaster at Sayre, Okla., in place of Benjamin F. Williams. Incumbent's commission expired December 17, 1912.

OREGON.

Marion F. Davis to be postmaster at Union, Oreg., in place of Marion F. Davis. Incumbent's commission expired February 12, 1912.

Wallace W. Smead to be postmaster at Heppner, Oreg., in place of Wallace W. Smead. Incumbent's commission expired December 18, 1911.

PENNSYLVANIA.

Edward C. Attlcks to be postmaster at Steelton, Pa., in place of Henry F. Hershey, deceased.

M. Z. Bassler to be postmaster at Martinsburg, Pa., in place of Charles A. Straesser, resigned.

Zacharias A. Bowman to be postmaster at Annville, Pa., in place of Zacharias A. Bowman. Incumbent's commission expires January 13, 1913.

Margaret W. Buchanan to be postmaster at Scalp Level, Pa., in place of Margaret W. Buchanan. Incumbents' commission expires January 12, 1913.

Elmer D. Carl to be postmaster at Greencastle, Pa., in place of Elmer D. Carl. Incumbent's commission expires January 13, 1913.

James G. Cook to be postmaster at New Alexandria, Pa., in place of James G. Cook. Incumbent's commission expired January 22, 1912.

Lehman E. Gantt to be postmaster at Newport, Pa., in place of Lehman E. Gantt. Incumbent's commission expires February 18, 1913.

Christian E. Geyer to be postmaster at Catawissa, Pa., in place of Christian E. Geyer. Incumbent's commission expires January 12, 1913.

John H. Grove to be postmaster at New Freedom, Pa., in place of John H. Grove. Incumbent's commission expired May 14, 1912.

Samuel W. Hamilton to be postmaster at Vandergrift, Pa., in place of Samuel W. Hamilton. Incumbent's commission expires January 26, 1913.

Burrell G. Ingraham to be postmaster at Herminie, Pa., in place of Burrell G. Ingraham. Incumbent's commission expired February 10, 1912.

Harry B. Jacobs to be postmaster at White Haven, Pa., in place of Pearl T. Feist, resigned.

Roger A. McCall to be postmaster at Trafford, Pa., in place of Roger A. McCall. Incumbent's commission expires January 14, 1913.

Walter L. Stevenson to be postmaster at West Newton, Pa., in place of Walter L. Stevenson. Incumbent's commission expires February 11, 1913.

Royal A. Stratton to be postmaster at Conneaut Lake, Pa., in place of Royal A. Stratton. Incumbent's commission expired December 16, 1912.

Albert H. Swing to be postmaster at Coatesville, Pa., in place of Albert H. Swing. Incumbent's commission expired December 16, 1912.

RHODE ISLAND.

Nathaniel H. Brown to be postmaster at East Greenwich, R. I., in place of Nathaniel H. Brown. Incumbent's commission expired December 14, 1912.

SOUTH CAROLINA.

James R. Montgomery to be postmaster at Marion, S. C., in place of James W. Johnson. Incumbent's commission expired March 13, 1912.

SOUTH DAKOTA.

Christian Aisenbrey to be postmaster at Menno, S. Dak. Office became presidential January 1, 1912.

Alvah T. Bridgman to be postmaster at Springfield, S. Dak., in place of Alvah T. Bridgman. Incumbent's commission expires January 22, 1913.

Minnie E. Long to be postmaster at Kimball, S. Dak., in place of John B. Long, deceased.

A. F. Miles to be postmaster at Mobridge, S. Dak., in place of John G. Vawter, resigned.

Marion H. Moore to be postmaster at Bellefourche, S. Dak., in place of Marion H. Moore. Incumbent's commission expired December 17, 1912.

TENNESSEE.

John Redd to be postmaster at Bolivar, Tenn., in place of John Redd. Incumbent's commission expires March 3, 1913.

TEXAS.

William W. Alexander to be postmaster at Ennis, Tex., in place of A. H. Culver, resigned.

George W. Andruss to be postmaster at Rotan, Tex., in place of George W. Andruss. Incumbent's commission expired December 16, 1912.

Leonard F. Barnhardt to be postmaster at Palmer, Tex. Office became presidential October 1, 1912.

W. H. Bradley to be postmaster at Trinity, Tex., in place of John H. Hill. Incumbent's commission expired December 16, 1911.

Harry C. Butler to be postmaster at Anson, Tex., in place of Clara A. Boynton, deceased.

James Wiley Butler to be postmaster at Tyler, Tex., in place of Jeff D. Burns, deceased.

Frank P. Cummins to be postmaster at Bellville, Tex., in place of Josephine Chesley, resigned.

John T. Cunningham to be postmaster at Graham, Tex., in place of John T. Cunningham. Incumbent's commission expired June 7, 1910.

Joseph M. Davis to be postmaster at Teague, Tex., in place of J. Wed Davis. Incumbent's commission expired May 23, 1912.

Gerhard Dube to be postmaster at Thorndale, Tex., in place of Gerhard Dube. Incumbent's commission expired April 2, 1912.

Lucius C. Guin to be postmaster at Mount Calm, Tex., in place of Lucius C. Guin. Incumbent's commission expired April 28, 1912.

Samuel H. Heath to be postmaster at New Boston, Tex., in place of Richard B. Harrison. Incumbent's commission expired May 28, 1910.

Jerra L. Hickson to be postmaster at Gainesville, Tex., in place of Jerra L. Hickson. Incumbent's commission expires January 7, 1913.

Albert S. Jones to be postmaster at Kosse, Tex., in place of Albert S. Jones. Incumbent's commission expired December 16, 1912.

W. H. Love to be postmaster at McKinney, Tex., in place of Samuel H. Cole. Incumbent's commission expired May 15, 1912.

George M. Mabry to be postmaster at Madisonville, Tex., in place of Joshua C. Brown, resigned.

Charles B. Milliken to be postmaster at Weatherford, Tex., in place of Robert B. Milliken, deceased.

William F. Neal to be postmaster at Overton, Tex. Office became presidential January 1, 1912.

Kate Nelson to be postmaster at Snyder, Tex., in place of Kate Nelson. Incumbent's commission expired April 2, 1912.

Edmund A. Potts to be postmaster at Caldwell, Tex., in place of Edmund A. Potts. Incumbent's commission expired December 16, 1911.

Clarence R. Reddon to be postmaster at De Leon, Tex., in place of Clarence R. Reddon. Incumbent's commission expired April 2, 1912.

Lucilus A. Robertson to be postmaster at Tioga, Tex. Office became presidential January 1, 1912.

Lora L. Rowell to be postmaster at Pearsall, Tex., in place of Lora L. Rowell. Incumbent's commission expires January 11, 1913.

Romulus S. Salmon to be postmaster at Brackettville, Tex., in place of Henry J. Veltmann. Incumbent's commission expired April 28, 1912.

Clarence Smith to be postmaster at Hereford, Tex., in place of Clarence Smith. Incumbent's commission expired December 16, 1911.

Joseph Stanley to be postmaster at Schulenburg, Tex., in place of Joseph Stanley. Incumbent's commission expired December 16, 1912.

Frank L. Waller to be postmaster at Mount Pleasant, Tex., in place of Michael A. Rickard. Incumbent's commission expired April 28, 1912.

Sam Wanda to be postmaster at Brookshire, Tex. Office became presidential April 1, 1912.

John W. White to be postmaster at Uvalde, Tex., in place of Guido R. Goldbeck, removed.

UTAH.

James Clove to be postmaster at Provo, Utah, in place of James Clove. Incumbent's commission expires January 13, 1913.

Effie R. Day to be postmaster at Lehi, Utah, in place of Stephen W. Ross, resigned.

L. W. Shurtliff to be postmaster at Ogden, Utah, in place of L. W. Shurtliff. Incumbent's commission expires January 11, 1913.

WASHINGTON.

Alonzo W. Carner to be postmaster at Castlerock, Wash., in place of Alonzo W. Carner. Incumbent's commission expires February 20, 1913.

William P. Ely to be postmaster at Kelso, Wash., in place of William P. Ely. Incumbent's commission expires January 5, 1913.

H. R. Grahlman to be postmaster at Conconnully, Wash., in place of Walter W. Cloud, resigned.

Theo Hall to be postmaster at Medical Lake, Wash., in place of Theo Hall. Incumbent's commission expired December 16, 1912.

Thomas N. Henry to be postmaster at Prosser, Wash., in place of Thomas N. Henry. Incumbent's commission expired January 16, 1911.

C. H. Kellogg to be postmaster at Puyallup, Wash., in place of George W. Edgerton. Incumbent's commission expired December 16, 1912.

Theodore W. Radtke to be postmaster at Mansfield, Wash. Office became presidential October 1, 1912.

WISCONSIN.

Erik N. Anderson to be postmaster at Sawyer, Wis., in place of Erik N. Anderson. Incumbent's commission expired December 12, 1911.

Altie B. Barnard to be postmaster at Red Granite, Wis., in place of Altie B. Barnard. Incumbent's commission expired December 14, 1912.

Morris F. Barteau to be postmaster at Appleton, Wis., in place of Morris F. Barteau. Incumbent's commission expired January 10, 1911.

Herman M. Blumenthal to be postmaster at Columbus, Wis., in place of Herman M. Blumenthal. Incumbent's commission expires January 11, 1913.

George E. Bogrand to be postmaster at Wausaukee, Wis., in place of George E. Bogrand. Incumbent's commission expired May 16, 1912.

Irving L. Bonniwell to be postmaster at Hartford, Wis., in place of Irving L. Bonniwell. Incumbent's commission expired April 24, 1912.

Frank C. Brown to be postmaster at Brandon, Wis., in place of Frank C. Brown. Incumbent's commission expired February 10, 1912.

Charles S. Button to be postmaster at Milton Junction, Wis., in place of Charles S. Button. Incumbent's commission expires January 22, 1913.

John L. Extrom to be postmaster at Tomahawk, Wis., in place of John L. Extrom. Incumbent's commission expired December 14, 1912.

Wallace S. Hager to be postmaster at West De Pere, Wis., in place of Wallace S. Hager. Incumbent's commission expired December 11, 1911.

Frank K. Havens to be postmaster at Prescott, Wis., in place of Frank K. Havens. Incumbent's commission expires January 12, 1913.

J. F. Jones to be postmaster at Pewaukee, Wis., in place of James B. Weaver. Incumbent's commission expires January 22, 1913.

Asenath A. Kasson to be postmaster at Mattoon, Wis., in place of Asenath A. Kasson. Incumbent's commission expired December 14, 1912.

George A. Kraemer to be postmaster at Elkhart Lake, Wis. Office became presidential July 1, 1910.

Joseph Longbotham to be postmaster at Cuba, Wis., in place of Joseph Longbotham. Incumbent's commission expired May 14, 1912.

Robert A. McDonald to be postmaster at Grand Rapids, Wis., in place of Robert A. McDonald. Incumbent's commission expired February 26, 1912.

Thomas McKinney to be postmaster at Berlin, Wis., in place of Thomas McKinney. Incumbent's commission expired December 18, 1911.

Phillip Menzner to be postmaster at Marathon, Wis. Office became presidential January 1, 1911.

George A. Robbins to be postmaster at Sheboygan Falls, Wis., in place of George A. Robbins. Incumbent's commission expired April 24, 1912.

James W. Simmons to be postmaster at Corliss, Wis., in place of James W. Simmons. Incumbent's commission expires January 12, 1913.

William White to be postmaster at Algoma, Wis., in place of William White. Incumbent's commission expired February 4, 1911.

CONFIRMATION.

Executive nomination confirmed by the Senate December 19, 1912.

POSTMASTER.

NEW HAMPSHIRE.

John H. Brown, Concord.

WITHDRAWAL.

Executive nomination withdrawn from the Senate December 19, 1912.

The nomination sent to the Senate on December 4, 1912, of John Holliday to be postmaster at Kirkwood, in the State of Illinois.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December 19, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father in heaven, we bless Thy holy name for the beautiful custom which obtains throughout Christendom in the Yuletide season, and we most fervently pray that the Christ spirit abroad in the land, knocking at the door of every heart, may be received with joy and gladness; that the affections of the home, ties of friendship, and brotherly love may be strengthened; that Thy kingdom may come and Thy will be done in earth as it is in heaven. And now, O Father, as we separate, in memory of the advent of the world's great Exemplar may Thy blessing be upon us to keep us in health and strength and bring us together again at the appointed time stronger, purer, nobler, the better fitted to do the work whereunto Thou hast called us; and we will ascribe all praise to Thee in the name of Him who lived and died that the world might know Thy love eternal and everlasting. Amen.

The Journal of the proceedings of yesterday was read and approved.

RESIGNATIONS.

The SPEAKER. The Chair lays before the House the following communications from the gentleman from Arkansas [Mr. ROBINSON].

The Clerk read as follows:

DECEMBER 19, 1912.

To the SPEAKER OF THE HOUSE OF REPRESENTATIVES,
Washington, D. C.

MR. SPEAKER: I ask to be excused from further service on the Committee on the Public Lands of the House of Representatives and also on the Committee on the Merchant Marine and Fisheries.

JOS. T. ROBINSON, M. C.,
Sixth Arkansas District.

DECEMBER 19, 1912.

To the SPEAKER OF THE HOUSE OF REPRESENTATIVES,
Washington, D. C.:

You are hereby informed that I have tendered my resignation as a Member of the Sixty-second Congress, to take effect January 14, 1913.

JOS. T. ROBINSON, M. C.,
Sixth Arkansas District.

The SPEAKER. Without objection, the resignation from the committees will be accepted. The other is simply an announcement.

There was no objection.

WITHDRAWAL OF PAPERS.

By unanimous consent, Mr. RICHARDSON was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Xantippe Jackson, Sixty-second Congress, no adverse report having been made thereon.

EXTENSION OF REMARKS ON IMMIGRATION BILL.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that I may extend my remarks on the immigration bill as it relates to Asiatic exclusion.

The SPEAKER. The gentleman from California [Mr. RAKER] asks unanimous consent to extend his remarks in the RECORD on Asiatic immigration. Is there objection? [After a pause.] The Chair hears none.

CHANGE OF REFERENCE.

Mr. SLAYDEN. Mr. Speaker——

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself into——

The SPEAKER. The Chair promised to recognize the other gentleman from Texas [Mr. SLAYDEN] about the reference of a bill, and under the rule he comes first. The Chair will recognize the other gentleman from Texas [Mr. STEPHENS] afterwards.

Mr. STEPHENS of Texas. Then I desire to be recognized afterwards.

Mr. SLAYDEN. I desire to say to my colleague I shall take only a minute, because, if objection is made, under the rule I can not. I simply want to invite the attention of the House to what, as I previously stated, I conceive to be an erroneous reference of Senate concurrent resolution 32 which on the 13th of this month was sent to the Committee on Appropriations instead of to the Committee on the Library that had jurisdiction of this matter.

The SPEAKER. The gentleman from Texas [Mr. SLAYDEN] moves to change the reference of Senate concurrent resolution 32 from the Committee on Appropriations to the Committee on the Library. This motion is not debatable.

Mr. SLAYDEN. Mr. Speaker, I ask unanimous consent for the privilege of making a brief reference to the rules that touch on this matter.

Mr. BORLAND. Mr. Speaker, I will have to object to that.

The SPEAKER. The gentleman from Missouri objects.

Mr. SLAYDEN. Then, Mr. Speaker, I make the motion the Speaker has just stated.

The SPEAKER. The Chair will state, to elucidate this matter, that if this change of reference is made a change also ought to be made about the report. The Clerk will report the concurrent resolution, so the House will understand it.

The Clerk read as follows:

Senate concurrent resolution 32.

Resolved by the Senate (the House of Representatives concurring), That the plan, design, and location for a Lincoln Memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, approved.

The SPEAKER. The question is on the change of reference of the concurrent resolution from the Committee on Appropriations to the Committee on the Library.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. BORLAND. Division, Mr. Speaker.

The House divided; and there were—ayes 41, noes 14.

Mr. BORLAND. Mr. Speaker, I raise the point of no quorum.

The SPEAKER. The gentleman from Missouri [Mr. BORLAND] makes a point that there is no quorum present. The Doorkeeper will close the doors, and the Sergeant at Arms will notify the absentees.

ADJOURNMENT.

Mr. FOSTER. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from Illinois moves that the House do now adjourn.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. MADDEN. Division, Mr. Speaker.

The House divided; and there were—ayes 51, noes 35.

So the motion was agreed to; accordingly (at 12 o'clock and 17 minutes p. m.) the House, under its previous order, adjourned until Thursday, January 2, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, pursuant to law, report of expenditures on account of appropriations for contingent expenses of the War Department, 1912 (H. Doc. No. 1182); to the Committee on Expenditures in the War Department and ordered to be printed.

2. A letter from the Secretary of the Navy, transmitting, pursuant to law, a statement showing in detail what officers or employees of the Navy Department who are paid out of the appropriation contained in the legislative, executive, and judicial act have traveled on official business from Washington to points outside the District of Columbia during the fiscal year ended June 30, 1912 (H. Doc. No. 1183); to the Committee on Expenditures in the Navy Department and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting communication from the Secretary of War submitting supplemental estimate of appropriation for barracks and quarters for such United States troops as may be in China during the fiscal year 1914 (H. Doc. No. 1184); to the Committee on Military Affairs and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting communication from the Secretary of War submitting supplemental estimate of appropriation for establishment of post for Coast Artillery troops on the military reservation at Fort Kamehameha, Hawaii (H. Doc. No. 1185); to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Massachusetts, at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

A letter from the Board of Commissioners of the District of Columbia, transmitting to the House of Representatives the report of the Auditor of the District of Columbia relating to the expenditure of travel expenses (H. Doc. No. 1187); to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of the Interior, transmitting reports of receipts from rentals, extension of Capitol Grounds, for the period ending November 30, 1912 (H. Doc No. 1186); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 25527) for the relief of George W. Cary, reported the same without amendment, accompanied by a report (No. 1277); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MERRITT: A bill (H. R. 27446) to provide for the extension, enlargement, and remodeling of the Federal building at Plattsburg, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. SLOAN: A bill (H. R. 27447) to grant pensions to blind sons and daughters of ex-Union soldiers; to the Committee on Invalid Pensions.

By Mr. HEALD: A bill (H. R. 27472) to amend section 3287 of the Revised Statutes of the United States as amended by the act of March 2, 1911; to the Committee on Ways and Means.

By Mr. HARDWICK: Memorial from the General Assembly of the State of Georgia, relative to the proposed amendment to the Constitution of the United States providing for election of United States Senators by the people; to the Committee on Election of President, Vice President, and Representatives in Congress.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON: A bill (H. R. 27448) granting a pension to Michael Fogarty; to the Committee on Invalid Pensions.

By Mr. AUSTIN: A bill (H. R. 27449) granting an increase of pension to Mary A. Clawson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27450) granting an increase of pension to Derris Gregg; to the Committee on Pensions.

Also, a bill (H. R. 27451) granting an increase of pension to Jacob G. Dague; to the Committee on Invalid Pensions.

By Mr. AYRES (by request): A bill (H. R. 27452) for the relief of C. Willis Goff; to the Committee on Claims.

By Mr. BARTHOLDT: A bill (H. R. 27453) granting a pension to Laura Hohlstein Hromatka; to the Committee on Pensions.

Also, a bill (H. R. 27454) granting a pension to Philipine Schubert; to the Committee on Invalid Pensions.

By Mr. COX of Indiana: A bill (H. R. 27455) granting an increase of pension to Smith McCallister; to the Committee on Invalid Pensions.

By Mr. DICKINSON: A bill (H. R. 27456) for the relief of James M. Mock; to the Committee on Military Affairs.

Also, a bill (H. R. 27457) granting an increase of pension to James K. Dickinson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27458) granting an increase of pension to Robert A. White; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 27459) granting a pension to Barbara Henderson; to the Committee on Pensions.

By Mr. LAFEAN: A bill (H. R. 27460) granting an increase of pension to David F. Forney; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 27461) granting an increase of pension to Allen T. Landress; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27462) granting an increase of pension to John A. McDermott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27463) for the relief of the legal representatives of George W. Spruce, deceased; to the Committee on War Claims.

By Mr. MADDEN: A bill (H. R. 27464) for the relief of John M. Green; to the Committee on Military Affairs.

Also, a bill (H. R. 27465) granting a pension to Frederick M. Ottmar; to the Committee on Pensions.

By Mr. RAUCH: A bill (H. R. 27466) granting a pension to David W. Brannen; to the Committee on Pensions.

Also, a bill (H. R. 27467) granting a pension to Amos W. Hills; to the Committee on Pensions.

Also, a bill (H. R. 27468) granting a pension to Lucetta Bentz; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 27469) granting an increase of pension to William R. Whittaker; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 27470) granting an increase of pension to Horace W. Hunt; to the Committee on Invalid Pensions.

By Mr. STEVENS of Minnesota: A bill (H. R. 27471) directing the accounting officers of the Treasury to credit and settle an account of Maj. George H. Penrose; to the Committee on Claims.

By Mr. HOBSON: A bill (H. R. 27473) granting a pension to Sarah B. Scott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27474) granting an increase of pension to La Salle C. Pickett; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Petition of citizens of Cincinnati, Ohio, favoring an investigation by Congress of the mining conditions in West Virginia; to the Committee on Labor.

By Mr. ANDERSON: Papers to accompany bill granting a pension to Michael Fogarty; to the Committee on Invalid Pensions.

By Mr. BARTHOLDT: Petition of the Sisters of Notre Dame of St. Louis, Mo., favoring passage of a bill for reduction of postage on all written school work and examination papers; to the Committee on the Post Office and Post Roads.

Also, petition of Edward V. P. Schneiderhahn and the St. Louis Branch of the American Federation of Catholic Societies, of St. Louis, Mo., protesting against the passage of the Jones bill granting the Philippine Islands their independence; to the Committee on Insular Affairs.

By Mr. BURNETT: Petition of the Farmers' Educative and Cooperative Union of America, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FULLER: Petition of the Manila Welfare Committee, favoring a bond issue of $10,000,000 for the reclaiming and making sanitary the swamp lands around Manila; to the Committee on Insular Affairs.

Also, petition of the National Society for the Promotion of Industrial Education, favoring the vocational education bill; to the Committee on Education.

By Mr. GALLAGHER: Petition of the Chicago Woman's Aid, Chicago, Ill., favoring legislation reducing the tax on oleomargarine from 10 cents per pound to not more than 2 cents; to the Committee on Agriculture.

By Mr. HINDS: Papers to accompany bill granting a pension to Barbara Henderson; to the Committee on Pensions.

Also, petition of the First Baptist Church of Yarmouth, Me., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquors into dry territory; to the Committee on the Judiciary.

Also, papers to accompany a bill to amend and correct the military record of Thomas Decker; to the Committee on Military Affairs.

By Mr. MERRITT: Petition of Rev. James A. Perry and others, of Champlain, N. Y., and of Rev. C. E. Torrance and others, of Chazy, N. Y., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. SIMMONS: Petition of 34 residents of Silver Springs, N. Y., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. SMITH of Michigan: Petition of 49 members of the Congregational Christian Endeavor of Kalamazoo, Mich., favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of 53 citizens of Kalamazoo, Mich., protesting against the passage of any legislation enlarging the parcel-post zone bill; to the Committee on the Post Office and Post Roads.

SENATE.

THURSDAY, *January 2, 1913.*

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the following prayer:

O God, our help in ages past, our hope for years to come, as Thou dost open before us the portals of a new year we enter with thanksgiving for all Thy mercies and with fervent prayers for Thy continued guidance. Hitherto, O Lord, hast Thou led us; take not from us now, we beseech Thee, Thy tender compassions. We know not the way before us, neither do we ask; we are content, our Father, to follow where Thou shalt lead us and to commit our lives to Thy keeping. So receive us, and grant that no sorrow may overwhelm us, and that no prosperity may make us forget Thee. And so at the end of the year, as at its beginning, may we render unto Thee thanksgiving and praise. And Thine shall be the glory now and forevermore. Amen.

WILLIAM O. BRADLEY, a Senator from the State of Kentucky, and JOHN W. KERN, a Senator from the State of Indiana, appeared in their seats to-day.

Mr. GALLINGER took the chair as President pro tempore under the order of the Senate of December 16, 1912.

The Secretary proceeded to read the Journal of the proceedings of Thursday, December 19, 1912, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificates of ascertainment of electors for President and Vice President appointed in the States of Arizona, California, Connecticut, Iowa, Kentucky, Louisiana, Montana, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, and West Virginia at the elections held in these States November 5, 1912, which were ordered to be filed.

EXPENSES OF ATTENDANCE AT MEETINGS OR CONVENTIONS.

The PRESIDENT pro tempore laid before the Senate a communication from the Attorney General, transmitting, pursuant to law, a statement of the expenses incurred from June 30, 1912, to December 1, 1912, of the attendance of officers or employees of the Department of Justice at meetings or conventions of societies or associations (H. Doc. No. 1213), which was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Librarian of Congress, transmitting, pursuant to law, a detailed statement of all expenses of the attendance of officers or employees of the Library of Congress at meetings or conventions that have been incurred from June 30, 1912, to December 1, 1912 (H. Doc. No. 1212), which was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, a detailed statement of all expenses incurred from June 30, 1912, to December 1, 1912, for the attendance of officers and employees at meetings of societies and associations (H. Doc. No. 1210), which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a statement showing in detail the expenses incurred from June 30, 1912, to December 1, 1912, by officers and employees of the Department of Agriculture who attended meetings or conventions of

any society or association (H. Doc. No. 1215), which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Interstate Commerce Commission, transmitting, pursuant to law, a detailed statement of expenses incurred by officers and employees in connection with meetings or conventions, under written direction of the commission (H. Doc. No. 1209), which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

EXPENSES OF LEGISLATURE OF TERRITORY OF ALASKA.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior, submitting an estimate of appropriation to meet the expenses of the Legislature of the Territory of Alaska in the sum of $45,260 (S. Doc. No. 991), which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

J. WEBSTER HENDERSON v. UNITED STATES.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of J. Webster Henderson, executor of Robert M. Henderson, deceased, v. The United States (S. Doc. No. 960), which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a petition of members of the Maritime Association of the Port of New York, praying that an appropriation be made for the construction of a jetty upon the Grand Bank of Newfoundland, which was referred to the Committee on Commerce.

He also presented resolutions adopted at a meeting of the Association of National Advertising Managers, held at Chicago, Ill., remonstrating against the passage of the so-called Oldfield patent bill, which were referred to the Committee on Patents.

He also presented resolutions adopted by members of Camp Sitka, Arctic Brotherhood, of Sitka, Alaska, favoring an appropriation for the repair and improvement of the Sitka National Monument, which were referred to the Committee on Territories.

He also presented resolutions adopted by the Coal Exchange of Philadelphia, Pa., favoring an appropriation for the building of a dry dock at the navy yard at that city, which were referred to the Committee on Naval Affairs.

Mr. LODGE. I present a communication from the president of the Massachusetts Historical Society. It is very brief, and I ask that it be printed in the RECORD and referred to the Committee on the Library.

There being no objection, the communication was referred to the Committee on the Library and ordered to be printed in the RECORD, as follows:

MASSACHUSETTS HISTORICAL SOCIETY,
Boston, December 16, 1912.

To the Senate and House of Representatives:

The Massachusetts Historical Society urges the erection of a national archives building in the city of Washington, and the transfer to it from time to time of such archives in the possession of the various departments and Congress as are not needed for the immediate service of administrative or legislative routine. The wholesale injury and loss of such archives in the past, the absence of organized care and arrangement in the preservation of what remain, and the lack of space and trained attendance for use and consultation call for such a central building and a properly organized bureau of archives. Widely scattered as these records now are, and often placed in storage where they can not be consulted or guarded from the dangers surrounding such material, they are carried at great cost and inconvenience both to officers in charge and to investigators in history. The preservation of this historical and administrative material can not be too strongly urged, and a central archives building is the only rational and economic solution of the problem.

On behalf of the Massachusetts Historical Society and by authority of its council.

CHARLES FRANCIS ADAMS, *President.*

Mr. CULLOM presented a petition of Local Union No. 1117, United Mine Workers of America, of Marion, Ill., praying for the passage of the so-called injunction limitation bill, which was ordered to lie on the table.

He also presented the petition of C. L. Harcourt and A. Z. Harcourt, of Chestnut, Ill., praying that an appropriation be made for the protection of migratory birds, which was ordered to lie on the table.

Mr. BRANDEGEE presented a petition of members of the State Board of Education of Connecticut, praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

Mr. JONES presented resolutions adopted by the Chamber of Commerce of Montesano, Wash., remonstrating against the submission to The Hague Tribunal for ratification the matter of the Panama Canal controversy between Great Britain and the United States, which were referred to the Committee on Interoceanic Canals.

He also presented a resolution adopted by the Chamber of Commerce of Montesano, Wash., favoring an appropriation for the fortification of Grays and Willapa Harbors in that State, which was referred to the Committee on Military Affairs.

He also presented resolutions adopted by the Chamber of Commerce of Montesano, Wash., favoring the enactment of legislation to further restrict immigration, which were ordered to lie on the table.

Mr. PENROSE presented a petition of members of the Maritime Exchange of Philadelphia, Pa., praying for the enactment of legislation providing for a reduction of the rate of postage on first-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

Mr. JOHNSON of Maine presented petitions of sundry citizens of North Anson, China, and Monticello, all in the State of Maine, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. McLEAN presented petitions of Local Grange No. 24, of Berlin; Local Grange No. 38, of New Canaan; Local Grange No. 169, of Riverton; Local Grange No. 147, of Lyme; Local Grange No. 54, of Plainville; and of Local Grange No. 94, of East Windsor, all of the Patrons of Husbandry, in the State of Connecticut, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were ordered to lie on the table.

He also presented a petition of members of the State Board of Agriculture of Connecticut, remonstrating against any change being made in the oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented memorials of members of the German-American Alliance of New Haven, Waterbury, and Seymour, all in the State of Connecticut, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. PERKINS presented a resolution adopted by the Prospect Heights Citizens' Association, of California, praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

He also presented resolutions adopted by the California Associated Societies for the Conservation of Wild Life, favoring the establishment of additional game refuges throughout the country, which were referred to the Committee on Forest Reservations and the Protection of Game.

He also presented resolutions adopted by the California Associated Societies for the Conservation of Wild Life, favoring Federal protection of migratory birds, etc., which were ordered to lie on the table.

He also presented a resolution adopted by the executive committee of the Railway Business Association, favoring the enactment of legislation granting a Federal charter to the Chamber of Commerce of the United States, which was referred to the Committee on the Judiciary.

He also presented resolutions adopted by the Chamber of Commerce of San Francisco, Cal., remonstrating against a reduction of the tariff on sugar, which were referred to the Committee on Finance.

Mr. CURTIS presented petitions of sundry citizens of Oxford, Olathe, and Soldier, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. GALLINGER presented the petition of Joseph H. Haskell, of Claremont, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of the Ministerial Association of Berlin, N. H., and a petition of the City Council of Berlin, N. H., praying that an appropriation be made for the erection of a Federal building in that city on the site already acquired by the Government, which were referred to the Committee on Public Buildings and Grounds.

He also presented a petition of the Columbia Heights Citizens' Association, of the District of Columbia, praying for the enactment of legislation regulating the use of public-school buildings in the District, which was referred to the Committee on the District of Columbia.

He also presented a petition of members of the Bankers' Association of the District of Columbia, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was ordered to lie on the table.

He also presented a petition of Emanuel Chapter, No. 191, Brotherhood of St. Andrew, of Washington, D. C., praying for the passage of the so-called Kenyon red-light injunction bill, which was referred to the Committee on the District of Columbia.

EXTENSION DEPARTMENTS IN AGRICULTURAL COLLEGES.

Mr. SMITH of Georgia. Mr. President, I wish to present to the Senate numerous additional indorsements of the bill for the creation of extension departments in the land-grant agricultural colleges. I do not ask that they be printed in the RECORD, but I will call attention to them.

They are from the Maine Seed Improvement Association; the Maine Dairymen's Association; the Maine Association of Agricultural Students; the Maine Creamerymen's Association; the Maine Live Stock Breeders' Association; the Maine Federation of Agricultural Associations; Cumberland Grange, No. 2, of Rhode Island; Richmond Grange, No. 6, of Rhode Island; Laurel Grange, No. 4, of Rhode Island; Ashaway Grange, No. 50, of Rhode Island; Quonocontaug Grange, No. 48, of Rhode Island; West Virginia Federation of Women's Clubs; Illinois Federation of Women's Clubs; Hope Valley Grange, No. 7, of Rhode Island.

I wish also to call attention to a short article by Dr. Kenyon S. Butterfield, president of the Massachusetts Agricultural College, urging the prompt passage of this measure. The article appeared in Business America. He refers to the impossibility of passing the Page bill at the present session of Congress, and, while approving the general policy of Federal aid to industrial education, he questions the wisdom of passing the bill in its present form, and suggests the appointment of experts from different parts of the country to whom the measure should be referred to work out the details and have the same ready for introduction at the next session of Congress.

I ask that the article by Dr. Butterfield be printed in the RECORD, and hope that the views he presents will receive consideration by Senators on account of their clearness and the value of the source from which they come.

The PRESIDENT pro tempore. The bill having been reported to the Senate the petitions will lie on the table, and, without objection, the article referred to will be printed in the RECORD.

The article referred to is as follows:

AN IMPORTANT ISSUE.

There are now before Congress two bills of vital significance in the development of American agriculture.

One bill, introduced by Congressman LEVER, of South Carolina, is known as H. R. 22871, and is intended "to establish agricultural extension departments in connection with agricultural colleges in the several States." It is sincerely hoped that this bill will be passed.

A similar bill was introduced into the Senate by Senator HOKE SMITH, of Georgia, who is now championing the House bill in the Senate.

The other bill, introduced by Senator PAGE, of Vermont, is known as S. 3, and if passed would make it possible for "the National Government to cooperate with the States in encouraging instruction in agriculture, the trades and industries, and home economics in secondary schools; in maintaining instruction in these vocational subjects in State normal schools; in maintaining extension departments in State colleges of agriculture and mechanic arts."

The terms of both of these bills and arguments for them are simply stated in the articles by Congressman LEVER and Senator PAGE, which appear in this issue. We have also outlined in another article the main features of what we regard as the most important reasons for the passage of the agricultural extension bill.

Both of these measures should be passed eventually, because both are essential to the best development of our American system of agricultural education.

Unfortunately some antagonism has been created between the friends of the two bills. The main provisions of the extension bill are incorporated in the Page bill. This is a mistake. The two do not belong together. The extension bill is intended to complete the system of Federal aid to colleges of agriculture which now provide for instruction to students, and research or investigation, and which ought also to provide for that third great task of the colleges, the extension of agricultural teaching to all the people.

This is the greatest single task that we now face so far as agriculture is concerned. We know enough about scientific agriculture to revolutionize our American system of farming, but we need to spread that knowledge broadcast and to try to reach practically every farmer. Thousands upon thousands of the better American farmers are now utilizing this knowledge to the full, but American agriculture can not be brought to its best estate until this knowledge is diffused among the great masses of those who till the soil. There is no other way to re-create our American agriculture. The great success of a comparatively few educated farmers has little immediate effect on the agricultural situation. We can expect results only when practically all the men responsible for the farming of our 7,000,000 farms are following modern methods.

Now, the key to this situation is education. And no matter what help may come from agricultural papers, from the example of progressive farmers, from the aid of the United States Department of Agriculture, in the long run the permanent work of educating the masses of adult American farmers must lie with the agricultural colleges. It is a national task which the Federal Government must aid, but which the States must carry out.

On the other hand the Page bill proposes a system of institutions of high-school grade partly for the purpose of teaching agriculture. This is a greatly needed part of our new system of agricultural education. Only a few of the farm boys will go through the agricultural college. Very little practical agriculture can be taught in the lower grades. We need agricultural departments in the public schools as well as special schools of agriculture. We believe that this work also should be supported in part by the National Government. We do not agree with all the details of the Page bill, but the purpose is sound, the object of vital consequence, and the appropriation should be made. The bill, however, should not include the extension service. The two bills have different aims and cover entirely different grounds. The funds appropriated by them must be administered separately, and it is neither statesmanlike nor wise to bring these two things into one bill.

We therefore urge all the friends of both measures to try to come together in a plan for cooperation. The practical thing to do is to pass the extension bill at the short session of Congress and then to call a conference of not to exceed 25 experts, representing all the interests involved in the legislation contemplated by the Page bill, and patiently thrash out the details of the bill in the light of a few broad, general principles that should be agreed upon at the outset. This is a bill that involves a good deal of money. More than that, it involves a new procedure in our whole scheme of education. It should not be entered upon hastily. No bill should pass Congress that does not have the practically unanimous approval of all those institutions and agencies that will be obliged to cooperate when the bill becomes a law.

This is no time for misunderstanding or controversy. It is a time for action, and the practical, sensible action we have just indicated. And we hope that every friend of these two bills will accept this suggestion and that it may be acted upon at once.

It is peculiarly appropriate that the extension bill should pass before January 1. In 1862 President Lincoln, during the darkest hours of the war, signed the first Morrill bill, which created this great system of American agricultural colleges. In 1887, 25 years later, a bill introduced by Representative Hatch, of Missouri, was signed, which established a nation-wide system of agricultural research through the organization of agricultural experiment stations. The future historian should be able to write that 25 years later, or half a century after the establishment of the agricultural colleges, there was passed a bill which made possible the extension to all the people of the land the results of these 50 years of agricultural-college teaching and of these 25 years of agricultural experiment-station investigation. Some may say that this coincidence is merely a matter of sentiment, but it is a worthy sentiment.

The extension bill has passed the House. It simply requires the prompt action of the Senate immediately on its assembling this month. We know of no more important act of legislation for advancing the welfare of our agricultural people, nor one that promises more directly or immediately to reduce the cost of living, than the immediate passage of this bill.

KENYON L. BUTTERFIELD.

ILLINOIS RIVER BRIDGE.

Mr. MARTIN of Virginia, from the Committee on Commerce, to which was referred the bill (S. 7637) to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill., reported it without amendment and submitted a report (No. 1080) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PAYNTER:

A bill (S. 7852) for the relief of Lexington Lodge, No. 1, Free and Accepted Masons, of Lexington, Ky., and the Grand Lodge, Free and Accepted Masons, of the State of Kentucky; to the Committee on Claims.

By Mr. McCUMBER:

A bill (S. 7854) for the relief of John H. Fesenmeyer, alias John Wills (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 7855) to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota; to the Committee on Commerce.

A bill (S. 7856) granting a pension to Lucinda H. Knox;

A bill (S. 7857) granting an increase of pension to Helen L. Chatfield;

A bill (S. 7858) granting an increase of pension to John A. Baird;

A bill (S. 7859) granting an increase of pension to George Washington Sumpter (with accompanying papers);

A bill (S. 7860) granting a pension to Emma Myers (with accompanying papers);

A bill (S. 7861) granting an increase of pension to Lurinda P. Barnes (with accompanying papers); and

A bill (S. 7862) granting a pension to William A. Smylie (with accompanying papers); to the Committee on Pensions.

By Mr. CUMMINS:

A bill (S. 7863) granting an increase of pension to David R. Edmonds (with accompanying papers);

A bill (S. 7864) granting a pension to Electa Marsh (with accompanying papers); and

A bill (S. 7865) granting a pension to Tilford A. Steele (with accompanying papers); to the Committee on Pensions.

By Mr. SMOOT:

A bill (S. 7866) for the relief of James Lafferty; to the Committee on Claims.

By Mr. TOWNSEND:

A bill (S. 7867) granting a pension to Belle Palmer (with accompanying paper); and

A bill (S. 7868) granting a pension to Martha E. Patterson (with accompanying paper); to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 7869) granting an increase of pension to David A. Byers;

A bill (S. 7870) granting an increase of pension to John N. Jones;

A bill (S. 7871) granting a pension to David R. Todd (with accompanying paper);

A bill (S. 7872) granting an increase of pension to James H. Ragsdale (with accompanying paper); and

A bill (S. 7873) granting a pension to Daniel Howrey (with accompanying paper); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 7874) granting a pension to James Allison; to the Committee on Pensions.

By Mr. PERKINS:

A bill (S. 7875) to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal.; to the Committee on Public Lands.

A bill (S. 7876) to prevent hazing at the United States Naval Academy; and

A bill (S. 7877) to authorize a dietitian for the Nurse Corps (female) of the United States Navy; to the Committee on Naval Affairs.

By Mr. NELSON:

A bill (S. 7878) for the relief of Severin and Berthe L. Evensen, dependent parents of Sigurd Evensen; to the Committee on Claims.

A bill (S. 7879) to remove the charge of desertion from the military record of John Inglis (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 7880) granting an increase of pension to Edward A. Mace (with accompanying papers); and

A bill (S. 7881) granting an increase of pension to Mary J. Van Orden (with accompanying papers); to the Committee on Pensions.

By Mr. BURTON:

A bill (S. 7882) granting a pension to Mary J. Thomas; to the Committee on Pensions.

By Mr. CLAPP (for Mr. GAMBLE):

A bill (S. 7883) to establish a reservation for the Rocky Boy's Band of Chippewa Indians and certain other Indians in the State of Montana; and

A bill (S. 7884) providing for the prohibition of the sale of intoxicating liquor within the present boundaries of the Blackfeet Indian Reservation, in the State of Montana; to the Committee on Indian Affairs.

By Mr. PENROSE:

A bill (S. 7885) for the relief of Caleb Aber; and

A bill (S. 7886) for the relief of every officer or private soldier who was honorably discharged after 90 days' service in the Army, Navy, or Marine Corps of the United States during the War of the Rebellion; to the Committee on Military Affairs.

A bill (S. 7887) to provide for the retirement of employees in the civil service; to the Committee on Civil Service and Retrenchment.

A bill (S. 7888) granting a pension to Eleanor R. Evans (with accompanying paper); to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 7889) to authorize the widening and opening of Rhode Island Avenue from Fourth Street east to the District line (with accompanying papers);

A bill (S. 7890) to authorize the opening of a minor street from Georgia Avenue to Ninth Street NW., through squares 2875 and 2877, and for other purposes (with accompanying papers); and

A bill (S. 7891) to provide for annual assessments of real estate in the District of Columbia; to the Committee on the District of Columbia.

A bill (S. 7892) granting an increase of pension to Susan M. Wyatt (with accompanying papers); to the Committee on Pensions.

By Mr. CURTIS:

A bill (S. 7893) to correct the military record of F. E. Smith; and

A bill (S. 7894) to correct the military record of A. Charlesworth; to the Committee on Military Affairs.

A bill (S. 7895) granting a pension to Frank Ferris;

A bill (S. 7896) granting a pension to Mrs. H. P. Knapp;

A bill (S. 7897) granting an increase of pension to Sarah Frye;

A bill (S. 7898) granting an increase of pension to Belle Huff (with accompanying paper);

A bill (S. 7899) granting a pension to Elizabeth Harris (with accompanying paper);

A bill (S. 7900) granting an increase of pension to John Sanderson (with accompanying papers); and

A bill (S. 7901) to amend section 4747 of the Revised Statutes relating to pensions (with accompanying paper); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 7902) granting a pension to Margaret L. Thompson;

A bill (S. 7903) granting an increase of pension to William H. Brewster;

A bill (S. 7904) granting an increase of pension to Margaret M. Cady; and

A bill (S. 7905) granting an increase of pension to Emma T. Barnes; to the Committee on Pensions.

By Mr. CATRON:

A bill (S. 7906) to remove the charge of desertion from the military record of James Pelloek; to the Committee on Military Affairs.

A bill (S. 7907) granting a pension to Frank A. Hill; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 7908) granting an increase of pension to Marion C. Turrill;

A bill (S. 7909) granting an increase of pension to Abbie A. Upson (with accompanying papers);

A bill (S. 7910) granting an increase of pension to Maria L. Bishop (with accompanying papers);

A bill (S. 7911) granting an increase of pension to Delia Wight (with accompanying papers);

A bill (S. 7912) granting an increase of pension to Imogene Crissey (with accompanying papers);

A bill (S. 7913) granting a pension to Cora H. Griswold (with accompanying papers);

A bill (S. 7914) granting an increase of pension to Henry A. Kelsey (with accompanying papers); and

A bill (S. 7915) granting an increase of pension to Ruth A. Quien (with accompanying papers); to the Committee on Pensions.

By Mr. FLETCHER:

A bill (S. 7916) granting an increase of pension to Michael Kearns; to the Committee on Pensions.

SANITARY WRAPPING OF BREAD IN THE DISTRICT OF COLUMBIA.

Mr. McCUMBER. I introduce a bill which I ask may be printed in the RECORD and referred to the Committee on the District of Columbia.

The bill (S. 7853) to provide for the sanitary wrapping of bread in the District of Columbia was read the first time by its title, the second time at length, and referred to the Committee on the District of Columbia, as follows:

Be it enacted, etc., That it shall be unlawful for any person, firm, or corporation engaged in the manufacture or baking of bread to be sold for food in the District of Columbia to remove such bread from the building in which it is baked or manufactured before inclosing it in a suitable sanitary wrapper or package that will protect it from dust, insects, or other contamination: *And provided further*, That it shall be unlawful for any dealer or other person to sell, deliver, or cause to be delivered in the District of Columbia any bread intended to be used as food unless the same is inclosed in a suitable sanitary wrapper or package that will protect it from dust, insects, or other contamination, and any person who shall violate the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof for each offense shall be fined not to exceed $100 or imprisoned not to exceed three months, or both, in the discretion of the court.

REPUBLICAN GOVERNMENT IN CHINA.

Mr. BACON. I introduce a joint resolution, which I ask may be read.

The joint resolution (S. J. Res. 146) providing for the recognition of the republican Government in China was read the first time by its title and the second time at length, as follows:

Whereas the people of China have asserted the right of self-government, and in pursuance thereof have thrown off the rule of monarchy and sought to establish for themselves a representative republican Government; and

Whereas in the time which has elapsed since the establishment of their present republican Government satisfactory evidence has been given that a permanent and stable Government has been established and will be maintained: Therefore be it

Resolved, etc., That the present republican Government of China is hereby recognized by the United States of America, with all the powers and privileges of their intercourse and relations with this Government properly appertaining to and in general extended to independent and sovereign governments and nations.

Mr. BACON. Mr. President, before moving the reference of the joint resolution, I desire to say one word.

It has been a subject matter of discussion almost ever since the foundation of this Government as to whether the function

of the recognition of an independent government, or, when there has been a change in government, the recognition of the stability and authority of a government is a function which belongs to the Executive or to the legislative branch of the Government. When I say "legislative," I should properly say the lawmaking branch of the Government, which includes both the two Houses and the President.

By some it is contended, and has been contended with much earnestness, that it is a function which exclusively belongs to the executive branch of the Government, whereas by others it has been contended with equal earnestness that it belongs to the lawmaking power of the Government. I believe the more conservative view is that which is represented by the opinion of many that the initiative can be taken by either the Executive alone or by the lawmaking power, embracing the joint action of both the legislative and the executive branches of the Government—the Congress and the President—acting in a legislative capacity. In my opinion, the ultimate power of decision is with the lawmaking power; and where the final action in such case has been taken by the Executive, it has been final through the acquiescence and approval of the Congress. But without now stopping to discuss the question I simply make the statement in order that my attitude may not be misunderstood in introducing the joint resolution. I move that it be referred to the Committee on Foreign Relations.

The motion was agreed to.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CLAPP submitted an amendment relative to the pay of electrical expert aids in the classified service of the Navy, etc., intended to be proposed by him to the naval appropriation bill, which was ordered to be printed and, with the accompanying paper, referred to the Committee on Naval Affairs.

He also (for Mr. GAMBLE) submitted an amendment proposing to appropriate $10,000 for the construction of headquarters for employees and $5,000 for repair and improvement of agency buildings, Pine Ridge Agency, S. Dak., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also (for Mr. GAMBLE) submitted an amendment authorizing the Secretary of the Interior to approve voucher No. 53 for the second quarter of the fiscal year ended June 30, 1911, for payment of the benefits to the Pine Ridge Indians, South Dakota, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. CURTIS submitted an amendment proposing to appropriate $270,400 for new construction at the military post, Fort Riley, Kans., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $50,000 for the construction of a bridge across the Kansas River at Fort Riley, Kans., etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $4,010.75 to pay D. C. Tillotson, of Topeka, Kans., in payment for work done in carrying out the provisions of the treaty with the Pottawatomie Indians, proclaimed April 9, 1862, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. ASHURST submitted an amendment proposing to appropriate $150,000 to provide school facilities for the children of the Navajo Tribe of Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $100,000 for the development of a water supply for the Navajo Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $30,000 for enlarging the irrigation system for the protection and irrigation of Indian lands within the Camp McDowell Indian Reservation, Ariz., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

WITHDRAWAL OF PAPERS—LUCY L. BANE.

On motion of Mr. SANDERS, it was

Ordered, That the papers accompanying Senate bill 5050, Sixty-second Congress, second session, granting a pension to Lucy L. Bane, be withdrawn from the files of the Senate, no adverse report having been made thereon.

HOMESTEAD ENTRYMEN IN NORTH IDAHO.

Mr. BORAH submitted the following resolution (S. Res. 414), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to furnish the Senate with a statement showing under and by what authority of law and by reason of what facts there is inserted in patents issued to certain homestead entrymen in north Idaho, upon lands formerly covered by the Coeur d'Alene Indian Reservation and other lands in what is known as the St. Maries and St. Joe country, a clause making said patents and the title of the said entryman subject to the application and rights of the Washington Water Power Co. for rights of way or the right of said company to submerge or overflow the land. The information is desired for the purpose of determining the right and authority of the department to insert such a clause in the patent both from the standpoint of the facts and the law.

FRIEDMAN CURE FOR TUBERCULOSIS.

Mr. GORE submitted the following resolution (S. Res. 415), which was read, considered by unanimous consent, and agreed to:

Resolved, That the President be requested to submit to the Senate at the earliest practicable date the results of any investigation made or being made by the American consul general in Germany or any other officer of the United States in regard to the Friedman cure for tuberculosis.

COMMITTEE SERVICE.

Mr. OWEN. I ask to be relieved from the chairmanship of the Committee on Pacific Railroads and from further service on that committee.

The PRESIDENT pro tempore. Without objection, the request of the Senator from Oklahoma will be complied with.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts and joint resolution:

On December 17, 1912:

S. J. Res. 144. Joint resolution authorizing payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess.

On December 19, 1912:

S. 6899. An act increasing the limit of cost for the erection and completion of a public building in the city of Richford, State of Vermont;

S. 3436. An act granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse;

S. 6283. An act increasing the cost of erecting a public building at Olympia, Wash.; and

S. 3974. An act to increase the limit of cost of the United States public building at Denver, Colo.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate resume the consideration of what is known as the omnibus claims bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19135) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

The PRESIDENT pro tempore. The question is on the amendment——

Mr. CRAWFORD. The amendment which I offered.

Mr. BRANDEGEE. I rise to a point of order, Mr. President.

Mr. LODGE. It is utterly impossible to hear what is going on.

The PRESIDENT pro tempore. The Senator from Connecticut will state his point of order.

Mr. BRANDEGEE. The point of order is that there is no order in the Chamber.

The PRESIDENT pro tempore. The Senator from Connecticut raises the point of order that there is too much disorder in the Chamber and that business can not be transacted. The Chair will appeal to Senators to preserve order, and will especially appeal to visitors in the Chamber and in the galleries to preserve order.

Mr. CRAWFORD. Mr. President, my amendment to the amendment offered by the Senator from Massachusetts [Mr. LODGE] has never been read at length. It was only partially read. I do not wish to call the bill up with a view of taking the time of the Senate now, as I understand the Senator from Texas [Mr. BAILEY] wishes to address the Senate. I only call the bill up so that it may have its place. Of course I expect to yield at any moment that the Senator from Texas is present, otherwise I will ask that the reading of my amendment to the amendment offered by the Senator from Massachusetts be resumed.

Mr. SMOOT. Mr. President, I should like to ask the Senator from South Dakota if he would be willing to lay the bill aside in order that the Senate may take up the calendar under Rule VIII, only considering bills to which there is no objection? The Senator from Texas will be here in a very few minutes, and meantime we can go on with those bills.

Mr. CRAWFORD. Upon that I desire to say that the omnibus claims bill has been before the Senate, and, if we are ever to get through with it, I feel that, in accordance with the pledge I have made, it is my duty to urge it at every possible opportunity.

Mr. SMOOT. Then I withdraw the suggestion.

The PRESIDENT pro tempore. The Secretary will resume, at the point where it was last left off, the reading of the amendment submitted by the Senator from South Dakota [Mr. CRAWFORD] to the amendment of the Senator from Massachusetts [Mr. LODGE].

The Secretary resumed the reading of the amendment to the amendment, at the top of page 12, and read to the bottom of page 16.

Mr. BAILEY entered the Chamber.

Mr. CRAWFORD. The Senator from Texas [Mr. BAILEY] now being in his place, I ask that the further reading of the amendment to the amendment be discontinued.

The PRESIDENT pro tempore. The reading will be suspended and the bill laid aside.

Mr. CRAWFORD. I give notice that to-morrow, at the close of the routine morning business, I shall ask the Senate to continue the consideration of the pending bill.

THE INITIATIVE AND REFERENDUM.

Mr. BAILEY. Mr. President, I ask that Senate resolution 413 be laid before the Senate.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution which the Secretary will read.

The Secretary read the resolution (S. Res. 413) submitted by Mr. BAILEY December 19, 1912, as follows:

Resolved, That such a system of direct legislation as the initiative and referendum would establish is in conflict with the representative principle on which this Republic was founded, and would, if adopted, inevitably work a radical change in the character and structure of our Government.

Mr. BAILEY. Mr. President, during my service of more than twenty-one years in the two Houses of Congress I have never before delivered an address in either of them intended more for the country at large than for the body itself, and I would not now depart from a rule which I have followed so long and which commends itself so fully to my judgment except for the extraordinary situation in which we find ourselves with respect to the questions embraced in the pending resolution.

For several years the advocates of the initiative and referendum have conducted a campaign in their behalf with an industry and a zeal unparalleled in American politics. They have used the CONGRESSIONAL RECORD to disseminate their arguments, and not content with the number or the kind of readers whom they could reach through that publication, they have printed what they desired to circulate as separate documents, which they have sent into more than three million homes. They have filled every newspaper and magazine whose columns were open to them with their appeals; and from every lecture platform in the land they have urged those proposals as the true and the only remedy for the industrial and political evils which afflict our age and country.

On the other hand, the men who are opposed to the initiative and referendum have made no special effort to combat them. They have, it is true, protested from time to time with some degree of earnestness, but they have not followed their words with either the work or the organization calculated to achieve results, and in more than one instance they have suffered those cumbersome and illogical legislative methods adopted almost without resistance. An examination of the returns will show that those miscalled "reforms" have been incorporated into the organic law of several States by votes which did not represent twenty-five per cent of the qualified electors in those States, for the simple reason that no adequate attempt was made to instruct the people and bring them to the polls.

This remarkable condition has been due to different influences operating on the minds of different classes. Many of our most intelligent and successful business men are always so engrossed with the management of their private affairs that they often neglect, I regret to say, the performance of their highest duty to the public, and they have not up to this time taken any part in this contest. A still larger, and an equally intelligent, number of our people have treated it all as a transient distemper of the public mind, and expecting that it would soon pass away they have permitted the propaganda to proceed unchallenged. With these numerous and intelligent citizens inactive and apparently indifferent, many ambitious politicians have concluded that by an advocacy of those measures they could win official preferment and accordingly have joined in the noisy demand for their adoption.

Thus, Mr. President, these innovations have acquired a false appearance of strength, and that false appearance of strength has attracted the support of many who do not understand them and who will reverse their positions when they are made to understand them. But, sir, if the men who believe in a written Constitution and in the principles of a representative democracy do not meet this question courageously and discuss it before the people, we will soon reach the time when a discussion can not produce its proper effect. Personally, I have not been delinquent in this matter, for on every suitable occasion I have endeavored to expose, to the best of my ability, the dangers of this new political evangel; and yet, sir, I would feel that I had left something undone, if I did not, before retiring from the Senate, leave upon our record a fuller statement of the argument than I have heretofore found an opportunity to make.

When I drew the resolution to which I am speaking I limited it to the single proposition that the initiative and referendum are repugnant to the principles upon which this Government was founded; and I so limited it because I feared that the business of the Senate would not permit me to occupy more of its time than would be required to establish that proposition. I perfectly understood, of course, that the work which I had thus laid out for myself, no matter how thoroughly I might do it, would dispose of only one-half of the question; and the more I have considered it the more I have become convinced that, even at the risk of unduly taxing the patience of the Senate, I ought to go further and demonstrate also, if I can, that this Government, as established by our fathers, is a better government than that which the initiative and referendum would establish. And to that double task I shall now apply myself.

In the convention which framed our Constitution some delegates believed that a limited monarchy was the best government which the wisdom of men could devise, and the greatest intellect in that memorable body was one of that number; other delegates preferred an aristocracy, and among them were men of exalted character and unselfish patriotism; still other delegates—and I rejoice to say they composed an overwhelming majority—demanded a representative democracy; but among all of those illustrious patriots and statesmen there was not one who seriously contended for a direct democracy. That our fathers deliberately, and after great consideration, chose a representative democracy as the government best calculated to secure the liberties and promote the happiness of the people can be established by such an abundance of historical evidence that my difficulty has been to select from the mass of it sufficient to answer my purpose without unnecessarily consuming the time of the Senate. Fortunately, too, this evidence does not come from any one school of political thought, but men who held the most opposite opinions upon other questions were at perfect agreement on this. Here Hamilton and Madison occupied common ground; here Patterson and Pinckney, each the author of a plan of government, were in full accord; here Monroe and Marshall entertained and expressed the same views.

Mr. President, I realize that it will be extremely irksome for those who do me the honor to hear what I am saying on this occasion to listen to the quotations which I shall read from the letters and speeches of "The Fathers"; and if I were seeking merely to influence the opinion of Senators, I would not feel obliged to subject my audience to that tedious procedure, because I hope that I do not overestimate the esteem in which I am held by my associates when I assume that they would accept my statement of any historical fact without compelling me to support it by quotations. But, sir, I am striving to reach those outside of the Senate Chamber, upon whose intelligence and patriotism this Republic must depend for its existence; and as many of them have been misled by the yellow journals into doubting whatever I might say, I feel constrained to read into this record the conclusive evidence that with a full knowledge of the different kinds of government before them, our fathers rejected a monarchy, rejected an aristocracy, rejected a direct democracy, and wisely chose a representative democracy, which they called a Republic.

THE HISTORICAL EVIDENCE.

I shall first lay before the Senate what Mr. Madison has said upon this subject, and I give this precedence to his testimony because to him, more than to any other man, we owe the Constitution under which we live. It may be that there were delegates in the Philadelphia convention who bore a larger part in drafting the Constitution, or who did more to adjust the differences which at one time threatened to disrupt that convention, though I doubt that; and it may be that there were those who were more potential in securing the ratification of the Constitution after it was submitted to the several States for their action, though I also doubt that. But certainly there was no single man who did more, first in drafting the Constitution and then in securing its ratification, than Mr. Madison, and his opinions upon all matters connected with it have possessed a weight with the American people never accorded to any of his contemporaries. It is true that if Madison lived and taught in this day what he taught through all the years in which he lived, he would be denounced as a Tory and a reactionary, as those of us who still follow his teachings are often denounced; but the most radical Progressives of this time will hesitate to stand before our countrymen and condemn what James Madison has said, for they know as well as I do the deep veneration in which his name is held by the people. Long after our poor voices are silent those who come after us will read and accept what Madison has written and his memory will be cherished as long as this Republic endures. Indeed, sir, if some new folly or madness should seize upon the minds of our people and dissolve the Union which he helped to create, he would still be held in affectionate remembrance as long as civil liberty shall survive in the noble Commonwealth which gave him birth and to whose services he consecrated his talents and the best years of his life.

In the tenth number of the Federalist Mr. Madison discussed this question somewhat elaborately; and after pointing out the dangers which all free governments had encountered, he summed up that phase of the matter in these words:

> But the most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors and those who are debtors fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation and involves the spirit of party and faction in the necessary and ordinary operations of government.

If anything were needed to confirm our confidence in the wisdom of Madison, the passage which I have just read would be sufficient, because it shows that looking with rare foresight through the century which separates our day from his he could see the conflict of class interests which we now witness and which every thoughtful man regards as a menace to the peace of this country, and to the permanence of these institutions. Not only was Madison wise enough to understand that this conflict of class interest would come, but he was also wise enough to know that no free government could ever eradicate its causes, and that the most enlightened statesmen could hope to do no more than to control its effects. That this could not be accomplished under a direct democracy, and that it could be accomplished under a republic was his firm conviction expressed in these words:

> A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect and promises the cure for which we are seeking. Let us examine the points in which it differs from the pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union.
>
> The two great points of difference between a democracy and a republic are: First, the delegation of the government in the latter to a small number of citizens elected by the rest; * * *.
>
> The effect of the first difference is, on the one hand, to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose.

Not only has Madison in these unequivocal terms expressed himself in favor of a representative democracy, which he called a republic, but in the same paper from which I have just been reading he condemned the ancient democracies as "spectacles of turbulence and contention, incompatible with personal security or the rights of property."

Mr. Madison again discusses the character of the government which it was proposed to establish in the thirty-ninth number of the Federalist, where he propounds and answers the specific question as to what constitutes a republican form of government. It will perhaps better emphasize the expressions upon which I desire to concentrate the special attention of the Senate for me to read what precedes them, and as the entire essay is an interesting one I do not think that Senators would consider it a waste of their time to hear all of it, though I shall only read the part which follows:

> The last paper having concluded the observations, which were meant to introduce a candid survey of the plan of government reported by the convention, we now proceed to the execution of that part of our undertaking.
>
> The first question that offers itself is whether the general form and aspect of the Government be strictly republican. It is evident that no other form would be reconcilable with the genius of the people of America, with the fundamental principles of the revolution, or with that honorable determination which animates every votary of freedom to rest all our political experiments on the capacity of mankind for self-government. If the plan of the convention, therefore, be found to depart from the republican character, its advocates must abandon it as no longer defensible.
>
> What, then, are the distinctive characters of the republican form? Were an answer to this question to be sought, not by recurring to principles, but in the application of the terms by political writers to the constitutions of different States, no satisfactory one would ever be found. Holland, in which no particle of the supreme authority is derived from the people, has passed almost universally under the denomination of a republic. The same title has been bestowed on Venice, where absolute power over the great body of the people is exercised in the most absolute manner by a small body of hereditary nobles. Poland, which is a mixture of aristocracy and of monarchy in their worst forms, has been dignified with the same appellation. The Government of England, which has one republican branch only, combined with a hereditary aristocracy and monarchy, has with equal impropriety been frequently placed on the list of republics. These examples, which are nearly as dissimilar to each other as to a genuine republic, show the extreme inaccuracy with which the term has been used in political disquisitions.
>
> If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people and is administered by persons holding their offices during pleasure for a limited period or during good behavior.

I do not need to tell those who are familiar with his views that Alexander Hamilton was more aggressive than Madison in his opposition to a direct democracy. He did not hesitate to declare that even if it were possible to organize a government which the people would control in their primary capacity and without the intervention of representatives it would not be desirable to do so. Speaking on that point in the New York convention, he declared:

> It has been observed by an honorable gentleman that a pure democracy, if it were practicable, would be the most perfect government. Experience has proved that no position in politics is more false than this. The ancient democracies, in which the people themselves deliberated, never possessed one feature of good government. Their very character was tyranny; their figure, deformity.

Speaking on another day to the same convention, and describing the representative principle as the one which distinguishes our system from all others which had gone before it, Hamilton said:

> Mr. Chairman, it has been advanced as a principle that no government but a despotism can exist in a very extensive country. This is a melancholy consideration, indeed. If it were founded on truth, we ought to dismiss the idea of a republican government, even for the State of New York. This idea has been taken from a celebrated writer, who, by being misunderstood, has been the occasion of frequent fallacies in our reasoning on political subjects. But the position has been misapprehended, and its application is entirely false and unwarrantable; it relates only to democracies, where the whole body of the people meet to transact business and where representation is unknown. Such were a number of ancient and some modern independent cities. Men who read without attention have taken these maxims respecting the extent of country and, contrary to their meanings, have applied them to republics in general. This application is wrong in respect to all representative governments.

Although it is generally understood that Madison and Hamilton deserve the highest credit for the government under which we live, there are many profound students of our history who assign to Charles Pinckney a place above them both. I shall indulge in no comparisons; but I must be permitted to say that the Pinckney draught became the basis of our Constitution, and Madison's great service consisted largely in perfecting it. Nor is it out of place for me to say that Hamilton's well-known preference for a government modeled after that of Great Britain so far diminished his influence among the delegates to that convention that his authority was less than his intellect and patriotism would otherwise have made it. But whether the order should be Madison, Hamilton, and Pinckney, or Madison, Pinckney, and Hamilton, or Pinckney, Madison, and Hamilton does not concern us here, because on the point which we have under discussion they did not differ; and having already laid before the Senate the views of Madison and Hamilton, I now desire to read from Pinckney's opening speech to the South Carolina convention:

> Much difficulty was expected from the extent of country to be governed. All the republics we read of, either in the ancient or modern world, have been extremely limited in territory. We know of none a tenth part so large as the United States; indeed, we are hardly able to determine, from the lights we are furnished with, whether the governments we have heard of under the names of republics really deserved them or whether the ancients ever had any just or proper ideas upon the subject. Of the doctrine of representation, the fundamental of a republic, they certainly were ignorant. If they were in possession of any other safe or practicable principles, they have long since been lost and forgotten to the world. Among the other honors, therefore, that have been reserved for the American Union not the least considerable of them is that of defining a mixed system, by which a people may govern themselves, possessing all the virtues and benefits and avoiding all the dangers and inconveniences of the three simple forms.

To the same effect spoke one of the most gifted men in the Massachusetts convention. In that great Commonwealth the

town meeting had been employed so long as a method of government that its people were perhaps more reluctant than those of any other State to divest themselves of power in order to confer it upon their representatives, and it was to his doubting colleagues that Fisher Ames addressed these wise and imperishable sentences:

Much has been said about the people divesting themselves of power when they delegate it to representatives, and that all representation is to their disadvantage because it is but an image, a copy, fainter and more imperfect than the original, the people, in whom the light of power is primary and unborrowed, which is only reflected by their delegates. I can not agree to either of these opinions. The representation of the people is something more than the people. I know, sir, but one purpose which the people can effect without delegation, and that is to destroy a government. That they can not erect a government is evinced by our being thus assembled on their behalf.

* * * * * * *

They may destroy but they can not exercise the powers of government in person, but by their servants they govern. They do not renounce their power; they do not sacrifice their rights; they become the true sovereigns of the country when they delegate that power, which they can not use themselves, to their trustees.

In the Connecticut convention sat the governor of that State, Mr. Huntingdon, who delivered the second speech to that body, following Oliver Ellsworth, and these were the sentiments which he declared:

The great secret of preserving liberty is to lodge the supreme power so as to be well supported and not abused. If this could be effected, no nation would ever lose its liberty. The history of man clearly shows that it is dangerous to intrust the supreme power in the hands of one man. The same source of knowledge proves that it is not only inconvenient, but dangerous to liberty, for the people of a large community to attempt to exercise in person the supreme authority. Hence arises the necessity that the people should act by their representatives; but this method, so necessary for civil liberty, is an improvement of modern times. Liberty, however, is not so well secured as it ought to be when the supreme power is lodged in one body of representatives. There ought to be two branches of the legislature that one may be a check upon the other.

In the Pennsylvania convention this same question was discussed by James Wilson, considered by many the ablest man, and considered by all one of the ablest men in that body. Such was his reputation for character, ability, and learning that when Bushrod Washington came to prepare himself for admission to the bar, James Wilson was selected as his instructor, and there is in existence to-day the promissory note which George Washington gave to James Wilson for the tuition of his nephew. Indeed, so highly was Wilson esteemed by the American bar that his appointment as our first Chief Justice was desired by many, and he was called by Washington to serve as one of the first justices of our Supreme Court. These were the views expressed by that learned and upright judge:

One thing is very certain—that the doctrine of representation in government was altogether unknown to the ancients. Now, the knowledge and practice of this doctrine is, in my opinion, essential to every system that can possess the qualities of freedom, wisdom, and energy.

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For the American States were reserved the glory and the happiness of diffusing this vital principle throughout the constituent parts of government. Representation is the chain of communication between the people and those to whom they have committed the exercise of the powers of government.

I come now, Mr. President, to the Virginia convention, in which this matter was alluded to more frequently, and seemed to be more generally understood than in any of the other conventions. That may be due to the fact that the Virginia convention contained a larger number of delegates, and it also contained, upon the average, a higher class of men than the other conventions, thus leading inevitably to a more thorough discussion. In some of the conventions there was practically no discussion. In Delaware, New Jersey, and Georgia there was absolutely none, and, so far as its proceedings have been reported, none in Maryland. In New Hampshire there were only two short speeches, both on the provision which made it impossible to prohibit the importation of slaves prior to 1808; and in Connecticut the debate consisted of only four speeches, the longest one being that of Oliver Ellsworth, in which he discussed mainly the details of the Constitution, the next longest being that of Gov. Huntingdon, from which I have read, and the other two being very brief speeches by Richard Law and Oliver Wolcott.

But, whatever may be the explanation, the undoubted fact is that the debates in the Virginia convention took a wider range than the debates in any other convention, and therefore furnish us with the best evidence of the kind of government which our Constitution was intended to establish. One of the first delegates to express himself on this particular point was James Monroe. In repelling the assertion that the lessons of all history made it manifest that a free government could not be established and maintained over an extensive territory, Monroe examined the history of those ancient and modern leagues whose turbulent lives and violent deaths had moved Madison to admonish his countrymen against repeating their mistakes, and he concluded his reply in these words:

Let us see how far these positions are supported by the history of these leagues and how far they apply to us. The Amphictyonic council consisted of three members, Sparta, Thebes, and Athens. What was the construction of these States? Sparta was a monarchy more analogous to the constitution of England than any I have heard of in modern times. Thebes was a democracy, but on different principles from modern democracies. Representation was not known then. This is the acquirement of modern times.

These Governments had failed, according to the argument of Monroe, because the principle of "representation was not known" to them.

In reply to that same objection, John Marshall pointed out that the principle of representation rendered any conclusions based upon the so-called republics of the ancient world inapplicable to our own Government. This was his answer to George Mason:

The extent of the country is urged as another objection, as being too great for a republican government. This objection has been handed from author to author and has been certainly misunderstood and misapplied. To what does it owe its source? To observations and criticisms on governments where representation did not exist. * * *

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The honorable gentleman has asked if there be any safety or freedom when we give away the sword and the purse. Shall the people at large hold the sword and the purse without the interposition of their representatives? Can the whole aggregate community act personally? I apprehend that every gentleman will see the impossibility of this. Must they, then, not trust them to others? To whom are they to trust them but to their representatives, who are accountable for their conduct?

Edward Pendleton recorded, for the benefit of posterity, his opinion on this question at some length and with a definiteness and a clearness which leaves nothing more to be desired. This is what he said:

As a republican, sir, I think that the security of the liberty and happiness of the people, from the highest to the lowest, being the object of government, the people are consequently the fountain of all power.

They must, however, delegate it to agents, because, from their number, dispersed situation, and many other circumstances they can not exercise it in person. They must therefore, by frequent and certain elections, choose representatives to whom they trust it.

Is there any distinction in the exercise of this delegation of power? The man who possesses 25 acres of land has an equal right of voting for a representative with the man who has 25,000 acres. This equality of suffrage secures the people in their property. While we are in pursuit of checks and balances and proper security in the delegation of power we ought never to lose sight of the representative character. By this we preserve the great principle of the primary right of power in the people.

When the hands of our former society were dissolved and we were under the necessity of forming a new government, we established a Constitution founded on the principle of representation, preserving therein frequency of elections and guarding against inequality of suffrage. I am one of those who are pleased with that Constitution because it is built on that foundation.

Mr. President, what I have read from the proceedings of the Virginia convention includes an expression from every member of that body whose fame has outlived his generation, except Patrick Henry and George Mason, who were opposed to the Constitution and their objections to it would not help us to understand its true intent and meaning. It must not, however, be supposed that because Henry and Mason made no declaration on this particular point that they differed from their colleagues with respect to it, for such is not the fact.

In what was done and said by the smaller delegates to that convention the Senate will feel little interest, and I have not obtruded quotations from them upon it; but there was one of that class whose words I think are worth preserving, and I think that because the speech which he delivered to the Virginia convention was one of the most felicitous made in that or in any of the other State conventions. It was so lofty in thought and so excellent in diction that I am compelled to believe that the only reason we do not know more of him is that his early death or his withdrawal from public affairs deprived the country of his services. His name was Zachariah Johnson, and this is a part of what he said:

As to the principle of representation, I find it attended to in this Government in the fullest manner. It is founded on absolute equality. When I see the power of electing the representatives—the principal branch—in the people at large, in those very persons who are the constituents of the State legislatures; when I find that the other branch is chosen by the State legislature; that the Executive is eligible in a secondary degree by the people likewise, and that the terms of elections are short and proportionate to the difficulty and magnitude of the objects which they are to act upon; and when, in addition to this, I find that no person holding any office under the United States shall be a member of either branch, I say, when I review all these things, that I plainly see a security of the liberties of this country to which we may safely trust. Were this Government defective in this fundamental principle of representation, it would be so radical that it would admit of no remedy.

Mr. President, I have not laid before the Senate all which the fathers said upon this question, because I could not do that without extending this address beyond all reasonable length; but I have laid before the Senate enough to establish, beyond a reasonable doubt, that the wise and patriotic statesmen who

dedicated this Republic to liberty and independence rejected a direct democracy in which the people would rule without the intervention of representatives and adopted a representative democracy in which the people should rule through their duly chosen agents. How, sir, can a man in the face of this testimony attempt to controvert that statement? Are there those, sir, who will not recognize the right of the men whose very words I have repeated to describe the nature and structure of this Government? They were its architects and its builders; they drew its plans; they laid its foundations; they reared its splendid superstructure. Ah, sir, they were more than its architects and its builders; they were its prophets and its apostles, and no man can justly deny their right to say what this Government is and what they intended it to be.

Doubtless some who are unwilling to challenge the wisdom of the fathers will seek to escape the responsibility of differing with them by claiming that I have not correctly interpreted their teachings; and, in order that no man can evade the issue in that way, I will now lay before the Senate extracts which will make it plain that the construction which I have placed upon what was said by them is in exact accordance with the highest authorities and for many years has been universally received as correct by all men who understand the question.

I am sure that some of you, forgetting for the moment your history, have been inclined to suspect that as I have adduced nothing from Jefferson I have not been able to find anything from him to support my contention. But you will instantly dismiss that suspicion when you recall that up to this time I have been offering only what was said by men who made or who ratified the Constitution, and Jefferson took no part either in the Federal convention which formulated, or in the State conventions which ratified the Constitution, because during all of that time he was absent on a foreign mission. But notwithstanding the fact that Jefferson was not at the Federal convention to advise it upon the kind of a government which ought to be established, and was not in this country to inform the people as to the kind of a constitution which had been proposed for their ratification, we are not without the benefit of his opinion on that question.

THE FATHERS INTERPRETED.

The first expression from Mr. Jefferson on this particular point, so far as my reading extends, appears in a letter to M. L'Abbe Arnond. This letter was written within a year after the Constitution of the United States had been adopted and the new Government put into operation. Nothing could be plainer, nothing could be more specific, and nothing could be more conclusive than this statement made by Mr. Jefferson in that letter:

The annexed is a catalogue of all the books I recollect on the subject of juries. With respect to the value of this institution, I must make a general observation. We think in America that it is necessary to introduce the people into every department of government, as far as they are capable of exercising it, and that this is the only way to insure a long-continued and honest administration of its powers.

1. They are not qualified to exercise themselves the executive department, but they are qualified to name the person who shall exercise it. With us, therefore, they choose this officer every four years. 2. They are not qualified to legislate. With us, therefore, they only choose the legislators. 3. They are not qualified to judge questions of law, but they are very capable of judging questions of fact. In the form of juries, therefore, they determine all matters of fact, leaving to the permanent judges to decide the law resulting from those facts.

Twelve years after he had written that letter to Arnond and within 10 months after he entered upon his first presidential term he wrote a letter to the Hon. Amos Marks expressing his satisfaction with an address adopted by the Vermont House of Representatives and transmitted to him by Mr. Marks. Here is a part of the second paragraph of that letter:

With them I join cordially in admiring and revering the Constitution of the United States, the result of the collected wisdom of our country. That wisdom has committed to us the important task of proving by example that a government, if organized in all its parts on the representative principle, unadulterated by the infusion of spurious elements, if founded not in the fears and follies of man, but on his reason, on his sense of right, on the predominance of the social over his dissocial passions, may be so free as to restrain him in no moral right and so firm as to protect him from every moral wrong.

In a letter to Isaac H. Tiffany, dated at Monticello on August 26, 1816, Jefferson again expresses his opinion as to the character of this Government. Tiffany had sent Jefferson a translation of the Politics of Aristotle, and after reviewing the ancient ideas of liberty and government Jefferson continued:

The full experiment of a government democratical, but representative, was and is still reserved for us. The idea (taken, indeed, from the little specimen formerly existing in the English constitution, but now lost) has been carried by us, more or less, into all our legislative and executive departments; but it has not yet, by any of us, been pushed into all the ramifications of the system so far as to leave no authority existing not responsible to the people, whose rights, however, to the exercise and fruits of their own industry can never be protected against the selfishness of rulers not subject to their control at short periods. The introduction of this new principle of representative democracy has rendered useless almost everything written before on the structure of government, and, in a great measure, relieves our regret if the political writings of Aristotle or of any other ancient have been lost or are unfaithfully rendered or explained to us.

These three letters by Mr. Jefferson extend from 1789 to 1816. They cover the most active period of his great career, and they all speak the same political faith.

Mr. President, I have here one of the most celebrated pamphlets in our literature, and it sustains my theory of our Government. This is the second part of Thomas Paine's "Rights of Man." I know the prejudice which exists against Paine on account of the excesses into which he sometimes allowed himself to fall and the religious intolerance which he provoked; but he was a man of the most extraordinary genius, and recalling his services to a people struggling for freedom, on this day at least I am willing to forget that he was an infidel and remember only that he was a patriot. In his Rights of Man, Thomas Paine describes the American Government as founded upon the representative principle. This is what he wrote:

Referring, then, to the original simple democracy, it affords the true data from which government on a large scale can begin. It is incapable of extension, not from its principle but from the inconvenience of its form, and monarchy and aristocracy from their incapacity. Retaining, then, democracy as the ground and rejecting the corrupt systems of monarchy and aristocracy, the representative system naturally presents itself, remedying at once the defects of the simple democracy as to form and the incapacity of the other two with regard to knowledge.

Simple democracy was society governing itself without the use of secondary means. By ingrafting representation upon democracy we arrive at a system of government capable of embracing and confederating all the various interests and every extent of territory and population, and that also with advantages as much superior to hereditary government as the republic of letters is to hereditary literature.

It is on this system that the American Government was founded. It is representation ingrafted upon democracy. It has settled the form by a scale parallel in all cases to the extent of the principle. What Athens was in miniature America will be in magnitude. The one was the wonder of the ancient world; the other is becoming the admiration and model of the present. It is the easiest of all the forms of government to be understood and the most eligible in practice, and excludes at once the ignorance and insecurity of the hereditary mode and the inconvenience of the simple democracy.

With this abundant and, I might well say superabundant, evidence before us I could well afford to rest this part of my case; but, sir, I want the Senate now to learn, what many Senators already know, that the greatest commentators on our system have understood it exactly as I am attempting to enforce and to explain it. It will be no disparagement of others for me to say that the first great work which attempted a full exposition of our Constitution was that of Justice Joseph Story, and I now ask the Senate to attend to this passage from the first volume of his Commentaries:

In surveying the general structure of the Constitution of the United States we are naturally led to an examination of the fundamental principles on which it is organized for the purpose of carrying into effect the objects disclosed in the preamble. Every government must include within its scope, at least if it is to possess suitable stability and energy, the exercise of the three great powers upon which all governments are supposed to rest, viz, the executive, the legislative, and the judicial powers. The manner and extent in which these powers are to be exercised and the functionaries in whom they are to be vested constitute the great distinctions which are known in the forms of government. In absolute governments the whole executive, legislative, and judicial powers are, at least in their final result, exclusively confined to a single individual; and such a form of government is denominated a despotism, as the whole sovereignty of the state is vested in him. If the same powers are exclusively confided to a few persons, constituting a permanent sovereign council, the government may be appropriately denominated an absolute or despotic aristocracy. If they are exercised by the people at large in their original sovereign assemblies, the government is a pure and absolute democracy. But it is more common to find these powers divided and separately exercised by independent functionaries, the executive power by one department, the legislative by another, and the judicial by a third; and in these cases the government is properly deemed a mixed one; a mixed monarchy if the executive power is hereditary in a single person, a mixed aristocracy if it is hereditary in several chieftains or families, and a mixed democracy or republic if it is delegated by election and is not hereditary. But in a representative republic all power emanates from the people and is exercised by their choice, and never extends beyond the lives of the individual to whom it is entrusted. It may be entrusted for any shorter period, and then it returns to them again to be again delegated by a new choice.

As Judge Story represents the extreme Whig or Federalist theory of our Government, Democrats might not readily accept as sound the views expressed by him, and therefore I will now read an extract from Tucker, who represents the extreme Democratic theory of our Government. To all who will read attentively these extracts from Story and Tucker it will be plain that the most inveterate partisan differences disappear when we reach this question. Tucker's statement is not quite so elaborate as the one which I have just read from Judge Story, but it is quite as definite and quite as satisfactory. Here it is:

Representation is the modern method by which the will of a great multitude may express itself through an elected body of men for deliberation in lawmaking. It is the only practicable way by which a large country can give expression to its will in deliberate legislation. Give suffrage to the people, let lawmaking be in the hands of their representatives, and make the representatives responsible at short periods to the popular judgment and the rights of men will be safe,

for they will select only such as will protect their rights and dismiss those who upon trial will not. True representation is a security against wrong and abuse in lawmaking.

Having read from these two text writers, who represent extreme and opposite views of our Government generally, I desire to read from two others who are considered somewhat less partisan.

In his excellent treatise on the "Principles of Constitutional Law" Judge Cooley defines a republican government as follows:

By republican government is understood a government by representatives chosen by the people, and it contrasts on one side with a democracy, in which the people or community as an organized whole wield sovereign powers of government, and on the other with the rule of one man, as king, emperor, czar, or sultan, or with that one class of men, as an aristocracy. In strictness a republican government is by no means inconsistent with monarchial forms, for a king may be merely a hereditary or elective executive, while the powers of legislation are left exclusively to a representative body freely chosen by the people. It is to be observed, however, that it is a republican form of government that is to be guaranteed; and in the light of the undoubted fact that by the Revolution it was expected and intended to throw off monarchial and aristocratic forms, there can be no question but that by a republican form of government was intended a government in which not only would the people's representatives make the laws and their agents administer them, but the people would also, directly or indirectly, choose the executive.

Black, in his book entitled "Constitutional Law," lays down the distinction between a pure democracy and a republic in these words:

The system of government in the United States and in the several States is distinguished from a pure democracy in this respect: That the will of the people is made manifest through representatives chosen by them to administer their affairs and make their laws, and who are intrusted with defined and limited powers in that regard, whereas the idea of a democracy, nonrepresentative in character, implies that the laws are made by the entire people acting in a mass meeting or at least by universal and direct vote.

The highest of all courts has given its sanction to what these text writers have taught us. I do not mean that the Supreme Court of the United States has ever said that a system of direct legislation by the people would render a State government unrepublican in form, because that court has wisely, in my judgment, held that question to be a political one and therefore beyond its judicial cognizance; but I do mean that it has defined a republican form of government in language which excludes the idea of direct legislation by the people. In the Duncan case Chief Justice Fuller, delivering the opinion of the court, said:

By the Constitution a republican form of government is guaranteed to every State in the Union, and the distinguishing feature of that form is the right of the people to choose their own officers for governmental administration and pass their own laws in virtue of the legislative power reposed in representative bodies whose legitimate acts may be said to be those of the people themselves.

But while this scheme of direct legislation by the people, owing to its purely political nature, has not been, and perhaps never can be, presented to the Supreme Court of the United States in a way to require a decision upon its constitutionality by that tribunal, it can be and it has been presented to many of our State courts for their determination, and the courts which were first called upon to consider it, in almost every instance, condemned it as involving a departure from the fundamental principles of this Government. No clearer statement of the objection to it was ever made by any court than by the Supreme Court of Texas in one of the early cases. That court then consisted of Hemphill, Wheeler, and Lipscomb, than whom no greater lawyers ever adorned the bench of any State in this Union. All of their successors have been upright and many of their successors have been wise; but none of their successors have been more upright or wiser than they were. The question as presented to that great court arose out of a local-option law, about which I shall have something more to say before I close; and although the law itself had been repealed before the case reached a decision they held it invalid upon the ground that under our Constitution as it then stood, the legislature had no power to submit that or any other legislative question to a direct vote of the people. Judge Lipscomb, who delivered the opinion of the court, said:

But besides the fact that the Constitution does not provide for such reference to the voters to give validity to the acts of the legislature we regard it as repugnant to the principles of the representative government formed by our Constitution. Under our Constitution the principle of lawmaking is that laws are made by the people not directly, but by and through their chosen representatives. By the act under consideration this principle is subverted, and the law is proposed to be made at last by the popular vote of the people, leading inevitably to what was intended to be avoided—confusion and great popular excitement in the enactment of laws.

Mr. President, I could cite other cases which fully sustain this Texas opinion, but I feel that I have multiplied these authorities beyond every reasonable requirement, and I shall conclude this part of my address by bringing to the attention of the Senate the best definitions of a democracy and a republic ever written or spoken in the history of the world. They come neither from statesman nor judge nor commentator. They are from Webster's Unabridged Dictionary, where, under the word "Republic," I find this definition:

A State in which the sovereign power resides in the whole body of the people and is exercised by representatives elected by them.

Under "Democracy" Webster first defines a direct democracy, such as the initiative and referendum would establish, and follows that with a definition of a representative democracy, which is synonymous with a republic. If he had left us nothing but his definition of a republic to contrast with his definition of a direct democracy, he would have made clear to our minds the difference between the two forms of government; but, with a thoroughness characteristic of all his great labors, he made the matter doubly plain by contrasting the two kinds of "democracy," under this form and in these words:

1. Government by the people; a form of government in which the supreme power is retained and directly exercised by the people.

2. Government by popular representation; a form of government in which the supreme power is retained by the people, but is indirectly exercised through a system of representation and delegated authority periodically renewed; a constitutional representative government; a republic.

These definitions of a democracy and a republic seemed so perfect to me that I was curious to know whether they had been improved in the various editions through which Webster's Dictionary has passed, and I concluded to examine that question. I therefore went back to the first edition, which was issued in 1828, where I found substantially the same definitions as those which appear in the last edition. It is true that those definitions have been slightly abbreviated, and to that extent improved, but they have not been improved in any other respect; and in order that those who hear me, as well as those who may do me the honor to read this speech, may be able to make the comparison for themselves, I will read the definitions as they are taken from the edition of 1828. Here they are:

Republic: A Commonwealth; a State in which the exercise of the sovereign power is lodged in representatives elected by the people. In modern usage it differs from a democracy or democratic State in which the people exercise the powers of sovereignty in person. Yet the democracies of Greece are often called republics.

Democracy: Government by the people; a form of government in which the supreme power is lodged in the hands of the people collectively, or in which the people exercise the power of legislation. Such was the government of Athens.

Mr. President, I am not vain enough to suppose that anything I have *said* has produced the slightest impression on the mind of any Senator, but I am sure that what I have *read* has produced a profound impression on the mind of every Senator. It could not be otherwise. There, sir, is the testimony of the men who helped to frame the Constitution, together with the testimony of the men who helped to ratify it; there is the deliberate conviction, repeatedly declared, of the greatest statesman who ever served as President of this Republic; there are the opinions of eminent text-writers and wise judges, all concurring in the doctrine that this is a representative democracy in which the people govern themselves through agents of their own selection. And with that proposition satisfactorily established I will now attempt to demonstrate that a representative democracy is safer and wiser than the direct democracy which the initiative and referendum would introduce.

REPRESENTATIVE DEMOCRACY VS. DIRECT DEMOCRACY.

While the authorities which sustain me in this branch of my argument are numerous and high, they could not, in the nature of things, be so conclusive as they were on the other branch, because that was a question of historical fact, and therefore susceptible of historical proof, while here we must form our own judgment as to the relative merits or demerits of these systems. But it is nevertheless true, in this case, as in all other cases, that the thought bestowed upon the subject by learned men will help to enlighten us.

I shall not detain the Senate by reading in this connection anything from those who framed the Constitution or from those who ratified it, because in choosing a representative democracy as against a direct democracy they gave the world an incontestable proof that they believed the one a better form of government than the other. Neither shall I call the lawyers to testify on this branch of the case. I do not, however, omit to call them out of any deference to the prejudice which now seems to be so rife against them. I have no patience with prejudice, and no cause ever exhibits its weakness or its injustice more clearly than when it feels compelled to attack one of the learned professions in order to promote its success. I excuse the lawyers because our inquiry now is not so much what the Constitution is as what it ought to be, and while many lawyers are competent to instruct us on that point I prefer here to consult the men who have studied government as a science.

Among the scholars who sympathized with the aspirations and labors of those who established this Government, but

who took no part in its establishment, Noah Webster enjoys a special distinction. Even many well-informed people of this day know Mr. Webster only as a lexicographer, and perhaps a larger number remember him more as the author of a spelling book which we studied as children. But, sir, Noah Webster was more than a lexicographer and more than a mere author of schoolbooks. He was a lawyer of eminent ability and he was a philosopher in more than one department of literature. At the request of a delegate to the Federal convention, Mr. Webster wrote and published a pamphlet in which he stated the basis of majority rule and the basis of representative government with a clearness and a force which has never been surpassed. Indeed, sir, he stated them in such a convincing manner that his statement of them dispenses with any argument upon them. Though the rule of the majority is not involved in this discussion, I shall read what he said upon that for the benefit of those who might find it difficult to secure a copy of the pamphlet which contains it, and also because, as it immediately precedes his comment on the representative principle, it serves in some degree to illuminate that. I hope the Senate will listen to this:

On the first view of men in society we should suppose that no man would be bound by a law to which he had not given his consent. Such would be our first idea of political obligation. But experience, from time immemorial, has proved it to be impossible to unite the opinions of all the members of a community in every case, and hence the doctrine that the opinions of a majority must give law to the whole state, a doctrine as universally received as any intuitive truth.

Another idea that naturally presents itself to our minds on a slight consideration of the subject is that in a perfect government all the members of a society should be present and each give his suffrage in acts of legislation by which he is to be bound. This is impracticable in all large states; and even were it not, it is very questionable whether it would be the best mode of legislation. It was, however, practiced in the free states of antiquity, and was the cause of innumerable evils. To avoid these evils, the moderns have invented the doctrine of representation, which seems to be the perfection of human government.

Foremost among the men of his class in the generation succeeding that of Noah Webster stands Prof. Francis Leiber, of German birth, but long identified with American life and with our higher education. He occupied the chair of political science at the State College of South Carolina for many years, and was afterwards called to the same professorship in Columbia College. Prof. Leiber gave his unqualified approval to a representative democracy, and did not, as some others have done, predicate that approval upon the impracticability of a direct democracy. According to his philosophy, a representative democracy is not only relatively but it is absolutely the best government; and I now invite your attention to what he says on this subject in his celebrated book entitled "Civil Liberty and Self-Government." Here it is:

Of all the guaranties of liberty there is none more important and none which in its ample and manifold development is more peculiarly Anglican than the representative government. Everyone who possesses a slight acquaintance with history knows that a government by assembled estates was common to all nations arising out of the conquests of the Teutonic race; but the members of the estates were deputies or attorneys sent with specific powers of attorney to remedy specific grievances. They became nowhere, out of England and her colonies, general representatives—that is, representatives for the state at large, and with that general power of legislation. This constitutes one of the most essential differences between the deputative medieval estates and the modern representative legislatures—a government prized by us as one of the highest political blessings and sneered at by the enemies of liberty on the Continent at this moment as "the unwieldy parliamentary government." I have endeavored thoroughly to treat of this important difference; of the fact that the representative is not a substitute for something which would be better were it practicable, but has its own substantive value; of political instruction and mandates to the representatives, and of the duties of the representative in the political ethics, to which I must necessarily refer the reader.

With reference to the great subject of civil liberty and as one of the main guaranties of freedom the representative government has its value as an institution by which public opinion organically passes over into public will that is law; as one of the chief bars against absolutism of the executive on the one and of the masses on the other hand; as the only contrivance by which it is possible to induce at the same time an essentially popular government and the supremacy of the law or the union of liberty and order; as an invaluable high school to teach the handling and the protection and to instill the love of liberty; as the organism by which the average justice, on which all fair laws must be based, can be ascertained; as that sun which throws the rays of publicity on the whole government with a more penetrating light the more perfect it becomes; and as one of the most efficacious preventives of the growth of centralization and a bureaucratic government—as that institution without which no clear division of the functions of government can exist.

Although he lived and wrought under a government which was not a representative democracy, one of the most exhaustive disquisitions on representative government came from the pen of John Stuart Mill; and he closes its third chapter with this summary which it would be well to have printed in every textbook on political economy used in the colleges of this land:

From these accumulated considerations it is evident that the only government which can fully satisfy all the exigencies of the social state is one in which the whole people participate; that any participation, even in the smallest public function, is useful; that the participation should everywhere be as great as the general degree of improvement of the community will allow; and that nothing less can be ultimately desirable than the admission of all to a share in the sovereign power of the State. But since all can not in a community exceeding a single small town participate personally in any but some very minor portions of the public business, it follows that the ideal type of a perfect government must be representative.

I have selected Webster, Leiber, and Mill as the best exponents of the political philosophy of their respective generations, but as they did not live in our generation the progressive statesmen of this day will perhaps despise what they have said as obsolete and irrelevant. I shall therefore supplement the quotations which I have made from those illustrious philosophers of the past with what has been said by the most distinguished and, without flattery I can add, one of the very ablest men who has written upon governmental science in our day. Even before I mention his name you have anticipated it, and you know that I refer to Prof. Woodrow Wilson, now governor of New Jersey, and soon to become President of the United States. In the course of a series of lectures delivered at Columbia University in 1907, which have been published under the title of "Constitutional Government in the United States," Prof. Wilson said many excellent things about our Government, but he said nothing more excellent than what I am about to read. Indeed, sir, I very greatly doubt if the same thought has ever been better expressed, and I am sure that more wisdom was never compressed into so few and such short sentences.

But before reading this matter, I desire to expressly disclaim any thought of reading it for the purpose of contradicting what Mr. Wilson is reported to have said in a recent political campaign. I sincerely hope that there is to be no conflict between the opinions of the philosopher and the practices of the statesman. I am a Democrat, and though I did not favor Gov. Wilson's nomination by our party, no living man more sincerely hopes for a successful administration of this Government by him than I do. Nor is any man more confident than I am of a successful administration by Gov. Wilson, if he will adhere steadfastly to Democratic principles, turning neither to the right in order to please Republicans nor to the left in order to please Progressives. I know that certain men are working assiduously to impress him with the idea that he is under a great obligation to the Progressives; but his worst enemy could not wish him to commit a more serious blunder than to act upon the assumption that he owes his election to Progressives and not to Democrats.

The Democrats of this country—those who are Democrats without prefixes or affixes—voted for Gov. Wilson almost without exception, and without their votes he would have been the third, instead of the first, man in that race, while many of those who call themselves Progressive Democrats voted against him. This defection of the Progressives was not universal, but it occurred in every close and doubtful State. In the great State of Illinois Gov. Wilson received 43,000 votes less than were cast for our candidate there in 1908, and this does not measure the whole Democratic loss, because there were thousands of Republicans who earnestly desired the reelection of President Taft, but thinking that to be impossible, and thinking that the contest was between Roosevelt and Wilson, they cast their ballots for Gov. Wilson, in order to make the defeat of ex-President Roosevelt certain. In addition to these Republican votes which our candidate received, there were many young men who had reached a voting age since the presidential election four years ago, and it is safe to say that a majority of them voted our ticket. But with those Republicans and those first presidential voters supporting our candidate, he still received 43,000 votes less in the State of Illinois than our candidate received there four years ago, which means that at least 75,000 voters renounced their allegiance to the Democratic Party. Where did they go? Not to the Republican Party. No Democrat voted for Taft, though all Democrats respect him as an honest man and a sincere patriot; but those who would have regarded his election with complacency or even with satisfaction did not vote for him, because they knew he could not be elected. Those 75,000 Democratic voters joined the Progressive Party and voted for ex-President Roosevelt. The same thing which happened in Illinois happened even to a larger extent in the State of Ohio, where our party vote at the last election was something like 100,000 less than it was in 1908. Those men are lost to us forever, and more of their kind will follow them, for as long as Theodore Roosevelt lives and leads the Progressive movement neither Gov. Wilson nor any other man, unless it be Eugene V. Debs, can ever successfully compete with him for the discontented and radical vote of this country.

But neither the votes which we have lost to the Progressive Party nor the votes which we may lose to it can seriously imperil our success if Gov. Wilson gives us a safe and a satisfactory administration; for if he does that the Republican Party

will never nominate another candidate for the Presidency, the best of it will enlist under our standard, and the contest four years hence will be between the Democratic and the Progressive Parties. I do not expect my Republican friends across the aisle now to concede that under any circumstances their party will not present a candidate at the next election; but if the next administration is as wise as it ought to be the disintegration of the Republican Party is inevitable. With the Democratic Party successfully conducting the Government, and with the people prosperous, the Republican Party could not hope to do as well in the next election as it did in the last one, when it carried only 2 out of the 48 States, and those 2 among the smallest in the Union.

Looking forward to that condition, I would do nothing to embarrass Gov. Wilson; and it is not, therefore, for the purpose of quoting him against himself, but it is in the hope of illuminating this question that I invite you to listen to these words from his book:

A government must have organs; it can not act inorganically—by masses. It must have a law-making body; it can no more make law through its voters than it can make law through its newspapers.

This is much stronger than Webster. It is much stronger than Leiber. It is much stronger than Mill, because it practically declares, in effect, that a government in which the people legislate directly is impossible.

But, Mr. President, I am fortified in my contention by the opinion of one wiser than Webster or Leiber or Mill or Wilson. With a scholarship as ripe as theirs and as thoroughly conversant with all governmental systems as they were, he possessed the further advantage of having borne a conspicuous part in making history rather than in writing it.

As Jefferson's second presidential term was drawing toward its close the Legislature of Vermont adopted an address cordially approving his administration and expressing a desire that he should again become a candidate for the Presidency. To that address Jefferson responded on the 10th of December, 1807, and after expressing his grateful appreciation of its friendly sentiments announced his determination not to allow his name to be proposed again for the office which he had then held for nearly seven years, and which he had administered with signal ability and success. In that response he ascended from the personal and particular case, as was always the habit of his mind, to general principles, and said:

That I should lay down my charge at a proper period is as much a duty as to have borne it faithfully. If some termination of the services of the Chief Magistrate be not fixed by the Constitution or supplied by practice, his office, nominally for years, will, in fact, become for life, and history shows how easily that degenerates into an inheritance. Believing that a representative government, responsible at short periods of election, is that which produces the greatest sum of happiness to mankind, I feel it a duty to do no act which shall essentially impair that principle; and I should unwillingly be the person who, disregarding the sound precedent set by so illustrious predecessor, should furnish the first example of prolongation beyond the second term of office.

"*That a representative government, responsible at short periods of election, is that which produces the greatest sum of happiness to mankind*" was thus set down as the deliberate conviction of Jefferson. The letter in which this passage occurs must not be confused with the one from which I have read in another connection. That first letter was in reply to an address sent him by the Vermont House of Representatives at the beginning of his first term, and the one from which I have just read was in reply to an address of the Vermont Legislature sent to him, as I have already said, toward the expiration of his last term. In the first letter he stated what he understood our Government to be, while in this second letter he states what he considers the best form of government.

Under date of July 12, 1816, in a letter to Dr. Samuel Kerchival, who had requested his opinion upon the advisability of calling a constitutional convention to revise and modify the constitution of Virginia, Jefferson reiterates his devotion to a representative government, and even declares a direct democracy impossible in Virginia. This is what he says to one of his most intimate friends who had sought his counsel:

A government is republican in proportion as every member composing it has his equal voice in the direction of its concerns (not, indeed, in person, which would be impracticable beyond the limits of a city or small township, but) by representatives chosen by himself and responsible to him at short periods, and let us bring to the test of this canon every branch of our Constitution.

Mr. President, I suppose that no man will venture to deny that Jefferson thoroughly understood the difference between a direct democracy and a representative democracy. Nor can it be doubted, in the face of what I have already read from his letters, that his deliberate judgment was against a direct democracy and in favor of a representative democracy; but I want to make that still plainer, if possible, and I therefore crave the indulgence of the Senate while I read from a letter which he wrote to the Greek scholar and patriot, M. Coray, in 1823. This letter was written less than two years before his death, but while his faculties were still unimpaired. Indeed, sir, it is a happy circumstance that the faculties of that great man remained unimpaired to the end, for the years which wasted his body seemed only to invigorate his mind.

Knowing his devotion to liberty throughout the world and valuing him as one of the greatest constructive statesmen of all the ages, this Greek patriot had turned to him for advice concerning the institutions of his own country; and in a letter of unusual length Jefferson prefaced his detailed instruction with this general statement:

The equal rights of man and the happiness of every individual are now acknowledged to be the only legitimate objects of government. Modern times have the signal advantage, too, of having discovered the only device by which these rights can be secured, to wit: Government by the people, acting not in person, but by representatives chosen by themselves; that is to say, by every man of ripe years and sane mind who either contributes by his purse or person to the support of his country. The small and imperfect mixture of representative government in England, impeded as it is by other branches, aristocratical and hereditary, shows yet the power of the representative principle toward improving the condition of man.

A "government by the people, *acting not in person*, but by *representatives*," is the kind of a government which Jefferson there recommends to the liberty-loving patriots of Greece, and that is the same government which he had advised his own people in Virginia to establish. Both in his letter to Dr. Kerchival and in his letter to M. Coray Mr. Jefferson not only distinctly recognizes the difference between a representative democracy and a direct democracy, but he takes particular pains to emphasize the fact that a direct democracy is impracticable beyond very narrow limits, and to exclude it from the cordial approval which he gave to a representative democracy.

With this imposing array of sages, philosophers, historians, statesmen, and jurists all asserting with one unbroken voice that a representative democracy is the best government for mankind and asserting with equal unanimity that a direct democracy is fraught with unspeakable disasters, I do not fear the veracity of the American people when this question is submitted to them after a fair and a full debate. My faith is unwavering that the counsel of Washington and Jefferson, of Hamilton and Madison, of Marshall and Monroe, will prevail. Indeed, sir, when the passions aroused by these appeals to ignorance and prejudice have subsided and the sober second thought has returned to the American people, they will marvel that any considerable number of them could have ever consented to abandon those governmental principles which until recent times they have cherished with an almost religious fervor.

They tell us that the doctrines of the fathers were good enough for the time of the fathers, but that we have outgrown them, and this cunning appeal to the pride of an age has flattered many weak-minded men into scoffing at what they irreverently call "the wisdom of the dead." Mr. President, that the growth of a nation may call for the adoption of new policies, and that it may even call for either a lesser or a larger application of old principles, is undoubtedly true, and no man could be more ready to recognize an act upon that truth than I am. But, sir, I utterly deny that the growth of a nation in area or population or wealth can ever alter the fundamental principles of a free government. Policies must change with changed conditions, but principles are as eternal as the stars; they are as immutable as God's law. Will they tell me that we have outgrown that cardinal principle of personal liberty which guarantees that no citizen can be condemned without a trial or tried without a jury? Will they tell me that we have outgrown that other great security of freemen which guarantees to every man the fruits of his own labor by providing that his property shall not be taken, even for the public use, without a just compensation to him?

It is just as foolish to discard one proposition because it is old as it is to reject another because it is new. The men who made our Constitution realized that their great work was not so perfect as to permit no change. Absolutely confident of their patriotism, and reasonably confident of their wisdom, they could still foresee that time might disclose some defects in the Constitution, and therefore they solemnly provided in that instrument for its amendment. Devoutly as I cherish the spirit of it, and faithfully as I strive to live up to the letter of it, I do not hold it in any superstitious reverence. I do not look upon it as the ark of a covenant, which shall provoke the curse of God against all who touch it, and I have twice voted to amend it. But, sir, while I have been willing to amend it, I am not willing to destroy it. That Constitution is definite enough to protect the humblest citizen in his every right, and it is elastic enough to punish the mightiest corporation for its every wrong. Through more than a century's trial it has been sufficient for every emergency. It carried us successfully through three foreign

wars; it walked with this Republic like a redeeming spirit through the fiery furnace of a civil war, preserving the Union even against the wrath of the men who would now give their lives in defense of its flag; and when that cruel war was over, it was held aloft by brave and generous men in the North as a shield over the bosom of the bleeding and prostrate South. That Constitution, like a flaming sword, waved back from the gates of our stricken land the merciless adventurers who had come to prey upon our misfortunes. Ah, sir, so long as I remember how that Constitution saved my father and his vanquished comrades from the awful fate of those who surrendered to the armies of the unrestrained democracies of old, I shall cherish and defend it.

If we lay aside all the admonitions and advices which the wise and patriotic of other days have tendered to us and consider this question upon our own reasoning, without regard to what others have said upon it, our minds are conducted to the same conclusion. I do not think that a government in which the people shall either make or execute the laws directly would be feasible, even within a small township or city if that township or city contained a population too great for a convenient meeting of them all at the time and place when and where public questions were to be decided. But whether I am right or wrong about that is not material here, for we are not discussing these petty political subdivisions. Our problem is with the Nation, and if they yield to our argument so far as to say that the initiative and referendum are State remedies and are not proposed for the Nation, then I answer that all that can be said about these processes in the Nation apply with equal force to their operation in the State.

The question with us is whether the people of a given sovereignty—and either State or Nation is the same in this respect—can exercise the legislative power of that sovereignty prudently and wisely without the aid of representatives. I would have the right, inasmuch as I am defending an existing institution, to require those who propose this change to show that it is practicable and that it will be beneficial; but I do not choose to stand upon that technicality of debate. I am willing to waive the rule which I could justly invoke against them and to assume the burden of proving a negative by showing that this change is not practicable and would not be beneficial.

What is the first and the most indispensable element in wise legislation? It is deliberation, and any legislation proposed or adopted without mature deliberation can only be good by accident. This has heretofore been one of the axioms of American politics and nobody has disputed it. In every legislative assembly in this land, from our city councils to the Senate of the United States, this deliberation has been deemed so necessary that all of the rules under which our public business is transacted looks primarily to that end. If the greatest Senator in this body were to introduce a bill to-morrow, it would be referred to a committee so that it might be considered carefully and perfected by such amendments as the collective wisdom of that committee might deem necessary and proper. That is not only our rule to-day, but that was the rule in what men who delight to praise the past call the "Golden Age" of the American Senate. The wisest Senator of that day was compelled to submit his bill, though drawn with his utmost care, to the scrutiny of a Senate committee. The sole and only reason for that rule is that the minds of several men concentrated upon any subject or any document, exchanging their views not only upon its general purpose, but upon its details and even its phraseology, are absolutely necessary to make the bill do what is desired, and no more than that. Perhaps I ought not to say that is the only reason, because there is another, but so cognate to that as hardly to be distinguishable from it, and that other reason is that when the bill comes before the Senate for consideration in open session Senators will have the benefit not only of an explanation of it by the man who introduced it, but also have the benefit of a report from the committee which has carefully considered it. So deeply embedded in all the thoughts and practices of the American people is this plan of sifting every general proposition, of performing every general act with care and deliberation, that even where the people come together in their primary capacity to consider matters of purely local interest they generally appoint committees to prepare such addresses as they think it expedient to issue.

It is sometimes said that the people, with their excellent common sense, can better judge their own needs and interest than great intellects can. I have lately read several editorials in which the writers have declared that the ability of the Senate is being steadily reduced to what they were pleased to call the level of average intelligence; and have expressed the greatest satisfaction with that change in this body. But, Mr. President, even if legislation does not require great ability and even if the average man would be a better legislator for the country than the man of genius, it still must be true that the average man can not legislate wisely unless he studies the question thoroughly for himself and then exchanges views with the others who are engaged jointly with him in the performance of that highly important duty. It does not matter whether men are great or small, above the average, or below the average, or at the average, they can only legislate wisely for this country and these people by debating with each other every question which they are called upon to decide.

But, Mr. President, instead of endeavoring to enforce this view in my own way and with my own words, I can perhaps convince those who differ with me better by directing their attention to what has been said by another. Many sensible things have been written upon the necessity and the efficacy of debate, but no man has ever set forth its advantage, and even its necessity, more clearly or more forcibly than has been done by the next President of the United States. In his admirable book on "Constitutional Government in the United States," from which I have already quoted, Prof. Wilson goes at length into this subject. He not only stresses the necessity of debate, but he goes further and declares that the only debate which will answer the purpose is a debate face to face, mind to mind, and man to man. He dismisses the suggestion so often made, that the people can learn all they need to know about public questions from the newspapers, by adverting to the well-known fact that, as a rule, each newspaper becomes a partisan on every question and presents only one side of the argument, and to the further fact that many newspapers are controlled by special interests. I do not know whether this last statement is well founded or not. I have been told by gentlemen who have long been connected with the press that there are very few newspapers actually owned and controlled by any special interest. One of these gentlemen, however, tells me that it is too true in many cases that the attitude of newspapers is controlled by the counting office, and that the matter of dividends to the stockholders sometimes overrules a consideration of the public interest. All this may or may not be true; I do not know. But I do know that certain individuals with political ambitions, personal disappointments, and personal animosities now control many newspapers, and although they are loudest in their denunciations of the trusts, they are constantly extending their ownership and control over newspaper properties for the double purpose of terrorizing public men and reaping the larger returns upon the investment which a chain of newspapers is apt to bring. Considerations like these undoubtedly diminish the value of every newspaper discussion of any public question and render them unsafe guides, as Gov. Wilson says in the following dissertation.

There is discussion and discussion. I suppose that we have come to think debate less necessary in our legislative assemblies than it may once have been, because we have allowed ourselves to fancy that the action of government was sufficiently discussed and nicely enough squared with opinion by the news columns and editorials of our newspapers. But even if the chief newspapers were not owned by special interests; even if their utterances really spoke the general opinion of the communities in which they are printed, as very few of them now do, their discussion of affairs would not be of the kind that is necessary for the maintenance of constitutional government. There are many things to be said about the newspapers which will make this at once evident. For one thing, few men outside the big cities read more than one newspaper. Few men, therefore, ever get put before them in the newspapers they read more than one side of any question; and they generally decide for themselves beforehand which side that shall be by their choice of a newspaper. But far more important than that is the little recognized fact that no number of separate discussions of a question, no matter how assembled, no matter from how many different points of view, from how many different papers or different sections of the country, constitute such a comparison of views as a responsible representative assembly can institute in its debates.

Discussions which are to lead to action must be combined, compounded, made up out of many elements, or else out of a few, by a process which can be thorough and trustworthy only when these several elements are, so to say, brought personally face to face, as living, contending forces embodied in men authorized to be the spokesmen of voters and speaking with a constant sense of being held responsible for what they say. Common counsel is not jumbled counsel. There is often common counsel in the committee rooms of the House, but there is never common counsel on the floor of the House itself. It goes without saying that the combined acts of a session are not a product of common counsel. They have been produced by a thousand agencies, not thrashed out by one, and they have not been thrashed out in the presence of the country, but behind closed doors.

It may sound a very subtle matter, but it is in fact intensely practical, and is worth looking into. It is because we do not look into it or understand it, though it lies at the very heart of our whole practice of government, that we sometimes allow ourselves to assume that the "initiative" and the "referendum," now so much talked of and so imperfectly understood, are a more thorough means of getting at public opinion than the processes of our representative assemblies. Many a radical program may get what will seem to be almost general approval if you listen only to those who know that they will not have to handle the perilous matter of action and to those who have merely formed an independent—that is, an isolated—opinion, and have not entered into common counsel; but you will seldom find a deliberative

assembly acting half so radically as its several members professed themselves ready to act before they came together into one place and talked the matter over and contrived statutes. It is not that they lose heart or prove unfaithful to the promises made on the stump. They have really for the first time laid their minds alongside other minds of different views, of different experience, of different prepossessions. They have seen the men with whom they differ, face to face, and have come to understand how honestly and with what force of genuine character and disinterested conviction, or with what convincing array of practical arguments, opposite views may be held. They have learned more than any one man could beforehand have known. Common counsel is not aggregate counsel. It is not a sum in addition, counting heads. It is compounded out of many views in actual contact; is a living thing made out of the vital substance of many minds, many personalities, many experiences; and it can be made up only by the vital contacts of actual conference, only in face to face debate, only by word of mouth and the direct clash of mind with mind.

Mr. President, I am sure that every Senator who has followed closely the reading of this extended quotation from Prof. Wilson is now ready to concur in my statement, made before it was read, that no clearer presentation of the necessity for debate has ever been made; and after conceding all which his friends claim for his ability, I am still surprised that any man, whose personal experience had not taught him the value of debate, could have written so intelligently about it.

Every man who has practiced law has learned how dangerous it is to go into the court room unprepared on a case, because he knows that a well-equipped adversary will demolish his half-baked arguments. Every man who has served as a judge upon the bench can easily recall how often the attorney for the plaintiff had made out his case until the attorney for the defendant had pointed out the defects in the argument, or some substantial distinction between the case at bar and the cases which had been cited. But, even more than lawyers and judges, men who have served in legislative assemblies have witnessed how a debate has changed the whole trend of opinion. How often have we gone into our committee rooms confident in the correctness of our position upon some bill pending before that committee, and how completely we have been convinced of our error after hearing all that could be said on both sides. Perhaps that experience has not come to me as often as it has come to others, because a tenacity of opinion is one of the infirmities which those who do not love me often allege against me; but I count it no reflection on my firmness or upon my intelligence to say that I have been compelled, more than once, upon the fuller information furnished by a debate, to modify my opinion. No man can ever be sure of any opinion until he has subjected it to the searching test of an analysis by those who differ with him. It is only after our opinions have been assailed from every side that we can find their weak places, or else find that there are no weak places in them.

Not only would the initiative and referendum result in hasty and inconsiderate legislation through a lack of illuminating debate, but it would destroy also the safeguards afforded by our present system of double legislative chambers; and, in my opinion, that would be a calamity from which our country could never recover. The most enlightened opinion in this country, and the most enlightened opinion in every civilized nation in the world, calls for two houses in every legislative assembly. Manifestly the two legislative chambers are designed to insure a consideration by one house and a reconsideration by the other for every law by which the people are to be bound; and it would be the excess of folly to strike down this arrangement which the wisest statesmen in every country have pronounced one of the most salutory restraints ever devised by any people for the protection of their liberty and happiness.

Another safeguard which would be swept away by this system of direct legislation would be age as a qualification for the lawmaker. At present a minimum age is prescribed for the members of each legislative body, in the just expectation that legislation will be matured by men of reasonable experience and ability. Not only does the Constitution of the United States require that men shall have attained a greater age before they are eligible to the Senate than to the House of Representatives, but the same discrimination exists in almost every State in this Union with respect to the members of the lower and upper houses of their legislatures. But in this new and dangerous legislative assembly, composed of all the people, without any distinction as to age, character, or ability, the rashest youth in Georgia who had attained the age of 21 years would be as much a legislator as the distinguished Senator [Mr. BACON] who sits before me. His character and his attainments have won for him a third reelection to the Senate—an honor never before bestowed by Georgia on one of her sons—and yet, sir, if laws are to be passed by a direct vote of the people, his neighbor, who might be lowest in character and intellect, would be as much a legislator as he. Is this wise; is this prudent; is this safe? Every man who will put that question to his conscience and his judgment must answer, no.

Another serious objection to a system of direct legislation is that it will culminate in a dissolution of political parties and the division of our people into groups or factions. I am aware, of course, that some who look only at the surface of things would hail that as a consummation devoutly to be wished, because they are constantly lamenting the violence of party spirit. But, sir, we can never correct that evil by substituting factions for parties, because the factional spirit is always incomparably more violent than party spirit. I do not need to appeal to history in proof of that assertion. I do not need to interrogate the philosophers about it, for some very recent political events must have made the truth of it patent to every unbiased mind. Sixteen years ago, when the Democratic Party divided into warring factions, each hated the other worse than the Republican Party, and men who had spent their lives in declaiming against Republican policies openly and actively solicited their neighbors to vote the Republican ticket. Last year the Republican Party was torn asunder and, as we all know, each faction hated the other worse than its ancient enemy, the Democratic Party. We saw men who had passed their manhood in defending the Republican Party, men who had fought shoulder to shoulder through many campaigns, denouncing each other with a bitterness more intense than that which had riven our party in 1896. No, Mr. President, you can not moderate party spirit in this country by breaking up the great parties into small factions, but you can in that way destroy all responsible party government and turn this Republic over to the management of a minority. The rule of a minority is not the kind of a government which is desirable in any country, and least of all in this country. It is not the kind of a government which any thoughtful statesman would be willing to establish, but it is the kind of a government which must inevitably result from the destruction of our parties and the reign of factions. The Senate has witnessed within the last two years the group system in operation, and we have seen the legislation of this body controlled by less than a dozen men, who were in turn largely controlled by one man. With something like 45 regular Republicans and with 42 Democrats less than 10 Progressives have dominated this body upon some of its most important measures. They would first vote with the regular Republicans to defeat our Democratic bill and then force us to join them in passing their own bill, or else defeat all legislation on the subject.

Take the woolen bill for an illustration. The Republican Party was opposed to any revision of the woolen schedule; the Democratic Party earnestly desired a substantial reduction in its duties; and between them stood this small group of progressive Senators, who voted with the regular Republicans against the passage of our bill and then compelled us to vote with them to pass their bill or leave that schedule untouched. That bill as it passed the Senate was opposed by practically every Republican Senator and was supported by the Democrats only because they were forced to pass it or nothing. It did not fairly represent the views of one Senator in every ten. Is this the way to "restore the Government to the people" and execute the will of the majority? I think not.

Political parties, if organized and manipulated merely as a means of working out personal or partisan ends, are, of course, worse than useless; but political parties organized and used as a means of conducting the Government according to certain great principles upon which the members of it agree in the main are instruments of good government the value of which it would be difficult to overestimate. Indeed, sir, it is inconcelvable to me that a free government could be administered safely and wisely without political parties, because men of the same mind could not otherwise render their opinions effective in the conduct of the Government. As long as they serve this useful purpose parties are necessary and partisans may be patriots. In that sense Washington was a partisan, and though loved and trusted by all parties he was such a Federalist that Jefferson found it unpleasant to remain in his Cabinet. It was in this sense that Jefferson was a partisan, and I am by no means certain that he did not render his greatest service to his country as the founder and leader of his party. Certain it is that through the leadership of his party he acquired an ascendancy over the minds of men and exercised an influence over political events never equaled by any other man in this country. It is in this sense, I hope, that I am myself a partisan. I am a Democrat purely because I want to preserve the principles of that party and not because I am anxious to elect some man to an office. I believe, too, in party organization, and my record for party loyalty is untarnished. I have never scratched a single name from a Democratic ticket, and my vote has not been given grudgingly to the nominees of my party. But, sir, while I am a partisan, I am not an intellectual slave, and I have always reserved the right to think for myself, and I have always held it to be my

duty to vote according to my own judgment on every great question. My first speech in the House of Representatives was made against the rule which clothed the Committee on Rules of that body with such extraordinary powers. That rule was reported by the Democratic leaders and made a party question; but that fact could not convince me that all of the committees of the House should be subjected to the control of a single committee, and I felt obliged by my sense of duty to say so. Exactly what I predicted would come to pass under that rule did come to pass, and everything I said against it has been fully justified. If I thought my party were about to make a mistake like that to-day, I would make my last speech against it just as readily as I made my first. But, sir, while exercising a liberty of thought and speech, which no self-respecting and patriotic man will ever surrender, I am a firm believer in the value of party organization, and I can support no policy which, in my judgment, is certain to eventuate in the decoy of political parties. If we do not follow parties we will follow persons, and when we have walked in that course long enough the man on horseback will come and a military despotism rises upon the ruins of a free Republic.

WE TRUST THE PEOPLE.

When I plead for the government of our fathers and for those wise arrangements which have preserved our liberties and independence; when I warn my countrymen against experiments which have been tried in many lands and which have failed in every land where they have been tried, these progressive statesmen call me a reactionary and say that I do not trust the people. Sir, I trust the people more than they do, for I believe that they are intelligent enough to choose capable and honest men to represent them. I would trust with implicit confidence the American people to do anything which they will take the time to do as it ought to be done, but I would not trust them with a work which involves their liberty and their happiness, unless they will prepare for that work in a manner commensurate with its importance.

I would not be guided by any man on any question unless I knew that he had studied that question; and even then I would know that after the most thorough study the wisest will sometimes make mistakes. What is true of each man individually must be true of all men collectively, and as I would not follow with unquestioning confidence the greatest intellect and the loftiest character among us until I was assured that he was familiar with the subject on which he sought to lead me, neither will I follow all the people until I am sure that they can find time to bestow on every question the study necessary to understand it.

If you charge that I do not trust the people, because I say that they are not qualified to legislate for themselves, then you must prefer that same indictment against Thomas Jefferson, because in his letter to Arnond he declares flatly and without any qualifications that—

> They are not qualified to legislate. With us, therefore, they only choose the legislators.

No man in his day, and no man since his day, confided more absolutely in the capacity of the people for self-government than Thomas Jefferson, and he did not mean to impeach either their intelligence or patriotism when he declared that they are not qualified to legislate. He simply recognized, as I do, that legislation for a great country and a free people requires a study which the occupations of the people will never allow them to bestow upon it. If you tell me that what Jefferson said might have been entirely right in his day, but entirely wrong in this day, my answer is that every man who knows the conditions which existed then and the conditions which now exist understands that the people of that day were better qualified to legislate than the people of this day. That is true, in the first place, because there was much less legislation then than now, and all legislation was much simpler; and it is true, in the second place, because the average intelligence of the people who were then permitted to vote was greater than it is to-day. When Jefferson wrote that letter our country was not menaced by the mass of black ignorance, which the fifteenth amendment injected into our body politic, or by an enormous immigration of men wholly incapable of understanding our institutions.

Mr. President, it does not reflect upon the intelligence of any man to say that he is not competent to do a work to which he has not given any special attention. Nobody thinks that it impeaches a lawyer's ability to say that he can not practice medicine. When one of my family falls sick I call a doctor, and I do not consider that I thus acknowledge that he has more sense than I have, or that he is more interested in restoring the sick member of my family to health than I am. I send for him because he has devoted himself to the study of medicine, and therefore into his keeping I commit the very lives of my loved ones. Sir, I have seen my older boy wavering between life and death, and by his bedside I sat through the long watches of the night, suffering an agony greater than his, but not once did I venture to countermand the physician's orders. Did I thus imply the superior ability of the doctor or his greater interest in my boy? No, sir; I simply acknowledged that it was safer to follow the directions of a man who had studied medicine than it was to have those directions varied by the father, who had studied law. We will not permit a man to manage a bank or to superintend a farm or to conduct a mercantile enterprise without some previous experience, reenforced by a constant and personal attention to the business. The best engineer on a railroad seldom has more sense than the president or the general attorney of that road, but I ride without any thought that I am incurring a risk upon a railroad train drawn by an engine at whose throttle stands a sturdy and experienced engineer, while I would not ride between the stations nearest to each other on that same train if its engine were driven by the president or the general attorney of that same road.

In every relation of life we recognize the necessity of experience and of a diligence in every matter according to its importance. We will not employ a man to do any work for us in our individual capacity unless he has served some sort of apprenticeship, or at least is willing to give some time and thought to it, and yet, sir, we commit the grotesque absurdity of pretending to think that the greatest of all work, the legislation of a free people, can be wisely done without previous experience and without diligent attention to it. It is a crime against the memory of our fathers, and it is a greater crime against the safety of our children, to flatter the people with an assurance that they can legislate wisely without applying themselves to a thorough study of the measures upon which they must vote.

When these gentlemen who call themselves progressives say that they believe in the rule of the people, they say no more than has been said by all public men, with rare exceptions, throughout our history, unless they intend that hereafter a significance shall attach to that expression different from that which has attached to it heretofore. I believe as sincerely as any man in the rule of the people, but I believe in the rule of the people under our written Constitution and according to the principles of this Republic. Is that the creed of our progressive friends? If so, then there is nothing either new or dangerous in it; but neither does it give them any special claim upon the confidence and support of the people. If those gentlemen disagree with me, and with those who think as I do on this question, it must be because they desire to establish the rule of the people in some way not sanctioned by the Constitution or the principles of a representative democracy; and that is precisely what they aim to do. They are seeking to work a radical change in the character and structure of this Government. Many of their followers do not believe that, but the candid leaders of the movement admit it, and declare that while they propose to change the character of the Government they expect to make it better. They have shown themselves politicians of consummate skill in selecting as their battle cry "The rule of the people," because that finds universal acceptance in this country as an abstract proposition, but in its actual application it is subject to many exceptions.

There is not a Senator from a Southern State who will not declare that he believes in the rule of the people, and yet they must permit me to say that they believe in that rule with several very important qualifications. They do not believe in the rule of all the people, because no Southern State has yet granted the franchise to women, and I sincerely hope they never will. I can not comprehend how any woman can desire to reduce the difference between her and a man, because the closer she is brought to him, outside of the family relation, the less he will respect her. I can not understand how any woman can voluntarily step down from the pedestal upon which the chivalric men of this country have placed her to mingle in the strife and broils of a political campaign. It may be that the women would help our politics for a time, but our politics would hurt women for all time, and, reacting upon the home, would poison the very fountains of true progress and civilization. But so long as we deny the franchise to women we can not consistently declare our belief in the absolute rule of the people, for women are people, and the very best people, though not the kind of people to engage in the responsible work of declaring wars or in the rough work of fighting them.

In the Southern States we not only exclude women from all participation in our government and thus reduce the formula to read that we believe in the rule of the men people, but even that must be further qualified, because every Southern State except the one from which I come has adopted constitutional amendments designed to exclude a large number of men from all par-

ticipation in the government; and consequently the formula, according to the theory and practice of the Southern States, must read that they are in favor of the rule of the white men people. In California they are willing for white men and black men, white women and black women to rule, but they are not willing for yellow men and yellow women to rule. There is not a State in this Union to-day which will permit convicts or idiots to vote, and yet convicts and idiots are people, but the crime of the one and the affliction of the other have long been regarded as a sufficient reason for withholding from them the right of suffrage. The truth is, Mr. President, that when we analyze this matter we see that what passes amongst us to-day as a sign of devotion to the people is nothing more than shallow thinking or unadulterated hypocrisy. I believe in the rule of the people, but I do not believe that vice and ignorance should govern this country. I believe in the rule of those who possess intelligence and virtue, because I know that they alone can save this Republic.

Unable to answer the argument in favor of a representative democracy, our opponents, or at least some of them, disavow any desire or intention to subvert it and insist that they propose the initiative and referendum merely as a means of preserving the representative principle. I seldom allow myself to suspect the intellectual integrity of my opponents, because, in a public career covering almost a quarter of a century, I have found that men are generally honest in their political opinions. Of course, I know that public men are not always governed by a sense of deep conviction in espousing popular measures; but the vice even in such cases is rather a want of knowledge than a want of integrity. If a man does not understand a question, he can not possibly know which is the right side of it, and without knowing the right side he can hardly be censured for taking the popular side. But liberal as I am toward those who differ with me, it is extremely difficult for me to understand how any man can really believe that the representative principle can be preserved by superseding it; and certainly the initiative and referendum do supersede it so far as they may be adopted and applied. Not until two bodies can occupy the same space will it be possible for a representative democracy and a direct democracy to exist side by side under the same government. A direct democracy is as different from a representative democracy on the one side as an aristocracy is different from a representative democracy on the other side; and it is an elementary of political science that no government can be successfully conducted upon principles which run in opposite directions. Prof. Wilson recognizes the truth of that proposition in this book, from which I ask permission again to read:

> There are many vidences that we are losing confidence in our State legislatures, and yet it is evident that it is through them that we attempt all the more intimate measures of self-government. To lose faith in them is to lose faith in our very system of government, and that is a very serious matter. It is this loss of confidence in our local legislatures that has led our people to give so much heed to the radical suggestions of change made by those who advocate the use of the initiative and the referendum in our processes of legislation, the virtual abandonment of the representative principle, and the attempt to put into the hands of the voters themselves the power to initiate and negative laws—in order to enable them to do for themselves what they have not been able to get satisfactorily done through the representatives they have hitherto chosen to act for them.

That the initiative and referendum involves "the virtual abandonment of the representative principle" is not only recognized by Gov. Wilson in the extract which I have just read, but the conflict between the two has been recognized and asserted by the Senator from Oregon [Mr. BOURNE], and surely his opinion can not be lightly brushed aside, because he enjoys the doubtful honor of being one of the leaders of this crusade. He understands the question as well as any of his associates, and I cheerfully do him the justice to say that he is as sincere and as patriotic in his views as I am in mine. Within the last two years he delivered a speech in the Senate which has perhaps been given a wider circulation than any speech ever delivered by any Member of this or the other House. I understand that more than 5,000,000 copies of it were printed and distributed, and I have been told that 5,000 copies of it were placed by one Socialist club in Texas. That speech was considered such an authoritative statement of the progressive position that it was printed by unanimous consent of the Senate as a public document, and on the title page of it stands the slogan "Popular vs. Delegated Government." That carries with it no suggestion that the initiative and referendum are to be employed as mere aids to the representative principle, but it boldly proclaims the conflict between them, and that conflict will not end until the one shall have triumphed over the other. My intellectual vision does not enable me to penetrate the future, and I shall not attempt to prophesy which shall perish and which shall survive; but I am authorized by the history of the past to say that if the representative principle falls this Republic must fall with it.

The development of the initiative and referendum has a curious history in this country, and it is not traceable to any respect which the politicians have entertained for the will or the wisdom of the people. The initiative, of course, has grown out of the referendum, and the origin of the referendum is really the interesting part of the story. So far from it being true that questions were first referred to a direct vote of the people out of any deference to their will or eagerness to serve their interest the real truth is that the practice grew out of the cowardice of politicians, and when you consider the questions which were first dealt with in that manner you can not doubt the correctness of what I say. It must, however, be said to the credit of the politicians of those days that they did not insult the intelligence of their constituents by indulging in the cant which is now so prevalent. The chief subjects of the referendum in the early stages of its development were the questions which gave the politicians most trouble, such as the location of capitals, county seats, and the liquor traffic.

Every man who has lived in a new State knows the intense bitterness and the absorbing interest which the location of a capital always excites; and the same is true even in a greater degree with respect to the courthouse towns of counties. It is not at all uncommon for contests of this latter kind to result in public disorder and bloodshed. And yet, Mr. President, we can scarcely imagine a question which less concerns the happiness of the people, the security of their liberties, or the permanence of their government. Whether the capital shall be located at one place or another, or whether the courthouse shall be located at Johnstown or at Jamestown may deeply affect the prosperity of the one or the other locality, and may affect the convenience or inconvenience of a larger or smaller number of people; but no question of that kind can ever advance or retard the general prosperity or involve any principle of good government. Questions of that kind, however, do very seriously involve the future of the politicians called upon to decide them, and with a cunning which has brought reproach upon their class they promptly transferred the settlement of those questions to the people.

In adopting the local-option method of dealing with the liquor question the politicians builded better than they knew, because the difficulty of enforcing a prohibition law in a community where the sentiment favors the sale of liquor renders it especially wise to take the sense of the people on that question; and a close comparison of all the methods of dealing with the liquor traffic convinces me that the local-option method is the best. But, after all, whether liquor shall be sold or its sale prohibited, is a mere matter of police regulation—an important one, I grant you, vitally affecting, in many cases, the peace and the good order of communities—but it is still a question of police regulation, and I have never been able to comprehend how sensible men could become so excited over it as to subordinate all other questions to it. But, sir, while I can not comprehend how this can be true, I know perfectly well that it is true; and when the politicians learned that more than a half century ago they sought to relieve themselves by submitting the question to a vote of the people. But the politicians of that time, while seeking an escape from a responsibility which they were afraid to meet, did not really propose a radical change in our system of government, for, after all, the questions which they submitted through a referendum did not require the people to engage in legislation, as that term is properly understood. They did no more than to say that in particular cases the people, acting under a law already passed by the legislature, should really determine a fact.

IS REPRESENTATIVE GOVERNMENT A FAILURE?

And now, Mr. President, upon what ground are we asked to abandon the very basic principle of this Republic? It is neither more nor less than that representative government has proved a failure. It is true, sir, they do not employ that exact phraseology, because these progressive statesmen shrink from presenting the issue in that naked form to the people, and the most they now venture to say is that under selfish and sinister influences, which some of these very progressives helped to set in motion, representative government is breaking down. Is that true? It is exactly the opposite of the truth, for there has never been an hour since Washington took the oath as our first President when the representatives of the people were so responsive to the will of the people as they are to-day, and if there be any ground for criticism it is that these representatives are so eager to execute the will of their constituents that they too often act without waiting to learn the mature and deliberate judgment of the people.

Of course if it can be proved that a people as intelligent as ours and with a suffrage as broad as that which they enjoy can not secure the services of men who are faithful to their

interest and obedient to their will, then we must confess before the world that this Government, as it was founded by our fathers, has failed; but we can not rescue it from failure by converting it into a direct democracy, and we might as well admit that it furnishes another melancholy proof of man's incapacity for self-government. If our people lack the intelligence to select wise and honest men to make their laws, or if they are too negligent to make such a choice, we can not reasonably expect that they will perform with greater intelligence or with better diligence the more difficult and perplexing duty of making laws for themselves. If the people will not discharge the simple duty imposed upon them by our present system, it is absurd to suppose that they will discharge additional duties of greater delicacy and complexity. Judging human nature by what little I know about it, I would say that we can not compel the people to take more interest in their elections by increasing the frequency of those elections, and we will greatly aggravate their difficulties if, in addition to the more frequent elections, we add the enactment of measures to the selection of men.

Happily we are not without some light to guide us in forming an opinion on this question; and that light does not come from the musty pages of the Federal Convention; it comes from events so recent that even a Progressive will hardly refuse to follow where it leads. I have here the book of Prof. Dodd on "The Revision and Amendment of State Constitutions," and it contains an appendix giving the popular vote on constitutional amendments in the several States since 1900. The whole table is full of instructive interest, and conclusively proves the aversion of the American people to direct legislation. In seeking to extract its lesson from this table, I will begin with my own State, because I can comment freely upon what our people have done. The first Texas vote which it records was on November 6, 1900, the day on which our general election for that year was held. The total vote for candidates at that election was 449,339, while the total vote on that constitutional amendment was only 240,098, which means that less than 54 per cent of the men who went to the polling places and cast their ballots for the candidates voted on the constitutional amendment. But even that does not tell the whole story, because owing to the great disparity in the strength of political parties in our State we seldom have a contest spirited enough to bring out a full vote; and, therefore, the 240,098 men who voted on that amendment represented less than 35 per cent of those who were entitled to vote.

The next amendment to our constitution provided for the payment of a poll tax, and more than 99 per cent of those who voted for the candidates at that election voted on that constitutional amendment. That is a percentage unprecedented in our State, and, I believe, unprecedented in any other State. The explanation of that remarkable vote is that it involved the prohibition question. The Prohibitionists were striving to secure the adoption of the amendment, because they believed that many of those who regularly voted against prohibition would not pay the poll tax; and the anti-Prohibitionists, taking the same view of the matter, sought to defeat the amendment because they believed that its adoption would seriously affect all future prohibition elections; but, notwithstanding the excitement of a question like that, only 309,150 electors participated in that election. I have already stated that the lack of party contest greatly reduces our vote, but here was a contest over a question which provokes an intensity of feeling such as no other question ever arouses, and yet, under that stimulus, less than one-half of our qualified voters took interest enough in it to cast a vote upon it. With this peculiar question settled the normal public interest in constitutional amendments again exhibits itself, and on the 15 amendments to our constitution which have been submitted in the last 10 years the vote has never risen above 61 per cent, and has fallen as low as 43 per cent, of the total vote cast for candidates, which itself represented, upon an average, only half of the electorate. Upon 9 of the last 15 amendments the total vote cast both for them and against them aggregated less than 100,000 out of more than 600,000 qualified electors.

Utah is next on this list, and 29, 43, 42, 35, and down as low as 23 per cent was the average in that State.

Virginia comes next, and her average on three amendments was 52 per cent, 11 per cent, and 10 per cent.

If any State in this Union ought to make a good showing in this respect it should be Wisconsin; but her votes, as set forth by Prof. Dodd, were only 35 per cent, 29 per cent, 29 per cent, 24 per cent, 27 per cent, 25 per cent, 27 per cent, and 36 per cent. On eight constitutional amendments the percentage in the great State of Wisconsin has ranged from 36 down to 24.

Nothing could better illustrate the impossibility of inducing the voters of this country to settle questions of a legislative or a constitutional character by their direct votes than the history of the very questions upon which I am now addressing the Senate. In 1904 the State of Missouri rejected a constitutional amendment providing for the initiative and referendum by a vote of 115,741 for it to a vote of 169,281 against it, making a total of 285,022 votes cast on that question, while the total vote cast for candidates at the same election aggregated 643,969. With a tenacity and an energy which I regret to say their opponents do not emulate the advocates of the initiative and referendum procured the submission of a second constitutional amendment providing for the initiative and referendum in 1908, and it was then adopted by a vote of 177,615, against 147,290, making a total of 324,905 votes out of a total cast for candidates at the same election of 715,618.

During the year just closed the people of Ohio voted upon an initiative and referendum amendment to their constitution. Had that amendment been submitted alone, we could better understand the small vote which was cast, but 40 other amendments to the constitution of that State were submitted with this initiative and referendum amendment. The State was canvassed from one end to the other by politicians of high and low degree, practically all of them declaiming with vehemence against faithless representatives and demanding that "the government should be restored to the people." According to my information, a thousand speeches were made in favor of the initiative and referendum, while less than 100 were made against it. When the vote was counted it was found that in round numbers 275,000 had voted for that amendment, while 225,000 had voted against it. Stated in that way and looking no further into the matter, the majority would seem decisive enough, and the vote itself seems reasonably large; but, sir, when we remember that Ohio cast more than 1,100,000 at the preceding presidential election we know that the 500,000 who voted both ways on that constitutional amendment were less than one-half of those who were entitled to vote on it, and about one-half of those who within 60 days afterwards went to the polls and voted upon the election of candidates. Had the other 600,000 voters gone to the polls that constitutional amendment would have been defeated by an overwhelming majority, for it is certain that among the absentees there were no advocates of these modern isms. The men who believe in converting this Republic into a direct democracy never remain away from the polls when there is an opportunity to advance their cause; and the plain moral of all this is that a system of direct legislation tends to reduce this Government to the control of active and radical minorities.

If it be true, as I am sure it is, that our representative system works more perfectly to-day than it ever worked before in our history, what has created the distrust which, I regret to say, now so largely pervades the minds of our people? My own opinion is that it is due largely, if not entirely, to a certain class of newspapers and magazines, and I do not think that in the beginning they expected or intended to seriously disturb public confidence in our Government. Years ago, as a kind of light and idle gossip, the reporters began to print a list of senatorial millionaries, and describe the Senate as a rich man's club. Unfortunately the public seemed to relish gossip of that kind, and the scribes forwith increased the length of that list as well as the frequency of its publication. They were not always scrupulous about its accuracy, and many Senators of modest fortunes were set down as millionaires. I remember well a Senator who sat next to me for years—one of the gentlest, bravest, truest men I ever knew—and seeing his name included amongst the millionaires of the Senate one day I congratulated him upon having a bond against poverty in his old age, expressing at the same time the hope that he had not been so badly misplaced as I had, for I was also included in that list. He turned to me, and with a candor which won for him the respect and affection of all who knew him, said that at no time in his life was he ever worth as much as $150,000, and that was before he came to the Senate. He further said that if his property were reduced to cash that hour, and his debts all paid, he would not have $25,000 left, and yet he was advertised to this country and to the world as a senatorial millionaire.

From this habit of exaggerating the wealth of Senators these same gossipers passed by easy stages to insinuations that many of them had acquired their wealth while in the public service. I remember a Senator, of long and useful service in this Chamber, who was accused for years of having accumulated his millions in politics, and though he was a Democrat of unswerving party fidelity that accusation was often printed in Democratic newspapers. I had read it so many times before I was elected to the House of Representatives that I accepted it as true. In fact, it never occurred to me to doubt it, and I came to Washington with a prejudice against him. It was afterwards my privilege to know him well, and to learn that instead of growing rich out of the public service he had spent more in helping to

maintain the organization of his party than he had saved. The partners with whom he had engaged in certain legitimate business enterprises had made and paid over to him as his share of their profits more than three times as much money as he was worth when he died. These are examples which I could easily multiply, but they sufficiently indicate the heedlessness of such criticism.

Having falsely assumed that men had made great fortunes while serving in the Senate, it was easy to insinuate into the public mind a suspicion against their integrity. To ask if a man could make millions honestly in the public service, of course admitted of but one answer; but the question assumed a lie, and therefore required no answer. Senators were too proud to file an inventory of their possessions with the newspapers, and they submitted in silence to those imputations upon their honor.

Emboldened by the refusal to deny their charges and encouraged by the avidity with which the public received and read them, those newspapers proceeded to instill their poison into the public mind in a bolder fashion. Mr. President, I do not want what I am saying to be misunderstood. I do not mean that all newspapers were guilty of this infamous practice. Many of them were not, but I grieve to say that those which were seemed to prosper more than those which were not. Avaricious owners were swift to learn, what I blush for my countrymen to say is true, that assaults on public men secure many readers, while eulogies bring none. If one of the Washington papers would announce in to-morrow's issue that on next Sunday it would recount the virtues and the services of a certain Senator, that announcement would not sell two hundred extra copies of that paper; but if that same paper were to announce that next Sunday morning it would expose the immoralities, the debaucheries, and the corruptions of that same Senator, the extra demand would exceed 5,000 copies. Let us hope that this will not always be true. Let us hope that the time will come when the truth will outsell falsehood, and when groundless libels will reduce a paper's circulation as certainly as they now reduce its influence.

Once having learned that sensational attacks, though utterly destitute of the truth, would be eagerly read by the public, unscrupulous editors and owners found that they could gratify their spite and increase their incomes by assailing public men whom they happened to dislike, for personal or political reasons; and the carnival of slander was deliberately inaugurated. I do not know, and therefore I am not willing to say, how far they counted the consequences; but they ought to have understood that they could not destroy the confidence of the people in their representatives without also destroying the confidence of the people in our system of representative government. Doubtless when some of those men began to realize that, they would have turned back except for the fear that they would thus draw the fire from both sides. Others, however, welcomed the state of mind which they had, perhaps unwittingly, helped to produce as offering them a still better opportunity to reach a bad eminence; and knowing that the ignorant prejudices to which they were appealing would tolerate no moderation, they entered upon a systematic effort to still further dissatisfy the people with their government by assailing the patriotism and integrity of every man who had the character and the courage to oppose their selfish and diabolical schemes. They have done me the honor to single me out as the object of their fiercest attacks, and have slandered me with more malevolence and less reason than any man in public life. They hate me because I entreat the people to hold fast to the safeguards of a written Constitution; and because I believe in an orderly government which shall protect the life, the liberty, and the property of every citizen they denounce me as a "corporation lawyer." They have not, of course, attempted to show wherein I have served the corporations against the people, because mendacity and malice combined could not do that. There is my record, sir; it covers more than 21 years. During that time I have participated in every great debate, and I have voted on every important measure, but they can not find where I have ever spoken or voted against the honor or the interest of the people whose commission I have held. They have charged me with practicing law, but the most reckless of them do not claim that I have been employed in any case which could affect legislation or which could be affected by legislation.

I have here a sample of these attacks, in a magazine owned and published by one William R. Hearst, who affronts the decency of this Nation by posing as an apostle of civic righteousness. Politics with him are a trade and patriotism a pretense; he delights in assassinating the character of honest men and revels in the slime of the gutters. Without conscience, fidelity, or courage he is a moral pervert and political degenerate and a physical coward.

Mr. ASHURST. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Arizona?

Mr. BAILEY. I do.

Mr. ASHURST. I would be false to friendship——

Mr. BAILEY. If you want to reply for him, you must do so outside; you can not interrupt me for that purpose here.

Mr. ASHURST. I will when you get through, sir.

The PRESIDENT pro tempore. The Senator from Texas declines to yield.

Mr. BAILEY. The one article in this magazine which has perhaps been read more widely than all of the others is an attack upon Members in both Houses of Congress, who are charged with subservience to the Standard Oil Company. That article consists almost entirely of certain letters written by Mr. J. D. Archbold, or written to him, and the comments of the author upon those letters. The obvious purpose of the publication is to impress the people of this country with a belief that their representatives instead of serving them are serving the great corporations. Among the letters which appear in this magazine is one which purports to have been written by the Hon. J. C. Sibley, of Pennsylvania, to Mr. Archbold, in which he refers to "Mr. B., a Democrat," and whom he identifies further on as a Member of this body. The author of this article assumes that I was the Mr. B. referred to by Mr. Sibley, and proceeds to assail me as one of the Standard Oil Senators, seemingly oblivious to the fact that the very letter on which he based his charge completely refuted it.

On one page he classified me as a Standard Oil Senator and on another page prints a letter which shows that, within the knowledge of the man who wrote it, I had little or no acquaintance with Mr. Archbold, the manager of that corporation. This would seem to convict the man who wrote this article of a stupidity almost sufficient to excuse him for lying; but we must not leap to the conclusion that he is so stupid as his screed makes him appear to sensible men. The letters which he was publishing had been stolen, and he was shrewd enough to know that the readers whose prejudices he was striving to inflame would consider it a matter of suspicion that a man's name was mentioned at all in a stolen letter. When I was a boy at the law school I was taught that the man who received stolen property, knowing that it had been stolen, was as guilty as the thief himself, and that is just as true in morals as it is in law. Up to within these last few years any man who would have hired thieves to rifle the letter books and letter files of his employer would have been ostracized from the association of honest men, and he could not have found an audience in America which would have heard him publicly proclaim his infamy. But the times are different now, and if a man will pretend to be a reformer the people seem to forgive all his misconduct and applaud his thefts if they can be used against the reactionaries.

Mr. President, there is something wrong about this letter, for if the date of it is correct the Mr. B. to whom it refers as a Member of the Senate could not have been me, because the letter is dated February 26, 1900, and I was not then a Senator. I was not elected to the Senate until January, 1901, and took my seat as a member of this body on the 4th of March, 1901. But, sir, even if I was the Mr. B. to whom that letter referred, it imputes to me no act or opinion which could reflect on me in the slightest degree either as a Senator or as a man. It represents me as opposed to the then administration's corporation policy and states that I was prepared to "make a great fight" against the right of the Government to open a man's books for the purpose of ascertaining the profits of his business. I do not recall that I ever discussed that question with Mr. Sibley one way or the other, but I have never hesitated to express my position substantially as it is there stated to everyone with whom I have talked on that subject. I was then, and I am now, unalterably opposed to the Rooseveltian policy of legalizing monopolies and then attempting to control them. I believe that monopolies ought to be treated as commercial outlaws and punished with severity enough to exterminate them; but I am not such a fool as to think, or such a demagogue as to pretend that I think that every successful enterprise is a monopoly, nor do I think that any man should be condemned either by law or public opinion simply because he has managed his business with such sagacity as to make it a large and prosperous one. I have no prejudice against any business because of its size until it reaches a size which renders it a monopoly, and then I think that the law ought to lay its hand upon it with crushing weight. The other statement that I deny the right of the Government to search any man's books and expose his business secrets merely for the purpose of ascertaining his profits will hardly be construed as a proof of corporate sympathy by any man except a Socialist or a near-Socialist. The

man who wrote this article perhaps understood all that as well as I do, and he also understood, perhaps, that the sensible people who would read the Sibley letter would instantly perceive the absurdity of the inference against me, which he sought to draw; but he was not writing an appeal to the intelligent people of this country. He was striving to reach those who can be made to feel rather than to think.

While I could not rejoice in any result accomplished through theft or a breach of confidence, I am personally very glad that these Standard Oil letters have been printed, because they answer completely and forever the miserable wretches who have been filling this country with the charge that I am the friend and one of the attorneys for the Standard Oil Company, for these letters conclusively show that men connected in a business way with that corporation were telling them who I was and what my views were on certain public questions. Certainly, if I had been their attorney their business associates would not have thought it necessary to suggest that the manager of that colossal business ought to know me.

These letters do not, however, explode the charge against me individually any more than when properly considered they explode the charge against Congress generally. Remembering that for years these yellow journals and uplift magazines have saturated the public mind with the suspicion that all influential Senators and Representatives were in the pay of the Standard Oil Company and took orders from its officers, even their dupes must be surprised to find that there was no foundation for that charge; and that there was no foundation for it is made evident by the fact that after trusted and confidential employees had been bribed to steal everything that they could find which might inculpate Senators or Representatives, they have found correspondence with only three Senators, and none of that proves any official corruption. In saying that I do not forget that the owner of this magazine attempted to make out a case of official corruption against one Senator based upon those letters, by charging that Senator with having received a certificate of deposit for $50,000 from Mr. Archbold, and when that Senator replied by saying that the money furnished by that certificate was borrowed for a business transaction and had absolutely no relation to his official duties, Hearst replied by reading a letter from Mr. Archbold, in which that Senator's attention was called to what is known as the Jones bill. That letter was not different from letters received by every Congressman. I have received thousands of letters from merchants, manufacturers, farmers, and labor organizations urging me to oppose or support certain measures; and upon many measures I have received hundreds of letters from those who favored them as well as those who opposed them. But by connecting the $50,000 certificate of deposit with the letter about the Jones bill, Hearst sought to fix in the public mind a belief that the two had some connection, although at the moment when he read the letter about the Jones bill in an effort to establish a connection between it and the certificate of deposit he had in his possession a letter, or at least a copy of it, written by that Senator to Mr. Archbold returning the $50,000, with the statement that the business transaction for which it was borrowed had been abandoned; and that letter returning the $50,000 with that statement was written, as Hearst well knew, 10 days before Archbold's letter about the Jones bill was sent to that Senator. If every business transaction, no matter how innocent or proper it may be, is to be used as a pretext for charging that Senators are dishonest, whose reputation, sir, is safe? Only those who have no business, and the Government of this country must be reduced to the control of bankrupts and professional politicians.

Mr. President, I would be the last man here, or elsewhere, to defend a Senator or a Representative who had been recreant to his trust. Such apostates should be scourged from their high places, and their names should be effaced from the memory of men, or, if remembered at all, remembered only to excite in the minds of honest men a horror against their infamy. But, sir, to falsely accuse an honest and faithful Senator or Representative is a crime almost as great as to excuse the other kind. That dishonest men have sometimes cultivated their popularity with such success as to win an election to the Congress of the United States is undoubtedly true, but they have been the exception and not the rule. When unmasked such men should have been driven forth as unfit for association with their colleagues, and not treated simply as a type of all the others, as these scandal mongers have treated them.

Dishonest men sometimes find their way into the pulpit, but shall we distrust all preachers because a bad one now and then degrades his sacred calling? Shall we join the surging mob made up of infidels and atheists to tear down the churches; shall we reject the consolations of religion, close our Bibles, and search the Scriptures no more for eternal life because a hypocrite occasionally procures permission from the church to preach? Shall we take our children from the schools and colleges and let them grow up in ignorance because some teacher or professor turns out to be a rascal? Shall we deny ourselves the conveniences of a bank and bury our hard-earned savings because now and then a cashier absconds, stealing the widow's mite and the orphan's portion? Shall we set our faces against the honest merchants of the land because now and then we find one who will cheat us with light weight or short measure? It would, sir, be as sensible to do all these things as it is for us to tear down this best and greatest Government under which the human race has ever found protection because now and then some man who has been trusted by the people abuses their confidence and betrays their interest.

Oh, no, Mr. President; what we need in this country and at this time is more confidence in our representatives, because this eternal war against them has made too many of them cowards. Every man in these two Houses of Congress knows that his associates are, with rare exceptions, as upright and as honest as he is; but many of them are afraid to say that much to their constituents, lest they should themselves become suspected. Many of them hear their colleagues slandered and do not defend them, because the curse of the age seems to be that no man is considered honest unless he accuses all other men of dishonesty or else sits silent when they are accused.

Mr. President, I am soon to terminate my public service, and I shall henceforth have no interest in this Government other than that of a private citizen; but before I go I want to bear this testimony in behalf of the men with whom I have served: I want to say of those with whom I have differed, as well as of those with whom I have agreed in politics, that they were as much above treachery and dishonor as any equal number of men ever assembled for any work. During my 22 years in these two Houses of Congress I have been associated with perhaps 2,000 men, and among all that number I could count on the fingers of a single hand those whose absolute integrity I have ever had the slightest reason to suspect. Among them I do not believe that there have been five men who could have been bribed with any sum of money to do what they knew was wrong; but candor toward all and good faith toward the people require that I shall also say that I have known a much larger number whom fear sometimes deterred from doing what they knew was right. I do not mean that they feared some special interest, or that they feared the lobby, of which we hear so much and see so little; but, sir, they feared the displeasure of their people.

No nobler sentiment ever animated a Representative than a desire to please those who had honored him with their confidence, but to my way of thinking it is nobler still to serve the people than it is to please them. There was a time when Senators and Representatives, having done what they believed their duty required of them, did not fear to go back to their States and districts and lay the question fully and frankly before their people. By such a course a Senator or Representative sometimes lost his office, but he saved his self-respect, and that ought to be worth more than all of the offices in the world. Under a system like that the people can be educated on public questions; for in those great debates principles instead of men were the themes and they became the high schools of American politics, where the people were trained in the difficult art of self-government. Let us pray that those days and those debates will come again, so that in them and through them we may learn to appreciate the debt we owe "The Fathers" for this Government which in the words of Jefferson is so free as to restrain us in no moral right, and so firm as to protect us from every moral wrong. With this lesson on our minds and with an undying gratitude in our hearts, we can teach our children to repeat the inspiring words of Justice Story, who thus concluded the last chapter of his commentaries:

> Let the American youth never forget that they possess a noble inheritance, bought by the toils and sufferings and blood of their ancestors, and capable, if wisely improved and faithfully guarded, of transmitting to their latest posterity all the substantial blessings of life, the peaceful enjoyment of liberty, property, religion, and independence. The structure has been erected by architects of consummate skill and fidelity; its foundations are solid; its compartments are beautiful as well as useful; its arrangements are full of wisdom and order; and its defenses are impregnable from without. It has been reared for immortality, if the work of man may justly aspire to such title. It may, nevertheless, perish in an hour by the folly or corruption or negligence of its only keepers—The People. Republics are created by the virtue, public spirit, and intelligence of the citizens. They fall when the wise are banished from the public council, because they dare to be honest; and the profligate are rewarded, because they flatter the people in order to betray them.

Mr. President, I am now, and I shall be to the end of my life, opposed to kings, aristocracies, and mobs. I support now, and shall support so long as I live, the glorious Republic of our fathers. [Applause on the floor and in the galleries.]

During the delivery of Mr. BAILEY's speech,

The PRESIDENT pro tempore. Will the Senator from Texas kindly suspend for a moment? The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. LODGE. I ask that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Massachusetts asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and the Senator from Texas will proceed.

After the conclusion of Mr. BAILEY's speech,

Mr. ASHURST. Mr. President, as I have the honor in part to represent a State in which the people have reserved to themselves a part of their power under the initiative and referendum, I feel it incumbent upon me here and now to make reply to the distinguished Senator from Texas [Mr. BAILEY], whom the Senate is always pleased to hear, and as I sat in my seat and listened to the singularly sweet and flexible voice of the Senator and heard him swell the most commonplace subjects and even untenable propositions into rich eloquence, I thought how apt was the statement of Boswell, "that the object of oratory was not truth only, but persuasiveness as well." Indeed, the allurement of the Senator's oratory reminded me of the lines which Swift is said to have indited to Pope:

> From him I can not hear a line,
> Except I sigh and wish it mine.
> For he can in one sentence fix
> More things than I can say in six.

During his address the Senator from Texas adverted to Hon. William Randolph Hearst, and, if I understood the Senator's words aright, he intended to impute some questionable motives to Mr. Hearst. I would be false to the conduct I have marked out for myself, and false to a valued friend, if I did not in this place say that, while I know nothing of the differences which exist between Mr. Hearst and the Senator from Texas [Mr. BAILEY], I am able to say that I know Mr. Hearst to be a loving father, a faithful husband, a loyal friend, and a man whose name is honorably associated with the auspicious commencement and successful conclusion of hundreds of movements that make for the strength of the State, the happiness, the prosperity, the glory, and the greatness of our Nation. I believe, moreover, that Mr. Hearst is a sincere patriot, a true friend of the people, and a man of great courage and foresight. On this subject more than this need not be said; less than this by me could not be said.

The PRESIDENT pro tempore. The Senator will please suspend for one moment.

Mr. ASHURST. Mr. President, I do not ask for order.

The PRESIDENT pro tempore. The Chair will endeavor to preserve order whether the Senator asks for it or not. The Senate will be in order and the galleries will be in order.

DIRECT LEGISLATION.

Mr. ASHURST. The Senator from Texas has proceeded upon a false hypothesis in assuming, as he seemingly has all through his argument, that the advocates of direct legislation intend to destroy representative government. Such is not the intention of the advocates of direct legislation, but they do take the position that while direct legislation is not intended as a substitute for the lawmaking power it is intended to supplement the lawmaking power and to supply the deficiencies and delinquencies which the people's chosen representatives sometimes exhibit in the State legislatures.

During the course of the brilliant speech of the Senator from Texas, he stated that frequently a large percentage of the voters do not go to the polls, and therefore do not vote upon constitutional amendments, referred laws, and measures proposed by initiative petition. Mr. President, admitting for the sake of argument that this criticism is apt and just, I ask, Where will relief be found? Certainly not in the Senate, for here we have, when all the States are represented, 96 Senators, each paid a salary of $7,500 per year to remain here and vote upon measures, yet sometimes we find that we are without a quorum, and frequently legislation is determined by a vote as low as 30 per cent of the entire membership of the Senate, with only 55 per cent, 60 per cent, or 70 per cent of the membership of the Senate voting on the measure. In other words, a close investigation will disclose that there is as large a percentage of the Senators not voting on various questions as there is percentage of voters in a State who fail or decline to vote upon constitutional amendments, referred laws, or measures proposed by initiative. I have at some labor investigated the RECORD, and find that during the second session of the Sixty-second Congress there was an astonishingly large percentage of nonvoting Senators, so that the argument that the people do not vote under the initiative and referendum must fall to the ground when it is remembered that the percentage of persons not voting is no greater than the percentage of the Senators who are absent or paired, and who therefore do not vote, and I shall here read into the RECORD a list of various roll calls showing the percentage of Senators not voting. The list is as follows:

April 26, 1912. Being a bill (S. 2234) to provide for primary nominating election for presidential candidates in District of Columbia.
Yeas, 23; nays, 18; not voting, 54.
Less than quorum voted. Only 45 per cent of the membership voted on this bill.
March 19, 1912. Amendment to increase salaries of Commissioners of the District of Columbia.
Yeas, 36; nays, 13; not voting, 42.
Only 42 per cent of the membership of the Senate voted on this amendment. Carried by 38 per cent of the membership.
March 19, 1912. Amendment relating to disposition of fees collected for permits in District of Columbia.
Yeas, 35; nays, 13; not voting, 43.
Only 53 per cent of the membership voted on this amendment. Passed by vote of 38 per cent of membership.
May 31, 1912. H. R. 18909. Conference report on Agriculture Department appropriation bill:
Yeas 27, nays 36, not voting 32.
Only 66 per cent of the membership of the Senate voted on this report.
Rejected by 38 per cent of membership.
August 14, 1912. A bill (H. R. 25934) to reduce the duty on cotton. Mr. LA FOLLETTE's amendment:
Yeas 14, nays 46, not voting 34.
Only 64 per cent of membership voted on this amendment.
Defeated by 48 per cent of membership of Senate.
August 14, 1912. Mr. OLIVER'S amendment:
Yeas 29, nays 31, not voting 34.
Only 64 per cent of membership voted on this amendment.
Rejected by 33 per cent of membership of Senate.
August 14, 1912. Mr. KENYON'S amendment:
Yeas 51, nays 9, not voting 34.
Only 64 per cent of membership voted on this amendment.
Carried by 54 per cent of membership.
August 14, 1912. On passage of bill:
Yeas 36, nays 19, not voting 39.
Only 59 per cent of membership voted on this bill.
Passed by 38 per cent of membership.
January 31, 1912. A bill (S. 252) to establish a children's bureau; Overman substitute:
Yeas 30, nays 46, not voting 15.
Only 84 per cent of membership voted on this substitute.
Defeated by 48 per cent of membership of Senate.
January 31, 1912. Mr. Thornton's amendment:
Yeas 30, nays 42, not voting 19.
Only 80 per cent of membership voted on this amendment.
Rejected by 46 per cent of membership.
January 31, 1912. Mr. Culberson's amendment:
Yeas 39, nays 34, not voting 18.
Only 73 per cent of membership of Senate voted on this amendment.
Passed by vote of 41 per cent of membership.
On the passage of the bill:
Yeas 54, nays 20, not voting 17.
Eighty-two per cent of membership voted on the bill.
Passed by 57 per cent of membership.
July 31, 1912. A bill (S. 48621 to investigate certain accounts growing out of construction of Corbett Tunnel, Wyo.; over veto:
Yeas 42, nays 17, not voting 35.
Only 63 per cent of membership voted on this bill.
Passed by a vote of 45 per cent of membership.
July 2, 1912. A bill (H. R. 20182) to fix duty on chemicals. Amendment:
Yeas 55, nays 0, not voting 59.
Only 57 per cent of membership of Senate voted on this amendment.
Passed by 57 per cent of membership.
July 3, 1912. An amendment to:
Yeas 58, nays 0, not voting 36.
Only 65 per cent of membership of Senate voted on amendment.
Passed by 65 per cent of the membership of Senate.
July 3, 1912. On passage of bill:
Yeas 27, nays 32, not voting 35.
Only 63 per cent of membership voted on bill.
Defeated by vote of 34 per cent of membership.
April 11, 1912. H. R. 18956, Army appropriation bill. Vote on amendment:
Yeas 47, nays 6, not voting 42.
Only 56 per cent of the membership of the Senate voted on this amendment.
Carried by 49 per cent of membership.
June 10, 1912. On conference report:
Yeas 27, nays 24, not voting 45.
Only 51 per cent of membership of Senate voted on report.
Report was accepted by vote of 28 per cent of membership.
June 12, 1912. To reconsider:
Yeas 28, nays 29, not voting 37.
Only 61 per cent of membership voted on this measure.
Defeated by 29 per cent of membership.
May 20, 1912. A bill (S. 6864) to construct a railroad in Alaska:
Yeas 31, nays 23, not voting 41.
Only 60 per cent of the membership of the Senate voted on this bill.
The bill was passed by a vote of 32 per cent of the membership of the Senate.

The system of direct legislation, commonly designated "the initiative and referendum," has been in various ways and different forums assailed as being opposed to a republican or representative form of government, and many who argue against the initiative and referendum take the position that there is only one kind of republican form of government.

In discussing what was "a republican form of government" the Supreme Court of the United States, through Mr. Chief

Justice Waite, in the case of Minor v. Happersett (21 Wall., 175), said, speaking of the guaranty clause of the Federal Constitution:

> The guaranty is of a republican form of government. No particular government is designated as republican; neither is the exact form to be guaranteed in any manner especially designated. Here, as in other parts of the instrument, we are compelled to resort elsewhere to ascertain what was intended.

And Mr. James Madison, in No. 43 of the Federalist, wrote as follows:

> Whenever the States may choose to substitute other republican forms, they have a right to do so and to claim the Federal guaranty for the latter.

Thus we observe that the States may substitute other republican forms, and in doing so they do not forego the right to claim the Federal protection as to the substituted form; in other words, no particular form is prescribed.

The edition of 1785 of Dr. Johnson's Dictionary contains the following:

> Republican (adjective). The placing of government in the hands of the people.

The 1791 edition of Walker's Dictionary contains the following:

> Republican (adjective). Placing the government in the hands of the people.
> Republican (substantive). One who thinks a commonwealth without monarchy the best government.

Charles Pinckney, who served in the Federal Constitutional Convention, in a speech on May 14, 1788, in the debates in the Legislature and in convention of the State of South Carolina on the adoption of the Federal Constitution, said:

> We have been taught here to believe that all power of right belongs to the people; that it flows immediately from them, and is delegated to their officers for the public good; that our rulers are the servants of the people, amenable to their will, and created for their use. (See Elliott's Debates, vol. 4, p. 319.)

And in the same speech Mr. Pinckney, quoting Paley, a deacon of Carlisle (vol. 2, pp. 174–175), in enumerating the three principal forms of government, said:

> A republic is where the people at large, either collectively or by representation, form the legislature. (See Elliott's Debates, vol. 4, p. 328.)

It might further illuminate the discussion as to what is a republican form of government by stating that under the now deposed "President" Diaz Mexico was republican as to form, but there was some difference of opinion as to whether it was republican in substance; but I only use this illustration to emphasize the fact that there are a number of different forms of republican government.

In the case of Chisholm v. Georgia (2 Dallas, U. S., p. 419 et seq.) the judges delivered their opinions seriatim, and Mr. Justice James Wilson said:

> As a citizen I know the government of that State (the State of Georgia) to be republican, and my short definition of such a government is one constructed on this principle, that the supreme power resides in the body of the people. (See p. 453 et seq.)

This opinion was announced in 1793, and only six years after the drafting of the Federal Constitution, and it may be considered at least as a contemporaneous definition of the phrase "republican form of government"; and no authority, not even Alexander Hamilton or James Madison could be followed with more safety than this eminent James Wilson, the same James Wilson who in the Constitutional Convention of 1787 advocated the election of Senators by direct vote of the people. This same James Wilson was one of the great lawyers of his day, and became one of the most illustrious judges of the Supreme Court of the United States for under the judiciary act passed by Congress in 1789 President Washington appointed him as one of the Associate Justices of the Supreme Court, naming also as Associate Justices John Rutledge, William Cushing, John Blair, and James Iredell, naming John Jay, of New York, as Chief Justice; and I might digress to say that this same James Wilson, with that loyalty to the public interest, that devotion to duty which characterized him and many others of his type, lost his life while traveling in the southern circuit where he was assisting Judge Iredell in the work of Judge Iredell's circuit.

We should not forget that when this James Wilson stated that he knew the State of Georgia to be republican in form the constitution of Georgia contained an "initiative" provision in a form as pure as the initiative may be found in any of the States to-day. Indeed, Mr. President, the constitution of that State provided as follows:

> ART. 63. No alteration shall be made in this constitution without petition from a majority of the counties, and the petitions from each county to be signed by a majority of the voters in each county within the State, at which time the assembly shall order a convention to be assembled for that purpose, specifying the alterations to be made according to the petitions preferred to the assembly by the majority of counties as aforesaid.

Mr. President, there is only one forum which has the authority to determine whether or not there exists in those States which have the initiative and referendum a republican form of government. That forum is not the Supreme Court of the United States nor any other court, and this has been settled by a line of decisions so convincing that it would seem idle to discuss the question. In every case, so far as I am informed, the Federal authorities, including the Supreme Court of the United States, have treated this question as a political one.

In the case of Luther v. Borden (7 How., 1), where the question was raised on the so-called charter government, or so-called Dorr rebellion, it was contended that there did not exist in Rhode Island a republican form of government, and the court said:

> The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion, and, on the application of the legislature or of the executive (when the legislature can not be convened), against domestic violence.
> Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For as the United States guarantee to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed as well as its republican character is recognized by the proper constitutional authority. And its decision is binding on every other department of the Government and could not be questioned in a judicial tribunal. It is true that the contest in this case did not last long enough to bring the matter to this issue, and as no senators or representatives were elected under the authority of the government of which Mr. Dorr was the head, Congress was not called upon to decide the controversy. Yet the right to decide is placed there and not in the courts. (See p. 42.)

In the case of Texas v. White (7 Wall. U. S., 700–730) and the case of Taylor v. Beckham (178 U. S., 548) the question in both cases as to whether any government set up in a State was republican was held to be a political rather than a judicial question.

In the case of Minor v. Happersett (21 Wall., 162), at pages 175 and 176, the court, considering the question of a republican form of government, said:

> The guaranty is of a republican form of government. No particular government is designated as republican, neither is the exact form to be guaranteed, in any manner especially designated. Here, as in the other parts of the instrument, we are compelled to resort elsewhere to ascertain what was intended.
> The guaranty necessarily implies a duty on the part of the States themselves to provide such a government. All the States had government when the Constitution was adopted. In all the people participated to some extent, through their representatives elected in the manner specially provided. These governments the Constitution did not change. They were accepted precisely as they were, and it is therefore to be presumed that they were such as it was the duty of the States to provide. Thus we have unmistakable evidence of what was republican in form within the meaning of that term as employed in the Constitution.

A part of the "unmistakable" evidence which the court had before it when that decision was rendered must have been judicial notice of the initiative provision in the constitution of the State of Georgia adopted in 1777.

The latest expression of the Supreme Court of the United States upon this question is the famous case commonly known as the Oregon case, wherein the plaintiff in error contended that the "initiative" was in contravention of a republican form of government: (Pacific States Telephone & Telegraph Co. v. Oregon, reported in 223 U. S. Rept., p. 118 et seq.) Mr. Chief Justice White, delivering the opinion of the court, said:

> We premise by saying that while the controversy which this record presents is of much importance it is not novel. It is important, since it calls upon us to decide whether it is the duty of courts or the province of Congress to determine when a State has ceased to be republican in form and to enforce the guaranty of the Constitution on that subject. It is not novel, as that question has long since been determined by this court conformably to the practice of the Government from the beginning to be political in character and therefore not cognizable by the judicial power, but solely committed by the Constitution to the judgment of Congress.
> As the issues presented, in their very essence, are and have long since by this court been definitely determined to be political and governmental and embraced within the scope of the powers conferred upon Congress and not therefore within the reach of judicial power, it follows that the case presented is not within our jurisdiction, and the writ of error must therefore be, and it is, dismissed for want of jurisdiction.

Of course all candid and well-informed persons will admit that the Federal constitutional convention of 1787 provided for national representative government, but it does not follow that the delegates in their debates committed themselves to the idea that there is only one kind of republican form of government. Senators and Representatives from various States which have adopted the system of direct legislation designated as the "initiative and referendum" have been admitted into the Congress of the United States and occupy seats in the Senate and House of Representatives. Thus the only forum known to our Constitution, laws, and institutions possessing power and

jurisdiction to pass upon the question as to whether or not the initiative and referendum constitute a republican form of government has determined that question in the affirmative, for surely Congress would not admit Representatives or Senators into the councils of the Nation from political subdivisions not republican in form.

Mr. President, I ask permission at this point to insert in the Record as part of my remarks an excerpt from the able brief of Hon. George Fred Williams, counsel for the States of California, Arkansas, Colorado, South Dakota, and Nebraska, and of counsel for the State of Oregon, which brief Mr. Williams filed in the Supreme Court of the United States in the case of The Pacific States Telephone & Telegraph Co. against Oregon, reported in Two hundred and twenty-third United States Reports, pages 118 et seq.

The PRESIDENT pro tempore. Without objection, leave is granted.

The excerpt is as follows:

THE DEMAND FOR THE SYSTEM.

IMPERFECT POLITICAL CONDITIONS.

It is apparent that our country is in a condition of reaction against the control of privilege as powerful as that of France in 1792, or England in 1688, or Switzerland in 1848.

In France the Republic was created, in England parliamentary government became a reality, and in Switzerland the Union of States was perfected; here we are perfecting our democracy. The present movement constitutes the most momentous political revolution in our history, conducted without bloodshed and even without acrimonious political contests. It is a movement economic in its nature and, accordingly, steady and irresistible. Its objects are political and it moves on like a tidal wave, which legislatures and courts can not halt.

The causes of this movement are apparent. Political organizations have not been responsive to the popular will. The effort to obtain good government by the selection of "good men" has failed. Legislators have become the people's masters in the exercise of unlimited power. Party platforms are not regarded as pledges. The people are unable to trust their servants. A power has developed which dominates politicians, parties, and public servants. Evidences of repeating, bribery, corruption, and perversion of delegates, representatives, and officials in cities and States have persisted, and even the judiciary has at times been found subject to influences hostile to the people's interests. The average citizen has abandoned efforts to regulate party machinery and to participate in party caucuses.

The new political movement aims to clear the avenues between the people and their institutions.

The perversion of party caucuses has been met by the plan of direct nomination of candidates at the polls. Even the direct nomination of delegates to presidential conventions is being accepted; repeated scandals and notorious corruption of legislatures in the election of United States Senators have caused two-thirds of the States to devise methods of circumvention; the constitutional method of election by the legislatures, and it is probable that in the immediate future the National Constitution will be amended to secure direct election of Senators by the people.

The numerous laws of States for the prevention of corrupt practices and the limitation of campaign expenditures have been supplemented by national legislation, which is probably but the beginning of drastic enactments to maintain the purity of elections.

FAILURES OF THE LEGISLATIVE SYSTEM.

The founders of the Republic dreaded the power of the Executive. Patrick Henry inveighed against it. Jefferson insisted with impassioned force that the Republic would fall through the usurpation of power by the judicial department.

Prophecy takes a hard test by the light of experience. All fear of the Executive has ceased after more than a century of trial. For the first time the judiciary has become the subject of apprehension in the last few years.

But it is the legislative department that has proved the weakest of the departments of state. The people are strengthening this branch of democratic government by applying more democracy.

The sovereignty is being placed in practice where it exists in theory, with the people; the instrument is direct legislation.

In adopting this system there have been no interferences with the regular operations of the customary legislative machinery. Representative government remains, but its products are no longer beyond popular reach. Vicious and corrupted acts can no longer be fastened upon the people against the will of the majority.

Experience has proven that it is not safe to trust delegates with unlimited power to make laws, and the question presented in this case is whether there remains in the people the power to apply controlling influences to them.

The history of this year's legislation furnishes a long list of broken pledges.

The governors of Colorado, New York, and New Hampshire have publicly denounced the legislatures of their States for failure to redeem the direct promises of party platforms.

Gov. Shafroth, of Colorado, declared that in the longest legislative session in 30 years not a pledge has been redeemed.

In Maine a direct primary act was refused by the legislature, and at the polls, under the "initiative" amendment of the constitution, the measure was adopted by a vote of 55,840 yeas to 17,751 nays.

In 1902, under a law permitting an expression of public opinion at the polls, the people of Illinois favored by a vote of 428,000 to 87,000 a constitutional amendment providing the initiative and referendum. The legislatures for eight years took no action. In 1910 the people again made the demand by vote of 447,908 yeas to 128,398 nays. All the political platforms indorsed it. The legislature this year has refused to pass the measure.

Even in England faith in parliamentary government has been shaken. Mr. Lecky says:

"A growing distrust and contempt for representative bodies has been one of the most characteristic features of the closing years of the nineteenth century." (Democracy v. Liberty, I, pp. 142-143.)

Mr. Dicey remarks: "Faith in parliaments has undergone an eclipse." (13 Harvard Law Rev., 73-74.)

Gov. Woodrow Wilson has described the political situation as follows:

"Many of the old formulas of our business and of our politics have been outgrown. We still revere 'representative government,' but we are forced to admit that the governments we actually have have been deprived of their representative character. They do not represent us. They are filtered too fine through the sieve of secret caucuses and other machine processes; there are too many conventions preceded by too many private conferences between us and the persons through whom we legislate and conduct our governments.

"We, the people, have not free access enough to our own agents or direct enough control over them. We mean by one change or another to make our governments genuinely popular and representative again. We are cutting away anomalies, not institutions." (Boston Common, May 13, 1911.)

Such are the failures and scandals which have created distrust in parties and legislatures and caused the people to secure direct control of their political machinery, their officials and legislative bodies through direct primaries, elections, and legislation.

States and governments were made for man; and at the same time how true it is that his creatures and servants have first deceived, next vilified, and at last oppressed their Master and Maker. (Mr. Justice Wilson, in Chisholm v. Georgia, 2 Dal., 455.)

THE RECALL.

Mr. ASHURST. Mr. President, in discussing the recall, I must not be understood as making an assault upon the Supreme Court of the United States. I venerate that great court. Its judgments and decrees prove that it realizes the tremendous changes in political and economic conditions and that the present is a dynamic, not a static, condition of society. We hear frequent criticisms of the judiciary, but those criticisms are directed toward the inferior Federal judges.

Judges are very like the rest of human beings; they are as easily swayed by passion as are other men; some of them are as vain, as ambitious, and as subject to flattery as any other class of men. Their learning, virtue, integrity, and morality are no higher than that of the profession from which they are exclusively chosen—the legal profession.

There are good judges and bad judges, and the people may always be relied upon to exercise the power of recall wisely and judiciously. The people would never vote to recall a judge merely because of his rendering an unpopular decision, nor for reversing or affirming any decision, unless such decision or judgment were procured by corruption or bribery. With remarkable precision the public sees through the guises and disguises of the judge whose decisions are discolored by improper influence, by favoritism, or by bribery.

The recall would in no manner lessen the independence of a judge and the intemperate criticism or abuse of a judge by litigants, suitors, and attorneys temporarily disappointed over the loss of a case pending before the court would evoke no sympathy nor encouragement from the voters, while unfounded, unfair, unjust, or untrue charges or criticisms would strengthen the judge.

None of the Federal judges is elected by the people; none is removable by the people. Hence those judges who are incompetent or unworthy have yielded to temptation; the weak and needy have fallen, for the mere fact that a man has been appointed as a Federal judge seldom transforms his nature.

The Federal judiciary in America has grown to be the most powerful institution in our Government. More than any other agency it is in a position to promote or retard the advancement and true progress of the people.

There exists to-day a widespread belief that some of our superior Federal courts are havens of refuge for lawbreaking corporations and favor-seeking "interests."

Many factors have contributed to this belief, chief of which is the method of selecting a Federal judge, supplemented with the fact that he is to a great degree subjected to certain insidious social influences and environments, and is thrown almost exclusively into the company of opulent men whose views he, perhaps unconsciously, adopts and acts upon.

The people are losing faith in the inferior Federal judges, and the chief excellence of the recall is that it would restore the people's confidence in these judges.

Mr. President, I ask permission at this point to incorporate into the Record as a part of my remarks an excerpt from La Follette's Weekly Magazine of November 23, 1912, entitled "The Arizona Spirit," which is as follows:

THE ARIZONA SPIRIT.

Besides giving women an equal voice in government with men, the new State of Arizona distinguished itself in the recent election by restoring to its constitution the provision for the recall of judges.

Thus is ended an interesting chapter in the present movement toward more complete self-government in State and Nation.

It was in October, 1910, that the constitutional convention of the Territory of Arizona wrote into the constitution, with which it planned to set out upon its career of statehood, the provision for the recall of all elective officers, including judges. This constitution was decisively approved by the voters at the polls.

Then the question of admitting Arizona to statehood came before Congress. A contest arose. Foes of the judicial recall wanted to force all mention of this "heresy" out of the Arizona constitution. Friends of the recall, reenforced by others who were not convinced of its wisdom but nevertheless unwilling to deny the people of this Commonwealth the right to determine for themselves the kind of government they wanted, fought against striking out the recall provision. A compromise was reached whereby Arizona was to be required to vote once more upon this matter of applying the recall to judges. But on August 15, 1911, President Taft vetoed this proposal. He vigorously denounced the recall of judges, and declared, "I must disapprove a constitution containing it."

So, as the price of statehood, Arizona was compelled to strike this provision out of her constitution.

This the voters did in the election of December 12, 1911, but with the openly expressed determination to put the judicial recall back into her fundamental law as soon as possible.

And in the recent election, on November 5, they did so.

The voters of Arizona have again asserted a fine spirit of independence which will in the end transform all her institutions into instruments for maintaining full and complete self-government.

It is well for Arizona to have the recall of judges in her constitution if her people want it. It is even better for Arizona to manifest so dogged a determination to rule herself.

I am in no humor this afternoon to throw bouquets, but I will pause long enough to say—and I see the publisher of that magazine honors me with a hearing—that Democrats and Republicans will not spend their time unprofitably in reading that magazine.

It is well known, of course, that President Taft objected to the recall feature of the Arizona constitution—placed his opinion above and against opinions of the people of Arizona and against the opinions of the men who in the constitutional convention represented the people of Arizona, deliberated upon and decided what the organic law of the State of Arizona should be. The convention which framed the Arizona constitution, which has been such a storm center, but has lighted the way toward a larger liberty for the people even of the older and more populous States, is well worth considering. The result of the convention's labor affords reliable means of judging the qualifications of its members, but the following data will be found interesting:

A former Boston man, a graduate of Harvard University, namely, Hon. M. G. Cunniff, now president of the State senate of the legislative assembly of the State, was the chairman in the convention of the committee on revision, style, and compilation. With Mr. Cunniff on this committee were four other gentlemen, holders of the degree of bachelor of arts, and there were many other learned men in that body. It was said that there were no leaders in the convention, and that was true, for each man had a strong, vigorous mind and did not need any leadership. The sovereignty of his citizenship, his education, and experience, which come soon in the great Southwest, were sufficient leadership for him. Moreover, a large majority of the delegates were instructed by the voters as to the kind of constitution the people wished, and the delegates so instructed regarded themselves as bound in conscience and in honor to carry out the solemn mandate of the people. Of the 52 delegates it is interesting to note that they come from 19 different walks in life, as follows:

There were:

Lawyers	14
Miner	1
Railroad switchman	1
Locomotive engineer	1
Civil engineers	2
Stockmen	7
Clergyman	1
Physicians	2
Mine operator	1
Bankers	4
Retired capitalist	1
Machinists	2
Merchants	5
Traffic expert	1
Farmers	6
Newspaper man	1
Plumber	1
Butcher	1
Accountant	1
Total	52

All of the members of the convention were taxpayers.

Thirty per cent of the convention were college men, and every member possessed a wealth of information and practical experience gathered in that romantic land so near to nature's heart. Three were native-born Arizonans; five were foreign born. The foreign born were:

Mexico	1
Canada	1
Germany	1
Honolulu	1
England	1
Total	5

And the various States of the Union were represented as follows:

Alabama	3
Kentucky	2
New York	3
Illinois	6
Georgia	1
Indiana	1
Texas	3
Massachusetts	2
Vermont	2
Ohio	5
Michigan	3
Missouri	2
Virginia	2
Pennsylvania	1
North Carolina	1
Tennessee	1
Maryland	1
Oregon	1
Utah	1
Colorado	1
California	1
Kansas	1
Total	52

The five foreign born all were of English descent. The average age of the members was 44 years, and the average number of years they had resided in Arizona was 19.

While the convention was, in every sense of the word, a deliberative body, the members did not use language as did Talleyrand—to conceal thought, but they used language to express thought. Moreover, in the debates they did not balance each sentence with the stupid caution that characterizes passive intellectualism; nor did they immerse every sentence in a tank of diplomatic antiseptic before they allowed it utterance, as we do here.

Mr. President, I now ask unanimous consent that I may include in the Record as Appendices A, B, and C, being, respectively, copy of a letter to the public which other citizens of Arizona and I addressed to the people of Arizona upon the subject of the initiative and referendum, also copy of a letter addressed by me to the constitutional convention of the State of Arizona, and also a copy of an address delivered by me on March 27, 1912, to both houses of the Legislature of the State of Arizona upon the occasion of their assembly in joint session to ratify my election to the United States Senate.

The PRESIDENT pro tempore. Without objection, leave is granted.

[The matter referred to will be found in the appendices.]

Mr. ASHURST. Mr. President, many statesmen, publicists, and editors frequently make the observation that we are now living in an era of widespread dissatisfaction, unrest, and searching criticism. It is fortunate for our country that their observations are not wholly inaccurate and the complaint not wholly unfounded, for smug contentment is a corrosive effluent, deadly to the progress, advancement, and happiness of a nation. A people free from the exigencies of life lose their keen incentive to improvement; moreover the present conditions of unrest are only waves from the ocean of the great democratic movement which ultimately will reach all the shores of the world.

From the very dawn of history, from the beginning of the human family down to the present time, the tendency of the human race has been toward liberty—mankind reaching out for freedom and immeasurably attaining it.

For the purposes of these remarks when I use the word "liberty" I must be understood as meaning "liberty under the law," for according to my view liberty is the result of law and not the absence of law, as some persons erroneously suppose, and I shall use the word "liberty," for the purposes of this speech, as an antonym of the words "serfdom," "oppression," "servitude," "captivity," "slavery," "injustice," and "inhumanity."

Civilizations were built up in ancient times, notably in Rome and Greece, and it is a singular fact that in the civilizations of those ancient times it occurred to but few of the greatest men and profoundest thinkers that all people had equal natural rights. The fight of mankind for liberty and advancement in one respect has been peculiar, in that at no time, so far as we know, was the movement ever completely arrested.

I could descant upon numerous instances in the history of the world where great men and great women made heroic sacrifices in behalf of human liberty, but the field is too wide in its scope for copious references to individuals, hence eras and movements only may be considered within the limits of this address.

When the world emerged from the darkness of the middle ages the year A. D. 1492 was strangely propitious in heralding the dawn of a glorious epoch, for not only was America discovered in that year by Columbus but that same year beheld Boabdil, the last of the Moorish sultans, come forth from the Alhambra and yield up the famous city of Granada, a favorite seat and stronghold of Moorish power, to Ferdinand and Isabella. The expulsion of the Moors from Spain and the discovery of this continent gave birth to an amazing awakening, for soon the stories of the voyages of Columbus and the discoveries of

Cortez, Coronado, Drake, the Cabots, Frobisher, Hawkins, and Raleigh kindled the theretofore apparently dormant imagination of men. These discoveries doubled the earth, and ships of conquest, adventure, glory, and science began to cut through the billows of every sea. The expanse and magnificence of this new physical world thus opened to mankind had, as such things always have, its beneficent influence upon human character and the trend of the world's events, for mental and moral evolution and growth flow from a contemplation of the external charms of nature, and they always excite a lively and intense interest in human existence.

Seventy-two years after the discovery of America began the Shakespearean age, a period during which liberty, progress, and civilization made forward strides; and when Shakespeare's works were published it was ascertained that his writings, in addition to delighting and glorifying the intellectual world, also evoked remarkably strong patriotic and liberty-loving sentiments. For instance, in the play of of Julius Cæsar, he made one of his characters to say:

So every bondman in his own hand bears the power to cancel his captivity.

Years later the noble rhetoric and inescapable logic of John Milton and the bitter satires of Jonathan Swift, in his newspaper called the Examiner, published in 1710, forced the abolition of the censorship over the press, which was another forward step in securing a larger liberty for the people. The past 150 years, however, has been an age during which liberty has advanced to a greater degree than in any other equal number of years in the world's history.

In 1775 the population of the American Colonies numbered approximately 3,000,000 and was principally composed of the descendants of those persons who had emigrated hither to enjoy freedom of conscience, thought, and worship. They lived along that strip of land which fringes the Atlantic coast, stretching from Florida to Maine. In their veins was the blood of the Saxonfields and the Calverts, of John Hampden, who arraigned his King for the unconstitutional exactions of ship money; the blood of the Irish, whose ardent zeal for and affectionate attachment to liberty and freedom, and whose loyalty and devotion to free government no power can ever crush; the blood of the stubborn Britisher; the Huguenots, the sturdy Scotch, Welsh, Dutch, Scandinavians, the German, and last, but by no means least, the Jew, who has contributed to the progress, glory, and strength of every civilization.

These various families of men, transplanted to this new soil, and welded together by events and years, became the bravest race that ever lived. Their spirit evolved the Declaration of Independence, written by Thomas Jefferson, that contemplative lover of mankind; and on the committee with him were Roger Sherman, John Adams, R. R. Livingston, and Dr. Benjamin Franklin, whose capacious brain could contain both lightning rods and constitutions.

These brave people cried out, "A curse upon the rule of kingly government and a blessing upon the newborn Republic!" and with their bayonets wrote another charter of American liberty on the backs of the fleeing soldiers of Gen. John Burgoyne and Lord Cornwallis. England then caught somewhat the spirit of liberty and "made good the declaration of her great Lord Mansfield that 'no slave could breathe her free air,' and thus in all her world-encircling possessions, from the Pillars of Hercules to the Indus, the fetters dropped from the limbs of every English bondman whose ear could catch the music of her drumbeats," so the present contest of the people in behalf of a larger measure of freedom is not a spasm. It is not a pulsation nor a leap nor a jerk nor a sudden start. It is simply part and parcel of the resistless advance of progress which can not be stopped or stayed. The movement is seemingly more pronounced at this particular time, because the facilities for communication afforded by the telephone, the telegraph, and the newspapers are easier than they have ever been before, the facilities for acquiring knowledge are greater, and for the further reason that men who sternly stand for national progress in times of peace are now recognized to be patriots as truly as those who upon the battle field fight for national safety.

In criticizing or discussing a "reactionary," a "stationary," or a "standpatter" it is unjust and unfair to apply opprobrious epithets to him. He is simply unfortunate, for he has either misrend or failed to read the history of the world. Almost everything that has ever been proposed for the benefit of the people or for their increased liberty has been stubbornly opposed by reactionaries. Every world-important invention, whether it be a ponderous engine or an ingenious electrical contrivance, was ridiculed and opposed. Every discovery in science has been ridiculed by the reactionary. "Galileo was denounced and imprisoned for asserting, in accordance with the theory of Copernicus, that the sun was the center of the planetary system and that the earth had a diurnal motion of rotation. In both science and government many people prefer to remain static and undisturbed and naturally resent any interference with their settled beliefs. They look with suspicion upon innovations, new suggestions, and ideas as, in their opinion will interfere in any manner with their present interests." (See S. Doc. No. 438, 56th Cong., 1st sess.)

Hence their tendency to remain in the old ruts, violently oppose improvements or changes, and denounce inventors as cranks and progressives as demagogues. The stubborn opposition of the standpatter and reactionary in invention and government passes all understanding, and the singularly sad feature of it is that many of these inventions and reforms in government and economics have been opposed by truly great men.

Chancellor Livingston, one of the learned men of the State of New York, ridiculed the idea of a railroad in the United States, and stated it was his belief that if a moving body as heavy as a train of cars should ever get started the momentum would be so great that it would fly several miles beyond its destination before it could be stopped, and that no sensible person would risk his life by flying through the air at the rate of 12 or 15 miles per hour. When Murdock invented the means by which illuminating gas could be produced, the great Sir Humphrey Davy and Sir Walter Scott ridiculed the idea of its being put into practical use.

Daniel Webster, the expounder of the Constitution, expressed the gravest doubts as to the advisability of railroads, and said in public speech that the frost on the rails would prevent the train from moving or prevent the train from being stopped if it ever got started. (See S. Doc. No. 438, 56th Cong., 1st sess.) Every useful thing has been opposed in its day and generation.

Lord Macaulay once said:

Not only in politics, but in literature, in art, in science, in surgery and mechanics, in navigation and agriculture—nay, even in mathematics—we find this distinction. Everywhere there is a class of men who cling with fondness to whatever is ancient and who, even when convinced by overpowering reasons that innovation would be beneficial, consent to it with many misgivings and forebodings. We find also everywhere another class of men, sanguine in hope, bold in speculation, always pressing forward, quick to discern the imperfections of whatever exists, disposed to think lightly of the risks and inconveniences which attend improvements, and disposed to give every change credit for being an improvement. In the sentiments of both classes there is something to approve. But of both the best specimens will be found not far from the common frontier. The extreme section of one class consists of bigoted dotards; the extreme section of the other consists of shallow and reckless empirics.

Lloyd-George, one of the strongest statesmen of the day, in supporting his bill, noted that the public-school system when first inaugurated in America created a widespread protest from taxpayers similar to the present protests in England against the insurance bill.

The struggle for social justice for the people who perform physical labor has been even greater and more stubbornly resisted. As late as the year 1800 men were severely punished in England for organizing guilds or labor unions, and the condition of the working class was little better than that of slaves. It was not until 1875, in England, that the laws against the trades-unions were repealed. In the early days of our own Government nearly all the work was performed either by slaves or indentured servants, and wages amounted to an average of $1 per day. Heartless writers referred to the laboring classes as the "living machines which wealth possesses."

When Eli Moore, the first member of a labor union to be elected to the Congress of the United States, was about to take his seat in the Twenty-fourth Congress there was a movement set on foot to try to prevent his being seated. Contumely, scorn, and derision were heaped upon him by the reactionaries of that day, who believed that the liberties of the Republic were in danger because a member of the labor union had been elected to Congress. But the stubborn courage of Eli Moore, his superlative eloquence, biting sarcasm, and wonderfully piercing analysis convinced the Nation that no mistake had been made in sending a member of a labor union to Congress, and so strikingly did this journeyman printer, this organizer of labor unions, this so-called "agitator" and "demagogue" distinguish himself for patriotism, learning, and ability, that he became a confidential adviser of the administration of President James K. Polk. I mention these circumstances so that those who are supporting this contest in behalf of a larger human liberty will not become discouraged, but will become encouraged, when they reflect how much more intensely heated was the opposition to these reforms in the days gone by. He is wasting his time who believes he can stop or stay these forward movements in their progress. The movement, especially in behalf of those who perform physical labor, for a greater share of freedom, for the right to enjoy a part of the creation of their hands and of their

own toil, will inevitably live, for it is as broad based as the world itself and as deep as humanity.

Independent voting is now a protest against the machine politician in public affairs, and the great power of the people has written itself in much advanced legislation in the past few years, for we have restricted illegal combinations of capital and we are now engaged in the struggle to conserve the natural rights of men and women.

There is a growing sentiment against private ownership of public utilities, and the people demand the right to elect United States Senators by popular vote. Markets and the mere piling up of yellow metal are beginning to be a secondary consideration. There is something more in the world than food and raiment. "Man can not live by bread alone." Hence natural justice demands that the labor of men and women shall be rewarded not only with sufficient food, clothing, and shelter, but also with independence, books, paintings, music, and flowers; with leisure time to spend with the family; with leisure time within which to cultivate the idealistic, æsthetic, and spiritual side of life; for, as R. D. Owen once well said, "There is a corner even in our workaday souls where the ideal lurks."

We are now realizing that the lawbreaker is a human being, and that the lash, the horrors of subterranean dungeons, starvation, and other evidences of vengeance are of no avail. Under the old system—

the man went crushed in spirit, broken in body, hopeless in soul, to the grim confines of the penitentiary, perhaps to emerge a marked man, branded with society's scarlet scar of disgrace, a hunted and hated thing forever after, or perhaps never again to come forth, but wasting away in want and discomfort, doomed to die the death of a neglected outcast.

Under the Arizona system, with the wise, humane, and Christian treatment instituted by Gov. Hunt, the erring brother will emerge from prison reclaimed instead of ruined.

The great lesson yet to be learned by nations is the lesson of distribution. The earth can produce a hundred thousand times as much as is required for the comfort, convenience, and luxury of those who live upon it, and it might as well be understood here and now as elsewhere that this question of distribution of commodities must be settled, and it is not to be settled by a little timely patting on the back. It is not wise, it is not statesmanlike, to kick down the thermometer because it registers hot or cold weather not to our comfort. It is not wise, it is not statesmanlike, to destroy the barometer because it registers a coming storm. The heaping of all the wealth in the hands of the few, the unlawful speculations and gambling in food prices, have the effect of increasing the cost of living to a shocking degree. The heaping of all wealth in the hands of the few has the effect of reducing the multitude to poverty. With all our great wealth, the figure of want stalks amongst us, and thousands each year are destroyed by the Moloch of poverty. In New York City on December 17, 1912, a distinguished American statesman delivered an address and made use of the following words:

God knows the poor suffer enough in this country. We must more for the emancipation of the poor, and that emancipation will not come without our own emancipation from the error of our mind as to what constitutes prosperity.

Prosperity does not exist for a nation unless it pervades it. And the amount of wealth in a nation is much less important than the accessibility of the wealth. The more people you make it accessible to the more energy you call forth.

Mr. President, nothing wiser, truer, or more profound has been uttered recently, and I need not inform the Senate who made that statement, for Senators will perceive at once from the beauty of its diction and the correctness of its philosophy that it is the statement of Gov. Woodrow Wilson.

Gen. Knox, one of the first if not the first man who called George Washington "the Father of his Country," said in one of his reports as Secretary of War to President Washington:

It is the wisdom of political establishments to make the wealth of individuals subservient to the general good and not to suffer it to corrupt or attain undue indulgence.

Writing further, he said that—

Certain people solicitous to be exonerated from their proportion of public duty will exclaim against the proposed arrangement as an intolerable hardship but it ought to be thoroughly impressed that while wealth and society have their charms, they also have their indispensable obligations.

So, Mr. President, when we contemplate the infinite affluence and opulence of our Nation, and then remember that the eyes of millions of our countrymen "are sad with wakefulness and tears" because of the oppressions and hidden injustices caused by an improper and an unequal distribution of this wealth, when we see giant trusts, grasping combinations, and emmillioned monopoly madly and wildly struggling for more millions we must admit that the noblest service in which the public man may engage, the most courageous service the patriot may perform, and the most useful work which the humanitarian may do is to try to apply a remedy. This reform is a part, and a part only, of the great work yet to be done to insure complete liberty to all persons. That this evil will be abolished in the fullness of time let no one doubt, for Liberty has made her difficult but glorious way over thrones of tyrants, over injustice, over monarchs, and monopolies. She has been wounded at times, but has flown an eagle's flight, with "an eye that never winks and a wing that never tires." Her progress has sometimes been impeded by men who hold out delusive promises obviously incapable of fulfillment. Her progress has possibly been aided at times by cold and passionless conservatism, but aided much more by the ardent, fervent, and impetuous impulses of the human heart, for the spirit of liberty brooks no delay. She does not deal in diplomacy, policies, nor stratagems, nor does she deal with metaphysical subtleties. She is not proficient in the ignoble art of flattery.

The "conservative temperament" has rendered some service in advancing and preserving liberty under the law, but enthusiasm, enterprise, vehemence, experiment, and adventure have rendered services much more valuable, as they are the attributes that have carried the standards of progress and human happiness into the domain of ignorance, superstition, and injustice, and the noble enthusiasm of men and women of humanitarian impulse will in the years—the centuries—to come carry the standards of liberty yet farther and higher until shall come that day—

When the war drums throb no longer and the battle flags are furled
In the parliament of man, the federation of the world.

That day when no more men shall be hewn down by the sword of war; that day when in all this earth there shall be found no people oppressed, when no longer shall men and women die in a land of plenty for want of bread, and all shall have "the right to live by no man's leave underneath the law."

I thank the Senate for its attention.

APPENDIX A.

Copy of open letter addressed to citizens of Arizona advocating the adoption of the initiative and referendum:

PRESCOTT, ARIZ., *August 4, 1910.*

To the people of Arizona:

The Republican Party, after many years of "pattering with us in a double sense, keeping the word of promise to our ear and breaking it to our hope," has finally passed an enabling act granting statehood to Arizona, provided, of course, her people make a constitution that will be suitable not to Arizona's people but to President Taft and Senator Aldrich.

The enabling act itself is unworthy of the Republican Party, for by the terms of the Beveridge enabling act every principle of home rule was trampled upon, every precedent violated, and every true man and woman in Arizona humiliated.

Passing for the present the gratuitous slight flung at Arizona by the Beveridge bill, it is timely to say that by the passage of this enabling act the people of Arizona are confronted with the gravest responsibility they have ever met. They are face to face with State building. They are to build a constitution for a giant Commonwealth, that will guard the southwest border of this Republic until the end of time. They must build a constitution not only for themselves but for their children and their children's children—a structure that will endure. In this situation it behooves us to act as men, not as politicians or "place hunters"; it behooves us to subordinate every personal ambition, for upon our correct action in building this constitution depends the everlasting success or misery of our people and of our posterity, and if we build a constitution guaranteeing equal rights to all men and special privileges to none we may rest assured that whatever woes betide our people they will with their sterling manhood and womanhood triumph over every difficulty and make the State of Arizona the glory of America, the admiration of all the world.

The paramount duty of Arizona's constitution builders will be to write into that constitution those simple, organic provisions that will enable the people to rule, and chiefest of these are the initiative and referendum.

It is true some people object to the initiative and referendum, but these objections vanish like a bubble when pierced with the sharp steel of truthful analysis and experience.

The initiative and referendum is in full force and effect in Oregon, Montana, and Oklahoma, and in effect in a modified form in Maine, Missouri, and South Dakota, and within the past 10 days Arkansas and Minnesota have declared for it.

The initiative gives the people the right to initiate or to introduce legislation, if perchance, as frequently happens, their representatives refuse to give expression to the people's wishes.

The referendum reserves to the people the power to veto, the right to "sit in judgment upon the acts of their representatives whenever a considerable number of voters desire to test public sentiment by a popular vote."

The initiative and referendum is the people's weapon, "that weapon that comes down as still as snowflakes fall upon the sod and executes a freeman's will as lightning does the voice of God."

The initiative and referendum allows the people to rule. The initiative and referendum will compel a legislature to enact laws the people want and it will cancel laws the people do not want.

Look about you and ascertain who are the enemies of the initiative and referendum.

Capitalistic greed (which cuts down, blasts, and withers the blossoming hopes of the honest toiler and small business man) denounces the initiative and referendum. The attorneys for the trusts and monopolies denounce the initiative and referendum.

But, say some, Why not depend entirely on the legislature to make our laws?

We say in reply: The trusts and monopolies and those seeking special privileges maintain lobbyists at the capitol, and these lobbyists, with the patience of the spider and the industry of the ant, strangle measures calculated for the good of the people. These lobbyists infest

the capitols and with a princely expense account, dispense hospitality, liberality, geniality, and favors; these lobbyists exude amiability and in presence and appearance are usually suave and urbane. They lavish praise and adulation upon this or that gullible legislator, and with scornful disdain refer to the honest and homely legislator as a "demagogue," thus, in the gay and giddy whirl of glittering things of the capitol, the legislator forgets his duty; but when the farmer, fresh from the farm, with the inspiration of the soil about him, which breathes the spirit of purity, of incarnate honesty and justice, goes to the ballot box, he casts his vote directly for or against a particular law, and he is uninfluenced by any consideration save the absolute justice and efficiency of the measure upon which he votes.

When the merchant, the miner, the railroader, the cowboy, the artisan, and the plain citizen goes to the polls under the initiative and referendum he acts as his own legislator and fearlessly casts his ballot according to the dictates of his own conscience for or against this or that particular law.

The constitution should provide for the enactment of a direct primary for the nomination of all officers. He who would go into public service must serve the public, not the system. He must serve his country, not special interests.

It is a fundamental principle of this Republic that each citizen shall have equal voice in the Government. To preserve his sovereign right to an equal share in the Government he must be assured an equal voice in naming his party ticket. The naming of men upon the party ticket is the naming of men who will make and enforce the laws. It not only settles the policy of the party, it determines the character of the Government, and the direct primary will abolish the "snap" caucus and the purchased proxies.

The constitution makers, however, must not attempt to make a constitution such as was desired by the late illustrious Tillbat Tittlemouse, who wanted "a law giving everybody everything." In framing this constitution care should be taken to avoid placing legislation in the constitution. Legislation may safely be left to be enacted as changing conditions afterwards require.

The constitution should provide that it may be amended by a majority vote of the two houses of the legislature when ratified by the majority of the votes of the people "cast upon the amendment." Above all, pay no attention to mollycoddles, milksops, jellyfish, spineless-cacti, peace-at-any-price, "anything-to-get-in" persons.

The constitutional convention will consist of 52 delegates.

Let us manfully make a constitution for Arizona and her people, manfully submit it to Congress and the President, and if it be not approved we shall at least maintain our self-respect and retain that noble peace of mind which always comes as the rich reward of courageous rectitude.

HENRY F. ASHURST.
N. A. VYNE.
J. E. RUSSELL.
F. W. O'SULLIVAN.
H. R. WOOD.
J. LAWLER.
J. J. SANDERS.

APPENDIX B.

Copy of letter from HENRY F. ASHURST, addressed to the constitutional convention of Arizona:

PRESCOTT, ARIZ., *December 9, 1910.*

Hon. George W. P. Hunt, President, and to the Members of the Constitutional Convention, Phoenix, Ariz.:

GENTLEMEN: I write simply to convey my congratulations to the constitutional convention. The Democrats have faithfully kept their pledges. The Democrats will leave a name remembered with expressions of good will in those places in Arizona which are the homes of those who believe in a "government of the people, for the people, and by the people." They have provided for the enactment of a direct primary for the nomination of all officers, thereby guaranteeing to each citizen an equal voice in the government and abolishing machine politics.

You have provided for the initiative and referendum, which will place into the hands of the people the power to protect themselves against the mistakes or indifference of their representatives in the legislature. Under the initiative and referendum it will always be possible for the people to demand a direct vote and to repeal a bad law which the legislature has enacted or to enact by direct vote a good measure which the legislature has refused to consider.

You have provided for the recall, which will enable the people to dismiss from the public service a representative whenever he shall cease to serve the public interest. Under the recall no official can hold his office in defiance of the will of the constituency whose commission he has dishonored.

No one, however, not even the most enthusiastic champion of the constitution which you have labored so assiduously to form, pretends that the instrument you have drafted will, as to each and every particular provision, meet with the entire approbation of all persons—unanimity in such cases is impossible; it does not exist even in the domain of imagination—consummation devoutly to be wished though it be; but you have drafted the most concise and progressive constitution ever offered to any people in the history of the Nation. You have been criticized by some of the public press, as is its right, and these criticisms, although severe, in my judgment, were not inspired by malice, but by misfortune, for his horoscope is indeed clouded by lamentable misfortune who fails to see that you have labored to make and have made a constitution for the people and not for the system, for public interest and not for special interest, and that you have taken care to see to it that United States Senators in the new State shall be chosen by election instead of by auction.

You will meet with the approbation and thanks of the people of Arizona for your labors, for, by your methods of continually discussing, sifting, and winnowing, you have pursued the path by which alone the truth may be found.

With impressions of respect and sentiments of esteem,

Yours, very truly,

HENRY F. ASHURST.

APPENDIX C.

Address of HENRY F. ASHURST to both houses of the Legislature of Arizona upon the occasion of their assembly in joint session to ratify his election as United States Senator, March 27, 1912:

Mr. President, Mr. Speaker, gentlemen of the legislature, ladies and gentlemen, I thank the people of Arizona for this high mark of their confidence and esteem and I congratulate your honorable body upon the fidelity with which you have obeyed the mandate of the people.

I do not subscribe to the political philosophy of the celebrated Mr. Dooley, who said:

"A genuine statesman must be on his guard;
If he must have beliefs, not believe them too hard."

For myself I believe in popular government. The remedy for a half-way popular government is to give the people more power. A celebrated statesman once said to the Right Hon. William E. Gladstone:

"The people are not always right."

"No," replied Mr. Gladstone; "but they are very rarely wrong."

Thomas Jefferson once said:

"Always trust the people."

Henry VIII, the most cruel tyrant that ever sat upon the English throne, once said:

"Always watch the people."

It would be tiresome were I to describe in the limits of this address the details of the reforms that must come and that will come in the Nation, and in securing reforms I would especially urge that nothing be done in haste or in anger. We must remember that no wound ever healed except by slow degrees.

THE SENATE.

The United States Senate has been referred to as the Millionaires' Club, Bankers' Syndicate, and American House of Lords, and there is a widespread belief throughout the country that the Senate is a forum wherein monopoly and special privilege sit enthroned. There is, of course, a reason for this belief, and if such belief be well founded the time has arrived to apply a remedy. In considering this question it will be illuminating to advert to reasons for the creation of the Senate, as given by some of the members of the Federal Constitutional Convention.

This convention which wrote the Constitution of the United States sat behind closed doors; the votes were taken by States instead of by individuals, in order to prevent the people from charging the individual members with responsibility. No delegate was allowed to take notes, but, fortunately for posterity, James Madison (afterwards President) kept copious notes, in a system of his own shorthand, which were published after his death and the death of every member of the convention.

Gouverneur Morris, a member of this Constitutional Convention, said:

"The Senate ought to be composed of men of great and established property. It should be composed of an aristocracy, to keep down a turbulent democracy."

And Gouverneur Morris was the very man who, as a member of the committee on style and revision, cunningly inserted weasel words into the Constitution to curb the power of the people.

In the same convention Elbridge Gerry said:

"The Senate ought to be constituted as to provide a check in favor of the commercial interests."

This same Gerry, in speaking of the people, once said:

"The people—why, the people is a great beast."

In this same Constitutional Convention Mr. Dickerson said:

"The Senate should consist of characters distinguished for their rank in life and their weight of property, and it should bear a strong likeness to the British House of Lords."

In the same convention Mr. Roger Sherman said:

"The people immediately should have as little to do as may be about the Government."

In the same convention Mr. Mason said:

"The one important object in constituting the Senate is to secure the rights of property."

In this same convention Mr. Edmund Randolph, while speaking of the Senate, said:

"The object of this second branch is to control the democratic branch of the National Legislature."

For verification of these quotations, see Madison's Journal of the Constitutional Convention.

Reviewing some of the recent history of the United States Senate as a body, and measuring it according to the intentions of Morris, Dickerson, Sherman, Gerry, Randolph, and Mason, above quoted, and many others, it is obvious that it has never departed far from the ideas that gave it birth. It would be unjust, however, and atrociously false as well, to insinuate that there has ever been a scarcity of able and patriotic men in the Senate, and it is a pleasant commentary upon the vicissitude of the Nation to know that out of the 1,083 men who have been chosen to serve in that body since the organization of the Government but very few have been cowardly, ignorant, or corrupt.

The crying need of the hour is to bring the Senate into close touch with the people and cause it to realize that it is of the earth earthy, and that however learned, however august that body may be, it has no strength, no power, save that which comes primarily from the people. In the confusing political and social swirl the Senate has not been in close touch with the people, and only by bringing it near the hearts of the common people can it be given a revivifying touch of purity and justice, which can best be done by the direct election of Senators.

Senators of virtue and personal honesty sometimes lack essential grit and courage, and thus they give to the "interests" and trusts the service of silence, which is valuable to any trust or corporation seeking special privileges. Therefore in the Senate I shall resolutely speak, no matter what the consequences may be.

THE JUDICIARY.

Section 1 of Article III of the Constitution of the United States reads as follows:

"The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior. * * *"

In other words, these judges hold their positions for life, unless removed by the process of impeachment, the impeachment power being lodged with the Senate. These judges of the Supreme Court of the United States, not one of them elected by the people and not one of them susceptible of being defeated or dismissed by the people, by a vote of five out of nine may undo the work of both Houses of Congress and the President and thus set at naught the will of a Nation of 96,000,000 people.

We hear very much of the independence of English judges. It is true they are independent of the Crown only, but not independent of Parliament. A most cursory glance will show that with all the boasted superiority of English judges they are not independent of Parliament.

"The act of settlement passed in 1701, which provided for what is known as the judicial tenure, made the judges independent only of the

Crown, since it enacted that judges might be removed by the Crown only upon the address of both houses of Parliament. The result in England was that while the judges made a few feeble attempts to claim the right to declare void acts of Parliament on the ground that they were violative of the judicial idea of natural right, they soon abandoned such attempts, and for more than a century no English judge has dared so much as to hint that an act of Parliament does not have the force of law."

We must not forget that there are also a number of inferior Federal courts that have been created by Congress from time to time. The reactionary decisions, particularly against the laboring men, as well as sweeping injunctions, have in a large majority of cases come from these Federal judges, who sit for life, are not elected by the people and may not be dismissed by the people. Hence it will not be sufficient to confine the operations of the recall merely to the members of the State courts. Therefore, I shall support the resolution recently introduced by Senator OWEN, to subject these inferior Federal judges to a recall.

Thomas Jefferson, that sage of Democrats, had some very definite ideas about Federal judges, for, in writing to Mr. Ritchie, he said:

"The judiciary of the United States is a subtile corps of sappers constantly working underground to undermine the foundation of our confederated fabric."

Again, Mr. Jefferson, in writing to Mr. Jarvis, speaking of the judges, declared:

"They (Federal judges) have with others the same passion for party, for power, and the privileges of their corps. Their maxim is, 'It is the business of a good judge to extend his jurisdiction,' and their power is the more dangerous, as they are in office for life, and not responsible, as the other functionaries are, to elective control."

RADICALISM.

There is a strong suspicion as to the true progressiveness of those public men, who during political campaigns promise to serve the people, but who, after election, whenever any proposal is made for the real benefit of the people, cry out that such attempt is paternalism, or socialism, or radicalism.

A real Progressive will never be frightened from a high purpose. The calling of hard names did not frighten John Hampden when he arraigned his King for the unconstitutional exactions of ship money, and Thomas Jefferson did not permit himself to entertain politic doubts when he declared all men to be created free and equal. David Lloyd George, British chancellor of the exchequer, was furiously denounced when, in 1909, he introduced his budget. The lords called him a radical. Worse than that, they called him a thief. When he attempted to pass the graduated income tax and the graduated inheritance tax they said these were new and revolutionary measures, but they forgot that in the same year France raised more than $150,000,000 from these two sources. Lloyd George also included a pension system to save the workingmen of his land from the bitterness of want in their old age, and a system of compulsory insurance for workingmen, and the lords were immediately alarmed. They said these were revolutionary and radical, and forgot that when iron-handed Bismarck was building anew the German Empire one of the first things he did was to organize a plan to insure the workingmen and their families against those misfortunes so frequently met in the lives of workmen; and that on February 6, 1850, the German Emperor wrote Bismarck that "it is the duty of the State to regulate the duration and conditions of work in such a manner that the health, happiness, and morality of the workingmen may be preserved and their equality before the law assured."

ABOLITION OF COMMERCE COURT.

The Commerce Court is an unnecessary tribunal.

"The Interstate Commerce Commission as now constituted consists of five lawyers and two railroad and economic experts. The legal members by their long experience have become experts, while the purely expert members have in like manner become good lawyers within the field of railroad litigation. When such a body has fairly and fully investigated a matter within its jurisdiction, it is absurd in all cases, and rank injustice in many, to require its action to run the gantlet of two courts before the questions are finally decided."

Moreover, the law should be changed, to the end that any and all findings, judgments, decrees, and rates fixed by the Interstate Commerce Commission shall remain in full force and effect until after a full and final hearing by the court of last resort, to the end that the people instead of the railroads shall have the benefit of the law's delay.

SHERMAN ANTITRUST LAW.

The mere imposition of fines upon trust magnates who violate the Sherman antitrust law is little more than a farce.

Trusts are composed of property and persons. Laws in this respect can do no more than to imprison persons and confiscate property. The Sherman antitrust law authorizes both of these punishments. Many statesmen believe in the theory of regulation, but if that theory is good why doesn't it work? If that theory is good, why is it that the trusts are more powerful to-day than they have ever been? The Sherman law has been on the statute books 22 years, and these 22 have been the era of the stupendous growth of the trusts. The truth is that you may fine a trust magnate as heavily as you please and by a simple raising of the price of the articles which the trust sells the trust magnate will quietly bring the money from the pocket of the consumer into his own pocket with which to pay the fine. There is, however, a remedy, and it is governmental competition or governmental cooperation. Governments now do many things for citizens that citizens can not do for themselves. If the Government has enough intelligence to build large irrigation dams, dig the Panama Canal, operate post offices, and build battleships, it surely should have the intelligence to follow the English example and build large cold-storage warehouses, so that the cattle grower and sheep raiser will not be obliged to accept the price which Armour, Cudahy, and Swift are pleased to fix.

A very good way to curb the Coal Trust would be to let the Nation open up coal mines, build railroads to carry the coal to the market, and there sell to all without favor or discrimination. And in this connection I quote from the very able and thoughtful article recently written by Gen. H. M. Crittenden:

"If it be 'paternalism' to do work in a more efficient rather than a less efficient way, to guard the people's interests and give them the best results for their money, then let it be 'paternalism.' If it be 'socialism' for the people collectively to take hold of a great enterprise like Panama or the arid-lands reclamation, then let us welcome socialism. As to absenteeism, if the President of the United States, with his whole executive machinery, as relates to this matter, in Seattle or Alaska, would be any more of an absentee than the Guggenheims of New York, the writer fails to see it."

I read the other day of a boy's essay on the Government of the United States, and the boy defined our Government to be an organization—

"That can build warships, but not peace ships;
That can distribute mail, but not express matter;
That can run navy yards, but not stockyards;
That can build canals, but not railways;
That can give away valuable rights, but never get them back."

THE GOVERNMENT COULD SAVE MILLIONS BY USING ITS OWN POSTAL CARS.

The United States pays each year to the railroads $4,800,000 for rent of postal cars with which to carry the mails, and the railroads usually furnish wooden cars that "telescope" during wrecks and kill or maim the underpaid and overworked postal clerks. Remember that this $4,800,000 paid to the railroad companies each year as rental for the post-office cars is in addition to the $46,000,000 paid each year to the railroad companies for carrying the mails. Consider for a moment what an enormous sum of money could be saved to the Government if it would build its own cars.

The most expensive car, all steel, costs $12,000 and its average life is 25 years, so that with this $4,800,000 which the Government pays the railroads each year for the rent of cars we could build 400 steel cars annually.

The sum of money, aggregating $46,000,000 annually, for carrying mail, is reached because railroads charge the United States 4½ cents per pound for carrying mail matter, but the railroads carry the express matter for express companies at three-fourths of a cent per pound. Such robbery of the Government must not be permitted to continue.

I am an advocate of the parcel post, and, as John Wanamaker said, there are only four reasons why we have been unable to get the parcel post, and these four reasons are the four express companies of the United States.

CONSERVATION.

I am in favor of common-sense conservation of our natural resources, but am strongly opposed to that bureaucratic policy of so-called conservation, which is really retrogression and stagnation, and which excludes the miner, the prospector, the live-stock raiser, and the homesteader from legitimate opportunity.

Land, coal, timber, iron, oil, and all natural resources were created for man's use. They are valuable only after labor has been applied to their raw condition and converted them into products useful to mankind.

The wholesale withdrawals of public lands and the narrow, strained, and illiberal constructions placed by the Interior Department upon the laws relating to such subjects have resulted in denying hundreds of thousands of our citizens the opportunity to earn a living, and such policy is annually driving thousands of Americans to Canada, where they may "get back to the soil."

Of course the Coal Trust, Oil Trust, and Lumber Trust encourage and promote these withdrawals of public lands so that the trust may retain its monopoly, which would be loosened, if not broken, were such lands placed within the reach of the ordinary citizen.

The best, indeed the only, way to promote settlement and cultivation of the public lands is to open these lands to the poor, to those who are looking for opportunities to make themselves independent, and to those who are endeavoring to escape from the landlordism of another.

THE TARIFF.

In the schoolbooks that are used by the students in our schools we find a tariff to be defined as "an indirect tax, paid by the consumer, laid upon goods imported into a country."

It would be difficult to find a more apt definition of a tariff than this one found in our schoolbooks, but Senator GORE's definition is more sententious. He recently defined a tariff to be "a means of allowing one man to get without working for it that which another man works for but does not get."

The tariff affects the earning capacity of a man; it enters into the expenses of the home builder and the housekeeper; the prices of the children's clothing from hats to shoes are fixed and determined by it; and therefore it is of the utmost importance that husbands and wives, fathers and mothers, should acquaint themselves as fully as possible with the subject.

During the past 40 years the protected interests of this country, with marvelous success, have deluded the public into accepting and believing the ridiculous and false proposition that low tariffs bring low wages and that high protective tariff schedules bring high wages. Nothing could be falser or further from the truth.

Now, what is the purpose of a tariff? Tariffs are levied for revenue or for protection. Sometimes for both. But tariff for protection is the real purpose of the tariff in this country. Revenue tariffs contemplate the bringing of goods into the country. Protective tariffs contemplate the exclusion of goods, and are therefore always higher than revenue tariffs. Under a protective tariff the domestic manufacturer, with a monopoly in the home market, by adding the amount of the duty to the prices of his goods, forces the consumer to pay more for the goods than he—the manufacturer—could sell them for in an open, competitive market. Hence when tariffs are high the consumer pays all the goods are worth, plus the amount of the tariff, and in this way the consumer becomes a contributor out of his earnings and savings to the enormous profits of the trusts and protected industries.

Did you ever hear of a protected industry raising wages because the tariff increased its profits? Never. On the contrary, the American workman is compelled to throw his labor into an open, unprotected market and compete with the cheap European and Asiatic laborers who come here. The captains of these great protected industries have a maxim which is as follows: "Wherever we can get it the cheapest." And then these captains of industry, while selling goods at protected prices and while bringing the cheapest labor of the world into competition with the American workman, have the effrontery and the hypocrisy to say that high-tariff schedules protect American labor.

The system of tariff for protection is a fraud; it taxes the consumer and does not raise his wage, and the fictitious prices of goods, under the tariff's operations, are fraudulently obtained by the false pretense of protection to labor.

The tariff baron is privileged to buy labor in the open market, and then, under the thin disguise of protecting labor, he sells his product to the people at enormous prices.

High protective-tariff barons and reactionary Republicans point with tiresome regularity to the fact that laborers' wages are higher in protected America than they are in Great Britain, but no intelligent or well-informed person will be deceived by that "half-told truth."

In England wages are not as high as in the United States when measured by the number of dollars received for a day's work. But when the purchasing power of a dollar is taken as the basis of com-

parison, the American is paid less for his services than the Briton. For instance, the English laborer can buy the necessaries of life for one year with 205 days' labor, but to buy these same necessaries of life it costs the American laborer 225 days' labor.

Thus we find a great work before the Democratic Party, and that party has always proved equal to every contingency. Its Thomas Jefferson was called a demagogue and his followers a mob when he announced "Equal rights to all and special privileges to none."

Its Andrew Jackson was called an anarchist when he destroyed the conspiracy of the national bank and saved the Union, but the immortal Jackson dared to follow the best promptings of his heart. To-day there are issues to be met as momentous as those which confronted Jefferson and Jackson.

After 15 years of reactionary Republican rule we find evils and abuses which have discouraged and scandalized the Nation, but the Democratic Party is coming back to power. It is coming to untwist the choking grasp which the railroad companies have upon the throat of commerce, it is coming to drive from public office those who have betrayed the people, and as it comes it shakes the very earth with its mighty tread. In its ranks are the dust-begrimed toilers who make their sad appeal.

In its ranks are human sympathy and human love, and the women of this land, who in the silence of self-abnegation suffer while they serve.

It is coming to lift "some portion of that weight and care which crushes into dumb despair one-half of our people."

It hears the prayers of the oppressed and sounds the bugle note of the courageous and the strong. Those whose natural rights have been denied to them so long that they have even begun to doubt the justice of this world are thrilled with the joy of the deliverance which it will bring; the guilty grafters are trembling before it; it is coming to answer the voices of God's angry workmen, whose pockets a high protective tariff has picked; and as it comes it is sounding forth the trumpet that shall never call retreat.

DEATH OF REPRESENTATIVE JOHN G. M'HENRY.

A message from the House of Representatives, by J. C. South, its Chief Clerk, communicated to the Senate the intelligence of the death of Hon. JOHN G. MCHENRY, late a Representative from the State of Pennsylvania, and transmitted resolutions of the House thereon.

Mr. PENROSE. I ask the Chair to lay before the Senate the resolutions just received from the House of Representatives.

The PRESIDENT pro tempore. The Chair lays before the Senate resolutions of the House of Representatives, which will be read.

The resolutions were read, as follows:

IN THE HOUSE OF REPRESENTATIVES,
January 2, 1913.

Resolved, That the House of Representatives has heard with profound sorrow of the death of the Hon. JOHN G. MCHENRY, late a Representative from the State of Pennsylvania.

Resolved, That the Clerk be directed to communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of JOHN G. MCHENRY the House do now adjourn.

Mr. PENROSE. Mr. President, I offer the resolutions which I send to the desk, and ask for the present consideration of the same.

The PRESIDENT pro tempore. The resolutions will be read.

The resolutions (S. Res. 416) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. JOHN GEISER MCHENRY, late a Representative from the State of Pennsylvania.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Mr. PENROSE. I submit the following resolution, which I ask the Secretary to read.

The PRESIDENT pro tempore. The resolution will be read.

The Secretary read the resolution, as follows:

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now adjourn.

The PRESIDENT pro tempore. The question is on agreeing to the resolution submitted by the Senator from Pennsylvania.

The resolution was unanimously agreed to, and (at 5 o'clock and 18 minutes p. m.) the Senate adjourned until to-morrow, Friday, January 3, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January 2, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father of our souls, eternal and ever-present energy, the inspiration of every worthy thought and deed, we thank Thee for the riches which have come down to us out of the past, material, intellectual, spiritual; for the glory of life, the pleasure of possessing, the joy of serving, the heroism of sacrifice, the sympathy for the sorrowing, the charity for the unfortunate, the praise for the well-dones along life's rugged way, the faith that lifts above the stars, the hope that never dies; the love that sanctifies the home, insures the perpetuity of the Nation, and makes the world akin. So may we bring our possessions, our wealth of mind and soul, into the new year, a thank-offering to Thee, O God our Father, making the world richer, brighter, more joyous that we have lived and wrought. And all praise shall be Thine forever. Amen.

The Journal of the proceedings of December 19, 1912, was read and approved.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. BURKE of Wisconsin, for three days, on account of illness.

To Mr. BARTLETT, indefinitely, on account of illness in his family.

To Mr. CAMPBELL, indefinitely, on account of the serious illness of his mother.

To Mr. HART, for one week, on account of illness.

To Mr. NEELEY, indefinitely, on account of illness in his family.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Curtiss, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

H. R. 10169. An act to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge, and for the trial of cases in the event of the disqualification of or inability to act by the said judge; and

H. R. 10648. An act amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes, and to protect the same."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 5138. An act authorizing the Secretary of the Interior to survey the lands of the abandoned Fort Assiniboine Military Reservation and open the same to settlement; and

S. 7448. An act restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries.

The message also announced that the President pro tempore had appointed Mr. TOWNSEND to fill the vacancy occasioned by the resignation of Mr. BRIGGS on the joint committee to make further inquiry into the subject of parcel post created under the act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes," approved August 24, 1912.

The message also announced that the Senate had disagreed to the amendment of the House of Representatives to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. LODGE, Mr. DILLINGHAM, and Mr. SMITH of South Carolina as the conferees on the part of the Senate.

CHANGE OF REFERENCE—LINCOLN MEMORIAL.

Mr. SLAYDEN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SLAYDEN. When the House adjourned on the afternoon of the 19th of December, a roll call was pending on a motion to change the reference of Senate concurrent resolution 32, if I remember the number correctly, which had been sent to the Committee on Appropriations, back to the Committee on the Library.

Mr. BORLAND. Not back.

Mr. SLAYDEN. I would like to know, Mr. Speaker, whether the proceedings before taken make it necessary to renew that motion at this time.

The SPEAKER. The Chair thinks that inasmuch as the previous question had not been ordered you would have to begin de novo.

Mr. SLAYDEN. Mr. Speaker, I move that the Senate concurrent resolution 32—I think it is—referring to the Lincoln Memorial, be withdrawn from the Committee on Appropriations, to which it was sent, and sent to the Committee on the Library.

Mr. BORLAND. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. SLAYDEN] may have five minutes in which to make his statement, and if he avails himself of the opportunity I move that I may have five minutes in which to reply.

The SPEAKER. This matter is not debatable——

Mr. BORLAND. I know; and therefore I asked unanimous consent——

The SPEAKER. So the gentleman from Missouri [Mr. BORLAND] asks unanimous consent that the gentleman from Texas [Mr. SLAYDEN] may have five minutes in which to state his contention.

Mr. MANN. Mr. Speaker, I do not desire to object, but I think the House ought not to get into a position where it can not hear an announcement which I understand the gentleman from Pennsylvania [Mr. PALMER] has to make. The House will soon be in that position if the gentleman from Missouri [Mr. BORLAND] insists upon his request or the gentleman from Texas [Mr. SLAYDEN] on his motion at this time.

Mr. SLAYDEN. Mr. Speaker, I may say, for the information of the Chair, that I know of the resolution that the gentleman from Illinois [Mr. MANN] refers to, and it being evident that there is no quorum present I am willing, with the understanding that there shall be no forfeiture of rights in this matter, that the gentleman from Pennsylvania [Mr. PALMER] shall present his resolution of condolence, and let this matter go over until to-morrow without prejudice.

The SPEAKER. By common consent the matter referred to by the gentleman from Texas [Mr. SLAYDEN] goes over until to-morrow morning.

Mr. MANN. It will be in order to-morrow morning anyway.

IMMIGRATION BILL.

Mr. BURNETT. Mr. Speaker, I move that the House insist on its amendment to the Senate bill 3175, to regulate the immigration of aliens to and the residence of aliens in the United States, and agree to a conference.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] moves that the House insist on its amendment to Senate bill 3175, and agree to a conference as asked by the Senate. The Clerk will report the title of the bill.

The Clerk read as follows:

An act (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Alabama [Mr. BURNETT].

Mr. BARTHOLDT. Mr. Speaker, I should like to ask the gentleman from Alabama what is the character of the Senate amendments?

Mr. BURNETT. The Senate has not made any amendments. The Senate has refused to concur in the amendment of the House and has appointed conferees. We are insisting on our amendment and agreeing to the committee of conference which the Senate asks.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Alabama.

The motion was agreed to, and the Speaker appointed as conferees on the part of the House Mr. BURNETT, Mr. SABATH, and Mr. GARDNER of Massachusetts.

DEATH OF REPRESENTATIVE M'HENRY.

Mr. PALMER. Mr. Speaker, I offer the resolution which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 759.

Resolved, That the House of Representatives has heard with profound sorrow of the death of Hon. JOHN G. MCHENRY, late a Representative from Pennsylvania.

Resolved, That the Clerk be directed to communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The resolution was agreed to.

Mr. PALMER. Mr. Speaker, I offer the following additional resolution.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That as a further mark of respect to the memory of JOHN G. MCHENRY, the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 11 minutes p. m.) the House adjourned until to-morrow, Friday, January 3, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Redondo Harbor, Cal. (H. Doc. No. 1192); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Plymouth Harbor, Mass. (H. Doc. No. 1194); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of channel between Great Peconic and Little Peconic Bays, N. Y. (H. Doc. No. 1199); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Baltimore Harbor, Md., at York Spit, Chesapeake Bay (H. Doc. No. 1190); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

5. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Scuppernong River, N. C., to the town of Cherry (H. Doc. No. 1196); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

6. A letter from the Acting Secretary of War, transmitting statement of publications on hand, received, and issued by the War Department during the fiscal year ended June 30, 1912 (H. Doc. No. 1197); to the Committee on Expenditures in the War Department and ordered to be printed.

7. A letter from the Secretary of War, transmitting statement of mileage paid to officers of the Army for travel performed in connection with attendance at societies and associations from June 30 to December 1, 1912 (H. Doc. No. 1210); to the Committee on Expenditures in the War Department and ordered to be printed.

8. A letter from the Secretary of War, requesting that the sum of $100,000 of the estimate of appropriation for the fiscal year 1914 for "Horses for Cavalry, Artillery, Engineers," etc., be made immediately available (H. Doc. No. 1198); to the Committee on Military Affairs and ordered to be printed.

9. A letter from the Secretary of War, transmitting report of expenditures, "Extensions and betterment of the Washington-Alaska military cable and telegraph system," pursuant to an act of Congress approved March 23, 1910 (H. Doc. No. 1201); to the Committee on Military Affairs and ordered to be printed.

10. A letter from the Secretary of the Treasury, recommending the repeal of that clause in the sundry civil appropriation act for 1913 which provides that "No additional appointment as cadet or cadet engineers shall be made in the Revenue-Cutter Service unless hereafter authorized by Congress" (H. Doc. No. 1206); to the Committee on Appropriations and ordered to be printed.

11. A letter from the Secretary of the Treasury, calling attention to House Document No. 525, relating to "Power plant for certain public buildings, District of Columbia," and urging favorable consideration by Congress (H. Doc. No. 1208); to the Committee on Appropriations and ordered to be printed.

12. A letter from the Secretary of the Treasury, transmitting a communication from the Board of Commissioners of the District of Columbia submitting supplemental estimate of appropriation for altering the Pennsylvania Avenue Bridge across the Anacostia River or Eastern Branch by the insertion of a draw span as required by the Secretary of War (H. Doc. No. 1203); to the Committee on Appropriations and ordered to be printed.

13. A letter from the Secretary of the Treasury, calling attention to his letter of December 2, 1912, transmitting copy of a communication from the Secretary of State, submitting estimate of appropriation in the matter of the international effort to eradicate the opium evil and recommending that an appropriation therefor be included in the urgent deficiency bill (H. Doc. No. 1193); to the Committee on Appropriations and ordered to be printed.

14. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting estimate of deficiency appropriation required by the War Department for Army paymasters and clerks (H. Doc. No. 1200); to the Committee on Appropriations and ordered to be printed.

15. A letter from the Secretary of the Treasury, submitting estimate of appropriation for construction and installation of special automatic and recording scales for weighing merchandise, etc., in connection with imports at the various ports of entry (H. Doc. No. 1191); to the Committee on Appropriations and ordered to be printed.

16. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Navy submitting supplemental estimate of appropriation required for the naval establishment for the fiscal year ending June 30, 1914 (H. Doc. No. 1207); to the Committee on Naval Affairs and ordered to be printed.

17. A letter from the Secretary of the Treasury, submitting supplemental estimate for appropriation to provide temporary quarters for Government officials during progress of work in connection with enlargement of public buildings in Boston, Mass., and Charlotte, N. C. (H. Doc. No. 1205); to the Committee on Appropriations and ordered to be printed.

18. A letter from the Postmaster General, transmitting a statement of expenses of attendance of officers and employees of the Post Office Department at conventions of postal employees

incurred from June 30 to December 1, 1912 (H. Doc. No. 1211); to the Committee on Expenditures in the Post Office Department and ordered to be printed.

19. A letter from the Librarian of Congress, submitting a statement of expenses incurred by officers and employees in attendance at meetings or conventions under written authority of the Librarian of Congress from June 30 to December 1, 1912 (H. Doc. No. 1212); to the Committee on Appropriations and ordered to be printed.

20. A letter from the Acting Secretary of Commerce and Labor, transmitting statement of expenses incurred by officers and employees of the department from June 30 to December 1, 1912, while in attendance upon societies or conventions (H. Doc. No. 1214); to the Committee on Expenditures in the Department of Commerce and Labor and ordered to be printed.

21. A letter from the Secretary of the Interstate Commerce Commission, transmitting a statement of travel expenses incurred by officers and employees of the commission when employed outside of Washington, D. C., from June 30, 1912, to December 1, 1912 (H. Doc. No. 1209); to the Committee on Appropriations and ordered to be printed.

22. A letter from the Board of Commissioners of the District of Columbia, transmitting report of investigation made by the Commissioners of the District as to the desirability of establishing a municipal asphalt plant and recommending the establishment of such a plant (H. Doc. No. 1195); to the Committee on Appropriations and ordered to be printed.

23. A letter from the Secretary of Agriculture, transmitting statement of expenses incurred by officers and employees of the Department of Agriculture from June 30 to December 1, 1912, while in attendance upon societies or conventions (H. Doc. No. 1215); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

24. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting estimate of appropriation for the construction of the necessary officers' quarters and other buildings required at the remount depot, Front Royal, Va. (H. Doc. No. 1204); to the Committee on Appropriations and ordered to be printed.

25. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the ascertainment of electors for President and Vice President appointed in the State of Arizona at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

26. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of California at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

27. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Connecticut at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

28. A letter form the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Iowa at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

29. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Kentucky at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

30. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Louisiana at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

31. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Montana at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

32. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Nevada at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

33. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of New Jersey at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

34. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of New Mexico at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

35. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of North Carolina at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

36. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of North Dakota at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

37. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Ohio at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

38. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the ascertainment of electors for President and Vice President appointed in the State of West Virginia at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

39. A letter from the Attorney General of the United States, submitting statement of expenses incurred by officers and employees of the Department of Justice in attending societies or conventions from June 30 to December 1, 1912 (H. Doc. No. 1213); to the Committee on Expenditures in the Department of Justice and ordered to be printed.

40. A letter from the Secretary of War, transmitting report of expenditures for extensions and betterment of the Washington-Alaska military cable and telegraph systems pursuant to act of March 3, 1911 (H. Doc. No. 1202); to the Committee on Military Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. REDFIELD, from the Committee on Invalid Pensions, to which was referred sundry bills, reported in lieu thereof the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, accompanied by a report (No. 1278), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. COX of Ohio: A bill (H. R. 27476) to increase the limit of cost of the Federal building heretofore authorized at Dayton, Ohio; to the Committee on Public Buildings and Grounds.

By Mr. McKINNEY: A bill (H. R. 27477) for the purchase of a site and the erection thereon of a public building at Aledo, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. RAKER: A bill (H. R. 27478) authorizing the State of California to select public lands in lieu of certain lands granted to it in Imperial County, Cal., and for other purposes; to the Committee on the Public Lands.

Also, a bill (H. R. 27479) appropriating money for the continuing improvement of harbor at the entrance to Humboldt Bay, Cal.; to the Committee on Appropriations.

By Mr. PRAY: A bill (H. R. 27480) authorizing resurveys and retracements in Montana; to the Committee on Appropriations.

Also, a bill (H. R. 27481) providing for appropriation for survey of public lands in the counties of Chouteau, Hill, Blaine, Valley, Dawson, Fergus, Rosebud, and Custer, in Montana; to the Committee on Appropriations.

Also, a bill (H. R. 27482) providing for an exchange of lands and indemnity rights with the State of Montana; to the Committee on Agriculture.

Also, a bill (H. R. 27483) appropriating money for the improvement of the Missouri River from Le Beau, S. Dak., to Fort Benton, Mont.; to the Committee on Rivers and Harbors.

By Mr. BOOHER: A bill (H. R. 27484) authorizing the Secretary of War to donate to the city of Tarkio, Mo., one small bronze cannon, with its carriage and six cannon balls; to the Committee on Military Affairs.

By Mr. HAYDEN: A bill (H. R. 27485) granting certain lands in Arizona to the National Indian Association; to the Committee on Indian Affairs.

Also, a bill (H. R. 27486) to provide for the construction of a bridge across the Colorado River between the Yuma Indian Reservation, in California, and the town of Yuma, in Arizona; to the Committee on Indian Affairs.

By Mr. TOWNER: A bill (H. R. 27487) to strike out books and pamphlets from the third class of mail matter and to include them as entitled to parcel-post rates, and for other purposes; to the Committee on the Post Office and Post Roads.

Also, a bill (H. R. 27488) for the reclassification of mail matter, for the consolidation of the third and fourth classes, and for other purposes; to the Committee on the Post Office and Post Roads.

By Mr. RUCKER of Missouri: A bill (H. R. 27489) to amend section 3240 of chapter 3 of the Revised Statutes of the United States as amended by act approved June 21, 1906, so as to provide for furnishing certain records or certified copies thereof, and for other purposes; to the Committee on the Judiciary.

By Mr. KINKAID of Nebraska: A bill (H. R. 27490) to authorize the Secretary of the Interior to issue patent to the State of Nebraska for section 9, township 34, range 27 west, sixth principal meridian, Nebraska, in exchange with the State of Nebraska for its school section 36 in the same township; to the Committee on the Public Lands.

By Mr. ROBERTS of Nevada: A bill (H. R. 27491) legalizing certain conveyances heretofore made by the Central Pacific Railroad Co. and others within the State of Nevada; to the Committee on the Judiciary.

By Mr. STEENERSON: A bill (H. R. 27492) for preventing the manufacture, sale, or transportation of imitated or misbranded articles of commerce and regulating the traffic therein, and for other purposes; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 27493) for the relief of settlers who purchased land under the act of February 20, 1904; to the Committee on the Public Lands.

Also, a bill (H. R. 27494) governing homestead entries in the State of Minnesota; to the Committee on the Public Lands.

By Mr. KENT: A bill (H. R. 27495) authorizing and directing the Secretary of War to cause preliminary examination and survey to be made of the Feather River, Cal., and for other purposes; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 27496) authorizing a survey of Napa River in California; to the Committee on Rivers and Harbors.

By Mr. LOBECK: A bill (H. R. 27497) to provide for paving with a proper material the Fort Crook military boulevard from Fort Crook Military Reservation to the south city limits of South Omaha, Nebr., so as to perfect a continuous paved highway from Fort Crook Military Reservation to Fort Omaha Military Reservation; to the Committee on Military Affairs.

By Mr. FRENCH: A bill (H. R. 27498) to amend an act to provide for an enlarged homestead, approved June 17, 1910; to the Committee on the Public Lands.

By Mr. MARTIN of South Dakota: A bill (H. R. 27499) providing an appropriation to enable the Sioux Indians to employ a competent attorney to make certain investigations and report; to the Committee on Indian Affairs.

Also, a bill (H. R. 27500) to amend section 2291 of the Revised Statutes of the United States as amended June 6, 1912; to the Committee on the Public Lands.

Also, a bill (H. R. 27501) to repeal section 3 of an act providing for second and additional homestead entries, and for other purposes, approved April 28, 1904; to the Committee on the Public Lands.

By Mr. PARRAN: A bill (H. R. 27502) authorizing the purchase or acquisition of the aviation fields at College Park, Md., and property adjacent thereto, for aviation, maneuvers, and other military purposes; to the Committee on Military Affairs.

By Mr. CRUMPACKER: A bill (H. R. 27503) to provide for the admission of lumber and other articles of foreign production into the ports of the United States free of duty; to the Committee on Ways and Means.

By Mr. LINTHICUM: Resolution (H. Res. 760) authorizing the appointment of a select committee to investigate the causes of railroad wrecks and accidents; to the Committee on Rules.

By Mr. GODWIN of North Carolina: Resolution (H. Res. 761) authorizing the Committee on Reform in the Civil Service to investigate the present organization of the civil service and submit report thereon; to the Committee on Rules.

By Mr. CRUMPACKER: Joint resolution (H. J. Res. 375) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. REDFIELD: A bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; to the Committee of the Whole House.

By Mr. ANDERSON: A bill (H. R. 27504) granting a pension to Louisa M. Salim; to the Committee on Invalid Pensions.

By Mr. BOOHER: A bill (H. R. 27505) granting an increase of pension to William S. Nash; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27506) granting an increase of pension to William C. Barnes; to the Committee on Invalid Pensions.

By Mr. BORLAND: A bill (H. R. 27507) granting a pension to John H. Shaw; to the Committee on Pensions.

Also, a bill (H. R. 27508) granting an increase of pension to Clark H. Shepherd; to the Committee on Pensions.

Also, a bill (H. R. 27509) granting an increase of pension to Frances E. Malloy; to the Committee on Pensions.

Also, a bill (H. R. 27510) granting an increase of pension to Ralph E. Truman; to the Committee on Pensions.

By Mr. CLINE: A bill (H. R. 27511) granting an increase of pension to Levi D. Bodley; to the Committee on Invalid Pensions.

By Mr. CRUMPACKER: A bill (H. R. 27512) granting an increase of pension to Lusenah Fuller; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 27513) granting a pension to Moses Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27514) granting a pension to Ida De Portee; to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 27515) granting an increase of pension to George G. De Wolf; to the Committee on Invalid Pensions.

By Mr. KINKAID of Nebraska: A bill (H. R. 27516) for the relief of Uriah S. Town; to the Committee on the Public Lands.

Also, a bill (H. R. 27517) for the relief of Grace Harris; to the Committee on the Public Lands.

By Mr. LINDSAY: A bill (H. R. 27518) granting an increase of pension to Joseph W. Jeroloman; to the Committee on Invalid Pensions.

By Mr. LOBECK: A bill (H. R. 27519) for the relief of Lavern Walker; to the Committee on Military Affairs.

Also, a bill (H. R. 27520) granting a pension to Augustus E. Oberton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27521) granting an increase of pension to Sarah C. Gross; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27522) granting an increase of pension to James M. Emmons; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27523) granting an increase of pension to Elizabeth J. Dennis; to the Committee on Invalid Pensions.

By Mr. MARTIN of South Dakota: A bill (H. R. 27524) granting an increase of pension to Joshua Minthorn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27525) granting an increase of pension to George Wells; to the Committee on Invalid Pensions.

By Mr. WILLIS: A bill (H. R. 27526) granting a pension to Emma B. Showalter; to the Committee on Invalid Pensions.

By Mr. MURDOCK: A bill (H. R. 27527) granting a pension to Elizabeth M. Burson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27528) granting a pension to Lyman E. Tibbitts; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27529) granting a pension to Charles F. Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27530) granting an increase of pension to Levi Myers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27531) granting an increase of pension to Jacob C. Rennaker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27532) granting an increase of pension to Robert Harris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27533) granting an increase of pension to Lafayette Cook; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27534) granting an increase of pension to Charles W. Botkin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27535) granting an increase of pension to Bailey Spivey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27536) granting an increase of pension to Martin Parker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27537) granting an increase of pension to Jonathan Colyar; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27538) granting an increase of pension to Henry Miller; to the Committee on Invalid Pensions.

By Mr. PRAY: A bill (H. R. 27539) for the relief of Thomas G. Running; to the Committee on Claims.

Also, a bill (H. R. 27540) granting a pension to Sarah M. Wood; to the Committee on Pensions.

Also, a bill (H. R. 27541) granting an increase of pension to John W. Stults; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27542) granting an increase of pension to Lucy A. Ellithorp; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27543) for the relief of the legal representatives of Thomas B. McClintic, deceased; to the Committee on Claims.

By Mr. RAKER: A bill (H. R. 27544) for the relief of Thomas F. Howell; to the Committee on the Public Lands.

Also, a bill (H. R. 27545) for the relief of James Diamond, for horse lost while hired by the United States Forest Service; to the Committee on Claims.

By Mr. RUCKER of Missouri: A bill (H. R. 27546) granting an increase of pension to Brackett Munsey; to the Committee on Invalid Pensions.

By Mr. SMITH of New York: A bill (H. R. 27547) granting an increase of pension to Thomas M. Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27548) granting an increase of pension to Ira Baker; to the Committee on Invalid Pensions.

By Mr. STEENERSON: A bill (H. R. 27549) granting a pension to Adolph Lalonde; to the Committee on Pensions.

By Mr. STEVENS of Minnesota: A bill (H. R. 27550) for the relief of the Minnesota & Ontario Power Co.; to the Committee on Claims.

Also, a bill (H. R. 27551) granting a pension to Mitilde K. Schaffman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27552) granting a pension to Ole Hamrey; to the Committee on Pensions.

Also, a bill (H. R. 27553) granting a pension to August Jobst; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27554) granting an increase of pension to Frank B. Doran; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27555) granting an increase of pension to James T. Moran; to the Committee on Invalid Pensions.

By Mr. TOWNER: A bill (H. R. 27556) granting an increase of pension to George Ingram; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANDERSON: Papers to accompany bill granting a pension to Louisa M. McLean; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: Petition of the Woman's Christian Temperance Union of Wooten, Ohio, favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Baltimore Clothing Co. and 13 other merchants of Newcomerstown, Ohio, favoring legislation increasing the power of the Interstate Commerce Commission over the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. FORNES: Petition of F. Reichmann, superintendent of weights and measures of the State of New York, protesting against the passage of House bill 23113; to the Committee on Ways and Means.

Also, petition of the Central Federated Union of New York, protesting against the passage of the Kenyon-Sheppard bill or any other bill preventing the shipment of liquor into dry territories; to the Committee on the Judiciary.

Also, petition of the National Society for the Promotion of Industrial Education, favoring the passage of the Page-Wilson bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Merchants' Association of New York, favoring the passage of House bill 25106, for the incorporation of the chamber of commerce of the United States of America; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Papers to accompany bill for the relief of George G. DeWolf; to the Committee on Invalid Pensions.

Also, petition of Christopher Finkbeirner, of Toledo, Ohio, favoring the passage of House bill 1330, increasing pension of those who lost a limb in the Civil War; to the Committee on Invalid Pensions.

Also, petition of the Railway Business Association, favoring the passage of House bill 25106, to grant a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on Interstate and Foreign Commerce.

By Mr. HANNA: Petition of citizens of the State of South Dakota, favoring the passage of the amended Kenyon bill (S. 4043), preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. HENRY of Texas: Petition of the Texas State Historical Association, favoring passage of legislation providing for the building of a national archives building; to the Committee on Public Buildings and Grounds.

By Mr. HINDS: Petition of the Maine State Grange, favoring the passage of the Page bill (S. 3), for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Maine State Grange, favoring the passage of legislation to prohibit the destruction of insect-eating birds; to the Committee on Agriculture.

By Mr. KINDRED: Petition of Holmes Beckwith, favoring the passage of the Page-Wilson bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Merchants' Association of New York, favoring the passage of House bill 25106, providing for the incorporation of the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the American Federation of Labor, Rochester, N. Y., and the National Society for the Promotion of Industrial Education, New York, favoring the passage of the Page-Wilson bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the State Council of Pennsylvania, Order of Independent Americans, Philadelphia, Pa., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. LEVY: Petition of the American Federation of Labor, favoring the passage of the Page bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the National Conservation Association, favoring legislation making appropriation for the building of a Government building at the National Conservation Exposition; to the Committee on Public Buildings and Grounds.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, regulating the transmission of all telephone and telegraph messages; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the New York Civic League, favoring the passage of any legislation preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Central Federated Union, New York, protesting against the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on Interstate and Foreign Commerce.

Also, petition of National Federation of Retail Merchants, St. Louis, Mo., protesting against the passage of any legislation abolishing the rights of the manufacturers to regulate the prices; to the Committee on Patents.

Also, petition of Federation of Jewish Farmers of America, favoring the passage of legislation adopting system of farmers' credit unions; to the Committee on Banking and Currency.

By Mr. LINDSAY: Petition of the national advisory board of the National Conservation Exposition, favoring legislation making appropriation for the erection of a Government building

at the National Conservation Exposition; to the Committee on Public Buildings and Grounds.

Also, petition of general executive committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Federation of Retail Merchants, St. Louis, Mo., and the Associations of National Advertising Managers of the United States, protesting against the passage of section 2 of House bill 23417, preventing manufacturers fixing prices on all goods; to the Committee on Patents.

Also, petition of the New York Civic League, favoring the passage of any legislation preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of Federation of Jewish Farmers of America, favoring passage of legislation adopting systems of farmers' credit unions; to the Committee on Banking and Currency.

Also, petition of J. F. Lambson, Lexington, Nebr.; Christopher Finkbeiner, Toledo, Ohio; John Brosnon, Brooklyn, N. Y.; and Stephens Meloche, New Orleans, La., favoring the passage of bill 1339, granting an increase of pension to veterans who lost a limb in the Civil War; to the Committee on Invalid Pensions.

Also, petition of the New York Produce Exchange, favoring the passage of House bill 25106, incorporating the Chamber of Commerce of the United States of America; to the Committee on Interstate and Foreign Commerce.

By Mr. MARTIN of South Dakota: Petition of business men of Fairfax, Colome, Winner, Herrick, and Bonesteel, S. Dak., favoring passage of legislation inserting a clause in the interstate-commerce laws making it possible to cause concerns selling goods directly to consumers or entirely by mail to contribute their portion of the funds toward development of the community, county, and State; to the Committee on the Judiciary.

By Mr. MOORE of Pennsylvania: Petition of the Fifth Philadelphia District Committee and Washington Camp, No. 533, Patriotic Order Sons of America, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. MURDOCK: Petition of the Woman's Christian Temperance Union of Oxford and citizens of Wichita and the Church of Brethren of McPherson, Hansall, favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. SMITH of New York: Petition of the Buffalo Chamber of Commerce, favoring the passage of House bill 26677, relocating the pierhead line in the Hudson River between Pier 1 and West Thirteenth Street; to the Committee on Interstate and Foreign Commerce.

By Mr. STEPHENS of California: Petition of the Civic Association of Alhambra, Cal., protesting against the passage of any legislation tending to destroy the present national system of protecting the forests; to the Committee on Agriculture.

By Mr. STEVENS of Minnesota: Petition of the Primrose Club, of Stillwater, Minn., favoring the passage of legislation removing the tax on oleomargarine; to the Committee on Agriculture.

SENATE.

FRIDAY, *January 3, 1913.*

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the following prayer:

O Thou who hearest prayer, hearken unto us, we beseech Thee, as we make our morning supplication. Thou knowest our frame, Thou remeberest that we are dust. Thou hast made us to know how frail we are, and how brief and uncertain is our tenure in these houses of clay. Thou hast called from our midst a Member of this Senate, making us to know anew that the way of man is not in himself alone, and that it is not in us who walk to direct our steps. And to whom may we turn, our Father, but to Thee who holdest us in Thy keeping, living or dying? We humbly commit ourselves to Thee, praying that Thou wilt keep us evermore in Thy love and uphold us with Thy spirit.

And now may God, our Father, who hast loved us with an everlasting love, and who hast called us into His eternal kingdom in Christ, comfort our hearts and establish them in every good word and in every good work. Unto Him be glory and honor, dominion and power, now and for evermore. Amen.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CULLOM and by unanimous consent, the further reading was dispensed with and the Journal was approved.

DEATH OF SENATOR JEFF DAVIS.

Mr. CLARKE of Arkansas. Mr. President, it becomes my melancholy duty to announce to the Senate the death of my colleague, Senator JEFF DAVIS, who departed this life at Little Rock on yesterday. With this simple statement there is announced the close of the career of one of the most extraordinary men of his time and section. This is not the appropriate time to analyze his purposes and his plans with a view of determining the philosophy that controlled his life, public and private, but another time will be chosen for that purpose, when I shall ask the Senate to lay aside its usual business to give attention to that feature of his career.

He was extraordinary in the sense that he inspired friendships that knew no deviation and no surrender and provoked criticisms that absolutely went beyond the bounds of all possible reason. To ascertain the purposes that ran through his life will be the interesting study of those of us who had some opportunity to observe his course and to know his motives. As I said, I shall not proceed further along that line at this time, as I hope to be able hereafter to join with his other friends here in paying proper tribute to his life and his memory.

I ask for the adoption of the resolutions which I now send to the desk.

The PRESIDENT pro tempore. The Senator from Arkansas submits resolutions, for which he asks present consideration. The resolutions will be read.

The resolutions (S. Res. 417) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow of the death of the Hon. JEFF DAVIS, late a Senator from the State of Arkansas.

Resolved, That a committee of eight Senators be appointed by the President of the Senate pro tempore to take order for superintending the funeral of Mr. DAVIS at his late home in Little Rock, Ark.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

The PRESIDENT pro tempore appointed as the committee under the second resolution Mr. CLARKE of Arkansas, Mr. POMERENE, Mr. O'GORMAN, Mr. BRYAN, Mr. ASHURST, Mr. MARTINE of New Jersey, Mr. CURTIS, and Mr. CLAPP.

Mr. CLARKE of Arkansas. Mr. President, I offer the following resolution, and ask for its adoption.

The PRESIDENT pro tempore. The resolution will be read.

The Secretary read the resolution, as follows:

Resolved, That as a further mark of respect to the memory of the deceased the Senate, and the Senate sitting as a Court of Impeachment, do now adjourn.

The PRESIDENT pro tempore. The question is on agreeing to the resolution submitted by the Senator from Arkansas.

The resolution was unanimously agreed to, and (at 12 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Saturday, January 4, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January 3, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Help us, O God, our Father, to realize that we are Thine, that nothing in life or death can separate us from Thee. It is Thou who hast made us and not we ourselves. Death comes all unbidden and touches the deeps of our hearts. Comfort, we beseech Thee, the families connected with this body into which the angel of death has so recently come, that they may look forward into the bright beyond without doubt or fear.

Be with the family of the Member who is sorely afflicted; restore him, we pray Thee, to health and strength that he may pursue the useful walks of life. Keep us all and our dear ones close to Thee in the faith and hope of Thy ruling and overruling Providence. In the spirit of the Lord Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

Sundry messages, in writing, from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House that the President had, on December 10, 1912, approved and signed bill of the following title:

H. R. 20287. An act to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January 5, 1905.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 7448. An act restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries; to the Committee on the Public Lands.

S. 5138. An act authorizing the Secretary of the Interior to survey the lands of the abandoned Fort Assiniboine Military Reservation and open the same to settlement; to the Committee on the Public Lands.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 10648. An act amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes, and to protect the same"; and

H. R. 10169. An act to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge.

CHANGE OF REFERENCE.

Mr. SLAYDEN. Mr. Speaker, I rise to renew the motion to correct the reference of Senate concurrent resolution 32, which was sent to the Committee on Appropriations instead of the Committee on the Library.

The SPEAKER. Does the gentleman make the motion by direction of the Committee on the Library?

Mr. SLAYDEN. By the unanimous direction of the Committee on the Library.

Mr. BORLAND. Mr. Speaker, on that I ask unanimous consent that the gentleman from Texas [Mr. SLAYDEN] have five minutes to make a statement, and if he avails himself of the privilege that I may have five minutes in which to reply.

Mr. SLAYDEN. Mr. Speaker, in order to arrive at an understanding, I would like to ask the gentleman from Missouri whether this statement is to be confined simply to a discussion of the rule?

Mr. BORLAND. I am going to reply to any statement which the gentleman makes.

Mr. SLAYDEN. I am perfectly willing to have a simple discussion of the rule, and have it confined to the rule.

The SPEAKER. The question is not debatable.

Mr. BORLAND. I will not limit the gentleman; he can say what he wishes to, and I will reply to it.

The SPEAKER. The gentleman from Missouri asks unanimous consent that the gentleman from Texas have five minutes to address the House. Is there objection?

Mr. BORLAND. And that I have five minutes in which to reply.

The SPEAKER. And that the gentleman from Missouri have five minutes in which to reply.

Mr. COOPER. Mr. Speaker, reserving the right to object, I wish to say that I shall object unless it is agreed in advance that the debate shall be limited, as it ought to be limited, to a discussion of the rule and does not go into a discussion of the bill on its merits. If it can be limited to that in advance, I will not object.

The SPEAKER. Does the gentleman from Texas and the gentleman from Missouri agree to the limitation suggested by the gentleman from Wisconsin?

Mr. SLAYDEN. I do.

Mr. BORLAND. I have no objection.

Mr. FERRIS. Mr. Speaker, reserving the right to object, I would like to ask a parliamentary question.

Mr. GARDNER of Massachusetts. Mr. Speaker, I ask for the regular order.

Mr. FERRIS. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. FERRIS. I would like to ask which committee this really belongs to.

The SPEAKER. That is the question that is up for decision.

Mr. SLAYDEN. Will the gentleman permit me to interrupt him?

Mr. FERRIS. Let me first pursue my inquiry a little further. What rules govern the decision of this question? I would like to know so as to vote intelligently on it.

The SPEAKER. The rules of the House govern it. Is there objection to the request of the gentleman from Missouri?

Mr. GARDNER of Massachusetts. Mr. Speaker, I ask for the regular order, and I object.

The SPEAKER. The gentleman from Massachusetts objects to unanimous consent, and the question is, Whether the Senate concurrent resolution shall be referred to the Committee on the Library.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. LINTHICUM. Mr. Speaker, I raise the point of no quorum.

The SPEAKER. The gentleman from Maryland makes the point of order that no quorum is present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. All those in favor of referring the Senate concurrent resolution to the Committee on the Library will, when their names are called, answer "aye," and those opposed will answer "no," and the Clerk will call the roll.

The question was taken; and there were—yeas 102, nays 89, answered "present" 5, not voting 190, as follows:

YEAS—102.

Alexander	Esch	Jones	Nelson
Allen	Estopinal	Kahn	Padgett
Ansberry	Floyd, Ark.	Kennedy	Page
Ashbrook	Foster	Kent	Payne
Bathrick	Fuller	Lamb	Pou
Beall, Tex.	Gardner, Mass.	Lawrence	Prince
Blackmon	Garrett	Lee, Pa.	Rainey
Bulkley	Gillett	Lenroot	Reilly
Burke, S. Dak.	Godwin, N. C.	Lever	Roberts, Nev.
Burleson	Graham	Longworth	Roddenbery
Burnett	Hamill	McCoy	Sheppard
Byrnes, S. C.	Hamilton, Mich.	McDermott	Sims
Cannon	Hamilton, W. Va.	McKenzie	Slayden
Carlin	Hardy	McKinney	Smith, Tex.
Clayton	Hawley	Macon	Steenerson
Cooper	Hay	Maguire, Nebr.	Stephens, Tex.
Crumpacker	Helm	Mann	Sterling
Cullop	Henry, Tex.	Martin, S. Dak.	Taylor, Ala.
Curley	Hinds	Miller	Taylor, Ohio
Dalzell	Holland	Mondell	Tilson
Danforth	Howell	Morgan, La.	Townsend
Dent	Howland	Morgan, Okla.	Tribble
Dies	Hughes, Ga.	Morrison	Underwood
Doughton	Humphrey, Wash.	Murdock	Young, Tex.
Dwight	James	Murray	
Edwards	Johnson, S. C.	Needham	

NAYS—89.

Ainey	Ferris	Langham	Rubey
Anderson	Fowler	Lewis	Rucker, Mo.
Austin	Francis	Lindbergh	Russell
Ayres	French	Linthicum	Saunders
Bartholdt	Glass	Littleton	Sisson
Bates	Gould	Lloyd	Slemp
Booher	Greene, Vt.	Lobeck	Smith, Saml. W.
Borland	Gudger	McGillicuddy	Speer
Buchanan	Hamlin	McGuire, Okla.	Stedman
Byrns, Tenn.	Harrison, Miss.	McLaughlin	Stephens, Cal.
Candler	Harrison, N. Y.	Moore, Pa.	Stephens, Miss.
Carter	Hartman	Norris	Stephens, Nebr.
Clark, Fla.	Hayden	Palmer	Stone
Claypool	Helgesen	Peters	Talbott, Md.
Collier	Hensley	Powers	Thomas
Conry	Houston	Pray	Towner
Cox, Ind.	Hull	Raker	Vare
Crago	Jacoway	Rauch	Webb
Curry	Kinkaid, Nebr.	Rees	Willis
Daugherty	Kinkead, N. J.	Richardson	Witherspoon
Davis, Minn.	Lafean	Roberts, Mass.	
Dicklason	Lafferty	Rothermel	
Farr	La Follette	Rouse	

ANSWERED "PRESENT"—5.

Andrus	Burgess	Fitzgerald
Browning		Pujo.

NOT VOTING—190.

Adair	Davenport	Garner	Jackson
Adamson	Davidson	George	Johnson, Ky.
Aiken, S. C.	Davis, W. Va.	Gill	Kendall
Akin, N. Y.	De Forest	Goeke	Kindred
Amos	Denver	Goldfogle	Kitchin
Anthony	Dickson, Miss.	Good	Knowland
Barchfeld	Difenderfer	Goodwin, Ark.	Konig
Barnhart	Dixon, Ind.	Gray	Konop
Bartlett	Dodds	Green, Iowa	Kopp
Bell, Ga.	Donohoe	Greene, Mass.	Korbly
Berger	Doremus	Gregg, Pa.	Langley
Boehne	Draper	Gregg, Tex.	Lee, Ga.
Bradley	Driscoll, D. A.	Griest	Legare
Brantley	Driscoll, M. E.	Guernsey	Levy
Broussard	Dupré	Hammond	Lindsay
Brown	Dyer	Hanna	Littlepage
Burke, Pa.	Ellerbe	Hardwick	Loud
Burke, Wis.	Evans	Harris	McCall
Butler	Fairchild	Hart	McCreary
Calder	Faison	Haugen	McKellar
Callaway	Fergusson	Hayes	McKinley
Campbell	Fields	Heald	McMorran
Cantrill	Finley	Heflin	Madden
Cary	Flood, Va.	Henry, Conn.	Maher
Cline	Focht	Higgins	Martin, Colo.
Copley	Fordney	Hill	Matthews
Covington	Fornes	Hobson	Mays
Cox, Ohio	Foss	Howard	Merritt
Cravens	Gallagher	Hughes, W. Va.	Moon, Pa.
Currier	Gardner, N. J.	Humphreys, Miss.	Moon, Tenn.

Moore, Tex.	Randell, Tex.	Small	Underhill
Morse, Wis.	Ransdell, La.	Smith, J. M. C.	Volstead
Moss, Ind.	Redfield	Smith, Cal.	Vreeland
Mott	Reyburn	Smith, N. Y.	Warburton
Neeley	Riordan	Sparkman	Watkins
Nye	Robinson	Stack	Weeks
Oldfield	Rodenberg	Stanley	Whitacre
Olmsted	Rucker, Colo.	Stevens, Minn.	White
O'Shaunessy	Sabath	Sulloway	Wilder
Parran	Scott	Sweet	Wilson, Ill.
Patten, N. Y.	Scully	Switzer	Wilson, N. Y.
Patton, Pa.	Sells	Taggart	Wilson, Pa.
Pepper	Shackleford	Talcott, N. Y.	Wood, N. J.
Pickett	Sharp	Taylor, Colo.	Woods, Iowa
Plumley	Sherley	Thayer	Young, Kans.
Porter	Sherwood	Thistlewood	Young, Mich.
Post	Simmons	Turnbull	
Prouty	Sloan	Tuttle	

So the motion was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. HOBSON with Mr. FAIRCHILD.

Mr. FORNES with Mr. BRADLEY.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. RIORDAN with Mr. ANDRUS.

Until further notice:

Mr. PUJO with Mr. MCMORRAN.

Mr. FIELDS with Mr. LANGLEY.

Mr. PATTEN of New York with Mr. MCCALL.

Mr. BURGESS with Mr. MICHAEL E. DRISCOLL.

Mr. BELL of Georgia with Mr. GRIEST.

Mr. LEE of Georgia with Mr. MERRITT.

Mr. LEVY with Mr. MOON of Pennsylvania.

Mr. MCKELLAR with Mr. MOTT.

Mr. MOON of Tennessee with Mr. OLMSTED.

Mr. MOSS of Indiana with Mr. NYE.

Mr. NEELEY with Mr. PATTON of Pennsylvania.

Mr. OLDFIELD with Mr. PICKETT.

Mr. O'SHAUNESSY with Mr. PLUMLEY.

Mr. POST with Mr. PORTER.

Mr. RANDELL of Texas with Mr. PROUTY.

Mr. SABATH with Mr. REYBURN.

Mr. SHACKLEFORD with Mr. RODENBERG.

Mr. SHARP with Mr. SCOTT.

Mr. SHERLEY with Mr. SIMMONS.

Mr. SMALL with Mr. J. M. C. SMITH.

Mr. SMITH of New York with Mr. SELLS.

Mr. STANLEY with Mr. SMITH of California.

Mr. TALCOTT of New York with Mr. SULLOWAY.

Mr. TAYLOR of Colorado with Mr. SWITZER.

Mr. THAYER with Mr. VREELAND.

Mr. UNDERHILL with Mr. WARBURTON.

Mr. WATKINS with Mr. WEEKS.

Mr. WHITE with Mr. WILDER.

Mr. WILSON of New York with Mr. WILSON of Illinois.

Mr. GOEKE with Mr. YOUNG of Michigan.

Mr. HARDWICK with Mr. CAMPBELL.

Mr. AIKEN of South Carolina with Mr. BARCHFELD.

Mr. BARNHART with Mr. BURKE of Pennsylvania.

Mr. BOEHNE with Mr. CARY.

Mr. BROUSSARD with Mr. COPLEY.

Mr. BRANTLEY with Mr. DE FOREST.

Mr. BROWN with Mr. DODDS.

Mr. BURKE of Wisconsin with Mr. DYER.

Mr. SHERWOOD with Mr. DRAPER.

Mr. CALLAWAY with Mr. FOCHT.

Mr. CANTRILL with Mr. FORDNEY.

Mr. CLINE with Mr. FOSS.

Mr. COVINGTON with Mr. GARDNER of New Jersey.

Mr. DAVIS of West Virginia with Mr. GOOD.

Mr. DIFENDERFER with Mr. GREEN of Iowa.

Mr. DIXON of Indiana with Mr. GREENE of Massachusetts.

Mr. DONOHOE with Mr. GUERNSEY.

Mr. DANIEL A. DRISCOLL with Mr. HANNA.

Mr. DUPRÉ with Mr. HAUGEN.

Mr. FAISON with Mr. HAYES.

Mr. FLOOD of Virginia with Mr. HEALD.

Mr. TURNBULL with Mr. VOLSTEAD.

Mr. GALLAGHER with Mr. HENRY of Connecticut.

Mr. GEORGE with Mr. HIGGINS.

Mr. GARNER with Mr. HILL.

Mr. GOLDFOGLE with Mr. HUGHES of West Virginia.

Mr. GOODWIN of Arkansas with Mr. KENDALL.

Mr. GREGG of Texas with Mr. KNOWLAND.

Mr. GREGG of Pennsylvania with Mr. KOPP.

Mr. HEFLIN with Mr. LOUD.

Mr. HUMPHREYS of Mississippi with Mr. MCCREARY.

Mr. JOHNSON of Kentucky with Mr. MCKINLEY.

Mr. KITCHIN with Mr. MADDEN.

Mr. KONOP with Mr. MATTHEWS.

Mr. KONIG with Mr. YOUNG of Kansas.

Mr. KORBLY with Mr. WOOD of New Jersey.

Mr. HOWARD with Mr. PARRAN.

Mr. BARTLETT with Mr. BUTLER.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. SCULLY with Mr. BROWNING.

Mr. FITZGERALD with Mr. CALDER.

Mr. KINDRED with Mr. HARRIS.

Mr. FINLEY with Mr. CURRIER.

Until January 8:

Mr. PEPPER with Mr. SLOAN.

Mr. MAYS with Mr. THISTLEWOOD.

Mr. BURGESS. Mr. Speaker, how am I recorded?

The SPEAKER. The gentleman is recorded in the affirmative.

Mr. BURGESS. Mr. Speaker, I desire to withdraw my vote of "yea" and answer "Present."

The name of Mr. BURGESS was called, and he answered "Present."

Mr. BROWNING. Mr. Speaker, is my colleague, the gentleman from New Jersey, Mr. SCULLY, recorded as having voted?

The SPEAKER. He is not.

Mr. BROWNING. Mr. Speaker, I am paired with the gentleman from New Jersey. I voted "yea," and I wish to withdraw my vote and be marked "present."

The name of Mr. BROWNING was called, and he answered "Present."

The result of the vote was announced as above recorded.

CHANGE OF REFERENCE.

Mr. STEPHENS of Texas. Mr. Speaker——

Mr. CULLOP. Mr. Speaker, I move a change of reference of House resolution 757 from the Committee on Rules to the Committee on Industrial Arts and Expositions. It belongs to the Committee on Industrial Arts and Expositions.

The SPEAKER. The gentleman from Indiana will please send the resolution up and let the Clerk report it, so that the House will know what it is.

The Clerk read as follows:

House resolution 757.

Whereas the president of the Louisiana Purchase Exposition Co. has informed the Senate that with the approval of Congress, as expressed by an act of March 4, 1909, the Louisiana Purchase Exposition has erected upon the site of the world's fair in the city of St. Louis a memorial to Thomas Jefferson, at a cost of $450,000, in commemoration of the acquisition of the Louisiana territory; and

Whereas this statue of Mr. Jefferson is to be unveiled and dedicated on the one hundred and tenth anniversary of the signing of the Louisiana Purchase treaty, the 30th of April, 1913; and

Whereas the trustees in charge of this great memorial have, through the president of the exposition company, requested the presence of a committee of the House of Representatives to participate in the dedicatory services on the day named: Therefore be it

Resolved, That a committee of 12 Members of the House of Representatives be appointed by the Speaker of the House to attend said ceremonies and represent the House of Representatives at the unveiling and dedication of said memorial.

Mr. FOSTER. Mr. Speaker, is this a unanimous request?

The SPEAKER. It is a motion.

Mr. CULLOP. It is the same matter in regard to a change of reference which we had up the other day to which objection was made.

The SPEAKER. Is there objection to the change of reference?

Mr. FOSTER. I do, Mr. Speaker.

The SPEAKER. If the gentleman from Indiana is authorized by his committee to make the motion to make this change of reference, the Chair will recognize him.

Mr. CULLOP. Mr. Speaker, I am.

The SPEAKER. The gentleman from Indiana moves a change of reference of House resolution 757 from the Committee on Rules to the Committee on Industrial Arts and Expositions.

The question was taken, and the Speaker announced the noes seemed to have it.

On a division (demanded by Mr. CULLOP) there were—ayes 41, noes 62.

So the motion was rejected.

ISTHMIAN CANAL COMMISSION (H. DOC. NO. 1216).

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, with the accompanying papers, ordered printed and referred to the Committee on Appropriations.

The Clerk read as follows:

To the Senate and House of Representatives:

In accordance with the requirements of section 10 of the act approved August 24, 1912, I transmit herewith a letter addressed

to me by the Secretary of War, dated December 23, 1912, submitting a letter from the chairman of the Isthmian Canal Commission, dated December 13, 1912, and accompanying statement of all expenses incurred by officers and employees of the Isthmian Canal Commission in attending meetings and conventions from June 30 to December 1, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *January 3, 1913.*

CIVIL SERVICE COMMISSION (H. DOC. NO. 962).

The SPEAKER also laid before the House the following message from the President of the United States, which, with the accompanying papers, was ordered printed and referred to the Committee on Reform in the Civil Service.

The Clerk read as follows:

To the Senate and House of Representatives:

I transmit herewith, for the consideration of the Congress, the Twenty-ninth Annual Report of the United States Civil Service Commission for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *January 3, 1913.*

SUNDRY UNITED STATES GOVERNMENT DEPARTMENTS (S. DOC. NO. 889).

The SPEAKER also laid before the House the following message from the President of the United States in regard to the work of certain departments of the Government, which was read, ordered printed, and referred to the Committee of the Whole House on the state of the Union.

The Clerk read as follows:

To the Senate and House of Representatives:

This is the third of a series of messages in which I have brought to the attention of the Congress the important transactions of the Government in each of its departments during the last year and have discussed needed reforms.

HEADS OF DEPARTMENTS SHOULD HAVE SEATS ON THE FLOOR OF CONGRESS.

I recommend the adoption of legislation which shall make it the duty of heads of departments—the members of the President's Cabinet—at convenient times to attend the session of the House and the Senate, which shall provide seats for them in each House, and give them the opportunity to take part in all discussions and to answer questions of which they have had due notice. The rigid holding apart of the executive and the legislative branches of this Government has not worked for the great advantage of either. There has been much lost motion in the machinery, due to the lack of cooperation and interchange of views face to face between the representatives of the Executive and the Members of the two legislative branches of the Government. It was never intended that they should be separated in the sense of not being in constant effective touch and relationship to each other. The legislative and the executive each performs its own appropriate function, but these functions must be coordinated. Time and time again debates have arisen in each House upon issues which the information of a particular department head would have enabled him, if present, to end at once by a simple explanation or statement. Time and time again a forceful and earnest presentation of facts and arguments by the representative of the Executive whose duty it is to enforce the law would have brought about a useful reform by amendment, which in the absence of such a statement has failed of passage. I do not think I am mistaken in saying that the presence of the members of the Cabinet on the floor of each House would greatly contribute to the enactment of beneficial legislation. Nor would this in any degree deprive either the legislative or the executive of the independence which separation of the two branches has been intended to promote. It would only facilitate their cooperation in the public interest.

On the other hand, I am sure that the necessity and duty imposed upon department heads of appearing in each House and in answer to searching questions of rendering upon their feet an account of what they have done, or what has been done by the administration, will spur each member of the Cabinet to closer attention to the details of his department, to greater familiarity with its needs, and to greater care to avoid the just criticism which the answers brought out in questions put and discussions arising between the Members of either House and the members of the Cabinet may properly evoke.

Objection is made that the members of the administration, having no vote, could exercise no power on the floor of the House, and could not assume that attitude of authority and control which the English parliamentary Government have and which enables them to meet the responsibilities the English system thrusts upon them. I agree that in certain respects it would be more satisfactory if members of the Cabinet could at the same time be Members of both Houses, with voting power, but this is impossible under our system; and while a lack of this feature may detract from the influence of the department chiefs, it will not prevent the good results which I have described above both in the matter of legislation and in the matter of administration. The enactment of such a law would be quite within the power of Congress without constitutional amendment, and it has such possibilities of usefulness that we might well make the experiment, and if we are disappointed the misstep can be easily retraced by a repeal of the enabling legislation.

This is not a new proposition. In the House of Representatives, in the Thirty-eighth Congress, the proposition was referred to a select committee of seven Members. The committee made an extensive report, and urged the adoption of the reform. The report showed that our history had not been without illustration of the necessity and the examples of the practice by pointing out that in early days Secretaries were repeatedly called to the presence of either House for consultation, advice, and information. It also referred to remarks of Mr. Justice Story in his Commentaries on the Constitution, in which he urgently presented the wisdom of such a change. This report is to be found in Volume I of the Reports of Committees of the First Session of the Thirty-eighth Congress, April 6, 1864.

Again, on February 4, 1881, a select committee of the Senate recommended the passage of a similar bill, and made a report, in which, while approving the separation of the three branches, the executive, legislative, and judicial, they point out as a reason for the proposed change that, although having a separate existence, the branches are "to cooperate, each with the other, as the different members of the human body must cooperate with each other in order to form the figure and perform the duties of a perfect man."

The report concluded as follows:

> This system will require the selection of the strongest men to be heads of departments and will require them to be well equipped with the knowledge of their offices. It will also require the strongest men to be the leaders of Congress and participate in debate. It will bring these strong men in contact, perhaps into conflict, to advance the public weal, and thus stimulate their abilities and their efforts, and will thus assuredly result to the good of the country.
>
> If it should appear by actual experience that the heads of departments in fact have not time to perform the additional duty imposed on them by this bill, the force in their offices should be increased or the duties devolving on them personally should be diminished. An undersecretary should be appointed to whom could be confided that routine of administration which requires only order and accuracy. The principal officers could then confine their attention to those duties which require wise discretion and intellectual activity. Thus they would have abundance of time for their duties under this bill. Indeed, your committee believes that the public interest would be subserved if the Secretaries were relieved of the harassing cares of distributing clerkships and closely supervising the mere machinery of the departments. Your committee believes that the adoption of this bill and the effective execution of its provisions will be the first step toward a sound civil-service reform which will secure a larger wisdom in the adoption of policies and a better system in their execution.
>
> GEO. H. PENDLETON.
> W. B. ALLISON.
> D. W. VOORHEES.
> J. G. BLAINE.
> M. C. BUTLER.
> JOHN J. INGALLS.
> O. H. PLATT.
> J. T. FARLEY.

It would be difficult to mention the names of higher authority in the practical knowledge of our Government than those which are appended to this report.

POSTAL SAVINGS-BANK SYSTEM.

The Postal Savings-Bank System has been extended so that it now includes 4,004 fourth-class post offices, as well as 645 branch offices and stations in the larger cities. There are now 12,812 depositories at which patrons of the system may open accounts. The number of depositors is 300,000 and the amount of their deposits is approximately $28,000,000, not including $1,314,140 which has been withdrawn by depositors for the purpose of buying postal savings bonds. Experience demonstrates the value of dispensing with the pass book and introducing in its place a certificate of deposit. The gross income of the postal savings system for the fiscal year ending June 30, 1913, will amount to $700,000 and the interest payable to depositors to $300,0000. The cost of supplies, equipment, and salaries is $700,000. It thus appears that the system lacks $300,000 a year of paying interest and expenses. It is estimated, however, that when the deposits have reached the sum of $50,000,000, which at the present rate they soon will do, the system will be self-sustaining. By law the postal savings funds deposited at each post office are required to be redeposited in local banks. State and national banks to the number of 7,357 have qualified as depositories for these funds. Such deposits are secured by

bonds aggregating $54,000,000. Of this amount, $37,000,000 represent municipal bonds.

PARCEL POST.

In several messages I have favored and recommended the adoption of a system of parcel post. In the postal appropriation act of last year a general system was provided and its installation was directed by the 1st of January. This has entailed upon the Post Office Department a great deal of very heavy labor, but the Postmaster General informs me that on the date selected, to wit, the 1st of January, near at hand, the department will be in readiness to meet successfully the requirements of the public.

CLASSIFICATION OF POSTMASTERS.

A trial during the past three years of the system of classifying fourth-class postmasters in that part of the country lying between the Mississippi River on the west, Canada on the north, the Atlantic Ocean on the east, and Mason and Dixon's line on the south has been sufficiently satisfactory to justify the postal authorities in recommending the extension of the order to include all the fourth-class postmasters in the country. In September, 1912, upon the suggestion of the Postmaster General, I directed him to prepare an order which should put the system in effect, except in Alaska, Guam, Hawaii, Porto Rico, and Samoa. Under date of October 15 I issued such an order, which affected 36,000 postmasters. By the order the post offices were divided into groups A and B. Group A includes all postmasters whose compensation is $500 or more, and group B those whose compensation is less than that sum. Different methods are pursued in the selection of the postmasters for group A and group B. Criticism has been made of this order on the ground that the motive for it was political. Nothing could be further from the truth. The order was made before the election and in the interest of efficient public service. I have several times requested Congress to give me authority to put first, second, and third class postmasters, and all other local officers, including internal-revenue officers, customs officers, United States marshals, and the local agents of the other departments under the classification of the civil-service law by taking away the necessity for confirming such appointments by the Senate. I deeply regret the failure of Congress to follow these recommendations. The change would have taken out of politics practically every local officer and would have entirely cured the evils growing out of what under the present law must always remain a remnant of the spoils system.

COMPENSATION TO RAILWAYS FOR CARRYING MAILS.

It is expected that the establishment of a parcel post on January 1 will largely increase the amount of mail matter to be transported by the railways, and Congress should be prompt to provide a way by which they may receive the additional compensation to which they will be entitled. The Postmaster General urges that the department's plan for a complete readjustment of the system of paying the railways for carrying the mails be adopted, substituting space for weight as the principal factor in fixing compensation. Under this plan it will be possible to determine without delay what additional payment should be made on account of the parcel post. The Postmaster General's recommendation is based on the results of a far-reaching investigation begun early in the administration with the object of determining what it costs the railways to carry the mails. The statistics obtained during the course of the inquiry show that while many of the railways, and particularly the larger systems, were making profits from mail transportation, certain of the lines were actually carrying the mails at a loss. As a result of the investigation the department, after giving the subject careful consideration, decided to urge the abandonment of the present plan of fixing compensation on the basis of the weight of the mails carried, a plan that has proved to be exceedingly expensive and in other respects unsatisfactory. Under the method proposed the railway companies will annually submit to the department reports showing what it costs them to carry the mails, and this cost will be apportioned on the basis of the car space engaged, payment to be allowed at the rate thus determined in amounts that will cover the cost and a reasonable profit. If a railway is not satisfied with the manner in which the department apportions the cost in fixing compensation, it is to have the right, under the new plan, of appealing to the Interstate Commerce Commission. This feature of the proposed law would seem to insure a fair treatment of the railways. It is hoped that Congress will give the matter immediate attention, and that the method of compensation recommended by the department or some other suitable plan will be promptly authorized.

DEPARTMENT OF THE INTERIOR.

The Interior Department, in the problems of administration included within its jurisdiction, presents more difficult questions than any other. This has been due perhaps to temporary causes of a political character, but more especially to the inherent difficulty in the performance of some of the functions which are assigned to it. Its chief duty is the guardianship of the public domain and the disposition of that domain to private ownership under homestead, mining, and other laws, by which patents from the Government to the individual are authorized on certain conditions. During the last decade the public seemed to become suddenly aware that a very large part of its domain had passed from its control into private ownership, under laws not well adapted to modern conditions, and also that in the doing of this the provisions of existing law and regulations adopted in accordance with law had not been strictly observed, and that in the transfer of title much fraud had intervened, to the pecuniary benefit of dishonest persons. There arose thereupon a demand for conservation of the public domain, its protection against fraudulent diminution, and the preservation of that part of it from private acquisition which it seemed necessary to keep for future public use. The movement, excellent in the intention which prompted it, and useful in its results, has nevertheless had some bad effects, which the western country has recently been feeling and in respect of which there is danger of a reaction toward older abuses unless we can attain the golden mean, which consists in the prevention of the mere exploitation of the public domain for private purposes while at the same time facilitating its development for the benefit of the local public.

The land laws need complete revision to secure proper conservation on the one hand of land that ought to be kept in public use and, on the other hand, prompt disposition of those lands which ought to be disposed in private ownership or turned over to private use by properly guarded leases. In addition to this there are not enough officials in our Land Department with legal knowledge sufficient promptly to make the decisions which are called for. The whole land-laws system should be reorganized, and not until it is reorganized will decisions be made as promptly as they ought, or will men who have earned title to public land under the statute receive their patents within a reasonably short period. The present administration has done what it could in this regard, but the necessity for reform and change by a revision of the laws and an increase and reorganization of the force remains, and I submit to Congress the wisdom of a full examination of this subject, in order that a very large and important part of our people in the West may be relieved from a just cause of irritation.

I invite your attention to the discussion by the Secretary of the Interior of the need for legislation with respect to mining claims, leases of coal lands in this country and in Alaska, and for similar disposition of oil, phosphate, and potash lands, and also to his discussion of the proper use to be made of water-power sites held by the Government. Many of these lands are now being withheld from use by the public under the general withdrawal act which was passed by the last Congress. That act was not for the purpose of disposing of the question, but it was for the purpose of preserving the lands until the question could be solved. I earnestly urge that the matter is of the highest importance to our western fellow citizens and ought to command the immediate attention of the legislative branch of the Government.

Another function which the Interior Department has to perform is that of the guardianship of Indians. In spite of everything which has been said in criticism of the policy of our Government toward the Indians, the amount of wealth which is now held by it for these wards per capita shows that the Government has been generous; but the management of so large an estate, with the great variety of circumstances that surround each tribe and each case, calls for the exercise of the highest business discretion, and the machinery provided in the Indian Bureau for the discharge of this function is entirely inadequate. The position of Indian commissioner demands the exercise of business ability of the first order, and it is difficult to secure such talent for the salary provided.

The condition of health of the Indian and the prevalence in the tribes of curable diseases has been exploited recently in the press. In a message to Congress at its last session I brought this subject to its attention and invited a special appropriation, in order that our facilities for overcoming diseases among the Indians might be properly increased, but no action was then taken by Congress on the subject, nor has such appropriation been made since.

The commission appointed by authority of the Congress to report on proper method of securing railroad development in Alaska is formulating its report, and I expect to have an opportunity before the end of this session to submit its recommendations.

DEPARTMENT OF AGRICULTURE.

The far-reaching utility of the educational system carried on by the Department of Agriculture for the benefit of the farmers of our country calls for no elaboration. Each year there is a growth in the variety of facts which it brings out for the benefit of the farmer, and each year confirms the wisdom of the expenditure of the appropriations made for that department.

PURE-FOOD LAW.

The Department of Agriculture is charged with the execution of the pure-food law. The passage of this encountered much opposition from manufacturers and others who feared the effect upon their business of the enforcement of its provisions. The opposition aroused the just indignation of the public, and led to an intense sympathy with the severe and rigid enforcement of the provisions of the new law. It had to deal in many instances with the question whether or not products of large business enterprises, in the form of food preparations, were deleterious to the public health; and while in a great majority of instances this issue was easily determinable, there were not a few cases in which it was hard to draw the line between a useful and a harmful food preparation. In cases like this when a decision involved the destruction of great business enterprises representing the investment of large capital and the expenditure of great energy and ability, the danger of serious injustice was very considerable in the enforcement of a new law under the spur of great public indignation. The public officials charged with executing the law might do injustice in heated controversy through unconscious pride of opinion and obstinacy of conclusion. For this reason President Roosevelt felt justified in creating a board of experts, known as the Remsen Board, to whom in cases of much importance an appeal might be taken and a review had of a decision of the Bureau of Chemistry in the Agricultural Department. I heartily agree that it was wise to create this board in order that injustice might not be done. The questions which arise are not generally those involving palpable injury to health, but they are upon the narrow and doubtful line in respect of which it is better to be in some error not dangerous than to be radically destructive. I think that the time has come for Congress to recognize the necessity for some such tribunal of appeal and to make specific statutory provision for it. While we are struggling to suppress an evil of great proportions like that of impure food, we must provide machinery in the law itself to prevent its becoming an instrument of oppression, and we ought to enable those whose business is threatened with annihilation to have some tribunal and some form of appeal in which they have a complete day in court.

AGRICULTURAL CREDITS.

I referred in my first message to the question of improving the system of agricultural credits. The Secretary of Agriculture has made an investigation into the matter of credits in this country, and I commend a consideration of the information which through his agents he has been able to collect. It does not in any way minimize the importance of the proposal, but it gives more accurate information upon some of the phases of the question than we have heretofore had.

DEPARTMENT OF COMMERCE AND LABOR.

I commend to Congress an examination of the report of the Secretary of Commerce and Labor, and especially that part in which he discusses the office of the Bureau of Corporations, the value to commerce of a proposed trade commission, and the steps which he has taken to secure the organization of a national chamber of commerce. I heartily commend his view that the plan of a trade commission which looks to the fixing of prices is altogether impractical and ought not for a moment to be considered as a possible solution of the trust question.

The trust question in the enforcement of the Sherman anti-trust law is gradually solving itself, is maintaining the principle and restoring the practice of competition, and if the law is quietly but firmly enforced business will adjust itself to the statutory requirements, and the unrest in commercial circles provoked by the trust discussion will disappear.

PANAMA-PACIFIC INTERNATIONAL EXPOSITION.

In conformity with a joint resolution of Congress, an Executive proclamation was issued last February, inviting the nations of the world to participate in the Panama-Pacific International Exposition to be held at San Francisco to celebrate the construction of the Panama Canal. A sympathetic response was immediately forthcoming, and several nations have already selected the sites for their buildings. In furtherance of my invitation, a special commission visited European countries during the past summer, and received assurances of hearty cooperation in the task of bringing together a universal industrial, military, and naval display on an unprecedented scale. It is evident that the exposition will be an accurate mirror of the world's activities as they appear 400 years after the date of the discovery of the Pacific Ocean.

It is the duty of the United States to make the nations welcome at San Francisco and to facilitate such acquaintance between them and ourselves as will promote the expansion of commerce and familiarize the world with the new trade route through the Panama Canal. The action of the State governments and individuals assures a comprehensive exhibit of the resources of this country and of the progress of the people. This participation by States and individuals should be supplemented by an adequate showing of the varied and unique activities of the National Government. The United States can not with good grace invite foreign governments to erect buildings and make expensive exhibits while itself refusing to participate. Nor would it be wise to forego the opportunity to join with other nations in the inspiring interchange of ideas tending to promote intercourse, friendship, and commerce. It is the duty of the Government to foster and build up commerce through the canal, just as it was the duty of the Government to construct it.

I earnestly recommend the appropriation at this session of such a sum as will enable the United States to construct a suitable building, install a governmental exhibit, and otherwise participate in the Panama-Pacific International Exposition in a manner commensurate with the dignity of a nation whose guests are to be the peoples of the world. I recommend also such legislation as will facilitate the entry of material intended for exhibition and protect foreign exhibitors against infringement of patents and the unauthorized copying of patterns and designs. All aliens sent to San Francisco to construct and care for foreign buildings and exhibits should be admitted without restraint or embarrassment.

THE DISTRICT OF COLUMBIA AND THE CITY OF WASHINGTON.

The city of Washington is a beautiful city, with a population of 352,936, of whom 98,667 are colored. The annual municipal budget is about $14,000,000. The presence of the National Capitol and other governmental structures constitutes the chief beauty and interest of the city. The public grounds are extensive, and the opportunities for improving the city and making it still more attractive are very great. Under a plan adopted some years ago, one half the cost of running the city is paid by taxation upon the property, real and personal, of the citizens and residents, and the other half is borne by the General Government. The city is expanding at a remarkable rate, and this can only be accounted for by the coming here from other parts of the country of well-to-do people who, having finished their business careers elsewhere, build and make this their permanent place of residence.

On the whole, the city as a municipality is very well governed. It is well lighted, the water supply is good, the streets are well paved, the police force is well disciplined, crime is not flagrant, and while it has purlieus and centers of vice, like other large cities, they are not exploited, they do not exercise any influence or control in the government of the city, and they are suppressed in as far as it has been found practicable. Municipal graft is inconsiderable. There are interior courts in the city that are noisome and centers of disease and the refuge of criminals, but Congress has begun to clean these out, and progress has been made in the case of the most notorious of these, which is known as Willow Tree Alley. This movement should continue.

The mortality for the past year was at the rate of 17.80 per 1,000 of both races; among the whites it was 14.61 per thousand, and among the blacks 26.12 per thousand. These are the lowest mortality rates ever recorded in the District.

One of the most crying needs in the government of the District is a tribunal or public authority for the purpose of supervising the corporations engaged in the operation of public utilities. Such a bill is pending in Congress and ought to pass. Washington should show itself under the direction of Congress to be a city with a model form of government, but as long as such authority over public utilities is withheld from the municipal government, it must always be defective.

Without undue criticism of the present street railway accommodations, it can be truly said that under the spur of a public-utilities commission they might be substantially improved.

While the school system of Washington perhaps might be bettered in the economy of its management and the distribution of its buildings, its usefulness has nevertheless greatly increased in recent years, and it now offers excellent facilities for primary and secondary education.

From time to time there is considerable agitation in Washington in favor of granting the citizens of the city the franchise and constituting an elective government. I am strongly opposed to this change. The history of Washington discloses a

number of experiments of this kind, which have always been abandoned as unsatisfactory. The truth is this is a city governed by a popular body, to wit, the Congress of the United States, selected from the people of the United States, who own Washington. The people who come here to live do so with the knowledge of the origin of the city and the restrictions, and therefore voluntarily give up the privilege of living in a municipality governed by popular vote. Washington is so unique in its origin and in its use for housing and localizing the sovereignty of the Nation that the people who live here must regard its peculiar character and must be content to subject themselves to the control of a body selected by all the people of the Nation. I agree that there are certain inconveniences growing out of the government of a city by a national legislature like Congress, and it would perhaps be possible to lessen these by the delegation by Congress to the District Commissioners of greater legislative power for the enactment of local laws than they now possess, especially those of a police character.

Every loyal American has a personal pride in the beauty of Washington and in its development and growth. There is no one with a proper appreciation of our Capital City who would favor a niggardly policy in respect to expenditures from the National Treasury to add to the attractiveness of this city, which belongs to every citizen of the entire country, and which no citizen visits without a sense of pride of ownership. We have had restored by a Commission of Fine Arts, at the instance of a committee of the Senate, the original plan of the French engineer L'Enfant for the city of Washington, and we know with great certainty the course which the improvement of Washington should take. Why should there be delay in making this improvement in so far as it involves the extension of the parking system and the construction of greatly needed public buildings? Appropriate buildings for the State Department, the Department of Justice, and the Department of Commerce and Labor have been projected, plans have been approved, and nothing is wanting but the appropriations for the beginning and completion of the structures. A hall of archives is also badly needed, but nothing has been done toward its construction, although the land for it has long been bought and paid for. Plans have been made for the union of Potomac Park with the valley of Rock Creek and Rock Creek Park, and the necessity for the connection between the Soldiers' Home and Rock Creek Park calls for no comment. I ask again why there should be delay in carrying out these plans? We have the money in the Treasury, the plans are national in their scope, and the improvement should be treated as a national project. The plan will find a hearty approval throughout the country. I am quite sure, from the information which I have, that, at comparatively small expense, from that part of the District of Columbia which was retroceded to Virginia the portion including the Arlington estate, Fort Myer, and the palisades of the Potomac can be acquired by purchase and the jurisdiction of the State of Virginia over this land ceded to the Nation. This ought to be done.

The construction of the Lincoln Memorial and of a memorial bridge from the base of the Lincoln Monument to Arlington would be an appropriate and symbolic expression of the union of the North and the South at the Capital of the Nation. I urge upon Congress the appointment of a commission to undertake these national improvements, and to submit a plan for their execution; and when the plan has been submitted and approved, and the work carried out, Washington will really become what it ought to be—the most beautiful city in the world.

WM. H. TAFT.

THE WHITE HOUSE, *December 19, 1912.*

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolutions:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. JOHN GEISER MCHENRY, late a Representative from the State of Pennsylvania.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now adjourn.

Also:

Resolved, That the Senate has heard with profound sorrow of the death of the Hon. JEFF DAVIS, late a Senator from the State of Arkansas.

Resolved, That a committee of eight Senators be appointed by the President of the Senate pro tempore to take order for superintending the funeral of Mr. DAVIS at his late home in Little Rock, Ark.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased the Senate, and the Senate sitting as a Court of Impeachment, do now adjourn.

That in compliance with the foregoing resolution the President pro tempore had appointed Mr. CLARKE of Arkansas, Mr. POMERENE, Mr. O'GORMAN, Mr. BRYAN, Mr. ASHURST, Mr. MARTINE of New Jersey, Mr. CURTIS, and Mr. CLAPP as said committee.

DEATH OF SENATOR JEFF DAVIS OF ARKANSAS.

Mr. MACON. Mr. Speaker, I move the adoption of the resolution which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 762.

Resolved, That the House has heard with profound sorrow of the death of Hon. JEFF DAVIS, late a Senator of the United States from the State of Arkansas.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased Senator.

Resolved, That a committee of 14 Members be appointed on the part of the House to join the committee appointed on the part of the Senate to attend the funeral.

The question was taken, and the resolution was unanimously agreed to.

The SPEAKER. The Chair appoints the following committee in the case of Senator DAVIS of Arkansas.

The Clerk read as follows:

Mr. ROBINSON, Mr. GOODWIN of Arkansas, Mr. MACON, Mr. CRAVENS, Mr. FLOYD of Arkansas, Mr. OLDFIELD, Mr. JACOWAY, Mr. CULLOP, Mr. DAVENPORT, Mr. NELSON, Mr. MILLER, Mr. GREENE of Vermont, Mr. REES, and Mr. KINKAID of Nebraska.

DEATH OF REPRESENTATIVE WIDEMEYER OF MICHIGAN.

Mr. HAMILTON of Michigan. Mr. Speaker, information has just been received, through the War Department, of the death of Hon. WILLIAM W. WIDEMEYER by drowning. Mr. WIDEMEYER was returning from the Canal Zone. Some time later I shall ask the House to set a time for paying tribute to the life, character, and public services of the deceased. Meanwhile I offer the following resolutions, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolutions.

The Clerk read as follows:

House resolution 763.

Resolved, That the House has heard with profound sorrow of the death of Hon. WILLIAM W. WIDEMEYER, late a Representative from the State of Michigan.

Resolved, That the Clerk communicate this resolution to the Senate and transmit a copy thereof to the family of the deceased.

The SPEAKER. The question is on agreeing to the resolutions.

The resolutions were agreed to.

ADJOURNMENT.

Mr. MACON. Mr. Speaker, I move the adoption of the resolution which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 764.

Resolved, That as a further mark of respect to the memory of the deceased Senator and Representative the House do now adjourn.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to; accordingly (at 1 o'clock and 27 minutes p. m.) the House adjourned until to-morrow, Saturday, January 4, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of Agriculture, transmitting a list of documents received and distributed by the Department of Agriculture during the fiscal year ended June 30, 1912 (H. Doc. No. 1218); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Monongahela River, Pa., with a view to reconstructing Locks 4 and 6 (H. Doc. No. 1217); to the Committee on Rivers and Harbors and ordered to be printed.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 24180) granting an increase of pension to Rachel I. Holloway; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 16879) granting a pension to Martha Fitzpatrick; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MANN: A bill (H. R. 27557) to repeal section 5 of the act entitled "An act amending the charter of the Freedman's Savings & Trust Co., and for other purposes"; to the Committee on the District of Columbia.

Also, a bill (H. R. 27558) to repeal the act entitled "An act to incorporate the Maritime Canal Co. of Nicaragua"; to the Committee on Interstate and Foreign Commerce.

By Mr. DAUGHERTY: A bill (H. R. 27559) providing for the erection of a public building at Lamar, Mo.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27560) providing for the erection of a public building at Neosho, Mo.; to the Committee on Public Buildings and Grounds.

By Mr. ROBERTS of Nevada: A bill (H. R. 27561) to grant the State of Nevada lands for educational purposes; to the Committee on the Public Lands.

Also, a bill (H. R. 27562) relating to the recording of notice and certificate of location of mining claims in certain cases; to the Committee on Mines and Mining.

By Mr. LA FOLLETTE: A bill (H. R. 27563) to authorize further advances to the reclamation fund and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes; to the Committee on Irrigation of Arid Lands.

By Mr. STEPHENS of Texas: A bill (H. R. 27564) to authorize the sale of lands alloted to Indians under the Moses agreement of July 7, 1883; to the Committee on Indian Affairs.

Also, a bill (H. R. 27565) authorizing the Secretary of the Interior to lease for grazing, agricultural, and mining purposes unalloted lands within Indian reservations established by act of Congress or Executive order; to the Committee on Indian Affairs.

Also, a bill (H. R. 27566) setting apart and declaring to be a reservation for the Rocky Boy's Band of Chippewa Indians and other homeless Indians in the State of Montana certain lands in the abandoned Fort Assiniboine Military Reservation in the State of Montana; to the Committee on Indian Affairs.

By Mr. WEEKS: A bill (H. R. 27567) for reduction of postage rates on first-class mail matter; to the Committee on the Post Office and Post Roads.

By Mr. McKINLEY: A bill (H. R. 27568) amending section 1 of the act of May 11, 1912, relating to pension of Civil War soldiers and sailors; to the Committee on Invalid Pensions.

By Mr. COX of Indiana: A bill (H. R. 27569) to raise revenue, equalize duties, and encourage the industries of the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. LAMB: A bill (H. R. 27570) to facilitate the use of square No. 673, in the city of Washington, for storage warehouse purposes; to the Committee on the District of Columbia.

By Mr. MONDELL: A bill (H. R. 27571) to compensate star-route carriers for additional work imposed on them and losses sustained through the establishment of the parcel post; to the Committee on the Post Office and Post Roads.

By Mr. AYRES: A bill (H. R. 27572) to restore the foreign merchant marine; to the Committee on the Merchant Marine and Fisheries.

By Mr. STEENERSON: A bill (H. R. 27573) to amend an act entitled "An act to amend sections 2291 and 2297 of the Revised Statutes of the United States relating to homesteads," approved June 6, 1912; to the Committee on the Public Lands.

By Mr. HINDS: A bill (H. R. 27574) for the purchase or construction of a vessel or launch for the customs service at and in the vicinity of Portland, Me.; to the Committee on Interstate and Foreign Commerce.

By Mr. HOBSON: A bill (H. R. 27575) providing that certain professors at the United States Naval Academy shall be commissioned as professors of mathematics with rank of lieutenant commander; to the Committee on Naval Affairs.

By Mr. COX of Indiana: A bill (H. R. 27576) to raise revenue, equalize duties, and encourage the industries of the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. STEPHENS of Texas: Joint resolution (H. J. Res. 376) extending the time for the survey, classification, and appraisement of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma; to the Committee on Indian Affairs.

By Mr. LINTHICUM: Joint resolution (H. J. Res. 377) granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia; to the Committee on the District of Columbia.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 27577) granting an increase of pension to Laura Coalman; to the Committee on Invalid Pensions.

By Mr. BROWNING: A bill (H. R. 27578) to correct the military record of John Banks; to the Committee on Military Affairs.

By Mr. BUCHANAN: A bill (H. R. 27579) granting an increase of pension to Sarah J. Benton; to the Committee on Invalid Pensions.

By Mr. BURNETT: A bill (H. R. 27580) granting an increase of pension to John Watts; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 27581) for the relief of Peter A. Bratton; to the Committee on War Claims.

By Mr. COOPER: A bill (H. R. 27582) granting an increase of pension to Noah M. Diehl; to the Committee on Invalid Pensions.

By Mr. COPLEY: A bill (H. R. 27583) granting an increase of pension to Benjamin S. Van Doozer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27584) granting an increase of pension to William Garveam; to the Committee on Pensions.

By Mr. CRUMPACKER: A bill (H. R. 27585) granting an increase of pension to Catherine Hayden; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 27586) for the relief of John H. Bray; to the Committee on War Claims.

Also, a bill (H. R. 27587) granting an increase of pension to Carrie Coleman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27588) granting an increase of pension to Clayton Clements; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27589) granting an increase of pension to Lewis Pugh; to the Committee on Invalid Pensions.

By Mr. DAUGHERTY: A bill (H. R. 27590) granting a pension to Alpheus R. Bascom; to the Committee on Pensions.

Also, a bill (H. R. 27591) granting an increase of pension to Mary Heffleman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27592) granting an increase of pension to John P. Walker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27593) granting an increase of pension to Lutisha A. Carpenter; to the Committee on Invalid Pensions.

By Mr. DICKINSON: A bill (H. R. 27594) granting an increase of pension to Samuel J. Boyer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27595) granting an increase of pension to Taylor Hulin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27596) granting an increase of pension to George W. Wade; to the Committee on Invalid Pensions.

By Mr. FIELDS: A bill (H. R. 27597) granting a pension to Jane Burton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27598) granting a pension to Nannie Yocum; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27599) granting a pension to Alice M. Ham; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27600) granting an increase of pension to William L. Duncan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27601) granting an increase of pension to George W. Lawson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27602) granting an increase of pension to John Woods; to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 27603) granting an increase of pension to Nelson J. Weller; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 27604) granting an increase of pension to Mary A. Stitzel; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 27605) for the relief of Walter Whitney; to the Committee on Military Affairs.

Also, a bill (H. R. 27606) to amend and correct the military record of Simon Scribner; to the Committee on Military Affairs.

By Mr. HOBSON: A bill (H. R. 27607) granting a pension to Sallie E. Cooper; to the Committee on Invalid Pensions.

By Mr. KINKAID of Nebraska: A bill (H. R. 27608) for the relief of William Keough; to the Committee on War Claims.

By Mr. KONOP: A bill (H. R. 27609) to remove the charge of desertion standing against John G. Day; to the Committee on Military Affairs.

By Mr. LANGLEY: A bill (H. R. 27610) granting a pension to Nancy J. Picklesimer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27611) granting a pension to J. H. Malear; to the Committee on Pensions.

Also, a bill (H. R. 27612) granting an increase of pension to Henry Horn; to the Committee on Pensions.

Also, a bill (H. R. 27613) granting an increase of pension to Rebecca Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27614) granting an increase of pension to Clara A. Collins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27615) granting an increase of pension to Ed N. Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27616) granting an increase of pension to Isaac Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27617) for the relief of the estate of David W. Allen; to the Committee on War Claims.

By Mr. LAWRENCE: A bill (H. R. 27618) granting a pension to Julia F. Boraback; to the Committee on Invalid Pensions.

By Mr. LINDBERGH: A bill (H. R. 27619) for the relief of Andrews & Co.; to the Committee on Claims.

Also, a bill (H. R. 27620) for the relief of Jacob Weyland; to the Committee on Claims.

Also, a bill (H. R. 27621) granting a pension to John Shirmer; to the Committee on Pensions.

Also, a bill (H. R. 27622) granting a pension to George W. Cole; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27623) to correct the military record of John Brown; to the Committee on Military Affairs.

By Mr. LITTLEPAGE: A bill (H. R. 27624) for the relief of the legal representatives of Joseph and Newton Haynes, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27625) granting a pension to Margaret Jane Racer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27626) granting an increase of pension to Andrew J. Holdren; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27627) for the relief of the widow of Nathan Reed, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27628) for the relief of the legal representatives of Henry F. and Nancy W. Crotty, deceased; to the Committee on War Claims.

By Mr. LONGWORTH: A bill (H. R. 27629) for the relief of John Nicholson; to the Committee on Military Affairs.

Also, a bill (H. R. 27630) for the relief of George W. Platt; to the Committee on Naval Affairs.

Also, a bill (H. R. 27631) granting an increase of pension to Eva Buhler; to the Committee on Invalid Pensions.

By Mr. McKINLEY: A bill (H. R. 27632) for the relief of Lloyd Rawlins; to the Committee on Military Affairs.

Also, a bill (H. R. 27633) granting a pension to Louisa Snyder; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27634) granting a pension to Eva Murray; to the Committee on Invalid Pensions.

By Mr. MONDELL: A bill (H. R. 27635) for the relief of John E. Keys; to the Committee on Claims.

By Mr. MORRISON: A bill (H. R. 27636) granting an increase of pension to John Hull; to the Committee on Invalid Pensions.

By Mr. MURDOCK: A bill (H. R. 27637) granting a pension to Elsie M. Smith; to the Committee on Pensions.

By Mr. POWERS: A bill (H. R. 27638) granting a pension to Isom W. Foley; to the Committee on Pensions.

Also, a bill (H. R. 27639) for the relief of the heirs of George Humphreys, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27640) for the relief of the heirs of Elizabeth Wright, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27641) for the relief of the heirs of Parks D. Brittain, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27642) for the relief of Dutton Davis, administrator of the estate of John Davis, deceased; to the Committee on War Claims.

By Mr. PRINCE: A bill (H. R. 27643) granting an increase of pension to Mordecai F. Riley; to the Committee on Invalid Pensions.

By Mr. RICHARDSON: A bill (H. R. 27644) granting a pension to Rella Potts; to the Committee on Pensions.

By Mr. ROBERTS of Nevada: A bill (H. R. 27645) for the relief of Fred E. Jackson; to the Committee on Claims.

By Mr. ROUSE: A bill (H. R. 27646) granting an increase of pension to Amelia E. Hatfield; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27647) for the relief of the estate of William Thomas Lowe; to the Committee on War Claims.

By Mr. RUCKER of Missouri: A bill (H. R. 27648) granting a pension to Frances M. Rhodes; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 27649) granting a pension to Elizabeth Newmann; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27650) granting a pension to Sarah F. Morris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27651) granting an increase of pension to Anita Stone; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27652) for the relief of the estate of George Patterson, deceased; to the Committee on War Claims.

By Mr. STERLING: A bill (H. R. 27653) granting an increase of pension to Daniel T. Foster; to the Committee on Invalid Pensions.

By Mr. WEEKS: A bill (H. R. 27654) granting a pension to Henry Hatch; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27655) granting an increase of pension to Lewis G. Whiting; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27656) granting an increase of pension to Lenerecia M. Hodge; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of J. D. Westhafer and 6 other merchants of Uhrichsville, Ohio, asking that Congress give the Interstate Commerce Commission more power toward regulating the express companies; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Select List of Ohio Daily Newspapers, protesting against the passage of the section of the postal appropriation act relative to the filing and publishing of circulation lists, of stockholders' indebtedness, etc.; to the Committee on the Post Office and Post Roads.

By Mr. AYRES: Petition of the North Side Board of Trade of New York and the general executive committee of the Railway Bureau Association, favoring the incorporation of the National Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the City Island Board of Trade, favoring legislation reducing the letter rate of postage to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Federation of Jewish Farmers of America, favoring legislation establishing a system of farmers' credit unions; to the Committee on Banking and Currency.

Also, petition of the Association of National Advertising Managers, protesting against the passage of the Oldfield patent bill, preventing the fixing of prices on patent goods by the manufacturers; to the Committee on Patents.

By Mr. BARTHOLDT: Petition of the Merchants' Exchange of St. Louis, Mo., favoring the passage of House bill 3010, regulating the delivery of all telephone and telegraph messages; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Federation of Retail Merchants, Lexington, Mo., and the Association of National Advertising Managers of New York, protesting against the passage of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Business Men's League of St. Louis, Mo.; the Campbell Glass Paint Co., St. Louis, Mo.; and the Mound City Paint & Color Co., St. Louis, Mo., favoring the passage of House bill 25106, providing for the incorporation of the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the National Indian Wars Association, of St. Louis, Mo.; the Army and Navy Union of the United States, St. Louis, Mo.; John H. Bromen, Jersey City, N. J.; John Kelber, St. Louis, Mo.; Thomas J. Allen, Ganter, Mo., and 5 citizens of St. Louis, Mo., favoring the passage of House bill 19800, granting pensions to the veterans of the Indian wars; to the Committee on Pensions.

By Mr. BUCHANAN: Petition of the Chicago Woman's Aid Society, favoring the reduction of tax on oleomargarine to not exceeding 2 cents per pound; to the Committee on Agriculture.

By Mr. COX of Indiana: Petition of citizens of New Albany, Ind., favoring passage of bill giving Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. ESCH: Petition of the Chamber of Commerce of Milwaukee, Wis., favoring passage of legislation reducing the letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

By Mr. ESTOPINAL: Petition of the Louisiana State Board of Health, favoring an appropriation for investigating and preventing pellagra; to the Committee on Appropriations.

Also, petition of the New Orleans Board of Trade, protesting against the passage of Senate bill 7208; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of the Rock Island Club, the Rock Island Retail Merchants' Association, and the Fifty Thousand Club of Rock Island, Ill., favoring proposed appropriation for equipping one of the present buildings for the manufacture of field carriages for artillery, etc.; to the Committee on Military Affairs.

Also, petition of J. F. Lambson, Lexington, Nebr., favoring the passage of House bill 1339, granting an increase of pension to veterans who lost a limb in the Civil War; to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: Petition of the directors of the Springfield Board of Trade, favoring the passage of the bill providing for practical navigation of the Connecticut River from Long Island Sound to Holyoke; to the Committee on Rivers and Harbors.

Also, petition of the Federation of Jewish Farmers of America, favoring the passage of legislation creating a system of farmers' credit unions; to the Committee on Banking and Currency.

Also, petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25166, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

By Mr. HARTMAN: Petition of Washington Camp, No. 79, Patriotic Order Sons of America, Hopewell, Pa., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. HENSLEY: Petition of Minnie Steel, Woman's Christian Temperance Union, of Alliance, Mo., favoring the passage of the Kenyon-Sheppard interstate liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. HINDS: Papers to accompany bill for the relief of Walter Whitney; to the Committee on Military Affairs.

By Mr. LANGLEY: Petition of citizens of Pikeville, Ky., favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. LEVY: Petition of the Northwestern Mutual Life Insurance Co., of Milwaukee, Wis., and of Kirkland Bros. & Co., New York, favoring the passage of House bill 36, giving Federal protection to migratory birds; to the Committee on Agriculture.

Also, petition of the American Automobile Association of America, favoring the proposed road from Gettysburg to Washington in connection with the Lincoln Memorial; to the Committee on the Library.

Also, petition of the North Side Board of Trade, of New York City, favoring the relocation of the pierhead line in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Interstate and Foreign Commerce.

Also, petition of the American Academy of Political and Social Science and the Columbia University, of the city of New York, favoring appropriation for holding of the second Pan American Scientific Congress at Washington; to the Committee on Appropriations.

Also, petition of Pine Bluff Lodge, No. 305, Brotherhood of Railroad Trainmen, protesting against the passage of the proposed employees' compensation act; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of Henry L. Harris and Jacob Sands, of Kirksville, Mo., favoring the passage of House bill 1339, granting pensions to limbless veterans of the Civil War; to the Committee on Invalid Pensions.

By Mr. MOORE of Pennsylvania: Petition of the Philadelphia Board of Trade, reaffirming its belief in a permanent tariff commission; to the Committee on Ways and Means.

Also, petition of the Philadelphia Board of Trade, favoring the passage of legislation for the restoration of the American merchant marine; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the board of directors of the Philadelphia Maritime Exchange, favoring the passage of Senate bill 7503, for the reduction of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

By Mr. PEPPER: Petition of Hubert J. Bryce and 50 other citizens of Canton, Iowa, favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. POWERS: Papers to accompany bill for the relief of the heirs of Parks D. Brittain; to the Committee on War Claims.

By Mr. WEEKS: Petitions of H. A. Wilder and John F. Brant, of Newburn, Mass., and the class of sociology of Boston University, Boston, Mass., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petitions of citizens and clubs of Newton, Mass., and the class of sociology of Boston University, Boston, Mass., favoring the passage of the Kenyon bill to clean up Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. WICKERSHAM: Petition of Indians and other resident fishermen in Alaska, praying for legislation by Congress to prevent setting fish traps in tidal waters of Alaska; to the Committee on the Territories.

By Mr. WILLIS: Papers to accompany bill (H. R. 27526) granting a pension to Emma B. Showalter; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: Petition of the Central Federated Union of Greater New York and Vicinity, protesting against the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Brooklyn League, favoring the passage of the bill for the relocation of the pierhead line in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Interstate and Foreign Commerce.

Also, petition of William Knappman & Co., Brooklyn, N. Y., protesting against the reduction of the present tariff on whiting and Paris white; to the Committee on Ways and Means.

Also, petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25166, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Busbuck Avenue Methodist Episcopal Sunday school, Brooklyn, N. Y., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the manufacturers and journey men and women of the gold-leaf industry, asking that the tariff on gold leaf in paragraph 177, Payne tariff, be made to read 50 cents in place of 35 cents, etc.; to the Committee on Ways and Means.

Also, petition of the Federation of Jewish Farmers of America, favoring the passage of legislation establishing a system of farmers' credit unions; to the Committee on Banking and Currency.

SENATE.

SATURDAY, *January 4, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

WILLIAM P. DILLINGHAM, a Senator from the State of Vermont, appeared in his seat to-day.

The Journal of yesterday's proceedings was read and approved.

RESIGNATION OF SENATOR J. W. BAILEY.

The PRESIDENT pro tempore (Mr. GALLINGER). The Chair lays before the Senate a communication, which will be read.

The Secretary read as follows:

UNITED STATES SENATE,
Washington, D. C., January 3, 1913.

Hon. J. H. GALLINGER,
President of the United States Senate pro tempore.

DEAR SIR: I hereby tender my resignation as a Senator from the State of Texas.

J. W. BAILEY.

The PRESIDENT pro tempore. If there is no objection the communication will lie on the table.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificates of ascertainment of electors for President and Vice President appointed in the States of Michigan, Utah, and Texas at the elections held in those States November 5, 1912, which were ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, transmitted to the Senate resolutions on the death of Hon. JEFF DAVIS, late a Senator from the State of Arkansas.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

H. R. 10169. An act to provide for the holding of the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge; and

H. R. 10848. An act amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes and to protect the same.

PETITIONS AND MEMORIALS.

Mr. CRAWFORD presented a petition of sundry citizens of Mitchell and Hitchcock, in the State of South Dakota, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. NELSON presented resolutions, adopted by the State Forestry Board of Minnesota, remonstrating against the enactment of legislation transferring the control of the national forests to individual States, which were referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a memorial of the Godahl Creamery Association, of St. James, Minn., remonstrating against the passage of the so-called Lever oleomargarine bill, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of members of the Monday Afternoon Club, of Willmar, Minn., praying for the enactment of legislation for the protection of migratory birds, which was ordered to lie on the table.

Mr. BRISTOW presented petitions of sundry citizens of McPherson and Belleville, in the State of Kansas, praying for the enactment of legislation to prohibit the interstate transportation of race-gambling bets, etc., which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of McPherson and Belleville, in the State of Kansas, praying for the enactment of legislation to prohibit the nullification of State anticigarette laws through "original packages" shipped in from other States, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of McPherson and Belleville, in the State of Kansas, praying for the passage of the so-called Kenyon red-light injunction bill, which were referred to the Committee on the District of Columbia.

He also presented petitions of sundry citizens of the fifth congressional district of Kansas and of Rawlings County, Kans., praying that an investigation be made into the methods used in the prosecution of the Appeal to Reason, a socialist newspaper published at Girard, Kans., which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of McPherson, Belleville, McLouth, and Bonner Springs, and of the congregations of the Methodist Episcopal Church of Spearville, the Methodist Episcopal Church of Beloit, and of the Church of the Brethren, Southeast District, all in the State of Kansas, praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

Mr. JOHNSON of Maine presented petitions of sundry citizens of Vassalboro, Kittery, Nobleboro, South Paris, and Norway, and of the Woman's Christian Temperance Union of Nobleboro, all in the State of Maine, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a memorial of sundry citizens of Whitefield, Me., and a memorial of sundry citizens of Rockland, Me., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BROWN presented a petition of members of the Interdenominational Men's League of Hastings, Nebr., and a petition of the congregations of sundry churches of Hastings, Nebr., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented sundry papers to accompany the bill (S. 45) granting an increase of pension to Michael Liebhart, which were referred to the Committee on Pensions.

He also presented sundry papers to accompany the bill (S. 7595) granting an increase of pension to Nelson Taylor, which were referred to the Committee on Pensions.

He also presented sundry papers to accompany the bill (S. 7597) granting a pension to Charles F. Lane, which were referred to the Committee on Pensions.

Mr. SHIVELY presented a petition of sundry citizens of New Albany, Ind., praying for the enactment of legislation to protect migratory game and insectivorous birds in the United States, which was ordered to lie on the table.

Mr. WORKS presented a memorial of members of the Wednesday Afternoon Club, of Alhambra, Cal., remonstrating against the enactment of legislation proposing to change the present national system of protecting the forests of the country, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a resolution adopted by the Chamber of Commerce of Los Angeles, Cal., praying for the establishment of a quarantine station on Deadmans Island, Los Angeles Harbor, which was referred to the Committee on Commerce.

Mr. GALLINGER presented the petition of Rev. Edward A. Tuck, of West Concord, N. H., and a petition of the superintendent and employees of the Sears-Roebuck Shoe Factories, of Littleton, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of sundry inmates of the Pacific Branch of the Soldiers' Homes, in the State of California, praying for the adoption of certain reforms and improvements at the soldiers' home at Santa Monica, Cal., which was referred to the Committee on Military Affairs.

PANAMA-PACIFIC INTERNATIONAL EXPOSITION.

Mr. WORKS. I present a number of petitions for reference, one being a letter from Hon. W. W. Morrow, judge of the United States circuit court, with reference to the participation of the United States in the Panama-Pacific International Exposition to be held in San Francisco in 1915. I ask that the letter be printed in the RECORD and referred to the Committee on Industrial Expositions.

There being no objection, the letter was referred to the Committee on Industrial Expositions and ordered to be printed in the RECORD, as follows:

WASHINGTON, D. C., *December 27, 1912.*

Hon. JOHN D. WORKS,
United States Senator, Washington, D. C.

MY DEAR SENATOR: Senate bill 7826, introduced by Senator PERKINS on December 19, 1912, provides very appropriately for the participation of the United States in the Panama-Pacific International Exposition, to be held in San Francisco in 1915. The participation is declared to be for the exhibition of "such articles and materials as illustrate the function and administrative faculty of the Government of the United States, tending to demonstrate the nature and growth of our institutions, their adaptation to the wants of the people, and the progress of the Nation in the arts of peace and war." For the purpose of providing for the collection and exhibition of such articles and materials a board is to be created, "to be known as the Government exhibit board, to be composed of one person to be named by the head of each executive department and one each by the Regents of the Smithsonian Institution, the Isthmian Canal Commission, the Interstate Commerce Commission, the Civil Service Commission, the Commissioners of the District of Columbia, the Commission of Fine Arts, the Librarian of Congress, the Public Printer, the governor of Porto Rico, the governor of Alaska, and the Geographic Board."

I beg leave to suggest that the American National Red Cross be added to this list. This society, as you know, occupies a very prominent and important position in this country and in the world at large in the care of the sick and wounded in time of war and in mitigating the sufferings caused by pestilence, famine, fire, floods, and other great natural calamities in times of peace. It therefore illustrates in its work and in the methods it employs the progress the people have made in the last few years in mitigating the evils inseparable from war and the disasters caused by great calamities.

The American National Red Cross as now organized was incorporated by the act of Congress approved January 5, 1905. The act declared its purpose to be "to furnish volunteer aid to the sick and wounded of armies in time of war" and "to act in matters of voluntary relief and in accord with the military and naval authorities as a medium of communication between the people of the United States of America and their Army and Navy, and to act in such matters between similar national societies and other Governments through the Comite International de Secours and the Government and the people and the Army and Navy of the United States of America."

It is also authorized by the act of Congress "to continue and carry on a system of national and international relief in time of peace and apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other great national calamities, and carry on measures for preventing the same."

The act named certain persons as incorporators and made them a body corporate and provided that the governing body of the corporation should be a central committee composed of six members appointed by the incorporators, six members representing the State and Territorial societies authorized by the act, and six members appointed by the President. The presidential appointees on the committee include a representative from each of the Departments of State, War, Navy, Treasury, and Justice.

The proceedings, together with a full, complete, and itemized statement of the receipts and expenditures of the corporation are required to be reported annually to the Secretary of War. The receipts and expenditures are required to be audited by the War Department and a report transmitted to Congress by the War Department. The President of the United States is now the president of the corporation. The society was fully organized immediately after its incorporation, and has been actively engaged ever since in carrying out the purposes of its organization in administering relief to sufferers from great calamities like the earthquake and fire at San Francisco. The Mississippi floods, the forest fires in the Northwest, the famine in China, and in numerous mine disasters, and in addition has rendered aid to the sick and

wounded of armies in time of war, as, for example, in the Russian-Japanese war and in the present war between the Balkan States and Turkey. In this relief work it has expended over $6,000,000 since 1905. I mention these features of the work and organization of the American National Red Cross to show that it is practically a Government organization, whose work and methods of procedure bring it peculiarly within the terms of the bill providing for a participation of the United States in the Panama-Pacific International Exposition in San Francisco in 1915.

The society is not only national but international, and in both form of activities it is proposed to hold national and international sessions in San Francisco in 1915 for the purpose of illustrating its work in both peace and war, and it is also proposed to make an exhibition of articles and materials illustrating the scope and character of such relief work.

In this connection, San Francisco itself will be an exhibit of the value of Red Cross relief in promoting its recovery from the direful effects of the earthquake and fire of 1906. In other words, the Red Cross, both national and international, will be an instructive feature of the exhibition, showing the function and administrative faculty of the people of the United States in mitigating the evils of war and affording relief to sufferers in times of great calamities.

I therefore respectfully suggest that a representative of the American National Red Cross be placed on the board provided in Senate bill 7826, and that the bill should be so amended in committee.

I inclose for your information copies of the following:

1. The American National Red Cross—Charter and by-laws.
2. The American National Red Cross—Origin, purpose, organization.
3. Conservation. The principle of the Red Cross. An address by Miss Mabel Boardman.

Very respectfully,

WM. W. MORROW.

THE AMERICAN NATIONAL RED CROSS.

ORIGIN.

The International Conference of Geneva, held in 1863, recommended "that there exist in every country a committee whose mission consists in cooperating in times of war with the hospital service of the armies by all means in its power."

The Geneva Convention of 1864 and the Geneva Convention of 1906, the latter held for the revision of the treaty of Geneva—sometimes called the "Red Cross Treaty"—give definite status to the officially recognized volunteer aid societies. These volunteer aid societies, because of the character of the insignia or badge adopted to distinguish their personnel and matériel—a Greek red cross on a white ground—are universally known as "Red Cross Societies."

PURPOSES.

The original purpose for the organization of Red Cross Societies, as will be inferred from the above, was to supplement the medical services of armies in time of war.

The great need, however, of a thoroughly trained and efficient organization, national in scope and permanent in character, to render assistance after great disasters, has been so well established that many of the Red Cross Societies have extended their functions to include relief operations in time of peace. Indeed, it has been proved that these societies which are most active in conducting relief and preventive measures in time of peace are best prepared to cope with the extraordinary requirements of war.

Recognizing this fact, the United States Congress, by the act approved January 5, 1905, to incorporate the American Red Cross and place it under Government supervision, declared its purposes—In addition to its duties in time of war—to be: "To continue and carry on a system of national and international relief in time of peace and apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other great national calamities, and to devise and carry on measures for preventing the same."

ORGANIZATION.

The American National Red Cross is incorporated by act of the United States Congress. Its officers are a president, vice president, secretary, counselor, treasurer, and national director. Section 5 of the act of incorporation provides that "the governing body of the said American Red Cross shall consist, in the first instance, of a central committee numbering 18 persons." The law also provides that the chairman and five members of the central committee shall be appointed annually by the President of the United States, the five members appointed by the President to represent the Departments of State, War, Navy, Treasury, and Justice. Twelve members are elected at the regular annual meeting of the society.

The central committee is empowered by law to elect from its own members an executive committee of seven, to which is given all powers of the central committee when the latter is not in session.

The by-laws provide for three relief boards, namely, the war relief board, the national relief board, and the international relief board. To each of these boards have been assigned special duties in connection with its particular department of relief operations.

The first-aid department and the nursing service are under the direction of two subcommittees appointed by the war relief board. The first-aid committee is engaged in promoting first-aid instruction among the employees of mining companies, railroads, industrial establishments, and the public at large, and the committee on nursing service is engaged in the organization of a large corps of the best trained nurses of the country for service under the Red Cross in time of war or disaster.

State and local organizations: State boards, consisting of from 3 to 10 persons, appointed by the chairman of the central committee, constitute a permanent emergency committee in every State. The governor of the State is the president of the board.

Besides these State boards there are local organizations in upward of 100 cities. These local bodies are known as chapters. Each has its own officers and members. These chapters are of service in the collection of funds and supplies for relief when a call is made upon them by the central committee. When a disaster occurs in the territory of a chapter, the chapter, together with the institutional member, if there be one within its jurisdiction, enters immediately upon measures of relief.

Institutional members: It has been regarded by the central committee as desirable to bring to the command of the Red Cross for emergency work following great calamities trained service such as is to be found only in the ranks of well-organized charitable societies in the larger cities of the United States. To meet this need there has been created an "institutional membership" in which there have been enrolled a number of the most efficient charitable societies of the United States.

The national director: The national director is the official representative of the central committee and national relief board, and upon his arrival at the scene of a disaster where Red Cross assistance is required takes charge of the relief operations.

The endowment fund: The endowment fund is managed and controlled by a board of nine trustees.

Reports: The Red Cross is required by law to make an annual report of its proceedings to the Secretary of War. This report is transmitted by the Secretary of War to Congress, where it is printed as a public document.

Audit of accounts: The law requires that the accounts of the American Red Cross be audited annually by the War Department. This is the best possible assurance that the funds intrusted to the society for expenditure will be properly and accurately accounted for.

The American Red Cross bulletin: The Red Cross publishes a quarterly magazine devoted to the interests of the society and contains illustrated articles relating to relief operations in the United States and foreign countries.

Magnitude of the work of the American Red Cross: Since the reincorporation of the society in 1905, the Red Cross has rendered relief after more than 40 disasters caused by earthquakes, volcanic eruptions, fires, floods, famines, mine explosions, and wars in this and foreign countries. The funds received by the American Red Cross and expended in relief since January, 1905, exceed $5,000,000.

General membership: Any citizen of the United States is eligible for enrollment as a member of the Red Cross. There are three classes of membership—life membership, sustaining membership, and annual membership. The dues for life membership are $100, for sustaining membership, $10, payable annually; and for annual membership, $1, payable annually. Applications for enrollment should be addressed to the secretary of the American Red Cross, Washington, D. C., or to the secretary of a local chapter. All members receive the quarterly bulletin during the period of their membership.

OCTOBER 1, 1914.

RIGHT OF APPEAL FROM DEPARTMENTAL DECISIONS.

Mr. JONES. I have a copy of a resolution adopted by the American Mining Congress at its fifteenth annual session held at Spokane, Wash., November 25 to 29, 1912, favoring legislation conferring jurisdiction upon the proper United States district courts to entertain suits at the instance of any person in interest, and so forth, in all cases involving the claim or right and possession, occupation, title, or right to acquire title to any nonmineral or mineral lands under the mining or other public-land laws. I ask that the resolution be printed in the RECORD without reading, and that it be referred to the Committee on Public Lands.

There being no objection, the resolution was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

Resolution adopted by the American Mining Congress at its fifteenth annual session held at Spokane, Wash., November 25 to 29, 1912.

Whereas the Executive Department of the United States Government has from time to time withdrawn from entry a very considerable portion of the remaining public domain for purposes of permanent reservation or classification with a view of securing legislation from Congress, including forest, mineral and agricultural lands; and

Whereas these withdrawals are avowedly made upon Executive and departmental conviction that the existing laws of Congress in relation to the disposition of public lands are unwise, and that new laws meeting Executive or departmental approval should be passed; and

Whereas thousands of citizens have initiated or perfected claims to title to such withdrawn lands prior to the Executive withdrawal thereof, and have initiated or perfected such claims to title under existing laws; and

Whereas such existing claims so perfected or made prior to the various withdrawals are adverse and antagonistic to Executive and departmental belief as to the best use to which such lands should be put; and

Whereas the laws and Executive orders of withdrawal provide that upon the departmental rejection or cancellation of any such existing private claims the lands thereby, by reason of such rejection, become subject to and available for the uses and purposes of such Executive or departmental withdrawals; and

Whereas great controversy, complaint, and departmental litigation has resulted by reason of the departmental investigation, adjudication, and cancellation of such private entries and claims; or in delay in final action and because of long-continued suspension of such claims; and

Whereas there is widespread conviction among such private claimants and entrymen that the executive department, in adjudicating the rights of claimants, have not in all instances been successful in ignoring the departmental policy and belief that present legislation is unwise and rights granted thereunder are improvident and inimical to the uses to which the department believes the land can best be put; and

Whereas it is a fundamental proposition in law and natural equity that no person, officer, or judge should have an interest or bias which could be aided or gratified by a decision rendered by himself in determining the liberty or property rights of another; and

Whereas the present Commissioner of the General Land Office, in considering his general jurisdiction in adjudicating questions affecting the right of persons generally to acquire title to public lands, stated, on page 20 of his annual report for the fiscal year ending June 30, 1911: "It is impossible for the commissioner and his assistant to pay the judicial attention to these cases which they should receive. The bar practicing before this office has very little opportunity to submit its cases directly to those who are by law responsible for the decisions, because of the multitudinous duties placed on these officers. The head of the office can not find time to give individual attention to many of the most important cases which are submitted for his consideration"; and

Whereas the Secretary of the Interior has numerous bureaus and manifold duties requiring his attention; and in his report to Congress under date of February 13, 1912, on H. R. 18235, in speaking of the single subject of appeals to him from the decisions of the Commissioner of the General Land Office, said: "During the past two months, as an example, an average of over 300 cases per month have been decided in the department on appeal from the General Land Office." Which statement demonstrates the physical impossibility of

the Secretary or his assistant secretary giving personal attention to the real merits of individual cases; and

Whereas the investigating agents and many of the witnesses used by the Secretary of the Interior in the preparation of adverse reports and the introduction and giving of evidence upon which the department must rely in canceling existing private entries are his own appointees and employees in whom he necessarily must place great faith and reliance, while the witnesses for the private entrymen and claimants are either unknown to him or by reason of their residence in the vicinity of the public lands frequently are themselves claimants to like lands; and

Whereas final decision by the General Land Office or the Interior Department is rendered at Washington, several thousand miles from the land and residence of the claimants; and

Whereas under existing law the decision of the Interior Department canceling an entry or claim upon questions of fact is final and can not be reviewed by the courts; and

Whereas we believe that in all cases wherein the Executive Department has withdrawn lands for a use or purpose adverse or inconsistent with the existing private entry of a citizen, it is fair and just that such citizen may have his rights and the facts in the case determined in the courts and not in the Executive Department; and also that such citizen may secure action in the courts whenever his application is for any reason so delayed in the department as to amount to a practical rejection thereof: And therefore be it

Resolved, That the American Mining Congress favors legislation conferring jurisdiction upon the proper United States district courts to entertain suits at the instance of any person in interest, and determine the law and fact de novo, and render final decision in all cases involving the claim or right to possession, occupation, title, or right to acquire title to any nonmineral or mineral lands under the mining or other public land laws wherein it shall be made to appear:

First. That such claim or right shall have been finally rejected by the Secretary of the Interior or other proper final executive authority, and the land involved shall be at date of such rejection or within 30 days thereafter within any permanent or temporary reservation or Executive order of withdrawal, or under suspension from disposition under the public-land laws, mineral or nonmineral; or

Second. That such claim or right shall have been finally rejected by the Secretary of the Interior or other proper final executive authority, and such rejection shall be based, in whole or in part, upon a finding as to the mineral or nonmineral character of the land; or

Third. That any final application to purchase, enter, or otherwise acquire title or to acquire a right to occupancy or possession under such claim or right shall have been pending before the Interior Department or other proper department, bureau, or officer, for a period of two years without final action and free from any bona fide private contest: *Provided*, That jurisdiction under this act shall not extend to final decisions awarding the land to a private contestant upon contest not putting in issue the mineral or nonmineral character of the land; and such suit shall not be filed after one year from notice of final rejection of the claim or right, nor shall any suit invalidate intervening adverse rights unless notice of intention to file suit shall have been filed in the proper local land office within 60 days of notice of such final rejection.

REPORTS OF COMMITTEES.

Mr. CLAPP, from the Committee on Interstate Commerce, to which was referred the bill (H. R. 16450) to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same, asked to be discharged from its further consideration and that it be referred to the Committee on the Judiciary, which was agreed to.

Mr. GALLINGER, from the Committee on the District of Columbia, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 7508. A bill to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia (Rept. No. 1081); and

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire (Rept. No. 1082).

Mr. GALLINGER, from the Committee on the District of Columbia, to which was referred the bill (H. R. 8619) to amend "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," approved May 7, 1906, reported it with an amendment and submitted a report (No. 1083) thereon.

He also, from the same committee, to which was referred the bill (S. 1787) to amend "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," approved May 7, 1906, submitted an adverse report (No. 1084) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. JONES, from the Committee on the District of Columbia, to which was referred the bill (S. 6919) to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia, reported it with amendments and submitted a report (No. 1085) thereon.

Mr. WORKS, from the Committee on the District of Columbia, to which was referred the bill (S. 7509) to authorize the extension of Twenty-fifth Street SE. and of White Place, reported it without amendment and submitted a report (No. 1086) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. NELSON:

A bill (S. 7917) granting an increase of pension to Jerome S. Pinney; and

A bill (S. 7918) granting an increase of pension to Mary J. Richardson (with accompanying paper); to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 7919) for the relief of Gabriel Campbell (with accompanying papers); to the Committee on Military Affairs.

By Mr. WORKS:

A bill (S. 7920) for the relief of W. T. Rice (with accompanying paper); to the Committee on Claims.

A bill (S. 7921) granting an increase of pension to James Tiernan (with accompanying papers); to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 7922) granting a pension to Caroline J. McBratney (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Maryland:

A bill (S. 7923) for the relief of the heirs of Ann Gregory, deceased; to the Committee on Claims.

A bill (S. 7924) granting a pension to Golda M. Morrison (with accompanying paper); to the Committee on Pensions.

By Mr. MYERS:

A bill (S. 7925) to increase the limit of cost of the United States public building at Miles City, Mont.; to the Committee on Public Buildings and Grounds.

A bill (S. 7926) giving the right to an additional homestead to all persons who have exhausted or who shall exhaust their original right of entry through the purchase of Indian lands; to the Committee on Public Lands.

By Mr. SHIVELY:

A bill (S. 7927) to place on the retired list of the Army the names of the surviving officers who were mustered out under the provisions of the act of Congress approved July 15, 1870; to the Committee on Military Affairs.

A bill (S. 7928) for the relief of Leonidas Stout (with accompanying papers); to the Committee on Claims.

A bill (S. 7929) granting pensions to volunteer Army nurses of the Civil War; to the Committee on Pensions.

By Mr. FLETCHER:

A bill (S. 7930) granting an increase of pension to Frederick M. Douglass (with accompanying papers); to the Committee on Pensions.

By Mr. REED:

(By request.) A bill (S. 7931) to remove the charge of desertion from the military record of Thomas W. Hopkins and extend to him pensionable rights (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 7932) granting an increase of pension to Luke Cassidy (with accompanying papers):

A bill (S. 7933) granting an increase of pension to Lewis F. Branson (with accompanying papers);

A bill (S. 7934) granting an increase of pension to Amanda E. Glenn (with accompanying papers); and

A bill (S. 7935) granting an increase of pension to Solomon Kessinger (with accompanying papers); to the Committee on Pensions.

By Mr. KERN:

A bill (S. 7936) for the relief of William M. Burns; to the Committee on Military Affairs.

A bill (S. 7937) granting an increase of pension to James F. McGrew (with accompanying papers);

A bill (S. 7938) granting an increase of pension to John W. Wareham (with accompanying papers);

A bill (S. 7939) granting an increase of pension to William Woodford Mitchell (with accompanying papers);

A bill (S. 7940) granting an increase of pension to Alfred H. Fodrea (with accompanying papers):

A bill (S. 7941) granting an increase of pension to Frances F. Godown (with accompanying papers);

A bill (S. 7942) granting an increase of pension to Aaron Stauter (with accompanying papers); and

A bill (S. 7943) granting an increase of pension to Hiram Brubaker (with accompanying papers); to the Committee on Pensions.

By Mr. BOURNE:

A bill (S. 7944) to protect the water supply of the city of Portland, Oreg.; and

A bill (S. 7945) to create the Oregon Caves National Park in the State of Oregon; to the Committee on Public Lands.

By Mr. BURTON:

A bill (S. 7946) granting an increase of pension to Mary McClure; to the Committee on Pensions.

By Mr. JONES:

A bill (S. 7947) granting a pension to James B. Gillick;

A bill (S. 7948) granting an increase of pension to David E. Wood; and

A bill (S. 7949) granting an increase of pension to John C. Vennum; to the Committee on Pensions.

By Mr. CULBERSON:

A bill (S. 7950) granting a pension to Sara S. Dowdy; to the Committee on Pensions.

By Mr. DIXON:

A bill (S. 7951) to provide for the construction of an addition to the Federal building at Missoula, Mont.; to the Committee on Public Buildings and Grounds.

A bill (S. 7952) granting an increase of pension to Henry C. Hollenbeck; to the Committee on Pensions.

By Mr. BROWN:

A bill (S. 7953) granting an increase of pension to Peter Blakley (with accompanying papers); and

A bill (S. 7954) granting a pension to Ida M. Smith; to the Committee on Pensions.

By Mr. TOWNSEND:

A bill (S. 7955) granting a pension to John Partello (with accompanying papers); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 7956) granting an increase of pension to John R. Mayhew;

A bill (S. 7957) granting a pension to Walter W. Dow; and

A bill (S. 7958) granting a pension to Benjamin Wentworth (with accompanying papers); to the Committee on Pensions.

By Mr. JOHNSON of Maine (for Mr. GARDNER):

A bill (S. 7959) to correct the military record of Charles K. Bolster; and

A bill (S. 7960) to correct the military record of William Bartlett; to the Committee on Military Affairs.

By Mr. STONE:

A bill (S. 7961) for the relief of the estate of George Patterson, deceased (with accompanying papers); to the Committee on Claims.

A bill (S. 7962) granting an increase of pension to Edmond Melton (with accompanying papers);

A bill (S. 7963) granting an increase of pension to Eli W. Pierce (with accompanying papers);

A bill (S. 7964) granting an increase of pension to John Palmer (with accompanying papers); and

A bill (S. 7965) granting an increase of pension to Lefford Matthews (with accompanying papers); to the Committee on Pensions.

By Mr. CRAWFORD:

A bill (S. 7966) providing for the disposal of certain lands containing coal and other minerals within portions of Indian reservations heretofore opened to settlement and entry in the State of South Dakota; and

A bill (S. 7967) providing for the disposal of certain lands containing coal and other minerals within portions of Indian reservations heretofore opened to settlement and entry; to the Committee on Public Lands.

AMENDMENT TO APPROPRIATION BILLS.

Mr. PERKINS submitted an amendment proposing to appropriate $40,000 for special mail facilities from the United States naval station at Pago Pago, Island of Tutuila, via Honolulu and San Francisco, etc., intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

Mr. CRAWFORD submitted an amendment proposing to appropriate $2,000 for the salary of the surveyor general of South Dakota, etc., intended to be proposed by him to the legislative appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $6,200 for the maintenance of the assay office at Deadwood, S. Dak., intended to be proposed by him to the legislative appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

COOPERATIVE DAIRYING IN DENMARK (S. DOC. NO. 992).

Mr. FLETCHER. Mr. President, I ask unanimous consent to have printed as a document a lecture delivered by Hon. Maurice F. Egan, American minister to Denmark, on the subject of cooperative dairying as practiced in that country. It contains some very valuable data of interest to our agricultural people.

Mr. SMOOT. I should like to ask the Senator where the lecture was delivered. It is not a report as minister, but, as I understand, a lecture delivered somewhere in the United States.

Mr. FLETCHER. Mr. Egan came at the invitation of the Southern Commercial Congress to address its meeting held in Nashville, Tenn., last April, and while he was here he delivered this lecture in a number of States on the subject of cooperative dairying as practiced in Denmark. I think it is a very valuable paper.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Florida? The Chair hears none, and the order is entered.

ADDRESS BY NICHOLAS MURRAY BUTLER (S. DOC. NO. 993).

Mr. CLARK of Wyoming. I have a copy of an address before the Commercial Club, Chicago, Ill., December 14, 1912, by Nicholas Murray Butler. It is a very important paper. I ask that it be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so ordered.

FAMILY BEREAVEMENT.

Mr. KERN. I desire to announce the unavoidable absence of the junior Senator from South Carolina [Mr. SMITH], who was called home last week on account of the sudden death of one of his children.

INAUGURATION OF THE PRESIDENT ELECT.

The PRESIDENT pro tempore. Under the concurrent resolution of the Senate of December 9, 1912, providing for the appointment of a joint committee to make necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next, the House having appointed a committee on behalf of that body, the Chair will name the Senator from Massachusetts [Mr. CRANE], the Senator from Georgia [Mr. BACON], and the Senator from North Carolina [Mr. OVERMAN] members of the joint committee on the part of the Senate.

ISTHMIAN CANAL COMMISSION (H. DOC. 1216).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Senate and House of Representatives:

In accordance with the requirements of section 10 of the act approved August 24, 1912, I transmit herewith a letter addressed to me by the Secretary of War, dated December 23, 1912, submitting a letter from the chairman of the Isthmian Canal Commission, dated December 13, 1912, and accompanying statement of all expenses incurred by officers and employees of the Isthmian Canal Commission in attending meetings and conventions from June 30 to December 1, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *January 3, 1913.*

ANNUAL REPORT OF CIVIL SERVICE COMMISSION (H. DOC. NO. 963).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read and referred to the Committee on Civil Service and Retrenchment and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith, for the consideration of the Congress, the Twenty-ninth Annual Report of the United States Civil Service Commission for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *January 3, 1913.*

[NOTE.—Report accompanied similar message to the House of Representatives.]

OMNIBUS CLAIMS BILL.

Mr. CULLOM. I submit a proposed amendment to the omnibus claims bill and ask that it be accepted by the chairman. It is a longevity claim that I present.

Mr. CRAWFORD. It is in the form of an amendment?

Mr. CULLOM. An amendment offered.

Mr. CRAWFORD. Very well. When we take up the bill it can be considered.

The PRESIDING OFFICER (Mr. MCCUMBER in the chair). The Chair will state that, as we are now under morning business, the proposed amendment will lie upon the table until the morning business is concluded and the claims bill is regularly before the Senate.

Mr. GALLINGER submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

INVESTIGATION OF CAMPAIGN CONTRIBUTIONS.

Mr. CLAPP. I offer the following resolution and ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The resolution will be read.

The resolution (S. Res. 418) was read, as follows:

Resolved, That Senate resolution 79, agreed to August 26, 1912, be, and the same is hereby, amended by inserting, in line 2, page 2, of said resolution, after the word "eight," the words "November 5, 1912."

The PRESIDING OFFICER. The Senator from Minnesota asks unanimous consent for the present consideration of the resolution. Is there objection?

Mr. GALLINGER. I will ask what is the purpose of the resolution.

Mr. CLAPP. I was going to state it as soon as I had an opportunity. It is to amend the resolution which provided for the creation of a special committee of the Committee on Privileges and Elections to investigate the matter of campaign contributions. The original resolution authorized the committee to take up the question of contributions in the campaigns of 1904 and 1908. Subsequently it was amended to include the primary or preliminary campaigns of 1912, but it does not cover the presidential campaign of 1912. I think, for the purpose of comparison in the report the committee will probably make, they should have the statements of 1912. I wish to be frank about it. I expect possibly that we will take some testimony with reference to the campaign of 1912.

Mr. OLIVER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Pennsylvania?

Mr. CLAPP. With pleasure.

Mr. OLIVER. Do I understand the Senator from Minnesota to offer this as coming from the committee?

Mr. CLAPP. No, sir; I offer it as coming from myself.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. POMERENE. I ask to have the resolution read.

The PRESIDING OFFICER. Does the Senator from Ohio ask that the original resolution may be read, or the resolution now proposed?

Mr. POMERENE. The amendment proposed.

The PRESIDING OFFICER. The Secretary will again read the resolution.

The Secretary again read the resolution.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. OLIVER. I think it had better go over. I object.

The PRESIDING OFFICER. The Senator from Pennsylvania objects.

Mr. CLAPP. Then I move that, notwithstanding the objection, the Senate shall proceed to the consideration of the resolution.

Mr. GALLINGER. That can not be done under the rule, Mr. President.

The PRESIDING OFFICER. The Chair would inform the Senator from Minnesota that under the rule, when an objection is made, a resolution just offered must go over.

Mr. CLAPP. I understand the rule. I made the motion; that is all.

The PRESIDING OFFICER. The resolution will go over.

COMMITTEE SERVICE.

Mr. GALLINGER. I submit a resolution and call the attention of the senior Senator from Virginia [Mr. MARTIN] to it. I ask unanimous consent for the present consideration of the resolution.

There being no objection, the resolution was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That Mr. JACKSON be assigned to service on and to the chairmanship of the Committee on Expenditures in the Department of State, and to service on the Committees on Manufactures, Mines and Mining, the Philippines, Public Buildings and Grounds, and Public Lands.

Mr. MARTIN of Virginia submitted the following resolution, which was read, considered by unanimous consent, and agreed to:

Resolved, That Senator ROBERT L. OWEN, of Oklahoma, be assigned to the chairmanship of the Committee on Indian Depredations;

That Senator BENJAMIN F. SHIVELY, of Indiana, be assigned to the chairmanship of the Committee on Pacific Railroads;

That Senator JAMES A. O'GORMAN, of New York, be assigned to the Committee on Foreign Relations;

That Senator DUNCAN U. FLETCHER, of Florida, be assigned to the Committee on the Judiciary;

That Senator KIRTLAND I. PERKY, of Idaho, be assigned to the following committees: Education and Labor, Civil Service and Retrenchment, Industrial Expositions, Transportation Routes to the Seaboard, and Expenditures in the Department of Justice.

THE PRESIDENTIAL TERM.

Mr. CUMMINS. I ask the unanimous consent of the Senate to the following agreement:

That on Tuesday, January 21, at 4 o'clock in the afternoon, the Senate shall proceed to vote upon Senate joint resolution No. 78, with all amendments that have been or may be offered, without further debate, provided that the mover of any amendment may speak upon it for not to exceed 10 minutes and each other Senator not to exceed 5 minutes.

Mr. REED. We could not hear in this part of the Chamber. Will the Senator kindly restate the matter?

Mr. CUMMINS. I can not hear the Senator from Missouri.

Mr. REED. There seems to be confusion on the other side of the Chamber also. I ask the Senator if he will kindly restate the proposition? We could not hear him in my immediate vicinity.

Mr. CUMMINS. It is that on Tuesday, January 21, at 4 o'clock in the afternoon, the Senate shall proceed to vote upon Senate joint resolution No. 78—that being the joint resolution for the proposed amendment to the Constitution rendering ineligible for election one who has once held the office of President—together with all amendments that have been or may be offered to the resolution, without further debate, provided that the mover of any amendment may speak upon it for 10 minutes, and that each other Senator may speak upon it for not to exceed 5 minutes.

I make the last provision because it is our experience that amendments offered after we begin to vote, without the opportunity for explanation, are often misunderstood. I take it for granted that substantially the whole debate upon the joint resolution has already taken place. I ask this unanimous consent because, if it is not granted, I shall feel it my duty to very soon insist upon the continuous consideration of the joint resolution until we reach a vote.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I do.

Mr. WORKS. I presume that request does not preclude the right of discussion between now and the time of taking the vote?

Mr. CUMMINS. Oh, certainly not. We have more than two weeks' opportunity for debate between now and then; the joint resolution will come up every day automatically at 2 o'clock, and any debate that is desirable can go on during the two weeks.

The PRESIDING OFFICER. The Secretary will state the request of the Senator from Iowa.

The SECRETARY. It is that unanimous consent be given that on Tuesday, January 21, 1913, at not later than 4 o'clock p. m., the Senate will proceed to the consideration of the resolution, Senate joint resolution 78, and that before adjournment on that date——

Mr. CUMMINS. That is not the agreement for which I ask. I believe that we ought to fix a definite time to vote, so that Senators can all be here; and, inasmuch as the debate has largely taken place——

The PRESIDING OFFICER. The Chair understands that the request was that the vote be taken without further debate, except that upon an offered amendment the mover might have five minutes in which to discuss the same.

Mr. CUMMINS. That the mover might have 10 minutes and any other Senator not to exceed 5 minutes in which to reply.

The PRESIDING OFFICER. That any other Senator shall have not to exceed 5 minutes.

Mr. HITCHCOCK. Mr. President, I do not quite understand the request of the Senator from Iowa. It seems to me that if this important question is to be taken up on that date, the order should provide that it should be taken up at an earlier hour in the day, say immediately after the morning business.

Mr. CUMMINS. The Senator from Nebraska will permit me to say that the joint resolution will come up every day at 2 o'clock and will be open for debate. It will come up on that day at 2 o'clock and will continue, if any Senator desires to discuss it, until 4 o'clock. I have fixed a definite time for beginning to vote because I know that every Senator wants to be here when the vote is taken, and my observation is that it is a great deal better to fix a definite hour than to leave the matter undetermined.

Mr. HITCHCOCK. We know by experience that that will probably result simply in an active and general discussion confined to the day for which the unanimous consent is given; and it seems to me that two hours debate, from 2 to 4 o'clock,

is too limited. The debate which would occur after 4 o'clock would be almost negligible.

Mr. CUMMINS. I can not agree with the Senator that the debate will be delayed until that time; I think there will be some debate upon the matter between now and then.

Mr. HITCHCOCK. I was going to say——

Mr. CUMMINS. Any Senator will have the right to insist upon the consideration of the joint resolution every day after the morning hour has expired.

Mr. GALLINGER. Mr. President, if the Senator from Nebraska will yield to me——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from New Hampshire?

Mr. HITCHCOCK. I do.

Mr. GALLINGER. If the Senator will permit me, I rise to state that I agree with him, and that I think the hour ought to be earlier. It is a certainty that during the next week we shall not have an opportunity to consider the unfinished business, inasmuch as the impeachment proceedings will doubtless continue during that week, and I apprehend that we have no certainty that they will not go beyond the next week. There may not be much opportunity to debate the question between now and the time the Senator suggests. I want very much to accommodate the Senator in his request. I think we ought to take this matter up and vote on it; and I think if the Senator would make the hour 3 o'clock in place of 4 o'clock it would be better.

Mr. CUMMINS. I am perfectly willing to do so. I have no choice so far as the hour is concerned, and if the date I have named is too early I am quite willing to postpone it until another day.

Mr. BORAH. Mr. President——

Mr. HITCHCOCK. Mr. President, it seems to me——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. BORAH. Mr. President, I do not desire to object to the consideration of the joint resolution or to fixing a time to vote upon it, although I am opposed to the measure; but I should like, if the Senator from Iowa would consent, to have a later date fixed, and I would like very much that we should have the same agreement which we have had heretofore with reference to voting before the close of the legislative day. My experience here has been that when the Senate agrees to vote at a certain hour debate is always cut off before those who desire to participate in it on that particular day have concluded, and especially would I like to have a later date fixed, because I am quite sure I shall not be able to be here at that particular time.

Mr. CUMMINS. Of course, if the Senator from Idaho will not be here upon that day, I am very far from insisting upon fixing that time to vote. Will the Senator from Idaho suggest a day that will be convenient?

Mr. HITCHCOCK. Mr. President——

Mr. MARTIN of Virginia. Will the Senator from Nebraska yield to me?

Mr. CUMMINS. The Senator from Idaho [Mr. BORAH] suggests to me that he would like to have the matter postponed until one of the early days of February. I have no objection to that.

Mr. MARTIN of Virginia. Mr. President, I suggest that the Senator from Iowa—indeed, I request—that he will not press the unanimous-consent agreement to-day. There are quite a number of Senators absent from the city, and I will be much gratified if the Senator will just let this operate as a notice. There are a number of very important and sharp differences about the matter between the four-year presidential term and the six-year term even amongst the advocates of the amendment. I am one of those who will be glad to see something done on the line of the proposition, but I should like very much for the Senator to simply let what he has said operate as a notice and not now press the exact date, in view of the absence of so many Senators from the Chamber. In a few days he can bring up the matter, and I am sure that we shall reach some conclusion that will be satisfactory to him.

Mr. CUMMINS. Very well. I understand, of course, that a request of that kind is equivalent to a command. I very gladly accede to it, and I will say to the Senator from Virginia that very soon—whenever it seems to be agreeable to Senators—I will again ask to have a day fixed to vote upon the joint resolution.

The PRESIDING OFFICER. Then the Senator from Iowa withdraws his request?

Mr. CUMMINS. I withdraw the request at this time.

OMNIBUS CLAIMS BILL.

The PRESIDENT pro tempore. Morning business is closed.

Mr. CRAWFORD. Mr. President, I move that the Senate resume the consideration of House bill 19115, known as the omnibus claims bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from South Dakota [Mr. CRAWFORD] to the amendment submitted by the Senator from Massachusetts [Mr. LODGE].

Mr. CRAWFORD. Mr. President, I ask that the reading of the amendment to the amendment be resumed. It has only been read in part. I desire to have the reading finished.

The PRESIDENT pro tempore. The Secretary will proceed with the reading of the amendment to the amendment.

The Secretary resumed the reading of the amendment to the amendment at the top of page 17 and read to the end of line 12 on page 74.

Mr. SMOOT. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	Myers	Simmons
Bacon	Culberson	Nelson	Smith, Ga.
Borah	Cullom	Oliver	Smoot
Bourne	Curtis	Page	Stone
Bradley	Dillingham	Paynter	Sutherland
Brown	Fletcher	Perkins	Swanson
Burnham	Gallinger	Perky	Thornton
Burton	Hitchcock	Pomerene	Townsend
Catron	Johnson, Me.	Reed	Works
Chamberlain	Jones	Richardson	
Clark, Wyo.	Kern	Sanders	
Crane	La Follette	Shively	

Mr. ASHURST. My colleague [Mr. SMITH of Arizona] is detained from the Chamber by reason of a slight illness, which illness has been brought upon him by assiduous attention to public business.

Mr. SIMMONS. I desire to state that my colleague [Mr. OVERMAN] is detained from the Senate by illness.

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] is absent on business authorized by the Senate.

Mr. KERN. I again announce that the Senator from South Carolina [Mr. SMITH] has been called from the city on account of a death in his family.

Mr. CLARK of Wyoming. My colleague [Mr. WARREN] is unable to attend the session of the Senate because of absence from the city.

Mr. JONES. I desire to state that my colleague [Mr. POINDEXTER] is absent from the city on important business.

Mr. PAYNTER. I desire to announce that the Senator from Alabama [Mr. JOHNSTON] is absent on account of illness.

Mr. OLIVER. My colleague [Mr. PENROSE] is necessarily absent from the city for the day.

Mr. POMERENE. I desire to state that the Senator from Arkansas [Mr. CLARKE], the junior Senator from New Jersey [Mr. MARTINE], and the junior Senator from New York [Mr. O'GORMAN] are detained from the Chamber on business of the Senate.

Mr. FLETCHER. I desire to announce that my colleague [Mr. BRYAN] is necessarily absent from the Senate.

The PRESIDENT pro tempore. Forty-five Senators have answered to their names; not a quorum. The list of absentees will be called.

The Secretary called the names of the absent Senators, and Mr. DIXON, Mr. MARTIN of Virginia, and Mr. SMITH of Maryland, answered to their names.

The PRESIDENT pro tempore. Forty-eight Senators have answered to their names. A quorum of the Senate is present.

Mr. CATRON. I desire to state that my colleague [Mr. FALL] is necessarily absent on business of the Senate.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore. The hour of 1.30 having arrived, the senior Senator from Georgia [Mr. BACON] will please take the chair to preside over the impeachment proceedings.

Mr. BACON took the chair as Presiding Officer.

The PRESIDING OFFICER (Mr. BACON) having announced that the time had arrived for the consideration of the articles

of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDING OFFICER. The Secretary will read the Journal of the last session of the Senate sitting as a Court of Impeachment.

The Secretary read the Journal of the proceedings of Thursday, December 19, 1912, of the Senate sitting as a Court of Impeachment.

The PRESIDING OFFICER. Are there any inaccuracies in the Journal? If not, the Journal will stand approved.

Mr. Manager CLAYTON. Mr. President, by some inadvertence a document which was admitted in evidence and which it was agreed should be printed in the body of the hearings has not been printed. I refer now to pages 986 and 987. There were three reports which it was agreed should be admitted and printed on page 986—Mr. Merriman's report, Mr. Saum's report, and Mr. Rittenhouse's report. By some inadvertence the Rittenhouse report was not printed in the RECORD, and I desire, Mr. President, to have that correction made, and that it be now printed in the RECORD, conformably to the agreement had in the hearing heretofore.

Mr. WORTHINGTON. I had noticed the same omission and intended to make the same request.

The PRESIDING OFFICER. Does the manager desire that the part which has been printed shall be reprinted, or that the document to which he refers shall be added?

Mr. Manager CLAYTON. I ask that it be printed as a part of to-day's proceedings. I think what I have said in that connection will enable anybody who wants to examine the testimony to refer it back to the proper place into which it should be read into the record.

The PRESIDING OFFICER. It will be ordered accordingly. The report is as follows:

[U. S. S. Exhibit 98.]

(J. H. Rittenhouse, C. E., civil and mining engineer, 713, 714, 715 Connell Building, Scranton, Pa.)

SCRANTON, PA., *March 30, 1912.*

REPORT ON THE KATYDID CULM DUMP.

The culm dump, known as the Katydid, is situated in the Borough of Moosic, Lackawanna County, and State of Pennsylvania. The dump was made during the years of 1888 to 1908, and contained the buckwheat coals that were a waste product until they became marketable, the larger size (No. 1) being the first to be marketed and the others following in order as the years rolled by.

The dump was made in the shape of a crescent to take advantage of good dumping ground. After this was made and the buckwheats in it became marketable, the Katydid owners added a washery to their plant, and not only treated the small sizes as they were made in the breaker but also began to wash this bank, as shown on the sketch where the pile has been nearly cut in two, when they stopped because of the burning of the breaker and washery.

We have made a survey of the dump and find the contents, in cubic feet, to be as below:

Culm (treatable), 3,133,632 cubic feet ---------- gross tons -- 74,081
Slush, 1,344,391 cubic feet ---------- do ---- 31,782

Allowing 70 per cent as the reclaimable amount in marketable sizes, we have 51,856 gross tons. The dotted line, shaded red, is the dump as outlined by the Erie Co. in their sketch, and estimated by them to contain 55,000 gross tons. I found, after making the survey, in talking with Mr. J. M. Robertson, that another section of the pile should be included. This I will have done and included in my supplemental report, which I will make in a few days, after the snow gets melted and the frost has a chance to get out of the ground.

Plate 1 shows how dump is situated with reference to transportation lines. The branches of the Erie and main line of the Erie & Wyoming Valley are shown, and also the "Laurel line," or Lackawanna & Wyoming Valley Railroad, which parallels the Erie & Wyoming for some distance about 100 feet apart. Where these main lines pass nearest to the dump they are seven or eight hundred feet from it, the Lackawanna & Wyoming Valley being the nearer by something over 100 feet, but the branch and tail tracks of the Erie that run to the Consolidated breaker and Katydid are right at the base of this dump.

This being the case, it is more favorably situated to the Erie than to the "Laurel line."

The size of the pile, excluding the slush from the washery, containing only 51,856 gross tons plus an increment of about 5,000 tons from the portion Mr. Robertson says belongs to it, makes it a small proposition, and looking at it from a commercial point of view, it is more valuable to the Erie than anyone else, for the following reasons:

The Erie already has a large breaker and washery annex, known as the "Consolidated," with tracks connecting with the Katydid, so that another washery for this dump would be unnecessary, as by taking this dump material and loading by steam shovel into cars and then taken by rail and small locomotive, it could be delivered at the washery at small cost, in my judgment, as cheaply as by a scraper line in the usual way. There would therefore be no construction cost of a washery to be charged up or separate organization and plant.

One of the main features of a successful washery is a good output, and this means a short life for a small dump; so, unless the operator had several dumps to work, and as fast as one dump played out erect the washery at another, his construction cost and depreciation cost would be excessive, for a washery soon makes junk of the outfit.

Water supply is another item that would make it more favorable for the Erie, as any other party operating would have to have his own separate supply and also separate slush dam. Having their own transportation would add to the profits of the Erie.

As to the "Laurel line." This company could not handle the material in the same way, but would have to put a swinging scraper line at the dump and another from the dump to a point near their tracks, where they would have to erect a small washery and accessories. It would be valuable to them, as they have to buy their fuel, and being in the transportation business, it would help them. At the same time it would be more expensive for them to operate the washery than it would be for the Erie, though they would get their fuel cheaper than at present, provided they could get the dump for a reasonable price.

To an outsider, one not engaged in the transportation business, it would be more expensive than to either of the transporting companies, especially if he had to be tied up by a 65 per cent contract, and for the following reasons: Culm banks made about the same time this was run about 45 per cent to 50 per cent in the different buckwheat sizes.

The bulk of the product is in No. 2 and No. 3. Prices for these the past year, based on the 65 per cent contract, have been for No. 2 55 cents and for No. 3 30 cents. Later in the year 70 cents for No. 2 and for No. 3. If a flat rate of 25 cents or 30 cents per ton for royalty or cost at a purchase had to be take into consideration, this, with the cost of handling and preparation plus cost of construction to be charged off for depletion and short life of washery, would make it a losing proposition to any individual operating it. The 65 per cent contract, for instance, made a freight charge of $1.30 tidewater for No. 1 buckwheat and $1.54 for No. 2.

As to prices paid for culm piles, either by purchase outright or on a royalty basis, flat rate or sliding scale, I have to say that leaving out the recent wild prices paid, due to impending strike conditions, the ordinary prices have been about as follows:

Mr. W. H. Richmond leased his old dump at Dickson City for a flat rate of 42½ cents for everything in the dump. This was largely an old dump, made between 1860 and 1875, and had a great deal of the larger sizes of the steam coals and also rough coal condemned in those days. It is one of the best dumps in the valley and was leased to the Scranton Traction Co. as a fuel proposition. It is not made a washery proposition.

Another dump made by this same Mr. W. H. Richmond, but in later years (1884 to 1895) was leased at a flat rate of 30 cents to the Central City Coal Co. in 1907, and, though favorably situated for local city trade, but no railroad facilities, it was a losing proposition.

The Carbon Hill dump along the Lackawanna & Bloomsburg Railroad and the Lackawanna River, a few miles below this city, sold for practically a cash price of 50 cents per ton in the fall of 1911.

During the past year or so the finer culm, such as would pass through the standard mesh of ⅜ of an inch, has begun to show market value. This, passed over a 3/64 mesh, is successfully used as a fuel at the Oxford mines in this city, and I am informed that the D., L. & W. are using the fine stuff, such as larley coal and finer, very successfully in some of the specially constructed boiler plants. This being the case, what has been in the near past a waste product will probably in the near future be utilized as a fuel without treatment.

If this late waste product is sold instead of having to take care of it and the 65 per cent contract is cut out, it will be a close question as to just what would be a fair flat rate of royalty on this pile. Until such time as I can test the pile for the percentage of the different sizes, I would say from 25 cents to 30 cents per gross ton for the merchantable coal in the bank would be all it would be possible for a selling and nontransporting proposition to bear.

My supplemental report will follow in a short time.

Yours, very respectfully,

J. H. RITTENHOUSE,
Civil and Mining Engineer.

[See pages 960 and 961 for illustrations.]

(J. H. Rittenhouse, C. E., civil and mining engineer, 713-714-715 Connell Building, Scranton, Pa.)

SCRANTON, PA., *April 11, 1912.*

Mr. WRISLEY BROWN,
Department of Justice, Washington, D. C.

DEAR SIR: I herewith submit my supplemental report on the "Katydid" bank.

Number of cubic feet in the bank, as outlined by the Erie --	3,133,632
Additional dump, making 3 in all ----------	681,229
Total ----------	3,824,861

Weight per cubic foot=52.9 pounds.
43.3 cubic feet=1 ton of 2,240 pounds.

	Tons.
3,133,632÷42.3 cubic feet ----------	74,081
681,229÷42.3 cubic feet ----------	16,105
Total ----------	90,186

A test of the component parts of the various sizes in the dump I find as follows:

	Coal.	Waste.	Total.
	Per cent.	*Per cent.*	*Per cent.*
Sizes above chestnut ----------	6.086	2.765	8.851
Pea ----------	1.041	.261	1.302
No. 1 buckwheat ----------	12.419	--------	12.419
No. 2 buckwheat ----------	9.893	--------	9.893
No. 3 buckwheat ----------	22.464	--------	22.464
Slush passing through ⅜ inch ----------	--------	45.080	45.080
Slate and rock ----------	--------	3.026	--------
Total ----------	51.893	48.106	99.999

This, worked out on the basis of values received for the various sizes according to their percentages, would make the dump figure up in gross receipts, $47,533.

If a ⅜-inch mesh were used instead of a ⅜, as is sometimes done, the per cent reclaimed would be increased by 14.087 per cent, or a total of 65.98 per cent.

Assuming that the bank contains 90,000 tons, we then have the various sizes as below:

	Tons.		
Chestnut and above	5,477	at $3.25	$17,800.25
Pea	937	at $1.78	1,667.86
No. 1 Buck	11,177	at $1.41	15,759.57
No. 2 Buck	8,904	at 70 cents	6,232.80
No. 3 Buck	20,209	at 30 cents	6,062.70
Total	46,704		47,533.18

If line prices were obtained instead of the 65 per cent basis, then the amount would be increased to some extent.

If what passes through a $\frac{3}{8}$ mesh and over $\frac{1}{4}$ is saved, or 12,678 tons at $0.30, an increment of $3,803.40 should be added to the above, or a total of $51,336.58.

A flat price of 30 cents per ton for the entire dump or 90,000 tons at 30 cents would be $27,000.

If the Erie worked this dump, it would cost them from 10 cents to 15 cents per ton to get it to their present washery and to separate it. To treat 90,000 tons, it would cost them about $12,000. A capacity of 300 tons per day would clean up the bank in about one year and realize about $50,000 for it plus the profit over the actual cost of freight. Deducting the preparation cost and depreciation, it should net them at least $35,000 plus the freight profit.

If the "Laurel Line" worked it, their conditions would be quite different, for they are not adjoining the dump and have no plant; but, as it would be a fuel proposition pure and simple, it would not need so much of a plant, and as they consume only about 100 tons a day, the cost of preparation would be greater, or about 20 cents per ton, or $18,000. This, plus the cost of the bank—$27,000—would make $45,000, to which must be added the cost of the necessary plant, or about $5,000, which would be junk at the end of the operation, which would be in about two years. Another item would be the freight cost from the washery to their plant, which, at less than the usual freight charge, would make the cost just about equal to what their fuel costs them. I think they would break just about even.

To the individual operator selling his product this party, in my judgment, would fare worse than the "Laurel Line," for if he sold his prepared product, he would have to build more of a plant and greater pocket capacity, costing from $8,000 to $10,000, and, with the same output of 300 tons per day, have pretty much junk on his hands at the end of the year. I would consider this as a losing proposition.

Trusting that I have covered the ground you have outlined for me, I am,

Yours, very respectfully, J. H. RITTENHOUSE.

RELATIVE TO THE OWNERSHIP OF THE KATYDID BANK OR DUMP.

I find Mr. J. M. Robertson claims a half interest or thereabout in the dump under a term he calls "mining rights." He states he has never had a lease, and that there is no lease to him on record; that his only source of title is from certain letters from the Hillside Coal & Iron Co. and verbal agreements had from time to time relative to the several different parcels which he was given the right to mine. He worked his

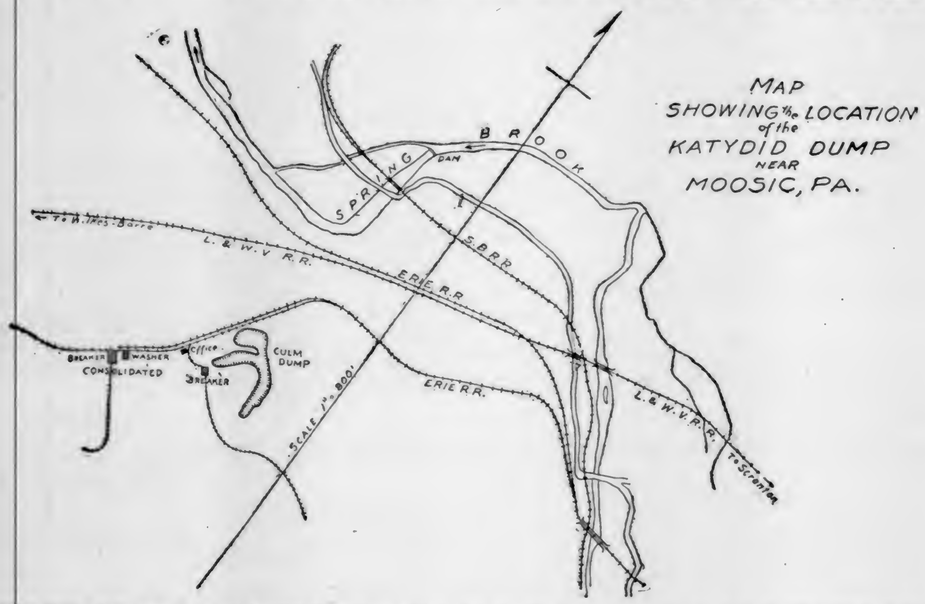

plant from 1887 to 1908 under the above agreements. Since the breaker and washery burned, the property has been virtually abandoned.

He claims that most of the coal came from the Caldwell lot, owned wholly by the H. C. & I. Co., adjoining lot No. 46, which is jointly owned by the Everhart estate and the Hillside Coal & Iron Co., and these coals were of course mixed and put on a common dump, said dump being on lot No. 46.

This property was mined and operated for over 21 years, and vouchers made and accepted without question. I understand royalties were paid on "prepared" sizes or for chestnut coal and larger sizes, but no royalty on pea coal and smaller sizes. The relative proportion of the different interests represented in the dump could be determined from the vouchers paid for coal mined from the different tracts.

The Hillside Coal & Iron Co. has given an option for its interest (supposed to be one-half) in the dump, not specifying what that interest is. Mr. Robertson states he thinks his interest should be about the same as that of the company, but has given an option for a less amount than that given by the company, which I am informed is for $5,000.

The Erie Co. could possibly go ahead and put this coal through their washery and no questions be raised, yet this may not be possible. The Everhart estate, owning an individual one-half interest, gets no payment for the small sizes. Coal from other lands has been dumped on land in which they have a half interest in the surface and coal, and since the question of ownership has been raised they would quite likely have something to say.

I find on investigation that there is no lease recorded from the Everhart to the Hillside Coal & Iron Co. and that they never had any, nothing more than a letter, which can not be found. This may account for Mr. Robertson having similar conditions to work under.

In order to determine the exact conditions, a detailed investigation would have to be made, not only as to the title, but also as to the proportions due each. I am informed that negotiations are under way to get the tangle straightened out, but with the small amount involved, and the numerous heirs, making the amount due each small, there is not much likelihood of its being pushed with vigor.

J. H. RITTENHOUSE.

[See pages 962, 963, 964, and 965 for illustrations.]

The PRESIDING OFFICER. Is the respondent ready to proceed?

Mr. WORTHINGTON. Yes, Mr. President. We will recall Mr. Brownell.

TESTIMONY OF GEORGE F. BROWNELL—RECALLED.

George F. Brownell, having heretofore been duly sworn, being recalled, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) I have called you back for the purpose of asking you one question, and that is to what extent, if at all, did you hear anything about the result of Judge Archbald's visit to Mr. Richardson when you took him to Mr. Richardson's office and left him there; what, if anything, did you hear about the matter after that, until after these charges against Judge Archbald became a matter of newspaper publication?—A. I knew nothing of what occurred between Mr. Richardson and Judge Archbald or as to the result of their conversation until some time in the following May, when I had a talk with Mr. Richardson and about the same time with Capt. May. That was subsequent to the institution of the inquiry before the House Judiciary Committee, and this was just prior

to the occasion when I and Mr. Richardson requested that we be given an opportunity to appear before that committee and make a statement. Preliminary to that Mr. Richardson accompanied me there, leaving a sick bed for the purpose, and told me what occurred. That was the first information I had in regard to it.

Q. Between the time you took Judge Archbald to Mr. Richardson's office and left him there, as you have already testified,

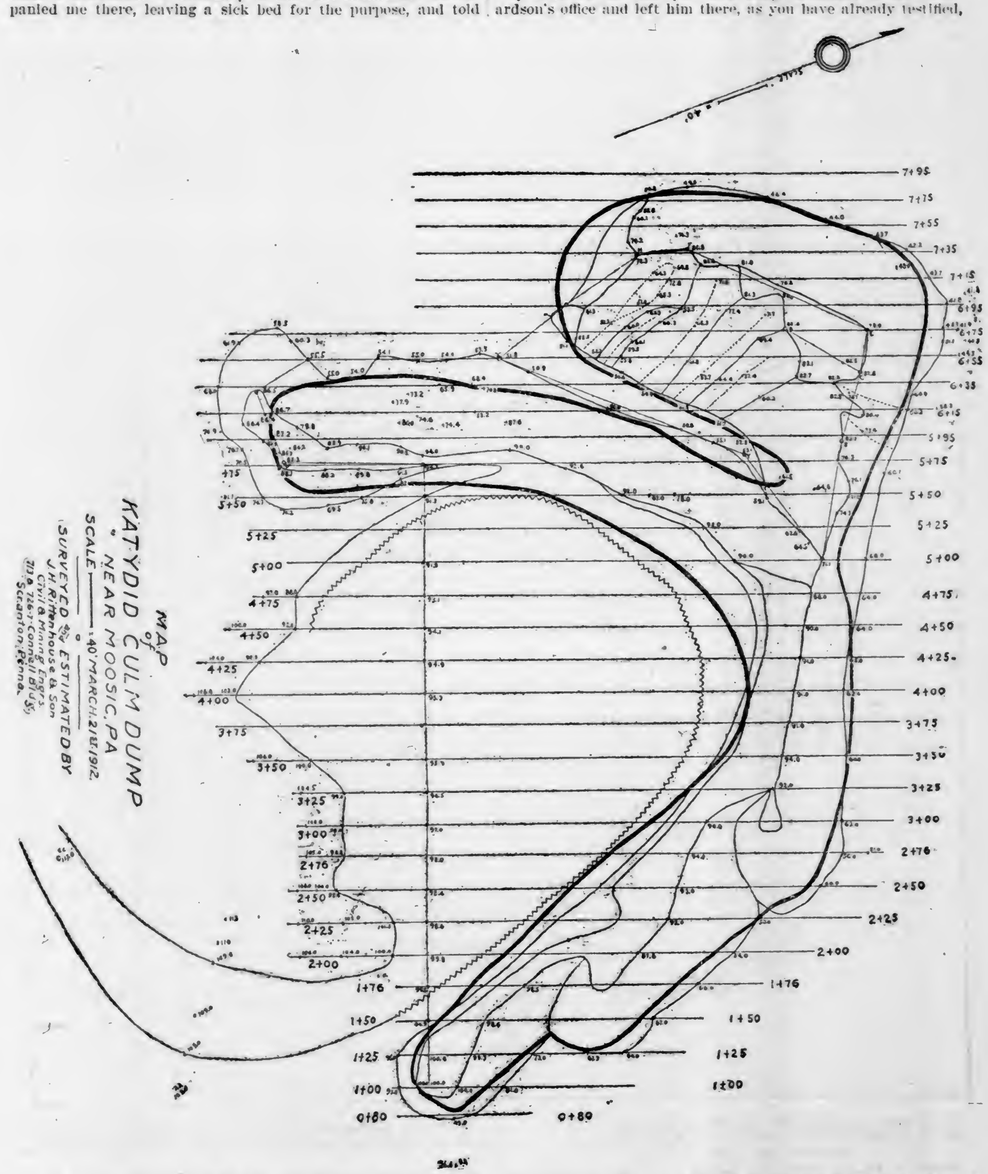

and the conference you had with him in May, shortly prior to the inquiry before the Judiciary Committee, had you heard about the matter from any source?—A. Not subsequent to the 4th day of August, until a date about the middle of April, when my attention was called to some newspaper articles, when I was in the West, making reference to it; but I had no information or conversation with anyone with respect to what occurred between Mr. Richardson and Judge Archbald or the re-

sults of it; but subsequent to the middle of April I did have conversation with various people as to what information I had had myself.

Q. I do not care to ask you about anything that happened after the newspaper publications.—A. I was trying to make a distinction between the time in April, when I saw newspaper reports, and the time in May, when I had a conversation with Mr. Richardson and Capt. May in regard to what occurred between them.

Mr. WORTHINGTON. That is all, gentlemen.

The PRESIDING OFFICER. Have the managers any cross-examination?

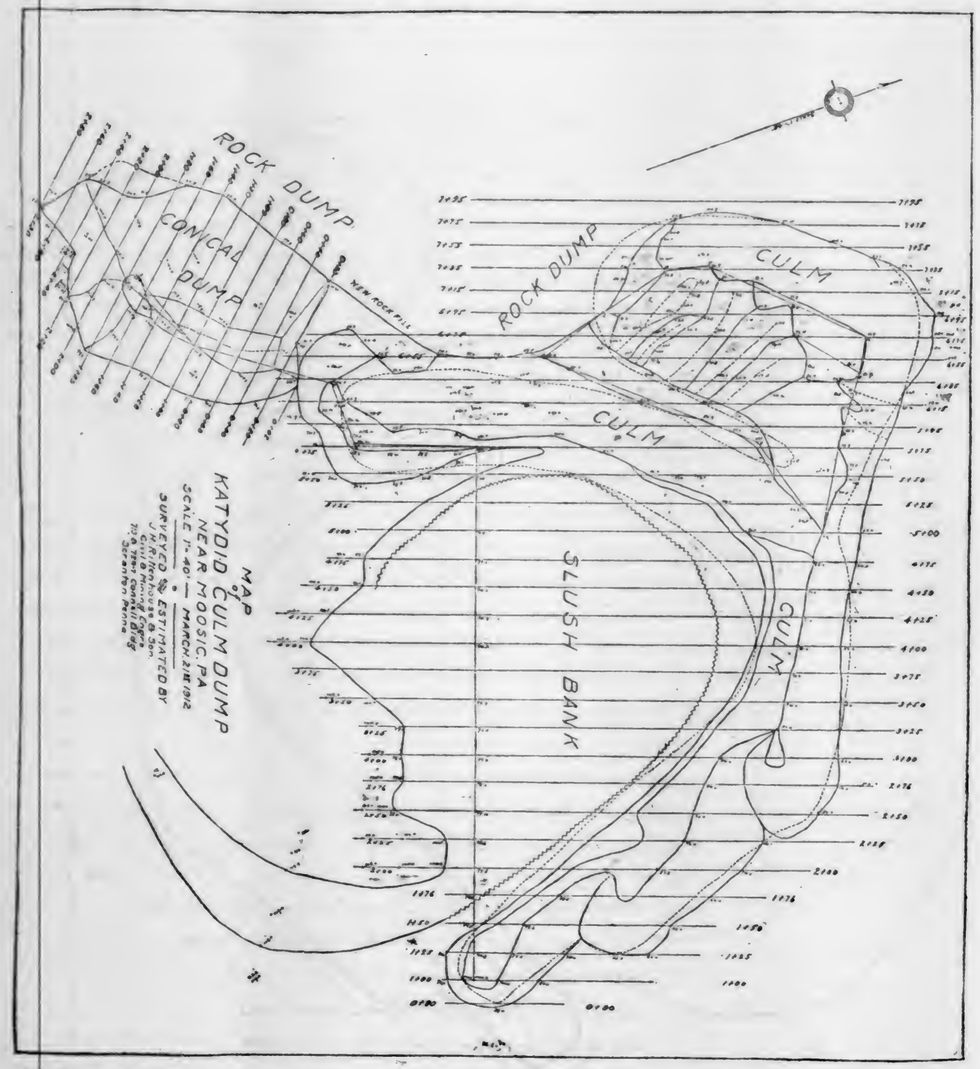

Mr. Manager HOWLAND. No cross-examination.

Mr. WORTHINGTON. We will call Judge Knapp.

TESTIMONY OF MARTIN A. KNAPP.

Martin A. Knapp, being duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) You are the president judge of the Commerce Court, and have been since its creation, have you not?—A. I have.

Q. Do you remember the case of the Louisville & Nashville Railroad Co. against the Interstate Commerce Commission?—A. I do.

Q. I hand you a printed copy of the opinion of the Commerce Court in that case. Will you kindly indicate the portion of that opinion which was written by you?

Mr. Manager NORRIS. I did not hear the question. I should like to hear it.

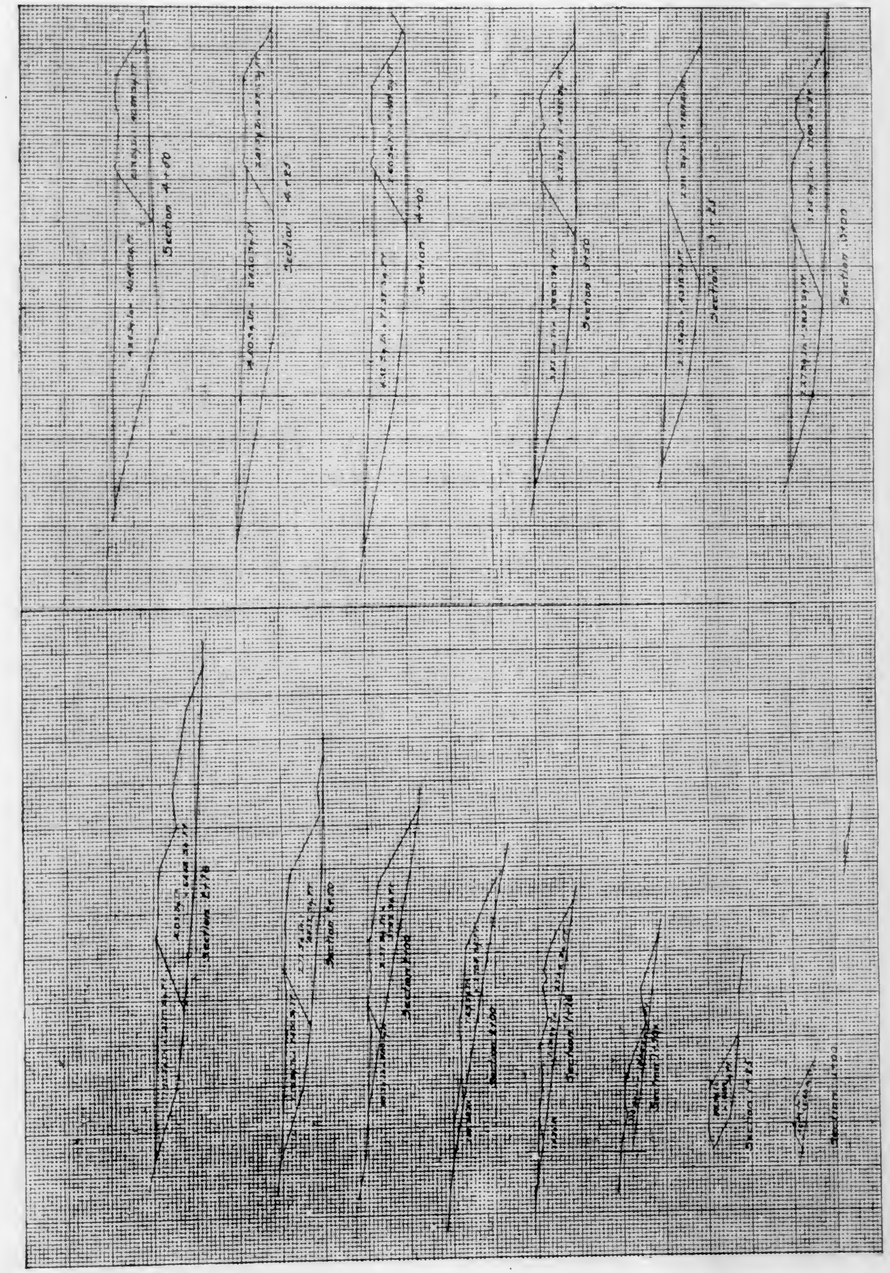

MAIN DUMP
CONICAL DUMP
CROSS SECTIONS OF
HALTYDID GULLY DUMP

The PRESIDING OFFICER. The Reporter will read the question.

The Reporter read as follows:

I hand you a printed copy of the opinion of the Commerce Court in that case. Will you kindly indicate the portion of that opinion which was written by you?

Mr. Manager NORRIS. We object to that as immaterial.

The PRESIDING OFFICER. The counsel will please indicate the purpose for which the testimony is offered.

Mr. SIMPSON. The Presiding Officer will recall that the managers introduced evidence here showing various letters written by Judge Archbald to Mr. Bruce and the replies made by Mr. Bruce to Judge Archbald in connection with this particular case. Those letters referred to two certain questions. The inference growing from the article of impeachment is that Judge Archbald obtained information in relation to these two particular matters, which particular information thus obtained found its way into the opinion of the court as the result of that correspondence.

We propose to prove by the testimony of Judge Knapp that the parts of the opinion which related to that matter were written by him and not by Judge Archbald, and that he had no knowledge at all in relation to that correspondence.

Mr. Manager NORRIS. Mr. President, the contention of the managers has not gone to the extent that counsel has indicated. I think it is immaterial even what was the decision of the court in the case. It is certainly immaterial who wrote the opinion.

The charge made in this case is that Judge Archbald invited one of the attorneys to file practically a brief, to rearrange or at least to argue some of the propositions involved. That is as far as we go. We think that is improper and a misbehavior. Now, how the case finally terminated or who wrote the opinion we think entirely immaterial, as far as the conduct of Judge Archbald is concerned in the particular charge we make.

Mr. SIMPSON. If the managers, sir, disclaim that the writing and the receipt of those letters had anything to do as affecting the opinion of the court in that case, then, of course, this evidence becomes immaterial.

Mr. Manager NORRIS. We will not disclaim that.

Mr. SIMPSON. Very well. Then, that being so, I have the right to show, I submit, sir, that the writing and receipt of those letters had nothing to do with the opinion in the case, because Judge Knapp himself wrote that portion of the opinion, and he had never heard of the letters.

The PRESIDING OFFICER. Does counsel propose to go further and show that no other judge other than Judge Knapp was instrumental in arriving at that conclusion?

Mr. SIMPSON. I propose to show that no other judge than Judge Knapp had anything to do with writing the opinion which related to these two subjects matter.

The PRESIDING OFFICER. The inquiry of the Presiding Officer was whether counsel proposed to go further and show that no other member of the court had anything to do with the conclusion arrived at by the court.

Mr. SIMPSON. I do not see, sir, how I could go to that extreme, because there are five judges of the court, and it was necessary, of course, that at least three of the judges should coincide in the judgment attained. But we do propose to show that no other judge of the court had any knowledge of any kind of these letters, and that Judge Knapp, who wrote that part of the opinion, which related to those subjects matter, never heard of the letters.

The PRESIDING OFFICER. The Chair is of the opinion that the evidence is not material to the charges made in the articles of impeachment. The decision of the Chair is always subject to the higher decision of the Senate, if the Chair is in error.

Mr. SIMPSON. My colleagues seem to think that I have not made clear to you, sir, that none of the other judges knew of the writing or receipt of those letters. I thought I had made that clear. My colleague, Mr. Archbald, calls my attention to the fact that in the opening by Mr. Manager CLAYTON this language was used. I read from page 104 of the record:

On February 28, 1912, this case was decided by the Commerce Court in favor of the railroad company. Judge Archbald wrote the opinion of the majority, which followed the views expressed by Bruce, and Judge Mack dissented. The attorneys for the Interstate Commerce Commission and the United States were given no opportunity to examine and answer the arguments.

And so forth.

The PRESIDING OFFICER. The Chair understands the charge to be one of personal impropriety, official impropriety on the part of the respondent, and the Chair does not think this material evidence.

Mr. SIMPSON. Under the ruling of the Chair there is no need for the further retention of this witness, sir.

Mr. HITCHCOCK. Mr. President, I should like to have this question propounded to the witness.

The PRESIDING OFFICER. The Senator from Nebraska desires a question propounded to the witness, which the Secretary will read.

The Secretary read as follows:

Did Judge Archbald communicate to you or to other members of the court sitting in conference on this case the fact that he had communicated with one of the attorneys in the case and received from him certain argument or information relating to the case?

The WITNESS. He did not.

The PRESIDING OFFICER. The witness may retire.

Mr. WORTHINGTON. We will call Mr. Hill.

TESTIMONY OF FRANK A. HILL.

Frank A. Hill, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Where do you live?—A. Pottsville, Pa.

Q. What is your business?—A. Coal.

Q. In what way are you or have you been in the coal business?—A. I have charge of the mining department of the Madeira, Hill & Co.

Q. Did the Madeira, Hill & Co. have anything to do with what is known as the Oxford dump, which has been referred to here?—A. Yes; they operate the washery of the Oxford Coal Co.

Q. How long ago did they begin that operation?—A. I do not know. I have known of it for four and one-half years.

Q. In connection with the operation of the Oxford dump, did you at any time have occasion to consider making application for a lease of what is known in this case as the Packer No. 3 dump, belonging to the Girard estate?—A. Yes, sir.

Q. There is a letter in evidence in this case on page 659; you are familiar with that letter?—A. It is my letter of March 26.

Q. Your letter of March 26 to Mr. Warriner?—A. Yes.

Q. Relating to No. 4?—A. No. 4 bank.

Q. And No. 2, at the end of the letter?—A. A proposition to work No. 4 and a mention of No. 2.

Q. I wish you would go ahead and state what you had to do, if anything, in connection with any project for getting No. 3, the one that is involved here; how that arose.—A. In September, 1911, Col. James Archbald, the engineer of the Girard estate, called my attention to that bank and the possibility of our operating it. I looked it over very casually and made an application to the Girard estate for it.

Q. And when you looked it over were you in company with anybody else?—A. Mr. Archbald, Mr. Weller, and Mr. Klock, of Shenandoah.

Q. Who is Mr. Weller?—A. Mr. Weller is inspector for the Girard estate.

Q. After you had looked it over, you say you made an application for No. 3?—A To the Girard estate; yes, sir.

Q. Go on, then, and tell the story along until Judge Archbald gets into it.—A. We learned from the Girard estate it was their purpose not to make any change in their lessee, and the matter dropped.

Q. You are familiar, of course, with the Oxford dump that your company has been washing for several years?—A. Very.

Q. Have you made an examination of Packer No. 3 dump?—A. I would not call it an examination. I walked over the top of the bank.

Q. Had you any thought of making an application for No. 3 Packer, the one involved in this case, until Col. James Archbald made an application?—A. I had not.

Q. Did he give you any reason for making the application, anything as to the probability of its being operated by the Lehigh Valley or by the Girard estate itself?—A. He created the impression in my mind that he thought the Lehigh Valley would not operate it.

Q. Do you remember when it was that you made that application?—A. The formal application was made in November, 1911.

Q. Was that in writing or verbal?—A. It was in writing.

Q. Have you a copy of it with you?—A. I have.

Q. I should like to see it, please.

(The paper was produced and handed to counsel and then to the managers.)

Mr. Manager WEBB. What is the purpose of this letter, Mr. Worthington?

Mr. WORTHINGTON. The purpose is to finish out the story which was started by the managers. The managers themselves put in evidence the application that was made by Madeira, Hill & Co. to Packer No. 3, and that with the application of

Madeira, Hill & Co. to Judge Archbald and his associates are referred to in the proceedings of the Girard estate. I think we ought to be able to complete what they began and make the argument afterwards. We found on the page I have already referred to the application of this company for two of these dumps.

Mr. Manager STERLING. On what page?

Mr. WORTHINGTON. On page 659. The application dated March 26, 1911, made by this company—Madeira, Hill & Co.—to Warriner was put in evidence by the managers, and also the answer given by Mr. Warriner on behalf of the Lehigh Valley Coal Co.

Mr. Manager WEBB. I have no objection to the letter going in for what it is worth.

Mr. WORTHINGTON. Very well. Let it be marked, and let the Secretary read it, please.

The Secretary read as follows:

[U. S. S. Exhibit BB.]

OXFORD, *November 27, 1911.*

Mr. GEORGE E. KIRKPATRICK,
Superintendent Girard Estate, Philadelphia.

DEAR SIR: As you are aware, the amount of coal that still remains in the Oxford bank is being rapidly depleted with the large tonnages that we are putting out, and the consequence is that it would appear that we have hardly a year's work still before us, providing the present rate of output is continued. At the exhaustion of this bank, if there are no further supplies for us in the way of coal, the plant will go to pieces, and as it has paid large royalty to your estate and no profit to us as operators so far we are extremely anxious to prolong the life in the hope of getting remuneration and a return on our investment.

A year or so ago we informally spoke to you and made application for the No. 4 Packer bank, if that could be obtained by release from the Lehigh Valley Coal Co., and we now also desire to make further application and enter a specific one for the No. 3 bank, which we understand is not being operated and does not now look as if it would be by the present tenants.

While this bank is not so desirable as the No. 4, it would temporarily enable us to keep our operation going until some other decision might be reached by your board or some other coal found available with which to feed our plant.

This No. 3 bank we could arrange to handle through our Oxford plant, and as our necessities in the way of supplies are getting to be so urgent, I beg to ask your consideration of this application as soon as the matter is one which you can take up. We think the Lehigh Valley Coal Co. would release this bank, as we can not see that it is of any interest to them. The No. 4 bank would be more desirable and convenient for us, and we hope eventually that our application for this may be considered favorably also.

Very truly, yours,

———, *President.*

Q. (By Mr. WORTHINGTON.) Mr. Hill, how, if you know, did the royalties which you were paying on this Oxford dump, and to which you referred in that letter, compare with the royalties generally that the Lehigh Coal Co. was paying?—A. They were lower.

Q. Are you able to make any comparison between No. 3 and the Oxford dump?—A. In what way?

Q. As to which was the more valuable?—A. It would be only an impression.

Q. It is an opinion based on your own experience of it?—A. It is an opinion based on observation of the outside of the bank.

Q. Well, what is your opinion based upon that?—A. I think 4 is a better bank than 3.

Q. You think No. 4 is better than No. 3?—A. I think so.

Q. There are two No. 4s, I suppose you know.—A. I speak of Big 4 and Big 3.

Q. My question related to a comparison between Oxford and No. 3.—A. I think Oxford and No. 3 are about the same. I know the Oxford bank thoroughly and I only saw No. 3 from the outside.

Q. Did you get any reply to the application which has just been read?—A. Verbally, I think; no written reply.

Q. What was it?—A. That it was the intention of the Girard estate not to change their lessees—not to take the bank from the Lehigh Valley.

Q. Do you remember that anything was said about their waiting until new leases were made, the lease of the Lehigh Valley then being about to expire?—A. Nothing positively.

Mr. WORTHINGTON. That is all.

Cross-examination:

Q. (By Mr. Manager WEBB.) Mr. Hill, did you know at the time you made the application which has just been read from the desk, dated November 25, 1911, that Judge Archbald had also made application for Packer No. 3 and had obtained the consent of the Lehigh people for it?—A. I think I knew he had made application, but I knew nothing beyond that.

Q. Did you know he had obtained the consent of the Lehigh people to release it?—A. I did not.

Q. Your investigation of Packer No. 3 extended only to merely walking over it?—A. That is all.

Q. And for those reasons you think the Oxford and Packer No. 3 are about the same in quality?—A. I do.

Q. That is the only means of ascertaining the quality of No. 3 that you used, just looking at it?—A. That is all.

Mr. Manager WEBB. That is all.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. The witness may retire. He is excused.

TESTIMONY OF HENRY J. WELLER.

Henry J. Weller appeared and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Where do you live?—A. Girardville, Schuylkill County, Pa.

Q. What is your occupation?—A. Mine inspector for the Girard estate.

Q. How long have you been mine inspector for that estate?—A. Ten years.

Q. And in a general way your duties are what?—A. To see that the coal is mined out as thoroughly as possible; to get all the benefits from all the coal on the estate as thoroughly as possible.

Q. To keep things moving, eh?—A. Yes, sir.

Q. Do you have any particular acquaintance with the dump known here as Packer No. 3 and the other Packers?—A. I know them well.

Q. What way have you for being so well acquainted with them?—A. We have been at them frequently and tried to get them worked. We have been trying to get them worked, so as to get the coal reclaimed that was contained in those banks.

Q. I would like to know what you have had to do with the negotiations, as we know here, what went on for the purchase or leasing of Packer No. 3 dump, both on the part of Maderia, Hill & Co. and Judge Archbald and his associates.—A. The eastern No. 4 bank was going to be covered by a new rock bank that they were making at Packer 4.

Q. I will ask you to go back to the map and show the location of these Packer dumps and the Oxford dump. You will find a pointer there. Please stand to one side a little and indicate the positions so that all may understand them.—A. The Lehigh Valley Coal Co. worked Packer 4.

Q. Where is that?—A. It is located there [indicating]. They put a trestle across the Ashland branch of the Lehigh Valley Railroad and were making a big fill of rock between the creek and the railroad. That fill of rock is extending east and getting around that bank.

Q. Before you go on, please indicate where the Oxford dump is.—A. This is the bank [indicating]. This is the washery.

Q. Where is No. 3?—A. No. 3 is just a little to the east of Eastern Packer No. 4.

Q. Where is eastern No. 4?—A. Right there [indicating].

Q. Where is No. 4 proper?—A. No. 4 proper is here [indicating].

Q. Where is No. 2?—A. No. 2 is here [indicating] on the extreme west end.

Mr. POMERENE. Mr. President, one of the Senators the other day called attention to the indefinite manner of this testimony as it appears in the record when referring to a map or plat. The witness is referring to this point here and that point there in such a way that the record will be entirely unintelligible.

The PRESIDING OFFICER. The counsel for the respondent will please note the suggestion of the Senator from Ohio and endeavor to remedy the difficulty by the character of the questions propounded to the witness.

Q. (By Mr. WORTHINGTON.) To begin again, in what way is what is called the Oxford washery named on this map?—A. This is the Oxford washery [indicating].

Q. The name Oxford washery is used there?—A. Yes, sir.

Q. As to Packer 4 dump, what is the legend on the map?—A. We call this west No. 4 bank [indicating].

Q. That is the legend on it?—A. Yes.

Q. The legend on Packer No. 3 is what?—A. Packer No. 3 colliery bank.

Q. And eastern Packer 4?—A. Eastern Packer 4.

Q. You referred to a creek. How is that named?—A. The Shenandoah Creek.

Q. It is so named on the map?—A. Yes, sir.

Q. Go ahead with the story.—A. They built a trestle across the Ashland Branch, and so filled this place between the creek and that bank.

Q. Between the creek and what bank?—A. Between the creek and Packer 4 eastern bank. This rock fill will eventually surround that bank. So we were anxious to try to have whatever coal was in there reclaimed before they would cover, and we asked the engineer of the Girard estate to take it up with Mr.

Frank A. Hill, or the manager of the Oxford washery, to see what they could win, inasmuch as the bank was not very large.

Q. You asked the engineer of the Girard estate. Who was he?—A. James Archbald, jr.

Q. To take it up with the Oxford washery people and see whether they would not take that?—A. Yes, sir.

Q. Very well; go ahead.—A. The bank was not a very rich bank. The Lehigh Valley Coal Co. tried to work into Packer 4. They tried it first in 1903, next in 1904, next in 1906, and next in 1907. In the whole time they only took about 300 cars. The colliery people objected to the condition of the material, and every time they stopped working it.

Q. They could not use it?—A. They could not use it.

Q. Go on.—A. Mr. Hill asked the engineer of the Girard estate to make an estimate showing how much coal was in that bank——

Q. What bank?—A. Eastern Packer 4 bank, with a view of seeing whether it would be worth his while to try to work it. In the meantime this other matter came up.

Q. What other matter?—A. The Archbald matter. In the meantime they applied to the Lehigh Valley, as I understand, for that bank and for Packer No. 3 bank, and Mr. Hill never made his application to the Lehigh Valley Coal Co.

Q. He never made his application?—A. Not for that bank.

Q. Not to the Lehigh Valley Coal Co.?—A. No, sir. Mr. Hill did make application for west Packer No. 4 bank. That was a year or two previous.

Q. Did you go on Packer No. 3 at any time with James Archbald?—A. I went on Packer No. 4, on the culm bank, with James Archbald.

Q. How far is that from Packer No. 3?—A. They are very close, only a few feet dividing them at the base of the bank. It is the same bank. We made some tests to show the quality of coal contained in it and we found a fairly good piece of bank in quality, but surrounded by a later bank, a rock bank. Can you see that encircling it [indicating]?

Q. Around where?—A. It starts there [indicating] and goes around and comes through here [indicating], encircling all the east, south, and southwest side of the bank. So the good part of the bank is surrounded by a poor bank, a rock bank, which contains very little coal.

Q. So you have to get the poor stuff away to get at the good?—A. We can not get it without that.

Q. You say you made an estimate?—A. Yes; we made tests.

Q. Who are "we"?—A. I had men working with me and doing it. The tests were made under my supervision.

Q. Was that report reduced to writing so that we can see what the result was?—A. Yes, sir.

Q. Where is it?—A. I have a copy of it. It is in my pocket. [Producing paper.]

Q. We would like to have it. That is the test of Packer No. 3?—A. Yes, sir.

Mr. WORTHINGTON. I should like to have this paper read at the Secretary's desk.

The Secretary proceeded to read the paper.

Mr WORTHINGTON. I am reminded that it is already in evidence, and I do not care about having it repeated.

Mr. Manager WEBB. There is no necessity of repeating it.

The PRESIDING OFFICER. The stenographer will please omit what has been read.

Q. (By Mr. WORTHINGTON.) Can you give us any information as to whether Packer No. 3 dump could have been worked economically, paying more than the royalties which had to be paid to the Girard estate?—A. In my opinion, not.

Q. Why?—A. We were being surrounded by this rock bank which made it inconvenient to get at the good material which was contained in a portion of the bank.

Q. Aside from the expense of getting at the good material, what was the average product or quantity of coal in the whole dump as compared with the total mass?—A. About 44 per cent.

Q. To what extent can a dump with only 44 per cent be worked economically?—A. If it was a bank that contained 44 per cent coal and did not contain much large rock, it could be worked profitably, but a bank containing much rock, where the large rock was dumped indiscriminately with the finer dirt containing coal, it would make it unprofitable to work.

Q. You would apply that latter proposition to Packer No. 3?—A. I certainly would.

Q. From your knowledge of it?—A. Yes.

Q. Do you know anything about a part of this dump contained in this Packer No. 3 having been put into the creek?—A. About a year or two previous to the time the leasing was taken up they were filling where this new rock dump is now being put in. They were filling in with ashes and silt from the breaker and from the boiler house. To stop that from getting into Shenandoah Creek they took thousands of cubic feet and dumped it all along the creek for a fill, losing that much indefinitely, because it can never be regained from the ashes that were put behind it.

Q. They took thousands of cubic feet from what bank?—A. From eastern Packer 4 bank.

Q. Do you know anything about a part of that No. 3 going into a mine and being lost in that way?—A. Yes. There was a large quantity of No. 3 bank taken down into the mine by the mining underneath. As those mine openings caved in, it took thousands of cubic yards of Packer No. 3 into the mine, where it can never be regained.

Q. You notice mark "A" on the map. Can you see it?—A. Yes, sir.

Q. You know what it is?—A. Yes, sir.

Q. Do you know anything about taking a part of bank 4?—A. Yes, sir. The Lehigh Valley Railway Co. wanted to straighten their main track. The bank, or a part, which belonged to Packer No. 3 colliery, was on the northern side of the Ashland branch of the railroad. The Girard estate agreed with the Lehigh Valley Railroad that if the Lehigh Coal Co. would take that dirt into the breaker and reclaim the coal contained in it, there would be no objection to straightening out their tracks, or if they would pay for the coal contained in the dirt bank they could leave the bank there and use it still to straighten out their track. So the Lehigh Valley Railroad Co. agreed with the Lehigh Valley Coal Co. that they would load that material into railroad cars and deliver it to the breaker free of charge if they would open up their breaker and reclaim the coal; the Girard estate would get the royalty and they would not need to pay for it and leave it lie on the ground. After trying three or four times to get this coal worked, the coal company every time objected to it on account of some rock contained in it. They finally abandoned it, and the Lehigh Valley Railroad Co. paid for 19,500 tons of coal in that bank, and left it underneath their railroad. Yet that was a much better bank than the other Packer No. 3 bank.

Q. You are familiar, of course, with the Oxford bank?—A. That is one of our collieries.

Q. That is one as to which you made inquiries?—A. Yes; it is one of the Girard estate banks.

Q. How does that compare with Packer No. 3?—A. It is about equal.

Q. It is just about the same?—A. Yes, sir.

Q. You told me that the percentage of coal in this Packer No. 3 is about 44.—A. About 44.

Q. Was that equally over the whole dump or were parts higher and parts lower?—A. That was the average. The northwest corner was the better and the southern and eastern sides the poorer.

Q. Where the rock is?—A. Yes, sir.

Q. Now, about eastern No. 4, with respect to ashes.—A. Eastern No. 4 had a lot of ash scattered over the bank and through the bank. That was why we questioned if anyone could work that. That was one objection the Lehigh Valley Coal Co. always found. When they took into the breaker the ashes it could not be separated from the coal.

Q. It is harder to separate ashes than other material from coal?—A. It is one of the hardest things to take from coal.

Mr. WORTHINGTON. That is all.

Cross-examination:

Q. (By Mr. Manager WEBB.) How long have you been associated with the Girard estate?—A. Ten years.

Q. Have you ever been associated with the Erie Railroad Co., or the Lehigh Valley, or the Philadelphia & Reading?—A. I formerly worked for the Lehigh Valley Coal Co. before I worked for the Girard estate.

Q. Immediately before?—A. Immediately.

Q. Col. James Archbald is a nephew of Judge Archbald, is he not?—A. Yes, sir.

Q. And he knew all about this bank that you now know?—A. Yes, sir.

Q. No. 3 and No. 4?—A. Yes, sir.

Q. Which the Lehigh Valley people consented to let Judge Archbald have. He knew all that you knew about it?—A. I would not say that he was as thoroughly familiar with it, because he did not get over the ground as often as I did.

Q. Did he not make this report?—A. Yes, sir.

Q. And filed it with the Girard estate, showing that eastern Packer No. 4 had 48,000 tons of coal in it?

The PRESIDING OFFICER. As that report is a matter of evidence, the Chair suggests that it is a waste of time to go into it.

Mr. Manager WEBB. I am going to be very brief, I assure you, but I want to show by this witness that Maj. Archbald had as much knowledge about this matter as the witness had himself, and I am only asking questions along that line. [To the witness:] You say this rock bank extends around eastern Packer No. 4——

The WITNESS. Packer 3.

Q. I understood you to point it out on the map. There is a rock fill or a rock ridge being made by the railroad company around Packer No. 4 eastern. Is that right?—A. Excuse me, I thought you referred to the rock dump that I said was around No. 3. That is a new one they are making now. That is right.

Q. I am referring to the quantity of rock you spoke of around eastern No. 4.—A. That is right.

Q. You spoke of a rock bank or fill which would make it impossible for anybody to work that bank No. 4 except the Lehigh people.—A. I do not know whether that is exactly right. The only thing we asked them not to do was not to dump over on the bank and cover it up.

Q. I ask you if they continue making that ridge around there will it not make it practically impossible for anybody to work No. 4, the eastern bank, except the Lehigh Valley people?—A. No; it would not, because the same access to the bank that the Lehigh Valley people would have any person else would have that would want to work it.

Q. Then it can be worked by any person, notwithstanding this rock bank? Is that it?—A. It certainly can be.

Q. Then this rock bank does not affect the value of eastern Packer No. 4, which contains 48,000 tons of coal? Is that right?—A. The new rock bank that is going in there will make it more unhandy to get at, but it will not make it impossible to get at it.

Q. It will make it more unhandy for anybody, but it will not make it impossible?—A. It will not make it impossible; no.

Q. You say there is a rocky ridge or fill extending all around or partially around No. 3?—A. Yes, sir.

Q. When was it put there?—A. Before I went with the Girard estate, but this later part of the bank, when Packer No. 3 colliery was working—in later years they do not work Packer No. 3 colliery; they do not prepare coal at Packer No. 3; they take the coal to Packer No. 4 breaker and prepare it—this was a later bank put out before Packer No. 3 was abandoned, about one or two years previous to my going over there. So that would be about 12 years ago.

Q. What is the size of the rock around Packer No. 3?—A. Some are very large.

Q. What are the sizes?—A. They are all sizes, from a couple of hundred pounds to the size of your fist.

Q. What is the size of the original rock?—A. The size was very bulky.

Q. Well, how high is it from the base to the top?—A. I have not measured the width or the height.

Q. You do not know?—A. No, sir.

Q. Can you say, or is it right, that you do not know what it contains, how high it is, or whether it extends all around the base of Packer No. 3?—A. All around the east, south, and southwest sides.

Q. That rock was put there, then, after the dump was made, was it?—A. It was put there after the good dirt was put there. The good dirt is the older dirt out of the collieries, because at that time they did not dig the coal so thoroughly out. There was no demand for the smaller sizes, and the older the bank, in almost every instance, the better the bank.

Q. How high is this ridge of rock that you speak of with reference to the height of culm bank No. 3?—A. A little higher. In making the new bank they came out over the old bank, and I would say it is from 8 to 10 feet higher than the old bank. It was put very high.

Q. It would be necessary, then, to climb up over the rock bank to get out onto the culm bank? Is that your idea?—A. On one side some of the good dirt is exposed, because it did not reach around to the northwest side, to the east, the south, and the southwest side. You would certainly have to go over the rock bank to get at the good dirt bank.

Q. After you made one breach in the rock wall, you could dig it all, could you not?—A. Not without digging the rock.

Q. I know. But you could dig the rock away from the breach that you made, and then you could move the coal through this breach to your washery?—A. I do not think you could.

Q. Your idea is that you would have to dig all the rock away?—A. You would. The bank is very high, and it would rush in on you. You would not have to dig absolutely all, but nearly all.

Mr. Manager WEBB. I think that is all, Mr. President.

Redirect examination:

Q. (By Mr. WORTHINGTON.) When you speak of rock around the east, south, and southwest sides of No. 3, do you mean that is all rock?—A. Yes; nearly all rock.

Q. Have you included that when you have given your estimate of 44 per cent of coal on the whole business?—A. That was the average of the whole bank.

Q. What is the proportion of this rock part of the dump, then, to what you call the good part?—A. That is a little hard to determine on account of the new rock dump coming over the top of the good dirt bank. We can not tell how much the good dirt would be in that new rock bank. So it is a little hard to determine that.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. Then the witness is finally discharged.

TESTIMONY OF JOHN M. HUMPHREY.

John M. Humphrey, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Humphrey, what is your full name?—A. John M. Humphrey.

Q. And your residence?—A. Wilkes-Barre, Pa.

Q. What is your business?—A. I am chief mining engineer of the Lehigh Valley Coal Co.

Q. How long have you been the chief mining engineer of the Lehigh Valley Coal Co.?—A. Since June 1 of last year—1912.

Q. Before that time what was your business?—A. I was the division superintendent of the Mahanoy and Shamokin division of the Lehigh Valley Coal Co.

Q. We are concerned here just now about these Packer dumps. Were they within your bailiwick before you got your present position?—A. Yes, sir.

Q. You are familiar with Packer dumps?—A. Yes, sir.

Q. How familiar?—A. Very familiar.

Q. Mr. Warriner was your chief, I believe?—A. Yes, sir.

Q. Did you have any occasion at any time within late years to have any talk with Mr. Warriner on the question of what should be done about Packer No. 3 dump?—A. Yes, sir.

Q. When was that?—A. That was a little more than a year ago, I think. It was either in the late fall or early winter of 1911—in November, I think, of 1911.

Q. Did you know anything about applications that had been made for that dump by Madeira, Hill & Co. and by Judge Archbald and some associates of his?—A. Madeira, Hill & Co. never made any application for that dump—for Packer No. 3.

Q. Not to your company?—A. No, sir.

Q. Well, you knew about Judge Archbald's having made application?—A. Yes, sir.

Q. As to the conversation that you had with Mr. Warriner that I am talking about, was that before or after you knew about Judge Archbald's application?—A. That was at the time the matter of leasing the dump had been referred to me by Mr. Warriner.

Q. Now, go on and tell us what you did about it.—A. I made a map and estimated the quantity in the several dumps in the vicinity of our Packer 4 colliery. I then went to Wilkes-Barre, Mr. Warriner's headquarters, with this data, and went over it with him. Shortly after we were together Judge Archbald came in the office, and the Packer No. 3 dump and the Packer No. 4 dump we decided not to lease on account of our working them ourselves at that particular time, but we told the judge that he could have the Packer No. 3 dump—at least, Mr. Warriner told him so.

Q. I know what Mr. Warriner did; we have had him here as a witness; but I should like to know what you did, if anything, about it?—A. Well, what I did was to advise Mr. Warriner as to the character of these dumps and as to their worth to us.

Q. Well, what information did you give him?—A. The packer No. 4 dump we were working and putting through our breaker at that time, and it was my advice not to lease that dump or the Packer No. 2 dump. I advised the leasing of Packer No. 3 on account of its inferior quality and its location, it being located at such a point that we could not take it through our breaker economically for two reasons; one, on account of the distance from the breaker, and, another, we were putting a large rock bank between the breaker and this dump.

Mr. WORTHINGTON. I wish you would speak a little louder.

The WITNESS. The No. 2 dump and No. 4 dump were both removed from the discussion, leaving only the No. 3 dump, and the reason for that was because No. 3 dump was of no value to us, or at least we considered it so, it being too far from our opera-

tion, for one thing, to make it economical to rework, and, another, we were putting a large rock bank between our operation and the dump that would make it very expensive for us to remove that dump to the breaker.

Q. Did you give that advice to Mr. Warriner while Judge Archbald was there or before or after he was there?—A. I gave it to Mr. Warriner before the judge came in.

Q. Did you participate in the conversation after the judge got there?—A. Yes, sir.

Q. Well, go on and tell what took place then.—A. The banks were generally discussed—the three banks, the No. 2 bank, the No. 4 bank, and the No. 3 bank.

Q. Had you before you the application that Judge Archbald and his associates had made?—A. That was the first I knew of Judge Archbald's application—meeting him in Mr. Warriner's office.

Q. Did you know that there was any No. 4 in that application or any No. 2?—A. No; I did not know that at that time.

Q. Not at that time?—A. That the judge wanted the bank there.

Q. Very well. You advised Mr. Warriner, from your knowledge of the business, that it would be to the interest of the company to let Judge Archbald have No. 3, did you?—A. Yes, sir.

Q. Excuse me for the question, but I want to know whether you made that honestly and with any thought but the best interests of the Lehigh Valley Coal Co. in mind?—A. Certainly I made it with that idea only; that was my only idea.

Q. Now, I wish you would tell us a little more about why you gave Mr. Warriner that advice about No. 3. What kind of a dump was it? Tell us about it.—A. The No. 3 dump had been originally a coal dump; that is, the smaller sizes of coal from the old Packer No. 3 breaker. Afterwards they had dumped rock on this same coal dump, making it very much less valuable as a washery proposition than it would have been had the rock not been dumped there, and consequently there was a very much less percentage of coal in the dump than there was in either of our other dumps. In addition to that, the location of the dump made it a much more expensive proposition for us; and the rock bank I mentioned, which we were dumping between our breaker and the dump, would almost make it impossible for us to get the dump to the breaker.

Q. Now, in your judgment, at the time Judge Archbald was there and that application on his behalf was being made, could Packer No. 3 dump have been worked with any profit by the Lehigh Valley Coal Co., paying the current royalty to the Girard estate?—A. No, sir; it could not have been.

Q. Could anybody do it from that time to this, so far as you know?—A. No, sir.

Q. You have seen the map, have you not, of these dumps?—A. Yes, sir.

Q. Upon which there is a letter "B," which, it has been stated, indicates where a certain hole was. Do you know about that?—A. I can not see the letter "B" from here, but——

Q. On the map it is located between eastern No. 4 and Packer No. 3. Is that where it is?—A. Yes, sir; there is a hole there.

Q. Very well; tell us what you know about that hole.—A. We drove a hole out there about 1893.

Q. 1893?—A. I should say about 1903, and prepared a small portion of the small No. 4 Packer——

Q. "Eastern No. 4," we call it.—A. Eastern No. 4, and during the years from 1904 to 1907 it was worked intermittently, and we put through about a thousand cars altogether. That is a thousand mine cars, which contain about 3 tons each. That would be about 3,000 tons of this bank we put through the breaker.

Q. Why did you not take more?—A. The reason we did not take more was on account of the quality of the bank. The bank contained a lot of flat slate, which is very difficult of separation; it is very hard to remove from the coal.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. Are there any further questions for the witness? If not, he may retire.

Mr. HITCHCOCK. Mr. President, I desire to submit a question.

The PRESIDING OFFICER. The Senator from Nebraska presents a question which he desires to have propounded to the witness. The Secretary will read the question.

The Secretary read as follows:

Q. What reason was there why your company should let Judge Archbald buy or lease one of its coal dumps?

A. I do not know of any reason why they should let Judge Archbald buy or lease one of their coal dumps any more than any other business man.

The PRESIDING OFFICER. Are there any further questions of the witness.

Mr. Manager STERLING. Just one question, Mr. President. [To the witness:] What was the general policy of your company with reference to leasing or selling dumps? Had you at any time before that leased or sold dumps?—A. I can not recall any in my division.

Q. Well, you know there were none, do you not, and you know there were none in any division, do you not?—A. No; I do not know that, sir.

Q. You do not know that they did lease any?—A. No; I do not know that they did lease any.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) What had Judge Archbald's connection with the matter to do with your recommending that the Lehigh Valley Coal Co. should allow it to be leased?—A. I did not know that Judge Archbald was the applicant for this dump when I made my recommendation.

Q. You made your recommendation before you knew who was making the application, did you?—A. Exactly.

Q. You were personally in charge of these matters under Mr. Warriner at that time?—A. Yes, sir.

Recross-examination:

Q. (By Mr. Manager STERLING.) Mr. Warriner knew who the applicant was, did he not?—A. I think he did, as I read his testimony.

Q. He is the gentleman in authority with reference to the leasing of these dumps?—A. Yes, sir.

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. The witness may retire, and is excused.

TESTIMONY OF JOHN W. BERRY.

John W. Berry, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Berry, you are secretary and treasurer of the Lacoe & Shiffer Coal Co., are you not?—A. I am.

Q. And have been how long?—A. Six or eight years.

Q. Do you know the old gravity fill which was leased by that company to Frederick Warnke?—A. Yes, sir.

Q. Who owned that fill?—A. The Lacoe & Shiffer Coal Co.

Q. Who owned the land upon which it was situated?—A. The Lacoe & Shiffer Coal Co.

Q. With whom did you have negotiations in relation to the leasing of it by the Lacoe & Shiffer Coal Co. to Mr. Warnke?—A. Well, they started with Judge Archbald, and finally we made a sale to Frederick Warnke.

Mr. Manager STERLING. Mr. President, I did not hear the answer to that question myself, and I should like to have it read.

The PRESIDING OFFICER. The witness will speak louder, so that he can be heard over the entire Chamber.

The WITNESS. The negotiations started with Judge Archbald and ended with the sale to Frederick Warnke and his business associates.

Q. (By Mr. SIMPSON.) Who made the proposition to the Lacoe & Shiffer Coal Co., which was accepted, to sell it to Mr. Warnke and his associates?—A. The final proposition was made by Judge Archbald.

Q. I show you certain correspondence. Will you kindly look at it and see if that is a copy of the letters written by you in relation to the matter?—A. (After examining papers.) Yes; this is the correspondence that started away back in regard to an option that ran out on August 1.

Mr. SIMPSON (to the managers). Cross-examine, gentlemen.

Mr. Manager DAVIS. Give us a moment to read the correspondence, if you please.

Q. (By Mr. Manager DAVIS.) These letters that have been shown you are the only contract or option that was ever given by you to Judge Archbald?—A. That is all.

Q. And such rights as he had under that option——A. Well, there was one on December 2. I offered it to him for $6,000 for 10 days; that was by telephone.

Q. Your initial option to him was given, as demonstrated by this correspondence, on the 27th of April, 1911, and by successive extensions until its expiration, August 1?—A. That is right. It expired on August 1.

Q. After that time did he hold any formal option from you on the property at all?—A. Only the verbal option given by telephone on December 2 for 10 days.

Q. For what time?—A. For 10 days.

Q. And that was never renewed?—A. No, sir.

Q. So that at the time the deal was made to Frederick Warnke Judge Archbald held no option whatever from your company?—A. There was no option at that time.

Mr. Manager WEBB (to Mr. Simpson). Do you desire to have the letters read?

Mr. SIMPSON. Yes; we might as well have them read. I offer the letters in evidence, Mr. President, and ask to have them read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read the letters, marked "U. S. S. Exhibit CC," as follows:

[U. S. S. Exhibit CC.]

PITTSTON, PA., *April 22, 1911.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: Your letter of yesterday, inquiring about the old gravity fill, received.

Yes; we will sell the coal in the same for cash. I expect to be in Scranton Monday and will try to see you for a few minutes.

Yours, truly,

JOHN W. BERRY.

—

PITTSTON, PA., *April 27, 1911.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

MY DEAR SIR: Your letter of April 26 received, and in accordance with your request we hereby offer you the coal in the old gravity fill between planes 4 and 5 for $7,500 cash, and will allow two years for its removal. This option to end in two weeks from the date hereof.

I shall be glad if you will let me know as soon as convenient. Two other parties have made application for the fill since I talked with you last Monday, and are awaiting your decision.

Yours, truly,

JOHN W. BERRY,
Secretary and Treasurer the Lacoe & Shiffer Coal Co.

—

PITTSTON, PA., *May 11, 1911.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

MY DEAR JUDGE: I have your letter of May 10, 1911, requesting an extension of the option given to you under date of April 27, 1911.

You state the necessity of going to Washington, etc. Your request is agreed to. It would be better, however, for us to fix a time when the option expires, and we hereby extend the option to June 1, 1911.

Yours, truly,

THE LACOE & SHIFFER COAL CO.,
JOHN W. BERRY, *Secretary.*

—

PITTSTON, PA., *May 25, 1911.*

Hon. R. W. ARCHBALD, *Washington, D. C.*

MY DEAR JUDGE: Your letter of May 23 received, and in accordance with your request we again extend the time of the option on the old gravity fill to June 15, 1911.

We own for a distance of 400 or 500 feet west of the fill and will agree to your floating the refuse into the marsh on the west side and to use such surface land as may be necessary for a washery.

Yours, truly,

THE LACOE & SHIFFER COAL CO.,
JOHN W. BERRY, *Secretary.*

—

PITTSTON, PA., *June 17, 1911.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR JUDGE ARCHBALD: I have your letter of June 16. You need more time, and we hereby extend the option to July 1, 1911.

Yours, truly,

THE LACOE & SHIFFER COAL CO.
JOHN W. BERRY, *Secretary.*

—

PITTSTON, PA., *July 5, 1911.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR JUDGE ARCHBALD: Your letter of July 1 received. We hereby extend the option on the old gravity fill until August 1, 1911.

Yours, truly,

THE LACOE & SHIFFER COAL CO.
JOHN W. BERRY, *Secretary.*

—

PITTSTON, PA., *December 16, 1911.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR JUDGE ARCHBALD: Your letter of December 12, 1911, received. I can not answer your letter for a few days for this reason: When you telephoned me on the 2d of the month I offered it to you for $6,000 cash, giving you 10 days. Two or three days after I gave another option at a higher price, to commence at the expiration of your option in case you did not accept the offer within the 10 days. I will know by the latter part of next week whether this party takes it or not.

Yours, truly,

JOHN W. BERRY.

—

PITTSTON, PA., *December 23, 1911.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR JUDGE ARCHBALD: Your letters of December 18 and 21 received. I have postponed answering your letter of December 18, hoping to have a definite answer to give you. In case I do not get a definite answer by Tuesday morning I will probably see you in Scranton. However, at the low price I gave you we must have cash.

Yours, truly,

JOHN W. BERRY.

Q. (By Mr. Manager DAVIS). Mr. Berry, have you the letters from Judge Archbald to which these are the replies?—A. Two I sent to Mr Manager CLAYTON. The others were thrown into the waste basket, when they became of no use, long before this investigation started.

Q. What other letters were thrown into the waste basket?—A. Well, the letters that I received from him except those which I sent to Mr. Manager CLAYTON. Letters dated December 27, 1911, and February 21, 1912, were the two which I sent to Mr. Manager CLAYTON.

Q. You have in your possession no other letters from Judge Archbald?—A. I have no other letters. They were destroyed when they became of no use after that option expired.

Q. So that you have no letters from him in your files at all at this time?—A. Not at this time. Two original ones I sent to you at the time of the examination before the Judiciary Committee.

Mr. SIMPSON. Will you kindly produce those two letters, gentlemen?

Q. (By Mr. Manager DAVIS.) What is the date when you destroyed those letters?—A. The date of what?

Q. What is the date when you destroyed that correspondence?—A. Oh, it was away back in the summer some time, after August 1.

Q. What year?—A. 1911. Just about that time, I guess.

Q. How did these escape at that time?—A. I do not know. I happened to have them when you wanted them, and so I sent you all I had.

Q. What I am trying to get at is whether there was any reason why you saved some of the letters rather than others.—A. No; there was not. They just happened to lie on my desk there, what remained. The others were destroyed in clearing the desk, some time in August, I guess—August or September.

Redirect examination:

Q. (By Mr. SIMPSON.) Are these the two letters you sent to the Judiciary Committee [exhibiting]?—A. (After examination.) They are.

Mr. SIMPSON. I offer these letters in evidence, and ask the Secretary to read them.

The Secretary read as follows:

[U. S. S. Exhibit DD.]

SCRANTON, PA., *December 27, 1911.*

MY DEAR MR. BERRY: I have just seen the party here to whom I was going to turn over the old Gravity Fill at the price which you named. He is not able, however, to make a cash payment for the whole $6,000, the price at which you put it, and if that is essential he will have to give it up. He wishes me to say, however, that if at any time you wish to consider the offer which he made—that is to say, $2,000 cash and the balance in notes, payable at the rate of 20 cents a ton as the material is removed—he will be willing to go into it at any time.

Yours, very truly,

R. W. ARCHBALD.

—

(United States Commerce Court, Washington.)

SCRANTON, PA., *February 21, 1912.*

MY DEAR MR. BERRY: If you have not disposed of the old Gravity Fill, the party here who has been interested in it wishes me to make you another proposition. He will pay you $7,000, provided you will take $2,000 cash and the other $5,000 at the rate of 20 cents a ton for each ton of material removed. This will give you $1,000 more than the $6,000 cash for which you offered to sell, and you would be entirely secure for the balance above the down payment.

Trusting that this will appeal to you,

Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. SIMPSON.) Mr. Berry, did anyone besides Judge Archbald bring the purchasers and sellers together in that matter?—A. No one else.

Q. There is another question, which I overlooked asking you before. Will you tell us, please, what rights, if any, the Delaware & Hudson Co. have over the surface of that ground?—A. No rights.

Mr. SIMPSON. That is all.

The PRESIDING OFFICER. Are there any further questions?

Cross-examination:

Q. (By Mr. Manager DAVIS.) Does the Delaware & Hudson own any land adjoining this fill?—A. I do not know. I think it is what is called the East Side Bondholders, of which Capt. May is one of the trustees.

Q. Is that an adjunct of the Delaware & Hudson?—A. No; I think not. The East Side Bondholders hold some bonds. I think the mortgage was foreclosed and the property got into the hands of the bondholders.

Q. Has it any connection with the Pennsylvania Coal Co.?—A. I think not.

Q. You closed this transaction with Mr. Warnke in person, did you not?—A. I did; with him and his business associates.

Q. Who are his business associates?—A. Mr. Schlager and Mr. Kiser.

Q. Swingle?—A. Swingle; yes.

Q. They came to your office in person for that purpose, did they not?—A. Yes; they did.

Q. And the final negotiations were conducted between you without the interposition of Judge Archbald?—A. Yes; with one exception. We met once at Judge Archbald's office, after I had made the first draft of the contract and read it over there.

Q. What was the purpose of that meeting in Judge Archbald's office?—A. I do not know. They lived in Scranton and I lived

in Pittston, and I frequently go to Scranton, and I think it was probably through my suggestion that we met there, having no other place to meet.

Q. What was the date of that conference?—A. I do not know. It was between February 26 and March 7. On March 7 the contract was signed in my office in Pittston.

Q. In 1911?—A. In 1912 it was signed.

Q. Your ownership or the ownership of the Lacoe & Shiffer Co. of this dump was open and notorious, was it not?—A. Oh, yes.

Q. And there was never any question as to who the parties were with whom negotiations had to be had in order to purchase it?—A. Not the slightest.

Q. And your relation to the Lacoe & Shiffer Coal Co. was equally notorious?—A. Yes.

Redirect examination:

Q. (By Mr. SIMPSON.) These East Side bondholders, so called, were a bondholders' committee of bonds on a defunct coal company, were they not?—A. I think so. I do not know enough about it to give you the details, but they are always spoken of as the East Side bondholders.

Mr. SIMPSON. That is all.

The PRESIDING OFFICER. The witness may retire and be excused.

Mr. WORTHINGTON. Call Mr. Holden.

TESTIMONY OF CHARLES P. HOLDEN.

Charles P. Holden, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Where do you live?—A. Boston, Mass.

Q. What is your business?—A. Manufacturer of machinery.

Q. Have you at any time had any relation with what is known as the Katydid culm dump near Moosic, Pa.?—A. I have, sir.

Q. Just in what way? Will you tell us briefly how you are concerned in that property?—A. In the latter part of 1911—December, I think—I was in the office of the Laurel line, so-called.

Q. In Scranton?—A. And I saw Mr. Conn. Mr. Conn informed me that they were about to buy a culm dump on 46. Forty-six being a lot that my wife had an interest in, he asked me if I knew anything about it. I said, "Forty-six belongs to the Everhart estate in part."

Q. The Everhart estate?—A. The Everhart estate, of which my wife is a member, her interest being very small, a one-twenty—well, I have forgotten exactly what it is, but it is very small.

I then told him I thought he would make a mistake to buy something that belonged to somebody else. He told me he would drop it.

Q. What did you say was the date of that conversation?—A. In December, 1911. Two or three days after that I went to my attorney, Walter S. Bevan——

Q. In Scranton?—A. In Scranton, and instructed him to see the Brooke people at Birdsboro, Pa.

Q. Who were they?—A. The E. & G. Brooke Co., the owners of a one-fourth full interest in this particular property. He did so. I sent him there to ask if he could get an option for me, so as to protect Mrs. Holden's interest and the collateral interests. He wrote me under date of December 11 that they were willing under certain conditions to grant me that option.

Q. Have you that letter?—A. I have that letter here.

Q. Have you any objection to letting us use it here?—A. It is a private letter, and I do not care to show it unless I have to do so. I think I have it here. I have no objection to showing the letter to the committee. I do not want to show it unless I have to.

Q. You have no objection to showing it to me, in the first place, and to the managers?—A. Not at all, sir.

Mr. WORTHINGTON. I have seen it before.

(The letter was produced and examined by the managers.)

Mr. WORTHINGTON. Mr. Holden, I feel obliged to offer this letter in evidence. It would do no good for counsel and the managers to see it unless the Senators, who have to pass judgment on this case finally, see it. I therefore ask that it be marked as an exhibit and read from the desk.

The Secretary read as follows:

[U. S. S. Exhibit EE.]

(Walter S. Bevan, attorney and counselor, Scranton, Pa.)

SCRANTON, PA., *December 11, 1911.*

Mr. CHARLES P. HOLDEN,
Prince George Hotel, New York, N. Y.

DEAR MR. HOLDEN: I have just returned from Reading, where I interviewed the Brooke people. While they refused to sign an option to-day, they assured me that they would not give anybody an option until they heard again from me, and I promised to write them Thursday or Friday of this week.

Before signing an option they desired to have a few days to look into their interests there, as they were not familiar with the extent of it. I promised to communicate with them and give them some definite information, and I would therefore request you to answer the following questions, which they put up to me: How much are you willing to pay for an option? For what period of time do you desire the option? What is your proposition as to the purchase of their interest, either outright or upon a royalty basis? If upon a royalty basis, name the sizes and the prices for each size? What is the extent of the tract?

I found them to be very decent people to deal with, and I am sure that if we propose any reasonable terms, that I can secure the option this week. Answer this communication immediately. The gentlemen interested in this land company will be out of town until Thursday or Friday, so that will give us ample opportunity to communicate with them.

Any other data that you think would be useful in my communication to them kindly give to me.

Very truly, yours,

WALTER S. BEVAN.

Q. (By Mr. WORTHINGTON.) Now, will you go on with the story?—A. After receiving that letter I went with Mr. Bevan to Birdsboro and had an interview with the Brooke people. They did not know what to say about the property. I told them there had been an offer made——

Q. I do not care for the details of that conversation. If it resulted in anything I would like to know what the result was.—A. I wanted to bring out that I told them at that time that I understood the Laurel line had offered somewhere like $25,000 for the property to start with. Then Mr. Brooke said he would go with me to see the property. He did go. He went over the property. He did not have it examined at that time, but paced it off. It resulted in my getting an option—it resulted in my buying that interest from the Brooke people.

Q. For how much?—A. I do not care to say; I do not think I ought to say. It is an entirely private matter, and unless I have to do so I do not want to say.

Q. When did you buy their interest?—A. Some time in the summer of 1912.

Q. That was last summer?—A. Yes. That is, I completed the thing. The option was given to me right after this time in December.

Q. When did you get the option?—A. The 17th of January, 1912, I think.

Q. Anyhow, it was before April, 1912?—A. It was the 17th of January, 1912.

Q. It was before April, 1912?—A. Yes.

Q. That is what I want to lead up to. Go ahead and tell what happened about this matter that brought you finally to Capt. May's office.—A. Having obtained that option, I again saw Mr. Conn on some business of my own, looking to getting a railroad rate on other property.

Q. Something else entirely?—A. Yes, sir. That was my object in seeing Mr. Conn. Mr. Conn told me that the matter had been dropped so far as the Katydid was concerned, and so I supposed the whole thing was dropped, so far as Judge Archbald was concerned or anybody else.

Q. When you say the whole thing was dropped what do you mean?—A. The Katydid.

Q. Dropped by whom?—A. By the Laurel line.

Q. That the Laurel line would not buy it?—A. That the Laurel line would not buy it. I assumed that nobody would buy it, because it seemed to be common news, and everybody in Scranton at that time knew where the ownership lay. It so happened I was in Scranton several times from January until April. This particular day—the 11th day of April—happened to be my birthday. I called at Capt. May's office on business connected with this Everhart estate.

Q. Excuse me, you say the 11th of April. What year?—A. 1912. I went to see Capt. May about lots 20 and 21, which the Everhart estate owned, and from which they mined coal, and also lot 26, of which my wife owns a quarter interest. As I was about to leave Mr. May's office he turned to me and said, "By the way, I have sold the Katydid property." I said, "What do you mean?" He said, "I have sold it; I have sold it to one Bradley."

Q. One Bradley?—A. One Bradley. Said I, "Capt. May, you are taking a great chance. By the way," said I, "I notify you right here not to sell that property. It belongs to Mrs. Holden as far as her interest is concerned, and I have an option on a quarter interest." The property was owned by the Brooke people, one full quarter interest; the Everhart estate, one quarter; and the Hillside Coal & Iron Co., one-half interest. The culm dump was an undivided interest and could not be sold in part; the Erie could not sell it; it had to be sold as a whole. Consequently my notice to Capt. May was that the property could not be sold unless it was sold in its entirety.

I left Scranton on the 12.40 train. A half hour before I left I called up Mr. Heckle, who was the administrator on behalf of part of the Everhart estate. I asked him, on behalf

of his people, to notify Mr. May. I sent for my lawyer to come to the Delaware, Lackawanna & Western Railroad and asked him to notify Capt. May in writing. I left Scranton on the 12.40 train. I arrived in New York at 4.40, I think.

Q. What, 12.40 in the day?—A. The 11th of April.

Q. The middle of the day, or the night?—A. 12.40 p. m. I arrived in New York at 4.40, I think. As I was about to take the train for Boston, which left at midnight, it occurred to me I had better send Capt. May a written notice for myself. I then went across the street to the Grand Union Hotel and sent him the notice, which appears in the record.

Mr. WORTHINGTON. It is in evidence.

The WITNESS. On my arrival in Boston I went to the office of Mr. Saltonstall, of the firm of Gaston, Snow & Saltonstall, who represented John Everhart's widow, and got him to notify Mr. May. On my next trip to Philadelphia I saw Mr. Taylor, the husband of Mrs. Holden's sister, and got him to notify Mr. May.

Q. Do you happen to know whether Mr. Taylor is in this country now?—A. Mr. Taylor is in Europe. That was the result of my efforts to notify Capt. May not to sell this undivided interest. He pretended to say he could sell whatever interest he had. So he could; but he could not sell that bank, because it was an undivided interest.

Q. You mean now that that is what you told him?—A. That is what I told him; the Katydid bank, or any bank up there on that property.

Q. I want to ask you, at the time you had that conversation with Capt. May on the 11th of April last and at the time you spoke to Mr. Bevan and Mr. Heckle and Saltonstall, what knowledge or suspicion you had, if any, of any connection of Judge Archbald in that matter?—A. I never heard of it, sir.

Q. What knowledge or suspicion had you at any time of any investigation that was impending in reference to Judge Archbald's connection with the Katydid or anything else?—A. Not in the slightest degree. I never heard of it.

Q. Had you any reason, except what you have stated, for giving or having those notices given?—A. No, sir.

Q. Do you happen to know anything about the sale by the Hillside Coal & Iron Co. or the leasing by the Hillside Coal & Iron Co. of any other dump about this time?—A. I do not.

Q. Well, some time before. When I say about this time I mean within two or three years.—A. Oh, I bought part of an interest myself of the Hillside.

Q. On what dump is that?—A. That is on lot 38.

Q. What dump is that?—A. It is known as the Florence dump.

Q. Did you buy it from Capt. May individually?—A. From the Hillside Coal & Iron Co.

Q. Do you mean from Capt. May individually or the company?—A. No; through Capt. May as the vice president of the Hillside Coal & Iron Co.

Q. Where is that dump situated?—A. That is situated in Pittston, on lot 38; in Pittston Township, or in a town called Dupont, Pa., Luzerne County.

Q. How does that dump compare in size with the Katydid?—A. There is no comparison.

Q. Do you mean that the Katydid is much larger?—A. The Katydid is so much smaller and so much poorer.

Q. Do you know of any reason why the Florence was disposed of? Was there any special reason for selling that dump specifically?—A. For the same reason I suppose that inspired him to sell this one—the undivided interest.

Q. That was another case of an undivided interest?—A. Yes. By the way I might say there I had part of the leases from the other owners of this Florence dump, and that may have influenced Capt. May, because I had them, to sell that interest.

Q. Do you mean to say that the Hillside Coal & Iron Co. had interests and that you owned interest?—A. Yes, sir; absolutely.

Q. And Mr. May sold to you?—A. Yes, sir.

Q. That is, his company did?—A. His company did, the Hillside Coal & Iron Co. That was three years ago, long before anything happened as to this matter.

Q. I understand. Mr. Holden, I beg your pardon, but I want to ask you whether or not, when you had that conversation with Capt. May on the 11th of May last, when you gave him this warning, you received any intimation or tip from him that he would like to have you raise such objection?

Mr. Manager STERLING. We object. They have been all over that.

The WITNESS. I think I have already said that. I will answer it again if I am allowed to.

The PRESIDING OFFICER. The Chair would suggest that it is not only in the interest of time, but in the interest of not having an unnecessarily cumbersome record, that the same thing should not be proved twice, unless it is challenged.

Mr. WORTHINGTON. I was then using the same expression that has been used by the managers in the examination of other witnesses. I withdraw it.

Mr. Manager STERLING. I object to that statement. There was no intimation that this witness——

Mr. WORTHINGTON. No; the intimation was that Capt. May had given him the tip to make the objection.

Mr. Manager STERLING. No; it was simply a statement by me that Capt. May had given him the tip, so that he would object.

Cross-examination:

Q. (By Mr. Manager STERLING.) Are you a lawyer?—A. No.

Q. What is your business?—A. Manufacturer of machinery.

Q. Where is your home?—A. Pittston.

Q. And you or your wife had an interest in the Katydid culm dump?—A. I have an interest in lot 46.

Q. Well, you claim on that basis an interest in this culm, did you not?—A. Yes.

Q. About a one twenty-fourth part?—A. That is right.

Q. And Mr. Bevan is your lawyer?—A. He was my lawyer in that particular matter.

Q. You gave Capt. May notice personally on the morning of the 11th?—A. Yes.

Q. At his office?—A. In his office.

Q. Who first mentioned the matter of selling the Katydid culm dump?—A. Mr. Conn, the vice president of the——

Q. No; at this meeting on April 11.—A. I have testified that Capt. May spoke to me as I was about to leave the office.

Q. So he first suggested to you that they were selling the culm dump?—A. Yes.

Q. He knew that your wife was interested in it, did he not?—A. I presume he did; I do not know.

Q. He knew that the Everharts had a claim there for royalty?—A. I do not know whether he knew it or not.

Q. Did he not call your attention to the contract which he had made out and which was on his table at that time?—A. He did, sir.

Q. And did not the contract itself provide that the purchaser should pay royalty to the Everhart estate?—A. This contract he read to me? It did not.

Q. How is that?—A. It did not.

Q. The contract that was made out to Mr. Williams that was to be delivered to Bradley. Do you say that that did not have a provision in it to pay royalty to the Everhart estate?—A. I will qualify that. Mr. May read some of that document to me, but not the whole of it. I never saw anything in it that related to the Everharts.

Q. Anyhow, the contract was there and you saw at least a part of it?—A. I did not see it.

Q. You heard him read a part of it?—A. Yes.

Q. And it was after you were there and after you notified him not to sell it that he sent the contract to Mr. Bradley?—A. I do not know anything about that.

Q. Did you know or did you learn afterwards that on the same day he sent it to Bradley and did not recall it until the next day after that?—A. I did not, sir.

Q. You did not know that?—A. No, sir.

Q. Did you notify Capt. May not to sell the Hillside interest?—A. No, sir.

Q. You simply notified him not to sell your interest or your wife's interest?—A. Yes, sir.

Q. Do you know whether or not he was seeking to sell your wife's interest?—A. I do not.

Q. Did he not read that part of the contract that indicated that he was simply selling the interest of the Hillside Coal & Iron Co.?—A. He was selling his interest, as I understood it, and assuming to work with Robertson & Law, who claimed another part of the interest, to sell it together. That is the impression I got.

Q. Robertson & Law were not mentioned in this contract?—A. Robertson & Law were mentioned in that contract, if my memory serves me.

Q. Were they mentioned as parties to the contract?—A. If my memory serves me—I do not know; I paid little attention to it.

Q. Anyhow, the contract did not purport to be a guaranty of title or anything of that kind?—A. I do not know anything about that, sir. I did not take much interest in it.

Q. And you were not seeking to prevent the Hillside Coal & Iron Co. from selling their interest in the dump?—A. I was seeking nothing except to protect my wife's and my own interest.

Q. You conceded that they had a perfect right to sell their interest in the dump to Judge Archbald.—A. I conceded nothing; I did not know anything about it. I did not have any objection to it, and I could not have any objection to it.

Q. After you left the office you immediately notified Mr. Heckle?—A. Yes, sir.

Q. He is administrator of the Everhart estate?—A. Of a part of the Everhart estate.

Q. And you also notified your attorney, Mr. Bevan?—A. Yes.

Q. And they both wrote notices to Mr. May?—A. Yes.

Q. So the notice from you and the notice from Bevan and the notice from Heckle all related to the interest of the Everhart estate, the interest of which was provided for in the notice itself. Is not that true?—A. I did not see the contract.

Q. Who is Mr. Saltonstall, who sent a notice also?—A. He is a member of the firm of Gaston, Snow & Saltonstall, guardian of the minor children of John F. Everhart. John F. Everhart was one of the children of John T. Everhart, who died.

Q. He had an interest through the Everhart estate?—A. He did, sir.

Q. So every one of these notices came from persons who were interested directly or indirectly in the Everhart estate?—A. That is right.

Q. About whose interest Capt. May knew perfectly well and had provided for in this contract. Now——

Mr. WORTHINGTON. Is that a statement or a question? I object to the statement.

The PRESIDING OFFICER. The Chair understands it to be a question.

Mr. WORTHINGTON. The witness has not answered.

The PRESIDING OFFICER. The witness can negative it if he does not agree to it.

The WITNESS. I have no knowledge of its truth. I do not know anything about it.

Q. (By Mr. Manager STERLING.) You do have knowledge of the fact that all four of those persons who gave notices were interested in the ~~matter~~ through the Everhart estate?—A. That is right, sir.

Q. The contract speaks for itself. Do you know any other reason why Capt. May withdrew this contract from Bradley?—A. I do not, sir. Neither have I had any word from Capt. May since the 11th day of April about the subject.

Q. From your knowledge of the situation and your knowledge of the transaction did you personally see any reason why Capt. May should withdraw the contract because of these notices?—A. I certainly do.

Q. What is it?—A. He would get into great trouble if he made that contract.

Q. How get into trouble?—A. In many ways.

Q. How?—A. In the first place, he has been operating that property, much to our surprise, without any lease, without any right whatsoever.

Q. Who has?—A. The Hillside Coal & Iron Co. That is one serious thing he would be up against.

Q. Had they operated it all?—A. They operated it for 30 or 40 years.

Q. How did they operate it?—A. How do you mean?

Q. How do you mean?—A. I mean that they put up a breaker there and took the coal out of the ground.

Q. Who did?—A. The Hillside Coal & Iron Co.

Q. Did not Robertson & Law operate it?—A. Robertson did not until some 30 years, and then in the year 1882—I do not know that my dates are right—that portion was pretty well mined. They had leased to Robertson & Law and then Robertson got through, and then the Hillside in turn leased to the Delaware & Hudson Coal Co., who are now operating the property, as I understand the situation. The Hillside Coal & Iron Co. have not any lease whatsoever nor any right to mine the coal on that property.

Q. They own half there, do they not?—A. They own half of it.

Q. That is all they were selling?—A. You did not ask me that. You asked what was the reason, as I understood your question, for selling this coal, and the reason, in my judgment, is this, that when they began to find that we knew, which we did not know prior to this time, that they were operating this property without any lease, not even with a letter which they could show, they were up against something which——

Q. Would that prevent the Hillside Coal & Iron Co. from selling their interest in this dump?

Mr. WORTHINGTON. I submit the witness should be allowed to finish his answer, and not be stopped in the midst of it.

Mr. Manager STERLING. I object to the witness talking about anything except an answer to my question.

The PRESIDING OFFICER. The witness will confine his reply to the question asked, and then he can explain as fully as he desires.

Q. (By Mr. Manager STERLING.) Let me ask this question, so that we may understand each other: What do you mean when you say the Hillside Coal & Iron Co. would get into trouble by selling their half interest in the Katydid culm dump to Judge Archbald or anybody else?—A. I do not think that Judge——

Q. Answer the question.

The PRESIDING OFFICER. Answer the question as asked.

The WITNESS. I mean to say that, because of their having no lease from the Brooke people and from the Everhart people in all these years they have been operating the property, they were fearful—this is my judgment—that an action might be brought showing up the whole transaction for the last 30 or 40 years.

Q. Did they have to have a lease on their own interest in order to sell it?—A. They could not sell it. It was an undivided interest.

Q. Could they not sell an undivided interest?—A. They could sell their right, title, and interest.

Q. That is what they were doing, just as you bought from the Brook Land Co. the right, title, and undivided interest, is it not?—A. Yes, sir.

Q. That is all there is to it?—A. Yes.

Q. You say that the Hillside Coal & Iron Co. sold their interest in the Florence dump?—A. Yes, sir.

Q. And that was undivided?—A. That was undivided.

Q. Did you buy it?—A. Yes, sir.

Q. And they sold it because the title was complicated, did they not?—A. They sold it because the interest had been leased by other people; in other words, I had a portion of the lease myself and controlled it. I bought simply their right, title, and interest in that particular interest.

Q. And they sold their interest in the Florence dump?—A. That is right.

Q. And they refused to sell an interest finally in the Katydid dump for the reason that the title was complicated?—A. I do not know what influenced them.

Q. Did Mr. May on the morning of April 11 when you were there read this part of the contract to you——

Mr. WORTHINGTON. On what page?

Mr. aManager STERLING. On page 146:

Whereas a certain tract of land situated partly in Lackawanna and partly in Luzerne County, known and designated as lot No. 46, of certified Plitston Township, patented to John Bennett March 25, 1849, is owned in the following proportions, to wit: The Hillside Coal & Iron Co., twelve twenty-fourths; E. & G. Brook Land Co., six twenty-fourths; estate of James Everhart, five twenty-fourths; and heirs of John T. Everhart, one twenty-fourth.

Did he read that to you that morning when he showed that contract to you?—A. I think not. He did not read that portion of it. He merely handed the paper down, saying, "I am going to sell to a man named Bradley, and here is the document."

Q. If it was in the contract that May had prepared, it would be pretty good evidence he knew all about these interests?—A. I do not know.

Q. As I read the contract it states the interest correctly, does it not?—A. I think so, sir.

Q. Mr. Holden, after you had given Capt. May verbal notice in such positive language as you stated a moment ago, why did you think it necessary for you still to write a letter to the same effect and also have your attorney, Bevans, write a letter?—A. Simply to emphasize it; that is all. Then I had not notified Robertson & Law, which I did that same night.

Q. All you claimed to do in these notices was to notify them not to sell the Everhart interest?—A. That is right.

Q. You were not pretending to prevent them from selling the Hillside interest?—A. No, sir; no, indeed.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) You said, Mr. Holden, that the Hillside Coal & Iron Co. was operating that property without a lease. What do you mean, the Katydid, or what?—A. Oh, no; lot 46.

Q. Including the consolidated breaker property?—A. I do not know how far the consolidated breaker goes. It comprises several properties.

Q. They had been mining and selling that whole ledge of coal?—A. They had been mining coal and returning 20 cents a ton for sizes above pea or chestnut; I have forgotten which.

Q. They had been doing it for years without a lease?—A. Yes, sir.

Q. That is what you meant when you said that they were operating without any right?—A. Without any lease. That is right.

Q. Without any right to continue?—A. Yes, sir.

Q. Was there anything, so far as you know, that prevented the Brook people and the Everhart people from stopping them and raising their royalty?—A. Nothing save the diversified interest and the hard work to get a lot of heirs to do anything. That is all.

Q. Mr. Holden, in view of your examination, I feel obliged to ask you to let me have the paper relating to that option which you have and which fixed the price which you paid for it.—A. I think that is a private matter, and I do not know that I can be compelled to state what I paid for that interest.

Mr. Manager STERLING. We object to it as immaterial. It makes no difference what he was to pay the Brook Land Co. for their interest.

Q. (By Mr. WORTHINGTON.) The interest was one-fourth?—A. One-fourth interest.

Q. In the Katydid culm bank?—A. Yes, sir.

Mr. WORTHINGTON. I think we ought to have it, for we have had so much about the value of that property. It appears now that Judge Archbald and Mr. Williams were to pay $8,000 for the interest of the Hillside Coal & Iron Co. and of Robertson in that dump. We ought to be permitted to show, it seems to me, what was the value of the other interests, so as to have before us what they were getting when they acquired these various interests. It bears on the question of fairness of the Hillside price.

The PRESIDING OFFICER. The Chair thinks that the respondent can show the value of the property which was endeavored to be purchased by Judge Archbald and those with whom he was associated.

Mr. WORTHINGTON. I can conceive of no better way of showing the value than by showing the sale of an interest in it.

The PRESIDING OFFICER. The Chair means the interest that Judge Archbald was seeking to purchase. That, the Chair thinks, the counsel has a right to show as fully as he can in any legitimate way, but as to the value of another interest——

Mr. WORTHINGTON. If we show the value of one one-fourth interest, surely it would show what the value of another fourth interest was.

The PRESIDING OFFICER. Does the respondent propose to prove that as an independent fact?

Mr. WORTHINGTON. I propose to prove that the witness acquired and paid for one-fourth, and what he paid for it.

The PRESIDING OFFICER. In the same dump?

Mr. WORTHINGTON. In the same dump.

The PRESIDING OFFICER. Does the respondent desire to introduce a paper to that effect?

Mr. WORTHINGTON. I would be satisfied with the statement of the witness about it. If he stands on that, I would like to have him produce the paper.

Mr. Manager STERLING. I desire to say, Mr. President, that the sale of the property is not competent evidence to show what its fair market value is. They have gone into the question as to the value of the Katydid culm dump very extensively and it seems to me a great deal more extensively than the issue warranted. We insisted that it was not material at all to the issue what the value was. This will open up the question as to Brook's title, as to whether he had any title or not. The very contract that May submitted, where May knew that Archbald and Williams were to get the Katydid culm dump, provided that the purchaser should pay a royalty to the Everharts just as they had been paying a royalty to the Brook Co. So it is wholly immaterial, not only what these gentlemen agreed to pay for the Brook land interest, but it is immaterial as to what its value is. They have gone into the whole question as to what these gentlemen were selling, and providing in the agreement that the Brook Land Co. should be taken care of by way of royalties.

The PRESIDING OFFICER. The Chair thinks that the question of materiality of evidence is a different one from the question as to its conclusiveness. The counsel still have the opportunity to argue as to whether or not the price offered or paid was conclusive or unimportant evidence as to the value.

Mr. Manager STERLING. I should like to suggest further, if the President will permit me, if evidence with reference to the value is pertinent at all to the issue in article 1 it is pertinent for the purpose of showing Judge Archbald's attitude of mind in purchasing it, as to whether or not he could make money out of the transaction. Inasmuch as he was simply purchasing and May was simply selling the interest of the Hillside Coal & Iron Co. in this contract which he made to Bradley, it is certainly immaterial as to what the witness agreed to pay to Brook and what the value of Brook's interest was in the estate.

The PRESIDING OFFICER. The Chair thinks that, in view of the fact that the value of the property has been thoroughly gone into and stress has been laid on it, the respondent is entitled to introduce any evidence he can which will throw light on the question as to the true value of this property. It may be evidence which may be shown by argument not to be entitled to much weight, but still it is evidence the Chair would not feel justified in excluding under the circumstances. Therefore, while the Chair does not rule on the question of the admissibility of the particualr paper, he does rule to the effect that the fact may be proven as to any sale or offer for sale of any equivalent or partial interest in this property.

Q. (By Mr. WORTHINGTON.) Well, Mr. Holden, what did you pay for that one-fourth interest in the Katydid dump?

The WITNESS. Am I obliged to answer?

The PRESIDING OFFICER. You are.

The WITNESS. $1,750.

Q. (By Mr. WORTHINGTON.) When?—A. I can not tell you exactly, but some time in the middle of the summer.

Q. In the middle of last summer?—A. Last summer; 1912.

Mr. WORTHINGTON. That is all.

Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness may be retired and be excused.

TESTIMONY OF W. W. RISSINGER—RECALLED.

W. W. Rissinger, having been previously sworn, was recalled and testified further, as follows:

Q. (By Mr. SIMPSON.) Mr. Rissinger, when you were examined as a witness on behalf of the managers you testified that you had paid to Mr. Russell $2,000 out of the proceeds or discount of a note given by yourself to the order of Mr. Hutchinson and Judge Archbald and indorsed by them. Have you since that testimony endeavored to find the check by which that payment was made?—A. Yes, sir; I found it was paid direct to the owners of the concession, because it had been a discount between the secretary and president of the company. I found we paid it to the owners of the concession direct.

Q. Have you the check with you?—A. (Producing paper.) I have the check from the bank; yes, sir.

Mr. Manager STERLING. Mr. President, I think it is my duty to object for the simple reason that this is wholly immaterial to the issue in the case, and in the interest of time we do object.

Mr. SIMPSON. It was a matter brought out by the managers themselves in the examination of Mr. Rissinger. I propose to offer this check simply to fix the fact as to the actual payment. When we had Mr. Russell on the stand, to whom Mr. Rissinger said he paid the money, under the cross-examination of Mr. STERLING there was a book produced to show that there was no payment made to Mr. Russell, notwithstanding the fact that Mr. Rissinger said he paid it to Mr. Russell. For that reason we have recalled him to produce the check which shows the payment. They themselves brought it out in their examination of this witness.

Mr. Manager STERLING. It does not justify them in sinning because we did. The only thing we drew out or sought to draw out that was material was whether or not any of this money went to Judge Archbald. That was the purpose of our examination.

The PRESIDING OFFICER. The Chair will inquire of the counsel for the respondent in what way the payment or nonpayment of this check illustrates any issue made in this case?

Mr. SIMPSON. The managers themselves have made the issue. Their claim was, and I suppose is, that this note which was given by this witness to the order of Judge Archbald and Mrs. Hutchinson and indorsed by Judge Archbald was a note given in payment of the interest or a portion of the interest in which this witness was interested, and it is the subject matter of the article of impeachment.

Mr. Manager STERLING. Mr. President, we withdraw the objection.

Mr. SIMPSON. Very well.

Mr. Manager STERLING. We can save time by doing it.

Q. (By Mr. SIMPSON.) This is the check which paid a portion of the money?—A. Yes, sir.

Mr. SIMPSON. I offer that check in evidence, Mr. President.

Mr. Manager WEBB. Let it be read first.

Mr. SIMPSON. I hand it to the Secretary and ask that it may be read.

The Secretary read as follows:

[U. S. S. Exhibit FF.]

SCRANTON, PENNSYLVANIA, *December 11, 1908.*

COUNTY SAVINGS BANK — Pay to the order of W. W. Rissinger — No. 129 — $2000 — Two thousand &00/100 Dollars — W. W. RISSINGER

Perforated:

"PAID
12:10·08"

Stamped on face:

CERTIFIED
for $ Two thousand #
COUNTY SAVINGS BANK,
L. B. Tyler, Teller.
~~Cashier.~~

Indorsed on back:

Pay to Alfred H. Morris, Agt.
W. W. Rissinger
Pay to the order of A. H. & D. H. Morris,
Alfred H. Morris, Agt.
Pay to the order of the Mercantile Trust Co.
A. H. & D. H. Morris
by A. H. Morris

Stamped on back:

Pay to the order of any Bank, Banker or Trust Co.
Dec 15 1908
Endorsements Guaranteed,
NAT. BANK OF COMMERCE IN N. Y.
PAID
4 Through Clearing House
Dec 16 1908
THIRD NATIONAL BANK
SCRANTON, PA.
Pay to the order of
NATIONAL BANK OF COMMERCE
IN NEW YORK,
Endorsements Guaranteed,
THE MERCANTILE TRUST CO.

Q. (By Mr. SIMPSON.) Who was Alfred H. Morris, agent?—A. He was one of the owners of the Honduras concession that we spoke about.

Cross-examination:

Q. (By Mr. Manager STERLING.) Mr. Rissinger, this $2,000 check was a part of the money that you got on Judge Archbald's note?—A. Yes, sir.

Q. And that you sent to the promoters of this gold-mining scheme?—A. Yes, sir; to the owners of the concession.

Q. And $500 of the money you put in your own pocket?—A. I used it personally, but Judge Archbald did not get any of it.

Q. The $500 went to you?—A. Yes, sir.

Mr. Manager STERLING. That is all.

Mr. SIMPSON. That is all.

TESTIMONY OF JOSEPH P. JENNINGS—RECALLED.

Joseph P. Jennings, having been previously sworn, was recalled and testified further, as follows:

Q. (By Mr. WORTHINGTON.) Since you were upon the stand have you gone to the Katydid dump and made a survey?—A. I have.

Q. Have you the result of that survey here?—A. I have.

Q. Please produce it.

(The witness produced a paper, which was handed to the counsel for the respondent and then to the managers.)

Q. (By Mr. WORTHINGTON.) You have both a map and a statement?—A. I have, sir.

Mr. WORTHINGTON. I offer both the map and statement in evidence. This witness, it will be remembered, was put on the stand, but testified from figures made by a deceased surveyor. His testimony was excluded on that ground. So he has gone back and made a survey of his own.

Mr. Manager STERLING. We remember it very well, and we object to the report, because the witness before was questioned thoroughly as to his competency and he never qualified to make a survey of this kind. He knew absolutely nothing about how to make a survey of this kind.

Mr. WORTHINGTON. If the Chair wants to hear from us on that objection, we will ask leave to examine the witness as to his qualifications.

The PRESIDING OFFICER. The Chair will suggest to counsel to refer to the former examination and it may not then be necessary.

Mr. SIMPSON. It is on page 840, when he was first called.

Mr. WORTHINGTON. Shall I read it?

The PRESIDING OFFICER. No.

Mr. WORTHINGTON. It is at page 840. He was not asked any question particularly on his qualification as a surveyor.

The PRESIDING OFFICER. Without repeating questions, the Chair will recognize the right of counsel to propound additional questions. It is not necessary to repeat questions heretofore asked.

Q. (By Mr. WORTHINGTON.) What has been your experience and your qualifications as a mining engineer?—A. I worked on the corps of the Hillside Coal & Iron Co. for two and a half years, after which time I went to Lafayette College at Easton and took the engineering course and graduated from the technical department of that institution in 1904.

Mr. GALLINGER. We have not been able to hear clearly the answer.

Mr. WORTHINGTON. Let the answer be read.

The Reporter read the preceding question and answer.

Q. (By Mr. WORTHINGTON.) You graduated as what?—A. Civil engineer.

Q. And since 1904 in what way have you been engaged in reference to coal property and culm and coal dumps?—A. I have been in active charge of two collieries for five years, and of three for six.

The PRESIDING OFFICER. The Chair will inquire if the managers desire to be heard upon the question.

Mr. Manager STERLING. I have nothing further to add to what I have said.

The PRESIDING OFFICER. The Chair thinks the witness is sufficiently qualified.

Q. (By Mr. WORTHINGTON.) Is this the first coal dump you ever measured?—A. No, sir.

Mr. WORTHINGTON. I have offered the map in evidence, and I offer the statement.

The PRESIDING OFFICER. The Chair thinks that counsel will have to get the witness to testify to it.

Mr. WORTHINGTON. The witness has already stated that he went to the Katydid dump and made a survey, and that this is the result of his survey.

Mr. Manager STERLING. We object to the map.

The PRESIDING OFFICER. The witness can testify as to the details of the map. The witness can prove that he has made the map and then it may be offered in evidence.

Mr. Manager STERLING. We shall urge the same objection to this report that was urged to the others. The other three reports went in by agreement.

The PRESIDING OFFICER. The Chair has not admitted the report. On the contrary, the Chair has expressly ruled that it can not be admitted at this time.

Mr. Manager STERLING. I understood the president to say that it would be admitted later.

The PRESIDING OFFICER. No: we are taking one thing at a time.

Q. (By Mr. WORTHINGTON.) Leaving the map aside for the present, I will ask you to state——

The PRESIDING OFFICER. The witness can testify from the map to refresh his memory in general. There is no objection to that.

Q. (By Mr. WORTHINGTON.) Very well. State then the result of your measurements and investigation; and you may refresh your memory by anything that you made yourself at the time.

The WITNESS. Katydid dump:

Number of cubic feet in dump, 2,437,795; weight per cubic foot, 53 pounds, which gives us 57,679 gross tons, as per survey of Joseph P. Jennings.

Percentages of coal as given by F. A. Johnson.

Q. (By Mr. WORTHINGTON.) When you say that, you mean the report in evidence—Mr. Johnson's figures in evidence?—A. Yes, sir.

	Per cent.
Stove and above	2.6
Chestnut	.5
Pea	.7
Buckwheat	12.1
Rice	12.7
Barley	31.0
	59.6

Estimate the quantity of coal by sizes.

	Tons.
Stove and above	1,500
Chestnut	288
Pea	404
Buckwheat	6,979
Rice	7,325
Barley	17,880
Total	34,376

Value of royalty in Katydid bank; based upon above estimate and royalties paid by Robertson & Law.

	Tons.	
Pea	404 at 18 cents	$72.72
Buckwheat	6,979 at 9 cents	628.11
Rice	7,325 at 6 cents	439.50
Barley	17,880 at 6 cents	1,072.80
Total	32,588	2,213.13

Value of coal in Katydid bank; based upon above estimate and prices furnished by Mr. Rittenhouse.

	Tons.	
Pea	404 at $1.78	$719.12
Buckwheat	6,979 at $1.41	9,840.39
Rice	7,325 at 70 cents	5,127.50
Barley	17,880 at 30 cents	5,364.00
Total	32,588	21,051.01

JOSEPH P. JENNINGS.

Mr. WORTHINGTON. In view of that statement—counsel do not care to have the map go in if the managers do not—I want to ask the witness whether or not that included the conical dump which is shown on the map here?—A. No, sir.

Q. You have been referring to Mr. Rittenhouse's figures—you mean those which are in evidence? Are you familiar with them?—A. Yes, sir; those are the figures that he gave.

Q. And with his map?—A. I am familiar with his map; yes, sir.

Q. And all in evidence?—A. Yes, sir.

Mr. Manager WEBB. Johnson's figures?

Mr. WORTHINGTON. Both. [To the witness.] Whenever you refer to Johnson's figures, you mean those in evidence?—A. Yes, sir; I took that out of the record.

Q. Is there any difference between your method of calculation and Rittenhouse's, except that you omit the conical dump which he included?—A. There is no difference in calculation. He puts in more of the bank than I do—more of that rock fill.

Q What is that difference? Explain that.—A. That difference comes in where the rock and culm were dumped in together, as was testified to by Mr. Johnson, and formed a vertical wall. Mr. Rittenhouse did not know that was there. He assumed that the bank sloped both ways and, of course, he would get more than I would.

Q. Why do you say Mr. Rittenhouse assumed that?—A. His profile shows it.

Q. The profile in evidence?—A. The profile in evidence shows the slope; yes, sir.

Q. I wish you would go to the map back there and show just where this location is of which you are speaking.—A. (After going to and examining the map in the rear of the Chamber.) It is marked on here, starting at point B [indicating] and following this zigzag line around to about the point A there as marked [indicating].

Q. Now, just explain right there what you mean. You have given a vertical line there, and Mr. Rittenhouse has given a slope.—A. The culm was dumped along here [indicating], and the rock was dumped along there [indicating]. The slope—the old mine opening—went under the cliff here [indicating], and Robertson & Law put in a number of mine tracks radiating from a common point in order to dispose of the mine rock. That rock material was dumped there [indicating] before the culm was dumped. A person going on the ground to-day could not tell which was dumped first. Mr. Rittenhouse in his profile estimates that this bank slopes under this slush bank, which is not so.

Q. That is shown by his profile that is in evidence?—A. Yes, sir.

Q. Will you please look at this map [indicating], which is in evidence, and the blue print, which is marked "U. S. S. Exhibit V," being the map which, as it appears from the evidence, Capt. May acted upon when he made the recommendation to sell for $45,000——

Mr. Manager STERLING. We object to the statement for the reason that that does not appear. We understand it appears in the evidence that Capt. May testified that he estimated 85,000 gross tons. That is his testimony.

Q. (By Mr. WORTHINGTON.) Look at that map, then, which counsel for the respondent claim is the one that the evidence shows Capt. May acted upon. Have you also taken that map and made a calculation as to the material in this bank from that?—A. I have.

Q. Have you got that calculation?—A. I have.

Q. I wish, refreshing your memory by any figures you have, you would state the result of that.—A. The number of cubic feet in solids, as shown in that print, is 2,316,065, which, at 53 pounds to the cubic foot, is 54,800 tons of material.

Q. Why do you take 53 pounds to the cubic foot?—A. It varies a pound or so. You never get the same thing twice in measuring it up. It depends upon the amount of moisture. You never could weigh a portion of a culm dump and get the same thing twice, because the amount of moisture in it would determine the weight.

Q. Is there a large variance or is it generally in a small degree?—A. There might be a variance of a few pounds to the cubic foot. I took it at 53 because it is the easiest to calculate.

Q. I wish you would now look at the map, which is in evidence, and which is known as the Merriman map, which appears facing page 987 in the record in this case. I ask you, taking the same blue print, U. S. S. Exhibit V, to tell me if you can tell from that map whether it is based upon the assumption of a vertical line where you have indicated Mr. Rittenhouse had a slope?—A. Yes; it is.

Q. And that, too, omits the conical dump?—A. It omits the conical dump.

Q. I observe, Mr. Jennings, on this blue print, Exhibit V, there appear to be some figures in pencil which appear clearly on the map as printed in the record. Can you identify those figures?—A. Those figures are Mr. May's figures.

Q. Capt. May's figures, you mean?—A. Yes, sir.

Mr. WORTHINGTON. That is all, gentlemen.

Cross-examination:

Q. (By Mr. Manager STERLING.) The map you are testifying about there, the blue print, was made by Merriman, was it not?—A. It was made by Mr. Merriman.

Q. He is dead?—A. Yes, sir.

Q. He was the engineer for the Erie Railroad Co. and the Hillside Coal & Iron Co. for many years, was he not?—A. He was the engineer for the land department for many years.

Q. He had great experience, did he not, in measuring culm dumps?—A. I could not say as to that.

Q. Well, he was thoroughly qualified to do it, was he not, from his experience, being connected with the coal business?—A. I suppose he was; yes, sir.

Q. Well, do you think he was as well qualified as you are?—A. I think I am as well qualified as he was.

Q. Better? Do you think you are better qualified?—A. I think I am just as qualified as he was.

Q. I have to agree with you on that, because I do not know. Now, who wrote at the bottom of the map there that Mr. Merriman made in the lower right-hand corner?—A. He wrote that, sir.

Q. He says, "Estimate, 55,000 gross tons available"——A. Yes, sir.

Q. "Exclusive of slush, rock, dirt, etc., of no value, as per Mr. Johnson, inspector"?—A. Yes sir.

Q. So Mr. Merriman, an experienced engineer, and Mr. Johnson found 55,000 tons of coal, did they not?—A. No, sir.

Q. What did they find there? What does that mean?—A. That means 55,000 tons of material.

Q. In the whole dump?—A. No, sir.

Q. What does it mean?—A. In that part outlined in that blue print.

Q. That means everything that they measured, does it?—A. Yes, sir.

Q. Well, it says "exclusive of rock, slate, dirt, &c.," does it not?—A. Rock, slush, dirt, &c.

Q. So it excludes everything but coal, does it not?—A. No, sir.

Q. And finds 55,000 tons of coal, which is within about three or four thousand tons of what Mr. Saums estimated and what——

Mr. WORTHINGTON. We object to arguing with the witness as to what Mr. Saums said.

Q. (By Mr. Manager STERLING.) And what Mr. Rittenhouse made? You knew that Mr. Saums made a survey of this, did you not?—A. I knew that.

Q. You knew he made it for the Du Pont Powder Co. when they were considering purchasing?—A. Not until I heard it spoken of here.

Q. You know now that he did make it, and made it for that purpose?—A. I did not understand that Mr. Saums made a survey.

Q. He found 40,000 gross tons of material, did he not?—A. I do not know what he testified to.

Q. And Mr. Rittenhouse found something over 85,000 gross tons?

The PRESIDING OFFICER. The Chair thinks all that is in evidence. The witness can not strengthen it by saying it is there. Unless it is intended to ask a question predicated on that——

Mr. Manager STERLING. I will say that I was asking the question for the purpose of comparing this gentleman's estimate with the estimate of these other men, who made their esti-

made at the time when there were no impeachment proceedings on hand.

The PRESIDING OFFICER. It is not necessary to have testimony from him as to what other witnesses testified.

Mr. Manager STERLING. Very well; I will not pursue it any further.

Q. (By Mr. Manager STERLING.) You say that you knew that Rittenhouse made a survey?—A. Yes, sir.

Q. And he made it not knowing the purpose of his survey, did he not?—A. No, sir; he did not know what was there; he did not know the lay of the ground.

Q. You have made your survey, and were sent by the counsel for Judge Archbald since this trial commenced to make a survey for the purposes of this hearing, were you not?—A. Yes, sir.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) In view of the cross-examination, what is meant by the reference there to slush, rock, dirt, and so forth?—A. When we——

Mr. Manager STERLING. We object. It speaks for itself.

The PRESIDING OFFICER. The Chair is of opinion that all that evidence is improper. That report speaks for itself, unless it is in ambiguity.

Mr. WORTHINGTON. Very well, Mr. President. I will not abuse your patience further.

The PRESIDING OFFICER. The witness may retire.

Mr. GALLINGER. Mr. President, it has been suggested that both sides are agreeable to an adjournment at this time.

Mr. WORTHINGTON. So far as the counsel for the respondent are concerned we are entirely content.

Mr. Manager WEBB. That is agreeable to us, Mr. President.

Mr. GALLINGER. I then, Mr. President, ask unanimous consent that the Senate sitting as a Court of Impeachment do now adjourn.

Mr. CRAWFORD. May I inquire if it is not possible to close the testimony to-day? The time of the Senate is very valuable, and we ought to get through with this testimony, it seems to me.

Mr. WORTHINGTON. I think, if we could go on, we could close to-day with everybody except Judge Archbald, whom we expect to put upon the stand. Of course, his direct examination will be quite lengthy. We have yet a number of witnesses and some papers to offer in evidence. The testimony of those witnesses will all be comparatively short, I should say, but I think if we should go on and undertake to finish with the evidence, except the examination of the respondent, it would probably take us until 6 o'clock. It is a little hard to tell as to that; but, so far as we are concerned, we are entirely content to adjourn now or to go on.

Mr. GALLINGER. Mr. President, if there is a disposition to go on, of course, I will not make the request. I understood that both sides were rather desirous of adjourning at the present time, but I may have been misinformed.

Mr. CRAWFORD. I simply express the hope that we may finish the testimony, with the exception of the respondent's statement, if possible, to-day on account of the other work we have before us. We have had a vacation of a couple of weeks, and it seems to me we might as well continue until 6 o'clock this evening.

The PRESIDING OFFICER. Counsel for the respondent will proceed with the testimony.

TESTIMONY OF R. M. SALTONSTALL.

Mr. WORTHINGTON. Mr. President, I desire now to make a statement in regard to Mr. Saltonstall, whose name has been mentioned here as one of the persons who sent the notice to Capt. May at the suggestion of the witness, Mr. Holden. Mr. Saltonstall was here yesterday, and we went with him to confer with the managers, and arrived at an agreement which I was about to state. Mr. Saltonstall was very anxious to be allowed to go back to keep an engagement which he had in Boston to-day.

Mr. Manager STERLING. Mr. President, the agreement was submitted to the managers, and we have no objection to the statement going in in lieu of the testimony of Mr. Saltonstall; but it is admitted, I presume, that he is the Saltonstall who represented a part of the Everhart interests?

Mr. WORTHINGTON. Certainly; that is the reason why we desire his testimony.

Mr. Manager STERLING. With that understanding, we have no objection to it.

Mr. WORTHINGTON. The statement is as follows:

R. M. Saltonstall would testify that he wrote the letters of April 13, 1911, to Capt. W. A. May and to Robertson and Law, which are in evidence as Exhibits G and Q, at the suggestion of Mr. Charles P. Holden, who told him that the Hillside Coal & Iron Co. was about to sell the dump on lot 46, referred to in the evidence; that nothing was said to him at that time by said Holden about Judge Archbald; that he, Saltonstall, when he wrote those letters, had no knowledge or suspicion that any investigation of Judge Archbald was contemplated; and that, so far as the witness knew, Judge Archbald had no interest in the proposed sale.

That, as has been stated by Mr. Manager STERLING, we agree may stand in place of the evidence of Mr. Saltonstall.

TESTIMONY OF ALLEN V. COCKRELL.

Allen V. Cockrell, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Cockrell, your full name, please.—A. Allen V. Cockrell.

Q. You are connected in some way with the Interstate Commerce Commission, I believe?—A. I am now a special examiner.

Q. In January and February of 1912 how were you employed?—A. I was confidential clerk.

Q. Of Commissioner Meyer?—A. Assigned to him; yes, sir.

Q. You remember, do you, the time when William P. Boland came from Scranton down to Washington and saw you and Commissioner Meyer?—A. I do.

Q. And you know, of course, of the statement that was taken to the President by Commissioner Meyer?—A. I do.

Q. You prepared that statement, I believe?—A. I prepared a statement, which, I understand, Mr. Meyer took to the President.

Q. I show you the statement which appears in this record on pages 702 and 703. Just glance at it, so as to be able to identify it. Look at it as closely as may be necessary to satisfy you that it is the paper you drafted.—A. (After examining paper.) I identify this as a copy of the paper.

Q. From whom did you get the information which was embodied in that statement?—A. From Mr. William P. Boland.

Q. I believe you were present at a hearing at the Attorney General's office, which took place on the 21st of February, 1912, when Mr. Edward J. Williams was there and was examined, and Mr. William P. Boland and Mr. C. G. Boland?—A. I was.

Q. How did you come to be there, Mr. Cockrell?—A. I do not know. Mr. Meyer told me to go and take those gentlemen to the Attorney General's office.

Q. And you participated in the questioning of Mr. Williams there?—A. The questioning was done by the Attorney General. At times I would make a remark to elucidate some of the statements.

Q. Well, I will not go into the details of that.

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. One more question. Why was the name of Judge Witmer omitted from this statement?

Mr. Manager FLOYD. We object. Nothing has been said about Judge Witmer.

Mr. WORTHINGTON. Oh, yes. Mr. Meyer was asked about that, and he said——

Mr. Manager FLOYD. I am talking about this witness. You have asked this witness nothing about Judge Witmer.

Mr. WORTHINGTON. No; but I am asking him about it now.

The PRESIDING OFFICER. What is the question?

Mr. WORTHINGTON. I was trying to save time, but I will withdraw the question for the present and ask another. Did Boland, in this same conversation, make charges to you against Judge Witmer?

Mr. Manager STERLING and Mr. Manager FLOYD. We object to that.

Mr. WORTHINGTON. Mr. President, when Mr. Commissioner Meyer was on the stand he was asked about that, and he stated that if Judge Witmer's name was intentionally left out of the paper that was taken to the President it must have been done by Mr. Cockrell and not by him, because Cockrell had the interview. Now, I think we ought to be permitted to show a little something more about the history of this transaction than the managers saw fit to introduce through Mr. Meyer. They called Mr. Commissioner Meyer here as their witness. He did not know anything about Judge Archbald's transactions or anything he had done, and did not give a word of testimony that was competent on any issue in this case, except that the managers stated that they proposed to show the history of the movement or proceeding which resulted in this impeachment. I think that we ought to be able to show, as we propose to show, that the same W. P. Boland who made the charges against Judge Archbald which are embodied in this statement, nearly every one of which has been shown to be utterly false, made similar charges against Judge Witmer at the same time, and that the paper which was prepared and taken to the President omitted entirely any reference to Judge Witmer, but bore only upon Judge Archbald, who happened to be a member of the Commerce Court, to which court appeals lie from the decisions of the Interstate Commerce Commission.

I think that is a part of the history of this transaction with which the Senate ought to be acquainted, because I propose to prove that William P. Boland charged before the Interstate Commerce Commission, as he charged on this witness stand, that Judge Witmer had rendered a decision in the Peale case which he said ruined him, or was intended to ruin him, at the instigation of Judge Archbald. Why, when they embodied in the statement the charge about Judge Archbald, they did not also embody the charge about that other Federal judge is what we want to find out, and I think the Senate ought to know the reason. The entire history of this case, since we have gone back to Commissioner Meyer, ought to be before the Senate. As it is now, it is a mangled proceeding. We have got here a part of it, but we have not got what may prove to be the most important part of it.

The PRESIDING OFFICER. If the evidence were admitted as to what has been said regarding Judge Witmer, of course, issue could be raised on it as to whether or not what was then said was true or false, and that would open another investigation as to whether or not Judge Witmer had done wrong, which is not involved in this case. The Chair will, therefore, exclude the evidence.

Mr. WORTHINGTON. That being so, Mr. President, I have nothing further to ask this witness.

Cross-examination:

Q. (By Mr. Manager FLOYD.) Mr. Cockrell, I will ask you whether or not you took down this statement in shorthand, or took it down at the time it was made, or made it out from memory after he had made the statement to you?—A. Mr. Boland's statement was made in the morning. I was not asked until late that afternoon to make a memorandum; and I had to rely entirely upon my memory in preparing the memorandum which went to the President.

Mr. Manager FLOYD. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Is that an accurate statement of what Boland said, or the substance of it?—A. So far as I can remember; yes, sir.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF ROBERT C. TRACY.

Robert C. Tracy, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) You are connected with the Department of Justice?—A. Yes, sir.

Q. In what capacity?—A. Clerk.

Q. Did you make a schedule showing the names and occupations of the jury commissioners of the various Federal districts throughout the country?—A. Yes, sir.

Q. Will you look at the paper I hand you, and tell me, please, whether that is the schedule which was prepared by you?—A. (After examining paper.) Yes, sir.

Mr. Manager FLOYD. We object, Mr. President.

Mr. SIMPSON. In order to get the record straight, I will offer it so that Mr. Manager FLOYD may object to it. I now offer the schedule in evidence.

Mr. Manager FLOYD. We object to it as wholly immaterial. It purports to be a list of jury commissioners and their occupations. We object to it; it is wholly irrelevant and incompetent.

The PRESIDING OFFICER. Jury commissioners of what jurisdiction?

Mr. SIMPSON. Of various Federal districts throughout the country. You may remember, sir, if you will listen a moment so that I may get before you exactly the point of it, that in one of the articles of impeachment—the twelfth article, I think—objection was made to the appointment by Judge Archbald of Mr. Woodward as a jury commissioner, he being a lawyer. This schedule is made up simply for the purpose of showing throughout the country, in all the judicial districts of the country, the names and occupations of the jury commissioners and that a large number of them are in fact lawyers. That bears upon the question as to whether or not there was any exercise of ill faith or bad faith, or whatever you may choose to call it, in selecting a lawyer for that office.

Mr. Manager CLAYTON. Mr. President, has counsel concluded?

Mr. SIMPSON. I have concluded offering the schedule and all I have to say on it.

Mr. Manager CLAYTON. Mr. President, I desire to say that we object to this particular testimony for two reasons. In the first place, if it be a bad custom to appoint lawyers as jury commissioners, the fact that other judges may have indulged in that bad custom can not make it a law. The present occupant of the chair is familiar with the rule, which is fundamental, that a custom, even under the law merchant, to become a law must be a good custom.

And again, Mr. President, we object to it because the particular charge here is that he appointed as a jury commissioner a railroad attorney. This list here purports on its face to show no more than that they were attorneys. Perhaps it may not be the subject of criticism for a judge to appoint as a jury commissioner an attorney disassociated with the railroad business, disassociated with the business of the court over which the judge presides.

The very gravamen of this charge is that he appointed not only a lawyer—that is not the test—but that he appointed a lawyer of corporations having litigation before the court over which he presided; and we think it is clear upon that point that this evidence is not admissible.

Mr. SIMPSON. I do not claim that we are proving a custom here in any such sense as the chairman of the managers suggests. The question we have here, sir, is a question of criminal intent, of corrupt action on the part of Judge Archbald, and anything which tends to show that there was no such criminal intent, no corrupt motive on his part, is evidence, the weight of which the Senate will ultimately have to determine.

Now, one of the first steps in showing that is that there has been throughout the country the appointment of lawyers as jury commissioners. Then, when Judge Archbald is on the stand, the next step will necessarily have to be taken, by way of our proofs upon that point, and then the Senate, sir, will pass upon the whole matter.

The PRESIDING OFFICER. The Chair is in grave doubt as to whether or not it is material, but does not think it is a matter of very great importance. It will give the respondent the benefit of the doubt in the mind of the Chair, and let the evidence go in for what it is worth.

Mr. SIMPSON. I will not ask that it be read; I think it would be quite a waste of time; but ask that it be marked as an exhibit and go into the record.

The paper is as follows:

[U. S. S. Exhibit GG.]

Statement showing the names and usual occupations of the jury commissioners throughout the United States.

Judicial district.	Name.	Occupation.
Alabama, northern:		
Southern division	J. B. Cobbs	Real estate.
Jasper division	J. O. Long	Farmer, etc.
Western division	Frank M. Moody	Banker.
Middle division	E. T. Hollinsworth	Do.
Eastern division	R. H. Stickney	Druggist.
Northeastern division	P. E. Pettus	Grocer.
Northwestern division	Turner Rice	Banker.
Alabama, middle	James H. Judkins	Lawyer and farmer.
Alabama, southern	Joseph H. Locke	Merchant.
Arizona	Vernon L. Clark	Ostrich farmer.
Arkansas, eastern	Wm. P. Feild	Banker and planter.
Arkansas, western:		
Harrison division	Wm. A. Brittin	Merchant.
Fort Smith division	Geo. R. Wood	Banker.
Texarkana division	Allen Winham	Do.
California, northern	Frank Dalton	Manager, building.
California, southern:		
Northern division	C. T. Cearley	Stationer.
Southern division	U. D. Woolwine	Banker.
Colorado	Chas. D. Cobb	Insurance agent.
Connecticut	Chas. E. Pickett	Deputy clerk, United States District Court.
Delaware	J. Wilkins Cooch	Capitalist.
	Anilek Palmer	United States marshal.
District of Columbia	John R. Young	Clerk, Supreme Court, District of Columbia.
	C. C. Rogers	Collector of taxes, District of Columbia.
Florida, northern:		
Pensacola division	Walker Anderson	Insurance agent.
Tallahassee division	G. W. Saxon	Banker.
Gainesville division	W. B. Taylor	Merchant.
Florida, southern	Peter E. Dignon	Grocer.
Georgia, northern	A. L. Walde	Real estate.
Idaho	Benj. S. Howe	Manager water company.
Illinios, northern (northern division).	Frank H. Jones	Banker.
Illinois, eastern	Wilber P. Craig	Do.
Illinois, southern:		
Northern division	H. W. Danforth	Lawyer, etc.
Southern division	W. O. Converse	Capitalist.
Indiana	A. Q. Jones	Lawyer.
Iowa, northern:		
Eastern division	Thomas M. Irish	Schoolmaster.
Cedar Rapids division	James E. Lawler	Real estate.
Central division	Harry L. Weiss	Do.
Western division	William E. Powell	Do.
Iowa, southern:		
Central division	D. W. Smouse	Physician.
Eastern division	J. W. Hobbs	Insurance agent.
Western division	O. H. Lucas	Retired from business.
Southern division	W. H. Brady	Merchant.
Davenport division	H. J. McFarland	Clerk county court.
Ottumwa division	J. C. Jordan	Banker.

Statement showing the names and usual occupations of the jury commissioners throughout the United States—Continued.

Judicial district.	Name.	Occupation.
Kansas	John Mileham	Lawyer.
Kentucky, eastern (Covington division).	John R. Coppeir	Merchant.
Kentucky, western:		
Louisville division	Charles D. Grainger	President water company.
Paducah division	Muscoe Burnett	Treasurer water company.
Owensboro division	B. T. Field	Farmer.
Bowling Green division	J. Whit Potter	Banker.
Louisiana, eastern	Frank H. Mortimer	Clerk circuit court of appeals.
Louisiana, western	Different persons appointed for each term.	
Maine	Frank L. Clark	County official.
Maryland	Thomas F. Tomlne	Insurance agent.
Massachusetts	Joseph H. O'Neil	Banker.
Michigan, eastern	Edw. C. VanHusan	Real estate.
Michigan, western:		
Southern division	Charles H. Bender	Banker.
Marquette division	Joseph S. Courtney	Insurance agent.
Minnesota	John R. Donohue	Lawyer.
Mississippi, northern	J. F. Matthews	Banker.
Mississippi, southern	James Galceran	Clerk, railroad commission.
Missouri, eastern	Roland M. Homer	Lawyer.
Missouri, western	Joseph S. Rust	Do.
Montana	H. H. Piggott	Real estate.
Nebraska:		
Omaha division	George Tilden	Physician.
Norfolk division	George D. Smith	Farmer.
Chadron division	George A. Birdsall	Contractor.
Grand Island division	Guy A. Harrison	Lumberman.
Hastings division	George A. Allen	Postmaster.
Lincoln division	A. M. Trimble	Farmer.
McCook division	F. M. Kimmell	Publisher.
North Platte division	Frank R. Elliott	Merchant.
Nevada	J. E. Gignoux	Miner.
New Hampshire	David D. Taylor	Baker.
New Jersey	Fred. S. McNeely	Retired from business.
New Mexico	Marcelino Garcia	Merchant.
New York, northern	Sylvester Dering	Insurance, etc.
New York, eastern	Henry I. Hayden	Insurance.
New York, southern	Edw. L. Patterson	Lawyer.
New York, western	Henry H. Seymour	Do.
North Carolina, eastern	Joseph G. Brown	Banker.
North Carolina, western	R. M. Rees	State official.
North Dakota	J. P. Hardy	Printer.
Ohio, northern	J. J. Sullivan	Banker.
Ohio, southern	Thos. W. Allen	Merchant.
Oklahoma, eastern	M. E. Williams	Insurance.
Oklahoma, western	Geo. W. Ball	Real estate.
Oregon	T. M. Wood	Do.
Pennsylvania, eastern	Chas. H. Matthews	Lawyer.
Pennsylvania, middle	Eugene Zeopiing	Ex-banker.
Pennsylvania, western	Geo. W. Burgruion	Lawyer.
Rhode Island	F. H. Jackson	Broker.
South Carolina:		
Charleston division	W. M. Bird	Merchant.
Greenville division	Frank Hammond	Banker.
South Dakota	Dant. G. Glidden	Capitalist.
Tennessee, eastern:		
Northern division	Henry R. Gibson	Lawyer.
Southern division	Prosper Lazard	Fruit farmer.
Northeastern division	J. W. Howard	Officer fraternal society.
Tennessee, middle:		
Cookeville division	John G. Duke	Not known.
Nashville division	W. M. Woodcock	Publisher.
Tennessee, western:		
Eastern division	W. P. Robertson	Merchant.
Western division	Harry E. Coffin	Ex-merchant.
Texas, northern[1]		
Texas, eastern	C. D. Hughes	Farmer.
Texas, southern (Galveston division).	Geo. P. Dobson	Produce broker.
Texas, western	E. C. Barthalomew	Capitalist.
Utah	Josiah Barnett	Banker-broker.
Vermont	David W. Temple	Farmer, etc.
Virginia, eastern	Harvey Willson	Lawyer.
Virginia, western	Alford B. Perry	Do.
Washington, eastern	Dana Child	Banker.
Washington, western (northern division).	Earl R. Jenner	Lawyer.
West Virginia, northern:		
Philippi division	Worthington Chenoweth	Dentist.
Clarksburg division	J. J. Jackson	Lawyer, retired.
Martinsburg division	A. C. Nadenbousch	Lawyer.
Wheeling division	Jacob W. Grubb	Jewelry merchant.
Parkersburg division	John G. Hogan	Treasurer, building association.
West Virginia, southern:		
Charleston division	Jas. F. Cork	Lawyer.
Huntington division	B. F. Morris	Farmer.
Bluefield division	J. H. McCullough	Insurance agent.
Addison division	Jas. Woodell	Hotel man.
Wisconsin, eastern	Chas. H. Swan	Sales agent.
Wisconsin, western:		
Madison division	John Corscot	Corporation official.
La Crosse division	John F. Doherty	Lawyer.
Superior division	Carl L. Wilson	Do.
Wyoming	John Hartington	Merchant.
Alaska, first division	Geo. F. Forrest	Proprietor of a machine shop.
Porto Rico	Albert Lee	Merchant.
Hawaii	Richard H. Trent	Not known.

[1] Has no jury commissioner at present.

DEPARTMENT OF JUSTICE,
UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF WEST VIRGINIA,
Parkersburg, October 7, 1912.

The ATTORNEY GENERAL, *Washington, D. C.*

SIR: Replying to the department's letter dated September 26, 1912, initials JJC-AGM, I beg to advise I have made inquiries of A. C. Nadenbousch and J. J. Jackson, jury commissioners, respectively, for Martinsburg and Clarksburg, with respect to the information desired, and beg to report first with reference to Mr. Nadenbousch:

He is regularly retained as attorney by the Cumberland Valley Railroad Co., a small railroad operating in that region, I understand running between Harrisburg, Pa., and Winchester, Va.

After having ascertained this fact I reported the same to Judge Dayton, who directed me to say that if for any reason the department would consider Mr. Nadenbousch's office of jury commissioner inconsistent with the employment noted above, he will request his resignation and appoint some one in his stead. Mr. Nadenbousch was appointed by the former Federal judge, Hon. John J. Jackson, and Judge Dayton was not cognizant of his employment by the railroad in question, and in fact the subject had never been under discussion during Judge Dayton's tenure of office. Our next regular term of court at Martinsburg does not convene until next April.

With respect to Mr. J. J. Jackson, jury commissioner at Clarksburg, he is not retained by any railroad or corporation, and in fact informs me he is entirely out of the active practice of the law.

Very respectfully,

C. B. KEPANVER, *Clerk.*

Mr. Manager FLOYD. We have no questions.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF JOHN T. BROWN.

John T. Brown, being duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Where is your home?—A. Scranton, Pa.

Q. What is your business?—A. I am employed on the Scranton Times as a reporter.

Q. How long have you been employed as such reporter on that paper?—A. Ten years.

Q. Were you working on that paper in April, 1912?—A. Yes, sir.

Q. Do you remember the date on which the articles appeared in your paper for the first time with reference to Judge Archbald?—A. Yes, sir.

Q. I show you the Scranton Times bearing date April 22, 1912, and ask you if that is the paper in which that first appeared in Scranton?—A. (After examination.) Yes, sir; this is the first one.

Q. The article in the paper entitled "Charges filed against Judge R. W. Archbald, of the Commerce Court," is the first appearance of any newspaper article published in Scranton?—A. Yes, sir.

Q. Do you recollect the appearance of the article in the Philadelphia North American?—A. Yes, sir; I think it was the same day. It was the morning of the 22d of April.

Q. I show you the copy of the Philadelphia North American dated Monday, April 22, and ask you if that is the edition of that paper in which the articles first appeared?—A. (After examination.) Yes, sir.

Q. What time does the Philadelphia North American circulate in Scranton? I mean what time of the day would that newspaper reach Scranton for circulation?—A. Well, I do not know anything about the general circulation of the North American through the city, although it has quite a circulation, except we get two copies of it at our office, delivered by a newsboy, every morning about 9 o'clock.

Q. I think you misunderstood my question. I asked what time of the day it appeared in Scranton?—A. That is what I have said—9 o'clock in the morning.

Q. That is the first time it appears there—9 o'clock in the morning?—A. That I have any knowledge of.

Q. What time of the day is the Scranton Times published?—A. The first edition of the Scranton Times gets on the streets of Scranton about half past 1 o'clock in the afternoon.

Q. Can you say whether this paper I have shown you, the Scranton Times, was the first or last edition, or what time of day this edition does appear upon the streets of Scranton?—A. We have three editions a day: one that gets on the streets about half past 1; the second one gets out about half past 3; and the last about quarter past 4—that is our last edition, the stock extra.

Q. That would appear on the streets, then, about quarter past 4 of that date?—A. Yes, sir.

Mr. MARTIN. You may cross-examine.

Mr. Manager WEBB. We have no questions.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF GEORGE M. WATSON.

Mr. SIMPSON. Mr. President, I desire to offer in evidence the testimony of George M. Watson, as taken by the Judiciary

Committee of the House of Representatives and published at pages 1317 to 1401 of those proceedings.

Mr. Manager FLOYD. Mr. President——

Mr. SIMPSON. Pardon me one minute. We submitted this to the chairman of the managers, or, rather, the question of putting in only a part of it, and the chairman of the managers has told us to-day that he prefers to have the whole testimony go in. We do not ask to have it read, because it would take the larger part of the day to do so, but there are parts of it that both sides would like to refer to, and so I ask that it all go in. The witness is ill; and the managers tried to get him and reported they could not; and he is unable to leave his room, I understand.

Mr. Manager FLOYD. That is satisfactory. I simply desired to object to reading portions of the testimony.

Mr. SIMPSON. We do not desire to read any of it.

The PRESIDING OFFICER. If there be no objection it will be incorporated as a part of the record in this case.

Mr. WORTHINGTON. Then it ought to be printed in the record as if it had been given here.

The PRESIDING OFFICER. Undoubtedly——

Mr. SIMPSON. Yes; but we are not going to read it.

The PRESIDING OFFICER. The same as if the witness had been on the stand here.

Mr. POMERENE. If it is not out of order, Mr. President, may I ask to what charge this applies?

Mr. SIMPSON. It relates to the second article, in the matter of the attempt to settle the controversies between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.

The matter referred to is as follows:

George M. Watson, being first duly sworn, was examined and testified as follows:

The CHAIRMAN. Mr. Watson, please give your full name, your address, and your occupation.

Mr. WATSON. My name is George M. Watson. I live in Scranton, at 1659 Jefferson Avenue. My office is at present 322 Connell Building. It was 822 until very recently. I moved downstairs several flights.

The CHAIRMAN. And your occupation?

Mr. WATSON. My occupation is that of a lawyer, an attorney.

The CHAIRMAN. How long have you known Edward J. Williams?

Mr. WATSON. A good while; I could not tell, but I remember him as a mine foreman many years ago, when he was employed. For many years he has not been employed as a miner, working about the mines, and when he was employed I knew him. I judge it was—well, twenty-odd years ago.

The CHAIRMAN. What has been his occupation since he quit mining?

Mr. WATSON. I really do not know. Until the last year or two I met him very infrequently, and I do not know.

The CHAIRMAN. What has he been doing in the last year or two?

Mr. WATSON. I hardly know that. I have seen him on the street. There seem to be two blocks which we have to travel very often to get to the courthouse and to the post office, and he is moving along the street there when I see him.

The CHAIRMAN. Do you know of his operating any culm banks or doing any of that sort of business?

Mr. WATSON. I never knew that he did. Since this suit began I have understood that he was indirectly interested in this coal company or this culm washery.

The CHAIRMAN. How long have you known Judge Archbald?

Mr. WATSON. A great many years; I judge 30; maybe longer—32.

The CHAIRMAN. Will you please state in your own way, but fully, just how you became retained by the Bolands to negotiate the sale of their interest in the Marian Coal Co. to the Delaware, Lackawanna & Western Railroad, and just how and by whom those negotiations were conducted from the time you were originally employed by the Bolands, up to the present time.

Mr. WATSON. What moved Mr. Boland to come to my office, I do not know. He came to my office, my recollection is, some time in August; perhaps the latter part.

The CHAIRMAN. Which Boland, and when?

Mr. WATSON. That was C. G. Boland, in August of last year. I will not be positive about that. My better judgment would be September; but there has been so much in the testimony here about August that I may be mistaken, and it might have been August. I made no note of it, and all the data I did have I gave to Mr. William P. Boland when I returned the papers to him, I think about the 10th day of October.

Mr. Boland came to my office and told me that he desired to get rid of this washery, to sell it; and he said, "I am satisfied that you can sell the washery for me." I told him I knew nothing of it, and he said they had a lawsuit, and I never heard of that either. It seems to me it was Peale, Peacock & Kerr, the way he gave the name—and I know something of them as coal men—had begun an action; perhaps it was an equity proceeding; I have forgotten just what it was; but, at any rate, it was brought in the United States circuit court for that district, years before—I do not know how long before, but a couple of years before that, and that they had a judge that had been appointed quite recently, Judge Witmer, and he asked me if I knew him. I told him I did just know the man—that was all; I never talked with him much and never practiced law before him any, so I did not know him much. Well, he wanted something done by which we could find out if that case could be adjusted. It seems that they were talking about rates, or there was some difficulty about what interest Peale had, or if he had any interest, and he had made advances of money or something like that, and he wanted to know if I could get the data. Now, this was C. G. Boland. I had not seen W. P. Boland at that time, or for some time after. I told him I would look the matter up, but I did not know that I could help him in that direction. He finally suggested to me that if I could see Judge Archbald and talk with him about it, he might in some way get me to Witmer. He knew, I suppose, that I had known Judge Archbald for many years.

I did not go to Judge Archbald, however. I went over to the court and looked up the record at that time, and I found an action had been begun; I found there had been a demurrer; I found it had been disposed of; I found that a commissioner had been appointed to take testimony, and I found that they had taken the testimony and closed the case, and that the report was then in the hands of Judge Witmer. That is what I discovered when I first went into this case.

I told Mr. Boland that that was the status of the case, and I said, "It is all in the hands of Judge Witmer now, and the arguments are all over." Well, he did not like it. He did not like that way. He said there ought to be some way of getting into that court and getting the court to understand the case better than he knew they did; and there was some comment made upon Mr. Donnelly. This was the first I knew that Mr. Donnelly was connected with that case.

Finally, after three or four meetings with Mr. Boland—and these meetings may not have been planned, because my office was so located that Mr. Boland was obliged to pass it in going to the Underwriters' Insurance office, which was two doors beyond me; he passed there every day, sometimes a couple of times a day, and he may have dropped in casually. I do not know that he came over purposely to see me, but he came in, as I say, frequently, three or four or five times, before Mr. W. P. Boland came into the case at all.

Then he made a suggestion to me that they would like to sell this property, and asked me if I thought I could negotiate with the Lackawanna road, and I told him perhaps I could; I did not know; I knew some of the men, but some of them I did not know, that were connected with the road. They had been comparatively newcomers to me, you know. The road has changed management within a dozen years, and some of those people are there that I do not know. But after a while he told me that he would like to retain me to do this work for them, and that he would give me $5,000 for a fee if I could get the Lackawanna Railroad to take this property. Now, he did not fix any price at all. There was not a price fixed at that meeting as to what I should ask or what I hoped to get. He said: "I will take it up with my brother. If he agrees to this, I will come and see you, and you can commence negotiations."

Then I think Mr. W. P. Boland came over to the office, and the two were there together, and there was some little discussion as to the status of this case. This case in the United States court seemed to be the trouble. They were afraid of a decree, and it was getting close to it, and they wanted something done with that case. I suggested—I think Mr. W. P. Boland suggested—that there ought to be a way of getting a rehearing, and he pulled out of his pocket a roll of typewritten papers and showed me discrepancies in the testimony, and things that would seem, taken in that way, to build up a case so that they might be entitled to relief. Whether he knew that he was not going to get relief, Mr. Boland did tell me that they were beaten in this United States court proposition, and he told me that a man told him they were beaten, and he said, "I could have told you that months ago," and he named the man that told him. So he believed, I fancy, that this——

The CHAIRMAN. Let us have it all. You say he named the man?

Mr. WATSON. He did; he named the man.

The CHAIRMAN. State his name.

Mr. WATSON. His name is Searle—E. R. W. Searle, I think it is, or E. W. R. Searle. I have forgotten the name, but it was two or three letters anyway.

The CHAIRMAN. Who was that?

Mr. WATSON. E. R. W. Searle was the clerk of the circuit court and district court of the middle district of Pennsylvania.

The CHAIRMAN. And who was the judge of that court?

Mr. WATSON. At this time? Judge Witmer.

The CHAIRMAN. Who was it that had been the judge before that, when he "could have told him months before that he was beaten"? Who was the judge at that time?

Mr. WATSON. He did not say who told him months before, but the judge before that, his predecessor, had been Judge Archbald. He had been there for a number of years—from the organization of the court.

The CHAIRMAN. How recently had Judge Witmer come upon the bench before this talk of yours with the Bolands?

Mr. WATSON. I could not tell you, Judge; I could not tell you. In fact, I have not been in very good thinking order for about a year.

The CHAIRMAN. You have not been in good thinking order for about a year?

Mr. WATSON. Yes; and I can not go back and give dates.

The CHAIRMAN. What time do you fix, if you can, when this conversation occurred with the Bolands that you have spoken of?

Mr. WATSON. My recollection would be—my own independent recollection would be—that it was in the month of September, and toward the middle.

The CHAIRMAN. 1911?

Mr. WATSON. 1911. Now, as I say, Judge Witmer came on the bench at the organization of the Commerce Court.

The CHAIRMAN. This conversation with the Bolands happened before the decree was rendered, did it not?

Mr. WATSON. Yes; there was no decree when I looked at the record. There had been no decree then, because I suggested to him, when he told me that, that the orderly way to proceed would be to draw up a petition setting forth the fact that the judge had not properly discussed or digested the evidence, and ask for a reargument. I suggested it to Boland; told him I would join with his Mr. Donnelly, after I found Mr. Donnelly was there, and present the petition; so I know that the decree had not been handed down at that time. Then I told him right there at that time that after the decree was handed down the way to do was to go into the——

The CHAIRMAN. When was it that that clerk said that he could have told this months before?

Mr. WATSON. Well, in the light of present events, I would not want to say that he ever said it. The clerk never said it to me. He said it to Mr. Boland, so Mr. Boland said, and I am not so sure now. At that time I thought perhaps there had been something of that kind said.

The CHAIRMAN. But you do not know of it of your own knowledge?

Mr. WATSON. Oh, no.

The CHAIRMAN. What time did Boland fix?

Mr. WATSON. He did not fix any time at all.

The CHAIRMAN. You said the clerk told him.

Mr. WATSON. Yes; the clerk told him that he was beaten.

The CHAIRMAN. That he could have told him that months ago?

Mr. WATSON. He could have told him that—now, that is what I understood Mr. Boland to have said. This matter was going along so that they had another matter that seemed to annoy them, and that was an adjustment before the Interstate Commerce Commission. I knew nothing about the practice; I never had had a case before the Interstate Commerce Commission, and we did some little talking about it, and Mr. Boland furnished me maps—that is, a distance map, you call it—showing the towns along the lines where they were selling anthracite.

I think it went as far west and southwest, perhaps, as St. Louis, as far north as Duluth—somewhere up in there—and west of Buffalo, and various points. Many New York State points, many Pennsylvania points, and New Jersey, were on this map, and the lines were drawn from a center leading to this place, the mileage put on, and the rate per ton that they charged. That was one of the papers that he gave me.

The CHAIRMAN. Mr. Watson, going back now to the conversation with the Bolands, you say that was in August or September of 1911?

Mr. WATSON. Yes; my judgment would be it was in the middle of September.

The CHAIRMAN. But since you heard the witnesses testify here fixing it in August, you are in doubt about it?

Mr. WATSON. Well, I could not say that.

The CHAIRMAN. What do you say?

Mr. WATSON. I am not in doubt, but I am perhaps leaning toward the date in August, not having it fixed in my mind and not having made any memorandum. If so many men know it was in August, why, I am not so stubborn that I would not——

The CHAIRMAN. It was before the decree was entered?

Mr. WATSON. Yes; it was before the decree was entered.

The CHAIRMAN. If the decree was entered on the 24th day of August, this conversation which you had with the Bolands must have happened in August?

Mr. WATSON. Yes; and that does refresh my mind now, my recollection of the matter. I am satisfied now that it was somewhere about two or three days before that decree, because I remember the fact of the decree coming down and Mr. Boland coming to my office and telling me.

The CHAIRMAN. What refreshes your mind and makes you now locate it two or three days before the date of the decree?

Mr. WATSON. Because we were discussing this matter just a day or two before that, and I was surprised to think that the decree came down as early as it did, because they had taken the papers and gone away with them, as I understood it.

The CHAIRMAN. The fact that you yourself felt surprised at that time now refreshes your memory about it? Is that so?

Mr. WATSON. Well, no; I would not exactly say that, but I recall that I thought that we would have a number of days, perhaps weeks, to examine this matter, and the decree came down so soon after we had discussed it that when Boland came and told me, I will admit that it surprised me a little. I did not think it would be handed down so quickly, but I did not know when the judge had heard the arguments, from what Boland told me. But perhaps when I looked at the record I did know. I do not recall now.

The CHAIRMAN. Did you have any conversation with Judge Archbald before that decree with respect to this matter?

Mr. WATSON. No; I never had any conversation with Judge Archbald, except one day I was in his office, talking about other matters, and I told him that the Bolands had employed me, and asked him what the practice was in the United States Commerce Court, and whether they had original or appellate jurisdiction. I never had read the bill; that is how dull I was on that subject. He told me as best he could, and I told him that I had a matter that would probably come up before that court—I did not know; we would have to try it out before the Commerce Commission; that Mr. Boland had retained me, and I wanted to know what to do, and where we would have to jump if we got through with this. Finally, I said to him, "I am going to offer this property to some one else, to some purchaser." I do not know whether he inquired, or whether I told him without inquiry, that I was to offer it to the Lackawanna. In the course of that conversation I said to Judge Archbald that I regretted that I never had met Mr. Loomis. I had met Mr. Truesdale, but I never had met Mr. Loomis, and he was at the head of the coal department. So either I asked him to write a letter or he volunteered to get me acquainted or get me in some way to Mr. Loomis, so that I could talk with him. Now, that is the beginning and the end of Judge Archbald, so far as I know, in this case.

The CHAIRMAN. Can you locate the time that you had this conversation with Judge Archbald in his office?

Mr. WATSON. I think it was before they handed down the decree, a day or so. It was right in that time.

The CHAIRMAN. While you were there in the judge's office was either Christy Boland or W. P. Boland sent for by Judge Archbald?

Mr. WATSON. I have no recollection of meeting Christy Boland or W. P. Boland in Archbald's office. I read that in the testimony, and I have no recollection of it at all.

The CHAIRMAN. You said a while ago, I believe, that your memory is not very good now.

Mr. WATSON. Well, I said that my memory—I do not intend to make statements that are not true, and I want to remember them before I make them. Now, I will admit that I have not been as well for a year as I had heretofore, and I find that sometimes I forget things.

The CHAIRMAN. Do you not think it likely that you would remember who was present at the conversation that you had in Judge Archbald's office?

Mr. WATSON. I certainly would.

The CHAIRMAN. Who was there besides you and the judge?

Mr. WATSON. When I talked with Judge Archbald?

The CHAIRMAN. Yes.

Mr. WATSON. Nobody but myself and Judge Archbald, and I stood up. I did not even go through the formality of sitting down. I went in and said, "Hello," or something like that, and then asked him.

The CHAIRMAN. At that time, or at any other time, did Christy Boland come in and participate in the conversation had between you and Judge Archbald?

Mr. WATSON. When you say "any other time," I don't know that. There may have been some time, but not in relation to this case, he never did.

The CHAIRMAN. I am talking about this case.

Mr. WATSON. No; no, sir. I think that is a mistake. Christy Boland never was in the office with me in relation to this case—in Judge Archbald's office—not to my recollection.

The CHAIRMAN. Do you not remember that Judge Archbald suggested at that time to Christy Boland that you ought to have a paper giving you a fee of $5,000 in case you put the proposed deal through, the sale of the property?

Mr. WATSON. Well, that was entirely new to me; and my memory is good enough, and always has been good enough, so that I would remember if there had been any such solicitude on the part of Judge Archbald or anybody else in my behalf. It is not true; absolutely false. There was no such statement ever made.

The CHAIRMAN. Did you ever get such a paper?

Mr. WATSON. I never did, sir—never.

The CHAIRMAN. Did you have any understanding with the Bolands about the fee that you would get in case the Marian Coal Co. property was sold?

Mr. WATSON. Why, a business man that assumes to be doing business comes into my office, and he wants to fix the fee, and he does, and he mentions the amount of $5,000 for the fee. I did not need a paper.

The CHAIRMAN. You said "a business man."

Mr. WATSON. Yes.

The CHAIRMAN. Do you mean by that that Boland came into your office?

Mr. WATSON. Why, surely.

The CHAIRMAN. And proposed to give you a fee of $5,000 if you were successful in negotiating the sale of the Marian Coal Co. property?

Mr. WATSON. I do not know that "if I were successful" was mentioned at all. I don't think it was at that time, when he first offered me the $5,000.

Mr. WORTHINGTON. Which Boland?

Mr. WATSON. Mr. C. G. Boland. I never talked with W. P. Boland about fees.

The CHAIRMAN. But you do remember that you were to have a fee of $5,000?

Mr. WATSON. Yes, sir.

The CHAIRMAN. On account of the sale of that Marian Coal Co. property?

Mr. WATSON. Surely; that is right; and no other fee—only that.

The CHAIRMAN. Mr. Watson, will you please look at this paper and see if you ever had the original or a copy of that paper, or ever saw the original or a copy of that paper before?

Mr. WATSON (after examining paper). I have no recollection of ever seeing anything like that before. There is one part of that paper that I remember was discussed.

The CHAIRMAN. This paper reads:

SCRANTON, PA., *August 23, 1911.*

C. G. BOLAND, Esq., *Scranton, Pa.*

DEAR SIR: In reference to the matter of G. M. Watson being taken into the case of the Marian Coal Co. against the D., L. & W., would say, in confirmation of what I told you heretofore, that if through the efforts of Mr. Watson a satisfactory settlement is brought about, the Marian Coal Co. agrees to pay him $5,000 for such settlement.

Of course Mr. H. C. Reynolds has been in this case from the beginning and will be attorney in it until its final settlement.

Very truly, yours,

MARIAN COAL CO.,
——, *President.*

This copy has a blank and the word "President" underneath; but did you see a paper of which this is exactly a copy with the exception that Mr. W. P. Boland's name is omitted from this paper at present? You say you saw no such paper?

Mr. WATSON. There is one paragraph there—I do remember a conversation in which Mr. Reynolds was named as being the attorney in the rate case. If that is what they mean, in the rate case—that is, the matter before the Commerce Commission—and Mr. Reynolds was to receive some money out of this money that I got from the Lackawanna if I were to get it. I know we did talk about that, and I think the fee was fixed by W. P. Boland at $12,500, or something like that. Now, that is my recollection of it.

The CHAIRMAN. You were to have a fee, then, from the Bolands for the sale of the Marian Coal Co. property, but no fee in the Interstate Commerce Court case?

Mr. WATSON. Oh, no; it was altogether. It was altogether, but Mr. Reynolds was not their attorney in the Marian Coal Co. case in the United States court. Mr. Reynolds was the attorney before the Interstate Commerce Commission. Mr. Donnelly was the attorney in the United States court, and Mr. Reynolds did not appear there, so far as I know.

The CHAIRMAN. I should like to have you tell the committee just exactly what you were employed to do.

Mr. WATSON. I was employed finally, after we got down and talked it all over—there were a number of meetings before we got down to what I was to do. I was to present the rate claim to the Lackawanna Railroad, and collect from them—well, something in the neighborhood of $200,000. Three hundred and some odd thousand dollars was the claim, and I whittled it down to about sixty, and told them that that was all they could get, if they got anything. They had some exemplary damages, and it piled up four times the amount of the freight, or something of that sort; and I whittled that down to the actual damages as allowed under the law, and it amounted to about $60,000, as I recall it. The coal property was to be $100,000, and the $60,000 made $161,000 when added together, and that is what I asked the Lackawanna Railroad—$161,000.

The CHAIRMAN. Did Judge Archbald have anything to do, by way of suggestions or assistance to you, with your negotiations for the settlement of that matter against the Delaware, Lackawanna & Western Railroad?

Mr. WATSON. My recollection is that Judge Archbald said he would give me an introduction to Mr. Loomis. My recollection is that Judge Archbald did not do it.

The CHAIRMAN. That he did not do what?

Mr. WATSON. That he did not give me the introduction.

The CHAIRMAN. He did not give you the letter?

Mr. WATSON. He did not. I still have a recollection that Judge Archbald said that he had written a letter—that is, that he told me he had—to Mr. Loomis.

The CHAIRMAN. Do you remember when he told you that, that he had written it?

Mr. WATSON. It was right after I was over in the office looking up the record. Now, I have an indistinct recollection that that is what he said, that he would introduce me. In the first place, I never had met Loomis, and Loomis was coming to Scranton every two weeks, as remarkable as that may be, and he was around the clubs there; but I never happened to meet him, and I regretted that when I was talking about endeavoring to make a settlement, that I did not know Mr. Loomis, who was the man we would have to settle with. He was at the head of the coal department. Judge Archbald said, "Why, I know him very well, and I will give you a letter"—something of that sort. He never gave me the letter. Now, whether he wrote a letter or not, I don't know; but my recollection is that he told me that; but that did not make the meeting, because I have a carbon copy of the very letter that we had the meeting on right here, and I know when it happened, pretty nearly, now.

The CHAIRMAN. What is that paper you have?

Mr. WATSON. It is a carbon copy of a letter dated October 2, 1911.

Exhibit 86.

Mr. E. E. LOOMIS,
Vice President Delaware, Lackawanna & Western Railroad Co., 99 West Street, New York City.

DEAR SIR: In relation to a matter existing between the Marian Coal Co. and your road and coal department, and also a claim against the traffic department of your road, which I have had under consideration here and with which I presume you are more or less familiar, I decided, after a conference with your Mr. Phillips, of the coal department, to ask for a meeting with you and the president of your road, Mr. Truesdale, if convenient, at the earliest time you could find your way clear to meet me, either in New York or Scranton. If you will kindly advise me either by wire or letter, I will hold myself in readiness to meet you on a few hours' notice.

I am, very truly, yours,

That is not signed, but it is my letter, and my carbon copy.

The foregoing letter was subsequently marked by the stenographer "Exhibit 86."

The CHAIRMAN. What date is that?

Mr. WATSON. It is dated October 2, 1911.

The CHAIRMAN. What did you do after that letter? What happened?

Mr. WATSON. I think that is when the negotiations began with the Bolands. I think they came over, and we talked it over, and I told them what I had done, and, in fact, perhaps they knew that I was going to do this, and it was a busy week then. We talked a good bit about it, because I expected an answer to this letter saying when they would meet me, and I expected that meeting would take place on the following Monday, because I was advised by Mr. Phillips that Mr. Loomis would be in Scranton on that day, Monday or Tuesday, and there was more or less talk about it. Then, I had gone into the case far enough, if you will pardon me, to know that our claim for damages on account of the shipping charges was not in good shape to present to any company, and that brought the Bolands and myself together more or less during that week.

When we got up to about Thursday or Friday, Mr. C. G. Boland came in my office, and I called his attention to the fact that we would simply go before these people and they would laugh us out of the office; that we would have nothing to stand upon—that is, nothing definite to present to them—in relation to the rate business. He told me then that Henry Meeker, surviving executor of the firm of Meeker & Co., had a case that they had appealed and was going to be argued in the Commerce Court, and he could give me very little information about it, only what the newspapers said or what he had learned from somebody, or what Mr. Reynolds had said or what somebody else had said, and I could get no information about it. So I said to him, "Now, if my conclusions are right, and Mr. Loomis answers this letter, and Mr. Loomis comes to Scranton, he will expect to meet me, and I would like to have something to meet Mr. Loomis with." I said, "The only orderly way to do it is to study the Meeker case, and the only way to study the Meeker case is to get the briefs or get the record, and that is in Washington."

C. G. Boland said, "Well, go down and get it; go down and get it." After some considerable talk, I think the following morning—I am quite sure it was the next day—he came in and asked me if I could go to Washington. Now, as I recall it, that was on the 6th. I won't say the dates, but it was on Friday; I remember that; and I think the 6th day of October. If I am right, I sent a telegram that day, and I think that is the day. Now, I sent that telegram, and wrote it in my office on the day that it is dated, for this reason: I said to Mr. Boland, "It will be Saturday when we go to Washington, and if they do business in Washington as they did 10 or 12 years ago, when I knew something about it, they always go away on Saturday, and we will find the doors closed and locked; and how I can get into any clerk's office on Saturday I don't know."

The CHAIRMAN. That was in the good old days.

Mr. WATSON. Perhaps, Judge, that might be. I do not know how that was. I was here more then than I have been in recent years. There was some talk about it, and finally it was decided that I would send this telegram to Judge Archbald. Now, I am just as sure as I am that I am here now that Mr. Boland suggested that I send it to Judge Archbald, because we knew him—we all knew him, and he was the only man I did know connected with any of those courts down there. So I wrote that telegram, which I can not exactly repeat, but I remember my wife at that time was down in the Pocono Mountains and I wanted to spend as much time as I could with her, and I did not want to come away and be gone on Sunday or over Sunday without letting her know. So I wired Archbald to wire me if he could meet me on Saturday, and to wire me at East Stroudsburg, and I went to Stroudsburg that day. Now, I either went to Stroudsburg at 1.40 or at 3.40, because those are the two trains going down there, and the only two after 10 o'clock in the morning, and from there I remember taking an early train, and I came to Washington.

To go back, when I got off the train at East Stroudsburg I received this, which I suppose is responsive to the telegram that I sent him. I presume I asked him what time and place, or something like that, I could see him in Washington, and he answered: "George M. Watson, East Stroudsburg." To go back, it is dated "Washington, D. C."—"Almost any time you wish."

Mr. FLOOD. What day of the month?

Mr. WATSON. That is dated "10/6/1911."

The CHAIRMAN. That is the 6th day of October, 1911, is it not?

Mr. WATSON. Yes, sir.

The CHAIRMAN. If you will hand me that, Mr. Watson, the stenographer will designate it.

The telegram above referred to was marked "Exhibit No. 85."

The CHAIRMAN. The envelope can be pinned to it.

Mr. WATSON. This envelope, I judge, was addressed by the boy. I see he has tacked on 20 cents.

The CHAIRMAN. Mr. Watson, will you look at this paper that I have here? It purports to be a telegram, dated October 6, 1911, and is referred to in the testimony heretofore given as "Exhibit No. 10-A." Look at that and see if you identify it.

Mr. WATSON (after examining paper). Yes, sir; that is my signature. I wrote it myself.

The CHAIRMAN. How does it read?

Mr. WATSON. I don't think I dated it, but it was dated about that day, I am sure.

The CHAIRMAN. Read it.

Mr. WATSON. "Hon. R. W. Archbald"——

The CHAIRMAN. Begin with the date.

Mr. WATSON. The date is October 6, 1911.

Hon. R. W. ARCHBALD,
Judge Court of Commerce, Washington, D. C.:

Wire me East Stroudsburg what time to-morrow I can meet you in Washington.

G. M. WATSON.

The CHAIRMAN. And you say this telegram that you have just referred to, and which is now in the testimony as Exhibit No. 85, was the reply to that telegram that you have just read?

Mr. WATSON. I judge so, because it is the only one I received. It must be so. This is my telegram to him, surely.

The CHAIRMAN. Yes. Now, do you not know, having looked at this telegram, that the same man who signed "G. M. Watson" to that wrote that date, October 6, at the top of that telegram? Is it not the same handwriting?

Mr. WATSON. Well, it may be. I would not say.

The CHAIRMAN. Look at it.

Mr. WATSON. I did not look at it carefully.

The CHAIRMAN. You are familiar with your own handwriting. Did you write that "October 6"?

Mr. WATSON. Well, when I look at it again——

The CHAIRMAN. Look and see if you did not write that.

Mr. WATSON. What started me is because it is not the same colored ink as the body of the telegram. That is, it looks as if it might have been written at a different time. But I have no doubt but what I wrote "October 6," since I look at it now.

The CHAIRMAN. Is not that your handwriting—"October 6, 1911"?

Mr. WATSON. I think so. I think so; yes. I think that is right. It is so, I think. If not, I forgot to date it, and somebody did it.

The CHAIRMAN. Why did you say a while ago that you did not think that you wrote the date there, "October 6, 1911"?

Mr. WATSON. Because the ink did not look the same color to me; that is all; and I thought it had been dated at another time.

The CHAIRMAN. Look now, and see if that ink is not colored exactly like the "G. M. Watson."

Mr. WATSON. Well, I did not look at the "G. M. Watson" enough to know.

The CHAIRMAN. Perhaps a blotter was used, and it was not spread on quite so thickly in the case of the date.

Mr. WATSON. Now, pardon me a moment——

The CHAIRMAN. See if it is not the same.

Mr. WATSON. I have a little mist here; I will wipe my glasses, and then I can look at that more carefully. I am an expert on handwriting, and I can tell that in about a minute, as it impresses me, anyhow. [After examining paper.] Well, on reflection, I would say that it was the same color and written at the same time.

The CHAIRMAN. The whole, every word, from start to finish?

Mr. WATSON. Well, the body of the telegram looks darker to me, but I wrote it.

The CHAIRMAN. The body of the telegram is darker than your signature, is it not?

Mr. WATSON. It is darker than my signature and darker than "October 6."

The CHAIRMAN. The "October 6" and your signature seem to be exactly the same shade or color.

Mr. WATSON. They do; the same shade. Oh, there is no question about this telegram, Judge. I wrote it. It was written in my office and handed to——

The CHAIRMAN. I did not think so, but you expressed a little doubt in the beginning.

Mr. WATSON. There is no question at all about it.

The CHAIRMAN. I did not know how material it was; but still I thought it was well enough to have you bring out what is manifestly the truth about it.

Mr. WATSON. There is no question at all about it.

The CHAIRMAN. Now, you say that one of the Bolands talked to you before that decree was rendered about the Meeker case, did he not?

Mr. WATSON. I think they did; I think they talked about the Meeker case from the time that William Boland came in the case; he talked very frequently.

The CHAIRMAN. At the first conversation that the Bolands had with you about your employment did they not discuss the Meeker case with you? Is not that what you said?

Mr. WATSON. I think not.

The CHAIRMAN. When did they discuss the Meeker case?

Mr. WATSON. When Mr. W. P. Boland came over, when we were talking about it.

The CHAIRMAN. When was that?

Mr. WATSON. Oh, within two or three days.

The CHAIRMAN. That was before the decree was rendered in the Marian Coal Co. case?

Mr. WATSON. I would say so.

The CHAIRMAN. When and where was the Meeker case decided?

Mr. WATSON. Really, I do not know. I got the books down there on the 6th of October, and my recollection is that it was argued on the 8th of October.

The CHAIRMAN. Argued where?

Mr. WATSON. In the Commerce Court. I got these books from the clerk or a deputy marshal, or somebody who gave them to me down in the office there, and I brought them along. I remember reading it a day or so after I had been down here that it was argued; and it was in the New York papers.

The CHAIRMAN. Had it been decided when Boland mentioned the Meeker case to you?

Mr. WATSON. Had it been decided how?

The CHAIRMAN. Had the Meeker case been decided by the Commerce Court?

Mr. WATSON. My recollection is, from the examination that I made and from what he said to me, that the Interstate Commerce Commission had found in favor of Meeker and that the railroad company had taken an appeal.

The CHAIRMAN. To what court?

Mr. WATSON. To the Interstate Commerce Court, I presume, you know. I did not know then.

The CHAIRMAN. Do you remember the status of that case before the Commerce Court at that time?

Mr. WATSON. I do not.

The CHAIRMAN. You do not know when the decision of the Meeker case was reached in the Commerce Court, do you?

Mr. WATSON. I do not. I think, though—well, I do not know as to the decision. I know the argument was a few days after I was here. The case was argued, because I remember seeing it in the newspaper.

The CHAIRMAN. Did you not say you came down here to learn something about the Meeker case?

Mr. WATSON. I came down to find out what had been done. I did not know what the Interstate Commerce Court had done, except some little stuff you would read in a newspaper, and I thought I could get the record, and when I came they gave me these books.

The CHAIRMAN. Did you then find out what had been done in the Commerce Court?

Mr. WATSON. Why, surely. It was on appeal, waiting to be argued. These, I take it, are the paper books containing the case and its history.

The CHAIRMAN. Did you ever have any other conversation with Judge Archbald about this case of the Marian Coal Co. other than that you have mentioned?

Mr. WATSON. I have seen Judge Archbald so infrequently that I can not recall what we did talk about. He has been down here, and comes up on a flying visit, and I may meet him and talk about something, but I do not recall having talked with him about this case. It seems to me, though, that there was something said one time about my efforts with the Lackawanna; but what it was I could not gather now to tell you.

The CHAIRMAN. Mr. Webb desires to ask you some questions.

Mr. WEBB. Mr. Watson, have you a letter from the judge stating that this whole transaction was off and could not be settled?

Mr. WATSON. Have I?

Mr. WEBB. Yes.

Mr. WATSON. No, no.

Mr. WEBB. Did you ever get such a letter?

Mr. WATSON. No.

Mr. WEBB. Did you ever receive a letter from Judge Archbald in your life in reference to this matter?

Mr. WATSON. No; I did not know that Judge Archbald knew it was off, really. I did not know that he knew that I had failed. I never knew that—that he knew it—unless I told him casually. I never knew that he knew it. I knew that I had failed, but I did not know that he knew it.

Mr. WEBB. You know C. G. Boland, do you not, Mr. Watson?

Mr. WATSON. Yes; I know him very well. That is, I thought I did. I do not know whether I do or not.

Mr. WEBB. How is that?

Mr. WATSON. I thought I knew him very well, but I do not know.

Mr. WEBB. You think he is as good a man as you have in your county, do you not? Is he not a good man, a man of good character?

Mr. WATSON. I would rather not make comparisons.

Mr. WEBB. Is he not a man of good character

Mr. WATSON. I do not know.

Mr. WEBB. You do not know? But it is your word against his now, and you have admitted here in the beginning that your memory is weak.

Mr. WATSON. I did not say any such thing.

Mr. WEBB. And that for the last year you can not recollect things; they are rather hazy to you, I thought you said.

Mr. WATSON. I did not say my memory was weak.

Mr. WEBB. What did you say about your memory?

Mr. WATSON. I said I did not remember as well as I did once.

Mr. WEBB. Then it is weaker than it was once?

Mr. WATSON. Yes; but I had a memory once that I did not have to have discounted in any way.

Mr. WEBB. It is not as good as it was, then?

Mr. WATSON. Perhaps it is when I get fired up a little; I think it is just as good as it was then.

Mr. WEBB. Well, let us get fired up, then.

Mr. WATSON. I think I can recall everything that happened in my life right now; but it will take an effort to do it, and if I go moving along, why perhaps I may make a mistake. I might get twisted on a date; I don't know how that would be. But I will remember you as long as I live; that is, unless something happens to me that has not yet. I have a very good recollection of faces and facts.

Mr. WEBB. That is because you are fired up now. A week from now you might not.

Mr. WATSON. No, sir; I am not fired up. You never saw me when I was illuminated.

Mr. WEBB. When you are what?

Mr. WATSON. When I get a little bit excited on these matters, sometimes I say things.

Mr. WEBB. I hope you will not get excited here.

Mr. WATSON. I will not, sir; I have too much respect for the committee.

Mr. WEBB. I do not care how many things you remember, just so you remember them.

Mr. WATSON. Yes, sir.

Mr. WEBB. The thing I am getting at is that Mr. C. G. Boland, who you say you thought was a man of good character until this investigation, testified that Judge Archbald told him over the telephone to come over to this office, and when he went over to his office you and he were there talking together and discussing this very transaction; that something was said about the fee, and you mentioned $5,000 as being a proper fee, and the judge assented, saying that that was about right, and that you and he went down to this attorney—what was the name of that attorney? Anyway, it was suggested by Judge Archbald that that statement ought to be put in writing, and thereupon it was put in writing. Now, do you say that is absolutely false?

Mr. WATSON. I say that it is absolutely false, and I never heard of it in my life until I saw something of it in this record, and heard it here to-day—never. It could not have happened. Now, I qualify; I don't mean to say that I did not meet C. G. Boland in Judge Archbald's office, because that is a thing that I would not make note of. It may have happened, some time, that I met him there. It may have happened that he was there about this particular time. But the latter part of that question, that there was ever a discussion in the presence of Judge Archbald about my fee—either I was dumb and deaf, or it never happened there.

Mr. WEBB. Did Mr. C. G. Boland ever come into the judge's office and find you and the judge together?

Mr. WATSON. C. G. Boland?

Mr. WEBB. Yes; C. G. Boland, the man we are talking about now. Do you swear that you and Judge Archbald were never together in his office when C. G. Boland came in and found you there together?

Mr. WATSON. You say "never together"?

Mr. WEBB. Yes; at any time.

Mr. WATSON. I suppose I have been in Judge Archbald's office a thousand times. I have been practicing law for a good many years. Judge Archbald was a judge up there for 28 years.

Mr. WEBB. Do you think that is answering my question?

Mr. WATSON. No; but you say, "Did I ever"?

Mr. WEBB. Yes.

Mr. WATSON. Well, now, I don't know but what Boland was there a hundred times in Judge Archbald's office when I was there; but at this particular time I have no recollection of meeting Boland in Judge Archbald's office, and I am positive that he never was there.

Mr. WEBB. Do you remember your ever being in Judge Archbald's office in company with him, and C. G. Boland coming into the office at that time?

Mr. WATSON. No; I do not.

Mr. WEBB. Then it could not have been 100 times?

Mr. WATSON. Well, I say, I don't know but what he may have come in the office while I was there, sometimes, but in regard to this particular time I don't remember it if he did. But I would not deny it if Mr. Boland said that some time he had met me there. Maybe he did.

Mr. WEBB. Then maybe it was about the time this suit was being discussed.

Mr. WATSON. It was not, because there never was any such discussion; and if this discussion was a part of that visit, it is not so.

Mr. WEBB. Did you and the judge discuss it then?

Mr. WATSON. Never.

Mr. WEBB. What did you go to see him for, then?

Mr. WATSON. Judge Archbald?

Mr. WEBB. Yes, of course—Judge Archbald.

Mr. WATSON. Now, sir, I will tell you what I went to see him for.

Mr. WEBB. Let us have it.

Mr. WATSON. I tried to say to you that I went over there to get at the records, to find out the status of the Peale case. Now, that is what I went to the Federal building for that day.

Mr. WEBB. And C. G. Boland had suggested that you go there?

Mr. WATSON. He had.

Mr. WEBB. That is right?

Mr. WATSON. He had.

Mr. WEBB. And you went over to get it from the judge instead of from the clerk?

Mr. WATSON. I did not.

Mr. WEBB. What did you go for? You just said that that is what you went for, did you not?

Mr. WATSON. I said I went to the building for that purpose.

Mr. WEBB. The building?

Mr. WATSON. Yes, sir.

Mr. WEBB. Could you not get in the building without going to the judge's office?

Mr. WATSON. Yes, sir.

Mr. WEBB. What did you go to the judge's office for?

Mr. WATSON. Well, I might possibly go in and say, "Hello," or something like that. A man that I knew well, I might go in and say "Good morning, sir." I might go in and—

Mr. WEBB. Did you say "Hello" or "Good morning"?

Mr. WATSON. Well, sir, I can not recall; I do not recall that I went to his office that morning; but if I did go there I went there in a friendly way. I probably went there to ask him or to say to him that I had to bring this matter before the Lackawanna, and ask him if he could give me a letter of introduction or something. Maybe I did.

Mr. WEBB. Why did you want a letter of introduction from Judge Archbald, who then had a case pending in the Commerce Court in which the Lackawanna Railroad Co. was a defendant? Why did you want a letter from Judge Archbald to this man Loomis?

Mr. WATSON. This Peale case was not in the United States Commerce Court first, therefore I don't know that I went to Judge Archbald's office for that purpose, but I believe I said to Judge Archbald—this is my recollection of it now—that I regretted that I did not know Mr. Loomis; and he said, "I know him and will either give you a letter or I will speak to Mr. Loomis, or I will do something so that you can meet him."

Mr. WEBB. Was that the first time the judge had ever written a letter introducing you to a prospective purchaser or litigant?

Mr. WATSON. I do not think he ever wrote a letter introducing me to any purchaser.

Mr. WEBB. Before that time?

Mr. WATSON. Never, that I recall. I don't know that he ever wrote any letters for me.

Mr. WEBB. This is the first transaction of this particular kind that you ever had with the judge?

Mr. WATSON. Of what kind?

Mr. WEBB. Settling suits for litigants out of court, or trying to sell properties that were in litigation.

Mr. WATSON. It is the first time I ever tried to settle a suit of this kind out of court; yes; so then he could not have helped me.

Mr. WEBB. I understand. You need not argue the case for the judge; counsel will do that.

Mr. WATSON. What judge?

Mr. WEBB. The first man, though, that you went to see after this matter was put in your hands was Judge Archbald; is not that true?

Mr. WATSON. No, sir; it is not.

Mr. WEBB. Whom did you go to see?

Mr. WATSON. I went to see Mr. Searle, who was clerk of the court. I think Mr. Searle was clerk; if not, Mr. Scharr. I went in the office to look at the record of the Peale case and see where it was.

Mr. WEBB. And then from there did you go to the judge's office?

Mr. WATSON. The chances are, if I went to the judge's office that day, that I did.

Mr. WEBB. "The chances are, if you went"? That is not very definite.

Mr. WATSON. That particular day I don't know whether I went or not.

Mr. WEBB. If you will get "fired up" a little you may remember it.

Mr. WATSON. I can not recall whether I went to the judge's office that day—an office that I go into very frequently, in a building that I am in every day. I can not recall that.

Mr. WEBB. Do you know whether you went to the clerk's office before you saw the judge or not?

Mr. WATSON. I am quite sure that I did.

Mr. WEBB. Would you not want to get an introduction to Mr. Loomis before you began to look up the case?

Mr. WATSON. I don't think it would be necessary for me to do that.

Mr. WEBB. Can you tell when it was you saw the judge when you discussed this case?

Mr. WATSON. It may have been that day, and it may have been the next day, or it may have been the next day. It was within two or three days of the time that I went to the clerk's office. It may have been the day I went to the clerk's office.

Mr. WEBB. Did you ever tell him what fee you were going to get out of it?

Mr. WATSON. I do not think I ever spoke of the fee to him in my life.

Mr. WEBB. Will you swear you did not?

Mr. WATSON. I think so; yes, sir. I can swear to that.

Mr. WEBB. You think you will swear to it?

Mr. WATSON. Yes, sir; I can swear to it.

Mr. WEBB. That you never mentioned the fee to him?

Mr. WATSON. Not that I recall. I can not recall ever talking with him about fees.

Mr. WEBB. Your memory is all right now, is it?

Mr. WATSON. It is all right on fees; yes. When you say "fees" to me I remember it.

Mr. WEBB. How long have you known Williams intimately?

Mr. WATSON. Well, I don't know him intimately now. I know him as a man that I have met on the street. I have talked with him to say "Good morning," and he has said that same thing to me for years. I knew him when he worked, I think, for the Lackawanna, and perhaps for the Joneses.

Mr. WEBB. Did not one of the Bolands tell you that Mr. Williams had suggested you as a proper person to carry on this transaction?

Mr. WATSON. That Mr. Williams had suggested me?

Mr. WEBB. Yes.

Mr. WATSON. No; I am sure of that. Mr. Williams would not appeal to me, anything that he might say.

Mr. WEBB. The Bolands say that you would not appeal to them, either, as a lawyer.

Mr. WATSON. Well, that may be.

Mr. WEBB. They say the reason why they got you was because Williams had suggested you.

Mr. WATSON. They thought I was a friend of Williams's?

Mr. WEBB. I do not know what they thought.

Mr. WATSON. Oh, I see.

Mr. WEBB. Did either one of the Bolands tell you that they had come to you on account of what Williams had told them?

Mr. WATSON. They did not.

Mr. WEBB. They did not?

Mr. WATSON. No, sir. The Bolands never have attempted to insult me in my own town, and if they would come with any such statement as that I have a way of getting them out of my office very quickly.

Mr. WEBB. Do you mean you would have been insulted if——

Mr. WATSON. If anyone would come to me and talk about my being associated with Ed. Williams upon any subject I would deny it, sir.

Mr. WEBB. The judge seems to have associated somewhat with Williams, and he was not insulted.

Mr. WATSON. I can not help Judge Archbald's picking his associates; it is none of my business.

Mr. WEBB. But you pick yours outside of Williams?

Mr. WATSON. I do, sir. I just push those gentlemen off to one side. They can't do business with me.

Mr. WEBB. So if Williams suggested you were a good lawyer to fix up this matter, he was "butting in"?

Mr. WATSON. Well, I suppose I would deny it.

Mr. WEBB. You would?

Mr. WATSON. Maybe so; I don't know.

Mr. WEBB. I will not disagree with you on that.

Mr. WATSON. I have always managed to keep the wolf from the door up there without associating with him.

Mr. WEBB. When was the Federal court established at Scranton?

Mr. WATSON. I ought to know; I get clubbed around pretty well at that time. It was about 12 years ago, I would say.

Mr. WEBB. Is that as definitely as you can say? Was it in 1900?

Mr. WATSON. I will tell you. The bill was signed on the 4th day of March, 1901, I think.

Mr. WEBB. Then that is when it was established.

Mr. WATSON. Now we will get back to dates. I believe Judge Archbald was appointed the next day or so, and he took his seat on the bench as soon as he could thereafter. Now, that is my recollection of it. I remember I was in this city when the bill was signed.

Mr. WEBB. Were you a candidate for the judgeship?

Mr. WATSON. Not seriously. I had gotten that taken out of my blood before.

Mr. WEBB. You were just in a receptive mood? You would have taken it if it had been thrust upon you?

Mr. WATSON. Well, I had been at one time; yes. I had been quite receptive up to a certain time.

Mr. WEBB. There has been a very small docket there ever since, has there not? It has been a very small court, with very small litigation?

Mr. WATSON. Oh, I would not want to belittle the court; no; I would not say that. I would not say it was a small court, for they have had some very—well, some important litigation, at least.

Mr. WEBB. What is the most important litigation you ever had in that court?

Mr. WATSON. In that court? Well, sir, I don't like to say what I have done in that court. I defended a man, by appointment, for selling whisky to Indians. That is one case I had there. That was a very important matter. As a matter of fact, I have not practiced in the Federal court since Judge Archbald has been on the bench.

Mr. WEBB. Then you have been thrown with him very little in a legal way?

Mr. WATSON. Well, there were reasons why I did not at that time. I don't care to discuss them here. They were personal reasons.

Mr. WEBB. You have had very little practice in that court, and the only case you can remember is that of defending a man for selling whisky to Indians?

Mr. WATSON. No; I have tried half a dozen. I have tried a dozen cases there, perhaps. I do not recall them now.

Mr. WEBB. Were all of them liquor cases?

Mr. WATSON. I remember one case, somebody against—it was a small matter, anyhow. I think I tried an insurance case there; not very much. I have not tried as many cases in the United States court since Archbald has been there as I did before. I was trying quite a good bit there before that time.

Mr. WEBB. There was no court there?

Mr. WATSON. Oh, yes, there was—oh, yes. That court was established about 25 years ago—23 or 24 years ago.

Mr. WEBB. Was it abolished?

Mr. WATSON. It was not. The court came there from Pittsburgh and met and had its regular terms in Scranton for a number of years.

Mr. WEBB. Oh, yes; but they did not have a judge?

Mr. WATSON. They did not have a judge; no.

Mr. WEBB. When you went to see the judge did you ask him to write you a letter to Loomis, or did he volunteer it? "Fire up" a little on that point.

Mr. WATSON. I could not tell you that.

Mr. WEBB. That is very important for us to know.

Mr. WATSON. I could not tell you whether he volunteered it or not; but I think that the statement made, that I did not know Mr. Loomis, brought forth some response from Judge Archbald. It was either that "I know him very well," or "He comes here very frequently," and I asked him to write that letter for me, or he said, "I will introduce you to him," or something like that.

Mr. WEBB. He never introduced you to him, anyway?

Mr. WATSON. He never did. He may have written the letter. I don't know how that was.

Mr. WEBB. Did he write the letter?

Mr. WATSON. Well, now, I don't know.

Mr. WEBB. Did he ever tell you he had written it?

Mr. WATSON. I think he has said something about writing a letter.

Mr. WEBB. You are sure about that, are you?

Mr. WATSON. Yes; I am quite sure that he told me he had said something to Loomis. Now, he either told me he met Loomis or he had written a letter to him.

Mr. WEBB. That he had met Loomis?

Mr. WATSON. He told me one or the other of those things. I can't recall now whether it was meeting Loomis or whether he wrote the letter to him.

Mr. WEBB. You explained what you wanted to do to the judge; you explained to him that you wanted some intercession, or wanted to meet Loomis; you explained that you wanted to sell or unload this coal washery on the Lackawanna Railroad and settle the Commerce Commission case, and that you needed Loomis's influence, or you had to reach Loomis in some way or other?

Mr. WATSON. To put it in that way, I don't think I did.

Mr. WEBB. Is that the substance of it?

Mr. WATSON. It was substantially this: That I needed an introduction, or at least I thought I did, to Mr. Loomis; and I could have had it from a hundred men in Scranton just as well as from Judge Archbald.

Mr. WEBB. You say you journeyed all the way from Scranton, Pa., down here, to get these few little paper books?

Mr. WATSON. Yes, sir; I did.

Mr. WEBB. And telegraphed Judge Archbald before you would come?

Mr. WATSON. Yes, sir; I did.

Mr. WEBB. Did you think he was the custodian of papers of that kind?

Mr. WATSON. I knew he was not.

Mr. WEBB. You knew he was not?

Mr. WATSON. Yes, sir.

Mr. WEBB. What did you want to know if he was in Washington for, and if he could meet you at a certain hour?

Mr. WATSON. I did not say a certain hour, I think.

Mr. WEBB. You wanted to know what time, what hour, he could meet you, did you not?

Mr. WATSON. I don't know that I did. I asked if he could meet me—what day; if he would be here that day, Saturday. I didn't know what time I would get here.

Mr. WEBB. Your language is, "Wire me East Stroudsburg what time to-morrow I can meet you."

Did you think that telegram was necessary to know what time you could meet him to get those two little paper books you speak of there?

Mr. WATSON. Yes; I thought so.

Mr. WEBB. Those briefs?

Mr. WATSON. Yes, sir; I thought so.

Mr. WEBB. Why did you not write down here and get them, and save a whole lot of expense and time?

Mr. WATSON. Because I expected to meet Mr. Truesdale and Mr. Loomis on Monday, and this was on Friday, and I could not get the books back there in time, and I wanted to familiarize myself with the Meeker case so that I could talk rates. I never had had anyone with intelligence enough to talk about the rates to me.

Mr. WEBB. What did you want to see Judge Archbald in connection with it for? Could you not go to see Truesdale—he was president of the road, was he not?

Mr. WATSON. Yes, sir.

Mr. WEBB. What did you want to come down here and see Judge Archbald for?

Mr. WATSON. I think Mr. Boland—Mr. C. G. Boland—suggested that we wire Judge Archbald, because I said I knew no one connected with the court.

Mr. WEBB. You honestly did not think you could get into the court and get these records without the judge being here?

Mr. WATSON. I did not, on Saturday; no; I did not think so.

Mr. WEBB. On Saturday?

Mr. WATSON. No. And I want to say right now to you that there was only one man there in that place when I went there, except Judge Archbald—only one man, floating around there, doing something, and I don't know what his business was. Finally another man came in, and the judge called him in and introduced him to me, either as the clerk or a marshal or a deputy somebody, and then I asked him about these books, and he went in and got them.

Mr. WEBB. You asked whom?

Mr. WATSON. This man that came there. Now, there was no one in the building.

Mr. WEBB. After you had come down from Scranton to Washington to get two books, you did not even ask the judge for them, did you? You asked this other man?

Mr. WATSON. I think I did. We stood there talking, and I think the judge asked him for them. I am not sure about that.

Mr. WEBB. Can you not be sure whether your asked the marshal or the clerk to get these books, or whether the judge did?

Mr. WATSON. I know somebody got these books for me that was not Judge Archbald. Now, I don't know who it was. I know that he was introduced to me by Judge Archbald, and I presume that I asked him to get the books. Now, if I did not ask him to get the books, perhaps Judge Archbald said, "Mr. Watson wants the briefs in that case," or something like that. Now, that may have been said there.

Mr. WEBB. How long did you and the judge discuss matters when you saw him in response to this telegram?

Mr. WATSON. When I came down?

Mr. WEBB. Yes.

Mr. WATSON. We talked about Mrs. Archbald for a while, and we talked about the weather. It was raining right good and sharp, I remember. We talked about a few other things; but to talk about these books or this case, I should judge it would consume about five minutes, or two minutes, maybe.

Mr. WEBB. Did you tell him you were going to meet Truesdale the following Monday?

Mr. WATSON. I don't think so.

Mr. WEBB. What do you say?

Mr. WATSON. I don't think so.

Mr. WEBB. You came down here from Scranton to get these books because you were going to meet Truesdale next week about a matter in which the judge had recommended you to Loomis, and you did not even tell him you were going to meet him?

Mr. WATSON. I don't think I did.
Mr. WEBB. You did not tell him what you wanted the books for, did you?
Mr. WATSON. Oh, well, we may have talked about it. I may have said: "I am going to meet the Lackawanna folks," or something like that.
Mr. WEBB. When you come to these important matters can you not remember a little better? Did you do it?
Mr. WATSON. Well, it is a matter that of course I did not charge my mind particularly with, but I have no doubt in my mind——
Mr. WEBB. You charged your mind with knowing that you did talk about Mrs. Archbald and the rainy weather.
Mr. WATSON. That would be the thing that I would naturally talk about—something that he was interested in and that I would be interested in.
Mr. WEBB. You remember that, though?
Mr. WATSON. Why, sure; I naturally would talk about it.
Mr. WEBB. Your business here was looking after this particular case, and you can not tell the committee whether or not you discussed this case with the judge and told him that you were to meet Truesdale the following Monday; can you?
Mr. WATSON. I came down here, not to discuss the case I was setting with the Lackawanna, but to get the information that had been brought out before the Interstate Commerce Commission. That is what I was here for.
Mr. WEBB. Yes; and you got it all in these two little briefs?
Mr. WATSON. Such is the case.
Mr. WEBB. And you got the judge to get them for you, or got them in his presence, and never told him what you were going to do with them?
Mr. WATSON. I assume I may have said, "I am going to try and settle it, and I wanted to get familiar with the Meeker case."
Mr. WEBB. Why do you assume it? You are on your oath now. Did you do it?
Mr. WATSON. Well, I can not tell you.
Mr. WEBB. You can not tell?
Mr. WATSON. I can not.
Mr. WEBB. You will not even assume that, then?
Mr. WATSON. I can not say positively that I said to him that I was going to settle that case on Monday, or expected to meet these people on Monday; but it is a hundred to one that I did say something of that kind.
Mr. WEBB. A hundred to one?
Mr. WATSON. Yes.
Mr. WEBB. That is pretty big odds; is it not?
Mr. WATSON. But I can not remember. I don't remember that I called him off in one corner and said: "I am going to meet the Lackawanna people Monday," or anything like that. I don't think I ever did that.
Mr. WEBB. I said nothing about your calling him off in a corner.
Mr. WATSON. I don't know what we said. We talked along the same as people that are reasonably honest would talk?
Mr. WEBB. Reasonably honest?
Mr. WATSON. Yes; and we don't charge our minds with everything we say, either.
Mr. WEBB. Exactly; but you charged your mind with the part about the rainy weather and the part about Mrs. Archbald?
Mr. WATSON. I remember that, because I got most beautifully wet.
Mr. WEBB. Let me ask you this question: Is it not the fact that you have not charged your mind about this matter because you did come down here to see him and tell him the negotiations were hanging up, and that he must do something to help you?
Mr. WATSON. If I ever said that, sir, I want to meet my God above and have him condemn me forever; if I ever said to Judge Archbald, "I am sinking and you must save me"; if I ever said to him, "You must help me to settle a case." I never said it in my life to any man living, not only Judge Archbald. I never pin my faith on a single man—never.
Mr. WEBB. How many do you pin it to?
Mr. WATSON. To enough so that I know I am going to get something in return.
Mr. WEBB. Did you leave Washington the same day?
Mr. WATSON. I did, at night.
Mr. WEBB. At night?
Mr. WATSON. Yes, sir; and I went to New York.
Mr. WEBB. On the following Monday you met Truesdale?
Mr. WATSON. Oh, I don't know now; it may have been Tuesday. It was Monday or Tuesday. It was right on the heels of this that I met him right there.
Mr. WEBB. It was Monday or Tuesday, you say?
Mr. WATSON. I think so.
Mr. WEBB. You went from here to New York?
Mr. WATSON. I did.
Mr. WEBB. Do you know what day you got to New York?
Mr. WATSON. I do. It was on the Sabbath of the Lord.
Mr. WEBB. The Sabbath of the Lord?
Mr. WATSON. Yes, sir.
Mr. WEBB. All Sabbaths are the Sabbaths of the Lord, are they not?
Mr. WATSON. Yes; some of them. In New York they are. I don't know how they are down here.
Mr. WEBB. Then do you remember whether you saw Truesdale on the day following the Sabbath, or was it Tuesday?
Mr. WATSON. Well, now, I know my movements and I can tell you. I went from New York the following morning.
I went to New York because it was late that night, and I stayed there that night. I could not get home from Philadelphia, and I had to go to East Stroudsburg. I went up there on Sunday morning some time. I went to Scranton, I think, perhaps, Monday morning early, and maybe Sunday night—there are two trains that I used to go up on—and I went to my office. Now, I imagine that Loomis came in there on Monday afternoon, and it would be Tuesday morning if that is true.
Mr. WEBB. That was in New York?
Mr. WATSON. No, no; in Scranton.
Mr. WEBB. You imagine, then, you saw Loomis Tuesday morning?
Mr. WATSON. I think it would be about Tuesday morning. I know it was right after this.
Mr. WEBB. Are you willing to swear it was Tuesday morning?
Mr. WATSON. Well, how can I charge my mind and carry along whether it was Tuesday morning or Wednesday morning or Monday morning? I can not do it. It was within a day or so of this.
Mr. WEBB. All right. Was Truesdale there?
Mr. WATSON. Yes; yes.
Mr. WEBB. And who else?
Mr. WATSON. Why, Phillips; I remember seeing him.
Mr. WEBB. Phillips was there?

Mr. WATSON. I think Mr. Phillips introduced me to Mr. Loomis. I had met Mr. Truesdale before. I think Mr. Phillips introduced me to Mr. Loomis.
Mr. WEBB. You knew Truesdale; you had met him, and you were not at a disadvantage with him like you were with Loomis?
Mr. WATSON. Well, yes; at some banquet or some meeting or other I was introduced to him, some time.
Mr. WEBB. How many times did you talk to him about this matter?
Mr. WATSON. Truesdale?
Mr. WEBB. Yes, sir.
Mr. WATSON. I never met him on this matter, except the one day; that is, that morning when we did meet there.
Mr. WEBB. How long before that time was it that you saw him?
Mr. WATSON. Well, now, it may have been when they opened the depot at Scranton; it may have been at some function where they had given a banquet or something of that kind.
Mr. WEBB. Do you remember ever speaking to him about this case?
Mr. WATSON. No.
Mr. WEBB. Except in the conference?
Mr. WATSON. Oh, no.
Mr. WEBB. Then you had not spoken to him about it before you came down to Washington to see the judge?
Mr. WATSON. No; I never talked to Mr. Truesdale on coal at all.
Mr. FLOYD. Mr. Watson, when you left Washington you went from here to New York, did you?
Mr. WATSON. Yes, sir.
Mr. FLOYD. What was your mission or business in New York?
Mr. WATSON. I did not have any business there. I went to New York in order to get home.
Mr. FLOYD. That was on your way home?
Mr. WATSON. Oh, my way home would have been to have gotten off at Philadelphia and gone up from Philadelphia to Stroudsburg. My wife was on the mountain at Stroudsburg. We had broken up housekeeping for several months, and they were out on the mountain, and I had to go to Stroudsburg over the Lackawanna. The Belvidere division of the Pennsylvania Railroad runs infrequent trains, and I could not find out if I could get up at all for the first 100 miles from Stroudsburg; and knowing the line from New York runs trains daily, and what they were, I went to New York and got there at midnight, and I went to bed, and got up the next morning and took the most convenient train for East Stroudsburg.
Mr. FLOYD. Did anyone accompany you to New York?
Mr. WATSON. No; no. I was all alone.
Mr. FLOYD. You met Mr. Loomis and Mr. Truesdale in Scranton later?
Mr. WATSON. Yes, sir.
Mr. FLOYD. What did you offer them this property for; what consideration?
Mr. WATSON. $161,000.
Mr. FLOYD. $161,000?
Mr. WATSON. Yes, sir.
Mr. FLOYD. What did the Bolands agree to take for the property when they made the agreement to pay you $5,000?
Mr. WATSON. Well, now, that will require some little explanation.
Mr. FLOYD. No; that will not require any explanation.
Mr. WATSON. Why, they agreed to pay, after we had gotten through——
Mr. FLOYD. I want the first of it.
Mr. WATSON. First, $100,000.
Mr. FLOYD. At the time you said they agreed to pay you $5,000 for your services.
Mr. WATSON. $100,000.
Mr. FLOYD. That is the point I wanted to get you to state.
Mr. WATSON. Yes, sir.
Mr. FLOYD. And out of that $100,000, if the deal was closed and a sale effected, you were to receive $5,000?
Mr. WATSON. Yes, sir; they were to give me $5,000 for doing the business; that is it.
Mr. FLOYD. You never put that $100,000 proposition up to these railroad people at all, did you?
Mr. WATSON. No, sir; I never did.
Mr. FLOYD. Will you explain why it was that you did not?
Mr. WATSON. From the first time that the price was fixed at $100,000, the property that was to be passed had changed very materially. There were different things to be done with it, and then when they offered this property first there was no two-thirds interest offered. The Marian Coal Co. in its entirety was offered to me.
Mr. FLOYD. For $100,000?
Mr. WATSON. For $100,000. That would include the suit—well, I may say the suit; yes. There was the Peale matter; Mr. Peale had $16,000, which was admitted. Mr. Peale finally got a judgment stated for thirty-odd thousand dollars, $34,000, or something like that. Now, that was hanging fire over there, and I didn't know that that was a part of this transaction when I first undertook to handle this for $100,000. Now, there was another thing that I didn't know, and that is that one-third of this stock that represented the Marian Coal Co. was in Mr. Peale's hands and belonged to him. That is two things that I didn't know about. The first, the increased indebtedness, the $16,000, I did get an idea of before we got very far along with it. But the larger amount, this $18,000 more added to it, I did not get that, you know, until the decree was—not the decree; until the judgment was entered, which was long after I had gotten out of the matter. Now, I did not know what that litigation was. Then there was another thing that I did not know. I did not know that the Bolands had any dispute of title over there, which they did have finally, and that the Lackawanna claimed a good, sizable interest in this dump. Now, I did not know that. Then, when I brought that to Mr. Boland's attention, and he began to see his $100,000 being carved out by $16,000, by a third interest of the Peales, and by a quarter interest of the Lackawanna, it began to get him down so that he would have trouble getting home on the proceeds; and therefore we agreed or he agreed to raise that to the $161,000, and I was to make that up on the rates. That is what was to happen.
Mr. FLOYD. Which one of the Bolands agreed to that?
Mr. WATSON. My recollection is that there was only one Boland that talked about railroad rates, and that was W. P. Boland. The conversations I had with him about railroad rates were when he had the papers there and could show from the papers what had been going on and the discrimination in the rates. Now, I am quite sure he would come to my office, and we would go over that. I imagine it was no one but Mr. W. P. Boland. I never talked about rates with C. G. Boland, because he knew nothing about them.
Mr. FLOYD. You say you imagine it was W. P. Boland?
Mr. WATSON. Yes; alone.
Mr. FLOYD. What is your memory about it?

Mr. WATSON. Oh, I think it was—no one else.
Mr. FLOYD. You think it was W. P. Boland?
Mr. WATSON. Yes; I am sure C. G. Boland was never present when we talked railroad rates, because he knew nothing about it and confessed it.
Mr. FLOYD. Did you not tell the committee just a few moments ago that you yourself did not understand about these rates, and that you arranged to come down to Washington to get these briefs in order that you might study up a particular case in order to get knowledge of those rates?
Mr. WATSON. No, no, no.
Mr. FLOYD. And then did you not testify that you left Washington after you had your interview with Judge Archbald, went home by way of New York, because you were able to get there quicker in that way, or you were led to understand you could, and then went from there home, and then, just in a day or two after that, you met Loomis and Truesdale in Scranton and made this proposition to them, which they refused? Did you not testify to that?
Mr. WATSON. Yes, sir; I say that I read that book through three or four times.
Mr. FLOYD. When did this great time intervene after you learned something about rates up to the time that you made this proposition, so that you changed the proposition, or that Boland changed the proposition, and you added $60,000?
Mr. WATSON. Oh, no; that is wrong. You don't understand me. This $161,000 was a price that was agreed upon possibly two or three weeks before I went to New York. I knew what I had to ask them, and that was the reason I did not have the data. I did not know what the court had done in the Meeker case. That was a rate case of anthracite coal growing out of occurrences within 16 or 20 miles of where this place was located.
Mr. FLOYD. That was a case entirely separate from and independent of the Boland case, was it not?
Mr. WATSON. Oh, my, yes.
Mr. FLOYD. All you got out of that case was the decision of the court and the evidence——
Mr. WATSON. Oh, not much evidence.
Mr. FLOYD. By comparison of that case with the facts in this Boland case you expected to get some information that you did not possess in regard to this rate matter?
Mr. WATSON. Yes, sir; I wanted to know how they handled a case of this kind.
Mr. FLOYD. William P. Boland did not know anything about rates?
Mr. WATSON. Oh, he did. He told me the best he could. I may have been dull and did not get hold of it right—I do not know—but he told me many times about the rates. I think Boland had fortified himself well—W. P. Boland. I think he did know about the rates, and he knew the distance and the differences, and he knew where they had charged a little more for one distance than for another.
Mr. FLOYD. What is your explanation of coming down to Washington to see about finding out the rates?
Mr. WATSON. I did not come to Washington to find out the rates from Judge Archbald. I came to get these books, because that Meeker case was a decision directly from the court. It was not the opinion of a layman.
Mr. FLOYD. That was the decision of the commission?
Mr. WATSON. Of the commission, people who are especially charged to examine these cases and make a report on them.
Mr. FLOYD. When did you get the time to study those books after you came to Washington before you met Mr. Truesdale and Mr. Loomis?
Mr. WATSON. There is one of them I did not study much, but there is one that I did—one of those books. I got the findings of the commission pretty well. I had another one something like that [indicating]; I think one of these is either amended or it was an amendment. There was a little more in one of them, perhaps.
Mr. FLOYD. Mr. Watson, did you not state right at the beginning of your testimony that the Bolands first fixed $100,000?
Mr. WATSON. They did.
Mr. FLOYD. And that you finally whittled it down, and discovered that fifty or sixty thousand dollars was as much as they could possibly obtain or expect, and that you could recommend a proposition for them to sell at fifty or sixty thousand dollars? Did you not state that?
Mr. WATSON. I do not recall that I ever recommended them to sell it for fifty or sixty thousand.
Mr. FLOYD. Did you not state that?
Mr. WATSON. No; I do not think so. I never heard fifty or sixty thousand dollars until Col. Phillips testified to it.
Mr. FLOYD. Did you not state in your testimony here to-day that at first the Bolands claimed damages by reason of rates, and of these other damages——
Mr. WATSON. Now you are speaking of rates.
Mr. FLOYD. Coal and certain other things; not rates altogether, but their entire claim was $100,000?
Mr. WATSON. Yes, sir.
Mr. FLOYD. And you finally whittled it down to about sixty thousand?
Mr. WATSON. Yes; that is, rates; that is, in relation to the rate matters.
Mr. FLOYD. When did you do that whittling down?
Mr. WATSON. That was, perhaps, while I was working at the case, within a week or so of my coming down to New York. I was quite busy on this case for a week.
Mr. FLOYD. Within a week or so of your coming down to Washington?
Mr. WATSON. To Washington; yes. It was during that period when we knew, or expected to meet these people; that is when we were doing that.
Mr. FLOYD. If you had that whittled down before you came down to Washington, until, in your judgment, they would not be warranted in claiming more than fifty or sixty thousand dollars by reason of this price, then let me ask you again to explain why it was that you left Washington, went by way of New York home, met Truesdale and Loomis in Scranton, and asked $160,000 or $170,000 for this property?
Mr. WATSON. I can explain it to you very quickly. There was a certain price fixed on this washery and there was a certain price fixed on the rates. Those two together, as they were originally put up, would amount to nearly a half a million dollars. I can not give you the exact figures, but pretty near that. When we got at the rates, and I found that the punitive damage idea would have to be done away with, we reduced it by maybe three or four—I have forgotten, but it was about one-third or one-fourth of the amount that they asked in the rate war. That put it down, I say, to fifty, sixty, or seventy thousand dollars—somewhere along there, whatever it was—and that, added to what they claimed the washery was worth and they could sell it for—I had Mr. Boland show me a proposition to buy for $90,000—so my judgment was not as good as some coal man's judgment who said he would give them $90,000, and I had every reason to believe perhaps it was so, and therefore we added it together and it made $161,000, and that is the only price I ever had, the only price I was ever authorized to offer the land for to the Lackawanna road, and I offered it at that price.
Mr. FLOYD. I understood you to say, since I have been questioning you here, that the first price offered was $100,000.
Mr. WATSON. That is right.
Mr. FLOYD. And that you were to have $5,000 of that in case the deal was made?
Mr. WATSON. Yes, sir.
Mr. FLOYD. Did you not think you could sell it to the Lackawanna road for $100,000 easier than you could for $160,000?
Mr. WATSON. That did not dispose of the rate business. There was nothing in the rates then. The rates was another matter.
Mr. FLOYD. I thought you stated it was to settle all these cases.
Mr. WATSON. Not for $100,000.
Mr. FLOYD. The Peale case?
Mr. WATSON. The Peale case.
Mr. FLOYD. And everything?
Mr. WATSON. The Peale case and the colliery were to be turned over to them for $100,000; the washery and the coal dump and their leases; and then, when I examined that, I found a quarter interest, or such a matter, whatever it was, claimed by the Lackawanna. This coal dump, if you will pardon me, was made at three different times and by three independent operations. I did not know that when I was first negotiating for this, but it seems that Mr. Felts dumped some of it by an earlier mining. Then came the Lackawanna, and they dumped some of it; then came some one else, and they dumped some of it. During that time Mr. Felts, who was the former owner of the fee—something had happened to him in a financial way, and he was obliged to take a nephew, a Mr. Hoysradt, or somebody, in there, and there was another dispute about that, Mr. Hoysradt's interest, Mr. Felt's interest, and the Lackawanna Railroad's interest.
When we got through talking about that it shrunk up the Bolands's interest, and then they claimed that did not amount to anything. I did not know whether it did or not.
Mr. FLOYD. When who got through talking about it?
Mr. WATSON. Boland and ourselves; we were discussing that for a long time.
Mr. FLOYD. I thought you said the Bolands claimed it did not amount to anything?
Mr. WATSON. They did.
Mr. FLOYD. Who told you it did amount to something? Where did you get the information?
Mr. WATSON. Because I knew it, as a matter of fact, living in the community, that Mr. Felts owned that. I asked Mr. Felts's executor about that; I recall mentioning the fact to him, and asking him what the business was down there, and he could not tell me definitely what it was. Then I knew from the Lackawanna people. I remember a lawsuit about it, and all that kind of business. When I came to go into the details about it, I recalled it readily, that there was a disputed claim there. I talked with Mr. Phillips a good many times, four or five times, perhaps, before I went down to New York. It was during that period of, say, approximately two or three weeks, that I was talking with Mr. Phillips, trying to get an arrangement. Mr. Phillips had an estimate made of the pile, and told me it was only worth $14,000. I would naturally sit up and take notice, when I was offering it for $100,000, and he said it was worth $14,000.
Mr. FLOYD. That is what I can not understand, Mr. Watson, when you had a contract to sell the property and settle this difficulty between these parties at $100,000, that when you ascertained that various complications had arisen, and somebody else owned one-third interest, you raised the price instead of lowering it.
Mr. WATSON. When we had the contract for $100,000, I say there was no rate discussed. There was no interstate-commerce business discussed. I never heard of that until after I had been in the case and examined all the papers.
Mr. FLOYD. After this rate matter was added to it and you were trying to sell the property for $161,000, did you have any change in your contract about your $5,000 fee?
Mr. WATSON. No; there was not anything there. I knew where the money was going; it was going to pay Peale and some of those people.
Mr. FLOYD. There was not any change made in the fee?
Mr. WATSON. There was not.
Mr. FLOYD. Did you have any contract with Peale?
Mr. WATSON. I do not know him. I simply knew the father, out there in Clearfield somewhere.
Mr. FLOYD. At whose instance were you seeking to take care of Peale and to take care of these people who owned the one-third interest in the Marian Coal Co. if you had no negotiations with the claimants?
Mr. WATSON. Let me get that question.
Mr. FLOYD. As I understand you, the rate matter was not considered in the original transaction?
Mr. WATSON. When I first talked with Christy Boland, and the $100,000 was mentioned, and the $5,000 fee compensation, there was no talk about the rate matter.
Mr. FLOYD. That is the way I understand you. But later, on investigation, and by refreshing your memory, you came into the knowledge of the fact that other parties had interests in the property, and that there was some question about some of these coal dumps. You have detailed a lot of incidents. Then this rate matter was interjected into it, and you figured out then that it would take $161,000 to cover the entire interest. Is that right?
Mr. WATSON. When you say I figured out then, that is not true.
Mr. FLOYD. Boland figured out?
Mr. WATSON. I was instructed then that $161,000 would be the price to clean up all the differences between the companies, and that Mr. Peale was to be taken care of out of the $161,000.
Mr. FLOYD. By whom were you so instructed?
Mr. WATSON. By the people who employed me, either Christy Boland or Will Boland.
Mr. FLOYD. Which one?
Mr. WATSON. I could not tell you. The chances are that all of the rate business was talked by Will Boland, because I do not ever recall talking rates with Christy Boland, because he did not know them.
Mr. FLOYD. Do you have any recollection about that? Is it possible that an item of $60,000, your contract changed to your disadvantage——
Mr. WATSON. No; it was not to my disadvantage; I had the same fee.
Mr. FLOYD. Would it be to your advantage, if your fee depended upon the sale of the property, to raise it from $100,000 to $161,000? Did not that lessen your chances to float the property and get your $5,000?
Mr. WATSON. This Marian Coal Co., when we got down to the going to the company, and the Lackawanna Co., was simply used as a vehicle to carry all the burdens of the Bolands in there, and get them all settled at one time. I knew when I went over to the Lackawanna that

the coal was not worth over $15,000 or $16,000; I knew that. I did not know it when I began. I supposed it was worth $100,000. But the rate claim was the bogey; that was the big thing.

Mr. FLOYD. Then, if you knew when you made the proposition to the railroad company that the Marian Coal Co.'s property was not worth over $15,000 or $16,000——

Mr. WATSON. I knew that. Do you wonder I would have the nerve to ask that?

Mr. FLOYD. Then I will ask you again why it was that instead of lowering the price at which you offered it to the coal company you raised it to $160,000?

Mr. WATSON. I did not raise it at all; get this in your mind. I never fixed a price on that property at all. The price was fixed by Mr. W. P. Boland, and agreed to by his brother no doubt, $161,000; and the reason it was raised was because they had people to take care of. What would it be worth to secure a culm pile with Mr. Peale with some interest in it and not going along with you, and the Lackawanna claiming one-fourth interest in the pile? So something had to be done in eliminating all those. When I say thirteen or fourteen thousand dollars I take out those interests.

Mr. FLOYD. Will you tell me when and where W. P. Boland directed you or instructed you to raise that price to $161,000?

Mr. WATSON. I did not raise it.

Mr. FLOYD. Instructed you to raise it?

Mr. WATSON. He did not instruct me to raise it; I did not raise it. He made that price to me.

Mr. FLOYD. He made that price to you?

Mr. WATSON. Yes, sir; he raised it.

Mr. FLOYD. When and where did he make the price?

Mr. WATSON. My recollection is it was in my office. I never did any business with Mr. Boland outside of this, except I might speak to him on the street corner or something.

Mr. FLOYD. Who was present?

Mr. WATSON. Nobody but Boland and myself.

Mr. FLOYD. Was it reduced to writing?

Mr. WATSON. I think not—oh, I believe it was. I believe the figures were put down on paper, I think. I had some papers that Mr. Boland has now.

Mr. FLOYD. Have you the papers?

Mr. WATSON. No; I gave everything back to Mr. Boland that I had, every memorandum and everything else, excepting these letters; and I did not know I had those until I went digging around for them and I found those books, and those letters were in the books, and that telegram—the letters and the telegram; and I brought all that I had.

Mr. FLOYD. Did anybody come to Washington with you?

Mr. WATSON. No.

Mr. FLOYD. At the time you wired Judge Archbald?

Mr. WATSON. No; I came from Stroudsburg directly to Washington.

Mr. FLOYD. You were well acquainted with Judge Archbald, were you not?

Mr. WATSON. Oh, yes; I have known Judge Archbald, I think, as early as 1880. I went to Scranton 34 years ago, and shortly after going there I knew Judge Archbald.

Mr. FLOYD. Why was it you did not wire Judge Archbald, as a matter of courtesy to you, to send you copies of briefs in this case?

Mr. WATSON. I did not know what I wanted until I looked at the record. I did not know how they kept the records, and I did not know that they had any, really, to be honest; I did not know what they had. When I had talked about this Commerce Court, I did not know what they were keeping. They were just beginning. I did not know whether they had done any business before that.

Mr. FLOYD. Did you not state the case had been decided, and that on account of the importance of the decision you came down here to get the papers, or get knowledge of the papers, in this other case referred to?

Mr. WATSON. Maybe I can impress on your mind what I did say, and what I intended to say.

Mr. FLOYD. All right.

Mr. WATSON. That is, that I had learned, through some indirect source, or through the newspapers, that the Harry Meeker case—as we called it; I knew the Meekers—had been decided by the Interstate Commerce Commission favorably to Meeker. I had heard that, and it had been talked about; I will not say how long, whether it was a week or a month, but I should judge a month or two; that I had heard it, and I had never examined it, and I did not know that an attorney in our town at that time was the representative of one of the companies, or I would have gone to him. I did not know it. That is how little I knew of the Meeker case. It was all in the newspapers, I suppose, excepting Mr. Boland was keeping tab on those cases, I imagine, and he would come to my office. He did tell me a number of times about the Meeker case, how it had been disposed of, and that it had been appealed by the company. I did not know whether it was in the Circuit Court of Appeals or in the United States Commerce Court, so I made some inquiries and found it was in the United States Commerce Court, and that was a pretty early day for the United States Commerce Court, as I recall it. They had not been doing very much business; at least, I had heard nothing of them, and whether they had met and decided cases or not I did not know.

I talked to perhaps a half a dozen people—I do not recall who, but lawyers who ought to have known about those things; they were practicing in that kind of business—and I got no information. It was my idea of coming down here. I may have spoken to Mr. Martin about it—I would be very apt to; he was right in the building where I was—and asked him how I got into that court. I asked some one surely, and they told me that the appeal was taken to the United States Commerce Court. I knew there must be some record, and I knew they must get in there in some way. Therefore I came down to see if I could get the record, the docket entries, and things of that sort, and see what it was. When I got there I was surprised at the meager mention of the case. There was not much to it, and the young man got those books—he went out somewhere and got them—and I saw they were numbered, and I supposed they were given to somebody there, and he kindly gave them to me. That is what I came for, to get what information I could in relation to this matter, and I should have asked Judge Archbald to give me the information—I will volunteer that now—if I had not gotten it somewhere else. But I did get it through his clerk, what I wanted, and I would not have believed I was corrupting; I would not have believed there would have been anything wrong about it for me to have asked him to get me some way of getting at the record of a case that was pending before him.

Mr. FLOYD. As a matter of fact, did you not ask him to do it?

Mr. WATSON. I did not, because I did not have to. I asked the young man if he could get me the books. He said he could, and the young man went in and got them. I do not know who he was.

Mr. FLOYD. Did you not state that when you went into the Commerce Court room there was some young man in there with Judge Archbald, and you had a conversation, were talking, and Judge Archbald introduced some other person to you, and that this person Judge Archbald introduced to you went and got the books? Did you not state that?

Mr. WATSON. If I can be understood, the way I recall now was that when I went to that building——

Mr. FLOYD. I am asking you did you not state that?

Mr. WATSON. Not as you put it, no; because that is not true. I do not think I saw the young man until after I had seen Judge Archbald.

Mr. FLOYD. That is the way I put it.

Mr. WATSON. Judge Archbald was standing there—I remember the fact now; I met Judge Archbald, and we went in the building together. Maybe I asked him where I could see him—I imagine I did, now, send a telegram asking him if he would meet me at a place I knew. I did not know where the court met, and I think he met me at some place, but I can not tell you where now.

Mr. FLOYD. Then you sent two telegrams, did you?

Mr. WATSON. That was sent, perhaps, from Philadelphia, on my way down here; I think so.

Mr. FLOYD. On your way down here you sent another telegram?

Mr. WATSON. Yes, sir.

Mr. FLOYD. Have you a copy of that?

Mr. WATSON. No, sir; I do not keep copies of telegrams.

Mr. FLOYD. You do not keep copies of telegrams?

Mr. WATSON. I do not, unless I am dealing with people——

Mr. FLOYD. Then, at Philadelphia, or somewhere along the line, you sent him a second telegram?

Mr. WATSON. I think I asked him where I could meet him.

Mr. FLOYD. Where did you meet him?

Mr. WATSON. I do not know where; I asked him to, anyhow.

Mr. FLOYD. Did you meet him on the street?

Mr. WATSON. Let me recall what I did when I got in here, if we have to come to the details of that. I remember now that I came to Washington, and the hour of the day I can not give you, because I got mixed up on a train in Philadelphia and did not get down quite as early as I ought to have got here. I left the station after inquiring of somebody what car to take to get to the Hotel Raleigh, and I went to the Hotel Raleigh and I checked my satchel there, and my recollection now is that I met Judge Archbald at the Hotel Raleigh, and we walked together up to this Commerce Court. I told him I wanted the records, if I met him there; that is what I told him. He says, "We will go up to the building; there is no one there." Saturday afternoon there would not be anybody there, just as I expected when I left home, and when I sent the telegram. We walked up together, and I am not very well acquainted in your city, but I think the building is at Fourteenth and H Streets.

That is just a guess. I think there is where it was. We went in the side of the building—not H Street—and we rose up on the elevator to some floor above, and when we got off there and went to Judge Archbald's office this young man came along and Judge Archbald introduced him to me and said I was a lawyer from Scranton, and I asked the young man if he knew where I could get these books, if I could see the records. He says, "He is not the clerk, he is"—something, some other position. Then I asked him, and presently another young man came there, and the second one who came is the one who got the books for me. Judge Archbald said, "I would like to introduce you to Judge Mack"—no; Judge Hunt. So we walked over in the corner of the building somewhere and he introduced me to Judge Hunt, and when we came out there was a nice looking gentleman there, and he says, "This is Judge Mack, from Chicago." I had heard of Judge Mack, and I made some remark about a gentleman in Chicago that I knew. I did not try to bribe him. Then he says, "There is another man over there I would like you to meet," and that was Judge Knapp. I had met him, so Judge Knapp said. I did not recall it, but he said I had met him before, and I shook hands with him then. I did not offer him a thing; and we left.

The CHAIRMAN. Why did you remark just now that you did not try to bribe him?

Mr. WATSON. Because it gets pretty close to the fact, as I understand it, by innuendo, that I was down for some improper purpose to this judge.

The CHAIRMAN. Did anybody send you down here to bribe Judge Knapp or anybody else?

Mr. WATSON. I have heard it around here some. There has been some hinting I want to resent.

The CHAIRMAN. I would like to know who has hinted at it.

Mr. WATSON. Perhaps my skin may be a little thin on that subject. I think I have heard it.

The CHAIRMAN. I had heard nothing of the sort, and I wanted to get what that remark, interjected at that point, meant.

Mr. WATSON. Well, I read in the evidence that Christy Boland, or some one, said in this trial that I told him I had two judges besides Judge Archbald that I could rely on in the United States Commerce Court to decide cases my way; it is in your record; something like that. That may be putting it a little stronger than it really appears; and I never met those men.

The CHAIRMAN. You said that Boland said that you told him that?

Mr. WATSON. Yes.

The CHAIRMAN. And that you read that in the record?

Mr. WATSON. I read it in the record; something like that.

The CHAIRMAN. Are you not mistaken about it?

Mr. WATSON. Or in a newspaper or something. I do not know where I read it.

The CHAIRMAN. You read that statement?

Mr. WATSON. Yes, sir; that I had two judges——

Mr. WEBB. I do not think he attributed that much influence to you.

The CHAIRMAN. I never heard that much influence attributed to you.

Mr. WATSON. Let us change it and put that I said I had. That is the way they always put it.

Mr. WEBB. He said that you said that you had two judges you could influence?

Mr. WATSON. He must have said that I said that the judge said to me so.

Mr. WEBB. Or, rather, that you told Boland that the judge could influence two other judges?

Mr. WATSON. Then I beg the committee's pardon. I supposed I was the guilty one, that I was doing it myself. I have not very much influence, I know.

Mr. WEBB. He did not say that, either.

Mr. NORRIS. Mr. Watson, the object of your coming down to Washington to get the papers, or to see the record in the Meeker case, was to enable you to prepare yourself to meet the railroad officials in that conference that was going to take place in Scranton, was it not?

Mr. WATSON. Yes, sir; I wanted to know something about how they did those things, that is all, and I did not know it.

Mr. NORRIS. Those people you were going to meet in Scranton were simply officials of the railroad; you were not going to argue this case in court, were you?

Mr. WATSON. No; but we were going to talk about rates.

Mr. NORRIS. And you wanted to know something about rates so you would be able to cope with them in that negotiation, did you not?

Mr. WATSON. Yes.

Mr. NORRIS. That was the object of your coming to Washington?

Mr. WATSON. Yes.

Mr. NORRIS. You got what you call "books" when you came down here?

Mr. WATSON. That is all.

Mr. NORRIS. These two [indicating]?

Mr. WATSON. I did get another one.

Mr. NORRIS. What other one?

Mr. WATSON. Something like that; some amendment to those.

Mr. NORRIS. This is entitled "United States Commerce Court, case No. 49. Lehigh Valley Railroad Co., petitioner, v. The United States, respondent. Brief for Henry E. Meeker, surviving partner of the firm of Meeker & Co." That is one of the books, is it?

Mr. WATSON. Yes.

Mr. NORRIS. The other one is in the same case, case No. 49, United States Commerce Court, entitled the same way, October session, 1911, brief for petitioners. That, I take it, is the railroad company's brief?

Mr. WATSON. Yes.

Mr. NORRIS. These are the two books that you have been speaking about, these briefs?

Mr. WATSON. Yes, sir.

Mr. NORRIS. What was the other book?

Mr. WATSON. Something like that. It was either an amendment or else that is an amendment of the other one.

Mr. NORRIS. It was, perhaps, a reply brief, or something like that?

Mr. WATSON. No. The book you have in your hand, I think, is the Valley book, is it not? That is the one that the railroad company filed?

Mr. NORRIS. Yes.

Mr. WATSON. My recollection is that perhaps this book contains more than the other one.

Mr. NORRIS. It does.

Mr. WATSON. No; but I mean the other one I got. I got two books of the Valley Railroad.

Mr. NORRIS. You had two of their briefs instead of one?

Mr. WATSON. Yes; but one was not as full as the other, or there was something there.

Mr. NORRIS. You did not get anything except briefs?

Mr. WATSON. I looked at the record—at the docket, or something they had there.

Mr. NORRIS. I believe you testified here that that was one of your objects in coming down?

Mr. WATSON. Yes; I wanted to see what sort of a record they had there.

Mr. NORRIS. You wanted to see the docket entries?

Mr. WATSON. It would hardly be that. The record would be all they had there.

Mr. NORRIS. If you did not mean what you said, tell us what you do mean.

Mr. WATSON. I wanted to get the whole case.

Mr. NORRIS. The docket entries would be part?

Mr. WATSON. Yes; and this would be part [indicating book].

Mr. NORRIS. Now, tell the committee, will you, what good you expected, what benefit you expected, in negotiating with these railroad officials would be any knowledge you might have of what was on the docket, what were the docket entries in another case entirely independent of the one you were trying to settle?

Mr. WATSON. I can tell you in one moment what I had in my mind when I came here. My experience with railroad companies is that they deny everything in sight; they will not agree to anything until you bring them up to where they can see. Their vision is affected on anything that concerns them. You have to bring them forcibly up to it. I understood from the newspapers, or from Mr. Boland also, and from others I had talked with, that this Meeker case was tried greatly to the advantage of Mr. Meeker; that they had reduced the rates of the railroad company; and that Mr. Meeker was likely to recover a couple of hundred thousand dollars by the reduction of the rates. Now, you say it was on an entirely different case. A case where a railroad company is shipping coal from about the same point, and the same sizes, and to the same destination, is pretty nearly the same case.

Mr. NORRIS. It was not shipping coal from the same point, was it?

Mr. WATSON. Yes; they were within almost a stone's throw of the same point. The Lackawanna Valley opens into the Wyoming Valley, and they are not 15 miles apart.

Mr. NORRIS. As a matter of fact, what information did you get that was of any benefit to you in those negotiations?

Mr. WATSON. The benefit I got was just what they reduced them, and I argued it very stoutly and very long before Mr. Truesdale.

Mr. NORRIS. Will you point out to me the place in either one of these briefs where you got that information?

Mr. WATSON. I think I can show you where it was reduced two or three grades.

Mr. NORRIS. I would be very glad to have you show me that. [Handing the witness briefs.]

Mr. WATSON. I think I can. I am not familiar with the book now. It has been out of my hands a long time.

Mr. NORRIS. You went over it carefully, did you not?

Mr. WATSON. Yes; but I do not hug things so long as that.

Mr. NORRIS. Your memory was good at that time?

Mr. WATSON. It was not so good at that time, either. My recollection is that it was a comparison of rates we were making here, and the things I got I do not seem to put my hand on.

Mr. NORRIS. The information you are looking for is where they reduced the rates, so that you could show in this other case how they reduced the rates in the Meeker case? [After a pause.] Mr. Watson, I do not want to delay the committee too long.

Mr. WATSON. You are asking me to look for something in this book. I have found where this rate is discussed here.

Mr. NORRIS. Now, Mr. Watson, that last, let me call your attention to the fact that those are briefs.

Mr. WATSON. I understand that. They were appeals.

Mr. NORRIS. You can not find in those briefs any action, of course, that the courts took in that case?

Mr. WATSON. But I can find what the attorneys said they took. I did not have the decree.

Mr. NORRIS. You were getting to it, and you said you did argue at great length what they had done in the Meeker case?

Mr. WATSON. I did; and perhaps I have it in the other book.

Mr. NORRIS. Is it not true that the Meeker case was not decided, and that they had not done anything, and that it was never decided on its merits?

Mr. WATSON. They reduced several sizes.

Mr. NORRIS. At this time the Commerce Court had not taken any action in the Meeker case; and how could you use anything in the Meeker case with these railroad officials to show what action the court had taken in that case?

Mr. WATSON. I simply did it by calling their attention to certain reductions I knew of, and I got the information from what they did.

Mr. NORRIS. But there could not be any information in the briefs filed by attorneys before the case was disposed of?

Mr. WATSON. This case was before the United States Commerce Court, and the United States Commerce Commission had gotten through with it, as I understood it.

Mr. NORRIS. Yes; the Interstate Commerce Commission?

Mr. WATSON. Yes; and it was their finding that I was talking about and not the court's.

Mr. NORRIS. Their finding was in issue in that court?

Mr. WATSON. Yes.

Mr. NORRIS. Did you expect to use that?

Mr. WATSON. Yes; because it gave me information as to what they might expect.

Mr. NORRIS. No; that could not possibly be, because it was the Commerce Court that was going to pass upon it. Why did you go to the Commerce Court to get what the Interstate Commerce Commission had done?

Mr. WATSON. Because I went to those books to get what the Interstate Commerce Commission did.

Mr. NORRIS. They do not show it. They show the claims made by the respective attorneys. Do you want this committee to believe that a lawyer of many years' experience and practice would go to the Commerce Court and get the briefs of the attorneys in order to find out what the Interstate Commerce Commission had done, when, right in the same city, he could go over to the Interstate Commerce Commission and get their decision directly?

Mr. WATSON. Yes; but I did not know it.

Mr. NORRIS. You did not know it?

Mr. WATSON. I did not. I am frank to say that I never knew anything about the Interstate Commerce Commission.

Mr. NORRIS. You have just said that it was the action of the Interstate Commerce Commission that you were looking for.

Mr. WATSON. It was; I wanted the information.

Mr. NORRIS. Then you did know there was such a thing?

Mr. WATSON. Did I know it? I have known it ever since they have been in existence. But to go before them, to get them to have anything to do with this, or to study their decisions, I never did in my life, because I never was interested.

Mr. NORRIS. You wanted to arm yourself, for this argument with these railroad officials, with the action of the Interstate Commerce Commission in the Meeker case?

Mr. WATSON. That is just what I wanted.

Mr. NORRIS. And you were right here in Washington where the Interstate Commerce Commission sits?

Mr. WATSON. Yes.

Mr. NORRIS. And did not go to get it?

Mr. WATSON. I did not know. I perhaps did not know how; I will admit that.

Mr. NORRIS. You went to the Commerce Court?

Mr. WATSON. Yes.

Mr. NORRIS. And satisfied yourself by taking the briefs of the attorneys?

Mr. WATSON. Yes; and something else; I got something else.

Mr. NORRIS. The other one was a brief?

Mr. WATSON. I think it was a brief of some kind.

Mr. NORRIS. You got matter for the argument that you expected to be of benefit to you up in Scranton, and that is the reason you wired Judge Archbald and came clear down here to Washington, was it?

Mr. WATSON. To a man who knew nothing about the practice before the Interstate Commerce Commission any information I could get would be very agreeable to me.

Mr. NORRIS. You did not get any information at all?

Mr. WATSON. I got information——

Mr. NORRIS. As a matter of fact——

Mr. WATSON. I got information enough so that they admitted what I said was true.

Mr. NORRIS. The record of the Interstate Commerce Commission you did not get?

Mr. WATSON. That is true, unless that other book was the record of the Interstate Commerce Commission. I do not know whether it was or not.

Mr. NORRIS. It is not likely you would get that in the Commerce Court?

Mr. WATSON. No; I do not know. I do not know any other place only there. I do not know what I had. Somebody gave it to me.

Mr. NORRIS. You said in the beginning of your testimony that you went to see Judge Archbald about the practice in the Commerce Court?

Mr. WATSON. That is the first thing I did.

Mr. NORRIS. That is, after you had been employed by the Bolands?

Mr. WATSON. Yes.

Mr. NORRIS. You were employed, then, in a case that was before the Interstate Commerce Commission that you thought might eventually get to the Commerce Court?

Mr. WATSON. No, sir; it was not before the Interstate Commerce Commission.

Mr. NORRIS. Where was it?

Mr. WATSON. Oh, I guess it was; yes.

Mr. NORRIS. Did I state it correctly?

Mr. WATSON. Yes; that is right.

Mr. NORRIS. And you wanted to know the procedure in the Commerce Court so that you would know what to do in case your case did reach that court?

Mr. WATSON. Yes.

Mr. NORRIS. And you went to see Judge Archbald to get that information?

Mr. WATSON. I spoke to him about it; yes, sir.

Mr. NORRIS. You testified that at that time you had not even read the law providing for the Commerce Court?

Mr. WATSON. I had not.

Mr. NORRIS. As a lawyer, does it not appear to you that when you finally got a case that might possibly reach this court, the way to find

out what the court was would be to read the law instead of going to the judge who presided and asking what the law was when he would have to pass on the case when you got up to it?

Mr. WATSON. I did not ask him what the law was. That was not it. It was a matter of practice. I have practiced long enough to know that the courts fix their own rules of practice. That is what I was talking to him about.

Mr. NORRIS. You had not read the law?

Mr. WATSON. I had not.

Mr. NORRIS. Does it not appeal to you as a lawyer of a great many years' standing that before it is necessary for you to find out what the practice is you ought at least to read the law?

Mr. WATSON. I did; that day.

Mr. NORRIS. Did that afterwards?

Mr. WATSON. Yes; I did it that day. I got a little pamphlet, or something that had the act printed in it, and I read it.

Mr. NORRIS. Now, Mr. Watson, will you tell the committee that, employed as an attorney in a case involving quite a large sum of money, employed by the Bolands in a case pending before the Interstate Commerce Commission, in order to equip yourself for an argument with the railroad officials you knew was coming on soon, it being necessary for you to find out something about what the Interstate Commerce Commission did, you sent this telegram and then followed it up and then came down to see Judge Archbald without going to the Interstate Commerce Commission or making any attempt to get the record or the decision or the opinion in that case?

Mr. WATSON. It may seem so to you, but, so far as I recall now, it did not appeal to me.

Mr. NORRIS. Does it seem to you that a man who will accept a fee, or who expects to get paid for his services as an attorney, and who pursues that course is entitled to any fee for his services?

Mr. WATSON. I do not know why I would not be entitled to it if I brought about a settlement, no matter what happened, or how I got the information. But I want to answer the question. You asked a question. I had been led to believe, through Mr. W. P. Boland, from the beginning, that the railroad company would be particularly anxious to settle this rate case if they could get some excuse for paying the money.

Mr. NORRIS. You are not answering my question, Mr. Watson.

Mr. WATSON. And that was the reason why, perhaps, nothing was looked up until we got advantageously close to it. Then I did want to know more about it.

Mr. NORRIS. You were seeking information as to what the Interstate Commerce Commission had done in the Meeker case?

Mr. WATSON. I was.

Mr. NORRIS. Can you explain to this committee, when you were seeking this information, why you did not go where you must have known the information existed?

Mr. WATSON. I thought the information existed in this court.

Mr. NORRIS. Where?

Mr. WATSON. I thought I could find it in the United States Commerce Court.

Mr. NORRIS. Did you not know that you would not find it?

Mr. WATSON. I did not.

Mr. NORRIS. You did not know when you got those briefs you had not found it?

Mr. WATSON. I did; I supposed I did. I had some other paper that gave me the information I wanted.

Mr. NORRIS. You have already testified that that other paper was a brief.

Mr. WATSON. It was the same kind; yes.

Mr. NORRIS. So that it would be along the same line of these you have testified to and identified?

Mr. WATSON. Perhaps so.

Mr. NORRIS. Do you know now what the Interstate Commerce Commission did in the Meeker case?

Mr. WATSON. I know that at that time they had reduced the rate on two or three sizes of the coal.

Mr. NORRIS. Did you ever read the opinion in the Meeker case?

Mr. WATSON. I have not; because it was handed down since my coming—since I have been out of this case.

Mr. NORRIS. I am speaking of the decision of the Meeker case before the Interstate Commerce Commission. That had been passed on prior to this date, because the case had been appealed by the railroad company, and was pending in the Commerce Court.

Mr. WATSON. I did, at the time, know it was a reduction on the smaller sizes of the coal.

Mr. NORRIS. I asked you, have you ever read the opinion?

Mr. WATSON. No; I do not think so.

Mr. NORRIS. The opinion had been written and was published and was a public document.

Mr. WATSON. Yes; I suppose so.

Mr. NORRIS. Prior to the time you were arming yourself for this controversy with the railroad officials?

Mr. WATSON. I presume it was.

Mr. NORRIS. And you were seeking information in regard to that very case and what they did, and never looked it up to see?

Mr. WATSON. I was seeking information——

Mr. NORRIS. You satisfied yourself by getting some briefs filed by attorneys in the case?

Mr. WATSON. I was seeking the information and I thought I had it.

Mr. NORRIS. You know you did not have the opinion in those briefs?

Mr. WATSON. I do not know but what I did have it, or there was some expression.

Mr. NORRIS. Did you not, as a matter of fact, as a lawyer, know you did not have the information when you had those briefs?

Mr. WATSON. If these are the only books I had, I know that the opinion is not in these books.

Mr. NORRIS. Certainly.

Mr. WATSON. I know that now.

Mr. NORRIS. You knew that then, did you not?

Mr. WATSON. Well, I presume, if I examined these books, I did. I read these books, and I read the other one.

Mr. NORRIS. If you came all the way to Washington to get them you did not go away without knowing what you had, did you?

Mr. WATSON. I presume I did.

Mr. NORRIS. Then you knew you did not have the opinion?

Mr. WATSON. I do not know whether I had the opinion in the other book or not; I do not know what was in it.

Mr. NORRIS. The other book was a brief?

Mr. WATSON. I think it was.

Mr. NORRIS. You knew that the opinion would not be in the brief—there might be a reference to it—and you knew that to get that opinion all you had to do was to go to the Interstate Commerce Commission, or to send a telegram from Scranton to the clerk of the Interstate Commerce Commission and get that opinion by mail quicker than you got it this way, could you not?

Mr. WATSON. I presume I could, if I had known that. I did not know; that is all.

Mr. WEBB. Let me ask you a question again. You carried these important briefs back that you came all the way down here, 250 or 300 miles, for. Did you show them to Mr. Truesdale, and say, "Here is your railroad that has a case pending in the Commerce Court"? Did you say, "Mr. Truesdale, here are the briefs. You have a case pending down there in court, and I have been down to Washington, and I saw Judge Archbald yesterday, and I know something about these rates now, and you had better just stand and deliver"?

Mr. WATSON. No, sir; I never spoke to Mr. Truesdale in that way.

Mr. WEBB. Did you show him the briefs?

Mr. WATSON. No, sir. I showed him one I had, in which I claimed certain rates. I showed him a paper I had with these printed on it, what we claimed.

Mr. WEBB. Did you know that this suit was one pending in the Commerce Court when you came down here?

Mr. WATSON. I did not.

Mr. WEBB. You did not know it was then pending?

Mr. WATSON. No; I did not.

Mr. WEBB. And that it was dismissed only here in April on motion of counsel for the railroad?

Mr. WATSON. No, sir.

Mr. WEBB. When you went to the judge about this rate case, I ask you if he did not tell you that this rate action was a very good one to settle out of court; Boland's case?

Mr. WATSON. No, sir.

Mr. WEBB. That was not ever said by the court.

Mr. WATSON. No. I heard it was said to Boland, but it never was to me; or else I have read it in the papers that it was said to Boland.

Mr. WEBB. Has there been any feeling between you and Judge Archbald in the last 10 years?

Mr. WATSON. I do not know; I would not want to say that; no.

Mr. WEBB. You have been very close friends, then, have you?

Mr. WATSON. Well, I would not say that we had.

Mr. WEBB. You impressed me that, for some reason, you did not practice before Judge Archbald's court.

Mr. WATSON. I do not think I ought to be compelled to state all my personal reasons for not being there. If the committee asks for it, I will tell them why.

The CHAIRMAN. Unless it has some bearing upon this matter.

Mr. WATSON. Absolutely nothing. It was simply a matter of the appointment of Judge Archbald under certain conditions, when he was appointed judge; and after I knew he was going to be appointed judge, I helped him; and maybe I ought not to have done it, because there are certain reasons——

Mr. WEBB. That is not the reason you have not practiced in his court, is it?

Mr. WATSON. I did not go over there the next day to help him open court, and I did not go back for some little time; but I had no feeling about it.

Mr. WEBB. You have not had any?

Mr. WATSON. No; I like Judge Archbald very much.

Mr. WEBB. As a matter of fact, you hold a position now to which you were recommended by the judge, do you not?

Mr. WATSON. If he recommended me, I want to thank him now; I did not know that he did.

Mr. WEBB. Do you hold the position now?

Mr. WATSON. I do.

Mr. WEBB. What is it?

Mr. WATSON. It is solicitor for the county of Lackawanna.

Mr. WEBB. And you did not know that the judge, if he ever did recommend you, had done it?

Mr. WATSON. No. I wish to thank him, if he did it, because I did not know it. I supposed that I got it from an entirely different source.

Mr. WEBB. When I examined you awhile ago I did not know that you had wired the judge a second message to meet you somewhere in Washington. Did you wire him on your way down here to meet you at the Raleigh Hotel?

Mr. WATSON. I do not know. I think very likely I did, if he met me there.

Mr. WEBB. Do you remember now? Awhile ago you remembered the very side of the street you went up on, and every little detail.

Mr. WATSON. I did not remember the side of the street I went up on, but I met him at the Raleigh Hotel, and we walked up to this building.

Mr. WEBB. Was it raining?

Mr. WATSON. Maybe not, when I got in here; but it had been raining, and it did rain afterwards.

Mr. WEBB. It rained before and after?

Mr. WATSON. Maybe not; just at that moment it was not raining.

Mr. WEBB. You remember you went into this building from the II Street side?

Mr. WATSON. Yes; I did. I know how we got into the building, because one winter I lived on the corner opposite that, a number of years ago, and I noticed the building and its location when we went in, and I noticed the Shoreham Hotel from where we went in.

Mr. WEBB. I thought you were an entire stranger here?

Mr. WATSON. I have been down here a couple of times.

Mr. WEBB. Can you tell us where you wired the judge to meet you; that is, at what point did you wire the judge to meet you?

Mr. WATSON. From what point did I send the telegram?

Mr. WEBB. No; you sent that telegram from somewhere on the way. But where did you tell the judge to meet you here in Washington?

Mr. WATSON. That is a blank to me. But if he met me at the Raleigh Hotel, that is probably where it was.

Mr. WEBB. That is the only reason you have? I thought you met him on the street?

Mr. WATSON. It was in front of the hotel, I imagine. That is what I think; I think, now, he was standing in front of the hotel.

Mr. WEBB. You just happened to go up and meet him there?

Mr. WATSON. No; it was the place I expected to meet him; I have no doubt of that.

Mr. WEBB. Do you know what street the Raleigh Hotel is on?

Mr. WATSON. Yes; Twelfth Street and Pennsylvania Avenue.

Mr. WEBB. That is right; and you can not tell us now, although you know where the Raleigh Hotel is, what point you wired the judge to meet you?

Mr. WATSON. I do not; but from the fact that I checked my satchel in the Raleigh Hotel—I remember that very well—I suppose that I asked him if he would meet me at the Raleigh Hotel. I presume I did.

Mr. WEBB. You presume you did?

Mr. WATSON. Yes.

Mr. WEBB. Can you not swear that you did or did not? You told us a while ago about going to the Commerce Court and meeting one fellow and another, and meeting the judge, and what was said. Can you not tell us what was in your telegram you sent to the judge?

Mr. WATSON. No; I can not. If I were going to tell you my best recollection, I would say, "Meet me at the Raleigh Hotel," at a certain time, and that time I knew when it was, when I would arrive here. I think that is just what I did say.

Mr. WEBB. Is not that a very peculiar telegram from a man who is coming down to Washington seeking information about a case about records to wire a United States Commerce Court judge to meet him at a certain point in this city? Do you think you sent the judge any such telegram as that?

Mr. WATSON. I do not know, but I imagine that is what I sent, something like that. I think I did. I think I knew, from some information that I had gotten, that the courts were closed on Saturday afternoon, and I thought I knew the judge well enough to ask him to meet me at a certain place. I did not know I was going to the Commerce Court when I met him. I had no idea where I was going. I expected to go somewhere where I could get this information, and I heard that the appeals were in the United States Commerce Court. That is all I knew.

Mr. WEBB. You do not even know the time of day when you came here?

Mr. WATSON. It was later than I expected to get here, on account of something the matter with the train.

Mr. WEBB. Do you remember about the time it was?

Mr. WATSON. I would say noon—about 12 o'clock; something like that. It may have been an hour earlier.

Mr. WEBB. When did you leave him?

Mr. WATSON. I went away from here at 6; I do not know that I left him at 6.

Mr. WEBB. You were with him from 12 to 6 o'clock?

Mr. WATSON. I think I was, nearly all the time. We sat down on a bench in the hotel, or somewhere, and talked.

Mr. WEBB. In the Raleigh Hotel?

Mr. WATSON. Perhaps so; maybe it was the Pennsylvania Station; I do not know. I know that I sat down somewhere with him and talked, not in the court building.

Mr. WEBB. When you say you were employed to assist in this case of the Marian Coal Co. against the railroad company in the Commerce Court, did you know Mr. Reynolds was their counsel then?

Mr. WATSON. Yes; that was talked.

Mr. WEBB. Why did you not go to Reynolds to get his opinion about these things, the practice that you talked about?

Mr. WATSON. Mr. Reynolds would not settle with the Lackawanna—so Christy Boland told me after—that he would not settle with the Lackawanna, and they wanted some one who would settle this case. What the reason was I do not know. I told them I would not take hold of the case and try it out, or go into the Commerce Court, unless Mr. Reynolds agreed to it, and they said: "You settle this with the Marian washery case."

Mr. WEBB. That was all the authority you had to settle the Marian washery case?

Mr. WATSON. No; this case was put in. As I say, they used the Marian washery case to give the Lackawanna an opportunity, or a chance to buy them out without paying rates.

Mr. WEBB. Were you ever employed by the Bolands before in any lawsuit in your life?

Mr. WATSON. Never. I have known Christy Boland a great many years. He was treasurer of the city of Scranton when I was an adviser of the mayor at that time, and I learned to know him very well; and then he ran for treasurer—county treasurer—at a time when some of us flocked, and I was among them, and so was Mr. Boland. We were together more or less then, although we were on opposite tickets.

Mr. WEBB. That is not necessary——

Mr. WATSON. And I knew him very well.

Mr. WEBB. You were never employed by him before?

Mr. WATSON. No; unless it was in some minor matter, to see somebody.

Mr. WEBB. Can you tell the committee why you did not consult Reynolds about this important litigation?

Mr. WATSON. Because I was advised not to, and I did not know what I was going to do, and what I had. The washery case had nothing to do with Reynolds, and this was hooked on afterwards.

Mr. WEBB. Did you know that Reynolds would not recognize you in the case at all?

Mr. WATSON. Did I know?

Mr. WEBB. Yes.

Mr. WATSON. I do not know what Mr. Reynolds would do, whether he would recognize me or not. He has often recognized me when he wanted something; I know that.

Mr. WEBB. Had you not heard——

Mr. WATSON. I do not dodge anywhere for any Reynolds I ever knew that was ever born under the sun.

Mr. WEBB. You did know that Mr. Reynolds was more of a rate expert lawyer than you were?

Mr. WATSON. I know that Mr. Reynolds has been fiddling around this Commerce Commission for some time; that is, I heard that within the last year. I never knew it before; I did not know what his business was.

Mr. WEBB. He could have told you how to get the record in this case without coming to Washington after it.

Mr. WATSON. Maybe; I do not know. I do not know what he knew. I did not go to him because I was advised not to.

Mr. WEBB. Are you sure you did not come to Washington until after the conference with Truesdale?

Mr. WATSON. Sure. I know that the conference with Truesdale—this letter—I could not have told anything about this if I had not got some data. This letter is dated on the 2d; the telegram was on the 6th, and I know it was after the 6th.

Mr. WEBB. Of October?

Mr. WATSON. Of October; it was after that telegram.

Mr. WEBB. How do you know it was after the 6th?

Mr. WATSON. Because I met them on Monday or Tuesday.

Mr. WEBB. That could have been the 6th, could it?

Mr. WATSON. Yes, sir; it is an answer to that letter.

The CHAIRMAN. What letter? Name it so that it may go in the testimony.

Mr. WATSON. The letter of October 2, 1911.

The letter referred to, heretofore marked "Exhibit 86," was at this point read in the record by the witness, as follows:

Exhibit 86.

OCTOBER 2, 1911.

Mr. E. E. LOOMIS,
Vice President Delaware, Lackawanna & Western Railroad Co., 90 West Street, New York City.

DEAR SIR: In relation to a matter existing between the Marian Coal Co. and your road and coal department, and also a claim against the traffic department of your road, which I have had under consideration here, and with which I presume you are more or less familiar, I decided, after a conference with your Mr. Phillips, of the coal department, to ask for a meeting with you and the president of your road, Mr. Truesdale, if convenient, at the earliest time you could find your way clear to meet me, either in New York or Scranton. If you will kindly advise me, either by wire or letter, I will hold myself in readiness to meet you on a few hours' notice.

I am, very truly, yours,

———.

Mr. WEBB. I asked you if you did not have this conference with Mr. Truesdale and Mr. Loomis on the 6th day of October, the very day this telegram was sent to Washington?

Mr. WATSON. No.

Mr. WEBB. You are willing to swear to that, are you; you remember distinctly it was not?

Mr. WATSON. I know it could not have been, because I know what I was occupied in that day. I know Mr. Boland was in my office in the morning, and it was a matter of some concern about getting away and how we could do it, and he came back in the afternoon, and then he brought his brother with him—Mr. William Boland came with him in the afternoon, after he had taken the telegram; he took the telegram in the morning.

Mr. WEBB. You swear that telegram was not sent after you had the conference with Mr. Truesdale?

Mr. WATSON. Surely, or I would not have been asking for the conference.

Mr. WEBB. I wish you would not reason about it; are you willing to swear it was not sent on the day you had the conference with Truesdale?

Mr. WATSON. On that day?

Mr. WEBB. Yes.

Mr. WATSON. I do not know when the telegram was sent. The telegram I wrote was written on the 6th of October, apparently.

Mr. WEBB. Yes.

Mr. WATSON. I was in Washington the 7th day of October. I came down here on the 7th. I know the meeting with Truesdale was several days after that.

Mr. WEBB. When were you subpœnaed to come down to Washington?

Mr. WATSON. Saturday noon, I think.

Mr. WEBB. You mean last Saturday noon?

Mr. WATSON. Yes.

Mr. WEBB. With whom have you discussed this case, or who has talked to you about it, since it sprang up.

Mr. WATSON. Some people have laughed at me, that is all, because I was subpœnaed.

Mr. WEBB. Has anybody talked to you about this case? You know what I mean.

Mr. WATSON. What I was to say, or what they wanted me to say?

Mr. WEBB. Has anybody discussed the case with you at all?

Mr. WATSON. No.

Mr. WEBB. Not a living soul?

Mr. WATSON. No; not to mention the case—only the fact of my coming.

Mr. WEBB. Just laughed at you?

Mr. WATSON. Some have, yes; not everybody.

Mr. WEBB. You can not remember a single person during the last two months who has discussed this case with you?

Mr. WATSON. That is too long. I was not subpœnaed two months ago. I suppose I have talked about it many times in two months.

Mr. WEBB. I was going beyond the subpœna. I want to know if, in the last two months, anybody has talked to you about this case, and, if so, who it was.

Mr. WATSON. Within two months, since this case has been called here, there has been more or less discussion of the case. I presume I have talked with a dozen people.

Mr. WEBB. Who were some of them?

Mr. WATSON. I could not tell you one.

Mr. WEBB. Not a single soul?

Mr. WATSON. No; because it was a source of common gossip, the talk of the streets; people were talking about it.

Mr. WEBB. Did you talk with men or women?

Mr. WATSON. Judge Edwards talked to me about it, if I knew anything about it. Judge Kelly, who is now off the bench, he says, "What do you know about the Archbald case?" Gorman Thomas says, "I hear you have to go to Washington and testify. What do you know about it?" Mr. Allen, another man who is in the commissioner's office, was present when I was subpœnaed, and he says, "It serves you right," or something of that kind. Something was said about my going to Washington. But to get down into the merits of the case, nobody ever talked to me about it.

Mr. WEBB. Not a soul ever asked you what you knew about it?

Mr. WATSON. I do not know; I suppose they did, and I answered them in just as short a way as I could.

Mr. WEBB. Who was it?

Mr. WATSON. I do not know, but I think I have heard that from somebody, "I wonder what he is going to swear to," or "What does he know?"

Mr. WEBB. Would you not know if a man were so impertinent as to ask you what you were going to swear to?

Mr. WATSON. I was in the prothonotary's office—that is the clerk's office in our State—a day or so ago, since this case has been discussed here, and there were some people said about what they were going to swear to, "What does he know?" or "What does this one know?" or

"What does that one know?" That was by the clerks in the office, and I can name one or two of them I know. Whether it was they or not I do not know who asked this question.

Mr. WEBB. Has any lawyer in Scranton ever asked you what you knew about it?

Mr. WATSON. I do not recall any now. They all knew pretty well, because they were reading the newspapers.

Mr. WEBB. Have you seen or talked with the Judge in the last few months about anything?

Mr. WATSON. Judge Archbald?

Mr. WEBB. Yes.

Mr. WATSON. I saw Judge Archbald two or three weeks ago on Sunday, when I was either going to church or he was—no; I was going to church and he was coming down. That is all the time I have seen him that I recall in two or three months.

Mr. WEBB. What did you talk about?

Mr. WATSON. I do not know. I think I asked him how he was getting along—maybe I did. Maybe he said it was going all right—something like that.

Mr. WEBB. "It" was going all right—did you mean this matter?

Mr. WATSON. I think I alluded to it. If I said that. I have no doubt that something was said about this hearing, but the nature of it I do not know. I can not talk to Judge Archbald about this matter.

Mr. WEBB. You did; you broached it to him; asked him how he was getting along.

Mr. WATSON. Just incidentally; but to go into the detail, I would not do it, and I have not talked to him.

Mr. WEBB. You never mentioned your connection with the case at all; what you know?

Mr. WATSON. I do not think so.

Mr. WEBB. Do you not know? That has just been three weeks ago.

Mr. WATSON. That I mentioned my connection?

Mr. WEBB. Can you not be more frank with us and tell us the truth, whether or not you talked about this case with Judge Archbald?

Mr. WATSON. I did not talk with Judge Archbald about anything I would testify to, or what I did, or what I said, or what I was going to say.

Mr. WEBB. What did you talk to him about?

Mr. WATSON. If I talked to him I asked him incidentally what was going on down here.

Mr. WEBB. And that was all?

Mr. WATSON. And he replied the same, and I went on my way, and he went on his way.

Mr. WEBB. That is all that was said?

Mr. WATSON. That is all I recall. There might have been more said. I do not know what was said. He might have talked about something else. He might have talked about some condition; might have asked me if I remembered something.

Mr. WEBB. Had Williams testified then?

Mr. WATSON. You have got me. Williams has been testifying off and on here for so long that I do not know.

Mr. WEBB. Had any witnesses testified then, when you and the judge met and discussed matters on Sunday morning?

Mr. WATSON. I can not say that. I have been fairly busy in the last week or 10 days, or two weeks, and I have not charged my mind with every little thing that has been going on there. I have not been reading this case, except at nighttime when I would go home I would pick up the newspaper.

Mr. WEBB. You knew the judge was on trial down here?

Mr. WATSON. I knew that there was a committee appointed for the purpose, or he was cited before the Judiciary Committee of Congress; I knew that. I did know that later along Mr. Martin and Mr. Price had come down here, after some one told me that.

Mr. WEBB. You knew all that, and you knew that when you and the judge met that morning?

Mr. WATSON. No; when I met the judge was before they came.

Mr. WEBB. They had been doing something down here; some testimony had been taken?

Mr. WATSON. But I do not think these people were here.

Mr. WEBB. Do you mean to say now that you have told us everything you said to the judge and all the judge said to you about this case in the conversation on Sunday morning three weeks ago?

Mr. WATSON. I mean to tell you that I do not recall the conversation that I had with Judge Archbald, that would be of any importance here; I do not know whether it was just simply a kind of a good morning talk, of a friendly matter, or something of that sort. I do recall that I asked him how he was getting along, and I think he told me all right.

Mr. WEBB. You had not talked to him for quite a while before that?

Mr. WATSON. I suppose I had, in three or four weeks before that, before he came down here.

Mr. WEBB. That is as near the details of that conversation as you can give us now?

Mr. WATSON. There was nothing talked about this case.

Mr. WEBB. You said there was.

Mr. WATSON. Nothing but that, to get into the detail of the case; he did not confide in me.

Mr. WEBB. I know he did not confide in you.

Mr. WATSON. He did not tell me.

Mr. WEBB. You do not say now that you told all that was said there?

Mr. WATSON. I say that, as near as I can recall, the conversation about this case was simply the answer of this question.

Mr. WEBB. Could your mind be a blank on that subject like it was as to the point where you were to meet the judge; in the telegram, I mean? Could it be a blank there?

Mr. WATSON. No. It is not a blank on the telegram. I say if Judge Archbald met me at the Raleigh Hotel, that is where I asked him to meet me in the telegram. He met me where I asked him to meet me.

Mr. WEBB. That is as near as you can tell us the details of the conversation you had with the judge the first time you saw him after he was cited to appear down here? Have you seen him since to talk with him?

Mr. WATSON. Yes; I talked to him. I said, "How do you do this morning."

Mr. WEBB. Have you seen him any other time; anywhere else outside of this room?

Mr. WATSON. Yes; down on the corner of the street. I walked down with him, and Mr. Worthington was making some arrangement for them to go down town, and Judge Archbald's sons were along with him. Maybe we went down on the elevator together; I do not know that. But I know I met them on the corner of the street, because I asked somebody where I could get something to eat, and they told me to go around here somewhere.

Mr. WEBB. You do not know whether you went down on the elevator with him or not?

Mr. WATSON. I do not know.

Mr. WEBB. Why did you say you may have gone with him?

Mr. WATSON. He may have been on the elevator; I do not know. I am not tagging him up. When I got out there I know I saw him on the street corner, because I talked to him. I spoke to him something about the weather, or the way he was going down town.

The CHAIRMAN. Mr. Watson, since this investigation has been begun by this committee of Judge Archbald's conduct, you say you had a conversation with him in Scranton about the investigation?

Mr. WATSON. No; I do not think I met him but once, and that was when I asked him how he was getting along.

The CHAIRMAN. I just simply want to get at what you said and what he said at that time. As near as you can tell the committee, oblige us by telling, as near as you can recollect, what the judge said and what you said.

Mr. WATSON. The only thing I recall asking him was how he was getting along, and he replied; he may have told me considerable, and may have said, "Well, we are going along; we have been taking testimony"; and he may have given me something of the nature of the testimony. I do not recall whether he did or not. But he led me to understand it was all right, it was getting along all right, just as he expected it would. That is about all there was of it.

The CHAIRMAN. That was on Sunday?

Mr. WATSON. On Sunday morning. I remember telling him that I was going to church when I met him.

The CHAIRMAN. I wish you would tell the committee exactly what happened at this conference between you and Mr. Truesdale and Mr. Loomis, everything that you said, everything that Mr. Truesdale said, everything that Mr. Loomis said, and in your own way; I have not got that matter clear. There have been disjointed statements, more or less, made, and I would like to have a verbal photograph, if I may so speak, of the conversation had between the three of you.

Mr. WATSON. I will try to give you the conversation.

The CHAIRMAN. Just what Truesdale said, just what Loomis said, and just what you said, without going off into foreign matter.

Mr. WATSON. Do you desire me to give you the reason I went there?

The CHAIRMAN. No, sir. Just find yourself right in conference with Truesdale and Loomis, and tell us exactly what Truesdale, Loomis, and you said, as near as you can, and as fully as you can remember.

Mr. WATSON. I went to the office of the Lackawanna road—it is in the depot, the new depot, the coal office is over it—and sat down there for a moment, and some young man took me into Mr. Phillips's office adjoining the room I was in, and Mr. Phillips met me and shook hands with me, and in a moment or so Mr. Loomis and Mr. Truesdale came in the office. There may have been some one else, but if so I do not remember who it was. I knew them, however; if there was anybody there in that meeting I knew them all, except Mr. Loomis. I was introduced to Mr. Loomis, and Mr. Truesdale spoke to me, or maybe was introduced to me by Mr. Phillips, and he said, "Mr. Watson, you have something here"——

The CHAIRMAN. Who said that?

Mr. WATSON. Mr. Loomis said that; and he says, "Mr. Phillips tells me that you want to turn over the Marian dump," and he says, "Let me see if I am right about that. You are asking $160,000 for it." I said, "No; not for that alone. We had in mind the settlement of the rate features." "Oh," he says, "we do not acknowledge anything, any liability on rate cases." He says, "At the best there could not be over a thousand or two dollars on the rate cases."

Then I get into an argument with him about that these rates had been fixed in an arbitrary way, and in the time when there was no supervision over rates, and that the Lackawanna had been slow to change their rates, that they had kept their switching charges, which I had a memorandum of. If they were true, it was the most outrageous charges I ever heard of they were charging these people for shipping their cars, and I read those to him. "Well," he says, "switching engines cost money," or something of the kind, and laughed about it. Finally Mr. Truesdale wanted me to show him those switching charges, and I read them to him, and handed him the paper I had them marked on.

Now, I recall there was something like 30 cents charged to one man, a coal operator, and I may be mistaken, but it strikes me it was more than a dollar to Mr. Boland for a like service, or to this washery. He said that could not be so, and they would investigate it. We got at the washery, and he turned to Mr. Phillips and asked Mr. Phillips—I think this was Truesdale that asked Phillips—if he had made up the data on that washery, and he said he had, and he read it, or a summary of it, or the conclusions that he had come to, and I am quite sure that he said it inventoried $14,000, and he says, "What are you asking us $161,000 for?" I tried to explain to him that it was a settlement of rates and that I had been advised by Mr. Boland that I could not settle a rate claim with them, and that they could use this washery, and buy it for that amount of money, and that would adjust their rate cases. He said that the amount was too high, and that he would not recognize any claim of more than twelve or fifteen thousand dollars.

He said it was enough; and then Mr. Loomis told me what a washery it was and how little profit there was in the business, and how the Peale story of, I think, not cleaning the coal was true; that the Peale story of a trade of coal from the Lackawanna, giving it to the Lackawanna and taking something else in return for it; he said it was all rot. This is Loomis that said that. Mr. Phillips rather supplemented that; said it was not true. Then I talked with Mr. Loomis about the advisability of adjusting those matters and doing away with the litigation, and he said that that was true, but that the amount asked was too great; that they could not excuse themselves for spending $150,000, or $160,000, or even less—he told me how much; I think about twenty or fifteen thousand, or something, would be the maximum amount. I showed him the map that had been given me by Mr. Boland, and we spread it out—this map—and it was a map showing rates to different points; and some of them did look to me—I will be frank—they looked to me as if they were overcharges and as if there were discriminations. I tried to point that out to him, and he said, "Oh, well, they never ship any coal there." That I was not prepared to answer; and so we passed along from one question to another, and from one proposition to another, along about the same lines as that. We put in nearly a whole morning, and when we got through everybody shook hands, and Mr. Loomis said, "I can not consider a proposition of that kind"; and

I went to Mr. Boland and told him—I think Will Boland first—and from that day until this I have done nothing toward an adjustment.

Some little time after that—two or three days after—I returned all of the papers and the data that I had; whatever memoranda I had saved I gave to him, and I recall there were contracts, there was a charter—a copy of a charter—there was a map, and there was a good many features and some considerable evidence that had been taken somewhere along the line, perhaps in the Peale case, and I returned all those to Mr. Boland. He took them away with him from my office. That is some few days after this happened, you know. That is about all I recall.

The CHAIRMAN. Did Mr. Truesdale say at that conference that this effort on your part to negotiate the sale of the Marian Coal Co.'s property was a holding?

Mr. WATSON. No; I never heard that until here.

The CHAIRMAN. Did he characterize it in language of a similar import?

Mr. WATSON. Nothing of that kind. I would have known that. I would have recalled that if he had said anything of that kind; nothing that I recall at all of that kind.

The CHAIRMAN. Do you testify now that you have not received any letter from Judge Archbald relating to this matter, this Marian Coal Co. property matter, while the judge was in Washington?

Mr. WATSON. It seems to me as if, in reply to something I wrote, he did send me a letter.

The CHAIRMAN. Have you that letter?

Mr. WATSON. I have not.

The CHAIRMAN. Do you remember what the substance of it was?

Mr. WATSON. No; I do not. I do not know that it had anything to do with this case; it may possibly have had something——

The CHAIRMAN. What did you write to the judge about?

Mr. WATSON. I do not know.

The CHAIRMAN. Do you not remember that you did write him a letter about this Marian Coal Co. property?

Mr. WATSON. No. I have an indistinct recollection of writing to him—I do not know whether that was Washington or whether I was somewhere and wrote home to him—but writing to him something about I had not seen Mr. Loomis. Maybe I was in New York and wrote him, and it may be possible that I wrote him from Scranton saying I had not seen Mr. Loomis; and some other matters that I do not know what it would be.

The CHAIRMAN. Do you remember about the date of that letter you wrote him?

Mr. WATSON. No. It would be before I was here, though. It would be before I came down here some time. I do not know whether there was any court here then.

The CHAIRMAN. Since you recall having written a letter, will you state as near as you can what the substance of it was?

Mr. WATSON. If I wrote a letter to Judge Archbald that had any bearing on this case whatever, or any mention of it, it was in relation to my having failed to meet Mr. Loomis. I think Judge Archbald told me on the street, or wrote me, that he had seen Mr. Loomis and that Mr. Loomis would be very glad to meet me, just as he had volunteered on the day I was over there first and talked about this case.

The CHAIRMAN. Did you examine your file before coming here to see whether you had a copy of your letter to Judge Archbald, or a copy of his reply to yours?

Mr. WATSON. I have not got that. I know that, because I did look. When I say to you, gentlemen, so that you will understand the situation—you may think I am very dull and am trying to dodge things—when I say to you that through last September or October I was in bed a good bit of the time, and during the month of December there was some doubt about whether I would get out, and therefore matters are somewhat confused, and it is about that time I left my office—practically left my office—and went over across the street to the commissioner's office, and I have been there employed a good deal, and therefore I can not put my hand on everything as I would like to do in my office; and I do not know, and it is because I am so hazy on this subject; it is because I have doubts about it, and I do not know.

The CHAIRMAN. I have no disposition to reflect either on your memory or your desire to be frank with the committee. I am not questioning either one of these; I merely want to test the accuracy of your memory, and I want to get as fully as I can your whole testimony.

Mr. WATSON. I will say this: If I thought that Judge Archbald could have helped me to have gotten any conference with Mr. Loomis I would certainly have asked him after our first meeting. I either did ask him, or he told me he knew Mr. Loomis and would introduce me, or something of that kind was said in that meeting. Whether he said he would write to him, or whether he said he came here, I do not know; but I know we talked about it and he would introduce me to him. But if I had wanted to get Mr. Loomis, there is not a man under the stars whom I would have asked quicker than Judge Archbald, who would have given me a letter to Mr. Loomis. If I wrote him a letter touching this matter it was on that subject and no other.

The CHAIRMAN. Mr. Watson, if you can, will you please tell the committee what is the explanation, if any, that you know of, for Judge Archbald calling up Mr. Phillips on the phone and requesting him to come over to the house at that conference you said something about in the earlier part of your testimony?

Mr. WATSON. From the fact that I never heard of it until Col. Phillips told it here to-day, I have not very much of an opinion about it. I would have to think the matter over. I do not know.

The CHAIRMAN. Do you remember, since you have heard Col. Phillips tell about it here to-day?

Mr. WATSON. Do I remember what?

The CHAIRMAN. Do you remember of the conference with Judge Archbald?

Mr. WATSON. No; I never heard of it. I never heard of the conference never heard of anything; so I know nothing about it; absolutely nothing.

The CHAIRMAN. Do you know why Judge Archbald interested himself in the matter at that point, or subsequently?

Mr. WATSON. I do not. He certainly did not do it at my request, because I did not know it was done until I heard it here.

Mr. WEBB. A few days ago it was asked here if Judge Archbald had not written Mr. Christy Boland, saying, "My Dear Christy: I have seen the parties and the case can not be settled," or something like that; and later Mr. Worthington introduced a letter addressed to G. M. Watson, starting out "My Dear George," and stating practically the same?

Mr. WORTHINGTON. No; the letter produced was addressed to Christy—"My Dear Christy."

The CHAIRMAN. The "Dear Christy" letter was put in evidence.

Mr. WORTHINGTON. No; I did not put it in evidence. I showed it to C. G. Boland, and he could not identify it.

Mr. WEBB. Where is that letter?

The CHAIRMAN. I think you will find in the printed record the letter addressed to C. G. Boland, and beginning "My Dear Christy."

Mr. WORTHINGTON. It begins "My Dear Christy." That is the letter. I really do not recollect whether I have it here or not. I handed it up to some of the committee at the time.

Mr. WEBB. I would like to see a copy of that letter. I thought you offered it in evidence, but I do not find it here.

Did you ever get such a letter as that from Judge Archbald, saying "My Dear George: I have seen the parties, and the transaction is all off"?

Mr. WATSON. No. Judge Archbald never told me that he had ever said one word to those people, so I do not know if he did or did not. If he did, he never communicated that fact to me, either by word of mouth or letter. Let me correct myself just a little on that. I think that I did know of the fact, either through him or somebody else, of his talking with Loomis at the club before I ever went near them. I think I did know that.

Mr. WEBB. Did what?

Mr. WATSON. I think some one told me that Judge Archbald met Mr. Loomis at the Scranton Club before I took this matter up with the Lackawanna road, before I had even met Mr. Loomis. I think I heard that, and maybe Judge Archbald told me that he did meet him there. Outside of that, Judge Archbald has never said one word to me about a statement of this case, price, condition, or settlement, when I was going to settle, or what I was going to do with the proceeds.

Mr. WEBB. Then you never heard from Judge Archbald at all after this conference of the 6th of October; Judge Archbald has never told you on the phone, or talked to you, or written you, that the transaction was all off?

Mr. WATSON. In relation to this case?

Mr. WEBB. This case.

Mr. WATSON. Yes.

Mr. WEBB. This is the only case you have had to do with?

Mr. WATSON. No; I do not think so. I do not think I ever talked with him about it at all. As a matter of fact, I did not see Judge Archbald very much, and I would remember if he had talked with me about this case, and I do not think that he did or that I did.

Mr. STERLING. You say some one told you that Judge Archbald had talked to Loomis at the club about it?

Mr. WATSON. That is another hazy thing. Perhaps it was Judge Archbald who told me that he had seen Mr. Loomis up at the club?

Mr. STERLING. About this case?

Mr. WATSON. No; about the meeting. You know that is the way he talked about the meeting.

Mr. STERLING. That occurred before ever you were in the case at all. You said a moment ago you had not even engaged yourself to the Bolands, or had not taken it up with the railroad company. Somebody told you that Judge Archbald had talked with Loomis at the club about it, at the time, about that case?

Mr. WATSON. Before I had gone to the Lackawanna; I think I had this case for a month or two before I went up.

Mr. STERLING. You said that occurred before you had been engaged by the Bolands.

Mr. WATSON. If I did, then I want to correct my testimony, because I know nothing about Judge Archbald talking with him, except it happened since my engagement on these cases.

Mr. STERLING. Who told you that they had a conversation at the club?

Mr. WATSON. It may have been Judge Archbald who told me that he had met Mr. Loomis there.

Mr. STERLING. What did Judge Archbald tell you they had said?

Mr. WATSON. I do not know, unless he said to me that "I met Mr. Loomis, and he will meet you." I know I got that information, and I am sure from Judge Archbald, that Mr. Loomis told him he would meet me.

Mr. STERLING. Where did that conversation occur?

Mr. WATSON. It may have happened in his office or it may have happened on the street; I do not know. I did not go to his office very much—very frequently. I do not recall his being in my office.

Mr. STERLING. How did he come to tell you that?

Mr. WATSON. Because he volunteered to introduce me to Loomis, or I had asked him to do it. He either said he would, or I asked him if he would not do it.

Mr. STERLING. This was not in his office when you told him that you——

Mr. WATSON (interrupting). That was right in his office.

Mr. STERLING. It was there that he told you he had talked with Loomis?

Mr. WATSON. No; because he had not talked with him then. It was after that that he talked to him.

Mr. STERLING. Where was it?

Mr. WATSON. It may have been in his office.

Mr. STERLING. Where did you see him where he told you he had talked with him at the club?

Mr. WATSON. I would think it was in his office.

Mr. STERLING. Did you go there to see him about it?

Mr. WATSON. No.

Mr. STERLING. What did you go for?

Mr. WATSON. I do not know.

Mr. STERLING. You did see him, then, and asked him if he had talked to Loomis?

Mr. WATSON. I do not think I did. I think he voluntarily said he had seen Loomis and Loomis would see me. I am quite sure he told me that.

Mr. STERLING. He volunteered to tell you that he had seen Mr. Loomis and that Loomis would see you with reference to this dump?

Mr. WATSON. You have included not only what he volunteered to say, but what Mr. Loomis said. I would not go as far as that. But my recollection is that Mr. Loomis would see me. I think that is what he said. I recall very well the morning I went along past his door, he was talking with some man—perhaps Mr. Green, or somebody—and he says, "Say, by the way, I saw that man." That is what I remember about it. "You can see him. It will be all right. Make an arrangement with him. You had better do it through somebody." Whether he mentioned the man or not, the man at the station who would know when he would be there, to call me on the phone——

Mr. STERLING. How long was that after your first conversation?

Mr. WATSON. I do not know. Maybe a week, maybe two weeks, maybe three weeks; I do not know.

Mr. STERLING. He just said to you, then, that he had seen that man?
Mr. WATSON. Yes.
Mr. STERLING. You knew whom he meant?
Mr. WATSON. When he mentioned his name I stopped.
Mr. STERLING. Did he mention his name, or that he had seen "that man"?
Mr. WATSON. Yes.
Mr. STERLING. Did he just say to you that he had seen that man?
Mr. WATSON. Yes; but I stopped, and he said, "Mr. Loomis will meet you," as I recall it now.
Mr. STERLING. What other conversations did you have with Judge Archbald?
Mr. WATSON. I do not think any at that time, and I do not know that I talked with him since.
Mr. STERLING. Are you acquainted with these two gentlemen who sit on either side of Mr. Worthington [referring to Mr. Price and Mr. Martin]?
Mr. WATSON. Yes; I think I know them. I have known them a great many years.
Mr. STERLING. Mr. Martin and Mr. Price; are those their names?
Mr. WATSON. Yes.
Mr. STERLING. How long have you known them?
Mr. WATSON. I have known Mr. Price for more than 30 years.
Mr. STERLING. They live in Scranton?
Mr. WATSON. Yes. I have known Mr. Price for more than 30 years, and I have known Mr. Martin since he was a boy living up at Moscow.
Mr. STERLING. They are practicing attorneys at Scranton?
Mr. WATSON. Oh, yes.
Mr. STERLING. And they have offices in the same place you do, the same building?
Mr. WATSON. Mr. Martin's office is in the Connell Building. Mr. Price's office is in the board of trade now, I think; is it not, Mr. Price?
Mr. PRICE. Yes.
Mr. STERLING. Has either of those gentlemen talked to you about this case since it became public?
Mr. WATSON. No.
Mr. STERLING. Since the papers first published an account of these charges?
Mr. WATSON. No, sir. I have not spoken to Mr. Price until I met him, I think, here this morning. I have not seen him since this matter has been going on. Mr. Martin, I met him—I do not know when he came home—some time when he came home from here; maybe it was Saturday night or Sunday, this last week some day, when he came up; I saw him on the street by the office building, and I said to him, "How are you getting along?" He says, "All right. I can not talk to you now," and he went into the building.
There was some lady with him, maybe a stenographer that came over with him. That is the extent of my conversation with Mr. Martin until yesterday morning on the train. Mr. McGardee and Mr. Martin got on the train I was on, and I did not want to get off because they got on, and I have been advised that Mr. Martin would not talk to me; but he did, and we talked about everything from killing chickens to running automobiles, from Philadelphia, or Wayne Junction.
Mr. STERLING. Have you ever talked with Mr. Martin about this case?
Mr. WATSON. I have not.
Mr. STERLING. If you had said that five minutes ago you would have saved a lot of time.
Mr. NORRIS. I want to ask you again, Mr. Watson, about that meeting with these railroad officials. In answer to the question of the chairman you reviewed what happened. Have you told us all that occurred?
Mr. WATSON. I do not think I have told half that was said there, because there was more or less talk about these matters.
Mr. NORRIS. You knew the chairman asked you to tell all?
Mr. WATSON. I can not tell all.
Mr. NORRIS. Have you told all you know?
Mr. WATSON. I have told about all that I can remember, only I know there was a great deal more conversation, because we talked an hour and a half.
Mr. NORRIS. In listening to you tell what occurred there I did not notice that you made any use of those briefs you had come to Washington to get at the time you wired Judge Archbald.
Mr. WATSON. You did not notice it?
Mr. NORRIS. No.
Mr. WATSON. I will tell you what I did, and the brief I had before that committee. I had a statement made up of my own, made from the data given me by Mr. Boland, together with what I had learned as to the rates that had been changed in the Meeker case.
Mr. NORRIS. I do not care for that; that is not answering my question. Will you tell us the use you made of those briefs?
Mr. WATSON. Only the information I got from them; that is all.
Mr. NORRIS. You have not told us anything yet. All the information you have told about using was what you got from Mr. Boland, or simply you knew yourself.
Mr. WATSON. I did not get very much information from those books; no; that is true. But I did get a discussion of rates in there.
Mr. NORRIS. You had a discussion of rates?
Mr. WATSON. Yes.
Mr. NORRIS. But you did not accomplish anything on that, notwithstanding those briefs in that other case. You did not seem to know enough about rates to hold up your end of the debate with those officials.
Mr. WATSON. I knew what they were doing there, and the largest part of this matter was made up of a shipment to Stroudsburg, and to, maybe, the Lehigh & Hudson—some railroad; I forget the title of it now. That was the largest thing we talked about. There were a good many hundred dollars, a good many thousand dollars.
Mr. NORRIS. Do you remember the date of that?
Mr. WATSON. That I can not give you, because the paper there——
Mr. NORRIS. It was Monday or Tuesday after your trip to Washington?
Mr. WATSON. This meeting?
Mr. NORRIS. Yes.
Mr. WATSON. My recollection is it was.
Mr. NORRIS. Can you be positive it was after your trip to Washington?
Mr. WATSON. I can be positive; so that I am sure that I did not meet those people until Monday or Tuesday after the 6th.
Mr. NORRIS. After the 6th?
Mr. WATSON. Yes; I am sure of that.

Mr. NORRIS. I want to ask you again, Will you swear positively that that meeting with those officials in Scranton occurred after your trip to Washington, the time you had wired Judge Archbald to meet you?
Mr. WATSON. No, sir; I will not swear positively to anything that happened after that meeting; I do not know.
Mr. NORRIS. Do you want this committee to understand that you do not know whether that took place before or after that trip to Washington?
Mr. WATSON. I am of the opinion that it took place after my coming here, and I do not know how it could have taken place before, because I am sure I came here for information, and I would not have come for information——
Mr. NORRIS. You know whether it took place before or afterwards, do you not?
Mr. WATSON. My recollection is it took place before.
Mr. NORRIS. But you will not swear to it?
Mr. WATSON. I want to get some data, because I do not know.
Mr. NORRIS. Then why do you not say so?
Mr. WATSON. The thing may have happened, and it may not have, that I used those books, and I came after them for that purpose, just that very purpose, and it was for my information.
Mr. NORRIS. You might have come after them for some other purpose?
Mr. WATSON. No; not some other purpose; it was on the same case.
Mr. NORRIS. Then you must have come after them for that purpose. I would like to know, if you can tell, if you can make it positive, whether that thing took place before or after your trip to Washington?
Mr. WATSON. My recollection is that is what I came to Washington for—to get the information.
Mr. NORRIS. I know; you said that before.
Mr. WATSON. That is my recollection, and I swear to the best of my recollection that is what I did.
Mr. NORRIS. That is all.
Mr. WEBB. On that point, you say the next day was Sunday?
Mr. WATSON. After I was here? Yes.
Mr. WEBB. You were here on the 6th?
Mr. WATSON. No; I was here on the 7th. It was the 6th that I sent the telegram.
Mr. WEBB. You were here the 7th, were you?
Mr. WATSON. Yes. I remember that I went from New York up on Sunday, because I could not get up from Philadelphia on the Belvidere branch.
Mr. WEBB. Then the conference must have been somewhere about the 10th?
Mr. WATSON. It may have been later in the week; but I think it was right close on the heels of my being here. If I had kept a record, which I thought I had, I could have given you the dates.
Mr. WEBB. Did you ever tell Mr. Boland that Judge Archbald would not take your watch, but he might take your chain?
Mr. WATSON. No, sir; I never heard of that until I read it in the papers.
Mr. WEBB. You never used that expression?
Mr. WATSON. I never did in my life in relation to Judge Archbald; no. I never heard it until I read it in the papers.
Mr. WEBB. Are you in the habit of using that expression? Is that one of your expressions?
Mr. WATSON. In relation to a watch and chain? I should say not. I do not think I ever used that expression. I thought it was a kind of a new one on me, "take your chain and leave your watch," or "take your watch and leave your chain." I do not know that I ever heard that. It sounded foreign to me.
Mr. WEBB. I ask you if you did not show W. P. Boland a letter from Judge Archbald starting out, "Dear George," and telling you that the deal had fallen through. Do you not remember getting that letter?
Mr. WATSON. I say positively that I never received a letter like that from Judge Archbald; never; and I could not have shown it to Boland if I had not received it.
The CHAIRMAN. Mr. Worthington, you may question the witness if you desire.
Mr. WORTHINGTON. One thing, there has been some testimony here in relation to you that I have not heard you asked about, and that is about a division of the difference between one hundred thousand and a hundred and sixty thousand dollars into fours. Have you read the testimony on that subject?
Mr. WATSON. Yes.
Mr. WORTHINGTON. What have you to say about it, Mr. Watson?
Mr. WATSON. I never heard that until I read it.
Mr. WORTHINGTON. Had there been any suggestion by anybody, while the negotiations were going on, that Mr. Phillips or Mr. Loomis should participate in what was to be paid?
Mr. WATSON. Absolutely not.
Mr. WORTHINGTON. Was there any suggestion at any time that Judge Archbald should receive anything in any way as compensation for what he did in this matter?
Mr. WATSON. Not to me; I never heard of it.
Mr. WORTHINGTON. Was there anything said about that by anybody, to your knowledge?
Mr. WATSON. No; I do not know anything about that. Only two people that I ever heard was to get any money out of this, and one was Reynolds and one was me. That is all I ever heard of.
Mr. WORTHINGTON. Have you any recollection of a statement that has been prepared for use in this matter on behalf of the Bolands, prepared by their former clerk, Mr. Fryor?
Mr. WATSON. In this case?
Mr. WORTHINGTON. Yes; in the negotiations for a settlement with the railroad company. You said you had a lot of figures.
Mr. WATSON. Plenty of figures, but I do not know who prepared it.
Mr. WORTHINGTON. Do you remember having anything that was in the form of a statement of the claims of the Bolands against the railroad company?
Mr. WATSON. I think the paper Mr. Boland gave me showed shipping charges, switching charges, rates, and mileage, and it was brought to me in rather a fragmentary way, and then afterwards compiled. I had it in form when I was over before the railroad people.
Mr. WORTHINGTON. What did you do with that paper that was in form?
Mr. WATSON. I gave it back to Mr. Boland.
Mr. WORTHINGTON. Which Mr. Boland?
Mr. WATSON. Mr. W. P. Boland, I think, took all of the papers, the contract, a copy of the charter, and a map, and everything. I told him I could do nothing with it, and I gave it to him.
Mr. WORTHINGTON. When did you give it back to him?

Mr. WATSON. It was just after this interview. When I decided I could not do anything, that is when it was; I do not know when that was.
Mr. WORTHINGTON. About the third paper that you received when you were down here in Washington, on the 7th of October; do you recall anything about what the indorsement on it was?
Mr. WATSON. No; because it may have been a statement of this case; I do not know.
Mr. WORTHINGTON. What has become of that paper?
Mr. WATSON. I do not know; I supposed I had it.
Mr. WORTHINGTON. What instruction was given to the clerk, or the official who went off to get the papers? What was said to him about what he was to get?
Mr. WATSON. I think I told him that I wanted to get the record of this case. I think I gave him all the instruction that was given him. I think I asked him what he had on that Meeker case, and he brought back this stuff.
Mr. WORTHINGTON. Can you tell the committee whether or not that other paper book which you got was a copy of the petition which was filed in the Court of Commerce, and which contained the opinion in full of the Interstate Commerce Commission in the case?
Mr. WATSON. I could not tell you, but I know I got information from one of these papers, and I did not find it in these books.
Mr. WORTHINGTON. As to these books, look on page 17. There is something there I would like to have read into the record, about what the Interstate Commerce Commission had said in the way of reducing rates. Will you look at that book, on page 17?
Mr. WATSON. I remember seeing that.
Mr. WORTHINGTON. I would like to have that read into the record.
The CHAIRMAN. All right.
Mr. WATSON. I remember seeing this somewhere.
Mr. WORTHINGTON. Read it into the record, then, just that quotation.
Mr. NORRIS. Let us get what it is first.
Mr. WORTHINGTON. It is a quotation.
Mr. NORRIS. I understand it is a quotation taken from the brief.
Mr. WORTHINGTON. Taken from the brief.
Mr. NORRIS. Which brief?
Mr. WORTHINGTON. It is one for Meeker.
Mr. NORRIS. State also from what the quotation is taken, so that we will understand just a little what he is reading.
The CHAIRMAN. Yes; tell us the title of the pamphlet, and then the page the quotation is on.
Mr. WORTHINGTON. The heading at the foot of page 16——
The CHAIRMAN. What is the name of the pamphlet?
Mr. WORTHINGTON. I have already stated it is a brief that was filed on behalf of Meeker in the Commerce Court.
The CHAIRMAN. By whom?
Mr. WORTHINGTON. By William A. Glasgow, jr., counsel for Henry E. Meeker, surviving partner.
The CHAIRMAN. You desire to read something?
Mr. WORTHINGTON. On page 17, under the heading, "The conclusion reached by the commission was," then in quotation marks the conclusion reached by the commission in the reduction of rates.
The CHAIRMAN. The witness says he remembers having read that.
Mr. WATSON. I do not remember reading that. I remember I got the information somewhere, and I might possibly have read that; I presume I did.
Mr. WORTHINGTON. May I read it, to save the witness?
Mr. WATSON. I wish you would.
The CHAIRMAN. You may read it, Mr. Worthington.
Mr. WORTHINGTON. The quotation is this:
"After careful study of defendant's exhibits, relating to tonnage and cost of movement, as well as a painstaking analysis of defendant's voluminous exhibits respecting its past and present financial condition, we are of opinion, and so find, that defendant's rates for the transportation of coal from the Wyoming region to Perth Amboy of $1.55 per gross ton on prepared sizes, $1.40 on pea coal, and $1.20 on buckwheat coal are unreasonable so far as they exceed $1.40 on prepared sizes, $1.30 on pea coal, and $1.15 on buckwheat."
Have you any means of fixing, by reference to anything you have, or may be able to put your hands on, the date of that meeting with Mr. Truesdale and Mr. Loomis in Scranton?
Mr. WATSON. I have nothing but this letter [indicating].
Mr. WORTHINGTON. That is the letter of October 2?
Mr. WATSON. Marked "Exhibit 86." That is the only thing I have, and I am quite sure that I met these people very soon after, and I think it was the following Monday or Tuesday. That is from recollection. I recall that I was advised of their coming by some one calling me, which I believe to have been Mr. Phillips, who was here and testified. On that call, or that notice that they would be in Scranton, I went to the station and met them.
Mr. WORTHINGTON. That is all, Mr. Chairman.
Mr. NORRIS. May I see that brief you read from, Mr. Worthington? I want to ask the witness a question about this [referring to brief]. This statement that was read by Mr. Worthington from page 17 of this brief you say was called to your attention, and you got that information somewhere?
Mr. WATSON. Yes; I read it somewhere; and more than that, very much more than that.
Mr. NORRIS. The information contained in that statement would not be of any value, would it, in that discussion with those railroad men?
Mr. WATSON. It found the fact; that is all.
Mr. NORRIS. That is one of the things that had been appealed from and was pending in this Commerce Court?
Mr. WATSON. Yes; but it found a fact?
Mr. NORRIS. It was not settled?
Mr. WATSON. I could not go to the railroad company and say, "This is the law." But to a man who knew nothing about it, it would give some light on the subject—how to approach it.
Mr. NORRIS. This particular quotation was not the finding of the Interstate Commerce Commission in the particular case that you would have up for discussion with these railroad officials, was it?
Mr. WATSON. Certainly not. That was only the view they took on rates; that is all.
Mr. NORRIS. They say in that quotation:
"Rates for the transportation of coal from the Wyoming region to Perth Amboy of $1.55 per gross ton on prepared sizes, $1.40 on pea coal, and $1.20 on buckwheat coal are unreasonable so far as they exceed $1.40 on prepared sizes, $1.30 on pea coal, and $1.15 on buckwheat."
Where is Perth Amboy?

Mr. WATSON. It is on tidewater in New Jersey, close to New York. That is a point where the freights, or the tariff, is just the same as it is to Hoboken, across the river.
Mr. NORRIS. And the Wyoming region was this same region?
Mr. WATSON. The Wyoming region is a few miles below Scranton, and it is the same freight belt, the same loop.
Mr. NORRIS. Do you know whether that is the only quotation from the opinion of the Interstate Commerce Commission that you saw?
Mr. WATSON. I do not recall that. I do not recall reading that out of that book. I do not know whether I did or not. I presume I did. If I read the book, I read it.
Mr. NORRIS. I thought you studied it so closely you would perhaps remember it yet.
Mr. WATSON. I perhaps read the facts and a good bit about that case; I think I did.
Mr. NORRIS. Do you know whether there is another quotation in this brief——
Mr. WATSON. I do not.
Mr. NORRIS. Do you know whether there is another quotation from the Interstate Commerce Commission opinion in the other brief?
Mr. WATSON. I do not.
Mr. NORRIS. Do you know whether there is any quotation in the brief we do not have here?
Mr. WATSON. I do not.
Mr. NORRIS. Who paid your expenses down to Washington to get these two briefs?
Mr. WATSON. If it is pertinent and necessary to be known, I will tell you.
Mr. NORRIS. I think it ought to be known.
Mr. WATSON. I prepared the telegram, and some time in the afternoon Mr. Christy Boland came and gave me $50.
Mr. NORRIS. What for?
Mr. WATSON. To come to Washington.
Mr. NORRIS. That was to pay your expenses?
Mr. WATSON. I suppose so. That is what I used it for.
Mr. NORRIS. And all you got for that $50 were these two little briefs here——
Mr. WATSON. All I got.
Mr. NORRIS (continuing). That could have been gotten by mail by the expenditure of about 4 cents postage?
Mr. WATSON. That perhaps was true.
Mr. NORRIS. And, as a matter of fact, these briefs were not what you wanted, and did not do you any good?
Mr. WATSON. It seems not. If I did not get any other information, they do not seem to be worth quite $50. But I had information enough, so that I kept them dancing for an hour and a half.
Mr. NORRIS. What you were trying to get you could have gotten for less than 10 cents, could you not?
Mr. WATSON. If you knew a man was going to meet you on Monday, and you expected to have a conference quickly, and you wanted the information, and you thought you had to have it, you would hunt around for it, would you not?
Mr. NORRIS. I do not know whether I would or not. If I were a practicing lawyer and took $50 from my client to do what you did here I would rather be under the impression that I ought to plead guilty to something. As a matter of fact, you were employed in this particular case, were you not, and we presuppose you must have had some knowledge, when you wanted to get an Interstate Commerce Commission opinion, where to go to get it and how to go about to get it.
Mr. WATSON. I do not care to answer that question. If that is your view of the matter. They may have gotten a good bit more for the $50. I think they did. They have gotten more than they ever paid for; I know that.
Mr. NORRIS. All they got for that $50 were these little pamphlets?
Mr. WATSON. You can conclude that is so.
Mr. NORRIS. If there is anything else I would like to have you tell it; you are on the witness stand and under oath.
Mr. WATSON. I do not know that the $50 was paid for simply coming to Washington. It was paid along with the expenses of the case. And still I do not know but what he gave it to me—I know he would not have given it to me if I had not been coming to Washington.
Mr. NORRIS. It would take that to pay your expenses, would it not?
Mr. WATSON. No; I do not think so; I am not very expensive.
Mr. NORRIS. You go to see judges and to the Hotel Raleigh in Washington?
Mr. WATSON. Judge Archbald, as I have known him—I never could induce him to drink; and I quit some time ago, and so I do not have to have any expense of that kind, and I think my expenses would be about $15, usually.
The CHAIRMAN. Mr. Worthington has said he would probably want to ask you a question to-morrow, Mr. Watson, if he finds a certain paper. I have asked him if he gets that paper to show it to you, and if he then determines that he wants you to remain over to-morrow to interrogate you about that paper, you will remain over. But unless he tells you he wants you to remain over for the purpose of examining you about the paper, you may be discharged and go home.
Mr. WEBB. I want to ask that Mr. Worthington place in evidence now the letter beginning "My Dear Christy," from Judge Archbald.
Mr. WORTHINGTON. I have not that letter here, and my recollection is it was put in evidence. I think it was passed up and put in evidence.
Mr. FLOYD. That is my recollection of it, but I can not find it anywhere in the evidence.
Mr. WORTHINGTON. If you are absolutely sure that it is not among the exhibits, I must have it, and I will make a search among my papers for it.
Thereupon, at 6.06 o'clock p. m., the committee adjourned until to-morrow, Tuesday, May 28, 1912, at 10 o'clock a. m.

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Tuesday, May 28, 1912.

The committee met at 10.35 o'clock a. m., Hon. HENRY D. CLAYTON (chairman) presiding.
Present: The committee; Hon. Robert W. Archbald; Hon. A. S. Worthington, M. J. Martin, Esq., and Samuel B. Price, Esq., counsel for Judge Archbald; Wrisley Brown, Esq., assistant to the Attorney General, and others.

FURTHER TESTIMONY OF GEORGE M. WATSON.

The CHAIRMAN. Mr. Watson, I understand that you desire to say something further?
Mr. WATSON. I wish to make a statement in relation to the meeting.

The CHAIRMAN. Yes.

Mr. WATSON. Last night in thinking over the meeting in the Lackawanna office, the question was asked me, and asked Mr. Phillips also, as I recall, if Judge Archbald's name was mentioned in that conference. I either said no or that I did not remember.

Now, Judge Archbald's name was mentioned in that conference, and my recollection is, by Mr. Loomis, who passed some comment on Judge Archbald and our being there at that meeting. He said it loud enough so that all ought to hear, because I was farther from him than Mr. Phillips, or even Mr. Truesdale, and he spoke out and said something: "We are here," or "How is Judge Archbald?" or something like that, which implied, as I took it, that we were there by some arrangement that Judge Archbald had made.

The CHAIRMAN. Who was it who said that?

Mr. WATSON. I think it was Mr. Loomis.

The CHAIRMAN. Mr. Loomis, you think, said it?

Mr. WATSON. I think so. I don't know why Mr. Truesdale would say it, unless he had been advised by some one else, because I had not written him, and I know it must have happened in that meeting, because Mr. Loomis did say something about Judge Archbald, and it was the only time I met Mr. Loomis—so it must have been in that meeting. I want that corrected, to correct my statement.

The CHAIRMAN. Well, your statement this morning will, of course, go into the printed record.

Mr. WATSON. Yes.

The CHAIRMAN. And when your testimony is under consideration this will be considered in connection with your previous statement.

Mr. WATSON. That is all I desired to say. It came to my mind last evening, or last night, and I wanted to correct it.

Mr. WORTHINGTON. I said last night that I would get a copy of the petition that was filed in the Commerce Court in the Meeker case and exhibit to the witness, and see if he could identify that as one of the papers that he got when he came down here. We got that paper, but I left it at my office and one of our party has gone down there to get it and I expect it will be here in a moment or two. In the meantime, I produce now the "My Dear Christy" letter, which I think one of the members of the committee said yesterday he would like to have here. I had it in my bag.

Mr. WEBB. Read it, Colonel, and put it in the record.

Mr. WORTHINGTON. Shall I read it?

Mr. WEBB. Yes.

Mr. WORTHINGTON. This is an exact copy. It is headed "(Copy)."

(The above-mentioned letter is marked "Exhibit 87.")

Mr. Worthington thereupon read aloud the above-mentioned letter, as follows:

Exhibit 87.

(Copy.)

SCRANTON, PA., *November 13, 1911.*

C. G. BOLAND, Esq.,
Scranton, Pa.

MY DEAR CHRISTY: I had an interview with our friend this afternoon, and I regret to say that I did not succeed in doing anything. I tried to get him to make a counter proposition to the one which had been submitted upon your side. But he seemed to feel that the amount which he would be willing to offer was so inconsiderable that it was hardly worth the while. I regret to report this as the final outcome of the efforts of settlement which have been made, but I see nothing to be attained any further here.

I return herewith the papers which you let me have.

Yours, very truly,

Mr. WEBB. Who is that supposed to be signed by? It is a copy.

Mr. WORTHINGTON. It is supposed to be signed by Judge Archbald.

The CHAIRMAN. Do not let us have suppositions. You are Judge Archbald's counsel. Is that a copy of the "Dear Christy" letter that Judge Archbald sent?

Mr. WORTHINGTON. I am informed that it is a copy of that letter sent to him. The committee will remember that I produced that letter and showed it to Boland and asked if it was not a copy of the letter he received, and he could not identify it; neither could W. P. Boland say that there ever was such a letter seen by him.

The CHAIRMAN. There is a great deal of latitude allowed by the committee in taking testimony in an investigation of this sort, but I hardly think it ought to cover suppositions.

Mr. WORTHINGTON. This letter is referred to on page 554 of serial No. 5.

The CHAIRMAN. Then you will want to interrogate Mr. Watson further when the paper comes from your office to which you have just referred?

Mr. WORTHINGTON. I should like to.

The CHAIRMAN. Well, you may do that. [The paper above referred to having been received, the following took place:]

Mr. WORTHINGTON. Mr. Chairman, I have shown Mr. Watson this paper, and I will ask him some questions about it.

The CHAIRMAN. Very well.

Mr. WORTHINGTON. I want to show you this paper entitled "Petition and exhibits" in No. 49, United States Commerce Court, and ask you what is your recollection as to whether that is one of the papers you got when you were down here on the 7th of October last?

Mr. WATSON. The last part of this book is the information that I had when I talked with the people in the Lackawanna office.

The CHAIRMAN. Please give Mr. Worthington, if you can, a categorical answer to his question, and then make your explanation.

Mr. WATSON. I got a book like this at the time I was here, but whether that was the information that I carried in there, or whether it was made from a typewritten statement that I had in my possession, I do not know. I do not know whether I took the book before the railroad men, but I got a book like this.

The CHAIRMAN. Like that?

Mr. WATSON. Yes; I read a book like that.

Mr. WORTHINGTON. I do not care to ask anything further.

The CHAIRMAN. Read the title of that book, please.

Mr. WATSON. It is "Petition and exhibits," No. 49, Lehigh Valley Railroad Co. against the United States, respondent.

The CHAIRMAN. Is that all that is on the title page?

Mr. WATSON. No; there is "United States Commerce Court."

The CHAIRMAN. Give it to me, and I will read it so that there will be no mistake about it. I will ask the reporter to take it down as I read it.

The chairman read the title page of the book referred to, and the same is as follows:

49.

UNITED STATES COMMERCE COURT.

Lehigh Valley Railroad Co., petitioner, against United States, respondent.

Term, ——, ———, 1911. No. ——.

PETITION AND EXHIBITS.

E. H. BOLES,
Solicitor for Petitioner,
132 Liberty Street, New York, N. Y.

JOHN G. JOHNSON,
FRANK H. PLATT,
EVERETT WARREN,
Counsel.

Stillman Appellate Printing Co., 51 Broad Street, N. Y.

The CHAIRMAN. That is the title page of the pamphlet about which Mr. Worthington has interrogated you?

Mr. WATSON. Yes, sir.

Mr. NORRIS. Is that all?

Mr. WORTHINGTON. Yes.

Mr. NORRIS. I want to see the book. Will you hand it to me, please. (The book referred to was handed to Mr. NORRIS.)

Mr. NORRIS. Mr. Watson, this pamphlet that you exhibit, of which the chairman has just read the title, is the other one of the three books that you were testifying about yesterday, is it?

Mr. WATSON. Yes; I think so; because the back part of this book contains the information that I had. This $1.40——

Mr. NORRIS. Then you were mistaken yesterday in your testimony when you testified that the third book, as you called it, was another brief?

Mr. WATSON. Well, maybe I was, if I called it a brief.

Mr. NORRIS. Well, you did yesterday.

Mr. WATSON. Then it was a mistake, because I think it was that book.

Mr. NORRIS. That is it?

Mr. WATSON. I think it was a copy of that book.

Mr. NORRIS. You think it was either this or a copy of it?

Mr. WATSON. Oh, it was not that one. It could not be.

Mr. NORRIS. It was the same thing?

Mr. WATSON. Yes. The back part of that book contains just what I read in the book, where it reduced, or said the rate of more than $1.40 on prepared sizes of coal was too much.

Mr. NORRIS. The back part of it——

Mr. WATSON. I identify the book by that.

Mr. NORRIS (continuing). Is the order?

Mr. WATSON. Oh, no.

Mr. NORRIS. It is just before the order?

Mr. WATSON. Before the order. I think it is about the last paragraph there.

Mr. NORRIS. The last paragraph of the page?

Mr. WATSON. Well, I can not tell you right——

Mr. NORRIS. That last paragraph is: "And it is further ordered that a copy of this order be served upon each of the parties to said case." Is that it?

Mr. WATSON. No; there is a place where it says $1.40 for prepared sizes and another rate for pea and another rate for buckwheat coal.

Mr. NORRIS. That is what I read yesterday, is it not, out of the brief?

Mr. WATSON. Yes.

Mr. NORRIS. The same thing?

Mr. WATSON. But this is in a different——

Mr. NORRIS. I wish you would take this and point out to me just exactly what the part of it is that you refer to.

Mr. WATSON. That I read?

Mr. NORRIS. That you read.

Mr. WATSON. I identify this, not as a copy—I think it is a copy—but as a book that I had in my possession for the various reasons. First, because it names some engineers that I knew.

Mr. NORRIS. Yes.

Mr. WATSON. And some men that were connected with these roads that I knew of.

Mr. NORRIS. Yes.

Mr. WATSON. And they had made estimates as to the cost of shipping coal.

Mr. NORRIS. Yes.

Mr. WATSON. One made it at 76 cents. I never had heard of it. I read it in this book. That is next to the last paragraph, we will call it.

Mr. NORRIS. On what page?

Mr. WATSON. Pages 162 and 163.

Mr. NORRIS. All right. That identifies it.

Mr. WATSON. That was a very important matter to me; and I found I had it in typewritten form when I got home—the same thing.

Mr. NORRIS. This in one of the books, or a copy of one of the books, that you got at the time you went with Judge Archbald to the Commerce Court and were looking for the orders of the Interstate Commerce Commission in what was known as the Meeker case?

Mr. WATSON. Yes.

Mr. NORRIS. This is one of them?

Mr. WATSON. I think that is a copy of what I received there.

Mr. NORRIS. This, with the two briefs that you identified yesterday, constitutes all you did get?

Mr. WATSON. I do not know that. It may be that I got some other papers there, but I do not recall them.

Mr. NORRIS. You have no recollection of that?

Mr. WATSON. I do not; I do not recall anything.

Mr. NORRIS. At that time when you were with Judge Archbald you told him what you wanted, did you not?

Mr. WATSON. Well, perhaps I did; perhaps I told him.

Mr. NORRIS. What you really wanted was the record of the Interstate Commerce Commission in the—what is the case?

Mr. WATSON. The Meeker case.

Mr. NORRIS. In the Meeker case. Was not that it?

Mr. WATSON. Well, I wanted that—what I got there.

Mr. NORRIS. You did not know what you were going to get when you sent for these?

Mr. WATSON. I knew about what we wanted.

Mr. NORRIS. What did you ask for?

Mr. WATSON. That I can not tell you.

Mr. NORRIS. Did you not testify yesterday that what you wanted to get was the record of the case before the Interstate Commerce Commission?

Mr. WATSON. Yes, sir; it was; and I wanted to get the disposition that they had made of that case. I wanted to get it.

Mr. NORRIS. All right. You evidently told Judge Archbald that because you did not know just where you could get this record, did you?

Mr. WATSON. No, sir.

Mr. NORRIS. You were hunting for it?

Mr. WATSON. No, sir; I did not know.

Mr. NORRIS. You did not know?

Mr. WATSON. No, sir.

Mr. NORRIS. Then I presume you asked Judge Archbald where you could get it, did you not?

Mr. WATSON. It is more than likely that I did.

Mr. NORRIS. Did not Judge Archbald tell you that the place to get the record, the Interstate Commerce Commission in that case, was to go to the Interstate Commerce Commission and not to the Commerce Court? Did he not tell you that?

Mr. WATSON. I have an indistinct recollection that we did talk about some commission or some other office. This was Saturday afternoon——

Mr. NORRIS. At that time had you studied the law enough to know that there was such a thing as the Interstate Commerce Commission?

Mr. WATSON. Yes; I knew of it. I knew about the Sherman law.

Mr. NORRIS. When he told you that was the place to get their records, what did you say to him?

Mr. WATSON. I don't know.

Mr. NORRIS. That is all.

Mr. WATSON. I don't know what I said.

The CHAIRMAN. Mr. Worthington, the committee desires that those three pamphlets——

Mr. NORRIS. I have another question about this.

The CHAIRMAN. But let me finish this statement.

Mr. NORRIS. Certainly; but I want to finish the examination.

The CHAIRMAN. Referring to those three pamphlets that have been referred to, numbered 49, the three several pamphlets or documents that have been read in the testimony, the committee desires that those papers be left in the custody of the committee, but not to be incorporated into the record, as it would unnecessarily encumber the record. The committee desires to have them left with it, so that it may make such use as it desires of the pamphlets. You do not desire to have them printed in the record?

Mr. WORTHINGTON. Not at all.

Mr. NORRIS. How did you happen to have your memory refreshed since you have been on the witness stand in regard to this other exhibit that you have identified this morning?

Mr. WATSON. It was shown to me. They handed me the book and I read it.

Mr. NORRIS. Who showed it to you?

Mr. WATSON. Mr. Worthington.

Mr. NORRIS. When did he do that?

Mr. WATSON. Fifteen or twenty minutes ago.

Mr. NORRIS. You recognized it as being a copy of the other pamphlet?

Mr. WATSON. I recognized that last part of that book as being contained in a book that I had read, and I——

Mr. NORRIS. Did he call your attention particularly to that particular page?

Mr. WATSON. No; no.

Mr. NORRIS. You found that, did you?

Mr. WATSON. He told me it was a brief.

Mr. NORRIS. It is not a brief, though. I do not suppose he told you that.

Mr. WATSON. Not a brief, but a petition; and he opened it at that point where the petition occurs, right there [indicating].

Mr. NORRIS. That is not anywhere near the page you identified.

Mr. WATSON. No, sir.

Mr. NORRIS. You located that there yourself?

Mr. WATSON. I did. I just turned it over and looked at the back part of it, because I recall that is where it was that I read that.

Mr. NORRIS. That is all.

Mr. WORTHINGTON. I handed that to you right across the table here, did I not?

Mr. WATSON. Yes, sir; just here.

The CHAIRMAN. The Chair may say, right in this connection, that last night Mr. Worthington called the attention of the Chair to this matter, and said that he did not have that pamphlet with him, but would probably want to get it and interrogate Mr. Watson with reference to it. I told him it would be quite proper for him to do so; to show it to Mr. Watson when he brought it, and that then Mr. Watson could resume the stand and answer his questions with respect to it.

Now, Mr. Watson, you wrote a letter to Truesdale and Loomis saying that you would be ready to meet him on this coal-property deal at any time, on an hour's notice, did you not?

Mr. WATSON. Well, I don't know that I said an hour.

The CHAIRMAN. The letter was referred to here in the testimony, dated October 2?

Mr. WATSON. The letter was here yesterday; yes, sir. That is the letter.

The CHAIRMAN. Why did you write that letter telling them that you would be ready to see them at an hour's notice before you came down to Washington and get this information, which you say you came down here and got, informing you as to the procedure before the Interstate Commerce Commission and the procedure in the Commerce Court? In other words, Mr. Watson, to be perfectly frank about it, that letter would seem to indicate that you had all the information that you wanted in dealing with Truesdale and Loomis in respect to this matter; and your testimony now seems to be that you wanted to inform yourself fully as to the law governing the procedure in the Interstate Commerce matter and the procedure in the Commerce Court before you had the interview with them. It appears to me that there may be a possible discrepancy there in your testimony, and I desire you to explain it.

Mr. WATSON. The data I had to study this case on was prepared in typewritten form—that is, the information, the reductions that they wanted—and I think possibly some expression of the Commerce Commission was incorporated in this notice.

The CHAIRMAN. I do not think I have made myself clear.

Mr. WATSON. Yes; you did, because I wanted to get the data——

The CHAIRMAN. Very well; proceed.

Mr. WATSON. In this meeting, or at this session yesterday, the question was asked me by some one if Mr. Pryor did not prepare a paper. There was a paper prepared by some one that was given to me by Mr. Boland, Mr. W. P. Boland, together with the other papers, and that paper contained what we claimed, and all that we wanted, and the things they had done which we said were against the law; and that the Interstate Commerce Commission had expressed itself on it. At that time I am quite sure that W. P. Boland, or it may have been C. G. Boland, on the morning that I went down to Washington, called my attention to this case and asked me if I could not get those papers to be ready if we had a meeting. That is the reason, or one of the reasons, I came to Washington. We did not have all the data that is in this book. I have been thinking this matter over, and this meeting was discussed for some weeks, or a week or so after I had met Mr. Truesdale, about some way of getting another meeting or another hearing. I am now hazy on that. I do not recall just what we did in relation to these books, but there was something done there, and maybe that may be the second letter—the letter of the 2d. It may have been that the meeting was held before the 2d, but my recollection is now that it was not. Understand me. Mr. Boland and myself went over all of these papers after Mr. Loomis had gone away, and Mr. Truesdale; and there was to be an effort made to get Mr. Truesdale or Mr. Loomis to take the case up and go over it again with some data that we thought we had. That was the very day that they were there, or the day after; and Mr. Phillips was talking about it to some one—at least it was reported so. We went into some discussion about that. I do not recall what we did; but then, when that fell through, I left the case, and it was about a week, I judge, that we were working on it. Or it may be that I used those books in that last——

The CHAIRMAN. Did not Loomis tell you that he had turned down the proposition?

Mr. WATSON. I don't think there was anything said like "turning down." I think they said: "We can not consider it—we won't consider it in this shape."

The CHAIRMAN. He rejected it, then?

Mr. WATSON (continuing). "He is asking too much money," or some such thing.

The CHAIRMAN. I was using a vulgarism which is very common, "turned down," thinking you would understand that perhaps quite as well as more refined language. I will now adopt another phrase. Then, did he inform you that the proposition to buy that coal property was rejected?

Mr. WATSON. Well, it would not be that; I don't know that he said that.

The CHAIRMAN. Then did he say, either in the common vernacular of the streets that the proposition was "turned down," or in the refined language of the court room or hall room that it was rejected, or language of equivalent import to either one of these expressions that I have used? You can take your choice as to which one.

Mr. WATSON. Oh, he would not take the property; that is all. He did not take it. He said they would not.

The CHAIRMAN. He said they would not take the property?

Mr. WATSON. That is what he said.

The CHAIRMAN. You prefer that language, which is quite satisfactory to the chairman.

Mr. WATSON. I do not know his exact language; I could not tell you that; but I know that is what it amounted to.

The CHAIRMAN. Did you ever have any other conference with Mr. Truesdale?

Mr. WATSON. I did not. I tried to, but did not.

The CHAIRMAN. I must confess, Mr. Watson, that you have not made perfectly clear to me your answer to the question that I asked a while ago, and I beg to repeat it, perhaps in a little different form. On October 2 you wrote the letter which has been read into the testimony, and is now known as "Exhibit 86."

Mr. WATSON. Yes.

The CHAIRMAN. In this letter to Mr. Loomis to which I have just referred, in which you seek a conference with Loomis and Truesdale, you wind up with this sentence:

"If you will kindly advise me, either by wire or letter, I will hold myself in readiness to meet you on a few hours' notice."

You were ready, then, to meet them and go over the matter of the trade for this coal property on October 2? This letter imports that you were ready to meet them and to discuss that matter on an hour's notice.

Mr. WORTHINGTON. A few hours' notice.

Mr. WATSON. Yes; that is so.

The CHAIRMAN. On a few hours' notice?

Mr. WATSON. Yes.

The CHAIRMAN. Why was it necessary, then, for you afterwards to come to Washington to get this information that you got from the three pamphlets that you have referred to after your conference in Washington with Judge Archbald?

Mr. WATSON. I thought I had plenty of data at that time. I had the statement made up by Mr. Boland that he had given to me. This letter was written at the request of, perhaps, Christy Boland. I assume that it was. I believed that we could go before that committee and impress on them the necessity of taking our property, or the advisability, rather, of taking it. After going into the matter for a week—we were together for a week then, or nearly so; three or four days, anyhow, that I was talking with Mr. Boland, and I think Mr. W. P. Boland came to my office; perhaps I called him on the phone or something, but at any rate we got together—I was not quite so sure of my position. Now, I have been thinking whether we met after the officers refused to go on with the proposition. Whether we met then, and I asked for another meeting after that meeting, and after that came to Washington, I do not know. I do not know. I had the same information——

The CHAIRMAN. Do you not know that the Meeker case had been decided in June before the October in which you wrote this letter?

Mr. WATSON. I find that now, but I did not know it.

The CHAIRMAN. Did you not know it at that time?

Mr. WATSON. No, sir.

The CHAIRMAN. The Meeker case was before the Interstate Commerce Commission——

Mr. WATSON. I suppose I had some data given me, furnished me by the Bolands, that would indicate that, but I do not recall it.

The CHAIRMAN. Please tell us what this data was that you said you relied upon, or I infer that you meant to say that you relied upon, at the time you wrote this letter of October 2.

Mr. WATSON. It was a number of typewritten pages and tables showing the freight rates to given points.

The CHAIRMAN. By whom was it prepared?

Mr. WATSON. Mr. Boland gave it to me. I do not know who prepared it.

The CHAIRMAN. Which one of the Bolands?

Mr. WATSON. Mr. W. P. Boland here. It was in with all the papers that he gave me. The leases and all the other things were together.

The CHAIRMAN. Then you afterwards concluded, after having written this letter of October 2, that you wanted further information about the law governing the Commerce Commission and the Commerce Court, did you?

Mr. WATSON. It was about what they had done that I wanted to get information.

The CHAIRMAN. Did you not say something yesterday to the effect that you wanted to be informed as to the law?

Mr. WATSON. About the appealing?

The CHAIRMAN. Yes.

Mr. WATSON. And the court—yes; I knew nothing about it at all.

The CHAIRMAN. Did it occur to you after October 2, when you had written that letter, that you wanted further data, or that you wanted further legal information?

Mr. WATSON. Oh, it was the data that we wanted.

The CHAIRMAN. You did not want any further legal information?

Mr. WATSON. Well, we all want further legal information, but then I did not want——

The CHAIRMAN. I am not asking you now about generalities.

Mr. WATSON. But I do not know whether I was hunting for it in that particular case. I do not think I was.

The CHAIRMAN. I am asking you whether, in your own mind, you came down to Washington here for further legal information as to the Commerce Court? You said, I believe, yesterday, that you did not know the law about the Commerce Court and you knew very little about the Commerce Commission.

Mr. WATSON. Yes.

The CHAIRMAN. And did you not say in substance that you wanted to come down here and learn about the law and the procedure in those two tribunals? Did you not say that in effect?

Mr. WATSON. I do not recall saying it, but it was perhaps the fact that I did want to know something about it.

The CHAIRMAN. Was that your object—to get this information as to the law and the procedure in these tribunals, or was it to get data?

Mr. WATSON. It was to get data and information and the record—what I wanted to see.

The CHAIRMAN. The record?

Mr. WATSON. Yes, sir.

The CHAIRMAN. What record?

Mr. WATSON. The record of this commission—what they had done. I wanted to get their findings.

The CHAIRMAN. In what case?

Mr. WATSON. In this Meeker case, because that is a case right in our immediate neighborhood—the same freight rates, the same zone.

The CHAIRMAN. How long before that had you heard of the Meeker case?

Mr. WATSON. Possibly a week or so we had been talking about it, the Bolands and myself.

The CHAIRMAN. And you could not get the record in the Meeker case without making your trip to Washington?

Mr. WATSON. Well, I do not know that we thought of going to Washington—I do not know that I could; I might have gotten it by writing for it, but I did not know that.

The CHAIRMAN. You did not know that you could write down here?

Mr. WATSON. Oh, I knew that I could in a general way, but I did not know how to get it; that is it; and they did not know how to get it.

The CHAIRMAN. Did you not have a conference with Truesdale and Loomis before you came to Washington?

Mr. WATSON. That is just what I am trying to say now—that it may possibly have been that when I came to Washington for this data, it was for the purpose of going back again and asking for another meeting with Truesdale.

The CHAIRMAN. Another meeting with Truesdale?

Mr. WATSON. Yes. Now, after this came out yesterday, I did not know but what that might be so. I do not know.

The CHAIRMAN. It occurs to you now that possibly you had two conferences or meetings?

Mr. WATSON. I did not have a second conference; I know that. I never met them again.

The CHAIRMAN. Did you ever write any letter to either Loomis or Truesdale inviting them to a second conference?

Mr. WATSON. No; I did not. The only business I ever had was, perhaps, with Mr. Phillips, trying to get another meeting, and I did do that. I recall that.

The CHAIRMAN. You never made any effort to have the second meeting?

Mr. WATSON. Not directly to Mr. Truesdale. Mr. Phillips was the superintendent of the coal department—of the coal-producing end—and I went to him.

The CHAIRMAN. Phillips would have had no power to overrule Truesdale, would he?

Mr. WATSON. No; but he could ask him to have another hearing, and I think he does that very frequently.

Mr. WORTHINGTON. Mr. Chairman, since yesterday I have found what purports to be the telegram that the witness said he sent to Judge Archbald from Philadelphia when he was on his way down here. I should like to show it to him.

The CHAIRMAN. One minute, Mr. Worthington.

Mr. WORTHINGTON. I thought you were through, Mr. Chairman.

The CHAIRMAN. Did you use this information that you got about the Meeker case in your conversation with Phillips, or did you use it in your conversation or conference with Truesdale and Loomis?

Mr. WATSON. That I do not know. I do not remember about using that book or those books. I do not think I ever had them before Loomis.

The CHAIRMAN. You may have used that information in your conference or conversation with Phillips and not with Truesdale and Loomis?

Mr. WATSON. No; I think I called Mr. Phillip's attention to this freight rate. Mr. Truesdale denied the rate.

The CHAIRMAN. I think you said, in substance, yesterday, that you used that information which you got in Washington from those pamphlets and otherwise in your hour and a half conference with Truesdale and Loomis.

Mr. WATSON. I think I did. I said that yesterday, but I am not sure about it.

The CHAIRMAN. Now, Mr. Worthington, you may show the witness the telegram you have referred to.

Mr. NORRIS. Mr. Chairman, before he does that I should like to ask the witness a few questions.

The CHAIRMAN. Certainly.

Mr. NORRIS. You were sure of it yesterday, were you not, Mr. Watson?

Mr. WATSON. I don't know how sure; maybe.

Mr. NORRIS. You testified as though you were sure of it.

Mr. WATSON. I did.

Mr. NORRIS. When did you change your mind?

Mr. WATSON. Through the night I have been thinking this matter over, and I am now uncertain as to the meetings we had.

Mr. NORRIS. Do you not remember that yesterday I called your attention to those briefs and asked you what particular part of them you used in that conference, and you pointed out the particular paragraph that you used, and that was the basis of your argument before Truesdale?

Mr. WATSON. The contents of that paragraph was. I never said I had those books before Truesdale.

Mr. NORRIS. No; you did not say you took the books there; but you based your argument on the information that you got out of that pamphlet.

Mr. WATSON. That is my thought now. That is what I think now.

Mr. NORRIS. You believe that now, do you?

Mr. WATSON. Yes; but I may be mistaken about it.

Mr. NORRIS. You may be mistaken?

Mr. WATSON. And it may have been in the papers that Mr. Boland gave me.

Mr. NORRIS. Yes; and it may be, then, that you had never seen those pamphlets when you had that conference?

Mr. WATSON. If, as has been suggested by some one, I went there before I came to Washington, I had never seen them.

Mr. NORRIS. Is it not true that since you testified yesterday you have learned from other sources that the probabilities are that you came to Washington after that conference rather than before it?

Mr. WATSON. I have not talked to a soul about this.

Mr. NORRIS. I have not asked you that.

Mr. WATSON. It is all my own idea.

Mr. NORRIS. I have not asked you if you have talked to anybody.

Mr. WATSON. You said "did I learn."

Mr. NORRIS. Yes.

Mr. WATSON. I did not learn it by reading, and I have not learned it by talking. It has come out of my mind, that is all.

Mr. NORRIS. Then you have not learned it; you have just thought about it yourself?

Mr. WATSON. A doubt may arise.

Mr. NORRIS. Do you want us to believe now that you came to Washington and got those three pamphlets for the purpose of arming yourself and equipping yourself for the contest that you were to have with those railroad officials in Scranton? Do you want us to believe that or not?

Mr. WATSON. I did; certainly. I came here to get information, and that was the information I took back.

Mr. NORRIS. It is your impression now that that is the way it occurred, is it, and your belief?

Mr. WATSON. Yes; I think so.

Mr. NORRIS. If it does turn out, however, that you had that conference prior to your visit to Washington, then what explanation do you want to make to the committee for your trip to Washington?

Mr. WATSON. Then I want to make this explanation: That we were trying to get a rehearing.

Mr. NORRIS. Before the same officials?

Mr. WATSON. To meet them again; and for that purpose I possibly came here.

Mr. NORRIS. You came down, then, to get the record in the Interstate Commerce Commission of the Meeker case?

Mr. WATSON. Yes.

Mr. NORRIS. And then went home without it? You did not get it, did you?

Mr. WATSON. Well, I think I had it. I am not sure. I think I did have it.

Mr. NORRIS. Did you have anything besides those three pamphlets?

Mr. WATSON. I think so.

Mr. NORRIS. Let us have that information, then. Yesterday you only had those three pamphlets.

Mr. WATSON. Well, I don't know.

Mr. NORRIS. Did you have four pamphlets?

Mr. WATSON. No; I don't know. I don't think so. Whatever I had Mr. Boland has now, except these two books.

Mr. NORRIS. Your experience had been very limited in practicing before the Commerce Court and before the Interstate Commerce Commission?

Mr. WATSON. I never had been in it.

Mr. NORRIS. You had never been in either one of them?

Mr. WATSON. No.

Mr. NORRIS. And that is the reason why you took this course to get information that, if you had been better posted, you could have obtained otherwise?

Mr. WATSON. If I had had time; yes; I could.

Mr. NORRIS. In this rate case that you were coming down here to Washington to get information about there was another attorney representing Mr. Boland by the name of Reynolds, was there not?

Mr. WATSON. Yes, sir.

Mr. NORRIS. Does he live in Scranton?

Mr. WATSON. Yes, sir.

Mr. NORRIS. Mr. Reynolds is rather an expert on the rate business, is he not?

Mr. WATSON. I do not know about that. I know he has those kind of cases some. I have heard that since then.

Mr. NORRIS. He practices before the Interstate Commerce Commission and before the Commerce Court, does he not?

Mr. WATSON. I think he does.

Mr. NORRIS. And he was in that case with you?

Mr. WATSON. No. I was not to say anything to Mr. Reynolds.

Mr. NORRIS. What is your answer?

Mr. WATSON. I was not to talk to Mr. Reynolds about this case.

Mr. NORRIS. You knew he was in the same case?

Mr. WATSON. I knew that Mr. Reynolds had tried one branch of that case, but the settlement of the case with the Lackawanna Railroad was another matter.

Mr. NORRIS. I understand that; but in order to make that settlement advantageous to your clients you wanted to get information from the Interstate Commerce Commission?

Mr. WATSON. Yes.

Mr. NORRIS. Why did you not go to Reynolds, who was right there in Scranton, and was an expert in that line, and get that information?

Mr. WATSON. Because I had been told by Mr. Boland that Mr. Reynolds did not want anything to do with the settlement; that he would not settle the case; and therefore he asked me to go into the settlement.

Mr. NORRIS. Why would not Reynolds settle the case?

Mr. WATSON. That I do not know.

Mr. NORRIS. You could have gotten information, probably, from Mr. Reynolds, in regard to the Meeker case, without intimating that you were in this case with him, had you wanted to, could you not?

Mr. WATSON. Well, I might, but I did not think that would be exactly fair, to go to a man's office——

Mr. NORRIS. Would it not have been fair to have gone to any attorney's office who practiced in that court, and ask him, instead of wiring down to Judge Archbald and then coming clear to Washington? It would not have been unfair to go to a man that was right there in town and ask him how to get a record from the Interstate Commerce Commission, would it?

Mr. WATSON. Well, I see that I could have done that.

Mr. NORRIS. You could have done that?

Mr. WATSON. Yes. It did not occur to me. In my conversation with these people it did not occur to me. I think they desired me to come here and get it. My recollection is that we expected that meeting on Monday; that is what I remember now; and if not, we knew that Mr. Loomis came there on Monday, and I expected to meet Mr. Loomis again, in any event.

Mr. NORRIS. So your coming down here would fit either one of those circumstances?

Mr. WATSON. The matter of fact was that we knew the meeting would be on Monday next, or Tuesday; we knew that. He always comes on Monday or Tuesday. Everyone knew that.

Mr. WORTHINGTON. You say "He always comes Monday or Tuesday." Whom do you mean?

Mr. WATSON. Mr. Loomis. He comes up early in the week when he does come up.

Mr. NORRIS. All right.

Mr. FLOYD. I want to ask you a question now. If I understood you on yesterday, Mr. Watson, in speaking of your first interview in the office of Judge Archbald, you said that you were so well acquainted with him that if you had wanted to ask him any opinion about legal matters you would not have hesitated to do so?

Mr. WATSON. I do; I say that now.

Mr. FLOYD. Is it not a fact that after these railroad attorneys had turned you down and refused your settlement you made that trip to Washington to see Judge Archbald to get his advice or assistance in getting another interview with the railroad people?

Mr. WATSON. No; I did not.

Mr. FLOYD. You say that is not a fact?

Mr. WATSON. I did not. I did not speak to him about that branch of it, I am sure.

Mr. FLOYD. If you would not have hesitated or thought there was anything wrong in asking his advice, why did you not do so?

Mr. WATSON. Well, I don't know. When I said I did not mind asking his advice, that was about the preliminaries of a case. But if this had gotten to a place where the question would indicate that it had, I do not think it would have been proper for me to talk to him about it, and I did not think then it would be, if I thought about it at all; but I don't think I thought about it.

Mr. FLOYD. That is all.

Mr. NORRIS. If you had your conference with Truesdale and the other railroad officials before coming to Washington, then what was the reason that you sent the telegram to Judge Archbald?

Mr. WATSON. I think that was suggested by C. G. Boland. I am not sure. He was in the office, and we had to get somebody that we could be sure of on Saturday, and he either suggested the name of Archbald or I did, and we prepared the telegram.

Mr. NORRIS. All right. Now, if you had had your conference before coming here, then what was the hurry of getting this record from Washington? You had made no arrangements to use the information and had fixed no date for another meeting?

Mr. WATSON. The only answer I can make to that would be that Mr. Loomis came there on Mondays, and if, as you say, the meeting had been held, I wanted to see him as early as I could on Monday.

Mr. NORRIS. Yes; but Archbald did not come there with Loomis always?

Mr. WATSON. No; Archbald was not there at all.

Mr. NORRIS. I do not mean Archbald; I mean Truesdale.

Mr. WATSON. No; Truesdale did not have to come. I wanted to see Loomis.

Mr. NORRIS. You did not care to see the president?

Mr. WATSON. Well, I did want to see him; yes.

Mr. NORRIS. But you were after Loomis?

Mr. WATSON. But Mr. Loomis was the coal man.

Mr. NORRIS. Yes. You were expecting, however, to make arrangements for a future meeting? You talked that over after the failure of this other meeting for several days, did you not?

Mr. WATSON. I think so.

Mr. NORRIS. And that would imply that you were going to fix a date for a meeting. When you came to Washington you had not fixed that date, had you?

Mr. WATSON. I think possibly I had talked with Mr.——

Mr. NORRIS. Mr. Boland?

Mr. WATSON. No; Mr. Phillips—about when Mr. Loomis would come again. But, now, that is not my recollection.

Mr. NORRIS. I understand that; but you have been saying that that might be true.

Mr. WATSON. I know it was true afterwards. I know we did try to get Mr. Loomis afterwards, after that meeting. Now, then, that is all that I can say.

Mr. NORRIS. But you gave as a reason for hurrying in your trip, and coming down here on Saturday rather than spending a postage stamp and getting this record without the expenditure of money, that you were crowded for time, and that you had to have that information by the next Monday, when that meeting came on. Now, if it turns out——

Mr. WATSON. That is my recollection now, that that is what we talked about.

Mr. NORRIS. I understand; but you say possibly that was not true. If it is not true, if it develops that that meeting had already been held when you came to Washington, then I want you to explain to the committee what was the necessity of the great hurry and the wiring to Archbald and making a trip on Saturday, when you could just as well have taken your time to it and gotten it by mail; or if you had had to come down for it, you could have taken your time and come on Monday, when the court would be in session, if it was from the court that you had to get your information?

Mr. WATSON. I think I came here at the request of Mr. C. G. Boland.

Mr. NORRIS. You know about that, do you not?

Mr. WATSON. No. I think he asked me to go that particular day.

Mr. NORRIS. That particular day?

Mr. WATSON. Yes.

Mr. NORRIS. What was the cause of the hurry?

Mr. WATSON. Something that had arisen in the case that we were talking about there in the office. Just the detail of it I can not give you.

Mr. NORRIS. In looking back over it now, you know you could have talked to Reynolds and could have gotten the information that you came to Washington for and did not get, do you not?

Mr. WATSON. It could have been gotten, perhaps. I do not know that he would give it to us. I think he was not pleased with the settlement—with the effort to settle.

Mr. NORRIS. That is all.

Mr. WEBB. Did Judge Archbald tell you that he was trying to help settle this case?

Mr. WATSON. I do not think he did. I do not think he ever told me that he was trying to help settle it.

Mr. WEBB. Do you know that he did or did not, Mr. Watson?

Mr. WATSON. Well, I don't know. I did know that he was friendly with the Bolands.

Mr. WEBB. Yes; but that does not answer the question.

Mr. WATSON. But I do not think he told me——

Mr. WEBB. Here you were associated with the judge right much with reference to this matter. Can you tell us whether he was trying to help you settle it or not?

Mr. WATSON. Well, if he was, I never saw anything beyond perhaps asking for the appointment; asking Mr. Loomis to see me.

Mr. WEBB. "Perhaps?"

Mr. WATSON. Well, that is all.

Mr. WEBB. Did you hear this letter read here a while ago, beginning "My dear Christy"?

Mr. WATSON. I do not know anything about that letter, and I never saw it until now; until I heard it read here.

Mr. WEBB. Since you have heard it read, what interest do you think the judge had in it?

Mr. WATSON. That would be expressing an opinion on it. I do not know what was in his mind; but the way that letter reads, it would read as if he had been interested and that he was regretting that he had failed.

Mr. WEBB. That is just the impression it makes on my mind, too.

Mr. WATSON. Let me see the letter, please.

Mr. WEBB. Yes; of course. [Handing letter to Mr. Watson.]

Mr. WATSON (after examining letter). From that letter standing alone I would say that he was trying to get a settlement—it would seem to me so—and that he regretted that he could not.

Mr. WEBB. And that was written in November, was it not?

Mr. WATSON. That is what it says.

Mr. WORTHINGTON. November 13.

Mr. WEBB. November 13. If he was interested in the settlement of this case, with all your association with him, you never found it out?

Mr. WATSON. He never had talked with me about this case.

Mr. WEBB. I say if he was interested in the settlement of it, as indicated in that letter, you never found it out?

Mr. WATSON. I won't say that, because I say that Judge Archbald wrote or talked to Loomis, and that may be the basis of our meeting. Now, that would show, maybe, an interest for the Bolands; I don't know. It would be, maybe, for me, in order to get to Mr. Loomis, and that would indicate that he had something. But so far as our talking about the case, I didn't see much of him, and so I am sure I didn't talk with him.

Mr. WEBB. You are sure you did not talk with the judge?

Mr. WATSON. Yes. I didn't see him much. He was away from Scranton.

Mr. WEBB. You and the judge had had some conversation and understanding about the settlement of this case, because you talked about it in his office, and he had introduced you to Loomis, or, rather, said he was going to write Loomis for you. Now, when you came down here to Washington and got here about noon—by the way, did you take lunch with him?

Mr. WATSON. No; I think I had my lunch on the train. I am not sure.

Mr. WEBB. Did you take dinner with him?

Mr. WATSON. No. I went back too early.

Mr. WEBB. You met him down here in front of the Raleigh Hotel and went in the Raleigh and then walked from there up to the Southern Building, where the Commerce Court sits, and stayed with him six hours; and do you mean to say that you never did tell him your mission in getting these records, what you were going to do next Monday or Tuesday when you met Truesdale and Loomis?

Mr. WATSON. I won't say that I didn't talk to him. I may have said something of that kind. I presume I did.

Mr. WEBB. What did you say?

Mr. WATSON. I told him what I was down there for—that I was down to get information in relation to this case.

Mr. WEBB. What did you say to him? Is that all you said?

Mr. WATSON. Well, I can not tell you.

Mr. WEBB. Did he advise you as to how to proceed with Truesdale and the rest of them.

Mr. WATSON. I don't think he did.

Mr. WEBB. Do you think he did or did not?

Mr. WATSON. I don't think he did. I don't think there was any advice to be given, except the information that I wanted in relation to the matter here.

Mr. WEBB. You had to come down here to get that information, when you could have sent Boland, your client, across the street to his other lawyer and gotten it from Mr. Reynolds; and you knew that you could.

Mr. WATSON. There were two Bolands.

Mr. WEBB. There were two Bolands; but you represented both of them, did you not?

Mr. WATSON. Yes; I represented the Marian Coal Co.

Mr. WEBB. If you had wanted this information contained in this pamphlet or record, you could have sent just across the street to Mr. Reynolds by one of your clients and got all you wanted, because you know Mr. Reynolds is more or less of an expert and keeps up with the Interstate Commerce Commission decisions as well as the Commerce Court decisions, do you not?

Mr. WATSON. I did not know Mr. Reynolds was an expert, and so——

Mr. WEBB. You knew, though, that he could have given you all the information you wanted about this particular case, did you not?

Mr. WATSON. I did not know it; no. I do know now that Mr. Reynolds had considerable to do with this case; but at that time I did not know very much about it. In fact, they had two lawyers. Mr. Donnelly was the lawyer that I knew about, and he was in the culmination case, and I talked with Mr. Donnelly several times, but I do not recall ever speaking to Reynolds. Up to the present moment I never spoke to Reynolds about this case.

Mr. WEBB. I imagine this is the largest fee you ever worked for; is it not?

Mr. WATSON. What—$5,000?

Mr. WEBB. Yes.

Mr. WATSON. Well, I think not. I think not.

Mr. WEBB. You have had larger fees than that?

Mr. WATSON. I have had cases that I have gotten more money out of; you can call them fees.

Mr. WEBB. Have you had many cases of that sort?

Mr. WATSON. I say I have had them that I have gotten more money out of. I recall trying one case four or five times, and got more money out of it.

Mr. WEBB. More than $5,000?

Mr. WATSON. Yes.

Mr. WEBB. Have you had any other case that involved a fee of $5,000?

Mr. WATSON. Well, I have had matters in which I was interested in a way, in the passing of properties, where I have gotten more.

Mr. WEBB. More than $5,000 fees?

Mr. WATSON. Yes; I did that in cases where I was not known at all, the Delaware & Hudson cases. I was not known in those, and I got more than $5,000 on the transfer of property. Oh, I have managed to keep the wolf from the door; and while I do not presume to be brilliant, or an expert on any point, I have tried to do what my hands have found to do, and to do it honestly.

Mr. WEBB. I want to ask you if you told Mr. Boland, when he employed you, that you could "produce the goods" in this transaction?

Mr. WATSON. No, no. I never—I don't know. I never talked that.

Mr. WEBB. You never thought that?

Mr. WATSON. I never talked it—"produce the goods." I never boasted of what I could do. I know I did not.

Mr. WEBB. Did you think you could "produce the goods"?

Mr. WATSON. I thought I could settle this case.

Mr. WEBB. I ask you if you did not tell him that you could "produce the goods" because you had influence with the Lackawanna people and could bring about an adjustment?

Mr. WATSON. Did I say that?

Mr. WEBB. Yes.

Mr. WATSON. No, no. I never said that. My influence with the Lackawanna people died with the old crowd that went out. I never claimed to have any with these people, except Mr. Phillips or some of those.

Mr. WEBB. You evidently thought you could effect a settlement, because you agreed to take $5,000 and try it.

Mr. WATSON. I did agree to try it for $5,000. I will do it tomorrow, the same thing. I would if I were well. I would not do it now in my condition, but if I were well I would do it to-morrow.

Mr. WEBB. I say you did think you could do it—in the common language, "produce the goods"?

Mr. WATSON. I did think I could do it; yes; or I would not have gone working around for a month or two if I had not thought so.

Mr. NORRIS. Which one of the Bolands paid you $50?

Mr. WATSON. Christy Boland, I think, handed me the money.

Mr. NORRIS. When did he pay it to you?

Mr. WATSON. It was the day that I went to Stroudsburg; that is, the day before I came here.

Mr. NORRIS. The day before you came to Washington?

Mr. WATSON. Yes; the day the telegram was sent. The telegram had been sent out long before.

Mr. NORRIS. The same day the telegram was sent?

Mr. WATSON. Yes.

Mr. NORRIS. Did he give you a check?

Mr. WATSON. I don't think it was. My recollection is it was money.

Mr. NORRIS. I would like to know, if you know. Was it a check, or was it a draft, or was it money?

Mr. WATSON. My recollection of the matter is that it was money—in currency.

Mr. NORRIS. Currency?

Mr. WATSON. Yes.

Mr. NORRIS. Do you remember the bills?

Mr. WATSON. I do not. I don't remember that.

Mr. NORRIS. You know it was $50?

Mr. WATSON. Yes.

Mr. NORRIS. Who was present when he gave it to you besides you and Mr. Boland?

Mr. WATSON. Well, I don't remember, unless W. P. Boland was there.

Mr. NORRIS. Was he there?

Mr. WATSON. I could not say.

Mr. NORRIS. Did you give him a receipt for the money?

Mr. WATSON. I don't think so.

Mr. NORRIS. Do you know whether you did or not?

Mr. WATSON. I do not; but I gave it to him if he asked me, and I do not know whether he asked me or no! I don't know that. I know he handed me that money, and we had sent the telegram some hours before, and I am sure it was money, because I would perhaps remember if it had been a check and I had gone out to get the money on it.

Mr. WEBB. That is all, Mr. Worthington.

Mr. WORTHINGTON. Now, will you look at this telegram, Mr. Watson, and tell me whether that is the telegram you sent Judge Archbald when you were on your way to Washington?

Mr. WATSON (after examining telegram). Well, it seems as if it would fit. I presume it is.

Mr. FLOYD. Will you read it, please?

Mr. WORTHINGTON. Let me read it; Mr. Watson's voice apparently is not in good condition. It is on a Postal Telegraph blank and reads:

PHILADELPHIA, PA., *October 7, 1911.*

Hon. R. W. ARCHBALD,
Court of Commerce, Washington, D. C.:

Will be at Hotel Raleigh at 1.30. Leave instructions.

10.25 a. m. G. M. WATSON.

The foregoing telegram was marked "Exhibit 89."

Mr. WORTHINGTON. There is another thing I want to bring out. I do not know whether it has been noticed by the committee or not, but I think, in justice to the committee as well as to the witness, attention ought to be called to it while he is here. One of these pamphlets that he brought here, and which he says he recollects is one of those that he got here on the 7th of October, is stamped "Filed October 9, 1911." The other is not stamped at all. It does not bear any stamp.

Mr. FLOYD. Stamped by whom, how, Mr. Worthington?

Mr. WORTHINGTON. It is a printed stamp. I presume—I do not know—it is the stamp of the court. They have a way of stamping papers there when they are filed. I did not myself notice that yesterday, or I would have called attention to it then.

Mr. WEBB. Let me see that, please. I do not know whether I catch the point or not. Are you prepared to say you did not get this document on the 6th?

Mr. WATSON. No; I know it was not the 6th. I am quite sure it was the 7th when they handed them to me in the building there.

Mr. WORTHINGTON. The point I made about that is that he said he got it here on the 7th, and according to the file mark it was not filed in the court until the 9th.

Mr. WEBB. I see; that is right. In other words, as I judge it, Mr. Watson, you could not have gotten this document here on the 7th, because it was not filed until the 9th of October.

Mr. WATSON. I certainly got that book handed to me in the Commerce Court on the day that I was down here. I know it was on the 7th. It could not have been any other time.

Mr. WEBB. I do not know a thing about it except what counsel hands me here. The one he hands me here is an identical copy of the one you say you got, and it seems to have been filed October 9; and, of course, if it was not filed until October 9 you could not have gotten it on October 7.

Mr. WATSON. Well, I have seen several of those books, but——

Mr. WEBB. This is the one you say you got.

Mr. NORRIS. That is the identical one.

Mr. WATSON. I am sure it is the one I brought down here. The one I brought here is the one I got.

Mr. WEBB. Look at it, Mr. Watson, and see the bottom there, where it is stamped. I presume by the clerk or some one, "Filed October 9." Do you see it, down at the bottom?

Mr. WATSON. Yes; I see that. Now, my recollection now is just as I have stated it—that the young man handed me the books, and that is one of them as near as I know.

Mr. NORRIS. It has been in your possession ever since?

Mr. WATSON. Well, I would not say that. I suppose it has; yes, in a way. I have not been in the possession of the book; that is the trouble. It has been around my office, and I have not been there, so I don't know what happened to it. I assume it is the book, the same book.

Mr. NORRIS. That is the book you took home to your office?

Mr. WATSON. I am quite sure it is.

Mr. NORRIS. And you brought it here with you from your office?

Mr. WATSON. I am quite sure of it; yes. I don't know; I have no identification of the book, but I had a book just like that and brought it in here, and I suppose this is it.

Mr. WEBB. This is the one you presented here yesterday, because I marked it; I can tell it is.

Mr. WATSON. Yes.

Mr. WEBB. Just one more question: When you wired the judge on your way down here, through the Postal Telegraph Co., asking him to meet you at 1.30 at the Raleigh——

Mr. WORTHINGTON. He does not ask him to meet him, Mr. Chairman; he says, "Leave instructions."

Mr. WEBB. Let me see that telegram, please. [After examining telegram.] "Will be at Hotel Raleigh at 1.30; leave instructions." What did you mean by "leave instructions"?

Mr. WATSON. Where I could find him; I think I said——

Mr. WEBB. But he did meet you at the Raleigh?

Mr. WATSON. He met me, so he did not need to leave the instructions.

Mr. WEBB. He did not need to leave the instructions, then?

Mr. WATSON. No; he met me; but if he had been engaged he could have sent a boy there to have told me where I could have found him. I did not know.

Mr. WEBB. The instructions you were after, then, were as to where you could find him?

Mr. WATSON. Yes.

Mr. WEBB. You were determined to see the judge?

Mr. WATSON. Yes.

Mr. WEBB. All right.

Mr. WORTHINGTON. You made a remark a while ago that I should like to ask you about to see what you meant by it. You said that whatever papers you had you had turned over to Mr. Boland, or something of that kind.

Mr. WATSON. Yes.

Mr. WORTHINGTON. Did you say that?

Mr. WATSON. Yes; the papers that we used.

Mr. WORTHINGTON. Your remark: "Whatever I had, Boland has."

Mr. WATSON. Yes.

Mr. WORTHINGTON. What did you mean by that?

Mr. WATSON. It is the papers that we went before these people with, the data that he furnished. He furnished to me a paper——

Mr. WORTHINGTON. I do not want to go over those details again; but did you turn over to him all the papers that you had and that you had used?

Mr. WATSON. All that I got from him.

Mr. WORTHINGTON. According to your recollection?

Mr. WATSON. Yes; I did.

Mr. WORTHINGTON. Is it possible you might have turned over the pamphlets that you got down here, and that these pamphlets that you have produced have come into your office since?

Mr. WATSON. Well, I don't know; I don't know. It is possible that I did; but I don't know.

Mr. WORTHINGTON. That is all I wish to ask, Mr. Chairman.

Mr. WEBB. You may stand aside, Mr. Watson.

The witness was thereupon excused until Friday, May 31, 1911.

TESTIMONY OF WILLIAM P. BOLAND—RECALLED.

W. P. Boland, having heretofore been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Boland, have you the subpœna that was served on you at the instance of the respondent in this case?—A. I think I have a copy.

Mr. WORTHINGTON. We had a subpœna duces tecum served upon this witness, Mr. President. I have him here simply for the purpose of having him produce the papers he was asked to produce, or state that it is impossible for him to do so.

The PRESIDING OFFICER. Ask him if he has the papers.

Q. (By Mr. WORTHINGTON.) Have you a copy of the subpœna served on you?—A. I am sure I have it. Whether I have it here——

Q. I have the original here with the return of the Sergeant at Arms. Will you look at that and tell me whether that is the paper a copy of which was left with you?

The PRESIDING OFFICER. The Chair would suggest that it would be sufficient for counsel to call for the papers, and then, if he does not get what he seeks, he can show that the subpœna has not been complied with.

The WITNESS. I have the tonnage books with me, but I do not have them here, because I asked the gentleman if I was going to be called this afternoon. I wanted to know from the Sergeant at Arms if my name was to be called this afternoon, and they did not seem to know, and consequently I left the books at the hotel.

Q. (By Mr. WORTHINGTON.) Let me ask you about these things in the order in which they are mentioned in the subpœna. First, the tonnage books of the Marian Coal Co. You say you have them at your hotel?—A. I have them at my hotel, and I have a memorandum of the weights or tonnages right here with me.

Q. I do not care for that without the books themselves. The next is, "The records of said company showing all shipments of coal by that company since the beginning of their operations."—A. I have that.

Q. At your hotel?—A. Yes, sir.

Q. The next is: "And all maps, pamphlets, data, statistical tables, and other papers pertaining to the Marian Coal Co. which were submitted to George M. Watson in connection with the attempted settlement of the litigation with the Delaware, Lackawanna & Western Railroad Co., or the sale by the said company to the said railroad company of its property, and which were returned by him."—A. That I have not got, because I never gave him any papers or ever received any papers from him.

Mr. WORTHINGTON. That is all. The books can be brought here Monday, and we can examine them and see if we care to make use of them.

Mr. Manager WEBB. Provided they are competent.

The WITNESS. I will have them here Monday. I can have them here in 10 minutes.

Mr. WORTHINGTON. We will have the books here Monday, then.

Mr. Manager CLAYTON. The witness has suggested that he can have the books here in 10 minutes. Then he can be recalled this afternoon. I merely suggest that, in order that we may expedite the trial of this case.

The PRESIDING OFFICER. What is the pleasure of counsel in that regard?

Mr. WORTHINGTON. Of course we do not care to examine the books to-night. We can not keep the Senate waiting while we examine those books. We can examine them just as well Monday morning, before the Senate meets, if the witness will have them in the office of the Sergeant at Arms at 10 o'clock Monday morning.

The WITNESS. Very well. I will do that.

Mr. Manager CLAYTON. I suggest to the honorable counsel for the respondent that he proceed to examine another witness. Mr. Boland will go for the books immediately, and be back in 10 minutes. Counsel does not certainly wish to tell the Senate that he desires a prior opportunity to examine those books. He has never manifested that desire heretofore.

The PRESIDING OFFICER. If the manager insists upon it, the witness will produce the books as promptly as possible, and in the meantime counsel can call another witness.

Mr. WORTHINGTON. Very well. We will call Mr. C. G. Boland.

TESTIMONY OF CHRISTOPHER G. BOLAND—RECALLED.

Christopher G. Boland, having heretofore been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) A subpœna has been served upon you at the instance of the respondent, requiring you to produce certain papers here?—A. Yes, sir.

Q. I will read a description of the papers as it appears in the subpœna and then ask you whether you have the papers. Did you bring a "letter from R. W. Archbald to C. G. Boland, dated November 13, 1911, and papers mentioned therein and returned herewith"? It should be "therewith"; the subpœna reads "herewith." It should be "returned therewith." You understood that was what was meant, Mr. Boland?—A. I did not pay much attention to what was said in that regard. I have the subpœna.

Q. You are aware of the fact that it appears here that Judge Archbald wrote you a letter on the 13th of November, stating that he had seen Mr. Loomis and that his efforts were without avail and saying at the end of it that he returned certain papers. You remember that?—A. I was questioned in regard to it heretofore.

Q. And you stated that you did not have the papers?—A. That I did not have the papers.

Q. Can you give the Senate any information as to what became of them after they were returned to you?—A. I inquired after my last appearance on the witness stand in reference to them, and the best information I could obtain was from Mr. Pryor, who also appeared as a witness here, that he had been asked to prepare some data or statistics for Mr. George M. Watson in reference to the Marian Coal Co. property.

Q. I do not care to have a statement by the witness as to what has been told him, but I want to know whether you have found any of the papers which were returned to you in that letter of Judge Archbald to you of November 13, 1911?—A. No, sir.

Q. You can not tell what has become of them?—A. No, sir; I can not, except that Mr. Pryor told me he believed he saw the papers in the office of the Marian Coal Co. I questioned W. P. Boland as to his knowledge of the papers and the letter of Judge Archbald, which is referred to here, and he had no recollection of them, so that I was unable to locate the papers.

Mr. WORTHINGTON. Very well; that is all.

Mr. Manager FLOYD. No questions.

The PRESIDING OFFICER. The witness may retire. He may be discharged finally unless there is some desire on the part of counsel or the managers to retain him.

Mr. Manager FLOYD. We may need this witness in rebuttal.

The PRESIDING OFFICER. He will remain in attendance, then.

Mr. WORTHINGTON. Mr. President, that is all, with the exception of the respondent himself and Mrs. Archbald, and certain documents and exhibits that have been referred to, something in the way of documentary evidence, which it will take a few minutes to refer to. We would prefer not to examine Mrs. Archbald at this hour of the day, and would like it very much if the Senate would now adjourn until Monday morning.

The PRESIDING OFFICER. What is the pleasure of the managers in that regard?

Mr. Manager CLAYTON. Mr. President, I am informed that the Senate has some other business which it desires to transact this afternoon. I had hoped that we could get through with the examination of the witness—Boland—so that the respondent could conclude on Monday the examination of all of his witnesses, including the testimony of himself, but Mr. Boland has not returned, and in view of the suggestion that the Senate has other business that it desires to transact at this time, I acquiesce in the suggestion that we let the further trial of this case go over until Monday.

Mr. GALLINGER. I move that the Senate sitting as a court considering the articles of impeachment adjourn.

The motion was agreed to.

Thereupon the managers on the part of the House, the respondent, and his counsel retired.

MEXICAN NORTHWESTERN RAILWAY CO.

Mr. SMOOT. I introduce a joint resolution, and ask unanimous consent for its immediate consideration.

The joint resolution (S. J. Res. 147) appropriating the sum of $7,245 out of money appropriated by Senate joint resolution No. 129, for the payment of transportation of American refugees from points in Mexico to the American border, was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That out of the money appropriated by Senate joint resolution No. 129 (public resolution No. 49), providing for transportation for American citizens fleeing from threatened danger in the Republic of Mexico, there shall be paid by the Secretary of War to the Mexican Northwestern Railway Co. the sum of $7,245, in full settlement of the statement rendered to A. W. Ivins and E. E. Bowman, dated August 22, 1912, for the transportation of American refugees from points in Mexico to the American border.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DEATH OF REPRESENTATIVE WILLIAM W. WEDEMEYER.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, communicated to the Senate the intelligence of the death of Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan, and transmitted resolutions of the House thereon.

Mr. TOWNSEND. I ask the Chair to lay before the Senate the resolutions received from the House of Representatives.

The PRESIDENT pro tempore. The Chair lays before the Senate the resolutions of the House, which will be read.

The resolutions were read as follows:

IN THE HOUSE OF REPRESENTATIVES,
January 3, 1912.

Resolved, That the House has heard with profound sorrow of the death of Hon. WILLIAM W. WEDEMEYER, a Representative from the State of Michigan.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Mr. TOWNSEND. Mr. President, at the proper time I shall ask that a day be set apart for the purpose of commemorating in a proper manner the character and life of the late Mr. WEDEMEYER. I ask at this time for the adoption of the resolutions I send to the desk.

The PRESIDENT pro tempore. The Senator from Michigan submits resolutions for which he asks present consideration.

The resolutions (S. Res. 419) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Mr. TOWNSEND. Mr. President, I move, as a further mark of esteem and respect, that the Senate do now adjourn.

The motion was unanimously agreed to; and (at 4 o'clock and 55 minutes p. m.) the Senate adjourned until Monday, January 6, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January 4, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Once more in the dispensation of Thy providence, Almighty Father, our hearts are bowed in sorrow.

Swift to its close ebbs out life's little day;
Earth's joys grow dim, its glories pass away;
Change and decay in all around I see;
O Thou who changest not abide with me.

So may our faith be fixed in Thee; so may our hopes lead on to the brighter day. Let the everlasting arms be about the members of the stricken family to uphold and sustain them in the awful shock, assuage in Thine own way their grief and comfort their sorrows; help us to work while it is day, for the night cometh when no man can work. Thus may we fulfill our destiny and pass on unperturbed into the somewhere prepared for Thy children. So we pray, so we hope, so we aspire through the faith once delivered to the saints. In the name of Him who is the resurrection and the life. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. CARY, for 10 days, on account of death in his family.

CHANGE OF REFERENCE—REMOUNT DEPOT, FRONT ROYAL, VA.

The SPEAKER. If there be no objection, the Committee on Appropriations will be discharged from the further consideration of House document 1204, Sixty-second Congress, third session, being a letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War, submitting estimate of appropriation for the construction of the necessary officers' quarters and other buildings required at the remount depot, Front Royal, Va., and the same will be referred to the Committee on Military Affairs.

There was no objection.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Indian appropriation bill, H. R. 26874.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, with Mr. SAUNDERS in the chair.

Mr. STEPHENS of Texas. Mr. Chairman, I ask that the reading of the bill for amendment be resumed.

The Clerk read as follows:

For witness fees and other legal expenses incurred in suits instituted in behalf of or against Indians involving the title to lands allotted to them, or the right of possession of personal property held by them, and in hearings set by United States local land officers to determine the rights of Indians to public lands, $2,000: *Provided*, That no part of this appropriation shall be used in the payment of attorney fees.

Mr. FOSTER. Mr. Chairman, in line 18, page 6, in the paragraph which has just been read, I notice that the words "question of" have been omitted before the word "title." These words were in last year's bill, which read:

Suits instituted in behalf of or against Indians involving the question of title to lands allotted to them.

I should like to ask the gentleman from Texas why those words were omitted from this bill.

Mr. STEPHENS of Texas. We left them out because we thought the words were immaterial and that the word "question" was only descriptive.

Mr. FOSTER. By leaving out the word "question" is it possible for the department to go ahead and look up the title to any of these lands that it may see fit, whether the question of title is raised or not?

Mr. STEPHENS of Texas. I think not. I will say to the gentleman from Illinois that the justification for this item arises from the fact that Indians are allowed to file upon the public domain, and the committee think that when questions of title arise at the local land offices they ought to have some one to represent them. That is the object of this appropriation.

Mr. FOSTER. It seems to me this word ought to be inserted in this bill.

Mr. STEPHENS of Texas. I am perfectly willing that the gentleman shall offer that amendment.

Mr. FOSTER. I move to insert, after the word "the," in line 18, page 6, the words "question of."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 6, line 18, after the word "the," insert the words "question of."

The amendment was agreed to.

The Clerk read as follows:

For expenses of the Board of Indian Commissioners, $4,000, including not to exceed $300 for office rent.

Mr. SIMS. Mr. Chairman, I move to strike out the last word, simply for the purpose of submitting a request for unanimous consent. I ask unanimous consent to extend some remarks in the RECORD, for the purpose of printing certain newspaper articles and editorials with reference to tolls through the Panama Canal.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The matter referred to is as follows:

[From the New York World, Dec. 23, 1912.]

MAKE THE QUESTION CLEAR.

Prof. Emory R. Johnson, the special commissioner named by President Taft to investigate the approximate tonnage which will pass through the Panama Canal, asserts that even if we levy instead of remitting the regular toll of $1.20 a net ton on our coastwise shipping, this shipping passing through the canal in 1915 will amount to 1,000,000 tons. The remission of these tolls constitutes a concealed annual subsidy of $1,200,000 in the first years of the canal's operation.

We have had in the tariff more than enough of indirect taxation of one class for the direct enrichment of another class.

Let the Government levy this $1,200,000 from our coastwise monopoly. After it has that $1,200,000 safely in its Treasury, let it then honestly and openly put the question whether the country wants a direct subsidy of $1,200,000, or of any other amount, paid by the Government to that monopoly. Then we shall have a clean-cut, unbefogged issue for the people to decide.

If the people do not want a subsidy, it should not be paid under an alias against their will. If the people do want a subsidy, it can be paid without repudiating our international treaties and sullying our national honor.

[From the Century Magazine, Nov., 1912.]

A WAY OUT OF THE CANAL BLUNDER.

Anyone who knows how little consideration is given to the preparation of political platforms can readily understand how both the Democratic and the Progressive Parties were "committed" to the blunder of advocating the exemption of our coastwise shipping from the tolls to be charged for the use of the Panama Canal. It is this sort of inside arrangement of party policies—which usually, in the last hours of fatigue, restlessness, and excitement, there is never time to discuss on their merits—that has cast discredit on platforms and has justified many a candidate in disregarding or modifying a given "plank." The overwhelming judgment of our people, as reflected in the press, that nothing is so important to us as a strict observance of our plighted faith—just as nothing is so important to a merchant as his credit and reputation for honorable dealing—shows how easy it is for half a dozen men in a hotel parlor, at the suggestion of some "good fellow," to lead a convention to the indorsement of a disastrous policy.

To claim that we have not broken our pledge that there shall be no discrimination in the tolls and conditions when we thus favor our own coastwise trade, as against that of Canada, Mexico, and Colombia—each with an Atlantic and a Pacific coast—simply does not rise to the dignity of a quibble. Already, by misrepresentation of the sense of fair dealing which pervades American commercial life, incalculable injury has been done to our standing abroad—an injury which can not be measured in money. After all our honorable diplomacy—the return of the Boxer indemnity, the open-door policy in the Far East, and the strict observance of our promise to withdraw from Cuba, which foreign sneerers at America said we never would observe, "and never meant to observe"—it is shameful to have to drop to a lower plane of national conduct.

As if our cup of humiliation were not already full, it is argued that we are at liberty to refuse to submit the question of the breach of the Panama treaty to The Hague Tribunal if Great Britain should make the appeal. "Nicht zwei dumme streiche fur eins" (Not two stupid strokes for one), says Lessing's character in "Minna von Barnhelm." Unless we desire to become the welcher of the nations, it is time that the good faith of the people should find an adequate expression in the good faith of the Government. All the money saved (to whom?) in tolls in a hundred years by the exemption could not compensate for the loss in money—not to reckon honor—which will result from the loss of credit and of great commercial opportunities all over the world. A strange way, indeed, to promote American commerce.

But there remains for us another chance—or will, if Great Britain shall a little longer pursue her friendly and forbearing course of waiting for our public opinion to assert itself. The coastwise exemption should be repealed. And, our obligations aside, why should we enter upon a policy of subsidizing our ships just at the time when apparently we are giving up the policy of subsidizing our manufactures? Are we never to get away from the inequality of privilege that has already corrupted the sources of government by the "vicious circle," creating and feeding by legislation agencies whose natural interest it thus becomes to destroy the principle of equality? Why subsidize ships any more than subsidize railways or newspapers or authorship? But if we must subsidize our ships, let it be done outright, in bills for that purpose, and not through the violation of the plain words of a solemn treaty.

Not only should the exemption be repealed, but, if we are to recover the ground that has been lost, it should be done in the first week of the December session of Congress. We feel sure that President Taft, whose misgivings tinctured his message of assent, now that the canal bill has provided for a modus operandi would not interpose his veto to the sober second thought of Congress. If the repeal is not accomplished, and if we refuse the appeal to The Hague, the great cause of arbitration—the substitute for war—will be set back for unreckonable years. And it is the championship of arbitration, together with his far-sighted and consistent defense and extension of the merit system, which will give the President his highest claim to the respect of posterity. The object of the latter is to keep politicians from gambling with the resources of office; the object of the former is to prevent Governments from gambling with the lives of men.

Should the repeal not be promptly made, it will become the duty of the people to organize to bring it about. We much mistake the temper of the country if within another six months its servants do not remove this blot on the national escutcheon.

[Editorial in The Independent.]

THE PANAMA DISGRACE.

The President in signing the Panama bill calls it "one of the most beneficial that has been passed by this or any other Congress." That may be true, for it provides for the opening of an international highway needed for the last 400 years. But it is certainly true that the bill is one of the most discreditable and dangerous that has been passed by this or any other Congress, for it covers legislation that could never have been passed upon its merits, throws a heavy financial burden upon the American people, involves us in complications with European and American powers to an unpredictable extent, violates our treaty with England, puts us before the world as resorting to trickery to gain a commercial advantage, and destroys confidence in the arbitration movement in which the United States has had a leading part. Let us briefly enumerate some of the illegitimate features which this bill conceals:

First. It grants to coastwise shipping a perpetual subsidy of an incalculable amount, millions of dollars a year at any rate. Now, if this money had been appropriated from a surplus in the United States Treasury, it would not be so bad, but it is not. It is money that we have borrowed for the purpose of building the canal and on which we must continue to pay interest indefinitely. That is to say, this new law puts the American people in the position of borrowing money at a cost of some $10,000,000 a year to themselves for the purpose of enabling the owners of coastwise ships to make a profit out of what might otherwise be a losing business. Worse than that. We have already given these men protection at our expense by the law prohibiting foreign vessels from stopping at two American ports. It has often been argued that we should subsidize the American lines that compete with foreign lines, but no one has ventured to put forth so preposterous a claim as that the coastwise ships should have a subsidy added to their monopoly as is done by this act. If any gratuitous favors of this kind are to be granted it would be less absurd to reverse it and grant free tolls to American lines coming into competition with foreign lines instead of to those protected from such competition, and this would be no more of a violation of the treaty than the present act.

Second. The Panama bill admits free of duty foreign-built ships and shipbuilding material when used in the foreign trade. Already we hear complaints that this has caused the loss of millions and will mean ruin to American shipbuilders. That may not be true, or if true it may be worth the sacrifice. We are not arguing that point now. But we do say that such a sudden and unpremeditated change in our protective system should not be forced through on a rider to a worthy bill having quite another object.

Third. A like objection applies to the radical and extraneous legislation of the bill, such as that empowering the Interstate Commerce Commission to determine whether or not the ownership by any railroad of a steamship line is prejudicial to public interest and to compel if necessary the divesting of the steamship holdings. Such a measure, whether wise or unwise, affecting as it does the ferryboats of New York and San Francisco Harbors, the passenger steamers of Long Island and Puget Sounds, and the shipping of the Great Lakes, has no business in a bill stated by its title to be concerned only with "the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone."

Fourth. This discrimination in tolls in favor of our own ships is just what we protested against as unfair and put a stop to when it was a question of canals on the territory of Canada and New Granada.

Fifth. Our treaty with Great Britain expressly prohibits such discrimination, as is shown by the fact that when the treaty was under consideration the Senate voted specifically against an amendment permitting such discrimination.

Sixth. President Taft's recommendation to Congress that the question of the interpretation of the treaty be referred for decision not to The Hague Court, but to our own Supreme Court.

[From the New York World.]

A SURREPTITIOUS SUBSIDY.

The proposal to subsidize American shipping, though often and eloquently urged, has never met with the approval of the people, and Senators have no right to introduce it in disguise. What is still worse, they have introduced it in such a way as plainly to violate our treaty with England. The Senators who advocated it admitted that if the matter were brought before The Hague Court it would inevitably be decided against us, and we should then have to pay back the tolls collected from foreign vessels in the meantime, say 10 years or so; that is, whether the action taken by the Senate be right or wrong, it is what all the other nations of the world would call wrong. But Senator CUMMINS says that we will never consent to submit the question to such a tribunal; that there is but one tribunal to settle such a question—the arbitrament of war. In saying this Senator CUMMINS is advocating the violation not only of the Hay-Pauncefote treaty, but, what is worse, of all our arbitration treaties.

[Editorial from the Louisville Courier Journal, Dec. 16, 1912.]

THE LONG AND THE SHORT OF IT.

The exemption of the coastwise trade of the United States from tolls through the Panama Canal was, to begin with, flagrant and dishonest, a violation of the treaty obligations of the Nation, and, to end with, a gigantic and perpetual subsidy to a Shipping Trust quite as objectionable as the Sugar Trust or the Steel Trust.

The act of Congress was passed in the teeth of a presidential campaign. The Shipping Trust could afford to contribute a million of money to each party for its support. Mr. Taft, a candidate for President, signed the bill. Who, if not Perkins, of the Harvester Trust, in community of interest, worked the Roosevelt end of it we know not; but the Democratic end of it was worked by Lewis Nixon, once chief of Tammany Hall and now head of the Crescent Shipyard, of Elizabeth, N. J.

Such Members of Congress as gave any reflection to the votes they cast in its favor looked to a certain anti-English feeling, which, in the last equation, would carry with it the German vote and the Irish vote, not stopping to inquire where the spoliation of the Nation's honor and the people's money might lead—relying upon indirection and subterfuge to see them through—corruption and cowardice thus playing hide and seek with the public integrity and their duty.

Upon this simple statement, which can not be denied, the case admits of no debate. Behind Mr. Nixon the Steel Trust, with all its ramifications, stands paramount. Plate armor is his right bower, long-range guns his left, with every jingo in the land to whoop 'em up with "Who's afraid of John Bull?" Where falsification will not suffice, evasion is the word, and legal eminence, in and out of Congress, is employed to quibble and hoodwink when a straight vote for ship subsidy—which this legislation is, no more and no less—would never be dared.

War with England is unthinkable. But wars, nevertheless, are often provoked on less provocation. Both the Shipping Trust and the Steel Trust would welcome war with England or any other country, for the money mad know no relenting, have as scant humanity as conscience, and are sublimely patriotic when they can increase their riches at the common cost.

The first thing which Congress should do upon reassembling is to rescind the odious subsidy clause from the Panama act. Many voted for it without reflection. But no Senator nor Representative can refuse to vote for its repeal without subjecting himself justly to the accusation that he is in favor of subsidy if not to the suspicion that the consolidated trust organized by Mr. Nixon exerts in his case an influence that needs to be explained.

There are many ways of killing a dog besides shooting him, and whilst Mr. STANLEY is doing heroic work upon the Steel Trust in public, what shall be the verdict of history when it is shown that Mr. Nixon, with Mr. Morgan and Mr. Perkins behind him, was making game of the Government and playing monkey with the people in the seclusion of the back parlors and the dark closets of the National Capital?

[Editorial from the Southern Lumberman, Dec. 21, 1912.]

WILL HURT PINE AND CYPRESS.

Prof. Emory R. Johnson's able paper in this issue on "Panama Canal and Southern Lumber Trade" should be carefully studied by southern lumber manufacturers, particularly yellow pine and cypress manufacturers.

Prof. Johnson was opposed, as we were, to the exemption from tolls of American ships in the coastwise trade, but he does not think that the increased competition of west-coast woods will seriously hurt southern lumber. He thinks that on account of their superiority southern soft woods will be able to substantially hold their own in the markets east of the Mississippi against the west-coast product. We seriously doubt this, both with respect to yellow pine and cypress.

Both these woods are superior to any of the west-coast woods in strength and durability, but it is doubtful if superiority on any other score can be maintained. Strength and durability cut a material figure only in heavy and outside construction work. Both yellow pine and cypress now have to "go up against" the competition of west-coast woods in hundreds of uses where strength and durability are not of first consideration. These qualities cut little figure in house construction and finish, whereas in softness and ease of working fir and redwood from the Pacific coast are quite their equal.

Prof. Johnson speaks of the lobby maintained at Washington by the manufacturers of west-coast woods in behalf of this toll exemption of American ships. He controverts the arguments made by these men at Washington, that without this exemption they would be at calamitous disadvantage in competition with British Columbia manufacturers, who can ship in foreign ships cheaper both to build and man, whereas only American vessels are permitted to ply from port to port on the American coast. Prof. Johnson thinks that whatever this advantage might be, it is more than offset by the American tariff on lumber, which will still average something like $1.50 per thousand on such west-coast lumber as will come through the canal to our eastern seaboard.

This lumber tariff may be taken off in the Democratic revision now under way, but whether it is or not, it is clearly not so much the British Columbia producers of lumber that the Washington, Oregon, and California manufacturers had in mind when they made their arguments at Washington in behalf of toll exemptions as it was the competition of yellow pine and cypress.

We think Prof. Johnson greatly underestimates the seriousness of the outcome to the yellow pine and cypress men. If fir, spruce, and redwood and the several other soft woods from Washington, Oregon, and California can be brought around to our Atlantic ports on a freight charge of from $5 to $8 per thousand it is going to mean a competition that, assuming all other conditions to remain about as they are now and have been for several years, will enormously decrease the consumption of both yellow pine and cypress.

There are many things, of course, which can not be foreseen. The completion of the canal and the era of prosperity already under way may result in such an increase in the general business of the country as will carry lumber consumption far beyond anything we have ever seen or hoped for, thereby invalidating any prophecies that might now be made. No one can tell about this. It may come, and it may not. If it does not come, it is a sure thing, in our judgment, that yellow pine and cypress manufacturers two or three years hence are going to find themselves far worse hurt than Prof. Johnson believes.

Prof. Johnson speaks of the yellow-pine manufacturers being able to hold their market in the territory east of the Mississippi River. This field probably takes little more than half of the total yellow-pine production. The figures are available to show with fair accuracy just how much of yellow pine in recent years has found a market west of the river and how much of it in the eastern field. We have not stopped to look the figures up. It will occur to anyone, however, that it is in this west-of-the-river field that yellow pine is best qualified on basis of merit to meet its west-coast competitors. It is in this field that a far greater proportion of lumber is used for outside construction, where strength and durability are required, whereas in the eastern field the consumption is much more largely for factory use, where the softness, ease with which it can be worked, and the wide, clear stock of the west-coast woods will be of most advantage to them.

Prof. Johnson admits that west-coast woods will come into our eastern seaboard cities and be back-shipped westward to some extent. Whatever amount so reaches our Atlantic coast through the canal in addition to what is now reaching those markets by rail will cut off just so much pine and cypress consumption, assuming the total consumption of lumber to remain as now, and leave just that much more of the southern product to find a market west of the Mississippi River, where the meeting line between it and rail-shipped west-coast woods is already defined and vigorously contested.

It has seemed to us that yellow pine and cypress manufacturers have been singularly indifferent to the whole matter of the probable effect on their business of operation of the canal. Had they fully realized what is likely to occur they would have been lined up almost to a man in opposition to exempting American vessels from canal tolls. The very fact that west-coast competitors were so stoutly in favor of this shows what they think will be the effect.

The best hope now of the southern softwood manufacturers is that when public sentiment on this toll-exemption proposition has had time to crystallize into recognition that it is but a ship subsidy in disguise and a taxing of the whole people for the benefit of some of the people there will be a demand for repeal of this clause of the canal bill that Congress will heed.

[Statement of Benjamin Ide Wheeler, president University of California.]

The device of remitting tolls on our coastwise commerce seems to me a peculiarly unfortunate method of subsidization. Why should a subsidy be provided solely for those ships which happen to use the canal?

[Statement of David Starr Jordan, president Leland Stanford University.]

I can see no reason why any American ships should be relieved from the necessity of paying their share in this matter.

Mr. MURRAY. Mr. Chairman, I ask unanimous consent to print in the RECORD an address by Gov. Eugene N. Foss, of Massachusetts, at the conference of governors in Richmond, Va., on December 5, 1912.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts to print certain matter in the RECORD?

There was no objection.

The address referred to is as follows:

[Address by Gov. Eugene N. Foss, of Massachusetts, at the conference of governors, Richmond, Va., Dec. 5, 1912.]

THE DEVELOPMENT OF INLAND WATERWAYS.

INTRODUCTION.

I have asked to have the subject of our inland waterways brought officially before this conference because I am satisfied that to a proper settlement of the transportation problems of this country the concerted action of the States is absolutely necessary.

CONGRESS HAS FAILED.

We need not review the repeated failures of successive national administrations to preclude constructive plans for the improvement of our transportation system as a unit.

INDEPENDENT STATE ACTION HAS FAILED.

If, on the other hand, we review the improvements which have been made by the individual States acting independently, we shall not find any substantial progress toward an effective general system.

The history of American waterways shows that State authority has failed and that the opportunities of effective Federal administration have been neglected.

The result has been that the waterways of the United States have never been developed as a system upon any national scale, but have been improved principally through the efforts of Congressmen to get a share of the rivers and harbors appropriations for their respective districts, and the efforts of those districts and of the States, independently of Federal aid, to help themselves.

But I do not believe that the situation is hopeless. The groundwork for cooperation is already laid. Only concerted action upon a comprehensive plan is now wanting.

CONCERTED STATE ACTION IS NECESSARY.

I am firmly convinced that the development of our inland waterways can be accomplished through the concerted action of the States affected; brought about not only by their own enterprise and the expenditure of State funds, but to an even greater degree through their united power in forcing from Congress an intelligent and broad-minded study of the whole situation.

As soon as the American people realize that it is directly counter to their own good to leave this important subject as the chief political perquisite of Representatives in Congress, they will bring about an end of this method of handling the question; and it is in every way proper that such concerted action should be taken, for the country geographically is a unit with respect to its waterways.

UNITY OF THE UNITED STATES WATERWAY SYSTEM.

The United States is cut in two by the Mississippi River, which thus forms a trunk line, as you may say, of water communication from north to south.

Along the northern border we have the Great Lakes, making a most effective commercial frontier which unites us with Canada commercially while it divides us only in a territorial sense.

This chain of lakes (giving us a substantially east-and-west communication) forms, in conjunction with the Mississippi River, a remarkable waterway which has potentially no equal on earth, with a southern outlet for practically the whole of the middle section of our country and the eastern Canada as well.

This tremendous natural water system extends uninterruptedly to the Panama Canal, and the completion of that canal will give us a seaboard in one unbroken line from the cities of Puget Sound to Eastport, Me.

These, broadly speaking, are the great waterway projects which form the framework of our water-transportation system and to which the concerted attention of the several States should be given.

COOPERATION OF VARIOUS PUBLIC BODIES.

The governors of the various States have a splendid opportunity to impress upon their people the importance of realizing this commercial unity, and a concerted public sentiment must be aroused which will make it impossible for any private or special interest to secure from the Federal Government any appropriation out of harmony with the best general development of our commercial waterways, and which will compel the Congress to provide for a uniform and businesslike development of these national resources.

I urge upon the conference of governors the imperative need of arousing and cooperating with this public sentiment as the only means of placing before the Congress a program of waterway development which will have public sentiment behind it and from which every vestige of special or selfish interest shall be eliminated.

In this work of coordinating public sentiment, and compelling the attention of Congress, the governors of the several States will find splendid cooperation in several public bodies which are already organized and hard at work on this line of progress.

The great River and Harbor Congress now in session in Washington is probably the most notable of these bodies.

Then there is the Atlantic Deeper Waterways Association and the Lakes-to-the-Gulf Waterway Association, and the various public bodies which are concerned with the conservation of our natural resources.

All of these groups of citizens and officials are in a position to do splendid work along the lines here indicated, and they are doing it with a will.

INTRASTATE ACTION ALSO NEEDED.

Nevertheless, even with the most effective action which Congress can take, the responsibility will still rest in some degree upon the individual States, and they must plan and construct such local canals and subsidiary water channels as the general waterway development of the country may demand.

The task of the governors is to coordinate the action of the several States between themselves and to effect the still higher coordination of this uniform work with the work of Congress.

MASSACHUSETTS AS AN EXAMPLE.

I am proud to say that Massachusetts has to a great degree recognized the failure of the Federal Government to meet this crisis and has jumped into the breach with an appropriation of $9,000,000 for the development of the port of Boston.

The Commonwealth is doing this as a matter of self-preservation, and the act is a wonderful expression of the public spirit and enterprise of the people of Massachusetts.

Massachusetts not only realizes that she must do her part (without waiting for Congress) in maintaining and improving her commercial standing, but she is especially resolved that the opening of the Panama Canal shall find her ready to do business with the rest of the world.

We have not only appropriated $9,000,000 for the development of the port of Boston, but we are hard at work upon the problems presented by the present undeveloped condition of our principal rivers.

Our State commissioners are cooperating with the commissioners of Connecticut in a project for the commercial development of the Connecticut River.

This river, which is of splendid potential importance, can be dredged at least as far north as Springfield, and perhaps Holyoke, for ships suited to navigation in the Sound and along the Atlantic coast.

It can be furthermore dredged for smaller vessels and reenforced by canals to furnish an effective outlet for the western half of New England, opening up the interior of that section in a wonderful degree to water traffic.

Railroad advocates are accustomed to jeer at the development of this river as a visionary project, forgetting that Europe has utilized much smaller streams and has changed them for from 50 to 100 miles inland and built upon their banks some of the greatest seaports of the world at distances as far from the seaboard as northern Massachusetts is from Long Island Sound.

(I shall take up more in detail later on the discussion of these great inland seaports of Europe.)

Furthermore, we are bent upon the commercial development of our other principal rivers, such as the Taunton and the Merrimac.

The Taunton River penetrates one of the most important industrial sections of our State, and we propose to make it effective as a means of cheaper transportation.

We are at work on the development of the Merrimac River, planning its commercial development at least to Lowell, and hoping that New Hampshire will cooperate with us to make it a commercial waterway as far north as Nashua, and perhaps Concord.

THE CAPE COD CANAL.

We are also recognizing now as never before the importance of digging canals to supplement the natural waterways of the State.

Under private auspices a canal is now being dug across the neck of Cape Cod, and this splendid private enterprise has enabled the State to concentrate its own resources upon our harbor and river development.

The project for a Cape Cod canal was first taken up in the earliest days of the colony and abandoned.

New York, however, had built the Erie Canal, and we now know that it was that canal, small and imperfect as it was, which made New York the Empire State.

We are realizing that if our ancestors had dug the Cape Cod Canal when the Erie Canal was built, Massachusetts might never have lost her commercial supremacy.

Cape Cod has undoubtedly been a serious physical barrier to the maritime development of Massachusetts.

At least 2,000 vessels have been wrecked in the Nantucket Shoals alone, and hundreds of sailors have perished in these dangerous regions.

In spite of this difficulty, there is at the present time an annual movement of 25,000,000 tons of traffic around Cape Cod and 500,000 passengers.

The Cape Cod Canal is estimated to represent an expenditure of $6,000,000.

But if only half of this total traffic passes through the canal, a substantial return will be made on the investment.

This is to be a sea-level canal, with only 8 miles of excavation, the entire length of waterway being 13 miles and the depth at low water 25 feet.

It brings New York and Boston 66 miles nearer than they were before by water.

Surely a project of this kind, with its wonderful possibilities of shortening distance and cheapening and safeguarding maritime traffic, ought not to have been left to twentieth century enterprise.

It ought to have been consummated a hundred years ago.

Another lesson that we are learning in Massachusetts is very significant in connection with our pending waterway enterprises.

We are realizing now that if we had concentrated at an earlier date upon the development of our waterways, we should not have lost to the West and to Canada many of our so-called heavy industries—industries in which the cost of the transportation of raw materials is a serious factor.

One by one these great industries are moving westward and northward, where transportation, particularly by water, is cheap and ample.

We are determined that in the future the industries of New England shall have their raw materials on practically as favorable a basis as any other section; and we thus hope to overcome the handicap which 100 years of shortsighted and narrow-minded policy has fastened upon us.

TRANSPORTATION CRISIS IN UNITED STATES.

I think I am speaking conservatively when I say that we are standing at the critical point of American history in regard to our transportation.

The key to the situation undoubtedly lies in the development of our waterways.

Let us see why.

For 50 years the financial and business interests of the country have concentrated the greater part of their energies on the construction and extension of our railroad service.

The United States has therefore become wonderfully well equipped with trunk railroad lines and local railroad facilities.

We have gone to an extreme in this direction, and have practically surrendered our own transportation interests into the hands of the railroads.

The country has gone railroad mad.

One hundred years ago this country was digging canals in earnest; 4,000 miles of them were constructed; then came the era of the railroad, and the canals and waterways were allowed to go to ruin.

Also, during our whole history we have spent but five hundred millions on our rivers and harbors as against possibly eighteen thousand millions on our railroads.

Meanwhile France, for example, has equalized her expenditures, putting seven hundred and fifty millions into harbors and waterways and seven hundred millions into railroads.

This policy, taken in connection with our peculiar tariff system, has resulted in stunting our foreign commerce and in impeding the development of our coastwise shipping.

It has resulted in subordinating one of the most vital considerations of American life to the private needs of the railroads.

OUR ONE-SIDED POLICY HAS RESULTED IN EXCESSIVE FREIGHT RATES.

Consequently, freight rates have reached a point many times as high as they would be if an effective water competition existed, and the cost of freight is one of the principal factors entering into the cost of living.

We are at this moment wrestling with the problems of railroad regulation.

We are in debate as between the advantages of private and public railroad ownership.

The problems are vexatious and deep seated.

We are only just now learning how to handle them.

And it is remarkable that throughout all this discussion and public agitation, more attention is not centered on waterway development as the one most effective means of meeting the railroad situation and compelling a fair railroad rate.

WATER-BORNE COMMERCE THE NATURAL COMPETITOR OF RAILROADS.

Water traffic is the cheapest known means of transportation.

It is so cheap that it forms the most effective natural competition for the railroads.

It is remarkable that the railroad systems of America have been so successful in choking off water competition, in buying up our water terminals and leaving them unused, and in preventing proper recognition by Congress of our waterways as the natural avenues of commerce.

I am told that the average charge per ton-mile for freight on the American railroads is 7½ mills.

Contrast this figure with the average per ton-mile for freight on the Great Lakes, which is eight-tenths of a mill, or less than one-ninth the average charge for the same service by the railroads.

But the most significant comparison has yet to be given.

It is this: During the season when the Great Lakes and their tributary channels are freely open to navigation the railroads which compete with the Great Lakes transportation service reduce their rates to 1⅞ mills per ton-mile on the average, or approximately one-quarter of their usual charge.

And yet, instead of maintaining this natural competition between waterways and railroads as the most effective possible stimulus to industry, we have abandoned most of our earlier waterways projects—not only abandoned them, but permitted their confiscation by the railroads.

And where the water traffic itself is not dominated by the railroad we have permitted the railroads to utilize the old canal banks for their own right of way—a remarkably effective means of choking off any attempted restoration of the canal project itself.

EUROPEAN EXAMPLE.

European countries have uniformly developed their waterways as a means of assuring commercial prosperity and rapid growth, and they have done it with a truly prophetic instinct, in anticipation of the necessity.

A generation ago Belgium, with an area less than Massachusetts and Connecticut, had over 1,000 miles of internal waterways.

On this system of canals she has spent over $80,000,000.

In Belgium and in Holland the ocean is brought to every city, and as a result these little countries have become world powers in commerce and manufactures.

A ton of raw material comes to them 1,000 miles for $1.

The British Isles have 4,000 miles of canals and an equal length of improved waterways.

Germany has over 10,000 miles of internal waterways, much of which represents engineering work, and her policy makes a highway of every stream that has water enough to fill a canal.

She makes immense appropriations for the extension of these waterways.

Austria and Hungary have spent fully 200,000,000 on rivers and canals.

Even China has such a wonderful system of shallow canals that almost every town can ship to the ocean by water.

WATERWAY DEVELOPMENT PREVENTS RAILROAD MONOPOLY, BUT ENLARGES THE SCOPE OF RAILROAD SERVICE.

Again, a remarkable illustration of the fact that the railroads and waterways, while natural competitors, are of mutual benefit is found in the experience of Europe.

When the River Elbe was adapted to canal service the river traffic increased fivefold, and yet the railroads which had to compete with the river were not ruined, but paid greater dividends than ever before.

The River Main has been channeled, and while there is a railroad on each side of it and the river traffic has grown more than tenfold in 10 years, yet the railroad trade has not suffered a decline, but has been increased.

The Northern Railway of France competes with numerous canals.

Surely here we would expect to find injury done, if anywhere, to the railroads, but, on the contrary, this railway is said to have been the most prosperous of any in France.

It has prospered when other railroad systems have been in trouble.

London is well served by railroads—more intimately related to the rest of the country by railroad service than most of the cities of America.

Nevertheless, London has not hesitated to invest $186,000,000 in the development of her port and the dredging of the Thames to make that port effective for modern shipping.

Liverpool has spent $125,000,000; Manchester—practically an inland city—has made herself a seaport by the investment of $90,000,000.

Glasgow has invested $40,000,000; Newcastle, $80,000,000; Bristol, $20,000,000; Hamburg, $100,000,000; Antwerp, $45,000,000.

All this expenditure represents the most effective possible means of checking the aggrandizement of the railroads or the inflation of freight rates under railroad control.

No one, however, can say that this development has wrought harm to the railroads of Europe, whether owned privately or by the Government.

On the contrary, European waterway development has proceeded, so to speak, hand in hand with the railroad development; and each has been made possible and has profited by the development of the other.

A trunk line of railroad can, to a certain extent, defy authority and maintain a high rate of freight.

But a canal is essentially a public way.

Lines of towboats and barges can move upon a canal or river in direct competition with each other; monopoly can be prevented; and the average freight rate via waterways is therefore kept automatically at the lowest figure consistent with maintaining the service.

It is for these very reasons that our waterway development must proceed under the public auspices of State and Nation and must be pushed as a work of public exigency, just as the Panama Canal has been pushed, irrespective of any railroad influence.

Still the railroads are dependent solely upon the prosperity of the district which they serve, and this prosperity increases in proportion as we open up cheap transportation for low-grade freights.

This we can only do with the help of the canal.

We are still congesting our railroads with a mass of cheap, low-grade freights which they can not carry economically.

We can not get satisfactory service from the railroads for the shipment of our factory products so long as these roads are tied up with undelivered shipments of coal, pig iron, and other raw materials.

The European practice is to move these low-grade freights by canal and river.

The railroads, freed from this low-grade business, at the same time build up the general business interests which they serve and increase the mass of high-grade freights which they must still continue to carry and which they always will carry, no matter how many canals are built.

The public servants of France and Germany have recognized this basic difference between the railroad and the canal and have seen that the proper development of both together would be mutually beneficial.

Our railroads have been afraid of canal development from the most narrow-minded reasons, and their successful activity in defeating our canal projects has reacted disastrously upon themselves.

EUROPEAN PORTS ARE INLAND, CONNECTED WITH THE SEA BY IMPROVED CHANNELS.

The secret of the success of the great commercial countries of Europe lies in their remarkable foresight, in the way in which they have prepared for expanding trade and commerce, and in the location of their great commercial centers.

Practically all of the great seaports of Europe have been equipped with modern transportation facilities far in advance of their actual requirements in anticipation of growth.

With us the typical commercial city is located either directly on the seaboard or some natural inland waterway.

Europe has built her seaports inland and connected them with the sea by dredging and excavation.

For example, Hamburg is 76 miles inland, and has been made available as a seaport only by the expenditure of a hundred million dollars.

But by reason of her inland location she is completely surrounded by a vast producing territory, and the genius of the German nation has foreseen the strategic advantage of bringing the ocean to the interior of her great industrial sections.

In comparison New York and Boston at best have only 50 per cent territorial efficiency, for they face directly on the ocean, and even Chicago pays heavily for her location on the shore of Lake Michigan in the fact that it shuts off all industrial environment on the northeast.

Antwerp is another of the great seaports of Europe, but she is located 55 miles from the ocean.

She still suffers from the natural handicap of the tide.

It is not often that a ship can make the entire journey up to Antwerp in one turn of the tide.

But Antwerp draws from a productive territory which completely encircles her.

Manchester, London, and Glasgow are equally significant examples of the European idea of commerce.

These cities are all far inland, Manchester being 50 miles—measured along the available water levels out to natural ocean channels—from the sea and shut off absolutely by nature from any maritime connection. Glasgow is situated 60 miles inland from the Irish Sea, and has been made a great seaport only by dredging the river, which presented in the beginning a more serious obstacle than most of our American rivers to commercial development.

The River Clyde was originally a river of such small size that it could be forded by man or beast at many points.

I need not multiply these examples.

Great Britain and the commercial countries of the European Continent have become tremendous powers in the commercial world only through their public spirit and foresight in providing themselves with maritime facilities, either natural or artificial or both, as might be the case.

The main reason for the commercial supremacy of these countries is in the fact that they have already met and solved the transportation problems which we are still facing.

They went through their formative commercial period long before we did; they wrestled with the problems of municipal, private, or State ownership of waterways and railroads; and while we are still under the domination of our railroad monopolies, other countries have found the way out, even to the extent of digging a way through to the ocean at an enormous expense.

We must therefore look to the older communities of Europe and frankly copy their example; and by doing this we shall find that practically all the commercial centers of Europe have grown through the joint and parallel development of marine and rail transportation.

PANAMA: THE FIRST STEP IN OUR NEW POLICY.

By digging the Panama Canal we have struck at the heart of the problem.

We are obtaining for ourselves by concerted public action the type of transportation which is potentially many times cheaper than railroad transportation, and Congress, by the sections of the Panama Canal act with respect to the ownership of steamships by railroads, has taken effective action to make this potential value real.

We are thus beginning to see the utility of water-borne transportation as a natural means of controlling railroad monopoly.

THE LAKES-TO-THE-GULF PROJECT.

The Panama Canal being an assured fact, the most important remaining projects now on foot for the reconstruction of American commercial supremacy are the Lakes-to-the-Gulf waterway, the Atlantic deep-waterways project, and the restoration of the Erie Canal to meet the needs of modern commerce.

While I can not undertake the discussion in detail of all these projects, I wish to refer briefly to the Lakes-to-the-Gulf enterprise as the one which in the largest sense will form the backbone of our future commercial development.

The distance from Chicago to the Gulf of Mexico is slightly in excess of 1,600 miles, and the connecting link formed by the Chicago River and the Chicago ship canal is only 38 miles long.

The remaining distance is covered by existing natural waterways which need only to be channeled and improved.

Of this total distance of 1,650 miles the entire route is now open, I understand, for vessels drawing 4½ feet.

For over three-fourths of the way, i. e., from the Gulf up to St. Louis, vessels of 8 feet draft are accommodated.

To complete a modern 14-foot channel from the southern end of the artificial Chicago ship channel down to the Gulf is estimated to involve an expenditure of $150,000,000; and the broadening of the Chicago River and ship canal it is estimated will cost $100,000,000.

By this development we shall have a 14-foot channel connecting the Lakes to the Gulf of Mexico at a total expenditure of $250,000,000, with an estimated annual maintenance charge of possibly $10,000,000.

Even if only the territory immediately tributary to the Mississippi were to be benefited, nobody could dispute the commercial importance of this scheme.

But, in fact, there are many large and important rivers tributary to this great waterway which feed an area comprising the greater part of our industrially developed continental territory.

This backbone once constructed, the laterals of the system will quickly follow, and the existing rivers will be dredged and the necessary east and west canal channels will be excavated. The diversion of the course of rivers for irrigation purposes shows what may be done in this respect.

The only argument that I have ever heard advanced against this project rested on the fact that we could build a north and south railroad from Chicago down to New Orleans at a slightly lower cost and double track it—the statesman in question sagely arguing that we could give the unexpended difference to public charity.

The absurd contention that a double-track railroad from Chicago to New Orleans would serve as economically and satisfactorily as a vast river system with practically unlimited carrying capacity need not be refuted before this audience.

Some years ago a project was brought up for the construction of a canal which should connect Pittsburgh with the Great Lakes, but went by the board, and in place of it the railroads interested in steel and iron industries constructed railroad outlets for the Pittsburgh district at enormous cost.

I think it should now be evident that if the steel industry had provided itself with a waterway outlet to the Lakes instead of spending its money on the railroads, Pittsburgh might have maintained its old industrial supremacy.

Its freight rates on raw materials would have been reduced to perhaps one-tenth of their present amount, and the industries which by reason of this high cost of freight are now moving northward and westward and even into Canada might have been retained in Pittsburgh indefinitely.

Cheap rates on low-grade freights are the basis of industrial success.

THE ERIE CANAL.

The Erie Canal is a project to which the attention of New York State is earnestly needed.

I mention it as one of those projects to which State initiative rather than Federal initiative may well be given.

It will furnish us with a new outlet from the Lakes to New York City and the Atlantic Ocean, and will enable us to compete once more with the great 14-foot channel of the St. Lawrence system.

Twenty years ago the Committee on Railways and Canals of the Fifty-second Congress said: "On the day that it becomes possible to send ships direct from the Great Lakes to the ocean by way of the St. Lawrence River, while they are unable to go by way of the Hudson, * * * the merchant marine of the United States, which has had a new birth on the Lakes, will receive its death blow from Canadian competition."

That statement was made in 1892, and the report advocated the construction of a deep-water channel from the Lakes to the Hudson.

Somehow the railroad interests succeeded in convincing the people that New York interests would be better served by a mere barge canal.

But Canada proceeded with her own development, and her guiding principle was that freights should be carried in an unbroken bulk from the Lakes to whatever foreign port they were consigned to, or, at most, with only one transshipment.

We must have a way out to the sea for our own ships by which they can come and go as freely as if on the ocean.

Canada has flanked us commercially and is taking the commerce of the West through Montreal.

Already our farmers are finding their closest competitors in the great Canadian Northwest, and Winnipeg has become the greatest wheat market in the world.

Our wheat supremacy passed from Chicago to Minneapolis and then to Duluth, and now Manitoba has become the center of the wheat market.

Our cereals compete with those of the Saskatchewan Basin, which, with its splendid outlet to the world, will displace our own agricultural districts unless we provide a low-cost outlet to our markets.

THE CANADIAN SYSTEM.

One of our obstacles to waterway development is found in the failure of our canal promoters and advocates to insist upon channels of sufficient depth.

Consequently, while the Canadians carry an unbroken cargo of 80,000 bushels on a channel 14 feet deep, our Erie system is limited to a cargo of 8,000 bushels on a channel less than half the depth of the Canadian system.

The Canadian method is right; our way has been wrong.

The Canadian system has developed in accordance with a broad-minded governmental policy.

Our policy has been badly defined, narrow, and selfish.

Canada has spent on her canals and navigable inland waterways a total of $130,000,000, as against $475,000,000 on her railroads—a ratio of about 1 to 3½.

We have expended sums on our waterways and railroads on the ratio of 1 to 36.

Relatively Canada has spent 10 times as much on her waterways as we have spent.

With the development of the Canadian canals the cost of carrying freight has almost steadily declined.

For instance, on the Sault Ste. Marie Canal in 1890 the cost of a ton-mile was 1⅛ mills.

Twenty years later it had dropped to seventy-nine one-hundredths mill.

And at the same time the total shipping has tremendously increased.

For example, the total freight carried from the Canadian system of canals in 1908 was 17,000,000 tons.

Within the next year it jumped to 33,000,000 tons.

Yet the number of trips diminished, showing the steady increase in the tonnage of the average carload.

In fact, the average cargo in 1908 was approximately 1,000 tons.

The comparison of this record with the pitiful shipments of our own canals need not be dwelt upon here.

Canada has recognized the essential difference between waterway and railroad traffic, and has realized that both kinds are indispensable.

The function of the waterways is to move the lower grades of freight at a cheap rate.

The function of the railroad is to move the higher grade freight and to move them fast.

That is the natural distinction between railroads and inland waterways.

Throughout the greater field of raw materials and cheap merchandise speed is not essential, but economy is.

The railroads have a sufficient field of service and profit in connection with the higher grades of freight which demand prompt shipment and upon which a heavier charge can be paid.

Our public policy should have recognized this relation between waterway and railroad transportation and maintained it as the basis of a more equitable adjustment between the two methods.

I think I have made it clear that we are the only country of commercial importance which has ignored this vital consideration.

THE ARGUMENT FOR SPEED.

The railroad advocates are loud in their criticism of the inland waterway as an impracticable means of transportation on account of the alleged slowness of waterway service; and we may freely admit that, in general, the railroads ought to render a faster freight service than could be given by the inland waterways.

The fact is, however, that we have congested our railroads with so much low-grade freight that all American freight movements are impeded beyond reason; and we shall not get a satisfactory rate of speed from the freight train until we have learned to ship our raw materials more generally by water.

Let us examine this statement in detail:

In 1910 the American railroads moved, in round numbers, 18,000,000,000 freight-car miles, and the number of freight cars in service was 2,000,000. (The actual number of car-miles was 18,349,000,000, and the actual number of freight cars in service was 2,155,000.)

From this it is evident that our freight cars moved on an average of 9,000 miles a year, which is slightly in excess of 24 miles a day.

So much time is lost by demurrage, on sidings, and in the repair shop that the potential service of our freight cars is reduced in practice to this excessively low figure.

It will be noticed that the figure of 24 miles (or, to be exact, 24.6 miles) per day represents the average travel of an American freight car.

Of course, there is a good deal of fast freight that moves more rapidly, but I am a shipper of machinery and other manufactured goods, and I know from my personal experience that many carload shipments proceed at the rate of only 5 or 10 miles per day.

I do not think that we need to debate at any great length from these data that the inland waterways are capable at least of rendering a sufficiently fast freight service for our cheaper grades of freight.

I personally know of many freight vessels which have averaged not 24 miles a day, but 150 miles a day, day in and day out, during every month of the year.

If our waterways were properly developed, the immediate effect upon the railroads would be to enable them to move the higher grades of freight at a much increased average rate of speed.

The European practice of utilizing the inland waterways (natural and artificial) for low-grade freights has, indeed, taken this business away from the railroads, but it has not crippled the railroads.

The average percentage of net revenue to capital on American railroads for 1911 is stated to have been 5.36 per cent.

In Germany, with its splendid equipment of waterways and canals, the average per cent of net revenue to capital on the German railroads was 5.99.

CONCLUSION.

If we were to rest our appeal for the development of our inland waterways only on the necessity of effecting a better freight service through the interior of our country, the issue would even then be unmistakable.

But this is only the lesser of the two considerations involved, for we are rapidly assuming a more important place in the larger field of foreign trade.

The opening of the Panama Canal will not only stimulate our own domestic commerce, but will act as a stimulus to our foreign trade also.

It will make our western seaports easily available to Europe, and it will put our eastern seaports within the reach of the Orient.

But we can not benefit as we should by this expanding commerce without a radical change in our public policy respecting transportation.

We must have outlets to the ocean from our principal industrial centers; we must have lateral canals connecting with our principal waterways, and we must open up as much as possible of our continental territory to our own merchant marine and to the ships of other countries as well.

Only from the most narrow and short-sighted policy could we further ignore the need of such development.

The change of public sentiment in favor of a broader commercial policy is further evidenced in the universal dissatisfaction with established tariff schedules and the demand for closer relations between ourselves and the rest of the world.

Surely we can not shut our eyes to the growing sentiment for an expanding international commerce on the one hand or to the pressing needs of our own domestic transportation on the other.

Both considerations unite in giving the utmost weight at this time to a plea for the concerted development of all our principal inland waterways, our lakes, rivers, and canals; for the building up of our existing seaports; and for the planning of future ocean terminals upon the broadest scale.

The Clerk read as follows:

For pay of special agents at $2,000 per annum; for traveling and incidental expenses of such special agents, including sleeping-car fare, and a per diem of $3 in lieu of subsistence when actually employed on duty in the field or ordered to the seat of government; for transportation and incidental expenses of officers and clerks of the Office of Indian Affairs when traveling on official duty; for pay of employees not otherwise provided for; and for other necessary expenses of the Indian service for which no other appropriation is available, $80,960.

Mr. MANN. Mr. Chairman, I move to strike out the last word. May I ask the gentleman from Texas in charge of the bill the reason for cutting down this appropriation $44,000?

Mr. STEPHENS of Texas. I will say that there are several agents formerly under this item that are now specially provided for. Therefore it is necessary to deduct that amount and put them in under the heads of the agencies in the respective States, and I will point those out as we go along. This is a lump-sum appropriation. We have appropriated along through the appropriations for the States for these various items so that the totals are the same; but instead of a lump sum we have made special appropriations in the States under the proper heads for these agents.

Mr. MANN. The specific appropriation for the States maintains appropriations for these special agents, but I take it that these special agents would be confined to those States. What is the object of removing the discretion of the department in having special agents sent from one place to another where they are most needed and requiring them to be retained in particular States?

Mr. STEPHENS of Texas. I think the gentleman from Illinois misapprehends the matter. The justification will show the object of this.

This same amount was carried in the bill last year. As the reading of the item indicates, it is used for the various expenses of the service which are not otherwise provided for. This fund is indispensable to the efficient administration of the service and permits of a smaller appropriation than would be practicable if the several matters were specifically provided for. That is the justification.

Mr. MANN. I do not see that that justifies. That says the amount is the same as last year. You have reduced the amount and made specific appropriations, which the witness declares would require a larger sum of money.

Mr. STEPHENS of Texas. Here is a more full explanation:

Mr. MERITT. I should like to submit a justification for this item, as follows:

Contingencies, Indian Department.

Fiscal year ending June 30, 1912:	
Amount appropriated	$115,000.00
Fiscal year ended June 30, 1911:	
Amount appropriated	115,000.00
Amount expended	100,084.63
Unexpended balance	14,915.37
Analysis of expenditures:	
Employees	47,920.70
Repair material	312.82
Heat, light, and power	802.00
Subsistence	211.40
Hardware, furniture, etc	1,678.36
Medical supplies	347.25
Purchase of live stock	469.00
Forage	3,341.27
Traveling expenses	38,170.84
Telephoning, etc	1,168.49
Stationery and office supplies	4,188.73
Miscellaneous	1,482.77
	100,084.63

CHANGE IN FORM OF ITEM "CONTINGENCIES, INDIAN DEPARTMENT."

The item as it appears in the act of 1912 is badly arranged and so indefinite as to make it difficult in some cases to determine whether expenses should be paid from this or some other appropriation. This is especially true with respect to "traveling and incidental expenses of * * * other officers and employees of the Indian service."

It is obviously not intended that all traveling expenses shall be paid from this appropriation; if they were, there would not be enough for this purpose alone, to say nothing of anything else; yet with such a specific provision for such expense there is always a doubt as to what appropriation should be used. These doubts, with the ever-present possibility of a disallowance by the accounting officers of the Treasury, will be eliminated by the proposed change in phraseology.

Mr. MANN. The amount appropriated for the current year is $125,000 and not $115,000, which I suppose was the appropriation for the last fiscal year. Now, last year you increased the amount to $125,000, and you say that is necessary. This year you decrease the amount to $80,960.

Mr. STEPHENS of Texas. That brings up the controversy relative to the district agents in Oklahoma.

Mr. MANN. Does that involve the district agents of Oklahoma?

Mr. STEPHENS of Texas. Yes. None of these agents could be used in Oklahoma, and we were willing to increase the amount last year so that we could meet the increased demand in Oklahoma. For that reason we propose to dispense with $100,000 appropriated for district agents in Oklahoma and permit it to be used for agents all over the United States instead of specifying special agents in Oklahoma.

Mr. MANN. Last year you increased the amount so as to authorize special agents to go to Oklahoma, and now you re-

verse it and make an appropriation for agents in Oklahoma. What is the theory upon which you do that; why do you change the theory from that of last year to that of this year?

Mr. CARTER. Mr. Chairman, I would suggest that I noticed from the hearings that it is stated that this is the same amount that was appropriated last year.

Mr. MANN. That probably was the estimate. The amount appropriated last year was $125,000, unless I am mistaken.

Mr. CARTER. That is my recollection of it, but I noticed this on page 36 of the hearings:

The following justification has been submitted:

"This is the same amount as last year. As the reading of the item indicates, it is used for various necessary expenses of the service which are not otherwise provided for. This fund is indispensable to the efficient administration of the service and permits of a smaller appropriation than would be practicable if the several matters were specifically provided for."

Mr. MANN. Why was the amount reduced from $125,000, which they say is necessary, to $80,960?

Mr. CARTER. I was not aware that it had been reduced until the gentleman just called my attention to it. Perhaps the gentleman from Oklahoma [Mr. FERRIS] can make some explanations.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. BURKE of South Dakota. Mr. Chairman, I will state that last year when the bill passed the House no appropriation was made for the district agents in Oklahoma. I think the gentleman from Illinois [Mr. MANN] will remember that I submitted some observations at that time as to why I thought the district agents ought to be continued and that it would be a calamity if they were discontinued. The Senate increased the appropriation for special agents and other purposes, and in the conference it was the desire, it seems, of the House conferees to carry $50,000. I think it was, of the amount that was to be used for district agents under this item. Therefore the amount was increased in the Senate to $125,000, as I remember it.

The House committee in reporting the bill this year has again eliminated the appropriation for district agents, and therefore they reduced this appropriation the amount that had been added to it last year which was to be used for district agents. Personally I think it is a mistake, as I said last year, to discontinue the special agents in Oklahoma, and when we reach the item in the bill relating to the Five Civilized Tribes I shall submit very briefly some observations upon the subject of district agents. I think that explains why the amount was decreased in the pending bill.

The Clerk read as follows:

For the purpose of conducting hearings and taking evidence to determine the heirs of deceased Indian allottees, pursuant to the act of June 25, 1910 (36 Stat. L., pp. 855-866), and the regulations thereunder prescribed by the Secretary of the Interior, $25,000.

Mr. MONDELL. Mr. Chairman, I reserve the point of order on this paragraph.

Mr. STEPHENS of Texas. Mr. Chairman, I hope the gentleman will state his point of order against the paragraph. I think that we would gain time if he would do that.

Mr. MONDELL. Mr. Chairman, I may withdraw my point of order after proper explanation as to the necessity for the appropriation.

Mr. STEPHENS of Texas. Would not the proper procedure then be to strike out the last word and ask for an explanation?

Mr. MONDELL. I prefer to reserve the point of order, if the gentleman does not object.

Mr. STEPHENS of Texas. Oh, I do not like to object.

Mr. MONDELL. Without objection, I reserve the point of order.

Mr. STEPHENS of Texas. The gentleman has a chance to expedite the passage of the bill by not reserving a point of order, but asking for an explanation. It seems to me that we ought to hurry this bill. However, I do not object.

Mr. MONDELL. My reservation of the point of order is on the general proposition that there is no provision of law for an expenditure of this character.

Mr. STEPHENS of Texas. Mr. Chairman, I yield to the gentleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. Mr. Chairman, the reason for this appropriation is more than apparent, and when the gentleman hears what it is, I believe he will be satisfied with it. In 1910, two sessions back, we passed an act, I think introduced by the gentleman from South Dakota [Mr. BURKE], which provided that the Indian rolls, as kept by the Secretary of the Interior, should be final as to heirships. This is what that bill did. It imposed some new work on the Indian Bureau for which they had no appropriation. The necessity for the appropriation it seems to me is thrice apparent. In an Indian country where Indian lands are sold extensively, as they must be from time to time, and under regulations and through the courts, it becomes peculiarly important to know who the heirs of the deceased Indians are. The department does not attempt to issue patents or deeds direct from the department, for which the department stands sponsor; but, on the contrary, they do issue to the purchasers of the land a deed signed by all the heirs. It becomes important of course to tell who the heirs are. In numerous Indian reservations, as the gentleman no doubt is aware, Indians have multiplicity of wives. One Indian may have three or four wives and have several children.

Mr. MONDELL. That is in the running of the years.

Mr. FERRIS. Even of longer duration than that.

Mr. MANN. The gentleman means shorter duration.

Mr. FERRIS. No; at the same time.

It becomes necessary to know what children are interested in a particular piece of property. The Indian rolls are the best authority we could get on the subject, and in order to make the Indian lands worth anything and the titles to have any stability for the purpose of sale or loan or barter, you must fix the heirship somewhere. The two Houses of Congress agreed in 1910 that the Interior Department rolls should be final, and they need this money.

Mr. MONDELL. Does the gentleman want the House to understand that we are recognizing polygamy among the Indians or anything of that kind?

Mr. FERRIS. I think the gentleman will bear me out in saying that it has been the tribal custom for Indians in the more backward tribes to have several wives at the same time. They do have them, and that has prevailed in my own county in Oklahoma up to two years ago. Then the Indian agent said, "We will have no more plurality of wives," and so he ordered each Indian buck to make a selection and take the wife of his choice in and be legally married before a probate court and that was done. However, that left women with children who have no legal marriage, and he is attempting as best he can by the use of this fund to help this condition. There has to be a place to stop somewhere. I do not know how many tribes it has prevailed in, but it has been prevalent among the Kiowa and Comanche and numerous others of the backward tribes. I do not think it prevails in the eastern half of the State among the Five Civilized Tribes. I feel sure it does not, for the bulk of them are not real Indians at all; they are white people with a small strain of Indian blood, and should be allowed to go their way.

Mr. MONDELL. Mr. Chairman, I think the gentleman has made it very clear that it is necessary to have some fund available for the purpose of determining cases of heirship. In fact, those who are familiar with the conditions in the Indian country have never had any doubt in regard to it. My objection to this new item of appropriation, however, is based on the fact that it proposes to spend the money of the people of the United States for the purpose of determining title to Indian property. Now, people who own property, whether they be Indian or white, certainly ought to be able to pay the expense necessary for determining the character of the title and determining the ownership. There ought to come a time when we cease to treat the Indians as indigents, to be supported by the people of the United States, without regard to the property they own. Such a policy as we have pursued and as this item proposes to now inaugurate in a new line is not only bad in principle as a governmental proposition, unfair to the taxpayers of the country, but its effect upon the Indian is injurious. The Indians ought to learn——

Mr. FERRIS. Will the gentleman yield?

Mr. MONDELL. In a moment. I am in earnest about this thing. I think the gentleman and his committee, without intending to do it, have for years past been too liberal; if I may use that term, in using the money of the Government in expenditure on behalf of Indians who are fully competent by reason of ownership of property to pay their own way. The department has at present on the reservation in my State an agent whose business it is and has been for some months past to determine questions of heirships. They are badly tangled. It will require a considerable length of time to untangle them and determine whom the heirs to various pieces of property are. But that property has value. Those Indians are not paupers.

Mr. FERRIS. Will the gentleman yield at that point?

Mr. MONDELL. In just a moment—to determine who the heirs are, and in that case I have understood that the department had some method whereby the expense was chargeable against the Indians or against the property to be ultimately reimbursed. It ought to be. The Indian ought to be made self-respecting. We should not go on forevermore treating these people as though we were going to coddle them along for all time; that it is our purpose to continue to look after their property

for them without seeking reimbursement from them. We should bring them to realize and understand that while the Government is as a guardian protecting them from the hand of the despoiler, or attempting at least to do so, at the same time they must pay the reasonable cost for the care of their property and the determination of title. Now, if the gentleman had made the item $50,000, reimbursable in cases at least where reimbursement is possible, I think the item would be much more defendable than it is at $25,000, one-fourth of what the department asked for, paid out of the Treasury for the purpose of investigating titles to property. Why, many of these Indians are much better off financially than the average white people of the United States who support the Government. The people of my Commonwealth are fairly well to do, much better off than the average American citizen, and yet I doubt whether the average wealth in the State among the white people is much greater than that of the Indians on the reservation, taking into consideration the value of their property. There is not any reason under heaven why the Government should bear this expense. We continue to pauperize these people; we continue to make them feel their dependence upon the Government, coddling them along and paying their debts, providing for those things for which they themselves should provide, and which in the majority of cases I imagine they are perfectly willing to provide.

While I shall not insist upon my point of order, or shall not even demand an amendment, it does seem to me that it is a very great mistake not only to continue many of the items already in this bill, but to start out on new lines of expenditure entirely without justification, in view of the fact that we are taxing all the people for the purpose of caring for the property of a few of the people who happen to have red skins.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. MONDELL. I will be glad to do so.

Mr. STEPHENS of Texas. Is it not a fact that the regular administrative work of these agencies does not provide for these heirs, and that it is necessary, on account of the court, that these heirs have no authority to appoint? A great many of these allotments are going to heirs, and it is impossible to determine what portion of the money is coming to them unless it is first ascertained who the heirs are. The department will be handicapped unless we give them this amount of money.

Mr. MONDELL. If the department has any difficulty in determining who the heirs are, of course it means money. As I said, the department has now in my State an efficient attorney engaged in this class of work. Here is an appropriation to pay for that kind of work. I am not objecting to making money available for this kind of work if it is not now available. If it is not obtainable from the funds of the tribes, then it should be made available, and afterwards provision shall be made whereby these amounts may be taken from the funds and should be made reimbursable. I object to the items because it is taxing the people of the United States with an obligation to take care of the property of the red brother. The latter is very much of a man, as I have met him. They would suggest that in caring for their property, provided we keep the cost in bounds, we should pay for them.

Mr. STEPHENS of Texas. This is what the department said:

In order to clear up the tangled condition of the estates of deceased Indians so that the inherited lands may be disposed of to white settlers, and so that the money may be available to provide the Indian heirs with funds with which to begin the farming of their own allotments and the building of sanitary homes, it is desirable that this item should be retained in the bill.

I think that is sufficient justification for this item.

Mr. MONDELL. I have not suggested, as the gentleman knows, that it is not necessary to have money for the work, but I have suggested that there is no justification for the payment of the money of all the people for work of this character.

Mr. STEPHENS of Texas. Mr. Chairman, I would like to know the point of order which the gentleman has raised.

Mr. BURKE of South Dakota. Will the gentleman from Texas [Mr. STEPHENS] yield to me for a minute?

Mr. STEPHENS of Texas. I yield.

Mr. BURKE of South Dakota. I would like to ask the gentleman from Wyoming if he is in favor of the act of June 25, 1910, which places the matter of administering the estates of deceased Indians in the Interior Department rather than in the courts?

Mr. MONDELL. The gentleman, who is an expert in Indian matters, is, as I understand, author of the act?

Mr. BURKE of South Dakota. Yes, sir.

Mr. MONDELL. I am willing to accept the judgment of the gentleman from South Dakota as to whether that act is good and wise legislation until I learn otherwise.

Mr. BURKE of South Dakota. I want to say the proposition of making a charge against the estate was carefully considered when this act was presented to the House, and it was thought it would be rather difficult to determine what the amount ought to be in each case, and that in any event it would be a mere bagatelle so far as the Government is concerned. Now we propose to appropriate $25,000 for the purpose of administering this law. I think the gentleman will appreciate that in the course of a fiscal year there will be probably several hundred cases determined, and that the amount in each case would probably not exceed $20 or $25. Of course, we could authorize a charge to be made to cover the expenses in each case, take it out of the proceeds received from the sale of the land when the land is sold, and the expense to the Government would be more than reimbursed.

Mr. MONDELL. Why not do business with the Indians in a businesslike way?

Mr. BURKE of South Dakota. The time will probably come when that will have to be done—when we can determine just how much the charge ought to be. Personally, I question very much whether we ought to make a charge to the Indians for determining the heirship of inherited lands.

The gentleman talks about the Indians in his own State. He knows that in many instances the allotment of an Indian on some of the reservations in his State has very little value, not over $200, and perhaps it might not be sold for several years, and if a charge was made it would be rather difficult to collect it in many cases. I am in sympathy with the gentleman's position, and have tried on every occasion when I have had opportunity to favor legislation that makes expenditures on account of the Indians reimbursable where it is proper to do so. I think, perhaps, in this instance some way might be found so that the Government could be reimbursed for this small expense that will occur in each case in determining heirships.

Mr. MONDELL. If the gentleman will allow me at that point, he says, "just a small expense." It is true we are appropriating only $25,000, although the department asked for $100,000. I doubt if $100,000 would be too much to cover the expense in all these cases.

Mr. BURKE of South Dakota. That is all.

Mr. MONDELL. I understand there are 350 cases which require a good deal of investigation upon one reservation in my State. Ultimately this investigation on all reservations will amount to hundreds of thousands of dollars.

Now, I have no desire to split hairs in a matter of appropriations for the benefit of the Indians. We should be liberal, but I do think we ought to get down to a business basis in regard to these matters. These people own property. Some of the allotments are not very valuable it is true, but in addition to the allotments most of these Indians share in holdings in common, of very considerable value. Many of them have funds to their credit in the Treasury, and yet the people of all the country are going to be evermore taxed for the purpose of settling the questions of ownerships.

Mr. BURKE of South Dakota. In other words, to administer the affairs of the Indians.

Mr. MONDELL. I think the time has arrived when we ought to teach the Indian—and I think he will be a willing pupil—that he must pay for the administration of his estate, and then possibly gentlemen like my friend from Oklahoma [Mr. FERRIS] will have among the Indians themselves some support in a matter in which I sympathize with him very considerably—some support from the Indians themselves in opposing large expenditures out of their funds. But so long as we hire agents and send them abroad over the land to investigate questions affecting Indians at the public expense, the Indian has no special interest in it. It does not cost him anything; he does not care how much of the Federal money you spend; he can not be expected to, and therefore he sometimes fails to differentiate between the funds which he himself must ultimately meet and pay, and those expenditures which are made from the Federal Treasury.

I withdraw my point of order.

The CHAIRMAN. The gentleman from Wyoming withdraws his point of order.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] moves to strike out the last word.

Mr. MANN. May I ask the gentleman in charge of the bill whether the act of June 25, 1910, referred to in the item, was not the omnibus Indian bill?

Mr. STEPHENS of Texas. I will yield to the gentleman from South Dakota.

Mr. BURKE of South Dakota. If the gentleman means the gentleman from South Dakota and not the gentleman from Oklahoma [Mr. FERRIS], I will say that the act of June 25, 1910, was what is known as the omnibus bill, and I will also

say in that connection that this provision, this legislation that is referred to, was enacted in a prior act of Congress and reenacted in the act of June 25, 1910.

Mr. MANN. I would not lay any great stress upon the fact of anybody in particular supporting the bill, because it had so many items in it that nobody could say what was in it except the author, probably, in whom we had and still have great confidence. I take it that the question then was whether the Government, through the Interior Department, would settle the heirship of deceased Indians, or whether the matter should be left to the probate courts. We have recently seen that there was at least some suspicion in reference to the matter of leaving the settlement of the question to the probate courts in some parts of the country. I am somewhat delighted that the gentlemen from Oklahoma are in favor of having the Interior Department settle the heirship of Indians outside of Oklahoma at the expense of the Government, probably, as has been stated, at nominal expense, while apparently some gentlemen from Oklahoma who do not have the privilege of the floor of the House seem to be in favor of having the heirship of Indians in Oklahoma settled by the probate courts, not only at the expense of the property of the Indians but at a very high rate of expense.

Mr. STEPHENS of Texas. Will the gentleman yield at that point?

Mr. MANN. Yes.

Mr. STEPHENS of Texas. Is it not a fact that Oklahoma has for many years had a commission known as the Dawes Commission, and that they have not been under the control of the Indian Department as have all the other States? And is not that the reason why Oklahoma has been separated from the other States in the matter of the making of these laws?

Mr. MANN. I will answer that question categorically, no, that is not the reason; although there has been a Dawes Commission as long as I can remember, and probably will be after I am dead and gone.

Now, we make the Indian's estate in the probate court in Oklahoma pay the expense of probating the estate, including proof of heirship. In some cases the expenses of the probate court apparently run as high as 20 per cent of the total amount of the estate. Here it is proposed to have the Government pay the expense, which the gentleman from South Dakota [Mr. BURKE] says is a nominal expense. I think it is well to have the Secretary of the Interior find the heirship, and I can see no reason, when that is done and the property is sold, why the property should not pay back to the Government the expense of proving the heirship.

Mr. BURKE of South Dakota. Right at that point, if the gentleman will permit me, the act of June 25, 1910, does not necessarily require the property to be sold. It may be partitioned and divided and patents issued to the heirs, and they may retain possession of it. So in cases of that kind there would be no moneys from the sale to reimburse the Government for the expense incurred in determining the heirship.

Mr. MANN. Well, it would be a charge against the property. My recollection of the act of June 25, 1910, is that it does not provide that this work shall be done at the expense of the Government. If I am wrong about that I shall be very glad to be corrected.

Mr. BURKE of South Dakota. I have the act here, if the gentleman would like to have me refer to it. It simply provides that when an Indian dies, the Secretary of the Interior, upon notice of hearing, under such rules as he may prescribe, shall ascertain the legal heirs of such decedents, and his decision thereon shall be final and conclusive. There is nothing said about who shall pay the expense.

Mr. MANN. No; there is nothing said there, nor was there anything said here when the act was passed. I do not think it was contemplated by Congress when that act was passed that the final expense should be borne by the Federal Treasury instead of by the estate which was settled. The gentleman from Wyoming [Mr. MONDELL] suggests that the estimate was $100,000, and my friend from South Dakota [Mr. BURKE] says, "Oh, well, that is a mere nominal sum."

Mr. BURKE of South Dakota. I think it is.

Mr. MANN. It would be to my friend from South Dakota, but to me $100,000 would seem as large as Pikes Peak.

Mr. MONDELL. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amend, page 7, by adding at the end of line 24 the following:

"Encouraging industry among Indians: For the purpose of encouraging industry among Indians, and to aid them in the culture of fruits, grains, and other crops, $250,000, or so much thereof as may be necessary, to be immediately available, which sum may be used for the purchase of animals, machinery, tools, implements, and other equipment necessary to enable Indians to become self-supporting: *Provided*, That said sum shall be expended under conditions to be prescribed by the Secretary of the Interior for its repayment to the United States on or before June 30, 1925, and all repayments to this fund made on or before June 30, 1924, are hereby reappropriated for the same purpose as the original fund, and the entire fund, including such repayments, shall remain available until June 30, 1924; and all repayments to the fund hereby created which shall be made subsequent to June 30, 1924, shall be covered into the Treasury and shall not be withdrawn or applied except in consequence of a subsequent appropriation made by law: *Provided further*, That the Secretary of the Interior shall submit to Congress annually on the first Monday in December a detailed report of the use of this fund."

Mr. FERRIS. Mr. Chairman, I reserve a point of order on that amendment.

The CHAIRMAN. Does the gentleman from Wyoming desire to be heard on the amendment?

Mr. MONDELL. I do, Mr. Chairman. I do not think the item is subject to a point of order, but I should like to be allowed to speak briefly to the merits of the amendment.

The act of April 30, 1908 (35 Stat. L., 70–83), appropriated the sum of $25,000 to be used as a reimbursable fund at the Fort Belknap Reservation for the purchase of machinery, tools, implements, and other equipment and animals to enable the Indians to engage in the raising of sugar beets and other crops. There are approximately 154 accounts outstanding against the Indians on this reservation by reason of their participation in the use of the money appropriated.

These accounts involve the purchase of agricultural implements, fence wire, and seed.

The total expenditures made under the appropriation since its establishment amount to $29,768.26, and more than $15,000 has been already repaid by the Indians and is being again used for a similar purpose under the provisions of the act of March 3, 1909 (35 Stat. L., 781–795), which provides that the money repaid shall be available for reexpenditure.

The act of April 4, 1910 (36 Stat. L., 269–277), appropriated the sum of $15,000 for the purpose of encouraging industry among the Indians residing on the Tongue River Reservation, in the State of Montana, to aid them in the culture of fruits, grains, and other crops. This money has been expended in the purchase of agricultural implements, mares, stallions, seeds, and nursery stock, and sales amounting to more than $12,000 have been made to the Indians, and the collections already made amount to more than $7,000.

The sum of $30,000 was appropriated by the act of March 3, 1911 (36 Stat. L., 1058–1061), for the purpose of encouraging industry among Indians, and this money was apportioned in various amounts, ranging from $1,000 to $5,000, to 15 different reservations. Expenditures have been made in the purchase of farming implements, equipment, wagons, horses, and other breeding stock, and while the actual number of Indians who participated in the use of the money on the various reservations is not known at the present time, the reports received indicate that the money is serving a very useful purpose.

At the Blackfeet Reservation in Montana $10,000 was set aside from "Indian moneys, proceeds of labor," to be used as a reimbursable fund, but this sum is entirely inadequate to meet the needs of these Indians. It is estimated that at least $25,000 more could be used, but the tribal funds will not permit the setting aside of that sum for the purpose. At the Menominee Reservation in Wisconsin a reimbursable fund of $7,500 has been established, but here, too, this sum is entirely inadequate.

The three appropriations referred to above, augmented by the two reimbursable funds established from tribal moneys, amount to $87,500, and it has been inadequate to aid all the Indians, who not only need but want and are asking for assistance from the Government in providing stock and agricultural equipment under the reimbursable plan.

The Indian Office has found it necessary to deny requests because of the limited funds available. In April last reports were called for from various reservations with a view of ascertaining how much money in addition to tribal funds and individual Indian moneys now available would be needed to enable the Indians on the various reservations to become established in farming, stock raising, and industries which would place them on a self-supporting basis. The reports received indicate that an appropriation of $9,123,350 would be necessary for the purpose.

These estimates are based upon the apparent needs of the Indians to enable them to engage in agricultural pursuits, including the live-stock industry. The amount asked for, therefore, is reasonable and could be made to serve a very useful purpose in the industrial upbuilding of the interests of the Indians, a very large number of whom, through lack of means to farm their lands, are earning a livelihood through working for their neighbors at such times as they can obtain employment.

Regulations governing the use of the $30,000 appropriated by the act of March 3, 1911, were prepared and approved by the Secretary of the Interior, and the last paragraph of these regulations provides that they shall apply to and govern the use of similar appropriations and funds where the law will permit.

It is believed that a fund of $250,000, in addition to what has been already appropriated, used under the regulations referred to, will go a long way toward helping the Indians to reach that state where they will be self-supporting, who, under the present conditions, are unable to get ahead because of economic embarrassment.

It will be seen that we have from time to time made these appropriations for the general good of the Indians, for the encouragement of industry among them, reimbursable. I am very much in favor of this kind of an appropriation. I have on various occasions in the discussion of this bill called attention to what I conceive to be a radical error, a very unfortunate policy—that of appropriating indiscriminately for the benefit of Indians, in many cases for Indians who have large sums in the Treasury of the United States, at the expense of the taxpayers of the United States.

We should be liberal toward our Indian wards. We should do everything that is necessary in the fulfillment of our duty toward them. We have been doing more than that, but above all things we must teach the Indian to be self-supporting and self-respecting. We can not teach him to be self-supporting, and he never will be self-respecting, so long as, without regard to the amount of property he owns, we scatter Federal funds broadcast for his benefit.

In many cases there are Indians who have no available funds, though they have very considerable property. There are many other cases where Indians have very considerable funds that are doled out to them in driblets, driblets that are dissipated—used oftentimes for the purchase of articles of but little permanent use or value to them.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent for five minutes more.

Mr. FERRIS. Will the gentleman withhold for a moment? Mr. Chairman, I move that at the expiration of seven minutes all debate upon this paragraph be closed.

Mr. MANN. I would like to be heard for a few moments on this.

Mr. FERRIS. I will withhold my motion, Mr. Chairman.

Mr. MONDELL. Now, the purpose of this item is that we shall provide a loaning fund to be expended in the discretion of the Commissioner of Indian Affairs for the purchase of cattle, horses, agricultural implements, or other articles, the possession of which will enable the Indian to become self-supporting. Books are to be kept with him, and in the course of time he is expected to repay the Government the sum.

The history of the past reimbursable items is the strongest argument in favor of this one. For the Indian has proved himself in almost every case to be mindful of his obligation, anxious to meet it, and in the great majority of cases these sums loaned to the Indians have been and are being returned much more speedily than we could have expected.

I have talked with a number of gentlemen, particularly with the agent for the Northern Cheyennes in Montana, in regard to these funds, and the story he tells me is a marvellous one, remarkably interesting. That tribe is rather backward in some repects in its development. They are a wonderful race of Indians, manly in many ways, but backward in development as an agricultural people. We have been purchasing seed, tools, and implements for them, and they have been paying for them. They are learning that in their dealings with the Government they must return all that is expended in their behalf.

We should now inaugurate this policy generally. We have made great progress in breaking up the communal system. We are giving the Indians their land in severalty, in many cases turning them loose with 40, 80, or 160 acres of raw land that a white man, conditioned as they are, could do nothing with and the ownership of which to the Indian is simply a burden.

Of course, they can not be expected to go out on sagebrush plains and grub out the brush and dig their laterals, or to go out on the dry farms, where irrigation is not possible, and without funds cultivate, plant, and reap.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent to proceed for five minutes more. This is a very important matter.

Mr. FERRIS. Mr. Chairman, I hope the gentleman will not take any more time on this amendment. The committee is consuming no time at all and the gentleman is consuming much time.

Mr. MONDELL. Mr. Chairman, I do not expect to talk again on this particular item.

Mr. FERRIS. Oh, the gentleman hopes to continue to talk.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Chairman, we are endeavoring to teach habits of industry to these Indians. That is the hardest thing for an Indian to learn; not that the Indian is lazy, for he is not. He is among the most energetic of men, but he is the greatest aristocrat, as that term is sometimes used, known in the world. No race of people has ever lived that has had such an ingrained prejudice against labor. The noble red man degrades himself when he labors either mentally or physically, according to the tribal tradition handed down from time immemorial. It is a part of his blood, a part of his being. It is hard to get away from it. We are trying to teach the Indian that labor is honorable, and it is an exceedingly hard lesson for him to learn. Yet we turn him loose on an allotment without seed, without tools, without stock, with neither plow nor ox, nor grain to plant, and expect him to become self-supporting. It is impossible. We ought not to give these Indians funds unlimited with which to buy these things. We ought not to buy them for them and charge the cost to the good people of these United States, but we should do what we have been doing wisely and successfully—that is, establish a credit fund for them; and if we shall have the same success in the future with this credit fund that we have had in the past it will mark the most important step yet taken in the civilization of the Indians, a step as important as the day when they first moved from the tepee into the walled tent, where he can put up a cookstove and a washtub.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. MOORE of Pennsylvania. How many Indians are there in the United States?

Mr. MONDELL. The gentleman from South Dakota [Mr. BURKE], who is an authority, says about 300,000.

Mr. MOORE of Pennsylvania. And to those 300,000 the Government makes allotments, both of lands and money, does it not?

Mr. MONDELL. There are very few Indians now receiving any annuities.

Mr. MOORE of Pennsylvania. They are wards of the Government?

Mr. MONDELL. Yes.

Mr. MOORE of Pennsylvania. And receive a direct financial benefit from the Government without any quid pro quo.

Mr. MONDELL. As to about four-fifths of the items in this bill; yes.

Mr. MOORE of Pennsylvania. No such consideration is given to the young white farmer who wants to start out and work the arid or semiarid ground.

Mr. MONDELL. Oh, no.

Mr. MOORE of Pennsylvania. No consideration is given to the mill hand who has no opportunity for employment or for profit except as his own energy brings it about. So the Indian is the favored ward of the Nation?

Mr. MONDELL. Oh, surely.

Mr. MOORE of Pennsylvania. I do not want to trespass upon the gentleman's argument, because it is a fine argument, and his statement is clear and lucid; but does the gentleman not bring us up to the problem which some day may have to be faced in this country of providing means for assisting the white man who wants to cultivate the ground or the white man in the city who finds himself in need?

The CHAIRMAN. The time of the gentleman from Wyoming has again expired.

Mr. MONDELL. The gentleman from Pennsylvania has taken three or four minutes of my time.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended for three or four minutes.

Mr. MONDELL. One minute.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent to have his time extended one minute. Is there objection?

There was no objection.

Mr. MONDELL. My proposition is this: You can not get blood out of a turnip. You can not wring a fortune or a livelihood from a stone. The Indian will not become self-supporting unless he is assisted, where he has not the stock, the machinery, or the seed.

I would not give it to him, but I would loan it to him, and it has been proved conclusively to the satisfaction of anyone who will investigate these records that some of these Indians have returned these moneys from time to time and in small sums until they finally, in many cases, have entirely wiped out their obligations; and others are wiping them out. They return these sums; they are learning the habits of business; they are

learning their obligations; they become more self-respecting. If we do not do that, we must continue as we are in this bill to give them the moneys of the good people of this country without expecting a return of the sums necessary to put them on their feet and start them in business.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MANN. Mr. Chairman, I think, possibly, on the general purpose which the gentleman from Wyoming has in view I might be in accord. The gentleman stated a number of times in the course of his address to the committee that this money had been returned so completely by the Indians that the Government might well take the chance of making the appropriation. I have such high regard for the statement of the gentleman from Wyoming that I am going to call his attention to a little report, so he can more fully explain that. Two years ago we made an appropriation for this same purpose, reimbursable, and we have a report from the Secretary of the Interior as to the expenditure of that fund. There was expended under that appropriation $151.70 for seeds, trees, and so forth, Flathead, Mont.; $150 for the same purpose at Pechanga, Cal.; $687 for live stock at Soboba, Cal., and $107.66 for implements, harness, and so forth; $1,436.50 for live stock at Santa Fe, N. Mex.; $495 for live stock at Shawnee, Okla.; $737 for live stock at Walker River, Nev.; and the total amount expended for encouraging industry among the Indians out of that appropriation was $4,541.06. It was a fund made specifically reimbursable, and we learn by the report of the Secretary of the Interior that it has been reimbursed to the extent of $150. Out of $4,541.06 expended——

Mr. MILLER. Will the gentleman yield?

Mr. MANN. I am going to yield for an explanation. I have no doubt it is forthcoming—$150 was returned. The gentleman from Wyoming very often referred to the fact that wherever we had made these appropriations and these expenditures that they were promptly reimbursed, so I thought I would call his attention to this official communication on the subject.

Mr. MILLER. The gentleman from Illinois is aware of the fact that these expenditures are loans that were made during the past year. Does the gentleman think it probable or likely or proper that they should be returned so soon as this?

Mr. MANN. I did not suppose they would all be returned, but the appropriation was made two years ago. I did not assume that a repayment of $150, which does not begin to equal the interest on the investment, is a very large reimbursement of the appropriation.

Mr. MILLER. Would the gentleman expect when a loan is made for live stock that it will be repaid during the exact season in which the loan was made?

Mr. MANN. Certainly not; and it would not have to be paid during the exact season by any means. The appropriation was made for the fiscal year 1912, that is true, but it became available on the 1st day of July, 1911. I should suppose there would possibly be some of it reimbursed by this time. However, I simply call the attention of the gentleman, who is going to put in the RECORD a statement of how it has been reimbursed, to these facts. I would be glad to see those statements.

Mr. MONDELL. I would be very glad to read the gentleman some of those statements now if I had the time.

Mr. FERRIS. Mr. Chairman, the gentleman from Wyoming has offered an amendment which is full of legislation and is undoubtedly subject to the point of order. However, before making the point of order, which I intend to make, I want to say that, on line 8, page 6, there is an appropriation of $300,000 to encourage agriculture among the Indians, which covers the point which the gentleman has referred to very completely.

Mr. MONDELL. Not reimbursable.

Mr. FERRIS. However, the item has already been agreed to so that even if the amendment was not subject to the point of order, I take it that it would not be the judgment of the committee to adopt the amendment. However, I make the point of order.

Mr. MONDELL. Will the gentleman yield for a moment? The item to which the gentleman has just referred is an appropriation chargeable to the people of the United States and no dollar of which is to be returned.

Mr. FERRIS. Undoubtedly, but the gentleman at great length and with considerable force urged as an original proposition that the Federal Government should not expend anything at all on the Indians.

Now, that policy is so well defined and so well recognized by everyone, that we must care for the indigent Indians all over the country, that the gentleman's argument must of necessity fail.

Mr. MONDELL. The gentleman from Oklahoma wants to be fair, and he generally is fair, but when he says I have argued at great length that we should not do much of anything for the Indians, he certainly misstates my position.

Mr. FERRIS. I did not mean to misinterpret the gentleman; but his argument is that we should not do anything for them from the Federal Treasury, which I intended to say to the gentleman.

Mr. MONDELL. On the contrary, so far as possible, we should teach the Indian that he must care for himself and, so far as he is able, to reimburse the Federal Government for its assistance.

Mr. FERRIS. And with what the gentleman says I am in accord to a large extent, but I have referred to the Indians all over the country which the Government must look after. Therefore, Mr. Chairman, I ask for a ruling on the point of order.

The CHAIRMAN. The Chair believes this provides for new and original legislation, and therefore the Chair sustains the point of order.

The Clerk read as follows:

That superintendents and acting superintendents in charge of Indian reservations, schools, irrigation and allotment projects are hereby authorized and empowered to administer the oath of office required of employees placed under their jurisdiction.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I regret that the gentleman from Illinois [Mr. MANN] did not have more time in which to address the committee on the interesting subject we had under discussion a moment ago, for in his discussion he only got far enough to refer to one reimbursable item, made available very recently, and he was unable by reason of the lapse of time to get down to the cases where reimbursable items were contained in an appropriation bill some time ago and where Indians have at times made repayments. For instance, as to the Tongue River item, which the gentleman had not time to refer to, although he has it before him, I find in that case the Indians have been repaying quite rapidly. I will place in the RECORD a statement of the Tongue River fund.

The statement is as follows:

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912.

Account No.	Beneficiary.	Articles.	Date of purchase.	Item cost.	Total cost.	Payments. Date.	Payments. Amount.	Balance due by beneficiary on or before June 30, 1916.
1	George Americanhorse, jr.	2 mares	June 24, 1911	$150.00	$158.19	Nov. 25, 1911	$25.07	$114.93
		450 pounds potatoes	May 11, 1911	8.19		July 1, 1912	10.00	
						Oct. 25, 1911	8.19	
2	Walter Ant	1 stallion	May 26, 1911	175.00	175.00	Dec. 4, 1911	10.00	75.00
						Dec. 31, 1911	80.00	
						June 12, 1912	10.00	
3	William Blackeagle	200 pounds oats	May 9, 1911	4.36	18.54	Nov. 20, 1911	4.36	
4	Thomas Blackwhiteman	765 pounds potatoes	June 10, 1911	14.18		do	14.18	
5	Donald Brady	150 pounds potatoes	June 1, 1911	2.52	2.52	Nov. 14, 1912	2.52	
		500 pounds oats	May 1, 1911	7.50	7.50			
6	George Brady	300 pounds potatoes	May 3, 1911	5.47	12.97			12.97
		1 sulky plow	May 5, 1911	33.50	33.50			
7	Robert Bearbtack	339 pounds oats	June 1, 1911	8.37	8.37	July 10, 1912	5.00	
						Oct. 31, 1912	28.50	
8	Charles Bearcomesout	351 pounds oats	do	7.89				8.37
		155 pounds potatoes		3.08	10.97			
9	Charles Bigback	150 pounds potatoes—seed	July 5, 1911	3.93	3.93			10.97
			June 1, 1911			Sept. 2, 1912	2.00	1.93
10	Hinton Bigleg	1 stallion	June 5, 1911	150.00	174.45	June 15, 1911	8.47	136.53
		1,024 pounds oats	May 1, 1911	15.36		Oct. 25, 1911	15.36	
		600 pounds potatoes	May 10, 1911	9.09		do	9.09	
						Dec. 10, 1911	5.00	

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912—Continued.

Account No.	Beneficiary.	Articles.	Date of purchase.	Item cost.	Total cost.	Payments. Date.	Payments. Amount.	Balance due by beneficiary on or before June 30, 1916.
11	William Bites	1 mare	Apr. 1, 1911	$100.00	$111.33			$111.33
		755 pounds oats	do	11.33				
12	Ben Bixby	1,025 pounds oats	June 1, 1911	15.37	24.44	Aug. 31, 1912	$15.37	
		650 pounds potatoes	July 10, 1911	9.07		do	9.07	
13	Arthur Blindman	325 pounds oats	June 15, 1911	8.52	335.28	Dec. 1, 1911	8.52	209.74
		150 pounds potatoes	do	2.52		do	2.52	
		1 stallion	July 15, 1911	100.00		May 17, 1912	24.07	
		2 mares	Apr. 28, 1911	200.00		Nov. 25, 1911	48.17	
		½ share in drill	June 15, 1912	24.24		Sept. 14, 1912	3.26	
						Nov. 25, 1911	23.25	
						July 10, 1912	33.16	
14	John Buffalohorn	1 set harness	May 25, 1911	33.26	47.61			
		225 pounds potatoes	do	4.23				
		150 pounds potatoes	do	2.52				
		450 pounds potatoes	do	7.60				
15	Louis Bird hawk	1 stallion	Apr. 24, 1911	100.00	105.01			105.01
		300 pounds potatoes	June 15, 1911	5.01				
16	Elizabeth D. Burns	1 stallion	May 1, 1911	100.00	105.08	Aug. 6, 1912	14.08	55.02
		280 pounds potatoes	June 10, 1911	5.08		Oct. 31, 1912	30.00	
						Aug. 6, 1912	5.08	
17	Andrew Callefret	300 pounds potatoes	June 9, 1911	5.47	5.47			5.47
18	Joseph Crazymule	452 pounds oats	June 1, 1911	11.16	11.16			11.16
19	Floyd Clubfoot	100 pounds oats	May 5, 1911	2.18	2.18			2.18
20	Floyd Clubfoot and William Swallow.	1 plow	do	39.88	53.90	Oct. 25, 1911	10.94	28.94
		255 pounds oats	do	6.62		do	6.62	
		1 harrow	do	7.40		do	7.40	
21	John Diveshackward	150 pounds potatoes	June 10, 1911	2.73	2.73			2.73
22	Albert Duster	12 fruit trees	Nov. 15, 1911	2.70	2.70	May 10, 1912	2.70	
23	Jacob Eagletathers	392 pounds oats	June 1, 1911	5.88	39.14	Oct. 26, 1911	5.88	
		1 set harness	do	33.26		do	33.26	
24	Henry Elkshoulders	750 pounds oats	May 20, 1911	13.11	15.63			15.63
		150 pounds potatoes	July 5, 1911	2.52				
25	Alfred Fisher	1 stallion	May 2, 1911	100.00	143.19	Oct. 25, 1911	37.00	43.00
		100 pounds oats	July 1, 1911	1.50		do	20.00	
		1 plow	do	23.50		do	43.19	
		350 pounds potatoes	do	8.19				
26	Dick Fisher	1 mare	May 1, 1911	75.00	75.00			75.00
27	Eugene Fisher	1,277 pounds oats	do	19.16	136.88	Dec. 31, 1911	33.50	103.38
		3,076 pounds oats	do	57.52				
		150 pounds potatoes	do	2.75				
		½ share in mower	do	13.50				
		1 seeder	June 15, 1912	10.45				
		1 plow	May 1, 1911	33.50				
28	Edgar Fightingbear	¼ share in plow	May 5, 1911	13.29	13.29			13.29
29	John Crazymule	310 pounds potatoes	June 15, 1911	6.14	19.43	Oct. 30, 1912	6.14	
		¼ share in plow	May 5, 1911	13.29		do	13.29	
		150 pounds potatoes	June 3, 1911	2.61				
30	Edward Gray	1 stallion	do	100.00	147.61	Oct. 25, 1911	2.61	53.00
		½ share in horse	June 10, 1911	45.00		Nov. 25, 1911	47.00	
		630 pounds oats	May 1, 1911	9.45		May 1, 1911	45.00	
31	Arthur Ghostbull	2 mares	Aug. 8, 1912	200.00	309.45	July 1, 1912	9.45	293.00
		100 pounds oats	May 5, 1911	2.18		Nov. 4, 1912	7.00	
32	Robert Hardground	1 plow	do	33.50	41.53	Nov. 25, 1911	2.18	12.71
		1 harrow	do	5.85		do	20.79	
						do	5.85	
						July 1, 1912	9.21	
33	William Harris	1,035 pounds seed oats	May 1, 1911	19.35	80.57	Oct. 25, 1911	5.39	44.99
		750 pounds potatoes	May 3, 1911	12.58		July 1, 1912	7.18	
		1 grain drill	Apr. 23, 1911	48.47		do	3.57	
						do	10.12	
34	Henry Harris	100 pounds potatoes	May 11, 1911	1.64	1.64			1.64
35	Ed. Harris	450 pounds potatoes	May 3, 1911	8.92	67.15	July 10, 1912	8.92	
		1 reaper	May 1, 1911	62.23		do	62.23	
36	Charles Hartz	1 stallion	June 12, 1911	150.00	291.87	June 12, 1912	21.20	112.80
		695 pounds oats	May 1, 1911	14.04		July 1, 1912	16.00	
		1 plow	May 5, 1911	35.00		Nov. 1, 1911	14.04	
		500 pounds potatoes	July 10, 1911	2.83		Oct. 25, 1911	35.00	
						do	2.83	
						June 30, 1912	8.19	
37	Floyd Highwalking	450 pounds potatoes	May 9, 1911	8.19	8.19			
38	Richard Hollowwood	250 pounds oats	May 1, 1911	5.37	7.98			7.98
		155 pounds potatoes	June 1, 1911	2.61				
39	Thomas Horseroads	750 pounds potatoes	May 10, 1911	8.18	8.18			8.18
40	Hubert Hollowbreast	350 pounds oats	May 11, 1911	8.68	32.12			32.12
		625 pounds potatoes	June 15, 1911	12.27				
		¼ share in plow	May 5, 1911	11.17				
41	Howlingcoyote	112 pounds oats	May 1, 1911	2.52	2.52			2.52
42	William Ironhand	2 mares	do	200.00	305.35	Dec. 1, 1911	9.65	290.00
		1 stallion	do	100.00		May 1, 1911	.35	
		150 pounds potatoes	May 11, 1911	2.75		Dec. 1, 1911	2.75	
		155 pounds potatoes	June 5, 1911	2.60		do	2.60	
43	Edward Killsnight	1 stallion	Apr. 29, 1911	100.00	100.00	July 10, 1912	5.00	
						Sept. 30, 1912	8.00	
						Nov. 4, 1912	87.00	
44	Herman Kingfisher	345 pounds oats	May 1, 1911	10.01	15.00			15.00
		300 pounds oats	June 10, 1911	4.99				
45	Frank Lightning	1 stallion	Apr. 25, 1911	100.00	100.00	Oct. 25, 1911	25.00	45.00
						Aug. 18, 1911	30.00	
46	Fred Limpy	1,057 pounds oats	May 1, 1911	18.50	20.02			20.02
		100 pounds potatoes	June 10, 1911	1.52				
47	George Littlebear	510 pounds oats	May 1, 1911	7.65	12.55			12.55
		450 pounds potatoes	May 10, 1911	4.90				
48	Paul Littlebear	1 stallion	June 1, 1911	200.00	244.50	Oct. 31, 1912	10.00	234.50
		750 pounds oats	May 1, 1911	11.40				
		1 sulky plow	May 5, 1911	33.50				
49	Peter Littlebird	334 pounds oats	May 1, 1911	8.06	25.23	Oct. 25, 1911	8.06	1.00
		1 harrow	do	8.55		do	8.55	
		150 pounds potatoes	June 10, 1911	2.50		do	2.50	
		310 pounds potatoes	June 15, 1911	6.12		do	5.12	
50	Charles Littlesun	100 pounds oats	Apr. 10, 1911	2.18	41.38			41.38
		380 pounds oats	May 1, 1911	5.70				
		1 plow	May 5, 1911	33.50				

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912—Continued.

Account No.	Beneficiary.	Articles.	Date of purchase.	Item cost.	Total cost.	Payments. Date.	Payments. Amount.	Balance due by beneficiary on or before June 30, 1916.
51	Henry Littlewhiteman	600 pounds potatoes	May 10, 1911	$6.54	$6.54			$6.54
52	Littlewhiteman	1 stallion	June 15, 1911	100.00	105.27	Oct. 25, 1911	$44.00	51.25
		150 pounds potatoes	May 11, 1911	2.73		Sept. 12, 1912	4.75	
		do	June 1, 1911	2.52		Oct. 25, 1912	2.52	
						Oct. 25, 1911	2.75	
53	Lamon Littlewolf	1 plow	May 5, 1911	35.00	50.13	do	12.87	
		852 pounds oats	May 1, 1911	9.48		May 30, 1912	22.13	
		600 pounds potatoes	May 5, 1911	5.65		Oct. 25, 1911	9.48	
						Oct. 30, 1911	5.65	
54	Robert Littlewolf	3 geldings	Apr. 25, 1911	300.00	311.50	Oct. 25, 1911	38.00	100.33
		767 pounds oats	Apr. 1, 1911	11.50		Dec. 20, 1911	161.67	
						Oct. 25, 1911	11.50	
55	William Littlewolf	592 pounds oats	May 1, 1911	8.88	8.88			8.88
56	Charles Loneelk	1 stallion	Apr. 24, 1911	100.00	290.21	Oct. 25, 1911	4.00	139.47
		2 mares	May 4, 1911	170.00		Nov. 21, 1912	126.53	
		250 pounds oats	May 1, 1911	6.55		Oct. 25, 1911	6.55	
		112 pounds oats	do	2.77		do	2.77	
		600 pounds potatoes	do	10.91		do	10.91	
57	George Longroach	1,500 pounds potatoes	June 5, 1911	24.25	24.25	July 1, 1912	12.00	12.25
58	William Medicinebear	250 pounds oats	May 21, 1911	6.08	6.08			6.08
		140 pounds potatoes	May 1, 1911	6.13				
59	Robert Medicinebull	1 plow	May 21, 1911	32.50	45.56	Nov. 25, 1911	6.13	4.78
		160 pounds oats	do	2.18		do	31.50	
		250 pounds oats	June 5, 1911	3.75		do	1.15	
60	Mexican Manuel	150 pounds potatoes	May 11, 1911	2.75	2.75			2.75
61	Henry Playingbear	575 pounds oats	May 9, 1911	10.06	10.06	Oct. 31, 1912	10.06	
62	John Powderface	521 pounds oats	May 1, 1911	7.84	15.58			15.58
		200 pounds potatoes	May 11, 1911	5.47				
		150 pounds potatoes	June 10, 1911	2.27				
63	Mary Powell	615 pounds potatoes	Apr. 10, 1911	9.16	56.28	June 30, 1911	9.16	
64	William Redbird	3,141 pounds oats	Apr. 11, 1911	47.12		Oct. 25, 1911	47.12	
65	Mary Redcherries	340 pounds oats	May 1, 1911	7.65	7.65			7.65
66	Henry Redneck	155 pounds potatoes	June 5, 1911	2.60	2.60			2.60
		900 pounds potatoes	do	5.01	21.76	Oct. 30, 1912	5.01	
67	Paul Rednose	1 share of plow	May 5, 1911	16.75		do	16.75	
		do	do	16.75	25.43			25.43
		350 pounds potatoes	May 10, 1911	8.68				
68	Fred Redrobe	605 pounds potatoes	May 11, 1911	10.80	19.80	Oct. 30, 1911	10.80	
		1 seeder, endgate	do	10.45				
69	Robert Ridgewalker	900 pounds oats	do	16.89	45.98	Oct. 25, 1911	16.89	10.45
		750 pounds potatoes	June 11, 1911	13.64		do	13.64	
		300 pounds potatoes	May 11, 1911	5.00		do	5.00	
70	Hubert Risingfire	245 pounds oats	Apr. 11, 1911	5.17	12.68			12.68
		450 pounds potatoes	June 5, 1911	7.51				
		1 stallion	do	150.00	266.51	Nov. 12, 1912	150.00	
		2,387 pounds oats	do	35.81		Nov. 25, 1911	5.81	
		504 pounds oats	do	22.33		Nov. 11, 1912	13.00	
71	Philip Risingsun	150 pounds potatoes	do	2.73		Nov. 25, 1911	22.33	
		990 pounds potatoes	do	4.53		do	2.73	
		1 share in drill	do	24.24		do	4.53	
		17 fruit trees	do	1.50		do	26.87	
		1 harrow	do	25.37		do	14.24	
						Nov. 11, 1912	10.00	
						do	17.00	
72	Antoine Rondeau	150 pounds potatoes	June 10, 1911	6.80	6.80	Aug. 15, 1912	6.80	
73	William Rondeau	750 pounds potatoes	July 10, 1911	11.31	63.39	Nov. 25, 1911	11.31	
		1,021 pounds oats	May 1, 1911	15.36		do	1.36	
		1 plow	Aug. 14, 1911	36.72		Aug. 12, 1912	14.00	
						Nov. 25, 1911	36.72	
74	Fred Roundstone	700 pounds oats	May 1, 1911	19.52	64.39	July 15, 1912	19.52	
		641 pounds oats	do	9.60		do	9.60	
		1,050 pounds potatoes	June 10, 1911	9.91		do	9.91	
		1 harrow	Aug. 22, 1911	25.36		do	25.36	
75	Clay T. Rowland	1 stallion	May 1, 1911	150.00	200.05	June 30, 1912	9.10	189.81
		2,611 pounds oats	do	39.16		Sept. 30, 1912	.32	
		600 pounds potatoes	May 10, 1911	10.89		Oct. 31, 1912	.79	
		1 plow	Apr. 15, 1911	60.62	220.12			204.12
76	Willis T. Rowland	1 stallion	Apr. 29, 1911	150.00		Oct. 25, 1911	6.50	
		½ share in mower	May 27, 1911	13.50		do	5.00	
		300 pounds potatoes	June 10, 1911	5.00		do	13.50	
77	Zac Rowland	2,854 pounds oats	May 1, 1911	53.37	88.37	Nov. 25, 1911	14.37	29.00
		1 plow	May 5, 1911	35.00		July 1, 1912	10.00	
						Nov. 25, 1911	35.00	
78	William Russel	1 stallion	June 12, 1911	100.00	280.30	do	35.00	200.00
		2 mares	May 8, 1911	175.00		Dec. 20, 1911	31.25	
		630 pounds oats	May 1, 1911	11.78		Nov. 25, 1911	14.50	
		150 pounds potatoes	June 1, 1911	2.32		do	5.00	
						Sept. 12, 1912	3.75	
79	Otis Scalby	850 pounds oats	Apr. 9, 1911	21.68	27.82			27.82
80	John Scalpcane	310 pounds potatoes	July 15, 1911	6.14	10.91			10.91
		600 pounds oats	May 11, 1911	10.91				
81	Charles Scalpcane	1 stallion	June 12, 1912	150.00	152.32	Oct. 25, 1911	47.00	62.80
		150 pounds potatoes	June 1, 1912	2.32		Mar. 13, 1912	30.20	
						May 15, 1912	10.00	
						Oct. 25, 1912	2.52	
82	Mrs. Lucy Spang	620 pounds potatoes	May 10, 1911	11.26	11.26	June 30, 1911	11.26	
83	Alfonso Spang	1 harrow	May 1, 1911	8.55	38.44	Aug. 26, 1912	.50	37.94
		415 pounds potatoes	May 10, 1912	4.52				
		1 disk harrow	Apr. 22, 1912	25.37				
84	Eugene Standingelk	200 pounds oats	May 1, 1911	5.24	311.58	Nov. 25, 1911	5.24	195.87
		2 horses	May 25, 1911	250.00		do	7.20	
		1 harrow	May 1, 1911	7.20		do	8.19	
		450 pounds potatoes	May 5, 1911	8.19		do	1.60	
		20 fruit trees	Oct. 15, 1911	1.60		Oct. 25, 1911	37.35	
		1 plow	May 5, 1911	39.35		Sept. 11, 1912	2.00	
						do	13.00	
						Oct. 31, 1912	15.00	
						Nov. 4, 1911	26.13	
85	John Standsintimber	100 pounds oats	do	2.18	25.48			25.48
		½ share in plow	do	13.30				
		600 pounds potatoes	June 1, 1911	10.00				

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912—Continued.

Account No.	Beneficiary.	Articles.	Date of purchase.	Item cost.	Total cost.	Payments. Date.	Payments. Amount.	Balance due by beneficiary on or before June 30, 1916.
86	William Swallow	600 pounds oats	Apr. 20, 1911	$14.31	$38.55	June 18, 1912	$14.31	$24.24
		1 drill	June 7, 1912	24.24				
87	Jules Seminole	150 pounds potatoes	June 19, 1911	2.27	2.27			2.27
88	Louis Seminole	1 stallion	May 2, 1911	100.00	100.00	Sept. 4, 1912	10.00	80.00
						Oct. 31, 1912	10.00	
89	Joseph Shell	515 pounds oats	May 1, 1911	7.72	43.95	July 1, 1912	7.72	20.95
		1 plow	May 5, 1911	23.50		do	2.73	
		150 pounds potatoes	May 11, 1911	2.73		do	7.55	
						Nov. 21, 1912	5.00	
90	David Sweetmedicine	1 stallion	June 15, 1911	225.00	238.64	Jan. 31, 1912	112.50	95.00
		750 pounds potatoes	May 9, 1911	13.64		June 18, 1912	12.50	
						July 1, 1912	5.00	
						Oct. 25, 1911	13.64	
91	John Smith	1,037 pounds oats	May 1, 1911	15.56	18.39			18.39
		300 pounds potatoes	June 10, 1911	2.83				
92	Thomas Sioux	1 stallion	Apr. 25, 1911	150.00	157.80	Nov. 25, 1911	17.00	133.00
		520 pounds oats	May 1, 1911	7.80		do	7.80	
93	Soldierwolf	150 pounds potatoes	June 1, 1911	2.52	2.52			2.52
94	Ben Shoulderblade	121 pounds oats	May 1, 1911	7.22	10.28			10.28
		155 pounds potatoes	June 15, 1911	3.06				
95	Charles Spottedelk	1 mare	May 8, 1911	100.00	184.51			184.51
		1 plow	Apr. 15, 1911	45.00				
		600 pounds potatoes	May 11, 1911	10.91				
		20 fruit trees	Nov. 15, 1911	1.60				
		1 mower	June 27, 1911	27.00				
96	Charles Spottedwolf	155 pounds potatoes	June 5, 1911	2.60	2.60	May 5, 1911	1.63	.97
97	Patrick Spottedwolf	1 stallion	June 12, 1911	125.00	142.46			142.46
		655 pounds oats	May 1, 1911	14.73				
		150 pounds potatoes	May 11, 1911	2.73				
98	John Sunrock	1 stallion	Apr. 24, 1911	100.00	100.00	Nov. 25, 1911	25.00	40.00
						Nov. 21, 1911	2.00	
						Dec. 21, 1911	15.00	
						Apr. 9, 1912	3.00	
						Sept. 17, 1912	5.00	
						Jan. 31, 1912	10.00	
99	Charles Tooth	1,271 pounds oats	May 11, 1911	19.07	132.50	Nov. 25, 1911	19.07	103.00
		1 stallion	May 4, 1911	100.00		Oct. 31, 1912	5.00	
		600 pounds potatoes	do	10.91		do	2.91	
		150 pounds potatoes	June 1, 1911	2.52		Nov. 25, 1911	2.52	
100	Austin Texas	1 stallion	Apr. 28, 1911	150.00	372.00	Oct. 25, 1911	21.00	275.36
		2 mares	June 12, 1911	185.00		do	25.00	
		¼ share in drill	Apr. 23, 1912	24.23		Sept. 4, 1912	3.01	
		500 pounds potatoes	May 9, 1911	10.91		Nov. 23, 1912	21.63	
		150 pounds potatoes	June 1, 1911	2.52		July 1, 1911	13.23	
						Oct. 25, 1911	10.91	
						do	2.52	
101	Henry Twobells	340 pounds oats	May 1, 1911	7.85	13.42	July 1, 1912	7.85	3.42
		150 pounds potatoes	June 5, 1911	2.51		do	2.15	
		155 pounds potatoes	June 15, 1911	3.06				
102	Bert Twomoons	235 pounds potatoes	May 9, 1911	5.12	115.24	Dec. 20, 1911	5.12	55.00
		1 stallion	Apr. 24, 1911	100.00		do	34.76	
		80 pounds oats	May 1, 1911	4.20		June 18, 1912	5.24	
		235 pounds potatoes	May 9, 1911	5.92		Oct. 31, 1912	5.00	
						Dec. 20, 1911	4.20	
						do	5.92	
103	Seth Walkingbird	628 pounds oats	May 1, 1911	11.74	18.80	Aug. 30, 1912	8.00	10.80
		750 pounds potatoes	June 10, 1911	7.06				
104	John Walkinghorse	101 pounds oats	June 15, 1911	11.04	14.10			14.10
		155 pounds potatoes	May 1, 1911	3.06				
105	Richard Walkfast	600 pounds potatoes	May 10, 1911	10.89	10.89	June 30, 1911	10.89	
106	William Wanderingmedicine	1 stallion	June 15, 1911	275.00	309.63	Nov. 25, 1911	6.75	205.00
		½ share in plow	May 5, 1911	16.75		do	8.68	
		350 pounds oats	June 15, 1911	8.68		do	9.20	
		465 pounds potatoes	do	9.20		June 18, 1912	10.00	
						do	70.00	
						Oct. 25, 1911	7.20	
107	Bird Wildhog	1 harrow	May 1, 1911	7.20	25.84	do	13.64	
		750 pounds potatoes	do	13.64		do	4.00	
		300 pounds potatoes	do	5.00		June 30, 1912	1.00	
108	George Whitebird	100 pounds oats	do	2.62	2.62			2.62
109	Charles Whitecrane	227 pounds oats	do	5.10	7.64			7.64
		152 pounds potatoes	June 11, 1911	2.54				
110	Arthur Whitedirt	1 stallion	Apr. 24, 1911	100.00	121.29	Nov. 25, 1911	10.00	79.00
		500 pounds oats	May 1, 1911	13.10		Nov. 24, 1911	2.00	
		450 pounds potatoes	May 11, 1911	8.19		do	13.10	
						do	8.19	
						May 23, 1912	8.00	
111	Ernest Mexicancheyenne	155 pounds potatoes	June 5, 1911	2.60	2.60	June 30, 1912	2.60	
112	James Whitepowder	420 pounds oats	May 1, 1911	7.85	7.85	July 1, 1912	4.00	3.85
113	Paul Wollname	500 pounds oats	do	7.50	7.50			7.50
114	Mack Wolfroads	625 pounds oats	do	9.38	312.21	Nov. 25, 1911	9.38	223.24
		1 stallion	May 2, 1911	300.00		do	56.76	
		300 pounds potatoes	June 10, 1911	2.83		Nov. 21, 1912	20.00	
						Nov. 25, 1911	2.83	
115	Richard Woodenleg	347 pounds oats	May 1, 1911	7.81	7.81	Sept. 14, 1912	2.84	4.97
116	Hugh Woodenthigh	1 harrow	do	8.56	8.56			8.56
117	Ford Woundedeye	1 stallion	June 15, 1911	125.00	281.87	Dec. 4, 1911	.65	271.87
		2 mares	May 4, 1911	145.00		do	9.35	
		150 pounds potatoes	May 1, 1911	2.52				
		500 pounds oats	June 1, 1911	9.35				
118	Abram Yelloweyes	1 stallion	June 12, 1911	100.00	115.80	Nov. 25, 1911	34.00	66.00
		454 pounds oats	May 1, 1911	10.21		do	10.21	
		150 pounds potatoes	June 5, 1911	2.52		do	2.52	
		155 pounds potatoes	June 15, 1911	3.07		do	3.07	
119	Wilbur Yelloweyes	1 stallion	Apr. 24, 1911	100.00	100.00			100.00
120	William Yellowrobe	do	do	100.00	113.80			113.80
		260 pounds oats	May 1, 1911	5.24				
		1 harrow	do	8.56				
121	James Youngbird	½ share in plow	May 11, 1911	19.94	35.69	Nov. 25, 1911	19.94	5.00
		225 pounds oats	do	5.43		do	.43	
		½ share grain drill	May 5, 1911	10.32		do	10.32	

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912—Continued.

Account No.	Beneficiary.	Articles.	Date of purchase.	Item cost.	Total cost.	Payments. Date.	Payments. Amount.	Balance due by beneficiary on or before June 30, 1916.
122	Beans Youngbird	¼ share in plow	Apr. 4, 1911	$10.94	$38.95			$18.95
		¼ share in grain drill	May 5, 1911	10.32				
		350 pounds oats	Apr. 25, 1911	8.69				
123	Youngwolftooth	1 gelding	June 22, 1911	125.00	125.00	Sept. 19, 1912	$15.50	109.50
124	Young Woodpecker	¼ share grain drill	May 21, 1912	24.24	184.35	Feb. 10, 1912	25.37	109.29
		1 disk harrow	Aug. 22, 1911	25.37		Nov. 1, 1912	25.94	
		1 stallion	June 12, 1911	125.00		Nov. 21, 1912	19.12	
		650 pounds oats	May 1, 1911	9.75		do	4.63	
125	James Braidedlocks	300 pounds potatoes	May 10, 1911	5.45	5.45			7.45
126	David Littleoldman	350 pounds oats	Apr. 20, 1911	8.68	169.74	June 18, 1912	8.68	191.05
		¼ share grain drill	June 7, 1912	24.24				
		1 blacksmithing outfit	Aug. 9, 1912	160.82				
		1 stallion	Apr. 24, 1911	100.00				
127	Robert Yellowfox	300 pounds potatoes	May 9, 1911	5.47	107.99	Apr. 27, 1911	100.00	
		150 pounds potatoes	June 1, 1911	2.52		Oct. 25, 1911	5.47	
128	John Yellowhorse	do	June 1, 1911	2.52	2.52	do	2.52	
129	Charles Younglear	280 pounds oats	May 1, 1911	6.30	6.30	do	2.52	
130	Nellie Blackwolf	1 drill	Apr. 20, 1911	48.47	48.47	do	6.30	
131	John Badger	450 pounds potatoes	June 5, 1911	7.51	7.51	May 14, 1911	23.47	25.00
132	Isaac Blackbird	448 pounds oats	May 1, 1911	8.38	8.38	Oct. 25, 1911	7.51	
		452 pounds potatoes	May 3, 1911	8.23		do	8.38	
133	Charles Blackstone	30 pounds potatoes	June 1, 1911	.52	39.75	do	8.23	
		1 sulky plow	Apr. 15, 1912	45.00		do	.52	
134	Chen Blackmedicine	450 pounds seed potatoes	June 12, 1911	7.34	7.34	do	45.00	
		189 pounds oats	May 1, 1911	13.34		Nov. 25, 1911	7.34	
135	Paul Blackree	300 pounds potatoes	May 10, 1911	5.45	327.35	do	13.34	
		1 harrow	May 1, 1911	8.76		do	5.45	300.00
		2 mares	Aug. 8, 1912	300.00		do	8.76	
136	John Blackwolf	450 pounds potatoes	May 3, 1911	8.19	3.90			
137	William Braidedlocks	200 pounds oats	May 1, 1911	3.90		Nov. 25, 1911	8.19	
		1 stallion	June 1, 1911	200.00		Oct. 25, 1911	3.90	
138	Benjamin Bearchum	780 pounds oats	May 1, 1911	11.70	223.80	Nov. 25, 1911	200.00	
		450 pounds potatoes	Sept. 1, 1911	4.90		do	11.70	
		1 harrow	May 1, 1911	7.20		do	4.90	
139	Edward Bearquiver	885 pounds oats	do	13.20	13.20	do	7.20	
140	Thomas Beaverheart	1,037 pounds oats	do	15.56	18.16	Oct. 25, 1911	13.20	
141	August Bigleaver	155 pounds potatoes	do	2.60		do	15.56	
142	Benjamin Bigheadman	150 pounds potatoes	June 1, 1911	2.52	2.52	do	2.60	
		155 pounds potatoes	June 15, 1911	3.08	5.82	do	2.52	
		122 pounds oats	May 1, 1911	2.74		do	3.08	
143	James Bignose	165 pounds oats	do	2.75	14.04	Nov. 25, 1911	2.74	
		150 pounds potatoes	May 9, 1911	2.73		do	2.75	
		1 harrow	May 1, 1911	8.56		do	2.73	
144	William Bixby	395 pounds oats	do	5.93	10.17	do	8.56	
145	Thomas Bobtailhorse	450 pounds potatoes	June 10, 1911	4.24		Oct. 25, 1911	5.93	
		300 pounds potatoes	do	4.99	4.99	do	4.24	
146	David Boxelder	350 pounds oats	May 11, 1911	8.68	32.12	Nov. 25, 1911	4.99	
		¼ share in plow	May 5, 1911	11.17		do	8.68	
147	Joseph Brownbird	155 pounds potatoes	June 15, 1911	3.06	3.06	do	11.17	
148	Martin Bullsheep	150 pounds oats	May 1, 1911	3.93	3.93	Oct. 25, 1911	3.06	
149	Fred Calf	320 pounds oats	do	7.33	7.33	Nov. 25, 1911	3.93	
150	Charles Crawling	310 pounds potatoes	June 15, 1911	6.13	6.13	Oct. 25, 1911	7.33	
151	William Crazyhead	600 pounds potatoes	May 9, 1911	10.91	10.91	do	6.13	
152	Samuel Curly	1 sulky plow	June 20, 1911	33.50	33.50	do	10.91	
153	Nicholsa Crookednose	200 pounds oats	May 1, 1911	5.24	13.79	Nov. 25, 1911	33.50	
		1 harrow	do	8.55		do	5.24	
154	John Clubfoot	300 pounds oats	Apr. 10, 1911	7.80	7.80	do	8.55	
155	M. G. Eastman	1,036 pounds oats	May 1, 1911	15.54	20.07	do	7.80	
		300 pounds potatoes	June 10, 1911	4.53		do	15.54	
156	Thomas Elkshoulders	450 pounds oats	Apr. 21, 1911	10.87	17.01	do	4.53	
		310 pounds potatoes	June 15, 1911	6.14		Oct. 25, 1911	10.87	
157	Peter Firecrow	225 pounds oats	May 1, 1911	5.06	5.06	do	6.14	
158	Floyd Fisher	125 pounds oats	May 15, 1911	3.25	3.25	Nov. 25, 1911	5.06	
159	Hubert Grasshopper	770 pounds oats	May 1, 1911	11.55	11.55	do	3.25	
160	Colonel Hardrobe	155 pounds potatoes	June 5, 1911	2.60	2.60	Dec. 23, 1911	11.55	
161	Henry Hairyhand	150 pounds potatoes	May 11, 1911	2.73	5.25	Oct. 25, 1911	2.60	
		do	June 1, 1911	2.52		do	2.73	
162	Charles Headswift	350 pounds oats	Apr. 20, 1911	8.68	8.68		5.25	
163	John Highbear	300 pounds potatoes	June 10, 1911	2.89	2.89	do	8.68	
164	Albert Howlingantelope	155 pounds potatoes	June 15, 1911	3.07	3.07	do	2.89	
165	John Issues	150 pounds potatoes	June 1, 1911	2.52	2.52	do	3.07	
166	Hugh Killsnight	475 pounds oats	May 1, 1911	10.68	10.68	do	2.52	
167	Nancy Killsontop	1 stallion	May 2, 1911	100.00	100.00	do	10.68	
168	Victor Littlechief	880 pounds oats	May 1, 1911	13.20	15.93	Apr. 2, 1911	100.00	
		150 pounds potatoes	May 11, 1911	2.73		Oct. 25, 1911	13.20	
		300 pounds potatoes	do	5.47		do	2.73	
169	Henry Littlecoyote	486 pounds oats	May 1, 1911	10.93	19.46	do	5.47	
		155 pounds potatoes	June 15, 1911	3.06		Nov. 25, 1911	10.93	
170	Charles Littleeagle	356 pounds oats	May 1, 1911	8.01	13.02	do	3.06	
171	Charles Littlemouth	200 pounds potatoes	June 3, 1911	5.01		Oct. 25, 1911	8.01	
		155 pounds potatoes	May 3, 1911	2.84	2.84	do	5.01	
172	Arthur Brady	315 pounds oats	May 1, 1911	5.89	14.06	Nov. 25, 1911	2.84	
173	David Littlewhiteman	450 pounds potatoes	May 10, 1911	8.17		Dec. 21, 1911	5.89	
174	Frank Littlewolf	370 pounds oats	May 1, 1911	6.92	6.92	do	8.17	
		450 pounds potatoes	May 9, 1911	8.19	8.19	Nov. 25, 1911	6.92	
175	Littleyellowman	100 pounds oats	Apr. 22, 1911	2.18	8.31	do	8.19	
176	William Lonewolf	310 pounds potatoes	June 15, 1911	6.13		Oct. 25, 1911	2.18	
		150 pounds potatoes	May 11, 1911	2.73	2.73	do	6.13	
177	Lonetravelingwolf	35 fruit trees	Apr. 15, 1912	3.75	32.92	do	2.73	
		1,400 pounds oats	May 1, 1911	21.00		Nov. 25, 1911	3.75	
		450 pounds potatoes	May 10, 1911	8.17		do	21.00	
178	Fred Longroach	125 pounds oats	Apr. 9, 1911	3.25	10.74	do	8.17	
		450 pounds potatoes	June 10, 1911	7.49		do	3.25	
179	George Lostleg	325 pounds oats	May 19, 1911	7.61	12.62	do	7.49	
180	Louis Magpie	300 pounds potatoes	June 5, 1911	5.01	12.56	Dec. 6, 1911	7.61	
		750 pounds potatoes	do	12.56		do	5.01	
181	Robert Manbear	420 pounds oats	May 1, 1911	7.85	13.30	Oct. 25, 1911	12.56	
		300 pounds potatoes	May 10, 1911	5.45		do	7.85	
182	Sampson Medicine	do	May 9, 1911	5.47	7.99	do	5.45	
		150 pounds potatoes	June 1, 1911	2.52		do	5.47	
183	Harold Medicineelk	300 pounds potatoes	May 9, 1911	5.47	5.47	do	2.52	
						do	5.47	

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912—Continued.

Account No.	Beneficiary.	Articles.	Date of purchase.	Item cost.	Total cost.	Payments. Date.	Payments. Amount.	Balance due by beneficiary on or before June 30, 1916.
184	John Medicineflying	130 pounds oats	May 1, 1911	$1.95	$29.27	Oct. 25, 1911	$1.95	
		440 pounds oats	May 9, 1911	11.15		do	11.15	
		300 pounds potatoes	June 5, 1911	5.01		do	5.01	
		½ share in plow	May 5, 1911	11.16		do	11.16	
185	James Medicinestop	100 pounds oats	Apr. 9, 1911	2.18	16.37	do	2.18	
		300 pounds potatoes	June 5, 1911	5.00		do	5.00	
186	Marion Mexicancheyenne	465 pounds potatoes	Apr. 10, 1911	9.19	5.47	do	9.19	
		300 pounds potatoes	May 9, 1911	5.47		do	5.47	
187	Arthur Prairiebear	150 pounds potatoes	May 11, 1911	2.73	5.34	Nov. 25, 1911	2.73	
		do	June 1, 1911	2.61		do	2.61	
188	Daniel Oldbull	400 pounds oats	May 19, 1911	9.98	14.97	Oct. 25, 1911	9.98	
		300 pounds potatoes	June 10, 1911	4.99		do	4.99	
189	Vincent Oldbear	150 pounds potatoes	May 3, 1911	2.75	2.75	Nov. 25, 1911	2.75	
190	Charles Pawnee	200 pounds oats	Apr. 12, 1911	3.51	6.12	Oct. 25, 1911	3.51	
		155 pounds potatoes	May 5, 1911	2.61		do	2.61	
191	Frank Pine	255 pounds oats	May 1, 1911	3.83	30.83	Feb. 13, 1912	3.83	
		1 mower	June 3, 1911	27.00		do	27.00	
192	Albert Porcupine	600 pounds potatoes	May 11, 1911	10.91	360.91	Nov. 26, 1911	10.91	$335.14
		2 mares	Aug. 8, 1911	350.00		Oct. 31, 1912	14.86	
193	Frank Whitewolf	332 pounds oats	May 1, 1911	7.47	12.46	Oct. 25, 1911	7.47	
		399 pounds potatoes	June 10, 1911	4.99		do	4.99	
194	John Redbeads	475 pounds oats	May 1, 1911	10.75	13.82	Oct. 24, 1911	10.75	
		155 pounds potatoes	June 15, 1911	3.07		do	3.07	
195	Charles Redbreath	356 pounds oats	May 1, 1911	8.01	11.19	Nov. 25, 1911	8.01	
		155 pounds potatoes	do	3.18		do	3.18	
196	William Redcherries	590 pounds oats	do	13.10	26.87	do	13.10	
		300 pounds potatoes	do	5.21		do	5.21	
		1 harrow	do	8.56		do	8.56	
197	James Redfox	433 pounds oats	do	11.27	16.28	do	11.27	
		300 pounds potatoes	June 5, 1911	5.01		do	5.01	
198	William Redfox	2 geldings	Apr. 28, 1911	325.00	334.51	June 31, 1911	325.00	
		654 pounds oats	Mar. 1, 1911	9.51		Mar. 15, 1912	9.51	
		200 pounds oats	do	5.24	220.43	Oct. 25, 1911	5.24	
199	Zac Ridgebear	300 pounds potatoes	May 3, 1911	5.47		do	5.47	200.00
		150 pounds potatoes	June 1, 1911	2.52		do	2.52	
		1 harrow	May 3, 1911	7.20		do	7.20	
		2 mares	Aug. 8, 1911	200.00				
200	William Wolfname	525 pounds oats	May 1, 1911	9.82	20.73	do	9.82	
		600 pounds potatoes	May 3, 1911	10.91		do	10.91	
201	Louis Romannose	150 pounds potatoes	May 10, 1911	2.73	5.33	do	2.73	
		155 pounds potatoes	June 5, 1911	2.60		do	2.60	
202	John Rondeau	450 pounds potatoes	May 11, 1911	8.19	8.19	do	8.19	
203	John Sanderane	350 pounds oats	Apr. 20, 1911	8.69	20.96	Nov. 25, 1911	8.69	
		620 pounds potatoes	June 15, 1911	12.27		do	12.27	
204	George Shavedhead	450 pounds potatoes	May 3, 1911	8.19	8.19	Oct. 25, 1911	8.19	
205	Bob Standingelk	100 pounds oats	Apr. 18, 1911	2.18	2.18	do	2.18	
		300 pounds potatoes	May 11, 1911	5.47	7.99	do	5.47	
206	James Starvingbear	150 pounds potatoes	June 1, 1911	2.52		do	2.52	
		776 pounds oats	May 1, 1911	11.64	21.41	do	11.64	
		7 apple trees	Apr. 15, 1911	.70		do	.70	
207	John Strangeowl	600 pounds potatoes	June 10, 1911	9.07	11.08	do	9.07	
		1 harrow	May 1, 1911	8.56		do	8.56	
208	Harshey Wolfchief	150 pounds potatoes	June 1, 1911	2.52		do	2.52	
		500 pounds potatoes	May 1, 1911	13.10	318.10	do	13.10	210.00
209	Tom Seminole	300 pounds potatoes	June 5, 1911	5.00		do	5.00	
		2 mares	Aug. 8, 1912	300.00		Sept. 18, 1912	20.00	
						Oct. 31, 1912	70.00	
210	John Squinteye	1 stallion	Aug. 24, 1911	100.00	127.60	Dec. 26, 1911	40.68	
		450 pounds potatoes	May 3, 1911	8.18		Mar. 6, 1912	39.32	
		1,295 pounds oats	do	19.42		June 30, 1911	8.18	
						do	19.42	
211	Spottedblackbird	½ share in plow	May 5, 1911	16.75	32.94	Oct. 25, 1911	16.75	
		255 pounds oats	Apr. 16, 1912	6.20		do	6.20	
		600 pounds potatoes	June 5, 1911	9.99		do	9.99	
						do	10.32	
212	Hugh Spottedhawk	459 pounds oats	May 1, 1911	10.32	23.68	June 24, 1911	1.63	
		300 pounds potatoes	June 10, 1911	4.99		Oct. 25, 1911	3.36	
		½ share in plow	May 5, 1911	8.37		June 24, 1911	8.37	
213	Anna Spottedwolf	½ share in plow	do	8.37	8.37	May 5, 1911	8.37	
214	Mary Strongfelthand	300 pounds potatoes	Apr. 9, 1911	5.47	5.47	Oct. 25, 1911	5.47	
		152 pounds potatoes	June 10, 1911	2.54	8.68	do	2.54	
215	John Sunbear	310 pounds potatoes	June 15, 1911	6.14		do	6.14	
		150 pounds potatoes	May 11, 1911	2.75	5.27	do	2.75	
216	Frank Stumphorn	do	June 1, 1911	2.52		do	2.52	
		600 pounds potatoes	May 11, 1911	10.91	10.91	Nov. 25, 1911	10.91	
217	Jacob Tailbull	155 pounds potatoes	June 10, 1911	2.59	2.59	do	2.59	
218	Tallwhiteman	do	June 15, 1911	3.07	3.07	Mar. 6, 1912	3.07	
219	John Tallwhiteman	do	June 1, 1911	2.52	2.52	Dec. 13, 1911	2.52	
220	John Teeth	150 pounds potatoes	May 5, 1911	37.85	37.85	Dec. 22, 1911	37.85	
221	Louis Twin	1-12 plow	May 1, 1911	9.63	15.28	Oct. 25, 1911	9.63	
		642 pounds oats	June 10, 1911	5.65		do	5.65	
222	Peter Twobirds	600 pounds potatoes	June 5, 1911	2.68	4.26	do	2.68	
		160 pounds potatoes	June 15, 1911	1.58		do	1.58	
223	John Twofeathers	80 pounds potatoes						
		1 plow	Apr. 15, 1911	60.61	248.53	May 1, 1911	30.00	
		400 pounds oats	May 1, 1911	6.00		Nov. 20, 1911	19.00	
		450 pounds potatoes	May 9, 1911	4.92		Oct. 25, 1911	11.61	
		1 mower	June 27, 1911	27.00		Oct. 1, 1911	27.00	
		1 stallion	June 12, 1911	150.00		Oct. 25, 1911	6.00	
						do	4.92	
						Dec. 20, 1911	150.00	
224	John Twomoons	450 pounds potatoes	June 10, 1911	4.24	4.24	Oct. 25, 1911	4.24	
225	John Turkeylegs	900 pounds potatoes	do	8.47	8.47	do	8.47	
226	Charles Walkingbear					Apr. 4, 1911	8.38	
		Share in plow	May 5, 1911	8.38	20.64	do	1.62	
		300 pounds oats	May 1, 1911	7.27		Oct. 25, 1911	5.65	
227	David Walkseasy	300 pounds potatoes	June 10, 1911	4.99		do	4.99	
		344 pounds oats	May 1, 1911	7.74	13.87	do	7.74	
		310 pounds potatoes	June 15, 1911	6.13		do	6.13	
228	Dick Walkslast	200 pounds oats	Apr. 29, 1911	4.78	7.32	do	4.78	
		152 pounds potatoes	June 10, 1911	2.54		do	2.54	
229	Adolph Walksnice	512 pounds oats	May 1, 1911	7.68	12.21	Nov. 25, 1911	7.68	
		300 pounds potatoes	June 10, 1911	4.53		do	4.53	
230	Frank Water	150 pounds potatoes	May 9, 1911	2.73	2.73	Oct. 25, 1911	2.73	
231	Thomas Wrappedhair							

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912—Continued.

Account No.	Beneficiary.	Articles	Date of purchase.	Item cost.	Total cost.	Payments. Date.	Payments. Amount.	Balance due by beneficiary on or before June 30, 1916.
232	Frank Wenselbear	350 pounds oats	May 1, 1911	$8.68	$16.75	Oct. 25, 1911	$8.68	
		300 pounds potatoes	June 5, 1911	5.00		do	5.00	
		155 pounds potatoes	June 15, 1911	3.07		do	3.07	
233	Edward Womanleggins	1 plow	May 5, 1911	33.50	38.03	Nov. 26, 1911	33.50	
		300 pounds potatoes	June 10, 1911	4.53		Nov. 25, 1911	4.53	
234	Charles Whistlingelk	1 mare	May 4, 1911	85.00	102.25	Dec. 31, 1911	85.00	
		630 pounds oats	May 1, 1911	11.78		do	11.78	
		360 pounds potatoes	May 9, 1911	5.47		do	5.47	
235	White Bigfoot	675 pounds oats	May 1, 1911	15.18	15.18	Oct. 25, 1911	15.18	
236	John Whitebuffalo	1 stallion	May 24, 1911	100.00	112.31	do	10.00	
		220 pounds oats	May 1, 1911	4.12		do	4.12	
		450 pounds potatoes	May 11, 1911	8.19		do	8.19	
237	Jules Whiteelk	1 gelding	May 1, 1911	100.00	100.00	Dec. 26, 1911	90.00	
						May 1, 1911	100.00	
238	Benjamin Whitehawk	322 pounds oats	do	7.24	12.90	Oct. 25, 1911	7.24	
		155 pounds potatoes	June 5, 1911	2.60		do	2.60	
239	George Whitemoon	do	June 15, 1911	3.06	2.61	do	3.06	
			June 1, 1911	2.61		do	2.61	
240	Martin Whiteshield	½ share in plow	May 5, 1911	12.73	20.31	May 5, 1911	10.00	
		210 pounds oats	May 1, 1911	4.52		Oct. 25, 1911	2.73	
		155 pounds potatoes	June 15, 1911	3.06		do	4.52	
						do	3.06	
241	Charles Blackeraine	1 stallion	Aug. 8, 1912	150.00	150.00	Oct. 31, 1912	70.00	$80.00
242	John Chubby	1 team mares	do	300.00	300.00	Aug. 22, 1912	6.14	292.86
243	Littlehead	do	do	300.00	300.00	Nov. 4, 1912	198.26	101.74
244	Samuel Littleman	do	do	300.00	300.00			300.00
245	Stanley Littlewhiteman	do	do	300.00	300.00	Aug. 9, 1912	2.50	297.50
246	Lookbehind	do	do	300.00	300.00			300.00
247	William Sweetmedicine	do	do	300.00	300.00			300.00
248	Whitehawk	do	do	300.00	300.00			300.00
249	Dallas Wolfblack	do	do	[1] 300.00	300.00			300.00
	Wild persons	7,126 pounds potatoes	do	67.69	67.69		67.69	
	Total			2,617.69	2,617.69		344.59	2,273.10
27	Eugene Fisher	2 mares	Nov. 15, 1912	160.00	160.00			160.00
49	Peter Littlebird	do	do	80.00	80.00			80.00
56	Charles Loneelk	4 mares	do	95.00	95.00			95.00
61	Henry Playinebear	1 mare	Oct. 30, 1912	150.00	150.00			150.00
76	William Rowland	3 mares	Nov. 15, 1912	65.00	65.00			65.00
77	Zac Rowland	8 mares	do	215.00	215.00			215.00
78	William Russel	5 mares	do	120.00	120.00			120.00
97	Patrick Spotted wolf	4 mares	do	80.00	80.00			80.00
146	Joseph Brownbird	2 mares	do	160.00	160.00			160.00
174	Frank Littlewolf	do	do	160.00	160.00			160.00
220	John Teeth	do	do	160.00	160.00			160.00
250	John Soldierwolf	do	do	160.00	160.00			160.00
251	James Dealy	1 mare	do	40.00	40.00			40.00
	Total			1,645.00	1,645.00			1,645.00

[1] These sales represent the residue of a carload of potatoes purchased for seed. After supplying our Indians with the seeds they required this quantity remained unsold, and, to prevent loss through deterioration, the potatoes were disposed of to white residents at the agency.

RECAPITULATION.

	Total number of accounts.	Item cost.	Total cost.	Amount of payments.	Balance due by beneficiary on or before June 30, 1916.
Page 1	12	$734.21	$734.21	$262.18	$472.03
Page 2	12	735.89	735.89	299.01	426.88
Page 3	12	1,237.41	1,237.41	484.69	752.72
Page 4	14	923.42	923.42	212.77	710.65
Page 5	16	965.12	965.12	606.96	358.16
Page 6	10	1,013.52	1,013.52	542.00	471.52
Page 7	12	1,052.08	1,052.08	363.80	688.28
Page 8	10	989.70	989.70	259.57	730.13
Page 9	10	890.84	890.84	316.90	573.94
Page 10	12	1,114.98	1,114.98	231.19	883.79
Page 11	8	670.30	670.30	216.05	454.25
Page 12	16	789.91	789.91	464.91	325.00
Page 13	24	327.43	327.43	327.43	
Page 14	21	249.77	249.77	249.77	
Page 15	16	1,091.45	1,091.45	556.31	535.14
Page 16	17	866.20	866.20	656.20	210.00
Page 17	18	489.82	489.82	489.82	
Page 18	10	2,617.69	2,617.69	344.59	2,273.10
Page 19	13	1,645.00	1,645.00		1,645.00
Total		18,394.74	18,394.74	6,884.15	11,510.59

SUMMARY.

Original amount appropriation	$1,500.00
Collections from beneficiaries	6,884.15
Total sales to beneficiaries	18,394.74
Reimbursable property on hand	1,342.38
Unhypothecated balance	2,146.83
Total available to date	21,884.15
Total sales	18,394.74
Cash payments	6,884.15
Balance due by beneficiaries	11,510.59

Mr. MONDELL. The gentleman from Oklahoma [Mr. FERRIS] proposes going on forever appropriating for these people out of the funds of the people of the country generally without any hope of any return or without regard to its necessarily disastrous effect upon the character and dignity of the Indians rather than to appropriate for a loan which the Indian has shown he desires to make and is anxious to return.

Mr. FERRIS. Will the gentleman yield? Will the gentleman observe that the paragraph over which he is exhorting does not carry a penny of appropriation? It merely authorizes the head of an irrigation project to administer oaths to employees in order to save notary fees.

Mr. MONDELL. I thought the gentleman had been here long enough to know that sometimes we debate all sorts of matters on a pro forma amendment.

Mr. FERRIS. I hope the gentleman will debate the paragraph under consideration.

Mr. MONDELL. But I am debating an important matter. At least, it ought to be an important matter, with a Democratic majority with its claim of proposed economy. I want you gentlemen to economize and save the money of the people. At the same time I desire to assist in retaining self-respect among the Indians. The way to do it is not to appropriate for them without stint or limit, to throw the people's money among them as a drunken sailor scatters his dollars, but to do a banking business with the wards of the Government and thereby teach them habits of business, teach them the importance of their obligations to the Government and their obligations to their fellow men, and give them a chance in life without making paupers of them.

The CHAIRMAN. The time of the gentleman from Wyoming [Mr. MONDELL] has expired.

Mr. MANN. Mr. Chairman, the gentleman from Wyoming [Mr. MONDELL] says I did not refer to the appropriation for encouraging industry among the Indians of the Tongue River Reservation, Mont. It is true that when the gavel of the Chairman fell I had not yet reached that report. I think I can add even a little to the information furnished by the gentleman from Wyoming on that subject. There an appropriation was made for a specific reservation, and during the last fiscal year the total amount loaned to the Indians was $4,292.02, and the amount that was repaid by the Indians was $4,174.55. Nearly the entire amount was reimbursed. The appropriation was made specifically. But I did call attention to the general item, to the appropriation encouraging industry among the Indians, reimbursable, where, out of an expenditure of $4,500, the large sum of $150 had been reimbursed during the same fiscal year, and I mentioned the fact that where the specific appropriation was made, $4,175 was reimbursed out of $4,292.

The gentleman proposed not only a general appropriation, reimbursable, not specific in its location, but leaving it arbitrarily to the department for the next 10 years to do as it pleased, without any accounting practically to the Government, and without any appropriation made by Congress hereafter.

Mr. MONDELL. Well, the gentleman does admit that, where specific loans of funds are provided, at least in the one case referred to the Indians have met their obligations promptly and under all the circumstances to a very much greater extent than we could have anticipated.

Mr. MANN. I do not know how much we could have anticipated. I have no doubt that most of the money that could be expended in this way would be reimbursed if it were required to be reimbursed or if it is required to be reimbursed. I doubt if it would be reimbursed very rapidly if an appropriation of money were simply left in the hands of the department to expend as they please, without being appropriated for every year, where they had control of it and did as they pleased about it.

Mr. HILL. Mr. Chairman, I just came in and listened with much interest to the remarks of the gentleman from Wyoming [Mr. MONDELL], and I cordially agree with him in his efforts to assist this Democratic House in its principles of economy, and especially in his enthusiastic and vigorous efforts to assist in preventing a deficiency in the next House, with a still larger and greater majority. It reminded me of an incident that occurred on Monday, when I came down here. I had just come into the Pennsylvania Railroad station and I met in the café a chauffeur who had come in to buy a piece of pie, and, as he turned around to go out, I said to him, courteously and pleasantly, "Is not this a beautiful day?" He said, "It is a donned folne day, thanks be to God for it." I looked at him a moment, and I said, "Would you say just that if it had rained all day?" He looked up at me and said, "I think I could, but not with the same ardor." [Laughter.]

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

To reimburse Clara D. True for traveling expenses incurred by her under instructions from an official of the Indian service in the closing of her accounts as a former superintendent in the Indian service, $50.15.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph

The CHAIRMAN The gentleman from Illinois [Mr. MANN] reserves a point of order on the paragraph.

Mr. MANN. I see from the statement an explanation of the reasons given for this claim, and I shall withdraw the point of order in the end. But why is it necessary, when they propose to adjust the accounts of a superintendent of a reservation, that they send a general superintendent and a financial officer to the agency, or require the superintendent to come to the office of the general superintendent, any more than it is necessary, when they adjust the accounts of a postmaster, to send the Postmaster General or one of his agents to the post office or require the postmaster to come to Washington? Why does it require the personal attention of any person to adjust accounts which are supposed to be made out subject to be transmitted by the mail?

Mr. FERRIS. If the gentleman will yield, we have the statement of the Indian Commissioner. I know the gentleman is well informed on this bill, and I think he will admit that this is one of only two or three items that may at all be considered a claim. This bill is free from claims, aside from one or two little items that are simply self-evident.

Mr. MANN. I am not complaining about the matter of a claim.

Mr. FERRIS. The Indian Commissioner says the Comptroller of the Treasury refuses to allow the item. The supervisor had the superintendent brought to him rather than to go to her, as a matter of economy, and he thought he was justified in doing it.

Mr. MANN. Why was it necessary to have this done at all? Here was a case where the chief supervisor was ordered to go from Denver, Colo., to Santa Fe for the purpose of having the superintendent of the agency adjust her accounts. Why was that done? Why could not she adjust her accounts by making out her statement and having it transmitted by mail? Why should somebody have to go from Denver to Santa Fe, or wherever it was, to adjust the account? What sort of administration is that?

Mr. FERRIS. The Commissioner of Indian Affairs explained to us that once in so often they journey around to these different agencies, and the accountants examine their books, to the end that there may be no fraud or mistake or money squandered, and it is exceedingly important that that be done. At the different agencies the agents have considerable latitude, and the officers have to do with the moneys of incompetent Indians who can not protect themselves, and in that way it becomes necessary.

Mr. MANN. Here is a statement in addition, that after having ordered the chief supervisor to go from Denver to a point in New Mexico to adjust an account, it was necessary to take a financial clerk to assist in the work. Is it true that they have to send around to all of these places occasionally officers to adjust the accounts of the superintendent, or require the superintendent at the agency to go to the office of the chief supervisor to be examined as to the accounts? I should think it was a very cumbersome and expensive method of administration. However, as the woman expended the money, I am not disposed to complain. I withdraw the point of order.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For maintenance, care, and protection of machinery and irrigation wells already completed, in connection with the irrigation of the lands of the Pima Indians in the vicinity of Sacaton, in the Gila River Indian Reservation, $5,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. This item of $5,000 is in lieu of an estimate of $15,000, and in lieu of an appropriation of $15,000 carried in the current appropriation bill. As I recollect it, we have spent about $500,000 for the irrigation of the lands of the Pima Indians on the Gila River. There has been some scandal and a great deal of dissatisfaction, and the claim is made that the water is salt, and the Indians have refused to use the wells and have made fun of the electrical devices installed, and the department estimates that it will cost $15,000 to build the additional laterals

that must be built before the expenditure of $500,000 can be utilized and to maintain the system. We have on this Indian reservation Pima Indians, who, with their ancestors, have from time immemorial practiced the art of irrigation. We have established there a system which can only be maintained by the employment of highly paid electrical engineers. Whether or no it was wise to install that sort of a plant I am not prepared to say. A committee, of which I am a member, sent a subcommittee down to investigate these matters last summer, but that committee has not as yet reported. We either ought to appropriate $15,000 or nothing at all. There is no rhyme or reason in appropriating $5,000 when the department says that $15,000 is necessary for the building of the additional laterals and the care of the property on which we have expended half a million dollars. Now, we are either going to maintain that enterprise, which cost us half a million dollars, or we are going to let it go to ruin and decay—one or the other. If we are to maintain it, we ought to expend $15,000, and if we are not, let us strike out the appropriation and not spend any money at all there, rather than waste an entirely inadequate sum. I find nothing in the hearings to justify this reduction of the appropriation, although there was some discussion on this point, and in that it differs from almost every other item in the bill. There was some discussion before the committee in regard to this matter. After reading that discussion I am not enlightened as to any good reason for the reduction of the amount in the appropriation, provided it is intended to maintain that expensive plant down on the Gila. I should like to hear from the gentleman from Oklahoma as to the reason for reducing this appropriation.

Mr. FERRIS. Mr. Chairman, the gentleman from Wyoming complains over the reduction of the appropriation.

Mr. MONDELL. I do not complain, I protest.

Mr. FERRIS. The gentleman protests as to the reduction of the appropriation from $15,000 to $5,000, apparently without reason. There is nothing in the hearings that discloses the reason, but there was information before the chairman and information before us as a committee, personal in its nature, from the gentleman from Arizona [Mr. HAYDEN] in which the members of the committee were unanimous that there is a big dispute as to whether or not the Indians will ever accept the water from these wells. In time gone by the Reclamation Service diverted certain flood waters and waters from the Gila River, which the Indians felt they were entitled to, and gave it to the white settlers. In place of that they dug wells and gave it to the Indians in lieu of the water they had diverted. The expense of running an irrigation plant that comes from wells, from the constant rusting out of the machinery, causes a much larger expense per acre, and the Indians felt that they were mistreated.

The view of the committee was that we ought not to build a system which up to this time the Indians have totally refused to receive until we knew whether or not justice had been done. We have not neglected the question of what was justice in the premises. A board of Army engineers has been appointed, and they are down there investigating as to what is the actual justice in the case. As they have not reported, the committee thought that if we gave $5,000 for some caretaker to keep the machinery painted and oiled and protected, that is all we ought to do for the present, and that was the reason we arrived at the $5,000 appropriation instead of $15,000 for completing a project which might never be used.

Mr. MANN. Mr. Chairman, I move to strike out the last word. This appropriation heretofore has been reimbursable. I notice that this item now proposes to pay the money out of the Treasury without reimbursement. I suppose we may reach that in a great many cases. How much land is being irrigated at this point now?

Mr. FERRIS. There is none under this project. I will give the gentleman the data, so that he may have it before him.

Mr. MANN. How much is being irrigated on the reservation? I notice the statement is that there are 12,000 acres——

Mr. FERRIS. There are 4,246 Indians, and 12,000 acres that can be irrigated from these wells if you can get the Indians to use the water.

Mr. MANN. I think the gentleman is in error. The gentleman is reading from the same document that I am holding in my hand. It says 12,000 acres are now being irrigated and 12,000 additional to be supplied by pumping water, and 8,000 acres additional to be supplied with irrigation. How much land is actually being irrigated from this plant?

Mr. FERRIS. There is not any at all being irrigated from this plant. The Indians have a superstition that if they allow the water to be turned onto the land at all from the well system they will abandon their rights to the waters of the Gila River that have been taken away from them.

Mr. MANN. This is, apparently, one of those cases where perhaps the Government has made a mistake. The estimated cost of this plant is something over $50 an acre for the irrigation plant. Now, when the plant is constructed the Indians do not wish to use it. It cost something over a half a million dollars, all of which heretofore has been appropriated to be reimbursable. This bill proposes to appropriate an additional sum without being reimbursable, and that may be correct. If we made a mistake, if we spent a large amount of money there uselessly, we ought not to charge the Indians with that, because they had nothing to do with it.

We ought to charge it to experience or to the men who spent the money. The fact is we went crazy on the irrigation subject, and I am not sure but that we still are. We have been spending large amounts of money out of the Public Treasury without sufficient knowledge or caution. There are some items in this Indian bill which I do not criticize because I guess they could not be left out, where they are liable to have somewhat the same experience that they have had with this proposition.

Mr. FERRIS. Mr. Chairman, just a word. The criticism of the gentleman from Illinois [Mr. MANN] is undoubtedly a good one, and it should address itself to every Member in this Chamber. Mistakes have been made in irrigation matters, serious ones, which have cost the Government lots of money, and there may be some made in this bill. We went into the matter as thoroughly as we could, but we were up against this proposition. We had before us Mr. Newell, head of the Reclamation Service, and also had before us the whole Indian Irrigation Bureau. We tried as best we could to get information from them, but were up against this difficulty. We found that in Montana and in numerous other States great projects were under way, committing the Government to hundreds and hundreds of thousands of dollars. We made it our policy from one end of the bill to the other to permit them to begin no new projects, and it is the policy of the committee to try to hold these projects down so that we may complete those we have started in and have gotten so far along with that we are committed to them thoroughly.

In other words, where a project is to cost $500,000 and there have already been expended on the project $350,000 or $450,000, leaving only $50,000 or $60,000 yet to be paid, I think all will concede the folly of abandoning it, for a project once abandoned becomes abandoned in toto. The ditches fill up, and the floodgates destroy the entire system. While I do not expect the different items in this bill to be free from criticism, I think it is about the best we can do under the plan we have already been committed to. And on this proposition, if I may be permitted a word further, I think it is intensely proper that we do not appropriate any more than enough to protect this machinery until the board of Army Engineers tells us exactly what the situation is down there. In other words, we should know whether we have squandered $400,000 or $500,000 in the construction of a plant which the Indians refuse to receive, and which the Indians may well refuse to receive, because the expense per acre is so high that they can not afford to use it. If the Indians refuse to be divested of the headwaters of the Gila River, we ought to at least get the benefit of the best information upon the subject that we can before we commit the Government to any more expenditure. I think the $5,000 is necessary, but I think any more than that would be folly until we know what the trouble is.

The Clerk read as follows:

For the development of a water supply for domestic and stock purposes and for irrigation for nomadic Papago Indians in Pima County, Ariz., $5,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I have no special information as to the necessity for this item. I assume that the sum is probably needed, but I would like to correct the record just a little in regard to a matter that was under discussion a moment ago.

The situation relative to the Gila River is quite sufficiently confused without the gentleman from Oklahoma [Mr. FERRIS], who is generally so accurate, further confusing it. He is held to be such an authority on land and water subjects that his statement made a moment ago might involve the Government in serious difficulty if attention were called to it. He said, as I understood him, that the Government had diverted the waters of the Gila River, and that that diversion by the Government, under authority of Congress, had left the Pima Indians without

water. The gentleman was not as accurate as usual. The Government has not taken water from the Gila River. The Roosevelt project, so called, takes water from the Salt River. The water which the Pima Indians originally used, and which their forefathers used for many years, was diverted by settlers many years ago. The Indian Office, refusing to make the proper application for Indian rights upon the theory that the Government did not have to bow to a State, allowed the water rights of the Indians to be transferred elsewhere and left them with nothing but the flood waters of the Gila. In building the great plant on the Salt River we developed a large amount of power, and it was suggested that we use some of that power for the purpose of pumping water for the Pimas adjacent to the Gila, instead of doing what the Indians wanted to have done and what a lot of other people wanted to have done, namely, build a great dam on the Gila River, a river that carries more silt than any other river in the world, which in a few years would have filled up. We refused to do that. We did the other thing. Whether it was wise or not I do not know.

Mr. FERRIS. Mr. Chairman, just a moment. I am inclined to think the gentleman is stating more accurately than I did what the situation is, and if I said more than to show that was the contention of the Indians I said what I did not intend to say.

The contention of the Indians is—and I have talked personally with them, they were here last year—that the Federal Government allowed patent to issue and title to these lands and did not properly conserve their interests.

Mr. MONDELL. The settlers diverted the water higher up the stream——

Mr. FERRIS. I did not intend to assert anything to be a fact other than their contention, and as a board of Army officers is now investigating, the committee thought we ought to wait.

Mr. MONDELL. The Government is in a way responsible for that, however. If the Indian Office at the proper time had filed with the territorial officials water rights on behalf of the Indians they would have secured them.

Mr. FERRIS. That is exactly what I think the facts are.

Mr. MONDELL. I worked with the Indian Office here years ago month after month to get them to take out water rights in our State for the benefit of the Indians, in order that they might be protected. Our people did not want to take their water, but the Indians can not sit beside a stream and use water without regard to the forms of law any more than a white man and preserve his rights as against others. The Indian Office finally came down off its high horse and admitted in some respects we had a sovereign State with some reserved powers, and they made application in due form. They could have secured these water rights in Arizona just as well, but the Indian Office refused to do it—took the position that, in some peculiar way, the Indian, as the ward of the Government, has a perpetual right, a proprietary right to the water that flows past his land without regard to the State laws or institutions governing the use of water. This is an illustration of how the department failed to do its duty. Settlers came along, as it was natural for them to do, and diverted the water higher up the stream on better land, and the Indians were left without anything but flood waters, and we are now trying to provide water for their use.

The Clerk read as follows:

For continuing and completing the construction of the Ganado irrigation project on the Navajo Indian Reservation in Arizona, in accordance with the plans submitted by the chief engineer of the Indian service and approved by the Commissioner of Indian Affairs and the Secretary of the Interior, in conformity with section 1 of the act approved April 4, 1910, $25,100: *Provided*, That the total cost of the project shall not exceed $60,100.

Mr. MONDELL. Mr. Chairman, I desire to ask the chairman of the committee if these Indians are the owners of any considerable areas of land? Is there any reason why these Indians should not pay for their reclamation projects?

Mr. FERRIS. I will state to the gentleman there are 30,000 Indians in the Navajo and Moqui Reservations in Arizona and New Mexico, and they have a large reservation. Of course a great deal of it is nonirrigable desert land and without much value.

Mr. MONDELL. But does not the gentleman think it better policy to make this fund reimbursable, even though it never is reimbursed—in other words, have these Indians understand that when the Government builds an irrigation project there is an obligation on their part in connection with it and it is not simply a gratuity, the value of which they fail to realize because it is not costing them anything?

Mr. FERRIS. I will say to the gentleman this project has been appropriated for in former years——

Mr. MONDELL. I realize that.

Mr. FERRIS. And it was begun with a specific provision that it should not exceed $60,100, and this $25,100 here appropriated merely enables the Reclamation Service to continue the project which was lawfully begun under a former act. I understand that does not answer the gentleman's question.

Mr. MANN. Does the gentleman say this project has been begun very long ago?

Mr. FERRIS. I said formerly; this last Congress, I think it was.

Mr. MANN. The statement in the hearings here is that nothing has been done but to make the survey.

Mr. FERRIS. I think that is the project on which there has been expended about $35,000.

Mr. MANN. The gentleman will find on page 5 it refers to this project—what is the condition of the project; what has been done—a statement that nothing but surveys have been made and they are practically ready now to begin construction.

Mr. FERRIS. Well, the gentleman understands we have to provide money a year in advance so they can go ahead.

Mr. MANN. I was not saying anything about that. I was saying in regard to whether the project was under way and begun as the gentleman stated.

Mr. FERRIS. I understood that the appropriation of $35,000 had been expended or contracted for.

Mr. MANN. The question as I understand is whether it should be provided that the money should be reimbursed.

Mr. FERRIS. I understood the question of the gentleman, but I was trying to state historically what had happened in connection with this appropriation.

Mr. MONDELL. It seems also the discussion developed the question of whether it is advisable to make this appropriation, in view of the fact there is $35,000 now available.

Mr. FERRIS. I think the gentleman will agree this money we are appropriating now is, of course, not available until after the end of this fiscal year.

Mr. MONDELL. I understand.

Mr. FERRIS. And that the $35,000 appropriated by the preceding bill will undoubtedly have been consumed by the time this money becomes available.

Mr. MONDELL. I judge not from the statement which has been quoted.

Mr. FERRIS. The engineer explained to us at great length the folly of letting them expend a part of the money for the project and having it washed away before it was completed.

Mr. BURKE of South Dakota. And, Mr. Chairman, if the gentleman will permit me to make a suggestion, the amount heretofore appropriated is available and probably will be expended by the end of the fiscal year. The $25,100 carried in the present law will complete the project, and if the gentleman will examine the hearing he will discover the engineer of the Indian Office stated it would be economy to make this appropriation and complete the construction of this plant rather than to allow it to go over to another year.

Mr. MANN. Will the gentleman permit?

Mr. BURKE of South Dakota. If I have the floor, I certainly will do so.

Mr. MANN. I notice the engineer, in making his statement before the committee, was asked this question:

Will the $35,000 which is now available, carried in the last bill, be as much as you can expend in this next fiscal year?

And the answer is:

Not as much as we might expend, but possibly as much as we would. It depends entirely upon the conditions, both the climate and the river.

That does not indicate it will be spent during this fiscal year.

Mr. FERRIS. Not necessarily.

Mr. MANN. Well, not probably.

Mr. FERRIS. But it should be available.

Mr. MANN. I have no objection to the appropriation being made.

Mr. FERRIS. He stated that the idea is that after a work of that kind is started it would not be economical policy for it to be stopped in the middle for lack of funds.

As the gentleman will recall, we put a provision in the appropriation act of 1910 that no irrigation project could be started costing more than $35,000 without authority of Congress. Now, the Congress authorized this project to be constructed, and limited the cost to $60,100, and we are now simply authorizing the money to complete it, the same as we would do with a public building. If Congress, having jurisdiction of the expenditure

of the money, should recommend that they should have the money——

Mr. MANN. Well, but as to the reimbursability.

Mr. FERRIS. I think I have something here that has something to do with the question of reimbursability.

Mr. MANN. And that is the only point.

Mr. FERRIS. The act to which I have reference is the act of April 4, 1910, section 1 of which provides that this shall be reimbursable. I will read the section to the gentleman so that we will have the matter in the RECORD:

For the survey, resurvey, and classification of lands to be allotted in severalty under the provisions of the act of February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians," and under any other act or acts providing for the survey and allotment of lands in severalty to Indians, including the necessary clerical work incident thereto, and to the issuance of all patents in the field and in the office of Indian Affairs, and to the delivery of trust patents for allotments under said act, or any such act or acts; and for the survey and subdivision of Indian reservations and lands to be allotted to Indians under authority of law, $215,000, to be repaid proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purpose and to remain available until expended: *Provided*, That the unexpended balances of all continuing appropriations heretofore made for allotment work, general or specific, are hereby made available for the purposes enumerated herein.

I think this section properly refers to that.

Mr. MANN. Not at all. The reimbursability was probably the only money recommended in that appropriation.

Mr. FERRIS. But, if I may be pardoned, the act of last year, which began this project, specifically refers to section 1 of that act of April 4, 1910.

Mr. MANN. In what way? The reference is not sufficient.

Mr. FERRIS. I will give the gentleman the law of last year. This is the provision that began this project:

For beginning the construction of the Ganado irrigation project, on the Navajo Indian Reservation in Arizona, in accordance with the plans submitted by the chief engineer of the Indian service and approved by the Commissioner of Indian Affairs and the Secretary of the Interior, in conformity with section 1 of the act approved April 4, 1910, $75,000: *Provided*, That the total cost of the project shall not exceed $60,000.

Mr. MANN. I do not think that is reimbursable at all.

Mr. FERRIS. Does not the gentleman think that when it makes specific reference to a section which is a reimbursable section that makes it reimbursable?

Mr. MANN. Section 1 of the act of 1910——

Mr. FERRIS. It says, "In conformity with that section"——

Mr. MANN. Provides that the money appropriated in that act shall be reimbursable. Now, the same thing is true about the Gila River Reservation, which we have just passed. That question we had up a moment ago. They were asked there in your hearings why that was not made reimbursable, and the officer in charge said that was already provided by the law of last year. But he was wrong about it, because the law of last year on the subject provides only this:

That the proportion of the cost of irrigation project on the Gila River Indian Reservation heretofore and herein authorized to be paid from public funds shall be repaid into the Treasury of the United States.

And so forth.

That does not authorize the reimbursement of a subsequent appropriation.

Mr. FERRIS. I am rather slow to set my judgment up against that of the gentleman from Illinois, and I do not do it now, but only suggest to him that it was undoubtedly the intention of the committee, when this was begun, to make it refer to it and come under that section 1 of the act of 1910; so much so that it specifically refers to it. I can not help but think it is reimbursable.

Mr. MANN. I do not know how the department would construe it, but I am inclined to think that if I were the department I would not think it was reimbursable. It is an easy matter to correct it now or hereafter if the intention is to make it reimbursable.

Mr. MONDELL. Let me make this suggestion, in order to make this perfectly clear; that you add at the end of line 18, page 9, these additional words, "and reimbursable under the terms of that act."

Mr. FERRIS. I have no objection to that at all. It already says that, however. The language of this year says that.

Mr. MONDELL. It does not say "reimbursable."

Mr. FERRIS. It says, "In conformity with section 1 of the act of 1910." If the gentleman wants to insert the word "reimbursable," all right. I have no objection.

Mr. MONDELL. I doubt if that act itself makes this reimbursable. I think it would be better to say "and reimbursable," and let it stand there, because I doubt whether that act provides for the reimbursement of any funds excepting the specific amount appropriated.

Mr. BURKE of South Dakota. If such an amendment is put in, I suggest that you add language to the effect that the amount herein appropriated and hereafter appropriated upon this project be reimbursable.

Mr. MONDELL. I think that would be better.

Mr. FERRIS. I have no objection to it; but I repeat, it was the intention of the committee to do it.

Mr. MANN. Let us pass it over for the time being.

Mr. FERRIS. The gentleman from Wyoming will offer an amendment, and it can be passed later.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The Secretary of the Interior is hereby authorized and directed to make an investigation of the conditions on the western Navajo Indian Reservation in Arizona, with respect to the necessity of constructing a bridge across the Moencopi Wash, on said reservation, and also to cause surveys, plans, and reports to be made, together with an estimated limit cost for the construction of a suitable bridge at that place, and submit his report thereon to Congress on the first Monday in December, 1913, and the sum of $1,000, or so much thereof as may be necessary, is hereby appropriated for the purpose herein authorized.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] reserves a point of order on the paragraph.

Mr. MONDELL. Mr. Chairman, this paragraph is evidently in lieu of an estimate, submitted by the department, of $10,000 for the construction of a bridge. It is now proposed to authorize an investigation of the conditions necessitating the construction of the bridge, and $1,000 is appropriated, not made reimbursable.

These Indians have large areas of land, and it is proposed to build a bridge on the reservation. Up our way either the Indians build bridges on their reservations or the counties build them. The committee has shown some disposition to oppose the proposition which I presented and which I shall present in a form similar to this a little later on, authorizing an investigation as to the necessity of building bridges and roads at the expense of the Indians on the Wind River Reservation. But here is an investigation proposed as to the necessity of building a bridge on an Indian reservation at public expense. If the Indians do not need the bridge and have no use for it, and it is to be used wholly by the white people, the white people ought to pay for it and not the people of the United States. If, on the other hand, the Indians need the bridge—and they own much land, some of it valuable and some of it of little value—they ought to pay for the bridge. In any event, if we build the bridge and make an appropriation ultimately for the building of the bridge we ought to provide that the sums expended should be reimbursable, and that without regard to whether we ever expect to get it back or not. We do expect to get it back, and we ought to get it back, and undoubtedly would get it back as these Indians in the course of years secure enough to pay for it. But in any event they should understand that we are not proposing to construct roads and bridges across their enormous reservation at the expense of the people of the country. It is not a good thing for the Indians. It is not good public policy. It is not defendable from anybody's standpoint. While I shall not insist upon the thousand dollars here appropriated being made reimbursable, I think it ought to be made reimbursable. I think it is all right to examine as to the necessity of building this bridge. Quite likely it is. I do not know anything about it; but the cost of investigation and the cost of building, if it is ultimately to be constructed, ought to be at the expense of the Indians.

Mr. MANN. Will the gentleman yield for a question?

Mr. MONDELL. Yes.

Mr. MANN. Is there any reason why the great State of Arizona should not build a bridge for the benefit of its citizens, and pay for it out of its treasury?

Mr. MONDELL. I think there are many reasons why the State can not be expected to build roads and bridges on Indian reservations, even in those cases where the whites make some use of the roads on those Indian reservations. In the first place, the State derives no revenue whatever from these reservations. We are compelled to maintain order upon them within the jurisdiction of the State, and we derive no revenue whatever from them. So far as the bridges and roads are necessary, the Indians ought to pay for them. We ought not to burden the Indians more than their necessities and the necessities of their neighbors require; but, as I look at the matter, the white people

on the one hand and the Indians on the other, using the roads and bridges jointly on each other's property, should maintain these roads and bridges, each in his own country, in fair and passable condition. The Indians should not expect the white people to build their roads and bridges, and should not expect the Government to do it. So far as they are necessary for the joint use of the Indians and the white men, they should be paid for by the owners of the property, whether white or Indian.

Mr. McKENZIE. If the gentleman will yield for a question, I want to ask for information if the Indians on these reservations have the right to construct bridges or build roads?

Mr. MONDELL. Oh, yes; they own the land.

Mr. FERRIS. But they have no money with which to do it.

Mr. MONDELL. They own the land, and they can do as they see fit.

Mr. FERRIS. I think the question asked by the gentleman ought to be more fully answered than it has been by the gentleman from Wyoming. They have the right to build these roads and bridges, but every cent of their money is tied up in trust funds, so that they can not use it.

Mr. MONDELL. A great deal of road building can be accomplished without the expenditure of a considerable amount of cash. It is largely labor.

Mr. McKENZIE. These Indians have no trust fund.

Mr. FERRIS. This is the situation as it was presented in the hearings: The commissioner says these Indians are located about 20 miles from Flagstaff; that this road goes to an Indian school and agency; that a bridge with an 85-foot span has already been constructed, which could be used if the bridge across this wash was built, which it will cost about $10,000 to build. We did not want to take the responsibility of providing for its construction, even although by the expenditure of $10,000 the Indian reservation would have the advantage of the 85-foot bridge, without sending some one out there to make an investigation. We have appropriated $1,000 for the purpose of making an investigation to ascertain whether any bridge should be constructed, although the commissioner urged in the strongest terms that it should be constructed.

I find on looking at the property qualifications of these Indians that while they have no trust fund they have property estimated and valued at $2,100,000. If anyone cares to offer an amendment providing that this $1,000 shall be reimbursable, certainly I have no objection to it, although the amount is only $1,000 and it does not construct anything for the Indians. I do not think we ought to construct anything until we see whether it ought to be done or not.

Mr. MONDELL. I think the committee ought to offer such an amendment. The item is so small that probably no other Member of the House will care to offer it. Yet the principle is involved. We ought to establish the principle, and adhere to it, that where the property of the Indians is going to be improved and the Indians are going to be benefited they ought to pay for the improvement. At least we should contemplate the repayment of it by the Indians.

Mr. FERRIS. I think unless some one has an amendment prepared it would hardly be worth while to apply it to this $1,000, but I will say to the gentleman that in dealing with the bridge proper, which may be constructed in the future, that principle ought to be applied.

Mr. BURKE of South Dakota. Mr. Chairman, if the gentleman from Oklahoma will permit me to add to his statement another reason for not making an appropriation for a bridge than the one that the gentleman has given and why this item was inserted instead of an appropriation, I will say that it was to ascertain from an engineering standpoint the estimated cost of such bridge. An appropriation might be made for $10,000 and the bridge might not cost more than $100, and therefore, instead of undertaking to appropriate for it, we have asked by this provision that there be submitted an estimated cost.

Mr. FERRIS. The gentleman states it correctly.

Mr. MANN. Mr. Chairman, I doubt the advisability of the Government paying for these bridges. Since my distinguished and lovable friend from Arizona came on the floor of the House, representing the State of Arizona, we have had a number of these bridge projects which his predecessor, the distinguished Senator from Arizona, with all his keenness, never was able to unearth in his long service in this House. It strikes me that when the Territory of Arizona was created into a State it assumed some responsibilities. Now, the pretense is that these bridges are for the benefit of the Indian. From the two reports made last year, which have come in, it appears that in the main, or at least to a large extent, the bridges proposed are for the benefit of the white man and not merely for the Indian.

Now, the gentleman says that we ought to have this report as to the need of the bridge. The report is already written as to the need of the bridge by the officer who would have to write it; he has already declared himself that they need the bridge. Last year we appropriated for an investigation as to the need of a bridge on the Navajo Indian Reservation, Ship Rock, San Juan River. The officer in charge at Denver, Colo., having been directed to investigate as to the need of the bridge, wired this statement to the officer in charge at the place:

Mail here at once number Indians living south of river, danger of fording, peril when ford is impossible, and any data for use in report justifying need of bridge.

All they asked for was information for a report justifying the need of a bridge. Having been directed to investigate the necessity of a bridge, they directed the officer to send them information which they proposed to incorporate in a report justifying the need of the bridge. That was all they wanted, and that is all they want in this case, if it goes through, for they have concluded that they need the bridge and do not need any investigation to ascertain it; nor do they need any special investigation as to the cost. You can send the length of the bridge, which is easily ascertained, to any of the bridge companies of this country and obtain offhand the probable cost of a steel bridge, which in the end will be recommended. It will cost between $20,000 and $30,000, and the estimate of the engineer will not add anything to it. Why should not the State of Arizona do something for these people? They live in Arizona, they trade in Arizona, they are the life of Arizona, and yet whenever anything is to be done they want the Federal Treasury to pay the money.

Mr. HAYDEN. Mr. Chairman, in reply to the gentleman from Illinois [Mr. MANN] as to why the State of Arizona should not be compelled to build bridges and roads on the Indian reservations, permit me to suggest to the committee that over one-quarter of the entire area of my State has been set aside for Indian reservations. There are 28,685 square miles of territory in Arizona reserved for the use of the Indians. That is an area larger than the whole State of West Virginia, and almost as large as the State of Maine or the State of South Carolina. The Indian country in Arizona is equivalent in size to any one of these three States. A region rich in minerals, particularly copper and coal, containing vast forests of virgin timber, large areas of irrigable lands, and other larger areas suitable for dry farming and for grazing purposes. All of this domain is not subject to taxation and does not contibute one cent to the upbuilding of my State.

The white people of Arizona on their own land, in that part of Arizona that is not reserved for the Indians, are doing their full share of building roads and bridges. Last year there was raised in my State over $500,000 by direct taxation for the purpose of constructing roads and bridges. The Indians in Arizona contribute nothing to that end. It seems to me that when we consider the vast area of land that has been given to the Indians and the great value of their property, that they ought to contribute in part to the construction of the State highways.

I thoroughly agree with the gentleman from Wyoming [Mr. MONDELL] that any expenditure of this kind should be made reimbursable out of the Indian funds. It is true they have no trust funds now, but ultimately they will have money to their credit, and when they do have it they should pay for any work that is done for their benefit.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. HAYDEN. Certainly.

Mr. MANN. The gentleman is familiar with the two reports made in conformity with the appropriations last year, for two different bridges in Arizona?

Mr. HAYDEN. Yes, sir.

Mr. MANN. In one of them this statement is made:

Bridges would prove a great convenience to the general public in addition to actual necessity for the use of the Indians.

In the other the statement is made:

Also a convenience to the white people of the valley, who make frequent trips across the reservation to sell their products in towns along the Santa Fe Railroad.

How will the gentleman determine how much of this money, if it is to be reimbursed, shall be reimbursed out of the Indian funds when it appears from the reports that the bridges are largely to be utilized by and for the benefit of the white citizens of Arizona who do not own the Indian lands?

Mr. HAYDEN. Mr. Chairman, the policy of the committee in referring these matters to the engineers of the department

and having estimates made and plans and specifications prepared has been justified by every report made in accordance with the act last year. In the case of one of the bridges to which the gentlemen refers there was a bill before the committee to appropriate $100,000.

This appropriation was favorably recommended by the department. It turns out that the actual cost in that particular case was $63,500, making a saving of over $35,000. Another bill for a bridge at Yuma had the favorable recommendation of the department and an appropriation of $100,000 was asked for, but when the report of the engineers is made we find that the bridge will cost but $75,000, and the recommendation of the department is that the United States should not bear the entire expense, that only $25,000 could properly be spent on behalf of the Indians. I am not familiar with the conditions at Shiprock, N. Mex., but as far as the Arizona reports are concerned, I believe they amply justify the policy of the committee in ordering these investigations, and that the reports show the extent of the interest of the Indians in the building of these bridges.

Mr. MANN. One of the reports to which I referred was for a bridge at the San Carlos Reservation, Ariz., where the proposition has been to have the Government pay the entire expense, and where it appears it is largely for the benefit of the general public.

Mr. HAYDEN. Not from the reports.

Mr. MANN. I just read it to the gentleman. That is what the report says:

Bridges would prove a great convenience to the general public.

Mr. HAYDEN. That does not mean entirely in the interest of the general public.

Mr. MANN. I will not quibble with the gentleman about the meaning of words. That is what I think it means. Perhaps I am mistaken. Perhaps it would not be to the interest of the general public to have their convenience served. I supposed that it would be.

Mr. HAYDEN. Of course I am quite willing to admit that you can not improve a road or a bridge in the State of Arizona that will not be for the benefit of all the people in Arizona, Indian and white, but as to the measure of benefit, and who should pay the cost, I think it is proper to have these investigations made, and then act according to the reports given to us, unless we have other detailed information to the contrary.

The CHAIRMAN. Does the gentleman insist upon the point of order?

Mr. MANN. Mr. Chairman, I had intended to insist upon the point of order. I do not know why it is, but as to these little thousand-dollar appropriations, at least, the gentleman from Arizona [Mr. HAYDEN] exercises a sort of hypnotic effect upon me. I do not think that that will be the case when the appropriation is over $1,000. Under the circumstances I shall withdraw the point of order.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I think while this matter is under discussion that we ought to have it a little more thoroughly understood. It is true, as the gentleman from Arizona [Mr. HAYDEN] says, that it is impossible to construct a bridge or to build a road on any Indian reservation in the country and not have the bridge or the road of some benefit to the general public. For instance, to illustrate the situation, in my State we have an Indian reservation lying wedgewise a very well-settled country, with rivers of considerable size for that country bounding the reservation on either side. The county has constructed the bridges on either side at considerable expense, one end of the approaches of the bridges so constructed resting on the privately-owned land of the county and the other end on the Indian reservation. Under our law we could not tax the people of the State to build a road on the reservation or build a bridge on the reservation, and we ought not to do it if we had authority. The people of the vicinity are taxed for the purpose of building roads and bridges. The Indian owns his own land. There is no reason on earth why he should not be called upon and expected to pay for road and bridge construction upon his own land.

The Indians use the roads and bridges we have built in the adjoining territory and they travel a good deal, many of them. Therefore it is no argument against our building roads and bridges on their reservation that the white people will likewise to a certain extent use those roads and bridges. It is to the advantage of all concerned, Indians and whites, that there should be more or less communication between them, traveling about in the country, and the Indian in my country is perfectly willing to build the bridges and the roads on his own land if we allow him to do it, and I presume that it is true of the Navajos, and there should not be any question of doubt in the mind of any gentleman on this proposition that on an Indian reservation wholly owned or generally owned by the Indians, nontaxable, that the Indians should be expected to build the roads and bridges and maintain them in fair condition. As a matter of fact they should be maintained in as good condition as the roads that join on either side of the reservation.

The Clerk read as follows:

For completion of the construction of necessary channels and laterals for the utilization of water in connection with the pumping plant for irrigation purposes on the Colorado River Indian Reservation, Ariz., as provided in the act of April 4, 1910 (36 Stat. L., p. 273), for the purpose of securing an appropriation of water for the irrigation of approximately 150,000 acres of land and for maintaining and operating the pumping plant, $25,000, reimbursable as provided in said act, and to remain available until expended.

Mr. STEPHENS of Texas. Mr. Chairman, I have a committee amendment which I desire to have read.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

After line 17, page 10, insert as a new paragraph the following:

"For the construction of a bridge across the Gila River on the San Carlos Apache Indian Reservation, Ariz., $45,500; and for the construction of a bridge across the San Carlos River on said reservation, in said State, $19,800, both appropriations to be immediately available; said bridges to be constructed across said streams in the places and manner recommended by the Secretary of the Interior in House Document No. 1013, Sixty-second Congress, third session; in all, $65,300, to be reimbursable out of any money that may hereafter be deposited in the Treasury of the United States to the credit of the Indians having tribal rights on the Fort Apache and San Carlos Indian Reservations."

Mr. MANN. Mr. Chairman, I reserve a point of order on the amendment.

Mr. MONDELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MONDELL. Will the disposition of this item preclude the possibility of offering an amendment to the paragraph which has been just read, to which this is an amendment?

Mr. STEPHENS of Texas. This is an amendment to the entire section.

Mr. MANN. The gentleman stated that he offered an amendment to the paragraph.

Mr. STEPHENS of Texas. To what is the point of order reserved—to the language of the original bill?

Mr. MONDELL. I desire to offer an amendment to the paragraph; this is new matter. I simply desire to be informed whether I could offer an amendment after this matter has been disposed of.

The CHAIRMAN. What is the gentleman's amendment?

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. Will the gentleman send up his amendment?

Mr. STEPHENS of Texas. Mr. Chairman, I submit that would be an amendment to an amendment.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word of the paragraph that was read.

Mr. STEPHENS of Texas. To the bill or to the amendment?

Mr. MONDELL. I have no objection to the gentleman's amendment being considered, providing it does not preclude my offering an amendment to this paragraph later.

Mr. STEPHENS of Texas. The gentleman's amendment is to strike out the last word, and on that I presume the gentleman desires to speak. I desire to yield, if I can do so, to the gentleman from Arizona to explain the amendment.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. HAYDEN. Mr. Chairman, I desire to give a brief history of this amendment in order to show that it is not a new proposition, but that it has been well considered.

On April 5, 1911, House bill 1682 was introduced by the then Delegate from Arizona appropriating $100,000 for the construction of these two bridges. It was referred to the Committee on Interstate and Foreign Commerce. The committee referred the bill to the War Department and to the Department of the Interior for their views. The Secretary of War reported that—

The rivers which it is proposed to bridge have no value as highways of commerce, and I know of no objection to the enactment of the measure from the standpoint of navigation.

The Secretary of the Interior at first recommended that the construction of these bridges be held in abeyance until the controversy over the San Carlos Dam site, then pending in the department, was settled, for the reason that if the bridges were built as then proposed they might be flooded by the waters of

the reservoir if constructed. However, on March 25, 1912, the Secretary wrote to the chairman of the Committee on Interstate and Foreign Commerce, in which he said:

The department would be much pleased to see the proposed legislation enacted into law and an appropriation made available for the construction of the bridges, which would be an important factor in the development of that section of the country.

The Secretary inclosed a report from the superintendent of the San Carlos Indian Agency, in which the agent discussed the construction of the bridge in connection with the San Carlos Dam. The dam will be built in a narrow canyon in the mountains just below the junction of the Gila and the San Carlos Rivers. The original place where these bridges were proposed to be located was near the junction of the two streams, but it was discovered that if the San Carlos Dam were built, they would be flooded by the water in the reservoir, and for this reason sites were selected higher up on each stream. Mr. Lawshe, the Indian agent, says in this letter:

Without the dam these bridges are very desirable; with the dam they become absolute necessities.

If the dam is not built, the construction of the bridges referred to would be, simply, a great benefit to the public and to the Indians, as the rivers are unfordable at certain times in the year, and for considerable periods.

If the dam is built, the construction of the bridges becomes an absolute necessity, as the rivers would thereby be made unfordable at all points where road construction is practicable.

On the receipt of this report I immediately took up the matter with the Committee on Interstate and Foreign Commerce, but was informed by the chairman that the committee was without jurisdiction, since both the Gila and the San Carlos are nonnavigable streams.

A similar bill appropriating $100,000 having been introduced by the Delegate from Arizona was referred to the Committee on Indian Affairs. I went before that committee and was informed that a rule had been adopted that no construction of this character would be favorably considered by the committee unless surveys had been made and plans, specifications, and an estimate of cost had first been made by the Department of the Interior.

I then introduced a bill providing for a survey and the making of plans and an estimated limit of cost, which bill became a part of the last Indian appropriation act, which is as follows:

To enable the Secretary of the Interior to make an investigation of the conditions on the White Mountain or San Carlos Indian Reservation in Arizona, with respect to the necessity of constructing, for the use of the Indians, suitable bridges across the San Carlos Creek and the Gila River, in the vicinity of San Carlos, on said reservation, $1,000, and the Secretary of the Interior is hereby authorized and directed to cause surveys, plans, and reports to be made, together with an estimated limit of cost of construction of said bridges, at such sites as he may select, and submit his report thereon to Congress on the first Monday in December, 1912.

As required by the act, the Secretary of the Interior submitted his report to the Speaker of the House of Representatives under date of December 2, 1912. The letter was sent to the Public Printer and I could not obtain a copy of it in time to have the matter considered by the committee at the meeting when the Indian appropriaion bill was reported to the House. The Secretary's report includes a report of the engineer, John Charles, supervisor of construction for the Indian Office, which in part is as follows:

The San Carlos Agency is located approximately 1½ miles west from the confluence of the San Carlos and Gila Rivers. A ford is now found across the Gila River a few hundred feet from this junction, which can not be used with loaded wagons for a period of approximately 120 days in each year on account of high water. The Indians usually ride to the river, leave their teams there, and walk across the railroad bridge to reach the agency during these periods.

In considering the best location for bridges above flow line of the proposed San Carlos Reservoir, it was found necessary to go approximately 6 miles northeast from the San Carlos Railroad station on the Gila and 4 miles northwest on the San Carlos Rivers. These rivers run through adobe and sand formation, and quicksand is found in large quantities in both rivers.

There are approximately 500 Indians living east of San Carlos, who must cross both rivers to reach the agency. The Bylas farming district is located on the south side of the Gila River and east of the proposed bridge site. It is estimated that 4,000 acres of land is available for the use of the Indians in this district. Ditches are now in to cover about 1,400 acres, and 750 acres are planted and will be under cultivation this year. This land is divided up into 118 small farms, ranging from 5 to 10 acres each. This is the largest farming district located on the opposite side of the river from the agency.

He further states:

There is a great deal of travel over this reservation, and, while the rivers can be forded when the stage of water is low, there is always some danger of getting into quicksand, especially in the Gila. When the water raises only a little, it is considered very dangerous to attempt to ford this river without a guide. The amount of travel over this part of the reservation is steadily increasing, and the necessity for bridges becomes more apparent each year. Indians ford these rivers when they are extremely dangerous, and it is not uncommon to find teams stick in the quicksands. Some are helped out by others and some are lost.

Mr. MONDELL. Will the gentleman yield for a question?

Mr. HAYDEN. Certainly.

Mr. MONDELL. Are the streams across which it is proposed to construct these bridges wholly on the Indian reservation?

Mr. HAYDEN. They are entirely on the Indian reservation. The road across the reservation is 56 miles long, and the bridges are in about the middle of it.

I have a letter here, signed by the governor of the State of Arizona, the chairmen of the boards of supervisors of Gila and Graham Counties, and the mayor of the city of Globe. The communication is dated April 5, 1912, and is addressed to the chairman of the Committee on Indian Affairs:

Hon. JOHN H. STEPHENS,
Chairman Committee on Indian Affairs, Washington, D. C.

DEAR SIR: In reference to House bill No. 19950, being a bill to authorize the Secretary of the Interior to construct bridges across the San Carlos and Gila Rivers on the White Mountain or San Carlos Indian Reservation, in the State of Arizona, and for other purposes, we desire to call your attention to the following facts:

That owing to the lack of bridge facilities in this vicinity it is impossible for the Indians to ford the Gila and San Carlos Rivers during a number of months of each year. There are large tracts of land susceptible of irrigation and cultivation which lie in the reservation, and if bridges are built the Indians would irrigate and cultivate the same, which would practically make the Apache Indians on this reservation self-sustaining. The Indians have attempted to irrigate and cultivate these lands at great loss to themselves and the Government because of the fact that their crops had to be abandoned and became an absolute loss, as the crops matured when the rivers were not fordable. If the above-mentioned bridges are constructed, the Indians will be able to irrigate and cultivate these lands, raise crops, be in direct communication with the agency, and be in a position to market their crops and to have their grain ground at the mill established at the agency at San Carlos.

The construction of these bridges will place the Indian agent in closer touch with the Indians than heretofore. He will be able to control them more successfully, give them the benefit of school facilities, and teach them habits of industry, and thus make them self-sustaining.

The bridges will place the matured timber now in said reservation within easy reach, making it possible for the department to market the timber now ready for use. This matured timber will not increase in value because of future growth, and it will be a benefit to the remaining timber upon the reservation to remove such timber and market it, thus creating a large fund for the benefit of this tribe of Indians. It will also make the portion of the Indian reservation containing the timber tracts accessible in case of forest fires, and place the Government, the Indians, and the community here in a position where they can properly protect the forest from fire.

I might say in this connection that on page 32 of the hearings there is reported the sale last year of 300,000,000 feet of timber on the Apache Reservation, and the company who desired to make the purchase deposited $5,000 as a bond, which was forfeited to the Government because there were no roads over which they could get into the reservation in order to move the timber out.

The letter says further:

Owing to the fact that these rivers can not be forded, the agency at San Carlos is now compelled to ship its firewood by rail for a considerable distance. If these bridges were constructed the Indians would cut and haul, by their own labor, all firewood used at the agency, thus giving employment to a considerable number of Indians for several months in the year. This is also true with respect to driving beef cattle to the agency and the obtaining of many of the supplies used at the agency.

If these bridges are constructed it will place the Federal authorities in a position to properly manage and control the Indians in case of disturbances, and give them every opportunity to suppress the iniquitous liquor traffic with this tribe of Indians and to fully enforce all Federal laws relating to Indians and the reservation.

We would call your attention to a letter of January 19, 1911, written by A. L. Lawshe, superintendent of the agency at San Carlos, to the Commissioner of Indian Affairs, and also his telegram of January 22, 1912, addressed to the Indian Commissioner, fully indorsing the construction of the two bridges for the reasons we have recited.

The construction of these bridges will be of great benefit to the United States Government in the transportation of United States troops to and from the various forts in Arizona, and particularly in case of serious outbreaks on the Indian reservation; of great benefit to the State of Arizona and the counties of Gila and Graham in connecting the large mining districts of Globe and Miami, containing a population of 15,000 to 18,000 people, with the large farming community along the Gila River in Graham County, thus giving the farmers in Graham County an opportunity to market their produce in the mining camps at Globe and vicinity, and will give the Indians an additional market for their crops.

Said bridges, if constructed, will be on the State and county road passing through said reservation, and of such benefit to the counties of Graham and Gila that said counties have agreed to and will build, maintain, and keep up the 56 miles of road crossing the reservation in order to receive the benefits thereof.

If there is any additional information or data desired by your committee, we will be glad to furnish same.

We urgently request that your committee take immediate action in the matter of the report on the above bill.

Yours, respectfully,

GEO. W. P. HUNT,
Governor of Arizona.
DAVID DEVORE,
Chairman Board of Supervisors, Gila County.
PHIL C. MERRILL,
Chairman Board of Supervisors, Graham County.
W. W. BROOKNER,
Acting Mayor, City of Globe.

Now, in conformity with the ideas of the gentleman from Wyoming [Mr. MONDELL], you will note that I have made this appropriation reimbursable.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent that the gentleman have five minutes more.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. HAYDEN. I believe that this appropriation should be reimbursable out of any moneys that may hereafter be placed to the credit of the Apache Indians in the Treasury of the United States. I am frank to admit that they have no trust funds to their credit at present, but I want to make the prediction here and now that this particular tribe of Indians will in time to come be one of the richest in the United States.

The Fort Apache and San Carlos Indian Reservations contain an area of 5,494 square miles, so that the tribal lands of the Apaches is a little larger in extent than the entire State of Connecticut, and more than twice the size of Delaware and Rhode Island combined. The reservation lies squarely across the great mineral belt that crosses the State of Arizona from the northwest to the southeast. On the eastern edge of the Indian lands lie the Clifton and Morenci mining districts that produced in 1910 metals, principally copper, valued at $9,410,777.83, as shown by the returns required to be made under the Arizona bullion tax law.

On the very western edge of the reservation are the mining districts around Globe and Miami that, according to the same returns, produced $4,407,964.41. These statistics are two years old, but they happen to be the only exact figures that I have at hand. I know that there has been a great increase in the production of copper in all of these mining districts since 1910. I might say, in passing, that the United States Geological Survey for 1911 shows that Arizona produced in that year 303,202,532 pounds of copper, which was 27 per cent of the copper produced in the United States, or over an eighth of all the red metal produced in the world. Under the stimulation of the present high prices it is freely predicted that Arizona's production of copper for 1912 will total 350,000,000 pounds.

Now, I have talked with a number of men who have personally prospected the Apache Reservation, and they all inform me that there is every indication of large bodies of copper ore. I do not believe that there is a mining man in Arizona who is at all familiar with the conditions who would not give it as his opinon that some of the largest copper mines in Arizona will some time be developed within the present boundaries of the Apache Reservation, and the royalties from these mines alone should make the Apaches as rich as any of the Indians of Oklahoma.

As to the timber and agricultural resources of the reservation, if the committee will indulge me for a moment, I will read an extract from the report of the State land commission of Arizona made to the governor on December 1, 1912. The land commission has been traveling all over the State, making a personal appraisement of the school lands and examining other lands with a view to their selection under the grants made to the State by the act admitting Arizona into the Union.

FORT APACHE AND SAN CARLOS INDIAN RESERVATIONS.

"From Sulphur Springs Valley the commission, on its way to Apache and Navajo Counties, where weather conditions were most favorable for expeditions and effective operations, traveled through and over the White Mountains of eastern Arizona, lying in the counties of Gila, Navajo, and Apache. The objective point of this overland trip was Springerville, and the route lay over the ocean-to-ocean highway from Rice, on the Arizona Eastern Railway and San Carlos Creek. From Rice to Springerville the road lies, with the exception of the last few miles, in the Fort Apache and San Carlos Indian Reservations—a body of land which is worthy of at least passing mention.

"These two reservations constitute a vast and beautiful and inexpressibly rich inland empire, stretching more than 70 miles north and south and east and west, containing 5,494 square miles of territory, or more than three and a half million acres of land. The altitude ranges from the lowlands of the Gila and San Carlos Valleys to the towering heights of the White Mountains, clad with immense forests of pine, cedar, juniper, and quaking aspen, 8,000 feet or more above the level of the sea. The San Carlos Agency is at San Carlos, in the low-lying southern portion, while the Fort Apache Agency is at White River, in the timber-covered mountainous north, and about these agencies and the Rice and Cibicu schools are mainly gathered the 4,545 Apache Indians—men, women, and children—comprising the remnants of many branches of a once famed and bloodthirsty nomadic tribe. At Fort Apache, 3 miles from White River Agency, are stationed two troops of United States Cavalry.

"The potentialities of the empire embraced within the boundaries of these reservations can not be estimated. So great are they that they may hardly be guessed at. Blessed by nature with scenic beauties of the most fascinating type, and clothed with billions of feet of valuable timber, the mountain valleys and sky-kissed mesas of the highland portion possess agricultural and horticultural possibilities realized by few and by fewer seriously considered. Cut by the White and Black Rivers, which form the Salt, seamed by their numerous forks and tributaries, these mountains form what is perhaps the best watered portion of Arizona. High up as they are, and subject to the rigors in winter of a northern climate, there are numerous protected areas, aggregating many thousands of acres of land, where farming and fruit growing could unquestionably be prosecuted with complete success. Apples, peaches, cherries, and similar fruits would find an almost perfect home, while many varieties of grains and vegetables which thrive best under temperate summer conditions, and are now grown to a certain extent by the desultory Indian farmers, would handsomely reward the husbandman. These things are not possible, of course, while the present boundaries of the Fort Apache and San Carlos Indian Reservation maintain, and the possessors of the arts of civilization are prohibited from availing themselves of the natural advantages here set aside and reserved for the red man."

As I stated a few moments ago, the State of Arizona is alive to the advantages of good roads. The people of the State have already built three bridges, each one at a cost greater than the cost of these bridges, and there is another bridge being built across the Salt River at Tempe at a cost of $80,000. These bridges are of reinforced concrete, and the work is being done by convict labor. As soon as the Salt River bridge is completed the construction gang will go to another place to continue the work there. Under the direction of the State engineer a system of State highways has been planned and many miles of good roads have been built.

It has been proposed by the goods roads association of the State that the next legislature, which will meet this month, shall provide for a bond issue of $5,000,000 for the construction of roads and bridges. From all I can learn from the press of the State that proposition is meeting with favorable consideration. It is in the line of work that has been done in California and the other Western States in the good-roads movement.

I am not now complaining about the great area of my State that has been turned over to the Indians. The United States has given them their reservations, which belong to them, and I do not want to take an acre away from them without just compensation.

It is now their land, and I am willing to assist them in making the best possible use of it, because I realize that no part of Arizona can prosper without benefiting the whole State. The Indian lands would still be a valueless wilderness if the remainder of Arizona had never been settled by the white people. It is the coming of the white people that has made valuable the timber, the coal, the copper deposits, and the agricultural lands that are now the property of the Indians.

On the other hand the development of the great natural resources of the Indian country is bound to add to the material prosperity of the white people in Arizona. The Indian and the white man have a common heritage, and it is only by the development of the whole of Arizona that all of her people, red and white alike, can find true prosperity.

All of this being true, my people are united in the opinion that the Indian should do his share in at least building the roads and bridges where the main highways cross the reservations. The Indian can not expect to enjoy all of the benefits of civilization without bearing some of its burdens.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. STEPHENS of Texas. I ask that the gentleman from Arizona have five minutes more, if he desires it, for the purpose of explaining the amendment.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the time of the gentleman from Arizona be extended five minutes. Is there objection?

There was no objection.

Mr. HAYDEN. I hope that I will not take that much time, Mr. Chairman. As I say, I think the Indians ought to do their share in building up the good roads of the State. There is no better way in which to improve a country than to build roads and bridges. That is one of the best ways I know of in which to expend public funds. The construction of these particular bridges will benefit the Indians in opening up the country so that the timber, coal, and copper there will be worth something. This reservation would be worthless, as it was before the advent of the white people, except for the fact that the whole surrounding country has been settled by white people, which makes a market for the material things that the Indians own. And as the Indians will get the benefit of the increased value which comes from the settlement of the country by white people, a part of that value ought to go into the improving of roads and the building of bridges for the common benefit of all the people of the State.

Mr. STEPHENS of Texas. If the gentleman will allow me to ask him a question, is the State of Arizona in a financial condition to put in these bridges at its own expense, or to furnish a part of the money at this time, owing to the fact that it is a new State and in an undeveloped condition?

Mr. HAYDEN. The State of Arizona is in a financial condition to do any necessary bridge and road work. I do not think there will be any difficulty about the State doing its share.

In the case of the Yuma bridge the interest of the Indians in its construction across the Colorado River amounts to one-third of the cost. Under the circumstances the State of California should pay one-third of the cost and the State of Arizona one-third. In the case of the Gila and San Carlos bridges it is shown by the reports, and there is no evidence to the contrary, that the work is primarily of the greatest benefit to the Indians, of more benefit to them than to anybody else, and the benefit to the State is only incidental. The benefit to the State is in having a through road across the reservation.

Mr. STEPHENS of Texas. What is the distance across the San Carlos Indian Reservation at the point where the bridges are to be built?

Mr. HAYDEN. Fifty-six miles from where you enter the reservation to where you come out of it, and the bridge is about half way between the two points.

Mr. STEPHENS of Texas. How far are the streams apart where these bridges are to be built?

Mr. HAYDEN. I do not know how far it is across the neck of land, but I suppose it is 4 or 5 miles.

Mr. STEPHENS of Texas. Then the persons to be immediately benefited would be the Indians, who now have the land and have 100 settlements of farms, and so forth?

Mr. HAYDEN. Yes; those facts are shown in the report, although I have no personal knowledge of them.

Mr. STEPHENS of Texas. Has the gentleman personal knowledge as to the time that would be saved by these bridges?

Mr. HAYDEN. I never have crossed the Gila River at the San Carlos Crossing but once, and at that time there was about 2 feet of water in it, but there were quicksands enough to stop an automobile for half a day. There is more danger from quicksands than from anything else. But it is a torrential stream, liable to rise in a few hours and become unfordable.

Mr. TILSON. May I ask the gentleman a question?

Mr. HAYDEN. Certainly.

Mr. TILSON. The gentleman has said that it is about 50 miles across the reservation one way, and that the bridge is about in the center. Will the gentleman state as to the other direction, how far across it is and how near the bridge is to the center?

Mr. HAYDEN. The reservation is about 70 miles across each way—approximately square. The line of road cuts the west boundary, dropping to the south, and then goes farther east and leaves the reservation about the middle of the south boundary.

Mr. TILSON. How near is the bridge to the boundary?

Mr. HAYDEN. It is about 30 miles from Globe to San Carlos, where the bridges are located. It is about 25 miles to where the road leaves the other side of the reservation.

Mr. TILSON. It is well within the reservation?

Mr. HAYDEN. Yes, indeed.

Mr. MANN. Will the gentleman yield?

Mr. HAYDEN. I will.

Mr. MANN. How large an appropriation does the amendment carry?

Mr. HAYDEN. Sixty-five thousand three hundred dollars.

Mr. MANN. For how many bridges?

Mr. HAYDEN. Two.

Mr. MANN. Both on the San Carlos?

Mr. HAYDEN. One across the San Carlos and one across the Gila River.

Mr. MANN. Where does the gentleman get his figures for the estimated cost?

Mr. HAYDEN. On page 4 of the report. The estimate of the bridge across the San Carlos is $19,800; across the Gila River, $45,500.

Mr. MANN. That is the basis of the gentleman's estimate?

Mr. HAYDEN. Yes.

Mr. MANN. Is the gentleman able to say how much land there is on the off side of the river which requires the bridge across the Gila River?

Mr. HAYDEN. According to the report there are 4,000 acres of irrigable land on the south side of the stream, and of that amount 1,400 acres is now ready for cultivation.

Mr. MANN. There is, I believe, a proposition to erect a dam there, is there not?

Mr. HAYDEN. Yes.

Mr. MANN. How much of the 4,000 acres will be submerged if the San Carlos Dam is constructed?

Mr. HAYDEN. According to the report, the way I read it, these particular 4,000 acres, being located upon the south side of the Gila and above the junction of the two streams, would not be flooded, but could be used to create farms for the Indians whose farms might be flooded lower down near the reservoir.

Mr. MANN. How does the gentleman figure that out from the report? In the instructions we gave the engineers they were directed to locate the bridge so that the dam could be thereafter constructed and the bridge would not be under water.

Mr. HAYDEN. Yes.

Mr. MANN. What is there in the report that indicates that the 4,000 acres would not be submerged?

Mr. HAYDEN. I may be drawing on my knowledge of the geography of the country.

Mr. MANN. Or on the imagination.

Mr. HAYDEN. If the gentleman would permit me to draw on my imagination on the floor of the House, I might.

Mr. MANN. The gentleman said that he had no personal knowledge of this situation.

Mr. HAYDEN. Except by traveling across the reservation once.

Mr. MANN. The report says there are 4,000 acres of land, of which 1,400 have been and 700 more are being platted, and this land is divided into 118 small farms.

And immediately following that:

The construction of the proposed San Carlos Dam would submerge valuable land below the agency, and many Indian families will be compelled to find homes elsewhere. The amount of land that would be submerged and the number of Indians that would be disturbed are unknown to me.

The two are in that conjunction which would lead one not personally familiar with the physical condition there to suppose they related to the same matter.

Mr. HAYDEN. The Gila River flows westward——

The CHAIRMAN. The time of the gentleman from Arizona has expired.

Mr. RAKER. Mr. Chairman, I ask unanimous consent that the gentleman be permitted to proceed for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HAYDEN. This report states that these 4,000 acres of land are located east of the proposed site of the bridge. The river flows to the west. And if the bridge is located far enough upstream not to be submerged and this land is still to the east of the bridge, then the land naturally will not be submerged, because the basin of the reservoir is located lower down the valley.

Mr. MANN. That would bring one to the consideration of where the bridge is to be located. The gentleman says these 4,000 acres are east of the site of the bridge. Where is the bridge to be located?

Mr. HAYDEN. Six miles above the junction of the San Carlos and the Gila.

Mr. MANN. There are two bridges—and where else? I notice the report says 4 miles northeast of the San Carlos River. The gentleman says that the property just east of the San Carlos is east of the bridge. The report of the Secretary of the Interior says that the bridge will be 4 miles northeast of the San Carlos River. In order to assist the gentleman's recollection as to the physical condition of the ground there, I will state it is true that the Secretary of the Interior

locates the bridge 4 miles northeast of the San Carlos and the supervision of construction locates it 4 miles northwest of the San Carlos. I do not undertake to say where it is to be between these two points, 8 miles apart.

Mr. HAYDEN. If the gentleman will pardon me, there are two bridges.

Mr. MANN. I am talking about one bridge. It is true there are to be two bridges. I am talking about one bridge. Where is it to be?

Mr. HAYDEN. The engineer who was on the ground says:

In considering the best location for bridges above flow line of the proposed San Carlos Reservoir, it was found necessary to go approximately 6 miles northeast from the San Carlos railroad station on the Gila and 4 miles northwest on the San Carlos River.

Mr. MANN. Now, if the gentleman will pardon me, reading from the Secretary of the Interior, he says:

Therefore, in considering the best location for bridges above the flood line of the proposed San Carlos Reservoir, it was found necessary to go approximately 6 miles northeast of the San Carlos railroad station on the Gila and 4 miles northeast on the San Carlos River.

Mr. HAYDEN. Perhaps the Secretary of the Interior is in the same situation that I was when I first came to Washington. I have hardly yet found out which way is north. He may be suffering from the same sort of trouble.

Mr. MANN. But this is not a question of north. In both cases they located it north, but one says northeast and the other says northwest. I was trying to discover from the gentleman, who says he has been there, where the bridge is to be, especially in connection with this submerged land. With reports that the land that is now used by these Indians is likely to be submerged, and the Indians permanently removed, what is the object of building a bridge for their special accommodation?

Mr. HAYDEN. On the San Carlos River above the proposed bridge is the farming country of the Indians, and on the Gila River above the proposed bridge is the farming country of the Indians, and in order that these people may get together and go to the agency when the streams are high it is necessary that these two bridges be constructed; otherwise the reservation would be divided into three parts—that part which lies to the west of San Carlos, that part which lies in between the two streams, and that part south of the Gila.

Mr. MANN. Is the gentleman able to tell the House whether these Indians themselves have been consulted in reference to spending their money in the construction of a bridge partly for their use and partly for the use of the general public?

Mr. HAYDEN. I have no knowledge of anything having been submitted to the Indians.

Mr. MANN. Does not the gentleman think that if we are to build bridges for the use of certain people at some places at their expense that it will be just as well to know something about what they think about it?

Mr. HAYDEN. Well, I do not know that it has ever been the custom for the Indian Office to refer matters of this kind to the Indians. We are supposed, as their guardians, to know what is best for their interest and to act accordingly.

Mr. MANN. I suppose it has been the custom. I think, almost invariably in matters of this kind the superintendent who makes the report obtains or purports to obtain information as to the opinion of the Indians.

Mr. HAYDEN. There is nothing in this record on that subject.

Mr. MANN. I see there is nothing in this record on the subject. It might be these Indians would like to have this bridge built out of the Federal Treasury, because it would, at least, give some work to them. It might be that they would like to have it built at their own expense. It is quite certain that the white people who trade with them would be glad to have it built either out of the Federal Treasury or at the expense of the Indians if none of it comes out of their pockets; but does not the gentleman think we ought to consult the Indians somewhat as to whether we will use their funds to do something for their special good?

Mr. HAYDEN. They have no tribal funds at the present time——

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, I make the point of order against the amendment.

Mr. STEPHENS of Texas. Mr. Chairman, I hope the gentleman will not make the point of order. I think it has been shown clearly here that these Indians would be greatly benefited if they had these bridges, and unless money is spent by the United States Government for the purpose of building these bridges and developing their lands they will remain there for hundreds of years, possibly, as they have in the past. I think it has been shown that it would be for the benefit of the Indians, that it would be for the benefit of the State and for the benefit of the white people of that country that these bridges and dams should be built in order that that land can be irrigated and the country developed. I desire to say, further, it is quite a hard matter to get a bill through separately. We could not now; we would have to wait until next year before anything can be done. The Government has been amply protected. We have spent a thousand dollars in having this examination made. It is perfectly satisfactory to the department, perfectly satisfactory to the Indian agent, and therefore why should not the gentleman be willing that this small amount of money be expended for the benefit of the Indians that will help them immensely in the future? It has been stated by the gentleman from Arizona [Mr. HAYDEN]—and I have been in that country and know his statement to be true—that this tribe will probably be the wealthiest tribe of Indians in the United States, and that undeveloped country will never be developed unless we build bridges and open up canals and irrigation projects. Every dollar is reimbursable; nothing comes out of the Treasury of the United States in the end but what will be reimbursed. We have constituted ourselves the guardians of these Indians, and as their guardians I feel it is our duty to protect them by giving them this small amount of their own money to build bridges for themselves.

Mr. MANN. Mr. Chairman, I think likely what the gentleman says may be true, and yet before we expend their money for this purpose I think it would be advisable to know what they think about it. I doubt whether the amendment would make it reimbursable.

Mr. STEPHENS of Texas. If there is any question, I will let the gentleman amend the amendment so there will be no question about it.

Mr. MANN. I heard the amendment read. I would have no objection to building bridges reimbursable out of the funds of the Indians, recommended by the Indian officers, which was agreeable to the Indians themselves, who proposed to use the bridges. However, Mr. Chairman, I think the item is subject to the point of order. There is no authorization for the bridge. There was in the last year's bill an item similar to the one which was embodied in the bill a few moments ago, providing for a survey and an estimate of cost, but it has been the ruling always that that did not commit the Government to a project, so that it is not a work in construction. There is no authorization of law, and no one pretends there is, for the construction of this bridge. I do not know whether the Chair cares to hear further on the subject or not.

Mr. STEPHENS of Texas. I desire to state simply that we only authorized the plans and specifications to be made, the cost estimated, and the matter was referred back to the House for further action, and we now have acted upon it and asked for this appropriation, as the Government is the general guardian for these Indians; and as there has been an Indian Bureau created under the act of 1832, the President of the United States and the Commissioner of Indian Affairs have the right to control, where they see proper, these Indian matters of every kind and character, and it seems that would be within our province, after we have gone to the trouble of having these surveys made and the estimates made, and determine the necessity for the purchase, as we have done. It has all been agreed on, and we should have the appropriation.

The CHAIRMAN. The Government has the largest control in relation to the Indian funds and Indian appropriations. So far as the House is concerned, it must stand by its rules, and the Chair sustains the point of order.

Mr. HAYDEN. Mr. Chairman, I ask permission to extend my remarks in the RECORD by printing in full some of the letters to which I referred.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. RAKER. Mr. Chairman, I ask unanimous consent that the reading of the bill, under the head of "California," on page 10, commencing with line 18, and on page 11, from line 1 to 7, inclusive, be passed for to-day, and that it be taken up at the next meeting of the committee.

Mr. STEPHENS of Texas. The gentleman refers to the Committee on Indian Affairs?

Mr. RAKER. Yes; this committee here, which is now considering the bill.

Mr. STEPHENS of Texas. I have no objection to passing that part until we reach the close of the bill, but in the event of closing to-day we could take it up at the end of the bill.

The CHAIRMAN. A portion of the motion of the gentleman from California [Mr. RAKER] is that the part indicated by him shall be passed without prejudice for the present.

Mr. CARTER. Does that include the entire State?

Mr. RAKER. It includes it, as I understand, down to the word "Florida," line 8, on page 11.

Mr. MANN. Mr. Chairman, reserving the right to object, I will ask the chairman of the committee what his disposition is? I notice the gentleman from California [Mr. RAKER] first asked to have the California items passed for the day. The gentleman from Texas [Mr. STEPHENS] suggested that they pass to the end of the bill, which, of course, is perfectly agreeable. Will the gentleman let me know how long he intends to keep the House in session?

Mr. STEPHENS of Texas. I have a faint hope that we will get through with this bill to-day.

Mr. MANN. That may be true. But how long will the committee remain in session?

Mr. STEPHENS of Texas. That will be subject to the wish of the committee.

Mr. MANN. I know. But we might stay here until 12 o'clock to-night. What I want to know is whether the gentleman intends to keep the House in session longer on Saturday night than formerly?

Mr. STEPHENS of Texas. Oh, I think not.

Mr. MANN. It does not look to me, from the number of items in which myself and others are interested in this bill, that it is practical to finish the bill to-day by 5 o'clock.

Mr. STEPHENS of Texas. We can certainly do something on the bill.

Mr. MANN. There will be no objection to that. I simply wanted to know the disposition of the gentleman about it.

The CHAIRMAN. The motion of the gentleman from California [Mr. RAKER] is that the items as to California, down to the word "Florida," page 11, line 8, may be passed until the balance of the bill is completed, and that then the California items may be taken up for consideration. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

Mr. STEPHENS of Texas. Mr. Chairman, there has nothing been read since the California items have been passed. We have reached "Florida" and none of the items have been read.

Mr. MONDELL. That is the situation. But I made inquiry of the Chair whether the disposition of the matter just referred to would preclude my offering an amendment taking up the Wyoming item?

The CHAIRMAN. The Chair will state the situation, which is as indicated by the gentleman from Wyoming [Mr. MONDELL]. After we have disposed of the part referred to, the Chair will certainly, in pursuance of what he stated, recognize the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee why the committee failed to insert in the bill an item contained in the estimates for the continuation of the construction of dikes and other protection for allotments on the Fort Mohave Reservation.

There would seem to be quite as urgent reasons for that particular item as for any of the items that are contained in the bill. It seems that the Cotton Land & Irrigation Co.—I get this from a hurried reading of the statement made by the commissioner—furnished the Government with the water rights of a certain acreage, 1,000 acres, it is stated, in lieu of a right of way across the reservation. That would seem on its face to be a rather liberal proposition, favorable to the Indians and the Government. Now, it has been discovered that the lands over which the water right is thus acquired are subject to overflow, and therefore the water right can not be utilized, because at times there is too much water coming from the rise of the river, and there is the necessity of building dikes for the purpose of protecting the lands to be irrigated, the water right for which is already acquired, from the rise of the river. Now, that would seem to be a mighty important thing.

Mr. STEPHENS of Texas. I think the gentleman has got the wrong idea here. I think the item under consideration begins on line 7 of page 10:

For completion of the construction of necessary channels and laterals for the utilization of water in connection with the pumping plant for irrigation purposes on the Colorado River Indian Reservation, Ariz.

Mr. MONDELL. My inquiry was why the committee in its wisdom—I assume it was in its wisdom, and I hope not in its lack of wisdom—failed to insert the item in the bill which I have just read. It occurs in the Book of Estimates just before the item to which my formal motion was made. The item was left out. Why?

Mr. STEPHENS of Texas. Because we did not think we were justified in inserting that item without information from the irrigation engineers and the parties in charge of the work on that reservation.

Mr. MONDELL. From a rather hurried reading of the statement, it seems to me quite clear that the Indians can not use the water rights they already have. This is exceedingly important. The department wants to secure an appropriation for these Indians. The department has been rather derelict in its duty in that regard in the past—not the recent past—and I am glad they are proposing to do this in this case. They ought to have the money necessary. The department does not ask much, but whatever is necessary they ought to have. They already have this 1,000 acres of land with the water right. The river rises and overflows the land. The water recedes, the land dries out, and the ditches are gone. They want some dikes to hold back the inundating floods. They want to appropriate some more water, and, of course, they will have to make surveys and prepare maps and plans in order to meet the requirements of the State engineer's office, and all that, and all that costs money.

Now, there is something said about the purchase of additional water rights at $25 an acre. The committee may have some question as to the advisability of doing that, but the commissioner calls attention to the fact that the sum he seeks is primarily for the purpose I have indicated—that of building the dikes and acquiring the necessary water rights.

Mr. STEPHENS of Texas. And they are asking for 1,000 acres more. We were not willing to go into that.

Mr. MONDELL. Well, assuming that the committee was not prepared to have that done, surely that would not justify the denial of the request for sufficient money to build small dikes and to secure some water rights—in other words, to clinch what the Government now has and make it available for use.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FERRIS. Mr. Chairman, the gentleman from Wyoming [Mr. MONDELL] complains that we left out here a $50,000 item, and we did.

Mr. MONDELL. The gentleman should not reiterate the statement that I complained. I inquired in this case. I protested in the other.

Mr. FERRIS. Well, let it go at that. The gentleman inquired. I do not care to be technical about it. I do not want to misrepresent the gentleman. This calls for a new project of 1,000 acres of irrigable land, and it calls for a pumping plant. We have had a serious experience with pumping-plant projects down there, because the price per acre is more than the lessees are willing to pay, and the money is expended without getting anything of value in return. Now let me read what the department says:

This item should be a nonreimbursable appropriation. These Indians have but little assistance from the Government and are practically destitute and without resources. Great destruction has been done to their lands by the encroachment of the Colorado River.

Now, here is his estimate:

It is estimated that at a cost of $35,000 water can be pumped onto 1,000 acres of irrigable land on the Nevada side of the river, and it is proposed that $20,000 be used during the fiscal year 1914 to make a start on this work.

Now the facts are these: They get 1,000 acres of land irrigated from this Cotton Land Development Co. free. It costs the Government nothing. It costs the Indians nothing. This is afforded them by the company for the use of the water. We thought that that in all probability was as much or more than they would utilize and more than they would farm, and we did not want to launch out on a new project, on a pumping plant, which in all probability would cost so much that it would be prohibitive. The Director of the Reclamation Service, Mr. Newell, explained to us, not once but on nearly every one of these items, that where you have to lift the water out of the earth, the wear and tear of machinery and the rusting out and deterioration of the machinery makes the expense so high that it is often prohibitive.

The Indians do not farm as much in reality as this legislation and this justification would oftentimes indicate. The real truth about it is that a good deal of this land that is being irrigated at the expense of the Government is being used by

lessees of the Indians, who do the work for them. And, being constantly criticized by the House and by nearly everyone as we have been, we did not want to commit the Government to any new project, and that is the reason we left out the item for $35,000.

Mr. MONDELL. If the gentleman will allow me, the beginning of the item is for continuing the construction of dikes and their protection, and attention is called to the fact that a continuation of the construction of these dikes is necessary to protect the land already irrigated, to what extent I do not know, but there is essentially a continuing expenditure. Then there is the part for securing an additional appropriation. Now, I agree entirely with the gentleman as to that part of the amendment which proposes new construction. I think that feature is probably questionable, but I think that the committee must have made a mistake in striking out the entire item, because there is a part of that expenditure which it seems to me is entirely necessary.

Mr. FERRIS. We gave them $25,000.

Mr. MONDELL. Last year.

Mr. FERRIS. We gave them $25,000 this year.

Mr. MONDELL. No; you did not give them anything. The item is not in the bill.

Mr. FERRIS. We gave them the same amount that we gave them last year. The thing the gentleman complains of is that we did not launch out on a new project costing $35,000, which the Indian Office says must be nonreimbursable, so we will have no opportunity ever to reimburse it.

Mr. MONDELL. I think the gentleman is mistaken. This item was in the appropriation bill at $25,000 last year.

Mr. FERRIS. We have it in the bill now, on page 10, lines 7 to 17, at $25,000:

For completion of the construction of necessary channels and laterals for the utilization of water in connection with the pumping plant for irrigation purposes on the Colorado River Indian Reservation, Ariz., as provided in the act of April 4, 1910 (36 Stats. L., p. 273), for the purpose of securing an appropriation of water for the irrigation of approximately 150,000 acres of land and for maintaining and operating the pumping plant, $25,000, reimbursable as provided in said act, and to remain available until expended.

Mr. MONDELL. I am not talking about the Colorado Indian Reservation item at all.

Mr. FERRIS. What item is the gentleman talking about?

Mr. MONDELL. About the item in the Book of Estimates above that. That is not in the bill.

Mr. FERRIS. That is a new item entirely. It was not in the bill last year.

Mr. MONDELL. Then the Book of Estimates is in error.

Mr. FERRIS. The Book of Estimates does not contain what was in the bill last year. It merely contains what the department suggested.

Mr. MONDELL. The Book of Estimates contains the statement of what was in the bill last year.

Mr. FERRIS. This was not in the bill last year.

Mr. MONDELL. What I refer to is the act of August 24, 1912, volume 37, page 533, section 25, $25,000. I do not know whether that is the same item or not, but the Book of Estimates indicates that this item was in the bill last year for $25,000.

Mr. FERRIS. It was in the bill last year and it is in the bill this year. There is nothing left out of the bill this year that was in last year. We merely refused to put new stuff in.

Mr. MONDELL. Where?

Mr. FERRIS. In the same place, beginning with line 7, on page 10, and ending with line 17, on page 10.

Mr. MONDELL. On the contrary, the item that the gentleman refers to is an entirely different item. I am talking about the Mojave Reservation item. The gentleman is talking about the Colorado River Indian Reservation. I am talking about an item that is not in the bill, but which is in the Book of Estimates.

Mr. FERRIS. We did not allow the item.

Mr. MONDELL. The gentleman stated that it was in the bill.

Mr. FERRIS. It is not. Last year the bill carried this language: "For continuing the construction of dikes or other protection for the allotments on the Fort Mojave Reservation, $25,000." That was to build dikes to be constructed for the benefit of the Fort Mojave Indians. The Indian Committee investigated that fully and believed that the $25,000 was sufficient for continuing the construction of the dikes. But the department sought a new section, and they inserted another item in the bottom of the bill they sent to us, reading in this way, "To purchase additional water rights for $50,000"; and that is the reason why we did not insert it, because they wanted to put in a thousand acres more, costing $50,000 for the new project, and that is the reason we did not grant it.

The Clerk read as follows:

FLORIDA.

SEC. 4. The unexpended balance of the appropriation of $10,000 "for relief of distress among the Seminole Indians in Florida, and for purposes of their civilization," made in the Indian appropriation act approved March 3, 1911, is hereby reappropriated and made available.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word for the purpose of inquiring why the committee left out the three last items in the Book of Estimates following the item we have just passed, the last item on page 10.

Mr. STEPHENS of Texas. We have just read the item relative to Florida.

Mr. MONDELL. I realize that we have, but I desire to ask about an item not in the bill. I assume that I can make that inquiry as well after the Florida item was read as I could after the reading of any other item, because these items would have been in the bill before we reached the Florida item, but as they were not in the bill I could not call attention to an item that was not read.

Mr. STEPHENS of Texas. What item does the gentleman refer to?

Mr. MONDELL. I will read them:

For the purpose of enabling the Secretary of the Interior to carry into effect the provisions of the sixth article of the treaty of June 8, 1868, between the United States and the Navajo Nation or Tribe of Indians proclaimed August 12, 1868, whereby the United States agrees to provide school facilities for the children of the Navajo Tribe of Indians, the sum of $150,000, or so much thereof as may be necessary, is hereby appropriated out of any funds in the Treasury not otherwise appropriated.

Mr. STEPHENS of Texas. But, Mr. Chairman, we have passed Arizona to which those items relate.

Mr. MONDELL. Yes; but I rose to ask a question of the chairman why the committee in its wisdom left the item out, and also another item following it, the water supply for the Navajo Indians, $100,000. And another item for enlarging the irrigation system for the protection and irrigation of Indian lands within the Camp McDowell Indian Reservation, Ariz., $30,000. These two last items are new items, but the first item I read is an item proposing to carry out a treaty stipulation.

Mr. STEPHENS of Texas. I desire to answer the gentleman fully. I presume the Committee on Indian Affairs has the right to legislate by adopting the legislation asked for of the House by the department, or we have the right to reject it, and we saw proper to reject it. That is the only statement I can make.

Mr. MONDELL. I realize that the gentleman's committee saw fit to reject it, but is it not proper for me to ask the chairman for the reasons that led the committee to reject it? Did they investigate it?

Mr. STEPHENS of Texas. We investigated every item presented to us, and after a full examination of this matter we thought that we could not afford at the present time and under present conditions to allow these matters to creep into the bill.

Mr. MONDELL. I do not understand how the committee could well refuse to take action in regard to this matter, and I can not find anything in the hearings to indicate that the committee went into it at any length.

Mr. STEPHENS of Texas. I do not know that we are responsible to the gentleman from Wyoming for our action. We thought we were responsible to the House and that we were justified in not reporting the items.

Mr. MONDELL. If the chairman of the committee does not want to answer——

Mr. STEPHENS of Texas. I have answered the gentleman as fully as I can.

Mr. MONDELL. Why, he can do so. He is not responsible to me at all.

Mr. STEPHENS of Texas. I am not responsible for the committee I preside over except as one of its members.

Mr. MONDELL. I deem it my duty to be informed as to these matters, and I simply asked a question, which I think is a very proper question, why the committee saw fit to leave these items out of the bill.

Mr. STEPHENS of Texas. I will again make as succinct an answer as I can. We did not think the condition of the Treasury justified us in making these appropriations at this time, and the committee was of the unanimous opinion that they should not now be granted.

Mr. MONDELL. You did not think it necessary to discuss the matter with the commissioner.

Mr. STEPHENS of Texas. Oh, there were hearings on every item. We had the commissioner and the clerks before us, both the chief clerk and the Assistant Commissioner of Indian Affairs. If the gentleman will turn to pages 56, 57, and 58 of the printed hearings of this session he will find that matter fully discussed, and I do not think it is necessary to discuss it again on this floor.

Mr. MONDELL. There was very little inquiry with regard to the Camp McDowell matter, and that is a matter that has been agitated a good deal in the past year.

Mr. STEPHENS of Texas. I will refer the gentleman to the printed hearings and the statements I made. I think that is a sufficient answer.

Mr. MONDELL. The gentleman may consider it sufficient. It does not seem to me there is any sufficient answer in the hearings as printed.

Mr. MANN. Mr. Chairman, I move to strike out the last two words for the purpose of asking the distinguished gentleman from Texas [Mr. STEPHENS] a question, hoping I will get more information than the gentleman from Wyoming [Mr. MONDELL] obtained by his question.

Mr. STEPHENS of Texas. If the gentleman will permit me, I will let the gentleman read in his own time the reasons given by the committee why they did not permit those three items to go into the bill.

Mr. MANN. Mr. Chairman, the gentleman from Texas and myself have very different ideas of the duties of a man in charge of a bill. When the gentleman in charge of a bill is asked a question in regard to the bill, I have never understood that it was a sufficient answer to reply "Read the hearings," because everybody knows every Member of the House can not read the hearings before all the committees. It is expected that when a gentleman in charge of a bill has had hearings and is asked a question on the floor of the House that he will be able to tell in a succinct way the substance of his position and what is in the hearings, without advising the gentleman asking the question to go and read the hearings, which in this case were only recently printed, and in any event were never had before the full committee. Those hearings were had before only three members of the Committee on Indian Affairs, which is an outrageous way of conducting a hearing.

Mr. STEPHENS of Texas. We had the stenographic report from the reporters after it had been written out in full before the full committee, and any member of the committee could take up those reports and have them fully investigated.

Mr. MANN. How could any member take up a stenographic report and do that, with only one copy of the report for a committee of how many members?

Mr. STEPHENS of Texas. We had three copies.

Mr. MANN. The bill was reported before anybody had a chance to read the report, and, as the gentleman stated once before on the floor of the House, before the stenographic report had been transcribed. It had not been printed, because it had not been transcribed.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MANN. No; because I want to ask a question about the bill. I want to ask how much money has been expended out of this $10,000 for the Florida Indians, where it is now proposed to reappropriate the unexpended balance? Has any one cent of it ever been paid to any Florida Indian?

Mr. STEPHENS of Texas. I will refer the gentleman to the top of page 61 of the hearings:

The unexpended balance of the appropriation of $10,000 "for relief of distress among the Seminole Indians in Florida, and for purposes of their civilization," made in the Indian appropriation act approved March 3, 1911, is hereby reappropriated and made available.

The Indians of Florida are becoming less and less able to provide for themselves from revenues derived from hunting and fishing, which is practically the only occupation they know, owing to the reclaiming of the Everglades. They have been slow to accept the aid of the Government, although land has been provided for them, which it is expected they will settle upon and improve when their present haunts are made to disappear. They are not citizens of the State of Florida, and inasmuch as their situation is liable to become acute at any time funds should be available for their relief.

Mr. MANN. Oh, that is in the Book of Estimates, and I read that before the bill had been reported. It is just as well to put it in here, but that does not answer the question. Two or three years ago we appropriated $10,000 for the support and maintenance of Indians in Florida. Last year we reappropriated the unexpended balance. It is now proposed to reappropriate the unexpended balance. How much is the unexpended balance?

Mr. STEPHENS of Texas. I have it right here.

Mr. MANN. How much of the money that has been expended has been paid to the Indians and how much has been used by the department?

Mr. STEPHENS of Texas. There was $154 expended for the purpose of investigating this matter, leaving a balance of $9,846 out of the $10,000. Here is an analysis. Salaries and wages $100, traveling expenses $54, total $154. Taking that from $10,000 it leaves a balance of $9,846.

Mr. MANN. I think the gentleman's arithmetic is correct. Now, for two years we have carried this appropriation for the support of Indians in Florida. The temptation has not proven beyond the control of the gentleman in charge of the Indian Office. There never was any occasion for appropriating one cent for those Indians. I tried to persuade the House to that effect when we made the first appropriation, but the Committee on Appropriations represented how much money we would have to expend to keep these Indians there from starving to death. They had the money two years and have not expended one cent except $154 for some gentleman to take a nice trip to Florida during the wintertime.

Mr. FERRIS. Will the gentleman yield?

Mr. MANN. I always yield.

Mr. FERRIS. I desire to say to the gentleman that the President has really taken some steps. These Indians in the Everglades are as wild as rabbits, and up to this time they have not been able to do anything with them, but the President has by Executive order set aside a tract of land comprising 85,000 acres and the Indian Office has tried to get these Indians on it, tried to get hold of them, lasso them, or catch them in some other way, and put them on it.

Mr. MANN. This talk about the Indians being so wild is all fudge.

Mr. FERRIS. Well, the Indian Office does not say so.

Mr. MANN. What do they know about it?

Mr. FERRIS. They have been down there.

Mr. MANN. They sent one man on a winter trip, at a cost of $154; that is all they know about it. They do not know anything about it. There never was any occasion for the Government spending a cent on these Indians down there; they are not asking it.

Mr. FERRIS. They have not got sense enough to ask anything.

Mr. MANN. The gentleman need not be alarmed; they have got a great deal more sense than some of the native crackers of Florida and are quite able to take care of themselves; they are pretty bright people down there.

Mr. FERRIS. They are the wildest Indians in the United States, whatever the gentleman says.

Mr. MANN. But the gentleman knows people who are so wild usually do not live down in that hot climate around the water; they are not so wild.

Mr. FERRIS. Just one word further. They have not spent but $154 up to this time, so it has not been costing the Government very much.

Mr. MANN. No; it has not been costing the Government; that is true. But is that a reason for making the appropriation?

Mr. FERRIS. As long as the President has set aside a reservation of 80,000 acres and as long as the Indian Office was trying in good faith to get the Indians on it, it seems to me it is not too much to follow up the judgment of two prior Congresses which have set aside $10,000 to be expended for that purpose and which up to this time has not been spent. It does not carry anything, but is merely a reappropriation.

Mr. MANN. I understand you do not include it in the total appropriation where it belongs. You do not call it part of the appropriation bill, although in fact it really is.

Mr. CARTER. Mr. Chairman, it would not be necessary, I think, to have an appropriation for investigation of the Seminole Indians of Florida unless something is accomplished toward draining the Everglades.

I have made trips through Florida both ways, north and south and east and west, and met a good many of these Indians. I found very few of them able to speak any English at all. While they may not be classed as wild Indians they are certainly very primitive Indians and know very little about the white man's way of sustaining themselves.

Originally they owned the State of Florida and perhaps a portion of some of the surrounding States. They have been driven back and narrowed down now to the Everglades. If the Everglades are drained and inhabited by the white man, then some place must be found on which they can make their existence, because the Everglades no longer belong to them

legally, and as this work progresses there is going to be some necessity for an investigation of the condition of these people to find out just what should be done with them and just what can be done for them, and for that reason I think this appropriation of $10,000 should remain in the bill until it is made use of for their benefit or until a final investigation of the question is made by the department.

Mr. AUSTIN. How many are there?

Mr. CARTER. One of the purposes of this investigation is to find out the number of Indians and to enroll them.

Mr. AUSTIN. Would not the census report of Florida show that?

Mr. CARTER. A census report never shows conclusively the exact number of any people of any nationality. It shows in a general way, but does not show as definitely as would be necessary for allotment purposes or for support and civilization. I think there are about 400 of them.

Mr. MOORE of Pennsylvania. A great many of these Indians drift into Miami and St. Augustine and Jacksonville. They drift out of the Everglades and go into these cities.

Mr. CARTER. I did not meet any in Jacksonville, but saw several at Miami.

Mr. MOORE of Pennsylvania. I have gone through the Everglades and I have seen those Indians seemingly engaged in pursuits, selling trinkets and cotton goods, and coming into town to make purchases. Does the gentleman infer when he speaks of those Indians with whom he came in contact, that they were supposed to live far off in the Everglades and out of reach of civilization and did not come into town?

Mr. CARTER. Those I saw were mostly Indians who came into town, and if those remotely removed from civilization are any less capable than those I met in the towns, then, indeed, they need some care from the Federal Government.

Mr. MOORE of Pennsylvania. Well, some of them assuredly are self-supporting.

Mr. CARTER. That is true as long as the fish and game remain in the Everglades.

Mr. MOORE of Pennsylvania. Some of them act as guides out of Miami.

Mr. CARTER. And if the Everglades remain, will there be use for guides?

Mr. MOORE of Pennsylvania. The State of Florida is already draining the Everglades, and there is a constant report concerning the condition of the Indians.

Mr. CARTER. The Indian as an attraction has got to be done away with as civilization progresses, and these Indians will have to be given some attention in order that they may be made a self-supporting, self-reliant people.

Mr. MOORE of Pennsylvania. That is what I should like to see, but the gentleman from Oklahoma [Mr. FERRIS] spoke of the Seminoles as wild rabbits, but that statement is somewhat modified by the gentleman from Oklahoma [Mr. CARTER]. They certainly do fraternize with the white man and come out in the open, although there is certainly a mystery concerning those who live far off in the Everglades, and are never supposed to get into a civilized territory——

Mr. CARTER. Undoubtedly.

Mr. MOORE of Pennsylvania. But an improvement has been made in the Seminoles.

Mr. CARTER. The Government owes something to the Seminoles of Florida, both on the grounds of having deprived them of millions of dollars' worth of valuable property and on account of their incapacity, for as soon as their native haunt, the Everglades, are destroyed as hunting and fishing grounds they will become poverty-stricken and degenerate to the level of beggars and mendicants. But if the proper care and supervision are accorded them they may become substantial, self-reliant citizens.

Mr. MOORE of Pennsylvania. Does not the gentleman, who is so conversant with the ramifications of the subject, think the Seminole will take up all the farm land of Florida, which is also an inducement to the white man?

Mr. CARTER. I think they will, if they are given proper attention and proper care along certain lines by the Federal Government, be merged into our citizenship. Without that care and attention they may become extinct in a few years and pass out of existence, as is usually the case when nothing is done for helpless people.

Mr. MOORE of Pennsylvania. But will this $10,000 be a drop in the bucket? Would it not constitute a temptation for investigation like those which have already been made for acquiring information which the State of Florida has made?

Mr. CARTER. The real purpose of this $10,000 item is investigation. It has been explained in the House that the President has set aside a certain amount of land for them, and now it is going to take some money to investigate and find out who are Seminoles, and find out when and how they shall be placed on the land.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. CARTER] has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask that the gentleman have five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The gentleman from Oklahoma [Mr. CARTER] is recognized for five minutes more.

Mr. MOORE of Pennsylvania. The item of $10,000 provides for the relief of distress among the Seminole Indians. It is not a question of investigation at all. That is the point that I am making.

Mr. STEPHENS of Texas. It is a question of reappropriation, I will state to the gentleman from Pennsylvania. It is made available in accordance with the provisions of the act of March 3, 1911.

Mr. MOORE of Pennsylvania. I have not the act before me. I have the bill. The bill says, in quotation marks, "For relief of distress among the Seminole Indians in Florida, and for purposes of their civilization," so that it is not a question of information and it is not a question of investigation or securing any more data than we already have on this subject. As presented to the House, the proposition is that we shall lay aside this $10,000 for possible relief of distress that may occur among the Seminoles.

Mr. CARTER. I think, Mr. Chariman, we can assume that before we can relieve distress we must first investigate about the relief of that distress and to what extent relief can be given.

Mr. MOORE of Pennsylvania. Yet we have a statement here that but little over $100 has been spent for an investigation of a situation concerning which we have very little information before the committee, so that it would seem that the main purpose of the item pending here is to send people down there to look into the Everglades, which has been done time and time again, and to withhold that fund until the department is assured by somebody that the Indians are in distress.

Mr. CARTER. Perhaps, Mr. Chairman, the wording of the provision might be changed to advantage. What should be done, in my opinion, is that an investigation should be made at the earliest possible moment of the condition of these people and the number of them, the number of acres that would be required for their allotments, and as to what plan should be pursued by the Federal Government for their education and civilization.

Mr. MOORE of Pennsylvania. They should be treated as other Indians are treated.

Mr. CARTER. Yes. That is the point exactly. Certainly they should be treated as other Indians are treated. The time has probably not come yet when any funds might be used for the relief of distress among them, because, as I stated two or three times already, as long as the Everglades are there they will probably not need any relief from distress, but they do need something for civilization. Something is needed, I think, for investigation of the condition.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Oklahoma yield to the gentleman from Wyoming?

Mr. CARTER. Yes; I yield to the gentleman from Wyoming.

Mr. MONDELL. The gentleman suggests that we should care for these Indians, particularly if the Everglades are drained. Is not the gentleman aware of the fact that practically all of those lands have gone to the State of Florida, and that they are the property of the State of Florida, and that they have been disposed of, substantially? Why should not the State of Florida take care of these poor, unfortunate people?

Mr. CARTER. It is not, I think, and it has never been the policy of the Federal Government to impose those duties on the States. I am free to admit that in some cases the States might do this better than the Federal Government, but, as the gentleman well knows, since the inception of this Government its avowed policy has been to care for the Indians itself, and care for Indian affairs, especially of those of Indians that are helpless and incompetent.

Mr. MONDELL. But these are Indians that have never been placed on a reservation.

Mr. CARTER. They ought to be allotted. I do not believe in the reservation system.

Mr. MONDELL. They have never been on a reservation. They have never been under Government care. They are part of the State of Florida. The State of Florida occupies the lands. They hunt and fish over them. Why should not the State of Florida take care of them?

Mr. CARTER. The same thing might apply to the gentleman's own State or to the State which I have the honor in part to represent.

Mr. MONDELL. I hope, if the time ever comes that the people of my State have received from the Indians all the property they have in the State, we will not forevermore be calling upon the Federal Government to take care of our own unfortunates. I do not think that is good policy.

Mr. CARTER. Is the gentleman so sure——

Mr. MONDELL. Of course, I realize that the gentleman, being from Oklahoma, wants to fortify himself on that proposition, because he may be looking forward to the time——

Mr. CARTER. On what proposition?

Mr. MONDELL. On the proposition that the Federal Government must forevermore care for those who are unfortunate and unable to take care of themselves and who may have a strain of Indian blood in them. I say that because the gentleman from Oklahoma has a great many such people in his State.

Mr. CARTER. Does the gentleman mean that personally?

Mr. MONDELL. Oh, no. The gentleman from Oklahoma, to whom I am now addressing my remarks, is always able to take care of himself, and always will be, and I am sure his posterity will be.

Mr. MANN. I hope the gentleman from Oklahoma will be supported at the expense of the Government as long as he lives. [Laughter.]

Mr. MONDELL. In his present position. I join in that hope.

Mr. CARTER. I thank both gentlemen. Now I will yield to the gentleman from Minnesota [Mr. MILLER].

Mr. MILLER. I simply desired to make a statement in connection with what the gentleman was then saying, but I would rather be recognized in my own right now.

Mr. CARTER. I think I have said about all I cared to say.

Mr. MILLER. Mr. Chairman, my recollection of the time when this item was first inserted in the bill is rather distinct. I think it was three years ago that representation was made to the committee that the Seminoles of Florida were in a distressing condition, and needed some immediate aid from the Government. I think it is necessary that we should bear in mind that these particular Seminoles are those who refused to migrate or leave their native place when the main body of the Seminoles were removed to what is now Oklahoma. In other words, these Indians are refugees. They are swamp birds. They are unrelated to any other band of Indians. They have no means, they have no property. All the ownership they have of anything is so much of the air as they breathe and so much of the fruit of the trees as they can gather that nature gives them. It was represented at that time that they were in a distressing condition and that they needed $10,000 to aid them.

Now, I do not think it is at all wise to suggest that the State of Florida should be required or expected to take care of these Indians. Everybody knows that the State of Florida will not do it. No State has ever done it. No State expects to do it. These Indians, if they are wards of any sovereignty, are the wards of the Federal Government, and it is the duty of the Federal Government to take care of them, as it has been the duty of the Federal Government to take care of Indians everywhere.

Mr. MONDELL. The gentleman comes from a State having a considerable Indian population?

Mr. MILLER. Yes.

Mr. MONDELL. I suppose that has nothing to do with the gentleman's position.

Mr. MILLER. They do not draw one cent from the Federal Treasury, but pay their own expenses.

Mr. MONDELL. That is as it should be, and I am surprised that the gentleman does not want the State of Florida to adopt the same methods.

Mr. MILLER. I do; but here are refugees without any property, without a tribe, without a home that they can call their own.

Mr. MONDELL. Has it come to this—that the great State of Florida, a beneficiary of the Government to the extent of 12,000,000 acres of swamp land, is so unmindful of the people of its State that it will not support them because the strong arm of the Federal Government does not reach out and protect them? I have no such low estimate of the character of the people of Florida or the State of Florida. I think they can be depended upon to do the right thing.

Mr. MILLER. Mr. Chairman, I did not yield to the gentleman from Wyoming to make a speech. He has made his speech repeatedly, and I have always listened to it with pleasure. The last time he made it with greater emphasis than before, and I listened to it with greater pleasure on my part. I want to say that I do not deem it my duty to defend the State of Florida, but I do believe the State of Florida has taken as much care of its people and spent as much of its own money to care for the Seminoles in the Everglades as the State of Wyoming has spent on the Indians of that State.

Mr. STEPHENS of Texas. Mr. Chairman——

Mr. MILLER. I have not quite closed.

Mr. STEPHENS of Texas. I simply want to ask unanimous consent that all debate on this paragraph close in five minutes.

The CHAIRMAN. Without objection, the request of the gentleman from Texas will be considered as agreed to.

There was no objection.

Mr. MILLER. Mr. Chairman——

Mr. FOWLER. Mr. Chairman, I rise to a point of order.

Mr. MILLER. I believe I have the floor.

The CHAIRMAN. The gentleman from Illinois will state his point of order.

Mr. FOWLER. The gentleman from Minnesota has the floor, and there was one motion pending before the House at the time when the gentleman from Texas made the motion to limit debate on this paragraph to five minutes.

The CHAIRMAN. That was only by unanimous consent that the Chair put it in that way. The Chair did not state it in a formal way, but if the committee desires will do so.

Mr. FOWLER. I desire to inquire of the Chair if it is not in effect a motion?

The CHAIRMAN. It is.

Mr. FOWLER. Then there can not be two motions pending before the House at the same time.

The CHAIRMAN. Only by unanimous consent; you can do anything by unanimous consent. The gentleman from Minnesota did not object to the request made by the gentleman from Texas in his time.

Mr. MILLER. No; but I shall object to my five minutes being consumed by the discussion of this point of order.

The CHAIRMAN. This does not come out of the gentleman's time.

Mr. MILLER. Mr. Chairman, I desire in addition to state that the urgency of the situation existed three years ago, because the Committee on Indian Affairs of the House incorporated this appropriation. I remember a year ago when this item came back as one not having been expended and to be reappropriated it was remarked that the department had done nothing toward relieving the distress among these Indians. That comes back to-day with greater strength than a year ago, and I for one believe that there should be incorporated in the item a requirement that the department should make a detailed statement of the situation respecting the Indians within the current year.

Mr. FOWLER. Mr. Chairman, I desire to ask the chairman in charge of this committee a few questions with reference to determining the status of the Indians in Florida. I understood from the speech of the gentleman from Minnesota that these Florida Indians are refugees. Now, I have always understood, Mr. Chairman, that they are descendants of the Indians who were originally found in Florida at the discovery of America, or of that portion thereof, and that when the Seminole Indians were transferred from Florida to the West these Indians or their ancestors were so devoted to their homes that they refused to leave and go to the mountains, where there was nothing but rocks and rills. They desired to stay in the fertile land of flowers amid the Everglades. Mr. Chairman, I desire to ask the gentleman, the distinguished chairman of this committee, if anything has ever been done for the purpose of aiding these Indians in Florida in their civilization and education?

Mr. STEPHENS of Texas. That was the purpose of this appropriation—for the relief of distress among the Seminole Indians in Florida, and for the purpose of their civilization. An investigation is being made by the department as to how best to accomplish that purpose.

Mr. FOWLER. Nothing has ever been done in the way of their education?

Mr. STEPHENS of Texas. No; because they have not determined as yet what is the best means to pursue in order to educate and civilize them.

Mr. FOWLER. They have always taken care of themselves?

Mr. STEPHENS of Texas. Up to the present time; but it is believed they can not do it in the future, owing to the fact that the Everglades are being drained and the land parceled out and sold, so that they will have no hunting and fishing grounds.

Mr. FOWLER. No land has been allotted to them in the State of Florida?

Mr. STEPHENS of Texas. It is proposed to do that.

Mr. FOWLER. Is that the contention of the committee—that this appropriation is intended for that?

Mr. STEPHENS of Texas. It is intended to see how best to accomplish the purpose of the bill, which is to relieve the distress among them and to civilize them.

Mr. FOWLER. Does the gentleman not think that as much attention ought to be given to these Indians as is given by the Government to any other Indians in the United States?

Mr. STEPHENS of Texas. That is exactly what we are endeavoring to do, and that is the object and purpose of the bill.

Mr. FOWLER. But, in fact, are they not more dependent now than many other tribes of Indians because of a lack on the part of the Government in the past in giving them the proper attention and the appropriations necessary for their education and civilization?

Mr. STEPHENS of Texas. I think so. I will state to the gentleman that it was only a year ago that their condition became known, for the reason that the Everglades had theretofore furnished them hunting and fishing grounds and it was not necessary to take care of them.

Mr. FOWLER. Is the remainder of the appropriation of $10,000 made two years ago anything like adequate to care for those Indians at the present time?

Mr. STEPHENS of Texas. It is, because they have spent less than $500 of that appropriation.

Mr. FOWLER. I know that is true, according to the report; but does the gentleman think the department did its duty toward the maintenance, education, and civilization of these Indians in Florida?

Mr. STEPHENS of Texas. The presumption is that the department did. The men in the department are officers of the law.

Mr. FOWLER. That is the presumption, but is it not a very violent one?

Mr. STEPHENS of Texas. I can not answer the gentleman's question.

Mr. FOWLER. Mr. Chairman, I am not only in favor of this appropriation, but I would go much further than that and would extend the helping hand of this Government to these unfortunate people in a much larger sum than this bill proposes to carry; and I say, Mr. Chairman, with respect to the gentleman from Minnesota [Mr. MILLER], that I do not regard them in any other sense than that they are upon the same footing and the same basis as the other Indians in this country, and that we owe to them the same duty that we owe to the other Indians of the country.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman permit a question?

Mr. FOWLER. Certainly.

Mr. STEPHENS of Texas. The Government, by Executive order of the President, has set apart about 85,000 acres of land in these everglades for these Indians. They will not occupy it. What would the gentleman do if he were the Secretary of the Interior or the Commissioner of the Land Office? Would he catch these Indians and hold them on their allotments?

Mr. FOWLER. Mr. Chairman, if the incoming President should make me Secretary of the Interior, which I know he will not do, then I shall be in a better condition to answer that question after some experience.

The CHAIRMAN. The time of the gentleman has expired.

The Clerk read as follows:

IDAHO.

SEC. 5. For support and civilization of Indians on the Fort Hall Reservation in Idaho, including pay of employees, $30,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. A few moments ago I made inquiries of the chairman of the committee in entire good faith relative to three items which had been submitted in the Book of Estimates——

Mr. STEPHENS of Texas. Mr. Chairman, I make the point of order that we are not on those items at the present time, and I ask that the gentleman be confined to the matter before the committee——

The CHAIRMAN. As far as the gentleman has gone, he has referred to matters that have been been disposed of in connection with what he intends to say.

Mr. STEPHENS of Texas. We are now under the head of "Idaho," and the gentleman desires to go back to some items under the head of "Wyoming."

Mr. MONDELL. Mr. Chairman, I am willing to discuss the Idaho item. Before us is an item for the support of Indians on the Fort Hall Indian Reservation. The committee proposes to expend $30,000 for that purpose. I do not know we are under any treaty obligation to do it, but the committee proposes to do it; probably it is proper they should; but the committee when I asked why they did not include in the bill a provision for $150,000 or any part of it to carry out the obligation of the Government under the treaty with the Navajos, referred me to the hearings. Well, now, I did not want to be too insistent at the time. I had not been able to find anything about it in the hearings and I feared I had overlooked it and I have gone through the hearings again and I can not find a single solitary word in the hearings relative to the item to which I have referred.

Mr. FERRIS. Will the gentleman yield?

Mr. MONDELL. Yes; in just a moment. In regard to the item for fulfilling treaties with the Navajos I can not find anything. If there is anything in the hearings in regard to the item I will be glad to read it, but I have not seen it.

Mr. FERRIS. I take it the gentleman is proceeding in good faith, and the facts are these: The original book of justifications, which I hold in my hand, has nothing in relation to these three items. Finally they came up with three supplemental estimates in three separate——

Mr. MONDELL. They came in time to get in the Book of Estimates.

Mr. FERRIS. They were new provisions providing for new projects. The committee, which were perhaps in error, in accordance with the judgment of the gentleman, refused to accept them. The first item the gentleman refers to has this:

The CHAIRMAN. The next item is at the top of page 22, as follows: "For the development of a water supply for the Navajo Indians, $100,000, to be immediately available and to remain available until expended, $100,000." This is a new item. It has never been carried in a bill in any shape that I am familiar with.

Mr. MONDELL. If the gentleman will allow me, I find there was a little discussion of two items, but on the other and more important item there was no discussion whatever. Now, if the gentleman says that the committee had a general policy under which it refused to take into consideration any new matter, why that is an explanation. It may not be satisfactory, but it is an explanation.

Mr. FERRIS. That was the view of the committee—that we should not start in with a lot of new projects.

Mr. MONDELL. The chairman could have informed the committee to that effect when I made the inquiry that these items were not considered because it was the thought of the committee that they should not add any new items to the bill.

Mr. STEPHENS of Texas. That is exactly what I stated, Mr. Chairman.

Mr. MONDELL. Without consideration of their merits.

The Clerk read as follows:

For fulfilling treaty stipulations with the Bannocks in Idaho: For pay of physician, teacher, carpenter, miller, engineer, farmer, and blacksmith (art. 10, treaty of July 3, 1868), $5,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I want to ask the chairman about this Fort Hall irrigation project. This does not seem to be reimbursable. My understanding is these Fort Hall Indians have a very large and valuable reservation, and it seems to me if they have—I may be misinformed—that that ought to be a reimbursable item. That is on page 11, lines 19 and 20.

Mr. STEPHENS of Texas. The gentleman desires to know whether it is reimbursable?

Mr. MONDELL. It clearly is not reimbursable. My inquiry is why it is not reimbursable.

Mr. STEPHENS of Texas. Because it was not supposed, after there had been allotted to the Indians the amount of land that the bill called for, that there would be a sufficient balance to reimburse for this vast amount of money it would take to put on this irrigation plant.

Mr. MONDELL. My recollection is—and if I am wrong I hope the chairman will correct me—there is a large irrigation enterprise there. It was constructed under an act of Congress, and that act of Congress was peculiarly worded, so, as a matter of fact, the Indians, instead of paying anything like what the project cost, only paid a small proportion of what the project cost, and this is a continuation.

Mr. MANN. Will the gentleman pardon me?

Mr. MONDELL. In just a moment. This ought to be reimbursable, all the same, because it is for maintenance and operation. Now, does the gentleman think that we ought to first build irrigation projects for the Indians and not charge them for it and then proceed to maintain them for all time to come without charge? Should not the Indian at least be given to understand that he must exert himself to maintain his enterprise after it has been built? We may not secure from the Indian these sums, but he at least ought to understand that he must take care of his own property.

Mr. MANN. As the chairman of the committee does not seem to have the information at hand, may I give the gentleman the information? In fact, this is a reimbursable item, and under the law now maintenance charges are collected from the 12,000 acres included in the irrigation scheme, but that money has to be placed in the Treasury and can not be paid out without an appropriation; and this is merely an appropriation for maintenance, which is covered by maintenance charges turned into the Treasury.

Mr. MONDELL. Is the gentleman certain that this would be reimbursable, without so stating?

Mr. MANN. I will read the information, which I call to the attention of the chairman of the committee, so that he may have it.

Mr. STEPHENS of Texas. I have the information here.

Mr. MANN. In the statement justifying the appropriation is this statement——

Mr. STEPHENS of Texas. I desire to inquire what the gentleman is reading.

Mr. MANN. If the gentleman will not interrupt me, I desire to read this first:

Though the 12,000 acres on the ceded strip bear maintenance assessments, the amounts collected have to be turned in to the Public Treasury and are not available for expenditure. It is, therefore, necessary that Congress appropriate for the upkeep and operation of this expensive system.

Mr. STEPHENS of Texas. I will state to the gentleman that I asked the question of the Indian Commissioner.

Mr. MANN. I think the gentleman covered it fully in the hearing. I have no question as to that.

Mr. STEPHENS of Texas. This is the question I asked:

The CHAIRMAN. That is the same as last year. Does it cost that much every year to keep up a ditch, and is that going to be perpetual, to supply the Indians?

To which Mr. Connor, the agency engineer, answered as follows:

Mr. CONNOR. It will probably be perpetual until the Indians get to the point of paying for their own maintenance. That is, farming their lands and producing something from them. We are collecting maintenance there from the first water users at the rate of $1 per acre every year, but we have no authority of law to use that money without further appropriation. It only amounts to $800 or $1,000 per year at the present state of development.

The Clerk read as follows:

IOWA.

SEC. 6. For pay of one financial clerk, at $600, and one physician, at $480 per annum, at the Sac and Fox Agency, Iowa; in all, $1,080.

Mr. MANN. Mr. Chairman, I move to strike out the last word for the purpose of asking a question. In the two items last read the current law provides for the employment of certain clerks in addition to the two employees already provided for. I notice that expression is left out of this appropriation.

Mr. STEPHENS of Texas. That was carried in the lump-sum appropriation, and it was explained that we already had them appropriated for before.

Mr. MANN. Will they still have authority to employ additional clerks?

Mr. STEPHENS of Texas. I think not.

Mr. MANN. How was it carried in the lump sum?

Mr. STEPHENS of Texas. It was carried in the lump sum, but was deducted from it.

Mr. MANN. But this financial clerk at $600 and the physician at $400 were carried in the current appropriation bill, and there was also provided additional employees already provided for by law. Now, is it intended to have no other employees?

Mr. STEPHENS of Texas. We have the same employees as heretofore, but instead of putting them in the lump-sum appropriation they put them in specifically.

Mr. MANN. The gentleman is mistaken about that. The two employees appropriated for here were specifically appropriated for in the last appropriation bill. Are there any other employees there, and what was the reason for leaving out the provision? There might be other employees otherwise provided for. I would like to know if there was any special reason for it.

The Clerk read as follows:

KANSAS.

SEC. 7. For support and education of 750 Indian pupils at the Indian school, Haskell Institute, Lawrence, Kans., and for pay of superintendent, $127,750; for general repairs and improvements, $11,000; in all, $138,750.

Mr. MANN. Mr. Chairman, I move to strike out the last word. Is the gentleman able without any difficulty to give us the expense per pupil at this Haskell school?

Mr. STEPHENS of Texas. You desire the per capita? The cost per capita is $185. The number of employees is 67, and the enrollment of the school is 768, while the capacity is 750, showing that it has a few scholars over the capacity.

Mr. MANN. The Haskell school is a special school?

Mr. STEPHENS of Texas. It is especially appropriated for.

Mr. MANN. Yes, I know; but it is not altogether like the ordinary Indian school?

Mr. STEPHENS of Texas. It is an industrial school as I understand it. I have visited the Chiloco school, but not the Haskell school.

Mr. MANN. What do those Indian scholars do there?

Mr. STEPHENS of Texas. As I understand, they take all of the usual branches which they have at other industrial schools, such as blacksmithing, making shoes and harness, and doing laundry work, buggy making, and everything of that kind.

Mr. MANN. Are there any receipts from this school which are turned into the Treasury?

Mr. STEPHENS of Texas. The value of the products of the school last term was $9,116.

Mr. MANN. It seems to be like an expensive school for that kind of a school.

Mr. STEPHENS of Texas. Our experience is that these industrial schools cost more than ordinary schooling, for the reason that they have more machinery to purchase and more expensive appliances to keep up.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows.

MINNESOTA.

SEC. 9. For support and education of 225 Indian pupils at the Indian school, Pipestone, Minn., and for pay of superintendent, $39,175; for general repairs and improvements, $4,000; in all, $43,175.

Mr. STEPHENS of Texas. Mr. Chairman, I have a committee amendment to that section which I wish to offer.

The CHAIRMAN. The gentleman from Texas offers a committee amendment, which the Clerk will report.

The Clerk read as follows:

On page 13, line 11, strike out "$4,000" and insert in lieu thereof "$6,700"; and in line 12 strike out "$43,175" and insert in lieu thereof "$45,875."

Mr. STEPHENS of Texas. Mr. Chairman, I desire to state, in connection with that amendment, that the reason is this: This is a nonreservation school and it has been used as an Indian school for a number of years. This is the reason given by the department in a letter recently received:

HOUSE OF REPRESENTATIVES,
Washington, December 19, 1912.

Hon. SCOTT FERRIS,
House of Representatives.

MY DEAR MR. FERRIS: The Indian Office says of the Pipestone Indian School:

"This school is accessible to a large number of Indian pupils needing school facilities, is well equipped, is doing efficient work, and will be needed in the present plan of Indian education for a number of years."

While it is a nonreservation school, it will be used as an Indian school for a number of years. Hence the reasonableness of requests for necessary improvements. If it were to be abandoned in the near future we might try to get along without improvements.

Two years ago $1,500 were appropriated for an electric-lighting plant. The estimate was too small. To complete the work it is necessary that $1,200 more be appropriated.

This year the committee allowed $2,000 for a boys' lavatory annex. The amount is not sufficient; $1,500 in addition are required.

My amendment is:

"Strike out $4,000, in line 11, page 13, and insert $6,700, $1,200 thereof for completion of electric-lighting system and $3,500 thereof for lavatory annex to boys' building; in all, $45,875."

Last year the total appropriation was $46,175. So, with the adoption of the amendment, the total appropriation will be less than that of last year.

I visited the school last fall and went over the premises carefully. With me were citizens of Pipestone who were well informed as to the cost of construction and repairs. I have heard from them since the committee reported the bill, and from my own observations and from

information I obtained upon the ground, I am confident that the amounts I have named are necessary to complete the things to be undertaken.

Of course, the school needs a gymnasium, a dairy building, and machinery for the steam laundry. But the gymnasium would cost $6,500, the dairy building at least $4,000, and the machinery for the laundry $1,500.

I shall hope at some future time to have the committee look favorably upon these items, but now I am simply asking for what is absolutely necessary to complete the work which the committee has seen fit to undertake.

I have talked with Mr. BURKE and Mr. STEPHENS concerning the matter, and I would be greatly obliged to you if, in my absence, you will offer this amendment and secure its adoption.

Very truly, yours, W. S. HAMMOND.

This seems to have been a rearrangement, and a letter justifying it comes through the department to the committee, and at a committee meeting held on last Saturday we agreed to this amendment.

Mr. MANN. As I understood the reading of the amendment by the Clerk, it was to strike out "$6,000" and insert "$4,000."

Mr. STEPHENS of Texas. No. It was to insert "$6,700" and strike out "$4,000," making an increase of $2,700. Still it is less than the appropriation carried last year.

The CHAIRMAN. Without objection, the Chair will put the two amendments together. The question is on agreeing to the two amendments, respectively.

The amendments were agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of $165,000, or so much thereof as may be necessary, of the principal sum on deposit to the credit of the Chippewa Indians in the State of Minnesota, arising under section 7 of the act of January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and to use the same for the purpose of promoting civilization and self-support among the said Indians in manner and for purposes provided for in said act.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] moves to strike out the last word.

Mr. MANN. This item proposes to take $165,000 of the principal in the Treasury and appropriate it for the support and civilization of these Indians. It is the same as in the current law. May I ask how this principal sum is expended in the support and civilization of the Indians? In other words, is it really being expended for things which are of permanent value to the Indians or is it the use of a part of their principal to pay current living expenses?

Mr. STEPHENS of Texas. I will state to the gentleman in reply that—

The act of January 4, 1889, referred to in this item, provides, among other things, that, after the principal sum accruing to the credit of the Chippewa Indians thereunder from the sale of Chippewa timberlands should exceed the sum of $3,000,000, the United States shall be reimbursed out of the proceeds accruing therefrom for all amounts advanced for the support and education of the Chippewa Indians, and, inasmuch as the balance of the fund to the credit of these Indians on October 31, 1912 (the United States has been reimbursed for advancements), amounted to about $4,250,000, it would appear that no further appropriation should be made for them.

With this vast sum on hand, and additional funds being placed to the credit of the Indians, they are in position to provide funds for their own support and civilization. There are 11,000 Indians under six superintendencies.

Mr. MANN. I am not complaining at all of the payment of money to these Indians for their support out of their own funds, instead of out of the Treasury, but this is a portion of their principal. Now, how is this money being expended? It is not required to be expended. It is a matter of discretion with the Secretary. How does he expend it? Is the money being expended for just food to eat or for permanent improvements in some way for the benefit of the Indians?

Mr. STEPHENS of Texas. The statement from the department on this item proceeds:

Six superintendencies are necessary, as each of the reservations handled thereunder are either so large or so widely separated from each other as not to be handled successfully by combining the jurisdictions of two or more.

The increase of $20,000 over the amount withdrawn last year is asked for the following reasons:

First. Because it is contemplated to use $15,000 in providing lands for certain homeless Mille Lac Chippewa Indians who are entitled to share in the fund and who have not received allotments of land; and.

Second. Because it is desired to increase the facilities for giving the adult Indians practical instruction and aid in the pursuit of agriculture.

Mr. MANN. That is not on this item. I think that is on one of the items that the committee did not insert.

Mr. STEPHENS of Texas. This is the justification given to the committee:

With regard to this proposition, it is stated that the Indians now obtain a large part of their employment in the lumber industry, but as the timber becomes scarce more and more dependence in gaining their livelihoods must be placed upon cultivation of the soil. The Indian Office plans to employ practical farmers, who are to live among the Indians and who are to have under their charge equipment which may be loaned to the Indians until such a time as they will farm tracts large enough to justify individual purchases of implements and machinery.

Mr. MANN. Does the gentleman know how much money these Indians receive each year from the Government as interest on their funds which are on deposit?

Mr. STEPHENS of Texas. I gave the total amount of their fund, which is about $4,250,000.

Mr. MANN. That is the total amount on deposit.

Mr. STEPHENS of Texas. Yes.

Mr. MANN. How much is paid each year in the way of interest?

Mr. STEPHENS of Texas. I do not know. Probably the gentleman from South Dakota [Mr. BURKE] can state that. He is more familiar with it, as it is in his section of the country.

Mr. BURKE of South Dakota. I think these Indians have about $4,000,000 on deposit, and I think the interest is about 5 per cent, but I am not certain.

Mr. MILLER. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. MILLER. The amount of the funds of the Minnesota Chippewas has not been determined exactly, because the accounting has not yet been had. They have between $8,000,000 and $9,000,000 in the Treasury, against which the Government claims an offset of about $3,500,000 or $3,700,000.

Mr. BURKE of South Dakota. If the gentleman will permit me, I think there has gone into the Treasury to the credit of these Indians nearly $9,000,000, but as I recall it $4,250,000 was charged up to them on account of moneys that had been advanced previously, that were reimbursable. I think they actually have in the Treasury something over $4,000,000.

Mr. MILLER. They have also coming into the Treasury the proceeds from the sales of timber that will be available in the next two or three years, which will be likely to amount to about $3,000,000.

Mr. MANN. The gentleman from Minnesota is familiar with the situation. Is this money that has been expended from their principal expended for current living expenses practically, or is it expended in the way that people ordinarily would spend the principal of their funds?

Mr. MILLER. It is expended in a great variety of ways. The provision is for their education and support. They expend it in constructing buildings and in other ways. I do not know that there is any particular limitation on it. They expend it in whatever way they think proper.

I will say in addition that the interest on this general permanent fund—if I may use that expression—has never been distributed among the Indians until this year. The original law provided that a large part of it should be distributed among the Indians for education. That has never been done. It provided that the balance should be distributed in other ways, but the distribution has never taken place until this year, although the aggregate amounts to about $1,750,000. This year, however, after some repeated importunities, the department has consented to make a per capita payment, of $75 per Indian, and they have been making that payment during the last month.

Mr. MANN. And yet, notwithstanding that, it is proposed now to appropriate a portion of the principal in addition to that for current expenses.

Mr. MILLER. That is practically true. I have always been somewhat in doubt about the propriety of this particular appropriation, but it seems that they have used it on the whole to good advantage.

Mr. MANN. I have no doubt of that fact; and yet here is a sum to their credit in the Treasury upon which they are entitled to the interest, which they will now receive. Of course if you keep on appropriating part of the principal each year, that means that the interest will grow less, and hence each year the appropriation of a part of the principal will have to be increased, and in the end the principal will be exhausted.

Mr. MILLER. I will say to the gentleman that the increase each year is greatly in excess of this $165,000, and that the total amount has been increasing in recent years.

Mr. MANN. I do not know that the interest is so very much in excess of the $165,000. Probably it does not exceed $250,000.

If the fund amounts to $5,000,000, 5 per cent on it would be $250,000, and that ought to be sufficient. If they have been satisfied with $165,000 heretofore without receiving the interest, and if they now receive the interest on $5,000,000, they ought to be willing, I should think, not to spend a portion of the principal unless it is expended for something which is a permanent benefit to them.

Mr. STEENERSON. Will the gentleman yield?

Mr. MILLER. Certainly.

Mr. STEENERSON. As I understand, $165,000 is due them under the act of 1889. The Government is simply carrying out what it promised to pay.

Mr. MILLER. I was about to state that.

Mr. STEENERSON. It is a matter of treaty, and this amount is due them.

Mr. MILLER. The treaty was made and the Government agreed that they should have this amount each year.

Mr. MANN. I understood the gentleman from Texas to state that there was included in this item $15,000 for the purchase of homesteads for certain Indians. I think probably that was an accidental statement.

Mr. MILLER. That was stricken out on my own motion. I will say, if the gentleman wants further information as to the $15,000 item, the original home of the Chippewa Indians was in the vicinity of Mille Lac, and when the treaty was made it contemplated that they would be removed to the White Earth Reservation, and nearly all of them were removed; but about 250 of them have refused to move. The Government has tried every means at its disposal to induce them to move, but they flatly refuse. They go over sometimes, but come back some way or other, if they have to walk back, and live in the vicinity of Mille Lac. They are trespassers there. They occupy small tracts of land which their ancestors occupied, but they are trespassers, as the land belongs to the whites, to individuals. The whites are discontented and the Indians are not particularly contented, and the problem of the department is what to do with these Indians. I received word a year ago that these Indians were destitute and suffering.

I called upon the department and they sent an agent there, and he reported that they were destitute and rations were issued to them. The agent suggested that a purchase should be made from the Chippewa fund of homes for these Indians there. What to do with the Indians is a big question. The whites do not want them, and they have no land there. I do not believe we will ever solve the problem of these or any other Indians by building little homes where they can have an Indian village. They are all dependent, poverty stricken, wards of the Government, and if we are going to do anything for them permanently we have got to provide allotments and sufficient land upon which they can make a living. Fifteen thousand dollars, of course, would do nothing toward that; and I thought, rather than have a small beginning without any real benefit, we had better postpone it until a proper disposition of it could be made.

Mr. MANN. Mr. Chairman, I am somewhat surprised that the gentleman from Minnesota did not follow the example of the distinguished gentleman from Oklahoma [Mr. FERRIS] and secure a large enough appropriation from the Government to buy a homestead for these Indians anywhere in the great State of Minnesota. The gentleman from Oklahoma, for the Fort Sill prisoners, secured authorization for the Government to purchase a home anywhere—land sufficient for a farm—in any place in Oklahoma or any other good State.

Mr. STEPHENS of Texas. Does the gentleman think it right to charge up to Oklahoma these Indians brought there by the United States and held as prisoners? Those Indians belong to New Mexico and Arizona, but ran away and went to war and were captured and held at Fort Sill, not by the authority of the State of Oklahoma, but were prisoners of war.

Mr. MANN. I do not charge up anything to Oklahoma, but I credit the ingenuity to my distinguished friend from Oklahoma in persuading Congress to give the men a home and a farm because theoretically the Government had them in jail and because they were Indians. If they had been white men, they would have thrown them out with $15 if they had been really in jail. These people were only theoretically in jail, and yet the Government is authorized to buy them farms. I commend the example to my friend from Minnesota.

Mr. CARTER. If they had been white men, they would not have been in jail.

Mr. MANN. These Fort Sill Indians are not in jail.

Mr. MILLER. As an incident to this general proposition, the authority of Congress was given to the Mille Lac Band of Indians to bring suit against the United States Government about four years ago, growing out of the treaty of 1889, and there was a recovery—the case is now before the Supreme Court—approximately of a million dollars. The disposition of that may enter into the general settlement of this question.

The Clerk read as follows:

The Secretary of the Interior is hereby authorized to advance to the executive committee of the White Earth Band of Chippewa Indians in Minnesota the sum of $1,000, or so much thereof as may be necessary, to be expended in the annual celebration of said band to be held June 14, 1913, out of the funds belonging to said band.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph.

Mr. STEPHENS of Texas. Mr. Chairman, I have a committee amendment that I desire to offer at this time, which I send to the desk and ask to have read.

Mr. MANN. Mr. Chairman, I think the point of order had better be disposed of. I do not understand that the amendment refers to this particular item.

Mr. STEPHENS of Texas. No; it is an amendment submitted by the gentleman from Minnesota [Mr. STEENERSON].

Mr. MANN. Mr. Chairman, this item, which has been carried in the bill for some time, is for the sum of $1,000 for what is denominated in the bill as an "annual celebration." There are other terms which are applied in other parts of the country to similar celebrations. What I want to know of the gentleman from Minnesota [Mr. MILLER] is whether it is at these celebrations, with the circumstances attendant upon them, that Indians have been persuaded to assign their claims or sell their property, so that there has come up so many charges at least of fraud in connection with the White Earth allotments and allottees?

Mr. MILLER. Mr. Chairman, I can say to the gentleman that this is not an occasion when anything of that kind has ever occurred or probably ever will occur. It is purely an Indian matter. The Indians have complete charge, with the proper supervision of the department officers. It is simply a celebration that they have had for many years. Members of the big tribe gather from the various sections of the country where they now live, and this is the one thing that is dear to their hearts, and if you strike out one thing from the bill that would work havoc among them it would be this.

Mr. MANN. I have not any intention of endeavoring to strike it out of the bill, but I would like to know whether the law and the rules and regulations concerning intoxicating liquors in Indian country are at all suspended at this annual celebration.

Mr. MILLER. Mr. Chairman, I was about to add that they are not; that there is the most perfect sobriety and orderliness characterizing all of the days and hours of the days and nights of this celebration.

Mr. MANN. Mr. Chairman, I accept the gentleman's statement on that, although I have heard it insinuated that there was more or less illegitimate traffic in fire water on this occasion, and that there were more or less white people gathered around the celebration seeking to obtain the consent of Indians to sell some of their property. I did not know about that.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to ask the gentleman from Minnesota if they connect the holding of an agricultural fair with this appropriation, so that when the Indians get together they exhibit the products of the farms, and so forth.

Mr. MILLER. No; they do not.

Mr. STEPHENS of Texas. I recently visited the Saxton Reservation in Arizona, and found there a very creditable exhibit made by those Indians, and I was in hopes that they were following the same example in Minnesota.

Mr. MANN. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Texas [Mr. STEPHENS].

The Clerk read as follows:

Page 14, at the end of line 7, add the following as a new paragraph: "That the unexpended balance of the appropriation for the completion of the drainage survey of ceded Indian lands made by act of April 30, 1908, is hereby reappropriated and made available for an extension of the drainage survey, together with an estimate of the cost of the project, to cover the Red Lake Diminished Reservation, in Minnesota, with a view to determining what portions thereof may be profitably and economically reclaimed by drainage and make the same suitable for agricultural purposes."

Mr. MANN. Mr. Chairman, on that I reserve the point of order.

Mr. FOSTER. Mr. Chairman, I reserve the point of order on the amendment.

Mr. STEPHENS of Texas. Mr. Chairman, I yield to the gentleman from Minnesota, in whose district this Red Lake Reservation is situated, to explain the reason for the amendment. It is a committee amendment, agreed to by the committee.

Mr. STEENERSON. Mr. Chairman, I would say that I submitted this item to the committee at the request of the Red Lake Indians. They first held a council last June and adopted resolutions and sent them down to me, but they came too late to have the amendment included in the last year's appropriation bill. They wanted this survey made last summer, but it came too late and it could not be very well included in any other bill, although it was put in the sundry civil appropriation bill in the Senate, but was struck out in conference. They again held a council while I was present last November, and one of the things that they requested is this extension of the drainage survey to the diminished reservation; and they have recently held another council and sent a copy of the proceedings to me and to the Indian Office, making the same request. Now, I will explain——

Mr. STEPHENS of Texas. Will the gentleman read the letter from the department?

Mr. STEENERSON. I will do so. The matter was submitted to the department, and I will read the letter to the chairman of the Committee on Indian Affairs from the Secretary of the Interior.

The letter is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 2, 1913.

Hon. JOHN H. STEPHENS,
Chairman Committee on Indian Affairs,
House of Representatives.

SIR: I understand that the following has been suggested to your committee as an amendment to the Indian appropriation bill now pending:

"That the unexpended balance of the appropriation for the completion of the drainage survey of ceded Indian lands made by the act of April 30, 1908, is hereby reappropriated and made available for an extension of the drainage survey, together with an estimate of the cost of the project, to cover the Red Lake Diminished Reservation in Minnesota, with a view to determining what portions thereof may be profitably and economically reclaimed by drainage to make the same suitable for agricultural purposes."

The Indian Office desires me to point out that the suggested amendment would be highly desirable, as it will enable that bureau to cause a preliminary survey to be made with a view to determining the feasibility of reclaiming by drainage a considerable quantity of wet, swampy land within the diminished reservation, which it is believed can be drained, and when so drained will be highly adaptable for agricultural purposes.

Making the unexpended balance of the prior appropriation available for use within the diminished reservation will enable this department to cause the necessary preliminary surveys to be made without the necessity of asking an additional appropriation for this particular purpose, which the Indian Office advises me it contemplated doing either at the present or the next session of Congress.

I am advised by the Indian Office that the balance of the appropriation remaining unexpended is $4,546.21.

I have the honor to recommend, therefore, that the matter be given favorable consideration by your committee.

Respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

Now, if the committee will indulge me, I will explain that the Red Lake Reservation contains about 450,000 acres. There are about 150,000 or 200,000 acres of pine and other timber lands. The western part is very good agricultural land providing it could be drained. There are 1,350 Indians on this reservation, and they are reasonably prosperous and doing very well, but their agricultural operations are quite limited. They are desirous of extending their agricultural work. They have made good progress. These Indians are divided into two factions, called the standpatters and progressives. The standpatters are principally composed of the "cross lakers," who are still, I believe, heathen. They are conservatives; they do not believe in allotments in severalty. They want all their property held in common, and I admire them for their sturdiness of character. The other faction or more advanced Indians, the progressives, so called, are very strongly in favor of allotment. Now, this Indian reservation has perhaps two or three hundred million feet of standing timber, which is valuable and is not being cut only where it has been burned, as there is no authority for cutting it. This reservation is owned in common, and no allotments in severalty have yet been made. A few of them have opened farms and some of them have built very good houses, but of course there being no allotments in severalty the man who makes the finest farm and best house is liable to have his house taken away or his land divided up with somebody when the allotments are finally made. For that reason the great question there is the allotment question. There is not sufficient amount of land actually suitable for agriculture available for allotment unless we drain the land. This western part of this reservation is bounded by what we call the 11 towns, which were ceded by this same band in 1904 under an act of Congress which I introduced and which Congress passed. That embraced about a quarter of a million acres of similar land. It was to be sold at $4 an acre, or so much more as it would bring in the market. It was necessary, in order to comply with the treaty with the Indians, to raise a million dollars to pay them for this land—that is, for the 11 towns.

The land was so low and wet that it could not be sold under those conditions, and Congress refused to appropriate the million dollars, so we had the dilemma of how to dispose of it, and on my initiative an item was included in the Indian appropriation bill for a drainage survey, first of $10,000 and then of $10,000 and then of $5,000, to ascertain what could be done with this quarter of a million acres adjoining this unceded land, and the Geological Survey sent out men who made a fine survey, and it was done on scientific principles. We then passed a law allowing that Government land to be assessed for the drainage improvements under the State law the same as if it was owned by private persons. The result was that the land was sold at good prices, but instead of realizing the million dollars that the Indians had agreed to take for it we realized $1,260,000, and we have got land enough to raise $12,000 more, and that land is now the best land in northern Minnesota. This has excited the Indians who own the adjoining land so that they want their land drained also, and hence they have held these three conventions, demanding that their lands be drained in order that they may have agricultural lands to be allotted to them.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. STEENERSON. Certainly.

Mr. BURKE of South Dakota. This $1,260,000 which was received for 268,000 acres, did that money go to the Indians—all of it?

Mr. STEENERSON. It is in the United States Treasury.

Mr. BURKE of South Dakota. To the credit of the Indians?

Mr. STEENERSON. To the credit of these Indians.

Mr. BURKE of South Dakota. Was the $35,000 appropriated for the drainage survey reimbursed or not?

Mr. STEENERSON. I forgot to state that. The money appropriated for the drainage survey, it was provided by the act, should be raised by raising the price of the unsold ceded Indian lands 3 cents an acre.

There was a million and a half of ceded land which, if it was raised 3 cents an acre, would amount to $45,000. When all that land is sold the United States will be reimbursed by an income of $45,000. Now, they have only expended $30,000, and there is a little over $4,500 left for no specific purpose. There is no provision for it. Now, as you will see, this white here [indicating on map] is the Indian land. That has not been ceded. That is still owned in common. This on the west here [indicating] is where there has been drainage operations and where more than 1,000,000 acres have been reclaimed.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. STEENERSON] has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEENERSON. This land was sold all around here. Now, it was proposed to take the unexpended balance and extend the survey, which only provided for the ceded lands—this colored part of the map—to the unceded part—this white part—and that is simply a preliminary step in order to determine whether this land is as suitable for successful drainage as the land immediately west, or whether this river channel can be sufficiently deepened, and so on; and if it is then determined it is a feasible project and is good for the Indians, it is proposed to follow it up pursuant to this resolution of the Indians. The timber land will be sold for the common benefit of all these 1,300 Indians.

Mr. BURKE of South Dakota. Will the unexpended balance which it is proposed to use accomplish all you state you desire?

Mr. STEENERSON. Very nearly. They stated that there was $4,500 unexpended.

Mr. STEPHENS of Texas. Will the gentleman point out the part of the Indian land that has had this survey made?

Mr. STEENERSON. All this in green and colored is the former Red Lake Indian Reservation, and is ceded land, and the piece in white is unceded.

Mr. STEPHENS of Texas. Is that unallotted and held in common?

Mr. STEENERSON. It is unallotted and is held by these 1,350 Indians. I want to take the money that was raised by increasing the price of these unsold lands and survey the Indian lands, because that land belongs to the Indians, if it belongs to anybody, and it will give us the first step toward what we desire. The Government in selling the land simply acted as trustee for the Indians.

Mr. STEPHENS of Texas. I understood the gentleman to say that it was reimbursable under the original act, and the Indians desire it to be done.

Mr. STEENERSON. They are unanimous on that point. I had a council with them before I came, and even the standpatters, who were not in favor of the allotment in severalty, wanted it settled so as to know whether it could be put in shape or not.

Mr. MANN. Was all of this in possession of the original 1,300 Indians?

Mr. STEENERSON. No. Before 1859 it did not belong to any specific tribe that anybody knew of, and hence under the Nelson Act, the act of 1889, it was thrown into a common pot, so to speak, and the land throughout all this country was sold for the benefit of the whole Chippewa Nation of Minnesota.

Mr. MANN. And not for the Red Lake Indians?

Mr. STEENERSON. No.

Mr. MANN. Then, what interest have the Red Lake Indians in this fund?

Mr. STEENERSON. I will explain that. After the act of 1889 passed, the divided Red Lake River Reservation extended down to the Thief River Falls, and these 260,000 acres were, by the treaty of 1904 ceded to the United States under an agreement made by an Indian inspector, Maj. McLaughlin, whereby the Indians ceded the land to the United States in consideration of $1,000,000, in consideration of the fact that thereafter the Red Lake Reservation should belong to the Red Lake Reservation as a separate treaty. And in that treaty the remnant that was occupied by these Indians should be a separate property.

Mr. MANN. I think not. When this original survey was authorized and an appropriation was made that money was to be raised by adding 3 cents an acre to the land that was yet unsold, as I remember.

Mr. STEENERSON. Yes.

Mr. MANN. Now, was that land that was yet unsold all the property of these Red Lake Indians?

Mr. STEENERSON. No.

Mr. MANN. That land was sold, and the amount that was accumulated therefrom was used largely for making a survey for the drainage of the land that was sold and the land that was allotted?

Mr. STEENERSON. Yes.

Mr. MANN. There was some land unallotted, was there not?

Mr. STEENERSON. Unallotted?

Mr. MANN. Yes; unallotted. There is some land there now unallotted, is there not?

Mr. STEENERSON. No. I do not think I understand the gentleman's question. Where does the gentleman mean?

Mr. MANN. Where these Red Lake Indians are.

Mr. STEENERSON. That is all unallotted.

Mr. MANN. Some of this original land is unallotted?

Mr. STEENERSON. The whole reservation is held unallotted.

Mr. MANN. The present reservation is held unallotted?

Mr. STEENERSON. Yes.

Mr. MANN. All the land that was surveyed and on which 3 cents an acre was contributed is not unallotted?

Mr. STEENERSON. The gentleman certainly does not mean to say that you can allot land that was ceded and disposed of?

Mr. MANN. No. I have not yet been able to trace any connection between these Red Lake Indians and this fund that is in the Treasury except their desire to expend the fund.

Mr. STEENERSON. Oh, no; they have not asked especially for this fund. The fact is that they have always contended that the old Red Lake Reservation belonged to them.

Mr. MANN. But the Government did not agree to that. We did not agree to that. Now they have a reservation of their own which they wish to have surveyed for drainage. Why do not they pay for it?

Mr. STEENERSON. The gentleman means, Why do they not do it out of their own money?

Mr. MANN. The money does not belong to them.

Mr. STEENERSON. Oh, yes; it does.

Mr. MANN. In what way? I have not been able to find any connection between this fund and these Indians.

Mr. STEENERSON. I will explain the connection. Thirty thousand dollars already has been expended to facilitate the sale of these other lands, and they have been sold, and the Chippewas of the State of Minnesota got their money sooner than they otherwise would have gotten it; that is, $30,000. Eventually there will be $45,000, and there will be $10,000 that could be used for some other branch of the Chippewa Indians.

Mr. MANN. But the Red Lake Indians do not own it.

Mr. STEENERSON. It is their share of it from other lands.

Mr. MANN. Their lands have been sold, and the fact that they claim it does not make it theirs.

Mr. STEENERSON. There are no other Indians who claim it.

Mr. MANN. I see no reason, because a fund has been created by the sale of certain Indian lands, and is in the Treasury, why that fund should be expended for the benefit of other Indians, simply because they want it.

Mr. STEENERSON. Well, if the fund was derived in part from a sale of their property, they are entitled to a share in the property.

Mr. MANN. How much property did these Red Lake Indians have—lands which have been sold and which contributed 3 cents an acre to this fund?

Mr. STEENERSON. They claimed to have the whole of that land.

Mr. MANN. They do not claim it now, because that was a claim that was not admitted by the Government and has not been carried out by the treaty.

Mr. STEENERSON. Even the Government said that the Red Lake Indians had contributed more than their share to the common fund when they had contributed these 3,000,000 acres under the act of 1889. The report of the Secretary of the Interior so stated, and President Harrison so stated in his message to Congress.

Mr. MANN. Did the gentleman ever introduce a bill on this subject?

Mr. STEENERSON. We have a bill now in course of preparation, but this would give an examination sooner than that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, it seems to me that a matter of this sort, which, of course, is perfectly intelligible to the gentleman in charge, can not very well be understood by other Members on the floor without some opportunity to examine it. It seems to me that the gentleman ought to have had a bill introduced and reported to the House by the committee if such a condition existed, so that Members might have an opportunity to examine it. Then there might be no objection to including it. But to offer an amendment on the floor of the House in a matter of this sort, which in itself does not amount to very much, but which goes far as a matter of principle when you take into consideration that we may be entering upon the drainage of all the Indian and other swamp lands in the United States, I do not think even the committee ought to ask to have it inserted in the bill under those circumstances at this time.

Mr. STEPHENS of Texas. I call the attention of the gentleman from Illinois to the fact that part of this money has already been expended on these same lands for the purpose of drainage, making a survey, and seeing whether or not a portion of the reservation could be drained. We are only asking for the use of the unexpended balance in extending the same drainage system for the same Indians. If we made a mistake in the first instance, we are making a mistake now.

Mr. MILLER. Will the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. MILLER. I hope the gentleman will not deem it necessary to make a point of order against this. It seems to me it is probably a more just case of its kind than is likely ever to arise again. When these lands were ceded, in 1904, as pointed out by my colleague, Mr. STEENERSON, the Government was unable to sell the lands, and it then sought to recoup itself for the amount it agreed to pay the Indians. Thereupon it devised the scheme of having a drainage survey, which called for an appropriation of $35,000.

Mr. MANN. That amount has been received up to date, has it not?

Mr. MILLER. The amount of $35,000 has been appropriated, and about $30,000 has been used. In order to recoup itself for this appropriation of $35,000 the Government distributed a tax of 3 cents per acre over these lands.

Mr. MANN. Over what lands?

Mr. MILLER. Over these ceded lands where the survey was made.

Mr. MANN. Did that apply to anything except lands which were sold?

Mr. MILLER. It did not. It was not necessary that it should.

Mr. STEENERSON. It applied to the unsold lands also.

Mr. MILLER. It applied to the unsold lands that were to be sold.

Mr. MANN. I mean lands that were sold and that were to be sold.

Mr. MILLER. It applied to those lands that were to be sold and which were sold, and that gave the Government $45,000.

Mr. MANN. They sold the land for that much more. The Indians did not have to pay it.

Mr. MILLER. They sold the land for that much more than the Government agreed to pay the Indians.

Mr. MANN. So that it was not paid by the Indians?

Mr. MILLER. The land was sold by the United States, and it belonged to the United States, because it had been ceded by the Indians to the United States. The Government of the United States has expended in that survey $30,000 and has received back $45,000 and has actually gained $15,000. Now, that profit—if we can speak of it as such—was derived from the property of this particular band of Indians.

Mr. MANN. This particular band of Indians did not own the property, by the way.

Mr. MILLER. The Chippewas of Minnesota owned it.

Mr. MANN. But, assuming for the sake of the argument that they did own it, the Government made a treaty with them in which it agreed to pay them so much for the land.

Mr. MILLER. Precisely.

Mr. MANN. Thereupon the Government sold the land for a little more.

Mr. MILLER. Yes.

Mr. MANN. Is the Government under any obligation to turn over the excess to the Indians?

Mr. MILLER. I think not. I do not maintain that it is.

Mr. MANN. That is what this amounts to.

Mr. MILLER. Not necessarily. The Government came out winner in the transaction, as it always has in transactions of this sort.

Mr. MANN. No; the Government usually comes out loser; and it took the chance of losing in this transaction, and it has not yet come out a winner, because it has not sold all the land.

Mr. MILLER. I beg the gentleman's pardon. In Minnesota the Government has come out a very big winner in every transaction with the Indians.

Mr. MANN. On the contrary, in Minnesota in many cases the Government has come out a loser, and may come out a loser on these lands, which have not yet been finally disposed of.

Mr. MILLER. What I am trying to show to the gentleman is—and I know that at first glance it requires a moment's reflection—that it would be only just to give these Indians an opportunity to have their lands surveyed when the cost is so small.

Mr. MANN. Yes; but the lands which they are proposing to survey are valuable lands. Why should not they contribute toward paying for the surveys on their land? They have not contributed anything yet. Other lands where the Government agreed to pay the Indians for it—it may be in some cases more than they were worth—have paid 3 cents an acre. These Indians have not paid anything and the lands have not paid anything. Why should not they pay in the case of the surveys of their own land for drainage purposes?

Mr. STEENERSON. Mr. Chairman, I am unwilling that any wrong impression should go out as to a matter of fact. My last advice was to the effect that the whole $45,000 had not all been paid into the Treasury. I think that the unsold lands when they are sold will realize $45,000, but that has not been done as yet.

Mr. MILLER. How much has been reimbursed?

Mr. STEENERSON. I do not know; they say it was pretty fast last year, and I think it comes to quite a high figure.

Mr. MANN. The gentleman does not know whether the Government will ever sell the land for the amount it agreed to pay the Indians. It has not been able to sell it yet for that amount.

Mr. STEENERSON. I want to say further that in view of the very fine distinction made by the gentleman between the Red Lake Chippewas and the Chippewas of Minnesota, many of whom I have the honor to represent, to avoid any technicality whatever I am willing to have the appropriation amended so as to make it reimbursable out of the Red Lake fund.

Mr. MANN. Mr. Chairman, I wish the gentleman from Texas would ask to let this go over until Monday, so that we will have a chance to see what the proposition is, and then we can prepare the necessary amendment.

Mr. FERRIS. If the gentleman asks that it be passed on the theory that there might not be anything to reimburse from, I want to say that they have $552,550 cash on hand belonging to this particular band, so that there would be no doubt about the reimbursability of it.

Mr. MANN. I have no doubt about that; the land is good for reimbursement.

Mr. STEENERSON. They have the money, and they want it used.

Mr. STEPHENS of Texas. Mr. Chairman, I had hoped to proceed for a half an hour longer.

Mr. MANN. I understood that the gentleman at 5 o'clock was going to move that the committee rise.

Mr. STEPHENS of Texas. I thought that we might finish up these provisions with relation to Montana.

Mr. MANN. I have no objection to running a little while longer. Do I understand that this item is passed by unanimous consent with the point of order pending?

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that this item be passed with the point of order pending.

The CHAIRMAN. Without objection, the request of the gentleman from Texas will be considered as agreed to.

There was no objection.

The Clerk read as follows:

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, $150,000, reimbursable in accordance with the provisions of the act of April 4, 1910.

Mr. PRAY. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 14, line 25, strike out the figures $150,000 and insert $250,000.

Mr. STEPHENS of Texas. Mr. Chairman, to that I make a point of order.

Mr. PRAY. Mr. Chairman, I do not think the amendment is subject to a point of order.

Mr. STEPHENS of Texas. I hope that the amendment will not be adopted.

Mr. PRAY. Mr. Chairman, I do not intend to occupy the time of the committee at this late hour in the afternoon to any great extent. But I sincerely hope that this amendment may be adopted, because I believe it is a meritorious and necessary amendment; that the appropriation not only ought to be increased to $250,000 but to $450,000, in accordance with the estimates and recommendations of the supervising engineer of the Flathead irrigation project and in accordance with the suggestions of the Director of the Reclamation Service.

It is intended when this project is completed to irrigate about 150,000 acres of land on this reservation. It will cost $3,781,000 to complete the project. At the rate the appropriations are now being made, it will be in all probability many years before the project is finished. Many of the people who are now residing upon this reservation, waiting patiently for water to be turned into the ditches, which they claim the Government had promised, will be dead and gone when the project is completed.

I have received a number of protests from people residing in that section of the State against these unusual and, as they allege, unnecessary delays. Therefore I consider it my duty to bring this matter to the attention of the committee, and ask them, if they will, to appropriate the sum of money recommended by the Director of the Reclamation Service, who is in charge of this construction work, so that the people who are now living upon the reservation may derive some benefit from this project before they are summoned to another world.

Mr. STEPHENS of Texas. Is it not a fact that the people insisting on that are mainly white persons?

Mr. PRAY. There are some 1,500 settlers who are now occupying the surplus lands, and they have a perfect right, in my judgment, to insist upon the completion of the project.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. PRAY. Certainly.

Mr. MANN. How much are these combined irrigation systems to cost?

Mr. PRAY. There is only one system. I will say to the gentleman, on the Flathead project. It is composed of five units.

Mr. MANN. I am taking the language of the law, which calls it "systems."

Mr. PRAY. I accept the gentleman's correction. The amount is estimated at $3,781,000.

Mr. MANN. How much money has been expended upon it up to date?

Mr. PRAY. I think about $500,000.

Mr. MANN. Is that utilizable at all?

Mr. PRAY. In what respect?

Mr. MANN. Is there anything there that can be used in the way of irrigation now?

Mr. PRAY. Oh, yes; to some extent. Some of the units are partially completed. One unit, I believe, is 85 per cent completed.

Mr. MANN. Is there any land being irrigated there at the present time?

Mr. PRAY. Some land; yes.

Mr. MANN. I notice that the director asked for $250,000.

Mr. PRAY. The Commissioner of Indian Affairs, I believe, asked for $250,000, but the director and supervising engineer estimated for $450,000. Right in that connection I will say to the gentleman that a year ago $200,000 was appropriated, but the expenditure of that appropriation was limited to two projects, and it was considered practically inadvisable to expend it on those two projects. In fact, it could not be done economically; at any rate, it was so stated by the engineer on the project, when I visited there last fall.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. PRAY. Certainly.

Mr. STEPHENS of Texas. I presume the project to which the gentleman refers is the Jocko division, 84 per cent of which has been completed, and the other project is the Pablo division, of which 42 per cent has been completed. Are not these two items the units which the committee desires to finish before going ahead with any other?

Mr. PRAY. Yes.

Mr. STEPHENS of Texas. Is not that the reason that the committee refused the larger appropriations?

Mr. PRAY. That is exactly what I am trying to bring to the attention of the chairman of the committee. A year ago in the Indian appropriation bill you appropriated $200,000 for this project, but so limited the use of that appropriation as to make it practically useless.

Mr. MONDELL. Mr. Chairman, will the gentleman yield for a question?

Mr. PRAY. Yes.

Mr. MONDELL. The gentleman is familiar with the conditions upon that reservation. Is it not true that the making of these small appropriations increases the cost of the construction because of the fact that only small units can be constructed at one time and it is impossible to let the contracts in the most economical manner?

Mr. PRAY. That is quite true.

Mr. MONDELL. And that the delay in making large appropriations now keeps the Government and the Indians out of the use of the lands for the reclamation of which large sums have already been appropriated?

Mr. PRAY. Yes; it does.

Mr. MONDELL. So that in the interest of economy and in the interest of the early utilization of the land now partly irrigated and for the irrigation of which large sums have been expended we need a very much larger amount than this?

Mr. PRAY. The Director of the Reclamation Service and other officials have stated repeatedly that it necessarily increases the cost of the project where inadequate sums are appropriated from time to time. Let me go into the subject a little more fully.

Three great irrigation projects are now and have been for some time under construction on Indian reservations in Montana. These projects are being built by the United States Reclamation Service for the Indian Office. If they should ever be completed, they would irrigate thousands of acres of fertile lands on the Flathead, Blackfeet, and Fort Peck Indian Reservations. With the meager appropriations that are now being made by Congress for this important work it will be many years before the projects will be finished. People who are now occupying these lands, relying upon the implied promise of their Government to furnish the water, will be old and decrepit or else in their graves before that promise is fulfilled, unless a different course is pursued in making appropriations. Take the Flathead project, which we have been considering, for example, that being the largest and most expensive one undertaken.

The reclamation officials asked the Committee on Indian Affairs to appropriate $450,000 for the coming season, and have received, as this bill will show, $150,000 instead. The other appropriations are cut proportionately. If the present policy is continued, it will probably be about 30 years before the Flathead project is finally completed. In the meanwhile there are 1,500 homesteaders on this reservation marking time, unable to cultivate their lands profitably because of lack of water for irrigation during the season when water is most needed. The Indian appropriation bill at the last session carried an item of $200,000 for this project, but the engineers found when they called for money to proceed with the work that they could expend economically only about $90,000 of the amount thus appropriated, because of the conditions imposed requiring the entire sum to be used in work on but two units of the project. For the purposes of administration and economical management, the Reclamation Service has divided the project into several units, and the work of construction is carried on according to plans adopted by the engineers far in advance of construction. One of the units upon which the appropriation was required to be spent was nearly completed, and it was not found to be practicable, in the judgment of the officials in charge, to do more than a small amount of work on the other unit at that particular time. So, as a matter of fact, the greater part of the season was wasted and they were unable to use $110,000 of the appropriation. If an abandonment of the remaining units of these projects is contemplated by our friends who now control the House, a most excellent beginning has been made.

It is my understanding that the committee has been thoroughly acquainted with the needs of the different projects by the Government officials in charge of the work; that they have presented to the committee from time to time complete information relating to the plans of construction and appropriations required, but that the response has been unfavorable to an expeditious and economical completion of the projects. What sort of business judgment and foresight is it to turn down the estimates of the department calling for an appropriation of $450,000 and allow $150,000 for a year's work on a project which, when finished will cost $3,781,000, when all of these appropriations can be economically used and are reimbursable? The answer to this query would probably be that it is not good business to appropriate large sums of money out of the Treasury without knowing when and in what manner it is going to be returned. The fact is that we have now expended, or had at the close of the fiscal year June 30, 1912, $490,000 on the Flathead project and that $390,000 of that amount has already been reimbursed to the United States and paid into the Treasury. The reports show that the timber alone on this reservation is worth several hundred thousand dollars more than the entire cost of the project, and that is not taking into account at all the increased value of the land from $75 to $150 per acre. If we are going to irrigate 200,000 acres of land which, when water is furnished, will be worth $20,000,000, it seems to me that the Government is not entering upon a speculative or hazardous enterprise in any sense, but is proceeding along conservative lines in the furtherance of a policy enacted by Congress and favored by two different administrations.

These great projects have been under way for three years. The opening of these reservations was given wide publicity, likewise the fact that the Government proposed to reclaim large areas by construction of irrigation works. Thousands of settlers took up land and established their homes upon these reservations, believing in the responsibility and good faith of the Government and that it would really accomplish what it apparently was making every preparation to undertake when they went upon these lands.

These projects present no specially difficult engineering problems. The plans have all been perfected by the reclamation officials, and the men and equipment are on the ground and all is in readiness to proceed with all possible expedition. But the money has been withheld or else offered in small driblets, and every season of delay caused by inadequate appropriations will undoubtedly greatly increase the present estimate of cost on all these projects.

Mr. STEPHENS of Texas. Mr. Chairman, Mr. Newell, engineer in charge of this work, states:

There appeared to be, at the time of the last hearing, 2,265 Flathead Indians. The land to be irrigated comprises 150,000 acres, at an estimated cost of $3,781,000, the cost per acre being $30. There was expended to July 1, 1911, $490,019.44. We appropriated for the fiscal year ended June 30, 1912, $400,000, and in the last appropriation bill,

for the fiscal year ending June 30, 1913, we appropriated $200,000. Now, they are asking for the next fiscal year an appropriation of $200,000.

Mr. PRAY. Will the gentleman yield?

Mr. STEPHENS of Texas. I desire to finish reading this, as it gives a succinct statement of the whole matter.

Mr. PRAY. I think the gentleman made a mistake in the figures.

Mr. STEPHENS of Texas (reading):

The former hearings disclosed the fact that these Indians have lands and timber conservatively estimated to be worth about $5,000,000; and $270,000 of the moneys expended on this project had been actually reimbursed in the Treasury at the time of the hearings a year ago. There appears to be five units in connection with this project, and when the hearings were held last year the Jocko unit, I think, was said to be 81.5 per cent completed, the Mission unit was 9.6 per cent completed; the Pablo unit was 28.7 per cent completed; the Polson unit was 9.8 per cent completed; and the Post unit was 31 per cent completed.

* * * * * *

Now, the present condition of the work, as shown by the last copy of the Reclamation Record for November, 1912, is as follows: The Jocko division is 84 per cent completed; the Mission division is 11.6 per cent completed; the Pablo division is 42.5 per cent completed; the Polson division is 9.9 per cent completed; and the Post division is 35.8 per cent completed.

We desired that the Jocko unit should be completed, so that water could be furnished to parties underneath those ditches, and also the Pablo division 42 per cent, nearly half of that was completed. That is the reason we cut the appropriation to what it is.

Mr. PRAY. Is not the recommendation $250,000 instead of $200,000?

Mr. STEPHENS of Texas. Yes.

Mr. PRAY. And is it not further the fact that the officials stated that last year's appropriation of money could not be economically expended because of the limitations imposed upon its use?

Mr. STEPHENS of Texas. Oh, certainly; they wanted the full amount they asked for, but we did not think it proper to give it to them before they completed these two units now so nearly completed. I ask for a vote.

The CHAIRMAN. The gentleman made a point of order. Does the gentleman desire a ruling on that?

Mr. STEPHENS of Texas. I withdraw the point of order and ask for a vote.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

That the Secretary of the Interior is hereby authorized, in his discretion, to withdraw from the Treasury the entire share of the Northern Cheyenne Indians in the permanent fund created under section 17 of the act of Congress approved March 2, 1889 (U. S. Stat. L., vol. 25, p. 888), and to expend it for the benefit of said Northern Cheyenne Indians in the purchase of stock cattle or such articles as in his judgment will best advance said Indians in civilization and self-support, $48,075.07.

Mr. PRAY. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

After the figures in line 16, page 16, insert as a new paragraph the following:

"The sum of $75,000, or so much thereof as may be necessary, $25,000 of which shall become immediately available, is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, for the purpose of surveying the land within the Tongue River or Northern Cheyenne Indian Reservation, Mont., for completing the survey of the lands within the Fort Belknap Indian Reservation, Mont., and for making a meander survey around the Flathead Lake so as to identify the lands embraced within the power-site withdrawal of 100 linear feet around that lake back from the high-water mark for the year 1909."

Mr. STEPHENS of Texas. Mr. Chairman, I desire to make a point of order against the amendment offered by the gentleman. I think it is clearly subject to a point of order, as it is new legislation.

Mr. BURKE of South Dakota. Pending that I want to inquire in regard to the paragraph from lines 7 to 16. The amendment of the gentleman from Montana is a new paragraph. I want to make inquiry in regard to the paragraph beginning at line 7 and ending in line 16. I call the attention of the chairman to the fact that at the end of line 16 is the sum of $48,075.07.

Mr. STEPHENS of Texas. I understand this amendment to be offered as a new paragraph and has no connection with this. It does not propose to touch the total.

Mr. BURKE of South Dakota. His amendment has no reference to this paragraph at all.

Mr. STEPHENS of Texas. I understand.

Mr. BURKE of South Dakota. I call the attention of the Chairman again to line 16. At the end of the line are the figures $48,075.07. Do I understand that is the amount appropriated by this item?

Mr. STEPHENS of Texas. That is the amount authorized by the department.

Mr. BURKE of South Dakota. That is the amount of the Northern Cheyenne Indians in the permanent fund?

Mr. STEPHENS of Texas. That is right, and they have asked this amount be given for the purpose stated in the amendment.

Mr. BURKE of South Dakota. I call the Chairman's attention again to the fact that the language is very ambiguous, and it is doubtful whether it appropriates it. It seems to me it has no connection with it.

Mr. STEPHENS of Texas. That is in accordance with the letter they have forwarded.

Mr. BURKE of South Dakota. That does not help it.

Mr. STEPHENS of Texas. What amendment does the gentleman suggest?

Mr. BURKE of South Dakota. I am not certain it requires any.

But here is an authorization:

That the Secretary of the Interior is hereby authorized, in his discretion, to withdraw from the Treasury the entire share of the Northern Cheyenne Indians in the permanent fund—

And so forth.

And to expend it for the benefit of the said Northern Cheyenne Indians in the purchase of stock cattle or such articles as in his judgment will best advance said Indians in civilization and self-support, $48,075.07.

Mr. STEPHENS of Texas. This follows the law already. That is the unexpended balance.

Mr. BURKE of South Dakota. How do we know it is the unexpended balance?

Mr. STEPHENS of Texas. That is what they state in the letter.

Mr. BURKE of South Dakota. Then, in line 13, after the comma, should it not state "which amount is $48,075.07, and the Secretary of the Interior is authorized to expend it"?

I am simply calling the attention of the committee to the way in the paragraph the $48,000 is appropriated.

Mr. STEPHENS of Texas. I think the first part of the sentence makes that clear, namely:

That the Secretary of the Interior is hereby authorized, in his discretion, to withdraw from the Treasury the entire share—

In a certain event.

Mr. BURKE of South Dakota. Suppose the entire share happened to be $48,000?

Mr. STEPHENS of Texas. These are their figures, and they keep books there.

Mr. BURKE of South Dakota. I would like to call the gentleman's attention to the fact that this item does not state that this is the balance. It stands as $48,000 and odd in figures.

Mr. STEPHENS of Texas. That is the appropriation.

Mr. BURKE of South Dakota. It does not so state. It does not appropriate $48,000.

Mr. STEPHENS of Texas. What amendment would the gentleman suggest?

Mr. BURKE of South Dakota. I do not think the $48,000, as it stands at present——

Mr. STEPHENS of Texas. Has the gentleman noticed the first language in line 7, namely:

That the Secretary of the Interior is hereby authorized, in his discretion, to withdraw from the Treasury—

And so forth?

Mr. BURKE of South Dakota. He has authority to withdraw it if it is $48,000 or if it is $148,000?

Mr. STEPHENS of Texas. It says that it is for the benefit of the Shawnee Indians.

Mr. BURKE of South Dakota. What have the figures $48,000 there to do?

Mr. STEPHENS of Texas. I have no objection to their going out.

Mr. BURKE of South Dakota. I do not think they ought to be there in that form.

Mr. STEPHENS of Texas. If you will make a motion——

Mr. BURKE of South Dakota. I am not going to make a motion, but I think it is inadvertently inserted in that way, and I think it ought to go out, or to make it so that it is understood that we can not expend more than $48,075.07. Suppose the share of the Cheyenne Indians is $148,000, would that limit the Secretary of the Treasury from drawing from the Treasury $148,000?

Mr. STEPHENS of Texas. I think that is merely directory.

Mr. BURKE of South Dakota. I think so.

Mr. STEPHENS of Texas. I think so. It directs him to take out whatever balance there is there.

Mr. FERRIS. Will the gentleman yield just a moment?

Mr. BURKE of South Dakota. Certainly.

Mr. FERRIS. I am rather inclined to think the gentleman's suggestion is a good one. If you will turn over to page 19, lines 18 to 24, you will find there the following language used to withdraw trust funds:

Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States at his discretion the sum of $25,000.

This language has always answered the purpose, all right. The specific amount withdrawn is stated in the body of the paragraph—and I wonder if it might not help the language by inserting, after the word "Treasury," page 16, line 8, the words "the sum of $48,075.07, which is the share of the Northern Cheyenne Indians"?

Mr. BURKE of South Dakota. The gentleman will see that if you made a period where the comma apears, after the word "support," in line 16, that the sentence would be complete, and the $48,075.07 would not mean anything.

Mr. MANN. Is the gentleman sure that it would not be contended as meaning something? I think the suggestion made by the gentleman from South Dakota [Mr. BURKE] as to the form is quite apt, but this being a trust fund I do not suppose that we make an appropriation.

Mr. FERRIS. Simply withdraw it.

Mr. MANN. We simply withdraw it, and where the act says, "the entire share of the Northern Cheyenne Indians, which was $48,075.07," I apprehend the department would not allow them to withdraw more than the $48,075.07. I at first thought that this being an item that does draw interest, there might be no way of ascertaining the exact amount that was in the Treasury at the date at which it was to be withdrawn, but, as I understand now, the interest is payable without the action of Congress at all, and the department has certified that there remains this amount, $48,075.07.

Without taking time to strike out that 7 cents, I would like to suggest to the gentleman from Texas [Mr. STEPHENS] that it is now 7 minutes of half past 5.

Mr. STEPHENS of Texas. I would like to have this item settled.

Mr. MANN. This item is settled.

Mr. FERRIS. There is a point of order pending.

Mr. STEPHENS of Texas. Yes; a point of order is pending.

Mr. FERRIS. But to another section.

The CHAIRMAN. There is no point of order pending to this section. The point of order that was made does not relate to this section.

Mr. BURKE of South Dakota. Mr. Chairman, I wish to offer an amendment. On line 13, page 16, after the parenthesis, insert the words "which amount is $48,075.07." And then strike out the figures in line 16, after the words "self-support."

Mr. STEPHENS of Texas. Mr. Chairman, I accept the amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from South Dakota.

The Clerk read as follows:

Amend, page 16, line 13, by inserting, after the parenthesis, "$48,075.07" and striking out, on line 16, after the words "self-support," the figures "$48,075.07."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Dakota [Mr. BURKE].

The amendment was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I ask for a ruling on the point of order suggested by the gentleman from Montana [Mr. PRAY].

Mr. PRAY. Mr. Chairman, would it not be possible for the committee to rise now and leave this matter pending?

Mr. STEPHENS of Texas. I would like to have a ruling now. I think it is perfectly clear, Mr. Chairman, that it is new legislation. It provides for a survey, and it is certainly new legislation.

Mr. PRAY. Would not the gentleman agree to rise now? I desire to discuss the amendment briefly later.

Mr. STEPHENS of Texas. I will yield to the gentleman to make such observations as he pleases now. It is six minutes until half-past 5.

Mr. PRAY. I hope the gentleman from Texas will consent to allow it to go over.

Mr. STEPHENS of Texas. I will reserve temporarily the point of order. The gentleman can conclude on Monday. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, and had come to no resolution thereon.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 10169. To provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge; and

H. R. 10648. Amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes and to protect the same."

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 25 minutes p. m.) the House adjourned until Monday, January 6, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Duwamish River, Wash. (H. Doc. No. 1219); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of West Fork, South Branch Chicago River, Ill., from Robey Street west to Forty-eighth Avenue (H. Doc. No. 1220); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on examination and survey of Mississippi River between Winnibigoshish and Pokegama reservoirs; and from Leech Lake Dam to the mouth of Leech River, Minn., with a view to straightening and improving the channel (H. Doc. No. 1223); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

4. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Interior, submitting an urgent deficiency estimate of appropriation for improvement of electric-light plant, Department of the Interior (H. Doc. No. 1221); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Utah at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

6. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Texas at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

7. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Michigan at an election held therein November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

8. A letter from the Doorkeeper of the House of Representatives, transmitting an inventory of all property in his charge belonging to the United States (H. Doc. No. 1222); to the Committee on Accounts and ordered to be printed.

REPORTS OF COMMITTEES.

Under clause 2 of Rule XIII,

Mr. GRAHAM, from the Committee on Expenditures in the Interior Department, submitted a report (No. 1279), together with the views of the minority, on the matter of the investigation of the Indian Bureau, with transcript of testimony taken and exhibits offered from April 9, 1912, to August 17, 1912, which said report was referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred, as follows:

By Mr. JOHNSON of Kentucky (by request of the Commissioners of the District of Columbia): A bill (H. R. 27657) to authorize the opening of a minor street from Georgia Avenue to Ninth Street NW., through squares 2875 and 2877, and for other purposes; to the Committee on the District of Columbia.

Also (by request of the Commissioners of the District of Columbia), a bill (H. R. 27658) to authorize the widening and opening of Rhode Island Avenue from Fourth Street east to the District line; to the Committee on the District of Columbia.

By Mr. STEENERSON: A bill (H. R. 27659) amending section 2 of an act entitled "An act to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late Civil War, the War with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the deceased soldiers and sailors of the late Civil War," approved April 19, 1908; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 27660) granting to the city of Klamath Falls, Oreg., certain unsurveyed lands for park purposes; to the Committee on the Public Lands.

By Mr. BATHRICK: A bill (H. R. 27661) to establish a bureau to institute a system of loaning money to farmers upon agricultural lands; to the Committee on Ways and Means.

By Mr. REILLY: A bill (H. R. 27662) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or association to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal, the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or association; to the Committee on the Post Office and Post Roads.

By Mr. HAWLEY: A bill (H. R. 27663) to amend section 2291 of the Revised Statutes of the United States relating to homesteads; to the Committee on the Public Lands.

By Mr. LOBECK: A bill (H. R. 27664) to incorporate the Virginia Terminal Co.; to the Committee on the District of Columbia.

By Mr. MAGUIRE of Nebraska: A bill (H. R. 27665) to authorize the extension and enlargement of the post-office building in the city of Lincoln, Nebr.; to the Committee on Public Buildings and Grounds.

By Mr. TAGGART: A bill (H. R. 27666) to amend an act entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," approved July 25, 1912; to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER: A bill (H. R. 27667) granting a pension to Wilburn Munkers; to the Committee on Invalid Pensions.

By Mr. AMES: A bill (H. R. 27668) granting a pension to Charles E. Brackett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27669) granting a pension to Gertrude Meloy; to the Committee on Invalid Pensions.

By Mr. BUTLER: A bill (H. R. 27670) granting a pension to Katherine M. Keegan; to the Committee on Pensions.

By Mr. BARCHFELD: A bill (H. R. 27671) granting an increase of pension to George W. Haney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27672) granting an increase of pension to Thomas Lowe; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27673) granting an increase of pension to George Bailey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27674) authorizing the Secretary of War to grant an honorable discharge to John P. Barry; to the Committee on Military Affairs.

By Mr. CAMPBELL: A bill (H. R. 27675) granting a pension to Faithie P. Nolan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27676) granting an increase of pension to Sarah Frye; to the Committee on Invalid Pensions.

By Mr. CANNON: A bill (H. R. 27677) granting an increase of pension to August Fink; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27678) for the relief of John McElhiney; to the Committee on Military Affairs.

By Mr. COX of Indiana: A bill (H. R. 27679) granting an increase of pension to James F. Hubbard; to the Committee on Invalid Pensions.

By Mr. CRUMPACKER: A bill (H. R. 27680) granting an increase of pension to Elizabeth Hoon; to the Committee on Invalid Pensions.

By Mr. DAUGHERTY: A bill (H. R. 27681) for the relief of Ed. P. Ambrose; to the Committee on Claims.

By Mr. FIELDS: A bill (H. R. 27682) granting an increase of pension to Newton Ridgway; to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 27683) granting an increase of pension to Ida C. Taylor; to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 27684) granting an increase of pension to Everett G. Ford; to the Committee on Invalid Pensions.

By Mr. HAMILTON of Michigan: A bill (H. R. 27685) granting a pension to Roxanna Starkey; to the Committee on Pensions.

By Mr. HAMLIN (by request): A bill (H. R. 27686) for the relief of A. P. Holcomb and the heirs of Samuel Thompson, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27687) granting a pension to Matilda J. Sweaney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27688) granting a pension to Stella Griffitts; to the Committee on Pensions.

By Mr. HAWLEY: A bill (H. R. 27689) granting an increase of pension to Pleasant H. Harper; to the Committee on Pensions.

By Mr. LAFFERTY: A bill (H. R. 27690) granting an increase of pension to Robert D. Rector; to the Committee on Invalid Pensions.

By Mr. LANGHAM: A bill (H. R. 27691) granting an increase of pension to Harvey Haugh; to the Committee on Invalid Pensions.

By Mr. LAWRENCE: A bill (H. R. 27692) for the relief of the heirs of William G. Patience; to the Committee on Claims.

By Mr. McGILLICUDDY: A bill (H. R. 27693) granting a pension to Rachel D. Barnes; to the Committee on Pensions.

Also, a bill (H. R. 27694) granting a pension to Hattie E. Delano; to the Committee on Invalid Pensions.

By Mr. McKINLEY: A bill (H. R. 27695) for the relief of Edward N. McCarty; to the Committee on Claims.

By Mr. MACON: A bill (H. R. 27696) granting an increase of pension to George M. Thomas; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27697) granting an increase of pension to Harvey H. M. Moore; to the Committee on Invalid Pensions.

By Mr. MAGUIRE of Nebraska: A bill (H. R. 27698) granting an increase of pension to Mary R. Clarke; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27699) granting an increase of pension to Isaac Lint; to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 27700) granting a pension to Charles N. Ashford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27701) granting a pension to Emma J. Goodrich; to the Committee on Invalid Pensions.

By Mr. PALMER: A bill (H. R. 27702) granting a pension to Howard S. Gardner; to the Committee on Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 27703) granting an increase of pension to William Jones; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 27704) granting an increase of pension to Charles E. Burr; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27705) granting an increase of pension to Sarah Flook; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27706) granting an increase of pension to Michael N. Musselman; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 27707) granting a pension to Charles Voos; to the Committee on Pensions.

Also, a bill (H. R. 27708) granting a pension to Daniel A. Millard; to the Committee on Pensions.

Also, a bill (H. R. 27709) to remove the charge of desertion against Walter S. Goodrich; to the Committee on Military Affairs.

Also, a bill (H. R. 27710) to remove the charge of desertion from the military record of Peter S. Beauchamp; to the Committee on Military Affairs.

By Mr. RUBEY: A bill (H. R. 27711) granting a pension to Aaron Walker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27712) granting a pension to Rebecca Rapalyea; to the Committee on Invalid Pensions.

By Mr. SCULLY: A bill (H. R. 27713) granting an increase of pension to Annie Conroy; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 27714) granting an increase of pension to Edward Gifford; to the Committee on Invalid Pensions.

By Mr. STONE: A bill (H. R. 27715) granting an increase of pension to John L. Beck; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27716) granting an increase of pension to James McCormick; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 27717) granting an increase of pension to Sylvania Collins; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 27718) granting an increase of pension to Sarah F. Meade; to the Committee on Invalid Pensions.

By Mr. THOMAS: A bill (H. R. 27719) for the relief of J. Will Morton and the estate of Clarissa H. Morton, deceased; to the Committee on War Claims.

By Mr. WHITACRE: A bill (H. R. 27720) granting an increase of pension to Daniel Ruff; to the Committee on Invalid Pensions.

By Mr. WHITE: A bill (H. R. 27721) granting a pension to Ida M. Gleaves; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANSBERRY: Petition of Chistopher Fickbeiner, Toledo, Ohio, favoring the passage of House bill 1339, granting an increase of pension to veterans who lost an arm or leg in the Civil War; to the Committee on Invalid Pensions.

Also, petition of the Chilton Co., Philadelphia, Pa., favoring the passage of the section of the Post Office appropriation bill requiring the statement of circulation of all publications under Government supervision; to the Committee on the Post Office and Post Roads.

Also, petition of John T. Mack and other representatives of the Ohio Daily Newspapers Association, asking for the repeal of the publicity section of the Post Office appropriation bill; to the Committee on the Post Office and Post Roads.

Also, petition of Pine Bluff Lodge, No. 305, Brotherhood of Railroad Trainmen, protesting against the passage of the workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of E. B. Opelycke, Bryan, Ohio, favoring the passage of the Kenyon "red-light" injunction bill to clean up Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the local chapter of the Socialist Party of Newark, N. J., favoring a congressional investigation of the prosecution by the Government of the Appeal to Reason; to the Committee on the Judiciary.

Also, petition of Moore & Mead and 2 other merchants of Coshocton, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. AYRES: Petition of the North Side Board of Trade, favoring the passage of House bill 26677, providing for the relocation of the pierhead line in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Interstate and Foreign Commerce.

By Mr. BARCHFELD: Papers to accompany bill granting an increase of pension to George W. Haney; to the Committee on Invalid Pensions.

By Mr. CANNON: Petition of C. J. Laverenz, Danville, Ill., and the citizens of Chisman, Ill., favoring the passage of House bill 4043, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. DANFORTH: Petition of A. H. Swift, manufacturer of gold leaf, of Rochester, N. Y., praying for an increase of duty on gold leaf from 35 to 50 cents per 100 leaves, leaf not exceeding 3⅜ by 3⅜; to the Committee on Ways and Means.

Also, petition of the Schlegal Manufacturing Co., Rochester, N. Y., protesting against a reduction in the rate of duty on coach lace; to the Committee on Ways and Means.

By Mr. ESCH: Petition of the general executive committee of the Railway Business Association, favoring the passage of legislation granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Association of National Advertising Managers, New York, protesting against the passage of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. FITZGERALD: Petition of the board of directors of the New York Civic League, favoring the passage of legislation preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Federation of Jewish Farmers of America, favoring the passage of legislation establishing a system of farmers' credit unions; to the Committee on Banking and Currency.

By Mr. FORNES: Petition of Kenyon & Kenyon, New York, N. Y., favoring the passage of House bill 26277, for creating a United States court of patent appeals; to the Committee on the Judiciary.

Also, petition of the Garvin Machine Co., New York, N. Y., protesting against the placing of machine tools on the free list; to the Committee on Ways and Means.

Also, petition of the New York Produce Exchange, New York, N. Y.; and the Railway Business Association, New York, N. Y., favoring the passage of House bill 25106, granting a federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Mariani Co., New York, N. Y., favoring the passage of legislation creating an advisory tariff board; to the Committee on Ways and Means.

Also, petition of the Association of National Advertising Managers of New York, protesting against the passage of House bill 23417, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Grain Dealers' Association, favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, for the regulation of the telephone and telegraph service; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Brooklyn League, Brooklyn, N. Y., favoring the passage of bill for the relocation of the pierhead line in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of William McLeod, Hemlock, N. Y., favoring the passage of House bill 1339, to increase the pension of veterans who lost an arm or leg in the Civil War; to the Committee on Invalid Pensions.

By Mr. HARRISON of New York: Petition of William Houston Kenyon and other citizens of New York and Brooklyn, favoring the passage of House bill 26277, establishing a United States court of patent appeals; to the Committee on the Judiciary.

By Mr. KINKAID of Nebraska: Petition of residents of 20 towns of the sixth district of Nebraska, favoring the passage of legislation making it possible to compel all concerns selling goods direct to consumers entirely by mail to contribute their portion of the funds to the development of the local community, the county, and the State; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Oshkosh, Nebr., favoring the passage of House bill 4043, preventing the shipping of liquor into dry territory; to the Committee on the Judiciary.

By Mr. LEE of Pennsylvania: Petition of the Pennsylvania Sealers' Conference, Harrisburg, Pa., favoring the passage of House bill 23113, fixing a standard barrel for fruits, vegetables, etc.; to the Committee on Coinage, Weights, and Measures.

By Mr. NORRIS: Petition of citizens of Dundy County and other citizens of Nebraska; the Nazarene Church of Hastings, Nebr.; the First Presbyterian Church; the First Congregational Church; the Federation of Churches; and the First Baptist Church, Hastings, Nebr., favoring the passage of the Kenyon-

Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of citizens of Geneva, Nebr., favoring the passage of the Kenyon "red-light" bill to clean up Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. REYBURN: Petition of Pennsylvania Sealers' Conference, Harrisburg, Pa., favoring the passage of House bill 23113, fixing a standard barrel for fruits, vegetables, etc.; to the Committee on Coinage, Weights, and Measures.

Also, petition of the Philadelphia Board of Trade, reaffirming its belief in a permanent tariff commission; to the Committee on Ways and Means.

Also, petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States; to the Committee on the Judiciary.

By Mr. REILLY: Petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, for the incorporation of the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Board of Agriculture of the State of Connecticut, protesting against the passage of any legislation reducing the present tax on oleomargarine; to the Committee on Agriculture.

Also, petition of the Association of National Advertising Managers of New York, protesting against the passage of section 2 of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the New Haven Chamber of Commerce, New Haven, Conn., expressing their belief in the integrity of the officials of the New York, New Haven & Hartford Railroad Co.; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Pennsylvania Sealers' Conference, favoring the passage of House bill 23113, fixing a standard barrel for fruits, vegetables, etc.; to the Committee on Coinage, Weights, and Measures.

Also, petition of the New London Business Men's Association, New London, Conn., protesting against the passage of the provision contained in the sundry civil bill stopping the appointment of any more cadets or cadet engineers in the Revenue-Cutter Service unless authorized by Congress; to the Committee on Naval Affairs.

By Mr. STEPHENS of California: Petition of the Afternoon Club of Alhambra, Cal., protesting against the passage of any legislation tending to interfere with the present national system of protecting the forests; to the Committee on Agriculture.

By Mr. THOMAS: Papers to accompany bill for the relief of J. Will Morton and the estate of Clarissa H. Morton; to the Committee on War Claims.

By Mr. TILSON: Petition of the Chamber of Commerce of New Haven, Conn., expressing their confidence in the integrity of the officials of the New York, New Haven & Hartford Railroad Co.; to the Committee on Interstate and Foreign Commerce.

By Mr. WICKERSHAM: Petition of resident fishermen at Ketchikan, Alaska, favoring the passage of legislation preventing the setting of fish traps in the tidal waters of Alaska; to the Committee on the Territories.

By Mr. WILLIS: Petition of John T. Mack and other representatives of the Ohio Daily Newspaper Association, asking for the repeal of the publicity section of the Post Office appropriation bill; to the Committee on the Post Office and Post Roads.

CONGRESSIONAL RECORD:

CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

SIXTY-SECOND CONGRESS, THIRD SESSION.

VOLUME XLIX.

WASHINGTON:
1913.

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VOLUME XLIX, PART II.

CONGRESSIONAL RECORD,

SIXTY-SECOND CONGRESS, THIRD SESSION.

SENATE.

MONDAY, *January 6, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the order of the Senate of December 16, 1912.

CLARENCE W. WATSON, a Senator from the State of West Virginia, appeared in his seat to-day.

The Journal of the proceedings of Saturday last was read and approved.

Mr. SMOOT. I move that the Senate proceed to the consideration of executive business.

Mr. BRISTOW. Why should we not transact morning business before that motion is made?

Mr. GALLINGER. The motion is not debatable.

The PRESIDENT pro tempore. The motion is not debatable.

Mr. BRADLEY. What is the motion before the Senate?

The PRESIDENT pro tempore. The Senator from Utah moves that the Senate proceed to the consideration of executive business. [Putting the question.] The ayes appear to have it.

Mr. TILLMAN. I ask for the yeas and nays.

The PRESIDENT pro tempore. The Senator from South Carolina demands the yeas and nays. Is there a second? [After a pause.] Only six Senators voting in the affirmative, unless there is a call for a division the Chair will state that not a sufficient number have seconded the demand for the yeas and nays.

Mr. CLAPP. I suggest the want of a quorum.

The PRESIDENT pro tempore. The Senator from Minnesota suggests the absence of a quorum, and the Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cummins	McCumber	Smith, Ga.
Bacon	Curtis	Martin, Va.	Smith, Md.
Bankhead	Dillingham	Nelson	Smoot
Borah	Dixon	Newlands	Stephenson
Bourne	du Pont	Oliver	Sutherland
Bradley	Fletcher	Page	Swanson
Bristow	Foster	Paynter	Thornton
Brown	Gallinger	Perkins	Tillman
Burnham	Gore	Perky	Townsend
Burton	Gronna	Pomerene	Warren
Chamberlain	Jackson	Richardson	Watson
Clapp	Jones	Root	Wetmore
Clark, Wyo.	Kenyon	Sanders	Works
Crane	Kern	Shively	
Crawford	Lippitt	Simmons	
Cullom	Lodge	Smith, Ariz.	

Mr. TOWNSEND. I desire to state that the senior Senator from Michigan [Mr. SMITH] is absent on business of the Senate. I will let this statement stand for the day.

Mr. BANKHEAD. I wish to state that my colleague [Mr. JOHNSTON of Alabama] is detained from the Senate on account of illness.

Mr. SHIVELY. I wish to announce that the junior Senator from New York [Mr. O'GORMAN], the junior Senator from New Jersey [Mr. MARTINE], the senior Senator from Arkansas [Mr. CLARKE], and the junior Senator from Florida [Mr. BRYAN] are absent attending the funeral of the late Senator from Arkansas, Mr. DAVIS.

Mr. SIMMONS. I wish to announce that my colleague [Mr. OVERMAN] is absent on account of illness.

Mr. FLETCHER. I wish to state that the junior Senator from Florida [Mr. BRYAN] is absent on business of the Senate.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 61 Senators have responded to their names. A quorum is present. The question is on agreeing to the motion of the Senator from Utah that the Senate proceed to the consideration of executive business.

Mr. SMOOT. I ask the unanimous consent of the Senate to withdraw the motion for an executive session, as the Senator from Kansas [Mr. BRISTOW] has an important bill to introduce, and he wishes to make a few remarks upon it.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Utah?

Mr. CLARK of Wyoming. I ask the Senator from Utah if it is not his intention to include other morning business.

Mr. GALLINGER. I suggest that the morning business shall be first transacted.

The PRESIDENT pro tempore. If the motion is withdrawn it is withdrawn for all purposes and will have to be renewed. There being no objection, the motion is withdrawn.

EXPENSES OF ATTENDANCE AT MEETINGS OR CONVENTIONS (H. DOC. NO. 1227).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a statement showing all expenses incurred from June 30, 1912, until December 1, 1912, by officers or employees of the Interior Department in attending meetings or conventions of any society or association, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

GEORGE W. LUTTRELL V. THE UNITED STATES (S. DOC. NO. 994).

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of George W. Luttrell *v.* The United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. OLIVER presented a petition of members of the Nanticoke District Mining Institute, of Nanticoke, Pa., praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

He also presented a petition of Local Branch No. 113, National Association of Letter Carriers, of Sharon, Pa., praying for the enactment of legislation providing for the retirement of certain employees in the civil service, which was referred to the Committee on Civil Service and Retrenchment.

He also presented a petition of the Board of Trade of Philadelphia, Pa., praying for the enactment of legislation providing for the holding of an international conference on the subject of the high cost of living, which was referred to the Committee on Finance.

Mr. BRISTOW presented a petition of sundry citizens of Kansas City, Kans., praying that an investigation be made into the methods used in the prosecution of the socialist paper, Appeal to Reason, published at Girard, Kans., which was referred to the Committee on the Judiciary.

Mr. GALLINGER presented resolutions adopted by the Washington Chapter of the American Institute of Architects, favoring the enactment of certain legislation relative to the construction of reviewing stands, etc., for the inauguration of the President elect, which were referred to the Committee on Public Buildings and Grounds.

Mr. GRONNA presented a petition of sundry citizens of Aneta, N. Dak., and a petition of sundry citizens of Park River, N. Dak., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. WARREN presented sundry papers to accompany the bill (S. 7604) granting an increase of pension to Mary E. Lafontaine, which were referred to the Committee on Pensions.

Mr. LODGE presented petitions of members of the Cooper League of the Washington Street Baptist Church, of Lynn; of members of sundry men's clubs of Newton; of the congregation of the First Baptist Church of Hudson; of members of the Adult Bible Class of the Methodist Episcopal Church of Newton Center; of members of the John P. Freese Memorial Bible Class, of the Grace Congregational Church, of Framingham; of members of the Claflin Club of the Methodist Episcopal Church of Newtonville; of Rev. A. J. Dyer, of Sharon; and of sundry citizens of Lawrence, all in the State of Massachusetts, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of the Woman's Christian Temperance Union of Newton, Mass., and a petition of members of the Cooper League of the Washington Street Baptist Church, of Lynn, Mass., praying for the passage of the so-called Kenyon "red-light" injunction bill, which were referred to the Committee on the District of Columbia.

Mr. WETMORE presented a petition of Old Warwick Grange, Patrons of Husbandry, of Warwick, R. I., praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was ordered to lie on the table.

He also presented a petition of Rear Admiral Charles M. Thomas Camp, No. 3, United Spanish War Veterans, of Newport, R. I., and a petition of Sidney F. Hoar Camp, No. 4, United Spanish War Veterans, of Providence, R. I., praying for the enactment of legislation to pension widows and minor children of any officer or enlisted man who served in the War with Spain or the Philippine insurrection, which were referred to the Committee on Pensions.

Mr. ROOT presented petitions of the Cayuga County No License League, of Port Byron; of the congregation of the Bushwick Avenue Methodist Episcopal Church, of Brooklyn; of the Herkimer County Woman's Christian Temperance Union, of Frankfort; of the Woman's Christian Temperance Union of Horseheads; of the congregation of the First Presbyterian

Church of Wolcott; of the Onondaga County Baptist Social and Missionary Union, of Syracuse; of the congregations of the Methodist Episcopal Church of Montour Falls; the Methodist Episcopal Church of West Frankfort; the Methodist Episcopal Church of West Schuyler; the American Reformed Church; the St. Johns Methodist Episcopal Church, and the Moulton Memorial Baptist Church, of Newburgh; and of sundry citizens of Champlain, Cincinnatus, Collamer, Chazy, Delhi, La Fayette, Perry Mills, Silver Springs, Syracuse, Tully, and Wolcott, all in the State of New York, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CLARK of Wyoming:

A bill (S. 7968) to increase the limit of cost for the purchase of a site and the construction of a public building in Honolulu, Territory of Hawaii; to the Committee on Public Buildings and Grounds.

By Mr. GORE:

A bill (S. 7969) to make Oklahoma City, Okla., a subport of entry under the jurisdiction of the surveyor of customs at Kansas City, Mo., and extending the privileges of the seventh section of the act of June 10, 1880, thereto; to the Committee on Commerce.

By Mr. CHAMBERLAIN:

A bill (S. 7971) to cause certain lands to revert to the State of Oregon; and

A bill (S. 7972) to regulate homestead entries in cases where persons otherwise entitled as heirs or devisees of a deceased applicant are disqualified by reason of alienage; to the Committee on Public Lands.

By Mr. SMOOT:

A bill (S. 7973) to amend an act entitled "An act relating to rights of way through certain parks, reservations, and other public lands," approved February 15, 1901; and

A bill (S. 7974) to amend the act entitled "An act relating to rights of way through certain parks, reservations, and other public lands," approved February 15, 1901; to the Committee on Public Lands.

By Mr. OLIVER:

A bill (S. 7975) granting a pension to Florence Bayler (with accompanying papers); to the Committee on Pensions.

By Mr. GRONNA:

A bill (S. 7976) to amend section 1 of an act entitled "An act to provide for agricultural entries on coal lands," approved June 22, 1910; to the Committee on Indian Affairs.

By Mr. KENYON:

A bill (S. 7977) granting an increase of pension to Charles W. Bowles;

A bill (S. 7978) granting an increase of pension to Milissa A. McGowan;

A bill (S. 7979) granting an increase of pension to Louis H. Ruehle;

A bill (S. 7980) granting an increase of pension to Isaac O. Foote;

A bill (S. 7981) granting an increase of pension to Francis W. Crumpton; and

A bill (S. 7982) granting an increase of pension to William Guhl; to the Committee on Pensions.

By Mr. ASHURST:

A bill (S. 7983) granting a pension to John T. O'Brien; to the Committee on Pensions.

By Mr. BURNHAM:

A bill (S. 7984) granting an increase of pension to Hannah Peavey; to the Committee on Pensions.

By Mr. WETMORE:

A bill (S. 7985) granting an increase of pension to Benjamin F. Corey (with accompanying papers); and

A bill (S. 7986) granting an increase of pension to John Wells (with accompanying paper); to the Committee on Pensions.

By Mr. STEPHENSON:

A bill (S. 7987) granting an increase of pension to Charles Brown (with accompanying papers); and

A bill (S. 7988) granting an increase of pension to John Eagan (with accompanying papers); to the Committee on Pensions.

By Mr. LA FOLLETTE:

A bill (S. 7989) granting a pension to Mary MacArthur; to the Committee on Pensions.

CREATION OF INDUSTRIAL COMMISSION.

Mr. BRISTOW. Mr. President, I introduce a bill to create an industrial commission and defining its powers and duties, and I desire briefly to explain the bill.

The bill (S. 7970) to create an industrial commission and defining its powers and duties was read twice by its title.

Mr. BRISTOW. Mr. President, the bill which I have introduced creates an industrial commission and defines its powers and duties.

The commission is to consist of seven members. They are to be appointed by the President and subject to removal by him for inefficiency, neglect of duty, or malfeasance in office. The term of the office is seven years.

The bill further provides for the removal by Congress of any commissioner by a vote of three-fifths of each House. This is to be a congressional commission of the same nature as the Interstate Commerce Commission, and, since it is created to carry out the policy and intention of Congress, according to rules which it prescribes, it seems to me that Congress should have the power to remove the commissioners if they fail to properly discharge the functions of their office. This proposed policy may meet opposition because it is an innovation, but, in my opinion, it is not only reasonable but desirable. It may be argued that Congress might act from partisan motives, as it frequently does in determining contests for membership in its own body, but the bill provides that the vacancy caused by a congressional removal is to be filled by the President in the usual way, so that while Congress can create a vacancy it can not fill it. That duty is left with the President, which, in my judgment, would make removals for partisan purposes improbable. They would be no more likely to occur than if removals were left wholly in the hands of the Executive.

The first 12 sections of the bill provide for the organization of the commission, define the scope of its operations, and give it the authority to secure the information necessary to carry out the purposes for which it is created. The Bureau of Corporations is merged into and made a part of the commission. The commission is given authority over every person, firm, copartnership, corporation, or joint-stock association that is doing an interstate business whose gross receipts exceed $5,000,000 per annum, and it is given authority to investigate the financial conditions, business operations, and management of all such concerns. It can require of them any information which it deems necessary for the proper discharge of its duties, and anyone refusing to comply with such demand is liable to punishment. To make a false report to the commission or to knowingly give it false information is made a penal offense.

Section 13 is intended to prevent the watering of stock, and requires that within three years the water be squeezed out of existing overcapitalized industries.

Section 14 limits the fees that may be paid to promoters for merging smaller corporations into larger ones, and is intended to prevent the evil practices so common in this character of corporation combinations.

Section 15 declares that any contract, combination in the form of trust or otherwise, or a conspiracy in restraint of trade shall be presumed to be unreasonable, and the burden of proof is placed on the corporation or joint-stock association to show that such combination or agreement or contract is not an unreasonable restraint of trade. This is intended to remedy as nearly as possible the evil which grows out of the decisions of the Supreme Court in the Standard Oil and Tobacco cases, wherein the court legislated the word "reasonable" into the Sherman antitrust law.

Sections 16, 17, 18, and 19 define certain acts and practices that are commonly indulged in by corporations in creating monopolies as unreasonable restraints of trade and violations of law.

The sections following 19 give the commission its drastic power and authorize it to investigate the operations of any of these concerns doing an interstate business, and to find whether or not they have violated the provisions of this act or of any other law of the United States against the restraint of trade. The commission is given authority to submit the result of these investigations to the Department of Justice for its action or to bring suits upon its own motion, either in its own name or in the name of the United States; that is, the act confers upon an industrial commission the authority over industrial concerns that the Interstate Commerce Commission now has with respect to the railroads.

The commission can bring suits under this law or under the Sherman antitrust law, or under any other law of the United States that seeks to regulate interstate and foreign commerce, except an act to regulate commerce approved February 4, 1887, commonly known as the interstate-commerce act. Any investigation in regard to the conduct of any one subject to the jurisdiction of the bill may be made by the commission either upon complaint or upon its own initiative, and if the commission finds that a corporation, copartnership, firm, person, or joint-stock association is violating the provisions of this act, or any of the

laws relating to the restraint of trade other than the interstate-commerce law referred to, it is directed to order such concern to desist and prescribe rules for it to follow in the operation of its business. If the party continues to violate the law, fails to obey the orders of the commission, or to follow the rules laid down by it, authority is given the commission to appoint a receiver for the concern and take possession of its property and wind up the business. This will probably be regarded as the most radical feature of the bill, but I am prepared to defend its wisdom. In case a receiver is appointed for a corporation or joint-stock association, it becomes his duty to call a meeting of the stockholders of the corporation, and they are required to determine whether or not they will elect officers for the corporation who will conduct its business in harmony with the law and the rules prescribed by the commission; and in the event that the stockholders refuse to elect such officers, then the receiver is directed to wind up the business of the corporation and distribute the proceeds among the stockholders pro rata, according to their several interests.

This bill, in short, creates an industrial commission, giving it the power over industrial concerns that the Interstate Commerce Commission has over transportation companies and which the Comptroller of the Currency has over national banks. It has combined the power and authority of these two governmental agencies into one commission and given it supervision over industrial establishments that engage in interstate trade.

The appointment of a receiver is not to interfere with any criminal prosecutions that may be determined upon. Suits brought by the Department of Justice or by the commission proceed as usual, but while these suits are pending and dragging their weary way for years through the courts the violations of the law will not be permitted to go on as they do now. They will be immediately stopped. The commission is authorized, if the interest of the public requires, to take possession of the property and operate it, and in the meantime the stockholders are given an opportunity to elect officers who will conduct the business in a legal way, and then the property is turned over to these new officers, while the criminal prosecution against the violators of the law is in no way interfered with. The purpose is to protect the people with some degree of promptness from the extortionate practices of powerful corporations without destroying the business which they represent. Because of the relation of some of these concerns to our industrial life, the continuance of their business might be a public necessity, so the bill undertakes to cure the evil without destroying the business.

Neither will it interfere with big business operations if such operations are along honest and creditable lines. It will not stop the growth of any big concern, provided that concern grows by honest methods. If it can produce a commodity in the fair and open field of competition at a less cost than its rivals, then it has the widest opportunity for success. The bill imposes no handicap upon energy, intelligence, or genius, but it does impose drastic restraints upon the use of intrigue and dishonesty to destroy business competitors.

The ineffectiveness of the courts or the Department of Justice to supervise big business has been clearly demonstrated in the Standard Oil and Tobacco cases. I do not believe that it is the province of the courts to supervise business. Their function is to decide what the law is, not to administer it in a legislative or executive capacity. It is not the province of the court or of the Attorney General, but of Congress, to fix the rules and prescribe the methods which such concerns shall follow in the management of their business when it affects interstate commerce.

I believe that the appointment of a receiver for a corporation that persistently violates the law will be far more effective in stopping the abuse that is growing out of the monopolization of our market place by giant industries than have been the indictments under the Sherman antitrust law. This bill, however, does not in any way weaken the power of the Sherman antitrust law. That law stands intact with all the potency that the courts have permitted it to retain. Every power which that law now has is preserved. We are simply providing additional means for more effectively controlling trusts, combinations, and monopolies.

Aside from the powers which are conferred upon the commission, there are two distinct features of the bill that have not heretofore been proposed in legislation of this kind. I refer to the provision enabling Congress to remove members of a commission by resolution and the authority for the commission to appoint a receiver to take possession of an industrial institution if these in control have refused to obey the law, and to require the stockholders to elect officers who will run it in a lawful way or to wind up its affairs.

I commend this bill to the careful consideration of every Senator and hope that the Committee on Interstate Commerce, to which it has been referred, will give it prompt consideration. The American people will not much longer submit to a few men monopolizing the business of the country. Some remedy must be provided speedily, and I am convinced that this bill offers an effective and safe way of curing these growing evils without endangering our industrial stability or prosperity.

Mr. SUTHERLAND. Mr. President, I desire to ask the Senator from Kansas a question with reference to one phase of his bill. I understood him to say that his bill provided that the proposed industrial commission—which, of course, is to be purely an administrative body—should be given the power to appoint a receiver. Is that correct?

Mr. BRISTOW. Yes.

Mr. SUTHERLAND. Has the Senator investigated the question as to whether or not it would be competent for Congress to confer that power upon an administrative body, and whether it is not purely a judicial function?

Mr. BRISTOW. Well, the Comptroller of the Currency appoints receivers for national banks; such receivers are executive officers, and I do not see why a commission could not be authorized to do the same thing. If Congress can authorize the Comptroller of the Currency to appoint a receiver for a national bank, which is a corporation, why can it not authorize a commission to appoint a receiver for any other corporation?

The PRESIDENT pro tempore. The bill will be referred to the Committee on Interstate Commerce.

AMENDMENT TO AGRICULTURAL APPROPRIATION BILL.

Mr. WARREN submitted an amendment authorizing the Secretary of Agriculture to expend an additional 20 per cent of the moneys received from the national forests during the fiscal year ending June 30, 1913, and also an additional 20 per cent of all moneys received during the fiscal year ending June 30, 1914, for the construction and maintenance of roads and trails within the national forests in the State from which such proceeds are derived, etc., intended to be proposed by him to the agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

HEALTH STATISTICS.

Mr. WORKS submitted the following resolution (S. Res. 420), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, instructed to furnish to the Senate, at his earliest convenience, the following information:

1. The total expense to the Government for the year 1912 of its health departments, bureaus, and all other health activities, in its various branches, including the Public Health and National Quarantine, Public Health Service, medical departments of the Departments of War, Navy, and other departments, hospitals, hygienic laboratories, medical schools, attending surgeons, surgeons general, bureau of medicine and surgery, boards of examinations of officers, board of medical examiners, Children's Bureau, medical service in Bureau of Immigration, and all other bureaus or branches of the health and medical service of the Government, giving the expense of each separately and the total expense of the whole of them.

2. The number of officers and employees of such service, in each and all branches thereof, and their salaries and other compensation.

TRANSPORTATION OF FRANKABLE MATTER.

Mr. KENYON submitted the following resolution (S. Res. 421), which was read, ordered to lie on the table, and be printed:

Resolved, That the Postmaster General furnish to the Senate, if possible for him to do so, a statement showing the amount of mail franked from the headquarters of all candidates in all parties for the presidential nominations of their respective parties in 1912 in the pre-convention campaign; and also a statement, if possible for him to do so, showing the amount of mail franked from the headquarters of the various political parties in the political campaign of 1912, and an estimate of the cost to the Government of the transportation of such mail.

EXPENSE OF CARRYING SEEDS, ETC.

Mr. KENYON submitted the following resolution (S. Res. 422), which was read, ordered to lie on the table, and be printed:

Resolved, That the Postmaster General furnish to the Senate an estimate, if possible for him so to do, of the expense to the Government for the last four years of the carrying of seeds, plants, and bulbs franked through the mails.

FREE DISTRIBUTION OF SEED.

Mr. KENYON submitted the following resolution (S. Res. 423), which was read, ordered to lie on the table, and be printed:

Resolved, That the Secretary of Agriculture furnish to the Senate an estimate of the expense to the Government for the last four years of purchasing or securing seeds, bulbs, plants, trees, etc., for free distribution by Members of Congress and the total number of packages so furnished. Also the expense of preparing the same for such free distribution and delivery of same to the mails.

INVESTIGATION OF CAMPAIGN CONTRIBUTIONS.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The Secretary read the resolution (S. Res. 418) submitted by Mr. CLAPP on the 4th instant, as follows:

Resolved, That Senate resolution 79, agreed to August 26, 1912, be, and the same is hereby, amended by inserting, in line 2, page 2, of said resolution, after the word "eight," the words "November 5, 1912."

Mr. OLIVER. Mr. President, I make the point of order that this resolution calls for the expenditure of money, and, under Rule XXV, should go to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. CLAPP. Mr. President, I had, of course, anticipated that that point of order would be made. I desire to call the attention of the Senate to the fact that this is simply an amendment to a resolution which did go to the Committee to Audit and Control the Contingent Expenses of the Senate. If the point made by the Senator from Pennsylvania is well taken, then whenever a resolution involving an expenditure goes to the Committee to Audit and Control the Contingent Expenses of the Senate and comes back before this body for action, no motion to amend that resolution can be entertained until the motion to amend has in turn been referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

I have not myself looked the matter up, but I had my clerk this morning look it up with a good deal of care, and he assures me that, while the original resolution, Senate resolution 79, went to the Committee to Audit and Control the Contingent Expenses of the Senate and was reported back, the subsequent resolution, Senate resolution 386, the resolution submitted by the senior Senator from Pennsylvania [Mr. PENROSE], amending the original resolution and very materially enlarging the duties and the possible expenditures to be incurred by the committee, was passed by the Senate without any action on the part of the Committee to Audit and Control the Contingent Expenses of the Senate.

All that the pending resolution does is to amend a resolution which in regular form went to that committee, was reported back by that committee, and adopted by the Senate. That resolution omitted from the scope of the inquiry of the committee the expenditures in the presidential campaign and congressional campaign of 1912; it covered the campaigns of 1904 and 1908 and also the primary campaign of 1912, but it left the committee without authority to inquire into the expenses of the presidential and congressional campaigns in the election held on the 5th of November, 1912. Inasmuch as the committee during some three or four months upon the authority of the resolution No. 79 has been obliged to delve amidst the catacombs of the past, it strikes me that it is within the power of the Senate, and clearly within the duty of the Senate, to authorize the committee to include in their investigations the expenses of the campaign itself of 1912.

I submit, Mr. President, that the point of order is not well taken.

Mr. GALLINGER. Mr. President, I have no disposition to obstruct the committee, which has been so industriously endeavoring to ascertain whether or not an undue amount of money has been spent in our presidential campaigns; and I confess I was very much startled when I read of the enormous contributions that had been made to the campaign of 1904. It was illuminating to me.

On the point of order, Mr. President, the function of the Committee to Audit and Control the Contingent Expenses of the Senate—and their authority does not go beyond that fact—is to ascertain whether or not there is money in the contingent fund to prosecute an inquiry.

When the original resolution was offered, the Committee on Contingent Expenses satisfied themselves of the fact that the money would be forthcoming, if called for. It is true that that resolution was subsequently amended without dissent, and to that extent the Senator has a precedent for asking that we further amend it. But it does seem to me, Mr. President, considering what is the function of that committee, and its only function, that when we propose to expend more money, that committee ought to be given an opportunity to say whether or not it is a wise investment of the public funds; and for that reason it seems to me very clear that the point of order having been made the resolution ought to go to that committee, as it would if this was an original proposition.

In saying this, Mr. President, I want to be distinctly understood as not putting myself in any attitude of obstruction to this proposed further investigation, if it is thought desirable to make it; but if we pass a simple resolution asking for an investigation that will cost $500 we might continue by amending that resolution to authorize an expenditure of $50,000, and the Committee to Audit and Control the Contingent Expenses of the Senate would have no opportunity to ascertain from the proper official whether or not the money was in hand.

And so, Mr. President, viewing it in that light, it seems to me that the matter ought to go to that committee, although personally I have very little interest in it. Whatever the Chair decides, of course, will be right.

Mr. MARTIN of Virginia. Mr. President, I have not heard all that has been said in respect to this matter. The point of order was made by the Senator from Pennsylvania [Mr. OLIVER], and he has not pointed out, nor have I heard pointed out by anyone else, anything in any of the rules of the Senate that deprives the Senate of its right to pass a resolution of this character. Surely a majority of the Senate has a right to pass a resolution of this sort unless there is some rule that explicitly forbids it.

Mr. GALLINGER. The statute.

Mr. MARTIN of Virginia. I have not had an opportunity to examine it, and the provision, if any there is, that forbids it has not been pointed out. Everybody knows that the Senate will provide the funds, if any are necessary, and it does seem to me that this is an obstruction, whether so intended or not. It is simply interposing a barrier against an investigation that can not be hurtful to the right. Certainly the country is entitled to know the facts. It can do no harm to those who have had charge of campaigns to give publicity to what they have done. I had hoped that there would be no technical barrier attempted to be interposed here to deprive the Senate of the privilege of enlarging the jurisdiction of a committee which has already been authorized to take up this general subject, and I know of no rule against it. As I said, I have not given any particular scrutiny to the rules, and I am very much surprised that a technical rule should be resorted to to prevent the light of day from shining on whatever has taken place in the last campaign or any other campaign.

I feel that the resolution is in order, and whether in order or not, I would regret very much to see it hindered and delayed by a technical objection.

Mr. GALLINGER. Mr. President, if the Senator from Virginia means that I have raised any technical objection, I want now to disclaim that. During my service here a great many resolutions have been offered proposing to take money from the contingent fund, and immediate consideration has been asked. The fact is that there is not any rule governing it, but there is a statute law governing it, providing that all such resolutions shall go to the Committee to Audit and Control the Contingent Expenses of the Senate.

Now, if the Senate wishes to put itself on record as saying that when a resolution is passed providing for taking a small amount of money from the contingent fund, that resolution can from time to time be amended without any action on the part of the Committee to Audit and Control the Contingent Expenses of the Senate, so it can be multiplied tenfold or a hundredfold, I have no objection to the Senate establishing that principle. But I can not fail to think that it is not a correct procedure when a point of order is made against the resolution. I did not make the point of order, and I speak simply because I think the rule, if construed as I think it ought to be, would recognize that the point of order is well taken. However it may be decided by the Chair, I shall be content.

Mr. CLAPP. I should like to ask the Senator from New Hampshire a question.

Mr. GALLINGER. Certainly.

Mr. CLAPP. What is the difference between this form of amendment and if, when the original resolution had come back from the Committee to Audit and Control the Contingent Expenses of the Senate, an amendment had been offered, not only probably but quite surely increasing the expenses as compared with the expenses possible under the resolution as reported by the Committee to Audit and Control the Contingent Expenses of the Senate? If the contention here maintained is tenable, no resolution reported by that committee could be amended on the floor of the Senate so as to increase the expenses without being referred back to the committee.

Mr. GALLINGER. My answer to that, Mr. President, is that I do not think it is the function of that committee to suggest legislation. The function of that committee is simply to inquire of the disbursing officer of the Senate—and I served a long time on that committee and know the procedure—whether or not the fund is at hand to warrant the inquiry; and if the committee reports that, in its judgment, the money is in hand or will be provided, then action is taken.

But I do not care to go into technicalities or refinements about the question. It is in the hands of the Presiding Officer to decide, and I know he will decide it very wisely.

Mr. OLIVER. Mr. President——

The PRESIDENT pro tempore. If the Senator from Pennsylvania will indulge me, the Chair is ready to rule, unless the Senator has something additional to say.

Mr. OLIVER. I rather think, Mr. President, in view of what has been said by the senior Senator from Virginia, that I ought to disclaim any intention to interpose what he terms a technical objection to this proposition. My only objection to the adoption of the resolution at this time is that if we are going to adopt a resolution of this kind, we ought to do it according to the rules of the Senate; and the rule of the Senate is distinct, and it is mandatory.

Rule XXV states that among the standing committees of the Senate shall be—

A Committee to Audit and Control the Contingent Expenses of the Senate, to consist of five Senators, to which shall be referred all resolutions directing the payment of money out of the contingent fund of the Senate or creating a charge upon the same.

Now, Mr. President, that is distinct in that it gives the Committee to Audit and Control the Contingent Expenses of the Senate the right to say whether any money shall be expended for an investigation by any committee.

The Senator from Minnesota refers to the original resolution and the resolution enlarging the duties of this committee, and he says that the latter was not referred to the Committee to Audit and Control the Contingent Expenses of the Senate. Two wrongs do not make a right, and if this point of order had been made at that time I think unquestionably it would have been sustained by the Chair and that the resolution enlarging the duties of the committee would have been referred at that time to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. CLAPP. Mr. President——

Mr. OLIVER. I am going to speak only a minute or two, and I desire to conclude.

I want to disclaim, Mr. President, any intention to obstruct or prevent the passage of this resolution. I am free to say that I think it is absolutely unnecessary. The reason for investigation connected with the campaigns of 1904 and 1908 does not exist with regard to the campaign of 1912. There is a publicity law now in force which compels the different committees to report. They have made their reports.

The PRESIDENT pro tempore. The Chair calls the attention of the Senator to the fact that the merits of the resolution are not before the Senate. It is simply a question of order.

Mr. OLIVER. I beg pardon, Mr. President. Now, I wish to say that if it shall not be considered a precedent for future action, and I can do so, I am perfectly willing to withdraw the point of order and to allow the resolution to pass, so far as I am concerned; but I will submit to the Chair in that respect.

Mr. SMITH of Georgia. Then the point of order is withdrawn, is it not?

SEVERAL SENATORS. No.

The PRESIDENT pro tempore. The Chair feels that it is its duty to give direction to the resolution according to the rules governing the Senate; and the Chair will have the law read; not the rule of the Senate which has already been read, but the statute law enacted by Congress. The Secretary will read the extract from the statute law.

The Secretary read as follows:

Hereafter no payment shall be made from the contingent fund of the Senate unless sanctioned by the Committee to Audit and Control the Contingent Expenses of the Senate, or from the contingent fund of the House of Representatives unless sanctioned by the Committee on Accounts of the House of Representatives. And hereafter payments made upon vouchers approved by the aforesaid respective committees shall be deemed, held, and taken and are hereby declared to be conclusive upon all the departments and officers of the Government: *Provided*, That no payment shall be made from said contingent funds as additional salary or compensation to any officer or employee of the Senate or House of Representatives. (25 Stats., p. 546.)

Mr. CULBERSON. Mr. President, may I ask that the statute be read again, so far as the Senate is concerned? My attention was diverted a moment and I did not hear it.

The Secretary read as follows:

Hereafter no payment shall be made from the contingent fund of the Senate unless sanctioned by the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. MARTIN of Virginia. Mr. President——

Mr. CULBERSON. I call the attention of the Chair to the fact that this purports to be an amendment to a resolution which has already been reported favorably by the Committee to Audit and Control the Contingent Expenses. This is a proposition to amend that resolution, which has been reported by a committee and passed by the Senate.

Mr. LODGE. Mr. President, if I may ask a question, does the resolution make a charge on the contingent fund, whether it is an amendment or not? I ask for information, as I was not here when the debate began. Does the resolution make an additional charge?

The PRESIDENT pro tempore. It enlarges the scope of the duties of the committee.

Mr. LODGE. Does it make an additional charge upon the contingent fund?

The PRESIDENT pro tempore. The resolution speaks for itself, and the Chair will have it read. It is not the duty of the Chair to interpret the resolution. The Secretary will again read the resolution.

The Secretary read as follows:

Resolved, That Senate resolution 79, agreed to August 26, 1912, be, and the same is hereby, amended by inserting, in line 2, page 2, of said resolution, after the word "eight," the words "November 5, 1912."

Mr. LODGE. Then it makes an additional charge on the contingent fund?

Mr. MARTIN of Virginia. Mr. President, I desire to call attention to the fact that there is nothing at all in the resolution about paying the expenses. The law which has been read simply provides that certain payments shall not be made from that fund except by the authority of the Committee to Audit and Control the Contingent Expenses of the Senate. Now, if the chairman of this committee can not get along without an additional act by the Senate, he can ask for it, but I can not see in the statute which has been read anything that deprives the Senate of its jurisdiction and power to pass a resolution for an investigation.

The matter of paying any expenses which may be necessary for the conduct of that investigation is a separate proposition entirely. I do not see in the statute anything that deprives the Senate of its right and jurisdiction to pass a resolution of this character or any other resolution that it sees fit to pass.

Mr. LODGE. May I ask the Senator from Virginia a question?

Mr. MARTIN of Virginia. Certainly.

Mr. LODGE. Does the Senator think that committees can incur expenses and then come and ask that they be paid out of the contingent fund?

Mr. MARTIN of Virginia. If they do so, they do it on their own responsibility. If a committee can not find anywhere a law to meet a necessary expense, then they can come back to the Senate.

Mr. LODGE. Of course, if a committee can involve itself in expenses before receiving authority to do so, the statute is valueless; that is, if a committee can incur expense and then after incurring it simply come and get an order therefor from the Senate.

Mr. MARTIN of Virginia. That is a matter for the committee to determine.

Mr. LODGE. Certainly. It leaves it to the Senate.

Mr. MARTIN of Virginia. But what I am insisting upon is the power of the Senate—the jurisdiction of the Senate—to pass this resolution, if it sees fit, and make no provision now for the payment of expenses.

Mr. CULBERSON. I call the attention of the Senator from Virginia to the fact that the resolution which is pending before the Committee on Privileges and Elections, or the subcommittee, provides for the payment out of the contingent fund of the expenses of this investigation. Now, this proposed amendment which is pending is to amend that resolution so as to provide for an examination as to the election of 1912, and if that is done the same proposition will still be before the committee to pay out of the contingent fund the expenses of the investigation as to the election of 1912.

Mr. LODGE. That is precisely what I understood. It enlarges the charge on the fund.

Mr. MARTIN of Virginia. Mr. President, I suspect the committee will find under the provisions of the original resolution sufficient authority to pay these expenses. If it does not, it is a problem not involved in the passage of this resolution now. It can come up later, and in some other way. What I am insisting upon is the power of the Senate to pass the resolution, if it sees fit, and make no provision, unless it sees fit to make provision, for the payment of the expenses to be incurred.

The PRESIDENT pro tempore. The Chair understands the point of order is withdrawn. The statute has been read to the Senate, and it is not the province of the Chair to insist upon its consideration in the absence of objection.

Mr. MARTIN of Virginia. It was exactly my contention, that the Senate had the power to dispose of the resolution as it saw fit.

Mr. CLARK of Wyoming. Do I correctly understand that the point of order is withdrawn unconditionally?

Mr. OLIVER. I merely testified to my willingness to withdraw the point of order. I think this is rather an important question and may govern the Senate hereafter, and I think there should be a ruling upon it. The Committee to Audit and Control the Contingent Expenses of the Senate can report to-morrow, and but little delay will occur. I think we ought to have a ruling on the question. I do not withdraw the point of order.

Mr. CLARK of Wyoming. I simply want to say as to the point of order that, while I do not doubt the authority of the Senate to proceed in the way suggested by the Senator from Virginia, the only question is as to its advisability.

If a rule of the Senate can be broken in one proceeding, that can be cited for breaking it in another proceeding. In other words, if to further a good end we will trample upon our rules, we may very well be asked in future to do the same to accomplish a purpose that is not so clearly good.

It seems to me that this is clearly an infraction of the rule. I myself introduced a bill this morning that I think presents an analogous case. At the last session of Congress, or the one before, Congress passed a law providing for the erection of a public building in Honolulu, limiting the cost. I introduced this morning an amendment to that bill providing for an increase of the cost, and it went to the Committee on Public Buildings and Grounds, as it properly should. This motion of the Senator from Minnesota not only amends a past action of this body, but it incurs additional expense, and in addition to that extends the jurisdiction of the committee to inquire into something to which its inquiry was not directed by the former resolution. I think we should proceed carefully.

Mr. BORAH. Mr. President, has the point of order been withdrawn?

Mr. OLIVER. No.

The PRESIDENT pro tempore. It has not.

Mr. CLARK of Wyoming. It occurs to me that the Senate having authorized an investigation of the campaigns of 1904 and 1908, the committee could not well expend money from the contingent fund which authorized that investigation to investigate another and altogether different campaign.

Mr. LODGE. Which had not occurred.

Mr. CLARK of Wyoming. Which had not occurred at the time the resolution was adopted.

Mr. WORKS. Mr. President, the original resolution provided for the expenditure of money for specific purposes; that is to say, for the investigation of expenditures for political purposes, covering certain years. The committee determined upon that resolution whether it was appropriate and expedient to expend the necessary money for that investigation. Now, we are proposing to extend the scope, covering the political expenditures during another and a different year, which would involve additional expenses. That question has never been before the Committee on Contingent Expenses at all and has never been considered.

Perhaps, if the original resolution had provided for this additional investigation the committee might have refused to approve it, for the very reason that it would involve the expenditure of a greater sum than should be paid out of the contingent fund.

This question has never been before the committee and has never been investigated. It seems to me that it is clearly within the prohibition of the statute which has been read.

Mr. WARREN rose.

Mr. CRAWFORD. I understood the President was ready to rule some time ago. I ask for the ruling of the Chair.

The PRESIDENT pro tempore. The Chair will hear Senators if they desire to be heard.

Mr. WARREN. Mr. President, I was not in my seat when the matter first came up. I have nothing to say on the merits of the case, as to whether we should go into the investigation or not, but I think it is a very unusual proceeding to provide for an expenditure from the contingent fund when there is no special authority for it except to revert to a resolution passed at another time and to say nothing of an appropriation to cover the same. The Appropriation Committee is supposed, in appropriating for the contingent fund, to have some basis or estimate or authority, the same as when appropriating for other purposes. At the present time——

Mr. CLAPP. Will the Senator yield for a question?

Mr. WARREN. After a moment. At the present time it may be—while that will not affect the merits of the case—that there is no money available to pay anything of consequence until we make further appropriations; and there might be the embarrassment of some vouchers of the committee being unpaid for a time, until the matter could be acted upon. I think it an unsafe way to proceed without accompanying the proposition with the necessary authority to pay, and therefore the measure ought to go to the Committee on Contingent Expenses of the Senate, and if approved by that committee the Appropriation Committees of the Senate and House would have that authority before them and would know what to provide for.

Mr. CLAPP. I want simply to remind the Senator from Wyoming—I do not know whether he was here at the time or not—that on the 24th day of August the Senate did just what they are asked now to do. They amended resolution No. 79 by resolution No. 386, covering practically all the expenses the committee incurred without submitting it to the Committee on Contingent Expenses. Pending the consideration of that resolution, that resolution itself, No. 386, was amended by inserting the words "an attorney," which would possibly materially enlarge the expenses to be incurred by the committee.

If the position taken is right, then I submit that no matter whether the Committee to Audit and Control the Contingent Expenses of the Senate have passed on it or not, if they have reported favorably on a resolution the Senate would be absolutely powerless to insert a word of amendment increasing possibly the expense of the investigation without sending that question of amendment back to the same committee for its action on the amendment. I do not believe the law is susceptible of any such construction.

The PRESIDENT pro tempore. The Chair is ready to rule on the question.

Mr. GALLINGER. Let the Chair rule on it.

The PRESIDENT pro tempore. Before doing so, the Chair will direct the Secretary to read another section of the statute law, illustrative of this question rather than bearing directly on the precise point involved.

The Secretary read from the Thirty-second Statutes, page 26, as follows:

That hereafter appropriations made for contingent expenses of the House of Representatives or the Senate shall not be used for the payment of personal services, except upon the express and specific authorization of the House or Senate in whose behalf such services are rendered. Nor shall such appropriations be used for any expenses not intimately and directly connected with the routine legislative business of either House of Congress, and the accounting officers of the Treasury shall apply the provisions of this paragraph in the settlement of the accounts of expenditures from said appropriations incurred for services or materials subsequent to the approval of this act.

The PRESIDENT pro tempore. The Chair will also direct that section 76 of the Revised Statutes be read.

The Secretary read as follows:

SEC. 76. No payment shall be made from the contingent fund of either House of Congress unless sanctioned by the Committee to Audit and Control the Contingent Expenses of the Senate or the Committee on Accounts of the House of Representatives, respectively.

The PRESIDENT pro tempore. In passing upon the question, the Chair, of course, can not be influenced in any degree by the question whether or not he favors the purpose of the resolution. It must be decided exclusively upon the question whether or not it is in order under the rules of the Senate and the statute law.

In the opinion of the Chair, the resolution should go to the Committee to Audit and Control the Contingent Expenses of the Senate. The reasons have been fully stated by several Senators, and among others the Chair desires to say that the statement made by the Senator from California [Mr. WORKS] in his opinion briefly and clearly expresses the necessity for a reference of the resolution to the Committee to Audit and Control the Contingent Expenses of the Senate.

The original resolution was one which authorized an investigation of a certain expenditure in a certain campaign, and was limited to that campaign; that matter was referred to the Committee to Audit and Control the Contingent Expenses of the Senate. This amendment provides for an altogether new investigation of expenditures in an altogether different campaign. In the opinion of the Chair, this amendment stands in exactly the same position before the Senate as if an independent resolution had been offered for the investigation of the expenses in the campaign of 1912. Therefore the Chair sustains the point of order. The resolution will be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. Is the morning business closed?

The PRESIDENT pro tempore. The morning business is closed.

Mr. CRAWFORD. I ask the Senate to resume consideration of House bill 19115, the omnibus claims bill, and I would like to have the reading of the pending amendment finished, because we have spent four days now in trying to get the amendment read. It will take only a very short time to complete the

reading, and then I desire to yield to the Senator from Idaho [Mr. BORAH], who wishes to make some remarks.

There being no objection, the Senate, as in Committee of the Whole, resumed consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from South Dakota [Mr. CRAWFORD] to the amendment offered by the Senator from Massachusetts [Mr. LODGE]. The Secretary will continue the reading of the pending amendment.

The Secretary resumed the reading of the amendment to the amendment on page 75, line 11, and concluded the reading.

The amendment to the amendment proposes to insert the following:

(Omit the part in brackets and insert the part printed in italic.)

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to claimants named in this act the several sums appropriated herein, the same being in full for and the receipt of the same to be taken and accepted in each case as a full and final release and discharge of their respective claims, namely:

FRENCH SPOLIATION CLAIMS.

To pay the findings of the Court of Claims on the following claims for indemnity for spoliations by the French prior to July thirty-first, eighteen hundred and one, under the act entitled "An act to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the thirty-first day of July, eighteen hundred and one," approved January twentieth, eighteen hundred and eighty-five: *Provided*, That in all cases where the original sufferers were adjudicated bankrupts the awards shall be made on behalf of the next of kin instead of to assignees in bankruptcy, and that awards in the cases of individual claimants shall not be paid until the Court of Claims shall certify to the Secretary of the Treasury that the personal representatives on whose behalf the awards are made represent the next of kin, and the courts which granted the administrations, respectively, shall have certified that the legal representatives have given adequate security for the legal disbursements of the awards, namely:

On the vessel schooner Hetty, William Manson, master, namely:

Payton S. Coles and David Stewart, administrators of John Stricker, [one thousand nine hundred and five] *one thousand two hundred and thirty* dollars.

On the vessel ship Washington, Aaron Foster, master, namely:

Lucy Franklin Read McDonnell, executrix, etc., of George Pollock, surviving partner of Hugh Pollock and Company, [nine hundred and eighty] *eight hundred and thirty* dollars.

On the vessel sloop Two Friends, Peter Pond, master, namely:

[George G. Sill, administrator of Peter Pond, nine hundred and twenty-five dollars and twenty-five cents.]

Charles F. Adams, administrator of Peter C. Brooks, [one thousand eight hundred] *one thousand two hundred and fifty* dollars.

Seth P. Snow, administrator of Crowell Hatch, [one thousand] *seven hundred* dollars.

George G. Sill, administrator of William Leavenworth, [one thousand one hundred and ninety-nine dollars and twenty-five cents] *eight hundred and forty-three dollars.*

On the vessel ship Sally Butler, Alexander Chisolm, master, namely:

Archibald Smith, administrator de bonis non of the estate of James Seagrove, deceased, six thousand three hundred and eleven dollars and forty-one cents.

On the vessel brig Neptune, Hezekiah Flint, master, namely:

[David Pingree, administrator of Thomas Perkins, deceased, four hundred and nine dollars and thirty-four cents.]

Francis M. Boutwell, administrator of John McLean, deceased, [five hundred] *four hundred and forty* dollars.

Arthur D. Hill, administrator of Benjamin Homer, deceased, [one thousand] *eight hundred and eighty* dollars.

Thomas N. Perkins, administrator of John C. Jones, deceased, [one thousand] *eight hundred and eighty* dollars.

On the vessel ketch John, Henry Tibbetts, master, namely:

Hasket Derby, administrator of Elias Hasket Derby, twelve thousand nine hundred and sixty-two dollars and ninety-two cents.

On the vessel ship Ceres, Roswell Roath, master, namely:

Donald G. Perkins, administrator of Daniel Dunham, [seven thousand five hundred and twenty-two dollars and eighty-two] *six thousand six hundred and eighty-eight dollars and sixty-one* cents.

Donald G. Perkins, administrator of Alpheus Dunham, six thousand and three dollars and eighty-four cents.

Edmund D. Roath, administrator of Roswell Roath, [one thousand five hundred and eighteen dollars and ninety-eight] *six hundred and eighty-four dollars and seventy-seven* cents.

Asahel Willet, administrator of Jedediah Willet, [one thousand five hundred and eighteen dollars and ninety-eight] *six hundred and eighty-four dollars and seventy-seven* cents.

Charles Francis Adams, administrator of Peter C. Brooks, [seven hundred] *six hundred and two* dollars.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [eight hundred] *six hundred and eighty-eight* dollars.

H. Burr Crandall, administrator of Thomas Dickason, [one thousand] *eight hundred and sixty* dollars.

William P. Perkins, executor, etc., of Thomas Perkins, [five hundred] *four hundred and thirty* dollars.

On the vessel brig Eliza, Thomas Woodbury, jr., master, namely:

Arthur L. Huntington, administrator of William Orme, [twenty-nine thousand seven hundred and ninety-two] *twenty-six thousand seven hundred and forty-two* dollars and forty-six cents.

Bayard Tuckerman, administrator of Walter Channing, surviving partner of Gibbs & Channing, [seven hundred and fifty dollars] *five hundred and sixty-two dollars and fifty cents.*

Arthur L. Huntington, administrator of James Dunlap, [five hundred] *three hundred and seventy-five* dollars.

William Ropes Trask, administrator of Thomas Amory, [one thousand] *seven hundred and fifty* dollars.

Archibald M. Howe, administrator of Francis Green, [five hundred] *three hundred and seventy-five* dollars.

Harriet E. Sebor, administratrix of Jacob Sebor, [two hundred and fifty dollars] *one hundred and eighty-seven dollars and fifty cents.*

Sarah L. Farnum, administratrix of Leffert Lefferts, [five hundred] *three hundred and seventy-five* dollars.

Louisa A. Starkweather, administratrix of Richard S. Hallett, [six hundred and twenty-five] *three hundred and seventy-five* dollars.

Walter Bowne, administrator of Walter Bowne, [six hundred and twenty-five] *three hundred and seventy-five* dollars.

Robert B. Lawrence, administrator of John R. Bowne, [one hundred and twenty-five dollars] *ninety-three dollars and seventy-five cents.*

Walter S. Church and Walter S. Church, administrators of John Barker Church, [two thousand] *one thousand five hundred* dollars.

Thomas W. Ludlow, administrator of Thomas Ludlow, [five hundred] *three hundred and seventy-five* dollars.

Francis R. Shaw, administrator of J. C. Shaw, [two hundred and fifty dollars] *one hundred and eighty-seven dollars and fifty cents.*

On the vessel brig General Warren, Issachar Stowell, master, namely:

Charles F. Adams, administrator of Peter C. Brooks, [six thousand four hundred and six dollars and sixty-eight] *five thousand seven hundred and seventy-three dollars and fifty-five* cents.

Edmond D. Codman, administrator of William Gray, jr., [one thousand eight hundred and fifty] *one thousand six hundred and twenty-eight* dollars.

George G. King, administrator of Crowell Hatch, [nine hundred and sixty] *eight hundred and seventy-five* dollars.

On the vessel ship Cincinnatus, William Martin, master, namely:

Richard H. Pleasants, administrator of Aquilla Brown, jr., [two thousand four hundred and eighty-six dollars and seventy-five cents] *one thousand six hundred and sixty-five dollars.*

William A. Glasgow, jr., administrator of William P. Tebbs, two thousand five hundred and sixty dollars and twenty cents.

On the vessel brig Pilgrim, Priam Pease, master, namely:

Nathaniel H. Stone, administrator of John M. Forbes, surviving partner of the firm of J. M. and R. R. Forbes, [twenty thousand six hundred and ninety-two] *seventeen thousand five hundred and ninety-two* dollars and twenty cents.

Russell Bradford, administrator of Joseph Russell, two thousand seven hundred and seventy-four dollars and forty-four cents.

On the vessel ship Venus, Henry Dashiell, master, namely:

David Stewart, administrator of William P. Stewart, surviving partner of the firm of David Stewart and Sons, [six thousand seven hundred and sixty-six dollars and fifty cents] *three thousand nine hundred dollars.*

Elizabeth Campbell Murdock, administratrix of Archibald Campbell, [six thousand seven hundred and sixty-six dollars and fifty cents] *three thousand nine hundred dollars.*

Elizabeth H. Penn, administratrix of Thomas Higinbotham, [three thousand eight hundred] *two thousand six hundred* dollars.

Nicholas L. Dashiell, administrator of Henry Dashiell, one thousand five hundred and seventy dollars.

On the vessel sloop Geneva, Giles Savage, master, namely:

Charles F. Adams, administrator, etc., of Peter C. Brooks, [one thousand three hundred] *one thousand one hundred and five* dollars.

George G. King, administrator, etc., of Crowell Hatch, [eight hundred] *six hundred and eighty* dollars.

Thomas N. Perkins, administrator, etc., of John C. Jones, [seven hundred] *five hundred and ninety-five* dollars.

Francis M. Boutwell, administrator, etc., of Benjamin Cobb, [five hundred] *four hundred and twenty-five* dollars.

Margaret R. Riley, administratrix, etc., of Luther Savage, surviving partner of the firm of Riley, Savage and Company, [four thousand eight hundred and fifty] *three thousand four hundred and seventy* dollars.

On the vessel ship Aurora, Stephen Butman, master, namely:

Charles Francis Adams, administrator of Peter C. Brooks, [two thousand five hundred] *one thousand seven hundred and fifty* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [four hundred] *two hundred and eighty* dollars.

Henry Parkman, administrator of John Duballet, [one thousand] *seven hundred and twenty-five* dollars.

George G. King, administrator of Crowell Hatch, [six hundred] *four hundred and twenty* dollars.

William S. Perry, administrator of Nicholas Gilman [one thousand] *seven hundred and fifty* dollars.

John W. Apthorp, administrator of Caleb Hopkins, [one thousand five hundred] *one thousand one hundred and twenty* dollars.

Edward I. Browne, administrator of Moses Brown, [four] *three* hundred dollars.

Walter Hunnewell, administrator of Arnold Welles, jr., [three hundred] *two hundred and ten* dollars.

Nathan Matthews, administrator of Daniel Sargent, [five hundred] *three hundred and fifty* dollars.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [five hundred] *three hundred and fifty* dollars.

Daniel D. Slade, administrator of Daniel D. Rogers, [five hundred] *three hundred and fifty* dollars.

Walter Hunnewell, administrator of John Welles, [three hundred] *two hundred and ten* dollars.

William S. Carter, administrator of William Smith, [five hundred] *three hundred and fifty* dollars.

William I. Monroe, administrator of John Brazer, [four hundred] *two hundred and eighty* dollars.

A. H. Loring, administrator of William Boardman, [one hundred and five dollars] *seventy-three dollars and fifty cents.*

Lawrence Bond, administrator of Nathan Bond, [four hundred] *two hundred and eighty* dollars.

[On the vessel ship Jane, James Barron, master, namely:]

[James L. Hubard, administrator of the estate of William Pennock, four thousand six hundred and one dollars and sixty-seven cents.]

On the vessel schooner Amelia, Timothy Hall, master, namely:

Julius C. Cable, administrator of William Walter, [one thousand one] *seven* hundred and sixty dollars.

On the vessel brig Isabella and Ann, William Duer, master, namely:

Alexander Proudfit, administrator of Robert Ralston, [two thousand seven hundred and sixteen dollars and fifty] *eight hundred and twenty-seven dollars and thirty-seven* cents.

On the vessel schooner Zilpha, Samuel Briard, master, namely:

Sarah N. Burleigh, administratrix, and so forth, estate of Samuel Briard, [five thousand two hundred and thirty-six dollars and twenty-

four] *four thousand eight hundred and forty dollars and seventy-four* cents.

Joseph H. Thacher, administrator estate of John Wardrobe, [five thousand two hundred and thirty-six dollars and twenty-four] *four thousand eight hundred and forty dollars and seventy-four* cents.

On the vessel sloop Abigail, Silas Jones, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [seven hundred] *five hundred and seventy-four* dollars.

A Lawrence Lowell, administrator of Nathaniel Fellowes, [eight hundred] *six hundred and fifty-six* dollars.

On the vessel schooner Active, Patrick Drummond, master, namely:

William D. Hill, administrator of Mark L. Hill, [one thousand six hundred and forty dollars and two] *one thousand five hundred and eighteen dollars and fifty five* cents.

On the vessel ship Bristol, Edward Smith, master, namely:

Caroline A. Woodard, and Frank Woodard, administrators of Thomas Smith, six thousand five hundred and ninety dollars.

On the vessel schooner Brothers, James Vinson, master, namely:

David Stewart, administrator of James Jaffray, [six] *four* thousand four hundred and eighty-eight dollars.

Mary Jane Thurston, administratrix of John Hollis, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Edward C. Noyes and David Stewart, administrators of James Clark, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Cumberland Dugan, administrator of Cumberland Dugan, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

David Stewart, administrator of William Wood, junior, [seven hundred and thirty-five dollars] *six hundred and forty-one dollars and twenty-five cents.*

Charles J. Bonapacte, administrator of Benjamin Williams, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

J. Savage Williams, administrator of Samuel Williams, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

James Lawson, administrator of Richard Lawson, [three hundred and sixty-seven dollars and fifty] *three hundred and twenty dollars and sixty-three cents.*

[On the vessel ship Chace, Thomas Johnston, master, namely:]

[George G. King, administrator of James Tisdale, eighteen thousand nine hundred and forty-seven dollars.]

[On the vessel brig Delaware, James Dunphy, master, namely:]

[C. D. Vasse, administrator of Ambrose Vasse, eight hundred and fourteen dollars and sixty-two cents.]

[William D. Squires, administrator of Henry Pratt, surviving partner of Pratt and Kintzing, one hundred and ninety-one dollars and sixty-five cents.]

[J. Bayard Henry, administrator of Andrew Pettit, surviving partner of Pettit and Bayard, one hundred and eighty-two dollars and ten cents.]

[George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller and Murray, one hundred and eighty-two dollars and ten cents.]

[J. Bayard Henry, administrator of George Rundle and Thomas Leech, two hundred and twenty-two dollars and thirty-three cents.]

[Francis A. Lewis, administrator of John Miller, junior, one hundred and eighty-two dollars and ten cents.]

[J. Albert Smyth, administrator of Jacob Baker, surviving partner of Baker and Comegys, one hundred and eighty-two dollars and ten cents.]

[Craig D. Ritchie, administrator of Joseph Summerl, surviving partner of Summerl and Brown, one hundred and fifty-three dollars and forty-four cents.]

[Charles Prager, administrator of Mark Prager, junior, surviving member of Prager and Company, one hundred and ninety-one dollars and sixty-four cents.]

[William Brooke Waln, administrator of Jesse Waln, one hundred and eighty-two dollars and nine cents.]

[Sara Leaming, administratrix of Thomas Murgatroyd, one hundred and eighty-two dollars and nine cents.]

[D. Fitzhugh Savage, administrator of John Savage, one hundred and forty-one dollars and eighty-six cents.]

[Frederic R. Pemberton, administrator of John Clifford, surviving partner of Thomas and John Clifford, one hundred and fifty-three dollars and forty-four cents.]

[The Pennsylvania Company for Insurance on Lives, and so forth, administrator of Thomas M. Willing, surviving partner of Willing and Francis, two hundred and eighty-three dollars and seventy cents.]

[Robert W. Smith, administrator of Robert Smith, surviving partner of Robert Smith and Company, one hundred and eighty-two dollars and nine cents.]

[John Lyman Cox and Howard Wurts Page, administrators of James Cox, one hundred and twenty dollars and seventy-two cents.]

[Henry Pettit, administrator of Charles Pettit, one hundred and eleven dollars and seventeen cents.]

[George Harrison Fisher, administrator of Jacob Ridgway, ninety-two dollars and seven cents.]

[George McCall, administrator of William McMurtrie, ninety-two dollars and seven cents.]

[The City of Philadelphia, administrator of Stephen Girard, twenty-eight dollars and sixty-five cents.]

On the vessel brig Eleanor, George Price, master, namely:

David Stewart, administrator of Francis Johonnet, one hundred and thirty-three dollars and sixty cents.

James Lawson, administrator of Richard Lawson, one hundred and thirty-three dollars and sixty cents.

J. Savage Williams, administrator of Samuel Williams, two hundred and four dollars and thirty-one cents.

Charles J. Bonaparte, administrator of Benjamin Williams, two hundred and four dollars and thirty-one cents.

On the vessel brig Eliza, Benjamin English, master, namely:

George P. Marvin, administrator of Ebenezer Peck, [nine hundred and fifty-two dollars and eight-two] *one hundred and sixty-seven dollars and fifteen* cents.

George P. Marvin, administrator of Stephen Alling, four hundred and seventy-six dollars and forty-two cents.

Elihu L. Mix, administrator of Thomas Atwater, [four hundred and seventy-six dollars and forty-two] *eighty-three dollars and fifty-nine* cents.

John C. Hollister, administrator of Elias Shipman, [two hundred and thirty-eight dollars and twenty-one] *forty-one dollars and eighty* cents.

John C. Hollister, administrator of Austin Denison, [two hundred and thirty-eight dollars and twenty-one] *forty-one dollars and eighty* cents.

On the vessel brig Fair Columbian, Joseph Myrick, master, namely:

Sarah C. Tilghman, administratrix of Joseph Forman, [five thousand one hundred and fifty-seven] *one thousand three hundred and twenty-one* dollars and thirty-three cents.

Gustav W. Lurman, administrator of John Donnell, one thousand [four hundred and seventy] *three hundred* dollars.

Mary Jane Thurston, administratrix of John Hollins, [nine hundred and eighty] *eight hundred and seventy* dollars.

Cumberland Dugan, administrator of Cumberland Dugan, [nine hundred and eighty] *eight hundred and seventy* dollars.

Susan R. Groverman, administratrix of Anthony Groverman, for and on behalf of the firm of D'Werhagen & Groverman, [nine hundred and eighty] *eight hundred and sixty* dollars.

David Stewart, administrator of Edward Johnson, [nine hundred and eighty] *eight hundred and seventy* dollars.

David Stewart, administrator of Robert C. Boislandry, four hundred and [ninety] *thirty* dollars.

Charles J. Bonaparte, administrator of Benjamin Williams, four hundred and [ninety] *thirty* dollars.

David Stewart and Isabella Rutter, administrators of Thomas Rutter, [nine hundred and eighty] *eight hundred and sixty* dollars.

Nathaniel Morton, administrator of Nathaniel Morton, for and on behalf of the firm of Bedford & Morton, [nine hundred and eighty] *eight hundred and seventy* dollars.

Katharine S. Montell, administratrix of Robert McKim, [nine hundred and eighty] *eight hundred and sixty* dollars.

David Stewart, administrator of William Lorman, [nine] *eight* hundred and eighty dollars.

Louisa T. Carroll, administratrix of William Van Wyck, [three hundred and twenty] *two hundred* dollars.

On the vessel sloop Flora, Francis Bourn, master, namely:

George F. Chace, administrator of James Chace, [six hundred and sixty-two dollars and four] *five hundred and twenty-seven dollars and twenty-nine* cents.

On the vessel schooner Huldah, Robert Strong, master, namely:

Edmond D. Codman, administrator, etc., of William Gray, jr., [two thousand] *one thousand eight hundred and twenty* dollars.

Brooks Adams, administrator, etc., of Peter C. Brooks, [seven hundred] *six hundred and thirty-seven* dollars.

A. Lawrence Lowell, administrator, etc., of Nathaniel Fellowes, [eight hundred] *seven hundred and twenty-eight* dollars.

On the vessel brig Jane, Robert Knox, master, namely:

Crawford D. Hening, administrator of James Crawford, surviving partner of James Crawford and Company, [three thousand eight hundred and sixty-six] *four hundred and forty-one* dollars.

On the vessel brig Jason, Edward Smith, master, namely:

James Emerton, administrator of Benjamin West, [two thousand three hundred and seventy-four dollars and eighty-eight] *one thousand two hundred and fifty-five dollars and seventy-six* cents.

James Emerton, administrator of Benjamin West, jr., [two thousand three hundred and seventy-four dollars and eighty-nine] *one thousand two hundred and fifty-five dollars and seventy-six* cents.

Ferdnand C. Latrobe, receiver of Aquila Brown, John Sherlock, and George Grundy, representing all the partners underwriting in the Marine Insurance Office, [five thousand eight hundred and fifty dollars] *five thousand three hundred and sixty-seven dollars and fifty cents.*

On the vessel brig John, James Scott, jr., master, namely:

James F. Adams, administrator of Seth Adams, [eleven thousand four hundred and thirty-nine dollars and twelve] *ten thousand two hundred and seventy-two dollars and forty-six* cents.

James F. Adams, administrator of Seth Adams, assignee of Thomas Dickason, jr., William C. Martin, James Scott, William Boardman, Arnold Welles, Arnold Welles, jr., and John Brazer, [ten thousand two hundred and seventy-five dollars and eighty three cents] *two thousand one hundred and seventy-six dollars*, the same not being an assigned claim within the meaning of this act, but an asset transferred by the assignors hereinbefore named to Seth Adams prior to the ratification of the treaty of September 29, 1830.

Brooks Adams, administrator of Peter C. Brooks, [one thousand five hundred] *one thousand three hundred and ninety-five* dollars.

On the vessel ship Liberty, William Caldwell, master, namely:

[Crawford Dawes Henning, administrator of James Crawford, eight thousand nine hundred and ninety dollars.]

On the vessel brig Little John Butler, James Smith, jr., master, namely:

Sarah E. Conover, administratrix of John Reed, surviving partner of Reed & Forde, [eight thousand one hundred and thirty-nine dollars and thirty-four cents] *two thousand dollars.*

Samuel A. Custer, administrator of Joseph Ball, [five hundred and eighty-eight] *four hundred and sixty-eight* dollars.

Sarah Leaming, administratrix of Thomas Murgatroyd, for and on behalf of the firm of Thomas Murgatroyd & Sons, [nine] *seven* hundred and eighty dollars.

Henry Pettit, administrator of Andrew Pettit, surviving partner of Pettit & Bayard, [five hundred and eighty-eight] *four hundred and sixty-eight* dollars.

William D. Squires, administrator of Henry Pratt, surviving partner of Pratt & Kintzing, [five hundred and eighty-eight] *four hundred and sixty-eight* dollars.

Francis Brooke Rawle, administrator of Jesse Waln, [nine] *seven* hundred and eighty dollars.

James Crawford Dawes, administrator of Abijah Dawes, [four] *three* hundred and ninety dollars.

Cyrus T. Smith, administrator of William Jones, surviving partner of Jones & Clarke, [five hundred and eighty-eight] *four hundred and sixty-eight* dollars.

Augustus J. Pleasanton, administrator of Joseph Dugan, surviving partner of Savage and Dugan, [four] *three* hundred and ninety dollars.

Francis A. Lewis, administrator of Peter Blight, [nine] *seven* hundred and eighty dollars.

Richard Delafield, administrator of John Delafield, [nine hundred and eighty dollars] *two hundred and ninety-five dollars and twenty-one cents.*

Benjamin M. Hartshorne and Charles N. Black, executors of Richard Hartshorne, surviving partner of Rhinelander, Hartshorne and Company, [two thousand four hundred and fifty] *two thousand two hundred* dollars.

John A. Foley, administrator of John Shaw, [nine] *eight* hundred and eighty dollars.

George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller and Murray, [five hundred and eighty-eight] *four hundred and sixty-eight* dollars.

Thomas W. Ludlow, administrator of Thomas Ludlow, four hundred and [ninety] *forty* dollars.

Walter S. Church, administrator of John B. Church, one thousand [nine] *seven* hundred and sixty dollars.

John L. Rutgers, surviving executor of Nicholas G. Rutgers, surviving partner of Benjamin Seaman and Company, four hundred and [ninety] *forty* dollars.

Frances R. Shaw, administratrix of John C. Shaw, for and on behalf of the first of George Knox and John C. Shaw, four hundred and [ninety] *forty* dollars.

Henry E. Young, administrator of William Craig, surviving partner of Henry Sadler and Company, four hundred and [ninety] *forty* dollars.

[Elijah K. Hubbard, administrator of Jacob Sebor, four hundred and ninety dollars.]

Walter Bowne, administrator of Walter Bowne, two hundred and [forty-five] *twenty* dollars.

Louisa A. Starkweather, administratrix of Richard S. Hallett, two hundred and [forty-five] *twenty* dollars.

[Julia Battersby, administratrix of John B. Desdoity, four hundred and ninety dollars.]

[George F. Scriba, administrator of George Scriba, for and on behalf of the firm of George Scriba and William Henderson, four hundred and ninety dollars.]

On the vessel schooner Lovely Lass, William Moore, master, namely:

George H. Barrett, administrator of John Foster, deceased, [four thousand six hundred and thirty] *three thousand six hundred and ninety* dollars.

C. Whittle Sams, administrator of Conway Whittle, deceased, [three hundred] *two hundred and twenty-five* dollars.

C. Whittle Sams, administrator of Francis Whittle, deceased, [three hundred] *two hundred and twenty-five* dollars.

R. Manson Smith, administrator of Francis Smith, deceased, [three hundred] *two hundred and twenty-five* dollars.

James L. Hubard, administrator of William Pannock, deceased, [three hundred] *two hundred and twenty-five* dollars.

Barton Myers, administrator of Moses Myers, deceased, [two hundred] *one hundred and fifty* dollars.

Bassett A. Marsden, administrator of Benjamin Pollard, deceased, [two hundred] *one hundred and fifty* dollars.

On the vessel ship Madison, Samuel Hancock, master, namely:

Richard S. Whitney, administrator of John Skinner, junior, *surviving partner of John Skinner and Sons*, [nine] *eight* thousand two hundred and seventy-four dollars.

On the vessel brig Pamela, Samuel Colby, master, namely:

Harry R. Virgin, administrator of Josiah Cox, [one thousand four hundred and eighty-three dollars and forty-eight] *seventy-one dollars and sixty-one* cents.

Henry B. Cleaves, administrator of William Chadwick, [one thousand eight hundred and eighty-three dollars and forty-eight] *five hundred and seventy-one dollars and sixty-one* cents.

[Bassett A. Marsden, administrator of Benjamin Pollard, four hundred and five dollars and forty-two cents.]

Joseph S. Webster, administrator of Thomas Webster, [two hundred] *one hundred and sixty* dollars.

Sarah H. Southwick, administratrix of Samuel F. Hussey, surviving partner of the firm of Hussey, Tabor and Company, [six hundred] *four hundred and eighty* dollars.

Harry R. Virgin, administrator of Arthur McLellan, [five] *four* hundred dollars.

Harry R. Virgin, administrator of Jonathan Stevens and Thomas Hovey, composing the firm of Stevens and Hovey, [two hundred] *one hundred and sixty* dollars.

Harry R. Virgin, administrator of David Smith, [three hundred] *two hundred and forty* dollars.

Stephen Thacher, administrator of Woodbury Storer, [four hundred] *three hundred and twenty* dollars.

Harry R. Virgin, administrator of Robert Boyd, [four hundred and fifty] *three hundred and sixty* dollars.

Harry R. Virgin, administrator of Hugh McLellan, surviving partner of the firm of Joseph McLellan and Son, [six hundred] *four hundred and eighty* dollars.

[Edmund D. Codman, administrator of William Gray, five hundred dollars.]

On the vessel brig Polly, Joseph Clements, master, namely:

Harry R. Virgin, administrator of Thomas Cross, [three thousand six hundred and forty dollars] *two thousand one hundred and twenty-three dollars and thirty-three cents.*

Harry R. Virgin, administrator of Greeley Hannaford, [three thousand three hundred and forty-seven dollars] *one thousand seven hundred and ninety dollars and thirty-three cents.*

On the vessel brig Rebecca, John B. Thurston, master, namely:

Sarah N. Haines and B. F. Haywood Shreve, administrators of William Bowne, [twelve thousand eight] *ten thousand six* hundred and eighty dollars.

On the vessel brig Ruby, Luke Keefe, master, namely:

Arthur P. Cushing, administrator of Marston Watson, one thousand [five hundred and ninety-six dollars and thirty cents] *two hundred and thirty dollars.*

Frederic Dodge, administrator of Matthew Bridge, [nine thousand two hundred and forty dollars and thirty-four cents] *three thousand three hundred and seventy-three dollars and fifty-six cents.*

[Thomas H. Perkins, surviving executor of Thomas H. Perkins, for and on behalf of the firm of James and Thomas H. Perkins, one hundred and seventeen dollars and twenty-five cents.]

George G. King, administrator of James Scott, [one thousand and sixty-four dollars and twenty cents] *eight hundred and twenty dollars.*

Edward I. Browne, administrator of Israel Thorndike, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

William Ropes Trask, administrator of Thomas Amory, one thousand [seven hundred and four dollars and seventy cents] *three hundred and twenty-four dollars.*

Charles G. Davis, administrator of Isaac P. Davis, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

Francis M. Boutwell, administrator of Charles Sigourney, [four hundred and twenty-five dollars and sixty-eight cents] *three hundred and twenty-eight dollars.*

Julia A. Cotting, administratrix of Uriah Cotting, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

William G. Perry, administrator of Nicholas Gilman, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

John Lowell, administrator of Tuthill Hubbart, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

Frank Dalney, administrator of Samuel W. Pomeroy, [two thousand one hundred and twenty-eight dollars and forty cents] *one thousand six hundred and forty dollars.*

Charles A. Welch, administrator of William Stackpole, [six hundred and forty] *five hundred and four* dollars and fifty cents.

Brooks Adams, administrator of Peter C. Brooks, [fifteen thousand eight hundred and fifty-six dollars and sixty] *eleven thousand one hundred and sixty-three dollars and two* cents.

Walter Hunnewell, administrator of John Welles, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

James S. English, administrator of Thomas English, [three hundred and nineteen dollars and twenty-six cents] *two hundred and forty-six dollars.*

Nathan Matthews, junior, administrator of Daniel Sargent, [six hundred and thirty-eight dollars and fifty-two cents] *four hundred and ninety-two dollars.*

Francis M. Boutwell, administrator of Eben Preble, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

Thomas N. Perkins, administrator of John C. Jones, [one thousand five hundred and ninety-six dollars and thirty cents] *one thousand two hundred and thirty dollars.*

Charles A. Davis, administrator of Samuel Brown, [three thousand one hundred and ninety-two dollars and sixty cents] *two thousand four hundred and sixty dollars.*

Robert Grant, administrator of Will Powell, [one thousand and sixty-four dollars and twenty cents] *eight hundred and twenty dollars.*

Morton Prince, administrator of James Prince, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

Gordon Dexter, administrator of Samuel Dexter, [five hundred and thirty-two dollars and ten cents], *four hundred and ten dollars.*

George G. King, administrator of Crowell Hatch, [one thousand and sixty-four dollars and twenty cents] *eight hundred and twenty dollars.*

Chandler Robbins, administrator of Joseph Russell, for and on behalf of the firm of Jeffrey and Russell, [one thousand and sixty-four dollars and twenty cents] *eight hundred and twenty dollars.*

Daniel W. Waldron, administrator of Jacob Sheafe, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

Edmund D. Codman, administrator of William Gray, [two thousand one hundred and twenty-eight dollars and forty cents] *one thousand six hundred and forty dollars.*

Francis M. Boutwell, administrator of Benjamin Cobb, [one thousand and sixty-four dollars and twenty cents] *eight hundred and twenty dollars.*

Archibald M. Howe, administrator of Francis Green, [one thousand and sixty-four dollars and twenty cents] *eight hundred and twenty dollars.*

[On the vessel brig Sally, John V. Villett, master, namely:]

[Henry Audley Clark, administrator de bonis non of Peleg Clark, six thousand six hundred dollars.]

On the vessel brig Sally, Eden Wadsworth, master, namely:

James F. Adams, administrator of Seth Adams, [seventeen thousand six hundred and twenty-four dollars and forty-six cents] *sixteen thousand nine hundred and eighteen dollars.*

On the vessel schooner Union, Micajah Lunt, master, namely:

Nathaniel Moody, administrator of John Moody, [one thousand eight hundred and sixty-eight dollars and twenty-five cents] *one thousand four hundred and ninety-eight dollars.*

Frances E. Andrews, administratrix of Stephen Tilton, [one thousand eight hundred and sixty-eight dollars and twenty-five cents] *one thousand four hundred and ninety-eight dollars.*

Amos Noyes, administrator of Zebedee Cook, [two hundred and fifty] *one hundred and eighty-five* dollars.

Amos Noyes, administrator of William Cook, [one hundred] *seventy-four* dollars.

Joseph A. Titcomb, administrator of John Wells, [two hundred] *one hundred and forty-eight* dollars.

Franklin A. Wilson, administrator of John Pearson, jr., [two hundred] *one hundred and forty-eight* dollars.

Edmund D. Codman, administrator of William Gray, jr., [one thousand] *seven hundred and forty* dollars.

Charles C. Donnell, administrator of Joseph Toppan, [two hundred] *one hundred and forty-eight* dollars.

On the vessel schooner Whim, John Boyd, master, namely:

Frances Hleskell Ridout, administratrix de bonis non of William Wilson, deceased, [ten thousand four hundred and forty-three] *eight thousand seven hundred and seventy-three* dollars.

On the vessel brig William, David Smith, master, namely:

Fritz H. Jordan, administrator of Leonard Smith, [three thousand three hundred and forty-three dollars and sixty-six cents] *one thousand nine hundred and eighty-five dollars.*

Joseph A. Titcomb, administrator of John Wells, [ninety] *sixty* dollars.

Francis A. Jewett, administrator of James Prince, [three] *two* hundred dollars.

William A. Hayes, second, administrator of Nathaniel A. Haven, [two hundred dollars] *one hundred and thirty-three dollars and thirty-three cents.*

Franklin A. Wilson, administrator of John Pearson, [forty-five] *thirty-six* dollars.

Benjamin F. Peach, administrator of Moses Savory, [forty-five] *thirty* dollars.

Jeremiah Nelson, administrator of Jeremiah Nelson, [ninety] *sixty-six* dollars.

Charles E. Plummer, administrator of William Cook, [forty-five] *thirty* dollars.

Arthur A. Noyes, administrator of Zebedee Cook, [ninety] *sixty* dollars.

Jane S. Gerrish, administratrix of Edward Tappan, [forty-five] *thirty* dollars.

Helen A. Pike, administratrix of John Pettingill, [one hundred and thirty-five] *one hundred and eight* dollars.

Lawrence H. H. Johnson, administrator of William Bartlet, [one thousand] *eight hundred* dollars.

Eben F. Stone, administrator of Nathan Hoyt, [forty-five] *thirty-six* dollars.

Augusta H. Chapman, administratrix of Reuben Shapley, [two hundred dollars] *one hundred and thirty-three dollars and thirty-three cents.*

[Henry B. Reed, administrator of Andrew Frothingham, fifty dollars.]

On the vessel brig Abigail, Jeremiah Tibbetts, jr., master, namely:

William H. Sise, administrator of Ebenezer Tibbetts, [three thousand one hundred and fifteen dollars] *one hundred and twenty-five dollars and twenty-seven cents.*

On the vessel sloop Anna Corbin, Thomas Justice, master, namely:

John J. Wise, administrator of John Cropper, [three thousand three hundred] *two thousand nine hundred and twenty-five* dollars and seventy-five cents.

Henry G. White, administrator of Thomas Cropper, [three hundred and seventy-five] *two hundred and fifty* dollars.

On the vessel brig Aurora, James Phillips, jr., master, namely:

Henry E. Young, administrator of William Craig, surviving partner of Henry Sadler and Company, four hundred and [ninety dollars] *twelve dollars and fifty cents.*

George F. Scriba, administrator of George Scriba, surviving partner of the firm of George Scriba and William Henderson, [nine hundred and eighty] *eight hundred and twenty-five* dollars.

John L. Rutgers, surviving executor of Nicholas G. Rutgers, surviving partner of the firm of Benjamin Seaman and Company, four hundred and [ninety dollars] *twelve dollars and fifty cents.*

Union Trust Company of New York, administrator of William Ogden, four hundred and [ninety dollars] *twelve dollars and fifty cents.*

D. Fitzhugh Savage, administrator of John Savage, [five hundred and ninety dollars and sixty-eight] *four hundred and seventy-two dollars and fifty-four* cents.

Charlotte F. Smith, administratrix of William Jones, surviving partner of Jones and Clarke, [seven hundred and thirty-eight dollars and thirty-six] *five hundred and ninety dollars and sixty-eight* cents.

Francis D. Lewis, administrator of John Miller, junior, [seven hundred and thirty-eight dollars and thirty-six] *five hundred and ninety dollars and sixty-eight* cents.

Sarah Leaming, administratrix of Thomas Murgatroyd, surviving partner of Thomas Murgatroyd and Sons, [seven hundred and thirty-eight dollars and thirty-six] *five hundred and ninety dollars and sixty-eight* cents.

Charles Prager, administrator of Mark Prager, jr., surviving partner of Pragers and Company, [seven hundred and thirty-eight dollars and thirty-five] *five hundred and ninety dollars and sixty-eight* cents.

William D. Squires, administrator of Henry Pratt, surviving partner of Pratt and Kintzing, [seven hundred and thirty-eight dollars and thirty-five] *five hundred and ninety dollars and sixty-eight* cents.

Francis D. Lewis, administrator of Peter Blight, [seven hundred and thirty-eight dollars and thirty-five] *five hundred and ninety dollars and sixty-eight* cents.

A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan and Price, [seven hundred and thirty-eight dollars and thirty-five] *five hundred and ninety dollars and sixty-eight* cents.

William Brooke Rawle, administrator of Jesse Waln, [seven hundred and thirty-eight dollars and thirty-five] *five hundred and ninety dollars and sixty-eight* cents.

Frederick W. Meeker, administrator of Samuel Meeker, [five hundred and ninety dollars and sixty-eight] *four hundred and seventy-two dollars and fifty-four* cents.

Charles D. Vasse, administrator of Ambrose Vasse, [seven hundred and thirty-eight dollars and thirty-five] *five hundred and ninety dollars and sixty-eight* cents.

Craig D. Ritchie, administrator of Joseph Summerl, surviving partner of Summerl and Brown, [five hundred and thirty-one dollars and sixty-two] *four hundred and three dollars and fourteen* cents.

On the vessel schooner Benja. Samuel O. Row, master, namely:

Charles F. Adams, administrator of Peter C. Brooks, [seven hundred] *five hundred and seventy-four* dollars.

George G. King, administrator of Crowell Hatch, [six hundred] *four hundred and ninety-two* dollars.

Thomas N. Perkins, administrator of John C. Jones, [five hundred] *four hundred and ten* dollars.

John Lowell, junior, administrator of Tuthill Hubbart, [five hundred] *four hundred and ten* dollars.

Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey and Russell, [five hundred] *four hundred and ten* dollars.

Nathan Matthews, junior, administrator of Daniel Sargent, [five hundred] *four hundred and ten* dollars.

William G. Perry, administrator of Nicholas Gilman, [four hundred] *three hundred and twenty-eight* dollars.

On the vessel brig Betsey, Daniel Boyer, master, namely:

Samuel Abbott Fowle, administrator of the estate of George Makepeace, deceased, assignee of Samuel Dowse, eleven thousand two hundred and fifty dollars and seventy-five cents, the same not being an assigned claim within the meaning of this act but an asset transferred by Samuel Dowse to George Makepeace on the seventeenth day of May, seventeen hundred and ninety-eight, for the sum of eleven thousand four hundred dollars and prior to the ratification of the treaty of September thirtieth, eighteen hundred.

On the vessel schooner Betsie, George Hastle, master, namely:

Frederick W. Meeker, administrator of Samuel Meeker, [four hundred and forty] *three hundred and fifty-nine* dollars and ninety-six cents.

Charles D. Vasse, administrator of Ambrose Vasse, [seven hundred and thirty-five dollars] *six hundred and thirty-three dollars and seventy-five cents.*

A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan and Price, [seven hundred and thirty-five dollars] *six hundred and thirty-three dollars and seventy-five cents.*

George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller and Murray, [eight hundred and eighty-seven] *seven hundred and fifty-two* dollars and fifty-five cents.

William Mifflin, administrator of Ebenezer Large, [four hundred and forty-three dollars and seventy-eight] *three hundred and seventy-six dollars and twenty-eight* cents.

Henry Pettit, administrator of Andrew Pettit, surviving partner of Pettit and Bayard, [seven hundred and ten] *six hundred and two* dollars and four cents.

Richard C. McMurtrie, administrator of Daniel W. Coxe, [four hundred and forty-three dollars and seventy-seven] *three hundred and seventy-six dollars and twenty-eight* cents.

William R. Fisher, administrator of William Read, surviving partner of William Read and Company, [six hundred and twenty-one dollars and twenty-nine] *five hundred and twenty-six dollars and seventy-nine* cents.

On the vessel brig Brothers, George Parsons, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [two thousand one hundred] *one thousand seven hundred and twenty-two* dollars.

Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey and Russell, [five hundred] *four hundred and ten* dollars.

Thomas N. Perkins, administrator of John C. Jones, [one thousand one hundred and thirty-six dollars and seventy] *nine hundred and thirty-seven dollars and ten* cents.

David G. Haskins, administrator of David Greene, [one thousand and forty-eight] *four hundred* dollars.

On the vessel schooner Centurian, Philip Greely, master, namely:

Stuyvesant T. V. Jackson, administrator of Levi Cutter, [seven hundred and seventy-seven dollars and fourteen] *two hundred and twenty-one dollars and eighty-one* cents.

Mabel Sargent, administratrix of Jacob Mitchell, surviving partner of Buxton and Mitchell, [seven hundred and seventy-seven dollars and fourteen] *two hundred and twenty-one dollars and eighty-one* cents.

On the vessel schooner Celly, William Mariner, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [four thousand five] *three thousand three* hundred and sixteen dollars and six cents.

George G. King, administrator of Crowell Hatch, [seven] *five* hundred and fifty-two dollars and sixty-eight cents.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, one thousand [five] *one* hundred and five dollars and thirty-six cents.

George G. King, administrator of James Scott, [three] *two* hundred and seventy-six dollars and thirty-four cents.

William P. Perkins, administrator of Thomas Perkins, [three] *two* hundred and seventy-six dollars and thirty-four cents.

Charles A. Welsh, administrator of William Stackpole, [three] *two* hundred and seventy-six dollars and thirty-four cents.

Walter Hunnewell, administrator of John Wells [three] *two* hundred and seventy-six dollars and thirty-four cents.

Walter Hunnewell, administrator of Arnold Wells, junior, [three] *two* hundred and seventy-six dollars and thirty-four cents.

Frank Dabney, administrator of Samuel W. Pomeroy, [three] *two* hundred and seventy-six dollars and thirty-three cents.

David G. Haskins, administrator of David Greene, [seven] *five* hundred and fifty-two dollars and sixty-seven cents.

On the vessel schooner Columbus, Benjamin Mason, master, namely:

Samuel M. Came, administrator of John Low, [one thousand five hundred and eighty-three] *nine hundred and fifty-six* dollars.

Brooks Adams, administrator of Peter C. Brooks, [four hundred and twenty-five dollars] *three hundred and eighteen dollars and seventy cents.*

George G. King, administrator of Crowell Hatch, [two hundred and fifty dollars] *one hundred and eighty-seven dollars and fifty cents.*

On the vessel brig Diana, John Walker, master, namely:

Francis M. Boutwell, administrator of Thomas Geyer, [two thousand two hundred and eighty-five dollars and seventy] *nine hundred and seventy-seven dollars and twenty* cents.

Edmund D. Codman, administrator of William Gray, [two thousand] *one thousand seven hundred* dollars.

Thomas N. Perkins, administrator of John C. Jones, [five hundred] *four hundred and twenty-five* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [five hundred] *four hundred and twenty-five* dollars.

William Ropes Trask, administrator of Thomas Amory, [two hundred and fifty dollars] *two hundred and twelve dollars and fifty cents.*

William G. Perry, administrator of Nicholas Gilman, [two hundred and fifty dollars] *two hundred and twelve dollars and fifty cents.*

On the vessel brig Dove, William McN. Watts, master, namely:

George G. King, administrator of Crowell Hatch, [one thousand] *seven hundred* dollars.

Brooks Adams, administrator of Peter C. Brooks, [three thousand] *two thousand one hundred* dollars.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [one thousand] *seven hundred* dollars.

William R. Trask, administrator of Thomas Amory, [five hundred] *three hundred and fifty* dollars.

William G. Perry, administrator of Nicholas Gilman, [five hundred] *three hundred and fifty* dollars.

On the vessel brig Eliza, Christopher O'Conner, master, namely:

Samuel Bell, administrator, and so forth, of John Godfrey Wachsmuth, two thousand seven hundred and ninety-three dollars.

On the vessel brig Fanny, John Gould, master, namely:

Mary Wise Moody, administratrix of Daniel Wise, [seven hundred and eighty-eight dollars and eighteen] *four hundred and twenty-five dollars and sixty-eight* cents.

Albert M. Welch, administrator of Thomas Perkins, third, [one thousand eight hundred and forty-five dollars] *eight hundred and seventy-eight dollars and thirty-four cents.*

Edmund D. Codman, administrator of William Gray, [one thousand eight hundred and eighty-three dollars and thirty-three] *one thousand six hundred dollars and eighty-three* cents.

On the vessel sloop Farmer, John Grow, master, namely:

Francis M. Boutwell, administrator of William Marshall, jr., [two thousand four hundred and eighteen dollars and thirty-two] *four hundred and forty dollars and fifty-seven* cents.

Francis M. Boutwell, administrator of Benjamin Cobb, [four hundred and sixty-five] *three hundred and eighty* dollars.

William G. Perry, administrator of Nicholas Gilman, [nine hundred and thirty] *seven hundred and sixty* dollars.

Nathan Matthews, junior, administrator of Daniel Sargent, [four hundred and sixty-five] *three hundred and eighty* dollars.

Thomas N. Perkins, administrator of John C. Jones, [four hundred and sixty-five] *three hundred and eighty* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [four hundred and sixty-five] *three hundred and eighty* dollars.

James C. Davis, administrator of Cornelius Durant, [four hundred and sixty-five] *three hundred and eighty* dollars.

Arthur D. Hill, administrator of Benjamin Homer, [four hundred and sixty-five] *three hundred and eighty* dollars.

Thomas N. Perkins, administrator of Thomas Amory, [six hundred and fifty-one] *five hundred and eighty* dollars.

George G. King, administrator of James Scott, [four hundred and sixty-five] *three hundred and eighty* dollars.

Charles K. Cobb, administrator of Stephen Codman, [four hundred and sixty-five] *three hundred and eighty* dollars.

On the vessel schooner Fortune, William Hubbard, master, namely:

[Mary W. Moody, administratrix of Daniel Wise, one hundred and eight dollars.]

Edmund D. Codman, administrator of William Gray, [six hundred] *four hundred and ninety-two* dollars.

On the vessel sloop Fox, Nathaniel Dennis, master, namely:

Edmund D. Codman, administrator of William Gray, jr., [six] *four* hundred dollars.

Brooks Adams, administrator of Peter C. Brooks, [one thousand dollars] *six hundred and sixty-six dollars and sixty-eight cents.*

George G. King, administrator of Crowell Hatch, [four hundred dollars] *two hundred and sixty-one dollars and sixty-seven cents.*

On the vessel schooner Friendship, William Blanchard, master, namely:

Charles F. Adams, administrator of Peter C. Brooks, [two thousand one hundred] *one thousand seven hundred and twenty-two* dollars.

Daniel W. Waldron, administrator of Jacob Sheafe, [five hundred] *four hundred and fifty* dollars.

Thomas N. Perkins, administrator of John C. Jones, [seven hundred] *six hundred and thirty* dollars.

Arthur D. Hill, administrator of Benjamin Homer, [five hundred] *four hundred and fifty* dollars.

James C. Davis, administrator of Cornelius Durant, [five hundred] *four hundred and fifty* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [eight hundred] *seven hundred and twenty* dollars.

George G. King, administrator of James Scott, [five hundred] *four hundred and fifty* dollars.

William G. Perry, administrator of Nicholas Gilman, [five hundred] *four hundred and fifty* dollars.

On the vessel brig George, Jacob Greenleaf, master, namely:

Helen N. Pike, administratrix of John Pettingel, [five thousand one hundred and fifty-three dollars and three] *three thousand two hundred and fifty-nine dollars and eighty-eight* cents.

Joseph W. Thompson, administrator of David Coffin, [one hundred] *ninety-one* dollars.

Joseph L. Wheelwright, administrator of Moses Savory, [two hundred] *one hundred and eighty-two* dollars.

James S. Gerrish, administrator of Edward Toppan, [three hundred] *two hundred and seventy-three* dollars.

George Otis, administrator of Joseph Marquand, [one hundred] *ninety-one* dollars.

Amos Noyes, administrator of Zebedee Cook, [two hundred] *one hundred and eighty-two* dollars.

Amos Noyes, administrator of William Cook, [one hundred] *ninety-one* dollars.

Eben F. Stone, administrator of Nathan Hoyt, [one hundred] *ninety-one* dollars.

Henry B. Reed, administrator of Andrew Frothingham, [one hundred] *ninety-one* dollars.

Luther R. Moore, administrator of William Boardman, [one hundred] *ninety-one* dollars.

Charles C. Donnelly, administrator of Joseph Toppan, [one hundred] *ninety-one* dollars.

Francis A. Jewett, administrator of James Prince, [five hundred] *four hundred and fifty-five* dollars.

Fritz H. Jordan, administrator of Leonard Smith, [five hundred] *four hundred and fifty-five* dollars.

Franklin A. Wilson, administrator of John Pearson, jr., [three hundred] *two hundred and seventy-three* dollars.

Jeremiah Nelson, administrator of Jeremiah Nelson, [two hundred] *one hundred and eighty-two* dollars.

Henry P. Toppan, administrator of Joshua Toppan, [one hundred] *ninety-one* dollars.

Brooks Adams, administrator of Peter C. Brooks, [two thousand] *one thousand seven hundred and sixty* dollars.

William Ropes Trask, administrator of Thomas Amory, [one thousand] *eight hundred and eighty* dollars.

Thomas N. Perkins, administrator of John C. Jones, [one thousand] *eight hundred and eighty* dollars.

On the vessel schooner Greyhound, Sylvanus Snow, master, namely:

George G. King, administrator of Crowell Hatch, [seven hundred] *five hundred and twenty-five* dollars.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [seven hundred and fifty dollars] *five hundred and sixty-two dollars and fifty cents.*

On the vessel schooner Hannah, James H. Voax, master, namely:

[Charles U. Cotting, administrator of David W. Child, three hundred and nine dollars and twenty-seven cents.]

[Francis M. Boutwell, administrator of William Marshall, junior, three hundred and nine dollars and twenty-eight cents.]

Brooks Adams, administrator of Peter C. Brooks, [two thousand] *one thousand eight hundred* dollars.

Morton Prince, administrator of James Prince, [five hundred] *four hundred and fifty* dollars.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [one thousand] *nine hundred* dollars.

Chandler Robbins, administrator of Joseph Russell, for and on behalf of the firm of Jeffrey and Russell, [one thousand] *nine hundred* dollars.

Thomas N. Perkins, administrator of John C. Jones, [one thousand] *nine hundred* dollars.

George G. King, administrator of Crowell Hatch, [one thousand] *nine hundred* dollars.

Nathan Matthews, junior, administrator of Daniel Sargent, [four hundred and sixteen] *three hundred and fifty-six* dollars and sixty-seven cents.

Edward I. Browne, administrator of Israel Thorndike, [five hundred and eighty-three] *four hundred and ninety-nine* dollars and thirty-three cents.

Henry Parkman, administrator of John Lovett, two hundred and [fifty] *fourteen* dollars.

On the vessel schooner Hazard, Barnabus Young, master, namely:

Joshua D. Upton, administrator of Eben Parsons, [seven thousand two hundred and eighteen dollars and fifty-nine] *six thousand four hundred and thirty-five dollars and fifty* cents.

On the vessel schooner Hero, Convers Lilly, master, namely:

Walter L. Hall, administrator of Samuel Davis, [two thousand eight hundred and fifty-eight dollars and fifty cents] *one thousand six hundred dollars.*

Ann W. Davis, administratrix of Jonathan Davis, [two thousand eight hundred and fifty-eight dollars and fifty cents] *one thousand six hundred dollars.*

William G. Perry, administrator of Nicholas Gilman, [two hundred and fifty dollars] *two hundred and six dollars and twenty-five cents.*

Daniel W. Waldron, administrator of Jacob Sheafe, [one hundred and twenty-five dollars] *one hundred and three dollars and twelve cents.*

Elisha Whitney, administrator of Thomas Stevens, for and on behalf of the firm of John and Thomas Stevens, [one hundred and fifty dollars] *one hundred and twenty-three dollars and seventy-five cents.*

Thomas H. Perkins, administrator of John C. Jones, [one hundred and fifty dollars] *one hundred and twenty-three dollars and seventy-five cents.*

William Ropes Trask, administrator of Thomas Amory, [two hundred and fifty dollars] *two hundred and six dollars and twenty-five cents.*

George G. King, administrator of James Scott, [one hundred and twenty-five dollars] *one hundred and three dollars and twelve cents.*

Nathan Matthews, administrator of Daniel Sargent, [one hundred and twenty-five dollars] *one hundred and three dollars and twelve cents.*

Henry B. Cabot, administrator of Daniel D. Rogers, [one hundred and twenty-five dollars] *one hundred and three dollars and twelve cents.*

James C. Davis, administrator of Cornelius Durant, [two hundred and fifty dollars] *two hundred and six dollars and twenty-five cents.*

Edward I. Browne, administrator of Israel Thorndike, [one hundred and twenty-five dollars] *one hundred and three dollars and thirteen cents.*

A. Lawrence Lowell, administrator of Tuthill Hubbart, [one hundred and fifty dollars] *one hundred and twenty-three dollars and seventy-five cents.*

On the vessel schooner Hiram, Ebenezer Barker, master, namely:

Moses Sherwood, administrator for the estate of David Coley, jr., two thousand dollars.

On the vessel sloop Honor, William Kimball, master, namely:

Charles F. Adams, administrator of Peter C. Brooks, [two thousand and ninety] *one thousand eight hundred and ninety-eight* dollars.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [four hundred and seventy-five] *four hundred and twenty-five* dollars.

George G. King, administrator of James Tisdale, [three hundred and eighty] *three hundred and fifty-six* dollars.

Francis M. Boutwell, administrator of Joseph Cordis, [three hundred and eighty] *three hundred and fifty-six* dollars.

George G. King, administrator of Crowell Hatch, [four hundred and seventy-five] *four hundred and twenty-five* dollars.

On the vessel brig Hope, Joseph Bright, master, namely:

E. Francis Riggs, administrator of James Lawrason, deceased, surviving partner of Shreve and Lawrason, [seven hundred and forty-nine dollars and fifty] *two hundred and thirty-six dollars and sixty-seven* cents.

Lawrence Stabler, administrator of William Hartshorne, deceased, remaining partner of William Hartshorne and Sons, [three thousand three hundred and forty-five] *two thousand* dollars.

D. Fitzhugh Savage, administrator of John Savage, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Francis A. Lewis, administrator of Peter Blight, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Charles McCafferty, administrator of Samuel Blodgett, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Sarah Leaming, administratrix of Thomas Murgatroyd, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

J. Bayard Henry, administrator of John Leamy, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Francis R. Pemberton, administrator of John Clifford, surviving partner of Thomas and John Clifford, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Samuel Bell, administrator of John G. Wachsmuth, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Crawford D. Hening, administrator of James Crawford, surviving partner of James Crawford and Company, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Crawford D. Hening, administrator of Abijah Dawes, three hundred and [ninety-two] *forty-two* dollars.

Henry Pettit, administrator of Charles Pettit, [eight hundred and thirty-three dollars] *seven hundred and forty-three dollars and seventy-five cents.*

On the vessel ship Hope, Sylvester Bill, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [seven thousand] *six thousand three hundred* dollars.

Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey and Russell, [one thousand] *nine hundred* dollars.

Thomas N. Perkins, administrator of John C. Jones, [one thousand] *nine hundred* dollars.

George G. King, administrator of Crowell Hatch, [one thousand] *nine hundred* dollars.

On the vessel schooner Isabella, Lewis Lombard, master, namely:

Charles L. De Normandie, administrator of Benjamin Smith, [one thousand seven hundred and sixty dollars and twenty-five] *eight hundred and eight dollars and fifty-nine* cents.

[Nathan Matthews, administrator of Daniel Sargent, three hundred and thirty-eight dollars and six cents.]

Thomas N. Perkins, administrator of John C. Jones, [one hundred] *eighty* dollars.

George G. King, administrator of James Scott, [six hundred] *five hundred and forty* dollars.

William G. Perry, administrator of Nicholas Gilman, [six hundred] *five hundred and forty* dollars.

Jonathan I. Bowditch, administrator of Benjamin Pickman, [five hundred] *four hundred and fifty* dollars.

Edward I. Browne, administrator of Israel Thorndike, [five hundred] *four hundred and fifty* dollars.

Augustus P. Loring, administrator of William H. Boardman, [four hundred] *three hundred and sixty* dollars.

David G. Haskins, administrator of David Greene, [five hundred] *four hundred and fifty* dollars.

Charles K. Cobb, administrator of Stephen Codman, [four hundred] *three hundred and sixty* dollars.

A. Lawrence Lowell, administrator of Tuthill Hubbart, [five hundred] *four hundred and fifty* dollars.

On the vessel sloop James, Robert Palmer, master, namely:

George Meade, administrator of the estate of Anthony Butler, [four thousand five hundred and thirty-three] *three thousand two hundred* dollars.

On the vessel schooner Jenny, George Walker, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [five hundred] *four hundred and twenty-five* dollars.

George G. King, administrator of Crowell Hatch, [five hundred] *four hundred and twenty-five* dollars.

Alice S. Wheeler, administratrix of Abiel Winship, [three thousand six hundred and seventy dollars and six] *two thousand eight hundred and eighty-two dollars and fifty* cents.

On the vessel sloop Julia, William Green, master, namely:

Silas R. Holmes, administrator of Ebenezer Holmes, [eight hundred and fifty-one dollars and fifty cents] *six hundred dollars.*

Wilbur S. Comstock, administrator of Phineas Parmalee, [eight hundred and fifty-one dollars and fifty cents] *six hundred dollars.*

Stephen L. Selden, administrator of Richard E. Selden, [eight hundred and fifty-one dollars and fifty cents] *six hundred dollars.*

Franklin Little, executor of Noah Bulkley, [eight hundred and fifty-one dollars and fifty cents] *six hundred dollars.*

On the vessel schooner Juno, William Burgess, master, namely:

Cazenove G. Lee, administrator of James Patton, surviving partner of the firm of Patton and Dykes, [seven thousand and sixty-six dollars and sixty-six cents] *seven thousand dollars.*

John W. Apthorp, administrator of William Foster, [one thousand] *nine hundred and thirty* dollars.

William I. Monroe, administrator of John Brazer, [one thousand] *nine hundred and thirty* dollars.

William S. Carter, administrator of William Smith, [eight hundred] *seven hundred and forty-four* dollars.

H. Burr Crandall, administrator of Thomas Dickason, jr., [five hundred] *four hundred and sixty-five* dollars.

Nathan Matthews, administrator of Daniel Sargent, [five hundred] *four hundred and sixty-five* dollars.

Augustus P. Loring, administrator of William Boardman, [one thousand] *nine hundred and thirty* dollars.

Lawrence Bond, administrator of Nathan Bond, [five hundred] *four hundred and sixty-five* dollars.

David Greene Haskins, administrator of David Greene, [five hundred] *four hundred and sixty-five* dollars.

William G. Perry, administrator of Nicholas Gilman, [five hundred] *four hundred and sixty-five* dollars.

William A. Hayes, second, administrator of Eliphalet Ladd, [five hundred] *four hundred and sixty-five* dollars.

Montgomery Fletcher, administrator of John Walter Fletcher, for and on behalf of the firm of Fletcher and Otway, three hundred and thirty-three dollars and thirty-three cents.

[On the vessel schooner Kitty, Jacob Singleton, master, namely:]

[Ormes R. Keith, surviving executor of Samuel Keith, surviving partner of the firm of William and Samuel Keith, one thousand four hundred and sixty-one dollars and seventy-six cents.]

On the vessel schooner Liberty, Asa Williams, master, namely:

Brooks Adams, administrator of the estate of Peter Chardon Brooks, deceased, two thousand [five] *two* hundred dollars.

George G. King, administrator of the estate of Crowell Hatch, deceased, [five hundred] *four hundred and eighty* dollars.

David Greene Haskins, administrator of the estate of David Greene, deceased, [one thousand nine hundred and sixty] *one thousand six hundred* dollars.

On the vessel schooner Little Fannie, Peter Foadick, master, namely:

Samuel J. Randall, administrator of Matthew Randall, [two thousand two] *one* hundred and sixty dollars.

Charles D. Vasse, administrator of Ambrose Vasse, [four] *three* hundred and ninety dollars.

Charles Prager, administrator of Mark Prager, jr., for and on behalf of Pragers and Company, [nine] *eight* hundred and eighty dollars.

Francis A. Lewis, administrator of Peter Blight, [nine] *eight* hundred and eighty dollars.

On the vessel brig Lucy, Christoper Grant, master, namely:

Daniel W. Salisbury, surviving executor of Samuel Salisbury, two thousand and eighty-nine dollars and eighty-three cents.]

Louis Higginson, administrator of Stephen Higginson, two thousand and eighty-nine dollars and eighty-three cents.]

Charles F. Adams, administrator of Peter C. Brooks, [four thousand five hundred] *three thousand* dollars.

Robert Codman, administrator of William Gray, [one thousand dollars] *six hundred and sixty-six dollars and sixty-six cents.*

George G. King, administrator of Crowell Hatch, [one thousand dollars] *six hundred and sixty-six dollars and sixty-six cents.*

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [one thousand dollars] *six hundred and sixty-six dollars and sixty-six cents.*

On the vessel brig Mary, Robert Holmes, master, namely:

Edmund D. Codman, administrator of the estate of William Gray, deceased, [three] *two* thousand nine hundred and sixty dollars.

William I. Monroe, administrator of the estate of John Brazer, deceased, [one hundred and fifteen dollars] *eighty-six dollars and twenty-five cents.*

On the vessel schooner Neptune, Comfort Bird, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [two thousand one hundred and twenty-nine dollars and eight] *one thousand one hundred and fifty-nine dollars and twenty-two* cents.

George G. King, administrator of Crowell Hatch, [eight] *six* hundred and fifty-one dollars and sixty-three cents.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [four] *three* hundred and twenty-five dollars and eighty-two cents.

Thomas N. Perkins, administrator of John C. Jones, [six hundred] *five hundred* ten dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [six hundred] *five hundred* and ten dollars.

William S. Carter, administrator of William Smith, [five hundred and thirty-two] *four hundred and twenty-four* dollars.

John Lowell, administrator of Tuthill Hubbart, [five hundred and thirty-two] *four hundred and twenty-four* dollars.

Francis M. Boutwell, administrator of John McLean, two hundred and [sixty-six dollars] *twenty-eight dollars and fifty cents.*

Samuel Abbott Fowle, administrator of George Makepeace [four hundred and eighty-nine] *three hundred and nine* dollars and eighty-six cents.

[On the vessel brig Peggy, John Hourston, master, namely:]

[Charles F. Mayer, administrator of Henry Konig, three thousand seven hundred and ninety-seven dollars and eighty-seven cents.]

[Charles F. Mayer, surviving executor of Frederick Konig, three thousand seven hundred and ninety-seven dollars and eighty-seven cents.]

On the vessel schooner Rebecca, Mildmay Smith, master, namely:

Lewis Christian Mayer, administrator of Christian Mayer [eight thousand seven hundred and seventy-nine dollars and seventy-seven] *seven thousand seven hundred and eighty-five dollars and twenty-seven* cents.

Leigh Bonsal, administrator of Adrian Valck, [eight thousand seven hundred and seventy-nine dollars and seventy-seven] *seven thousand seven hundred and eighty-five dollars and twenty-seven* cents.

On the vessel schooner Sally, Timothy Davis, master, namely:

Charles F. Trask, administrator of Samuel Babson, [two thousand six hundred] *one thousand six hundred and fifty* dollars.

On the vessel ship Sarah, Joseph Breck, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [one thousand one hundred and seventy-four dollars and sixty] *four hundred and sixty-six dollars and eighty* cents.

Thomas N. Perkins, administrator of John C. Jones, [two hundred and fifty] *one hundred and fifteen* dollars and eighty cents.

Francis M. Boutwell, administrator of Benjamin Cobb, [one hundred and sixty-seven] *seventy-seven* dollars and eighty cents.

James S. English, administrator of Thomas English, [eighty-three] *thirty-eight* dollars and ninety cents.

Arthur P. Cushing, administrator of Marston Watson, [one hundred and sixty-seven] *seventy-seven* dollars and eighty cents.

Walter Hunnewell, administrator of John Welles, [eighty-three] *thirty-eight* dollars and ninety cents.

Morton Prince, administrator of James Prince, [eighty-three] *thirty-eight* dollars and ninety cents.

Gordon Dexter, administrator of Samuel Dexter, [eighty-three] *thirty-eight* dollars and ninety cents.

Nathan Matthews, jr., administrator of Daniel Sargent, [one hundred and sixteen] *fifty-three* dollars and twenty cents.

Daniel W. Waldron, administrator of Jacob Sheafe, [eighty-three] *thirty-eight* dollars.

Charles K. Cobb, administrator of Stephen Codman, [eighty-three] *thirty-eight* dollars.

George G. King, administrator of James Scott, [eighty-three] *thirty-eight* dollars.

Edward I. Browne, administrator of Israel Thorndike, [eighty-three] *thirty-eight* dollars.

Arthur D. Hill, administrator of Benjamin Homer, [eighty-three] *thirty-eight* dollars.

Henry W. Edes, administrator of John May, [eighty-three] *thirty-eight* dollars.

John O. Shaw, administrator of Josiah Knapp, [eighty-three] *thirty-eight* dollars.

William Ropes Trask, administrator of Thomas Amory, [one hundred and sixty-six] *seventy-six* dollars.

H. Burr Crandall, administrator of Thomas Cushing, [sixty-six] *thirty* dollars and forty cents.

Jonathan I. Bowditch, administrator of Benjamin Pickman, [eighty-three] *thirty-eight* dollars.

Arthur T. Lyman, administrator of Theodore Lyman, [eighty-three] *thirty-eight* dollars.

Charles K. Cobb, administrator of John Codman, [one hundred and sixty-six] *seventy-six* dollars.

William G. Perry, administrator of Nicholas Gilman, [one hundred and sixty-six] *seventy-six* dollars.

Elisha Whitney, administrator of Thomas Stephens, for and on behalf of the firm of John and Thomas Stephens, [ninety-nine] *forty-five* dollars and sixty cents.

John Lowell, administrator of Tuthill Hubbart, [eighty-three] *thirty-eight* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [one hundred and sixty-six] *seventy-six* dollars.

W. Rodman Peabody, administrator of Daniel D. Rogers, [one hundred and thirty-two] *sixty* dollars and eighty cents.

On the vessel sloop Scrub, John Russell, master, namely:

Newton Dexter, administrator of the estate of Joseph Martin, deceased, three hundred dollars.

On the vessel brig Sophia, Ambrose Shirley, master, namely:

[James L. Hubard, administrator of William Pennock, four hundred and seventy-three dollars and eleven cents.]

Bassett A. Marsden, administrator of Benjamin Pollard, [two hundred and ninety-four dollars] *two hundred and forty-one dollars and fifty* cents.

John Neely, administrator of John Cowper, surviving partner of John Cowper and Company, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

R. Manson Smith, administrator of Francis Smith, [one hundred and ninety-six] *one hundred and sixty-one* dollars.

Alexander Proudfit, administrator of John Proudfit, for and on behalf of the firm of John Proudfit and Company, [three hundred and ninety-two] *three hundred and twenty-two* dollars.

George H. Gorman, administrator of Mat Anderson, [two hundred and ninety-four dollars] *two hundred and forty-one dollars and fifty cents.*

George H. Gorman, administrator of Ben. Dabney, [two hundred and ninety-four dollars] *two hundred and forty-one dollars and fifty cents.*

On the vessel schooner Swan, Samuel Shaw, master, namely:

George G. King, administrator of Crowell Hatch, [five hundred] *three hundred and seventy-five* dollars.

Morton Prince, administrator of James Prince, [three hundred] *two hundred and twenty-five* dollars.

William P. Dexter, administrator of Samuel Dexter, [three hundred] *two hundred and twenty-five* dollars.

Thomas N. Perkins, administrator of John C. Jones, [four hundred] *three hundred* dollars.

On the vessel schooner Sylvanus, Edward D. Baker, master, namely:

Nathan Matthews, junior, administrator of Daniel Sargeant, [six hundred] *five hundred and ten* dollars.

Thomas N. Perkins, administrator of John C. Jones, [one thousand seven hundred] *eight hundred and fifty* dollars.

Charles K. Cobb, administrator of Stephen Codman, [seven hundred] *five hundred and ninety-five* dollars.

William G. Perry, administrator of Nicholas Gilman, [seven hundred] *five hundred and ninety-five* dollars.

Edward I. Browne, administrator of Israel Thorndike, [six hundred] *five hundred and ten* dollars.

Henry Parkman, administrator of John Lovett, [three hundred] *two hundred and fifty-five* dollars.

John Lowell, junior, administrator of Tuthill Hubbart, [eight hundred] *six hundred and eighty* dollars.

Arthur D. Hill, administrator of Benjamin Homer, [five hundred] *four hundred and twenty-five* dollars.

James C. Davis, administrator of Cornelius Durant, [one thousand four hundred] *one thousand two hundred and ten* dollars.

Chandler Robbins, administrator of Joseph Russell, *surviving partner of Jeffrey and Russell*, [eight hundred] *six hundred and eighty* dollars.

George G. King, administrator of Crowell Hatch, [five hundred] *four hundred and fifty* dollars.

On the vessel schooner Syren, Jared Arnold, master, namely:

Charles J. Bonaparte, administrator of Benjamin Williams, [three thousand and sixty-four dollars and fifty-eight] *two thousand six hundred and sixty-two dollars and eight* cents.

David Stewart, administrator of William Wood, junior, [three thousand and sixty-four dollars and fifty-eight] *two thousand six hundred and sixty-two dollars and eight* cents.

David Stewart, administrator of Henry Payson, [three thousand and sixty-four dollars and fifty-eight] *two thousand six hundred and sixty-two dollars and eight* cents.

Henry W. Ellicott, administrator of William McFadon, [five hundred and thirty-two dollars and sixty] *three hundred and fifteen dollars and thirty* cents.

James Lawson, administrator of Richard Lawson, [five hundred and thirty-two dollars and sixty] *three hundred and fifteen dollars and thirty* cents.

Richard Dalafield, administrator of John Dalafield, surviving partner of Church and Dalafield, [one thousand seven hundred and sixteen] *one thousand four hundred and sixty-six* dollars and eighty cents.

On the vessel sloop Townsend, Daniel Campbell, master, namely:

William O. McCobb, administrator of the estate of William McCobb, [two thousand one hundred and eleven dollars and eleven] *one thousand five hundred and four dollars and sixty* cents.

William O. McCobb, administrator of the estate of Joseph Campbell, [one thousand one hundred and eleven dollars and eleven] *five hundred and four dollars and sixty* cents.

Jennie E. McFarland, administratrix of the estate of Ephraim McFarland, [four hundred and eighty-three dollars and ninety-six] *seventy-nine dollars and sixty-one* cents.

Francis M. Boutwell, administrator of the estate of Benjamin Cobb, junior, [five] *two* hundred dollars.

Archibald M. Howe, administrator of the estate of Francis Green, [five] *two* hundred dollars.

William Ropes Trask, administrator of the estate of Thomas Amory, [five] *two* hundred dollars.

Thomas N. Perkins, administrator of the estate of John C. Jones, [five] *two* hundred dollars.

On the vessel schooner Two Cousins, Elijah Devall, master, namely:

Horace E. Hayden, administrator of David H. Conyngham, surviving partner of Conyngham, Nesbit and Company, [eight thousand and twelve dollars and thirteen] *six thousand six hundred and seventy-eight dollars and eighty* cents.

On the vessel schooner Unity, J. W. Latouche, master, namely:

David Stewart, administrator of Henry Messonnier, [four thousand four] *three thousand five* hundred and sixty-seven dollars and eight cents.

On the vessel schooner Venus, Benjamin Hooper, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [two thousand] *one thousand six hundred* dollars.

James S. English, administrator of Thomas English, [five] *four* hundred dollars.

George G. King, administrator of Crowell Hatch, [one thousand] *eight hundred* dollars.

Daniel W. Waldron, administrator of Jacob Sheafe, [five hundred dollars] *four hundred and twelve dollars and fifty cents.*

Francis M. Boutwell, administrator of Benjamin Cobb, [one thousand dollars] *eight hundred and twelve dollars and fifty cents.*

Francis M. Boutwell, administrator of John McLean, [one thousand] *eight hundred and twenty-five* dollars.

W. Rodman Peabody, administrator of Daniel D. Rogers, [five hundred dollars] *four hundred and twelve dollars and fifty cents.*

Frank Dabney, administrator of Samuel W Pomeroy, [one thousand] *eight hundred and twenty-five* dollars.

William G. Perry, administrator of Nicholas Gilman, [one thousand] *eight hundred and twenty-five* dollars.

Elisha Whitney, administrator of Thomas Stevens, for and on behalf of the firm of John and Thomas Stevens, [six hundred] *four hundred and ninety-five* dollars.

William R. Trask, administrator of Thomas Amory, [five hundred dollars] *four hundred and twelve dollars and fifty cents.*

Edward I. Browne, administrator of Moses Brown, [five hundred dollars] *four hundred and twelve dollars and fifty cents.*

Charles K. Cobb, administrator of Stephen Codman, [four hundred] *three hundred and thirty* dollars.

Thomas N. Perkins, administrator of John C. Jones, [one thousand nine hundred dollars] *seven hundred and forty-two dollars and fifty cents.*

A. Lawrence Lowell, administrator of Tuthill Hubbart, [four hundred] *three hundred and thirty* dollars.

George G. King, administrator of James Scott, [six hundred] *four hundred and ninety-five* dollars.

On the vessel schooner William Lovel, John K. Hill, master, namely:

William D. Lee, Thomas D. Lee, Henry A. Lee, Joseph A. Lee, and Virginia Waters, administrators of William Duncan, [six hundred and twenty-eight] *one hundred and three* dollars and seventy-one cents.

On the vessel schooner Betsey, Francis Bulkeley, master, namely:

Francis B. Field, administrator of Francis Bulkley, [six thousand eight hundred and forty-three dollars and seventy] *five thousand six hundred and eighty-seven dollars and forty-five* cents.

Robert Ogden Glover, administrator of John Morgan, [two thousand two hundred and sixty-eight dollars and eleven] *one thousand three hundred and ninety-nine dollars and thirty-six* cents.

Benjamin M. Hartshorne and Charles N. Black, executors of Richard Hartshorne, surviving partner of Rhinelander, Hartshorne and Company, four hundred and [ninety] *forty* dollars.

Thomas W. Ludlow, administrator of Thomas Ludlow, four hundred and [ninety] *forty* dollars.

Gordon Norrie, administrator of Gerret Van Horne, surviving partner of Van Horne and Clarkson, four hundred and [ninety] *forty* dollars.

Harriet E. Sebor, administratrix of Jacob Sebor, four hundred and [ninety] *forty* dollars.

[On the vessel schooner Sally, John D. Farley, master, namely:

Frederick H. Allen, administrator of Charles Goodrich, four hundred and five dollars and sixty-seven cents.]

On the vessel brig Drake, Jonathan M. Tredick, master, namely:

Charles E. Batchelder, administrator of William Tredick, [seven thousand and seventy-three] *four thousand seven hundred and sixteen* dollars and two cents.

George W. Haven, administrator of Moses Woodward, one hundred and [eighty-two] *forty-two* dollars and eighty-six cents.

Francis E. Langdon, administrator of Clement Storer, two hundred and [seventy-four] *fourteen* dollars and twenty-eight cents.

J. Hamilton Shapley, administrator of Edward Cutts, [two hundred and twenty-eight] *one hundred and seventy-eight* dollars and fifty-seven cents.

James W. Emery, administrator of Thomas Manning, two hundred and [seventy-four] *fourteen* dollars and twenty-eight cents.

Mary Pickering Harris, administratrix of Jonathan Goddard, one hundred and [eighty-two] *forty-two* dollars and eighty-six cents.

Josephine Richter, administratrix of John McClintock, [ninety-one] *seventy-one* dollars and forty-three cents.

Charles H. Batchelder, administrator of Daniel Huntress, one hundred and [thirty-seven] *seven* dollars and fourteen cents.

Frederick P. Jones, administrator of Martin Parry, two hundred and [seventy-four] *fourteen* dollars and twenty-eight cents.

Charles H. Batchelder, administrator of Abel Harris, [forty-five] *thirty-five* dollars and seventy-two cents.

Alfred L. Elwyn, administrator of John Langdon, two hundred and [seventy-four] *fourteen* dollars and twenty-eight cents.

William Hall Williams, administrator of Elijah Hall, two hundred and [seventy-four] *fourteen* dollars and twenty-eight cents.

On the vessel brig Two Brothers, Alexander Forrester, master, namely:

Brooks Adams, administrator of Peter C. Brooks, two thousand [seven hundred and sixty-eight] *and eighteen* dollars and forty-nine cents.

Nathaniel P. Hamlin, administrator of Thomas Perkins, [three] *two* hundred and sixty-nine dollars and fourteen cents.

Walter Hunnewell, administrator of John Welles, [three] *two* hundred and sixty-nine dollars and fourteen cents.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [one thousand one] *eight* hundred and seven dollars and forty cents.

George G. King, administrator of Crowell Hatch, [nine hundred and twenty-two] *six hundred and seventy-two* dollars and eighty-three cents.

William G. Perry, administrator of Nicholas Gilman, [two hundred and fourteen] *eighty-nine* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [two hundred and fourteen] *eighty-nine* dollars.

On the vessel schooner Willing Maid, Comfort Bird, master, namely:

George G. King, administrator of Crowell Hatch, [eight hundred and six dollars and eighty-two] *four hundred and seventy-three dollars and forty-nine* cents.

Thomas N. Perkins, administrator of John C. Jones, [four hundred and three dollars and forty-one] *two hundred and thirty-six dollars and seventy-five* cents.

Frank Dabney, administrator of Samuel W. Pomeroy, [four hundred and three dollars and forty-one] *two hundred and thirty-six dollars and seventy-five* cents.

William S. Carter, administrator of William Smith, [eight hundred and six dollars and eighty-two] *four hundred and seventy-three dollars and forty-nine* cents.

Henry H. Cabot, administrator of Daniel D. Rogers, [four hundred and three dollars and forty-one] *two hundred and thirty-six dollars and seventy-five* cents.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [one thousand seven hundred and six dollars and eighty-two] *one thousand one hundred and three dollars and forty-nine* cents.

John Lowell, administrator of Tuthill Hubbart, [four hundred and three dollars and forty-one] *two hundred and thirty-six dollars and seventy-five* cents.

Charles A. Welch, administrator of William Stackpole, [four hundred and three dollars and forty-one] *two hundred and thirty-six dollars and seventy-five* cents.

Charles K. Cobb, administrator of Stephen Codman, [two] *one* hundred and forty-two dollars and five cents.

On the vessel schooner Friendship, Patrick Drummond, master, namely:

William D. Hill, administrator of Mark L. Hill, [four hundred and sixteen dollars and seventy cents] *two hundred and fifty dollars.*

Francis Adams, administrator of Josiah Batchelder, [four hundred and sixteen dollars and seventy cents] *two hundred and fifty dollars.*

Charles K. Cobb, administrator of John Codman, [four hundred and sixteen] *two hundred and fifty* dollars and seventy cents.

James W. Crawford, administrator of Samuel Mareen, [two hundred and ninety-six dollars and seventy cents] *one hundred dollars.*

Francis Adams, administrator of John Mareen, [two hundred and ninety-six dollars and seventy cents] *one hundred dollars.*

Francis M. Boutwell, administrator of John McLean, [nine hundred] *seven hundred and twenty* dollars.

On the vessel sloop George, John Grant, master, namely:

Joseph Titcomb, administrator of Michael Wise, surviving partner of Wise and Grant, [seven thousand two hundred and thirty-one dollars and seventy-seven] *six thousand one hundred and fifty-four dollars and ninety* cents.

John C. Soley, administrator of John Soley, five hundred dollars.

Augustus P. Loring, administrator of William Boardman, three hundred dollars.

Francis M. Boutwell, administrator of Joseph Cordis, three hundred dollars.

Francis M. Boutwell, administrator of William Shattuck, five hundred dollars.

On the vessel ship Minerva, Solomon Hopkins, master, namely:

George S. Boutwell, administrator of Thomas Cutts, nine hundred and eighty-six dollars and five cents.

George S. Boutwell, administrator of Thomas Cutts, jr., nine hundred and eighty-six dollars and five cents.

On the vessel schooner Nancy, Henry H. Kennedy, master, namely:

[Charles D. Vasse, administrator of Ambrose Vasse, one thousand two hundred and ninety-five dollars and ninety-two cents.]

William Mifflin, administrator of Ebenezer Large, four hundred and [ninety dollars] *two dollars and fifty cents.*

A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan and Price, four hundred and [ninety dollars] *two dollars and fifty cents.*

Crawford D. Henning, administrator of Abijah Dawes, four hundred and [ninety dollars] *two dollars and fifty cents.*

George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller and Murray, [six hundred and eighty-six dollars] *five hundred and sixty-three dollars and fifty cents.*

J. Bayard Henry, administrator of John Leamy, [seven hundred and eighty-four] *six hundred and forty-four* dollars.

Henry Pettit, administrator of Andrew Pettit, surviving partner of Pettit and Bayard, [five hundred and eighty-eight] *four hundred and eighty-three* dollars.

William R. Fisher, administrator of William Read, surviving partner of William Read and Company, four hundred and [ninety dollars] *two dollars and fifty cents.*

Mary Jackson, administratrix of Robert Smith, surviving partner of Robert Smith and Company, four hundred and [ninety dollars] *two dollars and fifty cents.*

Craig D. Ritchie, administrator of Joseph Summerl, surviving partner of Summerl and Brown, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

Janet G. Elbert, administratrix of Paul Beck, jr., [three hundred and ninety-two] *three hundred and two* dollars.

Mary Vanuxem, administratrix of James Vanuxem, surviving partner of Vanuxem and Clark, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

John Cadwalader, jr., administrator of Thomas W. Francis, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

J. Bayard Henry, administrator of Charles Ross, [three hundred and ninety-two] *three hundred and twenty-two* dollars.

J. Bayard Henry, administrator of John Simson, [three hundred and ninety-two] *three hundred and twenty-two* dollars.

Frederick W. Meeker, administrator of Samuel Meeker, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

The City of Philadelphia, administrator of Stephen Girard, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

Robert Wells, administrator of Gideon H. Wells, [nine hundred and eighty] *eight hundred and five* dollars.

The Pennsylvania Company for Insurance on Lives, and so forth, administrator of Thomas M. Willing, surviving partner of Willings and Francis, [nine hundred and eighty] *eight hundred and five* dollars.

William Brooke Rawle, administrator of Jesse Waln, [nine hundred and eighty] *eight hundred and five* dollars.

Samuel Bell, administrator of John G. Wachsmuth, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

James S. Cox, administrator of James S. Cox, [three hundred and ninety-two] *three hundred and twenty-two* dollars.

George H. Fisher administrator of Joshua Fisher, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

George McCall, administrator of William McMurtrie, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

[On the vessel brig Anna, Benjamin Chase, master, namely:]

[Mary E. Carter, administratrix of Thomas Carter, three hundred dollars.]

On the vessel schooner Betsey Holland, Samuel Cassan, master, namely:

J. Bayard Henry, administrator of Charles Ross and John Simson, composing the firm of Ross and Simson, [one hundred and twenty-one dollars and sixty-two] *one hundred dollars and thirty-four* cents.

George W. Guthrie, administrator of Alexander Murray, for and on behalf of the firm of Miller and Murray, [one hundred and twenty-one dollars and sixty-two] *one hundred dollars and thirty-four* cents.

Samuel Bell, administrator of John G. Wachsmuth, [one hundred and twenty-one dollars and sixty-two] *one hundred dollars and thirty-four* cents.

Francis R. Pemberton, administrator of John Clifford, for and on behalf of the firm of Thomas and John Clifford, [one hundred and twenty-one dollars and sixty-two] *one hundred dollars and thirty-four* cents.

G. Albert Smyth, administrator of Jacob Baker, for and on behalf of the firm of Baker and Comegys, one hundred [and twenty-one dollars and sixty-two] *dollars and thirty-four* cents.

The Pennsylvania Company for Insurance on Lives, and so forth, administrator of Thomas M. Willing, for and on behalf of the firm of Willings and Francis, two hundred [and forty-three dollars and twenty-four] *dollars and sixty-seven* cents.

George Willing, administrator of George Willing, one hundred [and twenty-one dollars and sixty-two] *dollars and thirty-three* cents.

Thomas F. Bayard, administrator of Thomas W. Francis, one hundred [and twenty-one dollars and sixty-two] *dollars and thirty-three* cents.

Lorin Blodget, administrator of Samuel Blodget, [one hundred and ninety-four dollars and sixty] *one hundred dollars and fifty-five* cents.

On the vessel sloop Hiram, Sylvester Baldwin, master, namely:

Sarah R. Shaw, administratrix of Pelatiah Fitch, two thousand [nine hundred and twenty-five] *one hundred and ten* dollars.

On the vessel sloop New York and Philadelphia Packet, Caspar Faulk, master, namely:

[George A. Faulk, administrator of Caspar Faulk, four hundred and seventeen dollars.]

Richard C. McMurtrie, administrator of Daniel W. Coxe, [five hundred and eighty-eight] *four hundred and fifty-three* dollars.

Charles Willing, administrator of Thomas M. Willing, surviving partner of Williams and Francis, three hundred and [ninety-two] *two* dollars.

William Brooke Rawle, administrator of Jesse Waln, [seven hundred and eighty-four] *six hundred and four* dollars.

J. Bayard Henry, administrator of John Leamy, [four hundred and ninety dollars] *three hundred and seventy-seven dollars and fifty cents.*

John Cadwalader, jr., administrator of Thomas W. Francis, two hundred and [ninety-four dollars] *twenty-six dollars and fifty cents.*

On the vessel schooner Hannah, Gerald Byrne, master, namely:

Charles D. Vasse, administrator of Ambrose Vasse, seven hundred and [eighty-four] *twenty* dollars.

Charles Prager, administrator of Mark Prager, jr., surviving partner of the firm of Prager and Company, four hundred and [ninety] *forty* dollars.

George Harrison Fisher, administrator of Jacob Ridgway, surviving partner of the firm of Smith & Ridgway, [four hundred and seventy-four dollars and thirty-two] *two hundred and ninety-one dollars and sixty* cents.

William D. Squires, administrator of Henry Pratt, surviving partner of the firm of Pratt and Kintzing, four hundred and [ninety] *forty* dollars.

J. Bayard Henry, administrator of George Rundle, three hundred and [ninety-two] *sixty* dollars.

J. Bayard Henry, administrator of Thomas Leech, three hundred and [ninety-two] *sixty* dollars.

Robert W. Smith, administrator of Robert Smith, surviving partner of the firm of Robert Smith and Company, seven hundred and [eighty-four] *twenty* dollars.

On the vessel brig Lively, Michael Alcorn, master, namely:

George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller and Murray, [one hundred and fourteen dollars and twenty-nine cents] *ninety-four dollars.*

Charles Prager, administrator of Mark Prager, jr., surviving partner of Pragers and Company, two hundred and [eighty-five] *twenty-five* dollars and seventy-one cents.

A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan and Price, one hundred and [seventy-one] *forty-one* dollars and forty-three cents.

Charles D. Vasse, administrator of Ambrose Vasse, two hundred and [eighty-five] *twenty-five dollars* and seventy-one cents.

Francis A. Lewis, administrator of Peter Blight, two hundred and [eighty-five] *twenty-five* dollars and seventy-two cents.

William D. Squires, administrator of Henry Pratt, surviving partner of Pratt and Kintzing, two hundred and [eighty-five] *twenty-five* dollars and seventy-two cents.

Atwood Smith, administrator of Daniel Smith, surviving partner of Gurney and Smith, two hundred and [eighty-five] *twenty five* dollars and seventy-one cents.

William Brooke Rawle, administrator of Jesse Wayn, two hundred and [eighty-five] *twenty-five* dollars and seventy-two cents.

Francis A. Lewis, administrator of John Miller, jr., two hundred and [eighty-five] *twenty-five* dollars and seventy-one cents.

J. Bayard Henry, administrator of Charles Ross, [one hundred and forty-two] *sixty-two* dollars and eighty-five cents.

J. Bayard Henry, administrator of John Simson, [one hundred and forty-two] *sixty-two* dollars and eighty-six cents.

Charlotte F. Smith, administratrix of William Jones, surviving partner of Jones and Clarke, two hundred and [eighty-five] *twenty-five* dollars and seventy-one cents.

Sara Leaming, administratrix of Thomas Murgatroyd, surviving partner of Thomas Murgatroyd and Son, two hundred and [eighty-five] *twenty-five* dollars and seventy-one cents.

Frederick W. Meeker, administrator of Samuel Meeker, two hundred and [eighty-five] *twenty-five* dollars and seventy-two cents.

On the vessel brig Kitty, William Waters, master, namely:

The city of Philadelphia, administrator of Stephen Girard, [fourteen thousand three hundred and twenty-eight] *twelve thousand and eighty* dollars.

On the vessel brig William, James Gilmore, master, namely:

David Greene Haskins, junior, administrator de bonis non of David Greene, deceased, [four thousand five hundred and thirty-three] *two thousand* dollars.

[On the vessel schooner Yeatman, Roger Crane, master, namely:]

[J. Bayard Henry, administrator of Charles Ross, seven hundred and fifty dollars.]

[J. Bayard Henry, administrator of John Simson; seven hundred and fifty dollars.]

On the vessel brig Sally, James Wallace, master, namely:

The Fidelity Trust Company, administrator of John Gardiner, junior, seven thousand seven hundred and ninety-eight dollars.

On the vessel schooner Apollo, Richard H. Richards, master, namely:

Francis R. Pemberton, administrator of John Clifford, surviving member of Thomas and John Clifford, four hundred and [ninety] *fifteen* dollars.

Crawford D. Hening, administrator of Abijah Dawes, four hundred and [ninety] *fifteen* dollars.

Charles Prager, administrator of Mark Prager, junior, surviving partner of Pragers and Company, four hunded and [ninety] *fifteen* dollars.

John Lyman Cox and Howard W. Page, administrators of James S. Cox, four hundred and [ninety] *fifteen* dollars.

Francis A. Lewis, administrator of John Miller, junior, four hundred and [ninety] *fifteen* dollars.

Charles D. Vasse, administrator of Ambrose Vasse, [seven hundred and eighty-four] *six hundred and sixty-four* dollars.

William D. Squires, administrator of Henry Pratt, surviving partner of Pratt and Kintzing, [seven hundred and eighty-four] *six hundred and sixty-four* dollars.

The Pennsylvania Company for Insurance on Lives and Granting Annuities, administrator of Thomas M. Willing, surviving partner of Willings and Francis, [eight hundred and eighty-two] *seven hundred and forty-seven* dollars.

[On the vessel schooner Alclope, Robert Rice, master, namely:]

[John A. Dougherty and Catherine McCourt, administrators of Louis Crousillat, one thousand nine hundred and sixty-two dollars and sixty-seven cents.]

[On the vessel ship Goddess of Plenty, Thomas Chirnside, master, namely:]

[John A. Dougherty and Catharine McCourt, administrators of Louis Crousillat, two thousand and fifty-nine dollars and twenty seven cents.]

On the vessel schooner Kitty and Maria, John Logan, master, namely:

Charles P. Keith and Thomas Stokes, administrators of Jacob G. Koch, [six hundred and forty dollars] *five hundred and twenty-three dollars and sixty cents.*

On the vessel schooner Nantasket, Asa Higgins, master, namely:

[Sally I. S. Wright, administratix of David Spear, otherwise called Davis S. Spear, jr., two hundred and ninety-nine dollars and twenty cents.]

Charles F. Adams, administrator of Peter C. Brooks, [one thousand one hundred and seventy-three dollars and ninety] *one thousand and fifty-six dollars and fifty-one* cents.

Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey and Russell, [one hundred and ninety-five dollars and sixty-five] *one hundred and seventy-six dollars and nine* cents.

Thomas N. Perkins, administrator of John C. Jones, [one hundred and ninety-five dollars and sixty-five] *one hundred and seventy-six dollars and nine* cents.

On the vessel brig Hope, John Gould, master, namely:

Mary W. Moody, administratrix of Daniel Wise, [two thousand six hundred and eighty-three dollars and fifty cents] *one thousand seven hundred and twenty-five dollars.*

On the vessel ship Sally, Seth Webber, master, namely:

Arthur P. Teele, administrator of Thomas Page, one thousand and seventy-eight dollars.

William L. Candler, administrator of Seth Webber, one thousand and seventy-eight dollars.

On the vessel schooner Paragon, Nathaniel Wattles, master, namely:

Montgomery Fletcher, administrator of John Walter Fletcher, for and on behalf of the firm of Fletcher and Otway, one thousand nine hundred and ten dollars and thirty-four cents.

On the vessel schooner Phoenix, John D. Farley, master, namely:

Lemuel Coffin, administrator of Daniel Farley, [one thousand eight hundred and seventy-nine dollars and forty-seven] *eight hundred and forty-six dollars and twenty-two* cents.

Abby C. Farley, administratrix of John D. Farley, [two thousand two hundred and thirty-two dollars and sixty-seven] *one thousand three hundred and forty-nine dollars and forty-two* cents.

James M. Stewart, administrator of Samuel Swett, [one thousand eight hundred and seventy-nine dollars and forty-eight] *eight hundred and forty-six dollars and twenty-two* cents.

Thomas N. Perkins, administrator of John C. Jones, [five hundred and three] *three hundred and fifty-three* dollars and nineteen cents.

David Greene Haskins, administrator of David Greene, [one thousand] *seven hundred* and six dollars and thirty-nine cents.

Edward I. Browne, administrator of Moses Brown, [five hundred and three] *three hundred and fifty-three* dollars and nineteen cents.

John Lowell, administrator of Tuthill Hubbart, [five hundred and three] *three hundred and fifty-three* dollars and nineteen cents.

Arthur T. Lyman, administrator of Theodore Lyman, [one thousand] *seven hundred* and six dollars and thirty-nine cents.

William Ropes Trask, administrator of Thomas Amory, [seven hundred and fifty-four] *five hundred and twenty-nine* dollars and seventy-nine cents.

William G. Perry, administrator of Nicholas Gilman, [seven hundred and fifty-four] *five hundred and twenty-nine* dollars and seventy-nine cents.

William Smith Carter, administrator of William Smith, [eight hundred and five] *five hundred and sixty-five* dollars and eleven cents.

Charles A. Welch, administrator of William Stackpole, [four hundred and two] *two hundred and eighty-two* dollars and fifty-six cents.

Edward I. Browne, administrator of Israel Thorndike, [three hundred and one] *two hundred and eleven* dollars and ninety-two cents.

Lawrence Bond, administrator of Nathan Bond, [five hundred and three] *three hundred and fifty-three* dollars and nineteen cents.

George G. King, administrator of James Scott, [five hundred and three] *three hundred and fifty-three* dollars and nineteen cents.

On the vessel schooner Harmony, Enoch Lee, master, namely:

[Hester E. Raymond, administrator of Enoch Lee, eight hundred and sixty-five dollars.]

Benjamin M. Hartshorne and Charles N. Black, executors of Richard Hartshorne, surviving partner of Rhinelander, Hartshorne and Company, two thousand [four hundred and fifty] *and seventy-five* dollars.

On the vessel schooner Mermaid, Church C. Trouant, master, namely:

Thomas N. Perkins, administrator of John C. Jones, one hundred and [sixty-four] *forty-seven* dollars and three cents.

Arthur L. Huntington, administrator of James Dunlap, [eighty-two dollars and one cent] *seventy-three dollars and eighty-one cents.*

A. Lawrence Lowell, administrator of Nathaniel Fellowes, one hundred and [sixty-four dollars and three] *forty-seven dollars and sixty-three* cents.

Henry B. Cabot, administrator of Daniel D. Rogers, one hundred and [sixty-four dollars and three] *forty-seven dollars and sixty-three* cents.

George G. King, administrator of James Scott, [eighty-two dollars and two] *seventy-three dollars and eighty-one* cents.

On the vessel brig Sophia, Ambrose Shirley, master, namely:

[James L. Hubard, administrator of William Pennock, four hundred and seventy-three dollars and eleven cents.

Bassett A. Marsden, administrator of Benjamin Pollard, two hundred and [ninety-four dollars] *forty-one dollars and fifty cents.*

John Neely, administrator of John Cowper, surviving partner of John Cowper and Company, four hundred and [ninety dollars] *two dollars and fifty cents.*

R. Mason Smith, administrator of Francis Smith, one hundred and [ninety-six] *sixty-one* dollars.

On the vessel brig Franklin, Joshua Walker, master, namely:

Brooks Adams, administrator of Peter C. Brooks, three hundred and twenty dollars.

Thomas N. Perkins, administrator of John C. Jones, eighty dollars.

Chandler Robbins, administrator of Joseph Russell, for and on behalf of the firm of Jeffrey and Russell, eighty dollars.

Morton Prince, administrator of James Prince, eighty dollars.

Gordon Dexter, administrator of Samuel Dexter, eighty dollars.

George G. King, administrator of Crowell Hatch, one hundred and sixty dollars.

On the vessel brig Peyton Randolph, Benjamin Cozzens and William Cozzens, masters, namely.

[Bayard Tuckerman, administrator of Walter Channing, surviving partner of Gibbs and Channing, two thousand one hundred and ninety-four dollars.]

Frederic A. de Peyster and Edward de P. Livingston, administrators of Frederic de Peyster, surviving partner of the firm of Frederic de Peyster and Company, [five hundred] *four hundred and ten* dollars.

Kortright Cruger, administrator of Benjamin Seaman, for and on behalf of the firm of Benjamin Seaman and Company, [five hundred] *four hundred and ten* dollars.

Henry E. Young, administrator of William Craig, surviving partner of Henry Sadler and Company, [five hundred] *four hundred and ten* dollars.

On the vessel brig William and Mary, Moses Springer, master, namely:

Jason Collins, administrator of Moses Springer, [two thousand four hundred and thirty] *six hundred and fifty-five* dollars.

Jason Collins, administrator of William Springer, [two thousand four hundred and thirty] *six hundred and fifty-five* dollars.

Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey and Russell, six hundred and [ninety-seven] *seventeen* dollars and fifty cents.

William S. Carter, administrator of William Smith, three hundred and [forty-eight] *eight* dollars and seventy-five cents.

H. Burr Crandall, administrator of Samuel Prince, [two hundred and nine] *one hundred and eighty-five* dollars and twenty-five cents.

Morton Prince, administrator of James Prince, two hundred and [seventy-nine] *forty-seven* dollars.

John Lowell, administrator of Tuthill Hubbart, six hundred and [ninety-seven] *seventeen* dollars and fifty cents.

John Morton Clinch, administrator of Perez Morton, [two hundred and nine] *one hundred and eighty-five* dollars and twenty-five cents.

Nathan Matthews, junior, administrator of Daniel Sargent, [five hundred] *four hundred and twenty-five* dollars.

Francis M. Boutwell, administrator of Benjamin Cobb, three hundred and [forty-eight] *eight* dollars and seventy-five cents.

Arthur D. Hill, administrator of Benjamin Homer, three hundred and [forty-eight] *eight* dollars and seventy-five cents.

Thomas N. Perkins, administrator of John C. Jones, six hundred and [ninety-seven] *seventeen* dollars and fifty cents.

William Ropes Trask, administrator of Thomas Amory, six hundred and [ninety-seven] *seventeen* dollars and fifty cents.

James C. Davis, administrator of Cornelius Durant, six hundred and [ninety-seven] *seventeen* dollars and fifty cents.

William G. Perry, administrator of Nicholas Gilman, [five hundred] *four hundred and twenty-five* dollars.

Augustus P. Loring, administrator of William H. Boardman, [five hundred] *four hundred and twenty-five* dollars.

John O. Shaw, administrator of Josiah Knapp, five hundred dollars.

Edward I. Browne, administrator of Israel Thorndike, [five hundred] *four hundred and twenty-five* dollars.

Frank Dalney, administrator of Samuel W. Pomeroy, [one thousand] *eight hundred and fifty* dollars.

Archibald M. Howe, administrator of Francis Green, three hundred and [forty-eight] *eight* dollars and seventy-five cents.

Francis M. Boutwell, administrator of John McLean, [five hundred and fifty-eight] *four hundred and ninety-four* dollars.

George G. King, administrator of James Scott, [five hundred] *four hundred and twenty-five* dollars.

On the vessel snow Nancy, William Emmons, master, namely:

[Montgomery Fletcher, administrator of John Walter Fletcher, for and on behalf of the firm of Fletcher and Otway, four hundred and seventy-eight dollars and ninety-four cents.]

John Newport Green, administrator of Francis Whittle, [seven hundred and thirty-five dollars] *six hundred and three dollars and seventy-five cents.*

John Newport Green, administrator of Conway Whittle, [nine hundred and eighty] *eight hundred and five* dollars.

James Young, administrator of James Young, one hundred and [ninety-six] *sixty-one* dollars.

R. Manson Smith, administrator of Francis Smith, two hundred and [ninety-four dollars] *forty-one dollars and fifty cents.*

A. P. Warrington, administrator of John Cowper, surviving partner of John Cowper and Company, four hundred and [ninety dollars] *two dollars and fifty cents.*

Barton Myers, administrator of Moses Myers, four hundred and [ninety dollars] *two dollars and fifty cents.*

J. L. Hubard, administrator of William Pennock, four hundred and [ninety dollars] *two dollars and fifty cents.*

On the vessel ship Six Sisters, Daniel Baker, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [two hundred and seventy-eight] *twenty-eight* dollars and ten cents.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [one hundred and thirty-nine] *fourteen* dollars and five cents.

George G. King, administrator of Crowell Hatch, [one hundred and thirty-nine] *fourteen* dollars and five cents.

William Ropes Trask, administrator of Thomas Amory, [two] *one* hundred and ninety-six dollars and ten cents.

William G. Perry, administrator of Nicholas Gilman, [ninety-eight dollars and sixty] *sixty-five dollars and twenty-seven* cents.

On the vessel schooner Alfred, Eldridge Drinkwater, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [two thousand four hundred and twenty-six dollars and seventy-five cents] *two thousand dollars.*

Thomas N. Perkins, administrator of John C. Jones, [one thousand one hundred and sixty-three dollars and eighty-four] *nine hundred and fifty-two dollars and forty-nine* cents.

[Augustus P. Loring, administrator of William H. Bordman, three hundred and eighty-seven dollars and seventy-two cents.]

Nathan Matthews, jr., administrator of Daniel Sargent, [four hundred and seven dollars and sixty-nine] *three hundred and thirty-two dollars and nine* cents.

William G. Perry, administrator of Nicholas Gilman, [four hundred and seven dollars and sixty-nine] *three hundred and thirty-two dollars and nine* cents.

Elisha Whitney, administrator of Thomas Stevens, surviving partner of the firm of John and Thomas Stevens, two hundred and [ninety-one] *thirty-seven* dollars and twenty-one cents.

On the vessel schooner Rhoda, Uriah Green, master, namely:

Thomas N. Perkins, administrator of John C. Jones, [eight hundred] *six hundred and fifty-six* dollars.

William R. Trask, administrator of Thomas Amory, [one thousand] *eight hundred and twenty* dollars.

Nathan Matthews, administrator of Daniel Sargent, [five hundred] *four hundred and ten* dollars.

Daniel W. Waldron, administrator of Jacob Sheafe, [five hundred] *four hundred and ten* dollars.

Francis M. Boutwell, administrator of John McLean, [five hundred] *four hundred and ten* dollars.

George G. King, administrator of James Scott, [five hundred] *four hundred and ten* dollars.

William G. Perry, administrator of Nicholas Gilman, [seven hundred] *five hundred and seventy-four* dollars.

Provided, however, That no French spoliation claim appropriated for in this act shall be paid if held by assignment. But this limitation shall not apply to any claim of a class heretofore paid under the act approved March third, eighteen hundred and ninety-one, entitled "An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for prior years, and for other purposes," and paid under the act approved May twenty-seventh, nineteen hundred and two, entitled "An act for the allowance of certain claims for stores and supplies reported by the Court of Claims under the provisions of the act approved March third, eighteen hundred and eighty-three, and commonly known as the Bowman Act, and for other purposes."

Mr. CRAWFORD. The Senator from Pennsylvania [Mr. OLIVER] has a couple of amendments which I have examined and which come within the clear rule followed by the committee with reference to longevity claims. I am willing to accept them.

Mr. OLIVER. I offer these amendments on behalf of my colleague [Mr. PENROSE].

The PRESIDING OFFICER (Mr. CHAMBERLAIN in the chair). The amendments will be stated in their order.

The SECRETARY. On page 266, after line 19, insert:

To Lucy May Castor, administratrix of the estate of Thomas Foster Castor, deceased, of Philadelphia, $671.40.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the bill.

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment submitted by the Senator from Pennsylvania will be read.

The SECRETARY. On page 218, after line 18, under "Pennsylvania," insert:

Mary L. Cummings, widow of Cornelius Cummings, deceased, $256.25.
Mary Sullivan, widow of John Sullivan, deceased, $443.49.

The amendment was agreed to.

Mr. CRAWFORD. I ask that the findings of the Court of Claims may be printed in the RECORD in connection with these amendments.

There being no objection, the findings were ordered to be printed in the RECORD, as follows:

[Senate Document No. 861, Sixty-second Congress, second session.]

LUCY MAY CASTOR, ADMINISTRATRIX.

Letter from the chief clerk of the Court of Claims transmitting a copy of the findings of the court in the case of Lucy May Castor, administratrix of the estate of Thomas Foster Castor, deceased, against the United States.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 24, 1912.

Hon. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,

ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

—

[Court of Claims. Congressional, No. 15602-2. Lucy May Castor, administratrix of the estate of Thomas Foster Castor, deceased, v. The United States.]

STATEMENT OF CASE.

This is a claim for longevity pay alleged to be due on account of the service of Thomas Foster Castor, late an officer in the United States Army. On the 21st day of June, 1910, the United States Senate referred to the court a bill in the following words:

"[S. 8513, Sixty-first Congress, second session.]

"A bill for the relief of John Egan and certain other Army officers and their heirs and legal representatives.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of Treasury be, and he is hereby, authorized and directed to settle, adjust, and pay, out of any money in the Treasury not otherwise appropriated, the claims of * * * Thomas F. Castor * * *, officers of the Army of the United States, or their heirs or legal representatives where dead, for longevity pay, according to the decisions of the Supreme Court of the United States in the cases of the United States v. Tyler (105 U. S., 244); The United States v. Morton (112 U. S., 1); and The United States v. Watson (130 U. S., 80)."

The said Lucy May Castor appeared in this court April 20, 1911, and filed her petition, in which it is substantially averred that—

She is the administratrix of the estate of Thomas Foster Castor, who entered military service of the United States as a cadet at the Military Academy July 1, 1841, and served continuously until the date of his death, September 8, 1855; that longevity pay computed on a basis that his service began on entering said Military Academy was never paid said officer or the claimant; and that additional longevity pay should be paid the claimant reckoned on a basis that his service began on entering said Military Academy, in accordance with the decisions of the United States Supreme Court in the cases of Tyler v. United States (105 U. S., 244), of Morton v. United States (112 U. S., 1), and of United States v. Watson (130 U. S., 80); that a claim for all pay and allowances due was filed with the Auditor for the War Department and disallowed by that officer, and the claimant claimed $671.40.

The case was brought to a hearing on its merits on the 3d day of June, 1912. Frederick A. Fenning, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant herein, Lucy May Castor, is a citizen of the United States, residing at Philadelphia, State of Pennsylvania, and is the duly appointed administratrix of the estate of Thomas Foster Castor, deceased, who during his lifetime was an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1841. He graduated therefrom and was appointed a second lieutenant, Second United States Dragoons, July 1, 1846; was promoted to first lieutenant October 9, 1851, and died September 8, 1855.

II. Said decedent was paid his first longevity ration from July 1, 1851.

Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80), said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to $671.40.

III. The claim was presented to the accounting officers of the Treasury and was disallowed November 12, 1890. Except as above stated, the claim was never presented to any officer or department of the Government prior to its presentation to Congress and reference to this court, as hereinbefore set forth, and no evidence is adduced showing why claimant did not earlier prosecute said claim.

CONCLUSION.

Upon the foregoing findings of fact, the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the service of said decedent while a cadet at the Military Academy, which service the Supreme Court in the case of United States v. Watson (130 U. S., 80) decided was service in the Army.

BY THE COURT.

Filed June 17, 1912.
A true copy.
Test this 22d day of June, 1912.
[SEAL.]

ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

[Senate Document No. 714, Sixty-second Congress, second session.]

WILLIAM H. CONGER AND OTHERS.

Letter from the assistant clerk of the Court of Claims transmitting a copy of the findings of the court in the case of William H. Conger and Mary L. Cummings, widow of Cornelius Cummings, and Mary Sullivan, widow of John Sullivan, against The United States.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, May 24, 1912.

Hon. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

—

[Court of Claims. Congressional, No. 14860. Subnumbers as below. (League Island Navy Yard, Philadelphia, Pa.) 8, William H. Conger; 29, Mary L. Cummings, widow of Cornelius Cummings; 37, Mary Sullivan, widow of John Sullivan, v. The United States.]

STATEMENT OF CASE.

This is a claim for the payment to the above-named claimants for services rendered at the League Island Navy Yard, Philadelphia, Pa., between March 21, 1878, and September 22, 1882, for extra labor above the legal day of eight hours.

On June 21, 1910, the United States Senate by resolution referred to the court, under the act of March 3, 1887, known as the Tucker Act, Senate bill No. 5123, which, so far as it pertains to the claims herein, reads as follows:

"A bill for the relief of William A. Ashe and others.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to * * * William H. Conger, * * * Mary L. Cummings, widow of John Cornelius Cummings; * * * Mary Sullivan, widow of John Sullivan; * * * the amounts that may be found due each of them, respectively, for extra labor above the legal day of eight hours while employed by the United States as workmen, laborers, or mechanics at the various navy yards of the United States performed by them by reason of and under the provisions of circular numbered eight, issued by the Secretary of the Navy on March twenty-first, eighteen hundred and seventy-eight."

Thereafter the claimants named above and each of them offered and filed their respective petitions herein, in which they and each of them aver substantially as follows:

That between March 21, 1878, and the 21st day of September, 1882, they and each of them were employed by the Government of the United States at the navy yard at League Island, Philadelphia, Pa.; that on the 21st day of March, 1878, the Secretary of the Navy issued the order referred to in claimants' petition, known as Circular No. 8, and set forth in Finding I here.

That during the six months in each year from the date of said order to the 21st day of September, 1882, they worked during all or a portion of the time they were so employed in excess of eight working hours per day, and that they, and each of them, were paid for only eight hours' work per day for the time they were so employed during said period, and that they, and each of them, are entitled to the amounts set forth in their respective petitions, being the pay for all time worked during said period in excess of eight hours per day.

The case was brought to a hearing on the evidence and merits May 13, 1912. Messrs. Herbert & Micou appeared for the claimants, and the Attorney General, by Percy M. Cox, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments on both sides, makes the following

FINDINGS OF FACT.

I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the claimants herein, or their decedents, and each of them, were in the employ of the United States in the navy yard at League Island, Philadelphia, Pa., during which time the following order was in force:

[Circular No. 8.]

NAVY DEPARTMENT,
Washington, D. C., March 21, 1878.

The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be—

From March 21 to September 21, from 7 a. m. to 6 p. m.; from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The departments will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of eight hours a day. All workmen electing to labor 10 hours a day will receive a proportionate increase of their wages.

The commandants will notify the men employed, or to be employed, of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. THOMPSON,
Secretary of the Navy.

II. Said claimants and each of them, or their decedents, while in the employ of the United States as aforesaid worked on the average the number of hours set opposite their respective names in excess of eight hours a day and at the wages below stated, to wit:

No. 29. Cornelius Cummings	683½ hours, at $3 per day.
No. 37. John Sullivan	238 hours, at $2 per day.
	118 hours, at 3.50 per day.
	1,063½ hours, at $2.50 per day.

The claimant, William Conger, was employed during said period as a messenger and does not appear to have been governed by the above circular fixing the hours of labor for mechanics, foremen, leading men, and laborers.

III. If it is considered that eight hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then the claimants herein have been underpaid, as follows:

Maria L. Cummings, widow of Cornelius Cummings, deceased, two hundred and fifty-six dollars and twenty-five cents ($256.25).

Mary Sullivan, widow of John Sullivan, deceased, four hundred and forty-three dollars and forty-nine cents ($443.49).

IV. The claimants' decedents, Cornelius Cummings and John Sullivan, hereinbefore named, filed their claims in this court in 1888 under No. 16327, and in 1906 same were dismissed for want of prosecution, and no reason is given why said claimants did not prosecute their said claims to a final judgment in this court.

Except as above stated the claims were never presented to any department or officer of the Government prior to the presentation to Congress as set forth in the statement of the case, and no evidence is adduced to show why they did not earlier prosecute said claims.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claims herein are not legal ones against the United States and are equitable only in the sense that the United States received the benefit of the services of claimants' decedents in excess of eight hours a day, as above set forth.

BY THE COURT.

Filed May 20, 1912.
A true copy.
Test this 24th day of May, 1912.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. SANDERS. Mr. President, I ask unanimous consent that on Monday, January 13, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors be taken up for consideration, not to interfere with the impeachment proceedings if they shall not be concluded, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself, not later than the hour of 6 o'clock on that day.

Mr. SUTHERLAND. What date does the Senator from Tennessee suggest?

Mr. SANDERS. Next Monday. That is supposed to be after the impeachment trial has been concluded.

Mr. SUTHERLAND. There are a number of Senators who desire to be heard on the bill before it is voted on.

Mr. SANDERS. I propose that one week shall be given, and my idea is that there will be time enough for everyone to be heard between now and then.

Mr. SUTHERLAND. Probably during that time there will be no opportunity at all to be heard. The impeachment trial, with which we are engaged every day, and which occupies our attention pretty fully, probably will not be concluded before that time. For the present I must object to fixing a time.

The PRESIDING OFFICER. The Senator from Utah objects to fixing a time.

Mr. SANDERS. I will withdraw the request then.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I desire to yield to the Senator from Idaho [Mr. BORAH], and I announce that to-morrow at the conclusion of the morning business I will ask the Senate to resume the consideration of the omnibus claims bill.

SUBMISSION OF CONSTITUTIONAL AMENDMENT.

Mr. BORAH. Mr. President, a short time ago the legislature of one of the States sent a memorial to Congress protesting against the manner in which the Congress submitted the proposed amendment to the Constitution relative to the election of Senators by popular vote. The contention upon the part of the memorialists was to the effect that the joint resolution had not passed the Congress by a sufficient vote, or the vote required by the Constitution, and that, therefore, the States should not be called upon to vote upon the question of whether they would ratify the amendment. I want, in the very brief time which is allowed during this morning hour, to put into the RECORD some of the precedents with reference to this matter. The Constitution provides that—

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, etc.

Similar language is used in the Constitution relative to the President's veto, wherein it is stated:

If, after such reconsideration, two-thirds of that House shall agree to pass the bill—

And so forth.

The specific question which is raised by the memorial is, What constitutes the "House," and what does the Constitution mean when it says "two-thirds of the House"? It is unnecessary to argue this as an original proposition, because it has been settled by a long line of precedents, all establishing one proposition, and that is, that the Constitution is satisfied in its terms when two-thirds of the vote cast favor the resolution, a quorum being present.

When the first constitutional amendment was passed by Congress there was a membership, I think, of 65 in the other House, and the resolution passed the House by a vote of 37, which was manifestly not a two-thirds vote of the membership. I do not find any discussion or debate at the time, but as a precedent it clearly established that it was regarded as sufficient that a two-thirds vote of those voting favored the resolution, a quorum being present.

The next precedent is one which was established during the administration of Mr. Buchanan, in which a proposed amendment to the Constitution passed the Senate. At that time the matter was debated, and the question was raised as to what was a compliance with the Constitution as to whether it required two-thirds of the membership or two-thirds of the vote cast, a quorum being present. It was established by an almost unanimous vote of the Senate that it was sufficient if the vote disclosed as favorable two-thirds of those voting, a quorum being present.

The next precedent was one which was established after the Civil War and at the time that the amendments which followed as a result of that war were before Congress. At that time the question was debated at some length, and again it was established as a precedent upon the part of the Senate that it did not require a two-thirds vote of the total membership, but two-thirds of those who voted, of course a quorum being present. The yeas in favor of that resolution were 39 and the nays were 13. After the vote was announced Mr. Davis said:

Mr. DAVIS. The question of order that I make is that the decision of this question has not been announced by the Chair according to the Constitution. The Chair has announced that the proposition has received the vote of two-thirds of the Senate, and therefore that it has passed. I controvert that fact. There are now 37 States in the Union. They are entitled to 74 Members of the Senate.

The President pro tempore then said:

The PRESIDENT pro tempore. The Chair desires the Senator to understand what the Chair said in the announcement of the vote. It was that two-thirds of the Senators present had voted in the affirmative. That is the way in which it was announced by the Chair.

* * * * * * *

Mr. DAVIS. That is just as I understood it. Now, the conclusion does not follow the vote which the Chair announced, because the Senate consists of 74 Members, and to constitute two-thirds of the Senate a vote of 50 is necessary. My point of order is, that when a less number than two-thirds of the Senate is required by the Constitution for any purpose; for instance, to ratify a treaty or to confirm a nomination, the Constitution expressly says that it shall be two-thirds of the Members present. In voting upon a proposition to amend the Constitution, the Constitution does not limit the number of two-thirds by reciting that it is two-thirds of the Members present. Here is the language of the Constitution:

"The Congress, whenever two-thirds of both Houses shall deem it necessary," etc.

Now, if Senators will look to that part of the Constitution which regulates the ratification of treaties by the Senate, or the confirmation of nominations to office by the President, they will perceive that the Constitution declares expressly that the two-thirds meant to effect those purposes are two-thirds of the Members present. In relation to this important matter of amending the Constitution there is no such restricted definition of two-thirds; but the Constitution in broad language provides that "Congress, whenever two-thirds of both Houses shall deem it necessary," etc., shall propose amendments of the Constitution. Now, the question is, What is two-thirds of both Houses?

Senator Trumbull on the same occasion said:

Mr. TRUMBULL. If the Chair will indulge me a moment, this very point was raised in regard to a constitutional amendment some years ago, and the Senate decided by a vote, almost unanimously, that two-thirds of the Senators present were sufficient to carry a constitutional amendment. I think that the Presiding Officer upon reflection will recollect it. It was the constitutional amendment that was proposed before the war. I myself made the point for the purpose of having it decided, and it was decided, I think, by a nearly unanimous vote, that two-thirds of the Senators present, a quorum being present, was sufficient to carry a constitutional amendment.

The President pro tempore then ruled:

I believe it has been decided according to all the precedents.

The President pro tempore having so ruled, the resolution passed.

The same question was raised during the Speakership of Mr. Reed, at a time when a resolution similar to the resolution which is now under consideration was passed by Congress, and Speaker Reed ruled upon the question. His ruling is found in Hinds' Precedents, in volume 5, page 1010. I have not time, Mr. President, to read this decision, and I ask, therefore, to insert it in the RECORD.

The PRESIDING OFFICER. If there is no objection, the matter referred to will be inserted.

The matter is as follows:

The Speaker said: "The question is one that has been so often decided that it seems hardly necessary to dwell upon it. The provision of the Constitution says 'two-thirds of both Houses.' What constitutes a House? A quorum of the membership, a majority, one-half and no more. That is all that is necessary to constitute a House to do all the business that comes before the House. Among the business that comes before the House is the reconsideration of a bill which has been vetoed by the President; another is a proposed amendment to the Constitution;

and the practice is uniform in both cases, that if a quorum of the House is present the House is constituted, and two-thirds of those voting are sufficient in order to accomplish the object. It has nothing to do with the question of what States are present and represented or what States are present and vote for it. It is the House of Representatives, in this instance, that votes and performs its part of the functions. If the Senate does the same thing, then the matter is submitted to the States directly, and they pass upon it. The First Congress, I think, had about 65 Members, and the first amendment that was proposed to the Constitution was voted for by 37 Members—obviously not two-thirds of the entire House. So the question seems to have been met right on the very threshold of our Government and disposed of that way."

Mr. BORAH. This question was raised at the time that the resolution under discussion passed the other House, and it is the record of the House which is involved in this memorial, and not the record in the Senate. I call attention to the record briefly. That record is found in the CONGRESSIONAL RECORD of the Sixty-second Congress, second session, at page 6368; and, for the sake of brevity, I will also ask to insert that ruling in the RECORD.

The PRESIDING OFFICER. If there be no objection, permission is granted.

The matter is as follows:

After the Speaker had announced the result, the following occurred:

"Mr. SISSON. Article V of the Constitution requires that two-thirds of both Houses when they deem it necessary may propose amendments to the Federal Constitution. Now, two-thirds of both Houses have not voted for this proposition. * * *

"The SPEAKER. The gentleman will be heard on the point of order. The Chair wishes to state the ruling. It has been held uniformly so far as the Chair knows that two-thirds of the House means two-thirds of those voting, a quorum being present."

Again the Speaker said:

"It has been held time out of mind that when the phrase or collocation of words 'House of Representatives' is used it means a quorum of the House; that is, 198 Members in this House. If it can do one thing with a bare quorum it can do anything."

Again, further on, the Speaker said:

"The Chair will state to the gentleman and to the House that if the question had never been raised before and Speaker Reed had never decided it the present occupant of the chair would decide it the very same way that Speaker Reed decided it. By the vote just taken the House votes to recede from its disagreement to the Senate amendment and to concur in the Senate amendment, two-thirds having voted therefor."

Mr. BORAH. Now, Mr. President, the language of the Constitution with reference to the vote which is required to pass a bill over the President's veto was passed upon by the Supreme Court in a case found in One hundred and forty-fourth United States Reports. The Supreme Court held in that case that "two-thirds" meant two-thirds of those voting, a quorum being present; and we will remember that the language of the Constitution is practically the same in both instances. I will also ask leave to insert in the RECORD some excerpts from that opinion.

The PRESIDING OFFICER. If there be no objection, permission to do so will be granted.

The matter referred to is as follows:

One of the questions presented by this case was whether the act of May 9, 1890, was legally passed. This was the important question. Among other things, the court said: "The Constitution provides that a majority of each House shall constitute a quorum to do business. In other words, when a majority are present the House is in a position to do business. Its capacity to transact business is then established, created by the mere presence of a majority, and does not depend upon the disposition or assent or action of any single Member or fraction of the majority present. All the Constitution requires is the presence of a majority, and when that majority are present the power of the House arises. * * * The other branch of the question is whether, a quorum being present, the bill received a sufficient number of votes; and here the general rule of all parliamentary bodies is that when a quorum is present the act of a majority of a quorum is the act of the body."

Again, it is said: "If all the members of a select body or committee or if all the agents are assembled or if all have been duly notified and the minority refuses or neglects to meet with the others, a majority of those present may act, provided those present constitute a majority of the whole number. In other words, in such a case a major part of the whole is necessary to constitute a quorum, and a majority of the quorum may act. * * * For, according to the principle of all the cases referred to, a quorum possesses all the powers of the whole body, a majority of which quorum must, of course, govern."

Mr. BORAH. Mr. President, this question as to the construction which should be placed upon the Constitution relative to the President's veto was decided by the present Speaker of the House of Representatives, Hon. CHAMP CLARK, upon the 14th day of August, 1912. The Speaker rendered an extensive opinion, and that I also ask leave to insert in the RECORD.

The PRESIDENT pro tempore. Without objection, permission to do so will be granted.

The matter referred to is as follows:

The SPEAKER. The Chair thinks that the question which was decided yesterday is of such far-reaching importance that he owes it to himself, as well as to the House and to future Speakers, to restate his opinion after an examination of the authorities. The parliamentary question in issue was this: On a roll call on passing a bill over the President's veto, in determining whether two-thirds have voted for it, should those answering "present" be taken into consideration or excluded therefrom?

The Chair has accepted the suggestion of the gentleman from Massachusetts [Mr. GARDNER], for whose knowledge of parliamentary law the Chair has very great respect, and that is to give a more elaborate opinion than just simply announcing a decision one way or the other. The importance of the question demanded and has received closest examination. The situation about it is this: Touching the passage of a bill over the President's veto, or the attempt to pass it, the constitutional provision is as follows:

"Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approves, he shall sign it; but if not, he shall return it with his objections to that House in which it shall have originated"—

"In this case the House of Representatives—

"who shall enter the objections at large on their Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House, respectively."

The Chair could very well adopt the remarks of the gentleman from Illinois [Mr. MANN] as his opinion. The Chair takes it that no Speaker is ever going to render an opinion for partisan political effect which he can not stand by whenever the same kind of a question arises again, whether it goes against his political friends or foes.

The first point in the excerpt from the Constitution which attracts attention in this case is "if after reconsideration two-thirds of that House," and so forth. There have been all sorts of contentions about what constitutes "the House." Some gentlemen of eminent ability have contended it means all the Members elect and qualified; others have contended it means simply a quorum, and several decisions, not on this particular question of passing bills over the President's vetoes but on questions practically involving the same question as to the count, have been rendered, but finally it has come to be accepted that "the House" does not mean all the Members elected and qualified, but only a quorum. The full membership of the present House is 394, a quorum of which is 198; but there are four vacancies, reducing the membership to 390, of which 196 constitute a quorum. That is proposition No. 1.

The second constitutional proposition is stated in these words:

"But in all such cases the votes of both Houses shall be determined by the yeas and nays—"

That is, in veto cases—

"and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively."

The Chair answered the inquiry of the gentleman from Illinois [Mr. CANNON] inadvisedly, that the names of those present ought to be in the Journal. The Constitution does not require any such thing. The Chair has investigated that matter since, and it is entirely immaterial whether the names of the 10 gentlemen who answered "present" go in the Journal or not. The Constitution does not provide for a Member voting "present," but the rules of the House, in order to eke out a quorum, have provided that they can vote "present." They have to answer "aye" or "nay" on the roll call in order to be counted on passing a bill over the President's veto. That is the requirement of the Constitution, and if the contention were on a proposition which required only a majority it would be the same way. In fact, that is one unvarying rule of procedure whenever the roll is called on any proposition. The Chair announces: "So many 'ayes,' so many 'nays,' so many 'present'; the 'ayes'—or 'nays,' as the case may be—have it." Those voting "present" are disregarded, except for the sole purpose of making a quorum.

In this case 174 Members voted "aye," 80 voted "no," and 10 answered "present"; 174 plus 80 equal 254, a quorum, without counting the 10 who answered "present." One hundred and seventy-four is more than two-thirds of 254.

These 10 gentlemen were here simply for the purpose of making a quorum. It is clear that to count them on this vote would be to count them in the negative, and the chair does not believe that any such contention as that is tenable. The Chair holds that, if there is a quorum present on a roll call to determine whether the House will agree to pass a bill over the President's veto, and two-thirds of those voting vote "yea," that is sufficient and is a compliance with the constitutional requirement.

To show that the view expressed by the Chair is correct, there is a fact dehors the record which tends to clarify the situation. Of the 10 Members who answered "present," were Democrats and 3 Republicans. Of course every one of the 7 Democrats, if not paired, would have voted "aye"; so that to have counted in the 7 Democrats who answered "present" in determining the two-thirds would have put them down as voting "no," precisely opposite to the way they would have voted, which amounts to a reductio ad absurdum.

The Chair has hunted up the authorities. There are several of them, but there is no use in citing but one. I take it that political friend and foe alike will admit that when the Hon. Thomas B. Reed expressed an opinion he expressed it so one could understand what it meant, and therefore I will read section 7027, volume 5, Hinds' Precedents, and this is the headline or syllabus:

"The vote required on a joint resolution proposing an amendment to the Constitution is two-thirds of those voting, a quorum being present, and not two-thirds of the entire membership. On May 11, 1898, Mr. John B. Corliss, of Michigan, called up the joint resolution (H. Res. 5) proposing an amendment to the Constitution providing for the election of Senators of the United States.

"The question being taken on the passage of the resolution, there were—yeas 184, nays 14, and the Speaker announced that the joint resolution was passed, two-thirds having voted in favor thereof.

"Mr. EBENEZER J. HILL, of Connecticut, called attention to this clause of the Constitution:

"'The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or on the application of the legislatures of two-thirds of the several States shall call a convention for proposing amendments'; and made the point of order that the vote required was two-thirds of the entire membership, not two-thirds of a quorum.

Mr. Speaker Reed said:

"The question is one that has been so often decided that it seems hardly necessary to dwell upon it. The provision of the Constitution says 'two-thirds of both Houses.' What constitutes a House? A quorum of the membership, a majority, one-half and one more. That is all that is necessary to constitute a House to do all the business that comes before the House. Among the business that comes before the House is the reconsideration of a bill which has been vetoed by the President; another is a proposed amendment to the Constitution; and the practice is uniform in both cases that, if a quorum of the House is present, the House is constituted, and two-thirds of those voting are sufficient in order to accomplish the object. It has nothing to do with the question of what States are present and represented, or what States are present and vote for it. It is the House of Representatives in this instance that votes and performs its part of the functions. If the Senate does the same thing, then the matter is submitted to the States directly, and they pass upon it. The First Congress, I think, had about 65 Members, and the first amendment that was proposed to the Constitution was voted for by 37 Members, obviously not two-thirds of the entire House. So the question seems to have been met right on the threshold of our Government and disposed of that way."

It turned out in the evolution of things that when Mr. Speaker Reed made his ruling that he had the right to count the Members who were present and who would not vote, it created a great deal of bitterness, the question finally got into the Supreme Court of the United States, and in the case of the United States v. Ballin, in One hundred and forty-fourth United States Supreme Court Reports, this question is gone into. Mr. Justice Brewer rendering the opinion of the Supreme Court. He gives a statement of the matters in controversy:

"That the Journal of the House of Representatives shows the facts attending the passage of the act of May 9, 1890, thus:

"'The Speaker laid before the House the bill of the House (H. R. 9548) providing for the classification of worsted cloths as woolens, coming over from last night as unfinished business, with the previous question, and the yeas and nays ordered.

"'The House having proceeded to the consideration, and the question being put,

"'Shall the bill pass?

"'There appeared: Yeas 138, nays 0, not voting 189.

"'The said roll call having been recapitulated, the Speaker announced, from a list noted and furnished by the Clerk, at the suggestion of the Speaker, the following-named Members as present in the Hall when their names were called and not voting, viz:

(Here follows an alphabetical list of the names of 74 Members.)

"'The Speaker thereupon stated that the said Members present and refusing to vote—74 in number—together with those recorded as voting—138 in number—showed a total of 212 Members present, constituting a quorum present to do business; and, that, the yeas being 138 and the nays none, the said bill was passed.'"

Mr. Justice Brewer delivered the opinion of the court. He said inter alia:

"Two questions only are presented: First, was the act of May 9, 1890, legally passed; and, second, what is its meaning? The first is the important question. The enrolled bill is found in the proper office, that of the Secretary of State, authenticated and approved in the customary and legal form. There is nothing on the face of it to suggest any invalidity. Is there anything in the facts disclosed by the Journal of the House, as found by the general appraisers, which vitiates it? We are not unmindful of the general observations found in Gardner v. The Collector (6 Wall., pp. 499, 511), 'that whenever a question arises in a court of law of the existence of a statute, or of the time when a statute took effect, or of the precise terms of a statute, the judges who are called upon to decide it have a right to resort to any source of information which in its nature is capable of conveying to the judicial mind a clear and satisfactory answer to such question; always seeking first for that which in its nature is most appropriate, unless the positive law has enacted a different rule.' And we have at the present term, in the case of Field v. Clark (143 U. S., p. 649), had occasion to consider the subject of an appeal to the Journal in a disputed matter of this nature. It is unnecessary to add anything here to that general discussion. The Constitution (Art. I, sec. 5) provides that 'each House shall keep a Journal of its proceedings'; and that 'the yeas and nays of the Members of either House on any question shall, at the desire of one-fifth of those present, be entered on the Journal.' Assuming that by reason of this latter clause reference may be had to the Journal, to see whether the yeas and nays were ordered; and if so, what was the vote disclosed thereby; and assuming, though without deciding, that the facts which the Constitution requires to be placed on the Journal may be appealed to on the question whether a law has been legally enacted; yet, if reference may be had to such Journal, it must be assumed to speak the truth. It can not be that we can refer to the Journal for the purpose of impeaching a statute properly authenticated and approved, and then supplement and strengthen that impeachment by showing that the facts stated on the Journal are not true, or that other facts existed which, if stated on the Journal, would give force to the impeachment. If it be suggested that the Speaker might have made a mistake as to some one or more of these 74 Members, or that the Clerk may have falsified the Journal in entering therein a record which it could not possibly be that in reference to a roll call and the yeas and nays there should be a like mistake or falsification. The possibility of such inaccuracy or falsehood only suggests the unreliability of the evidence and the danger of appealing to it to overthrow that furnished by the bill enrolled and authenticated by the signatures of the presiding officers of the two Houses and the President of the United States. The facts, then, as appearing from this Journal, are that at the time of the roll call there were present 212 Members of the House, more than a quorum; and that 138 voted in favor of the bill, which was a majority of those present. The Constitution, in the same section, provides that 'each House may determine the rules of its proceedings.' It appears that in pursuance of this authority the House had, prior to that day, passed this as one of its rules:

"RULE XV.

"3. On the demand of any Member, or at the suggestion of the Speaker, the names of Members sufficient to make a quorum in the Hall of the House who do not vote shall be noted by the Clerk and recorded in the Journal, and reported to the Speaker with the names of the Members voting; and be counted and announced in determining the presence of a quorum to do business." (H. Jour., p. 230, Feb. 14, 1890.)

The action taken was in direct compliance with this rule. The question, therefore, is as to the validity of this rule, and not what methods the Speaker may of his own motion resort to for determining the presence of a quorum, nor what matters the Speaker or Clerk may of their own volition place upon the Journal. Neither do the advantages or disadvantages, the wisdom or folly, of such a rule present any matters for judicial consideration. With the courts the question is only one of power. The Constitution empowers each House to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the House, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just. It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time. The power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the House, and, within the limitations suggested, absolute and beyond the challenge of any other body or tribunal.

The Constitution provides that "a majority of each (House) shall constitute a quorum to do business." In other words, when a majority are present the House is in a position to do business. Its capacity to transact business is then established, created by the mere presence of a majority, and does not depend upon the disposition or assent or action of any single Member or fraction of the majority present. All that the Constitution requires is the presence of a majority, and when that majority are present the power of the House arises.

But how shall the presence of a majority be determined? The Constitution has prescribed no method of making this determination, and it is therefore within the competency of the House to prescribe any method which shall be reasonably certain to ascertain the fact. It may prescribe answer to roll call as the only method of determination, or require the passage of Members between tellers and their count as the sole test, or the count of the Speaker or the Clerk and an announcement from the desk of the names of those who are present. Any one of these methods, it must be conceded, is reasonably certain of ascertaining the fact, and as there is no constitutional method prescribed and no constitutional inhibition of any of those and no violation of fundamental rights in any, it follows that the House may adopt either or all, or it may provide for a combination of any two of the methods. That was done by the rule in question, and all that rule attempts to do is to prescribe a method for ascertaining the presence of a majority and thus establishing the fact that the House is in a condition to transact business.

As appears from the Journal, at the time this bill passed the House there was present a majority, a quorum, and the House was authorized to transact any and all business. It was in a position to act on the bill if it desired. The other branch of the question is whether, a quorum being present, the bill received a sufficient number of votes; and here the general rule of all parliamentary bodies is that when a quorum is present the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations, as, for instance, in those States where the constitution provides that a majority of all the members elected to either house shall be necessary for the passage of any bill. No such limitation is found in the Federal Constitution, and therefore the general law of such bodies obtains.

* * * * * * *

Summing up this matter, this law is found in the Secretary of State's office, properly authenticated. If we appeal to the Journal of the House, we find that a majority of its Members were present when the bill passed, a majority creating by the Constitution a quorum, with authority to act upon any measure; that the presence of that quorum was determined in accordance with a valid rule theretofore adopted by the House; and that of that quorum a majority voted in favor of the bill. It therefore legally passed the House, and the law as found in the office of the Secretary of State is beyond challenge.

Mr. BORAH. The vote to which the objection is made by the memorialists occurred in the House. By reference to the vote there it will be seen that more than a quorum was present and that there were 238 votes in favor of the amendment and 39 against it. The record with reference to the passing of this resolution for the amendment to the Constitution is clearly and unquestionably within all the precedents which have been established from the beginning of the Government. It was legally and constitutionally submitted to the States and the States have but to ratify or reject it, as in their respective judgments seems proper. There can be no technical objection to the manner of its submission fairly raised. I doubt if the submission of any amendment to the Constitution was ever submitted in accordance with the rule sought to be invoked by those who are now objecting to the manner of submission in this instance. There does not seem to be, either in reason or in precedent, any ground for the objection.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

Mr. JONES. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Washington suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Curtis	Lippitt	Smith, Ariz.
Bacon	Dillingham	Lodge	Smoot
Borah	Dixon	Myers	Stephenson
Bourne	du Pont	Nelson	Sutherland
Bradley	Fletcher	Page	Thornton
Bristow	Gallinger	Paynter	Tillman
Brown	Gore	Perkins	Townsend
Burnham	Gronna	Perky	Warren
Burton	Hitchcock	Pomerene	Watson
Chamberlain	Jones	Richardson	Williams
Clapp	Kenyon	Root	Works
Clark, Wyo.	Kern	Sanders	
Cummins	La Follette	Shively	

Mr. KERN. I again announce that the Senator from South Carolina [Mr. SMITH] is detained at home on account of a death in his family. He is paired, I think, with the junior Senator from Delaware [Mr. RICHARDSON].

The PRESIDENT pro tempore. On the call of the roll of the Senate 50 Senators have responded to their names. A quorum is present. The Secretary will read the Journal of the last session of the Senate sitting as a Court of Impeachment.

The Secretary read the Journal of the proceedings of Saturday, January 4, 1913.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. Manager CLAYTON. Mr. President, I should like for the witness, Mr. Tracy, to be recalled for the purpose of cross-examining him. Saturday evening he was examined touching a matter coming under his observation and knowledge as an officer of one of the departments of the Government and I desire to ask him a question.

The PRESIDENT pro tempore. The witness will be recalled.

Mr. MARTIN. The witness is not here at the present time. Is he here?

Mr. WORTHINGTON. Is he here?

Mr. Manager CLAYTON. He is here.

Mr. WORTHINGTON. Oh.

Mr. Manager CLAYTON. He is in the Sergeant at Arms' office, I am told.

TESTIMONY OF ROBERT C. TRACY—RECALLED.

Robert C. Tracy, having been heretofore duly sworn, was examined and testified as follows:

Q. (By Mr. Manager CLAYTON.) You are the gentleman, Robert C. Tracy, who was examined here by the respondent's counsel on Saturday last, are you?—A. Yes, sir.

Q. You furnished a list showing the occupations of the various jury commissioners appointed by the United States courts throughout the country, and in that list I observe you put down, of the 126, if I make no mistake in the number, 19 as lawyers?—A. Yes, sir.

Q. I desire now to ask you if you can state to the Senate how many of those 19 lawyers were railroad attorneys?—A. I do not know that any of them were.

Q. What is your information on it—the same information that you had in making this list?—A. I have knowledge of only 17.

Q. And are they railroad lawyers?—A. No, sir.

Q. Seventeen of them are not railroad lawyers?—A. No, sir.

Q. You, then, have information as to how many were railroad lawyers at the time of their appointment?—A. I do not know whether those other two were or were not.

Q. But you ascertained that 17 of them were not railroad attorneys?—A. Yes, sir.

Q. Now, you will observe that among the papers produced Saturday—and I suppose as a part of your testimony—is a letter headed "Department of Justice, United States District Court, Northern District of West Virginia, Parkersburg, October 7, 1912," addressed to the Attorney General and signed by C. B. Kefanver. The jury commissioner therein referred to is one of the two that you designate as a railroad attorney at the time of his appointment. Who was the other one?—A. I did not see that letter.

Q. You did not?—A. No, sir.

Mr. Manager CLAYTON. Then, Mr. President, that is all we desire to ask the witness, but we ask to put in evidence this letter dated October 3, 1911, and addressed to the Attorney General. It is written from the United States district court clerk's office, Seattle, Wash., and is signed Frank L. Crosby.

Mr. SIMPSON. I should like to see that. We do not know what it is.

Mr. Manager CLAYTON. I offer that as germane to this subject, wherein they schedule the vocations of the different jury commissioners, and it is simply to account for the other one of the two lawyers who were appointed whose vocation the witness did not remember.

The PRESIDENT pro tempore. Without objection the letter will be read.

Mr. Manager CLAYTON. I have no further questions to ask the witness.

Mr. SIMPSON. I have one or two questions which I desire to ask after the letter has been read.

Mr. Manager CLAYTON. Let the letter be read.

The PRESIDENT pro tempore. The letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 99.]

CLERK UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF WASHINGTON,
Seattle, October 3, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Referring to your letter of the 26th nitimo, initials E. M. K., I have the honor to advise you that Earl R. Jenner, jury commissioner for the western district of Washington (northern division), whose occupation is given as a lawyer, advises me that he is chief examiner for the Washington Title Insurance Co., also for the Seattle Trust Co. I presume these companies are likely at some time to have litigation before this court.

Mr. Jenner states to me that he wishes very much to resign from service as jury commissioner, and I have advised him to present the matter to the judge, and I presume the resignation will be accepted and some person appointed in his place.

Very respectfully,

FRANK L. CROSBY, *Clerk.*

Mr. Manager CLAYTON. We have no further questions to ask of this witness at the present time.

Q. (By Mr. SIMPSON.) What exactly do you mean by a railroad lawyer?—A. I presume a man who has something to do with railroads.

Q. Was that what you meant when you were answering Judge CLAYTON's questions on the subject?—A. I might have had that in mind.

Q. You said there were 17 of them who were not railroad lawyers. I want to know what knowledge you have on that point.—A. I received letters—or the department did, rather—from 17 clerks of courts, saying that those jury commissioners had no connection or affiliations as lawyers with railroads.

Q. Then all you know on the subject is that the clerks of courts wrote letters stating that in their opinion, or from some information they had, as the fact may be, certain jury commissioners were not connected with railroads.—A. Yes, sir.

Q. And you were giving simply the information thus acquired?—A. Yes, sir.

Q. Where are those letters, if you know? Are they all here?—A. All except two. There were 19, and I have 17 of them.

Q. Where are the others?—A. I do not know. I heard one of them read. I do not know where the others are.

Q. Is the other one the one that was attached to the record as handed in on Saturday?—A. I do not know; I do not believe so.

Q. Will you look at this one, please?—A. (After examination.) I never saw that letter until it was printed this morning; until I got the printed copy this morning. Is that the other one you have reference to?

Q. Here is a letter, dated October 7, 1912, signed by C. B. Kefauer, clerk.—A. This is one of the missing ones.

Q. This is one of the missing ones, and the one produced by Judge CLAYTON is the second missing one, is it?—A. Yes, sir.

Q. Will you produce those 17 letters, please?

(The witness produced the letters.)

Mr. SIMPSON. Mr. President, we offer these letters in evidence, although we do not care to detain the Senate now for the time which would be required to read them.

The PRESIDENT pro tempore. Without objection they will be received and filed.

Mr. Manager CLAYTON. Mr. President, I desire to say that I have not had an opportunity to examine those letters critically, and therefore at this time I do not make any objection. I made my objection in the beginning, and the Chair sees what this has led to. As I said on Saturday, the very gravamen of the charge is that these 17 or 19 lawyers were connected with railroads; and I suppose if the other part of the testimony is admissible this ought to go along with it.

The letters referred to are as follows:

[U. S. S. Exhibit HH.]

[Carbon copy for the files.]

MAKING INQUIRIES ABOUT JAMES H. JUDKINS.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Montgomery, Ala.

SIR: Please advise the department at the earliest practicable date as to whether James H. Judkins, jury commissioner for the middle district of Alabama, whose occupation is given as a lawyer, is regularly retained or employed by any railroad or large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———, ———,
Acting Attorney General.

CLERK'S OFFICE, UNITED STATES COURTS,
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION,
Montgomery, Ala., September 28, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your letter of the 25th instant, E. M. K. 163028, I have the honor to state that "James H. Judkins, jury commissioner for the middle district of Alabama, is not retained or employed by any railroad or large corporation likely to have litigation before the court with which he is connected," nor has he ever been so employed. In fact, Capt. Judkins has practically retired from the practice of law and is engaged in farming.

Respectfully,

HARVEY E. JONES, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO H. W. DANFORTH.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Springfield, Ill.

SIR: Please advise the department at the earliest practicable date as to whether H. W. Danforth, jury commissioner for the southern district of Illinois (northern division), whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———, ———,
Acting Attorney General.

CLERK'S OFFICE, DISTRICT COURT UNITED STATES,
SOUTHERN DISTRICT OF ILLINOIS, SOUTHERN DIVISION,
Springfield, Ill., October 1, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: I have your communication of September 26 (E. M. K., J. J. G., A. G. M., H. A. F.), in relation to H. W. Danforth, our jury commissioner for the northern division, and in reply to same would say that I have had my deputy at Peoria investigate the matter, and he informs me that Mr. Danforth is not practicing law and is not connected with any firm of lawyers, but is devoting all of his time and attention to the business of farming.

Respectfully,

R. C. BROWN, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO A. Q. JONES.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Indianapolis, Ind.

SIR: Please advise the department at the earliest practicable date as to whether A. Q. Jones, jury commissioner for the district of Indiana, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———, ———,
Acting Attorney General.

UNITED STATES COURTS,
Indianapolis, September 28, 1912.

To the ATTORNEY GENERAL,
Washington, D. C.

SIR: I have your letter of the 26th instant with reference to A. Q. Jones, Esq., jury commissioner for the district of Indiana. It does not appear that he is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Yours, truly,

NOBLE C. BUTLER, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO JOHN MILEHAM.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Topeka, Kans.

SIR: Please advise the department at the earliest practicable date as to whether John Mileham, jury commissioner for the district of Kansas, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———, ———,
Acting Attorney General.

DEPARTMENT OF JUSTICE,
UNITED STATES DISTRICT COURT, DISTRICT OF KANSAS.

The ATTORNEY GENERAL, *Washington, D. C.*

SIR: In reply to your letter of the 26th instant, I beg to advise that Mr. John Mileham, jury commissioner for the district of Kansas, is a retired attorney. He has not been in the active practice for many years. To my knowledge he was never retained or employed by any railroad or large corporation, and I know that he has not been during the last 12 years or more.

Respectfully,

MORTON ALBAUGH, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO JOHN R. DONOHUE.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
St. Paul, Minn.

SIR: Please advise the department at the earliest practicable date as to whether John R. Donohue, jury commissioner for the district of Minnesota, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———, ———,
Acting Attorney General.

DEPARTMENT OF JUSTICE,
DISTRICT COURT OF THE UNITED STATES,
DISTRICT OF MINNESOTA,
St. Paul, Minn., September 30, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Answering yours of the 26th instant, initials J. J. G., A. G. M., H. A. F., I have to say that John R. Donohue, jury commissioner for the district of Minnesota, is not regularly retained or employed by any railroad or other large corporation likely to have litigation before this court.

Respectfully,

CHARLES L. SPENCER, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO ROLAND HOMER.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
St. Louis, Mo.

SIR: Please advise the department at the earliest practicable date as to whether Roland Homer, jury commissioner for the eastern district of Missouri, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———, ———,
Acting Attorney General.

DEPARTMENT OF JUSTICE,
UNITED STATES DISTRICT COURTS,
EASTERN DISTRICT OF MISSOURI,
September 28, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your inquiry under date of September 26, 1912 (J. J. F., A. G. M., H. A. F., E. M. K.), I beg to say, from information, that Jury Commissioner Roland Homer is not regularly retained by any railroad or other large corporation likely to have litigation before the court. Inquiry can be made directly of him, if you desire.

Respectfully,

W. W. NALL, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO JOSEPH S. RUST.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Kansas City, Mo.

SIR: Please advise the department at the earliest practicable date as to whether Joseph S. Rust, jury commissioner for the western district of Missouri, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———, ———,
Acting Attorney General.

DEPARTMENT OF JUSTICE,
UNITED STATES DISTRICT COURT,
WESTERN DIVISION OF THE WESTERN DISTRICT OF MISSOURI,
Kansas City, Mo., October 5, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to yours of September 26, initialed E. M. K., I beg to advise you that Joseph S. Rust, jury commissioner for the western district of Missouri, is not regularly retained or employed by any railroad or other large corporations.

Respectfully,

JOHN B. WARNER,
Clerk, United States District Court.

[Carbon copy for the files.]

MAKING INQUIRIES AS TO EDWARD L. PATTERSON.

DEPARTMENT OF JUSTICE, *September 26, 1912.*

CLERK UNITED STATES DISTRICT COURT,
New York City.

SIR: Please advise the department at the earliest practicable date as to whether Edward L. Patterson, jury commissioner for the southern district of New York, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———, ———,
Acting Attorney General.

CLERK'S OFFICE, DISTRICT COURT OF THE UNITED STATES,
SOUTHERN DISTRICT OF NEW YORK,
New York City, September 28, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: I have the honor to reply to your letter of the 26th instant (E. M. K.), and beg to say that, so far as my knowledge goes, and upon inquiry of Mr. Edward L. Patterson himself, he is not now, nor is he likely to be, retained or employed by any railroad or other large corporation likely to have litigation before this court.

Very respectfully,

THOS. ALEXANDER, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO HY. H. SEYMOUR.

DEPARTMENT OF JUSTICE, *September 26, 1912.*

CLERK UNITED STATES DISTRICT COURT,
Buffalo, N. Y.

SIR: Please advise the department at the earliest practicable date as to whether Hy. H. Seymour, jury commissioner for the western district of New York, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———, ———,
Acting Attorney General.

OFFICE OF THE CLERK UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF NEW YORK,
Buffalo, N. Y., September 27, 1912.

The ATTORNEY GENERAL,
Department of Justice, Washington, D. C.

SIR: In response to your favor of the 26th instant (J. J. G., A. G. M.) I beg to advise you that Henry H. Seymour, the jury commissioner of the United States District Court for the Western District of New York, while being a lawyer by profession is not actively engaged in the practice of the law and is not from any knowledge or information that I can obtain, which includes his own statement, regularly retained or employed by any railroad or other large corporation likely to have litigation before this court. His principal and practically sole present occupation is that of jury commissioner for the county of Erie, under a salary of $4,000 or $5,000, and his time is practically entirely taken up with his duties in connection with that office. In fact I know of no other occupation in which he is engaged at present, except what work he performs in connection with his duties as jury commissioner for this court.

Respectfully,

S. W. PETRIE, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO CHARLES H. MATTHEWS.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Philadelphia, Pa.

SIR: Please advise the department at the earliest practicable date as to whether Charles H. Matthews, jury commissioner for the eastern

district of Pennsylvania, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———,
Acting Attorney General.

CLERK'S OFFICE, DISTRICT COURT UNITED STATES,
EASTERN DISTRICT OF PENNSYLVANIA,
Philadelphia, September 28, 1912.

Hon. GEORGE W. WICKERSHAM,
United States Attorney General, Washington, D. C.

SIR: Your letter of the 26th instant asking that I advise you "whether Charles H. Matthews, jury commissioner for the eastern district of Pennsylvania, whose occupation is lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected," duly received.

Mr. Matthews has been for many years a member of the Philadelphia bar in the highest standing, and, so far as I know, his legal practice is not along the lines suggested in your letter.

Respectfully,

WM. E. CRAIG, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO GEORGE C. BURGWIN.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Pittsburgh, Pa.

SIR: Please advise the department at the earliest practicable date as to whether George C. Burgwin, jury commissioner for the western district of Pennsylvania, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———,
Acting Attorney General.

OFFICE OF THE CLERK, UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF PENNSYLVANIA,
Pittsburgh, September 30, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to yours of the 26th instant (initials E. M. K.), I beg to state that George C. Burgwin, jury commissioner for the said court, whose occupation is that of lawyer, is president of a national bank in the city of Pittsburgh, in said district. I have no knowledge of him being regularly retained or employed by any railroad or other large corporation (except as noted) likely to have litigation before the court with which he is connected.

Respectfully,

WM. T. LINDSEY, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO HY. R. GIBSON.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Knoxville, Tenn.

SIR: Please advise the department at the earliest practicable date as to whether Hy. R. Gibson, jury commissioner for the eastern district of Tennessee (northern division), whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———,
Acting Attorney General.

CLERK'S OFFICE, UNITED STATES DISTRICT COURT,
EASTERN DISTRICT OF TENNESSEE,
Knoxville, Tenn., September 28, 1912.

The honorable the ATTORNEY GENERAL,
Washington, D. C.

SIR: Pursuant to directions contained in your letter of the 26th instant, initialed "E. M. K.," as to whether I have any knowledge of the Hon. Henry R. Gibson, jury commissioner for the northern division of the eastern district of Tennessee, being regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected, I beg to report that I do not believe that Judge Gibson is regularly retained as an attorney or counselor by any individual or corporation.

I wrote you on July 27, 1912, replying to your circular No. 313, that Judge Gibson had retired from active practice of his profession as an attorney at law and that for a long term of years he was chancellor of the State court of equity at this place and was for many years Congressman from the second congressional district of Tennessee.

I think his principal occupation now is writing law books, he being the author of Gibson's Suits in Chancery, which has reached its second edition.

You are respectfully referred to rule 21 of the rules of this court relating to placing names of talesmen in the jury box by the jury commissioner, and the provisions of this rule have been embodied in a new rule recently promulgated by Judge Sanford. I beg to state, with all due respect, that Judge Sanford would not permit a practicing attorney or one retained by any individual or corporation to act as jury commissioner of any of the divisions over which he presides for a single instant.

Yours, respectfully,

HORACE VAN DEVENTER, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO HARVEY WILLSON.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Richmond, Va.

SIR: Please advise the department at the earliest practicable date as to whether Harvey Willson, jury commissioner for the eastern district of Virginia, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———,
Acting Attorney General.

OFFICE OF THE CLERK UNITED STATES COURTS,
EASTERN DISTRICT OF VIRGINIA,
Richmond, Va., September 28, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your letter (J. J. G., A. G. M., H. A. F.) of the 26th instant I beg to advise you that Mr. Harvey Willson, the jury commissioner for the eastern district of Virginia, is not now engaged in the practice of his profession as a lawyer, and has not been for five years or more.

Respectfully,

JOSEPH P. BRADY, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO ALFRED B. PERCY.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Lynchburg, Va.

SIR: Please advise the department at the earliest practicable date as to whether Alfred B. Percy, jury commissioner for the western district of Virginia, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———,
Acting Attorney General.

CLERK'S OFFICE UNITED STATES DISTRICT COURT,
Lynchburg, Va., September 27, 1912.

Honorable ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your letter of the 26th instant (E. M. K.) asking if Mr. Alfred B. Percy, jury commissioner for the western district of Virginia, "is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected."

Would say that I have seen Maj. Percy, and he tells me he is not employed or connected in any way with either a railroad or other large corporation.

Respectfully,

STANLEY W. MARTIN, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO JAMES F. CORK.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Charleston, W. Va.

SIR: Please advise the department at the earliest practicable date as to whether James F. Cork, jury commissioner for the southern district of West Virginia (Charleston division), whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

———,
Acting Attorney General.

DEPARTMENT OF JUSTICE,
UNITED STATES DISTRICT COURT, SOUTHERN
DISTRICT OF WEST VIRGINIA, OFFICES OF THE CLERK,
Charleston, W. Va., September 30, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your favor of September 27, 1912, in reference to James F. Cork, jury commissioner at Charleston, you are advised that Mr. Cork has never had any practice either of permanent employment or incidentally with railroads or other corporations. His practice has always been confined to real-estate matters locally in this county and among individuals as clients.

Yours, very truly,

EDWIN M. KEATLEY, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO JOHN F. DOHERTY AND CARL L. WILSON.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Madison, Wis.

SIR: Please advise this department at the earliest practicable date as to whether John F. Doherty, jury commissioner for the western district of Wisconsin (La Crosse division), and Carl L. Wilson, jury commissioner for said district (Superior division), whose occupation is that of a lawyer, are regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which they are connected.

Respectfully,

———,
Acting Attorney General.

OFFICE OF THE CLERK,
DISTRICT COURT OF THE UNITED STATES,
WESTERN DISTRICT OF WISCONSIN,
Madison, October 2, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your communication of the 26th ultimo, initials J. J. G., A. G. M., H. A. F., and E. M. K., have to advise that Mr. Carl M. Wilson, jury commissioner for the western district of Wisconsin (Superior), informs me that he is not regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

F. W. OAKLEY, *Clerk.*

OFFICE OF THE CLERK,
DISTRICT COURT OF THE UNITED STATES,
WESTERN DISTRICT OF WISCONSIN,
Madison, October 1, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your communication of the 26th ultimo, initials J. J. G., A. G. M., H. A. F., and E. M. K., have to advise that Mr. John F. Doherty, jury commissioner for the western district of Wisconsin (La Crosse), informs me that he is not regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

F. W. OAKLEY, *Clerk.*

Mr. SIMPSON. You wanted to ask Mr. Tracy some questions, Mr. CLAYTON.

Mr. Manager CLAYTON. Yes.

Q. (By Mr. Manager CLAYTON.) Mr. Tracy, Mr. Simpson made some references to the way in which you got your knowledge of the vocations of these 19 lawyers, or these 17, that you say you ascertained not to have any connection or affiliation with railroads, and on Saturday you produced here this paper, marked "U. S. S. Exhibit GG." You made up that paper, and your testimony predicated upon that paper is derived from the same source of knowledge, to wit, from letters from clerks of courts, that the testimony you have given this morning is derived, is it not?—A. Yes, sir.

Mr. Manager CLAYTON. That is enough.

Mr. SIMPSON. That is all.

Mr. MARTIN. We will now call Mrs. R. W. Archbald.

TESTIMONY OF ELIZABETH C. ARCHBALD.

Elizabeth C. Archbald, being duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) You are the wife of the respondent, Judge R. W. Archbald?—A. I am.

Q. What was your name before you were married?—A. Elizabeth Cannon.

Q. You are a relative of Henry W. Cannon, are you not?—A. I am.

Q. State what relation, please.—A. Mr. Cannon's father was my father's only brother.

Q. So that you and Mr. Henry W. Cannon are first cousins?—A. We are.

Q. How intimately have you known Mr. Henry W. Cannon?—A. We have been associated more or less all our lives; brought up together; and we have been very closely associated all our lives.

Q. Does that intimacy continue to the present time?—A. It does.

Q. Mr. Cannon generally lives in New York, does he not?—A. His home is in New York.

Q. And your home is in Scranton, Pa.?—A. Yes.

Q. Have you and Mr. Henry W. Cannon visited frequently or not?—A. We have.

Q. You at his house?—A. I have been.

Q. Have you ever taken any trips in company with him or his family, or any members of his family?—A. I have.

Q. How frequently, Mrs. Archbald?—A. Well, within the last 12 years we have been with Mr. Cannon on several excursions; four or five, I think.

Q. Prior to that time do you know anything about Mr. Cannon's business engagements, or his attention to business?—A. Not definitely. I know he was a very busy man for a great many years, 25 or 30 years; that he was very much occupied.

Q. Can you state whether or not about 10 or 12 years ago he began to release the attention to business which theretofore had occupied him?—A. He did.

Q. What trips have you taken with him in the last 10 or 12 years?—A. Do you wish the dates?

Q. No; I am not particular about the dates. Give us the incidents, if you please; the places where you went.—A. We went to Chicago and took a lake trip with him, on a lake steamer; and to Bar Harbor, on a yacht; and one summer my daughter and myself were with him on the Sound, on a houseboat.

Q. Do you mean Long Island Sound?—A. Long Island Sound. Then, I think, the next trip was the Italian journey.

Q. The Italian journey is the one you took in 1910?—A. It is.

Q. Do you remember how that trip came about?—A. Mr. Cannon had this place near Florence that he was always very anxious for me to see. He spends every spring there; he has for the last 10 or 12 years; and for a good many years we had talked of going over and visiting him there, and in 1910 the time seemed promising, and he asked us to go, and we went.

Q. How was the invitation extended?—A. To me personally.

Q. By letter or telegram?—A. By letter.

Q. I show you a letter dated March 20, 1910, and ask you if that is the letter extending the invitation to take the trip to Europe in 1910?—A. (After examining.) Yes; it is.

Q. Will you hand it to the Secretary to be marked.

Mr. Manager CLAYTON. Let us see it, please.

(The letter was examined by the managers on the part of the House.)

Mr. MARTIN. The managers having read the letter we now offer it in evidence and ask to have it read.

The Secretary read as follows:

[U. S. S. Exhibit JJ.]

NEW SMYRNA, FLA., *March 20, 1910.*

DEAR ELIZABETH: For several years I have hoped the time would come when you could go to Italy with me for a visit at my place there. I appreciate that Judge Archbald can not leave his work, and I understand that you would not wish to leave him at home; but it seems to me if he can not leave his duties he would not object to your going abroad for a short trip, provided you could take Hugh or some lady companion. If Hugh could be detached for, say, 75 to 80 days from present work, a trip to Europe would add to his knowledge. I have found it very useful for Harry. Now, I have my room on the steamer of Hamburg-American Line sailing April 16 for Cherbourg. It's a very big, modern, slow boat, with every comfort, and so large few people ever suffer illness. If you and Hugh, or any companion you select, can go with me as my guests from New York to Europe and back to New York, to be gone, say, 80 days, returning in July, it would be a great pleasure to me. We would stay a couple of days in Paris and go to Florence to my place there, and little journeys would be made in Italy. Then if you and whoever was with you wished to travel a bit before returning, it would be arranged. You need not feel any responsibility about travel. There are many things, however, that you would wish to see that I have seen or do not care to, and you would be with your companion, independent to go about and still have my place as home. If Hugh can not go, perhaps Mrs. Lathrop or one of Rob's girls might; or you may have some other friend to take with you. You can with perfect propriety ask who you choose to go as your guest and you both will be my guests. It is a simple matter. I have extended this same invitation to others, who accepted and enjoyed the trip. It's not necessary to go into details with anybody except, of course, Judge Archbald. If he could go, that would be better yet. Think this over seriously. It seems to me this is the time for you to go abroad and store away in your mind the things you will see and enjoy to remember as years go by. I have found that one can do things if they "take the time by forelock" and just do them. I shall be in New York at my house on evening of 3d April and stay there until I sail. I will write my secretary to see what can be done about rooms on the ship, so in case you can go they can be reserved. I do hope you will arrange it.

Yours, faithfully,

H. W. CANNON.

Q. (By Mr. MARTIN.) Mrs. Archbald, what was done by you with reference to the invitation thus extended?—A. I talked it over with Mr. Archbald and urged him very strongly to go. He consulted with friends in regard to his going, who urged him also, and finally he decided that he would go, and I wrote Mr. Cannon to that effect.

Q. You did not, of course, keep a copy of that letter?—A. I did not.

Q. (Producing letter.) I show you a letter dated at Cocoa, Fla., March 29, 1910, and ask you if that was the next communication which was received by you or Judge Archbald from Mr. Cannon with reference to the European trip?—A. (Examining letter.) So far as I know, it is.

(The letter was handed to the managers.)

Mr. MARTIN. We offer this letter in evidence.

The PRESIDENT pro tempore. Without objection, it will be read.

The Secretary read as follows:

[U. S. S. Exhibit KK.]

(Ten Wall Street, New York.)

COCOA, FLA., *March 29, 1910.*

MY DEAR JUDGE: I have yours of 25th March and sent you a telegram. I am very glad you can accept my invitation on your own account and on Elizabeth's and mine. There will be no formality. Although guests of mine, you both are expected to have a good time in your own way with freedom in all things. About clothes, I usually wear on shipboard winter flannels and outer clothing, and thick overcoat or ulster, none of them new. I find "fall underflannels" about the thing until last of May anywhere in Europe, and you will need very few thin clothes, unless the season should prove exceptional. I usually take a couple of my last-summer suits, ordinary dark suits. I wore full dress twice last season. What we call tuxedo coat is used a great deal; some wear it on shipboard, but I am old-fashioned and stick to old clothes on ship as a rule. You could use a silk hat in Paris, but it's not necessary unless you expect to pay visits of ceremony. You can always buy a hat if needed. Take all the luggage you need; it's no trouble to me.

I am leaving for New York Friday; shall arrive there Sunday afternoon. As I telegraphed you I have wired my secretary to secure stateroom for you. I shall put you both in one room and look forward with pleasure to our trip together.

Yours, very truly,

H. W. CANNON.

Q. (By Mr. MARTIN.) Mrs. Archbald, who was the person designated as Hugh in the first letter?—A. My youngest son.

Q. Who was the Miss Lathrop?—A. A cousin of mine.

Q. By the way, how old was Hugh?—A. Twenty-nine.

Q. He is the one who was referred to as the friend of Mr. Cannon's son Harry?—A. I think he must have been. I do not recall just what you refer to.

Q. I refer to a sentence in the letter of his, if I correctly remember it. Who was the Rob referred to in the letter?—A. My brother.

Q. And the girl would be one of his daughters?—A. One of his daughters.

Q. Then there was another person referred to, Miss Lathrop. Who was she?—A. My cousin.

Q. After the receipt of this letter of March 29, did you have any further correspondence with Mr. Cannon with reference to

that trip?—A. I presume so, but I could not say positively. I doubtless did.

Q. (Producing letter.) I show you a letter dated April 5, 1910, and I ask if you recollect whether that was the next letter which was received by your family with reference to that trip?—A. (Examining letter.) I could not at all tell whether it was the next letter, but it was a letter that was received.

(The letter was handed to the managers.)

Mr. MARTIN. We offer this letter in evidence.

The PRESIDENT pro tempore. Without objection, it will be read.

The Secretary read as follows:

[U. S. S. Exhibit LL.]

(H. W. Cannon, 10 Wall Street, New York.)

APRIL 5, 1910.

MY DEAR JUDGE: Upon returning here Sunday night from the South I found your letter of March 29, and this morning I have yours of April 4. Please say to Elizabeth that I finally received her letter in Florida just before leaving for the North, or I should have replied to it before this.

I was under the impression I had given you the name of the ship in one of my letters to you. I think you will find that her name was given in my secretary's letter to Elizabeth. The name of the ship is *Kaiserin Augusta Victoria*, of the Hamburg-American Line, sailing at noon on April 16. I have tickets for you both for an excellent room, No. 236, on what is known as the lower promenade deck. My room is also on the same deck. I will hand you or Elizabeth the passage tickets on Thursday or Friday, together with labels for your baggage.

I think you are wise in taking quite a full supply of clothing, and upon consideration I think it may be well for you to take a frock coat and silk hat, as very likely they may be useful. Perhaps it might be wise to put a Tuxedo suit in your steamer trunk.

In reply to your inquiry, a letter of credit issued by any of our solvent banks or trust companies or express companies will answer your purposes.

You can make arrangements to have your mail forwarded through the bank in London on which drafts are drawn on account of your letter of credit, if desired. I suggest, however, that you use my address in Florence for your family and friends. Letters addressed as follows will reach you when in Florence, and, of course, will be promptly forwarded by my people at La Doccia:

"Care of H. W. Cannon, Villa Doccia, Fiesole, Florence, Italy."

I presume you and Elizabeth will have at least two large trunks for hold of ship and two steamer trunks for your stateroom, together with other small luggage. I will send the baggage that goes into hold over to the ship on Saturday morning. The wagon will call at the Chelsea soon after 9 a. m. (about 9.15 in the morning). I suggest that you and Elizabeth arrange for a small omnibus to take your steamer trunks and luggage down and across Twenty-third Street Ferry to the Hamburg-American pier, from which the ship will leave. By this arrangement you both will be independent as to time of starting, and you can easily find your way to the stateroom. I very likely will arrive a little late, as there are sure to be matters requiring my attention just before I sail.

All the necessary arrangements on board the ship have been made for seats at table and for deck chairs. The ship is one of the largest afloat and has a great many modern conveniences. It is a slow ship in spite of its great size. Many people who are not good sailors are able to cross in this large, slow ship in great comfort.

Yours, very truly,

H. W. CANNON.

Q. (By Mr. MARTIN.) Did you make arrangements to take the trip, and did you take the trip, Mrs. Archbald?—A. I did.

Q. Do you remember the date of sailing?—A. I am afraid I can not. April 16, it strikes me.

Q. April 16, 1910?—A. 1910.

Q. You remember how long you were gone on the trip?—A. I think we came home the second week in July.

Q. Of that same year?—A. Yes.

Q. Had you ever been to Europe before?—A. I never had.

Q. Had the judge been to Europe before, to your knowledge?—A. He had not.

Q. So that this was the first trip for both of you?—A. It was.

Q. Was there any special reason why you preferred that the judge should go with you?—A. Yes.

Q. Will you tell us briefly what it was?—A. It has been very difficult for a long term of years for me to go about alone, and Mr. Archbald could, of course, be of more assistance to me and make the journey much more comfortable for me than any other person possibly could. At the same time I would be less care to Mr. Cannon.

Q. Without going into the particulars, several years ago you had quite a severe illness?—A. Yes.

Q. And since then you have more or less depended upon the ministrations of your husband, Judge Archbald?—A. Yes, I have.

Q. So that was one of the particular reasons why you preferred that he should make the trip with you, rather than other members of your family?—A. It was a very strong reason. I was very anxious that he should have the pleasure; and, of course, it added to my pleasure as well as my comfort that he should go with me.

Q. Was there anything unusual in the invitation which you accepted from Mr. Cannon?—A. There was not.

Mr. MARTIN (to the managers). Cross-examine.

Mr. Manager NORRIS. That is all.

Mr. Manager CLAYTON. We have no questions to ask.

Mr. SIMPSON. Judge Archbald, will you take the stand, please?

TESTIMONY OF ROBERT W. ARCHBALD.

Robert W. Archbald, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) When and where were you born?—A. I was born in Carbondale City, Pa., about 16 miles from Scranton. I went to Scranton when I was a boy about 8 years old, and I have lived there ever since.

Q. When were you born?—A. I was born on the 10th of September, 1848, being now in my sixty-fifth year.

Q. When were you admitted to the bar?—A. In September, 1873.

Q. And when did you first go upon the bench?—A. I am beginning to-day my twenty-ninth year as a judge.

Q. Will you tell us, please, of what courts and what length of time in each court, very briefly?—A. I was elected to the State court as additional law judge of the forty-fifth judicial district of Pennsylvania in November, 1884, and I became president judge of that court by seniority of commission about three years afterwards. I was reelected to the same position for another term of 10 years in November, 1894, and I was serving in that capacity when the middle district of Pennsylvania was newly created, and I received the appointment of district judge of that district as a recess appointment by President McKinley in March, 1901. I was confirmed by the Senate, my name being sent in by President Roosevelt in December following, and I remained in that position until I was appointed to the Commerce Court in December, 1910, being confirmed by the Senate in January, 1911. I was sworn in on the 1st of February, 1911, and I have since been in that position.

Q. What was the size of the middle district of Pennsylvania?—A. There are 32 counties in the middle district of Pennsylvania, the majority of them taken from the western district and a few taken from the eastern district. Together they comprise probably one-half or nearly one-half in extent of the territory of the whole State.

Q. What did your family consist of at the time you were Federal judge and what were the ages of its members?—A. I had my wife and three children; My oldest son, who is here before the Senate, my daughter, and my younger son.

Q. Will you tell us just briefly what their ages were in 1901?—A. In 1901?

Q. Yes: in 1901, when you first went on the district bench, and tell us what their ages are now?—A. My oldest son was 35 and my daughter was 33, or nearly 33, and my youngest son was going on 30.

Q. When was it that they were these particular ages?—A. When I took my position as Federal judge.

Q. You mean in 1901?—A. In 1901.

Q. That is 11 years ago?—A. Yes.

Mr. SIMPSON. Your son says you are 10 years off on time, and I should judge from his looks that that is probably so. [To the witness:] How long have you known Edward J. Williams?

The WITNESS. I have known him for some time in a general way; I suppose a dozen years.

Q. How long prior to the time of the beginning of the negotiations for the Katydid culm dump did he come to your office?—A. Possibly beginning a couple of years before that he would come there, I should say, once in a while. He might come there once in a couple of months, perhaps.

Q. And after these negotiations commenced how often would you see him?—A. He would come there as much as once a week.

Q. When did you first see the Katydid culm dump?—A. I first saw the Katydid culm dump long after these proceedings had been begun, in August of last summer.

Q. You mean August, 1912?—A. Of 1912.

Q. Will you tell us, please, as succinctly as you can, all that happened so far as you were concerned in relation to that dump?—A. Some time in the early spring of 1911 Mr. Williams came to me and spoke about this Katydid culm dump. He mentioned the fact that there was a sort of double or confused interest; that it had been made in the operations of Messrs. Robertson & Law; that Mr. Robertson and Mr. Law (Mr. Robertson succeeding to the firm) had secured title in it; that there was also a claim of title by the Hillside Coal & Iron Co., under whom Messrs. Robertson & Law had operated. He thought that Mr. Robertson would give an option upon it, and that if an option could also be secured from the Hillside Coal & Iron Co. that would unite both or all interests and the property could be sold and something made out of it. He stated that the dispute between Robertson and the Hillside Coal & Iron Co. had been submitted to counsel for the Hillside Coal & Iron Co., Mr. Willard, who is now dead, and that Mr.

Willard had sustained the claim of Mr. Robertson. He said he thought that Mr. Robertson's interest could be procured for $3,500, and an option obtained on that. Later on he informed me that Mr. Robertson was prepared to give an option for that amount verbally.

Then, the matter of securing the Hillside Coal & Iron Co.'s interest came up. I think I first talked with Capt. May over the telephone with regard to it and asked him about it. I received sufficient encouragement from him, although I can not tell exactly what he said upon that occasion, to address a letter to him. My impression is that he suggested that I should address a letter to him for the purpose of bringing the matter to a head. I accordingly did write a letter asking him whether the Hillside's interest could be purchased and at what price. That letter has been produced here and offered in evidence. I think that was not sent through the mail, but that Mr. Williams took it, and the reason of that was for the purpose of getting a speedier answer with regard to it. That is my remembrance now. In response to that letter and what immediately followed after that I do not remember with perhaps as much clearness as I ought, but I do know that I talked with Capt. May about it two or three times. I understood from him that the matter would be disposed of at a subsequent date when Mr. Richardson, the vice president of the company, was to be in Scranton and was going to look over the property. The date which he fixed came and I did not hear anything from him. I frequently met Capt. May on the streets of Scranton, because he lives within a block of where I do—above me—and goes back and forth to his business by my house. My remembrance is that I did meet him in that way and asked him about the conclusion of the matter. It dragged on, however, for some time without anything definitely being said about it.

Q. Just go on, please.—A. In July I was going down to New York. I was assigned by the chief justice to assist in the trial of criminal cases in that city, and I spent practically all of July in attendance on those duties. Mr. Williams, in talking over the submission of the question of the conflicting interests in this dump to Judge Willard had also spoken, as I remember, of the matter having been passed on to Mr. Brownell, counsel of the Erie Railroad and of the Hillside, in New York City. I had met Mr. Brownell in May of last year when there was argued before the Commerce Court what is sometimes spoken of as the Sugar Refinery case and sometimes spoken of as the Lighterage case. My remembrance is that, acting upon that idea, which Mr. Williams had stated, and the matter dragging along considerably without any definite answer from Capt. May, I concluded to see whether I could expedite in any way the disposition of the case.

Q. Before you go any further, I want to fix two items right at that point, if I can. Did you say anything to Mr. Brownell about the matter at the time you got acquainted with him in May?—A. Not at all.

Q. Did you know at that time that Mr. Willard's opinion had been passed on to Mr. Brownell?—A. I could not say. I really do not know. I think I had, because I think that was mentioned at the same time by Mr. Williams that he spoke of Judge Willard having given an opinion upon the subject.

Q. Just go on and take up the story where I interrupted you. I wanted to fix that point.—A. Mr. Robertson was getting restive. There was no definite arrangement with Mr. Robertson except verbally at that time. He had said that he would take a definite sum, but still I was anxious to have the matter brought to a head in some way. I therefore wrote to Mr. Brownell asking for an appointment in New York. That appointment was made. I think fixed by letter, for the 4th of August, that being the day I was to be in New York in attendance upon my duties in regard to the trial of the cases there. I saw Mr. Brownell upon that date at his office and I told him—if you wish me to go on——

Q. Just go right on, please.—A. I told Mr. Brownell as the reason for coming there that there was this conflict of title about the Katydid dump. Of course, I mentioned first that I had come there to see him with regard to the Katydid dump; that I had asked Capt. May whether the Hillside Co. was willing to sell its interest, and that it seemed difficult to get a response from him. I wanted to see whether the matter could be expedited in any way. I told him that I understood the diversified titles and the complicated titles or interests had been submitted not only to Judge Willard, the local counsel, but also had been submitted to him. I gave that as the reason for coming to see him. He told me that he himself had nothing to do with that, and also that it was not so about his having passed upon the title, but that the matter was to be disposed of by Mr. Richardson, the first vice president of the company, I think. I was not acquainted with Mr. Richardson. He said he would introduce me; and he did take me to and introduced me to Mr. Richardson. I then had a conversation with Mr. Richardson somewhat similar to that which I had with Mr. Brownell. I told him at the outstart that I was not there to try to do anything over Capt. May's head; that I recognized that the matter was to be disposed of by what Capt. May would recommend; that I did not come there to influence the decision with regard to it, but simply to expedite it and try to get the matter brought to a conclusion; that the matter had been brought up to Capt. May some time in March, it was then August; and that if the property was going to be disposed of I should like to know it, and if it was not going to be disposed of I should like to know it. That was the substance of the conversation that I had with Mr. Richardson.

Q. Then what happened after that in regard to the matter?—A. Mr. Richardson said, as I remember, that he would take it up again with Capt. May, and that there would be some disposition of it one way or the other. Whether I went back and thanked Mr. Brownell or whether I saw him again on that occasion I do not quite remember. I think very likely that I went back to his office and said "good day" to him, and there may have some things passed between us there. Then I went home. About three weeks after that Capt. May was going by my house. I met him. He stopped me and he said that the company had practically decided to sell their interest.

Q. Where, relatively to your house, does Capt. May live?—A. He lives a block and a half, I may say, above my house in Scranton.

Q. And does he pass your house in going to and from the railroad?—A. I think I have already stated that he frequently goes by my house; I should say every noon. I think it was about at the noon hour that I met him.

Q. Go on, then, and take the story up, please.—A. He told me that I should send Mr. Williams to him. I got hold of Mr. Williams and sent him up. Mr. Williams brought back from there the letter which has been put in evidence, in which Capt. May said he would recommend a sale at $4,500 of the interest of the Hillside.

Q. That is Exhibit No. ½, page 139. What was done after that?—A. The next thing was to get Mr. Robertson's option in proper shape so that the whole property would be within the control of Mr. Williams and myself. Mr. Williams brought Mr. Robertson to my office. I there drew up the agreement and had Mr. Robertson sign it, in which he gave an option for $3,500 on the interest of Robertson & Law in the Katydid dump. I think the option was to run for 60 days. I witnessed that option. That option is in my handwriting.

Q. What became of it after it was executed and witnessed?—A. It was given to Mr. Williams.

Q. Go on, please.—A. Well, after that came the question of disposing of the Katydid dump. The very first thing I asked Mr. Williams when he came with the Katydid dump to me was with regard to the possibility of disposing of it. I wanted to know what could be done about it. He suggested several parties who would be likely to be interested to buy. Among others, he spoke of an electric-light company in Pittston, a city about 9 miles from Scranton, and the electric railway there. He also spoke of what we know as the Laurel Line, of which Mr. Conn is the manager. The next thing, I think, he told me was that he had been to see Mr. Conn, and that he had an appointment with Mr. Conn to take him up to the Katydid culm dump, which was about a mile, I think, from a little station called Moosic, on the Laurel line. It was a hot July day—no; it must have been in September when that happened. I did not go along. He reported that he had taken Mr. Conn there; that they had had a discussion over it, and that nothing had been arrived at. Later on I saw Mr. Conn myself. He told me that Mr. Williams's ideas with regard to the value of the dump were very much exaggerated, and that he did not believe that he could make any deal or make any arrangement with Mr. Williams; that possibly he and I could talk it over with success. I then fixed a time when Mr. Williams and Mr. Conn could be together at my office. They came to my office and we discussed it. Mr. Conn said that he would not be willing to make any arrangement about buying the dump except upon a royalty basis; that he might be persuaded to do that. We talked over the question of what royalty he would be willing to pay, and I told him that I had understood that he had offered some 41 cents, I think it was, for a culm dump at Richmond Dale, that I knew of. He acknowledged that, but he stated that that was a better dump. It was finally suggested that 30 cents possibly would be what he would be willing to pay. He also said that he would recommend a cash payment on account of the royalties. The final outcome of our talk there was that I should submit a proposition to him in writing embodying our talk; and that I did. That letter, I think, has been produced here and put in evi-

dence. I offered, then, on behalf of Mr. Williams and myself, to sell him the Katydid dump on a royalty basis of 30 cents a ton, and he was to pay down $10,000.

Q. What followed the sending of that letter?—A. I had one or two more talks with him. I forget just when. I remember, however, going to his office in the Laurel line station and talking there with him about it, when he told me that, after talking the matter over with the president, I think, of the company, he had concluded that they had got to be at some expense in connection with handling this dump and that they were not willing to pay more than 27½ cents. He thought, however, that at that figure the transaction could be put through. After talking the matter over with Mr. Williams, I saw Mr. Conn again and agreed that we would dispose of it upon that basis. Then a contract was drawn up. I drew the contract, and I think that also has been put in evidence.

Q. There is a contract here, Exhibit 22, dated —— day of December, 1911, by and between yourself and Mr. Williams and the Erie & Wyoming Valley Railroad Co. Is that the one to which you refer?—A. Yes.

Q. That is found on page 288.—A. I drew that agreement in accordance with the conversation which Mr. Conn and I had had, and involving also some details—I have not mentioned all—that were necessary in order to make a working agreement. I sent that to Mr. Conn to look over after I had drawn it up. I arranged in that agreement, as you will see, that Mr. Williams's interest should be paid to him separately and that my interest, which was one-half, should be paid to me separately. Then we met together upon the specified time, or at least I think I then notified Capt. May either by telephone or by letter—I am not sure which—with regard to this disposition. In the letter in which Capt. May said that he would recommend selling this property, or their interest, for $4,500, he had said that the purchaser must be acceptable to his company. Therefore I felt called upon, of course, to notify him to see whether the Laurel line would be acceptable. I found out from him that the company would be acceptable to him. I think Mr. Conn had also himself seen Capt. May and found that that was the case.

Then we met to close the matter at the office of Mr. Conn's attorneys, Messrs. Welles & Torrey, and also, I think, prior to that at Judge Knapp's office, Judge Knapp representing the Hillside. I guess there was where we first went before we went to Messrs. Welles & Torrey, because when we came to discuss the matter there at Judge Knapp's we found that I had relied a little too much upon things straightening themselves out in a way that they did not do. I found that all that the Hillside Coal & Iron Co. would agree to dispose of was the interest of the Hillside Coal & Iron Co., and that they particularly would make no assurance with regard to the interest of the Everhart estate or the Everhart heirs. That is a very complicated matter, but if you desire me to do so I will go on and explain about it.

Mr. SIMPSON. Just let us know was that the first you knew of the complications in the title?

The WITNESS. Well, I can hardly say that was the first I knew of the complications of the title. It was the first time I realized that there were complications with regard to the Everhart interest in the title that might prevent a sale, and which eventually did prevent a sale.

Q. What did you do, if anything, in the endeavor to straighten out those complications that you then became acquainted with?—A. As I say, the Hillside would only dispose of their interest, and Messrs. Welles & Torrey immediately said that the Everhart interest was of such substance that they could not recommend a sale with that understanding unless it was taken care of in some way. There were two or three ways suggested of taking care of it, but none of them seemed to be practicable. The matter then was dropped practically for the time being in an effort to see what could be done to obtain the Everhart interest.

If I might be permitted to explain my idea about closing this matter with the Hillside and in that way getting what I thought would be a sufficient title, I would make an explanation. It involves a little law as well as some facts. I knew that this culm dump had been made from a coal property which was jointly owned, one half by the Hillside Coal & Iron Co. and the other half by parties whom I will designate for the moment as the Everhart estate, or the Everhart interests generally. The coal had been mined by the Hillside under an arrangement—I did not find out the particulars of that until we were together at Judge Knapp's office in which that was stated—and the Hillside Coal & Iron Co. had mined out, as coowner with the Everhart estate, accounting to them for their portion of the property entirely on a royalty basis, paying the Everhart people a half royalty, or a royalty on half of the quantity, whichever you please. That had been going on, as I understand, since 1874, without any definite writing or any lease. It all depended upon a letter written by Mr. Edward P. Darling, long since dead, to the Hillside Coal & Iron Co., and that letter had been lost. It is upon that insecure basis that the whole matter of the Hillside's operations rested. The Hillside, on the other hand, had undertaken to lease a part of this property with also a portion of an adjoining property, in which the Everharts had no interest, to Robertson & Law, also on a royalty basis; and Robertson & Law had paid royalty to the Hillside Coal & Iron Co., and the Hillside Coal & Iron Co. had accounted for that royalty as I understand to the Everhart people for their share. That had been going on for some time, until the breaker of Robertson & Law had burned down. The Robertson & Law had also at that time, I believe, a washery, and were washing the Katydid culm bank under a similar arrangement.

To explain a little further about the legal matter, I assumed that the Hillside Coal & Iron Co. and Messrs Robertson & Law would have a right to dispose of this dump, regardless of the Everhart interests, if they were willing to do so; that is to say, Messrs. Robertson & Law in making this culm bank could have disposed of every ton of coal in it without any further accounting than they did make to the Hillside Coal & Iron Co. under their lease arrangement; and if they could do that when the coal was being mined, as a lawyer I concluded that they could do that even though they had put it aside temporarily in this dump, if you please, until they wished to disposed of it. I understood also that Robertson & Law had never abandoned their claim there; that even after the washery which they built had burned down, they kept their scales there, and from time to time had sold off a few tons of coal. To use the expression of the law, they "kept their flag flying there" and kept their claim. It was my idea that, so far as the Everharts were concerned, Robertson & Law having accounted for what we know as the larger sizes or prepared sizes to the Everhart interest, in the mining of the coal themselves they had full liberty, authority, and legal power to dispose of this refuse dump without further accounting to them; and if they sold their interest, if they sold the dump, they sold a clear title to it, or a clear title, except so far as Robertson & Law were concerned, and that title was in the option which Mr. Robertson had signed. But Messrs. Welles & Torrey did not look at it in that way, and, as I have said, they advised Mr. Conn that he would not be secure in taking the property without some further assurance with regard to the Everhart interest. I thereupon started in to see what I could do about getting in the Everhart interest.

Q. What did you do?—A. I found that the Everhart interest was quite a complicated one. They seemed to have divided it into twenty-fourths. The interest in the property of the Hillside was twelve twenty-fourths; there were six twenty-fourths undivided belonging to the E. & G. Brooke Co., of Birdsboro, Pa., which left six twenty-fourths, five twenty-fourths of which belonged, as I now recall, to James Everhart or the James M. Everhart estate. That estate was represented by a gentleman by the name of Heckel, a witness who has been here upon the stand. The other one twenty-fourth belonged, if I get the names right, to the John T. Everhart estate, and the John T. Everhart estate was divided up into ramifications which I am not at this time able to follow; but among others was the interest of Mrs. Holden, wife of Mr. C. P. Holden, who was a witness here on Saturday. I got Mr. Heckel to come to my office and I talked with him in regard to getting that interest. I offered him $500 for the Everhart interest which he represented, and I also wrote a letter to the E. & G. Brooke Co. offering them $500 for their interest.

Q. Did you keep a copy of that letter?—A. Mr. Heckel was to write to the different parties, with whom he was in communication, to see whether they would accept that offer. Mr. Heckel was, as I assumed, the proper party to do this, because it was to him that the Hillside Coal & Iron Co. paid the royalty which was due to the Everharts, or to that portion of the Everharts that he represented, and every month he sent around the checks to the different people, and therefore knew them and was in communication with them.

Q. Were your offers accepted?—A. The offers were not accepted. The Brooke people wrote me a letter—I do not know whether or not it has been offered in evidence; I have it here—under date of December 13, 1911, in answer to my letter.

Mr. SIMPSON. I will hand the letter to Mr. Manager CLAYTON, and while the judge is looking it over I will ask the witness what happened in relation to the Brooke matter afterwards.

The WITNESS. I got another letter from them.

Q. Have you that letter with you?—A. I did not write them again, but I got a second letter from them after they had looked into the matter, and that is the letter which I now produce.

Mr. SIMPSON. I will also hand that letter to Mr. Manager CLAYTON. Mr. President, I offer these letters in evidence and ask that they may be marked and read by the Secretary at this time.

Mr. Manager CLAYTON. There is no objection, Mr. President.

The Secretary read the letters, marked "U. S. S. Exhibit MM" and "U. S. S. Exhibit NN," respectively, as follows:

[U. S. S. Exhibit MM.]

(Edward Brooke, president; George Brooke, jr., secretary; Robert E. Brooke, treasurer. The E. & G. Brooke Iron Co. Manufacturers of basic, foundry, and gray forge pig iron, anchor brand iron and steel-cut nails, muck bars, scrap bars, skelp. All agreements are contingent upon strikes, accidents, delay of carriers, and other causes beyond our control. Prices subject to change without notice. Address all communications to the company.)

BIRDSBORO, PA., *December 13, 1911.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: We are in receipt of your favor of the 12th in reference to the six twenty-fourths interest we have in what is known as Lot 46, which is operated by the Hillside Coal & Iron Co., and in reply would state that we appreciate very much your offer of $500, and will take the matter up, and if the same appears interesting will advise you.

Very respectfully,

E. & G. BROOKE LAND CO.,
D. OWEN BROOKE,
Assistant Treasurer.

[U. S. S. Exhibit NN.]

(Edward Brooke, president; George Brooke, jr., secretary; Robert E. Brooke, treasurer. The E. & G. Brooke Iron Co. Manufacturers of basic, foundry, and gray forge pig iron, anchor brand iron and steel-cut nails, muck bars, scrap bars, skelp. All agreements are contingent upon strikes, accidents, delay of carriers, and other causes beyond our control. Prices subject to change without notice. Address all communications to the company.)

BIRDSBORO, PA., *December 22, 1911.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: In further reply to your favor of the 12th in reference to our interest in a culm bank in the neighborhood of Dupont, Pa., beg to state that if you would make us an offer of $2,000 cash and an additional consideration of 30 cents per ton for all sizes above pea which may be discovered in washing the same would be presented to the proper parties for consideration.

Very respectfully,

E. & G. BROOKE LAND CO.,
D. OWEN BROOKE,
Assistant Treasurer.

Q. (By Mr. SIMPSON.) Did any agreement follow the communications you had with the E. & G. Brooke Iron Co.?—A. I had no further communications with them, and no agreement was made. I did not pursue that. I was not prepared to pursue that until I had seen whether I could do anything with the other six twenty-fourths of the Everhart interest.

Q. Was anything done with the other six twenty-fourths interest?—A. There was nothing further done with the other six twenty-fourths interest.

Q. You have told us that Welles & Torrey had advised Mr. Conn that he could not safely make an agreement as to the Katydid culm dump unless these interests were obtained. What afterwards followed when you found that no arrangement could be made with these people?—A. I myself also felt that I would not be willing to go any further with the matter until there had been some arrangement made with the Everhart people. I did not want to sell to anybody a lawsuit, and I did not feel as though it would be treating them properly without endeavoring to make a settlement with them. These letters from the Brooke Co. were along in the middle of December. About the last of December I went South, into Florida, and was gone about a month. I came back along in the latter part of January, 1912. I do not remember just the succession of events following, but the matter lay in abeyance without anything particular being done. I had a general idea, if I may be permitted to say so, that if the Everhart interests could be taken care of, Mr. Conn would carry out his part of the arrangement for buying the dump; and along in March I went to see Mr. Conn. I think also I had been away before that, in Washington, attending some session of the Commerce Court. I went to Mr. Conn's office really to see just how the matter stood. There he showed me a letter, dated March 13, which had been written by Mr. Williams to him. I had not seen that letter. I knew nothing about the writing of that letter, and it was somewhat of a surprise to me, because apparently Mr. Williams was doing something behind my back. After talking the matter over with Mr. Conn, I said we would consider the agreement, or the tentative agreement, off, and he would not be bound by what we had said, and I did not want to be bound. That was the conclusion reached. I took back at that time the proposed agreement which I had drawn up along in November.

Q. I notice that that agreement recites it is between Mr. Williams and yourself and the Erie & Wyoming Valley Railroad Co. Mr. Conn testified that was a mistake in the title; that it was the Lackawanna & Wyoming Valley?—A. Yes; that certainly was a mistake in the title. In the hurry of preparing it I confused the name of the Laurel line, which I am not quite sure of now, because we all speak of it by that term, with another railroad there which is called the Erie & Wyoming, which was pretty nearly on the same parallel with the Laurel line.

Q. Was anything ever done with Mr. Conn in regard to the matter after the interviews about which you have testified?—A. No.

Q. Now, there appears in evidence here an option dated April 6, 1912, Exhibit 26, page 357, given to Thomas Jones—an option on the Katydid culm dump for 10 days for $25,000. What knowledge have you in regard to that option?—A. I drew that option; at least I dictated that option to my stenographer in my office. Mr. Williams brought Mr. Jones to my office. The talk between him and Mr. Jones and me there was that Mr. Jones would like the property and was willing to take the risk of the title. That was the particular point, and that is the reason why the option was framed in the particular form in which it was framed. On the 1st of April the anthracite coal miners went on a suspension, coal began to be very scarce, and there was a good deal of scurrying around to get hold of such things as these culm dumps. I knew of Mr. Jones being active in the sale and disposition of such dumps. I also had heard of others, so that I realized somewhat how Mr. Jones came to be there upon that errand. The price was discussed between us. I think Mr. Jones came in twice. I think he had been in my office a few days before this option was drawn and that a price was talked over of $23,000, but when the option was drawn it was fixed at $25,000. In order to meet the Everhart interest, which, as I say, I felt ought to be protected in some way, Mr. Jones advanced the idea that he would put one-quarter of the purchase price in the bank to the credit of the Everharts, and in case they established their title to it it would go to them. That was one suggestion made. I think after considering that I was not willing, I did not feel as though that would be the way to dispose of it, and therefore the final arrangement was that Mr. Jones in this option was simply to get the interest or the title that Mr. Williams had by virtue of the two options which he held; and you will see, if you will examine it, as I remember it, that the option is framed with that distinctly in view—that he was to take the risk as to anything and to get in the Everhart interest if that became necessary.

Q. At the time that option to Jones was dictated who was present?—A. When we had talked over the form of the option I called in my stenographer, by a bell call, and she came in and I dictated it. Whether Mr. Jones and Mr. Williams were present during the immediate time it was being dictated I do not know. Very possibly they went out into the hall or the corridor adjoining my office and were there. I could not say about that. I have no remembrance about it. It is very possible; it is very likely.

Q. After the option was drawn what was done with it?—A. It was read over and Mr. Williams signed it, and, as I say, it was put in the particular form—I did not join in that option——

Q. I understand that. Go on.—A. I did not join in that option, because the understanding with Mr. Jones was it was simply what Mr. Williams had said that he took.

Q. And what was done with the paper itself after its execution?—A. It was delivered to Mr. Jones.

Q. What became of it afterwards?—A. I never heard, except in the most general way. I did not hear it was accepted. Almost immediately following that I was called down here to attend a session of the Commerce Court, and was here for some 10 days, I should say, in attendance upon the court. I think I came down here on the 8th of April and that I did not get back home, in Scranton, until about the 20th.

Q. Who was with you down here during that time?—A. Mrs. Archbald was with me all the time except the first two days.

Q. And you stopped at what hotel?—A. I stopped the first two days, when I was by myself, at the Hamilton Hotel. When she came we took rooms at the Grafton.

Q. What knowledge had you of the attempt to sell the dump to Mr. Bradley?—A. I had no knowledge whatever. I never had seen Bradley. I knew him by name, because he has been successful in culm dumps and because of his success in handling them that way, but I never had seen him, and I never heard of

the proposed sale to him until that was brought out in the hearings in May before the Judiciary Committee.

Q. Then I may assume, may I, that you knew nothing of the letters and draft of agreement, and so on?—A. Absolutely nothing.

Q. And I may assume, also, that you knew nothing of Capt. May's recalling that agreement and the memorandum he made in regard to it?—A. Absolutely nothing.

Q. What knowledge had you of the visit of Mr. Holden to Capt. May on April 11, 1912?—A. None whatever.

Q. And what knowledge had you of the notice given by Mr. Holden and Mr. Heckle and Mr. Bevan to Capt. May and to Robertson & Law?—A. I never heard of it until it was brought out in the hearings before the Judiciary Committee.

Q. And is that true, also, of the notices given by Mr. Saltonstall and Mr. Rice Taylor?—A. It is.

Q. Mr. Williams testified that he wanted to sell the dump to Bradley, but that you did not, because you thought you could get more for it later on. What is the fact in regard to that?—A. The only thing I can think of that that may possibly refer to is this: I should say that happened some time this summer. I remember that Mr. Bradley and Mr. Williams came to my office some time along during the summer.

Q. Of what year?—A. Of 1912. I should say along in July. Of course that was after the hearings before the committee had been completed. That was the first time I had seen Mr. Bradley in Scranton. I had seen him, of course, when he was testifying here before the Judiciary Committee. Mr. Williams brought Mr. Bradley there and the suggestion was made that Mr. Bradley would buy the property, and I deprecated that, because it could not be done unless the Everhart interest was taken care of, and that interest had not yet been obtained. And I told Mr. Williams at that time that there would be no loss upon it, because the values of these culm dumps were not depreciating and might possibly be more if he waited than they were at that time. I think that is the only explanation I can give.

Q. What knowledge had you of the value of the Katydid culm dump?—A. Personally I had none. I knew in a general way what section of the country it was, because I am pretty well familiar with the surroundings; but I actually never had seen it, and found that it really was located somewhat differently from what I had supposed. I am no expert on culm dumps. I had no idea what the value was. I got my idea only from what others said about it.

Q. You said you did not see the dump itself until the summer of 1912?—A. Until some time in August, the latter part of August, of this last year.

Q. That was when this matter was pending before the Senate?—A. After the present articles had been preferred to the Senate.

Q. Then I will ask what knowledge you had, if any, as to the quantity or quality of the coal in the dump prior to that visit?—A. I had no actual knowledge. Of course, the matter had been discussed as to how much there was in the dump. I had talked that over with Mr. Conn, and Mr. Conn had told me what estimates he had and what he believed there was in the dump. My remembrance is that he spoke of something like forty-five thousand to fifty thousand.

Q. Was that during the conversations when you were endeavoring to sell it to the Laurel line?—A. Yes.

Q. That was the first knowledge you had of any figures in regard to it?—A. I will not say that, because Mr. Williams had talked about it. Mr. Williams had a very much larger idea about it, but I learned from Mr. Conn, and I think also from Mr. Williams, that Mr. Williams had tried to persuade Mr. Conn that there was very much more in there than Mr. Conn was willing to believe, and tried to get Mr. Conn to make a cash offer, first wanting him to pay $25,000 for it and subsequently coming down to $18,000, without Mr. Conn being willing to close it.

Q. It has been testified here that at some time prior to the visit you made to Mr. Richardson in New York Mr. Richardson had concluded that he would not sell the culm dump. What knowledge had you of that?—A. I had not any knowledge of that. I had not heard definitely what the Hillside Coal & Iron Co. were willing to do about it.

Q. Did you have any further communication with either Mr. Brownell or Mr. Richardson after that interview of August 4, 1911?—A. None whatever.

Q. What knowledge had either May or Richardson or Brownell as to your interest in the purchase of the dump?—A. In my very first letter to Capt. May, I addressed him in my own name, asking him to fix a price. I spoke to Mr. Brownell and Mr. Richardson in regard to the matter in a way that they must have known that I was interested, because I told, for instance, Mr. Brownell, that I was trying to get the conflicting interests together, and in that way avoid any question or controversy between the Hillside and Mr. Robertson.

Q. It appears in evidence here that at some time after the giving of the option by Mr. Robertson to Mr. Williams that option was recorded. What knowledge had you on that point?—A. I had none. It was absurd to record that, because the recording was only good as to the grantor in such a matter as that, and the grantor did not acknowledge it. It was acknowledged by the grantee. It was not acknowledged by Mr. Robertson, but somebody had procured Mr. Williams to acknowledge it and put it on record. That amounted to nothing.

Q. There has been offered in evidence a paper marked "Exhibit No. 7," page 157, which we have spoken of as the silent-party paper, dated September 5, 1911, and executed by Mr. Williams, in which he purports to assign to "William P. Boland and a silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May," a two-thirds interest in the Katydid culm dump. Will you please tell us what knowledge you had of the paper?—A. I never heard of that paper until it was produced before the Judiciary Committee. I would not have submitted to any such paper being drawn if I had had any notice of it.

Q. What knowledge had you of any claim of W. P. Boland to it at any time?—A. Mr. Boland's name was mentioned in this way by Mr. Williams, at the first part: He said Mr. Boland could sell—as I said a few moments ago—I had asked as to the ability to dispose of this, and Mr. Williams, among other things, said that Mr. Boland would be able to dispose of it. I did not know what interest he was going to give Mr. Boland for that. I did not know whether he was going to give him any interest.

Q. Will you tell us, please, whether then, or at any other time, you concealed or asked anybody else to conceal or knew of any attempt to conceal your interest in this matter?—A. On the contrary, I appeared very prominently in it, and I know it was known that I had an interest, because several parties, independently of those whom I have mentioned, came to me to see whether they could get this property. Among others there comes to me now a man by the name of Col. Keck, who lives at Wilkes-Barre.

Q. You did not quite answer the question, I think, or perhaps you did—whether you made any attempt or was any party to any attempt to conceal?—A. Certainly not; certainly not.

Q. In the course of your general narrative, I think you failed to refer to a letter of September 20, 1911, marked "Exhibit No. 10," page 184, in which you introduced Mr. Williams to Mr. Conn. Do you remember the giving of that letter?—A. I do not remember particularly about that letter; but undoubtedly I wrote it, so as to have Mr. Williams speak with Mr. Conn; and I think it was in consequence of that letter that Mr. Conn went with Mr. Williams to look at the dump which I had spoken of.

Q. You spoke of an interview in Scranton with Welles & Torrey and with Judge Knapp. You mean Judge Knapp, of Scranton, and not Judge Knapp, of the Commerce Court?—A. Yes; Henry A. Knapp, of Scranton. He is one of the firm of Warren, Knapp & O'Malley.

Q. Is that the gentleman who testified here? I do not mean Judge Martin Knapp, of the Commerce Court, but the member of the firm of Warren, Knapp & O'Malley who testified here?—A. Yes, sir.

Q. When and from whom did you first learn that an investigation or examination was being made in regard to your conduct in relation to these various matters?—A. I learned that in this way: A lawyer by the name of John F. Scragg, who lives about a block above me, whom I have known a long while, came to me one evening and told me that complaint had been made by Mr. Boland to the Interstate Commerce Commission in regard to the disposition of the Marian Coal Co. matter. That was early in March, 1912. I was very much surprised at the matter, and he told me a good many things in connection with it. If you want me to go into it in detail, I will be very glad to do so. Among other things he said, referring to the attempted settlement, which I presume you will ask me about in a few minutes, of the Marian Coal Co.'s affairs with the Delaware, Lackawanna & Western, that it had been advanced by Mr. Boland and, I believe, also by his attorney, Mr. Harry C. Reynolds, that that was a scheme on my part to carry the matter along; that it was not undertaken in good faith, and that it was merely for the purpose of enabling the proceedings which were pending in the court by Mr. Peale against the Marian Coal Co. to come to a head and ruin that company in the interest of the Delaware, Lackawanna & Western Railroad or Mr. Peale, and that——

Q. Well, was there any truth in those statements?—A. Oh, absolutely none. As I say, Mr. Scragg went into a great many details of that kind. He suggested that Mr. C. G. Boland was

somewhat disturbed over it, this complaint having been made by his brother, and he also told me that Mr. W. P. Boland had sent for Mr. Williams and got him down and taken him before the Attorney General and taken Mr. Williams's statement in regard to the sale or attempted sale of the Katydid dump. I can hardly remember at this time, but he said that the Department of Justice were going to send up two detectives; he said—he called them that—that they were coming to Scranton to investigate the matter.

Q. It has been suggested here that the attempts to sell the Katydid culm dump ceased because of that investigation. What is the fact in regard to that matter?—A. There is no connection whatever with that.

Q. Why did the attempt cease?—A. Simply because the Everhart interests were outstanding, and, as I said before, I was not willing to participate in any disposition of the property which left them out.

Q. When did you first learn that Mr. Williams was coming to you and getting you to give letters and papers, and so on, at the suggestion of W. P. Boland?—A. When it came out in the hearing before the Judiciary Committee.

Q. Mr. Williams testified that at some one interview in your office he saw a brief or trial list or some paper there which had the word "lighterage" on it, and that he had a conversation with you in regard to it. Will you tell us, please, what paper, if any, he saw with that word on it?—A. There is no paper that I ever had in my office that had the word "lighterage" on it except one. If I may have my papers here I would show that one. That [exhibiting] is an argument list which was sent out for the October term of the Commerce Court.

Q. About when was that received by you?—A. I should say along about the middle of September, 1911.

Q. Did you have any conversation with Mr. Williams in relation to lighterage at all?—A. I do not remember any. I do not see how I could. I find, I might say, on that argument list in an obscure place the word "lighterage." It is on page 12.

Q. That is the same book or a copy of the same book, is it not, that was produced in evidence on behalf of the managers?—A. It is a copy of the same book except that this has my memoranda in it. I used that at the time of the argument in the Commerce Court in October.

Mr. Manager STERLING. Is that the October calendar?

Mr. SIMPSON. Yes. I think the same as you have produced. I do not think we need offer it in evidence.

Mr. WORTHINGTON. Have it marked for identification, at least.

Mr. SIMPSON. I will ask the Secretary to mark it, then, please. At the suggestion of my colleagues I will offer it in evidence, but not ask to have it printed or read, though we may use it in argument.

Mr. Manager CLAYTON. That is agreed to, Mr. President.

The PRESIDENT pro tempore. The paper will be marked as suggested but not printed.

Q. (By Mr. SIMPSON.) It is also claimed that on some occasion or other you said to Mr. Williams that you might do harm to some officials of the Erie Railroad Co. if what you desired done was not done. Will you tell us please whether any such conversation took place; and if so, what was said?—A. Impossible; absolutely not; there could not have been such a thing; I would never have thought of such a thing.

Q. It also appears in the examination of Mr. Williams at the time he was subpœnaed to appear before the Judiciary Committee of the House that you purchased his ticket to enable him to come down here. Please tell us the circumstances appertaining to that.—A. Mr. Williams came to my office, I think it was Monday morning, and showed me a subpœna. He had already been subpœnaed to come down here. That was the first I knew as to the starting of the hearings before the Judiciary Committee. He told me that he had absolutely no money. I knew he was in that condition as a rule. He wanted me to let him have enough money to take him down here. I told him I could not do that, but I further said to him that I would have to go down to Washington at once, and based upon that information I immediately formed the determination to go on the noon train, what we know as the noon train, leaving Scranton at 12.40. I told him if he would be at that train I would buy a ticket for him, and I did—down and back.

Q. Who brought the attention of the Judiciary Committee to that fact?—A. I stated that to Mr. Worthington and Mr. Worthington told the Judiciary Committee that fact. I might say——

Q. Go on, please, if there is anything else.—A. Well, I do not know whether your question involved that inquiry, but I wanted to say that I did not feel as though I wanted Mr. Williams to be put in the position of not going. I did not know but that an attachment would come out for him, as it probably would if he did not go. He is an old man, and I have sufficient respect for him——

Q. What did you tell him?—A. I told him I would buy the ticket and I did buy the ticket.

Q. What did you tell him regarding his testimony, if anything?—A. Oh, I said, "Edward, go down there and tell the truth. That is all there is to it."

Q. In testifying regarding the interview you had with Mr. Brownell and Mr. Richardson, you said after you left Mr. Richardson's office you might have gone back to Mr. Brownell and said something to him. Have you any recollection of having gone back or having said anything?—A. No clear recollection; no.

Q. Why did you get back the contract that was drawn, to be executed between Mr. Williams and yourself and Mr. Conn in relation to the Katydid dump?—A. Because we both declared the deal off.

Q. That was the only reason?—A. That was the only reason.

Q. The article we are now considering charges that you used your influence as a judge to obtain that Katydid culm dump. Will you tell us, please, what the fact is in regard to that?—A. That is absolutely untrue, if I may so speak. I used no influence nor did I endeavor to use any influence. I had no idea it would make any difference. I do not believe it did.

Q. The people to whom you spoke are the only ones who could tell about that. Did you use or attempt to use corruptly any influence in regard to the matter?—A. As I have already said, when I went to see Mr. Richardson I told him——

Mr. Manager STERLING. Mr. President, we object to this line of testimony for the reason that it is a conclusion. It is a conclusion the Senate must draw from the facts in the case, and for that reason it is not competent for the witness to draw the conclusion. Therefore we object to that line of testimony.

Mr. WORTHINGTON. I submit, Mr. President, that it is one thing that only this witness can testify to, and that is the most important thing in this whole case, and that is, what was his intent in the matter—what was going on in his mind.

The PRESIDENT pro tempore. The witness can testify to any affirmative acts on his part.

Mr. Manager STERLING. I desire to say that Mr. Worthington raises still a further question. We objected to this witness making these statements because they constitute a conclusion drawn by the witness. Mr. Worthington makes the point that he can testify as to his intent. We want to object to testimony along that line, too.

The PRESIDENT pro tempore. That has not been considered in ruling on the present point. The view of the Chair is that the testimony of the witness will not militate against the consideration of the contention of the managers as to what are proofs of a purpose of that kind. At the same time the respondent is entitled to negative the suggestion of any act on his part. It does not necessarily refer to the act which has been proven. It would go still further and would be a denial by him of any affirmative act on his part to accomplish that end.

Mr. Manager STERLING. I think there is a different understanding between the President and myself as to what the witness has said. The witness said he did not believe that he influenced him.

The PRESIDENT pro tempore. The Chair understood the question to be whether the witness had attempted to influence him. The Chair may be in error in that regard.

Mr. Manager STERLING. I should like to have that part of the answer read.

The Reporter read as follows:

Q. The article we are now considering charges that you used your influence as a judge to obtain that Katydid culm dump. Will you tell us, please, what the fact is in regard to that?—A. That is absolutely untrue, if I may so speak. I used no influence, nor did I endeavor to use any influence. I had no idea it would make any difference. I do not believe it did.

Q. The people to whom you spoke are the only ones who could tell about that. Did you use or attempt to use corruptly any influence in regard to the matter?—A. As I have already said, when I went to see Mr. Richardson I told him——

The PRESIDENT pro tempore. The last part of it the Chair does not think is legitimate.

Mr. SIMPSON. I interrupted him.

The PRESIDENT pro tempore. That is excluded.

Q. (By Mr. SIMPSON.) Returning, Judge Archbald, to the second article of impeachment, will you state to the Senate, please, your knowledge of and your connection with the attempt to settle the dispute between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.?—A. That came about entirely in this way: Some time early in August of 1911 Mr. George M. Watson, an attorney of Scranton, came to me and said that he had been employed to settle the pending difficulties between the Marian Coal Co. and the Delaware, Lackawanna &

Western Railroad. He said that the time seemed opportune, because, as he understood it, the testimony had closed, or the last taking of testimony in that case, some time in the spring, and there had been a suggestion of a possible settlement, and he wanted to know whether I was acquainted with Mr. E. E. Loomis, first vice president of the Delaware, Lackawanna & Western Railroad. I told him that I was. He then asked me if I would see Mr. Loomis and suggest to him that if he, Mr. Loomis, would call on him, Watson, the case could be settled. He said that he wanted me to do this in order to make a favorable introduction of him to Mr. Loomis, and it was only upon that basis that I undertook to do what I did.

Q. Go right on, please, with the story.—A. I had occasion after that, within a day or two, to go to New York. It was on the concluding day that I was there in connection with my holding of court in that city that I went to see Mr. Loomis at the office of the D., L. & W. Railroad Co. Mr. Loomis formerly lived and was connected with the Lackawanna Railroad Co. as an official in Scranton. I knew him personally and socially as well as officially. I went to him and asked him whether he would care to settle the troubles that they had with the Marian Coal Co. He immediately began to rehearse those troubles to me, and I, after listening to him a little, told him the more he talked about it the more it seemed to me a very good thing if the difficulties could be settled, and that all I came there to suggest was that I understood Mr. George M. Watson, an attorney of Scranton, had been retained by the Bolands to try and effect the settlement, and if he would call on Mr. Watson or send for Mr. Watson they could talk it over. That was all that was said, and I left his office.

Q. Just go on and take up the narrative from that point to the end. Give us a full history of it chronologically.—A. I heard nothing more for, I should say, something like three weeks, when Mr. Watson came to me one day and asked me whether I had done as I said I would. I told him I certainly had; that I had seen Mr. Loomis and given his name, and I understood from Mr. Loomis he was going to send for him, Watson. Mr. Watson said he had not done so, and that the Bolands were very anxious to have him do something, and he wanted to know whether I would not undertake to see Mr. Loomis again. I was somewhat reluctant about it, but I told him that I would. I found out that Mr. Loomis was to be in Scranton on one of his regular visits of business of the company that day. I called up his office in the Delaware, Lackawanna & Western station, and I finally, through that telephone communication, obtained an appointment with Mr. Loomis at the Scranton Club that evening. I went and saw him there and had a somewhat similar talk, perhaps a little more extended with him than I had the first time, but in purport the same. He said he was rather surprised that Mr. Watson had not been spoken to, because he had given directions to that effect, and he said that he would see that Mr. Watson was notified.

Q. Go right on.—A. Well, I really do not know exactly the next step in the matter, but I think it came about that Mr. C. G. Boland came to see me. I had known Mr. Boland 30 or 40 years; I can not tell just how long. I knew him familiarly enough to speak of him by his name. People call him "Christy." I talked with him in a friendly and familiar way every time we met. He came to me in my office on one occasion (I can not fix the exact date; I have no means of doing it) and told me about this settlement. He said that the matter was preying on the mind of his brother, W. P. Boland, and he expected if it went on further that it would end in his brother going to an asylum. My impression is that tears came to his eyes, and he drew upon my sympathy in that way by what he said and in his appearance. He asked and spoke about this settlement, and wanted me to see what I could do with regard to it. He came two or three other times in a similar way at a later date. I can not fix the time when that occurred. The next thing I think I did was a letter that I wrote to Mr. Loomis. That I did at the instance of Mr. Watson particularly, in which I suggested an interview with Mr. Watson. Perhaps I am not clear about that or about those letters.

Q. Go right on, as you now recall it, and give us the story in chronological order up to the end, and then I will fill in the gaps, perhaps.—A. I came down here to Washington. My duties as judge of the Commerce Court called upon me to do that. I was here from the very first day of October until the very last day of October. I remember distinctly that just before I came the interview that Col. Phillips has testified to.

Q. You testify to it. Let us get your version of it.—A. I wanted to see Col. Phillips about the matter. I think it was either through Mr. Watson or Mr. Boland; I can not tell you which now.

Q. You mean C. G. Boland?—A. Yes; C. G. Boland. I never had anything to do with Mr. W. P. Boland. Mr. Phillips was to see me Saturday morning. Saturday morning I got a telephone communication that he would see me Saturday afternoon. I told him Saturday afternoon was my holiday, and that I could not see him then; so an appointment was made to see me at my house in the evening. He came to my house and we discussed the matter there. He did most of the talking. His suggestion was that there was no chance, as I remember about it—no hope of settlement—because the ideas of the Bolands were very high as to the value of the thing, and the idea of the company was that they did not have very much to dispose of. The next thing that occurred, I think, was when I wrote a letter, after coming down to Washington, to Mr. Loomis, which was suggested, at the request of Mr. Watson, asking for an interview, that there might be another interview in which Mr. Truesdale as well as Mr. Loomis would be present. I learned afterwards that that interview took place. Then I got the telegram from Mr. Watson saying he wanted to see me and asking when he could see me down here. I made the answer, which has been put in evidence, that he could see me at almost any time. A subsequent telegram advised me that he was going to be at the Raleigh. I went to the Raleigh that Saturday afternoon between 1 and 2 o'clock and saw him there. We talked for a while there and then went up to my office in the Commerce Court chamber. We talked there all the afternoon. He suggested as a reason for his coming down that the Bolands wanted him to come. They wanted him to come and see me and see whether something additional could not be done to that which had been done about settling this case. I did not have anything to suggest and did not suggest anything. He also wanted a copy of the record in the Meeker case—the case brought by Mr. Meeker against the Lehigh Valley Railroad with regard to coal rates there and similar points to that from which the Marian Coal Co. were shipping their coal. I got him that record so far as it was then on file. I subsequently secured for him the briefs which were filed and sent them to him. A friendly intercourse with a party such as he was, from Scranton, consumed the afternoon. I also took him and introduced him to some of the judges of the Commerce Court.

Q. What happened in relation to this question of settlement after that date?—A. As I said a few minutes ago, I was here until the last of October, and then I went back to Scranton. Then Mr. Boland came to me and talked with me about seeing Mr. Loomis again, and I made an appointment with Mr. Loomis and saw him along, I think, about the middle of November, and to see whether the D., L. & W. Co. would make any definite offer of any kind, small or large, so as to see whether there was any prospect or hope that the parties could get together. The talk of Mr. Loomis at that time as of Mr. Phillips in his interview with me was that there was nothing of value that the D., L. & W. Co. wished to take over.

Q. Did you communicate that fact to Mr. C. G. Boland?—A. I communicated that fact to Mr. Boland, in the letter which I produced at the hearing before the Judiciary Committee and which has been put in evidence here, I think it is of the 13th of November, in which I spoke of him as "Dear Christy."

Q. You returned to him, I think your letter says, certain papers. What were those papers?—A. For the use of Mr. Watson, as I understood it, in trying to make the negotiations with the D., L. & W. Railroad Co., a statement had been made up by the Bolands with regard to their claim. Mr. Watson wanted me to look over that and see what I thought of it. I did not look it over until after I had come back from the session of the Commerce Court in October, and I did then look it over just prior to my seeing Mr. Loomis. In that statement there were three things in particular that I remember now. I can not give you a great number of details about it, but I remember the aggregate amount of that statement and somewhat how it was made up. I remember that the aggregate amount of that claim was something over $160,000, and that one item of that claim was the so-called shipping claim for moving a certain part of the coal from the line of the D., L. & W. to some other road. I was quite surprised, and that is what called my attention to it, that that claim was so small, because I understood that it was of considerable magnitude; while there was 30 cents a ton switching charge, it was only for a few thousand tons and only amounted to three or four thousand dollars. But the particular thing that impressed itself upon me as I looked upon that statement was the fact that the aggregate was made up by taking the total tonnage that had been shipped by the Marian Coal Co. and multiplying it by an alleged excess charge of some forty-odd cents, and that with the small amount of the switching charge amounted to this aggregate of something over $160,000. The excess rate was something over 40 cents.

Q. Forty cents a ton, you mean?—A. Forty cents a ton. In the hearing before the Commerce Court, the hearing of the

Meeker case, the reduction by the Interstate Commerce Commission in favor of Mr. Meeker on coal shipped of similar character a similar distance to tidewater was 10, and I think in some instances 15, cents. The disparity between that which they had allowed to Mr. Meeker and that which was claimed on behalf of the Marian Coal Co. struck me at once and seemed to me to make the claim of the Bolands impossible of being supported. Those three things—the aggregate amount, the small amount of shipping charge, and the large amount as it seemed to me at the time of the excess claim of rate—were the three things that impressed themselves upon my mind and made me feel that the parties were too wide apart to ever get together.

Q. And that paper showing this data as you have given it to us was sent with your letter of November 13, 1911, back to Mr. C. G. Boland, was it?—A. It was.

Q. Did you ever see those papers afterwards?—A. Never.

Q. You have told us how long you had known Mr. Boland. Will you tell us, please, how long and how well you had known Mr. Watson at the time of this negotiation?—A. I had known Mr. Watson for about 30 years, and I esteem him exceedingly. He has come up from very humble beginnings in a way, of good family, but originally having to support himself at his trade as a carpenter. Subsequently he was a constable there in Scranton. Then he studied law, and he went on so that he became city solicitor of the city of Scranton. Later on he was nominated at the primaries and ran for judge of the county upon the death of Judge Gunston, one of my associates, and while he did not succeed, he made a very creditable showing. He is now county solicitor. As I said, Mr. Watson was an aspirant for the position which I subsequently filled when the district was created.

Mr. Manager STERLING. Mr. President, I do not like to object so often, but certainly this is improper evidence. I do not understand that it is the province of the respondent to give a good character to the men who testify in his behalf.

Mr. SIMPSON. I have not asked any questions of that kind. That is not one of the points in my question.

The PRESIDENT pro tempore. The Chair will suggest to counsel that under the peculiar circumstances, the witness testifying in his own behalf, his own counsel ought to guide him as to matters where he is disposed to go beyond a proper point, and not leave it to the managers to object.

Mr. SIMPSON. I asked a perfectly proper question and no objection was made to it.

The PRESIDENT pro tempore. The Chair is not criticizing the question at all.

Q. (By Mr. SIMPSON.) There appears in evidence as Exhibit 32, page 397, a paper signed by the Marian Coal Co., W. P. Boland, president, directed to C. G. Boland, dated August 23, 1911, in which the Marian Coal Co. agrees to pay to Mr. Watson $5,000 if a satisfactory settlement is made of their claim against the Delaware, Lackawanna & Western Railroad Co. Will you tell us, please, what knowledge you have of that paper?—A. I never heard of that paper until it was produced at the hearing before the Judiciary Committee.

Q. It was testified here that that paper was prepared as the result of an interview in your office at which you and Mr. C. G. Boland and Mr. Watson were present. Will you tell us, please, what the fact about that is?—A. It was not prepared in that way. I never heard of it, as I said. It is a letter, as I understand it, addressed by one Boland to the other.

Q. Yes; it is so addressed, I think; but do not go into that. You have no knowledge of it or of the intention to prepare such a paper? Is that correct?—A. Never.

Q. What knowledge had you of Mr. Watson's claim to $161,000 as a settlement?—A. I knew that that was the claim that he was to make to the Delaware, Lackawanna & Western Co., and I knew that is was substantiated apparently by the statement which I saw.

Q. You knew that was the claim he was to make, from whom?—A. That he was to make on behalf of Boland from the Delaware, Lackawanna & Western Co.

Q. From whom did you know that he was to make that claim?—A. Oh, I knew that that was the talk from Mr. Watson. I am not sure whether Mr. Boland referred to the amount in his several conversations with me or not.

Q. What knowledge had you of the value of the plant and assets of the Marian Coal Co.?—A. I had none. I never had. I had never seen it.

Q. What knowledge had you of the valuation put upon the plant and assets of the Delaware, Lackawanna & Western Railroad Co.?—A. None.

Q. Had you any knowledge, and if so what, of the valuation put upon the rate claimed by either the Marian Coal Co. or the Delaware, Lackawanna & Western Railroad Co.?—A. I only know what I have already said, that it was 43 cents, or something like that—forty-odd cents.

Q. Was there an interview between yourself and C. G. Boland and Mr. Watson in your office on or about August, 23, 1911?—A. I have no memory of any.

Q. Or at any other time?—A. I have no remembrance of any such at any time.

Q. Did you make any suggestion at any time to anybody or under any circumstances that the amount to be paid Mr. Watson for his services should be put in writing?—A. No; oh, no. Mr. Watson came to me and told me he was to get $5,000.

Q. You have already testified to an interview, though you have not fixed the date, as I recall it, at which Mr. Truesdale was present, October 5, 1911. Tell us, please, whether you were requested to be present at that interview.—A. No.

Q. Or at any other interview?—A. No.

Q. Or was any request ever made to you to be present at any interview between Mr. Watson and any official of the Delaware, Lackawanna & Western Co.?—A. No; no request of that kind.

Q. Tell us, please, what, if anything, you had to do with the case of Peale against the Marian Coal Co. except as appears in the record of the court.—A. None. I had none. I made two orders in that case; that is all.

Q. They appear of record?—A. Yes.

Q. Did you have any connection or do anything in regard to that case after you ceased to be judge of that court?—A. Certainly not.

Q. It appears in evidence—and some point has been made of it—that several of the letters which were written were written on paper which bore the Commerce Court title. Will you tell us, please, how that came about?—A. Very probably because I did not have any other paper.

Q. Where were those letters written?—A. I think they were written in my office by dictation. I think some of them appear in my handwriting; I am not sure about that. I have not examined them. So far as they appear by dictation, if they are dated Scranton, they were dictated to my stenographer and she took them off, using the paper that was at hand.

Q. Tell us, please, what object you had, if any, in using that paper instead of some other paper?—A. No object; no purpose in that.

Q. You have told us that you acted in these matters partially at the request of Mr. Watson and partially at the request of Mr. C. G. Boland. Did you act in it at the request of anyone else except those two gentlemen?—A. No.

Q. Tell us, please, whether or not there was any agreement or understanding of any kind or character, express or implied, that you were to receive any portion of the fee of $5,000 which Mr. Watson was to get if he satisfactorily settled that case?

Mr. Manager STERLING. Mr. President, I object. It calls for a conclusion. The witness can state what was said and done.

Mr. SIMPSON. I asked him if there was any agreement or understanding, express or implied. It calls for a statement as to a fact.

Mr. Manager STERLING. It calls for a conclusion. It is for the Senate to determine whether there was any agreement.

The PRESIDENT pro tempore. The stenographer will read the question.

The question was read by the Reporter.

The PRESIDENT pro tempore. The Chair thinks the counsel will be permitted to inquire of the respondent what agreement there was, if any.

Mr. SIMPSON. I am quite willing to put it in that way. [To the witness:] What agreement, if any, express or implied, was there between you and Mr. Watson or anybody else on the subject of your getting any part or portion of the fee of $5,000 if he settled satisfactorily the litigation between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.?—A. None whatever. The matter was never suggested; never mentioned.

Q. Will you tell us, please, whether or not there was any conversation or letter with you or written to or by you that you were at any time or under any circumstances to get any part or portion of any sum over $95,000 which might be received by Mr. Watson in the settlement of the controversy?

The PRESIDENT pro tempore. The Chair thinks the counsel should put that question in the same way as the other.

Mr. SIMPSON. My colleague interrupted me when I was drafting it.

The PRESIDENT pro tempore. What, if anything.

Mr. SIMPSON. I thought it was put that way. [To the witness:] What, if any, conversation or correspondence was there in that regard?—A. None whatever; absolutely none.

Q. What knowledge, if any, had you, assuming it to exist, of any intention to give you any money or consideration whatsoever for the services which you rendered or that which you did in regard to that matter?—A. I had none. I do not believe anybody would have offered it.

Q. Will you tell us, please, then, if there was nothing to be paid to you of any kind or character?

Mr. Manager STERLING. Mr. President, as to the last answer of the witness——

The PRESIDENT pro tempore. The Chair will not desire to hear from counsel. The last answer was improper.

Mr. SIMPSON. The last part of the answer.

Mr. Manager STERLING. I should like to say, inasmuch as the one asking the question is a very able lawyer and the one answering it is a very distinguished judge, they ought to confine the examination within the required limit without any objection on the part of the managers being necessary.

Mr. SIMPSON. You can not say that the question asked was in the slightest degree objectionable.

Mr. Manager STERLING. The answer was quite improper.

The PRESIDENT pro tempore. The Chair will rule that the last sentence was not a legitimate answer to the question and is not to be considered as evidence.

Mr. SIMPSON. It was not even responsive to the question. [To the witness:] If there was no consideration to be paid to you for your services in relation to this matter, will you tell us, please, why you undertook to do what you did in that settlement?—A. What was asked me in the first place to do was a very inconsiderable matter. It was simply that I would speak of Mr. Watson to Mr. Loomis, that it would make a favorable introduction. That was the whole thing. There was never any idea of doing anything more. Whatever I did beyond that I was pressed to it by Mr. Watson and by Mr. Boland, and out of friendship to them, as much I might say out of friendship to Mr. C. G. Boland as out of friendship to Mr. Watson.

Q. State what if any influence as judge you exercised in relation to the matter.—A. None that I was conscious of.

Q. From whom did you first learn that the Oxford colliery was for sale?—A. I learned that from Mr. John Henry Jones.

Mr. NELSON. Mr. President, I submit the following question.

The PRESIDENT pro tempore. The Senator from Minnesota presents the following question, which he desires to have propounded to the witness. It will be read to him.

The Secretary read as follows:

Was this case, or any part of it, pending in the Commerce Court while you were helping to effect a settlement, as you have stated?

The WITNESS. It was not. The effort at settlement was to prevent it getting there.

Mr. Manager STERLING. Mr. President, in order that I may understand, I should like to inquire what case was referred to in the question. Is that the Peale case that was in the district court?

The WITNESS. I understood it was the case with regard to rates pending between the Marian Coal Co. and the D., L. & W. Railroad.

Mr. Manager STERLING. It was not the case, then, in which the Delaware, Lackawanna & Western Railroad Co. was a party in the Commerce Court?

The WITNESS. It was not in the Commerce Court.

Mr. SIMPSON. It was the rate case before the Interstate Commerce Commission.

Mr. Manager STERLING. The Delaware, Lackawanna & Western Railroad Co. was involved in two cases, one pending in the Interstate Commerce Commission and one pending in the Commerce Court. I think the witness ought to know which case he is referring to, and I doubt if he does.

The WITNESS. I would like the question again read to me, if I may have that done.

Mr. WORTHINGTON. I submit that the statement is quite objectionable, when the manager says that the witness does not know what he is talking about. I think he knows very much more about it than does the manager.

Mr. Manager STERLING. I did not say that with any idea but of fairness to the witness and so that we, too, might understand it.

The PRESIDENT pro tempore. The Chair understood the manager to make the suggestion in order to correct a mistake. The question will again be read to the witness.

The Secretary read the question, as follows:

Q. Was this case, or any part of it, pending in the Commerce Court while you were helping to effect a settlement of it, as you have stated?

The WITNESS. I understand that question is directed to the case that was pending before the Interstate Commerce Commission in which the Marian Coal Co. was the complainant and the D., L. & W. Railroad Co. was the respondent. It was with reference to the settlement of that case that the negotiations undertaken by Mr. Watson were carried on. That case was not in the Commerce Court, and is not there now, as I understand, though I do not know whether it is or not, but it was not there then. If it had been settled, it would never have come there.

Mr. SIMPSON. Is that all, Mr. Manager STERLING?

Mr. Manager STERLING. That is all.

Q. (By Mr. SIMPSON.) From whom did you first learn that the Oxford colliery was for sale?—A. I first learned that from Mr. John Henry Jones.

Q. What did you do in relation to that, stating it in a very brief way, please?—A. Mr. John Henry Jones said that the Oxford colliery, the Oxford washery, which was washing the dump belonging to the Girard estate at a place called Shaft, near Shenandoah, in Schuylkill County, Pa., was to be sold. He said that there were differences between the stockholders, and that the matter had been put in the hands of one of the stockholders, Mr. Schlosser, of Pittston, Pa., and that he was authorized to dispose of it.

Q. Did you have any correspondence with Mr. Schlosser on the subject?—A. I called up Mr. Schlosser on the telephone and asked him with regard to it. He confirmed what Mr. Jones said, and he told me that he would write a letter making a definite offer or giving an option upon the property.

Q. Did you have any correspondence with him in regard to it?—A. That was expressed in a letter. There were two or three letters from him on the subject.

Q. Where are those letters?—A. I forget whether I have them, though I think I have not. You may have them there. [After examining.] I find I have them here. [Producing letters.]

Mr. SIMPSON handed the letters to Mr. Manager STERLING.

Mr. Manager STERLING (after examining the letters). There is no objection to those letters, Mr. President.

Mr. SIMPSON. I will offer the letters in evidence, and not ask that they be read at this time, Mr. President.

Mr. WORTHINGTON. Why not read them?

Mr. SIMPSON. My colleague prefers that the letters be read. I ask that they be marked as exhibits and read.

The PRESIDENT pro tempore. The Secretary will read as requested.

The letters were marked as exhibits, as below indicated, and read as follows:

[U. S. S. Exhibit PP.]

(M. Schlosser, anthracite and bituminous coal, 8 South Main Street, P. O. Box 235.)

PITTSTON, PA., *March 7, 1911.*

Hon. R. W. ARCHBALD,
Federal Building, Scranton, Pa.

MY DEAR SIR: Confirming telephone conversation with reference to a sale of Oxford Coal Co., Shaft, Pa., beg to advise that I can option to you for a period of 30 days from date this company, free from debt, for the sum of $65,000, and on this I will agree to allow you a commission of 2½ per cent in case of a sale.

The owners feel they would not care to have it generally known in the trade that their property is on the market; therefore would like your parties, if interested, to act for themselves and not go from place to place offering same for sale.

I will expect to hear from you by Monday, March 13, 1911, if your parties desire an option or not.

Yours, very truly, M. SCHLOSSER.

(20 cars daily. 500 tons. 300,000 or 400,000 merchantable coal.)

[U. S. S. Exhibit QQ.]

(M. Schlosser, anthracite and bituminous coal, 8 South Main Street, P. O. Box 235.)

PITTSTON, PA., *May 9, 1911.*

Hon. R. W. ARCHBALD,
Scranton, Pa.

DEAR SIR: I beg to quote you on the entire stock of the Oxford Coal Co., with plant at Shaft, Pa., $65,000, less 2½ per cent.

Terms to be cash or part cash and negotiable paper satisfactory to the sellers.

Estimated quantity in dump, from 350,000 to 400,000 tons marketable coal.

Freight rate on small sizes from Shenandoah to Wilkes-Barre, beg to say that this rate can, no doubt, be arranged for between the P. & R. and C. R. R. of N. J.

Railroad connection at the plant is Philadelphia & Reading.

A large dump is adjoining the present property and is controlled by the Girard estate.

Inventory shows the following:

Breaker structure; breaker engine; 2 conveyor lines; 6 shakers; 4 spirals (in service); 3 spirals (not in service); 3 jigs; 2 pair rolls; 1 elevator, 18 by 18; 1 elevator, 8 by 12; shafts, belts, and pulleys; steam heat; 2 pumps; 4 boilers; 2 feed pumps and heater; 1,200 feet steam pipes and covering; 2 steam shovels; 2 locomotives; 18 mine cars; railroad track, 1½ miles; office; supply house; locomotive house and carpenter shop; stable; mule and cart.

CLEANER.

Structure; one 12 by 20 double hoisting engine; 1 breaker engine, 13 by 16; 2 shakers; 2 sets rolls; 2 Hazelton jigs; shafts and pulleys in cleaner; steam heat; extra parts machinery on hand.

The option of purchase to hold good to June 9, 1911.

Hoping to hear from you, I am,

Yours, very truly, M. SCHLOSSER.

[U. S. S. Exhibit RR.]

(M. Schlosser, anthracite and bituminous coal, 8 South Main Street, P. O. box 235.)

PITTSTON, PA., *June 12, 1911.*

Hon. R. W. ARCHBALD,
Federal Building, Scranton, Pa.

DEAR SIR: Again referring to your favor of the 6th instant with reference to the option of purchase of Oxford Coal Co. which expired June 9, 1911, beg to advise that I will extend this option for another 30 days, namely, to July 9, 1911, and trust you may be able to have results by that time.

Yours, very truly, M. SCHLOSSER.

[U. S. S. Exhibit SS.]

(M. Schlosser, anthracite and bituminous coal, 8 South Main Street, P. O. box 235.)

PITTSTON, PA., *August 2, 1911.*

Hon. R. W. ARCHBALD,
Federal Building, Scranton, Pa.

DEAR SIR: Referring to my letter to you of May 9, 1911, in which I gave you an option on the entire stock of the Oxford Coal Co. located at Shaft, Pa., and the original option expired June 9, 1911. Referring to the above, beg to advise that I will now extend the option of purchase of this company to September 2, 1911, on the same terms as mentioned in the original option.

Yours, very truly, M. SCHLOSSER.

[U. S. S. Exhibit TT.]

(M. Schlosser, anthracite and bituminous coal, 8 South Main Street, P. O. box 235.)

PITTSTON, PA., *August 5, 1911.*

Hon. R. W. ARCHBALD,
Federal Building, Scranton, Pa.

MY DEAR SIR: I beg to advise that the royalty on Oxford coal is as follows: Prepared sizes, 45 cents per gross ton; pea, 30 cents per gross ton; buckwheat, 15 cents per gross ton; rice, 7½ cents per gross ton, and barley, 5 cents per gross ton. The minimum royalty is $100 per month or $1,200 annually.

Yours, very truly, M. SCHLOSSER.

Q. (By Mr. SIMPSON.) To whom did the Oxford colliery belong?—A. It belonged to the Oxford Coal Co., as I remember, or to Maderia, Hill & Co., I am not sure which—I think Maderia, Hill & Co. were stockholders in it, and were the commission men who sold the coal.

Q. Had it any connection with any railroad company?—A. Oh, none whatever—none that I know of; it is an individual concern.

Q. It appears in evidence here that that was not purchased by you or that there was not a sale of it made by you. Why was that?—A. It was first offered to the Laurel line, but Mr. Conn told me that he could not get a proper rate on the coal from there, so he did not take it. Subsequently it was offered to Mr. Peale, according to letters which are in evidence here. That, I think, was at the instance of Mr. Jones after I had left the district court bench and was in the Commerce Court. Then it was offered to Mr. Thomas Howell Jones, whom we familiarly know as "Tom Star Jones." That was along in the summer of that year. He took an option on it in favor of himself, I think, and Mr. Howell Harris; but, upon examination of the property, he reported to me that the dump which was being used was so far depleted that it was not worth any such sum as was being asked, and that there could be no deal about it.

Q. That was the end of the matter, so far as that dump was concerned, was it?—A. That was the end of the matter, but not altogether—no; because that led on to something else.

Q. Well, I am speaking of that particular dump.—A. Yes; as to that particular dump.

Q. Now, from whom did you first learn that other culm dumps in the neighborhood of the Oxford washery might be bought?—A. That was stated to me at the very beginning by Mr. Schlosser. He said that there were other dumps belonging to the Girard estate, and he thought that the dump that the Oxford Coal Co. was washing could be helped out by getting some one of these other dumps.

Q. And these other dumps were what?—A. These other dumps were covered by a lease to the Lehigh Valley Coal Co., which lease expires on December 31, 1913.

Q. And that is what has been spoken of here as Packer No. 3?—A. Yes.

Q. Now, from whom did you first learn that it was possible that the Lehigh Valley Railroad Co. or Coal Co. would not object to the sale of Packer No. 3 or the leasing of it?—A. If I may anticipate that, I will say that Mr. Jones, upon going down there and looking over the property, had identified Packer No. 3 as the dump that was desirable to help out the workings of the Oxford colliery, and then I undertook to see whether that could not be obtained.

Q. You say "Mr. Jones." Which one of the Joneses do you mean?—A. Mr. Tom Star Jones.

Q. Tom Star Jones?—A. Yes.

Q. We have had in evidence here a large number of letters in relation to that, which I do not desire to go into because I do not think they can be added to in any material way; but it appears in one of those letters that you wrote to Mr. Kirkpatrick asking him for an interview. Will you tell us, please, where you were going on the occasion when you stopped off in Philadelphia to see Mr. Kirkpatrick in regard to it?—A. I was on my way to Washington here to attend a session of the Commerce Court.

Q. And what, if anything, has been done in relation to that matter since the date of that visit to Mr. Kirkpatrick on February 12, 1912?—A. Nothing whatever.

Q. Had you any knowledge in relation to the matter or any intention to apply for a lease of Packer No. 3 except as it was led up to in the way you have testified?—A. No; not independently of the Oxford. It was suggested in that connection that Packer No. 3 could be washed very much better by itself; that it was not worth while to tie up to the Oxford, but it was in connection with the Oxford attempted deal that I was led to look into the matter of obtaining Packer No. 3.

Q. What attempts, if any, were there to conceal the fact of your connection with this matter?—A. There were none. I was aiding the matter all the time and speaking of it myself, and my name figured in every transaction.

Q. It is stated in article No. 3 that you unlawfully and corruptly used your official position and office as judge to secure from the Lehigh Valley Coal Co. the agreement that the Girard Trust might lease to you Packer No. 3 dump. What is the fact in regard to that?—A. Why, there certainly is no fact of that character.

Q. Was there any intention on your part that it should have any such effect?—A. None whatever.

Q. Do you remember the case of the Louisville & Nashville Railroad Co. against the Interstate Commerce Commission, filed in the Commerce Court and referred to in article No. 4?—A. That was the first case, practically, that was argued before the Commerce Court—at its first argument in April, 1911.

Q. Were you present at its argument?—A. I was present, and participated in the hearing.

Q. How much of a record was there in that case?—A. The record was made up of a carbon copy, furnished by counsel and stipulated into the case, of the testimony that had been taken before the Interstate Commerce Commission, supplemented by testimony that was taken before an examiner appointed in the case before it came into the Commerce Court, when it was pending in the circuit court of the United States for the western district of Kentucky. There was considerable of a record.

Q. What were the respective claims of counsel for the parties in that suit?—A. Well, it is very difficult to give in a few words what their respective claims were. It was an extended argument, with very extended briefs, but the main contention on the part of the Louisville & Nashville attorneys was that the order of the commission reducing the rates there involved was not sustained by any of the reasons given by the Interstate Commerce Commission, and that, in fact, the reasons which the Interstate Commerce Commission gave as the basis of its order were not founded upon any facts. The contention on the part of the Interstate Commerce Commission, represented by Mr. Lamb, and the United States itself, represented by Mr. Fowler, assistant to the Attorney General, was that the Commerce Court could not go into that question; that the ruling of the Interstate Commerce Commission with regard to those rates was conclusive.

Q. Can you tell, in a few words, what is the difference between class rates and commodity rates, so that Senators may understand just the question arising out of that?—A. All rates are divided into classes, as I understand, except as specific commodities are taken out of the class to which they are assigned and given a rate by themselves. Class rates run by numbers, from 1 to 6, and also have some letter designation—A, B, C, D, E. I think the commodity rates would be for a special thing, like glassware or furniture or sand or coal or something specific like that.

Q. And the class rates would include a number of different commodities of the same general character?—A. Class rates apply to all the commodities that are put together in that class.

Q. Why did you write to Mr. Bruce the letters which have been produced and offered in evidence here?—A. That calls for somewhat of an extended explanation.

Mr. Manager STERLING. Mr. President, we object to the witness stating why he wrote the letters. The fact that he did write them is all that this witness has any right to tell.

Mr. SIMPSON. I submit, sir, that where we are in a court, in which the intention of the party is a vital thing, he has the right to say why he did a given thing, so that the judges of the facts and the law may determine whether there was an intention to commit wrong. He has a perfect right, I submit, to state

that, so that the Senate may know what his intention was. If he had no intention to do a wrong, then he has done no wrong, so far as the law goes.

The PRESIDENT pro tempore. If the Chair remembers correctly, the articles do not charge him with intent to do wrong. They charge him with specific acts.

Mr. SIMPSON. But, there is involved in every charge which involves an offense an intent, and there is a distinct charge that he did this thing corruptly. Unless there is an intent the law says there can be no wrong. A man may do innocently a thing about which no complaint can be made, and do the same thing corruptly or with a corrupt intent, and there may be a just complaint of it. That has ripened, sir, into a maxim of law, that until there is an intent to do wrong no wrong, legally speaking, has been done. That is one of the fundamental principles of Anglo-Saxon jurisprudence; it always has been, and I trust always will be. The question which the witness has before him is to reach to that fact, so that the Senate may determine whether or not there was such an intent.

Mr. Manager STERLING. I should like to say, Mr. President——

Mr. WORTHINGTON. Before the manager proceeds, if I may be permitted, it was suggested a while ago by Mr. Manager STERLING that the witness has no right to testify to what his intent was, although that is the matter in question. I sent for one of the textbooks of law, and I should like to read a section from it. Jones on Evidence, last edition, section 170, page 191, has this to say:

It is evident that the most satisfactory mode of proving the motives or intent with which an act is done is to show the facts and circumstances accompanying the act. It is not relevant for a witness to state the motives or intentions of another person. It has been held in a few cases that a party can not state directly his own motives or intent; that such testimony can not be directly contradicted, and because it must often be of little value, the proof must consist of the surrounding circumstances which illustrate the nature of the act.

That is what I understand to be the contention of Mr. Manager STERLING.

But it is the prevailing rule, sustained by the great weight of authority, that whenever the motive, intention, or belief of a person is relevant to the issue it is competent for such person to testify directly upon that point—

The words "testify directly upon that point" being in italics—whether he is a party to the suit or not. To state the rule in another form, when the motive of a witness in performing a particular act or in making a particular declaration becomes a material issue in a cause or reflects important light upon such issue, he may himself be sworn in regard to it, notwithstanding the diminished credit to which his testimony may be entitled as coming from the mouth of an interested witness.

There is a note there, No. 10, which cites, I should judge, about 40 or 50 cases in support of that doctrine.

It is hardly necessary to add that such testimony is not conclusive.

Of course, we do not claim that it is conclusive.

Now, Mr. President, in this case the charge is made that Judge Archbald wrongfully entered into this correspondence with Mr. Bruce. After reciting what was done, the article charges that he did it secretly, wrongfully, and unlawfully. If the contention of the managers simply be that it is an impeachable and criminal offense for a judge to write a letter to one of the counsel in a case without any wrongful or improper intention, of course, then it would not be necessary for us to pursue this line of inquiry; but if it is claimed, or, indeed, if any Member of the Senate should think—and I submit that what the managers claim here is not conclusive at all—that it might be important to know whether he intended to aid this company and was trying wrongfully to help it, the witness ought to be permitted to testify as to what his intention was.

Mr. Manager STERLING. I think, Mr. President, the law read by counsel determines that the question is improper. There are two classes of criminal cases, in one of which the intent may be expressly testified to and in the other it must be inferred. In one class of cases the law conclusively presumes that the accused intended the reasonable consequences and results of his act. There is another class of cases where a specific intent is charged. To illustrate: If one is indicted for assault with intent to kill, a specific intent is charged in the indictment. In that kind of a case—and it is the kind of cases referred to in the authority just read—the courts have held that the witness could rebut that presumption and testify that he did not intend to kill; but in other cases, where no specific intent is charged, the law presumes that the accused intended the reasonable consequences of what he did. In this case, if it was the reasonable consequence of his letters to assist or aid this railroad company or to give them a secret advantage in the trial of this lawsuit against its opponents, then the law conclusively presumes that he intended that as the result of this correspondence, and he can not be heard to say that he had no such intent.

The WITNESS. If the Presiding Officer will permit me, I will state the facts and circumstances under which the letters were written and what the consequences were.

The PRESIDENT pro tempore. If counsel will vary the question so as to correspond with the suggestion of the witness, the Chair thinks that would be legitimate.

Mr. SIMPSON. I do not see how counsel can do otherwise when the witness has made the suggestion. I will vary the question accordingly. [To the witness:] Go on and state the facts and circumstances, please.

The WITNESS. When this case came up for consultation, after argument, the judges were not united in their views. There was quite a diversity of view, and I found myself in the minority. The view expressed at the final consultation before the judges separated for the summer was to dismiss the proceedings. I dissented from that view, and I understood that one of the other judges probably would join me in that dissent. During the summer vacation I undertook to formulate my views. I made an extended study of the case. I have here some of the many notes, or most of the notes, which I made upon that occasion. In writing that dissent the views that I expressed in that dissent were that the order of the Interstate Commerce Commission was not sustained in any particular by the evidence which they had before them. I read all the testimony and made an abstract of it. In the course of that I came upon the statement made by Mr. Compton in his testimony before two of the members of the Intestate Commerce Commission with regard to one point, and it was in order to see whether I apprehended what Mr. Compton intended in his testimony that I wrote the first letter to Mr. Bruce.

I understood Mr. Compton to negative a certain circumstance with regard to rates; and the Interstate Commerce Commission apparently, in drawing up their opinion, had taken the contrary view. It was simply to throw light upon that and to enable me to know whether I was proceeding upon proper grounds in the dissent which I intended to express that I wrote that letter. I wrote my dissenting opinion and sent copies of it around to the different judges along about the last of September, and when we gathered together again in October I found that apparently my dissenting opinion had made some impression upon the court. That dissenting opinion, with changes and adaptations, was finally made the opinion of the court, and all the judges coincided in that view with one exception. Judge Mack raised another question about the variations that had been made from what is spoken of in the opinion as the Cooley award, which figures somewhat in the opinion and in the case, by reason of the change that had been made in the tariffs into the southeastern territory from Ohio and Mississippi crossings, by reason of the change from class to commodity rates and by a number of commodity rates that were given. That question was one which had not been raised in argument, and for the purpose of doing justice to counsel, who had not had an opportunity to meet that question, which, as I say, was raised by Judge Mack and not by counsel on the other side, I wrote the second letter, so that counsel might be advised that that question was up. As it turned out, neither of those letters figured in the position taken by the opinion, and those letters really in the final disposition of the case never have had any effect upon it whatever.

Q. Why did you not send copies of those letters to counsel for the Interstate Commerce Commission and counsel for the United States?—A. Simply because, as I say, in the first place, it was simply for my own private guidance. The first letter, in formulating my dissenting opinion, which I had no idea would be more than a dissent, and afterwards, both with regard to that letter and what was spoken of in the second letter, amounted to nothing in the disposition of the case. It would take too long to point it out, but that is very clear to anybody who is acquainted with the case and who will look at that part of the opinion in which those two questions come up.

Mr. REED. Mr. President, I send an interrogatory to the desk.

The PRESIDENT pro tempore. The Senator from Missouri asks that a question be propounded to the witness. The Secretary will read it.

The Secretary read as follows:

Why did you write only to the lawyer in whose favor you had already made up your mind?

The WITNESS. The first letter was written in regard to the testimony of Mr. Compton, and for the purpose of clearing up what seemed to be an ambiguity, but I did not consider it so, but I wanted to confirm my own views about it.

Mr. JONES. Mr. President, I send to the desk the following question.

The PRESIDENT pro tempore. The Senator from Washington propounds an inquiry, which will be read to the witness.

The Secretary read as follows:

Why did you not call the attention of the members of the court to the correspondence you had with Mr. Bruce?

The WITNESS. The correspondence I had with Mr. Bruce became practically of no importance because of the views which were finally embodied in the opinion. As I say, I could point that out very readily. If anyone reads the opinion he will find that so far as Mr. Compton's testimony is concerned, in the opinion it is assumed that Mr. Compton's testimony was exactly as the Interstate Commerce Commission regarded it. That is assumed in the opinion and discussed upon that basis. In regard to the variation from the Cooley award by reason of the changes in commodity rates, that also is taken up and considered just as it was stated by Judge Mack, and without regard to anything suggested in the letter of Mr. Bruce.

Mr. CHAMBERLAIN. Mr. President, I submit a question.

The PRESIDENT pro tempore. The Senator from Oregon sends to the desk the following inquiry.

The Secretary read as follows:

Did you inform any of the associate judges of the fact of your having written the letters to which you have just referred and of the replies you received?

The WITNESS. I do not remember that, if I ever did.

Mr. SIMPSON. I want to say, Mr. President, that it is admitted in this case that the first letter was attached to the record and is attached to-day as the case is pending in the United States Supreme Court.

Q. (By Mr. SIMPSON.) Do you know who attached that letter to the record?—A. I assume I did, because I do not know how else it could have gotten there. I have no memory on the subject.

Q. There appear in the letter written by you to Mr. Bruce under date of March 8, 1912, and offered in evidence by the managers as Exhibit No. 61, these words:

A considerable portion of it—

That is the opinion—

if not, indeed, the best, is from the hand of another member of the court, and it is probably there that you find the enunciation of principles which you particularly commend.

Who was that other member of the court?—A. Judge Knapp.

Q. And what were those principles—the ones you have referred to?—A. In part, those which I have just referred to. It is Judge Knapp's entire composition in both the cases I have just spoken of, and there are other parts; there are a good many things in my dissenting opinion that were cut out at the suggestion of Judge Knapp and other members of the court, in order that the judges might get as nearly as possible together and agree together as nearly as possible.

Mr. REED. I have a question which I did not have time to write when we were on the subject, which I will send up.

The PRESIDENT pro tempore. The Senator from Missouri propounds the following inquiry, which will be submitted to the witness.

The Secretary read as follows:

Q. Did you consider it proper, in passing upon a doubtful point in evidence, to hear only from that lawyer who would certainly desire to concur in your view?

The WITNESS. I certainly should not have written the letter if I had supposed it was improper.

Mr. REED. I should like to have the question read again to the witness, so that he may answer all of it.

The PRESIDENT pro tempore. The question will be read.

The Secretary again read the question.

The WITNESS. I certainly do not consider it proper to do that, if that answers the question.

Q. (By Mr. SIMPSON.) Turning, now, to article 5, will you tell us, please, how long you have known Frederick Warnke?—A. I have known Mr. Frederick Warnke from the time he was elected recorder of deeds, I being president judge of the county at that time. I forget just the date of that; it must be 10 or 12 years ago, because I have been on the Federal bench 12 years.

Q. There is testimony here of a conversation had between you and him in relation to his claim against the Philadelphia & Reading Coal & Iron Co. Will you please tell us what that conversation was?—A. Mr. Frederick Warnke came to me and told me with regard to certain difficulties which he had had with the Reading Railroad Co. over an operation in Schuylkill County, Pa. He said that he had a lease which covered underground workings, and also, I think, some washing; that he had invested quite a sum of money there, and his washery or his breaker—I forget which—had burned down and he had rebuilt it, and then finally he was brought face to face with the fact that the Reading Railroad Co. told him he was acting under a lease that was not assignable, and that he had no rights there. He said that Mr. Richards was the person who had enforced this against him, and he wanted me to see Mr. Richards and see whether Mr. Richards would not reconsider that question.

Q. What did you do in consequence of that conversation?—A. I got into communication with Mr. Richards. I forget whether it was by telephone or by letter. I know I finally got a telegram and then, I think, a letter fixing the date, which my impression is I suggested, somewhere the last part of November a year ago, when I was to meet him at Pottsville in regard to this matter.

Q. It appears from the letter offered in evidence by the managers, dated November 24, 1911, Exhibit 85, page 744, that you said that you were going up to Pottsville on some other matter. What was the occasion of your visit?—A. I was going to Pottsville to confer with my nephew, Col. James Archbald, who is the engineer in charge of the Girard estate, with regard to the leasing of Packer No. 3 from the Girard estate.

Q. Did you go there on that occasion?—A. I went down there for that purpose.

Q. And did you see Mr. Richards?—A. I saw Mr. Richards.

Q. Tell us what occurred, please.—A. I went to his office and let it be known that I was there and he came to see me. Then I stated my errand, which was in substance what I have already said; what Mr. Warnke asked me to do. He then called for a budget which he had of numerous papers bearing upon the same subject, in which it appeared that the matter had been called to his attention and to Mr. Baer's attention, Mr. Baer being the president of the road, by several other parties, including ex-Congressman Howell, an attorney at law of Scranton, and he went into the matter at length, to show that, as he thought, Mr. Warnke had been given all the consideration he was entitled to.

Q. What afterwards, if anything, was done in regard to it?—A. I had to coincide in a large measure with what Mr. Richards said about the subject. I had no idea that this matter had been brought to their attention in any other way than by Mr. Warnke himself, and so I simply told Mr. Richards that I had nothing further to say, and I came home.

Q. What, if anything, was done by you in relation to the matter afterwards?—A. I told Mr. Warnke—just how soon I could not tell or in what way—that Mr. Richards would not reconsider the question.

Q. Did that close the matter so far as you were concerned?—A. Yes; that closed the matter.

Q. What knowledge, if any, had you that the Philadelphia & Reading Coal & Iron Co. had adopted a rule that they would not lease their culm dumps?—A. I knew of no such rule.

Q. What knowledge had you, if any, that the Philadelphia & Reading Railroad Co. had such a rule?—A. I knew nothing about that.

Q. It is charged in article 5 that you used your influence as a judge of the Federal court in relation to that matter. Will you tell us, please, what is the fact in regard to it?

Mr. Manager STERLING. We object to the question.

Mr. SIMPSON. I will change the form of the question to avoid, perhaps, one of the branches of the objection.

Q. (By Mr. SIMPSON.) What, if anything, was said or done by you to exercise any influence as a Federal judge in reference to this matter——

Mr. Manager STERLING. We object to that question.

The WITNESS. I have——

Mr. SIMPSON. Do not answer the question, please.

The PRESIDENT pro tempore. The Chair thinks a part of the question should be eliminated. You may ask what he did or said in regard to the matter, but as to the motive involved, that is another thing.

Q. (By Mr. SIMPSON.) What, if anything, was said or done by you as a Federal judge to influence anybody in regard to it?

The PRESIDENT pro tempore. No; the criticism that the Chair makes is with respect to asking him what he, as a Federal judge, did to influence anybody. That is not correct, in the opinion of the Chair.

Mr. SIMPSON. I am very much at a loss to know how to word the question in order to meet the charge which is made in this article. This article distinctly charges that he used his influence as a Federal judge in regard to this matter. Now, that either is or is not true. I have the right to meet it by evidence to show that it is not true; and the question which I am putting is directed expressly upon that ground.

The PRESIDENT pro tempore. The Chair thinks that counsel is authorized to prove everything said and done by the witness.

Mr. SIMPSON. That is undoubtedly my right. That I have done; and I have, sir, I submit, a right to go a step further. I have the right to show whether or not there was any intention on his part to do anything; whether his mind had in it the evil intent which is the necessary factor in reference to a charge of crime such as is made here.

Now, it is undoubtedly true, and I am answering just the point suggested by Mr. Manager STERLING a while ago in regard to that matter, that in that class of cases where, for instance, to use an illustration, if I point a loaded pistol at a human being and deliberately draw the trigger of that pistol, and I know it is loaded, and it goes off and kills a man, there is presumed from that fact an intent to do a wrong. But this is not the class of cases that belongs to that category at all. Here the whole purpose rests in the intent. Did I do a thing with an intent to do a wrong? It is not a necessary result of that which I do that a given thing shall be brought to pass. That may or may not be so. It is the purpose or the intent in the mind of the man who acts, and neither you nor I nor anyone else can know what that intent was except by producing the evidence of the witnesses in regard to it. That is the reason it is entirely outside of the class of cases to which Mr. Manager STERLING refers and is within the class referred to in the extract from Jones on Evidence, which was read by Mr. Worthington.

Mr. WORTHINGTON. Mr. President, may I add a word? This is a matter that applies to all the articles and to everything of a serious nature, it seems to me, which is charged against this respondent. I have in mind a transaction of which I have cognizance, which I think will illustrate this. A judge in this city, a Federal judge who held high station, went to the office of a lawyer in this city for the purpose of buying a house to live in—a lawyer who practiced and was liable to practice in the judge's court. I did not know anything about the transaction until it was over. If that judge should be indicted for going to that lawyer and trying to get that house on favorable terms or for less than it was worth, or charged with going there and trying to influence that lawyer to sell him that property, what earthly means would there be of determining whether he went there to use his influence as a judge with the lawyer, the lawyer thinking he might, in the future, get favors in the judge's court, or whether he went there in the ordinary way, just as this judge unquestionably did, for the purpose of buying the property, without such a thing as has been suggested ever entering his mind?

Now, in this particular transaction we have a single occurrence—Mr. Warnke asking his friend, Judge Archbald, to speak to Mr. Richards in his behalf, for the purpose of letting him have some relief, no matter what it was, and the judge having business at the place where Mr. Richards was, asked him to do it. Mr. Richards said he could not do it and explained why, and that was the end of it.

Now, Judge Archbald is brought here, subject to the possible penalty of being bereft of his office, and being prevented forever from holding any office under the United States, and being forever disgraced. And why? It must be because the managers intend to contend that when he did that he intended that Mr. Richards should be influenced by his position as judge to do something to favor Warnke. Now, if there is anything settled in the law, as shown by the decisions in the textbook from which I have read—

> Whenever the intention, motive, or belief of a person is relevant to the issue it is competent for such person to testify directly upon that point.

The PRESIDENT pro tempore. The Chair would suggest that that is not the exact question asked.

Mr. WORTHINGTON. I understood the Chair to say, in excluding the question, not to ask about the motive. Now, it is the motive we want to ask about, and it is the motive which, it seems to me, the Senate wants to know about.

The PRESIDENT pro tempore. The question was not asked what was the motive in certain acts put in evidence. The question, if the Chair remembers correctly, was in different form. The question was——

Mr. POMERENE. I ask to have the question repeated.

The PRESIDENT pro tempore. The question will be read by the Reporter.

Mr. SIMPSON. I will withdraw the question, if I may, because if we are fighting over words it is not worth while, and I will put the question directly, as the Chair suggests, and that is, What motive, if any, had you in seeing Mr. Richards in regard to this matter?

The PRESIDENT pro tempore. The Chair thinks that it may be answered——

Mr. Manager STERLING rose.

The PRESIDENT pro tempore. But if the manager objects, the witness will suspend for a moment. The Chair was premature in ruling upon the question. It did not know that the manager was going to object.

Mr. Manager STERLING. I think the question he asks now is objectionable. It seems to be an unnecessary question, because everybody knows his motive was to purchase this dump or have this transaction.

Mr. WORTHINGTON. Oh, no. There is nothing in regard to the dump in this transaction.

Mr. Manager STERLING. Well, his purpose was, of course, to accomplish what he went after. Everybody will agree to that. And if the question is to elicit an answer to that effect we do not object, but say it is immaterial. But if it is expected that this witness is to reply that it was not his motive to use his influence as a judge, then the question is improper.

Mr. WORTHINGTON. That is exactly what we do expect to ask him.

Mr. Manager STERLING. Then we object.

The PRESIDENT pro tempore. The Chair thinks it would be a matter of argument afterwards as to whether or not the testimony of the witness is in accord with the facts, but the Chair thinks there ought to be liberality in a case of this kind.

Mr. Manager STERLING. Before the Chair makes its final decision I should like to make reply to what these gentlemen have said.

I agree with the President that it is a matter of argument. We can argue the conclusions which the managers reach, and counsel can argue the conclusions which they reach, and they will draw their inferences. Therefore it is not proper for the witness to argue the case or give his conclusions or give his motives or give his purpose. The best argument that can be adduced in favor of the objection to this question is the illustration used by counsel, Mr. Simpson, who said this: That if one man direct a gun toward another and touch the trigger, and if the gun is discharged and the other man is killed, the law will presume that he intended to murder the man. And so if a judge directs his speech toward another along a certain line and convinces the other that he has accomplished that thing, then the law will conclusively presume that he intended to accomplish that thing. The illustration is in point, and it proves that the objection we make to the question is valid.

Mr. SIMPSON. Instead of that, sir——

The PRESIDENT pro tempore. The Chair thinks those presumptions are not conclusive presumptions. They are presumptions; there is no doubt about it; and are conclusive unless rebutted. The Chair will admit the evidence.

Q. (By Mr. SIMPSON.) Will you tell us, please, Judge, what was your motive in seeing Mr. Richards in regard to this matter?—A. I simply went there as a friend of Mr. Warnke to do a friendly act. I said nothing with regard to my mission, except just simply that—to get a reconsideration for Mr. Warnke of the question of his standing with that company. There was nothing said outside of that.

Q. Tell us, please, whether or not there was anything to be paid to you for seeing Mr. Richards on the subject.—A. Nothing whatever; nothing.

Q. What had your seeing Mr. Richards for Mr. Warnke in relation to that matter to do with the purchase and sale of the old gravity fill?—A. It had none.

Q. There appears in evidence in this case a note for $510, given on April 6, 1912, by the Premier Coal Co. to the order of its stockholders, and indorsed by them and handed over to you. Will you tell us, please, for what that note was given?—A. It was a commission on the sale of the old gravity fill. The gravity fill was on the abandoned line of what was originally known as the Washington Coal Co., as it happened, laid out by my father; and subsequently it was called the Pennsylvania Coal Co. It was a gravity road with planes, as they called them, on which the cars were drawn up and then run from the top of one plane to the next by gravity. I should say about 25 years ago that was given up for a locomotive road, and this was a fill, quite a large fill. I was acquainted with it. My brother and I at one time, about 18 or 20 years ago, had thought of washing it. It was on the property of the Lacoe & Shiffer Coal Co.

I became acquainted with that fact, and I corresponded with Mr. Berry and secured an option from him. That option was carried along from early in the spring of 1911 until about a year after that, not always in writing, but in part verbally. Among others who went to see it was Mr. Warnke, on behalf of the Standard Brewing Co. The Standard Brewing Co. did not take it, and then Mr. Warnke conceived the idea of taking it for himself. He finally got together Mr. Swingle and his brother-in-law, Mr. Kiser, and Mr. Schlager, who was a coal man, and they organized this company and made a deal for the property

with Mr. Berry. They met in my office and there the arrangement was practically consummated.

While I knew then about the gravity fill, it had been particularly called to my attention by John Henry Jones, and Mr. Jones had an arrangement with Mr. Warnke by which Mr. Warnke was to pay a commission in case of the sale. I think at one time Mr. Jones said he had an arrangement by which he was to pay as high as a thousand dollars. After the consummation of the sale, Mr. Jones—I have to state this on hearsay—talked with Mr. Warnke about it.

Q. Do not tell us about that.—A. Well, I will not, except to explain that as the result of what Mr. Jones had communicated to me that Mr. Warnke had communicated to his associates—no; I had a communication by telephone with Mr. Swingle or Mr. Kiser, one or the other, at least with their office, and they said that they would recognize the matter of the right to a commission. They were real estate men, and they understood how commissions were paid, and they would draw up a note and send it to me. They drew up a note for $510, including the discount, for four months. It was drawn to my order, and not to their own order, which was the correct way in order to make them the indorsers; and so I sent it back to them, and subsequently I called at their office and got the note in the final form. I took the note, indorsed it, and had it discounted at my bank, and I gave Mr. John Henry Jones a check for one-half of the money that realized. That check is here.

Q. What was the date when you gave to Mr. John Henry Jones his one-half of it?—A. Here is the check.

Q. Give us the date of it, please.—A. It is dated April 6. The stub shows to John Henry Jones, one-half commission on sale of old gravity fill, $250.

Q. Had any railroad company anything to do with the old gravity fill?—A. Nothing whatever.

Q. Did you know of the pendency of the investigation in this case at the time you received that note and had it discounted?—A. No; except what had been communicated to me, that there was an investigation by some one sent up to Scranton on the part of the Department of Justice, of which I had no other except this indirect notice.

Q. Had you any interview or conversation with Mr. Warnke about it prior to that time?—A. Yes. Mr. Warnke had told me that he had been called in by the representative. I do not know whether he gave me his name or not; I now know it was Mr. Wrisley Brown—and he wanted to know about some transaction; I forget what it was. He came to me to know whether he should go and testify. I said, "Of course; go ahead and tell them what you know."

Q. Was that before or after the giving of this note of April 6, 1912?—A. It must have been before.

Q. Before that?—A. Yes.

Q. Do you know W. W. Rissinger?—A. I have known Mr. Rissinger for over 20 years. I think I first got acquainted with him when he and Mrs. Rissinger were members of a Bible class which I taught in that remote time.

Q. We are now dealing with article 7, so that we may have the record straight about that. Did you know of the gold-mining claim in Honduras in which he was interested?—A. I first heard about that from Mr. Bernard Moses, who lives there in Scranton, and who was in attendance at the hearing before the Judiciary Committee in May, but he was not examined as a witness. He told me—I really can not tell how the matter came up, because it was nearly five years ago—he told me about Mr. Rissinger going down into or proposing to engage in placer mining in Honduras.

Q. What interest had you in that company or concern that was interested in a gold-mining claim in Honduras?—A. Subsequently to that, I think, he brought Mr. Rissinger to my office, and we talked the matter over. Still later Mr. Rissinger brought Mr. Russell and Mr. Hamilton, who had the main concession of which Mr. Rissinger had a very small fraction. They had maps and plans, and laid them before me, and also came to my house, and we discussed the matter there, with an idea of taking an interest in the concession—that is, in the large concession, the one that they had.

Q. Did you take any interest in it?—A. I did not.

Q. It appears in evidence that Mr. Rissinger gave a note for $2,500 to the order of yourself and Mrs. Hutchinson and that you and she indorsed that note. What became of it after you indorsed it?—A. I only know what I have known since. I indorsed that note as an accommodation to Mr. Rissinger, and what he would do with the proceeds I do not know.

Q. Did you get any of them?—A. I certainly did not, or any benefit from it.

Q. Why did you indorse it?—A. As a mere matter of accommodation and friendliness.

Q. Was it indorsed for any interest in the Honduras company of which we have spoken?—A. It was not.

Q. What became of it after it was indorsed, so far as you know?—A. I understood, I know from what has happened since, that it was discounted by the County Savings Bank.

Q. Did you know it was to be presented to John T. Lenahan?—A. I never heard it had been, or was to be, until I heard Mr. Lenahan testify.

Q. You mean testify before the Judiciary Committee?—A. Before the Judiciary Committee.

Q. It appears in evidence that there was later on given to you certain shares of stock in the Scranton-Honduras Mining Co. For what was that stock given?—A. That stock, as I understood it, was given to me for the purpose of securing my indorsement at the time that I indorsed the note in the first instance. I understood from what Mr. Rissinger said that he was going to put in as collateral his own stock or interest that he held in the Davis Coal Co., a coal company in which he was interested, and which was being operated, and which I believed proved a success. That was not done, but before the note came around for renewal, along in February, he came and brought the shares and stock. From what was said at the time I gathered that and I always had that impression.

Mr. Manager STERLING. Mr. President, this witness has stated several times in relating this matter that he understood so-and-so. I should think the witness ought to state what was said between these gentlemen and let others determine what they understand to be the logical inference.

Q. (By Mr. SIMPSON.) We want your recollection in regard to the matter. The word "understood" has two meanings.—A. It is nearly four years ago since this happened.

Q. State what your best recollection on the subject is; that is all.—A. My best recollection is that when Mr. Rissinger came to renew the note he brought this up and said that he had made this out for me for the purpose of securing me upon my indorsement.

Q. Who paid the interest on the note when it fell due?—A. Mr. Rissinger has paid the discount on it at all times.

Q. Who paid the principal?—A. I only know what Mr. Rissinger testified and what Mr. Ruth testified, that it had been paid.

Q. You did not pay it?—A. Oh, I did not pay it. I have not paid a cent on that thing.

Q. I am turning, now, to articles 8 and 9. You have several times testified to having met John Henry Jones. How long have you known him?—A. I think I had known him about five or six years, and I knew something about him before I had actually met him.

Q. It appears in evidence here that you drew a note for $500 to your own order, which was signed by Jones and then indorsed by you. For what was that note given?—A. I do not remember that I did draw the note. I indorsed the note. I indorsed a note that was made out in the form which is the correct form, as I understand it, made out to the payee. I did it for the accommodation of Mr. John Henry Jones, who had been to Venezuela and had an oil concession of some character which, he convinced me at the time, he had a good chance of negotiating in London. This note was for the purpose of raising money to get him there.

Q. After its indorsement, what was done with it?—A. I did not know what was done with it until Mr. Von Storch called me up and asked me whether I had indorsed such a note, which had been presented to him for discount. I will correct that to this extent: Some time before that, after the note had been indorsed and had left my hands, Mr. John Henry Jones told me that Mr. Edward Williams either was going to present it or had presented it to Mr. C. G. Boland to have it discounted.

Q. Did you tell him that he might do so?—A. I did not. I had nothing to do with it at that time. It was out of my hands.

Q. Tell us, please, what interview, if any, you had with Edward J. Williams in regard to the note.—A. No; I had no interview with him about it. The only one I spoke to in the matter was Mr. John Henry Jones, in the way I have stated.

Q. It has been suggested here that this note was given in order to obtain an interest on your part in this oil concession in Venezuela. What is the fact regarding that?—A. No; that is not the fact. After Mr. John Henry Jones was in London I got a letter from him, which I endeavored to find and have not been able to, in which it was suggested that I would have a certain interest as a result of the successful negotiations which he seemed to think he had consummated there.

Q. Did you take any interest in it?—A. I would have taken that interest if it had been consummated; yes, sir.

Q. But you did not? In point of fact, it was not consummated?—A. No.

Q. What knowledge had you, other than you have stated, that it ever, in fact, had been presented to either of the Bolands?—A. I know nothing except just what I have stated.

Q. The note as originally presented to Mr. Von Storch had upon it Mr. Edward J. Williams's indorsement. When did you first learn that Mr. Williams had indorsed the note?—A. I could not tell you really about that. I did not know that he was going to indorse it. I think I must have known something about it at the time of the first renewal. That is as near as I can get.

Q. You testified a while ago that on one occasion Mr. Jones said to you that it had been or would be presented to Mr. Boland. What knowledge or thought had you at the time of the pendency of the case of Peale against the Marian Coal Co.?—A. That case was decided on demurrer in September. This note was in November. I do not know the cases that are pending in my court. I never pay any attention to any case until it comes before me in court. I did not bear that case in mind. I had forgotten all about it after I had made the decision.

Q. Did you get any part of the proceeds of the note?—A. None.

Q. There appears in evidence here a paper signed by E. J. Williams, directed "To whom it may concern," and dated July 31, 1911. What knowledge had you of that paper?—A. I never heard of it until it was produced before the Judiciary Committee last May.

Q. Who paid the interest on that note?—A. Mr. Jones.

Q. Who paid so much of the principal as has, in fact, been paid?—A. Mr. Jones.

Q. Do you remember the case of the Risden Locomotive Iron Works against Von Storch?—A. That was a case that was heard before me without a jury. It was a suit to charge Mr. Von Storch and his cousin, Mr. T. Cramer Von Storch, as directors of a gold placer company that had been in operation in Montana. It was to charge them as directors because of the failure to file a statement. As I said, it was tried before me without a jury, and I disposed of the case. I think the claim was something like $10,000. I found against Mr. Von Storch and his cousin to the extent of about $800 or $1,000, I forget the exact amount. That case was disposed of along in January, 1909.

Q. That was how long before the giving of this note?—A. Pretty near a year.

Q. What connection had the giving of this note with that case?—A. None whatever.

Q. What connection, if any, had the discounting of it with this matter?—A. None whatever.

Q. It appears also in evidence that on one occasion you appointed Mr. Von Storch a receiver in bankruptcy. Will you tell us, please, the circumstances under which that appointment was made?—A. Mr. Von Storch is not in very active practice. He gives himself mainly to the presidency of his bank. Upon one occasion there was a bankrupt in that end of the city of Scranton which we commonly call the old borough of Providence. The Providence Bank were parties as indorsers upon the notes of this bankrupt, which made the Providence Bank somewhat concerned in the result. At the hearing before me, at which all sides were represented, Mr. Von Storch was either agreed on practically or I did appoint him receiver. At least I appointed him. I forget the immediate circumstances about it other than that.

Q. What connection, if any, had that with the giving or discounting of this note?—A. None whatever.

Q. It is averred in the articles we are here considering that you knew that this note could not be discounted in the usual commercial channels. Will you tell us, please, what the fact in regard to that is?—A. I know that my indorsement seemed to go.

Q. Did you or did you not know that it was discounted in the usual commercial channels?—A. I had reason to believe that it would be, and it was.

Q. What was your motive in giving the note?—A. Simply to accommodate Mr. Jones.

Q. Had you any other motive whatever?—A. None.

Q. Mr. Williams in his testimony said he told you that the note had been presented to the Bolands and that they had refused to discount it. Will you tell us, please, what the fact is on that subject?—A. As I have said, I think that Mr. John Henry Jones told me there that it was to be presented or had been presented. I do not remember that Mr. E. J. Williams ever said anything to me about it.

Q. Turning now to article 10, what relation are you, if any, to Henry W. Cannon?—A. Mr. Henry W. Cannon is own cousin of Mrs. Archbald.

Q. What have been the social relations between him and your family since you were married to Mrs. Archbald?—A. Mr. Cannon has visited at our house in Scranton. Mrs. Archbald and my children have visited at Mr. Cannon's house in New York.

Q. It appears in evidence here that in 1910 you and Mrs. Archbald became his guests on a trip to Europe. Will you tell us, please, how long before that time it was that you had taken a vacation?—A. The work in the middle district and the work that I had been called to do was very exacting. I had had no opportunity to take any vacation prior to that time since some time in August, 1903—nearly seven years.

Q. With whom did you consult prior to deciding whether or not you would go on that trip?—A. I consulted with my associates—the judges of the circuit. I remember that distinctly. I think I talked with Judge Gray——

Mr. Manager STERLING. Mr. President, we object to this testimony.

The PRESIDENT pro tempore. The Chair does not know what there is in the articles that this testimony will elucidate.

Mr. SIMPSON. If I were to be asked what issue is in this article, I would be unable to state, notwithstanding what I have heard from the managers from time to time in this case. But the article states this issue as nearly as I can get at it. They say that Judge Archbald accepted an invitation from Mr. Cannon for a trip to Europe, knowing at the time that Mr. Cannon was connected with certain railroads which might—the Lord knows when and I hope He knows how, if anyone knows—at some time or other have some litigation in some court with which Judge Archbald might some time be connected. I propose to show, sir, that before he accepted the invitation he consulted with the judges of the circuit in which his court was. This was while he was a member of the district court. I propose to show that he stated the circumstances to them, and that they advised him that it was a wise and proper thing and that he should go, and that they knew at the time that Mr. Cannon was to pay the expenses of that trip.

That is the purpose. It bears directly on the purpose as to whether or not there was anything wrongful in accepting that invitation. I can not, for the soul of me, see how it is possible that there could be anything wrongful, but I have to meet what is charged.

The PRESIDENT pro tempore. The question is whether in the opinion of the Senate it is wrong, not whether it is wrong in the opinion of others.

Mr. SIMPSON. But, of course, I have to produce evidence by which the Senate can reach its opinion.

The PRESIDENT pro tempore. The Senate will be its own judge of the facts proven, and will not be governed by the opinion of others.

Mr. SIMPSON. I am asking as to those facts whether he did consult with others and who they were.

The PRESIDENT pro tempore. The Chair does not think that it is legitimate evidence.

Q. (By Mr. SIMPSON.) What corporation, to your knowledge, was Mr. Cannon connected with at that time?—A. I never heard that he was connected with any corporation at that time, other than some that were on the Pacific coast.

Q. Will you tell us, please, whether or not any corporation with which he was connected had ever been a litigant in any court with which you were connected?—A. None to my knowledge.

Q. Had you any reason to believe that any corporation with which he was connected would likely be a litigant in your court?—A. Not certainly from the Pacific coast.

Q. Now, will you tell us, please, whether he ever made any suggestion to you, either then or at any precedent time, in favor of any corporation?—A. Mr. Cannon is quite reticent in business matters and never talks them over. He never talked them over with me.

Q. Did he ever make any suggestion——

Mr. Manager STERLING. We object.

The PRESIDENT pro tempore. Does the counsel insist on that question?

Mr. SIMPSON. No; I will not insist on it, sir. [To the witness:] Who was Edward R. W. Searle? This question, I will say, has reference to article 11.—A. He was the clerk of the district court and of the circuit court of the middle district of Pennsylvania.

Q. Who was J. Butler Woodward?—A. He was the jury commissioner of that district.

Q. What connection, if any, had either of them with the collection of the sum of money which was presented to you when you went to Europe in 1910?—A. None to my knowledge, except as contributors to it.

Q. When did you first learn of an intention to make that contribution to you?—A. About 10 or 15 minutes before the vessel sailed. As I was standing on the deck by my stateroom, Judge A. T. Searle, of Honesdale, who is no relative of Mr.

E. R. W. Searle, pulled out of his pocket a package and handed it to me, saying that these were sailing orders which I was to observe, and that I was not to open the package until I was a couple of days at sea. Mr. E. R. W. Searle was present there, and Mr. Bernhard Moses also—these three. Judge A. T. Searle was the one who spoke.

Q. When did you open the package?—A. After the boat had sailed. I did not wait the two days. I opened it and found that the package contained money. It also was accompanied by a letter.

Q. What knowledge had you that there was to be presented to you anything at the time of the sailing prior to the time to which you refer, 10 or 15 minutes before leaving the dock?—A. I had not the remotest idea.

Q. What knowledge had you, if any, of what there was in the paper prior to the time you opened it after sailing?—A. I did not know.

Q. You have produced here a paper. You say this [exhibiting] is the paper that was contained in that package?—A. That was the paper accompanying the gift.

Mr. SIMPSON. We offer this paper in evidence, and ask to have it marked and read.

The PRESIDENT pro tempore. The paper will be marked and read as requested.

The paper was marked "U. S. S. Exhibit UU" and read as follows:

[U. S. S. Exhibit UU.]

APRIL 16, 1910.

DEAR JUDGE: This is a greeting of your appreciative friends of the bar of Lackawanna, in the middle district, wishing you bon voyage.

Rather than fruit, books, or flowers, we trust you will be willing to accept this as our hearts' desire for your pleasure and enjoyment in your more than well-earned outing.

May all happiness attend you and yours.

Willard, Warren & Knapp, O'Brien & Kelly, Watson, Diehl & Watson, Welles & Torrey, Samuel B. Price, R. W. Rymer, M. J. Martin, L. A. Watres, J. Benjamin Dimmick, C. E. Sprout, E. R. W. Searle, A. T. Searle.

(Indorsed: Accompanying the gift of $525 from the bar, on my going abroad, Apr. 16, 1910.)

Q. (By Mr. SIMPSON). Who was A. T. Searle?—A. A. T. Searle had been assistant United States attorney for the middle district of Pennsylvania. At the time of this occurrence he had been elected or appointed, I forget which—he was elected finally—president judge of that judicial district of Pennsylvania of which Wayne is one of the counties and Honesdale is the county seat.

Q. What was your relation to the contributors to this fund?—A. It was very close personally and professionally.

Q. How long have you known J. Butler Woodward? I am dealings now with article 12.—A. I have known him for 30 years.

Q. In what way?—A. In the most favorable possible. He is a very fine lawyer and a very sterling man.

Q. Why did you appoint him as jury commissioner?—A. I thought it was the best possible selection that I could make at the time.

Q. What was his standing in the community?—A. The very highest as a lawyer, professionally and personally.

Q. And where did he reside?—A. He lived in Wilkes-Barre.

Mr. REED. Mr. President, I send a question to the desk to be propounded to the witness.

The PRESIDENT pro tempore. The Senator from Missouri presents a question which he desires to have propounded to the witness. It will be read by the Secretary.

The Secretary read the question, as follows:

Were you in any financial distress at the time you accepted the $500 donation?

The WITNESS. I was not. I expected to pay the matters incidental to the trip outside of those which Mr. Cannon took care of, and I did.

Q. (By Mr. SIMPSON.) You say Mr. Woodward resided in Wilkes-Barre. That was within the middle district of Pennsylvania, was it not?—A. Yes; it is a short distance from Scranton—about 20 miles.

Q. He continued to reside in the middle district during the time of your incumbency of the office of judge of that district?—A. He did.

Q. What was his politics?—A. He was a Democrat, as his father and grandfather had been before him.

Q. And what was Mr. Searle's politics?—A. Republican.

Q. What did you know, if anything, about Mr. Woodward's railroad connections at the time you appointed him?—A. I did not know that he was a railroad lawyer, as the saying is.

Mr. JONES. Mr. President, I desire to submit a question to the witness.

The PRESIDENT pro tempore. The Senator from Washington presents an inquiry which he desires to have propounded to the witness. The Secretary will read the question.

The Secretary read the question, as follows:

Did Mr. Woodward seek the jury commissionership?

The WITNESS. The jury commissionership sought him. I pressed it upon him as a favor.

Q. (By Mr. WORTHINGTON.) A favor to whom?—A. A favor to me and to the district.

Q. (By Mr. SIMPSON.) I turn now to article 13. There has been offered in evidence here a letter, dated August 3, 1911, written by you to Thomas Darling, Esq., introducing Mr. Williams to him. Do you remember the giving of that letter?—A. I do.

Q. Will you state the circumstances attending its giving?—A. Mr. Williams came and spoke about a dump that was controlled by Mr. Darling. I had known of that dump previously, I think; at all events, he said that Mr. John W. Peale, who had had a lease of it, had given up the lease, and he thought Mr. Darling would be willing to lease it to him. I wrote the letter and gave it to Mr. Williams to take to Mr. Darling.

Q. How long had you known Mr. Darling?—A. I had known Mr. Darling ever since he was in college. I think he graduated in 1886. I had know him very closely and intimately; and every Yale reunion there was in that vicinity I think we both of us attended. He belongs to the same college society that I do. I had entertained him at my house.

Q. How long did you say that you had known him?—A. Since he was in college. I think he graduated in 1886, if my memory serves me aright.

Q. That would be about 26 years?—A. Yes; I think about that time.

Q. You both went to the same college?—A. We were both gradutes of Yale.

Q. After this letter was given to Mr. Williams what, if anything, was done by you in relation to it?—A. Nothing whatever. I never heard of it afterwards.

Q. There appears in evidence a letter written by you to Mr. Darling as Exhibit No. 95, found on page 865, in which you ask a reference to the Hollenback culm-dump case. Will you tell us, please, what was referred to in that letter?—A. At some time, I can not tell you when, Mr. Darling and I had a conversation in regard to culm-dump titles. He informed me that there had been a controversy and lawsuit in which he had defended the right of the Hollenback Coal Co. against, I think it was, the Lehigh & Wilkes-Barre Coal Co. He represented one side and his partners represented the other; and he was particularly interested in the matter because he had won the case. It was a case which determined more or less culm-dump titles; and I wrote to him after that interview to get the report in which it could be found.

Q. For what purpose?—A. I simply wanted to know it as a matter of law.

Q. It is stated in article 13 that at divers times and places you, as United States judge, wrongfully sought to obtain credit from and through people who were interested in the result of suits that were pending or had been pending in your court. Will you kindly state the facts in regard to that matter?—A. There are no facts in regard to that matter that I know of.

Q. It is also stated in that article that you were engaged in carrying on a general business for speculation and profit in the purchase of culm dumps, culm lands, and other coal property. What are the facts regarding that?—A. Why, there are no facts with regard to that.

Q. It is also stated in that article that for a valuable consideration you were engaged in endeavoring to compromise litigation pending before the Interstate Commerce Commission. What are the facts touching that?—A. Absolutely there are no facts of that character.

Q. It is also therein stated that you willfully, unlawfully, and corruptly used your influence as a United States judge with the Erie Railroad Co.; the Delaware, Lackawanna & Western Railroad Co.; the Lackawanna & Wyoming Valley Railroad Co.; and other railroad companies engaged in interstate commerce, to induce them to enter into contracts and agreements in which you were financially interested with various persons, without disclosing your interest, but which interest was, in fact, known to the officers and agents of said railroad companies. Tell us, please, what the fact in regard to that is.

Mr. Manager STERLING. We object, Mr. President.

The PRESIDENT pro tempore. The Chair thinks that it would be improper to ask the witness whether or not that was true. The Chair also thinks it is competent for counsel to ask the witness what are the facts; in other words, in one case it

would be testifying to a conclusion and in the other case it would be testifying to the facts. Counsel can ask what the facts are, and if the witness knows those facts he can say so.

Mr. SIMPSON. I simply have asked what the facts are. That is the question. [To the witness:] State, please, what the facts are in regard to it.

The PRESIDENT pro tempore. The witness can state whether or not there are any facts.

The WITNESS. There are no facts that I know of to which that would apply.

Q. (By Mr. SIMPSON.) Tell us, please, whether or not at any time you asked anybody or knew of anybody being asked to conceal your connection with any of the matters to which you have testified in this case.—A. Never.

Mr. SIMPSON (to the managers). Cross-examine.

Mr. Manager CLAYTON. Mr. President, it is now within 25 minutes of the usual time of adjournment. The witness has been on the stand four hours and the Senate has been in session for five and a half hours or more. The managers suggest that, if it suits the convenience of the Senate, we are perfectly willing that the examination of this witness may be postponed until to-morrow. I may say that the counsel for the respondent themselves suggested to the managers that they thought that course would be proper, and we have agreed that it would be proper.

Mr. CLARK of Wyoming. Mr. President, I move that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 36 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, January 7, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

MONDAY, *January 6, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, source of life and light and love, mercy, justice, and truth, we wait upon Thee for that divine touch which shall enable us, amid the busy whirl and turmoil of life's activities, to hold our course to Thee and hallow Thy name, that at the close of this day we may lie down to peaceful slumber with the blessed assurance that whether we awake in this world or some other we are Thine, and that Thou wilt care for us there as Thou hast cared for us here. For Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of Saturday, January 4, 1913, was read and approved.

JOSEPH W. KING.

Mr. FOWLER. Mr. Speaker, I have a resolution which I desire to have read from the Clerk's desk.

The SPEAKER. Is it a privileged resolution?

Mr. FOWLER. I think it is, Mr. Speaker.

The SPEAKER. The Clerk will read it and we will see.

The Clerk read as follows:

Whereas on the 11th day of December, 1912, the Hon. Walter L. Fisher, Secretary of the Department of the Interior, issued to Capt. Joseph W. King, late captain of Company E, of the One hundred and Twentieth Regiment Illinois Volunteer Infantry, but now a guard in the Department of the Interior on a salary of $720 per annum, the following order of suspension:

Mr. JOSEPH W. KING, *of Illinois.*

SIR: On the recommendation of the Civil Service Commission, dated November 22, you are hereby suspended from duty for two months from January 1, 1913, without salary as a watchman at $720 in the office of the Secretary.

The commission states that its recommendation is the result of its investigation of your recent political activity in writing numerous personal letters soliciting votes for certain candidates for elective office in violation of——

The SPEAKER. The Clerk will suspend. The Chair will state to the gentleman that this is not a privileged matter, and that it will have to take the course of ordinary resolutions by going into the basket.

Mr. FOWLER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution.

The SPEAKER. Since the Calendar for Unanimous Consent has been provided, the Chair is precluded from submitting that request. The Chair will take pains to state it over again so that everybody will understand.

Some three or four years ago the House rigged up what is called the Unanimous Consent Calendar. It is not necessary to tell how it happened, but it was done. Last summer there were certain little matters pending here that the Chair thought were of a good deal of public interest, such as public works, and so forth, and one day the Chair started to let gentlemen in with these matters. The Chair thinks yet that he was right about it, but one of the Members of the House objected to the proceeding in a rather vociferous manner, and the Chair announced that after that he would adhere to the rule which he has stated this morning. So this resolution will have to go into the basket and take the usual course.

Mr. FOWLER. Mr. Speaker, I ask that the resolution be referred to the Committee on Rules.

The SPEAKER. It will go into the basket, and the Chair will look into it and confer with the gentleman.

Mr. FOWLER. Very well, Mr. Speaker.

CALENDAR FOR UNANIMOUS CONSENT.

The SPEAKER. This is Unanimous Consent Calendar day, and the Clerk will report the first bill on that calendar.

CHOCTAW AND CHICKASAW INDIANS.

The first business on the Calendar for Unanimous Consent was the bill (H. R. 25507) to authorize certain changes in homestead allotments of the Choctaw and Chickasaw Indians in Oklahoma.

The Clerk read the title of the bill.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent that that bill be passed over, for the reason that the gentleman from Oklahoma [Mr. CARTER] is not present.

The SPEAKER. The gentleman from Texas asks unanimous consent to pass this bill without prejudice. Is there objection?

Mr. MANN. Reserving the right to object, how many times has this bill been passed without prejudice?

Mr. STEPHENS of Texas. I think this bill was passed the last time it was up.

Mr. MANN. My impression is that it has been passed over three or four times without prejudice.

Mr. STEPHENS of Texas. The gentleman from Oklahoma [Mr. CARTER] is the author of the bill, and it pertains to Indian affairs in his district.

Mr. MANN. The gentleman from Oklahoma is usually very wide awake. I am not disposed to object, although I should think that the gentleman might be present on some unanimous-consent day when the bill was reached.

The SPEAKER. Is there objection to passing the bill without prejudice?

There was no objection.

ENLARGED HOMESTEADS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23351) to amend an act entitled "An act to provide for an enlarged homestead."

The Clerk read the title to the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. FERRIS. Mr. Speaker, I have received a request from the gentleman from Colorado, Mr. TAYLOR, who is sick in a hospital in Colorado, that this bill be passed without prejudice, and I ask unanimous consent that that course be pursued.

Mr. MONDELL. Mr. Speaker, reserving the right to object, many gentlemen here are very much interested in this legislation and desire that it be passed. I desire to accede to the wishes of the gentleman from Colorado, and still I think the legislation ought to be considered. If the final enactment of the legislation will be assured by letting it go over, of course I shall not object.

Mr. FERRIS. I can only give the gentleman the information that I have received from the gentleman from Colorado, Mr. TAYLOR, that he will be here in the course of a week.

Mr. MONDELL. On the theory that there will be objection made to the bill when it is taken up and that it will be stricken from the calendar, I shall not object.

The SPEAKER. Is there objection that the bill go over without prejudice?

There was no objection.

EXCHANGE OF LANDS FOR SCHOOL SECTIONS IN RESERVATIONS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25738) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, or for other purposes.

The Clerk read the bill by title.

The SPEAKER. This bill is on the Union Calendar.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. MANN. Reserving the right to object, I would like to ask the gentleman from California if this is not the same bill that I have been compelled to object to several times before?

Mr. RAKER. This bill has many of the features that were in the original bill. This identical bill has already passed the Senate and is now on the Speaker's table. As I say, the features in the bill have been agreed upon by the Secretary of the Interior with the authorities of California and practically all parties concerned, as I am advised. There is nobody here from California making any objection to the matter. This matter was up last session, and after I returned home I took the matter up with the authorities again, and I found that there was quite a strong feeling in favor of the passage of the bill.

Mr. MANN. I would suggest to the gentleman from California that if there is a Senate bill on this subject which has already passed the Senate it might be well to refer it to the committee, have it reported back to the House, and let it go on the Unanimous Consent Calendar so that the House will have some idea of what is intended.

Mr. RAKER. I will say to the gentleman from Illinois that the Committee on Public Lands two weeks ago took up the Senate bill. While the Senate bill was not referred to the committee, I had the bill there and the matter was presented to them, and they unanimously authorized me to have this bill laid aside and to take up the Senate bill and have it passed at such time as the House will hear it.

Mr. MANN. The Members of the House do not have the Senate bill, and there is no opportunity for Members to examine the Senate bill until it is referred and printed. That is just what the gentleman desires now. Here is a House bill differing from the former House bill that was objected to. The Senate has passed the bill, and the gentleman knows what is in the Senate bill, and perhaps the Public Lands Committee may know. I do not know what is in the Senate bill. I prefer to have the Senate bill come up in the regular way. It ought to be referred to the committee and printed.

Mr. RAKER. Mr. Speaker, my idea was in saving printing on the matter by having the Senate bill take the place of the House bill, as it is the same bill.

Mr. MANN. Mr. Speaker, I appreciate the anxiety of my friend from California to save printing, and he can save it by not inserting in the RECORD some of the matter which he probably intends to on some other subject. That would save enough to print this bill over a number of times.

Mr. RAKER. Mr. Speaker, if the gentleman insists upon his objection, in order that I may have the Senate bill referred to the Committee on the Public Lands, and, as they have already authorized, that I may call up that bill, I ask unanimous consent that for the present this bill be passed over without prejudice.

Mr. MANN. If we are going to act on the Senate bill, why not strike this bill off the Calendar for Unanimous Consent?

Mr. RAKER. I think the House ought to have it when the Senate bill comes up, if the Committee on the Public Lands agrees, so that Members may know that my statement now as to the Senate and the House bill is correct. I think that is only fair.

The SPEAKER. The Chair will inquire of the gentleman from California what the parliamentary status of the Senate bill is.

Mr. RAKER. The Senate bill has passed the Senate and is now on the Speaker's table.

Mr. MANN. And I ask for its reference to the proper committee.

The SPEAKER. What does the gentleman from California say?

Mr. RAKER. Mr. Speaker, I would say that the Committee on the Public Lands has, by unanimous vote, authorized me, when the time comes, to ask unanimous consent that the Senate bill be taken up and passed—substituted for the House bill—which request I now most respectfully make.

The SPEAKER. What does the gentleman from Illinois say?

Mr. MANN. I shall object to the consideration of this bill.

The SPEAKER. Does the gentleman from Illinois object to this particular bill being passed without prejudice, which is the last request of the gentleman from California, so that the gentleman could get the Senate bill out?

Mr. MANN. I do not object to that request.

The SPEAKER. It is so ordered, and the Clerk will report the next bill.

Mr. RAKER. Mr. Speaker, in that connection may I now ask unanimous consent to call up the Senate bill 5068?

Mr. MANN. O Mr. Speaker, the gentleman from California knows perfectly well——

Mr. RAKER. Mr. Speaker, I withdraw the request.

The SPEAKER. The Clerk will report the next bill on the Calendar for Unanimous Consent.

BRIDGE ACROSS HUDSON RIVER AT NEW YORK CITY.

The next business on the Calendar for Unanimous Consent was the bill (S. 4978) to supplement and amend the act entitled "An act to incorporate the North River Bridge Co. and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road," approved July 11, 1890.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 2 of the act entitled "An act to incorporate the North River Bridge Co. and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road," be, and the same is hereby, so supplemented and amended as to extend the time for the completion of the construction of the bridge by the said act authorized until the 1st day of January, A. D. 1922: *Provided*, That the location of said bridge and all plans for its construction shall hereafter be submitted to the Secretary of War for his consideration and approval before the construction of said bridge shall be entered upon.

Amend by striking out all after the enacting clause and insert:

"That section 2 of the act entitled 'An act to incorporate the North River Bridge Co., and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road,' approved July 11, 1890, be, and the same is hereby, so amended as to extend the time for the completion of the said bridge and approaches therefor for 10 years from the date of the approval hereof: *Provided*, That this act shall not be construed as authorizing the building of said bridge in accordance with plans heretofore approved by the Secretary of War, but drawings showing the location and plans of said structure shall again be submitted to him, for his consideration and approval, before construction shall be entered upon: *And provided further*, That actual work hereunder and in accordance with such plans so approved must be commenced within three years after the approval of this act, or in default thereof the grantee shall forfeit all rights and privileges hereby and herein granted.

"SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved."

The SPEAKER. Is there objection?

Mr. SABATH. Mr. Speaker, reserving the right to object, I would like to know something about that bill. Notwithstanding the fact that this bill has been reported by my committee, it was done in my absence, and I do not know much about the bill. It is a very important matter, it seems to me, and I would like to know something about this company that desires to construct this bridge.

Mr. GOLDFOGLE. Mr. Speaker, the bill is practically to extend the life of the charter of the North River Bridge Co. In 1890 the charter was originally passed by the Fifty-first Congress, and 10 years fixed in it as the time within which to complete the bridge. The bridge is to be over the North River, connecting New York with New Jersey. At the expiration of the 10 years, and in February, 1901, Congress extended the time for completion, and since the bridge has not been completed within the period limited by the last extension, although work upon it was actually begun, the company now seeks another extension.

Mr. SABATH. Will the gentleman inform me how much work has been done upon this bridge in 20 years?

Mr. GOLDFOGLE. We have had hearings before the Committee on Interstate and Foreign Commerce. In those hearings the evidence showed property was, on application by the company, condemned for bridge purposes and considerable work done. Pending the performance of the work questions arose as to the validity of the charter. The matter was carried through the courts, finally to the Supreme Court of the United States. That court held that the charter was valid. Plans were made, and they were approved by the Secretary of War. Work of construction was actually begun. It has become a real public necessity to have such a bridge as the measure contemplates.

Mr. SABATH. This bridge is to be constructed by a private corporation?

Mr. GOLDFOGLE. Yes.

Mr. SABATH. For the benefit of the general public? Does the gentleman know anything about the tolls to be charged on this bridge?

Mr. GOLDFOGLE. No; I do not know what tolls are to be charged.

Mr. SABATH. Could the gentleman enlighten the House on what is to be the cost of the bridge?

Mr. GOLDFOGLE. It is a very large enterprise, Mr. Speaker, and will require a great deal of capital. I am assured by reliable gentlemen who are interested in the measure, and, among others, by the eminent engineer who appeared before the

committee and who is very well informed and an exceedingly skillful man in his profession, that it will take something over $40,000,000. At any rate, it is a very large sum of money, and I am assured and from reliable authority understand if this bill be now passed the company will be able to have the matter properly financed and the work will be at once begun after the War Department shall fix the location as the reported amendment provides and that before the end of the time limited by the amendment proposed by the Committee on Interstate and Foreign Commerce the bridge will be completed and ready for public use. The tremendous increase in freight and passenger traffic between New York and New Jersey makes the bridge a great necessity, and the public interests will be subserved and transportation facilitated if the company be given the opportunity under this bill to complete the bridge.

Mr. SABATH. But that does not give——

Mr. HAMILL. May I ask the gentleman a question?

Mr. GOLDFOGLE. Certainly.

Mr. HAMILL. Are not negotiations now pending, or rather is not the question of the advisability of building a bridge by the State of New York and the State of New Jersey being considered by a joint committee appointed by the legislatures of those States?

Mr. GOLDFOGLE. I know there was such a proposition made. How far the commission went I do not know. We were not advised in our committee just how much work the commission did. The commissioners did not appear before our committee. The record is devoid of anything pertaining to the inquiry of the gentleman, so that I can not give a definite reply to the gentleman from New Jersey.

Mr. HAMILL. Why did not this corporation build the bridge within the period of the life of their first charter?

Mr. GOLDFOGLE. In the first place, the company was delayed in its operations because of the extended litigation, which was finally determined in the company's favor in the Supreme Court of the United States. Then there were, years ago, engineering difficulties which now are overcome. Then, again, there were periods of financial panic and financial depression, which of course delayed the financing of the work. That situation has also passed, and, as I before stated, reliable authority informs me that capital stands ready if this bill be passed. You must bear in mind that the delay incident to the long litigation——

Mr. HAMILL. How was it determined?

Mr. GOLDFOGLE. It was determined favorably to the company. Again, it may be said the company was delayed because in years past there was question as to whether such a bridge as is contemplated by the company could be successfully built, but these engineering difficulties have, as I said, been overcome. Engineers of great skill and great reputation now say that such a bridge can be easily built and very well constructed. Conditions have arisen out of the automobile traffic that make such a bridge necessary. This is aside from all other traffic consideration. The McAdoo tunnels, it must be borne in mind, are for local passenger traffic only.

Mr. HAMILL. Would not it be far better to construct this bridge from public funds than from private capital, if it is feasible to construct it?

Mr. GOLDFOGLE. Well——

Mr. FITZGERALD. That would require an amendment to the constitution of the State of New York; that is my impression.

Mr. GOLDFOGLE. I think my colleague from New York [Mr. FITZGERALD] is right. I am inclined, however, to think that that question does not really enter into the discussion here this morning.

Mr. HAMILL. Mr. Speaker, I would like to get time to look into this question, and therefore I shall object to its present consideration. I ask that it be laid over without prejudice.

The SPEAKER. The gentleman from New Jersey asks that this bill be passed without prejudice.

Mr. HAMILL. That it be laid over.

Mr. GOLDFOGLE. Mr. Speaker, if the gentleman's request be granted, what will then be the status of the bill?

The SPEAKER. It will come up two weeks from to-day and be in the very same condition it is in now.

Mr. GOLDFOGLE. Does the gentleman think he ought to insist upon that this morning? I hope he will not.

Mr. HAMILL. Yes. It is one of immense importance, and we ought to be fully informed about it before we act.

Mr. GOLDFOGLE. Well, rather than incur the gentleman's displeasure and have an objection noted——

The SPEAKER. Is there objection to this bill being passed without prejudice?

Mr. MANN. Mr. Speaker, I object.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SABATH. Mr. Speaker, I object.

HUDSON RIVER BRIDGE, NEW YORK.

The next business on the Calendar for Unanimous Consent was the bill (S. 5659) an act to supplement and amend an act entitled "An act to authorize the New York & New Jersey Bridge Cos. to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey," approved June 7, 1894.

The Clerk read the title of the bill.

Mr. SHERLEY. Mr. Speaker, in order to save time, as this is a similar bill to the one to which objection has just been made, I object to its consideration.

The SPEAKER. The gentleman from Kentucky objects, and the bill will be stricken from the calendar.

DAM ACROSS WHITE RIVER, MO.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25035), granting to the Ozark Power and Water Co. authority to construct a dam across White River, Mo.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker, I reserve the right to object.

Mr. MANN. I reserve the right to object.

Mr. FITZGERALD. Let the bill be reported.

Mr. FOSTER. I have no objection to that.

Mr. FITZGERALD. Does the gentleman from Illinois [Mr. FOSTER] intend to object to the bill? If so, it should be reported.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Ozark Power and Water Co., a corporation organized under the laws of the State of Missouri, with principal offices in the city of Joplin, Mo., its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a dam across the White River at a point suitable to the interests of navigation, approximately three miles upstream from the towns of Hollister and Branson, in Taney County, Mo., in township 22 north, range 21 west, of the fifth principal meridian, in accordance with the provisions of the act approved June 23, 1910, entitled "An act to amend an act entitled 'An act to regulate construction of dams across navigable waters,' approved June 21, 1906."

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. MANN. Mr. Speaker, I reserve the right to object.

Mr. FOSTER. Mr. Speaker, I desire to say that I have been in consultation somewhat with the gentleman from Missouri [Mr. RUSSELL], and it was thought that we might arrive at a conclusion in reference to some amendment that would be offered to this bill, and for the benefit of the House I would like to have the amendment read, which is satisfactory, so far as I am concerned.

The SPEAKER. The Clerk will report the amendment for information.

Mr. FITZGERALD. Mr. Speaker, one moment. Does the gentleman object to the consideration of the bill? I do not know what the amendment is, but if the gentleman reserves the right to object to have amendments read for the information of the House, it will initiate a practice that will destroy the value of the Unanimous Consent Calendar.

Mr. FOSTER. I will say to the gentleman from New York [Mr. FITZGERALD] that if an amendment could be put on this bill that would safeguard the rights of the Government and the users of the water power, I will have no objection to the consideration of the bill. What I want is that this amendment be read for the information of the House, so that if the gentleman from New York or anyone else objects to it——

Mr. FITZGERALD. I object to the reading of the amendment. I do not believe that gentlemen should have the right to reserve the objection in order to have proposed amendments read, and then make their consent dependent upon whether unanimous consent be given to the adoption of the amendment or amendments they propose.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] objects to the reading of the amendment. Is there objection to the consideration of this bill?

Mr. FOSTER. Mr. Speaker, reserving the right to object, I would like to state to the gentleman from New York [Mr. FITZGERALD] that this is a matter that is important to the gentleman from Missouri [Mr. RUSSELL]. And the gentleman from New York [Mr. FITZGERALD] remembers that there has been some controversy here in reference to granting these water-power sites. And so I desire to take this matter up in this way. Of course, if the gentleman from Missouri——

Mr. FITZGERALD. Mr. Speaker, it seems to me that this is a matter of vital importance, and inasmuch as the amendment that the gentleman proposes, in his opinion, is one that is

essential properly to safeguard the interests of the Government and is one of the conditions that the report of the committee states it was unable to incorporate in the bill, then this is not a bill that should be considered by unanimous consent. I do not propose, if I can prevent, making absolutely futile the Calendar for Unanimous Consent by having initiated this practice and having gentlemen occupying time to have proposed amendments read and making their unanimous consent to the bill dependent upon whether unanimous consent be given to the adoption of the amendment they propose. In that way we would deprive this calendar of its usefulness. I shall object to that practice whenever I happen to be here and such a bill is before the House, regardless of what the amendment happens to be.

Mr. FOSTER. The gentleman from New York, no doubt, in his long service in the House can recall to mind that amendments are brought about in this manner, and thereby differences are arranged. While the gentleman may conclude it is unusual practice, I have no doubt that he, as chairman of the great Committee on Appropriations, has had informal arrangements of the same kind. I am not attempting to have any secrecy about this matter, but I wish the House to know my position on this subject. If the gentleman desires to object——

Mr. FITZGERALD. I will object to the reading of the amendment before consent is given to the consideration of the bill.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] has already objected to the reading of the amendment and that shuts it out.

Mr. SHERLEY. Mr. Speaker, I desire simply to say this word in regard to these bills relating to water power. In my judgment, there is no question before Congress of more value or concerning which there is a greater diversity of views. It is manifest that the Unanimous Consent Calendar was to take charge of such matters that there was likely to be no objection to. It was never intended for the consideration of matters that raise questions about which there are strong differences of view. For that reason I shall object not only to this bill, but, if I am present, to any other bill dealing with water-power matters put on the Unanimous Consent Calendar.

The SPEAKER. The gentleman from Kentucky [Mr. SHERLEY] objects.

Mr. RUSSELL. Will the gentleman reserve his objection for a moment?

Mr. SHERLEY. I have no objection to reserving it; but that is my position, and it is perfectly plain.

Mr. RUSSELL. This bill is altogether different from the other water-power bills pending in this House. Congress has already granted the right to build a dam across this river, and the company that seeks to get this permission now has already expended approximately a million and a half dollars in the building of that dam. This bill simply asks permission to build a supplemental dam for reservoir purposes, so as to regulate the flow of the water at all seasons and to make beneficial and profitable the dam that has already been constructed under the authority of an act of Congress.

We feel that this bill should not be governed by the strict rule that is to be applied by these gentlemen to other bills granting the right, as an original proposition, to build dams. This is a supplementary dam, and it is necessary for the purpose of utilizing the dam that has already been constructed. The prompt passage of this bill is very important to my district and is greatly desired by my constituents. I wish my friend from Kentucky would withdraw his objection and let this bill be considered. I do not think there will be any objection to it after it is submitted to the House and the amendment suggested has been offered and adopted.

The SPEAKER. Is there objection?

Mr. SHERLEY. I object.

Mr. COOPER. Mr. Speaker, I object.

The SPEAKER. The gentleman from Wisconsin [Mr. COOPER] objects and likewise the gentleman from Kentucky [Mr. SHERLEY]. The bill is stricken from the calendar. The Clerk will report the next one.

DISMISSAL OF CERTAIN WEST POINT CADETS.

The next business on the Calendar for Unanimous Consent was the resolution (S. J. Res. 99) authorizing the President to reassemble the court-martial which on August 16, 1911, tried Ralph I. Sasse, Ellicott H. Freeland, Tattnall D. Simkins, and James D. Christian, cadets of the Corps of Cadets of the United States Military Academy, and sentenced them.

The Clerk read the Senate joint resolution, as follows:

Resolved, etc., That the President be, and he is hereby, authorized to reassemble the court-martial, or as many members thereof as practicable, not less than the minimum prescribed by law, which on August 16, 1911, tried Ralph I. Sasse, Ellicott H. Freeland, Tattnall D. Simkins, and James D. Christian, cadets of the Corps of Cadets of the United States Military Academy at West Point, N. Y., for having violated on August 4, 1911, paragraph No. 132 of the former regulations of the said academy, and sentenced them to be dismissed from the service, and to resubmit the case of any one or more of said cadets upon his or their applications to said court for reconsideration of the sentence; and upon such reconsideration the court is authorized to construe said paragraph as not necessarily requiring a sentence of dismissal, but as permitting a lesser punishment, as provided in paragraph No. 142 of the current regulations approved June 15, 1911, and to modify the sentence accordingly; and that the President be, and he is hereby, authorized to carry such modified sentence or sentences into effect, notwithstanding the prior dismissal of said cadets, by reinstating them in accordance with the terms and conditions of the modified sentence as approved by the President.

The SPEAKER. Is there objection?

Mr. MANN. I reserve the right to object, Mr. Speaker; and I make the point of order, in addition, that this bill, being of a private character, has no place on the Unanimous Consent Calendar.

Mr. CLARK of Florida. Mr. Speaker, I can not hear the gentleman.

The SPEAKER. The gentleman from Florida complains that he can not hear the gentleman from Illinois.

Mr. MANN. I make the point of order that this is a Private Calendar bill, erroneously placed on the House Calendar, and as a Private Calendar bill it can not be placed on the Unanimous Consent Calendar. The rules provide for the three calendars—a Union Calendar, a House Calendar, and a Private Calendar. Paragraph 729, third clause, provides for—

A Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character.

I think it is perfectly apparent to anyone who examines the bill that this is a bill of a private character.

The SPEAKER. Where is the gentleman reading?

Mr. MANN. From page 362 of the Manual, Rule XIII, section 1, clause 3:

A Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character.

This bill is a bill for the relief of gentlemen who were formerly cadets at the Military Academy, and it is purely a bill of a private character, to relieve private individuals.

The SPEAKER. The point of order is well taken.

Mr. CLARK of Florida. Mr. Speaker, I want to be heard for just a moment, if the Chair will permit me.

The SPEAKER. The Chair will hear the gentleman.

Mr. CLARK of Florida. Mr. Speaker, this is not a resolution for the relief of anybody. It is not in its essential characteristics a private measure. If the Speaker will examine the report of the Committee on Military Affairs of this House accompanying this resolution, I think the Speaker will find that a great principle is involved in this resolution, aside from the relief of anybody. The resolution is not entitled a resolution for the relief of any individual, but it is entitled a resolution "authorizing the President to reassemble the court-martial which on August 16, 1911, tried" certain-named individuals then cadets at the West Point Military Academy.

Now, the facts are, Mr. Speaker, that there was a regulation of the Military Academy which provided that no cadet shall drink any spirituous or other intoxicating liquor or bring or cause to be brought within the academy limits or have the same within his room or otherwise within his possession, on the pain of being dismissed the service.

The SPEAKER. The rules provide for three calendars: First, a Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred bills raising revenue, and so forth, of a public nature; second, a House Calendar, to which shall be referred all bills of a public character not raising the revenue and not appropriating money; third, a Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character. Then section 3 of that same rule says:

After a bill which has been favorably reported shall be upon either the House or the Union Calendar—

And a private bill can not be on either one of those calendars—

any Member may file with the Clerk a notice—

And so forth, for the purpose of getting it on to the Calendar for Unanimous Consent.

Mr. CLARK of Florida. If the Speaker will just allow me to finish what I was about to say, I think I can show the Speaker wherein this resolution partakes more essentially of a public nature than of a private nature.

I have just stated to the Speaker what the regulation of the Military Academy was which was adopted in 1902. That remained the regulation until June, 1911. This regulation had always been construed by courts-martial to mean the summary

dismissal of cadets who violated it. In June, 1911, the department, thinking that was too harsh a rule, modified it by leaving it in the discretion of the court-martial as to what punishment should be inflicted in a given case.

The SPEAKER. Under which regulation were these boys tried?

Mr. CLARK of Florida. I am coming to that. The court-martial was assembled in August, 1911. These boys were tried on the 16th of August, 1911, and the new regulation did not reach the officials at West Point until August 29, 1911, and that court-martial tried these boys and sentenced them in absolute ignorance of the law which applied to their case. The Secretary of War of the United States said that, in his judgment, this was a matter of so much importance that he consented to this resolution in order that this court-martial might be reconvened and these four American citizens tried again, not for their relief but for the vindication of the law, in order that they might be tried as the law provided at the time the court was assembled and rendered its verdict. So I think it is essentially a matter of a public nature in which the whole United States, and particularly this Congress, are interested. That is all I have to say.

The SPEAKER. The Chair sustains the point of order.

Mr. MANN. I take it, then, that the bill is referred to the Private Calendar.

The SPEAKER. It goes to the Private Calendar.

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. It appears that the resolution just disposed of is to go to the Private Calendar. At present, in addition to being on the Calendar for Unanimous Consent, it is also on the House Calendar. What happens to the resolution as it appears on the House Calendar?

The SPEAKER. It will be stricken from both the House Calendar and the Unanimous Consent Calendar and will go to the Private Calendar.

Mr. CLARK of Florida. Mr. Speaker, this is a Senate resolution. As it goes off this calendar, would it be proper to ask that the Senate resolution lie on the table?

The SPEAKER. It has already been referred to the committee, and the committee has made a report. It is bound to be upon one of the three calendars. The Clerk will report the next bill.

MEAT INSPECTION.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26329) to amend the proviso in meat-inspection law concerning products prepared according to directions of foreign purchasers.

The bill was read, as follows:

Be it enacted, etc., That the proviso in the act entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907," approved June 30, 1906, which reads as follows: "*Provided*, That subject to the rules and regulations of the Secretary of Agriculture, the provisions hereof in regard to preservatives shall not apply to meat-food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact manufactured, sold, or offered for sale for domestic use or consumption then this proviso shall not exempt said article from the operation of all the other provisions of this act," be, and the same is hereby, amended by inserting after the word "preservatives" the words "and coloring matter," so that said proviso as amended shall read as follows: "*Provided*, That, subject to the rules and regulations of the Secretary of Agriculture, the provisions hereof in regard to preservatives and coloring matter shall not apply to meat-food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact sold or offered for sale for domestic use or consumption then this proviso shall not exempt said article from the operation of all the other provisions of this act."

With the following amendment:

In line 4, page 2, after the word "fact," insert the word "manufactured."

The SPEAKER. Is there objection?

Mr. FOWLER. Mr. Speaker, reserving the right to object, I desire to ask the author of the bill if it is intended by this amendment to give to meat-packing companies and butterine companies in this country the right to impose upon the people of other countries that which the law does not permit them to impose on the people of this country?

The SPEAKER. Who is the author of the bill?

Mr. MANN. I am the author of the bill.

The SPEAKER. The gentleman from Illinois [Mr. FOWLER] desires some information concerning it.

Mr. MANN. The bill does not give the right to impose upon the people of other countries what is not authorized in this country, but it authorizes the people of other countries to obtain what the people of those countries could not obtain without this legislation. This is the situation. I discovered a few years ago when making a trip to the West Indies that in some of the islands they use a red-colored butter or oleomargarine. They do not use the yellow butter or the yellow oleomargarine. We have been shipping to Barbados and some of the other islands for a good many years butter and oleomargarine colored with a reddish tinge, and to maintain that color it requires the use of a mineral dye, because the vegetable dye will not keep in that climate.

Recently the Agricultural Department has held that the use of a mineral dye was not permissible, even for export, because the law provides that only for the use of preservatives. Under the existing law they can use preservatives in these articles for export which can not be used for home consumption. The purpose of this bill is to permit them also to use mineral dyes in the preparation of these articles when they are ordered by the persons who order the product. The same law applies to the pure-food act, where we expressly provide that as to articles covered by the pure-food law, if they are prepared in accordance with the custom in the foreign country, certain things can be used which could not be used in this country. The bill would not apply to any article sold or manufactured or offered for sale or for use or consumption in our own country; but if a foreign purchaser orders butter or oleomargarine colored with a reddish dye, they would be permitted to do that. As a matter of fact, I am informed that in these islands where they formerly purchased from the United States our business is now stopped and their purchases are entirely from Europe.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. FOWLER. I object.

The SPEAKER. The gentleman from Illinois objects, and the bill will be stricken from the calendar.

MEMORIAL TABLET TO PENNSYLVANIA SOLDIERS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 22594) permitting the State of Pennsylvania to place a bronze tablet in the corridor of the National Capitol at Washington to the memory of the 530 Pennsylvania soldiers who reached Washington on the 18th day of April, 1861, for the defense of the National Capital.

The Clerk read the bill, as follows:

Be it enacted, etc., That the custodian of the Capitol be, and he is hereby, authorized to grant a permit to the State of Pennsylvania to place in the corridor of the National Capitol, Washington, at a place to be designated by the Vice President of the United States, the Speaker of the House of Representatives, the chairman of the Committee on the Library of the Senate, and the chairman of the Committee on the Library of the House of Representatives, a bronze tablet bearing as inscription the words of a resolution of the Thirty-seventh Congress of the United States, to wit:

XXXVII CONGRESS OF THE UNITED STATES, AT THE FIRST SESSION.

IN THE HOUSE OF REPRESENTATIVES,
July 22, 1861.

Resolved, That the thanks of this House are due, and are hereby tendered, to the 530 soldiers from Pennsylvania who passed through the mob of Baltimore and reached Washington on the 18th day of April last for the defense of the National Capital.

GALUSHA A. GROW,
Speaker of the House of Representatives.

Attest:

EM. ETHERIDGE, *Clerk.*

SEC. 2. That the said bronze tablet to be furnished and the entire cost of its installation to be borne by the State of Pennsylvania.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Texas whether he thinks it is desirable to put up an inscription which falsifies the record?

Mr. SLAYDEN. I do not think it would be desirable to put up an inscription that falsifies the record. Does the gentleman refer to what is omitted?

Mr. MANN. Here is a proposition to put up and recite a resolution of Congress as complete, and then proposes to take out of that resolution a part of it.

Mr. SLAYDEN. Where does the report say that the resolution is complete?

Mr. MANN. As I understand the proposition, it proposes to change a bronze tablet which now recites a complete resolution passed by Congress so as to still purport to recite a resolution which, in fact, never was passed by Congress. Does the gentleman think that is a proper way to record history?

Mr. SLAYDEN. I will say to the gentleman that I think anything that the Committee on the Library recommends, after a full consideration, is correct. I will say, in further explanation to the gentleman, that the committee thought that as the original resolution contained matter which might have a tendency to continue or revive certain feelings that were developed

during the Civil War period which, perhaps, it is wiser should not be revived or continued, they felt justified in recommending that the resolution be passed as amended.

I will say, further, that the resolution in this shape is satisfactory to the gentleman who introduced it—Mr. LEE—and that the committee gave the matter real consideration. They hedged it about with all possible precaution, and determined that it should only be put up when consented to by certain authorities that are named, and not then unless it measures up to a certain artistic standard.

Mr. MANN. As I understand the gentleman, the position of the Library Committee is that it is not desirable to erect this bronze tablet reciting what the resolution actually was because it might revive sectional feeling. The resolution was:

Resolved, That the thanks of this House are due, and are hereby tendered, to the 530 soldiers from Pennsylvania who passed through the mob of Baltimore and reached Washington on the 18th day of April last for the defense of the National Capital.

The only thing of note in connection with that resolution is that it thanks these soldiers for passing through the mob at Baltimore. If there had been no mob at Baltimore and they had not passed through a mob at Baltimore, there was no occasion for the resolution.

It may be desirable not to revive that sectional feeling. I am inclined to think, myself, it is not a wise thing to put in the Capitol a tablet referring to the mob at Baltimore, which did or did not exist; and to put into the Capitol a bronze tablet, leaving out the very essence of the resolution, falsifying the record which actually was made by Congress, seems to me to be a matter of very doubtful propriety, at least.

Mr. SLAYDEN. Mr. Speaker, I will say to the gentleman that my recollection is that those words which the committee recommended should be stricken out of the resolution were not the very essence of it as presented for the consideration of the committee; but the claim was advanced that this was the first military organization that reached the Capital for its defense, and because of the promptness of those men in volunteering their services and the speed with which they arrived in Washington—whether accelerated by dangers on the way I do not know—and being the first military organization that did so, the committee thought that they were entitled to this recognition.

Mr. MANN. They arrived at the Capital first, if they did so, because they were close by. They did not enlist any more quickly than other soldiers did in any other part of the country.

Mr. SLAYDEN. But they got there first.

Mr. GILLETT. But is that correct?

Mr. SLAYDEN. I do not know. I accepted Pennsylvanians as competent witnesses.

Mr. MANN. I do not know whether they got there first or not.

Mr. MOORE of Pennsylvania. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Texas yield to the gentleman from Pennsylvania [Mr. MOORE]?

Mr. SLAYDEN. Yes.

Mr. MOORE of Pennsylvania. Mr. Speaker, I would like to say to the gentleman that these men were known then and are actually known to-day as "First Defenders." They were the men coming out of Pennsylvania who were the first to reach the National Capital for its defense at the call of President Lincoln.

Mr. SLAYDEN. Mr. Speaker, I know that is the claim of Pennsylvanians, and their well-known veracity inclined me to believe that it was correct.

Mr. MOORE of Pennsylvania. As a rule, Mr. Speaker, Pennsylvanians are not any different from men of Texas or elsewhere in claiming credit for those things actually performed, and in this instance these men did promptly respond to the call, and did reach Washington, and have since been known throughout the country and in all military annals as "First Defenders."

Mr. SLAYDEN. The committee was so convinced.

Mr. MOORE of Pennsylvania. And the principal incident of their trip to Washington was the incident which occurred in Baltimore, which was incorporated in the resolution passed by Congress at that time and which is the substance of the request of the Legislature of Pennsylvania—that this tablet should be placed at the National Capitol. If the gentleman will read the resolution passed by the Legislature of Pennsylvania, signed by the governor of the State, as it appears on the second page of the report, he will find that that Commonwealth requested that the resolution as passed by Congress back in war times should be incorporated in this tablet, and that resolution is the resolution, it seems to me, that ought to be respected in this instance. It is the resolution which states a historical fact and which the people of Pennsylvania and these good old soldiers—the few who are remaining of the first defenders—desire in their declining days to have placed here as a permanent memorial of their having reached the Capital first. The tablet should state the facts.

Mr. GILLETT. Mr. Speaker, will the gentleman yield?

Mr. SLAYDEN. Yes.

Mr. GILLETT. On what date in April was it that they reached Washington?

Mr. SLAYDEN. The 18th of April, I think.

Mr. GILLETT. Was it not the 17th that the Sixth Massachusetts passed through Baltimore?

Mr. SLAYDEN. I will say to the gentleman that this is a statement of facts given us by Pennsylvanians:

These troops left their respective homes for Harrisburg, the place designated for the assembling of the first Pennsylvanians to take the field. On the morning of the 18th of April, 1861, after being sworn into the service of the United States, these five Pennsylvania companies left by train for Washington, arriving at 6 o'clock in the evening of that day, three days after the call went forth, and were escorted to the Capitol by order of the Secretary of War.

Mr. KENDALL. What does the record show as to the facts?

Mr. SLAYDEN. I must confess to the gentleman that I have never looked it up. I am letting the Pennsylvanians write their history, as Massachusetts has written hers, very largely.

Mr. MOORE of Pennsylvania. Would not the gentleman let the history remain as it was written and not change it at this late date, after half a century has passed since these men came down here?

Mr. SLAYDEN. My friend from Pennsylvania makes the statement that they were the first to arrive, does he?

Mr. MOORE of Pennsylvania. It is historically correct, as I am informed, that these were the first defenders of the National Capital, the men who first arrived at the call of Lincoln, when he feared the Capital might fall.

Mr. STEPHENS of Texas. I desire to ask my colleague from Texas if he does not think this would be a dangerous proceeding at this late day, 45 years or more from the Civil War, in view of the fact that Congress has always refrained from putting statues and pictures in this Capitol to commemorate any event of this nature for the reason stated so well by the gentleman from Illinois [Mr. MANN]? I think it is a very unwise move to make at the present time.

Mr. SLAYDEN. I think, Mr. Speaker, my colleague is mistaken in his statement that Congress has refrained from doing that sort of thing. If he will walk out into the room we commonly refer to as Statuary Hall he will see some evidences perhaps not as apparent to him as this.

The SPEAKER. Is there objection?

Mr. STEPHENS of Texas. Mr. Speaker, I shall have to object.

The SPEAKER. The gentleman from Texas objects, and the bill is stricken from the calendar.

COMMISSION IN REGARD TO FEDERAL PRISONERS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 21594) to appoint a commission to consider and report upon the general subject of the treatment of juvenile and first offenders, together with the best system of detention of Federal prisoners.

The Clerk read as follows:

A bill (H. R. 21594) to appoint a commission to consider and report upon the general subject of the treatment of juvenile and first offenders, together with the best system of detention of Federal prisoners.

Mr. HOUSTON. Mr. Speaker, this bill was introduced by the gentleman from Alabama [Mr. CLAYTON], the chairman of the Judiciary Committee, who is necessarily detained at the other end of the Capitol, and I ask that this bill be passed without prejudice.

The SPEAKER. The gentleman from Tennessee [Mr. HOUSTON] asks that this bill be passed without prejudice on account of the necessary absence of the author in the discharge of an important public duty.

Mr. MANN. Mr. Speaker, reserving the right to object, if the gentleman will pardon me, I understood a short time ago there was at least some thought on the part of the Committee of the House on Expenditures in the Department of Justice to investigate United States penitentiaries, and possibly other jails in which Federal prisoners were confined. I do not know whether it is intended to proceed with that, but that will probably be a more——

Mr. HOUSTON. I did not understand what the gentleman stated.

Mr. MANN. Such a proposition will probably be of more value to the House, so far as legislation is concerned, than the appointment of a commission whose report somebody might read.

Mr. HOUSTON. Mr. Speaker, I hope the matter may go over and let the gentleman from Alabama have an opportunity to explain it.

Mr. MANN. I shall not object to the request, but I call attention to this in the hope that the gentleman from Texas [Mr. BEALL], chairman of that committee, might have his attention attracted to this bill. I doubt whether it has been.

The SPEAKER. Is there objection to passing this bill without prejudice? [After a pause.] The Chair hears none.

COAL MINING COMPANIES, OKLAHOMA.

The next business on the Calendar for Unanimous Consent was the bill (S. 3843) granting to the coal mining companies in the State of Oklahoma the right to acquire additional acreage adjoining their mine leases, and for other purposes.

The Clerk read as follows:

S. 3843. An act granting to the coal mining companies in the State of Oklahoma the right to acquire additional acreage adjoining their mine leases, and for other purposes.

Mr. STEPHENS of Texas. Mr. Speaker, I ask that this bill may also be passed without prejudice.

The SPEAKER. The gentleman from Texas asks that this bill be passed without prejudice.

Mr. MANN. What bill is it?

Mr. STEPHENS of Texas. It is Senate 3843.

Mr. BURKE of South Dakota. Mr. Speaker, reserving the right to object, I would like to ask the gentleman for what purpose he desires to pass the bill without prejudice?

Mr. STEPHENS of Texas. I understand from certain quarters there will be objection. The committee has passed the bill. It is a Senate bill, and it has been reported from our committee unanimously; and I think the bill should become a law; but, owing to the fact that some of the coal-mining corporations are interested in it and there are some objections, I think they will be obviated if the bill be passed over for two weeks.

Mr. MANN. Reserving the right to object, I would like to attract the attention of gentlemen who are interested in this bill to the fact that section 2, which is the repealing clause of the bill, would, I am inclined to think, if passed, repeal a great deal more than is contemplated. As far as the bill itself is concerned, if it becomes a law and it repeals anything——

Mr. STEPHENS of Texas. If the gentleman will permit it to go over, the committee will meet on Friday and will amend it.

Mr. MANN. I hope the gentleman will look up that. I looked up the law which this apparently purports to repeal and it seems to cover a great deal more than is intended to be repealed.

Mr. STEPHENS of Texas. The reason I ask that it be passed without prejudice is that we can present an amendment to cover objections to the bill. We are very desirous of having the legislation.

The SPEAKER. Is there objection to passing this bill without prejudice?

There was no objection.

INDIAN TRIBAL FUNDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 46) to amend section 2 of an act approved March 2, 1907, entitled "An act providing for the allotment and distribution of Indian tribal funds."

The bill was read in full.

The SPEAKER pro tempore (Mr. LITTLETON in the chair). Is there objection to the consideration of the bill?

Mr. MILLER. Mr. Speaker, I object.

The SPEAKER pro tempore. The Clerk will report the next bill.

CHAMBER OF COMMERCE, UNITED STATES OF AMERICA.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 25106) to incorporate the Chamber of Commerce of the United States of America.

The bill was read in full.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. BARTLETT. Mr. Speaker——

Mr. GARRETT. Mr. Speaker——

The SPEAKER pro tempore. The Chair will first recognize the gentleman from Georgia [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I am going to object to the consideration of this bill. I do not think we have any power to pass it or a similar one. The gentleman from Kentucky [Mr. SHERLEY] also asked me to state that he would enter an objection to it if he were present.

Mr. GRAHAM. Mr. Speaker, I want to state in connection with this bill that it was up once before and was passed at my request, but I have learned from the gentleman from Kentucky [Mr. SHERLEY] and also from the gentleman from Tennessee [Mr. GARRETT] that there are objections to its consideration on this calendar which are insuperable. So I am willing that it go back on the calendar, where it can be fought out.

Mr. MOORE of Pennsylvania. Will the gentleman from Georgia [Mr. BARTLETT] reserve his objection for one moment, so that I may ask him one question?

Mr. BARTLETT. I am perfectly willing to reserve my objection.

Mr. MOORE of Pennsylvania. I want to know if the gentleman's objection is based on the ground that Congress has no power to grant this sort of a charter?

Mr. BARTLETT. Yes; that is one of the objections which I have to offer.

Mr. BUCHANAN. Mr. Speaker, I ask for the regular order.

VETERINARY SERVICE, UNITED STATES ARMY.

The SPEAKER pro tempore. The Clerk will report the next bill.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16843) to consolidate the veterinary service, United States Army, and to increase its efficiency.

Mr. HAY. Mr. Speaker, I ask unanimous consent that the substitute reported by the Committee on Military Affairs may be read instead of the original bill.

The SPEAKER pro tempore. Is there objection to the reading of the substitute, as requested by the gentleman from Virginia [Mr. HAY]?

There was no objection.

The substitute was read, as follows:

Be it enacted, etc., That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint veterinarians and assistant veterinarians in the Army, not to exceed 2 such officers for each regiment of Cavalry and Field Artillery, 15 as inspectors of horses and mules and as veterinarians in the Quartermaster's Department, and 5 as inspectors of meats for the Subsistence Department, not to exceed 62 in all.

SEC. 2. That hereafter a candidate for appointment as assistant veterinarian must be a citizen of the United States between the ages of 21 and 27 years, a graduate of a recognized veterinary college or university, and that he shall not be appointed until he shall have passed a satisfactory examination as to character, physical condition, general education, and professional qualifications.

SEC. 3. That an assistant veterinarian appointed under section 2 of this act shall have the rank, pay, and allowances of second lieutenant, mounted; that after five years of service an assistant veterinarian shall be promoted to the rank, pay, and allowances of first lieutenant, mounted: *Provided*, That he passes a satisfactory examination under such rules as the President may prescribe as to professional qualifications and adaptability for the mounted service; or, if found deficient, he shall be discharged from the Army with one year's pay and have no further claim on the Government.

SEC. 4. That the veterinarians of Cavalry and Field Artillery now in the Army, together with such of the veterinarians of the Quartermaster's and Subsistence Departments provided for in section 1 of this act, now employed, who at the date of the approval of this act shall have less than five years of service, be reappointed and commissioned as assistant veterinarians, with the rank, pay, and allowances of second lieutenant, mounted; that the veterinarians who have over five years of service be reappointed and commissioned as veterinarians, with the rank, pay, and allowances of first lieutenant, mounted: *Provided*, That they pass a prescribed practical professional examination and a physical examination as to fitness for mounted field service: *Provided further*, That veterinarians now in the Army and in the employ of the Quartermaster's Department and the Subsistence Department who fail to pass the prescribed physical examination, due to disability incident to the service, and who have been incapacitated from rendering satisfactory service to the Government, shall be retired from active service with 75 per cent of the pay corresponding to length of service as prescribed herein.

SEC. 5. That the Secretary of War, upon recommendation of the Quartermaster General, may appoint, for such time as their services may be required, such number of reserve veterinarians as may be necessary to attend public animals pertaining to the Quartermaster's or other departments or corps, who shall have the pay and allowances of second lieutenant, mounted, during such period of service and no longer: *Provided*, That such reserve veterinarians be graduates of a recognized veterinary college or university and have previously passed such moral, professional, and physical examination as may be deemed necessary by the Secretary of War for the proper performance of their duties in mounted field service.

SEC. 6. Candidates passing the examinations as prescribed in section 2 of this act shall be appointed, in the order of merit in which they passed such examinations, to vacancies as they occur, such appointment to be a probationary one of six months, after which time, if the services of the probationer have been satisfactory, he shall be permanently appointed, with commission antedated to embrace such probationary service. Probationary veterinarians whose services are found unsatisfactory shall be discharged at any time during the probationary period, or at the end thereof, without further claim against the Government.

SEC. 7. That the Secretary of War is authorized to appoint a board of examiners to conduct the examinations prescribed herein, one member of which shall be a field officer, one a surgeon, and two veterinarians.

SEC. 8. That all laws or parts of laws in conflict with the provisions of this act be, and are hereby, repealed.

The SPEAKER pro tempore. Is there objection to the present consideration of the substitute?

Mr. FOWLER. Mr. Speaker, reserving the right to object, I desire to inquire of the chairman of the committee in charge of this bill if there are not now a set of horse doctors in connection with the Army who go everywhere the Army goes?

Mr. HAY. I will state to the gentleman from Illinois that there are now veterinarians in the Army, but they occupy a position which does not give them opportunity to properly take care of the animals under their charge. And I would say to my friend from Illinois that the profession of veterinary surgery is one which has increased in importance and ability, and that veterinary surgeons are now men of excellent education and broad ideas, and the limitations of the service are such that the best veterinarians can not now be obtained for the Army, and will not be obtained, unless something is done in order to give them some standing in the Army. That is the purpose of this bill.

Mr. FOWLER. But these gentlemen are paid a salary now, are they not?

Mr. HAY. They are; yes. They are paid a salary, and those attached to the Cavalry and Field Artillery are placed on the retired list after a certain length of service.

Mr. FOWLER. What salary do they get now?

Mr. HAY. They get the salary of second lieutenant, $1,700 a year, with increase of pay for every five years which they serve.

Mr. FOWLER. And they are retired at what age on what salary?

Mr. HAY. Sixty-four years; or sooner, if they have incurred any physical disability in the line of duty.

Mr. FOWLER. And at what salary are they retired?

Mr. HAY. At three-fourths of the pay they are receiving when retired.

Mr. FOWLER. Will this bill increase the salary of these doctors?

Mr. HAY. It will increase the cost of this service $31,376 per annum.

Mr. FOWLER. Will it increase the salary? Does it provide for an increase of salary?

Mr. HAY. Exactly. That is what I said. It increases the combined salaries of all the veterinarians included in this bill by $31,376 per annum.

Mr. FOWLER. There are no wars now in the United States or elsewhere, where the United States Army is called, and why should we have an increase in time of peace?

Mr. HAY. We are not increasing the number of veterinarians. It is not a war measure. If we had a war we would probably ask for a great many more veterinarians, and a great many more would have to be provided. This bill is intended to increase the efficiency of the veterinary service of the Army.

Mr. FOWLER. Is it not true that the salary is sufficient now to get the best horse doctors that can be had?

Mr. HAY. It is not a matter of salary so much as the fact that these men have not the status in the Army which gives them authority to carry out what they believe to be the best plans for the care of the animals which come under their charge.

Mr. FOWLER. Then, why increase the salary if you can get good men for the salary now paid?

Mr. HAY. I have just said that you could not get the best men in the veterinary profession on account of the fact that they have not the standing in the Army that they ought to have—the standing that the dental surgeons have.

Mr. FOWLER. Have any gentlemen declined these positions when tendered to them that the gentleman knows of?

Mr. HAY. These positions are not tendered to them, so far as I know. That is not the way they are given out. The Government does not go around and ask people to take those positions.

Mr. FOWLER. How does a man get the position if it is not tendered to him?

Mr. HAY. He applies for it just as the gentleman himself applies to his constituents when he asks that he be sent to Congress.

Mr. FOWLER. They usually get what they want, don't they?

Mr. HAY. Not always. I will say to the gentleman further, that this measure has been pending for many years, and has been recommended by the War Department as essential for the proper development of this service.

Mr. FOWLER. Does the gentleman really think it is necessary that this bill should pass?

Mr. HAY. I do; otherwise I would not be trying to get it passed.

Mr. FOWLER. Does the gentleman think it would better prepare the United States Army for battle and the preservation of mules and horses?

Mr. HAY. I do; that is, it would prepare the animals used by the United States Army for battle; yes. I think it will save as much or more by the more expert treatment that animals would be given than the increase of salary will place upon the Government.

Mr. FOWLER. Well, it has been reported that the United States has lost a good many mules recently, because of the inefficiency of the veterinarians who have been in charge of this department of the Army. Now, is that true? Has the gentleman any information upon that question?

Mr. HAY. I have information which appears in the hearings had before the Committee on Military Affairs, to the effect that the veterinarians who are now in the Army are unable to have their commands or orders carried out in respect to the treatment of the horses and mules under their control. Having no status as officers, they are not able to get the men to carry out their orders.

Mr. FOWLER. Does the gentleman really think that if this bill should pass it will save the United States more money in the way of saving the lives of mules and horses than the increase of salary that is proposed by the bill?

Mr. HAY. Well, I could not guarantee that, but I believe that it will have that effect. I believe that the service will be so much improved that the animals will be better taken care of, and fewer of the animals will be lost on account of neglect than are lost now.

Mr. FOWLER. Then, Mr. Speaker, on the assurance of the gentleman of the improvement in the service and the great saving of life among mules and horses, I desire to withdraw my objection.

Mr. DIFENDERFER. You should include in that improvement along the line of human beings also.

Mr. MONDELL. Mr. Speaker, I reserve the right to object. I want to call the attention of the Chair to line 12, page 6, that part of the bill which provides for the retirement of veterinarians now in the service who fail to pass the prescribed physical examination, where their failure to pass the physical examination is due to disability incident to the service. Is that the term ordinarily used to warrant retirement with three-fourths pay—"incident to the service"?

Mr. HAY. Yes.

Mr. MONDELL. Not "disability incurred in the service"?

Mr. HAY. Incident to it, I understand.

Mr. MONDELL. There is a great deal of difference between a disability incurred in the service and a disability that might be incident to the service. As a matter of fact, that term might have a very wide application.

Mr. HAY. I understand that in order to obtain retirement for disability, that disability must be brought about incident to the service; that is, it must have happened in the service and must have happened from something which was being done by the person while in the service.

Mr. MONDELL. Is that the language you ordinarily employ in that connection? Is not the provision generally "disability incurred in the service and in line of duty"?

Mr. HAY. I do not think the word is "incurred," but if that suits the gentleman better I shall be very glad to amend the bill.

Mr. MONDELL. I have a very high regard for the members of the Military Committee and for its chairman and for their knowledge of military affairs. If this is the usual term used in cases of this sort, I shall not suggest any change; but my recollection was that ordinarily other language was used, and that the right to receive retired pay based on disability applied only in cases where that disability was incurred in the service and in the line of duty. The term "incident to the service" is a very broad one. If it is the term employed generally in military affairs, I shall not object.

Mr. HAY. I think that is the usual word, but I will offer an amendment at the proper time, using the word "incurred."

Mr. McLAUGHLIN. In the line of duty.

Mr. HAY. In the line of duty.

Mr. MONDELL. "Incurred in the service and in the line of duty" I think is the term more frequently used.

Mr. HAY. I do not know that there is any special term used, but if the gentleman thinks that will safeguard it more than the language used in the bill——

Mr. MONDELL. I think it would rather limit it.

Mr. HAY. I will offer it when it is reached, because I want to safeguard that as much as the gentleman does.

Mr. MONDELL. I realize that. This provides for certain classes of veterinarians who are to have the pay and allowances of certain officers mounted. It does not provide for any officials of high rank. Does the chairman of the Military Committee think the passage of this legislation would not lead to the introduction and the pressing of other legislation asking for the appointment of a number of officers of high rank at the head of this new organization.

Mr. HAY. I will state to the gentleman that this is not a staff organization at all. These veterinarians are to be attached to the Cavalry and Field Artillery, and 20 of them are to be

used as inspectors of meats, and so forth, in the Quartermaster Corps, and there is no staff about it. There is no bureau proposed or anything of that kind. The bill as originally introduced provided for that, but the committee were careful to eliminate everything of that sort from the bill.

Mr. MONDELL. I did not have time to read the original bill, and I am glad to have the information from the chairman that the bill as originally introduced provided for just what I have suggested.

Mr. CANNON. Did it provide for major generals?

Mr. MONDELL. Is not this what will happen? The committee have not recommended what the advocates of this legislation have been endeavoring for 20 years to obtain, namely, legislation to give veterinarians actual military rank and hence added dignity and social advancement; to put shoulder straps on them so that when you salute a captain you will not know whether he received his shoulder straps for heroic action in a charge or by curing a corn on the foot of the charger of the colonel of the regiment. The committee have eliminated some of the fuss and feathers which the gentlemen who have long advocated something of this sort have proposed; but you have laid the foundation for it. Now, will it not be urged in the near future that the foundation has been laid for it, and that the further legislation ought to be enacted? The report of the committee quotes approvingly from monarchical military customs.

Mr. HAY. I do not think the report quotes that approvingly. It simply shows what has been done in other armies.

Mr. MONDELL. I realize that. We are now about to take the first step, and it is inevitable——

Mr. HAY. I can state a case in point. The gentleman from Wyoming was on the Committee on Military Affairs for a good many years, and knows that there was an effort made for some years before it was put into effect to establish a Dental Corps in the Army. That bill providing for a Dental Corps passed eight or nine years ago, and that Dental Corps has never developed into anything except what it was in the first place. Members of that corps—I call it a corps, but it is not, because they are distributed to different posts throughout this country, Hawaii, and the Philippines—the same objection was made then to giving these dental surgeons rank as the gentleman now makes to giving the veterinarians rank. The Dental Corps has not received anything more than they had at the beginning, except, I believe, that they have the rank and pay of a first lieutenant. I do not believe that the enactment of this law will be followed by any effort on the part of these men to have themselves increased in rank, or to have a bureau in the War Department for veterinary surgeons.

Mr. MONDELL. The gentleman from Virginia, with his wide knowledge and experience in military affairs, does not think that this is a step which is very likely to lead to the other step, which I assume he does not approve of—establishing a corps or bureau, or whatever you call it, with a lot of high offices?

Mr. HAY. I do not. I will say to my friend, who knows as much about military affairs as I do and is much more familiar with the Army than I am, that this bill stands on its own merits. The purpose of it is to give to veterinarians some authority by which they can discharge more efficiently the duties which they have to perform in the Army. Now, if they come in the future and ask for more rank or to have a bureau, or anything of that kind, let the Congress at that time, whenever it may occur, take care of that situation. I do not believe that we ought to defeat a meritorious bill because possibly at some future time somebody may ask for more than we now think they ought to have.

Mr. TILSON. May I interrupt the gentleman?

Mr. HAY. Certainly.

Mr. TILSON. Could we not obviate that, or the tendency in that direction, by now placing these veterinarians in the Medical Corps, as we did in the case of the dental surgeons? If we leave them as they are in this bill, we leave them orphans, as far as the Army is concerned.

Mr. HAY. The bill provides that there shall be two veterinarians in each regiment of Cavalry and each regiment of Field Artillery, and besides that 20 veterinarians attached to the Quartermaster Corps. These 20 veterinarians would come under the Chief of the Quartermaster Corps, and could not by any possibility be construed into having the status of a corps or a bureau. I hope my friend from Wyoming will realize the importance of this measure. Personally it is nothing to me. I am only advocating it because I believe it is for the interest of the Army and for the service that these men should be given what this bill provides for.

Mr. MONDELL. Does the gentleman recall offhand the increase of pay per man this bill provides for?

Mr. HAY. The whole increase would be $31,376 a year. Some of them would be paid as first lieutenants and some as second lieutenants, while all are now paid as second lieutenants.

Mr. MONDELL. Are they paid as second lieutenants mounted?

Mr. HAY. There is no difference under the law now between the pay of a lieutenant mounted and unmounted.

Mr. MONDELL. I am not disposed to object to the bill. I have, I believe, objected to the consideration by unanimous consent of but one bill in my service here. I should, however, object to the consideration of the bill if I thought that this was legislation leading to the creation of a bureau or of a corps with high officials and independent status. If it is simply a measure to increase the efficiency, and if it is necessary to increase the efficiency of the veterinaries, I have no objection to it. I am in favor of any act that will increase efficiency.

Mr. HAY. That is the purpose of it.

Mr. MONDELL. One more suggestion. I certainly would object to the passage of the bill without full consideration if I thought there was any probability that when the bill came before the House it would contain the very objectionable features to which I have referred, with a good deal of influence behind it.

Mr. HAY. So far as I am concerned, the bill will not again come before the House containing the objectionable features to which he has referred. The bill reported from the Military Committee shows that the committee was opposed to creating a corps or bureau.

Mr. MONDELL. Emphatically?

Mr. HAY. Emphatically.

Mr. MONDELL. Unanimously?

Mr. HAY. Unanimously, as far as I know, and the only purpose of the bill was to give these people authority over the men they have to control and for the purpose of making a career for these veterinarians who go into the Army. The best veterinarians will not go into the Army. You can not get them into the Army under the present conditions.

Mr. TILSON. Mr. Chairman, will the gentleman yield?

Mr. HAY. Certainly.

Mr. TILSON. Would the chairman of the committee object to making an amendment placing these veterinarians in the Medical Corps, and if so, what would the objection be?

Mr. HAY. I would object to that, because the veterinarians deal with the animals of the Army, and the Chief of the Quartermaster Corps has control of a very large number of those animals and he ought to have some of these veterinarians at his command. The other veterinarians—those attached to the Cavalry and the Field Artillery—would be under the control of the commanding officer of the regiment to which they may be attached, and I see no reason why we should put these under the Medical Corps.

Mr. TILSON. Does the gentleman propose to add them as additional staff officers on the staff of the colonel, for instance?

Mr. HAY. Not at all. They are simply attached as veterinarians, as the bill provides.

Mr. TILSON. Why would it not be better to put them in the Medical Corps and then assign them as the surgeons are assigned to the various regiments?

Mr. HAY. That matter was gone over fully in the committee, as the gentleman will recall, and the committee thought it would be unwise to do that.

Mr. MOORE of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. HAY. Certainly.

Mr. MOORE of Pennsylvania. The effect of the passage of this bill will be to give a military status to the veterinarians?

Mr. HAY. Yes.

Mr. MOORE of Pennsylvania. Just as it has been given to the dentists?

Mr. HAY. Yes.

Mr. MOORE of Pennsylvania. The gentleman knows that sooner or later we may be confronted with the question of civil-service pensions, and that the subject is being very much agitated throughout the country to-day, especially in the Federal departments.

Mr. HAY. I do not see what this has to do with civil pensions.

Mr. MOORE of Pennsylvania. I am going to ask the gentleman a question. I am in sympathy with the spirit of this bill if it gives veterinarians a military status, which I understand it does.

Mr. HAY. Yes.

Mr. MOORE of Pennsylvania. But, following up the question of the gentleman from Wyoming [Mr. MONDELL] with regard

to the language of the bill on page 6, where reference is made to disability incident to service, I would like to ask the gentleman how he interprets this line:

And who have been incapacitated from rendering satisfactory service to the Government.

Suppose one of these veterinarians should become insane?

Mr. HAY. He would be treated just like any other Army officer is treated when he becomes insane while in the service.

Mr. MOORE of Pennsylvania. But suppose while not in the service he should become insane or otherwise incapacitated?

Mr. HAY. If he is not in the service he would have no status.

Mr. MOORE of Pennsylvania. He would not have a retirement status?

Mr. HAY. No. I will say to the gentleman that veterinarians have retired pay now. They have the privilege now of being put upon the retired list.

Mr. MOORE of Pennsylvania. I understand. I am for the bill, but I wanted to know whether we were introducing any new language here, language different from that used in the bill, which provides retirement for these dental surgeons, for instance?

Mr. HAY. Not at all.

Mr. MOORE of Pennsylvania. There is no change in the language?

Mr. HAY. No.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. HAY. Mr. Speaker, I ask unanimous consent that the bill may be considered in the House as in Committee of the Whole.

Mr. MANN. I think we ought to go into committee on this bill.

Mr. HAY. Very well. I withdraw the request.

On motion of Mr. HAY the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 16843) to consolidate the veterinary service, United States Army, and to increase its efficiency, with Mr. CLARK of Florida in the chair.

The Clerk read as follows:

A bill (H. R. 16843) to consolidate the veterinary service, United States Army, and to increase its efficiency.

Mr. HAY. Mr. Chairman, I ask unanimous consent for the reading of the substitute offered by the committee.

Mr. MANN. That has already been read. I suggest that the gentleman ask unanimous consent to dispense with the first reading of it, as it has already been read.

Mr. HAY. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. HAY. Mr. Chairman, I do not care to make any remarks, and I would like to have the bill read for amendment unless somebody desires to ask some questions.

Mr. MANN. Mr. Chairman, just a moment. I notice in reference to that language in the bill on page 6:

That veterinarians now in the Army and in the employ of the Quartermaster's Department and the Subsistence Department who fail to pass the prescribed physical examination, due to disability incident to the service, and who have been incapacitated from rendering satisfactory service to the Government, shall be retired, etc.

I would like to ask, first, whether that is a proper description of the existing department, Quartermaster's Department——

Mr. HAY. No; I am going to offer an amendment to change that.

Mr. MANN. That is what I supposed. I have before me the bill H. R. 23627, reported from the gentleman's committee, that is in reference to examination of line officers and medical officers, where I think in this language probably no change is made in the main. This is in relation to line officers below the rank of major:

If the officer fails in the physical examination and is found incapacitated for service by reason of physical disability contracted in the line of duty.

That language is used twice in reference to line officers, and in the section of the bill in reference to the Medical Corps is the language:

But if he is found disqualified by reason of physical disability incurred in the line of duty.

I take it the intention is to put either of those officers, as far as that is concerned, on the same footing?

Mr. HAY. Yes. I will have no objection to agreeing to an amendment and using that language. Now, I will say to the gentleman that the language—

And who have been incapacitated from rendering satisfactory service to the Government—

applies, as I understand it, to three veterinarians attached to the Quartermaster Corps and now in the service who are over 70 years of age, and who have been veterinarians for over 40 years, and that language was placed there for the purpose of taking care of those men.

Mr. MANN. I have no objection to the language remaining in so far as I am concerned, because I do not pretend to be an expert in reference to such matters; but, recalling the language in the other bill, I looked it up. What provision is there in this bill for not retiring these officers, but dismissing them?

Mr. HAY. Well, any officer of the Army can be dismissed who has been guilty of any——

Mr. MANN. I mean for lack——

Mr. HAY. You can not dismiss an officer of the Army except by court-martial.

Mr. MANN. Oh, an officer of the Army who does not pass the examination is dismissed.

Mr. HAY. Oh, yes. The gentleman means the provision of law which provides that when an officer is sent up for promotion and fails to pass the examination he is discharged, with one year's pay.

Mr. MANN. Yes; the man must be able to pass the examination or he is dismissed.

Mr. HAY. With one year's pay. Now, that is a general provision of law.

Mr. MANN. Well, the gentleman may say discharged; I should say he is dismissed from the Army.

Mr. HAY. He is discharged, but the effect is the same. That law is the general law which applies to all officers of the Army——

Mr. MANN. I do not know whether this would.

Mr. HAY. Who are brought up for promotion.

Mr. MANN. There is a separate provision of law for the Medical Corps.

Mr. HAY. Yes; that is the only exception I know of.

Mr. MANN. Well, that might apply possibly to these officers; and if so, then there is no use of putting that provision in the bill in reference to men who do not pass the physical examination, because that is in the existing law.

Mr. HAY. If the gentleman will look on page 5, section 3, he will see the language of the proviso; that is when he comes up for promotion to first lieutenant:

Provided, That he passes a satisfactory examination under such rules as the President may prescribe as to professional qualifications and adaptability for the mounted service; or, if found deficient, he shall be discharged from the Army with one year's pay and have no further claim on the Government.

Mr. MANN. Yes; but that does not cover what I am asking about. Suppose he can not pass a physical examination?

Mr. HAY. Then he can not get in.

Mr. MANN. He is already in, and he comes up for promotion. Suppose he can not pass a physical examination because of disability not incurred in the line of duty?

Mr. BUTLER. He is dismissed.

Mr. MANN. There is no provision here to do it. That is what I am trying to find out. The only provision I find in the bill—and I will be glad to be corrected if I am wrong—is if he can not pass an examination because of the service, then he shall be retired. Suppose he can not pass an examination because of other disabilities?

Mr. HAY. That only applies to veterinarians now in the Army. It does not apply to those who are to come in hereafter.

Mr. SLAYDEN. Mr. Speaker, as I understand it, any officer in the Army—and these men will become officers if this bill becomes a law—who is found physically disqualified for continuing in the service is retired.

Mr. MANN. Not at all.

Mr. SLAYDEN. Any Army officer?

Mr. MANN. No, sir; it must be physical disability incurred in the line of duty.

Mr. SLAYDEN. The presumption is——

Mr. MANN. There is no presumption in the law or in the fact.

Mr. SLAYDEN. As a matter of fact, all officers in the Army are examined for physical fitness when they go in, are they not? And when it comes to promotion, if they are found physically unfit, they are discharged?

Mr. HAY. They are not always discharged. They are retired with pay.

Mr. SLAYDEN. I have known it to happen.

Mr. KAHN. There was a provision in the last appropriation bill which holds up their pay if they are suffering from disabilities not incurred in the line of duty.

Mr. SLAYDEN. That is vicious.

Mr. HAY. I am calling the attention of the gentleman from Illinois [Mr. MANN] to the fact that this bill provides that ex-

aminations shall be prescribed by the Secretary of War or the President—I do not recall which now—and, of course, the physical part of the examination is just as much to be required as the mental part of the examination, and section 2 of the bill provides that they shall not be appointed unless they shall have passed a satisfactory examination as to character, physical condition, general education, and professional qualification.

Mr. MANN. I see no way under the bill, I will say to the gentleman, of getting an officer out of the Army under this provision if he is a veterinary officer for physical disability now incurred in line of duty or incident to the service.

Mr. HAY. I will say to the gentleman that when we reach that section, on line 16, after the word "satisfactory," I will offer an amendment inserting the words "mental and physical." It will then read:

Provided, That he passes a satisfactory mental and physical examination.

Mr. MANN. Let me ask the gentleman one more question. There is a provision, on page 6, in section 4, which refers to veterinarians now in the Army, and so forth, who have failed to pass the prescribed physical examination. I suppose the purpose of that is to apply only to the first physical examination?

Mr. HAY. Yes.

Mr. MANN. That is not intended to apply either to the physical examination taken 20 years from now of some young officer?

Mr. HAY. You will observe that section 4 provides that the veterinarians of the Cavalry and Field Artillery and the others now employed who at the date of the approval of this act shall have less than five years' service shall be reappointed and commissioned as assistant veterinarians, with the rank, pay, and allowances of second lieutenant, mounted; and that veterinarians who have over five years of service shall be reappointed and commissioned as veterinarians with the rank, pay, and allowances of first lieutenant, mounted. So that all these men now in the Army when they come up for examination will have to stand a physical examination; and by amending section 3, as I suggested to the gentleman a moment ago, it would apply to the men in the Army who go in as second lieutenants and who come up afterwards for promotion to first lieutenancies.

Mr. MANN. This section now applies to those who go into the service under the provisions of this bill?

Mr. HAY. And getting rid of all men now unfit for duty who are now in the service. There are three over 70 years of age.

Mr. MANN. I take it, then, that the language is well advised, and should not refer to disability incurred in the line of duty.

Mr. HAY. It only applies to the men who are now in the Army.

Mr. MANN. Who have been in 40 years?

Mr. HAY. Only as veterinarians.

Mr. MANN. And does not refer to the three actual cases?

Mr. HAY. They are taken care of under the language:

And who have been incapacitated from rendering actual service to the Government.

The gentleman's colleague, Mr. FOWLER, wanted to ask me a question, I believe.

Mr. MANN. Go ahead.

Mr. FOWLER. I desired to inquire as to the difference made between those who are candidates for these positions in section 2 and those who are already in the service in section 4. In section 2 the qualifications which are subject to examination are character, physical condition, general education, and professional qualifications. Now, the examination required of those who are in the service are a prescribed practical professional examination and a physical examination as to fitness for mounted field service. Why should not the examination of those who are already in the service extend to character and education?

Mr. HAY. Well, it does extend to education, because it says "a prescribed practical professional examination." But I am perfectly willing to insert the same provision as in the other section.

Mr. FOWLER. Why not the "character," also?

Mr. HAY. I say I am willing to do that.

Mr. FOWLER. All right. Now, when they are dismissed, it is on examination, beginning on line 11—

Who fail to pass the prescribed physical examination due to disability incident to the service.

Why not go further than that and get rid of those, if any, who may be incompetent because of their unfitness in character and education and in professional qualifications?

Mr. HAY. That is provided for, beginning in line 6, under the proviso, "That they pass a prescribed practical professional examination and a physical examination as to fitness for mounted field service." Now, if the gentleman desires to insert the word "character," I would be willing to do that.

Mr. FOWLER. "Education and character."

Mr. HAY. Yes.

Mr. FOWLER. Then there seems to be no way to get rid of those men unless they are deficient through disability incurred in the regular line of military service.

Mr. HAY. And unfit professionally.

Mr. FOWLER. I do not get that meaning from the reading. It says:

Provided further, That veterinarians now in the Army and in the employ of the Quartermaster's Department and the Subsistence Department who fail to pass the prescribed physical examination due to disability incident to the service, and who have been incapacitated from rendering satisfactory service to the Government, shall be retired from active service with 75 per cent of the pay corresponding to length of service as prescribed herein.

I do not quite see that the bill is specific enough to get rid of those who might be deficient otherwise than through disability contracted in the regular line of military duty.

Mr. HAY. They would have to pass a professional examination as well as a physical examination in order to get in as second lieutenants or first lieutenants, either one. But if the gentleman desires it, when we reach that section under the five minute rule, I would be very glad to consider any amendment that the gentleman might think would cure what he thinks ought to be cured.

Mr. FOWLER. Now, if I understand this section, it deals with promoting those of the grade of second lieutenant to the rank of first lieutenant, and if the men really are not efficient the bill would leave those who are in now in the rank of second lieutenant without any provision for retirement if they are incompetent.

Mr. HAY. Some of them would be second lieutenants and some would be first lieutenants.

Mr. FOWLER. And there is no way to get rid of them if they are incompetent otherwise.

Mr. HAY. Oh, yes. If they can not pass a proper professional and physical examination they will be gotten rid of.

Mr. FOWLER. But they will be promoted to first lieutenants if they do pass the examination provided in section 4.

Mr. HAY. Those who served five years will be promoted. Those who served under five years will be given only the rank of second lieutenant.

Mr. FOWLER. I do not quite see where you have authority to get rid of those who might not be competent—not saying that any of them are—except those who have incurred a disability in the regular line of duty.

Mr. HAY. Except that they can not be appointed to these positions unless they pass a prescribed professional examination and a physical examination.

Mr. FOWLER. That is, to promote them to first lieutenants.

Mr. HAY. No; if they do not pass the examination they cease to be members of the Veterinary Corps.

Mr. FOWLER. It says:

That the veterinarians who have over five years of service be reappointed and commissioned as veterinarians with the rank, pay, and allowances of first lieutenant, mounted.

Mr. HAY. Yes.

Mr. FOWLER. With a proviso as to the qualifications for the examination.

Mr. HAY. Yes; if they do not pass the examination, then they will not be admitted.

Mr. FOWLER. Your bill does not say so, does it?

Mr. HAY. It says, provided they pass the prescribed professional examination.

Mr. FOWLER. Then they are to pass from the position of second lieutenant to that of first lieutenant.

Mr. HAY. No; none of them are either first or second lieutenants now. They simply draw the pay and have the allowances of a second lieutenant.

Mr. FOWLER. I understand that.

Mr. HAY. They do not occupy the rank.

Mr. FOWLER. I understand that.

Mr. HAY. Therefore if a man has served more than five years, in order that he may come in under this law and be a first lieutenant, a veterinarian must pass this prescribed physical and professonal examination. If he does not pass it, he does not get any rank at all. He goes out.

Mr. FOWLER. That is, he does not get the rank of first lieutenant.

Mr. HAY. He does not get any rank.

Mr. FOWLER. The bill does not say that.

Mr. HAY. I think it does.

Mr. FOWLER. Indeed, it does not.

Mr. HAY. It says so, so far as the English language can make it say so.

Mr. FOWLER. Your provision for the examination of those who are now in only provides for examination for promotion.

Mr. HAY. Not at all.

Mr. FOWLER. But not for the examination of those who are in in the rank of second lieutenant.

Mr. HAY. They are not in the rank of second lieutenant.

Mr. FOWLER. Or who draw the pay of second lieutenant.

Mr. HAY. Getting the pay of a second lieutenant and getting the rank of a second lieutenant are two entirely different and distinct propositions. If the gentleman will read section 4 he will find that all the veterinarians who are now in the Army in order to stay in either as first or second lieutenants must pass this prescribed professional and physical examination, and if they do not pass it they go out of the Army. They have no sort of tenure now. They can be dropped now by order of the Secretary of War, just like any other civil employees.

Mr. FOWLER. I have read section 4 carefully, and I do not find any provision in section 4 for the retirement of any of the veterinarians who are not asking for promotion to the rank of first lieutenant.

Mr. HAY. It does not propose to retire anybody unless he has been disabled incident to his service in the Army, or unless by his service his health is such that he has become incapacitated to render any service. The men who are now veterinarians all of them occupy the same status. There is no difference between them.

Mr. FOWLER. Your bill provides for that.

Mr. HAY. It provides that it shall be so hereafter.

Mr. FOWLER. Here is what it provides. In section 4 it says:

SEC. 4. That the veterinarians of Cavalry and Field Artillery now in the Army, together with such of the veterinarians of the Quartermaster's and Subsistence Departments provided for in section 1 of this act, now employed, who at the date of the approval of this act shall have less than five years of service, be reappointed and commissioned as assistant veterinarians with the rank, pay, and allowances of second lieutenant, mounted.

Mr. HAY. Provided they stand the examination.

Mr. FOWLER. Now wait. There is no provision for the examination at all. It says:

That the veterinarians who have over five years of service be reappointed and commissioned as veterinarians with the rank, pay, and allowances of first lieutenant, mounted: *Provided*, That they pass a prescribed practical professional examination and a physical examination as to fitness for mounted field service.

Mr. HAY. That proviso applies both to those who are to be appointed as second lieutenants and those who are to be appointed as first lieutenants. All of them must stand this examination.

Mr. FOWLER. I do not think the bill necessarily means that.

Mr. HAY. I think it does. I do not see how it can mean anything else. The proviso applies to all of these veterinarians who are now in the service.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. LINTHICUM having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed joint resolution of the following title, in which the concurrence of the House of Representatives was requested:

S. J. Res. 147. Joint resolution appropriating the sum of $7,245 out of money appropriated by Senate joint resolution No. 129, for the payment of transportation of American refugees from points in Mexico to the American border.

The message from the Senate also announced that, in compliance with Senate concurrent resolution No. 31, December 9, 1912, the President pro tempore of the Senate had appointed Mr. CRANE, Mr. BACON, and Mr. OVERMAN members of the joint committee on the part of the Senate to make necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next.

The message also announced that the Senate had passed the following resolutions:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of esteem and respect the Senate do now adjourn.

VETERINARY SERVICE, UNITED STATES ARMY.

The committee resumed its session.

Mr. MANN. May I ask the gentleman from Virginia another question or two?

Mr. HAY. Certainly.

Mr. MANN. I understood the gentleman to say that there were now in the service three veterinarians who were over 70 years of age.

Mr. HAY. That is my information. I am not positive about that.

Mr. MANN. I understood the gentleman also to say that veterinarians now in the service were subject to retirement. In answer to a question of my colleague [Mr. FOWLER] I understood him to say that they were retired at the age of 64.

Mr. HAY. Yes.

Mr. MANN. I do not reconcile those statements.

Mr. HAY. That statement may not be altogether consistent, but my explanation of it is this: The veterinaries that are over 70 years of age are employed in the Quartermaster's or Subsistence Department, and the law which places veterinaries on the retired list will not apply to them.

Mr. SLAYDEN. Was not there an age limit of 27 fixed for admission to the Army and they were too old to get in?

Mr. HAY. I know that these three men have not now the privilege of going on the retired list, and this language in the bill was placed there for the purpose of giving them that privilege.

Mr. MANN. That is what I wanted to get at. What reason is there for covering a man into the service by this bill and immediately placing him on the retired list when it is admitted that he is not competent to perform the duties of his office? Why should not he be retired from the service entirely without pay?

Mr. HAY. The gentleman knows as well as I do that there are a great many people in the Government service——

Mr. MANN. Who want to be retired at the propertage.

Mr. HAY (continuing). Who are not able to perform the duties of their office, and they are carried on from year to year and paid the salary notwithstanding. Now, these three people have served in the Army for over 40 years, as I understand it, and it is proposed by this legislation to put these three people on the retired list. That is the whole of it. I am not defending it; I do not say that it is right. If the gentleman wishes to strike it out, I am willing.

Mr. MANN. There are a great many men in the Government service who have been there for 40 years who are as much incapacitated as these gentlemen in the full performance of their duties. As for myself, I am not opposed to a civil pension list, but I am opposed to one which pays too high a rate of retired pay or a retired pension, either one. It seems to me that this is like taking any other clerks of the War Department and putting them on the retired list.

Mr. HAY. This bill provides that all the veterinarians in the Army shall stand an examination.

Mr. MANN. I hope that the gentleman from Virginia will not misunderstand me. I think this bill is a good bill. I like what the committee did in reference to the original bill, and I agree with the committee in the changes which it made from the original bill. The only thing I am calling attention to is section 4, which proposes to place on the retired list men admittedly not competent to perform their duties.

Mr. HAY. Men who would not be able to stand an examination and remain in the Army.

Mr. KAHN. Stand a physical examination.

Mr. HAY. They are now veterinarians and employed in that capacity, but if this bill becomes a law they have got to get out.

Mr. MANN. They ought to get out whether the bill becomes a law or not. If the War Department would live up to the law, probably they would get out. That is always the argument that is made whenever there is a proposition to put men on the retired list. We have certain men in the service who can not fully perform the duties of their office, and therefore it is proposed to put them on the retired list. The retired pay is three-quarters of the pay, including, I take it, longevity pay.

Mr. BUTLER. Are they able to perform the service?

Mr. KAHN. They are still performing service.

Mr. MANN. It is perfectly evident to anyone that a man over 70 years of age is not fully capable of performing the duties of a veterinary surgeon in the Army.

Mr. BUTLER. Not fully capable, but they are employed. I will agree that none of us past the age of 70 would be able to perform full duties.

Mr. MANN. Oh, a man 70 years old may have a great capacity for many things. The gentleman from Pennsylvania, if he ever gets young enough to become 70, will have the capacity to perform the work of half a dozen ordinary men.

Mr. BUTLER. I wish I could give full credit to that statement, but I know the gentleman is honest in it.

Mr. KAHN. If the gentleman from Illinois will permit, the provision here does not provide that these men shall be taken

care of if they can not pass the necessary professional examination. The assumption therefore must be that these men are thoroughly accomplished veterinarians. They may not be able to pass the physical examination because of their advanced age. There is nothing in this provision that I can see that would affect them so far as their ability as veterinarians is concerned.

Mr. MANN. It is admitted that these men are not fully capable of performing the functions of their office now.

Mr. KAHN. The provision in the bill reads as follows:

Provided further, That veterinarians now in the Army, and in the employ of the Quartermaster's Department and the Subsistence Department, who fail to pass the prescribed physical examination, due to disability incident to the service, and who have been incapacitated from rendering satisfactory service to the Government, shall be retired from active service with 75 per cent of the pay corresponding to length of service as prescribed herein.

That refers only to physical disability.

Mr. MANN. But a man may be capable of performing certain mental duties if he is physically incapacitated, though I have sometimes found that mental incapacity in various branches of the Government did not count for very much; but physical inability to get to a certain place is of considerable importance. There are men who come into this House who, if they were physically unable to get here, would not be able to perform any functions. Of course, nobody draws the line on mental capacity here.

Mr. SLAYDEN. Mr. Chairman, the gentleman from Illinois has raised a point of importance with reference to the amount of retired pay. I would like to ask the chairman of the committee a question about that. The amount of retired pay that these three men referred to would draw would be how much? Would their length of service prior to admission under the terms of this law be included in their pay?

Mr. HAY. I think so.

Mr. SLAYDEN. Would they be given 40 per cent fogy pay?

Mr. HAY. I think so.

Mr. SLAYDEN. I am inclined to think that that ought not to be the case. I do not think they should be admitted to the Army and then be permitted to draw 40 per cent fogy pay on account of service rendered before they became officers of the Army.

Mr. KAHN. That can probably be cured by an amendment.

Mr. SLAYDEN. It is a fact, is it, that they would draw 40 per cent fogy pay?

Mr. HAY. I think so.

Mr. SLAYDEN. I think that ought to be amended.

Mr. HAY. I do not see how you could discriminate between them and any other.

Mr. SLAYDEN. Because you prescribe for young men otherwise.

Mr. HAY. There is nothing said there about age except when they first come in. This provision applies to these veterinarians who are now in the Army, and not to those coming in hereafter.

Mr. SLAYDEN. Frankly I do not think they ought to be taken in when over a certain reasonable age.

Mr. HAY. It is provided that 27 shall be the age of those who shall hereafter come in.

Mr. KINDRED. Mr. Chairman, I would like to ask the gentleman from Virginia a question. Will the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. KINDRED. Mr. Chairman, going back to line 8, page 6, to the language which the gentleman from California [Mr. KAHN] has just read, we find a provision that veterinarians now in the Army and in the employ of the Quartermaster's Department and the Subsistence Department shall be exempt from physical examination under certain conditions. Why does not that provision also apply to the veterinarians in the Artillery service and in the field service?

Mr. HAY. For the reason that the veterinarians in the Cavalry service and in the Field Artillery service have now a right of retirement, and those in the Quartermaster's Department and the Subsistence Department have not.

I will state now to the gentleman from Illinois [Mr. MANN] that it is only those veterinarians attached to the Cavalry and Field Artillery service who are entitled to be retired under the present law, and that provision in the bill on page 6, in section 4, gives the veterinarians attached to the Quartermaster's Department and the Subsistence Department the right to retirement.

Mr. MANN. I can see no reason for extending the retired list in the Army. It is extended now beyond all reason. How much does it cost?

Mr. SLAYDEN. Two million and seven or eight hundred thousand dollars.

Mr. MANN. It costs more for the retired list in the Army and Navy now than it cost a few years ago for the entire running of the Government. Because some men are now in the Army, connected with the Army, it is now proposed to retire them. There is no reason given for it. They have nothing to do with dangerous duties, and have had nothing to do with them. While the ordinary rule is as to all these other officers that if physical disability is incurred in line of duty they may be retired, this provision is that they may be retired if the disability is incident to the service, which means if they become disabled while they are in the service. As they could not have been disabled when they went into the service, it means that all of these officers in these particular branches of the Quartermaster's Department or the reorganized Quartermaster's Department shall be subject to retirement.

I reserve the balance of my time.

Mr. HAY. Mr. Chairman, unless somebody desires further time, I will ask the Clerk to read the bill for amendment.

Mr. MONDELL. Mr. Chairman——

Mr. HAY. Does the gentleman desire some time?

Mr. MONDELL. Yes; I should like some time.

Mr. HAY. How much time?

Mr. MONDELL. Oh, I do not know.

Mr. HAY. Ten minutes?

Mr. MONDELL. I should like to be recognized in my own time, if I can. Does the gentleman have time that is not consumed?

Mr. HAY. I have control of an hour, and I will yield to the gentleman any time he desires.

Mr. MONDELL. I prefer to speak in my own time.

Mr. HAY. Does the gentleman propose to advocate the bill or is he opposed to the bill?

Mr. MONDELL. I am opposed to some provisions in the bill, and I desire to discuss some provisions in the bill.

Mr. HAY. I will say to the gentleman that the gentleman from Illinois has had one hour on one side and I on the other——

Mr. MONDELL. The gentleman from Illinois has announced himself as being in favor of the bill.

Mr. HAY. I do not desire to cut the gentleman from Wyoming off, and I will yield any time he wants, but I do think there ought to be some end to the debate.

Mr. MONDELL. Oh, I think that is true.

Mr. MANN. Let us agree upon the time for closing general debate.

Mr. MONDELL. I do not know that I shall want over 15 minutes.

Mr. HAY. I yield the gentleman from Wyoming 15 minutes and reserve the balance of my time.

Mr. MONDELL. Mr. Chairman, the gentleman from Illinois [Mr. MANN] assured the chairman of the committee that he was very favorable to the provisions of the bill, and then proceeded to shoot it all full of holes and call attention to its many faults and the unfortunate character of the legislation. I doubt if it is necessary, in order to have the horses of the Army cared for in a proper way, to have the men who care for them given quasi military rank. I have a very high regard for a fighting man, for the man who volunteers to go forth in the face of danger and fight for his country and undergo hardships, toil, and privation. It is no reflection on another man who does not agree to do that that he is not put in exactly the same class; that he is not entitled to the same treatment in some respects that the other man is. We pension soldiers because they are called upon when needed to face hostile fire, to go anywhere and everywhere on the order of their superior officers, without regard to the discomforts or dangers of the situation. We give them in this country considerable pay, more than they receive anywhere else, and while I think we may have overdone the matter in the matter of pay and retirement in the case of the fighting men, I think there is a very great deal of danger of overdoing the matter when we come to the civilian employees of the Army, the collateral branches of the Army. There are many civilians employed in the Army and the operation of the Army. They come and they go when they please. Their duties are not such as to compel them to face hostile fire or to undergo many of the hardships that the officer or the private soldier must at times undergo. I think there ought to be some distinction. I do not know of any reason why an employee of the Government, because he happens to draw his pay through the Secretary of War, should have all of the benefits, emoluments, rank, and pay—fogy pay and retirement—that the enlisted man or the officer of the Army has, but for the last 20 years men connected with various nonfighting branches have been insisting on being given uniforms, rank, and so forth. In other words, they have been seeking to have their status and their appearance so fixed as to rank, pay, and uniform as to make them undistinguishable to the ordinary eye from the man who is

likely to be called upon at any time to perform the most dangerous and arduous service of a soldier.

Mr. KAHN. Will the gentleman from Wyoming yield?

Mr. MONDELL. I will be glad to do so.

Mr. KAHN. Is the gentleman from Wyoming aware of the fact that Germany, Austria, France, England, and even Canada have veterinarian corps practically on all fours with the corps that is proposed to be created by this bill?

Mr. MONDELL. Well, the gentleman is well informed and usually accurate and what he says is partly true, and the fact that it is partly true only is one of the reasons why I am opposed to it. If there is anything I do not take to kindly, without being sure that it is correct and proper under our conditions, it is the patterning after the services of monarchal Europe.

Mr. KAHN. Does not the gentleman concede——

Mr. MONDELL. The fact is, however, that so far as Germany is concerned, no man is an officer unless he is a fighting man. And I admire the German idea. It is not because we do not have a high regard for these other men and believe their services are honorable, and that their profession is honorable, but they are not soldiers——

Mr. KAHN. They are called military officials.

Mr. MONDELL (continuing). They may have pay based on rank, and I suppose they try to be recognized, but they are not recognized, as officers. In England, and to a certain extent in bureaucratic France, I think, they have the system which it is proposed to inaugurate here.

Mr. KAHN. And in Austria also.

Mr. MONDELL. And they go further than this bill does. This bill is, as I suggested, the first step in that direction.

Mr. KAHN. In Germany they pass as military officers.

Mr. MANN. Will the gentleman yield for a question?

Mr. MONDELL. In just a moment. We have recently had a great deal of talk of concentration, based, of course, on the monarchical idea that you must have your troops in large cities, where grape and canister can be poured down the main streets and overawe the people and sweep them from the face of the earth if they defy the monarchical power, and as they do that in Europe there are certain gentlemen who think we ought to do it in the United States. There is no argument for it at all.

It was argued on behalf of the doctors that on certain occasions they were exposed to fire, which is very true, and no greater acts of heroism have ever been performed on the field of carnage than have been performed by surgeons in rescuing men, caring for them, dressing their wounds, and attending to them under fire. But pray tell me can you conjure up a situation in which it will be necessary for a veterinary surgeon to place himself on the firing line? It was argued in behalf of the doctors that there were times when they ought to be in position of authority, and that is true. But can the gentleman imagine a situation where a veterinary surgeon should have precedence over a line officer? I assume that it is not the gentleman's notion that the veterinary surgeons of the first-lieutenant class ought to be in a position to countermand an order to charge given by a second lieutenant on the theory that the horses have corns, ringbone, or spavin, and are not in fit condition to charge. If that is the gentleman's idea, why, of course, he can carry it out and work it out through this legislation.

Now, the veterinary surgeon is as good a citizen as anybody. But he is not a fighting man, and, therefore, I am not now and never shall be in favor of any legislation the object of which or the tendency of which is to wipe out the line between the fighting men of the Military Establishment and the civil forces connected with it.

The gentleman from Illinois [Mr. MANN] is favorable to a civil pension. My sympathies all incline me that way. My judgment so far has been rather against it, but if a veterinary surgeon in the Army should be retired with two-thirds pay, why should not a veterinary surgeon in connection with the Reclamation Service, or other Government works here, there, and elsewhere, be retired on such pay? Why should not other employees doing equally meritorious service be retired in the same way? If we are to retire these men, we ought not to retire them in the way provided in this bill and give some of them the benefit of years of service that they never had. While I would like very much to follow the Military Committee, and generally have great confidence in its judgment, I do not believe veterinary service connected with the United States Army requires such legislation as this.

The CHAIRMAN. The time of the gentleman has expired. Without objection, the Clerk will read the bill for amendment.

The Clerk read as follows:

That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint veterinarians and assistant veterinarians in the Army, not to exceed 2 such officers for each regiment of Cavalry and Field Artillery, 15 as inspectors of horses and mules and as veterinarians in the Quartermaster's Department, and 5 as inspectors of meats for the Subsistence Department, not to exceed 62 in all.

Mr. HAY. Mr. Chairman, on line 25, page 4, I move to strike out the word "fifteen" and insert the word "twenty."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Virginia [Mr. HAY].

The Clerk read as follows:

Amend, page 4, line 25, by striking out the word "fifteen" and inserting in lieu thereof the word "twenty."

Mr. HAY. I am going to follow that by offering an amendment also to strike out, in lines 1 and 2, page 5, the words "and five as inspectors of meats for the Subsistence Department." The reason I do that is because the two departments have been consolidated, and under the consolidation the two departments now form the Quartermaster Corps. I will follow that up and move to strike out, in line 1, page 5, the words "Quartermaster's Department" and insert "Quartermaster Corps."

The CHAIRMAN. The question is on agreeing to the first amendment just offered by the gentleman from Virginia [Mr. HAY].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read the next amendment.

The Clerk read as follows:

Amend, page 5, line 1, by striking out the word "five" and inserting the word "six."

Mr. HAY. No. Strike out, in line 1, page 5, first the words "Quartermaster's Department" and insert the words "Quartermaster Corps."

The Clerk read as follows:

Amend, page 5, line 1, by striking out the words "Quartermaster's Department."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HAY. And also on page 5, lines 1 and 2, strike out the words "and five as inspectors of meats for the Subsistence Department."

The CHAIRMAN. The Clerk will report the next amendment offered by the gentleman from Virginia [Mr. HAY].

The Clerk read as follows:

Amend, page 5, lines 1 and 2, by striking out the words "and five as inspectors of meats for the Subsistence Department."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HAY. Now, Mr. Chairman, let the Clerk read the section as it will read when amended.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint veterinarians and assistant veterinarians in the Army, not to exceed two such officers for each regiment of Cavalry and Field Artillery, 20 as inspectors of horses and mules and as veterinarians in the Quartermaster Corps Department, and 5 as inspectors of meats for the Subsistence Department, not to exceed 62 in all.

Mr. HAY. "Five inspectors of meats for the Subsistence Department" should be stricken out.

Mr. TILSON. Mr. Chairman, I suggest to the chairman of the Committee on Military Affairs the propriety of striking out also the words "as inspectors of horses and mules," so that it will read, "20 as veterinarians in the Quartermaster Corps," so that the chief of the Quartermaster Corps may use those veterinarians either as inspectors of horses and mules or as inspectors of meats, as he may choose. As the chairman has left the provision, they would all be inspectors of meats.

Mr. HAY. I accept that amendment. Strike out "inspectors of horses and mules and as."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Connecticut [Mr. TILSON].

The Clerk read as follows:

Amend, page 4, line 25, by striking out the words "as inspectors of horses and mules and as."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANN. Mr. Chairman, the gentleman does not want to strike out the word "as."

Mr. HAY. So that it will read, "Twenty veterinarians in the Quartermaster Corps."

Mr. MANN. "Twenty as veterinarians in the Quartermaster Corps."

Mr. TILSON. Should not the word "as" be kept in?

Mr. TOWNSEND. The President is authorized to appoint them as veterinarians in the Quartermaster Corps.

Mr. TILSON. Under the amended language there is just as much reason to keep in the word "as" as before.

Mr. HAY. No. We are now fixing the number of veterinarians in the Quartermaster Corps, and we say "20 veterinarians in the Quartermaster Corps."

Mr. MANN. How many will be appointed under the provision "not to exceed two for each regiment of Cavalry and Field Artillery"?

Mr. HAY. Well, there are 15 regiments of Cavalry and 6 regiments of Field Artillery. That would be 40.

Mr. MANN. There ought to be some word in there to make good sense. It ought to read:

And 20 veterinarians in the Quartermaster Corps—

If these are different from the others.

Mr. HAY. Put in the word "and" before the word "twenty," so that it will read:

And 20 veterinarians in the Quartermaster Corps, not to exceed 62 in all.

Mr. MANN. Yes.

Mr. HAY. I move to amend, in line 25, by inserting the word "and" before the word "twenty."

The Clerk read as follows:

In line 25, before the word "twenty" and after the word "Artillery," insert the word "and."

The amendment was agreed to.

Mr. HAY. Now, if the Clerk will read the section as amended, I will be much obliged to him.

The Clerk read as follows:

That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint veterinarians and assistant veterinarians in the Army, not to exceed 2 such officers for each regiment of Cavalry and Field Artillery, and 20 veterinarians in the Quartermaster Corps, not to exceed 62 in all.

Mr. HAY. That is all right.

The Clerk read as follows:

SEC. 3. That an assistant veterinarian appointed under section 2 of this act shall have the rank, pay, and allowances of second lieutenant, mounted; that after five years of service an assistant veterinarian shall be promoted to the rank, pay, and allowances of first lieutenant, mounted: *Provided*, That he passes a satisfactory examination under such rules as the President may prescribe as to professional qualifications and adaptability for the mounted service; or, if found deficient, he shall be discharged from the Army with one year's pay and have no further claim on the Government.

Mr. TILSON. I move to strike out the last word, for the purpose of asking the chairman of the committee if it would not be better to strike out the word "mounted" where it appears, as the distinction in pay between mounted and dismounted service has been done away with.

Mr. HAY. I have no objection.

Mr. TILSON. Then, Mr. Chairman, I move that in line 13, page 5, after the word "lieutenant," the word "mounted" be stricken out, and in line 15, after the word "lieutenant," the word "mounted" be stricken out.

The Clerk read as follows:

On page 5, in line 13, strike out the word "mounted" after the word "lieutenant," and on page 5, in line 15, strike out the word "mounted" after the word "lieutenant."

Mr. TILSON. That includes the comma and the word "mounted" in both cases.

The amendment was agreed to.

Mr. HAY. Mr. Chairman, I move to amend, in line 16, page 5, after the word "satisfactory," by inserting the words "mental and physical."

The Clerk read as follows:

Amend, page 5, line 16, by adding after the word "satisfactory" the words "mental and physical."

The amendment was agreed to.

The Clerk read as follows:

SEC. 4. That the veterinarians of Cavalry and Field Artillery now in the Army, together with such of the veterinarians of the Quartermaster's and Subsistence Departments provided for in section 1 of this act, now employed, who at the date of the approval of this act shall have less than five years of service, be reappointed and commissioned as assistant veterinarians with the rank, pay, and allowances of second lieutenant, mounted; that the veterinarians who have over five years of service be reappointed and commissioned as veterinarians with the rank, pay, and allowances of first lieutenant, mounted: *Provided*, That they pass a prescribed practical professional examination and a physical examination as to fitness for mounted field service: *Provided further*, That veterinarians now in the Army, and in the employ of the Quartermaster's Department and the Subsistence Department, who fail to pass the prescribed physical examination, due to disability incident to the service, and who have been incapacitated from rendering satisfactory service to the Government, shall be retired from active service with 75 per cent of the pay corresponding to length of service as prescribed herein.

Mr. TILSON. Mr. Chairman, I move to amend in line 23, page 5, by striking out the words "Quartermaster's and Subsistence Departments" and in inserting in lieu thereof the words "Quartermaster Corps."

The Clerk read as follows:

Amend, page 5, line 23, by striking out the words "Quartermaster's and Subsistence Departments" and inserting in lieu thereof the words "Quartermaster Corps."

The amendment was agreed to.

Mr. TILSON. In line 3, on page 6, I move to strike out the comma after the word "lieutenant," and the word "mounted."

The Clerk read as follows:

Page 6, line 3, after the word "lieutenant" strike out the comma and the word "mounted."

The amendment was agreed to.

Mr. TILSON. I move the same amendment in line 6, page 6.

The Clerk read as follows:

Page 6, line 6, strike out the comma after the word "lieutenant" and strike out the word "mounted."

The amendment was agreed to.

Mr. TILSON. Mr. Chairman, I move the amendment which I send to the Clerk's desk.

The Clerk read as follows:

In lines 10 and 11, page 6, strike out the words "Quartermaster's Department and the Subsistence Department" and insert in lieu thereof the words "Quartermaster Corps."

The amendment was agreed to.

Mr. HAY. I move to strike out the proviso beginning in line 8.

The Clerk read as follows:

Amend by striking out all of section 4 after the word "service" in line 8, page 6.

The amendment was agreed to.

The Clerk read as follows:

SEC. 5. That the Secretary of War, upon recommendation of the Quartermaster General, may appoint, for such time as their services may be required, such number of reserve veterinarians as may be necessary to attend public animals pertaining to the Quartermaster's or other departments or corps, who shall have the pay and allowances of second lieutenant, mounted, during such period of service and no longer: *Provided*, That such reserve veterinarians be graduates of a recognized veterinary college or university and have previously passed such moral, professional, and physical examination as may be deemed necessary by the Secretary of War for the proper performance of their duties in mounted field service.

Mr. TILSON. Mr. Chairman, I move to amend line 18, on page 6, by inserting the amendment which I send to the Clerk's desk.

The Clerk read as follows:

In line 18, page 6, strike out the words "Quartermaster General" and insert in lieu thereof the words "chief of the Quartermaster Corps."

The amendment was agreed to.

Mr. TILSON. Now, Mr. Chairman, in line 23, page 6, I move to amend by striking out the word "mounted" and the comma.

The amendment was agreed to.

Mr. HAY. Mr. Chairman, in line 21, page 6, after the word "Quartermaster," I move to strike out the "s" and apostrophe.

The amendment was agreed to.

Mr. HAY. I move to insert the word "Corps" after the word "Quartermaster."

The amendment was agreed to.

The Clerk, continuing the reading of the bill, read as follows:

SEC. 7. That the Secretary of War is authorized to appoint a board of examiners to conduct the examinations prescribed herein, one member of which shall be a field officer, one a surgeon, and two veterinarians.

Mr. TILSON. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Line 19, page 7, after the word "officer," insert the words "of the line."

Mr. TILSON. It seems to me this amendment ought to be adopted. I believe it was the intention that he should be an officer of the line.

Mr. HAY. A field officer could not be anything else than an officer of the line.

Mr. TILSON. Oh, yes; he might be a medical officer, for instance.

Mr. HAY. A medical officer is not an officer in the sense of an officer of the line.

Mr. TILSON. He may have field rank.

Mr. HAY. So has the quartermaster in the Quartermaster Corps or in the Ordnance Corps, but he is not a field officer.

Mr. MANN. The gentleman from Connecticut does not want to use the language "field officer of the line."

Mr. HAY. That is what he wants to say.

Mr. MANN. I never heard the expression.

Mr. TILSON. It is correct and proper.

Mr. SLAYDEN. You might say "a line officer not below the rank of major."

Mr. HAY. A field officer is above the rank of captain.

Mr. TILSON. I ask that my amendment be considered, Mr. Chairman.

Mr. HAY. Mr. Chairman, I am opposed to the amendment and do not think it ought to be agreed to. I am willing to agree to language that will embrace what the gentleman is after. I will agree that it shall be "a line officer not below the rank of major."

Mr. TILSON. That will answer my purpose.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 7, lines 18 and 19, by striking out the words "field officer" and insert in lieu thereof "officer of the line not below the rank of major."

The amendment was agreed to.

The Clerk completed the reading of the bill.

The CHAIRMAN. The question now is on the adoption of the substitute as amended.

The question was considered, and the substitute as amended was adopted.

Mr. HAY. Mr. Chairman, I move that the committee do now rise and report the bill with the amendment to the House, with the recommendation that the amendment be agreed to and the bill as amended passed.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CLARK of Florida, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 16843) to consolidate the veterinary service, United States Army, and to increase its efficiency, and had directed him to report the same back to the House with an amendment, with the recommendation that the amendment be adopted and that the bill as amended do pass.

Mr. HAY. Mr. Speaker, I move the previous question on the bill and amendment to its final passage.

The motion was agreed to.

The SPEAKER. The question now is on the amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HAY, a motion to reconsider the vote whereby the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to—

Mr. MCMORRAN, for 10 days, on account of important business.

Mr. RANDELL of Texas, indefinitely, on account of sickness.

Mr. DICKINSON, for 10 days, on account of sickness in family.

STATE SELECTION OF PHOSPHATE AND OIL LANDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26812) to provide for State selection of phosphate and oil lands.

The Clerk read the bill, as follows:

Be it enacted, etc., That from and after the passage of this act unreserved public lands of the United States in the State of Idaho which have been withdrawn or classified as phosphate or oil lands, or are valuable for phosphates or oil, shall be subject to selection by the State of Idaho under indemnity and other land grants made to it by Congress whenever such selections shall be made with a view of obtaining or passing title, with a reservation to the United States of the phosphates and oil in such lands, and of the right to prospect for, mine, and remove the same.

SEC. 2. That the State of Idaho, when applying to select lands classified as phosphate or oil lands, or valuable for phosphates or oil, with a view to securing or passing title to the same in accordance with the provisions of the indemnity and other granting acts, shall state in the application for selection that same is made in accordance with and subject to the provisions and reservations of this act.

SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this act, the State shall be entitled to a patent to the lands selected by it, which patent shall contain a reservation to the United States of all the phosphates and oil in the land so patented, together with the right to prospect for, mine, and remove the same upon rendering compensation to the patentee for all damages that may be caused by prospecting for and removing such phosphates or oil. The reserved phosphate and oil deposits in such lands shall be disposed of only as shall be hereafter expressly directed by law.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. MONDELL. Mr. Speaker, I reserve the right to object.

Mr. FOSTER. Mr. Speaker, I reserve the right to object.

The SPEAKER. The Chair will recognize the gentleman from Wyoming.

Mr. MONDELL. Mr. Speaker, I am in sympathy with the objects and purposes of this legislation, but the bill ought not to pass in its present form. We have heretofore legislated upon this subject—that is, we have legislated on the subject of selections and entries of coal lands. It is now proposed to legislate upon the subject of selections by the State of Idaho of oil and phosphate lands. Our legislation upon this subject ought to be uniform. Great confusion will occur if it is not uniform, and while this applies only to the State of Idaho, and therefore it might be said that perhaps our interest is a little remote, and that the legislation is satisfactory to the gentleman who is responsible directly to the people of Idaho, yet legislation of the character of this before us, following the legislation we have already had, becomes a precedent for other legislation.

The Secretary of the Interior has recommended an amendment. In lieu of section 3 of the bill he proposes that we place in the bill the provision of section 3 of the act of June 27, 1910, and he proceeds to set forth a part of the provisions of that section. The part of the provisions of that section which the Secretary quotes are incorporated in the bill, but exceedingly important provisions of that section are not incorporated in the bill. That section provides for two things—first, for a prospecting bond; and, second, for obtaining the right to enter and mine and remove from the United States, with a reserved right of reentry to retake the surface of the land or so much of it as may be necessary for actual operations. And it provides for procedures before the local courts in connection with those operations. All of those important provisions are omitted, I think unintentionally, from the Secretary's recommendation. They were not incorporated by the committee, I presume, because the committee assumed that the Secretary quoted all of the provisions, when, as a matter of fact, he quoted nothing but the prospecting provisions. This matter was very carefully worked out and very thoroughly discussed in committee at the time the act referred to was under consideration.

The committee discussed the provisions of that section, and it represents the view of the lawyers on the committee, of whom I was not one, as to what is necessary in order to fix and secure the right to go upon these lands to mine. The right of reentry is reserved, the right to take so much of the surface as is necessary, to occupy and use and pay for it, and settle damages in the local courts. None of that is contained in these provisions.

Mr. FERRIS. Is it the judgment of the gentleman that section 3, which is printed in italics in the bill, should be stricken out and that there should be substituted therefor the language of the bill that was more thoroughly worked out heretofore?

Mr. MONDELL. Modifying it by striking out the word "coal" and inserting "oil and phosphate," and striking out other language so that you would preserve identical legislation upon this general subject.

Mr. FRENCH. As the author of the bill, I will be very glad to entertain and support the proposition of the gentleman from Wyoming.

Mr. MONDELL. Mr. Speaker, I am sure that the gentleman from Wyoming could offer amendments that would be entirely satisfactory to him, and that would harmonize the bill with the legislation that the Secretary says it ought to correspond with, but whether, without further consideration than we could have here at this time, the House would be willing to accept that as being exactly what we should do, of course I do not know. I could easily offer amendments that would accomplish what I have in mind, which would be what the Secretary suggested should be done.

Mr. FRENCH. And the committee accepted the words of the proposed section 3 prepared by the Secretary of the Interior.

Mr. MONDELL. Then, through inadvertance no doubt, the Secretary of the Interior or some clerk in his department left out the more important part of the provisions of section 3.

Mr. FRENCH. Then why not let the matter go before the House for consideration, and I think that the section that the gentleman proposes is so thoroughly understood by the Members that it will be agreeable, and I will be glad to support it in lieu of section 3 as proposed.

Mr. MONDELL. It will require considerable modification, I will say to the gentleman, and I think this so highly important there should be no question but that when we adopt this legislation it shall be identical in procedure with the legislation that we adopted on the same subject. In other words, we will be working in one State under one piece of legislation and in another State under another.

Mr. FRENCH. I am in perfect harmony with that idea, but I think that the matter is one that we can very readily agree to without having the matter go over to another day.

Mr. MURRAY. Mr. Speaker, as a member of the committee in charge of the bill, I may say I am in perfect sympathy with the position of the gentleman from Wyoming and will accept the amendment, if he cares to offer it, and I hope he will offer it.

The SPEAKER. The Chair can not understand the gentleman.

Mr. MURRAY. I was trying to make the matter more clear to the gentleman from Wyoming than to the Speaker.

The SPEAKER. The gentleman was addressing the gentleman from Wyoming more than the Chair?

Mr. MURRAY. Yes; and I shall be very glad, Mr. Speaker, as the gentleman from Wyoming has suggested an amendment, as the Member in charge of the bill for the committee, to say that the committee will be happy to accept it if he cares to offer his amendment. If his purpose is to retard the progress of the bill we shall not waste any time about it, but if his purpose is to correct what may or may not be a mistake on the part of somebody we will be happy to accept his amendment.

Mr. MONDELL. Mr. Speaker, my only purpose is to perfect the legislation and aid in its enactment.

The SPEAKER. Is there objection?

Mr. LENROOT. Mr. Speaker, I reserve the right to object. In view of what has just transpired and the very great importance of this subject, I do not think that an amendment should be made contrary to the report of the Secretary of the Interior or contrary to the recommendation of the committee itself, and I suggest the gentleman pass this over without prejudice.

Mr. MURRAY. Mr. Speaker, does the gentleman from Wisconsin have in mind that the proposed modification is entirely similar to that in a bill which has already passed the House with regard to coal lands?

Mr. LENROOT. I appreciate that, but in the hurry of the moment here I question very seriously whether that should be undertaken now, it having been raised by the gentleman from Wyoming that a matter of such importance should be more carefully considered.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. FRENCH. Mr. Speaker, I hope the gentleman will withhold his objection for a few moments. The matter of handling these lands is now under consideration by the present officers of the department and the officers of the State of Idaho, and it would certainly save a great deal of work if the matter could be expedited so that the whole question would not need to be thrashed over again. I think the gentleman knows that not an acre of land is granted to the State, but it simply provides for the selection of certain lands which were available for selection at the time the grants were made to the State and which have since that time been included within the reserve of the character indicated in the bill. I think that the reservations that have been made to the Government are ample, but I am very willing to accept the language of the bill which we passed a little over a year ago, nearly two years ago, on this same subject, in which a certain section is probably worked out with more care than this particular section is, and I believe it will be very satisfactory to have a consideration of this bill at this time, and I would like very much to have that done.

Mr. LENROOT. I will say to the gentleman, I say what I have said, because the gentleman from Wyoming has stated that it will require considerable work to fit the proposed section into this bill and it will require considerable thought as to the modification that may be necessary.

And even upon so important legislation of that kind the gentleman from Wyoming [Mr. MONDELL] himself, I understand, is not prepared to offer the amendment now, and I suggest that the matter go over without prejudice. Otherwise, I shall feel compelled to object.

Mr. MONDELL. I am in position to offer the amendment, but I agree with the gentleman from Wisconsin [Mr. LENROOT] that I can scarcely expect the House, without full consideration, to assume that all of this very considerable amendment which I am to offer is just what should be adopted. I have not any question but that the House would agree if we had time for discussion. I am simply proposing to make this section agree in general terms with the section that the Secretary suggests it should follow, but which the Secretary in his letter did not set forth in full.

Mr. LENROOT. Mr. Speaker, I feel compelled to object. It can be taken up two weeks from now, and then we shall have an opportunity to examine this matter. I object to the consideration of the matter in this way.

NATIONAL CONSERVATION EXPOSITION, KNOXVILLE, TENN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26190) to provide for participation by the Government of the United States in the National Conservation Exposition, to be held at Knoxville, Tenn., in the fall of 1913.

The bill was read, as follows:

Be it enacted, etc., That the Government of the United States participate in the National Conservation Exposition, to be held at Knoxville, Tenn., during the fall of 1913. That there shall be exhibited at said exposition from the executive departments of the United States such articles and materials as will illustrate the administrative functions of the Government and their educational value in connection with the development and wise use of the natural resources of the United States, especially the advancement of scientific agriculture and the increase of productivity of the soil through improved cultivation and crop selection and the prevention of avoidable wastes; the reclamation of wet and dry lands by drainage and irrigation, respectively; the more economical development and utilization of mineral wealth; the judicious use of and prevention of needless destruction in woodlands for maintaining timber supply and protecting headwaters of streams; the use and improvement of inland waterways; the preservation of fish and game; the preservation and protection of life in connection with industrial operations; and the economic investigations and operations of the Government with reference to mines and mining, geology, topographic and other surveys, public roads, experiment stations, rural life improvement, education, child welfare, and public health and sanitation. That these subjects shall be presented in exhibits and in illustrated lectures by representatives of the Government. That the President of the United States be, and he is hereby, authorized to invite the nations of the world to send delegates to an international convention at said exposition, to discuss the natural resources of the world and their distribution through commerce. To secure a complete and harmonious arrangement of such Government exhibit a United States Government board of managers is hereby authorized to be appointed to be charged with the selection, purchase, preparation, transportation, arrangement, safe-keeping, exhibition, and return of such articles and materials as the heads of the several departments, respectively, decide shall be embraced in the Government exhibit herein authorized. The President of the United States may also designate additional articles of peculiar interest for exhibition in connection with the said Government exhibit. Said Government board of managers shall be composed of three persons now in the employ of the Government and shall be appointed by the President, one of whom shall be designated by the President as chairman of the said board and one as secretary and disbursing officer. The members of said Government board, with other officers and employees of the Government who may be detailed to assist therein, including officers of the Army and Navy, shall receive no compensation in addition to their regular salaries, but they shall be allowed their actual and necessary traveling expenses, together with a per diem in lieu of subsistence, to be fixed by the Secretary of the Treasury, while necessarily absent from their homes engaged upon the business of the board. Officers of the Army and Navy shall receive said allowance in lieu of the subsistence and mileage now allowed by law; and the Secretary of War and the Secretary of the Navy may, in their discretion, detail retired Army or Navy officers for such duty. Any provision of law which may prohibit the detail of persons in the employ of the United States to other service than that which they customarily perform shall not apply to persons detailed for duty in connection with said National Conservation Exposition. Employees of the board not otherwise employed by the Government shall be entitled to such compensation as the board may determine, and such employees may be selected and appointed by said board. The disbursing officer shall give bond in such sum as the Secretary of the Treasury may determine for the faithful performance of his duties, said bond to be approved by said Secretary. The Secretary of the Treasury shall advance to said officer from time to time, under such regulations as he may prescribe, a sum of money from the appropriation for the Government exhibit herein authorized, not exceeding at any one time three-fourths of the penalty of his bond, to enable him to pay the expenses of said exhibit as authorized by the United States Government board herein created. The Secretary of the Treasury is hereby authorized and directed to place on exhibition, in connection with the exhibit of his department, upon such grounds as shall be allotted for this purpose, one of the life-saving stations authorized to be constructed on the Atlantic coast of the United States by existing law, and to cause the same to be fully equipped with all apparatus, furniture, and appliances now in use in life-saving stations in the United States: *Provided*, That the cost of said exhibit herein authorized, including the selection, purchase, preparation, transportation, arrangement, safe-keeping, exhibition, and return of the articles and materials so exhibited, and the expenses and per diems of the officials and employees of the Government connected with the exhibit or assigned to deliver lectures, shall not exceed the sum of $100,000, which sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 2. That the Secretary of the Treasury shall cause a suitable, permanent building to be erected on the site of said National Conservation Exposition for said Government exhibit. Said building shall be erected from plans prepared by the Supervising Architect of the Treasury, to be approved by the Secretary of the Treasury; and the Secretary of the Treasury is hereby authorized and directed to contract for said building in the same manner and under the same regulations as for other buildings of the United States, but the contract for said building, including the preparation of ground therefor and the approaches thereto, and the interior and exterior decorative wiring and lighting, etc., therefor, shall not exceed the sum of $150,000, which sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That a suitable building site and grounds satisfactory to the Government board of managers herein established shall be deeded to the Government of the United States in fee simple for the purpose.

SEC. 3. That all articles that shall be imported from foreign countries for the sole purpose of exhibition at the National Conservation Exposition, to be held at Knoxville, Tenn., in the year 1913, upon which there shall be a tariff or customs duty shall be admitted free of the payment of duty, customs fees, or charges, under such regulations as the Secretary of the Treasury shall prescribe; but it shall be lawful at any time during the exposition to sell for delivery at the close thereof any goods or property imported for and actually on exhibition in the exposition buildings or on the grounds, subject to such regulations for the security of the revenue and for the collection of import duties as the Secretary of the Treasury may prescribe: *Provided*, That all such articles when sold or withdrawn for consumption or use in the United States shall be subject to the duty, if any, imposed upon such articles by the revenue laws in force at the date of withdrawal; and on such articles which shall have suffered diminution or deterioration from incidental handling and necessary exposure the duty, if paid, shall be assessed according to

the appraised value at the time of withdrawal for consumption or use, and the penalties prescribed by law shall be enforced against any person guilty of any illegal sale, use, or withdrawal.

SEC. 4. That medals with appropriate devices, emblems, and inscriptions commemorative of said National Conservation Exposition and of the awards to be made to the exhibitors thereat shall be prepared for the National Conservation Exposition Co. by the Secretary of the Treasury at some mint of the United States, subject to the provisions of the fifty-second section of the coinage act of 1873, upon the payment by the National Conservation Exposition of a sum equal to the cost thereof; and authority may be given by the Secretary of the Treasury to the holder of a medal properly awarded to him to have duplicates thereof made at any of the mints of the United States from gold, silver, or bronze, upon the payment by him for the same of a sum equal to the cost thereof.

SEC. 5. That the United States shall not be liable on account of said exposition for any expenses incident to or growing out of the same, except for the purpose of paying the expense incident to the selection, preparation, purchase, installation, transportation, care, custody, and safe return of the exhibits made by the Government, and for the employment of proper persons as officers and assistants by the Government board created by this act, and for other expenses to be approved by the chairman of the Government board, or, in the event of his absence or disability, by such officer as the board may designate, and the Secretary of the Treasury, upon itemized accounts and vouchers.

SEC. 6. That the United States shall not in any manner or under any circumstances be liable for any of the acts, doings, or representations of said National Conservation Exposition Co. (a corporation), its officers, agents, servants, or employees, or any of them, or for service, salaries, labor, or wages of said officers, agents, servants, or employees, or any of them, or for any subscriptions to the capital stock, or for any stock certificates, bonds, mortgages, or obligations of any kind issued by said corporation, or for any debts, liabilities, or expenses of any kind or nature whatever attending such exposition corporation or accruing by reason of the same.

SEC. 7. That nothing in this act shall be construed so as to create any liability upon the part of the United States, directly or indirectly, for any debt or obligation incurred or for any claim for aid or pecuniary assistance from Congress or the Treasury of the United States in support or liquidation of any debts or obligations created by said United States Government board in excess of appropriations herein made.

SEC. 8. That the United States shall not in any manner or under any circumstances make any loan, directly or indirectly, to the National Conservation Exposition Co., or for the benefit of said exposition, or for any of the purposes thereof, and shall not appropriate for any purpose whatsoever in connection with said exposition any sum of money other than that provided in this act.

The SPEAKER. Is there objection?

Mr. FITZGERALD. Reserving the right to object, Mr. Speaker, if there is anybody who has anything to say in defense of this bill I would like to hear it, otherwise I shall object.

Mr. AUSTIN. This bill needs no defense. I will be very glad to answer any questions the gentleman may ask.

Mr. FITZGERALD. Of course, if that is the way the gentleman feels about it, I shall feel compelled to object to it.

Mr. AUSTIN. What is the inquiry of the gentleman from New York?

Mr. FITZGERALD. I have read the bill and have examined the report, and from the information I have I think I am prepared to object.

Mr. AUSTIN. What is the information the gentleman seeks which is not embraced in the bill or in the report accompanying the bill?

Mr. FITZGERALD. I thought perhaps the gentleman might desire to make a brief statement in reference to the bill. May I ask the gentleman if he is a member of the Committee on Public Buildings and Grounds?

Mr. AUSTIN. I am.

Mr. FITZGERALD. Why is it necessary to provide for a public building in a bill of this character for his district? Is he unable to satisfy the demands made upon him in the omnibus bill that is expected? Provision is made in this bill for a permanent building at Knoxville, Tenn.

Mr. MANN. What makes the gentleman from New York [Mr. FITZGERALD] think that there will be an omnibus building bill? Is he advocating one?

Mr. FITZGERALD. I have not expressed the belief that there will be one.

Mr. AUSTIN. This bill is the usual bill passed by Congress for the aid of national expositions and carries a sufficient amount of money not only for an exhibit, but also for a building. This is to be a permanent exposition.

Mr. FITZGERALD. And the gentleman intends to locate a permanent conservation exposition at Knoxville, Tenn., regardless of the other cities of the United States?

Mr. AUSTIN. We think it is of sufficient importance to make it a permanent exposition so far as that section is concerned and so far as the people of the whole South are concerned, and our enterprising and progressive people are willing to finance and maintain it as a permanent exposition.

Mr. FITZGERALD. The report setting forth the purpose of making this a permanent building is not to permit the exposition association or company to maintain it, but to provide accommodations for such departments of the Federal Government as may be active in that particular part of the country. That is why I thought perhaps it would be desirable to have some information in addition to that contained in the report, some information as to the character of the exhibits to be made, the amount of money to be expended in preparing and setting them up, the amount to be expended for the salaries of employees, and the amount to be expended in other ways.

Mr. AUSTIN. In answer to that I will state to the gentleman that this report states when this building is no longer needed for exhibition purposes it can be used profitably by the Government on account of the crowded condition of the Knoxville post-office building.

Mr. FITZGERALD. No building that was ever erected for exposition purposes would be satisfactory as a post-office building, even in Knoxville, Tenn.

Mr. AUSTIN. But there are Government officials that could utilize this building just as well as they could a post-office building or a customhouse building.

Mr. FITZGERALD. I think that is a minor objection, if I may be permitted to say so. I am more interested in knowing in more detail the character of the exhibits to be made by the Government departments and the manner in which it was estimated that the $100,000 required in addition to the $150,000 for the building is to be expended.

Mr. AUSTIN. This bill has been submitted to the various officers of the Government that would be affected by the exhibits we propose to make at Knoxville by the Federal Government.

Mr. FITZGERALD. I have read the list, and every one of them can safely be set down as anything but economical in the expenditure of public funds.

Mr. AUSTIN. Not only is it the purpose of the Government officials to use these exhibits at Knoxville, but also to use them at other expositions in other places where the dates do not conflict.

Mr. FITZGERALD. I desire to inquire who has authorized these Government officials to determine in advance that they shall be permitted to make exhibits, not only at this exposition, but to various other expositions that they desire to participate in? I notice that the advisory board of this exposition consists of nine officers of the Federal Government and three others, two of whom were formerly associated with the Government. This exposition is to consist not only of Government exhibits, but a part of the Government exhibits is to consist of illustrated lectures to be given by officials of the various departments of the Government.

Mr. SLAYDEN. What is it? Is it a kind of Chautauqua?

Mr. FITZGERALD. Provision is also made for the detail of retired Army and Navy officers in connection with it.

Mr. SLAYDEN. For lectures?

Mr. FITZGERALD. I am unable to determine the purpose.

Mr. SLAYDEN. I thought the gentleman said there were to be entertainments or lectures or something of that sort.

Mr. FITZGERALD. The bill provides that these subjects shall be presented in exhibits and illustrated by lectures on the part of representatives of the Government.

Mr. SLAYDEN. I thought that was what the gentleman said. It seems to be a sort of Chautauqua, carried on at Government expense.

Mr. AUSTIN. I may say that work of this kind has been carried on by the Government not only in New York State, but also in the State of Texas, where the representatives of the departments have been called upon to deliver lectures; as, for example, at expositions at Cincinnati and at Pittsburgh and at other places. It was carried on also at Knoxville three years ago, when an exposition was held in that city. It is not a new departure. It is a very valuable and instructive method of imparting valuable information to the people of this country.

Mr. FITZGERALD. That may be. I do not challenge the accuracy of the gentleman's statement in the regard. But with the meager information that is given in this report, and in view of the fact that the Secretary of the Treasury estimates that regardless of any appropriations to supply deficiencies at this session of Congress, eliminating all provision for the Panama Canal, appropriations for which are to be reimbursed out of an issue of bonds, and eliminating about $60,000,000 required for sinking-fund purposes, there will still be a deficit of $25,000,000 in the coming fiscal year, it seems to me there should be some satisfactory reason assigned for an appropriation of $250,000 for a local exposition.

Mr. AUSTIN. It is not a local exposition. I beg the gentleman's pardon.

Mr. FITZGERALD. The gentleman is trying to convert it into something else; but it is a local exposition and has been

conducted as a local exposition for two years, and now it is desired to utilize the Federal Treasury to the extent of a quarter of a million dollars to assist it and make it permanent at Knoxville, Tenn.

Mr. AUSTIN. Will the gentleman yield for a moment?

Mr. FITZGERALD. Yes.

Mr. AUSTIN. I will state that the representatives of this country who have directed public sentiment in the direction of conservation legislation have proposed to establish an exposition of this kind in some part of the United States, and invited proposals. It was open to every city of the United States, but the city of Knoxville, Tenn., was the only city that submitted a proposition that was satisfactory.

Mr. FITZGERALD. What is the population of Knoxville?

Mr. AUSTIN. Eighty-five thousand, and that city has more enterprise in connection with movements of this kind than has the city—New York—which the gentleman represents.

Mr. GOLDFOGLE. The gentleman from Tennessee is mistaken about that.

Mr. AUSTIN. I know of no city in the United States more capable of establishing and successfully conducting such an exposition than Knoxville.

Mr. FITZGERALD. If the city of New York entered upon such an undertaking the people of that city would do it themselves.

Mr. AUSTIN. This exposition was indorsed by the National Conservation Congress, held at Indianapolis, Ind., where 35 States were represented. It was unanimously indorsed by the Southern Commercial Congress, represented by 2,000 delegates from every Southern State. It was also indorsed by the Southern Press Association.

Mr. FITZGERALD. If was also indorsed by the Woman's National River and Harbor Congress?

Mr. AUSTIN. Yes. And is not that a very proper and a very weighty indorsement, that should commend itself to the American Congress?

Mr. FITZGERALD. I am surprised that the gentleman limited the number of indorsements.

Mr. AUSTIN. I assert it cheerfully, because that organization is largely made up of the wives of Members of this Congress.

This proposition was considered so important by the members of the Committee on Industrial Arts and Expositions that they named a subcommittee to go to Knoxville, Tenn., and officially investigate the situation there. That subcommittee came back, and the committee had two meetings and reported out this bill by unanimous vote.

Of course, there may be a deficit in the Treasury, but here is a proposition which involves the expenditure of $250,000, affecting legislation which is far-reaching and to which all three political parties in this country were committed in their national platforms.

Mr. FITZGERALD. They were not committed to this exposition.

Mr. AUSTIN. No; but committed to the legislation that this exposition indorses, encourages, and advocates, not in theory, but in practice and by practical demonstration

Mr. FITZGERALD. Then I think we might better occupy the time of the House in considering the legislation.

Mr. AUSTIN. Then let the gentleman "fish or cut bait."

Mr. FITZGERALD. I object, Mr. Speaker.

The SPEAKER. The gentleman from New York objects. The bill will be stricken from the calendar, and the Clerk will report the next bill.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2, Rule XXIV, Senate bill and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 5068. An act to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes; to the Committee on the Public Lands.

S. J. Res. 147. Joint resolution appropriating the sum of $7,245 out of money appropriated by Senate joint resolution 129 for the payment of transportation of American refugees from points in Mexico to the American border, to the Committee on Appropriations.

INDIANS OCCUPYING RAILROAD LANDS.

The next business on the Calendar for Unanimous Consent was the bill (S. 5674) for the relief of Indians occupying railroad lands.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to respond of the present claimant under any railroad land grant a relinquishment or reconveyance of any lands passing under the grant which are shown to have been occupied for five years or more by an Indian entitled to receive the tract in allotment under existing law but for the grant to the railroad company, and upon the execution and filing of such relinquishment or reconveyance the lands shall thereupon become available for allotment, and the company relinquishing or reconveying shall be entitled to select and have patented to it other vacant public lands of equal value in the same State, as may be agreed upon with the Secretary of the Interior.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, my recollection is that this bill was on the Unanimous Consent Calendar once before, and I objected to it at that time because there was no limitation upon the amount of public lands which might be taken up under the term "equal value." I understand the gentleman from Arizona is preparing an amendment to obviate that.

Mr. HAYDEN. I have an amendment that I will offer which will obviate that.

Mr. MANN. Very well, then; I do not object.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. HAYDEN. I ask unanimous consent to consider it in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Arizona asks unanimous consent to consider the bill in the House as in Committee of the Whole. Is there objection?

There was no objection.

Mr. HAYDEN. I offer the following amendment, Mr. Speaker.

Mr. MANN. There are some committee amendments which should be agreed to first.

Mr. HAYDEN. Yes.

The SPEAKER. The Clerk will read the bill by sections.

The Clerk read the bill.

The SPEAKER. The Clerk will report the first committee amendment.

The Clerk read as follows:

On page 1, in line 4, after the word "authorize," insert the words "in his discretion."

The amendment was agreed to.

The Clerk read the next committee amendment, as follows:

Page 1, line 6, after the word "lands," insert the words "situated within the States of Arizona or New Mexico."

The amendment was agreed to.

The Clerk read the next committee amendment, as follows:

Page 2, line 1, after the word "select," insert the words "within a period of two years after the passage of this act."

The amendment was agreed to.

Mr. HAYDEN. Mr. Speaker, I offer the following amendment.

The SPEAKER. The gentleman from Arizona offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, by striking out all after the word "act," in line 2, page 2, and insert the following:

"And have patented to it other vacant, nonmineral, nontimbered, surveyed public lands of equal area and value, situated in the same State, as may be agreed upon by the Secretary of the Interior: *Provided*, That the total area of land that may be exchanged under provisions of this act shall not exceed 4,000 acres."

[Mr. HAYDEN addressed the House. See Appendix.]

The amendment was agreed to.

The bill as amended was ordered to a third reading, and was accordingly read the third time and passed.

By unanimous consent the title was amended so as to read: "An act for the relief of Indians occupying railroad lands in Arizona or New Mexico."

On motion of Mr. HAYDEN, a motion to reconsider the vote by which the bill passed was laid on the table.

STANDING ROCK INDIAN RESERVATION.

Mr. BURKE of South Dakota. Mr. Speaker, I move to suspend the rules and pass the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, as amended, and pending that I ask unanimous consent that the substitute be read in lieu of the bill, as the substitute is the amendment.

Mr. MANN. The gentleman can include that in his motion.

Mr. BURKE of South Dakota. I do.

The SPEAKER. The gentleman from South Dakota moves to suspend the rules and pass, as amended, the bill which the Clerk will report in its amended form.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, lying and being within

the following-described boundaries, to wit: Commencing at a point in the center of the main channel of the Missouri River where the township line between townships 18 and 19 north intersects the same; thence west on said township line to a point where the range line between ranges 22 and 23 east intersects the same; thence north along the said range line to the northwest corner of section 19, in township 21 north, of range 23 east; thence east on the section line north of sections 19, 20, 21, 22, 23, and 24 to a point where the same intersects the range line between ranges 23 and 24 east; thence north along said range line to a point where the same intersects the State line between the States of South Dakota and North Dakota; thence west on said State line to a point where the range line between ranges 84 and 85 west in North Dakota intersects the same; thence north on said range line between ranges 84 and 85 west to a point where it intersects the center of the main channel of the Cannon Ball River; thence in a northeasterly direction down and along the center of the main channel of said Cannon Ball River to a point where it intersects the center of the main channel of the Missouri River; thence in a southerly direction along the center of the main channel of the said Missouri River to the place of beginning, and including also entirely all islands, if any, in said river, except such portions thereof as have been allotted to Indians: *Provided*, That sections 16 and 36 of the lands in each township therein shall not be disposed of, but shall be reserved for the use of the common schools of the States of South Dakota and North Dakota, respectively: *Provided further*, That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved as long as needed and as long as agency, school, or religious institutions are maintained thereon for the benefit of said Indians: *Provided, however*, That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other proper authority of any religious organization, heretofore engaged in mission or school work on said reservation, for such lands thereon (not included in any town site herein provided for) as have been heretofore set apart to such organization for mission or school purposes.

SEC. 2. That the lands shall be disposed of by proclamation under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in said proclamation: *Provided*, That prior to said proclamation the Secretary of the Interior shall cause allotments to be made to every man, woman, and child belonging to or holding tribal relations in said reservations who have not heretofore received the allotments to which they are entitled under provisions of existing laws: *Provided, however*, That the said Secretary is hereby authorized to designate the superintendent of the Standing Rock Indian School to allot each child born subsequent to the completion of the allotments herein provided for and 60 days prior to the date set by said proclamation for the entry of said surplus lands: *Provided further*, That the Secretary of the Interior be, and he is hereby, authorized and directed to cause to be surveyed all the unsurveyed lands, if any, within said reservation, and to cause an examination to be made of the lands by experts of the Geological Survey, and if there be found any lands bearing coal or other valuable minerals the said Secretary is hereby authorized to reserve them from allotment or disposition until further action by Congress: *And provided further*, That the rights of honorably discharged Union soldiers and sailors of the late Civil and Spanish Wars or Philippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged.

SEC. 3. That before any of the land is disposed of, as hereinafter provided, and before the States of South Dakota and North Dakota, respectively, shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of sections 16 or 36, or any portions thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe, and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any one town site, and patents shall be issued to the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes. The purchase price of all town lots sold in town sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct. He shall cause not more than 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses and other public buildings, or in improvements within the town sites wherein such lots are located. The net proceeds derived from the sale of such lots and lands within the town sites as aforesaid shall be credited to the Indians as hereinafter provided: *Provided further*, That all children of school age and of Indian parentage shall be admitted at all times to the public schools within said town sites on an equal footing with all other children admitted to the said schools.

SEC. 4. That the price of said lands entered as homesteads under the provisions of this act shall be as follows: Upon all lands entered or filed upon within three months after the same shall be opened for settlement and entry, $6 per acre, and upon all lands entered or filed upon after the expiration of three months and within six months after the same shall have been opened for settlement and entry, $4 per acre; after the expiration of six months, after the same shall have been opened for settlement and entry, the price shall be $2.50 an acre.

SEC. 5. That the price of said lands shall be paid in accordance with the rules and regulations to be prescribed by the Secretary of the Interior upon the following terms: One-fifth of the purchase price to be paid in cash at the time of entry, and the balance in five equal installments, the first within two years and the remainder annually in three, four, five, and six years, respectively, from and after the date of entry. In case any entryman fails to make the annual payments, or any of them, when due, all rights in and to the land covered by his entry shall cease, and any payments theretofore made shall be forfeited and the entry canceled, and the lands shall be proffered for sale and entry under the provisions of the homestead law at the price fixed herein: *Provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section 2301, Revised Statutes, by paying for the land entered the price fixed herein, receiving credit for the payments previously made. In addition to the price to be paid for the land the entryman shall pay the same fees and commissions at the time of commutation of final entry as now provided by law where the price of land is $1.25 per acre; and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence, and shall have made all the required payments aforesaid, he shall be entitled to patent for the lands entered: *Provided further*, That any lands remaining unsold after said lands have been opened to entry for five years may be sold to the highest bidder for cash, without regard to the prescribed price thereof fixed under the provisions of this act, under such rules and regulations as the Secretary of the Interior may prescribe, and patents therefor shall be issued to the purchasers.

SEC. 6. That from the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, there shall be deposited in the Treasury of the United States, to the credit of the Indians belonging and having tribal rights on the said reservation, the sums of which the said tribe may be entitled, which shall draw interest at 3 per cent per annum; that the moneys derived from the sale of said lands and deposited in the Treasury of the United States to the credit of said Indians shall be at all times subject to appropriation by Congress for their education, support, and civilization: *Provided*, That from any moneys in the Treasury to the credit of the Standing Rock Indians derived from the proceeds arising from the sale and disposition of their portion of the surplus and unallotted lands disposed of under section 6 of the act approved May 29, 1908, the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to distribute and pay to each of the Indians belonging to said tribe and entitled thereto a sum not exceeding $40 per capita.

SEC. 7. That sections 16 and 36 of the land in each township within the tract described in section 1 of this act shall not be subject to entry, but shall be reserved for the use of the common schools and paid for by the United States at $2.50 per acre, and the same are hereby granted to the States of South Dakota and North Dakota, respectively, for such purpose, and in case any of said sections or parts thereof are lost to either of the said States by reason of allotments thereof to any Indian or Indians or otherwise, the governor of each of said States, respectively, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section 1 of this act, to locate other lands not otherwise appropriated, not exceeding two sections in any one township, which shall be paid for by the United States, as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement.

SEC. 8. That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for town-site purposes, or granted to the State, or otherwise disposed of, shall be subject for a period of 25 years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

SEC. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $180,000, or so much thereof as may be necessary, to pay for the lands granted to the States of South Dakota and North Dakota, as provided in section 7 of this act. And there is hereby appropriated the further sum of $10,000, or so much thereof as may be necessary, for the purpose of making the surveys and allotments provided for herein: *Provided*, That the said $10,000, or so much thereof as may be expended for the purpose of carrying out the provisions of this act, shall be reimbursed to the United States from the proceeds received from the sale of the lands described herein or from any money in the Treasury belonging to said Indian tribe.

SEC. 10. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections 16 and 36, or the equivalent, in each township, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of the said lands and to expend and pay over the proceeds received from the sale thereof only as received and as herein provided: *Provided*, That nothing in this act shall be construed to deprive the said Indians of the Standing Rock Indian Reservation of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this act.

The SPEAKER. Is a second demanded?

Mr. FOSTER. Mr. Speaker, I demand a second.

Mr. BURKE of South Dakota. I ask unanimous consent, Mr. Speaker, that a second be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from South Dakota is entitled to 20 minutes and the gentleman from Illinois [Mr. FOSTER] to 20 minutes.

Mr. BURKE of South Dakota. Mr. Speaker, this bill proposes to authorize the sale of the surplus lands in the Standing Rock Reservation, in North and South Dakota. I will state that in the Sixtieth Congress a portion of the surplus lands of the Standing Rock Indians was authorized to be sold, and if this bill passes and becomes a law it will cover all the surplus lands belonging to those Indians.

The reservation affected by this legislation contains 1,131,280 acres, all of which has been allotted to the Indians with the exception of 219,000 acres. This bill proposes to authorize the sale of the 219,000 acres.

The Indians have already been allotted, but there is a provision in the bill that all the children that may be born up to within 60 days of the opening shall be allotted. The provisions of the bill are substantially the same as other laws which have been enacted for the sale of surplus lands in Indian reservations. This bill differs in one or two particulars from bills passed heretofore in reference to the Dakotas in that it does not provide for the appraisement of the lands. The reason for the change in that respect is because of the objection made by the Indians to the expense that would be incurred by reason of making an appraisement. They set forth the fact that the lands in a part of the reservation had so recently been appraised, and there being a report from the appraisers as to the general character of the land, namely, that it was only fit for grazing purposes and that probably $2.50 an acre would be an adequate

price, it was thought that we should provide, as the bill does provide, that for all lands disposed of in the first three months the price should be $6 an acre, and then after three months $4 an acre, and then $2.50 an acre. When this bill in its original form, providing that the lands should be appraised, was submitted to the Indians for consideration they objected to it largely because of the provision which provided for appraisement. So, as I have stated, believing that no good could come from an appraisement, and believing that the plan which the bill follows is really a better one than to fix the price by appraisement, we have changed it in that respect.

We have a precedent for this legislation in the law which was enacted some years ago for opening a portion of the Rosebud Reservation. That law provided that a certain price should be paid for all lands taken in the first three months, and then the price was reduced in the next three months, and finally after six months the price was reduced to $2.50 an acre, the same as this bill provides.

I want to say that under that legislation about all of the desirable land was taken at the high price, and that when it came to the minimum price of $2.50 an acre there was practically no land left that anyone would undertake to acquire title to under the homestead laws. The law provided that after a certain number of years the undisposed of land should be disposed of without regard to homestead requirements and sold at auction to the highest bidder, and the remnants were sold and at an average price of $4.87 an acre.

There was no further legislation required and the matter was closed up and the lands were paid for in full, and I think it is the most satisfactory opening of an Indian reservation we have had for some years.

I may say, as I have already said, that this bill was submitted to the Indians and a council was held. Maj. McLaughlin represented the United States and the Department of the Interior. Maj. McLaughlin has been in the Indian Service for a period of 40 years. For a number of years he was the agent of these Standing Rock Indians. While there was some objection to the bill by the Indians as introduced in the Senate, it has been amended by the Committee on Indian Affairs of the House, and as it is now presented practically every objection raised by the Indians has been met by an amendment. I submit that if anyone will take the trouble to examine this measure he will find very little to criticize in it. Now, Mr. Speaker, unless some one desires to ask me a question, I want to reserve the balance of my time.

Mr. MANN. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. First with reference to the different values placed upon the land according to the time they are entered, changing from $6 to $4 within three months, I believe. It may be that the Interior Department will open this land at some season very appropriate, and it may be that it will not. The truth is, public lands opened in recent years in the West to homestead settlement have been opened possibly in the best way it could be done, but certainly not at all to the satisfaction of the people living east of the western country who desired to obtain land. If it should be opened at this season of the year, of course, it would be wholly in the interest of the local people. Is there any way of determining when this land will be opened?

Mr. BURKE of South Dakota. I can only answer the gentleman by stating that heretofore the department has had these openings at the season of the year when it believed it would serve the interest of the greatest number of people. They have usually provided for registration in the fall of the year and the fillings in the following spring. So far as people in the immediate locality are concerned, I may say that nearly all of them have exercised their homestead rights and have no privilege to enter these lands, and before a person can be a purchaser he must have the qualifications of a homestead entryman.

Mr. MANN. I think there are a great many people up there who have not exercised their homestead rights and who never intend to live on a homestead anywhere, but who will exercise their rights for the purpose of getting possession of the lands and relinquishing that right afterwards.

Mr. BURKE of South Dakota. Anyone who undertakes now to acquire title under a homestead is compelled to live upon the land in accordance with the law, or he does not succeed in getting the title.

Mr. MANN. He is not compelled to maintain his claim. He can relinquish that, as far as that is concerned.

Mr. STEPHENS of Texas. Mr. Speaker, is the gentleman from Illinois aware that the proclamation of the President can not be issued until the lands have been allotted to the Indians? This is the language in the bill, to be found on page 14:

Provided, That prior to said proclamation the Secretary of the Interior shall cause allotments to be made to every man, woman, and child belonging to or holding tribal relations in said reservations who have not heretofore received the allotments to which they are entitled under provisions of existing laws: *Provided, however*, That the said Secretary is hereby authorized to designate the superintendent of the Standing Rock Indian School to allot each child born subsequent to the completion of the allotments herein provided for and 60 days prior to the date set by said proclamation for the entry of said surplus lands.

Mr. MANN. I had assumed that the land which was to be sold to homesteaders was not to be allotted to Indians at all. Am I not correct in that assumption?

Mr. STEPHENS of Texas. The language is very plain—

That prior to the said proclamation the Secretary of the Interior shall cause allotments to be made to every man, etc., who have not heretofore received the allotments to which they are entitled under provisions of existing laws.

Mr. MANN. Does that cover the land to be sold to homesteaders?

Mr. STEPHENS of Texas. After the lands have been allotted and the Indians have taken their allotments, then this proclamation can be issued, and not before.

Mr. MANN. That is what I assumed, and that is the reason I was asking the question.

Is the gentleman from South Dakota able to tell the House how many people went up to the Dakotas at the opening of the Rosebud land?

Mr. BURKE of South Dakota. I will say to the gentleman, if he refers to the first opening, which was that portion in Gregory County, and which was opened, I think, by an act passed in the Fifty-eighth Congress, that there were something like 100,000 people.

Mr. MANN. How many people out of that number were permitted to get homesteads?

Mr. BURKE of South Dakota. There were about 2,500 160-acre tracts, as I remember.

Mr. MANN. That was a very profitable thing for the railroad companies.

Mr. BURKE of South Dakota. I want to say to the gentleman that there has been no opening since that time where there has been anything like that number of people. At the opening of the Cheyenne and the Standing Rock Reservations, which was next to the last one in our State, there were not sufficient people to begin to take anywhere near the land that was to be disposed of, and the reason they did not take it was the price of the land, which was undoubtedly too high.

Mr. MANN. The craze for public land is so great at this time and the market price of farm produce is so high that there will be just about the same proportion go up there if the present conditions of prosperity prevail for another year or two, and God knows what is going to happen in regard to that. Nobody on earth does.

I notice a provision in the bill reserving 20 per cent of the amount sold for town lots to make improvements in the towns. On the same theory why should not this land itself or the proceeds of it pay for the sixteenth and the thirty-sixth sections reserved for school purposes in order to make the land of more value and sell the land for a higher price?

Mr. BURKE of South Dakota. I will say to the gentleman that the payment of lands reserved for school purposes is simply carrying out the obligation of Congress when it guaranteed to these States of South and North Dakota sections 16 and 36 in every Indian reservation, and I may say further——

Mr. MANN. But that does not answer the question.

Mr. BURKE of South Dakota. I do not understand why the Indian should be required to pay for an obligation that the Government owes to the States of South and North Dakota.

Mr. MANN. The sixteenth and the thirty-sixth sections are reserved for school purposes, and in order to make the adjoining land of more value.

Mr. BURKE of South Dakota. Oh, not at all; that is not the theory.

Mr. MANN. I think that is the very reason it was done in the first place, and the reason it has been continued. It is a fact that it does make the land more valuable. It saves the expenditure for school purposes which otherwise would have to be made. Now you propose to reserve 20 per cent of the sale price in towns to build town buildings. Upon what theory? Why, upon the theory that that makes the land which was sold worth more.

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. The same is true of the other; there is no distinction.

Mr. BURKE of South Dakota. There is no comparison whatever. I will say to the gentleman, it has been contended, and I think it has been successfully demonstrated, that the Indians do receive directly a benefit to the extent of the 20 per cent of the proceeds that are taken from the sale of town lots, in that the lots sell for more money. But I want to say further, that concerning this particular provision in the bill, when the matter

was submitted to the Indians they were heartily in favor of the provision, and I want to call the gentleman's attention——

Mr. FITZGERALD. I understood the report stated they objected to that.

Mr. BURKE of South Dakota. I will say in the original Senate bill was a provision that 20 per cent of the proceeds be taken from the sale of that portion of the reservation opened by the act that was passed in the Sixtieth Congress—that that be taken and used for public purposes—and the Indians very strenuously objected to taking the money that had been received out of the former opening and using it for any public purpose, but they do not object to the provision in this bill.

Mr. FERRIS. Will the gentleman yield for just a moment? In lines 14 to 17, inclusive, page 16, I think it will be observed that this provision is not without consideration. This provision is on condition that the public-school authorities in these towns forever receive the Indian children in the public schools on the full standing and full footing with the white children, and that is the real consideration for this.

Mr. MANN. If we give them the lands for the public schools, why do we then put in a provision requiring that the land shall be used for their education when we pay them for the use of the land and pay them for the other lands sold besides.

Mr. FERRIS. You do not pay them for the use of the lands; we sell a certain portion——

Mr. MANN. I am talking about school lands. We do pay them for the school lands which we donate to the State. In other words, the public domain at present, as now administered under this provision, is a liability to the Government instead of an asset.

Mr. BURKE of South Dakota. If the gentleman will permit just a word. I desire to say under the treaty of 1877 the United States guaranteed in perpetuity to furnish these Indians with sufficient funds and until they became civilized, including cost of education and subsistence, and that under this bill the proceeds from the sale of sections 16 and 36 goes into the Treasury to the credit of the Indians, and then we appropriate it for their support and civilization and thereby relieve the Treasury from the obligation that exists under the treaty of 1877, under which we have appropriated millions of dollars. I may say that for the support of the Sioux, when I came to Congress, we were appropriating $900,000 annually out of the Public Treasury as against $250,000, I think it is now, or $350,000, in the pending Indian appropriation bill. Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The gentleman reserves three minutes.

Mr. FOSTER. Mr. Speaker, this bill, Senate 109, as many Members will remember, flopped around here for a good while trying to get consideration. I think that the committee has had some difficulty, or likely there was some difficulty, I will not say the committee, in getting the Indians satisfied in reference to the opening of this reservation. When they first had this matter up I think it will be recalled by some of the Members who had something to do with it that this bill was not satisfactory to these Indians who are affected by this opening, but by providing in the bill, which comes before us at this time, that $40 shall be paid to each Indian it makes him more docile and ready to submit to whatever legislation may be necessary to deprive him of his land and sell it and put the money in the Treasury. I have before me statements which have been made by some of these Indians in which they say that this land very largely is needed by the Indians for grazing purposes; that the timber allotments on the part of the lands they have allotted and to which they are entitled have not been approved by the Department of the Interior; that a large number of heirs of deceased Indians, who are entitled to allotment, have not yet received their allotment. I do not know, of course, whether it is necessary for me to undertake to read these or whether it is worth anything at this particular time, but it seems to me a bill of this character, which involves 260,000 acres of public land, should not be taken up under suspension of the rules, where no one is given an opportunity to amend a bill of this character.

I see the gentleman's anxiety for wanting to pass this bill and get these lands thrown open for settlement.

Mr. MILLER. Will the gentleman yield?

Mr. FOSTER. In just a moment. But I regard not the interests of Dakota alone in this matter. I think the whole people of the United States, who I think have some interest in the Indians and the lands which they have, should be considered. And for that reason I do not believe a bill of this character ought ever to come up under suspension of the rules.

Mr. BURKE of South Dakota. I would like to ask the gentleman a question, if he will permit.

Mr. FOSTER. Yes, sir.

Mr. BURKE of South Dakota. Do I understand the gentleman from Illinois wants to keep these Indians forever in reservations?

Mr. FOSTER. I will say this. In the State from which the gentleman comes I have no doubt the land is becoming more valuable year by year, and if by holding these lands for a little while for the benefit of the Indians, with the increase of money which they might be able to secure for that land, it would go for their support and education in the future, and I submit to the gentleman if he does not think it a good thing for the Indians?

Mr. BURKE of South Dakota. I would most emphatically say no. And let me say that with these Standing Rock Indians the heads of families have been allotted 640 acres, the wife of each husband 320 acres, each adult unmarried person 320 acres, and each child 160 acres. Consequently, in almost every family there are from 900 to 2,000 acres of land. Now, many of these allottees have died, probably one-fourth of them, since the first allotments were made, and those living have inherited such lands, and consequently these Indians are rich in lands. Now, it would certainly enhance the value of these allotments if you could dispose of these unused surplus lands, and if they should be used and occupied by the white people it would be contributing to the opportunities of the Indian, inasmuch as he would have the opportunity of learning from the white man.

Mr. FOSTER. I think many of the Members of Congress who are serving here now and who have served here in the past will recall that year after year Congress is expected to appropriate a large sum of money for the education of the Indian and for his care and support in many parts of the United States. And it has occurred to me, in view of those facts, that if there is anything to be gained by holding these lands the increase will come to him, and that he should have a right to the increase in the value of his land. But the great trouble seems to be that when the Indian has some valuable land the first opportunity is sought to take it away from him. And, then, I will say further, that beyond and all around these Indian reservations, as I understand, there is a good deal of public land to-day that is not settled in the Dakotas, and there can be no crying necessity for taking these lands away from the Indian at this particular time. Let the Dakotas go and induce people to go upon these lands, if necessary, and homestead them, but let the Indian alone for a little while and let him have the land where it will be of some advantage to him.

Mr. BURKE of South Dakota. Let me call the gentleman's attention to this fact—and I know he is not aware of it: That under the very treaty made with these Indians in 1889 there is a provision that when the allotments are made the surplus lands shall be disposed of, and this bill is to carry out what this treaty provides. And as to the land around this section and territory, I will say to the gentleman there is not any public land for homestead purposes. There is some public land in Cheyenne and the Standing Rock sections that was not taken, because the price appraised on the land was more than it is worth.

Mr. FOSTER. Does the gentleman think that in 10 years from now, or 5 years from now, that because of that land being more valuable it will be time to open these lands for settlement?

Mr. BURKE of South Dakota. I want to say to the gentleman that I think there has nothing happened that has done more to pauperize the Indian than to build up constantly a fund in the Treasury, or to reserve something, so that he expects constantly that he is going to get something.

Mr. FOSTER. If he has his lands there, there will be no fund. Let him have the lands.

Mr. COOPER. Will the gentleman yield?

Mr. FOSTER. I yield.

Mr. COOPER. I observe on page 7 of the report, at the bottom, in the beginning of the letter addressed to the Secretary of the Interior by the Indian agent, it says:

Under departmental instructions of August 11 last, I have the honor to report my conferences with the Indians of the Standing Rock Reservation in the States of North Dakota and South Dakota, with reference to the sale and disposition of the surplus land of their reservation.

But he says further:

Owing to inclement weather, deep snow, and difficult traveling, the council was not so largely attended as it otherwise would undoubtedly have been.

Now, he received his instruction on the 11th of August, and he had this meeting or council in deep snow, when the traveling was so difficult that there were few Indians present. Why was it necessary, when the instructions were given in August, to postpone that council until there was deep snow, when it was difficult to attend it and when, as a matter of fact, few did attend it?

Mr. FOSTER. And I will state to the gentleman that possibly in that way they secured the consent of the Indians to the opening.

Mr. COOPER. Will the gentleman permit me another question?

Mr. FOSTER. Yes.

Mr. COOPER. Does not the gentleman see that we ought to have a calendar for the suspension of the rules, and that the Committee on Rules ought to bring in a rule providing that there shall be a suspension of the rules calendar, which is just as important as a Calendar for Unanimous Consent, so that we will know what bills will be called up? This is an exceedingly important bill, and if it had been called up on the Unanimous Consent Calendar it would have been objected to promptly. Here it is brought up under suspension of the rules, and I am told that it has been twice objected to on the Calendar for Unanimous Consent.

Mr. BURKE of South Dakota. Mr. Speaker, I think the gentleman from Illinois [Mr. FOSTER] will corroborate me when I say that it was not promptly objected to, but was very reluctantly objected to by my good friend from Illinois, who made an objection only after some discussion of the matter, and concluded that it ought not to pass under unanimous consent.

I want to state to the gentleman from Wisconsin [Mr. COOPER] that this bill, as I have already stated, is in substantial conformity with the bills that we have been passing in the last 10 years in relation to the disposition of the surplus of Indian lands in reservations, with the exception that it is perfected, and is, therefore, a better measure——

Mr. COOPER. It ought to be——

Mr. BURKE of South Dakota. A better measure than any that we have heretofore passed. I call the attention of the gentleman to the fact that it has a unanimous report from the committee, which considered it very carefully.

Mr. COOPER. I notice in this letter, if the gentleman from Illinois [Mr. FOSTER] will permit a question——

Mr. FOSTER. Yes——

Mr. COOPER. That the Indians expressed themselves as despondent and as very much discouraged at not receiving any cash payment from the proceeds of the sale. The act was passed on May 29, 1908. That is four years and five months ago.

Mr. FOSTER. Yes. Let me state to the gentleman from Wisconsin——

Mr. COOPER. They were instructed to call the Indians together in August, and when they did call them together the snow was so deep that they could not get to the council.

Mr. FOSTER. It was provided that the Indians should receive $40 each out of this money, and of course they immediately concluded that $40 was worth something to them.

Mr. BURKE of South Dakota. Let me say, Mr. Speaker, in response to the suggestion of the gentleman from Wisconsin [Mr. COOPER] that the bill providing for the sale of the surplus lands that was passed in 1908 provided that the money should be paid into the Treasury and expended for the support, civilization, and education of these Indians, in accordance with the agreement of 1889, and the Secretary of the Interior, believing that he had the right to pay to these Indians a cash payment, when they asked for a $40 per capita payment because of two successive droughts, submitted the matter to the comptroller, and the comptroller held that under the law as it existed no money could be paid directly to the Indians; and therefore we put into this bill a provision, after the comptroller had ruled upon the question, that $40 per capita might be paid to the Indians.

Mr. FOSTER. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore (Mr. FERRIS). Six minutes.

Mr. MILLER. Mr. Speaker, will the gentleman yield for a question?

Mr. FOSTER. I will, for just a short question.

Mr. MILLER. I thought the gentleman was about through. This is not very important. The gentleman observed, in the course of his remarks, that during the years past Members had noticed that the Government had annually to pay out quite large sums for the support and maintenance of various Indians. Has the gentleman ever observed exactly who those Indians are, and where they are, for whom these particular sums have been expended?

Mr. FOSTER. I do not know that I could enumerate them.

Mr. MILLER. I could tell the gentleman generally.

Mr. FOSTER. Let me state it. I do not care that the gentleman shall answer his own question.

Mr. MILLER. I can readily answer it.

Mr. FOSTER. I will suggest to the gentleman that if he will scan the appropriation bills of the past sessions of Congress he will find that for almost every section of the country where there are Indians there has been appropriated money for the support and education of the Indians.

Mr. MILLER. Oh, no; there are 11,000 Indians in my State, and not one penny has been spent by the Government for their support and education in 10 years.

Mr. FOSTER. We have here now a matter of appropriating money, it might be said, for the betterment of the Indians, but the Government is spending money all the time.

Mr. MILLER. It is, and it is spending large sums, too; but I want to direct the attention of the gentleman to the particular Indians for whom this money is intended.

Mr. FOSTER. I can not say as to these Indians; but I have no doubt if the record was looked up it would be found that a good deal has been spent for these Indians. I imagine that the State of Minnesota has not been too immodest in calling upon the Treasury for what it thought it wanted.

Mr. MILLER. The record speaks for itself.

Mr. FOSTER. The Representatives from the State of Minnesota have usually been active and alert on this floor.

Mr. MILLER. I do not agree with the gentleman that activity is to be measured by inroads upon the United States Treasury; but in passing, if the gentleman will permit——

Mr. FOSTER. Yes.

Mr. MILLER. I should like to call the attention of the gentleman to the fact that I think it is worthy of some thought, if not discussion at this time, that the Indians for whom the Government is forced to make these appropriations for support and maintenance are Indians who have been despoiled of their land, generally speaking, by acts of the Government twenty-five, thirty, fifty, sixty, or eighty years ago, and that it is never due to anything like opening up an unused portion of a reservation.

Mr. FOSTER. I think there was always some innocent looking bill. I am not casting any reflection on the gentleman from South Dakota in this respect, but usually the plea is made, "Why, this is for the benefit of the Indians themselves." And yet in the end the Indian's land is gone and his support has to be provided by the United States Government.

Mr. BURKE of South Dakota. Will the gentleman allow me to ask him if he has heard of any scandal in connection with any of the openings in South Dakota in the last few years?

Mr. FOSTER. No; and if I have intimated such a thing to the gentleman, I beg his pardon. I am not intimating it; but I would suggest to the gentleman, as suggested by the gentleman from Minnesota [Mr. MILLER], that these things have occurred in the past, and I have not specified any particular part of the country. I do not know whether he refers to Dakota or whether he refers to Minnesota, or some other State.

Mr. BURKE of South Dakota. I think he could perhaps not only refer to Dakota and Minnesota, but he might include Illinois, because he went back 80 years.

Mr. FOSTER. That may be true. I suppose in Illinois there were men who were just as anxious to take away from the Indian the lands that belonged to him as there are to take away the land that belongs to the Indians in other States, and those efforts probably have been just as successful in Illinois as they were in other States.

Mr. MANN. The people of Illinois may have robbed the Indians, but we did not rob both the Treasury and the Indians.

Mr. FOSTER. Yes; that is true.

Mr. BURKE of South Dakota. I wanted to call the attention of the gentleman to the fact that the Indians of South Dakota have been making great progress, and there has been no suggestion that by reason of any of the acts that have been passed in recent years they have been wronged or defrauded.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. FOSTER. Yes.

Mr. FITZGERALD. How many Indians are there in Standing Rock?

Mr. BURKE of South Dakota. I think between 4,000 and 5,000.

Mr. FITZGERALD. How much does this $40 per capita payment amount to?

Mr. BURKE of South Dakota. I have not figured it up.

Mr. FITZGERALD. In round numbers?

Mr. MILLER. Four thousand times forty would be $160,000.

Mr. BURKE of South Dakota. Something between $150,000 and $200,000.

Mr. FITZGERALD. Why do they want this money?

Mr. BURKE of South Dakota. It is suggested that this money is necessary as the result of two successive severe droughts.

Mr. STEPHENS of Texas. It is necessary to improve their farms and improve their condition generally.

Mr. FITZGERALD. How much of the former reservation is undisposed of?

Mr. BURKE of South Dakota. I am not able to state just what portion of the Standing Rock Reservation is undisposed of, but I would say for a guess probably one-third. I am not able to state.

Mr. FITZGERALD. I do not recollect the extent of that area.

Mr. BURKE of South Dakota. The Standing Rock Reservation joins the Cheyenne, and a small portion of the Standing Rock was opened with the Cheyenne, but just what proportion I am not able to state.

Mr. FITZGERALD. How many acres are undisposed of?

Mr. BURKE of South Dakota. I am unable to state. The reason that it has not been disposed of is due to the price, which was too high, and, second, to the drought condition which prevails.

Mr. FITZGERALD. If that condition prevails now it would be unwise to open it.

Mr. BURKE of South Dakota. The conditions this past year have been better than the year before.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. BURKE of South Dakota. Mr. Speaker, I yield the balance of my time to the gentleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. Mr. Speaker, I think the gentleman from South Dakota has covered the field pretty well in his remarks. I want to say that the Indians who appeared before the committee did express their views, and I think every objection they had was met fully by the committee, and I think that the bill is very well poised, indeed.

Mr. BUTLER. Will the gentleman yield?

Mr. FERRIS. Certainly.

Mr. BUTLER. What objection did the Indians make?

Mr. FERRIS. The objection in a nutshell, as I saw it, was that some of the cattlemen wanted to occupy or lease these surplus lands, and they induced these Indians to come down here at their expense and make a protest. That is the real information.

There is always the same two factions with reference to an Indian reservation. The cattle people want to rent the land undivided as a reservation for a few cents an acre, and never want it settled up. On the other hand, there are people who want to settle up the land, build houses, build fences, plow, cultivate, and make something of the country.

Mr. BURKE of South Dakota. These surplus lands are leased for about 4 cents an acre.

Mr. FERRIS. Now, this bill is in favor of the people who want to settle the country. Each Indian—big, little, old, and young—has 160 acres apiece, and that makes anywhere from 320 to 2,000 acres in a family. They personally do not cultivate and take care of any considerable part of it at all. All they do is to lease it.

Mr. FOSTER. Does not the Government have something to do with the leasing of it?

Mr. FERRIS. It does.

Mr. FOSTER. Then the Government ought to see that they did not rent it too cheaply, and you ought not to blame the Indians for it.

Mr. FERRIS. I am not blaming the Indians. I am simply stating the fact. Now, this wild domain, of course, is uncultivated and unsubdued, and that is the best deal the Indians could make. Of course, you can not afford to pay for grazing land as much as you would pay for land that could be cultivated. But the white people will buy these lands at a fair price. The final solution of the Indian question is bound to be the intermingling of the white people and gradually swallowing up the Indian, and the only way you can do it is to have the land allotted to the individual Indians and let the white settler come in and buy the surplus lands. There is much said about the white people going in and buying up Indian land, but there are two sides to the question. When the land is allotted it renders it more valuable. The white people who convert a cow pasture into fertile fields are entitled to some consideration. When cities and towns are built it creates value for the Indians also. This is a good bill. I think the bill ought to pass. So many people think there is but one side of these Indian questions, but the frontiersmen who are drawers of water and hewers of wood are entitled to some consideration. This bill in no manner affects their individual allotments. It only disposes of their surplus and creates value for their allotments.

The SPEAKER. The time of the gentleman from Oklahoma has expired and all time has expired. The question is on the motion of the gentleman from South Dakota to suspend the rules and pass the bill.

The question was taken; and on a division (demanded by Mr. FOSTER) there were 36 ayes and 8 noes.

So, two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

THE ROCKEFELLER FOUNDATION.

Mr. PETERS. Mr. Speaker, I move to suspend the rules and pass the bill H. R. 21532, to incorporate the Rockefeller Foundation.

The Clerk read the bill, as follows:

Be it enacted, etc., That John D. Rockefeller, John D. Rockefeller, jr., Frederick T. Gates, Starr J. Murphy, Harry Pratt Judson, Simon Flexner, Edwin A. Alderman, Wickliffe Rose, and Charles O. Heydt, together with such persons as they may associate with themselves, and their successors, be, and they hereby are, constituted a body corporate of the District of Columbia.

SEC. 2. That the name of such body corporate shall be "The Rockefeller Foundation," and by that name it shall have perpetual succession, save as hereinafter provided.

SEC. 3. That the object of the said corporation shall be to promote the well-being and to advance the civilization of the peoples of the United States and its Territories and possessions and of foreign lands in the acquisition and dissemination of knowledge; in the prevention and relief of suffering; and in the promotion, by eleemosynary and philanthropic means, of any and all of the elements of human progress: *Provided, however*, That the Congress of the United States may at any time impose such limitations upon the objects of the said corporation as it may deem the public interest demands, and any and all gifts, devises, bequests, or property at any time received or held by said corporation shall be received and held subject to the terms of this proviso and to the terms and limitations which may be imposed by any act of Congress hereafter passed with reference thereto.

SEC. 4. That for the promotion of such objects the said corporation shall have power to establish, maintain, and endow, or to aid others, whether individuals, associations, or corporations, to establish, maintain, and endow institutions and other agencies for carrying on said objects, and any of them; to purchase, hold, sell, and convey real estate necessary or convenient for the said corporate objects, and to erect, improve, enlarge, and equip buildings and other structures necessary or convenient for said objects, or any of them, and to acquire, make, and furnish all necessary or convenient apparatus and other accessories; to employ and aid others to employ teachers, lecturers, assistants, and agents; to donate to any individual, association, or corporation engaged in similar work money or property, real or personal, which shall at any time be held by the said corporation hereby constituted, subject to the terms of any gift, grant, bequest, or devise by which the said corporation shall have received the same; to collect statistics and information, and to publish and distribute books, documents, and reports containing the same, and in general to do and perform all things necessary or convenient for the promotion of the object of the corporation.

SEC. 5. That the said corporation shall further have power to have and use a common seal and to alter and change the same at its pleasure; to sue and be sued in any court of the United States or other court of competent jurisdiction; to take or receive, whether by gift, grant, devise, bequest, or purchase, any real or personal estate, and to hold, grant, convey, transfer, hire, or lease the same for its corporate purposes; to accept and administer any trust of money, or of real or personal estate for any purpose within the object of the corporation as aforesaid: *Provided, however*, That the total amount of property held at any one time, including that which is held absolutely as well as that which is held in trust, shall not exceed the value of $100,000,000, exclusive of increases in the value of property subsequent to its receipt by said corporation: to prescribe, by by-laws, or otherwise, the terms and conditions upon which money, real estate, or personal estate shall be acquired or received by the said corporation, and for the grant, transfer, assignment, or donation of any or all property of the said corporation, real or personal, to any individual, society, or corporation for any of the said purposes for which the said corporation is hereby incorporated; to make by-laws, subject to the provisions of this act, for the admission or exclusion of its members; for the election of its trustees, officers, and agents; for the casting of votes by its members or trustees by proxy; for the purchase, management, sale, or transfer of its property; for the investment and control of its funds; and otherwise generally for the management of the property and the transaction of the business of the corporation. The enumeration of special powers in this act shall be deemed to be by way of amplification and not by way of limitation of the general powers hereby granted.

SEC. 6. That the income of the property of the said corporation shall not be accumulated or added to the principal, but shall be currently applied to the purposes for which the corporation is created, subject only to such reasonable delay as may be necessary in the wise administration of the fund.

SEC. 7. That at any time after the expiration of 50 years from the receipt by the said corporation of any property, whether by deed, grant, devise, or bequest, the said corporation may distribute the principal, or any part thereof, as well as the income thereof, in furtherance of the objects of said corporation, provided such action shall be authorized by a resolution passed by the affirmative vote of two-thirds of all those who shall at the time be members of the corporation, at a special meeting held on not less than 30 days' notice, given in writing, which shall state that the meeting is called for the purpose of considering a resolution to authorize the distribution of the whole or some part of the principal of said funds; and after the expiration of 100 years from the date of its receipt by said corporation the said corporation shall distribute the principal, in furtherance of the objects of said corporation, if so directed to do by the Congress of the United States; and all gifts, grants, devises, or bequests to the corporation shall be taken and held subject to the provisions of this section.

SEC. 8. That the members of the corporation shall be not less than 9 in number and not more than 25, as may be prescribed by the by-laws of the corporation: *Provided*, That if and when the number of members shall be less than 9 the members remaining shall have power to add, and shall add, to their number until the number shall not be less than 9: *And provided*, That no act of the corporation shall be void because at the time such act shall be done the number of the members of the corporation shall be less than 9, except that no gift to any individual, association, institution, or corporation, shall be made when the number of members is less than 9; that all the members of the corporation shall be its trustees; that no member of the said corporation shall, by reason of such membership or his trusteeship, be personally liable for any of its debts or obligations; that each member of the corporation shall hold his membership for a term of three years and until his successor shall be chosen: *Provided, however*,

That the members shall be at all times divided into three classes, equal numerically as nearly as may be, and that the original members shall at their first meeting, or as soon thereafter as shall be convenient, be divided into three classes, the members of the first class to hold their membership and office until the expiration of one year, the members of the second class until the expiration of two years, and the members of the third class until the expiration of three years from the 30th day of June next after the enactment of this law, and that in every case the member shall hold office after the expiration of his term until his successor shall be chosen: *And provided further*, That in case any member shall, by death, resignation, incapacity to act, or otherwise, cease to be a member during his term, his successor may be chosen to serve for the remainder of such term and until his successor shall be chosen.

SEC. 9. That the successors to the incorporators named herein and the additional members of the corporation and their successors shall be elected by the members of the corporation for the time being, but before such election shall become effective written notice thereof shall be mailed by said corporation to each of the following-named persons at his official post-office address, namely: The President of the United States, the Chief Justice of the Supreme Court, the President of the Senate, the Speaker of the House of Representatives, and the presidents of the following institutions, namely: Harvard University, Cambridge, Mass.; Yale University, New Haven, Conn.; Columbia University, New York City, N. Y.; Johns Hopkins University, Baltimore, Md.; and the University of Chicago, Chicago, Ill. If such election shall be disapproved by a majority of the persons above named, it shall be void; but it shall become effective if and when it shall be approved by such majority, or at the expiration of 60 days from the mailing of such notices if it shall not have been disapproved by such majority.

SEC. 10. That the principal office of the corporation shall be located in the District of Columbia, but offices may be maintained and meetings of the corporation, the trustees, and committees may be held in such other places as the by-laws may from time to time designate.

SEC. 11. That all personal property and funds of the corporation held, used, or invested for its purposes as aforesaid, or to produce income to be used for such purposes, shall be exempt from taxation by the United States or any Territory or District thereof.

SEC. 12. That no officer, trustee, member, or employee of said corporation shall receive any pecuniary benefit from the operations thereof, except reasonable compensation for services in effecting one or more of the purposes of the corporation.

SEC. 13. That the corporation shall annually file with the Secretary of the Interior of the United States a report in writing, stating in detail the property, real and personal, held by the corporation, and the expenditure or other use or disposition of the same or of the income thereof during the preceding year.

SEC. 14. That this charter shall be subject to alteration, amendment, or repeal at the pleasure of the Congress of the United States.

SEC. 15. That this act shall take effect immediately on its passage.

Mr. FITZGERALD. Mr. Speaker, I demand a second.

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. Is the gentleman from New York opposed to the bill?

The SPEAKER. The gentleman from New York is not obliged to answer.

Mr. RODDENBERY. I have a further question to ask. If the gentleman from New York is not opposed to the bill and another gentleman is opposed to the bill, which has the preference?

Mr. FITZGERALD. Is the gentleman from Georgia opposed to the bill?

Mr. RODDENBERY. The gentleman from New York will please answer my question first; I asked him the question first.

Mr. FITZGERALD. As at present informed I am. I may be convinced that the bill is a good bill. If the gentleman is opposed to it, I am satisfied to have him recognized.

The SPEAKER. The rule and the custom is that the Speaker or the Chairman, whoever happens to be in the chair, shall recognize the first Member up, excepting, of course, on the motion to recommit.

Mr. FITZGERALD. If the gentleman from Georgia is opposed to the bill and does not believe he is likely to be persuaded to favor it at all, I am perfectly willing that the Speaker should recognize him.

Mr. RODDENBERY. Not at all. As at present informed I am opposed to the bill. I merely wanted the information.

The SPEAKER. The gentleman from New York demands a second.

Mr. PETERS. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent that a second may be considered ordered. Is there objection?

Mr. WILLIS. Mr. Speaker, I object.

The SPEAKER. The gentleman from Ohio objects. The gentleman from Massachusetts [Mr. PETERS] and the gentleman from New York [Mr. FITZGERALD] will take their places as tellers. The question is on ordering a second.

The question was taken; and the tellers reported 41 in favor of and 4 opposed to ordering a second.

So a second was ordered.

The SPEAKER. The gentleman from Massachusetts is entitled to 20 minutes and the gentleman from New York is entitled to 20 minutes.

Mr. PETERS. Mr. Speaker, it is not necessary for me to long detain the House, but I shall call briefly to the attention of the House the purpose of the bill which we have before us for consideration. The first section provides for the incorporators. The second and third sections state the object and purposes of the bill. The object of the bill as set out in the section itself is—

to promote the well-being and to advance the civilization of the peoples of the United States and its Territories and possessions and of foreign lands in the acquisition and dissemination of knowledge; in the prevention and relief of suffering; and in the promotion, by eleemosynary and philanthropic means, of any and all of the elements of human progress.

Congress may at any time impose such limitations upon the objects of the said corporation as it deems public interest demands, and that all property received must be held by it subject to these provisions.

The corporation is to be granted power to establish, maintain, and endow any institutions or agencies for carrying on the purpose for which it is created, and for such purpose it has the ordinary corporate powers given to eleemosynary institutions by the general laws of the States.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield for a question?

Mr. PETERS. Certainly.

Mr. BARTLETT. Mr. Speaker, I desire the gentleman to tell me what is meant by certain language in the bill. On page 4, in line 17, we find this language:

The enumeration of special powers in this act shall be deemed to be by way of amplification and not by way of limitation of the general powers hereby granted.

That is to say that there is nothing in the act which can limit the powers of the corporation, and instead of limiting the powers of the corporation it is given unlimited power.

Mr. PETERS. I think that same provision has been in other special acts passed by this Congress granting similar corporate powers to other institutions, and its purpose is to provide that there shall be no question as to the rights of the people acting under the corporate powers to carry out the purposes for which the institution is incorporated.

Mr. BARTLETT. In other words, that it should be chartered for a pretended eleemosynary purpose, but that any purpose may be carried out by these incorporators or by the managers of the corporation.

Mr. PETERS. No; only to carry out purposes along the line indicated in the charter.

Mr. BARTLETT. In other words, while you apparently limit the power of the corporation to specific objects, yet this language means that you do not limit but you amplify the powers and give the corporation anything it wants. Is not that the meaning of it?

Mr. PETERS. Not at all. I tried to state that it is provided that the general powers granted in this bill shall not be limited by the terms of the act beyond the purposes for which it is incorporated. The failure to mention a specific charitable object in the bill shall not prevent them from going into that field of work if consistent with the limitations imposed in the bill.

Mr. BARTLETT. One other question, so that the gentleman may answer the suggestions that occur to my mind, and that is in reference to section 11.

That all personal property and funds of the corporation held, used, or invested for its purposes as aforesaid, or to produce income to be used for such purposes, shall be exempt from taxation by the United States or any Territory or district thereof.

Mr. PETERS. If the gentleman will permit me, I am taking up the bill section by section, and if I do not make it clear when we come to that number I will ask the gentleman to put the question again.

Mr. BARTLETT. Well, I did not know the gentleman intended to do that.

Mr. PETERS. Section 6 provides the income of the property shall not be added to the principal, and that the income shall be spent for the purposes for which it is incorporated, so that no larger amount shall be acquired. The number of members——

Mr. BARTLETT. As the gentleman has got beyond section 1, might I ask him a question in reference to it?

Mr. PETERS. Certainly.

Mr. BARTLETT. The gentleman calls this "a body corporate of the District of Columbia," and yet he proposes to give it powers to extend anywhere beyond the District of Columbia and all the States, and he also proposes to give it power to do certain things in foreign countries. That is true?

Mr. PETERS. Yes.

Mr. BARTLETT. Now, is not there a law in the District of Columbia that provides for the incorporation of all sorts of corporations?

Mr. PETERS. That law has been tried, and it is only drawn for the purposes of corporations whose intent it is to operate solely within the District, and it does not give sufficient powers for corporations who desire to do their field work outside of the District of Columbia. The Carnegie people tried originally an incorporation under the District, and found they were not able to operate in that way, and had to get a special act.

Mr. BARTLETT. Then I understand the whole purpose of this is to give it the sanction and seal of the United States instead of a corporation merely of the District of Columbia—to give it an incorporation by act of Congress—and the words "a body corporate of the District of Columbia" do not mean anything as put in the bill.

Mr. PETERS. The gentleman has correctly stated the purpose when he says it is to have the corporation operate all over the country. The limitations imposed by the general laws of the District make incorporation under them for these purposes impracticable, and also require that a majority of the incorporators be citizens of the District.

Mr. BARTLETT. Does the gentleman think that Congress does exercise any function of creating corporations to exercise public functions such as national banks or railroads to carry on interstate-commerce business or to build bridges, as in the North River Bridge case, in which the Supreme Court said Congress had the right to incorporate that sort of a charter because it was a navigable stream? Does the gentleman think that Congress has the constitutional power to grant charters, any sort of charters, to do any sort of business, national or international, anyway, whether it be confined to the United States or extended to foreign countries? Does the gentleman think we have that power?

Mr. PETERS. I think Congress clearly has power to grant corporate powers such as is intended to be granted by this act.

Mr. BATHRICK. May I ask the gentleman a question? Are not all the gentleman's questions, as expressed in his inferential fears, answered by section 14, which gives the Congress of the United States the power to alter, amend, or repeal this charter at pleasure?

Mr. PETERS. Certainly; I should think so.

Mr. BARTLETT. If the gentleman will permit, it certainly does not answer the question as to the power of Congress to enact the law.

Mr. PETERS. The number of members of the corporation are not to be less than 9 or more than 25, and should the number fall below 9 neither property can be acquired nor gifts made. The corporation can not act until the full number of at least 9 incorporators are elected. In order to preserve the high character of the men who shall handle this national eleemosynary institution it is provided that all members elected to the corporation shall only be elected subject to the approval of the President of the United States, the Chief Justice of the Supreme Court, the President of the Senate, the Speaker of the House of Representatives, and the presidents of five of our leading universities. Section 11 is that all personal property used for the purposes of corporation is to be exempt from taxation by the United States the same as it would be as if it were incorporated under the laws of the District of Columbia. This provision does not affect taxation outside the District of Columbia. All its real or personal property is subject to taxation under the laws of any State in which it may be situated. Then there is a provision that there shall be an annual report, and the further provision that no officer or trustee shall receive any pecuniary benefit except for his services.

The report is to be made annually to the Secretary of the Interior, and, further, this charter shall be subject to alteration, amendment, or repeal, at the pleasure of the Congress of the United States.

Mr. COX of Indiana and Mr. FITZGERALD rose.

The SPEAKER. To whom does the gentleman from Massachusetts [Mr. PETERS] yield?

Mr. PETERS. I yield first to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. The gentleman said that when he came to section 11 he would explain it at length.

Mr. PETERS. I mentioned when we came to section 11 that real and personal property is to be exempt from taxation in the District of Columbia, in the United States, or any Territory or District thereof. All property in any State shall be subject to the local taxation. Any property of the corporation, both real and personal, outside the District of Columbia will be subject to taxation in the same manner as if owned by a private individual. Not the slightest exemption from local taxation is contemplated.

Mr. FITZGERALD. Well, I think the gentleman is mistaken. This says:

That all personal property and funds of the corporation held, used, or invested for its purposes as aforesaid, or to produce income to be used for such purposes, shall be exempt from taxation by the United States or any Territory or District thereof.

Mr. PETERS. I understand that the wording is similar to that of the general law as to the charitable and eleemosynary institutions which may be established in the District. The act would not exempt the property of this corporation from taxation in any State, either real or personal.

Mr. COX of Indiana. I want to ask the gentleman a question, Mr. Speaker.

The SPEAKER. Does the gentleman from Massachusetts [Mr. PETERS] yield to the gentleman from Indiana?

Mr. PETERS. Certainly.

Mr. COX of Indiana. I want to know whether or not the proposed bill which the gentleman now has in charge is not in line with the similar kind of work which Mr. Rockefeller has been engaged in in New York for several years.

Mr. PETERS. The purpose of introducing this bill is to incorporate and make in permanent form the charitable work that is being now done in various parts of the United States by people who receive gifts from Mr. Rockefeller. It is not necessary to mention the sections in which research work is being done under the various gifts of Mr. Rockefeller in many parts of the United States. It is the purpose of this act to enable that work to be systematized and made permanent. While research is depending on the gift of any individual it is subject to the uncertainties hanging on a human life. Of course it is of tremendous advantage to the people of the whole country to have the investigations carried on by a permanent organization and to have a permanent endowment rather than depend on gifts from any benefactor, however generous.

Mr. COX of Indiana. It is to coordinate them and bring them all together into one organized body of men, is it not?

Mr. PETERS. Exactly.

Mr. COX of Indiana. Does the gentleman know or can he tell the House approximately about how much money Mr. Rockefeller has donated along this line? Has he any idea of it?

Mr. PETERS. I can not inform the House. The sums are so huge I would not wish to attempt it.

Mr. COX of Indiana. I see that one of the incorporators here is Simon Flexner, of New York. I would like to ask the gentleman whether or not he is at the head of the Flexner Institute in New York?

Mr. PETERS. He is.

Mr. COX of Indiana. I would like to know whether or not that is the institution that has been endowed by Mr. Rockefeller for several years, in order to continue the scientific work that Mr. Flexner had instituted?

Mr. PETERS. Exactly.

Mr. COX of Indiana. And so the scheme of this is to coordinate it and bring it under one class of men?

Mr. PETERS. To coordinate the work——

Mr. COX of Indiana. Not to cost the Government one penny?

Mr. PETERS. And not to cost the Government one penny.

Mr. COX of Indiana. But to disseminate knowledge and aid suffering humanity?

Mr. PETERS. And to make permanent the relief from the suffering which people are undergoing to-day.

Mr. WILLIS. I would like to ask the gentleman a question as to section 11, which says:

That all personal property and funds of the corporation held, used, or invested for its purposes as aforesaid, or to produce income to be used for such purposes, shall be exempt from taxation by the United States or any Territory or District thereof.

It may be that the gentleman has answered this in his colloquy with the gentleman from New York [Mr. FITZGERALD]. Now, I want to consider that in connection with section 5, which provides that the corporation "shall have power to take or receive, whether by Government grant, devise, bequest, or purchase, any real or personal estate, and to hold, grant, and have the same," and so forth, and then consider the provision on the following page, where it undertakes to limit the amount so that it shall not exceed the value of $100,000,000, inclusive of increases in the value of the property subsequent to its receipt by the said corporation. Now, I want to inquire whether the gentleman thinks that under those two sections, taken together, it will not be possible that the vast amount of property which now or hereafter might be subject to taxation by the Federal Government would be absolutely removed from the liability to taxation by the United States or by any Territory or district thereof? It might extend clear beyond $100,000,000. It might

be $500,000,000, because in this section provision is made not only for the original value of the property, but also for the possible potential increase of value. What is likely to be the effect of that?

Mr. PETERS. It is inconceivable that such circumstances should arise, but Congress has always the power by legislation here to meet that situation, should it be found that any undue increase in the capital fund was taking place. It is the desire and the intent of this act to expend the income as fast as it can be acquired. All property, real and personal, outside the District is subject to local taxation, and the entire income of the fund must be spent.

Mr. BARTLETT. Mr. Speaker, can I ask the gentleman a question in reference to section 11?

The SPEAKER. Does the gentleman from Massachusetts yield?

Mr. PETERS. Certainly.

Mr. BARTLETT. As far as I can gather from a reading of the bill and from the statement of the gentleman, the whole intention and purpose of the bill is to undertake to exempt this property from State taxation.

Mr. PETERS. There is no such intention whatever.

Mr. SLAYDEN. Mr. Speaker, will the gentleman permit me a question?

The SPEAKER. Does the gentleman yield?

Mr. PETERS. Certainly.

Mr. SLAYDEN. I would like to ask the gentleman if, as a matter of fact, all the income is not to be devoted to research in the interest of the great body of the people?

Mr. PETERS. All the income will be expended for that purpose.

Mr. SLAYDEN. Does the gentleman see any objection to a limitation of the amount?

Mr. PETERS. Large as this donation will be, I only wish we could get more for such purposes.

To indicate the plans of the incorporators I will read to the Members a portion of the statement of Jerome D. Greene, general manager of the Rockefeller Institute for Medical Research, and dated March 15, 1912, and sent to Members of the House:

> The incorporation of the Rockefeller foundation is intended as a means of maintaining, for as long a period in the future as the trustees or Congress may deem best, an approved method of careful philanthropic expenditure. The scope of the charter is purposely made wide, but wide only within the strict limits of charitable intent. The aggrandizement of the members of the corporation or of the corporation itself, through the administration of the trust, is expressly excluded by the provision that no person connected with the foundation shall derive any pecuniary benefit therefrom other than fair compensation for services, and that the income of the endowment shall be spent each year, not added to the principal.
>
> The characteristic of Mr. Rockefeller's benefactions in the past is that they have been the means of stimulating rather than replacing self-help and self-reliance. Thus the work of the Commission for the Eradication of the Hookworm has been carried on exclusively through State agencies with the cooperation of hundreds of local physicians, and has been made the occasion of permanently improving the local public health organizations. The promotion of improved methods of corn and cotton growing in the South by the general education board has not been by flooding the agricultural communities with money they have not earned as a substitute for local enterprise, but by showing, through a few farms here and there, with a moderate expenditure for instruction and demonstration, how a hundred neighboring farms could, with their own labor, double or quadruple their products. The endowment of education through schools, colleges, and universities has stimulated the sense of local responsibility instead of destroying it, as is graphically indicated by the fact that for about seven and a half millions of dollars contributed conditionally through the general education board to institutions of learning in all parts of the country since 1905 about thirty-eight millions of dollars have been raised by those institutions in fulfillment of the board's conditions. The sending of a single physician to Texas two months ago by the Rockefeller Institute for Medical Research has resulted in the effective instruction of the public health authorities and many private physicians in that State once for all as to the method of dealing with a virulent outbreak of epidemic cerebrospinal meningitis. Incidentally the new curative serum was administered to hundreds of persons, with a resulting decrease of the normal death rate from 75 per cent to less than 25 per cent.
>
> The question how the Rockefeller Foundation is to spend its money is a legitimate one for the public to ask before the charter is granted, especially in the light of ignorant forebodings lest a large sum of money might seek the protection of a charter for private rather than for public ends. This question is answered, first, by the unequivocal language of the charter, pledging the use of the money exclusively for charitable and humanitarian purposes, subject to the control of Congress; and, secondly, by the concrete illustration of how these same resources have been used while under private control through the general education board, the sanitary commission for the eradication of the hookworm disease, and the Rockefeller Institute for Medical Research. It may be confidently expected that far-reaching measures for the promotion of public health along both educational and medical lines will have the first attention of the trustees.

The results of the activities of the Rockefeller charities have brought already relief to many sufferers. I am reluctant to think that a Member of this House will choose to deny the suffering and sick of our country the benefits of this gift. Congress has now the opportunity to secure this huge organization permanently for the use of the poor of the country. Let us do it.

The SPEAKER. The time of the gentleman has expired.

Mr. FITZGERALD rose.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] is recognized.

Mr. FITZGERALD. Mr. Speaker, in view of the statement made by the gentleman from Massachusetts [Mr. PETERS], I shall support the bill, but if any gentleman is opposed to it I shall yield to him the time in opposition.

Mr. SAUNDERS. I would like to have five minutes, not to oppose the bill, but to support it.

Mr. FITZGERALD. I yield five minutes to the gentleman.

The SPEAKER. Does any gentleman desire to speak in opposition to this bill?

Mr. FITZGERALD. Does the gentleman from Virginia oppose it?

Mr. SAUNDERS. No. I stated that I would not oppose it, but would support it. Of course if anyone wishes to oppose it, I will yield.

The SPEAKER. Does any gentleman desire to oppose this bill?

Mr. BARTLETT. Mr. Speaker——

Mr. FITZGERALD. Mr. Speaker, I yield five minutes to the gentleman from Georgia [Mr. BARTLETT].

The SPEAKER. The gentleman from Georgia [Mr. BARTLETT] is recognized for five minutes.

Mr. BARTLETT. Mr. Speaker, I recognize that the ground upon which I oppose this bill may be old fashioned and not in accord with the very advanced spirit of the times. If we can grant a charter to a corporation like this—if Congress can grant such a charter—then there is no limit to the power of Congress to grant charters for any purpose. Even, Mr. Speaker, when the Supreme Court of the United States upheld the right of Congress to charter the United States Bank, it was held in that case by Chief Justice Marshall that the only reason why Congress had the power to charter the United States Bank was because it granted to the bank governmental functions and put upon the bank the duty to do certain things which the Government had the right to do and because the bank was its fiscal agent.

Going further, when the Supreme Court upheld the national-bank act they still adhered to that doctrine. Again, Mr. Speaker, in the case of Ogden against the bank, when the Supreme Court reaffirmed the right of Congress to charter a national bank it stated that it was only because Congress granted to the bank functions that were governmental in their nature that Congress had the right to grant such a charter, and that, of course, unless it did Congress had no such power.

Upon the same doctrine and with the same limitation that the Supreme Court of the United States upheld the right of Congress to charter the national banks, the court, incident to the opening up of vast tracts of land in the West, upheld the right of Congress to incorporate the Pacific Railroad companies on the ground that Congress had control of interstate commerce and traffic from one State to another. There was also involved in that case the right of the Government to build its post roads and military highways, and they were dedicated also to the use of the Government in carrying the military forces and supplies of the Government.

When it came to the charter of the North River Bridge Co., the court upheld the right of Congress to charter a company to build a bridge across a navigable river, and held then that the right of Congress was not because of any inherent right to grant a charter, but because Congress had the right to control the navigable rivers and streams of this country, and that was a navigable river and stream, and it was also a post road and a public highway, made so by the act incorporating the bridge company.

Now, I have on all these occasions, when charters of this kind have been applied for in Congress, voiced my objection to them upon this ground. Even when the Red Cross Society was being incorporated and when the act incorporating it was being amended I suggested the same objection. That was a commendable purpose, as this is, but I do not believe that Congress has the constitutional power and authority to grant charters of this character. I have no objection to the purposes for which it is intended to apply the funds which will be donated in this case. Of course I have no objection. But, Mr. Speaker, I repeat that with the law upon the statute books providing for the incorporation of any sort of organization like this in the District of Columbia, we have not the power, in my humble opinion, to pass any such law as this. So, Mr. Speaker, while I voiced my convictions, I am aware that they are in a great measure old-fashioned. I am aware that we live in an age when, if it is urged that something be done because it is commendable, because it may aid humanity, because it may uplift somebody

or something, we are asked to forget that we live in a Republic which is governed by a Constitution whose powers limit the authority and power of Congress. It is for this reason mainly that I shall not support the bill.

The SPEAKER. Does any other gentleman desire to speak?

Mr. FITZGERALD. I yield five minutes to the gentleman from Tennessee [Mr. GARRETT].

Mr. GARRETT. Mr. Speaker, I shall vote against this bill, but I do not concur in the reasoning of the gentleman from Georgia [Mr. BARTLETT]. It seems to me that the insertion of the words "of the District of Columbia," in lines 8 and 9, cures the technical objection made by the gentleman from Georgia [Mr. BARTLETT]. The reason why I shall vote against the bill is because I do not believe that special acts of incorporation should pass. I do not think this act creates the Rockefeller Foundation as a Federal incorporation. Upon the contrary, it makes it a corporation of the District of Columbia. That is its situs. It becomes a "citizen" of the District of Columbia, and it does not become a Federal incorporation. If it did become a Federal incorporation, I should agree with the reasoning of the gentleman from Georgia [Mr. BARTLETT] that the Congress would have no power to create it, because I think it is true that the Congress can not create a Federal corporation except where that corporation is to be an agent of the Government and to perform some governmental function. But undoubtedly the Congress does have the power to provide for the creation of corporations in the District of Columbia that shall be citizens of the District of Columbia.

Mr. BARTLETT. True.

Mr. GARRETT. It may provide for that in a general act, just as a State legislature may pass a general act of incorporation; or it may provide for it by special act, just as a State legislature may provide, unless it be prevented by the State constitution.

Therefore it does not seem to me that the legal objection suggested by the gentleman from Georgia [Mr. BARTLETT] is tenable or sound. But, Mr. Speaker, the policy that is involved in the passage of these special acts is, it seems to me, very objectionable. It seems to me that the Committee on the District of Columbia or the Committee on the Judiciary ought at some time to work out and bring in some general plan here whereby eleemosynary institutions may be incorporated under the general law, and let us have a cessation of this running to Congress for special acts to incorporate eleemosynary and charitable institutions.

The purposes of this act may be very good. There have been very many apparently good acts brought before the Congress since I have been here, incorporating certain companies as corporations of the District of Columbia. There is no reason why there should not be a general act worked out. There is no general act now. These incorporators who are named in this act are not residents of the District of Columbia. The general act for incorporation in the District of Columbia requires that at least three of those incorporating here, according to my recollection——

Mr. BARTLETT. A majority of them.

Mr. GARRETT. Perhaps a majority of them, shall be residents of the District of Columbia. Of course, that is easy on a business proposition; but it seldom happens that eleemosynary institutions such as this have a majority of the incorporators residents of the District. But it seems to me that it would be the part of wisdom for the Committee on the Judiciary, which reported this bill, I believe, or the District Committee, or some other committee having jurisdiction of the subject matter, to work out some general plan that would take care of such institutions as this, and lodges, and societies for archeological research, and all the various institutions that have been or have sought to be incorporated here by special act, in order to prevent the necessity of men having to come to the Congress and go through this long, tedious course, and subject us to a policy which is probably unwise of granting charters of incorporation by special acts of Congress.

[Mr. FOWLER addressed the House. See Appendix.]

Mr. FITZGERALD. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has four minutes.

Mr. FITZGERALD. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. SHACKLEFORD].

[Mr. SHACKLEFORD addressed the House. See Appendix.]

The SPEAKER. The time of the gentleman has expired. All time has expired.

Mr. FOWLER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. SHACKLEFORD. Mr. Speaker, I make the same request.

Mr. SAUNDERS. I ask unanimous consent to have five minutes, that I may reply to some of the arguments that have been advanced against the proposition.

Mr. SHACKLEFORD. Mr. Speaker, with the understanding that I have five minutes in which to reply to the gentleman from Virginia, I shall not object.

Mr. SAUNDERS. But, Mr. Speaker, the gentleman has done all of the "argumentation," so to speak, against the proposition.

The SPEAKER. Does the gentleman from Virginia object to the limitation?

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that the time be extended so that each side may have five minutes.

The SPEAKER. The gentleman from New York asks unanimous consent that the time upon each side be extended for five minutes. Is there objection?

Mr. SHACKLEFORD. Who is to have the five minutes in opposition to the proposition?

The SPEAKER. The gentleman from New York will control the time.

Mr. SHACKLEFORD. I want five minutes in which to reply.

Mr. FITZGERALD. I do not know, but somebody else may be opposed to this.

Mr. SHACKLEFORD. But not as heroically as I.

The SPEAKER. Is there objection?

Mr. SHACKLEFORD. I object unless I may have five minutes in which to reply.

Mr. RODDENBERY. Mr. Speaker, reserving the right to object——

Mr. MANN. But the gentleman from Missouri has objected.

The SPEAKER. The gentleman from Missouri objects. The question is on suspending the rules and passing the bill.

The question was taken; and on a division (demanded by Mr. PETERS and Mr. COX of Indiana) there were—ayes 40, noes 25.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

ADJOURNMENT.

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 47 minutes p. m.) the House adjourned until to-morrow, Tuesday, January 7, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Illinois River, Ill., between Hurricane Island and Calhoun County (H. Doc. No. 1224); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Wethersfield Cove, Connecticut River, Conn. (H. Doc. No. 1225); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of War submitting estimates of appropriations required by the War Department for the service for the fiscal year 1913 (H. Doc. No. 1226); to the Committee on Military Affairs and ordered to be printed.

4. A letter from the Secretary of the Interior, transmitting statement of expenses incurred by officers and employees of the Interior Department attending conventions or societies from June 30 to December 1, 1912 (H. Doc. No. 1227); to the Committee on Expenditures in the Interior Department and ordered to be printed.

5. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of War submitting supplemental estimate of appropriation for the service of the fiscal year 1914 for the erection of a storehouse at Benicia Arsenal, Benicia, Cal. (H. Doc. No. 1228); to the Committee on Military Affairs and ordered to be printed.

6. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of War submitting supplemental estimate of appropriation for installing independent water supply in the Executive Mansion grounds for

fire protection, for the fiscal year 1914 (H. Doc. No. 1229); to the Committee on Appropriations and ordered to be printed.

7. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of Commerce and Labor submitting an estimate of appropriation, for the fiscal year 1913, for establishment and operation of an immigrant station in the city of Chicago, Ill. (H. Doc. No. 1230); to the Committee on Appropriations and ordered to be printed.

8. A letter from the Acting Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting deficiency estimate of appropriation to allow credits in accounts of certain Army officers (H. Doc. No. 1231); to the Committee on Appropriations and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. NYE: A bill (H. R. 27722) to increase the limit of cost of new post-office building in Minneapolis, Minn., now under construction; to the Committee on Public Buildings and Grounds.

By Mr. GRAHAM: A bill (H. R. 27723) to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mr. LAFFERTY: A bill (H. R. 27724) making it the duty of any common carrier or street railway company engaged in interstate traffic or traffic inside the District of Columbia to furnish to the plaintiff or his attorney in any action for damages for alleged negligence the names of witnesses taken by the carrier or street railway company at or near the time and place of the alleged act of negligence or accident upon which such action is based; to the Committee on the Judiciary.

By Mr. CALDER: A bill (H. R. 27725) to reorganize and increase the efficiency of the grades of commissioned chiefs and warrant officers of the Navy of the United States; to the Committee on Naval Affairs.

By Mr. TAGGART: A bill (H. R. 27726) validating the leases for oil and gas purposes made by the Osage National Council, May 25, 1912, to the Uncle Sam Oil Co. and to Wesley M. Dial and his assigns, and directing the Secretary of the Interior to approve the transfer of said lease from Wesley M. Dial to the Uncle Sam Oil Co.; to the Committee on Indian Affairs.

By Mr. CARLIN: A bill (H. R. 27727) for the construction of a public building at Leesburg, Va.; to the Committee on Public Buildings and Grounds.

By Mr. KALANIANAOLE: A bill (H. R. 27728) to increase the limit of cost for the purchase of a site and the erection of a public building in Honolulu, Territory of Hawaii; to the Committee on Public Buildings and Grounds.

By Mr. THAYER: A bill (H. R. 27729) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or association to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or association; to the Committee on the Post Office and Post Roads.

By Mr. CARLIN: A bill (H. R. 27730) to provide for a sanitary survey of the Potomac River by the United States Public Health Service; to the Committee on Appropriations.

By Mr. GODWIN of North Carolina: A bill (H. R. 27780) to provide for a survey of the Northeast Branch of the Cape Fear River from the city of Wilmington, in the county of New Hanover, State of North Carolina, to the head of steamboat navigation in said river at a point about 3 miles above Hilton Bridge, near the city of Wilmington, N. C.; to the Committee on Rivers and Harbors.

By Mr. FOWLER: Resolution (H. Res. 765) requesting the Secretary of the Interior to furnish copy of all evidence concerning the suspension of Joseph W. King; to the Committee on Reform in the Civil Service.

By Mr. BORLAND: Resolution (H. Res. 766) directing the Committee on Banking and Currency to investigate American Beet Sugar Co.; to the Committee on Rules.

By Mr. JONES: Resolution (H. Res. 767) requesting from the President of the United States information concerning the exemption of American importers of manila hemp from payment of the export tax thereon; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANSBERRY: A bill (H. R. 27731) for the relief of Charles E. Shenk; to the Committee on War Claims.

Also, a bill (H. R. 27732) granting an increase of pension to James K. Andrews; to the Committee on Invalid Pensions.

By Mr. BARTHOLDT: A bill (H. R. 27733) granting a pension to Algernon Sidney Barnes; to the Committee on Invalid Pensions.

By Mr. BARTLETT: A bill (H. R. 27734) granting an increase of pension to Charles Myer; to the Committee on Pensions.

By Mr. BURKE of Wisconsin: A bill (H. R. 27735) granting an increase of pension to Kate S. Blodgett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27736) granting an increase of pension to William Ashton; to the Committee on Invalid Pensions.

By Mr. DE FOREST: A bill (H. R. 27737) granting a pension to Mary L. Bach and minor children; to the Committee on Pensions.

By Mr. DENVER: A bill (H. R. 27738) granting an increase of pension to Francis M. Vantress; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27739) granting an increase of pension to Isaac N. Seal; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27740) granting an increase of pension to William A. Shrock; to the Committee on Invalid Pensions

By Mr. DWIGHT: A bill (H. R. 27741) granting a pension to J. H. Sage; to the Committee on Invalid Pensions.

By Mr. FAIRCHILD: A bill (H. R. 27742) granting a pension to Mary R. Richards; to the Committee on Invalid Pensions.

By Mr. FOSTER: A bill (H. R. 27743) granting a pension to David Pruitt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27744) granting an increase of pension to Julia A. Snedeker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27745) to remove the charge of desertion from the record of L. N. Mansfield; to the Committee on Military Affairs.

By Mr. FOWLER: A bill (H. R. 27746) for the relief of John L. Coy; to the Committee on Claims.

Also, a bill (H. R. 27747) granting an increase of pension to Rebekah Ann Hayes; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 27748) granting a pension to Currency A. Gummere; to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: A bill (H. R. 27749) granting an increase of pension to Delia F. Homans; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 27750) correcting the military record of Hiram Rollins; to the Committee on Military Affairs.

Also, a bill (H. R. 27751) granting an increase of pension to George W. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27752) granting an increase of pension to Neoma McKee; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27753) granting an increase of pension to Reuben B. Taylor; to the Committee on Invalid Pensions.

By Mr. HOBSON: A bill (H. R. 27754) granting an increase of pension to Lucy M. Hord; to the Committee on Pensions.

By Mr. HOWELL: A bill (H. R. 27755) for the relief of James Lafferty; to the Committee on Claims.

By Mr. LAFFERTY: A bill (H. R. 27756) granting an increase of pension to Samuel W. McLean; to the Committee on Invalid Pensions.

By Mr. LANGHAM: A bill (H. R. 27757) granting an increase of pension to Permelia J. Lewis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27758) granting an increase of pension to Elizabeth J. Milliken; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 27759) granting an increase of pension to Cyrus Frazure; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27760) granting an increase of pension to William Smith; to the Committee on Invalid Pensions.

By Mr. McGILLICUDDY: A bill (H. R. 27761) granting an increase of pension to Albert Smith; to the Committee on Invalid Pensions.

By Mr. MAGUIRE of Nebraska: A bill (H. R. 27762) granting an increase of pension to William Bartlett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27763) granting an increase of pension to William R. Sheeler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27764) granting an increase of pension to Nathaniel Tutin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27765) granting an increase of pension to Thomas C. Diltz; to the Committee on Invalid Pensions.

By Mr. OLMSTED: A bill (H. R. 27766) granting a pension to Henry S. Matter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27767) granting a pension to Sydney Kempton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27768) granting a pension to William D. Bowman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27769) granting an increase of pension to John E. Frymier; to the Committee on Invalid Pensions.

By Mr. RUCKER of Colorado: A bill (H. R. 27770) granting a pension to Francis E. Searway; to the Committee on Pensions.

Also, a bill (H. R. 27771) granting a pension to Mary A. Tracht; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27772) granting an increase of pension to Jacob A. Carter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27773) granting a pension to Nancy Ellen Sutton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27774) granting a pension to Sarah P. Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27775) granting an increase of pension to Rosiena Fischer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27776) granting an increase of pension to Overton E. Harris; to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 27777) granting a pension to James K. Johnson; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 27778) granting an increase of pension to Frisby D. Hutchinson; to the Committee on Invalid Pensions.

By Mr. TUTTLE: A bill (H. R. 27779) granting a pension to Jennie B. Bailey; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Petition of merchants of Harrison, Ohio, favoring the passage of legislation requiring concerns doing mail-order business to contribute to taxes in local communities; to the Committee on Interstate and Foreign Commerce.

Also, petition of merchants of Cleves, Ohio, favoring the passage of legislation requiring concerns doing mail-order business to contribute to taxes in local communities; to the Committee on Interstate and Foreign Commerce.

By Mr. ASHBROOK: Petition of the select list of Ohio daily newspapers, protesting against the passage of the section of the postal appropriation bill relative to the filing and publishing of circulation lists, stockholders, etc.; to the Committee on the Post Office and Post Roads.

Also, petition of Local Chapter of the Socialist Party of Newark, N. J., asking for a congressional investigation of the prosecution by the Government of the Appeal to Reason; to the Committee on the Judiciary.

Also, petition of the Vermont Association of Sealers of Weights and Measures, favoring the passage of House bill 23113, establishing a standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Ways and Means.

Also, petition of W. S. Hutchinson and 15 other merchants of Coshocton, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. BATES: Petition of Mrs. Samuel Semple, president State Federation of Patriotic Women; of F. B. Howland, E. O. Emerson, jr., and Prof. Henry Pease, of Titusville, Pa.; and of Prof. Frank E. Baker, president Northwestern State Normal School, Edinboro, Pa., favoring the passage of House bill 23581, for the establishment of vocational training in public schools; to the Committee on Agriculture.

By Mr. BURKE of Wisconsin: Papers to accompany bill granting an increase of pension to Kate S. Blodgett; to the Committee on Invalid Pensions.

Also, petition of F. J. Vollmer and 23 other citizens of Thiensville, Wis., protesting against the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Marine Trades Association of New York, protesting against the passage of House bill 18228, relative to registering and enrolling of foreign vessels; to the Committee on the Merchant Marine and Fisheries.

By Mr. CALDER: Petition of the Chamber of Commerce of the State of New York, protesting against the passage of Senate bill 7208, proposing changes concerning the carriage of cargo at sea; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association; T. M. Baldwin & Co., Detroit, Mich.; the Traffic Bureau of Knoxville, Tenn., favoring the passage of Senate bill 957, for the regulation of all bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, for the regulation of the sending of telephone and telegraph messages; to the Committee on Interstate and Foreign Commerce.

By Mr. DONOHOE: Petition of the Philadelphia Board of Trade, favoring the passage of House bill 21479, appropriating money for an international conference to discuss the high cost of living; to the Committee on Foreign Affairs.

By Mr. DYER: Petition of H. E. Welker, St. Louis, Mo., favoring the passage of House bill 36, giving Federal protection to migratory birds; to the Committee on Agriculture.

Also, petition of the Associated Retailers of St. Louis, Mo., asking that Congress appropriate sufficient funds for the Post Office Department to give the parcel post a fair test; to the Committee on the Post Office and Post Roads.

Also, petition of Pine Bluff Lodge, No. 305, Brotherhood of Railroad Trainmen, protesting against the passage of the employees' compensation bill; to the Committee on the Judiciary.

Also, petition of the Chilton Co., Philadelphia, Pa., favoring the passage of the section of the Post Office appropriation bill requiring statements of circulation of all publications under Government supervision; to the Committee on the Post Office and Post Roads.

Also, petition of the Farmers' National Congress, Chicago, Ill., favoring the passage of the Page bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of Isaac Prouty & Co., Spencer, Mass., favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Kansas City Southern Railway Co., favoring the passage of legislation providing temporarily for compensating the railway companies for carrying the increased tonnage caused by the parcel post going into effect; to the Committee on the Post Office and Post Roads.

Also, petition of the Swope Shoe Co., St. Louis, Mo., protesting against the passage of the Oldfield bill relative to the selling of boots and shoes; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Federation of Jewish Farmers' of America, New York, favoring the passage of legislation creating a system of farmer rural credits; to the Committee on Banking and Currency.

Also, petition of the Majestic Manufacturing Co., St. Louis, Mo., favoring the passage of legislation making as large an appropriation as possible by the Government for the Pan-Pacific International Exposition; to the Committee on Appropriations.

Also, petition of the Merchants' Exchange of St. Louis, Mo., favoring the passage of House bill 3010, for the regulation of the sending of messages by telegraph or telephone; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Brotherhood of Postal Workers, relative to not receiving the increase of salary as provided for in the Post Office appropriation bill; to the Committee on the Post Office and Post Roads.

Also, petition of the Mound City Paint & Color Co., St. Louis, Mo.; the Business Men's League, of St. Louis, Mo.; the Chamber of Commerce of the United States of America, Washington, D. C.; and the Merchants' Exchange, of St. Louis, Mo., favoring the passage of House bill 25106, to incorporate the Chamber of Commerce of the United States of America under a Federal charter; to the Committee on the Judiciary.

Also, petition of Fred G. Fussel, St. Louis, Mo.; the National Indian War Veterans, of Denver, Colo., and St. Louis, Mo.; and of Joseph Agey, Christ Fluen, Charles L. Dunrand, Efraim Honsley, George W. Stinebaker, George Kormann, and Margaret Cassidy, St. Louis, Mo., favoring the passage of legislation granting pensions to veterans of the Indian wars; to the Committee on Pensions.

Also, petition of the American Automobile Association, New York; the American Automobile Association, National Good Roads Board, and the Automobile Club of St. Louis, Mo., in favor of the passage of bill making an appropriation for the erection of a Lincoln memorial highway; to the Committee on the Library.

Also, petition of the National Federation Retail Merchants, Chicago, Ill., and the Association of National Advertising Managers, New York, protesting against the passage of House bill 23417, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the National Reclamation Association, New Orleans, La., favoring the passage of Senate bill 10900, to create a board of river regulation and to provide a fund for the regu-

lation and control of navigable rivers; to the Committee on Rivers and Harbors.

By Mr. FORNES: Petition of the North Side Board of Trade, New York, favoring the passage of House bill 26677, for the relocation of the pierhead line in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Interstate and Foreign Commerce.

Also, petition of Kirtland Bros. & Co., New York, N. Y., and the Northwestern Mutual Life Insurance Co., favoring the passage of House bill 36, affording Federal protection to migratory birds, to the Committee on Agriculture.

By Mr. FULLER: Petition of Coleman Barber, Woodburn, Iowa, favoring the passage of House bill 1339, granting an increase of pension to veterans who lost a limb in the Civil War; to the Committee on Invalid Pensions.

By Mr. HINDS: Petition of Sagadahoc Grange, No. 31, Patrons of Husbandry, Bowdoin, Me., favoring the passage of the Page bill (S. 5) for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. KALANIANAOLE: Petition of the Chamber of Commerce of Honolulu, protesting against the proposed removal of the lighthouse tender *Kukui* from Hawaiian waters; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Chamber of Commerce of Honolulu, favoring the passage of bill making appropriation for the improvement of the Honolulu Island; to the Committee on Rivers and Harbors.

Also, petition of the Chamber of Commerce of Honolulu, favoring the passage of legislation permanently stationing a properly equipped revenue cutter on the Pacific coast; to the Committee on Interstate and Foreign Commerce.

By Mr. LINDSAY: Petition of W. J. Hoggson, New York, favoring the passage of the bill making an appropriation for the Lincoln memorial; to the Committee on the Library.

Also, petition of the Chamber of Commerce of the United States, Washington, D. C., relative to the passage of bill for its incorporation under a Federal charter; to the Committee on the Judiciary.

Also, petition of the Chamber of Commerce of the State of New York, protesting against the passage of Senate bill 7208, proposing changes relative to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

Also, petition of Coleman Barber, Woodburn, Iowa, favoring the passage of House bill 1339, granting an increase of pension to all veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. LITTLETON: Petition of the Woman's Christian Temperance Union of Succasunna, N. J., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. ROBERTS of Massachusetts: Petition of the Cooper League, of Washington Street Baptist Church, Lynn, Mass., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. SCULLY: Petition of the Farmers' National Congress, Chicago, Ill., protesting against the passage of the section of the Post Office appropriation bill requiring the publishing of circulation lists, stockholders, etc.; to the Committee on the Post Office and Post Roads.

Also, petition of the American Federation of Labor, favoring the passage of Senate bill 3, giving Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

By Mr. STEVENS of Minnesota: Petition of the Minnesota State Forestry Board, protesting against the passage of legislation transferring the control of national forests to States where such forests are situated; to the Committee on the Public Lands.

By Mr. THAYER: Petition of John E. Gilman, past commander in chief, Grand Army of the Republic, favoring legislation creating a memorial to Lincoln in the form of a "Lincoln way"; to the Committee on the Library.

By Mr. TILSON: Petition of the Connecticut State Board of Education, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. WICKERSHAM: Petition of resident Alaska fishermen at Ketchikan, favoring the passage of legislation by Congress preventing the setting of fish traps in tidal waters in Alaska; to the Committee on the Territories.

By Mr. WILSON of New York: Petition of Pine Bluff Lodge, No. 305, Brotherhood of Railroad Trainmen, protesting against the passage of the employees' compensation bill; to the Committee on the Judiciary.

SENATE.

TUESDAY, *January 7, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

SENATOR FROM TEXAS.

Mr. CULBERSON. I present the credentials of R. M. JOHNSTON, appointed a Senator from Texas by the governor of that State, and ask that they be read and placed on file.

The PRESIDENT pro tempore (Mr. BACON). The Secretary will read the credentials.

The credentials of R. M. JOHNSTON, appointed by the governor of the State of Texas a Senator from that State to fill the unexpired portion of the term ending March 3, 1913, occasioned by the resignation of JOSEPH WELDON BAILEY, were read and ordered to be filed.

Mr. CULBERSON. The Senator appointed is present and ready to take the oath of office.

The PRESIDENT pro tempore. The Senator appointed will present himself at the desk for the purpose of taking the oath.

Mr. JOHNSTON was escorted to the Vice President's desk by Mr. CULBERSON, and the oath prescribed by law having been administered to him, he took his seat in the Senate.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of ascertainment of electors for President and Vice President appointed in the State of Rhode Island at the election held in that State November 5, 1912, which were ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 5674) for the relief of Indians occupying railroad lands, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed a bill (H. R. 16843) to consolidate the veterinary service, United States Army, and to increase its efficiency, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

Mr. CLARK of Wyoming presented resolutions adopted by the Fremont County Wool Growers' Association at a meeting held at Lander, Wyo., favoring an appropriation for the extermination of predatory wild animals, which were referred to the Committee on Agriculture and Forestry.

Mr. BRISTOW presented a memorial of sundry citizens of Glen Elder, Kans., remonstrating against the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was ordered to lie on the table.

Mr. PERKINS presented a memorial of sundry merchants of Sebastopol, Cal., remonstrating against the enactment of legislation providing for the removal of restricted prices on patented goods, etc., which was referred to the Committee on Patents.

He also presented the petition of Harrison Gray Otis, of Los Angeles, Cal., praying for the adoption of an amendment to the Constitution of the United States prohibiting a third term for President and Vice President, which was referred to the Committee on the Judiciary.

Mr. TOWNSEND (for Mr. SMITH of Michigan) presented a petition of the Christian Endeavor Society of the Congregational Church of Kalamazoo, Mich., and a petition of the congregation of the First United Brethren Church of Grand Rapids, Mich., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BURTON. I present a petition of sundry citizens of the State of Ohio, residents of the National Military Home of that State, praying for the adoption of an amendment to the Constitution limiting the tenure of office of Presidents of the United States to one term. I move that the petition be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. PENROSE presented a petition of the Board of Trade of Philadelphia, Pa., praying for the enactment of legislation providing for the restoration of the American merchant marine, etc., which was referred to the Committee on Commerce.

Mr. BRANDEGEE presented a petition of members of the Rod and Gun Club of Naugatuck, Conn., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

He also presented resolutions adopted by the Chamber of Commerce of New Haven, Conn., favoring the present management of the New York, New Haven & Hartford Railroad, which were referred to the Committee on Interstate Commerce.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. STEPHENSON:

A bill (S. 7990) for the relief of James Easson (with accompanying paper); to the Committee on Claims.

A bill (S. 7991) granting a pension to Mary MacArthur;

A bill (S. 7992) granting a pension to Anna M. Jones;

A bill (S. 7993) granting a pension to Georgianna Tyler (with accompanying paper); and

A bill (S. 7994) granting an increase of pension to Edward Cannavan (with accompanying paper); to the Committee on Pensions.

By Mr. TOWNSEND (for Mr. SMITH of Michigan):

A bill (S. 7995) granting an increase of pension to Charles Herbstreith; and

A bill (S. 7996) granting an increase of pension to Charles A. Voorheis; to the Committee on Pensions.

By Mr. OLIVER:

A bill (S. 7997) authorizing the Secretary of War to donate to the city of Lancaster, Pa., two bronze or brass fieldpieces for the use of the General William S. McCaskey Camp, United Spanish War Veterans; to the Committee on Military Affairs.

By Mr. CLARK of Wyoming:

A bill (S. 7998) to increase the maximum limit of the official bonds which may be required of United States marshals and clerks of United States district courts in certain cases; to the Committee on the Judiciary.

By Mr. NELSON:

A bill (S. 7999) to amend an act entitled "An act to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July 2, 1890, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' 'An act to regulate commerce,' approved February 4, 1887, or any other acts having a like purpose that may be hereafter enacted," approved February 11, 1903, as amended by an act approved June 25, 1910; and

A bill (S. 8000) providing for publicity in taking evidence under act of July 2, 1890; to the Committee on the Judiciary.

(By request.) A bill (S. 8001) to authorize the adjustment of the accounts of Army officers in certain cases, and for other purposes; to the Committee on Claims.

By Mr. BURTON:

A bill (S. 8002) for the relief of Byron W. Canfield; to the Committee on Military Affairs.

By Mr. SWANSON:

A bill (S. 8003) to provide for the construction, maintenance, and improvement of post roads and rural-delivery routes through the cooperation and joint action of the National Government and the several States in which such post roads or rural-delivery routes may be established; to the Committee on Post Offices and Post Roads.

By Mr. McLEAN:

A bill (S. 8004) granting an increase of pension to Ellen S. Pember (with accompanying papers);

A bill (S. 8005) granting an increase of pension to Elmira H. Cowles (with accompanying papers); and

A bill (S. 8006) granting a pension to Elizabeth Blake (with accompanying papers); to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 8008) for the relief of the estate of Leopold Harth, deceased;

A bill (S. 8009) for the relief of the estate of R. G. Potter, deceased;

A bill (S. 8010) for the relief of the fiscal court of Bourbon County, Ky.;

A bill (S. 8011) for the relief of the estate of James E. Morgan, deceased;

A bill (S. 8012) for the relief of the estate of James Sayre, deceased (with accompanying paper); and

A bill (S. 8013) for the relief of the estate of William Robinson, deceased (with accompanying paper); to the Committee on Claims.

A bill (S. 8014) granting an increase of pension to George W. Doan (with accompanying papers);

A bill (S. 8015) granting an increase of pension to Green Hines (with accompanying papers);

A bill (S. 8016) granting an increase of pension to Stephen B. Woodruff (with accompanying papers);

A bill (S. 8017) granting an increase of pension to Marion E. Taber (with accompanying papers);

A bill (S. 8018) granting an increase of pension to Joseph Girdler (with accompanying paper); and

A bill (S. 8019) granting an increase of pension to Nathaniel J. Smith (with accompanying papers); to the Committee on Pensions.

By Mr. LA FOLLETTE:

A bill (S. 8020) to make it unlawful for foreign corporations to own or control the capital stock, bonds, or indebtedness of local public-utility corporations in the District of Columbia; to the Committee on the District of Columbia.

LIMITATION ON CHARGES TO JURIES.

Mr. TILLMAN. I introduce a bill, which I ask may be read twice by its title and referred, with the accompanying papers, to the Committee on the Judiciary.

The bill (S. 8007) to limit United States judges to declaring the law when charging juries was read twice by its title, and, with the accompanying papers, referred to the Committee on the Judiciary.

Mr. TILLMAN. I ask that the bill and accompanying papers be printed in the RECORD.

There being no objection, the bill and accompanying papers were ordered to be printed in the RECORD, as follows:

A bill (S. 8007) to limit United States judges to declaring the law when charging juries.

Be it enacted, etc., That no judge of a court of the United States, in the trial of a civil cause before a jury, shall charge the jury in respect to matters of fact, but shall declare the law.

SEC. 2. That any order which modifies or sets aside the verdict or finding of a jury may be made the subject of judicial review in the same way and by like process as a final order in the cause, this section being intended to authorize a review of the exercise of discretion by the trial judge whenever such discretion is exercised upon a matter which it was the province of the jury to consider and determine.

CORCORAN BUILDING,
Washington, D. C., December 23, 1912.

Hon. B. R. TILLMAN, *Senate Chamber.*

MY DEAR SENATOR: This letter is handed to you with two inclosures, to each of which I wish specially to ask your attention.

One of the inclosures is a copy of a petition which, in behalf of Walter Murphy, I submitted to-day to the Supreme Court of the United States. This petition is self-explanatory. It tells the story of how Walter Murphy has fared in the courts of the District of Columbia in a suit which he brought against the Capital Traction Co. for injuries resulting from an accident that happened to him in connection with one of the cars of that company while he was handling packages of newspapers that were to be transported from the Union Station to news stands in different parts of the city.

In the trial court the judge directed the jury to return a verdict in favor of the Capital Traction Co. The plaintiff appealed from the judgment that was entered against him upon the verdict so rendered, but he was denied a bill of exceptions, and a bill of exceptions in a case at law, as distinguished from a case in equity, is the only means by which to put the rulings of the trial judge upon record in the case; and, unless his exceptions, taken at the trial, were put into the record, the plaintiff's appeal was worthless. The denial to him of a bill of the exceptions which he had taken at the trial was so inappropriate to the facts of his case, so uncalled for by any just principle of law that governs the settlement of bills of exception, and the outcome of his trial and appeal, as approved by the Court of Appeals of the District, is so clearly violative of a sense of right and justice that I offer the case (described in this petition to the Supreme Court of the United States) as a sample of work by the judiciary, the like of which, by making the courts a means of defeating the hearing and determination of causes on their merits in the way that justice requires, has contributed in no small degree to the widespread popular discontent that is beginning to voice itself in a demand for the "recall" of judges and of judicial decisions.

Of course I am hopeful that the Supreme Court of the United States will grant the prayer of the petition and require the case to be certified up for review; but there is no legal duty resting on that court to review the case. The Supreme Court can not undertake to correct all the wrongs that are done in the courts of the United States. Indeed, it was to relieve the Supreme Court and lessen the number of cases to get upon its docket that Congress passed the act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891 (26 Stat. L., 826–830), by which act a circuit court of appeals is created in each of the judicial circuits of the United States, and certain classes of cases defined in which the judgments of the circuit courts of appeals are declared to be final, except that of such cases it is made competent for the Supreme Court in any case to require the case to be certified up to itself for review and determination. And the recent "judicial code," entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911 (36 Stat. L., Pt. I, pp. 1087–1169), puts the Court of Appeals of the District of Columbia upon a parity with the circuit courts of appeals so far as the reviewing of its decisions by the Supreme Court of the United States is concerned, section 251 of that act being as follows (p. 1159, ditto):

"In any case in which the judgment or decree of said Court of Appeals of the District of Columbia is made final by the section last preceding, it shall be competent for the Supreme Court of the United States to require, by certiorari or otherwise, any such case to be certified to it for its review and determination, with the same power and

authority in the case as if it had been carried by writ of error or appeal to said Supreme Court."

As may be seen from the statutes above cited, the Supreme Court of the United States may, of its own pleasure, on proper petition, order up for review a case which otherwise could not get into that tribunal; but the court is not easily persuaded to reach out in that way for new business, and thereby add to the burdens of its docket, already filled with cases which under the law are entitled to go upon its docket in regular course by appeal or writ of error, namely, cases, speaking generally, which involve the construction or application of the Constitution of the United States or the validity or construction of a statute or treaty of the United States. Twenty-eight petitions praying for writs of certiorari have been presented during the present term of the court, excluding to-day, from different parts of the country, including the District of Columbia, and of this number 27 have been denied and 1 granted; 4 were presented to-day.

If this petition of Walter Murphy should be denied by the Supreme Court of the United States, that will be the end of poor Walter Murphy and his case; but I wanted it to appear that the last word which it was possible for counsel to say in the courts had been said in his behalf. I wanted the case to be thus singled out and emblazoned, to stand as a memorial of what it is possible for judges, using the machinery of the courts, to do with the most valued and sacred of personal rights when such rights are taken into the courts for adjudication.

Now, permit me a few words more concerning some of the work done in the courts of the District of Columbia, under the appellate authority and supervision of the Court of Appeals of the District, and I will be ready to speak specially of the second inclosure which this letter contains.

On the same day that the court of appeals announced its decision in the case of Walter Murphy it announced its decision in another negligence case, in which there had been a directed verdict in the trial court, namely, the case of Ross against the Washington Railway & Electric Co.

In the summer of 1909 the Washington Railway & Electric Co. had the streets torn up, relaying its tracks and roadbed from Fifth and F Streets NW. to F Street and Dupont Circle. The tracks from Fifth Street run along F Street to Fourteenth; then up Fourteenth to H; then along H from Fourteenth to Seventeenth, where they turn north until they enter Connecticut Avenue, which they follow to P and Dupont Circle. For weeks H Street was in a torn-up condition in the neighborhood of Vermont Avenue, where Miss Janet Ross daily crossed H Street on her way to and from the War Department, in which she was employed. Sometimes she crossed on a driveway placed for teams, on the day in question, there being no footway for pedestrians and no driveway for teams, and nothing in the way of a crossing appearing in sight as far as the eye could reach—east to Fourteenth Street and west to Seventeenth Street—she did as many other persons were doing at the time—it being about 4.35 p. m., immediately after the daily discharge of the hundreds of employees of the State, War, Navy, and Treasury Departments—namely, she started to cross the street, picking her way as carefully as she could. Suddenly, as she was in the act of stepping for the last rail in her passage across, she slipped and fell, seriously injuring herself in the fall.

It is the duty of the street car company, under the statutory terms of its charter, to keep the part of the street occupied by its tracks, including on each side of its tracks a space of 2 feet beyond the outer rail of the tracks, well paved and in good order; and it is also the duty of the street car company, when repairing its roadbed and tracks, so to conduct its work that the usefulness of the highway for the general public will be impaired in as small a degree as possible. At the time Miss Ross was hurt breaches of this duty were in evidence as far as the eye could reach, both to the east and to the west—no footways or temporary crossings in sight for either men or horses. In the midst of this negligence on the part of the street car company the lady, using such care as was possible in the crossing of the street under such circumstances, suddenly, so quickly that she was not aware of what particular feature or item of the situation caused it, finds that she has fallen and sustained bruises and strains and injuries such as could not have happened if the street had been in fit condition for use or provided with proper facilities for passage. Now, think of it. A jury under such circumstances is not to be trusted to pass upon the negligence or the lack of it in either plaintiff or defendant and to say whether it was the defendant's negligence that was responsible for the accident that befell the plaintiff. The trial judge, in directing a verdict for the street car company, himself drew the conclusion and acted upon it that the plaintiff was herself guilty of contributory negligence in undertaking to cross the street in the condition it was in, but the court of appeals, in affirming the judgment of the trial court, rests its decision upon the ground that the work of the street car company was under the supervision and subject to the control of the Commissioners of the District, and that it did not appear that the Commissioners had ordered or directed anything to be done which the company had failed to do, and that the company was not therefore to be charged with negligence in the manner of doing its work.

Think of such an announcement of law given out to sustain a directed verdict in a negligence case. As well say that a street car company, where the speed limit in force is 8 miles an hour, can run a car along the street at a place where the street is congested with traffic at the rate, say, of 6 miles an hour, and, if sued by some one who has sustained damage by reason of the speed at which the car was going, plead in justification that the car was going only at the rate of 6 miles an hour, whereas under the municipal regulation it had the right to go as fast as 8 miles an hour, as if even 3 miles an hour at some times and places and under some circumstances might not be negligence of the grossest kind, the truth being that negligence, or what is the same thing—the lack of ordinary care befitting the circumstances—is essentially a fact determinable by the jury in the light of the facts and circumstances of the particular situation.

True, the Ross case might have been laid before the Supreme Court of the United States and a certiorari prayed for, but to what effect? Could it be reasonably expected of the Supreme Court that it would order the Ross case up for review? The utmost that could be done in the Ross case would be, in phrasing a petition to the Supreme Court, to keep in mind the frequency with which directed verdicts are ordered and approved in this jurisdiction, and, treating the Ross case only as a symptom of the trouble that needs attention, pray the court, since all such cases can not be ordered up for review, to make use of the Ross case and render a decision therein that shall thereafter be helpful to the lower courts. But to this course—overlooking for the moment the lady herself, who by this time might, like a great many others, be too much discouraged with the courts to go further in her efforts—there was a two-fold objection: First, if the case were ordered up and reviewed by the Supreme Court and the lower court reversed, there is no guaranty, judging the future by the past, that there would be any permanent or lasting good effects, as I will illustrate in a moment; second, the petition, if made, would in all probability be denied, and I did not propose—the client eliminated from consideration in the matter—that those who shall undertake to oppose what I shall suggest as a needed remedy, should have it in their power to say that the Supreme Court, by refusing on such a petition to review the case, had thereby given its tacit approval to the doings of the lower court. I did not want anybody to have opportunity thus to misinterpret the meaning of its action, if such action should be taken by the Supreme Court. Further, what constitutes negligence is so peculiar to each case, negligence being something which the facts and circumstances of the particular case must determine, that a decision in one case will not necessarily afford the criteria for deciding another case. And hence, if a judge has reached the point that he thinks it to be his duty himself to consider the force and effect of evidence, and himself to draw the deductions which, to his mind, all reasonable men must draw from the evidence, a reversal of him in one negligence case will not very seriously influence or affect him in another.

Let me illustrate this matter of directed verdicts with another case or two that may be seen in the reports. Take the case of Moshenvel v. District of Columbia, reported in 17 App. D. C., 401, and in 191 U. S., 247. In this case, a hole resulting from an uncovered water box in the sidewalk was at the foot of three steps which led to the sidewalk from a brick-paved landing at the front of the house in which Mrs. Moshenvel lived. The box was about 4 inches square, projecting irregularly above the level of the street, and was without covering of any kind. Its condition was well known both to Mrs. Moshenvel, the plaintiff, and to the District authorities. It was situated about the middle of the steps from her house, and in going from the house it was necessary to go either to the right or to the left of the box, which it would be perfectly safe to do, or to step over the box and clear it. The plaintiff testified that, on the day in question, from the time she left her door, she had the box in view a part of the time, and had it in mind all the time, and remembered its dangerous character, but that, on this occasion, she attempted to step over it instead of going to one side; that she did not take a sufficiently long step, and her foot went into the hole, and she was thrown, with the result that she suffered serious injury.

In the trial court the judge directed the jury to return a verdict in favor of the defendant, and the Court of Appeals of the District, in affirming the judgment which had been entered on the verdict so directed, makes use of the following language (p. 406, ditto):

"Despite the fact that the negligence of the District has been great and is almost confessed on the record, we can find no difference in principle between this case and that of Brewer v. District of Columbia (7 App. D. C., 113) upon the authority of which the court below proceeded.

"In pursuance of the decision in the Brewer case, we must affirm, with costs, the judgment of the Supreme Court of the District of Columbia in the premises."

The case, on a writ of error, was taken to the Supreme Court of the United States, and that court in reversing the lower court concludes its opinion in these words (p. 266, ditto):

"Was the situation of the water box and the hazard to result from an attempt to step over it so great that the plaintiff, with the knowledge of the situation, could not, as a reasonably prudent person, have elected to step across the box instead of stepping to the sidewalk from either side of the tread of the last step? And this, we think, was, under the undisputed proof, a question for the jury and not for the court."

The jolt administered by the Supreme Court of the United States in the reversal of the above judgment was shortly followed by another jolt in the case of Chunn v. The City & Suburban Railway, reported in 23 Appeals District of Columbia, 551, and in 207 United States, 302. It was a writ of error also which took this case to the Supreme Court of the United States.

The plaintiff in this case was a young woman, who for a year or more before the accident which befell her had lived and worked at Riverdale, in Maryland, coming into Washington now and then on the cars of the City & Suburban Railway. The platform from which persons traveling from Riverdale to Washington boarded the cars, consisted of boards laid on the ground, with sleepers under them, and extended 30 feet lengthwise along the tracks. This platform covered the space between the tracks, also the space between the rails of the tracks, and extended the width of two boards outside the outer tracks. The distance between the inner rails of the two tracks was 7 feet and 10 inches. The steps of the cars projected 2 feet and 2 inches beyond the tracks, leaving, when two cars passed each other at that point, a clear space between them of 3 feet and 6 inches. One standing on the platform at that point could see or be seen for a distance of at least a quarter of a mile north or south along the tracks.

As the car for Washington approached from the north, the young woman who wished to board it went to the platform and stood between the tracks. There were other persons intending to take the car, one of whom was near her and also between the tracks. As the car for Washington came from the north, another of defendant's cars came from the south. The Washington car slowed down and came to a stop just as the latter car, without stopping, ran by "at a rapid rate of speed"; one witness said "12 to 15 miles an hour." No one saw exactly what happened to the plaintiff, who was standing near the north end of the platform, but the sound of "a shock" was heard, and the plaintiff was found unconscious between the tracks 10 or 15 feet north of the north end of the platform.

At the trial of the case in court the other person, who was standing between the tracks, testified, "There was ample room to stand if you were thinking what you were doing"; "I realized that I would have to hold myself strictly in the center of the two tracks."

The judge in the trial court directed the jury to render a verdict in favor of the railway company, and the Court of Appeals of the District, in affirming the judgment entered on that verdict, uses the following language (23 App. D. C., 564):

"Carefully considering the evidence in the light of all reasonable inferences that can be drawn from its undisputed facts, our conclusion is that the plaintiff's injuries were the result of her own want of ordinary care. * * * Plaintiff had no recollection of what she was doing or where she was standing at the time. It does not appear that she was deficient in intellect, and she ought to have seen the car and exercised her thought, as did her witness. * * * Being of the opinion that the trial court was right in directing the verdict upon the ground of the plaintiff's contributory negligence, the judgment will be affirmed with costs."

Look at the above language again and see with what assurance the judges undertook to perform the function of the jury, going so far as to say of the plaintiff, "It does not appear that she was deficient in intellect, and she ought to have seen the car and exercised her thought."

Read now what the Supreme Court of the United States had to say concerning the above judgment of the court of appeals, pronounced on an issue which was properly determinable by the jury in the trial court (207 U. S., 307):

"A jury might well say that under such circumstances reasonable care demanded—of the defendant company—the exercise of the utmost vigilance, foresight, and precaution. The motorman of the northbound car could see plainly that the car for Washington was about to stop and that passengers were standing upon the space between the tracks intending to enter it. He might readily have understood that the noise of the transit of the two cars would be commingled, and that those who intended to enter the other car would naturally direct their attention to it, and might fail to notice the approach of his own car. In point of fact, the motorman took no precaution whatever; he assumed that those who were standing on the platform would take care of themselves, and ran his car by them at full speed, as if oblivious of their existence. * * * Nor was the plaintiff necessarily wanting in due care by taking her place between the tracks. It was the usual place from which entrance to the Washington car was made. It was safe enough under ordinary circumstances. It was made unsafe only by reason of the defendant's negligent act in running another car rapidly by. The plaintiff had the right to assume that the defendant would not commit such an act of negligence, and that when it stopped one car and thereby invited her to enter it, it would not run another rapidly by the place of her entrance and put her in peril. We think that it can not be said, as a matter of law, that the plaintiff was guilty of contributory negligence. That issue with the others in the case should have been submitted to the jury with appropriate instructions. * * *

"The judgment is reversed and the case remanded to the court of appeals, with directions to reverse the judgment of the Supreme Court of the District of Columbia and remand the cause to that court with a direction to set aside the verdict and award a new trial."

While on the subject of directed verdicts, let me illustrate the matter further with a case or two which did not arise in the District of Columbia, for the evil to which I am now calling attention is not confined to the District of Columbia, the action of inferior judges of the courts of the United States, more than all other causes combined, being what primarily and chiefly is responsible for the denial, now and for years in all parts of the country, that the judicial system be reformed. The case of Kane v. Northern Central Ry. Co. (128 U. S., 91) came before the Supreme Court of the United States on a writ of error to the Circuit Court of the United States for the Eastern District of Pennsylvania.

In that case a missing step had caused a brakeman in clambering down between two cars of a freight train to fall and lose both legs. In his suit against the railroad company it appeared from the brakeman's own testimony that he knew that the step was missing, having called the attention of the conductor to the fact only a few hours before, and that, had he thought of the missing step at the moment he sought to use it, he might have pulled himself back with his hands or have "slid down" on the brake rod, for he had before climbed up and down by holding that rod with one hand and putting his foot against it and pulling himself up until he touched the running board. The trial judge at once saw contributory negligence, and directed a verdict for the defendant. Says the Supreme Court (p. 96):

"We are of the opinion that the court erred in not submitting to the jury to determine whether the plaintiff, in forgetting or not recalling at the precise moment the fact that the car from which he attempted to let himself down was the one from which a step was missing, was in the exercise of the degree of care and caution which was incumbent upon a man of ordinary prudence in the same calling and under the circumstances in which he was placed."

Likewise in Jones v. East Tennessee, Virginia & Georgia Railroad Co. (128 U. S., 443), in error to the Circuit Court of the United States for the Eastern District of Tennessee, the trial court, in directing a verdict for the defendant expressed itself as follows (p. 444):

"In the judgment of this court, based upon the facts shown in evidence and not controverted by the argument, touching the manner of plaintiff's collision with defendant's engine, the plaintiff's guilty of such contributory negligence as precludes him from all right to recover in this action. The court therefore instructs you to return a verdict for the defendant."

Says the Supreme Court (p. 446):

"Instead of the course here pursued a due regard for the respective functions of the court and the jury would seem to demand that these questions should have been submitted to the jury, accompanied by such instructions from the presiding judge as would have secured a sound verdict."

True, the Supreme Court of the United States has said that, where the facts are such that all reasonable men must draw from them the same conclusion, the question of negligence may properly be regarded as one of law for the court; it has also said that, if the evidence is such that the court would not permit a contrary verdict to stand if rendered, the court may itself direct the verdict without submitting the matter to the jury. But such words are to be read and understood in the light of the circumstances under which uttered and not given too broad or general an application. Once let a judge or a court, feeding on words such as may be found here and there in opinions of the courts of last resort, become imbued with the notion that it is the function of judges to consider what the inference or deduction is that all reasonable men must draw from the facts appearing in evidence, and you will soon have judicial exemplifications of the old Bible proverb, "Seest thou a man wise in his own conceit? There is more hope of a fool than of him."

Because I speak plainly on this subject, do not suppose for one moment that I am among those who advocate a popular recall as the necessary remedy to correct conditions which, in the courts, need correction, and which, in the end, most certainly will be corrected. It is because I want to see the remedy found (as it can be) without resort to so radical an innovation on the branch, which, of all others of our representative government, ought to be preserved from the turmoil of the hustings, that I am speaking as I am. Of course, every branch of our Government, the judiciary as well as the executive and the legislative, must find the highest law eventually in the will of the people which is back of the Constitution and which is competent to make constitutions and to amend them. But let us not put into the dust and contests of the arena questions which ought to be determined within the precincts of a temple dedicated to justice where the judges of the law and the triers of the fact can meet together as integral parts of the tribunal to whose findings and judgment are committed the dearest rights of the citizen.

However, our present system, it may be remarked in passing, is not limited, as concerns the recalling of judges, to the one method of an impeachment proceeding such as the House of Representatives, as to one judge, is now pursuing before the Senate of the United States. During the Civil War the whole of the District of Columbia judiciary, good as well as bad, was removed from office at one time. In the case I refer to, it was not an abolishment of a court and a saving of the judges, as in the case of the recent Court of Commerce, but the saving of the court, under another name, and the turning out of the judges. I will show you the matter by references.

The original organic act entitled, "An act concerning the District of Columbia," approved February 27, 1801 (2 Stat. L., 103), had provided in section 3:

"That there shall be a court in said District, which shall be called the circuit court of the District of Columbia; and the said court and the judges thereof shall have all the powers by law vested in the circuit courts and the judges of the circuit courts of the United States. Said court shall consist of one chief judge and two assistant judges, resident within said District, to hold their respective offices during good behavior."

The act entitled, "An act to amend the judicial system of the United States," approved April 29, 1802 (2 Stat. L., 156), had provided in section 24:

"That the chief judge of the District of Columbia shall hold a district court of the United States, in and for the said District, on the first Tuesday of April and on the first Tuesday of October in every year; which court shall have and exercise, within the said District, the same powers and jurisdiction which are by law vested in the district courts of the United States."

And the act entitled, "An act to establish a criminal court in the District of Columbia," approved July 7, 1838 (5 Stat. L., 306), transferred all criminal business pending in the circuit court to the criminal court then created and provided:

"The said criminal court shall have all the jurisdiction in the said counties, respectively (the county of Washington and the county of Alexandria, which then constituted the District of Columbia), now held by the said circuit court in the said counties, respectively, for the trial and punishment of all crimes and offenses, and the recovery of all fines, forfeitures, and recognizances."

Section 5 of the above act gave the circuit court authority to review, by writ of error, the judgments of the criminal court.

And then came the act entitled, "An act to reorganize the courts in the District of Columbia, and for other purposes," approved March 3, 1863 (12 Stat. L., 762), in section 1 of which act it was provided:

"That there shall be established in the District a court to be called the Supreme Court of the District of Columbia, which shall have general jurisdiction in law and equity. It shall consist of four justices, one of whom shall be denominated as chief justice."

And in section 16 of that act it was provided:

"That the Circuit Court, District Court, and Criminal Court of the District of Columbia are hereby abolished. All laws and parts of laws relating to said courts, so far as the same are applicable to the courts created by this act, are hereby continued in force in respect to such courts, and all other laws and parts of laws relating to said circuit, district, and criminal courts are repealed."

The Supreme Court of the District of Columbia, created with four judges, as above mentioned, is the present Supreme Court of the District, the judges having since been increased to six. The appellate jurisdiction, which, on its organization, was vested in the general term of the Supreme Court of the District, where the judges sat in banc (two or more), as distinguished from the special terms, where the individual judges sat to hear and try cases, was taken away by the act entitled "An act to establish a Court of Appeals for the District of Columbia, and for other purposes," approved February 9, 1893 (27 Stat. L., 434), this latter act being the one which called into existence the present Court of Appeals of the District of Columbia.

To resort to the practice of directed verdicts in negligence cases—a right of appeal, as already illustrated, does not afford of itself a sufficient remedy. Many parties against whom directed verdicts are rendered become disheartened at once, and many are wholly unable to pay the costs of even at first appeal, much less of a further appeal, such as was formerly permitted to the Supreme Court of the United States. As long as judges, whether the bench they sit on is in a trial court or in an appellate court, are allowed to make deductions and draw conclusions concerning issues whose determination is properly for the men who constitute the jury the evil will be present, and unless severely checked a constantly growing one, for the judges always declare their own deductions and conclusions to be what the law itself says concerning the facts in evidence; and every time an appellate court, in affirming a directed verdict, adds something to the already existing declarations of what is to be regarded as negligence in the view of the law—that is, in the view of the judges themselves—that much additional ground is taken from the jury and added to the domain of judge-made law, which law is itself made to do duty in future adjudications; and so the evil grows. I wish to suggest that the encroachment of judges upon the domain of the jury ought to be stopped by positive law. And this brings me to the second inclosure contained in this communication.

This second inclosure, as you will observe, is the draft of a bill to limit judges to declaring the law when charging juries. If such a bill as is here suggested were enacted into law, a judge who wished to decide the issue himself, thinking the plaintiff had not made out a case, would find that, instead of directing a verdict for the defendant, he must order a nonsuit of the plaintiff. And the act of the trial judge, viewed from the standpoint of a nonsuit, would appear in a very different light than when viewed from the standpoint of a directed verdict. Too often in the case of a directed verdict the question considered by the appellate court is, Did the trial judge draw the correct conclusion from the evidence? Whether he did or did not is the question which properly was answerable by the jury. In the case of a nonsuit, the question to be considered by the appellate court would be, Was there any evidence in the case for the consideration of the jury? If there was, the case should have gone to the jury, for it is immaterial, if there was evidence for the jury, whether the conclusion of the judge upon the evidence was correct or incorrect.

The inclosed draft provides also, as you will observe, that orders which modify or set aside the verdicts of juries may be reviewed. This provision is intended to meet the case where a judge, finding himself unable to direct a verdict, may submit the case to the jury, and then, if the verdict turned in by the jury does not suit him, set it aside. At present, the power of the trial judge in civil cases to set verdicts aside is absolute, and such power, no matter how arbitrarily

or capriciously used, is not subject to review or control. And the practice has become quite common for the judge, if he personally thinks that a verdict is too large, to order it set aside as excessive, unless the plaintiff will remit the amount which the judge shall say is excessive.

The provision of the inclosed draft on this point would not prevent judges from dealing with verdicts in such manner as may be proper; it simply makes the discretion of the trial judge a subject of judicial review when exercised upon work done by the jury.

No good reason exists why a bill of the kind here suggested should not be enacted into law. It would be the means of removing from trial judges all invitations, which motions to direct verdicts extend to them, to trespass upon the ground of the jury. It would also be the means of freeing the courts, in part at least, from the notion, which is fast taking hold of the popular mind, that judges of the lower courts of the United States, who are allowed to hold their office for life, arrogate to themselves too much authority in passing upon and disposing of the rights of the individual citizen.

Let me say, in conclusion, that in our common-law system of jurisprudence the jury is as much an integral part of the court as the judge on the bench, the two together constituting the tribunal whose function it is to pass upon and settle all issues raised by litigants, whether of law or of fact. The system does not contemplate that the judge on the bench shall make of himself a thirteenth juror, to displace with his own judgment the 12 other men to whose concurring judgment the law commits the finding upon all issues of fact. It is the province of the judge to say what shall and what shall not be admitted as evidence in the cause, but the credibility of the evidence, the weight to be given to it, the inferences and deductions to be drawn from it as affecting the issue of fact to be determined, are matters within the province of the jury. And that the functions of the jury may not be minimized, even though the facts in evidence may be undisputed, let me quote the following passage from the opinion of the Supreme Court of the United States in Railroad Co. v. Stout (17 Wall., 657, 664):

"Twelve men of the average of the community, comprising men of education and men of little education, men of learning and men whose learning consists only in what they have themselves seen and heard—the merchant, the mechanic, the farmer, the laborer—these sit together, consult, apply their separate experience of the affairs of life to the facts proven, and draw a unanimous conclusion. This average judgment thus given it is the great effort of the law to obtain. It is assumed that 12 men know more of the common affairs of life than does 1 man; that they can draw wiser and safer conclusions from admitted facts thus occurring than can a single judge."

If judges who sit in trial courts would only ponder more carefully the utterances above quoted concerning the functions of the jury, there would be fewer attempts to direct verdicts.

I am, yours, very truly,

JOHN ALTHEUS JOHNSON.

IN THE SUPREME COURT OF THE UNITED STATES.

(October term, 1912.)

Walter Murphy, petitioner, *v.* Ashley M. Gould, an associate justice of the Supreme Court of the District of Columbia, respondent.

MOTION THAT LEAVE BE GRANTED TO WALTER MURPHY TO PRESENT PETITION PRAYING FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

Comes now into this honorable court Mr. John Altheus Johnson, admitted by this honorable court as an attorney and counsellor at law. And he moves that leave be granted to Walter Murphy to present to this honorable court a petition praying for a writ of certiorari to the Court of Appeals of the District of Columbia.

And the counsellor aforesaid submits with his motion a copy of the said petition.

JOHN ALTHEUS JOHNSON.

Please take notice that the above is the tenor of a motion which, on Monday, the 23d day of December, 1912, at 12 o'clock noon, or as soon thereafter as counsel can be heard, I shall submit to the Supreme Court of the United States.

I hand you herewith a copy of the petition referred to in the said motion.

JOHN ALTHEUS JOHNSON.

DECEMBER 4, 1912.

To Mr. FREDERIC D. MCKENNEY,
Attorney for the Hon. Ashley M. Gould, and
To Mr. R. ROSS PERRY,
Attorney for the Capital Traction Co.

Copy received December 4, 1912.

R. ROSS PERRY.

Petition of Walter Murphy, a citizen of the United States, 26 years of age, born in the District of Columbia and resident therein.

To the honorable the Chief Justice and Associate Justices of the Supreme Court of the United States:

Humbly presenting myself before your honors, with this, my petition, I crave leave to state:

1. "Not to me returns
Day, or the sweet approach of ev'n or morn,
Or sight of vernal bloom, or summer's rose,
Or flocks, or herds, or human face divine;
But cloud instead, and ever-during dark
Surrounds me, from the cheerful ways of men
Cut off."

2. My blindness is the result of negligence by the Capital Traction Co. in the manipulation of one of its street cars near the Union Station, in the city of Washington, on December 2, 1909.

3. A suit in damages which I had brought on February 25, 1910, in the Supreme Court of the District of Columbia against the Capital Traction Co. for the injury I had received as the result of its negligent act came to trial in June, 1912, before Associate Justice Ashley M. Gould, of that court, and a jury, and ended on the 19th day of that month in a verdict, which the jury, *by direction of the court*, rendered in favor of the said Capital Traction Co. On July 2, 1912, judgment was entered on the said verdict in favor of the said company.

4. During the progress of the trial several rulings were made by the justice aforesaid upon questions of law arising upon the trial, to which rulings the counsel by whom I was represented at the time they were made and before the jury had retired took exceptions, and the exceptions thus taken, I am informed and believe, were duly noted on the minutes of the presiding justice aforesaid.

5. On July 19, 1912, through counsel I prayed in open court an appeal to the Court of Appeals of the District of Columbia from the judgment aforesaid of July 2, and the said appeal was duly perfected on July 26, 1912.

6. A rule of the Supreme Court of the District of Columbia says that the bill of exceptions, if not settled before the jury retires, "shall be submitted to the court within 38 days after judgment shall have been entered unless the court shall, for cause shown, extend the time."

The summer vacation period of the Supreme Court of the District of Columbia, as arranged by the justices of the said court, has consisted for several years past of the three months of July, August, and September, during which period each of the six justices performs a service upon the bench of two weeks, each justice knowing by prearrangement in the early part of the summer the portion of time he is to occupy the bench during the summer recess, and at such time he attends to business, so far as it is competent or proper for him to act thereon, in all the branches of the court. During the summer vacation of 1912 the bench, from Friday, August 16, to Friday, August 30, was occupied by Justice Ashley M. Gould, and from Monday, September 16, to and including Monday, September 30, by Chief Justice Harry M. Clabaugh.

On August 19, 1912, it being still the same term of the court at which the trial was had of my aforesaid suit against the Capital Traction Co., the said Supreme Court of the District entered an order in the cause in the words following, to wit:

"For good cause shown the time within which to submit to the court the bill of exceptions taken at the trial of this cause is hereby extended to and including the 20th day of September, 1912."

On September 19, 1912, one of the counsel by whom I was represented in the case, "rising in open court" (I quote from what is of record in the case in court, a copy of which record, to be hereinafter referred to, is attached to this petition), "with the bill of exceptions in his hand, stated to the court (Mr. Chief Justice Clabaugh sitting) that he had a bill of exceptions in a case which had been tried before Mr. Justice Gould, who would be the proper one to settle and sign it; that the matter would have to await the return of Justice Gould, but that the time to submit the bill would, under an order of the court, expire the next day; that counsel desired the record to show that the bill was then submitted, and that proper notice would be given to counsel on the other side of the time for settling it. The chief justice thereupon stated, as a direction to the clerk, 'Bill of exceptions submitted,' and counsel for the plaintiff then, in open court, handed the bill of exceptions to the clerk, who had received the order of the court in the premises." And the minute entry of the said submission, as made in the cause aforesaid, is in the words following, to wit:

"Comes now the plaintiff, by his attorneys of record, and submits to the court the bill of exceptions taken at the trial of this cause."

As the rule of the said supreme court contemplates that a bill of exceptions shall not be settled except upon notice to opposing counsel, that notice to be given for a time that shall be at least eight days after a copy of the bill shall have been presented to such counsel, I thereafter, to wit, on September 26, 1912, through my counsel, gave to counsel for the Capital Traction Co. a notice in writing of the time at which Justice Gould would be asked to settle and sign the said bill, that notice being in the words following, to wit:

"Take notice, that on Tuesday, October 1, 1912, at 11 o'clock a. m., or as soon thereafter as counsel can be heard, counsel for the plaintiff will ask Mr. Justice Gould to settle and sign the bill of exceptions which was submitted to the court in the above-entitled cause on September 19, 1912, a copy of which bill was presented to you on September 18, 1912."

October 1, the day designated in the said notice (and the earliest day, by reason of his absence from the city, at which Justice Gould, the only person who could settle and sign the bill, would be available), was the beginning of another term of the court, September 30 being the end of the April term, which was the trial term of the cause aforesaid, the first Tuesday in October, which in 1912 fell on the 1st day of the month, being the beginning of the next succeeding term, which is the October term of the court.

On September 26, 1912, the same day the aforesaid notice was given of the time at which it was proposed that the bill of exceptions should be settled, I filed through counsel a motion in the cause asking for a two-day extension of the April or trial term of the court, counsel explaining that the purpose of the motion was to enable the bill of exceptions, at the same term of the court at which the exceptions were taken, to be put actually, for settlement and signature, into the hands of the very judge who must settle and sign; and when this motion was considered and acted upon by the court it was ordered:

"That an extension be, and the same hereby is, made of the said April term of the circuit court, so as to cause the said term to extend to and include the 2d day of October, 1912."

On October 1, 1912, in accordance with the terms of the notice aforesaid, I presented, through counsel, my bill of exceptions to Justice Ashley M. Gould, with the request that he settle and sign the same.

7. On September 23, 1912, counsel for the Capital Traction Co. had filed a motion in the said Supreme Court of the District of Columbia to strike out the bill of exceptions, which I had tendered as aforesaid, on the ground (*a*) "that two days' notice in writing to counsel for the defendant of the time at which it was proposed to submit the said bill of exceptions to the court to be settled, as required by common-law rule No. 48 of this court, was not given to the said counsel for the defendant nor to any of them, nor was any other notice given in accordance with the said rule of court; and (*b*) that neither the said proposed bill nor a copy thereof was presented to counsel for the defendant nor to any of them at least eight days before the said 19th day of September, 1912, nor was the proposed bill or a copy thereof presented at any time to counsel for the defendant or to any of them prior to the 18th day of September, 1912."

Common-law rule 48 of the rules of the Supreme Court of the District of Columbia, thus referred to, reads as follows:

"48.

"1. The bill of exceptions shall be prepared by counsel. If not settled before the jury retires, counsel tendering it shall give two days' notice in writing to opposing counsel of the time at which it is proposed to submit the same to the court to be settled, and shall also at least eight days before the time designated in such notice present to opposing counsel the proposed bill or a copy thereof. The bill shall be submitted to the court within 38 days after judgment shall have been entered, unless the court shall, for cause shown, extend the time.

"2. The fact of the settling and filing of the bill of exceptions shall be noted in the minutes of the court.

"3. If the court is unable to settle the bill of exceptions, a new trial shall be granted.

"4. The submission, settling, signing, or filing of a bill of exceptions shall not be affected by the expiration of any term, provided this rule is complied with.

"5. This rule shall apply to pending cases."

The motion to strike out, made as above stated, was, on September 30, 1912, by the chief justice then holding the several branches of the Supreme Court of the District, set for hearing on October 11, 1912.

On October 1, 1912, Justice Ashley M. Gould, to whom on that day my said bill of exceptions, as hereinbefore stated, was tendered to be settled and signed under the submission of it which had been made to the court on September 19, 1912, and of the notice to opposing counsel of September 26, as hereinbefore mentioned, received the same into his personal custody, but delayed action thereon until October 11, 1912, when the aforesaid motion to strike out came before him for consideration; and he thereupon, to wit, on October 16, 1912, refused to consider the said bill of exceptions and ordered the same to be stricken from the files of the court, on the sole ground "that neither the said proposed bill of exceptions, nor a copy thereof, was presented to counsel for the defendant at least eight days before the said bill of exceptions was submitted to the court," the order which the court passed in the premises being in the words following, to wit:

"It appearing to the court that the said bill of exceptions was not settled before the jury retired in the above-entitled cause, and that the time for submitting the same was extended by the court until and including the 20th day of September, 1912, and that the same was submitted by counsel for the plaintiff to the court on the 19th day of September, 1912, and that the notice thereof prescribed by common law rule No. 48 of this court was not given to counsel for the defendant herein, and that neither the said proposed bill of exceptions nor a copy thereof was presented to counsel for the defendant at least eight days before the said bill of exceptions was submitted as aforesaid; it is by the court, this 16th day of October, 1912, ordered that the said bill of exceptions be, and the same is hereby, stricken from the files of this court."

8. Upon the making by Justice Gould of the order aforesaid of October 16, 1912, I was advised by counsel that the appeal I had taken from the judgment of the Supreme Court of the District of Columbia of July 2, 1912, would be worthless, the record in the case not disclosing any such error in the rulings of the said justice, made during the progress of the trial, to which through counsel I had duly excepted, could be put into the record by a proper bill of exceptions. Having, as I have stated, sought of him such a bill and been refused the same, I thought to invoke in that regard the aid of the Court of Appeals of the District of Columbia. I therefore, on October 22, 1912, presented a petition to the said court of appeals, wherein I prayed the said court to make use of the writ of mandamus and command the said Ashley M. Gould, as an associate justice of the Supreme Court of the District of Columbia, to settle the bill of exceptions which I had tendered to him as aforesaid, according to the truth of the matters which took place before him on the trial of the cause at law, No. 52404, wherein your present petitioner, Walter Murphy, was plaintiff, and the Capital Traction Co., a corporation, was defendant, and, when so settled, to sign the same as of the 19th day of September, 1912, that being the day when the said bill of exceptions was submitted to the court, the case so described in the said petition to the Court of Appeals of the District of Columbia, being the case to which I have hereinbefore referred.

The mandamus proceedings wherein I thus sought the aid of the Court of Appeals of the District of Columbia are entitled, "The United States ex relatione Walter Murphy, petitioner, v. Ashley M. Gould, an associate justice of the Supreme Court of the District of Columbia, respondent," and the order is entered on the docket of the said court of appeals as No. 393, original.

9. The Court of Appeals of the District of Columbia having in the aforesaid mandamus proceedings issued a rule for Justice Gould to show cause why he should not be required to settle and sign the bill of exceptions submitted and tendered him to be settled and signed as aforesaid, the said justice, in answer to said rule, made response that "the respondent, in addition to the grounds of action specified in respondent's said order of October 16, 1912, above referred to, was largely moved with respect to the making of said order by the fact" that more than 40 days, exclusive of Sundays and legal holidays, had elapsed between the presenting of the bill of exceptions and the submission of plaintiff's exceptions to the court and that no order had been made or passed in the cause extending the time for filing the transcript of record in the Court of Appeals of the District, and the respondent, under such a state of fact, concluded that "the settling of any bill of exceptions in said cause would be ineffective and vain."

In other words, the return of Justice Gould to the rule to show cause set up that his action in making the aforesaid order of October 16, 1912, was determined, not solely by rule 48 of the Supreme Court of the District of Columbia (as had appeared to be the case, both from the terms of said order and from the terms of the motion upon which the said order was based), but also by the provision of a rule of the Court of Appeals of the District of Columbia, which reads as follows (Rule 15, par. 1), to wit:

"When an appeal is entered in the court below it shall be the duty of the appellant, within 40 days from the time of the appeal entered and perfected in said court (unless such time for special and sufficient cause be extended by the court below, or a judge thereof, such time to be definite and fixed), to produce and file with the clerk of this court a transcript of the record of such cause; and, if he shall fail to file the transcript within the time limited therefor, the appellee may, after the time limited for filing the transcript in this court by the appellant has expired, and upon his or her default in respect thereto, upon producing a certificate showing the entry of appeal and the date thereof, have said appeal docketed and dismissed."

Respecting this rule of the Court of Appeals of the District of Columbia, referred to by Justice Gould in his return as constituting a factor influencing him in his refusal to settle the bill of exceptions which I had tendered to him for settlement, I am advised by counsel that the record of the cause in the Supreme Court of the District of Columbia, so far as concerns the said rule of the court of appeals, is chiefly embarrassing to me in my appeal, because of an order in the case which Justice Gould himself, on the 16th day of October (an order duly excepted to, and the bill of exceptions ordered on record November 4, 1912), had made antecedently to the order of the same date, which, as hereinbefore mentioned, contained his refusal to settle the exceptions taken at the trial of the cause.

When the counsel by whom I was represented discovered, on September 18, 1912, that the minute entry of the hereinbefore mentioned order of August 19, 1912, which made an extension of time until September 20, 1912, was silent concerning the filing of the transcript of record in the court of appeals and only express concerning the submitting to the court of the bill of exceptions, they at once called the matter to the attention of counsel for the Capital Traction Co., with a view to having the minute entry corrected, the particular counsel on whose oral motion the order had been made being positive in his statements that the motion as made and allowed on the 19th day of August embraced the filing of the transcript in the court of appeals as well as the submission of the bill of exceptions in the lower court; and at the request of counsel representing me, who wished at the earliest moment possible to explain the situation to the court, counsel for the Capital Traction Co. came into court the next day and with my own counsel discussed to the court the two motions that day by me filed in court, one to correct the minute entry of August 19, the other to make an extension of time (further extension) within which to file the transcript of record in the court of appeals. The court did not make its formal order until the following day, September 20, 1912, when it set both the said motions for hearing on October 11, 1912, but the discussion on September 19 showed that the motion to correct would be opposed and that there would probably exist a difference of recollection as to the occurrence of August 19.

When the hearing of the application to correct the minute entry of the order of August 19, 1912, was thus set for a day within the following term of the court, I thought it the part of prudence, acting through and under the advice of counsel, while we were still within the same term of the court at which the order of August 19 had been made, to present, for alternative consideration with the application to correct, a motion for an amendment to be made, nunc pro tunc, to the order of August 19, to the end that, so far as the lower court was concerned, full opportunity should be given to it to exercise whatever of its discretion it might choose to use in the matter of aiding me to an accomplishment of the appeal which I had taken from its judgment of July 2. And when the court on September 30, at the closing of the trial term, and in the act of setting the hearing of this motion also for October 11, 1912, failed and refused to preserve to itself the power, if such motion should be granted, to act at its next term with fullness upon the motion I had made on September 19 for a further extension of time within which to file in the court of appeals the transcript of record for the appeal I had taken from the judgment of July 2, I duly, through counsel, excepted to such omission on the part of the court and had my exception noted in a bill which is part of the record of that court touching the matter of extending time under the rule of the court of appeals aforementioned. And when Justice Gould, before whom for consideration on October 11 came the two motions, the one to correct the minute entry of the order of August 19, the other to amend, nunc pro tunc, the order itself, overruled both the said motions, I duly excepted by counsel and had my exceptions preserved by being put into the record by a bill which shows, among other things, that the judge who passed the order of August 19, the entry of which was thus sought to be corrected, and who also was the judge that overruled the application to correct, stated from the bench that he had no personal or independent recollection of either the order or the motion (which was oral) upon which the order was based; and that the person (one of the assistant clerks) who, during that part of the August recess of the court, made in a memorandum book in the court room the rough notes of proceedings (in all branches of the court as then conducted by one judge), which rough notes, so far as they pertained to proceedings in the circuit-court branch of the court, were afterwards by another person formally written up into the minutes of the court, stated that he had no recollection independently of the rough notes made by himself, and he was an assistant clerk whose duties have been generally performed in connection with business in one of the criminal court and not in one of the circuit court branches of the Supreme Court of the District. And the exceptions, which puts upon record all the evidence before the court when it acted upon the two motions aforesaid, constitutes also part of the record of the Supreme Court of the District touching the matter of extending time under the aforementioned rule of the Court of Appeals of the District of Columbia.

The sum and substance, therefore, of the return made by Justice Gould to the court of appeals in answer to the rule to show cause why he should not be required to settle the bill of exceptions which had been submitted to the court on September 19 and to himself personally on October 1, seems to be that the respondent, having first made an order in which he refused either to correct the minute entry of an order or to amend the order itself, which had extended time, was by the fact that he had made that order "greatly moved to and aided in reaching the conclusion" to make the further order by which he refused to settle the exceptions that were vital to a review of the judgment of July 2 (from which judgment your petitioner was prosecuting an appeal), inasmuch as the said judgment rested for its validity upon a ruling of the said justice which directed the jury to find in favor of the Capital Traction Co. the issue of fact which existed between your petitioner and the said company, to wit, the issue whether the facts and circumstances besetting the accident that befell your petitioner on December 2, 1909, showed a lack of ordinary care in the Capital Traction Co., your petitioner having declared in this suit that the said company was guilty of actionable negligence in the premises.

10. When Justice Gould, on November 11, 1912, filed his aforesaid return to the court of appeals in the mandamus proceedings, the Capital Traction Co. simultaneously filed in that court a motion to docket and dismiss the appeal which had been taken by me from the aforementioned judgment of July 2, 1912, the motion thus made being based upon the rule of the court of appeals hereinbefore quoted, which rule, according to the aforesaid return of Justice Gould, had "greatly aided" the said trial judge "in reaching the conclusion" not to settle the exceptions which had been taken at the trial.

In opposition to the said motion counsel who acted for me filed in the court of appeals an authenticated copy of that part of the record of the cause in the lower court which showed the acts and proceedings had and done in that court in the matter of extending time for filing in the court of appeals the transcript of record for the appeal aforesaid, the two bills which embraced exceptions as hereinbefore mentioned to the orders of September 30 and of October 16, respectively, being included in the copy of the record thus filed in the court of appeals. Among the things shown in the record thus copied, additionally to things already specified, is the fact that one of the counsel for the Capital Traction Co., a few days after my appeal had been perfected, speaking with one of my own counsel (the one who afterwards asked for an extension of time), said that he was then about to leave the city on his summer vacation and did not expect to return before September 15; that he would like to have time to examine the bill of exceptions after his return; that it would be agreeable to him, therefore, if an extension of time should be taken, say, until October 1; and that he would speak with an associate who would be in the city and who would go into court with my counsel at any time for an order of extension.

Counsel representing me thereupon said he would ask for an extension until September 20, which he did, as hereinbefore stated, on August 19. Forty days, the period fixed by the rule of the court of appeals for filing in that court the transcript of record for an appeal, unless an extension of time is made by the lower court, would have expired for my aforesaid appeal September 12.

The motion of the Capital Traction Co. to docket and dismiss the appeal I had taken from the before-mentioned judgment of July 2, made in the Court of Appeals of the District of Columbia on November 11, 1912, as above stated, and the transcript of record from the lower court, filed as aforesaid in opposition to the said motion, were placed upon the general docket of the said court of appeals as cause No. 2478, which cause is entitled "Walter Murphy, appellant, v. The Capital Traction Co., appellee."

The double aspect in which my cause thus appeared in the said court of appeals, to wit, cause No. 393 on the original docket of the said court, wherein I was seeking to procure from the judge of the lower court the allowance of a bill of exceptions (without which my appeal from the judgment of the lower court of July 2, 1912, would be valueless), and cause No. 2478 on the general docket of the said court, wherein the Capital Traction Co. was seeking to have my said appeal docketed and dismissed because the lower court had entered no formal order making an extension of time for the filing in the said court of appeals of the transcript of record for the said appeal, came on for consideration, and the two aspects, or the two causes, involving, as I have explained, the fate of my appeal from the judgment of July 2, were viewed together before the said court of appeals, which heard arguments on the same on November 21 and 22. And the said court of appeals thereafter, to wit, on the 2d day of December, 1912, filed its opinion and rendered its judgment in the premises.

A copy, properly certified, of the said opinion and judgment, and of all the acts and proceedings of that court in the premises, including a copy of the complete record of that court in both the causes aforesaid, to wit, No. 393 on its original docket and No. 2478 on its general docket, is attached to this petition to be read and referred to as a part of the petition. The petition is also accompanied by a copy of the brief which counsel presented to the said Court of Appeals in my behalf in each of the two cases aforesaid.

11. When the Court of Appeals decided that it would not require Justice Gould to settle the exceptions taken at the trial, which I had tendered to him in a bill to be settled and signed as aforementioned, and decided also that it would grant the motion of the Capital Traction Co. and docket and dismiss my said appeal, I longingly inquired of counsel if they would prosecute my said appeal into your honorable court. But counsel avised me that they were unable on the said appeal to sue out a writ of error to this honorable court; that they would be glad to represent me further, but that the law did not require your honors, at my instance or request, to review the judgment of the Court of Appeals of the District in the matter of my said appeal. Oh, what could I do? Had I lost my appeal without even the poor consolation of a hearing upon its merits? Where could I turn for help? At best I was but a poor newsboy whose savings at the time of the accident complained of had amounted to less than $600, and those savings long since gone by reason of the physical condition that came upon me as the result of the accident—sight gone and body at times so racked with pain that in my agony I cry out and pray to be put out of my misery, and then anesthetics deaden the pain—only a widowed mother and a few other friends, not great or strong, charged with my care and my only dependence. Who could help me?

It was in a negligence case that your great court, speaking of a jury, an integral part of a common-law trial court, used words which ought to be read and pondered by every trial judge when asked to direct a verdict, namely (Railroad Co. v. Stout, 17 Wall., 657, 664):

"Twelve men of the average of the community, comprising men of education and men of little education, men of learning and men whose learning consists only in what they have themselves seen and heard, the merchant, the mechanic, the farmer, the laborer; these sit together, consult, apply their separate experience of the affairs of life to the facts proven, and draw a unanimous conclusion. This average judgment, thus given, it is the great effort of the law to obtain. It is assumed that 12 men know more of the common affairs of life than does 1 man; that they can draw wiser and safer conclusions from admitted facts thus occurring than can a single judge."

When "one man," "a single judge," had assumed to pass upon the facts in my case and direct the conclusion to be therefrom drawn, thereby substituting his own judgment for the "average judgment" of the jury, I had hoped that his judgment thus rendered touching the determination of an issue of fact, would at least be made the subject of judicial review with a view to ascertaining whether it was proper in the particular case for the judge to perform the functions of the jury and render a verdict, which, if correct, is the verdict the jury would itself have rendered if the case had been submitted to them. At least, I am advised by counsel that the theory of a directed verdict is that the verdict which is directed is just what the jury would have found if the matter had been left to the deliberation of the jury. A review of the ruling of the trial judge in my case could not be had without a bill of the exceptions which had been taken at the trial, and it was your great court which said that the settling of a bill of exceptions did not involve any new or substantial right of the opposing party, the words in one of the cases before your honorable court being as follows (Hunnicutt v. Peyton, 102 U. S., 333, 335):

"When an exception has been taken at the trial and noted, reducing the exception to form afterwards and attesting it, is not making a new case; it is merely verifying the case as it appeared on the trial."

I am advised by counsel that no substantial right of the Capital Traction Co. required the trial judge, at the time and under the circumstances when the bill containing them was tendered, to refuse to settle the exceptions taken at the trial of my suit against the said company, and I am further advised by counsel that the action of the Court of Appeals of the District in the premises shows that that court sacrificed the substantial legal right of an appellant by a failure to see the difference between form and substance as applicable to the matter in hand. Oh! If your honors please, if the Court of Appeals of the District of Columbia, like Saul of Tarsus, of whom I heard with my mother when she took me a little boy to the Sabbath school to hear the Bible stories there told, thinks itself engaged in a good work, as did Saul when he stood by consenting unto the death of Stephen the martyr, keeping the raiment of them that slew him, can you not cause a light to shine round about and a voice to be heard that shall cause the scales to fall from its eyes that it may see clearly, and then perchance, instead of the Saul who wrought havoc in his blindness, it may be like the Paul, who, after the scales had fallen from his eyes, became the great apostle to the Gentiles, who wrote:

"Whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report, if there be any virtue and if there be any praise, think on these things."

If the legal vision of the Court of Appeals of the District of Columbia causes it to see things with too technical an eye and too little regard for the real merits of the controversies that come before it, can your honors not perceive the effect upon the judges of the lower courts, who, working under its appellate authority, are constrained to see things in the same light, to the obscuration of substance as distinguished from shadow?

I am told that your honors have the power, if you should choose to exercise it, of issuing to the said court of appeals a writ of certiorari, whereby the case I have described could be brought into this honorable court and reviewed, and such action had as the law and justice may require. And I am told that the fact that I am poor and weak and without influential friends will not operate against me in the eyes of your great court, every member of which when he entered upon his high office took an oath that he would "administer justice without respect to persons, and do equal right to the poor and to the rich," and sealed the oath by kissing the Book that was given to man for his guide and inspiration by the Great Judge before whom we must all finally appear and be judged according to that we have done, whether it be good or bad. And I am told, if your honors deny my petition, that there will then have been written on the judicial page the final chapter of the tragedy which destroyed my sight and wrecked my body, and that the cause of action which I had supposed I possessed against the Capital Traction Co. by reason of negligence on its part will then have been closed in the courts, and I denied consideration of the merits of my cause except at the hands of one man, who himself assumed the rôle of both judge and jury.

You have my petition. My appeal is before you. And I will ever pray.

WALTER MURPHY.

JOHN ALTHEUS JOHNSON, *of Counsel.*

(The following pages, written after the court of appeals had filed its opinion in the case, were appended to the foregoing petition when submitted to the Supreme Court of the United States. References to the record herein made are to the printed copies of the certified record which accompanies the petition wherein Walter Murphy lays his case before the Supreme Court of the United States, with a prayer that the latter court take cognizance of his cause and issue a writ of certiorari to the Court of Appeals of the District of Columbia.)

The rule of the Supreme Court of the District of Columbia on the subject of bills of exception provides that the party charged with the preparation of a bill of exceptions shall, at least eight days before submitting it to be settled, have presented a copy of it to opposing counsel. On this feature of the rule the court of appeals in its opinion remarks (p. 24 of the record in No. 393, original):

"His adversary shall have eight days within which to examine the same and express his agreement or his disagreement."

And the court then adds this startling statement:

"In case of agreement, either the justice trying the case or the justice sitting in his stead may sign the same."

This is probably the first time, either in this jurisdiction or any other, that a court of appellate power in common-law causes has ever made the statement that a bill of exceptions, even where the parties were agreed as to its contents, could be signed by any other than the judge to whose rulings the bill was an exception. Signing or attesting is the culminating act which gives to the bill the absolute verity that it has in the eye of the law. And how novel and foreign to all traditions of the law even to suggest that such authentication can be given by a judge who knows nothing whatever of the transactions or rulings referred to in the bill. A few of the States have statutes under which, in the event of the death or permanent disability of the trial judge, the clerk of the court or some other official may certify a bill of exceptions where the parties are agreed concerning it. But give to the rule of the Supreme Court of the District of Columbia the full force and effect of a statute (the effect which is claimed by the court of appeals to be proper for all the rules adopted by both the Supreme Court of the District and by itself) "binding upon the court, upon suitors, and upon those who represent suitors," and still we will examine the terms of the rule in vain for any hint or suggestion of such a thought even as that somebody else than the judge whose ruling is excepted to may sign a bill of exceptions therefor.

For a court of the United States that sits in the District of Columbia it would seem that the case of Malony v. Adsit (175 U. S., 281) might be accepted as authority on the question of who must sign a bill of exceptions. In that case counsel for the respective parties had signed a statement that the bill of exceptions was correct and in accordance with the proceedings had in the trial of the cause, and, appending the statement to the bill, had procured the signature of the judge who was then holding the court in which the trial had taken place. The paper so attested was disregarded by the court as not possessing the essential quality of a bill of exceptions.

And still the idea that "the justice sitting in his stead," if the adversary party "expresses his agreement," "may sign the bill of exceptions for the justice who tried the case," is necessary to the view which the Court of Appeals of the District of Columbia took of this case; for, if the justice who presided at the trial be absent and it be necessary to settle the bill (and settling, says the court of appeals, can only be done by the trial judge), then, says the court concerning the bill of exceptions:

"Its presentation to him (that is, to the justice who is sitting in the stead of the absent justice) within the time is all that counsel can do."

In such case, says the court:

"The bill may be submitted to the justice presiding in his stead, and acted upon, as of the date of its submission, by the trial justice upon his return to his court."

The words thus used by the court of appeals, spoken by reason of the facts encountered in this case, themselves show that "submitting the bill to the court within 38 days," or within the time to which the 38 days is extended, and "submitting the bill to the court to be settled" (both of which expressions are used in the rule of court) are different things and may be impossible, in a particular case, of occurring simultaneously, and it is only concerning the latter of these two things that any notice whatever to opposing counsel is prescribed by the rule of the court on the subject of bills of exception.

The chief justice, who wrote the opinion of the court, says (pp. 25–26 of the record in No. 393, original):

"In this case the time fixed for settlement of the bill was before the expiration of the extended time, and, though it is not certain, it may be assumed that the two days' notice in writing was given. But the petition shows that the bill of exceptions was delivered to opposing counsel but two days before the expiration of the time."

There is nothing in the record (and certainly nothing outside of the record) to warrant either the doubt or the assumption (with the reasoning consequent thereon (with the court, in the words above quoted, expresses concerning the fact of the notice given or concerning the time designated in the notice for the settling of the bill.

The bill of exceptions was not submitted on September 20, two days after the 18th, when a copy of it had been presented to opposing counsel. It was submitted on September 19, with the express statement to the court that it was not then submitted to be settled; that the settlement of it would have to await the return of Justice Gould, who was the only person that could settle and sign it; that proper notice would be given of the time for settling it, but that the plaintiff desired at that time, under the order of August 19, to submit the bill to the court (see p. 2, also p. 6, of the record in No. 393, original; and p. 16, also pp. 18–19, of the record in No. 2478). And notice of the time for settling was given, not on September 19, but on September 26, and it was given for October 1, the earliest day at which Justice Gould would be available (see p. 3 of the record in No. 393, original; and pp. 19–20 of the record in No. 2478).

If a copy of the bill had been placed in the hands of opposing counsel eight days, instead of one, before September 19, and if the two days' notice had been given for September 19 as the time when the bill would be "submitted to the court to be settled," what would the procedure have amounted to more than the thing that was actually done? It would have been a vain procedure—known to be vain, unless the revolutionary statement, adverted to above, be accepted as correct law, announced for the first time in this case.

The right of appeal, when given by the law, is a right so valuable that the courts in guarding it have almost universally held that the proper course in cases at law is to award a new trial if, by reason of the death or confirmed illness of the trial judge, there is no one who can sign the bill of exceptions requisite to the appeal. For instance, in Henrichsen v. Smith (29 Oreg., 475) the trial judge had extended into the next succeeding term of the court the time within which the appellant could prepare and present his bill of exceptions. Within the time prescribed, but at the succeeding term of the court, the appellant presented his bill, but the trial judge had died and his successor, who was on the bench, set aside the judgment and granted a new trial, because otherwise the appellant, without a bill of exceptions, would have lost his appeal. And, though the owner of the judgment questioned the authority of the court at a subsequent term to set aside the judgment, the supreme court of the State approved what had been done. In like manner, in Crittenden v. Schermerhorn (35 Mich., 370) the trial judge, after his retirement from office, had by stipulation of the parties, signed the bill of exceptions. But the defendant in error raised the objection in the supreme court of the State that a stipulation of the parties could not confer authority to sign a bill of exceptions. Says the court (p. 370):

"The point is well taken. But it does not follow that the judgment should be affirmed. On the contrary, where a party has lost the benefit of his exceptions from causes beyond his control, it is proper to give him a new trial; and this we have done in some cases where the judge's term of office expired before exceptions could be settled. The judgment will therefore be reversed and a new trial ordered."

But in the District of Columbia, so technical in matters of mere procedure is the judicial mind becoming, working under the supervision and direction of the Court of Appeals of the District, that the question with the trial judge, concerning the bill of exceptions in the present case, seems to have been to act, not with a view to aiding the appeal, but to defeating it; and when he was cited to explain the reasons for his action, seeming doubtful of the propriety of his acts under the rule of his own court, he pointed to a rule of the Court of Appeals of the District and said that rule also had influenced him, a rule which prescribed the time within which an appellant must file in the Court of Appeals the transcript of record for his appeal, which time, by the rule referred to, is fixed, even in common law causes, with reference to the perfecting of the appeal and not with reference to the signing or certifying of bills of exception; and though the plaintiff, in the effort to prosecute his appeal, had kept that rule in mind also, both rules were put into action on his appeal in a decision by the Court of Appeals, under which, if that court had only before have gone the length it now has gone, there would have been no necessity or occasion for the trial judge to consider or be influenced by any other than the rule of his own court.

If there be an express order of the court allowing time "to and including the 20th day of September" within which "to submit to the court the bill of exceptions taken at the trial of this cause," and if the bill of exceptions is submitted to the court on September 19; and if there be the further facts that on Sepember 26 notice is given to opposing counsel, in whose hands a copy of the bill thus submitted had been placed on September 18, that the court would be asked to settle and sign the said bill on October 1, the earliest available day, by reason of absence from the city, on which the matter could be submitted to the judge who must settle and sign; and if that notice be gratified by actually placing the bill on October 1 before the judge with the request that he settle and sign; and if, by reason of the trial judge's absence from the city, a two-day extension of the trial term of the court had been asked for and obtained, so as to cause the trial term to embrace October 2; and if the court, whose judgment in most cases is a finality in the District of Columbia, should declare, in the face of such facts, that it was proper to refuse settlement and allowance of the bill of exceptions so submitted, on the sole ground that a copy of the bill had not been presented to opposing counsel at least eight days before September 20, and should base such declaration on the theory (a mere legal mirage) that some other than the trial judge might on September 20 have been able to sign the bill, would such action on the part of the court not indicate a morbid condition of inability to note the difference between matters which are of mere procedure only and matters which are of substantive right; such a condition as is likely, if not checked, soon to obliterate, within the jurisdiction of the court's authority, all differences between justice and flimsily spun legal technicalities, in the name of which justice is so often sacrificed in the courts?

Such facts, followed by such a judgment, are recited in the petition of Walter Murphy and shown in the judicial records upon which his petition is based. That the court, which in most cases is the court of last resort in the District of Columbia, should adjudge such a conclusion from the facts stated would seem to denote a condition which needs a remedy, such a remedy as the Supreme Court of the United States is competent to apply, if only it shall be pleased to do so.

JOHN ALTHEUS JOHNSON.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. LODGE submitted an amendment providing that all officers of the Navy or Marine Corps shall be credited with the actual time they may have served as officers, enlisted men, paymaster clerks, or clerks of commandants in the Regular or Volunteer Army or Navy, etc., intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

Mr. SUTHERLAND submitted an amendment providing that in the event of reductions being made in any force employed under the civil service or in any of the executive departments no honorably discharged soldier, sailor, or marine whose record is rated good shall be discharged or dropped or reduced in rank or salary, etc., intended to be proposed by him to the legislative appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. CURTIS submitted an amendment proposing to appropriate $5,000 for aid and support of the National Library for the Blind, intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

FUNERAL EXPENSES OF THE LATE SENATOR DAVIS.

Mr. BRISTOW submitted the following resolution (S. Res. 425), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the President of the Senate pro tempore in arranging for and attending the funeral of the late Senator JEFF DAVIS from the State of Arkansas, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

IMPRISONMENTS IN THE ARMY AND NAVY.

Mr. WORKS submitted the following resolution (S. Res. 424), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretaries of War and of the Navy be, and they are each, instructed to furnish to the Senate the following information:

1. The number of persons serving in the Army and Navy, respectively, imprisoned during the year 1912, for which offenses, and the term of imprisonment imposed in each case, and the prison or other place of such imprisonment, and the nature and kind of prisons in which incarcerated.

2. The number of such persons, so serving the Government, now serving prison sentences, and for what offense in each case, and the term of imprisonment imposed, for what offenses, and where imprisoned.

PROTECTION OF BIRDS.

Mr. McLEAN. I desire to give notice that on Tuesday, January 14, at the close of the morning business, I will address the Senate on the bill (S. 6497) to protect migratory game and insectivorous birds in the United States.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move the Senate resume the consideration of House bill 19115, known as the omnibus claims bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CULLOM. A day or two ago I attempted to introduce an amendment to be referred to the Committee on Claims, and I think it was lost in the shuffle. I do not know whether it was incorporated in the bill or not.

The PRESIDENT pro tempore. The amendment, the Chair is informed, is upon the clerk's desk.

Mr. CULLOM. I ask leave now to offer it.

The PRESIDENT pro tempore. As an amendment to the bill?

Mr. CULLOM. As an amendment to the bill under consideration.

Mr. CRAWFORD. What is the character of the amendment?

Mr. CULLOM. It is a longevity claim.

Mr. CRAWFORD. Is the report of the Court of Claims attached to it?

Mr. CULLOM. Yes.

Mr. CRAWFORD. So that it is the same as the other longevity cases?

Mr. CULLOM. It is exactly the same, as I understand it.

The PRESIDENT pro tempore. The Senator from Illinois asks unanimous consent that the amendment offered by him may be considered, there being a pending amendment which

would otherwise be in order. The Chair hears no objection, and the amendment will now be considered. It will be read.

The SECRETARY. On page 263 of the bill, after line 9, insert:

To Phil Mitchell, administrator de bonis non cum testamento annexo of the estate of William Hoffman, deceased, of Rock Island, Ill., $2,206.30.

The PRESIDENT pro tempore. The question is on the adoption of the amendment.

Mr. CRAWFORD. I understand from the Senator from Illinois that there accompanies this claim the report from the Court of Claims adjudicating it, and that it is in exactly the same class with similar amendments which the committee has accepted. With that understanding, I make no objection to it, but I ask that the report of the Court of Claims be printed in the proceedings so that we may examine it afterwards, and I reserve the right, if I find any good reason therefor, to ask for a reconsideration.

The PRESIDENT pro tempore. The report is not upon the desk.

Mr. CULLOM. It was attached to the amendment that I offered.

The PRESIDENT pro tempore. It will be procured and printed as requested. Without objection, the amendment is agreed to. The findings of the court will be printed in the RECORD.

The matter referred to is as follows:

[Senate Document No. 977, Sixty-second Congress, third session.]

PHIL MITCHELL, ADMINISTRATOR OF THE ESTATE OF WILLIAM HOFFMAN, DECEASED.

Letter from the assistant clerk of the Court of Claims transmitting a copy of the findings of the court in the case of Phil Mitchell, administrator of the estate of William Hoffman, deceased, against The United States.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 3, 1912.

Hon. AUGUSTUS O. BACON,
President pro tempore of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Court of Claims, Congressional, No. 14978-6. Phil Mitchell, administrator de bonis non cum testamento annexo of the estate of William Hoffman, deceased, v. The United States.

STATEMENT OF CASE.

This is a claim for longevity pay alleged to be due on account of the service of William Hoffman, late an officer in the United States Army. On the 21st day of June, 1910, the United States Senate referred to the court a bill in the following words:

"[S. 8258, Sixty-first Congress, second session.]

"A bill for the relief of Henry Prince and certain other Army officers and their heirs or legal representatives.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle, adjust, and pay, out of any money in the Treasury not otherwise appropriated, the claims of * * * William Hoffman * * * officers of the Army of the United States, or their heirs or legal representatives where dead, for longevity pay, according to the decisions of the Supreme Court of the United States in the cases of The United States v. Tyler (105 U. S., 244), The United States v. Morton (112 U. S., 1), and The United States v. Watson (130 U. S., 80)."

Isabella Koble appeared in this court October 31, 1910, and filed her petition, in which it is substantially averred that:

She is the daughter and sole heir at law of William Hoffman, deceased, who entered military service of the United States as a cadet at the Military Academy July 1, 1825, and served continuously until the date of his death, August 12, 1884; that longevity pay computed on a basis that his service began on entering said Military Academy was never paid said officer or this claimant; and that additional longevity pay should be paid the claimant reckoned on a basis that his service began on entering said Military Academy, in accordance with the decisions of the Supreme Court of the United States in the cases of Tyler v. The United States (105 U. S., 244), of Morton v. The United States (112 U. S., 1), and of The United States v. Watson (130 U. S., 80); that a claim for all pay and allowances was filed with the Auditor for the War Department and disallowed by that officer; and the claimant claimed $2,451.65.

Phil Mitchell, administrator de bonis non cum testamento annexo of the estate of William Hoffman, deceased, was substituted as claimant by order of court October 17, 1912, upon his filing a certificate showing his appointment and qualification as such administrator.

The case was brought to a hearing on its merits on the — day of October, 1912. Frederick A. Fenning, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant, Phil Mitchell, is the duly appointed administrator de bonis non of the estate of William Hoffman, deceased, and is a citizen of the United States, residing at Rock Island, in the State of Illinois.

II. Said William Hoffman during his lifetime was an officer in the United States Army, having entered the Military Academy as a cadet on July 1, 1825. He graduated therefrom and was appointed second lieutenant July 1, 1829; promoted to be first lieutenant November 16, 1836; captain February 1, 1838; major April 15, 1851; lieutenant colonel October 17, 1860; colonel April 25, 1862; and was retired as such May 1, 1870, and died August 12, 1884.

III. Said decedent was paid his first longevity ration from July 5, 1838; second from July 1, 1839; third from July 1, 1844; fourth from July 1, 1849; fifth from July 1, 1854; sixth from July 1, 1856; seventh from July 1, 1864; and eighth from July 1, 1869.

Under the decisions of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80), claimant would be entitled to additional allowances on account of the service of said decedent amounting to $2,220.25, as reported by the Auditor for the War Department, from which would be deducted overpayments amounting to $13.95, leaving a balance of $2,206.30.

IV. A claim for longevity increase under the act of July 5, 1838 (5 Stats., 259), on account of decedent's service was presented to the accounting officers of the Treasury and was disallowed by them November 29, 1890, for the reason that service as a cadet could not be counted in computing longevity pay and allowances for services prior to February 24, 1881, which disallowance was in accordance with the decisions of the accounting officers in force at the time. Except as above stated, the claim was never presented to any department or officer of the Government prior to its presentation to Congress and reference to this court as hereinbefore set forth in the statement of the case, and no evidence is adduced to show why the claim was not earlier prosecuted.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein not having been filed for prosecution before any court within six years from the time it accrued is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the services of said decedent while a cadet at the Military Academy, which service the Supreme Court in the case of The United States v. Watson (130 U. S., 80), decided to be service in the Army.

BY THE COURT.

Filed November 18, 1912.
A true copy.
Test this 22d day of November, 1912.
[SEAL.]
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. GALLINGER. I will ask the Senator from South Dakota to kindly permit me to offer an amendment which calls for only $163.69, for overdue work in the Washington Navy Yard. It is the case of a poor man, and the findings are here.

Mr. CRAWFORD. Will the Senator just let me glance at the report of the court?

Mr. GALLINGER. Certainly.

Mr. CRAWFORD (after a pause). There is no objection to it. It is regular.

Mr. GALLINGER. I offer the following amendment and submit the findings of fact, which I ask be printed in connection with it.

The PRESIDENT pro tempore. There being pending an amendment, the amendment is now offered by unanimous consent. It will be read.

The SECRETARY. After line 12, page 153, of the bill, insert:

Richard Allen, $163.69.

The amendment was agreed to.

The PRESIDING OFFICER (Mr. HITCHCOCK in the chair). The findings of the court will be printed in the RECORD.

The matter referred to is as follows:

[Senate Document No. 849, Sixty-second Congress, second session.]

RICHARD ALLEN.

Letter from the assistant clerk of the Court of Claims transmitting a copy of the findings of the court in the case of Richard Allen v. The United States.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 11, 1912.

Hon. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Court of Claims of the United States, Congressional, No. 13727-3. Richard Allen v. The United States.

The claim herein is for services rendered by claimant at the Washington Navy Yard between March 21, 1878, and September 22, 1882, for extra labor above the legal day of eight hours.

On the 19th day of February, 1908, the United States Senate by resolution referred to the court Senate bill No. 5528, which is in the following words:

"A bill for the relief of Joseph M. Padgett and others.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Joseph M. Padgett and to the others who have joined with him in a petition to this Congress, dated February 17, 1908, the amounts that may be found due to each of them, respectively, for extra labor above the legal day of eight hours, while employed by the United States as workmen, laborers, or mechanics at the various navy yards of the United States, performed by them by reason and under the provisions of circular No. 8, issued by the Secretary of the Navy on March 21, 1878."

Thereafter the claimant above named appeared and filed his petition in this court, in which he avers substantially as follows:

That between March 21, 1878, and September 21, 1882, he was employed by the Government of the United States at the navy yard at Washington, D. C.; that on March 21, 1878, the Secretary of the Navy issued the order referred to in claimant's petition, known as circular No. 8 and hereinafter set forth in Finding I.

That during the six months in each year from the date of said order to the 21st of September, 1882, he worked during all or a portion of the time he was so employed during said period, and that he is entitled to the value of the time worked in excess of 8 hours a day.

The case was brought to a hearing on the evidence and merits on the 28th day of May, 1912.

Messrs. Brandenburg & Brandenburg and Clarence W. De Knight appeared for the claimant, and the Attorney General, by Percy M. Cox, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. Between March 21, 1878, and September 22, 1882, the claimant herein was in the employ of the United States in the navy yard at Washington, D. C., during which time the following order was in force:

Circular No. 8.] NAVY DEPARTMENT,
Washington, D. C., March 21, 1878.

The following is hereby substituted to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be, from March 21 to September 21, from 7 a. m. to 6 p. m.; from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The department will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of 8 hours a day. All workmen electing to labor 10 hours a day will receive a proportionate increase of their wages.

The commandants will notify the men employed or to be employed of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. THOMPSON,
Secretary of the Navy.

II. Said claimant, while in the employ of the United States as aforesaid, worked on the average in excess of 8 hours a day as follows: 488½ hours, at $2.50 per day, and 39¾ hours, at $2.25 per day.

III. If it is considered that 8 hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then the claimant has been underpaid $163.69.

IV. The claim herein was never presented to any department or officer of the Government prior to the presentation thereof to Congress and reference to this court as hereinbefore set forth, and no evidence is adduced to show why claimant did not earlier prosecute his said claim.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein is not a legal one against the United States and is equitable only in the sense that the Government received the benefit of the services of said claimant in excess of 8 hours a day as above set forth.

BY THE COURT.

Filed June 3, 1912.
A true copy.
Test this 13th day of June, 1912.
[SEAL.]
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. CRAWFORD. I understand the Senator from Massachusetts [Mr. LODGE] desires to address the Senate further in relation to the pending amendment, which seeks to incorporate the French spoliation claims into the bill.

Mr. LODGE. Mr. President——

Mr. STONE. Before the Senator from Massachusetts begins his speech, I should like to offer an amendment. I desire to offer an amendment to the bill, to have added the claim of Harry Troll, administrator of the estate of Justis McKinstry, deceased. It is a longevity claim of exactly the same nature as others which have been embodied in the bill.

Mr. CRAWFORD. Is there accompanying that a report from the Court of Claims?

Mr. STONE. Fully; yes.

Mr. CRAWFORD. Then, Mr. President, there is no objection. I make the same statement in regard to it as to others, and I ask that the report be printed in the RECORD so that we may have an opportunity to examine it.

Mr. STONE. Very well.

The PRESIDING OFFICER. The amendment proposed by the Senator from Missouri [Mr. STONE] will be stated.

The SECRETARY. On page 264, after line 22, under the head of "Missouri," it is proposed to insert the following:

To Harry Troll, of St. Louis, administrator of the estate of Justis McKinstry, deceased, $1,939.11.

The amendment was agreed to.

The PRESIDING OFFICER. The findings of the Court of Claims will be printed in the RECORD.

The findings referred to are as follows:

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 7, 1912.

Hon. AUGUSTUS O. BACON,
President pro tempore of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Court of Claims, Congressional, 15389, Sub. 4. Harry Troll, administrator of the estate of Justus McKinstry, v. The United States.

STATEMENT OF THE CASE.

On the 21st day of February, 1911, Senate bill 10806, Sixty-first Congress, third session, for the relief of Justus McKinstry, or his heirs or legal representatives, where dead, for longevity pay, was referred to this court by a resolution of the United States Senate for findings of fact under the terms of section 14 of the act approved March 3, 1887.

Said bill reads as follows:

"A bill for the relief of Christopher H. McNally and certain other Army officers and their heirs or legal representatives.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle, adjust, and pay, out of any money in the Treasury not otherwise appropriated, the claims of Christopher H. McNally, William C. Forbush, John Nichols Coe, Alexander Logan Morton, Justus McKinstry, Arthur Hubert Burnham, Edward McK. Hudson, Joseph Hale, Wentz Curtis Miller, Redmond Tully, Augustus G. Tassin, and Edward Maxwell Wright, officers of the Army of the United States, or their heirs or legal representatives where dead, for longevity pay, according to section 15 of the act of July 5, 1838 (5 Stat. L., p. 258), and acts amendatory thereof, and the decisions of the Supreme Court of the United States in the cases of the United States against Tyler (105 U. S., p. 244), the United States against Morton (112 U. S., p. 1), and the United States against Watson (130 U. S., p. 80)."

That Harry Troll is the administrator of the estate of Justus McKinstry, late of St. Louis, State of Missouri, and that he is a citizen of the United States and a resident of the city of St. Louis, in the State of Missouri.

That Justus McKinstry served in the United States Army as follows:

"Cadet, M. A., July 1, 1833; second lieutenant, Second Infantry, July 1, 1838; first lieutenant, April 18, 1841; captain, January 12, 1848; captain acting quartermaster, March 3, 1847; major and quartermaster, August 3, 1861; brigadier general of Volunteers, September 2, 1861, which expired July 17, 1862; dismissed January 28, 1863; died December 11, 1897."

and by reason of such service is entitled to longevity pay, computing the time he served at the Military Academy as a cadet, in accordance with the decisions of the Supreme Court of the United States as laid down in the case of the United States v. Watson (130 U. S. Rep., p. 80) and United States v. Tyler (105 U. S. Rep., p. 244), which has never been paid to the deceased officer or his heirs.

That application for such longevity increase pay was made to the accounting officers of the Treasury Department, but said claim was disallowed on the 8th day of January, 1891, on the ground "Service as a cadet under the existing laws and decisions can not be counted in computing longevity pay and allowances for services prior to February 24, 1881," contrary to the decisions of the Supreme Court of the United States in the cases of Watson and Tyler, above stated.

Application was again made for same longevity increase pay in accordance with the decision of the Comptroller of the Treasury in the case of Alexander O. Brodie (24 Comp. Dec., p. 795), but this application was disallowed in May, 1909, on the ground that there was no authority of law to reopen an adverse settlement made by a predecessor, irrespective of the fact that the law now favors the settlement of this class of cases.

That there is due the claimant under the law as decided by the Supreme Court of the United States in the case of United States v. Watson and Tyler, above stated, the following amount of longevity increase pay:

First longevity ration from July 5, 1838, to June 30, 1843	$364.40
Second longevity ration from July 5, 1843, to June 30, 1848	365.40
Third longevity ration from July 5, 1848, to June 30, 1853	365.20
Fourth longevity ration from July 5, 1853, to June 30, 1858	438.20
Fifth longevity ration from July 5, 1858, to June 30, 1863	407.30
Total	1,940.50
Less tax	1.39
Balance	1,941.11

That the deceased, Justus McKinstry, was loyal to the United States throughout the War of the Rebellion, he having served during said rebellion until the 28th day of January, 1863, when his service from the Army of the United States was severed.

The case was brought to a hearing on loyalty and merits on the 23d day of October, 1912.

Lyon & Lyon appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant, and under his direction, appeared for the defense and protection of the interest of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel upon both sides, makes the following

FINDINGS OF FACT.

I. Claimant's decedent, Justus McKinstry, was an officer in the United States Army, having entered the United States Military Academy as a cadet on July 1, 1833. He graduated therefrom and was appointed second lieutenant, Second United States Infantry, July 1, 1838; promoted first lieutenant April 18, 1841; captain and acting quartermaster March 3, 1847; major and quartermaster August 3, 1861; appointed brigadier general of Volunteers September 6, 1861, and served as such to July 17, 1862. He was dismissed January 28, 1863.

II. Said decedent was paid his first longevity ration from July 1, 1843, and one additional ration for each five years subsequent thereto.

Under the Watson decision he would be entitled to additional allowances amounting to $1,939.11, as reported by the Auditor for the War Department.

III. The claim herein was presented to the accounting officers of the Treasury and the same was disallowed January 8, 1891, and again in 1910.

Except as above stated, the claim has never been presented to any department or officer of the Government prior to its presentation to Congress and reference to this court as aforesaid.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States, in so far as they received the benefit of the service of said decedent while a cadet at the Military Academy, which service the Supreme Court, in the case of the United States v. Watson (130 U. S., 80), decided was service in the Army.

BY THE COURT.

Filed November 11, 1912.
True copy.
Attest this 30th day of November, 1912.
[SEAL.]
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. LODGE. Mr. President, I ask, first, for the adoption of an amendment in a case of longevity pay, the same as those amendments that have already, I think, been adopted.

Mr. CRAWFORD. Is there a report accompanying it?

Mr. LODGE. There is a report accompanying it, and the findings of fact may be read, if the Senator desires, or placed in the RECORD.

Mr. CRAWFORD. I will not ask that they be read, but I ask that they be printed in the RECORD in connection with the amendment, so that we may examine them.

Mr. LODGE. This is precisely the same as all other longevity cases.

The PRESIDING OFFICER. The Senator from Massachusetts offers an amendment, which will be stated.

The SECRETARY. On page 241, after line 12, it is proposed to insert:

To Katharine B. Thomson, administratrix de bonis non cum testamento annexo of the estate of Francis Beach, deceased, of Plymouth, Mass., $1,612.33.

The amendment was agreed to.

The PRESIDING OFFICER. The findings of the Court of Claims in relation to the case will be printed in the RECORD.

The findings referred to are as follows:

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 3, 1912.

Hon. AUGUSTUS O. BACON,
President pro tempore of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours, JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Court of Claims. Congressional. No. 14199. Katharine B. Thomson, administratrix de bonis non cum testamento annexo of the estate of Francis Beach, deceased, v. The United States.

STATEMENT OF CASE.

This is a claim for longevity pay alleged to be due on account of the service of Francis Beach, late an officer in the United States Army. On the 3d day of March, 1909, the United States Senate referred to the court a bill in the following words:

"[S. 9529, Sixtieth Congress, second session.]

"A bill for the relief of Francis Beach and certain other Army officers and their heirs or legal representatives.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle, adjust, and pay, out of any money in the Treasury not otherwise appropriated, the claims of Francis Beach * * * officers of the Army of the United States, or their heirs or legal representatives where dead, for longevity pay according to the decisions of the Supreme Court of the United States in the cases of The United States v. Tyler (105 U. S., 244), The United States v. Morton (112 U. S., 1), and The United States v. Watson (130 U. S., 80)."

Katharine B. Thomson appeared in this court December 1, 1910, and filed her petition, in which it is substantially averred that she is the daughter and heir at law of Francis Beach, who entered the military service of the United States as a cadet at the Military Academy July 1, 1853, and served continuously until the date of his death, February 5, 1873; that longevity pay computed on a basis that his service began on entering said Military Academy was never paid said officer or the claimant, and that additional longevity pay should be paid the claimant reckoned on a basis that his service began on entering said Military Academy, in accordance with the decisions of the United States Supreme Court in the cases of Tyler v. The United States (105 U. S., 244) of Morton v. The United States (112 U. S., 1), and of The United States v. Watson (130 U. S., 80); that a claim for all pay and allowances due was filed with the Auditor for the War Department and disallowed by that officer, and the claimant claimed $2,113.60.

By order of court of October 17, 1912, Katharine B. Thomson, administratrix de bonis non cum testamento annexo of the estate of Francis Beach, was substituted as claimant upon her filing a certificate showing her appointment and qualification as such administratrix.

The case was brought to a hearing on its merits on the 21st day of October, 1912. Messrs. Coldren & Fenning appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant, Katharine B. Thomson, is a citizen of the United States, residing at Plymouth, Mass., and is the duly appointed administratrix of the estate of Francis Beach, deceased.

II. Said Francis Beach entered the United States military service as a cadet at the Military Academy July 1, 1853. He graduated therefrom and was appointed second lieutenant July 1, 1857; promoted to first lieutenant April 29, 1861; captain August 14, 1862, and died February 5, 1873. He was paid his first longevity ration from July 1, 1862, and one additional ration for each five years subsequent thereto.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80), claimant is entitled to additional longevity allowances amounting to $1,675, as reported by the Auditor for the War Department, from which should be deducted $63.45 due the United States on account of overpayments to said decedent, leaving a balance due of $1,612.55.

IV. A claim for longevity increase on account of cadet service of said decedent was presented to the accounting officers of the Treasury and was disallowed by them November 12, 1890, for the reason that as said decedent was not in the service after February 24, 1881, service as a cadet could not be counted in computing longevity pay under existing laws and decisions.

Except as above stated the claim was never presented to any department or officer of the Government prior to its presentation to Congress and reference to this court, as hereinbefore set forth in the statement of the case, and no evidence is adduced to show why claimant did not earlier present her said claim.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the service of said decedent while a cadet at the Military Academy, which service the Supreme Court in the case of United States v. Watson (130 U. S., 80) decided was service in the Army.

BY THE COURT.

Filed November 11, 1912.
A true copy.
Test this 22d day of November, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. LODGE. Mr. President, before going on with a discussion of the amendment offered by the Senator from South Dakota [Mr. CRAWFORD] to my amendment, I desire to place in the RECORD, and call the attention of the Senator from South Dakota to it, a statement which I received in regard to another case which was voted on here and rejected by a vote of the Senate. I do this only in justice to the people involved. It is the Flower claim for the destruction of property in Virginia by forces of the United States during the Civil War. The Senator from South Dakota will probably recall the case, as we had some considerable discussion about it. Objection was then made, among other objections, that the owner of the property in whose name the claim was made by his heirs had never himself made the claim, and various other points were raised against the claim. In justice to the people who make the claim, I wish to call attention to some of the facts contained in the letter which I hold in my hand, which I will then ask to have printed in the RECORD. The writer is the son of the owner of the property. He says:

My father, Thomas Brinton Flower, was a clergyman of the Episcopal Church, and had charge of the Church of the Messiah at Woods Hole, Mass., for nine years previous to the opening of the war. In September, 1861, he removed with his family to Ashfield, in this county, where he died in June, 1862, nearly three years previous to the damage to his property in Virginia. A very conclusive reason, it seems to me, why he never himself laid claim for any damage.

He then goes on and gives an account of the whole thing. I think, in justice to the claimants, that the letter ought to be printed. It simply shows, in my opinion, that they were entitled to the claim. I ask the Senator from South Dakota to read the letter as it will appear in the RECORD. I will not detain the Senate to read it all, but it explains about the laches and gives the full details. I ask that the letter may be printed in the RECORD.

Mr. CRAWFORD. Mr. President, I simply want to say upon that point that the report of the committee is based entirely upon the result of an examination of the findings returned by the Court of Claims and the opinion given by the Court of Claims. The committee can not, and no Committee on Claims could, go outside of the findings returned by the Court of Claims and examine into matters beyond the record. To do so would be an utter physical impossibility. The Court of Claims was created to do that work for us, to make these findings and these conclusions for our guidance. If we were to go into that sort of investigation of this claim to which the Senator from Massachusetts calls attention, I dare say there are 1,500 other claims which it could be urged from one cause or another would justify an examination outside of the findings of the Court of Claims. My request is that we allow all matters of that kind to go to conference, and if the conferees feel in any particular case that a claim is unusual and that it demands some exception, they can give it that attention; but, as I have said, it is utterly impossible for the Senate to undertake to deal with such cases.

Mr. LODGE. I think the Senator from South Dakota misunderstood me. I did not mean to reopen the case or to move to reconsider the vote of the Senate, but the Senator heretofore, when debating the case, said the man who owned the property never made any claim. Well, the man who owned the property died three years before the damage occurred, and therefore could hardly have made the claim. I merely, as that was going outside of the record, sought only, in justice to the people who made the claim, to show that in that respect, at least, they were not to blame, and also to give a full account of the transaction. I do not suppose the claim will be in conference, as I do not understand it is embraced in the House bill.

Mr. CRAWFORD. Then, it is not in the House bill?

Mr. LODGE. No.

Mr. CRAWFORD. That will make it all the more impossible for us to act on it here, because, if we could put it in the bill, the House having never acted upon it, at this stage of the proceedings, with this session coming to an end on the 4th of

March, it would be utterly impossible. I would say to the Senator, for it to receive favorable consideration.

Mr. LODGE. I understand that. I told the Senator I did not expect it would be possible to reverse the action of the Senate.

The PRESIDING OFFICER. Does the Senator from South Dakota object to the publication in the RECORD of the letter?

Mr. CRAWFORD. Oh, no; certainly not.

The PRESIDING OFFICER. In the absence of objection, the letter will be printed in the RECORD.

The letter referred to is as follows:

GREENFIELD, MASS., *December 19, 1912.*

The Hon. HENRY CABOT LODGE,
Washington, D. C.

MY DEAR SENATOR LODGE:

* * * * * * * * *

The debate which you forwarded is conclusive to my mind that the facts which actually exist are not known either to you or the other Senators.

My father, Thomas Brinton Flower, was a clergyman of the Episcopal Church and had charge of the Church of the Messiah at Woods Hole, Mass., for nine years previous to the opening of the war. In September, 1861, he removed with his family to Ashfield, in this county, where he died in June, 1862, nearly three years previous to the damage to his property in Virginia—a very conclusive reason, it seems to me, why he never, himself, laid claim for any damage.

At that time I was a boy of 9; my mother was left with four small children, one older and two younger than myself. John Flower, who lived on the farm in Virginia, was brother to my father and was one of the men who voted that Virginia stay in the Union. He was arrested and placed in prison, from which he escaped, and for three months suffered untold hardship in his attempt to reach the North. He lived long enough after the war to go to Virginia and mark out the bounds of this farm and get it properly recorded. He informed my mother that everything had been done to protect her rights, the property having been taken by military authority for the preservation of the Army and had been properly appraised.

In the operations around Petersburg this farm was occupied by the Union forces and finally destroyed. The house was shelled by both armies while my Aunt Mary and 11 small children were in the cellar. After the engagement, the Union forces taking possession of the property, the family was sent North, with the exception of the oldest son, who was then about 16 and well acquainted with the surrounding country, who stayed for a time and aided Gen. Grant in his operations by showing the soldiers short cuts about the country.

There were three earth forts and hundreds of rods of earthworks thrown up on this farm.

In regard to laches in this matter, let me say that my mother went to Philadelphia, where my father was born, after his death, and that Col. Samuel B. Thomas, who married my father's sister, and who was secretary of state under Gov. Curtin during the war, told my mother that nothing could be done toward collecting the claim owing to the condition of the country; that appraisement of damages had been filed and that later the matter could be taken up.

She did later take the matter up in the seventies with some claim agent. What was done, I do not know. But the inclosed letter from Mr. Pollock will show you that I took the matter up with him in 1889.

Congressman Whiting, from this district, who is related by marriage to the family, took the matter up when in Congress and did not accomplish anything. Then Mr. Black, the present agent, took hold of the matter and has had it in charge for some years. You will see by this that there has been no neglect on our part toward pressing this claim. Mr. Black has always said that if we could interest you in the matter the thing would go through. So when Harold had the great pleasure of making your acquaintance the matter was brought to your attention.

My father, as I have learned from my mother, was a strong Union man. He voted, as I have been told, for Bell and Everett at the election when Mr. Lincoln was made President. The Flower family, or our branch of it, which came over with William Penn on his second trip, located in Delaware County, Pa., and have been there ever since. My father's sister was a very warm friend of Miller McKim, and was associated in some way with what was called the "underground railroad."

I have burdened you with this long letter, for which I hope you will excuse me, to show you if I could that it was impossible for any charge of disloyalty to be made against my father or any of the family, and to show that we have not been negligent in pressing this claim, but rather unfortunate.

Again thanking you for your great kindness in this matter, I am,
Sincerely, yours,

ARCHIBALD D. FLOWER.

Mr. LODGE. I think that some injustice, quite unintentionally, has been done to these most excellent people who are making the claim and who never would have made it unless they believed it was a thoroughly good one, as I believe it is. I wanted those facts placed before the Senate so that they could be before a subsequent committee and so that they may learn all the details, which are not without interest.

Mr. President, in discussing the amendment which the Senator from South Dakota proposed to the amendment offered by me I first showed how many grounds of claim put forward by the counsel for the French spoliation claimants have been satisfied by the court, in order to show that the court had not granted everything claimed, by any means, but that they had made a number of rulings which the claimants at least thought bore very hardly upon them.

I refer to what I have said previously, because so much time has elapsed since I first made those observations that I fear they have been forgotten even by the very small number of auditors I had the privilege of having.

I now want, Mr. President, to take up the question raised by the amendment of the Senator from South Dakota to the amendment which I introduced. I desire to refer to the claims included by the Court of Claims in their present decisions, and I wish to discuss the precedents of allowances by courts and commissions passing on international claims.

The French spoliation act of 1885, under which these claims are considered by the Court of Claims (23 Stat. L., 283), thus prescribed, in section 3, the rule of decision:

And they shall decide upon the validity of said claims according to the rules of law, municipal and international, and the treaties of the United States applicable to the same.

It will hardly be denied that this requirement laid upon the court the obligation to decide these cases according to the rules of law which had received the approval of our own highest domestic tribunals, as well as of the various commissions and courts which had from time to time in our past history adjudicated upon international claims.

A careful examination of the published records and decisions of a number of these tribunals shows that the allowances made by the court have in no case gone beyond those made by past courts and commissions, which have considered these claims at various times during the last hundred years. In many instances they have been less liberal than the allowances made by past commissions.

The questions suggested by a number of the remarks made in the summaries given in the last part of the Senate report show that the question of the correctness of at least the three following classes of allowances has been under consideration by the committee, and the deduction of these items is at least suggested in the report:

First. The freight earnings of the vessel for the voyage. These have been allowed by the Court of Claims at the rate of two-thirds of a fair freight for the voyage.

Second. The premium of insurance paid by the owner of the cargo or of the vessel upon her for the voyage upon which she was bound, which is allowed by the Court of Claims as one element entering into the value, and which would undoubtedly have been charged by the owner as one element of the expenses he had incurred to the purchaser of the cargo if the vessel and cargo had safely arrived at their point of destination.

Third. The payment of the full amount of loss incurred and paid by individual underwriters on vessels and cargoes, the question here being whether the premium is not to be deducted from the insurer's loss. Various comments throughout the report make it evident that one thought in drafting this report has been that the underwriter did not lose the whole amount which he paid, and that his net loss was only the amount paid less the premium he received for incurring the risk.

My examination of the proceedings to which I have referred shows that all of these items have always been allowed in full by past commissions passing on international claims, and are sustained in principle by the decisions of the Supreme Court of the United States, while there are other important items of allowance arising out of losses which the Court of Claims has not allowed.

A question very similar to this occurred in the settlement of our claims against Great Britain before the mixed international commission appointed under the Jay treaty of 1794. These claims were for spoliations committed by the British under circumstances entirely analogous to those committed by the French now in question.

William Pinkney, of Maryland, was commissioner on the part of the United States in that commission, whose opinion, delivered on behalf of the majority of the commission, was as follows in answer to a very similar objection made by the British commissioner:

The last question which occurred at the board in this case respected the rule of compensation to be applied to it in relation to the cargo. The majority were of opinion that the claimants were entitled not only to the value of their merchandise but to the net profits which would have been made on it at the port of destination if the voyage had not been interrupted. This opinion proceeded upon the supposition that the voyage was wrongfully interrupted, and upon that supposition would seem to be free from exception. It has been questioned, however, and I shall, of course, assign my reasons for adopting it.

There can be no doubt that the illegal capture and condemnation of this vessel and cargo have given to the claimants a title to receive from the British Government the value of the things of which they were deprived; but the question is whether they have not also a title to receive the profits that might and would have arisen from them.

The right of the claimants to the cargo was a perfect one; and for that reason they are authorized to demand compensation for its value; but this right was in no respect better or more perfect than their right to proceed upon the voyage, and to make such profit of the goods as the situation of the destined market would at the time of the vessel's arrival enable them under all circumstances to make.

When the claimants show (and a majority of the board have determined that they have shown it) that the cargo belonged to them—

that the voyage which the vessel (also the property of one of them) had commenced was a lawful one; that there was no ground upon which she could justifiably be seized or detained, they prove a complete right to prosecute that voyage without molestation and to acquire such advantages therefrom as in the course of trade might fairly be calculated on.

According to a written opinion filed by one of the board on this occasion, no compensation is due for the violation of this latter right; for it states "that to reimburse the claimants the original cost of their property and all the expenses they have actually incurred, together with interest on the whole amount, would be a just and adequate compensation." But what substantial reason can be assigned why one of the claimant's rights shall be selected as a proper object of compensation, while another of their rights, equally indisputable and equally violated, shall be left without any compensation at all?

No compensation for an injury can be just and adequate which does not repair that injury, but he who wrongfully deprives me of a lawful profit which I am employed in making can not be said to afford reparation until he has given me an equivalent for the advantages of which he has deprived me; to which advantages my right was as unquestionable as the right I had in the things from which they were to arise.

Rotherforth (1 Inst. Nat. Law, p. 105, s. 5) lays down the rule that "in estimating the damages which anyone has sustained, where such things as he has a perfect right to, are unjustly taken from him, or withholden, or intercepted, we are to consider not only the value of the thing itself, but the value likewise of the fruits or profits that might have arisen from it. He who is the owner of the thing is likewise the owner of such fruits or profits. So that it is as properly a damage to be deprived of them as it is to be deprived of the thing itself. But it is to be considered whether he could have received these profits without any labor or expense; because if he could not, then in settling the damages for which reparation is to be made, the profits are not to be rated at their full worth; but an allowance is to be made for the labor or expense of collecting or receiving them, and when the labor or expense is deducted from their full worth the remainder is all that he has lost, and consequently is all that he has any title to demend.

"In rating the damages which a man has sustained we are to estimate something more than the present advantage which he has lost; for the hope or expectation of future advantage is worth something; and if such hope or expectation is cut off by the injury, the value of it is to be allowed him. We must, however, in estimating this hope be careful not to estimate it as if the advantage were in actual possession. Proper deductions are to be made for the accidents which might have happened to disappoint his expectations. And in proportion as these accidents are greater or more in number, or more likely to happen, a greater abatement is to be made in consideration of them," etc. (Id., p. 416.)

"Not only the damages which a man sustains from an unlawful act are chargeable to them who do the act, but these damages are likewise to be made amends for, which are the consequence of such act." (Id., p. 490, s. 8.)

The foregoing quotations are supported by Grotius (Lib., 2, c. 17, s. 4–5) and also by Puffendorf. It is to be admitted that in the case before the board, the claimants' prospect of profits (provided insurance had not been made upon both profits and cargo) was not entirely certain; for the cargo might have been damaged or lost, and, of course, in the language of Rutherforth, we should be careful "not to estimate those profits as if they were in actual possession." But it is also evident that the profits were just as secure as the cargo itself, and were subject to no other risk than the cargo was exposed to. With a view to prices, there was no risk at all, since we resort to the prices which are proved to have been those at which the cargo might have been sold if it had arrived. In that respect we have facts by which to regulate our estimate, and not possibilities. If then the danger of loss of, or injury to, the cargo was the only circumstance which rendered the claimants' profits precarious, it is extremely easy to make an allowance for that hazard in the same manner as in ascertaining the value of the cargo itself. We have only to make a proper deduction for the sea risk—and for this the rate of insurance upon such a voyage as the vessel was engaged in will furnish us with the best possible rule. The rate of insurance is the value of the hazard, and it is that criterion upon which we may safely rely, since it is that value which is uniformly paid and received for the sea risk by those who are able, from their pursuits, and induced by their interests to calculate it accurately. (Life, Writings, and Speeches of William Pinkney by Henry Wheaton, New York, 1826, pp. 259–264.)

That is an extremely able argument, and, as the Senate well knows, Mr. Pinkney was one of the ablest and most distinguished lawyers in our history, and it has a very important bearing upon the question of the profits of the voyage.

I merely call attention to the fact that of this commission of 1794, where the cases were precisely similar to the class of cases involved in the French spoliation cases, the majority of the commission, which was a very strong one, overruled the position taken on behalf of the British Government that the whole liability of that Government was discharged by reimbursing the claimants the original cost of their property, all the expenses they had incurred, and interest on the whole amount.

Under the Florida treaty of 1819 with Spain we had another commission for the settlement of claims against Spain. This commission, however, differed from the British commission of 1794, to which I have just been referring, in the fact that it was a domestic tribunal of the United States, like the Court of Claims, and like the board of commissioners who distributed the Alabama award. They adjudicated upon claims originally existing against a foreign government, but which had, for a valuable consideration, been released to that government and assumed by the United States. So the Florida commission is entirely similar in its jurisdiction to the Court of Claims, and it was dealing in claims almost identical with the class of claims we are considering here.

That commission in its final report of its proceedings to the Secretary of State thus stated its allowance of freight and insurance premiums and of the principles which governed it in making such allowances (Moore's International Arbitrations, vol. 5, p. 4516):

In adjusting the amount of the claims allowed the commission has adopted these principles: Regarding the fund provided by the treaty as designed to indemnify claimants for actual losses sustained and not to realize profits which might or might not have been made, the board has generally taken up the voyage at its commencement and allowed the value of the vessel and cargo at that time. To the value of the vessel two-thirds of a fair freight for the passage in which the loss occurred has been added. A fair premium of insurance for the risk of such a passage has been also added to each of these insurable subjects. And the costs and expenses incurred in defraying their rights have been allowed to all claimants who have paid such and have offered any evidence from which the sums so paid might be inferred. Such has been the general mode of estimating the quantum of loss to be indemnified in most of the cases where the loss has been total.

The following from the report of that commission (Moore's International Arbitrations, vol. 5, pp. 4516, 4517) states the ground on which the claims of underwriters were allowed and also shows that in so doing no deduction of the amount of the premium was made from the amount of the insurance actually paid by the underwriter and received by the assured. The commission say:

And it was only when the American citizen who had sustained a loss provided for by the treaty, having been indemnified against this loss by an American underwriter, had abandoned or was bound to abandon and assign his interest in the subject insured to the assurer, that the claims of underwriters have ever been received. But, claiming as assignees of a party who had a good claim, these their derivative claims have always been allowed for the sum by them insured and paid, where that sum did not exceed the true value of the subject insured according to the principles settled by the board for ascertaining this value, as above stated.

In making such allowances to underwriters the commission was well aware that its effect would be to allow them more than they had lost by the amount of the premium received from the party insured, which premium he had voluntarily paid and must have lost in any event. So, too, in making the allowance of freight the commission was well aware that the full wages of seamen had not been paid, probably, in any of the cases where such freight was given. But in these and many other cases which occurred the board, having ascertained the full amount of the loss, distributed this amount so ascertained amongst the different parties claiming it before them and seeming to have a right to receive it (no matter in what character) without deciding or believing itself possessed of the authority to decide upon the merits of conflicting claims to the same subject.

It will be observed that in that decision of the Florida commission they awarded the claimants the premiums, although the premiums would have been lost in any event, and they also made an allowance of freight without deduction, as they state—

For wages of seamen.

I ask particular attention to this last statement as bearing upon the point which has been made against a number of these claims in the report of the Committee on Claims, in which the amount allowed to an underwriter by the Court of Claims as insurance actually paid has been diminished by the amount of the premium. As I have pointed out, the commission, under the treaty of 1819, made no such deduction, but allowed the underwriters the full amount of the loss, which they paid.

Its reasons are given for so doing. It is not believed that any court or commission which has ever allowed to an underwriter or insurer by virtue of the doctrine of subrogation the amount which he paid has ever diminished that amount by deducting therefrom the premium paid for the insurance.

But there was another commission relative to certain other claims against the Spanish Government which sat many years later than the first, to wit, in 1836 and 1837. That commission laid down the following complete statement of the rules which guided them (Moore's International Arbitrations, vol. 5, pp. 4541, 4542):

First. As to vessels: The value of every vessel must be estimated at her actual cost to the owner where that can be ascertained, and if not ascertained, her value at the commencement of the voyage will be deemed to be her true value, deducting therefrom a reasonable percentage for subsequent deterioration.

To her value thus allowed add two-thirds of a fair freight where the voyage was not completed.

In cases of capture and release, where doubts exist as to the probable grounds of capture, nothing is to be allowed for the detention of the vessel after capture, unless the delay has been unreasonable, and then only for the wages of the crew, expenses of their support, and damages incurred by the vessel during the detention.

Second. As to cargo: In cases where the cargo has been taken at sea the invoice cost will be deemed to be its true value, adding thereto the usual and ordinary shipping charges, the customary brokerage on the purchase of the goods, and a reasonable or fair premium of insurance for the particular voyage, said premium to be rated with that usual or current at the time of the shipment, and this premium is to be allowed whether the owner was his own insurer or not.

Where the property was seized on shore at the place of destination, and the market price there at the time of seizure can be satisfactorily ascertained, that price shall be the criterion of value. If from any cause such market price can not be ascertained, recourse must be had to the actual cost and charges as in other cases.

Third. Charges and expenses in defending the property, whether vessel or cargo, will be allowed where they have been actually paid in all cases where there has been a reasonable effort to defend or reclaim the subject.

Fourth. Where the property was recaptured and restored on payment of salvage the amount so paid, with incidental expenses, is to be allowed. In cases of ransom the actual sum paid is to be allowed, and where the property has been sold after capture and a proportion of its proceeds given up as the price of a partial restitution the sum so given up is to be deducted from the indemnity to be allowed.

Fifth. As to freight: A fair premium of insurance is to be allowed on freight, as on other insurable interests.

Sixth. In the distribution of the amount awarded reference is to be had only to the claimant's actual loss. Nothing is to be allowed for profits or anticipated gains. Whatever he has received under contracts of insurance is to be deducted from the award in his favor; but where insurers are claimants their claims are generally to be allowed for the sums actually paid, except in cases of loss especially adjusted between the parties, and then the intention of the parties at the time of settling their contracts is to be carried into effect.

These rules exclude the possible profit on which Mr. Pinkney made his argument, but in many other respects they are more liberal than those adopted by the Court of Claims. Premiums of insurance, for instance, were allowed by that commission whether they were actually paid or not, whereas the Court of Claims allowed such premiums only when actually paid. Charges and expenses in connection with the property were allowed by this commission, whereas we find no case in which the Court of Claims allowed such charges.

The Court of Claims allowed no ransom voluntarily paid, but only salvage actually decreed by a court and paid under compulsion.

Insurance on freight is only allowed by the Court of Claims where actually paid. The commission above quoted allowed it in addition to the freight itself in all cases.

Now, Mr. President, that shows as clearly as possible that the Court of Claims in dealing with these cases has been stricter and more severe than past commissions dealing with similar claims made under the Spanish and British treaties.

I will take next the case of the distribution of the Danish indemnity. Our Government had made a treaty with Denmark for the adjudication of claims in the case of vessels illegally seized by that country. That commission, sitting in 1832–33, made these rules (Moore's International Arbitrations, vol. 5, p. 4568):

Considering the absence of proof in some cases, and its imperfection in others, in relation to freight, insurance, demurrage, and damage owing to detention, and consequently, that exact justice can not be done in each particular case, comparing, besides, the several claims for freight, insurance, demurrage, and damage, with each other, and finding no standard therein, it is—

2d. *Ordered*, That in all cases of condemnation or detention there shall be allowed two-thirds of a fair freight for the passage in which the loss occurred (and a premium of insurance at the rate of — per cent upon the value of the vessel and cargo, respectively, at the commencement of the voyage.

That was in reference, as I remember, to the stoppage of vessels in regard to the question of tolls in the Skagerrack, passing through the straits north of Denmark.

There was also an indemnity paid by the Government of Naples for illegal seizures made by that Government.

The commission to distribute that indemnity, sitting in 1834, 1835, made the following rules (Moore's International Arbitrations, vol. 5, p. 4585):

Ordered, 1. That in cases of condemnation, indemnity shall be made according to the actual value of the vessel and cargo, respectively, at the commencement of the voyage.

2. That a commission of 2½ per cent be allowed on the value of the cargo in full satisfaction for the purchase and charges thereon at the port of exportation.

3. Freight according to the registered tonnage of the vessel at and after the rate of $40 per ton.

4. All necessary expenses incurred at Naples by reason of illegal capture and condemnation to be allowed in full.

5. Interest at the rate of 20 per cent on the amount awarded.

I wish to call attention to the allowance of interest at the rate of 20 per cent, the largest yet found, although in all cases of commissions to distribute international indemnities interest is invariably allowed, whereas the Court of Claims has never allowed interest on French spoliation claims.

THE MEXICAN COMMISSION OF 1868.

In 1868 there was a Mexican commission to settle certain claims against that Government.

Sir Edward Thornton, the British minister, who was the umpire under the treaty of 1868 for the settlement of claims of the citizens of the United States against Mexico, made the following allowance of freight in a case of unlawful seizure of goods imported by sea and seized at the port of importation:

The umpire therefore feels it incumbent upon him to decide this claim is a just one and to award on account of it the sum of $7,145.85 Mexican gold, with interest at 6 per cent per annum from the 1st of December, 1854, to the date of the final award. The umpire has allowed the original value of the goods, with the costs of freight, landing, etc.; but he has not taken into consideration the profit upon the sale of the goods, because he thinks that the loss of this is sufficiently compensated by the assured interest of 6 per cent per annum at the end of a number of years. (Moore's International Arbitrations, vol. 3, p. 3135.)

This decision is a particularly strong one because it not only allows freight and expenses of landing in addition to the original value of the goods, but its refusal to allow profits is based upon the distinct ground that these are compensated for by the interest, which in that case exceeded the amount of the principal. In these French spoliation cases neither profits nor interest are allowed, which, I think, shows the moderation of these claims and the strictness of the Court of Claims in dealing with them as compared with all similar claims dealt with by prior commissions in similar cases in which the Government was involved.

PROCEEDINGS OF COURT OF COMMISSIONERS OF ALABAMA CLAIMS.

The proceedings of the Court of Commissioners of Alabama Claims on this subject of the allowance of freights and insurance premiums, throw great light on the questions involved.

The proceedings of this court offer a peculiarly instructive analogy to those now before use. The claims, like the French spoliation claims, were in their origin claims arising out of the wrongful acts of a foreign government. Like them, the claims had been assumed by the United States, although upon different grounds than the French spoliation claims, having been so assumed in consideration of the payment of a large lump sum by the foreign government. Like the French spoliation claims, they were referred by act of Congress to a domestic tribunal sitting under the authority of the laws of the United States, by which tribunal these claims were passed upon as international claims, depending upon rules of international law, although the judgment was to be paid by the United States.

I will take up first the questions of the allowance to the owner of the ship or cargo of the premium of insurance paid by him. The syllabus of the case in which this point was decided——

Mr. CRAWFORD. Will the Senator permit me a question right there?

Mr. LODGE. Yes.

Mr. CRAWFORD. Was not the amount of the Alabama award amply sufficient to cover all the items to which the Senator is addressing himself—that is, the lump sum?

Mr. LODGE. It was more than sufficient; but I do not think that has any bearing on the merits of the cases or the principles on which that money was awarded under the Geneva arbitration, which was provided for by the treaty of Washington. Fifteen and a half million dollars, as I recall it, was paid to the United States and was in the Treasury of the United States, and it was just as much the money of the United States as anything else in the Treasury. Then the claimants came forward with their claims, which, of course, were against that fund, but the rules on which those claims were decided are precisely the same, it seems to me, as those relating to any other claims. The fact that the United States had money especially paid to it by a foreign government to meet the claims does not seem to me to touch the case. In the case of the French spoliation claims the United States received in consideration of assuming the payment of the French spoliation claims indemnity, or they were relieved from the payment of the claims against them. They took up these claims because the claims of their citizens were used as a set-off to the claims of the citizens of France.

As I was saying, the syllabus of the case in which this point was decided, that of Hubbell against United States, contained in Moore's International Arbitrations, an official work published by authority of the United States at the Government Printing Office, volume 4, page 4242, is as follows:

The measure of damage for goods destroyed by the Confederate cruisers is the value of the goods at the place and time of shipment, with charges and marine insurance actually paid, with interest on the aggregate so produced from the time of shipment till the date of destruction, at 6 per cent.

In support of this ruling the court said (pp. 4255, 4256):

From the earliest period in our judicial history actions have been brought by the owners of goods against persons other than the parties to the contract of affreightment, growing out of torts committed against the goods while in transit on their way from the port of lading to an intended port of discharge.

The earliest of these which reached the Supreme Court of the United States was in 1794. (Del Col v. Arnold, 3 Dall., 333.)

This was a case of a vessel wrongfully captured by the commander of the *Constellation*, an American vessel of war, and brought into the port of Philadelphia, where the captain instituted proceedings for her condemnation. Pending these proceedings the cargo was sold, and the consul of Denmark intervened in the cause, claiming the vessel and cargo as the property of a Danish subject. The cause was heard by the Supreme Court upon appeal, and Chief Justice Marshall gave the opinion of the court, wherein they fixed the standard of damages by directing in their decree "that the cause be remanded to the circuit court with directions to refer it to commissioners to ascertain the damages sustained by the claimants, * * * and that the commissioners be instructed to take the actual prime cost of the cargo and vessel, with interest thereon, including the insurance actually paid, and such expenses as were necessarily sustained in consequence of bringing the vessel into the United States, as the standard by which damages ought to be measured."

A large sum was awarded against Capt. Murray in pursuance of this decree, which he was obliged to pay, and which was afterwards reimbursed to him by act of Congress from the Treasury of the United States. (Act Jan. 31, 1805.)

The rule of damages thus established has been followed from that day to the present through a series of decisions entirely unbroken and unchanged. (*The Charming Betsey*, 2 Cr., 64; Maley v. Shattuck, 3 Cr., 458 (1806); the schooner *Lively* and cargo, 1 Gallison, 315 (1812); the *Anna Maria*, 2 Wheat., 327 (1817); the *Amiable Nancy*, 3 Wheat., 546 (1818); *L'Amistad de Rues*, 5 Wheat., 385 (1820).)

The same rule was applied in the case of an unlawful and unjustifiable seizure of a vessel by the officers of the revenue in 1824. (The *Apollon*, 9 Wheat., 362.)

These were cases, of course, against our own Government.

From this statement it will be observed that the Alabama Claims Tribunal in every case allowed a premium of insurance in addition to the original prime cost of the cargo and vessel.

The rule as to freight is stated in an opinion of the court which is peculiarly instructive in view of the fact that the act constituting the Court of Commissioners of Alabama Claims prohibited it from allowing "unearned freight" as well as "gross freights."

Mr. Hackett, in his able work entitled "The Geneva Award Acts" (p. 70), thus quotes this opinion, the reasoning of which he terms "eminently satisfactory":

What are "unearned freights," as employed in the act? What do these terms, so unusual in the language of judges, shippers, carriers, and underwriters, require us to exclude? By forbidding the allowance of unearned freights it was certainly not intended to allow only freights fully earned. Freight is fully earned, in the judicial as well as popular sense, when the vessel has reached her port of destination and the cargo has been delivered; a place in which she would not be in much danger of destruction at the hands of an insurgent cruiser. If so destroyed, the question of freight could not have arisen at all, for her charterers would then have been her debtors, and the value of the vessel only would have been lost to her owners. It is impossible to suppose that Congress could have put so frivolous a thing into a serious statute. It is just as clear that freights wholly unearned could not have been intended; that is, where no expenses had been incurred, no stores supplied, no cargo taken on board, nothing done by shipper or owner toward the commencement of a voyage. Here, again, the vessel would have been found in her dock and out of the reach of the losses of which the statute treats. Even if she were not, her case is effectually provided for by forbidding any allowance for prospective freights. The provision respecting "unearned freights" was evidently intended to embrace something different from that of the inhibition of prospective gains, and to have some practical effect on the distribution of the money in hand. Let it observed, then, that between these extremes—of freight wholly earned and freight wholly unearned—there is an ample territory in which judicial investigation has gone on from the dawn of commerce to the present hour, and the results are found along the whole track of the commercial law. A ship is made ready for sea, a charter party more or less formal is executed, her cargo is shipped, and she starts on her voyage. She has not then earned her freight, and on the shipper or charterer she has no legal claim until after the lapse of many months and the endurance of many perils. But her owner has spent time and labor in fitting her out, has supplied the necessary stores, advanced the wages of the crew, and subjected her to the largest risk to which property is ever subjected or paid to others the required compensation for assuming such risk. Can it be maintained that her freight is unearned in the large and general sense in which this term is used in the statute—unearned, without qualification—wholly unearned? Can it be denied that some part of it has been earned? Not as against the shipper, if he has done nothing to change the contract, but even as against him if he has interrupted the voyage, and certainly as against everyone who willfully or carelessly stops her progress. Here the decisions, European and American, have a uniformity scarcely to be met with in any other department of the law. (Rep., 84.)

This shows that freight was always allowed by the Court of Commissioners of Alabama Claims on precisely the same principles as were adopted by the Court of Claims in these very cases involving French spoliations, and that the same is true in regard to premiums of insurance.

But the Alabama claims were not the only claims for seizure of ships that arose out of the Civil War. In addition to our grievances against Great Britain, her citizens had theirs against us. A large number of British vessels with their cargoes were seized by vessels of the United States Navy during the Civil War on the charge either of attempting to break the blockade of the southern coast or of carrying contraband to the Confederates.

These vessels were libeled before our admiralty courts. Some of them were condemned; others released without any damages for detention or loss of freight. In all such cases the British owners preferred claims before the Mixed Commission appointed under the treaty of 1871 for the value of the vessels and cargoes with all incidental damages where they were condemned and taken away or where the vessel and cargo were restored for incidental damages.

In the case of the *Sir William Peel* (5 Wall., 517), a ship and cargo were stopped on their way to Matamoros, Mexico, at the mouth of the Rio Grande and libeled as prize of war on the charges both of attempting to break the blockade and of carrying contraband. The Supreme Court of the United States held that neither charge was established and ordered the restitution of the vessel and cargo, although without costs to either party on the ground that there was some probable cause justifying the seizure.

If the theory which seems to underlie the analysis of these findings made by the Committee on Claims is sound—that the mere value of the vessel and cargo represents the "actual property loss" (see report, p. 416)—the case should have ended there, and they would have become

The PRESIDENT pro tempore. On the call of the roll of the Senate 62 Senators have responded to their names. A quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last session of the Senate sitting as a Court of Impeachment.

The Secretary read the Journal of the proceedings of Monday, January 6, 1913.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved. The managers on the part of the House will proceed with their examination of the witness.

TESTIMONY OF ROBERT W. ARCHBALD—CONTINUED.

Cross-examination:

Q. (By Mr. Manager STERLING.) Judge Archbald, I think you stated that the first connection you had with the Katydid culm dump was when Mr. Williams came to see you on the 31st day of March, 1911?—A. I did not fix that date. I said that the matter was brought to my attention first by Mr. Williams.

Q. It was on that date, was it not?—A. That it was first brought to my attention?

Q. Yes.—A. No.

Q. When was it first brought to your attention?—A. I could not fix the date, but it was some little time prior to that.

Q. Was it not the day that you wrote a letter to Mr. May inquiring if it was for sale and the price of it?—A. Not at all.

Q. When did you write that letter?—A. I wrote it the day it is dated.

Q. When was that, with reference to the first time that Mr. Williams talked to you about this dump?—A. The exact length of time I can not give, but I should say it may have been two or three weeks after his first speaking of it.

Q. Your first connection with it, then, was some time in March, 1911?—A. I should think so, although I would not be positive about it. It may have been as early as February.

Q. I wish you would state now the substance of the conversation you had with Mr. Williams when he first came to see you.—A. I have had so many conversations with Mr. Williams on this subject that it would be very difficult for me to state what occurred the first time he mentioned it, but I will try to give it the best I can.

My remembrance is he said the Katydid culm dump could be obtained and was for sale, and that some money could be made out of it, and that he spoke of the fact that Mr. Robertson laid claim to it, and that an option could be obtained from Mr. Robertson, and that if an option could also be obtained for the interests of the Hillside Coal & Iron Co. then the matter would be in shape for disposition.

Q. What did you say in reply to that?—A. I do not think at first I said very much in regard to it. I have heard a good many things and statements by Mr. Williams——

Q. Well, Judge, just confine yourself to answering my question.—A. I could not tell you what I said in regard to it.

Q. You say now you do not know what reply you made to Mr. Williams?—A. No; I do not.

Q. Have you stated all that Mr. Williams said?—A. All that I remember as to that first or initial conversation.

Q. What was the purpose of Mr. Williams in coming to you with reference to the matter?—A. I could not tell you his mental purpose.

Q. What did he say was the reason he came to you?—A. He did not say why he came to me, that I remember.

Q. From what he said, what did you understand was his purpose in coming to you?—A. I should say that his idea was to have me assist him in carrying out a transaction of that kind—a purchase of the double interests in the Katydid culm dump and subsequently to dispose of the culm dump at a profit.

Q. In what way did he expect you to assist him?—A. I do not know.

Q. Did you assist him?—A. I did.

Q. In what way did he ask you to assist him; what did he ask you to do?—A. Well, your last question does refresh my memory. Either at that time or at a later time, before that letter was written, he told me that he had secured a verbal option from Mr. Robertson with regard to the interest he had in the matter, and that it only remained to secure an option on the interest of the Hillside Coal & Iron Co., and then it would be complete, and he wanted me to see whether that could be obtained from Capt. May.

Q. Then you do know that his purpose was to get you to intercede with the coal company and the railroad company for their interest in this property?—A. I would not adopt your words.

Q. State it in your own words, Judge.—A. He desired me to see whether an option could be obtained upon the interest of the Hillside Coal & Iron Co. in that dump. He further stated that Capt. May was under obligations to him, and he thought that Capt. May would look favorably upon it. My remembrance—it is somewhat indistinct, but still I have a faint remembrance—is that the first suggestion on his part was a letter of introduction to Capt. May.

Q. Did he say that he had been to Capt. May?—A. He did not.

Q. You knew that he had not been to Capt. May, did you not?—A. Knew that he had or had not?

Q. Yes.—A. I do not know whether he had or had not, but I think he had not.

Q. What reply did you make to him when he told you that he would like a letter of introduction to Capt. May?—A. I can not give exactly the words with regard to it.

Q. Give the substance of what you said.—A. My impression is that prior to the letter which I did eventually give him I had a conversation over the telephone with Capt. May about the matter, asking whether it was possible that the interest of the Hillside Coal & Iron Co. could be obtained.

Q. You did not give him any letter of introduction?—A. No, sir; I did not.

Q. What reason did you give Mr. Williams for not giving him merely a letter of introduction?—A. I do not think I gave him any reason, and I am not sure that that was the case; but I just have a faint remembrance on that point. When the letter which is now in evidence here was produced before the Judiciary Committee I expected the form of it would be a letter of introduction. I was very much surprised when I found it was couched in the terms in which is was couched.

Q. That is, you thought so up to the present time, until you saw it recently?—A. Not up to the present time; no.

Q. Well, up to the time of the investigation?—A. Up to the time of the hearing last May before the Judiciary Committee.

Q. The letter you refer to is the one dated March 31, in which you simply inquire of Capt. May if their interest in the Katydid dump can be purchased, and at what price. That is the letter you refer to?—A. I refer to the letter of March 31, which is not quite couched in the way you have stated.

Q. When you wrote that letter you understood you were a partner in the enterprise, did you not?—A. I understood not that I was a partner, but that I was participating in the matter.

Q. And that you were to share in the profits?—A. I assumed that I would share in the profits.

Q. When did you and Mr. Williams come to that agreement?—A. There was never any definite statement or any definite agreement in regard to it.

Q. Is it not true, Judge, that you declined to give him a letter of introduction——A. I do not remember that I did.

Q. Wait until I finish my question. [Continuing.] You declined to give him a letter of introduction until such time as he had suggested to you that he would share the profits with you?—A. Absolutely not——

Q. Now, wait. And, then, afterwards you wrote this letter inquiring about the possibility of buying it?—A. There is not a word of truth, if you will permit me, in that suggestion.

Q. How did it come that you declined Mr. Williams's request for a letter of introduction——A. I do not say that I declined his request——

Q. Let me finish my question. That you declined to give him that letter, but, on the other hand, wrote a letter over your own name inquiring if they would sell the dump and put a price on it?—A. I do not say that I ever declined to give him a letter of introduction. I do not remember that I ever did decline.

Q. But when you wrote that letter you understood you were to share in the profits?—A. I certainly did.

Q. When did you come to that understanding?—A. Simply by reason of the conversation or the conversations I had with Mr. Williams, because he stated that if these conflicting interests were obtained the dump could probably be sold at a profit, and he mentioned several concerns that he thought would be likely to be interested in purchasing. That was one of the first things I asked him about.

Q. How did he say that; did he say "We can sell it at a profit"?—A. I do not remember.

Q. Or did he say, "If you will assist me I will share the profits with you"?—A. He never said anything of the kind.

Q. But you inferred from all the talks you had that he proposed to give you a part of the profits?—A. I did.

Q. And when you came to that conclusion or understanding with Mr. Williams, then you wrote this letter inquiring if they would sell it and the price of it?—A. No; that is not so.

Q. Well, you did not write the letter until you had come to that conclusion, did you? You knew at that time that you were to share in the profits?—A. Yes; I assume that I knew at that time that I was to share in the profits.

Q. And you gathered from Mr. Williams's conversation that what he wanted you to do was to intercede with Mr. May, the superintendent of the Hillside Co., for their interest in this dump?—A. No, sir.

Q. Well, what else did he ask you to do?—A. There was no question of intercession or interceding.

Q. What did he call it?—A. He did not use that word.

Q. What did he call it, Judge?—A. I can not give you the exact word. It was simply that an effort was to be made to secure the interest of the Hillside Coal & Iron Co., an option on that——

Q. Why do you object to the word "interceding"?—A. Because it carries a meaning that I do not think is in the case.

Q. Do you say, Judge, that what you did was not simply interceding with this company to get this dump?—A. It certainly was not.

Q. When you telephoned Capt. May what did he say to you?—A. That is rather indefinite in my mind.

Q. What did you say to him?—A. I will give you my best impression about it: I asked him whether the company had an interest in the Katydid culm dump and whether it was for disposition, and my remembrance of his answer is that the situation there was somewhat peculiar and he could hardly say whether they would dispose of it or not. And I think in that connection, although I would not be sure whether that occurred before the writing of the letter or whether it occurred afterwards, he further said, either at one time or the other, that Mr. Richardson was to be in Scranton and that he would bring the matter up to him.

Q. He asked you to write the letter, did he not?—A. Capt. May ask me to write the letter?

Q. Yes; he asked you to write the letter, did he not?—A. No; I do not remember that.

Q. He did not?—A. I do not remember——

Q. Before this had occurred, however, you had inquired of Mr. Williams if he thought he could sell the dump?—A. Yes, sir; I had.

Q. And he thought that Mr. Boland could find a purchaser?—A. He spoke of Mr. Boland possibly finding a purchaser; yes.

Q. Had you seen the dump before that time?—A. I never saw the dump until the last of August, 1912.

Q. You did not go to see it until——A. No, sir.

Q. Why did you not go to see it before you undertook to buy it, Judge?—A. I do not know. I was busy in other matters. I simply did not go. I thought I knew where it was. I found afterwards when I came to see it actually that I was mistaken.

Q. If you had seen it could you have formed some estimate of its value?—A. I do not believe I could.

Q. You were not experienced in coal dumps?—A. I certainly am not; no, sir.

Q. You would not know how to go about it to make an estimate of the coal in a dump?—A. I would not.

Q. So you simply took Mr. Williams's word for that?—A. I did; that is, in part.

Q. After you had written to Capt. May and he had failed to answer your letter for some time you called him up by telephone?—A. Well, I say I can not tell you about that. After I wrote that letter my remembrance is that I saw Capt. May once or twice. As I testified yesterday, I not infrequently met him on the street, and I spoke about the matter to him. I think also very possibly I called him up once by telephone and asked about it.

Q. About how many times did you talk with him between the time you wrote the letter and the time you went to New York?—A. Oh, I should say three or four times.

Q. And he invariably told you that he did not know about the matter yet; that he did not know whether they would sell it or not, and also suggested to you that it had not been the practice of the railroad company to sell its coal properties, did he not?—A. You put two questions in one, and I can only answer one at a time. I will answer either of them.

Q. Answer them in succession.—A. I will have to ask to have the question repeated, the first and last half.

The Reporter read the question.

The WITNESS. He said nothing whatever in regard to the practice of the company about selling their culm dumps, and, on the contrary, I knew somewhat differently. He did say whenever I spoke to him about it, as I remember, that the matter had not yet been decided.

Q. Do you remember when Mr. Williams came to your office and told you that Capt. May had seen Mr. Richardson and that Mr. Richardson had advised against selling the dump?—A. Mr. Williams never told me that.

Q. Did he ever tell you that Capt. May had told him that he had seen Mr. Richardson?—A. He never did.

Q. Did he tell you that Mr. May would not talk to him about it?—A. He never did.

Q. What did he tell you about what had occurred, when he had been to see Capt. May?—A. He went to see Capt. May, as I understand, only once. That was when he presented that letter. Capt. May at first wanted to ask him a larger price than he, Williams, thought it was worth, and they finally arrived at the price which was named.

Q. On the day of the letter?—A. Yes.

Q. The 31st of March?—A. Yes, sir.

Q. Do you say that they then agreed on the price of $4,500?—A. I so understood. That was the report made to me by Mr. Williams.

Q. Do you not know that in September, when he went there to get the option, they discussed——A. Oh, I beg your pardon; it was in September.

Q. On the 31st of March they did not discuss the price at all?—A. That is true.

Q. What, if anything, did Mr. Williams tell you Capt. May had said to him?—A. I can not remember about that. When he came back about that date, I can not remember what he said.

Q. Do you not remember whether he said that Capt. May said that you could have it or could not have it?—A. He certainly did not say that Capt. May said they could have it.

Q. Do you remember his coming back and seeing you in regard to it?—A. I remember his coming to tell me that he had presented that letter.

Q. While you were waiting for a reply from Capt. May, Mr. Williams came to see you quite frequently?—A. He came to see me several times, yes, while I was at my office in Scranton.

Q. And to see you about this matter?—A. Yes.

Q. To have you further urge Capt. May to answer your letter?—A. He was anxious to have the matter closed. He spoke about Mr. Robertson being anxious, too, and that Mr. Robertson was rather restive about it.

Q. And finally you told him that you were going to see Mr. Brownell?—A. I finally—I think I said that; yes.

Q. And you told him you would go to New York and see Mr. Brownell?—A. I told him I would see Mr. Brownell while I was in New York on other business.

Q. I think you said yesterday that you did not remember any conversation with Mr. Williams at that time about the Lighterage case?—A. I do not remember ever having spoken of the Lighterage case to Mr. Williams.

Q. You did have the briefs and the petitions——A. Well, I had the record.

Q. And the records in cases 38 and 39 on your desk in your office in Scranton in the month of June, did you not?—A. I think I did; but I had the briefs and the record tied up and in separate packages by themselves either upon my desk or upon my mantel where I kept——

Q. Tied up in what way?—A. I think tied up in red tape.

Q. Did they have a wrapper around them?—A. No.

Q. They were lying there on your desk where anyone in your office could see them?—A. Either upon my desk or on my mantel.

Q. There was not anything on any printed matter connected with those cases in which the word "lighterage" appeared?—A. No.

Q. Do you know how Mr. Williams learned that you were considering the Lighterage case if you did not tell him?—A. I do not know; I could make a guess——

Q. Wait, now. If you did not tell him, do you know how he learned you were considering the Lighterage case?—A. I could only guess.

Q. You will not say that you did not talk with him about the Lighterage case?—A. I have no remembrance about talking with him. I think I would remember it if I had talked with him.

Q. Do you remember his asking you what "lighterage" meant——A. I do not.

Q. And that you explained to him that it related to tugboats at New York.—A. I do not remember anything of the kind.

Q. You did go to New York to see Mr. Brownell?—A. I saw Mr. Brownell when I was in New York.

Q. That was on the 4th of August?—A. It was.

Q. You said yesterday that you said to Mr. Brownell, or gave as your reason for coming to see him, that you wanted to talk to him about the title to the Katydid culm dump.—A. Not necessarily that.

Q. What did you say?—A. I told him I understood that the question of the title or the conflict of title between Robertson & Law or Mr. Robertson and the Hillside Coal & Iron Co. had not only been passed upon by their local attorneys, Judge Willard, of Willard, Warren & Knapp, but also had been referred to him as the counsel of the company in New York.

Q. What else did you say to him about it?—A. I told him that I was seeking to get both those options, and that a tentative arrangement had been made with Mr. Robertson by which he had agreed to sell for a certain figure, and if the title of the Hillside Coal & Iron Co. could be obtained that that would complete the title, and the matter could be disposed of, and there would be no question as to a conflict or diversity as to whether it was owned by all or who owned it.

Q. Were you concerned in getting the controversy disposed of that might arise between Robertson & Law and the Hillside Coal & Iron Co. or were you interested in getting the title in yourself?—A. I was not concerned in settling the controversy between Robertson & Law and the Hillside Coal & Iron Co. I was concerned in trying to buy the dump.

Q. That is what you went there for, is it not?—A. It certainly is.

Q. And you told Mr. Brownell that you wanted to buy it?—A. I do not remember that I said so in that way.

Q. The conversation you had with him about the title was merely incidental, was it not, to your main purpose?—A. It was introductory.

Q. To your purpose?—A. Yes.

Q. And he referred you to Mr. Richardson?—A. He told me that Mr. Richardson was the person to see.

Mr. CULBERSON. Mr. President, I wish to ask a question.

The PRESIDENT pro tempore. The Senator from Texas will send it to the desk.

Mr. CULBERSON. There are two questions.

The PRESIDENT pro tempore. The Senator from Texas sends to the desk two questions to be propounded to the witness. They will be propounded one at a time in the order of their number.

The Secretary read as follows:

Who, as between you and Williams, introduced the subject of the Lighterage case?

The WITNESS. I do not remember that I ever talked with Mr. Williams about the Lighterage case. I have no memory that I ever did.

The PRESIDENT pro tempore. The Secretary will read the second question.

The Secretary read as follows:

State fully the conversation on this subject.

The WITNESS. I can not state the conversation because I do not remember any.

The PRESIDENT pro tempore. The manager will proceed.

Q. (By Mr. Manager STERLING.) After you had talked with Mr. Richardson, which was the 4th of August, you met Mr. May on the streets of Scranton?—A. About three weeks later.

Q. That was the 29th of August?—A. I have not the means by me to fix that date exactly.

Q. He told you to tell Mr. Williams to come around and he would give him the option?—A. That in substance.

Q. Do you know why he told you to have Mr. Williams come around?—A. I do not know why he said it in that way.

Q. Did you suggest to him you were the one who wanted the option?—A. I did not in that conversation.

Q. Do you know why the letter giving the option was addressed only to Williams and not to you and Williams?—A. I do not.

Q. He brought you the option when he received it, did he not?—A. He brought back the option after he had obtained it from Capt. May in the form in which it appears.

Q. When you got that you considered that you and Mr. Williams had an option on the entire title of this dump, excepting the Everhart and Brooke Land Co.'s interests, did you?—A. I understood that the paper that Capt. May had given and the subsequent paper that was secured from Mr. Robertson practically controlled the title of the dump.

Q. Up to the time you got the option of the Hillside Co. you have related all you did in connection with the matter——A. All——

Q. Wait. Let me finish. That is, your conversation and your letters to Mr. May and your visit to Brownell and Richardson, the officials of the Erie Railroad Co., in New York? That is all you had done in connection with the matter up to that time?—A. That is all that I remember. Of course, you did not ask me with regard to what happened with Mr. Richardson in New York.

Q. No.

Mr. CULBERSON. Mr. President, I propound a question to the witness.

The PRESIDENT pro tempore. The Senator from Texas sends to the desk a question which he desires propounded to the witness, and it will be read to him by the Secretary.

The Secretary read as follows:

Why did you say awhile ago that you knew how Williams came to think of the Lighterage case? State fully.

The WITNESS. I do not think that I have said that I knew how Mr. Williams came to know of the Lighterage case. I said I might make a guess.

Mr. CULBERSON. That is what I want, Mr. President.

The WITNESS. I am perfectly willing to make the guess, if the Chair says that I can.

The PRESIDENT pro tempore. The Chair hears no objection.

Q. (By Mr. Manager STERLING.) Make a guess, Judge. Go on.—A. In one of two ways. He either get that information from Mr. Boland, which seems to me most likely, or he may have heard me speaking of the Lighterage case to others in my office, not to him.

Mr. CULBERSON. I should like to have that developed.

Mr. Manager STERLING. I will do so, Senator. [To the witness:] Who had you talked to in your office about the Lighterage case in the presence of Williams?—A. I can not tell you.

Q. Do you recall any occasion when you talked about the Lighterage case to anyone in your office, regardless of whether or not Williams was present?—A. I do not recall distinctly talking to anyone about the Lighterage case, but the Lighterage case was made a subject of considerable newspaper comment. It was quite an interesting case. It was one of the first cases that had been argued before the Commerce Court and one of the first cases that we had tentatively decided. It involved nice questions. My remembrance is that I did state to some lawyers who were present in my office at one time or another the points that were involved in that case.

Q. Can you name any of the lawyers you talked with about it?—A. I can not.

Q. So, at the present time, you would not say that you did talk to anybody in the presence of Williams about the Lighterage case?—A. I can not remember that I did.

Q. Now, how did William P. Boland know about the Lighterage case?—A. I can not tell you.

Q. Do you know whether he knew anything about the Lighterage case or not?—A. I could not know, with one exception.

Q. Well, what is it?—A. In the notes of Miss Mary Boland, which she took, there is a mention, I believe along in September, of the Lighterage case.

Mr. WORKS. Mr. President, I should like to put a question.

The PRESIDENT pro tempore. The Senator from California sends to the desk a question which he desires propounded to the witness, and it will be read to him by the Secretary.

The Secretary read as follows:

Did it occur to your own mind at any time during the pendency of these negotiations that your official position might have weight in inducing May or other officers of the company to come to satisfactory terms?

The WITNESS. I had no idea of that, and I would like to explain, if I may. When dealing with Capt. May, so far as I was dealing with him, I was dealing with a man who had known me for a great number of years, and whom I had known. I knew him so well that I knew my position would have no influence upon the matter. I presented the matter to him simply as a business proposition and expected him to treat it in that way, and only in that way. I knew that the matter was finally to be disposed of by Capt. May.

Mr. HITCHCOCK. Mr. President, I send to the desk a question to be asked.

The PRESIDENT pro tempore. The Senator from Nebraska sends to the desk a question to be propounded to the witness, which will be read to him by the Secretary.

The Secretary read as follows:

What was the reason for thinking that you would be more successful than Williams in inducing the company to give an option on the Katydid dump?

The WITNESS. I think my position in the community is a little different from that of Mr. Williams, and that I would be more likely to secure it than he could. That is entirely distinct from my judicial position or my position as a judge of the Commerce Court at that time.

Q. (By Mr. STERLING.) Do you know whether Mr. Williams——

Mr. CULBERSON. May I ask another question?

The PRESIDENT pro tempore. The Senator from Texas will send it to the desk. [After a pause.] The Senator from Texas sends to the desk two questions, which will be propounded in the order in which they are numbered.

The Secretary read as follows:

When Williams was in your office, was the docket of the court in your presence?

The WITNESS. There was no docket, if I may so say. There was what I have here—what I would call a calendar. It is among my papers there, and I would be very glad to produce it.

Mr. WORTHINGTON. It was marked and put in evidence yesterday.

Mr. MARTIN. It was handed to the Secretary yesterday.

The WITNESS. It is a green-covered book of the character of the one I held in my hand. That is the only docket. It is called a docket, but I should call it an argument list, using the phraseology we are accustomed to in Pennsylvania, or a calendar. That was prepared for the court, and as we met in October it was in my hands probably some time about the middle of September; and on that list——

Mr. CULBERSON. Let the second question be read.

The PRESIDENT pro tempore. The second question sent to the desk by the Senator from Texas will be read by the Secretary.

The Secretary read as follows:

State fully the cases in the docket and if the Lighterage case was shown by it.

The WITNESS. On that document, or argument list, on page 12 and No. 38, appears the Baltimore & Ohio Railroad Co., petitioners, the Brooklyn Eastern District Terminal, John Arbuckle, and William A. Jamison, intervening petitioners, against the United States, as respondent, by the Interstate Commerce Commission, Federal Sugar Refining Co., intervening respondents. That is the so-called Lighterage case, spoken of sometimes as the Sugar Refinery case. On the opposite page to that there appears this, after giving the date of filing in the Commerce Court:

To set aside an order of Interstate Commerce Commission affecting lighterage charges on sugar in and near New York Harbor.

That appears on that, but I venture to say that it is in rather an obscure position, and a person would have to know where he was hunting and what he was looking for to find it.

Mr. CULBERSON. Unless it be shown to him.

The WITNESS. Yes, sir; unless it be shown to him.

Q. (By Mr. Manager STERLING.) Now, that docket did not come to your table until the 15th of September?—A. I do not know just what time in September.

Q. You know now, do you not, that Williams knew something about the Lighterage case before that?—A. I do not know that he did.

Q. Do you not know that the notes taken by Mary Boland on the 5th day of September, 10 days before you got that, gave the substance of a conversation which Williams had with Boland, where he told you about the Lighterage case?—A. I do not know the date of Mary Boland's notes. I do not know the date when that docket was in my hands in September.

Q. You say about September 15.—A. I do not.

Mr. WORTHINGTON. I certainly think the manager does not want to mislead anybody. Those notes are in evidence and the dates appear, the 18th and the 28th of September. They are in evidence.

Mr. Manager STERLING. I should like to suggest to counsel that he will not take that for granted. It is not my purpose to mislead anybody.

Mr. WORTHINGTON. I so stated.

Mr. Manager STERLING. I object now to counsel interfering in this examination, because he can correct any of the mistakes I make when I am through. [To the witness:] You think perhaps Williams got his idea about the Lighterage case from Boland?—A. I say that is one of the guesses which I would make with regard to it.

Q. Do you base it on the fact that there is something in Miss Boland's notes about the Lighterage case?—A. In part; yes.

Q. The notes purport to be a statement made by Williams to Boland and not by Boland to Williams about the Lighterage case, do they not?—A. I will not say what those notes purport to state.

Q. So if the notes indicate anything it is that Williams gave information to Boland instead of Boland giving information to Williams?—A. I pass no judgment on what the notes say.

Q. Assuming that that is the fact——

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio desire to propound a question?

Mr. POMERENE. I desire to propound a question.

The PRESIDENT pro tempore. The manager will please suspend for a moment. The Senator from Ohio presents the following question, which will be propounded to the witness by the Secretary.

The Secretary read as follows:

If the fact that the difference in your and Williams's position in the community would give you more influence than Williams had in conducting negotiations with May and his corporation associates, did it not also occur to you that your judicial position would also help to influence them in that transaction?

The WITNESS. I should answer that no. I had no idea that my official position would enter into the question at all, by reason of what I have stated.

The PRESIDENT pro tempore. The manager will proceed.

Q. (By Mr. Manager STERLING.) Williams was in your office two or three times a week from the 31st of March down during that summer, was he not?—A. I would not fix the number of times a week.

Q. How often?—A. He might have been there once a week.

Q. And sometimes oftener?—A. He might have; yes.

Q. Do you understand that May knew that you had a financial interest in this transaction?—A. I assumed that he did. That I had a financial interest in it?

Q. Yes, sir.—A. I assumed that he did.

Q. Did you invest any money in the enterprise?—A. I did not.

Q. Did you expect to, at any time?—A. I did not think it would be necessary.

Q. Your idea simply was to get an option and then sell it at a profit?—A. That is a very familiar way of dealing with matters up there.

Q. I am not asking about the custom.—A. That was my idea.

Q. So all you did was to intercede with May, Brownell, and Richardson for this dump?—A. I am not going to adopt that word.

Q. Do you say that you did something else?—A. I did not intercede with anybody.

Q. Oh, well, what word would satisfy you, Judge?—A. I will not suggest.

Q. Did you do anything then except writing letters and telephoning and making personal visits to these three officials of the company that owned this dump? Did you do anything else?—A. I think not. That is, I do not remember that I did, except when it came to the sale of the property, or the attempted sale of the property.

Q. When you sold it to Conn what did you do?—A. We had an agreement that I thought was going to be complete.

Q. And that failed by reason of the fact that Conn's attorneys would not accept the title?—A. They felt as——

Q. Just answer my question?—A. I can not.

Q. Well, did it fail by reason of the fact that they would not accept the title?—A. Yes; you may put it that way.

Q. Did they suggest to you anything new about the title, when you had the conference with them, that you had not known before?—A. The matter came out when we met in Judge Knapp's office—Judge Knapp, of Scranton, I am speaking of—the attorney for the Hillside Coal & Iron Co. I found that all that the Hillside Coal & Iron Co. would do would be simply to convey their interest, and I anticipated that they were going to sell not simply that but whatever right and title they had by reason of their operation of the Consolidated Breaker, and by virtue of the fact that they were joint owners or tenants in common in regard to that.

Q. At that time had you prepared the option for the sale to Conn?—A. No.

Q. When did you prepare that?—A. When we gathered at Judge Knapp's office?

Q. Yes.—A. Yes; I think I had.

Q. You had already prepared it and submitted it to Conn?—A. Yes; and Mr. Conn, I think——

Q. Did the contract which you prepared for Conn purport to warrant the title?—A. It did not.

Q. You were not intending to convey to Conn anything except what you got from the Hillside Co. and Robertson in that contract, were you?—A. I contemplated making a valid sale.

Q. Just answer my question.—A. I can not.

Q. Was the contract which you prepared for Conn, selling him this dump, of such a character as to warrant the title to him?—A. Yes; it was.

Q. All of the title?—A. Yes.

Q. Did it have any provisions in it about royalty to the Everharts?—A. It did.

Q. And the Brooke Land Co.?—A. The Everhart interest was practically included in that by general designation.

Q. The contract which you prepared for Conn covered all those interests, did it not?—A. I would not say that, because the contract it not before me. It is in writing.

Q. It covered it just as the option which May made to Williams covered it?—A. I can not tell you; I have not the contract before me.

Q. You remember that May provided in the option that it was subject to the royalty interests of these people?—A. He did not——

Q. Do you remember whether it said anything about that?—A. It said on all sizes above pea there would have to be royalty.

Q. That is what they had been paying on?—A. I do not know about that.

Q. And the contract which you prepared for Conn had the same provision?—A. It followed that same provision.

Q. So you were conveying to Conn just what you were getting from Mr. May, and you did not intend to convey anything else, did you?—A. I did not have anything else to convey, but I had a different idea of what I would be able to convey or what Mr. Williams and I had been able to convey after I had seen Judge Knapp.

Q. After that you went to Conn and asked for this contract, did you?—A. That was along in March.

Q. March, 1912?—A. Yes, sir.

Q. Why did you do that?—A. Because I wanted to have the matter either go on, be concluded—that is to say, brought to an end—or——

Q. Was that after Scraggs had told you about the investigation in the Department of Justice?—A. Yes; it was.

Q. It was after that?—A. Yes.

Q. You stated yesterday that you wanted to take it up because you did not want to be a party to a contract where it would get the purchaser into a lawsuit. That was one of the reasons why you took up this contract from Conn?—A. I did not think that the property was in a shape or we had the title to it that would justify us in going on and making a sale.

Q. Then why, after that, did you make the option to John Henry Jones on the 6th of April?—A. Mr. John Henry Jones never had—you are referring to Mr. Thomas Starr Jones?

Q. I think that is right. You did that, did you not?—A. I did not make an option, and I think I explained yesterday how that option came about.

Q. You dictated the option?—A. Oh, I dictated the option.

Q. And Williams signed it in your presence?—A. He did.

Q. That was on the 6th of April, after you had taken up the Conn contract, in which you had given him an option for 10 days at $25,000?—A. Yes.

Q. Why, Judge, did not the consideration of the title affect you then, just the same as it affected you with reference to the Conn title?—A. I think I explained, or endeavored to explain, that yesterday in my examination in chief. The talk with Mr. Jones leading up to that option was that he was to take care of the outstanding interest in the Everharts, and that neither Mr. Williams nor myself would be responsible about that. He spoke of doing that at first by making a deposit of a certain proportion of the option price in case of sale in a bank for the benefit of the Everharts. After some consideration I did not agree to it, and finally the option was worded in the way it is worded, and it was limited to Mr. Williams, because the option only undertook to give him such a title as Mr. Williams had by virtue of the paper which he had from Capt. May and from Mr. Robertson.

Q. You do not mean to say that he was to give $25,000 for Williams's interest?—A. Such interest as I had.

Q. So it covered your interest just as much as though you had signed it?—A. Oh, yes.

Q. You say the reason you gave that option to Jones was because he agreed to take the title and take care of the Everharts and the Brooke Land Co.?—A. Yes, sir; because there was——

Q. Wait, now. That answers the question. The contract which was prepared for Mr. May provided that he should take care of those interests in the very same way, did it not?—A. The contract speaks for itself. I will not undertake to interpret it.

Q. Do you not think that the contract which you prepared for Conn made him responsible entirely for any claim that the Everharts and the Brooke Land Co. might make or have against this property?—A. I will not undertake to interpret the contract without seeing it.

Q. You do say that there was provision in there about their interests?—A. I do not bear in mind all the provisions of that contract.

Q. You know now, without looking at the contract, that you were not undertaking to warrant against any claims they might make, do you not?—A. I do not know that.

Q. You drew the contract?—A. I did.

Q. You spoke yesterday about this Robertson contract. Was that the one that was recorded?—A. Yes; the option from John M. Robertson to Mr. Williams.

Q. You say you did not record that?—A. I did not know anything about its being recorded.

Q. I understood you to say yesterday that it was acknowledged by the grantee, acknowledged by Mr. Williams, and put on record.—A. The grantor.

Q. By the grantee it was acknowledged?—A. I understood so.

Q. I presume the purpose of putting that acknowledgment on there was to get it recorded, was it?—A. It did get it recorded. I do not know the purpose.

Q. It is the rule there, the same as everywhere else, that a paper must either be sworn to or acknowledged in order to get it on record.—A. Papers have to be duly acknowledged by the grantor in order to get on record.

Q. Do you say it is limited to the grantor?—A. It is.

Q. Do you not think an acknowledgment by some one who saw the grantor sign the affidavit would put it on record?—A. Under some circumstances an affidavit may be made and record obtained.

Q. The purpose of recording it was just simply to preserve the contract or evidence of the contract, was it not?—A. As it stood it had absolutely no effect of that kind, if you wan that opinion as a matter of law.

Mr. WORTHINGTON. Mr. President, I object to a continuation of this inquiry about why a paper was recorded. It has already appeared that it was recorded by William P. Boland, and neither Judge Archbald nor Mr. Robertson, the grantor, knew anything about the matter. The manager is inquiring why it was recorded. The witness knows nothing of having it recorded, and how could he? The managers objected to what he knew of it and his mental operation, and now they ask his mental operation of William P. Boland, which I submit is very unfair to the witness.

Mr. Manager STERLING. To save time, I will withdraw the question.

Mr. CULBERSON. I desire to ask a general question of the judge.

The PRESIDENT pro tempore. The Senator from Texas presents a question which he wishes to propound to the witness. It will be read by the Secretary.

The Secretary read as follows:

Did it ever occur to you, in asking favors of railroad corporations as to culm dumps, where they might probably have cases before the Commerce Court, that you were putting yourself, as a member of the court, under obligations to the litigants before the court?

The WITNESS. I never consciously asked any favor of a railroad, either when I was a judge of the common pleas or a district judge or a Commerce Court judge. I did not understand, in endeavoring to make this deal, that I was asking a favor. I was simply presenting a matter to them as a business proposition. I expected them to treat it in that way, and I believe they did so.

Q. (By Mr. Manager STERLING.) Capt. May told you some time after the letter of March 31 that Richardson had been there, did he not?—A. I think he did over the telephone; yes.

Q. Did he not tell you on the street that he had been there?—A. I do not think he did.

Q. What did he say was the result of their conference?—A. I do not think he reported what was the result of the conference. I am sure he did not.

Q. Had he told you before that that he would have to see Mr. Richardson in regard to it?—A. He did.

Q. And after he had seen him, did you not ask him what the result was?—A. I presume I did; but I have no remembrance about it.

Q. Did he not tell you that Mr. Richardson was not disposed to part with the dump?—A. He never did.

Q. Did he tell you that he was disposed to part with it?—A. He never did.

Q. Did he never give you any satisfaction about it?—A. He never reported of the matter finally.

Q. Did you infer that Richardson was not disposed to sell it after May had seen him and when you found that May would not come to any conclusion about it?—A. I did not know that Capt. May had seen him. I had no inference about the matter.

Q. Did you not just say that he told you that Richardson had been to Scranton and that he had seen him about it?—A. No; I did not.

Q. Did he ever tell you that he had had a conference with Richardson about it?—A. He never did.

Q. Did you ask him if he had had the conference which he said he would have with him?—A. I do not remember that I did.

Q. Now, going back to the recording of this instrument, why, Judge, would not putting that instrument on record preserve the facts in the contract and be evidence of the contract?—A. That is a legal question, and I will take pleasure in answering it. Putting any document on record is simply to convey constructive notice. It has no effect to convey constructive notice unless it is, in the first place, a recordable instrument, and, in the next place, is put in such shape by acknowledgment or otherwise to be put on record. This contract never was put in legal shape to go on record, so that it was of no effect.

Q. I agree with you, Judge, that it was not constructive notice. That is not the question. But did it not serve to preserve the evidence of the contract in case the original had been lost?—A. It absolutely did not.

Q. Why?—A. Because the only way that it could do that would be by a certificate, and a certificate from the recorder of deeds of an unrecordable document would not amount to a piece of blotting paper.

Q. Could not persons who were familiar with the contract refer to the records to see what the contract provided——A. Not where——

Q. And parties who were familiar with it testify that it was a correct copy of the original contract, and in that way would it not preserve the evidence?—A. Absolutely not, unless it was a recordable contract and was prepared for record in accordance with the law.

Q. Would it not tell the same facts whether it was on record legally or illegally?—A. It would not convey the same legal constructive notice.

Q. No; it was not a notice, and I am not talking about a notice; but the facts that it contained would be just the same on the record whether it was recorded legally or illegally, would it not?—A. You are asking me for an opinion of the law, and I will give it. I say no.

Q. Is not that simply a question of fact, Judge?—A. Absolutely not; it is a question of law.

Q. Well, we will leave that. Your name was not in the option which May gave to Williams, was it?—A. It was not.

Q. You prepared the option from Robertson & Law to Williams?—A. From Mr. Robertson to Mr. Williams.

Q. And your name was in that, was it?—A. It was only there as a witness to Mr. Robertson's name.

Q. You were not a party to it at all?—A. Not in terms; no.

Q. In the papers, now, does your name appear in any of these transactions about the Katydid dump?—A. When I supposed we were going to make a sale to the Laurel Line—to Mr. Conn.

Q. That was after you had gotten the option?—A. After the option had been secured; yes.

Q. And when you first took it up with Conn, then, for the first time, you put your name in writings?—A. That was the first time that my name appeared.

Q. And after that was abandoned, then you ceased to put your name in the writings? You did not put it in the option to Mr. Thomas Star Jones, did you?—A. I did not put it in the option to Mr. Jones for the reasons which I have given.

Q. And your name was not in the Bradley contract?—A. I never had anything to do with the Bradley contract.

Q. I am not asking you about that. Do you know whether your name was in the Bradley contract?—A. I really do not know. I never saw that contract and never heard of it.

Q. You have seen a copy of it, have you not?—A. I have not.

Q. You heard it read before the Judiciary Committee, did you not?—A. I think I did.

Q. And you remember that your name was not in it?—A. I do not remember anything about it.

Q. Judge, do you know whether or not in these transactions from the 31st day of March for a year your name appeared in the contracts except in the letter you wrote to Mr. Conn and the contract to Conn?—A. I think that is true.

Q. Do you remember hearing Mr. Conn testify before the Judiciary Committee?—A. I heard his testimony there.

Q. Do you remember that he testified there never was any written contract submitted to him?—A. I believe he did.

Q. You were present there at that time?—A. I was.

Q. And had the contract with you?—A. I do not remember whether I had the contract with me at that time. I think I did not.

Q. You knew at the time that Mr. Conn was mistaken about it, did you not?—A. I knew it when I came to look up the matter; yes.

Q. Did you not know at the time that you had prepared the contract and that he was mistaken about it?—A. I knew I had prepared the contract; yes.

Q. Did you correct him about it?—A. Correct him before the Judiciary Committee?

Q. At any time, whether there or elsewhere?—A. Not before the Judiciary Committee, certainly.

Q. You did not correct him until about the time these proceedings had commenced in the Senate, did you?—A. Oh, yes; well——

Q. Then, you sent word to him there was a contract, and he asked you to let him see it?—A. I met him one day upon the street; we talked on this point, and I told him that he was mistaken; that I had the contract, and would show it to him.

Q. That was shortly before these proceedings in the Senate?—A. No; that was in the summer after these articles had been preferred and the impeachment had started.

Q. About what time was it in the summer?—A. I should say along in August or September.

Q. Judge, your first connection with the Marian Coal Co. proposition was when Watson came to you?—A. Yes.

Q. Refreshing your recollection, had you not had a talk with Watson before Watson had been employed by the Bolands——A. I had none——

Q. In which you suggested to him that he might get that work?—A. I do not know where you got that idea, because it is unfounded in any fact.

Q. You say, then, that he came to your office one day and told you that he had been employed by the Bolands?—A. He came to see me—I could not tell exactly where—and told me that he had been employed to try to settle the Marian Coal Co. case with the Delaware, Lackawanna & Western Railroad.

Q. Was not that in your office?—A. I presume it was; I do not remember.

Q. Do you remember what was said?—A. Nothing, except in just that general way at that conversation, and the further fact that he inquired whether I was acquainted, and how well I was acquainted, with Mr. Loomis, and asked me whether I would not see Mr. Loomis and tell him that if he would call Mr. Watson in the case he was authorized to effect a settlement.

Q. Who was Mr. Loomis?—A. Mr. Loomis was a gentleman who lived in Scranton, with whom I was personally and socially acquainted, and who was at the time I speak of vice president of the D. L. & W. Railroad, having offices in New York.

Q. Had he any other position with the railroads?—A. None but vice president that I know of.

Q. And the Delaware, Lackawanna & Western Railroad Co. was the company against whom the Bolands, or the Marian Coal Co., had a suit pending in the Interstate Commerce Commission?—A. Before the Interstate Commerce Commission; yes.

Q. You knew that at that time?—A. That was stated.

Q. And also the Delaware, Lackawanna & Western had two suits pending before the Commerce Court at that time?—A. I did not know it at that conversation. I did not know, in other words, that they were interested in what has been spoken of here as the Lighterage case. I do not remember whether they were or not.

Q. Did you not say in your answer to this article that you did know the fact that they had these cases pending in your court?—A. I do not remember what I say in my answer on that subject.

Q. When was it that Watson came to you?—A. As I have said to you just now, a day or two before I saw Mr. Loomis in New York.

Q. Well, I want the time as nearly as you can give it.—A. I saw Mr. Loomis in New York on the 4th of August, 1911.

Q. Had not Loomis been before the court arguing this very case shortly before that?—A. Mr. Loomis?

Q. Mr. Brownell, I mean.—A. Mr. Brownell never appeared before the Commerce Court except in one case.

Q. What case was that?—A. That was the Sugar Refinery or Lighterage case, which was disposed of in May.

Q. When did he argue it?—A. Why, I have my book here, I think. I am not sure whether I have it.

Q. You heard the argument?—A. I did.

Q. And it was in May?—A. It was in May.

Q. The Delaware, Lackawanna & Western was a party to that suit, was it not?—A. I do not remember that they were.

Q. Was it a party to No. 38?—A. I do not remember.

Q. Do you not know that the Delaware, Lackawanna & Western was a party both to Nos. 38 and 39?—A. You ask me for my memory, and I say I do not.

Q. Do you say now that it was not?—A. I do not; the record speaks for itself.

Q. Are you familiar with the answer which you made to this charge?—A. Well, I was familiar with it at the time I made it.

Q. Do you remember that you say in that answer that you knew that that railroad company had a suit pending in your

court?—A. I do not remember what I say upon that subject in my answer.

Q. And that it had been argued in your court already before that?—A. I do not remember what I say in my answer; it is there.

Q. You told Watson you would assist?—A. I did not speak to him in that way at all. He asked me to do this simple favor, which was simply to make a way for him. I told him that I would try to see Mr. Loomis, and I did.

Q. You went to his office in New York to see him?—A. I did.

Q. Had you seen him before that?—A. I saw him when he was in Scranton many times, but I never saw him upon this matter before that time.

Q. Why did you not speak to him in Scranton about it?—A. The first time I spoke to him in Scranton was about three weeks after——

Q. Why did you not speak to him when you saw him in Scranton without going to New York?—A. Why did I not speak to him?

Q. Yes; about this matter.—A. About this matter?

Q. Yes.—A. I had no occasion to speak to him about this matter before Mr. Watson asked me.

Q. When did Mr. Watson come to you?—A. I said about a day or two before I saw Mr. Loomis in New York.

Q. And that was the 4th of August when you were in New York?—A. Yes.

Q. The same day that you saw Brownell and Richardson about the Katydid culm dump?—A. Yes.

Q. At the time Watson first spoke to you about it, do you say that Christy Boland was not present?—A. He was not.

Q. Do you say that he was not present at any time when Watson and you talked about the matter?—A. I do not remember his ever being present when Mr. Watson and I talked about the matter, and I am satisfied that I would remember it if he were, because I remember quite distinctly three or four times when Mr. Boland came there and shut the door and was very secretive in what he said.

Q. Let me refresh your recollection, Judge. When Watson was in your office talking about the settlement of this matter——A. You mean the first time?

Q. Any time. Did not Mr. Boland come in on account of a telephone call, or for any other reason, and did you not say to him then, "Now, I understand that you have employed Mr. Watson in this matter, that he is to dispose of this property and settle these suits for $100,000, and that his fee is to be $5,000"?—A. I do not remember Mr. Watson and Mr. Boland ever being together in my office. I never remember, of course, any such conversation as you suggest.

Q. When was it that Phillips came to your house?—A. I think the very last day that I was in Scranton before coming down here to attend the October session of the Commerce Court.

Q. He came to your house at your request?—A. Not at my request, as I remember, but by appointment.

Q. Well, you asked for the appointment, did you not?—A. I think, when I refresh my memory in this respect by what he himself has testified, that there was some telephone communication between him and me with regard to seeing him in the morning, which was Saturday, and he wanted to fix it in the afternoon. I told him that that was the time when I took my Saturday walk. It was then put over until evening, and he came to see me at my house.

Q. And you invited the conversation over the telephone, did you not—you called him up?—A. I do not remember whether I called him up or whether he called me up.

Q. Why would he call you up, Judge?—A. He would call me up only in case it had been suggested by Mr. Loomis or Mr. Reese or some officer of the company.

Q. Do you know whether that had happened?—A. I do not remember.

Q. Had Watson at that time seen you in regard to the matter?—A. As I say, he saw me just before I saw Mr. Loomis.

Q. Well, he came over there and you talked at some length about this matter?—A. Yes; when Mr. Phillips came there, you will remember, it was nearly two months after I had seen Mr. Loomis.

Q. It was just before you went to New York, then, when you saw Loomis?—A. You mean that I saw Mr. Phillips.

Q. Yes.—A. Oh, no; I do not see why you suggest that.

Q. I am not suggesting it; I am just asking you.—A. It certainly was not. As I say, I saw Mr. Loomis on the 4th of August, and the time that Mr. Phillips was at my house was on the 28th of September, along in the very last part of September.

Q. Had you written any letters to Loomis prior to the time Watson came over?—A. I do not recall the letters. They are in evidence, and I recall that I wrote those letters.

Q. How many letters did you write to Loomis?—A. I think I wrote two, or maybe I wrote three; I am not sure about that.

Q. Did you do that by reason of the fact that Watson came to you and asked you simply to speak to Loomis about it, so as to give him a favorable introduction?—A. No; that was by reason of what followed on that.

Q. When Phillips came to your house you talked at some length?—A. Well, Mr. Phillips did a good deal of the talking.

Q. And he told you about the situation?—A. Yes.

Q. And told you that Watson wanted $161,000 for the property?—A. No; he did not say that.

Q. What did he say?—A. As I remember, he mainly went over the troubles and difficulties that they had with the Marian Coal Co. and with Mr. W. P. Boland with regard to washing, cleaning, preparing, and shipping coal and with regard to the value of what there was left in the Marian washery and the dump.

Q. Well, you did talk about the great difference between the two parties to the settlement, did you not?—A. No; he suggested that there was a wide difference.

Q. Did he tell you what that difference was?—A. No; he only spoke about the little value that there was; so small a value, as he considered it, in the remains of the Marian washery that his company did not feel as though they could make any offer with regard to it.

Q. And you said yourself, then, to Mr. Phillips, that the parties were very far apart and it did not look hopeful, did you not?—A. No; I do not think I said that; I do not remember that I said that.

Q. Do you remember hearing Mr. Phillips testify to that?—A. No; I do not remember hearing him testify to that.

Q. Did you make any remark of that kind?—A. I would not say that I did not.

Q. You knew at that time that Watson had presented a proposition of $161,000?—A. I remembered that Mr. Watson had mentioned that amount.

Q. Did you understand that that was what he demanded of the railroad company?—A. I understood that that was the claim that he was retained to present.

Q. So you knew, then, after the talk with Mr. Phillips, what the difference between the parties was, did you not?—A. I knew that there was a wide difference; yes.

Q. When did Watson first tell you that that claim was for $161,000?—A. Well, I can not tell you whether it was the very first time—I do not think it was—I think it was at some interview which I can not specifically fix.

Q. How is that?—A. I can not specifically fix the time when he said that.

Q. It was on September 27 that Loomis wrote you that he found there was very little, if any, prospect of reaching a settlement in the case owing to the great difference of opinion as to the merits of Mr. Boland's claim. Then you answered the next day, did you not?—A. If my letters are there I did; I do not remember the date.

Q. It is dated September 28, and says:

MY DEAR MR. LOOMIS: I am very sorry to have your letter stating that you have not been able to effect a settlement with Mr. Boland. I trust, however, that the matter is still not beyond remedy. And if I thought that it would help to secure an adjustment, I would offer my direct services.

Do you remember writing that letter?—A. I wrote that letter.

Q. And that is, after you knew, after Watson had told you, that the claim was for $161,000?—A. That certainly is. It was also after Mr. Boland had seen me two or three times and importuned me to see whether something could not be done about the matter.

Q. Judge, why did you put that in your answer?—A. Why did I put what in?

Q. Why did you tell about the Bolands being to see you? Did I ask you anything about that? Did you understand my question to call for any answer about the Bolands?—A. Well, I answered it in that way.

Q. Why did you do so?—A. Because I wanted that fact brought out.

Q. Because you want to impress Senators with the idea that the Bolands were trying to impose on you, or something of that kind; was that it?—A. I do not put it in that way; I want to give them the facts.

Q. I shall insist, Judge, that you confine your answers to my questions.—A. I will try to do so.

Q. Then, after that, you wrote as follows:

MY DEAR MR. LOOMIS: I understand that there has been a suggestion that Mr. Watson meet you and possibly also Mr. Truesdale, and that Mr. Watson has written asking for an appointment. It seems to me, if I may be permitted to say so, that this is a very good idea. It will give you an opportunity to discuss the Boland claim with Mr. Watson upon a somewhat different basis than Col. Phillips could, representing the coal department.

I have little doubt but that it will appear so to you, and it may be altogether unnecessary for me to write about it. But I am sure you will not take it amiss to have me do so, and I shall hope that a settlement may yet be reached in that way. There is nothing like a personal interview to bring about such a result.

Yours, very truly, R. W. ARCHBALD.

That letter is dated October 3. That letter did bring a personal interview, did it not?—A. I understood it did.

Q. It got Truesdale and Loomis and Phillips and Reese, all officials of this company, together in Scranton to talk over the matter with Mr. Watson, did it not?—A. I do not know about that. I was not present. I was here in Washington when that letter was written.

Q. You did know that they had a conference?—A. I have heard in the course of this proceeding that there was a conference at that time.

Q. Who was Mr. Truesdale?—A. Mr. Truesdale has been here on the stand. He is president of the Delaware, Lackawanna & Western Railroad.

Q. And Mr. Loomis is vice president?—A. I think so.

Q. And Mr. Phillips is superintendent of the coal property?—A. General manager of the coal company.

Q. And what is Mr. Reese's position?—A. I think Mr. Reese is local attorney.

Q. That conference occurred on the 5th of October, did it not?—A. I do not know; I was here; I was not in Scranton.

Q. You were in Washington?—A. I was.

Q. On the 6th you got a telegram from Watson, did you not?—A. I think it was the 6th.

Q. Asking you when he could meet you in Washington, and you wired back "almost any time"?—A. Yes.

Q. Did he wire you to meet him at the Raleigh Hotel?—A. He wired that he would be at the Raleigh.

Q. And he got here on the 7th?—A. He got here on Saturday, the 7th; yes.

Q. He told you, did he not, that he had had this conference?—A. I do not remember whether he told me, but I presume very likely he did. I do not see how we could be together without his saying that.

Q. Why did he come to see you after the conference in which these railroad officials had told him that there was no object in carrying on negotiations any further?

Mr. WORTHINGTON. That is another question, Mr. President, involving what was in the mind of some one else. You can ask what he said.

Mr. Manager STERLING. I will put it in this form: What reason did Watson give you for coming to Washington to see you after the conference with the railroad officials?—A. Mr. Watson told me that the Bolands were not content unless he came down here to see me to ascertain whether anything further could be done.

Q. What did you tell him about it?—A. I told him I did not see what could be done further.

Q. You went to the Raleigh Hotel?—A. I did.

Q. And you were standing on the sidewalk in front of the hotel waiting when he came?—A. No; I was in the lobby, I think. My remembrance is that I was in the lobby.

Q. Is Watson mistaken about that?—A. I would not undertake to say whether he is mistaken about it. I am just giving you my memory.

Q. Do you remember what his testimony was?—A. I do not.

Q. It was that you were waiting outside; that he came there to see you; and that you went together to the Commerce Court building?—A. My remembrance about it is this way——

Q. Wait. Do you remember Watson's testimony to that effect?—A. I do not.

Q. Now, refreshing your recollection in that way, is not that the fact about it, Judge?—A. It is not. The fact, as I remember it, is that it was a very cold, stormy day. He came in about half past 1. I went down there and sat in the lobby of the Raleigh, and waited until he came in.

Q. Did he tell you what had been said at the conference?—A. I have not any memory about the matter.

Q. Did he tell you who was present?—A. I do not remember that he told me anything about it. I only say that I assume that he must have done so.

Q. But you have no recollection of what he said?—A. I have not.

Q. Why is it, Judge, that your recollection about that incident and about the question as to whether or not Christy Boland talked to you about the $100,000 is not clear, when it is so very clear in regard to some other things? Do you know?—A. If you will give me the philosophy of life I will tell you why people can remember some things and some things they can not.

Q. It is true, Judge, that people remember the more important incidents of a transaction rather than the trivial ones, do they not?—A. They remember more clearly where they are themselves interested in matters than where they are simply interested for others.

Q. Who owned Packer No. 3, Judge?—A. I understood that it belonged to the Girard estate in one sense, but was under lease to the Lehigh Coal Co., or covered at least by a lease which runs out this year.

Q. And the Lehigh Coal Co. is a subsidiary of the Lehigh Valley Railroad Co.?—A. I have always understood that there was a close connection between the two.

Q. What official position does Mr. Warriner hold in those corporations?—A. Mr. Warriner at that time, as I understood, was general superintendent of the coal company.

Q. And where was his place of business?—A. In Wilkes-Barre.

Q. How far is that from Scranton?—A. About 20 miles.

Q. You went to see Warriner, did you not, in behalf of Packer No. 3?—A. For the purpose of endeavoring to secure Packer No. 3.

Q. At that time you and one of the Joneses and some other gentlemen were about to organize a corporation to handle that property?—A. If we secured that lease we expected to organize a company to wash the dump.

Q. Do you remember the capital stock of the corporation?—A. I think it was to be $25,000.

Q. Was any of it to be paid in?—A. The money for that purpose was to be obtained——

Q. Just answer my question.—A. I could not tell you. We would pay it in if it was necessary.

Q. You expected to get the money from Mr. Farrell, of New York?—A. That was the arrangement.

Q. Mr. Jones had told you he could get it in that way?—A. I think I had seen Mr. Farrell myself. I know I did see him before the matter was consummated.

Q. At the time you planned this it was not the purpose of the stockholders or organizers of this company to put up any money?—A. We would not put up any money unless we had to.

Q. Well, what did Mr. Warriner tell you?—A. About leasing that property?

Q. Yes.—A. He said he thought the company would be willing to lease the property.

Q. He told you on what terms?—A. He spoke of the terms.

Q. And you went back and reported to your associates, did you not?—A. I did.

Q. And then you had a conference with Mr. Farrell, of New York?—A. I think this conference with Mr. Farrell occurred after that; yes.

Q. In which he agreed to put up all the money necessary to operate the dump?—A. To put up enough to build the washery.

Q. To put up $25,000?—A. Yes; fully that.

Q. And he was to get a certain per cent of the profits, besides his interest and his principal back?—A. He was to get a quarter of the profits, and be secured by a mortgage upon the lease and the property, the washery, whatever it was.

Q. For his principal and interest?—A. Yes; for his principal and interest, and to get back the principal and interest at so much a ton.

Q. What interest were you to have in the profits?—A. The interests were divided around. Mr. Bell and Mr. Petersen were invited in. They were associated together in other matters, and they were given a certain interest. Mr. Jones told me he was obligated to Mr. Hellbut to a certain extent and also to Mr. Howell Harris, and they were given certain interests, and after deducting those interests what was left was divided between Mr. Jones and myself.

Q. How much was that?—A. I do not know whether I can remember the different things. I think 25 or 26 per cent; that is to say, Mr. Jones and I were to get a quarter of what the company got.

Q. Was not the stock to be divided equally between you and seven or eight other gentlemen?—A. Oh, no.

Q. Anyway, you and Mr. Jones were to get a fourth or a little over a fourth?—A. Not a fourth of the profits of actually washing the dump, because a quarter of that was to go to Mr. Farrell.

Q. You were to get a fourth of the balance?—A. About a fourth of the balance; yes.

Q. Why were you to have any interest in that stock?—A. Why not?

Q. Well, why not, after you had gone to see Mr. Warriner; is that your idea?—A. I see no reason why, after organizing that company, that enterprise, I was not entitled to a share. It would be very strange if I did not have a share.

Q. Why?—A. Because I was instrumental in part in organizing the company—getting it up. It was in part my scheme and part Mr. Jones's.

Q. And instrumental in acquiring the property?—A. To a certain extent; yes.

Q. Was it not entirely due to you that you acquired this property from Mr. Warriner?—A. I do not think so.

Q. Did anybody else than you see Mr. Warriner?—A. No; I saw Mr. Warriner. But the property was not obtained alone from Mr. Warriner.

Q. Who else did it come from?—A. The main thing had to be arranged with the Girard estate.

Q. Who arranged that?—A. I endeavored to, and did in part with my nephew.

Q. And you did all that was done in reference to acquiring the property, both from Mr. Warriner, of the Lehigh Valley, and the Girard estate?—A. I did, except so far as an application was jointly made by myself and my associates to the Girard estate.

Q. And who made it?—A. I drew up that form.

Q. And all of you signed it?—A. They all signed it.

Q. So all that anybody, except yourself, did with reference to getting this property from the Lehigh Co. was simply your associates signing the application which you had drawn after you had been to see the Girard estate and after you had seen the Lehigh Valley people?—A. The application was made to the Girard estate——

Q. Answer my question.—A. I do not think I can.

Mr. Manager STERLING. Let the question be read.

The Reporter read the question.

The WITNESS. All that was done in regard to the acquisition of it directly was done by me.

Q. (By Mr. Manager STERLING.) And it was as a consideration for your services in getting this property from the Lehigh people that they gave you a one-half interest in one-fourth of the profits?—A. That is not so.

Q. Well, what other reason was there?—A. The matter was arranged between Mr. Jones and me, and it was Mr. Jones and myself that determined what interest Mr. Peterson and Mr. Bell should have and what interest should be given to Mr. Hellhut and Mr. Howell Harris.

Q. Then I will put it this way: You kept such interest as you did keep and it was conceded to you by Mr. Jones by reason of the fact that you had seen Mr. Warriner about getting the Lehigh Valley Co.'s interest?—A. That is not so either.

Q. What is your idea about it?—A. Mr. Jones and I talked, of course, about the organization of this concern, and the obtaining of the dump, and we had to make a practicable concern. We had to have somebody to operate it, like Mr. Petersen, and somebody who could assist in the organization and in the carrying on, like Mr. Bell, so we arranged with them to come into the company so that we might have a suitable organization.

Q. You gave them an interest because you would have somebody in the company who could operate it?—A. Yes.

Q. You got into it because they wanted somebody who could go to the railroad companies. Now, is not that the long and short of it?—A. No; it is not. I did not get into it. They are the ones that got in.

Q. Anyhow you did perform that part of the service?—A. I certainly did.

Q. You never did put up any money, did you?—A. The matter has never been disposed of.

Q. Why did you not finally close up that deal, Judge?—A. Because the Girard estate had never arranged for the lease, the renewal of the lease, which expires this year. They were not willing, I am informed, to make any arrangement with anyone outside until that had been determined.

Q. Let us go to the Warnke case. As I understand it, Mr. Warnke was operating a dump under a lease from some railroad company. What railroad company was that?—A. He was not operating a dump——

Q. He had been——A. (Continuing.) From any railroad, as I remember it.

Q. He had been. What dump had he been operating?—A. I can tell you only in the vagnest way, because I have never seen the property and only know what he said. I will give you what he said.

Q. Well, put it in that way, Judge. Just so I have your information on the subject.—A. I understood from him that about two years before that he had been operating under a lease. I think that lease was to a man by the name of Baer Snyder, and that he had taken an assignment from this party, and, among other things, that included underground workings and also a washery.

Q. But the lease was made by the Philadelphia & Reading Coal & Iron Co., was it not?—A. To whom?

Q. To the gentleman who assigned it to Mr. Warnke.—A. I do not know. I know that ultimately the Philadelphia & Reading Coal & Iron Co. had control of the situation.

Q. And that company is a subsidiary of the Philadelphia & Reading Railroad Co.?—A. I have always understood so.

Q. There is another company by the name of the Reading Co., which owns all the stock of both of those corporations?—A. I know nothing about that.

Q. Whom did you go to in the interest of Warnke?—A. I went to Mr. Richards.

Q. Who is Mr. Richards?—A. Mr. Richards, I think, is general manager or vice president, or something or other, of the Philadelphia & Reading Coal & Iron Co., he having charge of their operations in Schuylkill County.

Q. And you went to him because Mr. Warnke had been operating under a lease which had been made and which had been assigned to Mr. Warnke?—A. Yes.

Q. By the original lessee?—A. Yes.

Q. Where did Mr. Richards live?—A. At Pottsville, Pa.

Q. That was 80 miles from Scranton?—A. About that.

Q. And you went up there to see him after you had made an appointment with him over the phone or by letter?—A. I went primarily to Pottsville to see my nephew with regard to the leasing of Packer No. 3, and in that connection I arranged with Mr. Richards to see him upon that visit.

Q. On the day when you went to Pottsville, 80 miles from Scranton, you had two coal-dump deals on hand, had you?—A. If you want to put it that way—oh, no; I did not have any coal-dump deal with Richards.

Q. It related to Packer No. 3, did it not?—A. With Mr. Richards?

Q. No; with your nephew.—A. Yes; that. But I did not have two culm-dump deals on my hands.

Q. What was the character of the transaction with Mr. Richards? It related to a culm dump, did it not?—A. Simply to see whether he would not reconsider the decision he had made with regard to Warnke.

Q. It was with reference to a culm dump, was it not?—A. Yes.

Q. And Mr. Warnke told you that if you did not succeed in getting him to continue the lease, to see if you could get the Lincoln dump?—A. Yes.

Q. And Mr. Richards told you he would not reconsider?—A. Yes.

Q. And they had given their final answer to Warnke?—A. He brought a bunch of papers, quite a bundle of papers——

Q. Just answer my question, please.—A. Yes; you are right.

Q. Then you went home and told Mr. Warnke the result of your trip?—A. Yes.

Q. And suggested to him that you could get him a dump belonging to the Lacoe & Shiffer Co. on the Delaware & Hudson?—A. No; absolutely not. There is not a particle of fact in either of those statements.

Q. Did you not suggest that to him at any time?—A. I did not.

Q. Who did?—A. The only suggestion that was made and the only way that Warnke came in in connection with that was that Mr. John Henry Jones tried to sell that at first to the Central Brewing Co., and the Central Brewing Co. sent Warnke there to see the dump and pronounce upon it.

Q. How did he come in connection with you in regard to the matter?—A. The Central Brewing Co. would not buy it.

Q. Well, that had not anything to do with his coming to you about it. How did he come to come to you about it, or did you go to him?—A. With regard to that fill?

Q. Yes.—A. Because I had these letters and options with Mr. Berry with regard to it, and had the disposition of it practically.

Q. Can you answer the question as to how you and Warnke came to meet with reference to the gravity fill; did he come to you or did you go to him?—A. Mr. Warnke came to see me about that.

Q. How did he learn that you had it?—A. Through Mr. John Henry Jones.

Q. And that was after you had failed to get the Lincoln dump?—A. Well, I do not remember whether it was or not.

Q. What is your best recollection about that?—A. I could not tell you about that.

Q. It was not until after he found he could not get the Lincoln dump or a continuance of his lease with the Reading people——A. I would not be sure of that.

Q. That he undertook to buy the Lacoe & Shiffer dump, was it?—A. I would not be sure about that. It may be so.

Q. Anyhow, he bought the Lacoe & Shiffer dump?—A. No; he did not.

Q. Well, his company, the Premier Coal Co.—A. The company which was organized. He got Mr. Swingle and his brother-in-law, and Mr.——

Q. Judge, the Premier Coal Co. bought it?—A. The Premier Coal Co. bought the fill.

Q. And Mr. Warnke carried on the negotiations with you?—A. He did not.

Q. Did he not come to see you about it?—A. He did.

Q. What was said and done?—A. He suggested that he would like to buy that dump. He knew what the price was as stated; I think at that time Mr. Berry had offered to dispose of the dump for $6,000 cash. Mr. Warnke could not raise that amount. He had $2,000. He wanted to make an arrangement by which the $2,000 would be accepted and the balance paid by a royalty arrangement.

Q. Why did he come to you in regard to it?—A. As I say, he knew that I had the arrangement with Mr. Berry in regard to the disposition of it.

Q. Is it not true that at that time your option from Mr. Berry had expired?—A. The written option, yes; but not the verbal arrangement with him.

Q. You remember Mr. Berry testified the other day that at that time the option had expired?—A. I heard his testimony.

Q. Was not that true?—A. It is not true. I made the arrangement finally by which the parties were brought together.

Q. Yes; finally; but under your option agreement with Mr. Berry, who had the matter in charge, they were not bound to let you have it at that time?—A. That is very true.

Q. That is true?—A. Yes; that is very true.

Q. Anyhow, they bought this Lacoe-Shiffer dump?—A. Yes; the Premier Coal Co. did.

Q. And after that they gave you a note for $510; after you had been up to see Mr. Richards at Pottsville, and after you had talked with Mr. Warnke about the gravity fill, then it was they gave you this note for $510, was it not?—A. In matter of time, yes; but there was no connection at all between them.

Q. I am not asking you about that.—A. But you put that in your question, and I do not propose to answer the question that way.

Q. Well, we will see. Was it after you had been to Pottsville to see Mr. Richards, and after your transaction with Mr. Warnke in reference to the Lacoe & Shiffer dump, called the old gravity fill, that they gave you this note?—A. In the matter of time, yes.

Q. That is all the question relates to—the matter of time.—A. I do not so understand the question.

Q. And you went to the office to get the note?—A. The note was sent to me at my office.

Q. Why did you go to get it?—A. The note, when first drawn, was not correctly drawn. It was drawn to my order instead of the order of the parties that were to indorse it.

Q. You mean the note was made payable to you or order.—A. It was made payable to my order. It did not have their indorsement.

Q. They signed it, did they not?—A. They signed it after my indorsement. That would not make bankable paper—not with us.

Q. So you objected to that note because it was made payable to your order?—A. Yes; because it was not made properly.

Q. Legally it was a good note?—A. Legally it was a good note; yes; but it made me the first indorser instead of them being ahead of me on the note.

Q. So you had it made out to the company and signed by them?—A. I had it made out to these individuals of the company who were to be the indorsers.

Q. And signed by them?—A. And they indorsed it.

Q. Then you indorsed it and got the money?—A. I negotiated it at my bank.

Q. How many times did you go to their office to get this?—A. Once.

Q. Did you not go twice?—A. I do not think I did.

Q. Did you not ask for the money the first time?—A. No; I had a talk over the telephone and it was arranged that they would give a note.

Q. Do you remember the testimony of Mr. Kiser?—A. I do not remember the testimony of Mr. Kiser.

Q. Do you think he is mistaken about your having come there twice?—A. I will pronounce judgment upon whether he is mistaken or not.

Q. You did not invest any money in any of these schemes, did you?—A. I do not know what schemes you refer to.

Q. I will say the old gravity fill. Did you have any investment in that?—A. I invested no money in that.

Q. You did not have to put up any money with Mr. Berry in order to get the option?—A. I did not.

Q. And he simply gave you a certain length of time within which you could say whether you would take it or not?—A. He gave me an option, which has been put in evidence.

Q. And if you could sell it at a profit within that time you would take it, and if not you did not intend to take it?—A. That is right.

Q. In any of these transactions did you engage in a contract whereby you were bound to pay any money?—A. I do not know that I did. I certainly would have to pay money to secure the rights of the Hillside Coal & Iron Co. in the Katydid dump and also to Mr. Robertson to get anything out of it.

Q. Not until after you had sold it?—A. Not until after we had sold the property.

Q. And not until after you had found a buyer did you expect to put up any money?—A. We hoped to find a buyer.

Q. And thought you had found one?—A. We did.

Q. What is your financial condition?—A. I have been a judge for 28 years, and my financial condition is not the best.

Q. Have you property outside of your home property in Scranton?—A. I have not. Oh, I have some little property outside of that.

Q. You testified yesterday about the correspondence you had with Mr. Helm Bruce?—A. Yes, sir.

Q. I wish you would state briefly what it was that inspired you to write the first letter to Mr. Helm Bruce.—A. As I explained yesterday, the first letter was written when I was formulating a dissenting opinion. May I have my papers there? [After examination of papers.] The consultation of the Commerce Court with regard to that case I find entered on my notes. I keep notebooks of arguments. I also keep a memorandum of the way cases are to be decided. I hold in my hands the notes of that case. At our consultation on that case on the 27th of May, 1911, a conclusion was reached in favor of the defendant. Judge Knapp was to write the opinion, and I expressed a dissent. I addressed myself to formulating a dissent and wrote up a dissenting opinion, as the manuscript of the opinion which I have here in my hand will show. That was done in September following. It was while I was examining the case for the purpose of expressing my dissenting opinion that I wrote to Mr. Helm Bruce with regard to Mr. Compton's testimony.

Q. Asking him to make the explanation?—A. Yes.

Q. Which he did by way of a letter?—A. Yes.

Q. Now, as I understand it, you did not send a copy of that letter to any of the counsel on the other side of the case?—A. No; I did not.

Q. And you did not converse with any of the other members of the court about it?—A. I did not.

Q. Did it not occur to you, Judge, that it would be appropriate for you to send to counsel on the other side of the case a copy of the letter you sent to Mr. Bruce?—A. As I say, I was writing a dissenting opinion. It did not call for any argument, and was only what you might say a very inconsiderable matter in the course of the case.

Q. Just answer my question. Did it occur to you——A. Please have it read.

Q. Did it occur to you that it would be appropriate for you to send copies to counsel for the other side?—A. It did not or I would have written them.

Q. You got an answer from Mr. Bruce?—A. I did.

Q. Which sustained your views on the point?—A. Yes.

Q. Then you wrote him again?—A. Yes.

Q. On August 26? What inspired that letter?—A. On what date?

Q. August 26.—A. I do not remember any letter of that date.

Q. I will read it:

AUGUST 26, 1911.

MY DEAR MR. BRUCE: I thank you for your letter of August 24 with reference to Mr. Compton's testimony, about which I wrote you.

You are not disputing that letter?—A. No.

Q. And then you got another letter, did you not, and after that, on January 10, you wrote to Mr. Bruce again—A. Yes.

Q. And you wrote from Indian River, Fla., did you not?—A. Yes.

Q. What inspired that letter? You had already acknowledged receipt of Mr. Bruce's letter.—A. That was to meet a question which had been raised by Judge Mack with regard to the disposition of that case. When we met together in October—when the Commerce Court met together in October—we had a further consultation over the case, and, according to my memorandum here, that occurred on October 21, and upon that we reversed the former conclusion of the court and were all agreed that the plaintiff was entitled to a decree, except Judge Mack. The case was then decided, virtually decided, so far as our consultation was concerned, so far as the agreement of the court was

concerned, upon that date. It was on January 10 I wrote this letter, after our consultation, which was purely a matter of settling the form of the opinion.

Q. So, when you wrote the first letter, you were engaged in writing a dissenting opinion. Do I understand you correctly?—A. Yes, sir.

Q. And afterwards the court reversed itself and came to your view of the case?—A. All except Judge Mack.

Q. Did the argument which you adduced by reason of your correspondence with Mr. Bruce have anything to do with changing the minds of the other judges?—A. It was not communicated to them, and so it could not have had any effect.

Q. No; the letter was not communicated to them, but did you present to the court the facts which you had gotten through the letter?—A. I do not remember that I did.

Q. Did you not make use of the information you got——A. Not at all.

Q. In the consideration of the case?—A. If I could——

Q. Just answer the question.—A. No.

Q. Anyhow, the court afterwards came to your view of the case?—A. Yes.

Mr. POMERENE. I submit the following question.

The PRESIDENT pro tempore. The Senator from Ohio submits a question. It will be read.

The Secretary read as follows:

Do you regard it as good practice to communicate with counsel on one side of a case, either on an issue of fact or of law, without advising opposing counsel?

The WITNESS. I certainly do not. That has not been my practice. I would not defend or attempt to defend any such practice as that.

Mr. JONES. I desire to submit two questions.

The PRESIDENT pro tempore. The Senator from Washington submits two questions to be propounded to the witness, which will be so propounded in the order in which they are numbered.

The Secretary read as follows:

You expected to submit your dissenting opinion to the other members of the court, did you not?

The WITNESS. I did submit my opinion. I sent it in advance to the other judges, a copy to each one, prior to our coming together in October following the date of the opinion.

The Secretary read as follows:

If you answer that you did, did it not occur to you that you should show your associates the letters you had received; and if not, why not?

The WITNESS. There was only one letter that had been received at that time with regard to what is really a very inconsiderable part of the opinion, and, as the opinion itself shows, what is stated in Mr. Bruce's letter with regard to Mr. Compton's testimony does not enter into the decision of the case at all, because it is assumed in the opinion that, contrary to what is stated in Mr. Bruce's letter, the statement of Mr. Compton, the witness, was exactly the other way. I could show that in two minutes by this opinion itself. And that part of the opinion was written by Judge Knapp.

Q. Now you are speaking of the first letter with reference to Compton's testimony.—A. Yes.

Q. But you have not stated, Judge, what inspired the second letter to Helm Bruce.—A. The ideas that had been advanced by Judge Mack in consultation in regard to the question of variations from what was known as the Cooley award I would very much like to go into if the Senate had patience to listen.

Q. I just want the facts in the case. Did you send a copy of that second letter to Mr. Bruce to counsel on the other side of the case?—A. I did not.

Q. Did it occur to you that it would be a very proper thing for you to do at that time?—A. No; or I would have done it.

Q. Judge, you say it is not your practice to write counsel on one side without giving notice to the other. Why did you make an exception in this case, if that has been your general practice?—A. We were simply at that time engaged in settling the form of the opinion. We had decided how we would dispose of the case, and it was simply with regard to this incidental matter in the course of the opinion.

Q. Judge, in reply to that second letter you got an additional argument from Helm Bruce, did you not?—A. I got a letter.

Q. And it consisted of two pages and a half of finely printed matter in the proceedings of the Senate. That is what you got in reply?—A. Yes; I believe it does.

Q. And it is an argument in the case, is it not?—A. It is an argument.

Q. Did you submit a copy of that to the counsel on the other side, so that they might answer it?—A. I have already said not.

Q. Then after you had received that you wrote:

MY DEAR MR. BRUCE: I thank you for your letter and its kind appreciation of the opinion of the court in the New Orleans Board of Trade case; but you fail to take credit for the very important part which you played in the result. Frankly, the case was won on your argument and brief. Your oral argument was one of the best that we have heard, and your brief was an absolute demonstration of the errors committed by the commission and complete at every point. You can not fail to note how closely the opinion follows and reflects what is there said.

Now, Judge, do you not think that this correspondence that you had with Bruce had its effect upon your mind, and consequently upon the court, and that it was absolutely unfair to the other side of the case for you to carry on that correspondence in the way you did?—A. I certainly do not. What is spoken of in that letter——

Q. That is all I asked for; just that.—A. You have read the letter and you have endeavored to put into the question you put things that the letter does not apply to at all. That letter you have last read has nothing to do with this letter of January 10. It refers——

Q. I read the letter correctly so far as I read it, did I not?—A. You read it correctly; yes.

Mr. CULBERSON. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Texas propounds an inquiry, which will be read by the Secretary.

The Secretary read as follows:

In one of the letters to Mr. Bruce you referred to a proposed conference with him in which you would explain to him the causes of delay in deciding the case. What was the proposed explanation?

The WITNESS. That is, why was the case delayed the way it was? Do I understand that that is the question?

Mr. CULBERSON. Let the question be read again, Mr. President.

The WITNESS. I want to understand the question.

The PRESIDENT pro tempore. The question will be again read.

The Secretary read as follows:

In one of the letters to Mr. Bruce you referred to a proposed conference with him in which you would explain to him the causes of delay in deciding the case. What was the proposed explanation?

Mr. CULBERSON. If I may do so, I will ask that that letter be read in this connection.

Mr. WORTHINGTON. That is what I was going to suggest.

Mr. Manager STERLING. Which letter is that?

Mr. WORTHINGTON. The letter that Judge Archbald wrote, on page 624.

The PRESIDENT pro tempore. That letter has already been read.

Mr. WORTHINGTON. The first part of it was read and the part to which the Senator refers is the second paragraph.

Mr. Manager STERLING. I suggest that the whole letter be read.

The PRESIDENT pro tempore. The whole letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 61.]

(R. W. Archbald, judge, United States Commerce Court, Washington.)

SCRANTON PA., *March 8, 1912.*

Mr. CULBERSON. That was not the letter. I wish to have the letter to Mr. Bruce read.

Mr. Manager STERLING. It is a long letter.

Mr. CULBERSON. It is the letter from Judge Archbald to Mr. Bruce in which he says that he proposes to have a conference with him and give him an account of the delay in the decision of the case pending before the Commerce Court.

The PRESIDENT pro tempore. The letter will be identified and then read.

Mr. WORTHINGTON. This is the letter.

Mr. CULBERSON. That is all right, then.

Mr. WORTHINGTON. It is the letter. The misunderstanding arises from the fact that there appears at the top of the letter, "R. W. Archbald, judge, United States Commerce Court, Washington," and the Senator evidently thought it was not the letter.

Mr. Manager NORRIS. That is a part of the letterhead.

Mr. CULBERSON. Let the whole letter, then, be read.

The Secretary read as follows:

SCRANTON, PA., *March 8, 1912.*

MY DEAR MR. BRUCE: I thank you for your letter and its kind appreciation of the opinion of the court in the New Orleans Board of Trade case; but you fail to take credit for the very important part which you played in the result. Frankly, the case was won on your argument and brief. Your oral argument was one of the best that we have heard, and your brief was an absolute demonstration of the errors committed by the commission and complete at every point. You can not fail to note how closely the opinion follows and reflects what is there said.

As for myself, I am only entitled at the most to a part of the opinion as filed. A considerable portion of it, if not indeed the best, is from the hand of another member of the court, and it is probably there that you find the enunciation of principles which you particularly commend. I regret exceedingly the delay which has occurred in this case; but some time, when I have the pleasure of seeing you again, I will endeavor to explain how it came about.

Very truly, yours,

R. W. ARCHBALD.

Mr. CULBERSON. That is what I want an explanation of.

The WITNESS. I did not intend in that letter to suggest that there would be a proposed conference, using that term. I expected and hoped some time in the future to meet him, and then I would endeavor to explain the delay which had occurred in filing that opinion, which was not attributable to myself. The rest of the letter was in response to the kind things he had said about the opinion, attributing it to my hand, and I endeavored to respond in kind with regard to his brief.

Mr. CULBERSON. I should like to have the question again asked and answered.

The PRESIDENT pro tempore. The Secretary will again read the question.

Mr. CULBERSON. I want the explanation of the delay which was supposed to have been made.

The WITNESS. Very well, I will answer that direct now, if I may. The delay was not due to myself. The delay was due to the endeavor to get the court to harmonize its views as nearly as possible, and with the hope that eventually we might get together upon that. The case was virtually decided when we met in consultation on October 21, and, so far as I was concerned, I was ready to have an opinion filed at that time. Very shortly after that time, so far as I was concerned, the opinion was complete, but it was left to the president of the court to make some changes, which it was supposed would reconcile some differences of views. Therefore a great many things were taken out of my opinion and some others were put in, until it arrived at the form in which it was filed, but none of that delay, as I conceived, was due to myself.

Mr. NELSON. I submit the following question.

The PRESIDENT pro tempore. The Senator from Minnesota propounds a question to the witness, which will be submitted to him by the Secretary.

The Secretary read as follows:

Was the opinion you prepared in favor of Mr. Bruce's clients in the case?

The WITNESS. The dissenting opinion, which is the basis of the opinion as now filed, was in favor of Mr. Bruce's client, the Louisville & Nashville Railroad, and that was the decision which was finally made.

Mr. CULBERSON. Mr. President, I wish to ask another question in this connection.

Mr. Manager STERLING. On that point—that is, the final opinion of the court——

The PRESIDENT pro tempore. The Senator from Texas will withhold the question for a moment?

Mr. CULBERSON. Certainly.

Q. (By Mr. Manager STERLING.) In connection with this I understand now the opinion which was finally rendered in the case was in favor of the railway company that was represented by Mr. Bruce?—A. Yes; that is true.

Q. And it supported the contentions of that side of the case all through?—A. No; not all the contentions.

Q. Practically; the main points?—A. The controlling points; yes.

The PRESIDENT pro tempore. The Senator from Texas propounds a question which will be submitted to the witness by the Secretary.

The Secretary read as follows:

Did you think it proper to explain privately to counsel in a case the difference between the members of the court?

The WITNESS. No; I should not. I never had met Mr. Bruce with regard to the matter since that time. I never have had the opportunity to talk over the matter, and I certainly would not go so far as to betray any of the confidences of the consultation room. I simply would have stated what I state here, that, so far as I was concerned, the delay was not due to myself.

Q. (By Mr. Manager STERLING.) Judge, the first opinion prepared by the court—agreed to by the court, excepting yourself—was against Bruce's client, was it not?—A. There was no opinion prepared.

Q. Well, the views of the court?—A. In our consultation, in May, the views of the court were against Mr. Bruce's client, the Louisville & Nashville Railroad.

Q. To whom was the duty assigned of writing the opinion?—A. Judge Knapp.

Q. Did he write it?—A. He did not.

Q. But before it was written this correspondence took place?—A. The first correspondence, yes; the letter along in, I think, August or September of 1911.

Q. And was it not due to the suggestions which you made, and which you got from the argument and letters of Mr. Bruce, that caused the court to take it up for further consideration, which resulted in reversing the former opinion of the court?—A. No; that is absolutely not so, for, as I wanted to point out, and have endeavored to point out, it is assumed in the opinion that exactly what was contended on the part of the Interstate Commerce Commission with regard to Mr. Compton's testimony was the fact.

Q. Have you the opinion there?—A. I have.

Mr. Manager STERLING. I should like to suggest to counsel on the other side that the opinion go right in the record.

Mr. WORTHINGTON. We have noted it to put it in evidence when the time comes, and it might as well go in now as at any other time.

Mr. Manager STERLING. I suggest that it be offered now as evidence.

The WITNESS. I should like to refer to that part of the opinion——

Mr. Manager STERLING. I do not care to pursue it further. I want to call your attention to article 6. We offer the opinion in evidence.

The PRESIDENT pro tempore. Is it to be read at this time?

Mr. Manager STERLING. No, sir.

The opinion referred to is as follows:

[U. S. S. Exhibit 100.]

UNITED STATES COMMERCE COURT.

(No. 4. April session, 1911.)

Louisville & Nashville Railroad v. Interstate Commerce Commission, respondent. United States, intervening respondent.

ON FINAL HEARING ON BILL, ANSWER, AND PROOFS.

For opinion of Interstate Commerce Commission, see 17 Interstate Commerce Commission Report, 231.

For opinion of circuit court, refusing preliminary injunction, see 184 Federal, 118.

Mr. Helm Bruce and Mr. W. G. Dearing, for petitioners.

Mr. W. E. Lamb, for Interstate Commerce Commission.

Mr. J. A. Fowler, assistant to the Attorney General, and Mr. Blackburn Esterline, special assistant to the Attorney General, for the United States.

Mr. Alfred P. Thom and Mr. Walker D. Hines, for Southern Railway.

Mr. Edward Barton, for Baltimore & Ohio Southwestern Railroad.

Before Knapp, presiding judge, and Archbald, Hunt, Carland, and Mack, judges.

[Feb. 28, 1912.]

Archbald, judge:

A brief history of this case will aid in understanding the questions to be decided. For a number of years prior to 1907 the through rates on certain classes of freight over the Louisville & Nashville Railroad, the present petitioner, from New Orleans, La., to Montgomery, Selma, and Prattville, Ala., were higher than the rates on the same classes from New Orleans to Mobile, an intermediate point, plus the rates from Mobile to Montgomery and the other places mentioned. The through rates from New Orleans to these places were also similarly higher than the rates to Pensacola plus the rates from there to the same destinations, the two situations in this respect being identical.

This somewhat peculiar condition was brought about, as it is alleged, by the fact that the rates from New Orleans to Mobile and Pensacola were made lower than might justly have been charged, as well as lower than the general basis of rates prevailing in that section of the country, because of the necessity for meeting water competition between these places; from which policy it resulted, as is to be gathered from the record, that the rail line of the petitioner greatly increased its tonnage, and eventually secured the bulk of the traffic, the rail rates being continued for a number of years after the water competition had practically been eliminated.

Following, however, the enactment of the Hepburn law in 1906, the Interstate Commerce Commission, in an administrative ruling, which has several times been reaffirmed, announced that through rates in excess of the combination of intermediate rates would be regarded as prima facie unreasonable, and that the burden would be on the carrier to defend them. Subsequently to this, and possibly prompted by it, in June, 1907, the Montgomery freight bureau, on behalf of the commercial interests of that city, filed with the commission a formal complaint against the railroad, alleging that the higher through rates to Montgomery than the combination on Mobile, on certain classes and commodities, subjected Montgomery to undue prejudice and disadvantage, in favor of Mobile, in violation of section 3 of the interstate-commerce act. Influenced by this, no doubt, and by the ruling of the commission referred to, the railroad on August 13, 1907, advanced its rates from New Orleans to Mobile and Pensacola on certain classes of freight, by varying amounts sufficient in each case to make the new combination on Mobile and Pensacola correspond with the through rate to Montgomery. This action of the railroad, coupled with subsequent reductions on a number of articles, by taking them out of their respective classes and giving them special commodity rates, apparently had the effect of satisfying the commercial interests of Montgomery, and nothing further seems to have been done in consequence upon the complaint filed by the freight bureau of that city.

This did not, however, satisfy all parties. For a number of years the rates out of New Orleans had been the subject of agitation by the New Orleans Board of Trade, and at various dates, in October and November, 1907, complaints were accordingly filed with the commission by that body, severally charging that the rates to Mobile and Pensacola as recently advanced by the railroad, and the through rates to Montgomery and the points grouped with or based thereon, were unjust and unreasonable in themselves, as well as in comparison with the rates from Memphis, St. Louis, and Louisville. A restoration of the rates in effect to Mobile and Pensacola prior to August 13, 1907, was thereupon prayed, and a reduction of the rates to Montgomery, so that they would not exceed a combination of the locals by way of these places as thus established. The adjustment of certain commodity rates relatively to St. Louis and Memphis was also asked for.

The railroad duly answered these complaints, denying that the rates in force were unjust or unreasonable, and setting forth in detail the facts and circumstances relied on to justify them. But after answering and before any hearing by the commission had been entered upon, the railroad voluntarily established special commodity rates on a number of articles which had been complained of, thereby making the rates on all articles, or at least on most articles, from New Orleans to Montgomery points, as well as to Mobile and Pensacola, the same as or lower than the rates from Memphis and the other places named to these destinations. This was the undoubted intention of petitioner and appears to have been generally, if not completely, carried into effect.

The three New Orleans cases were heard by the commission together and were disposed of November 26, 1909, in a single report and order. This order, in substance, condemned the advance in rates to Mobile and Pensacola on the classes involved as unjust and unreasonable; directed the restoration of the rates in force prior to August 13, 1907, to these places; declared the through rates to Montgomery, Selma, and Prattville, to the extent that they exceeded the sum of the locals by way of Mobile and Pensacola prior to that date, to be also unjust and unreasonable; and prescribed for the future certain maximum rates to be maintained by the railroad for the statutory two-year period. The rates which were so prescribed to Mobile and Pensacola were the same in each case as the rates which had existed prior to the advance made by the company, and the rates to Montgomery were exactly equal to the rates to Pensacola and Mobile as so restored, plus the rates from these places to Montgomery, which remained unchanged; the rates to Selma being made up in the same way, and those to Prattville having the prevailing arbitrary added.

This order, by its terms, was to go into effect February 1, 1910, but was postponed by supplemental orders until April 15, following; prior to which time a bill in equity was filed by the railroad against the commission in the Circuit Court of the United States for the Western District of Kentucky, and an application made for a preliminary injunction. This application was heard by three circuit judges on bill and affidavits, and was denied by the court in an opinion by Judge Severens (184 Fed., 118); after which the order of the commission became effective and has since been complied with.

The commission having answered the bill, an examiner was appointed and a large amount of testimony taken on behalf of the petitioner, the entire proceedings before the commission, including the testimony submitted to it, being also under objection made a part of the record. No proof was offered in opposition to this in support of the order, *the commission taking the position that having been made after a full hearing, upon due consideration of the issues involved and in the exercise of the authority conferred by the statute, the order was not open to question.* Upon the organization of the Commerce Court the case was transferred here, and now comes up for disposition upon final hearing. It has been ably and elaborately argued in all its different phases, but there is only one that it seems necessary to pass upon, and that is, whether the commission, in the order which it has made, has not in a legal sense acted as charged in such an unreasonable manner that its order is invalid, having nothing of substance or persuasive force upon which it can rightly be predicated. This is claimed to result because the reasons assigned in the report either do not justify the conclusion reached or are so at variance with the undisputed facts that effect has plainly not been given by the commission to the evidence which was produced before it; and therefore, as it is put in the petition—repeated frequently in various connections—the "order is unreasonable, unjust, unlawful, arbitrary, and oppressive and in excess of the authority granted and powers conferred upon" the commission by the amended act to regulate commerce. Stated in another form the question is whether this order, tested by the principles recently emphasized by the Supreme Court in *Interstate Com. Com. v. Union Pacific R. R.*, decided January 9, 1912, should not be set aside because there was no substantial evidence to sustain it. That is to say, whether the commission, while in form acting within the authority conferred by the statute, has not in effect disregarded it. And it is to this question that we therefore address ourselves.

In this connection we take occasion to say that if the conditions dealt with in the report of the commission were substantially as they are there described we should have little hesitation in dismissing the petition. For even though in that case it might seem doubtful to us whether the commission had reached a just conclusion, it would nevertheless appear that there was room for differences of opinion, because different inferences were able to be drawn, and in such case the conclusions of the commission should be accepted as to matters thus clearly within its jurisdiction. But the question here is whether the report can fairly be regarded as of that character. On the taking of testimony in the circuit court after the preliminary injunction had been refused the entire evidence before the commission was introduced into the record, and it is to that evidence that reference is made in this opinion unless otherwise stated. That evidence we have read and reread with the utmost care, and it is because of our inability to understand how, on the facts which there appear, the report before us could have been made that the difficulty under which we labor arises.

By the express provisions of the statute (sec. 15) before going on to prescribe future rates the commission must reach the conclusion that the existing rates established by the carrier are unjust and unreasonable. It is the duty and the privilege of the carrier in the first instance to fix the rates to be charged (*Inter. Com. Com. v. Chicago Great Western Railroad*, 209 U. S., 108, 119), and it is only where, after due notice and a full hearing—whether on complaint of a shipper or upon investigation by the commission of its own motion—it is made to appear that the rate is unjust and unreasonable that the commission is empowered to fix another. The hearing which is so provided for is not a perfunctory one. The carrier is entitled to know and to rely on what is adduced at it, either for or against the existing rate, and the commission is not authorized to disregard it and reach a conclusion not at all justified by it. If the rate attacked is shown to be unjust, it may be abrogated and a new one established. But if that is not the outcome of the hearing and on the contrary it is clearly shown that the rate is not unjust, the evidence as to this can not be put aside, and if it is, and the commission without reference to it proceeds to condemn the rate and to fix another, its action is invalid.

After the most careful consideration, we are forced to conclude that the action of the commission in the present instance is of that character, having regard to the evidence, the only tangible ground upon which it will be found to rest is the fact that there had been an advance in the rates to Pensacola and Mobile and that the Montgomery rate exceeded the sum of the rates through these points as they stood prior to this increase, making the increase in these intermediate rates the only proof of unreasonableness, not only as to Pensacola and Mobile, but Montgomery also. It is conceded by counsel for the Government that if this were true as to the rates to Montgomery, the order of the commission would be invalid, because it would not be based on the reasonableness or unreasonableness of these rates independently considered. And it is just as clear that if the reduction to Mobile and Pensacola was a mere restoration of the rates previously in force, based solely on the advance made by the railroad, it is equally indefensible. And, taking the case as it stands, there is practically nothing else, as it seems to us, that can be made out of it. Not but that other reasons are given by the commission. But it will be found upon examination, as stated above, either that they are entirely unsupported by the evidence or are involved in such capital mistakes with respect to it, or are in themselves so inconsequential as to the reasonableness or unreasonableness of these rates, that nothing can be consistently predicated upon them. And this we will now endeavor to demonstrate.

The New Orleans-Montgomery rate which has been set aside by the order of the commission was one of very long standing and was established with great circumspection. In 1886 Hon. Thomas M. Cooley, whose attainments are too well known to dilate upon, the first chairman of the Interstate Commerce Commission, was called upon by the railroads running into what was designated as the southeastern territory to arbitrate and adjust the relative rates from crossing points on the Ohio and Mississippi Rivers to certain places, such as Montgomery and others within the section of country roughly described as lying between the Memphis & Charleston Railroad on the north, the Gulf of Mexico on the south, the Chattahoochee River on the east, and the Mobile & Ohio Railroad on the west. He was not to determine specific rates, but their relation to each other. This question had first been submitted to Mr. James R. Ogden, as commissioner of certain associated railroads running into this territory, and after he had passed upon it it was submitted to Judge Cooley, who virtually affirmed Mr. Ogden's rulings. So far as the present comparison is concerned, it is sufficient to note that it was thereby decided that the rates from Louisville, Evansville, Cairo, and other like points on the Ohio River, to Birmingham, Montgomery, Selma, and other points within the defined territory, should be the same; that the rates from East Cairo, Columbus, Hickman, and points on the Mississippi in Kentucky should be 2 cents less; and that the rates from Memphis, Vicksburg, and New Orleans should be 4 cents less. An adjustment of rates was made by the railroads in accordance with this, including those from New Orleans to Montgomery and other points in that section, and these rates were maintained, at least so far as class rates are concerned, until the building of the Kansas City, Memphis & Birmingham Railroad from Memphis to Birmingham, which made a very much shorter line than had previously existed between these cities, when the rates on the first six classes of freight from Memphis to Birmingham were greatly reduced below what they had been, and those from New Orleans to Birmingham were also reduced to correspond relatively, in accordance with Judge Cooley's adjustment.

The reduction from New Orleans to Birmingham, however, proved too great and could not be maintained, and the rates between these places were at first restored to the original figures, and then reduced to an intermediate position; and this brought about a reduction on rates for these classes between New Orleans and Montgomery, Montgomery being intermediate to Birmingham. The final adjustment of these rates was reached in 1896, and as fixed at that time they remained substantially unchanged until 1910, a period of 14 years, when the commission made the order in question.

The original careful determination of the New Orleans-Montgomery rates, in their relation to those from Ohio and Mississippi River points into the same territory, in accordance with the Cooley arbitration; the subsequent readjustment of them upon the building of the Memphis and Birmingham short line; and their long-continued acceptance by the business public, during which time freight moved freely under them; all strengthen the presumption in favor of the reasonableness of these rates, against which there is practically nothing to militate except the previous competitive water rates from New Orleans to Mobile and Pensacola and the combination to be made on them to Montgomery. The conclusion is thus forced and, indeed, is patent on the face of things that the Montgomery through rates as now fixed by the commission are nothing more than the restored competitive Mobile and Pensacola rates plus the previous rates from those places to Montgomery.

There is no change, as it will be noted, in the rates from Mobile and Pensacola to Montgomery. The change in the Montgomery through rate is effected by reducing the rates from New Orleans to the intermediate points named and combining them with the rates from there to Montgomery, the reduction in the New Orleans-Montgomery through rates being exactly the same as the reduction made in the rates to Pensacola and Mobile as to every class except one—class E—where the through rate is reduced 1 cent, as against a 5-cent reduction to Mobile and none at all to Pensacola. This coincidence is too significant to be a mere accident or to fail to reveal the consideration which influenced it. It extends to the through rates to Selma and Prattville, as well as to Montgomery, not only by way of Mobile, but of Pensacola also, an exactitude which it is impossible to account for except upon the ground which has been suggested. Not only is the reasonableness or unreasonableness of the through rates to Montgomery, as fixed by the commission, thus made to depend on the reasonableness or unreasonableness of the Mobile-Pensacola part of them, but they are all obliged to stand or fail on the fact of this coincidence, by which, as conceded by counsel, they are not able to be defended. It is true, as already stated, that there are other reasons assigned by the commission in its report for the reduction in the New Orleans-Montgomery rates, but, with due respect to the commission, they do not bear up under examination.

The relation of rates established by the Cooley arbitration and the disturbance inevitably to result from a disregard of it was pressed upon the commission as strong grounds against the proposed changes. "The Cooley arbitration of 1886," it is said in the report, "has been strongly urged * * * as a reason for the nonreduction of the present advanced rates. This arbitration established a relation of rates as between the several Ohio and Mississippi River crossings, applying upon products from the territory north and west of those rivers destined to southern and southeastern territory, by fixing a basis for making rates from these several basing points to the southeastern territory, with the object of maintaining an equitable relation and equality of the basing rate as between said points on goods transported to southeastern territory, but we do not understand that this arbitration undertook to fix the actual rates for carriage from the several basing points to destinations in this territory. However, if such were the case, the building of new railroads, competition, and other causes forced many departures from the adjustment and the rates made under it, until it has become materially altered, and it is inevitable and proper that it should yield to meet new and changed conditions."

From this, which is all the commission has to say on the subject, it would be supposed that the Cooley award was only a basis of adjustment accepted many years before, but which had come to have little more than historical value. In other words, that it was merely a starting point from which departures were frequently and freely made. If this were so, the commission might properly regard it as of no great importance and certainly as furnishing no substantial obstacle to further modification by the reduction of rates from New Orleans. But the record before the commission, as we read it, does not warrant the inference apparently intended from the statement above quoted. *Taken by itself the statement is not literally inaccurate, since it seems that some changes were made at various times in the rates on particular articles by taking them out of their respective classes and giving them special commodity rates, and to such extent as changes of this character were made they may be regarded in a sense as departures from the Cooley arbitration basis.*

Moreover, the fact that the complaint of the New Orleans Board of Trade embraced in terms commodity rates as well as class rates, and that there was more or less testimony at the hearing which must have related to commodity rates doubtless accounts for what the commission says upon this subject. But when it is remembered that no change of consequence in class-rate relations had taken place since the original adjustment, except the one heretofore explained, and that the order in question pertains only to class rates from New Orleans, the matter presents itself in a very different aspect. Surely the long continuance of these class rates, which are the basis of the rate structure in that territory, and which must be assumed to have been equitably adjusted as between the various competing towns on the Ohio and Mississippi Rivers by the Cooley award, was a valid and persuasive objection to any order which would have a disturbing effect upon these class-rate situation. Nor was the force of this objection appreciably lessened by the circumstance that some articles were taken out of the classes from time to time and given commodity rates. Particularly is this so in view of the fact that the commission's report contains no intimation that class rates from other points should be reduced, clearly indicating that the order in question was not predicated upon any finding or contention that this class-rate adjustment was unfair to New Orleans. When therefore the facts in this regard are fully perceived their important bearing upon the controversy seems evident, and they are not to be disregarded in any consideration, as they appear to be by the commission, on the mistaken view that "the building of the roads, competition, and other causes had forced departures from the adjustment of rates under it until it had become materially altered, as was inevitable and proper to meet changed conditions," as suggested.

As a further reason for making the order in question the report of the commission contains the following: "It was stated by the principal witness for the defendant that between points on its line where the through rate exceeded the combination of rates from point of origin to a competitive point and from said competitive point to destination shippers were given the benefit of the combination rate, and this provision appears in special circulars and was very generally observed as a rule for the adjustment of freight rates; and such having been formerly the custom of the defendant, it would seem now to work no especial hardship upon it to reduce rates to the basis of the former combination."

The reference here is to the testimony of Mr. C. B. Compton, the traffic manager of the Louisville & Nashville Railroad, who has been with that road in continuous service in various capacities for some 40 years. But a careful reading of his testimony discloses no basis for the statement quoted, if it was meant thereby to imply that the Mobile combination was at any time allowed on through shipments to Montgomery.

On the contrary, it clearly appeared that such shipments had always paid the Montgomery rate, and that the Mobile combination could be secured only by shipping first to Mobile and then reshipping to Montgomery, as seems to have been done in a few instances. Indeed, this is recognized as the fact by the commission, since it is stated in an earlier part of the report that "prior to August 13, 1907, shippers, in order to get the benefit of the lower combination, sometimes shipped locally to Mobile and then reshipped to Montgomery, Selma, and Prattville." Of course, if the fact had been otherwise and the road had ordinarily or frequently carried Montgomery traffic on the Mobile combination, the commission might well say that it would be no great hardship to require the carrier to publish in its tariffs the actual rates which it habitually accepted; but the undisputed evidence shows that the full Montgomery rate was constantly applied to Montgomery shipments, and we fail to see how that circumstance tended to show that the Montgomery rate was unreasonable.

It is undoubtedly true, as testified by Mr. Compton, that it was a more or less general practice to protect through shipments against the combination of locals, and a rule to that effect was carried by his road in certain of its local tariffs; but there was no such rule in the tariffs naming rates to Montgomery territory, and nothing whatever appeared at the hearing to indicate that through traffic to Montgomery was ever carried at less than the Montgomery rate. *A colloquy occurred in the course of Mr. Compton's examination in which he seems to have admitted that the rule in the local tariffs referred to, not being limited in terms, might be claimed to have authorized the application of the Mobile combination to Montgomery shipments.* But the point is not what those tariffs might have been construed to mean but what the actual practice was in respect of the traffic in question. Evidently the road was always careful to maintain this Montgomery rate. Everything indicates that it consistently did so. And it seems plain to us that the acceptance on other parts of the system of combination rates which were lower than the through rates had no tendency to show that these particular rates were unreasonable. In short, when the undisputed facts regarding this feature of the case, as they appeared before the commission, are taken into account, they not only do not sustain the conclusion of the commission, but seem to be rather of contrary import.

With respect to the through rates from New Orleans to Montgomery as well as the southeast territory generally, it is further said by the commission, in justification of its action, that "It was shown that the merchants of New Orleans have heretofore made ineffectual efforts to secure better rates, to this territory, as higher rates were in effect from New Orleans to this territory than existed from distributing centers at greater distances west and north of said territory, the situation being such that New Orleans was cut off from the trade of this section as to many products, and greatly restricted and burdened as to many others, on account of the high rates of transportation."

Tested by the complaints of the New Orleans Board of Trade, which, as above shown, embraced in general terms commodity rates as well as class rates, this statement can not be said to be wholly incorrect. Prior to the adjustments already referred to, and which were voluntarily made by the carrier, months before the order in question was issued, it was perhaps true that New Orleans merchants were at some disadvantage because the class rates from New Orleans on certain articles may have been higher than or out of line with the commodity rates from other points on those articles. But this cause of complaint, to whatever extent justified when the proceedings before the commission were instituted, was substantially if not wholly removed before the hearing was concluded by the reductions and adjustments hereinbefore mentioned, which resulted in actual rates from New Orleans lower on most articles and not higher on any article than rates from Memphis and other points west and north of Montgomery. And this was apparently recognized by the commission to be the case, since it made no order respecting commodity rates. But when the paragraph quoted is tested by the class rates, which are the only ones reduced by the commission's order, it is not only not supported by the testimony, but the contrary is shown by proof that is not open to question. Instead of being discriminated against by the class rates to Montgomery territory, New Orleans has had an actual advantage over the Ohio and upper Mississippi River towns, an advantage over Memphis in the higher classes and at least equality with it in the other classes, and an equality with Huntington, Vicksburg, and the lower Mississippi points to Memphis; all of which is established by comparative tables which stand unchallenged and by the tariffs, as we are advised, then on file with the commission. So far, therefore, from sustaining the action of the commission, the undisputed facts in this regard tend unmistakably to a contrary conclusion.

But the commission also mentions that the rates from New Orleans to Montgomery, Selma, and Prattville were higher on all the classes than those from typical points in the Southeast, where the distances were greater, such as Brunswick and Savannah, Ga.; Charleston, S. C.; Wilmington, N. C.; and Nashville, Tenn.; to say nothing of Virginia and North Carolina points, which are referred to in another connection. But in this comparison the commission for its initial points goes over into an entirely different territory. It leaves the Mississippi and Ohio Rivers and goes to the Atlantic coast, in the Carolinas and Georgia, without any suggestion that traffic conditions from there to Montgomery and Selma are at all similar to those from New Orleans, which is the subject of comparison, the only basis of contrast being one of distance. The railroad company in its bill makes complaint of this and avers that the conditions are so dissimilar as to render the comparison unjustified, and that no issue as to the reasonableness or unreasonableness of the rates so applied as a standard was made, nor any evidence introduced which was addressed to that inquiry. And this the commission in its answer admits, conceding that there was no *fixed* relation between the rates from these points and those from New Orleans; which we understand to mean no definite or determining relation.

So also with regard to the rates "from New Orleans to certain stations just outside of Montgomery on the Mobile & Ohio Railroad," which are said by the commission to be less than the rates to Montgomery by the Louisville & Nashville. The bill avers that these were unimportant local points which did not enter into competition with Montgomery; that the traffic to them was insignificant; that no testimony was taken concerning them; and that the Louisville & Nashville Railroad does not publish or participate in or have anything to do with them. And the commission, answering this, admits that the reasonableness of the rates to these local points was not in issue, and that no attempt was made to determine whether or not they were reasonable, and that it did not undertake to determine the reasonableness of the rates prescribed in the order complained of on the basis of the rates referred to. But if all this be so, it is difficult to see why there was any reference made to them at all, or why they were put forward by the commission in the way they were to justify the order, if they had no influence upon it. The effect of the answer, therefore, is to eliminate this part of the report, aside from the other considerations which also do so.

Equally immaterial is the statement that the rates from Virginia cities to Montgomery and Selma are less than from New Orleans, although covering twice the distance, or that those from north Atlantic ports to points in the southeastern territory basing on Montgomery are more favorable, length of haul and number of lines considered, which are some of the minor things entering into the decision. And especially is this to be said of the water rates from New York and Boston to Mobile and New Orleans, which have no perceptible bearing on the rail rates between the latter two places in the connection in which they are cited.

By contrast with this, it might be inquired why the commission in making comparisons took no note of the rates established by the railroad commissions of Alabama and Georgia, which show that for 141 miles, the distance between New Orleans and Mobile, the accepted-as-controlling factor in the situation, the rates by the Louisville & Nashville Railroad, which have been condemned and reduced by the commission as unjust and unreasonable, were materially less than the maximum or so-called standard tariff established by the Georgia commission, and much lower still than the rates which were permitted to the Southern Railway in Alabama, Georgia, Tennessee, and South Carolina, as will appear by the comparative table which is reproduced below as taken from the evidence:

	Class—						
	1	2	3	4	5	6	E.
Louisville & Nashville rates from New Orleans to Mobile, 141 miles	50	39	38	31	27	16	20
Southern Railway rates fixed by commissions of Alabama and Georgia for 141 miles	75	63	56	44	35	29	35
Minimum or standard tariff of Georgia Railroad Commission, 141 miles	60	50	45	35	28	23	28
Southern Railway rates in Tennessee, 141 miles	58	50	46	37	31	27	32
Southern Railway rates in South Carolina, 141 miles	62	52	42	30	31	24½	31
Southern Railway rates, Chattanooga to Birmingham, 143 miles	57	49	41	32	27	19	27
Southern Railway rates, Birmingham, Ala., to Columbus, Ga., 157 miles	57	49	45	35	28	22	27
Southern Railway rates, Chattanooga to Atlanta, Ga., 138 miles	52	45	41	32	25	20	27

Let us not be misunderstood upon this point. We recognize, of course, that comparisons are very commonly made in the investigation of rate

cases, and that they may often be quite persuasive. The competency of such evidence is not questioned nor the right of the commission to give it due weight. Neither is it doubted that the commission may receive evidence of this kind, giving to the facts so shown their proper value, without proof of similarity of conditions. But what we do hold is that the comparisons made by the commission in its report in this case, taking into account all the facts and circumstances disclosed at the hearing, had no evidentiary bearing upon the reasonableness of the rates in dispute, and therefore furnish no appreciable support of the commission's conclusion.

As a further justification for the reduction of the rates to Montgomery the commission suggests that the rate per ton per mile, on an average of the first six classes of freight, is much greater from New Orleans than from Memphis, St. Louis, or Louisville. It is not said, as will be noted, that the rates to Montgomery are higher than from Memphis and the other places mentioned, but that, considering the distance, the rate per ton per mile is greater. But it is the ordinary and recognized rule that the ton-mile rate should decrease as distance increases, other things being equal, and we therefore fail to see how the lower ton-mile rate for the greater distances from Memphis, St. Louis, and Louisville tended in any respect to show the unreasonableness of the rates here in question.

Finally, as a summing up of this part of the case, the commission says: "The manufacturers and shippers of oil, paper, stovepipe, tinware, galvanized tubs, furniture, soap, window glass, paints, hardware, and other articles of like kind in daily use, testified that they were unable to trade in the Montgomery and Selma territory on account of the high rates, and that upon former occasions they had made special efforts to build up a trade with cities located in this territory and points basing thereon, but in every instance they were compelled to abandon the fight on account of better freight-rate concessions from other markets, though at greater distances. With respect to practically all of the commodities above enumerated schedules of comparative rates and distances were filed corroborating complainant's contention."

This statement also can be explained only on the theory that it related to what the New Orleans Board of Trade alleged in its complaints and to conditions which may have existed in some degree before the road made the reductions and adjustments already mentioned. But having reference to the class rates in question, to which the commission's order is confined, we are unable to find any evidence which tends to sustain the observations made with regard to the inability of New Orleans dealers to trade in the Montgomery-Selma territory.

Take, for instance, the testimony of George P. Thompson, a wholesale grocer of New Orleans, the first witness who has anything to say on the subject. His testimony has mainly to do with Mobile and Pensacola. But being asked by counsel whether it would be possible to increase his business with Montgomery if the rates were adjusted on a fair basis he says that it would, a self-evident proposition, but by no means showing that the rates in force were not what they ought to be. The further statement, which he is led to make by suggestion of counsel, that the rates from Memphis to Montgomery are lower than from New Orleans can not refer to class rates, it being irrefutably shown that they are in fact higher. And the comparison made by counsel in a long leading question with regard to the rates from Baltimore, to which Mr. Thompson gives hesitating assent, is of no more significance than the similar comparison with other North Atlantic points made by the commission, already referred to. It is true that as to certain canned goods, such as beans and peas, he is handicapped, as he says, by the rates from such points as St. Louis and Memphis. But here again the reference must be to commodity rates which have been adjusted, and must have been so understood by the commission, as it does not include peas and beans in the list of articles said to be discriminated against by the rates to Montgomery. And this must also be kept in view when it is said by Mr. Thompson that he is kept out of that territory unless he is willing to absorb a part of the rates, which is not true as to class rates, the only ones which are here in question.

W. O. Hudson, manager of the Marine Oil Co., the next witness, confesses that he knows nothing with regard to the Montgomery-Selma case. Being asked if he could do business in Montgomery if the rate were reduced to 13 cents a hundred, the reduction subsequently made by the commission, he declares that he could not, that the rate would eat him up, the explanation that he gives being that the great bulk of the oil which he handles comes from the Ohio and eastern fields, which are much nearer to Montgomery than he is. Notwithstanding this, and although he is the only witness who testified on the subject, oil is given by the commission as one of the commodities shut out by the high rates from New Orleans into this territory.

E. C. Palmer, a wholesale paper man, admits that business with Montgomery has not been materially injured by the advance in rates, but avers that it will be when his customers understand the situation. He thinks that Nashville has an advantage over New Orleans in the rate on paper (as no doubt it has); and that, as compared with Baltimore, considering the haul, the New Orleans rate is "a little out of line" (although it is not in fact higher); but that, compared with Louisville, it is fair enough. And so far as being kept out of Montgomery is concerned, he says that, on the contrary, he ships there constantly. No one can read the testimony of this witness without being convinced that, except possibly as to Nashville, New Orleans is not only not discriminated against, but has an actual advantage in the rates on paper over every place that it comes in competition with in the Montgomery-Selma territory.

A. D. McBride, a salesman engaged with the National Enameling & Stamping Co., says that he sells goods in Mobile and Pensacola, but not in Montgomery or Selma, because Atlanta, Ga., has lower rates and gets the business. As compared with St. Louis and Louisville he does not see that New Orleans is at a disadvantage, notwithstanding the efforts of counsel to have him say so. The competition which affects him is with Atlanta, and that is the whole of it. Nor even there does he charge that the advantage is an unfair one, but simply that the Atlanta rate to Montgomery is lower and keeps him out of there. Notwithstanding this state of the evidence, however, stovepipe, tinware, and galvanized tubs, the commodities that this witness deals in, he being the only one called to testify with regard to them, are included by the commission among those which it is declared that New Orleans dealers, on account of the high rates, have been unable to sell in the Montgomery-Selma territory, being compelled to abandon the fight, as it is said, after an attempt to build up the trade, a statement as to which there is no approach in the testimony.

J. W. C. Wright, president of the New Orleans Furniture Manufacturing Co., says that Montgomery is not important to them. They ship some furniture there, but have not solicited the trade very strongly; and substantially the same thing is testified by P. Jung, of the Crescent Bed Co., an iron-bed manufacturer.

S. Steinhart, a manufacturer of soap, sells soap in Montgomery, where he says he encounters a rate of only 19 cents from Nashville as against 23 cents from New Orleans; but there is no 23-cent class rate from New Orleans, and he must therefore be referring to a commodity rate, which, as we have already seen, has no bearing.

J. W. Bray, another witness, who is treasurer and manager of the Campbell Glass & Paint Co., says that they are shut out of Montgomery and Selma, the rates being such that they are unable to ship there. But so far as the paint business is concerned, he also says that it is handled entirely from St. Louis, where his company has a house from which they prefer to ship, the rate being more advantageous; and that as to their glass business, Montgomery is not a normal point for it, which hardly makes out that the rates from New Orleans are too high or that he has ever tried unsuccessfully to adjust them.

Harry Moore, who is in the wholesale hardware business, declares that he can not compete with St. Louis, Louisville, and Nashville; but he gives as a reason that, while these places are only one-half the distance from producing centers, such as Pittsburgh and that territory, they pay one-third the rate, and are thus able to get into Montgomery and Selma and places basing on them at much less than he can. But the discrimination here, as is evident, is in the rates from producing centers to the distributing points named, and it is impossible to expect that this should be made up to New Orleans by a back rate to Montgomery that would absorb the difference.

It is difficult, therefore, to see, in view of the testimony of these several witnesses, how furniture, soap, window glass, paints, and hardware were included as they are in the statement by the commission, which has been referred to.

George Weigand, who is in the provision business, and who has been "howling to heaven," as he says, with regard to the rate increase complained of, refers only in this to the rates to Mobile, having never tried to go to Montgomery or Selma.

S. Odenheimer, a manufacturer of cotton goods, makes general complaint of the discrimination in rates from all competitive points where there are cotton mills to Montgomery and Mobile. But it appears from his testimony that there are cotton mills at Montgomery and Mobile as well as at New Orleans, to say nothing of the other places mentioned, and it is altogether unreasonable to expect that rates on cotton manufactures should be put so low that mills at other points shall be able to compete with those actually on the ground. The commission makes no mention of this, and no mention goes in connection with the Montgomery rate, and therefore evidently took this view. Mention was also made by this witness that the rates southerly from Montgomery to New Orleans were lower than those northerly from the one place to the other. But the explanation given him by the company was that there are a good many empty cars going in the direction of New Orleans and none the other way, which might properly justify the distinction.

R. J. Wood, manager of the Gulf Bag Co., manufacturers of burlap bags, testifies that at one time, although not recently, they consigned goods to friends in Mobile to have them reconsigned to other points in Alabama, because the combination on Mobile was less than the rates through there. He also says that the question of the rates from New Orleans to Montgomery and Selma being higher than the combination on Mobile was an old one, and had been up ever since he was connected with the New Orleans Board of Trade, some seven years, complaint being made and efforts put forth to correct it.

All that the company have ever asked, as he says, is the same rates that eastern ports have to points halfway distant to New Orleans, which they have never got, and are therefore at a disadvantage. They have better rates, comparatively speaking, according to this witness, to the Carolinas than to Alabama and Georgia, and there are 18 or 20 points in Georgia to each of which the mileage is less from New Orleans than from New York, Philadelphia, or Baltimore, and yet the rates are invariably higher; in consequence of which the Southeast, for his company, is a dumping ground, where they get rid of any overplus, but do not expect to make money. They sell at Atlanta, but make nothing. That city is a big consumer, but there is a big concern there, and Atlanta itself complains of New Orleans. This extract from the testimony of this witness is perhaps unnecessary, as the commission does not include burlap or gunny bags among the articles alleged to be discriminated against, so far as concerns the Montgomery-Selma territory. It is only Mobile as to which this is predicated with regard to these articles, and it will be noted that what he says has no application to Mobile.

In this connection a protest, dated August 6, 1902, drawn up by the attorney of the New Orleans Board of Trade, was introduced in evidence before the commission, in which the existence of discriminating rates against New Orleans into the southeastern territory was charged, the fact that the through rate to Montgomery and Selma was higher than the Mobile combination being also mentioned. New Orleans and Mobile, as it is there contended, stand in the same relation to the sources of supply and are competitors to points beyond them, and claim is made that outbound rates from New Orleans should therefore carry but slight differentials. The rest of the paper is mainly an argument why New Orleans should be put on an equality of rates which would permit of competition with New York and Baltimore as well as Georgia, the Carolinas, and Virginia—a broad question not in issue here, as already pointed out, and therefore not relevant or properly to be considered.

This completes the evidence on this branch of the case, and there is no need to dwell on the view to be taken of it. Considered severally or collectively, it contains nothing which we can discover that supports the conclusions of the commission with respect to the Montgomery rates, outside of the fact that, if the reduction is to stand to Pensacola and Mobile, it calls for a reduction to Montgomery to equalize the sum of the locals. It is not simply that the weight of the evidence does not sustain the reasons assigned by the commission in its report, but that there is no substantial basis for those reasons in the testimony passed upon.

The Mobile and Pensacola rates remain to be considered, both on their own account and as the essential basis of the rates to Montgomery. It is to be noted with regard to these that as the law then stood the mere fact that they were increased by the company over what they had been previously creates no presumption that they were not fair and reasonable. (Interstate Commerce Commission v. Chicago Great Western Railroad, 209 U. S., 108.)

Nor did it justify the commission in putting them back to what they had been, without regard to whether that could be properly said of them. But this again is practically all that there is to sustain the commission's action. It is undisputed that these rates to Pensacola and Mobile were the result of severe water competition, and that this had disappeared at the time of the increase. "At the date of the hearing," say the commission, "carriage by water was infrequent and

cut but little figure as a competitor" with the railroad. It is also stated that while the rates by rail were generally higher than by water, this was not the case in the third, fourth, and fifth classes, under which the bulk of the freight between New Orleans and Mobile moved; notwithstanding which the commission proceeded to reduce the rates for these classes to what they had been before, actually making them 6, 9, and 8 cents, respectively, below the established water rates as they then stood.

Take also the relative result brought about by the commission's action. It may be that no point should be made of the fact that, taking the rate on first-class goods, which the commission accepts as fair, having made no change in it, the other rates are disproportionately low by comparison. This is the uncontradicted testimony of some of the witnesses, though it may be said that the commission was not bound to adopt their view of it. But that there is a material disparity is observable on the face of things, and also that it breaks in upon the ratio established by the railroad, which was accepted and lived up to all these years—a somewhat significant circumstance. More than that, however, in making the rates on fifth and sixth class goods 35 cents each to Montgomery and 15 cents each to Mobile, while they are 20 and 15 cents, respectively, to Pensacola, the classification is inconsistent, to say nothing of the testimony of some of the witnesses, who assert without contradiction that if 15 cents is correct for the sixth it is too low for the fifth class; while in fixing the rate to Montgomery at 37 cents on second class and 55 on third class—based on a 37 and 25 cent rate to Mobile, respectively—there is a drop of 22 cents, which, according to the undisputed evidence, creates a disproportion between these two classes that is unprecedented in all that territory. And the same is true, as to the 12-cent drop between these classes in the rate to Mobile, which is a reduction of 53 per cent on the face of one and 50 per cent on the face of the other, according to the one that is taken for comparison. It is no answer as to any of those Mobile rates that there were the same inconsistencies in the formerly prevailing rates of the railroad. These were competitive rates with respect to which nothing reliable can be predicated without knowing what produced them. The resort to them for justification in this way merely serves to demonstrate the intimate relation which they bear to the order of the commission.

It is said, however, in the report of the commission that the Mobile and Pensacola rates had remained substantially unchanged for over 20 years, and that there was no evidence that they had not been compensatory. At the time that the commission made its report these rates were in force which were established in 1907, and not the old ones in existence before that. And it was the unreasonableness of these new rates which the complainants in the proceeding had the burden of showing. There was no adverse presumption to be indulged, as we have seen, because of the increase. (Interstate Commerce Commission v. Chicago Great Western Railroad, 209 U. S., 109.) Nor is a voluntary rate, established to met competition, to be taken as the measure of what is reasonable. (Lake Shore R. R. v. Smith, 173 U. S., 684; Frederick v. N. Y., N. H. & H. R. R., 18 Inter. Com. Com. Rep., 481, 484; Reese v. Truckee Mining Co., 19 Inter. Com. Com. Rep., 508, 606.) And yet that in effect is just what the commission did in suggesting in defense of the reduction and restoration which it undertook to make that the previous rates were not shown negatively not to have been compensatory. It was not incumbent on the railroad at that stage to make this out, but on the complainant to show that the rates as they stood were unjust and unreasonable. The position taken here, on behalf of the commission, is that a rate, however low, can not be condemned as unjust if it yield any, the most insignificant, return above the cost of service, a proposition we are not prepared to accede to.

As further justifying the reduction made, it is declared by the commission that the rates to Mobile and Pensacola exceeded the rates from New Orleans to other water-transportation points, such as Natchez, Vicksburg, Greenville, and Memphis, where the distances are greater. This clearly is not true as to Mobile, whatever may be the case as to Pensacola. The rates from New Orleans to the Mississippi River points mentioned, as contrasted with those to Mobile, according to the schedule at the time on file with the commission, will appear by the following table:

	Classes—					
	2	3	4	5	6	E
Rates to Natchez, Vicksburg, Greenville, and Memphis	40	32	25	20	17	15
Rates to Mobile as reduced by the commission	37	25	18	15	15	15

It may be that the commission in the statement which it made had the rates in mind as raised by the railroad, as to which, however, it would be true only with respect to the third, fourth, and fifth classes. But that is not the way it is put, nor is it the use made of it in argument, which is that the rates to Mobile as they previously stood and as they were reduced and restored still exceeded those to the other water-transportation points which are mentioned, which is a clear misapprehension.

It is also said by the commission in the same connection that these rates exceed those from Nashville, Memphis, Cincinnati, and Louisville to points approximating the same distance. There is no way of knowing on what this is predicated, there being no reference to any schedules or tables of comparison by which to verify it. Neither is there anything in the evidence before the commission which apparently warranted it. And yet, in contrast, in the evidence taken under the bill which is now before us, it is proved without contradiction that in a large number of instances the fact with regard to the rates from the places named is just the opposite.

Another ground taken by the commission to justify its action is that the rates between New Orleans, Mobile, and Pensacola, until the advance made by the railroad, were identical in both directions, westward as well as eastward, a condition which prevailed, as it is said, between other cities, such as New Orleans, Memphis, Greenville, Vicksburg, and Natchez, and that the raising of rates in the one direction resulted in a disturbance of relations between points where geographic and commercial conditions called for equality. But it has often been recognized by the commission that the mere fact that a rate is higher one way between the same points than it is the other does not prove that the higher rate is unreasonable. (Duncan v. Atch., Topeka & Santa Fe, 6 Inter. Com. Rep., 85, 103; McLoon v. Boston & Maine R. R., 9 Inter. Com. Com. Rep., 642; Weil v. Pa. R. R., 11 Inter. Com. Com. Rep., 627.) And this is particularly true where there is a preponderance of empty cars moving in the one direction, of which there is here some suggestion. There is also some evidence that the rates westward from Mobile to New Orleans are lower than they should be; all of which goes to show that there is practically nothing to be made out of this contention.

It is further said by the commission that the advances made from New Orleans to Mobile in the enumerated classes were severely felt by certain shippers in the former city, especially those engaged in jobbing canned goods, lard, flour, coffee, oil, crackers, pickles, vinegar, beans, etc.; that New Orleans is an important distributing market for canned beans, some 400 to 500 carloads being handled there; and that the increase on this commodity was particularly burdensome, if not practically prohibitory of shipping into New Orleans and out of Mobile. That the advances made in the rates on these classes of goods would be severely felt by certain shippers is not a sufficient reason for holding that they were not what they ought to be. Such an advance would of course be felt, and so would any other change in market conditions which affected the cost of handling. With regard to the other statements made by the commission in this connection, it is undoubtedly true that New Orleans and Mobile are both jobbing points; but so far as concerns beans, they get their supply from practically the same markets and at the same freight rates. In this respect they are rivals; and it is altogether out of line to expect that the rates on beans from New Orleans to Mobile should be so reduced that the jobbers in New Orleans can compete with those in Mobile, and thus invade the latter's own home market.

A counter protest from the jobbers in Mobile, if this were done, would be in order as a matter of self-protection and would have to be listened to. The same is true with respect to the other commodities named, as it is also with regard to paper, stovepipe, tinware, tubs, and galvanized-iron tubs, as to which, according to the commission, the advance in rates made by the railroads would have to be absorbed by the manufacturers.

The evidence with regard to all this is not in conflict. Take, for example, the testimony of George P. Thompson, president of the New Orleans Grocers' Association, which has already been referred to in connection with the rate to Montgomery. He has been selling canned goods, crackers, and baking powder at Mobile for a number of years, as he says, and the advance in rates, according to his statement, has injured him materially. There has also been a serious falling off in peas and beans, particularly the black-eyed beans which are dried in bags, the best coming from California. Mobile, as he says, is a large consumer of these for export and otherwise, and if New Orleans is shut out from there it means a control of the bean business by the railroad. But he admits that Mobile can buy beans from California as cheaply as he can and that the rate from there to each of these two cities is the same. And he therefore, when you come to analyze it, simply wants the local rate from New Orleans to Mobile kept down to a point where he can have a chance to compete at Mobile or places basing on there with the Mobile jobber on the same product. So also with regard to canned goods, baking powder, candles, etc., the rates on which from Memphis to Mobile are shown to be less than from New Orleans; the comparison so made is of no particular significance without a consideration of how the rates from Memphis happen to be what they are (whether these rates are class or commodity) and why that city enjoys this apparent advantage. Mr. Thompson also speaks of New Orleans as a great distributing port for olive oil and coffee, and thinks that recognition should be given it on outbound rates accordingly; but except that Mobile buys oil from New Orleans he makes no application of his statement.

W. O. Hudson, manager of the Marine Oil Co., says he is forced into competition at Mobile with oil from the Ohio oil field, from whence also he gets his supply from the National Refining Co., which has refineries at Cleveland, Marietta, and Findlay. He stocks up for Mobile from there, but it would suit him better to do so from New Orleans, which would relieve him from the necessity of carrying so many men, and where his facilities are greater. These purely personal considerations have no bearing, of course, on the reasonableness of these rates, which are not to be fixed to accommodate any particular person's business.

There is but one witness, Mr. E. C. Palmer, who has anything to say about the paper industry. Testifying eight months after the advance in rates had gone into effect, while he feels that it may be injurious when his customers get onto the idea, he admits that so far it has not been so. His concern also is only as to goods going through Mobile to points beyond and not as to Mobile proper, although he does business there. New Orleans, as he says, is the principal distributing point in the South for newspaper material, competing with St. Louis, Cincinnati, and Nashville, but having an advantage in rates, as a rule, from western points of manufacture, the rates to New Orleans and to Mobile being equal. There would seem to be nothing calling for relief in this situation.

So, also, with reference to stovepipe, tinware, tubs, and galvanized tubs, Mr. McBride, of the National Enameling Co., says that the manufacturers have not been compelled to absorb the advance, as stated by the commission, although he thinks it probable in the end that they may have to do so. Prices have been increased to the extent of the advance, but no one in Mobile has declined to buy on account of it. It simply has increased the cost to the jobber, and he in turn sells higher to the retailer. He admits that the New Orleans manufacturers still have a lower rate to Mobile than any other point with which they come in contact; but the difference is slight, and it would take but a small advance to equalize it. The trade at Mobile has been accustomed to buy goods delivered, and it is going to be difficult, as he says, to get the increase from them in the future, although the New Orleans manufacturer is now doing so. Under normal conditions the manufacturers would have to absorb the advance and keep the Mobile jobber on a par with others, but now it is done by the jobber.

There is nothing in any of this to sustain the findings of the commission which have been referred to, or to justify the reduction which it has ordered. The rates to Mobile were so low before that the manufacturers in New Orleans could afford to absorb them and did so. They can not, perhaps, afford to do so now. And because the Mobile jobber has become accustomed to get his goods free the manufacturers in New Orleans anticipate trouble. But this is a possibility which the railroad can not be required to prevent, and the situation as disclosed by this witness indicates that the former rate was certainly low.

Again, the commission makes the statement that the advance in rates on furniture, iron beds, etc., had practically closed out the business with Mobile in these articles, better rates being made on them from other manufacturing points, such as Atlanta, Ga., and High Point

and Winston Salem, N. C. This is a clear mistake of fact, due no doubt to inadvertence, but none the less serious, it being the uncontradicted evidence that, with one single exception, where the rate from Atlanta to Mobile is a cent lower than from New Orleans, all the rates on all the articles named from the three places mentioned are not only higher, but very materially higher, than from New Orleans. It is true that, according to Mr. Wright, there is a restrictive loading rule with regard to furniture from New Orleans to Mobile which is not imposed as to Nashville and Memphis. But this does not apply to any other points, and while it apparently gives some advantage to Memphis over New Orleans, Nashville is simply put on an equality with it. It is to this rule, also, and to the changed classification of mixed furniture in carloads, that he ascribes his loss of trade rather than to the present rate advances.

The testimony of P. Jung, another iron-bed manufacturer, is even less to the purpose. He says he never sought the Mobile field nor made any effort to get into Pensacola and has not been affected by the advance in rates to these places. Before the advance he solicited business throughout Alabama and Georgia, but found that he would have to guarantee rates as against Atlanta, High Point, and Winston-Salem, and that the trade did not warrant it. Evidently the increase did not harm nor would the reduction help him.

This is all the evidence there is as to furniture and iron beds, and it is clear that it does not in any particular support the statement of the commission.

It is further said, however, by the commission that the advance in rates on bags, burlap, gunny, and jute was vigorously opposed, and a strong protest also made on account of the alleged discrimination against New Orleans in cotton goods, it being asserted that other manufacturing points were given more favorable rates. This is sought to be sustained as to cotton goods by a comparison of rates from Virginia and North and South Carolina points, as well as from Augusta, Ga., and even from New York and Boston. The suggestion that the advance was vigorously opposed or that a strong protest was made affords neither evidence nor argument. This is always to be looked for where there is an increase in prices, whether warranted or unwarranted. Nor is anything more to be made out of the rate comparison. The commission does not say that the rates to Mobile on cotton goods are less from other manufacturing points than from New Orleans, which is not the fact, as is demonstrated by the evidence, but only that the rates are more favorable. But this is based on the mere matter of distance, which is no criterion, as already stated, without the consideration of other attending conditions. As pointed out also in connection with the Montgomery rates—according to the testimony of Mr. Ollenheimer, on which this part of the case is evidently based—there are cotton mills both at Mobile and Montgomery, as well as at the other competing points named, and it is not to be expected that rates on cotton goods should be put so low that New Orleans manufacturers would have an advantage over all others in that territory beyond what they already have; which would be the rankest discrimination. And the matter of burlap and gunny bags is not much different. The testimony of Mr. R. J. Wood is directed to this and has already been considered in another connection. So far as Montgomery and Pensacola are concerned, he frankly says that the advances have not injured his business. His complaint is as to points beyond, with regard to which he has not a little to say, but it has been discussed above and there is no occasion to again go over it.

This completes the case as to Mobile; and that with regard to Pensacola, except that it is still weaker, is no different. It is said by the commission that the advance in rates "was not so heavy or so injurious to the merchants in New Orleans in their trade with Pensacola as the advance to Mobile, but they strongly protested against it, and it was shown that, proportionately, like conditions resulted from the advance as were produced by the increase in rates to Mobile." But there is nothing to sustain this statement. One witness, Mr. Palmer, a paper dealer, says that he would be affected in Pensacola the same as Mobile; but he is not affected at all at Mobile and can not, therefore, be at Pensacola. Another, Mr. Steinhart, who deals in soap, says that they get no orders from Pensacola because the rate is said to be so high; and what he wants and thinks the company should come down to, as he is not slow in saying, is a 10 or 12 cent rate, the same as on rice and sugar, which is hardly to be expected. The other witnesses called, to a man, declare either that they have no complaint to make or that their business at Pensacola is slight or that they have not been affected; and yet the commission finds with regard to the trade with Pensacola what has just been stated.

Opposed to the evidence which has been thus referred to—if there can be said to be any opposition to what is so irrelevant and wanting in persuasiveness on the question as to what is reasonable—there are several witnesses produced by the railroad company of large experience, who testify that the rates prescribed by the commission, both to Mobile and Pensacola, as well as to Montgomery, are unjust and unfair, under all the circumstances, and among others, because they are less than those usually and ordinarily charged by the company, as well as by other railroads for the transportation of like classes of property between other points in the South separated by similar distances; because the rates which were cut down permitted a free movement of traffic and there were no competitive or commercial conditions calling for a reduction; and because the rates as reduced would give to New Orleans an undue and unreasonable advantage and preference over Vicksburg, Memphis, and other Mississippi and Ohio crossings, and would disrupt and destroy the relative adjustment and the general system of rates which have prevailed in the southeastern territory ever since the Cooley arbitration. It is also indisputably shown that the New Orleans-Mobile line along the Gulf coast is exceptionally difficult and costly to operate; that a considerable portion of it consists of long trestles and bridges which are subject to extraordinary damage and sometimes to a complete destruction by floods and freshets in the streams which they span; that its proximity to the Gulf lays it open to the full force of the Gulf storms and hurricanes, by which it was entirely put out of business for nearly a month in the early fall of 1909, and for considerable periods at different times previously; that the intermediate territory traversed is so sparsely settled and its freight traffic so small that the successful and profitable operation of the line is necessarily dependent on the through traffic between New Orleans and Mobile and points beyond, in consequence of which the company has never received even a fair return from its operations; and finally, that the cost of operation by reason of the increase in wages, in maintenance, and in the price of locomotives, cars, and other matters of equipment, has grown so enormously in the last few years that to go back to rates established under earlier conditions, when there was active water competition, instead of being fair and reasonable, is to work great and manifest injustice in disregard and in the face of this undisputed showing.

There was no attempt to meet the case as so made out for the company either by way of argument or otherwise. Counsel for the commission and for the Government simply rely on the authority of the commission to determine what is a reasonable rate and the conclusiveness of its judgment where it has done so, against which, it was argued, the courts can afford no relief unless the rate which has been fixed is shown to be confiscatory. But this contention, as presented and sought to be applied in the case at bar, must be rejected. In our judgment, it was never intended to confer on the commission any such unrestrained and undirected power. As already pointed out, the law provides for a hearing, and it must be more than a shadow. Both parties are entitled to be confronted with the evidence on which the case is to be determined, and the conclusion reached must be a reasonable inference from the facts disclosed by the investigation. This construction of the commission's authority and the conditions which limit its exercise appear to us clearly and definitely settled by the recent decision in Interstate Com. Com. v. Union Pacific R. R., supra, which is the latest and fullest utterance of the Supreme Court in a case of the same general class as the one now under consideration. Tested by the principles laid down in that decision, we are of opinion that the order here drawn in question must be held invalid as exceeding the delegated powers of the commission, because there was no substantial evidence to sustain it. It is not merely that the evidence preponderates in favor of the reasonableness of the rates which have been cut down. Concededly, that would not be enough to challenge the action of the commission. Not only is the commission vested with a discretion which can not be disturbed, and which we intend unqualifiedly to respect, but it is entitled to select the testimony which it will believe and rely upon, according as it addresses itself to the discriminating judgment of the commission. But it is not within the authority of the commission to reduce the rates in this or any other case, not merely against the weight of the evidence produced to sustain them, but without anything substantial to warrant the conclusion reached or the reasons assigned therefor. And this we are convinced is a case of that character. The only discoverable basis for condemning the rates to Mobile and Pensacola is the fact that they had been advanced in 1907, and this of itself was clearly not sufficient. (Interstate Com. Com. v. Chicago Great Western, 209 U. S., 108.) If the long continuance of lower rates to these points or the circumstances connected with their increase called for explanation, as suggested in the case cited, the explanation made by the carrier, in the absence of anything to discredit it, must be held to sustain the advance as against any presumption that it was unreasonable, and therefore there was nothing substantial to support its condemnation. Nor is there anything of substance to sustain the reduction of the Montgomery rates except the fact that they exceeded the former combination on Mobile and Pensacola. Outside of these facts, having regard to the undisputed evidence adduced at the hearing, the existing rates were not shown to be unjust or unreasonable, and there was therefore no valid basis for the commission's conclusion.

And the petitioner is therefore entitled to a decree annulling the order.

Mack, judge, dissents.

Q. (By Mr. Manager STERLING.) You had some further negotiation with Mr. Warriner, of the Lehigh Valley Co., did you not?—A. I went to see him once after that; yes.

Q. And you talked to him then about the coal-land transaction, did you not?—A. Well, hardly that.

Q. You tried to sell to him the Everhart interest in 800 acres of land?—A. Absolutely not.

Q. You talked with him about it?—A. No; I will go into that if you desire.

Q. Did you talk with Warriner about the Everhart interest in 800 acres of land?—A. The Lehigh Valley——

Q. Did you talk with him about it?—A. About the interest of what?

Q. About purchasing the Everhart interest in 800 acres?—A. No; not the way you put it.

Q. In what way did you talk with him about it?—A. The Everharts had leased two pieces of property to the Lehigh Valley Coal Co.

Q. No; I am not asking you for facts. I am asking you what was said to Mr. Warriner?—A. I can not tell you what was said without giving the facts about what was said.

Q. Just state the substance of the conversation that you had with Warriner about that.—A. I spoke to Mr. Warriner about the Lehigh Valley leases, the one with regard to 400 acres, which, I think, was known as the 1884 lease, and the one with regard to 800 acres, which was known as the 1888 lease. In the 1888 lease the Lehigh Valley Coal Co. had bought out——

Q. Did you tell him that?—A. That is what we were talking about.

Q. Go ahead and state the conversation.—A. I had to refer to something as the basis of the conversation. The Lehigh Valley Coal Co. had bought out all but one of the Everhart heirs—Mrs. Llewellyn, of Philadelphia—and, according to my information, they had endeavored to negotiate a sale from her for a definite price, the same they had paid the others, $100,000, and they had not been able to effect it.

Mr. CULBERSON. Mr. President, before we pass from the Bruce argument I desire to ask another question.

The PRESIDENT pro tempore. The Senator from Texas propounds a question which will be read to the witness by the Secretary.

The Secretary read as follows:

In one of your letters you say that the opinion in the Bruce case reflected the argument of Mr. Bruce. What argument did you refer to, the oral argument or the private-letter argument? What effect did this last argument have upon you?

The WITNESS. I referred entirely to the oral argument and to the printed brief which was submitted at that time. It was certainly a very fine argument and a very fine brief. That statement had nothing whatever to do with what was contained in the answer to my letter of the 10th of January. That letter had no effect, absolutely none, upon the decision of the case.

Mr. CULBERSON. What did you write it for, then?

The WITNESS. I wrote it on account of——

The PRESIDENT pro tempore. The Senator must submit his question in writing.

Mr. CULBERSON. Since I am handicapped in the examination I will take the liberty of asking the manager to put the question, if I may be permitted.

Mr. Manager STERLING. I will ask it. [To the witness:] Just answer the Senator's question. What did you write it for if it did not have any effect?

The WITNESS. It simply was, as you might say, to meet the argument that had been made by Judge Mack with regard to what are known as variations from the Cooley award. Judge Mack was assuming the position of dissent, and that was one matter that he raised. It only enters incidentally into the decision of the case, very incidentally. It was simply to get his views. It was something that had arisen entirely outside of the argument, and, as I said, the case could have been disposed of entirely without reference to that. But in writing the opinion it was deemed necessary to cover that point. That point was covered. As I said, I did not write that part of the opinion any more than I wrote the part in regard to the testimony of Mr. Compton.

Q. (By Mr. Manager STERLING.) Judge, you did use it for the purposes for which you got it? You used it to meet Judge Mack's views, did you not? You say you got it to meet Judge Mack's argument and you used it for that purpose?—A. I do not remember that I did. I do not remember that I discussed the matter with Judge Mack at all.

Q. You did not use it for the purpose for which you got it, you say?—A. I do not think I did.

Q. Did you tell Judge Mack you had this correspondence with Bruce?—A. No.

Mr. REED. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Missouri propounds a question, which will be submitted to the witness by the Secretary.

The Secretary read as follows:

Why did you not give the attorneys on the other side a chance to present their views?

The WITNESS. Because the point in the case amounted to so very little. It did not enter into the decision of the case practically at all. It was not a controlling question. It merely came up incidentally.

Q. (By Mr. Manager STERLING.) If it was so insignificant why did you take the trouble to write to Bruce about it? It was as important to the other side of the case as it was to Bruce's side of the case, was it not?—A. Yes; it was just as important to one side of the case as to the other.

Mr. NELSON. I present the following question.

The PRESIDENT pro tempore. The Senator from Minnesota propounds a question, which will be submitted to the witness by the Secretary.

The Secretary read as follows:

You set out to write an opinion in favor of the railroad company and you wanted Mr. Bruce to fortify you in this, did you not?

The WITNESS. No; I do not think that what I did could be characterized that way.

Mr. REED. I should like to ask another question.

The PRESIDENT pro tempore. The Senator from Missouri submits a question, which will be propounded to the witness by the Secretary.

The Secretary read as follows:

How would you characterize it?

The WITNESS. I can go into a full explanation. I do not think I can answer that question in a word. As I have said, so far as the first letter was concerned the position taken in the opinion entirely disregards the suggestions of that letter with regard to the testimony of Mr. Compton, and so far as the second letter is concerned with regard to the variations from what are known as the Cooley award, that matter is dealt with in that part of the opinion by Judge Knapp.

Mr. CULBERSON. Mr. President, I have a question to propound on the same subject.

The PRESIDENT pro tempore. The Senator from Texas propounds a question, which will be submitted to the witness.

The Secretary read as follows:

Why did you not give the Bruce letters to your associates on the bench?

The WITNESS. Because, as I said, they practically did not enter into the decision of the case or control or influence the decision in the case.

Mr. REED. I send the following question to the desk.

The PRESIDENT pro tempore. The Senator from Missouri propounds a question, which will be submitted to the witness.

The Secretary read as follows:

If the information you requested was immaterial, why did you request it?

The WITNESS. It seemed to be material at the time, but it did not prove so in the end.

Mr. SMITH of Georgia. Mr. President, I submit a question.

The PRESIDENT pro tempore. The Senator from Georgia submits a question, which will be propounded to the witness by the Secretary.

The Secretary read as follows:

Did you obtain the aid of Mr. Bruce to prepare a dissenting opinion, and, after obtaining his aid, bring the majority of the court over to your view of the case without disclosing the fact either to opposing counsel or the court that you had been corresponding with Mr. Bruce?

The WITNESS. I wrote the dissenting opinion, which I did solely upon my own views and study of the case. Certainly I did not write that dissenting opinion with any conference with Mr. Bruce or any correspondence, except just the one letter, which has been put in evidence. I had reached a conclusion with regard to the testimony of Mr. Compton the same as Mr. Bruce speaks of in his letter. With regard to that, I simply wanted a confirmation of that view. As I said, it is a very inconsiderable point in the case, only one of very many.

Mr. REED. Mr. President, I send to the desk a question.

The PRESIDENT pro tempore. The Senator from Missouri submits a question, which will be propounded the witness by the Secretary.

The Secretary read as follows:

When did you conclude that the information you sought from Mr. Bruce was immaterial?

The WITNESS. In talking the matter over with Judge Knapp I saw that there was no occasion to dwell upon that point of the case. The time, really, when Judge Knapp and I talked the matter over, after it had been decided that we would render a decree in favor of the Louisville & Nashville Railroad——

Mr. SHIVELY. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Indiana propounds a question, which will be submitted to the witness by the Secretary.

The Secretary read as follows:

Was it after you received the letter from Mr. Bruce that the dissenting opinion which you prepared became in substance the opinion of the court?

The WITNESS. It was after the first letter which I received, along in the summer of 1911, that my dissenting opinion, or the substance, became the basis of the opinion of the court.

Mr. JONES. Mr. President, I submit a question.

The PRESIDENT pro tempore. The Senator from Washington submits a question, which will be propounded to the witness by the Secretary.

The Secretary read as follows:

If the information sought seemed material when you asked for it, did it not occur to you to advise other counsel or your associates of your desire to secure it?

The WITNESS. It did not, or I should have done so.

Mr. POMERENE. Mr. President, I submit a question.

The PRESIDENT pro tempore. The Senator from Ohio submits a question which will be propounded to the witness.

The Secretary read as follows:

If it was such an inconsiderable point about which you wrote to Mr. Bruce, why was it necessary to meet the views of Judge Mack on this point?

The WITNESS. Well, when there is one member of the court sustaining a certain line of views they become the subject of discussion very naturally and necessarily. I never regarded, if I may be permitted to say so here, that the point upon which Judge Knapp eventually dissented really was of any significance in the case. I am characterizing the opinion of my associate in a way in which I would not do except for the question. It was necessary to say that in order to answer the question.

I should like very much, if I could be permitted, to explain this whole thing, because I feel satisfied that if I could it would show the Senate more fully what I have endeavored to show in answer to these questions.

Mr. REED. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Missouri propounds a question which will be submitted to the witness by the Secretary.

The Secretary read as follows:

Did you communicate to your associates in argument the views set forth in the Bruce letters?

The WITNESS. No; those were the arguments with regard to the Cooley award, which was the matter spoken of in the letter of January 10. Those were advanced in answer to Judge Mack by Judge Knapp, without reference to anything that appeared in my letter or without any suggestion on my part. They were the natural and obvious answer, as it seemed to me, to the position taken by Judge Mack.

Mr. REED. Mr. President, the witness said he desired to explain my question. My question is directed to that request.

Mr. POMERENE. I have a question, and it was directed to the same point.

The WITNESS. I will be as brief as I possibly can. The questions involved in the Louisville & Nashville case were the reduction of class rates which had been ordered by the Interstate Commerce Commission from New Orleans to Mobile and Pensacola, and through Mobile and Pensacola to Montgomery and beyond. Those rates, so far as the rates from New Orleans to Mobile and Pensacola are concerned, had been established, as it was claimed by water competition, at a very low point by the railroads.

The rate from New Orleans to Montgomery would ordinarily be made up by the rates from New Orleans to Mobile or to Pensacola plus the rates from either of those two places to Montgomery and beyond. It so happened—and this was the complaint against the rates of the railroad—that the through rate from New Orleans to Montgomery was greater than the combination on those two places or than the sum of the locals. That complaint having been made to the commission, the railroad company then raised its rates to the intermediate points, so that the sum of the locals would equal the through rate to Montgomery.

It was that controversy in that case that came up before the Commerce Court. The main contention before the Commerce Court—the one controlling contention—was that the Interstate Commerce Commission had no evidence before it—not evidence on which there might be a difference of views, but practically no evidence—to sustain the conclusions which they had reached, which were involved in the decision of that question and that case, and also that they not only had no evidence, but that they had mistaken the evidence. On the part of the Government and the Interstate Commerce Commission it was contended that the court was not authorized to go into that question at all. That was the position assumed by them, and was their main contention.

The view that I took originally with regard to that was in line with the argument made by Mr. Bruce at the time the case was originally made, that there was practically no evidence to justify the conclusion of the Interstate Commerce Commission. The Interstate Commerce Commission in the opinion which they rendered—a copy of which I have here in my hand and which I should like to go into the RECORD—gave sundry reasons for this decision. There were two matters in that opinion about which the two letters written to Mr. Bruce are concerned, and I will refer to them in their order. I should like to read this extract from the opinion of the Interstate Commerce Commission at this point, bearing in mind that the question for us to decide, the contention on the part of the railroad company that there was no evidence—substantially no evidence—a conclusion which was finally reached in the opinion of the majority of the court. This is the extract:

It was stated by the principal witness—

This is one of the reasons, and the only reason, given by the Interstate Commerce Commission for the order which they made—

It was stated by the principal witness for the defendant that between points on its line where the through rate exceeded the combination of rates from point of origin to a competitive point, and from said competitive point to destination, shippers were given the benefit of the combination rate, and this provision appeared in several circulars and was very generally observed, as a rule, for the adjustment of freight rates; and such having been formerly the custom of the defendant, it would seem now to work no especial hardship upon it to reduce rates to the basis of the former combination.

That is to say, it is asserted in that opinion that there existed a rule with respect to the rates involved in the controversy in that case, by which parties shipping from New Orleans to Montgomery would be given the benefit of the combination and reduced in that way on through rates. As a matter of fact, there is not anything in the opinion that sustains that view; that is to say, that was the view which I took in my dissenting opinion, and that is the view that was taken eventually in the opinion of the court; but regardless of that conclusion, here is what the court said upon that point in its opinion——

Mr. WORTHINGTON. The Commerce Court?

The WITNESS. The Commerce Court.

It is undoubtedly true—

Now, this, mind you, was written by Judge Knapp—

It is undoubtedly true, as testified by Mr. Compton—

He was the witness spoken of here as "the principal witness," the traffic manager, I believe, he was, of the Louisville & Nashville Railroad—

It is undoubtedly true, as testified by Mr. Compton, that it was a more or less general practice to protect through shipments against the combination of locals, and a rule to that effect was carried by his road in certain of its local tariffs; but there was no such rule in the tariffs naming rates to Montgomery territory, and nothing whatever appeared at the hearing to indicate that through traffic to Montgomery was ever carried at less than the Montgomery rate. A colloquy occurred in the course of Mr. Compton's examination, in which he seems to have admitted that the rule in the local tariffs referred to, not being limited in terms, might be claimed to have authorized the application of the Mobile combination to Montgomery shipments. But the point is not what those tariffs might have been considered to mean, but what the actual practice was in respect to the traffic in question. Evidently the road was always careful to maintain this Montgomery rate.

I wrote my dissenting opinion. In looking over the testimony, of which I made the abstracts which I have here in my hand—a very voluminous record—I reached the conclusion with regard to Mr. Compton's testimony contrary to that which appeared in the opinion of the Interstate Commerce Commission. I wanted to make sure about that, and I wrote the letter which I have written, the first letter, to Mr. Bruce, to ascertain whether the view which I took of that, which depended upon whether the word "not" had or had not been omitted, was correct; and he sustained me in that view; but as I read the opinion as it is now formulated, that matter was put entirely aside, and it was assumed that what Mr. Compton had said was what the Interstate Commerce Commission say that he said, because, reading again, I find this:

A colloquy occurred in the course of Mr. Compton's examination in which he seems to have admitted—

It seems to me Mr. Compton did admit—

that the rule in the local tariffs referred to, not being limited in terms, might be claimed to have authorized the application of the Mobile combination to Montgomery shipments.

Then he goes on to point out that, notwithstanding that fact, the conclusion reached by the commission upon that point was not correct. That is what was embodied in the first letter.

The second letter goes to this part of the opinion of the Interstate Commerce Commission. The whole basis of rates into the southeastern territory by all the railroads running in that direction, covering the rates from what was known as the Mississippi and Ohio River crossing points down into that territory, including the rate from New Orleans into Montgomery territory, had been originally submitted to arbitration by the carriers. Judge Cooley, the first president of the Interstate Commerce Commission, was the arbitrator. As the result of that he established a relation of rates into that territory. That arbitration had stood, according to the contention on the part of the Louisville & Nashville Railroad, from that time, away back in 1886, until the controversy arose, which, I believe, was in 1907, a long period of years; and that, in view of that fact, that arbitration was entitled to particular consideration at the hands of the Interstate Commerce Commission in reaching the result; and that, in disregard of it, they had put it aside as being nothing more than what might be said of historical value.

This is part of the Interstate Commerce Commission's opinion to which that refers:

The Cooley arbitration in 1886 has been strongly urged by the defendant as a reason for the nonreduction of the present advanced rates. This arbitration established a relation of rates as between the several Ohio and Mississippi River crossings applying upon products from the territory north and west of those rivers destined to the southern and southeastern territory by fixing a basis for making rates from these several basing points to the southeastern territory, with the object of maintaining an equitable relation and equality of the basing rate as between said points on goods transported to southeastern territory, but we do not understand that this arbitration undertook to fix the actual rates for carriage from the several basing points to destinations in this territory.

Here is the significant part:

However, if such were the case, the building of new railroads, competition, and other causes forced many departures from the adjustment and the rates made under it, until it has become materially altered, and it is inevitable and proper that it should yield to meet new and changed conditions.

In other words, the reason given by the Interstate Commerce Commission for disregarding the Cooley award was the suggestion that there had been so many departures from it. That was the position taken also by Judge Mack based upon this: There are class rates and commodity rates. The difference between them I endeavored to explain yesterday. There is a classification of freight, running from first class to sixth class, and some lettered classes. I do not know what enters into that matter, and it is not material.

Then there are commodity rates; that is to say, a lot of commodities grouped together to form a class are put in a class because they have certain relations to each other; but for some reason or other one of these commodities will be taken out of a class and given a specific rate. Those are the commodity rates.

When this matter originated before the Interstate Commerce Commission both class rates and commodity rates were involved; but as a result of that the railroads made the changes in the commodity rates of which complaint was made, so that there was nothing left in the controversy except with regard to class rates; but the position taken by Judge Mack was—and apparently the only justification for the position taken by the Interstate Commerce Commission in that part of the opinion which I have read was—that there had been a variation from the Cooley award in commodity rates which were not involved. Judge Mack examined the tariffs at great length and reported that he found I do not know how many variations in the commodity rates, and he said that justified the statement of the Interstate Commerce Commission which I have particularly referred to:

However—

Reading from the opinion—

However, if such were the case, the building of new railroads, competition, and other causes forced many departures from the adjustment and the rates made under it, until it has become materially altered, etc.

What was said in that opinion related, as I understood and as every one of the members of the court understood, really to class rates, which was the only question involved in the case before the Commerce Court. The matter set up by Judge Mack was that there had been variations in the commodity rates and that that justified the statement. That is the whole issue that there was; and that is the whole question that was referred to in the letter to Mr. Bruce. It only incidentally enters into the result, because it only bears upon one of the reasons that the Interstate Commerce Commission gave for its opinion. It might have been entirely disregarded and the result reached be practically the same as it was. As I have said, I think that is reflected entirely in the opinion where the matter of the Cooley award is treated. The obvious answer is that you can not base a variation from the Cooley award on commodity rates as bearing upon whether there had been a variation from the Cooley award with regard to class rates.

That is all there is to it; that is what is said in the opinion; and, as I have said, that view is the view that was advanced by Judge Knapp and coincided in by the rest of the court, and is what appears in the opinion. I had no more influence in bringing about that view than other members of the court; and the views that were advanced by Mr. Bruce in his letter were not communicated to the other members of the court. It seemed to me that it was only in justice to Mr. Bruce, this question having been raised entirely outside of the record and not in the argument at all, that if it had any bearing, as I do not think it had in the practical result, he was entitled to have the views that he expressed appear there.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. REED] submits a question which he desires propounded to the witness. The Secretary will read the question.

The Secretary read as follows:

Do you as a judge consider it a safe practice to ask the lawyer interested in a particular construction of evidence for his views without giving the opposing attorney a chance to be heard?

The WITNESS. I wish to say emphatically no, coinciding entirely with the view which I consider to be expressed in the opinion. There may be circumstances which might justify that, but it certainly would be very unusual; and I have tried to follow that as a cardinal rule in all my practice and all my experience upon the bench.

The PRESIDENT pro tempore. The Senator from Idaho [Mr. PERKY] propounds a question, which will be read to the witness.

The Secretary read as follows:

In your answer to article 4 of the articles of impeachment exhibited against you, you admit that you requested Mr. Bruce to see one of the witnesses in order to get the witness's explanation of a phase of his testimony. Do you regard this procedure as fair to the opposing side? Does such confidence not invite and encourage imposition?

The WITNESS. Well, my views now, with the light that has been thrown upon the subject, might vary from what they were at the time. I think I may say frankly that if I had supposed there was any unfairness or even any impropriety, my judicial sense and my sense of propriety would have kept me from that. If it seems otherwise to Senators, I regret it; but that is all I can say. It did not seem to me, it did not impress me, in the way that has been suggested here.

Mr. CULBERSON. Mr. President, I submit a question which I desire to have propounded to the witness.

The PRESIDENT pro tempore. The Senator from Texas submits a question, which will be read to the witness by the Secretary.

The Secretary read as follows:

As you condemn the reprehensible practice involved in the Bruce correspondence, as I understand you, what explanation of it or excuse for it have you to make to the Senate? State it fully and frankly.

The WITNESS. I do not think that what I have said constitutes or is intended to constitute an admission that, under the circumstances of this case and under the conditions which existed, the practice was reprehensible. I may be obdurate in that opinion. So far as that seems to have been a practice that was reprehensible, or not to be commended by the Senate, I have no further excuse or no further explanation than that which I have endeavored already to give.

The PRESIDENT pro tempore. The managers will proceed with the examination.

Q. (By Mr. Manager STERLING.) Going back to article 6, Judge, you did have a talk with Warriner about the Everhart interest in this 800-acre tract?—A. Yes.

Q. And the purpose of it was to get him to buy their interest in that tract?—A. No.

Q. Well, what was said?—A. He was anxious to buy that interest.

Q. What was said between you and him?—A. I knew, or I understood, that he was anxious to buy that interest. I did not have it to sell, but I understood that Mr. Dainty was on friendly relations with Mrs. Llewellyn, controlling the outstanding interest, and that he possibly could secure that interest for the Lehigh Valley Railroad Co. That was what he represented.

Q. What Dainty represented to you?—A. What Dainty represented; yes.

Q. Then did you have him go to see the Everhart interests?—A. No; I did not.

Q. Well, did he go to see them?—A. I do not know.

Q. You and Dainty were connected in the matter, were you not?—A. No.

Q. Why did Warriner then come to you about it, or why did you go to him?—A. He did not come to me.

Q. Did you go to him?—A. I went there and saw him at his office.

Q. Why did you go and see him about it if you were not concerned in it?—A. Simply as a matter that affected Mr. Dainty; so far as it affected Mr. Dainty.

Q. Then you and Dainty were connected in a way with it, were you not?—A. We were connected in the way I have described.

Q. You went just as a friend of Dainty?—A. Practically that.

Q. Was there not an understanding between you and Dainty that you and he were to get the Everhart interest for sale, sell it to the Lehigh Valley Co., and get a commission on it?—A. Absolutely not.

Q. Well, at the same time you talked to Warriner about that, you also talked to him about leasing another tract of 320 acres to Dainty, did you not?—A. Yes; that was the suggestion——

Q. You tried to get from Warriner a lease for Dainty on that, did you not?—A. I suggested that if Mr. Dainty was instrumental in securing the Llewellyn interest for the price which they named—Mr. Warriner said they would absolutely pay nothing but the $100,000; indeed, he said they would deduct the royalties that had been paid to Mrs. Llewellyn, since the other heirs had been bought up, because we did not propose to make any difference or any distinction between her and the others—I suggested that if Mr. Dainty did that, then he would like to lease the Morris & Essex tract.

Q. Did anything come of that conference with Warriner about those two matters?—A. No.

Q. They neither bought the Everhart interest nor rented to Dainty through you the 320-acre tract?—A. No.

Q. How long had you known Dainty?—A. Oh. I had known of him longer than I had actually met him. I had not met him very long before this occurred.

Q. Well, Williams brought him to you, did he not?—A. Yes.

Q. And introduced him to you?—A. I met him and Williams on the street one day.

Q. Did he not come to your office with Williams?—A. He did.

Q. This was just shortly before your conference with Warriner?—A. Yes; not long.

Q. Williams told you what Dainty wanted; but he said to you that he had not told Dainty that you were the only man in Scranton that could get these interests from the railroad company?—A. No; that is not so.

Q. Well, what did he say about that?—A. Mr. Dainty did the talking.

Q. What did Williams say when he introduced Dainty?—A. Mr. Williams brought Mr. Dainty there with the suggestion that he would be able to get the Everhart interest in the Katydid dump.

Q. How were you interested in that? Did Williams know you were trying to get those interests for sale?—A. That was during the negotiations that we were carrying on with regard to the Katydid dump.

Q. Well, how did that bring up the matter of the Everhart interest in the 800-acre tract?—A. I presume Mr. Dainty mentioned that fact; he must have mentioned it.

Q. That was the purpose Williams had in bringing Dainty there—so you could talk about that?

Mr. WORTHINGTON. I object to asking the witness what Mr. Williams's purpose was.

Mr. Manager STERLING (to the witness). Well, what did you say to Williams?

The WITNESS. I do not understand what you mean when you ask what was his purpose. I do not know what you refer to.

Q. Williams brought Dainty to you, so that Dainty could get you to intercede for him with the railroad company with reference to these two matters?—A. Oh, no; there was nothing suggested like that.

Q. That is what you talked about, was it not?—A. No; that is not what we principally talked about.

Q. Well, you did talk about it?—A. No.

Q. Not at all?—A. Not further than what I have suggested.

Q. Well, you did talk about it, then, to that extent?—A. Yes.

Q. As the result of that you went to Warriner to see what you could do for Dainty in that regard?—A. I went to Mr. Warriner and made a suggestion to Mr. Warriner that Mr. Dainty thought he could get the Llewellyn interest.

Q. And you asked him if he would rent Dainty this 320 acres of land?—A. I suggested, as I have said, that Mr. Dainty would like, if he succeeded in doing that, to get a lease on the Morris & Essex tract.

Q. Why did you do that, Judge?—A. As a matter of friendliness.

Q. To Dainty?—A. Yes.

Q. You had never met him before?—A. Oh, yes; I had.

Q. Was there any express understanding between you and Dainty that you were to share in the commission for the sale of the Everhart interest and in the profits of the lease which Dainty was to get for the 320 acres?—A. Absolutely not.

Q. Now, Judge, you did not know about the contribution by members of the bar until you got on board the ship, did you?—A. I did not.

Q. And you received it in a package with the letter about which you testified yesterday?—A. Yes.

Q. After you arrived in Europe you sat down and wrote to the contributors thanking them for it?—A. Yes.

Q. How did you know who the contributors were?—A. I did not know, except as their names appear.

Q. In this letter?—A. Well, there were others whose names are not in that letter.

Q. In this letter, marked "Exhibit UU"?—A. There were three others whose names are not in that letter.

Q. Where did you get those names?—A. After I got to Italy I received a letter from Mr. Searle, in which he communicated the fact that there had been additional contributions made by three members of the bar of Luzerne County, at Wilkes-Barre—Judge Wheaton, Mr. Woodward, and Mr. Lenahan—and he wanted to know whether he should forward that money to me. I told him no; that he should keep that until I got home.

Q. How much was there of that?—A. $125.

Q. Was that in addition to the $525 contained in the package?—A. It was.

Q. And where is that letter which you got from Searle?—A. I really do not know.

Q. I see you have indorsed this letter on the back for filing away to keep it, so that you could remember the names of the contributors, I presume?—A. I filed it away; yes. I preserved it.

Q. Why did you not preserve the other one in the same way, so that you could remember the other gentlemen?—A. I think I have.

Q. Why did you not bring it with you?—A. I did not think about it.

Q. Did you not think about that when you thought about this?—A. I beg pardon.

Q. Did you not think about that when you thought about this?—A. No; I did not. This was the particular characterization of the gift.

Q. When you got back, Mr. Searle gave you the $125, did he?—A. Yes.

Q. Making a total of $650?—A. Yes.

Q. How many times did you go to Warriner with reference to the Dainty transactions?—A. Once.

Q. Do you think Mr. Warriner was mistaken when he said you saw him more than once?—A. I do not remember what his testimony is. I would not be positive that I was limited to one time.

Q. Do you think Warriner was mistaken when he said you approached him with reference to that matter?—A. Well, I do not want to put my testimony in comparison with his or that of anyone else. I have only given you my remembrance.

Q. Do you remember he said that a year before that the road had contemplated purchasing that interest, but that they had not considered it lately?—A. I can not tell you about his testimony. I have given you mine.

Q. On yesterday you were asked about addressing these letters to the railroad companies on the Commerce Court paper. I believe you said then you had not any other paper?—A. I think that the paper that I had been using as district judge ran very low about that time. I believe some of the letters that I wrote were on district judge paper.

Q. Did you not have any blank paper?—A. I think there was some blank paper that was used in case of a letter going over one page.

Q. Did it occur to you that it would look better and be in better taste to write these railroad companies in reference to these business transactions on other paper?—A. It might have been better taste.

Q. Do you think you would have done it if you had had other paper there?—A. I could not tell you that.

Q. You did have other paper there, I presume, because in these letters where you have used more than one sheet the second sheet is always blank paper?—A. I think that is true.

Q. And that is the form in which the Commerce Court paper comes to the members, is it not?—A. No, not unless you ask especially for it; but I have special blank paper.

Q. You have it?—A. Yes. The form that that assumes, of course, is largely the result of the typewriting of my stenographer. I dictated a letter, and it was taken off and put on paper and I signed it.

Q. Let me ask you this. Have you noticed, Judge, in your correspondence which is in evidence in this case that in every instance where you addressed railroad companies or the officials of railroad companies concerning their coal properties and with reference to the negotiations which you were having with them, you used paper with letterheads "Commerce Court" on it, and that in all cases where you used blank paper it was correspondence not with railroad companies? Have you noticed that?—A. I have not.

Q. Did it occur to you at any time, Judge, that it would help to impress the railroad companies with the idea that you had jurisdiction over them in the Commerce Court?—A. It did not, Mr. STERLING.

Mr. Manager STERLING. That is all.

The PRESIDENT pro tempore. Are there any further questions?

Mr. SIMPSON. Yes, sir.

Redirect examination:

Q. (By Mr. SIMPSON.) In the course of your testimony in relation to Article I you said that as you recollected it, the price agreed upon with the Hillside Coal & Iron Co. for the Katydid dump was agreed upon in September. Do you recall a letter of August 30, 1911, page 139, referring to that matter?—A. That was the time. There was but one time. That was when Mr. Williams went to see Capt. May as a result of my meeting Capt. May in the street.

Q. You were asked also whether you saw anybody else than officials of the railroad company in relation to the purchase of the Katydid culm-dump matter. Do you recall the interviews had with Mr. Robertson and the papers that were drawn in relation to that?—A. Oh, yes; of course that occurred.

Q. That was in relation to this identical matter?—A. Yes; certainly; that was in relation to Mr. Robertson's interest, which was a very important part.

Q. The question was asked you by Mr. STERLING as to whether or not Capt. May knew that you had an interest in the Katydid transaction. Will you tell us, please, whether you ever told him that you had a financial interest in it?—A. I do not remember speaking about that. Oh, yes; I think I did. I think I wrote a letter when I asked him to keep the price confidential.

Q. That is one of the later letters that is in evidence in this case.—A. Yes; it is in evidence. At that time I was trying to secure the Brooke's property, the Birdsboro people's interest.

Q. I notice that in the agreement, or draft of an agreement, which was drawn by you between yourself and Mr. Williams and the Laurel line, there appears a clause that "the parties of the first part"—that is yourself and Mr. Williams—"do hereby grant, bargain, sell, and convey unto the parties of the second part, their successors, assigns, and so forth, all of the culm dump," and so forth. You were asked by Mr. STERLING whether or not there was any warranty in the agreement. Do you remember the Pennsylvania act of assembly which deals with those words, "grant, bargain, and sell"?—A. They are held to create a warranty.

Q. It is the act of 1705, is it not?—A. It is.

Q. You were also asked by Mr. STERLING whether or not your name appeared as a party interested, except in one letter, which was written by you to Mr. Conn. I find there are two letters in the record, one dated September 20, 1911, being Exhibit No. 10, page 184, and one dated November 6, 1911, being Exhibit No. 3, page 143. Your name appears as a party interested in both of those letters, does it not?—A. I can not speak except as the exhibit itself speaks.

Q. You would not undertake to say that if the exhibit shows that fact that it appeared only in one letter?—A. No; I do not pretend to contradict the exhibits.

Q. Do you remember what time of day you wrote the letter of October 3, 1911, to Mr. Loomis from Washington?—A. No; I do not.

Q. Do you remember what time of day it was mailed?—A. No; I do not.

Q. Can you tell us how long it takes a letter to go from Washington to Scranton?—A. If mailed in the afternoon of one day it will appear, I think, in Scranton about 11 o'clock. If it is put in the mail later than that in the day, it will not reach Scranton until about 4 in the afternoon of the following day.

Q. If a letter is put in the box in the morning of one day, what time would it reach Scranton?—A. It is not likely to reach Scranton until the following day.

Q. Then your letter of October 3, 1911, mailed from Washington, could not have reached Scranton until the 4th of October at the earliest?—A. No.

Q. And would hardly be the means of fixing a date of meeting on the 5th. My colleague calls my attention to the fact that this letter was sent to Mr. Loomis in New York. What time would it reach New York?—A. I do not know anything about the mails between here and New York, but I imagine they are very much more speedy than they are between here and Scranton.

Q. Would a letter mailed here at an ordinary hour, say after 10 o'clock, on one day, reach New York and be delivered before the next day?—A. I do not think it would. It is five full hours by the fastest train from here to New York.

Q. It was hardly likely, then, that that letter mailed to New York on the 3d of October would have reached New York in time to fix an interview in Scranton with parties that were to leave New York and be in Scranton on the 5th?—A. Well, I would want to consider that, Mr. Simpson, before I answered, sir.

Q. Will you tell us, please, whether or not you ever gave instructions to your stenographer and typewriter as to what paper she should use in writing letters for you?—A. No; I did not particularly.

Q. You say "particularly." I do not know quite what that means.—A. I never gave her any directions at all about it. I dictated a letter and when it came to me I signed it. I did not notice what paper it was on.

Q. Did you ever give her any instructions as to letters to be written to railroads or corporations any differently from letters to be written to anybody else?—A. No.

Mr. SIMPSON. I believe that is all, Mr. President.

The PRESIDENT pro tempore. Are there any further questions to be asked the witness?

Mr. Manager STERLING. There is nothing further of this witness, Mr. President.

Mr. SIMPSON. I offer in evidence, Mr. President, a transcript of the docket entries of the Commerce Court in the Louisville & Nashville Railroad Co. case.

Mr. Manager WEBB. We have no objection.

The transcript referred to is as follows:

[U. S. S. Exhibit VV.]

TRANSCRIPT OF DOCKET ENTRIES, UNITED STATES COMMERCE COURT.

(Docket No. 4.)

PARTIES.

Louisville & Nashville Railroad Co., petitioner, v. The Interstate Commerce Commission, respondent.

INTERVENERS.

The United States.

ATTORNEYS.

For petitioner: Helm Bruce, W. G. Dearing.
For United States: James A. Fowler, Blackburn Esterline.
For Interstate Commerce Commission: William E. Lamb.

PROCEEDINGS.

1910.

January 26. Filing three bills in equity (U. S. Circuit Court, Western District of Kentucky, equity No. 7223). Filing three exhibits. Certificate of Attorney General filed. Making three copies of certificate for circuit judges at request of Attorney General. Attaching certificate and seal to each. Subpœna in chancery issued to March rules, 1910. Making copy of do. for service.
February 11. Order setting cause for hearing February 25.
February 19. Answer filed.
February 21. Motion for interlocutory injunction heard in part. Order filing affidavits of H. B. Biddle and four others. Replication filed.
February 22. Motion for interlocutory injunction further heard. Affidavit of Lincoln Green filed.
February 23. Motion for interlocutory injunction concluded.
April 9. Ordered that judges sitting in chambers be adjourned to session in court. Opinion filed. Order overruling motion for injunction.
May 17. Order appointing Clarence E. Walker examiner. Filing stipulation.
June 16. Petition of intervention of Cincinnati, New Orleans & Texas Pacific Railway Co. and others tendered; motion to file; and order overruling motion. Entering exceptions.

1911.

January 30. Order filing stipulation.
February 13. Stipulation filed.
February 15. Transferred to United States Commerce Court from United States Circuit Court for Western District of Kentucky, equity No. 7223.
February 24. Brief for petitioner filed.
April 3. Ordered that United States be permitted to intervene, and original answer of Interstate Commerce Commission adopted.
April 4. Brief for the United States filed.
April 5. Cause taken under advisement.
April 11. Brief for Interstate Commerce Commission filed.
April 17. Reply brief for complainant filed.

1912.

February 28. Opinion annulling order of Interstate Commerce Commission filed.
March 7. Final decree, in accordance with opinion, entered.
March 12. Dissenting opinion of Judge Mack filed.
March 16. Petition for appeal filed. Assignment of errors filed. Order allowing appeal filed. Præcipe for record filed.
March 23. Order entered directing clerk to transmit originals of certain papers to Supreme Court.
A true copy.
Test.
[SEAL.] G. F. SNYDER,
Clerk of the United States Commerce Court,
By W. S. HINMAN,
Deputy Clerk.

Mr. SIMPSON. I offer in evidence a transcript of the docket entries in the so-called Lighterage case, No. 38.

The transcript referred to is as follows:

[U. S. S. Exhibit WW.]

TRANSCRIPT OF DOCKET ENTRIES, UNITED STATES COMMERCE COURT.

(Docket No. 38.)

PARTIES.

The Baltimore & Ohio Railroad Co., The Central Railroad Co. of New Jersey, The Delaware, Lackawanna & Western Railroad Co., Erie Railroad Co., Lehigh Valley Railroad Co., New York, Ontario & Western Railway Co., and The Pennsylvania Railroad Co., petitioners, v. United States, respondent.

INTERVENERS.

Brooklyn Eastern District Terminal, John Arbuckle, and William A. Jamison, intervening petitioners. Interstate Commerce Commission, Federal Sugar Refining Co., intervening respondents.

ATTORNEYS.

For petitioners: Hugh L. Bond, Jackson E. Reynolds, W. S. Jenney, George F. Brownell, J. F. Schaperkotter, John B. Kerr, George Stuart Patterson, H. A. Taylor.
For United States: James A. Fowler, Blackburn Esterline.
For Interstate Commerce Commission: P. J. Farrell.
For Brooklyn Eastern District Terminal: Parsons, Closson & McIlvaine, Woodhull Hay.
For John Arbuckle and William A. Jamison: Dykman, Oeland & Kuhn.
For Federal Sugar Refining Co.: Ernest A. Bigelow.

PROCEEDINGS.

1911.

April 12. Petition for injunction, etc., filed.
April 13. Copy of petition filed in office of secretary of Interstate Commerce Commission and in Department of Justice.
April 19. Petition of Federal Sugar Refining Co. to be made a party respondent filed. Order granting petition of Federal Sugar Refining Co. filed.
May 8. Appearance of P. J. Farrell for Interstate Commerce Commission filed.
May 10. Petitioners' notice of motion and affidavits filed.
May 11. Intervening petition of Brooklyn Eastern District Terminal and notice filed. Motion of Interstate Commerce Commission and Federal Sugar Refining Co. to dismiss filed.
May 12. Affidavit of service filed by Brooklyn Eastern District Terminal. Intervening petition of John Arbuckle and William A. Jamison and notice filed. Motion of the United States to dismiss filed.
May 13. Testimony before the Interstate Commerce Commission filed.
May 17. Brief for the petitioners on motion for temporary injunction filed. Points submitted on behalf of the defendant. Federal Sugar Refining Co., filed. Order entered granting Brooklyn Eastern District Terminal leave to intervene. Order entered extending motions of United States and Interstate Commerce Commission to dismiss the petition to cover intervening petitions of Arbuckle and Jamison and Brook-

ing Eastern District Terminal. Order entered granting John Arbuckle and William A. Jamison leave to intervene. Order entered excluding evidence taken before Interstate Commerce Commission.

May 22. Brief of United States filed. Order denying motion to dismiss. Order granting motion for temporary injunction filed.

May 23. Certified copy of order granting motion for temporary injunction served on chairman of Interstate Commerce Commission.

May 25. Brief for Jay Street Terminal and Arbuckle Bros., interveners, filed. Certified copy of order granting motion for temporary injunction served on Attorney General of United States.

June 9. Answer of Federal Sugar Refining Co. filed. Answer of the United States filed. Answer of United States to intervening petition of John Arbuckle and William A. Jamison filed. Answer of United States to intervening petition of Brooklyn Eastern District Terminal filed.

June 12. Petition for appeal filed by Interstate Commerce Commission. Assignment of errors filed by Interstate Commerce Commission.

June 13. Order entered allowing appeal. Citation on appeal of Interstate Commerce Commission filed.

June 15, 16. Certified copy of citation on appeal served on each petitioner and intervening petitioner. Petition for appeal by the United States filed. Assignment of errors by the United States filed. Order entered allowing appeal of the United States. Citation on appeal of the United States filed.

June 17, 19, 27, 28. Certified copy of citation on appeal of United States served on each petitioner and intervening petitioner.

June 26. Praecipe for transcript of record filed.

October 3. Order designating Judge Mack to hear testimony.

1912.

June 24. Mandate of United States Supreme Court affirming decree of Commerce Court filed. Notice of motion for final hearing, etc., filed. Motion of United States to vacate order for testimony heretofore entered and to set cause for final hearing, etc., filed. Objections of United States to this court taking evidence filed. Appearance of H. A. Taylor for petitioners filed. Appearance of Woodhull Hay for Brooklyn Eastern District Terminal filed. Motion of United States to vacate order for testimony, etc., denied and objections thereto sustained, order entered. Motion of petitioners to proceed to take evidence granted and objections overruled, order entered.

October 10. Order entered granting United States and Federal Sugar Refining Co. leave to withdraw answers and enter motions to dismiss. Motion of United States and Federal Sugar Refining Co. to dismiss filed.

October 19. Brief for Brooklyn Eastern District Terminal filed.

October 21. Brief for Jay Street Terminal and Arbuckle Bros., interveners, filed. Brief for petitioners on motion of respondents to dismiss petition filed. Final hearing commenced.

October 22. Final hearing concluded; cause taken under advisement.

October 23. Brief for the United States filed.

October 28. Reply of Jay Street Terminal and Arbuckle Bros. to brief for United States filed.

November 4. Reply brief for railroad companies, petitioners, on motion to dismiss filed.

November 15. Opinion on final hearing on motions to dismiss filed. Final decree entered annulling order of Interstate Commerce Commission.

November 25. Petition for appeal filed. Assignment of errors filed. Order entered allowing appeal. Praecipe for record filed.

November 29. Notice of filing of praecipe with acceptances of service thereof filed. Certified transcript to Supreme Court.

A true copy.
Test:
[SEAL.] G. F. SNYDER,
Clerk of the United States Commerce Court.
By W. S. HINMAN,
Deputy Clerk.

Mr. SIMPSON. I offer in evidence a transcript of the docket entries in the fuel-rate case, No. 39.

The transcript referred to is as follows:

[U. S. S. Exhibit XX.]

TRANSCRIPT OF DOCKET ENTRIES, UNITED STATES COMMERCE COURT.

(Docket No. 39.)

PARTIES.

The Baltimore & Ohio Railroad Co.; the Pennsylvania Railroad Co.; the Pennsylvania Co.; Buffalo, Rochester & Pittsburgh Railway Co.; the Pittsburgh, Cincinnati, Chicago & St. Louis Railway Co.; the trunk Wheeling & Lake Erie Railroad Co., and B. A. Worthington, receiver thereof; the Lake Shore & Michigan Southern Railway Co.; the Pittsburgh & Lake Erie Railroad Co.; Buffalo & Susquehanna Railway Co.; Harry I. Miller, receiver, Buffalo & Susquehanna Railway Co.; Erie Railroad Co.; the Western Maryland Railway Co.; the Pittsburgh, Shawmut & Northern Railroad Co., and Frank Sullivan Smith, receiver thereof, petitioners, v. United States, respondent.

INTERVENERS.

Interstate Commerce Commission.

ATTORNEYS.

For petitioners: Hugh L. Bond, jr., George E. Brownell, George Stuart Patterson, Clyde Brown, William M. Duncan.
For United States: James A. Fowler, Blackburn Esterline.
For Interstate Commerce Commission: F. J. Farrell.

PROCEEDINGS.

1911.

April 27. Petition for injunction, etc., with exhibits, filed.

April 28. Copy of petition filed with chairman of Interstate Commerce Commission and in Department of Justice.

May 8. Appearance of F. J. Farrell for Interstate Commerce Commission filed.

May 15. Notice and motion to strike by Interstate Commerce Commission filed.

May 19. Petitioners' notice of motion and affidavits filed.

May 22. Order sustaining motion of Interstate Commerce Commission to strike out portions of petition filed.

May 23. Answer of Interstate Commerce Commission filed.

May 24. Brief for Baltimore & Ohio Railroad Co., and other petitioners filed.

May 27. Answer of United States filed.

May 29. Order entered granting application for preliminary injunction.

May 31. Temporary injunction issued in accordance with order of May 29, and served on Attorney General and chairman of Interstate Commerce Commission.

June 6. Petition for appeal filed by Interstate Commerce Commission. Assignment of errors filed by Interstate Commerce Commission. Order entered allowing appeal. Citation on appeal of Interstate Commerce Commission filed.

June 8. Certified copy of citation on appeal served on each petitioner.

June 16. Petition for appeal by the United States filed. Assignment of errors by the United States filed. Order entered allowing appeal of the United States. Citation on appeal of the United States filed.

June 20. Citation on appeal of Interstate Commerce Commission, addressed to Erie Railroad Co. or George F. Brownell, filed.

June 17, 19, 20. Certified copy of citation on appeal of United States served on each petitioner.

June 20. Certified copy of citation on appeal of Interstate Commerce Commission served on Erie Railroad Co.

June 26. Praecipe for transcript of record filed.

1912.

July 1. Mandate of United States Supreme Court reversing decree of Commerce Court and remanding cause to Commerce Court with directions to dismiss filed. Order entered in accordance with mandate of Supreme Court dissolving injunction and dismissing petition.

A true copy.
Test.
[SEAL.] G. F. SNYDER,
Clerk of the United States Commerce Court.
By W. S. HINMAN.

Mr. SIMPSON. I also offer in evidence the transcript of the docket entries in the Meeker case, No. 49.

The transcript referred to is as follows:

[U. S. S. Exhibit Y Y.]

TRANSCRIPT OF DOCKET ENTRIES, UNITED STATES COMMERCE COURT.

(Docket No. 49.)

PARTIES.

Lehigh Valley Railroad Co. (petitioner) v. United States (respondent).

INTERVENERS.

Interstate Commerce Commission, Henry E. Meeker.

ATTORNEYS.

For petitioner: E. H. Boles, John G. Johnson, Frank H. Platt, Everett Warren.
For United States: James A. Fowler, Blackburn Esterline.
For Interstate Commerce Commission: Charles W. Needham.
For Henry E. Meeker: William A. Glasgow, jr.

PROCEEDINGS.

1911.

September 29. Petition and exhibits filed. Copy of petition filed with chairman of Interstate Commerce Commission and in Department of Justice. Appearance of Interstate Commerce Commission as party respondent and Charles W. Needham as solicitor filed.

October 7. Petitioner's affidavits filed.

October 9. Objections of United States to affidavits offered in support of motion for preliminary injunction filed. Brief for petitioner filed. Motion of the Interstate Commerce Commission to dismiss the petition filed. Motion of the United States to dismiss the petition filed. Petition of intervention of Henry E. Meeker filed. Order entered granting leave as prayed in foregoing petition. Brief for Henry E. Meeker, intervener, filed.

October 10. Brief for United States in opposition to motion of petitioner for preliminary injunction filed.

October 12. Certified copy annual report Lehigh Valley Railroad Co. for year ending June 30, 1911, filed. Per curiam opinion denying motion for preliminary injunction filed. Order entered denying motion for preliminary injunction.

November 22. Order setting cause for hearing on motions to dismiss filed.

December 5. Continued to next calendar (Jour., p. 86).

1912.

March 28. Motion of H. E. Meeker, surviving partner of the firm of Meeker & Co., to dismiss the petition.

April 5. Brief for Interstate Commerce Commission on motion to dismiss petition filed.

April 9. Brief for United States in support of motion to dismiss petition filed.

April 11. Petitioner's motion to withdraw its petition filed. Order entered withdrawing petition without prejudice at cost of petitioner.

April 15. Order entered amending final order on face thereof.

May 7. Satisfaction of judgment for costs filed by United States.

A true copy.
Test:
[SEAL.] G. F. SNYDER,
Clerk of the United States Commerce Court.
By W. S. HINMAN,
Deputy Clerk.

Mr. Manager WEBB. We have no objection to their going in, Mr. President.

Mr. SIMPSON. I do not ask that they be read, Mr. President.

I also offer in evidence the opinion of the Supreme Court in the Lighterage case, which has already been marked as "Exhibit H."

The opinion referred to is as follows:

[U. S. S. Exhibit H.]

SUPREME COURT OF THE UNITED STATES.

(No. 722.—October term, 1911.)

The United States, The Interstate Commerce Commission, and The Federal Sugar Refining Co., appellants, v. The Baltimore & Ohio Railroad Co., The Central Railroad Co. of New Jersey, et al. Appeal from the United States Commerce Court.

(June 10, 1912.)

The Chief Justice delivered the opinion of the court.

This is a suit instituted in the Commerce Court to enjoin the enforcement of an order by the Interstate Commerce Commission.

The complainants in the bill are the Baltimore & Ohio Railroad Co., the Central Railroad Co. of New Jersey, the Delaware, Lackawanna & Western Railroad Co., the Erie Railroad Co., the Lehigh Valley Railroad Co., the New York, Ontario & Western Railway Co., and the Pennsylvania Railroad Co. The Brooklyn Eastern District Terminal and John Arbuckle and William A. Jamison, copartners, trading as the Jay Street Terminal, intervened and were made parties complainant, they being interested to defeat the order of the commission.

The defendant named in the bill is the United States. The Interstate Commerce Commission appeared, and the Federal Sugar Refining Co. intervened and was made a party defendant.

The order which it was the purpose of the suit to enjoin was made in a proceeding commenced before the commission on behalf of the Federal Sugar Refining Co. to compel the railroads above named to desist and abstain from paying to Arbuckle Bros., claimed to be operating what is known as the Jay Street Terminal, certain so-called allowances for floatage, lighterage, and terminal services rendered by them to the complainants in connection with sugar transported by them in New York Harbor to and for the complainants, while at the same time paying no such allowances to the said Federal Refining Co. on its sugar.

We substantially adopt as accurate a summary statement made of the subject matter of the controversy in the brief of counsel for the railroad companies:

"The Federal Sugar Refining Co. has a refinery at Yonkers, N. Y., and Arbuckle Bros. have a refinery in the Borough of Brooklyn, New York City. The railroad companies operate what are known as trunk-line railroads, extending from New York to western and southern points. In order to receive and deliver freight in New York City they are obliged to transport the same across the waters of New York Harbor on lighters by what is called lighterage service, or, when the freight is carried through in railroad cars, on car floats by what is called floatage service.

"At numerous points along the New York City water front within the lighterage limits they have established public stations for the receipt and delivery of freight.

"They have also established boundaries known as 'lighterage limits,' including substantially all of what may be called the manufacturing and commercial portion of the water front of New York City and the opposite shore of New Jersey and within these boundaries they receive and deliver freight at any accessible point on the water front without any additional charge above the New York rates, which are, generally speaking, the same as the rates to and from the terminals on the New Jersey shore. At 'public' docks open to any vessel, the railroad pays the wharfage; at private docks the shipper or consignee must arrange for the necessary dockage.

"At a number of points in the boroughs of Brooklyn and the Bronx the railroad companies or some of them furnish public stations through arrangements made with terminal companies to furnish union public stations and terminal facilities for the receipt and delivery of freight in cars and through freight houses, and for the transportation of such freight between such terminal stations and the railroad companies' rails on the western shore of the harbor, all of which is done for and in the name of the railroad companies under provisions of their tariffs filed with the Interstate Commerce Commission under which their New York rates apply to and from such union public stations.

"One of these public terminal stations, known as the Jay Street Terminal, is owned and operated by William A. Jamison and John Arbuckle, conducting a separate business in that respect as copartners under the name and style of 'Jay Street Terminal' in accordance with the laws of the State of New York. Jay Street Terminal is named as a station of the railroad companies, appellees, in their respective tariffs, and is conducted under contract with the railroad companies like any other freight station, bills of lading being issued from and to it on behalf of the railroad companies and in their names, on the regular uniform form, charges being collected and accounts kept, the Jay Street Terminal performing the entire physical and clerical service and furnishing the necessary docks, freight yard, and station buildings and equipment, excepting cars. The Jay Street Terminal also floats or lighters all shipments between the terminal and the rails of the railroad companies on the New Jersey shore. For these services and facilities each railroad company pays to the Jay Street Terminal an aggregate compensation figured on the freight handled for it, based on the rate of 4½ cents per hundred pounds on freight originating at or destined to points at or west of the westerly limits of trunk line territory, so called, and 3 cents per hundred pounds on freight originating at or destined to points east of the westerly limit of trunk line territory. The same amounts per hundred pounds are paid to other terminal companies furnishing similar service at New York.

"The refinery of Arbuckle Brothers, a copartnership composed of William A. Jamison and John Arbuckle, is within two blocks of the Jay Street Terminal, and they truck sugar from their refinery to this terminal and load it into cars at their own expense and deliver it to the Jay Street Terminal and obtain the railroad company's bill of lading for it from the Jay Street Terminal just as other shippers do with other freight.

"The refinery of the Federal Sugar Refining Co., at Yonkers, N. Y., formerly operated by the Federal Sugar Refining Co. of Yonkers, is located on the Hudson River, 10 miles north of the limits of the lighterage limits. The sugar manufactured at this refinery and shipped over the lines of these appellees is loaded onto lighters of the Ben Franklin Transportation Co., an independent boat line with which the Federal Sugar Refining Co. has made a contract, under which the boat line lighters its sugar to the terminals of the railroad companies for 3 cents per hundred pounds. The boat line brings the sugar to the terminals of the railroads on the western shore of New York Harbor and delivers it to them for rail transportation.

"The Federal Sugar Refining Co.'s refinery at Yonkers is located directly on the tracks of the New York Central & Hudson River Railroad Co. Over this railroad the rates to the points in the shipping territory of the Federal Sugar Refining Co. are with few exceptions the same as the rates via the lines of the railroad companies. To ship at the New York rate over the lines of the roads the Federal Sugar Refining Co. can deliver its shipments to the New York Central & Hudson River Railroad at Yonkers, thence to be transported by that railroad to New York and there delivered to the said railroad companies within lighterage limits. None of these railroads have lines extending to Yonkers. Because of alleged delay in the handling and transportation of shipments via this route, the Federal Sugar Refining Co. sometimes prefers to deliver said shipments by lighter to the said railroad companies at their stations on the New Jersey shore of New York Harbor.

"Prior to July, 1909, these shipments were carried by the Ben Franklin Transportation Co. directly to the rail terminals on the Jersey shore from Yonkers without stop. Since that date the lighters stop en route at Pier 24, North River. The reason for stopping at Pier 24 is found in the decision made by the commission in case No. 1082, brought by the Federal Sugar Refining Co., of Yonkers, the predecessor of the Federal Sugar Refining Co., against the same railroad companies, appellees here. (17 I. C. C., 40.) The complaint in that proceeding claimed a discrimination against the Federal Sugar Refining Co., of Yonkers, and in favor of the Jay Street Terminal and the Brooklyn Eastern District Terminal, an incorporated company operating a similar terminal station in another section of Brooklyn, because of the refusal of the railroad companies to pay it the same amounts on account of the lighterage performed by the Ben Franklin Transportation Co. from Yonkers to the rail terminals of the railroad company on the western shore of New York Harbor as were paid to the two terminal companies above named on account of the various services performed and terminal facilities furnished by them in connection with the transportation of sugar shipped by Arbuckle Bros. and the American Sugar Refining Co., respectively. This complaint was dismissed because the extension of the lighterage limits in New York Harbor of the railroad companies was a matter of business discretion, and that the commission had no authority to require such extension beyond the then prescribed boundaries, and that the Federal Sugar Refining Co., being located outside of the prescribed lighterage limits, was not subjected to unlawful discrimination by reason of the practice of the railroad companies in affording free lighterage on shipments originating at a distance to points within said lighterage limits while refusing to so afford on shipments of the Federal Sugar Refining Co.

"As a result of this decision of the commission the lighters of the Ben Franklin Transportation Co. were stopped en route from Yonkers at Pier 24, North River, where certain formalities with reference to shipping orders were had for the purpose of making it appear as a matter of law that these shipments were made not from Yonkers, but from Pier 24, North River, a point within lighterage limits. A new complaint was filed with the commission, setting forth the same grounds of discrimination as the prior one, but on the theory that the decision of the commission did not apply because the shipments of the Federal Sugar Refining Co. were now lightered from Pier 24, a point within lighterage limits, and not from Yonkers, the commission held as a matter of law that the stoppage of the lighters of the Ben Franklin Transportation Co. for instructions at Pier 24 differentiated the case from the former one and made the following order:

"'It is ordered that the above-named defendants (the appellees) be, and they are hereby, notified and required to cease and desist on or before the 15th day of April, 1911, and for a period of not less than two years thereafter abstain from paying such allowances to Arbuckle Bros. on their sugar, while at the same time paying no such allowance to said complainant (Federal Sugar Refining Co.) on its sugar, which said allowances so paid to said Arbuckle Bros. by said defendants are found by the commission in said report to be unduly discriminatory and in violation of the act to regulate commerce.'

"The so-called 'allowances' referred to in this order are a part of the payments making up the compensation of the Jay Street Terminal, figured at the rates of 3 cents and 4½ cents per hundred pounds as above described."

This is the order the enforcement of which was the subject matter of the controversy in the court below.

The United States, the Interstate Commerce Commission, and the Federal Sugar Refining Co. promptly filed motions to dismiss the petition and had the intervening petition of the Jay Street Terminal upon the ground of want of equity and because the order of the commission was an adjudication of matters of fact as to which its judgment was conclusive. The petitioners, on the other hand, applied for an injunction pendente lite suspending the order of the commission until the final determination of the action. The motions to dismiss were denied. On the same day the motion for a temporary injunction—which had been heard upon the petition and intervening petitions and affidavits submitted by petitioners in support of the averments of the petition and intervening petition—was granted, and the assailed order "and its force and effect" was suspended until the further order of the court. This appeal was then taken.

There was clearly a right in the court below to entertain jurisdiction of the petition and to determine whether the affirmative order of the commission was entitled to be enforced. There was clearly also power in the court to allow a preliminary injunction, since that authority is conferred in express terms by section 3 (208) of the act. And the right to appeal from such an order is also in express terms conferred by section 2 (210) of the act.

It is urged on behalf of the United States and the Interstate Commerce Commission that, wholly irrespective of the merits of the petition, the order granting the interlocutory injunction must be reversed because of what is insisted to be the express requirements of the act imposing the duty on the Commerce Court or a judge of that court if a restraining order is granted under the conditions in the statute to state the facts from which it is found that irreparable injury would arise if a restraining order were not allowed. The section containing the provision relied upon is as follows:

"That suits to enjoin, set aside, annul, or suspend any order of the Interstate Commerce Commission shall be brought in the Commerce Court against the United States. The pendency of such suit shall not of itself stay or suspend the operation of the order of the Interstate Commerce Commission; but the Commerce Court, in its discretion, may restrain or suspend, in whole or in part, the operation of the commission's order pending the final hearing and determination of the suit. No order or injunction so restraining or suspending an order of the Interstate Commerce Commission shall be made by the Commerce Court other than upon notice and after hearing, except that in cases where irreparable damage would otherwise ensue to the petitioner, said court, or a judge thereof, may, on hearing, after not less than three days' notice to the Interstate Commerce Commission and the Attorney General, allow a temporary stay or suspension in whole or part of the operation of the order of the Interstate Commerce Commission for not more than 60 days from the date of the order of such court or judge, pending application to the court for its order or injunction, in which case the said order shall contain a specific finding, based upon evidence submitted to the judge making the order and identified by reference thereto, that such irreparable damage would result to the petitioner and specifying the nature of the damage. The court may, at the time of hearing such application, upon a like finding, continue the temporary stay or suspension in whole or in part until its decision upon the application."

Without ambiguity we think the statute contemplates three classes of orders: First, a temporary restraining order staying in whole or in part the operation of the order of the Interstate Commerce Commission for not more than 60 days from the date of the suspensive order, to be allowed by the court or a judge thereof; second, a preliminary injunction—that is, an injunction pendente lite—which, to quote the words of the statute, may be granted by the court to "restrain or suspend, in whole or in part, the operation of the commission's order pending the final hearing and determination of the suit"; third, in the nature of things a perpetual injunction upon the entry of the final decree. The order in this case, made after notice and hearing, suspending the force and effect of the order of the commission until the further order of the court, was obviously an exercise of the power conferred to grant a preliminary injunction or injunction pendente lite and not of the power to allow a temporary restraining order embraced in the first of the classes stated. As we think it clear that the requirements of the statute relied upon respecting the statement of facts as to irreparable damages relate only to the first class of cases—that is, the power to issue a temporary restraining order—we hold the objection to be without merit.

This brings us to consider the scope of our reviewing authority under the right conferred by the statute to appeal from the allowance by the court below of a preliminary injunction or injunction pendente lite. To determine this question requires a consideration of the nature and character of the powers which the court had a right to exert over the subject matter presented to it by the petition filed to perpetually enjoin the enforcement of the order of the commission.

We have determined in the Procter & Gamble case, ante, that the Commerce Court was but endowed in considering whether an affirmative order of the commission should be enforced on the one hand or set aside and declared nonenforcible on the other with the jurisdiction and power existing at the time that act was passed in the circuit courts of the United States. And as, at that time it was conclusively settled that the courts had only authority to reexamine the findings of the commission as to subjects like the one here under consideration, for the purpose of ascertaining whether the action of the commission was repugnant to the Constitution, in excess of the statutory powers conferred upon it, or manifested such an abuse as to be equivalent to an excess of authority, it clearly results that the court below was likewise limited in passing upon the petition before it in this case. This being true, it is also necessarily true that virtually the sole authority of the court below was in a sense confined to determining questions of law arising upon the case as presented on the face of the pleadings. Under the general principles of equity, where a court is called upon to decide whether it will allow a preliminary or pendente lite injunction the duty arising requires it to be determined whether on the face of the papers presented there is such an equitable cause of action presented as justifies the issue of a preliminary injunction to preserve the status pending the suit; that is, to afford an opportunity for a trial of the issues presented. Necessarily it is true also that where an appeal is allowed from an order granting a preliminary injunction the reviewing court is put to the duty of determining whether on the face of the papers the court below erred as a matter of law in granting the preliminary injunction. Do these principles apply to the case before us, is then the first consideration. The result of holding that they do will inevitably cause the expunging from the act of the express authority conferred to issue a preliminary injunction, since, viewed under the general principles of equity, the criteria by which to determine the rightfulness of such an order, in view of the nature and character of the jurisdiction of the Commerce Court, is exactly and exclusively the same criteria by which the rightfulness of a final decree of that court issuing a perpetual injunction in conformity to such decree would require to be tested. Our duty, however, is not to destroy the law but to enforce it, and in doing so to seek to discover the intention of the lawmaker, the wrong intended to be prevented, and the remedy designed to be afforded by the enactment of the statute. Coming to consider the statute for this purpose, we have pointed out in the Procter & Gamble case that the great remedy intended to be accomplished was the concentration in a single court of the power to consider the rightfulness of enforcing or setting aside orders of the commission; that to prevent unnecessary delays the limitations as to restraining orders and their duration and the hearing which is commanded as to irreparable injury was enacted. It must therefore in reason be that the power to issue a preliminary injunction was recognized and preserved so as to afford the court the proper time for deliberation and consideration of the questions to be decided by the commission, instead of compelling that body, virtually eo instante, upon the presentation of a petition to reach a final conclusion. And it would seem also to be the case that the right to appeal from such an order was given as a safeguard against a possible abuse of discretion by an unwarranted, arbitrary, and unreasonable exercise of the power conferred. In other words, we think that the enlightened purpose of Congress was that the court which it created, in the exercise of the important trusts confided to its authority and where occasion required it as a consequence of the gravity and complexity of the legal questions which might arise, should be afforded ample opportunity for due consideration and ripe judgment and that it was not intended to compel precipitate and perhaps ill-considered action.

Coming to consider the case presented in the light of these principles, in view of the doubt which existed as to the scope and effect of the powers conferred upon the commission, as shown by the decision of the court in the Procter & Gamble case, of the nature and character of the subject matter here under consideration and its importance, of the action of the commission had on that subject prior to the making of the order of the commission which was assailed by the petition, and especially of the diversity of opinion which existed among the members of the commission on the subject, we think there is no room for saying that the preliminary injunction issued was in excess of the power conferred upon the court, because of the plain want of necessity for it resulting from the obvious nature and character of the legal questions as to which the judgment of the court was invoked in consequence of the filing of the petition calling for the exertion of the authority conferred upon it by Congress.

It is not disputable that although the right to appeal to this court from an order like the one here in question is conferred, yet obviously the purpose which must have caused the creation of the Commerce Court must have been the desire to interpose between the action of the commission and this court an intermediate tribunal, having the powers which the statute delegates to it. Our duty is to give that purpose effect and to uphold the lawful authority of the court, without deviation and yet without hesitancy where there has been an abuse of discretion to correct it in the completest way. But as this case manifests no such abuse, our duty is not to reverse the action of the court but to remand the case so that there may be an opportunity to dispose of it on the merits in the forum selected by Congress for that purpose. Of course, in saying this, we must not be understood as deciding or in any way implying that the duty would not exist to examine the merits of a preliminary order of the general character of the one before us in a case where it plainly in our judgment appeared that the granting of the preliminary order was in effect a decision by the court of the whole controversy on the merits or where it was demonstrable that grave detriment to the public interest would result from not considering and finally disposing of the controversy without remanding to enable the court below to do so.

Affirmed.

True copy.

Test:

Clerk Supreme Court United States.

Mr. SIMPSON. I also offer in evidence the final opinion of the Commerce Court in the lighterage case, which has already been marked "Exhibit I."

The opinion referred to is as follows:

[U. S. S. Exhibit I.]

UNITED STATES COMMERCE COURT.

(No. 38. October session, 1912.)

Baltimore & Ohio Railroad Co. et al., petitioners; Brooklyn Eastern District Terminal, John Arbuckle, and William A. Jamison, intervening petitioners, v. United States, respondent; Interstate Commerce Commission, Federal Sugar Refining Co., intervening respondents.

ON FINAL HEARING ON MOTIONS TO DISMISS.

(For opinion of Interstate Commerce Commission see 20 I. C. C. Rep., 200.)

Mr. George F. Brownell, with whom Mr. H. A. Taylor was on the brief, for the petitioners.

Mr. Henry B. Closson and Mr. William N. Dykman for the intervening petitioners.

Mr. Winfred T. Denison, Assistant Attorney General, and Mr. Blackburn Esterline, special assistant to the Attorney General, for the United States.

Mr. P. J. Farrell for the Interstate Commerce Commission.

Mr. Ernest A. Bigelow for the Federal Sugar Refining Co.

Before Knapp, presiding judge, and Hunt, Carland, and Mack, judges.

(November 15, 1912.)

Carland, judge:

The petition in this case was filed April 12, 1911, and seeks to have annulled and set aside an order of the Interstate Commerce Commission, dated March 6, 1911, the provisions of which are hereinafter stated. On April 19, 1911, upon its own petition, the Federal Sugar Refining Co. was made a party defendant, with leave to appear and be represented by counsel. On May 11, 1911, the Interstate Commerce Commission and the Federal Sugar Refining Co. filed a motion to dismiss the petition for the reason that the facts set forth therein did not constitute a cause of action, and on the same day the Brooklyn Eastern District Terminal Co., upon leave granted, filed its intervening petition. On May 12, 1911, the United States filed a motion to dismiss for the reason, among others therein stated, that the petition did not show there was any equity therein upon which to grant the relief prayed or any part of the same. On the same day the Jay Street Terminal and Arbuckle Bros., upon leave granted, filed their intervening petition. On May 17, 1911, upon motion of Mr. Blackburn Esterline, assistant to the Attorney General, it was ordered that the motion to dismiss the petition filed by the United States be extended and considered as a motion to dismiss the intervening petition of Arbuckle Bros. and Brooklyn Eastern District Terminal, and upon motion of Mr. P. J. Farrell, counsel for the Interstate Commerce Commission, it was ordered that the motion to dismiss the petition filed by the Interstate Commerce Commission and the Federal Sugar Refining Co. be extended to and considered as a motion to dismiss the intervening petition of Arbuckle Bros. and the Brooklyn Eastern District Terminal.

On May 17, 1911, the motions for a temporary injunction made by the petitioners and intervening petitioners, and the motions to dismiss, came on for hearing before the court; and thereafter, on May 22, 1911, the motions to dismiss were by the unanimous decision of this court denied, with leave to the respondents making said motions to answer the petition of the petitioners within 20 days from said date if they should be so advised; and on the same day the motions made for a temporary injunction were granted and an order entered suspending the order of the Interstate Commerce Commission complained of until the further order of the court.

On June 12, 1911, the Federal Sugar Refining Co. and the Interstate Commerce Commission prayed an appeal to the Supreme Court of the United States from the order or decree of the Commerce Court rendered on May 22, 1911, and assigned as one of the errors committed by this court that it erred in not dismissing the petition for want of equity. The appeal prayed for was allowed by this court on June 13, 1911. On June 16, 1911, the United States prayed an appeal to the Supreme Court of the United States from the order or decree of this court entered May 22, 1911, and assigned as error, among others, that the Commerce Court erred in not sustaining the motion of the United States to dismiss the petition and the intervening petitions. The appeal prayed for was granted by this court on the same day. On June 10, 1912, the Supreme Court of the United States affirmed the decree of this court entered May 22, 1911.

On June 9, 1911, the Federal Sugar Refining Co. filed its answer to the original petition, and on the same day the United States filed its answer to the original petition and also to the intervening petitions of Arbuckle Bros. and Brooklyn Eastern District Terminal. The Interstate Commerce Commission has never answered either of the petitions.

The mandate of the Supreme Court was filed in this court on June 24, 1912. On October 10, 1912, the United States and the Federal Sugar Refining Co., upon leave granted by the court, withdrew their several answers, and on the same day filed their motion to dismiss the petition of the petitioners for the reason that the facts set forth in said petition did not constitute a cause of action or entitle said petitioners to the relief or any of the relief asked for by them in and by said petition. This action of the United States and the Federal Sugar Refining Co. left the case standing upon the petitions of the petitioners and the intervening petitioners and the motions to dismiss of the respondent, and intervening respondents Federal Sugar Refining Co. and Interstate Commerce Commission. In this condition of the case the parties, by their counsel, appeared in open court and stipulated that the case be submitted to the court for final decision upon the merits on the petitions and motions to dismiss.

The material facts as they appear in the petitions are as follows:

The petitioning railroads are engaged in the transportation of passengers and property by railroad from one State to another, and all have rail termini upon the New Jersey shore of the harbor of New York except the Baltimore & Ohio Railroad Co., whose rail terminus is at St. George, Staten Island, and the Pennsylvania Railroad Co., whose rail terminus for passenger traffic only is in the Borough of Manhattan. In order to reach the shipping territory of Greater New York across the Hudson and East Rivers and other waters petitioners have been compelled to serve the vast shipping interests of Greater New York by means of floats, lighters, and barges. Petitioners have established a lighterage zone, known as the lighterage limits, which has been in effect for several years, and during that time has been and is now described in the tariffs of each of said petitioners, which tariffs have been and are duly filed with the Interstate Commerce Commission, as follows:

"North River: New York side, Battery to One hundred and thirty-fifth Street; New Jersey side, Jersey City, N. J., to and including Fort Lee, N. J.

"East River and Harlem River: New York side, Battery to Jerome Avenue Bridge, including Harlem River side of Wards and Randalls Islands; Brooklyn side, from Pot Cove, Astoria, to and including Newtown and Dutch Kills Creeks and points in Wallabout Canal west of Washington Avenue Bridge and to Hamilton Avenue Bridge, Gowanus Canal, to and including Sixty-ninth Street, South Brooklyn (Bay Ridge).

"New York Bay: Points on north and east shore of Staten Island between Bridge Creek (Arlington) and Clifton, both inclusive, and include Shooter Island; points on the New Jersey shore of New York Bay and on the Kill von Kull between Constable Hook and Avenue C, Bayonne City, opposite Port Richmond, Staten Island."

Within said lighterage limits petitioners perform, without additional charge, a lighterage service on eastbound shipments from their rail terminals upon the western shore of New York Harbor to points within those limits, and on westbound shipments from points within those limits to their rail terminals upon the western shore of New York Harbor.

Within said lighterage limits and at various points within the Boroughs of Manhattan and Brooklyn, city of New York, each petitioner has established and for several years has maintained, and still maintains, freight terminal stations at which it delivers east-bound freight and receives west-bound freight for transportation over its lines. Each petitioner has such freight terminal stations, as aforesaid, which it owns and directly operates, and others which are operated for it under and pursuant to the provisions of certain contracts between it and the owners of said terminal stations. In some instances a single terminal station is operated for and on behalf of two or more of said petitioners under and pursuant to certain contracts between them and the owner of said station, and in such instances said terminal station is a union terminal for two or more of said petitioners. It is impossible for petitioners to deliver and receive all freight, especially carload freight, at said terminals. A large part of it must of necessity be delivered and received at public and private docks within the said lighterage limits. Accordingly, petitioners have for several years received and delivered freight at all steamship piers, docks, and landings, and private piers or landings when shippers or consignees arrange for the receipt or delivery of freight within the lighterage limits, and have lightered it without additional charge from and to said points, and still do so receive, deliver, and lighter it. Petitioners transport between said terminal stations, piers, docks, and landings and their rail terminals on the western shore of New York Harbor, as a part of the transportation service from the points of shipment to the point of destination, and for the flat New York rate, by means of lighters, floats, and barges owned and directly operated by them, or operated for them under contracts between them and the owners of such equipment, freight received at or destined to said terminal stations, piers, docks, and landings.

Petitioners for several years past have held and now hold themselves out as common carriers to and from all said points within the lighterage limits, both by their practice of receiving and delivering freight at said points and by their tariffs, which are now and for several years past have been duly published and filed with the Interstate Commerce Commission. The liability under their respective bills of lading attaches to petitioners on west-bound shipments from the time the freight is received at said terminal station, dock, pier, or landing and ends on east-bound shipments when delivered to the hands of the consignee at such terminal station, dock, pier, or landing. The bill of lading issued by petitioners for freight so received or delivered by them by its terms covers and includes the lighterage movement.

Among other terminal freight stations established by petitioners within the said lighterage limits is the Jay Street Terminal. This terminal is located at the foot of Bridge Street, Brooklyn, on the East River, having a water frontage of 1,200 feet and a depth of 600 feet. Its equipment consists of a large freight house, 2 Baldwin locomotives, 3 tugboats, 2 steam lighters, 11 barges, and 9 car floats. The capacity of the yard is about 235 cars. The Jay Street Terminal is a union freight terminal for all of said petitioners and is designated as a regular public freight terminal of petitioners in their tariffs filed with the Interstate Commerce Commission. It is owned by a copartnership composed of William A. Jamison and John Arbuckle, conducting such freight terminal as a separate business under the name and style of Jay Street Terminal, under certificate filed with the clerk of New York County, in accordance with the law of the State of New York, and is operated as a freight station for petitioners under and pursuant to several contracts between petitioners and the Jay Street Terminal, which contracts are substantially identical in their terms and provisions. The material parts of one of said contracts and representative of them all appears in the margin, and is as follows:

This agreement, made the 5th day of February, A. D. 1906, by and between Jay Street Terminal (hereinafter called Terminal Co.), party of the first part, and Erie Railroad Co., party of the second part, witnesseth:

"Whereas the Terminal Co. is the owner of premises in the Borough of Brooklyn, city of New York, lying along and contiguous to the East River at a point east of Catherine Ferry, so called, and west of the United States navy yard, upon which there are now erected, or in process of erection, certain warehouses, bulkheads, docks and piers, railway tracks and sidings, equipped or about to be equipped with suitable float bridges and approaches, and the usual appurtenances for receiving, handling, and delivering freights and for transporting same between said premises and the freight station of said railroad company located at Jersey City, N. J.; and

"Whereas the said Terminal Co. is engaged in and will continue in the business of receiving freights at its said premises and carrying the same in both directions between its said premises and the said station of said railroad company and other carriers; and

"Whereas the said railroad company desires to avail itself of the facilities, conveniences, and services of the said Terminal Co. in the transportation of freights, in both directions, between the said premises of said Terminal Co. and the aforesaid freight station of the said railroad company:

"Now, therefore, in consideration of the mutual covenants, promises, and agreements herein contained, the said parties do hereby covenant, promise, and agree to and with each other as follows:

"First. The said Terminal Co. will put and maintain its premises in good order and condition for the reception and delivery of such freights, and will provide tugboats, car floats, docks, piers, float bridges, and approaches adequate at all times to receive, discharge, transfer, and deliver such freights loaded or to be loaded in cars under this contract, and sufficient to accommodate the amount of business hereunder contemplated.

"Second. Said Terminal Co. will receive at the said float bridges of said railroad company at its aforesaid freight station, in cars to be placed upon its floats by said railroad company, all freights intended for delivery at the aforesaid premises of the said Terminal Co., and will safely carry the same to its said premises, and there make delivery thereof to the consignees. It will also receive and load into cars all freights which may be delivered to it at its said premises for transportation over the lines of said railroad company and carry and deliver the same to said railroad company upon said Terminal Co.'s floats at the float bridges of said railroad company at its aforesaid freight station.

"Third. The responsibility of said Terminal Co. for eastwardly bound cars and the freights therein shall begin when the cars are placed upon its floats at the said float bridges at the aforesaid station of said railroad company, and shall continue as respects the cars until they have been returned by it, loaded or empty; and as respects the freights contained in eastwardly bound cars its responsibility shall continue until the actual delivery thereof to and acceptance by the consignees at Brooklyn. As respects the freights to be transported westbound, said Terminal Co.'s responsibility shall commence at the time the same is received from the consignor at its aforesaid premises and shall continue until said freights, loaded into cars, have been brought to the float bridge of said railroad company at its aforesaid freight station and until the floats have been attached to the float bridge and the cars are in complete readiness for removal from the car floats by said railroad company.

"Fifth. The railroad company agrees to construct and maintain all necessary tracks, float bridges, approaches, and appurtenances at its said freight station to adequately carry out the purpose of this agreement.

"Sixth. Said railroad company will pay said Terminal Co. in full for all its services under this contract, as well as in full compensation for all responsibility to be undertaken by it in respect to cars and freight, as follows:

"(a) For all freights transported over said railroad company's railroad which shall have been received from its connecting lines west of trunk line western termini on through rates, or for freight received by the said Terminal Co. at its aforesaid premises and destined for transportation by said railroad company to points west of said western termini on through rates, excepting grain in bulk, at the rate of 4½ cents per hundred pounds. It is agreed, however, that whenever the allowance to Palmers Dock on eastbound or westbound rail-and-lake traffic or both is reduced from 4½ cents to 3 cents per hundred pounds the same reduction shall be made in the allowance to Jay Street Terminal on rail-and-lake traffic. And it is also agreed that whenever the allowance for like service on such traffic to said Palmers Dock or any other Brooklyn termini is increased above the rates herein specified the same increase shall be made in the allowance to said Jay Street Terminal on such traffic.

"(b) For freight originating at or destined to any of the said western terminal or points east thereof, or billed to or from said western termini at local rates, the allowance to said Terminal Co. shall be 3 cents per hundred pounds, whether or not the traffic reaches the terminal point through any other of said termini, it being understood that the western terminal points referred to are as follows: Suspension Bridge, Niagara Falls, Tonawanda, Black Rock, Buffalo, East Buffalo, Buffalo Junction, Salamanca, Erie, Pittsburgh, Allegheny, Bellaire, Wheeling, Parkersburg, Dunkirk.

"(c) For 'not to be graded' grain in bulk, for track delivery in the borough of Brooklyn, the rate shall be 3 cents per hundred pounds.

"(d) For freight which is rated per gross ton, either in official classification or in commodity tariffs, the allowance shall be 3 cents or 4½ cents per hundred pounds, regardless of the gross-ton rating.

* * * * * * *

"Eleventh. Said railroad company agrees that during the continuance of this agreement the same rates of freight shall prevail from and to the premises of said Terminal Co. that prevail from and to the regular freight stations of said railroad company in the borough of Manhanttan, city of New York, excepting when coming from or going to points east of Susquehanna, in which case floatage shall be added in both directions, to which the railroad company shall be entitled.

"Twelfth. Said Terminal Co. will be responsible for and pay to said railroad company all freight moneys and charges as set forth in freight bills rendered by said railroad company for the transportation of east-bound freights delivered to it, and in like manner shall be responsible for and pay to said railroad company all moneys and charges which have been made payable in advance on west-bound freights, all of which payments shall be turned over to said railroad company in accordance with the latter's customary rules; and, if so required, the customary guaranteed bond shall be furnished by the said Terminal Co.

"Thirteenth. Said railroad company will provide sufficient cars at all times for receiving and taking away the freights hereunder contemplated (unavoidable delay excepted), and to supply all the railway books and blanks necessary for the purpose of the business to be carried on under this contract, and with all reasonable dispatch to receive and take away from the said float bridges at its aforesaid station all the west-bound freights intended for transportation over its own lines and its connections.

"Fourteenth. Said Terminal Co. will insure and keep insured against loss by fire and marine risks all freights, cars, and property received by it upon its floats or its said premises under this contract so long as said freights, cars, or property shall remain in its possession, and until delivered to the consignees or to said railroad company as hereinbefore

provided, including the time such freights, cars, or property shall be upon its lighterage line; and such insurance shall be for the benefit of said railroad company and others as their respective interests shall appear, and to an amount and in such manner as shall be satisfactory to said railroad company.

"Fifteenth. Said railroad company will not during the continuance of this agreement, unless legally compelled to do so, establish or maintain any freight stations within the limits of said Borough of Brooklyn between said Catherine Ferry and said United States navy yard. In case of any breach of this condition said Terminal Co. may recover from said railroad company, and the latter shall pay to said Terminal Co. damages at the rate of $3 for each and every carload, averaged at 20,000 pounds, received or delivered or transported contrary to this provision.

"Sixteenth. In case any east-bound freight consigned to stations of said railroad company in said city of New York other than the premises of said Terminal Co. shall have its destination changed to the premises of the said Terminal Co. and be delivered thereat, said Terminal Co. will, at the request of said railroad company, collect from the consignee or forwarder the sum of 3 cents per hundred pounds, and such 3 cents per hundred pounds shall be retained by said Terminal Co. as full compensation for all services performed by it in such cases, and no other allowance shall be made under this contract in such case.

"Seventeenth. Said Terminal Co. will furnish said railroad company with a complete and accurate copy of each and all contracts made by it with other railroad companies during the term of this contract, and the Erie Railroad Co. shall have and enjoy during the life of this contract all rights and privileges granted to any other railroad by said Terminal Co. upon as favorable terms, with respect to allowances or otherwise, as granted to any other railroad company, anything herein to the contrary notwithstanding.

"Eighteenth. This contract shall become operative and go into effect on the 15th day of February, 1906, and shall continue in force until March 31, 1910; thereafter subject to termination upon 90 days' notice by either party."

The Jay Street Terminal serves the shippers of a large and important manufacturing and shipping territory, including about one-third of the densely populated part of Brooklyn. It is the only convenient and accessible freight station of petitioners for the shippers of that territory. When it became necessary several years ago for petitioners to establish and operate public freight terminals for the service of said territory, they had no choice but to enter into a contractual arrangement with the owner of the Jay Street Terminal for the operation of said terminal as a public freight station of petitioners. The price of the water-front property in that section was so high as to be prohibitive. No independent terminals other than the Jay Street Terminal were conveniently accessible to the shippers of that territory. In no other practicable way could petitioners in the past, nor can they at present, serve the large and important shipping interests of this section of Brooklyn than by the maintenance of the Jay Street Terminal as a public freight station of petitioners under and pursuant to said contracts.

Arbuckle & Jamison operate a sugar refinery in the Borough of Brooklyn, located upward of a block from the Jay Street Terminal. Shipments are carried from and to the terminal by Arbuckle & Jamison and handled at the terminal in the same way as the freight of hundreds of other shippers, and the freight charges thereon are collected from said Arbuckle & Jamison by the Jay Street Terminal in accordance with the regularly published tariffs of petitioners. Approximately four-fifths of the shipments of sugar made by Arbuckle & Jamison through said Jay Street Terminal are sold by said Arbuckle & Jamison f. o. b. Brooklyn and become the property of the consignees immediately upon delivery to the terminal. During the first six months of 1907 the bills of lading issued by the Jay Street Terminal for shipments of general merchandise numbered 92,622, of which 3,969 were for Arbuckle & Jamison sugar and 1,210 for Arbuckle & Jamison coffee, and the shipments and receipts of said Arbuckle & Jamison constituted less than one-third of the total tonnage moving through the terminal. During the same period the number of different consignees who received freight at the terminal was about 765, and the number of different shippers through the terminal about 560. The profits in the operation of the Jay Street Terminal on all shipments during the same period amounted to less than 3 per cent on the investment, without making any allowances for depreciation or interest.

The Federal Sugar Refining Co. is a corporation of the State of New York, having its executive offices at 138 Front Street, in the Borough of Manhattan, and having its refineries from which it ships all its outbound products, including sugar, and at which it receives all its inbound supplies for the manufacture of sugar and commodities allied thereto, on the east bank of the Hudson River, within the corporate limits of the city of Yonkers, and more than 10 miles distant from the northernmost boundaries of the lighterage limits of petitioners. Said refineries are located on the line of the New York Central & Hudson River Railroad Co., with which they have switch connections and over which the Federal Sugar Refining Co. ships the greater part of its output and receives a large part of its inbound shipments. Over this railroad, with few exceptions, the rates to points in the shipping territory of the Federal Sugar Refining Co. are the same as the rates from the Jay Street Terminal over the lines of petitioners. In order to make shipments of its sugar from Yonkers via the lines of petitioners at the New York rate the Federal Sugar Refining Co. must deliver such shipments to the New York Central & Hudson River Railroad Co. at Yonkers, thence to be transported by that railroad to New York, and there delivered to petitioners at points within the lighterage limits. Because of alleged delay in the handling and transportation of such shipments via the route aforesaid, the Federal Sugar Refining Co. prefers to deliver said shipments directly to petitioners by lighter within the lighterage limits. Prior to July, 1909, the Federal Sugar Refining Co. of Yonkers, the predecessor of the Federal Sugar Refining Co., was accustomed to deliver its shipments at Yonkers to the Ben Franklin Transportation Co., which transported the same direct to the terminals of petitioners on the west shore of New York Harbor at a charge to the Federal Sugar Refining Co. of Yonkers of 3 cents per hundred pounds.

In the month of May, 1907, the Federal Sugar Refining Co. of Yonkers filed a complaint with the Interstate Commerce Commission against petitioners, alleging that the complainant, through the Ben Franklin Transportation Co., performed the same service on its shipments of sugar as were said to be performed by the Brooklyn Eastern District Terminal on shipments of the American Sugar Refining Co. and by the Jay Street Terminal on shipments of Arbuckle & Jamison; that the lighterage limits prescribed by petitioners were unduly discriminatory in that they did not extend to Yonkers and include the refinery of the Federal Sugar Refining Co. of Yonkers, and permitted allowances to be made on shipments of sugar from the refineries of Arbuckle & Jamison and the American Sugar Refining Co., while not so permitting on the complainant's shipments, because the latter was located outside the prescribed limits. This practice was said to result in unjust discrimination and to oblige complainant to pay unreasonable rates. Said complaint was answered by petitioners, and after due hearing and consideration the Interstate Commerce Commission dismissed said complaint, because the extension of petitioners' lighterage limits in New York Harbor was a matter of business discretion, and said commission had no authority to require such extension beyond the then prescribed boundaries, and complainant, being located outside of the prescribed lighterage limits, was not subjected to unlawful discrimination by reason of the practice of petitioners in affording free lighterage on shipments originating at or destined to points within said lighterage limits, while refusing to so afford on complainants' shipments.

As a device to appear to ship from within the lighterage limits, within a month after the decision of the Interstate Commerce Commission above mentioned a new corporation known as the Federal Sugar Refining Co. was organized, which established its principal office at 138 Front Street, New York City, and took over the refineries heretofore mentioned, in the city of Yonkers, and adopted the following practice: Contracts of sale or orders for sugar were received at 138 Front Street, and each of said orders was given a separate contract number, and said order bearing the contract number was forwarded to the refinery, where the order was filled and the barrels or bags were stamped with the contract number and placed on a lighter. The shipment bearing the contract number remained intact until it reached the hands of the buyer. The refinery received shipping instructions from 138 Front Street, and these shipping instructions showed the contract number, the ultimate destination, and the rail line over which the shipment was to be transported. The captain of the lighter of the Ben Franklin Transportation Co. gave a receipt to the refinery and received from the refinery a so-called bill of lading, which was a form of railroad bill of lading filled in by the Federal Sugar Refining Co., and designating a consignment to the Federal Sugar Refining Co., 138 Front Street, New York City, to be transported by the Ben Franklin Transportation Co. and showing the contract number with which the shipment had been marked. This alleged bill of lading was not signed by the Ben Franklin Transportation Co. through any of its officers or the captain of the lighter or by any other carrier. There was nothing in any of the documents which called for transportation to Pier 24, North River.

The said shipping instructions sent from 138 Front Street to Yonkers were to ship to "Federal Sugar Refining Co., 138 Front Street, City. B. F. T. Co. (B. & O.)," or other initials representing the Ben Franklin Transportation Co. and one of petitioners, as the case might be. None of the petitioners could or did perform any transportation service in connection with the Ben Franklin Transportation Co. between Yonkers and 138 Front Street, and such shipping instructions were, in fact, directions to deliver said shipments to the Ben Franklin Transportation Co. to be lightered and delivered to one of petitioners at its terminal on the west shore of New York Harbor. The practice was for the lighter of the Ben Franklin Transportation Co. to go to Pier 24, North River, N. Y., part of which pier is leased to the Ben Franklin Transportation Co., where the captain of the lighter called up the office of the Federal Sugar Refining Co., at 138 Front Street, and reported the particular shipment then on his lighter. The captain of the lighter was then handed a form of bill of lading not signed by any of petitioners and showing the name and address of the consignor as the Federal Sugar Refining Co., 138 Front Street, New York, Franklin Street Pier 24, North River. The lighter then proceeded to the rail terminus of such petitioners as had been previously designated in the shipping instructions sent to Yonkers, and there delivered the shipment to such petitioner and obtained the signature of petitioner's agent at said terminus upon the form of bill of lading theretofore prepared and delivered to said captain as aforesaid, and said bill of lading was stamped by said petitioner's agent to show the receipt of the shipment at said station on the west shore of New York Harbor.

Such shipments were handled under contract between the Ben Franklin Transportation Co. and the Federal Sugar Refining Co. for a compensation of 3 cents per 100 pounds, although the contract provides for a compensation of 4 cents per 100 pounds on sugar lightered from Yonkers to Pier 24, North River, payments for said service being made to the Ben Franklin Transportation Co. under that provision of said contract which provides for a compensation of 3 cents per 100 pounds for sugar lightered from Yonkers to petitioners' rail terminal.

Having established the practice above described, the said Federal Sugar Refining Co. filed a complaint in October, 1909, with the Interstate Commerce Commission against petitioners. Said complaint alleged in substance that the interstate transportation of the product of the said Federal Sugar Refining Co. began at Pier 24, North River, Borough of Manhattan, a point within the lighterage limits as aforesaid, and that said Jay Street Terminal is owned and conducted by copartners named John Arbuckle and William A. Jamison, which said copartners owned, maintained, and operated in connection therewith a sugar refinery at the foot of Jay Street, Borough of Brooklyn; that said amounts of 3 cents per 100 pounds and 4½ cents per 100 pounds were paid to said copartners for the lightering of their sugar from Jay Street, Brooklyn, to the rail terminal of petitioners on the west bank of New York Harbor, and that inasmuch as the said Federal Sugar Refining Co. was a competitor of the said Arbuckle & Jamison in the sugar business, it constituted an undue and unreasonable prejudice and disadvantage against said Federal Sugar Refining Co. to pay said amounts of 3 cents and 4½ cents per 100 pounds for the handling of sugar to said Arbuckle & Jamison, and not to pay similarly to the said Federal Sugar Refining Co. Hearings were had before the Interstate Commerce Commission upon the last mentioned complaint, and subsequently the commission issued its order against petitioners in the following language:

"It is ordered that the above-named defendants be, and they are hereby, notified and required to cease and desist, on or before the 15th day of April, 1911, and for a period of not less than two years thereafter abstain, from paying such allowances to Arbuckle Bros. on their sugar while at the same time paying no such allowances to said complainant on its sugar, which said allowances so paid to said Arbuckle Bros. by said defendants are found by the commission in said report to be unduly discriminatory and in violation of the act to regulate commerce."

The leave granted by this court allowing the United States and the Federal Sugar Refining Co. to withdraw their answers and file motion to dismiss undoubtedly entitles them to be again heard as to whether the petition states a cause of action, although the record thus presented is a novel one. We certainly are in no position, after having denied the motions to dismiss and after the Supreme Court has affirmed our

action, so far as the granting of the temporary injunction is concerned, to now hold upon the same facts that the petitions do not state facts sufficient to constitute a cause of action, merely because the case is now submitted for final decision. We are of the same opinion, however, as when we denied the motions to dismiss on May 22, 1911, but as we did not at that time give the reasons which impelled us to make the decision then rendered, we can now with propriety state them.

The Interstate Commerce Commission in its report and order did not specify whether it found a violation of section 2 or section 3 of the act to regulate commerce. These sections read as follows:

"SEC. 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered or to be rendered, in the transportation of passengers or property, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

"SEC. 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." * * *

The language used by the commission would lead to the inference that it found a violation of section 3. If the facts pleaded, however, show a violation of either of the above sections, the order must be sustained, and it must also be sustained if based upon a finding of fact, which we are not at liberty to review. In the first place, the case must be freed from matters which cloud the real issue. It is continually suggested that the arrangement between petitioners and the Jay Street Terminal may be a scheme to cover a rebate. We are not permitted to base our judgment on suspicion, but upon facts pleaded and proven. Respondents have been given ample opportunity to produce all evidence within their power for the purpose of showing that the payments made by petitioners to the Jay Street Terminal constitute unlawful rebates, but no such evidence has been produced. On the contrary, respondents withdrew their answers and now ask the court to decide the case upon the facts stated in the petition. Surely upon this record the court ought to be relieved of presuming that the contracts made by petitioners with the Jay Street Terminal are a cover for the payment of unlawful rebates.

Again, the performance of the Ben Franklin Transportation Co. at Pier 24, North River, is a play in which the episode is lost in the dénouement. It is a plain device and subterfuge indulged in on behalf of the Federal Sugar Refining Co. for the purpose of making it seem that sugar which is being lightered from Yonkers, N. Y., 10 miles north of the lighterage limits established by petitioners, was in fact shipped from Pier 24 by a delivery of the same at that point to the petitioners, when the uncontradicted record, as admitted by the motions to dismiss, shows that the petitioners have nothing to do with the sugar until the Federal Sugar Refining Co. until it reaches the New Jersey shore and is there delivered to petitioners. Courts of equity, looking through mere forms to the substance of things, can not, nor ought they be asked to, found their judgment upon a plain subterfuge. No sugar is tendered by the Federal Sugar Refining Co. to petitioners at Pier 24. On the contrary, the Ben Franklin Transportation Co., acting for the Federal Sugar Refining Co., refuses to tender it there and allow it to be taken by petitioners, but insists upon transporting it itself to the rail terminl. The statement of facts makes it plain that the Federal Sugar Refining Co. transports its sugar direct from Yonkers to the Jersey shore, and we must find as a matter of law that the transportation of Federal sugar by petitioners does not commence until it is delivered to them at their rail termini. The facts do not bring the case within the ruling of the Supreme Court in Gulf, Colorado & Santa Fe Railway Co. v. Texas (204 U. S., 403).

We must include in the presumption that the commission found nothing unlawful in the payments made by petitioners to the Jay Street Terminal under the facts appearing in the record, or it would not have framed its order in the alternative. (Penn Refining Co. v. W. N. Y. & P. R. R. Co., 208 U. S., 208. East Tenn., etc., R. R. Co. v. Interstate Commerce Commission, 181 U. S., 1. Interstate Commerce Commission v. Louisville & Nashville R. R. Co., 190 U. S., 273. Louisville & Nashville R. R. Co. v. United States, 197 Fed., 58-60.)

There can be no doubt as a matter of law under the facts admitted that transportation by petitioners of freight delivered to them at the Jay Street Terminal commences at said terminal and that the services performed by the Jay Street Terminal are transportation services. In our disposition of the case we make no distinction between the Jay Street Terminal and Arbuckle Bros., but treat them as the same entity in legal effect. It then appears that petitioners under their respective contracts are paying the Jay Street Terminal for a terminal service and also for the transportation of freight from the terminal to the Jersey shore. Providing this charge is reasonable, and there is no suggestion that it is not, we understand the law to permit such payment. (Central Stock Yards Co. v. L. & N. Railway Co., 192 U. S., 568. R. R. Com. of Ky. v. L. & N. Railway Co. 10 I. C. C. Rep., 173. Cattle Raisers Ass'n v. C., B. & Q. R. R. Co., 11 I. C. C. Rep., 277. Sec. 15, act to regulate commerce, as amended. Central Stock Yards Co. v. L. & N. Ry. Co., 118 Fed., 113; affirmed, 193 U. S., 568. Covington Stock Yds. Co. v. Keith, 139 U. S., 128. Butchers & G. Stock Yds. Co. v. L. & N. R. R. Co., 66 Fed., 35. United States v. Delaware, L. & W. Co., 40 Fed., 101. Consolidating Fordg. Co. v. Southern T. Co. et al., 9 I. C. C. Rep., 182. Excursion Car Co. v. Penn. R. Co., 3 I. C. C. Rep., 577. In re Transportation of Fruit, 10 I. C. C. Rep., 360. F. H. Peavey Co. v. Union Pac. R. Co., 176 Fed., 409; affirmed, 222 U. S., 42. Interstate Commerce Commission v. Diffenbaugh, 222 U S., 42.)

This case is in no way parallel to the case of Union Pacific Railway Co. v. Updyke (222 U. S., 15). The Jay Street Terminal is one of the public terminals of petitioners, and it is owned by Arbuckle Bros. The payments made by petitioners to the Jay Street Terminal are for the terminal and transportation services performed by it in connection with all freight shipped from or delivered to said Jay Street Terminal. It so happens that Arbuckle Bros., who own and operate the terminal, also are shippers, and only in this way can it be said that they receive payment for transporting their own sugar. In order to make the case parallel to the Updyke case, it would have to appear that the Federal Sugar Refining Co. also owned and operated for petitioners a public terminal for the receipt and delivery of freight within the lighterage limits and that the Federal Sugar Refining Co. had sugar of its own which it transported to the rails of petitioners, together with other freight. If the case stood in such position, under the Updyke case it might be necessary to hold that the petitioners must make the same payments to the Federal Sugar Refining Co. as to Jay Street Terminal. But the always-present fact is that the Federal Sugar Refining Co. does not own and operate any public terminal for petitioners, nor does it transport a pound of sugar from any terminal within the lighterage limits to the rail terminl of petitioners. There is no room for the court to enforce equality between Arbuckle Bros. and the Federal Sugar Refining Co. as to payments for the transportation of their sugar, for the reason that the position in which the court finds the respective parties to the controversy will not permit. We find Arbuckle Bros. owning the Jay Street Terminal, used as a public terminal of petitioners within the lighterage limits. We find the Federal Sugar Refining Co., with its refinery at Yonkers, 10 miles north of the lighterage limits, owning and operating no public terminal for petitioners and tendering petitioners no freight at any of their public terminals. So that we can not see how any violation of either section 2 or section 3 can be predicated on the facts stated in the record.

But it is claimed that this is true: That it costs the Federal Sugar Refining Co. 3 cents per hundred pounds more to get its sugar to the Jersey shore than it does Arbuckle Bros. This could be avoided in part if the Federal Sugar Refining Co. would tender its sugar for shipment over the rails of petitioners at any of the terminals of petitioners within the lighterage limits, many of which are much nearer Yonkers than the Jay Street Terminal or even Pier 24, North River. And we must not forget in this connection that the Federal Sugar Refining Co. voluntarily located its refinery at Yonkers, and if it thereby has subjected itself to some natural disadvantage it can not call upon the courts to remedy it. The commission recognized this fact when it refused to compel petitioners to extend their lighterage limits so as to include the Federal sugar refinery. It is apparent from the record that the sole disadvantage of the Federal Sugar Refining Co. results from its location outside the lighterage limits, and that it is in no way injured or prejudiced by the fact that Arbuckle Bros. own the Jay Street Terminal.

For the reasons above stated we are of the opinion that the order of the commission was in excess of its power, and that it ought to be permanently suspended and enjoined. And it is so ordered.

Mack, Judge, dissenting:

The commission in its report does not clearly indicate whether it deems the transportation of the Arbuckle sugar to begin in New York or in Jersey City. It is conceded by counsel that this is a question of law to be determined by this court. As to goods shipped by Arbuckle Bros. to others than themselves as consignees, there would seem to be no room for doubt, for whatever may be the liability of the Jay Street Terminal toward such consignees, clearly the railroad companies are liable to them as common carriers at the latest from the time of the delivery of the goods into the cars and the issuance of the bill of lading in their name by their authorized agents in New York. I concur in the conclusion of the majority of the court that this transportation begins in New York.

As to the comparatively small percentage of shipments of which Arbuckle Bros. are the consignees as well as the consignors, this would seem to be equally true. The title thereto could be transferred by them immediately after the bills of lading are issued, and in that event the railroad companies would again clearly be liable as carriers to the assignees, even though the goods had not yet actually moved from New York. And the retention of title thereto by Arbuckle Bros. during the time that they, acting as agents for the railroad companies, are transporting them to Jersey City under the contract by which they agree to indemnify the railroad companies against their own acts, and thereby to release them, in a sense, from the obligations which they would ordinarily incur as common carriers toward the owners of goods carried, would not of itself change the transaction from a transportation service performed by the railroads through their agents, the shippers, into an accessorial service performed by the shippers solely on their own account, payment for which would be illegal, irrespective of any unjust discrimination that might result therefrom.

I concur, too, in the opinion of the majority of the court that Arbuckle Bros. and the Jay Street Terminal are to be treated as identical. When two individuals form two firms in which each is interested in the same proportions, the one to refine sugar, the other to operate a terminal station and to transport goods for railroads, the two firms do not thereby become so distinct and separate for every purpose as to legalize a payment to the latter firm for carrying the former's product, if such payment would be illegal as unjustly discriminatory when made directly to the former firm. The commission was, therefore, fully justified in this case in dealing with the two firms as one.

The question before this court then is, Could the commission reasonably find that payment to Arbuckle Bros. for getting sugar manufactured by them from a point within the lighterage limits to Jersey City; that is, for performing a part of the railroad companies' transportation service (a payment permitted by section 15 of the act, subject to regulation by the commission as to its reasonableness), would operate as an unjust discrimination against the Federal Sugar Refining Co. unless a similar payment were made to the latter company for getting sugar manufactured by it from another point within the lighterage limits to Jersey City?

If the Federal Co. had its refinery at Pier 24, and if Arbuckle Bros. operated their wharf only as a private and not as a public station, and if the allowance made to them for carrying their sugar to Jersey City were no more than the bare cost of the service, the commission would be justified in finding that a refusal to make a similar allowance to the Federal Co. and the offer to give it in lieu thereof free lighterage of its sugar would result in an unjust discrimination against the Federal Co. (Union Pacific Railroad Co. v. Updike Grain Co., 222 U. S., 215.)

Do the facts, first, that the Federal Co.'s refinery is at Yonkers, that it brings its goods to Pier 24 primarily or solely to get them within the lighterage limits, that it has never demanded and does not want free lighterage from Pier 24, and that as a result thereof the transportation of its goods by the railroads begins in Jersey City; or, second, that Arbuckle Bros. are employed by the carriers to operate their wharf as a public terminal station, and to transport therefrom to Jersey City not only their own but others' goods, necessarily render the circumstances such that the commission in the reasonable exercise of its powers could not find them to be substantially similar?

(1) If this case were based on the grant of free lighterage to Arbuckle Bros. and the failure to grant it to the Federal Co., the latter would, of course, have no ground for complaint unless it really wanted and

offered to avail itself of such free lighterage. But when, as here, the complaint is based on the grant to the one and the denial to the other of the privilege, not of free lighterage, but of itself performing for compensation the transportation service from within the lighterage limits to Jersey City, it is no answer to assert that at present the situation of the two parties is not similar, transportation for the one beginning at New York and for the other at Jersey City. The charge is that this dissimilarity is due not to the voluntary act of the parties but to the very discrimination sought to be removed as unjust, and that if the same privilege were granted the Federal Co. as is granted Arbuckle Bros.—that is, to transport its goods from a point in the lighterage limits to Jersey City in its own or hired lighters, not at its cost, but as the compensated agent of the railroads—it would be ready, willing, and able so to do.

If this court must find that there is no substantial basis for the commission's view that the Federal Co. was shipping and, on a grant of like privileges to those accorded Arbuckle Bros., would be ready to ship from Pier 24, if the facts stated in the petition necessarily lead to the conclusion that the shipment is and would be direct from Yonkers, a point without, and not from Pier 24, a point within the lighterage limits, to Jersey City, there would be an end of the case. I am of the opinion, however, that this court should not so hold.

The railroads are not concerned with the history of goods offered for transportation. (Interstate Commerce Commission v. D., L. & W. R. Co., 220 U. S., 235.) If parties are ready to perform for compensation that part of the service which the railroad companies by their offer to begin the carriage in New York instead of in New Jersey have made transportation service, it can not be material to the railroads how the goods get to the point where this service is to begin—whether it be by rail, barge, or wagon. The goods are to be tendered to them at that point. The only transportation with which we are here concerned, that by the railroads, is to begin there.

The barge that brings the Federal Co.'s sugar from Yonkers is tied up to the dock at Pier 24. The sugar is then just as much within the lighterage limits as if it were dumped out on the pier. When the barge is so tied up a shipper who wants to avail himself of the free lighterage offer could assuredly do so. The railroads make this offer to the Federal Co. now, an offer which would be illegal if the goods could not be considered to be within the lighterage limits and if the interstate transportation necessarily began at Yonkers. If the refinery were situated in New York City, a few blocks off the water front on a small canal or creek large enough only for rowboats, the company clearly could bring its goods by such a boat to the dock and put them on lighters without first dumping them onto the dock.

Of course, at the present time the Federal Co. can not offer the goods to the railroads at Pier 24. As it does not want free lighterage, and as the railroads will not accept them at Pier 24 by issuing, through regular agents or through the Federal Co. itself, acting as their agent, the necessary bills of lading, and permitting the Federal Co. as their paid agent thence to transport them to Jersey City under covenants similar to those found in the Jay Street Terminal contracts, it would seem to be utterly useless for the Federal Co. to do anything more than it is doing. It says: "Our sugar is at Pier 24; it is already loaded in lighters; we want bills of lading for the through transportation from this point, and we demand, for similar compensation, the privilege of performing a part of the transportation service, that between the lighterage point, Pier 24, and Jersey City, a privilege substantially similar to that which you grant Arbuckle Bros."

In the opinion filed by the commission in the original case brought by the Federal Co., involving only the extension of the lighterage limits and based primarily on an alleged violation of section 3 of the act, importance was attached to the concession of counsel that the Federal Co. would not be any better off if the Jay Street Terminal were owned by the railroad companies, with the implication that in that event the allowance would be cut off and only free lighterage granted. The refinery at Yonkers would, of course, always be under the disadvantage of having to bring its goods to Pier 24.

The present proceeding, however, was brought by the Federal Co. not in the capacity of Yonkers refinery, primarily to prevent, as between localities, the undue prejudice forbidden by section 3, but in its capacity of a vendor and shipper of sugar from Pier 24, primarily to prevent as against it the unjust discrimination forbidden by section 2 of the act. Only in that capacity is it to be dealt with in this case, and therefore it is immaterial how, whence, or at what cost it gets its sugar to that pier.

(2) Can parties guilty of what would otherwise be an unjust discrimination escape the consequences of their act by combining the payment for the transportation service with payment for other work that in and of itself has no necessary connection therewith?

That Arbuckle Bros. run a public wharf as agents of the railroad companies, that their compensation is a combination of rent and wages as terminal managers and transporters, that the amount paid per 100 pounds for sugar may be far beyond a fair payment for that particular service, and may be made so because a similar payment per 100 pounds may be far below a fair payment for similar services as to other goods, do not, in my judgment, necessarily render the circumstances surrounding the transportation of the sugar to Jersey City so dissimilar from those at Pier 24 as to justify this court in holding that the commission, in the reasonable exercise of its powers, could not find that an unjust discrimination resulted from the payment to Arbuckle Bros. and the refusal to make a similar payment to the Federal Co. If the commission could reasonably so find, its order can not be annulled merely because the members of this court might have reached a different conclusion had they been acting as commissioners.

The fact that the contracts between the Jay Street Terminal and the railroads, by which the Arbuckle private docks were made public terminal stations and these allowances were definitely fixed, were made during the session of Congress which enacted the Hepburn Act, a law which aimed more effectively to prevent certain illegal practices theretofore secretly indulged in for the benefit of large and favored shippers, and the further fact that the ultimate destination of the goods determined the rate of payment, although the services in each case were absolutely identical, lends support to the conclusions of the commission that the allowances are a mere disguise to conceal unjustly discriminatory and therefore illegal payments.

In my judgment, the petition should be dismissed for want of equity.

Mr. SIMPSON. I also offer in evidence the opinion of the Supreme Court in the fuel rate case, which will have to be copied out of the book I have here, which comes from the library connected with the Senate. It is Two hundred and twenty-fifth United States, page 326.

The opinion referred to is as follows:

[U. S. S. Exhibit AAA.]

SUPREME COURT OF THE UNITED STATES.

(No. 719.—October term, 1911.)

The Interstate Commerce Commission and the United States, appellants, v. The Baltimore & Ohio Railroad Co., the Pennsylvania Railroad Co., et al. Appeal from the United States Commerce Court.

(June 7, 1912.)

The question in the case is whether railroad companies may charge a different rate for the transportation of coal to a given point to railroads than to other shippers, the coal being intended for the use of the railroads as fuel.

The Interstate Commerce Commission held that a charge of a different rate was an unlawful discrimination against other shippers and made an order requiring a cessation of such charge. The execution of the order was enjoined by the Commerce Court.

A number of railroads are petitioners and we shall refer to them as the companies.

The companies attack in their petition the order of the Interstate Commerce Commission on several grounds, which may be summarized as follows: The movement of coal traffic from the point of origin to the point or points of junction to receiving carriers is different from the movement of coal to be delivered locally at such junction points.

The traffic is not governed by the rates published under the act to regulate commerce which apply to the traffic in coal not intended for use by consuming railroads, because the charges go to the carrier itself. If the coal be shipped under a through rate applicable to other coal the actual rate upon which it moves to the rails of the consuming road is the division of the through rate going to the roads over which the traffic moves to the junction point with the rails of the consuming road. The division of the rate beyond that point goes to the consuming road itself.

All but an inconsiderable part of such coal is necessary and intended for use as fuel in locomotives. The fueling stations are often many, and are located at convenient points along the line at varying distances from the junction points, and it is not possible at the time of shipment to tell at what point a carload of coal will be needed. If made on a through rate they must be billed and transported to a point to which the through rate is published. Even if a centrally located distributing yard for fuel be established, and all shipments billed on a through rate to that yard, there must be a reverse movement of the coal between that point and the point of junction.

The fact that fuel coal on the line of a consuming carrier is not governed by the published rates makes the commercial competitive conditions different between such coal and other coal. The value to the shipper is not the same or measured by the same conditions. There is no competition between the fuel coal and other coal.

Because of the circumstances and conditions differentiating the traffic in fuel coal the companies have for a number of years past published and filed, as required by law, separate tariffs of the rates to be charged and received by them for the transportation of such coal from points of origin to the junction point of delivery to the consuming carrier. The tariffs vary in their definitions or descriptions of the traffic to which the rates apply, but in each case the traffic is such that it would move in reality not under the published through rates but would move under the special conditions which have been stated. Some of the tariffs apply only to coal intended for use and used for locomotive fuel. The rates named in the tariffs are open and available to all producers and shippers, if the shipments be made under the special conditions stated.

On January 4, 1910, the Interstate Commerce Commission, of its own motion, instituted an inquiry under an order of that date entitled, "In the matter of restrictive rates," docket No. 5055, making the Baltimore & Ohio and the Pennsylvania Railroad Cos. parties to the proceeding. The other companies from time to time were admitted as interveners. Testimony was taken, argument heard, and the commission entered the order complained of in which the commission required the companies to cease and desist, on or before May 15, 1911, and for a period of two years to adhere to the tariffs on fuel coal stated.

The commission erred in its construction of the act to regulate commerce in that it held the facts and circumstances found by it did not distinguish fuel coal from other coal, and that the different conditions of their transportation were not in law circumstances and conditions necessary or proper to be considered in applying the provisions of section 2 of the act.

The commission erred in holding that the rates on fuel coal under section 2 should be no more nor less than rates for the shipment of other coal from the same point of origin for local delivery at the junction point, the circumstances and conditions showing conclusively that the services done in the transportation of them, respectively, are not alike nor substantially similar, within the meaning of the act to regulate commerce.

The commission erred in holding that fuel coal should be transported under through rates, as other coal, and that it was unlawful for carriers to publish or charge any rates other than the through rates agreed upon going to the line of the terminal carrier to be used by it in its business as a common carrier. And that, as the charges on such terminal carrier's line must be borne by it, the commission erred in holding that such circumstance did not differentiate the traffic in such coal from the traffic in other coal, and did not constitute a substantial difference under section 2 in the conditions of transportation.

The commission erred in holding, further, that any difference in the tariff for fuel coal and not applicable to all other coal was unjustly discriminatory, in violation of section 3.

It appears on the face of the report of the commission, it is alleged, that it proceeded in making the order upon its view of sections 2 and 3; that it did not find it necessary to consider any specific tariff or tariffs or the rates named thereby; that the difference in conditions affecting the respective tariffs could not be considered as distinguishing them. And it is alleged that the findings of the commission are findings of law, as well in regard to the violation of the third section of the act as in regard to violation of the second section. Irreparable damage is alleged, and the alternatives presented of desisting from the carriage of fuel coal at the expense of the loss of large and valuable revenues or accepting divisions of through rates on both fuel coal and other coal, which will give the companies, as originating or intermediate carriers, a much lower compensation for both classes of traffic than they are now receiving and would continue to receive but for the order of the commission.

In either case the loss will amount to many thousand dollars. There will be loss, it is alleged, to the producers of fuel coal who have

sold coal under contracts for future delivery at junction points, and loss also to producers and shippers who depend on the railroad-fuel business to enable them to operate their mines at all.

A final decree is prayed for the annulment of the order and a temporary injunction enjoining and suspending it pending final hearing and determination.

The petition was supported by affidavits made by a number of coal producers and shippers.

The answer of the Interstate Commerce Commission is directed principally at the third paragraph of the petition, and charges against it as follows: Its allegations relate to comparisons between coal, on the one hand, consigned to a railroad company, and coal, on the other hand, consigned to some other party. The former is called railroad-fuel coal; the latter is known as commercial coal. In each instance, however, regardless of the consignee, the point of origin and the point of destination of the shipments is the same, but the rate charged for transporting fuel coal is much less than the rate exacted for the transportation of commercial coal over the same line, in the same direction, and between the same points. Schedules or tariffs providing for such differences in rates have been heretofore established and put in force and are now maintained and enforced by the companies.

Where the destination is a junction which is a point of connection between the lines of two or more of the companies, the movement of coal, fuel and commercial, is the same, except that at such destination the cars containing fuel coal are ordinarily placed upon what is called an exchange track, which is used in common by the connecting carriers, while the cars containing commercial coal are usually placed upon the side track of the delivering carrier. The cost of delivering both kinds of coal is practically the same, depending upon the nature of the delivery facilities furnished by the companies. Therefore, the cost of delivering fuel coal may be and is less than the cost of delivering the commercial coal, but the reverse is sometimes the case. It is alleged, however, that such differences are similar to differences pertaining to some shipments of commercial coal compared with other shipments.

Generally what is called "free time" is allowed by the companies; that is to say, a certain period of time for unloading the coal is allowed. If the coal is unloaded within that time, no charge is made for the use of the car. If that time be exceeded, a charge of $1 for each day or fraction of a day in excess of the "free time," known as a demurrage charge, is exacted by the companies, while the compensation paid by one carrier to another carrier for the use of a car owned by the latter is 25 cents a day. Where the coal transported is fuel coal no "free time" is allowed, nor is such demurrage charge exacted or collected. These differences, however, are offset, and much more than offset, by the differences in the rates of transportation between the different coals.

Where the destination of the shipment of coal is not a point of connection between the lines of two or more of the companies the circumstances and conditions pertaining to the transportation and delivery of coal are the same as above described, except that at such destination there are no exchange tracks used in common by two or more of the companies. Where the shipment passes over more than one line of railway to such destination, delivery by one of the companies to another is made in the same way and under similar circumstances and conditions, regardless of whether the coal be fuel or commercial coal.

The lower rates established by the companies and applied by them to the transportation of fuel coal are not open alike to all shippers, but are, by reason of the schedules and tariffs above mentioned and by reason of the practices of the companies, confined to shippers of fuel coal and denied to shippers of all other coal, including commercial coal.

The commission denies the errors attributed to it, and alleges that its report shows as follows: "We have never held that the local rate to the junction point must be paid on shipments that are going beyond that point. What we have said is that the local rate to the junction point shall be the same for all shippers to that point, and that the through charges on shipments going beyond the junction point shall be alike for all shippers to the same destination."

The commission alleges (somewhat singularly, on information and belief) that it considered all facts, circumstances, and conditions pertinent to the subject matter of the order, including degrees of difference and distinction, and such and all of the tariffs and rates of the companies which are affected by the order, and did not entertain the opinion attributed to it, that the facts, circumstances, and conditions affecting the particular traffic could not be lawfully considered by it as distinguishing the traffic in railroad-fuel coal from the traffic in other coal.

It is alleged that the traffic is interstate, and that fuel coal as compared with other coal, including commercial coal, is a like kind of traffic; that the services performed by the companies in connection with the transportation of fuel coal as compared to the services performed by them in connection with the transportation of other coal, including commercial coal, are alike and contemporaneous, and are performed under substantially similar circumstances and conditions. It is hence alleged that the companies are violating sections 2 and 3 of the interstate-commerce act.

The final allegation of the commission is that the matters are within its jurisdiction, and that therefore the correctness of its findings is not open to review in the Commerce Court or any other court.

Mr. Justice Mckenna, after stating the case as above, delivered the opinion of the court:

The case involves the consideration of sections 2 and 3 of the interstate-commerce act. Section 2 provides that if any common carrier shall directly or indirectly charge or receive from any person or persons a greater or less compensation than it charges or receives from any other person or persons "for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic, under sustantially similar circumstances and conditions, such common carrier shall be deemed guilty of discrimination. * * *."

Section 3 is directed against giving preferences or advantages to persons, localities, or descriptions of traffic in any respect whatsoever and subjecting any person, locality, or traffic "to any undue or unreasonable prejudice or disadvantage in any respect whatsoever."

The companies contend that the commission applied these sections to the facts found by the commission, none of them being disputed, and that, therefore, the findings of the commission are conclusions of law. On the other hand, the commission charges that its findings are those of fact and exclusively within its jurisdiction, and not open to review by the Commerce Court or any court. Many of its assignments of error are expressions of this view. The other assignments assert in various ways and with many shades of particularity that the Commerce Court erred in disagreeing with the commission in regard to the traffics in the different coals, not only in its decision, as indicated in its injunction, in the matters affecting such traffic, but in substituting its judgment for that of the commission.

The facts are certainly undisputed, or, to put it differently, the circumstances and conditions which determined the order are certainly not in controversy; and while certain general inferences are disputed which may be called inferences of fact, yet we think "power to make the order, and not the mere expediency of having made it, is the question" presented. (Interstate Commerce Commission v. Illinois Central R. R. Co., 215 U. S., 452, 470.) In other words, that the question presented by the petition is that the order of the commission was not merely administrative, but proceeded from a construction of sections 2 and 3 as applicable to the conditions which affected the traffic in the different kinds of coal and that the different charges for transportation constituted violations of those sections. The Commerce Court, therefore, had jurisdiction of the petition and jurisdiction to enjoin the order of the commission if the court considered that the order would cause irreparable injury. Section 3 of the act creating the Commerce Court gives that court the power to "enjoin, set aside, annul, or suspend any order of the Interstate Commerce Commission, in a suit brought in the court against the United States." Whether the court erred in its judgment is now to be inquired into.

In its most abstract form the simple statement of the controversy is whether the companies may charge a different rate for the transportation of fuel coal to a given point than for the transportation of commercial coal to the same point. But when we depart from the abstract, complexities appear and attention is carried beyond the consideration of points equally distant, shippers equally circumstanced and traffic affected by similar circumstances and conditions. It is asserted that there are disparities between the traffics and qualifying circumstances which the commission disregarded and, in error, held that traffic in fuel coal should not be distinguished from the traffic in commercial coal.

The commission insists upon the simplicity of the problem and contends that there is nothing in the conditions of the traffic which dispenses with the clear legal duty of the companies under the interstate commerce act to carry for all shippers alike. The commission says: "We have never held that the local rate to the junction point must be paid on shipments that are going beyond that point. What we have said is that the local rate to the junction point shall be the same for all shippers to that point, and that the through charges on shipments going beyond the junction point shall be alike for all shippers to the same destination." Its position thus expressed the commission has supplemented, we are told by the companies, by its conference ruling No. 324, published June 19, 1911, as follows: "Division on company coal.—Upon inquiry, held that it is unlawful for carriers to make special and discriminatory divisions of joint rates upon locomotive fuel as between an originating or participating carrier and a purchasing carrier. In the division of joint rates on a railroad, fuel must be treated precisely as any other shipper is treated, and the commission will regard any special division as a device to defeat the published rate. All divisions upon fuel coal must be made in good faith without respect to the fact that one of the carriers is the purchaser of such coal."

The issue of principle between the commission and the companies is very accurately presented, and we come to consider whether there are differences in the traffic of fuel coal which distinguish it from traffic in commercial coal, and which, as contended by the companies, make the traffic dissimilar in circumstances and conditions, or whether the opposite is true, as decided by the commission.

The circumstances and conditions which may so far be considered as distinguishing traffics so as to take from different transportation charges the vice of preference have been described by this court. In Wight v. United States (167 U. S., 512, 518) it is said: "It was the purpose of the section (2) to enforce equality between shippers, and to prohibits any rebate or other device by which two shippers, shipping over the same line, the same distance, under the same circumstances of carriage, are compelled to pay different prices therefor." These words are given more precision by the declaration "that the phrase, 'under substantially similar circumstances and conditions,' as found in section 2, refers to matters of carriage, and does not include competition." And this was repeated in Interstate Commerce Commission v. Alabama Midland Railway Co. (168 U. S., 161, 166). The facts in both cases give significance to the rulings. In the first case the charges to the shippers were the same, but one was given extra facilities; in the second case the extraneous effect of competition was excluded as an element in the application of the section. There is also example in Interstate Commerce Commission v. Delaware, Lackawanna & Western Railroad Co. (220 U. S., 235). It was there held that a carrier could not look beyond goods tendered to it for transportation in carload lots "to the ownership of the shipment" as the basis for determining the application of its established rates. Do the circumstances and conditions in this case give a greater power of discrimination and justify the lower charge to railroad-fuel coal? It is admitted that the fact that a railroad is the shipper or consumer is not a circumstance or condition that affects the carriage, nor can the different uses to which the coal may be put, and it would seem necessarily that any other extraneous condition or circumstance could have no greater potency. Once depart from the clear directness of what relates to the carriage only and we may let in considerations which may become a cover for preferences. May a carrier look beyond the service it is called upon to render to the attitude and interest of the shippers before, or their attitude and interest after, transportation? It must be kept in mind that it is not the relation of one railroad to another with which we have any concern, but the relation of a railroad to its patrons, who are entitled to equality of charges. (See Pennsylvania Railroad Co. v. International Mining Co., 173 Fed., 1.)

But what are the differences in the traffics which are asserted by the companies? We have already condensed them from the pleadings, but we may use the expression of their ultimate elements by the companies, omitting, for the time being, the physical differences in facilities. They say: "When the railroad-fuel coal is consigned to the junction point, as provided in the present system of tariffs, the circumstances and conditions that differentiate this traffic from the traffic in commercial coal consigned to the same point are:

"1. The fuel coal so shipped is not in competition with the commercial coal consigned to the same point.

"2. It is in competition with other coals coming upon the line of the consuming road at other points with which the commercial coal is not in competition.

"3. The transportation service is different in that commercial coal at the junction point has reached the point of use, while railroad-fuel coal reaching the consuming railroad at the junction point is still subject to a transportation service before reaching the point of use—a transportation under the 'commodities clause' and not under tariff."

These elements the commission disregarded, it is contended, and that while it found a similarity in the traffics it did not consider or discuss the two most important features of difference—"the two features" which make the traffics unlike; that is, that railroad-fuel coal "does

not come into competition with the commercial coal, and is in competition with coals coming on the railroad's line at other points." But such features do not affect the carriage, quality, or alter the essential service, which is to get an article from one place to another. The greater or less inducement to seek the service is not the service. Such competition, therefore, is as extraneous to the transportation as the instances in the cases cited. And equally so is the other "feature," that the fuel coal may be destined for consumption beyond the junction point. The circumstances do not alter the fact that it and commercial coal go to the same point and are delivered at the same point. There is, it is true, a difference in the manner of delivery, depending upon the difference in the facilities possessed by the railroads and other consignees.

The commission, as we have seen, especially disclaimed holding that the rate to the junction point must be paid on shipments going beyond that point, and insisted that it only held that the charges to that point should be the same to all shippers, and rates through that point should also be the same to all shippers. And the commission said that the testimony established that the service as to the coals was alike when they go beyond the junction point. The commission, therefore, considered alone the service, disregarding circumstances and conditions which were mere accidents of it and had relation only to the respective shippers.

But the companies say, in criticism of the reasoning and order of the commission, they are permitted to do indirectly what they want to do directly, that an easy way of evasion of the prohibiting order is to make a joint rate from the point of origin of the fuel coal to its points of consumption, and thereby be enabled "to charge a lower rate for the fuel coal than for the commercial coal between the same points." And further, in display of the easiness with which this can be accomplished and "how readily the commission's order lends itself to manipulation of rates," they say that they have only to publish a nominal delivery point beyond the real delivery point, publish a rate to that point which they do not intend to charge and call their actual rate to the junction point, based on the special circumstances and conditions, a "division." They then ask if "the commission can so easily juggle a rate for a good purpose, will not ingenious traffic agents and coal operators do the same for their own perverse ends?" If such a situation artfully produced be used as a device for giving preferences, the commission might be able to find some means to defeat it. At present we must regard its possibility as relevant as exhibiting a misconception of the commission's purpose. The commission has not said what the rate should be, nor has it said, as we have seen, that the local rate to the junction point should be the same as the rate beyond that point. The commission has ordered equality and struck down what it deemed to be preferential charges, even though they were made under formal tariffs. If there may be legal or illegal evasion of the order, we may wonder at the controversy. If the difference between the effect of the order and what the companies can do or want to do, be, as is contended, a "question of words"—a "question of the nomenclature to be used in tariffs"—the order of the commission may still be valid. Tariffs are but forms of words, and certainly the commission, in the exercise of its powers to administer the interstate commerce act, can look beyond the forms to what caused them and what they are intended to cause and do cause.

There are other contentions or rather phases of those that we have considered and which seek to further emphasize the strength of competition as a circumstance or condition differentiating the traffic. For instance, it is urged that the shipment of the fuel coal to a particular railroad "for the use of that railroad" makes special the traffic. And, further, that "a railroad is not a person," but is "rather in the nature of a geographical division and extends through long distances." Pushing the argument or illustrations further, it is urged that a railroad company may be distinguished from the physical thing, the railroad itself, and may be a locality where a commodity is used, like "a river, a county, or a city," and be entitled to preferential rates to accommodate competitive conditions. The Import Rate Case (162 U. S., 197) is invoked as analogous. We can not accept the likeness nor the distinctions which are said to establish it. The railroad company can not be put out of view as a favored shipper, and we see many differences between such a shipper receiving coal for use in its locomotives and a nation as the destination of goods from other nations for distribution throughout its expanse on through rates from points of origin.

The point is made that "the commission's method of filing fuel-coal rates is illegal under section 6 of the interstate commerce act and under the Elkins Act," and the later act and section 6 are quoted in illustration. The rather vague argument which is urged to support the point lands in the proposition that the right to violate the law as to preference in rates is justified by the law in its requirement of the filing of schedules of rates. However, counsel say that "it all goes back to the same principle" "dealt with under point 1." We have sufficiently discussed point 1.

The decree of the Commerce Court is reversed and the case remanded with directions to dismiss the petition.

True copy.

Test.

Clerk Supreme Court, United States.

Mr. SIMPSON. I also offer in evidence, but I do not care to have it even printed in the RECORD, the record in the circuit court of appeals in the Marian Coal Co. against Peale, having taken therefrom the whole of the evidence that was objected to when it was suggested before.

[The matter was marked "U. S. S. Exhibit ZZ."]

Mr. SIMPSON. I also offer in evidence a certificate from the District Court of the United States for the Middle District of Pennsylvania, showing all the cases which appeared in that court in which the Lehigh Valley Coal Co. or Lehigh Valley Railroad Co. were parties interested during the time Judge Archbald was a member of that court.

The certificate referred to is as follows:

[U. S. S. Exhibit BBB.]

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

I, G. C. Scheuer, clerk of the above-named court, do hereby certify that the docket entries in the cases hereto attached are the only cases in which the Lehigh Valley Railroad Co. or the Lehigh Valley Coal Co. is a party which were pending during the term of Hon. R. W. Archbald as judge of the District Court of the United States for the Middle District of Pennsylvania.

Witness my hand and the seal of said court, this 27th day of November, A. D. 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*

The following is a part of the docket entries:

In re Bunnie S. Harris v. Lehigh Valley Coal Co. No. 9, October term, 1904.

For plaintiff: Watson, Diehl & Kemmerer, Scranton, Pa.

For defendant: Woodward, Darling & Woodward, Wilkes-Barre, Pa.; Willard, Warren & Knapp, Scranton, Pa.

September 15, 1904. Præcipe for summons in assumpsit and plaintiff's statement. Summons issued returnable first Monday of October next.

September 22, 1904. Summons returned served.

September 28, 1904. Præcipe for appearance of Woodward, Darling & Woodward for defendant.

October 16, 1905. Amendment to plaintiff's statement (allowed).

November 28, 1905. Additions and amendments to plaintiff's statement.

March 5, 1906. Continued on account of plaintiff's sickness.

October 15, 1906. Continued to October 22, 1906.

March 4, 1907. Jury called and sworn.

March 18, 1907. By agreement, a juror is withdrawn and the case is continued to February term, 1908.

Certified from the record this 27th day of November, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*
Per S. W. HOFFORD, *Deputy Clerk.*

Now, 27th March, 1908, the above case is hereby discontinued.

WATSON, DIEHL & WATSON,
Attorneys for plaintiff.
J. B. WOODWARD,
For defendant.

Certified from the record this 27th day of November, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*
Per S. W. HOFFORD, *Deputy Clerk.*

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

In re Robert Smallcomb v. Lehigh Valley Railroad Co. No. 115, October term, 1907.

DOCKET ENTRIES.

October 9, 1907. Præcipe for summons in trespass and statement. Summons issued returnable first Monday of November, next.

October 16, 1907. Summons returned served and filed.

October 18, 1907. Præcipe for appearance of Willard, Warren & Knapp, for defendant.

November 13, 1907. Plea: "Not guilty."

January 25, 1908. Affidavit of E. N. Willard. Order of court allowing the withdrawal of plea of "Not guilty" and filing plea in abatement. Plea in abatement.

February 20, 1908. Depositions.

February 28, 1908. Jury called and sworn (see minutes).

March 11, 1908. Jury called and sworn (see minutes).

March 12, 1908. Juror withdrawn and case settled.

April 14, 1908. Order of court directing that case be marked discontinued. Discontinued.

Certified from the record this 27th day of November, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*
Per S. W. HOFFORD,
Deputy Clerk.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

In re Charles D. Keating v. Lehigh Valley Railroad Co. No. 146, October term, 1908.

DOCKET ENTRIES.

July 11, 1908. Præcipe for summons in trespass and statement. Summons issued returnable first Monday in August, next.

July 14, 1908. Summons returned served and filed.

August 3, 1908. Præcipe for appearance of Willard, Warren & Knapp, Esqs., for defendant.

August 14, 1908. Plea: "Not guilty."

September 30, 1908. Præcipe for appearance of M. J. Martin, Esq., for plaintiff.

October 20, 1909. Depositions of William Simons and Walter T. Sullivan, taken before May Thornton, a notary public, etc.

October 22, 1909. Jury called and sworn.

October 26, 1909. Verdict for defendant.

Certified from the record this 27th day of November, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*
Per S. W. HOFFORD,
Deputy Clerk.

Mr. SIMPSON. I also offer in evidence a letter from Judge Mack to Mr. Bruce, dated December 12, 1911, and the reply of Mr. Bruce to Judge Mack, dated December 15, 1911, in relation to the Louisville & Nashville case, and the reply of Judge Mack to Mr. Bruce, dated December 22, 1911.

Mr. Manager STERLING. Those letters we ask to have read, Mr. President.

Mr. SIMPSON. Very good, sir. Before I offer any others, then, I will wait until they are read.

The Secretary read as follows:

[U. S. S. Exhibit CCC.]

UNITED STATES COMMERCE COURT,
Washington, December 12, 1911.

HELM BRUCE, Esq.,
Lincoln Bank Building, Louisville, Ky.

DEAR MR. BRUCE: In the testimony before the commission in the New Orleans-Mobile-Montgomery case Mr. Compton stated that he would furnish a copy of the Cooley adjustment of 1886. I can find nothing

of this kind in the files. If you can secure me a copy of the Ogden and Cooley reports I should be greatly obliged to you.

Very truly, yours,

JULIAN W. MACK.

JWM/AHM

[U. S. S. Exhibit DDD.]

DECEMBER 15, 1911.

Hon. JULIAN W. MACK,
Judge of the United States Commerce Court,
Washington, D. C.

MY DEAR JUDGE: I have yours of the 12th instant referring to Mr. Compton's testimony before the commission in the New Orleans-Mobile-Montgomery case and in which you call attention to the fact that he said he would furnish a copy of the Cooley adjustment of 1886, but that you can not find it.

You will find the Ogden and Cooley awards set forth in full in the testimony in the present case before the examiner of the circuit court, first, in the testimony of T. C. Powell, page 26, beginning at line 20, and then again in the testimony of Mr. C. B. Compton, page 132, line 1, etc.

But thinking it possible, as there are five judges of the Commerce Court, that you may not have the entire record before you, I inclose you a copy of the two awards.

Yours, very truly,

HELM BRUCE.

HB–W.

[U. S. S. Exhibit EEE.]

(The Northwestern Mutual Life Insurance Co., M. W. & R. W. Mack, general agents for Hamilton County, Ohio. J. W. M. Traction Building, Fifth and Walnut Streets, Cincinnati.)

DECEMBER 22, 1911.

HELM BRUCE, Esq.,
Lincoln Bank Building, Louisville, Ky.

DEAR MR. BRUCE: Thanks for your letter and the inclosure. It has been some time since I went through the testimony in the circuit court, and when I wrote you I had forgotten that this material was there. I had been going again through the testimony before the commission and had failed to find it and had therefore made the request.

Thanking you for your courtesy, I am,

Very truly, yours, JULIAN W. MACK.

Mr. SIMPSON. I also offer in evidence, sir, a letter from Mr. Bruce to Mr. Worthington, which was produced before the Judiciary Committee and kindly produced by the managers the other day at our request. That is the one Judge CLAYTON handed to me the other day.

Mr. Manager STERLING. We object to this—a letter written by Mr. Bruce to Mr. Worthington.

Mr. WORTHINGTON. This is a letter that Mr. Bruce wrote to me just after he had been examined as a witness before the Judiciary Committee, in which he makes some statements that he evidently wished to reach the committee in regard to this correspondence which he had with Judge Archbald. I turned it over to the committee, and it remained in their possession until it was produced here at our request. I think under the circumstances the Senate ought to have the benefit of Mr. Bruce's statement, which he made to the Judiciary Committee at the time in explanation of this transaction.

The PRESIDENT pro tempore. Does counsel claim that it is admissible under the rules of evidence?

Mr. WORTHINGTON. I could hardly say it is strictly admissible, but I think, under the rules under which we have admitted some papers here, in general fairness to everybody it might go in.

My attention is called to the fact that in his testimony here Mr. Bruce was asked about that letter, and he said:

I think the facts I stated in that letter are material, if I may be permitted to say so, to this matter you have under consideration, because it states the attitude of the parties upon the question on which Judge Archbald wrote to me.

So it was referred to and made a part of his testimony here.

The PRESIDENT pro tempore. The Chair does not feel at liberty to admit a document if it is not regarded as legitimate evidence. Of course, if the Senate desires to receive it, it is in its power so to direct.

Mr. Manager WEBB. Mr. Bruce has been on the witness stand since writing the letter, and he could have been interrogated about it if it was desired to do so.

Mr. SIMPSON. Mr. WEBB forgets that the letter was mislaid by Judge CLAYTON and was not produced until next morning. It was no fault of Judge CLAYTON, and I am not making any complaint, but we did not have it here when we wanted it for that purpose.

Mr. Manager CLAYTON. In reply to that, I may say that when counsel asked me for the letter I produced it as soon as possible. Mr. Bruce had not left the city. It is a matter which has no proper relation to the case, anyway.

Mr. SIMPSON. I do not think it is admissible evidence if it is objected to, and I can not insist on it.

The PRESIDENT pro tempore. The Chair would have no right to admit it.

Mr. SIMPSON. I offer in evidence the opinion of the Interstate Commerce Commission in the Louisville & Nashville Railroad Co. case, referred to by Judge Archbald while upon the stand.

The PRESIDENT pro tempore. Does counsel desire to have it read?

Mr. SIMPSON. I do not think it is necessary to have it read at this time.

The PRESIDENT pro tempore. It will be incorporated in the record without being read.

The opinion referred to is as follows:

Before the Interstate Commerce Commission.

New Orleans Board of Trade (Limited) v. The Louisville & Nashville Railroad Company. Nos. 1310, 1313, and 1328.

Submitted February 10, 1909. Decided November 26, 1909.

REPORT AND ORDER OF THE COMMISSION.

1. Defendant advanced its rates on certain classes from New Orleans to Mobile and Pensacola to make the sums of the locals equal the through rates from New Orleans to Montgomery, Selma, and Prattville, via Mobile and Pensacola: Held, That the rates resulting from said advance were unjust and unreasonable.

2. Former rates have been in effect, substantially unchanged, for over twenty years, and there was no evidence that they were not compensatory.

3. Neither by comparison with other rates nor by any facts appearing are the advanced rates shown to be reasonable.

4. The through rates from New Orleans via Mobile and Pensacola to Montgomery, Selma, and Prattville on certain classes held to be unreasonable and excessive and reduced to the sum of the locals.

John A. Smith, for complainant.

Ed. Baxter, W. G. Dearing, and Sloss D. Baxter, for defendant.

REPORT OF THE COMMISSION.

Clements, commissioner:

On August 13, 1907, the defendant advanced its rates on certain classes from New Orleans, La., to Mobile, Ala., and Pensacola, Fla., and on the same date a revision of the tariffs of said defendant became effective, which resulted in an increase of rates upon certain commodities and a decrease in rates upon certain other commodities from the same point of origin to the same destinations.

The complainant attacks the advanced rates on traffic to each of these destinations in separate proceedings as unreasonable and unjust in and of themselves, and as unduly prejudicial to the commercial interests of the city of New Orleans and its merchants.

The complainant also attacks, in a separate proceeding, the through rates from New Orleans to Montgomery, Selma, and Prattville, Ala., on substantially the same grounds.

The defendant, admitting the advance in its rates substantially as alleged, denies that they, or any of them, are unreasonable or unjust.

The three cases are interdependent, in that attack upon the local rates from New Orleans to Mobile and Pensacola, respectively, involves the through rates from New Orleans to Montgomery, Selma, and Prattville, and the attack upon the said through rates from New Orleans to these Alabama destinations involves the local rates from New Orleans to Mobile and Pensacola. The three cases were heard together and will be disposed of in a single report.

The advances in the class rates to Mobile and to Pensacola, respectively, as follows:

Local rates.

NEW ORLEANS TO MOBILE.

	Class.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
August 13, 1907	50	39	38	31	27	16	12	15	12½	10	20	18	25
Prior to August 13, 1907	50	37	25	18	15	15	12	15	12½	10	15	18	25
Advance	....	2	13	13	12	1	....	....	....	....	5	....	....

NEW ORLEANS TO PENSACOLA.

August 13, 1907	55	45	38	31	27	16	18	18	15	13	25	25	30
Prior to August 13, 1907	55	45	35	25	20	15	18	18	15	13	25	25	30
Advance	....	....	3	6	7	1	....	....	....	....	....	....	....

Freight transported over defendant's lines from New Orleans to Montgomery, Selma, and Prattville, and adjacent territory basing upon these points, is routed via Mobile or Pensacola, and prior to August 13, 1907, defendant's through rates from New Orleans to said points, in certain instances, exceeded the sum of the locals from New Orleans to Mobile or Pensacola added to the local rates from these points to Montgomery, Selma, and Prattville.

The excess of the through rates over the sums of the locals was exactly identical in each instance with the advances as shown by the above tables, namely, in classes 2, 3, 4, 5, 6, and E to Mobile, and in classes 3, 4, 5, and 6 to Pensacola.

The following table shows the difference between the through rates and the combinations prior to said advances:

Table of rates.

NEW ORLEANS TO MONTGOMERY AND SELMA, VIA MOBILE.

	Class.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Through	89	79	68	55	47	36	24	27	20	16	44	35	32
Combination	100	77	55	42	35	35	27	35	26½	22	39	37	55
Advance	....	2	13	13	12	1	....	....	....	....	5	....	....

Table of rates—Continued.

NEW ORLEANS TO MONTGOMERY AND SELMA, VIA PENSACOLA.

	Class.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Through	89	79	68	55	47	36	24	27	20	16	44	35	32
Combination	105	85	65	49	40	35	33	38	29	25	49	44	54
Advance	....	....	3	6	7	1	....	....	....	....	....	....	....

NEW ORLEANS TO PRATTVILLE, VIA MOBILE.

Through	101	89	76	63	55	44	29	32	25	21	49	40	42
Combination	112	87	65	50	43	43	32	40	31½	27	44	42	65
Advance	....	2	3	13	12	1	....	....	....	....	5	....	....

NEW ORLEANS TO PRATTVILLE, VIA PENSACOLA.

Effective Aug. 13, 1907	117	95	76	63	55	44	38	43	34	30	54	49	70
Prior to Aug. 13, 1907	117	95	73	57	48	43	38	43	34	30	54	49	70
Advance	....	....	3	6	7	1	....	....	....	....	....	....	....

The effect of the advance was to equalize the sum of the locals with the through rates from New Orleans to Montgomery, Selma, and Prattville, but the through rates from New Orleans to Montgomery, Selma, and Prattville were not changed, nor were the local rates from Mobile and Pensacola to Montgomery, Selma, and Prattville disturbed.

Prior to August 13, 1907, shippers, in order to get the benefit of the lower combination, sometimes shipped locally to Mobile and then reshipped to Montgomery, Selma, and Prattville.

The defendant concedes that one of the objects of the advance was to keep the locals from being used to cut the through rate, and the evidence corroborates this position, and it is obvious that this was the underlying reason for the advance.

Transportation between New Orleans, Mobile, and Pensacola was conducted wholly by water carriers until about 1871, when carriage by rail was inaugurated, and shortly thereafter the defendant acquired the railroad which had been built from New Orleans to Mobile and Pensacola, and has operated the same continuously to the present time as a part of its system.

The earliest rail class rates applying via this route, as shown by this record, were established in 1887, and they remained substantially unchanged until the said advance of August 13, 1907. Comparison of water rates issued by the Mobile & Gulf Steamship Co., effective in 1907, and the rail rates prior to the said advance, from New Orleans to Mobile, is shown as follows:

	Class.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Rail rates	50	37	25	18	15	15	12	15	12½	10	15	18	25
Water rates	44	33	31	27	23	12	10	12	13	8	16	14	10

In the competition between the rail and water lines the tariffs show the rail rates ranged generally higher than the water rates, except in the third, fourth, and fifth classes, under which classes the bulk of the freight carried between these two cities would move. There was some testimony to the effect that formerly the rail rates were not maintained as published when competition was severe with the water lines, neither is it certain that the rates announced by the water lines were maintained. At all events, water transportation gradually declined, and at the date of the hearing carriage by water was very infrequent and cut but little figure as a competitor with the defendant. Some of the reasons for the decline and practical disappearance of water transportation, as disclosed by the testimony in this case, in addition to the results of the competition with defendant, are the slower service of the water lines, the labor troubles in connection with loading and unloading the vessels, inconvenient loading and unloading places for shippers as compared with centrally located freight stations and branch railroads to warehouses, and the want of proper docking facilities.

The advances shown from New Orleans to Mobile of 2 cents on the second class, 13 on the third, 13 on the fourth, 12 on the fifth, 1 on the sixth, and 5 on class E were severely felt by certain shippers in New Orleans shipping to Mobile and adjacent territory, and especially those engaged in jobbing canned goods, lard, flour, coffee, oil, crackers, pickles, vinegar, beans, etc. New Orleans is an important distributing market for canned beans, handling, perhaps, from 400 to 500 carloads per year, and the increase in the rate on this article is extremely burdensome, if not practically prohibitory of shipping into New Orleans and out to Mobile.

The rate on paper was advanced from 18 to 31 cents, and that on stovepipe, tinware, tubs, and galvanized iron tubes from 18 to 31 cents, and it was shown that the manufacturers would have to absorb this advance. It was also shown that the advance of the rates on furniture, iron beds, etc., practically closed out the business with Mobile, as better rates were made from other manufacturing points, such as Atlanta, High Point, and Winston-Salem, N. C.

The rates on bags, burlaps, gunny, and jute were advanced L. C. L., from 15 to 27 cents, and this was vigorously opposed. Strong protest on account of alleged discrimination against New Orleans was made with reference to cotton goods, it being asserted that other manufacturing points are given more favorable rates. Some of the rates upon cotton goods are as follows:

New Orleans to Montgomery, 321 miles, 55 cents; Montgomery to New Orleans, 38 cents; New Orleans to Mobile, 141 miles, 31 cents; Mobile to New Orleans, 18 cents; from Virginia and North and South Carolina points to Montgomery the rate is 43 and 46 cents; Augusta to Montgomery, 346 miles, 35 cents; Augusta to Mobile, 536 miles, 40 cents; New York to Montgomery, 69 cents; Boston to Montgomery, 69 cents; New York to Mobile, via water, 40 cents; Boston to Mobile, via water, 40 cents; New York to New Orleans, via water, 40 cents; New Orleans to New York, via water, 30 cents.

In many other instances on both class and commodity rates the advances caused serious interference with business and have produced loud protests on the part of the merchants shipping from New Orleans to Mobile and points basing thereon.

The advance of the rates from New Orleans to Pensacola was as follows:

Three cents in the third class, 6 cents in the fourth, 7 cents in the fifth, and 1 cent in the sixth class. This advance was not as heavy or as injurious to the merchants in New Orleans in their trade with Pensacola as the advance to Mobile, but they strongly protested against it, and it was shown that, proportionately, like conditions resulted from said advance as were produced by the increase in the rates to Mobile.

The rates from New Orleans to Mobile and Pensacola have been in effect, substantially unchanged, for over 20 years, and there was no evidence that they were not compensatory. They exceed the rates from New Orleans to other water transportation points, e. g., Natchez, Vicksburg, Greenville, and Memphis, where the distances are much greater. They also exceed the rates from Nashville, Memphis, Cincinnati, and Louisville to points where the distances are approximately the same. The rates between New Orleans and Mobile and New Orleans and Pensacola in both directions were identical until this advance occurred, which has disturbed the relation of rates between points where geographical and commercial conditions would seem to demand that they be put on an equality, not only with respect to the trade and commerce with each other, but also with respect to the outbound rates to the southeastern territory. Between other cities, e. g., New Orleans and Memphis, New Orleans and Greenville, New Orleans and Natchez, New Orleans and Vicksburg, the rates are the same in both directions.

With respect to the through rates from New Orleans to Montgomery, Selma, and Prattville, and to the southeastern territory, it was shown that the merchants of New Orleans have heretofore made ineffectual efforts to secure better rates to this territory, as higher rates were in effect from New Orleans to this territory than existed from distributing centers at greater distances west and north of said territory, the situation being such that New Orleans was cut off from the trade of this section as to many products and greatly restricted and burdened as to many others on account of the high rates of transportation.

The manufacturers and shippers of oil, paper, stovepipe, tinware, galvanized tube, furniture, soap, window glass, paints, hardware, and other articles of like kind in daily use testified that they were unable to trade in the Montgomery and Selma territory on account of the high rates, and that upon former occasions they had made special efforts to build up a trade with cities located in this territory and points basing thereon, but in every instance they were compelled to abandon the fight on account of better freight rate concessions from other markets, though at greater distances.

With respect to practically all of the commodities above enumerated, schedules of comparative rates and distances were filed corroborating complainant's contention.

The rates from New Orleans to Montgomery, Selma, and Prattville are higher in all the classes than the rates from other points typical of the situation in the southeast to Montgomery, Selma, and Prattville, where the distances are greater, e. g., Brunswick, Ga.; Savannah, Ga.; Charleston, S. C.; Wilmington, N. C.; and Nashville, Tenn. From New Orleans to certain stations just outside of Montgomery, on the Mobile & Ohio Railroad, the rates are less than the rates to Montgomery, and from some of the Virginia cities to Montgomery and Selma the rates are less than from New Orleans to Montgomery and Selma, though more than twice the distance. The rates from North Atlantic ports to points in southeastern territory basing on Montgomery are more favored when length of haul and the number of lines over which the traffic must be transported are taken into consideration, and the rate in cents per ton per mile on the average of the first six classes is much greater from New Orleans to Montgomery, Selma, and Prattville than they are from Memphis, St. Louis, and Louisville to said points.

The Cooley arbitration of 1886 has been strongly urged by defendant as a reason for the nonreduction of the present advanced rates. This arbitration established a relation of rates as between the several Ohio and Mississippi River crossings, applying upon products from the territory north and west of those rivers destined to southern and southeastern territory, by fixing a basis for making rates from these several basing points to the southeastern territory with the object of maintaining an equitable relation and equality of the basing rate as between said points on goods transported to southeastern territory, but we do not understand that this arbitration undertook to fix the actual rates for carriage from the several basing points to destinations in this territory. However, if such were the case, the building of new railroads, competition, and other causes have forced many departures from the adjustment and the rates made under it, until it has become materially altered, and it is inevitable and proper that it should yield to meet new and changed conditions.

It was stated by the principal witness for the defendant that between points on its line where the through rate exceeded the combination of rates from point of origin to a competitive point and from said competitive point to destination that shippers were given the benefit of the combination rate, and this provision appeared in special circulars and was very generally observed as a rule for the adjustment of freight rates; and such having been formerly the custom of the defendant, it would seem now to work no especial hardship upon it to reduce rates to the basis of the former combination.

Upon full hearing and consideration of all the facts, circumstances, and conditions appearing, it is the opinion of the commission that the advance in these rates upon classes 2, 3, 4, 5, 6, and E, from New Orleans to Mobile, and upon classes 3, 4, 5, and 6, from New Orleans to Pensacola, effective August 13, 1907, was not justified, and that the increased rates resulting therefrom are unjust and unreasonable to the extent that they exceed the former rates in effect immediately prior to August 13, 1907, on the said classes.

The commission is also of the opinion that the through rates heretofore stated, in effect from New Orleans to Montgomery, Selma, and Prattville, on traffic moving through Mobile to said destinations, are unreasonable and unjust as applied to said classes to the extent that said through rates exceed the combination of locals from New Orleans to Mobile and from Mobile to said destinations, immediately prior to August 13, 1907, viz: Class 2, 2 cents; class 3, 13 cents; class 4, 13 cents; class 5, 12 cents; class 6, 1 cent; and class E, 5 cents; also that the through rates from New Orleans to Montgomery, Selma, and Prattville, on traffic moving through Pensacola and thence to said destinations, are unjust and unreasonable to the extent that they exceed the amounts of the combination of locals from New Orleans to Pensacola and from Pensacola to said destinations, respectively, which were in effect immediately prior to August 13, 1907, viz: Class 3, 3 cents; class 4, 6 cents; class 5, 7 cents; and class 6, 1 cent.

It is our conclusion, therefore, that the rates on classes 2, 3, 4, 5, 6, and E, from New Orleans to Mobile, should not exceed the following sums: Second class, 37 cents; third class, 25 cents; fourth class, 18 cents; fifth class, 15 cents; sixth class, 15 cents; class E, 15 cents; that the rates on classes 3, 4, 5, and 6, from New Orleans to Pensacola, should not exceed the following amounts: Class 3, 35 cents; class 4, 25 cents; class 5, 20 cents; class 6, 15 cents; that the rates on classes 2, 3, 4, 5, 6, and E, from New Orleans via Mobile to Montgomery and Selma, should not exceed the following amounts: Second class, 77 cents; third class, 55 cents; fourth class, 42 cents; fifth class, 35 cents; sixth class, 35 cents; Class E, 39 cents; and from New Orleans via Mobile to Prattville should not exceed the following amounts: Class 2, 87 cents; class 3, 63 cents; class 4, 50 cents; class 5, 43 cents; class 6, 43 cents; and class E, 44 cents; and that the rate from New Orleans via Pensacola to Montgomery and Selma should not exceed the following amounts: Class 3, 65 cents; class 4, 49 cents; class 5, 40 cents; and class 6, 35 cents; and that the rates from New Orleans via Pensacola to Prattville should not exceed the following amounts: Class 3, 73 cents; class 4, 57 cents; class 5, 48 cents; and class 6, 43 cents.

In regard to the commodity rates attacked in these proceedings certain adjustments and changes have been made therein by the defendant since the institution thereof with the view of correcting inequalities or excessive charges found to exist, which adjustments and changes are admitted to have removed the cause of complaint to some extent. It is impracticable in the present state of the record to determine satisfactorily what other changes, if any, respecting commodity rates should be made. These cases will be retained therefore for such further investigation and consideration of commodity rates involved as the facts and circumstances may seem to require.

An order will be entered in accordance with the foregoing conclusions.

ORDER.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 26th day of November, A. D. 1909.

Present: Martin A. Knapp, Judson C. Clements, Charles A. Prouty, Francis M. Cockrell, Franklin K. Lane, Edgar E. Clark, James S. Harlan, commissioners.

No. 1310.

NEW ORLEANS BOARD OF TRADE (LIMITED)

v.

LOUISVILLE & NASHVILLE RAILROAD COMPANY.

No. 1313.

SAME

v.

SAME.

No. 1328.

SAME

v.

SAME.

These cases being at issue upon complaints and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the commission being of the opinion that the advance in these rates upon classes 2, 3, 4, 5, 6, and E, from New Orleans to Mobile, and upon classes 3, 4, 5, and 6 from New Orleans to Pensacola, effective August 13, 1907, was not justified, and that the increased rates resulting therefrom are unjust and unreasonable to the extent that they exceed the former rates, in effect immediately prior to August 13, 1907, on the said classes, and that the through rates in effect from New Orleans to Montgomery, Selma, and Prattville on traffic moving through Mobile to said destinations are unreasonable and unjust as applied to said classes to the extent that said through rates exceed the combination of locals from New Orleans to Mobile and from Mobile to said destinations, immediately prior to August 13, 1907, viz: Class 2, 2 cents; class 3, 13 cents; class 4, 13 cents; class 5, 12 cents; class 6, 1 cent; and class E, 5 cents; and also that the through rates from New Orleans to Montgomery, Selma, and Prattville on traffic moving through Pensacola and thence to said destinations are unjust and unreasonable to the extent that they exceed the amounts of the combination of locals from New Orleans to Pensacola and from Pensacola to said destinations, respectively, which were in effect immediately prior to August 13, 1907, viz: Class 3, 3 cents; class 4, 6 cents; class 5, 7 cents; and class 6, 1 cent; and having made and filed a report containing its findings of fact and conclusions thereon, which said report is made a part hereof.

It is ordered that the Louisville & Nashville Railroad Co., defendant in the above-named cases, be, and it is hereby, notified and required to cease and desist on or before the 1st day of February, 1910, and for a period of not less than two years thereafter, abstain from charging, demanding, collecting, or receiving for the transportation of traffic from New Orleans, La., to Mobile, Ala., rates and charges in excess of the following amounts: Class 2, 37 cents; class 3, 25 cents; class 4, 18 cents; class 5, 15 cents; class 6, 15 cents; class E, 15 cents; and from New Orleans, La., to Pensacola, Fla., rates and charges in excess of the following amounts: Class 3, 35 cents; class 4, 25 cents; class 5, 20 cents; class 6, 15 cents; and from New Orleans, La., via Mobile, to Montgomery and Selma, Ala., rates and charges in excess of the following amounts: Class 2, 77 cents; class 3, 55 cents; class 4, 42 cents; class 5, 35 cents; class 6, 35 cents; and class E, 39 cents; and from New Orleans, La., via Mobile, to Prattville, Ala., rates and charges in excess of the following amounts: Class 2, 87 cents; class 3, 63 cents; class 4, 50 cents; class 5, 43 cents; class 6, 43 cents; and class E, 44 cents; and from New Orleans, La., via Pensacola, to Montgomery and Selma, Ala., rates and charges in excess of the following amounts: Class 3, 65 cents; class 4, 49 cents; class 5, 40 cents; and class 6, 35 cents; and from New Orleans, La., via Pensacola, to Prattville, Ala., rates and charges in excess of the following amounts: Class 3, 73 cents; class 4, 57 cents; class 5, 48 cents; and class 6, 43 cents.

It is further ordered that these cases be retained for such further investigation and consideration of the commodity rates involved herein as the facts and circumstances may seem to require.

I, Edward A. Moseley, secretary of the Interstate Commerce Commission, do hereby certify that the papers hereto attached and entitled report and order of the commission are true copies of the originals now on file in the office of this commission.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the commission this 31st day of December, 1909.

E. A. MOSELEY, *Secretary.*

COMPLAINANT'S EXHIBIT II.

MOBILE.

Statement showing comparison between the rail class rates from New Orleans, La., to Mobile, Ala., with the rail class rates for similar or less distances charged by other railroads between other principal southern points.

	Distance.	Classes.												
		1	2	3	4	5	6	A	B	C	D	E	H	F
New Orleans, La., to Mobile, Ala.	141	50	39	38	31	27	16	12	15	12½	10	20	18	25
Petersburg, Va., to Raleigh, N. C.	133	61	51	42	32	28	21	17	22	21	18	28	32	42
Danville, Va., to Charlotte, N. C.	141	68	58	48	38	33	25	18	24	23	20	33	38	46
Cary, N. C., to Monroe, N. C.	141	58	48	37	29	22	21	16½	19	17	14	24	29	34
Wadesboro, N. C., to Wilmington, N. C.	135	58	46	36	28	22	21	16	19	16	14	24	28	32
Wilmington, N. C., to Cheraw, S. C.	129	59	54	44	37	30	24	18	22½	20	16	31	37	37
Durham, N. C., to Cameron, N. C.	139	56	46	36	28	22	21	16	19	16	14	24	28	32
Macon, Ga., to Augusta, Ga.	125	50	45	40	32	25	21	15	21	12	11	23	27	24
Atlanta, Ga., to Chatt'ga, Tenn.	137	57	48	43	34	27	22	20	22	13	12½	27	34	26
Atlanta, Ga., to Hawkinsv'le, Ga.	137	63	56	48	40	33	27	20	23	12	11	31	36	24
Birm'ham, Ala., to York, Ala.	125	54	46	41	33	26	21	21	21	13	12	26	33	25
Memphis, Tenn., to West Point, Miss.	142	72	58	44	39	32	26	24	27	16	16	23	29	32
Gadsden, Ala., to Tuscaloosa, Ala.	112	63	55	44½	34	32	24½	21	23½	20½	17	30½	33½	34
Montgomery, Ala., to Dothan, Ala.	119	64	55	47	43	36	30	30	23	20	17	30	36	34
Nashville, Tenn., to Humboldt, Tenn.	147	65	56	49	42	31	29	29	30	22	17	25	28	41
Memphis, Tenn., to Paris, Tenn.	133	50	43	38	32	27	24	22	24	21	15	24	24	42
Jackson, Tenn., to Cairo, Ill.	107	58	49	42	35	27	27	26	26	18½	15	22	24	37
Raleigh, N. C., to Wilmington, N. C.	133	53	43	32	27	24	18	15	19	18	13	25	28	37
Greenville, Miss., to West Point, Miss.	150	70	56	44	38	32	26	18	27	16	15	23	29	32
West Point, Miss., to Elizabeth, Miss.	128	68	54	41	37	32	28	18	33	28	15	32	44	38
Vicksburg, Miss., to Hattiesburg, Miss.	134	73	61	48	28	31	25	24	25½	20	16	27	38	36
Meridian, Miss., to Tupelo, Miss.	144	64	52	40	35	30	27	20	26	21	14	31	34	43
Charleston, S. C., to Georgetown, S. C.	99	47	41	36	33	26	20	18	20	17	15	26	28	32
Birmingham, Ala., to Columbus, Miss.	123	66	56	51	46	39	30	26	28	19	19½	31	41	39
Brunswick, Ga., to St. Augustine, Fla.	130	68	58	50	39	31	23	22	22	20	17	38	41	39
Chattanooga, Tenn., to Atlanta, Ga.	138	52	45	41	32	25	20	20	21	12	11	27	31	24
Montgomery, Ala., to Americus, Ga.	141	75	63	56	44	34	29	27	25	14	13	35	41	28

COMPLAINANT'S EXHIBIT I.

PENSACOLA.

Statement showing comparison between the rail class rates from New Orleans, La., to Pensacola, Fla., with the rail class rates for similar or less distances charged by other railroads between other principal southern points.

	Distance.	Classes.												
		1	2	3	4	5	6	A	B	C	D	E	H	F
New Orleans, La., to Pensacola, Fla.	246	55	45	38	31	26	16	18	18	15	13	25	25	30
Lynchburg, Va., to Bristol, Va.	204	84	79	64	52	43	40	24	34	28	27	45	55	55
Alexandria, Va., to Danville, Va.	232	58	48	38	27	24	18	18	23	17	15	24	27	34
Norfolk, Va., to Danville, Va.	207	59	50	41	29	22	18	18	21	19	15	22	29	37
Norfolk, Va., to Aberdeen, N. C.	247	68	58	48	38	33	25	18	24	23	20	33	38	46
Richmond, Va., to Pembroke, N. C.	248	80	70	60	50	40	32	22	28	25	22	41	47	50
Henrietta, N. C., to Raleigh, N. C.	246	65	55	45	36	32	25	19	24	22	19	32	36	44
Cary, N. C., to Henrietta, N. C.	237	65	55	45	35	32	25	19	24	21	18	32	36	42
Lincolnton, N. C., to Wilmington, N. C.	219	64	54	45	35	31	24	18	23	20	17	31	35	40
Chattanooga, Tenn., to Bristol, Tenn.	242	71	61	53	39	34	27	23	26	18	18	34	45	36

Statement showing comparison between the rail class rates from New Orleans, La., to Pensacola, Fla., etc.—Continued.

	Distance.	Classes.											
		1	2	3	4	5	6	A	B	C	D	E	H	F
Savannah, Ga., to Wilmington, N. C.	266	65	53	48	34	28	20	20	20	19	18	30	26	29
Nashville, Tenn., to Knoxville, Tenn.	216	70	60	54	44	37	27	18	24	21	17	32	37	24
Columbus, Ga., to Hawkinsville, Ga.	207	67	59	52	43	33	27	24	23	12	11	31	36	24
Columbus, Ga., to Helena, Ga.	234	78	65	58	45	36	30	30	26	14	13	36	45	29
Savannah, Ga., to Bainbridge, Ga.	237	66	59	51	43	35	29	20	25	15	14	35	43	33
Savannah, Ga., to Wilmington, N. C.	266	65	53	48	34	28	20	20	20	19	18	30	26	29
Knoxville, Tenn., to Birmingham, Ala.	254	63	54	45	36	30	22	20	23	17	13	29	21	26
Chattanooga, Tenn., to Bristol, Tenn.	242	71	61	53	39	34	27	23	26	18	18	34	45	36
Mobile, Ala., to York, Ala.	213	79	69	58	45	42	31	20	23	18	15	39	22	14
Birmingham, Ala., to Ozark, Ala.	187	91	80	72	56	46	39	33	34	24	20	46	48	41
Birmingham, Ala., to Dothan, Ala.	215	94	81	77	61	52	42	33	34	24	20	52½	51	31
Nashville, Tenn., to Cartersville, Ga.	241	66	59	54	43	35	29	20	25	19	15	33	35	30
Memphis, Tenn., to Birmingham, Ala.	251	75	65	54	43	36	26	24	27	20	16	35	35	32
Memphis, Tenn., to Huntsville, Ala.	213	54	50	39	31	25	20	17	22	19	15	25	31	30
Covington, Ky., to Middlesboro, Ky.	228	66	57	50	45	40	37	37	34	23	18	37	37	16
Frankfort, Ky., to Clarksville, Tenn.	242	53	48	39	31	25	25	25	23	18	17½	20	28	34
Louisville, Ky., to Humboldt, Tenn.	229	78	67	57	46	33	29	27	31	24	18	26	34	48
Newport, Ky., to Central City, Ky.	235	78	67	58	52	46	43	43	43	27	21	43	43	51
Nashville, Tenn., to Birmingham, Ala.	207	63	54	45	36	30	22	20	23	17	13	29	25	26
Meridian, Miss., to Greenville, Miss.	223	80	73	63	53	44	39	28	32	30	23	27	50	40
Union City, Tenn., to Columbus, Miss.	242	80	68	58	49	42	36	38	40	30	24	39	54	60
Jackson, Tenn., to Meridian, Miss.	251	81	68	59	49	42	37	39	41	30	25	39	54	60
Union City, Tenn., to Aberdeen, Miss.	215	78	66	57	48	41	35	37	39	29½	24	37	52	59
Cairo, Ill., to New Albany, Miss.	249	68	57	46	41	34	29	26	27	19½	19	30	38	39
Wilmington, N. C., to Wadesboro, N. C.	175	56	46	36	28	22	21	16	19	16	14	24	28	32
Mobile, Ala., to West Point, Miss.	233	73	58	47	39	33	29	30	32	26	22	36	41	49
Mobile, Ala., to Aberdeen, Miss.	250	73	58	47	39	33	29	30	32	26	22	36	41	49
Mobile, Ala., to Jackson, Miss.	226	81	70	58	49	41	36	31	27½	22	20	30	51	40
Cheraw, S. C., to Wilmington, N. C.	150	59	54	44	37	30	24	18	22½	20	16	31	37	37
Wilmington, N. C., to Henderson, N. C.	291	61	51	42	32	28	21	17	22	21	17	28	32	42

Mr. WORTHINGTON. I wish formally to offer in evidence the map showing the location of the Oxford and Packer dumps. It was identified by Mr. James Archbald when he was on the stand and a large edition of it is on the wall and has been referred to by several witnesses, but it is not in the record. It is marked "United States Senate Exhibit M."

The PRESIDENT pro tempore. Is there objection? If not, it will be received.

[The accompanying diagram is the map referred to.]

Mr. WORTHINGTON. I wish, finally, to offer in evidence the plan of the Federal building in Scranton, which was identified by the Supervising Architect of the Treasury and marked as an exhibit at the time but was not offered in evidence.

Mr. Manager STERLING. I should like to ask the purpose of that testimony.

Mr. WORTHINGTON. The purpose of it is to have it in connection with the testimony of one or two witnesses. The map was shown to one of the witnesses; I have forgotten who the witness was; it was identified by Mr. Wenderoth, and afterwards referred to by one of the other witnesses. The purpose of it is to show that W. P. Boland could not from his office have seen the interior of Judge Archbald's office. He testified that he could see everybody coming in and going out of there, and saw Mr Williams in there a good deal. The testimony in connection with the map, we think, shows that to be impossible.

The PRESIDENT pro tempore. The Chair thinks it is admissible, if it has been sufficiently proven.

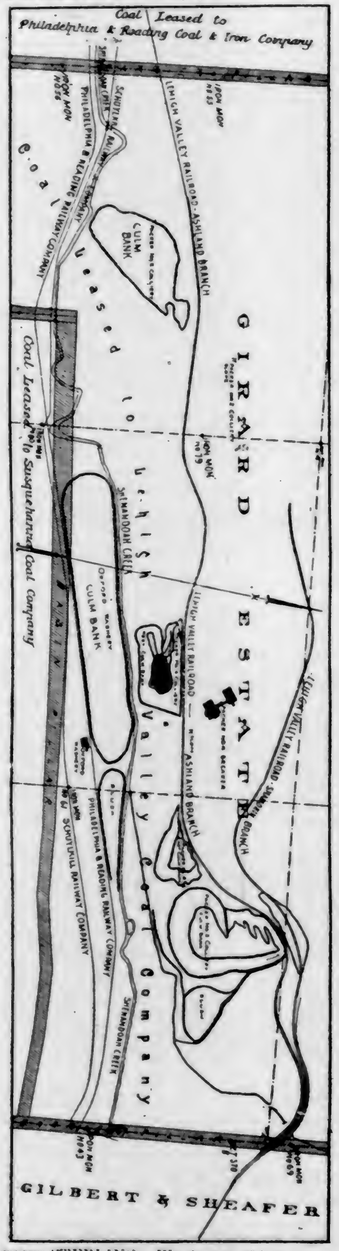

Mr. Manager STERLING. We do not object.
[For the plan referred to see page 1167.]

Mr. WORTHINGTON. We rest here, Mr. President.

The PRESIDENT pro tempore. Is there anything in rebuttal?

Mr. Manager STERLING. We will call Mr. Horgan.

TESTIMONY OF JOHN HORGAN, JR.

John Horgan, jr., being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. Photographer.

Q. Did you recently take a picture of the Federal building in Scranton?—A. I did.

Q. Look at this exhibit, U. S. S. No. 101, and state if that is the picture you took?—A. (After examination.) It is.

Q. Where were you located when you took that picture?—A. In W. P. Boland's office in the Republican Building.

Q. And the picture is a picture of what building?—A. The Federal post office in Scranton.

Q. Mr. Boland occupied the same office when you took that picture that he has occupied for some years?—A. To my knowledge, yes.

Q. Looking at the picture, you see a man standing in the window in the Federal building, with a paper in his hand?—A. Yes, sir.

Q. In whose office is that man?—A. I do not know.

Mr. Manager STERLING. I think the gentlemen will agree that it is Judge Archbald's office. [Continuing after consultation with counsel.] Mr. President, it is stipulated that the man standing in the window in the Federal building with a paper in his hand, as shown in the photograph, is in the window of one of the rooms of the offices occupied by Judge Archbald, known as——

Mr. WORTHINGTON. That is not just what we stated. What we stated is that that is the outer room——

Mr. Manager STERLING. It is known as the outer room of his suite of offices.

Mr. WORTHINGTON. One goes through it to get into the room where Judge Archbald habitually stayed.

Mr. Manager STERLING. That is where the witness said he saw Williams.

The PRESIDENT pro tempore. Does the manager offer that picture in evidence?

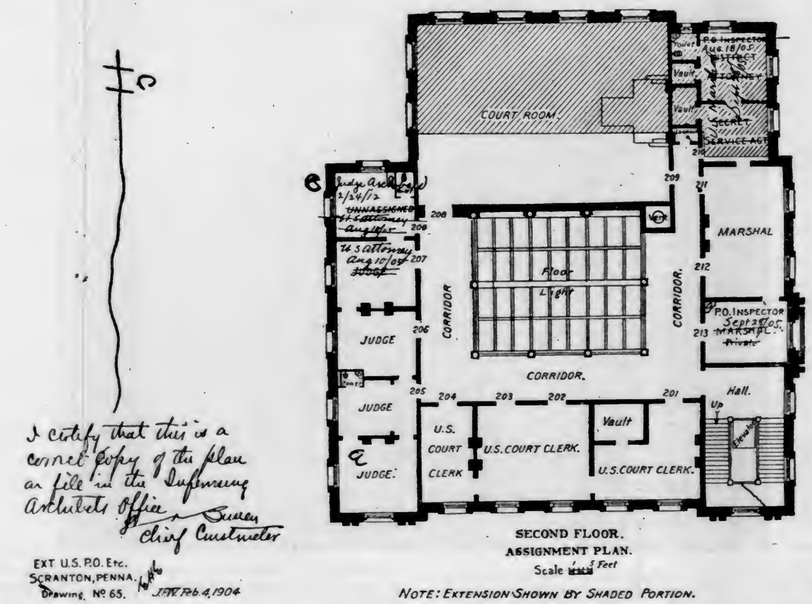

Mr. Manager STERLING. Yes, sir.

The PRESIDENT pro tempore. Without objection, it will be admitted.

Mr. Manager STERLING. We do not consider it very material, but it rebuts the evidence that has just been offered on the other side.

[See page 1168 for photograph.]

Mr. Manager STERLING. That is all. Take the witness.

Mr. WORTHINGTON. There are no questions.

The PRESIDENT pro tempore. The witness may retire.

CHRISTOPHER G. BOLAND—RECALLED.

Christopher G. Boland, having been previously sworn, was further examined and testified as follows:

Q. (By Mr. Manager STERLING.) Mr. Boland, when you went to Judge Archbald's office and found George M. Watson there with Archbald, I will ask you if Judge Archbald stated to you this, in substance: As I understand it, you employed Mr. Watson to settle these matters for you with the Delaware, Lackawanna & Western Railroad Co. for $100,000, and you were to pay him a fee of $5,000 in case he made the settlement.

Mr. WORTHINGTON. Mr. President, I certainly object to that. This witness was here and the managers in their case in chief went fully into that conversation. It would be a great misadventure, it seems to me, to have him brought back now to go over the matter again. It was stated that he was summoned to that office by telephone; that he went over there and found Judge Archbald and Mr. Watson, and he went on to state what took place, and especially what took place in reference to the very matter now being asked about.

The PRESIDENT pro tempore. The present witness?

Mr. WORTHINGTON. The present witness.

Mr. Manager STERLING. I submit that he did not testify as to the fact that is called for in this question, and I think it is perfectly competent in two views of the case. If we should say to the court that the matter was overlooked at the time, or if we should say to the court, which is the fact, that we have laid the foundation, when Judge Archbald was on the stand, to contradict him, because I asked him the exact question. It is perfectly competent in every view of the case.

The PRESIDENT pro tempore. The Chair will hear from counsel for the respondent.

Mr. WORTHINGTON. After testifying that he had been called to Judge Archbald's office and telling about the conversation with Watson the witness said:

After talking with Mr. Watson he agreed to accept $5,000 for his fee, giving us $95,000 in the event of his selling the property. I remember a day or two after that, I think the day after that, being called over to Judge Archbald's office.

Q. Proceed.—A. Where I met Mr. Watson and Judge Archbald. After some discussion of the matter there, the judge informed me that he was going to assist Mr. Watson in an effort to dispose of the property and to release us from the difficulty in which we were involved at the time, referring particularly to this Peale case which was in his court—I think he was judge at that time—saying he would give it a good deal of consideration, and saying it was a good case to settle out of court.

Then, a little further down, on page 396, he was asked to state all that occurred. I am reminded that Judge Archbald denied that he ever had any conversation with Watson and this witness in his office—that they had ever been there together—so there can not be any foundation laid for anything he is said to have said at the conversation.

Mr. Manager STERLING. He said he did not remember any.

Mr. WORTHINGTON. This witness went on:

A. My recollection is that Mr. Watson recited the fact that he had spoken to the judge about the matter and that the judge had agreed to assist him. The judge stated to me that he would do what he could in the matter. But during the course of the talk a suggestion was made to me that there ought to be some paper furnished to Mr. Watson guaranteeing him, in the event of his disposing of the two-thirds interest or stock, that he would be paid this $5,000.

Q. Who made that suggestion to you?—A. I am not quite positive on that, but we all joined in the discussion—Judge Archbald, Mr. Watson, and myself. I informed both of them that, as my brother controlled a majority interest of the stock to be disposed of, I had consulted him and he had agreed that this payment should be made, but if they thought a paper ought to be made reciting the agreement I would endeavor to obtain it, and it was agreed that I should do so.

Further on in the volume, on page 397——

Mr. Manager STERLING. I do not see the purpose in reading this testimony.

Mr. WORTHINGTON. The purpose is to show that this witness was called on to state everything that occurred, and it is not competent to have him come back now to piece up what he then said.

Mr. Manager STERLING. There is nothing in the evidence of that kind. May I make my objection to what the counsel is reading? I am insisting that it is not proper for counsel to read the testimony of this witness. Even if we conceive that he was asked everything, and he said he had stated everything, we would have a perfect right to refresh the witness's recollection and ask what was said on a certain subject. That is the rule.

Mr. WORTHINGTON. It is a rule that is unknown to counsel for the respondent. They never heard of it before. It has been the rule that when you put a witness on the stand and go through a certain matter, you can not make him come back and go over that matter again unless something was brought out in the trial which substantially called for a denial.

Mr. Manager STERLING. That is just the point.

Mr. WORTHINGTON. Judge Archbald said that no such conversation was held.

The PRESIDENT pro tempore. If there is any fact that enters into the testimony that was not developed on the former examination, the Chair thinks this investigation would justify its being brought to the attention of the Senate, even if it were not technically according to the ordinary practice. If it is simply a repetition, the Chair would hold it was not proper to further encumber the record. But if there is any fact within the knowledge of this witness that was not elicited on the former examination, the Chair would hold that the Senate is entitled to have it. The Chair will ask that the managers do not unnecessarily indulge in repetition of what has already been testified to.

Mr. Manager STERLING. We shall not go any further upon this particular question. Let the question be read by the reporter.

The Reporter read as follows:

Mr. Boland, when you went to Judge Archbald's office and found George M. Watson there with Archbald, I will ask you if Judge Archbald stated to you this in substance——

Mr. WORTHINGTON. I submit that the manager can only ask the witness if he recollects anything that he had not done before. He certainly has no right to bring him back and ask him the same question.

The PRESIDENT pro tempore. The Chair thinks that it is a leading question.

Mr. Manager STERLING. I will state that I put it in that form because I understand that is the form in which it must be put for the purpose of contradiction. As I said before, I have a perfect right to offer it as original testimony. I will put it in this form. [To the witness:] Mr. Boland, I will ask you if in that conversation which was had at the time referred to in the former question you remember of anything being said there about consideration?

Mr. WORTHINGTON. I object. That is just what the manager can not do. I submit the witness ought to be asked if he

recalls anything about that conversation that he did not tell us about when on the stand before.

Mr. Manager STERLING. I will do anything to accommodate the gentleman. [To the witness:] I will ask you, Mr. Boland, if there was anything in that conversation that you did not testify to the other day which you now recall?

The WITNESS. From your inquiry and hearing the judge testify that he had no recollection of my meeting with himself and George Watson at his office, I recall that the conversation or suggestion as to the amount to be paid to us and the fee to George Watson was substantially as you have embodied it in the question.

Q. (By Mr. Manager STERLING.) Just state what Judge Archbald said with reference to the amount of the proposition on which Watson was to settle. Give the substance of what the judge said about it.—A. In substance, it was reciting what Mr. Watson had told him, that he had been engaged by myself, on behalf of a majority of the stockholders of the Marian Coal Co., to dispose of their interest for $100,000, maximum, and that Mr. Watson was to receive a fee of $5,000, if he succeeded in making the sale, for disposing of our interest.

Mr. Manager STERLING. That is all.

Mr. JONES. Mr. President, I desire to submit a question.

The PRESIDENT pro tempore. The Senator from Washington propounds a question to the witness, which will be read by the Secretary.

The Secretary read as follows:

Have you talked this over with any of the managers before coming to the stand to-day?

The WITNESS. Yes, sir.

Cross-examination:

Mr. WORTHINGTON. I was about to ask Mr. Boland whether at that time——

The WITNESS. May I explain, if you please, Mr. President?

The PRESIDENT pro tempore. The witness has a right to explain his answer if he desires to do so.

The WITNESS. Before the court convened this afternoon Mr. Manager STERLING asked me as to my recollection of the matter to which I have just testified, and I told him that his question to me was substantially correct as it is now in the record.

Q. (By Mr. WORTHINGTON.) Why did you not tell about that when you were on the stand before?—A. I can not answer that exactly. I supposed I had covered the whole matter fully, or else I had overlooked the matter. I said I had met Mr. Watson and Judge Archbald in Judge Archbald's office.

Q. We know what you said. I will ask you whether when on the stand before this question was not asked you, on page 397, after you had told about what had occurred at that interview:

Q. Now I will ask you to state whether or not anything else was done or said by Judge Archbald at this interview which you have described, when Mr. Watson and yourself were present in Judge Archbald's office?

Do you remember that that question was asked?—A. If it is in the record it must have been asked.

Q. And your answer is—

A. I do not remember that. I do not know whether it was at that or a subsequent call at Judge Archbald's office the judge called on the telephone to the Scranton office of Mr. E. E. Loomis, who was the vice president of the Delaware, Lackawanna & Western Railroad Co., to arrange an interview with him in reference to this matter.

I understand that at that time, if I recollect your testimony, it was stated either by Judge Archbald or by Mr. Watson, as you say, that the contract by which Mr. Watson was to be employed should be put in writing.—A. My understanding was that that was the purpose of my being called into Judge Archbald's office.

Q. In compliance with what took place at that office, you then went and got a letter from your brother William P. Boland.—A. That is substantially correct.

Q. I will call your attention to the language of that letter, which is on page 397 of the record, the same page I was reading from before. I will read it to you:

SCRANTON, PA., *August 23, 1911.*

C. G. BOLAND, Esq., *Scranton, Pa.*

DEAR SIR—

This being a letter from W. P. Boland, president of the Marian Coal Co., to you—

In reference to the matter of G. M. Watson being taken into the case of the Marian Coal Co. against the D. L. & W. would say, in confirmation of what I told you heretofore, that if through the efforts of Mr. Watson a satisfactory settlement is brought about the Marian Coal Co. agrees to pay him $5,000 for such settlement.

Now, if the contract that was arranged then was that you were to deliver it for $100,000 why did you not put it in the letter?—A. I did not draw that paper or acknowledgment.

Q. You went to W. P. Boland and told him what was demanded, did you not?—A. I did; and he then dictated to his stenographer, I think, that statement which he believed was sufficient to satisfy Mr. Watson that he would be paid $5,000 in the event of his disposing of the property. I presented it to Mr. Watson and he accepted it.

Q. I know about that.—A. I have already testified to that.

Q. I want to know if at that talk at Judge Archbald's office the arrangement was that Mr. Watson was to settle for the maximum sum of $100,000 and get $5,000 fee, if he did it, why it was put in here simply as a satisfactory settlement without saying anything about the amount.

Mr. Manager STERLING. I object. The witness has said that he did not prepare it.

Q. (By Mr. WORTHINGTON.) You went to your brother and told him what was demanded at that meeting?—A. I did.

Q. And what Watson required?—A. I did.

Q. And your brother, pursuant to what Williams told you, wrote this letter?—A. Yes, sir.

Q. And you gave it to Watson in compliance with Watson's demand?—A. Watson accepted it as satisfactory.

Q. That letter was dictated in your presence?—A. I believe so.

Q. And you were vice president of this company yourself?—A. I held no office in it at the time.

Q. You were director at that time in the Marian Coal Co.?—A. No; I held no office in the company. Some time in May, 1910, just before I went on a trip abroad, I resigned. I was president of the company previous to that, and a director, of course, but I resigned both the presidency and my position as director, being only a stockholder in the company.

Q. You were examined as a witness in this case by the Judiciary Committee?—A. Yes, sir.

Q. Did you have a talk with some of the managers before you went on the stand there as to your knowledge about these circumstances?—A. I do not remember having talked with anyone but Mr. Wrisley Brown in reference to it. He came to see me at Scranton and I made a statement. This I have already testified to.

Q. Mr. Wrisley Brown was sitting with the members of the Judiciary Committee in that inquiry, just as he is sitting here with the managers now, was he not?—A. Yes, sir.

Q. He had taken your statement?—A. Yes, sir.

Q. Did you not talk with the managers or somebody representing the managers before you were put on the stand at this trial in the Senate?—A. I have just stated that Mr. STERLING talked with me this afternoon.

Q. I am speaking about before you went on the stand in the first place in this trial, when you came down here to Washington?—A. Except in a general way; I was at their office in the House Office Building and met them, but there was no discussion as to my testimony or what I was to testify, that I can recall.

Q. Did you tell Mr. Wrisley Brown when he talked to you before you appeared before the Judiciary Committee that at this interview at Judge Archbald's office the sum of $100,000 had been mentioned as the maximum, and that Mr. Watson was to settle it?—A. I do not recall now whether I did or not.

Q. Did you ever tell anybody connected with this case?—A. Oh, yes.

Q. Before you were put on the stand at the present time?—A. Yes, sir.

Q. To whom did you tell anybody connected with this case?—A. Anyone connected with this case?

Q. Yes.—A. I testified to it already, I think, in the Senate proceedings, that I had agreed with Mr. Watson that he should obtain $5,000 in the event of his selling the property for $100,000.

Q. That is not what I am talking about. I am asking you whether you told anybody before you told it to Mr. Manager STERLING to-day or yesterday, whenever it was, that in Judge Archbald's office when he was present that was mentioned?—A. Did I tell it to anybody?

Q. Connected with this case? If you told it to Mr. Manager STERLING, when did you talk to Mr. Manager STERLING about it?—A. Just previous to the session opening this afternoon. He came into the Sergeant at Arms's office——

Q. Before that, at any time or place did you ever tell it to anybody connected with this case?—A. I certainly testified to it before the Judiciary Committee, and I am not sure but I testified to it here substantially—that is, my agreement with Watson—and it was clearly understood on this occasion when Watson and the judge and myself were together.

Q. I do not want you to go back again. I am asking you what you have testified to heretofore or with whom you have talked about this matter. You say you think you testified to it before the Judiciary Committee. Do you say that you testified

before the Judiciary Committee that in Judge Archbald's presence in his office it was mentioned that Watson was to settle for a maximum of $100,000?—A. I do not recall that.

Q. No. Do you think you so testified when you were on the stand in this trial the other day?—A. I do not know; but I know that that is the fact.

Q. But you do not know that you ever mentioned that fact to anybody until you mentioned it to Mr. Manager STERLING to-day?—A. I am positive that I did, but I can not recall now, at this moment, to whom I mentioned it.

Re-direct examination:

Q. (By Mr. Manager STERLING.) Just one question, Mr. Boland: You just told your brother William P. Boland that you had been——

Mr. WORTHINGTON. I object to that leading style of question, Mr. President.

Mr. Manager STERLING. This is cross-examination of what the other side drew out.

Mr. WORTHINGTON. Cross-examination!

Mr. Manager STERLING. Yes.

Mr. WORTHINGTON. I am learning a great deal, Mr. President, about cross-examination, if this is cross-examination. The witness has been called by the managers.

Mr. Manager CLAYTON. There is a good deal for you to learn, perhaps.

The PRESIDENT pro tempore. The Chair thinks the manager can ask the witness what he said.

Q. (By Mr. Manager STERLING.) You did go to your brother and tell him what Judge Archbald and Watson had said about the fees, did you?—A. I did.

Q. And that they wanted it in writing?—A. Yes, sir.

Q. They did not demand that anything be put in writing about the price they were to settle for, did they?—A. No; and I can recall now that Mr. Watson was not bound strictly to obtain $100,000 for us. He was told very distinctly that we would be willing to talk about a lesser amount.

Q. And did they tell you, either of them, that you should put in the writing relating to the attorneys' fees that the settlement should be for $100,000?—A. No; all that I was required to do was to obtain from my brother, who was president of the company and held, either personally or by option, two-thirds of the stock of the Marian Coal Co., an acknowledgment for Mr. Watson guaranteeing him a $5,000 fee in the event of his succeeding in selling the property.

Q. That is all they demanded, then, and all you asked your brother to give them?—A. When I say "the sale of the property" I mean the stock of the company held by the majority of the stockholders.

Q. And the very fact that you had said to Mr. Watson that you would take less——

Mr. WORTHINGTON. Now, Mr. President, I certainly do object. The manager is not only leading, but is putting arguments in the mouth of the witness.

Mr. Manager STERLING. It is nothing but cross-examination about what you have brought out.

Mr. SIMPSON. Cross-examination of your own witness?

Mr. Manager STERLING. Certainly. Our own witness on a matter you brought out.

Mr. SIMPSON. I never heard that you could cross-examine your own witness until to-day. I object, sir.

Mr. Manager STERLING. If you have never heard of it before, you have heard of it now. On any new matter that is brought out on cross-examination the party calling the witness may cross-examine. We never asked the witness about this writing, and we have got a perfect right to cross-examine him.

The PRESIDENT pro tempore. The manager can examine without asking leading questions, the Chair is sure.

Mr. Manager STERLING. It is pretty hard to ask this question without leading.

The PRESIDENT pro tempore. Of course, the subject matter about which information is desired must necessarily be suggested.

Q. (By Mr. Manager STERLING.) Inasmuch as you had authorized Mr. Watson or said to Mr. Watson that you would take less than $100,000, do you think that it would have been proper to have put in this agreement the limitation of $100,000?

Mr. WORTHINGTON. I object to that, Mr. President. It is calling for an opinion of this witness on a matter on which he is not an expert.

The PRESIDENT pro tempore. The Chair thinks that the manager can ask what, in his opinion, was required to be put in the agreement in pursuance of the conference which he had already had. That is legitimate.

Mr. Manager STERLING. I will not press it further.

Q. (By Mr. Manager STERLING.) Mr. Boland, in your testimony before the Committee on the Judiciary, I will ask you if Mr. LITTLETON asked you these questions, which are found on page 992:

Mr. LITTLETON. I said Mr. Watson recited to you and to Judge Archbald, or in your presence, what had been agreed to?
Mr. BOLAND. At the judge's office?
Mr. LITTLETON. Yes.
Mr. BOLAND. Yes, sir.
Mr. LITTLETON. And you say the judge "assented"; that was the word you used. Just what was it to which the judge assented?
Mr. BOLAND. The judge assented to assisting Mr. Watson.
Mr. LITTLETON. In the sale of the property?
Mr. BOLAND. In the sale of the property.
Mr. LITTLETON. The price was named at that time?
Mr. BOLAND. The price was named; yes, sir
Mr. LITTLETON. At $100,000?
Mr. BOLAND. Yes, sir.

Were those questions asked you and did you make those answers before the Judiciary Committee?—A. Yes, sir.

Mr. Manager STERLING. I will say, Mr. President, that I thought until last night that that testimony was in the examination of Mr. Boland before the Senate. When I ascertained that it was not, I talked with Mr. Boland this morning, and inquired about it, and he told me just what he has testified here to-day. The testimony of Mr. Boland before the Judiciary Committee, from which I read, is found on page 992 of the evidence taken before the committee.

Recross-examination:

Q. (By Mr. WORTHINGTON.) Now, Mr. Boland, I will ask you whether you testified to this before the Judiciary Committee, reading from the middle of page 993:

Mr. BOLAND. The matter is quite well fixed on my memory that the judge informed me that he was to assist Mr. Watson in the disposal of our interest; but as to any details, how it should be done, or anything further than that, I do not think it was discussed, outside of the judge's suggestion about a case then pending, the Peale case.
Mr. LITTLETON. Just before we get to that, did you know at that time that there was any price in contemplation for the sale of this property beyond $100,000?
Mr. BOLAND. Not at that time; no, sir.
Mr. LITTLETON. Was anything said about fixing a larger or higher price than $100,000 in that conference?
Mr. BOLAND. I do not think it was said at that time.
Mr. LITTLETON. Was Watson's $5,000 to come out of the $100,000?
Mr. BOLAND. Yes, sir.

A. That is correct; I so testified.

The PRESIDENT pro tempore. Are there any further questions for the witness?

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. I have nothing more to ask.

The PRESIDENT pro tempore. The witness may retire. Is it desired that the witness shall be retained any further?

Mr. Manager WEBB. No, sir; the witness may be excused.

The PRESIDENT pro tempore. The witness is finally discharged.

Mr. Manager CLAYTON. Mr. President, the managers rest here.

Mr. WORTHINGTON. Judge Archbald, will you take the stand?

TESTIMONY OF ROBERT W. ARCHBALD—RECALLED.

Q. (By Mr. WORTHINGTON.) Judge Archbald, you have heard Mr. C. G. Boland just testify about a statement in your office that Watson was to settle for a maximum price of $100,000. Will you tell us what you have to say about that?

Mr. Manager STERLING. We object to pursuing this any further. Both of these witnesses have testified on that.

The PRESIDENT pro tempore. The Chair certainly thinks that counsel have a right to ask the question of the witness. The witness will proceed to answer it.

Mr. WORTHINGTON (to the witness). What have you to say about that?

The WITNESS. May I hear the question again?

Q. (By Mr. WORTHINGTON.) You have just heard the witness, C. G. Boland, state that at your office, when Mr. Watson and he and yourself were present, it was stated that Watson was to get $5,000 for effecting a settlement of these matters for $100,000 or less—not to exceed $100,000. Will you tell us whether anything of that kind took place?—A. Not that I remember.

Q. Will you tell us whether at any time or at any place you were informed that there was a limitation of $100,000 on the price that he was to settle for?—A. On the contrary, I understood that the claim of the Bolands which Mr. Watson was to present was for one hundred and sixty-odd thousand dollars.

Mr. Manager STERLING. I object. We have been over all that.

Mr. WORTHINGTON (to the witness). You can answer the question whether at any time or at any place you were told that there was a maximum limit of $100,000 that was put upon

Watson as to the amount he was to demand in settlement of the claims of the Marian Coal Co.—A. Never.

Q. Now, in reference to the photograph, which has just been put in evidence, of the Federal building, there is in one of the windows of the building a man standing holding a piece of paper. Have you seen that?—A. (After examining.) Yes; I see that.

Q. Will you tell what you have to say as to that room?—A. That is not my office; that is an outer office occupied by my messenger or crier. My office is the one in the extreme corner.

Q. To the right or left of the one in which the man is standing in the photograph?—A. To the right in this picture.

Q. During what period was it that your office was where you have just mentioned?—A. My office was where I have mentioned from the time I moved into the Federal building, along some time in the spring of—well, soon after I was appointed. There were changes made that——

Q. Soon after you were appointed to what office?—A. To the district court.

Q. That was in 1901?—A. That was along in 1901; but I did not go in there immediately; then from that time until the office was changed to the rear of the building, and that office was occupied by Judge Witmer. That occurred along about February or March of 1912.

Q. So that from February or March of last year your office has been directly opposite Mr. Boland's office?—A. Yes; since along in March or April. The office I am occupying at present in Scranton is directly opposite the office occupied by Mr. Boland in the Republican Building.

Mr. WORTHINGTON. That is all.

Recross-examination:

Q. (By Mr. Manager STERLING.) Judge, one entering your office must go through this room, as I understand, to get to your office?—A. Yes; people to enter the office that I occupy go through that room.

Q. But it belongs to the same suite that your office does?—A. Yes.

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. That is all. We rest again.

The PRESIDENT pro tempore. Is there anything further on the part of the managers?

Mr. Manager CLAYTON. Mr. President, that concludes the case for the managers.

The PRESIDENT pro tempore. The evidence is therefore concluded.

Mr. Manager CLAYTON. Now, Mr. President, I should like to have the Chair announce that the witnesses may be discharged.

The PRESIDENT pro tempore. All the witnesses summoned on either side are finally discharged.

Mr. WORTHINGTON. May I ask, Mr. President, whether the Senate has adopted any rule in reference to the argument of this case?

The PRESIDENT pro tempore. There has been no action taken by the Senate. The Chair will call attention to the fact——

Mr. ROOT. Mr. President, I ask that Rule XXI be read.

The PRESIDENT pro tempore. With the permission of the Senator who asks for the reading of the rule, the Chair will call attention to the fact that the Senator from Texas [Mr. JOHNSTON], who was sworn in this morning as a Senator, has not been sworn in for the purposes of this trial. The Chair is not informed as to whether it is the desire of the Senator to be now sworn in.

Mr. CULBERSON. Mr. President, my colleague [Mr. JOHNSTON] is not now in the Senate. I believe it is his desire, inasmuch as he has been unable to hear the testimony in the case, not to be sworn in as a Member of the Senate sitting in the impeachment proceedings.

The PRESIDENT pro tempore. The Chair thought it was proper that he should call attention to the fact. That direction will be given, unless there is some other suggestion made in regard to it. The rule suggested by the Senator from New York will be read.

The Secretary read Rule XXI from the "Rules of Procedure and Practice in the Senate when Sitting on the trial of impeachments," as follows:

XXI. The case, on each side, shall be opened by one person. The final argument on the merits may be made by two persons on each side (unless otherwise ordered by the Senate, upon application for that purpose), and the argument shall be opened and closed on the part of the House of Representatives.

Mr. WORTHINGTON. I will say, Mr. President, so far as we are concerned, we are satisfied to proceed under that rule.

Mr. Manager CLAYTON. Mr. President, I have conferred with my associate, and, if my recollection is correct, I believe that that rule has not been adhered to. I know, as the present occupant of the chair will bear witness, that the rule was relaxed in the last case of this kind before the Senate. It is my recollection also, Mr. President, that it has not been enforced in other cases. I believe that in the Belknap case three managers were allowed to participate in the final argument. Of course, this is a matter that addresses itself to the sound discretion of the Senate.

Mr. President, I desire to say, on behalf of the managers, that they are of the opinion they occupy a position before the Senate in this case somewhat different from that of employed counsel. The Chair is doubtless familiar with that view, it having been heretofore taken by managers in the discussion of questions similar to this and other questions in the trial of impeachment cases.

The managers come here not voluntarily nor for any reward, however honorable it may be to engage in the practice of the noble profession of the law for the honorarium. We have come here, Mr. President, in pursuance of one of the most solemn, and I may say disagreeable, duties that falls to the lot of a Representative. We come imbued with that sense of duty, and we believe that we owe it to the correct exposition of this case before the Senate in the final argument that that rule be not enforced.

It will readily occur to the Senate that there has been one speech already made in behalf of the respondent. The respondent himself has occupied, I believe, on yesterday, something like four hours in presenting his side of this case to the Senate. To-day he has also occupied, I believe, as much as two hours, or three perhaps, as my associate suggests, in putting his side of his controversy before the Senate.

Mr. President, this case is different, of course, from all other cases. The issues of law and fact in this case, I think, are in many essential features different from any other impeachment case that has heretofore engaged the attention of the Senate. The counsel for the respondent said that there was more than one case; that all these different articles involved different cases. In some sort that is true. It involves the necessity of a full and comprehensive review of the law of impeachment; it involves the full and comprehensive review and analysis of the testimony as applicable to the law which the Senate will find to obtain in this case.

Therefore, Mr. President, we think that in view of the fact that counsel for the respondent will be accorded as much time in the presentation of their defense as will be accorded to the managers, of course it is but trite to say that that is right. In view of the fact that the managers are of opinion that this rule should be relaxed, and in view of the other facts that I have suggested to the Senate, the managers on the part of the House would prefer that they be accorded the privilege which heretofore has been accorded managers, to divide the time which may be allotted to them amongst them as they may see fit to distribute it.

There is nothing unusual in this request, and I think the circumstances of the case warrant the managers in asking of the Senate the relaxation of that rule to the extent of whatever time may be accorded to us and that it may be divided as we see fit.

Further, Mr. President, while I am on my feet I desire to say that the suggestion has been made as to the limitation of time. A limitation of time, Mr. President, was never imposed upon the managers except in one case, so far as I now recollect, and that was in the case of Swayne. The Chair will remember that that impeachment trial was brought to a conclusion at almost the very close of the short session of the Congress; it was terminated in the latter part of the month of February according to my recollection. The Congress itself expired immediately on the 4th of March thereafter. There is, I am informed, Mr. President, not such a condition existing now. Of course we know that this is not yet quite the middle of January, and I am informed that the business of the Senate is not so urgent at this time but that a reasonable latitude may be given for the discussion of this case. In fact, Mr. President, I have been told that the Senate is waiting for appropriation bills to come from the House. I do not know but that there may be other matters that some individual Senators may want to urge upon the attention of the Senate; but certainly it is true that neither in the point of limitation as to the time of the remainder of the session nor in the attitude of the public business before the Senate is it necessary to enforce a time limitation, as was done in the Swayne case.

Therefore I submit what I have said as the views of the managers in respect to these two propositions, and I may assure the Senate, if such assurance be necessary, and standing in my responsible place, and with a public duty imposed upon me by the popular branch of our National Legislature, that the managers will not abuse whatever indulgence or whatever latitude the Senate may allow. We will not abuse the patience of the Senate. The managers will conduct such an argument as they feel in duty bound to make to discharge an unsought-for and painful public duty.

The PRESIDENT pro tempore. What is the pleasure of the Senate?

Mr. CLARK of Wyoming. I move that the doors of the Senate be closed for deliberation.

The motion was agreed to. The managers on the part of the House, the respondent, and his counsel withdrew. The galleries having been cleared, the Senate proceeded to deliberate with closed doors. After 40 minutes the doors were reopened.

Mr. GALLINGER. Mr. President, I move that the Senate sitting as a Court of Impeachment adjourn.

The motion was agreed to.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 25 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, January 8, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January 7, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Incline Thine ear, O God our Father, and hear our petition. Deliver us, we pray Thee, from the consuming fire of selfishness, the root of all evil, since it checks the growth of the soul, blights the love of the home, corrodes society, and despoils the State or Nation, that we may go about our Father's business in the spirit of altruism illustrated in the Sermon on the Mount and fulfilled in the incomparable life and character of the Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

SPEECH OF PRESIDENT TAFT.

Mr. BROWNING. Mr. Speaker, I ask unanimous consent to print in the RECORD a speech delivered by the President of the United States in New York City last Saturday evening, January 4, 1913, at the Waldorf-Astoria Hotel.

The SPEAKER. The gentleman from New Jersey asks unanimous consent to print in the RECORD a speech delivered by the President of the United States last Saturday evening in New York City. Is there objection?

There was no objection.

The speech is as follows:

Mr. Chairman, Mr. Toastmaster, and my fellow Republicans: In so far as this banquet savors of personal compliment to me and takes on the aspect of my funeral obsequies after the late defeat, I accept the honor with pleasure, and take part in the proceedings with the interest and enthusiasm of one most deeply concerned. It is not usual for the deceased to give very full expression to his feelings at the wake, but I remember that in one of Boucicault's Irish dramas the corpse was sufficiently revived to partake of the liquid refreshment and became the chief participant in the festivities. A few opening remarks directed to the character of the deceased and the manner of his taking off may not, therefore, be inappropriate.

Mr. Bryan said in the course of the campaign that I had been elected to the Presidency by a large majority and would be relegated to private life by a unanimous vote. When I read what he said I thought he was as poetic and as unreliable in his prophecies as usual; but, in truth, nothing but Vermont and Utah prevented a literal fulfillment of his forecast, and he was nearer than ever before in his life to a fact.

I think I have separated myself sufficiently from the humiliation of defeat to be able to look upon the history of my administration with calmness and clearness of vision, affected only by the fact that I was one of the principal actors, and naturally inclined to give the best color to everything which I did or attempted to do. I entered office under certain obligations laid down in a national platform, and I attempted as well as I could to carry them out as I understood them. They could only be carried out by legislation to be enacted by the two Houses of Congress, and therefore it became essential for me to associate myself as intimately as possible with the leaders of both Houses and the majority that controlled each. The leaders of both Houses were Republicans, orthodox, old-time Republicans, men who, justly or unjustly, were called reactionaries, and I secured from them an earnest cooperation that led to the enactment of a number of valuable statutes. In doing so, however, I was brought into opposition to a faction of the Republican Party that had become insurgent and declined to follow the leadership of the dominant majority.

As this faction had supported me for the nomination and some of the older leaders had opposed me, it was charged I had in some way betrayed the insurgents, had forfeited the right to their support, and had surrendered to the regular Republican organization, and had myself become a reactionary. It is difficult for me now, as I look back, to see how I could have pursued a different course, for except in this way I could not have secured the legislation which had been promised.

PAYNE TARIFF WAS REVISION DOWNWARD.

The new tariff law was bitterly criticized, but it was, nevertheless, a revision downward. It has been one of the most useful laws possible in its many provisions, creating a Court of Customs Appeals, giving us an opportunity for a new tariff commission, giving us free trade with the Philippines, providing a maximum and minimum clause, and imposing the best form of income tax—the corporation tax. But for its enactment the deficit of $58,000,000 which stared me in the face when I came into office would have been repeated and increased each succeeding year, and we would have had to resort to bond issues to meet the ordinary running expenses of the Government. Then, by the same agency of the regular Republican majorities, we passed a law which for the first time gave to the Interstate Commerce Commission adequate control of the railroads.

We created a Commerce Court, which, in the interest of the dispatch of business, reduced the time of the remedy of shippers against offending railroad companies from two years to six months. We established the postal savings bank, which has greatly inured to the thrift of that part of the Nation which needs to be taught thrift and requires the incentive of a Government guaranty.

We passed the conservation bill, which enabled us to withdraw all the lands that needed further legislation for their proper disposition in the interest of preserving the national resources for public use. We passed the "white-slave" act, the interstate-commerce employers' liability act, the Mining Bureau bill, and the Children's Bureau bill. We passed the reciprocity agreement with Canada, which produced free trade in natural products between Canada and this country, and which, while it would not have greatly affected farm product prices, would have steadied them and greatly increased business between ourselves and Canada.

On the Executive side, we made treaties of universal arbitration with England and France. We pushed the trust prosecutions as they had never been pushed before, and we have thus in a quiet way prepared a solution of the trust question. We organized an Economy and Efficiency Commission, which has been engaged in pointing out possible consolidations, the correlation of the business of the bureaus, and the introduction of efficient means of business, resulting in an annual saving of many millions; secured, through the action of the Supreme Court, great expedition in equity procedure, and we have recommended to Congress the conferring of the same authority on the court in reference to the proceedings at common law. We have enforced restrictions against rebates and the general fraudulent use of the mails with a rigor and success that has never before been equaled in the history of the Department of Justice. We have kept down the expenses of the Government, so that instead of increasing annually, as they had in recent years, at the rate of $30,000,000 or $40,000,000 a year, they have been reduced from year to year until within a few months, when the new basis of pension allotments increased the appropriations.

FROM PANIC SHADOW TO REAL PROSPERITY.

There has been no scandal connected with the administration. By our intervention in South and Central America we have contributed to the peace of the world in ending revolutions and preventing wars, and we have carried the work of the Panama Canal construction to a point so near completion that the first vessel may proceed on the bosom of the broad ship canal from the Atlantic to the Pacific in October of this year, on the four hundredth anniversary of the day Balboa discovered the Pacific.

Finally, although we entered office in the shadow of a recent panic, during the four years of this administration business has revived, confidence has returned, widespread prosperity is at hand, the demand for labor is greater than ever, and the standard of wages for all classes of labor is higher than ever before in our history.

Now, under these conditions, what was it that impeded my progress as a candidate, and what was the political disease of

which I died? I am hopeful that when historians conduct their post-mortems it may be found that my demise was due to circumstances over which I had no great control, and to a political cataclysm which I could hardly have anticipated or avoided; but, whether this be true or not, even friendly critics are able to point out personal reasons why it was that, though I went in, I also went out, with large majorities.

It has been charged against me that I am an aristocrat, and that I have no sympathy with the common people, and I have no doubt that this impression has gone abroad and has settled deep in the minds of many people. Now, I do not think it is true. I think I am as sympathetic with the common people, as earnestly desirous of their happiness, as anxious to see that they have justice accorded them, and that they enjoy their rights under the law and Constitution as fully and completely as any one. I believe most profoundly that popular government is the best government that we can have, and I am greatly concerned that it shall continue and be successful in giving to the people at large the best measure of individual liberty on the one hand and the greatest practical efficiency in government on the other. It may be that in my earnest desire to make government efficient I have not always explained that I believe that to make government efficient is to work directly in the interest of the common people.

My administration has come and gone in a period of unrest and agitation for something intangible which it is difficult definitely to describe. We have lived during the last four years, and are living now, in an atmosphere of strenuous denunciations of certain evils and loud aspirations for an ideal state in which the common people are to become happier, the poor and the oppressed are to acquire property and cease suffering, and much or all of the change is to be accomplished through the agency of the Government.

The accumulations of swollen fortunes during the two decades preceding, and many of them by an improper means—that is, by a violation of the antitrust law or the antirebate law—aroused a feeling of just indignation and set the tune to public addresses. The notes of denunciation of the malefactors of wealth on the one hand and of promises of rectifying such inequalities by governmental means and increasing the equality of opportunity among the poor rang pleasantly in the ears of the people. They made for the popularity of those who produced the sweet tones, assuring better conditions and a complete social reform, all by means of elections and governmental action.

MANY SOCIAL WORKERS MISLED BY ENTHUSIASM.

Then, too, in the material improvement, in the larger amount of wealth devoted now to education and philanthropy, there has been aroused a most commendable interest in the poor and the suffering. By university settlements and by other means the observation of many well-to-do people is focused on the poor and suffering and the supposed causes which produce poverty, and so intensely enthusiastic do social workers become that they lose their sense of proportion as to the relative number of the poor whom they are laboring for and forget altogether the interest of those who are not dependents and yet who make up a great majority of the common people.

The public has not been content to estimate and weigh the things done at their face value, but has accepted the hostile statements that the good things which were done were done either with an improper motive or because I could not help it, or were really done by somebody else, and that, on the whole, I was unfriendly to the people, a reactionary in spirit, opposed to all reforms leading to the amelioration of the inequalities and sufferings of the oppressed and poor in society.

TIME MAY ENLIGHTEN PUBLIC TO REAL FACTS.

I am not complaining of this situation. I am hopeful that as time rolls by the facts may disclose themselves and may lead people to believe that more real reform has been accomplished in my administration than will ever flow from an attempt to put into practical operation the promises which have been made to the people in recent party platforms and on the stump of a regeneration of society through the instrumentality of government, the making of the rich moderately poor and of the poor moderately rich, and an elimination by statute of all sin, injustice, poverty, and suffering from our country and community.

Time usually brings about an opportunity for retaliation, but if you are a strong man, of good sense, you feel it beneath you when the opportunity comes to exercise it. This personal feeling against me on the part of a number of Senators and Representatives and other members of the party doubtless operates with them as a substantial cause for continued dissension. It gratifies me to feel that my going out of office and public life will remove this cause, will end the "Taftphobia" that has governed the action of some in influential positions, and will tend to end these divisions that have been caused by personal reasons rather than on principle.

REPUBLICAN PARTY IS STILL A FORCE FOR GOOD.

But I have consumed too much time in discussing my personal relations to the late campaign. The chief purpose of this banquet was not to honor me or to soothe my injured pride. It was to show to the country that the Republican Party is still a force in this country for good, and that it is the duty of those who believe this to give a reason for the faith that is in them.

We were beaten in the last election. We ran third in the race. Why is it that we gather here with so much spirit and with so little of the disappointment and humiliation supposed to accompany political disaster? Is it not that in spite of the defeat recorded at the election in November we were still victorious in saving our country from an administration whose policy involved the sapping of the foundations of the democratic, constitutional, representative government, whose appeals to the people were calculated to arouse class hatred that has heretofore been the ruin of popular government, and whose contempt for the limitations of constitutional law and the guaranties of civil liberty promised chaos and anarchy in a country that has until this time been the model of individual freedom and effective popular government?

The result of the Chicago convention was a triumph for the permanence of Republican institutions, the importance of which can not be exaggerated, and I wish to emphasize this, in order that it may be known that we meet in no spirit of despair, but rather to rejoice in a victory for law and order and the institution handed down to us by our fathers.

It is true that we were defeated at the polls by our old-time opponent, the Democratic Party. It is true that they are now going to work out again the problem of eating your cake and having it, too, by showing how it is possible to change from a system of protection for manufactured industries to one of a tariff for revenue only without affecting the industries to their detriment and without halting production or lowering wages. It is true that we are to witness an attempt to satisfy the crying need for a new banking and currency system by a plan which is to embody as many as possible of the features of the Aldrich Monetary Commission plan, disguised as much as may be so as to permit denial of any resemblance. It is true that we are to witness a change of officeholders from Republicans to Democrats, and we are to see how economical the new administration is to be, as compared with the old.

We have been through this before. It may be that this time they can do what they have not succeeded in doing heretofore, and if so, and they can maintain the prosperity of the country at its present record level, then we can be Americans before we are Republicans and rejoice at their success. If they can vindicate their claim that they will reduce the cost of living to a moderate point by reducing the tariff, then they will be entitled to point to this as an achievement fulfilling their promise and vindicating their policy.

If this was all there was to the situation I doubt if we would have this dinner—I doubt if we would be here in such great numbers—because this recurrence of the traditional action and reaction between the two old parties in respect to economic policies is not one so exceptional as to call for noteworthy celebration.

VOTED FOR WILSON TO DEFEAT COL. ROOSEVELT.

The fact that brings us here is that in the late election there were 3,500,000 voters—an irreducible minimum of the Republican Party—who were determined to remain a force in the community, to prevent any constitutional amendment and legislation of a revolutionary program announced by the so-called Progressive Party. Added to that 3,500,000 we may perhaps count another 1,000,000 electors who will stand by us with even more fervor, because they were Republicans sympathizing with the Republican candidate and platform but voted for Mr. Wilson to avert the danger of Mr. Roosevelt's election. The importance of retaining these 4,500,000 voters as a concrete force for the sustaining of our democratic, representative, constitutional government is the chief purpose which calls us here.

It has already been pointed out that there is a spirit of unrest among the people, and that this spirit is what has brought about the division of the Republican Party into the present Republican Party and the Progressive Party.

We are told that the spirit of unrest demands progressive measures that shall bring the people more directly into the operation of their own Government; that shall emancipate the poor from the burden of poverty; that shall introduce social justice, relieve oppression, banish dishonest methods from business, and establish a society founded on altruism and the highest Christian principles of morality. We enthusiastically approve and adopt all these ideals of society, in which every

member is to be prompted by love and charity for his fellow men; in which there is to be no suffering or poverty, because they are to be relieved through the just and generous conduct of those who have toward those who have not.

But what we contend is that in the progress toward such higher levels, toward a society governed by purer ethics than those which have obtained, we shall not throw away the limitations of law and the principles of government, which have been attained after thousands of years of struggle, which constitute an assurance to each individual in the community against all invasion by other people, whether many or few, of his life, his liberty, his right of property, his right of freedom of religion, his right of free labor, his right of free contract, and his right to pursue happiness in his own way, subject only to the limitations that he yield the same right to others.

DANGER IN UNRESTRICTED RULE OF THE MAJORITY.

What is there in present conditions that the Progressive Party presents which can lead us to suppose that human nature has so changed that no restraint is necessary in all society to prevent one man from oppressing another, or to prevent a majority of us from oppressing an individual or a minority? What is it that constitutional limitations are for in popular government? A popular government is a government by the people—that is, by a majority of the people—who under the law are given the right to exercise the electoral franchise; and constitutional limitations are imposed to prevent the misuse of the power of the majority, so that the individual or the minority may not suffer injustice through the action of the majority.

Where is the security in the present society that the majority may not from time to time do injustice to the minority and to the individual?

It is said that we mistrust the people if we assume that the majority will ever do an injustice. In other words, the contention is that the vote of the majority is always right. Well, as the majority in passing upon a given question determines sometimes one way and sometimes another, in which case is it right?

If the wisdom of our fathers and of the long line of able men who have fought for popular government has led to the introduction into every scheme of government of restraints to prevent injustice by the majority to the minority or an individual, what is there that has happened in recent years to make us feel that a change has come over the character of majorities, so that they may not exercise the tyranny that they have exercised in the past, and in respect of which they have been restrained by constitutional limitation? How are the inequalities of society to be wiped out? How is government to insure happiness to the individual? Is it by equal distribution of property? Is it by taking from one man that which is his and giving it to another who has not earned it? I submit that this is the ultimate result of a thorough analysis of all the theories advanced by the Progressive Party.

PROGRESSIVE APPEALS MADE TO DISCONTENTED.

As one profound political economist said, such schemes usually can be reduced to a combination by A and B to take from C that which is his and confer it on D. A and B do not combine and confer on D what A and B can, but only what C owns. When A and B are anxious to divide what they have and give it to D instead of dividing what C has and giving it to D, we shall reach an era in human history when some of the theories advanced by the Progressives will work in practice. Meantime we must proceed on the theory that A and B are still moved by a desire to keep to themselves what is theirs, and to have the advantage and happiness that may proceed from the ownership of the property they have acquired.

Is there anything in the appeals which are made by the orators for the Progressive Party that leads one to think that they regard their audience moved by a self-sacrificing spirit to give up what they have to be distributed to others less fortunate? On the contrary, are not all the appeals which are made based on the theory that the people addressed will be moved to adopt the reforms advocated by which they themselves will be improved in circumstance and somebody else will lose what is his?

It was urged in favor of the reciprocity agreement that it would reduce the cost of living by having free trade in natural products between Canada and the United States. I did not subscribe to that argument, because I did not believe that it would do other than make a larger reservoir, and thus steady prices and prevent a further increase in the cost of living. But the argument advanced by our Progressive brothers against the Republican candidate with the farmers was that he had favored reciprocity with the idea of reducing the prices at which the farmers sold their products. Did farmers rush forward to support that candidate because of the benefit which it was said would be conferred upon their less fortunate fellow men? Was not every argument advanced in the last campaign to induce the votes of those who heard the argument on the ground that those who heard would be better circumstanced financially if they adopted the theory which was being presented?

In other words, did not the whole campaign illustrate in this respect the very opposite condition from that of a society in which men are moved in their votes and governmental action by altruistic and not by selfish motives? And is not the whole program of the Progressive Party a program which in its ultimate result intends the taking from the successful and conferring on the unsuccessful that which the successful have earned?

If all that it means is that those who have made their money unlawfully or improperly shall be called upon to disgorge it, no one would object to the proposition, however difficult it might be to work out the theory, but when it is considered that such theories can be satisfied only by taking all the property there is and putting it in a common pot and distributing it about without regard to the prudential virtues we are able to see the destruction that will come to modern progress by putting any such theories into effect.

The great and tremendous advantage of the right of property is that it furnishes a motive for man to exercise industry and self-restraint, and the more he improves the general prosperity of the community in which he lives and so the more he helps his fellows. He gives them an opportunity to labor and to save and thus to increase the general accumulation of capital, its general use and its general product, and with the increase in the general product the opportunity for better material living grows, and with the opportunity for better material living the opportunity for better spiritual living comes. The moment that by destroying the right of property you take away the motive for accumulation, the motive for acquisition, the motive for industry and self-restraint, you take away the impulse which has made the world what it is. That is what the history of civilization has shown. No other theory has worked out and has demonstrated its usefulness.

POOR ARE GETTING POORER WHILE RICHES GROW.

We have gone on improving the material and spiritual welfare. The per capita of wealth in this country has increased most largely, the poor are not getting poorer, though the rich may be getting richer, but there has been a general improvement all along the line. We have been developing in individuals greater interest in their fellow men.

We have been cultivating the charitable impulses, forming associations for the intelligent application of charity, associations for the relief of the distressed, and all these movements should receive the highest encouragement from every lover of his kind, but to assume from these movements that business and governmental reforms can be based on a theory that the majority of men will be governed by altruistic and not by selfish consideration, with a view to supporting themselves and their families, and to increasing their possessions, is to fly in the face of the commonest and most clearly accepted fact.

We have been very prosperous in this country, and very happy, and really very free from oppression, in the sense of the deprivation of our liberty or of our property, and so clear and easy has the assumption and retention of our constitutional rights been that we have failed to realize the struggles that were essential in the past to establish those rights and secure them beyond violation.

In other words, we have had so little occasion to assert in formal suit the constitutional limitations to preserve to us that which our forefathers intended to secure by the Constitution that we do not realize that all our rights are dependent on that very instrument, and that the minute you repeal or modify it that minute you become subject to the danger of a tyranny either of an individual or a majority.

These rights, secured by constitutional limitation, when challenged or violated, are to be vindicated through the courts, but under the system which our Progressive friends propose, the limitations themselves are to be subjected to the abolishing power of a referendum; and when they are embodied and enforced in a judgment of a court they may still be lost by a referendum of the judgment to the populace in an election to determine whether the court's decision is right.

Thus it is easily seen that under the Progressive program the whole machinery that has been so carefully built up by the older statesmen of this country and of England to save to the individual and to the minority freedom, equality before the law, the right of property, and the right to pursue happiness is to be taken apart and thrown into a junk heap, and the preservation of such rights or privileges, if you choose to call them such, is to be left to the charitable impulses of a benevolent administrator.

No one at all familiar with the principles of free government and the tendency of erring and power-loving human nature would be content to have his liberty or his right of property or his right to pursue happiness dependent upon the benevolence of anyone.

The Republican Party stands for protection to the Nation's industries, for the retention of the Philippines and the enlightenment of the Filipinos, for widespread education, for those election laws which give the people the best opportunity to express their preference, for all really practical measures which look through the aid of the Government to the relief of the oppressed, but above all it stands for the preservation of the pillars of popular government; it stands for the maintenance of the rights of all, for the greatest good to the greatest number, and it believes that those ends are attainable through the control of the majority properly limited by fundamental law.

OPPOSES ANY SACRIFICE OF PARTY PRINCIPLES.

Now, it has been suggested that the Republican Party can unite again with many of the Progressive Party if only a different rule can be put into force through the convention or the national committee by which the reduction of southern representation could be secured and a fairer method of selecting the candidate for President by the Republican Party could be had.

I have not any objection to any method which shall be fair. That is not a reason for joining or giving up the party. It is the principles that the party advocates that should control one in its support. It is not that the Republican Party is desirous of holding office or power, though neither is to be despised, but it is that in this crisis we feel that we have the means of preventing the country from taking a step which, if taken, will precipitate us into governmental chaos, will set the country on a chimerical chase for an ideal that is impossible to realize, and that in this chase the country will lose the inestimable benefits of a permanent popular government that we have developed after a thousand years of struggle and have created, maintained, and preserved inviolate for 125 years of national liberty. We are not bitter; we are not cast down; we are not vengeful.

If the people of the United States can stand a Democratic administration for one or two or even more terms, we shall certainly not object to their capacity for endurance in this regard; but what we wish to assure ourselves of is that neither through Democratic radicalism nor through the Progressive radicalism shall the pillars of our noble state be pulled down and the real cause of the people be sacrificed to dreams of demagogues and theorists.

Let us buckle on our armor again for the battle for humanity and the common people that must be fought.

Let us invite those Republicans who left us under an impulse that calmer consideration shows to have been unwise to return and stand again shoulder to shoulder with us in this critical time in our country's history.

Let us invite from the ranks of our opponents the Democrats—the many who love the Constitution and the blessings it has conferred on our people—to unite with us in its defense. It must be a campaign of education among the common people against the poison of class hatred, the fanaticism of unbalanced enthusiasts, the sophistry of demagogic promises, and the wiles of false friends of humanity.

REPRINT OF POST OFFICE BILL.

Mr. MOON of Tennessee. Mr. Speaker, I ask unanimous consent for a reprint of the bill H. R. 27148, a bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes.

The SPEAKER. The gentleman from Tennessee [Mr. MOON] asks unanimous consent for a reprint of the Post Office appropriation bill.

Mr. MANN. Mr. Speaker, I think the gentleman in conversation with me expressed the desire to have a reprint of the bill corrected, and as he has stated it it would not be a mere reprint.

The SPEAKER. The gentleman from Tennessee desires a reprint to conform to the facts and figures. Is there objection?

There was no objection.

WITHDRAWAL OF PAPERS.

Mr. BOOHER, by unanimous consent, was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Daniel O'Connor (H. R. 12735), Sixty-first Congress, no adverse report having been made thereon.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, with Mr. SAUNDERS in the chair.

Mr. STEPHENS of Texas. Mr. Chairman, when we adjourned on last Saturday I had made a point of order against an amendment offered by the gentleman from Montana [Mr. PRAY] after the figures in line 16, page 16, to insert a new paragraph. The appropriation was for $75,000, for the purpose of making certain surveys, which is not incorporated in the bill.

Mr. PRAY. Mr. Chairman, I would like to say a word on the point of order.

The CHAIRMAN. Will the gentleman from Texas [Mr. STEPHENS] yield to the gentleman from Montana [Mr. PRAY]?

Mr. STEPHENS of Texas. For the purpose of discussing the point of order only?

Mr. PRAY. Yes.

Mr. STEPHENS of Texas. I will yield to the gentleman for five minutes, Mr. Chairman.

Mr. PRAY. I do not think it necessary for the gentleman to yield. I ask for recognition to discuss the point of order.

The CHAIRMAN. Does the gentleman from Montana [Mr. PRAY] desire to address himself to the point of order?

Mr. PRAY. I do.

The CHAIRMAN. The gentleman is recognized.

Mr. PRAY. Mr. Chairman, this amendment is for the purpose of enabling the department to survey land on Indian reservations in Montana, land on the Tongue River or Northern Cheyenne Reservation, land within the Fort Belknap Indian Reservation, and for making a meander survey around Flathead Lake, so as to identify the lands embraced within the power-site withdrawal of 100 linear feet around that lake back from the high-water mark for the year 1909, together with other survey work on Indian reservations not provided for in the pending bill.

This amendment, Mr. Chairman, is based upon authority of existing law. The purpose of these surveys is to provide allotments for the Indians. The authority for the surveys, and consequently for this appropriation, will be found in the general allotment act of February 8, 1887, which provides for the allotment of lands in severalty to the Indians, and necessarily the surveys must be made before the allotments can be made.

The CHAIRMAN. Let me ask the gentleman a question. I notice that a part of the amendment provides for surveying lands in the Tongue River and Northern Cheyenne Indian Reservations.

Mr. PRAY. Yes.

The CHAIRMAN. Can the gentleman give the Chair the authority for that particular work under existing law?

Mr. PRAY. That is based, Mr. Chairman, as I regard it, upon the general allotment act which I have quoted and upon which the general appropriation in this bill is based. This amendment carries a specific appropriation for this work which is not intended to be provided for under the general item; and the department has estimated for this appropriation and recommended the performance of this work, and this amendment is in exact accord therewith; and, furthermore, it is authorized by the statute I have cited, and is therefore supported by existing law.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman let me call his attention to this fact, that out of this general sum for the survey of lands a portion was used for the survey of lands on the Tongue River and the Northern Cheyenne River? And is the gentleman aware of the fact that for the completion of the survey of lands in the Flathead Lake Indian Reservation some $29,000 was expended last year out of the general appropriation? Is the gentleman aware of that? The general appropriation is in this language:

For the survey, resurvey, classification, appraisement, and allotment of lands in severalty under the provisions of the act of February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians," and under any other act or acts providing for the survey and allotment of lands in severalty to Indians; and for the survey and subdivision of Indian reservations and lands to be allotted to Indians under authority of law, $200,000, to be repaid proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purpose and to remain available until expended.

That last clause would fairly cover the purpose of the gentleman's amendment.

Mr. PRAY. I know it is true that up to the close of the fiscal year ending June 30, 1911, $29,000 was taken from the general fund for these surveys on Indian reservations. But a much larger amount is needed at the present time. Therefore

the department officials have asked for a special appropriation of $75,000 and have taken no account of this work in their estimates for the general appropriation this year. Under that general item for surveys they asked for $250,000, and you cut it down to $200,000. Yet I have the positive assurance of officials at the department that they will be unable to use but very little, if any, portion of the general appropriation for these important surveys, and they insist that these surveys should be made at the beginning of the next season.

Mr. STEPHENS of Texas. But we are appropriating in this bill $200,000, and there was a part of the appropriation last year that was not used.

Mr. PRAY. I know about that, and also that you did not come within $50,000 of the general estimates, and I do know, further, that the department will be unable to take any portion of the funds from that general appropriation for the very necessary purpose set forth in this amendment.

Mr. STEPHENS of Texas. If they could take $20,000 of last year, why can they not complete it this year with the appropriation?

Mr. PRAY. They took that amount in 1911, but even so, it was totally inadequate, and they can not do the work without a special appropriation. This amendment is based on existing law, upon the act supporting the general appropriation. And furthermore, the provision included in the amendment in regard to surveys on the Flathead Reservation is based upon the act of a year ago, which provides that an easement in and over all lands bordering on or adjacent to Flathead Lake, which lie below an elevation of 9 feet above the high-water mark of this lake for the year 1909, shall be reserved for use in connection with storage of water for irrigation or development of water power. All patents hereafter issued under this law must include such reservation. It is necessary to make the survey to fix the contour line. The law can not be complied with without a survey. The estimate for this particular work is $25,000. This is included in the Book of Estimates, and appears in the hearings. The other feature of the amendment relates to survey on the Fort Belknap Reservation—$25,000 is needed for this purpose. The recommendation is noted in the hearings and in the Book of Estimates. This survey is for allotment purposes and authority for the appropriation will be found in the general allotment act before alluded to. This amendment, in my judgment, is not subject to a point of order.

Mr. STEPHENS of Texas. They have used, as I have stated, $20,000 of the general appropriation last year for beginning this survey, and this year we have made an appropriation of $200,000 for completing the survey.

This amendment of the gentleman from Montana is subject to a point of order for the reason that it has not been estimated for, is not in the bill, and does not come legitimately before the committee at this time. It is new legislation.

Mr. PRAY. Mr. Chairman, the gentleman says that this legislation has not been estimated for. He does not mean that.

Mr. STEPHENS of Texas. I mean it is not in the bill.

Mr. PRAY. The department has estimated for it and has said that it is absolutely necessary that they should have the $75,000 recommended. Besides that, it is authorized by the law carrying the general appropriation that was inserted at the beginning of this bill.

This is not the only item affecting Montana estimated for by the department which does not appear in the bill. The department asked for an appropriation of $10,000 for indigent and homeless Indians, such as Chief Rocky Boy and his band of Chippewas and the poverty-stricken Cree Indians who were under Chief Little Bear. This item does not appear in the bill, although there is great poverty and distress among these Indians; and this same condition exists among the aged Indians on some of the reservations. Choutean County, my home county, expended $6,000 to take care of the Cree Indians during an epidemic of smallpox, and when I introduced a bill in the Sixtieth Congress for reimbursement the verdict was that the liability of the Government was too remote. In my humble judgment the Government is and ought to be liable for the support of helpless Indians. They are the wards of the Government and entitled to help under such distressing circumstances.

This amendment is meritorious and ought to prevail, but it will doubtless meet the same fate as other amendments that have been proposed for the purpose of increasing appropriations. This appropriation is necessary; it is properly estimated for and fully justified in the hearings, and, furthermore, it is authorized by the same law that supports the general item on page 2 of the pending bill.

The CHAIRMAN. The reference that has been made to existing law is urged in support of the amendment. No intelligent ruling can be made on the question in the absence of that law, and the Chair will therefore ask the gentleman from Montana [Mr. PRAY] to send the law to the desk, and the Chair will reserve a ruling on this point of order until he can look at the law which is relied upon.

Mr. STEPHENS of Texas. Shall we proceed with the bill, Mr. Chairman?

The CHAIRMAN. Yes. The Chair states that for the time being we will proceed with the bill, and at a later opportunity the Chair will make a ruling.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that we pass over the item for the present until we can ascertain the authority.

The CHAIRMAN. Without objection, that will be done. The Clerk will read.

Mr. STEENERSON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STEENERSON. I would like to inquire what became of the amendment that I offered on Saturday?

Mr. MANN. Mr. Chairman, the amendment offered by the gentleman from Minnesota on Saturday was passed over without prejudice, with a point of order pending. I made the point of order, and after an examination of the statements in the RECORD of Saturday, I desire to withdraw the point of order.

Mr. FOSTER. Mr. Chairman, I also have a point of order pending, I think. The amendment is just as it was on Saturday, as I understand from the gentleman from Minnesota.

Mr. STEENERSON. Yes; it is pending.

Mr. FOSTER. It occurs to me that this matter should be taken up in the regular way by the Committee on Indian Affairs, to determine whether or not it is advisable to authorize this. And there is a question as to the right of the Red Lake Indians to have an interest in this matter, so that it occurred to me that in view of all those facts this matter ought not to go into this bill.

Mr. MANN. I understood that it was agreeable to the committee. Is not that correct?

Mr. STEPHENS of Texas. Yes.

Mr. STEENERSON. It was considered in the committee.

Mr. STEPHENS of Texas. We have made a favorable report on the amendment. We had a special meeting of the committee and agreed to this amendment; agreed that it might be offered on the floor. It is not in the bill, but I desire to state to the gentleman from Illinois [Mr. FOSTER] that the committee agreed to this amendment at a special meeting.

Mr. FOSTER. But the committee has never reported a bill on the subject and placed it on the calendar.

Mr. STEPHENS of Texas. It has been the custom, Mr. Chairman, for a number of years that the committee could be authorized to offer, through its chairman, on the floor such amendments, and we have followed that custom in this instance, for the reason that the data were not before the committee at the time we reported the appropriation bill; else we would have reported it with the amendment of the gentleman from Minnesota [Mr. STEENERSON].

Mr. FOSTER. It does seem to me that this amendment ought not to be put on at this time, without giving opportunity for a study of this question. I am not saying that this matter is not all right, but it does not occur to me that it ought to go in here.

Mr. STEENERSON. Will the gentleman reserve the point until I can make a further explanation?

Mr. FOSTER. Yes. I have no objection.

Mr. MILLER. Mr. Chairman, before my colleague [Mr. STEENERSON] makes his statement, I would like to call the attention of the gentleman from Illinois [Mr. FOSTER] to the fact that this is the only way to get any legislation through at this session of Congress. It is undoubtedly right that under ordinary circumstances a bill should be introduced and passed upon by the committee and reported to the House and taken up by itself, but under the present condition of things the gentleman from Illinois knows, as every one of us knows, that there will be no legislation on this subject at this session of Congress—that is, this year—unless it is done by way of amendment to this bill. Now, this is not a large item. It is really quite an insignificant item, but it is important to a large number of Indians. Unless this survey can be secured in this bill it will not be secured at all. Unless this drainage survey can be made or authorized within a year, it is probable that it never can be made for the welfare of these Indians.

Mr. FOSTER. Why does the gentleman make that statement?

Mr. MILLER. The allotments may be made up there in that region before it can ever be reached, and if that should be done the opportunity for a survey of this kind would be largely removed.

Mr. STEPHENS of Texas. This is reimbursable, and is an unexpended balance of an appropriation for a survey partly made. The time expired before they could complete the survey, and this provision is for the expenditure of the unexpended balance for the survey.

The CHAIRMAN. Is the point of order made against the amendment?

Mr. STEENERSON. Mr. Chairman, I desire to make a further explanation.

Mr. FOSTER. I will hear the gentleman's explanation, and if it is satisfactory I may withdraw the point of order.

Mr. STEENERSON. I can realize that the zeal of the gentleman from Illinois [Mr. FOSTER] requires him to consider this matter very carefully. I desire to say that it was presented to the committee at a special meeting and approved. Now, this reappropriation is part of an appropriation made reimbursable out of the funds of the Indians, and then, in order to recoup the amount of the expenditure for a drainage survey, the price of the unsold lands originally contributed by the Red Lake Indians, being 1,500,000 acres, was raised 3 cents an acre. Eventually that will bring back into the Treasury more than the sum appropriated or expended for the drainage survey. We have appropriated $35,000 and have spent $30,000. The money was appropriated especially for a drainage survey, and this being money of the Indians, proposed to be expended for the benefit of the Indians, it seems to me that some consideration should be given to those who represent those Indians. It is simply a method of using the property of the Indians for their own benefit, and it is not tenable to say that this money belongs to the United States.

I notice that several erroneous statements were made in the debate on this matter on Saturday. My colleague from Minnesota [Mr. MILLER] in a colloquy admitted that this money, derived from the increase in the price of the sale of the Indian lands, would belong to the United States. Now, that is not correct, because the land was conveyed to the United States under the act of 1889 by the Indians in trust for the purpose of being disposed of, and when the price is increased the trustee does not get the benefit of the increased price, but it inures to the benefit of the cestui que trust. Therefore this money ultimately belongs to the Red Lake Indians who furnished the 3,000,000 acres to be put into the pot and sold to raise the common fund. The act which made the appropriation made it reimbursable, and I can not see why this item should not now be agreed to. I hope the gentleman from Illinois [Mr. FOSTER] will withdraw his point of order, that he will not insist upon it, because it is necessary to have this survey made this summer in order to make the allotment. I do not understand that it is the policy of the department to allot the agricultural lands on the Red Lake Reservation without first making this survey. That is the object of this item—to get a survey and to find out how much agricultural land there is available for allotments in severalty.

It is the first step toward an allotment of lands in severalty. All the agricultural and timber lands on this reservation are now held in common. This has been asked for at three or four meetings, and it seems to me that in view of the fact that the Indians are unanimous, both factions of them, and in view of the fact that the Representative in Congress from that district, who has visited this reservation within the last 60 days and inquired into this matter, is strongly in favor of it, some consideration ought to be given to the wishes of the Indians, whose money we are appropriating, and to the statements of the Representative from that district. I therefore hope that the gentleman will withdraw his point of order.

While I am on my feet I desire to say that the record of the debate of last Saturday does not clearly show what the so-called Eleven Towns were sold for.

To show what was realized from the Eleven Towns, I will print the following statement from the Crookston Land Office:

ELEVEN TOWNS.

During the several councils held by the Red Lake Chippewa Indians during the past summer, reference has been made by many of the older Indians to the matter of the sale of the "Eleven Towns" bordering the west end of the present reservation. It will be remembered that the purchase price as agreed by the Indians for this tract was $1,000,000. The fact of the matter is that this consideration has been exceeded to the benefit of the Indians to the amount of $260,000, as shown by the following letter:

CROOKSTON, MINN., *September 27, 1912.*

Hon. HALVOR STEENERSON,
Crookston, Minn.

DEAR SIR: In compliance with your request we submit the following figures, which are a revision of our report to you under date of March 6, 1912, to and including this date:

Area of Eleven Towns	acres	265,000
Entered to date	do	262,000
Unentered land	do	3,000
Purchase price of land heretofore entered		$1,260,000
Amount paid		1,055,000
Unpaid balance		205,000

The unentered area is subject to sale at the minimum price of $4 per acre.

Respectfully,
A. P. TOUPIN,
Register, Crookston Land Office.

It will be seen that these lands were sold for $260,000 more than the Indians had agreed to take for them under the McLaughlin agreement. So it appears that these matters have been handled with skill by the department, and the Indians are perfectly satisfied that they have been fairly and liberally treated in this matter. I appeal to the gentleman from Illinois [Mr. FOSTER] to allow this survey to be made. Otherwise the whole matter will be delayed for a year.

Mr. FOSTER. Mr. Chairman, in my judgment it is not a good plan to take up a matter of this kind, involving a project of this magnitude, on an appropriation bill, and I think the House probably has some reason to complain if amendments are put on in some other body and come back here for adoption by this House when we have had no opportunity to consider them. But as I am informed by the chairman of the committee, the gentleman from Texas [Mr. STEPHENS], that this matter has been fully considered in the committee and approved, and in view of the statement made by the gentleman from Minnesota [Mr. STEENERSON] who knows the situation, I feel that I am willing to take his word for this and the action of the committee, and I therefore withdraw the point of order.

Mr. STEENERSON. Mr. Chairman, the gentleman from Illinois withdraws the point of order.

The CHAIRMAN. The gentleman from Illinois withdraws the point of order. The question is on the amendment offered by the gentleman from Minnesota.

The amendment was agreed to.

Mr. FERRIS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FERRIS. I may be mistaken about it, but I do not recall that there was any disposition of the pending amendment of the gentleman from Montana [Mr. PRAY].

Mr. MANN. That was laid over temporarily.

The CHAIRMAN. It was agreed to pass that over for the present. The Clerk will read.

The Clerk read as follows:

NEBRASKA.

SEC. 11. For support and education of 300 Indian pupils at the Indian school at Genoa, Nebr., and for pay of superintendent, $52,100; for general repairs and improvements, $4,500; in all, $56,100.

Mr. STEPHENS of Texas. Mr. Chairman, I have a committee amendment which I send to the Clerk's desk.

The Clerk read as follows:

Page 16, line 18, after the word "hundred," add the words "and seventy-five." Line 20, strike out "52,100" and make it "62,300." In line 21, strike out "56,100" and insert in lieu thereof "66,800."

Mr. STEPHENS of Texas. Mr. Chairman, the reason for making that amendment is this: The general bill provides for 300 Indians at the Genoa School, Nebraska. We find that there are enrolled there 373 pupils, and we have made no provision for 73 of them. We find that the bill does not provide for 73 Indians, and therefore on a pro rata appropriation we offer this amendment to cover those 73 Indians unprovided for.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. STEPHENS of Texas. I yield to the gentleman from South Dakota.

Mr. BURKE of South Dakota. I wanted to ask the chairman of the committee if the attendance at this school last year was not 375 pupils, in round numbers?

Mr. STEPHENS of Texas. Three hundred and seventy-three.

Mr. BURKE of South Dakota. They conducted the school upon an appropriation that was made for 300.

Mr. STEPHENS of Texas. That is right.

Mr. BURKE of South Dakota. Now it is proposed to increase the appropriation without increasing the attendance, if I understand the chairman correctly.

Mr. STEPHENS of Texas. They were not provided for last year, for the reason that it was not called to the attention of the House or the Committee on Indian Affairs that they had 73 additional Indians in the school there which the appropriation did not cover.

Mr. BURKE of South Dakota. I understood the gentleman to say that the attendance of the school last year was 373—that is, this year—and that they have been able to take care of that number with the appropriation that was made for the school.

Mr. STEPHENS of Texas. My secretary calls my attention to the fact that there were only 318 pupils last year; that is, they had 18 over the 300 that were appropriated for. This

year they have 373 pupils, or 73 above the number appropriated for.

Mr. BURKE of South Dakota. I would like to ask if this was an item passed upon by the committee. I was not able to be present at the last meeting of the committee.

Mr. STEPHENS of Texas. Yes; it was presented, and the committee authorized the chairman to offer this amendment because they have the additional number of pupils there not provided for.

Mr. BURKE of South Dakota. I will call the gentleman's attention to one thing that caused me to make the inquiry, and that is, in considering the bill we did not allow in any case an increase of the appropriation to provide for an attendance greater than we had before.

Mr. STEPHENS of Texas. If that had been called to the attention of the committee at the time we passed the bill we would have provided for 373 pupils or required them not to add that number to the school; but as they were enrolled, and have been for the last six months, from September to the present time, we think they ought to have the present amount.

Mr. MANN. Will the gentleman yield?

Mr. STEPHENS of Texas. Certainly.

Mr. MANN. Is there any deficiency item this year for this school? In other words, if they now have 373 pupils at this school, and the appropriation in the bill is the same as for the current appropriation law, you propose to increase the amount of the bill. Is that based upon the proposition that there is a deficiency appropriation for this year?

Mr. STEPHENS of Texas. I do not understand whether there will be a deficiency or not, for I have not the records before me at the present time.

Mr. FOWLER. Will the gentleman from Texas yield for a question?

Mr. STEPHENS of Texas. I will yield to the gentleman from Illinois.

Mr. FOWLER. I see by the amendment that you increase the appropriation $200 above that of the last appropriation bill.

Mr. STEPHENS of Texas. Ten thousand two hundred dollars, for the reason that we have 73 pupils more than the bill provides for.

Mr. FOWLER. I understand you ran the school last year on $66,200, with the same number of pupils.

Mr. STEPHENS of Texas. No; that is where the gentleman is in error. We only had 318 pupils, and now we have 373.

Mr. MANN. And that included $10,000 for a special purpose that had nothing to do with the maintenance of the pupils.

Mr. FOWLER. I understand there is no deficiency from the last appropriation.

Mr. STEPHENS of Texas. I have not had an opportunity to examine that question.

Mr. FOWLER. Does not the gentleman think the school could be run on the same amount of appropriation for the coming year that was made the last year?

Mr. STEPHENS of Texas. It could, but we only had 318 pupils last year. Now we have 373, and these additional pupils will require the additional amount.

Mr. CLARK of Florida. Mr. Chairman, on last Saturday, while the House was in Committee of the Whole considering the Indian appropriation bill, I was called from the Chamber by a constituent, who detained me for several minutes. During my temporary absence it appears that the Seminole Indians of Florida, and indeed Florida herself, were quite fully discussed by a number of gentlemen. In the course of the debate, which was supposed to relate to a certain item of appropriation for the Florida Seminoles, the following colloquy, as shown by the RECORD at page 998, took place:

Mr. FERRIS. I desire to say to the gentleman that the President has really taken some steps. These Indians in the Everglades are as wild as rabbits, and up to this time they have not been able to do anything with them; but the President has by Executive order set aside a tract of land comprising 85,000 acres, and the Indian Office has tried to get these Indians on it, tried to get hold of them, lasso them, or catch them in some other way and put them on it.

Mr. MANN. This talk about the Indians being so wild is all fudge.

Mr. FERRIS. Well, the Indian Office does not say so.

Mr. MANN. What do they know about it?

Mr. FERRIS. They have been down there.

Mr. MANN. They sent one man on a winter trip, at a cost of $154; that is all they know about it. They do not know anything about it. There never was any occasion for the Government spending a cent on these Indians down there; they are not asking it.

Mr. FERRIS. They have not got sense enough to ask for anything.

Mr. MANN. The gentleman need not be alarmed; they have got a great deal more sense than some of the native Crackers of Florida and are quite able to take care of themselves; they are pretty bright people down there.

It will be observed, Mr. Chairman, that the distinguished gentleman from Oklahoma likens the brave remnant of Seminoles left in my State to "rabbits," and the great leader of the minority, the gentleman from Illinois, solemnly declares that the Seminoles "have a great deal more sense than some of the native Crackers of Florida." Mr. Chairman, I can not allow these statements to go unchallenged and by my silence appear to acquiesce in them; and I ask the House to bear with me for a few moments while I submit a few observations relative to them.

I was amazed when I read the language of the gentleman from Oklahoma, who has so large an Indian constituency, wherein he compares this remnant of a once populous and warlike tribe of Indians to "rabbits." I assert, Mr. Chairman, without the slightest fear of successful contradiction, that no braver people among all the nations and tribes of American Indians ever inhabited this continent than those who followed the waving plume of Osceola. It is true they are uneducated, but that is not their fault. It is the fault of this great Christian Government, which has forcibly deprived them of their all and left them in poverty and ignorance to meet the issues of a new life. If you really wish to help the Seminoles of Florida, establish schools among them, with faithful and competent instructors, and lift them up intellectually, so that they may assume the duties of citizenship and become factors in our much boasted civilization. Let my friend from Oklahoma quit referring to them as "rabbits," but rather let his committee bring in a bill making provision for the education and elevation of these unfortunate people.

But, Mr. Chairman, I desire more particularly to address myself to the reference made by the great minority leader to the Florida "Cracker." Mr. Chairman, "Cracker" is a title proudly worn by every true Floridian, whether he be a son of that great Commonwealth by birth or by adoption. The man who lives in Florida for two or three years, whether he hails from the North, the East, the West, or some other portion of the South, assumes the title of "Florida Cracker," and wears it as a badge of the greatest honor. And why should not he be proud of the distinction, Mr. Chairman? Gen. Edmund Kirby Smith, one of the greatest, one of the manliest, one of the bravest of that magnificent body of men who constituted the commanding officers of the Confederate States army, was a native-born "Florida Cracker." Gen. Edward A. Perry, although born in Massachusetts, was a "Florida Cracker" by adoption, and as brigadier general in the Confederate army illustrated his dauntless bravery and unflinching courage on many hard-fought fields. [Applause on the Democratic side.] Dr. John Gorrie, the gentle and faithful physician who invented the process for manufacturing ice artificially, and thus became the greatest benefactor to humanity of modern times, was a "Florida Cracker." And I could fill the RECORD with the names of individual "Florida Crackers" who have become eminent in some field of human activity, but time will not permit. I can not, however, let this opportunity pass without calling attention to the fact that Florida has only been in the Union for 68 years; the Civil War and other causes delayed her development, and she really only began her march of progress within the last quarter of a century. She is in reality a pioneer State to-day. Her resources have hardly been touched, and no human mind can foresee the vast possibilities in store for her. To the original pioneers, those sturdy Americans, unlettered it is true, but as brave and patriotic souls as ever heard the war cry of the savage, who conquered Florida, is due the credit of giving this magnificent domain to the American Union. [Applause.]

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. TOWNSEND. Mr. Chairman, I ask unanimous consent that the gentleman from Florida may continue for five minutes.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to complete this bill to-day, and I shall have to object.

Mr. MANN. How much time does the gentleman desire in which to conclude?

Mr. CLARK of Florida. I will get through in 10 minutes.

Mr. MANN. Then, Mr. Chairman, I ask unanimous consent that the gentleman from Florida may continue for 10 minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the gentleman from Florida may continue for 10 minutes. Is there objection?

There was no objection.

Mr. CLARK of Florida. Mr. Chairman, they and their descendants are the people to whom the distinguished gentleman from Illinois refers to as so lacking in sense. These men who blazed the pathway of civilization through the primeval forests, exterminated the wild beasts of the jungle, conquered and reduced to subjection the untutored but warlike and courageous Seminole, may not have been as cultured and polished as the collegian, but they were the bravest of the brave; they were as honest as honesty itself; in their veins flowed the purest

strain of American blood, and their every heartbeat was attuned to the sweet song of human freedom.

Mr. Chairman, the "Florida Cracker" of to-day possesses every element of manhood which made glorious the record of his ancestry, and I repudiate with all the force I can command the imputation that he is not in every essential respect the equal of any man who walks upon the earth.

Why, Mr. Chairman, the very atmosphere of Florida conduces not only to a broadening of the intellectual man, but it tempers and refines the moral sensibilities. The "Florida Cracker" has "sense" enough to keep on the statute books of his State a law which forever makes impossible the shocking of the moral sense of all decent people by the union of a half-witted white girl with a black negro brute. If the culture, refinement, and "sense" of Chicago is exemplified in the recent legal marriage of the negro brute Jack Johnson and that poor, miserable white girl, then may the great God of the heavens and the earth forever deliver my people from the Chicago variety. The "Florida Cracker" has "sense" enough to know that God Almighty never intended that the black crow should roost where the gray eagle builded her nest; he has "sense" enough to know that the Great Creator, for some reason of his own, in the very dawn of human existence, separated the white and black races by insurmountable barriers; and he has "sense" enough to have no patience with that class of alleged white men and women who, having no pride of race, would set aside the solemn decree of the Almighty and by amalgamation bring the proud Caucasian to the level of the brute African and make of this great Republic a Nation of mongrels. He has "sense" enough, decency enough, love of race enough, and enough reverence for the decrees of Almighty God, no matter what the people of other lands and other States may do, to forever preserve the white civilization of Florida from the degradation of social equality with the negro. [Applause on the Democratic side.]

Mr. Chairman, Florida, with her balmy climate, her health-giving springs, her beautiful lakes, her magnificent rivers, her wonderfully productive soil, invites the citizen of every section to come and live and enjoy life within her borders. He will find us a generous, warm-hearted, and hospitable people. We care not where he was born; that is immaterial. We care not what may be his politics or his religion; that is his business. But we do not care to have him come laboring under any mistaken idea as to our purpose to maintain our present civilization. When he comes to Florida he comes to a State where white supremacy obtains and will be maintained; he comes to a State where the virtue of women is the chief corner stone of the structure and will be protected; and he comes to a State where the institutions of our Government are to be preserved as established by the fathers of the Republic. [Applause.]

Mr. STEPHENS of Texas. Mr. Chairman, I ask for a vote on the last amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk again reported the amendment.

The CHAIRMAN. This seems to include more than one amendement. If there be no objection, the amendments will be considered en bloc. The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The Clerk read as follows:

For pay of 1 clerk at $1,400, 1 financial clerk at $1,200, 1 assistant clerk at $720, and 1 laborer at $720, at Winnebago Agency, Nebr.; in all, $4,040.

Mr. FOWLER. Mr. Chairman, I reserve the point of order on this paragraph. I desire to inquire of the chairman of the committee the necessity for this new legislation. I discover that the bill last session did not carry this appropriation.

Mr. STEPHENS of Texas. Mr. Chairman, I will state to the gentleman from Illinois that this is taken out of the lump-sum appropriation, and that amount is deducted from the lump-sum appropriation because it was considered by the department to be good legislation, so that they could be directed how much they shall expend in this State at this place. This specific expenditure is deducted from the lump-sum appropriation carried in the fore part of the bill. It does not cost the Government any more, and it specifically directs how this amount shall be expended.

Mr. FOWLER. Does the lump-sum appropriation carry an appropriation for the different places that are provided for in this paragraph?

Mr. STEPHENS of Texas. The aggregate amount of the lump sum included this appropriation, but it was thought better legislation to put this provision in the bill, and it was so drafted by the department.

Mr. FOWLER. As a matter of fact does this school have a financial clerk, an assistant clerk, and a laborer at this agency?

Mr. STEPHENS of Texas. In the Winnebago Agency, Nebr., there is a school, and this is for the whole State of Nebraska. There is quite a large agency there—agency buildings—and they have general supervision of all of the Indians in that State. I do not remember the number of Indians, but there is quite a number of Indians in that State. These clerks have to manage the affairs of that agency and do all of the clerical work.

Mr. FOWLER. The gentleman does not answer the question. Have these positions been carried at this agency, at the Winnebago Agency, prior to the bringing of this bill?

Mr. STEPHENS of Texas. They have for a number of years. They have the same number and the same pay. They do the same labor as the others. There is one laborer provided for at $720.

Mr. FOWLER. Mr. Chairman, with the assurance that it costs no more, I withdraw the point of order.

Mr. MANN. Before the gentleman withdraws the point of order, will he still reserve it for a moment until I can ask a question?

Mr. FOWLER. Certainly.

Mr. MANN. Out of what item in the bill is this taken?

Mr. STEPHENS of Texas. The lump-sum appropriation.

Mr. MANN. Yes; but where is the item, the lump-sum appropriation, that carries it now?

Mr. STEPHENS of Texas. The amount is $80,960, for the pay of employees, and so forth.

Mr. MANN. That is for the pay of employees not otherwise provided for?

Mr. STEPHENS of Texas. Yes; lines 14 to 17, page 7:

For pay of employees not otherwise provided for; and for other necessary expenses of the Indian service for which no other appropriation is available, $80,960.

One hundred and twenty-five thousand dollars was carried in that item last year, and we reduced it to $80,960 this year, because we have made this change in several Indian reservations. We thought it was more desirable, and so did the department.

Mr. MANN. As I understood the statement the other day, it was that the reduction was made on account of the agency in Oklahoma.

Mr. STEPHENS of Texas. I think we followed that rule in a good many agencies.

Mr. MANN. There were a lot of special agents in Oklahoma.

Mr. STEPHENS of Texas. The gentleman from Minnesota [Mr. MILLER] is acquainted with that matter.

Mr. MANN. I think the statement was made that the reduction in that item was because there was no provision in the bill this year for certain special agents in Oklahoma, to cover which the amount was increased in the Senate last year.

Mr. MILLER. Mr. Chairman, I think the gentleman from Illinois is correct in that statement; but I think, however, in addition to that deduction, that there is to be made another one for these segregated items. I am not entirely familiar with all of the details of this, excepting that my recollection is distinct that information was furnished the committee, or at least myself when I passed upon the matter in my own mind, that this was a deduction from the lump sum which had been expended heretofore, and, as the gentleman from Texas [Mr. STEPHENS] has well said, similar segregations are to be found in two or three other instances. For one I think it is vastly preferable to have each item segregated by itself, so that when we make appropriations we may know the exact amount that is going to the different places.

Mr. MANN. Of course that depends upon whether it is more expensive, and whether they need all of these employees at this point.

Mr. MILLER. Of course, assuming the expense is not increased, and that the result will ultimately be a decrease. I do not think there is any question but that this is a reduction from the lump sum heretofore appropriated.

Mr. FOWLER. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

For the construction of a bridge across the San Juan River at Shiprock, N. Mex., on the Navajo Indian Reservation, to be immediately available, $16,500.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on this paragraph. I desire to ask the chairman the necessity for the construction of this bridge.

Mr. STEPHENS of Texas. I will state that last year a showing was made before the committee sufficient to convince them that it was necessary to construct this bridge, and we appropriated $1,000 for plans and specifications and a survey

across the river at this point. This is what I find the department says in justification of this amendment:

For the construction of a bridge across the San Juan River at Shiprock, N. Mex., on the Navajo Indian Reservation, to be immediately available, $16,500.

This bridge is to replace a bridge at Shiprock, N. Mex., which was totally destroyed by a flood, on October 6, 1911. The San Juan River is a dangerous one to ford, and the loss of the bridge is, therefore, a serious one for the Indians, as well as to the agency employees and white people with whom the Indians have business relations. The proper handling of the affairs of the Indians renders the reconstruction of this bridge imperative, as more than half of the Indians on the San Juan Reservation live south of the river, the agency being located on the north side of it.

In the act of August 24, 1912, Congress appropriated $1,000 for an investigation and report as to the necessity for this bridge and an estimated limit cost thereof, which report has been submitted in accordance with the provisions of the act. (See House Doc. No. 1015, 62d Cong., 3d sess.)

Mr. FOWLER. Who made the investigation?

Mr. STEPHENS of Texas. It was made by the engineers of the Indian Department.

Mr. FOWLER. Have you the report?

Mr. STEPHENS of Texas. I have the report here. It is a public document, No. 1015, Sixty-second Congress, third session.

I will state to the gentleman that if there is a bridge in the United States which should be built, this is the one, because the Indians are all on one side of the river and the business on the other side, and at one time an overflow took out the abutments of the bridge which was there.

Mr. FOWLER. Why is not that in the hearings?

Mr. STEPHENS of Texas. When we had a document setting forth all of this information, it certainly would not have been right or justifiable to cause the Government to have reprinted something that we already had before us.

Mr. FOWLER. While that may be true, those Members who are not members of the Committee on Indian Affairs are not always able to lay their hands on every piece of information which they desire.

Mr. STEPHENS of Texas. This is a document. I will state, that every man can get by sending to the document room for it.

Mr. MANN. Mr. Chairman——

Mr. CULLOP. Mr. Chairman——

The CHAIRMAN. To whom does the gentleman from Illinois [Mr. FOWLER] yield?

Mr. FOWLER. I will yield the floor to the gentleman from Indiana [Mr. CULLOP] or the gentleman from Illinois [Mr. MANN] for a question.

Mr. CULLOP. Mr. Chairman, I desire to ask the gentleman from Texas [Mr. STEPHENS] a question. New Mexico now being a State of the Union, would it not be the province of that State to build this bridge and tax the property of the people of that State for that purpose, instead of the National Government?

Mr. STEPHENS of Texas. If the gentleman will permit me to state, this bridge was built originally by the Government for the Indians, and was washed away. This is a very large reservation, possibly 100 miles from end to end, and about that distance wide. These Indians, as I have stated, are on the opposite side of the river, where they are occupied in farming, while the railroad and the places in which they do business are on the other side of the river. I am advised that the river is so dangerous on account of quicksands, and so forth, that it is often difficult to get to these places.

Mr. CULLOP. But the property of the people in these towns who get advantage of the trade of the Indians ought to be taxed as other property of that State now is taxed, for the purpose of building this project. They are the beneficiaries and ought to bear the expense of this improvement.

Mr. STEPHENS of Texas. No Indian land is taxable.

Mr. CULLOP. I am not referring to the Indian land, but the other property there which is taxable, the railroad, the stores, the lands of the citizens of the State, just as the property in other States is taxed for public improvement. Why should not this property in the State of New Mexico be taxed for the purpose of building this bridge, which is a public improvement of the State, instead of the United States Government bearing the expense of it?

Mr. STEPHENS of Texas. I yield to the gentleman from New Mexico [Mr. FERGUSSON].

Mr. FERGUSSON. Mr. Chairman, I am personally acquainted with the situation where this bridge is located in New Mexico, and in answer to the gentleman from Indiana [Mr. CULLOP] I will state that the larger part of the reservation where the Indians are located is on the southern side of the San Juan River. The railroad and coal mines are on the north side. When a few years ago they came to establish an agency and a school for these Indians they established it on the north side of the river, for the reason that the railroad and station are on that side and the coal is mined on that side of the river, and therefore they established the agency and school on the side of the river where the railroad was located and where the coal was mined for convenience. So, in answer to the gentleman from Indiana, I will state that it is a part of the Government's business to build this bridge across the river in order to connect the body of the reservation with the other side of the river. It is Government business and not the business of the citizens of the State there. The report of the constructing engineer, which was adopted by the Secretary of the Interior, in recommending this bridge, shows the reasons more succinctly than I can state them, among which are that the river has quicksands, that it is wide and flows over sand, that it is almost for half a year unfordable and impassable, and that the Indians have large numbers of ponies, hides, and wool which they have to transfer across the river. These Navajos are industrious. It is necessary to get across to the railroad and to the towns where the Americans live, where they find a market for their blankets. For half a year the river is unfordable and impassable, as is shown by the Secretary of the Interior in his report in favor of this item. We think it is a part of the Government business. This Government agency is a very large one. The Indians are industrious and prosperous. Their blankets are getting an international reputation and are sold all over the world. They have their sheep and cattle. I have seen in the streets of Albuquerque herds of 200 or 300 ponies brought down to sell. The Indians are worthy of the help that is asked in this matter in order to get across the river to the markets on the other side, to the coal, and to the railroad supplies.

Mr. CULLOP. I would like to ask the gentleman from New Mexico a question if he will permit. How large is the town across the river from this reservation?

Mr. FERGUSSON. I do not remember exactly. I should say it had fifteen hundred to two thousand population.

Mr. CULLOP. Is Farmington the name of the town?

Mr. FERGUSSON. That is not immediately near where this bridge is to be. I have not the exact figures at hand, but if the gentleman desires he can get them. The agency is located on one side of the river, approximately 40 miles west of Farmington.

Mr. CULLOP. Does not the public use this bridge?

Mr. FERGUSSON. To some extent these Indians do business with the general public. That is where they sell their blankets and hides and wool.

Mr. CULLOP. Now, Mr. Chairman, I think the explanation made by the gentleman from New Mexico [Mr. FERGUSSON] of the conditions existing there, and the explanation made by the chairman of the committee, who also is conversant with the conditions there, makes it the more essential that this bridge ought to be built by the citizens of New Mexico under the laws of that State as other public improvements are made. This is not a bridge for the Indians alone, but it is a bridge for public convenience, people of all classes. Their products are taken to market there and put upon the trade of the world. It is a growing commerce, just like the commerce of other citizens and localities, just as the products of other people are turned into the marts of trade. I can see no reason why the people of New Mexico should not be taxed to build this bridge just as the people of other States are taxed for public improvements within their boundaries. In my judgment it would not be right to make the improvements contemplated out of the public funds of the National Government. I hope the gentleman from Illinois [Mr. FOWLER] will insist upon his point of order.

Mr. MILLER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Indiana yield?

Mr. CULLOP. Certainly.

Mr. MILLER. While I am not familiar with the constitution of the State of New Mexico, I assume that it is similar to the constitutions of other States of the Union, and if so, I ask the gentleman if there would be any authority of law on the part of the legislature of the State, or any of its subdivisions, or the taxing power, to expend the funds of the State or county or city to build this bridge wholly on United States territory, on a United States reservation?

Mr. CULLOP. Oh, that matter could be very easily adjusted by coming to Congress and getting a bill passed, granting permission to build the bridge, just as railroads do it, and just as dams are constructed by private owners. And the taxing power of the State of New Mexico could be invoked to tax the property and raise the funds to build the bridge just as internal improvements are made in every other State of the Union.

Mr. MILLER. I am quite sure the gentleman does not mean just that. I am sure that if he will stop a moment and reflect he will not say that.

Mr. CULLOP. I mean exactly what I say. The Congress has the power to grant to the government of the State of New Mexico the right to bridge any of its streams.

Mr. MILLER. That is absolutely true; but evidently the gentleman did not catch the point of what I intended to say. Perhaps I did not make it clear. There is no power possessed by the State of New Mexico or any subdivision of that State to appropriate the funds of that State to build a bridge wholly upon United States territory or upon a United States reservation.

Mr. CULLOP. Well, if the taxing power of New Mexico does not go that far in building up the public improvements of the State, the internal improvements of the State, its people have been neglectful in exercising the powers which the legislature of that State should have exercised in building up and advancing the best interests of the State. Every other State, practically every other one, is exercising just such a power as that. New Mexico could do so if it exercised the powers granted it.

Mr. MILLER. I beg to differ with the gentleman.

Mr. CULLOP. I hardly know of any State that has the power to make a law to tax the property of a locality for public improvements, a power which is not denied under the Federal Constitution and is provided for in the constitutions of the several States of the Union. It could easily get authority from the National Government to construct this bridge, though it be located on Federal property.

Mr. MILLER. We do not differ on that at all; but I still have not made myself clear, I am sorry to say. While the State of New Mexico undoubtedly possesses the powers for public improvements similar to those possessed by other States, neither New Mexico nor any other State has the right or power to appropriate its money to build an improvement on anybody else's territory. In this case it is the territory of the United States. It has no more power to do that than it has the right to appropriate money to build a bridge in Alaska, or on the moon, or in Germany, or in Indiana. [Laughter.]

Mr. CULLOP. Oh, that is not the proposition involved here. Here is property in the State of New Mexico which is subject to the control of that State. I understand that it is Federal property, and the Federal authorities can grant a concession to build the bridge. They have that right, and so has Congress the right to do it. This is not for the Indians alone, but it is for the general public of New Mexico. It is for the convenience of the general public in that section of that State, and is required as well for the requirements of the general public as for the Indians residing in that locality. It will improve the property of all, and the public good will be served by its erection, and for this reason I contend the people of that State should bear the expense thereof and not the National Government. In my judgment, there is a growing tendency to relieve the States of matters of this kind and fasten them on the Federal Government. This practice is unjustifiable and should not be employed. This particular matter belongs to the State of New Mexico and it should bear the cost of it, as it is the direct beneficiary of the good which will flow from this improvement.

Mr. CARTER. Mr. Chairman, will the gentleman yield to me for a moment?

The CHAIRMAN. Does the gentleman from Indiana yield to the gentleman from Oklahoma?

Mr. CULLOP. Certainly.

Mr. CARTER. I do not now recall just what the constitution of New Mexico provides, but I know the constitution of Oklahoma sets forth that the taxes or funds of one community can not be used to build public improvements in another community.

Now, the gentleman will understand that here we have, as has been stated by the gentleman from Texas [Mr. STEPHENS], who is in charge of the bill, a reservation of 100 miles square. There are no taxable lands; there is not property there of sufficient taxable value to build this bridge, so that it would be an impossibility to build the bridge, under the constitution of most States, unless the Federal Government did build it, because the taxable values do not exist within the community where the bridge is to be built.

Mr. FOSTER. I would like to ask the gentleman, if I may be permitted, whether the Sante Fe Railroad does not run through there, and whether that property is not subject to taxation?

Mr. CARTER. I understand that the Sante Fe Railroad does run through it, but how much of it is in this community and can be taxed for the purpose of building this bridge I do not know. Can any man say that there is sufficient mileage and property values of the Sante Fe Railroad there to build this bridge?

Mr. CULLOP. I would like to ask the gentleman this: How is it that a town of 2,000 population has been built up there? Where did it get the title to the improvements?

Mr. CARTER. That may be done in several ways. The town sites may have been disposed of. That would be one way.

Mr. STEPHENS of Texas. Mr. Chairman, I ask that all debate on this paragraph be ended in five minutes.

Mr. MANN. Mr. Chairman, I desire to be heard on this for a moment.

Mr. STEPHENS of Texas. I understood that the gentleman from Illinois had withdrawn his point of order.

Mr. MANN. I had not.

Mr. STEPHENS of Texas. Then, Mr. Chairman, I desire gentlemen to confine their remarks to the point of order and not to the general legislation in this bill.

Mr. CULLOP. The point of order is reserved. Now, in reply to what the gentleman has said——

The CHAIRMAN. The gentleman from Texas makes the point of order that the gentleman from Indiana must confine himself to a discussion of the point of order.

Mr. FOSTER. Mr. Chairman, I ask unanimous consent that the gentleman from Indiana have five minutes in which to discuss this question.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the gentleman from Indiana have five minutes. Is there objection?

Mr. STEPHENS of Texas. I shall have to object. I think we have had quite sufficient discussion, and the consideration of this bill must be concluded at some time. I therefore demand the regular order.

Mr. CULLOP. Let me have two minutes. That is all I care for.

Mr. FOSTER. I ask that the gentleman from Indiana have two minutes.

The CHAIRMAN. Does the gentleman from Texas withdraw his demand for the regular order?

Mr. STEPHENS of Texas. I will if we can close the debate on this at the end of seven minutes. The gentleman from Illinois [Mr. MANN] desires five minutes to reply.

The CHAIRMAN. Will the gentleman include that in his request for unanimous consent?

Mr. STEPHENS of Texas. I ask unanimous consent that all debate be closed in seven minutes, five minutes to go to the gentleman from Illinois [Mr. MANN] and two minutes to the gentleman from Indiana.

Mr. MONDELL. I hope the gentleman will not insist on that. I should like to have five minutes.

Mr. STEPHENS of Texas. Then I will make it 12 minutes if that is agreeable.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the present debate be concluded at the end of 12 minutes, five to be occupied by the gentleman from Illinois [Mr. MANN], five by the gentleman from Wyoming [Mr. MONDELL], and two by the gentleman from Indiana [Mr. CULLOP]. Is there objection?

There was no objection.

Mr. CULLOP. Now, Mr. Chairman, in reply to the gentleman from Oklahoma upon this proposition, I have been informed that since 1866 there has been a Federal concession for improvements over lands of this character. Now, the Santa Fe Railroad runs through this reservation, or near it.

Mr. FERGUSSON. The nearest town on the south is about 150 miles away.

Mr. CULLOP. A city has been built up of probably 2,000 population. The power rests with the legislative branch of the government of New Mexico to legislate upon this question, to tax property owned by individuals for the purpose of making public improvements of this kind, and that power in instances of this kind ought to be employed by the States and not by the General Government. The State and its people get the advantage of such public improvements, and in common justice ought to pay for the same.

Mr. CARTER. Will the gentleman yield for a question?

Mr. CULLOP. Yes; if it is a short one, as I have but little time.

Mr. CARTER. I want to ask the gentleman if he knows that the town he speaks of is 34 miles from this bridge?

Mr. CULLOP. If you will tax the property of citizens of New Mexico to build this bridge out of State revenues, you will bring the town that much closer to them. That will be the result of that. It will build up their property, enhance values, and they will take an interest in the expenditure of their own money as a general result. In my judgment it is not right or proper for the Federal Government to be building bridges of

this kind across these streams at the expense of the general public, when they are solely of a local character, for the purpose of improving the property of the citizens of New Mexico and advancing the best interests of the commerce of that State. I think improvements of this kind should be built by the local authorities and not by the General Government. The benefits derived are of a local nature and tend to develop the localities wherein situated, and the expense therefor should be borne by the people and property affected on account of the improvement.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, may I inquire of one of the gentlemen how many Indians there are living south of the river?

Mr. STEPHENS of Texas. I will yield to the gentleman from New Mexico [Mr. FERGUSSON].

Mr. FERGUSSON. I do not know exactly. There are 23,000 or 24,000 Indians, according to the statement of the Secretary of the Interior, and he says the vast majority of them live south of the river.

Mr. MANN. I notice that when the superintendent at Denver wired to the superintendent of the agency at Ship Rock for information he said, "Mail at once number of Indians living south of river." Then he asked him to mail any other data for use in reports justifying need of bridge. Apparently the superintendent at the agency did not think that to state the number of Indians south of the river could be used in justifying the need of the bridge, because, although he had been specifically directed to give that information, the only specific direction in the telegram, he did not give it, and in the report which he made he entirely failed to comply with the only specific request in the order that was given to him, namely, to give the number of Indians south of the river. The gentleman may have it.

Mr. FERGUSSON. Will the gentleman permit me to call his attention to this statement in the report of the Secretary of the Interior——

Mr. MANN. I will if he gives the number of Indians south of the river.

Mr. FERGUSSON. He says the most of them live on the south side of the river.

Mr. MANN. That does not give the information we are entitled to. Now, I call the attention of the gentleman from New Mexico to this proposition in the report of the agent to the superintendent. He stated this:

> A bridge at this place will not only be a great benefit and convenience to the Government in carrying on the agency work here and to the Indians, but it will be a great convenience to the white people of this valley who make frequent trips across the reservation to sell the products of their farms in towns along the Santa Fe Railroad.

It is proposed to have the Government of the United States build the bridge, although apparently it is mainly for the convenience of the white people who live in the valley and who are assumed to own their property, in order that they may make trips across the river and carry their products to towns along the Santa Fe Railroad.

Mr. FERGUSSON. The nearest town is something like 150 miles south, and this agency is 100 miles square. A large part of the business of the Government is on one side of the river and part is on the other side of the river, and the river is impassable during a part of the year.

Mr. MANN. Last year we made an appropriation for the purpose of ascertaining the facts with reference to this, and the only fact that is given in the report as the result of this appropriation of $1,000, outside of the engineering facts, is that this will be a great convenience to the white people of the valley for carrying their products to the towns along the Santa Fe Railroad.

Mr. FERGUSSON. It is a convenience to some of the white people.

Mr. MANN. I have no doubt it is desirable to have the bridge. I think the people of New Mexico—the white people who use the bridge—ought to build one.

Mr. MONDELL. Mr. Chairman, in discussing a matter of this kind it is a good idea to understand the facts. If I misunderstood the situation, as does the gentleman from Illinois and to a greater extent the gentleman from Indiana, I think I should take their view of it. The gentleman from Indiana suggests that the Government should not build the bridge, and the gentleman from Illinois, quoting from the report, also suggests that because of the fact that occasionally the white people use this bridge it ought not to be built by the Government. The gentleman from Indiana emphasizes the fact that there is a town of 2,000 people—the town of Farmington—the inhabitants of which might occasionally use this bridge. Farmington is 30 miles from the site of this bridge. It is on another river—the Las Animas. The ford across the San Juan is dangerous, as I have personal knowledge.

A bridge is absolutely necessary to connect the two parts of the Navajo Reservation, and also to bring the part of the reservation lying south of the river where practically all of the Indians live in communication with the country in the north where the Indians sell their products. There may be occasionally a white man who would go from Farmington or Aztec to the towns on the Santa Fe over this bridge, but I can not understand why they would do that when they have a railroad at their door.

The people of New Mexico have built bridges across the Las Animas which enables the inhabitants to reach Farmington from the north side of the river. The people of New Mexico have fulfilled their duty in the matter. Some one should build this bridge; it ought not to be the people of New Mexico. I think the item should be reimbursable, for I believe the Indians will be able to ultimately pay for it. This bridge is wholly on the Indian reservation, and it is primarily for the benefit of the Indians. It is far within the borders of the reservation. The Navajos make fine blankets, which find a ready market, and carry on agricultural pursuits, and the bridge is necessary so that they may have communication with the north and sell their products. It is idle to talk about the people of New Mexico building the bridge. They have already built bridges in the territory adjacent to the reservation. It is idle to talk about asking them to build this bridge wholly within the reservation far from its borders.

Furthermore, this very bill contains a provision for the continuation of an irrigation project on the San Juan, and the necessity for communication between the north and south sides of the river is increasing and will be increased by the construction of the reclamation project.

Mr. MADDEN. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. MADDEN. I would like to ask the gentleman whether the aqueduct that will carry the water is to be built across the bridge and whether the bridge is to be built for the purpose of carrying the aqueduct?

Mr. MONDELL. I do not know that there is to be any aqueduct. The San Juan project is, I think, on the north side of the river. These Indians make blankets. They are highly advanced in their way, and this bridge is on their territory. I think the item ought to be made reimbursable, but the item must be provided for in this bill. The people of New Mexico have not the funds to build it, and I doubt if they have the legal right to build it. They certainly ought not to be required, in addition to building bridges across the rivers of the State outside of reservations, to go into Indian reservations and build bridges there.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I am willing to accept the suggestion of the gentleman and make this item reimbursable. The Indian lands have not been sold but they have a vast territory which when sold I am told will be worth $5,000,000.

Mr. FOWLER. Mr. Chairman, I desire to say that I do not wish to obstruct the progress that is now on for the construction of this bridge. I feel it is necessary that it should be constructed but I do not believe that the United States ought to build it. I understand that the Navajos are a very rich tribe and the people have something like $5,000,000 wealth; that this property where this bridge is to be constructed will be wholly upon their land and if it can be made reimbursable I will agree to withdraw the point of order, and yet I do not think that the Indians ought to build the bridge entirely. I believe the whites use it and ought to be required to help build it the same as the Indians, but in order to get out of the tangle I am willing to withdraw the point of order provided the sum will be made reimbursable.

Mr. MANN. Mr. Chairman, I renew the point of order.

The CHAIRMAN. The point of order is a very plain one and it is sustained.

Mr. STEPHENS of Texas. Mr. Chairman, I will offer the following amendment.

The Clerk read as follows:

> For the construction of a bridge across the San Juan River at Shiprock, N. Mex., on the Navajo Indian Reservation, to be immediately available, $16,500, the same to be reimbursable out of any funds said Indians may have or will have in the Treasury.

Mr. MANN. To that, Mr. Chairman, I reserve a point of order. I suggest to the gentleman from Texas to let it go over a little while.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent to pass the item at the present time.

The CHAIRMAN. Unanimous consent is asked to pass this amendment temporarily and return to it later. Is there objection?

There was no objection.

The Clerk read as follows:

> For the pay of one special attorney for the Pueblo Indians of New Mexico and for necessary traveling expenses of said attorney, $2,000, or so much thereof as the Secretary of the Interior may deem necessary.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word, for the purpose of asking the chairman a question about this item. I notice here that you have an appropriation in this item for the pay of an attorney for the Pueblo Indians, but there is no such item, so far as I have observed, for any of the other tribes. Why is it that an appropriation is made to employ an attorney for this particular tribe of Indians?

Mr. STEPHENS of Texas. Mr. Chairman, I will state to the gentleman that the Pueblo Indians are not one tribe, but that there are many of them, possibly 10 or 12. The word "pueblo" is the Spanish name for town. They are town Indians. They have been there for several hundred years. Those Indians have been farming, and they have Spanish grants for their lands. The boundaries of these grants are indefinite. Farmers came in there, and questions arise in dispute between the farmers and the Indians. I will state that the lands are on the Rio Grande River. Some of the land is irrigable. Since the country has been settled up the white people have been infringing upon the lands of the Indians, and the grants not being well defined the Indians have constant troubles with their neighbors. The Indians, not being acquainted at all with the laws of the country, it has been deemed necessary that the Department of the Interior protect them. This item has been carried in the bill for several years, for the purpose of protecting those helpless Indians living in these pueblos, or towns.

Mr. CULLOP. Are these civilized Indians?

Mr. STEPHENS of Texas. As much so as any Indians could be. They were the original Indians found on this continent. They are possibly the survivors of the mound builders, as far as I know, and the cave dwellers were perhaps a part of these same Indians. That seems to be the best thought of the men who have studied this question.

Mr. CULLOP. Do they carry on farming?

Mr. STEPHENS of Texas. Yes.

Mr. CULLOP. And stock raising and other business?

Mr. STEPHENS of Texas. Yes; more than any other Indians in the country.

Mr. CULLOP. And this attorney is simply to protect their titles as originally granted to them for their lands?

Mr. STEPHENS of Texas. Yes; by the Spanish Government. I will state that several suits are now pending.

Mr. CULLOP. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

> For support and education of 100 Indian pupils at the Indian school, Bismarck, N. Dak., and for pay of superintendent, $18,200; for general repairs and improvements, $2,000; in all, $20,200.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word for the purpose of asking the reason why the appropriation for this agency is cut down from what it was two years ago by the sum of $2,500?

Mr. STEPHENS of Texas. There was the construction of new buildings last year, and they have been completed. It was not necessary to longer carry the item.

Mr. FOWLER. Is that for the waterworks?

Mr. MANN. The provision was for the purchase of water and irrigation for the growing of trees, shrubs, and garden truck.

Mr. FOWLER. Yes; that is the item. I withdraw the pro forma amendment.

The Clerk read as follows:

> For support and education of 400 Indian pupils at Fort Totten Indian School, Fort Totten, N. Dak., and for pay of superintendent, $68,500; for general repairs and improvements, $6,000; in all, $74,500.

Mr. STEPHENS of Texas. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

> Page 19, line 8, after the figures "$6,000," insert the following:
> "For construction of power house recently destroyed by fire and for installation, repair, and improvement of heating and lighting plant, $15,000, to be immediately available."

Mr. MANN. Mr. Chairman, on that I reserve the point of order.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to state that the heating and lighting plant burned down a few weeks ago. That came to the knowledge of the committee since the bill was reported to the House. This is one of the few items that is an emergency item which the committee has authorized me to present to the House in the form of an amendment. The gentleman from North Dakota [Mr. HELGESEN] can explain the item, as this is in his district.

Mr. CULLOP. Mr. Chairman, I would like to ask the chairman a question. Was there any insurance carried on the building?

Mr. STEPHENS of Texas. I am not able to say, but possibly the gentleman from North Dakota can.

Mr. MANN. Oh, the Government does not carry an insurance.

Mr. CULLOP. It is not the policy of the Government to carry insurance?

Mr. STEPHENS of Texas. I understand it is not.

Mr. HELGESEN. Mr. Chairman, on the 28th day of November last the heating and lighting plant of the Fort Totten Indian School was burned. We were notified by telegraph, and I took the matter up with the Indian Department. The department told me they had sent an engineer out there to look it over and that he would make a report. In the course of time the engineer returned and made his report, and Mr. Abbott sent me the following communication, together with the proposed amendment, which I will now read:

> The heating and lighting plant at the Fort Totten Indian School, N. Dak., was destroyed by fire on the morning of November 28, 1912. It is imperative that the item herewith be incorporated in the Indian appropriation bill in order that the school may be provided with heat and light during the coming winter. The appropriation should be made immediately available.
>
> It is only necessary to point out the fact that it is practically impossible for the children and employees to occupy these school buildings without an adequate heating plant, because of the extreme cold climate. The Indian Service is now attempting to heat a portion of the buildings by means of stoves, which are entirely inadequate and are also dangerous because of the probability of fire.
>
> The school plant is without a lighting system and oil lamps are being used, which add to the danger of fire and are wholly inadequate.
>
> The Indian Service has provided a temporary power house, which should be supplemented with a permanent structure at the earliest possible moment.

This is one of the largest schools of the country. It has about 400 pupils. The average attendance is 383 according to the report, and in the cold climate that we have in North Dakota it is utterly impossible to get along with stoves, as they are attempting to do now. There are 34 buildings altogether. This school occupies the site of old Fort Totten and the buildings formerly used as a fort are partly used for this school. There are 20 of these buildings heated by this central heating plant, and without the rebuilding of this plant it would be impossible to conduct the school. A school that is so large that it has an attendance of about 400 it seems to me is entitled to immediate relief in a case of this kind. I do not think it is necessary to go into details in regard to the size of the school.

Mr. MANN. Will the gentleman yield?

Mr. HELGESEN. Certainly.

Mr. MANN. The gentleman, of course, knows that this bill will not become a law until the 4th of March next at best, in all probability.

Mr. STEPHENS of Texas. It is to be immediately available.

Mr. MANN. But it can not be available until it becomes a law.

Mr. STEPHENS of Texas. We hope it will become a law very soon.

Mr. MANN. But the gentleman from Texas does not think there is any likelihood of this bill becoming a law until the 4th of March, does he?

Mr. STEPHENS of Texas. No; and then there will be several months of the school.

Mr. MANN. This is a deficiency item. It does not have any place in this bill at all. If these buildings were burned recently, the department ought to make an estimate for a deficiency appropriation, which might become a law at the early part of this month, if it is reported out by the Committee on Appropriations, which would have jurisdiction. However, I shall not make the point of order. I withdraw the point of order, although it was stupid on the part of somebody in the department in not making a proper estimate in a proper manner, to get the money speedily available. I withdraw the point of order.

The CHAIRMAN. The question now is on the amendment.

The question was taken, and the amendment was agreed to.

Mr. STEPHENS of Texas. I ask unanimous consent that the total be changed so as to correspond to the additional item.

The CHAIRMAN. Without objection it will be so changed.

There was no objection.

The Clerk read as follows:

For fulfilling treaties with Pawnees, Oklahoma: For perpetual annuity, to be paid in cash to the Pawnees (article 3, agreement of Nov. 23, 1892), $30,000; for support of 2 manual-labor schools (article 3, treaty of Sept. 24, 1857), $10,000; for pay of 1 farmer, 2 blacksmiths, 1 miller, 1 engineer and apprentices, and 2 teachers (article 4, same treaty), $5,400; for purchase of iron and steel and other necessaries for the shops (article 4, same treaty), $500; for pay of physician and purchase of medicines, $1,200; in all, $47,100.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word. I want to ask the chairman a question. I see that you have grouped here certain laborers and made a sum total for the pay of the whole number.

Mr. STEPHENS of Texas. In what line?

Mr. CULLOP. Lines commencing with line 4, page 21—

1 farmer, 2 blacksmiths, 1 miller, 1 engineer and apprentices, and 2 teachers, $5,400.

Why were not those items and amounts specified for each?

Mr. STEPHENS of Texas. I will say to the gentleman that this is a treaty item, fulfilling the treaty, and we followed the language of the treaty.

Mr. CULLOP. And this money must be paid whether the employees are used by them or not?

Mr. STEPHENS of Texas. Until the expiration of the treaty.

Mr. MANN. And, if the gentleman will permit, these people are not actually employed.

Mr. CULLOP. I understand; but I would like to know if when they do not employ persons for these occupations whether or not the money is paid out for that purpose or belongs to the Indians.

Mr. MANN. There is a provision in the bill always providing that if a person is not employed the money shall be used for other purposes.

Mr. STEPHENS of Texas. And distributed.

Mr. CULLOP. For other purposes?

Mr. STEPHENS of Texas. It was a general fund, and that was the name of the fund, although it may be applied for other purposes.

Mr. MANN. Of course, they have no use for these people.

Mr. CULLOP. That is what I wanted to know. I withdraw the pro forma amendment.

The Clerk read as follows:

FIVE CIVILIZED TRIBES.

SEC. 18. For expenses of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, $150,000: *Provided*, That during the fiscal year ending June 30, 1914, no moneys shall be expended from the tribal funds belonging to the Five Civilized Tribes without specific appropriation by Congress, except as follows: Equalization of allotments per capita and other payments authorized by law to individual members of the respective tribes, tribal and other Indian schools for the fiscal current year under existing law, salaries and contingent expenses of governors, chiefs, assistant chiefs, secretaries, interpreters, and mining trustees of the tribes for the current fiscal year, and attorneys for said tribes employed under contract approved by the President, under existing law, for the current fiscal year: *Provided further*, That the Secretary of the Interior is hereby authorized to continue the tribal schools of the Choctaw and Chickasaw Nations for the current fiscal year.

Mr. MANN. Mr. Chairman, I move to strike out the last word, for the purpose of asking whether, in line 15, the language reading "for the fiscal current year" is not an error?

Mr. STEPHENS of Texas. It is an error. I move that the words be transposed.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. BURKE of South Dakota. Mr. Chairman, I move to strike out the last word. I want to state that this appropriation of $150,000 in my judgment is not sufficient to provide the necessary administration in the Five Civilized Tribes in Oklahoma. The officials in charge of the Five Civilized Tribes estimated for the next fiscal year that $250,000 would be necessary to carry on the work of administering the affairs of the Indians comprising the Five Civilized Tribes. The department, as I recall, only estimated for $200,000. The appropriation last year, I think, was $200,000 or $250,000. In the portion of the bill that provides an appropriation for special agents $50,000 was carried last year with the understanding that it was to be used for the pay of district agents throughout the Five Civilized Tribes. The estimate this year included $50,000, which had been eliminated, so that there is a difference, if the appropriation last year was $250,000, of $100,000. I believe, Mr. Chairman, that one of the most necessary things for us to do is to continue the district agents. The gentleman from Oklahoma [Mr. FERRIS] I am sure will make the same argument that he has made heretofore, that there are employed at Muskogee alone 500 employees, and that there is expended $1,300,000, which I think are the figures which he usually uses. Now, I am going to discuss, perhaps, a little further on, the number of employees at Muskogee, but I want to state now that I do not think it is a question of how many employees there may be, but the question is are there any employees whose services are unnecessary? That ought to be the question and not the number of employees. I find upon referring to the report of the Commissioner of the General Land Office that there are something like 500 employees in that office, and that under that bureau, in all the different branches, there are something like 1,400 or 1,500 employees. That I submit is no argument that there are too many, without something being asserted to show that the force might be reduced without injury to the service. I think this item of $150,000——

Mr. STEPHENS of Texas. Will the gentleman yield at that point?

Mr. BURKE of South Dakota. Certainly.

Mr. STEPHENS of Texas. Is it not a fact that the last of the lands of the Choctaws and Chickasaws have been sold, except some small parcels of asphalt and oil lands?

Mr. BURKE of South Dakota. It is not a fact at all.

Mr. STEPHENS of Texas. There is very little left.

Mr. BURKE of South Dakota. Perhaps I had better say what I am going to say now, rather than further on, if the committee will indulge me. I will detain the committee but a short time.

The CHAIRMAN. The time of the gentleman from South Dakota [Mr. BURKE] has expired.

Mr. STEPHENS of Texas. I ask that the gentleman's time be extended 10 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. I hope the gentleman will admit that some of the Choctaw and Chickasaw lands have been sold. I think all have been sold, although there may be some small remnants, and it may be that some of the Seminole lands have been divided among them.

Mr. BURKE of South Dakota. I will say to the gentleman—and I hope some of the gentlemen will discuss that feature of it—that of the appropriation of $250,000 estimated for, $50,000 was in the item for the pay of special agents, and that only $15,000 of the amount is to be expended in the administration of the office of the Commissioner to the Five Civilized Tribes. The money estimated for, all but $15,000, is to be expended for administering the affairs of individual incompetent Indians, for district agents, the payment of the several employees of the district agents, and the general administration of their affairs, and only $15,000 of the amount is to be used in the office of the Commissioner to the Five Civilized Tribes.

The gentleman from Oklahoma [Mr. FERRIS] has repeatedly stated, and stated it only recently, that there were 500 employees in the office at Muskogee alone, and that about $1,300,000 was being expended there annually. I am going to state—and I will say that I have obtained this information from the department, so that it is reliable—that during the fiscal year ending June 30, 1912, there was an average of 62 employees in the office of the Commissioner to the Five Civilized Tribes. Their salaries aggregated $69,338.80. The total number of employees on December 26, 1912, including the commissioner, was 51. The total number of employees in the office of the Union Agency June 30, 1912, was 104.

The Union Agency is the general agency that administers the affairs and looks after the noncompetent Indians, and has nothing whatever to do with the commissioner's office, whose business it is to complete the rolls and the allotments and the disposition of the tribal properties.

The salaries at the Union Agency were $118,940, and the field force consisted of 72 persons, as follows: District agency force, 45; oil-field inspection, 3; land appraisers, 10; agricultural work, 12; salaries, $97,400. The Indian police numbered 35, and their salaries aggregated $9,000. The total number of employees December 27, 1912, was as follows: Office, 90; field, 57; Indian police, 25.

Now, I say to the gentleman that if he will figure up the total number of employees at these two offices he will find that the number is very far below 500.

Let us see what the commissioner has done during fiscal years 1911 and 1912—just a few of the things that he has done. During the fiscal year ended June 30, 1911, the commissioner sold 11,330 tracts of land, aggregating 630,237 acres, for $4,212,788, and collected on these lands of the purchase price $1,474,247. Those sales were made with the payments running along for one or two or three years, I think, and the gentlemen from Oklahoma, on account of the drought conditions prevailing down there, very properly secured legislation extending the time of payment—the time when this money should be paid—but necessitating, as everyone will see, a great amount of detail work in the computation of interest and the granting

of these extensions. For the fiscal year ended June 30, 1912, there were sold 5,099 tracts, aggregating 319,310 acres, for $2,038,023, and collected $1,323,068, and also $50,764 of interest on deferred payments.

The gentlemen from Oklahoma, also looking out for the best interests of their State, as they always do—and I commend them for it—secured legislation providing that the moneys belonging to these Indians should be deposited in local banks in Oklahoma. Gentlemen, think of depositing several million dollars in local banks throughout the State! Think of the work connected with the detail of ascertaining the standing of the banks and the arranging bonds and securities, and so forth, as is required under the regulations, and think of the amount of work that it adds to these officers! There had been deposited in 132 local banks in Oklahoma on June 30, 1912, $3,034,803 of tribal funds, upon which there was collected $52,500 in interest. On December 27 the deposits in local banks amounted to $3,442,506 in 163 banks.

The moneys that I have just referred to were deposited by the commissioner as tribal moneys. The Union Agency also had on deposit in 52 banks on June 30, 1912, Indian moneys aggregating $1,357,993, and the interest collected for the year ended June 30, 1912, amounted to $31,793.12.

Sixteen thousand four hundred and twenty-nine separate tracts have been sold, necessitating a ledger account for each tract, accounting for remittances received, looking after deferred payments, and computing interest thereon until final payments are made. As full payments are made deeds are issued. The lands being scattered and intermingled with allotted lands, computing interest on deferred payments and preparing, recording, and delivering deeds all require much detail work of an exact character.

Mr. Chairman, the Union agent has submitted a statement in which it appears that during the last fiscal year he actually handled over $10,000,000. I submit this is a big showing, and it must necessarily require that a large force be provided in order properly to safeguard and look out for the interests of these Indians.

Mr. Chairman, the district agents employed in the Five Civilized Tribes, according to the reports that have been made, show that they actually saved last year to the individual Indians in Oklahoma about $650,000, as I remember, in requiring guardians to account for moneys that were misappropriated, in obtaining adequate consideration for leases, and other things where the Indians had been defrauded; and in many other particulars, as I say, they actually saved last year about $650,000 and about $550,000 in the year before.

That the force of district agents is not adequate, and that they have not been able to protect these Indians as they should be protected, was made apparent by the Mott report which I brought to the attention of the House recently, showing the condition of guardianship matters in the Creek Nation, where it was shown that about $1,600,000 in the last three or four years had been expended in attorneys' fees, court costs, and guardianship fees in the administration of the affairs of the Indian minors in that particular portion of the Five Civilized Tribes at a cost of about 20 per cent of the amount handled.

It may be said, and I presume will be said, that the district agents have not been diligent or that condition would not have prevailed. It is an absolute impossibility for 10 or 12 district agents in an area as great as the State of Indiana, comprising a large number of counties, something like 60, if I am correct, to be present to look out for each one of these guardianship cases so as to see that the interests of the ward are being properly protected. I say in the utmost good faith that it will be a mistake to reduce this appropriation so that these district agents shall not be continued in the future.

Mr. FERRIS. Mr. Chairman, I shall consume only a moment of time. The burden of the complaint of the gentleman from South Dakota, as I understand it, is that the Oklahoma delegation and the Committee on Appropriations have reduced the amount of this appropriation for salaries to a degree that is dangerous. My reply is that of the 101,000 members of the Five Civilized Tribes, most of them are competent, well-educated people, so intermingled and intermarried with the whites that there is scarcely any Indian blood left. And to the end that we may not make any mistake about it, I want, if I may, in a moment or two, to analyze this appropriation of $150,000, and tell this committee what you can do with that amount in the way of employing clerks.

You can employ 1 chief, at $5,000 a year. You can employ 10 assistants, at $2,500 a year; 10 more assistants, at $2,000 a year; 50 clerks, at $1,500 a year; and 25 clerks, at $1,000 a year. That makes up the aggregate of $150,000.

Mr. BURKE of South Dakota. If the gentleman will permit me, is it not a fact that the salaries of the force to which the gentleman has just referred have been largely paid from moneys received by way of a charge for collecting moneys and from other sources.

Mr. FERRIS. I think that is partially true, and I think I may say at the same time that it is done in the face of the Atoka agreement. Nineteen years ago, when the Dawes Commission was established, they promised these people in a solemn treaty that they would not use their funds in administering upon their estates; but as time went along lax methods were acquired, and little items were squeezed into appropriation bills here and there which permitted them to take from the Indian funds money to hire a great quota of clerks. That appropriation and the personnel of those clerks have climbed in a way that no man can justify. The gentleman says he has a letter which states that there are only so many employees here and so many there; but I had on my desk and exhibited here in the general debate 21½ pages of names and salaries, this statement being furnished by the Indian office. There can not be any mythology or mysticism about that. I get my figures from the same source that the gentleman gets his, and I got that list of names and salaries from the Indian commissioner, who is as good an authority on that subject as I know of.

Mr. BURKE of South Dakota. May I interrupt the gentleman?

Mr. FERRIS. I am not going to get into any great colloquy about this. The gentleman has a well-defined idea that we ought to hire great quotas or droves of people to supervise the affairs of these Indians. I have a very well-defined idea that we ought to fire nearly every one of them out of there and let these Indians run their own business. I know that the gentleman will conjure figures. I do not mean to say that disrespectfully, but a man who wants to hold his job on a fat salary and with a liberal expense account—and there are 500 of them—can make remarkable figures and can come up here and get gentlemen to present them, which makes them appear very necessary.

Our delegation is very much in earnest about this matter, and we are acting in entire good faith. We believe we are right about it. We feel that the Indian people down there are practically bred out; that there is no longer any real Indian problem there among the great bulk of them. The people of the Five Civilized Tribes have maintained their own government for more than half a century. They have had legislatures and governors; they have passed laws. They have passed laws against intermarriage with negro tribes. They have passed laws on all sorts of propositions that white people would legislate upon. We have now Members of Congress and United States Senators. Our governor, our lieutenant governor, and the speaker of the Oklahoma Legislature are Indian citizens. I want to beg not only the Democrats here, but the Republicans, not to force upon us a lot of employees whom our people do not want. What we want is an end to this oversupervision down there. It has lasted too long already.

The answer to that, as these gentlemen will present it, is that we are trying to strip the State of Oklahoma of the necessary supervision that will keep these Indians from being robbed. That is only a plea to maintain their positions. Quite a startling set of figures was presented here a short time ago by the gentleman from South Dakota [Mr. BURKE] with reference to the expense of administering Indian estates in the probate courts of Oklahoma.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURKE of South Dakota. I ask unanimous consent that the time of the gentleman from Oklahoma be extended five minutes.

The CHAIRMAN. Unanimous consent is asked that the time of the gentleman from Oklahoma be extended five minutes. Is there objection?

There was no objection.

Mr. FERRIS. I have just one more observation I want to make. The gentleman from South Dakota [Mr. BURKE], I am sure, in entire good faith and as ably as it could be done, presented here a short time ago a matter with reference to the minor Indians in our State. I did not, at that time, have full information upon it, and I have not at this time. I can say to the House, though, and I want it to go into the RECORD, that our delegation has not remained silent and inactive about that matter. We have gone to the Interior Department and got these records that were referred to here. We have sent these to our governor. We have asked the governor of our State, and he has agreed to invoke the machinery of the State government, not only to prosecute, but to throw out of office every man who

can be found in any way to have mistreated an Indian ward. These figures charged in effect that the administration of Indian estates cost about 20 per cent, while the estates of white children cost about 1.7 per cent for administration.

That is an amazing statement. I can not believe it is true, for to so believe we must conclude the 40 cojudges and the coattorneys, the bar, are all crooked. I am sure such is not true. There is an answer to that. In most cases of the Five Civilized Tribes the Indian children have land, while the white children have none. That is not uniform, but it is almost. Why? Because up until the last few years they could not acquire title to land under any conditions. Up to seven or eight years ago you could not acquire title to a town lot, let alone agricultural land. So the estate was administered upon, almost in toto, for the Indians to hold the real estate, whereas the white estates were a little personal property which does not require any court proceeding or extended court costs.

Now, following that, 96 employees ought to be enough to administer upon a few full-blooded Indians that remain there. The gentleman will reply that the records of the Interior Department will show that there are 35,000 full-blooded Indians. Now, there was a time when it was slippery down there as to whether you should remain on the rolls or remain off the rolls. It was worth $8,000 or $10,000 if you remained on the rolls, and you lost everything if you went off the rolls. An unwritten law went around that if you went on the rolls as a full-blooded Indian you would never be rejected. The result was that a man with one-eighth or one-thirty-second Indian blood, if he could get some tribunal to put him on the rolls as a full-blooded Indian, would go on; and so he sits there with fifteen-sixteenths white blood in his veins—sits there as an incompetent Indian—whereas, as a matter of fact, he is able to hold a seat in Congress, a seat in the Senate, or be at the head of a banking institution, or a lawyer or a doctor, as many are.

Now, the real situation with regard to the Five Civilized Tribes is that the agency ought to be squeezed down to 25,000 or 30,000, an agency something like the Kiowa Agency, to administer on the full-bloods and to let the white Indians alone; and the sooner that can happen the better.

Mr. MANN. Will the gentleman yield for a question?

Mr. FERRIS. Certainly.

Mr. MANN. Did the gentleman happen to see a report made by one of the board of Indian commissioners in reference, not to the agency, but as to the condition of the Indians down there as to their ability to transact business?

Mr. FERRIS. I saw that in one of the papers.

Mr. MANN. I do not know how much of it was published in the paper; it is an official document, of course.

Mr. FERRIS. I did see it, and inasmuch as the gentleman alludes to it, and Members may not know what it was, I will say that it comes about in this way. This man the gentleman from Illinois refers to lives in Boston or Philadelphia?

Mr. MANN. I do not know where he lives.

Mr. FERRIS. I think he lives in Philadelphia.

Mr. MANN. All the Indians are not west of the Allegheny Mountains.

Mr. FERRIS. I know they are not; that is very true. I think this gentleman's name is Vaux. I have met Mr. Vaux; he is a delightful gentleman, a pleasant man, and undoubtedly has the best motives and intends to do good things for the Indians. I do not impugn his motive at all, but this is what happens: A man like Mr. Vaux will come from the East to Oklahoma. He wants to see some poor, old, pitiable Indian living out under a bark, and you can find whites worse off than they are; but he wants to see if he can not find some poor, old, ignorant Indian who does not know A from B, and through unfortunate circumstances is reduced to nothing. He finds him; he lives in a hovel, and the old Indian gets out in front of the hovel and pulls his hair down over his face so that he looks like an idiot, and the man gets out his camera and takes the picture, takes it back to New York and the New York Sun, or some other paper, writes up a beautiful story for the Sunday edition to go all over the East. People who know not of Indian questions think all Indians are alike, and that an agent should be detailed to transact all the business of these people, whether competent or incompetent. Such a large amount of supervision renders these Indians dependents and incompetents.

Mr. MILLER. Mr. Chairman, I move to strike out the last two words.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that all debate close on this matter in five minutes.

Mr. MILLER. If the gentleman will pardon me, I want to read a paragraph or two which will take me more than five minutes.

Mr. STEPHENS of Texas. Then I will ask that all debate close on the matter in 10 minutes.

Mr. HARRISON of Mississippi. Mr. Chairman, does that carry with it the paragraph and amendments thereto?

Mr. STEPHENS of Texas. There is no amendment pending. I understand that we are discussing the item on a pro forma amendment made by the gentleman from South Dakota.

Mr. HARRISON of Mississippi. I shall object to that, because I desire to offer an amendment.

Mr. STEPHENS of Texas. I will yield to the gentleman to offer an amendment; I have no objection to that, and I ask unanimous consent that all debate be closed in 10 minutes on the paragraph.

Mr. BURKE of South Dakota. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. BURKE of South Dakota. I anticipate that after this debate has closed it will not be out of order then, if unanimous consent is granted to close debate, to offer as an amendment an independent paragraph.

The CHAIRMAN. Unanimous consent is asked that debate on the paragraph shall expire at the end of 10 minutes. Is there objection?

There was no objection.

Mr. MILLER. Mr. Chairman, I understood when the gentleman made the request for unanimous consent that it was not intended that the time desired by the gentleman from Mississippi [Mr. HARRISON] should be taken from the 10 minutes requested. I will state that I may use about 7 minutes.

Mr. Chairman, this controversy respecting the proper method of handling the Five Civilized Tribes is a perennial one. It comes up at least once each year, and lately it has come up once each session. The reason it is perennial must be the fact that it is a difficult proposition. I do not think any Member of the House will question the patriotism, zeal, and ability of the gentlemen from Oklahoma, who are interested in and take an active part in this matter, although some of us may be inclined to differ with them in their conclusions, perhaps in some of the facts, which they state.

Personally I do feel a sympathy with their contention that we should withdraw supervision at the earliest practical time, but what is a practical time and a proper one to withdraw supervision is the distressing feature. I desire to call attention of the committee for a few moments to some work now being performed of a detailed nature at the agency in which are engaged many employees of whom criticism has been urged.

And as I take up this feature I wish to first call attention to the fact that we have had some bitter experiences in the State of Oklahoma, experiences that seem to recur even when we think they have passed away. There has been an attempt, and I think perhaps we can say a successful attempt, to blot out from history what is known as the Creek and Muskogee town-site matter, and yet we must look back upon that as a lesson to guide us in some of the deliberations of the present. I myself think that there is not a case in all Indian history, beginning with Christopher Columbus and coming down to now—and that is going some—that is as black and as bad as the town-site cases in the Creek Nation, about which we hear nothing now, because, as I have indicated, it is pretty nearly a closed chapter. With that lesson added to some of the others, particularly the guardianship and probate-court matters recently discussed by the gentleman from South Dakota [Mr. BURKE], some of us feel that there still remains a necessity on the part of the Government to extend its protection and care, and supervise some of the details, over some of the activities and property rights of these people.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. MILLER. Certainly.

Mr. FERRIS. Does not the gentleman think it would be a part of wisdom to draw the agency down to a proposition of handling the really incompetent Indians?

Mr. MILLER. Yes.

Mr. FERRIS. And let the money and property of the white Indians go?

Mr. MILLER. Yes.

Mr. FERRIS. Does not the gentleman think that $150,000, which provides for 96 employees, ought to be enough?

Mr. MILLER. If the gentleman will add enough to continue these district agents for another year, until the probate courts can get straightened around——

Mr. FERRIS. But does not the gentleman think that out of 96 employees 18 of them might serve as district agents, if they were so designated?

Mr. MILLER. Eighteen would be entirely inadequate for the work. This matter of the probate courts only came to public attention two years ago, when the committee, of which I happened to be a member, unearthed some things in the very presence of the gentleman from Oklahoma [Mr. FERRIS], who

cooperated with us in every respect, and who I am sure shared our views upon the subject. The probate courts of Oklahoma have not yet become straightened out—purified, as it were—and the public sentiment of the State has not yet been thoroughly aroused and not yet asserted itself in appropriate action, so that the affairs of a large part of the Indians will be honestly and justly handled without governmental supervision. Conditions are improving, but the complete change has not yet come to pass.

I think it is going to work out, but while it is working out I think we ought to still keep up these district agents for another year. However, that I did not intend to speak of. I wish to call the attention of the committee to some of the work that is being done by these agency employees. I have had many people speak to me about the destitution of the Indians in Oklahoma, assuming that they were poverty stricken. As a matter of fact, they are not. Muskogee, the second city in Oklahoma, is the center of a forest, not of oak, not of pine, but of oil wells. Looking abroad from the city you can see 5,000 great derricks. It is one of the most inspiring industrial sights ever unfolded to human gaze.

The CHAIRMAN (Mr. RODDENBERY). The time of the gentleman from Minnesota has expired.

Mr. MILLER. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MILLER. This is but one of the great oil fields in Oklahoma. At Tulsa there is a greater one, and others might be named. Some of the work incident to the administering of the affairs of these Indians becomes apparent when you see the figures connected with handling these oil leases. Nearly all of these oil lands, it will be borne in mind, are Indian lands, owned by private Indians, whose affairs have to be superintended or they would be defrauded. I read now from the report of the commissioner:

> One of the greatest oil fields in the world has been developed in the area of the Five Tribes, largely under departmental leases. The production during the past few years has been approximately 40,000,000 barrels per annum. The Union Agency has handled up to the close of the past year 23,721 leases, mostly oil and gas, and on June 30, 1912, had 7,679 individual royalty ledger accounts, 413 restricted Cherokee equalization accounts, 967 land-sale accounts, with balance aggregating a total of $1,135,023.24, distributed in 52 banks located in almost every county in eastern Oklahoma. While this money is passing through the process of supervision the depositories are required to pay interest thereon, and during the year a total of $31,793.12 was collected as interest on these accounts and paid to the Indians. During the year just closed the total collections and total disbursements aggregated over $6,000,000. Including the amount received from the Treasury for transfer to individual accounts or disbursement and balances brought forward from previous year, the grand total of money handled for the fiscal year 1912 was $10,701,624.27. The accounting work is entirely handled in the agency office at Muskogee, the field force being relieved, as far as possible, of all clerical detail, so that they may give their entire time to investigations and the expeditious handling of applications and cases filed with them. The account for the year was made up of 28,786 remittance entries and 71,711 disbursement vouchers. There were 412,944 pieces of mail handled by the Muskogee office during the year.

The gentleman from Oklahoma says there is a large number of employees. It is a large job, it is a job of innumerable details, big in dollars, vast in detail, and if it is to be properly handled at all a requisite number of competent employees must be employed.

It is not simply a question of lands, either grazing or farming, but it is a great mineral field, cut up into small tracts, with vast numbers of leases. Many of the Indians are incompetent, and most of them require some supervision; and while this vast task remains in its present condition I for one feel that we should give to the service a reasonable sum to employ a reasonable number of employees. The gentleman seeks to cut the present appropriation. To-day there are employed at this agency 90 office men, 57 field men, and 25 Indian police. In addition there are 51 in the commissioner's office.

Mr. FERRIS rose.

Mr. MILLER. Oh, I know the gentleman has five hundred and something. I do not know the names that are there, but I have a certified statement from the agent himself, and I am sure the gentleman will admit that it is true.

Mr. FERRIS. I know the gentleman does not care to mislead. I hold in my hand here 21½ pages of a closely written document, giving the names, salaries, and officers, that was furnished to me by the Commissioner of Indian Affairs.

Mr. MILLER. Does it contain the teachers of all the schools down there?

Mr. FERRIS. Probably it does.

Mr. MILLER. I am sure that the gentleman in this controversy would not ask that those teachers be included?

Mr. FERRIS. I am not sure they are. If there are any included, there is but a small number of them.

Mr. MILLER. I do not think the number is very small, in view of the next paragraph in the bill, which calls for $300,000 for these schools.

Mr. FERRIS. I think it is.

Mr. CARTER. Mr. Chairman——

Mr. BURKE of South Dakota. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BURKE of South Dakota. Has not the debate ended on the paragraph?

Mr. CARTER. I move to strike out the last two words, Mr. Chairman.

Mr. STEPHENS of Texas. There was an understanding that the debate was to close in 15 minutes.

The CHAIRMAN. The Chair understands that that request was presented, but withdrawn.

Mr. STEPHENS of Texas. Then I desire to renew the request that all debate on this paragraph be closed in two minutes.

The CHAIRMAN. The gentleman from Texas [Mr. STEPHENS] asks unanimous consent that all debate on the paragraph close in two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. STEPHENS of Texas. I yield to the gentleman from Oklahoma [Mr. CARTER].

Mr. CARTER. Mr. Chairman, I shall hardly need the two minutes. There has been repeatedly stated on the floor of this House the many wonderful things the famous Dawes Commission and the Union Agency have done in Oklahoma. The Dawes Commission came there in 1893 and this is 1913; it has operated for 20 years, and I dare say it has consumed from Federal Treasury and tribal funds combined not less than $1,000,000 per annum, which would aggregate $20,000,000, and which the gentleman must admit is out of all proportion to the amount of work accomplished. Much has also been said about the extravagance of probate courts in handling Indian probate matters, but I doubt very seriously if the percentage of cost in probate proceedings has equaled that consumed by the Indian Bureau in Oklahoma for the settlement of the tribal estate.

Mr. BURKE of South Dakota. Now, Mr. Chairman, as a new paragraph, after line 23, on page 22, I offer an amendment, that which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> For payment of salaries of employees and other expenses of advertisement and sale in connection with the disposition of unallotted lands and other tribal property belonging to any of the Five Civilized Tribes, to be paid from the proceeds of such sales when authorized by the Secretary of the Interior as provided by the act approved March 3, 1911, not exceeding $25,000, reimbursable from proceeds of sales.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to make a point of order against the amendment. It is new legislation and is not germane to the paragraph in the bill.

The CHAIRMAN (Mr. SAUNDERS). The Chair will hear the gentleman from South Dakota [Mr. BURKE].

Mr. BURKE of South Dakota. Why, Mr. Chairman, there is not any question about it, if the Chair will look at the law. I did not suppose that anybody would make a point of order against the amendment. In 1911 the gentlemen from Oklahoma were solicitous that there be legislation permitting the deposit of money belonging to these Indians in the local banks in Oklahoma, and this act was passed. The net proceeds from the sales of surplus and unallotted lands and other tribal property, belonging to any of the Five Civilized Tribes, after deducting the necessary expense of advertising and sale, may be deposited in the national or State banks of Oklahoma, and so forth. The comptroller held that under that language they could not deduct from the proceeds the cost of sale, the advertising, and so forth, and that it was necessary to have this legislation in order to carry out the provisions of that act, and in the current appropriation act for this year, and also last year, this language was carried in order that the amount might be deducted as the act of 1911 contemplated.

The CHAIRMAN. Will the gentleman send up the law? Mooted questions like this depend entirely on the law which furnishes the authority. Does the gentleman from Texas [Mr. STEPHENS] desire to say anything on the point of order?

Mr. BURKE of South Dakota. It is identical with the current law, I will say to the gentleman.

Mr. STEPHENS of Texas. Identical with the language carried in the last bill?

Mr. BURKE of South Dakota. Just exactly.

Mr. STEPHENS of Texas. I do not think it would follow if it had been in the last bill it would be germane to this bill or would not be new legislation.

Mr. BURKE of South Dakota. Not at all.

Mr. STEPHENS of Texas. It might have been subject to the point of order last year, and the point might not have been made. I understand the point to be now that there is no law authorizing this to be paid out of Indian funds. That is surely subject to a point of order.

Mr. MANN. As I recall the item in the current law it has not a fixed amount at all.

Mr. BURKE of South Dakota. Not exceeding $25,000.

Mr. MANN. I think it says not exceeding 10 per cent of the receipts.

Mr. BURKE of South Dakota. That is another item.

Mr. CARTER. That is for the collection of rents.

Mr. BURKE of South Dakota. Twenty-five thousand dollars is to be deducted from the proceeds of the sale of unallotted lands—not exceeding $25,000; and I will say to the gentleman that the act of 1911, which provided that these moneys should be deposited in banks of Oklahoma, contemplated that the expenses incident to collecting them—the sale and property—should be deducted, because the law reads the net proceeds shall be deducted.

Mr. STEPHENS of Texas. Now, Mr. Chairman, I desire to read the amendment. I understand the amendment is in the exact language of the law of last year, and I maintain that the provision in that act itself was subject to a point of order. This is the language:

For payment of salaries of employees and other expenses of advertisement of sale in connection with the disposition of the unallotted lands and other tribal property belonging to any of the Five Civilized Tribes, to be paid from the proceeds of such sales when authorized by the Secretary of the Interior as provided by the act approved March 3, 1911, not exceeding $25,000, reimbursable from the proceeds of sale.

That, I think, makes it clearly subject to a point of order, because, as I understand it, there was no law before that which took from the Indians the money to make them reimburse these payments. If it had been in order for one year, then I will state that it would not have been in order for the next year, because these acts are only annual and run only for the terms covered by the acts.

Mr. FERRIS. And if the gentleman will permit, I may say, in addition to what the chairman has stated, that the appropriation of $25,000, reimbursable, was to do a specific task—that is, to sell the unallotted lands of the Five Civilized Tribes. They have sold the unallotted lands of the Five Civilized Tribes, and now they come in and offer an amendment, in identical language, to do the very thing that has already been done.

Mr. BURKE of South Dakota. Mr. Chairman, that has nothing to do with the point of order.

Mr. FERRIS. I think it has. I think if an appropriation is made to-day in this current bill to do a specific thing during the following fiscal year, and that thing is done, even though it be in order that year, it would not be in order in each succeeding year and indefinitely; and the fact that that was in order last year, to do a specific task that was done this year, does not make it in order in a succeeding year.

The CHAIRMAN. The Chair desires to ask a question of the gentleman from South Dakota [Mr. BURKE].

Mr. CARTER. Mr. Chairman——

The CHAIRMAN. The Chair will first recognize the gentleman from Oklahoma [Mr. CARTER].

Mr. CARTER. Mr. Chairman, practically this same question came up in the Sixty-first Congress. There was an item in the Indian appropriation bill as it came from the committee providing for the payment of certain matters out of Indian funds, such as this. A point of order was made against the provision by the gentleman from Oklahoma [Mr. DAVENPORT], and upon that point of order the paragraph was ruled out. I have been trying to get the text of the debate at that time, but have not succeeded as yet. I hope to have it in a few moments, and ask the Chair to reserve his ruling until we see what the record discloses.

The CHAIRMAN. The Chair desires to ask the gentleman from South Dakota a question. Of course, there is a question back of this of authority to make this payment. The Chair is referred to page 14, which seems to provide that the net receipts from the sale of the surplus of unallotted lands and other tribal property, after deducting the necessary expenses of advertisement and sale, and so forth, may be deposited in the national or State banks, and then follow certain provisions in relation to their disposition. Now, does the gentleman find in that authority to appropriate $25,000 for the payment of salaries of employees?

Mr. BURKE of South Dakota. Mr. Chairman, the $25,000, if I remember exactly the wording of the provision, is a mere limitation. The appropriation is that there shall be expended for the expenses of advertising, and so forth, in connection with the sale of unallotted lands, not exceeding $25,000; but I may be mistaken.

Mr. MANN. That is it; not exceeding $25,000.

Mr. BURKE of South Dakota. Mr. Chairman, if we have by law enacted legislation that we will do a certain thing, I presume that it is necessary to make an appropriation to execute the law. The only point that I can see in the point of order made by the gentleman would be that to deduct the expense from the proceeds is contrary to some existing treaty with the Indians.

Mr. CARTER. That is true, too.

Mr. BURKE of South Dakota. Mr. Chairman, there is absolutely no treaty and no agreement that requires the United States to go into the business of depositing money belonging to these Indians in the banks of Oklahoma and collecting interest thereon, and there is nothing in the law that contemplated that the United States would be selling lands, as land has been sold in Oklahoma, on time payments of 25 per cent annually, and a great many other things that we are doing in Oklahoma. And when that provision that the Chair now has before him was considered as finally enacted into law it was done after a careful examination of existing treaties and agreements with the Indians, and nothing could be found in conflict with our requiring of these Indians that they pay the expenses of this unusual business which we are carrying on for their benefit.

The gentlemen from Oklahoma are not only trying to drive out the district agents who supervise and look after the affairs of the individual restricted Indians, but they also propose to appropriate money from the Federal Treasury to pay the expense of administering laws that have been placed upon the statute books for the benefit of the people in Oklahoma, the local banks. For instance, the depositing of $5,000,000 or $4,000,000 in 200 banks and collecting the interest thereon is something of an undertaking. We are going to pay the interest to the Indians, and then the United States is going to pay the expense of the administration. I say to the gentleman that that is contrary of the policy that prevails, so far as the Committee on Indian Affairs is concerned, on both sides of the House, as to dealing with the Indians generally.

The CHAIRMAN. The amendment contemplates the payment of salaries of employees—the amendment at the desk.

Mr. BURKE of South Dakota. It says "necessary employees," does it not?

The CHAIRMAN. The word "necessary" is not used. It contemplates the payment of salaries. Now, are these employees necessary in connection with the advertisement and sale of these unallotted lands?

Mr. BURKE of South Dakota. Certainly.

The CHAIRMAN. But for this provision in the amendment, these officials would not be paid for services rendered in connection with the unallotted lands?

Mr. BURKE of South Dakota. Mr. Chairman, if I understand the position of the gentlemen from Oklahoma, it is that they will be paid out of the appropriation of $150,000 that is now used for other purposes largely.

The CHAIRMAN. Is that true as a matter of fact?

Mr. BURKE of South Dakota. I think it is.

Mr. FERRIS. These lands have been sold four times in the last four years. That is, they have been offered for sale. Every year they go around and offer them, but do not sell them. This year they sold nearly all of them, and there is no necessity for offering them again next year. That is the fact. I understand that goes to the merits, but the gentleman asked for information.

Mr. CARTER. They have so stated. The Commissioner of the Five Civilized Tribes stated publicly that there would be no more sales of these lands in the future.

Mr. BURKE of South Dakota. If the merits have any bearing upon the ruling of the Chair on the point of order——

Mr. CARTER. I was answering the gentleman's statement about the matter, that is all. I think it bears right on the point.

The CHAIRMAN. The Chair is simply trying to get at the facts. The principle is clear enough, but the difficulty is to get at the facts about the parliamentary situation.

Mr. CARTER. In the first session of the Sixtieth Congress the following paragraph was read:

For clerical work and labor connected with the leasing of Creek and Cherokee lands, for mineral and other purposes, and the leasing of lands of full-blood Indians under the act of April 26, 1906, $40,000: *Provided*, That the sum so expended shall be reimbursable out of the proceeds of such leases, and shall be equitably apportioned by the Secretary of the Interior from the moneys collected from such leases.

To that provision the following point of order was made:

Mr. DAVENPORT. Mr. Chairman, I make the point of order to the proviso beginning in line 23 and extending to the end of line 26 on the ground that it is new legislation and contains a change of existing law and the treaty with the tribes. I make it as to the entire proviso.

There was considerable discussion, covering several pages of the RECORD, after which the Chair finally ruled in the following manner:

Well, the Chair is ready to rule; and though he is very loath himself to so rule, yet, after consultation with a gentleman who is an excellent authority and who seems to be very clear, the Chair sustains the point of order.

Mr. BURKE of South Dakota. I will say to the gentleman from Oklahoma that at that time the act of 1911 had not been passed.

Mr. CARTER. The act of 1912 was only for 12 months, was it not?

Mr. BURKE of South Dakota. I am speaking of the paragraph in the Indian appropriation bill for 1911 which was general in its character and which provided that the net amount received from the sale of lands should be deposited in the local banks after deducting the expense of sale and advertising. Now, the gentleman from Oklahoma assisted in obtaining that legislation, and it was granted upon the representation that the expense of the sale and advertising would be deducted from the proceeds.

Mr. CARTER. My recollection is that that was an amendment to the Indian appropriation bill put on in the Senate and adopted in conference.

Mr. BURKE of South Dakota. No; it was inserted in the House.

The CHAIRMAN. Would the word "salaries" in the amendment be considered as being limited exclusively to compensation for work immediately connected with the sales, or would it have a broader application?

Mr. BURKE of South Dakota. I have not the item. I have sent to the desk the copy that I had.

The CHAIRMAN. The Chair is inclined to think that the authority of the act cited which provides for depositing in certain banks the net receipts from the sales of surplus and unallotted lands, less the necessary expense of advertising and sale, is hardly authority to support the amendment under consideration relating to the salaries of employees and other things. The Chair is not very well satisfied in his own mind about this ruling, because it is difficult for him to get at all the provisions of law back of the amendment, and which are supposed to justify it. On the whole, however, though with some hesitation, the Chair sustains the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I offer as another independent paragraph what I send to the Clerk's desk.

The CHAIRMAN. The gentleman from South Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Add as a separate paragraph, after line 23, the following:

"For expenses incident to and in connection with collection of rents of unallotted lands and tribal buildings such amount as may be necessary: *Provided*, That such an expenditure shall not exceed in the aggregate 10 per cent of the amount collected."

Mr. FERRIS. I reserve a point of order on that.

Mr. BURKE of South Dakota. Mr. Chairman, it is possible that this item is subject to a point of order. I will say, however, that it has been the law in two or three of the annual appropriation bills, including the one for the current fiscal year. As I have already stated, we are doing a very large amount of work in Oklahoma, and much that never was contemplated by the original treaty made with the Indians when we undertook to make a roll and to allot the lands.

The gentleman has stated that the unallotted lands have already been sold. I will state that there are at present 100,000 acres of unallotted lands undisposed of. There are 1,300,000 acres of timberlands that have not been disposed of. There are something like 20,000 accounts pending, where from 75 to 25 per cent of the purchase price which was to be paid for the unallotted lands, aggregating several million dollars, has not been collected. Evidently there must be an administrative force in the Five Civilized Tribes to attend to the details pertaining to the collection of this large amount of money; and, as I stated a while ago, owing to the diligence of our friends from Oklahoma, the time for the making of these payments was extended. The rate of interest is, I think, 6 per cent, and therefore every time there is a payment made there has to be a computation to ascertain the amount of interest. When payment is made finally then there has to be the proving, and the issuance of the deed, and a great amount of work in connection therewith.

I want to call the attention of the committee—and I am very glad gentlemen have made these points of order—to the fact that, so far as Oklahoma is concerned, the Federal Treasury will bear the expense of administering the affairs of the Indians. But in every other part of the country wherever it is possible to do so, and wherever the Indians have any money, to say nothing of an estate that amounts to forty or sixty million dollars, in that State the expense of administering the affairs must be borne by the Federal Government.

I say it is inconsistent, and I am surprised that our friends from Oklahoma that have secured the things I have referred to when it was distinctly provided, that the expense of sale and collection at the time was to be deducted from the proceeds, that they now come in and raise the point of order in order that the money may be paid from the Treasury.

Mr. FERRIS. Will the gentleman yield?

Mr. BURKE of South Dakota. Yes.

Mr. FERRIS. If the gentleman will pardon me, I want to state some figures. Oklahoma has about 117,000 Indians within her borders. There are 300,000 Indians in the entire United States. There goes to Oklahoma $460,250; Arizona and New Mexico, $738,000; California, $21,250; Minnesota, $213,175; and to South Dakota, the gentleman's own State, $646,500, of which the two main items aggregate some $500,000, which are absolute gratuities.

Mr. BURKE of South Dakota. What is that statement—what did the gentleman say goes to South Dakota?

Mr. FERRIS. I say there are two items aggregating $507,000 that are gratuities by which the gentleman is bound by no treaties.

Mr. BURKE of South Dakota. Oh, the gentleman is not familiar with the treaties or he would not say that.

Mr. FERRIS. I think I am quite familiar with them. There goes to Oregon $223,736. Mr. Chairman, I will state that there has been so much muckraking by people who know not the facts in this matter that they are hard to understand. Our State maintains more than one-third of the Indians. We have been the dumping ground of the Indians in that State for the last 50 years, and to have people come here when items are reimbursable and make these statements is too much, and we can endure it no longer. Nearly two-thirds of the Indians in the United States are in our State, and the small sum of $460,000 goes to that State and most of it on the treaty items.

Mr. BURKE of South Dakota. The gentleman said a moment ago that most of the Indians in his State, or a good many of them, were holding public office, one was the governor, and very properly pointed to the fact that we have one of the civilized tribes, an honored and distinguished Member of this House, and from what the gentleman has heretofore said I am surprised that he would get up here and say that any money was necessary to be expended on the Indians in Oklahoma.

What I am pointing out, Mr. Chairman, is the fact that the Indians have a vast estate, that they have very large sums of money in the Treasury, and that we are doing in Oklahoma what was never contemplated when the agreement was made, and that there was no obligation on the part of the Government to do the things we are doing. We were not required to put money in the banks of Oklahoma and loan it out at 4, 5, and 6 per cent, as we are doing, and pay the interest to the Indians. We did not undertake to rent a lot of unallotted lands and collect hundreds of thousands of dollars' annual rent for the benefit of the Indians. There are a great many other things we do, and I am surprised that the gentleman should raise any question that the actual expenses of administering the matters should be deducted from the proceeds.

Mr. CARTER. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly. I want to say one thing more before the gentleman puts his question. The gentleman says that there has been $20,000,000 expended by the Dawes Commission. The gentleman knows, if he will stop to think, that no such sum of money has been expended by the Dawes Commission.

Mr. CARTER. I do not know it.

Mr. BURKE of South Dakota. The expense of enrolling and allotting to the members of the Five Civilized Tribes per capita is lower than the expense of allotment and enrollment of any other tribe of Indians in the United States. When the gentleman says that $20,000,000 has been expended he includes moneys that are expended for tribal expenses, moneys for education, and other things which the bill provides may be expended. He raises no question as to that, and instead of a million dollars there has been something like three or four hundred thousand dollars expended annually for administration purposes.

Mr. CARTER. If the gentleman from South Dakota [Mr. BURKE] does not know that a million dollars or more per annum was spent for several years in Oklahoma for purely administrative purposes, then he has not kept very close tab on the work of the Dawes Commission. To be sure, they may not have spent to exceed that amount per year for all these 20 years, but my statement was to the effect that my belief was that the expenses of maintaining this commission in its dilatory closing of tribal affairs would average about $1,000,000 per annum.

To be sure, a part of this may have been spent for schools, a part may have been spent for tribal officers, a part may have been spent for the sale of the unallotted lands, a part was spent for the sale of town sites and collection of tribal revenues, but all spent either for or by the officials under the direct supervision of the Indian Bureau. But, Mr. Chairman, I verily believe that if the gentleman from South Dakota [Mr. BURKE] would take the trouble to go over the records and analyze the different appropriations he would find that almost, if not quite, $20,000,000 has been used, exclusive of schools.

That, however, was not the question I had expected to address my remarks to. I wanted to discuss these treaty provisions in regard to Oklahoma about which the gentleman from South Dakota [Mr. BURKE] had much to say.

The gentleman lays great stress on the fact that our treaties did not provide for the Federal Government paying the expenses of the sales of land and the collection of rents, and because the treaties did not specifically set forth that these expenses should be paid by the Government he argues that the very statement providing for their doing carries with it an implied appropriation for the accomplishment of the work.

Let us see under what conditions these treaties were made. When the Dawes Commission came to Indian Territory it found the Five Civilized Tribes themselves with a regularly organized constitutional form of government, having officials for the performance of the many functions which the Department of the Interior has since arrogated to its own officials.

The making of the treaties provided for a change of conditions and for the winding up of tribal affairs. They provided for the making of the rolls, the allotments of land, and the sale of the town sites, and specifically set forth that these expenses should be borne by the Federal Government. They provided for the appraisement of land for allotment purposes, for the collection of the coal and asphalt royalties, and for the sale of the coal and asphalt lands, with a special provision that these expenses should be borne by the tribes. Nothing whatever was said as to who should bear the expenses for the sale of the unallotted lands, or for the collection of revenue from other than the coal and asphalt royalties. So I can not see by what distortion of construction the conclusion can be reached that there is an implied authorization in our treaties for the payment of these expenses out of tribal funds.

Mr. BURKE of South Dakota. I think the gentleman will admit that we have done a great many things in Oklahoma that were not contemplated at the time the treaty was made, and that the original agreement, the treaty, only contemplated that the Government would make enrollment and allotment of the land. That was the substance of what was contemplated?

Mr. CARTER. Oh, no; the sale of unallotted lands, sale of town sites, collection of coal and asphalt royalties, sale of mineral lands, tribal buildings, and all these other things were provided for by the treaties.

Mr. BURKE of South Dakota. But we have done a great many things that the treaty did not contemplate.

Mr. CARTER. Yes; that is true; but that does not relieve us of the responsibility of our obligations.

Mr. BURKE of South Dakota. And for the benefit and advantage of the Indians.

The CHAIRMAN. Does the gentleman insist upon the point of order?

Mr. FERRIS. Mr. Chairman, I make the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. HARRISON of Mississippi. Mr. Chairman, I offer as a new paragraph the following amendment, to be inserted at the end of line 23.

The Clerk read as follows:

Add, after line 23, page 22, as a new paragraph, the following:

"That the Secretary of the Interior is hereby directed to receive, at any time within six months after the passage of this act, the application of any person for enrollment to the rights of a citizen and member of the Choctaw-Chickasaw Tribe of Indians claiming an interest in the lands and funds of the Choctaw-Chickasaw Tribe by reason of being a descendant of a member of the Choctaw Tribe who received, or was entitled to receive, lands under the terms of article 14 of the treaty of Dancing Rabbit Creek under date of September 27, 1830.

"That the Secretary of the Interior shall be vested with the power to determine the rights of said claimants upon such evidence as may be produced by the applicant, without regard to any judgment or decision heretofore rendered by any court or commission to the Five Civilized Tribes or the Department of the Interior, and without regard to any condition or disability heretofore imposed by any act of Congress: *Provided*, That any relevant evidence admissible either in actions at law or in equity in the courts of the United States shall be received by the Secretary of the Interior as evidence in determining the rights of said applicants: *Provided further*, That any testimony received as evidence and appearing in the record in the case of the Choctaw Nation v. The United States, No. 12442, in the Court of Claims, and decided in the United States Supreme Court on November 15, 1886, may, if relevant, be received in evidence.

"That all applicants under this act may be represented by such attorneys as each individual may select, and the fee of such attorney may be fixed in accordance with any contract now or hereafter made between said applicant and said attorney, and that such contract shall govern the amount of such fee: *Provided*, That the Secretary of the Interior may limit the percentage of compensation in each case, and that the said contract shall be enforcible for no greater sum than that which may be fixed by the Secretary of the Interior.

"That the Secretary of the Interior shall have prepared and made a schedule or roll of all persons entitled under the provisions of this act, within eight months after its passage, and shall, within said eight months, award them the full rights of citizens and members of the Choctaw-Chickasaw Tribe: *Provided*, That those enrolled under this act shall not be entitled to nor receive any part of the Choctaw annuities existing as of the date of September 27, 1830.

"That in the event there shall not be sufficient land to make allotments to such persons as may be enrolled under this act to equalize them with the allotments heretofore granted to those already upon the rolls of said tribe, there shall be placed to the credit of each person who does not receive allotments, and paid to such person a sum of money equal to double the appraised value of 320 acres of the average allotable land of the Choctaw-Chickasaw Tribe, according to the relative appraisement heretofore made, in lieu of said allotments of land.

"That there shall be paid to each person who enrolls under the provisions of this act such a sum of money out of the funds of the tribe as will equalize said person with the persons now upon the rolls for all distributions of money made to citizens and members of said joint tribe since 1893: *Provided*, That those enrolled under the provisions of this act shall not be entitled to nor receive any part of the Choctaw annuity existing under date of September 27, 1830, aforesaid: *Provided further*, That this act shall not apply to persons born since March 4, 1907.

"That applications for minors may be made by either parent, or if neither parent is living, by guardian. Applications for insane persons, or those confined in other public institutions, may be made by curators. Depositions may be taken in support of said applications in any place in the United States upon notice to the Attorney General and the Secretary of the Interior, and the procedure as to notice and taking of depositions shall be as in ordinary cases before the United States courts. The expense of taking depositions on the part of claimants shall be paid by the applicants in the first instance, but shall be taxed as costs in each case where the applicant is successful, and said costs shall be charged to the funds of said tribe in the United States Treasury.

"That the rights of all persons claiming citizenship or any rights in the Choctaw-Chickasaw Tribe, under or by reason of the treaty of 1830, who fail to make application to the Secretary of the Interior, under this act, within six months after the passage of this act shall be forever barred.

"That the tribal organization in the Choctaw-Chickasaw Tribe is hereby abolished, and the title to all tribal lands and moneys yet undistributed are declared to be vested in the United States, as trustee for those entitled to the same under the laws and treaties of the United States; and such moneys as may come into the Treasury of the United States as trustee for said tribe, or which are now held by the United States as trustee for said tribe, shall not be distributed among the members of said tribe within eight months after the passage of this act."

Mr. STEPHENS of Texas (interrupting the reading). Mr. Chairman, for the purpose of saving time, I now make the point of order against the amendment. I am quite willing that the amendment shall be inserted into the record.

Mr. HARRISON of Mississippi. Mr. Chairman, I hope the gentleman will reserve this point of order.

The CHAIRMAN. Does the gentleman from Texas make the point of order?

Mr. STEPHENS of Texas. Mr. Chairman, I yield to the gentleman from Oklahoma [Mr. CARTER].

Mr. CARTER. Mr. Chairman, I had expected to make the point of order as soon as the reading of the amendment was finished. If the gentleman from Mississippi desires to proceed, however, I shall reserve the point of order.

Mr. HARRISON of Mississippi. Mr. Chairman, I concede the point of order, if insisted upon, to be well taken. I was in hopes that the gentleman's high sense of justice and fairness would control him in this matter and that he would allow the amendment to be voted upon.

Mr. CARTER. Mr. Chairman, I thank the gentleman very much for his compliment, but my high sense of justice and fairness compels me to make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

The sum of $300,000, to be expended in the discretion of the Secretary of the Interior, under rules and regulations to be prescribed by him, in aid of the common schools in the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations in Oklahoma, during the fiscal year ending June 30, 1914: *Provided*, That this appropriation shall not be subject to the limitation in section 1 of this act limiting the expenditure of money to educate children of less than one-fourth Indian blood.

Mr. FOWLER. Mr. Chairman, I desire to reserve a point of order to this paragraph.

Mr. MANN. Mr. Chairman, I think the gentleman may as well make the point of order.

Mr. CARTER. Mr. Chairman, I hope the gentleman will not make the point of order.

Mr. FOWLER. Mr. Chairman, I will reserve the point of order for the time being, unless my colleague, the gentleman from Illinois [Mr. MANN], desires to make the point of order.

Mr. MANN. I supposed that the desire was to get through with this bill to-night.

Mr. CARTER. Mr. Chairman, I merely want about 15 minutes to discuss this matter.

Mr. STEPHENS of Texas. Mr. Chairman, I would like to have some time fixed when we shall close debate upon this section. I therefore move——

Mr. MANN. Oh, the gentleman can not move to close debate when a point of order is pending. The gentleman from Oklahoma, I understand, desires 15 minutes.

Mr. STEPHENS of Texas. Mr. Chairman, I do not think it is a very good way to expedite business here to permit points of order to be discussed for so long a time.

The CHAIRMAN. It is within the province of any Member to call for the ruling at any time.

Mr. CARTER. Mr. Chairman, I have so far not taken up very much of the time of the committee. This is an important provision to my State, and I would like to have at least 15 minutes in which to discuss it.

The CHAIRMAN. Does the gentleman from Oklahoma make that request.

Mr. CARTER. Mr. Chairman, I ask unanimous consent to proceed for 15 minutes.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to proceed for 15 minutes. Is there objection?

There was no objection.

Mr. CARTER. Mr. Chairman, I believe I measure my words with conservatism and deliberation when I say that never was a State brought into this Union under such unfavorable conditions from the standpoint of financial responsibility and meager tax values as the struggling new Commonwealth which I have the honor in part to represent.

I ask this committee to bear with me in patience, for I bring a message from more than 300,000 helpless, innocent, ambitious American children—American children, let me repeat; blood of your blood and bone of your bone—and they represent the offspring of as noble and worthy pioneers as have ever gone into the wilderness and hewn an empire from the primeval forests of America.

The State of Oklahoma, as most of you know, was made up of what might be called two separate and distinct dependencies—old Oklahoma and Indian Territory—each about equal in area, Indian Territory, the eastern half of the State, consisting of a little less than 20,000,000 acres, and Oklahoma, the western half, exceeding that acreage by a small figure. The population of the State was 1,470,000 shortly before admission, about 120,000 of these being American Indians.

I speak to you to-day in behalf of the eastern half or Indian Territory side of the State.

Indian Territory was really a misnomer, for it was never in fact a Territory. It had no real form of government, no executive or legislative tribunals whatever save the parent Government at Washington. In fact, our only semblance of any form of organized government was the Federal courts which had been established for several years. We had no schools for the white child, no schoolhouses, no improved roads, no bridges, no courthouses, no jails—in fact, no improvements of any public character whatever. So the financial responsibility which Congress imposed upon the people of the eastern half of Oklahoma was that of building a Commonwealth for the more than 700,000 people who inhabited the Indian Territory side of the State, and building it from the grass roots without any digested plans and specifications and without sufficient material, as I will attempt to show.

Now, let us invoice the resources you placed at our command for the accomplishment of this Herculean task; let us see what tools you gave us to work with.

I have told you that the million and a half population of our State included 120,000 Indians, which is more than one-third of all the Indian population of the United States. One hundred and one thousand of these Indians lived on the eastern side, and comprise the Five Civilized Tribes.

Every foot of the 20,000,000 acres of land on the eastern side of Oklahoma, save a few thousand acres of town site, was owned by these Five Civilized Tribes. By the Atoka agreement, approved by Congress on June 28, 1898, and supplemental agreement of July 1, 1902, and other treaties of contemporaneous dates, the Indians of the Five Civilized Tribes had been guaranteed by the Federal Government that none of these lands should become taxable, under various reservations, as follows: Some were made nontaxable for 21 years, or as long as the title to same remained in the original allottee, others for 21 years without conditions, while still others were exempted from taxation in perpetuity regardless of transfer or alienation.

Now, if this was the end of the record and Oklahoma had accepted statehood in the full knowledge of these facts, then we might not now with good grace and in good faith come back to the parent Government and ask even this small modicum of relief.

But this is by no means the end of the story. The enabling act under which Oklahoma became a State was passed, as I remember, by the first session of the Fifty-ninth Congress. But along about the same time—on April 26, 1906—there was passed by Congress what was commonly known as the Curtis Act, entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes." This act provided for the taxation of the lands of the Five Civilized Tribes upon certain conditions. The provision dealing with this subject is found in the proviso at the end of secton 19 in the following language:

Provided further, That all lands upon which restrictions are removed shall be subject to taxation, and the other lands shall be exempt from taxation so long as the title remains in the original allottee.

This Federal statute, providing for the taxation of the lands of the Five Civilized Tribes, had been on the statute books for more than 18 months when our constitution was adopted, and every man who thought of the matter of taxation at all when he voted on the constitution felt confident that this act of Congress making these lands taxable, and passed almost two years before statehood, was the law of the land and would prevail.

In accordance with this belief, when the Oklahoma delegation came to Congress, Congress was placed in full information of our deplorable condition and prevailed upon to remove restrictions on about one-half of this 20,000,000 acres of land in order that we might have sufficient taxable values to build up our State institutions and maintain our State government, and our State proceeded with the collection of the taxes.

Since it appeared that we would have sufficient taxable property on the eastern side of our State to maintain our State government and justify the building of necessary State institutions, our people proceeded to float bonds for the building of county courthouses, county jails, public schools, public roads, bridges, and other internal improvements. These bonds have already been issued, are now outstanding, and payment both as to interest and principal must be met in some manner or the credit of the eastern side of the State becomes utterly worthless.

But the Indian of the Five Civilized Tribes showed that he is not so much of an incompetent as some of our friends here would have you believe. Poor Lo emulated the example of his paleface brother. He proceeded to make perfectly good as a full-fledged American citizen by resisting the taxation of his property. These Indians simply asserted the right of nontaxation of their lands, guaranteed to them by their several agreements, by suing out an injunction against the tax officials of Oklahoma. These suits came up through the regular channels of our judiciary to the Supreme Court of the United States, and this high court rendered a decision to the effect that the several agreements made with the Indians were the result of mutual considerations and concessions on both sides, and that thereby the guaranty of nontaxation of Indian lands had come to be a vested right, sufficient to exempt same from taxation, and that those provisions of the acts of April 26, 1906, and May 27, 1908, seeking to make these lands taxable were null and void, thereby leaving the entire east side of our State high and dry, bereft completely of any taxable values, so far as land is concerned.

To make a long story short, you have imposed upon the people of Oklahoma the responsibility of building an empire, and have taken from them the material and tools with which to construct it. You brought us into statehood under a written contract that all Indian lands would be taxable, as long as restrictions were removed, but the courts now hold that these lands can not be taxed, even if the restrictions are removed.

Gentlemen may contend that other States having Indian lands do not receive such gratuities from Congress, but we answer that their cases are not parallel with ours. I repeat, no State in this Union labors under such tax-exemption handicaps as the State of Oklahoma; no other State in this Union has practically one-half of its land area exempt from taxtion; no other State in the Union has over 80 per cent of the land values of the majority of its counties withdrawn from the tax rolls.

And here is another very important distinction: In all other States Indian lands become taxable as soon as the restrictions are removed, but the lands of the Five Civilized Tribes do not. Some of them do not become taxable until sold, and others will never become taxable under any kind of circumstances whatever.

It is true that a small portion of these lands has been sold, but I doubt if the combined sales of both allotted and unallotted lands during the 14 years in which the Dawes Commission has been attempting to settle our affairs will aggregate as much as 4,000,000 acres, and some of that is still nontaxable. This

would leave no less than 16,000,000 acres, not less than 80 per cent of all of 40 counties on the east side of the State, nontaxable.

These 16,000,000 acres consist of agricultural, coal, oil, gas, and grazing lands, and their aggregate valuation would probably reach $500,000,000, all of which is withdrawn from taxation.

Now, gentlemen of the committee, ours is a young State, with not so much personal property and valuable improvements as older States; so, like all new countries, our lands represent the principal assets of any value.

I would not undertake offhand to say the specific proportion of values this $500,000,000 worth of property really represents, but it is a stupendous amount to be withdrawn from the taxation of any State, and I dare say would seriously cripple the taxable values even of as wealthy a State as that which the distinguished gentleman reserving this point of order so ably represents on this floor. So I appeal to the good judgment of the gentleman. I implore the gentlemen of this committee not to inflict longer this unjust burden upon our people. Especially do I beseech the gentleman from Illinois [Mr. FOWLER], who honors one of the wealthiest States of this Union by his presence here, to call to his aid all his powers of generosity and graciousness, to muster his full measure of the milk of human kindness, and do simple justice to a struggling young sister State of this Republic by withdrawing his point of order and granting this small modicum of relief.

Mr. FOWLER. Mr. Chairman, will the gentleman yield for a question?

Mr. CARTER. Certainly.

Mr. FOWLER. Is this not the second attempt to appropriate $200,000 for this purpose? I mean by that, was not the last bill the first time that this sum was carried for the purpose provided in the bill?

Mr. CARTER. Oh, no; the first time that this amount was carried in the bill was in 1904.

Mr. FOWLER. Has it been carried since 1904?

Mr. CARTER. It was carried right along until 1910, the first session of the Sixty-first Congress, and was then dropped. It was dropped at that time because we supposed that these lands would become taxable under the acts of April 26, 1906, and May 27, 1908. That appropriation was dropped prior to the time of the decision of the Supreme Court setting forth that the lands would not become taxable, even when restrictions were removed.

Mr. FOWLER. Is there no provision whatever for the education of these Indians other than this $300,000?

Mr. CARTER. The Indians have some separate schools, Mr. Chairman, at which about probably one-fourth of their scholastic population is being educated; not quite one-fourth, I would judge.

Mr. FOWLER. Is this sum intended to take care of the three-fourths?

Mr. CARTER. This sum, as indicated by the paragraph, is intended to take the place of the money that the State has been deprived of by the nontaxation of these 16,000,000 acres of Indian lands in Oklahoma; and I will say further to the gentleman that the Indian child has the same school privilege in Oklahoma as any other person, because he is a full-fledged citizen of the United States and of the State of Oklahoma.

Mr. FOWLER. Do they not have free schools there the same as the whites?

Mr. CARTER. We have, but we are not able to maintain them at some places for a very great length of time during the year on account of our meager taxable assets.

Mr. FOWLER. How long do you maintain the free-school system?

Mr. CARTER. We maintain them in the country districts, I would say, from three to seven months.

Mr. FULLER. On an average of how many months?

Mr. CARTER. Of course, the gentleman is getting me into pretty deep water now. I would not like to attempt a statement like that offhand without making some figures. In some neighborhoods we have been practically unable to operate schools except by these funds provided by this paragraph, and then we have been able to run them only from three to five months.

Mr. FOWLER. Is it not a fact that in many States of the Union there are counties which do not run the schools for the whites more than five or six months in a year?

Mr. CARTER. Without this appropriation I doubt if we would be able to run three months in some of our school districts.

Mr. FOWLER. Is this intended to extend the free school system over the three or four months that you say?

Mr. CARTER. Oh, yes; that is what it is used for.

Mr. FOWLER. To pay teachers and to provide for the extension of the schools?

Mr. CARTER. That is the purpose.

Mr. FOWLER. How long will it give these Indians a school per annum? How many months?

Mr. CARTER. Again, I would not say, specifically, as to that. It is a very small amount, but it would at least extend the schools two or three months where we are short on taxable values.

Mr. FOWLER. Do you think this sum ought to go out of this bill?

Mr. CARTER. I certainly do not.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. CARTER] has expired.

Mr. MILLER. Mr. Chairman, I ask unanimous consent that his time be extended one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MILLER. How much did the department estimate?

Mr. CARTER. My eyes do not fall on the figures right now, but I think it was $300,000.

Mr. MILLER. I am quite sure the gentleman is mistaken. I do not think the department estimate is that at all. I do not find it at all.

Mr. CARTER. I have two estimates in my hands.

Mr. MILLER. I beg the gentleman's pardon, but I think they are letters.

Mr. CARTER. They are letters—justifications.

Mr. MILLER. This is not estimated for by the department.

Mr. CARTER. It is not estimated for. It was not estimated for to begin with, but it was justified by the department since then and before it was favorably acted on by the committee.

Mr. MANN. The estimate came from the Secretary of the Treasury?

Mr. CARTER. This is a letter from the Secretary of the Interior.

Mr. MILLER. The purpose of my inquiry is to ascertain if this expenditure was an item in a comprehensive scheme of education in Oklahoma and was in the department's estimate. I have not been able to find any estimate.

Mr. CARTER. I think the department worked it out pretty thoroughly in 1904, when it was first put in the bill.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. CARTER] has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that the gentleman have two minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. CARTER. In 1904 this matter came up from the department, and I think extended hearings were had before the Committee on Indian Affairs, but I am informed by the gentleman from Texas [Mr. STEPHENS] that no record was kept of those hearings. I have searched very diligently for them and have not been able to find them. In 1905, 1906, 1907, 1908, and 1909 it was estimated for. And at the next session, I think, although I will not be sure about that, the gentleman from South Dakota [Mr. BURKE] was then chairman of the Committee on Indian Affairs and can tell whether there was an estimate. And his bill carried $75,000, although in different language from that which had been used in the past. At that time it was supposed that the Indian lands would become taxable as soon as restrictions were removed or, at the most, when sold, but since then the Supreme Court has held that some of the lands would not become taxable when restrictions were removed and others would not be taxable even when transferred—nontaxable in perpetuity. We thought last year it would be necessary—in fact, we found it extremely necessary—to restore the item of $300,000, so it was done in the Senate and was agreed to in conference.

Mr. MILLER. As I understand here, the trouble is not an act of poverty or wealth on the part of the Indian in that locality sufficient to support the school? Simply, it is not subject to the taxation?

Mr. CARTER. Yes.

Mr. MILLER. What is the gentleman's view of this being reimbursable?

Mr. CARTER. That, it seems to me, would simply get back to the treaty provision. The Supreme Court has decided that the Indians should not have their lands made subject to taxation, and this might be in violation of that decision of the Supreme Court. I would say to the gentleman I would be very glad, indeed, that, so far as I am concerned and my family is concerned, all the taxes on my allotment have been paid, in spite of the law.

Mr. MILLER. Which shows good public spirit.

Mr. CARTER. While I do feel deeply the need of these taxes for the State, I make no especial claim to public spirit.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MANN. Mr. Chairman, may I ask the gentleman when the item was included in the appropriation bill, as he states, in 1904, whether that is the same item that is in this bill?

Mr. CARTER. Not exactly.

Mr. MANN. That is what I thought. In what respect do they differ?

Mr. CARTER. I think there is practically no difference in their meaning.

Mr. MANN. Well, it is a matter of opinion as to what they mean.

Mr. CARTER. I have the original provision on my desk. If the gentleman means to say that the act of 1904 did not contemplate the education of white children, then I say there is absolutely no difference, because that is what is specifically set forth.

Mr. MANN. Well, that was at a time when the State of Oklahoma was the Territory of Oklahoma. Oklahoma was admitted in 1907. Was the item omitted in 1908?

Mr. STEPHENS of Texas. This was known as the Five Tribes. The western part of the State of Oklahoma was not Territory.

Mr. MANN. I did not say anything about that. Was Oklahoma admitted as a State in 1907?

Mr. STEPHENS of Texas. That is right.

Mr. FERRIS. This item was cut to $150,000 on the motion of the Members from Oklahoma. We said if you will remove the restrictions we will not ask for any more school removals. Congress came to the rescue by the passage of the act of 1908, which was the removal-restriction act. The Supreme Court came along last winter and said that even though Congress decided these lands were taxable, they were not.

Mr. MANN. I do not always get the information I ask for, but I sometimes get very valuable information.

Now, in 1904 this was the Indian Territory.

Mr. CARTER. Yes, sir.

Mr. MANN. In 1905 it was the Indian Territory.

Mr. CARTER. Yes.

Mr. MANN. In 1906 it was the Indian Territory. In 1907 it was the Indian Territory.

Mr. FERRIS. It was a State in the fall.

Mr. MANN. The Government provided for the schools then. In 1908 it was the State of Oklahoma. We did not insert the item in the bill.

Mr. FERRIS. We did.

Mr. CARTER. Oh, yes; we did.

Mr. MANN. The gentleman stated a while ago that we did not.

Mr. CARTER. The gentleman is mistaken. Here is the provision:

For the maintenance, strengthening, and enlarging of the tribal schools of the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations, and making provision for the attendance of children of parents of other than Indian blood therein, and the establishment of new schools under the control of the Department of the Interior, the sum of $300,000, or so much thereof as may be necessary, to be placed in the hands of the Secretary of the Interior and disbursed by him under such rules and regulations as he may prescribe.

Mr. MANN. If the gentleman wants to insert an item of that kind in the bill, that is a different proposition. That is entirely different from this proposition. Here is an item of $300,000 for the common schools of Oklahoma. There was an item——

Mr. CARTER. For the same thing——

Mr. MANN. To provide money for the tribal schools of these Indians who were living in tribal relations.

Mr. CARTER. And also making provision for the attendance of children of parents of other than Indian blood.

Mr. MANN. While Oklahoma was a Territory we were providing schools there, but we are not under any obligation to provide schools in the State of Oklahoma.

Now, if the gentleman will pardon me, I appreciate the conditions there. I can see that the conditions are onerous. But, on the one hand, the gentleman comes into the House and insists, in violation, as I think, of the compact made in the House in reference to the deposit of money in the Oklahoma banks, that the Government shall pay the expenses of collection and that the Government shall pay the expense of salaries in order to save the Indians' money, and, on the other hand, says that because we can not collect taxes from the Indians the Government ought to maintain the schools. The Government gets it at both ends and in the middle.

If the money is needed for the maintenance of the common schools and you can not tax the Indian lands, why does the gentleman propose to reimburse it out of Indian funds?

Mr. CARTER. Let me ask the gentleman a question, as a lawyer?

Mr. MANN. Oh, the gentleman need not ask me any question as a lawyer. I quit the practice of law some time ago, and I never answer a question of law without a retainer. [Laughter.]

Mr. CARTER. Not being a lawyer myself, Mr. Chairman, I am simply seeking legal advice from a distinguished legal light. I wanted to ask the gentleman, if, in view of the Supreme Court decision which sets forth that these Indians should not pay taxes on their lands, would such an act passed by this Congress be considered of sufficient validity to warrant the payment of the funds in lieu of taxes?

Mr. MANN. Oh, I should think that the court decision would not affect the matter one way or the other. The decision of the court was that the State of Oklahoma could not tax these lands. Whether the treaty is so drawn that the Government could make a fund reimbursable I do not undertake to say. But the decision of the Supreme Court has nothing to do with the question.

Mr. CARTER. That would be doing indirectly what you can not do directly.

Mr. MANN. That is what you want to do. You want to do that indirectly what you can not do directly.

The CHAIRMAN. The Chair will hear the gentleman from Illinois [Mr. FOWLER] on a point of order.

Mr. FOWLER. Mr. Chairman, I am unalterably opposed to the United States appropriating money out of the National Treasury for the common schools of any State of the Union unless such a condition arises which might be termed an emergency. I can see that such a condition might arise. It appears to me that in this case, Mr. Chairman, these Indians have been receiving practically this sum of money for quite a number of years for the purpose of maintaining common schools; not under the name of "common schools" up to 1908, but as tribal schools. I feel somewhat inclined to believe, Mr. Chairman, that if the committee will agree to make the sum $200,000, I will withdraw the point of order. I ask that the sum be made $200,000 until further arrangements can be made for the extension of these schools. If the gentlemen who are in charge of the bill will agree to that, I will withdraw my point of order.

Mr. CARTER. Mr. Chairman, I would be very glad to do that if the gentleman can give me assurance that the point of order will not be made by some one else.

Mr. FOWLER. If I can get that understanding I will withdraw the point of order. I do not believe that there ought to be $300,000 appropriated under the circumstances. Oklahoma is one of the greatest States of this Union, and for her to come into the Halls of Congress and ask that the aid, the strong arm of this Government, be extended to maintain her free schools does seem to me, Mr. Chairman, a reflection upon that great State.

The CHAIRMAN. What does the gentleman from Illinois [Mr. FOWLER] do with his point of order?

Mr. CARTER. I will compromise with the gentleman.

Mr. MANN. Does the gentleman withdraw the point of order?

Mr. FOWLER. I withdraw the point of order on that understanding.

Mr. MANN. Then I make the point of order, Mr. Chairman.

The CHAIRMAN. The point of order is sustained.

The Chair will now dispose of a point of order made earlier in the day to an amendment sent up by the gentleman from Montana [Mr. PRAY]. This matter could not be ruled on at the time because there were quite a number of statutes and sections of statutes that had to be examined in order to ascertain the foundation upon which the amendment was supposed to rest. The first clause in the amendment provides for a survey of the lands of the Tongue River and Cheyenne River Indian Reservations. Now of course to justify the appropriation for this purpose there must be some authority conferred somewhere by some law. The gentleman from Montana [Mr. PRAY] sent up the following statute as supposedly furnishing authority for this particular appropriation. Leaving out intermediate matter, the statute is as follows:

That in all cases * * * the President of the United States, whenever in his opinion any reservation or any part thereof is advantageous for agricultural and grazing purposes, may cause such reservation to be surveyed.

This is a provision under which discretion is given to the President of the United States to have a survey made of any reservation. Under the amendment a department is authorized to make a survey of a particular reservation. The Chair is unable to see how authority that is given to the President to be exercised at his discretion furnishes authority for an amendment empowering a department to make a survey without regard to the wishes, judgment, or discretion of the President. Hence it seems to the Chair that the point of order to this portion of the amendment is certainly well taken. Under very familiar and abundant precedent, the point of order to the amendment being good as to a portion of the same, it is good as to the whole amendment. The point of order is therefore sustained.

The Clerk read as follows:

That the act of Congress approved February 19, 1912 (Public, No. 91), being "An act to provide for the sale of the surface of the coal and asphalt lands of the Choctaw and Chickasaw Nations, and for other purposes" and the paragraph amendatory to such act contained in the act of Congress approved August 24, 1912 (Public, No. 335), entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, etc.," be, and the same are hereby, amended so as to provide that the classification and appraisement of such lands shall be completed by John G. Joyce, chief surveyor, not later than four months after the passage of this act.

Mr. MANN. I make a point of order against the paragraph read.

Mr. STEPHENS of Texas. I hope the gentleman will reserve his point of order for the purpose of allowing an amendment to be offered to perfect the section.

Mr. MANN. I will reserve the point of order, but it is not possible to reserve it for the purpose of perfecting the section.

Mr. STEPHENS of Texas. It is the common usage to do that.

Mr. MANN. I am quite willing to reserve the point of order.

Mr. STEPHENS of Texas. I offer the amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 23, line 20, after the word "surveyor," state the following as a committee amendment:

"Under such rules and regulations, to be prescribed by the Secretary of the Interior."

Mr. CARTER. Does the gentleman from Illinois reserve a point of order?

Mr. MANN. I made a point of order, but if the gentleman wants to be heard, I will reserve it.

Mr. CARTER. It is getting late, Mr. Chairman, and I do not care to detain the House; but if there is any chance to persuade the gentleman not to insist on his point of order, I should like to plead with him.

Mr. MANN. I can not say. The gentleman has so often persuaded me against my better judgment that he might be able to do it again, although I have a pretty firm conviction on this subject at this time.

Mr. CARTER. I have not the remotest idea that I shall be able to convince the gentleman this time, because this item involves a subject about which the gentleman and I sometimes disagree. A subject, in fact, which I dislike to discuss, and which I presume the exigencies of the occasion demand that I speak of as sparingly as possible, and that is the administration of Indian affairs by the present régime.

On the 19th day of last February there was placed on the statute books an act providing for the appraisement and sale of the surface of the segregated mineral lands in the Choctaw Nation, in Oklahoma. This land had already been appraised once, and for that reason I opposed its reappraisement. Moreover, I felt sure that the very thing would happen that has happened; but out of deference to Members older than myself in service both on the committee and in this House, I agreed to the appointment of three appraisers at a certain stipulated compensation.

These three appraisers were appointed by the Secretary of the Interior, but not until almost two months after the act had become a law, and this in the face of the fact that the Secretary of the Interior knew these three gentlemen had only six months in which to complete the job. The three appraisers established their office at McAlester, Okla., and proceeded until the time expired within which they were to appraise the land. They then asked for an extension of time, which was very graciously granted by this Congress in the last Indian appropriation act. These three elegant gentlemen again proceeded with the appraisement of this land—that is, they say they proceeded—but notwithstanding the fact that there were less than 450,000 acres to be appraised, the time again expired with nothing whatever accomplished, except a fraudulent appraisement, as charged by the Indian Office, in Oklahoma for the making of which charges were brought against the appraisers and in the face of which they resigned without trial.

The Secretary then appointed, or now proposes to appoint, three other appraisers if we will give him the authority, but, Mr. Chairman, it seems to me that we have had enough of this horseplay for political purposes. It seems to me that there should be an end to any such tomfoolery as has been carried on by such political henchmen as these at the expense of the Indian people in Oklahoma. The present Secretary of the Interior is said to be a conservationist, and I believe that is true, for he has successfully conserved the interests of Republican politicians by the use of the funds of the Five Civilized Tribes ever since he has been in office, but he has done practically nothing toward the conservation of these funds or winding up of the tribal affairs except what has been forced upon him by this Congress.

The man, John G. Joyce, who is named in this bill, is one of the very few men who have been connected with Indian affairs in Oklahoma in the past against whom no charges of either incompetency or corruption have been lodged. His work has been clean. It has always been done expeditiously, and I believe even the authorities in charge of Indian affairs at Muskogee will give him a perfectly clean bill of health as to ability, competency, and integrity. The only objection that might be found to him, even by succeeding administrations, is that he is a rabid Republican.

Mr. MILLER. What was that adjective which the gentleman used?

Mr. CARTER. Rabid. I am speaking of an Oklahoma Indian official now; that might not apply to the gentleman from Minnesota.

Mr. MILLER. I never heard of a "rabid" Republican.

Mr. CARTER. The gentleman has not had the privilege of association with the Oklahoma brand. This gentleman, Mr. Joyce, is now in possession of all the information he needs, I think, to make the reappraisement of the agricultural and grazing lands. He has been over them recently and has surveyed them for appraisement purposes. I believe he could do it much more cheaply and much more expeditiously than anyone else could. I think the authorities at Muskogee would verify this statement.

Mr. MILLER. Will the gentleman yield right there?

Mr. CARTER. Yes.

Mr. MILLER. We have discussed this before. I presume it will go out on a point of order.

Mr. CARTER. I had hoped that it would not.

Mr. MILLER. I suppose the only advantage in this discussion is to get some information that will be of use in the future. As I stated when the gentleman was before the committee, it seemed to me that there were not sufficient records and data in Mr. Joyce's office to enable him to make this appraisal and report. It seems to me if anything is to be done to dispose of this very perplexing and sad matter, as the gentleman has characterized it, we ought to have some kind of a reappraisement, and some appropriation to permit the securing of additional data upon which to make the reappraisement. If I have not been correctly informed I shall be glad to have the gentleman discuss at some length the question of how much data Mr. Joyce has, and why he thinks he could now make such a reappraisement.

Mr. CARTER. Mr. Joyce has been over almost every acre of the land except that which is close enough to town sites to make it valuable for town-site purposes. He has already placed a valuation on practically all of the agricultural and grazing lands.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. CARTER. I ask for five minutes more.

The CHAIRMAN. Without objection, it is so ordered.

Mr. CARTER. I ask unanimous consent that I may have five minutes more.

Mr. STEPHENS of Texas. I have no objection, if we can close the debate at the end of the five minutes.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent for five minutes more, and the gentleman from Texas [Mr. STEPHENS] asks that at the end of that time the debate on this paragraph be closed. Is there objection?

There was no objection.

Mr. MILLER. Has he made an appraisement of some of these lands in the vicinity of South McAlester?

Mr. CARTER. I just said he has not appraised anything which is near enough to a town to be valuable for town-site purposes.

Mr. MILLER. The commissioners have performed some work that has brought criticism and hostility upon them, in the matter of appraising certain tracts of land near South McAlester. How could Mr. Joyce go ahead now and make an appraisement of such very valuable lands as these, which are the most valuable of the lands he would have to appraise, without getting some additional data? He certainly could not base his estimates on the report of the commissioners, because a prima facie case is made out against that report.

Mr. CARTER. There is already an appropriation of $30,000.

Mr. MILLER. Has it not all been used?

Mr. CARTER. I assume that about one-half of it has been used.

Mr. BURKE of South Dakota. The amount appropriated was $50,000.

Mr. CARTER. My recollection is that it was reduced to $30,000.

Mr. BURKE of South Dakota. My recollection is that $15,000 was expended by the appraisers, who did not accomplish anything.

Mr. CARTER. I think that is true, and that would leave $15,000 with which to complete the work.

Mr. MILLER. If $30,000 was needed in the first place to make the appraisement, and $15,000 was spent without accomplishing anything, how are you going to make $15,000 complete the appraisement?

Mr. CARTER. I think if the gentleman understood the character of the Oklahoma Indian officials he would know that one good man can always be depended upon to do the work in about one-third the time and for one-tenth the cost that three men can do it. I feel sure that if this man, who all agree is one of the most competent men in the Indian service, is given charge of this work that the work will be expeditiously, correctly, and economically completed for this sum.

Mr. MILLER. Will he have it done under his supervision and with additional machinery and time?

Mr. CARTER. If the point of order is withdrawn a committee amendment will be offered directing the work to be done by the surveyor in chief, under rules and regulations to be prescribed by the Secretary of the Interior. The omission of this language was an oversight.

Mr. MILLER. It has always been one of the fundamental beliefs that when you have an appraisal of real estate there should be three appraisers. In the laws of all the States providing for appraisement of lands, like guardianship cases, where land is taken for public purposes under eminent domain, and all matters of that kind, the provision is that there shall be three appraisers.

Mr. CARTER. That has not been true in Oklahoma. We only had two appraisers for the appraisal of the allotted lands. Furthermore, I call attention to the fact that every acre of this land has been appraised before, under the direction of the Secretary of the Interior, and that something like 3,000,000 acres of land has been sold under this original appraisement which these lands had at a past date; why, then, all this ado about additional appraisement?

Mr. BURKE of South Dakota. Will the gentleman permit one question?

Mr. CARTER. Certainly.

Mr. BURKE of South Dakota. Without particular reference to this item, I would like to ask the gentleman if he believes it is good legislation to name some particular individual to do something of this kind?

Mr. CARTER. The Secretary of the Interior has had his innings at the appointing of political henchmen to appraise these lands. He pondered and equivocated for almost two months, totally ignoring good Indian applicants who would have done the work conscientiously and expeditiously and who, since their salaries were drawn from the Indian funds, should have been given preference, finally letting his favor fall upon three men, all of whom have admitted their corruption by resigning under charges of fraud.

I would not object to striking out the name of John G. Joyce if that would satisfy the sensibilities of any Member, but I insist that this work must be done by some one who is competent and reliable, and such a man seems to have been utterly unable to find favor with the present powers that be.

It has now been almost a year since the appraisement of these lands was provided, and not one single acre has yet been offered for sale. How long, O Lord, will the present Republican administration hold up the settlement of the affairs of the Five Civilized Tribes and clog the wheels of commerce and progress in our State? What all the people of our State want—Indians and whites alike—is to get these appraisements and sales accomplished as quickly and as cheaply as possible and without any scandal, if you please, as to fraudulent appraisements. And unless some plan can be formulated which will give us assurance of this, then I think we might as well wait until after the 4th of March, when we hope to have a good business administration which will conduct its work upon the grounds of benefits to all the people rather than of satisfying the political organization of some particular party.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired.

Mr. MANN. Mr. Chairman, the item in the bill proposes to amend two existing laws. The law now provides that the appraisement and classification shall be completed by the 1st of last December, I think, by the appraisers appointed through the Interior Department by the Secretary of the Interior. It is proposed here to amend these laws so as to provide that the classification and appraisement shall be made by a particular individual, not later than four months after the passage of this act. That, of course, extends the time for making the appraisement until the 1st of July, where it is now fixed by law as the 1st of December. I presume the appraisal ought to be made, if it has not been made. I can imagine that there are cases where Congress may specifically provide that a particular individual shall perform a certain function. Usually that is where everybody in the legislative body is familiar with the person named. With the greatest respect to my friend from Oklahoma who has suggested this name, I do not know whether his judgment in reference to this man is any better than that of the Secretary of the Interior in appointing the appraisers, and it seems to me it is not a wise change of law to provide, where the law authorizes the appointment of three men to make classification and appraisement, to name a particular individual and say that he shall make the classification and appraisement.

I have less hesitation in making this statement because the gentleman may get the next Secretary of the Interior, who will probably be under the thumb of the distinguished gentleman from Oklahoma, to do whatever he pleases.

Mr. CARTER. Will the gentleman yield?

Mr. MANN. Yes.

Mr. CARTER. Mr. Chairman, I do not desire to get anybody under my thumb. What I expect to do is to get out from under the thumb of the Secretary of the Interior.

Mr. MANN. I did not say that the gentleman would get anybody under his thumb. I said the distinguished gentlemen from Oklahoma would probably have the next Secretary of the Interior under their thumb to do the things like this. I make the point of order, Mr. Chairman.

The CHAIRMAN. The provision on its face proposes to amend existing law, and therefore is obnoxious to the rule. The point of order is therefore sustained.

The Clerk read as follows:

For support and education of 600 Indian pupils, including native pupils brought from Alaska, at the Indian school, Salem, Oreg., and for pay of superintendent, $102,000; for general repairs and improvements, $9,000; in all, $111,000.

Mr. HAWLEY. Mr. Chairman, I move to strike out of line 4, page 25, the sum "$9,000" and insert in lieu thereof "$15,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 25, line 4, by striking out "$9,000" and inserting in lieu thereof "$15,000."

Mr. STEPHENS of Texas. Mr. Chairman, I make a point of order.

Mr. HAWLEY. I submit that it is not subject to a point of order, as it is only an increase in the amount.

Mr. STEPHENS of Texas. I did not catch the purport of the amendment, and I will withdraw the point of order.

Mr. HAWLEY. Mr. Chairman, the purpose of this amendment, which increases the amount for repairs and improvements by $6,000, is to provide for an adequate water system and supply for the Chemawa Indian school, a school that has between 600 and 700 pupils and a number of employees. At my request the superintendent of the school wrote me a letter about the matter.

He said:

The wooden tower and tank now in service are worthless for the purposes for which they were erected many years ago. The tank has been out of service for about eight years, since which time it has not been used at all, but a small one, holding a few hundred barrels of water, located about 30 feet above ground, has been used in lieu thereof. The large one became contaminated in some way, and an analysis made this past fall for me by the chemist at the agricultural college at Corvallis showed that the water was reeking with typhoid germs. The tank is old, and as this condition has obtained for years, it was the opinion of the chemist that it could not be cleaned in such a manner as to render it safe for storing water again. The wooden tower is unsafe, the sills and timber being unsound, and the cost of rebuilding it would be so great that as a matter of economy and good business judgment a new steel tower of adequate height to afford fire protection should be erected. So far as the water system is concerned we are practically without any fire protection, which in a plant of this size, where most of the buildings are of wood, renders the situation serious. We need to have two more wells driven

in addition to these now in service. The water is of splendid quality, but the wells we now have are to small and not deep enough for the demands being made upon them.

Mr. FOSTER. Mr. Chairman, will the gentleman permit a question?

Mr. HAWLEY. Yes; with pleasure.

Mr. FOSTER. Where is the source of the supply of water for the town of Salem, Oreg?

Mr. HAWLEY. From a bulkhead in the river, just a little above the town.

Mr. FOSTER. Is that water used for drinking purposes?

Mr. HAWLEY. In Salem?

Mr. FOSTER. Yes.

Mr. HAWLEY. It is.

Mr. FOSTER. Has there been any complaint in reference to the water that is pumped from the river there which goes to the people of Salem?

Mr. HAWLEY. From time to time there is an occasional complaint.

Mr. FOSTER. Why is it not more economical to get that water from the city of Salem than to do as the gentleman suggests?

Mr. HAWLEY. They would have to build a pipe line for about 6 miles.

Mr. FOSTER. Is it 6 miles from Salem?

Mr. HAWLEY. Yes; and the right of way would cost many times this amount, I take it, in addition to the material and labor necessary for the construction of the pipe line. They have drilled some good deep wells and they can drill others, at moderate cost, and they can, by putting in a new pump and a new steel tank, and doing away with this tank, get an adequate water supply for the use of the school which will be entirely healthful to the Indian children. It will furthermore provide a protection against fire. Many of the buildings are old. They have some hundreds of boys and girls in them. Some are wooden buildings, and they can not get water into the second story of the buildings at the present time, in any quantity, with the system they now have. It seems to me that upon the ground of humanity and economy and of necessity this small addition to the appropriation ought to be made.

Mr. FOSTER. How far is this school from the river?

Mr. HAWLEY. That would only be a matter of guess. I would guess 2 or 3 miles.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to state that two months ago I visited this school, among others on the Pacific coast. I found this an excellent school. The repairs to this water tower and tank are necessary. It was my understanding and the paper I have in my hand shows that the repairs and improvements were estimated at $10,000. We gave them $9,000, and the superintendent informed me that the main improvement they needed there was this water tank. As stated by the gentleman from Oregon, it is in bad condition, and I think that a new steel tower should be put up and the old one taken down.

Mr. HAWLEY. Is it the gentleman's opinion that this $9,000 appropriated here provides for this water tank?

Mr. STEPHENS of Texas. "General repair and improvement." That will be sufficient, in my judgment. I do not think there is any question about that. They would have a right to use that to take down the old one and put up a new one.

Mr. HAWLEY. Will the gentleman further yield?

Mr. STEPHENS of Texas. Certainly.

Mr. HAWLEY. In the book here which the committee has for its information in preparing this bill I find this statement:

The superintendent has estimated for necessary repairs $10,000.

That would not include the purchase of the new pump and motor, the new steel tank, the steel for the frame of the tank, and the drilling of the wells. That would leave only $3,000 for the repairs of all kind, and on so large a plant as that it would be manifestly inadequate.

Mr. STEPHENS of Texas. I was informed that the well was sufficient, and that the trouble was with the tank. They said the tank and supports for the tank. That is possibly 50 feet high.

Mr. HAWLEY. They have a little tank that is just 30 feet above the ground, not high enough for protection. The well they have will fill the present tank. If a sufficiently large tank is provided, and they have to have at least one good additional well, a good service will be provided.

Mr. STEPHENS of Texas. I was not informed in regard to that.

Mr. HAWLEY. I went over the ground just a few days after the gentleman did and went particularly into the items.

Mr. STEPHENS of Texas. Was the gentleman with the superintendent?

Mr. HAWLEY. I was with the superintendent and some of the other officers of the school.

Mr. STEPHENS of Texas. This was pointed out to me as the main improvement which they desired. However, they said that on the south side of the road they desired to increase the chapel, or the general assembly hall, to add about 40 feet onto the building. That was the second request that he made.

Mr. HAWLEY. I am interested now in the adequate water supply for these students, and I hope the gentleman will let the proposed small increase be passed by the committee.

Mr. STEPHENS of Texas. Mr. Chairman, I think the statement here, for repairs and improvements, $10,000, certainly estimated for that water tank. I would be willing to strike out $9,000 and insert $10,000. That is all they asked for.

Mr. HAWLEY. The statement given here is for necessary repairs, $10,000.

Mr. STEPHENS of Texas. Suppose we add the words "including water tank."

Mr. HAWLEY. Would that provide the necessary money?

Mr. STEPHENS of Texas. I think so. I think there will be sufficient for that, but I am willing to include that language.

Mr. HAWLEY. Why not let the entire amount of $6,000 go in, but limit it by the language "or so much thereof as may be necessary"?

Mr. STEPHENS of Texas. Nine thousand dollars is carried in the bill now.

Mr. HAWLEY. That would make $15,000 in all.

Mr. STEPHENS of Texas. I think that would be in excess of the demands that were stated to me as being necessary.

Mr. HAWLEY. The superintendent of the school, in a direct reply to a telegraphic inquiry from me, writes this letter, and he sends me a telegram that the total estimate and cost of this particular improvement would be $6,000, and that the need is urgent.

Mr. STEPHENS of Texas. He did not mention whether or not he intended to use any of the other fund, did he?

Mr. HAWLEY. I do not think he was advised.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS of Texas. Yes.

Mr. MANN. I see the superintendent estimated $10,000 for repairs and improvements and $14,500 for the building.

Mr. STEPHENS of Texas. That is correct.

Mr. MANN. Of course the buildings are not provided for in the bill.

Mr. STEPHENS of Texas. No; the building was to be an addition to the hall on the south side of the road.

Mr. MANN. Perhaps the term "buildings" there included also the building of the water tower. That is the reason of my inquiry.

Mr. STEPHENS of Texas. It might be that.

Mr. HAWLEY. The term "buildings" includes an office building, a physician's cottage, and two employees' cottages.

Mr. MANN. The superintendent's estimate for repairs and improvements is $10,000. That included the watering tank if it is not included in "buildings."

Mr. STEPHENS of Texas. I would be willing, Mr. Chairman, to let the amount be $12,000, and we can arrange the matter herafter if necessary.

Mr. HAWLEY. Mr. Chairman, I will therefore modify my amendment so that $12,000 will be appropriated in this item instead of nine thousand, so providing for the water system.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 25, line 4, strike out the figures "9,000" and insert in lieu thereof "12,000."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent to correct the totals.

The CHAIRMAN. That will be done.

Mr. MOORE of Pennsylvania. Mr. Chairman, have we passed the Pennsylvania item?

Mr. STEPHENS of Texas. There is no change made in the Pennsylvania item.

Mr. MOORE of Pennsylvania. There is no change?

Mr. STEPHENS of Texas. No.

Mr. MOORE of Pennsylvania. Then, Mr. Speaker, I ask the indulgence of the committee for one moment while I call attention to a speech in to-day's CONGRESSIONAL RECORD, on page 1087, by my distinguished colleague, the gentleman from Pennsylvania [Mr. OLMSTED]. We are considering the Indian appropriation bill and have just passed an item relating to the Carlisle Indian School, in which Mr. OLMSTED has been interested during his 16 years of service in this House. I know

of no man in the Pennsylvania delegation who has found a warmer place in the hearts of the Members of the House, or who has so endeared himself to the Pennsylvania Members as this distinguished Representative. [Applause.]

I observe with considerable regret that the speech, which I hope is not the swan song of the gentleman from Pennsylvania, starts out in its references to the Carlisle School by indicating that this is the last time he shall appear in Congress in its behalf. Mr. OLMSTED has been the devoted champion of the Carlisle School during the long period of his Membership here, and has stood by it through thick and thin, and in the stress of fair as well as of foul legislative weather.

The Indian school at Carlisle is one of those institutions of the Government of which we have a right to be proud, and the people of Pennsylvania are surely proud of the attitude which Mr. OLMSTED has taken with regard to it throughout his congressional career. And may I be permitted to speak of the references in his speech, to the characteristics of the students, both boys and girls, who have gone forth from that school, concerning some of whom I have had personal knowledge. They have developed well and have been a credit to the institution in which they were reared and have justified the attitude of the Government in making the expenditures it has made to thus improve the educational condition of these its wards.

I notice, too, that my colleague, Mr. OLMSTED, refers to some of those athletic qualities of the young men who have gone forth from this school; boys who have attained fame in the great field of baseball, and who have developed in the equally interesting field of football, and to one who has recently come through an international contest as champion of all the athletes in the world.

I recall that in this House not many months ago there sat a boy of his, the junior Marlin E. Olmsted, in whom, perhaps, he is more interested than in any other person in the world, except the fair lady who presides over his household, and that it was about the very time when the Indians were making a successful campaign in baseball. I overheard the lad, looking into the face of our distinguished colleague, say, "Father, is it not time that you should leave this House and go with me to the ball field?" The father, reluctant to leave his post of duty, said, "My boy, I can not go now; it is necessary for me to remain and save the country." And then the bright lad, looking anxiously into his father's kindly countenance, said, "Oh, shucks! Why not leave the salvation of the country to Mr. MANN?" [Laughter.]

We have reached a stage in the proceedings and a stage in the career of my distinguished colleague when we are almost about to say good-by. He has said good-by to the Carlisle School. He has left it in our keeping. And after he has gone back to private life and the practice of the law, where he will shine even more brilliantly than he did in this House, may we not intrust to Mr. MANN and the other saviors of our country the preservation and the perpetuation of the Carlisle Indian School? [Applause.]

The Clerk read as follows:

For support of Sioux of different tribes, including Santee Sioux of Nebraska, North Dakota, and South Dakota: For pay of 5 teachers, 1 physician, 1 carpenter, 1 miller, 1 engineer, 2 farmers, and 1 blacksmith (art. 13, treaty of Apr. 29, 1868), $10,400; for pay of second blacksmith, and furnishing iron, steel, and other material (art. 8 of same treaty), $1,600; for pay of additional employees at the several agencies for the Sioux in Nebraska, North Dakota, and South Dakota, $95,000; for subsistence of the Sioux, other than the Rosebud, Cheyenne, and Standing Rock Tribes, and for purposes of their civilization (act of Feb. 28, 1877), $200,000: *Provided*, That this sum shall include transportation of supplies from the termination of railroad or steamboat transportation, and in this service Indians shall be employed whenever practicable; in all, $307,000.

Mr. FOSTER. Mr. Chairman, I reserve a point of order.

Mr. FOWLER. Mr. Chairman, I reserve a point of order.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent to insert the word "River" after the word "Cheyenne," in line 3, page 21.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against this paragraph for the purpose of asking the chairman of this committee by what authority of law this appropriation is requested. In fact, I desire to ask the chairman if it is not a fact that on April 29, 1868, there was a treaty made between the United States and this tribe of Indians—the Sioux—with a limitation of 20 years; and I desire further to inquire if on March 2, 1899, this treaty was not renewed between the United States and this tribe of Indians, with a limitation of 20 years? I further desire to inquire if this treaty did not expire on March 2, 1909, and is not the request in this bill for this appropriation without any authority whatever?

Mr. BURKE of South Dakota. Mr. Chairman, I hope the gentleman from Texas will yield to me, as the inquiry covers practically the whole history of the Sioux Indians.

Mr. STEPHENS of Texas. Yes; I yield to the gentleman. The question refers to the gentleman's own State and district.

Mr. BURKE of South Dakota. I will say to the gentleman from Illinois that the treaty of 1868 was limited to 20 years. A treaty was made with the Sioux Tribes in 1889 by which they ceded about 9,000,000 acres of land to the Government, and the balance of their reservation was divided into separate reservations, there being the Standing Rock, the Cheyenne River, the Rosebud, the Pine Ridge, the Crow Creek, and the Lower Brule Tribes. The treaty of 1889 in some particulars was limited to 20 years. The gentleman is right about that. But, Mr. Chairman, there is a treaty, made in 1877, that is unlimited. I have referred to it on other occasions in this House as being probably the best treaty from the Indian standpoint that was ever made with any tribe of Indians in this country, because it was not limited as to time, and under the treaty of 1877, at the time that the Black Hills were ceded to the United States, it was provided that the United States guaranteed in perpetuity to provide these Indians with subsistence, to provide them with the means of education and civilization until such time as they should be self-supporting.

So I say it is the best treaty in regard to the provisions for the subsistence, support, and civilization of Indians that has ever been made.

Mr. FOWLER. Mr. Chairman, may I inquire about the treaty of 1877? Did not that refer to the treaty of 1868, and was it not to be governed by the terms of that treaty?

Mr. BURKE of South Dakota. It had no reference to it whatever, Mr. Chairman, and was a separate and distinct treaty by itself.

I want to call the gentleman's attention to what has actually transpired under the treaty of 1877, and I may say in passing that the Indians in the last couple of years have been very much discontented and dissatisfied over the cession of the Black Hills and are now trying to repudiate the treaty of 1877 on the ground that it was not executed in accordance with the provisions of the treaty of 1868, in that it was not signed by three-fourths of the adult male members of the tribe. They think that they did not get an adequate consideration for the lands that were ceded by that treaty. They overlook the fact that they did receive a large sum of money, because we guaranteed, as I have stated, to provide them with subsistence for all time. When I came to Congress, only a few years ago, we were annually appropriating $900,000 for the item which is now $200,000, for the support and civilization of the Sioux under the treaty of 1877.

Now, the gentleman may wonder how we have been able to reduce the amount, and I am going to explain how it was done. In the treaty of 1889 it was provided that after the allotments of lands were made the surplus lands should be sold and the money should go into the Treasury and be subject to appropriation by Congress for the support and civilization of the tribes.

We have had several land openings, one affecting the Cheyenne River, one the Standing Rock, and two or three the Rosebud, so that in making the appropriation this year we make no provision for those three tribes of Indians, and we are now supporting them and providing them with subsistence out of the moneys that were received from the sale of their lands.

But as to the question of authority for the appropriation, I can only answer the gentleman that the treaty of 1877 is still in full force and effect and has not been annulled.

Mr. FOWLER. The treaty of 1868 was in force at that time, was it not?

Mr. BURKE of South Dakota. It was at the time of the making of the treaty of 1877.

Mr. FOWLER. What was the necessity for it?

Mr. BURKE of South Dakota. I do not know what the necessity was.

Mr. FOWLER. What was the occasion for the renewal of the treaty of 1889, with the limitation of 20 years?

Mr. BURKE of South Dakota. I am unable to state what the need of it was. I am simply stating the fact that the obligation of the Government for all time to care for and support these Indians was in no manner modified by the treaty of 1889. That was in the treaty of 1877, and that treaty is to-day in full force and effect; and were it not for the fact that we have required that these three tribes, which comprise about two-thirds of the general Sioux Tribe, be supported out of the moneys that have come in from the sale of their lands, we would be appropriating to-day about a million dollars a year instead of $200,000.

Mr. FOWLER. If the treaty of 1877 was not to be construed with the treaty of 1868, why should the treaty of 1868 be extended in 1889?

Mr. BURKE of South Dakota. Well, I am unable to state why. I simply know that the treaty of 1889 was limited to 20 years in some of its provisions.

Mr. FOWLER. My recollection of the treaty of 1877 is that it did not deal with this question directly, independent of the treaty of 1868, but it was with some minor points connected with this treaty or with the subject matter with which the treaty of 1868 dealt directly.

Mr. BURKE of South Dakota. It guaranteed in perpetuity, perhaps, some of the requirement of the treaty of 1868 that were limited.

Mr. FOWLER. Now, Mr. Chairman, I desire, as my colleague, Mr. FOSTER, of Illinois, reserved a point of order, and as he has perhaps some questions regarding this treaty of 1877 to propound, to yield the floor to him.

Mr. FOSTER. Mr. Chairman, the only question in my mind with reference to this matter is whether the treaty of 1868, which ran for 20 years and then was renewed for 20 years more, is in effect now or has expired.

Mr. BURKE of South Dakota. The treaty of 1889, I will say to the gentleman, has expired, and I think everything in the treaty of 1868 has expired except as it might have been specifically extended by the treaty of 1877. But the treaty of 1877 is not limited as to time.

Mr. FOSTER. In any particular?

Mr. BURKE of South Dakota. I would not say in any particular at all, but as to time it is not limited, with perhaps this exception, that the obligation was until such time as the Indians would become self-supporting.

Mr. FOSTER. Then what is the gentleman's idea of the law of 1889?

Mr. BURKE of South Dakota. I will say to the gentleman that there are two separate and distinct considerations for the two treaties. The treaty of 1877 ceded to the United States the Black Hills, and the treaty of 1889 ceded, in round numbers, 9,000,000 acres, leaving the Indians about 11,000,000 acres, which was divided into the separate reservations which I have named.

Mr. FOSTER. It occurs to me that it is a question whether this act of 1877 did cover the support of these Indians. That is the only question in my mind about this matter.

Mr. BURKE of South Dakota. I will say to the gentleman that I do not think there is any question about it. I have looked it up on several occasions. Of course, the gentleman will take into consideration the fact that there are over 20,000 Indians, and that if there was no treaty obligation whatever we would be very fortunate if we were escaping with an appropriation no larger than the one we are making. If it was a gratuity, like every other gratuity appropriation it would be subject to a point of order; but so far as the Sioux of South Dakota are concerned, we are making appropriations in accordance with the obligation incurred by reason of the treaty of 1877, which is the one that authorizes this appropriation.

Mr. FOSTER. Mr. Chairman, I think I shall make the point of order and let the Chair decide it.

Mr. BURKE of South Dakota. If the gentleman will withhold his point of order just a moment, I will ask him, in perfect good faith, if he believed that there was no authority whatever for making this appropriation would he make a point of order and leave these Indians without any protection, so far as the Federal Government is concerned? I am assuming now that there is no authority for the appropriation. Would the gentleman do that to 20,000 Indians?

Mr. FOSTER. How are these Indians situated in reference to their own property?

Mr. BURKE of South Dakota. The Indians have allotments, and very liberal ones, as I have heretofore stated. The land is only fit practically for grazing purposes, each head of a family has 640 acres, but it is mostly unproductive.

Mr. FOSTER. And they have some money in the United States Treasury?

Mr. BURKE of South Dakota. They have a trust fund of $3,000,000.

Mr. FOSTER. It seems to me that on yesterday I heard the gentleman say that the less the Indians were left to depend on the Government the better it would be for them and the more civilizing influence it would have.

Mr. BURKE of South Dakota. Yes; and I will say to the gentleman that I have found a way by which we could take care of the greater part of these Indians out of moneys that have gone into the Treasury to their credit, and I believe it is a better use to make of that money to appropriate it and expend it for their civilization rather than to civilize and educate them at the expense of the United States and store up a great fund to be disbursed at some future time.

Mr. FOSTER. Does not the gentleman think this might be a good place to put his idea into operation as to what ought to be done for the Indians? Will not the Indians be made self-reliant in South Dakota by acting in accordance with the gentleman's idea?

Mr. BURKE of South Dakota. I do not think the gentleman from Illinois [Mr. FOSTER] is sincere when he intimates that "the gentleman from South Dakota" has ever in any way indicated that he would withdraw the protection of the Government from the Indian until he has reached that stage of civilization where he is able to take care of himself.

Mr. FOSTER. It occurs to me that yesterday the gentleman did not qualify his statement in the way he does to-day.

Mr. BURKE of South Dakota. The remark I made is in the RECORD, and the gentleman can read it for himself.

Mr. FOSTER. Yesterday the gentleman wanted to get a reservation sold, and one of the reasons he mentioned was that it was a bad thing for the Indian to make him feel that there was something coming to him from the United States Government.

Mr. BURKE of South Dakota. Indefinitely.

Mr. FOSTER. That he ought to be made self-reliant. Now, to-day the gentleman comes to the House and asks Congress to appropriate for the support of these Indians.

Mr. BURKE of South Dakota. The gentleman is entirely mistaken. I do not come to the House with it. The bill is brought here by the committee.

Mr. FOSTER. I mean, the gentleman is advocating the proposition that this appropriation is proper and right.

Mr. BURKE of South Dakota. Yes; certainly.

Mr. FOSTER. That is the better way to put it. Now, does not the gentleman think it would be a good thing to begin in South Dakota to carry out the gentleman's scheme of making the Indians self-reliant?

Mr. BURKE of South Dakota. I think we have perhaps made as much progress in the civilization of the Indians in South Dakota as in any other part of the country.

Mr. FOSTER. I do not doubt that.

Mr. BURKE of South Dakota. I have stated heretofore, and I now reiterate, that just as soon as the Indian reaches a point where he is competent to take care of himself, then, I say, the sooner we withdraw all Federal aid or supervision of his affairs the better for him.

Mr. FOSTER. Does the gentleman from South Dakota think we are very much nearer to it than we were the first time that he entered this House as a Member?

Mr. BURKE of South Dakota. I certainly think so.

Mr. FOSTER. I make the point of order, Mr. Chairman, that this is not authorized by law, as the treaty of 1868 expired and was renewed for 20 years, and then became effective for 20 years more, is not in effect now.

The CHAIRMAN. The Chair will call upon the committee to produce the law which supports the amendment.

Mr. BURKE of South Dakota. I have called the attention of the Chair to the treaty of 1877.

The CHAIRMAN. Does the treaty of 1877 provide for the employment of Indians, as contemplated by this amendment?

Mr. BURKE of South Dakota. I do not think the gentleman from Illinois makes the point of order that Indian labor shall be employed wherever possible. If he bases it on that, we will have to modify it. I presume he bases the point of order on the claim that there is no authority of law for the appropriation.

Mr. FOSTER. That there is no authority of law for the appropriation.

The CHAIRMAN. The Chair will call upon the committee, if they undertake to support the bill in this respect, to furnish him the authority of law upon which they rely.

Mr. BURKE of South Dakota. I will say to the Chair that here is an appropriation that has been made for years and years, and no Member has ever raised a point of order against it. If the point of order is insisted upon, as I assume it is, then I ask unanimous consent that the matter may be passed over until we can furnish the Chair with the authority that justifies the appropriation.

Mr. STEPHENS of Texas. I have no objection. We have to rise at 5 o'clock, and I think we ought to proceed with the bill as far as possible.

The CHAIRMAN. The gentleman from Texas asks that this particular provision of the bill may be passed over without prejudice, to be returned to at the pleasure of the committee. Is there objection?

There was no objection.

The Clerk read as follows:

For support and maintenance of day and industrial schools among the Sioux Indians, including the erection and repairs of school buildings, $200,000, to be expended under the agreement with said Indians in section 17 of the act of March 2, 1889, which agreement is hereby extended to and including June 30, 1914.

Mr. FOSTER. Mr. Chairman, I reserve a point of order to that item.

Mr. BURKE of South Dakota. I hope the gentleman from Illinois will reserve the point of order.

Mr. FOSTER. I want to say that in this bill we are appropriating money for schools. I do not know how much truth there may be in all the statements that are made, but I observe that it is claimed in an article that I saw in the New York Herald, in reference to Indian affairs, that there is a school in North Dakota which the commissioner has asked to be abandoned, and yet it is impossible to get it closed up.

Now, the gentleman from South Dakota is not only familiar with the situation in his State, but I take it that with his long service on the Committee on Indian Affairs he is conversant with the situation in North Dakota. I would like to ask the gentleman if there is any foundation for the statement that we are maintaining a lot of Indian schools, especially this one, appropriating for it, merely because it has been established, and like any other Government institution located in the community, it is very hard and almost impossible to get it abandoned?

Mr. BURKE of South Dakota. Mr. Chairman, I have not seen the article that the gentleman refers to so that I do not know to what school it refers. I presume it refers to the school at Walupeton or at Bismarck, in North Dakota.

Mr. FOSTER. It is the school at Bismarck.

Mr. BURKE of South Dakota. I think the department on one or two occasions failed to estimate for the Bismarck school, and was opposed to the appropriation for its continuation. But the committee looked upon it differently and provided for it. This appropriation that the gentleman has raised the point of order against is entirely to be expended for the reservation schools. It has no reference to a nonreservation school, such as the one at Bismarck, N. Dak.

Mr. FOSTER. I wanted to get the gentleman's idea about the school at Bismarck. I happened to be called away when the item was passed and did not get an opportunity, or I should have moved to strike it out.

Mr. BURKE of South Dakota. Last year it was represented to the committee that the school at Fort Berthold, west of Bismarck, had been burned, and that Bismarck was located centrally so that the Indian pupils could be obtained from the several reservations, and that there was a need for its continuation, and that by continuing it we might avoid rebuilding the school where the one was burned. At any rate, the committee last year appropriated for the school, notwithstanding it was not estimated for. But my recollection is that this year the school was estimated for. That school was located originally at Bismarck against the judgment of the Indian Department, and it was done at the instance of the Representatives and Senators from that State who thought that there ought to be an Indian school at Bismarck, and one was provided. But that is in another State from my State.

Mr. FOSTER. It would be natural for the Commissioner of Indian Affairs to estimate for the school this year after he had refused to estimate for it and Congress had appropriated for it.

Now, another question. Does not the gentleman think that this is possibly a good time to spend some of this money in the Treasury for the education of the Indians and let them spend their own money to become self-reliant, as long as the gentleman from South Dakota believes in that policy?

Mr. BURKE of South Dakota. As far as the Sioux Indians are concerned, I think it will be admitted that largely at my instance the Federal Treasury has been relieved from the expense of several hundred thousand dollars annually in moneys that are necessary for the care and support of the Indians by taking it out of their own funds. I have gone to the extreme, and to such an extent that at the present time the Sioux Indians are not feeling very kindly toward me. They are human.

Mr. FOSTER. I am so far away from them that I do not think they can get at me.

Mr. BURKE of South Dakota. The gentleman from Illinois ought to realize that these are the real Indians of the country; they are not mixed bloods. Most of them are full bloods, and only a few years ago were blanket Indians. I am speaking of the Sioux.

Mr. FOSTER. Does not the gentleman think that the money that they have in the Treasury is sufficient to pay the expenses of their education?

Mr. BURKE of South Dakota. I will say to the gentleman from Illinois that there are two or three of the Sioux Tribes that have no money in the Treasury, except their interest in the $3,000,000 trust fund which bears 5 per cent interest, and half of that may be expended by the Secretary of the Interior for education.

Mr. FOSTER. Of course, I realize that this is a tribal school, and upon a better footing than some of the other schools.

Mr. BURKE of South Dakota. The item in the bill to which the gentleman raises the point of order contains no appropriation that is used for any school outside of the reservation.

Mr. FOSTER. I see that there is some merit in this that is not in some of the others, but in view of the fact that we have appropriated quite a large sum of money for other schools in South Dakota, unless we can get rid of some of the other schools I shall have to insist on letting this item go out.

Mr. BURKE of South Dakota. I would like unanimous consent to have this item passed, in order that we may furnish authority of law for the appropriation.

Mr. FERRIS. Mr. Chairman, reserving the right to object, we have heard with no little pleasure about the tremendous extravagance prevailing in the State of Oklahoma, and with no little patience about the rigid economy that has been practiced in South Dakota. I want to call attention to some of the unusual, fabulous economies prevailing in that remarkable State.

They have 20,352 Indians. They are worth $41,015,702.05. They receive in Federal moneys this year $646,500. The specific appropriations for specific schools with a little handful of Indians—20,000—as follows:

Flandreau, $60,500; Pierre, $42,600; Rapid City, $53,500. The Sioux get $207,000. The Sioux again get $200,000 in a separate paragraph, unless this point of order is sustained, and following down the bill the Yanktons get $14,000.

Now, Mr. Chairman, this is the situation in the State of Oklahoma. We have one school specifically provided for and only one. In the State of Oklahoma we have approximately 120,000 Indians. In the State of South Dakota they have 20,000 Indians. Here we have an item so patent that it is subject to a point of order, that it specifically prescribes that it shall be carried along for another year. The item that has been passed by unanimous consent is clearly subject to a point of order. In 1868 they provided a treaty, which was a fat one indeed, which lasted for 20 years. That carried it along until 1889. It was then extended for 20 more years. That has expired and four years have elapsed since that time. The treaty of 1877, conjured from somewhere, the Lord only knows, is intended to obviate both of these former treaties, but it does not do it. The treaty of 1877, in article 8, prescribes as follows:

The provisions of said treaty in 1868, except that herein modified, shall continue in full force.

I read from the treaty of 1877, which reached back and subjects those Indians to the same limitations that the treaty of 1868 imposed upon them.

I do not know what the attitude of the Chair may be; I do not know what the attitude of the House may be; but I want to say here and now, with nearly all the Indians in the United States in our State, that I shall not sit here longer and have our State muckraked and hounded without letting this House know the true facts. Our State has nearly half the Indians in the whole country, and some of the provisions in the Oklahoma section of the bill read as follows. I refer now to the tribe of Indians that reside in the county in which I live. This is to pay the agents, to pay the help, to pay the people who administer the affairs of those Indians, usually appointments made strictly from a partisan standpoint. This is the language:

The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of $25,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Kiowa, Comanche, and Apache Tribes of Indians in Oklahoma, for the support of the agency and pay of employees maintained for their benefit.

There are two sides to this question, and there are two good, strong sides to it. We withdraw the money from the Treasury that belongs to the Indians to pay the help in my State. The gentleman from South Dakota [Mr. BURKE] has every little one-horse school in his State provided for specifically, and lugs in two items embodying $507,000 that are gratituities and nothing more, with the treaties expired more than four years, and he asks that he should be considered the great economist in behalf of Indian Affairs in his State, and that everyone shall point the finger of scorn to our State where nearly all of the Indians in the country reside. [Applause.]

Mr. MANN. Mr. Chairman, the gentleman from South Dakota [Mr. BURKE] is probably undergoing the kind of punishment which some gentlemen on the other side of the aisle think they can administer to gentlemen who do not kotow to them. The gentleman from South Dakota [Mr. BURKE] has committed the crime of expressing his opinion upon the floor of the House concerning certain frauds committed by the people of Oklahoma in their courts and elsewhere. Thereupon the distinguished

gentleman from Oklahoma [Mr. FERRIS], for the purpose of coming back at the gentleman from South Dakota——

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. MANN. In a moment—and endeavoring to teach him what punishment he will receive if he does not bow before the gentleman from Oklahoma, proceeds to assault an item in the Indian appropriation bill, which has been there for years, which was reported by the gentleman's own committee without any objection on his part.

Mr. FERRIS. Yes; but I did not know that the treaty had expired at that time. I know it now.

Mr. MANN. There are many things, Mr. Chairman, which the gentleman did not know, having served on the Committee on Indian Affairs for many years, that he ought to have known. He has reported this item for years without this knowledge. I am glad that he has learned something on that subject. He will probably learn a great deal more upon other subjects if he endeavors to follow this kind of course in the House.

Mr. FERRIS. And gentlemen on that side will learn something, too.

Mr. MANN. It seems items are not to be considered on their merits, but from the standpoint of endeavoring to punish gentlemen on this side of the House, or upon that, who do not bow before him.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. MANN. I suppose the gentleman is preparing in that way to become the chairman of the Committee on Public Lands?

Mr. FERRIS. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. FERRIS. Does the gentleman think it is punishing anybody to call the attention of the House to two provisions aggregating $507,000 that are carried on their face as treaty items when the treaties have expired? Is that punishing anybody?

Mr. MANN. Mr. Chairman, I think the purpose the gentleman has in view, having reported this bill himself from his committee, in calling attention to the matter at all is punishment, in an endeavor to deter gentlemen in the House from running against his wishes.

Mr. FERRIS. Not at all.

Mr. MANN. We will let that side of the House determine who shall be the chairman of the Committee on the Public Lands, but whoever is the chairman of the Committee on the Public Lands, or of any other committee of the House, will find, and gentlemen will find, that because some Member on the floor of the House properly calls attention to an item in some place which he believes ought not to be in the bill he can not, therefore, be punished by striking out items in which that particular gentleman may be interested. Even a Democratic administration will not stand for such unfair conduct as that.

Mr. FERRIS. Mr. Chairman, the gentleman, following his usual tactics, rises in his seat and seeks to chastise me as a member of the Committee on Indian Affairs because I call attention to two items which on their face are clearly subject to point of order; and not only that, but because I have called attention to two items which are being touted along in this bill as treaty items when, in fact, the treaty has expired. If the gentleman wanted to appropriate money gratuitously for these people, he should bring it in here as a gratuity. I did not know when this bill was considered in the committee that this item was subject to a point of order or I should have made the point at that time. I have since had it called to my attention. It has also been called to my attention upon the floor of the House. The gentleman from Illinois [Mr. FOWLER] and the gentleman from Illinois [Mr. FOSTER], from the gentleman's own State, make the point of order, and if the distinguished gentleman from Illinois [Mr. MANN] thinks that by badgering me and dragging in some reference to an outside and a wholly extrinsic matter he can close my mouth he is seriously mistaken.

Mr. MANN. Oh, I do not think anything could close the gentleman's mouth—not even his own head.

Mr. BURKE of South Dakota. Mr. Chairman, if the excitement has subsided, I renew my request that this item be passed along with the other item until we can have an opportunity to submit authorities to the Chair.

The CHAIRMAN (Mr. HAY). Is there objection to the request of the gentleman from South Dakota?

Mr. STEPHENS of Texas. Mr. Chairman, I have no objection.

Mr. FOWLER. Mr. Chairman, before this item is passed, I desire to say that I disclaim any idea of punishing any Member on the floor of this House in any way whatever, and if the reference of my genial colleague from Illinois [Mr. MANN] sought to include me as wanting to punish anybody, I desire to say to him in all candor that I have no disposition to punish any man on the floor of this House, here or elsewhere.

My action was prompted from a sincere desire to learn the facts. Being a new Member, and for the first time having had an opportunity to investigate these treaties, I sought to see in good faith as to whether there is any legal authority for this appropriation. And I say in conclusion, Mr. Chairman, that whenever I am accused of making any objection here other than in the interests of the people of the United States, I disclaim any such statement. [Applause.]

Mr. STEPHENS of Texas. Mr. Chairman, I yield to the gentleman from Oklahoma [Mr. CARTER] one minute.

Mr. CARTER. Mr. Chairman, I am surprised that my friend from Illinois [Mr. MANN] should take umbrage at the action of my colleague from Oklahoma [Mr. FERRIS] in the simple exercise of his right to call attention to provisions of this bill which might be subject to points of order. If the gentleman should apply this rule to himself, it would be necessary for this House to employ a professional scold to do the job.

The gentleman from Illinois [Mr. MANN] makes points of order regardless where the chips may fall. Many times have I and other Members been the victims of this gentleman's points of order on propositions of undisputed merit, as the gentleman himself will admit. Only this afternoon two propositions went out of this bill on points of order made by the gentleman from Illinois [Mr. MANN], one of them the item of $300,000 to aid the common schools of our State, the justice of which I do not think the gentleman himself will dispute. But now, because, forsooth, a gentleman from Oklahoma would simply point out similar provisions in the appropriations of some other State, the gentleman from Illinois feels called upon to read him a lecture on the good behavior of a Member of Congress.

It is passing strange, Mr. Chairman, that a gentleman of the usual astute fairness of the gentleman from Illinois [Mr. MANN] should take this partisan view of a Member's duty. It is more than passing strange that points of order made by that side of the House against the provisions of Members on this side are considered of such high merit and virtue, yet when the matter is reversed and a Member from this side presumes to even call attention to the fact that a provision defended by the gentleman on that side of the aisle is subject to a point of order it becomes a seething outrage sufficient to warrant the unjustified attack we have just heard made against my colleague, Mr. FERRIS.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise, pending the points of order on the two last paragraphs.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26874, the Indian appropriation bill, and had come to no resolution thereon.

Mr. STEPHENS of Texas. I yield sufficient time for the gentleman from Oklahoma [Mr. CARTER] to make a request.

Mr. CARTER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock p. m.) the House adjourned until Wednesday, January 8, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of Lynnhaven River, Va., with a view of securing increased depth (H. Doc. No. 1244); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of Savages Creek, Va., with a view to providing a suitable channel from Chesapeake Bay to Eastville (H. Doc. No. 1247); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Interior submitting estimate of appropriation to be expended in continuing the relief of the Apache Indians now confined as prisoners of war at Fort Sill Military Reservation, Okla. (H. Doc. No. 1249); to the Committee on Indian Affairs and ordered to be printed, with illustrations.

4. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of East and West Waterways, Seattle Harbor, Wash. (H. Doc. No. 1245); to the Committee on Rivers and Harbors and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Nansemond River, Va., with a view to the cost of repairing and replacing dikes at or near the western branch (H. Doc. No. 1246); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

6. A letter from the Secretary of the Treasury, transmitting reports from accounting officers, showing what officers were delinquent in rendering accounts for the fiscal year ending June 30, 1912, and list of officers found indebted to the Government who had failed to pay same into the Treasury (H. Doc. No. 1248); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

7. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Rhode Island at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. SLAYDEN, from the Committee on Military Affairs, to which was referred the joint resolution (S. J. Res. 119) authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point John C. Scholtz, a citizen of Venezuela, reported the same without amendment, accompanied by a report (No. 1280), which said resolution and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. TAYLOR of Alabama: A bill (H. R. 27781) to quiet title to lot 5, section 33, township 14, range 18 east, Noxubee County, Miss.; to the Committee on the Public Lands.

By Mr. HAWLEY: A bill (H. R. 27782) to create the Oregon Caves National Park; to the Committee on the Public Lands.

By Mr. ASHBROOK: A bill (H. R. 27783) providing for the purchase of a site for a public building at Millersburg, in the State of Ohio; to the Committee on Public Buildings and Grounds.

By Mr. HARDWICK: A bill (H. R. 27784) for the purpose of purchasing a site and the erection of a public building at Sandersville, Ga.; to the Committee on Public Buildings and Grounds.

By Mr. SAMUEL W. SMITH: A bill (H. R. 27785) to extend W Street NW. from Georgia Avenue to Florida Avenue, District of Columbia; to the Committee on the District of Columbia.

By Mr. STEPHENS of Texas: A bill (H. R. 27786) for the relief of Turtle Mountain Chippewa Indians, and for other purposes; to the Committee on Indian Affairs.

By Mr. O'SHAUNESSY: A bill (H. R. 27787) to amend section 13 of an act entitled "An act to promote the efficiency of the militia, and for other purposes"; to the Committee on Military Affairs.

Also, a bill (H. R. 27788) to amend section 1661 of the Revised Statutes, as amended by the acts of February 12, 1887, June 6, 1900, and June 22, 1906; to the Committee on Military Affairs.

By Mr. COVINGTON: A bill (H. R. 27789) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HAYDEN: A bill (H. R. 27790) opening the surplus and unallotted lands in the Colorado River Indian Reservation to settlement under the provisions of the Carey land acts, and for other purposes; to the Committee on Indian Affairs.

By Mr. CLAYTON: A bill (H. R. 27827) to amend section 70 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. GARRETT: Resolution (H. Res. 768) authorizing the Committee on Rules to investigate as to the advisability, practicability, and expense of installing some mechanical device for recording the vote of Members; to the Committee on Rules.

By Mr. STEPHENS of Texas: Joint resolution (H. J. Res. 378) concerning contracts with Indians of the Five Civilized Tribes; to the Committee on Indian Affairs.

By Mr. SLAYDEN: Joint resolution (H. J. Res. 379) authorizing the printing as a House document of an article entitled "Antityphoid Vaccination in the Army and in Civil Life"; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 27791) granting an increase of pension to Charles Miller; to the Committee on Invalid Pensions.

By Mr. BOOHER: A bill (H. R. 27792) for the relief of George Welty; to the Committee on Claims.

By Mr. BROWN: A bill (H. R. 27793) granting a pension to Mary E. Paugh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27794) for the relief of the heirs of John M. Corley, deceased; to the Committee on War Claims.

By Mr. CANNON: A bill (H. R. 27795) for the relief of William H. Murphy; to the Committee on Military Affairs.

Also, a bill (H. R. 27796) granting an increase of pension to Caroline Bitterny; to the Committee on Invalid Pensions.

By Mr. CLINE: A bill (H. R. 27797) granting an increase of pension to John McLeod; to the Committee on Invalid Pensions.

By Mr. DRAPER: A bill (H. R. 27798) granting a pension to Katherine Reardon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27799) granting a pension to Henry H. Lord; to the Committee on Pensions.

Also, a bill (H. R. 27800) granting a pension to George H. La Clair; to the Committee on Pensions.

Also, a bill (H. R. 27801) granting an increase of pension to Charles La Marsh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27802) granting an increase of pension to George Merrill; to the Committee on Invalid Pensions.

By Mr. DYER: A bill (H. R. 27803) granting a pension to John G. Hunt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27804) granting a pension to Horace Clive Gray; to the Committee on Pensions.

Also, a bill (H. R. 27805) granting an increase of pension to William H. Thomas; to the Committee on Invalid Pensions.

By Mr. ESCH: A bill (H. R. 27806) granting a pension to Mary MacArthur; to the Committee on Invalid Pensions.

By Mr. GOOD: A bill (H. R. 27807) granting a pension to Marcella Rowan; to the Committee on Invalid Pensions.

By Mr. GRAHAM: A bill (H. R. 27808) granting an increase of pension to James Anderson; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 27809) granting an increase of pension to Robert N. Varley; to the Committee on Invalid Pensions.

By Mr. HOWELL: A bill (H. R. 27810) granting an increase of pension to Thomas S. Gunn; to the Committee on Pensions.

By Mr. JOHNSON of South Carolina: A bill (H. R. 27811) for the relief of John C. Hardeman; to the Committee on Claims.

By Mr. KENT: A bill (H. R. 27812) for the relief of Joseph A. Stevenson; to the Committee on Military Affairs.

By Mr. LEWIS: A bill (H. R. 27813) granting a pension to William Gurnett; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 27814) for the relief of Payton J. Boggs; to the Committee on Military Affairs.

Also, a bill (H. R. 27815) for the relief of the trustees of the Methodist Episcopal Church of Malden, W. Va.; to the Committee on War Claims.

By Mr. PALMER: A bill (H. R. 27816) granting a pension to Edward J. Hart; to the Committee on Pensions.

By Mr. PARRAN: A bill (H. R. 27817) granting a pension to Golda M. Morrison; to the Committee on Pensions.

By Mr. SMITH of New York: A bill (H. R. 27818) granting an increase of pension to William H. Chapman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27819) granting restoration of pension to Mary Wolbert, now Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27820) granting restoration of pension to Eliza Steele, now Riehl; to the Committee on Invalid Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 27821) granting a pension to John V. Gilbert; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27822) granting an increase of pension to Schuyler Van Tassell; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Ohio: A bill (H. R. 27823) granting an increase of pension to Olive B. Helms; to the Committee on Invalid Pensions.

By Mr. WHITE: A bill (H. R. 27824) granting an increase of pension to William E. Beymer; to the Committee on Invalid Pensions.

By Mr. WILSON of Illinois: A bill (H. R. 27825) granting a pension to Etta Gretter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27826) granting an increase of pension to Cinderella Leversee; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Petition of John T. Mack and other representatives of the Ohio daily newspapers, protesting against the passage of the publicity act of the Post Office appropriation bill, requiring all papers to publish lists of stockholders, indebtedness, etc.; to the Committee on the Post Office and Post Roads.

By Mr. ASHBROOK: Petition of the Pennsylvania Sealers' Conference at Harrisburg, Pa., favoring the passage of House bill 23113, fixing a standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Coinage, Weights, and Measures.

Also, petition of the Baltimore Clothing Co. and 17 other merchants of Uhrichsville, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward controlling the express companies; to the Committee on the Judiciary.

By Mr. BOOHER: Petition of Rev. J. H. Weaver and 27 other citizens of Fairfax, Mo., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of St. Joseph Division, No. 141, Order of Railway Conductors, protesting against the passage of House bill 20487, the workmen's compensation bill; to the Committee on the Judiciary.

By Mr. BORLAND: Petition of women of Missouri, asking that the act prohibiting the sale of light wine and beer on military reservations be repealed; to the Committee on Military Affairs.

By Mr. BROWN: Papers to accompany a bill granting a pension to Mary E. Paugh; to the Committee on Invalid Pensions.

Also, papers to accompany bill for the relief of heirs of John M. Corley; to the Committee on War Claims.

By Mr. CLARK of Florida: Petition of Rev. George A. Blount and other citizens of Bradford County, Fla., favoring the passage of the Kenyon liquor bill (S. 4043) preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. DRAPER: Petition of the State Camp of New York, Patriotic Order Sons of America, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. DYER: Papers to accompany bill granting a pension to John G. Hunt; to the Committee on Pensions.

Also, petition of Lewis B. Miller, St. Louis, Mo., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Railway Business Association of New York, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Army and Navy Union of the United States of America, St. Louis, Mo., favoring the passage of House bill 19800, granting a pension to the veterans of the Indian wars; to the Committee on Pensions.

Also, papers to accompany the bill granting a pension to William H. Thomas; to the Committee on Invalid Pensions.

Also, papers to accompany the bill granting a pension to Horace Clive Gray; to the Committee on Pensions.

Also, papers to accompany the bill (H. R. 11071) granting a pension to Laura Hilgeman; to the Committee on Pensions.

Also, papers to accompany the bill (H. R. 10186) granting a pension to Anna Buhrman; to the Committee on Invalid Pensions.

By Mr. FULLER: Petition of William Dewatt, Monongahela, Pa., favoring the passage of House bill 1339, to increase the pensions of veterans who lost a limb in the Civil War; to the Committee on Invalid Pensions.

By Mr. GOLDFOGLE: Petition of the Grand Rapids Association of Commerce, Grand Rapids, Mich., favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Maryland and District of Columbia Launderers' Association, favoring the passage of House bill 25685, requiring the labeling and tagging of all fabrics and articles of clothing intended for sale; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Lake Michigan Sanitary Association, Chicago, Ill., favoring the passage of legislation making an appropriation for the investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

Also, petition of the general executive committee of the Railway Business Association of New York, favoring the passage of House bill 25105, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Federation of Jewish Farmers of America, favoring the passage of legislation creating a system of farmers' credit unions; to the Committee on Banking and Currency.

Also, petition of the American Automobile Association, New York, favoring the passage of legislation giving Federal aid to good-road building; to the Committee on Agriculture.

By Mr. HELGESEN: Petition of citizens of over 20 towns of North Dakota, favoring the passage of the Kenyon liquor bill (H. R. 4043), to prevent the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. KINKAID of Nebraska: Petition of residents of Merna and Smithfield, Nebr., protesting against the passage of any bill enlarging the present parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of residents of 14 towns in the sixth district of Nebraska, favoring the passage of legislation requiring all concerns doing a mail-order business to contribute their share to the fund to develop the local community, the county, and the State; to the Committee on Interstate and Foreign Commerce.

By Mr. KINDRED: Petition of the New York Produce Exchange, New York, N. Y., and the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, to incorporate the Chamber of Commerce of the United States of America under a Federal charter; to the Committee on the Judiciary.

By Mr. LEVY: Petition of the National Indian War Veterans, Denver, Colo., favoring the passage of legislation granting pensions to the veterans of the Indian wars; to the Committee on Pensions.

Also, petition of the Chamber of Commerce of the State of New York, protesting against the passage of Senate bill 7208, proposing several changes in the law of the United States relating to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

By Mr. MOTT: Petition of the National Indian War Veterans, Denver, Colo., favoring the passage of bill granting pensions to veterans of the Indian wars; to the Committee on Pensions.

Also, petition of the New York Civic League, favoring the passage of legislation prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Federation of Jewish Farmers of America, favoring the passage of legislation creating a system of farmers' credit unions; to the Committee on Banking and Currency.

Also, petition of the Vermont Association of Sealers of Weights and Measures, and the Pennsylvania Sealers' Conference, Harrisburg, Pa., favoring the passage of House bill 23113, fixing a standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Ways and Means.

Also, petition of the Railway Business Association, New York, and the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Association of National Advertising Managers, protesting against the passage of section 2 of the Oldfield patent bill prohibiting the fixing of prices by manufacturers of patent goods; to the Committee on Patents.

Also, petition of residents of Watertown, N. Y., favoring the passage of House bill 26277, to establish a United States court of patent appeals; to the Committee on Patents.

By Mr. REILLY: Petition of the Vermont Association of Sealers of Weights and Measures, favoring the passage of bill fixing a standard barrel for fruits, vegetables, etc.; to the Committee on Ways and Means.

Also, petition of the National Indian War Veterans, Denver, Colo., favoring the passage of legislation granting pension to veterans of the Indian wars; to the Committee on Pensions.

By Mr. TILSON: Petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the board of agriculture of the State of Connecticut, protesting against the passage of any legislation reducing the present tax on oleomargarine; to the Committee on Agriculture.

By Mr. TOWNER: Petition of the Woman's Christian Temperance Union and 300 citizens of Allenton, Iowa, favoring the passage of the Kenyon "red light" injunction bill to clean up Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. WICKERSHAM: Petition of residents of Ketchikan, Alaska, favoring the passage of legislation to prevent the setting of fish traps in the tidal waters of Alaska; to the Committee on the Territories.

SENATE.

WEDNESDAY, *January 8, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificates of ascertainment of electors for President and Vice President appointed in the States of South Dakota and Washington at the elections held in those States November 5, 1912, which were ordered to be filed.

CONTINGENT EXPENSES, TERRITORY OF ALASKA (S. DOC. NO. 995).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior submitting a revised estimate of appropriation for contingent expenses, Territory of Alaska, for the fiscal year ending June 30, 1914, in the sum of $9,745, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

HANOVER BAPTIST CHURCH OF VIRGINIA V. UNITED STATES (S. DOC. NO. 996.)

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of the Trustees of the Hanover Baptist Church, of King George County, Va., *v.* United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

IMPEACHMENT OF ROBERT W. ARCHBALD.

Mr. CLARK of Wyoming. I introduce the order which I send to the desk.

The PRESIDENT pro tempore. The order will be read.

The order was read, as follows:

Ordered, That on this day, and until otherwise ordered, the daily sittings of the Senate in the trial of impeachment of Robert W. Archbald, additional circuit judge of the United States, shall commence at 1 o'clock in the afternoon and continue until 6 o'clock in the afternoon.

The PRESIDENT pro tempore. Without objection, the order will be considered as made by the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented the memorial of Rev. James A. McFaul, bishop of Trenton, N. J., remonstrating against the adoption of the proposed literacy test for immigrants, which was referred to the Committee on Immigration.

Mr. KERN presented a resolution adopted by the Indiana conference of the Methodist Episcopal Church, in session at Jeffersonville, Ind., favoring the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. WARREN presented resolutions adopted by the Fremont County Wool Growers' Association, of Wyoming, favoring the enactment of legislation authorizing cooperation with the several States for the extermination of wild predatory animals, which were referred to the Committee on Agriculture and Forestry.

Mr. OLIVER presented a petition of sundry citizens of Penns Park, Pa., and a petition of members of the Erie Methodist Episcopal Conference, of Erie, Pa., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. JOHNSON of Maine (for Mr. GARDNER) presented petitions of members of the Men's Bible Class of the Free Baptist Church, Island Falls; of members of Cumberland District Lodge of Good Templars, of Portland; and of sundry citizens of Farmington, South China, and North Anson, all in the State of Maine, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a memorial of sundry citizens of Portland, Me., remonstrating against the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

Mr. WETMORE presented a petition of members of the Rhode Island State Federation of Women's Clubs, praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

AGRICULTURAL ENTRIES ON COAL LANDS.

Mr. CLAPP, from the Committee on Indian Affairs, to which was referred the bill (S. 7976) to amend section 1 of an act entitled "An act to provide for agricultural entries on coal lands," approved June 22, 1910, asked to be discharged from its further consideration and that it be referred to the Committee on Public Lands, which was agreed to.

THE JUDICIAL CODE.

Mr. CLARK of Wyoming. Under the direction of the Committee on the Judiciary, and pursuant to law, I submit from that committee the Judicial Code of the United States in force January 1, 1912, annotated; and in connection therewith I report a concurrent resolution providing for the printing of the code, which I ask may be read, and, together with the manuscript, referred to the Committee on Printing.

The concurrent resolution (S. Con. Res. 34) was read, and, with the accompanying manuscript, referred to the Committee on Printing, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed 25,000 copies of the Judicial Code of the United States prepared under the direction of the Judiciary Committee of the Senate, 10,000 copies of which shall be for the use of the Senate and 15,000 for the use of the House of Representatives.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BORAH:

A bill (S. 8021) extending the number of annual payments to entrymen upon reclamation projects; to the Committee on Irrigation and Reclamation of Arid Lands.

A bill (S. 8022) granting an increase of pension to Harman Eastman (with accompanying paper); and

A bill (S. 8023) granting a pension to Mary Coleman (with accompanying paper); to the Committee on Pensions.

By Mr. KERN:

A bill (S. 8024) granting an increase of pension to Wilson Wells (with accompanying papers); and

A bill (S. 8025) granting an increase of pension to Edward W. Anderson (with accompanying paper); to the Committee on Pensions.

By Mr. TOWNSEND (for Mr. SMITH of Michigan):

A bill (S. 8026) granting a pension to Allen B. Be Dell; to the Committee on Pensions.

A bill (S. 8027) to remove the charge of desertion from the military record of Henry Fuller; to the Committee on Military Affairs.

By Mr. BURNHAM:

A bill (S. 8028) for the relief of the legal representatives of the estate of Henry H. Sibley, deceased; to the Committee on Claims.

By Mr. CATRON:

A bill (S. 8029) for the relief of Frank L. Rael, heir of Francisco Rael, deceased; to the Committee on Claims.

By Mr. SWANSON:

A bill (S. 8030) for the construction of a public building at Warrenton, Va.; to the Committee on Public Buildings and Grounds.

By Mr. O'GORMAN:

A bill (S. 8031) providing for the presentation of medals to all surviving soldiers of the Battle of Gettysburg; to the Committee on Military Affairs.

By Mr. JOHNSON of Maine:

A bill (S. 8032) for the relief of Walter Whitney (with accompanying papers); to the Committee on Military Affairs.

By Mr. BRANDEGEE:

A bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut; to the Committee on Commerce.

By Mr. GALLINGER:

A joint resolution (S. J. Res. 148) authorizing the granting of permits to the committee on inaugural ceremonies on the oc-

cession of the inauguration of the President-elect on March 4, 1913, etc.; to the Committee on Public Buildings and Grounds.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. BURTON submitted an amendment proposing to appropriate $640 for the installation of mail chutes in the public building at Cleveland, Ohio, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. WARREN submitted an amendment proposing to appropriate $200,000 to enable the Secretary of Agriculture to cooperate with any State or States which shall have provided by law for the destruction of predatory wild animals and in which national forests are located, etc., intended to be proposed by him to the Agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. JONES submitted an amendment proposing to authorize the Secretary of the Interior to make allotments under the general-allotment act of the lands they are now occupying in the county of Pend Oreille, in the State of Washington, to the Kalispel Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

STANDING ROCK INDIAN RESERVATION.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, which was to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, lying and being within the following-described boundaries, to wit: Commencing at a point in the center of the main channel of the Missouri River where the township line between townships 18 and 19 north intersects the same; thence west on said township line to a point where the range line between ranges 22 and 23 east intersects the same; thence north along the said range line to the northwest corner of section 19, in township 21 north, of range 23 east; thence east on the section line north of sections 19, 20, 21, 22, 23, and 24 to a point where the same intersects the range line between ranges 23 and 24 east; thence north along said range line to a point where the same intersects the State line between the States of South Dakota and North Dakota; thence west on said State line to a point where the range line between ranges 84 and 85 west in North Dakota intersects the same; thence north on said range line between ranges 84 and 85 west to a point where it intersects the center of the main channel of the Cannon Ball River; thence in a northeasterly direction down and along the center of the main channel of said Cannon Ball River to a point where it intersects the center of the main channel of the Missouri River; thence in a southerly direction along the center of the main channel of the said Missouri River to the place of beginning, and including also entirely all islands, if any, in said river, except such portions thereof as have been allotted to Indians: *Provided*, That sections 16 and 36 of the lands in each township therein shall not be disposed of, but shall be reserved for the use of the common schools of the States of South Dakota and North Dakota, respectively: *Provided further*, That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved as long as needed and as long as agency, school, or religious institutions are maintained thereon for the benefit of said Indians: *Provided, however*, That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other proper authority of any religious organization, heretofore engaged in mission or school work on said reservation, for such lands thereon (not included in any town site herein provided for) as have been heretofore set apart to such organization for mission or school purposes.

SEC. 2. That the lands shall be disposed of by proclamation under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in said proclamation: *Provided*, That prior to said proclamation the Secretary of the Interior shall cause allotments to be made to every man, woman, and child belonging to or holding tribal relations in said reservations who have not heretofore received the allotments to which they are entitled under provisions of existing laws: *Provided, however*, That the said Secretary is hereby authorized to designate the superintendent of the Standing Rock Indian School to allot each child born subsequent to the completion of the allotments herein provided for and 60 days prior to the date set by said proclamation for the entry of said surplus lands: *Provided further*, That the Secretary of the Interior be, and he is hereby, authorized and directed to cause to be surveyed all the unsurveyed lands, if any, within said reservation, and to cause an examination to be made of the lands by experts of the Geological Survey, and if there be found any lands bearing coal or other valuable minerals the said Secretary is hereby authorized to reserve them from allotment or disposition until further action by Congress: *And provided further*, That the rights of honorably discharged Union soldiers and sailors of the late Civil and Spanish Wars or Philippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged.

SEC. 3. That before any of the land is disposed of, as hereinafter provided, and before the States of South Dakota and North Dakota, respectively, shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of sections 16 or 36, or any portions thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe, and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any one town site, and patents shall be issued to the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes. The purchase price of all town lots sold in town sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct. He shall cause not more than 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of school-houses and other public buildings, or in improvements within the town sites wherein such lots are located. The net proceeds derived from the sale of such lots and lands within the town sites as aforesaid shall be credited to the Indians as hereinafter provided: *Provided further*, That all children of school age and of Indian parentage shall be admitted at all times to the public schools within said town sites on an equal footing with all other children admitted to the said schools.

SEC. 4. That the price of said lands entered as homesteads under the provisions of this act shall be as follows: Upon all lands entered or filed upon within three months after the same shall be opened for settlement and entry, $6 per acre, and upon all lands entered or filed upon after the expiration of three months and within six months after the same shall have been opened for settlement and entry, $4 per acre; after the expiration of six months, after the same shall have been opened for settlement and entry, the price shall be $2.50 an acre.

SEC. 5. That the price of said lands shall be paid in accordance with the rules and regulations to be prescribed by the Secretary of the Interior upon the following terms: One-fifth of the purchase price to be paid in cash at the time of entry, and the balance in five equal installments, the first within two years and the remainder annually in three, four, five, and six years, respectively, from and after the date of entry. In case any entrymen fails to make the annual payments, or any of them, when due, all rights in and to the land covered by his entry shall cease, and any payments theretofore made shall be forfeited and the entry canceled, and the lands shall be reoffered for sale and entry under the provisions of the homestead laws at the price fixed herein: *Provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section 2301, Revised Statutes, by paying for the land entered the price fixed herein, receiving credit for the payments previously made. In addition to the price to be paid for the land the entryman shall pay the same fees and commissions at the time of commutation or final entry as now provided by law where the price of land is $1.25 per acre; and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence, and shall have made all the required payments aforesaid, he shall be entitled to patent for the lands entered: *Provided further*, That any lands remaining unsold after said lands have been opened to entry for five years may be sold to the highest bidder for cash, without regard to the prescribed price thereof fixed under the provisions of this act, under such rules and regulations as the Secretary of the Interior may prescribe, and patents therefor shall be issued to the purchasers.

SEC. 6. That from the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, there shall be deposited in the Treasury of the United States, to the credit of the Indians belonging and having tribal rights on the said reservation, the sums of which the said tribe may be entitled, which shall draw interest at 5 per cent per annum; that the moneys derived from the sale of said lands and deposited in the Treasury of the United States to the credit of said Indians shall be at all times subject to appropriation by Congress for their education, support, and civilization: *Provided*, That from any moneys in the Treasury to the credit of the Standing Rock Indians derived from the proceeds arising from the sale and disposition of their portion of the surplus and unallotted lands disposed of under section 6 of the act approved May 29, 1908, the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to distribute and pay to each of the Indians belonging to said tribe and entitled thereto a sum not exceeding $40 per capita.

SEC. 7. That sections 16 and 36 of the land in each township within the tract described in section 1 of this act shall not be subject to entry, but shall be reserved for the use of the common schools and paid for by the United States at $2.50 per acre, and the same are hereby granted to the States of South Dakota and North Dakota, respectively, for such purpose, and in case any of said sections or parts thereof are lost to either of the said States by reason of allotments thereof to any Indian or Indians or otherwise, the governor of each of said States, respectively, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section 1 of this act, to locate other lands not otherwise appropriated, not exceeding two sections in any one township, which shall be paid for by the United States, as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement.

SEC. 8. That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for town-site purposes, or granted to the State, or otherwise disposed of, shall be subject for a period of 25 years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

SEC. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $180,000, or so much thereof as may be necessary, to pay for the lands granted to the States of South Dakota and North Dakota, as provided in section 7 of this act. And there is hereby appropriated the further sum of $10,000, or so much thereof as may be necessary, for the purpose of making the surveys and allotments provided for herein: *Provided*, That the said $10,000, or so much thereof as may be expended for the purpose of carrying out the provisions of this act, shall be reimbursed to the United States from the proceeds received from the sale of the lands described herein or from any money in the Treasury belonging to said Indian tribe.

SEC. 10. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections 16 and 36, or the equivalent, in each township, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of the said lands and to expend and pay over the proceeds received from the sale thereof only as received and as herein provided: *Provided*, That nothing in this act shall be construed to deprive the said Indians of the Standing Rock Indian Reservation of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this act.

Mr. CLAPP. I move that the Senate disagree to the House amendment and ask for a conference on the disagreeing votes of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the President pro tempore appointed Mr. CLAPP, Mr. MCCUMBER, and Mr. ASHURST conferees on the part of the Senate.

Mr. CRAWFORD. Will the amendment of the House be printed in the RECORD?

The PRESIDENT pro tempore. Necessarily, having been read from the desk.

HOUSE BILL REFERRED.

H. R. 16843. An act to consolidate the veterinary service, United States Army, and to increase its efficiency, was read twice by its title and referred to the Committee on Military Affairs:

OMNIBUS CLAIMS BILL.

The PRESIDENT pro tempore. The morning business is closed.

Mr. CRAWFORD. I move that the Senate resume the consideration of House bill 19115, known as the omnibus claims bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly know as the Bowman and the Tucker Acts.

Mr. CRAWFORD. The Senator from Massachusetts [Mr. LODGE], I think, had not concluded his remarks yesterday.

Mr. LODGE. Mr. President, when I stopped yesterday, the hour having arrived for the assembling of the court, I was speaking about the proposition made by the report of the Committee on Claims, which, it seemed to me, would lead to changing the rule adopted by all our commissions, and that to establish any such new rule at the present date by act of Congress, overruling the judicial decisions, would probably have consequences of the most serious character for the United States Government in the future. It would amount to a solemn declaration to the world by the United States Government that if in the future a government shall arbitrarily stop an American vessel and cargo in the pursuit of a lawful voyage, and, after breaking up the voyage, unlawfully appropriate the vessel or cargo to her own use, the obligation of such offending nation would be fully discharged by the allowance of the simple value of the ship and cargo at the time of her departure from the original port, without any addition of premium as additional value added to the cargo by the risks which it incurs or by any addition of freight, which is the amount which the vessel had earned up to the time she was stopped by the unlawful act of the other government. Also, that insurers of a cargo or vessel could not recover the full amount paid by them to the owner of the vessel and by subrogation to his rights for the same, but that the amounts so paid by them must be diminished by the amount of the premium paid.

Is it worth while for the United States Government to scale down awards made to its own citizens and thereby establish for all time a precedent of the utmost inconvenience? Is it not, rather, the highest public policy as well as in accordance with the demands of honesty to satisfy the adjudications of its own courts by the payment of the allowed amounts in full, thus putting ourselves in a strong position should the time ever arise to demand satisfaction from foreign governments for the full amount of damage which they may cause to our own citizens?

Clearly, good faith to our own citizens, as well as the establishment of a proper precedent for future contingencies, demands that the entire amount of damage allowed by the Court of Claims, in accordance with uniform precedents, be appropriated and paid.

I want to discuss very briefly—I have only a very little more to say, Mr. President—some statements made by the committee in the course of its report in regard to certain points of international law.

On page 336, No. 69, schooner *Hiram*, Ebenezer Barker, master, we are told that—

> a doubt naturally arises as to whether or not this vessel, destined for the English settlement at Martinique, which was in rebellion against France, was not smuggling goods into that port or whether the owners of that cargo may not have been Englishmen; or not neutral goods, possibly they may have been contraband.

How an English settlement could have been in rebellion against France is not plain. France and England were at that time in open and bitter warfare. Martinique was actually held by the English and was to all intents and purposes at that date a British possession.

What is meant by "smuggling goods" is not clear. Possibly it means sailing for a blockaded port. If so, the response is clear. At that date, as the Court of Claims has found on elaborate investigation, there was no blockade by the French of any English possession whatever. (See decision of the Court of Claims in the case of the schooner *John*, 22 C. Cls., 408, 440–454.)

England was at that time the undisputed mistress of the seas. A blockade in order to be binding must be effective; that is, maintained by a sufficient force. France had no naval force by which it would have been possible to maintain for a moment a blockade of any British possession. In the absence of such blockade it was perfectly lawful for the ships of the United States, as for all neutrals, to sail to a British port.

The question whether the owners of the cargo were Englishmen is also immaterial. No claim is made on behalf of the cargo. The American vessel had a perfect right to carry a cargo for an Englishman without subjecting the vessel to capture.

The treaty of 1778 between France and the United States in effect adopted the maxim, "free ships, free goods." (Art. 23 of the treaty, Public Treaties of the United States, 1875, p. 210.) True, the capture was shortly after the date of the act of July 7, 1798 (1 Stat. L., 578), which abrogated the treaties between France and the United States. But even without that treaty and by general principles of international law the utmost that a French vessel could do would be to take the enemy's goods off the vessel and release the vessel.

In the case of the brig *William* (23 C. Cls., 201), the court allowed the claim of citizens of the United States for the value of the vessel, although it disallowed the claim for the cargo, which was owned by British citizens. Such is the uniform rule of international law.

This same confusion appears at page 351 of the report, where (under No. 80, schooner *Little Fanny*) it is said:

> This cargo may have belonged to the public enemy of France and to some alien, so far as the record shows. If so, what position would that leave the owner of the vessel in, even though he was an American citizen and his vessel a regular vessel of the United States?

This question is answered by the decision of the Court of Claims in the ship *Joanna* (24 C. Cls., 198, 208) as follows:

> We conclude that at the time the *Joanna* was condemned a court, acting under the law of nations, untrammeled by local ordinances, would have ordered the confiscation of the enemy cargo and would have freed the neutral ship with freight money as remuneration, together with compensation for any extra expense which the master might have incurred and which was directly caused by the seizure.

Again, under the heading of the schooner *Swan*, Samuel Shaw, master, it is stated at page 366 that the vessel was owned by Joseph Prince, an American citizen, and then it is suggested that "the ship may not have been neutral." It is difficult to understand what meaning this statement can have. The ownership of a vessel by a neutral is what makes the ship neutral. The two statements are entirely in conflict.

In St. Clair *v.* United States (154 U. S., 134, 151) the Supreme Court of the United States said, with reference to this question:

> We are of opinion that the court below did not err in holding that the certificate of the vessel's registry and its carrying the American flag was admissible in evidence and that such evidence made, at least, a prima facie case of proper registry under the laws of the United States and of the nationality of the vessel and its owners. "The purpose of a register," this court has said, "is to declare the nationality of a vessel engaged in trade with foreign nations and to enable her to assert that nationality wherever found. (The *Mohawk*, 3 Wall., 566, 571.)

Under the case of the schooner *Sally*, John D. Farley, master, No. 99, page 379, it is stated that the rum of which the cargo consisted was of English manufacture. The cargo was confiscated, but the vessel released. The decision of the court allows freight earnings to the ship, but the committee says at the conclusion:

> This claim does not rest upon a very satisfactory basis.

There could hardly be a clearer claim. Freight earnings, as I have shown, are universally allowed by international courts and commissions where a vessel is carrying a lawful cargo.

See the citation above given from the case of the ship *Joanna* (24 C. Cls., 198, 208), where it is shown that a neutral vessel carrying even a cargo of enemies' goods was entitled under international law as administered at the end of the last century to release with her freight earnings, the enemies' cargo alone being confiscated. A much more liberal rule was at the date of the particular capture in question in force by treaty between France and the United States.

The twenty-third article of the treaty of 1778 between France and the United States was, at the date of this capture, in full

force and effect. This article provided as follows (Public Treaties of the United States, 1875, pp. 209–210):

It shall be lawful for all and singular the subjects of the most Christian King, and the citizens, people, and inhabitants of the said United States, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port to the places of those who now are or hereafter shall be at enmity with the most Christian King or the United States. It shall likewise be lawful for the subjects and inhabitants aforesaid to sail with the ships and merchandises aforementioned and to trade with the same liberty and security from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same prince or under several. And it is hereby stipulated that free ships shall also give a freedom to goods, and that everything shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading or any part thereof should appertain to the enemies of either, contraband goods being always excepted. It is also agreed in like manner that the same liberty be extended to persons who are on board a free ship, with this effect, that, although they be enemies to both or either party, they are not to be taken out of that free ship unless they are soldiers and in actual service of the enemies.

The next article, 24 (p. 210), contains a specific description of the goods which shall be contraband and contains another list of the goods which shall not be deemed contraband. Among such goods which are not to be deemed contraband are "beer, wines, and in general all provisions which serve for the nourishment of mankind and the sustenance of life." According to the twenty-fourth article these goods are not contraband, and according to the twenty-third, the American vessel had a perfect right to carry lawful goods, though belonging to an enemy of France. The goods having been most unlawfully and without the shadow of right taken off the vessel, the owner of the vessel was clearly entitled to recover in this proceeding the freight for the carriage of the goods of which he was deprived by the unlawful act of the French authorities.

From what has been shown in regard to the action of a number of the commissions and courts which have passed upon international claims, it will be evident that all items of allowance made by the Court of Claims rest upon ample precedent. Indeed, it may safely be said that if the court had disallowed any one of them, if it had refused to allow the vessel owner his freight for the voyage, if it had refused to allow the premium of insurance as a part of the value added to the goods by the risks which they were to undergo, or if in allowing the underwriter the amount of his insurance paid, it had reduced the amount of his loss by charging the amount of the premium against him, it would have violated every precedent ever laid down by all the commissions and courts which had previously adjudicated upon these subjects. These commissions, as I showed yesterday, were United States commissions, mostly domestic, but some mixed commissions.

Moreover, a reference to the action of these tribunals, as we have referred to them, shows that in several important particulars the Court of Claims has been much less liberal than previous tribunals, in that it has refused to allow such items as the following, which have been allowed by most, if not all, previous tribunals passing upon international claims:

1. Expenses attending the lading of the cargo on board the vessel at the port of departure. None of these expenses of lading have in any case been allowed, while in a number the court has refused to allow them when asked for by the claimants.

2. Premium of insurance "to cover"—that is, the allowance of a fair and usual premium of insurance where the owner did not actually pay such premium to another, but took the whole risk of the voyage on himself.

3. Profits expected to accrue from the voyage.

These have been uniformly disallowed by the Court of Claims. The court has confined its allowances to giving two-thirds of the freight for the actual voyage on which the vessel was engaged when captured.

4. Interest: This is always allowed in international claims as between nation and nation and as much as it is in a domestic admiralty court between party and party.

Of course, no one supposes that a restoration of the principal sum allowed by the Court of Claims in any of these cases after the lapse of 100 years to the next of kin of the original sufferers comes anywhere near being a compensation for the loss. Interest would have to be added to make it approximately just compensation. Interest not being allowed, why should the failure to do full justice be aggravated by cutting out the items which the Court of Claims has allowed?

It is submitted that instead of seeking for a mode of cutting down these claims to the smallest possible amount, the principle ought to be maintained which is thus quoted from a high authority in Ralston, International Arbitral Law and Procedure, section 353, page 172:

In the Orr and Laubenheimer case (Foreign Relations of 1900, 826) the arbitrator between the United States and Nicaragua said that where property had been taken for the public welfare "it seems to me right that the benefit of doubt should be thrown in favor of the individual, and that his damages should be liberally estimated lest by any error he should be oppressed."

The very impossibility that both Houses of Congress should examine all the details of these claims and the internal evidence afforded by the report of the Committee on Claims that they have not been looked into, shows the wisdom of the original provision of law referring these claims to the Court of Claims for conclusions of both fact and law. It is essential to the orderly administration of justice that the findings of the court should be accepted by Congress as a basis for its action as regards the amounts to be allowed. They certainly have been accepted as a basis for disallowing all those claims which the Court of Claims has thrown out.

I shall ask leave to have printed a list of payments already made and of precedents in Congress for action on these claims.

The PRESIDING OFFICER (Mr. LA FOLLETTE in the chair). Without objection it will be so ordered.

The matter referred to is as follows:

PRECEDENTS IN CONGRESS.

Congress has heretofore by appropriations allowed the following amounts:

Mar. 3, 1891, 26 Stat. L., 897 (51st Cong.)	$1,304,095.37
Mar. 3, 1899, 30 Stat. L., 1161 (56th Cong.)	1,055,473.04
May 27, 1902, 32 Stat. L., 207 (57th Cong)	798,631.27
Feb. 24, 1905, 33 Stat. L., 743 (58th Cong.)	752,660.93
Total	3,910,860.61

All of these allowances include items of the same character as those which it would appear that the committee contemplates striking out. After the vast majority of these claims are now paid, the ground ought not to be shifted and a question for the first time raised as to the character of the items.

The recommendation made by the President in his message of December 21, 1911 (H. Doc. No. 343, 62d Cong., 2d sess., pp. 15, 16), is fully justified and should be followed:

FRENCH SPOLIATION AWARDS.

"In my last message I recommended to Congress that it authorize the payment of the findings or judgments of the Court of Claims in the matter of the French spoliation cases. There has been no appropriation to pay these judgments since 1905. The findings and awards were obtained after a very bitter fight, the Government succeeding in about 75 per cent of the cases. The amount of the awards ought, as a matter of good faith on the part of the Government, to be paid."

Mr. CRAWFORD. I ask for a vote on the pending amendment to the amendment of the Senator from Massachusetts [Mr. LODGE].

Mr. LODGE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Newlands	Smith, Ariz.
Bankhead	Gronna	O'Gorman	Smith, Md.
Borah	Hitchcock	Oliver	Smoot
Bradley	Jones	Page	Stephenson
Brandegee	Kenyon	Penrose	Swanson
Bristow	Kern	Perkins	Thornton
Bryan	La Follette	Perky	Townsend
Catron	Lippitt	Richardson	Warren
Chamberlain	Lodge	Root	Wetmore
Clark, Wyo.	Martin, Va.	Sanders	
Crawford	Martine, N. J.	Shively	
Fletcher	Myers	Simmons	

Mr. SIMMONS. I desire to announce that my colleague [Mr. OVERMAN] is absent on account of sickness.

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] is absent on business of the Senate. I should like to have this announcement stand for the day.

Mr. KERN. I again announce that the junior Senator from South Carolina [Mr. SMITH] is detained from the Senate on account of the death of his son.

Mr. JONES. I desire to announce that my colleague [Mr. POINDEXTER] is absent from the city on important business.

Mr. BANKHEAD. I desire to announce that my colleague [Mr. JOHNSTON of Alabama] is absent on account of illness.

The PRESIDING OFFICER. Forty-five Senators have answered to their names, not a quorum. The Secretary will call the names of absent Senators.

The Secretary called the list of absentees, and Mr. FOSTER, Mr. JOHNSON of Maine, Mr. MCCUMBER, Mr. PAYNTER, Mr. WILLIAMS, Mr. MCLEAN, Mr. CLAPP, Mr. CUMMINS, Mr. BROWN, and Mr. WORKS responded to their names.

Mr. PAYNTER. I should like to announce that the Senator from Alabama [Mr. JOHNSTON] is ill and is absent on that account.

The PRESIDING OFFICER. Fifty-five Senators have answered to their names. A quorum of the Senate is present.

The question is on agreeing to the amendment offered by the Senator from South Dakota [Mr. CRAWFORD] to the amendment offered by the Senator from Massachusetts [Mr. LODGE]. Is the Senate ready for the question?

Mr. LODGE. Mr. President, as very few Senators have heard the debate, I merely wish to say that the amendment offered by the Senator from South Dakota to my amendment cuts down the allowances of the Court of Claims as provided for in my amendment. My amendment simply provides for the payment of the allowances made by the Court of Claims in each case. For various reasons in various cases the Senator from South Dakota proposes to reduce these allowances. I do not think they ought to be reduced, and I have on that account opposed the amendment to the amendment.

Mr. BRISTOW. As I understand, the amendment upon which we are now to vote reduces the amount of the French spoliation claims which the amendment of the Senator from Massachusetts carries. I do not believe any of these claims ought to be paid, and I intend to vote against the amendment of the Senator from Massachusetts; but since the amendment offered by the Senator from South Dakota reduces the amount, I shall vote for it, because it cuts out what I do not think ought to be allowed.

Mr. BORAH. How much is the reduction in the claims?

Mr. CRAWFORD. About $270,000.

Mr. BORAH. How much does it leave?

Mr. CRAWFORD. About six hundred-odd thousand dollars. It simply cuts out of the amendment the premiums on the insurance and also the freight charges. It allows the actual property loss.

Mr. NEWLANDS. I would like to ask the Senator from South Dakota whether the parts of these claims which he proposes to strike out were not allowed by the Court of Claims?

Mr. CRAWFORD. They were allowed as other items were allowed; that is, they found that the freight earnings in such a case, for instance in the case of the ship *Liberty*, were so much and the amount paid for premiums were so much; they found as a conclusion of law a liability on the part of the French Government for those premiums and freight earnings.

Mr. NEWLANDS. I wish to ask the Senator, further, as to what amount of claims in total has been paid by the National Government?

Mr. CRAWFORD. I would only be able to say offhand, because they have run through several appropriation bills, but I would say $2,000,000 or $3,000,000.

Mr. LODGE. I this morning gave the exact figures to the reporter, although I did not read them. About $4,000,000 has already been paid on these claims.

Mr. NEWLANDS. May I ask what amount remains unpaid?

Mr. CRAWFORD. So far as concern the findings in this bill, they amount to $942,000. Back of that are some incorporated insurance companies claims.

Mr. NEWLANDS. I will ask further, whether the Court of Claims has not very nearly reached a finality in the liability of the National Government under the French spoliation arrangement.

Mr. CRAWFORD. I can only say that occasionally a straggling case comes from that court, but apparently the list is about run out.

Mr. NEWLANDS. About run out?

Mr. CRAWFORD. Yes.

Mr. NEWLANDS. I will ask the Senator, further, whether he does not think the National Government is getting off very cheaply under this obligation to France to pay her obligations regarding these American claims?

Mr. CRAWFORD. Mr. President, I do not care to detain the Senate with an expression of opinion about that—as to the merits of these claims. I have a very positive opinion that there is merit in them. I at one time expressed that opinion with a good deal of emphasis. I have not changed my mind about it. But, as I said the other day, the Committee on Claims, of which I am a member, considered that it was not wise to place the French spoliation claims upon this bill as an amendment, because the very sharp and positive differences of views in regard to those claims, not only in this body but in the other branch of Congress, would mean the absolute defeat of this bill.

I joined with my associates, after the majority so decided, in a report that left out the French spoliation claims, and on that account I propose to stand with that committee. But I ask that the matter be disposed of one way or the other. We can not keep the omnibus claims bill here in the position of obstructing other business and monopolizing the attention of the Senate. I think we already have given a good deal of attention to it and I ask that it be disposed of one way or the other.

Mr. NEWLANDS. Mr. President, I join with the Senator from South Dakota in a desire for a speedy determination of this matter, and it is not my intention to extend my remarks upon this bill at any length.

I simply wish to say that those who have inquired into the operations of the Court of Claims must realize how small a portion of the claims that are made against the United States Government pass that body and how thorough is the sifting process of that tribunal.

I wish also to say that it is utterly impossible for the Senate of the United States and the House of Representatives to sit as a reviewing court upon all these claims that pass the Court of Claims. Time itself would not permit such a thorough inquiry into the facts and circumstances relating to these claims and the judgments rendered upon them as to permit the Congress of the United States, without a sacrifice of its duty in other directions, to inquire into all the niceties of these questions.

We know as a matter of fact that the shipping of the United States was the victim of serious ravages by France. We all know as a matter of history that the losses inflicted upon American shipping were very large. We all know that the United States Government by solemn treaty assumed the obligation that France had to respond to the United States in damages. And we know that if the United States Government were to-day pressing the claims of its citizens against the French Government for the recovery of these amounts, the United States Government would be pressing for the very sums which are now under question here, and pressing them with all the power of the Government behind them, as a matter of justice and of right to American citizens.

Now, then, we all know as a matter of history that the damage inflicted upon American shipping far exceeded $5,000,000. We know that already only four millions have been paid; that this bill provides for only $800,000 or $900,000 more; that we have very nearly reached the limit of these claims. Why should we halt now?

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield?

Mr. NEWLANDS. I wish to speak for only a few moments, but I yield to the Senator.

Mr. BRISTOW. If the Senator will permit me, I simply wish to express the hope that we may reach a vote before 1 o'clock. I do not think a roll call will be demanded on the amendment to the amendment, and I only hope we may have an opportunity to vote on that.

Mr. NEWLANDS. I will yield the floor to the Senator in one moment.

We have organized a court for the purpose of inquiring into and ascertaining the facts, and there is no reason to suspect either the integrity or the efficiency of that court. These inquiries involve matters concerning which it is utterly impossible for the Congress of the United States, as a reviewing court, to give the consideration which they deserve, and as a matter of history we know that these claims must have amounted to more than $5,000,000, and there is no present possibility of their much exceeding that amount. It seems to me that as a matter of justice and right we ought to validate by an appropriation the judgment of the courts which the Government itself has appointed for the purpose of determining the validity of claims against it.

Mr. ROOT. Mr. President, I am sorry to disappoint the chairman of the committee, but I am somewhat interested in these claims, and I should like to have them paid. I am afraid that the desire of the chairman to get to a vote before 1 o'clock is accompanied by a lack of desire to have the amendment of the Senator from Massachusetts adopted.

I have not studied the subject as I probably ought to have studied it, Mr. President, but for a great many years I have had a strong impression derived from many sources that it was quite discreditable to the Government of the United States that these claims were not paid. It has seemed to me that they were illustrations of a general rule that the worse a claim was the less substance there was in it, and the more the claimant could afford to pay out of it to have it pushed the better was its chance. I have known good people, poor people, earning their daily bread by their daily work, living through their lives with the faint hope before them of the payment of one of these French spoliation claims.

I should like now to ask the chairman of the committee whether the fact that so large a part of these claims has already

been paid does not create a situation in which we should regard the principle as settled. Now, is that not sound?

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from South Dakota?

Mr. ROOT. Certainly.

Mr. CRAWFORD. I will simply say to the Senator from New York that we face a situation and conditions here where it is a question of advisability as to whether or not the claims bill which passed the House shall include the French spoliation claims.

The PRESIDING OFFICER. The hour of 1 o'clock having arrived, under the order previously adopted the Senate will resume its session as a court.

Mr. CLAPP. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Lodge	Sanders
Bacon	Cummins	McLean	Shively
Bankhead	Dillingham	Martin, Va.	Smith, Ariz.
Borah	du Pont	Martine, N. J.	Smoot
Bradley	Fletcher	Myers	Stephenson
Brandegee	Foster	Nelson	Sutherland
Bristow	Gallinger	O'Gorman	Swanson
Brown	Gronna	Oliver	Thornton
Bryan	Hitchcock	Page	Tillman
Burnham	Johnson, Me.	Paynter	Townsend
Burton	Johnston, Tex.	Penrose	Warren
Catron	Jones	Perkins	Wetmore
Chamberlain	Kenyon	Perky	Works
Clapp	Kern	Pomerene	
Crawford	La Follette	Richardson	
Culberson	Lippitt	Root	

The PRESIDENT pro tempore. On the call of the roll of the Senate 61 Senators have responded to their names, and a quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

Mr. SMOOT. I offer the following order.

The PRESIDENT pro tempore. The order will be read.

The order was read, as follows:

Ordered, That the time for final arguments in the trial of impeachment of Robert W. Archbald, additional circuit judge of the United States, shall be limited to three days from and including January 8, 1913, and shall be divided equally between the managers on the part of the House of Representatives and the counsel for the respondent, the time thus assigned to each side to be divided as each side may for itself determine.

Mr. Manager CLAYTON. Mr. President, I would ask the consent of the Senate, before the further consideration of that order, to make a correctoon in the RECORD of yesterday.

The PRESIDENT pro tempore. That will be reached in its order, the Chair takes the liberty to suggest to the manager.

Mr. Manager CLAYTON. The manager cheerfully accepts the suggestion of the Chair.

The PRESIDENT pro tempore. The Journal has not yet been read. The question is on the adoption of the order presented by the Senator from Utah.

Mr. CULBERSON. I should like to inquire if that is agreeable to counsel on both sides.

Mr. WORTHINGTON. Mr. President, I may say it is entirely agreeable to counsel for the respondent. We have had some conference with the managers about it, and we understand that all the managers who are to speak except the one who is to make the closing argument will speak before we begin.

Mr. Manager CLAYTON. The respondent's counsel may not give himself any uneasiness on that score, Mr. President, for I have repeatedly told him in private conversation, and I think I have repeated it on the floor of the Senate, that I thought it was fair and right that the managers should have only one speech in conclusion. So the suggestion of the respondent's counsel seems to me to be inappropriable on this occasion.

Now, Mr. President, if I understood the reading of that order, it set three days. That was not our understanding of the order yesterday. Perhaps it can be or is susceptible, and will be so construed, as to harmonize with our understanding of that order.

The managers acted upon the belief in their conference this morning that the Senate was to meet at the hour of 1 o'clock each day and was to hold a session daily for three days until the hour of 6 on each day, making 15 hours of time for the arguments of this case, one-half of which should be controlled by the managers and one-half of which should be controlled by the respondent's counsel.

The PRESIDENT pro tempore. The manager will permit the Chair to state that the order fixing the hours from 1 to 6 has been previously adopted by the Senate.

Mr. Manager CLAYTON. It was not made specifically a part of the order of 15 hours.

The PRESIDENT pro tempore. It was so done this morning, by order of the Senate.

Mr. Manager CLAYTON. The manager was not present when that action of the Senate was had, therefore, Mr. President, the manager thought it was incumbent upon him to have a perfect understanding of this matter before any discussion should arise in regard to the adoption of this order or before the order itself should be adopted, if it be adopted without discussion.

Now, Mr. President, in view of the statement the Chair has made, and which coincides with the understanding the managers had of the action of the Senate on yesterday when it went into private session to consider this matter, I am authorized by my associates to say that the order of the Senate having been agreed upon in the session I have referred to, and having met the views which are authorized by the sound discretion of the Senate, meets with no objection on the part of the managers, and they cheerfully acquiesce in that order and hope the Senate will adopt it.

The PRESIDENT pro tempore. The question is on the adoption of the order submitted by the Senator from Utah [Mr. SMOOT]. As many as favor it will say "aye." [Putting the question.] The ayes have it, and the order is adopted. The Secretary will read the Journal of the last session of the Senate sitting as a court.

The Secretary read the Journal of the proceedings of the Senate sitting as a court of Tuesday, January 7, 1913.

Mr. LODGE. Mr. President, I called attention to a slight error in the RECORD this morning, which, I suppose, will be sufficient for the correction of the Journal.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved. The manager will now present the matter of correction to which he referred.

Mr. Manager CLAYTON. Mr. President, on page 1333 of the testimony printed in the pamphlet form, about the middle of the page, the witness, Mr. C. G. Boland, was under examination, and in response to a question he said:

I did. And he then dictated to a stenographer, I think, that statement, which he believed was sufficient to satisfy Mr. Watson that he would be paid $5,000 in the event of his disposing of the property. I presented it to Mr. Watson, and he declined it.

Mr. Boland, as all the managers remember, and as the witness himself tells us this morning, said:

I presented it to Mr. Watson, and he accepted it.

Mr. WORTHINGTON. We agree to that.

Mr. Manager CLAYTON. We wish that the word "declined" be stricken out and the word "accepted" be substituted.

And, Mr. President, may I say that I think the reports made in this case by the stenographers of the Senate have been unusually accurate.

The PRESIDENT pro tempore. The correction will be made as suggested by the manager.

Mr. CLARK of Wyoming. Mr. President, following the precedent established in the last impeachment trial, I offer the following order.

The PRESIDENT pro tempore. The order will be read.

The Secretary read as follows:

Ordered, That any of the managers or counsel for the respondent having all or any portion of his argument in manuscript may deliver a copy of the same to the reporter or any portion thereof, which for lack of time or to save the time of the Senate the managers or counsel shall omit to deliver or read, and the same shall be incorporated by the reporter as a part of the argument delivered; and any manager or counsel who does not address the court may file and have printed as a part of the proceedings an argument before the close of the discussion.

Mr. CULBERSON. I should like to ask the Senator from Wyoming if it is not contrary to the established rule of the Senate to have matter printed that has not been delivered before the body.

Mr. CLARK of Wyoming. I said, in offering the order, that it was according to the precedent in impeachment cases. It is contrary to the ordinary rule of the Senate, but it is a proceeding which has been followed in impeachment trials in order to save the time of the Senate and preserve the record.

Mr. CULBERSON. I do not approve of that policy, Mr. President, but I will not object under the circumstances.

The PRESIDENT pro tempore. The question is on the adoption of the order just presented by the Senator from Wyoming. As many as favor it will say "aye," opposed "no." [Putting the question.] The ayes have it, and the order is adopted by the Senate. The managers will proceed, if they are ready to present their case.

Mr. Manager CLAYTON. Mr. President, as I understand it, 15 hours were accorded to this discussion. It is now, I believe, 16 minutes after the hour of 1 o'clock. I think it is important to make that statement. Mr. Manager STERLING will make the opening argument on behalf of the managers of the House of Representatives

ARGUMENT OF MR. STERLING, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager STERLING. Mr. President, the managers on the part of the House approach the argument in this case with much confidence. They believe that the record which has been made proves the charges set forth in the articles of impeachment, and that those charges constitute impeachable offenses. I think it is plain, from the statement made by counsel for respondent in the beginning of this trial and from the brief which was filed and printed some days ago, that they rely for acquittal on the single proposition that these offenses do not constitute impeachable offenses for the reason that, as they claim, they do not constitute indictable offenses.

In their brief counsel for the respondent lay down, as the first proposition, that no offense is impeachable unless it is indictable; and, as a second proposition, and the only other proposition that they submit, is that if the offense in order to be impeachable need not be indictable it must at least be of a criminal nature.

As to the first proposition, the contention of counsel for the respondent is not sustained either by the language of the Constitution, by the decisions of the Senate in former impeachment cases, by the decisions of other tribunals in this country which have tried impeachment cases, or by the decisions of the English Parliament; nor is that contention sustained, so far as I have been able to read the authorities and the law writers on constitutional law, by a single American writer. The language of the Constitution, so far as it relates to the trial of this case, is this:

The Senate shall have the sole power to try all impeachments.

* * * * * * *

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

* * * * * * * *

* * * All civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

* * * * * * *

The judges, * * * shall hold their offices during good behavior.

I have stated all the language of the Constitution with which the Senate has to deal in determining the case now before it. I ask the Senate to consider that nowhere in that language is there any limitation as to the nature or extent of the crimes, misdemeanors, and misbehaviors in office. The Constitution does not undertake to define those terms with reference to the jurisdiction of the Senate in removing public officers for the violation of those provisions of that instrument, nor does it limit the time as to the commission of these offenses. It does not provide that the offenses shall be committed during the service from which it is sought to remove him, nor does it limit Congress as to when it may proceed to impeach and try an offending servant. Under the plain language of the Constitution the House of Representatives has the power to impeach and the Senate has the power to try and convict for offenses of the character described in the Constitution, let them have been committed at any time during the term of office from which the respondent is sought to be removed, during his service in some other office, or during some other term, or for offenses committed before he became an officer of the United States and while he was a private citizen.

If the Constitution puts no limitation on the House of Representatives or the Senate as to what constitutes these crimes, misdemeanors, and misbehaviors, where shall we go to find the limitations? There is no law, statutory nor common law, which puts limitations on or makes definitions for the crimes, misdemeanors, and misbehaviors which subject to impeachment and conviction.

It will not be maintained either by the managers or by the counsel for the respondent that precedents bind, and yet we may well consider them because they are so uniform on the question as to what constitutes impeachable offenses. The decisions of the Senate of the United States, of the various State tribunals which have jurisdiction over impeachment cases, and of the Parliament of England all agree that an offense, in order to be impeachable, need not be indictable either at common law or under any statute.

I shall not weary the Senate with reading the history of impeachment cases, but I do desire to read briefly from some of the law writers of this country, giving their conclusions as to what constitute impeachable offenses after they had reviewed and considered cases that have been tried in the Senate and in other forums where impeachment cases have been tried.

I read first from Tucker on the Constitution. On page 416 I find this:

(c) High crimes and misdemeanors. What is the meaning of these terms? Much controversy has arisen out of this question. Do these words refer only to offenses for which the party may be indicted under the authority of the United States? Do they mean offenses by the common law? Do they include offenses against the laws of the States, or do they mean offenses for which there is no indictment in the ordinary courts of justice? Or do they include maladministration, unconstitutional action of an officer willful or mistaken, or illegal action willful or mistaken.

And then, under the subject of "bribery," the author says this:

(c) So in respect to bribery. Bribery corrupts public duty. The difference between treason and bribery is that the first is a crime defined by the Constitution, as to which Congress has no power except to declare its punishment. Bribery is not a constitutional crime, and was not made a crime against the United States by statute until April, 1790. These two cases, therefore, show that the words "high crimes and misdemeanors" can not be confined to crimes created and defined by a statute of the United States; for if Congress had ever failed to have fixed a punishment for the constitutional crime of treason, or had failed to pass an act in reference to the crime of bribery, as it did fall for more than a year after the Constitution went into operation, it would result that no officer would be impeachable for either crime, because Congress had failed to pass the needful statutes defining crime in the case of bribery, and prescribing the punishment in the case of treason as well as bribery. It can hardly be supposed that the Constitution intended to make impeachment for these two flagrant crimes depend upon the action of Congress. The conclusion from this would seem to be inevitable that treason and bribery, and other high crimes and misdemeanors, in respect to which Congress had failed to legislate, would still be within the jurisdiction of the process of impeachment.

I read now from the brief filed by Mr. Manager CLAYTON, in which he quotes from Watson on the Constitution:

A civil officer may so behave in public as to bring disgrace upon himself and shame upon his country, and he may continue to do this until his name would become a national stench, and yet he would not be subject to indictment by any law of the United States, but he certainly could be impeached. What will those who advocate the doctrine that impeachment will not lie except for an offense punishable by statute do with the constitutional provision relative to judges which says, "Judges, both of the Supreme and inferior courts, shall hold their offices during good behavior"? This means that as long as they behave themselves their tenure of office is fixed, and they can not be disturbed. But suppose they cease to behave themselves? When the Constitution says, "A judge shall hold his office during good behavior," it means that he shall not hold it when it ceases to be good. Suppose he should refuse to sit upon the bench and discharge the duties which the Constitution and the law enjoin upon him, or should become a notoriously corrupt character, and live a notoriously corrupt and debauched life? He could not be indicted for such conduct, and he could not be removed except by impeachment. Would it be claimed that impeachment would not be the proper remedy in such a case?

I now read what Cooley—who, I think, is recognized as one of the greatest constitutional law writers of America—says briefly on this subject. I read from his Principles of Constitutional Law, page 178:

The offenses for which the President or any other officer may be impeached are any such as in the opinion of the House are deserving of punishment under that process. They are not necessarily offenses against the general laws. In the history of England, where the like proceeding obtains, the offenses have often been political, and in some cases for gross betrayal of public interests punishment has very justly been inflicted on cabinet officers. It is often found that offenses of a very serious nature by high officers are not offenses against the criminal code, but consist in abuses or betrayals of trust, or inexcusable neglects of duty, which are dangerous and criminal because of the immense interests involved, and the greatness of the trust which has not been kept. Such cases must be left to be dealt with on their own facts, and judged according to their apparent deserts.

Mr. President, the following is from volume 15 of the American and English Encyclopedia of Law, paragraph 2, page 1066:

The Constitution of the United States provides that the President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. If impeachment in England be regarded merely as a mode of trial for the punishment of common-law or statutory crimes, and if the Constitution has adopted it only as a mode of procedure, leaving the crimes to which it is to be applied to be settled by the general rules of criminal law, then, as it is well settled that in regard to the National Government there are no common-law crimes, it would seem necessarily to follow that impeachment can be instituted only for crimes specifically named in the Constitution or for offenses declared to be crimes by Federal statute. This view has been maintained by very eminent authority, but the cases of impeachment that have been brought under the Constitution would seem to give to the remedy a much wider scope than the above rule would indicate. In each of the only two cases of impeachment tried by the Senate in which a conviction resulted the defendant was found guilty of offenses not indictable either at common law or under any Federal statute, and in almost every case brought offenses were charged in the articles of impeachment which were not indictable under any Federal statute and in several cases they were such as constituted neither a statutory nor a common-law crime. The impeachability of

the offenses charged in the articles was in most of the cases not denied. In one case, however, counsel for the defendant insisted that impeachment would not lie for any but an indictable offense; but after exhaustive argument on both sides this defense was practically abandoned. The cases, then, seem to establish that impeachment is not a mere mode of procedure for the punishment of indictable crimes, that the phrase "high crimes and misdemeanors" is to be taken not in its common-law but in its broader parliamentary sense, and is to be interpreted in the light of parliamentary usage; that in this sense it includes not only crimes for which an indictment may be brought, but grave political offenses, corruption, maladministration, or neglect of duty involving moral turpitude, arbitrary and oppressive conduct, and even gross improprieties, by judges and high officers of state, although such offenses be not of a character to render the offender liable to an indictment either at common law or under any statute. Additional weight is added to this interpretation of the Constitution by the opinions of eminent writers on constitutional and parliamentary law and by the fact that some of the most distinguished members of the convention that framed it have thus interpreted it.

Mr. President, at the suggestion of Manager Clayton, I will read from the brief which he filed and in which he quotes from Bouvier's Law Dictionary:

"The offenses for which a guilty officer may be impeached are treason, bribery, and other high crimes and misdemeanors. (Art. II, sec. 4.) The Constitution defines the crime of treason. (Art. III, sec. 3.) Recourse must be had to the common law for a definition of bribery. Not having particularly mentioned what is to be understood by 'other high crimes and misdemeanors,' resort, it is presumed, must be had to parliamentary practice and the common law in order to ascertain what they are. (Story, Const., par. 795.) It is said that impeachment may be brought to bear on any offense against the Constitution or the laws which is deserving of punishment in this manner or is of such a character as to render the officer unfit to hold his office. It is primarily directed against official misconduct, and is not restricted to political crimes alone. The decision rests really with the Senate. (Black, Const. L., 121.)"

And so, Mr. President, I say, that outside of the language of the Constitution, which I quoted, there is no law which binds the Senate in this case to-day except that law which is prescribed by their own conscience, and on that, and on that alone, must depend the result of this trial. Each Senator must fix his own standard; and the result of this trial depends upon whether or not these offenses we have charged against Judge Archbald come within the law laid down by the conscience of each Senator for himself.

I shall leave the further discussion of any legal propositions involved in the case to my associate managers, some of whom I know are much better prepared than I to discuss them, and I invite the attention of the Senators to facts which we believe we have proven in this case, and which, as I said at the beginning, we feel, confidently, constitute crimes for which Judge Archbald should be removed from office under the law as it is laid down in the Constitution and under the law which the Senate will lay down for themselves.

The first offense charged in the articles of impeachment is that Judge Archbald used his official power and influence to prevail on the Erie Railroad Co. and its officials to sell to him and to one E. J. Williams the Katydid culm dump. Briefly, the history of the facts in that case are these:

E. J. Williams went to Judge Archbald in March, 1911, and told him of the Katydid culm dump, and said to him that an option could be had on the interest owned by Robertson & Law, who had worked the Katydid colliery, and that he thought that if an option could be had from the Hillside Coal & Iron Co., which was a subsidiary corporation to the Erie Railroad Co., that the Katydid might be sold at a profit. There is not any question, either in the testimony offered by the managers or by the respondent, or in the testimony of the respondent himself, that Mr. Williams and Judge Archbald were each to share equally in whatever profits came from the transaction.

Now, what did Judge Archbald do? He first wrote a letter to Capt. May, the superintendent of the Hillside Coal & Iron Co. He says that Williams's first request to him was for a letter of introduction. But he did not get a letter of introduction. Several conversations were had in subsequent days, before the 31st day of March, in which it finally developed that Judge Archbald gave a letter to Mr. Williams to take to Mr. May, in which he simply asked Mr. May if the Katydid culm dump was for sale; and if so, to fix a price. It was during those two days that Mr. Williams and Judge Archbald agreed to share these profits. The evidence of Judge Archbald himself is very plain that he declined to give Williams the letter of introduction until Williams had reached the point where he was willing to divide the profits with Judge Archbald in the Katydid culm dump in order to secure the judge's influence, and when in the conversations they had come to that understanding, Judge Archbald wrote this letter, the first step in his effort to influence the railroad company to sell them this dump.

Williams did not succeed. He returned to Judge Archbald and said to him that Capt. May would not talk to him about it; that he was cross and did not seem to want to talk to him about it. And then some time in June Judge Archbald said to Williams, "I will go and see Brownell." Mr. Brownell lived in New York and was vice president of the Erie Railroad Co. Judge Archbald said, "I will go and see Brownell," and he said to Williams, "I have some cases here on my desk now for the Erie Railroad Co"; and Williams said that he (Judge Archbald) said, "I might be able to hurt them for refusing so little a thing as that."

There is some truth, I know, in the testimony of Williams regarding that incident, because Williams said that when he referred to the cases against the Erie Railroad Co. that were on his desk at that time Judge Archbald spoke of one of them as the Lighterage case. It is true that Williams here on the witness staud undertook to say that he saw the word "lighterage" on the back of the briefs. That was not true, because we brought here before the Senate every brief and every printed document in these cases, and the word "lighterage" does not appear anywhere on the back of any of the briefs. And mark, the word "lighterage" appears just in one instance, and that is in the court calendar that was printed for the October term, which had not come to Judge Archbald's desk at that time.

How is it possible for this man Williams to have known anything about the Lighterage cases? He knew nothing about lighterage, and it must have come from Judge Archbald; and when Judge Archbald was asked how it was possible for Williams to have known anything about the Lighterage cases except through him he undertook to say that he might guess that it came from William P. Boland. All the evidence that there is in this case on that point is to the effect that Williams himself told William P. Boland about the Lighterage case instead of Boland telling him about the case. And I believe absolutely, just as Williams stated here, that Judge Archbald did refer to the records of these cases on his desk and say, "Here I have some cases against the Erie Railroad Co. for consideration now," and made some explanation of what is known as the Lighterage case. He did go to New York. On the 4th day of August he went into the office of Mr. Brownell, the vice president and general counsel of the Erie Railroad Co., and, as he undertakes to say, he said to Mr. Brownell, as his reason for coming there, that he wanted to inquire about the title to the Katydid culm dump.

But Mr. Brownell knew nothing about the title to the Katydid culm dump and he referred the matter to Mr. Richardson, who was the legal representative neither of the Hillside Coal & Iron Co. nor of the Erie Railroad Co. He went to New York, and his own detailing of the conversation that occurred with Brownell and Richardson is to the effect that he went there for the purpose of influencing those railroad officials to direct or command Capt. May, of the Hillside Coal & Iron Co., to sell him the Katydid culm dump. Let us see how he succeeded.

But suppose he had not succeeded. Would that be an excuse for the offense charged in this count? Suppose he had sought to impress upon them that here was a judge of the Commerce Court seeking to buy the property of the railroad company and he had failed in his attempt to influence them. Judge Archbald has already committed this offense. So far as he is concerned, he has sought to use his influence as a judge to impel this railroad company to part with its property. But he did succeed. Mark, that Mr. Richardson said that he would take the matter up with Capt. May and that he would hear from them later. On the 25th day of August Capt. May was in New York, and Mr. Richardson gave him direction to sell this property to Judge Archbald and Mr. Williams. He returned to Scranton on the 26th day of August, and on the 29th, meeting Judge Archbald on the street, said to him, "You tell Mr. Williams to come and I will give him an option on the Katydid." In the meantime, from the hour that Judge Archbald says he was in New York to see Mr. Brownell about the state of the title to the Katydid culm dump, nothing had been done by May, nothing had been done by Richardson, Brownell, or Archbald to change the state of that title, nothing had been done to correct or improve the title; but on the 29th day of August, 1911, they make this option to Mr. Williams and Judge Archbald.

It is very evident from the course of counsel for the respondent in this case that they will argue to the Senate that we have not proven any intent on the part of Judge Archbald to corruptly influence the railroad company to sell him the Katydid culm dump. Every lawyer within the sound of my voice recognizes that it is not possible for the prosecution in any case to prove by direct testimony the intent of the accused.

The law everywhere provides that the intent must be inferred from the acts and the conduct of the accused, and the law will imply and presume that he intended the reasonable and natural

consequences of his own act. And what are the reasonable and natural consequences of the act of Judge Archbald with reference to his relations to the railroad company and the Hillside Coal & Iron Co. in this transaction? Does it not naturally follow that a judge of the Commerce Court, which has jurisdiction over interstate railroads, going to these railroad companies and demanding of them a favor, is more likely to get it than a private citizen who appeals to them for similar favors? It is the natural result of his act that they should accede to his request rather than to that of a man who did not hold a position on the Commerce Court.

But let me say now—and the same thing applies to other charges in this impeachment—that the Erie Railroad Co., the Delaware, Lackawanna & Western Railroad Co., and the Lehigh Valley Railroad Co. had litigation then pending in the Commerce Court and that Judge Archbald at the time of the Katydid transaction had these cases on his desk for consideration.

Oh, counsel may argue that it was only an inference that Judge Archbald sought to use this power to influence the Erie Railroad Co., and that there is no evidence in this case that the mere fact that he was a judge of the Commerce Court did persuade them to part with their property. We know from the testimony of both May and Richardson that it was against the policy of the Erie Railroad to sell its coal properties of any kind. But they did sell in this instance, and they sold it after Judge Archbald had gone to see the high officials of the company and importuned them to let them have it.

But suppose he did not intend that his official position should affect their conduct. Let us imagine, if it is possible to do so, that Judge Archbald was so innocent and so guileless that it never occurred to him that his official position might have some effect on these litigants in his court. The effect of these transactions is just the same, and if a judge so conducts himself or commits acts, even without intent to do wrong, and thereby shakes the public confidence in the judiciary of the country and brings his high office into disrepute, he ought to be impeached and removed from office.

The evil of all these cases does not consist merely in Judge Archbald making a profit by the use of his official power. That is not the great evil which comes to the people of the country by reason of his conduct. The greatest evil from conduct such as his lies in the fact that it disturbs the public mind and shakes the faith of the people in American institutions; and when the faith of the people in American institutions is shaken it is impossible for them to endure.

Counsel for respondent has offered in this case much evidence as to the value of the Katydid culm dump. Page after page is devoted to that end, and their excuse for doing so is because we called Mr. Rittenhouse, who had made a survey of the dump and had estimated its value and given it to the Department of Justice during the preliminary investigation of this case. We never offered the report of Mr. Rittenhouse because we felt that the question of value was material to the issue in this first count, nor is it material now as to whether the Katydid culm dump was worth more or less than what Williams and Archbald agreed to pay for it, the sum of $8,000. It was worth much more. The testimony of Rittenhouse, who investigated it for the Department of Justice; the testimony of the engineer, Saum, who investigated and tested it for the Du Pont Powder Co., and the report of Mr. Merriam, the engineer for the Hillside Coal & Iron Co., who before his death had investigated it, all found that there were from 50,000 to 55,000 tons of coal in the Katydid culm dump.

But, as I said, that is not material to the issue. The question is, What was the frame of mind on that question which Judge Archbald entertained when he was seeking to buy it? What did he think it was worth? If he believed that he could influence the railroad company to sell to him for $8,000 and, after buying it for that price, that he could sell it for a profit, that is the question in the case, and that is the motive that prompted him to use his power as a judge to get this property.

Judge Archbald was right about it. He knew—or, at least, relying on Williams he knew—that he was getting it at a bargain, because within 60 days they had sold it for $20,000, a profit of $12,000, which was to be divided equally between Williams and Archbald. Williams did not put in a dollar. He did not have any money to put in it. Archbald did not put in a dollar. The capital that those two men employed to get that property was this: Williams's experience as a coal-dump finder; he found the dump; and Judge Archbald offset that capital of Mr. Williams with his influence with the railroad company. Williams's experience and Archbald's influence—there was the partnership, and with that as their capital they started into the coal business on equal terms and equal footing and agreed to divide the profits equally.

When counsel for respondent, Mr. Worthington, made his opening statement in this case he talked much about the conspiracy of the Bolands to destroy Judge Archbald, and he undertook to set up as a defense to the offenses of Judge Archbald that the Bolands, and especially William P. Boland, had undertaken and set out resolutely to destroy the judge. Now, suppose that all he said about it was true. Suppose there was a conspiracy existing between the Bolands and others to destroy Judge Archbald. What did they do? Did the Bolands manufacture any testimony against Judge Archbald? Did they turn a hand or say a word or enter into any agreement with anybody for the purpose of manufacturing testimony against Judge Archbald?

It is true that William P. Boland, when Williams brought him one of the letters that Judge Archbald had written, took a photograph of it. But what if he did? The judge wrote the letter. Suppose W. P. Boland did suggest to Williams to have Judge Archbald go to New York to see Brownell. Judge Archbald went. Suppose Boland did suggest to Williams that he have Judge Archbald write the letter to Capt. May for this dump. Judge Archbald wrote it. Suppose Williams and William P. Boland together did jointly dictate the silent-party agreement, in which they agreed to give Archbald an interest in this culm dump. Archbald accepted it.

Now, what else has William P. Boland or either of the Bolands done on which these gentlemen can charge a conspiracy? That is all they did. It may be that William P. Boland, rightfully or wrongfully, it is not for me and it is not for the Senate to say, did start out to get evidence against Judge Archbald in this case. He got it, and in so doing he rendered a valuable public service.

Ah, what a pitiable spectacle this presents; counsel for the respondent, a high judicial officer of the United States, coming into the Senate and pleading that the Bolands had duped and deceived him into doing things which scandalized the high office which he held.

Now, Mr. President, to call the attention of the Senate to the second article, which relates to the Marian Coal Co. transaction. The Marian Coal Co. was a corporation doing business near Scranton in the way of washing coal from one of the coal dumps which had been formed there in some mining operation. The Bolands owned two-thirds of the stock of the Marian Coal Co., and they had been involved in litigation in the district court at Scranton and in the Interstate Commerce Commission. This man Williams suggested to the Bolands one day that he thought George M. Watson, an attorney at Scranton, could get a settlement of all their difficulties and sell this Marian Coal Co. to the Delaware, Lackawanna & Western Railroad.

Now, it was the Delaware, Lackawanna & Western Railroad Co. that was a defendant in the Interstate Commerce Commission in the suit which the Marian Coal Co. had there pending, and this same railroad was a party defendant also in those two cases, No. 38 and No. 39, in which the Erie Railroad Co. was a party, and which were pending at this time in the Commerce Court and about which Judge Archbald said, "I have here on my desk now two cases against the Erie Railroad Co." The Delaware, Lackawanna & Western was in both those cases.

I do not know how it was, and I suppose it will never be known how it happened that George Watson immediately after the Bolands had employed him went direct to the office of Judge Archbald to get Judge Archbald to intercede for him in carrying out the matters for which he had been employed by the Marian Coal Co. After he had talked with Judge Archbald they called Christy Boland over to the office.

It is true Judge Archbald says he does not remember anything about that incident, but I believe that Christy Boland is telling the exact truth when he says that the next day, I think it was, after they had employed Watson, he was called to the office of Judge Archbald, where he found Judge Archbald and Mr. Watson in consultation, and that the judge said, "Now, I understand the agreement to be that you have employed George Watson to settle your difficulties for $100,000 and that you are to give him a $5,000 fee."

That was the testimony which was elicited last evening from Mr. Christy Boland after he was called back on the witness stand. I thought it was in the record on the first examination. I knew that Christy Boland had testified to that fact before the Judiciary Committee. So we called him back to prove it before the Senate, and he testified here as he testified before the House committee that that statement was made there in Judge Archbald's office when those three persons were present.

I think that is extremely important, because Judge Archbald at that time said he would assist Mr. Watson all he could in the settlement of these transactions, and he knew that Watson had

started out and had been employed with authority to settle it for $100,000.

Judge Archbald went to New York, or I will put it just as charitably as I can. I will say that he was in New York, as he insisted it should be stated. It does not make any difference. He was in New York, he says, holding criminal court, and while there he went to the office of Mr. Loomis on the 4th day of August.

Now mark, the 4th day of August was a red-letter day for Judge Archbald in the coal business. He not only went to Brownell and started the transaction with him to buy the Katydid culm dump, but he went to Loomis on the same day, in order to prevail on him to see Watson, with a view of settling the Marian Coal Co.'s difficulties. Loomis, after he had seen him, tells him he will have his people take it up with Mr. Watson and see what can be done. But nothing is done.

A little later Judge Archbald sees Loomis in the city of Scranton and reminds him of the matter again, and urges him to take it up with Watson. He also calls Mr. Phillips over to his house, sends for him by telephone, and urges the negotiations along.

Now, Phillips was the superintendent of the coal properties of the Delaware, Lackawanna & Western Railroad Co. After a consultation there Mr. Phillips says that he told Judge Archbald he did not see any possibility of a settlement, because of the very wide difference of opinion as to the value of the property and the merits of the lawsuit.

Notwithstanding that, he again sees Loomis and talks with him on the street and urges him to take the matter up. Nothing, however, is done.

Then Mr. Loomis writes a letter to him and tells him that there is no possibility of a settlement of the matter because of the very great difference of views as to the value of the property.

That is not sufficient for Judge Archbald. Not content with that, he says out of a pure matter of friendship for George M. Watson, he still pursues the matter with more diligence and more eagerness than ever Watson exercised in the case, and writes Loomis a letter urging further consideration of the case. This is the letter which Loomis wrote to Judge Archbald September 27:

SEPTEMBER 27, 1911.

MY DEAR JUDGE: As per our recent interview, I instructed our people to call on Attorney Watson in connection with the Boland case, and I find there is little, if any, prospect of our reaching any settlement of this case, owing to the very great difference of opinion as to the merits of Mr. Boland's claims and the value of his properties.

Thanking you, however, for your good efforts in this direction, I am,

Very truly, yours, E. E. LOOMIS.

Judge R. W. ARCHBALD, *Scranton, Pa.*

Then, on September 28, the next day, Judge Archbald replies:

SCRANTON, PA., *September 28, 1911.*

MY DEAR MR. LOOMIS: I am very sorry to have your letter stating that you have not been able to effect a settlement with Mr. Boland. I trust, however, that the matter is still not beyond remedy. And if I thought that it would help to secure an adjustment, I would offer my direct services. I have no interest except to try and do away with an unpleasant situation for both parties, and I hope that this still may be possible.

Yours, very truly, R. W. ARCHBALD.

Then, on October 3, he, nothing daunted, writes again, urging a personal conference and manifesting a zeal and eagerness that was not born of love for Watson, but of a desire to secure a fee which was dependent on the success of the enterprise:

MY DEAR MR. LOOMIS: I understand that there has been a suggestion that Mr. Watson meet you and possibly also Mr. Truesdale, and that Mr. Watson has written asking for an appointment. It seems to me, if I may be permitted to say so, that this is a very good idea. It will give you an opportunity to discuss the Boland claim with Mr. Watson upon a somewhat different basis than Col. Phillips could, representing the coal department.

I have little doubt but that it will appear so to you, and it may be altogether unnecessary for me to write about it. But I am sure you will not take it amiss to have me do so, and I shall hope that a settlement may yet be reached in that way. There is nothing like a personal interview to bring about such a result.

Yours, very truly, R. W. ARCHBALD.

It has occurred to the minds of some Senators, I have no doubt, that the managers have not proven that Judge Archbald got any money consideration or that he was to get any money consideration for this transaction. It is known now to the Senators who heard this testimony that Judge Archbald knew that the proposition of settlement as presented to Watson by the Bolands was $100,000, and it is known by the testimony of Judge Archbald himself that he and Watson proceeded on the theory that it was to be settled for $161,000. It is known, and it is beyond dispute, that after the time Judge Archbald learned that the basis of settlement was $100,000, and after he learned that Watson was asking the railroad company $161,000, after he knew those two facts, he still wrote two letters to Mr. Loomis urging this settlement and saw Mr. Loomis and Mr. Phillips personally about the matter.

Now, Christy Boland testified that Watson told him that his reason for raising it from $100,000 to $161,000 was because he had to divide this excess and take care of certain persons, among whom was Judge Archbald. I have not a bit of doubt on earth but what Watson told that to Christy Boland. But I do not pretend to say to the Senate here to-day that Judge Archbald and Watson had ever had any agreement or understanding about it, because there is no direct evidence to that effect. But all the circumstances point to that very end, and it is competent evidence for this Senate to consider, because of the fact that Archbald and Watson had entered into the conspiracy to do a wrongful thing, collecting $61,000 more than the Bolands demanded, and it being a statement by one of the coconspirators is competent and proper evidence in this case against Mr. Archbald, and is worthy of consideration.

But I desire to impress this fact upon the Senate now, before I leave this subject, that it does not devolve upon the managers, in the Marian Coal Co. case, to prove that Judge Archbald understood that he was to have a cent of remuneration for his services. It is true that the article charges a consideration, but it does not say a money consideration. If he did this, if he sought for the welfare of this man Watson, if he sought for the benefit of a friend, in order that a friend might make a fee, to use his official power to influence litigants in his court to that end, it is an impeachable offense, and he should be found guilty.

Oh, you say maybe it is not so culpable. No; but the offense exists, and it is a misuse of that power which comes to every man who occupies the position of judge.

Now, I call the attention of the Senate to the third article, about Packer No. 3. That was the case where Judge Archbald and Jones and two or three other gentlemen were to organize a corporation for the purpose of buying Packer No. 3. No money was to be paid by any of these gentlemen. John Henry Jones assured them that he could get the money from a gentleman, Mr. Farrell, in New York. So they put it up to Judge Archbald to see the Lehigh Valley Railroad Co., another railroad that was a party defendant in these same suits Nos. 38 and 39. He goes to the Lehigh Valley Railroad Co. He goes to Mr. Warriner, of that railroad company, and prevails on him to sell him Packer No. 3 for the benefit of this new corporation. He writes a letter making an appointment to see Mr. Warriner, fulfills the appointment; it is agreed that they shall have Packer No. 3 for a royalty of 2 and 3 cents on the different grades of coal, and afterwards he gets a letter from Mr. Warriner confirming the agreement.

It will be remembered that Madeira, Hill & Co. had been trying to buy Packers Nos. 2, 3, and 4 a year and a half before that. It seems that at that time the Lehigh Valley Railroad Co. did not want to sell Packers Nos. 2, 3, and 4, even though Madeira, Hill & Co. offered them a royalty of 5 and 10 cents a ton on the coal.

They say it was not the same packers. It is true that Madeira, Hill & Co. applied for Packers Nos. 2, 3, and 4, and that these gentlemen only applied for Packers Nos. 3 and 4. They got the option for 2 and 3 cents. After culm-dump coal had sprung up immensely in value the railroad company sells to Judge Archbald's corporation for less than one-third of the price that they had refused to take from Madeira, Hill & Co. a year and a half before.

Then comes the Warnke deal. Warnke is the gentleman who gave the note to Judge Archbald for $510. Let us see what Judge Archbald did in consideration for that note. It will be remembered that Warnke had been operating a dump and coal property for some time along the Philadelphia & Reading road, and having his property burned down, he failed to operate it for a while. Then the railroad company declared his lease had been abandoned and that he had not any further right because he was operating under a lease that had been assigned to Warnke, but which the railroad claimed was not assignable. Therefore they refused to allow Warnke to proceed again to operate this dump and this colliery.

Warnke tried a number of people. He went to Baer, the president of the Philadelphia & Reading Railroad Co., and he went to Richards time and time again. Mr. Baer says, in his testimony, that he sent numerous other men to him to get the Reading Railroad Co. to allow him to go on and operate it. Finally, as a last resort, Warnke learned of Judge Archbald's influence with the railroads and he goes to him. I think one of the Joneses told him that Judge Archbald could do that for him. So he sees Judge Archbald, and Judge Archbald writes a letter to Richards, the man who has charge of the coal property of the Philadelphia & Reading Railroad Co., making a date at

Pottsville some time in the future. Judge Archbald goes to Pottsville, 80 miles away, to fulfill this appointment with Mr. Richards. When Warnke saw the judge he said, "Now, if you can not get them to renew or revive the lease, which they claim has been abandoned, then see if you can buy the Lincoln culm dump for me." Judge Archbald presented the matter to Richards along that line, and Richards told him "No"; that their answer was final and that they would not allow Mr. Warnke to proceed under his old lease or they would not let to him the Lincoln culm dump.

It is true that Judge Archbald did not succeed in influencing the Philadelphia & Reading Railroad Co. to sell property to his friends at that time, but he tried to. He went just as far as it was necessary for him to go in order to commit the offense charged in this count. He sought to influence them, but failed. It may have been due to the fact that the Philadelphia & Reading Railroad Co. was not in the same position as the Erie, the Lackawanna & Western, and the Lehigh Valley Co.'s were; the Philadelphia & Reading Co. did not have litigation before Judge Archbald just at that time.

Now, there is one other case in which Archbald sought to negotiate two coal transactions.

Before that, however, let me call attention to this with reference to the Warnke case. Judge Archbald returned to Scranton and told Warnke what had happened. Immediately following his effort to get Mr. Richards to comply with Warnke's request, and having failed, he takes up with Mr. Warnke the sale of the Lacoe and Shiffer dump, which was on the Delaware & Hudson Railroad, and from which railroad company a right of way had to be had in order to operate that culm dump successfully.

John Henry Jones testified that when he talked to Warnke about this dump he suggested that they go together to Judge Archbald, because Judge Archbald had had the sale of this dump from Mr. Berry, the secretary of Lacoe & Shiffer Co. So they go to Archbald. Although Archbald's option had expired (Berry says he had granted the option and had extended it from time to time, but that it had expired at that time), notwithstanding that they go to Judge Archbald and have a talk about "Old gravity fill," which was the property of Lacoe & Shiffer. John Henry Jones says that he raised the question as to whether they could get a right of way to operate this dump from the Delaware & Hudson, and that he said there, in the presence of Archbald, to Mr. Warnke that Judge Archbald can take care of that. Anyhow, they bought the old gravity fill. After these events had taken place, after the judge had made a trip of 80 miles to Pottsville to see Richards, and after he had given him advice about the Lacoe-Shiffer transaction, never having put a dollar in it himself, he goes to the office of Mr. Warnke—that is, the Premier Coal Co.—and got this note for $510.

Now there is one other. It is article 6, in which there were two efforts to deal with the railroad companies concerning coal property. You remember hearing a good deal about the Everhart interests. The Everharts owned an interest in 800 acres of coal land. It seems that Mr. Warriner's company, the Lehigh Valley, had some time before that desired to purchase their interest in that property. Dainty tells Judge Archbald about it, and Judge Archbald then goes to see Mr. Warriner. First he has Dainty go to see the Everharts, to see whether or not their interests are purchasable. Then he goes to Warriner and undertakes to get them to agree to buy the Everhart interest in case he and Dainty can get them for sale. While he is there talking with Warriner about that, as Dainty has said to Judge Archbald that he wanted, if possible, to lease from the Lehigh Valley Railroad Co. 320 acres of land, another tract of coal land there, he tried to prevail upon Warriner to get the Lehigh Valley Railroad Co. to rent that land to Mr. Dainty.

Now, Senators, there are the coal cases. There are seven of them where Judge Archbald sought to get property from and to dispose of property to interstate railroads—to five interstate railroads, three of which had litigation then pending in his court.

Let us summarize, now, briefly as to those counts in the indictment. There is the Katydid, owned by the Erie Railroad Co.; he sought to get that. There is the Marian Coal property, which he tried to sell to the Delaware, Lackawanna & Western Railroad Co. There are Packers No. 3 and No. 4, which he tried to buy, and which he really did buy from the Lehigh Valley Railroad Co.

Next came the Warnke deal, in which he attempted to influence the officers of the Philadelphia & Reading Railroad Co. to continue their lease with Warnke or to sell him what was known as the Lincoln dump. Failing in this he undertakes to negotiate another transaction for Warnke by selling to him the dump known as "old gravity fill," owned by Laco & Shiffer, but which required the right of way from the Delaware & Hudson Railroad Co. in order to operate it successfully; and Jones assured Warnke in the presence of Archbald that the judge could take care of that. That makes five instances.

Then Archbald and Dainty conceived the idea of getting the interests of the Everharts in 800 acres of coal land for sale and selling it to the Lehigh Valley Railroad Co. At the same time Dainty conceived the idea that he would like to rent from that railroad 320 acres of other coal land. Judge Archbald readily becomes the intermediary in these transactions, makes an appointment with Warnke, who represents that railroad, and seeks to carry these two proposed transactions to a successful end.

Counsel for the respondent called in witnesses here to prove that there was nothing unusual about other people furnishing money to operate these dumps; they offered to prove that because Farrell was to come from New York to put in all the money necessary to operate Packer No. 3 it was not unusual, but that it was a very common and frequent course of business. Aye, but they did not prove any cases where judges of the United States courts had sought to buy property with money furnished by other persons from railroads which had litigation pending at the time in those courts. This is the only instance, thank God! that the records of our country disclose where that thing was done.

These gentlemen seem not to be able to distinguish between the conduct of a man on the Federal bench and a man in private life. Mr. Dainty and Mr. Jones and Mr. Williams, and all those rounders who seem to infest the city of Scranton—any of them had a perfect right to go to those railroad companies and prevail upon them to sell them their coal properties, if they wanted to do so; but they did not have any right to get Judge Archbald to act as intermediary for them in these transactions, because they knew that he was a judge of the Commerce Court and that a judge of the Commerce Court had no right to render his services by reason of his being a judge to these men for that purpose.

There is a strange thing about this case. There are a number of these men; there are the three Joneses—John Henry Jones, Thomas Star Jones, and Fred Jones—and E. J. Williams, and George M. Watson, and Dainty, and Warnke, and Kizer—all of them dealing more or less in coal properties of different kinds—and somehow, every time they came to a proposition where a railroad company was interested in any of these properties, their trail leads always to the office of Judge Archbald in the Federal building.

Another strange thing about all these cases is that in any of these transactions Judge Archbald never did a thing, never put in a dollar, never wrote a letter, never turned a hand, never did anything, except to intercede with the railroad companies. That is what he was employed for. This was the one thing, the only function, which he had to perform.

Why did they go to Judge Archbald? Because they knew, first, that he was a judge of the Commerce Court; second, because they knew that court had jurisdiction over interstate railroad companies; third, they knew that Archbald would use that influence over the interstate railroad companies; and, fourth, they knew that they could get it for a consideration, and thus it was natural they should use him in their business. Judge Archbald, by his conduct, simply worked up a side-line trade in culm dumps from the mere fact that he did have power over the railroad companies.

Mr. President, I desire to call the attention of the Senate to the Rissinger case. It is true that that occurred when Judge Archbald was a district judge, and that he is not now a district judge. Counsel for the respondent have not raised that question in their brief nor in their opening statement, as I recall.

Mr. WORTHINGTON. We raised it in the brief.

Mr. Manager STERLING. I had overlooked it, if it is in the brief; but I remember that one of the Senators raised the question during the trial of the case as to whether or not the House of Representatives could impeach and the Senate convict for an offense committed during a service which the accused was not performing at the time of the articles of impeachment. I think there is but one Federal case—one Federal precedent—on that point. There are State precedents where the language of the State constitution was similar to that of the Federal Constitution; and in those cases it has always been held that the officer could be impeached even though the term of office during which the offense was committed had expired. I think that is the universal rule in all precedents under constitutions similar to the Federal Constitution.

Without, however, taking the time of the Senate to read any of those authorities, I merely desire to call their attention to

this proposition: Suppose a man had committed some heinous offense, had been guilty of some degrading or debasing conduct while in the public service, something that had brought the office into disrepute, and before that act had been discovered he had been promoted from that office to some higher office; do you say that under the Constitution, and a Constitution, too, in which there are no limitations as to the time of committing these offenses, the people have no redress and that the Congress of the United States has not the power to impeach? Where is the limitation? Where is the Senate forbidden to convict one for offenses committed prior to the service which he is holding at the time?

The Constitution provides that all civil officers of the United States shall be removed from office upon impeachment for and conviction of treason, bribery, and other high crimes and misdemeanors. There is nothing in that clause of the Constitution limiting impeachment and conviction to offenses committed during service in the office from which it is sought to remove him. Who has any power to put any limitation to this clause in the Constitution? It would be indeed a dangerous precedent, if precedents were binding, for the Senate to say that the House had no power to impeach and the Senate no power to convict and remove from office an unworthy servant who had committed crimes in private life or during some prior service, but who had not been discovered until after his appointment to the public service.

Let us see what it would lead to. Suppose this argument in this case was closed, suppose every Senator had reached in his mind the conclusion that the respondent ought to be removed from office; that that is the status of the case to-night when adjournment comes, and that during the nighttime Judge Archbald should send his resignation to the President of the United States and it should be accepted, would you say because he was out of office, because his service had expired by resignation, that you could not impeach and convict him?

Remember that there are two judgments which the Senate can impose in impeachment cases—one the removal from office and the other the disqualification from holding any office of honor, trust, or profit under the United States. There would be no occasion, if he should resign, for the judgment of the Senate removing him, because the purpose of that judgment would have been accomplished; but would the Senate be deprived of its constitutional power to impose the other judgment and disqualify this man from ever holding office again simply by the act of the accused himself? Will anybody argue that the respondent, the accused, in impeachment cases, has got the power to take away from the Senate its constitutional right to disqualify him for holding public office? I think that is all that need be said on that point; and, with that in view, I desire to discuss briefly the Rissinger case, which occurred when Judge Archbald was a district judge at Scranton.

It will be remembered that Rissinger had some five or six cases pending against insurance companies for the recovery of a fire loss which had occurred in his coal property, and they had been taken from the State court in Luzerne County to the district court over which Judge Archbald presided. It was on the 3d day of October, 1908, when those cases were transferred to the Federal court. In the latter part of September this man Rissinger had seen Judge Archbald and talked to him about the organization of a corporation to take an interest in a Honduras gold-mining scheme. Those negotiations were on when these cases came into the judge's court, but they continued during all the time that those cases were pending, and, according to the original testimony of this man Rissinger, Judge Archbald virtually agreed to become a partner in the enterprise with Rissinger, without the knowledge of those on the other side of the cases. I will, however, agree now, although Rissinger is our witness in the case, that Rissinger is not a reputable witness, because in this case he comes into the Senate here and testifies to an entirely different state of facts from what he did then; but it is immaterial which horn of the dilemma these gentlemen take in the case, because, in any event, Judge Archbald is culpable and committed an offense for which he ought to be removed from office.

This man Rissinger brings Mr. Russell from New York to lay the matter before Judge Archbald, and he tells him about the wonderful things in that Honduras gold-mining scheme. Then it goes on, and these cases come for trial early in November, I think. During the trial of the first case, after the evidence for the plaintiff—that is, Mr. Rissinger—was submitted and they had closed their case, the defendant demurred to the evidence, and Judge Archbald overruled the demurrer, holding with Rissinger in the case. It may have been proper; I do not know, I do not care, and it is not for the Senate to try the case of Rissinger against the insurance companies, but whether it was a right decision or a wrong decision, all we care for is to know that it occurred while these negotiations were pending between Rissinger and Archbald with reference to this gold-mining scheme.

Then a little later—I think on the 28th day of November, the very day that the judgments in those cases matured—you remember, after the judge held the evidence sufficient to sustain a case, they settled the case for something like $25,000, to be paid in 15 days—the very day those judgments matured Mr. Rissinger makes a note to Judge Archbald for the sum of $2,500. Archbald indorses the note, turns it back to Rissinger, and Rissinger takes it to the bank and gets the money on it. Now, that is not the material part in the proposition at all.

Rissinger said before the Judiciary Committee that the agreement at that time was that Judge Archbald was to pay one-third of the note and take the value of that third in stock of the Honduras gold-mining scheme. In any event, in a very short time after that and before the note had matured—it was a four months' note—84 shares of stock of the Scranton-Honduras Mining Co., which was to take a part of the property of this gold-mining scheme in Honduras, were delivered to Judge Archbald. Judge Archbald said it was collateral security for the note, but this stock on its face was only worth $1,680 at $20 a share. It was not delivered to Judge Archbald at the time he indorsed the note and turned it over to this man Rissinger. That would have been the time when one would generally take collateral security, and when one takes collateral security they generally take a little more than the amount of their liability instead of very much less; and when one indorses stock as collateral security for liability on a note the man who gets the benefit of it generally assigns his stock over to the party that indorses it, but this stock was issued direct from the corporation to Judge Archbald and delivered to him some two months after he had indorsed this note.

I want to call the attention of the Senate to another fact. I shall not read it, but I trust that one of the other managers in this case will read the statute of the United States on bribery. It provides that any judge who takes anything of value with a view of influencing his decision, or after a decision receives anything of value on account of it, is guilty of bribery, even though it did not influence his judgment. Even though it did not influence his decision, it is bribery.

Is there a more charitable construction that can be put upon the conduct of Judge Archbald in receiving this present? Rissinger now says the judge never paid a cent for this stock and he never expected him to pay a cent for it. It was simply a present to Judge Archbald of this stock in this gold-mining scheme after the decision of the judge in favor of Rissinger. Is there a more charitable construction, I ask you, than the one I have suggested in this instance? If there is, I agree that it is the duty of Senators to adopt it. If we can eliminate from our minds the fact and the thought that Rissinger was a litigant in Judge Archbald's court, if we can eliminate from our minds the thought and the knowledge that Judge Archbald presided over the court in which Rissinger was a litigant, then we may put another construction on this transaction. Rissinger was there in Scranton to sell stock in this gold-mining scheme, and he, like many another faker who has undertaken to defraud the public in transactions of this kind, went to men of influence in that community. It seems the person first of all to whom he appeals is Judge Archbald. He enlists him in the enterprise. He gets his name connected with the enterprise in order to do what? To sell stock to other people in Scranton. Judge Archbald had no personal knowledge of this scheme in Honduras; he had no knowledge at all, except what he had gotten from an entire stranger, George Russell, who came to see him from New York. Is this man, who had sat, as he has said, for 29 years upon the bench listening to cases of this kind, listening to contentious lawyers during all of this time—is this man so guileless that it never occurred to him that Rissinger wanted his name to influence other men to go into this scheme?

Aye, Senators, a judge who will sell his name for a consideration to any kind of an enterprise, good or bad—and the chances are a hundred to one that this one was bad—a judge who will sell his name to any kind of an enterprise to influence other people less experienced than he perhaps—and I know there are people in Scranton who, if they saw Judge Archbald's name connected with this gold-mining scheme, would say, "That must be good," because it has been proven here to the Senate that his reputation in Scranton was A number 1, and I know the use of his name would have its influence in misleading people to invest their money and their property in that get-rich-quick scheme—a judge who will do that, a man who will do that, is not fit to sit on the Federal bench.

I next call attention, Mr. President, very briefly to the Helm Bruce case. I think that Senators who listened to the testimony of Judge Archbald are of the opinion that the correspondence which Judge Archbald had with Helm Bruce about that case reversed the first decision of the court and compelled a different decision from the one the court had first agreed upon. Is it sufficient to say that the final decision was right? I do not know whether it was or not, and I do not care; neither do Senators care whether the last decision was right or whether the first decision was right. At any rate, it developed that when all the judges of the Commerce Court, except Judge Archbald, were in favor of deciding the case in favor of the Board of Commerce of New Orleans and against the Louisville & Nashville Railroad Co., Judge Archbald held out for the railroad company, and then began this correspondence with Helm Bruce about the evidence of one Compton. He did not tell the other members of the court what he had done; never telling the counsel on the other side what he had done or never giving them notice. Then, after this man Bruce had sent this correction in—and it may have been a perfectly proper correction; I do not know; he might have been right about it—the judge writes to him again, and Bruce submits another argument, a long argument, on some phases in the case. That was as late as January. After that the court filed an opinion exactly opposite from that on which they originally agreed, and that final opinion was filed in the month of February. I believe that the inevitable and logical and reasonable conclusion is that Judge Archbald, by reason of this assistance from Helm Bruce, was able to convince the court that their first decision was wrong, and compelled them to reverse it.

But suppose it is a righteous decision, what does the other fellow think about it when he was deprived of the right to come before that court and present his side of the contention about which Helm Bruce wrote to Judge Archbald? That is the question, Senators; and I say that it seems to me that we are impelled to the conviction that Judge Archbald was determined—and I am inclined to think that he was wrongfully determined—to have that case decided in favor of the Louisville & Nashville Railroad Co. The reason I think he wrongfully sought to do it was because he kept all his transactions with Helm Bruce in utter secrets, both from his colleagues on the bench and from the attorneys on the other side of the case. If he had disclosed the transaction to them, if he had sent a copy of the letter that he wrote to Helm Bruce to the lawyers on the other side of the case, how easy it would have been to have given them an opportunity to reply. Is it possible that a man on the bench for 29 years does not better understand the ethics of the bench than that? The first thing those of us who are lawyers learned in the practice of our profession was that it was always unethical to do anything in a case without giving the lawyer on the other side due notice; yet Judge Archbald, standing here as he does, pretends to tell the Senate that it was innocently done and that it never occurred to him that it was bad ethics.

Now, just a word about the appointment of this man Woodward as jury commissioner. I do not maintain that the offense consists of appointing a railroad lawyer jury commissioner. I mean by that that the mere fact that he was a railroad lawyer does not in itself constitute the offense. If Judge Archbald had appointed any man who had one general line of litigation and one class of clients and always appeared in court for that class of clients on the same particular side of that litigation, the appointment of any lawyer who occupied that position at the bar would be the same kind of an offense, whether he represented railroads or whether he represented some other class of citizens. Suppose the farmers in a community had in some court a long line of litigation of the same kind and character and that they joined together and employed one lawyer to try the cases and to represent them in court, and suppose the judge should appoint that lawyer jury commissioner to select the jury that was to try those cases. It is the possibilities of wrong that renders such a thing offensive to a fair-minded man.

The offense does not consist in the fact that Woodward represented railroads, but that he was a lawyer who represented one particular class of clients and appeared in court on one side of litigation. If Woodward had to-day represented the railroad company and to-morrow had represented the railroad employees, the next day had represented the injured passenger, the next day the shipper, and the next day the farmer who had had his stock killed by reason of a bad fence along the right of way, it would not be so bad, for then Woodward could not have packed a jury on his side of all those cases, because when he was packing it for himself on one case he would be packing it against himself on the case he would try to-morrow. There is the offense and the indiscretion.

Aye, gentlemen, do you ask the question, Would you remove Judge Archbald for appointing Woodward jury commissioner when it is not proven here that Woodward ever exercised his power wrongfully? Do you say now, honor bright, would you remove him from office for that? No; I would not if it stood alone, but it is a part of the system; it goes to make up the system; it is an incident in the line of misconduct which has been carried on by Judge Archbald. Do you ask the question, Would you impeach and convict Judge Archbald and remove him from office for his correspondence with Helm Bruce? I speak for myself when I say no. I would not, if that stood alone; but it is a part of the system; it is one fact which dovetails into this line of conduct which he has carried on with the railroads, and it is a system so rank that "it smells to heaven."

Mr. President, I have said all I care to say on the facts in this case. The evil that arises from that course of conduct that has been pursued by Judge Archbald is the effect that it has upon the public mind. That is the most serious evil. It has the tendency to create in the minds of the people a sentiment that their Government is not being honestly administered. These times are pregnant now with that sentiment, and the great and serious responsibility devolves upon those entrusted with the power to purify the public service, to seek out the evildoers and give the public their just relief from maladministration in public office. It is not within the power or the right of Congress to pardon or excuse. The people never delegated that power to us, and for us to seek to excuse the evildoer would be an usurpation. It is our plain duty to purge the public service of such a man. The people should not be bound to submit to his dominion. His course of conduct is such that under the Constitution his tenure of office is ended. That instrument says he shall hold his office during good behavior. In determining what is misbehavior in office we do not ask you to measure Judge Archbald by the standard of your highest ideals. Measure him by the average judge, State or national, and your estimate of him will be that he is unworthy and should be removed from office.

The evil that comes from Judge Archbald's conduct is the fact that it shakes the faith of the people in that branch of government which is the very foundation source of justice. Among all the great responsibilities of Congress the one that stands above them all is their duty to purify and keep undefiled the judiciary. Within the breast of every just and upright judge repose the seeds that grow and blossom and ripen into better, freer institutions.

The people have nowhere to go, under that instrument which they denominate their Constitution, but to the House for articles of impeachment. I believe the House has done its whole duty in this case, and likewise the people under that great instrument have nowhere to go for the trial and conviction of unworthy servants except the Senate, and we confidently hope the Senate will do its full duty in the premises in this case. May the people always turn to that great instrument as their refuge and their harbor.

And so for this, Mr. President, we, as managers on the part of the House, ask you to remove this man from the office with which you honored him because he has dishonored it. We ask you to strip him of the ermine with which you clothed him because he has sullied it.

Mr. Manager CLAYTON. Mr. President, I believe it is now six minutes after 3 o'clock, and Mr. Manager WEBB will next address the Senate.

ARGUMENT OF MR. WEBB, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager WEBB. Mr. President, the respondent's counsel, in his brief filed during the holidays, devotes 26 pages to a discussion of this proposition, "Impeachment lies only for offenses which are properly the subject of a prosecution by indictment or information in a criminal court."

I think it will not be amiss, Mr. President, to discuss that proposition on behalf of the managers for a little while. It is true that in those 26 pages of argument most of the quotations are from counsel who have appeared for respondents in various impeachment trials. I do not remember just at present a single noted constitutional authority, that counsel quotes to maintain that proposition.

I wish to quote an early authority in opposition to this position. Wooddesson, in 1777, said:

"It is certain that magistrates and officers intrusted with the administration of public affairs may abuse their delegated powers to the extensive detriment of the community and at the same time in a manner not properly cognizable before the ordinary tribunals. On this policy is founded the origin of impeachments, which began soon after the Constitution assumed its present form" (p. 355).

Rawle, in his work on the Constitution—and everyone will acknowledge him universal authority on the Constitution—says:

"The fondness frequently felt for the inordinate extension of power, the influence of party and of prejudice, the seductions if

foreign States, *or the baser appetite for illegitimate emoluments*, are sometimes productions of what are not unaptly termed 'political offenses' (Federalist, No. 65), which it would be difficult to take cognizance of in the ordinary course of judicial proceeding.

"The involutions and varieties of vice are too many and too artful to be anticipated by positive law."

Judge Story says on this subject:

"In examining the parliamentary history of impeachments it will be found that many offenses not easily definable by law and many of a purely political character have been deemed high crimes and misdemeanors worthy of this extraordinary remedy."

Tucker, in his work on the Constitution, says—

"These two cases"—

Discussing the two in which impeachments and convictions occurred—

"These two cases, therefore, show that the words 'high crimes and misdemeanors' can not be confined to crimes created and defined by a statute of the United States."

In a footnote to Fourth Blackstone (p. 5, Lewis's ed.), Christian says:

"The word 'crime' has no technical meaning in the law of England. It seems, when it has a reference to positive law, to comprehend those acts which subject the offender to punishment. When the words 'high crimes and misdemeanors' are used in prosecutions by impeachment the words 'high crimes' have no definite signification, but are used merely to give greater solemnity to the charge."

In Cooley's Principles of Constitutional Law it is said (p. 178):

"The offenses for which the President or any other officer may be impeached are any such as are in the opinion of the House deserving of punishment under that process. They are *not necessarily offenses against the general laws*."

In his work on the Constitutional History of the United States, George Ticknor Curtis says (vol. 1, pp. 481–482):

"But a cause for removal from office may exist where *no offense against positive law has been committed*, as where the individual has, from immorality or imbecility or *maladministration*, become unfit to exercise the office. The rules by which an impeachment is to be determined are, therefore, peculiar and are not fully embraced by those principles or provisions of law which courts of ordinary jurisdiction are required to administer."

In Watson on the Constitution (vol. 2, p. 1034) it is said:

"Congress has unhesitatingly adopted the conclusion that no previous statute is necessary to authorize an impeachment for any official misconduct. In the few cases of impeachment which have hitherto been tried *no one of the charges has rested upon any statutable misdemeanors*. An examination of the English precedents will show that, although private citizens as well as public officers have been impeached, no article has been presented or sustained which did not charge either misconduct in office or some offense which was injurious to the welfare of the State at large."

The American and English Encyclopedia of Law, which is an acknowledged authority, says:

"In each of the only two cases of impeachment tried by the Senate in which a conviction resulted the defendant was found guilty of offenses *not indictable either at common law or under any Federal statute*, and in almost every case brought offenses were charged in the articles of impeachment which were not indictable under any Federal statute, and in several cases they were *such as constituted neither a statutory nor a common-law crime*. The impeachability of the offense charged in the articles was, in most of the cases, not denied."

Mr. Bayard, in Blount's trial, said:

"Impeachment is a proceeding of a purely political nature. It is not so much designed to punish the offender as to secure the State. It touches neither his person nor his property, but simply divests him of his political capacity." (Wharton's State Trials, 263.)

Story on the Constitution (p. 583), as has been quoted before, says:

"In the few cases of impeachment which have hitherto been tried, no one of the charges has rested upon any statutable misdemeanors.

"The reasoning by which the power of the House of Representatives to punish for contempts (which are breaches of privileges and offenses not defined by any positive laws) has been upheld by the Supreme Court stands upon similar grounds; for if the House had no jurisdiction to punish for contempts until the acts had been previously defined and ascertained by positive law it is clear that the process of arrest would be illegal.

"In examining the parliamentary history of impeachments, it will be found that many offenses, not easily definable by law and many of a purely political character, have been deemed high crimes and misdemeanors worthy of this extraordinary remedy."

One can not but be struck in this slight enumeration with the utter unfitness of the common tribunals of justice to take cognizance of such offenses, and with the entire propriety of confiding the jurisdiction over them to a tribunal capable of understanding and reforming and scrutinizing the policy of the state and of sufficient dignity to maintain the independence and reputation of worthy public officers, citing again the American and English Encyclopedia of Law (vol. 15, p. 1066).

The cases, then, seem to establish that impeachment *is not a mere mode of procedure for the punishment of indictable crimes;* that the phrase of "high crimes and misdemeanors" is to be taken, not in its common-law but in its broader parliamentary sense; and is to be interpreted in the light of parliamentary usage, that in this sense it includes not only crimes for which an indictment may be brought but grave political offenses, corruptions, maladministration, or neglect of duty involving moral turpitude, arbitrary and oppressive conduct, *and even gross improprieties by judges and high officers of state; although such offenses be not of a character to render the offender liable to an indictment either at common law or under any statute.*

Cushing's Law and Practice of Legislative Assemblies (p. 980, par. 2539) says:

"The purpose of impeachment in modern times is the prosecution and punishment of high crimes and misdemeanors, chiefly of an official or political character, which are either beyond the reach of the law or which no other authority in the State but the supreme legislative power is competent to prosecute."

In the Peck case (p. 308) Mr. Manager Wickliffe said:

"The term 'misdemeanor' covers every act of misbehavior in a popular sense. Misdemeanor in office and misbehavior in office mean the same thing. (7 Dane Abgt., 365.) Misbehavior, therefore, which is a mere negative of good behavior, is the express limitation of an office of a judge."

Mr. Manager Palmer said in the Swayne impeachment trial:

"We may, therefore, conclude that the House has the right to impeach and the Senate the power to try a judicial officer for any misbehavior or misconduct which evidences his unfitness for the bench without reference to its indictable quality. All history, all precedent, and all text-writers agree upon this proposition. The direful consequences attendant upon any other theory are manifest.

"The word 'misdemeanor' used in the parliamentary sense as applied to offenses means maladministration, misconduct not necessarily indictable, not only in England but in the United States.

"*Removal of a judge for misbehavior or lack of good behavior is impossible unless it can be done through the impeaching power. Otherwise the people are powerless to rid themselves of the most unworthy, disgraceful, and unfit official.*"

Judge Curtis, in his History of the Constitution (pp. 260, 261), says:

"The purposes of an impeachment lie *wholly beyond* the penalties *of the statute or the customary law*. The object of the proceeding is to ascertain whether cause exists for removing a public officer from office. Such a cause may be found in the fact that either in the discharge of his office or aside from the functions he has violated a law or committed what is technically denominated a crime; but a cause for removal from office may exist where *no offense against positive law is committed*, as where the individual has from immorality, imbecility, or maladministration become unfit to exercise the office."

In the Commentaries on the Constitution of the United States, by Roger Foster, volume 1, page 560, this statement is made:

"The object of the grant of power was to free the Commonwealth from the danger caused by the retention of an unworthy public servant."

Again, on page 586, this statement:

"The Constitution provides that 'the judges, both of the Supreme and inferior courts, shall hold their office during good behavior.'

"This necessarily implies that they may be removed in case of bad behavior. But no means except impeachment is provided for their removal, and *judicial misconduct is not indictable by either a statute of the United States or the common law.*"

In Story on the Constitution (5th ed.), section 796, it is said:

"Is the silence of the statute book to be deemed conclusive in favor of the party until Congress has made a legislative declaration and enumeration of the offenses which shall be deemed high crimes and misdemeanors? If so, then, as has been truly remarked (citing Rawle on the Constitution), the

power of impeachment, except as to the two expressed cases, is a complete nullity and the party is wholly dispunishable, however enormous may be his corruption or criminality."

Rawle, again, on the Constitution, page 211, says:

"The involutions and varieties of vice are too many and too artful to be anticipated by positive law."

In Story on the Constitution, volume 1 (5th ed.), page 584:

"800. In examining the parliamentary history of impeachments it will be found that many offenses not easily definable by law and many of a purely political character have been deemed high crimes and misdemeanors worthy of this extraordinary remedy."

John Randolph Tucker, in his Commentaries on the Constitution, volume 1, section 200, says:

"To confine the impeachable offenses to those which are made *crimes or misdemeanors by statute or other specific law* would too much constrict the jurisdiction to meet the obvious purpose of the Constitution, which was by impeachment to deprive of office those who by *any act of omission or commission showed clear and flagrant disqualification to hold it*."

Mr. Cooley, in his Principles of Constitutional Law (p. 178), discussing impeachment against the President and Vice President, says:

"The offenses for which the President or any other officer may be impeached are any such as, in the opinion of the House, are deserving of punishment under that process. They are not necessarily offenses against the general law."

Curtis, in his Constitutional History of the United States, volume 1, pages 481 and 482, says:

"The purposes of an impeachment lie wholly beyond the penalties of the statute or the customary law. The object of the proceeding is to ascertain whether cause exists for removing a public officer from office."

In Watson on the Constitution, volume 2, page 1034, published in 1910, it is said:

"A misdemeanor comprehends all indictable offenses which do not amount to a felony, as perjury, battery, libels, conspiracies, attempts and solicitations to commit felonies, etc. These seem to be the terms of these definitions at common law, but it would be strange if a civil officer could be impeached for only such offenses as are embraced within the common-law definition of 'other high crimes and misdemeanors.' Synonymous with the term 'misdemeanor' are the terms 'misdeed, misconduct, misbehavior, fault, transgression.'"

In American and English Encyclopedia of Law (vol. 15, pp. 1066–1068) it is said:

"If impeachment in England be regarded merely as a mode of trial for the punishment of common-law or statutory crimes, and if the Constitution has adopted it only as a mode of procedure, leaving the crimes to which it is to be applied to be settled by the general rules of criminal law; then, as it is well settled that in regard to the National Government there are no common-law crimes, it would seem necessary to follow that impeachment can be instituted only for crimes specifically named in the Constitution or for offenses declared to be crimes by Federal statute. This view has been maintained by very eminent authority, but the cases of impeachment that have been brought under the Constitution would seem to give to the remedy a much wider scope than the above rule would indicate. In each of the only two cases of impeachment tried by the Senate in which a conviction resulted the defendant was found guilty of offenses *not indictable either at common law or under any Federal statute, and in almost every case brought* offenses were charged in the articles of impeachment which were not indictable under any Federal statute, and in several cases they were such as constituted neither a statutory nor a common-law crime.

"The cases, then, seem to establish that impeachment is not a mere mode of procedure for the punishment of *indictable crimes;* that the phrase 'high crimes and misdemeanors' is to be taken not in its common-law but in its broader parliamentary sense, and is to be interpreted in the light of parliamentary usage; that in this sense it includes not only crimes for which an indictment may be brought, but grave political offenses, corruption, maladministration, or neglect of duty involving moral turpitude, arbitrary and oppressive conduct, *and even gross improprieties by judges* and high officers of State, although such offenses be not of such a character to render the *offender liable to an indictment either at common law or under any statute*."

Now, Mr. President, that much I have said on the question of the necessity of showing an indictable offense before the Senate can impeach. There is another clause in the Constitution which we hope, if it has not already been vitalized, to revitalize and bring to the attention of the Senate and ask you to give it some power and force and tell us by your verdict what it means.

If the Constitution, Article III, section 1, means anything, then we want to bring it before the Senate to-day and ask Senators to say what it does mean when it provides that judges of the Supreme Court and inferior courts shall hold their offices "during good behavior."

The provision in Article II of the Constitution, section 4, Mr. President, refers to impeachment of the President, Vice President, and other civil officers for treason, bribery, or other high crimes and misdemeanors; but later on in that same great instrument, after Article II had been adopted, the constitutional fathers say the judges of the United States shall hold their offices "during good behavior."

It has been pointed out by many constitutional writers, and you yourselves see, that the people have no way of getting rid of a judge who has violated this provision by misbehavior except it is done by this great body. What does "during good behavior" mean?

The Century Dictionary says:

"During good behavior: As long as one remains blameless in the discharge of one's duties or the conduct of one's life; as an office held during good behavior."

Mr. Foster, in his work on the Constitution, page 586, makes this statement:

"The Constitution provides that 'the judges both of the Supreme and inferior courts shall hold their offices during good behavior.'"

This necessarily implies that they can be removed in case of bad behavior. But no means except impeachment is provided for their removal, and judicial misconduct is not indictable by either a statute of the United States or the common law.

Says Elliott in his debates on the Constitution:

"Mr. Dickinson moved as an amendment to Article II, section 2, after the words 'good behavior,' the words, '*Provided*, That they may be removed by the Executive on the application of the Senate and the House of Representatives.'"

This was in respect of the judges.

Mr. Gerry seconded the motion. Mr. Gouverneur Morris thought it a contradiction in terms to say that the judges should hold their offices during good behavior and yet be removable without a trial. Besides, it was fundamentally wrong to subject judges to so arbitrary an authority.

But, mark you, the object then was to remove for bad behavior, but to give them a trial, as the Senate is doing in this particular case.

Judge Lawrence, in the Johnson impeachment case, page 643, says:

"Impeachment was deemed sufficiently comprehensive to cover every proper cause for removal."

In Watson on the Constitution, the proposition is stated as follows (vol. 2, pp. 1036–1037):

"What will those who advocate the doctrine that impeachment will not lie except for an offense punishable by statute do with the constitutional provision relative to judges, which says, 'Judges, both of the supreme and inferior courts, shall hold their offices during good behavior'? This means that as long as they behave themselves their tenure of office is fixed and they can not be disturbed. But suppose they cease to behave themselves? When the Constitution says, 'A judge shall hold his office during good behavior,' it means that he shall not hold it when it ceases to be good."

I suppose the argument in the Federalist, Mr. President, had as much to do with the adoption of the Constitution of the United States as any other authority. I quote:

"The principle of this objection would condemn a practice which is to be seen in all the State governments, if not in all the governments with which we are acquainted; I mean that of rendering those who hold offices during pleasure dependent on the pleasure of those who appoint them." (Federalist, p. 306.)

And that is yourselves, Senators, for the President nominates judges and you appoint them.

According to the plan of the convention, all the judges who may be appointed by the United States are to hold their offices *during good behavior*, which is conformable to the most approved State constitutions. (Federalist, p. 355.)

Upon the whole, there can be no room to doubt that the convention acted wisely in copying from the models of those constitutions which have established *good behavior* as the tenure of judicial offices, in point of duration, and that so far from being blamable on this account their plan would have been inexcusably defective if it had wanted this most important feature of good government. (Federalist, p. 361; Publius.)

Mr. President, after counsel for the respondent has discussed in 26 pages of his brief the proposition that the respondent is

not impeachable unless he is indictable, he then makes this concession—that if it is not necessary to prove indictable offenses against the judge, it is necessary, at least, to prove some offense of a criminal nature.

Mr. President, after all crime is nothing but misconduct. The only thing that is made criminal in this country is some form of misconduct.

Before proceeding to argue the facts in the case, I maintain that any judge of a high court who will dicker and traffic with litigants in his court while their cases are pending ought to be indictable, because such conduct is criminal in its nature, and the reason it has not been made indictable long ago is because the people of the United States have never thought it necessary to surround the judiciary with such a statute.

The charges here, therefore, are criminal in their nature, in all good conscience, and I do not know but that the result of this impeachment trial may bring forth a statute making indictable such offenses as are admitted by this judge in this case. Many a man has served upon the chain gang or has been consigned to the county jail for offenses much less criminal in their nature than those which this judge here has admitted that he has been guilty of. It ought to be indictable for a judge of a high court who is embarrassed financially to send his worthless note to a litigant in his court and ask that it be discounted. All of the charges that are admitted here and proven, too, are, Mr. President, in good conscience and in good morals criminal in their nature.

I believe counsel for respondent also takes the position in his brief that this judge is not impeachable now as a circuit court judge for acts which he committed as a district court judge. Mr. President, just a few words on that point. There is no merit in the argument that this respondent can not be impeached at present for acts committed by him while he was district judge. It is true that he is now a circuit judge, but it is also true that immediately before he became a circuit judge he was a district judge. He never ceased to be a judge or civil officer of the United States.

During the last 12 years he has only been elevated one rung in the judicial ladder. His office as judge under the United States has been continuous since his appointment as district judge 11 years ago. This question was raised in the impeachment trial of Judge D. M. Furches in North Carolina in 1901. There the respondent was impeached while he was chief justice of North Carolina for acts committed while he was an associate justice, two distinct and separate offices, but his defense did not avail. Both the authorities and reason compelled the repudiation of such a defense, and, to use the language of Judge William R. Allen, now of the supreme court of our State, then one of the managers in the Furches impeachment trial:

"The purpose of impeachment is to remove an officer whose conduct is a menace to the public interest, and it would be strange, indeed, if he could escape punishment by being elevated to a higher official position. If such a defense could be sustained, one could by resignation avoid an investigation into his conduct by a court of impeachment, and if he was of the same political faith as the head of the executive department, and in sympathy with it, he could be transferred from one office to another, and thus avoid impeachment altogether. The effect of such defense would be to practically destroy the power of impeachment, and, at any rate, it would be greatly impaired. We believe that the authorities are practically unanimous in sustaining our contention that the change of office does not affect the power of impeachment. He is now exercising the same powers that he exercised when he was an associate justice. He is performing the same duties. He is practically filling the same office."

Mr. Foster, on this subject, says:

"The power of impeachment is granted for the public protection, in order to not only remove, but perpetually disqualify for office a person who has shown himself dangerous to the Commonwealth by his official acts. The object of this salutary constitutional provision would be defeated could a person by resignation from office obtain immunity from impeachment. State senates have sustained articles of impeachment for offenses committed at previous and immediately preceding terms of the same or a similar office."

Is it not true that Judge Archbald now holds a similar office to that which he held in 1908? He is now a circuit judge, and the powers and duties of district and circuit judges are almost identical. In the case of State against Hill, to be found in the Thirty-seventh Nebraska Reports, we find this language:

"Judge Barnard was impeached in the State of New York during his second term for acts committed in his previous term of office. His plea that he was not liable to impeachment for offenses occurring in the first term was overruled.

"Precisely the same question was raised in the impeachment proceeding against Judge Hubbell, of Wisconsin, and on the trial of Gov. Butler, of this State, in each of which the ruling was the same as in the Barnard case. There was good reason for overruling the plea to the jurisdiction in the three cases just mentioned. Each respondent was a civil officer at the time he was impeached, and had been such uninterruptedly since the alleged misdemeanors in office were committed. The fact that the offenses occurred in the previous term was immaterial."

I am still quoting from the Supreme Court of Nebraska:

"The object of impeachment is to remove a corrupt or unworthy officer. If his term has expired and he is no longer in office, that object is attained and the reason for his impeachment no longer exists. But if the offender is still an officer he is amenable to impeachment, although the acts charged were committed in the previous term of the same office. The ruling of the Senate of the United States upon the impeachment of William W. Belknap also furnishes a precedent for our contention. Prior to the adoption of the articles of impeachment against Belknap he tendered his resignation to the President, and it was accepted, and upon his trial he interposed a plea to the jurisdiction on the ground that he had ceased to be an officer and was not liable to impeachment, and this plea was overruled by the Senate."

We have, then, five precedents, one by the Senate of the United States, one by the Senate of New York, one by the Senate of North Carolina, one by the State of Wisconsin, and another by the court of impeachment of Nebraska, indorsed by the Supreme Court of Nebraska and by Foster in his work on the Constitution.

We therefore confidently maintain that the respondent in this trial is now impeachable for acts which he committed while district judge of the middle district of Pennsylvania.

I shall not go into the discussion of the origin of impeachment trials, but will just quote this excerpt from one constitutional writer. Mr. Foster, in his splendid work on the Constitution, says:

"Impeachment trials are a survival of the earliest kinds of jurisprudence, when all cases were tried before an assembly of the citizens of the tribe or State. Later, ordinary cases, both civil and criminal, were assigned to courts created for that purpose, but matters of great public importance were still reserved for a decision of the whole body of citizens, or subsequently, of the council of elders, heads of families, or holders of fiefs."

This arrangement could be preserved in earlier times when population was sparse and business intercourse small and human affairs were not intricate; but as civilization became more complex and the division of labor in administering judicial affairs became more urgent, the right to decide and pass upon various questions was allotted to different officers, and so, to-day, we have a judicial system in which all judicial power is lodged, but distributed to different courts, but in all this evolution and distribution of judicial power there is one great right which the people have always reserved unto themselves, and that is the right to supervise the conduct of public officials, and, through their representatives, to remove such officials from office for misconduct or misbehavior, and so, Senators, you sit to-day, theoretically at least, as the court of 90,000,000 people, who have commanded us through the popular branch of Congress to bring this respondent before you to inquire into his conduct and ascertain if the condition on which he was appointed to the high office which he now holds has not been broken by him.

Quoting Foster again:

"What, it may be asked, is the true spirit of the institution itself? Is it not designed as a method of national inquest into the conduct of public men?"

This right to inquire into the conduct of public officials has been reserved to the people themselves, and this great Senate is the tribunal in which such questions must be tried, and necessarily and properly the powers of this court are "broad, strong, and elastic, so that all misconduct may be investigated and the public service purified." The fathers of the Constitution realized the importance of reserving unto the people the right to remove an unworthy or unsatisfactory official, and they were indeed wise in not attempting to define or limit the powers of the Court of Impeachment, but left that power so plenary that no misconduct on the part of a public official might escape its just punishment.

It is not by inadvertence that the Constitution is not more specific in regard to the powers and duties of the Court of Impeachment.

Judge Cooley, in an article written for the Encyclopædia Britannica, speaking of the provisions of the Constitution, says:

"But the constitutional provision was necessarily left vague and very much at large in view of the absolute impossibility

of specifying by enumeration or description in advance the infinite variety of ways in which public officers may so conduct themselves as to render their further continuance in office a public scandal or a public danger."

Now, Senators, let us for a little while, as briefly as the occasion will permit, examine the evidence in this case and arrive at the conclusion as to whether or not the respondent has been guilty of any conduct which justifies his removal from office.

Mr. President, in the consideration of the evidence and the law in this case, we shall ask the calm and deliberate consideration of each Member of the Senate, and shall expect that he shall pronounce such verdict as his mind and conscience dictate.

In this proceeding we should simply apply common sense to common facts in an uncommon case. It is an uncommon case, because never in the history of this great trial body have so many misdemeanors, so much misconduct, and so many gross improprieties and ugly facts been proven on a United States judge. I believe that never before in the history of trial bodies has a defendant admitted so many damaging facts, and yet asked his triers to draw from these facts a conclusion of innocence. This respondent's conduct, Mr. President, both upon the proof and upon his admissions, has been wrong and reprehensible, gross and inexcusable.

Mr. President and Senators, under the first article of impeachment it is charged that Judge Archbald used his influence as a United States Commerce Court judge to secure from the Erie Railroad Co. the culm bank known as the Katydid culm bank. I shall not discuss the details of it. It would be wearisome probably to you, because you have just heard it discussed in a most excellent manner by Mr. STERLING. But I do wish to point out some few points in the testimony which may have escaped you.

In the first place, Mr. President, there is a general charge that this judge has been guilty of culm-dump mongering from the time he became a Commerce Court judge until the time he was overtaken. I have a list of letters here that the judge has written about culm dumps beginning the 31st of March, 1911, and winding up when it was whispered around Scranton that this matter was being investigated. It covers two pages and a half, beginning March 31 to Mr. May and on down to March 12, 1912, to Mr. Bruce. There are some 50 or 60 of these letters, I believe. Nobody knows how many personal conversations there were; nobody knows how many phone calls there were. I really do not see how this high court judge could have done much judicial work on the bench and attended to all these numerous culm-dump transactions with the various litigants in his court which are in evidence here. He seems to have started out with the idea that he was probably not worldly wise, as some of the witnesses said, and I guess he was not; and he began to trade and traffic in what? In money? No. Did he have any experience in the coal business? No. He never owned a washery. I do not know that he ever saw a culm dump. He never mined coal. He had no financial standing. What was he trafficking in from the beginning of his career, just after he was put on the Commerce Court bench, when the railroads came under his jurisdiction, until the present time? He had nothing to traffic in except his *influence* as a judge.

Senators, you can read this testimony from one end of it to the other and that is the only conclusion that you are driven to, because I say again he had no experience in coal dumps; he had no knowledge of coal property; he had no financial standing. All that was left him to make gain for himself was traffic in that sacred influence derived from the office of judge. Paul, in writing to his beloved Timothy, from many years of ripe experience, said:

"And having food and raiment, let us be therewith content.

"But they that will be rich fall into temptation and a snare, and into many foolish and hurtful lusts, which drown men in destruction and perdition.

"For the love of money is the root of all evil."

The judge seems to have adopted as soon as he went on the Commerce Court bench and on the district court bench old Ben Jonson's advice, where he says:

"Get money; still get money, boy,
No matter by what means."

Or, as Pope says in his imitation of Horace:

"Get place and wealth, if possible, with grace;
If not, by any means get wealth and place."

The judge has sorely violated the proprieties of his office in order to make these advantageous contracts. The beginning of his advantageous contracting, so far as his position as Commerce Court judge, was with the Erie Railroad Co., which had a suit pending in his court from April, 1911, until the present time. I believe it has been decided by the Supreme Court in the last few months.

That case was argued in the Commerce Court, I believe, some time in May, 1911—between April and May. It was appealed to the Supreme Court on the preliminary injunction which Judge Archbald's court had granted. Therefore, this Erie Railroad case, known as the Lighterage case, was still pending in the judge's court at the time he secured for himself and Williams the option on the Katydid dump.

Now, Mr. President, I do not know what manner of man old man Williams is, but I can not have a good opinion of a Federal judge who is the almost constant companion of such men as E. J. Williams, Fred Warnke, John Henry Jones, Rissinger, Dalnty, the man who was off fishing and automobiling when the House of Representatives was seeking his testimony here. I say his business companions and associates show his ideas of propriety are very, very low, and we may expect to find in such a man almost a seared judicial conscience when it comes to propriety.

Old man Williams knew the power of Judge Archbald. "Now, Judge, if you will give me a letter to May I can get this culm dump." But the judge was not going to let Williams get that culm dump on his own account. He did not give him an introduction. It was something like the Watson deal to settle with the Delaware, Lackawanna & Western Railway. Watson wanted an introduction to the railroad. Old man Williams wanted an introduction to May in order to get something from the railroad. Judge Archbald said: "No; I will not introduce you exactly. I will write a letter and inquire if we can buy it." He says in his answer that at the time he wrote the letter, or later, he was informed that he and Williams could each make two or three thousand dollars from resale of the dump. Two or three thousand dollars is a good amount of money for a man to make on one little transaction of this kind. The judge had that at stake in pursuing the Erie Railroad Co. for the possession of the option on the Katydid culm dump. And he did pursue it.

Did you ever see such a persistent pursuit of a railroad corporation in your life? Then he wrote May a letter. May finally told him that Vice President Richardson was coming down to Scranton before a great while, and he would take the matter up with him. That was along in May or June. He said: "I will take up this Katydid transaction with him." It is contrary to the policy of the Erie Railroad Co.," he says, "to part with its culm banks, but I will take it up with Richardson, who is the vice president." Mr. May, although unwilling as he was, swore that he did take it up with Richardson in Scranton, and that he and Richardson came to the conclusion that they would not sell the dump.

Senators, it is one point that should be remembered, that after the judge had made this application through old man Williams, the vice president of the road and Mr. May had concluded that they would not sell. The judge did not like that, evidently. He said in his testimony that he did not know that Richardson had been at Scranton and that they had arrived at that conclusion. He further said that Mr. May passed by his office practically every day going to lunch. Yet he did not know that Richardson and May had come to the conclusion that the railroad company would not part with this piece of property. He found that the proposition had been turned down somehow. Old man Williams no doubt was worrying the judge and May, and finally Williams comes back and says, "Judge, I do not believe that we can get this option; May talked very gruff to me."

Now, Senators, the judge has some spirit about him. If you will remember, he showed it on the witness stand. Williams described before Wrisley Brown in Scranton and before the Judiciary Committee before he swore here in the Senate Chamber just exactly what the judge did and said. He said the judge got excited and said, "I know their lawyer, Brownell." Yes, Brownell had just argued this Lighterage case about a month and a half before that before the judge in the Commerce Court. He said, "I know their lawyer, Brownell, and I will go to New York and see him, and I may hurt May." Williams said he did not refer to the Erie Railroad officials. He said, "I may hurt him, May, for refusing so small a favor." Then old man Williams said before Wrisley Brown, when he was fresh from these happenings, "the judge said, 'I have two cases here now that I have just decided for them.'" And he did have two cases lying on his desk, because the judge said yesterday in his testimony he had the record and the briefs of the Lighterage case and the Joint Rate case, to both of which the Erie Railroad Co. was a party defendant, in his office in Scranton. He said, "I have just decided two cases for them." Those cases had been argued and appealed on a preliminary injunction to the Supreme Court.

Old man Williams could not have known, Senators, what were those cases. The judge says, "Lighterage cases." Williams swore that he never knew Brownell's name; he never heard of Brownell. He said, "I never heard of lighterage in my life until the judge then and there described it. 'Lighterage,' he says, 'is these tugboats that haul box cars across the river from New York.'"

Who told him about it? That was told shortly after the Lighterage cases had been decided by the Commerce Court. He said the judge told him about it, and said:

"I will go to see Brownell," the man who argued the cases before him and in whose favor the decision was rendered in the preliminary injunction. "I will see him and may hurt May for not granting this favor."

I may say, Senators, it is perfectly evident to you all that the Judiciary Committee and the managers have been handicapped in this case, because it is apparent that we have had to go to the judge's own friends, companions, and business associates to get this testimony, and the testimony we have gotten has been practically wrung from unwilling witnesses.

Old man Williams goes upon the stand and swore he further saw at some other time the word "lighterage" in a little pamphlet. But, Senators, he said before Wrisley Brown and before the Judiciary Committee that when this Lighterage case was first discussed he saw the cases in a little book, a brief he said. There is no court docket mentioned then. He said, "I saw the brief filed by the lawyers. I took it in my hand." Here are the briefs I hold in my hand. He called them little books. The judge admitted yesterday that at that time he had taken home with him the documents, the records, the briefs in the case.

One of these little books is what old man Williams picked up. It is entitled, "Case No. 38," where the Delaware, Lackawanna & Western and the Lehigh Valley Railroad appeared as defendants. That is what old man Williams swore before Wrisley Brown when the facts were fresh in his mind, and practically what he swore before the Judiciary Committee, and he does not particularly deny it here, except that they bring out the fact that later on, in September, after the option had been secured, after the judge had gone to New York, Williams saw or could have seen in the little trial docket the word "lighterage." I believe Williams saw that, Senators. He was in the judge's office four or five times a week, so he said, for the last three or four years, not only a daily visitor, but often a double daily visitor. He seems to have had privileges there that permitted him to go through the judge's documents and books and look up what railroad cases the judge had pending before his court, and I expect in turning the leaflets of this little trial docket he may have seen the word "lighterage" there.

But, Senators, listen. They do not say that old man Williams has told a falsehood here, because he is the judge's friend and has been the judge's go-between and handmaid for four long years. Williams said that he talked about the Lighterage case before the judge went to New York. He said that positively in several different places. "How long was it after you talked about the Lighterage case that the judge went to New York?" "I do not know. It may have been two weeks, a month."

You can not resist the conclusion, Senators, that Judge Archbald did say to old man Williams, "I will go to New York and see Brownell." Why? Because he did go. One reason, the judge assigns in his answer for going was that he had understood the title of Robertson & Law was in dispute and had been referred to Brownell. When Brownell comes on the witness stand he never mentioned Robertson & Law's interest in it, because at that time Judge Archbald knew Robertson & Law had already given Williams an option on their interest in this bank, and there was no trouble about it.

He says in his answer that that is what he went to see Brownell for. Further on he says he was introduced to Richardson and only called on Richardson for the purpose of "hurrying up the proposition." He never did discuss Robertson & Law with either Brownell or Richardson.

No, Mr. President, the conclusion here is irresistible. This judge, knowing his power, went to New York to see the head officials, Brownell first and then Richardson, for the purpose of compelling them to agree to his proposition to purchase the dump. Why do I say that? Because along in June or July Richardson and May had agreed they would not sell it. Then the judge gets restive and he writes a letter to Brownell. He does not put Brownell's name in the letter either, and if one did not have the envelope you would never know to whom the letter was written.

"MY DEAR SIR: I want to know if you will be in your office the 4th of August. I want to see you on a little business"—Something of that sort. Brownell immediately writes back, "Come." Brownell said, "I have nothing to do with Richardson's business; I will introduce you to Vice President Richardson." On the 25th of August May went to New York to see Richardson, and, among other things, he discussed the Katydid proposition with Richardson, which proposition they had turned down two months before. "Richardson and I talked the matter over, and I went back to Scranton on the 26th of August, and on the 29th of August I saw the judge."

The judge makes the impression that May knew he was financially interested in this proposition. I tell you, Senators, this evidence will convince you that the judge knew he was doing wrong, and he kept his name out of all this transaction until after he had secured the option from the litigants in his court. May, a man who had been walking in front of the judge's door for many months and years called on the judge and said, "Judge, send Mr. Williams around; I will give him that option." Why did he not say to the judge, "Judge, we have agreed to give you and Mr. Williams the option. I will make it out to you"? No, sir; the judge calls in Williams and says, "Go up to May. Now we can get it. I have been to New York and I have seen Richardson and Brownell." Williams says the judge told him to go, and "May likes you very much; go up and you can get it." He then goes and does get the option; and he gets it in whose name? He gets it in E. J. Williams's name. The judge is still concealed, although he says he expects to make two or three thousand dollars out of the option. On the 4th of September, when they secured the option from Robertson & Law, which had theretofore been verbal, the judge draws it to Williams anew, and he does not put his own name in it. There they have given an option to Williams, a handmaid, a go-between, a dummy, in which the judge expects to reap a financial profit of two or three thousand dollars, or it may be more.

Now, mark you, he writes to this very same man, May, on the 29th of November, though he has stated that he thinks May knew that he was financially interested in it; but listen to that letter of the 29th day of November. I think I will take the time of the Senate to read just a little of it to show you that he was even concealing from Capt. May the fact that he was financially interested in this transaction. After the option had been granted by May to Williams on November 29, two months later, he writes to Capt. May:

"MY DEAR CAPT. MAY: I have closed a deal on behalf of Mr. Williams for the Katydid culm dump—

Why did he not say to May, "We have closed a sale"? He kept the fact concealed from poor old May that he was financially interested in it, and made May come up and deliver to this man, Williams, through his influence with the New York office with Richardson. There is no other conclusion that you can reach, Senators, from the testimony in the case. The judge practically compelled Richardson to order May to reverse his position and give the judge the option he coveted.

The Marian Coal Co. proposition, Senators, is along the same line. Who first suggested Watson's name? This same old fellow, Williams. He goes to one of the Bolands and says, "You employ George M. Watson; he can settle your case." Boland gets Watson, and where does Watson go? He goes to Judge Archbald, of the United States Commerce Court, when he knew that that judge had at that time the Delaware, Lackawanna & Western Railroad Co. in his power in three ways; because the Marian Coal Co.'s case was pending in the Interstate Commerce Commission, which was liable to be appealed to Judge Archbald's court; the Delaware, Lackawanna & Western Railroad Co. was a party defendant in the lighterage case; and the Delaware, Lackawanna & Western was interested in the Meeker case, which lowered the rates upon coal by the Interstate Commerce Commission, and that case, too, was then pending in the Commerce Court. There were three ways in which this company—the Delaware, Lackawanna & Western—were interested, and the judge knew it.

Then he sets about with this man Watson, who says—even Watson, a man of his type, in his testimony says—that he got very mad when anyone suggested that he would associate with a man like E. J. Williams. He says that in his testimony. Then Watson goes to the judge, who has these railroads in his power. Senators, did you ever hear of a man in your life, in high or low official position, doing what this judge has done and in the persistent manner in which he did it for mere personal friendly motives? I do not care what his intent was; the conduct itself is bad. The first thing he did was to call up Loomis, the vice president of the Delaware, Lackawanna & Western, on the telephone. He could not get Loomis. Then Loomis swears that he saw the judge on the street in Scranton, and the judge told him that the Marian Coal Co. case would be a good case to settle with the Bolands—"intimated," I believe the word is—that it would be a good thing to settle it; and to

see whom? To see Watson. Then on the 4th day of August, the very day he went in to see Brownell about the Katydid dump deal with the Erie Railroad Co., he goes over to see Mr. Loomis, the vice president of the Delaware, Lackawanna & Western Railroad Co., in behalf of Watson, who was employed to settle the Marian case with the Delaware, Lackawanna & Western Railroad.

Then, Mr. President, Mr. Loomis swore that at some time between the 1st of September and the 5th day of October the judge called on him again in New York to ask how they were getting along with the settlement. Then, on September 27, the judge, after these persistent interviews and discussions, gets a letter from Mr. Loomis saying that he does not think there is any possibility of a settlement. Ordinarily, if he had stopped there, it would not have looked so bad, but he sits down and writes: "I am very much disappointed that you can not settle this case, and I shall still hope that there is some way of settling it." He writes that to Loomis. That was on the 27th day of September. On the 30th day of September he calls up Mr. Phillips, the superintendent of the coal company owned by the railway, and says, "I want to see you." Phillips says, "All right, I will see you in the morning." The morning came and Phillips forgot it. Then at lunch the judge called him up again and said, "You forgot that appointment with me to-day, and I want to see you." "All right, Judge, I will call upon you this afternoon." "No," the judge replied, "I am going to take a walk; come to-night"; and for the first time in the life of Reese A. Phillips he called at Judge Archbald's home to discuss the settlement of this $161,000 claim against the Delaware, Lackawanna & Western Railroad Co., and went over the whole matter with him. Phillips tells him there is no chance of a settlement; that all that they think is due would be $3,000 in excess coal rates on account of the Meaker case, and $11,000 for the value of the washery, making it $14,000, I believe. The judge said to Phillips, "It seems you are a long way apart." And, mark you, then Watson, on the 2d of October, either by letter or by personal conversation, states to Judge Archbald, "I have written to Truesdale and to Loomis asking for a conference as quick as possible in this case"—a personal conference. Then the judge follows that up with a letter to Loomis of October 3, in which he says, "There is nothing like a personal conference in these matters." In a letter to Loomis before that he says, "I would volunteer my personal services if I thought it were possible to accomplish a settlement of this case"—between litigants then in his court. Then, when the conference was held on the 5th of October, "There is no chance of getting together. It is ridiculous," the railroad officials say, "to ask us $161,000 for this proposition." Mr. Boland says that the judge knew that a hundred thousand dollars was to be the maximum. "It is ridiculous; we will not discuss it at all." But old man Watson says, "Why, remember the Meeker case; it is pending in the Commerce Court now"; and the suggestion was that Judge Archbald was to pass upon the Meeker case. "If he sustains the Interstate Commerce Commission the Meeker case will cut the freight rates on coal on your road—the Delaware, Lackawanna & Western—as well as the others, and you had better look out. Not only that, but you are now parties in his court in the Lighterage case; and not only that, but this case we are trying to settle may go to his court by appeal from the Interstate Commerce Commission." That is the conclusion.

Senators, there never was a more powerful chain of circumstances where judicial influence was brought to bear upon a set of railroad officials in this country than that which is shown in this Delaware, Lackawanna & Western case. I can not understand for the life of me how frail mortal men, like Loomis and Truesdale, failed to "stand and deliver."

After they broke up that conference on the 5th of October with no settlement, what happened? Old man Watson goes to his guide, "I must go to the man who is engineering this deal." The next day he wired down to Washington to the judge, "What time can I see you to-morrow in Washington?" The judge promptly wires back to him, "Almost any time." Then Watson wires back, "Will be at the Raleigh Hotel to-morrow afternoon at 1,30; leave instructions." The judge knew that the conference was going on.

Old man Watson, you will find if you will read the testimony, swore at least five different times that he did not come to Washington after that conference; that he came here before the conference to get the brief in the Meeker case, which was produced at the hearing before the Judiciary Committee. The brief that he claimed he had gotten on the 7th of October was not filed until the 9th day of October in the Commerce Court, and the judge must have sent it to him, I imagine from his testimony the other day, after the brief had been filed. The fact is, that after this conference broke up he wanted the judge to use still more pressure and more power to bring a settlement about. This man Watson saw from $5,000 to $61,000, whichever way you may look at it, slipping away from his greedy hands. He says in his testimony that his train was, I believe, an hour late, and when he got to Washington, although it was raining, the weather was bad, and he was to have been here at 1.30, he found the judge patiently waiting for him at the Raleigh Hotel.

That was not the end of it. The judge goes further. After that conference, which he brought about—and these railroad officials say they had it on account of this judge—that was not all. The judge still pursued it. He saw Loomis again in an effort to get him to make some final settlement or offer; and on the 13th of November he writes, "My Dear Christy, I have seen our friend"—I guess he referred to Mr. Loomis—"and there is no chance for a settlement of the case."

Senators, I wish I had the time to discuss all the other remaining articles. I think the Rissinger matter, the signing of the $2,500 note, the acquisition of stock in the Honduras goldmining scheme, is one of the ugliest charges in this entire body of articles. The judge admits in his answer that during the time the old Plymouth case was pending in which Rissinger was interested negotiations were going on between him and Rissinger about sales of the Honduras stock, but he says in his answer a little later that he understood that his indorsement was simply as an accommodation. How would you, Senators, like to be innocently and openly prosecuting a suit in a United States court when you knew that your adversary was in the private chambers of the judge making with him deals for stock, wherein he used nothing to purchase it but his name as a judge, which is worth nothing in commercial channels because they never got the money until they had to take a judgment note against Mrs. Hutchinson and Rissinger before they got it. What Rissinger was after was the influence of this judge in those cases which were pending. He formed his little corporation on November 10 and during the time when the case was pending involving $25,000 Rissinger was in the private chambers of this judge discussing with him the details of a scheme down in some foreign country absolutely unknown to the defendant in the case. After the case was decided in Rissinger's favor, then he does sign up the note, then the $2,500 is secured, and the judge is passed over $1,680 worth of stock, for which he never paid a cent, never has paid a cent, and it was never intended that he should pay a cent. It was a pure gift in order to influence this judge in those cases, or at least to get in his good graces.

In regard to Packer No. 3, Senators, if the judge had secured it from the Lehigh Valley Railroad Co.—I have made some figures which, with the permission of the Senate, I will insert in connection with that proposition—he would have made $125,000 a year. There were 521,000 tons of coal, of which they would have washed and prepared 500 tons a day—a whole trainload per day.

The judge expected to transport that coal to market, and under the ordinary price of coal he would have made something between $250,000 and $300,000 on that 521,000 tons of coal.

Improvements, $20,000.

Percentage of coal—			Tons.
Chestnut,	6	per cent, or	30
Pea,	6	per cent, or	30
Buckwheat,	20	per cent, or	100
Rice,	30	per cent, or	150
Barley,	38	per cent, or	190
	100		500

Number of men necessary to operate plant, 24. Average wages, $2.50 per day. For 26 working days the amount would be $1,500.

Prices obtained for coal at plant are as follows:

Chestnut,	30	tons, at $3 per ton	$90.00
Pea,	30	tons, at $1.85 per ton	55.50
Buckwheat,	100	tons, at $1.50 per ton	150.00
Rice,	150	tons, at $1.10 per ton	165.00
Barley,	190	tons, at 60 cents per ton	114.00
	500		574.50

Total receipts for coal for 26 working days would be $14,937.

Royalty per day on an output of 500 tons:

Chestnut,	30	tons, at 45 cents per ton	$13.50
Pea,	30	tons, at 30 cents per ton	9.00
Buckwheat,	100	tons, at 20 cents per ton	20.00
Rice,	150	tons, at 15 cents per ton	22.50
Barley,	190	tons, at 8 cents per ton	15.20
	500		80.20

Total royalty for month of 26 working days, $2,085.20.

Fixed charges per day—allowances for wages, royalty, supplies, depreciation, etc.:

Wages,	13 cents per ton on 500 tons	$65.00
Royalty,	16 cents per ton on 500 tons	80.00
Supplies,	4 cents per ton on 500 tons	20.00
Depreciation,	4 cents per ton on 500 tons	20.00
	37	185.00

Total fixed charges for 26 working days, $4,810.

Receipts for coal		$14,937.00
Less—		
Wages	$1,560.00	
Royalty	2,085.20	
Fixed charges	4,810.00	
		8,455.20
Profit for month		6,481.80

Enough evidence has been adduced here to prove that the railroad companies hold to coal properties like grim death; they do not turn them loose until they are compelled to do so, either under the law or under the influence of some judge of a high court, as in this case.

It looks to me, Senators, from all the pipes the judge was running out, from all the wires he was setting, from all the financial deals out of which he was preparing to make money here, yonder, and everywhere, that the judge thought the Commerce Court was going to be abolished and he was going to get into a business where he could make money rapidly, because he spent practically the whole of 1911 in preparing these coal-dump deals and making propositions to the railroads about securing their coal properties and settling lawsuits with them.

Mr. President, several times in the history of our country judges have been called before this great bar to account for their conduct, and in every case of conviction the charges were far less grave than those made and proved in the case before us to-day. One of the early impeachments was that of Judge Addison, who was impeached and convicted in Pennsylvania in 1802 on two charges, to wit:

"First. Directing the jury that the address of an associate judge to them had nothing to do with the question before them.

"Second. Preventing the associate judge from addressing the grand jury concerning their duties, and by denying the right and by leaving the bench, and thus irregularly adjourning court."

Judge Pickering was impeached and convicted by the United States Senate in 1804 for ordering a ship to be restored to a claimant without producing a certificate for the payment of duty, for refusing to hear testimony of witnesses produced to sustain the claim, and refusing an appeal from the decree which he had rendered.

Judge Humphreys was a United States district judge in 1862, and was convicted by the United States Senate on the following charge:

"For neglecting and refusing to hold the district court of the United States."

It is claimed, Mr. President, that this judge did not possess the evil motive in all of these transactions which ordinary men must necessarily attribute to him after knowing the admitted facts. This plea can not excuse a person occupying his high position. He ought not to have committed acts which in the minds of ordinary men would scandalize his office and bring his official character into disrepute. Upon the admitted facts in the respondent's answer I believe he should be found guilty and removed from office. There is a maxim of law expressed in Latin, res ipsa loquitur; that is, the thing itself speaks. True, that doctrine is usually applied in damage suits when, certain facts being proved or admitted, negligence is presumed, and so in this case all the ugly facts being admitted by respondent in his answer they, per se, constitute the opposite of good behavior, regardless of motive, and render him liable to forfeiture of his office. We are told in Holy Writ that—

"Uzzah put forth his hand to the ark of God and took hold of it for the oxen shook it. And the anger of the Lord was kindled against Uzzah; and God smote him there for his error, and there he died by the ark of God."

In that case Uzzah's intentions were not only not bad, but were positively good. What he did was innocently done, but his acts were a sin in the sight of Jehovah. But no such innocent motive moved Judge Archbald in all of his devious transactions. He knew the power of his high office, and he knew his own power because he held that office; he was conscious of it at every step; he kept his high position posted before the eyes of the litigants in his court by constant correspondence upon stationery on which were the awe-inspiring words "R. W. Archbald, Judge, United States Commerce Court, Washington." Every railroad president, every railroad counsel, and every railroad superintendent instinctively realized, upon receipt of such correspondence, the power and position of the respondent, and peculiarly so in this case, for these railroads were at that very time to a certain extent within the power of this judge because they were parties to suits then pending in his court, and he knew it.

Judge Grover, a splendid man and great judge, of high character, who sat upon the impeachment case of George G. Barnard, in voting upon the question of disqualifying Judge Barnard from holding office, said:

"Upon the trial of important civil causes he has fairly and uprightly discharged the duty of a just judge according to the best of his ability. The errors into which he has fallen are somewhat akin to some of the nobler virtues. I think that the votes upon these articles show that the errors into which he has fallen have originated from attachment to friends, from the idea that upon the bench he had the right to remember who were his friends and who were his enemies. I hope that the result of this trial will not only solemnize every judge in this State, every man clothed with a public trust under the Government, that all will have impressed upon their minds when they assume any function in behalf of the public that all selfish considerations are to be discarded, all their ends the public good. The respondent's desire to aid friends has led to grave errors—errors, in my judgment, inexcusable. The evidence has satisfied me that Judge Barnard, although possessed of those genial qualities that have surrounded him with strongly attached friends, was destitute of some qualities essential to the judicial character. It is possible, if he had committed these offenses in a legislative or administrative capacity, I might be satisfied by removal only; but in that position where the greatest integrity is to be exercised, where none should turn either to the right or to the left in the discharge of duty, from any consideration whatever, where the only inquiry should be, What is the law, what is right, and act accordingly. In this case, with the kindest feelings toward Judge Barnard, I am compelled to vote in the affirmative."

In that case, Senators, Judge Barnard was impeached upon the sole charge of partiality. How much more grievous are the charges which we have proven against the respondent in this trial!

I yield to no one in my reverence and respect for the splendid judges who have illumined and adorned the annals of our judicial history. When the roll of the names of Marshall, Taney, Miller, Brewer, Harlan, and Fuller is called, my pulse quickens and my blood warms because I am one of their countrymen and "have a share in the heritage of their fame," but what a far cry it is from one of these great men to the respondent at the bar! Can you imagine that any one of these, during the wildest and most indiscreet moment of their lives, would ever have descended from their high position to the low plane of dickering and trafficking for private gain with parties who had suits pending in their courts?

Mr. President, the history of the American judiciary is a glorious record, which makes every citizen of this country proud. "It is a heritage priceless in value and belonging to us all. Lapse of years but adds to our reverence for Marshall and Story, Kent and Miller, Taney and Field. Amidst the conflicts of parties and principles, which raged so furiously around them, they were calm and just in wisdom and conservatism, declaring the law as they believed it to be, with an independence which knew no fear. Around some of them clouds and darkness gathered, but they soon passed away."

"As some tall cliff that lifts its awful form
Swells from the vale and midway leaves the storm,
Though round its head the rolling cloud is spread,
Eternal sunshine settles on its head."

So long as judicial independence shall be admired, so long as judicial purity shall be respected, so long as judicial propriety shall be demanded, so long as justice shall be the genius of our civilization, just so long will the names of our great jurists remain embalmed in sacred memory and continue the pride of bench and bar and the glory of American institutions.

In all ages and in all climes where civilized man has dwelt he has been ever watchful in endeavoring to choose judges among the most upright, honest, and just of men—men of poise, incorruptibility, and discretion, who well understand and appreciate the dignity and proprieties of their office.

It should be burned into the minds and hearts and souls of the judges throughout the United States that they should avoid everything that brings disgrace, scandal, and disrepute upon their high office, so that whatever other branches of our Government may at times lose the confidence of any portion of our population, the judiciary may ever stand as an immaculate bulwark against the enemies of a republican form of government. Whenever a judge violates this motto, that very moment the magic of his judicial power is gone, and "it loses for itself those princely attributes with which it is by the Constitution invested."

The moment a high judge dares to use his office directly or remotely for private gain "that moment he loses the respect of the community." Let the standard of judicial ethics in this great country be so high that every judge may deserve Webster's encomium on Chief Justice Jay, when he said:

"When the judicial ermine fell upon his shoulders it touched a being as spotless as itself."

That was no absurd fiction of the noble Romans who instituted the vestal virgins to keep burning forever the fires of Roman liberty. Her liberty never expired until that noble sisterhood was dragged down and corrupted; and so, too, the fires of our liberty will never be extinguished so long as our judges remain incorruptible and possess with undying tenacity judicial rectitude and propriety, according to the eternal fitness of things, and in keeping with that which is best and noblest among the established principles of mankind.

Mr. President, to paraphrase somewhat the language of Judge Spencer, of New York, one of the managers in the impeachment of Judge Peck: I desire to say that the House of Representatives and the Judiciary Committee of that body, after long, patient, and full examination of all the evidence in the case, came to the unanimous resolution that Judge Archbald should be impeached, and by a vote of 223 to 1 sent us to your bar to demand that he be convicted; and happily, Senators, indeed, the record will show you an absolute absence of all party feeling. Could I feel in the remotest degree that the baleful influence of partisanship had mingled with the action of the committee or the House of Representatives, I declare unto you that no earthly consideration could have prevailed upon me to appear here as one of the prosecutors in this trial. I have no language to express the abhorrence of my soul at the indulgence of such unhallowed feelings on such solemn occasions. I believe in the long annals of impeachment trials in this great body that the charges against the respondent here are freer from the slightest tinge of partisanship than any case ever presented to this high court, and in this fact you, Senators, the House of Representatives, and the people of the United States are to be congratulated.

You are to say, Senators, by your verdict whether you will send this man, Judge Robert W. Archbald, back to his high seat on the bench of the United States Commerce Court and whether you approve or disapprove his conduct in all the transactions alleged in the various articles in this case. If you acquit him, your verdict will be construed as an indorsement of his conduct, and the people will be powerless; but, sirs, how can you render such a verdict in the face of even the admitted facts in the case? Surely the time has not arrived in the history of this great Government when judges of high courts shall be licensed to traffic with litigants in their courts, to make with such litigants advantageous private bargains, and to increase their personal fortunes by such nefarious practices. Senators, if that shall be the result of your verdict—and you must admit that such a conclusion may be justly drawn from a verdict of acquittal—then I declare unto you that I shudder when I contemplate the future of my country. Such practices on the part of judges will open wide the door to judicial reprisals, blackmail, and plunder, and very soon, as in the days of Rome, when justice was bought and sold with shameful boldness, this splendid Government, constructed and cemented by the blood and sacrifices of our forefathers, will totter and stagger to its fall.

And now, Senators, my task, though imperfectly performed, is at an end; the greater duty devolves upon you, and I believe that your verdict will mark an epoch in our history and will have a tremendous influence upon the perpetuity and stability of our liberties and our institutions, and even upon the life of the Republic itself. The people of the United States are now demanding, possibly as never before, the strictest rectitude on the part of their judges. Can you imagine that any district or State would elect this respondent to the high position which he now holds with all this testimony against him fresh in their minds? I ask you, Senators, who are the appointive powers of Federal judges, would you confirm this judge in the first instance were he nominated and his name sent to you for confirmation if all this evidence stood out against him, or evidence parallel or akin thereto? I do not believe that a man with such a record could receive one vote in favor of his confirmation from this great Senate.

Whatever reputation the respondent may once have had for impartiality or judicial rectitude is now gone. His usefulness as a judge is at an end. He has prostituted the office which you gave him in his worship of mammon; he has sacrificed his judicial integrity and official rectitude on the altar of greed. He has sorely violated the common rules of judicial ethics and propriety. Hence we, the representatives of the people, speaking for them and in their name, demand that R. W. Archbald shall be removed from office under the Government of the United States.

Mr. Manager CLAYTON. Mr. President, of the remainder of the time Mr. Manager FLOYD will occupy 1 hour and 9 minutes; Mr. Manager HOWLAND will occupy 45 minutes, and the balance of the time, to wit, 2 hours and 30 minutes, will be reserved for the closing argument on the part of the managers.

ARGUMENT OF MR. FLOYD, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager FLOYD. Mr. President, it is never a pleasant task for me to appear in the rôle of a prosecutor against anyone. It is a peculiarly unpleasant task to appear against one holding high position like the respondent in this case, but I come here not at my own instance; I come here as one of the managers under a command from the House of Representatives, and the House of Representatives is acting not alone for itself, but in behalf of all the people of the United States. We are here to discharge a public duty, and whatever might be our sympathies for the respondent, they should not swerve us in the discharge of a solemn duty.

The question at issue before the Senate is, Has the respondent, under the Constitution, committed high crimes and misdemeanors for which he should be removed from office? The managers who have preceded me have referred to many of the charges in the articles of impeachment, but there are one or two which they have omitted to mention to which I wish to call attention in the course of my remarks; but first I desire to discuss a little more in detail article No. 2, which I regard as one of the most important and one of the gravest charges in all the articles of impeachment brought against the respondent in this case.

In order that you may better understand the particular point I have in mind, I want to call attention to a phase of the pleadings pertaining to article No. 2 and article No. 13 that is not found in regard to any of the others. Under the pleadings in this case it is remarkable that practically all of the allegations of fact contained in the 13 specifications and articles of impeachment are admitted save and except as to article No. 2 and to that part of article No. 13 which relates to the same charge that is contained in article No. 2.

It is admitted in the answer that Judge Archbald was judge of the Commerce Court; it is admitted that these railroad companies with which he was dealing were at the time parties litigant in suits Nos. 38 and 39, that were pending in the Commerce Court. His interest is admitted in the Katydid transaction, and he was to share in the profits; it is admitted under article No. 10, which has not been alluded to, I believe, by any of the managers preceding me, that in 1910 he made a trip to Europe at the expense of Henry W. Cannon, a rich relative of his wife; it is admitted that on the same occasion a number of lawyers who practiced in the judge's court made up a purse of $525 in money and delivered it to him in person on board of the ship on the day he was ready to sail; it is admitted in the transaction concerning Packer No. 3 that he was to become a member of that company; it is admitted that in the Warnke deal he received a note of $500 and shared it with John Henry Jones. But when it comes to No. 2 the fact of his interest is denied. Now, why?

I want to call attention in this connection to the judge's own testimony when questioned on cross-examination concerning his interest in the Jones Coal Co., a corporation which it was proposed to organize to operate Packer No. 3, sought to be acquired from the Girard estate and the Lehigh Valley Coal Co.

On page 1249 of the record in this case in speaking of the Jones Coal Co. that was to be organized, for which Mr. Farrell, of New York, was to put up all the money and of which Judge Archbald was to become a member, Judge Archbald gave this testimony:

Q. You were to get a fourth of the balance?—A. About a fourth of the balance; yes.

Q. Why were you to have any interest in that stock?

And the answer of Judge Archbald is—

Why not?

Q. Well, why not, after you had gone to see Mr. Warriner; is that your idea?—A. I see no reason why, after organizing that company, that enterprise, I was not entitled to a share. It would be very strange if I did not have a share.

Q. Why?—A. Because I was instrumental, in part, in organizing the company, getting it up. It was in part my scheme and part Mr. Jones's.

These several transactions in which the judge participated—I mean these culm-dump transactions and these attempted sales are all similar in character.

In article No. 2 it is charged that the Delaware, Lackawanna & Western Railroad Co. was a party to cases, dockets Nos. 38 and 39, in the Commerce Court, and that is established and admitted; but the Lehigh Valley Railroad Co. was a party to the same suits, and Judge Archbald did not hesitate to go to Mr. Warriner, the vice president of the Lehigh Valley Coal Co., and secure a contract and agreement with a view of securing a lease from the Girard estate and operating that culm dump by the Jones Coal Co., the one to which I have just referred. Mr. Warriner was also the vice president of the Lehigh Valley Railroad.

The Lehigh Valley Railroad was a party to those suits pending in the Commerce Court. Then, the fact that the Delaware, Lackawanna & Western Railroad Co. was a party to these same suits does not explain why Judge Archbald washed his hands of this transaction when he admits his interest in the other. The Erie Railroad Co. was a party to the same suits, dockets No. 38 and No. 39. Judge Archbald did not scruple to see Mr. Brownell and Mr. Richardson and Mr. May and secure a contract from them, in which he admits that he was to share in the profits.

Then, in the judge's own language, when it comes to the Watson transaction, when we come to consider the facts charged in article No. 2, wherein the question is raised as to whether or not Judge Archbald was to share in the profits of that transaction, let me repeat his answer to the other question, "Why not?" How do you differentiate that case from the others? Now, was he to share in the profits? I am frank to admit that we have been unable to show by any direct and affirmative testimony that fact; but we have circumstances in this case which tend to establish that fact. Judge Archbald was participating in these transactions, was engaging in them for the purpose of making profits for himself. You can not differentiate between these several deals and transactions in such way as to make it improper for him to receive a consideration or be interested in this Watson deal any more than in the others. They were all of a kind. What was the proposition? The proposition was to sell two-thirds of the stock of the Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co. for $100,000, and the Bolands, stockholders in the Marian Coal Co., agreed to pay George M. Watson a specific fee of $5,000 if he could make that trade. Now, if Judge Archbald will accept $500 for the services that he rendered in the Warnke transaction, the case of the Premier Coal Co., why would he not accept one-half of the $5,000 in the Marian Coal Co. case?

The circumstances concerning that transaction are peculiar. The Marian Coal Co. was represented before the Interstate Commerce Commission by an attorney, Mr. H. C. Reynolds, who appeared and testified in this case. From every appearance he is an able lawyer. Mr. Watson was hired for a specific service, and that was to bring about this settlement. And Mr. Williams, according to Mr. Boland, is the man who first suggested to Mr. Boland that if he would see George Watson that Mr. Watson was in position to settle this controversy with the railroad company.

Let us see who brought it to the attention of the railroad company. Take the testimony of Mr. E. E. Loomis, vice president and general manager of the Delaware, Lackawanna & Western Railroad Co. He testified that the first he ever heard of Watson in this transaction or of Watson's ability to bring about a settlement was when Judge Archbald met him on the streets of Scranton and suggested to him that he thought the differences between the Marian Coal Co. and the railroad company ought to be settled outside of court. Mr. Loomis says he said to him, "Judge, it is the policy of our company to settle all matters outside of court whenever we can do so on a fair basis." Mr. Loomis says that Judge Archbald replied, "If you will see George Watson, an attorney of Scranton, I think he is in position to settle this controversy on a fair basis." And according to Mr. Loomis's testimony he took the matter up with his officers, had them investigate the property and make report to him, and about the 27 or 28th of September notified Judge Archbald of the result. The railroad officials turned down the proposition. Then an appeal was made by Watson on the 2d of October, and by Judge Archbald on the 3d of October, to Mr. Loomis for a further hearing with Mr. Loomis and Mr. Truesdale, Mr. Truesdale being the president of the company. That hearing was arranged, and on the 5th of October they held a meeting in Scranton for the express purpose of hearing Mr. Watson and hearing his proposition, and determining whether or not they could settle on the basis proposed by him. Now, what was his proposition? His proposition was $161,000. It was disagreed to.

But what was the contract with Watson? According to the testimony of Mr. C. G. Boland and of Mr. W. P. Boland the contract was that if he could secure a settlement for $100,000 they would sell their entire interest in the Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co., and that would settle the whole controversy, because when the Delaware, Lackawanna & Western Railroad Co. had acquired control of that corporation the suit the Marian Coal Co. had against that railroad before the Interstate Commerce Commission would be not under the control of the Bolands, but the railroad would own the property and the lawsuit. Having control of the lawsuit by having acquired ownership of the corporation, they could end the controversy by dismissing the suit.

Now, Mr. Watson, whose testimony was taken before the Judiciary Committee and which was introduced in evidence by counsel for respondent, admits in his testimony before the Judiciary Committee that the original proposition was $100,000 and that he was to receive a fee of $5,000 in the event he secured the settlement. But that proposition was never made to the railroad people. Why the raise? The only testimony that we have upon that point is the statement made by Watson to W. P. and C. G. Boland, when they asked him why it was that he was raising the consideration from $100,000 to $161,000. He made the statement that Judge Archbald was to be a powerful factor in the settlement of that case, and that it was his purpose or his intention, if he secured the settlement, to share one-fourth of all in excess of the $95,000 with Judge Archbald.

Did the judge intend to take it? He was asked on the stand the other day whether he had a specific agreement with Mr. Williams about that Katydid proposition, and Mr. Williams was asked particularly about that. Neither would say that previously there had been made any specific agreement. Judge Archbald, when asked about it on the stand, said that he assumed he was to share in the profits—assumed it. We may well assume that he was to share in the profits of the Watson deal. Now, if he would share in the profits in that transaction, why would he refuse to share in the profits of the larger transaction if it had been consummated? Why does he deny that charge, that particular point in that charge? Because it is material; because the demand that was made by Mr. Watson in excess of the amount that the Bolands had agreed to take—$61,000—was so unconscionable, both in morals and in trade, that he dared not admit his interest in that transaction.

So I am disposed to stand here and insist that the circumstances in this case tend to the conclusion that had that transaction been consummated, Judge Archbald would have been as ready to accept money from Watson as he had been from Warnke or the Premier Coal Co.

Let me call your attention to the peculiar way in which the judge got his money from the Premier Coal Co. Now, as has already been alluded to by Mr. Manager WEBB, it seems that the judge had a good many partner or associates in these deals. There was Edward J. Williams. He was mixed up in the Katydid. He was the first man who suggested Watson to the Bolands. There was John Henry Jones. John Henry Jones, it seems, was concerned in some way in this Warnke deal or Warnke transaction. John Henry Jones testifies that after the contract had been closed and the sale had been made to the Premier Coal Co. he went to Mr. Warnke and demanded his commission of $500. John Henry Jones's theory was that he was entitled to it; that he had had something to do with the bringing together of the parties. Warnke refused to pay John Henry Jones. Then Judge Archbald goes in person to the officers of the Premier Coal Co. and demands a commission of $500, and they execute a note for $510, the $10 being added for the discount, and the judge accepts it, and then divides the $500, according to his testimony, with John Henry Jones. What was the consideration?

He had no option on the property at that time, according to John W. Berry. He had previously had an option. But for some unexplained, undefined service on the part of the judge in regard to that transaction, he demands and receives a note, a bankable note, for $510, which he discounts at the bank for $500 in cash.

If he will receive money under such circumstances and for such considerations, under all the circumstances in this case, what reason is there for us to conclude that he was acting purely for friendship in this transaction concerning the Marian Coal Co.? He was charging for services rendered in connection with other deals and transactions, and the evidence discloses that fact. He rendered far more service, so far as actual work was concerned, in his efforts to bring about a settlement of the Marian Coal Co. disputes with the Delaware, Lackawanna & Western than he did in other transactions in which he participated.

What did he do to secure his interest in the Katydid? He wrote to Capt. May a letter on the 31st of March; went to see Mr. Brownell in New York on the 4th of August; had a short conference with Mr. Richardson on the same day that he saw Mr. Brownell; returned to Scranton, met Capt. May on the street, and May told him that they were ready to make that deal and to send Williams around. Williams went around and got the contract. That is the service that the judge rendered in regard to the Katydid proposition, for which he proposed to share equally in the contract.

But what did he do to bring about a negotiation or settlement in which he and Watson were interested? Some facts are developed by the respondent himself that are not disclosed by Mr. Loomis. It appears from the respondent's own testimony that he first endeavored to get the Lackawanna Railroad people interested in this transaction on the 4th of August when he was in New York to hold court and to see Brownell. He also went, at Watson's instance, on the same date, to see Mr. Loomis. But in some way that circumstance does not seem to have impressed Loomis, and the first conversation that Loomis detailed was the conversation on the streets of Scranton when the judge again brought up the subject.

Then Mr. Loomis testifies that later, between the 1st of September and the 5th of October, when the matter was hanging fire, while he was awaiting the report of his engineers and his agents, Judge Archbald again appeared in his office in New York and inquired about the matter, and Loomis told him in that conversation that he had had his officers and agents looking up the data and as soon as he got the information desired he would make report. And he did.

Mr. Phillips reported to Mr. Loomis on the 27th of September. On the day following Mr. Loomis reported to Judge Archbald by letter that they could not make the settlement. Then Judge Archbald writes a letter regretting the failure to bring about the settlement, in which, to my mind, he makes a very significant statement. He tells Mr. Loomis that "If I thought it would do any good I would volunteer my direct services in the premises."

A conference is held on the 5th of October. Nothing comes of it. Then on the 6th of October, or on the following day, Mr. Watson wires Judge Archbald that he is coming to Washington, and on the way sends him a second wire telling him where he will be. They have a conference in Washington over the same matter. This occurred the day after, or the second day after, the conference was held in Scranton, where these officials of the railroad had rejected the proposition made by Watson, and then, even as late as the 13th of November, we find Judge Archbald writing a letter to C. G. Boland returning certain papers and regretting that nothing had come of their effort to secure a settlement. That is the Watson transaction.

We do not charge in articles No. 2 or No. 13 that the consideration alleged was a valuable consideration, although I notice in his answer to article No. 13 he has injected a denial that it was a valuable consideration. But we believe the circumstances in this case show this transaction was similar to the other transactions, and that the only difference between them was the enormity of the demand, the unreasonable demand that was made. But we insist that it is not necessary, in order to establish the judge's guilt under article No. 2, to show that he was to receive a valuable consideration or a money consideration.

Now, let us see; let us consider it with that view and see whether or not, in order to make Judge Archbald guilty of improper conduct or misconduct under that article, it is necessary for us to show that the consideration was a valuable consideration—and keep in mind that we do not charge that it is a valuable consideration; that is not in the charge or in the allegation.

We say that for a consideration he undertook to assist one George Watson, an attorney of Scranton, to bring about that settlement. Under our view of this case, we think it is wholly immaterial whether he was seeking a consideration for himself or seeking to aid an attorney, a friend of his, in securing a pecuniary or money consideration in the premises.

Mr. Watson was not the attorney of the Marian Coal Co. in the litigation which was then pending before the Interstate Commerce Commission. Mr. Reynolds was the attorney of the Marian Coal Co. in that litigation, and he continued throughout the entire controversy to be their attorney.

Our position is that a judge has no more right to use his official position or to use his influence as a judge to compromise litigation and bring about settlements with a view and for the purpose of securing a pecuniary reward or a fee for some attorney who is his friend than he has to undertake the same work for a consideration for himself. There would be this difference: It might be an extenuation of the offense, but it would not be any justification of the offense.

Now, let us see what happened in this very case and see if anyone can justify Judge Archbald's conduct, entirely regardless of the fact as to whether or not he was to share in the $5,000 fee or was to receive any other money consideration. What was the state of the case? The Marian Coal Co. had filed two petitions before the Interstate Commerce Commission. In one of those suits the petition was filed against the Delaware, Lackawanna & Western Railroad Co. alone, and in the other suit against the Delaware, Lackawanna & Western Railroad Co. and five other railroad companies. One of those suits was in relation to rates and the other for damages for excessive charges alleged to have been collected in the past and for certain other items and damages claimed by the petitioners. Those petitions at the time the judge undertook to bring about this settlement were pending in the Interstate Commerce Commission. He is a judge of the Commerce Court, and that very dispute and controversy that he undertook to settle and compromise may, and most probably will, be taken up before the Commerce Court for determination. If it should go there, let me ask you how can Judge Archbald, who has busied himself, whether for a consideration for himself or for a friend, or without any consideration at all, for a period of time covering from the 4th of August up to the 13th of November, in an effort to bring about a settlement of those disputes and controversies between the coal company and the railroad company, be an impartial arbiter of that controversy when it reaches the Commerce Court? It seems to me that this fact alone should condemn the conduct of the judge as improper, contrary to all ethics, contrary to all right, independently of the question of consideration.

That is the state of the case. There is no escape from it. What will he do after spending months in trying to bring about a settlement, as he says, through his friendship for Watson and through his friendship for Boland, one of the stockholders of the company, when that very controversy comes up for his determination in the court of which he is one of the judges? Is that proper conduct on the part of a judge? He must have been moved by some consideration, some motive; some reason must have prompted him. If he did it to aid Watson in securing that $5,000 fee, then, under the contention of the managers, he prostituted his high office for personal profit and gain for a friend, and he ought to be condemned as a judge for so doing. Can he escape condemnation? What conclusion otherwise can be reached?

We insist that under this article the evidence in this case shows that Judge Archbald was undertaking to accomplish and to bring about a settlement of a matter which he must have known was likely to come before his court. He said in answer to a question propounded to him when he was upon the stand that the reason why he was trying to settle it was to keep it out of the Commerce Court. But he failed to settle it. He had no reason to keep it out of the Commerce Court. Is that proper conduct on the part of a judge?

Oh, it seems to me that a judge ought not to undertake in any such way as the testimony in this case discloses he undertook, to bring about that Watson settlement, to bring about a settlement of any disputes and controversies that may arise in his court.

Keep in mind that the Delaware, Lackawanna & Western Railroad Co. was a party to the suits, docket Nos. 38 and 39, then pending in the Commerce Court.

The judge does not seem to think that that would make any difference. He does not seem to think that anybody would consider that in making a deal with him. It seems to me that the first thought of men who are approached by a United States circuit judge for deals and contracts, whether they were willing to make them or not, would be to seriously consider the proposition through fear that a refusal might incur the judge's displeasure.

A judge as an operator and dealer in culm dumps and coal properties occupies a very commanding position. He might reward his enemies. He might render favors to his friends.

The transactions that have been detailed in this evidence come very closely to that statute of the United States which defines the crime of bribery of judges. We do not specifically charge in any of these articles of impeachment that the judge is guilty of bribery, but on account of the peculiar character of these several transactions I want to read into the record at this point that statute which pertains to the bribery of judges. It is section 132 of the Criminal Code, and it reads as follows:

SEC. 132. Whoever, being a judge of the United States, shall in anywise accept or receive any sum of money, or other bribe, present, or reward, or any promise, contract, obligation, gift, or security for the payment of money, or for the delivery or conveyance of anything of value, with the intent to be influenced thereby in any opinion, judg-

ment, or decree in any suit, controversy, matter, or cause depending before him, or because of any such opinion, ruling, decision, judgment, or decree, shall be fined not more than $20,000 or imprisoned not more than 15 years, or both.

What is the judge in these transactions doing? Procuring contracts. What additional evidence will be necessary to put the judge under the clear purview of that bribery statute in this case, simply to show that he intended to be influenced in some decision thereby, or that he was receiving these gifts, rewards, presents, agreements, or contracts in consideration of some opinion that he had previously rendered?

I desire to call attention in this connection to article 11. I want to mention just very briefly articles 10 and 11. Article No. 10 charges that the respondent made a trip to Europe at the expense of one Henry W. Cannon. Article No. 11 charges that at the time of his departure he accepted as a gift from certain lawyers a purse of money to the amount of $525. I desire to discuss that proposition briefly. I am not going to contend that that is a bribe under the statute I have read you, but I want to call your attention to the circumstances surrounding this transaction, because, while we do not claim that it was an open bribe, we do claim that it was such gross misconduct as no judge of any court ought ever to be guilty of.

He accepted a purse of $525. The circumstances under which that purse was delivered are peculiar and remarkable. It seems that some lawyers, friends of the judge, first got together in Philadelphia and discussed the matter. I believe Mr. Warren, of the firm of Willard, Warren & Knapp, was the first who suggested it. Then they designated Mr. Searle, the clerk of Judge Archbald's court, to the duty of getting the funds together. First, they consulted Mr. Searle, and Mr Searle said that he did not think the judge, under the circumstances, would refuse it. Then they get the money together and they get Judge Searle, a different Searle from the clerk, a judge of the State court at that time, to go to New York. Mr. Searle, the clerk of the court, who had gotten the money together, accepted a contribution from Judge Searle, which was paid by check, delivers all the money to Judge Searle, and asks him to go to the ship and deliver it in a sealed envelope marked "R. W. Archbald; sailing orders; not to be opened until two days at sea." Judge Searle, the State judge who presented the purse, testifies that he knew that it contained money, but he did not know how much. He did not know whether it contained $500 or $5,000. It is delivered in that way.

Now, here is the document. It is peculiar. I call your attention to the fact that it is typewritten. There is no letterhead on the paper; no place is named.

APRIL 16, 1910.

DEAR JUDGE: This is a greeting of your appreciative friends of the bar of Lackawanna, in the middle district, wishing you bon voyage.

Rather than fruit, books, or flowers, we trust you will be willing to accept this as our hearts' desire for your pleasure and enjoyment in your more than well-earned outing.

May all happiness attend you and yours.

There is no name. Judge Archbald's name does not appear upon it. No money is mentioned. Is not that strange? Not flowers, not fruit, not books. What ought the letter to contain? The judge's name is not mentioned. The money is not mentioned. The place from which it was written is not mentioned. Then there is a list of the lawyers, all signed in typewriting except one, Judge Searle.

I have already stated that we are not insisting that the evidence in support of this article of impeachment sustains the charge of bribery under the law, but we are insisting that it does show gross impropriety and misconduct on the part of Judge Archbald in accepting any such gift.

I do not know who was responsible for the particular arrangement carried out. Of course, the judge was not, because he was in New York preparing for the trip; but I want to say that the man who got that money together and addressed that envelope and fixed up that letter must have been an old hand and an adept at that kind of business. He does not disclose where the letter was written from; he does not disclose on the face of the letter that it contains one cent of money; he does not disclose the name of the person to whom it is to be delivered; and he gets a State judge to deliver the purse to a Federal judge on board a ship ready to sail.

I do not see much opportunity for anybody to get indicted, either under State or Federal jurisdiction, for bribery by reason of that transaction in and about Scranton. Do you? Yet that transaction, like the others, if that money was accepted by Judge Archbald with a view of being influenced in any future opinion thereby, or on account of any previous decision he had rendered favorable to any of those parties in the past, puts the judge within the clear purview of the bribery statute. Can any judge afford to be guilty of conduct where his guilt or innocence of a crime depends altogether upon his mental attitude, when the facts surrounding the transaction would support a grave charge? Can any judge justify such course.

Further, the respondent in his answer says he accepted the money because it would be a reflection upon the donors to return it. What about the $125 that never reached him? Three contributions were made to Mr. Searle, the clerk, after the judge had sailed for Europe. These were not inclosed in that envelope. Mr. Searle, the clerk, wrote to him asking him whether he should send the money or keep it until he came back, and it was by the direction of the judge kept by Searle and delivered to the judge on his return from Europe.

Now, I desire to take up and consider briefly article No. 13. I desire to go a little more into detail as to this article, because the attorneys for the respondent do not seem to have ever caught the force and meaning of it. We allege in article No. 13 a general course of misconduct, a continuing course of misbehavior on the part of the judge. General misconduct is the basis of this charge. We think that if misconduct is cause for impeachment, a general course of misconduct along a particular line would be greater cause for impeachment and that those collective offenses would warrant his impeachment when the particular instances might not do so, in the judgment of the Senate.

What was the general course of Judge Archbald's conduct? He had been a judge for 28 years. If prior to 1908 he had been a just and upright judge, then all the more is the pity for his subsequent conduct. In 1908 we find him in this Rissinger transaction, already detailed by my associate managers. In December, 1909, we find that John Henry Jones executed a note to Judge Archbald. Judge Archbald indorses it, turns it over to Jones, and Jones attempts to get it cashed or discounted at the bank and fails. The note is then taken by Edward J. Williams to G. C. Boland, who was a litigant in the judge's court at the time, being a stockholder in the Marian Coal Co. He refused to cash the note. Then it was taken to W. P. Boland, another member of the firm. Mr. Boland, having a case pending in the judge's court, also refused to discount the note; and finally it is turned back to John Henry Jones, still uncashed and undiscounted. He takes it to one Von Storch, and Mr. Von Storch says he suspected the note; he did not think that a man of John Henry Jones's appearance would be carrying Judge Archbald's note around—of course that is immaterial, for the note was genuine—and in order to relieve his suspicions he called up Judge Archbald, and Judge Archbald told him that the note was all right and that it would be an accommodation to him if Von Storch would cash it. Previous to that time Von Storch was a suitor in the judge's court, in which the complainants against him claimed $10,000, and a judgment for less than $1,000 was rendered against him.

In 1910 we find Judge Archbald going abroad at the expense of a rich relative; we find him accepting this money purse of $650. But it is his conduct since he has become a judge of the Commerce Court that I am going to call your particular attention to under article No. 13. We charge in article No. 13 that, being a judge of the Commerce Court, he undertook to carry on a general coal business in dealing in culm dumps and coal properties.

The evidence in this case shows that in March, 1911, he wrote a letter to John W. Peale, who had formerly been a litigant in his court, and a successful one, in an effort to sell to Peale the Oxford washery. Falling in that, another proposition was sent, submitted by John Henry Jones. Peale does not consider it; but Jones refers him to Judge Archbald and asks Peale to call on him in the Federal building at Scranton. Then, on the 31st of March, just two months to a day from the time he had become a judge of the Commerce Court, we find him writing this letter to May asking May to give him an option on the Katydid. On the 4th of August we find him in New York to see Mr. Loomis, starting the Watson negotiations. Along in the early part of August we find him writing to his nephew, the engineer of the Girard estate, trying to secure an option on packers Nos. 3 and 4. Then, early in the spring and continuing through the summer and on into the fall up to the time of the close of the Warnke deal, we find that he is carrying on correspondence concerning the old gravity fill, which was finally sold to Warnke. In three out of these four transactions we find that Judge Archbald was interceding with the officials of the railroad companies in his efforts to bring about these sales and to secure these contracts and concessions, and in two out of the three he succeeded. The Erie yielded and agreed to sell to him and Williams the Katydid culm dump. Warriner, vice president and general manager of the Lehigh Valley Coal Co., made a concession to the judge, and agreed, so far as the railroad company

was concerned, to surrender their rights and to let the Girard estate lease the property to the judge.

Now, is that conduct proper on the part of a judge? Mr. President, open bribery of public officials in this country, in my opinion, is a rare crime. Insidious influence by indirect and improper methods, I fear, is a more common one. Opportunities for making quick and easy money arise which, on the face of things, seem perfectly proper. The deluded official is lulled into a sense of his own innocence by the splendid opportunities his environments afford. Once entering into these negotiations opportunities multiply; he loses his moral perspective; he becomes money mad; finally, he is willing to go to any length to accomplish his desires. It is this particular form of evil that we are striking at in these articles of impeachment against Judge Archbald.

The testimony in this case discloses a long series of acts of misconduct on the part of the judge along certain lines, all looking to concessions, money, agreements, and commissions. By his constant dickering, trading, and trafficking with the railroad companies and with litigants in his court, and especially with those great interstate railroad companies that at the very time he was carrying on these negotiations had suits pending in the Commerce Court, of which he is a member, Judge Archbald has scandalized the high office he holds; he has soiled with coal dust the white ermine he wears; he has degraded his standing and reputation in the estimation of the American people, and has been guilty of gross improprieties which, in the judgment of the managers, warrant his impeachment.

Mr. President, I have not time to discuss the law governing impeachments in general nor to go further into the facts of the case, but I want to state briefly, in conclusion, as clearly and as concisely as I may, the position of the managers in regard to the law of this case.

It is the contention of the managers on the part of the House of Representatives that acts of misconduct need not be indictable in order to warrant impeachment. We insist that that is peculiarly so in the case of judges of United States courts. Judges hold their offices during good behavior. It is a popular fallacy that Federal judges are appointed for life. They are not. They are appointed to hold their offices during good behavior. Misbehavior is the antithesis or opposite of good behavior; and it is the contention of the managers that any form of misconduct on the part of a judge which negatives good behavior, the condition upon which he is entitled to continue in office under the Constitution, constitutes a public offense, is violative of the Constitution, and warrants his impeachment, and that it is not necessary that we should show that he violated any criminal statute in order that he may be arraigned before this high tribunal by the House of Representatives and tried for high crimes and misdemeanors under the Constitution.

It is conceded on all hands that to violate a Federal statute would be an impeachable offense. Then, upon what principle of legal construction, upon what rule of logic, reason, or common sense, can it be successfully maintained that to violate the Constitution itself or a plain requirement of the Constitution is not an impeachable offense under the law? What is a crime or misdemeanor? Any act of omission or commission for which the law has prescribed a penalty. This is elementary. Acts of misconduct on the part of judges, such as I have been describing, are acts for which the law, the Constitution itself, has prescribed a penalty. The penalty prescribed is removal from office, and the remedy in all such cases is by impeachment for high crimes and misdemeanors under the Constitution.

Mr. Manager CLAYTON. Mr. President, Mr. Manager FLOYD has occupied an hour and five minutes of the hour and nine minutes allotted to him. Mr. Manager HOWLAND will now address the Senate for 45 minutes, plus the 4 minutes not used by Mr. Manager FLOYD, if he so desires.

Mr. Manager HOWLAND addressed the Senate. After having spoken for some time,

The PRESIDENT pro tempore. The hour of 6 o'clock has arrived, the hour which, under the order of the Senate, concludes the sitting of the Senate in consideration of the articles of impeachment.

[Mr. Manager HOWLAND's speech is printed entire in proceedings of January 9, 1913.]

Mr. Manager CLAYTON. I understood the ruling to be that 15 hours would control rather than the mere matter of days, and that that was the interpretation this morning of the order.

Mr. President, I wish to say that under the arrangement for the apportionment of time 21 minutes remain for Mr. HOWLAND and 2 hours and 30 minutes for the concluding argument on the part of the managers.

The PRESIDENT pro tempore. The Chair will announce that, under the order, the Senate sitting for the consideration of the articles of impeachment stands adjourned until 1 o'clock to-morrow.

After the transaction of some routine business, which appears elsewhere under the appropriate heading,

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 4 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 9, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 8, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou who hast ever been our refuge and our strength, our God and our Father, continue Thy blessings unto us as individuals and as a people, that we may press forward to greater victories and greater achievements, and thus prove ourselves worthy of the mental, moral, and spiritual gifts with which Thou hast endowed us. And Thine be the praise forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

RESIGNATION FROM A COMMITTEE.

The SPEAKER laid before the House the following resignation of Mr. FLOOD of Virginia as chairman of the Committee on the Territories:

WASHINGTON, D. C., *January 8, 1913.*

Hon. CHAMP CLARK,
Speaker House of Representatives.

DEAR SIR: I herewith tender my resignation as chairman of the Committee on the Territories of the Sixty-second Congress, to take effect immediately.

Very truly, yours, H. D. FLOOD.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

QUESTION OF PERSONAL PRIVILEGE.

Mr. CLARK of Florida. Mr. Speaker, I rise to a question of personal privilege and ask that the Clerk will read the article in the Washington Herald of yesterday around which the blue pencil has been marked.

The SPEAKER. Without objection, the Clerk will read.

The Clerk read as follows:

"There are Senators and Representatives occupying seats in Congress to-day who have allied themselves with real estate sharks in this city to fleece the Government of hundreds of thousands of dollars by seeking to sell to it large areas of land in out-of-way places for public park purposes, some of which are in ravines so deep that the Capitol could be set in them and you could not see the Indian which surmounts its dome."

This was the statement made last night by Representative FRANK CLARK of Florida in a speech at the mass meeting of the East Washington Democratic Association in Donohue's Hall, 314 Pennsylvania Avenue SE.

Mr. CLARK of Florida. Mr. Speaker, if this publication referred only to me and reflected only upon me, I think I would not ask the time of this House to mention it. But it puts me in the attitude as a Member of this House of arraigning not only Members of this body, but also Members of another branch of the legislative department of this Government, and of charging them with the gravest of crimes.

I desire to state, Mr. Speaker, that not one word of truth is contained in that statement. I desire to say that not a single Washington newspaper was represented at that meeting, save the Washington Star, and the reporter of that paper gave about as accurate an account of the meeting as is usually given by reporters of newspapers.

I want to say, Mr. Speaker, that I have the highest respect for the legitimate, honest press of this country, but I have absolutely no respect for the yellow variety, of which this Washing Herald seems to be a very striking example.

What I did say, Mr. Speaker, was this, and I say it now—and the CONGRESSIONAL RECORD supports every word of it—I did say that the District of Columbia has practically no government; that it has three commissioners, appointed by the President, not responsible in any sense to the people of the District. And I did say that the real estate sharks, according to my observation, after eight years of service in this city, were controlling the destinies of this city. I did say that frequently in bills there come before this House propositions to buy waste places in out-of-the-way locations for park purposes, and I

instanced one case wherein I said there was a proposition by a real estate concern to unload upon the Government at a fabulous price a large tract of land having gullies in it so deep that I believed the Capitol could be planted in the bottom of the gulf and that the head of the Indian that surmounts the dome of this Capitol could not be seen above it.

Mr. COOPER. Mr. Speaker, will the gentleman permit an interruption there?

The SPEAKER. Does the gentleman yield?

Mr. CLARK of Florida. Yes, sir.

Mr. COOPER. Does not the gentleman think that there is another individual entitled to rise to a question of personal privilege in regard to this matter? That statue is by the gentleman from Florida called "an Indian." It is a statue of the Goddess of Liberty. [Laughter.]

Mr. CLARK of Florida. I beg the gentleman's pardon. I insist that it is the figure of an Indian and not the Goddess of Liberty. [Laughter.]

Mr. Speaker, regardless of that, I said that that proposition came to this House and that it developed upon the floor of this House—and the RECORD will show it—that a certain gentleman at that time who occupied a seat in another branch of the legislative department of this Government was a part owner in the property. I did say that when it was called to public attention that gentleman rose in his place—wherever that place is—and stated that he did not know that he had an interest in the property.

I arraigned no Members sitting in this House. I arraigned no Members sitting in the other House. I have been here eight years. I can say, Mr. Speaker, and say truthfully, that I have met during my eight years of service here no man who I do not believe is as honest as I am, as faithful in the discharge of his duties, and absolutely far from entering into any combination with the real estate sharks of this city.

Mr. Speaker, it is time, in my judgment, that the Members of this House, if they are to challenge the respect of the country, should rise in their places on all proper occasions and deny emphatically the outrageous misrepresentation of these penny-a-liners who get their information secondhand from some one else. It is simply an effort, I suppose, to sell the paper. It is simply an effort to put something sensational in it.

Mr. Speaker, I am not concealing myself. I am not asking or invoking any protection by virtue of my seat upon this floor. If the man who wrote that lie desires anything from me, I live at Congress Hall; my room is No. 153 in the House Office Building, and I walk these streets day and night as freely as any man who permanently lives here, and he can get all he wants at any time he wants it. [Applause.]

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday.

CLAIMS FOR INJURIES AND DAMAGES.

Mr. POU. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from North Carolina [Mr. POU] asks unanimous consent to take from the Speaker's desk House bill 23451, disagree to the Senate amendments, and ask for a conference. The Clerk will report the bill by title.

The Clerk read as follows:

An act (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property.

The SPEAKER. Is there objection?

Mr. MANN. I object.

The SPEAKER. The gentleman objects. The Clerk will call the first committee.

The Clerk called the Committee on the Irrigation of Arid Lands.

The SPEAKER. The Chair is informed that there is not any unfinished business. The call rested with the Committee on the Irrigation of Arid Lands, and they had one bill last Wednesday.

Mr. MANN. They did call up one on the last day.

The SPEAKER. They are entitled to one anyway, if they have anything to do.

The Clerk again called the Committee on Irrigation of Arid Lands.

TOWN SITES IN CONNECTION WITH RECLAMATION PROJECTS.

Mr. RUCKER of Colorado. Mr. Speaker, I call up the bill (H. R. 23669) providing for the disposition of town sites in connection with reclamation projects, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. This bill is on the Union Calendar, and the House resolves itself automatically into the Committee of the Whole House on the state of the Union for its consideration, and the gentleman from Illinois [Mr. FOSTER] will take the chair. [Applause.]

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of House bill 23669, which the Clerk will report.

The Clerk began the reading of the bill.

Mr. RUCKER of Colorado. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Colorado asks unanimous consent to dispense with the first reading of the bill. Is there objection?

Mr. MANN. It is a short bill and a rather important one. I think it had better be read.

The CHAIRMAN. The gentleman from Illinois objects. The Clerk will read.

The Clerk read the bill, as follows:

Be it enacted, etc., That one-half the net proceeds heretofore received from the sale of town lots in towns within or in the vicinity of reclamation projects, sold under the provisions of the act of April 16, 1906, and June 27, 1906 (34 Stat., pp. 116, 619), and acts amendatory thereof and supplementary thereto, and one-half the net proceeds hereafter received from such sales shall be, and the same are hereby reserved, set aside, and appropriated as a special fund in the Treasury, to be known as the reclamation town-site fund, to be used in the construction, maintenance, and operation of schoolhouses, water and sewer systems, and municipal improvements in the towns where lots have been or shall be sold as aforesaid. And the aforesaid one-half of the net proceeds heretofore received from such sales shall be forthwith transferred from the reclamation fund to the reclamation town-site fund, hereby created.

SEC. 2. That the Secretary of the Interior may, in his discretion, from time to time, expend, or cause to be expended, from said reclamation town-site fund, for the construction, maintenance, and operation of schoolhouses, water and sewer systems, and other municipal improvements in each of such town sites a sum not greater than one-half the net proceeds theretofore received from such sales of lots therein plus one-half the estimated net proceeds to be thereafter received from such sales. The buildings and works so constructed may, in the discretion of the Secretary of the Interior, be operated and maintained by him or under his authority, and the expense thereof paid from the reclamation town-site fund, pending the organization of a municipal corporation or corporations qualified to operate and maintain the same, and upon the organization of such municipal corporation or corporations the Secretary of the Interior may transfer to such corporation or corporations the said buildings or works, or both, as the case may be, and the lands or easements necessary to their use, and thereafter said Secretary shall be free of all duty or responsibility with respect thereto: *Provided*, That whenever the said buildings, works, lands, easements, or any part thereof, shall cease to be used by such corporation or corporations exclusively for the purposes for which they were respectively transferred, the ownership and control thereof shall revert to the United States: *And provided further*, That in no case shall the operation and maintenance of such buildings and works by or under the authority of the Secretary of the Interior be continued for a longer period than five years after the construction thereof.

SEC. 3. That all income received from the operation of any such buildings or works shall be paid into and become a part of the reclamation town-site fund.

SEC. 4. That the Secretary of the Interior may, in his discretion, from time to time, transfer from the reclamation town-site fund to the reclamation fund any and all moneys in excess of the amount estimated by him to be necessary for the construction, operation, and maintenance under this act of the buildings and works hereby authorized.

SEC. 5. That the Secretary of the Interior is further authorized to reserve from entry such lands within or near such town sites as he may deem necessary for cemetery purposes, and to make appropriate regulations for the supervision and sale of lots in such cemetery at an appraised value, through the Reclamation Service, until such time as a municipal corporation or corporations shall be created capable of operating and maintaining such cemetery, and thereupon a legal title for the lands so reserved and then unsold shall be transferred to the municipal corporation or corporations for cemetery purposes, and the proceeds of the sales of cemetery lots by the municipal corporation or corporations shall be used for cemetery improvements. The proceeds of sales of cemetery lots by the United States shall be paid into and become a part of the reclamation town-site fund, and the cost of the improvement, maintenance, and operation of such cemeteries may be paid from said fund in the discretion of the Secretary of the Interior: *Provided*, That whenever the lands or any part thereof so transferred shall be used for any other than cemetery purposes the ownership and control thereof shall revert to the United States.

SEC. 6. That the survey, subdivision, and sales of lots in the cemeteries and town sites heretofore and hereafter established under the acts aforesaid shall be conducted by the Secretary of the Interior through the Reclamation Service, and patents for the lots shall be issued in the usual manner through the General Land Office.

Mr. RUCKER of Colorado. Mr. Chairman, there appears here a very full report from the majority of the Committee upon Arid Lands, and also a very full report from the minority consisting of two members, including the distinguished chairman of that committee, Mr. SMITH of Texas.

It will appear, Mr. Chairman, that there are about 30 of these town sites distributed according to the number of reclamation projects, and it will appear to this Committee of the Whole, I think, that it was entirely a useless performance to set aside these town sites without the Government doing something toward their settlement. In other words, it is a segregation of about 640 acres of land which is of absolutely no service to

the Government or to anyone else unless the proposed relief is granted. The gentleman from South Dakota [Mr. MARTIN] is the introducer of this bill, and he is thoroughly acquainted with it, and he and other gentlemen have constituents who are more interested than I am personally in this legislation. I therefore yield to the gentleman from South Dakota [Mr. MARTIN] such time as he desires to occupy.

The CHAIRMAN. The gentleman himself is limited to one hour.

Mr. RUCKER of Colorado. Yes; I know that. I yield to the gentleman from South Dakota [Mr. MARTIN] such time as he desires.

Mr. MARTIN of South Dakota. Mr. Chairman, it is not improper, I think, to state that the original bill introduced for this purpose and referred to the Committee on the Irrigation of Arid Lands was introduced at the solicitation of the Reclamation Service of the Interior Department, they believing legislation of this kind to be necessary in the operation of the national irrigation law, in connection with the town-site act passed in April, 1906.

That bill was referred by the Committee on Irrigation, under its custom, to the Interior Department for a report. The Interior Department made a report, and in connection with that report recommended that the bill, in the form in which it is now introduced, should be used as a substitute for the bill originally prepared. This bill was then reintroduced as H. R. 23669, it being at that time the latest recommendation of the department upon this subject.

The committee have made divers amendments to the bill as proposed by the Interior Department. I think I may say they are mostly minor amendments or amendments of comparatively small importance, with the exception of one, which has the effect of turning over to the municipality the administration of such municipal improvements as may be made under the provisions of this bill if it becomes a law, at an earlier date than the original bill contemplated.

I will make a brief explanation of the necessity for this legislation. The original reclamation act passed in June, 1902, made no provision whatever for the building of towns or the setting aside of town sites under national reclamation projects. The department began very soon to recommend that there should be supplemental legislation that would make it possible to set aside certain portions of the Government lands under each national project for town-site purposes. Of course, the original provisions of the reclamation act simply provided for the reclamation of arid lands, and wherever the Government had lands under these projects they were free to homesteaders.

Homesteaders could go there, and under the general homestead act could select homesteads. The Government proceeded to build the reclamation project, and ultimately the homesteader and private landowners, if there were any under these reclamation projects, could each pay his proportionate share of the cost of the construction, completion, and maintenance of these national irrigation works, and could make such payments in 10 annual installments without interest. The act of April 16, 1906, provided that authority should be vested in the Secretary of the Interior, in his discretion, to set aside certain particular portions of any reclamation project for town-site purposes, that he might provide a water supply for the town where it could be done, but it gave him no authority for any other provision toward municipal improvements. The bill now before the committee provides, in substance, that one-half of the proceeds of the sales of town lots under these reclamation town sites, reserved under authority of law by the Secretary, can be used, as to each particular project, for the purpose of necessary municipal improvement, like the bringing of water supply and public utilities generally, the improvement of streets, and also for the construction of schoolhouses, for the benefit of public schools, and that after a certain period when the municipality becomes organized, the charge of these public works shall be turned over by the Interior Department to the municipal corporation for its future management.

Mr. ANDERSON of Minnesota. I should like to ask the gentleman if Government funds should be applied to these municipal enterprises?

Mr. MARTIN of South Dakota. No; and this bill does not provide for that. The proceeds of the sale of town lots do not become Government funds in any sense. Those proceeds simply pass into the general reclamation fund and are therefore a part of the fund which belongs to the trusteeship, direction, and administration of the Interior Department for the benefit of these settlers themselves.

Now, I think it will be seen at a glance that it was open to the department to adopt one of two courses in relation to the disposal of these town sites. The law provided that the lots and blocks should be appraised, and that they might be sold by the Secretary of the Interior to purchasers at not less than the appraised value. Of course, one course might have been adopted by the Reclamation Service, to wit, the selling out of the entire town site at once at the appraised value, it being taken for granted that there were purchasers who would take it. Another policy open to them was, instead of disposing of the entire town site at once, the reservation usually consisting of one section, or 640 acres, to sell but a small portion of the lots in the initial sale, and then sell other portions of the town site only as rapidly as required for actual development and improvement for the occupancy of buildings for business and living purposes. Now, wisely or otherwise, the department has adopted the latter method. I will give you a concrete illustration to make it easier to understand how the present system works.

I will take the town site of Newell, in the Bellefourche project, named after the distinguished chief or director of this service—the town site of Newell. The Secretary of the Interior set apart 640 acres of land practically in the center of that great national irrigation project, a project embracing some 100,000 acres. There are three other town sites within the project, but not Government town sites. One is the city of Bellefouche, right at the intake dam, an old town that has been there for a number of years. Another is the town of Fruitdale, and another is Nisland, all on the railroad running through this project, terminating at Newell.

These are private town sites—that is to say, they are built on property owned by private individuals or private corporations. The town site of Newell was selected in the center of the project with the idea that it was an advantageous site to render municipal conveniences to the people interested and living upon the project. While 640 acres was set aside as the town site of Newell, the Interior Department proceeded to appraise only certain specific blocks and lots embracing about 2 per cent of the 640 acres. Later the people crowded in so rapidly that the Secretary of the Interior found it necessary to set aside other blocks for sale immediately, and they were appraised and sold. Up to date there have been two sales of town lots, aggregating not to exceed 4 per cent, or about 20 acres, there being 640 acres in the entire town site, and that percentage of 20 acres is practically all occupied by business buildings and by residences.

Now, I think it will be seen at a glance that the policy adopted by the Interior Department of selling but a small portion of the town in the initial sale, reserving the rest to get the benefit of the appreciation or higher value from time to time, is, of course, very beneficial to the reclamation project in its financial aspect, because it gives the enhanced value of the future sales of lots adjoining to the reclamation fund, but it is a policy that has operated very seriously to the disadvantage of persons who have business and town lots, because it limits them to so small an area for taxation for municipal improvement.

I may say that the department at the very beginning of this matter saw that it would be unjust to take out an entire section of land a mile square—640 acres for town purposes—and sell a small acreage—15 or 20 acres—in the center of it without in some way permitting some portion of the proceeds of these lots to be used for municipal improvement. We all know that all new towns struggling with necessities of municipal improvements, public utilities, in the early history of the towns find it necessary, either by bonding or high taxation, to tax not only the business property of the town, but all property within the corporate limits, and it is rare indeed that the corporate area of towns is less than a mile square.

Take the other towns in the same project on private lands. They are able to proceed and issue bonds, which they do, on the entire real estate of the municipality, and they are able to build schoolhouses, build a city hall if they need it, improve the streets, and put in a water system and other public utilities. The department saw the necessity of these things, and perhaps without authority, certainly without strict authority, anticipated in the administration of the law already passed future action of Congress to relieve this situation. And while still holding to the concrete case of Newell, I will read from official literature, got out under the direction of the Reclamation Service and publicly distributed by the railroad company, an invitation to attract people to the town of Newell, to become purchasers at high prices of town lots. The literature contained this statement:

The Government will conduct the sale of lots, and with the proceeds streets will be laid out, a sewage system constructed, and every possible measure taken to improve and beautify the city.

Now, it goes without argument that people who came to that sale from various States of the Union, as they did, with the Reclamation Service of the Government behind a statement of that kind, would bid much more liberally, much higher prices,

for lots under the assurance that the proceeds were to be used for the construction of these municipal utilities. And yet, unless a very liberal interpretation be given to the authority of the Secretary of the Interior under the act directing him to withdraw town sites, there was probably no authority for a statement of that kind.

Mr. MANN. Will the gentleman from South Dakota yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. MANN. I understand that that was a statement made in reference to the sale of town lots in Newell?

Mr. MARTIN of South Dakota. In Newell.

Mr. MANN. With that statement in the hands of the intending purchaser, how much did the lots sell for?

Mr. MARTIN of South Dakota. Less than 4 per cent—it would be in the neighborhood of 20 acres—brought over $41,000, or over $2,000 an acre, including the residence and business property.

I know personally of people who came from Indiana—a man sold out his business, his attention attracted to this great irrigation project with its potential future, with this announcement in his hand, became a purchaser and got a business lot, for which he paid two or three thousand dollars, and has constructed a good, permanent building on it. He invested his entire estate—$15,000—and is there to-day relying upon these representations.

Now, I think the course the department has taken, barring the mere question as to whether that assurance is not in excess of strict legal authority under the act of 1906—I say, barring that query, I think the course that the department has taken a wise course from the standpoint of getting ultimately a large sum into the reclamation fund from the value of the town sites, because it gives to this fund the increased appreciation of value that always comes from a growing town.

Mr. MANN. Will the gentleman from South Dakota yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. MANN. How much of the $41,000 has been used for municipal improvements?

Mr. MARTIN of South Dakota. None whatever.

Mr. MANN. That feature of it has not been carried out.

Mr. MARTIN of South Dakota. It has not been carried out. The department very early concluded they required further legislation in order to be able to carry out this policy.

Mr. MANN. Did they conclude that after they had issued the regulation?

Mr. MARTIN of South Dakota. After they had issued the regulation.

Mr. MANN. And sold the land?

Mr. MARTIN of South Dakota. Yes.

Mr. MANN. If it were a private concern it would be hauled up by the Post Office Department for conducting a fraudulent enterprise.

Mr. MARTIN of South Dakota. Mr. Chairman, I may say—and the gentleman from Illinois will see how forcible is the object lesson in South Dakota—that we have now one of the prominent citizens of South Dakota under judgment and sentenced to a term of years in the penitentiary, under prosecution of the Department of Justice, upon the charge of selling lots in an addition to the town site of Pierre, the capital, under literature which showed a trolley line extending out over his property, when in fact a trolley line was never constructed. If this sort of a proposition could inadvertently be announced and carried through, it would be a fraud upon those people that the Government would be certainly under moral obligations to correct.

Mr. MANN. Mr. Chairman, will the gentleman again yield?

Mr. MARTIN of South Dakota. Yes.

Mr. MANN. The gentleman read, as I understood, from a circular issued by the railroad company, purporting to give a regulation of the department. Was such a regulation in fact promulgated by the department?

Mr. MARTIN of South Dakota. The gentleman is—and very properly so, if it is desired—asking that we go into this piece of past history further than it was my purpose, but no further than it is proper to go into it, and I will give the gentleman the entire facts about that. Naturally it has attracted my attention, and I have endeavored to get at all of the facts. The gentleman from Illinois is, I think, under a misapprehension as to how this has been issued and circulated.

Mr. MANN. Mr. Chairman, I have no knowledge about it except what the gentleman himself gave us.

Mr. MARTIN of South Dakota. I think the gentleman from Illinois misunderstood me.

Mr. MANN. That may be.

Mr. MARTIN of South Dakota. On this circular, on the outside of it, there is the following:

Bellefourche Irrigation Project of South Dakota. Information compiled by the United States Reclamation Service, October 1, 1909.

It all bears the stamp of the Reclamation Service, and nothing else. As a matter of fact, I understand this was the manner in which it was published. A field representative of the Reclamation Service prepared the document. One or more railroad companies paid the expense of its circulation. The department here has not been satisfied with the part and responsibility that is naturally thrown upon the service for that sort of a transaction, but the facts are that it was prepared by a field agent of the Reclamation Service, and either at the time or very shortly thereafter, with the knowledge of the heads of the service, was circulated without anything on it at all to indicate that it was circulated by anyone other than the Reclamation Service; and I may say, as a matter of fact, hundreds of them were circulated by the service itself.

Mr. MANN. What I was seeking to ascertain was whether the Reclamation Service itself had ever issued any such regulation.

Mr. MARTIN of South Dakota. The Reclamation Service itself——

Mr. MANN. I am not speaking about some officer who does something without authority.

Mr. MARTIN of South Dakota. Oh, it was not without authority. I do not contend, nor do I concede, that it was without authority. It was done in the course of advertising of the Reclamation Service. There is no doubt about that.

Mr. MANN. Did the Reclamation Service in Washington authorize a promise to be made that a portion of this fund should be used for local improvements? That is what I am trying to get at, as a matter of good faith upon the part of the Government.

Mr. MARTIN of South Dakota. The gentleman can draw his own conclusion.

Mr. MANN. It is not a matter of conclusion. It is a question of fact.

Mr. MARTIN of South Dakota. It is a question of fact to be deduced from all of the evidence in the case.

Mr. MANN. Not at all. A field officer in the Reclamation Service is not authorized to prepare or issue literature without authority from headquarters. Did the officer have such authority?

Mr. MARTIN of South Dakota. I will give the gentleman my best judgment about that. I have no doubt, I will say to the gentleman from Illinois and to the committee, that this information was prepared with the full knowledge and at least the implied authority of the Reclamation Service in its proper head and authorization. Whether the office in Washington actually saw this literature and all details of it before it was published, I am not at this moment able to state, but that they had cognizance that such literature was being prepared and that it was permitted to be prepared by a person in their employ whom they considered capable of preparing it I have no doubt, and that, if not before, very soon after, its circulation began. I have not the slightest doubt but that copies of it were very familiar to the department in Washington as well as elsewhere.

The only information upon this decument as to under what authority it was issued, aside from what I read on the first page, appears on the last page of the pamphlet, the cover, and is as follows:

Further information may be obtained by addressing any of the following:
Project engineer, United States Reclamation Service, Bellefourche, S. Dak.
The statistician, United States Reclamation Service, Washington, D. C.
Information bureau, United States Reclamation Service, 777 Federal Building (post office), Chicago, Ill.

I think it is perfectly evident that the information was circulated with the knowledge of the department, and certainly under implied and probably actual authority.

Mr. MANN. What I was seeking to ascertain was whether the Reclamation Service itself supposed it had the authority to divert a portion of the purchase price of these lots for municipal improvements at the time this town site was sold?

Mr. MARTIN of South Dakota. My opinion is that the service probably considered they had authority to do so at the time this literature was gotten out.

Mr. MANN. I take it the Reclamation Service knows whether it thought it had authority. The gentleman has been in touch with this service and certainly must know whether the chief supposed under existing law he had authority to make such a promise and to keep it.

Mr. MARTIN of South Dakota. I first had my attention called to this matter after the sales had taken place. At that time and before I had any counsel with the heads of the department here about it the department had reached the conclusion that they did not have the authority. My opinion is that when this was issued they probably thought the act of 1906 was general enough to give that authority. After these

sales had been concluded, whatever their mind had been before, they at once took steps to try to get direct authorization of Congress. Senator BORAH introduced a bill in the Senate to that effect at the request of the department a number of years ago, and I introduced a bill within the last three years on the same general subject.

Mr. HAMILTON of Michigan. The gentleman has very complete information on this subject, and I would like to inquire of him if he knows of any other town sites that have been advertised in this way by the Reclamation Service.

Mr. MARTIN of South Dakota. I am not able to state. There will be other gentlemen from Western States in which these town sites are situated who will be heard upon this bill, and they can state. I have not inquired.

Mr. HAMILTON of Michigan. You have no knowledge of it?

Mr. MARTIN of South Dakota. Except as to this specific one, and I think I ought in fairness to say that so far as the head of this service is concerned, I know that at the time I first called attention to the matter in the office here in Washington he not only very much regretted that that statement had been made under the circumstances, but was disposed to criticize it. I am really not in position to state what actual knowledge he had at the time of the circulation of the literature. That the department had knowledge that the literature was published and that they intrusted one of the employees of the department to prepare it I have no doubt. Now I yield to the gentleman from Texas [Mr. SMITH], the chairman of the committee.

Mr. SMITH of Texas. The gentleman will remember that the head of the Reclamation Service was before the committee on this very question, and I do not believe the gentleman can state to this House that Mr. Newell, the chief of that service, ever admitted that he was responsible for that circular or that he ever believed that he had authority to construct municipal improvements upon any of these town sites.

Mr. HAMILTON of Michigan. Did the Chief of the Reclamation Service testify whether circulars had been issued as to other town sites in this same way?

Mr. SMITH of Texas. I want the gentleman from South Dakota [Mr. MARTIN] to first answer the question I put to him.

Mr. MARTIN of South Dakota. I do not think Mr. Newell in his testimony made any statement that would be an admission that he had considered that he had authority to make any such statement. I do not think——

Mr. SMITH of Texas. I do not think Mr. Newell has ever contended that the Reclamation Service had that power, and I do not think he has ever attempted to exercise it. Is not that true?

Mr. MARTIN of South Dakota. The gentleman can see as well as I whether it is an exercise of the power or not.

Mr. SMITH of Texas. Now, there is another question I want to put to the gentleman. As I understand it, the gentleman contends that certain parties have been misled by certain advertisements that have been issued throughout the West, and the gentleman does not state who circulated those advertisements.

Mr. MARTIN of South Dakota. I have stated that this literature was printed and paid for by the railroad and circulated by them and by agents of the Reclamation Service jointly.

Mr. SMITH of Texas. It is immaterial on the question that I am going to put to the gentleman now. Admitting for the sake of argument that some persons may have been misled by these advertisements, does the gentleman think that is any justification for establishing a general policy applying to all reclamation projects now existing or that may be constructed in the future if that policy is unwise?

Mr. MARTIN of South Dakota. I think it is elemental that persons have been deceived by certain announcements that the obligations of the Government would be satisfied in meeting their specific case. On the other hand, I think the policy indicated by this bill, to apply to all reclamation projects, is a wise policy and will operate for the benefit of the reclamation fund probably as well as any other plan that could be devised. Of course, the merits of the bill itself must justify the legislation when it is sought to be applied to a present and future policy for all these town sites.

Now, Mr. Chairman, this is the situation.

Mr. RAKER. Will the gentleman yield right there?

Mr. MARTIN of South Dakota. Certainly.

Mr. RAKER. I see in the report here that this particular town site of Newell has a tract of 640 acres. Will you please inform the committee from what source the Reclamation Service was authorized to select the 640-acre tract?

Mr. MARTIN of South Dakota. The original town-site act of 1906 authorized the selection of 160 acres. I asked my learned friend, the gentleman from Wyoming [Mr. MONDELL], a few moments ago under what authority larger town sites than 160 acres have been selected by the Reclamation Service. He is of the opinion that there was subsequent legislation enlarging the area. If so, I would ask him to give us the citation. I was not familiar with that fact.

Mr. MONDELL. The act of June 27, 1906, Statutes at Large, volume 34——

Mr. RAKER. I have that act here.

Mr. MONDELL (continuing). Provides, in section 4, that after making certain provisions for the town sites of Heyburn and Rupert, whenever in the opinion of the Secretary of the Interior it shall be advisable for the public interest he may withdraw and dispose of town sites in excess of 160 acres under the provisions of the aforesaid act, approved April 16, 1906. There is no limitation, as the gentleman will see.

Mr. MARTIN of South Dakota. Mr. Chairman, I am not sure that I have made it entirely clear, or that I would be able, if I took more time, to make it entirely clear, as to how much of the responsibility of the Reclamation Service for the issuance of this particular prospectus came within the actual knowledge of the actual head of that service until after it was in print, and how much the head of the service is to be charged with simple reliance upon the acts of others in his employ in the service. I think, perhaps, it is right to say that he would probably disclaim any actual knowledge of the precise language in that statement until after it had been, at least, circulated for a period. But so far as the responsibility of the service is concerned, for the literature, I have no doubt.

Mr. ESCH. I notice on the last page of the pamphlet is inserted a map, which appears to be a railroad map, showing the Chicago & North Western Railway system. Would not that be notice to any reader that this pamphlet was gotten out and circulated by this railroad system? Would anyone be deceived as to the source of the information contained in the pamphlet?

Mr. MARTIN of South Dakota. I do not think so at all. This does not bear the stamp of a railroad map. It is a general map of that section of the country. It has no suggestion of an advertisement of the railroad upon it anywhere, either upon its face or upon its back. It sets forth certain railway lines—the Chicago & North Western, the Chicago, Burlington & Quincy, and others—the designations of the tracks of the Chicago & Northern being in heavier and blacker lines than the others. But there is nothing to indicate to me, although perhaps there might be to others, that that was circulated by a railroad company instead of by the Reclamation Service.

And, of course, it is true that these sales were not made by the railroad company. The railroad company had nothing to do with these sales. They were not interested in them. All sales of the town lots were made by the Reclamation Service, and the proceeds have gone into the reclamation fund.

Mr. RAKER. Will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MARTIN of South Dakota. Yes; certainly.

Mr. RAKER. In response to the question that I asked a moment ago, the gentleman from Wyoming [Mr. MONDELL] read that part of section 4 of the act approved June 27, 1906. I find it is specially provided in that act that the Secretary of the Interior is not authorized to withdraw more than 160 acres of land unless it is in the public interest. Now, I understand the gentleman's contention in this matter is that you have 640 acres of land and you can not improve it.

Mr. MARTIN of South Dakota. What is the gentleman's question?

Mr. RAKER. I say, how can you reconcile the fact now that you have 640 acres of land? Your contention now is that you can not improve it, and this reserve was made on 640 acres with the idea evidently that the first 160 acres were to be used as town sites, and more was needed.

Mr. MARTIN of South Dakota. The entire reservation of 640 acres was made at first. There has been no second reservation. A mile square at the beginning was set aside for general town-site purposes. There has been no change in the boundaries set apart for town purposes. There has been no change in the boundaries of the town sites at all.

Mr. RAKER. So that the committee may have the matter fully before it, may I ask the gentleman this question——

Mr. MARTIN of South Dakota. Certainly——

Mr. RAKER. Whether or not any part of this 640 acres was platted into a town?

Mr. MARTIN of South Dakota. I do not think the gentleman was in the Chamber when I discussed that subject.

Mr. RAKER. Yes; I was in.

Mr. MARTIN of South Dakota. I stated that at the beginning somewhere near 10 acres were set out in lots and blocks. Shortly afterwards, that not being sufficient for the actual occupancy of the people for business and residential purposes

another area of about the same amount was set aside immediately adjoining and sold, so that now in the neighborhood of 20 acres out of the 640, it being situated in the geographical center of the entire town site, have been disposed of.

Mr. RAKER. There was not any arrangement made for the laying out of any considerable town there at all, so far as a planning of the various streets and squares and public reserves was concerned, was there?

Mr. MARTIN of South Dakota. I am not able to say whether the streets and public reserves were cut out of the entire 640 acres or not. I can only say that only about 20 acres have been subdivided into lots and disposed of.

Mr. RAKER. I would like to ask just another question, and then I will be through. Have there been many applications for town lots that have been surveyed, and is it a fact that the department has made no effort to lay off the land and offer the lots for sale?

Mr. MARTIN of South Dakota. As to this particular town, I think the department has responded to all requests that have been made for the sale of lots. After the first sale it was evident that the first sale was not sufficient for the actual needs of the town, and there was a great clamor for the sale of more lots, which was met by the second sale, to which I have referred. I do not think that there has been any special demand, so far as I know, for the sale as yet of other lots.

Now, Mr. Chairman, with the indulgence of the committee I would like to consider briefly the merits of the general proposition. I have already stated that if the department had adopted the other plan of selling the entire town sites at once these complications could not have arisen. In what they have conceived to be the interest of the fund, by reason of getting the benefit of increased prices on lots to be sold in the future, they have adopted this particular plan.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MARTIN of South Dakota. Not now. I desire to call the attention of the committee to the necessity of this legislation in order to make it possible to maintain the town sites at all, so far as public improvements and public utilities are concerned. Now I yield to the gentleman.

Mr. SMITH of Texas. I wanted to ask the gentleman if he did not believe it wise policy to pass an act, if necessary, allowing all these town sites to be put on the market and sold to the public rather than inaugurate this policy of constructing municipal improvements in a new town free of charge and turning them over to the people ready-made?

Mr. MARTIN of South Dakota. Well, as a policy adopted at the beginning, I should have no choice between the two, but would perhaps lean to the suggestion of the gentleman, to sell it all at once. But I have no doubt that the policy adopted by the service is the one that will bring the most money to the reclamation fund, and in that way probably prove more beneficial from the public standpoint.

I think gentlemen will see that under the policy adopted the situation of occupants of these Government town sites—taking just simply the concrete example that I have given as a fair illustration of others—is intolerable. They have paid a large price for lots. They put the rest of their money in improvements, and they have absolutely no power of taxation beyond the improved area. And I may say, as a practical proposition, until they get their deeds, which are to be made out when the lots are entirely paid for, the matter of taxation would be even more circumscribed than that, and it would be confined to the taxation of personalty and of an equitable interest to ripen into a title in the future to the lots that they have contracts for the purchase of.

I think that the provisions of the bill would work very equitably as between the public and the particular occupants of town sites. This bill provides that one half of this fund simply can go into these municipal improvements; the other half goes into the reclamation fund, which gives the benefit of it to the settlers all about the town.

There is a community of interest between the settlers, who are cultivating the fields, and the occupants of the towns. Their interests are one. The policy of this bill is to give the settler in his combined capacity one half the proceeds of the lots, and that the other half shall be used for the betterment of the town itself.

Mr. WILLIS. Is it the provision of this bill that the money shall be put into the general municipal funds and distributed and used by the municipalities, or is the Secretary of the Interior to make these improvements and operate the lighting system, schools, and so forth?

Mr. MARTIN of South Dakota. The money goes, in the first instance, into the reclamation town-site fund, which is kept specific and separate from the general reclamation fund. The Secretary of the Interior has authority to proceed to make certain improvements and to operate them until the municipality is incorporated. The bill, as amended, would require the Secretary in not to exceed two years from the date of the incorporation of the town to turn over the whole project from that time on to the municipality itself.

Mr. WILLIS. Is there anything, then, to limit the time during which the Secretary of the Interior may continue to operate these improvements? Is there any time within which this incorporation shall take place? Might not the community, being satisfied with having its lighting system, its schools, and so forth, carried on and paid for by the Interior Department, be unwilling to incorporate? Might they not simply live on and let that condition continue indefinitely?

Mr. MARTIN of South Dakota. I would commend the gentleman to a rather close study of the bill upon this subject. I do not think it could work in that way. If so, it ought to be further amended. As a matter of fact, in the building of town sites in the West one of the first things is to incorporate. It is the habit and custom of the West, as you will find in almost every hamlet, to incorporate and have its town officers. This particular town to which I refer is a concrete illustration. It was incorporated long ago.

Mr. WILLIS. If the gentleman will yield further, I was referring to the second section, in line 24. It says there:

> The buildings and works so constructed may, in the discretion of the Secretary of the Interior, be operated and maintained by him or under his authority, and the expense thereof paid from the reclamation town-site fund, pending the organization of a municipal corporation.

Now, down in the latter part of the section, is the only language that pretends to limit it, that I can find. This provision is found in line 17, page 3, where it says:

> That in no case shall the operation and maintenance of such buildings and works by or under the authority of the Secretary of the Interior be continued for a longer period than two years after the organization of a municipal corporation or school district as aforesaid.

There is nothing to require incorporation. If they should simply continue to live as an unorganized hamlet, these expenses would have to be paid by the Secretary of the Interior indefinitely, it seems to me.

Mr. MARTIN of South Dakota. I think the gentleman has overlooked the fact that the fund will be turned over to the municipality upon the sale of future lots, after the organization of the municipality, just as completely as though the Secretary should manage it.

Mr. WILLIS. That is not the point. In the case which I am supposing there is no municipality. That is the very point I am getting at, that they may continue to live on indefinitely without any municipal organization, without any incorporation, and the Secretary of the Interior, under the provisions of this bill, will be required to keep up their schools and lighting system, sewerage system, and so forth.

Mr. MARTIN of South Dakota. Yes; but the Secretary of the Interior is doing that out of this very fund which he is administering for them; and certainly the community itself would rather manage its own affairs out of its own fund than to allow the Secretary of the Interior indefinitely to manage its affairs out of the same fund. In other words, there is no temptation to the municipality to allow the Secretary to continue indefinitely, or for a longer time than the shortest possible limitation, to administer this fund, when they have the same fund themselves to administer in their own way under the provisions of the act as soon as they get hold of it.

Mr. WILLIS. I have not framed any amendment yet, but it seems to me there ought to be an amendment framed that would specifically limit the period during which the Secretary of the Interior could do this. That would obviate the objection I have been suggesting. Would the gentleman have any objection to such an amendment?

Mr. MARTIN of South Dakota. I would not object, and I may say that so far as my personal views are concerned I would have been as well satisfied with the legislation if it had provided at the very start that one-half the proceeds should be turned over to the municipality for these purposes as soon as the municipality was organized. But the Department of the Interior consider that as they are there first on the ground, laying out irrigation districts, they are in a better position to bring in the water, and that perhaps their force can make streets more cheaply than the municipality could. The Department have considered it important that in the first year or two of the building of these new towns they should have a hand in it. Personally I should be entirely satisfied if the legislation should pass the Congress in a form that would turn the money over to the municipality in the beginning, as soon as it was properly organized to receive it. I think there are no

serious objections to the system as devised in the bill itself. Now I will yield to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, the gentleman has answered the question which I desired to ask him.

Mr. KENT. Will the gentleman allow me to ask him a question?

Mr. MARTIN of South Dakota. Certainly.

Mr. KENT. I should like to ask the gentleman whether this town-site reclamation fund is a specific fund for each town or whether it is general?

Mr. MARTIN of South Dakota. Each town is to have the benefit of its own specific fund under this bill.

Now, this legislation is really necessary. I can see no possible serious objection to it. If the funds involved were Government funds, the Congress might with propriety be very conservative about entering into this sort of a proposition; but the funds are simply those of the people themselves who are most intimately interested. It will tend to cultivate local pride, in the knowledge that each town is to have the benefit of the fund that comes from the sale of its own lots to the extent of one-half of the proceeds. From the standpoint of public policy I can see no serious objection to it.

As to the necessity of the legislation, it is absolutely vital to the maintenance of these towns. Congress must do one of two things—either pass this act or it must direct the distribution to private ownership of all of the surplus lands of the town site, with a provision for doing equity to the town-lot purchasers, who have risked their all in reliance upon the Government town-site representations thus far, or these towns will have to be abandoned, for they can not make the municipal improvements under the conditions that now exist.

Mr. RAKER. Will the gentleman yield?

Mr. MARTIN of South Dakota. I will.

Mr. RAKER. Could that be brought about immediately if the land was all surveyed and put up at public auction?

Mr. MARTIN of South Dakota. So far as the future is concerned, it would, provided it was all sold, but it might not be all sold.

Mr. RAKER. There has been no attempt yet to sell it. My recollection from the hearings is that the department refused to survey or offer the remaining tracts for sale.

Mr. MARTIN of South Dakota. The department is endeavoring to put the property on the market as fast as it is needed for actual improvement, and to leave the element of speculation on the future for the benefit of the cestuis que trust instead of town-site speculators.

Mr. RAKER. Is it not a fact that in this town of Newell the very provision of the statute directing the Secretary to select school lots and courthouse lots and lots for public parks has not been complied with?

Mr. MARTIN of South Dakota. No; I think not. I think they have made reservations for these purposes, but that is simply a site to build a schoolhouse or a city hall upon. It takes money to build city halls and schoolhouses and parks and other municipal improvements.

I want to impress this on the committee, that after purchasing simply 4 per cent of a town site, spending money in the improvement of it, it is absolutely impossible to proceed and build municipal improvements, bring in water supplies to protect against fire, improve the streets, with the Government owning 96 per cent of the town site free from taxation. If we could suspend the sovereignty of the Government in these cases and tax the property which the Government is holding as a trustee for the settlers, the 96 per cent of the town site would be subject to taxation and the situation could be met, but that is impossible.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. BYRNS of Tennessee having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had disagreed to the amendment of the House of Representatives to the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. CLAPP, Mr. MCCUMBER, and Mr. ASHURST as the conferees on the part of the Senate.

TOWN SITES IN CONNECTION WITH RECLAMATION PROJECTS.

The committee resumed its session.

Mr. SMITH of Texas. Mr. Chairman, I very much regret that I have felt the necessity of disagreeing with my brethren on the committee of which I have the honor to be the chairman in regard to the wisdom of the passage of this bill. I am so thoroughly convinced myself, after a thorough examination of the matter and a very careful and earnest consideration of it, that the policy which it proposes to establish is unwise and will result in evil to the people of this country I have felt constrained to come before the House and state my objections to it. When I have done so and when this House thoroughly understands just what is proposed by this measure I am convinced that Members will not vote for its passage.

Now, let us understand just what is proposed: Some years ago after the inauguration of the general reclamation policy by Congress a bill was passed providing that the Secretary of the Interior should have the right to reserve lands within the reclamation project for the purpose of a town site for the convenience of the water users under reclamation projects.

It provided that the reservation so made should be surveyed and divided into lots and parks, that these lots should be appraised and sold by the Secretary of the Interior. It further provided that the parks so reserved might be improved by the authorities of the municipality.

Now, that was as far as Congress thought proper to go at that time in regard to these town matters, and I believe that that was as far as it was wise to go. The proposition here in this measure is that one-half of the proceeds arising from the sale of these town lots shall be covered into a special fund to be known as town-site reclamation fund, and that that fund may be used for the construction, maintenance, operation of schoolhouses, water, light, and sewer systems, and other school and municipal improvements.

The purposes for which this fund may be used as provided in this bill are absolutely unrestricted. It may be used for any public improvement within the town site that the Secretary may choose to make. It fails to provide, Mr. Chairman, that the inhabitants of these town sites shall share any part of the expense for these improvements, but the fund so raised from the sale of these town lots in the Treasury of the United States Government shall be given as gratuities to the municipalities.

I want to call the attention of the gentleman to the further fact that these improvements may be made by the Secretary of the Interior without regard to the population, without regard to the business, and without regard to the wealth of the town, as soon as the lots are sold, as soon as the fund is created by the sale of the lots. Before there is an inhabitant there, before there is any necessity for the town at all, the Secretary of the Interior can go there and construct schoolhouses, and construct waterworks, and construct electric-light systems, and, if necessary, can construct electric railways and build courthouses and everything to make up a ready-made municipal corporation and turn it over to a few inhabitants who may come to the place thereafter.

Mr. MONDELL. Will the gentleman from Texas yield?

Mr. SMITH of Texas. I will.

Mr. MONDELL. The gentleman is aware that all of these splendid improvements to which he refers could not be made unless some one has purchased the town lots?

Mr. SMITH of Texas. That is true.

Mr. MONDELL. And paid for them?

Mr. SMITH of Texas. That is true.

Mr. MONDELL. He can only make such improvements as can be made with one-half of the money that has been paid for the lots?

Mr. SMITH of Texas. That is absolutely true.

Mr. MONDELL. Then does the gentleman think that he could build improvements vastly beyond, or that he would build improvements vastly beyond the needs of the town, when he is limited in his expenditures to 50 per cent of the cash on hand received from the sale of the lots?

Mr. SMITH of Texas. That is true, but the only limitation put upon the power of the Secretary of the Interior is that very limitation, viz, the amount of the funds that he has on hand from the sale of the lots; but he does not have to wait for the building up of the town and for the establishment of business except for the purpose of getting funds.

Mr. MONDELL. Does the gentleman think it would be at all likely that 50 per cent of the cash paid for town lots sold on time, as these are, or on deferred payment—does he think that 50 per cent of the sum so received would build improvements in excess of the necessities of the community?

Mr. SMITH of Texas. It may be that speculators would buy the lots and hold them for the Government to expend the money and enhance the value of the property.

Mr. MONDELL. Does the gentleman think that speculators would buy the lots in order that the Government might spend 50 per cent of the money?

Mr. SMITH of Texas. Mr. Chairman, there is nothing in this bill limiting the power of the Secretary of the Interior in that respect. It seems to me that these town-site propositions ought to be put upon the same footing that other town-site propositions throughout the country are put upon, and that is that they shall not have the power or the ability to provide these municipal improvements until the population, the business, and the wealth of the town justify it.

Section 2 of the bill authorizes the Secretary of the Interior to maintain all the improvements made by him on these town sites until the municipality organizes, and for two years thereafter—all at the expense of the town-site fund.

Mr. CULLOP. Mr. Chairman, will the gentleman yield? I would like to ask the gentleman from Texas a question.

The CHAIRMAN (Mr. HARRISON of Mississippi). Does the gentleman from Texas yield to the gentleman from Indiana?

Mr. SMITH of Texas. I do.

Mr. CULLOP. Under that provision would it not be possible that these could be continued under Federal supervision for an indefinite period of time, and would it not be to the interest of the people living in that locality to have the Government administer it?

Mr. SMITH of Texas. The gentleman is absolutely correct in the suggestion which he makes. There is absolutely no provision in this bill requiring when these towns should be organized. It only provides that the Secretary of the Interior shall not operate these works longer than two years after their organization.

Mr. RAKER. Mr. Chairman, will the gentleman yield right there?

Mr. SMITH of Texas. Yes.

Mr. RAKER. Supposing all the lots were sold, and that one-half of the proceeds had gone into these municipal improvements, and the town be not organized, under this law would not the Government of the United States be compelled to maintain indefinitely the public improvements of this town?

Mr. SMITH of Texas. It would.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. Just one moment. And I want to say, further, that the probabilities are that these towns would never organize for the very reason stated a while ago—that the business and the population and the wealth of the town would never justify their operation.

Mr. MONDELL. Mr. Chairman, will the gentleman yield now?

Mr. SMITH of Texas. Certainly.

Mr. MONDELL. Will the gentleman support the bill if an amendment, offered by himself, to limit, as he sees fit, the time when the Secretary shall maintain these improvements be placed in the bill?

Mr. SMITH of Texas. No; I will not.

Mr. MONDELL. Certainly not; because the gentleman is opposed to the bill.

Mr. SMITH of Texas. I am against the bill not only for that reason, but I am against the policy that you are trying to inaugurate.

Mr. MONDELL. In other words, the gentleman is against the bill even if all of the alleged objections that he makes were met.

Mr. SMITH of Texas. I am against the bill on account of the objections which I have stated and which anybody can see by reading the bill.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. Certainly.

Mr. CULLOP. Mr. Chairman, I desire to call the gentleman's attention to the language at the end of section 2 on page 3:

> That in no case shall the operation and maintenance of such buildings and works by or under the authority of the Secretary of the Interior be continued for a longer period than two years after the organization of a municipal corporation or school district as aforesaid.

Under that language there could be an indefinite delay in the organization of a municipal corporation, could there not?

Mr. SMITH of Texas. Certainly; and I believe there would be, because in many cases the population, wealth, and business of the town would not justify the organization and the taking over of the improvements that might be made.

Mr. CULLOP. Would it not be to the interest of those people personally for them not to organize?

Mr. SMITH of Texas. That is what I am saying.

Mr. CULLOP. It would relieve them from the burden of supporting their local government, which they would otherwise have.

Mr. MARTIN of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. Yes.

Mr. MARTIN of South Dakota. Would it meet the objection of the gentleman from Indiana [Mr. CULLOP] if the words "construction thereof," in line 20, which have been stricken out, were left in the bill, so that it would read:

> For a longer period than two years after the construction thereof, and in no case after the organization of a municipal corporation.

Mr. CULLOP. Mr. Chairman, the objection to that would be that still there is no provision requiring organization. There ought to be, in my judgment, a specified time in which the organization of the corporation should be perfected, and immediately, or at the earliest possible date, divorce the management and control of it from the Federal Government and place it under local government. I do not believe that it is a good policy for the Federal Government at Washington to be administering the affairs of a people 1,000 or 2,000 miles away in their local government. Such a policy is a blow at local self-government.

Mr. MONDELL rose.

Mr. SMITH of Texas. Mr. Chairman, I decline to yield further at this point.

Mr. MONDELL. Will the gentleman yield for one question?

Mr. SMITH of Texas. Not at this time. I want to say further, in connection with what the gentleman from Indiana [Mr. CULLOP] has just stated, that even if there were a limit fixed when these town sites should be organized into a municipal corporation, and the Government should cease to operate them, yet here is a proposition to construct municipal improvements for a town that has not reached the point of organization—a thing that has never before been heard of in this country, I believe; and if a time were fixed when they were to be turned over, it might be at a time when they could not be supported and maintained by the town, because of the fact that the town had not reached that state of development of business, of population, and wealth that would enable it to operate and maintain these public improvements; and in that case, Mr. Chairman, there would be nobody to take charge of and preserve the property and it would result in a loss to the Government and to the public.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. Certainly.

Mr. MONDELL. Will the gentleman support the bill if it is amended so that no expenditures shall be made except in incorporated towns?

Mr. SMITH of Texas. Mr. Chairman, I decline to be interrupted by any question that does not develop the facts of this matter, asking what I would or would not do.

Mr. MONDELL. The gentleman is opposed to the bill.

Mr. SMITH of Texas. I have stated that frankly. I am opposed to the policy of the bill.

Mr. MONDELL. Without regard to the objections he makes, will the gentleman support the bill if a provision is made that no money shall ever be expended except in an incorporated town?

Mr. SMITH of Texas. Mr. Chairman, I decline to be interrupted by the gentleman, who continues to put a question of that sort, that sheds no light on the question we are discussing, as to what I would or would not do if the bill were in a different form.

Mr. Chairman, I am opposed to this sort of legislation upon general grounds. It is a species of favoritism. In the other States, in my State and in your State, outside of these reclamation projects, every new town has to make its own way.

Every new town is built up by the business that is contributory to it, the support that it gets from the country, and it does not undertake to construct and operate these various municipal improvements until the business back of it builds up and develops it to the point where it can itself construct and maintain these public improvements. That is so in my State, and that is so in every other State in this Union, and I see no reason why we should now take up these reclamation town sites and vote money out of the Public Treasury to build them up, construct municipal improvements free of charge to them, in advance of the business and the development of the country that is necessary for their support and maintenance.

Mr. MONDELL. The gentleman wants to be entirely accurate. Of course, he realizes he is not accurate when he refers to taking money out of the Public Treasury for this purpose.

Mr. SMITH of Texas. I am entirely accurate when I say this is a proposition to take money out of the Public Treasury.

Mr. MONDELL. The gentleman says that?

Mr. SMITH of Texas. I say that, and it is a fact. The fact that this may be called a "special reclamation town-site fund," Mr. Chairman, is perfectly consistent with the fact that, nevertheless, it comes from the Public Treasury of the United States.

Mr. MANN. Will the gentleman yield?

Mr. SMITH of Texas. I will.

Mr. MANN. Take the case that was cited by the gentleman from South Dakota [Mr. MARTIN] as to the town of Newell, where 640 acres were set aside for a town site, and 25 acres were sold for over $40,000, under this bill and ascertaining the amount that might be expended for public improvements in that town, what would be the basis—$41,000 for which the property was sold, or the $41,000 plus the estimated value of the remainder of the 640 acres?

Mr. SMITH of Texas. I believe, under this bill, though I am not absolutely sure about that, it would be confined to the actual proceeds arising from the sales.

Mr. HAMILTON of Michigan. The balance of the proceeds could be had as fast as the land was sold?

Mr. MANN. That is under the bill as amended or under the bill as introduced?

Mr. SMITH of Texas. Under the bill as it is before the House. The proceeds of the sale arising from the balance of it could be used under this bill.

Mr. MANN. Under the bill as pending here, the bill has a large number of amendments, and it really is desirable to know just what the situation is——

Mr. SMITH of Texas. As I understand, one of the objections of the Secretary of the Interior to the present bill is that it does not provide for taking into consideration the appraised value of the unsold lots in fixing the amount of money to be put in any particular place.

Mr. MANN. I understood the recommendation of the department was that they must have the authority to take the estimated value of the unsold property.

Mr. SMITH of Texas. That was the recommendation.

Mr. MANN. For the 50 per cent which may be expended on local improvements?

Mr. SMITH of Texas. Yes.

Mr. MANN. That is the bill as it is pending here.

Mr. SMITH of Texas. I do not think so. I think that is one of the objections the department makes to the bill.

Mr. MANN. The department may make an objection to an amendment proposed by the committee. Of course, that amendment has not been agreed to yet.

Mr. SMITH of Texas. Mr. Chairman, I have another objection to the passage of this bill and the policy which it proposes to establish, and that is that it is a departure from the purposes of the reclamation act. The purpose of the reclamation act was to reclaim arid lands for the purpose of agriculture, for making homes for farmers, and I believe that the future success and popularity of that policy depends upon Congress restricting it to the purpose for which it was inaugurated.

Here is a proposition to lay aside the idea of reclamation. It is a proposition to build up towns, to make ready-made and up-to-date towns out of the reclamation funds and turn them over, free of charge, to people who may be fortunate enough to get lots within the town sites. And why? What reason is there for the Reclamation Service to depart from the policy which has been set and go into the business of building up cities in this country? Oh, but they say it is for the benefit of the water users under these reclamation projects. In reply to that I want to say, Mr. Chairman, that towns in this country go behind—they follow. They do not advance ahead of the settlement of the country. Towns are built up from necessity, built up because they are needed by the agricultural and manufacturing industries that surround them, and whenever suitable conditions of development come about in one of these reclamation projects the town will follow as a matter of course, and towns will develop to the extent that the business of the community justifies. But here they propose to get the cart before the horse, to build the town for the community, and let the country build up after the town is built. And I see no reason why the Government of the United States should go into the business of building towns to be turned over ready-made to any class of citizens in this country. That is the reason, I want to say to the gentleman from Wyoming [Mr. MONDELL], why I will not be in favor of this bill after he has inserted in it the amendments which he suggests.

Mr. MARTIN of South Dakota. Will the gentleman yield for a question?

Mr. SMITH of Texas. I will.

Mr. MARTIN of South Dakota. Did I understand that the gentleman is opposed to these town sites entire?

Mr. SMITH of Texas. No, sir. I am in favor of having reservations made for town sites and have them subdivided into lots and sold as necessities may require.

Mr. MARTIN of South Dakota. That is what they claim they are doing.

Mr. SMITH of Texas. I am not in favor of building a ready-made town to turn over to anybody in this country.

Mr. MARTIN of South Dakota. How would the gentleman meet this question of the ability of purchasers of town lots in these Government projects to erect these municipal improvements?

Mr. SMITH of Texas. Whenever the business of the community develops sufficiently it will take care of itself.

Mr. MARTIN of South Dakota. That has to be done by taxes, does it not?

Mr. SMITH of Texas. It has to be done by taxation when they have developed sufficiently to have the amount of taxes to meet their needs.

Mr. MARTIN of South Dakota. They can not wait long for a water supply of a town, can they?

Mr. SMITH of Texas. The gentleman well knows that all over this country there are small towns, county seats in my State and his, that are providing their own water supply.

Mr. MANN. Will the gentleman yield for a question?

Mr. SMITH of Texas. I will.

Mr. MANN. On a matter of water, it would be profitable to the Government. I have had a little experience in laying out city subdivisions, as an attorney and otherwise. I take it that it rarely happens now that a man lays out a subdivision of city lots and offers it for sale without first putting in certain improvements.

Mr. SMITH of Texas. Yes; speculators do that.

Mr. MANN. Yes; speculators do it; certainly. But they sell the lots to people to build houses on them. That is the way cities are built up, whether it is done by speculators or not. A man would not go and lay out a subdivision on the prairie with no street improvements in and no sidewalks in and no anything in and sell it, because he thinks it is more profitable to sell the lots with these improvements in. Now, if that is true with the city speculator, as the gentleman calls him, why is it not equally true with the Government when it is doing the same thing?

Mr. SMITH of Texas. The gentleman well knows that the work of laying out additions and new towns that he speaks of is done by speculators—men who are trying to build up towns to make money out of them. I do not think the Government ought to try to undertake to make money out of these town sites. Let the Government sell them for what they are worth, and let the people build the towns. I do not believe, Mr. Chairman, that the Government of the United States ought to go into the business of town-lot speculation; and if we do, and the day ever comes when the Government of the United States does embark upon a policy of that sort, then you may look for more scandals in the business of this Government than you have ever seen before.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. Yes.

Mr. MANN. The gentleman calls it "speculation." Has it not been the practice and is it not the law, where the Government is opening up reservations in various places, that it can withdraw land for town-site purposes, and does offer that land in the shape of lots?

Mr. SMITH of Texas. I think that is all right. We have done that in regard to reclamation projects.

Mr. MANN. With the expectation that the lots will sell for higher prices than the ordinary land does; and if the Government does that at all, is it not desirable that it do it in the proper way?

Mr. SMITH of Texas. I think not. The Government is doing that to the extent that is proposed here. I do not think that the Government ought to do it. When the Government lays off the lots and sells them, then the agency of the Government ought to cease.

Mr. KOPP. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. SMITH of Texas. Yes.

Mr. KOPP. The gentleman says the lands should be sold for what they are worth.

Mr. SMITH of Texas. The law provides that the Secretary of the Interior shall appraise them.

Mr. KOPP. But in determining their worth, would not the municipal improvements be a very important element?

Mr. SMITH of Texas. They would be appraised before there is any improvement.

Mr. KOPP. They would be sold after the improvements, would they not?

Mr. SMITH of Texas. Some of them may be. Personally I am in favor of the Government selling the whole thing and not trying to speculate at all. I think that that would be better for everybody concerned. I do not believe that if you go

all over this country and examine into the men who speculate in these things you will find as many who have made successes as those who have made failures. Here you propose to clothe one man in the Government—the Secretary of the Interior, who sits up here in his office in the city of Washington, his time occupied by hundreds of other things and operating through agents and subordinates throughout the country—with the authority to go into the town site and town lot speculation business, and there is no necessity for it. There is no object to be obtained by it, so far as I can see, except to build a town and equip it with municipal improvements free of charge, and turn it over to the people who happen to live there.

Mr. RUCKER of Colorado. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. SMITH of Texas. Yes.

Mr. RUCKER of Colorado. Following the line of the questions asked by the gentleman from Illinois [Mr. MANN], and referring also to what the gentleman has said with reference to speculators, is it not true as a matter of fact that this fund does not go to the Government? Directly it does. It is true, but indirectly does it not go to the settlers under these reclamation projects?

Mr. SMITH of Texas. No; it goes into the Public Treasury and may be used for reclamation work. The farmers are required to pay that money back into the Treasury. In one sense it comes out of the reclamation fund and not out of the Treasury of the United States, but practically it comes out of the Treasury.

Mr. RUCKER of Colorado. But it comes from a separate fund used for reclamation. Now, let me ask the gentleman this further question: That being true, the greater the population you have in a town or city the more increased will be the value of the other lots to be sold. Is not that true?

Mr. SMITH of Texas. That is true, and that is the speculative feature of it, Mr. Chairman.

Mr. RUCKER of Colorado. Just one moment more. Is not that speculative feature running to the individual rather than to the Government? The gentleman has said nothing about settlers under these projects. They get the benefit of this fund as fast as the lots are sold. They have to pay just that much less money.

Mr. SMITH of Texas. The amount of improvements under the terms of this bill goes as a free gift to the people of that town. It does not go back to the Treasury of the United States. It is a speculation on the part of the Government, because, according to the contention of the gentleman, this money is expended for these municipal improvements with the expectation and hope that it will increase the value of the unsold lots and it will make the money back. It is nothing more nor less than a town-lot speculation.

Now, the gentleman talks about these towns being handicapped. He says that they can not tax the lots that still remain in the hands of the Government. For that reason I say that the lots ought to be sold. If they are sold it would be more equitable to authorize these municipalities to tax these unsold lots. Then the property owners of the town would be required to bear the proportionate cost and expense of these municipal improvements. The proposition which they make here is far from merely trying to adjust the equitable conditions that exist there. They propose that the Government shall bear the whole expense as a free gift to them. It is not a proposition to equalize and adjust the equity that may exist between the Government and the inhabitants of the town.

Now, Mr. Chairman, there is one other thing. A good deal has been said here about it. There was a little noise in the House at the time, and I do not know that I got it exactly, but, as I understood it, there are some individuals living out in some of these towns who claim to have been misled by certain advertisements into believing that the Reclamation Service had the right to construct under the law, and would construct, municipal improvements and build up these towns, and upon the faith of those advertisements they have been induced to invest their money, and have been disappointed.

Now, Mr. Chairman, it does not clearly appear that any officer of the Government was responsible for sending out these advertisements. It seems that they got out through some railroad company, and nobody knows where they came from. Certainly it can not be contended here that on account of somebody being misled by the representations of some irresponsible person the Government should respond in damages even to the parties who claim to have been misled and injured, to say nothing of the proposition that such facts would justify the establishment of a great national policy, not only for the present, but for all time to come, of building up towns to be turned over to these people.

But for the sake of the argument, let us say that the Reclamation Service, or some officer of the Government, misapprehending the powers and the authority conferred by the law, did issue this misleading advertisement. Can gentlemen come in here and say that this general policy shall be established because some person here or there was injured by it? Men who deal with the officers of the Government know that they have no power to bind the Government except as authorized by law. Is it the proposition here before the House to-day to establish a great policy for all time to come in order to compensate a few persons in the West who claim to have been injured by this misleading advertisement? If the gentleman can bring up a case here where he can show that the Government is responsible for the injury of any citizen, I will go as far as any man in this House to see that he is compensated and made whole for the damage that he has sustained. But, Mr. Chairman, I do not propose to establish an unwise policy here to-day because some of the gentleman's constituents may have been misled by some officer of the Government or by some irresponsible party whom he can not locate.

Mr. Chairman, there is one other thing to which I call the attention of the gentleman, and that is that while the Interior Department favors some legislation along this line, the Interior Department is now opposed to the passage of this particular bill. The Secretary of the Interior has addressed to me, as chairman of the committee, the following letter:

DEPARTMENT OF THE INTERIOR,
Washington, July 13, 1912.

Hon. W. R. SMITH,
Chairman Committee on Irrigation of Arid Lands, House of Representatives.

SIR: With reference to House bill 23669, "providing for the disposition of town sites in connection with reclamation projects, and for other purposes," as reported by your committee June 12:

Your report suggests certain amendments to the measure as originally drafted in the department and introduced by Mr. MARTIN of South Dakota. Most of these call for no comment from me at this time, but I deem it proper to express to you the views of the department upon the following points:

In its original form the purpose of the bill was to enable the Secretary to anticipate receipts from the sale of town lots and use a portion of past receipts and of estimated future receipts in municipal and school improvements essential to the well-being and prosperity of the town, but unobtainable in the first years of settlement, because but a small part of the lots are then sold into private ownership and subject to taxation. It was believed that such a policy was necessary to give substantial justice to the inhabitants, and would in the end not deplete the reclamation fund, because of the probability that the price received for the lots would be enhanced by such a policy. In order to safeguard the Government against loss through improvident expenditure there were two limitations put upon the amount to be expended in any town. In the first place, the proposed reclamation town-site fund, out of which such improvements must be paid for, was limited to one-half the proceeds heretofore and hereafter received from the sale of town lots in all towns, so that not only could no money be spent before it had actually been received from the sale of lots, but, moreover, only 50 per cent of such total past receipts could be expended in all towns taken together for this purpose. In the second place, the expenditure in any particular town was further limited to 50 per cent of past receipts from the sale of lots in that town plus 50 per cent of the appraised value of unsold lots. In this connection, attention is called to the fact that it is the practice of the department to appraise the lots from time to time in comparatively small quantities, and in anticipation of the prompt sale of the small portion so appraised.

I understand the effect of the amendment appearing in italics, in lines 10 and 11, of the second page of the bill as printed June 12, to be that there shall be no anticipation of receipts in any town, but that expenditures for the proposed improvements shall be limited to 50 per cent of the cash theretofore actually received from the sale of lots in that particular town. In my judgment, this would defeat the purpose of the bill so far as justice to settlers in towns hereafter created is concerned.

Your committee's proposed substitute for section 4 introduces a new principle in the bill, to wit, that the moneys which under the department's bill were to be paid into the reclamation town-site fund and expended therefrom by the Secretary of the Interior for municipal and school improvements (50 per cent of receipts from lots in all towns as sold) shall, in all towns having a municipal and school organization, be paid over directly to such organization for general municipal and school purposes without the restriction to "improvements" in the nature of permanent works, as contemplated by the original bill. It is thus proposed that the authorities of each town and school district shall have as general town and school revenue 50 per cent of the proceeds of lots sold in each town, respectively. This is a radical departure from the bill proposed by the department. It might be used by the municipal and school authorities to relieve the town of all taxation whatever. There is no means of assuring its wise expenditure in such a way as would enhance the value of the lots and thus increase the reclamation fund. This was an essential part of the bill as originally drawn, and the substitution for it of an unconditioned gratuity to the inhabitants of the towns seems to me unwise.

Respectfully,

WALTER L. FISHER, *Secretary.*

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. SMITH of Texas. I do.

Mr. MARTIN of South Dakota. The pith of the objection of the department at present appears to be that we have not given power enough to the department in the bill even as amended, while the objection of the gentleman from Texas seems to be that he does not want any authority given to the department.

Mr. SMITH of Texas. I do not agree with the Secretary of the Interior, except that I desire the defeat of this bill which is

now before the House. I do not believe in the policy of building up towns by the Government.

Mr. MANN. What is the date of that letter?

Mr. SMITH of Texas. July 13, 1912.

I reserve the balance of my time.

Mr. MONDELL. Mr. Chairman, in the discussion of a matter of this sort, in fact in the discussion of any matter, it is a very excellent thing first to learn what the facts are. A wise man has said it is better not to know so much than to know a great deal that is not so. Now, I venture the assertion that with the possible exception of the gentleman from Texas, who has just taken his seat, there is not a Member of this House who will not support this bill, possibly with some slight amendments, if he understands the facts. And I venture the belief that the gentleman from Texas [Mr. SMITH] himself would support the measure if he fully understood the facts and the proposition before the House.

Now what are the facts? In carrying out the reclamation law the reclamation officials in some localities took in vast areas of uninhabited and unsettled land—areas 20, 30, and 40 miles in length and 5 and 10 miles in width—without a settler upon them, all public lands. In some cases there were some privately owned lands, but in many cases there were no privately owned lands. It became essential to the carrying out of these enterprises in a proper way that there should be towns established. Where there was a town upon or adjacent to one of these areas no reclamation town site would be established, but where there were not enough towns, or towns so located as to furnish the people with the needed facilities afforded by a town, it became necessary to establish towns, and Congress provided that the service might reserve from settlement under the homestead law certain areas, plat them, sell the lots, and that the funds from the sale should go into the reclamation fund to the credit of the project. The gentleman from Texas [Mr. SMITH] talked about gratuities. The Secretary of the Interior talked about gratuities. It is a very good idea in discussing matters of this sort not to use loose and misleading language. This town-site fund is now a gratuity in the sense in which they refer to it. It is a gratuity to the people of the locality. If the project cost, say, $1,000,000 and a town site on the project will bring ultimately, say, $100,000, then the cost of the project to the people on the project is not $1,000,000, but $900,000. This is a proposition to divide the benefits between the farmers on the project and the people in the town. That is all there is to it.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. MARTIN of South Dakota. I think it would be well to emphasize the fact that if the site on which it was built was free land it would be open to any homesteader to go there without any remuneration to the Government.

Mr. MONDELL. I was coming to that. Now, as to the necessity of the town sites. The Reclamation Service is not, I think, chargeable with having established town sites where there were towns already established that would adequately and fully serve the people. There have been some localities in my State where people of established towns have been inclined to criticize the service for establishing town sites quite near them.

Mr. RAKER. Will the gentleman from Wyoming yield?

Mr. MONDELL. Not just there, but I will a little later. You must remember that we are providing for intense cultivation on the reclamation projects. We are providing small farms, and in order to have small farms with intense cultivation successful the towns must be placed at reasonable and frequent intervals. The town of Powell is the only reclamation town site in my State. The farms about it are 40-acre farms. The farms beyond are 80 acres, and the farms still farther out 160-acre farms. In establishing these town sites the Government possibly entered upon an operation that gentlemen may claim is somewhat paternalistic and socialistic, but it was necessary. Why? Because the towns were needed, because there was no land upon which private individuals could establish a town. Towns can not be legally established upon a homestead. To establish a town on the land taken by a homesteader would jeopardize the man's entry. But even though a homesteader could go to one of these projects and subdivide his entry into town lots and build up a town, it is not for the interest of the community generally that we encourage that rather than a town established where needed and necessary, the lots sold by the Government for the benefit of the people.

Now, the gentleman from Texas [Mr. SMITH] says that if it is necessary for the Government to do this—and I want to call attention to the fact that the gentleman is opposed to the bill without any regard to what its particular provisions are, that no amendment that anyone could offer to the bill would convince him that it had any virtue—he objects to it in toto, and attempts to prejudice others who may be favorable to the general plan by pointing out alleged faults in the bill. He says if the Government must establish the town sites all of the lots should be sold at once. That is simply to invite speculation. To open one of these town sites out on the open prairie with all the lots to be sold without limit of price would mean that none of the lots would bring any considerable sum. The Government would probably receive very much less for the entire town site under that sort of plan than it receives now for a very small portion of the town site.

The gentleman from Texas, who talks about gratuities to the people in the towns and opposing this, proposes a plan under which the Government would throw to the wind all of the values of these town sites, sell so much at once that no lot in a town site would bring any considerable sum, and the town site as a whole would be sold for a song, and then he declines to give the people of the town the benefit of the song.

Now, the plan adopted by the department is to sell a comparatively small area in the center of a town site, and then, as the necessities of the people increase and the incoming population requires, to open other lots and blocks for sale from time to time. Under this plan the people themselves receive the benefit of the increase of value. The gentleman from Texas defends the old-time plan of giving the speculators the opportunity to speculate in the values created by the industry of others. He does not believe in giving to the people who create the values any part of them. He would divide them among a lot of speculators who might come in and bid these lots in for a song, whereas the plan of the service is, and the plan of the law is, to sell the lots as there is a real demand for them, and to give to the people who created the values the benefit of those values. All we now propose to do is to recognize that the people in the towns are among those who created these values, and that they are entitled to a part of the value which they thus create.

If this were a private town site, this is what would happen: If in the center of one of these projects there chanced to be a tract of land owned by a private individual which he had a right to subdivide, such private individual would to a certainty somewhat improve the property. No one ever heard of a private individual going out and planting a new town without making some improvement upon it. That is true not only of new towns, but true of new subdivisions. The owner oftentimes, at great expense, builds streets, sidewalks, plants trees, oftentimes builds schoolhouses, and in many ways helps the municipality. But the gentleman from Texas insists that the Government shall not do this, and the gentleman from Indiana joins with the gentleman from Texas in his grab scheme for speculators. He insists that the Government shall refuse to do the things that an enlightened land shark would do; he does not want the Government to spend a penny in roads, sidewalks, or municipal improvements of any sort, but would call upon the people to go there and pay considerable sums for these lots and make all of the improvements, when they have no means of raising any considerable sum by taxation.

Let us take the town site of Newell. The town site of Newell contains a section of land. Twenty-four acres of that town site sold at the rate of $2,000 an acre. Let us see what would occur if that section belonged to a private individual. After these first lots were sold and the community was in a position to assess the property, no one will suggest that the outlying lots would be assessed at less than one-tenth of what the lots already sold brought. If in the case of Newell the remainder of the town site were private property and were assessed at one-tenth the amount per acre that the lots sold brought, and the tax levy were 2½ per cent, which is a low levy for a new town, where we have everything to build, the annual payment by the owner in taxes would be about $3,500 a year. Whereas the Government pays absolutely nothing, and there is no source of income whatever except from the taxation of personal property and the few lots that were sold.

The gentleman from Texas is very adroit. He first argues against the bill on the ground that it does not sufficiently limit the time within which the Secretary of the Interior must turn over the improvements to the municipality, and then he quotes approvingly a letter from the Secretary of the Interior, who protests that the bill limits the time too much. Now, there is no possibility of convincing a gentleman who assumes that attitude. He is against the legislation. He has no disposition to be fair with regard to it. The suggestion that there is a possibility that the Secretary of the Interior may be called upon for an unlimited length of time to administer the affairs of these towns because the people fail to organize has no merit whatever.

In the first place, the towns now created have municipal organizations, and the bill could be amended so that not a penny should be expended unless the town is organized, and it would fit every town site, so far as I am informed. Further than that, the people are interested in spending this money themselves, and they would be anxious—would be overanxious, possibly, some might say—that the time should come when they be given the opportunity of expending the money themselves rather than have it expended by the Secretary of the Interior.

Mr. Chairman, to sum up, certain reclamation town sites are established. They are necessary. In some localities the people were led, when they bought the lots, to believe that a part of the proceeds at least should be used for the improvement of the town, and I think the Reclamation Service had very good reasons to believe that would be done, because at the time there was pending in the House a bill proposing to do that very thing, which, however, was not reported. The proceeds from these town sites now go ultimately to the benefit of the men who create these values, to wit, the men on the adjacent farms. It is proposed to divide that benefit with the people who also create the values—the men in the towns. It does not take a penny out of the Treasury of the United States, directly or indirectly, and any statement to the contrary is not in accordance with the facts. The Government of the United States will have just as much money after this bill passes as it had before, and in the running of the years, under the operation of the bill, the United States will never lose a penny.

Mr. RUCKER of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. RUCKER of Colorado. And does it not immediately redound to the benefit of these settlers under the reclamation project?

Mr. MONDELL. Certainly; for if the town is improved the remaining lots will sell for more.

The gentleman from Texas [Mr. SMITH] would have us believe, I imagine, that the Government goes out there and sells town lots at from $500 to $1,500 each and chucks the money into the Treasury. There have been a great many extraordinary things proposed here at one time and another affecting the West, but no one except the gentleman from Texas has ever suggested anything like that. That is not the present situation at all. Under the present law we provide for town sites on the reclamation projects, sell the lots and turn the money over to the settlers. That is the law, and all this bill proposes is that the people in the town shall have a part of the benefit; and their right to it, I have suggested, is based on most excellent grounds. First, they help create the values. If the town sites were privately owned, the lands not sold would be taxed. The tax in the running of the years would amount to more than the 50 per cent of the ultimate sales which we provide.

Mr. RUCKER of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. In just a moment. Furthermore, any enlightened town site speculator would, before he laid the town out or when he laid it out, build roads, sidewalks, plant trees, and possibly build schoolhouses and do something for the people. The Government does nothing—turns them loose on a piece of raw land and, while it retains its own ownership in nine-tenths of the area until it has advanced in value, expects them to make brick without straw; create values without any taxable basis. How any man upon either side of the aisle can oppose a proposition as fair as this I can not understand, unless he is so wedded to the idea that the Government ought to allow speculators to exploit the people in the sale of town lots that he does not want the Government to establish these town sites and give the increment arising from them to the people who create the value. I now yield to the gentleman.

Mr. RAKER. Mr. Chairman, where does the gentleman get the idea that this money received from the sale of town lots goes into the fund of the project?

Mr. MONDELL. It does.

Mr. RAKER. The statute provides to the contrary.

Mr. MONDELL. If the gentleman will go to the Reclamation Bureau, he will find that the funds in each one of these town sites is credited to the project.

Mr. RAKER. I am calling the gentleman's attention to the statute.

Mr. MONDELL. The statute bears that interpretation and is so construed. Any proceed from the use of the project which the settlers buy and pay for goes to them as a credit. The settlers buy the project. They pay for it. They are entitled to everything that it contains. Ultimately it does not cost the Government a cent. Would the gentleman—and I am sure he would not—say that the settlers paying for a project should have the Government come within the project and establish a town site, resort to practices that no land shark would be justified in, and turn into the Treasury the money so received? That is what turning it into the reclamation fund generally, without crediting it to the project, would amount to. The thought has been, and the law so provides, that we shall give the people living in the vicinity of these town sites the benefits of the values they create, and all we propose to do is to give half of it to the men who live in the town and half of it to the men who live in the country. Can any gentleman anywhere find it in his heart to oppose that kind of a bill? There may be objections to the details of the bill.

The Secretary says that we do not give him control over this fund for a long enough period. Another gentleman says that we give him the control over the funds for too long a time. The committee attempted to compromise those two views, and so provided that the Secretary in the case of funds now accrued should have the full disposition of them and that in any event within two years after the organization of the municipality he must turn the improvements over; but as to the future receipts, which will come in from time to time from sales, if the town is organized, the funds shall go to the municipal corporation and school district. The Secretary objects to that. He says if you pay over to the municipal organization 50 per cent of the proceeds of the sales of lots from time to time, that the municipality will not sufficiently tax itself; that because the municipality gets a few dollars from the Government it will cease to tax itself. In order to compel the community to tax itself—and I do not know how that will be accomplished—the Secretary insists he must expend that money for their benefit, instead of their spending it themselves. As far as I am personally concerned, any amendment extending the time during which the Secretary shall control, or shortening it, is satisfactory, because I think in any event the matter is going to be properly handled. No funds can be expended except 50 per cent of the funds derived from the sale of the town lots. The Secretary under the bill is to expend those funds already received. In the future, if there is a municipality and school district, they are to expend it.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. MADDEN. Are these lots when sold, after they go into private ownership, taxable?

Mr. MONDELL. Oh, yes.

Mr. MADDEN. I understood the gentleman to say a few moments ago there was no possibility of collecting taxes on the lots in the town sites.

Mr. MONDELL. No possibility of collecting taxes from lots not sold. Now, in the city of Newell, 20 acres have been sold out of 640 acres. You can not raise a great deal off of 20 acres of real estate to improve a raw town on the prairie. In the town of Powell, in my State, I think about 10 acres have been sold out of 160. I am not complaining of the policy, as the gentleman from Texas [Mr. SMITH] does, of retaining the lots until they bring a fair price. I am of the opinion the service has not sold lots as rapidly as perhaps it should have done, but the general policy is correct. There are many advantages. In the first place, it keeps the town centered and does not allow it to scatter all over creation. Therefore it makes municipal improvements cheaper. Second, if this bill, under which the people of the community get the benefit of the sale of lots, becomes a law it is better to retain the lots until they bring a fair price, so that the people who have created the values may receive the values.

Mr. MADDEN. I understood the gentleman to say in his argument a few moments ago that there were no taxes collectible from any lots within the town sites, and therefore it was necessary to take 50 per cent received from the sale of lots for schools and other municipal improvements.

Mr. MONDELL. The gentleman could not have been following me closely. I wish to say again that the Government sells these lots slowly—a few at a time. The result is that there is a very small part of the town site taxable. The gentleman could not have been here a few moments ago——

Mr. MADDEN. Yes; I have been here right along.

Mr. MONDELL. The gentleman, then, did not hear my illustration of the town site of Newell. If the town site of Newell, in which a few acres sold for $40,000, had been a private town site, and the remaining land had been assessed at one-tenth of what the lands sold brought, and the rate of taxation had been 2½ per cent, the town would be receiving about $3,500 per annum from taxes from a source from which it now receives nothing.

Mr. MADDEN. Does the gentleman mean that the rate of taxation would equal one-tenth of the total value of the lots

or that the assessed valuation should be based on the valuation of the lots sold?

Mr. MONDELL. The lots sold for $2,000 per acre. If the remaining land had been assessed at $200 an acre and the tax levy were 2½ per cent, the town would receive over $3,000 per annum in taxes.

Mr. MADDEN. The gentleman did not say that, though.

Mr. McKENZIE. Before these various towns are organized into municipalities—that is, a municipal corporation created under the State law—is there any power for levying a municipal tax?

Mr. MONDELL. None at all.

Mr. McKENZIE. Therefore the town has no fund as a municipal fund?

Mr. MONDELL. None at all. But, as a matter of fact, these towns have, I think, municipal organizations at this time. Let us remember that the funds now received from the sale of these lots is distributed as a credit to all the people on the project.

Mr. MADDEN. Let me ask the gentleman a question there. If that be true, is there any justification in taking 50 per cent of the fund which should be credited to the people who own the project and live upon it and distributing that 50 per cent among the people who happen to live in the municipality?

Mr. MONDELL. If the gentleman had been here at the beginning of my argument, he would know that I tried to show why that would be a fair distribution. The people of the municipality must build schoolhouses, must grade streets, must maintain a municipal organization; they pay high prices for lots and they help create the increased values of the surrounding lots just as much as the people of the country do.

As I said a moment ago, an enlightened speculator would open some of the streets, lay some sidewalks, make some improvements before he sold the lots at all, and then he would be a contributor, not only in taxes, but to the churches, the lodges, and other helpful agencies as long as he owned lots. It is to take the place of the taxes that are not received, of the benefits that can not secure otherwise from the Government, that we propose to give to the people who live in the community the benefit of half of the values which they help to create.

Mr. SMITH of Texas. I understood the gentleman from Wyoming [Mr. MONDELL] to say that the money arising from the sale of these town lots was not put into the reclamation fund, but was credited to the water users under that project. Did I understand the gentleman correctly?

Mr. MONDELL. It goes into the reclamation fund, but it goes there as a credit to the project.

Mr. SMITH of Texas. I do not so understand it, and I do not find it in the law.

Mr. MONDELL. The gentleman may not find it, but that is the fact.

Mr. SMITH of Texas. I would like the gentleman to cite me to the law that says that.

Mr. MONDELL. If that were not true this is the situation we would have: The Federal Government going out onto reclamation-project land that is in its natural state worthless, is not worth a dollar an acre, and taking advantage of the values the people on the project created to secure funds to place into the Treasury. Congress has not done any such indefensible thing as that. It has provided and will provide, with regard to any other funds growing out of the utilization and development of a project, that they be credited to it.

Mr. MADDEN. Mr. Chairman, may I ask the gentleman a question?

Mr. MONDELL. Certainly.

Mr. MADDEN. In the sale of property in a reclamation district to any person who may wish to settle there, all the funds received from property in a reclamation project from any person who may wish to settle there goes into the Treasury of the United States, and is then used for the benefit of the reclamation project?

Mr. MONDELL. All the funds received from the sale of public lands constitute the reclamation fund. Out of the reclamation funds certain sums are used for the reclamation of a certain area known as a project. The people on that project pay for it; that is, the estimated cost of the project is divided up among the people who enter the land, and they ultimately pay for the project by paying for their land.

Mr. MADDEN. It goes to the price of land that the Government owns, and the Government loans them the money which they pay into the Treasury, and then the Government expends the money for their use?

Mr. MONDELL. They go upon the land, homestead it, cultivate it, live upon it, and pay the cost of reclamation, and when that is all paid the transaction is completed and the Government is paid for what it has done.

Mr. MADDEN. Then this 50 per cent that the gentleman speaks of, the money that is received from the sale of town-site lots, now all goes to the credit of the reclamation fund and is credited to the individuals who buy the land?

Mr. MONDELL. It is credited to the project. For instance, suppose the project cost a million dollars, and under the project there is a town site that will ultimately bring $100,000. The cost of that project, then, will not be a million dollars, but it will be $900,000, and $900,000 will be the amount that the people will have to pay.

Mr. MADDEN. And there is no fund received from any other source except the sales of town lots that are credited to the project?

Mr. MONDELL. I do not know if there are any other funds on project now, but there are other sources, such as the development of water power on some of the projects, which will ultimately bring a return.

Mr. MADDEN. But up to the present time there is no means by which the cost of the development of the project can be distributed, and for that reason it is thought wise by this bill to provide that only one-half of that should go to the cancellation of the cost of the development of the project.

Mr. MONDELL. Yes; and the other half shall go to the aiding of the development of the municipality.

Mr. MADDEN. I am asking that question.

Mr. MONDELL. Yes.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MONDELL. Yes.

Mr. SMITH of Texas. If the gentleman's contention is correct, the practice of the department is to credit the proceeds of these town-lot sales to the project. If that is true, the proposition here is to take half the proceeds which are now going to the farmers who are reclaiming their lands on the projects and to divert it to the construction of municipal improvements in the town?

Mr. MONDELL. That is it.

Mr. SMITH of Texas. In other words, you are giving the farmers on the project the benefit of only one-half of the amounts of which they are now obtaining the full benefit?

Mr. MARTIN of South Dakota. If it were not for that the farmers would not get any benefit out of it.

Mr. MONDELL. We think that is a fair and equitable distribution, and the farmers think it is, too. They have seen the plight in which these people have found themselves on the town sites. There is no power to tax the unsold lands of the Government, and there are no resources except the taxation of the lands, which they bought at high prices, and the personal property which they bring in. Considering it is a case of raw land, with everything to do and no source of income, it is the best arrangement, so fair indeed that no man who understands it will object, unless he takes the view of the gentleman from Texas [Mr. SMITH] that the Government ought to have nothing to do with town sites; or, if it did, it should have sold them out at once and pocket the money and leave them to shift for themselves.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman permit me to ask him a question?

The CHAIRMAN. Does the gentleman from Wyoming yield?

Mr. MONDELL. Yes.

Mr. STEPHENS of Texas. What is the size of these areas?

Mr. MONDELL. From 160 acres to 640 acres.

Mr. STEPHENS of Texas. Is not part of the land sold in the irrigation project?

Mr. MONDELL. I think the department exercises its discretion as to the amount of land that will be needed for municipal purposes.

Mr. STEPHENS of Texas. That is the security that the Reclamation Service has for recouping itself for the money put into this land?

Mr. MARTIN of South Dakota. The gentleman from Texas goes on the assumption that all the irrigable lands otherwise would be sold.

Mr. MONDELL. They are homestead lands.

Mr. MARTIN of South Dakota. They would bring in no revenue at all unless there was a town site.

Mr. STEPHENS of Texas. It will bring one-half of the amount of the value, will it?

Mr. MONDELL. I will say to the gentleman from Texas that the municipality pays for its water rights, just as a settler does. It pays for the water for a town site.

Mr. STEPHENS of Texas. Then, the question is whether or not it is right to take one-half of what the land will sell for and give it to the town; is not that the question?

Mr. MONDELL. No. The only question is, Will you let all of it go to reduce the obligation of the surrounding farmers or divide it in two and let half of it go to reduce the obligation of the surrounding farmers and half of it be used in upbuilding the municipality?

Mr. STEPHENS of Texas. Then the main thing is the question of how this one-half shall be used—by the Government, through the Secretary of the Interior, in building waterworks or schools and towns, or the municipality doing it for itself. Is not that the question involved here?

Mr. MONDELL. There are two contentions here. One is that the Government should spend the money.

Mr. STEPHENS of Texas. Is not that the main question involved here?

Mr. MONDELL. One view, that of the Secretary, is that the department ought to spend all the money, now and in the future. The other is the view that after the municipality is organized the municipality itself ought to spend the money. The committee compromised the matter by providing that as to the funds accrued the Secretary shall spend them, and that he shall continue to do so, if there is not a municipal organization, until there is one, and that as to the future receipts they shall be paid over to the municipal organization, to be expended by it.

Mr. STEPHENS of Texas. Now we come to the question directly involved, in my judgment. Does not the gentleman believe that the municipality, acting through its officers, elected by the people, would be the better judge of the size of the waterworks and of the public works and the money to be put into them than the Secretary of the Interior?

Mr. MONDELL. So far as the gentleman from Texas now on his feet is concerned, I agree with him fully, and my bill on this subject provided for that very thing; but the committee did not agree with me. They thought the Secretary ought to expend the funds that have accrued and that he ought to have some control possibly for a little time longer. The bill is a compromise on that question of policy, but on the general proposition of giving these towns some part of the values they themselves create there ought to be no difference of opinion. I can not see how there can be any difference of opinion among men who understand the situation.

Mr. STEPHENS of Texas. Will not the gentleman agree with me that the value of the town lots depends on the building up of the irrigated farms around the town?

Mr. MONDELL. Yes; and the farmer receives half of the unearned increment.

Mr. STEPHENS of Texas. That makes the town lots of more value and builds up the whole community.

Mr. SMITH of Texas. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. SMITH of Texas. The gentleman continues to talk about the people of the town, who have created the values, being entitled to the benefit of them. I will ask the gentleman if it is not a fact that the most valuable parts of these town sites are the business sites that are sold in the beginning, before there is anybody there, and that the main part of the fund comes from the sale of the town lots before there is any settlement or town there?

Mr. MONDELL. Oh, that is only partly true.

Mr. SMITH of Texas. I think it is.

Mr. MONDELL. Of course, the fund first received comes from the sale of first lots. All the fund comes from the sale of the lots, but as the town grows and develops other lots are sold. The values are created continually by the activity of the people in the vicinity, by their enterprise, and we have recognized that fact by giving to the men on the project the credit for all sums received from the sale of lots, and we propose now to give the men who live in the towns a part of the benefit of those values. We ought to do at least as much as an enlightened land speculator would do, and I think that 50 per cent is just about what, under the ordinary practices of land speculators and the ordinary processes of taxation, the people in a town would get out of the unsold lots.

Mr. MANN. Will the gentleman yield?

Mr. MONDELL. I am glad to.

Mr. MANN. At present the money derived from the sale of town lots is credited to the expenditures on the project.

Mr. MONDELL. On the project.

Mr. MANN. So as to reduce the total cost of the project.

Mr. MONDELL. So as to reduce the total, and the proposition contained in this bill is to modify that arrangement by giving the benefit of a part of the proceeds to the people of the community.

Mr. MANN. The money that is received from the sale of lands does not go in that same way?

Mr. MONDELL. The money that is received from the sale of lands, of course, is money that goes toward paying for the project.

Mr. MANN. That is money that comes, however, into the Treasury.

Mr. MONDELL. As I illustrated a minute ago, if a project cost $1,000,000 and on that project there was a town site that ultimately would produce $100,000, then the cost of that project is not $1,000,000, but $900,000, and that is the sum to be divided up among the people who pay for the project.

Mr. MANN. At present when a project is carried through they offer the lands for sale upon the basis of the cost of the project?

Mr. MONDELL. Yes; offer them for homestead settlement upon payment of a proportionate share of the cost of the entire project.

Mr. MARTIN of South Dakota. What lands does the gentleman refer to—homestead lands?

Mr. MANN. Homestead lands.

Mr. MARTIN of South Dakota. They are not sold. They are given away outright.

Mr. MANN. The gentleman says they are not sold. They are in fact sold. The people have to pay the cost of the project.

Mr. MONDELL. In addition to cultivation and residence.

Mr. MANN. In addition to cultivation and residence.

Mr. MONDELL. Yes.

Mr. MANN. Of course, no one knows what the lands will sell for, except by taking the cost of the project. Now, in fixing the cost of the project, do they subtract from that the estimated value of the town site?

Mr. MONDELL. I fear they do not.

Mr. MANN. I thought they did not.

Mr. MONDELL. I think, as a matter of fact, they have based all their prices on an estimate so high that there can not be any possibility of the cost of the project, with any credit that may come to it, exceeding the aggregate of the moneys they will obtain, and I doubt if the service does subtract anything of that sort.

Mr. MANN. So that practically, in the main, the value of these lots when sold goes into the general reclamation fund?

Mr. MONDELL. The gentleman might say that is true in practice, because you can not get down to the last penny; but I assume that ultimately the reclamation projects will not cost the settlers more than the total of the expenditures, less any credits that may come in, so that as a matter of fact this is a credit.

Mr. SMITH of Texas. Now, as I understand the gentleman, take a project that cost $1,000,000, if there is a town site in which the lots sold for $100,000, at present there is $900,000 charged up to the farmers to be paid back.

Mr. MONDELL. That would be the sum.

Mr. SMITH of Texas. If this bill passes, they would be charged with $950,000.

Mr. MONDELL. Yes.

Mr. SMITH of Texas. Fifty thousand dollars, then, that they would not have to pay if the bill did not pass.

Mr. MONDELL. That might be true.

Mr. SMITH of Texas. Then, there is $50,000 coming out of the farmers.

Mr. MONDELL. If the gentleman from Texas gets any comfort out of that fact, he is welcome to it. The gentleman keeps reiterating it and keeps enlarging upon the wrongs to the farmer. He is against the measure in toto in any form whatever, and therefore he is desirous of prejudicing it.

Mr. SMITH of Texas. The gentleman from Wyoming is doing me an injustice.

Mr. MONDELL. The gentleman objects to any town facilities at all. He wants to put the lots up at auction and let the speculators purchase them and leave the people to the tender mercies of the speculators as far as their future is concerned. The present plan may strike the gentleman as being paternalistic or socialistic, I do not care what he calls it, the name does not frighten me at all, providing it is proper and the right thing to do and that it works well.

The Government sells a reasonable amount of lots in the center of a town, and the tendency is to keep the town in an orderly way of development, and as the lots outside increase in value it credits the farmers with all the value that they largely create. It is proposed to give a part of the value to the people of the town and a part to the farmers.

Mr. MANN. Will the gentleman from Wyoming yield?

Mr. MONDELL. I will yield to the gentleman from Illinois.

Mr. MANN. I had supposed the theory of the proposition was that if you agreed to spend a certain proportion of the money for these lots for municipal improvements the other lots would sell for much more than they would if the improvements were not made.

Mr. MONDELL. That is true; I had not touched on that feature of the matter at length for lack of time. It is an important consideration.

Mr. MANN. That is right in connection with the answer which the gentleman from Wyoming made to the question propounded by the gentleman from Texas.

Mr. MONDELL. I thank the gentleman from Illinois for his suggestion; it is an excellent one. The farmers themselves, instead of losing anything, will be the beneficiaries, because the other lots will sell for much more than they would if there was no municipal improvement like schools and waterworks, and so forth. The farmers come into town and enjoy the benefit of these improvements; they enjoy the benefits of the schools.

Mr. RUCKER of Colorado. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. RUCKER of Colorado. I see that the gentleman has caught onto the significance of my suggestion awhile ago as brought out by the gentleman from Illinois [Mr. MANN], that as you increase the value of the lots of this town you increase the amount that the settlers will get the benefit of and be credited to them. As the lots are increased in value they are only getting 50 per cent of it and that decreases the amount that the settlers have got to pay back.

Mr. MONDELL. I happened to be in the vicinity of the town of Powell at the time of a recent sale of town lots and I heard the suggestion made by intending purchasers that they were indisposed to pay any considerable price for the lots, because there were few municipal improvements. The people have not been able to make them, and therefore the lots were not so desirable. We propose by this legislation to modify the present practice in this particular, that instead of the creators of this wealth outside of the town receiving all the benefits, we wish to divide the benefits among the creators of the wealth within the town and outside the town. There may be some differences of opinion in regard to details, but as far as I am concerned the judgment of the committee in the matter of these details, whatever it is, I am sure will be satisfactory to me.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. BYRNS of Tennessee having taken the chair as Speaker pro tempore, sundry messages in writing from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries.

TOWN SITES IN CONNECTION WITH RECLAMATION PROJECTS.

The committee resumed its session.

Mr. RAKER. Mr. Chairman, being one of the members of the Committee on Irrigation of Arid Lands that gave this bill consideration, and also on the subcommittee, I feel as though at this time I ought to state my reasons, in as few words as I can, and as clear as I can, as to why it appears to me the bill ought not to pass. That has been set out in the minority report filed by the chairman and myself. It seems to me there are many reasons why this bill ought not to become a law.

I listened attentively to the gentlemen who have preceded me advocating the bill, and I find their main argument is that it might build up the town, that it might assist somewhat in the improvement of the town, and it might prevent speculation, all of which statements are imaginary.

It is not very hard for us to turn back to the beginning of the land legislation in regard to town sites. Years before the reclamation project was ever conceived of, ample provision under all land laws was made for town sites, and they have extended them to all of the Territories and to Alaska. You will find in the history of the 60 years that no contention has been made here that the towns can not or will not improve, and that it was necessary for the Federal Government to take up and start out and open a campaign of municipal improvements. You can go over the Western States and find many of these towns to-day flourishing where the land was taken up originally under the town-site acts and under the law administered admirably by the trustees or by the judge of the county, and the land all disposed of to private owners, schoolhouses built, and other improvements made.

This, now, is a move to take the funds that go to the Reclamation Service, that are caused by virtue of the building up of the country by the farmers and the Reclamation Service surrounding it and have the Government of the United States, through the Secretary of the Interior, embark upon a policy that no State, nor this Government, has ever yet sanctioned, namely, that we should go to work and build up public squares in towns, that we should build up schoolhouses in towns, that we should build water systems for municipalities, that we should build electric-light plants for municipalities, and that we should build their roads and byways and town halls, and make every conceivable improvement that could be provided for under a municipal government. It resolved itself in my mind to this, first and formal——

Mr. LAFFERTY. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Just a moment. Does the Government intend, through its officers and the bureaus here in Washington, to conduct municipalities 3,000 miles away from the seat of Government? I now yield to the gentleman.

Mr. LAFFERTY. Mr. Chairman, I desire to ask the gentleman if he knows whether, under the law under which the town sites were disposed of in Oklahoma, Congress did not provide that the money derived from the sale of town lots should be used for municipal improvements, waterworks, and so forth?

Mr. RAKER. That question is not involved in the position that I am taking.

Mr. LAFFERTY. I understood the gentleman to state that the Government never has heretofore undertaken anything of this kind.

Mr. RAKER. Oh, no. That does not cover the question. If Congress should see its way clear——

Mr. LAFFERTY. Mr. Chairman, I desire to ask the gentleman another question.

Mr. RAKER. Oh, let me answer that. If Congress should see its way clear to say that we will turn over to the municipalities the funds received from the sale of the land of these town sites, said fund to be conducted and directed and handled as the electorate of that municipality sees fit, then there would be a different question presented altogether. That is not before the House at the present time.

Mr. LAFFERTY. The other question is in regard to the general town-site law. What were the provisions or what are the provisions of the general town-site law as to disposing of the proceeds of the sale of town lots?

Mr. RAKER. They are very voluminous. I have them here in the Revised Statutes. I do not care to go into the details of that.

Mr. LAFFERTY. Do not those proceeds go to the trustees or the county judge, to be disposed of for the benefit of the city?

Mr. RAKER. No. It was so arranged that there was just enough money raised to administer the law, to give each man a piece of property, a lot or a block in the town, and the towns were built up.

Mr. LAFFERTY. After that were not the remaining lots turned over to the municipality, to be sold for the benefit of the town?

Mr. RAKER. They provided homes for them.

Mr. LAFFERTY. As distinguished from the reclamation town-project work, where all the lots originally set apart to be sold by the Government must be sold by the Government.

Mr. RAKER. No; they provided that after the lots began to be sold and began to be more valuable because of the settlement of the town the price should be raised by appraisement; and a man went upon a particular tract of land and settled there and paid his $10 or $15, and that went into the fund which was for the purpose of administering the law. But that is not the question involved here. That matter I would discuss and go into very readily, but that is not the question involved here. In the first place, the gentleman will not be able to point out any place where the Government has been engaged in municipal improvements such as those named, and in every other conceivable municipal improvement that can be specified.

Let us see what is the argument made by the gentlemen who are in favor of the bill in regard to improvements. In the first place, it is provided in the Reclamation Service that these large tracts of land shall be set aside. Then there was a desire to reserve within the territory withdrawn or to be irrigated town sites, first, 160-acre tracts. One hundred and sixty acres, a man knows, 10 or 15 or 20 miles apart, is a large enough tract for any one town to start with to accommodate the needs and necessities of the reclamation project. Then a few years later they passed an act by which they gave the Secretary of the Interior the power to withdraw not to exceed 640 acres when he believed it was in the interest of public economy or in the general public interest. Has there been a statement made before the committee or before the House that has shown that they could not sell these lots if they subdivided the tracts and offered them for sale? Has there been a statement by any gentleman in favor of this bill to-day that the 160-acre tract was laid off as it ought to have been in building up a town in a community of that kind? The law provides that there should be parks; that there should be public squares; that there should be reserved a certain

amount for schoolhouses: and all other matters that might go to beautify that town and never sold so long as they were used for those purposes. Has any of these been thus laid off and the balance of the lots offered for sale at an appraiser's price, so that the people might come in and build up those towns? No. What has been the result? They have gone into the center of the 640-acre tract, contrary to the building up of every other town or the making of any public improvements, and have not laid out any location for a schoolhouse or a public park, and have not been able to say to those who purchased, "When you come here and buy you will know there will be a schoolhouse at this place; that there will be a town hall over here eventually when this municipality gets sufficiently upon its feet; and there will be another public park over here and a boulevard down here." They go right into the center and lay off a tract of 10 acres. Stop and think what that means.

Mr. MARTIN of South Dakota. Mr. Chairman, does the gentleman state that, as a matter of fact, to the extent they lay off these tracts at all, they do not make provision for these public squares and for the purposes to which he refers?

Mr. RAKER. In answer to the gentleman I will do the best I can. I asked the gentleman from South Dakota what was done, and I understood from him that they laid off the 10-acre tracts and made no other provisions. I understood the same from the committee.

Mr. MARTIN of South Dakota. Not at all. It has been the custom all along to lay off a public square and a place for a schoolhouse.

Mr. RAKER. Within the 10 acres?

Mr. MARTIN of South Dakota. Certainly.

Mr. RAKER. That will be all right; yes. You gentlemen who have grown up with the West know what it is in regard to the building up of a town, in regard to where you locate your schoolhouse or your courthouse and where you would build up your stores and make your other improvements. We have laid off here a 10-acre tract, and no more, and we have offered it for sale.

Mr. LAFFERTY. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Certainly.

Mr. LAFFERTY. As I understand the trend of the gentleman's argument, it is to the effect that if the Reclamation Service would pursue a proper policy of administration—that is to say, lay off the entire number of town lots and dispose of them at once—there would be no need for giving to the municipality one-half of the receipts from the sale of the town lots, for the reason that all the lots will become privately owned and subject to taxation.

Mr. RAKER. In whole or in part.

Mr. LAFFERTY. I wish to say that I agree with the gentleman to that extent, but they are refusing to do that.

Mr. RAKER. I am coming to that in a moment. Now, gentlemen, here are 10 acres in the center of this particular tract laid off and sold. Who is going to determine the next 10 acres to be subdivided and laid off, and the next 10 acres?

The rest of it is all public domain surrounding the town, and after the four tracts are laid off in 10 acres each, or 40 acres, you are going off at the other end to lay off another tract, and how are you going to sell your lots consistently when you have your park and schoolhouses and other improvements over here a quarter of a mile, contrary to the building of every town in the country?

Mr. MADDEN. Will the gentleman yield for a question for information?

Mr. RAKER. Yes.

Mr. MADDEN. I do not know whether I understood the gentleman or not, but I am assuming that these town sites are of 640 acres.

Mr. RAKER. Some of them are 160 acres and some 640 acres.

Mr. MADDEN. Now, the gentleman says that all that is laid off for public purposes is 10 acres?

Mr. RAKER. No. I was just referring to the town site at Newell, as referred to by the gentleman who preceded me, that they first laid off 10 acres and then another 10 acres.

Mr. MADDEN. What I want to get at is this: Assuming a town site to be 640 acres, and some of the blocks in the town site were to be used for public purposes, does the gentleman believe that in advance, before any lots are sold, all proposed public developments should be laid out and reserved and that everything in the nature of a public park or a schoolhouse square or a public square of any kind should be developed in the first instance, or should it be developed as the city, or village, or whatever it might be, was developed?

Mr. RAKER. That is just what I am coming to. In the first place, there should be a plan and the city should be marked out with boulevards, if you are pleased so to call them, with streets, alleys, and parks and other public places. And then when you offer your lots for sale you know exactly where in the future is going to be your schoolhouse and where is going to be your courthouse and other public reserves in the town.

Mr. MADDEN. Let me ask the gentleman now what the policy is which is pursued in connection with the laying out of these town sites?

Mr. RAKER. I do not know exactly, but what I have read in the bill, and have heard from gentlemen in favor of the bill, and that is, that they lay out 10 or 20 acres and sell that and no more.

Mr. MADDEN. The gentleman is a member of the committee?

Mr. RAKER. Yes. That is the information they have received, namely, that there is a 20-acre tract laid off and platted, and they do not sell off all these lands.

Mr. MADDEN. In their plat is there any provision made for public squares or school squares or anything of that kind?

Mr. RAKER. That is in the bill.

Mr. MADDEN. Is there something laid off for something in every tract?

Mr. MONDELL. I am rather unable to follow the gentleman——

Mr. RAKER. I am not responsible for the gentleman. [Laughter.]

Mr. MADDEN. Do I understand the gentleman to complain of the practice of the Reclamation Service in the sale of these lots?

Mr. RAKER. I can not yield right there any more. I have answered that, no.

Mr. MONDELL. This law does not change the plans of the sale of lots any.

Mr. RAKER. I can not yield any further on that.

Mr. MONDELL. Well, I thought not.

Mr. RAKER. Oh, I make it plain. I have answered that so far as the Reclamation Service is concerned. I am not complaining, but here is a new policy, which is intended to be inaugurated by this bill.

Mr. MADDEN. If the gentleman will yield, I am trying to get information upon which I can base an honest judgment in connection with this bill. I have not made up my mind how I am going to vote on it. What I want to know is whether—assuming that a town site is 160 acres—whether all the lots covering the whole 160 acres are laid out and submitted for purchase to intending buyers at the same time, or whether there is only a 10-acre tract submitted?

Mr. RAKER. As I understand from the hearings, there is only a part of the 160 or 640 acres, as the case might be, platted and offered for sale. Now, then, that is the policy that has been inaugurated.

Now, coming back to where I left off when interrupted, on the 20-acre tract in the town, with banks, and stores, and residences, the people have all this property and have paid for it, knowing the exact conditions of the surrounding country as well as in the town, just like the former town sites of our public domain which have been in existence since 1860—just like in every other new town. And the people that use these particular tracts of land, the settled part of land, are assessed to pay the taxes. Go out over the West, and you can find hundreds of these towns, with tracts of land lying out a quarter of a mile away sometimes that are practically assessed nothing and pay nothing, so far as the advancement and improvement of the town is concerned. They are not needed. Now, if the Government desires to use this land, if it is intended by the reserve to withdraw it for town sites, is the Government going to use it by virtue of laying off the entire tract, appraising its value according to where it lies, and then offer it for sale, by covering the whole 160 acres? And if you find men that will go in there and buy that whole 160-acre tract under those sales, have you not answered the argument of the gentlemen here that the Government ought to enter into the development of municipalities?

If you find men that will go in there and buy that 160-acre tract under those conditions are you not answering the argument of the gentleman here, that the Government ought to enter into the development of municipalities? Here is a 160-acre tract. Every foot of it has been sold and is under private ownership. Some individuals will improve it. Some will put on it large, fine buildings. Others will build their homes on it. Others will improve it in one way and another, and every foot of the land within the whole 640-acre tract will be under assessment for municipal purposes as well as for State and county purposes. Then why do you say to these people living in this community, "We will take small tracts only, and we will permit them to be improved. We will sell no more."

Now, see what we are coming to. "We will sell no more of this land." The people who have gone in there have done so with the idea that this land shall be built up, and that at some time it will be a flourishing little village or city, thinking that they would be able to handle it themselves and impose the taxes and vote what kind of street improvements there should be, what kind of public buildings they should have for the entertainment of those who live there, what kind of an electric-light plant they should have. You provide by this bill, because the property has not been sold as it should have been, that these citizens have not the right to specify the kind or the character of the public improvements that should be made there.

Mr. MARTIN of South Dakota. Mr. Chairman, will the gentleman yield right there?

The CHAIRMAN. Does the gentleman yield?

Mr. RAKER. Not just now. The gentleman does not say that the citizens shall pay half of this public improvement. The gentleman did not say that they shall have a voice as to what shall be their first improvement—an electric-light plant, or a sewer system, or a water system, or a system of street lights, or a public road, or a schoolhouse; but the Secretary of the Interior, 3,000 miles away, dictates and says: "You shall first do this, or this, and I will use all your funds for the purpose of building a schoolhouse."

Mr. McKENZIE. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. RAKER. I do.

Mr. McKENZIE. I want to ask the gentleman if he means to convey the idea that under this bill in a city that is organized and has a municipal government of its own, the Secretary of the Interior would dictate?

Mr. RAKER. Yes; up until it is fully organized and two years after it is organized. And it has been thoroughly discussed and to my satisfaction it has been clearly answered by the distinguished gentleman from Texas [Mr. SMITH] that these towns now on the reclamation projects—I have just looked into the record and I find that none of them have been incorporated—never would organize by incorporation, for the same reason, as you can see, that when the Government builds a system of improvements there is no provision by which it can ever let go of it, and it will still be compelled to pay the public funds to maintain it.

Mr. MONDELL. Will the gentleman yield?

Mr. RAKER. I yield to the gentleman from Wyoming.

Mr. MONDELL. The gentleman is mistaken in his statement that the towns are not incorporated.

Mr. RAKER. What one is incorporated?

Mr. MONDELL. Powell, for example. Will the gentleman support the bill if it is amended so that all its expenditures are by the municipality?

Mr. RAKER. Just a moment. When was Powell incorporated? I will say to the gentleman that I sent down to the Census Office to find out, and the return is that none of these towns are incorporated.

Mr. MANN. The census return for what year?

Mr. RAKER. For 1910.

Mr. MONDELL. Oh, Powell was a salt sage flat in 1910.

Mr. MANN. The gentleman is not usually so far behind the times.

Mr. RAKER. The gentleman from Wyoming says that Powell is now incorporated?

Mr. MONDELL. Yes. Will the gentleman support the bill if it is amended so that all expenditures shall be paid by the municipality?

Mr. RAKER. Why, I have stated again and again that every cent of the money that would come from the sale of the lots within these reserved tracts of land after the payment of the cost of administration might go to the municipalities if they handled it. But I want to call attention to another thing——

Mr. MONDELL. Will the gentleman support the bill if it is so amended that the funds shall go to the municipalities, to be expended by them?

Mr. RAKER. By the municipalities?

Mr. MONDELL. Yes.

Mr. RAKER. The gentleman will remember that in the committee and otherwise I stated "yes." But this bill is so far different from that in every particular that there is not any chance on earth to amend it except by striking out the enacting clause and letting it die.

Mr. MONDELL. On the contrary, if the gentleman will look at the bill he will see that there is a section that provides that where the municipalities are organized all future receipts shall go directly to them. It would be very easy for the gentleman to amend that so as to provide that all funds, accrued and hereafter to be received, shall go the same way.

Mr. RAKER. Now, I want to call the attention of the committee to another fact. There is no limitation in this bill as to the amount of money that would be expended by the Secretary of the Interior upon any one particular improvement. Every municipality specifies the limit, in the first place, of the taxation that can be had for the purpose of that particular improvement every year, and when you raise, say, 1 per cent of the taxable property for this purpose and 34 per cent for another purpose and 10 per cent for another purpose you can expend only the amount of money for that year according to the amount specified, and the constitutions of the States so specify. But under this bill there is a carte blanche order to take all the money that has been raised from the lands in advance up to the present time and take all the money that might be raised and put it into one particular improvement—the idea of one man—without the consent or advice or vote of a single individual resident of that town.

Now, do we want to build up on behalf of the Government municipalities in that way? Ought we not to go to work and put up these lots at the appraised value? Every lot in this 160 acres is marked off, and an appraised value is marked on it, and if you want to buy a lot in that town you can go and buy it. I say, let these people build up the town. It will depend on the ingenuity and capability and progress of the citizens of that town whether or not the remaining lots are sold at the appraised value and just how much that municipality brings it up to, instead of this Government as a Government entering upon the policy of building cities, dressing them up in their best bib and tucker, and putting one out here in the mountains, and then inviting citizens to go out there and live in this improved first-class municipality without anybody on earth there to know how it should be run and how it should be conducted.

Mr. MANN. Will the gentleman yield for a question?

Mr. RAKER. I do.

Mr. MANN. What is the distinction in practice between the Government constructing an irrigation plant instead of turning over the wild land to the people to construct the plant for themselves, and the Government agreeing to sell town lots with the agreement that they will construct certain necessary and essential municipal improvements?

Mr. RAKER. There seems to be as much difference as between day and night, in every conceivable way.

Mr. MANN. Of course that is hardly an answer to the question.

Mr. RAKER. In the limited time I would not be prepared to answer it, and in the next place I would like to have an opportunity to go into it to some extent, so that I might clearly present the distinction between the Government going on with its reclamation scheme that it has and the theory of building up municipalities.

Mr. MANN. It would be quite possible for the Government to permit the individuals to go there and take up lands and construct irrigation plants, would it not, just as it is possible for the Government to give out town sites at an appraised value, and let the people, when assembled there, construct the municipal improvements? The first, admittedly, is impracticable, and the second, admittedly, is impossible at first.

Mr. RAKER. The contention of the gentleman from Wyoming that no well-regulated land-shark addition promoter would offer to sell town lots until he had gone to work and built sidewalks and roads and other improvements in that particular tract that he was going to sell, has no bearing here. There is no conceivable likeness between one case and the other.

The addition has a city back of it to supply the places where its people can work, and those people go out there for a place to build residences and to build up little grocery stores, while the people go out to these town sites for the purpose of building grocery stores, hotels, and other buildings and getting the advantage that is coming from being in a community that will be as rich as these communities will be by virtue of irrigating this desert land. First, the natural increase is going to build it up and enhance the value of their property, and their trade with those people will improve, and they will make money just as men do in every other place. Now, the gentleman answers that we should hold this land to enhance its value. Is that fair? Is that an argument? You have 20 acres laid off in town lots, streets, hotels, and for other necessary buildings. The argument is that we should not sell the remaining town lots now. Think of it. They would not bring a large price. It is said, "Wait until this surrounding country is settled with flourishing farms and other improvements. Wait till the individuals already there have built it up and made a market and

other people would like to come in and participate in that town, and then the Government will sell the remaining tracts of land and we will get a higher price." Why, that is the old land-shark scheme that you find in all these frontier towns; first, to keep from paying taxes, and then hold back the sale of the land, if a man has the means, until the town has advanced and he can sell his property at a high price. It is not consistent. It is not the way to build up a community. The aim of the Government under the act is to open it up.

Mr. MONDELL. Will the gentleman yield?

Mr. RAKER. In just a moment. I want to complete this thought. I can not repeat too often that it is intended under the act that the whole 640 acres shall be appraised, and if the first sale does not take it all, they should continue to readvertise it and sell it. Now, if the whole tract is appraised by competent appraisers and put up at public auction, a man will take each lot that he wants to take at that price. Everybody will be treated fair and right, and I ask the committee, Will it not give that town an opportunity to improve legitimately and for men to come in there and buy wherever they want to, one tract down here for residence and another in the center of the town for business purposes? Now I will yield to the gentleman from Wyoming.

Mr. MONDELL. Of course, the gentleman's argument is not directed to the bill under consideration, for the bill under consideration in nowise modifies the policy relative to the matters that he refers to. But speaking of that general policy, which will go on whether this bill passes or not, the gentleman says, "Turn the towns loose."

Mr. RAKER. Oh, no; not loose.

Mr. MONDELL. Well, sell all the lots. Now, how are you going to sell 640 acres of land in a new country for town-lot purposes for anything more than a mere song? Does the gentleman think they could have opened the town of Newell and sold the 640 acres for much, if any, more than they obtained for the 20 acres which they sold?

Mr. RAKER. The town of Newell, according to the statement here, is in the center of a good agricultural district. All the surrounding land is taken up by homesteads and otherwise. Now, if every tract in the Newell town site of 640 acres had been platted and opportunity given for the sale of the lots, men would have gone in there, just as they do in other places, and invested $100, $200, $500, or $600, until you had your whole 640 acres sold, and you would have obtained a fair value for it at the time.

Mr. MONDELL. At the time.

Mr. RAKER. It was all new then, and we all have to stand upon a level on these matters. But men would have bought it at that time, and for the last 10 years they would have been paying taxes to the State, county, and municipality; and their land as a necessity would enhance and should be worth more to-day, and it should be handled in that method instead of the Government handling it.

Mr. MONDELL. The gentleman is aware of the fact that the bill under consideration in nowise modifies the manner of opening these town sites for sale. He realizes that fact?

Mr. RAKER. No; I do not.

Mr. MONDELL. And we do not change the present condition or the present policy for the sale of lots. We do not change it if we defeat this bill. We do not modify it if we pass the bill.

Mr. RAKER. If the gentleman and the committee will bear with me just a moment, I shall have finished what I have to say. The policy brings about the things they are now trying to have passed. I am not complaining against anyone, but I am trying to present the facts as they appear to exist. If they want more taxable property, sell the land within the reservation, and the people will buy and make homes on the tracts of land. I am making these statements trying to bring to your mind the fact that the Government is trying to embark, by virtue of the policy of this bill, upon building up municipalities. In other words, imagine yourself out here in a wild country, taking the gentleman's statement, with 200,000 acres of desert land surrounding it, with a few settlers in the town. Admit that eventually they will be fine farms, but while the farms are being improved and the country put in proper shape this bill says that we will go out there and dress up a dandy little town; we will build a water system, a sewer system, an electric light system, and a heating system, and many other municipal buildings, and then we will turn it over to them. That is my objection to the bill. The people themselves will improve as fast as their means will permit and as fast as their surroundings and environments and patriotism and desire for improvement will admit.

It is like bringing up a young man—if you want him to do anything, you have got to give him some of the practical things of life; you have got to give these people some of the ideas and an opportunity to study by which they themselves can bring up the town and not at once prepare a municipality for them.

Mr. SLAYDEN. Will the gentleman from California permit me a question?

Mr. RAKER. With pleasure.

Mr. SLAYDEN. I heard the gentleman from Wyoming [Mr. MONDELL] say a moment ago that this proposition in nowise seeks to modify the law. Now, it appears to me in a hasty glance at the report that it does materially modify the law. I want to ask the gentleman from California, first, if it does not modify the law, and, second, if the people who have interested themselves in the town sites have not gone into them with the full knowledge of all the conditions, if they have not taken their chances, as they should do, and gone in there with a perfect knowledge of what their rights are?

Mr. RAKER. Answering the gentleman, first, this bill does change, as of necessity, the existing law as to the handling of these projects. Answering the second part of the gentleman's question, it is the very essence of this bill that these men went there, bought these tracts of land, bought them with their eyes open, knowing the conditions of the surrounding country, knowing that this town is going to be built up by virtue of these people being permitted to buy as the Government offered to sell.

Mr. MONDELL. Will the gentleman yield?

Mr. RAKER. Certainly.

Mr. MONDELL. This bill does not in any manner affect the policy of the Reclamation Service. It simply provides for the disposition of the moneys received, and the Reclamation Service under this bill can follow the policy that it has followed; there is nothing in the bill to prevent it. The policy will not be modified by this legislation.

Mr. SLAYDEN. Will the gentleman yield?

Mr. MONDELL. I have not the floor. The gentleman from California has the floor.

Mr. RAKER. I will yield to the gentleman from Texas.

Mr. SLAYDEN. I perhaps misunderstood the gentleman from Wyoming a few minutes ago. This is a diversion project, to divert the funds that would go into the treasury of the reclamation itself.

Mr. MONDELL. The gentleman from Texas is usually accurate, but not accurate at this time.

Mr. SLAYDEN. Well, I am asking the gentleman.

Mr. MONDELL. Heretofore the proceeds of the sale of town lots has been credited to farmers of the surrounding project. We are now proposing under this legislation to give a part of the benefit of these sales to the men in the town.

Mr. SLAYDEN. It takes it from the farmers of the surrounding country.

Mr. MONDELL. Practically.

Mr. SLAYDEN. Does the gentleman think that is wise?

Mr. MONDELL. My friend, the farmer from Texas, rises at once at that proposition.

Mr. SLAYDEN. Naturally; I come from that class.

Mr. MONDELL. The farmer will be benefited by the fact that they will secure very much more for the other lots by reason of the increased value.

Mr. SLAYDEN. Will not the town benefit more quickly and largely by the increased prosperity of the farmer?

Mr. MONDELL. Yes; but the owner of the town site is entitled to a share of the value which he creates.

Mr. SMITH of Texas. Will the gentleman from California yield?

Mr. RAKER. I will.

Mr. SMITH of Texas. I want to state to my colleague from Texas that I made the statement in my remarks which I made to the House that this money they propose to spend here for municipal improvement comes out of the Public Treasury, and I stick to that statement. You take the reclamation fund and it is always either in the Public Treasury of the United States or owing to it. The law contemplates that every dollar of it shall be turned back into the Treasury at some time or other, and all of it ultimately. This proposition is to take the money and donate it to the people in these municipalities never to be returned to the reclamation fund. It comes out of the Public Treasury. That is the proposition I started out with and one I stick to, and no gentleman here can deny that that is the proposition. It is the first time in the history of the Reclamation Service that a proposition has been made to divert the money to some purpose never to be returned to the Public Treasury.

Mr. RAKER. Now, Mr. Chairman, I want to read a part of the provision of the law governing this matter:

> That the Secretary of the Interior may withdraw from public entry any lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, not exceeding 160 acres in each case, and survey and subdivide the same into town lots with appropriate reservation for public purposes.

That covers the subject we discussed a moment ago.

> That the lots so surveyed shall be appraised under the direction of the Secretary of the Interior and sold under his direction at not less than their appraised value at public auction to the highest bidders from time to time for cash, and the lots offered for sale and not disposed of may afterwards be sold at not less than the appraised value under such regulations as the Secretary of the Interior may prescribe. Reclamation funds may be used to defray the necessary expenses of appraisement and sale, and the proceeds of such sales shall be covered into the reclamation fund.

Mr. SLAYDEN. It is expected ultimately all to find its way into the Treasury?

Mr. RAKER. All to find its way into the Treasury. Here is a scheme provided that seems to be and is very clear and specific, and if carried out is proper; but here comes another, that the Secretary of the Interior may build, equip, and operate completely the municipal improvements until two years after a town is incorporated. Let us see right there. Of the towns now existing on the reclamation projects, as far as I am advised, none are incorporated. If the reclamation project pays one-half of the funds from the sale of these town lots and once starts a project, pray tell me, is this municipality going to take it over and pay for its running, or is the Department of the Interior, under the Secretary, going to maintain this particular municipal improvement and to continue for years and years to do so? In other words, we are embarking upon a policy of building up municipalities by the Government and conducting them at the expense of the Government for people who desire to go out into these towns or who may already be there. One of the contentions presented by the gentleman from South Dakota [Mr. MARTIN] is that there was an advertisement that the Government would build these projects—that it would go into this business. There is no connection between that and the department.

Mr. SLAYDEN. Was that advertisement by any recognized official of the Federal Government?

Mr. RAKER. So far as we have been able to discover, no. It was published by some railroad. That is all. That being the case, even if it was—even if the Government was behind it—they had no authority to do it. These men knew and could have found out before they bought over their title. They could have found out, under the act I have just read, just what the conditions were, and they would have purchased with their eyes open, knowing exactly what will be done. Therefore, we ought not to pass this sort of bill, or any of its provisions, which will permit the going into and the preparing of towns in advance with an entire system for maintaining the town, without the people's consent, and then turning it over to them and saying, "Take it and run it."

Mr. KINKAID of Nebraska. Mr. Chairman, I deem it my duty as a member of the committee that favorably reported the bill to express my individual views as to its merits. I am frank to say that I was opposed to its provisions and its general purposes at first blush, and, in fact, it took some time to remove my educated prejudices against its purpose. I have been taught, as many of the membership have been taught more or less owing to circumstances, to guard against encroachments upon our institutions and not permit our General Government, especially, to embark upon a course of paternalism, and I felt that the provisions of the bill were calculated to accomplish such infringements. I had read, when I was a boy, the works of authors strongly opposing centralized governments and pleading for the decentralization of our own Federal Government as it was, even at that time, administered.

Mr. SLAYDEN. In the good old days.

Mr. KINKAID of Nebraska. Yes. I am still in favor of State rights, all the rights which the States possess, and I am frank to say that I am jealous of those rights. But I am being convinced by observation that an evolution has been going on in the convictions of the people and in the sentiments of our people as to what governments may properly do for the people, and if we will compare the present with 20 or 30 years ago we will perceive a marked difference in opinion held by the same people, able jurists, able statesmen, who have been administering the law and legislating enactments as to the proper province of government.

Mr. SLAYDEN. Mr. Chairman, will the gentleman yield?

Mr. KINKAID of Nebraska. Certainly.

Mr. SLAYDEN. I am interested in what the gentleman stated about his own political position, that he had started out a firm advocate of State rights, and that he believed in them still to some extent, but that he had observed a trend in the minds of the public generally in the direction of favoring centralized government. The question I want to ask the gentleman is this: Does he not think that trend has been largely induced and accelerated by appropriations, or the hope of appropriations, out of the Federal Treasury?

Mr. KINKAID of Nebraska. Mr. Chairman, I will say to the gentleman, first, that I do not accept his version of my statement.

Mr. SLAYDEN. I hope I did not misstate the gentleman's position?

Mr. KINKAID of Nebraska. I am sure the gentleman did not intend to do me any injustice, but I do not accept his version of my statement at all. I believe yet in States having all the rights reserved to the States or the people or not granted to the National Government. I think I may grant an affirmative answer to the question the gentleman put that as to the change in sentiment, the trend has been accelerated, perhaps by selfish interests or motives or by appropriations which might be secured.

Mr. SLAYDEN. It is like Mark Twain's suggestion of the old flag and an appropriation. The sentiment in the South was developed very rapidly after the war by the hope of an appropriation, I think.

Mr. KINKAID of Nebraska. And by the improvement of rivers and harbors, and all that. I think those things have done a great deal of good for our common country. I think they have helped to bring the North and the South together again, as they had been.

Mr. SLAYDEN. In one grand raid.

Mr. KINKAID of Nebraska. And we all join hands, especially when the omnibus public-buildings bill comes up; and we are all brothers then, and we are all State rights men then, and especially for the National Government at that time. Speaking seriously, I favor a strong National Government, positive and supreme in its limited sphere.

Coming to the question, there is much in a name, Mr. Chairman. We deride paternalism, those of us who are opposed to it. We deride socialism, but conservationism is popular. We are all conservationists, and only differ as to how we are going to administer the policy. You will not find a single Member of the House who is not a devout conservationist. The only question is, How are you going to administer the policy? If this bill had been entitled "A bill for the conservation of increases in values of town sites under irrigation projects and securing the same to entrymen under the projects and purchasers of town lots," its acceptability would have been greatly improved.

I have listened with deep interest to the lucid and luminous talks made upon this question this afternoon. As a member of the Committee on Irrigation, I listened to the presentation of the facts, and there is where I started out as being averse to the bill, but gradually my educated prejudice and imbibed and possibly inherited prejudices against the measure melted away before the cogent reasoning of the facts as they were presented. Then, coming on the floor to-day and hearing the able arguments made this afternoon, with the pertinent questions that were interposed and the answers to those questions, have tended to make my conviction stronger than when I came into the House or those which I entertained when the bill was favorably reported by our committee. I think the bill contains merit and that it would be an improvement upon the present law to enact it. The more you turn it over and look at it up one side and down the other and turn it around and view it from every standpoint, the more you will be convinced that it is a proposition for conservation, for the conservation of values and profits, for the conservation of opportunities, and while there is a little paternalism about it, yet on account of the beneficence of the measure I am ready to waive my objection to the theory of paternalism and join hands for the enactment of the law, because it secures to those worthy pioneers, those worthy home builders on the farm and in the town, a share in the results of their going to the front and casting their lot in a new country and helping to build up a progressive, wide-awake, prosperous community, and to build up American citizenship.

There is a peculiar community of interest in an irrigation locality. There is a community of interest in the undertaking that does not exist where they go in single-handed and every fellow for himself, where there is no irrigation.

Mr. SLAYDEN. But this particular bill does not propose to help the people who are growing the crops, as I understand it, but the town-lot people. Is not that true?

Mr. KINKAID of Nebraska. I am glad the gentleman reminds me of that. It takes nothing away from the entryman or farmer on the land that he has ever had. It creates some-

thing which never would have existed except for the law. It conserves the value in the town sites until they have doubled in value, trebled in value, and quadrupled in value, and the Government conserves this value by holding it, while it secures to the entryman one half of it and the town-site investor the other half of it. It secures to them the increase in value which they cause jointly by going in and developing that community. Now, we all stand for the entryman, one of us as much as the other—and there is no question about that—and this gives him twice as much in getting 50 per cent under the law proposed as he would have received had he gotten 100 per cent under the old law or the law that now exists. It creates by the beneficence of the law of conservation a capital as the joint result of the townsmen and the farmers that they never would have had without it, and the Government secures to them righteously that which is right and beneficent.

Mr. SLAYDEN. As I understand the reclamation act, the proceeds of all sales are ultimately to find their way back into the Treasury of the United States.

Mr. KINKAID of Nebraska. I thank you. I intend to speak about that.

Mr. SLAYDEN. And this proposes to permanently divert a part of the proceeds of the sales, to take it away from all the people, and assign it for the benefit of a few citizens in a few towns that may become cities ultimately. Is not that right?

Mr. KINKAID of Nebraska. Thank you. I intend to touch that. At first blush it does. Again, it never would have existed if it were not for this beneficent policy. If the Government can be permitted to go on there and administer unselfishly, as a government can and will, instead of an individual administering selfishly, as he can and will, it will create the fund there whereby the Government is the better insured to get the money that it parted with in the first place, and that is all it is entitled to. But it goes on and makes it easier: it creates this fund for the settlers, and it is divided between the farmers and the townsmen. After they get their share the Government is better secured, because they owe less, and get the same lands, and they are better security for the Government.

Now, mind you, the Government is not speculating here. The national reclamation law is merely for the purpose of developing these irrigation projects and getting back without interest what the Government put in, and the Government does not aim to get any more back. So you are not diminishing the amount to be paid back to the Government. On the other hand, you are not permitting anyone to stand as a speculator and reap the benefit from the service of the settlers who go in there.

A country is nothing at all without people. The district I have the honor to represent is worth more per acre, or the most of it, by five times than it was when I first took my seat in this House.

Mr. MANN. Due, of course, to your presence here. [Laughter.]

Mr. KINKAID of Nebraska. Due to the people of that district. This House was kind enough and wise enough to pass the right kind of a homestead law, giving them 640 acres instead of a quarter section. That induced people to come in. Everybody found that that was best for everybody else. Everybody has a community interest in the prosperity of everybody else.

Mr. SLAYDEN. What is the average value of 640 acres now?

Mr. KINKAID of Nebraska. It varies greatly. Some of it is worth $5, some of it is worth——

Mr. SLAYDEN. Some of it $50?

Mr. KINKAID of Nebraska. You might get some 40 acres somewhere, under peculiar circumstances, that will be worth that much.

Mr. SLAYDEN. It will be worth $5 an acre?

Mr. KINKAID of Nebraska. For grazing purposes it might be; yes.

Mr. SLAYDEN. How much has it increased since the Government conceded the 640-acre homestead?

Mr. KINKAID of Nebraska. It has very greatly increased. I suppose some 400 or 500 per cent.

Mr. SLAYDEN. Then some of it was not worth anything before.

Mr. KINKAID of Nebraska. Now, the more this thing is turned over the more cogent do the reasons appeal to me that it will be the strongest kind of an example of conservation if enacted into law. No one can show that the Government will lose anything. The national irrigation law, literally construed, and taken in its spirit, contemplates only that the money invested in the first place should be paid back to it, and it does not contemplate that any speculation will be made out of the lands, and it does contemplate that all the rise in value will inure to the hardy pioneer, to the settler who goes in there and casts his lot with the rest and builds up that community. So this bill, if enacted into law, can not be construed to take away anything from the General Government, but all it is intended to do is to conserve to those worthy pioneer home builders in the towns and in the country the result of their efforts in going in there and building up the community. It conserves to them the added value which arises therefrom.

Mr. MADDEN. Will the gentleman yield to a question?

Mr. KINKAID of Nebraska. Now, they talk about escaping taxation. They point out that the land would become subject to tax if sold at the start. Certainly; that is clear enough. But by wise management the Government will sell it out for ten times as much as all these taxes will aggregate. I believe in the Government taking a hand in the matter when it can do so much, and it is only going to continue for a very short time. It does not last always. It terminates itself in a short time. This is not perpetual. The people will take over the entire project before a great while. It is all their own. They will take over the city government and the land, and they will control this matter directly.

I want to emphasize my view that some legislation is essential here. It is rendered necessary by the existing condition of things. The present law works the greatest injustice that you can contemplate by the operation of a law passed so recently, and relief ought to be given, and it seems to me this will be wise and beneficent legislation.

Mr. MADDEN. Does not the gentleman think that when a town site is established, whether it be 160 acres or 640, all the lots within the town should be platted and offered for sale, and any intending purchaser should be permitted to select a lot anywhere within the boundaries of the town site and make his purchase at such place within the site as he may think best for him instead of as now, platting only 10 acres in the whole town site and offering for sale lots only within that 10-acre plat?

Mr. KINKAID of Nebraska. I will say to the gentleman that I would have no serious objection to platting the whole town site at the start in order that everybody might know the relation of things in general to his purchase or to the purchase that he contemplated making. He could tell more about it in that way than if only 20 acres were platted and disposed of at the start.

But I say it is better not to sell it all. I say that herein consists conservation. The value will be conserved and secured to the farmer and townsman, who will benefit from the rise in value.

Now, I appeal to the membership of this body as to who is the better entitled to the rise in value—the farmer and townsman or the speculator? I have no objection to the legitimate speculator, but the mere speculator does nothing but come in there and buy a lot, puts improvements on it or not, just as he chooses. He may hold back a block and not improve it for 20 years and still get the benefit of the rise in value which comes from the improvements made by those who have made improvements and caused by the development of the neighboring community, and thus he may stand in the way of the development and not sell his property for a reasonable price.

Mr. SLAYDEN. But he takes the increment?

Mr. KINKAID of Nebraska. Yes; he would stand in the way. He would be selfish, and if any individual controls a town site, or several individuals, they would be selfish, naturally, and if one individual buys up a town site he would manage it to suit himself and his own interests and those of his heirs.

Now, the Government will administer it for the interest and benefit of the public and for the benefit of those pioneers who go in there and make that condition of things which makes the property valuable.

Mr. RAKER. Under all the irrigation projects, so far as the price is concerned, the price to the Government is the same. It is just the same, whether you file on a tract of land under a reclamation project to-day or 10 years hence or 5 years past, is it not?

Mr. KINKAID of Nebraska. Yes.

Mr. RAKER. Under the town-site plats ought it not to be the same way after you fix an appraised value, so that every man that goes in there ought to get his tract of land at that price? Is not that fair?

Mr. KINKAID of Nebraska. Members may differ on that.

Mr. RAKER. Is not that conservation? Is not that getting down to actual working methods?

Mr. KINKAID of Nebraska. No; I think that is business; not conservation. That is business to the man who wants to speculate. But I think it is very wise and fair and salutary to give the home builder the benefit of this rise in value which occurs in a short time.

Mr. Chairman, by platting out a 20-acre town site to start with, without letting it be known exactly how the town would

be expanded, I grant has its disadvantages. In such case it would not be known where the public park would be and where the public buildings will be, and where the streets would be, and so forth. Those things should be had well in mind. But if the Government can start a town where there is a community of interest and hold it together in the interest of everybody, after a while it will be a place of beauty and one that will afford conveniences for the surrounding country.

I am very grateful for the attention which the Members have given me. [Applause.]

Mr. MANN. Mr. Chairman, I would like to get the attention of the committee, and especially that of some gentlemen who are particularly posted as to the reclamation law. As I understand the law, where it is proposed to enter upon a reclamation project the land that is included within that project is withdrawn from ordinary settlement; is that correct?

Mr. MARTIN of South Dakota. It is withdrawn from settlement, except under the provisions of the national reclamation law.

Mr. MANN. All the gentleman needed to do was to say "yes," then, to my question.

Mr. MARTIN of South Dakota. I think I did better than that in my answer.

Mr. MANN. Now, under that situation the Government proceeds with a reclamation project. It constructs irrigation works, dams, and whatever may be necessary. It authorizes people entitled to the benefits of the homestead law to take up certain areas of land—different amounts, I believe, in different irrigation projects—and to enter them under the homestead law. The Government does not make any charge for the land, although the land may be worth a very high price. The only charge that is made for the land, if I am correct, is a proportionate part of the cost of the project.

Mr. MARTIN of South Dakota. The gentleman is correct.

Mr. MANN. And that is irrespective of the time when the entry is made.

Mr. LAFFERTY. The proportionate part of the cost to any particular settler is the amount which it bears to the whole cost of the project. The Government pays nothing. The Government is completely reimbursed.

Mr. MANN. I do not think the Government ever will be completely reimbursed; but that is neither here nor there.

Mr. RUCKER of Colorado. That is the theory.

Mr. MANN. The theory is that the Government will be reimbursed for its principal, not for interest.

Mr. LAFFERTY. That is correct.

Mr. MANN. The Government exacts from each homesteader a proportionate part of the cost of the improvement, and in addition a proportionate part of the cost of maintenance and operation. There is no charge for the land except for the works which are constructed to add to the value of the land. Whoever gets the first entry may, if he is fortunate in his selection, obtain the most valuable piece of land. But none of these settlers can establish a town site at first, and in order that people may have the necessary benefits of a municipality—of stores and other things that go with the central location—the Government provides for a town-site reservation and for the disposition of the lots in the town site; and because a particular lot or a particular location in a town may be of considerable value when the other portions of the town are of small value, the Government, instead of saying that the person who gets the first choice shall have the opportunity to take the first lot, offers these lots for sale.

It has been suggested by gentlemen that wherever 640 acres or 160 acres are reserved the entire tract should be subdivided into lots and offered for sale at one time. But gentlemen will quickly see, I think, that that is not to the interest of the Government or of the municipality or of the people who locate there. It is desirable, by way of making improvements in a small community, to have the community centralized so that they can have these improvements. But if you open 640 acres, or a mile square, and open all the lots for sale at one time, no one can tell where the lots of principal value will be, and so you may have a store or a center at one end of the mile and another store or center at the other end of the mile which may be to the interest of the people who own the particular lots, but is not to the interest of the community which ought to have necessary improvements in the locality where the people are.

Now, the proposition that the Government has adopted is to open a small portion of the reservation and sell that in lots at once. That puts the center of the town at a particular place. Just as soon as people buy these lots there are certain improvements needed. Everyone will admit that a schoolhouse is needed at once. A water supply is needed at once. I do not know whether it is practicable to furnish the water supply in connection with the irrigation works, but it is quite certain that in any town at any place a supply of water is absolutely necessary. There must be some method of sewage disposal. Perhaps primitive methods may satisfy in some places, but there may be other places where the community will be so large that the primitive methods are not sufficient in connection with the water supply which may be obtained.

Now, what is the proposition here? The Government making no charge whatever to the farmers who take the land that is irrigated, but furnishing the irrigation works at cost—and in the end the Government will lose upon every one of the irrigation projects—it is proposed by this bill that when the Government sells town lots it will agree that a certain proportion of the money paid for the lots shall be used in municipal improvements.

I suppose the first thing would be a schoolhouse. If the place were or needed to be a county seat, it might become necessary to provide county buildings, though I take it that would not be done unless the entire county were in a reclamation project, which probably never has occurred. It might be necessary to have a city hall. It is quite essential to have sidewalks. It is quite essential to have graded streets. The necessity for water is apparent. Gentlemen might suppose from some of the speeches we have had here, or from the reading of the bill itself, that the Government intended to construct great schoolhouses, water towers, waterworks, sewage-disposal systems, lighting establishments, and everything of the sort. But there is one thing which will prevent most of that. That is a lack of money. Take the town of Newell, where I apprehend the lots sold perhaps as high as anywhere, and where the total amount which has been realized as yet is in the neighborhood of $40,000. Twenty-five acres were sold. That would cover the disposition of from 3,000 to 6,000 feet front, depending upon the depth of the lot and the width of the street. If lots were 125 feet deep, on a 66-foot street to an alley, it would cover in the neighborhood of 6,000 feet. Well, upon 6,000 feet, which is a little more than a mile, you could not spend a great deal in the way of a schoolhouse and waterworks and a lighting system and sewers and everything of that sort for $20,000. You would not proceed so very far in that direction.

But it seems to me it is desirable that when the Government is providing for these irrigation projects, when it is constructing an irrigation system for the benefit of the people who will occupy the farming area, it shall at the same time provide something for the people who intend to live in the town. We provide water for the farms, but without this bill we provide no water for those who live in the town. It is just as essential to have water in the town as it is to have water on the farm.

Mr. RAKER. Is it not provided by the general bill that the Reclamation Service shall provide water for the towns, as well as any electrical energy that may be generated?

Mr. MANN. I know of no method under a reclamation project of providing water for the town except it comes from the irrigation ditch.

Mr. RUCKER of Colorado. And for irrigation purposes.

Mr. MANN. Yes.

Mr. SMITH of Texas. If the gentleman will pardon me, I want to call the attention of the gentleman to the fact that the cost of water used by the farmers is paid back to the Government, but here you propose to furnish it to the town as a donation.

Mr. MANN. The reason of that is that we donate the land entirely to the farmer; we do not sell it; we give it to him. If we sold it, he would be in the same position that the man is who purchases the town lot. We give that land to him; it costs him nothing as far as the land is concerned. We sell the town lots. The proposition is that we take 50 per cent of that for improvements. We take all that we get from the farmer for improvements.

All that he pays goes into improvements which he uses, it is true, strictly for his benefit. This proposition is to take one-half of that that you get from the lot buyer to make improvements for his benefit. It is, I believe, to the interest of the Government and the people to construct the irrigation projects, to pay out the money for improvements and only take back the cost of them, and I also believe that it is desirable when we construct a town to provide for these things which are absolutely essential to the community, which must be had, and which the community in the first instance is not able to provide.

Here we provide for selling town lots on a raw piece of property, where there is no method of government, no method of taxation the first year, but the need of schools and the need of water comes from the time there are any children there or any people living on the place.

With these observations, Mr. Chairman, I would like to direct the attention of the committee to some provisions of the bill. "The first provision of the bill is that one-half of the net proceeds heretofore"—and with an amendment hereafter—"received from the sale of town lots shall be devoted," and so forth.

Now, as I understand the theory of this proposition, it is that when you offer lots for sale with a statement that one-half of the proceeds of these lots shall be devoted toward the necessary municipal improvements, that people will pay more for the lots. A man would be very foolish, it seems to me, to pay as much for a lot in a community where no schoolhouses were provided, where no water was provided, where nothing was provided, as he would pay for a lot where sidewalks were to be constructed, streets provided, schoolhouses built, and water was to be furnished.

Gentlemen say, however, that the Government has already in selling these lots practically promised these improvements by literature which has been circulated. Of course, as to lots which have already been sold, without any assurance that these improvements can be made, there can be no claim that the Government is under any obligation to construct municipal improvements for the benefit of the people who bought lots without the expectation of receiving those improvements. I do not know, except as has been stated here, whether practically, though not intentionally, fraud may have been committed upon people who buy these lots at other places than the one that has been referred to by the gentleman from South Dakota [Mr. MARTIN], where apparently men were induced to pay a high price for lots with the assumption, and the proper assumption, that the Government would undertake certain improvements which there was no authority in fact to undertake.

I would like to ask the gentleman, however, in regard to the amount that this bill proposes to set aside. It proposes to set aside 50 per cent of the proceeds for municipal improvements. We have passed in recent years a number of bills opening Indian reservations. We passed one on Monday last where we set aside 20 per cent of the receipts from lots for making municipal improvements. If 20 per cent was the proper figure in an Indian reservation, why should 50 per cent be the proper figure in a reclamation project? Or, if 50 per cent is the proper amount on a reclamation project, why did we fix 20 per cent on an Indian reservation town site?

Mr. MARTIN of South Dakota. Mr. Chairman, I do not know whether the gentleman asked the question with the expectation of its being answered at once or not; but I might say, if the gentleman will permit, that I think the relation between the two is altogether different. Here are lands belonging to the Indians of which the Government is the trustee; every dollar that comes out of the sale of Indian lands goes to the Indians. I can see how, under those circumstances, a very low amount might be mentioned as the proportion that was to be given to the Indians' share of improvements. Those considerations would hardly apply here. As to this particular instance, the gentleman has shown from his argument that 50 per cent would go but very little ways in making the necessary improvements that would be required at once on the organization of the town.

Mr. MANN. Mr. Chairman, I did not catch the distinction between the reclamation project and the Indian lands. Under the law as it now stands any money received from the sale of town lots goes to reduce the amount which the farmer on the irrigated land is charged with as a part of the cost of construction. On the Indian reservation it goes to pay to the Indian the amount for which the lots are sold. I can see no difference in principle, because, I take it, both propositions are based upon the fundamental idea that the value of these improvements will be added to the price at which the property is sold. It is in the nature of a special assessment, and the theory of a special assessment in municipal improvements is that when the improvement is made it adds that much more to the value of the land. That is the theory throughout the country upon which waterworks, sewer systems, sidewalks, and roads are built.

I would like to ask a few questions in reference to section 3, which is:

> That all income received from a portion of any such building or works while under the control of the Secretary of the Interior shall be paid into and become a part of the reclamation town-site fund.

What income can be received from these works except from the waterworks, the lighting system, or something of that kind? If you construct waterworks out of this fund and operate the waterworks and charge for the use of the water, upon what theory do you propose to pay that money into the reclamation fund, where it is merely for the cost of operation?

Mr. LAFFERTY. The money is paid into the town-site fund and not into the reclamation fund.

Mr. MANN. That is the same thing.

Mr. LAFFERTY. It might be money derived from the rent of a city hall.

Mr. MANN. It might be, but I do not think they rent the city hall anywhere. It contemplates the construction of waterworks and a lighting system. This necessarily contemplates that the people who receive the benefit will pay the special assessment.

They will pay for the water received and they will pay for the light received. That is part of the cost of maintenance. Why should not that money be used for maintenance?

Mr. MARTIN of South Dakota. I suggest whether that is not the practical working out of the section. The Secretary of the Interior is given authority to operate and maintain for a limited time, and this provides that such income as he gets during that period shall be applied to this same fund—the reclamation town-site fund.

Mr. MANN. He pays for that out of the 50 per cent. What the cost of operation would be no one knows. It might be considerable, and any money that comes in from the ordinary operation of a waterworks plant or a lighting system ought to be used toward the maintenance of the plant.

Mr. LAFFERTY. I think the gentleman from Illinois is right about that.

Mr. MONDELL. Would not that be the practical effect of this provision?

Mr. MANN. I think not.

Mr. MONDELL. The intent of the provision is to direct that the income shall go into and become part of the fund. Then the bill provides that the Secretary of the Interior shall operate these works during the time they are under his charge from the town-site fund.

Mr. MARTIN of South Dakota. That is certainly the purpose of it. It should be made clear, if it is not.

Mr. MONDELL. It is simply a provision drawn by the department, the intent of which is to direct the flow of any income into the reclamation fund. Of course it is taken right out again if any part of it is needed for operating expenses.

Mr. MANN. That may be correct. Another provision that the department, I suppose, drew has excited my curiosity, and I would like to ask about that. That is in reference to the cemeteries, where it is proposed that cemeteries shall be held under certain conditions until such time as a "municipal corporation or corporations shall be created." Where a cemetery reservation is made for a town site, how many municipal corporations does the gentleman expect to be created out of that town site?

Mr. MARTIN of South Dakota. I suppose that language has been suggested by the department upon the theory that often a cemetery is not owned by the municipality itself, but by a cemetery association. It is quite common. During my brief service in this House we have passed many acts of Congress which gave certain public lands to cemetery associations to use in connection with towns or villages.

Mr. MANN. Where you use the language "a municipal corporation or corporations," that does not include cemetery corporations.

Mr. MARTIN of South Dakota. The gentleman repeats the adjective, and I suppose a liberal construction would not insist upon our doing so.

Mr. MANN. It also refers to a "municipal corporation or corporations for cemetery purposes," and I was just curious to know whether it was expected to have two towns located on a 640-acre town site.

Mr. MARTIN of South Dakota. No; I think not.

Mr. MADDEN. If they put the buildings up on each end of the 640 acres, as some gentleman suggests, it might be necessary.

Mr. MANN. It probably would, if they followed the suggestion of my colleague, to sell all the lots at one time. I think that was not contemplated.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. RAKER. I had an idea from that provision that it was to divide off a 10-acre tract in each corner of the 640 acres, and have a little town in each corner, so that there would be no possible question of a rumpus as to the location of the public buildings.

Mr. MARTIN of South Dakota. If you separate the towns like that, you probably will have a cemetery of the whole place before a great many years.

Mr. MANN. Mr. Chairman, the gentleman from California [Mr. RAKER] desired to have all of these lots put up on appraised value. I do not see how anybody can intelligently in advance appraise the value of a town lot in a proposed new town. When you go into a new country and start a town, with one store building, with very few people living there, that is one thing; but here is a town, to be started in a settled community practically, and a somewhat closely settled community in most places, because in the irrigation projects, as a rule, the amount which any one person can take is not large. You will have a great many people there very early; you will have a pretty fair sized town to start with. I do not see how you can appraise the value of those lots except to let people use their best judgment in reference to them.

How long is it intended, may I ask, under this bill to have the Government run the schools?

Mr. RUCKER of Colorado. It says not exceeding two years.

Mr. MONDELL. Why, I think the bill is clear upon that subject. It is intended that the Government should build the schoolhouses. I do not think it is intended that the Government should run the schools at all.

Mr. MANN. Then, what does the bill mean by "the operation of schoolhouses" and "other school and municipal improvements"?

Mr. MONDELL. Where does the gentleman find that language?

Mr. MANN. Here is a fund that is set aside and created as a special fund in the Treasury to be known as the reclamation town-site fund, to be used in the "construction, maintenance, and operation of schoolhouses, water, light, and sewer systems, and other school and municipal improvements," and so forth.

Mr. MONDELL. I suppose the use of the word "operation" there as applied to some of the improvements authorized is not particularly happy. It is necessary with regard to some improvements and so the words "maintenance and operation" were used with regard to all of the improvements which are authorized.

Mr. MANN. Under the language used, would not "the operation of schoolhouses" and "other school and municipal improvements" authorize the maintenance of schools out of this fund, and ought that to be done in any event? If the Government builds the schoolhouses the people ought to maintain the schools.

Mr. MONDELL. Yes. I do not think that under any circumstances this would be construed to authorize the department to operate a school or to pay teachers or anything of that sort, but the gentleman will notice that quite a number of matters are referred to here, and then the general terms "construction, maintenance, and operation" are used as applying to them generally.

Mr. MANN. Well, where you say "construction, maintenance, and operation of a schoolhouse and other municipal improvements"—if that does not contemplate the maintenance of a school out of this fund, I fail to understand the English language thoroughly.

Mr. MONDELL. It authorizes a construction and maintenance of schoolhouses and of school improvements, but hardly authorizes the maintenance of a school, I think.

Mr. MANN. What is the operation of a schoolhouse and a school? How else can it be operated?

Mr. MONDELL. I want to say to the gentleman, if I may be allowed, that while I do not disclaim any responsibility, I am not responsible for this particular language. I am not saying I would have constructed it just as it is constructed if I had drafted it, but I think a fair construction would be that they could build a schoolhouse, that they could make their new school improvements, but they could hardly maintain a school.

Mr. MANN. The gentleman has had trouble enough with the construction by departmental officials——

Mr. MONDELL. I have.

Mr. MANN (continuing). Of laws passed by Congress.

Mr. MONDELL. I speak feelingly on that subject.

Mr. MANN. He knows that language like this would probably be construed to mean the operation of a school if they had the money.

Mr. MONDELL. I know that no one in the House is so well qualified as the gentleman from Illinois to offer such an amendment as would make this clear, and I am sure everybody would accept it.

Mr. MADDEN. I understood the gentleman from Wyoming [Mr. MONDELL] to say a little while ago that it would be impossible to run the schools without taxation, and that taxation in a town like this would be impossible except as to the lots that had gone into the possession of private ownership, and I wish to ask my colleague if that be the case, whether it will be possible to do anything else except to operate the schools out of these public funds?

Mr. MANN. I think after we provide a schoolhouse we are providing enough for the people to operate the schools themselves in some way.

Mr. RUCKER of Colorado. Will the gentleman permit?

Mr. MANN. Certainly.

Mr. RUCKER of Colorado. If the gentleman has any question about whether the Secretary of the Interior will go into the school business or not, I think he might look around here and see several would-be Secretaries and inform himself on that subject accurately.

Mr. MANN. I think the gentleman is hardly accurate. The gentleman does not see several would-be Secretaries of the Interior in the House, but he can see a number of gentlemen here who would make excellent Secretaries of the Interior if they could be persuaded to leave the House for that purpose.

Mr. RUCKER of Colorado. And even teach school in connection with it.

Mr. MANN. Now, may I ask the gentleman a little further? Take the case that has already been cited, the particular case of Newell. Upon what theory can the gentleman claim that we ought to provide that 50 per cent of all the lands hereafter sold shall be used for municipal improvements, although some of the land may not be sold for 10, 20, 30, 40, or 50 years? How would that be expended for the benefit of that land? It is perfectly apparent, is it not, that if you have the center of a town in one place and a lot out on the outskirts, and you sell that lot after your town is inaugurated, and you have a city council to spend the money, and they will spend the 50 per cent for which the lot on the outskirts sells in front of the lot, it will not enhance the value of that lot 5 cents? Certainly, they will not double its value, because the money which has been spent for municipal improvements will not be spent for the benefit of that lot. How can you defend the proposition that after your town is started, after it is organized, after the first necessary improvements are provided, that thereafter you shall take out one-half of the price for which the other lots sell, when it certainly will not make them sell for any more?

Mr. MARTIN of South Dakota. Answering the gentleman, I do not know the basis of his statement that it will not make them sell for any more. I think if any purchaser of a lot, expecting to improve, has knowledge that half which he bids on the lot will be used in betterment of the town in any part, under the direction of the municipal officers, would bid higher for a lot under those circumstances.

Mr. MANN. I have had some experiences with town lots. I am very sure that in the district which I represent, which is a portion of the city of Chicago, not taking in the down-town center which my colleague, Mr. MADDEN, represents, the people out in our part of the town would not pay 10 cents more for a lot in order that half of the purchase price might be spent down town.

Mr. MARTIN of South Dakota. That is under the administration that spends the money in a part of a town where it is not raised.

Mr. MANN. Every administration in every town spends most of the money on the streets and around the places where the people live. They do not spend it on the vacant property.

Mr. MARTIN of South Dakota. I assume the expenditures will be made for municipal improvements in that part of the city where they are most needed, and if we were to add to any community 10 acres additional of town property, I do not see any reason why there should not be some effort to supply sewerage and lighting systems and to extend that portion, and I do not agree with the experiences they have in Chicago would necessarily control in small towns.

Mr. MANN. The gentleman means that probably Chicago is not as honestly administered as small towns.

Mr. MARTIN of South Dakota. No; I do not.

Mr. MANN. I can assure the gentleman that a city like Chicago knows more about getting value out of its money than a small town that has never had any experience in municipal government. It is perfectly apparent to any man who has any judgment at all that where a town is located and these improvements provided all you can pay out of this general fund is for the main works.

You can not construct lateral sewers, you can not construct water-pipe service in the streets, you can not put a lighting plant in the streets in these towns. All you can construct out of a fund of this kind are the main works. Now, it is absolutely of no benefit to a particular lot which is not yet sold in the outskirts of a city to spend half the amount of money you sell it for down town, and hence it will not increase the value any.

Mr. Chairman, I understand that the gentleman from Colorado [Mr. RUCKER] desires to move that the committee rise, and I reserve the balance of my time.

Mr. RUCKER of Colorado. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. FOSTER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 23669) providing for the disposition of town sites in connection with reclamation projects, and for other purposes, and had come to no resolution thereon.

ECONOMY AND EFFICIENCY COMMISSION (H. DOC. NO. 1252).

The SPEAKER laid before the House the following message from the President of the United States, which was read:

To the Senate and House of Representatives:

I submit for the information of Congress the report of the commission appointed by me to carry on the work authorized under act of appropriation of June 25, 1910, which made available $100,000—

To enable the President, by the employment of accountants and experts * * * to more effectively inquire into the methods of transacting the public business * * * with a view of inaugurating new or changing old methods * * * so as to attain greater efficiency and economy therein, and to ascertain and recommend to Congress what changes in law may be necessary to carry into effect such results of his inquiry as can not be carried into effect by Executive action alone.

Pursuant to this authority a preliminary investigation was instituted under the Secretary to the President with a view to determining what ground should be covered and what staff and organization would be required. This preliminary inquiry was carried on until March, 1911, when, at my request, the term of the appropriation was extended to June 30, 1912, and $75,000 was added.

Of this $175,000 made available for the first two years the amount expended for the preliminary inquiry was $12,252.14, leaving $162,747.86 available for the 15 months remaining after March 8, 1911, when the commission was organized. By special message of January 17, 1912, I requested that $250,000 be made available for the current fiscal year. Only $75,000, however, was appropriated, and to this was attached a restriction to the effect that not more than three salaries could be paid in excess of $4,000 per annum, thereby forcing a complete reorganization of the commission. At the same time the Congress by special resolution requested a report from the commission with recommendations on the organization and work of the Patent Office—this to be submitted to Congress not later than December 10, or a little over three months after the resolution was passed. Although $10,000 additional was appropriated for this purpose, it was impossible within the time to organize a special staff which could do such a highly technical piece of work. A further limitation to constructive work has been found in the short period for which funds have been made available. Many of the problems of administration which should be gone into require months of constant attention. The commission has not felt free to undertake work which could not be reported on before the expiration of the appropriation, and the appropriation for the current fiscal year was not passed until August 24, the authority expiring June 30 following. I mention these facts to indicate some of the handicaps under which the commission has labored in prosecuting one of the most difficult, far-reaching, technical inquiries that has ever been undertaken, and one from which economies have already been realized many times greater than the cost.

In planning the work to be done by the commission the first controlling fact was that there was no basis in information for judgment as to what changes should be made or what would be the effect of any recommended change, no matter how simple it might at first appear. As was stated in my message of January 17, 1912, on the subject:

This vast organization has never been studied in detail as one piece of administrative mechanism. Never have the foundations been laid for a thorough consideration of the relations of all of its parts. No comprehensive effort has been made to list its multifarious activities or to group them in such a way as to present a clear picture of what the Government is doing. Never has a complete description been given of the agencies through which these activities are performed. At no time has the attempt been made to study all of these activities and agencies with a view to the assignment of each activity to the agency best fitted for its performance, to the avoidance of duplication of plant and work, to the integration of all administrative agencies of the Government, so far as may be practicable, into a unified organization for the most effective and economical dispatch of public business.

The only safe course, therefore, was first to obtain accurate knowledge of the vast administrative mechanism of the Government; get a clear notion of what the officers and agents of the Government were doing in all of its departments, bureaus, and subdivisions; find out how each part of the service was organized for performing its activities, what methods are being employed, what results are being obtained, where there are duplications of work and plant, wherein the organization and methods are ill adapted or ill adjusted.

In each case, as first drafts of descriptive reports have been completed by the commission, they first have been submitted to the services whose organization and work are involved, so that this part of the work has been a joint product of all services. This has been done for the double purpose of having a statement of fact that is beyond controversy, and to lay the foundation for the consideration of the critical comments and constructive suggestions that have followed.

To the present time 85 reports have been submitted which carry recommendations. Fifteen of these reports, most of which recommend constructive legislation, have already been sent to Congress, viz:

1. Outlines of organization of the Government. Submitted January 17, 1912 (published as H. Doc. 458).
2. The centralization of the distribution of Government publications. Submitted February 5, 1912 (published in S. Doc. 293).
3. The use of window envelopes in the Government service. Submitted February 5, 1912 (published in S. Doc. 293).
4. The use of the photographic process for copying printed and written documents, maps, drawings, etc. Submitted February 5, 1912 (published in S. Doc. 293).
5. Methods of appointment. Submitted April 4, 1912 (published in H. Doc. 670).
6. The consolidation of the Bureau of Lighthouses of the Department of Commerce and Labor and the Life-Saving Service of the Department of the Treasury. Submitted April 4, 1912 (published in H. Doc. 670).
7. The Revenue-Cutter Service of the Department of the Treasury. Submitted April 4, 1912 (published in H. Doc. 670).
8. The accounting offices of the Treasury, with recommendations for the consolidation of the six auditors' offices into one. Submitted April 4, 1912 (published in H. Doc. 670).
9. The Returns Office of the Department of the Interior. Submitted April 4, 1912 (published in H. Doc. 670).
10. Travel expenditures. Submitted April 4, 1912 (published in H. Doc. 670).
11. Memorandum of conclusions concerning the principles which should govern the handling and filing of correspondence. Submitted April 4, 1912 (published in H. Doc. 670).
12. Supplementary report on the centralization of the distribution of Government publications. Submitted April 4, 1912 (published in H. Doc. 670).
13. The use of outlines of organization of the Government. Submitted April 4, 1912 (published in H. Doc. 670).
14. Report on retirement of superannuated employees. Submitted May 6, 1912 (published as H. Doc. 732).
15. Report on "The Need for a National Budget." Submitted June 27, 1912 (published as H. Doc. 854).

The reports of the commission already submitted which call for Executive action relate to a variety of subjects. Included in these reports are recommendations: For the modification of orders and practices related to the administration of the civil-service laws; the installation of a uniform system of accounting and reporting; forms and instructions for the preparation and submission of a budget; the use of window envelopes; the introduction of labor-saving office devices; more economical Government housing; better lighting, heating, ventilation, and sanitation; the better utilization of waste; the more economical disposition of obsolete and condemned stores and other property; the discontinuance of the jurat in the preparation of claims for reimbursement; the promulgation of rules governing travel expenditures.

With respect to many of these affirmative action has been taken, but in nearly every case it is necessary to proceed slowly with the making of changes, which have already been ordered, as it necessarily requires months to make any change which broadly affects the service without causing so much confusion as to seriously interfere with the transaction of Government business.

On December 9 I transmitted the report of the commission, with its recommendations, on the organization and work of the Patent Office. This report is printed as House Document No. 1110. I am transmitting herewith 11 other reports, the recommendations contained in which have my approval, as follows:

1. Business methods of the office of The Adjutant General of the War Department.
2. The handling and filing of correspondence in the Mail and Record Division of the office of the Chief of Engineers.
3. The handling and filing of correspondence and the doing of statistical work in the Bureau of Insular Affairs.
4. The handling and filing of correspondence in the office of the Surgeon General.
5. The handling and filing of correspondence in the office of the Signal Corps.
6. The handling and filing of correspondence in the office of the Chief of Ordnance.
7. The handling and filing of correspondence in the Mail and Record Division of the Department of Justice.
8. Methods of keeping efficiency records of employees in the National Bank Redemption Agency of the Department of the Treasury.
9. Report on the electric lighting of Federal buildings of the Department of the Treasury.
10. On the establishment of an independent public health service.
11. The recovery of fiber stock of canceled paper money.

The first six of these reports have been the result of intensive study of methods employed in the offices of the War Department at Washington, which point to detail reductions in cost which may affect the appropriations for 1914. These, together with the recommendations of the Secretary of War, are sent for your information. In the opinion of the commission, an estimated saving of over $400,000 a year can ultimately be made by favorable action on the changes in methods which are recommended in the six offices of the War Department alone.

One report above listed relates to the question of personnel. This is important both in its relation to efficiency or organization and economy of work. A number of other reports, containing recommendations for changes in the details of methods which, in the opinion of the commission, will produce marked savings in annual cost of transacting the business of the offices investigated are in the hands of the services interested. These will be sent for the information of the Congress as soon as action has been taken or other conclusion has been reached.

The report on electric lighting of public buildings is significant of the inattention to administrative details in a subdivision of the service which is charged with the operation and maintenance of several hundred Government buildings. Until this inquiry was begun no attempt had been made in this office to find out what was even the gross expenditures for operation as distinct from maintenance, or capital outlays, either for each building or for the whole service, and there were no means provided for knowing the heating, lighting, cleaning, or other costs as subdivisions of operation. The head of the office was presumably interested in construction; the primary responsibility of the department was for the care and custody of funds; the result was that no attention was given to the development of the information essential to the central direction and control over operative services. And it may be said that the condition found in this office is typical of the condition found in many of the operative services. The report covers only a partial inquiry into lighting efficiency.

The report submitted relative to the recovery of fiber stock of canceled paper money proposes that the method of macerating this stock which has been in use for about 40 years be discontinued and that more modern methods be adopted. Under modern methods of treating this paper stock it is deinked and defibered with but a small loss of pulp, and such stock when recovered can be used in the manufacture of new money paper, at a saving, as compared with the present method of macerating and sale, of about $100,000 per annum.

While during the time and with the staff available it has not been possible to make final detailed reports on more than a few of the hundreds of offices at Washington, and in only one office outside of Washington has work of this character been undertaken, the reports which are submitted will serve to illustrate the character of results which may follow an extensive investigation of office technique and procedure. It is further to be noted that the offices which have been reported on are those which have been frequently under scrutiny. From what is known of the offices outside of Washington it is thought that it is in this field that the largest opportunities for economy will be found—partly due to the fact that these offices have not been brought under scrutiny, and partly due to the fact that a large number of them are dominated by political appointees.

As illustrating the relative importance of services outside of Washington, it is of interest to note that the cost of clerk hire at the New York post office alone is more than that incurred in the Departments of War, Navy, State, Justice, and Commerce and Labor at Washington; that in the customhouse at New York the cost of clerk hire is greater than in any one department at Washington.

In my opinion the technique and procedure of every branch and office of the Government should be submitted to the same painstaking examination as has been given to those on which reports have been made. To do this, however, ample funds must be provided. As stated in previous messages to Congress on the subject, there is no greater service that can be rendered to the country than that of the continuance of the work of the commission until some form of organization is provided for continuously doing this kind of work under the Executive. I have asked, therefore, that $250,000 be provided for the continuation of the investigation which has been so well begun, and that these funds be made available March 4. In my opinion this is not a matter in which the Congress should assume that public money will be unwisely spent. At a total cost of about $250,000 during the 21 months covered by the work of the commission, facts have been developed and recommendations have been made that, if followed up, will result in savings of millions of dollars each year. This has been done under the handicap of inadequate funds and uncertainty of continuation, which interfered with the making of plans which could not be completely executed within a few months. It would be very much to the advantage of the administration if the President were authorized to spend whatever amount he may deem to be necessary within the next two years, the only condition attached being that he render an account of expenditures.

WM. H. TAFT.

THE WHITE HOUSE, *January 8, 1913.*

The SPEAKER. It seems to the Chair that while this message asks for an appropriation, it ought to go to the Committee of the Whole House on the state of the Union, inasmuch as it involves a variety of subjects; and unless there is objection——

Mr. MANN. Does it not refer only to an appropriation to be made by the Committee on Appropriations?

Mr. FITZGERALD. The Committee on Appropriations has handled the so-called Commission on Economy in the deficiency bill.

The SPEAKER. The message will be referred to the Committee on Appropriations and, with the accompanying documents, ordered to be printed.

FUR SEALS (S. DOC. NO. 997).

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with the accompanying documents, referred to the Committee on Foreign Affairs, and ordered to be printed:

To the Senate and House of Representatives:

At the last session of Congress an act was adopted to give effect to the fur-seal treaty of July 7, 1911, between Great Britain, Japan, Russia, and the United States, in which act was incorporated a provision establishing a five-year period during which the killing of seals upon the Pribilof Islands is prohibited. Prior to the passage of this act, I pointed out in my message to Congress, on August 14 last, the inadvisability of adopting legislation the effect of which was to require this Government to suspend the killing of surplus male seals on land before it was actually proved by the test of experience and scientific investigation that such suspension of killing was necessary for the protection and preservation of the seal herd. I also pointed out in that message that the other Governments interested might justly complain if this Government by prohibiting all land killing should deprive them of their expected share of the skins taken on land, unless we can show by satisfactory evidence that this course was adopted as the result of changed conditions justifying a change in our previous attitude on the subject. As was then anticipated, the other parties interested have now objected to the suspension thus imposed on the ground that it is contrary to the spirit, if not the letter, of the treaty, inasmuch as under existing conditions a substantial number of male seals not required for breeding purposes can be killed annually without detriment to the reproductive capacity of the herd. The same objection was raised by the other Governments interested under this convention while the bill was awaiting my signature, after its passage by Congress, but I refrained from vetoing it because at that time several thousand sealskins had already been taken on the islands and were ready for distribution in accordance with the requirements of the treaty, so that the suspension of land killing would not actually become effective until the following year, and I was satisfied that the information resulting from a study of the condition of the herd during the past summer would put this Government in possession of facts which would either lead to the amendment of the act at this session of Congress, or enable this Government to justify a temporary suspension of land killing; and apart from this particular provision the act was needed to give effect to our treaty obligations.

It now appears that under the operation of the fur-seal convention during the past year the condition and size of the herd has improved to an extent which seems to indicate that there is now no necessity, and therefore no justification, for the suspension of all land killing of male seals, as required by the act under consideration.

Last season's reports from the officials in charge on the Pribilof Islands show that the herd, which the year before contained at the highest estimate not more than 140,000 seals, now numbers upward of 215,000 by actual count, showing in one season an increase of at least 75,000 seals. This increase is largely due to the protection afforded by the treaty to the breeding female seals, which last summer numbered nearly 82,000, many thousands of which, except for the treaty, would have been slaughtered by pelagic sealers, and as every breeding female adds one pup to the herd each year, over 81,000 new pups were added last season. Moreover, instead of losing 10,000 or 15,000 of these pups through starvation, as heretofore, on account of the slaughter of the nursing mothers by pelagic sealers, this

summer by actual count the number of dead pups found on the rookeries was only 1,060.

It is evident from these reports that there has been a very remarkable increase in the size of the herd in one season under the operation of this convention and that a large part of this increase consists of female seals, upon which the future increase of the herd depends.

The present condition of the herd shows that there will be about 100,000 breeding female seals in the herd next summer, each one of which will produce one pup, and in the following year the female pups born last summer, amounting in accordance with the laws of nature to one-half of the total number of the year's pups, will pass into the breeding class, subject to losses from natural mortality, thus adding a possible 40,000 more, which would bring the total up in the neighborhood of 140,000 breeding female seals; and so on from year to year the reproductive strength of the herd will increase in almost geometrical progression, so that we can confidently count on having the present size of the herd doubled and trebled within a very short period.

All that is required to fulfill these expectations is to protect absolutely the female seals and set aside an adequate number of male seals for breeding purposes. The protection and preservation of the herd does not require the protection and preservation of the surplus male seals not needed for breeding purposes. Owing to the polygamous habits of the seals, the increase in the number of these surplus bachelor seals can in no conceivable way increase the birth rate or the reproductive capacity of the herd. Seals of this class contribute nothing to the welfare of the herd, and in some ways they are a distinct detriment as a disturbing element on the rookeries and as consumers of food, which is bound to become scarcer as the size of the herd increases. These nonbreeding males, therefore, are of no value as members of the herd except to furnish skins for the market in place of those heretofore taken by pelagic sealers, and in this connection it should be noted that the value of their skins for commercial purposes diminishes after they are 4 years old and ceases altogether after the age of 5 or 6.

It is right and necessary that the killing of all seals in the herd other than the nonbreeding males should be absolutely prohibited not only for five years but forever. Land killing has been and always must be strictly limited by law to male seals, so that female seals would never be included in land killing in any event. Pelagic sealing, on the other hand, always has been chiefly directed against female seals, thus diminishing the size of the herd not merely by the number actually killed each year, but also by an equal number of nursing pups killed by starvation and by the loss of the countless number of unborn pups which would have been added to the herd the following year and in succeeding years. Pelagic sealing has now been stopped, but it must be remembered that the United States alone was powerless to stop it. An international agreement was necessary for that purpose, and has at last been secured after difficult and protracted negotiations resulting in the present convention with Great Britain, Japan, and Russia, who have now joined with us in prohibiting pelagic sealing, and whose cooperation is necessary to make that prohibition effective. To secure such an agreement has been the aim of the United States throughout the entire period covered by the fur-seal controversy, and from the point of view of the United States this prohibition against pelagic sealing is the most important feature of the present convention. In order, however, to secure its adoption by Great Britain and Japan it was necessary for the United States to agree to give each of them a share of the proceeds of the annual increase of the American herd with the assurance, as an inducement, that a large annual increase available for commercial purposes would result from the abandonment of pelagic sealing. As stated in my former message to Congress on this subject—

> Ever since the question of land killing of seals was subjected to scientific investigation, soon after the fur-seal controversy arose, nearly 25 years ago, this Government has invariably insisted throughout the protracted and almost continuous diplomatic negotiations which have ensued for the settlement of this controversy that the progressive diminution of the herd was due to the killing of seals at sea, and that if pelagic sealing was discontinued the polygamous habits of the seals would make it possible to kill annually on land a large number of surplus males without detriment to the reproductive capacity of the herd and without interfering with the normal growth of the size of the herd. The position thus taken by the United States has always been put forward and relied on by the United States in urging that an international agreement should be entered into prohibiting pelagic sealing; and it is obvious that one of the considerations which induced Great Britain and Japan to enter into this convention prohibiting their subjects from pelagic sealing was the expectation that the position thus taken by the United States was well founded and that the skins falling to the share of those Governments from the land killing of seals, as provided for in this convention, would compensate them for abandoning the taking of sealskins at sea.

It was well understood by all the parties in entering into this convention that the result aimed at was to increase the annual reproductive capacity of the herd so that a larger number of sealskins might be taken each year for commercial purposes without injury to the welfare of the herd.

It is evident from these considerations that the United States is in honor bound under this convention to permit the killing annually for commercial purposes of male seals not required as a reserve for breeding before they have passed beyond the age when their skins cease to have a commercial value.

The question of how many male seals should be reserved each year for breeding purposes can readily be determined. In the act under consideration, as it passed the House and before it was amended in the Senate, there was a provision that hereafter only 3-year-old males shall be killed, and that there shall be reserved from among the finest and most perfect seals of that age not fewer than 2,000 in 1913, 2,500 in 1914, 3,000 in 1915, 3,500 in 1916, and 4,000 each year from 1917 to 1921, inclusive, and 5,000 each year thereafter during the continuance of the convention. These figures were arrived at after full and careful investigation by the House Committee on Foreign Affairs, and it appears from the committee reports accompanying this act that these figures were intended to be and were regarded as large enough to be on the safe side. It would be more appropriate and convenient to leave the decision of this question to the Secretary of Commerce and Labor, subject to the limitation, which might properly be imposed, that each year before any commercial killing is done there should be marked and set aside or reserved from among the finest and best of the males of 3 years of age such number as is necessary, in his judgment, to provide an ample breeding reserve of males. In any event it is evident that the determination of the number of male seals to be reserved each year for this purpose will present no difficulty; and in this connection it should be noted, as stated in my former message on this subject, that—

> since the fur-seal business has been taken over by the Government and no private interests are now concerned in making a profit out of it, there is no urgent necessity for imposing by legislation stringent limitations upon land killing.

The only provision in the convention authorizing the United States to limit or suspend land killing is the reservation in article 10, that nothing therein contained shall restrict the right of the United States at any time and from time to time to suspend altogether the taking of sealskins on its islands and to impose such restrictions and regulations upon the total number of skins to be taken in any season, and the manner and times and places of taking them, "as may seem necessary to protect and preserve the seal herd or to increase its number." It is clear from the terms of the convention that the right thus reserved to the United States to regulate or suspend land killing is not an arbitrary right, but can be exercised only when necessary to protect or preserve or increase the herd. It is also clear that this provision must be read in connection with the main purpose of the convention, and that the right reserved should be exercised in aid of that purpose. It has already been shown that the result aimed at by this convention was to increase the annual reproductive capacity of the herd, so that a larger number of sealskins might be taken each year for commercial purposes without injury to the welfare of the herd. It follows, therefore, that when a limitation or suspension of land killing would interfere with, rather than promote, this purpose of the convention there would then be not only no necessity but no justification for such limitation or suspension.

The argument has been advanced that in addition to the right thus reserved the convention recognized an absolute right in the United States arbitrarily to suspend all land killing, because, according to this argument, another clause of the convention fixes a measure of damages to be paid each year to the other parties whenever the United States prohibits all land killing. The clause referred to is found in Article XI, which provides that in case the United States shall absolutely prohibit all land killing of seals, then it shall pay to Great Britain and Japan each the sum of $10,000 annually in lieu of their share of skins during the years when no killing is allowed. It is evident, however, from an examination of the other provisions of the same clause of the convention that these $10,000 payments can not be, and were not intended to be, regarded as a measure of damages, because Great Britain and Japan are required to repay them to the United States with interest at 4 per cent out of the proceeds of their share of the skins taken whenever land killing is resumed. A payment which is subsequently to be refunded clearly is not a measure of damages. Moreover, even if this provision could be regarded as fixing a measure of damages, that in itself would not justify the United States in arbitrarily imposing those damages upon Great Britain and

Japan. These provisions requiring the $10,000 payments to be made when land killing is suspended and to be refunded when killing is resumed clearly have an ulterior purpose; otherwise they are wholly unnecessary, for the same result would have been accomplished with much greater simplicity by omitting them altogether. The ulterior purpose becomes perfectly clear when we consider that under the laws in force when the treaty was made it was within the power of the Secretary of Commerce and Labor to suspend land killing altogether whenever, in his opinion, the welfare of the herd required such action. The evident purpose, therefore, of this requirement for making substantial payments when land killing was suspended, was to prevent the suspension of land killing by executive action unless Congress was prepared to appropriate the money necessary for making such payments. It was undoubtedly assumed that the necessity for adopting legislation appropriating the money to make these payments would lead to a careful investigation of whether or not the actual condition of the herd warranted a total suspension of land killing, and that the appropriation would not be made unless the investigation produced satisfactory evidence that such suspension of killing was absolutely necessary within the requirements of the treaty.

In view of the present condition of the herd and the very marked increase in its size and particularly in the number of female seals, which has resulted from the operation of this convention during a single year, and which, as above shown, is to be attributed almost wholly to the protection afforded by the prohibition against pelagic sealing, I recommend to Congress the immediate consideration of whether or not the complete suspension of land killing imposed by this act is now necessary for the protection and preservation of the herd, and for increasing its number within the meaning and for the purposes of the convention. If no actual necessity is found for such suspension, then it is not justified under the convention, and the act should be amended accordingly.

As stated in my annual message to Congress in December last, it is important that in case there is any uncertainty as to the real necessity for suspending all land killing, this Government should yield on that point rather than give the slightest ground for the charge that we have been in anyway remiss in observing our treaty obligations. I also wish to impress upon Congress that, as stated in my former message on this subject, it is essential in dealing with it not only to fulfill the obligations imposed upon the United States by the letter and the spirit of the convention, but also to consider the interests of the other parties to the convention, for their cooperation is necessary to make it an effective and permanent settlement of the fur-seal controversy.

WM. H. TAFT.

THE WHITE HOUSE, *January 8, 1913.*

RESIGNATION OF A MEMBER.

The SPEAKER laid before the House the following communication:

DAYTON, OHIO, *January 8, 1913.*

HON. CHAMP CLARK,
House of Representatives, Washington, D. C.

MY DEAR SIR: I beg to advise you that I have forwarded to the governor of this State my resignation as Representative in Congress from the third Ohio district.

JAMES M. COX.

HOUSE BILL, WITH SENATE AMENDMENTS, REFERRED.

Under clause 2 of Rule XXIV, House bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

H. R. 27451. An act to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property, with Senate amendments; to the Committee on Claims.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Public Buildings and Grounds was discharged from further consideration of the bill (S. 4607) to amend section 3618 of the Revised Statutes, relating to the sale of public property, and the same was referred to the Committee on Naval Affairs.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. MCCOY, for five days, on account of important business.

To Mr. GREENE of Vermont, for the remainder of the week, on account of important business.

ADJOURNMENT.

Mr. SMITH of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 27 minutes p. m.) the House adjourned until to-morrow, Thursday, January 9, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Acting Secretary of War, recommending a change in special estimate for appropriation for work of Front Royal Remount Depot, Va., submitted to Congress under date of December 8, 1912 (H. Doc. No. 1251); to the Committee on Military Affairs and ordered to be printed.

2. A letter from the Secretary of State, transmitting pursuant to law an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Washington at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

3. A letter from the Secretary of State, transmitting pursuant to law an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of South Dakota at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. CLAYTON, from the Committee on the Judiciary, to which was referred the bill (H. R. 27827) to amend section 70 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, reported the same without amendment, accompanied by a report (No. 1281), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. RUSSELL, from the Committee on Invalid Pensions, to which was referred the bill (S. 7160) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, reported the same with amendment, accompanied by a report (No. 1283); which said bill and report were referred to the Private Calendar.

Mr. WITHERSPOON, from the Committee on Naval Affairs, to which was referred the bill (H. R. 23900) authorizing the President to reinstate Joseph Eliot Austin as an ensign in the United States Navy, reported the same without amendment, accompanied by a report (No. 1282); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. DUPRÉ: A bill (H. R. 27828) providing for the celebration of the one hundredth anniversary of the Battle of New Orleans, fought on the field of Chalmette on January 8, 1815, providing for the erection of a suitable memorial thereof, and making an appropriation for that purpose; to the Committee on the Library.

By Mr. HAYDEN: A bill (H. R. 27829) granting pensions to certain soldiers who served in the Indian wars from 1864 to 1898, and to their widows; to the Committee on Pensions.

By Mr. CALDER: A bill (H. R. 27830) for the enlargement of the Federal building in the Borough of Brooklyn, New York City, State of New York; to the Committee on Public Buildings and Grounds.

By Mr. FRENCH: A bill (H. R. 27831) to provide for State selection of phosphate and oil lands; to the Committee on the Public Lands.

By Mr. KENT: A bill (H. R. 27832) authorizing the survey of Point Arena (Cal.) Harbor; to the Committee on Rivers and Harbors.

By Mr. HAYES: A bill (H. R. 27833) to place certain exacting assistant surgeons of the United States Army on the

retired list of the United States Army; to the Committee on Military Affairs.

Also, a bill (H. R. 27834) to amend an act entitled "An act to regulate the immigration of aliens into the United States"; to the Committee on Immigration and Naturalization.

By Mr. HOBSON: A bill (H. R. 27835) to provide for the erection of a public building at Jasper, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. RAINEY: A bill (H. R. 27836) to improve the channel of the Illinois River at Meredosia, Ill.; to the Committee on Rivers and Harbors.

By Mr. DAVIS of West Virginia: A bill (H. R. 27837) to authorize the Buckhannon & Northern Railroad Co. to construct and operate a bridge across the Monongahela River in the State of West Virginia; to the Committee on Interstate and Foreign Commerce.

By Mr. SHEPPARD: Joint resolution (H. J. Res. 380) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc.; to the Committee on Public Buildings and Grounds.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AUSTIN: A bill (H. R. 27838) granting an increase of pension to Eliza J. Loftis; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 27839) granting an increase of pension to Harriet Quail; to the Committee on Invalid Pensions.

By Mr. DAVENPORT: A bill (H. R. 27840) for the relief of the heirs of Mahaly Fields, deceased; to the Committee on War Claims.

By Mr. DENVER: A bill (H. R. 27841) granting an increase of pension to Henry Burge; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 27842) for the relief of the legal representatives of Miles Hunter, deceased; to the Committee on War Claims.

By Mr. FRENCH: A bill (H. R. 27843) for the relief of Oliver P. Pring; to the Committee on Claims.

Also, a bill (H. R. 27844) for the relief of E. De Atley & Co.; to the Committee on War Claims.

Also, a bill (H. R. 27845) granting a pension to William S. Miller; to the Committee on Pensions.

Also, a bill (H. R. 27846) granting a pension to William H. Winters; to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: A bill (H. R. 27847) granting a pension to Edward J. Prime; to the Committee on Invalid Pensions.

By Mr. GOEKE: A bill (H. R. 27848) granting an increase of pension to William H. Gallant; to the Committee on Invalid Pensions.

By Mr. HAUGEN: A bill (H. R. 27849) granting a pension to Matt Farmer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27850) to remove the charge of desertion from the military record of Michael McWilliams; to the Committee on Military Affairs.

By Mr. HAYDEN: A bill (H. R. 27851) granting a pension to Marie Elizabeth Bailey; to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 27852) for the relief of Harlan W. Jenks; to the Committee on Claims.

By Mr. HOUSTON: A bill (H. R. 27853) granting an increase of pension to Tillman Crook; to the Committee on Invalid Pensions.

By Mr. KENT: A bill (H. R. 27854) granting an increase of pension to Rebecca M. Liening; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 27855) granting an increase of pension to George H. Imboden; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27856) for the relief of Lycurgus Campbell, administrator of the estate of Edward Campbell, deceased; to the Committee on War Claims.

By Mr. McCREARY: A bill (H. R. 27857) granting an increase of pension to Thomas Wells; to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 27858) for the relief of Frank Kleiminger; to the Committee on Claims.

Also, a bill (H. R. 27859) granting an increase of pension to H. W. Howe; to the Committee on Invalid Pensions.

By Mr. MOTT: A bill (H. R. 27860) granting John G. Escudero an advance in grade on the retired list of the Army; to the Committee on Military Affairs.

By Mr. PAYNE: A bill (H. R. 27861) granting a pension to Albert Brines; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27862) granting an increase of pension to Joseph Menanson; to the Committee on Invalid Pensions.

By Mr. PICKETT: A bill (H. R. 27863) granting a pension to Emily T. Lane; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27864) granting a pension to George C. Howland; to the Committee on Invalid Pensions.

By Mr. RUCKER of Missouri: A bill (H. R. 27865) granting a pension to Sophia J. Taylor; to the Committee on Invalid Pensions.

By Mr. RUCKER of Colorado: A bill (H. R. 27866) granting an increase of pension to Samuel A. Wright; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27867) granting an increase of pension to Martin V. B. Eisenberger; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27868) granting an increase of pension to Halsey P. Gabriel; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 27869) granting a pension to Ollie I. Bruton; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 27870) granting an increase of pension to Elizabeth Whitestine; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: A bill (H. R. 27871) granting an increase of pension to Johanna Koerner; to the Committee on Invalid Pensions.

By Mr. WOOD of New Jersey: A bill (H. R. 27872) for the relief of Ernest C. Stahl; to the Committee on Military Affairs.

Also, a bill (H. R. 27873) granting an increase of pension to James G. Hagamen; to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 23134) granting a pension to Mary Bruce; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 27685) granting a pension to Roxanna Starkey; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Farmers' National Congress and National Grange, favoring the passage of Senate bill 3, for vocational education; to the Committee on Agriculture.

Also, petition of Ransom Dry Goods Co. and 16 other merchants of Coshocton, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. BUTLER: Petition of the Order of Independent Americans, of Chester, Phoenixville, Clifton Heights, Elverson, Marshallton, Concordville, Darlys, and Charlestown, Pa., and other citizens of Pennsylvania, all favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. DAVENPORT: Papers to accompany bill for the relief of the heirs of Mahaly Fields, deceased; to the Committee on War Claims.

By Mr. FORNES: Petition of citizens of New York, N. Y., favoring the passage of House bill 26277, for the establishment of a United States court of patent appeals; to the Committee on Patents.

Also, petition of the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of House bill 25106, for its incorporation under a Federal charter; to the Committee on the Judiciary.

Also, petition of the Federation of Jewish Farmers of America, New York, favoring the passage of legislation establishing a system of farmers' credit unions; to the Committee on Banking and Currency.

By Mr. FITZGERALD: Petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Chambers of Commerce of Missoula and Polson, Mont., favoring the passage of a bill making an appropriation of $200,000 for the reclamation work on Flathead Reservation; to the Committee on Appropriations.

By Mr. FULLER: Petition of Charles N. Prouty, Spencer, Mass., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of Milton S. Florsheim, Chicago, Ill., favoring the passage of legislation to publish all hearings under the Sherman antitrust law; to the Committee on Interstate and Foreign Commerce.

By Mr. GARNER: Petition of citizens of Mathis, Tex., favoring the passage of the Kenyon-Sheppard bill, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. HARDWICK: Petition of the Sibley Manufacturing Co., Augusta, Ga., and A. Klipstein & Co., New York, both favoring legislation placing zinc dust on the free list; to the Committee on Ways and Means.

By Mr HARTMAN: Petition of the Department of Internal Affairs, Bureau of Standards, Harrisburg, Pa, favoring the passage of House bill 23113, fixing a standard barrel for fruits, vegetables, etc.; to the Committee on Ways and Means.

By Mr. HAYES: Petition of Corlin H. McIsaac, Santa Cruz, Cal.; David Starr Jordan, Stanford University, Cal.; R. W. Putnam, San Luis Obispo, Cal.; and Edwin Duryea, jr., San Francisco, Cal., all favoring the passage of House bill 22589, for the construction of consular and diplomatic buildings at Mexico City, Tokyo, Berne, and Hankow; to the Committee on Foreign Affairs.

Also, petition of S. J. Mayock, Gilroy, Cal., protesting against the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of W. P. Fuller & Co., San Francisco, Cal., favoring the passage of House bill 25106, for the incorporation of the Chamber of Commerce of the United States of America under a Federal charter; to the Committee on the Judiciary.

Also, petition of the San Francisco District (California) Federation of Women's Clubs, favoring the passage of legislation for the retention of the name of Yerba Buena Island instead of Goat Island; to the Committee on the Territories.

Also, petition of the Political Equality Club, San Jose, Cal., favoring the passage of legislation for the recognition of the Chinese Republic; to the Committee on Foreign Affairs.

Also, petition of Frederick J. Koster, San Francisco, Cal., favoring the passage of Senate bill 4043, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of Harrison Clark, passed department commander State of New York Grand Army of the Republic, favoring the passage of House bill 1339, granting increase of pension to veterans who lost a limb in the Civil War; to the Committee on Invalid Pensions.

By Mr. MARTIN of South Dakota: Petition of citizens of Lincoln, Nebr., favoring the passage of legislation giving a national ownership and control of all public telephone and telegraph wires; to the Committee on Interstate and Foreign Commerce.

By Mr. MOON of Tennessee: Petition of railroad men of Tennessee, protesting against the passage of House bill 5382, the Brantley workmen's compensation bill; to the Committee on the Judiciary.

By Mr. SMITH of New York: Petition of Buffalo Historical Society, Buffalo, N. Y., favoring the passage of legislation for the erection of a proper national archives building at Washington, D. C.; to the Committee on Public Buildings and Grounds.

By Mr. TILSON: Petition of the Warner Bros. Co., Bridgeport, Conn., protesting against the passage of section 2 of the Oldfield patent bill, preventing the manufacturers from fixing the prices on patent goods; to the Committee on Patents.

SENATE.

THURSDAY, *January 9, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

LOANS IN THE DISTRICT OF COLUMBIA.

Mr. CURTIS. I present a conference report on the disagreeing votes of the two Houses upon the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia. (S. Doc. No. 998.)

Mr. CRAWFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from South Dakota suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	Kern	Sanders
Bacon	Crawford	Lodge	Shively
Borah	Cullom	McLean	Simmons
Bourne	Curtis	Martin, Va.	Smith, Ariz.
Bradley	Dillingham	Martine, N. J.	Smoot
Brandegee	Dixon	Nelson	Sutherland
Bristow	du Pont	Newlands	Swanson
Brown	Fletcher	Oliver	Thornton
Bryan	Foster	Page	Tillman
Burnham	Gallinger	Perkins	Townsend
Burton	Gronna	Perky	Warren
Catron	Hitchcock	Poindexter	Wetmore
Chamberlain	Johnson, Me.	Reed	Williams
Clapp	Jones	Richardson	Works
Clark, Wyo.	Kenyon	Root	

Mr. CLAPP (when Mr. LA FOLLETTE's name was called). The senior Senator from Wisconsin [Mr. LA FOLLETTE] is necessarily detained from the Chamber on committee work.

Mr. CLAPP (when Mr. MCCUMBER's name was called). The senior Senator from North Dakota [Mr. MCCUMBER] is necessarily detained from the Chamber on committee work.

Mr. MARTIN of Virginia (when Mr. O'GORMAN's name was called). The junior Senator from New York [Mr. O'GORMAN] is detained from the Senate on official business in connection with Senate work.

Mr. SIMMONS. I desire to announce that my colleague [Mr. OVERMAN] is absent on account of sickness.

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] is absent on business of the Senate. I will let this announcement stand for the day.

Mr. KERN. I again announce the unavoidable absence of the junior Senator from South Carolina [Mr. SMITH] on account of a death in his family.

The PRESIDENT pro tempore. On the call of the roll of the Senate 59 Senators have responded to their names. A quorum of the Senate is present.

Mr. CURTIS. I call for the reading of the conference report.

The PRESIDENT pro tempore. The Secretary will read the report.

Mr. TOWNSEND. As I understand it, this is a conference report on the so-called loan-shark bill, which has been before the Senate for some time.

The PRESIDENT pro tempore. It has not yet been laid before the Senate.

Mr. TOWNSEND. I will wait.

Mr. REED. As a matter of inquiry, does this take precedence of the order of morning business?

The PRESIDENT pro tempore. The rule of the Senate is that a conference report is always in order, except while the Journal is being read, while the Senate is dividing, and one or two other exceptions. It is in order now.

Mr. REED. Will the Senator from Kansas yield long enough to permit the introduction of a bill?

The PRESIDENT pro tempore. That order has not yet been reached. There are several other orders before the introduction of bills.

Mr. REED. I understand, then, that that order will come, but I thought the Senator from Kansas intended to call up a matter for discussion.

Mr. CURTIS. It will take no time, I will state to the Senator from Missouri.

Mr. REED. Very well.

The PRESIDENT pro tempore. The report will be read.

The Secretary read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 3, 6, 7, 8, 9, 10, 11, and 12.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, and 5, and agree to the same.

That the Senate recede from its amendment to the title of the bill.

CHARLES CURTIS,
WILLIAM P. DILLINGHAM,
T. H. PAYNTER,
Managers on the part of the Senate.

BEN JOHNSON,
J. A. M. ADAIR,
L. C. DYER,
Managers on the part of the House.

Mr. TOWNSEND. Mr. President, I ask that the conference report be printed and lie over until to-morrow.

Mr. CURTIS. I have no objection to that order, but give notice that immediately after the routine morning business to-morrow I will call up the conference report for action.

The PRESIDENT pro tempore. Under the suggestion of the Senator from Kansas, without objection, the report will be printed and lie over until to-morrow.

SENATOR FROM ARKANSAS.

Mr. WILLIAMS. Mr. President, I present the credentials of the appointment of Mr. J. N. HEISKELL as a Senator from the State of Arkansas.

The PRESIDENT pro tempore. The credentials will be read.

The credentials of J. N. HEISKELL, appointed by the governor of the State of Arkansas a Senator from that State to fill the vacancy in the term ending March 3, 1913, occasioned by the death of Senator JEFF DAVIS, were read and ordered to be filed.

Mr. WILLIAMS. The Senator appointed is present, and I ask that the oath be administered to him.

The PRESIDENT pro tempore. The Senator appointed will present himself at the desk to take the oath of office.

Mr. HEISKELL was escorted to the Vice President's desk by Mr. WILLIAMS, and the oath prescribed by law having been administered to him, he took his seat in the Senate.

REPORT OF ECONOMY AND EFFICIENCY COMMISSION (H. DOC. NO. 1252).

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States, which was read, and, with the accompanying papers and illustrations, ordered to lie on the table and be printed.

(See House proceedings of January 8, 1913.)

FUR SEALS (S. DOC. NO. 997).

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States, which was read and referred to the Committee on Foreign Relations and ordered to be printed.

(See House proceedings of January 8, 1913.)

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificate of ascertainment of electors for President and Vice President appointed in the States of Missouri and Pennsylvania at the elections held in those States November 5, 1912, which were ordered to be filed.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. SANDERS. Mr. President——

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Petitions and memorials are in order. The Senator from Tennessee.

Mr. SANDERS. Mr. President, last Monday I asked unanimous consent that the bill to prohibit interstate commerce in intoxicating liquors be taken up next Monday. Objection was made on account of the fact that the impeachment trial would take up most of this week and that there would not be time for discussion of the measure. Then on Tuesday I made the same request, making the date one week later, which would be January 20. It was proposed that it should not interfere with appropriation bills. It was also suggested that at that particular time there were not enough Senators in the Chamber to give the request proper consideration.

I now make the same request, with the proviso that it is not to interfere with appropriation bills. I wish to say in this connection that since I brought the matter up on last Tuesday we have been able to determine about when the impeachment trial will be concluded, and that this request, if granted, will still leave one week for a discussion of this bill after the conclusion of the impeachment trial. I therefore send to the desk, Mr. President, the following request.

The PRESIDING OFFICER. The Senator from Tennessee asks unanimous consent for the consideration of the following order, which will be reported by the Secretary.

Mr. REED. Mr. President——

Mr. LODGE. Let it be read. Senators ask that it be read.

Mr. REED. Under what order are we proceeding?

The PRESIDING OFFICER. We are proceeding under the order of petitions and memorials; but the Chair understands that the Senator from Tennessee is requesting unanimous consent——

Mr. REED. Is that in order at this time?

The PRESIDING OFFICER. The Chair thinks it is in order, by unanimous consent, but that it could not be put, out of order, in the event of a single objection.

Mr. REED. The time of the Senate has been consumed this morning by the reading of messages from the President of the United States, and there are some bills that I want to introduce and I think that this request is not in order at this time. I think the only thing that is in order at this time is the presentation of petitions and memorials.

Mr. SANDERS. I understand it is in order.

The PRESIDING OFFICER. The Chair would rule that it is in order for a Senator to ask unanimous consent for the consideration of any matter.

Mr. LODGE. I suppose a request for unanimous consent is equivalent to asking for an order of the Senate, and it would come in under the last order of business—the morning hour—would it not? It would come in legitimately and could not be kept out by a single objection.

The PRESIDING OFFICER. The ruling of the Chair was that unanimous consent could be asked at any time.

Mr. LODGE. That is possible at any time, I agree, but it would be in order at this time regularly under the last order of morning business.

Mr. SANDERS. I ask that this order be read and that unanimous consent be given to place it before the body.

The PRESIDING OFFICER. The Secretary will read the proposed order presented by the Senator from Tennessee.

Mr. REED. Mr. President, I rise to a point of order that the request itself at this time is not in order.

The PRESIDING OFFICER. In the opinion of the Chair the point of order is not well taken.

Mr. REED. To state my point, under this order of business you can no more ask unanimous consent to take up a particular bill than you can do any other thing which does not come under the head of the presentation of petitions and memorials. This is not a petition or a memorial. The Senator could ask unanimous consent to set aside the order of business, but that is not what he is asking. He is asking unanimous consent for the consideration of a bill at a particular time.

Mr. SANDERS. Mr. President, I rise to a point of order.

The PRESIDING OFFICER. The Senator from Missouri has the floor and is speaking to a point of order.

Mr. SANDERS. My point of order is that the Chair has already ruled.

The PRESIDING OFFICER. The Chair had ruled. The Secretary will report the request.

Mr. REED. Mr. President, I object.

The PRESIDING OFFICER. Objection is made to the consent asked for by the Senator from Tennessee. Are there further——

Mr. MARTINE of New Jersey. I desire to present certain petitions.

Mr. NELSON. We have a right to hear the request read, because we have a right to determine whether the objection is good or not.

The PRESIDING OFFICER. The Secretary was about to report the request, which was verbally stated by the Senator from Tennessee. If there is demand for it, the Secretary will report the request that is made in writing.

The Secretary read as follows:

It is agreed by unanimous consent that on Monday, January 20, at 3 o'clock p. m., the bill (S. 4045) to prohibit interstate commerce in intoxicating liquors be taken up for consideration, not to interfere with appropriation bills, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself, not later than the hour of 6 o'clock on that day.

The PRESIDING OFFICER. Objection is made.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented a petition of Starr King Chapter, No. 32, Order of Eastern Star, of Berlin, N. H., praying that an appropriation be made for the erection of a public building in that city, which was referred to the Committee on Public Buildings and Grounds.

He also presented a petition of the Woman's Christian Temperance Union of Berlin, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. McLEAN presented a memorial of members of the German-American Alliance of Bridgeport, Conn., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. MARTINE of New Jersey presented a petition of the congregation of the First Presbyterian Church of Hamilton Square, N. J., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. LODGE presented a petition of sundry citizens of Stoneham, Mass., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. WARREN, from the Committee on Military Affairs, to which was referred the bill (S. 7515) for the relief of Col. Richard H. Wilson, Fourteenth Infantry, United States Army, reported it with an amendment and submitted a report (No. 1087) thereon.

Mr. SMOOT, from the Committee on Public Lands, to which was referred the bill (S. 7638) to provide for State selections on phosphate and oil lands, reported it with amendments and submitted a report (No. 1088) thereon.

Mr. JONES, from the Committee on Public Lands, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 5377. A bill releasing the claim of the United States Government to lot No. 306, in the old city of Pensacola (S. Rept. 1090); and

S. 5378. A bill releasing the claim of the United States Government to that portion of land, being a fractional block, bounded on the north and east by Bayou Cadet, on the west by Cevallos Street, and on the south by Intendencia Street, in the old city of Pensacola (S. Rept. 1089).

Mr. CURTIS, from the Committee on Pensions, to which was referred the bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, reported it with amendments and submitted a report (No. 1091) thereon.

He also, from the same committee, to which were referred certain bills granting pensions and increase of pensions, submitted a report (No. 1092) accompanied by a bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, which was read twice by its title, the bill being a substitute for the following Senate bills heretofore referred to that committee.

S. 33. Ellen B. Kittredge.
S. 300. Thomas W. Dickey.
S. 437. Mary E. McDermott.
S. 921. Henry Frink.
S. 1115. Christian C. Bradymeyer.
S. 1223. George M. Pierce.
S. 2106. Joseph C. Trickey.
S. 2293. James M. Kinnaman.
S. 2379. Addie Roof.
S. 2490. Leeman Underhill.
S. 2563. Charles W. Morgan.
S. 2634. Alphonso L. Stasy.
S. 2948. Jeremiah Lushbough.
S. 3178. James B. Sales.
S. 3304. Mary E. Rikard.
S. 3370. Margaret H. Benjamin.
S. 3490. Benjamin F. Ferris.
S. 3522. Hiram Ferrier.
S. 3573. Henry B. Leach.
S. 3597. John Bell.
S. 3665. Elizabeth Lile.
S. 3666. George M. Conner.
S. 3673. Lola B. Hendershott and Louise Hendershott.
S. 3748. Daniel H. Grove.
S. 3993. Charlotte R. Coe.
S. 4123. Caroline M. Packard.
S. 4255. Benjamin C. Smith.
S. 4656. George R. Griffith.
S. 4802. Rolly Wright.
S. 4819. Charles J. Higgins.
S. 4989. Joseph Letzkus.
S. 5033. Israel H. Phillips.
S. 5136. John E. Woodward.
S. 5171. Josephine A. Davis.
S. 5329. Osmer C. Coleman.
S. 5339. Hugh McLaughlin.
S. 5514. Joseph Striker.
S. 5528. Mary Glancey.
S. 5562. Joby A. Howland.
S. 5657. Andrew King.
S. 5852. Mary S. Hull.
S. 6012. Sarah E. Haskins.
S. 6169. Ira Waldo.
S. 6270. Ellis C. Howe.
S. 6452. Thomas M. Dixon and Joanna L. Dixon.
S. 6606. Solomon Wilburn.
S. 6651. William O. Sutherland.
S. 6664. Annie H. Ross.
S. 6739. John Dixon.
S. 6750. Arnold Bloom.
S. 6759. John D. Perkins.
S. 6787. William Harrison.
S. 6791. Sarah E. Johnson.
S. 6873. Willis Dobson.
S. 6878. Zachariah T. Fortner.
S. 6931. Jesse A. Moore.
S. 6938. James Moynahan.
S. 6955. Dustin Berrow.
S. 6966. Sarah J. Viall.
S. 6968. James Luther Justice.
S. 6973. Mary A. Crocker.
S. 7000. Winfield S. McGowan.
S. 7025. Martha J. Stephenson.
S. 7047. George E. Smith.
S. 7076. Roscoe B. Smith.
S. 7084. Mate Fulkerson.
S. 7100. Fred D. Bryan.
S. 7108. Ada M. Wade.
S. 7136. Charlotte M. Snowball.
S. 7137. Albert White.
S. 7164. William W. Lane.
S. 7173. Lydia M. Jacobs.
S. 7190. Albert Burgess.
S. 7200. Rosa L. Couch.
S. 7214. John Cook, alias Joseph Moore.
S. 7215. Amanda Barrett.
S. 7216. Alvah S. Howes.
S. 7219. George C. Rider.
S. 7224. Charles C. Littlefield.
S. 7276. Martha Dye.
S. 7282. Carrie Hitchcock.
S. 7363. Sarah McLaury.
S. 7376. William H. Frederick.
S. 7460. Joseph D. Her.
S. 7510. Rodney S. Vaughan.
S. 7526. Isaac A. Sharp.
S. 7529. Turner S. Bailey.
S. 7547. Alpheus K. Rodgers.
S. 7556. Christina Higgins.
S. 7557. Josiah B. Hall.
S. 7569. Ellen Tyson.
S. 7581. William Hoover.
S. 7587. Abby E. Carpenter.
S. 7588. Sarah Gross.
S. 7595. Nelson Taylor.
S. 7596. Carrie Crockett.
S. 7615. Lucy H. Collins.
S. 7624. Royal H. Stevens.
S. 7628. Araminta G. Sargent.
S. 7661. Sidney P. Jones.
S. 7664. Ann T. Smith.
S. 7677. Ellen E. Clark.
S. 7701. Sarah B. Paden.
S. 7717. Edmund P. Banning.
S. 7719. Winchester E. Moore.
S. 7730. Mary P. Pierce.
S. 7775. John B. Ladeau.
S. 7781. Christopher P. Brown.
S. 7791. Allen Price.
S. 7805. Delphine R. Burritt.

He also, from the same committee, to which were referred certain bills granting pensions and increase of pensions, submitted a report (No. 1093) accompanied by a bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, which was read twice by its

title, the bill being a substitute for the following Senate bills heretofore referred to that committee:

S. 1915, Caroline M. Anthony.
S. 2465. Arthur F. Shepherd.
S. 3615. Walter L. Donahue.
S. 3726. Calvin R. Lockhart.
S. 3920. Albert J. Wallace.
S. 4691. Thomas M. F. Delaney.
S. 6091. Joseph Hurd.
S. 6101. John D. Sullivan.
S. 6107. Mary E. Maher.
S. 6195. George W. James.
S. 6276. George C. Thirlby.
S. 6761. Lansing B. Nichols.
S. 6883. Jacob Korby.
S. 6898. John J. Ledford.
S. 6921. Deborah H. Riggs.
S. 6998. Elmer E. Rose.
S. 7021. Cyrenius Mulkey.
S. 7032. Patrick J. Whelan.
S. 7036. John F. Burton.
S. 7065. Ephraim W. Baughman.
S. 7135. James J. Blevans.
S. 7281. Henry H. Woodward.
S. 7305. Bertie L. Wade.
S. 7328. Charlotte R. Wynne.
S. 7368. Otto Weber.
S. 7466. Carl W. Carlson.

THE JUDICIAL CODE.

Mr. SMOOT. I am directed by the Committee on Printing, to which was referred Senate concurrent resolution 34, for the printing of 25,000 copies of the Judicial Code, to report it with amendments, and I ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the concurrent resolution.

The amendments were, in line 2, before the word "thousand," to strike out "twenty-five" and insert "thirty," and at the end of the resolution to insert the words "and 5,000 copies for the use of the Senate document room."

The amendments were agreed to.

The concurrent resolution as amended was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed 30,000 copies of the Judicial Code of the United States, prepared under the direction of the Judiciary Committee of the Senate, 10,000 copies of which shall be for the use of the Senate and 15,000 copies for the use of the House of Representatives, and 5,000 copies for the use of the Senate document room.

BILLS AND JOINT RESOLUTIONS INTRODUCED.

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CHAMBERLAIN:

A bill (S. 8036) granting an increase of pension to George S. Pauer; to the Committee on Pensions.

By Mr. KERN:

A bill (S. 8037) for the relief of Israel Sturges; and

A bill (S. 8038) for the relief of James M. Blankenship (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 8039) granting a pension to Delia E. Godfrey (with accompanying papers); to the Committee on Pensions.

By Mr. JONES:

A bill (S. 8040) for the relief of the Pacific Creosoting Co.; to the Committee on Claims.

By Mr. OWEN:

A bill (S. 8041) granting a pension to Seberon J. M. Cox (with accompanying papers); and

A bill (S. 8042) granting an increase of pension to Samuel L. Hess (with accompanying papers); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8043) granting an increase of pension to Mary E. Beach (with accompanying papers); and

A bill (S. 8044) granting an increase of pension to John McCarthy (with accompanying papers); to the Committee on Pensions.

By Mr. ASHURST:

A bill (S. 8045) opening the surplus and unallotted lands in the Colorado River Indian Reservation to settlement under the provisions of the Carey land acts, and for other purposes; to the Committe on Indian Affairs.

By Mr. BURNHAM:

A bill (S. 8046) granting a pension to Anna Kennedy; to the Committee on Pensions.

By Mr. ROOT:

A bill (S. 8047) to enable the Secretary of War to pay the amount awarded to the Malambo fire claimants by the joint commission under article 6 of the treaty of November 18, 1903, between the United States and Panama; to the Committee on Appropriations.

A bill (S. 8048) to provide for the purchase of a site and the erection of a public building thereon at Walden, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. OLIVER:

A bill (S. 8049) granting an increase of pension to Harvey T. Smith (with accompanying papers); to the Committee on Pensions.

By Mr. WILLIAMS:

A bill (S. 8050) to carry into effect the findings of the Court of Claims in the matter of the claim of Elizabeth Johnson; to the Committee on Claims.

A bill (S. 8051) authorizing the Secretary of War, in his discretion, to deliver to the town of Washington, in the State of Mississippi, for the use of Jefferson College, one condemned cannon, with its carriage and outfit of cannon balls; and

A bill (S. 8052) authorizing the Secretary of War, in his discretion, to deliver to the city of Corinth, in the State of Mississippi, one condemned cannon, with its carriage and outfit of cannon balls; to the Committee on Military Affairs.

By Mr. REED:

A bill (S. 8053) to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof; to the Committee on Naval Affairs.

A bill (S. 8054) to provide for the enlargement, extension, remodeling, and improvement of the post-office building at Moberly, Mo., and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. MARTINE of New Jersey:

A bill (S. 8055) granting a pension to Gilbert J. Jackson (with accompanying papers); and

A bill (S. 8056) granting a pension to John J. Miller (with accompanying papers); to the Committee on Pensions.

By Mr. CRAWFORD:

A bill (S. 8057) regulating the issuance of interlocutory injunctions restraining the enforcement of orders made by the Interstate Commerce Commission, and orders made by administrative boards or commissions created by and acting under the statutes of a State; to the Committee on the Judiciary.

By Mr. OWEN:

A joint resolution (S. J. Res. 140) extending the time for the survey, classification, and appraisement of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma (with accompanying paper); to the Committee on Indian Affairs.

By Mr. WARREN:

A joint resolution (S. J. Res. 150) appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate; to the Committee on Appropriations.

By Mr. MARTIN of Virginia:

A joint resolution (S. J. Res. 151) authorizing the Librarian of Congress to return to Williamsburg Lodge, No. 6, A. F. and A. M., of Virginia, the original manuscript of the record of the proceedings of said lodge; to the Committee on the Library.

SECOND PAN AMERICAN SCIENTIFIC CONGRESS.

Mr. ROOT submitted an amendment proposing to appropriate $50,000 to enable the Government of the United States to participate in the second Pan American Scientific Congress, to be held in Washington, D. C., October, 1914, intended to be proposed by him to the diplomatic and consular appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

OMNIBUS CLAIMS BILL.

The PRESIDING OFFICER. The hour of 1 o'clock having arrived——

Mr. CRAWFORD. I desire to give notice that I shall ask the Senate to resume the consideration of the omnibus claims bill at the close of the morning business to-morrow.

Mr. WILLIAMS and Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Chair is compelled to carry out the order of the Senate, which is that at 1 o'clock it will reconvene as a Court of Impeachment.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) took the chair and announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald.

The respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The PRESIDENT pro tempore. The Sergeant at Arms will make proclamation.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last sitting of the Senate for the consideration of the articles of impeachment.

The Secretary read the Journal of the proceedings of the Senate of Wednesday, January 8, 1913, when sitting as a court.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved. Mr. Manager HOWLAND has the floor.

Mr. Manager HOWLAND resumed and concluded the speech begun by him yesterday. The entire speech is as follows:

ARGUMENT OF MR. HOWLAND, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager HOWLAND. Mr. President, I shall proceed immediately to submit for the consideration of the Senate certain propositions of law. The questions of fact will be discussed by my colleagues.

The managers contend that the power to impeach is properly invoked to remove a Federal judge whenever, by reason of misbehavior, misconduct, malconduct, or maladministration, the judge has demonstrated his unfitness to continue in office; that misbehavior on the part of a Federal judge is a violation of the Constitution, which is the supreme law of the land, and a violation also of his oath of office taken in compliance with the requirements of the statute law. If the Senate should adopt this view of the law, then the only question to be passed on by the Senate would be whether the acts alleged and proven constitute such misbehavior as to render the respondent unfit to continue in office.

In supporting our view of the law I shall *first* call attention to the issue of law directly raised by the pleadings; *second*, to the proper construction to be placed upon certain sections of the Constitution; and, *third*, to the precedents, both State and Federal.

The respondent, in answer to each one of the articles of impeachment filed against him in paragraph 1 thereof, uses the following language:

That the said article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor as defined in the Constitution of the United States, and that, therefore, the Senate sitting as a Court of Impeachment should not further entertain the charge contained in said article.

It will be noticed that in the first paragraph of his several answers to the various counts the respondent has really interposed what may properly be designated as a general demurrer to each and every article presented against him, and that by paragraph 2 of the answer to each article the respondent pleads by way of confession and avoidance, substantially admitting the acts charged and attempting to avoid by denying wrongful intent.

The replication interposed by the managers is a joinder in demurrer and a traverse of the new matter in the plea, so that the record in this case produces an issue of law and an issue of fact to be passed upon by the Senate at the same time. I can only account for this condition of affairs by presuming that counsel for the respondent had very little confidence in the issue of law raised by his general demurrer and therefore did not dare press it for decision before going to trial on the merits.

In the consideration of this case, if the Senate should decide that the demurrer interposed by the respondent ought to be sustained, that would terminate the inquiry, and it would, of course, be unnecessary to pass upon the issue of fact. Under the general allegation of the respondent's demurrer attacking the sufficiency in law of the various articles it was impossible to determine the exact ground upon which the respondent relied. Learned counsel for the respondent, however, in his opening statement to the Senate, which he has since amplified in his brief, used the following language:

So we mean that what was a crime at the common law may be made impeachable here, and that any laws which Congress has passed since that time, if violated by any civil officer of the Government, judge, or President, or anyone else, may be the subject of impeachment, and that there can be no other impeachable offenses.

In that statement we are advised for the first time of the exact ground upon which counsel for the respondent intends to attack the sufficiency in law of the articles of impeachment, viz, that they charge no indictable offense at common law or under the Federal statutes. He thus raises once more the question which has been discussed in almost every proceeding of this character, whether Federal or State. This contention is entitled to our respectful consideration on account of its age, if for no other reason. Time and time again it has been urged, only to be disregarded by the various courts of impeachment, as we shall show by the authorities cited later.

The learned counsel for the respondent, by interposing his demurrer to the sufficiency of the articles and insisting that only indictable offenses are impeachable, would seem to be placing himself in the position of holding that the object of impeachment was punishment to the individual. This conception of the object of impeachment is entirely erroneous, and whatever injury may result to the individual is purely incidental and not one of the objects of impeachment in any sense. An impeachment proceeding is the exercise of a power which the people delegated to their representatives to protect them from injury at the hands of their own servants and to purify the public service. The sole object of impeachment is to relieve the people in the future, either from the improper discharge of official functions or from the discharge of official functions by an improper person. This view of impeachment is clearly demonstrated by the judgment which the Constitution authorizes in case of conviction and which shall extend no further than removal from office and disqualification to hold or enjoy any office of honor, trust, or profit under the Government of the United States, leaving the punishment of the individual for any crime he may have committed to the criminal court. (See Art. I, sec. 3, par. 7, Constitution of the United States.)

As bearing upon the question of law raised by the demurrer of the respondent I wish to call attention to two provisions of the Federal Constitution. Section 4, Article II, provides:

The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors—

To which I shall hereafter refer as the removal section, and section 1, Article III, the second sentence thereof, which provides that—

The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior.

To which I shall hereafter refer as the judicial-tenure section.

It will be noted that the removal section immediately precedes the judicial-tenure section. The limitation of the judicial tenure to good behavior is the only limitation of that character to be found in the Federal Constitution upon the tenure of any of the civil officers of the Government. I therefore contend that it was the plain intention of the framers of the Constitution that, in so far as the Federal judges were concerned, the removal section was not intended to be antagonistic in its terms to the judicial-tenure section, immediately following it, and that the judicial-tenure section, which provides that the judicial term shall be during good behavior, was not intended to be antagonistic to the removal section, which immediately precedes it. These two sections must be construed together, and when so construed the judicial-tenure section is of necessity either an addition to the enumerated offenses in the removal section or a definition of the term "high crimes and misdemeanors," when applied to the judiciary, as including misbehavior. To say that the judicial tenure shall be limited to good behavior in one section of the Federal Constitution and then contend that the section of the Constitution immediately preceding that has destroyed its force and effect and has left the Federal Government without any machinery to pass upon the question of the forfeiture of the judicial tenure, or to take jurisdiction of acts which constitute misbehavior but are not criminal, is to treat the words "during good behavior" as surplusage. Such an interpretation violates all rules of construction.

THE LEGAL STATUS OF THE JUDICIAL TENURE.

What is the legal status of the judicial tenure and what determines that status? There are some considerations on which to base the claim that the legal status of the judicial tenure should be determined by the same principles that are applicable to a contract of hiring. The parties to the contract are the people of the United States and the candidate for a Federal judgeship. When he has been nominated by the President and confirmed by the Senate the commission tendered or delivered to him is an offer on the part of the people of the United States to the candidate, whereby they agree to enter into a contract on certain terms and conditions with the candidate and offer to pay him a fixed sum of money for the performance of certain services for them in accordance with the terms of the offer. No obligation on the part of the Government has yet attached; the candidate need not accept the offer; he is not compelled to qualify; that is a voluntary act on his part. (See Marberry v. Madison, 1 Cranch, 137.)

Section 257 of the judicial code provides that the Federal judges shall take a certain prescribed oath before they proceed to perform the duties of their respective offices.

The acceptance of the offer on the part of the candidate is evidenced by his oath, and when the oath is taken the contract of hiring becomes valid and binding on the parties to the same in accordance with the terms and conditions of the contract.

In this case the contracts between the United States and the respondent are evidenced by the various commissions and the various oaths accepting the same. The contract between the United States and the respondent as a circuit judge is evidenced by the commission bearing date the 31st day of January, 1911, in the words and figures following, to wit:

To all who shall see these presents, greeting:

Know ye that reposing special trust and confidence in the wisdom, uprightness, and learning of Robert Wodrow Archbald, of Pennsylvania, I have nominated and, by and with the advice and consent of the Senate, do appoint him additional circuit judge of the United States from the third judicial circuit, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining unto him, the said Robert Wodrow Archbald, *during his good behavior.* Appointed pursuant to the act of June 18, 1910 (36 Stats., 540), and hereby designated to serve for four years in the Commerce Court.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 31st day of January, A. D. 1911, and of the independence of the United States of America the one hundred and thirty-fifth.

WM. H. TAFT.

[SEAL.]

By the President:

GEORGE W. WICKERSHAM,
Attorney General.

The oath of office bears date the 1st day of February, 1911, in the words and figures following, to wit:

I, Robert Wodrow Archbald, do solemnly swear that I will administer justice without respect to persons and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as additional circuit judge of the United States from the third judicial circuit, appointed pursuant to the act of June 18, 1910 (36 Stats., 540), and designated to serve for four years in the Commerce Court, according to the best of my abilities and understanding, *agreeably to the Constitution and laws of the United States*; and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

R. W. ARCHBALD.

Subscribed and sworn to before me this 1st day of February, 1911.

[SEAL.] E. H. W. SEARLE,
Clerk District Court.

Under this state of facts, if we were not dealing with the Government as one of the parties to the contract, under constitutional limitations the contract could be abrogated for breach of condition if necessary and the rights of the parties determined in the courts of law.

If it should be objected that the legal status of the judicial tenure must be placed on a higher ground than an ordinary contract right by reason of the solemnities necessary to create the status and by reason of the important and sacred functions of government with which the judge is charged, we perhaps would be justified in saying that a fiduciary relation of the highest and most sacred character known to the law is created by the commission of appointment and the oath of acceptance of a Federal judge. Under this conception of the status of the judicial tenure the judge is acting as a trustee. The subject matter of the trust is the judicial power of the United States, and the beneficiaries of the trust are the people thereof. Given this status in a court of equity, the trustee, under well-known and well-recognized principles of equitable jurisprudence, can always be removed on application of the beneficiary and a showing that the trustee is not performing his duties as such trustee in such a manner as to satisfy the conscience of the chancellor that he is acting for the best interest of the beneficiary. Realizing, however, the manifest impropriety of leaving the question of forfeiting the judicial tenure to the judges, the framers of the Constitution wisely provided a different forum, viz, the Congress to raise and try the question of the forfeiture. We have now seen that whether we apply principles of law or equity to the status created by the appointment of the Federal judge there would be a forum to adjudicate the rights of the parties, and reasoning by analogy we are driven to the conclusion that the framers of the Constitution were not unmindful of the importance of the subject with which they were dealing, and intended to and did provide a forum before which the people of the United States could bring their judges and on proper showing of misbehavior, which demonstrates the unfitness of the judge to continue in office, work a forfeiture of the judicial tenure.

HIGH CRIMES AND MISDEMEANORS.

In the removal section of the Constitution we find the words "high crimes and misdemeanors." These words are used in the same sense that had attached to them for centuries in the impeachment trials of England. They were used as part of the well-recognized terminology of the law of Parliament as distinguished from the common law. We must bear in mind that these terms are used in a section of the Constitution which is plainly intended to protect the state against its own servants.

The two enumerated offenses of treason and bribery are offenses peculiarly against the state as distinguished from offenses against the individual. In construing a clause of this character in the Constitution where the whole object is to protect and preserve the Government, such a construction should be placed upon the language used as will best accomplish the results desired. To insist that the technical definition of the criminal law should be applied in construing the meaning of the terms "high crimes and misdemeanors" is to insist on the narrowest possible construction, and loses sight of the object and purpose of this clause in the Constitution. To insist that it is impossible to impeach a judge unless he has committed some indictable offense is to say that the people of this country are powerless to remove a Federal judge so long as he is able to keep out of jail. While no criminal is fit to exercise the judicial function, it does not follow that all other persons are fit to be judges. Such a construction is absolutely repulsive to reason and ought not to be and is not a correct interpretation of the term "high crimes and misdemeanors."

Attention is often called to the discussion that took place in the Constitutional Convention between Col. Mason and Mr. Madison in which Mr. Madison suggested that the term "maladministration" was too vague and the phrase "high crimes and misdemeanors" was adopted. Attention was called to that by the distinguished counsel for the respondent in his opening statement.

On the strength of this passage in Madison's papers it is contended that Mr. Madison did not construe the phrase "high crimes and misdemeanors" as including maladministration. (3 Madison's Papers, 1528.)

We find, however, that Mr. Madison in a speech in Congress on the 16th day of June, 1789, on the bill to establish a department of foreign affairs, in discussing the possibility of abuse of power by the Executive, said:

> Perhaps the great danger of abuse in the Executive's power lies in the improper continuance of bad men in office. But the power we contend for will not enable him to do this, for if an unworthy man be continued in office by an unworthy President the House of Representatives can at any time impeach him and the Senate can remove him, whether the President chooses or not. The danger then consists merely in this: The President can displace from office a man whose merits require that he should be continued in it. What will be the motives which the President can feel for such abuse of his power and the restraints that operate to prevent it? In the first place, he will be impeachable by the House before the Senate for such an act of *maladministration*, for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust. (4 Elliot's Debates, 375.)

This language clearly demonstrates that Mr. Madison believed that acts of maladministration which were not indictable were impeachable.

Nowhere in the English law of impeachment or in the Constitution of the United States or any of the States do we find any definition of impeachable offenses. The language of the Federal Constitution attempts no definition of impeachable offenses, and the general term "high crimes and misdemeanors" is not and was not intended to be a definition.

Under the State constitutions we sometimes find the added terms "mal and corrupt conduct," "corruption in office," and "maladministration," all general terms without attempting any technical definition. The reason for this is perfectly obvious, and is that the subject matter is not capable of technical definition. Who is wise enough to anticipate every manifestation of fraud that would give a chancellor jurisdiction and write it into a statute? It is the effect of acts under the circumstances of each particular case that confers jurisdiction. So it is with impeachments. No one can tell in advance in what way or from what source the danger may arise which demands the exercise of this power. The power of impeachment is recognized and authorized in every one of our constitutions, Federal and State, but the circumstances which warrant the exercise of that power are not defined and the necessity for its exercise is in the first instance left to the discretion of the House of Representatives. It is an indefinite and broad power incident to sovereignty, and its exercise in this country is demanded whenever the agents of sovereignty have acted in such a manner as to destroy their efficiency in the discharge of their duties to the sovereign. The existence of this power is necessary to the permanence of the State, and the exercise of the power is necessary whenever and however the welfare of the State may be threatened by its civil officers.

I wish at this point to submit for the consideration of the Senate the record in certain State trials of impeachments, with particular reference to their holdings on the question of whether the acts of a judge must be indictable to be impeachable, and then to make a very brief reference to the trials before the Senate of the United States.

IN THE MATTER OF THE IMPEACHMENT OF ALEXANDER ADDISON, ESQ., PRESIDENT OF THE COURT OF COMMON PLEAS IN THE CIRCUIT CONSISTING OF WESTMORELAND, FAYETTE, WASHINGTON, AND ALLEGHENY COUNTIES, IN THE STATE OF PENNSYLVANIA, ON AN IMPEACHMENT BY THE HOUSE OF REPRESENTATIVES BEFORE THE SENATE IN THE YEAR 1803.

The constitution of the State of Pennsylvania of 1790 governed this proceeding, and section 3 of article 4 of said constitution is the impeachment section thereof and provides that all civil officers of the Commonwealth shall be liable to impeachment for any misdemeanor in office.

Section 2 of article 5 of that constitution provides that judges shall hold their offices during good behavior, but for any reasonable cause which shall not be sufficient ground of impeachment the governor may remove any of them on the address of two-thirds of each branch of the legislature.

In the year 1801 the attorney general of the State of Pennsylvania filed a motion in the supreme court of the State asking leave to file an information against Judge Addison, on the ground of misbehavior on the same state of facts as subsequently alleged in the articles. The supreme court refused to grant the motion because the affidavit did not charge a crime and intimated that there was another remedy applicable to that state of facts. And thereafter the house of representatives preferred articles of impeachment against Judge Addison, alleging that he had obstructed the free, impartial, and due administration of justice, contrary to the public rights and interests of the Commonwealth. (See Addison's trial, pp. 16–69, 151–154.)

The charge, in substance, amounted to a usurpation of power in preventing an associate judge from addressing the grand jury.

The plea interposed by Judge Addison was not guilty.

Mr. Dallas appeared for the managers, and Judge Addison conducted his own defense, and strenuously insisted that the allegations in the articles of impeachment did not charge an indictable offense, which was true.

He was, however, convicted by a vote of 20 to 4. The sentence was that Alexander Addison, president of the several courts of common pleas in the fifth district of this State, shall be, and he is hereby, removed from his office of president aforesaid, and also is disqualified to hold and exercise the office of judge in any court of law within the Commonwealth of Pennsylvania.

IN THE MATTER OF THE IMPEACHMENT PROCEEDINGS OF EDWARD SHIPPEN, CHIEF JUSTICE, JASPER YEATES AND THOMAS SMITH, ASSOCIATE JUSTICES, OF THE SUPREME COURT OF PENNSYLVANIA, ON AN IMPEACHMENT BEFORE THE SENATE OF THE COMMONWEALTH, 1805.

Articles of impeachment were presented against these judges of the supreme court, because they adjudged Thomas Passmore guilty of a contempt of court and sent him to jail for 30 days and fined him $50.

It would seem to be clear that the act charged against the judges was not an indictable offense, and yet this question was not even raised by distinguished counsel for the judges, the chief of whom was that great lawyer, Mr. Dallas.

The judges were acquitted on the merits.

IN THE MATTER OF THE PROCEEDINGS OF THE SENATE AND HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF MASSACHUSETTS RELATIVE TO THE IMPEACHMENT OF JAMES PRESCOTT, JUDGE OF PROBATE OF THE COUNTY OF MIDDLESEX, 1821.

This proceeding was had under the constitution of 1780. Article 8 of section 2, chapter 1, authorized the senate to hear and determine all impeachments made by the house of representatives against any officer of the Commonwealth for misconduct and maladministration in their offices. The constitution also provides that all judicial officers shall hold their offices during good behavior, and also provides for removal by the governor, with consent of the council, upon the address of both houses of the legislature.

Under this constitution it would seem that a majority vote was sufficient to convict.

February 5, 1821, the house presented 15 articles of impeachment at the bar of the senate. Article 3 charged that Judge Prescott held court at his law office and not in any probate court and granted letters of administration and warrants of appraisal for property and collected greater fees than the law allowed.

Article 12 charged the judge with advising a guardian and collecting a fee of $5 therefor, and allowing the charge in the account of the guardian as a proper charge against the estate for attorney fees.

From the answer of the respondent it appears that the difficulty arose out of a dispute as to the right to collect fees for certain services.

I feel justified in calling this case to the attention of the Senate because of the fact that Daniel Webster appeared for the respondent and Lemuel Shaw appeared as one of the managers on the part of the house. Of course, neither one of the acts alleged in these counts was indictable.

It was contended by Mr. Webster that the charge must be the breach of some known and standing law, the violation of some *positive* duty, and the power to impeach for other than indictable offenses was thoroughly discussed. Mr. Lemuel Shaw, in supporting the articles, said:

> Some difference of opinion may arise as to the true construction and effect of these words "misconduct and maladministration in office" as they stand in the constitution, proceeding probably from the ambiguity and want of technical precision in the words themselves and probably from their connection with the other words in the same paragraph. The latter clause provides that the parties so convicted on impeachment shall be, nevertheless, liable to indictment, trial, judgment, and conviction according to the laws of the land. Perhaps the most reasonable construction of these provisions in the constitution taken together is that proceedings by impeachment and by indictment are had alio intuitu, designed and intended for distinct purposes, the one to punish the officer and the other the citizen. It is obvious that a person in official station is bound in common with all other citizens to obey the laws of the land, and is answerable to the ordinary tribunals for any violation of them. But the constitution establishes a broad and marked distinction between official delinquencies and offenses against social duty. Criminal acts, therefore, may be committed by an officer of such a nature as to render him liable to indictment and punishment in the courts of justice and at the same time being an obvious violation of his official duty and may render him liable to impeachment. Again, other acts may be supposed which, as breaches of the laws, would render an officer liable to indictment and punishment, but which do not in any way affect his official character and duty and would not render him liable to impeachment. The position is equally sound that acts may be committed by a public officer in direct violation of his official duty which would amount to misconduct and maladministration in office within the intent of the constitution, and which would consequently render the officer liable to impeachment, and of such a nature that the ordinary tribunals would not take notice of and punish them in their usual course of procedure and according to the laws of the land, for which, therefore, the offender would not be indictable. If this construction be true, an act may be punished both by indictment and impeachment, or the one or the other exclusively, according to its nature and circumstances.

Judge Prescott was found guilty on article 3 by a vote of 16 to 9, and on article 12 by a vote of 19 to 6, and was removed from office. (See Prescott's trial, pp. 7, 165, 180.)

Mr. Manager HOWLAND, continuing his argument, said:

Last evening I was addressing myself to the proposition that indictability was not a condition precedent to impeachability, and I had called the attention of the Senate to two leading State cases—that of Judge Alexander Addison in Pennsylvania in 1803 and that of Judge James Prescott in Massachusetts in 1821. Continuing the citation of precedents in support of the proposition laid down I now call the attention of the Senate to the case of Judge George G. Barnard, justice of the Supreme Court of the State of New York in 1872.

IN THE MATTER OF THE IMPEACHMENT OF GEORGE G. BARNARD, JUSTICE OF THE SUPREME COURT OF THE STATE OF NEW YORK, 1872.

In connection with this case I want to call the attention of the Senate to the fact that under the constitution of New York the judges of the court of appeals sat as members of the impeachment court together with the senate.

Judge George G. Barnard, justice of the Supreme Court of the State of New York, was impeached by the house of representatives, who presented 38 articles of impeachment, and the thirty-seventh article contained 15 specifications thereunder.

The allegations in the various counts are all charged as mal and corrupt conduct, and several of the counts extend or relate to transactions occurring during a previous term of office, to which counts the respondent interposed a plea to the jurisdiction, claiming that he could not be held accountable in this proceeding for acts done during the previous term. The court, however, overruled his plea by a vote of 23 to 9, holding that he could be held as a matter of law for acts done during a previous term.

A careful review of the acts alleged as mal and corrupt conduct in this case will disclose that none of the allegations would sustain an indictment.

I am unable to find in the constitution of 1846 and the amendments thereto in force at the time of this trial any enumeration of the grounds for the impeachment of judges. The constitution of 1821, article 5, section 2, provided that the assembly should have power of impeaching all civil officers of the State for mal and corrupt conduct in office and for high crimes and misdemeanors. I take it, however, that the adoption of the constitution of 1846 absolutely abrogated the constitution of 1821, so that in the Barnard trial, while they used the language of the constitution of 1821 and charged mal and corrupt conduct in office, that language has no constitutional force and effect in the proceedings and was simply descriptive of those acts which the house of representatives believed to be impeachable.

The same old question of power to impeach for other than indictable offenses was argued very thoroughly. Mr. Van Cott in presenting the case for the managers, on page 243 of volume 1, makes a statement of the test which should be applied in the proceeding, and which was subsequently applied in my judgment by the court.

Now, I have stated some of the general principles applicable to this case. I have stated a few of the orders, and it is now for this court, sitting, to define judicial good behavior and judicial bad behavior; to make the precedent which shall govern in all the future and make our future clear or make it anything but clear to us; to say that the conduct of the judge in these cases is lawful conduct, is good behavior, and sanction it as a safe and lawful precedent, or whether the court will condemn it and will say that there shall not be infused into the civilization and into the judicature of this State the morals of the Barbary coast and of the Spanish Main, for these proceedings were as mere buccaneering and lawless expeditions against persons and property as were ever pursued by pirates upon the high seas.

I would like particularly to call the attention of the Senate to article 37 and the specifications thereunder, which charges respondent with deporting himself in a manner unseemly and indecorous, using language coarse, obscene, and indecent, and using the process of the court to aid and benefit his friends and favoring suitors and counsel, and treating counsel in a coarse, indecent, arbitrary, tyrannical manner, and was guilty of conduct unbecoming the high position which he held, tending to bring the administration of justice into contempt and disgrace. These general allegations are laid more definitely in the specifications which follow.

It is perfectly apparent from the reading of these allegations that no indictable offense is charged, yet the court, by a vote of 24 to 11, found the respondent guilty under the thirty-seventh article.

IN THE MATTER OF THE IMPEACHMENT OF SHERMAN PAGE, A JUDGE OF THE DISTRICT COURT IN AND FOR THE COUNTY OF MOWER, STATE OF MINNESOTA, 1878.

Ten articles of impeachment were presented by the house of representatives and tried before the senate, charging malicious, arbitrary, and tyrannical use of power, and citing specific instances of the same.

Under the constitution of Minnesota judges were impeachable for corrupt conduct in office or for crimes and misdemeanors.

Article 5 charged that the said Sherman Page needlessly, maliciously, and unlawfully, with intent thereby to foment disturbance among the inhabitants of said county of Mower, and with further intent to insult and humiliate one George Baird, then sheriff of said county, issued two orders or commands to the sheriff, in substance directing him to quell riots and preserve the peace, and threatening him in case he disobeyed.

On June 5, 1878, Hon. Cushman K. Davis, counsel for the respondent, moved to quash article 5, saying:

The senate will perceive that we provided in the first sentence of our answer to article 5 that the article is insufficient in law of itself and charges no crime. For those reasons, whether a motion to quash be designated in that way or whether it is bringing a demurrer to the sufficiency of that article or whether it is a demurrer to proof is immaterial. I ask that this article may be dismissed from the consideration of the senate and from our own. (See Page trial, p. 623, 1st vol.)

The question being taken on the motion to quash, it was defeated by a vote of 21 to 15, and by that action of the senate was held good in law, although it did not charge a crime.

On the merits of the case judgment of acquittal was entered.

IN THE MATTER OF THE IMPEACHMENT OF THE HON. E. ST. JULIEN COX, JUDGE OF THE NINTH JUDICIAL DISTRICT OF MINNESOTA, BEFORE THE SENATE OF MINNESOTA AS A HIGH COURT OF IMPEACHMENT, 1882.

The constitution of Minnesota provided for the impeachment of judges for corrupt conduct in office or high crimes and misdemeanors in office. The house of representatives preferred a long list of articles of impeachment, charging specific instances of intoxication and averring that the use of intoxicating liquors had rendered the judge incompetent and unable to discharge the duties of said office with decency and decorum, faithfully and impartially, to the great disgrace of the administration of public justice, and so forth, by reason whereof he was guilty of misbehavior in office and of crimes and misdemeanors in office.

It will be noted that the acts alleged are not charged in the exact language of the constitution, but the allegation is that the respondent was guilty of misbehavior in office and of crimes and misdemeanors rather than of corrupt conduct in office and of crimes and misdemeanors, which is the language of the Minnesota constitution. To these articles of impeachment the respondent interposed a demurrer attacking their sufficiency in law. This demurrer was overruled to all of the articles except to article 19, which was sustained.

The respondent thereafter pleaded to the merits, and trial was had and he was found guilty of misbehavior in office and of crimes and misdemeanors in office on seven of the articles, and was removed from the office of district judge of the State of Minnesota and disqualified for and during the full period of three years to hold the office of judge of the district court of the State of Minnesota and of all other judicial offices of honor, trust, or profit in the State for the period of three years from the date of the judgment.

At the time of these proceedings drunkenness was not an indictable offense in the State of Minnesota, although there has since been passed a law making drunkenness an indictable offense.

IMPEACHMENT TRIALS IN THE UNITED STATES SENATE.

IN THE MATTER OF THE IMPEACHMENT OF SENATOR WILLIAM BLOUNT.

Coming now to the impeachment trials before the Senate of the United States, the first case is that of Senator William Blount, in 1799, who was impeached for high crimes and misdemeanors, but the acts charged were not indictable. The case turned on the question of whether or not a Senator was a civil officer of the United States, but the power of impeachment was ably discussed in the argument.

Mr. Jared Ingersoll, of counsel for the respondent and who was a member of the Constitutional Convention from Pennsylvania, in discussing the removal section of the Constitution, said (U. S. Annals of Congress, vol. 8, p. 2286, 5th Cong.):

I add that I conceive that proceedings by impeachment are restricted not only to civil officers, but that the only causes cognizable in this mode of proceeding are malconduct in office.

And again, on page 2288, he said:

My argument is that what in England is said to be the most proper and has been the most usual in this particular is, by the Constitution of the United States, the exclusive grant of proceeding by impeachment. At least that none but civil officers of the United States are liable to be thus proceeded against. I do not say that the power is limited to malconduct in office.

I also insert here one paragraph from the plea drawn by Mr. Ingersoll and Mr. Dallas—

that although true it is that he, the said William Blount, was a Senator of the United States from the State of Tennessee at the several periods in the said articles of impeachment referred to; yet that he, the said William, is not now a Senator and is not nor was at the several periods so as aforesaid referred to an officer of the United States; nor is he, the said William, in any of said articles charged with having committed any crime or misdemeanor in the execution of any civil office held under the United States or with any malconduct in civil office or abuse of any public trust in the execution thereof. (U. S. Annals., 8th v., p. 2247.)

These quotations show that Mr. Ingersoll believed that malconduct in office was impeachable without reference to the indictability of the act.

Mr. Harper, who later defended Judge Chase, was one of the managers. In closing the argument in the Blount case, he said (p. 2316):

It seems to me, on the contrary, that the power of impeachment has two objects: First, to remove persons whose misconduct may have rendered them unworthy of retaining their offices, and, secondly, to punish those offenses of a mere political nature which, though not susceptible of that exact definition whereby they might be brought within the sphere of ordinary tribunals, are yet very dangerous to the public. These offenses, in the English law and in our constitutions, which have borrowed its phraseology, are called "high crimes and misdemeanors."

As bearing upon the meaning of the term "high crimes and misdemeanors," it might be interesting to note that in the Senate on the 8th of July, 1797, as a result of the proceedings previously held to expel Blount for the offenses for which he was subsequently impeached by the House, it was resolved:

That William Blount, Esq., one of the Senators of the United States, having been guilty of a high misdemeanor entirely inconsistent with his public trust and duty as a Senator, be, and he hereby is, expelled from the Senate of the United States. (Wharton's State Trials, p. 202.)

This quotation from the proceedings in the Senate shows the sense in which the term "high misdemeanor" was used by the Senate in its resolution of expulsion and is a precedent clearly in point on the proposition that the word "misdemeanor" as used in parliamentary proceedings does not necessarily refer to indictable offenses.

IN THE MATTER OF THE IMPEACHMENT OF JUDGE PICKERING.

The next impeachment proceeding is that of Judge Pickering, Federal judge in 1803.

He was impeached for refusing to allow an appeal in a certain matter and for drunkenness. He did not appear in person, but his son asked leave to file an answer in which he claimed that his father was insane, and certain affidavits were presented to substantiate this claim. He was found guilty on all the counts and removed from office. It certainly can not be claimed that drunkenness was an indictable offense, and yet, much to my surprise, I find in the brief of counsel in the case at bar that they attempt to make that claim. I submit that matter, however, to the judgment of the Senate. It is the first time I have ever heard that comment made on the Pickering case, with the possible exception of Mr. Harper in the Chase case, who qualifies it very materially. If it should be contended that Pickering was impeached on account of his insanity, it certainly would not be contended that insanity was an indictable offense. If it is held that this case was decided on the proof that Pickering was insane, then the case is an authority for the position that the proof of motive is not essential to a conviction under an impeachment charge.

IN THE MATTER OF THE IMPEACHMENT OF JUDGE CHASE.

The next case is that of Samuel Chase, Associate Justice of the Supreme Court, 1805.

The articles charged injustice, partiality, arbitrary power, rude and contemptuous conduct, and so forth.

None of the acts charged were indictable, and Judge Chase contended that he could not be impeached for offenses not indictable. Counsel for the judge did not go to this extent, and practically abandoned the contention, and the judge was acquitted on the merits.

Mr. Robert G. Harper, in closing the argument for Judge Chase, said (Hinds' Precedents, vol. 3, pp. 766-767):

The honorable gentleman who opened the case on the part of the prosecution cited the case of habitual drunkenness and profane swearing on the part of the judge as an instance of an offense not indictable and yet punishable by impeachment. But I deny his position. Habitual drunkenness in a judge and profane swearing in any person are indictable offenses. And if they were not, still they are violations of the law. I do not mean to say that there is a statute against drunkenness and profane swearing. But they are offenses against good morals, and as such are forbidden by the common law. They are offenses in the sight of God and man, definitive in their nature, capable of precise proof, and a clear defense.

In concluding a short discussion of the Pickering case, Mr. Harper said:

This case therefore proves nothing further than that habitual drunkenness is an impeachable offense.

In concluding a discussion of the Addison case, Mr. Harper said:

But I am free to declare that if Judge Addison's colleague did possess those rights, and if he did arbitrarily prevent and impede the exercise of them by an unconstitutional exertion of the powers of his office, he was guilty of an offense for which he might properly be impeached, because he must in that case have acted in express violation of the constitutions and laws.

In the foregoing statements Mr. Harper takes the position that offenses against good morals, habitual drunkenness, usurpation of power, are impeachable offenses, and in so doing clearly abandons the position that indictability is a condition precedent to impeachability.

IN THE MATTER OF THE IMPEACHMENT OF JUDGE PECK.

The fourth case was that of James H. Peck, a United States judge, in 1830.

He was impeached for "high misdemeanors in office," for imprisoning a lawyer for contempt of court.

His answer conceded the liability to impeachment on facts which would not be indictable in the following words (par. 3, p. 62, Peck's Trial):

If the court erred in adjudging and punishing it as a contempt, was it an innocent error of judgment on the part of the court or was it a high misdemeanor, because willfully and knowingly done in violation of law and with the intention imputed by the article of impeachment, to wit, wrongfully, arbitrarily, and unjustly to oppress, imprison, and otherwise injure the said Luke E. Lawless under color of law?

This respondent presumes that it is only by making good the affirmative of the last proposition that the impeachment against him can be sustained.

Clearly admitting that indictability is not a condition precedent to impeachability.

IN THE MATTER OF THE IMPEACHMENT OF JUDGE HUMPHREYS.

The fifth case was that of West H. Humphreys, a Federal judge, in 1862.

Humphreys was charged with making secession speeches, and in two of the seven articles was charged with treason.

Making secession speeches was not an indictable offense, and the Senate voted separately and found him guilty on each article, so that this case is an authority that indictability is not a necessary element to sustain impeachment.

IMPEACHMENT OF PRESIDENT JOHNSON.

In the impeachment trial of Andrew Johnson he was charged with sundry and divers acts, several of them alleging that he had violated the provisions of the law known as the "tenure of office act," and which under the terms of the act probably constituted an indictable offense.

The celebrated swing-around-the-circle article, charging him with making incendiary speeches, of course did not charge an indictable offense, but the Senate in the consideration of the various articles did not come to a vote upon this particular article, for after they had voted on three articles the Senate adjourned without day.

In this connection I wish to quote a few sentences from the argument of Mr. Thaddeus Stevens in closing the debate in the House on the resolution impeaching President Johnson (Globe, p. 1399):

Impeachment under our Constitution is very different from impeachment under the English law. The framers of our Constitution did not rely for safety upon the avenging dagger of a Brutus, but provided peaceful remedies which should prevent that necessity. England had two systems of jurisprudence—one for the trial and punishment of common offenders, and one for the trial of men in higher stations, whom it was found difficult to convict before the ordinary tribunals. The latter proceeding was by impeachment or by bills of attainder, generally practiced to punish official malefactors; but the system soon degenerated into political and personal persecution, and men were tried, condemned, and executed by this court from malignant motives. Such was the condition of the English laws when our Constitution was framed, and the convention determined to provide against the abuse of that high power so that revenge and punishment should not be inflicted upon political or personal enemies. Here the whole punishment was made to consist in removal from office, and bills of attainder were wholly prohibited. We are to treat this question, then, as wholly political, in which if an officer of the Government abuse his trust or attempt to pervert it to improper purposes, whatever might be his motives, he becomes subject to the impeachment and removal from office. The offense being indictable does not prevent impeachment, but is not necessary to sustain it.

I will also quote from the opinion of the Hon. George F. Edmunds in the trial of Andrew Johnson, Supplement Congressional Globe, page 428:

In my opinion this high tribunal is the sole and exclusive judge of its own jurisdiction in such cases, and that, as the Constitution did not establish this procedure for the punishment of crime, but for the secure and faithful administration of the law, it was not intended to cramp it by any specific definition of high crimes and misdemeanors, but to leave each case to be defined by law, or, when not defined, to be decided upon its own circumstances in the patriotic and judicial good sense of the Representatives of the States. Like the jurisdiction of chancery in cases of fraud, it ought not to be limited in advance, but kept open as a great bulwark for the preservation of purity and fidelity in the administration of affairs, when undermined by the cunning and corrupt practices of low offenders or assailed by bold and high-handed usurpation or defiance, a shield for the honest and law-abiding official, a sword to those who pervert or abuse their powers, teaching the maxim which rulers endowed with the spirit of a Trojan can listen to without emotion, that "kings may be cashiered for misconduct."

IN THE MATTER OF THE IMPEACHMENT OF WM. W. BELKNAP, SECRETARY OF WAR.

This case has no bearing on the proposition of law under discussion, but is clearly an authority that the Senate will hold jurisdiction to try an ex-civil officer who is a private citizen for acts done in office. The fact that jurisdiction is determined by a majority, and conviction requires two-thirds is important only in so far as the jurisdictional question might affect the final vote on the merits. Applying the precedent established by the Belknap case to the case at bar, if the Senate has jurisdiction to try a private citizen for acts done when in office, it certainly has jurisdiction to try a circuit judge for acts done as district judge where there has been continuity of service of the same character.

IN THE MATTER OF THE IMPEACHMENT OF JUDGE SWAYNE.

In this case an elaborate brief was filed which, though signed by counsel for the respondent, was most carefully and politely disowned by them. (Hinds III, p. 454.) It was contended in the brief that indictability was a condition precedent to impeachability—a position which was not urged by counsel for the respondent at the trial. I am glad to be able to quote from the brief of counsel in the pending trial to substantiate the claim that in the Swayne case the proposition that indictability was a condition precedent to impeachability was entirely abandoned. (Respondent's brief, p. 39.)

On reading the proceedings in that trial (Swayne) we are unable to find that counsel for Swayne discussed at all the question whether it was necessary for the conviction of their client that it should be charged and proven that he had committed an indictable offense.

Mr. President, we have shown that the doctrine that indictability is a condition precedent to impeachability finds no constitutional warrant to sustain it, is antagonistic to any proper conception of the object and purpose of impeachment, and is absolutely repudiated by an unbroken line of precedents, both State and Federal. We therefore conclude that the power to impeach is properly invoked to remove a Federal judge whenever, by reason of misbehavior, misconduct, malconduct, or maladministration, the judge has demonstrated his unfitness to continue in office, and with confidence in the correctness of our judgment we await the decision of the Senate.

ARGUMENT OF MR. NORRIS, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager NORRIS. Mr. President, I shall not weary the Senate with any further discussion of the facts as they have been developed in this case. My colleagues who have already addressed the Senate have analyzed and considered the evidence in all of its various phases. I desire, however, to briefly state my views on some of the legal questions of the case that have arisen in this trial.

In some of the articles of impeachment the respondent is charged with misbehavior in office, and it is claimed, as far as these articles are concerned, that he is not guilty of any

offense which would properly be the subject of a prosecution by indictment or information in a criminal court. It is strenuously argued by attorneys for respondent that an impeachment lies only for offenses which are criminal in their nature and which could legally be the subject of prosecution by indictment.

WHAT OFFENSES, PARTICULARLY AS APPLIED TO JUDGES OF THE UNITED STATES COURTS, ARE IMPEACHABLE UNDER THE CONSTITUTION?

The Constitution provides (Art. I, sec. 2) that the House of Representatives shall have the sole power of impeachment, and in section 3 of the same article it is provided that the Senate shall have the sole power to try all impeachments. It is undisputed, and indeed has never been questioned, that to remove a United States judge from office two things are essential: First, he must be impeached by the House of Representatives; and, second, he must be tried and convicted by the Senate upon the articles of impeachment presented by the House. There is no other way provided by the Constitution of the United States for the removal from office of a judge. In the consideration of this subject I shall draw a distinction between a judge of the United States court and all other civil officers of the United States. I shall demonstrate from the Constitution itself that a judge of the United States court can properly be impeached, convicted, and removed from office for any act from treason down to conduct that tends to bring the judiciary into disgrace, disrespect, or disrepute.

Section 4 of Article II of the Constitution reads as follows:

The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

It will be noted that this provision of the Constitution applies to all civil officers of the United States alike. It is undisputed that it includes judges, and were there no other provision of the Constitution applying particularly to the conduct or the tenure of office of judges then there would be no distinction between the impeachment and trial of judges and any other civil officer, including the President and Vice President. But section 1, Article III, so far as the same is applicable to this case, provides:

The judges, both of the Supreme Court and inferior courts, shall hold their offices during good behavior.

This provision of the Constitution, it will be observed, applies only and exclusively to judges. It has no relation to any other civil officer of the Government, and if we are not to nullify it entirely we will find that it bears a very important part in the consideration of the particular branch of the case under discussion. I desire the Senate to continually bear in mind and to faithfully observe at all times during the consideration of this subject, that in the construction of any legal document or instrument the court will so construe it as to give life and vitality to every part of the instrument, if it can reasonably and logically do so. It is our duty to construe these two provisions of the Constitution together, and, if possible, to give equal vitality and life to them both.

Most of the civil officers provided for by the Constitution have a definite fixed term, but the judges hold office during good behavior. Much of the contention arises over what is meant in section 4, Article II, by the word "misdemeanor." It is contended by the respondent that this word is intended only to apply to such offenses as are indictable and punishable under the criminal law, and that a judge can not be impeached and removed from office unless his offense, whatever it may be called, is at least of so high a degree as to make it criminal and indictable. This construction, if adhered to, absolutely nullifies that provision of section 1, Article III, above quoted, which provides that judges shall hold their offices during good behavior. If judges can hold their offices only during good behavior, then it necessarily and logically follows that they can not hold their offices when they have been convicted of any behavior that is not good. If good behavior is an essential to holding the office, then misbehavior is a sufficient reason for removal from office. And if, therefore, we give full life and vitality to both of these provisions of the Constitution, we must hold that the lack of good behavior, or misbehavior, mentioned in section 1, Article III, is synonymous with the word "misdemeanor" in section 4, Article II, in all cases where the offense is less in magnitude than an indictable one.

This view of these provisions of the Constitution has been sustained by practically all of the leading law writers upon the subject. It has also been sustained by the Senate in the trial of prior impeachment cases that have taken place. John Randolph Tucker, in his Commentaries on the Constitution (Vol. I, sec. 200), after discussing the question at some length and enumerating many offenses that are impeachable, uses this language:

But if he decides unconscientiously—if he decides contrary to his honest convictions from corrupt partiality—this can not be good behavior and he is impeachable. Again, if the judge is drunken on the bench, this is ill behavior, for which he is impeachable, and all of these are generally criminal or misdemeanors, for misdemeanor is a synonym of misbehavior. * * * To confine the impeachable offenses to those which are made crimes or misdemeanors by statute or other specific law would too much constrict the jurisdiction to meet the objects proper of the Constitution, which was, by impeachment, to deprive of office those who by act of omission or commission showed great and flagrant disqualification to hold it.

George Ticknor Curtis, in his work on the Constitutional History of the United States (p. 481), in discussing impeachment, uses this language:

The object of the proceedings is to ascertain whether cause exists for removing a public officer from office. Such a cause may be found in the fact that, either in the discharge of his office or aside from its functions, he has violated a law or committed what is technically denominated a crime. But a cause for removal from office may exist where no offense against positive law has been committed.

Watson, in his work on the Constitution (vol. 2, p. 1034), takes the same position and says that the word "misdemeanor" is the same as "misdeed, misconduct, misbehavior, voluntary transgression." Practically the same position is taken by Foster in his work on the Constitution, in section 93. This position is sustained by a full review of the question in the American and English Encyclopedia of Law, but these cases have already been called to the attention of the Senate. These citations showed that the Senate has in the past found officials guilty where the crime charged was not an indictable offense.

In Black on Constitutional Law, second edition, pages 121 and 122, it is said:

Treason and bribery are well-defined crimes. But the phrase "other high crimes and misdemeanors" is so very indefinite that practically it is not susceptible of exact definition or limitation, but the power of impeachment may be brought to bear on any offense against the Constitution or the law which, in the judgment of the House, is deserving of punishment by this means or is of such a character as to render the party accused unfit to hold and exercise his office. It is of course primarily directed against official misconduct. Any gross malversation in office, whether or not it is a punishable offense at law, may be made the ground of an impeachment.

Further on the same writer says:

It will be observed that the power to determine what crimes are impeachable rests very much with Congress; for the House, before preferring articles of impeachment, will decide whether the acts or conduct complained of constitute a "high crime or misdemeanor," and the Senate in trying the case will also have to consider the same question.

EVEN IF WE ADMIT "MISDEMEANORS" AS USED IN SECTION 4, ARTICLE II, APPLIES ONLY TO INDICTABLE OFFENSES, YET A JUDGE CAN BE IMPEACHED FOR MISBEHAVIORS OF A LESS GRADE THAN INDICTABLE OFFENSES UNDER SECTION 1, ARTICLE III.

But suppose, for the sake of argument, it be admitted that "misdemeanors" as used in section 4, Article II, was intended by the framers of the Constitution to exclude all offenses that were not indictable under the law, it would still not necessarily follow that judges could not be impeached and removed from office for misdemeanors of so low a grade that they were not indictable. This section simply provides that all the civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, and other high crimes and misdemeanors. If in any other provision of the Constitution additional reasons for impeachment are given of some of these specified officers, or additional reasons are given why some of them should cease to hold office, then under such provision such specified officers could be tried, impeached, and removed even though the offense of which they might be guilty was not included in any of those enumerated in section 4, Article II.

While I believe the construction placed on "misdemeanors" by the respondent is wrong, yet they have not made a defense to the various charges of misbehavior in office, even if we accept their construction of the law that misdemeanors in this section means only indictable offenses. If, for instance, the President was expressly excluded from the officers named in this section, then I concede there would be no way under the Constitution for him to be impeached, tried, and removed from office, because there is no other provision of the Constitution that provides for any offense on the part of the President or limits his tenure of office excepting the expiration of his regular term. But if judges were expressly eliminated from this section and it read "all civil officers of the United States except judges, and so forth," it would not follow that they could not be impeached, convicted of misbehavior, and removed from office, because section 1, Article III, expressly provides that they shall only hold their offices during good behavior. In other words, our forefathers in framing the Constitution have wisely seen fit to provide for a requisite of holding office on the part of a

judge that does not apply to other civil officers. The reason for this is apparent. The President, Vice President, and other civil officers, except judges, hold their positions for a definite fixed term, and any misbehavior in office on the part of any of them can be rectified by the people or the appointing power when the term of office expires. But the judge has no such tenure of office. He is placed beyond the power of the people or the appointing power, and is therefore subject only to removal for misbehavior. Since he can not be removed unless he be impeached by the House of Representatives, tried and convicted by the Senate, it must necessarily follow that misbehavior in office is an impeachable offense.

Any authority that has been cited by the respondent which shows or tends to show that a President, Vice President, or other civil officer other than a judge can not be impeached except the offense is at least of the grade of a misdemeanor that is indictable does not apply to the impeachment or trial of a United States judge. To hold that an officer whose tenure of office is definite and fixed and who will necessarily go out of office within the course of a year or two should not be impeached and removed from office for a misbehavior that does not reach in magnitude an indictable offense is entirely different from holding that an officer whose term of office ordinarily lasts for life should not be so impeached and removed. And our forefathers evidently had this distinction in mind when they applied exclusively to judges that provision of the Constitution which provides that judges shall hold their offices during good behavior.

If I am not right in my construction of the Constitution, then the Congress and the country are absolutely helpless in any attempt to get relief from a judge who drags the judicial ermine down into disgrace, but is careful in doing so not to commit any criminal offense. If I am not right in my construction, then that provision of the Constitution which says that judges shall hold office during good behavior is absolutely nullified, and as far as the good behavior part of it is concerned it has no vitality, no life, no effect. The judge who secretly arranges with attorneys on one side of a case to make a private argument, who not only makes such arrangement but who initiates it, is guilty of a misbehavior. Every lawyer knows this; every Senator will admit it. Are we helpless in the premises simply because such an act is not indictable under the law? The judge who is continually asking favors of litigants in his court, if he is careful, can not be convicted of any crime; but he is guilty of a misbehavior. No one will dispute it. He is perverting the ends of justice. He is bringing the judiciary into disgrace and into disrepute. Carried to its logical conclusion, such conduct would soon mean that our judicial system would fail. It could not survive. Are we helpless? Must we say that although the Constitution says the judge shall only hold his office during good behavior, that the House of Representatives and the Senate are unable to apply those provisions of the Constitution which provide for impeachment, trial, and removal? If our forefathers meant anything when they provided in the Constitution that the judges should hold their offices during good behavior, they certainly intended that when the judge misbehaved he should be removed from office. Such a construction of the Constitution will not violate any principle of law, but, on the other hand, it will give full effect to a constitutional provision that would otherwise be meaningless and a dead letter. Our forefathers wisely, I think, refrained in the Constitution from giving any definition to "crimes and misdemeanors" and likewise refrained from defining what would be an abuse or a violation of "good behavior." Misbehavior, the opposite of good behavior, and I think the proper appellation of any conduct that is not good behavior, implies innumerable offenses of greater or less magnitude.

As to what is misbehavior in office must be determined in the first place by the House of Representatives when they adopt the articles of impeachment. It must be redetermined by the Senate when, after listening to the evidence, they pass judgment upon the case. I think all will agree that any conduct on the part of a judge which brings the office he holds into disgrace or disrepute, or which results or has a tendency to result in the denial of absolute justice to all persons engaged in litigation in his court, is a misbehavior. Certainly such conduct is not good behavior, and the Constitution provides that he shall only hold office during good behavior. Therefore it follows that in the absence of good behavior on the part of the judge he should be removed from office. It is undoubtedly true that the House of Representatives, in passing upon articles of impeachment and the Senate upon the trial of the offense charged in such articles, where only misbehavior in office was shown, would take into consideration in reaching their conclusions not only the magnitude of such misbehaviors but the frequency of their occurrence. Where the evidence shows that a judge is continually misbehaving by engaging in conduct and practices that bring his office into disrespect and disrepute, the House and the Senate can not avoid their duty or their responsibility by saying that each distinct offense is in itself of small magnitude and not indictable.

An eminent writer on the Constitution has summed up the question in the following forcible and appropriate language:

A civil officer may so behave in public as to bring disgrace upon himself and shame upon his country, and he may continue to do this until his name would become a national stench, and yet he would not be subject to indictment by any law of the United States, but he certainly could be impeached. What will those who advocate the doctrine that impeachment will not lie except for an offense punishable by statute do with the constitutional provision relative to judges which says, "Judges, both of the supreme and inferior courts, shall hold their office during good behavior"? This means that as long as they behave themselves their tenure of office is fixed and they can not be disturbed. But suppose they cease to behave themselves? When the Constitution says "A judge shall hold his office during good behavior," it means that he shall not hold it when it ceases to be good. Suppose he should refuse to sit upon the bench and discharge the duties which the Constitution and the law enjoin upon him, or should become a notoriously corrupt character and live a notoriously corrupt and debauched life? He could not be indicted for such conduct, and he could not be removed except by impeachment. Would it be claimed that impeachment would not be the proper remedy in such a case? (Watson on the Constitution, vol. 2, pp. 1036, 1037.)

CAN A CIRCUIT JUDGE BE IMPEACHED FOR MISBEHAVIOR OCCURRING WHILE HE HELD THE OFFICE OF DISTRICT JUDGE?

In this case some of the articles of impeachment charge the respondent with offenses committed while he held the office of district judge. It will be remembered that the evidence discloses that while the respondent was holding the office of district judge he was appointed circuit judge. He passed directly from one office into the other and no interim lapsed between the time that he held the office of district judge and the time when he became circuit judge, which office he still holds. And the technical defense is made by the respondent that he can not be impeached for any misconduct or misbehavior that occurred while he was holding the office of district judge. The change was in the nature of a promotion, but the nature of his office is practically the same. The Senate will take judicial notice of the fact that at the time the respondent was district judge he had authority and jurisdiction, under the law, to sit as a circuit judge and to hold circuit court. It is a well-known fact that the district judges prior to the adoption of our code practically did all of the work in the circuit courts. Indeed, in this case in most of the particular offenses charged the respondent, although a district judge, was engaged in the function of holding circuit court. The Peale case and the Rissinger case were cases pending not in the district court, but in the circuit court, and the respondent in each case was the presiding judge. I think that the authorities are pratically unanimous that a public official can be impeached for official misconduct occurring while he held a prior office if the duties of that office and the one he holds at the time of the impeachment are practically the same or are of the same nature. The Senate must bear in mind, as stated by all of the authorities, that the principal object of impeachment proceedings is to get rid of an unworthy public official. In the State of New York it was held in the Barnard case that the respondent could be impeached and removed from office during his second term for acts committed during his first term. And in the State of Wisconsin the court held the same way in the impeachment of Judge Hubbell. To the same effect was the decision in Nebraska upon the impeachment trial of Gov. Butler. On this point the respondent relies upon the case of the State v. Hill (37 Nebr., p. 80).

In that case the State treasurer of Nebraska was impeached after he had completed his term and retired to private life. The articles of impeachment were not passed on by the legislature, in fact were not even introduced in the legislature until after the respondent had served his full term, and the court there held that impeachment did not lie; but it expressly approved the judgment of the New York court in the Judge Barnard case, the judgment of the Wisconsin court in the Judge Hubbell case, and the prior judgment of the Nebraska court in the Butler case. And the court, in giving its reason, expressly stated that the object of impeachment as defined by the constitution of that State was to remove a corrupt or unworthy officer, and that inasmuch as his term had expired prior to his impeachment he was no longer in office and the object of the constitution had been attained, and therefore impeachment would not lie. In the case at bar the functions of the office held by the respondent as district judge were practically the same as his official functions when he was made circuit judge. They were of the same nature

and would be directly affected by the same misconduct in office. He has held a Federal judgeship continuously during all the time of the commission of all of the alleged offenses.

CONCLUSION.

The House in presenting the articles of impeachment were performing an official duty. The managers on the part of the House have undertaken to carry out the mandate of that body without any malice, without any ill will, but without fear or favor. Like the balance of our fellow citizens, we hold the judiciary in the highest respect. We are anxious that the citizenship generally should have for it unbounded respect and unlimited admiration. We realize that it is only by the confidence that the people have in public officials that the stability of our institutions can be maintained. When public officials disregard their duty and violate the common standards of propriety with impunity, the standard of our citizenship is lowered and the very foundation of our Government is threatened. Of all the departments of government the judiciary is and ought to be held in the highest regard. Our Government can not perform its full destiny unless the courts are above reproach and the judges above suspicion.

It is not for the managers to say what the verdict of the Senate shall be. We have done our best to give you a fair, honest, and impartial presentation of the evidence and the law as we see it and understand it. To the best of our ability we have performed our duty. Our responsibility is about ended, and your greatest responsibility is just before you. That you will perform it without fear, without favor, without prejudice, and render such judgment as you believe to be righteous is our earnest belief and our sincere conviction.

ARGUMENT OF MR. DAVIS, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager DAVIS. Mr. President, the issues presented by the case before the Senate, whether of law or fact, would seem to be neither numerous nor complex. After the exhaustive and able discussion which has been had by gentlemen who have already spoken, only the vain could hope to add anything of clarity or adornment to their presentation. I address myself, therefore, to the single purpose of showing into how narrow a compass the issues may be compressed, and shall make my remarks more in the nature of an index than a commentary.

To simplify the argument, let us admit that none of the acts with which the respondent is charged are denounced by any express legislative enactment nor are they punishable as crimes either by statute or at common law; we may go further and, for the sake of argument, concede that none of them, if done by a private individual, would in themselves evince any degree of moral turpitude. Indeed, it is even possible, although difficult, to conceive that in a moment of thoughtlessness, without due reflection upon the restraints of his position or the necessary implication arising from his course, a judge upon the bench might commit certain of the indiscretions here alleged without an intentional surrender of his judicial purity or a deliberate willingness to profit by his exalted station. But when such things are done by an occupant of the bench, and being done are repeated and persisted in, then in the opinion of the body by which these charges are preferred condonation is impossible. A course so continued amounts to gross misbehavior and demonstrates the unfitness of the man guilty of such delinquencies, and by such misconduct he forfeits, as we claim, the condition of his official tenure, which is good behavior. The case, when all is said, comes to this: Does the proof show the respondent unfit to continue in the office which he holds, and, if so, has this court power, by process of impeachment, to remove him?

Quite naturally the latter question comes on first to be examined. When the jurisdiction of the court is challenged or the sufficiency of an indictment is called in question it is useless to investigate the facts until these matters are disposed of. The issue at once narrows itself down to the meaning of the phrase "high crimes and misdemeanors" occurring in Article II, section 4, of the Constitution; and the respondent now renews the oft-repeated contention that this language can be used only with reference to offenses which, either by common law or by some express statute, are indictable as crimes. This same proposition has been so often refuted in the past and has been so conclusively disposed of in the course of this argument that it is difficult to add more. Every canon of construction which can be applied to this clause of the Constitution negatives the position which counsel for the respondent assume. Test it by the context, by contemporary interpretation, by precedent, by the weight of authority, and by that reason which is the life of every law and the answer is always the same.

In the first place, when we read this clause of the Constitution, as we are required to do, in the light of the context of the instrument we are confronted at once by the clause fixing the tenure of judges of the Federal courts during good behavior; and if it be difficult, as counsel for respondent assert, to enlarge the phrase "high crimes and misdemeanors" so as to embrace acts not indictable as crimes, it is certainly far more difficult to restrict "good behavior" to the narrow limits fixed by the criminal law. To say that a judge need take as the guide of his conduct only the statutes and the common law with reference to crimes, and that so long as he remains within their narrow confines he is safe in his position, is to overlook the larger part of the duties of his office and of the restraints and obligations which it imposes upon him. We insist that the prohibitions contained in the criminal law by no means exhaust the judicial decalogue. Usurpation of power, the entering and enforcement of orders beyond his jurisdiction, disregard or disobedience of the rulings of superior tribunals, unblushing and notorious partiality and favoritism, indolence and neglect—all are violations of his official oath, yet none may be indictable. Personal vices, such as intemperance, may incapacitate him without exposing him to criminal punishment. And it is easily possible to go further and imagine such indecencies in dress, in personal habits, in manner and bearing on the bench, such incivility, rudeness, and insolence toward counsel, litigants, or witnesses, such willingness to use his office to serve his personal ends, as to be within reach of no branch of the criminal law, yet calculated with absolute certainty to bring the court into public obloquy and contempt and to seriously affect the administration of justice. Can it be possible that one who has so demonstrated his utter unfitness has not also furnished ample warrant for his impeachment and removal in the public interest?

Stated in its simplest terms, the proposition of counsel is to change the language of the Constitution so that instead of reading that—

> the judges both of the Supreme and inferior courts shall hold their offices during good behavior—

It will read that—

> the judges both of the Supreme and inferior courts shall hold their offices so long as they are guilty of no indictable crime.

If the latter were the true meaning, is it conceivable that the careful and exact stylists by whom the Constitution was composed would have used an ambiguous term to express it?

But counsel ask, What shall be done with that clause which provides that in case of impeachment—

> the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law?

This they insist is a definition by implication, and signifies that the scope of impeachment and indictment is one and the same, although the mode of trial and the penalty to be inflicted may differ. We submit, on the contrary, that this clause instead of being a declaration that impeachment and indictment occupy the same field is a recognition of the fact that the field which they occupy may or may not be identical, and recognizing this fact it merely declares that when the field of impeachment and the field of indictment overlap there shall be no conflict between them, but that the same offense may be proceeded against in either forum or in both.

The light drawn from contemporary speeches and writings confirms the position for which we contend. It is true, as counsel will point out, that in the Constitutional Convention when the word "maladministration" was proposed it was objected to by Mr. Madison as too vague, and the words "high crimes and misdemeanors" were inserted instead; but it is also true that on the 16th day of June, 1779, when debating in the House of Representatives the propriety of giving to the President the right to remove an officer, he said:

> The danger, then, consists merely in this: The President can displace from office a man whose merits require that he should be continued in it. What will be the motives which the President can feel for such abuse of his power and the restraints that operate to prevent it? In the first place, he will be impeachable by this House before the Senate for such an act of maladministration, for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust.

His great co-laborer, Alexander Hamilton, discussing in the sixty-fourth number of the Federalist the Senate as a Court of Impeachment, says:

> A well-constituted court for the trial of impeachments is an object not more to be desired than difficult to be obtained in a government wholly elective. The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated "political," as they relate chiefly to injuries done immediately to the society itself. * * * What, it may be asked, is the true spirit of the institution itself? Is it not designed as a method of national inquest into the conduct of public men? If this be the design of it, who can so properly be the inquisitors for the Nation as the representatives of the Nation themselves? * * * As well the latter (State constitutions) as the former (the British constitution) seem to have regarded the practice of impeachments as a bridle in the hands of the legislative body upon the executive servants of the Government. Is not this the true light in which it ought to be regarded? * * * The necessity of a numerous court for the trial of impeachments is equally dictated by the nature of the proceeding. This can never be tied down by such strict rules, either in the delineation of the offense by the prosecutors or in the construction of it by the judges as in common cases serve to limit the discretion of courts in favor of personal security.

And, again, in the seventy-eighth number of the Federalist, when making an examination of the judiciary department, we read from his pen that—

> According to the plan of the convention all judges who may be appointed by the United States are to hold their offices during good behavior, which is conformable to the more approved of the State constitutions and among the rest to those of this State. Its propriety having been drawn into question by the adversaries of that plan is no light symptom of the rage for objections which disorders their imaginations and judgments. The standard of good behavior for the continuance in office of the judicial magistracy is certainly one of the most valuable of the modern improvements in the practice of governments. In a monarchy it is an excellent barrier to the despotism of princes; in a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government to secure a steady, upright, and impartial administration of the laws.

And continuing the same examination in the following paper, the seventy-ninth, he goes on:

> The precautions for their responsibility are comprised in the article respecting impeachments. They are liable to be impeached for malconduct by the House of Representatives, and tried by the Senate, and if convicted may be dismissed from office and disqualified for holding any further. This is the only provision on the point which is consistent with the necessary independence of the judicial character, and is the only one which we find in our own Constitution in respect to our own judges.

And then evidently treating the word "malconduct" as covering the whole category of voluntary actions on the part of the judge which would go to his judicial character or fitness, he discusses the want of a provision for removing the judges on account of physical or mental inability as being the only emergency unprovided for. He has in mind chiefly the inability arising from advanced age, and calls attention to the difficulty of measuring the faculties of the mind and the opportunity which the attempt would give for the play of personal and party attachments and enmities.

The result—

Says he—

> except in the case of insanity must for the most part be arbitrary; and insanity without any formal or express provision may be safely pronounced to be a virtual disqualification.

It can be safely said that nothing was further from the minds of the men who framed the Constitution than the construction here contended for by respondent's counsel.

Again we may look to the precedents, only to find that the word "misdemeanor" has always been treated as having a meaning of its own in parliamentary law, and that one impeachment proceeding after another has been based upon offenses not within the law of crimes. I do not repeat the many authorities for this statement which my colleagues have cited. This body, of course, being a law unto itself, is bound by no precedents save those of its own making, and even as to them no doubt has the power which any other court enjoys to overrule a previous decision, if convinced of its error. Of the cases which have been tried in this Chamber, those of Blount, Pickering, Chase, Peck, Humphreys, and Swayne have been pointed out as involving in whole or in part charges not criminal in their character. So, also, have many other cases tried in similar forums under similar constitutional provisions. Persuasive precedents are also to be found in the records of those cases investigated by the House of Representatives where articles of impeachment were authorized by a vote of the House, but for one cause or another were never tried. Such, for instance, was the case of Judge Lawrence, of the District Court of the United States for the Eastern District of Louisiana. During the year 1839 he was charged with the unauthorized removal of the clerk of his court and various improper orders made in the effort to get possession of the seal and records in the clerk's custody, with refusal to obey mandates of the Supreme Court, and with intemperance. The committee which investigated these charges recommended his impeachment for "misdemeanors in office." It is perhaps significant that the word "crimes" was intentionally omitted. The report came in as the Twenty-fifth Congress neared its close and no action was had. Doubtless the reason why the matter was never pressed is to be found in the fact that on the 3d day of September, 1841, Theodore H. McCaleb was appointed judge in his room and stead.

Again, in the year 1872, in the Forty-second Congress, the House of Representatives impeached at the bar of the Senate for "high crimes and misdemeanors" Mark H. Delahay, United States district judge for Kansas. Benjamin F. Butler headed the committee in charge and stated that—

> The most grievous charge and that which is beyond all question was that his personal habits unfitted him for the judicial office; that he was intoxicated off the bench as well as on the bench.

Although there was a question as to certain alleged corrupt transactions, Mr. Daniel W. Voorhees, of Indiana, said that it was not proven to the satisfaction of several members of the committee that there was any malfeasance in this regard; but Mr. Butler said:

> The committee agree that there is enough in his personal habits to found a charge upon.

Here again the resolution was reported just as Congress was about to expire, and before any further proceedings could be had the successor of Judge Delahay was appointed.

So also in the case of Judge Durell, of the United States District Court for Louisiana, in the same Congress, against whom a resolution of impeachment was reported on the ground of his usurpation of power in issuing the so-called "midnight order" putting the United States marshal in charge of the building in the city of New Orleans in which the State legislature was about to assemble. There was no pretense, of course, that this act on his part would have warranted an indictment. The matter was summed up by Mr. Benjamin F. Butler in these words:

> It seemed to me so gross an exercise of power that if the judge did not know he was exceeding his powers he ought to have known it; and in either case if he did know of course he was wrong, and if he did not know he ought to have known, and therefore he did not conduct himself well in office.

Pending the proceedings Judge Durell resigned, and for this reason only the matter was discontinued.

But without stopping to multiply precedents further, we next call attention to the long list of eminent authorities and commentators on the Constitution who uphold the construction for which we contend—Story, Curtis, Cooley, Tucker, Watson, Foster, all these and many more have been cited in the course of this discussion. Speaking as a lawyer, it must be said that the weight of authority in our favor is overwhelming.

Last of all we resort to the highest of all canons for the construction of constitutions and statutes alike, viz, "the reason of the thing." It is true that the framers of the Constitution intended to create an independent judiciary, but they never contemplated a judiciary which should be totally irresponsible. Regarding public office as a public trust, they found it necessary to lodge somewhere the power to determine whether that trust had or had not been abused. In the appointment of judges they required that the judgment of the President with reference to individual fitness should be concurred in by the Senate, and quite naturally they gave to the body which had approved the appointment the power to withdraw that approval and dismiss the officer when he had shown himself faithless to his trust. In requiring first of all a majority of the House of Representatives in order to prefer articles of impeachment and then two-thirds of the Members of the Senate present to convict, they hedged the power about with all the safeguards necessary to protect the upright official and yet leave it sufficient play to preserve the public welfare. Experience has shown how more than adequate the machinery so provided has been to prevent hasty or intemperate action. Indeed, it would seem that if the fathers erred it was in making too slow and difficult the process of removing the unfaithful and unfit. I hope—indeed, I believe—that this high court will never sanction any construction of the Constitution which will render it practically impotent for the purposes of its creation.

But in the brief filed by counsel for the respondent it is suggested that if an impeachable offense need not be criminal in fact it must still be criminal in its nature. It will at once be clear that this is a definition which does not define, and that the phrase "criminal in its nature" has no more certainty to commend it than has "good behavior." Recognizing this to be true, counsel go on to say, in the attempt to define their own language, that—

> for the same reason, even if the misdemeanors for which impeachment will lie are not necessarily indictable offenses, yet they must be of such a character as might properly be made criminal.

We are not called on to agree with their position as so stated, but have no great cause to fear it.

We understand a crime or misdemeanor to be, in the language of Blackstone—

> An act committed or omitted in violation of a public law either forbidding or commanding it.

If the phrase "criminal in nature" means those things which might be made crimes by legislative prohibition, every act here charged against this respondent comes within the description. Certainly Congress could, by express criminal statute,

forbid a Federal judge to accept gifts of money from members of his bar, to communicate in private either orally or by letter with counsel in reference to cases pending for decision, to request financial favors from parties litigant before him, and as to the Commerce Court might well forbid the members of that court to engage in the business of hunting bargains from railroad companies engaged in interstate commerce. And, certainly, if such things are not already misdemeanors or misconduct or misbehavior, a statute to forbid them can not come too soon.

So much for the law of the case. What of the facts?

The articles of impeachment call attention to 11 distinct acts of misconduct and misbehavior on the part of the respondent and close with the thirteenth article drawing the necessary inference from the specific acts alleged. In point of time they may be divided between the service of Judge Archbald as a district judge and his service as circuit judge and judge of the Commerce Court. Five of them occurred during his district judgeship, to wit: The appointment of Jury Commissioner Woodward, the Rissinger note and the Honduras gold-mining transaction, the John Henry Jones note and the Venezuelan land speculation, the Cannon trip and the purse from the members of his bar. Those during his circuit judgeship are: The Katydid deal, the Marian Coal Co. settlement, the deal for the dump known as Packer No. 3, the transaction with Frederick Warnke, the James R. Dainty-Everhart matter, and the correspondence with Helm Bruce.

For want of time I pass by those things which occurred during his district judgeship and classify again the six occurrences charged against him as circuit judge. Five of these have to do with transactions between himself and officers of railroads or their subsidiaries, and one with the correspondence between himself and counsel for a railroad company with reference to a pending cause. I shall not undertake to repeat what has been said as to the details of these transactions nor do I conceive it to be necessary to this case to decide the minor issues of fact which are raised as to each of them, such, for instance, as the actual value of the "Katydid culm dump," which consumed so much of the time of this trial. The undisputed or admitted facts are all sufficient, and when we come to look to these five transactions with these five different railroad companies, they present certain points of similarity too striking to escape comment. These points of curious resemblance touch the very core of this whole case.

Take the Katydid, Marian, Packer No. 3, Warnke, and the Dainty-Everhart transactions and observe, first, that Robert W. Archbald was commissioned circuit judge of the United States and assigned to the Commerce Court on the 31st day of January, 1911, and that each one of these five transactions originated within a year then following and, so far as the evidence shows, were the first of their kind in which Judge Archbald had ever been engaged.

Observe, second, that not a single one of them, whether engaged in ostensibly for his profit or not, involved the expenditure on his part of a single dollar or the investment of a single penny. His sole contribution in each instance was his approach to the officers of the various companies or the hearing he obtained from them for others.

Observe, third, that in each instance the proposition did not originate with himself, but that he was approached by some third person who requested him to take up the matter with the railroad company; thus Edward J. Williams goes to him about the Katydid culm dump and induces him to approach Capt. May, Brownell, and Richardson, officers of the Erie Railroad Co. or its subsidiary, the Hillside Coal & Iron Co.; George M. Watson or some other person interests him in the settlement of the Marian Coal Co. and the sale of its assets to the Delaware, Lackawanna & Western Railroad Co., and thereupon Judge Archbald pursues beyond the point of importunity Loomis and Phillips and through them Rine and Truesdale. John Henry Jones, himself a man without financial responsibility, fixes his desires on the dump known as Packer No. 3, and at his suggestion Judge Archbald assumes the duty, again performed with vigor, of obtaining a lease on it from the Girard estate and inducing the consent thereto of the Lehigh Valley Coal Co., a subsidiary of the Lehigh Valley Railroad Co. His only connection with the proposition, in the language of the testimony, being for the purpose of obtaining a lease from the Lehigh Valley Coal Co., of seeing the Girard estate and Mr. Warriner. Frederick Warnke, having failed in person and by counsel to bend George F. Baer, president of the Philadelphia & Reading Railroad Co. and the Philadelphia & Reading Coal Co., and W. J. Richards, general manager of the latter company, to his will, induces Judge Archbald to approach Richards in his behalf, and afterwards pays to Judge Archbald $500 upon his purchase of certain property the title to which seemed open to attack on the part of the Pennsylvania Coal Co., a subsidiary of the Erie Railroad Co.; and lastly Edward J. Williams once more brings James R. Dainty and Judge Archbald together, and to Judge Archbald is once more assigned the duty of procuring, if possible, from the Lehigh Valley Coal Co. or S. D. Warriner, its vice president and general manager, a lease on a tract of land owned by that company and known as the Morris & Essex tract.

And, again, and in the fourth place, it will be noticed that in each one of these transactions Judge Archbald called upon these railroad companies to do something which prior to his intervention they had expressly refused or which was contrary to their fixed course of action, and which therefore required something more than normal effort. Thus we learn that May and Richardson had either refused outright or were indisposed to sell the Katydid dump until the respondent went to Richardson by way of Brownell. The Delaware, Lackawanna & Western Railroad Co. had not only rejected the claim of the Marian Coal Co. for damages, but was stoutly contesting it in the courts when the respondent joined Watson in the effort to force a settlement. The Lehigh Valley Coal Co. had definitely refused to lease to Madeira, Hill & Co. the banks known as Packers No. 2, No. 3, and No. 4 some time before the respondent asked it to assent to his acquiring Packer No. 3; and its general manager, Mr. Warriner, states that he had never known his company to sublease any land leased from the Girard estate except in this one instance to Judge Archbald. Richards and Baer had utterly rejected Warnke's request for the Lincoln culm dump, and only after other men had tried to help him and failed did Warnke urge Judge Archbald on them as his "last shot." And, finally, when the respondent once more approached Warriner to get from the Lehigh Valley Coal Co. the lease on the Morris & Essex tract for James R. Dainty he was promptly told—what undoubtedly he already knew—that it was not the policy of that company to lease or sell its coal lands.

In considering this chain of facts it must not for a moment be forgotten that Judge Archbald was a member of the Commerce Court and that the duties of that court are peculiar in that its business is restricted to a certain class of litigants, and that in that court is concentrated all the litigation of all the railroads of the United States engaged in interstate commerce having to do with the rates and facilities afforded by them to their shippers.

I do not mean to impugn the personal integrity of the officers of the railroads of this country, whether their names be mentioned in this proceeding or not, but I only state what every man knows to be true when I say that from the moment when Judge Archbald went upon the Commerce Court there was not a door closed against him in the office of any railroad in these United States, and not a reasonable request which he might make the refusal of which would not have been a source of embarrassment to the railroad officer to whom it was addressed. He knew this fact, if gifted with ordinary common sense. Beyond question Edward J. Williams knew it, John Henry Jones knew it, Frederick Warnke knew it, James R. Dainty knew it, and George M. Watson knew it. Can any man listen to this testimony without believing that there was a deliberate intent and purpose to utilize this situation?

In so far as the correspondence with Mr. Bruce is concerned, the respondent alleges that it was no more than an effort on his part to secure further light in a case about to be decided. No one will contend that a court may not utilize to the utmost the aid of counsel in solving his judicial doubts and difficulties, and that until final decision is rendered it is his right and, indeed, his duty to exhaust all the help which they can give him. The unfortunate part, however, of this correspondence is that no information of its progress or its contents was ever communicated to opposing counsel, and more remarkable still, not even communicated to his brother members of the court. So far as I know, it has been regarded from time immemorial as a gross indecency on the part of any court to solicit or accept suggestions, discussion, or argument from one party to a litigation in the absence or without the knowledge of the other. Every code of judicial ethics ever written has forbidden it, and if it did not, the common conscience of mankind would protest against it. No subtler poison can corrupt the streams of justice than that of private access to the judge.

Mr. President, all that was good in the feudal nobility was summed up in the two words of their deathless motto "noblesse oblige." They recognized that rank and station have their duties and obligations no less than their privileges. If this be true of those whose elevation springs from the mere accident of birth, how much more so of those whose title to office depends upon the esteem of their fellow citizens? How dare they for

one moment forget that with them always and everywhere "noblesse oblige"? No man can justly be considered fit for public office of whatever rank or kind who does not realize the double duty resting upon him—first, to administer his trust with unflinching honesty, and, second, and hardly less important, to so conduct himself that public confidence in his honesty shall remain unshaken. This confidence of the people in the integrity of their officers is the foundation stone, the prop, the support of all free government; without it constitutions and statutes are empty forms, executives, legislators, and judges the creatures of an ephemeral day. In forms of government only that which is best administered, in fact and in appearance as well, is best. A public man, it is true, may be as chaste as ice and as pure as snow and not escape suspicion. Try as he may, he can not always avoid the ready tongue of slander; but what he can do, ought to do, and must do is to avoid putting himself in any position to which suspicion can rightfully or reasonably or naturally attach. More can not be expected of him, but nothing less should be permitted.

If it be possible to discriminate in such matters, does it not seem that these obligations rest with peculiar force upon the judge? His life is to be spent as a peacemaker in adjusting the quarrels and difficulties of his fellows and in vindicating the right of society to peace and order. The appointing power or the electorate, as the case may be, his solemn oath, the State, society itself, all stand sponsor for his absolute honesty and strict impartiality. To preserve these virtues, therefore, both in essence and in seeming, should be his first and most especial care. He must realize that he has entered upon a career monastic in its requirements, not only of labor, but of abstinence and self-denial as well. Many things which he may have been accustomed to do, many things which in other men may be permitted or approved, or, if not approved, forgiven, are cut off for him from the moment when he dons his official robe, and many avenues of life are closed to him forever. The pursuit of fortune, the chase for wealth he must put behind him; and though he need not strip himself of all his worldly goods, nor cease to give a decent degree of care and thought to the preservation of such property as he may own, he must recognize that his period of accumulation, his active participation in commercial pursuits is over for the time. He has undertaken to content himself for this loss with the honors and emoluments springing from his position and the opportunities for service that it brings. His ideal must be that expressed by John Randolph, who said, in speaking of the great chancellor of Virginia, George Wythe, that—

> he was in the world, yet not of the world, but was the mere incarnation of justice.

Who is there that will declare this rule too rigid or this ideal too high? If any such there be, at least even he must admit that the judge should scrupulously abstain from bargaining with litigants before him or from using the prestige of his lofty station as a means of procuring financial favors. If this were not so, think how many subtle byways of approach and influence would be opened; how quickly and surely litigants would trace the outcome of their causes to something other than a fair application of the maxims of the law; how easily a gift might be concealed under the guise of a trade opportunity; and how restless would be the suitor when compelled to submit his cause for adjudication to the favored friend or business ally of his adversary. Indeed, since judges at their best are merely human, how far might the poise and balance of their judgments be thus disturbed by a bias and a prepossession not confessed even to themselves? The mere suggestion of these things is enough. If emphasis were needed, we might content ourselves with recalling the famous but universally condemned defense of Lord Bacon, who admitted the receipt of gifts from suitors, but denied that his judgment had been adversely influenced thereby.

Measured by these standards the conduct of this respondent is indefensible indeed. There is little need to emphasize the situation by analogies; but if a member of the Interstate Commerce Commission were found to be engaged in trafficking with railroad companies for their properties; if a member of the new Court of Customs Appeals were found either in person or by his runners to be hunting bargains from importers on the New York docks, there would be none to defend him. All men will unite in regretting the necessity for action in the case at bar, but the duty of the Senate, we submit, is perfectly clear.

Mr. SIMPSON. Mr. President——

Mr. JONES. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Washington suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	Kern	Shively
Bacon	Cullom	Lippitt	Simmons
Bankhead	Cummins	Lodge	Smith, Ariz.
Bourne	Curtis	McLean	Smith, Ga.
Bradley	Dillingham	Martine, N. J.	Smith, Md.
Brandegee	Dixon	Oliver	Smoot
Bristow	du Pont	Page	Stephenson
Brown	Fletcher	Paynter	Stone
Bryan	Foster	Penrose	Sutherland
Burnham	Gallinger	Perkins	Thornton
Burton	Gronna	Perky	Tillman
Chamberlain	Johnson, Me.	Pomerene	Townsend
Clapp	Jones	Richardson	
Clark, Wyo.	Kenyon	Root	

The PRESIDENT pro tempore. On a call of the roll of the Senate 54 Senators have responded to their names. A quorum of the Senate is present.

Mr. NELSON. Mr. President, I desire to have my name recorded.

The PRESIDENT pro tempore. The Senator's name can not now be recorded, but the fact that he has addressed the Chair shows that he is present.

ARGUMENT OF MR. SIMPSON OF COUNSEL FOR RESPONDENT.

Mr. SIMPSON. Mr. President, in the early days of this trial day by day one or more Senators appeared and took the oath of office for Senators who were to sit upon impeachment trials. That oath states that each Senator shall, "in all things appertaining" to this trial, "do impartial justice, according to the Constitution and laws." I take it that those words, "in all things," necessarily mean that the respondent shall be fairly advised of what the charges are against him; that the evidence shall be limited to those charges; and that the judgment which is passed upon those charges, when that time comes, shall be passed upon them, each charge by itself, according to the evidence which relates to that charge, and to that charge alone. If it does not mean that, it is a little difficult to understand what it does mean.

Upon most of those points counsel for the respondent and the managers agree. We disagree slightly as to whether the first of the things I have suggested has been thoroughly met by articles 6 and 13, but inasmuch as those two articles are in the keeping of my senior colleague, Mr. Worthington, I shall not dwell upon that point.

There is, however, in that oath one other thing that I want to dwell upon, because it is really at the root of the whole of the charges; and that is, that to this respondent "impartial justice" is to be done, "according to the Constitution and laws." What laws are there referred to? Necessarily, I take it, it must be the laws of the United States, yet I do not recall having heard during the four arguments of yesterday and to-day any particular reference to the laws of the United States.

It was suggested by several of the managers yesterday that a violation of section 132 of the Judicial Code might have been charged in some of these articles, but it was admitted in the same breath that there was no charge under that section, which relates only to bribery, and it is, of course, admitted that you can not convict this respondent on a charge of bribery when he is not charged with bribery.

It is evident that the managers felt the difficulty of their position in that regard, for when Mr. Manager STERLING made his argument yesterday, in order to avoid just that difficulty, he used this language, which I prefer to read, so that there may be no mistaking his exact meaning. I am reading from page 1345:

> And so, Mr. President, I say, that outside of the language of the Constitution which I quoted there is no law which binds the Senate in this case to-day except that law which is prescribed by their own conscience, and on that, and on that alone, must depend the result of this trial. Each Senator must fix his own standard; and the result of this trial depends upon whether or not these offenses we have charged against Judge Archbald come within the law laid down by the conscience of each Senator for himself.

Sirs, if that be so, I want to know what has become of the Constitution in this case? Of what use was it to write into the Constitution that a man shall be impeached only for "treason, bribery, or other high crimes and misdemeanors," if there is no law to govern you and if you may, out of your own consciences, evolve the thought that you will dismiss this respondent from the public service simply because you wish to get rid of him. You need no proof of "treason, bribery, or other high crimes and misdemeanors" to discharge him, if that is the position you are to take in this case, for those words, under such circumstances, are unnecessary and meaningless.

I submit that that is not and can not be the true legal position. It must be precisely the reverse of that. You must find somewhere, whether it is under the "good-behavior" clause of

the Constitution or whether it is under the article relating to impeachments themselves, that upon which you can lay your finger and say that this respondent has violated that thing, or you must under your oaths of office say that he shall go free.

Nay, there is more than that in this. Judge Curtis, one of the ablest lawyers this country has ever known, met just that claim in the trial of the President. In those days of excitement one wonders not that such a position was maintained. I do wonder that at this day, in the quiet of this Senate Chamber, when men are supposed to be viewing this matter in a judicial capacity, when there is no political excitement to distract them from the performance of their duty, that such a position should be taken. But when it came before the Senate in the trial of Andrew Johnson, this is what Judge Curtis said. I may be pardoned for reading it, as probably no man could better say it than he:

But the argument does not rest mainly, I think, upon the provisions of the Constitution concerning impeachment. It is, at any rate, vastly strengthened by the direct prohibitions of the Constitution, "Congress shall pass no bill of attainder or ex post facto law." According to that prohibition of the Constitution, if every Member of this body, sitting in its legislative capacity, and every Member of the other body, sitting in its legislative capacity, should unite in passing a law to punish an act after the act was done, that law would be a mere nullity. Yet what is claimed by the honorable managers in behalf of Members of that body? As a Congress you can not create a law to punish these acts if no law existed at the time they were done; but sitting here as judges, not only after the fact but while the case is on trial, you may individually, each one of you, create a law by himself to govern the case.

That is his quotation of what was claimed in the Johnson case, just as Mr. Manager STERLING claims it here.

Then Judge Curtis goes on:

According to this assumption the same Constitution which has made it a bill of rights of the American citizen, not only as against Congress but as against the legislature of every State in the Union, that no ex post facto law shall be passed—this same Constitution has erected you into a body and empowered everyone of you to say aut inveniam aut faciam viam—if I can not find a law I will make one. Nay, it has clothed everyone of you with imperial power; it has enabled you to say, sic volo sic jubeo stat pro ratione voluntas—I am a law unto myself, by which law I shall govern this case.

And that is the position which Mr. Manager STERLING, speaking for the managers, asks you to take here. He asks you not to look to the law of the land for that which shall govern the rights of the parties here; but he asks you, out of your own conscience, whether your conscience agrees with mine or his or anybody's, to evolve a law which shall apply to this case, and which, when this case is over, shall cease ever thereafter to be the law. And that is said to men who are here trying a case according to law. In sooth, I would rather quote as the true guide for your deliberations what Mr. Manager Buchanan, afterwards President Buchanan, said on the trial of Judge Peck, when he said:

I freely admit that we are bound to prove that the respondent has violated some known law of the land.

That is the claim which the respondent's counsel make here as antagonistic to the lawless claim of the managers as above quoted.

Turning now to the Constitution—and I am not going to go at great length into this, because my senior colleague is the one who prepared the brief upon this particular point and who is entitled to all the honor and credit for it and will deal with it himself when his turn comes, and hence I shall only deal with it partially—but turning to it for the purpose of partially dealing with it, let us see where we land ourselves when the Constitution is taken into consideration. It needs no panegyric here. The managers might have saved themselves the trouble of praising it up to the seventh heaven. But in this, as in everything else, the Constitution is only a frame of government. It remains for the Congress to vivify many of its provisions. It remains for Congress to write on the statute books what shall constitute "high crimes and misdemeanors," and there are already in the Revised Statutes many provisions upon that point. One of them, you may remember, came up in the Andrew Johnson impeachment. Another one I will refer to in a little while.

But it is said that in this case you do not need any statute; you have the provision of the Constitution which says that judges shall hold their offices during good behavior. Now, I want to know what good behavior means. This is the provision:

The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

If you take that whole clause and consider it, either historically or grammatically, you will find that the words "good behavior" relate to good behavior in office. The compensation which is to be paid is for service in the office. The good behavior which is the tenure is to be good behavior in the office. But, say the managers, it is not good behavior in office which is the test at all, and you may impeach and remove a man even though he has behaved perfectly well in his office. Personally I agree with that. I am not challenging that position; but it answers their proposition now being considered that good behavior in office is the tenure by which the respondent holds, and for a breach of that he may be removed from office without considering the impeachment clause of the Constitution.

I do not think that the good-behavior clause has anything whatever to do with the impeachment. Everybody knows how the good-behavior clause came into being. In the ancient days the judges, like all other civil officers, held their positions at the pleasure of the king. Then the barons wrested from the king his power of dismissal, and required that there should be a good-behavior tenure rather than a tenure at the pleasure of the king, subject at that time only to the power of impeachment. And then a little later—I think it was in 1701, after the revolution—there was added the removal power; so that, upon address, judges might be removed the same as upon impeachment.

Mr. WORTHINGTON. Without a trial.

Mr. SIMPSON. Without a trial. Those are the circumstances under which the good-behavior tenure came into existence.

But what does "good behavior" mean if you are going to take that alone into consideration? A man ill behaves if he speaks unduly cross to his wife and children. May he be removed from office because of that? If he is the happy owner of an automobile, he may violate the speed laws and be haled before some magistrate and fined.

Is he to be removed from office because of that? No one would answer "Yes" to either of those questions, and hence you must get down to something definite, something upon which you can lay your finger and say, "There is the definite thing which this man should have known, and as he should have known it and has chosen to violate it he must pay the penalty of his violation." That definite thing can be ascertained only by reference to the clause which says that he may be impeached for "treason, bribery, or other high crimes and misdemeanors." In the ordinary sense of the term one can understand how a man can be of perfectly good behavior in everything else and still be guilty of treason, but does anybody doubt but that he could be removed from office if he was guilty of treason? In truth, you have to go back from the good-behavior clause to the impeachment clause to find out what are the causes for an impeachment. It is the impeachment clause which is the controlling clause and not the good-behavior clause at all.

The argument that grows out of the claim that a violation of the good-behavior clause is sufficient justification for an impeachment is as clearly reasoning in a circle as anybody can well imagine. Concede that good behavior is the tenure, still you can not remove a man from office, under the Constitution, unless he is guilty of "treason, bribery, or other high crimes and misdemeanors," and hence the determinative factor as to whether or not a judge was of good behavior is whether or not he was guilty of "treason, bribery, or other high crimes and misdemeanors." And so you may go round in a circle and get nowhere except where you started.

Now, one thing must certainly be evident in this matter. It was claimed by the managers yesterday, and partially by Mr. Manager HOWLAND to-day, that the words "high crimes and misdemeanors" as used in this provision of the Constitution were taken bodily out of the English practice, the English parliamentary law, as they said. That is unquestionably true. It is not true that in all the impeachments in England they used the words "high crimes and misdemeanors," but those words are used in a number of their impeachments. This being so, you must either accept the construction placed upon those words in the lex parliamentii, or you must decline to accept that construction. If you decline to accept it, of course that branch of the argument falls by the wayside at once. But if you accept it, then the question arises, which of the English precedents are you going to accept, in view of the fact that some hold that an impeachable offense need not be an indictable one, and others hold a precisely anagonistic view. Are you going back to the days when a man was impeached simply because he happened to have been put in office by those who have themselves just been turned out? If that is the view you are going to accept, then, perhaps, every four years in this country there will be a wholesale slaughter. But if you are going to accept the best precedents which appear upon the English reports, and especially those down near to the time when the Constitution of the United States was adopted, then, as is shown in the brief, and as I have no doubt Mr. Worthington will refer you to, those best precedents show that except for an indictable offense no impeachment would lie under the laws of England.

But what are you going to do if you take the matter is to be considered solely under the language of the Constitution itself? The word "misdemeanors" in that clause must be taken either in the technical sense or in the popular sense. If that word is taken in the technical sense everybody knows that a misdemeanor taken technically is a crime pure and simple. If it is taken in the popular sense, then, notwithstanding what some text writers have said, I venture the assertion that if you go out into the cars or on the streets or in your homes and ask the people you meet what is meant by the words "treason, bribery, or other high crimes and misdemeanors" you will not find one in a thousand but will say that every one of those words imports a crime. If that is so, then necessarily, when you come to construe those words after this trial is over, you will necessarily have to reach the conclusion that these charges must be indictable or they can not be impeachable.

I have infringed somewhat probably, Mr. Worthington, on your copyright, I admit, in touching this question, but there is one other thing I want to refer to before I leave it. Mr. HOWLAND referred yesterday to the impeachment of Alexander Addison, and as he thereby trespassed upon my bailiwick I prefer to deal with that case rather than to leave Mr. Worthington to deal with it.

Mr. WORTHINGTON. Go ahead, sir.

Mr. SIMPSON. Alexander Addison was impeached. He was impeached shortly after Jefferson became President. I do not need to recall to this assembly what the condition of the public mind was at that time as between the then Republicans, represented by Jefferson, and the Federalists, who had gone out of power.

It is true, as Mr. HOWLAND stated, that the attorney general of the State presented to the supreme court a request for leave to submit to the grand jury an information against Alexander Addison. It is not accurate to state that the supreme court said that the charge against him was not an indictable offense. What the supreme court did say to the attorney general was this:

Inasmuch as the affidavit which you have presented to us does not charge either willfulness or malice against Judge Addison, it is insufficient to charge an indictable offense. If you amend it by charging willfulness and malice, then there will be a misbehavior in office charged, and that is indictable.

But those in power did not choose to amend it. Having control of both branches of the legislature of my State, they preferred to proceed by way of impeachment, and they impeached Judge Addison and he appeared. Did he say that the charges against him were not indictable? On the contrary, although he tried his own case from beginning to end, he started out and stoutly maintained throughout the proceeding that the charge was an indictable charge, and the record of the case which Mr. Manager HOWLAND had shows it most clearly.

Instead, therefore, of that case being a precedent for the position that an offense may be impeachable which is not indictable, it is the precise reverse of that; for, as stated, the respondent himself boldly admitted that the offense with which he was charged was indictable, and therefore was impeachable.

Let me ask this upon conclusion on this point of the case: Suppose that among the various suggested amendments to the Constitution of the United States some one would come along, in view of the position taken in a few places at least in our country, and ask for and succeed in obtaining an amendment which would fix a term of years for each judge. Instead of holding during good behavior, they would hold then for 10 or 20 or 30 or any number of years that you choose. Does anybody pretend, can anybody pretend, that the duties of the judge would be altered in the slightest degree? Would there not be required of him the same good behavior and could he not be impeached for the same lack of good behavior or indulgence in bad behavior, or whatever you choose to call it, just the same as he can now when there is a term of office during good behavior? If that is so, and certainly no one will say that the duty of a judge would change by reason of such an amendment as that, then, as heretofore claimed in this argument, the good-behavior clause has nothing whatever to do with the question of impeachment.

I pass from the point, perhaps having dwelt longer upon it than my time justifies, and inquire what is the law which, under the oaths of office of Senators, they are bound to apply to a large number, at least, of the articles of this impeachment? I heard it said yesterday, "Why, the facts are admitted in relation to Judge Archbald." Yes; a good many of the facts are admitted; but the question whether the facts are or are not admitted plays but the slightest conceivable part in this determination of this case. Is there in the answer any admitted fact upon which criminality can be founded? Is there in that answer any admitted fact or series of facts upon which a violation of law can be stated? Not in the slightest degree.

It is said, "Why, he purchased culm dumps and prepared to engage in the business of washing the coal in the Katydid and in Packer No. 3," and so on. Yes, he did. He admits that. Is that a crime?

Away back in 1812 Congress passed the only act of which I have any knowledge which bears even in the slightest degree on the question of the duties of a judge outside of the time when he is sitting for the performance of his judicial duties. That provision is now in section 713 of the Revised Statutes, and it reads thus:

SEC. 713. It shall not be lawful for any judge appointed under the authority of the United States to exercise the profession or employment of counsel or attorney, or to be engaged in the practice of the law. And any person offending against the prohibition of this section shall be deemed guilty of a high misdemeanor.

There you have written into your statute books that engaging in the practice of law while a judge shall be a high misdemeanor, and of course that would bring the case within the impeachment clause of the Constitution I have so often quoted. But the very fact that you do not say of a judge that he shall not engage in any other business necessarily implies, under the doctrine expressio unius, est exclusio alterius, that Congress has not yet seen fit to say that a judge shall not engage in any other business so long as he is judge; and until you see fit to say that he has the right to carry on any business, provided only he carries it on as you or I or anybody else would carry it on, in a decent and honest manner.

It was suggested yesterday that out of this trial there might grow a statute upon that point. I would welcome such a satute. If there is a doubt to-day in the public mind, or in the mind of any single Senator on this floor, that judges ought to be prohibited from carrying on any business, I would welcome the passage of such a statute, so that it might be known definitely by every judge on the Federal bench what he may and what he may not do. If, after that, after you have told him what he may not do, he willfully disobeys, then rightfully may he be impeached; but until that time comes, I submit that the only thing you ought to do or that the Congress ought to do is what was done after the trial of Judge Peck, when he was acquitted of the charge made against him. Then it was that Congress, in 1831, I think it was, passed the act in relation to contempts, which remains upon the statute books until to-day. Give us something definite, something certain, in regard to this matter; otherwise you are convicting a man, as Judge Curtis said, by an ex post facto law, and you are, as by a bill of attainder, taking from him his office without ever having theretofore told him that he should not do that which you are convicting him for doing.

There is another point in this same connection upon which I want to dwell a little while before I come to the evidence in the case. I have repeatedly said that the Senate is sitting here as a court. I am not going into the much controverted question which has arisen from time to time, and which was such a bugbear during the trial of the President, as to whether it ought to be called a high court of impeachment or only a Senate.

The question, however, is whether or not the duty which you have to perform is in point of fact a judicial duty. It must be conceded that it is not a legislative duty. That is perfectly clear. It is certainly equally clear that it is not an executive duty. I can not see what else remains unless it is a judicial duty.

But the Constitution in its various articles has made that exceedingly clear. In Article I, section 3, it says "the Senate shall have the sole power to *try* all impeachments." It says, "When the President of the United States is *tried* the Chief Justice shall preside; and no person shall be *convicted* without the concurrence of two-thirds of the Members present." It says, "*Judgment* in cases of impeachment shall not extend further than to removal from office," and so on, "but the party *convicted* shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to the law." It says in Article II, section 2, "The President * * * shall have power to grant reprieves and pardons for *offenses* against the United States, except in cases of impeachment," and Article III, section 2, lastly says "The trial of all *crimes*, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said *crime* shall have been committed."

Now, I want to ask if it is possible to use words more clearly demonstrative that that which you as Senators are doing you are doing in a judicial capacity. That is what I am claiming at this stage. It will reach up itself to its proper conclusion after a little while. The point is, you are in fact sitting as judges. I read, for it expresses briefly the thought, the language of Prof.

Dwight in Sixth American Law Register (n. s.), pages 258 and 259:

When a criminal act has been committed it may evidently be regarded in three aspects—first, the injury to the individual or his family may be considered; second, the wrong to the executive officer charged with the administration of the laws may be looked at; and, third, the mind may dwell upon the general wrong done to the State, or "the people," as we say in modern times. This view was early taken in the common law; the injury to the individual was redressed by a proceeding called an appeal; the injury to the King by a process called an indictment; the wrong to the entire Nation by a proceeding called an impeachment. In process of time the injury to the individual came to be regarded as a private and not as a public wrong, so that in the progress of the law there remained two great criminal proceedings—indictment and impeachment.

Mr. Manager CLAYTON, when reference was made to that quotation in a very early stage of this trial, said that many of the things which Prof. Dwight referred to had not been sustained by the adjudications of this body. That I do not care to go into. It is immaterial for the thought which I wish to present. Certain it is, however, that that historical statement, thus briefly presented, has never been controverted by anybody and can not successfully be, for it is part of the judicial history of England.

Indeed, when the managers were preparing their brief in this case they unwittingly said some of the things which I wish to quote to you now as bearing out exactly the thought that I want to present. I am reading from pages 6 and 7 of the brief, particularly in the quotations from Tucker on the Constitution. He says this:

(f) The word "maladministration," which Mr. Mason originally proposed and which he displaced because of its vagueness for the words "other high crimes and misdemeanors," was intended to embrace all official delinquency or maladministration by an officer of the Government where it was criminal; that is, where the act done was done with willful purpose to violate public duty. There can be no crime in an act where it is done through inadvertence or mistake, or from misjudgment. Where it is a willful and purposed violation of duty it is criminal,

In another place:

So, if he omits a judicial duty, as well as when he commits a violation of duty, he is guilty of crime or misdemeanor; for, says Blackstone, "crime or misdemeanor is an act committed or omitted in violation of a public law either forbidding or commanding it."

* * * * * * *

And again:

It must be criminal misbehavior—a purposed defiance of official duty—to disqualify the man from holding office, or disable him from ever after holding office, which constitute the penalty upon conviction under the impeachment process.

I claim no more than that for the purpose of my argument in this case.

So, when they came to quote from Foster on the Constitution, unhappily they left out the vital clause in the extract which they undertook to make. It was most convenient to substitute asterisks for that vital clause, but I prefer to read the whole of the paragraph, including the vital clause and leaving out the asterisks. As it is quoted in that brief, these are the words:

The term "high crimes and misdemeanors" has no significance in the common law concerning crimes subject to indictment. It can be found only in the law of Parliament and is the technical term which has been used by the Commons at the bar of the Lords for centuries before the existence of the United States.

Then come the asterisks. These are the words which the asterisks displace:

But the judgments of the Senate of the United States in the cases of Chase and Peck, as well as those of the State senates in the different cases which have been before them, have established the rule that no officer should be impeached for any act that does not have, at least, the characteristics of a crime, and public opinion must be irremediably debauched by party spirit before it will sanction any other course.

That is the law as I understand it, and I pass therefore from it. It is a rule of law founded on legal principles, applied not only in impeachment cases, but in every other class of cases that ever comes before a court. At the very basis of all constructions, whether of constitution or of statutes or of contracts, is the maxim noscitur à sociis, which says neither more nor less than that words are to be taken in their meaning in conjunction with the other words with which they are, in fact, associated. It has found this construction so many times that it is perhaps only necessary for me to refer to one more set of cases in order to put the point clearly in the minds of the Senate.

In the various turnpike cases, when they were more flourishing in the earlier days, it was quite common to say that the turnpike company should have the right to charge toll for all carriages, wagons, carts, and other vehicles which used the turnpike, and also they might charge toll for all horses, cattle, hogs, and other animals which used the turnpike. But it was held without exception in every case that I ever heard tell of that the words "other vehicles" did not, for instance, cover baby carriages, though they were vehicles just as well as the others; and that the word "animals" did not cover man, though he is an animal just as much as a horse or a steer, and perhaps quite as much of a hog sometimes as the ones that pay toll when they travel along the turnpike.

The point is that general words, like the word "misdemeanor" in this case, are to be construed in accordance with the words which precede; and under the constitutional provision that is particularly emphasized by the use of the word "other" in the phrase "treason, bribery, or other high crimes and misdemeanors."

If the position I have taken on this point be accurate, we ought to be able to take the next step, and a long one, in regard to this matter. If this is a court, then it is perfectly evident that the rules which experience has demonstrated to be wise and applicable in trials in other courts ought to be applied here, and among those rules which are down at the very foundation of Anglo-Saxon jurisprudence are those which relate to the effect of character evidence, to the effect of the reasonable-doubt doctrine, to the effect of the presumption of innocence, and to the effect to be given to admissions made during a trial. I prefer for a convenient purpose to treat of the question of the admissions made during the trial first. When we were introducing the character evidence in this case Mr. Manager CLAYTON rose and said this——

Mr. CLAYTON. On what page?

Mr. SIMPSON. On page 888:

I may say, Mr. President, in the beginning, that we have not controverted the good character of Judge Archbald. Perhaps if we had controverted that a larger range would be permissible for the respondent in reply to that controversy raised by the managers. But the managers have not raised that question.

Again, on page 889:

We have not charged that while actually sitting on the bench Judge Archbald was guilty of these several misbehaviors. We have charged misbehaviors when he was not sitting on the bench. The whole case is his behavior aside from the discharge of his mere official duties while actually sitting.

Again, on page 889:

Mr. President, I do not think it necessary to detain the Senate longer. I insist that inasmuch as his good character is not controverted this range of examination sought here by the counsel is not permissible.

Again—I read from page 915:

So, Mr. President, I respectfully submit to you and to the Senate that after these gentlemen have examined 10 witnesses on character and when the testimony of those character witnesses is not disputed—is not controverted—and when the managers tell the Senate it will not be controverted, it seems to me that the further examination of character witnesses might well be dispensed with.

It was in recognition of that fact—that is, the evidence relating to the character witnesses—that this body passed its order that 15 character witnesses should be the limit. A little later on in the examination, on page 891, this question was asked:

Q. Now, Maj. Warren, I want to ask you to tell us, from your long acquaintance with Judge Archbald and your observation of him as a judge, what were his principal characteristics as a judge as to integrity, ability, and industry.

Objection was made to that, and your Presiding Officer in sustaining the objection said, on page 892:

This particular question is as to the opinion of the witness himself. If the counsel would limit his question to the witness's knowledge of the general character of the respondent for judicial integrity, the Chair would think that was competent; but this question not only asks the individual opinion of the witness, leaving aside the question of general reputation, but it goes further and asks for the opinion of the witness, not only as to integrity, but as to ability and industry, none of which characteristics or features are involved, as the Chair understands, in any issue before the Senate at this time.

And the managers sat here and did not raise any point touching that ruling of the Chair, which was in fact made on their objection, so that they stand to-day estopped by their silence from denying Judge Archbald's judicial integrity, or his individual integrity, or his ability, or his industry. Those facts must stand throughout this trial as admitted facts, not relating to one article but to every article in the case.

One other reading and I shall have passed from that which I want to read in regard to this point. I am reading from page 905. When Judge Gray was upon the witness stand I asked him this question:

Q. Will you please tell us what is his reputation for integrity and impartiality as a judge, if you know?

That was objected to, and the Presiding Officer said this, on page 906:

The PRESIDING OFFICER. The Chair thinks, however, that the question transcends the limitation. The witness is asked the question as to his impartiality. The Chair thinks it ought to be limited as to his reputation for integrity as a judge.

And again the managers sat silent.

We have therefore as admitted facts, I may say, certainly, undisputed facts in this case, that Judge Archbald is a man whose integrity is unquestioned, whose judicial integrity is unquestioned, whose industry, whose ability, whose impartiality

are all unquestioned; and those elements are necessarily vital in determining the truth or falsity of the charges which are here made against him.

Let us see how far they go as determined by the Supreme Court of the United States. I prefer to limit my quotations to the judgments of that tribunal, not only because it stands highest in the land, but because it is the best exponent on Federal questions.

In the case of Kirby v. The United States (174 U. S., 47), this was said:

The presumption of the innocence of an accused attends him throughout the trial and has relation to every fact that must be established in order to prove his guilt beyond reasonable doubt. "This presumption," this court has said, "is an instrument of proof created by the law in favor of one accused, whereby his innocence is established until sufficient evidence is introduced to overcome the proof which the law has created."

In Coffin versus United States, One hundred and fifty-sixth United States Reports, I read from page 460. This is said in the opinion written by the present Chief Justice:

Concluding, then, that the presumption of innocence is evidence in favor of the accused introduced by the law in his behalf, let us consider what is "reasonable doubt." It is of necessity the condition of mind produced by the proof resulting from the evidence in the cause. It is the result of the proof, not the proof itself; whereas the presumption of innocence is one of the instruments of proof, going to bring about the proof, from which reasonable doubt arises; thus one is a cause, the other an effect. To say that the one is the equivalent of the other is therefore to say that legal evidence can be excluded from the jury, and that such exclusion may be cured by instructing them correctly in regard to the method by which they are required to reach their conclusion upon the proof actually before them. In other words, that the exclusion of an important element of proof can be justified by correctly instructing as to the proof admitted.

Skipping a portion, I read now from page 461:

Whether thus confining them to "the proofs," and only to the proofs, would have been error if the jury had been instructed that the presumption of innocence was a part of the legal proof, need not be considered, since it is clear that the failure to instruct them in regard to it excluded from their minds a portion of the proof created by law, and which they were bound to consider. "The proofs and the proofs only" confined them to those matters which were admitted to their consideration by the court, and among those elements of proof the court expressly refused to include the presumption of innocence, to which the accused was entitled, and the benefit whereof both the court and the jury were bound to extend him.

Again, from Edgington v. United States (164 U. S., p. 365), I read this:

It is impossible, we think, to read the charge without perceiving that the leading thought in the mind of the learned judge was that evidence of good character could only be considered if the rest of the evidence created a doubt of defendant's guilt. He stated that such evidence "is of value in conflicting cases," and that if the mind of the jury "hesitates on any point as to the guilt of the defendant, then you have the right and should consider the testimony given as to his good character."

Whatever may have been said in some of the earlier cases, to the effect that evidence of the good character of the defendant is not to be considered unless the other evidence leaves the mind in doubt, the decided weight of authority now is that good character, when considered in connection with the other evidence in the case, may generate a reasonable doubt. The circumstances may be such that an established reputation for good character, if it is relevant to the issue, would alone create a reasonable doubt, although without it the other evidence would be convincing.

Now, if those principles are applied to the admissions as to good character, as to industry, as to integrity, and as to impartiality, I ask what, then, is the conclusion which the Senate ought to reach in regard to considering the evidence in the case?

Perhaps before passing, however, to that evidence I ought to refer somewhat briefly, as I must, but none the less in order to disabuse the minds of the Senate of any lodgment which may have been found in it by reason of the case of the Amity Coal Co., which was called to the attention of Mr. Willard when he was upon the witness stand, and to Judge Gray likewise, so that you may know that that which was said by the Supreme Court of Pennsylvania casts, in fact, no reflection upon Judge Archbald. We have in our State a statute providing for the formation of joint-stock associations. Like most of those statutes they are a delusion and a snare to anybody who tries to form an association under them. If you fail to dot an "i" or to cross a "t" you are almost certain to find yourself in a position where you will pay the penalty in any suit that happens to be brought against you individually. In this particular case the statute provided, among other things, that the certificate should state "the amount of capital stock of the said association subscribed by each subscriber, the total amount of the capital, and when and how to be paid."

Judge Archbald, before he became a judge at all, in drawing the articles of association for himself and his associates when they formed the Amity Coal Co., did not pay in anything. They construed that statute to mean, when it says "when and how to be paid," that there was not any necessity at the time to pay in anything. That view of the law was taken by the judge of the lower court when the case came before him for consideration. It went to the upper court, the supreme court of the State, and they said that that was not a proper construction of it, and this though every dollar of the capital had in fact been paid in in the interim and a great many thousands of dollars besides. But because in the inception of the thing there had not been a payment in of money, which the court thought by analogy under the corporation act ought to be at least 10 per cent of the amount of capital subscribed, therefore, there was held to be a personal liability in that case, but the court was most careful to say—I am now quoting from the opinion on page 899:

In saying this we do not impute an intention to defraud or reflect upon the motives of the gentlemen by whom the Amity Coal Co. was organized. They may have supposed themselves to be complying with the provisions of the act. Our business is not with their motives, but with what they did; and our inquiry is whether this association was organized in accordance with the fair interpretation of the act of 1874.

And because of that construction they held it was not; and yet two of the ablest judges of that court—I mean of the Supreme Court—agreeing with the judgment of the judges of the court below, dissented from that conclusion. Now, I ask the Senate, can it be that because Judge Archbald drew the articles which, in the judgment of two of the upper judges of the Supreme Court and all of the judges of the lower court, were in exact compliance with the law, that he is to be held guilty of any moral wrong because in fact the upper court thought that it was not in compliance with the law, and that, too, in face of the fact that the upper court said that they did not mean in any way to reflect upon him? If that is so, I want to know how many of the 60 lawyer Members of this Senate would always find themselves safe from just such a reflection as that. If a man, whether a lawyer or no, is bound to be held to be immoral because he makes a mistake in the law, then the lawyers are in as sad a plight as were the lawyers in the early days of my Commonwealth, when the Quakers there refused to permit any lawyers to dwell therein.

Now, let us see what is the result of the matter so far presented. We have a man admittedly of high character; we have a man whose judicial integrity is not challenged; we have a man who, it is admitted, is impartial in all that which he has done, who is able and who is industrious, and you are asked, notwithstanding those admitted facts, to find that he has been guilty of wrongdoing.

You get down, therefore, just to this position: You are asked to say that because of suspicion this man is to be convicted of a wrong and excluded from office, though it is an admitted fact that there was nothing done which was wrong at all; in other words, the suspicion of wrong is to control the fact that there was no wrong in this case. Even in the palmiest days of impeachment, under the English practice, no case can be found in which such admissions appear upon the record of an impeachment trial.

I pass, Senators, from the law and carry myself to the facts in the case. I desire to say that my senior colleague will look after article No. 1, article No. 3, article No. 6, and article No. 13. The other charges are the ones which I am to take care of as best I may in this argument before you.

Article 2 charges that Judge Archbald, while a judge of the Commerce Court, undertook to effect a settlement between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co. was a litigant in the court over which he was a judge; that he undertook to do that for a consideration; that, by various conversations and correspondence, he undertook to use his influence as a judge for that consideration to bring to pass a settlement; and that, by reason of those acts, he is guilty of a high crime and misdemeanor.

You will observe in the answer he admits that he did try to effect the settlement. He admits that he did that because of his friendship for Mr. Watson and for Mr. C. G. Boland; but he denies everything which undertakes to import to that which he did either criminality or any breach of good manners or propriety. The issues which you are called upon, therefore, to consider is whether or not an impeachable offense is charged—as to which I have said all that I desire to say—whether or not Judge Archbald, for a consideration, undertook to effect that settlement; whether or not what is commonly spoken of here as the Lighterage case was in any real sense pending in his court at the time he undertook to effect that settlement, and, if it was, what the effect was; whether or not he corruptly used his influence as a judge and whether or not what he did constituted a high misdemeanor in office.

The first question, of course, is whether he undertook to do that for a consideration. The managers once or twice during the trial and once or twice yesterday said that they did not think that the question as to whether or not he undertook to do it for a consideration moving to himself was a material ques-

tion, but by innuendo they still insist, to use the language of Mr. Manager STERLING, that they believe that he did.

I agree with them that the question as to whether or not he was to do this for a consideration moving to himself is immaterial in this sense; that is to say, if he undertook to effect that settlement for a consideration moving to his friend it would be just as much a crime and a wrong, if it was done corruptly, as it would have been if it had been done for a consideration moving to himself; but there must inhere in it corruption, otherwise there is no crime and no wrong in relation to it. That is the point as to which this evidence becomes important.

The only evidence as to whether or not he did undertake for a consideration to do anything rests in the statement of Mr. C. G. Boland. When Mr. C. G. Boland was recalled as a witness to testify as to this point, the Senate will remember that there was quite an extended argument, and, by a comparatively small vote, the objection of the respondent's counsel was overruled. The question was then put—and I will read the question and answer:

Q. Now, go ahead and state what he said about that.—A. He said that as the judge was assisting him in the matter he felt that he ought to be compensated, and that he proposed to compensate him by one-fourth of the amount he was to receive in excess of $95,000, which was the price it was to net to us.

That is found on page 720. That is to say—so that it may have the fullest effect that can be given to it—Mr. C. G. Boland said that Mr. Watson said that he, Mr. Watson, thought the judge ought to be compensated, and that he, Mr. Watson, proposed to compensate him. That, you will remember, Mr. Boland testified, was said when he and Mr. Watson were alone. He further said it was never communicated to the judge at any time or under any circumstances; and I want to ask the Senate whether or not they can find a man guilty of a charge like that upon a double hearsay statement never carried to the man who is to be charged?

But that question is only a very small part of the answer to it. Mr. Watson, whose testimony you have not heard read, denies that anything like that was said. I shall have, therefore, to detain you long enough to read a portion of that testimony. I read from pages 1141 and 1142:

Mr. WORTHINGTON. One thing, there has been some testimony here in relation to you that I have not heard you asked about, and that is about a division of the difference between one hundred thousand and a hundred and sixty thousand dollars into fours. Have you read the testimony on that subject?

Mr. WATSON. Yes.

Mr. WORTHINGTON. What have you to say about it, Mr. Watson?

Mr. WATSON. I never heard that until I read it.

Mr. WORTHINGTON. Had there been any suggestion by anybody, while the negotiations were going on, that Mr. Phillips or Mr. Loomis should participate in what was to be paid?

Mr. WATSON. Absolutely not.

Mr. WORTHINGTON. Was there any suggestion at any time that Judge Archbald should receive anything in any way as compensation for what he did in this matter?

Mr. WATSON. Not to me; I never heard of it.

Mr. WORTHINGTON. Was there anything said about that by anybody, to your knowledge?

Mr. WATSON. No; I do not know anything about that. Only two people that I ever heard was to get any money out of this, and one was Reynolds and one was me. That is all I ever heard of.

I will not stop here to read the judge's testimony denying that same statement, because it must be very fresh in your own minds. I submit that, with the two disputing it and Mr. Boland not undertaking to assert it of his own knowledge, but only that somebody else said it, you can draw no conclusion antagonistic to the judge. But the case is infinitely stronger than that. The same Mr. Boland, who says that Watson told him that thing, testified thus before Mr. Wrisley Brown:

Mr. BROWN. Did Watson give you any intimation of what was to become of this large excess over the $100,000?

C. G. BOLAND. No.

Mr. BROWN. You did not concern yourself about it?

C. G. BOLAND. No.

And when he was asked to explain before the Senate why it was that he made that statement to Mr. Wrisley Brown, which he now says is a lie, he said that he did not want to be drawn into the matter because Mr. Watson made that statement also regarding Mr. Loomis and Mr. Phillips, and that he had no proof that it was true. When he was put upon the stand here to testify in regard to it, he said that in the testimony he gave here he did not give the names of Mr. Phillips and Mr. Loomis, because he did not believe there was any agreement or understanding ever made that they were to get any part of that money, and yet the same thing was said about them that was said about Judge Archbald. He chooses to retail the same slander, said by a man he does not believe, against Judge Archbald in this case, though refusing to give it as against others charged by the same man at the same time, and the reason he does this I leave you to guess. So it is otherwise throughout the testimony of Mr. Boland. He says in another place that he knows nothing affecting the integrity of Judge Archbald except that which may be drawn out in relation to the $500 note which was brought to him—C. G. Boland—for discount, and he repeats that in two or three different ways. He makes no explanation of why he said that thing if it was not true, and yet the managers ask you, by innuendo, to believe that Judge Archbald was guilty of a wrong because of a statement of a man like that, who himself admits in your presence that he told an untruth about it at least three times.

I pass, Senators, away from the question of consideration. What was in fact—and this is the second point at issue under these pleadings—what was in fact the situation in relation to the Lighterage case? And, by the way, I may say here if any reference I make to the evidence in this argument is doubted by any Senator, or is challenged in any way, I shall be glad to have my attention called to it, because I have here a memorandum of the pages of the testimony covering every one of these points.

What is the true position with relation to the Lighterage case? It is true that technically that case was pending in the Commerce Court, and I may as well at the same time deal with the Fuel Rate case, though it only appertains to article No. 1, which Mr. Worthington has in charge. It is true that that case also technically was pending in the Commerce Court at the time these negotiations were carried on, but both cases were only technically pending there. I want to put that broadly, so that when Mr. Manager CLAYTON comes to reply to the argument which I am this day making he may challenge that in some way if he chooses so to do. Both of those cases had been decided in the month of May preceding the August when these negotiations commenced. It is true they were both decided on motions for preliminary injunction and that in the month of June both of those cases had been appealed to the Supreme Court of the United States; but those cases both raised questions of law on undisputed facts, and the records, which were offered in your presence on Tuesday, show that beyond the peradventure of a doubt.

In the Fuel Rate case—I am not going into the facts in regard to the case, for it is wholly unnecessary to do so—the Commerce Court granted a special injunction, and the case went to the Supreme Court, which reversed the court below and entered an order that the record should be remitted to the Commerce Court with instructions to dismiss the petition.

Everybody supposed the case was at an end, so far as the Commerce Court was concerned, when it was appealed to the Supreme Court, and that it only had to be reviewed on its law in the Supreme Court, and the Supreme Court agreed to that view and entered the order that I have stated. When the Lighterage case went to the Supreme Court, the Supreme Court affirmed the judgment of the Commerce Court and sent the case back for further hearing. When it came back, both the counsel for the United States and the counsel for the Interstate Commerce Commission withdrew their answers, asked leave of the Commerce Court to present motions to dismiss, and elected to stand upon the motions to dismiss, thereby establishing that the facts averred in the petition were true and that there was nothing else to be considered but the law as applicable to those facts.

The opinion of Judge Carland, which is also upon this record, rendered after these proceedings commenced, and when Judge Archbald did not sit at all, states the facts just as I have stated them to you; and the Commerce Court, Judge Archbald not being present, as a matter of law, affirmed their prior ruling that the Lighterage case was properly decided theretofore. So you see that it is only in the most technical sense possible that the Delaware, Lackawanna & Western Railroad Co. had any cases then pending in the Commerce Court.

I thought I had stated, but my colleague thinks I did not, that the Lighterage case went up to the Supreme Court and was affirmed and came back again. Both cases went up at the same date, in June, 1911.

The next and the only other point in this article is the question as to whether or not Judge Archbald used his influence as a judge to assist in that settlement. He says he did not and, of course, nobody contradicts him. It is quite true, as the managers say, that it is a practical impossibility for a prosecuting officer to get into the mind of a man, and that he can only reach out by circumstantial evidence to establish such a fact. That I quite agree to, but the managers can not establish a fact by circumstantial evidence unless the circumstantial evidence, with at least reasonable certainty, moves to the establishment of the fact; and that is not the situation here.

One would have supposed from the arguments which were presented to you yesterday upon that point that Judge Archbald,

or perhaps Mr. Watson, or both, were the ones who instituted the thought of making that settlement; but that is not so. I repeat that it is not so, because there are upon this record three letters offered in evidence by the managers, showing attempts to settle before Mr. Watson was even consulted, in which letters the fact is referred to that Mr. Reynolds, who was the other counsel for the Bolands, was the party being considered in connection with the question of settlement up to that time, and neither Watson nor Judge Archbald had anything whatever to do with it. But Reynolds, for some reason not necessary to consider, was not a success in bringing about a settlement; and, as Mr. C. G. Boland himself said, he feared that, unless something was done, they would lose their property, and so—it may be at the suggestion of Mr. Williams, but, at any rate, they went to Watson to get him to see if he could not effect a settlement.

What Watson does before he sees Judge Archbald I neither know nor care. He goes to Judge Archbald to see if he can not get an introduction to Mr. Loomis, who had been a neighbor of Judge Archbald in Scranton for a number of years. He gets his introduction and then the negotiations commence. There were various interviews. It is quite unnecessary to consider how many nor when they took place, but they all occurred on or after August 22, 1911. There were various interviews which Mr. Watson had with various officers of this railroad company, but he did not get very far, as they were so largely at variance in regard to the figures. He was not willing to come down far enough, nor were they willing to go up high enough, to reach even a reasonable basis for effecting a settlement. Boland says, and Watson and Judge Archbald deny, that there was on the 23d of August a meeting held in the judge's office, in which the question was spoken of as to having a writing to show that Watson was entitled to a fee of $5,000. It was denied by both Watson and Archbald that there ever was such a meeting, and Mr. Watson says he never saw that paper until it was called to his attention before the Judiciary Committee.

A great point was attempted to be made yesterday that there was a raising of the price from $100,000 to $161,000, although the amount of $100,000 was spoken of at the meeting in Judge Archbald's office, as Mr. Boland claims and the others dispute. I do not care whether that is so or not. It is as immaterial to this case as anything very well can be; but the fact is testified to by Mr. Watson on pages 1116 and 1117 and 1119 and 1120, where he sets forth just exactly how the change from $100,000 to $161,000 came to be brought about. I read from the top of page 1117:

Mr. WATSON. From the first time that the price was fixed at $100,000 the property that was to be passed had changed very materially. There were different things to be done with it, and then when they offered this property first there was no two-thirds interest offered. The Marian Coal Co. in its entirety was offered to me.

Mr. FLOYD. For $100,000?

Mr. WATSON. For $100,000. That would include the suit—well, I may say the suit; yes. There was the Peale matter; Mr. Peale had $16,000, which was admitted. Mr. Peale finally got a judgment stated for thirty-odd thousand dollars, $34,000, or something like that. Now, that was hanging fire over there, and I didn't know that that was a part of this transaction when I first undertook to handle this for $100,000. Now, there was another thing that I didn't know, and that is that one-third of this stock that represented the Marian Coal Co. was in Mr. Peale's hands and belonged to him. That is two things that I didn't know about. The first, the increased indebtedness, the $16,000, I did get an idea of before we got very far along with it. But the larger amount, this $18,000 more added to it, I did not get that, you know, until the decree was—not the decree—until the judgment was entered, which was along after I had gotten out of the matter. Now, I did not know what that litigation was. Then there was another thing that I did not know. I did not know that the Bolands had any dispute of title over there, which they did have finally, and that the Lackawanna claimed a good, sizable interest in this dump. Now, I did not know that. Then, when I brought that to Mr. Boland's attention, and he began to see his $100,000 being carved out by $16,000, by a third interest of the Peales, and by a quarter interest of the Lackawanna, it began to get him down so that he would have trouble getting home on the proceeds; and therefore we agreed or he agreed to raise that to the $161,000, and I was to make that up on the rates. That is what was to happen.

That is the situation, and that is the reason why the price was raised. No one pretends that Judge Archbald had anything whatsoever to do with it. I care not whether he knew that under the original arrangement $100,000 was to be asked and that it was afterwards raised to $161,000, or whether he only knew that $161,000 was to be asked, the result is precisely the same so far as it can in any way affect this case.

It is said, and said truly, that the judge had a later interview with Loomis on or about the 25th of September, and then on the 27th he got a letter from Loomis saying that no settlement could be made because the Bolands were asking too much; that he had an interview with Phillips at his own home on the 30th of September; that he had an interview here in Washington with Watson on or about the 7th of October; that he had a still later interview with Mr. Boland asking him to see Mr. Loomis after Watson had failed and given up the job; that he did see Loomis and found that he could not effect a settlement, and then on the 30th of November returned all the papers to Mr. Watson and told him that the settlement could not be carried through because of the vast difference between them as to the figures which the one was willing to give the other was willing to accept. Mr. Worthington asks me to read in the same connection with that which I have already read a sentence from the testimony of Mr. Watson. I read from page 1119:

I had every reason to believe perhaps it was so, and therefore we added it together and it made $161,000, and that is the only price I ever had, the only price I was ever authorized to offer the land for to the Lackawanna road, and I offered it at that price.

I may say just in this connection that there is a letter of Mr. Phillips to Mr. Loomis, both of them officers of this road, showing exactly how that $161,000 was made up, on the demand of Mr. Boland, in that it was by multiplying 376,000 tons of coal, which had been shipped from their washery over this road, by 43 cents a ton, which they claimed was the excess price charged against them, making just exactly the price which was presented to the Delaware, Lackawanna & Western Railroad Co. by him.

There is no thought or pretense that Judge Archbald had any interview with them in which anything of that kind was said, or that he had anything whatsoever to do with the sending of that letter. There were, even after Judge Archbald returned the papers to Mr. Boland—which, by the way, they never produced, because those papers would have shown the $161,000 most clearly, and it is the only letter that they did not produce themselves, although it was sent to and admittedly received by them, and although Mr. Pryor says he saw the papers which were inclosed lying on their desks, and Mr. Boland himself testified to it—there were later attempts to settle made by the Bolands themselves and Mr. Phillips went upon the stand and testified to it. I read from page 878:

Q. (By Mr. Worthington.) State any reason Mr. Christopher G. Boland gave you on that occasion for wishing to have the claim of the Marian Coal Co. against the railroad company settled.—A. He stated in a very affecting way, with tears rolling and coursing down his cheeks, that he was worried and fretting about his brother Will; that he was afraid he would lose his mind.

But it is said here that there is to be an inference drawn as against Judge Archbald unfavorably because the letters which were sent to the officials of the railroad company were written on Commerce Court paper. Mr. Manager STERLING said yesterday that they were all thus written. That is a mistake; not an intentional mistake, but none the less an actual mistake. Most of them were so written. So also most of the letters which were written to other people appearing in this case were written on Commerce Court paper. But there were a few letters written not on Commerce Court paper as well to the railroad officials as to other people. But the explanation of it, and the perfectly natural explanation of it, was that which was given by Judge Archbald when the question was put to him. He said, "I never thought anything about it. I dictated the letters to my stenographer, and she wrote the letters on that paper because it happened to be handiest, and she brought them to me and I signed them, and the letters were sent out."

I do not know how far custom has made it right for men in official position to write private and personal matters on official paper. I know that I personally have received a great many letters thus written, and on purely private business, and I know that I never heard it challenged until this case commenced, or heard it said that that was proof of any wrongdoing by anybody.

I recall reading in sacred history that some 19 centuries ago the scribes and pharisees brought before Christ a woman who was taken in adultery, and they tempted Him, asking Him what should be done with that woman. The Sacred Book tells us He stooped down and wrote with His finger upon the ground. And when the men who brought her there saw what was written upon the ground they all went away without making any accusation against her. Tradition says that that which was there written upon the ground contained the names of those with whom that woman's accusers had themselves committed adultery.

I wonder whether or not if that same inerrant finger could come here this day and write upon the walls of this Chamber, if, indeed, those walls are vast enough for that purpose, the names of those to whom Judge Archbald's accusers had written on private business upon official stationery, how many of those accusers, like the scribes and pharisees of old, would quietly slide away, not waiting to hear "He that is without sin among you, let him cast the first stone."

But it was said that the pendency of the Peale case had something to do with it. That case was pending in Judge Archbald's court, and they say that he had no business to undertake to act in this matter because of the pendency of that case. But,

gentlemen, it is an admitted fact, entirely outside of the facts to which I have already called your attention, that there was nothing done in that case which was in any way improper. I read from page 933, where objection was made to an offer of proof by Mr. Fitzgerald, who was one of the counsel in the case, because there was no claim of improper conduct. The Presiding Officer ruled that:

The Chair remembers there is no issue raised in the articles of impeachment as to the improper conduct of Judge Archbald in this particular case.

And, again:

If the facts indicated by the question were established by the evidence, it would not affect the case in any manner, because there is no charge in the articles of impeachment of any improper conduct of Judge Archbald in that particular case, as the Chair recollects.

And that admission on behalf of the managers answers so completely the wild statements which were made by William P. Boland when upon the witness stand, namely, that the judge did influence Judge Witmer to make a wrongful decision, and that the judge decided the demurrer in the case because of their refusal to discount the note, although the note was not drawn for months after the decision was rendered—that admission on behalf of the managers takes that matter so far out of this case that it is not worthy of further consideration.

I think, so far as article 2 is concerned, we are now in a position to summarize it without going far astray as to the result. We have here admittedly a judge of integrity—of integrity as a judge and as a man—impartial in all he did, who never undertook to sit in any case, even as to these litigants, after he had undertaken to settle their controversy; who is able, industrious, and impartial; and you are asked to say that that man is corrupt and dishonest and ought to be removed simply because he undertakes at the behest of one friend to settle the difficulty which another friend is in. I want to know what the Members of this Senate would do if they were in the position in which Judge Archbald was, as stated by him. I read from page 1195:

I had known Mr. Boland 30 or 40 years; I can not tell just how long. I knew him familiarly enough to speak of him by his name. People call him "Christy." I talked with him in a friendly and familiar way every time we met. He came to me in my office on one occasion—I can not fix the exact date; I have no means of doing it—and told me about this settlement. He said that the matter was preying on the mind of his brother, W. P. Boland, and he expected if it went on further that it would end in his brother going to an asylum. My impression is that tears came to his eyes, and he drew upon my sympathy in that way by what he said and in his appearance. He asked and spoke about this settlement, and wanted me to see what I could do with regard to it. He came two or three other times in a similar way at a later date. I can not fix the time when that occurred.

I want to know, gentlemen, if a friend of yours of 30 or 40 years' standing had come to you and said that thing to you what would you have done? Mind you, C. G. Boland was called upon the stand as a witness after that testimony was given and never undertook to dispute it in the slightest degree. What would you have done? I believe as long as red blood flows in your veins you would have done just what Judge Archbald did. You would have gone out at the behest of a friend of that kind and you would have striven to settle the difficulty which so seriously threatened the mind and memory of that friend's brother. And there could be drawn as against you for doing that thing nothing whatsoever; but in your favor, many, many things.

If Judge Archbald had endeavored to sit in that case after that time, there might have been some slight shadow of a complaint; but there is no pretense of that thing. He exercised his manhood rights; he played the part of a Christian as he was required to play it, and instead of being condemned he should be praised.

I recall that in the Sermon on the Mount we are told that "blessed are the peacemakers, for they shall be called the children of God." But if a man were in Federal office and should be deprived of the right to do that thing, then must it be said that "cursed are the peacemakers who are in the Federal service, for they shall be impeached for treason, bribery, or other high crimes and misdemeanors"; and nothing less than that can be said in regard to it.

I pass, gentlemen, to the fourth article. That article has attracted more attention in the Senate, if one may judge by the number of question that were submitted to Judge Archbald when upon the witness stand, than any of the other articles.

I shall not undertake to claim here that that which Judge Archbald did on that occasion could not better have been done otherwise. I think it could. But that is not the question. The question here is whether that which he did constitutes a high crime and misdemeanor. And there is no other question than that in it. And unless you find that it does constitute a high crime and misdemeanor, however much you may regret and reprobate that which was in fact done, you must find a verdict of not guilty upon this article.

Let us see what the case is. The New Orleans Board of Trade had suggested and finally instigated proceedings before the Interstate Commerce Commission growing out of freight rates on the Louisville & Nashville road, from New Orleans to Montgomery, by one route through Pensacola and by another route through Mobile. The Interstate Commerce Commission had early adopted for their guidance the rule that if the through rate for freight between two points was greater than the sum total of the local rates between the points that that, if not conclusive, certainly was a most violent presumption to establish the fact that the through rate was an improper rate and ought to be reduced.

When that rule was promulgated the Louisville & Nashville, which was up against water competition as to a part of its route, in order to comply with the requirements of the commission, changed the rates so that the through rate did coincide with the sum total of the local rates. That settled the proceedings for a little while, but later on they were instituted and carried on in the Interstate Commerce Commission, and there were two questions raised in those proceedings; the first related to what are known as class rates and the second to that which are known as commodity rates.

"Class rates," as Judge Archbald explained the other day, means rates upon a number of, comparatively speaking, similar articles. "Commodity rates" means rates upon an individual article, because it is supposed to be more expensive to transport than other articles.

And when the Interstate Commerce Commission came to pass upon the matter they decided only one branch of it. As the papers which related to that were not read when they were introduced in evidence, I think it important, that there may be a proper comprehension of exactly what the situation is, that you may know just what the Interstate Commerce Commission did decide, and I will read now from the concluding clause of their opinion in this case:

In regard to the commodity rates attacked in these proceedings, certain adjustments and changes have been made therein by the defendant since the institution thereof with the view of correcting inequalities or excessive charges found to exist, which adjustments and changes are admitted to have removed the cause of complaint to some extent. It is impracticable in the present state of the record to determine satisfactorily what other changes, if any, respecting commodity rates should be made. These cases will be retained therefore for such further investigation and consideration of commodity rates involved as the facts and circumstances may seem to require.

So that, you see, in the case pending before the Interstate Commerce Commission they decided the question of class rates and they reserved the decision as to commodity rates, and in that aspect of the matter the Louisville & Nashville Railroad filed their petition in the circuit court of the United States, which proceedings were subsequently certified to the Commerce Court at the time of its creation and became the first case in that court.

Of course that petition could only attack the ruling of the Interstate Commerce Commission in relation to class rates, because there was still pending and undecided the question of commodity rates. That is all it did attack. While it was in that shape Judge Archbald told you—and about that there is no dispute—that the Commerce Court, in considering the matter, reached the conclusion that they would sustain the ruling of the Interstate Commerce Commission.

Judge Archbald did not agree with that conclusion and undertook to write a dissenting opinion. In the course of that undertaking he found the particular clause in the testimony which had been quoted—and I am not going to stop to read it, for it is not worth while—by which, judging that by the context, it would appear as if the word "not" had been omitted. And it was in that aspect of the matter he wrote to Mr. Bruce to obtain the fact upon the point, so that he might use it in connection with his dissenting opinion.

It may be said that the elimination of the word "not" was a very important elimination, and in a sense it would be so; and yet, curiously enough, in this record before the Senate we have no less than four instances where the word "not" has been omitted in the printed proceedings, which had to be corrected by calling the attention of the Senate to it, after the reading of the Journal. And it finally appears omitted in the brief which Mr. Manager CLAYTON has filed and that has not been corrected, and the "not" is still omitted up to this day. So it plays very little part whether the word "not" was omitted or whether any other word was omitted.

So if you choose you may say that it was a blunder or mistake, or any word you choose to attach to it, on the part of Judge Archbald not to call attention of counsel on the other side, and also call the attention of the other judges of the court to the receipt of that letter from Mr. Bruce. Call it that if you choose.

Mr. Manager CLAYTON. Will you please give me the page of the brief in which the error to which you have referred occurs?

Mr. SIMPSON. Page 7. I will call attention to the exact point later on if you wish.

The question is not whether that was a mistake on his part, but whether there was an evil motive in that mistake. There can not have been an evil motive in that mistake, because it is an admitted fact in this case, which probably the Senators have forgotten, but which was admitted when Mr. Bruce was on the witness stand, that that letter which was received by Judge Archbald was pasted by him into the record in that case and remains in that record unto this day, and is printed in the paper book in the Supreme Court, where that case is now pending.

Now, can anyone under God's heaven imagine that there could be an evil motive in a man writing and receiving a letter when that man would paste that letter into the record where everybody could see it?

I do not know whether or not that is how the managers found out in regard to it, but that is the fact, and it negatives in the most conclusive way the possibility of any evil motive in regard to it.

The same thing is true, only in a somewhat different sense, of the second letter that Judge Archbald wrote. That letter was calling attention to that which Judge Mack had discovered, or thought he had discovered, of what are known as variations from the Cooley award. But those variations related purely and simply to the commodity rates which had never been decided by the Interstate Commerce Commision, and therefore were not before the Commerce Court.

And so it was that when Mr. Bruce replied to Judge Archbald in regard to the matter, he called attention to that identical fact, and I shall read only a few lines from the letter to demonstrate that:

Finding that the commission had decided nothing on the subject of commodity rates, but had expressly reserved that subject for further consideration, and that the equity suit filed by the railroad company attacking the commission's order was therefore necessarily confined to the subject of class rates, to which the commission's order was confined, I never attempted to make any investigation of the subject of commodity rates or to make any preparation of the case based upon the consideration of them; and I do not see how any question pertaining to commodity rates can now be before the Commerce Court.

Of course, no such question was before that court, and it was quite unnecessary, however wise it might have been to call the attention of the court to that fact by producing the letter, especially as according to the statement of Judge Archbald the thing became wholly immaterial in the consideration of the case.

But if that thing was something which he should not have done, it was at most a breach of the law of ethics. It was no breach of any known law of the land. It was no more a breach of ethics on the part of Judge Archbald than it was a breach of ethics on the part of Mr. Bruce himself, for he testified, when he was before you, that he did not communicate the facts to counsel on the other side, and he testified also—and it is in this record—that he got a letter from Judge Mack, who was writing the dissenting opinion, and he replied to that also.

I do not know how many Senators there are in this Chamber who know Mr. Bruce. Probably both of the Senators from Kentucky do know him. If they do know him, I am quite sure they will say to you, as one of the Justices of the Supreme Court of this country said not very long ago, that he is one of the very best lawyers, one of the highest-toned lawyers, that ever came to practice at their bar. If a man of that character should commit a breach of the law of ethics, why complain of Judge Archbald and claim that it is a crime that he did likewise?

I want, in that same connection, and closing all that I have to say upon that point, to read to you what was said by Mr. Manager STERLING yesterday. I read from page 1361:

Do you ask the question, Would you impeach and convict Judge Archbald and remove him from office for his correspondence with Helm Bruce? I speak for myself when I say no; I would not if that stood alone, but it is a part of the system; it is one fact which dovetails into this line of conduct which he has carried on with the railroads, and it is a system so rank that "it smells to heaven."

He may say that as much as he pleases. The point in it, however, is this: That when you come to vote on the fourth article of impeachment you are only to determine under that article as it is expressed whether or not the sending of those letters to and the receiving of the letters from Mr. Bruce, without notice to counsel on the other side, is an impeachable offense.

You can not carry into your decision as to the fourth article anything which relates to any system, if such there be. To do so would contravene the very first fundamental principle of a trial, namely, that a man shall be convicted only of that which is charged against him. And so little did the managers of the House think of it as an element in itself that they did not even include it in their dragnet thirteenth article at all. It is not even suggested there, and hence to claim that it is part of a "system" is simply a claim not to be considered at all.

I pass on to the fifth article. I am afraid my colleague is or should be getting nervous for fear I will use a part of his time.

Mr. WORTHINGTON. Take all the time you want.

Mr. SIMPSON. The fifth article Mr. Manager FLOYD said yesterday he considered was one of the most important of them all. I think it was Mr. FLOYD who made the statement; but if not, it was one of the others, but I think it was Mr. FLOYD. And yet that article is one of the simplest of them all.

The charge in that article is that Mr. Frederick Warnke in 1904 was the owner of a two-thirds interest in certain coal lands owned by the Philadelphia & Reading Railroad Co., and the railroad company forfeited the lease which Mr. Warnke had, and that he afterwards went to Judge Archbald and asked him, Judge Archbald, to intercede with the officials of the Reading Railroad Co., and in consideration of that intercession Judge Archbald received the sum of $510.

Now, that is the substance of that charge. I do not care about taking the time to read it at length.

You will perceive at once, therefore, that all the evidence which was introduced here by the managers which related to the arrangements existing between John Henry Jones and Fred W. Jones, and whatever agreements there may have been between them are wholly immaterial to the consideration of this article. You will perceive also that under that article, unless that $510 note was given as a consideration for Judge Archbald using his influence with the Philadelphia & Reading Coal & Iron Co., it does not make any difference for what it was given. It is not charged to be anyways wrong, if, as the fact was, it was a commission for the sale to the Premier Coal Co. by the Lacoe & Shiffer Coal Co. of the fill known as the old gravity fill, for in that event it is not a subject of complaint in this article.

Let us see what the facts are. It is undoubtedly true that there was an interest which Mr. Warnke had in a lease with the Philadelphia & Reading Coal & Iron Co. It is not questioned here but that he had expended $65,000 to $75,000 in rebuilding the washery and getting ready to wash the coal that was in the dump. It is not questioned here but that the original lease, of which he was the assignee, had a clause in it that if there was an assignment of the lease the Philadelphia & Reading Coal & Iron Co. had the right to forfeit the lease; and there is no doubt but that—cruelly, as I think, though within their legal right—they did forfeit the lease because of that assignment, and that Mr. Warnke lost his $65,000 to $75,000. There is no doubt, also, but that he undertook, through himself and through other friends of his, to induce Mr. Richards, of the Philadelphia & Reading Coal & Iron Co., to reconsider that determination and to try to get back the lease which he had had or to lease to him the Lincoln coal dump, so that he might in some degree recoup a portion of his losses.

There is no doubt but that he came to Judge Archbald, that he told Judge Archbald the story of his losses, and that he asked the judge if he would not go to Mr. Richards and see if he, the judge, could not get for him, Warnke, an interview with Richards, to the end that he might endeavor again to persuade Mr. Richards to yield the point and give him back the washery or give him the Lincoln dump, so that he might recoup his money.

There is no doubt about the fact that Judge Archbald, then being about a visit to Pottsville, wrote a letter, in which letter he said he was coming to Pottsville on a certain day, and he asked Mr. Richards if he could not see him; that he saw Mr. Richards and then put the proposition before Mr. Richards; and that he then for the first time learned that Mr. Richards had been previously importuned to grant that relief to Mr. Warnke, and that then for the first time he also learned that like the laws of the Medes and Persians the rules of the Philadelphia & Reading Coal & Iron Co. can not be altered, and they would not consider anything Mr. Warnke might have to say.

All those things are without any dispute. But is there any crime in that? Is there any wrongdoing in that? It is not even alleged that the Philadelphia & Reading Railroad, or Railway, or Coal & Iron Co. had any litigation pending before any court of which Judge Archbald was a member. That was admitted in the argument made here yesterday.

What they say—and it is one of the most curious arguments I ever listened to—that because in the sale of the gravity fill he did take a commission and wanted to know "why not"; that you might infer from that fact alone that the note which was given to him on this occasion was given to him as a consideration for trying to help Mr. Warnke. This to me is one of the most curious arguments that anyone could bring before any

body of men supposed to be sitting as judges, especially as months of time even had intervened before the note was given.

But there is no evidence whatsoever that that note was given at all for any such purpose. There have been before you no less than five witnesses, every one of whom testified that that note was given as a commission on the sale of the old gravity fill. There is no doubt, because there has been here produced before you the letters by Mr. Berry and others, that Judge Archbald had an option upon the old gravity fill. There is no doubt that he undertook to sell that to the Central Brewing Co., and that they sent and examined it and for reasons satisfactory to themselves said that they would not take it. There is no doubt that the examination which was made for that brewing company was made by Mr. Warnke, and that he became satisfied from the examination which he then made that there was sufficient value in that fill for him to buy it; and that he then entered upon negotiations with Judge Archbald, while he still held that option, for the purchase of that fill.

It is true that while those negotiations went on the original option ran out. There was still, however, the oral option. But whether there was a written or oral option makes absolutely no difference. Under the law of Pennsylvania, whatever may be the law elsewhere, if an agent or commission man brings the parties together and that results finally in a contract, it makes no difference whether that man has anything to do with the final making of the contract, whether his agency ceases in the meantime or no, or what could happen to it, having once brought the parties together resulting in a contract, he has done all that the law requires of him, and he is entitled to be paid his commission.

That is the reason why the commission was paid to Judge Archbald in this case, and that is the reason why he was entitled to retain so much of it as he did in fact retain. Of course, he gave half of it to Mr. Jones, who was interested in the matter with him, and he produced his checks and check stubs showing that identical fact, and it is a conceded fact throughout the case.

Now, I want to know what you are going to do under circumstances such as these with the presumption of innocence to which I heretofore have adverted, and to the doctrine of reasonable doubt, and to the effect to be given to good character, when upon such an argument as was made yesterday by the managers in regard to it you are asked to charge Judge Archbald with crime, as against the testimony of at least six witnesses, without one single word from anybody in antagonism to that which those witnesses have said.

I pass to the seventh article. The allegation in that article in regard to Judge Archbald is that while he was sitting as a judge in the district court—that brings up a new question of law which I am going to refer to in a moment—he entered into negotiations with one W. W. Rissinger in relation to a coal-mining scheme, I think it was in Venezuela, and that while those negotiations were going on he tried the case of the Old Plymouth Coal Co., in which Rissinger was a stockholder, against various insurance companies, and that while also that matter was pending he indorsed a note for $2,500 at the request of Mr. Rissinger and caused it to be presented to Mr. Lenahan, who was one of the counsel for Mr. Rissinger in the trial of that particular suit.

The first question which arises is the one which has been referred to by several of the managers, and was suggested, I think, by the Senator from Idaho [Mr. BORAH] in the beginning of this trial, viz. whether or not the Senate can now consider an article of impeachment which relates to acts done while Judge Archbald was a district judge before his appointment to and confirmation as a judge of the Commerce Court. I shall not take much time to argue that legal question for the reason that all of the articles, beginning at the seventh and running to the twelfth, which deal with this question are articles of comparative unimportance. But inasmuch as the question has been raised, it ought to be considered, and so, briefly, I shall consider it. The managers in their brief say this in referring to this question:

> In this respect the case here presented seems to be unique in the annals of impeachment proceedings under our Constitution.

And they say further in that regard that they can justify the articles of impeachment, notwithstanding the change of office, because the two offices are substantially the same within the contemplation of the constitutional provisions relating to impeachments.

That argument necessarily concedes the points decided in the Blount case and considered and voted upon in the Belknap case, that he who is out of office can no longer be impeached. It necessarily also concedes that the constitutional provision has for its primary purpose the removal of the delinquent from the particular office in which he is said to have done a wrong. That is the necessary conclusion from the provision of Article I, section 3, of the Constitution, which provides what shall be the penalty in case of impeachment. It is considered also by Judge Story in his work on the Constitution, and I wish to read a paragraph in regard to it, even though it takes a little time to do it. In referring to the clause of the Constitution to which I have adverted Judge Story says:

> From this clause it appears that the remedy by impeachment is strictly confined to civil officers of the United States, including the President and Vice President. In this respect it differs materially from the law and practice of Great Britain. In that Kingdom all the King's subjects, whether peers or commoners, are impeachable in Parliament, though it is asserted that commoners can not now be impeached for capital offenses, but for misdemeanors only. Such kinds of misdeeds, however, as peculiarly injure the commonwealth by the abuse of high offices of trust are the most proper and have been the most usual ground for this kind of prosecution in Parliament. There seems a peculiar propriety, in a republican government at least, in confining the impeaching power to persons holding office. In such a government all the citizens are equal and ought to have the same security of a trial by jury for all crimes and offenses laid to their charge when not holding any official character. To subject them to impeachment would not only be extremely oppressive and expensive, but would endanger their lives and liberties by exposing them against their wills to persecution for their conduct in exercising their political rights and privileges. Dear as the trial by jury justly is in civil cases, its value as a protection against the resentment and violence of rulers and factions in criminal prosecutions makes it inestimable. It is there, and there only, that a citizen, in the sympathy, impartiality, the intelligence, and incorruptible integrity of his fellows impaneled to try the accusation, may indulge a well-founded confidence and sustain and cheer him. If he choose to accept office, he would voluntarily incur all the additional responsibility growing out of it. If impeached for his conduct while in office, he could not justly complain, since he was placed in that predicament by his own choice, and in accepting office he submitted to all the consequences. Indeed, the moment it was decided that the judgment upon impeachment should be limited to removal and disqualification from office it followed, as a natural result, that it ought not to reach any but officers of the United States. It seems to have been the original object of the friends of the National Government to confine it to these limits, for in the original resolutions proposed to the convention and in all the subsequent proceedings the power was expressly limited to national officers.

If the argument which was thus presented by Judge Story is sound, it must necessarily follow that the similarity of the two offices is not and can not be of any moment whatsoever. Can it be said that if a civil officer, say, in the Cabinet of the President, is transferred from one portfolio to the other and continues steadily in office that he may be impeached while holding the second office for that which was done in the first; and yet if he passes from the Cabinet to the Senate or into private life he can not be impeached at all? There is no logic or sound reasoning in any such proposition as that, nor is it in accord with any well-settled principles. In the provision which the managers quote in their brief from Mr. Foster he says this in regard to that:

> It includes such action by an officer when acting as a member ex officio of a board of commissioners, and such action in the same or a similar office at an immediately preceding term.

Now, I want to know why limit it to the immediately preceding term if the similarity of the office is the test in determining whether the impeachment will lie or not. Of course, that can not be sound; and the only reason why Foster wrote in his commentaries the "immediately preceding term" was because he felt that the line must be drawn somewhere. He knew that in certain of the State courts, under the language of their constitutions, it had been held that in a succeeding term of the same office there might be an impeachment for that which occurred in the immediately preceding term. But it remained for the managers to evolve the doctrine that it was to be a substantially similar office which was the test in determining the matter.

I submit that the proper test is the one to which I have already adverted. It is that the office, during the incumbency of which the acts were done of which complaint was made, shall be the determinative factor in deciding whether or not impeachment shall lie for the offense charged. If that is not so, there is no logical conclusion from the position which one of the managers assumed (I think it was Mr. Manager Sterling, though I may be mistaken about that), that so long as the man is in public office, whether the office is substantially similar or no, or whether there is a continuity of term or no—so long as he is in public office he may be impeached for anything which he has ever done in the past because, as it was claimed, the purpose of the constitutional provision is to put out of office all those who by their past lives have shown that they are unfit to occupy it. That position would be a logical one, but there can not be a case found to sustain it; and all the authorities decide precisely the reverse. But, as I said, that is a comparatively unimportant matter, and I pass from it to consider what the real charge is.

That real charge is that Judge Archbald was corrupt in sitting at the trial of that case while negotiations were pending as to a matter in which he was interested, and in causing the

note, while the matter was pending, to be presented for discount to counsel for one of the parties to the litigation. It is impossible to conceive that that can be so. There can not be a corrupt conspiracy unless there were at least two people to it. If there was a conspiracy between Judge Archbald and Mr. Rissinger, will somebody tell me why when those suits were brought they were not brought in Judge Archbald's court? Yet the record which is here produced shows they were not. They were brought in the common pleas court of Lackawanna County, Pa., over which Judge Archbald did not preside.

Can anyone understand why the other party to the suits, the one who was to be injured, should remove the case into the Federal court over which Judge Archbald was to preside if the conspiracy was between Judge Archbald and Rissinger?

Can anyone understand why, if there was a conspiracy between Judge Archbald and Rissinger in regard to the matter, the rulings, so far as they took place, with one exception, to which I will advert in a moment, were all in favor of the other party to the litigation? Yet Mr. Shattuck, when he was upon the witness stand, and he was counsel for the insurance company which was supposed in some way to have been injured, testified that every decision in the case, barring the one, was made in accordance with his suggestions to the court and as against Mr. Lenahan's and Mr. Rissinger's claim.

The one to which I now wish to advert is this: When all the evidence for the plaintiff was in the counsel for the defendant, Mr. Shattuck, moved for a nonsuit, not a demurrer to the evidence, for that is not known to the practice in Pennsylvania, though the legal effect is precisely the same. He moved for a nonsuit, and the court refused to grant the nonsuit. They said it was a case for a jury, and, as Mr. Shattuck said, it was a case for the jury upon a single question, which single question was whether the building which had been burned down belonged to the old Plymouth Coal Co., which was operating the washery, or belonged to the railroad company, which owned the dump, the building having from time to time been altered and added to by the old Plymouth Coal Co. during the course of their washery proceedings.

When they had gone on a little way in the evidence counsel got together and agreed upon a settlement of the case, which was carried into effect. There is no claim here, and it is distinctly denied in the evidence, that Judge Archbald had anything whatsoever to do with bringing the counsel together. It is not claimed here; on the contrary, it is admitted by the managers by an express admission, and it is also testified to by Mr. Lenahan, representing the coal company, and by Mr. Shattuck, representing the insurance company, that the decision which Judge Archbald made upon that point was right; and Mr. Lenahan told you that Mr. Shattuck turned to him after the decision of the case and said to him in substance, "The jig is up," and that he had had no defense whatsoever, and Mr. Lenahan further said to you that there really was no defense of any kind to the case.

Now, I ask whether or not on that state of facts you can find anything wrong as against Judge Archbald? As I said, Mr. Manager STERLING admitted during the trial that every ruling was proper—every one, without an exception.

Oh, but they say Judge Archbald permitted that note to be presented to Mr. Lenahan for discount. Judge Archbald says that he did not. Mr. Lenahan does not say that he did. Mr. Rissinger says that he did not. Indeed, there is a slight dispute between Rissinger and Lenahan as to whether the note was ever presented to Mr. Lenahan. Certainly if it was presented at all it was presented in the most indefinite sort of a way. Lenahan admits he never saw it. Rissinger says that what occurred was that he went to Lenahan, not even having the note with him, and asked him whether he would have his bank discount that note, and Lenahan says, "I said to him 'What do you want it for?' He told me he wanted it for raising money in relation to this mining scheme down in Honduras," or in Venezuela, wherever it was, and that then he, Lenahan, said to him, "Why, I will not go to my bank and discount a note for any such purpose as that. They would laugh me away if I did anything like that, because they will not discount a note for the purpose of using money in any mining scheme of a wildcat nature whatever."

Knowing of the entire failure of their evidence, there was an endeavor yesterday to drag in Mr. Rissinger's testimony before the Judiciary Committee, though it was never even referred to at the trial in this case, and to assert that his stories, as testified to on the two occasions, were wholly at variance. Even if that were so, though there is no evidence to show it, it is inconceivable how Judge Archbald could be affected by it.

There is just one other thing in that aspect of the matter which ought to be referred to. Before the note was presented to anybody, indeed before it was indorsed by Judge Archbald, there had final judgment been entered in the suit about which this complaint is made, five days before that day, and the record which is produced and offered in evidence here shows that fact to be true. Now, I ask, Is Judge Archbald to be charged with some crime or with some wrongdoing because as an accommodation to a friend he indorsed that friend's note five days or any other time after the only litigation in which that friend had any interest was finally settled in his, Judge Archbald's, court? If he is to be blamed for that, will somebody kindly let me know what the statute of limitations upon that point is? I want to know when a judge having disposed of litigation in which a party is interested can for the first time be permitted to have anything to do with that one who had in the past been a litigant in his court. Is it five days or five years or five centuries? In point of fact, the test is, and necessarily must be, the point when final judgment is entered in the case. At that time the judge's function is at an end; the case is over so far as the judge is concerned; and the question is simply one of collection between the parties to the litigation.

I pass to articles 8 and 9, and I refer to them together because they both grow out of precisely the same transaction. Judge Archbald indorsed a note for $500 for John Henry Jones. The eighth article charges him with a crime because he permitted that note to be presented to C. G. Boland and William P. Boland for discount, there then being pending in his court the case of Peale against the Marian Coal Co., in which company the two Bolands were large stockholders. The ninth article charges him with a crime because he permitted that note, or directed that note, if you choose—I am not caring for the wording in regard to it—to be presented to C. H. Von Storch, who some time in the past had been a litigant in his court. That is the gravamen of those two complaints.

It is alleged also in those articles that the note was given for the purchase of an interest in an oil concession in Venezuela.

The facts in regard to those articles can very easily be considered together. There is no doubt that Mr. Jones did have an interest in an oil concession in Venezuela; there is no doubt he came with this note to Judge Archbald and asked him to indorse it, and that the judge did indorse it. Up to that point the evidence is clear. There is no doubt also that Mr. Jones took that note and presented it to his bank for discount, and that that bank refused to discount it because a couple of other notes, upon which Mr. Jones was indorser, had been protested for nonpayment on account of the failure of the maker of those notes. There is no doubt also that Mr. Edward J. Williams, who figures in the first article, then suggested to Mr. Jones that the Bolands would discount the note; that he took it to the Bolands and asked them to discount it, and that they refused to discount it, they, say, upon high moral grounds. I am not going to enter into any controversy as to whether their grounds were good, bad, or indifferent. Williams had the note for three days. He then took it to another bank, and they, for some unknown reason, refused to discount it, and he then returned it to Jones. Then it was suggested that Mr. Von Storch's bank might discount it. T. Ellsworth Davies, I think, was the party who suggested that to Mr. Jones, and Mr. Jones and Mr. Davies then went to Mr. Von Storch, and Davies introduced Jones. Von Storch said, "Leave the note here until I look into the matter." He subsequently called up Judge Archbald on the phone and asked him if it was his note. Finding that it was, he directed that it be discounted. It was discounted, and Jones got all the money.

Those are the undisputed facts. If you add to those the disputed facts they still make no crime. The utmost that can be said in regard to it is that the judge, knowing that the note was to be presented to the Bolands, permitted it to be done. Well, suppose he did permit it to be done. Neither of the Bolands nor Williams nor Jones nor anybody claims that he asked them to discount it, or did the slightest thing in regard to it. He says and Jones says that it was presented to the Bolands without Judge Archbald knowing anything whatsoever about it; and Boland himself says that, though Williams told him that Judge Archbald knew that it was going to be presented, he, Boland, did not know whether that was true or not, and they did not have faith enough in Williams to believe it was true. Judge Archbald says that he did not do that thing, and there you have it. How are you going to build a crime out of that? The Bolands admit that they never spoke to the judge in any way whatsoever about it. It came out in the hearing before the Judiciary Committee as a surprise to the judge, except for the fact that the judge says that at some time, the date of which he can not fix, Jones told him that Williams had presented the note to the Bolands and that they

had refused to discount it. That is the whole case upon that point. Is that a crime?

Is what occurred in relation to Von Storch any more of a crime? Mind you, Von Storch had had a case before Judge Archbald which Judge Archbald had partially decided against him and partially in his favor; but that case had been finally settled nearly a year before—11 good months before—the judgment had been paid and satisfied, and that was the end of that case for good. The docket entries show that to be so. Is there, can there, be anything further upon which you can draw any inference or wrong of any kind or character in regard to that transaction?

It is said, however, in this article that the reason they make complaint against Judge Archbald in regard to it is that he permitted this thing to be done in this way, this presentation of this note to persons who were litigants in his court and to persons who had been litigants in his court, because he knew the note could not be discounted in the usual commercial channels, and that, therefore, you are to draw the inference of wrong in regard to it. They offer no evidence at all upon that point. On the contrary, you will remember that when one of the witnesses was upon the stand—Mr. Ruth, I think—he said that Judge Archbald's credit was perfectly good, and that their bank would be willing to discount his note. You have the facts before you, that whenever a note was presented or wherever it was presented, every note that he did indorse was, in fact, discounted by some bank; and you have his testimony in regard to it and the testimony of two or three other witnesses, Mr. Searle, notably, that his credit was good throughout Scranton at any bank. There was no suggestion, as my colleague suggests, that any note of Judge Archbald's, or any note upon which he was maker or indorser, had ever at any time or under any circumstances been dishonored. I want to ask you, therefore, how you can draw from these facts, which are wholly undisputed, any conclusion that his note would not be discounted in the usual commercial channels? Yet that is the necessary basis of the claim which is being made in these two articles.

I now pass to an article which I confess causes my gorge to rise more than any other article of them all. It is charged in the tenth article that in 1910, while Judge Archbald was a Judge of the district court for the middle district of Pennsylvania, he accepted an invitation of Henry W. Cannon to take a trip to Europe at the expense of Mr. Cannon; that at that time Mr. Cannon was a director of or interested in a number of corporations, which are named in the article, which corporations were likely to have litigation in Judge Archbald's court; that Judge Archbald knew that fact, and that, therefore, it was a misdemeanor on his part to accept that favor from Mr. Cannon.

Now, what are the facts touching that article? They are wholly undisputed, and they were admitted yesterday, I think, in the argument of Mr. Manager STERLING, to be wholly undisputed. The fact is that Mr. Cannon is a first cousin to Mrs. Archbald; that they were reared together; that the closest friendship had existed between them from the time of their childhood down to the present time; that Mr. Cannon some 10 or 12 years ago had begun to withdraw from active business; that he had purchased a winter place in Italy, where he was in the habit of going from time to time; that he had on repeated occasions before this requested that Mrs. Archbald should go with him and spend a portion of the winter in that home; that they had been unable to make the arrangement; and that now the time had become ripe. So Mr. Cannon wrote a letter, which has been offered in evidence in this case, in which he suggests that Mrs. Archbald shall go with him and spend a portion of the winter in that home in Florence, with her daughter or her son, or, as he says in the letter, if the judge can go, better still with the judge. They accepted that invitation; they went to Florence; they spent several months on that trip; and it was all at the expense of Mr. Cannon. The judge says—and no one contradicts it, for the managers were absolutely silent on that point—that the only corporations which Judge Archbald knew that Mr. Cannon was in any way connected with were the Great Northern Railroad and certain corporations on the Pacific coast.

Now, I want to know how, in the first place, the Great Northern Railroad, or any corporations on the Pacific coast, were likely to become litigants in the middle district of Pennsylvania. I want to know, even if they were likely to become litigants in the middle district of Pennsylvania, how that fact could deter Judge Archbald from accepting that invitation at the hands of his wife's relative, when there is neither allegation nor proof that he ever sat in any case in which Mr. Cannon was interested, or that any corporation in which Mr. Cannon was interested had ever had a case in his court or was ever likely to have one in it. Why should the managers, for the purpose of this article, charge that there was likely to be such a case? Of course they were bound to charge that, otherwise the article would fall of its own weight.

I want also to know what difference there is whether a judge of a court accepts an invitation from his wife's relative to spend a portion of the winter in Florence or whether he accepts that invitation to spend a week end in Philadelphia or in Washington or in Scranton or anywhere else. When a man becomes a judge, is he required to at once withdraw from all the social amenities of life with his and his wife's relatives, because, perchance, they may become litigants in his court? Is he compelled to ostracize himself from all his relations because of that possibility? Yet that is the gravamen of this complaint; and unless that is in it there is nothing in it. Judge Archbald had a perfect right to do just exactly what he did; and there is in the Revised Statutes of the United States an exact provision to meet such a case, viz, for the calling in of another judge to try such a case should it ever arise.

I do not believe—if I may follow the bad example set by the managers yesterday of expressing my own belief instead of arguing from the evidence—I do not believe that Judge Archbald would have sat in any case in which Mr. Cannon was interested if it had come into his court, whether he took that trip to Florence or whether he did not; but the wrong, if any there was, would have been in sitting in the case under such circumstances; and there is no pretense that he ever did so or ever had the opportunity to do so.

So, when he had a wife who had been sick as long as Mrs. Archbald had been, and when, as she testified before you, not only her happiness but her comfort would be so greatly enhanced if he could go along, because he knew just what to do when her troubles came—was he to stay away and let her go alone in that condition or be charged with crime because he went? If there is a man in this Senate who thinks there is the slightest element of a crime in that he has indeed a strange idea of the position of men in this world.

I pass to article 11, which is termed the "purse article." It appears that when Judge Archbald was starting on the trip to Europe, to which I have already adverted, Judge Searle, of Wayne County, Pa., handed him a sealed envelope. On the outside of that envelope was written, "Hon. R. W. Archbald. Sailing orders: Not to be opened until two days at sea." Judge Archbald, when it was presented to him, said to Judge Searle, "What does this mean?" The response came: "A good sailor obeys orders." That letter was opened by Judge Archbald after the vessel had sailed, and then for the first time he learned that there was in it a sum of money contributed by a number of lawyers and ex-lawyers living in his district as a gift to him. He could not then return the money. He had to do one of two things, and Mr. Munson very accurately stated the difficulty under which he was placed by that situation, though Mr. Munson himself did not contribute for reasons which were satisfactory to him. I desire to read from Mr. Munson's testimony, because it explains quite accurately the position in which Judge Archbald found himself:

Q. Will you tell us why you declined to pay the money?—A. I had then, and still have, a high repect and admiration for Judge Archbald and I did not care to embarrass him to either accept or refuse it. That was my reason.

Q. You thought that no matter which course was taken he would be embarrassed in either aspect of it?—A. I thought so; that he would be very much embarrassed. I want to say, if I may be allowed to say it, as I said before, that I have tried many cases before Judge Archbald, both when he was a State judge and when he was a Federal judge. He was always absolutely impartial and fair and I have never tried a case before a more honorable, upright judge than he. I have regarded him as my friend. I knew him when he was a lawyer. He was my correspondent in Scranton. I have tried cases before him for 25 years.

And Mr. Sprout, when upon the stand, testified that when Judge Archbald acknowledged to him the contribution which he made, the letter which was written showed that the judge was very much embarrassed by the situation in which he was placed. What could he do? If he had returned that money, he stood in the position, practically, of slapping every one of those men in the face; he stood in the position, practically, of saying to them, "You have wrongfully endeavored to give me a sum of money; the wrong is yours, and therefore I return this money to you." Would any man want to do that? Most certainly not.

The wrong which was in fact done was, as has been expressed by at least six of the witnesses who testified in regard to this matter, the wrong of Mr. Edward R. W. Searle, who, in violation of that which was arranged, put in the letter which was sent to Judge Archbald inclosing that money a list of the names of the contributors. If that had not been done, if it had been simply a gift of money, certainly nobody could have been heard here to complain. But even then it is a difference

in degree and not in kind whether, when a judge is about to sail abroad, there is sent to him a gift of money, such as there was in this case, or a gift of flowers or of books or of anything else.

I ask whether or not it would be suggested or thought that there was any wrong in the sending or the reception of such gifts as those when a judge travels abroad? I do not suppose you would have ever heard of it under such circumstances, but because the gift happened to be money, instead of other things of value, the charge is made that it is a criminal offense. If it were followed by evidence suggesting in the slightest degree that Judge Archbald had shown any favors to anybody by virtue of that gift, or if it were suggested here, even in the slightest degree, that there was a thought in his mind when he accepted it that he was in duty bound to show or that he would show favors to anybody by reason of that gift, then there might be some slight basis for that which is here charged against him; but there is neither allegation nor proof of that; and in the absence of allegation and proof, you certainly can not say that an upright judge, admitted by the managers to be such, is to be charged with crime upon suspicion under circumstances such as I have thus stated to you.

I pass, Senators, from that to the twelfth article, the last that I shall be called upon to consider. That article charges that Judge Archbald committed a misdemeanor, because he appointed J. Butler Woodward jury commissioner of the middle district of Pennsylvania, Woodward at that time being a railroad lawyer.

I confess, in view of what has occurred in this trial, that I am left in some doubt as to exactly what the managers do mean by that charge. When I offered in evidence the list of jury commissioners in all of the judicial districts of this country, Mr. Manager CLAYTON arose and objected to that list, because, as he said, the complaint against Judge Archbald was not that he appointed a lawyer as jury commissioner, but that he appointed a railroad lawyer. But when the case was being argued yesterday Mr. Manager STERLING said that the complaint was not that Judge Archbald appointed a railroad lawyer as jury commissioner, though that is what is charged in the article itself, but that he appointed somebody as jury commissioner who was especially engaged in trying one particular class of cases before the court of which he was jury commissioner. You, of course, can not reconcile those statements, but the irreconcilability becomes a matter of considerable indifference when it is found, as the fact is, that Judge Archbald did not even know at the time of the appointment that Mr. Woodward was a railroad lawyer, and when it appears, not only from Mr. Woodward's testimony at this bar, but from the certificate of the clerk of the middle district of Pennsylvania, that during the 10 years while Judge Archbald sat upon the bench of the district court there were but three cases of that railroad and its allied coal companies in that court; that in two of those cases Mr. Woodward was not counsel at all; and in the one in which he was counsel it was not tried at all, but, being a technical case, was submitted to a referee by agreement of the parties. It so happens also that in all of the districts of Pennsylvania—the eastern, the middle, and the western districts—the jury commissioners are lawyers.

It is stated in some of the letters which were produced here and finally offered in evidence that it is not shown that they were railroad lawyers. Of course it is not shown that they were railroad lawyers, but neither is it shown that they were not railroad lawyers. The utmost to which the letters go was the statement made that they were not regularly employed by railroad companies.

Now, I want to know what Judge Archbald's duty was when he came to appoint the jury commissioner. We have an act of Congress that stipulates that duty. That act of Congress provides that he shall be "a citizen of good standing, residing in the district," and "a well-known member of the principal political party opposing that of the clerk of the court."

Was Mr. Woodward that? Everybody admits that he was. Was he of a different political party from the clerk? No one questions that. He was a Democrat, as his father and his grandfather had been before him, and, if I may again follow the bad example of the managers in expressing my own knowledge and belief, his is one of the best-known Democratic families that Pennsylvania ever had or ever will have. He is a man of as high character as ever sat in any tribunal, I care not where the tribunal is. I ask the Senate whether or not Judge Archbald is to be complained of because Congress has not put into the law another requirement in relation to jury commissioners, and whether he is to be complained of because he strictly follows everything that Congress requires, especially in the light of the fact that there is no complaint whatsoever of any wrongdoing at any time by Mr. Woodward? On the contrary, we find Mr. Manager STERLING, in his argument before you yesterday, saying this:

> Aye, gentlemen, do you ask the question, Would you remove Judge Archbald for appointing Woodward jury commissioner when it is not proven here that Woodward ever exercised his power wrongfully? Do you say now, honor bright, would you remove him from office for that? No; I would not if it stood alone, but it is a part of the system; it goes to make up the system; it is an incident in the line of misconduct which has been carried on by Judge Archbald.

Yet in the article which we are now considering there is no suggestion of a system of wrongdoing; and in the thirteenth article, which was the dragnet to draw everything else in, there is no suggestion of a system, so far as the jury commissioner or anything appertaining to that office is concerned. Unless Senators are going to violate their oath of office, they can not possibly under this article convict Judge Archbald, because there has been disproven everything which is alleged in the article, and admittedly none of those allegations are true.

It was said by Mr. Manager STERLING in his argument that the portion of the Constitution relating to impeachment was on trial in this case. I do not know, I never can know, how that can possibly make any difference to men sitting as judges. If you are to decide this case according to the known law of the land, what odds does it make whether that portion of the Constitution relating to impeachment is on trial or not? I think with him that it is on trial; but that which is on trial is the determination of the question whether Senators, who ordinarily sit in a legislative or an executive capacity, can rise to the office of judge and judicially decide the questions which are before them, or whether they are to be moved by appeals to passion and prejudice; whether there is to be invoked here a claim that Judge Archbald has done something not in violation of the law of the land, but in violation of a system of ethics which has not yet found its way into the law of the land; whether a court is to decide a case, not upon the law, which is its only guide, but upon other things which have no place in the law at all.

In that aspect of the matter the portion of the Constitution relating to impeachments is on trial; and if this court is going to say that a man shall be turned out of office, although he has violated no law; although, admittedly, every decision that he rendered has been rendered uprightly; although he has never been partial; although he has been able and industrious and just, then you are turning back the hands of the dial of time until you reach the place where, three or more centuries ago, the House of Lords, at the behest of the House of Commons, turned men out of office simply because they did not agree with them politically.

That is the sense in which the article relating to impeachments is on trial.

I want to know what could Judge Archbald do if these articles are to be sustained? The ninth article charges him with a crime because he had business dealings with a man who had at some time in the past been a litigant in his court. The second article charges him with a crime because he permitted a note to be presented to a man who was a stockholder in a corporation which was then a litigant in his court. The tenth article charges him with a crime because he accepts a favor from a man who at some time in the future may be a litigant in his court. The past, the present, and the future are all closed to him under those three articles. What is the man to do? Can he not buy a suit of clothes because at some time the man who keeps the clothing store may be a litigant in his court? Can he not order his dinner in a restaurant of a proprietor who at one time in the past had been a litigant in his court? That is the tendency and the necessary result of those articles.

I suggest to you that there never has been a time when a man was ever convicted in any court of impeachment anywhere under such circumstances as those. I had always supposed—I know it is true in my great State—that when we find a judge who has been impartial, whose integrity stands admitted, not even challenged, who is able, who is industrious, who has been all of a man—when we find such a man occupying a judicial position we want more of him. For such a man we have encomiums, not blame. However great the mistakes he has made, to his virtues we can be very kind, and to his faults we can certainly be a little blind.

It is highly probable that the case you are now called upon to decide would never have been before you but for the unrest of the times. I mean the political unrest of the times. I am not complaining of that unrest. Make no mistake about that. I am a part of it. I believe the unrest of the times ever leads to higher things. But the unrest of the times does not necessitate the carrying back of this court to the days of the Roman

arena, when, because the populace cried out for a victim, the thumbs were turned down. The unrest of the times does not carry back this court to the time of the Savior, when, though Pilate found no fault in Him, because the populace cried "Crucify Him!" "Crucify Him!" He was sent to His death.

That is not what the unrest of the times does. The unrest of the times lops off a wrong here and a wrong there and a wrong yonder, and leads the people up to the point where when they look back, despite all the errors in the intervening steps, they can say, "We have moved up a step higher in these intervening years," or months or days, and ofttimes hours. But it asks no victim at any man's hands, and least of all does it ask a victim from a body of men who are acting as judges. What would be said of any other court than this if, yielding to passion or prejudice or innuendo or anything of that kind, they condemned any man on evidence such as is presented here? And it is in no way to the honor of this court that you are asked to do a thing that none of these managers, I venture to assert, would ask of any other court in this land.

It has been only a very few days since we heard the Christmas chimes ringing "Peace on earth, good will to men." It requires very little imagination in this Chamber at this moment to still hear those chimes ringing. But is there any peace on earth, can there be any peace on earth, to Judge Archbald, can he feel good will to any man if from evidence like that which has been presented here he is to be branded as a criminal and thus sent out into this world? I can not believe that those bells have chimed good will to men in vain. I can not believe that in the highest court which this land knows—in the Senate of the United States sitting as a court for the impeachment of Robert W. Archbald—they will so far forget all the rules of law, all the rules of justice, so far ignore all the well-known laws of the land, as to say that a man who has admittedly violated none of those laws shall be punished because he blundered, I care not how much he blundered.

Over in the State where I come from there are regrets everywhere within its borders that Judge Archbald ever went on the Commerce Court bench. There never has been a day in my time since I have been at the bar that we would not gladly have him in any of our courts, and we would gladly have him to-day. Do you suppose that if he could have at your hands what every other person charged with crime gets in every other court in this land, a trial by an impartial jury of the vicinage, there ever could be a conviction? Do you suppose that in Scranton, where he has been known for fifty-odd years now, you could find 12 men to convict him? If you do, you suppose wrongly. You could not garner them—with all the hate and with all the spite and with all the mistakes that W. P. Boland has shown in this case—out of the middle district of Pennsylvania. No; not five of them. You would have greater trouble than the prophets to save the cities of Sodom and Gomorrah from the hand of the Lord. But because he can not be tried, in the nature of things, before an impartial jury of his vicinage, does that furnish any reason why the character evidence, the necessity for which grows out of that impossibility, should not be given all the weight that would be given to it by the vicinage itself if he could be tried there?

In the early days when a man was put upon trial for crime his neighbors sat as his triers. They knew whether he was likely to commit a crime; they knew whether his accuser was likely to be a truthful man, a biased man, or a lying man, and they judged the case accordingly. Judge Archbald is deprived of that in the nature of things. But he has brought before you character evidence of so great a height that no man could ever hope to attain to a higher one.

There has been upon this stand testifying before you the chief justice of the Supreme Court of Pennsylvania, who has known Judge Archbald for thirty-odd years. There has testified from that stand before you the presiding judge of the superior court, who has known Judge Archbald equally long. There has testified before you the presiding judge of the circuit court of appeals, with whom Judge Archbald sat at times and who at other times passed on Judge Archbald's rulings in the district court. And they all told you that Judge Archbald's character is of the highest. There are three men than whom there are no better living in the whole State of Pennsylvania, and those men come here and tell you that in their judgment Judge Archbald is incapable of crime. Incapable of crime! My God, what better can be said in any tribunal or any court. Incapable of crime! And yet you are asked upon suspicion alone to convict him as a criminal and turn him out of the office which for 28 long years he has graced, and in which no man has said that he has ever done wrong to any one. That is the man you are asked to convict. And you are to convict him under a Constitution which says that except for "treason, bribery, or other high crimes and misdemeanors" he shall not be displaced from his office. When it is done, if it ever is, I will believe it, but there rests not in the power of men sufficient to convince me that this Senate will ever do such a thing, for it seems to me that it would not only be a disgrace to the Senate, but it would be a disgrace to our land, which has ever endeavored to foster and to sustain judges who are of high judicial integrity and impartiality, and who are admitted to be so before those who are asked to condemn them.

ARGUMENT OF MR. WORTHINGTON OF COUNSEL FOR RESPONDENT.

Mr. WORTHINGTON. Mr. President and Senators, the questions of law which are raised in this case and to which I propose in the first place to address myself have assumed an importance greater than we could have anticipated and greater than any which have heretofore arisen in any impeachment trial before this body.

It has been insisted here in the arguments which have been made by the managers on the part of the House of Representatives—not once, not twice, but nearly a dozen times—that the question of Judge Archbald's guilt or innocence is to be determined by what you individually consider to be an offense which justifies his removal from office; not that he has been brought here charged with anything of that kind; but having been brought here charged with certain specific offenses for which he and his counsel have prepared themselves and have summoned their witnesses, he is now to be disgraced and forever branded as a criminal because you may find that he is not fit to be a judge.

I might humbly suggest that if there is ever to be presented to this great body the question whether or not you have the right to impeach an officer of the United States and remove him from his office because you think that on general principles he is not fit to hold his office there might be presented an article of impeachment which would charge that that was the case and that he and his counsel might be prepared to meet it. But instead of that we have him charged with a certain number of specific acts, and when he comes here to meet those and the evidence is closed and the verdict is about to be reached, then we are told for the first time that you individually—each for himself—are to decide whether upon what you have heard here in evidence you think that on general principles he ought to be ejected from his office.

I have not overstated in the slightest degree the proposition that is presented. I need not dwell upon the importance of it, because, if it be so, then not merely Judge Archbald, not merely all the district and circuit judges of the United States and the Justices of the Supreme Court who sit in this building, but the President of the United States and every civil officer of the Government holds his position by the same tenure.

I may say I think it is a very serious question whether you do not yourselves hold your offices by the same frail right. It never yet has been determined whether or not a Senator of the United States is a civil officer of the Government within the meaning of the impeachment clauses of the Constitution. The question was raised in the Blount case, but as he had ceased to be a Senator at the time of his impeachment, it could not then be decided.

But the same Constitution which speaks of the impeachment of civil officers of the Government says that one of the penalties which you may inflict when you impeach an officer is that he never thereafter shall hold any office of honor, trust, or profit under the Government of the United States. And if you be not officers of the Government of the United States—if the position which you hold be not that of an officer under the Government of the United States—then you can here impeach an officer and remove him from office and provide that he never shall hold any civil office under the Government of the United States, and yet he can be elected to the Senate and sit with you, although he would not legally be fit to hold the office of justice of the peace in the District of Columbia or that of a postmaster at any place in the United States.

So, I think it is a question—certainly it may be a question—whether the Members of the House of Representatives, as well as the Members of this body, hold their office by the privilege of the individuals who happen to compose the Senate at any time and who for any reason may think it a proper thing to remove a person from his office.

That being so, I think it is well to group together the provisions of the Constitution on this subject. I know how wide a range this argument has taken, and how wide a range it has taken when similar questions have arisen, and I may have to follow briefly the lines discussed in previous cases. But to my mind it is utterly unnecessary to go beyond a single clause of

the Constitution of the United States to determine that question, and that is the one which has been so often read in your hearing, which says that civil officers of the United States may be impeached for treason, bribery, or other high crimes and misdemeanors.

If this discussion had originated now for the first time and if this were the first time that that sentence was heard by the members of this body, I should like to know whether there is one of you to whose mind it would ever have occurred for a moment that it meant anything except an offense punishable in a court of justice. I do not like the word "indictability," because a great many crimes are punished by information and not upon indictment. When I use that term I mean it in the sense of punishment in any way in a criminal court.

Now my friend Mr. Manager STERLING when he read certain provisions of the Constitution at the outset of his argument said those were all that were necessary to be considered in this matter. He omitted two of them which to my mind are at least as important as any others and which of themselves should be decisive if the one I have cited does not conclude the question.

Section 2, Article III, paragraph 3, says:

> The trial of all crimes, except in cases of impeachment, shall be by jury.

"Trial of all crimes except in cases of impeachment."

Again the fifth amendment to the Constitution says:

> Nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself.

Would anybody suggest that if Judge Archbald should be acquitted by you, the House of Representatives might legally again find articles of impeachment against him for the same offense? Would anybody suppose that if he had not chosen to take the witness stand in his own behalf the managers could have dragged him there and compelled him to testify?

I may mention in passing that this is the first time in the history of the United States when a respondent in an impeachment case ever has taken the stand in his own behalf.

And so the sixth amendment says:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Where is the man in this United States of America who would suggest that Judge Archbald could be required to answer without being informed of what is the accusation against him? Where is the man who would suggest that it is not necessary to confront him with the witnesses against him? Where is the man who would say he is not entitled to have subpœnas issued to bring his witnesses here to testify for him? Where is the person who will say that you could turn his counsel out of this Chamber and say he has to defend himself? Why? Because it is a criminal prosecution, and if it be not a criminal prosecution then it is nothing known to the laws of this land.

Now, it so happened that in the formation of this Constitution of ours this happened. I am reading, for convenience, from first Foster on the Constitution, page 508. It is simply a quotation from the proceedings in the Constitutional Convention:

> Col. MASON. Why is the provision restrained to treason and bribery only? Treason, as defined in the Constitution, will not reach many great and dangerous offenses. Hastings is not guilty of treason. Attempts to subvert the Constitution may not be treason, as above defined. As bills of attainder, which have saved the British constitution, are forbidden, it is the more necessary to extend the power of impeachments. He moved to add, after "bribery," "or maladministration." Mr. Gerry seconded him.
>
> Mr. MADISON. So vague a term will be equivalent to a tenure during pleasure of the Senate.

So they struck it out and put in, instead of the vague term "maladministration," the term "other high crimes and misdemeanors," and now at the end of 125 years after that was done in that convention the managers of the House of Representatives come here and tell you that the provision as it stands means that Judge Archbald shall be turned out of his high office at the pleasure of the Senate. Nay, it is not at the pleasure of the Senate. It is more than that; it is at the pleasure of the individual Senators. You do not, under their construction of this language, have to decide anything as a Senate, but you may have a vote of the Senate of "guilty" or "not guilty," and if anybody thinks the judge is not sufficiently good looking to be upon the bench he may vote against him for that reason. To use the language of one of the managers—on what ground I know not—if he has a large and expensive family you may vote against him for that reason.

As to these articles of impeachment, there may not be 10 votes in favor of turning him out as to any one, but on the whole Senators may combine their votes and turn him out!

And remember also, Senators, that when this Constitution was created there was the well-known form of removing all civil officers—judges and others—by what was called the address. That was referred to by my brother Simpson. It became the law of England in 1701. By it, without making any charges which would involve disgrace upon the part of an individual officer, if it was thought a good thing to turn him out, the Houses of Parliament could request the King to remove him. That provision was carefully left out of the Constitution of the United States, so that no such power exists.

Now, under the constitutions of the different States it is otherwise. They have seen that an impeachment for high crimes and misdemeanors does not allow an officer to be turned out of his office simply because it is thought on the whole he had better be turned out—that he is not a fit man to be in office. The States have almost universally provided for removal by address.

I happen to have in my hand a copy of an address delivered before a bar association in Oklahoma by a Member of this body, Mr. Senator OWEN, in which he has collated the laws of the different States on that subject; and it shows that nearly all of them have the provision for removal by address.

In an article written by the same distinguished Senator, published in the Yale Law Journal for June, 1912, he expresses the idea which is in my mind and which I have undertaken to state here.

Impeachment—

He says—

> is wholly inadequate for practical purposes. It can only be invoked for the most serious crimes.

In another place in the article he says:

> Impeachment is too severe a remedy in certain cases and is impracticable for offenses justifying removal but not deserving impeachment, which latter power should only be invoked for actual personal corruption or serious criminal conduct.

Nobody could better have expressed our idea as to what is the meaning of the Constitution than Senator Owen has done in that phrase.

But let me go on with another provision of the Constitution. Article I, section 3, paragraph 7, provides:

> Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.

With what assurance can the learned managers stand before the Senate and say, in view of that provision, that a man may be removed from an office for that for which he could not be prosecuted in a criminal court?

Finally, and most important of all, is this provision:

Section 2 of Article II of the Constitution provides—

> The President * * * shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

A man may commit the most diabolical murder, commit burglary, or rob the United States Treasury of a million dollars or commit any other enormous offense which violates the laws of the United States, and the President of the United States can make his record as white as snow by saying: "I pardon him"; but if you convict Judge Archbald of high crimes and misdemeanors, as you must if you convict him at all, because of these things he has done which it is said are improper, you have put him in a position where he never can escape from the penalty of his action. Nobody can relieve him. He must carry it with him all his life. It will make for him a winding sheet to take with him into his coffin. It will stand here as a record against his children and their descendants as long as this Government of ours shall endure.

The managers say that this is not a criminal matter; that it is merely a little civil proceeding by which to get rid of an officer who you think ought not longer to occupy the position. That applies not to Judge Archbald alone but to every civil officer of the Government. If the President of the United States should happen to do something which you may consider to be an impropriety, there is no means of removing anybody except by impeachment for high crimes and misdemeanors, and you can remove the President of the United States and put him out of office on such futile and uncertain grounds.

I have referred to the language of the Constitution and to what happened when it was formed. Is is said, however, you must be governed by the English view of this subject; that while our fathers had determined that they would get rid of the tyranny of the Parliament and the King when they framed this Constitution of ours, we are to go back and see how they exercised their tyranny and act accordingly in enforcing our Constitution. I say that you are not at liberty to accept the Eng-

lish precedents. It so happens that I have in support of that contention a notable and learned opinion delivered in the Supreme Court of the District of Columbia, sitting in general term about 30 years ago.

You all remember that when President Garfield was murdered by Charles J. Guiteau the wound was inflicted here in the District of Columbia, and the President was taken to the State of New Jersey, where he died. Guiteau was indicted here for the crime of murder, and under the Constitution of the United States Guiteau was entitled to be tried where his crime was committed. The English precedents were that a man can not be tried for murder in any county in England unless his victim had died in that county. Numerous decisions of the English courts to that effect were thrown upon the table and shown to the judge by Guiteau's counsel. Mr. Justice James, a most able judge, one of the ablest who ever sat in this District, delivered that opinion, an extract from which I shall here ask to have incorporated into my remarks, in which he said that we are to determine the meaning of the phrases in our Constitution according to our understanding of the Constitution and that you can not look to alien laws to see what our forefathers meant in framing a government for ourselves. I will not undertake to dwell on that or to read it here, but I shall insert it at this place in my argument.

We turn, now, to the peculiar and higher ground on which we conceive this question should stand, and to considerations to which as a court of the United States, exercising the judicial power of the United States, we are required to give special attention. However proper it may be that the courts of the States where the common law exists should treat the question of jurisdiction from the standpoint of that law, that question must be treated by the courts of the United States, wherever a fort or magazine or an arsenal or a district of country is under the exclusive jurisdiction of the National Government, from the standpoint of Federal authority and with reference to the relation of the crime to the sovereignty of the United States.

We take it to be a fundamental rule of construction that an independent and sovereign government is always to be understood, when it makes laws for its own people, to speak without any reference to the law of another people or Government, unless those laws themselves contain plain proof of a contrary intention, and that, when it thus appears that something is actually borrowed and embodied therein from the laws of another people, the extent of that adoption is to be strictly construed and not enlarged by implication. So far as its laws can be understood only by reference to foreign law, that reference is authorized by the lawmaker, because it is necessary; but so far as its commands may be understood as original terms, and without such reference, they must be construed independently. It is only when understood to be, to this extent, the original expression of its own will that its words can communicate to its own people the whole and self-sufficient force of that will. To assume, without plain necessity, that it utters the intention of an alien law, is to ignore to just that extent its absolute independence of existence and action and will.

By the argument which is made here by the managers as to the proper way to construe our Constitution by referring to English precedents and customs as they stood when our Constitution was formed, Charles J. Guiteau would have gone unwhipped of justice, for he could not have been punished either in the District of Columbia or the State of New Jersey, for such was the state of English decisions, strange as it may seem, at the time we separated from the mother country.

But what of it? I say that if we go back to English precedents you will find the situation to be precisely the same as we claim it is here under the plain language of our Constitution. You may not go back to the days when it was forbidden for a man on trial before the House of Lords to have counsel in his defense, when he was not permitted to testify; and when after he had been convicted he was not merely to be removed from office, but if the House of Lords chose he could be taken to the block and he could be disembowled and his bowels held before his face before he was dead. I do not understand that the managers expect us to go back to those days to find precedents to govern your decision.

And if you will take the later cases you will find that the doctrine is laid down exactly as we are seeking to lay it down here, that if you want to punish a civil officer for a crime against the law you may impeach him, but for anything else you must seek the remedy by address. Even as far back as 1724, in the case of the Earl of Macclesfield, reported in Howell's State Trials, you will find the whole contention from the beginning to the end in that case was whether the things which the Earl of Macclesfield was charged with doing were crimes. The managers labored, and successfully labored, to show that what he was charged with doing was an offense at the common law and was an offense under certain statutes which they cited.

The case of Warren Hastings, of course, must be adverted to in this connection. I have seen it claimed by some that what he was charged with did not amount to crimes. In other equally able and important statements by learned writers it has been shown that his alleged offenses clearly did amount to crimes. But what matters it? I do not understand, as the managers seem to, that when you find that a person has been charged in a court with a certain offense that that is a decision that that thing is a criminal offense. I do not understand that merely because a man has been charged in articles of impeachment with doing certain things that alone determines that those things are impeachable offenses. You look to the action of the court, and when you find a case in the later days in England, in the last century before we separated from her, or in the United States, where a man was charged in an article of impeachment with doing something that was not a crime against positive law and was convicted, then you will have a precedent which you can cite here against us; but you can find no such. In the case of Warren Hastings, which, as we all know, dragged along, being heard from time to time for seven years, so long that a great many of the members had gone out of the House or had not heard enough of the evidence to justify them in voting, out of the large body of the House of Lords only 29 members voted, and the worst vote against Mr. Hastings on any article was 6 for conviction and 23 not guilty. So if that case decides anything it decides that what he was charged with was not a crime.

But most important of all is the case of Lord Melville, in 29 Howell's State Trials, page 1417, the last impeachment trial in England, which occurred in 1806. In that case Lord Melville had been the treasurer of the navy, or he had been in such a position that he handled the public funds belonging to the navy of Great Britain, and some alleged misuse of those moneys formed the basis of the charge against him in the several articles of the impeachment. It appeared that he had taken the money out of the treasury and deposited it in some private place. His claim was that he did that merely for convenience, not with the intent of converting the money to his own use. The question was, Did that amount to a criminal offense? The House of Lords referred that question to the law Lords, who gave their opinion, as you will find at the page I have referred to, saying that the things charged did not constitute indictable offenses, and thereupon Lord Melville was promptly acquitted.

Now, Senators, what has taken place in this country in this regard is no less conclusive. The case of Senator Blount in 1798 is referred to. You can not tell anything about what the judgment of the court in that case would have been upon the merits, because he had been expelled from the Senate; and when the articles of impeachment were presented he made no reply to the merits at all, but counsel said, "You can not impeach a Senator, and, besides, he is out of office." Upon that double plea the Senate voted—14 to 11—that it set forth a good defense, and there were no further proceedings in the case.

Then came the case of John Pickering, by which one of the learned managers—Mr. Manager HOWLAND—this morning had some pleasantries at my expense, in which there were three articles of impeachment, two charging him in the performance of his duties upon the bench in a prize case involving the question of the custody of a certain vessel of deliberately, by his orders in the court, violating acts of Congress prescribing his duties as a judge. Of course, that was a criminal offense. But the thing which was in the mind of Mr. Manager HOWLAND is this: He said that in the opening statement I made here I said intoxication was a crime. I said nothing of the kind. If my friend will turn to the opening statement he will find that he is greatly mistaken. I said that when a man becomes intoxicated in a public place and acts in a disorderly manner it is a well-known crime everywhere in the United States and in every civilized country, I suppose, on the globe. The charge was first as a preamble that Judge Pickering was in the habit of getting intoxicated, and then that he had gone upon the bench in a drunken and intoxicated condition and deported himself in an unseemly manner and had there, in open court, used the name of the Divine Being profanely.

You may go down to our police court or any police court in the land and you will find a large portion of the cases are for drunk and disorderly conduct. Of course, that would not ordinarily be considered an indictable offense, or that even a Federal judge could be turned out of office if once in a while he happened to get on a slight spree. Yet it is a high misdemeanor within the very terms of the provision of the Constitution when a judge goes into court in a drunken condition and there uses the name of God in vain or otherwise conducts himself in an indecent manner. I beg the pardon of the Chair for even supposing such an illustration; but what would you say if a Senator who happened to be presiding in this body would come here, and when the proceedings are opened take his seat in the Presiding Officer's chair, drunk, unable to conduct himself in a seemly manner, and swear and curse in the face of the public here? Would anybody say that that is not an offense for which he might be taken down to the police court and punished?

Then comes the case of Samuel Chase as to which one of the learned managers has followed what is said in the encyclopedia.

It is the first time in a case of this kind that anyone has asked the Senate to be governed by an encyclopedia or a dictionary. In the American and English Encyclopedia it is said that in one of these impeachment cases the counsel for the respondent first raised the defense that the offense must be an indictable one, but abandoned it. That reference could only be to the case of Judge Chase. I have all that was said by the counsel for Judge Chase in that trial upon that subject, every word of it from beginning to end, and I shall ask to have the privilege of incorporating that at this point in my remarks, and will not take up your time with reading it.

Mr. Hopkinson:

Misdemeanor is a legal and technical term, well understood and defined in law; and in the construction of a legal instrument we must give to words the legal signification; a misdemeanor, or a crime, for in their just and proper acceptation they are synonymous terms, is an act committed or omitted, in violation of a public law, either forbidding or commanding it. By this test let the conduct of the respondent be tried, and by it let him stand justified or condemned. * * * We have read, sir, in our younger days, and read with horror, of the Roman emperor who placed his edicts so high in the air that the keenest eye could not decipher them, and yet severely punished any breach of them. But the power claimed by the House of Representatives to make anything criminal at their pleasure, at any period after its occurrence, is ten thousand times more dangerous, more tyrannical, more subversive of all liberty and safety. (2 Chase's Trial, 13, 17.)

Luther Martin (who was a member of the convention of 1787 which framed our Constitution):

I shall now proceed in the inquiry. For what can the President, Vice President, or other civil officers, and consequently for what can a judge be impeached? And I shall contend that it must be for an indictable offense. The words of the Constitution are that "they shall be liable to impeachment for treason, bribery, or other high crimes and misdemeanors." There can be no doubt but that treason and bribery are indictable offenses. We have only to inquire, then, what is meant by "high crimes and misdemeanors." What is the true meaning of the word "crime"? It is breach of some law which renders the person who violates it liable to punishment. There can be no crime committed where no such law is violated. * * * Nay, sir, I am ready to go further and say there may be instances of very high crimes and misdemeanors for which an officer ought not to be impeached and removed from office; the crimes ought to be such as relate to his office or which tend to cover the person who committed them with turpitude and infamy; such as to show there can be no dependence on that integrity and honor which will secure the performance of his official duties. (Ibid., 137, 139.)

Mr. Harper:

If the conviction of a judge on impeachment be not to depend on his guilt or innocence of some crime alleged against him, but on some reasons of state, policy, or expediency, which may be thought by the House of Representatives and two-thirds of the Senate to require his removal, I ask why the solemn mockery of articles alleging high crimes and misdemeanors, of a court regularly formed, of a judicial oath administered to the members, of the private examination of witnesses, and of a trial conducted in all the usual forms? Why not settle this question of expediency, as all other questions of expediency are settled, by reference to general political considerations, and in the usual mode of political discussion? No, Mr. President, this principle of the honorable managers, so novel and so alarming; this desperate expedient, resorted to as the last and only prop of a case, which the honorable gentlemen feel to be unsupported by law or evidence; this forlorn hope of the prosecution, pressed into its service after it was found that no offense against any law of the land could be proved, will not, can not avail. Everything by which we are surrounded informs us that we are in a court of law. Everything that we have been for three weeks employed in doing reminds us that we are engaged not in a mere inquiry into the fitness of an officer for the place which he holds, but in the trial of a criminal case on legal principles. And this great truth, so important to the liberties and happiness of this country, is fully established by the decisions of this honorable court in this case on questions of evidence; decisions by which this court has solemnly declared that it holds itself bound to those principles of law which govern tribunals in ordinary cases.

These decisions we accepted as a pledge and now rely on as an assurance that this cause will be determined on no newly discovered notions of political expediency, or state policy, but on the well-settled and well-known principles of law (pp. 206, 207, bracketed). * * * Thus we find that even in England, where the power of impeachment is subject to no expressed constitutional restriction and where abuses of that power for the purpose of party persecution and state policy have sometimes been committed and more frequently attempted, an impeachment has never been considered as a mere inquest of office, but always as a criminal prosecution, differing not in essentials from those which are carried on before the ordinary tribunals of justice and subject to the same rules of evidence and the same legal notions concerning crimes and punishments. * * * What, Mr. President, are offenses in the language of the Constitution and the laws? For a definition of the term "offense," in a constitutional sense, we must consult our law books and not the caprice or the varying opinions of popular leaders or popular assemblies. Those books tell us that the word "offense" means some violation of law. Whence it evidently follows that no officer of Government can be impeached unless he have committed some violation of the law, either statute or common. It is not necessary for me to contend that this offense must be an indictable offense.

I might safely admit the contrary, though I do not admit it; and there are reasons which appear to me unanswerable in favor of the opinion that no offense is impeachable unless it be also the proper subject of an indictment. But it is not necessary to go so far; and I can suppose cases where a judge ought to be impeached for acts which I am not prepared to declare indictable. Suppose, for instance, that a judge should constantly omit to hold court; or should habitually attend so short a time each day as to render it impossible to dispatch the business. It might be doubted whether an indictment would lie for those acts of omission, although I am inclined to think that it would. But I have no hesitation in saying that the judge in such a case ought to be impeached. And this comes within the principle for which I contend; for these acts of culpable omission are a plain and direct violation of the law, which commands him to hold courts a reasonable time for the dispatch of business; and of his oath which binds him to discharge faithfully and diligently the duties of his office. The honorable gentleman who opened the case on the part of the prosecution cited the case of habitual drunkenness and profane swearing on the part of a judge as an instance of an offense not indictable, and yet punishable by impeachment. But I deny this position. Habitual drunkenness in a judge and profane swearing in any person are indictable offenses, and if they were not, still they are violations of the law. I do not mean to say that there is a statute against drunkenness or profane swearing; but they are offenses against good morals, and as such are forbidden by the common law.

They are offenses in the sight of God and man, definite in their nature, capable of precise proof and of a clear defense. The honorable managers have cited a case decided in this court as an authority to prove that a man may be convicted on impeachment without having committed an offense. I mean the case of Judge Pickering. But that case does not support the position. The defendant there was charged with habitual drunkenness and gross misbehavior in court arising from this drunkenness. The defense set up was that the defendant was insane and that the instances adduced of intoxication and improper behavior proceeded from his insanity. On this point there was a contrariety of evidence. It is not for me to inquire on which side the truth lay. But the court, by finding the defendant guilty, gave their sanction to the charge that his insanity proceeded from habitual drunkenness. This case, therefore, proves nothing further than that habitual drunkenness is an impeachable offense. * * * The great principle for which we contend and which is so strongly supported by the clause of the Constitution already cited, that an impeachment is a criminal prosecution and can not be maintained without the proof of some offense against the laws, pervades all the other provinces of the Constitution on the subject of impeachment. * * *

In every light, therefore, in which this great principle can be viewed, whether as a well-established doctrine of the Constitution, as the bulwark of personal safety and judicial independence, as a shield for the characters of those whose lot it may be to sit on a trial of impeachment; or as a solace to them under the necessity of pronouncing a fellow citizen guilty, it equally claims—and I can not doubt that it will receive—the sanction of this honorable court, by whose decision it will, I trust, be established, so far as hereafter to be brought into question, that an impeachment is not a mere inquiry—in the nature of an inquest of office, whether an officer be qualified for his place or whether some reason of policy or expediency may not demand his removal—but a criminal prosecution, for supporting which the proof of some willful violation of a known law of the land is to be indispensably required. * * *

And will this honorable body, sitting not in a legislative but a judicial capacity, be called on to make a law, and to make it for a particular case which has already occurred? What, sir, is the great definition between legislative and judicial functions? Is it not that the former is to make the law for future cases, and that the latter is to declare it as to cases which have already happened? Is it not one of the fundamental principles of our Constitution and an essential ingredient of free government that the legislative and judicial powers shall be kept distinct and separate? That the power of making a general law for future cases shall never be blended in the same hand with that of declaring and applying it to particular and present cases? Does not the union of these two powers in the same hands constitute the worst of despotism? What, sir, is the peculiar and distinguishing characteristic of despotism? It consists in this, sir: That a man may be punished for an act which when he did it was not forbidden by law. While, on the other hand, it is the essence of freedom that no act can be treated as a crime unless there were a precise law forbidding it at the time when it was done. (2 Chase's Trial, 251, 253, 254, 257, 264.)

In the answer which the counsel for Judge Chase prepared they specifically set up the defense that what he was charged with was not an indictable offense, and all through the discussion of the case his counsel over and over insisted upon that point. Mr. Harper, whose language was used by Mr. HOWLAND as indicating the opposite, closed the arguments that were made on that subject in behalf of Judge Chase with the statement that he could not be convicted unless he had violated a known and positive law of the land. What was done with Judge Chase? He was acquitted, a majority of the Senators voting for his acquittal.

Now, shall we say that when you take a man into a court of impeachment and a majority of the judges acquit him of the charge, that that is a decision by the court, that what he was charged with was an impeachable offense?

In the case of Peck, in which there was but a single article of impeachment, what he had done was to take and throw a lawyer into jail and disbar him for 18 months because the lawyer had presumed to criticize his opinion in a case in which the lawyer was counsel for the losing party. He sent him to jail for 24 hours, long enough I take it for a man of the standing of Mr. Lawless to disgrace him. He sent him to jail for 24 hours and suspended him from practice because he presumed to criticize the judge's opinion out of court. If it be not a criminal offense for a judge in the performance of his judicial functions without law or right to send a man to jail, then I do not know what you might consider a criminal offense.

But what was the defense that was made for Judge Peck? Mr. Wirt was his principal counsel and spoke three days in his behalf. You will find from the beginning to the end of his argument he contended that because Judge Peck believed he had a right to punish in that way for contempt he should not be convicted. As was suggested by my friend, Mr. Simpson, Mr. Buchanan, afterwards President of the United States, who was the chairman of the managers of the impeachment in that case, did what I might humbly suggest to the learned chairman of the managers in this case. When Judge Peck was acquitted

on the ground that if he did not have the right to punish Lawless in that way for contempt, he honestly believed he had that right and should not be impeached merely for committing an error, Mr. Buchanan went back to the House of Representatives, and the next day started legislation which resulted in what we have had upon our statute books ever since, that a judge of a Federal court shall not punish in a summary way for contempt for an offense committed out of the presence of the court.

I will not stop to say anything about the case of Judge Humphries. Judge Humphries made no defense, and of course nothing could be concluded where there was no adverse party. He was charged with joining the Confederacy and abandoning his court. It is needless to say anything more on that subject.

Now, I want to come to what it seems to me is the case which ought to be an end of this discussion in the Senate of the United States—the case of Andrew Johnson. He became President in the spring of 1865, after the assassination of Mr. Lincoln and almost immediately, as we all know, became involved in a war with Congress. For two long years and more there was a very unfortunate state of affairs here in which he was charging that Congress was an illegal body hanging on the verge of the Government, to use his words in a speech he made in Cleveland, Ohio, because it did not admit to membership in the House and Senate the representatives of the 10 States which had gone out in 1860 and 1861. Congress was passing laws over his veto over and over again, and there was a state of feeling between Congress on the one hand and the President on the other which never existed in this country before and, let us hope, will never exist again.

In that state of affairs the Judiciary Committee of the House had before it a resolution sent to it by the House directing it to inquire whether Andrew Johnson had committed offenses for which he should be impeached. Mr. Boutwell, of Massachusetts, then a Member of the House, was chairman of that committee, and on behalf of five of the nine members he made a report recommending impeachment. Mr. Wilson, of Iowa, one of the greatest lawyers who ever sat in that body, made a report concurred in by the other three members in which he opposed impeachment and recommended that the resolution favoring impeachment which the majority had reported should not be adopted, because, and only because, the offenses which were charged were not indictable under any law of the United States. He made that report which reviewed the whole subject, and it might perhaps be needless for me to say a word here on this question except to read it. It is already printed in our brief and will be found at the end of the first volume of the printed record in this case at pages 1074 to 1084.

The history of impeachment trials in England from the beginning with the origin of our Constitution and what took place in the constitutional convention and subsequent developments down to 1867 were all set forth at great length and with great ability.

In the House of Representatives, in which there was a three-fourths vote in favor of vetoing the bills of the President, a House in which three-fourths of the Members were violently opposed to the President, when those two reports came before it, Mr. Wilson moved to lay the resolution for impeachment on the table. That motion was carried by nearly a two-thirds vote. The majority had set forth 26 different things which they said the President had done for which he ought to be impeached, mostly what might be called political offenses, and the House determined that they would not favor the impeachment, much as they desired to get rid of the President, because he had not done anything which was indictable and therefore could not be impeached.

Some months before, in the spring of 1867, Congress as one of the things which it had done which enraged Johnson, had passed a tenure-of-office bill, long since repealed, by which they undertook to make it impossible for the President to remove officers without the consent of the Senate. There was a special provision in that bill, that while the President when the Senate was not in session might remove an officer, yet when the Senate came back in December, if it did not confirm that action, the removed officer should resume his office and should be allowed to keep it. In that same summer of 1867 President Johnson undertook to remove Edwin M. Stanton as Secretary of War and to appoint Lorenzo Thomas as Secretary ad interim. Congress was not in session; and he had the right to do that. Under that act, Gen. Grant became Secretary of War ad interim; but when Congress met the Senate refused to confirm the President's action, and Mr. Stanton immediately retook possession of the War Department. On the 21st day of February following, in defiance of the penal provision of the tenure-of-office act, President Johnson undertook to remove Mr. Stanton, and sent Lorenzo Thomas over to Stanton's office with a letter directing Stanton to surrender possession to Thomas. Stanton, as we all remember, refused to do it. The matter came before the House of Representatives, and the House at once impeached Mr. Johnson. Mr. Wilson, who had made the minority report, of which I spoke, which was adopted by the House, then said, "Now the President has committed an indictable offense; and let us impeach him."

It is true, as Mr. Manager HOWLAND said to-day, that in those articles of impeachment there was one which charged the President with having made certain declarations and speeches about Congress as to which there was a question whether he had committed an indictable offense. When it came to a vote here in the Senate, the Senate voted first upon the last article—article 13—which charged a violation of the tenure of office law, and there was a vote of 35 for convicting and 19 against, one vote less than was necessary in order to convict Mr. Johnson; and so he was acquitted.

The Senate then immediately adjourned for two weeks, in order that those who favored impeachment might consider what they could do. They came together here again on the 26th of May, 1868. What did they do? They voted upon article 2 and upon article 3, both of which charged distinctly a violation of the penal provisions of the tenure of office law. Having the same vote upon those two articles, the Senate then adjourned without day without voting upon the other articles at all.

Now, I say there is a formal adjudication of both Houses of Congress, and in as important a case as ever came before the Senate, that, in order to be impeachable, an offense must be indictable.

I need not remind the Senate of the able men who sat on that side of the Chamber presenting the views of the House and the great lawyers who sat over here presenting the views of the President, or the great men who sat in this Chamber at that time and voted upon one side or the other. It was my good fortune to be present during most of that trial, and I remember well particularly that Senator Sumner, who sat over in that part of the Chamber [indicating] and was one of the most active participants in favor of impeachment, could not conceal his impatience with the slow progress of events. He wanted all sorts of evidence to be let in; he wanted the President removed for political reasons; and he was the most disappointed man, perhaps, in this whole body when the impeachment failed. I have just read an article in the December Century Magazine by one of the two survivors of the Senate of that day, Senator Henderson, who voted against impeachment and who still lives in this city, wherein he states that Senator Sumner came to him not long before he died and said, "Henderson, I want to let you know that I was wrong about that impeachment matter and that you were right. I do not want you to say anything about this until after I am dead, but then I want you to make it known."

There have been two impeachment cases since that time, neither of which, it seems to me, in the slightest degree affects the question we have here. Mr. Belknap was charged with bribery—several clear, distinct, specific acts of receiving money in consideration of having made an appointment to office. No defense was made in his case, except that which finally prevailed, that, because anticipating he would be impeached, he went to President Grant and got the President to accept his resignation. I may have something more to say about that case in another part of this argument, but it has no relation to the subject I am discussing now, because it is clear that he was charged with indictable offenses.

In the Swayne case it is true that the counsel for Judge Swayne in presenting the law of that case used a brief which I understood the managers here to say they disowned. I do not so read anything that took place in that record. They had a brief there, which everybody knows was written by Mr. Hannis Taylor; and who Mr. Hannis Taylor is I need not explain to anybody in this Chamber. In that brief he simply took the position that because Judge Swayne was not charged with having done anything in the performance of his official duties, but that everything he was charged with was something outside of his duties in court, he could not be punished for that reason; and his counsel rested the case upon that proposition. As Judge Swayne was acquitted, I do not see how anybody can contend that the Senate held in that case that what Judge Swayne was charged with constituted an impeachable offense.

I do not recall that any of the managers have referred to this, but it has been referred to in the other cases and may be in the minds of many Members of this body, and I therefore

mention it. It has been said, If you are right about that, under what law are you to decide what is an indictable offense? Then it is said that the Supreme Court of the United States has decided that there are no common-law offenses against the United States, and that, therefore, when the Constitution was adopted and when the Government went into operation there were no penal laws; that as there was no penal statute passed for more than a year after the Government was started, no officer during that time could be impeached for any offense whatever. Now, I say that that is a fallacy; the whole argument is a fallacy and altogether wrong. The common law is in force in this tribunal except as changed by acts of Congress. When we come to see why it was that the Supreme Court held that there were no common-law offenses in the inferior courts of the United States, we see at once that the application of that decision to impeachment proceedings is entirely without foundation. I read from the first case in which that question was decided, in Hudson *v.* Goodwin (7 Cranch, p. 32):

> The powers of the General Government are made up of concessions from the several States; whatever is not expressly given to the former, the latter expressly reserve. The judicial power of the United States is a constituent part of those concessions; that power is to be exercised by courts organized for the purpose and brought into existence by an effort of the legislative power of the Union. Of all the courts which the United States may under their general powers constitute, one only, the Supreme Court, possesses jurisdiction derived immediately from the Constitution and of which the legislative power can not deprive it. All other courts created by the General Government possess no jurisdiction but what is given them by the power that creates them, and can be vested with none but what the power ceded to the General Government will authorize them to confer.

So, you see, the Supreme Court merely held that the inferior courts of the United States, which were created by acts of Congress, would take such jurisdiction, and no more, as Congress chose to give them.

It so happened that when Congress created the original criminal court and the other courts in the District of Columbia, they did what might just as well have been done in 1790 as to all the Federal courts. When this District was ceded to the Government and Congress took possession, a law was passed on the 27th of February, 1801, which is still the organic law of the District of Columbia. In that statute they simply said that the laws of the State of Maryland (which included the common law) should remain in force in the District of Columbia until otherwise ordered by Congress.

Congress might have done that for all the Federal courts, but it did not choose to do so. It might do it to-day; but instead of that it has from time to time, as the need appeared for it, passed acts defining criminal offenses.

You perceive at once that this court to which I am speaking is on the same plane in that regard as the Supreme Court of the United States. You are not the creature of any act of Congress. You, like the Supreme Court, are created by the Constitution, and you have the same authority and power to determine what the laws were which existed at the time you were created as the Supreme Court would have to decide what were the laws which govern its proceedings under the provisions of the Constitution, giving it original jurisdiction as to certain classes of cases.

That brings me to another objection which has been made here and which has been often referred to in the textbooks which gentlemen seem to think are of importance here, but which, of course, are only based on the cases, and we have the cases. They say there are many evil acts a judge or other civil officer of the Government might do that are not indictable, and it would be very bad indeed to allow such officer to continue in office, as you would have to do if you decide that he can only be impeached for an indictable offense, this, that, and the other act not being indictable. You find that running all through the discussion of impeachment cases in past times, and especially in the textbooks.

There is an offense known to the common law as misconduct in office, and it reaches, so far as I have been able to discover, almost every one of the illustrations which have been referred to of various acts which it is said would not be indictable offenses, and yet should be impeachable offenses. It is asked, suppose a judge refuses to hold court; suppose he refuses to summon a jury? Well, if he does, he is guilty of misconduct in office. Let me read what the Supreme Court of the United States has said in one simple sentence on that subject. I read from the opinion in the case of South against Maryland, in 18th Howard, page 402:

> It is an undisputed principle of the common law that for a breach of a public duty an officer is punishable by indictment.

Let me give you an instance of what happened in this District, which sufficiently illustrates that subject without going any further. I refer to the case of Tyner against the United States, in 23 Appeals, D. C., 324, a case decided by our Court of Appeals a few years ago. Gen. Tyner had been Assistant Attorney General in charge of the legal work of the Post Office Department. He was indicted, charged with conspiring with a nephew of his to commit an offense against the United States, to wit: The offense of misconduct in office. What was that misconduct? It was his duty, among other things, to investigate charges that were made of the use of the mails for fraudulent purposes, and when he found that there was a case presented which justified action, to go to the Postmaster General and recommend the issuance of a fraud order. We all know, of course, what that means—to stop the use of the mails by fraudulent concerns. The charge was that in a number of cases he had before him evidence that the mails were being used for fraudulent purposes by a number of concerns, which were named in the indictment, which were called investment companies, and that he neglected his duty to go to the Postmaster General and ask for fraud orders in those cases. That indictment was demurred to, and it was claimed on the part of his counsel that that did not constitute an offense under section 5440 of the Revised Statutes. All that Tyner's counsel claimed was that, since there is no such offense as misconduct in office known to the other Federal courts throughout the country, it could not be applied in our local jurisdiction; but the Supreme Court held that, under the common law, the failure of Gen. Tyner, with the evidence before him that the mails were being used for fraudulent purposes by certain named concerns, to go to the Postmaster General and report that and ask for a fraud order was a crime under the common law, the crime known as misconduct in office. So the case went back to trial, and in due time Gen. Tyner was promptly acquitted by the jury. I am not going to take the time to go over the illustrations which have been given here and elsewhere, but if you will go over them you will find that almost without exception they come within that rule of misconduct in office by a public officer.

There is this curious thing about it: It has been suggested in some cases that the law is uncertain in that regard as to whether when a public officer—judge, President, Cabinet officer, or what not—commits an indictable offense against the laws of the United States he can be proceeded against by indictment before he is impeached; and it has been suggested that if he still be in office he must first be impeached. Of course, that makes no difference about the proposition for which we are contending, because the Constitution expressly says that after the officer has been impeached, convicted, and removed from office he shall nevertheless be subject to indictment and trial in the ordinary courts.

As against all that, what do we have suggested here. "Why," says Mr. Manager HOWLAND, "a man who is a civil officer may be impeached whenever the public welfare requires it." If any one of you thinks that the public welfare requires Judge Archbald to be removed, according to this contention you are to vote for his conviction on any particular article you please to select or on all of them, just as you may see fit, although there is no charge here that the public welfare requires him to be removed. And then, says Mr. Manager STERLING, "Each Senator fixes his own standard in that regard;" and, as Mr. Manager WEBB says, "Crimes and misdemeanors have no meaning;" and, as Mr. Manager WEBB said again, "That is, at your pleasure, Senators."

I stated that this was something without precedent, but there was one very bold man who stood in this Chamber some years ago and did the same thing, but he used plainer terms. In the Johnson impeachment trial, when Gen. Benjamin F. Butler was making the opening statement here to the Senate, he announced this doctrine in these words, "Senators, you are a law unto yourselves"; and it was in reply to that proclamation by Gen. Butler, who was bold enough to claim anything anywhere, that Mr. Benjamin R. Curtis, former Associate Justice of the Supreme Court of the United States, one of Mr. Johnson's counsel, uttered the words which Mr. Simpson read from the record in the Johnson case.

Now, I say, instead of that, if there is anything which you find here which Judge Archbald has done which is not indictable and impeachable which you think ought to be indictable and impeachable, do what was done in the Peck case; let the honorable chairman of the Judiciary Committee of this day do what the honorable chairman of the Judiciary Committee of 1831 did, go to the House, and the day after Judge Archbald is acquitted introduce a bill which shall provide that if any Federal judge shall at any time have any business transactions with

any person who shall be or shall be likely to be a litigant in his court he shall, let us say, be fined in the sum of a thousand dollars and imprisoned for not less than one year, or both.

If this theory of the managers is to be adopted, what becomes of the principle which is at the foundation of all criminal jurisdiction in every country which pretends to recognize law, and especially so in this country and under our Constitution. If a man is brought into court he is entitled to know with what he is charged, and, as I said a few moments ago, Judge Archbald is not charged with having done anything which is against the public welfare or for which Senators ought to put him out of office on general principles.

But if I do not misunderstand what is intimated here, whether it is expressly said or not, what you are called upon to do by these learned managers is this: You are to say, with respect to article 1, "I do not find that there is anything there which justifies convicting Judge Archbald," and so with the other articles, "yet he has done certain things and under certain conditions which I think render him unfit to be a Federal judge."

Now, I ask you, Senators, if it is intended to ask the Senate of the United States to disgrace a man, to put him out of his office, and perhaps cover him with a mantle of shame so that he may never hold any other office under the Government of the United States, whether it would not be fair to let his counsel know, when they come before you, what charge they are to meet. If that had been done in this case when we brought here the judges associated with this respondent on the bench for years, the lawyers who practiced before him year after year, the men who knew him from boyhood up, who could tell you what kind of a man he was, there would have been no ruling that that testimony should be excluded, because there is nothing of that kind before the Senate.

We wanted to let the Senate know what kind of a man Judge Archbald is, what kind of a judge he is, and to that end we had witnesses by the score who surrounded him and have known him for many years, and who respect him and love him, but their mouths were closed because there was no such charge made here.

Now after having closed our mouths and kept out that evidence, they say to you, "Judge Archbald is the kind of a man who ought to be removed from office on general principles," or on some idea of "a system." Just what is the theory I do not know, but I presume the learned chairman of the managers will inform us before the case comes to a close.

I ask Senators to remember, while they are dealing with a judge of the Circuit Court of the United States, temporarily assigned to the Commerce Court, they are dealing here with the rights of every civil officer of the Government. It is not a question of judges alone, but a question of the President and Vice President and Cabinet officers and of every officer of the United States, which I suppose includes every official whose appointment has to be confirmed by the Senate, if it does not include Senators and Members of the House.

I am not here to contend that there might not be some provision for putting out of office a President or a Vice President or a Cabinet officer or a judge who is for any reason incompetent to properly perform the duties of his office, but there is no such provision in the Constitution of the United States at present. We have had illustrations here of men who have become unfit for their office and who could not perform the duties of their offices. The case of Judge Pickering is the earliest one. In that case, as it was claimed, the respondent had become insane but the Senate removed him, not on that ground apparently, but because he had come into the court in a drunken condition and had there behaved in a disorderly and disgraceful manner.

But a man may be disqualified in other ways. Twice members of the Supreme Court of the United States have become absolutely disqualified for the performance of their duties. If an officer may be removed because he is not able for one reason to perform the duties of the office, he may be removed because he is so disabled for any other reason. Mr. Justice Hunt was paralyzed, and for that reason unable to attend to his judicial duties, or even to attend the court.

And so of Mr. Justice Moody, who was formerly Attorney General. He now lies upon a bed of pain and sickness with perhaps little expectation of ever getting up from it. Would you impeach him of high crimes and misdemeanors for being incapable of the performance of the duties of his office?

I certainly would aver that no Member of the House of Representatives would ever come here with such a contention, and if he did he would never get a vote in favor of the proposition that Mr. Justice Moody should be removed because he committed the high crime and misdemeanor of becoming incapable by reason of illness of performing his judicial duties. Instead of that you passed an act of Congress which allowed him to retire as though he had reached 70 years of age and had served 10 years upon the bench.

And let me remind you that you have in the case at bar a perfectly clear case of absence of any charge which relates to anything that has been done in the performance of the duties of the office which Judge Archbald holds. He is not charged with committing any crime. That is admitted. He is not charged even with doing anything wrong in connection with the duties of the office, crime or no crime.

Says Mr. Manager CLAYTON, at pages 889 and 890 of this record:

> We make no charge of any misbehavior in connection with official duties.

Says he again:

> We make no charges of partiality.

And at page 941 Mr. STERLING agrees with that proposition.

Now, Senators, as I have a few moments before the hour for adjournment, let me speak of something relating to the merits of this case, as I have said now all that I intend to say about the law, except as I may add a word to what my brother Simpson so well said upon the question of the last six articles.

Mr. Manager HOWLAND complains because we have raised an issue of law and an issue of fact in this case; that our first answer to each article of impeachment is that what is charged is not an impeachable offense; and that, in the second place, we proceed to confess and avoid—terms well known in lawyer's lingo. If he can find any case in the history of this country in which an issue of law of this character was submitted otherwise than at the end of the trial in an impeachment case, he can find some case that has not been referred to in this hearing and is not to be found in the books. In every case, instead of having a demurrer to the articles of impeachment considered, the whole matter has gone over to the final vote. Indeed, Mr. Manager Bingham in the Johnson impeachment trial contended that a demurrer to an article of impeachment had never been allowed.

Now, as to the defense here—and I am particular about this, because I think the Managers, and especially Mr. Manager HOWLAND, have unintentionally not fairly stated what is our defense on the facts. He says we confess and avoid. We do nothing of the kind.

These articles charge that Judge Archbald did certain things. In the first article it is charged that he had certain communications with officers of the Erie Railroad Co.; in the second article, that he saw Mr. Loomis, and so on. We admit these facts. And so as to the other articles. Then the article goes on to charge that the respondent did corruptly, unlawfully, and wrongfully use his judicial influence in those transactions. We deny that he used his judicial influence corruptly; we deny that he used it wrongfully; we deny that he used it unlawfully; and we deny that he used it at all.

I say now, at the conclusion of the evidence in this case, having come down to the time when the final vote is to be taken in this Chamber, if you take all the evidence that has been produced before you, it leaves this case just where it was when it started; that it is proved that Judge Archbald did the things which in his answer he admits he did, and it is not proved that in regard to any of them he used his judicial influence wrongfully, unlawfully, or corruptly, or that he used it at all.

The articles which I wish particularly to refer to are article 1, which refers to the Katydid dump transaction; article 3, which refers to what is known as the Packer No. 3 dump; article 6, which refers to a conversation between Judge Archbald and Mr. Warriner in reference to certain alleged favors for a Mr. Dainty—there is nothing of that kind in the article, but that is what we are now told it is intended to charge—and article 13, which is an attempt to gather up a number of things which are not specified.

That article charges, in the first place, that while Judge Archbald was district judge and circuit judge he entered into a scheme to raise money from litigants in his court by getting them to discount notes made by him or indorsed by him, and also entered into another scheme to get coal property from certain railroads, which are named, and other railroads not named which had litigation in the Commerce Court.

I intend in the discussion of those articles to take them up practically in their inverse order and discuss them in what I consider to be the order of their importance, as indicated by the amount of evidence which has been taken in regard to them.

About article 6 I shall say but a word, and that is this: The charge there is that Mr. Dainty—I am speaking now of the evidence and not of what is in the article—came to Judge Archbald and mentioned the fact that the Everhart heirs, who have been referred to here so often, had outstanding claims against certain coal property of the Lehigh Valley Coal Co., and that it was desired that Judge Archbald should get that company through Mr. Warriner to purchase those interests of the Everhart heirs; that is, that they would get them in, the company being supposed to be very desirous of getting in these interests; and in consideration of that act of kindness to the coal company the respondent would ask it to lease a certain tract of land, called the Morris & Essex tract, to Mr. Dainty. The managers put upon the stand two witnesses to testify to that transaction; one of them was Mr. Dainty and the other Mr. Warriner. Each of them absolutely and positively denied the charge.

Mr. Warriner said that while Judge Archbald had spoken to him about the Everhart heirs' interest, as to which Judge Archbald was himself concerned, as we show here in reference to the Katydid matter, that he never connected that in any manner with the application that Mr. Dainty was to make for the lease to him of what was called the Morris & Essex tract. Mr. Warriner said that as the respondent was about to leave the office of Mr. Warriner he simply mentioned the fact that Mr. Dainty was going to make application, or had made application, for this lease for the Morris & Essex tract, and Mr. Warriner told him it was not to be leased. That was the end of it.

Mr. Dainty testified that in his conversation with the respondent no suggestion was made of a lease of the Morris & Essex tract as a consideration for the getting in of the Everhart interests, and he further says that he did not know whether the respondent did, in fact, see Mr. Warriner in regard to the matter.

Now, Senators, I call your attention to this remarkable fact: That after Mr. Dainty had been on the stand and declared most positively that there was no connection between those two matters, and after Mr. Warriner had been on the stand and testified that, according to his recollection, the two matters were never mentioned as having any relation to each other at all—so that by the testimony of the only two witnesses the managers produced on this point their whole claim was proven to be untrue—after that, when Judge Archbald came on the stand himself, after hearing the testimony of those witnesses and knowing that by no possibility could any other witness have personal knowledge on the subject, he said that, according to his recollection, he did tell Mr. Warriner that Mr. Dainty had suggested the leasing to him (Dainty) of the Morris & Essex tract in consideration of the services which he proposed to render the company in inducing the Everharts to convey their interests in other lands to the company.

Could there be a clearer illustration of the fact that you are dealing with an honest man? It is impossible to conceive that the respondent did not know when he took the stand and told that story that he was giving the only evidence in the case on which the managers could possibly rely to maintain their claim.

Assume that it is so. Assume now that Mr. Dainty did come to Judge Archbald and say, "Judge, I would very much like to get a lease of that Morris & Essex tract, which the coal company owns, and I can confer a great favor upon that railroad company by getting in the interests of these Everhart heirs. They have the interests of a lot of them. They have paid a hundred thousand dollars or so for certain portions of them, and these other people, I think, will convey their interests to them; and I will be willing to accomplish that for them if they will give me a lease in the other tract." If he did suggest that to Mr. Warriner and Mr. Warriner simply said, "We can not lease the Morris & Essex tract, but we will pay the Everhart heirs what we paid the others," and that was the end of the matter, it is impossible to see how that was a high crime or misdemeanor, or any kind of a crime or misdemeanor, or anything for which he could be reproved.

Mr. President, it is now within three minutes of 6 o'clock, and I should like to suspend the argument at this point.

The PRESIDENT pro tempore. The hour for adjournment of the Senate sitting as a court has so nearly arrived, only two minutes remaining, the Chair does not suppose counsel wish to occupy that time. What is the pleasure of the Senate?

Mr. ROOT. I move that the Senate sitting in the trial of the impeachment adjourn.

The motion was agreed to.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Friday, January 10, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January 9, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father in heaven, quicken the good spirit within us that it may respond to the call for service. The opportunities are great, the call is insistent. We may none of us become heroes, but we pray that we may fulfill the common daily duties of life patiently, promptly, efficiently, without ostentation, that we may thus ennoble and glorify ourselves in Thee, through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

COMMITTEE VACANCIES.

Mr. UNDERWOOD. Mr. Speaker, I desire to move the election of some gentlemen to fill vacancies on committees.

I first move that the gentleman from Ohio, Mr. TIMOTHY T. ANSBERRY, be elected to fill the vacancy now existing in the Committee on Ways and Means.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. L. L. MORGAN be elected to fill the vacancy in the Committee on Indian Affairs and also the vacancy in the Committee on Elections No. 3.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. A. C. HART be elected to fill the vacancy in the Committee on the District of Columbia.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. Mr. Speaker, I move that Mr. H. D. FLOOD be elected chairman of the Committee on Foreign Affairs.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. Mr. Speaker, I desire to inquire whether the gentleman from Virginia [Mr. FLOOD] has presented his resignation as chairman of the Committee on the Territories?

The SPEAKER. Yes; he presented it, and it was accepted.

Mr. UNDERWOOD. I therefore move that Mr. B. G. HUMPHREYS be elected chairman of the Committee on the Territories.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. Mr. Speaker, at the request of the minority leader, Mr. MANN, I desire to move that Mr. GEORGE C. SCOTT be elected to fill the vacancies in the Committee on Coinage, Weights, and Measures and the Committee on Reform in the Civil Service.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I also move that Mr. E. A. MERRITT, Jr., be elected to fill the vacancy in the Committee on Immigration and Naturalization and the vacancy in the Committee on Education.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. FRANK L. GREENE be elected to fill the vacancy in the Committee on Claims and the vacancy in the Committee on Pensions.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. L. C. DYER be elected to fill the vacancy in the Committee on Industrial Arts and Expositions.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. JOHN R. FARR be elected to fill the vacancy in the Committee on Mines and Mining.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. BURTON L. FRENCH be elected to fill the vacancy in the Committee on Elections No. 3.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. WILLIAM S. VARE be elected to fill the vacancy in the Committee on Labor.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. That is all, Mr. Speaker.

UNITED STATES DISTRICT COURT AT OPELIKA, ALA.

The SPEAKER. A change of reference is requested from the calendar of the Committee of the Whole House on the state of the Union to the House Calendar of the bill (H. R. 27827) to amend section 70 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911. If there be no objection, that change of reference will be made.

Mr. MANN. What is the proposition?

The SPEAKER. It is to change the bill from one calendar to the other.

Mr. WEBB. Mr. Speaker, that seems to be a bill that is properly within the jurisdiction of the Judiciary Committee. My duties elsewhere have caused me to be absent from some sessions. Is it proposed to change the reference from the Judiciary Committee?

The SPEAKER. No; it is a bill which has been favorably reported by the Judiciary Committee. It is now on the Union Calendar, where it was placed by mistake. It adds a new place for holding the district court in one of the Alabama districts. There is no expense attached to it and evidently it does not belong on the Union Calendar.

Mr. WEBB. I have no objection, Mr. Speaker. I simply wanted to know what the proposed change was.

Mr. HARDWICK. Mr. Speaker, reserving the right to object, if the bill indirectly makes a charge on the Treasury it was properly referred to the Union Calendar.

The SPEAKER. Very true, but it does not do that.

Mr. HARDWICK. If it involves a new Federal district, I think it does.

The SPEAKER. It does not. The Clerk will read the last paragraph in the report of the Judiciary Committee on this bill.

The Clerk read as follows:

The erection of a public building at Opelika has been authorized by law. The bill now reported by your committee provides that, until the Government building shall be erected, suitable court rooms, accommodations, etc., shall be furnished free of expense to the Government. This will be done by the authorities of Lee County at Opelika.

The bill does not create any new office.

The SPEAKER. The gentleman will see that it simply provides a new place for holding court in a district already established. Is there objection to the proposed change from the Union Calendar to the House Calendar?

There was no objection.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union with Mr. SAUNDERS in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the Indian appropriation bill. At the adjournment of the last session several points of order had been reserved. I will ask the gentleman from Illinois if they are insisted upon.

Mr. FOSTER. Mr. Chairman, I made the point of order on the two provisions which have gone over until to-day. My only idea in this matter was that this amount should be paid from the tribal fund of these Indians instead of out of the Treasury as a gratuity. After looking into the matter somewhat I have changed my mind about it and wish to withdraw the point of order and offer an amendment, if I may be given the opportunity to do so.

Mr. FERRIS. Reserving the point of order, Mr. Chairman, on the pending paragraph, I would like to inquire if an amendment of that kind will be agreeable to the other side?

Mr. BURKE of South Dakota. I will say that I can not agree to any such proposition. I think I can demonstrate satisfactorily to the Chair that the item is not subject to a point of order.

The CHAIRMAN. The statement of the gentleman from Oklahoma related to the merits of the proposition and not to the point of order.

Mr. BURKE of South Dakota. I understand. It is a treaty obligation, and, furthermore, about one-half of the Indians being without any funds from which we may reimburse the Government, and, furthermore, because we have already provided for the support of such Indians as have funds out of their own funds, I can not consent to the amendment.

Mr. FERRIS. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. FERRIS. Is it not a fact that not one penny of the money that we provide for schools in your State is reimbursable?

Mr. BURKE of South Dakota. No part of the money provided for education; and no part of the item now under consideration is used for education.

Mr. FERRIS. Is it not true that three schools—the one at Flandreau, the one at Pierre, and at Rapid City—are specifically provided for?

Mr. BURKE of South Dakota. Certainly. But the Flandreau School is located about 2 miles on the east side of the State from the line, and the attendance of that school is from a number of States—Nebraska, Minnesota, and South Dakota. Out of the whole number of children being educated at these three schools the gentleman refers to they only take care of 700 or 800 pupils.

Mr. FERRIS. Is it not true that in the entire State of South Dakota there are 20,352 Indians?

Mr. BURKE of South Dakota. My recollection is that it is something like that number, but that does not include the schools in North Dakota, that portion of the Standing Rock which resides in North Dakota, and some Sioux that live over in Nebraska.

Mr. FERRIS. They are provided for elsewhere, are they not?

Mr. BURKE of South Dakota. No; this is for the support of the Sioux. The gentleman has in mind the educational item. The item which the gentleman from Illinois made the point of order against was the item that provides for an appropriation for subsistence. The educational item is a separate item.

Mr. FERRIS. I would like to inquire what the subsistence item is used for?

Mr. BURKE of South Dakota. For the purpose of civilization; some of it is used for rations. Every able-bodied Indian able to work, instead of having rations issued to him, is paid so much a day for the labor for work upon the roads and other work upon the reservation. I may say that as to the helpless and very aged the department has got away from the system of issuing rations, and is using the money that the rations represent in employing the Indians and paying them and letting them buy their own subsistence.

Mr. FERRIS. How many people are employed on the $307,000 item?

Mr. BURKE of South Dakota. I can not say, but not a very large number. Each agency, of course, has, as the gentleman is quite well aware, a superintendent and a financial clerk and such other employees as may be necessary at the agency. I do not think there are over five or six, if you do not count the police; and then we have a subagent, who has employees and farmers and matrons.

Mr. FERRIS. It is true that these Indians have a cash deposit amounting to some $3,000,000, is it not?

Mr. BURKE of South Dakota. There is a trust fund that is on deposit credited to the Indians amounting to $3,000,000. That bears 5 per cent interest, and it provides that one-half of the interest may be spent annually for education and the other half may be paid to the Indians per capita. It is also provided that after a certain number of years, I think 10 years, the Secretary of the Interior may spend 10 per cent of the $3,000,000 fund, but he has not expended any part of it, and at the expiration of 50 years the amount is expended as provided by the agreement in the treaty.

Mr. FERRIS. It is also true that these 20,000 and over Indians have property amounting to $41,015,702.05.

Mr. BURKE of South Dakota. I can not say as to that. These Indians have allotments, but they are mostly only fit for grazing purposes. So far as being valuable for producing crops, they are practically not worth anything.

Mr. FERRIS. Is any part of the $307,000 used for tribal schools?

Mr. BURKE of South Dakota. I understand not.

Mr. FERRIS. The gentleman does not know how much is used for salaries or how much for rations and subsistence?

Mr. BURKE of South Dakota. I think I could tell by referring to the justification that was furnished. The gentleman will remember that the estimates were about $300,000 in excess of what we are appropriating, and therefore the expenditures would include everything that has been paid out both from the money appropriated and the money belonging to the Indians.

Mr. FERRIS. I see here that there is $200,000 for schools and another item, subsistence, $14,000. What is the $14,000 used for?

Mr. BURKE of South Dakota. Fourteen thousand dollars; I presume the gentleman refers to that item for the Yankton Agency. That is to maintain the agency of the Yankton Indians. Many of them are old, and, as the gentleman knows, the Government supervises the leasing of the land, the selling of inherited lands, the deposit of funds, the paying of money from time to time, teaching them agriculture, and so forth. Fourteen thousand dollars is to cover the expenses, and is similar to the items that are carried in the bill for the agencies generally.

Mr. FERRIS. While the gentleman from South Dakota was chairman of the committee I noticed that his policy was, and as he stated on the floor and in the committee, that in the future, where the Indians had any money, they should pay their own expenses.

Mr. BURKE of South Dakota. As far as possible.

Mr. FERRIS. Pursuant to that idea he incorporated the following language in the bill relative to the Kiowa Indians in Oklahoma:

The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of $25,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Kiowa, Comanche, and Apache Tribes of Indians in Oklahoma, for the support of the agency and pay of employees maintained for their benefit.

If that was good, and if the rule should be uniform wherever the Indians have money, does not the gentleman think we ought to let the Indians in South Dakota take from their funds to pay the agency?

Mr. BURKE of South Dakota. Mr. Chairman, we have to consider in each instance the law, and in some instances agreements that may be in existence between the tribes and the United States, and my recollection is that in connection with the Kiowa and Comanche Tribes—and if I am mistaken the gentleman will correct me—there is something that authorizes that, and the gentleman will recall that a treaty was made with the Kiowa and Comanche Indians for the sale of their surplus lands, and the consideration was to be $1,000,000; that when the treaty came here for ratification the Senate put in an amendment that a certain area should be reserved for the use in common of the Indians for a pasture, and that amendment was adopted and it became a law. The Secretary of the Interior, on his own initiative, reserved 25,000 acres for a wood pasture, which was not sold. Later there was legislation authorizing the sale of these five hundred thousand and odd acres of land which we had previously purchased from the Indians, and the proceeds went into the Treasury to their credit, to the extent of several millions of dollars. We have in that instance been appropriating for their support out of their funds. I do not think the cases are identical, although in South Dakota, as the gentleman knows, this bill provides that so far as the Cheyenne, Standing Rocks, and Rosebuds are concerned, their support shall come from their funds.

Mr. FERRIS. Mr. Chairman, I think the item is clearly subject to a point of order, and unless the gentleman desires to be heard further upon the merits, I desire to present the authorities that I think sustain the point of order.

The CHAIRMAN. Will the gentleman indicate the particular paragraph to which he made the point of order?

Mr. FERRIS. I make the point of order to the paragraph under consideration, beginning with line 19, on page 26, and extending over to page 27, down to line 9. It is the $307,000 item. The language of the paragraph recites that this appropriation is made pursuant to article 13 of the treaty of April 29, 1868. I read from article 10 of that treaty:

In lieu of all sums of money, or other annuities provided for, to be paid to the Indians herein named, under any treaty or treaties heretofore made, the United States agrees to deliver at the agency house on the reservation herein named, on or before the 1st day of August in each year, for 30 years, the following articles.

Then the next article set out the articles—oxen, cows, blankets, and what not.

I think there will be no dispute that the article of the treaty contained in the treaty of 1868 has expired for more than 4 years. The contention of gentlemen on the other side will be that the treaty of 1877 abrogates and takes away the limitation provided in the treaty of 1868. The 1868 treaty was for a period of 20 years, and it provided certain commodities should be furnished the Indians in lieu of the ceded lands. Then, in 1889 an act was passed which extended it until 1908. That treaty then expired, on which there is no other legislation that I have been able to find, except the treaty of 1877. I think it is correct that the treaty of 1868 has expired, and unless revived by the treaty of 1877 this item is clearly subject to a point of order.

I read now from volume 19 of the United States Revised Statutes at Large, article 5. I find this language in the treaty of 1877:

In consideration of the foregoing cession of territory and rights and upon full compliance with each and every obligation assumed by the said Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization, to furnish to them schools and instruction in mechanical and agricultural arts, as provided for in the treaty of 1868.

That is one place where the Indians have ceded the lands, and where the Federal Government agrees to do certain things, but reciting that it is subject to the limitations of the treaty of 1868, which has at this time expired. Again, in article 8 of the same volume—volume 19—United States Statutes at Large, page 256, article 8 provides:

The provisions of the said treaty of 1868, except as herein modified, shall continue in full force, and that the provisions of this agreement shall apply to any country which may hereafter be occupied by the said Indians as a home, and Congress shall by appropriate legislation secure to them an orderly government; they shall be subject to the laws of the United States and each individual shall be protected in his rights of property, person, and life.

The treaty on which they rely is the treaty of 1877, and in the specific places just read, one being the first part of article 5, and the other being article 8 of the treaty of 1877, which is relied upon, cited as authority for this appropriation. It is specifically provided that this treaty, and the Indians, for the cession made, shall be subject to the limitations set forth in the treaty of 1868. I do not know what could be more specific.

The CHAIRMAN. The idea of the gentleman is that the rights conferred under the act of 1877 shall expire as of the time the treaty of 1868 shall expire.

Mr. FERRIS. Precisely, and let me again emphasize that point. The thing the Indians did to bring about this treaty was to cede certain lands. The thing the Federal Government did was to grant them certain school privileges, annuities, and certain blankets and oxen. Let me again read, for here is the milk in the coconut, the very contract itself, the thing the Federal Government agreed to do:

In consideration of the foregoing cession of territory and rights, and upon full compliance with each and every obligation assumed by the Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization, to furnish to them schools and instruction in mechanical and agricultural arts as provided for in the treaty of 1868.

Mr. Chairman, one word upon the merits of this proposition. The State of South Dakota has three schools specifically provided for, aggregating from $50,000 to $65,000 each. The State of South Dakota has not a single reimbursable item in the whole State. The Indians have $3,000,000 in cash and they have $41,000,000 in property. They have only 20,000 Indians in the whole State. I understand that this is not debating the point of order, but I state it in justification of my reservation of the point of order. When this matter was considered I did not know that it was subject to a point of order, and I did not know that the succeeding paragraph was subject to a point of order.

Mr. BURKE of South Dakota. Mr. Chairman, let me ask the gentleman one or two questions. I do not quite follow just what the point of order is, and I would ask the gentleman to repeat it in order that I may know just what he is contending for.

Mr. FERRIS. My point of order is, first——

Mr. BURKE of South Dakota. Let me ask the gentleman this question: The first item in this paragraph is an item that is provided for under article 13 of the treaty of 1868. Now, does the gentleman raise a point of order as to that item?

Mr. FERRIS. I raise it as to the paragraph, and I will state my grounds in my own way. My point of order is that this is carried on its face as a treaty item when there is no unexpired treaty in support of it. The further provision is that there is no authority of law and, further, that there is no authority of law for it, either in treaty or in statute.

Mr. BURKE of South Dakota. Mr. Chairman, I am somewhat surprised at the argument presented by the distinguished gentleman who has just taken his seat. I shall very briefly endeavor to answer what he has stated, and then endeavor to convince the Chair that this item is in order. The gentleman read from the treaty of 1877, which I want to refer to, and he reads article 5, but before commenting upon that part of his point of order, I want to call the Chair's attention to the first item that appears in the paragraph against which the point of order has been made, and I would call the Chair's attention to article 13 of the treaty of 1868, which provides:

The United States hereby agrees to furnish annually to the Indians the physician, teacher, carpenter, miller, engineer, farmer, and blacksmiths, as herein contemplated, and that such appropriation shall be made from time to time on the estimates of the Secretary of the Interior as will be sufficient to employ such persons.

Now, there is no limitation in that language and therefore the treaty is still in effect and therefore, so far as that part of the paragraph is concerned, it is not subject to a point of order. And the same is true as to the next item, which provides for the pay of a second blacksmith; and I would cite in support of

that item article 8 of the treaty of 1868, and I will only read the concluding part:

And it is further stipulated that such persons as may commence farming shall receive instructions from the farmer herein provided for, and whenever more than 100 persons shall enter upon the cultivation of the soil a second blacksmith shall be provided, with such iron and steel and other material as may be needed.

And I say there is no limitation as to that article of the treaty of 1868 and therefore, so far as these two items are concerned, the point of order will not lie.

Now, the gentleman directs his arguments to the portion of the paragraph which provides for the subsistence of the Sioux, and so forth, and he cites the treaty of 1877, or a part of that treaty, and he reads from article 7:

In consideration of the foregoing cession of territory and rights—

The CHAIRMAN. Is the gentleman reading from article 7?

Mr. BURKE of South Dakota. I am reading from article 5 of the treaty of 1877, on page 170:

In consideration of the foregoing cession of territory and rights, and upon full compliance with each and every obligation assumed by said Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization, to furnish them schools of instruction in mechanical and agricultural arts, as provided for by the treaty of 1868.

In other words, the gentleman is now contending that the consideration for that cession, which was a hundred miles square, and said to be the richest hundred-mile square in the world, was to do for these Indians what we had already obligated ourselves to do by prior treaty, namely, the treaty of 1868. He states with emphasis, and he reads it the second time, that in consideration of this cession the United States will do only what it has already contracted to do by the treaty of 1868.

Now, Mr. Chairman, it goes on further—he did not read it all—and says:

Also to provide the said Indian with subsistence, consisting of a ration for each individual, of a pound and a half of beef, or, in lieu thereof, one-half pound of bacon, one-half pound of flour, one-half pound of corn; and for every 100 rations, 4 pounds of coffee, 8 pounds of sugar, and 3 pounds of beans, or, in lieu of said articles, the equivalent thereof in the discretion of the Commissioner of Indian Affairs. Such rations, or so much thereof as may be necessary, shall be continued until the Indians are able to support themselves.

Is there any limitation of that language? Is there anything about the treaty of 1868 which limited some of these requirements to 20 or 30 years? Not a word. And as I have repeatedly stated on the floor of this House, this treaty of 1877, which the Indians have found much fault with, is the best treaty from the standpoint of the Indian that has ever been entered into by the Indians of the United States, because it is not limited. And until these Indians are self-supporting the United States is obligated to support them.

Now, Mr. Chairman, while I have this treaty before me, and without taking the time to return to it, there is some language in this provision that the Chair inquired about the other day and wanted to know if there is anything that authorized the language that has reference to the sum appropriated to include transportation of supplies from the termination of railroad or steamboat transportation, and that in this service Indians shall be employed wherever practicable. I find, Mr. Chairman, in this same treaty of 1877, this language:

And will also employ Indians, so far as practicable, in the performance of Government work upon their reservation.

In other words, the United States stipulated and promised that as far as practicable they would employ Indian labor, and in the matter of transportation I have noticed for many years that practically all of the transportation of Indian supplies from the point where received on the railroad or the river to the agency has been by Indian labor.

Now, Mr. Chairman, it was suggested the other day, and with considerable emphasis by the gentleman from Oklahoma [Mr. FERRIS], that this was an effort to obtain an appropriation. He used this language:

The treaty of 1877, conjured from somewhere, the Lord only knows, is intended—

And so forth.

Now, Mr. Chairman, when this treaty was ratified in 1877 Congress began making appropriations for the support and subsistence and civilization of the Sioux Indians, and if the gentleman will take the act of 1877 he will find the same language as appears in this act, and so on down in every single Indian appropriation act up to the present time. And there never has been one dollar appropriated in all these years except under the treaty of 1877. Never before, I think, Mr. Chairman, has anyone raised a point of order against it.

This appears to be, so far as I am able to ascertain, the first time that a point of order has been made against this item. But it does appear very clearly that whoever prepared the item originally exercised great care and endeavored to follow the provisions of the treaty, and the fact that it has gone on from 1878 down to the present time is pretty good evidence, it seems to me, that the treaty of 1877 authorizes this appropriation.

Now, I want to refer for a moment to the treaty or agreement, as it is called, of 1889. I want to read section 19 of the act of March 2, 1889, which ratified an agreement made with the Sioux Tribe of Indians. Section 19 provides that—

All the provisions of the said treaty with the different bands of the Sioux Nation of Indians concluded April 29, 1868, and the agreement with the same approved February 28, 1877, not in conflict with the provisions and requirements of this act, are hereby continued in force according to their tenor and limitations, anything in this act to the contrary notwithstanding.

Now there, Mr. Chairman, we have a later agreement, made in 1889, wherein it was expressly provided that it was not to impair former treaty obligations and wherein it was stipulated that they were to be continued in force according to their tenor and limitations—"anything in this act to the contrary notwithstanding," it said.

How could anything be more positive? How could anything be put in the English language more effectively to express what was meant than that language? So I apprehend that when my friend from Oklahoma [Mr. FERRIS] says that we have conjured up and brought in here an appropriation not justified by a treaty he spoke hastily. I think he spoke without considering fully whether or not he was justified in making that statement.

Now, I have stated that this appropriation has been made for 40 years in the language that appears in the bill at the present time, and I want to say further that as regards the question of the two other items referred to in the treaty of 1868 three or four years ago we carefully went through the bill and eliminated every item that we thought was not justified by the treaty obligations of the Government, and as to these two provisions we found that they were still in full force and effect, and therefore we provided for them.

Now, Mr. Chairman, I need not go further into the merits. I think I have said sufficient to satisfy the Chair that this appropriation is justified by the treaty and that the treaty obligation of the Government requires that this or some other appropriation be made in accordance with its provisions.

Mr. MARTIN of South Dakota. Mr. Chairman, I should like to be heard briefly on the point of order. At the risk possibly of repeating some things that my colleague [Mr. BURKE] has already very ably and forcibly said, I think this point of order, raised for the first time after a uniform interpretation of this treaty for 36 years, is sufficiently unusual to justify its further discussion.

I think that the proper interpretation to be given to this treaty will be better understood by a consideration of some of the circumstances under which it was made. In the year 1874, as a result of what is known as the Custer expedition, gold was discovered in the Black Hills, in western-southern Dakota. Prospectors immediately began rushing into that country, particularly in 1875 and in the fore part of 1876. The Government had its Army out upon the frontier to forcibly eject the white prospectors from that country, because it was Indian territory.

It was at that time well known to be prospectively, at least, very rich in gold. This treaty was made under those circumstances. A commission was appointed to come to terms, if possible, with the Sioux Indians, so that this territory might be acquired by the Government. The first efforts in the council with the Indians were unsuccessful, and ended in a very serious threat of trouble to our commissioners. Later, in the month of September, 1876, at Red Cloud, in Nebraska, immediately to the south of this territory, another council was held which led to the making of this treaty.

Now, the Chair will notice these conditions: Something supposed to be very valuable was desired by the Government by means of a treaty. The inhabitants of the country were all rushing in to take possession of this territory forcibly, and——

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from South Dakota yield to the gentleman from Oklahoma?

Mr. MARTIN of South Dakota. Certainly.

Mr. FERRIS. I will ask the gentleman if in article 4 of the treaty of 1877, on which he relies, the Indians did not specifically agree that they would remove to the Indian Territory? And I will ask him whether it is not true, as a matter of fact, that they did not remove at all, thereby totally breaking the treaty?

Mr. MARTIN of South Dakota. Oh, no.

Mr. FERRIS. What is the fact?

Mr. MARTIN of South Dakota. It is left optional with the Indians. They can go there and establish a home if they desire

to do so, but, in fact, they did not desire to do it. The treaty of 1889 was a further revision of that question of their domicile.

Mr. FERRIS. Article 4 sets out the conditions upon which they are to be liable for anything.

Mr. MARTIN of South Dakota. I hope that the gentleman will not be driven by the absurdity of his point of order to an assumption of the position that the Government does not own the Black Hills. That is a position that the Indians have sought to force upon us. Although the treaty of 1868 provided that all subsequent treaties should be ratified by three-fourths of the male adult Indians, this treaty was in fact ratified by the authorized chiefs, and the Indians accepted the benefits of the treaty, and it thereafter became ratified by the treaty of 1889 by the signature of three-fourths of the Indians. But if the gentleman from Oklahoma [Mr. FERRIS] is right in his contention that this treaty is not in force, where are we?

Mr. FERRIS. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from South Dakota yield?

Mr. MARTIN of South Dakota. In a moment. We would be left under the necessity of recognizing the Indian title to a country that has often been referred to as the richest 100 miles square on the face of the globe. From this very territory, as to which the gentleman is now seeking to relieve the Government from its obligations, entered into for its purchase, in excess of $150,000,000 of gold has been taken from that time until now, and that country is now producing gold in round figures to the extent of $10,000,000 every year.

Now, the Indians would be very glad, indeed, to be placed in status quo and relieved of the obligations of that treaty.

It is perfectly absurd here, after an interpretation placed upon this treaty by the Indians, by the Indian Bureau, and by Congress uninterruptedly for 36 years, for the gentleman from Oklahoma [Mr. FERRIS], even under the smart of a counter irritant from my distinguished colleague [Mr. BURKE] some days ago in Oklahoma matters, to attempt to dig up and overturn something that has been accepted as an interpretation for 36 years.

Mr. FERRIS. Will the gentleman yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. FERRIS. If the interpretation had been accepted for 36 years, and it was wrongly accepted at first, then it would be wrong to accept it now, and time certainly does not bar the right to call attention to a treaty that has expired.

Mr. MARTIN of South Dakota. My suggestion is that, with all his ability, the gentleman perhaps has not succeeded at the end of 36 years in overturning the good sense and knowledge of this law which has been applied in Congress and out of it uninterruptedly during that period.

I have stated the surrounding circumstances, which the Chair as a lawyer will recognize at once as very proper to consider in aid to an understanding of the intention of the parties to this agreement of 1876. Certainly the Indian was expected to get something—and something of very great value—in consideration of the cession of that great gold territory. Now, the gentleman suggests this absurd interpretation, because at the end of the paragraph providing for numerous obligations that the Government is to discharge are these words: "As provided in the treaty of 1868." Because the language "as provided in the treaty of 1868" is a part of the paragraph, the gentleman would have the Chair interpret that the limitation of time—20 years—for certain acts in the treaty of 1868 was still to be a limitation here. In other words, that the Indians were to get absolutely nothing additional by virtue of this treaty.

The language as provided in 1868, used in section 5 of the treaty of 1876, is simply descriptive of the class and kind of educational facilities that are to be furnished. It is not simply a repetition of the time period of the treaty of 1868, but it is descriptive of the class and kind of educational facilities that are to be furnished; for instance, instruction in mechanical and agricultural arts, "as provided by the treaty of 1868."

The distinguishing feature of this treaty of 1876 between the Government and the Sioux Indians is this, that for the first time, at least so far as these Indians are concerned, the Government undertook to enter into obligations for education, civilization, and support that were not to be limited by time, but were to continue indefinitely, or until the Indians were able to support themselves; and by applying that test to the interpretation of this treaty every provision of it is perfectly plain, and the surrounding circumstances which I have already narrated at once suggest and corroborate that interpretation.

Remember that that treaty of 1876 was made at Red Cloud, Nebr., under armed protection of the commissioners of the Government who were making the treaty. Remember that a gold territory, known to be immensely valuable, was the consideration for this treaty. Remember also that the Government had already agreed to furnish maintenance to these people for 30 years from 1868 and educational facilities for 20 years from 1868, and it was in 1876 when this second treaty was made and the Government was bound to furnish still for 12 years these educational facilities at the time the parties came together. And here is the absurd contention of the gentleman from Oklahoma [Mr. FERRIS] that all that the Government agreed to do for these Indians in the way of education and civilization was simply to reiterate what they had already agreed to in 1868, although there were 12 years of that former treaty obligation still to run when this remarkable contract was entered into on the part of the Indians under these unusual circumstances. Listen to the language:

ART. 5. In consideration of the foregoing cession of territory and rights—

A valuable consideration—

and upon full compliance with each and every obligation assumed by the said Indian, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization—

Not for a year or for two years or for three years, but—

All necessary aid to assist the said Indians in the work of civilization.

And if there were nothing more about it than that part of the language it would justify the furnishing of schools indefinitely and as a part and parcel of appropriate aids to civilization.

By this agreement the Sioux Indians, in parting with their immensely valuable territory, assured themselves and their posterity of the assistance of the Government in the aid of civilization, and the ability to support themselves and their families however long that civilizing problem might take. Further—

To furnish to them schools and instruction in mechanical and agricultural arts as provided for by the treaty of 1868.

That is to say, agricultural and mechanical arts are the kind of schooling to be furnished, as specified in the treaty of 1868.

Now, follow further—

Also to provide the said Indians with subsistence consisting of a ration for each individual of a pound and a half of beef (or in lieu thereof one-half pound of bacon), one-half pound of flour, and one-half pound of corn.

And so forth.

In the discretion of the Commissioner of Indian Affairs—

As to equivalent rations. And now follows—

Such rations, or so much thereof as may be necessary, shall be continued until the Indians are able to support themselves.

There were obligations for rations and yearly annuities under the treaty of 1868, still in force, to continue for 30 years from 1868, or 22 years beyond the period of this treaty.

The contention here urged by the gentleman from Oklahoma [Mr. FERRIS] would lead the Chair and the committee to this position: That under these extraordinary circumstances the Government, in consideration of the cession of that great gold territory, agreed that they would do just what they had agreed to do for the Sioux Indians by the treaty of 1868, which was still in force for 12 years, to wit, furnish them education in industrial and mechanical arts for 12 years, as provided in 1868—an absolutely absurd proposition.

My contention, which has been the interpretation of the department uniformly, is that the Sioux Indians by this treaty assured themselves of proper instruction in education and preparation for civilization until they were able to take care of themselves in these directions. In that way that interpretation gives vitality and some sense to the treaty. The interpretation of the gentleman from Oklahoma [Mr. FERRIS] would leave us in the position that the Government acquired this great territory without any new obligations whatever as consideration for the cession of that territory.

Mr. FERRIS. Mr. Charman, I shall detain the Chair but a few minutes. The whole drift of the argument of the gentleman is that because for 36 years this has stood here and been appropriated for we should keep on indefinitely appropriating for it. Another contention is that the treaty of 1877 revitalizes, sweeps away, sets aside, puts in full force and effect an entirely new deal. If that contention were borne out by the facts or by the plain wording of the act of 1877, undoubtedly the gentleman would be correct, but when I read in section 3 these words and in two or three other places similar words, I can not gather by what rule of construction the gentlemen arrive at that contention. I will read from page 255. Section 3 reads as follows:

The said Indians also agree that they will hereafter receive all annuities appropriated by said treaty of 1868 and all subsistence and supplies which may be provided for them under the present or any future act of Congress at such points and places or such reservations in the vicinity of the Missouri River as the President of the United States shall designate.

The next paragraph provides that they shall remove and how the commission shall go and see if it is a suitable place for them, and then the fifth article specifically limits them to the provisions of 1868, and says it with all the emphasis that the words can convey.

Article 8, on the same page, says that these Indians shall receive their annuities, shall receive their support and civilization according to the rules and terms of the treaties of 1868, which the gentleman himself admits is extinct.

One of the gentlemen from South Dakota says the act of 1889, which is found in the United States Statutes at Large, volume 25, page 1894, section 17, and reads as follows:

SEC. 17. That it is hereby enacted that the seventh article of the said treaty of April 29, 1868, securing to said Indians the benefits of education, subject to such modifications as Congress shall deem most effective, secure to said Indians equivalent benefits of such education, shall continue in force for 20 years from and after the time this act shall take effect.

Certainly in the act of 1889 there is nothing enlarging the act of 1868. In the act of 1877 there is in three different articles specific reference to specific provisions, which provides that they are governed by the limitations of the act of 1868. If the act of 1868 has expired, and if the act of 1877 is the one on which they rely, and in three distinct articles of that act they hold that the Indians are bound by the articles and provisions of 1868, surely there is no warrant of law for it. If they are to be read in the same paragraph, why enact the latter one? If it is to take the place of that, why say it is to be construed in conjunction with it?

Again, Mr. Chairman, the whole act of 1877 is on the theory that the Indians will remove to the Indian Territory, a thing which they never did. In article 5, page 256, it is expressly provided that these payments shall be made according to the treaty of 1868 upon a strict compliance by the Indians with their contract, and they never have complied with it. They still live in South Dakota, and never have complied with the terms.

Mr. MILLER. Mr. Chairman, in a case decided by the Supreme Court of the United States the facts are so similar to those in the case we are now considering that I think that decision throws a strong light upon this matter and should guide the interpretation of such a treaty with an Indian tribe.

As I understand the situation confronting us here, it is contended by the gentlemen who are raising this point of order that while the treaty of 1868 between the United States Government and the Sioux provided for these articles contained in the paragraph objected to, it places a period of limitation of 30 and 20 years upon it. It is claimed on the other side by gentlemen in favor of the paragraph that by the treaty of 1877 a reasonable construction thereof must require that these items are to be appropriated for annually for a much longer period than that. The gentleman from Oklahoma [Mr. FERRIS], on the other hand, further contends that it is not specifically stated in the treaty of 1877 that these benefits are to be given annually for a further period, and that therefore there is no warrant in law for them. Their position seems to be that the treaty of 1877 not specifically extending the time is to be construed against the Indians.

Now, I wish to call the attention of the Chair to a parallel case, one in relation to the Choctaws. In 1820 the Choctaws ceded to the Federal Government a large portion of their land in Mississippi, about 4,000,000 acres, on terms which specified that in part consideration of that they were to have a tract of land west of the Mississippi River, which is the land they now hold in Oklahoma. In 1830 another treaty was made with the Indians by which they ceded to the Federal Government all of their remaining land in Mississippi, consisting of more than 10,000,000 acres. In the entire treaty there was not one dollar expressed as consideration for the last cession. A great many years later there was a contention made that the Government was in duty bound to pay the Choctaws for the land in the last cession, even though the treaty did not say anything about the price to be paid. Finally the case went to the Court of Claims and, on appeal, to the Supreme Court of the United States. The case will be found in the One hundred and nineteenth United States, where the court uses language very instructive and appropriate in the consideration of the present point of order. I read, beginning on page 38 of the report:

It is true that by the eighteenth article of the treaty of 1830 it is provided that "for the payment of the several amounts secured in this treaty the lands hereby ceded are to remain a fund pledged to that purpose until the debt shall be provided for and arranged. And, further, it is agreed that, in the construction of this treaty, wherever well-founded doubt shall arise, it shall be construed most favorably toward the Choctaws." The only money payments secured by the treaty over and above the necessary expenditures in removing the Indians, in providing for their subsistence for 12 months after reaching their new homes, and paying for their cattle and their improvements are, first, an annuity of $20,000 for 20 years, commencing after their removal to the west; and, second, the amount to be expended in the education of 40 Choctaw youths for 20 years, and for the support of 3 teachers of schools for 20 years, together with the cost of erecting some public buildings, and furnishing blacksmiths, weapons, and agricultural implements, in addition to the several annuities and sums secured under former treaties to the Choctaw Nation and people. It is nowhere expressed in the treaty that these payments are to be made as the price of the lands ceded; and they are all only such expenditures as the Government of the United States could well afford to incur for the mere purpose of executing its policy in reference to the removal of the Indians to their new homes. As a consideration for the value of the lands ceded by the treaty they must be regarded as a meager pittance.

It is, perhaps, impossible to interpret the language of this instrument, considered as a contract between parties standing upon an equal footing and dealing at arm's length, as a conveyance of the legal title by the Choctaw Nation to the United States to hold as trustee for the pecuniary benefit of the Choctaw people, and yet it is quite apparent that the only consideration for the transfer of the lands that can be considered as inuring to them is the general advantage which they may be supposed to have derived from the faithful execution of the treaty on the part of the United States; and when in that connection it is considered that the treaty was not executed on the part of the United States according to its just intent and spirit, with a view to securing to the Choctaw people the very advantages which they had a right to expect would accrue to them under it, it would seem as though it were a case where they had lost their lands without receiving the promised equivalent. In such a case there is a plain equity to enforce compensation by requiring the party in default to account for all the pecuniary benefits it has actually derived from the lands themselves. This is the solid ground on which the justice of the award of the Senate of the United States under the treaty of 1855 seems to us fairly to stand.

Then, again, on page 27, the language I hold to be especially appropriate in construing the present treaties, there the court said:

As was said by this court recently in the case of the United States v. Kagama (118 U. S., 375, 383): "These Indian tribes are the wards of the Nation; they are communities dependent on the United States—dependent largely for their daily food, dependent for their political rights. They owe no allegiance to the States and receive from them no protection. Because of the local ill feeling, the people of the States where they are found are often their deadliest enemies. From their very weakness and helplessness, so largely due to the course of dealing of the Federal Government with them and the treaties in which it has been promised, there arises the duty of protection and with it the power. This has always been recognized by the Executive and by Congress, and by this court whenever the question has arisen."

It had accordingly been said in the case of Worcester v. Georgia (6 Pet., 515, 582): "The language used in treaties with the Indians should never be construed to their prejudice. If words be made use of which are susceptible of a more extended meaning than their plain import as connected with the tenor of the treaty, they should be considered as used only in the latter sense. * * * How the words of the treaty were understood by this unlettered people, rather than their critical meaning, should form the rule of construction."

The recognized relation between the parties to this controversy, therefore, is that between a superior and an inferior, whereby the latter is placed under the care and control of the former, and which, while it authorizes the adoption on the part of the United States of such policy as their own public interests may dictate, recognizes, on the other hand, such an interpretation of their acts and promises as justice and reason demand in all cases where power is exerted by the strong over those to whom they owe care and protection. The parties are not on an equal footing, and that inequality is to be made good by the superior justice which looks only to the substance of the right, without regard to technical rules framed under a system of municipal jurisprudence formulating the rights and obligations of private persons equally subject to the same laws.

The rules to be applied in the present case are those which govern public treaties, which, even in case of controversies between nations equally independent, are not to be read as rigidly as documents between private persons governed by a system of technical law, but in the light of that larger reason which constitutes the spirit of the law of nations. And it is the treaties made between the United States and the Choctaw Nation holding such a relation, the assumptions of fact and of right which they presuppose, the acts and conduct of the parties under them, which constitute the material for settling the controversies which have arisen under them. The rule of interpretation already stated as arising out of the nature and relation of the parties is sanctioned and adopted by the express terms of the treaties themselves. In the eleventh article of the treaty of 1855 the Government of the United States expresses itself as being desirous that the rights and claims of the Choctaw people against the United States "shall receive a just, fair, and liberal consideration."

I think that is exactly on all fours with the present situation. If the contention of the gentleman who has raised this point of order is correct, the Sioux Indians in South Dakota parted with a tract of land worth hundreds of millions of dollars and received absolutely nothing in return.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. MILLER. Certainly.

Mr. FERRIS. Does not the gentleman think the decision that he has just presented to the Chair more properly justifies a claim against the Government than an argument against a point of order made against the paragraph?

Mr. MILLER. Most assuredly the purpose of the case is to substantiate a claim against the Government. But what I am trying to say is that in the interpretation of a treaty, where it appears that the Government failed to pay or in specific terms to give something for what it got, then reason, justice, humanity, and law says that it shall be interpreted most favorably to the Indians, and they shall get their just demands. That is all that is asked for in this paragraph.

Mr. FERRIS. But that would be in justification of a claim against the Government rather than to make the paragraph in order.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. MILLER. Certainly.

Mr. MANN. If there should be a legal claim against the Government, of course that would justify an item in this bill.

Mr. FERRIS. Oh, I think the gentleman will agree that these various claims, equitable or of any character, that come in on an appropriation bill are subject to a point of order unless there be some specific authority for them. The case which the gentleman cites about the Choctaw lands is based on treaty obligations, and these are merely Executive orders.

Mr. MANN. Mr. Chairman, I will ask the gentleman from Minnesota how the case arose?

Mr. MILLER. In 1855 a treaty was entered into and it was agreed that the Senate should investigate all those pending matters and make an award. They did make an award in 1859 and appropriated $250,000 finally to pay that, and that was all that was done under that treaty. They did not carry it out. Then in 1881 we authorized them to take this to the Court of Claims, which they did.

Mr. MANN. And all they could take to the Court of Claims was a legal claim, I assume, and these people might be able to take this to the Court of Claims as suggested by the gentleman from Oklahoma; but if it is a case which they could take to the Court of Claims, then it is a case authorized by law, and if the Supreme Court sustained a claim on account of this old treaty, an item in an appropriation bill to provide for it would certainly have been in order.

Mr. FERRIS. The gentleman does not contend that under the Tucker and Bowman Act, which authorizes several committees of the House to send propositions to the Court of Claims for a finding of facts, any proposition they can refer to that court would be in order on an appropriation bill?

Mr. MANN. No; but under the Bowman and Tucker Act the Court of Claims does not enter judgment at all; nor can such a case go to the Supreme Court of the United States. So this could not have been a reference under the Bowman and Tucker Act, because it got to the Supreme Court. Here was a case where apparently the Court of Claims sustained a claim and authorized or entered a judgment, which case was appealed to the Supreme Court, and that court sustained the judgment. Unless they had a legal claim they could not have sustained a claim in the Court of Claims.

Mr. FERRIS. How does the Chair know whether they had a legal claim or not until there is some finding of the Court of Claims upon it? There has been none in this case.

Mr. MANN. Of course it is for the Chair to determine whether in his opinion this law authorizes the item in the bill. That would also be a determination as far as the Chair is concerned of whether in his opinion a claim would lie against the Government.

Mr. DAVENPORT. Mr. Chairman, will the gentleman from Minnesota yield?

Mr. MILLER. Certainly.

Mr. DAVENPORT. Mr. Chairman, I want to ask if in the Choctaw case the court does not find that there were specific provisions in the treaty that the Government agreed to perform in order that the Choctaws might move west?

Mr. MILLER. That is exactly what the court did not find. The court found that there were several little things which the Government agreed to do, but in no case did it hold that they were to be considered as a consideration. The court says they were too small and insignificant, a mere bagatelle which the Government in its general relations toward the Indians ought to give them in any event; and excluding that, there being nothing in the treaty which says the Government shall pay for these lands, justice and equity and law require that the Government shall be held as a trustee and shall be held accountable to the Indians for the proceeds of the sale of their property.

Mr. DAVENPORT. It was for specific lands to which the Choctaws held patents.

Mr. MILLER. They never had a patent to any lands in Mississippi or in any other place until they got trust patents from the Government.

Mr. DAVENPORT. The patents were limited.

Mr. MILLER. Oh, they received a grant of lands in Mississippi and Oklahoma.

Mr. DAVENPORT. I will ask the gentleman if the same court has not held that they did have a patent?

Mr. MILLER. They held that they had a title in fee, but not a patent.

Mr. DAVENPORT. Is it not a fact that the special act which gave the Choctaws the right to go into the Court of Claims referred all questions of both law and equity to the Court of Claims, with the right of appeal to the Supreme Court of the United States?

Mr. MILLER. It did; but the Supreme Court did not take exactly the same view that the Court of Claims took. The Supreme Court reviewed the entire case and decided it on the merits, having in view all the facts.

Mr. DAVENPORT. And said that equity demanded that they should comply.

The CHAIRMAN. Does that dispose of all the points of order in respect to the portion of the bill relating to South Dakota?

Mr. BURKE of South Dakota. The next item is an item for education, and a separate proposition.

The CHAIRMAN. Beginning with line 10? Is the point of order made to that?

Mr. STEPHENS of Texas. It is reserved.

The CHAIRMAN. What disposition is desired of that section?

Mr. MANN. I thought the gentleman withdrew his point of order.

Mr. FERRIS. We have not yet reached the second paragraph, have we?

The CHAIRMAN. We are now at line 10, on page 27.

Mr. FERRIS. There is another paragraph.

The CHAIRMAN. The Chair understands a point of order was made to that paragraph, beginning with line 10. The Chair wishes to know what disposition is desired as to that paragraph.

Mr. FERRIS. I make a point of order against it.

Mr. BURKE of South Dakota. I desire to discuss the item briefly, and I think I can prevail upon the gentleman to withdraw the point of order. Now, in regard to this reimbursable proposition——

Mr. FERRIS. Mr. Chairman, just a moment. I thought the point of order to the second paragraph was conceded.

The CHAIRMAN. The Chair will refer to that as soon as he runs through these authorities.

Mr. BURKE of South Dakota. Do I understand the Chair desires some time in which to consult the authorities?

The CHAIRMAN. Just a few moments.

Mr. BURKE of South Dakota. And while the Chair is going through them, may we discuss the point of order?

The CHAIRMAN. The Chair understands that while he is considering them there will be an effort on the part of the gentlemen to reach an agreement.

Mr. BURKE of South Dakota. I think the gentleman from Oklahoma [Mr. FERRIS] will concede that I am somewhat familiar with the affairs of the Sioux Tribe of Indians in South Dakota. The gentleman is proceeding on the theory—and I think other gentlemen over there are—that the United States has been spending large sums of money for these Indians, and that it has been paid out of the Federal Treasury. The gentleman has called attention to the fact that there is a trust fund in the Treasury of the United States of $3,000,000, and I assume that each one of the gentlemen on that side who have discussed this question or considered it is laboring under the impression that that $3,000,000 was put into the Treasury by the Federal Government as a gratuity, in substance, to these Indians. Let me explain the situation as to the Sioux Tribe of Indians.

In 1889 the entire western half of South Dakota, with the exception of the Black Hills, was an Indian reservation, comprising about 20,000,000 acres, and this act of 1889 provided for the cession of about 9,000,000 acres, and it provided that the land disposed of during the first two years should be $1.25 an acre and after the two years 75 cents an acre, and all land disposed of at the end of three years should be disposed of by the Government at 50 cents an acre and reimbursed to the Government. Now, then, the law also provided that all the expense of surveying under the allotment and the moneys expended for stock, and cattle, and machinery, the building of houses, should be reimbursed from the proceeds received from the sale of the 9,000,000 acres of land; and not one dollar has ever been paid to the Indians of the moneys received from the sale of that 9,000,000 acres, except that they have in the Treasury a trust fund of $3,000,000.

I would like to call the gentleman's attention to that item. It provides that the Government shall pay 5 per cent interest on this $3,000,000 and use one-half of it for education, which has been done right along. The other half may be paid to the Indians per annum, and that is the only money the Indians have received under the treaty of 1889. At the expiration of 50 years what becomes of the fund? It shall be expended for the civilization and self-support amongst the said Indians or otherwise distributed among them, as Congress from time to

time thereafter determines. In other words, we put into the Treasury as the proceeds of the Indian lands $3,000,000 and we propose to pay them interest at 5 per cent and use half of it for education, which we have been doing, pay them the other half per capita, and then at the end of 50 years we do not pay them the money at all and we still use that money for their support, civilization, and education. Now, on this question of schools, the gentleman from Oklahoma stated the other day, in reply to the answer of the gentleman from Illinois, and I want to be correct, that had he understood this paragraph that we are now discussing he never would have consented to it. Do I understand the gentleman wants to be understood as saying that he did not understand that?

Mr. FERRIS. I know that it is against the rules of the House to talk about matters occurring in committees——

Mr. BURKE of South Dakota. I am not talking about what happened in the committee.

Mr. FERRIS. I will say this item, the proposition as to whether or not the treaty had expired, was never mentioned in the committee to me.

Mr. BURKE of South Dakota. The gentleman is quite certain when he makes that statement. For the information of the committee and simply to show that the gentleman's memory is not good, because nobody would intimate, certainly, for a moment that he would make a misstatement, but in view of the large number of matters he has on his mind it is not strange that details sometimes escape his memory—but to show that his memory is not good I am going to read to the gentleman from the hearings of last year on this item, and I am going to ask if the gentleman ever heard that this was an extension of the treaty and whether he was informed in regard to the matter.

Mr. FERRIS. Just a moment. The gentleman is always generous, or usually so. Does the gentleman wish to ask me a direct question to which I told him "No"; and then refer to the hearings of a year ago?

Mr. BURKE of South Dakota. I will ask the gentleman if I understood him to say to the gentleman from Illinois [Mr. MANN] that he was not aware that this treaty had expired?

Mr. FERRIS. The gentleman understood me precisely, for I said that, and I do say it now.

Mr. BURKE of South Dakota. The gentleman will not object if I read from the hearings?

Mr. FERRIS. Will the gentleman say that there was one word uttered anywhere as to the fact of whether this treaty had expired or not?

Mr. BURKE of South Dakota. I am going to read from the hearings.

Mr. FERRIS. This year's hearings?

Mr. BURKE of South Dakota. The hearings of 1911—last year's hearings. I assume that the gentleman, being a member of the committee at the time, would carry in his mind ordinarily matters as important as this.

Mr. FERRIS. I have no recollection of it.

Mr. BURKE of South Dakota. The gentleman left me in the position, and I assented without any protest at the time, of having attempted in some manner to mislead this House. He said that I brought in a treaty here, "conjured up," I think he said, and was endeavoring to get an appropriation on a treaty that did not exist at all or had expired, namely, the treaty of 1877, and that in this item I was endeavoring to extend the treaty without its appearing so. That would be the inference, and I want to see whether he remembers this. Here is what the gentleman from South Dakota [Mr. BURKE] said:

> For the information of Mr. FERRIS, I will say that this appropriation for the support of schools among the Sioux has always been carried in a separate item in this part of the bill, because under the treaty of 1889 we were obligated to pay for the education of the Sioux, and that treaty expired, as I recall, in 1909. We have been making the appropriations since by extending the treaty, if you will notice, by that language, and it really is a gratuity, the same as the education of other Indians. This is to pay the expenses of the reservation schools generally. There are 20,000 Indians there, and instead of paying it out of the fund that is over further in the early part of the bill, it has been kept here, and I merely make this explanation so you may understand why this item is here.

Then I went on further:

> There is another reason why I prefer to have it that way. I have to come in contact with my Indians as you do with yours, Mr. FERRIS. They complain about things that we do. I call their attention to certain things. For instance, in this case I say to them, "We are giving you $220,000 that we did not agree to give to you and that we do not have to give to you. It shows that the Government is generous."
>
> Mr. FERRIS. The treaty expired in 1909?
>
> Mr. BURKE. Yes; it was a 20-year treaty.
>
> Mr. FERRIS. And, of course, now it is a gratuity?
>
> Mr. BURKE. It is a gratuity.

Now, it would seem that at that time, at least, the gentleman heard of this matter, and there was no subterfuge about it. The item bears upon its face evidence that it is an extension of that treaty from one year to another. I am simply calling it to the gentleman's attention because I do not think he intended by his remarks to put me in an attitude of deceiving or attempting to deceive the House or to deceive the committee or to seek to accomplish anything by means that were not proper. I know the gentleman did not intend to do that.

Mr. FERRIS. The gentleman states it exactly right, except in this, that the paragraph that was then under consideration was the preceding paragraph.

Mr. BURKE of South Dakota. Not at all.

Mr. FERRIS. There were not any hearings even the year before last, and none this year.

Mr. BURKE of South Dakota. It specifically refers to this item. This is the item we are discussing now.

Mr. FERRIS. But I was not discussing that item on Monday.

Mr. MANN. That was the item under consideration on Monday.

Mr. FERRIS. It was the $307,000 item.

Mr. MANN. No. That was passed over by unanimous consent.

Mr. FERRIS. I think I am in error.

Mr. BURKE of South Dakota. Yes; I think the gentleman is in error. I do this in good faith. In passing I want to say that the gentleman used some very strong language the other day about the gentleman from South Dakota calling attention to the extravagance in connection with Indian affairs in Oklahoma and pointing to economy in South Dakota. I have no recollection of having done anything of the kind. The only thing I recall as having criticized was the extravagance in regard to the appropriations in Oklahoma. Why, the gentleman from Oklahoma [Mr. CARTER] himself said the other day that $20,000,000 was expended under the Dawes Commission, and the other gentleman from Oklahoma [Mr. FERRIS] has repeatedly called attention to the great expense in the conduct of Indian affairs in Oklahoma. What I was endeavoring to do, so far as affairs in Oklahoma are concerned, was to get more money for administrative purposes there, and I was necessarily obliged to point out wherein I thought the Indians there were being wronged and why there should be more money appropriated for administrative purposes in Oklahoma.

Mr. CARTER. Mr. Chairman, it seems that the gentleman's memory is also a little bit at fault. It has not been a week since the gentleman rose on the floor of this House and discussed very bitterly the administration of affairs in connection with probate judges in Oklahoma.

Mr. BURKE of South Dakota. I spoke of Federal appropriations.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from South Dakota yield?

Mr. BURKE of South Dakota. Yes.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. COVINGTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26874, the Indian appropriation bill, and had come to no resolution thereon.

GEORGE G. HENRY.

Mr. PUJO. Mr. Speaker, as chairman of the Committee on Banking and Currency and acting under its instructions by unanimous vote, I present as privileged the contumacy of Mr. George G. Henry, of New York, who declined as a witness to answer certain questions propounded by counsel for the committee pertinent to the inquiry being had under House resolutions 429 and 504. I submit the report (H. Rept. 1285) of the committee, with the record of the proceedings had and the questions declined to be answered as a part thereof, with the request that the Speaker certify to the United States district attorney for the District of Columbia the fact under the seal of the House, so that the said officer shall bring the matter before the grand jury of the District of Columbia for such action as may be authorized by sections 101, 102, 103, and 104 of the Revised Statutes of the United States.

I now present the report. I now move pro forma, as the statute does not require the approval of the House, but preferring to have its action thereon, that the question of the contumacy of the witness, George G. Henry, be certified by the Speaker to the United States district attorney, under and by virtue of sections 101, 102, 103, and 104 of the Revised Statutes of the United States, for such action as the grand jury may take.

The SPEAKER. The gentleman from Louisiana [Mr. PUJO] moves that the House give special authorization to the Speaker

to certify the record to the United States district attorney for the District of Columbia. The question is on agreeing to that motion.

The motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself again into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill, with Mr. SAUNDERS in the chair.

Mr. BURKE of South Dakota. Mr. Chairman, I am endeavoring to prevail upon the gentleman from Oklahoma [Mr. FERRIS] to withdraw his point of order, and I am not discussing the point of order. And in that connection, I want to call his attention to the fact that this $200,000 is the money that provides the agency and reservation schools upon the several Sioux reservations, and in order that the committee may know just how many schools there are, I would state that I have obtained the information from the Indian Office and will give it to the House.

There are maintained on these reservations 11 boarding schools and 60 day schools, and there are enrolled in these several schools 2,732 Indian children. I will say to the committee that the Sioux Indians are real Indians. They are not white Indians. Very few of them are of mixed blood. Within my recollection most of the Sioux Tribe were, you might say, savages, and most of them were what were known as "blanket Indians."

Now, I do not think that the gentleman from Oklahoma [Mr. FERRIS] wants to deprive the Indians of these particular schools. These are the schools that everybody is for. There is occasional objection raised to what are known as nonreservation schools, but I have never heard any objection to the schools upon the Indian reservations, schools that are right out among the Indians. The pupils attend them the same as the white children go to our country district schools.

Of course, if the gentleman is objecting to the item because of the extension of the treaty, I am quite willing to eliminate that, and would offer the amendment in a different form. If the gentleman insists upon the point of order, of course, I will concede it, and offer the amendment in a form without that language which makes it subject to a point of order.

And I will say to the gentleman, for the purpose of saving time, that if he will indicate his position it has been suggested by the gentleman from Illinois [Mr. MANN] that, perhaps, we might proceed with the bill while the Chairman is looking up these authorities, and recur to this item when he is ready to hear us on the point of order.

Mr. FERRIS. I will give the gentleman a statement of my position. The gentleman from South Dakota asked me to withdraw the point of order which was temporarily reserved to the paragraph in lines 10 to 16, inclusive, on page 27 of the bill, which appropriates $200,000 for schools in South Dakota.

My answer to the gentleman in that regard is that I am heartily in favor of these schools, and I have no doubt that at least some of them ought to be maintained; but the policy has been so well laid down by the gentleman, both while he was chairman of the committee and in almost every utterance of his, that where the Indians have large farms and large means they ought to pay their own way as far as possible. My position is that unless this be made reimbursable from their fund, they having $3,000,000 in cash and having $41,015,702.05 in property——

Mr. BURKE of South Dakota. Does the gentleman think we have a right to disturb the $3,000,000 pending the 50 years?

Mr. FERRIS. About that there can be no question. Congress can disturb any fund that the Indians have.

Mr. BURKE of South Dakota. Would it not be a violation of a solemn treaty obligation or agreement that was made with these Indians?

Mr. FERRIS. Oh, not at all. The gentleman is disturbing them continually, and right in this bill we are withdrawing appropriations for schools all the way through.

Mr. BURKE of South Dakota. Then I understand the gentleman will make the point of order.

Mr. FERRIS. I want to be heard a moment, first. I think I will make the point of order. I will repeat again that in the State of South Dakota they have 20,000 Indians who have $3,000,000 in cash and have property amounting to $41,015,702.05. In this State they have three Indian schools specifically provided for. They have the same rights to the general lump-sum fund the rest of the Indians have, it amounting to $1,420,000.

Mr. MARTIN of South Dakota. What property does the gentleman refer to?

Mr. FERRIS. I refer to the property of the Indians. I get it from the statement. The gentleman can get it.

Mr. BURKE of South Dakota. How is it classified?

Mr. FERRIS. It is found on page 6 of Document No. 486. It is available in the document room.

Mr. BURKE of South Dakota. I am quite familiar with the document, but I should like to ask the gentleman if that report shows what this property consists of and how it is classified.

Mr. FERRIS. It says "value of property and funds belonging to the Indians."

Mr. BURKE of South Dakota. Made up by somebody in the Indian Office.

Mr. FERRIS. If the gentleman will allow me to proceed for a moment, South Dakota has three schools specifically provided for, with 20,000 Indians. My State of Oklahoma has approximately 120,000 Indians, and we have only one school specifically provided for in the entire State out of the funds of the Federal Government. Every cent of the other expenses of the five-tribe schools is paid for from tribal revenues.

Mr. BURKE of South Dakota. I want to correct the gentleman.

Mr. FERRIS. Let me proceed. The gentleman has had plenty of time. In our State one school is specifically provided for and we have 120,000 Indians, or two-fifths of all the Indians of the United States. Every bit of the other expense for the entire five tribes of Indians is paid out of their own fund. We had thought on day before yesterday that perhaps there ought to be some gratuity appropriation for the Indian schools. The House thought otherwise. Certainly it can not be harmful to have a rule of universal application, and unless the gentleman will submit an amendment making this reimbursable, I feel it a duty to make the point of order. There certainly should be some uniformity about these appropriations. To appropriate from the Federal Treasury in one place and the Indians in another place is all wrong.

Mr. BURKE of South Dakota. Before the gentleman submits the point of order, will he answer a question?

Mr. FERRIS. I will if I can.

Mr. BURKE of South Dakota. I understand the gentleman to say to the House that not a dollar is expended for schools for the Indians in Oklahoma except at the Chilco School.

Mr. FERRIS. In the Five Tribes.

Mr. BURKE of South Dakota. But what about the Indians outside of the Five Tribes?

Mr. FERRIS. There is no school specifically provided for. I think they use a little of the general fund. There certainly is no school specifically provided for.

Mr. BURKE of South Dakota. They are provided for out of the $1,420,000 item.

Mr. FERRIS. I think that applies to the few scattering tribes in the west of the State, but not to the Five Tribes.

Mr. BURKE of South Dakota. Not to the Five Tribes; and when the gentleman says Oklahoma, he refers to the Five Tribes. There are a number of schools in Oklahoma.

Mr. FERRIS. Not one is specifically provided for except the Chilco School, and the children from Kansas use that school quite as much as the Oklahoma children do.

Mr. BURKE of South Dakota. I concede that this item is subject to a point of order, and I send to the Clerk's desk the following amendment.

Mr. MANN. What has become of the point of order?

Mr. BURKE of South Dakota. I concede it.

Mr. MANN. Before the point of order is determined, the item appropriates for the support and maintenance of day and industrial schools among the Sioux Indians.

Mr. BURKE of South Dakota. Will the gentleman permit me to call his attention to the fact that the item extends the treaty of 1889 until June 30, 1914, which is legislation?

Mr. MANN. Of course, the entire item is included in the point of order.

Mr. BURKE of South Dakota. Certainly. Now, I have offered an amendment with that eliminated. I thought perhaps the gentleman did not understand.

Mr. MANN. I thought the point of order was being made on the other ground.

Mr. BURKE of South Dakota. No.

The CHAIRMAN. The point of order is sustained to the paragraph in the bill, and the gentleman from South Dakota sends up an amendment, which the Clerk will report.

The Clerk read as follows:

Page 27, after line 9, insert the following:

"For support and maintenance of day and industrial schools among the Sioux Indians, including the erection and repairs of school buildings, $200,000."

Mr. FERRIS. I make a point of order against that. The treaty has expired, and it is so conceded, and is new legislation not authorized by law.

Mr. BURKE of South Dakota. Now, Mr. Chairman, if the Chair desires time to consider the other point of order, it has been suggested by the gentleman from Illinois that this point of order be passed for the time being.

The CHAIRMAN. The Chair is ready to rule on the point of order. The point of order made by the gentleman from Oklahoma [Mr. FERRIS], is to the effect that the obligations imposed by the act of 1877 are impressed with a time limit by reason of the reference in section 5 of that act to the act of 1868. In view of this contention it is necessary to consider both the act of 1868, and the act of 1877. Under the act of 1868 the contracting parties respectively assumed certain obligations for value furnished, and to be furnished. The treaty of 1868 was one of limited duration. Later, by the act of 1877 the same contracting parties, entered into new relations on the part of the Indians an exceedingly valuable tract of land, a principality one might say, was ceded to the United States. This cession is referred to in the section cited by the gentleman from Oklahoma [Mr. FERRIS], which in part is as follows:

ART. 5. In consideration of the foregoing cession of territory and rights and upon full compliance with each and every obligation assumed by the said Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization; to furnish to them schools and instruction in mechanical and agricultural arts, as provided for by the treaty of 1868.

It is insisted by the gentleman from Oklahoma that this reference to the treaty of 1868 is intended to furnish a time limit for the discharge of the obligations imposed by the act of 1877, that limit being the limit fixed in the treaty of 1868. From the language that the Chair has read it will be seen that there was a cession of property, by the Indians, so that a new consideration was afforded for any obligations, or undertakings on the part of the United States toward the other contracting parties.

It is also insisted by the gentleman from Oklahoma that in the agreement of 1877 the Indians undertook on their part to go to the Indian Territory, and failing to carry out this undertaking, they have lost their rights against the United States. If the committee will bear with me, I will give the substance of so much of the act of 1877, as relates to the suggested change of habitation to the Indian Territory. (See p. 255.)

The Indians agreed that a delegation of five or more chiefs and principal men from each band should without delay visit the Indian Territory to examine the land, with a view to making it a permanent home, and if on this examination the report should be favorable, and satisfactory to their principals, that is, the Sioux Indians, then the Indians agreed that they would make the change. But a condition precedent was the investigation of this new territory, and the requirement that the recommendation, if favorable should be satisfactory to the Sioux Indians. Until this condition precedent was discharged, there was no obligation whatever on the part of the Indians to change their habitat.

No evidence has been adduced to show that any delegation on the part of the Sioux made the investigation contemplated, or that if they did, and made a report, this report was satisfactory to the principals. Hence there is no reason to conclude that the Sioux have ever incurred any obligation to remove to the Indian Territory, or failed in any duty in this respect.

Referring again to the section of the act of 1877 in which reference is made to the treaty of 1867, the Chair will cite anew the language used in that connection.

ART. 5. In consideration of the foregoing cession of territory and rights and upon full compliance with each and every obligation assumed by the said Indians, the United States do agree to provide all necessary aid to assist the said Indians in the work of civilization; to furnish to them schools and instruction in mechanical and agricultural arts, as provided for by the treaty of 1868.

Obviously there are two meanings that may be given to this reference to the treaty of 1868. First, the one suggested by the gentleman from Oklahoma that it is intended thereby to fix a time limit on the obligations of the United States under the act of 1877. Second, that it was intended to save description in the second act and to use the language of the treaty of 1868 to show in detail what was intended by, and comprehended under the words "to provide all necessary aid to assist the said Indians in the work of civilization, to furnish to them schools, and instruction in mechanical and agricultural arts." Under the first suggestion it will be seen that the United States would secure an immensely valuable tract of land, for practically no consideration. If the second view is the correct view, then the United States is merely thereby held to the discharge of obligations which, in the light of what this Government has received from these Indians, are essentially reasonable.

If the interpretation of this treaty is in doubt, then this doubt must be resolved by resort to the fundamental principles for the interpretation of treaties, or agreements between a great nation like ours, and aboriginal savages. Obviously these contracting parties are not on an equal footing, and dealing at arm's length. Hence in the construction of the language under consideration, as between the two conflicting views, that one should be adopted which is most favorable to the weaker, and practically, helpless party, and which in addition conforms to essential justice by requiring the United States to afford adequate return for the highly valuable consideration furnished by the other contracting party.

The Chair concludes therefore that the reference made to the treaty of 1868 was not intended to impose the limitations of the treaty of 1868 on the obligations assumed by the act of 1877, but was designed to save words, and avoid a restatement in detail of what the Government assumed to do, when it undertook to provide all necessary aid.

Another thing, to which the Chair wishes to call attention is that the act of 1877 and the treaty of 1868 seem to be most highly regarded. I find in the act of 1899 a most unusual provision, to the effect that anything that occurs in the treaty of 1868, and the agreement of 1877 is to be held as in force anything in the act of 1889 to the contrary notwithstanding.

Of course, as a rule as between subsequent and antecedent acts, if there is any conflict between the two relating to one subject matter, there is a repeal by implication of the former act, but in this instance it is provided that in case of conflict the subsequent statute shall give way to the antecedent acts. This provision clearly shows that this Government reestablished by the act of 1889 in the most emphatic fashion, the rights of the Indians under the treaty of 1868, and the agreement of 1877.

Since these agreements are made the repository of the Indians' rights, they should be favorably construed in their interests according to the principles cited.

Looking to the treaty of 1868 and the agreement of 1877 it is clear that the Government undertook to do many things for the Indians, and specifically agreed to assist them in the work of civilization.

It is familiar authority that once a policy is established by law, Congress may appropriate to carry out that policy, and provide for the agents and agencies, fairly within the same. If a department is authorized to make investigations, an appropriation bill may provide for the agents needed for this purpose. Under the head of assisting these Indians in the work of civilization, many things may be appropriated for.

The Chair will not take up any further time of the committee, but looking to the provision for the payment of teachers, for physicians, blacksmiths, and additional employees, as well as for the other items it is perfectly clear that if there is no time limit on the obligations of the Government under the act of 1877, and this has been fully discussed, then there is an existing obligation on the part of the Government of the United States to make those appropriations to which the point of order relates. The Chair, therefore, overrules the point of order.

Mr. FERRIS rose.

The CHAIRMAN. The gentleman from Oklahoma is recognized.

Mr. MILLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MILLER. Mr. Chairman, I desire to make a motion in respect to the paragraph as to which the point of order has been overruled. If we pass that now, I presume I would lose the right of making that motion, and I desire to be recognized now to offer an amendment in respect to that paragraph.

The CHAIRMAN. The Chair has already recognized the gentleman from Oklahoma.

Mr. FERRIS. Mr. Chairman, I will yield to the gentleman.

Mr. MILLER. Mr. Chairman, I notice the language in the paragraph that has just been under discussion is:

For support of Sioux of different tribes, including Santee Sioux of Nebraska, North Dakota, and South Dakota.

I would like to ask the gentleman from South Dakota if he can inform the committee whether any of the funds herein provided for are ever used to take care of the Sioux who remain across the border of South Dakota in Minnesota who are members of the Santee Sioux.

Mr. BURKE of South Dakota. Mr. Chairman, I think not. Do I understand that this item is now open for amendment.

Mr. MANN. Certainly it is.

Mr. BURKE of South Dakota. Very well; let the gentleman offer his amendment.

Mr. MILLER. Mr. Chairman, I offer to amend by inserting, after the word "Nebraska," in line 20, page 26, the word "Minnesota."

Mr. BURKE of South Dakota. Mr. Chairman, I make the point of order upon that, or, if the gentleman desires it, I will reserve the point of order.

Mr. MILLER. Mr. Chairman, I would like to say a few words to the committee in respect to those Indians, who are the brothers of the Santee Sioux, remaining in Minnesota, and I will take only a moment or two. About a year ago I received information that those Indians, who have now no tribal relations and no property rights, their treaty rights having been declared null and void by the act of Congress of 1863, are, and for some time have been, in exceedingly destitute circumstances. They do not live anywhere near where I do, but many hundreds of miles away. I understand they are without land. They make such precarious living as they can make by doing a little trapping in the wintertime and working about in the summer time. Last year, and in the years previous to that, they made somewhat of a living by catching frogs for the Twin City market, but that now they have lost, by reason of the change in climatic and topographic conditions.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. MILLER. Certainly.

Mr. MANN. If they are Sioux Indians, are they now covered by the language of the paragraph?

Mr. MILLER. I am inclined to think so, but I do not think the department has ever taken care of them, and I want to make it certain.

Mr. MANN. The gentleman will note that there are two parts of that paragraph. One relates to the Santee Sioux Indians, which is a treaty obligation pure and simple under a special treaty, and the other paragraph relates to the Sioux Indians generally, excepting certain tribes that are specifically mentioned, and there is an appropriation of $200,000 for subsistence.

Mr. MILLER. I thought by inserting the word "Minnesota" it would make it definite.

Mr. MANN. And inserting the word where the gentleman proposes would not affect the appropriation of $200,000 for subsistence.

Mr. MILLER. The Sioux I am speaking of are a part of the Santee band. The term "Santee Sioux" is not a scientifically accurate description. It has been applied to those Sioux and their bands to whom they are related who participated in the Sioux massacre in 1862 in Minnesota, most of whom were subsequently moved to Nebraska.

Mr. STEPHENS of Texas. Will the gentleman state the name of the band that he has in mind?

Mr. MILLER. It is not named. They are those Indians who remained in Minnesota who were not transferred to Nebraska at the conclusion of the Sioux outbreak in 1862.

Mr. STEPHENS of Texas. I do not think this language would confine it to any State, but to the Sioux Indians of the United States.

Mr. BURKE of South Dakota. Mr. Chairman, to save time I make the point of order. I think the gentleman from Minnesota will concede it.

Mr. MILLER. Mr. Chairman, I have no doubt that it is subject to a point of order.

Mr. BURKE of South Dakota. They are outlaw Indians, and they are not a party to the treaty of 1868 or the treaty of 1877.

Mr. MILLER. Mr. Chairman, I do not agree with the gentleman on that. The only basis upon which it has ever been claimed by the department that they are not entitled to immediate recognition by the passage of an act of Congress is that they were bound as parties to the treaty of 1889.

Mr. BURKE of South Dakota. Mr. Chairman, I will say that the reason I have consented to report a bill on one or two occasions for their relief was upon the theory that they were not a party to that treaty.

Mr. MILLER. I do not think they were, but they are getting it both coming and going, and they are in a very unfortunate situation. They are Indians most of whom rendered the whites very important service at the time of that unfortunate outbreak. They had their property taken from them by legislative action, and now they are destitute and suffering. I concede the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I desire to ask the gentleman from Texas a question. In line 3, page 27, was the word "river" inserted after the word "Cheyenne" by unanimous consent?

Mr. STEPHENS of Texas. Yes; it was inserted on Tuesday.

Mr. BURKE of South Dakota. If there is any doubt about that, I would suggest that that amendment be now made.

The CHAIRMAN. The Chair understands from information at the desk that it was inserted.

Mr. FERRIS. Mr. Chairman, I reserved the point of order upon the amendment offered by the gentleman from South Dakota [Mr. BURKE]. There is no authorization of law for the appropriation.

Mr. BURKE of South Dakota. Mr. Chairman, I will ask the gentleman, so far as I am concerned, to make the point of order, and then we can discuss it if it is desired. I do not care to discuss further the merits of the proposition except I want to say to the gentleman that in the last few minutes I have received this information from the Indian Office: Since the act of 1889 there has been expended under that act for the Sioux $6,834,000 for all purposes. That does not include the moneys that have been appropriated under the treaty of 1877, but it does include this $3,000,000 trust fund, and on December 31 the account had been credited with $5,332,000, and not a dollar paid to the Indians.

Mr. MARTIN of South Dakota. Mr. Chairman, upon the point of order I think clearly that it is not well taken. The provision of the treaty of 1877, section 5—the one commented upon by the Chair in rendering the decision—is the educational provision. It provides that the United States shall furnish all necessary aid to civilization, including industrial and mechanical schools, as provided in the treaty of 1868. I knew that these lines, from 10 to 16, on page 27 of the bill, had been read at the time I addressed the Chair upon the former point of order, and my entire remarks were addressed to the educational clause of section 5, which the Chair commented upon. I think the obligation there is clearly to continue the educational facilities indefinitely. They were in force for 20 years by the treaty of 1868, and 12 years of that was still running when this treaty was made. And one of the considerations of that treaty of 1876–77, the one, indeed, as enumerated in the treaty of 1875, is the aids to civilization and the maintenance of mechanical and industrial schools. I think that obligation is clearly on the Government, and I think that is entirely covered by the ruling already made on the other point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I understood the gentleman from Oklahoma [Mr. FERRIS] had not really made the point of order, and I suggested that he make the point of order, and then I assumed he would discuss it, when I wanted to reply to him. And that was the reason I sat down without discussing the point of order.

Mr. FERRIS. I do make the point of order, Mr. Chairman, because there is no legislation for it, and, not only that, in the hearings, on page 347, of last year, the gentleman from South Dakota [Mr. BURKE] admits it is a treaty, and admits the treaty expenditure in 1909, and because the Chair has during the consideration of this very bill ruled out an item which was a gratuity, and admits the treaty expenditure in 1909, and because the Chair has during the consideration of this very bill ruled out an item which was a gratuity for schools, certainly this is subject to a point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I hope the Chair will not be affected in his decision, and I apprehend he will not be, by what I may have conceded a year ago as to this being a gratuity. I am frank to admit that at the time I was laboring under the impression that it was a gratuity, and that I did not consider the provisions of the treaty of 1877 went as far as they do, and as the Chair has held. Now, we make every year an appropriation for the education of Indians of $1,420,000, and I want to call the attention of the Chair to Hinds' Precedents, volume 4, section 4205, because I think it ought to be in this debate as to the extent to which we may go in appropriations for the support and education, and so forth, of Indians. Section 4205 says:

The Committee on Indian Affairs has a broad jurisdiction of subjects relating to the care, education, and management of the Indians, including the care and allotment of their lands.

And then it goes on to state:

On December 6, 1888, the resolutions distributing the President's message used this language relating to the jurisdiction of the Committee on Indian Affairs, giving to that committee so much "as relates to the care, education, and management of the Indians." This language has been used for a long time in these resolutions; and the committee has exercised a broad jurisdiction as to the care of Indians on the reservations, and in Indian Territory while that reserve existed as a separate territory, and also as to the care and preservation of Indian lands and the allotment in severalty.

Now, I think, we are justified under that in making appropriations for education, even if they are not specifically authorized. And in this instance the treaty of 1877 clearly includes the education as part of the civilization, and I think the Chair in his ruling referred to education in connection with the language in that part of the agreement.

Mr. MANN. Mr. Chairman, for my part, I believe I would be glad if the Chair would find that, under the law, he could sustain the point of order. The item is:

For the support and maintenance of day and industrial schools among the Sioux Indians.

One of the first items in the bill is:

For support of Indian day and industrial schools not otherwise provided for and for other educational and industrial purposes in connection therewith, $1,420,000.

All through the bill there are items carrying appropriations for the maintenance and support of schools and pupils in schools. The item to which I have referred, of $1,420,000, is not under any treaty obligation, it is not to carry out any agreement that the Government has with the Indians, but it is sustained so far on the broad power that the Indians are wards of the Government, and that, under the policy which the Government has maintained, it has the right to appropriate money for their education and for industrial schools.

Two or three years ago I made a point of order against the Florida item, which was for the support and maintenance, I believe, of Florida Indians. I thought at that time that that item was subject to a point of order. Whoever was in the chair at that time, after an examination of the general statutes in regard to the Indians under the control of the United States, held that it was within the power of the Government, if authorized by law, to make an appropriation for their support, maintenance, and civilization. If, however, the Chair can find a way to rule that the Government is not authorized under existing law to maintain these industrial schools and these day schools, as well as the colleges scattered throughout the country called Indian schools, I hope the Chair will take the opportunity to say that there is no authorization of law for this purpose, because, undoubtedly, it would result in the saving of millions of dollars a year which the Government now expends for useless Indian schools.

The CHAIRMAN. Does the gentleman from Oklahoma [Mr. FERRIS] desire to be heard?

Mr. FERRIS. Mr. Chairman, I did not want to more than suggest that this is the normal situation: The paragraph is brought in with the specific provision that the treaty is continued another year. A point of order is made, and the point of order is conceded.

The gentleman then immediately reoffered that part of the paragraph, save and except the authority which he admits he did not have.

Now, can the Chair be asked to find that a portion of this paragraph was in order when the other part, which was the very foundation upon which the whole paragraph stands, has been conceded to be out of order, and even has been withdrawn?

I do not care, Mr. Chairman, to pursue it further.

The CHAIRMAN. Before ruling on the point of order the Chair will cite the first portion of article 5 of the act of 1877 which is as follows:—

ART. 5. In consideration of the foregoing cession of territory and rights, and upon full compliance with each and every obligation assumed by the said Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization; to furnish to them schools and instruction in mechanical and agricultural arts, as provided for by the treaty of 1868.

If the Chair is correct in thinking that the reference in this section, to the act of 1868—and he has, heretofore, endeavored to give somewhat in extenso the reasons for the following conclusion—merely means to say that the details of the aid, education and instruction which the United States undertakes to afford, are set out in the act of 1868, and those details without tedious repetition are made a part of the latter agreement, just as a later deed without formal recital, refers to and adopts the descriptive matter of a prior conveyance, then, of course, there is no time limit upon the obligations assumed in the act of 1877.

If there is no time limit upon these obligations, then they are obligations of a continuing character. Hence this paragraph affords ample authority for an appropriation for the support of day and industrial schools for the Sioux Indians.

The treaty specifically declares, in the section just read to the committee, that the United States will provide all necessary aid to furnish these Indians with schools, and instruction in mechanical and agricultural arts.

If authority for these schools, may be found in the paragraph cited, and it is so found, then there is authority for the amendment, and the point of order is not well taken.

Mr. FERRIS. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma [Mr. FERRIS] to the amendment offered by the gentleman from South Dakota [Mr. BURKE].

The Clerk read as follows:

Amend the amendment by adding at the end of the amendment, "reimbursable from any funds in the Treasury of the United States belonging to said Indians."

Mr. BURKE of South Dakota. Mr. Chairman, I reserve a point of order on the amendment to the amendment. If the gentleman from Oklahoma [Mr. FERRIS] does not wish to discuss the merits, I will make the point of order. Of course, I will be guided by what he desires.

Mr. FERRIS. I think the Chair can rule.

Mr. BURKE of South Dakota. Then, Mr. Chairman, I make the point of order. I will state that the Chair has just held that it is in order under the treaty of 1877 to include this item. It is an obligation of the Government, and therefore it would violate existing law when it is proposed to make an amendment carried in the item reimbursable from any funds in the Treasury belonging to these Indians.

The CHAIRMAN. But it makes a reduction of the expense to the Government, so that the Holman rule becomes operative. As to the propriety of it, the Chair does not say.

Mr. BURKE of South Dakota. I did not suppose that the Holman rule would go so far as to relieve the Government of an obligation that it had contracted to fulfill under an agreement or treaty made with a tribe of Indians, and I doubt if it goes to that extent.

The CHAIRMAN. The Chair would suggest that that is a question of propriety put up to the House for its action, not a question of parliamentary ruling. The House can do a thing that may be improper. Without undertaking to make that criticism of this particular proceeding, the Chair will say that the House is competent to do it. The Chair is merely commenting on the parliamentary status of it. The Chair would think that that amendment would be in order. The question is on the amendment to the amendment.

Mr. MARTIN of South Dakota. Mr. Chairman, I would like to be heard a moment on the merits of this proposition. Here is a conceded obligation of the Government to furnish these educational facilities to these Indians, for which they have given ample consideration.

Mr. STEPHENS of Texas. Mr. Chairman, I will call the gentleman's attention to the fact that that part of the amendment does not touch the treaty at all—no part of it. It stops with the words, "two hundred thousand dollars." This is an amendment to support the day and industrial schools amongst the Sioux Indians, and so forth.

Mr. MARTIN of South Dakota. Yes; but the Chair has very properly held, within a few moments, that the treaty obligations of the Government of the United States, under the treaty of 1876 confirmed by the act of 1877, require that there should be provided these educational facilities for these Indians which this appropriation of $200,000 will cover. Therefore the obligation is upon the Government to make the appropriation.

Now, then, the gentleman from Oklahoma [Mr. FERRIS], not being able to raise a point of order against the item, because it is in order, because it is based upon a contractual obligation of the Government, proposes by an appeal to numbers, if it can be done, to vote away the Government's obligation to keep its treaties and to take the money of our wards and reimburse ourselves for keeping our treaty obligations, and undoubtedly create a claim in the Court of Claims on the part of these Indians, to be litigated and eventually reimbursed. I appeal to the good sense as well as the sense of fairness of the members of this committee not to be led into any such ridiculous attitude by the extremity of the gentleman from Oklahoma in a parliamentary situation.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from South Dakota yield?

Mr. MARTIN of South Dakota. Yes.

Mr. STEPHENS of Texas. The gentleman, I know, is aware that I am disposed to be fair to the Indians of South Dakota as well as those of Oklahoma, and no one regrets more than I do that this controversy has arisen between the two States. Unfortunately in reporting the bill, as the chairman of the committee, I was placed in the peculiar attitude of opposing this appropriation, and I now think and believe that the appropriation both for the schools of Oklahoma and those of South Dakota should have remained in the bill.

Mr. MARTIN of South Dakota. I apprehend, then, upon this vote the gentleman will support us.

Mr. STEPHENS of Texas. I do not think the contentions of the gentleman from South Dakota are correct.

Mr. MARTIN of South Dakota. In other words, the gentleman thinks two wrongs will make one right.

Mr. STEPHENS of Texas. I do not think so at all, but I believe the statement made in this document, 209, Indian schools and agencies, 1912, will convince the gentleman that a great injustice has been done Oklahoma. I find that the State of Oklahoma, with 17,250 children, has $2,241,248 worth of school property. That is $13 per capita. I find that the gentleman's State of South Dakota has $314 per capita of school funds and school property. The difference, then, between the way Oklahoma is treated and the way South Dakota is treated is as 13 is to 314. I notice that the gentleman and that side of the House were very swift to strike from this bill everything that could be stricken from it in aid of this $13 per capita for Oklahoma and to prevent anything being taken from the $314 for South Dakota.

Mr. MARTIN of South Dakota. The gentleman does me an injustice. At least whether it be an injustice or not, he is mistaken. I was not present when the Oklahoma item was stricken out. I did not know it was stricken out until after I came to the House this morning.

Mr. MANN. This side of the House had nothing to do with it, except that I made the point of order on my own responsibility, and will continue to make a great many more before the gentleman is through with the Indian appropriation bill, nor will I be deterred by threats of this kind.

Mr. STEPHENS of Texas. Will the gentleman point out what threat I have made just now?

Mr. MANN. The gentleman proposes to retaliate.

Mr. STEPHENS of Texas. I propose to see that justice is done between the different sections of this country.

Mr. MANN. I will continue to make points of order against any and every paragraph in the gentleman's bill whenever I deem it proper to do so.

Mr. STEPHENS of Texas. I hope the gentleman will not be in a position to do that.

Mr. MANN. But I shall be. I shall be here. The gentleman need not worry about that. I shall be right here.

Mr. BURKE of South Dakota. Mr. Chairman, I want to say to the gentleman from Texas [Mr. STEPHENS], who has always been extremely fair and courteous to me, both when he was a member of the minority and since he has been chairman of the committee, that he seems to involve me in the matter of the elimination from the bill of an item of appropriation for schools in Oklahoma, when I had absolutely nothing whatever to do with it at all. I did not make any point of order. I never said one solitary word on the subject. Now, if the gentleman rises in his place and makes a point of order and the Chair sustains the point of order, there ought not to be any disposition on the part of the committee to do something that is contrary to what I perhaps am standing for. I am not responsible for the point of order nor for the action of the Chair in sustaining it. I want to say that I never take exception to any Member making a point of order. He has that privilege, and in the exercise of his rights as a Member on this floor, if he believes that an item ought not to be in the bill because it is not authorized by law, and he makes a point of order against it, I am fair enough to say that I believe he is actuated by honest motives, and that he is simply carrying out what his conscience dictates, and I never have acted and never will act in retaliation because a point of order was made against an item that I was interested in. In the present instance the point of order was made by somebody else.

Mr. MARTIN of South Dakota. Mr. Chairman, I believe I have the floor.

Mr. BURKE of South Dakota. I thought the gentleman from Texas had the floor.

Mr. STEPHENS of Texas. Does the gentleman think it is just and right that Oklahoma should have only $13 per capita in school property, while the gentleman's State has $314?

Mr. BURKE of South Dakota. I can not see what bearing that has upon the question, how much Oklahoma has or how much Montana has.

Mr. STEPHENS of Texas. If you have $314, as stated here, should it not be reimbursable, when you have $41,000,000 of property in your State to reimburse it from?

Mr. BURKE of South Dakota. I may say that the committee is furnishing a spectacle of something new to me in my experience in the brief time I have been here. I do not think I have ever before seen a committee come into the House and attempt to make points of order against their own bill. That is unusual, but it seems, from what the gentleman from Texas [Mr. STEPHENS] has just said, that it is done because the gentleman from Illinois [Mr. MANN], who has the habit of making points of order pretty frequently, made a point of order against an item in the bill and the point of order was sustained by the Chair. Now, when any item is reached that a member of the minority of the committee happens to be interested in, because it is in his State, the attitude of the majority is to try to eliminate it. I do not believe that is fair, and it has been my opinion that there has been some feeling indulged in here. Certainly there has been none on my part. I have no feeling whatever.

Mr. STEPHENS of Texas. The gentleman can not say that I have any feeling.

Mr. BURKE of South Dakota. I think the gentleman has been neutral, but as chairman of the committee I think he ought to stand up and defend his bill rather than assist in assaults that are being made upon it from either side of the House. One of the functions of the chairman of a committee ordinarily is to come in and maintain the bill which his committee has reported and which he has helped to frame and not to assail it on the floor.

Mr. STEPHENS of Texas. I have heard the gentleman from Illinois [Mr. MANN] on that side insist that these funds ought to be reimbursable when the Indians have large funds in the Treasury. Here are $41,000,000 in the Treasury for the use of only 20,000 Indians, while they have $348 per capita of school property and of money that is going to them annually for these purposes for each child.

Mr. MARTIN of South Dakota. May I ask the gentleman——

Mr. STEPHENS of Texas. Oklahoma has only $35 of school property and of money that can be annually expended.

The CHAIRMAN. All this is to be understood as coming out of the time of the gentleman from South Dakota, and his time has expired.

Mr. MARTIN of South Dakota. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from South Dakota asks unanimous consent that his time be extended five minutes? Is there objection?

There was no objection.

Mr. MARTIN of South Dakota. Now, we are brought to this absurd proposition: The gentleman from Texas [Mr. STEPHENS], the chairman of this great Committee on Indian Affairs, has not only intimated but he has stated that he proposed to oppose an item that he helped to put into this bill, in cooperation with the other members of the committee, which item the Chairman of this Committee of the Whole has held here in the last 20 minutes is to be maintained under treaty obligations. The chairman of the Committee on Indian Affairs proposes to lend himself by his vote and his influence to defeat that item because, forsooth, some days ago, when I did not have the fortune to be in the room, although he has accused me of being connected with it, another item for the State of Oklahoma was objected to and a point of order made against it by the minority leader, the gentleman from Illinois [Mr. MANN], and went out upon a point of order, from which we may assume that there was no legal basis for maintaining it in the bill.

Mr. STEPHENS of Texas. Is the gentleman aware that this amendment is no part of the bill reported to the House?

Mr. MARTIN of South Dakota. The amendment is the precise section of the bill, except that it leaves off certain language which was subject to a point of order. The item is a proper item.

Mr. STEPHENS of Texas. It makes this item reimbursable.

Mr. MARTIN of South Dakota. It was not reimbursable, and we can not make it reimbursable because it is based on treaty obligations, which would create a liability in the Court of Claims.

Now, Mr. Chairman, it seems to me that we ought not to be led into this absurd position. I understood that the item with reference to Oklahoma that went out the other day was a provision for common schools. I have understood that a great many white children attended these common schools. I know nothing about that item or its merits, but I do know that this particular item is to maintain the Indian schools inside the Indian reservations, and I know that the Sioux Indians paid for it in one of the most valuable properties on the continent; that it has yielded $150,000,000 in gold up to date and yields about $10,000,000 every year. I know that the Government of the

United States can not escape paying for it by the action of certain gentlemen who are getting restless on account of another item going out of the bill, and I am surprised that the gentleman from Texas, the chairman of the committee, should lend his aid to it because another item that did not have a point to stand upon is not in his bill.

Mr. STEPHENS of Texas. Mr. Chairman, I believe the gentleman asked the question how many white people are interested in the schools, and I will say to the gentleman that on the eastern side of Oklahoma the Indian gets 85 cents for each child, a magnificent sum, while in the State of South Dakota you have three schools with several hundred Indians, and they get the magnificent sum of $167 per capita, and that is the advantage of living in South Dakota rather than in Oklahoma.

Mr. MARTIN of South Dakota. Well, there are other advantages, I hope. I do know that this advantage, whatever it is, has been paid for by these Indians, and that they are entitled to realize upon it. I know by a personal visitation to these schools that they are Indian schools—industrial, mechanical schools—and that the benefits are going exclusively to the Indian children. I know of no white children that attend these schools.

Mr. MILLER. Mr. Chairman, I sincerely hope that the gentleman who offered the amendment will not press it, or if he feels for any reason that he must, I hope that the amendment will not prevail. It looks to me as if this is one of the most unfortunate quibbles that has come to us in handling the Indian question for a long time.

We are now dealing with the simple question of fulfilling the treaty obligations with the Sioux Indians. I do not know, Mr. Chairman, whether we should have $200,000 for this purpose or whether we should have $100,000 or $50,000 or $500,000. As to the exact amount needed I have no information and I profess none, but I do know, Mr. Chairman, that whatever amount we put in this item, if we make it reimbursable we have created a claim in behalf of these Indians against the Government of the United States. I do know that we have repudiated a solemn, sacred obligation, and have done it in broad daylight; we have done it after the most full discussion, and it has been done by men who ought to stand here and champion the Indian cause wherever found rather than to stand here and urge upon Congress provisions whereby the Government breaks its obligations. A broken obligation means a claim; a claim means lobbyists and lawyers and the scandals that follow.

This Government to-day is face to face with many of the deeds of the past that were wrong, some of which we are trying to right. Now, for God's sake, do not write another chapter of the same kind. Cut it down if it must be, raise it if it must be, but do it right; do it as the treaty said it should be done, and stand up and face it as it should be faced.

I can readily see, Mr. Chairman, if this is taken as a precedent, if we are to let the difficulties of the present moment—some of the animosities created by the little debate during the last three or four days—get control of the Indian legislation, for the next six months or a year great wrong will be done, not to ourselves, because we can not hurt ourselves, but to the Indians, whose guardians we are and who are helpless wards of ours. They are the ones to suffer.

Now, it does seem to me that this is more like boys' play than it is like the conduct of dignified men on an important subject.

As I understand, it all arose because of the knocking off of one paragraph in the bill relating to Oklahoma. The gentlemen of the committee know, I suppose, without any question, that I myself thought that that was subject to a point of order, but I never thought of making it. I would vote for it if it came in now, and I will tell you why: Because I know that before this bill becomes a law it will be a part of it, and I would like to have the gentlemen who represent Oklahoma in this House get credit for it, if there is any credit in the act, before the people of their State.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. MILLER. Certainly.

Mr. MARTIN of South Dakota. Is it claimed, in reference to the Oklahoma item, with which I have no familiarity, that it is in the bill by virtue of a treaty obligation?

Mr. MILLER. No; it has no foundation in law. It has nothing to justify it. It is a pure gratuity, a pure gift, and one that is rather unfortunate, because it is giving something to the common schools of the State.

Now, Mr. Chairman, I myself have been a little emphatic—perhaps too emphatic—but I appeal to the good common sense of that side of the aisle that they will let this question before us be considered in a fair and impartial manner. It is about time that we ended the bickering back and forth across the aisle. Gentlemen across the aisle know that there are important matters now pending in which they and their people are deeply interested, and I do not believe that they want to start a fight all along the line.

Mr. FERRIS. Mr. Chairman, if it were not for the seeming unfairness of the remarks of gentlemen, I would not say anything at this time. This is an anomalous situation that prevails in reference to this paragraph. The Indian Office during the preparation of this bill undoubtedly recognized fully that the treaty expired in 1909, and they drew the paragraph explicitly extending it for another year, as it has been done annually since the treaty formally expired. I shall not stop there; I will take the testimony of the gentleman from South Dakota, who was for many years chairman of the committee. The gentleman from South Dakota knows more than any other man here about Indian affairs in Dakota, and I will read his words, to which I am indebted to him for calling my attention. I will read from the hearings (page 347) of last year, when this precise item was under consideration. Here is the language:

Mr. BURKE. For the information of Mr. FERRIS I will say that the appropriation for the support of schools among the Sioux has always been carried in a separate item in this part of the bill, because under the treaty of 1889 we were obligated to pay for the education of the Sioux, and that treaty expired, as I recall, in 1909. We have been making the appropriation since by extending the treaty. If you will notice by that language, and it really is a gratuity, the same as the education of other Indians. This is to pay the expenses of the reservation schools generally. There are 20,000 Indians there, and instead of paying it out of the fund that is over further in the early part of the bill, it has been kept here, and I merely make this explanation so you may understand why this item is here.

Commissioner VALENTINE. It would be an item to add to the $1,400,000 if it were not here in this part of the bill.

Mr. BURKE. There is another reason why I prefer to have it that way. I have to come in contact with my Indians as you do with yours, Mr. FERRIS. They complain about things that we do. I call their attention to certain things. For instance, in this case I say to them, "We are giving you $220,000 that we did not agree to give to you and that we do not have to give to you. It shows that the Government is generous.

Mr. FERRIS. The treaty expired in 1909?

Mr. BURKE. Yes; it was a 20-year treaty.

Mr. FERRIS. And, of course, now it is a gratuity.

Mr. BURKE. It is a gratuity.

Mr. Chairman, certainly what chastisement I have had, what chastisement the chairman has had, as to the proposition that we are here fighting an item that we are bound to support by treaty, must, of necessity, be exploded. That reverts to the original question of whether or not they should pay this from their own funds. I care nothing about the "animosity" talked about back and forth. There is no "animosity" so far as I am concerned. I want to call attention to the fact that I think these Indians are more than well to do. They are worth $41,000,000 in property, and here is the report that gives their property. They have $3,000,000 and over of cash in the Treasury.

The treaty expired in 1909 by the words of the commissioner, by the words of the gentleman from South Dakota [Mr. BURKE], and by the words of the law itself. If there be anything about the theory that we shall have the Indians pay where they are able to pay, my amendment should be adopted. If there is nothing about the theory that the Indians should pay when they have money to pay, my amendment should be defeated. Every item in the State of Oklahoma, except one, so far as the Five Civilized Tribes are concerned, for schools is paid for out of the Indian money. No item in this State of South Dakota, either for agency or for schools, is paid out of the Indian money, but in each case it is paid out of the Federal Treasury. There are 20,000 Indians in South Dakota, and they are worth $41,000,000, and they do not pay one penny for the service that is rendered them in the schools and in the various agencies. There are 10,000 Indians of the Five Tribes in Oklahoma, and they have $6,000,000 in the Treasury, and they pay every cent of their school expense. I merely ask that as to this one item this House vote to let the Indians pay where they are able to pay, as they do in other States. I do not know what the vote on this amendment may be. Personally I care not. I merely want to call it to the attention of the House, and the House can do what it sees fit.

Mr. BURKE of South Dakota. Mr. Chairman, I would like to speak briefly in response to what the gentleman from Oklahoma has stated.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that all debate on this paragraph and all amendments thereto close in 10 minutes, 5 minutes to be used on each side.

Mr. MADDEN. Make it 20 minutes.

Mr. MANN. I would like to have 5 minutes.

Mr. STEPHENS of Texas. Mr. Chairman, we must get through with this bill to-day, and I think we had better stay here to-day until the bill is finished.

Mr. BURKE of South Dakota. Make it 10 minutes.

Mr. MANN. I want 5 minutes.

Mr. KAHN. Make it 15 minutes.

Mr. STEPHENS of Texas. Then I ask unanimous consent that all debate close in 15 minutes, 10 minutes to be consumed on that side and 5 minutes on this.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that at the end of 15 minutes, 10 minutes of which to be used by the minority side of the House and 5 by the majority side of the House, debate on the pending paragraph and all amendments thereto shall cease. Is there objection?

There was no objection.

Mr. BURKE of South Dakota. Mr. Chairman, the gentleman from Oklahoma [Mr. FERRIS] read from the hearings of last year wherein I stated that this appropriation was a gratuity. I presume he read it for the benefit of a Member or of Members who might be in the committee now who were not present when I read the same thing a short time ago. I read all of that that the gentleman from Oklahoma read. It is true that when this item was being considered in the committee a year ago I did state that it was a gratuity. I had in mind only the obligation of the 1889 treaty, which was limited in its provisions to 20 years. I did not consider at that time the obligation of the Government to provide education in connection with the civilization of these Indians, and since that time I have done so; and I have argued here to-day to the able chairman, who has only recently rendered a decision in which he holds it is not a gratuity. If the gentleman from South Dakota did state in 1911, at some time or at some place or somewhere, that it was a gratuity, that does not overrule the decision of the very able lawyer who fortunately presides over these deliberations upon this occasion. It does not overrule the law, as the gentleman from Illinois [Mr. MADDEN] very aptly suggests to me. I appreciate the high compliment paid me by the gentleman from Oklahoma, overlooking the sarcasm, but I am free to say that I appreciate that I am not entitled to any such encomium as the gentleman gives me, because I do not know all about Indian affairs, and there is a great deal more that I do not know than there is that I do know about the subject. I am not priding myself on having extraordinary knowledge on the subject of Indian legislation, but I know what the situation is at the present time, namely, that the chairman has held that this is a treaty obligation, and when I made a point of order against the amendment which proposes to make it reimbursable the Chair overruled the point of order upon the ground that it reduces the expenditure from the Federal Treasury under the Holman rule, and was not subject to the point of order. I appeal to members of the committee upon both sides of the Chamber that we ought not violate a sacred obligation that we have entered into with these Indians, to appropriate money for education and make it reimbursable when it is a violation of the treaty obligations.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. FERRIS. Does the gentleman really, honestly in his heart think that treaty is still in full force and effect?

Mr. BURKE of South Dakota. I do.

Mr. FERRIS. Then the gentleman believes to-day what he knows last year was not so.

Mr. BURKE of South Dakota. I have frankly stated what I said at that time, and it does not matter what I stated. That does not change the law. It does not change the ruling made by the Chairman. I appeal to gentlemen on that side of the Chamber that we ought not, because we have the power, by reason of force of numbers, and because we have a rule called the Holman rule, which permits amendments which otherwise would not be in order, to do a wrong and reimburse or make reimbursable against the Indians money that we have contracted by treaty to expend for them. Whenever we do that we furnish the foundation for a claim against the Government, and, heaven knows, we have had enough scandal in connection with Indian claims in the amounts that have been paid in attorneys' fees to these lobbyists who hang around this Capitol digging up anything that they can find wherein a treaty obligation may have been technically violated, so that they may bring in a claim against the Government.

And I hope that that side of the House will not, as I have already stated, vote to make reimbursable this appropriation in the face of our obligation that we will expend it from the Public Treasury.

Mr. MANN. Mr. Chairman, the Chair a moment ago was called upon to make a ruling upon the amendment offered by the gentleman from Oklahoma [Mr. FERRIS], and held that it was in order under the Holman rule. I have no criticism to make of the Chair or the ruling under the circumstances. It was made without argument. I do not think, and I wish to put my statement on record, that it was in order under the Holman rule. That rule provides that a matter shall be in order which shall retrench expenditures by the reduction in salary of the officers of the Government, which is not this case. Second, by the reduction of the compensation of any person paid out of the Treasury of the United States, which is not this case. Third, by the reduction of amounts of money covered by the bill, which is not this case, because there is change in the amount of money either covered by the bill or offered by the amendment.

Now, Mr. Chairman, a moment ago we were met by a very frank avowal by the gentleman from Texas [Mr. STEPHENS], the chairman of the Committee on Indian Affairs, who has the pending bill in charge. He stated to the House frankly and honestly that because I had made a point of order against one or two items—I made a point of order against two, but I do not know whether he included both—in the bill, where Oklahoma was interested, that, therefore, the point of order having been sustained by the Chair, gentlemen on that side of the House proposed to retaliate by striking out——

Mr. STEPHENS of Texas. I deny the statement. It is untrue.

Mr. MANN. It is not untrue. That was the gentleman's statement.

Mr. STEPHENS of Texas. Let it go in the RECORD. We will see who is right.

Mr. MANN. By striking out an item in which the senior Republican member of that committee is interested. I will ask the gentleman frankly what his statement was, then?

Mr. STEPHENS of Texas. The RECORD will show. It will show that you have not stated it correctly.

Mr. MANN. I have stated it correctly. If the gentleman does not change the RECORD, and I will see he does not——

Mr. STEPHENS of Texas. Does the gentleman insinuate that I would change the RECORD?

Mr. MANN. I did not say so. I have seen the gentleman change the RECORD before——

Mr. STEPHENS of Texas. Do you mean that I have changed the RECORD here? If you do, it is untrue and false.

Mr. MANN. I do not mean to insinuate anything. The gentleman is requiring a good deal of patience, not only on my part but on the part of the whole House, in the conduct of the Indian appropriation bill. The gentleman stated, and it will so appear in the RECORD, that because items had been stricken out relating to Oklahoma therefore he proposed to vote to strike out an item relating to South Dakota. In effect, that was his statement. Mr. Chairman, I made the point of order. I am responsible for it. I never have made a point of order in this House on items in appropriation bills which had anything to do with politics. I do not make points of order against items in which Members are interested because they are Republicans or because they are Democrats. But if the Democratic House concludes that because a gentleman on the Republican side of the House makes a point of order in which a Democratic Member is interested, and which is sustained, therefore they will retaliate by striking out an item in which a Republican Member is interested, it will be drawing the line where no favors will be asked and no favors will be granted. Gentlemen on both sides of this aisle know perfectly well that the amenities between gentlemen are preserved in the House regardless of politics, and it is the first time I ever have heard in the House of Representatives during my service here, the chairman of a great appropriation committee declaring that he proposed to punish one of the minority because another Member of the minority had had stricken out of the bill on a point of order, sustained by the Chair, an item in which a Member of the majority was interested.

But if it is a matter of favors and retaliation, commence. We will be there when it is going on.

Mr. STEPHENS of Texas. Mr. Chairman, just a word. I desire to state that I did not use the word "punish," and did not intend to so use it, and the gentleman knows it very well.

Mr. FERRIS. Mr. Chairman, I want to make an inquiry. I am quite anxious to do nothing wrong, either under pressure or without pressure, and I do not think I have. But let me inquire of the Chair, if I may now, if the Chair at this time is of the opinion that this treaty is still in full force and effect, and I ought not to offer my amendment? I can not help but believe that when the Commissioner of Indian Affairs thinks the treaty expired in 1899—and the gentleman from South Dakota [Mr. BURKE] thought so then, and I think so now—I was justified in offering the amendment.

Mr. MADDEN. Will the gentleman yield to me for a minute? Is it possible the gentleman from Oklahoma [Mr. FERRIS] and the gentleman from South Dakota [Mr. BURKE] and the Com-

missioner of Indian Affairs, who might not have looked up the law, could make a wrong statement, not knowing the facts?

Mr. FERRIS. Undoubtedly, that is true.

Mr. MADDEN. And is it not infinitely better to rely on the chairman, who has looked up the law, and let us quit this bickering?

Mr. FERRIS. In response to the gentleman, I will say that it is entirely correct; but I am not sure that the long deliberation of the Committee on Indian Affairs in making up this bill and the unusual ability of the gentleman from South Dakota [Mr. BURKE], the former chairman of the committee, should be overlooked.

Mr. CARTER. I would like for the RECORD to read that this comes in my time. I wish to get in on this proposition.

Mr. BURKE of South Dakota. I thought the gentleman from Oklahoma [Mr. FERRIS] made an inquiry.

Mr. FERRIS. I did. Does the Chair, in face of the law now before him, and in face of the bill, think this treaty is in full force and effect, and does he think the Federal Government is obligated to make this appropriation under this treaty out of the Government funds?

The CHAIRMAN. Well, as to the first inquiry, as to whether the agreement of 1877 furnishes authority to make this appropriation, the Chair is not in doubt. There can be no reasonable question of the obligation of the United States under that agreement. Of course this conclusion is merely the best judgment of the Chair upon the statutes before him, and with the opportunity that has been afforded for investigation. In the construction of contracts between parties who are not on an equal footing, some account should be taken of that fact. In this instance the United States was dealing with savages, and must be regarded as having an advantage over them. The Government was dealing with its wards. So that, in construing any portion of that agreement, if a question of doubt arises, that doubt must be resolved by an interpretation most favorable to the weaker party. This principle is very clear.

Mr. FERRIS. If the Chair will pardon me, I would like to say——

The CHAIRMAN. The Chair was in the act of passing to the next proposition. We find a reference in one act to an antecedent treaty. This reference is susceptible, it is suggested, to two meanings. The Chair does not think it is really susceptible to more than one, but the Chair can understand that in the judgment of others this language may be charged with another meaning. One interpretation is in favor of the Indians because it continues indefinitely an obligation assumed by the Government. The other is against the Indians because it imposes a time limitation upon the discharge of this obligation.

Now applying the principle of favorable interpretation for the weaker party, the Chair is very clearly of the opinion that the reference to the antecedent act was not intended to prescribe a short-time limitation for the discharge of the obligation of the Government.

In this connection it must be borne in mind, as a further ground for holding that no limitation was intended, that additional valuable consideration was afforded by the Indians under the agreement of 1877. This fact furnishes an additional cogent reason for concluding that the United States was required to furnish additional valuable consideration on its part. The Chair therefore has no difficulty in concluding that in consideration of the territory ceded, the United States agreed to extend its undertaking to assist the Indians in the work of civilization, and that this obligation is in full force.

Mr. FOWLER. Mr. Chairman, I would like to make a further inquiry. At the time of the passage of the act of 1877 the act of 1868 had not expired by 11 years.

The CHAIRMAN. Yes; it had not expired. The Chair will not be certain as to the precise time.

Mr. FOWLER. It was made on February 29, 1868, with a limitation of 20 years.

The CHAIRMAN. Yes.

Mr. FOWLER. Then in 1877 an agreement was made between the two contracting parties, as the Chair has detailed, the United States on one side and the Sioux Indians on the other, in which the Black Hills property was involved.

The CHAIRMAN. In which a valuable consideration moved from the Indians to the Government.

Mr. FOWLER. I concede the force of the argument of the Chair, but in 1889, on the 2d day of March, as I recollect, the treaty of 1868 was extended for another 20 years. May I inquire of the Chair as to what he thinks the object of Congress was in extending the treaty of 1868 if the act of 1877 was intended to be perpetual?

The CHAIRMAN. The Chair can hardly answer that as a question of parliamentary law. The Chair will say that that same act to which the gentleman refers expressly provides that everything in the act of 1877, anything in the act of 1889 to the contrary notwithstanding, should be perpetuated, and it gave it a new life, so to speak.

Mr. FOWLER. It was limited, as the Chair well knows, to a period of 20 years.

The CHAIRMAN. The Chair is trying to do the best he can with the parliamentary situation.

Mr. FOWLER. But I am anxious to know what effect the Chair thinks the act of Congress had upon this situation by extending the period 20 years.

The CHAIRMAN. That phase of the situation the Chair has not considered at all, and the Chair is not undertaking to rule on that. This is a matter of a good deal of importance, and the Chair is simply trying to do the best he can toward the solution of a parliamentary proposition which involves some legal principles. It seems to the Chair that the simplest way to get a final solution of it—and a far more authoritative one than the Chair can give—is to take an appeal from the decision of the Chair and let the committee itself settle it.

Mr. CULLOP. Mr. Chairman, I suggest that the matter be passed over until the Chair can have time to look up the authorities.

The CHAIRMAN. The Chair fully examined into this matter and explained the different steps in the transaction. Into that particular phase referred to by the gentleman from Illinois [Mr. FOWLER], which is not before the committee, the Chair has not examined.

Mr. CULLOP. It was in view of that that I made the suggestion which I have just offered.

Mr. CARTER. Mr. Chairman, can I be recognized for five minutes?

The CHAIRMAN. The Chair will recognize the gentleman for five minutes, in view of what has happened.

Mr. CARTER. Mr. Chairman, there seems to have arisen a mistaken impression about the procedure in the House to-day. The gentleman from Illinois [Mr. MANN] certainly misunderstood the gentleman from Texas [Mr. STEPHENS]. What I understood the gentleman from Texas to say was that he favored this amendment because it tended to equalize the school benefits that were being derived by the two States. If I was mistaken in that, I ask that the gentleman from Texas correct me. There seems also to be a general mistake about certain gentlemen on this side of the House taking umbrage at the action of the gentleman from Illinois for exercising his privilege in making a point of order against the provision of $300,000 for the schools of the State of Oklahoma. Let me assure the gentleman there is no soreness on this side. The gentleman from Oklahoma [Mr. FERRIS], it is true, was very much interested in that item. The gentleman from Texas [Mr. STEPHENS] was also interested in the item. But I think that was, in a sense, considered my item, since most of the funds would be spent in the districts represented by my colleague from Oklahoma, Mr. DAVENPORT, and myself.

So if anyone should take umbrage at the gentleman from Illinois it would certainly be one of us. I insisted that the matter go in the bill when it was under consideration in the committee, and by the assistance of my colleague, Mr. FERRIS, and the gentleman from Texas [Mr. STEPHENS] it did go in; but while we regret the loss of this relief to our State, no one takes any offense at the gentleman from Illinois [Mr. MANN] and no ill feelings are cherished against him for exercising his privilege as a Member of the House in objecting to this item.

But, Mr. Chairman, I am going to vote for this amendment under consideration now because, as has been stated by the gentleman from Texas [Mr. STEPHENS], it tends to equalize the benefits that are being derived by two States, which difference should be adjusted as equally as possible. You all heard the statement of the gentleman to the effect that the State of South Dakota has $314 school privileges per Indian and the State of Oklahoma only $13 per capita Indian population.

Mr. BURKE of South Dakota. I think the gentleman from Texas will correct the gentleman from Oklahoma. He did not make that statement.

Mr. CARTER. That was my understanding.

Mr. STEPHENS of Texas. Per capita of Indian children.

Mr. BURKE of South Dakota. The gentleman was only referring to three nonreservation schools.

Mr. STEPHENS of Texas. If the gentleman will examine the document from which I read, he will find that it includes the value of all the school property, and you must remember——

Mr. BURKE of South Dakota. That is not the point that the gentleman stated.

Mr. STEPHENS of Texas. You must remember that you have a number of schools there.

Mr. CARTER. I intended to quote, as nearly as possible, the statement of the gentleman from Texas.

Mr. BURKE of South Dakota. Perhaps I did not understand it.

Mr. CARTER. I intended to state that the gentleman from Texas [Mr. STEPHENS] had stated in his remarks that the State of South Dakota had already $314 per capita in school benefits, improvements, or whatever you might call them, and that the State of Oklahoma had only $13. That was my understanding of the statement of the gentleman from Texas.

Mr. STEPHENS of Texas. That is correct.

Mr. BURKE of South Dakota. Do I understand the gentleman to say that we have in school property for the benefit of South Dakota $314 for each Indian?

Mr. STEPHENS of Texas. For each Indian reported by this report.

Mr. CARTER. That is what I understood the gentleman to say.

Mr. BURKE of South Dakota. I confess that I do not understand the proposition.

Mr. CARTER. The proposition is just what the gentleman from South Dakota stated it, exactly.

Mr. MANN. We have several million dollars' worth of property in my State for each Indian. How does that affect the question?

Mr. BURKE of South Dakota. I do not understand what the point is that the gentleman is trying to make. The property in the Five Civilized Tribes is certainly greater in value than all the property of the Indians in South Dakota three or four times over.

Mr. STEPHENS of Texas. That is the school population, and the school population is given in South Dakota and also in Oklahoma.

Mr. BURKE of South Dakota. Indian school population?

Mr. STEPHENS of Texas. Indian school population, Indians in school. Then, estimating the school property, schoolhouses and plants, that they have, it gives Oklahoma $13 per capita and South Dakota $314.

Mr. BURKE of South Dakota. I can not understand what the gentleman's point is.

Mr. CARTER. Did I understand the gentleman to say $31 or $13?

Mr. STEPHENS of Texas. Thirteen dollars.

Mr. CARTER. I understood the gentleman to give the figure at $13 in his first statement.

Mr. STEPHENS of Texas. Per capita of the Indians in school.

Mr. CARTER. The gentleman stated that South Dakota has Indian school property, for Indians, $314 per capita Indian population, and Oklahoma only $13.

Mr. BURKE of South Dakota. Where did the gentleman get any such statement?

Mr. CARTER. From the statement of the gentleman from Texas.

Mr. BURKE of South Dakota. I do not think the gentleman from Texas will make that statement.

Mr. STEPHENS of Texas. Will the gentleman permit me to explain how that is? There are, I think, three schools in the State, and they have very valuable plants. You have several hundred Indians attending those schools, and the estimate is about $167 per capita for each of those Indians. Oklahoma has only one school. Oklahoma has 120,000 Indians. In South Dakota you have only 20,000 Indians. Oklahoma has about six times as many Indians as South Dakota. That is the difference.

The CHAIRMAN. The time of the gentleman has expired. All time has expired.

Mr. FERRIS. I ask unanimous consent to make a statement for one minute.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent for one minute. Is there objection?

There was no objection.

Mr. FERRIS. Mr. Chairman, I offered this amendment because I thought the treaty expired in 1909. I offered it because I thought that was the judgment of the commissioner and because, in the hearings of 1911, on page 347, the gentleman from South Dakota said it is a gratuity and admits that the treaty expired in 1909. Now, if the judgment of the Chair is that that treaty has not expired, I do not desire to take the responsibility of offering an amendment to make them pay out of their funds in the face of a treaty, and so far as I am concerned I withdraw the amendment. [Applause.]

The CHAIRMAN. If there be no objection, the amendment will be considered as withdrawn. The question now is on the amendment offered by the gentleman from South Dakota.

The amendment was agreed to.

The Clerk read as follows:

For subsistence and civilization of the Yankton Sioux, South Dakota, $14,000.

Mr. MARTIN of South Dakota. Mr. Chairman, I ask unanimous consent to return to line 18, page 26, for the purpose of offering an amendment.

The CHAIRMAN. The gentleman from South Dakota asks unanimous consent to return to line 18, page 26, for the purpose of offering an amendment.

Mr. STEPHENS of Texas. I object.

Mr. MARTIN of South Dakota. I should like to say to the gentleman that, as I have already explained, I was out of the Chamber when that paragraph was read the other day, being out of the city. If he desires to object under those circumstances——

Mr. STEPHENS of Texas. I did not catch the statement of the gentleman.

Mr. MARTIN of South Dakota. I say I was unavoidably away from the city when this item was read. I do not desire to take up time unnecessarily, but I apprehend the gentleman does not understand the matter.

Mr. STEPHENS of Texas. What is the object of the gentleman?

Mr. MARTIN of South Dakota. I want to offer an amendment to increase the item for general repairs and improvements to the Indian school at Rapid City, S. Dak., from $5,000 to $9,000, in accordance with the recommendation of the bureau.

Mr. STEPHENS of Texas. The gentleman will not find in this bill any allowance for new improvements, and we can not afford to single out this one school.

Mr. MARTIN of South Dakota. The gentleman has perhaps overlooked the fact that the justification for this increase is stated by the commissioner to be as follows:

There will also be needed about $9,000 for the general repairs and improvements to the buildings and grounds. This is a very conservative estimate for this purpose.

I have found nothing in the bearings to indicate that any new or other information had come before the committee, and I know personally that this appropriation is needed.

Mr. STEPHENS of Texas. I can not agree to go back for that purpose, when we have uniformly refused to allow such items as that.

The Clerk read as follows:

For pay of one physician for Indians under the superintendent of the Shivwitz School, Utah, $500.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word.

Mr. STEPHENS of Texas. If the gentleman from Kansas will pardon me, I desire to dispose of another matter with reference to New Mexico, and then I will yield to the gentleman.

Mr. MURDOCK. Mr. Chairman, I withdraw my pro forma motion.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent to return to page 10, line 17, to insert a new paragraph by way of amendment.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to return to page 10 to insert a new paragraph. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. Now, Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

For the construction of a bridge across the Gila River on the San Carlos Apache Indian Reservation, Ariz., $45,500, and for the construction of a bridge across the San Carlos River on said reservation in said State, $19,800, to be immediately available, said bridges to be constructed across said streams in the places and manner recommended by the Secretary of the Interior in House Document No. 1013, Sixty-second Congress, third session; in all, $65,300, which said sum of $65,300, with interest thereon at the rate of 3 per cent per annum, shall be reimbursed to the United States by the Apache Indians having tribal rights on the Fort Apache and San Carlos Indian Reservations, and shall be and remain a charge and lien upon the lands, property, and funds belonging to said Apache Indians until paid in full, principal and interest.

Mr. STEPHENS of Texas. I understand this amendment is satisfactory to all the parties interested.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The amendment was considered and agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to submit another amendment.

Mr. MANN. There was an amendment pending, on page 17, line 17, which was passed over, and I think the gentleman from Texas is about to offer one in place of that.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent to withdraw the amendment that was pending to line

17, page 17, considered on Tuesday last, and offer a substitute which I send to the desk.

The CHAIRMAN. Without objection, the request of the gentleman from Texas will be granted.

There was no objection.

The Clerk read as follows:

Page 17, line 17, insert the following paragraph:

"For the construction of a bridge across the San Juan River at Shiprock, N. Mex., on the Navajo Indian Reservation, to be immediately available, $16,500, which said sum of $16,500, with interest thereon at the rate of 5 per cent per annum, shall be reimbursed to the United States by the Navajo Indians, and shall be and remain a charge and lien upon the lands, property, and funds belonging to said Navajo Indians until paid in full, principal and interest."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The amendment was considered and agreed to.

Mr. FOWLER. Mr. Chairman, I desire to make an inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FOWLER. I understood the Clerk to read that the amendment applies to line 17, page 17.

Mr. STEPHENS of Texas. That was a mistake; it comes in after line 16.

Mr. FOWLER. I ask, then, Mr. Chairman, that the amendment be considered as applying after line 16, page 17.

The CHAIRMAN. That has been corrected.

Mr. STEPHENS of Texas. Now, Mr. Chairman, the gentleman from Kansas moved to strike out the last word and withdrew it, and I now yield to him.

Mr. MURDOCK. Mr. Chairman, I would like to ask the chairman of the committee about a dispatch that I found in the New York Herald of last Tuesday, which reads as follows:

[Special dispatch to the Herald.]

SEEKS REPORTS OF SPECIAL INSPECTOR.

ANDOVER, MASS., *Tuesday.*

Prof. Warren K. Moorehead, one of the most energetic members of the Board of Indian Commissioners, says the great majority of the surviving North American Indians are in a far worse situation to-day than at any time since the discovery of America.

"That this is true," said Prof. Moorehead, "no man or woman familiar with Indian history will deny. It is only those persons who are not on the inside, so to speak, who assume that because we are spending several millions of dollars a year in maintaining our Indian Bureau the Indian problem is a thing of the past.

"It is a welcome sign that the public is at last aroused and that the Herald and other newspapers all over the United States are agitating a new Indian policy. While they all agree as to the essential features of this policy—the welfare of the people and the safeguarding of property rights—there is considerable discussion as to how this desired end is to be brought about.

"I am sorry the reports of E. B. Linnen, special inspector for Secretary Fisher, can not be made public. If the American taxpayers could realize what is in those reports such pressure would be brought to bear upon Congress that appropriations would be immediately available for the best possible men to save the American Indians before it is too late. Mr. Linnen has recently visited the leading reservations, and what he has seen and reported upon would seem more natural to have occurred in India in the poor districts or in darkest Russia, rather than in the United States. Nobody can deny the conditions; they are open to the eye of any traveler."

Mr. MURDOCK. I would like to ask the gentleman what are the Linnen reports, and if there are any Linnen reports, why should not they be made public?

Mr. STEPHENS of Texas. That is a question easier asked than answered. Two weeks ago my attention was called to this matter. Behind that I will say that last fall while in the West I heard of the same matter, and I know something of the conditions surrounding the Southern Ute Indian Reservation. There seems to be a trader there exploiting the Indians to his own advantage, and he is charged with standing in with the Indian agent, purchasing horses and animals not needed and padding the accounts of the agency.

I am satisfied that there is something very crooked in that agency. So, believing that, two weeks ago I wrote the department asking them to furnish us with the record. They have failed to do so up to this moment, and yesterday I received a letter saying they were not ready yet to give the information. The report was made last September and has been in the hands of the Indian Department since that time. If the statements made by this man Linnen are true, these men ought to be in the penitentiary instead of holding office under the Government.

Mr. MURDOCK. The gentleman does expect eventually to get the report?

Mr. STEPHENS of Texas. I expect to get that report if it can be obtained by the power of this House.

Mr. MILLER. As I understand the inquiry of the gentleman, it is as to the entire report of Mr. Linnen.

Mr. MURDOCK. Yes. It seems that Special Inspector Linnen has made an investigation of all of the reservations in the United States—not only the Southern Ute Reservation—and that these reports are now in the Department of the Interior. If they revealed any such condition as this dispatch indicates, the House should have those reports at once—dealing not only with the Southern Ute Reservation but with all the reservations.

Mr. STEPHENS of Texas. Mr. Chairman, I would like to make this statement, that the letter from the commissioner which I received yesterday in reply to the letter which I had written him requesting him to forward the statement of Mr. Linnen to the committee was to the effect that they were still examining the matter, and that when they were through examining it they would report, or words to that effect.

Mr. COOPER. When was it filed?

Mr. STEPHENS of Texas. About six months ago.

Mr. MURDOCK. And as soon as the matter is concluded the House is to have the report?

Mr. STEPHENS of Texas. That is the statement of the commissioner.

Mr. COOPER. When was this Linnen report filed in the Interior Department?

Mr. STEPHENS of Texas. It must have been in September last.

Mr. MILLER. If the gentleman will permit me, I think I can throw some light on the matter.

Mr. COOPER. Then they have been examining that report through September, October, November, December, and a part of January and are not yet ready to submit it to the House?

Mr. STEPHENS of Texas. It has not been submitted.

Mr. COOPER. Does not the gentleman think that a report of that kind, which bears on the affairs of the Indians, ought to have been presented to the House and to the country before we take up this general appropriation bill for the Indians?

Mr. STEPHENS of Texas. I think so. I think they have had ample time.

Mr. COOPER. Why has not the committee insisted upon that?

Mr. STEPHENS of Texas. It had not come to our knowledge at that time. I had heard rumors of this matter while in the West on a recent visit, and when I came back here I got further information about the matter from private sources. I did not get it from the department at all. Then I wrote to the department and asked them to forward me the report of Mr. Linnen.

Mr. COOPER. Will the gentleman from Kansas yield to me further?

Mr. MURDOCK. Yes.

Mr. COOPER. Does the gentleman from Texas think that any report submitted by an inspector to a department ought to be kept secret?

Mr. STEPHENS of Texas. I do not. I think it is the public property of the Government.

Mr. COOPER. Has anybody in a department the authority to keep a report of that kind secret?

Mr. STEPHENS of Texas. They exercise the authority, whether they have it or not.

Mr. COOPER. Does the gentleman, who has made a study of this question for a long time, think there is any authority to suppress a report of that kind?

Mr. STEPHENS of Texas. I think not: though this is the second time I have known of it being done.

Mr. DAVENPORT. At this session of Congress?

Mr. STEPHENS of Texas. Yes.

Mr. MURDOCK. The chairman knows that we can reach this report through a resolution in the House.

Mr. STEPHENS of Texas. I thought we could get it more quickly without the resolution.

Mr. MURDOCK. If the special report of Special Agent Linnen should be withheld, the chairman of the committee proposes to go after the report through the agency of a resolution in the House?

Mr. STEPHENS of Texas. Yes; unless it is returned to the committee at once.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last two words. Am I correct in my surmise that the report of this inspector covers all of the reservations in the United States?

Mr. STEPHENS of Texas. Only that one reservation. This man, Mr. Linnen, is a general inspector for the whole United States and is subject to the order of the Secretary of the Interior, and he was sent to this special place to make this report, and did make the report and filed it, I am informed, in September last. I do not know what his report discloses, except what I have heard. I desire to state that the gentleman from Arizona [Mr. HAYDEN] suggests that he has made other reports upon other reservations. That is his business.

Mr. MURDOCK. My understanding was, as this dispatch relates, that he had found a deplorable condition virtually in all reservations.

Mr. STEPHENS of Texas. Possibly so. This is the only one that has been called to my attention.

Mr. CARTER. Mr. Linnen is a regular inspector of the department. It is only a short time ago that he unearthed the fraud in respect to the mineral segregations in Oklahoma, and all three of those implicated at that time resigned under fire, without going to trial.

Mr. COOPER. Mr. Chairman, I would like to ask the chairman of the committee if the information contained in this report ought not to be in the possession of the committee and the House before we legislate on this bill?

Mr. STEPHENS of Texas. I will state to the gentleman that this bill carries only matters of appropriations, and any legislation could not be carried in the bill.

Mr. COOPER. Would it not affect the amount of the appropriations for the purposes for which the appropriations are to be made if we knew the facts?

Mr. STEPHENS of Texas. There is no item carried for the Southern Utes, according to my recollection, in the bill.

Mr. COOPER. The gentleman from Kansas [Mr. MURDOCK] just said that this report covers all the reservations in the country.

Mr. MURDOCK. My understanding is that Special Agent Linnen's report is a report covering generally the reservations in the United States, not merely the single instance of the Southern Utes in Utah.

Mr. STEPHENS of Texas. He is a general inspector, and he goes anywhere that he is sent. He is subject to the orders of the department.

Mr. COOPER. If that is so, ought not we to have the information before we make the appropriation?

Mr. STEPHENS of Texas. No. We could not make an appropriation founded on anything in this report, as I understand it.

Mr. COOPER. But if the gentleman has not seen the report and knows nothing about it, and it relates to all reservations, the gentleman can not say what it contains.

Mr. STEPHENS of Texas. This one Southern Ute Reservation is all I know of specifically.

Mr. COOPER. I have had people speak to me privately, saying things have been unearthed, but this particular report to which the gentleman from Kansas refers I never heard mentioned.

Mr. CARTER. Mr. Chairman, I just want to state to the gentleman that any item in this bill for the immediate taking care of those people would be subject to a point of order, because, as the gentleman from Wisconsin well knows, this bill carries only items for the next fiscal year, and that would more properly come in a deficiency bill.

Mr. COOPER. But if these appropriations are to continue in office certain people—I do not know whether that is true or not—who may be justly attacked in this report of Mr. Linnen's, we would not make the appropriation continuing them in office. That is the point I am making. If there are accusations of fraud bearing upon the officers now doing this work, then we are continuing to appropriate for the very people whom this special agent criticizes.

Mr. STEPHENS of Texas. I will say to the gentleman that this provision of the bill was made up from proper estimates by the department. They have furnished us no estimate relative to that matter, and I would say further that the trouble seems to be that they have a dishonest agent, who is in collusion with a trader. We have to pay some agent, and if this man were removed he would have a successor. He is not specifically named in the bill, but we appropriate so much money for so many employees at each agency.

Mr. COOPER. If that particular gentleman's integrity was attacked in this matter, they could apply a condition to the appropriation when some other man was appointed not to draw this man's salary.

Mr. MILLER. We must know it officially.

Mr. COOPER. We would know it officially if we had that report and it was here, as it ought to be.

Mr. STEPHENS of Texas. We could not have it here when this bill was under consideration. It may be that when the bill is before the other body it will be unearthed.

Mr. COOPER. I do not know why we could not delay appropriating for two or three days until we get that report. I would like to ask the gentleman from Kansas [Mr. MURDOCK] who it was that telegram related to?

Mr. MURDOCK. Mr. Moorehead, of Andover, Mass., who is interested in some way as a citizen in the protection of the Indians.

Mr. MILLER. He is one of the commissioners of the Indian Rights Association. We have an appropriation to pay their expenses in Minnesota.

Mr. MURDOCK. And I would like to ask the gentleman from Minnesota [Mr. MILLER] does he know how long Special Agent Linnen has been engaged in this matter of investigation?

The CHAIRMAN. The time of the gentleman has expired.

Mr. MILLER. Mr. Chairman, I ask unanimous consent for five minutes more.

Mr. STEPHENS of Texas. Mr. Chairman, we can not try all of these things before the committee. Therefore I will object.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For continuing the construction of lateral distributing systems to irrigate the allotted lands of the Uncompahgre, Uintah, and White River Utes, in Utah, and to maintain existing irrigation systems, authorized under the act of June 21, 1906, to be expended under the terms thereof and reimbursable as therein provided, $50,000.

Mr. SIMS. Mr. Chairman, I only rise to ask unanimous consent to extend my remarks in the RECORD by printing an address by Emory R. Johnson, special commissioner on traffic and tolls, before the Western Society of Engineers, Chicago, January 8, 1913, on the subject of "Unwisdom of toll exemption for coastwise shipping."

The CHAIRMAN. The gentleman from Tennessee [Mr. SIMS] submits a request for unanimous consent to have the address indicated by him printed in the RECORD. Is there objection. [After a pause.] The Chair hears none.

The address is as follows:

The provision of the Panama Canal act exempting American coastwise shipping from the payment of tolls raises two questions: Our rights under the treaty of 1901 with Great Britain to adopt such a policy, and the economic wisdom or unwisdom of such a policy irrespective of the provisions of the Hay-Pauncefote treaty.

Two views are held as to the meaning of the treaty. One view is that the treaty means what it seems to say, i. e., that the principle of the neutralization of the canal as broadly established by Article VIII of the Clayton-Bulwer treaty of 1850 has been incorporated without impairment in the treaty of 1901 and that we have promised to treat our ships using the canal the same as we treat British ships. The other view is that the Hay-Pauncefote treaty merely requires the United States to accord equal treatment to the vessels of all other nations.

I do not wish to discuss the possible meanings that may be given to the phraseology used in the Hay-Pauncefote treaty. I am, however, especially pleased by the stand taken by President Taft that the meaning of the treaty is a question to be arbitrated. Indeed, it seems certain that we must eventually either repeal the toll-exemption clause of the canal act of August 24, 1912, or arbitrate the question of the exemption of American ships from the payment of Panama tolls.

If the law stands as it is and tolls are collected on ships under the British flag and not on ships under our flag, Great Britain will doubtless insist upon damages, and if the demand is ignored by the United States, Great Britain may be expected to seek to cause our shipping or commerce to suffer by the amount of the damages she claims. Retaliatory measures on the part of Great Britain would certainly cause us to seek a settlement of the questions at issue. Of course, the settlement would be by arbitration, because it is inconceivable that Great Britain and the United States should be drawn into war over a difference of interpretation of the meaning of a treaty affecting the treatment of shipping.

As between arbitration of the question of the exemption of American coastwise shipping from the payment of Panama tolls and the repeal of the toll-exemption clause of the canal act, the latter course is the wiser one to pursue. If we arbitrate and lose, we must return all the tolls that have been collected, and henceforth either charge no tolls or collect the same tolls on all vessels using the canal. If we arbitrate and win, we will but have established our right to pursue an unwise policy, a policy that is indefensible, whatever may be our rights under the Hay-Pauncefote treaty.

The policy of the United States with reference to the exemption of American coastwise ships from the payment of Panama tolls ought not to be decided with reference to the rights of the United States under the treaty. The questions to be considered are:

Do the coastwise carriers need to be given a subsidy of nearly $20,000,000 during the next 10 years?

Will the general public, shippers and consumers, be benefited by this subsidy, i. e., will freight rates by coastwise lines or by rail lines be lower?

Is this the best method of using public funds to aid the merchant marine?

Are tolls upon all ships needed to make the canal self-supporting and not a burden upon the general taxpayers?

1. It must be evident to every impartial student of the question that it is not necessary to relieve coastwise shipping of canal tolls as long as foreign-built ships are not allowed to engage in the domestic commerce of the United States. American shipowners have a monopoly of the coastwise trade. In 1911 there were 2,537,750 tons of American ships enrolled for the domestic trade on the Atlantic-Gulf and Pacific seaboards. The increase during the preceding decade had been 38 per cent. There is thus a relatively large and healthily increasing tonnage of coastwise shipping, and the opening of the Panama Canal will undoubtedly bring about a large addition to the coastwise fleet. Our coastwise marine is now given sufficient aid and protection by our navigation laws.

2. The sentiment in Congress and elsewhere in favor of relieving the coastwise shipping from the payment of Panama tolls seems to be due largely to the belief that if tolls are collected from the steamship lines the freight rates which they charge and the rates of the transcontinental railroads will be higher by the amount of the tolls, and the public will thus pay more in added freight rates than it will gain in tolls received. This argument, however, assumes an improbable adjust-

ment of rail and water rates. The rates of the steamship lines and the railroads will not be higher if Panama tolls are collected from the coastwise lines.

Those who contend that the traffic carried by rail between the eastern and western parts of the United States will be charged rates increased by the rate of canal tolls assume that the rail charges must be and will be controlled by the coast-to-coast water rates and that the schedules of railroad rates will be fixed at such differentials above the water rates as the railroads can charge and secure traffic in competition with the rival water lines. In order to bring about this adjustment of rail and water rates there must be, first, active rate-controlling competition among the water lines, and, second, it must be the policy of the railroads to fix rates so as to compete actively with the carriers by water for practically all traffic moving between the two seaboards. Will these conditions exist?

It is the practice of steamship lines when operating between common terminal to adjust services and rates by "conferences." The informal organizations or conferences of steamship companies are able to regulate competition and to prevent rates from being forced by competition to the level below which they could not be forced without making the business unprofitable. When several steamship lines operate over established routes and serve the same sections they are able by agreements and understandings with each other so to limit competition as to make their services and rates at least partially monopolistic. Unless prevented by effective Government regulation steamship companies will, like railroad companies, steadily increase the monopolistic character of their service.

If this analysis of the relation of steamship companies with each other be correct, it follows that the rates charged by steamship lines between the two seaboards of the United States will be, or will tend to be, not the lowest rates at which traffic can be profitably handled, but rates as high as the interested steamship lines think the rates can be put without limiting the growth of traffic or without losing tonnage to the railroad lines. Steamship companies, like railroad companies, will tend to charge what the traffic will bear; and steamship traffic will bear such rates as shippers will pay to have their goods transported by water instead of by rail. If this be true, the tendency will be for carriers by water to adjust their charges with reference to the schedules of railroad rates. In so far as this practice of rate making prevails, it will be impossible for the carriers by water to add the canal tolls to their rates. Whether there be canal tolls or not, rates by water carriers will be such as the traffic will bear; the upper limit of what traffic by water will bear will be the lower limit to which rates are brought by the railroad; and the tolls will be paid by the owners of the steamship lines instead of by the shippers in additional water rates.

In the case of chartered vessels, however, the shipper, not the owner of the vessels, must bear the burden of the canal tolls. Charter rates will necessarily be increased by the amount of the canal tolls; and, in so far as railroads compete with the chartered vessel for lumber and similar traffic, the canal tolls will be of advantage to railroads. This advantage, however, will be more theoretical than real. It is not probable that the railroads can in any event compete with the carrier by water for bulk cargoes of lumber, coal, and similar products. The railroads will be obliged to allow that traffic to move by water. They will not run the risk of depressing their general schedule of commodity and class rates for the purpose of preventing chartered vessels from securing traffic that can be handled between the two seaboards of the United States for $5 per ton.

It will be the policy of the railroads to allow a portion of the traffic that might be held to the rails to be shipped coastwise through the canal and to maintain rates upon the traffic which can readily be prevented from taking the canal route. It is probable that the railroads will adopt the general policy of surrendering without serious struggle the minor portion of their traffic in order to maintain profitable charges upon the major share of their tonnage.

The effect of canal tolls upon rail and water rates and the adjustment of the charges of coastwise and all-rail carriers handling traffic between the two seaboards of the United States may be summarized as follows:

Producers and consumers would not secure the major share of the benefits resulting from the remission of tolls upon coastwise shipping using the Panama Canal. On the traffic handled by steamship lines between the two seaboards rates will be but slightly affected by canal tolls. The coastwise traffic between our Atlantic and Pacific ports will consist mainly of general commodities and package freight handled by the established steamship lines. The rates charged by the steamship lines being regulated by agreements among competing companies and being fixed with reference to what the traffic will bear, will presumably be as high as traffic conditions warrant, regardless of tolls. The several lines will have uniform and relatively stable schedules of charges, and the rates of the steamship lines will ordinarily be adjusted with reference to the stable schedule of commodity and class rates prevailing upon the transcontinental railroads and their rail connections. If canal tolls are charged, the operating expenses of the steamship companies will be increased by the amount of the tolls, and their net profits will be lessened by the same amount.

Charter traffic between the two seaboards of the United States will be limited to a few commodities handled as bulk cargoes by or for the exceptionally large shipper. Chartered vessels will not compete with the regular steamship lines to such an extent nor in such a manner as generally to regulate the rates charged by the steamship lines on the greater portion of their traffic.

3. The exemption of American coastwise shipping from the payment of Panama tolls is a poor kind of subsidy to our merchant marine. The money will go to our shipping that needs no aid and not to our vessels that require assistance. If the United States is to adopt a shipsubsidy policy, and I personally would not oppose it, the public funds should go where needed, and should be granted in such a manner as to be effective in building up our merchant marine engaged in the foreign trade in competition with ships under the flags of other countries. The experience of Japan, Germany, and even of Great Britain, shows that the only effective ship subsidies are those paid to strong lines operated over routes deemed important to the government granting the subsidy. To aid our merchant marine in such a way as to produce results, strong lines must be selected or created and given such support as they require to enable them to compete successfully with foreign steamship companies and grow stronger year by year; the Government must concentrate its aid and strengthen the strong lines assisted. It has been suggested that it would be wise for the United States to pay back the Panama tolls collected from the owners of American ships engaged in our foreign trade through the Panama Canal. Such a subsidy, however, would be so small and so thinly distributed as to be ineffective; moreover, the repayment to shipowners of the Panama tolls collected from them would invite similar action by other nations to overcome the effect of our action. Such a subsidy would be one suggesting retaliatory action.

4. Are tolls from all vessels using the Panama Canal necessary to make the canal commercially self-supporting, to prevent it from adding one more permanent load to the increasing burdens of the general taxpayers?

The annual revenue ultimately required to make the canal commercially self-supporting would be about $19,250,000. It is estimated that the operating and maintenance expenses will amount to $3,500,000 yearly, and that $500,000 will be required for sanitation and for the government of the zone. The interest on the cost of the canal—$375,000,000—at 3 per cent per annum, will amount to $11,250,000, and the treaty with Panama guarantees an annuity, beginning 1913, of $250,000 to the Republic of Panama. The sum of these four items is $15,500,000. If to this there be added 1 per cent per annum on $375,000,000 to accumulate a fund to amortize the investment, the total annual expenses will be $19,250,000.

The shipping using the Panama Canal during the early years of its operation will probably have an aggregate net tonnage of about 10,500,000 tons. At the beginning of the operation of the canal coastwise American shipping will probably amount to 1,000,000 net tons of this traffic. By the end of the first decade, i. e., 1925, it is probable that the total net tonnage of shipping passing through the canal will amount to about 17,000,000 tons, of which at least 2,000,000 net tons will probably be contributed by our coastwise shipping.

The tolls upon merchant vessels have been fixed by the President at $1.20 per net ton. It is thus possible that the revenues derived from the canal during the early years of its operation might average about $12,600,000 per annum, if all vessels, American and foreign, were to pay tolls. If the coastwise shipping is exempted from tolls the initial receipts from the canal will amount to less than $11,500,000 during the early years of operation. By 1925 the total traffic of 17,000,000 net tons might, if the rate of tolls were maintained at $1.20 per ton, yield a possible revenue of $20,400,000 if all ships, American and foreign, were required to pay the canal levies. In all probability, however, the rate of tolls will have been reduced to $1 per net ton by 1925, thus reducing the possible aggregate revenue to $17,000,000. The coastwise shipping of the United States in 1925 will doubtless contribute at least 2,000,000 of the probable 17,000,000 net tons of aggregate traffic. Thus, if the coastwise shipping does not pay tolls in 1925, and the rate of tolls is $1 per net ton, the probable revenue of the Panama Canal will then be $15,000,000 a year, or somewhat less than the estimated annual outlays for operation, zone sanitation, government, the Panama annuity, and the interest on the amount invested in the canal.

The United States Government should adhere to business principles in the management of the Panama Canal. While the tolls levied at Panama should be low enough to permit commerce to derive substantial benefits from the canal, and while the charges for the use of the waterway should be well within what the traffic will bear, business prudence and political wisdom demand that the canal shall be commercially self-supporting providing revenues large enough to enable the canal to function, that can be secured without unwisely restricting traffic. The tolls of $1.20 per net ton, as established by the President, will not unduly restrict the use of the canal, even by shipping least benefited by the waterway. Coastwise carriers between the two seaboards of the United States will derive the maximum benefit from the canal, and a rate at least three times the one established might be paid by coastwise carriers without restricting their use of the waterway.

The canal will cost the United States Government $375,000,000, much of which has been, or will be, secured by borrowing funds. The interest and principal of this debt must be paid either from funds secured by general taxes or from the revenues derived from canal tolls. Public expenditures are increasing rapidly. Funds are required in increasing amount for the promotion of the public health, for irrigation and reclamation, and for maintaining the military powers and naval prestige of the United States. Large expenditures upon rivers and harbors are urgently needed. Taxes must inevitably increase. The demands upon the United States are certain to be much greater in the future than they have been in the past, and it does not seem wise for the Federal Government to construct and maintain at the expense of the general budget such a costly public work as the Panama Canal. Those who derive immediate benefit from the use of the Panama Canal may properly return to the Government a portion of the profits secured from using the canal, provided this policy can be followed out without burdening commerce. It should be the policy of the United States to apply business principles to the management of the Panama Canal and to prevent its being a continuing burden upon the General Treasury and upon the taxpayers of the United States.

The Clerk read as follows:

For continuing the construction of lateral distributing systems to irrigate the allotted lands of the Uncompahgre, Uintah, and White River Utes, in Utah, and to maintain existing irrigation systems, authorized under the act of June 21, 1906, to be expended under the terms thereof and reimbursable as therein provided, $50,000.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word, and I do so for the purpose of asking the gentleman from Minnesota [Mr. MILLER] if he can tell us over what period of time Mr. Linnen, a special agent in the Interior Department, has investigated the conditions on various Indian reservations in the United States, what reports he has made, and what hope there is of any conclusion of this matter?

Mr. MILLER. I can only answer the gentleman in a general way, because my information is only general. I will say that Mr. Linnen is only an ordinary inspector in the Indian Bureau, and as such he travels where he is sent to make investigation and report. I know he has made some rather extended investigations in various places at different times, extending over several years, and, as with other inspectors, as is always the case, he makes his report in detail covering the subject he is sent to investigate. It has never been the custom to have those printed or to send them to Congress. They are in the nature, more or less, of the routine part of the work of the department. Prof. Moorehead, I am sure, has in mind something that Mr. Linnen may have said in some of his recent reports.

Mr. MURDOCK. How recent?

Mr. MILLER. There is no general investigation which he has made or no general report. He has made some special reports covering special investigations, the same as other inspectors have made, and he has made some, no doubt, recently. I presume he is making them monthly, or if he has a detail covering more than a month, he makes them bimonthly. These investigations are not general investigations of the Indian question. These reports are always available. Several of them have been published as documents from time to time as called for. If somebody calls for these they will be published as a document. Any Member who would go to the office of the Secretary of the Interior could get a copy of them.

Mr. MURDOCK. The gentleman does not believe for a minute that Prof. Moorehead is right in his conclusions that the conditions that exist in the reservations in the United States could only be equaled in India or Russia for distress?

Mr. MILLER. Prof. Moorehead is a very high-minded man. He is holding his position simply because of a desire to perform a good public service. I must confess, after some reasonable investigation, that some of his knowledge must be from hearsay and is not always correct. I know he means what he says, but I can not always accept his conclusions, because I do not feel that they are true.

I have investigated several Indian reservations in the last four or five years, and I would not hesitate to say that the condition of the Indians in this country at large is vastly superior to what it ever was before, but that does not conclude that in several places there has been great wrong, and in many instances there has been great fraud, and that eternal vigilance is the price of success in the handling of the Indian question all along the line. And it is to the advantage of the whole situation that men like Prof. Moorehead keep raking it up.

Mr. MURDOCK. Then does not the gentleman think that we ought to have all the information of the Linnen reports?

Mr. MILLER. Yes, sir. It has never been the practice in the department to publish them.

Mr. HAYDEN. I will say that in one case I was asked to have the commissioner give me a report of Mr. Linnen. I called at the office. The Secretary said that the information contained in the report was to be used before a grand jury in Arizona, and therefore could not be published at that time. Mr. Linnen was sent to Arizona and the agent was indicted, and Mr. Linnen's testimony was used before the grand jury before anybody else saw it.

Mr. WILLIS. I want to suggest to the gentleman from Kansas that I know something about Prof. Warren K. Moorehead, who has been brought into this discussion. I have known him personally for 20 years. I regard him as one of the greatest living authorities on the American Indian. What he knows about the Indian he does not base on what he has read in books. He has studied these subjects personally and at first hand. He has written a number of books on the Indian that are not theoretical, but practical, and are entirely reliable. In my judgment what he says about the Indians should carry a great deal of weight.

Mr. MURDOCK. In view of that statement, then, I want to say to the gentleman from Ohio that this is rather a severe indictment.

Mr. WILLIS. It is, if Prof. Moorehead really said what the newspapers quoted him as saying.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HOWELL. Mr. Chairman, I move to strike out the last word.

Mr. STEPHENS of Texas. Mr. Chairman, what is pending before the House?

The CHAIRMAN. The gentleman from Utah [Mr. HOWELL] is recognized.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that debate on this paragraph close in five minutes.

Mr. HOWELL. I would like to have one minute.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

The CHAIRMAN. The gentleman from Utah is recognized for one minute.

Mr. HOWELL. Mr. Chairman, in the interest of justice to the officials of the Uintah Indian Reservation I wish to correct some misinformation that has been given on the floor of the House recently. The Uintah Indian Reservation in Utah, to which reference has been made, has not been examined by Special Agent Linnen. It has been examined by an agent of the department, and while there have been some suggestions made with reference to the administration of the reservation, there was no criticism made whatever as to the handling of the funds of the Indians. The officers in charge were found to be absolutely clear from any taint or semblance of corruption in the discharge of the important trusts which have been imposed upon them.

The Southern Ute Reservation, which was designated as being located in Utah, is in Colorado, and I felt like making the record straight, so that the officers of the Uintah Indian Reservation might not rest under the imputation of having been found guilty of corruption.

Mr. STEPHENS of Texas. Mr. Chairman, I ask that the Clerk read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For support and education of 300 Indian pupils at the Cushman Indian School, Tacoma, Wash., including repairs and improvements, and for pay of superintendent, $50,000, said appropriation being made to supplement the Puyallup school funds used for said school.

Mr. LA FOLLETTE. Mr. Chairman, I wish to offer an amendment to page 30, after line 6.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Washington [Mr. LA FOLLETTE].

The Clerk read as follows:

Amend, on page 30, after line 6, by adding the following:

"For support and civilization of the Kalispel Indians in the county of Pend Oreille, in the State of Washington, to erect a school building, employees' quarters, and other necessary buildings, and providing the same with equipment, in the purchase of stock, implements, seeds, and other articles necessary to promote the general welfare of said Indians, including the employment of teachers and instructors, under the jurisdiction of the Spokane Indian School, Spokane, Wash., with the approval of the Secretary of the Interior, $10,000.

"That the Secretary of the Interior is hereby authorized and directed to make allotments, under the general allotment act, to the Kalispel Indians in the county of Pend Oreille, in the State of Washington, of the following-described lands, which they are now occupying, to wit:

"Township 34 N., range 44 E.: Section 20, S. ½ of SE. ¼ and S. ½ of SW. ¼; section 29, all except the SE. ¼ of SE. ¼; section 30, lots 1, 6, 7, and 12; section 31, lots 1, 6, 7, and 12; section 32, NW. ¼ of NE. ¼, N. ½ or NW. ¼, SW. ¼ of NW. ¼, and W. ½ of SW. ¼.

"Township 33 N., range 44 E.: Section 5, lots 4, 5, and 6, SW. ¼ of NW. ¼, and E. ½ of SW. ¼; section 6, lots 1, 6, and 7; section 8, lots 1, 2, 3, and 4; E. ½ of NW. ¼, E. ½ of SW. ¼, SE. ¼ of NE. ¼, W. ½ of SE. ¼, and SE. ¼ of SE. ¼; section 17, all; section 18, lots 1, 6, 7, and 12; section 19, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 12; section 20, all except E. ½ of SE. ¼; section 29, all; section 30, lots 1, 6, and 7; section 32, lots 1, 2, 4, 5, 6, and 7, N. ½ of NE. ¼, and SE. ¼ of NE. ¼; section 33, S. ½ of NW. ¼, N. ½ of SW. ¼, SE. ¼ of SW. ¼, and lot 1.

"Total area, 4,449.27 acres."

Mr. STEPHENS of Texas. Mr. Chairman, I make a point of order against the amendment.

Mr. LA FOLLETTE. Will the gentleman withhold his point of order for two minutes?

Mr. STEPHENS of Texas. Yes; I will yield to the gentleman two minutes.

The CHAIRMAN. The gentleman from Washington [Mr. LA FOLLETTE] is recognized for two minutes.

Mr. LA FOLLETTE. Mr. Chairman, this amendment which I have offered is an amendment which I offered to the bill on a previous occasion. It is to provide for a band of 100 Indians in my district in the State of Washington. Some 25 years ago the Government moved the tribe from their abiding place, and this little band, like the Seminole Indians in Florida, refused to leave their hunting grounds or homes, and the Government set aside the prescribed tract of land I have set forth in the amendment for them to reside on. They have lived there for 25 years without any allotments and without any assistance received from the Government in any shape, form, or manner. The country thereabouts has been settled up, and the game has been driven out, and those people are in destitute circumstances. I think it is only an act of justice that they should be provided for.

The Government set aside this land for them 25 years ago, but it was never allotted to them. They have never had any schools or anything else done for them, and they are surely as much the wards of the Government as are the Seminoles or any of the Indians in Oklahoma.

Mr. STEPHENS of Texas. Mr. Chairman, I sympathize with the gentleman, and I suggest that the best way for him to proceed is to go to the department and get the department to use for the purpose he has in mind part of the lump-sum appropriation that we make for that purpose.

Mr. LA FOLLETTE. They told me at the department that they wished something could be done in this matter, but that they did not have the authority.

Mr. STEPHENS of Texas. Then why does not the gentleman draft a bill and present it to the Committee on Indian Affairs, so that the committee could get a report from the department and the bill could come up in the regular way? It can not come in the appropriation bill at this time. It is new legislation.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

For support and education of 250 Indian pupils at the Indian school, Tomah, Wis., and for pay of superintendent, $43,450; for general repairs and improvements, $6,000; in all, $49,450.

Mr. ESCH. Mr. Chairman, I wish to offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Wisconsin [Mr. ESCH].

The Clerk read as follows:

Amend, page 30, by inserting after the figures "$6,000," in line 15, the following: "For improvement of boiler house and installation of central heating plant, including boilers, $8,000."

Mr. STEPHENS of Texas. Mr. Chairman, I make the point of order against the amendment. It is clearly new legislation. It provides for a new boiler and fire house.

Mr. ESCH. Mr. Chairman, this is an improvement in the existing plant, and evidently it can not be subject to the point of order made by the chairman of the Committee on Indian Affairs. The present occupant of the chair has declared in a ruling this afternoon that where the Government has established a policy it would be lawful to enact legislation to carry out such a policy.

The Government has established an Indian school at this place. The heating plant is but an incident thereto, and hence an improvement in such heating plant would not be subject to the objection made by the gentleman as new legislation.

Mr. STEPHENS of Texas. I think the gentleman is wholly in error. This term "general repairs and improvements" has been held to mean repairs and improvements on buildings used, or upon the water plant or something of that kind attached to the school, for school purposes. The term "general repairs and improvements" is well known, and does not contemplate erecting any new buildings or anything of the kind, and it would be subject to a point of order.

Mr. ESCH. A heating plant would be exactly in line with what the gentleman has just stated.

Mr. STEPHENS of Texas. Then if it is, they would not need this, because it would come under the head of general repairs and improvements, and this $7,000 could be used for the purpose of putting it in.

Mr. ESCH. You cut it down over a thousand dollars below what it was last year. It is very necessary.

Mr. STEPHENS of Texas. It is evidently subject to the point of order. The heating plant is not mentioned in the bill, and it could not possibly be construed to cover the heating plant. If it could, it could cover the school building or anything else.

Mr. ESCH. There is a heating plant there now. This is an improvement thereof.

The CHAIRMAN. Has the gentleman the act upon which this item in the bill was based?

Mr. ESCH. I have not the act at hand. I suppose it would hark back to the organic law providing for this school.

The CHAIRMAN. Has the gentleman that act?

Mr. ESCH. I have not.

The CHAIRMAN. Can the gentleman get it? We can pass this for the time being?

Mr. ESCH. I will try to get the authority. I ask that the item may be passed for the present.

The CHAIRMAN. The Clerk will then continue the reading of the bill.

The Clerk read as follows:

SEC. 25. For support and civilization of Shoshone Indians in Wyoming, including pay of employees, $12,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. The department estimated $15,000 for this purpose this year. The additional $3,000 was partly intended to cover contemplated increases in the salaries of some of the officials. Inasmuch as the committee has taken the position that it will not agree to any increases whatever in salaries, it is hardly worth while for me to offer an amendment, as the committee would not agree to it and it could not be adopted. Therefore I shall offer no amendment at this point, but express the hope that the committee will be a little more liberal in this matter in the future. I withdraw the pro forma amendment.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

For support and education of 175 Indian pupils at the Indian school, Shoshone Reservation, Wyo., and for pay of superintendent, $31,025; for general repairs and improvements, $4,000; in all, $35,025.

Mr. MONDELL. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

In lines 2 and 3, page 31, strike out "$4,000; in all, $35,025," and insert in lieu thereof "$6,000; in all, $37,025."

Mr. FERRIS. I reserve a point of order on that amendment.

Mr. MONDELL. The item is not subject to a point of order.

Mr. FERRIS. I am not sure about that.

Mr. MONDELL. Mr. Chairman, I hope the committee will accept this amendment. It increases this item $2,000. The estimate of the department was $6,000 above what the committee has allowed. The entire sum should have been allowed, because it is greatly needed for slight increases in a few salaries, but more particularly for the improvements of the dairy barn. Gentlemen are aware that while this school is on a reservation, it is specifically appropriated for, and therefore none of the sums in the general appropriation can be used for repairs. Therefore this school and the farm adjacent must be cared for and the improvements made entirely out of these items. Among the other buildings in connection with the school is a dairy barn which is in a very bad condition. It should be rebuilt. The department estimates that $4,000 is needed for this work, but I am only asking the committee to give us $2,000, in the hope that with the increase of $2,000 they may repair or partly rebuild the dairy barn so that it will be possible to continue to use it. On page 141 of the hearings this language is used by the commissioner:

This will leave a balance of about $4,000 for use in constructing a new dairy barn at the school, which is badly needed, as the one now in use is in a dilapidated condition, tumbling in and not worth repairing, and wholly unfit to keep stock in.

As a matter of fact, what is contemplated is really to rebuild the dairy barn, and $4,000 is needed for that purpose; but if the committee will add $2,000 to the appropriation I hope that they may be able to make that improvement. Without it the building is likely to be in condition where it can not be used at all. I should ask for more for this purpose. I should ask for an increase in the salary of the superintendent, and for other officials, if I believed there was any hope of securing it, but as I know all such increases would be opposed and defeated I am only asking what I feel is absolutely essential.

Mr. STEPHENS of Texas. I desire to ask the gentleman whether or not this is a structure of stone, brick, or lumber?

Mr. MONDELL. This building has perhaps a stone foundation, but built, as I recollect, of native lumber, and the new building would, I assume, be built of native lumber, which the Indians would largely get out themselves. The money would be expended to a considerable extent for Indian labor. They would saw the material at their own sawmill, I hope, and get the material from their own reservation.

Mr. STEPHENS of Texas. Would it be necessary to rebuild the barn entirely?

Mr. MONDELL. Very largely, I am inclined to think. Practically it would be necessary to go to the foundation and then come up with a new structure. Possibly there is material in the old barn that they will use, but practically the barn should be rebuilt.

Mr. STEPHENS of Texas. How long has the barn been there?

Mr. MONDELL. I should say 20 years or more.

Mr. STEPHENS of Texas. How many cows and other animals do they have?

Mr. MONDELL. They have a considerable farm, about 1,200 acres, and a herd of cows to furnish milk, cream, and make the butter.

Mr. STEPHENS of Texas. Does the gentleman know the size of the barn?

Mr. MONDELL. No; but it is quite a large barn; they estimate that it would cost $4,000; but with this increase they will have in all $6,000 for all needed repairs, and I am in hopes that out of this $6,000 they can take enough to rebuild the barn and then have a small sum for other repairs. It will not give the amount that they ought to have, but it will help some.

Mr. STEPHENS of Texas. The gentleman from Wyoming has another amendment. Is the gentleman willing to take the additional amount out of the general appropriation?

Mr. MONDELL. Yes.

Mr. STEPHENS of Texas. Mr. Chairman, I have no objection to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming.

The amendment was considered and agreed to.

The Clerk read as follows:

For continuing the work of constructing an irrigation system within the diminished Shoshone or Wind River Reservation, in Wyoming, including the maintenance and operation of completed canals, $50,000, reimbursable in accordance with the provisions of the act of March 3, 1905.

Mr. MONDELL. Mr. Chairman, I offer the amendment which I send to the desk, to be inserted at the end of the paragraph.

The Clerk read as follows:

Page 31, line 9, insert the following as a new paragraph:

"*Provided*, That the Secretary of the Interior is hereby authorized and directed to use not to exceed $1,000 of the sum herein appropriated for the purpose of making an investigation of the conditions of the roads and bridges of the said Wind River Reservation, and shall submit a report thereon, together with maps and plans of said roads, together with an estimated cost of construction of the suitable and necessary roads and bridges on said reservation."

Mr. STEPHENS of Texas. This does not enlarge the appropriation?

Mr. MONDELL. It does not enlarge the appropriation at all. It does not increase the appropriation, but gives the Secretary of the Interior an opportunity to make a needed investigation.

Mr. STEPHENS of Texas. Is the gentleman aware, if he gets this amendment, that it will be subject to a point of order in a succeeding bill—that the appropriation would be subject to a point of order?

Mr. MONDELL. I understand that. The gentleman understands that any appropriation that was made following this report, if the report should justify an appropriation, would, perhaps, be subject to a point of order.

Mr. STEPHENS of Texas. The whole provision is reimbursable?

Mr. MONDELL. It is.

Mr. STEPHENS of Texas. The Indians are requesting that this shall be done?

Mr. MONDELL. I think they desire to have good roads.

Mr. FOSTER. Mr. Chairman, I would like to ask the gentleman is there any money in the Treasury to the credit of these Indians?

Mr. MONDELL. There is not very much at this time, but the Indians have over a million acres of land that by law are subject to sale now and are being sold from time to time. In addition to that they have a reservation which they own in common in addition to their allotment, and a good deal of it is very good land.

Mr. FERRIS. Mr. Chairman, if the gentleman will allow me, the property of these Indians amounts to $2,212,140.68; so I assume that the Government would get its money back.

Mr. MONDELL. I do not think there is any question about that.

The Clerk completed the reading of the bill.

Mr. ESCH. Mr. Chairman, there was an amendment offered by me, on page 30 of this bill, that was passed over. I ask unanimous consent to withdraw the amendment to which the gentleman from Texas made objection and offer in lieu thereof the following which I send to the desk.

The Clerk read as follows:

Amend, line 15, page 30, by striking out the figures $6,000 and inserting in lieu thereof $14,000.

Mr. ESCH. Mr. Chairman, the prime object of asking for an increase in this appropriation is to improve the heating plant at the Tomah Indian School. The heating plant they have there heats only two buildings, and there are a dozen buildings on the grounds. They have separate boilers and separate buildings. The purpose is to connect the several buildings with a central plant, and enlarge the plant in order to meet the new demands. The separate heating plants in the several buildings have been installed many years. The several boilers are in bad condition and can not be put to the highest capacity to get the highest pressure and meet the low temperatures that we have in that climate. The cost of repairs is increasing year by year by reason of the separate heating plants in the separate buildings. It is a matter of great economy to install a separate plant and heat all the buildings, not only an economy as to service, but a great economy in coal consumption. The coal cost last year $7,500 to heat these buildings. Col. Pringle, supervising engineer of the Indian service, declares that with an improved plant there would be a saving of 15 to 20 per cent, which would amount to $1,500 a year. So the cost of this improvement can be saved in five years. No private individual or private corporation would persist in maintaining the heating system that we have there in that school to-day. They would install a central plant to effect the economies that I have suggested. I hope, on the plea of economy, if on no other, the gentlemen will consent to the increase in this item.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to ask the gentleman how old this school is.

Mr. ESCH. Over 20 years.

Mr. STEPHENS of Texas. How many students are there?

Mr. FERRIS. The enrollment is 269 and the attendance 239.

Mr. STEPHENS of Texas. What is the cost per capita?

Mr. ESCH. I think $177.

Mr. STEPHENS of Texas. What is the size of the farm that they have?

Mr. ESCH. Three hundred and forty acres.

Mr. STEPHENS of Texas. What kind of buildings have they?

Mr. ESCH. They are of brick.

Mr. STEPHENS of Texas. Are they of brick throughout?

Mr. ESCH. Yes; except two or three small buildings.

Mr. STEPHENS of Texas. I see they have been making appropriations for general repairs and improvements right along, as they do usually in all of these schools. If these are brick buildings, why is it that they would be needing repairs from year to year if only 20 years old?

Mr. ESCH. In the one item of repairing boilers in these separate buildings I understand the cost one year was almost $1,000. Then they are trying to replace the old pine floors of these schools with hardwood, and have tried to put in cement sidewalks. They have tried to enlarge the dairy barn and to make other improvements. They have also improved the waterworks.

Mr. STEPHENS of Texas. Does the gentleman know what the additional amount estimated was?

Mr. ESCH. Twenty-one thousand dollars by the superintendent, which includes, however, an employees' building.

Mr. STEPHENS of Texas. Does not the gentleman think that $4,000 would be enough for the purpose that he desires?

Mr. ESCH. I am afraid it would not, because of the cost of connecting the central plant with these 12 buildings. We have to lay the pipes 5 feet under ground.

Mr. STEPHENS of Texas. I will be willing to accept an amendment of $4,000.

Mr. ESCH. Will not the gentleman make it $5,000? [Laughter.]

Mr. STEPHENS of Texas. I am willing to make it $4,000.

Mr. ESCH. Then, Mr. Chairman, I will amend my amendment by making it $10,000, being an addition of $4,000, as suggested by the gentleman from Texas.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, line 15, page 30, by striking out the figures "$6,000" and inserting in lieu thereof the figures "$10,000."

Mr. STEPHENS of Texas. And by changing the totals to correspond.

The CHAIRMAN. The question is on the amendment.

The question was taken and the amendment was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent now to return to page 10 of the bill, to the item under California.

The CHAIRMAN. It was the understanding that if there was no objection the committee would return to that item.

Mr. STEPHENS of Texas. This item was passed over on last Tuesday in order that the gentleman from California [Mr. RAKER] might have an opportunity to offer an amendment.

Mr. FOSTER. Mr. Chairman, I think the item has not yet been read.

The CHAIRMAN. The Clerk will read the item.

The Clerk read as follows:

CALIFORNIA.

SEC. 3. For support and civilization of Indians in California, including pay of employees, and for the purchase of small tracts of land situated adjacent to lands heretofore purchased, and for improvements on lands for the use and occupancy of Indians in California, $57,000.

Mr. FOSTER. Mr. Chairman, on that I reserve a point of order. I desire to ask the gentleman from California [Mr. RAKER] a question. He seems to have some interest in this matter.

Mr. RAKER. Oh, no interest especially, except as a Representative from California to the end that these unfortunate people be properly cared for.

Mr. FOSTER. How many Indians are there in California?

Mr. RAKER. Something over 20,000.

Mr. FOSTER. And how much land have they?

Mr. RAKER. I am not able to inform the gentleman.

Mr. FOSTER. This is irrigated property?

Mr. RAKER. Oh, no; this is throughout the entire State.

Mr. FOSTER. How long has Congress been appropriating $57,000 to buy little strips of lands around where these Indians are located? Can the gentleman inform us?

Mr. RAKER. No. I can say this, that Congress has never been appropriating $57,000 for this purpose.

Mr. FOSTER. Oh, I think it has for several years.

Mr. RAKER. They have been appropriating big amounts, but not sufficient, of course, for the purpose of education and maintenance of Indians, and, incidentally, for the purchase of some lands.

Mr. FOSTER. Can the gentleman inform the committee how much of this $57,000 is expended for salaries for men looking after this all of the time?

Mr. RAKER. I am unable to state the exact amount.

Mr. FOSTER. Does the gentleman know whether there are men who are employed constantly to pick up those little pieces of land?

Mr. RAKER. Oh, no; I am satisfied of that.

Mr. FOSTER. Is the gentleman sure of that?

Mr. RAKER. Yes; I am satisfied of that.

Mr. FOSTER. My understanding is that there is a certain one who is kept busy there all of the time, employed by the year.

Mr. RAKER. I think that does not apply to the State of California for the purpose of picking up land.

Mr. FOSTER. They are buying this land.

Mr. RAKER. No one, as I understand it, is engaged in that special occupation.

Mr. FOSTER. Who looks after buying this land?

Mr. RAKER. First, it would be the agents or the superintendents of the schools near by where they are looking after the other matters, and if it becomes necessary to obtain some small tracts they would do so.

Mr. FOSTER. They spend $57,000 every year?

Mr. RAKER. Oh, no; this does not cover all. The purpose of the bill is for the support and civilization of the Indians of California. That goes over the entire State.

Mr. FOSTER. And the purchase of land?

Mr. RAKER. And incidentally—and it is so incidental that it amounts to very little—there are occasionally small pieces of land that are obtained adjacent to some particular tract now held by the Government for the use of the school or otherwise, and there have been a few instances where they have purchased a little tract for some Indians.

Mr. FOSTER. Does the gentleman propose to increase this amount?

Mr. RAKER. Yes; as recommended by the department in its estimate and, further, as shown by virtue of correspondence with the department.

Mr. FOSTER. How much does the gentleman propose to increase it?

Mr. RAKER. Three thousand dollars.

Mr. FOSTER. For the purpose of buying land or paying salaries?

Mr. RAKER. For the purpose of absolute necessaries for the care and support of the Indians. There are a number in the State that are unprovided for. Even our counties are assisting all they can, and I am informed by the department that they have used up every cent that they appropriated last year and that there are needy Indians in the State, scattered over the State, that ought to have the care and assistance of the department, and the department is unable to give them that care on account of not having the funds.

Mr. FOSTER. Mr. Chairman, the gentleman's argument is so convincing to me that I am willing to withdraw the point of order. I withdraw the point of order.

Mr. RAKER. I offer the following amendment.

The CHAIRMAN. The gentleman from California offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, by striking out the figures "57,000," at the end of line 23, on page 10, and insert in lieu thereof the figures "60,000."

Mr. RAKER. Now, Mr. Chairman——

Mr. STEPHENS of Texas. Is there any specific piece of land that it is designed to purchase?

Mr. RAKER. This does not apply to the land at all, and I hope it will not be used for land, but for the actual necessaries for the maintenance of the old Indians scattered all over California. I have a letter here——

Mr. STEPHENS of Texas. Does that change the language of the law heretofore?

Mr. RAKER. No; this is just the same. I only strike out "fifty-seven thousand" and put in "sixty thousand."

Mr. STEPHENS of Texas. Just changing the totals?

Mr. RAKER. That is all.

Mr. STEPHENS of Texas. Then I withdraw any objection.

Mr. MILLER. Mr. Chairman, if the gentleman has finished, I rise to oppose the amendment. I certainly hope the chairman of our committee will not accede to that amendment. If I understand the purport of it, he is introducing a revolutionary and most remarkable proceeding. Every State has many indigent, poverty-stricken, perhaps suffering, Indians scattered through it. It is because of humanity actuating the respective communities in which they may live that they extend some care to them. If they have some property rights or tribal rights, it is the duty of the Government to look after them somewhat, but never since I have been a member of the committee have we appropriated from the Federal Treasury a dollar for an agent who is going over a State to find some needy Indians and pay it to them. I understood the gentleman to say that he wanted $3,000 to take care of these poor and needy Indians.

Mr. RAKER. Will the gentleman yield there?

Mr. MILLER. Certainly.

Mr. RAKER. There is in this bill provided for the care and support and civilization of Indians in California, $57,000. Now, there have been a number of applications to the department more than furnished last year for these Indians. Last year they were unable to do it, and they are unable to do it this year. They recommended that $60,000 be appropriated. According to their letter to me they say it ought to be $75,000.

Mr. MILLER. Are you speaking of the department's estimate?

Mr. RAKER. I am speaking of the letter of the department.

Mr. MILLER. I am speaking of the department's estimate.

Mr. RAKER. Yes, sir; I have a letter here.

Mr. MILLER. And the letter is from the local office?

Mr. RAKER. No; it is from the Secretary here, the Assistant Secretary of the Interior, Mr. Adams. He says:

DEPARTMENT OF THE INTERIOR,
Washington, January 2, 1913.

Hon. JOHN E. RAKER,
House of Representatives.

SIR: In response to your letter of December 30, 1912, addressed to the Indian Office, regarding the appropriations for the Fort Bidwell and Greenville Indian schools, I have the honor to advise you that the department has submitted favorable reports, with amendments, on H. R. 26660 and H. R. 26670, introduced by you, providing specific appropriations for the Fort Bidwell and Greenville Indian schools. There are inclosed for your information copies of the reports of the department on these bills.

The department will be glad to see the provisions contained in H. R. 26660 and H. R. 26670, if amended as suggested, incorporated in the Indian appropriation bill and a specific appropriation provided for these schools.

Referring to the appropriation for the support and civilization of Indians in California, your attention is invited to the estimate of the department found on page 401 of the estimates of appropriations, 1914, wherein the department requested $60,000 for this work. The Indian bill, H. R. 26874, as reported by the House Committee on Indian Affairs, carries an appropriation of only $57,000 for this work. While there is need for $75,000 for the support and civilization of Indians in California, the department would be satisfied if its estimate for this work, amounting to $60,000, were provided for in the Indian appropriation bill.

Referring to the Indian school at Riverside, Cal., you are advised that the department's estimate for this school is as follows:

"For support and education of 550 Indian pupils at the Sherman Institute, Riverside, Cal., for pay of superintendent, and for general repairs and improvements, $105,000; new buildings, $20,000; central heating plant, $15,000; in all, $140,000."

The Indian bill as reported to the House carries an appropriation of only $104,350 for the Riverside school. The Riverside plant, by the use of the sleeping porches which have been added to a number of the dormitories, has a capacity of about 700. In view of the fact that this school can now accommodate about 700 pupils, it would be in the interest of economy in the expenditure of public funds to authorize the enrollment of 700 pupils, provided Congress would appropriate for the support of this number.

The increase in the enrollment at this school from 550 to 700 would require an additional appropriation over the estimate submitted by the department of $25,050, this amount being determined on the basis of $167 per pupil.

A new building for employees' quarters is one of the urgent needs of the Riverside School. In this connection your attention is invited to the letter of the department of even date in answer to your letter of December 23, 1912, with which you inclosed a copy of a letter from the Chamber of Commerce of Riverside, Cal., regarding the Riverside Indian School.

Referring to your inquiry regarding the needs of the Indians of the Klamath River Indian Reservation, your attention is invited to the report of the department dated December 21, 1911, transmitting a draft of legislation which has been introduced as H. R. 16683, which, if enacted, would enable the department to use the available funds arising from the sale of the lands of said Indians for their benefit. I should be glad to see enacted at this session of the Congress H. R. 16683.

The department will be pleased to furnish any additional information that you may desire regarding the matters to which you refer in your letter of December 30, 1912.

Respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

Mr. MILLER. Very well; I am glad to have that information. Still, Mr. Chairman, it does not alter the situation from my own viewpoint. In the first place, to my mind, this is an exceedingly dubious paragraph. I always have thought so, and that it was subject to a point of order. It contains several things which, if it were a new proposition, I never would give my consent to. For instance, it authorizes the purchase of small tracts of land situated adjacent to land heretofore purchased. What tracts of land, by whom purchased, and what for?

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. MILLER] has expired.

Mr. MILLER. Mr. Chairman, inasmuch as most of my time was occupied by other gentlemen, I ask an extension of five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MILLER. That in itself would be sufficient to defeat the bill if it were an original proposition. A year ago we allowed $57,000. Does not the committee see fit to reappropriate that exact amount? Now, in view of the peculiar and particular character of this appropriation I do not think it wise for the gentleman to ask to increase it, because if he does it may be that the next time it falls by it will not be in at all. I do not believe this kind of an appropriation should ever be started, but, having once been started, Mr. Chairman, I do not think it should ever be extended.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. RAKER].

The question was taken, and the amendment was rejected.

Mr. RAKER. Mr. Chairman, I desire to have printed as a part of my remarks a letter from the Acting Secretary of the Interior, and also one from Mr. Abbott, the acting commissioner, dated December 21.

The CHAIRMAN. Is there objection?

There was no objection.

The letter is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 31, 1912.

Hon. JOHN E. RAKER,
House of Representatives.

SIR: Receipt is hereby acknowledged of your letter of December 18, making inquiry in regard to the status of certain indigent Indians living at Hay Fork, Trinity County, Cal.

In reply, I have the honor to advise you that these Indians are located about 100 miles from the nearest Indian school, Round Valley Indian School, at Covelo, Cal., and the superintendent states that it will take at least two weeks' time and cost approximately $75 for each visit made to these Indians. At times it would be impossible for him to visit them on account of the dangerous streams between the two places.

For administrative purposes, these Indians are considered under the jurisdiction of Mr. Horace G. Wilson, in charge of the nonreservation Indians of Oregon and California, with headquarters at Roseburg, Oreg., about 200 miles from where these Indians live.

The office always stands ready to furnish real emergency relief to Indians in a starving or destitute condition within the territory where the service has facilities for such action and as far as applicable funds are available.

As heretofore set forth in previous correspondence in regard to the matter, it is practically impossible, owing to the limited amount of funds available, for this office to give more than occasional temporary relief to these Indians. With the funds appropriated for the Indians in the State of California it is practically impossible to provide for the needs and industrial advancement of the Indians directly under the jurisdiction of the various superintendents, and at the present time there is no balance of the amount appropriated for the "Support of Indians in California" for the present fiscal year except what is already hypothecated for certain definite purposes.

In the estimate of needs for the Indian Service during the fiscal year 1914 the department estimated that at least $60,000 would be necessary for the Indians in California and $250,000 to provide for the "Relieving of distress and prevention of disease, etc., among Indians," which amounts, as reported from the committee, have been cut to $57,000 and $90,000, respectively.

It will thus be seen that the amounts approved by the committee are considerably less than those estimated as absolutely necessary for the needs of the Indians in your State and to provide for the relief of destitution among Indians in all parts of the country.

Respectfully,

F. H. ABBOTT,
Acting Commissioner.

(See copy of other letter preceding.)

Mr. RAKER. Now, Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from California offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by adding the following at the end of line 23, on page 10:

"For the support and education of 100 Indian pupils at the Greenville Indian School, Greenville, Cal., and for pay of superintendent, $18,700; for general repairs and improvements, $1,000; for construction of septic tank and sewerage system, $3,000; for an employees' building, to be used for employees' quarters, club, kitchen, dining room, $4,000; for shop building for instructing the boys in blacksmithing and carpentry, $1,200; for school farm for maintaining the school stock and small dairy herd, and for raising fruits, grains, and vegetables, $7,000; for a school and assembly building for general meetings and entertainments, $8,000; for a complete steam-heating plant for school and accessory buildings, $6,000; for a boys' dormitory with a capacity of 75, $5,000; for a steam laundry with a capacity of washing and ironing for 150 persons, $2,600; in all, $56,500."

Mr. STEPHENS of Texas. Mr. Chairman, I make a point of order against the amendment on the ground that it is new legislation.

Mr. RAKER. Will not the gentleman reserve the point of order for a moment?

Mr. STEPHENS of Texas. I desire to state to the gentleman frankly that I think it would be unwise legislation to permit a new school plant to be erected without investigation and full report on the matter. We have had no chance to make that investigation, and hence I make the point of order. If the gentleman desires to make a statement, I will yield him the five minutes.

Mr. RAKER. The school at Greenville has been built for quite a number of years. It is a wooden structure. Both boys and girls use it. The dormitory for the boys is at one end and that for the girls is at the other end. The school needs much improvement in the way of new buildings and general improvements to the premises. I will read what the Secretary of the Interior says in regard to it in his letter under date of January 2, 1913; and by way of remark I may say they estimated in the regular estimates for 1914, on page 401, for this school building as a separate institution. Here is what the Secretary says:

DEPARTMENT OF THE INTERIOR,
Washington, January 2, 1913.

Hon. JOHN H. STEPHENS,
Chairman Committee on Indian Affairs,
House of Representatives.

SIR: The department acknowledges receipt of a letter received from Hon. JOHN E. RAKER, addressed to the Commissioner of Indian Affairs, dated December 5, in which he incloses copies of House bill No. 26670, providing an appropriation for the support and education of Indian pupils at the Greenville Indian School, California, as follows: For support and education, $18,700; repairs and improvements, $1,000; septic tank, $3,000; employees' building, kitchen, dining room, etc., $4,000; shop building, $1,200; purchase school farm, $7,000; school and assembly building, $8,000; complete heating plant, $6,000; boys' dormitory, capacity 75, $5,000; and a steam laundry, capacity 150 persons, $2,600; making a total of $56,500.

He requests that a report be made to the House Committee on Indian Affairs.

There is urgent need for a well-equipped school at Greenville. It is located in a section of California where there are a large number of Indian pupils who have not access to any school. It is estimated that there are over 300 out of school and largely without school facilities of any character. The present capacity of the Greenville School is about 100. It has no shop buildings, employees' quarters, central heating or sewage systems, and the other buildings are inadequate for the purposes for which they are used. The plant should be very substantially improved. This bill provides for the support of 100 pupils for the year 1914, and if it should be approved the new buildings provided for will increase the capacity to 150 pupils.

The item of $5,000 for a dormitory for 75 boys is, however, too small. This should be changed to $15,000, which will make ample provision for the construction of a dormitory with a capacity of 50 or 60 pupils.

This department has heretofore recommended that this school be specifically provided for. In the estimate submitted by this department for the proposed bill, making provisions for the entire Indian Service, it is recommended that $30,000 be given this school—$20,000 for the support of 100 Indian pupils and repairs and improvements and $10,000 for new buildings. This estimate for Greenville, however, was very conservative.

The provisions of the bill proposed by Congressman RAKER are much more liberal and are justified by the needs of the Indian service in this community; and, with the change suggested, I should be glad to see the provisions contained in H. R. 26670 incorporated in the Indian appropriation bill as a specific appropriation for the Greenville Indian School. If that be impracticable, I trust the bill may receive consideration as a separate measure.

Respectfully,

WALTER L. FISHER, *Secretary.*

I also have here a letter under date of November 25, 1912, from the superintendent of the Indian school at Greenville. I want to state—and I think the chairman of the Committee on Indian Affairs will bear me out in the statement—that, while the members of the committee, as I know, want to be fair, and are fair, they have not had an opportunity, except from these reports, to go into the matter, although the school is there. Here is the report from the Secretary of the Interior, and a letter from the Indian Service, and from the superintendent at Greenville Indian School, showing the necessity of this school. Here is what the superintendent says:

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
GREENVILLE INDIAN SCHOOL,
Greenville, Cal., November 25, 1912.

Hon. JOHN E. RAKER, M. C.,
Washington, D. C.

DEAR SIR: Complying with request contained in your letter of the 16th instant, I take pleasure in submitting herewith itemized estimates of improvements needed at this school, with amount for general support, trusting that same can be included in the bill under special appropriation for this school.

For support and education of 100 Indian pupils at Greenville School, Cal., and for pay of superintendent, $18,700.

For general repairs and improvements, $1,000.

For construction of septic tank and overhauling the sewer system, $3,000. The sewer discharge at present is into an open field and is not sanitary, and complaints are being made by residents in vicinity. This needed improvement should be appropriated for by all means.

An employees' building, to be used for employees' quarters, club kitchen, dining room, etc., $4,000.

A shop building, 30 by 50 feet, for instructing the boys in blacksmithing and carpentry, $1,200.

A school farm for maintaining school stock and a small dairy herd and for raising fruits, grains, and vegetables, $7,000. At present the institution has not an acre of farming or grazing land, and, of course, the boys can not be given training in agricultural pursuits.

A school and assembly building, $8,000. At present there is no place for general meetings, entertainments, etc. All exercises of this kind

must be held in a small classroom, which is entirely inadequate, or in the dining room, which is not at all suited to the purpose.

A complete steam-heating plant, $6,000. At present the buildings are all heated by wood stoves, which method is both unsatisfactory and dangerous.

A boys' dormitory with a capacity of 75, $5,000. The present system of housing both sexes in the same building is extremely unsatisfactory; besides, this additional dormitory is badly needed.

A steam laundry, with a capacity of washing for 150 persons, $2,000.

Of course, it will be understood that when the desired improvements in the way of buildings are completed the capacity of the school will be increased to 150, which number should then be appropriated for.

Trusting this information will suit your purpose and that the whole list may be included in the bill for this school, I am, with best wishes,

Very sincerely, W. S. CAMPBELL,
W.S.C.—W.J.Z. *Supt. & S. D. A.*

Yet I understand, Mr. Chairman, that I will have to submit to the ruling of the Chair.

Mr. STEPHENS of Texas. Mr. Chairman, if the gentleman will permit me, I would like to state——

The CHAIRMAN. Does the gentleman from California yield?

Mr. RAKER. Yes; I yield.

Mr. STEPHENS of Texas. There is now an appropriation sufficient to run this school out of the lump-sum appropriation, and the lump-sum appropriation is $1,400,000. This school has heretofore been supported from the general item for Indian schools support, which takes care of all the Indian schools. This school, however, has become insufficient, and in order to relieve the Fort Bidwell School it should have a specific appropriation. The school is already appropriated for under the lump-sum appropriation, and I do not see any sufficient reason why we should change it from the lump-sum appropriation to a specific appropriation. For that reason I must urge the point of order.

Mr. RAKER. I will have to submit to the point of order. Let the Chair decide.

Mr. STEPHENS of Texas. Mr. Chairman, I submit that the amendment is new legislation.

The CHAIRMAN. The point of order is sustained.

Mr. RAKER. Now, Mr. Chairman, I ask unanimous consent that in connection with this amendment I be permitted to insert a letter of the Secretary of the Interior of date January 2, 1912, and also a letter from the superintendent of the Indian school at Fort Bidwell, showing the necessity of this improvement, and a letter from the Assistant Secretary of date January 3, 1913, covering these general bills.

The CHAIRMAN. The gentleman from California [Mr. RAKER] desires authority to have done the printing indicated. Is there objection?

There was no objection.

Following are the additional letters referred to:

DEPARTMENT OF THE INTERIOR,
Washington, January 2, 1913.

Hon. JOHN H. STEPHENS,
Chairman Committee on Indian Affairs,
House of Representatives.

SIR: The department acknowledges receipt of a letter from Hon. JOHN E. RAKER, addressed to the Commissioner of Indian Affairs, dated December 5, in which he incloses copy of H. R. 26669, providing an appropriation for the support and education of the Indian pupils of the Fort Bidwell Indian School, Fort Bidwell, Cal., and for repairs and improvements, and for other purposes, as follows: Cost of employees, $10,500; for clothing, subsistence, and operating expenses, $7,101; for open-market purchases, $1,000; for transportation of supplies from railroad, $500; for telephone and telegraph expenses, $100; for transportation of pupils to and from school, $500; for cement walks, $3,000; for woven-wire fence, $1,000; for irrigation work, $500; for farming experiments, $300; for new school building, $10,000; for new superintendent's quarters, $2,500; for traveling expenses, $300; for harvesting, thrashing, and grinding, $350; for financial clerk, $600; for automobile for use of school and superintendent, $1,200; for sawmill, planer, and equipment, $3,000; for clearing and grubbing 200 acres, $500; making a total appropriation of $42,951.

Mr. RAKER requests that a report be made to the House Committee on Indian Affairs.

The form of this bill is objectionable because it sets out specifically a large number of items which can be better provided for by including them in the general term "Repairs and improvements," and for administrative reasons it will be an advantage to have them so grouped. One item of $500 for transportation of goods and supplies should be eliminated for the reason that there is a general fund from which all such expenses are paid. This is also true of the item of $500 for the transportation of Indian pupils. The item of $600 for financial clerk may also be eliminated, as this position can be regularly provided for in the salary list. I have the honor to recommend that the entire second paragraph be stricken out and that lines 5, 6, 7, and 8 of the first paragraph be changed to read as follows: "appropriated, for the support and education of 125 Indian pupils at the Fort Bidwell Indian School, Fort Bidwell, Cal., and for repairs and improvements, $25,250; for an automobile, $1,200; for new school building, $10,000; for superintendent's cottage, $2,500; and for a sawmill, $3,000; in all, $41,951."

The Paiutes are very poor and are in great need of assistance. There are approximately 60 children of this tribe that should be accommodated in this school. A large number of advanced children from the Pit River Indians should also be enrolled here, these latter Indians having heretofore enrolled few of their children in nonreservation schools. With children from other bands of Indians located in this section of California, the Fort Bidwell School can be filled to its capacity. The present location of the school is ideal, there being an excellent farm and an abundance of water for all purposes, including irrigation and some water power.

There is a large amount of reservation work for the superintendent, and an automobile is essential to efficient administrative work.

There are 1,400 acres of pine timberland on the reserve, two-thirds of which is ripe and should be manufactured into lumber, not only for the use of the school plant, but for the use of the Indians in building homes upon their allotments. A considerable portion of the school farm should be cleared for agricultural purposes, and this timber should also be manufactured into lumber. For this purpose a sawmill is necessary.

This department has heretofore recommended that this school be specifically provided for. In the estimates submitted by this department for the proposed bill, making provisions for the entire Indian service, it recommended that $20,000 be given for the support and education of 125 Indian pupils and for repairs and improvements at Fort Bidwell. This estimate, however, was very conservative.

The provisions of the bill proposed by Congressman RAKER are much more liberal, and are justified by the needs of the Indian service in this community, and with the changes suggested I should be glad to see the provisions contained in H. R. 26669 incorporated in the Indian appropriation bill as a specific appropriation for the Fort Bidwell Indian School. If that be impracticable, I trust the bill may receive consideration as a separate measure.

Respectfully, SAMUEL ADAMS,
First Assistant Secretary.

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
Fort Bidwell, Cal., November 25, 1912.

Hon. JOHN E. RAKER, M. C.,
Washington, D. C.

DEAR MR. RAKER: In furtherance of my letter to you of the 20th instant in answer to your request that I furnish you with complete data relative to the cost of maintenance of this school, and after taking into consideration the cost for the past few years, also the increased attendance this year over former years, I have the honor to submit the following, all of which I know to be conservative:

Cost of employees	$7,660
In addition to above, paid from agency fund	2,100
Annual estimate, clothing, subsistence, and miscellaneous operating expenses	7,101
Open-market purchases, not received on estimate	1,000
Transportation of supplies from railroad	500
Telegraph and telephone expenses	100
Transportation of pupils to and from school (which should be increased to $500)	150
Present cost of upkeep	18,671

The plant is noted for its run-down condition, and, in addition to the above, the following should be made available:

Cement walks (or, if sawmill is allowed, wooden walks; if wood, $1,000 is sufficient)	$3,000
Woven-wire fence	1,000
Irrigation work	500
Farming experiments	300
New school building	10,000
New superintendent's quarters	2,500
Traveling expenses	300
Harvesting, thrashing, and grinding	350
Increase of salaries, as follows:	
Superintendent, $1,400 to $1,800	400
Clerk, from $720 to $1,000	280
Financial clerk	600
Automobile, purchase of same	1,200
Sawmill, planer, etc	3,000
	22,430

Of course, a large part of the last estimate will be only necessary for the first year; after that about $20,000 or $25,000 per year will be ample.

The increase in salaries does not seem exorbitant when we consider that this office is obliged to attend to the school and agency work. The agency work, comprising the allotment of minors, supervising the old Indians, inducing them to start home making on their allotments, determination of heirs by hearings, sale of noncompetent and inherited Indian lands, etc.

I do not mean to take this opportunity to try getting my salary raised, and will be very much pleased if we can get the other things needed, but believe remuneration of self and clerks should be in keeping with services rendered.

P. S.—Hope favorable action will be taken on the request for an automobile for this place.

Yours, very truly, W. A. FULLER, *Superintendent.*

Mr. RAKER. Now, Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from California [Mr. RAKER].

The Clerk read as follows:

Amend, at the end of line 23, page 10, by inserting the following: "For support and education of 125 Indian pupils at the Fort Bidwell Indian School, Fort Bidwell, Cal., and for repairs and improvements, $25,251; for new school building, $10,000; for superintendent's cottage, $2,500; for a sawmill, $3,000; in all, $40,751."

Mr. STEPHENS of Texas. Mr. Chairman, I make a point of order against that amendment, also.

Mr. RAKER. Mr. Chairman, will the gentleman give me three minutes?

Mr. STEPHENS of Texas. I give three minutes to the gentleman.

The CHAIRMAN. The gentleman from California [Mr. RAKER] is recognized for three minutes.

Mr. RAKER. I want to say, Mr. Chairman, that the same conditions apply to this school as apply to the others. There are 150 pupils there. At this school there are over 1,200 acres

of ripe timber adjoining the school, and that timber requires the construction and erection of a sawmill, to the end that the timber might be used in order that the department might improve the school buildings and at the same time have the lumber and material necessary to build up their allotments, which are scattered over this part of the country. I trust the gentleman from Texas will withdraw his objection.

Mr. TILSON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. RAKER. Yes; I yield.

Mr. TILSON. Did the gentleman bring all these facts to the attention of the Committee on Indian Affairs?

Mr. RAKER. The gentleman is a member of that committee, is he not.

Mr. TILSON. No; I am not.

Mr. RAKER. I supposed the gentleman was.

This is the condition: The appropriation bill was taken up early in the session. I introduced these bills on the first day, December 4, and, of course, it took a few days for the reports to get back to the committee. When the reports came back to the committee this appropriation bill had been reported, and, of course, the committee did not have an opportunity to consider these bills.

Mr. STEPHENS of Texas. As a matter of fact, we did not have any information in regard to these matters before us. Does not the gentleman think he would do well to introduce a bill in the next Congress, the Sixty-third Congress, that would take care of them?

Mr. RAKER. To be honest with the chairman of the committee, the matter has been so thoroughly investigated by the department that I hope that the House will put them on. I feel satisfied that the interests are so urgent that these amendments should go into the Indian appropriation bill. I think the House ought to let them go in.

They are very meritorious. Personally it makes no difference to me, but I know the condition of these Indians. I have a report here from the doctor who has been over that country, and who says a large percentage of them are dying from tuberculosis and the want of care and proper attention. But in this particular case, here are 1,200 acres of ripe timber within a mile of this school that could be sawed and used and the Government property improved, and at the same time lumber could be had for the purpose of building up the allotments of the Indians all over this country nearby, at the same time saving the Government the expense of buying lumber, wood, and so forth, and at the same time conserve the timber that is now going to waste.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I sympathize with the gentleman, but I must insist on my point of order. I do not think his timber will be spoiled by next year.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order?

Mr. RAKER. I submit it to the Chair.

The CHAIRMAN. The point of order is sustained.

Mr. RAKER. I ask unanimous consent that I may have printed in the RECORD the letter of the Secretary of the Interior, dated January 2, 1913, and also a letter from the superintendent of the Bidwell Indian School, dated November 25, 1912, and a copy of the bill.

The CHAIRMAN. The gentleman from California asks unanimous consent to have printed the documents which he has indicated. Is there objection?

There was no objection.

The Clerk read as follows:

For support and education of 550 Indian pupils at the Sherman Institute, Riverside, Cal., and for pay of superintendent, $94,350; for general repairs and improvements, $10,000; in all, $104,350.

Mr. RAKER. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from California offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, by striking out the words "five hundred and fifty," in line 24, page 10, and inserting in lieu thereof the words "seven hundred"; and strike out the figures "94,350," in line 1, page 11, and substitute therefor the figures "119,400"; and in line 2, page 11, strike out the figures "104,350" and insert in lieu thereof the figures "129,400."

Mr. STEPHENS of Texas. Mr. Chairman, I make the point of order against the amendment. I will withhold it if the gentleman desires to be heard.

Mr. RAKER. I desire to be heard on that point of order.

The CHAIRMAN. If the Chair understood the reading of the amendment correctly, it simply increases the amounts. Will the gentleman state the ground of his point of order?

Mr. STEPHENS of Texas. The ground is that it is new legislation. It increases the different items, does it not?

Mr. RAKER. That is all; just the amounts.

Mr. STEPHENS of Texas. I withdraw the point of order and call for a vote. I hope the amendment will be voted down.

Mr. RAKER. Mr. Chairman, there are three separate amendments——

Mr. STEPHENS of Texas. I ask that the debate on this close in five minutes.

Mr. RAKER. I want sufficient time to read the letter——

The CHAIRMAN. The gentleman from California has offered an amendment and has been recognized and has control of the floor, and can not be interrupted without his consent save on a point of order. The gentleman is recognized for five minutes.

Mr. RAKER. I desire to read a letter from the superintendent in regard to this matter.

Mr. STEPHENS of Texas. Is the gentleman aware that the department only estimated for 550 pupils?

Mr. RAKER. The department may have asked that, but here is the condition of affairs: Five hundred and fifty pupils are provided for, but the school will accommodate 700 without any more building, without any more expense for fuel, light, water, or general superintendence.

Mr. HAYDEN. Where are you going to get the other 150 Indians?

Mr. RAKER. I will tell you in just a moment. There are over 5,000 Indians close to this school, within a short distance, who are without educational facilities.

Mr. STEPHENS of Texas. Is the gentleman aware that the attendance at that school is only 493? You can not get Indians enough now to fill it. The capacity is now 550 and the attendance only 493.

Mr. RAKER. There are 624 enrolled. The superintendent has been compelled in the last six months to turn away many who are desirous to be admitted to this school, and has been compelled to permit no one to reenter this school in any way, shape, or form. Now, with a school of the capacity of 700, with all the expenses of superintendency, light, heat, equipment, and everything provided, does it not look like a poor piece of economy, when you could provide education, care, and attention for another 150 of these pupils by simply providing the absolutely necessary amount for their provisions and clothing, whereas if you put up another school it will cost you $150,000? Here you can get proper care and attention at an expense of $167 per capita per annum, instead of expending $100,000, as you are doing in these other schools.

Mr. MILLER. Will the gentleman yield?

Mr. RAKER. I yield.

Mr. MILLER. Is not the gentleman aware that many of the schools which we are maintaining and appropriating for in this bill have an insufficient number of pupils at present?

Mr. RAKER. They do not show that way from the report.

Mr. MILLER. Any number of them; and if perchance there should be a few who applied at this school who could not be accommodated there they could be at some of these other schools.

Mr. RAKER. Have you found any other school where you can accommodate 150 pupils without any additional expense to the Government, so far as the building, light, heat, superintendance, and general equipment are concerned?

Here you are saving to the Government $100,000 or $150,000 by providing for the Indians, by putting them in this school where you have an equipment provided for instead of building new buildings.

Mr. MILLER. If the gentleman will take the trouble to appear before the committee I think we can point out to him how they can be taken care of.

Mr. RAKER. The gentleman from Minnesota must admit that there has not been a meeting that we could appear before except the very first few days of this session.

Mr. MILLER. Oh, the gentleman must not say that, we have had many meetings.

Mr. RAKER. Since the first of the session?

Mr. MILLER. Not since January 1, but we have had many meetings this session.

Mr. RAKER. I think the gentleman is mistaken in that, because I have repeatedly asked for a hearing on these matters.

The CHAIRMAN. The time of the gentleman from California has expired. The question is on the amendment offered by the gentleman from California.

The question was taken, and the amendment was lost.

Mr. RAKER. Mr. Chairman, the vote upon this matter is so nearly divided. I do not care to take the further time of the House, but I ask permission to insert in the RECORD a letter,

together with the report and recommendation by the Chamber of Commerce of Riverside of December 16, 1912.

The CHAIRMAN. The gentleman from California asks unanimous consent to print in the RECORD a certain letter and papers which he has specified. Is there objection?

There was no objection.

The matter referred to is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
Washington, December 28, 1912.

Hon. JOHN E. RAKER,
House of Representatives.

MY DEAR MR. RAKER: Answering yours of December 26, requesting me to furnish you with information relative to the condition of Sherman Institute and the advisability of increasing the appropriation to provide for an enrollment of 700 pupils, as requested by the Chamber of Commerce of Riverside, Cal., I have to advise you that the present appropriation provides for the support of 550 pupils. We can accommodate 700 pupils with the equipment we now have for 550. It will require no additional buildings for the increased enrollment and we can accommodate this additional number of pupils with the same general running expense for the number now provided for, as there will be practically no extra cost for light, fuel, water, and general superintendence, the only additional cost being the per capita appropriation of $167 for the additional number to be accommodated, or a total increase of $25,050.

A conservative estimate of the cost of a new plant to provide for the additional number of pupils would be $100,000, and it is certainly in the interest of economical administration to increase the enrollment of a school where the appropriation for buildings and equipment for the accommodation of pupils is unnecessary.

There will be no difficulty whatever in securing an enrollment of 700, or even a larger number if we have funds with which to support them. In November I canceled all orders for transportation of pupils and notified superintendents of neighboring reservations that it would be impossible for me to accept more pupils, on account of the school already having more than the number appropriated for, the attendance at that time being 570. In fact, each year during the past three years I have been compelled to refuse the admittance of a large number of applicants, as we did not have funds to support them. This condition, however, need not be surprising to those who understand actual conditions among the Indians of the Southwest. Among the Navajo Indians alone there are fully 5,000 children not in school. There are also approximately 1,000 Papago children without school facilities. The Indian population of California is over 16,000, with approximately 4,000 children of school age, many of whom are not in school.

Realizing the fact that industrial training is of prime importance to the Indian youth, I am laying especial emphasis on this class of work, and hope to make Sherman Institute one of the leading industrial schools. Conditions are most favorable for this training at this school. The city of Riverside and people in the vicinity are in thorough sympathy with the aims of the school, and the splendid opportunities for giving Indian boys and girls of the reservations the advantage of industrial training in the homes and on the ranches of southern California are of great value. In fact, I do not know of any school in the service where these conditions are more favorable. Climatic conditions are of the best, health conditions are good, and, in my opinion, there are the best of reasons for making appropriations for Sherman Institute that are equal to the largest schools of the Indian service.

I desire to invite your attention to the provision in the House bill as reported from the House Committee on Indian Affairs making appropriation of $10,000 for repairs and improvements for Sherman Institute, and to suggest that this should be increased to $15,000. I have repeatedly made recommendation to the Indian Office for $15,000 instead of $10,000 for general repairs and improvements, because it is in the interests of economical administration to keep the plant in good repair rather than to permit it to deteriorate. We have 46 buildings to keep in repair, as well as to keep in good condition the heating, water, sewer, and lighting systems, and $15,000 is a conservative estimate for this purpose.

The department has recommended to Congress $20,000 for new buildings and $15,000 for a heating system. These improvements, however, are not made necessary because of any contemplated increase in enrollment, but to increase the general efficiency of the plant. While I am desirous of obtaining the appropriation of $20,000 for new buildings, as recommended by the department, in order to provide better accommodations for employees, as well as a gymnasium for the students, this appropriation could be delayed for the present if considered absolutely necessary to do so. I am especially desirous of having an appropriation for a central heating plant, because it is in the interests of safety. We now have individual heaters in a number of buildings, which increase the danger of fire, and a central heating plant would be a decided improvement and lessen the danger of fire. In fact, the loss of one of our large dormitories would amount to more than the installation of an entire heating system for the school, and I would be pleased if this appropriation could be made at this time. The appropriation recommended is as follows:

For support and education of 700 Indian pupils at the Sherman Institute, Riverside, Cal., and for pay for superintendent	$119,400
For general repairs and improvements	15,000
For heating plant	15,000
For new buildings	20,000
Total	169,400

Yours, very truly,

F. M. CONSER, *Superintendent.*

DEPARTMENT OF THE INTERIOR,
Washington, January 2, 1913.

Hon. JOHN E. RAKER,
House of Representatives.

SIR: I have received your letter of December 23, addressed to the Commissioner of Indian Affairs, in which you inclose a copy of one from the Chamber of Commerce of Riverside, Cal., bearing upon the capacity of the Indian school located in that city.

In accordance with your request the following information is sent you concerning this school:

The rated capacity of this school is 550 pupils and the appropriations for some years past have made provisions for the maintenance of this number of pupils. Sleeping porches have been added to a number of the dormitories; and these can be used the entire year. Counting these, the dormitory capacity of the school is at least 700. The dining room and schoolrooms are also adequate to care for 700 pupils. If the support fund were increased so that it would care for 700 pupils, it would not be necessary to ask for any additional appropriations in the way of new school buildings to care for the additional number of pupils. A new building for employees' quarters is, however, urgently needed at this time. There would be little or no increase in the amount now spent for light, heat, water, and equipments, as the present expenditures for these purposes will provide for 700 almost as well as for 550. The superintendent is not now able to enroll all the pupils who have made application, and it is believed that he would have no difficulty in enrolling 700 pupils were he given authority to do so.

In view of the fact that the plant can now accommodate with its present equipment 700 pupils, it would be in the interest of economy in the expenditure of public funds to authorize the enrollment of 700 pupils, provided Congress would appropriate for the support of this number.

Respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

RIVERSIDE CHAMBER OF COMMERCE,
Riverside, Cal., December 16, 1912.

Hon. JOHN E. RAKER,
Alturas, Cal.

DEAR SIR: We beg to bring to your notice the fact that, although the equipment of the Sherman Institute in this city provides for the housing and instruction of at least 700 Indian children, the appropriation for maintenance restricts the attendance to 550.

The institute, with its present enrollment, falls far short of meeting the need of the Indians of this district. There are reported to be at least 5,000 Navajo children and nearly 1,000 Papagos entirely without facilities for instruction beyond those afforded by the agency schools, and many of the children are entirely without school facilities. The maximum of enrollment under the present appropriation has already been reached, and reservation superintendents throughout the district have been notified to cease sending pupils in.

We would respectfully ask that you make inquiry concerning Sherman Institute conditions of Supt. F. M. Conser, who is to be in Washington shortly. The appropriations which have been recommended in the correspondence between the institute and the Indian Office are as follows: For support and education of 650 Indian pupils, $111,050; for general repairs and improvements, $15,000; a total of $126,050. Additional improvements are badly needed and would involve a further expense as follows: Heating system, $20,000; outside toilet facilities, $15,000; employees' quarters, $20,000; gymnasium, $20,000.

During the past years we have had abundant opportunity to observe the work being done at Sherman, and we believe the institution to be conducted in an exceedingly efficient way, our only regret being, as stated above, that the maintenance allowance keeps the number of pupils from 100 to 150 below the number which the dormitories and classrooms can conveniently accommodate. It seems to us that so expensive a plant ought to be run at its full capacity.

Respectfully, yours,

CHAMBER OF COMMERCE,
H. M. MAY, *Secretary.*

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that the Clerk may be authorized to change the totals wherever it may be found necessary.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the Clerk be authorized to change the totals wherever found necessary. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise and report the bill, together with the amendments, to the House, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26874, the Indian appropriation bill, and had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. STEPHENS of Texas. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

There was no demand for a separate vote.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. STEPHENS of Texas, a motion to reconsider the vote whereby the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. SAMUEL W. SMITH, indefinitely, on account of illness in family.

To Mr. BURKE of South Dakota, for three days, to attend a funeral.

POST OFFICE APPROPRIATION BILL.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, and pending that I ask unanimous consent that general debate shall not exceed two hours, one half to be controlled by the gentleman from Kansas [Mr. MURDOCK] and the other half by the chairman of the committee.

Mr. MANN. Mr. Chairman, may I ask the gentleman from Kansas a question? The gentleman from Iowa [Mr. TOWNER] desired to obtain an hour on this bill if it did not come up to-day. If the gentleman from Iowa desires the time to-morrow, can not it be arranged?

Mr. MURDOCK. I suppose it can with the gentleman from Tennessee. There has been only one request for debate on this side, and that was for less than an hour.

Mr. MANN. Will not the gentleman make the request, so that the gentleman from Iowa [Mr. TOWNER] can have an extra hour, if he desires it, to-morrow?

Mr. MOON of Tennessee. What does the gentleman from Iowa want to talk about—the bill?

Mr. MANN. I do not know, but I assume not.

Mr. MURDOCK. If we can agree on three hours' general debate, an hour and a half on each side, I think that would take care of the gentleman from Iowa.

Mr. MANN. Yes; if he could get the hour.

Mr. MURDOCK. I will say that I would give him an hour.

Mr. MOON of Tennessee. I have no objection, Mr. Speaker, to three hours' general debate.

The SPEAKER. The gentleman from Tennessee moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the Post Office appropriation bill, and, pending that, he asks unanimous consent that general debate on the bill be limited to three hours, an hour and a half to be controlled by himself and the other hour and a half by the gentleman from Kansas [Mr. MURDOCK]. Is there objection? [After a pause.] The Chair hears none.

The motion of Mr. MOON of Tennessee was then agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GARRETT in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 27148, which the Clerk will report.

The Clerk read the title of the bill.

Mr. MOON of Tennessee. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

Mr. MANN. Reserving the right to object, may I ask if the first reading be now dispensed with, what is the intention of the gentleman from Tennessee—to move that the committee rise, or proceed with the general debate to-night?

Mr. MOON of Tennessee. If it is desired, and the gentleman from Iowa wants to put in his hour he can have the time now.

Mr. MANN. The gentleman from Iowa is not here to-day.

Mr. MOON of Tennessee. I shall ask the House to remain but a short time to-night.

Mr. MANN. I do not object.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee to dispense with the first reading of the bill?

There was no objection.

Mr. MURDOCK. Mr. Chairman, I yield 30 minutes to the gentleman from Massachusetts [Mr. GILLETT].

Mr. GILLETT. Mr. Chairman, I think the most important question now confronting our Nation is, Whether we should submit to arbitration the dispute which has arisen with Great Britain concerning the Panama Canal tolls.

Congress during its last session provided in the Panama Canal bill that the vessels of the United States engaged in coastwise trade might pass through the canal without paying tolls. England claims that such an exemption is a discrimination in favor of our shipping, which is prohibited by our treaty with her. Whether or not her claim is just I do not propose now to discuss. I wish to confine myself to the one proposition that, regardless of our opinion of the merits of the question, whether we think her interpretation is right or ours is right, we ought to recognize that neither nation is so disinterested as to be able to judge of it impartially and that the issue should be submitted to arbitration.

This question is momentous, because it compels us in the face of an interested and critical world to disclose whether we will follow the path of profit or the path of honor; whether we have as a nation a real devotion to high ideals or whether we only advocate them in the hour of ease and desert them in the hour of trial. We have for years professed ourselves earnest advocates of arbitration. We have been the foremost to urge that war was irrational and that peaceful tribunals should gradually replace and abolish it. Our strength and wealth and isolation have relieved our advocacy from any imputation of fear or cowardice, and we have plumed ourselves that by our leadership and example we were advancing in the world the rule of reason and lessening the sway of brute force. Now our sincerity is put to the test. We can almost hear the voice of conscience say, "Choose ye this day whom ye will serve." And it is important not only to us, to our reputation, to our future influence, but it is important to the cause of arbitration, that we, its special promoter and champion, should not forsake it at the very first moment when it runs counter to our selfish interests. We have claimed to favor it because it was intrinsically fair and just, and ought to be ashamed to abandon it because we find it momentarily expensive and inconvenient.

I am aware that there is a fraction of our people who instinctively oppose arbitration—especially arbitration with England. There are some people who believe that occasional bloodletting is good for a nation, that without constant training for war we should become weaklings. There are others who believe that we are so strong and resourceful that no nation will ever dare to fight us, and that consequently we can safely do what we please and take what we want without fear of challenge, and that it would be foolish for us to renounce such a profitable irresponsibility in order to promote general justice and happiness. There is a still larger class who think little about the subject abstractly, but when any concrete case arises will always spring to the side that shows them a profit or an advantage and ignore a side which offers only justice. But the great body of thoughtful citizens—those who ultimately make public opinion—in their calm moments are genuinely anxious that their country shall do right. They appreciate the value of a good reputation to a man or a nation. But, more than that, they love uprightness, they prefer the rule of a judicial tribunal to the rule of the sword, and they wish their country to steadily lead in the movement toward international arbitration and peace regardless of the result on their immediate interests.

That sentiment, dormant but dominant, needs, I think, to assert itself at the present juncture. It is not a crisis which threatens war. Neither Great Britain nor the United States would deliberately sever our friendly relations because of this insignificant commercial gain or loss, although history gives many instances where differences as slight have engendered heat enough to ultimately inflame a war. But should we ignore England's contention because the incident is too trifling to provoke her into war? Is not that rather a reason why we should give her claims fair and courteous treatment? And what does that involve? Unquestionably a submission to The Hague or some other judicial tribunal, which for years we have urged was the proper resort for such disputes, which was established largely at our instance, and whose jurisdiction we have persistently sought to enlarge. And if this moral obligation to submit to its decision is not enough, we have the legal and technical obligation that by a solemn treaty with Great Britain we have agreed in advance to submit just this class of questions to arbitration. Why is there any doubt as to our action? I think it is only because the American people have not as yet given the subject sufficient attention to understand the conditions. For what public opinion decrees Congress will surely perform. If public opinion on this question becomes positive and outspoken, there is no danger that it will not be obeyed.

But I fear the view of the people to-day is only superficial. We built the canal, they say, with our money. We are to be at the expense of operating and defending it. Shall we not do as we please with our own? Are we not to be allowed to operate it for our profit? Must our vessels pay for the use of it? If so, why did we build it? Natural questions, and which, if unanswered, seem to justify us and put England in the wrong. Let us, then, consider briefly the facts.

In 1850, when both Great Britain and the United States were anxious to have the canal built, but were jealous of each other's influence in Central America, the two nations made a formal agreement which was intended to settle permanently all disputes which might grow out of the canal and was known as the Clayton-Bulwer treaty. The plan was that the two nations should together protect the canal whenever and wherever built and together guarantee its neutrality, and that it should be

open on equal terms to all nations who wished to join in its protection. One of the agreements was that neither nation should ever alone control the canal or fortify it or exercise any dominion over the territory through which it ran. So when, 20 years ago, upon the failure of the French canal, the United States began to seriously consider the project, we were confronted by this treaty, which bound us not to prosecute it alone. To get rid of that impediment was the first requisite step, and so we commenced negotiations with Great Britain, which finally resulted in the Hay-Pauncefote treaty of 1901, which expressly stated that it was framed to supersede the Clayton-Bulwer treaty and to remove the obstacle which that treaty presented to the United States constructing the canal alone. So we must bear in mind that up to 1901 we had bound ourselves not to build any canal except in cooperation with Great Britain, and that we were the ones who sought the Hay-Pauncefote treaty in order to release ourselves from that obligation.

But in order to obtain that right and get from England that release we were compelled to make certain promises and agreements. Those are the restrictions which hamper us in our control of the canal now. Except for them we should be free to use and maintain the canal as we please and levy tolls regardless of any other nation. But it was necessary for us to submit to these limitations, in order to escape from our old agreement not to build the canal at all alone. And though it seems at first blush unreasonable that we, who have been at the enormous expense of construction, should not have a free hand in operation, yet we must remember that we voluntarily submitted to these restrictions in order to get released from our previous agreement. Whether we made a good bargain then, whether we might not have negotiated better if we had clearly foreseen all the problems which arise now, is not the question. We thought then the bargain was satisfactory, and we bound ourselves to it, and that, I think, is the phase which the people do not generally understand. They do not appreciate that we had agreed not to build the canal alone; that to get rid of that agreement we entered into a new treaty, and that new treaty contained the restrictions which are now perplexing and troubling us. We sought that treaty; it was entered into to allow us to build the canal, and though we may find provisions in it which now embarrass us and do not allow us the freedom which seems natural and right, yet I do not see how anyone who understands it can contend that we must not strictly obey the provisions of this treaty which we ourselves sought and needed.

It is over the true meaning of some of these provisions that we and England are now at variance. And the proper place for their interpretation is a court of justice; not the legislative body of either of the interested parties. Now and then the claim is suggested that England in many ways violated the old Clayton-Bulwer treaty, and therefore we had and still have the right to claim that it was void and no longer bound us. On that ground some American statesmen were disposed, 15 years ago, instead of negotiating with England for its repeal, to begin building the canal without any regard to England's rights and objections, and some still suggest that as we were not really bound by the Clayton-Bulwer treaty we need not consider ourselves bound by its successor. That position is utterly untenable. It may be that Great Britain had so disregarded the Clayton-Bulwer treaty that we had once a right to avoid it. That is a question open to argument. But two Secretaries of State of two different political parties, each a man of ability and courage and patriotism, each anxious to maintain all the rights of his own country, but each conscious that he was the guardian and representative not only of his country's rights, but of his country's honor, both of these men, Richard Olney and John Hay, investigating the subject under that deep responsibility, came to the conclusion that the Clayton-Bulwer treaty was in full force and that it was necessary for us to secure from England our release before we could honorably undertake the canal alone. And the United States, acting upon that conclusion, has formally admitted the force of the Clayton-Bulwer treaty and expressly sanctioned the Hay-Pauncefote treaty in its place. So that it is too late now, if it was ever possible, to claim that we were not bound by the Clayton-Bulwer treaty, inasmuch as we have admitted its validity and agreed formally upon a substitute.

Having then purchased back from England the right to build and own the canal by ourselves, which we had once given away, we are limited in our conduct by the terms of this purchase. And while it may at times seem to us unfair, and we may fret at the necessity of giving up some cherished purpose, because it runs counter to our agreement, yet I think that no honest American would wish that Congress should legislate in palpable violation of our treaty, no matter how it might affect our commercial interests. And if Congress should enact provisions for the benefit of our merchant marine which Great Britain should claim violated the treaty, then I think it is equally clear and imperative that we, who have prided ourselves on our faith in arbitration, who have pressed it upon other nations almost at the point of the bayonet, should now, without hesitation, submit the true meaning and construction of this treaty to a judicial tribunal.

This is the point to which I have been leading and with which I am most concerned, for it is the point of danger. What is the true construction of the present treaty I do not wish to argue. Whether the contention of Great Britain or of the United States is correct I for the moment ignore. I only insist that as long as there is this difference of opinion between the two nations, no matter how confident we may be that we are right or how fearful we may be that we are wrong, we ought to agree instantly and cheerfully to submit it to arbitration. Great Britain claims that by the terms of the treaty we are forbidden to exempt even our coastwise trade from payment of tolls. We have in the canal bill provided for such exemption. And already we hear and read mutterings that this is not a case for arbitration; that we should let England do what she can about it; and that as it only affects our private internal policy England has no right to interfere. Many influential interests are concerned. The business of great States and cities is deeply affected, and strong, selfish forces will be enlisted to keep conditions as they are and allow no change by either legislation or arbitration. And, unless the people understand the situation and the agreements which have led up to it, they will be apt to say, "Why arbitrate a matter of our own concern? Can we not collect such tolls as we please from our own canal?" But it is a matter peculiarly within the scope of arbitration, for it is simply the interpretation of a treaty. And what I wish to impress and emphasize is that, whether our interpretation is right, or England's is right, whether the weight of argument is on our side or on hers, whichever is likely to be the final loser, inasmuch as there is a difference of opinion—a fair ground for dispute—we are bound by our principles and our precedents and our belief in international arbitration to submit the question to the decision of a court. The interpretation of a treaty is one of the especially enumerated items which our arbitration treaty with Great Britain binds us to submit to The Hague tribunal. But, regardless of that explicit treaty agreement, our respect for the principle of arbitration should lead us to volunteer it here, and not greedily and stubbornly insist upon our claims because we think England will not make war about them. Such conduct we would condemn and despise in others. I hope we shall not be so self-deceived, so unprincipled, and so shortsighted as to adopt it ourselves.

Of course, those who do not believe in the principle of international arbitration, who would like to see it checked and discountenanced, who believe in—

> The good old plan,
> That they should take who have the power
> And they should keep who can—

will argue that we ought to stand by what we think are our rights and allow no one to interfere or arbitrate. Those who are obsessed by a blind hatred of England will take the same side. But the great body of people who in recent years have hailed the progress of international arbitration as the opening of a better era for the world will recognize that here is an opportunity for us to show the sincerity and disinterestedness of our professions.

We are told all Europe would be prejudiced against us and we could not obtain impartial judges. I believe the judges of The Hague tribunal would honestly attempt to isolate their minds and judgments from local prejudice or favoritism and interpret the treaty as a question of pure law. But certainly their disinterestedness would be greater than that of the political leaders and newspapers who are now urging that we refuse arbitration because it would go against us. Congress in passing this legislation for the benefit of our coastwise trade and in now claiming that it does not violate the treaty is certainly not disinterested. I would rather submit to arbitration and be beaten than by rejecting arbitration discredit that whole movement and give cause to suspect that our advocacy of it was only for cases where we thought we should win. If we were compelled by the court to pay a substantial award, that money loss would be forgotten in a few years, while our refusal to arbitrate would give a setback to a noble cause whose effect might be felt for a generation.

There are three courses open to the United States. One is to repeal the provision exempting our coastwise trade from tolls, which England complains of as injurious to her commerce and a violation of the Hay-Pauncefote treaty. A large minority of

Congress opposed that provision on its merits and think it will be harmful instead of beneficial to the United States. Or, secondly, we can let the law stand and agree with England to submit to a judicial tribunal whether it was in violation of the treaty. If the court should find in our favor, no action would be necessary; but if the court should interpret the treaty to mean as England claims, that any exemption to our coastwise trade from tolls also exempted from tolls certain vessels of other nations, then we should be obliged to refund to such foreign vessels whatever tolls we had collected from them. Or, thirdly, we might do what is being urged as the true American course, decline to change the law, decline to arbitrate, and leave Great Britain to find such remedy as she can in peace or war.

I sincerely trust that will not prove to be the American course. It is in immediate results the selfish and advantageous course, as it follows simply our own inclinations and hopes of profit; and it will be urged that it is the spirited, courageous course, and that we must not allow other nations to interfere with our legislation. It will be easy also, by appealing to old memories to arouse hostile feeling toward Great Britain, for to go no further back than the Civil War no one can recall her conduct then in the hour of our trial and weakness without hot indignation and a thirst for revenge. But I hope another age has come and that in our relations toward all nations we shall feel that we are strong and magnanimous enough to bury past injuries and resentments and settle differences by the scale of even-handed justice. I hope the American people will feel that no selfish interest like our coastwise trade should tempt us from the path on which we have so deliberately entered of settling international disputes and especially the interpretation of treaties by courts of arbitration. In this particular instance we might gain by forsaking our principles, but I think the precedent would cost far more than the momentary profit. We should lose in character and self-respect, and they are of value to a nation as to a man.

I intended when I commenced not to consider any controverted issue, but to confine myself to showing that the dispute between England and the United States was clearly one for arbitration and that it would be disgraceful in us to refuse it.

There is one phase of the subject, however, which I have not seen discussed and which seems to me of such advantage to us that I can not refrain from alluding to it.

The treaty provides that the canal shall be "free and open to vessels of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation in respect to the conditions or charges of traffic," and England contends that for us to exempt our coastwise steamers from paying tolls puts them on an inequality, while we claim that the phrase "all nations" does not include the United States, so that the requirement of equality does not apply to us. Into that controversy I shall not enter. But suppose, instead of exempting our vessels from paying tolls, we give back to them by way of subsidy what they have paid in tolls. That would be of exactly the same effect to our vessels—it would be exactly the same to the United States Treasury. But would it be the same as a matter of law in violating the treaty? I think not. It is certainly not a technical, literal violation of the treaty, because it does not conflict with the canal being free and open to all nations alike, which is what the treaty exacts. The tolls and conditions provided by the regulations would still be exactly the same for all nations. That is admitted in the English note. Then, if paying back the tolls does not violate the letter of the treaty, would it violate its spirit? Again I think not. The spirit is that all nations should be exactly on the same footing. All other nations certainly have the right to pay back to their own ships, in form of subsidy, the amount collected as tolls. Some nations have done it in the Suez Canal, from whose regulations ours were copied, and I understand Spain has already undertaken to do it for our canal. So that whether we do it or not if that constitutes an inequality there is certain to be inequality, for some nations are sure to subsidize. So for us to refrain from subsidizing would not produce equality. Indeed the only possibility of equality would be for every nation, including ourselves, to subsidize to the amount of the tolls and then all would be on terms of exact equality. Since, then, there can not be such equality, because some nations are sure to subsidize and some will not, it is obvious that that is not what was meant by the term "equality" in the treaty, because subsidizing by other nations would produce the same inequality as subsidizing by the United States. No one disputes the right of other nations to subsidize; when the treaty was made no one doubted it would occur, and therefore the right of the United States to subsidize, which would only produce the same kind of inequality, is clear. Consequently the inequality or discrimination produced by a nation subsidizing its own vessels was not intended to be prohibited and is no violation of the purpose of the treaty.

Therefore the United States has the right, both under the letter and the spirit of the law, to pay back to its vessels the tolls collected. Inasmuch as that would accomplish exactly the same result and would greatly strengthen our argument I think it would be wise to amend our law accordingly.

And there would follow another result from such a change which would still further strengthen our case. The treaty provides that all tolls shall be fair and equitable. It might be claimed by Great Britain that in determining what was a fair return on the investment, tolls on American vessels should be calculated. Otherwise foreign vessels would have to pay higher tolls in order to produce the reasonable income. All basis for such a claim and argument would be taken away if the law provided that American vessels should pay the same tolls as others, although they were repaid in the form of subsidies.

The only objection I can see is that many Members of Congress hate the word "subsidy," and while they are perfectly willing to vote for the result, shrink from voting for the name. But when it would so vastly fortify our position before a court, I hope they would conquer their scruples. I suppose England would still claim that it was a violation of the treaty, as she suggests in her note that it would be only a technical compliance. But I think that it conforms to the spirit as well as the letter. The mere fact that it accomplishes indirectly what is forbidden directly does not prove that it is illegal. There are innumerable instances of such validity. The most familiar to us is when the United States protects private lands from overflow by levees. A law authorizing that directly would be unconstitutional and void, but we constantly effect the same result by appropriating to improve the navigation of a stream, and while the result is the same the legality is entirely different. In this case, while the result is the same the process is different, and both the process and result are quite within the law, for the process is legal because not prohibited by the treaty and the result is legal for it was anticipated by the makers of the treaty and was inevitable.

Mr. TILSON. Mr. Chairman, before the gentleman leaves that subject, will he yield for a question?

Mr. GILLETT. Certainly.

Mr. TILSON. Does the gentleman believe Great Britain would be satisfied with that arrangement, if we, by a subterfuge of that kind, did exactly what England is objecting to?

Mr. GILLETT. I do not suppose England would be satisfied, but I do think that if we submitted it to a court of arbitration our position before that court would be a great deal stronger than it would be if we left the law as it is to-day.

Mr. TILSON. The gentleman admits that we have not gotten one peg ahead, if we make a law, by the provisions of which we give a subsidy to each vessel equal to the toll that vessel would pay.

Mr. GILLETT. Yes. As I say, it accomplishes the same result, but I think it accomplishes it in a manner which is far more likely to be held to be legal and not in violation of the treaty than the existing law.

There is one other point to which I wish to allude. In the discussion of our obligation to arbitrate under the treaty of 1908 with Great Britain, I have seen no allusion to an exception which may cover this case. That treaty provides that we shall refer all differences arising out of the interpretation of treaties to the Hague Court "provided they do not concern the interests of third parties." It is possible that a decision in this case would affect not only Great Britain but all other nations whose ships had passed through the canal and paid tolls, for the decision of the court, if it held that the exemption of our vessels from payment was a discrimination and illegal, might involve our reimbursing to all other vessels the tolls we had collected from them so that they should be on an equality with ours. Consequently if it concerns the interest of third parties we might not be under direct treaty obligation with Great Britain to submit this case to arbitration. But I think it still would be our duty to show our faith in the principle of judicial settlement and offer to submit it to a court with jurists from nations like Switzerland, sure to be impartial, or to such a tribunal as determined the Alaskan boundary dispute. The matter of importance is not so much the result or the method as that we should now in this matter of international concern prove that we are ready to abide by our national doctrine of arbitration.

It is worth something to earn the reputation of standing by your agreements and your principles regardless of results. I do not believe our reputation with the world at large is as good as we deserve. I suspect that if we saw ourselves as other

nations see us we should not be proud of the portrait. Foreign casual observers must have their attention attracted and their opinions formed mainly by the sensational incidents of our life. They must think of us as the Nation of homicides, where more murders are committed than in any other country called civilized; where mobs are constantly taking the law into their own hands with an atrocity that is inhuman; where trains are held up by bandits; where the police of our best known city, instead of defenders of the law, become its most frightful violators; where the heads of labor organizations, supposed to be the stalwart champions of the common people against oppression, combine to perpetrate the most dastardly and incredible outrages. These are some of the headlines which must catch the eye and bias the judgments of foreign readers. We know that behind these surface indications there is a depth of orderly, self-restrained, law-respecting public opinion which controls and determines the policy of this country; which believes in justice and fair play no matter who suffers from it; which knows that any violation of law or of treaty or of principle, because of momentary self-interest, works a deeper harm and a more permanent injury to the character and self-respect of the Nation than can be compensated by any material gain.

To that public opinion I appeal. I ask it to say firmly and decisively that inasmuch as England represents that one clause of our legislation violates our agreement with her and injures her, we should willingly either repeal the law or arbitrate the question whether it does violate the treaty, and cheerfully abide any decision by the tribunal. Not only our conscience, our honor, our pride demand that decision, but it might even be argued that an enlightened and farsighted self-interest also demand it; that despite our strength and isolation we need for our vast and growing foreign trade the respect and confidence and friendliness of other nations, which might easily be forfeited by our conduct here; that having every advantage in the competitions of peace any step toward the abolition of war makes directly to our gain. But I prefer to rest the case on the firmer and higher ground that regardless of interest our self-respect demands it. It ought to be enough for us that our treaty agreement and our settled policy alike require us to submit the question to arbitration. When that is clearly understood, I believe public opinion, the people, and the Congress will all be of one mind.

The President has recently declared publicly and unequivocally that he favors arbitration, but the efforts of this administration in that direction have more than once been blocked by the Senate. I hope it may not happen again. I hope the voice of public opinion will respond to his appeal so earnestly and unanimously that further opposition will be checked and the United States will take another upward step toward the rule of reason, the supremacy of law, and the reign of peace and good will among men. Such action would confirm our honorable position among the nations as the disinterested champion of arbitration, and would confound our critics and be worthy of ourselves. We are about to celebrate a hundred years of peace with Great Britain. How better can we celebrate it than by such an arbitration, which of itself would tend to make that peace perpetual.

We can help now to realize the noble aspiration voiced by Charles Sumner three-quarters of a century ago:

> Let us lay a new stone in the grand temple of universal peace, whose dome shall be as lofty as the firmament of heaven, as broad and comprehensive as the earth itself.

[Applause.]

Mr. MOON of Tennessee. Mr. Chairman, I yield to the gentleman from New York [Mr. CALDER].

Mr. CALDER. Mr. Chairman, the paragraph placed in the Post Office appropriation bill now under consideration for the benefit of the substitute letter carriers and post-office clerks is one that I sincerely hope and trust will meet with the hearty approval of every Member of this body. I have had occasion to give considerable thought and study to this branch of the postal service and have repeatedly called the attention of the Members of this House to the deplorable condition surrounding the employment of these substitutes. Knowing, as I do, the great handicap under which these men labor, I have often wondered why so many capable and efficient young men would make the sacrifices that they have in order to continue in the postal service. It is true that I have seen many capable and efficient young men who have taken the examination and received appointments to the substitute force give up their places in disgust after serving a short period of time.

It appears to me, Mr. Chairman, that it is our duty to legislate in a way that will tend to improve our public service, and one of the first requisites to perfect any business is to have competent and efficient employees. This is the policy pursued by the managers of every institution employing large numbers of men, but I venture the opinion that if the postal service was managed as a private institution the substitute service would have to be made far more inviting than it is at the present time before competent men could be induced to do the work. We all know that it is the glamour of the public service that acts as an inducement for so many young and ambitious men to enter it, and they will often put up with almost intolerable conditions in order to continue as employees of the Government.

The average earnings of these substitutes are not sufficient to maintain body and soul together, and it is only the possibility of receiving a regular appointment, with its attendant increases in salary each year until the maximum grade is reached, that acts as an inducement for many of them to continue. I stated in my remarks of April 12, 1912, when the Post Office appropriation bill was under consideration, that, to my mind, the position should be abolished altogether if the men were to be required to perform service under the present conditions. I believe it would be better for the Government if these men were to receive a regular salary during the time they serve as substitutes, and that the entrance salary after the substitute period has been served should be based in accordance with the time served as such substitute. In other words, if a man served as a substitute for a period of one year, his entrance salary should be $800; if he served as a substitute for a period of two years, his entrance salary should be $900; and if he served as a substitute for a period of three or more years, his entrance salary should be $1,000 per annum.

However, I am extremely gratified to know that the Post Office Committee has given so much attention to this very worthy branch of our postal service, and I congratulate the committee and the distinguished chairman from Tennessee for giving the House an opportunity to vote on this question. I shall vote in favor of this legislation because I believe it is just and equitable and is for the best interest of the public service. Knowing as I do, the merit that it contains, I appeal to my colleagues who have not had an opportunity to give this question the same study that I have to sustain the committee and enact this legislation into law.

Mr. MOON of Tennessee. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker, having resumed the chair, Mr. GARRETT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 27148, the Post Office appropriation bill, and had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message from the President of the United States by Mr. Latta, one of his secretaries, announced that the President had approved and signed bills of the following titles:

On January 7, 1913:

H. R. 10169. An act to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge.

On January 8, 1913:

H. R. 10648. An act amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes, and to protect the same."

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Resolved by the Senate (the House of Representatives concurring). That there be printed 30,000 copies of the Judicial Code of the United States, prepared under the direction of the Judiciary Committee of the Senate, 10,000 copies for the use of the House of Representatives and 5,000 copies for the use of the Senate document room.

ADJOURNMENT.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 19 minutes p. m.) the House adjourned until to-morrow, Friday, January 10, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, submitting report as to rents received from properties located on sites of proposed public buildings purchased by the United States Government in the city of Washington, D. C. (H. Doc. No. 1253); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, submitting estimate of appropriation to defray expenses of a representative of the Treasury Department to the International Congress of Customs Regulations, to be held at Paris in May, 1913 (H. Doc. No. 1254); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of State, submitting detailed statement of fees collected, accounted for, and reported by the diplomatic and consular officers, including passport fees collected and accounted for by the Department of State, for the fiscal year ended June 30, 1912, and also detailed statement showing transactions under appropriation for "Relief and protection of American seamen, 1912" (H. Doc. No. 1255); to the Committee on Expenditures in the Department of State and ordered to be printed.

4. A letter from the Secretary of State, transmitting pursuant to law an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Pennsylvania at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

5. A letter from the Secretary of State, transmitting pursuant to law an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Missouri at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. WILSON of New York, from the Committee on Pensions, to which was referred sundry bills, reported in lieu thereof the bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, accompanied by a report (No. 1284), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 27426) granting a pension to Gertrude M. Farrar; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 27428) confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes; Committee on the Public Lands discharged, and referred to the Committee on Indian Affairs.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. GARNER: A bill (H. R. 27875) authorizing the President to convey certain land to the State of Texas; to the Committee on Military Affairs.

By Mr. RODENBERG: A bill (H. R. 27876) to provide for the participation of the United States in the Panama-Pacific International Exposition; to the Committee on Industrial Arts and Expositions.

By Mr. SMITH of New York: A bill (H. R. 27877) to amend section 25 of the act approved August 5, 1909, entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes"; to the Committee on Ways and Means.

By Mr. RAKER: A bill (H. R. 27878) making an appropriation for a series of thorough and elaborate investigations and experiments for the purpose of devising and perfecting a system of frost prevention in the citrus and deciduous fruit regions, and for other purposes; to the Committee on Agriculture.

By Mr. HELGESEN: A bill (H. R. 27879) providing authority for the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota; to the Committee on Interstate and Foreign Commerce.

By Mr. PALMER: A bill (H. R. 27880) to provide for the appointment of an additional district judge in and for the eastern district of Pennsylvania; to the Committee on the Judiciary.

By Mr. PROUTY: A bill (H. R. 27881) to enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof; to the Committee on the District of Columbia.

By Mr. KAHN: A bill (H. R. 27882) to amend an act entitled "An act to improve the efficiency of the personnel of the Revenue-Cutter Service"; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 27883) to amend section 3221 of the Revised Statutes of the United States as amended by section 6 of the act of March 1, 1879; to the Committee on Ways and Means.

By Mr. LEVER: Resolution (H. Res. 769) authorizing the printing of 2,000 additional copies of hearings on H. R. 18160, "agricultural extension departments"; to the Committee on Printing.

By Mr. HARRISON of Mississippi: Resolution (H. Res. 770) requesting information from the Secretary of the Interior; to the Committee on Indian Affairs.

By Mr. LOBECK: Concurrent resolution (H. Con. Res. 67) authorizing the Attorney General to institute suit to determine the legitimacy of sale of Georgetown Gas Light Co. stock to the Washington Gas Light Co.; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. WILSON of New York: A bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; to the Committee of the Whole House.

By Mr. ANTHONY: A bill (H. R. 27884) granting a pension to Richard H. Cutter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27885) granting a pension to Francis M. Jones; to the Committee on Pensions.

Also, a bill (H. R. 27886) granting an increase of pension to John Sanderson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27887) granting an increase of pension to Edmund J. Holman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27888) granting an increase of pension to Andrew De Veau; to the Committee on Invalid Pensions.

By Mr. BYRNES of South Carolina: A bill (H. R. 27889) granting a pension to Ernest Holmes; to the Committee on Pensions.

Also, a bill (H. R. 27890) granting an increase of pension to Lucretia Grice; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 27891) for the relief of the estate of Hiram Jenkins; to the Committee on War Claims.

By Mr. CULLOP: A bill (H. R. 27892) granting a pension to Sarah E. Dillon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27893) to correct the military record of Martin All; to the Committee on Military Affairs.

By Mr. DONOHOE: A bill (H. R. 27894) granting an increase of pension to Edward J. Baker; to the Committee on Pensions.

By Mr. FAISON: A bill (H. R. 27895) for the relief of the heirs of Nancy Barfield, deceased; to the Committee on War Claims.

By Mr. GOULD: A bill (H. R. 27896) granting an increase of pension to John A. Ripley; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 27897) for the relief of Joseph P. Jones; to the Committee on Claims.

By Mr. HAYDEN: A bill (H. R. 27898) for the relief of the administrator and heirs of Fritz Contzen, to permit the prosecution of an Indian depredation claim; to the Committee on Indian Affairs.

By Mr. HENSLEY: A bill (H. R. 27899) for the relief of the heirs of A. P. Thompson, deceased; to the Committee on War Claims.

By Mr. LA FOLLETTE: A bill (H. R. 27900) for the relief of Ernest W. Grant; to the Committee on the Public Lands.

By Mr. LANGLEY: A bill (H. R. 27901) granting a pension to Noah Smith; to the Committee on Pensions.

By Mr. MADDEN: A bill (H. R. 27902) for the relief of John Inglis; to the Committee on Military Affairs.

By Mr. MARTIN of Colorado: A bill (H. R. 27903) granting an increase of pension to Samuel Galloway; to the Committee on Invalid Pensions.

By Mr. PRINCE: A bill (H. R. 27904) granting a pension to William Dotson; to the Committee on Pensions.

By Mr. PROUTY: A bill (H. R. 27905) granting an increase of pension to John M. Cochran; to the Committee on Invalid Pensions.

By Mr. RUBEY: A bill (H. R. 27906) granting a pension to Addie Davidson; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Petition of the Association of National Advertising Managers, protesting against the passage of House bill 23417, prohibiting the fixing of prices by manufacturers of patent goods; to the Committee on Patents.

By Mr. ASHBROOK: Petition of the Massachusetts Association of Sealers of Weights and Measures, favoring the passage of House bill 23113, fixing a standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Weights and Measures.

Also, petition of the National Brotherhood of Locomotive Engineers, favoring the passage of Senate bill 5382, the workman's compensation bill; to the Committee on the Judiciary.

Also, petition of J. F. Reiser and 3 other merchants of Tuscarawas, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power over the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. AYRES: Memorial of the Chamber of Commerce of the State of New York, protesting against any legislation proposing any change in the Harter Act, relative to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

By Mr. BYRNS of Tennessee: Papers to accompany bill for the relief of the estate of Hiram Jenkins; to the Committee on War Claims.

By Mr. CALDER: Petition of the Long Island Game Protective Association, favoring the passage of House bill 36, for Federal protection to migratory birds; to the Committee on Agriculture.

By Mr. DYER: Petition of R. S. Hawes, St. Louis, Mo., favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Whitman Agriculture Co., St. Louis, Mo., favoring the passage of House bill 25106, giving a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

By Mr. GRIEST: Resolution adopted by the Vermont Association of Sealers of Weights and Measures, urging the enactment into law of House bill 23113, fixing a standard for the shipment of fruits and vegetables, etc.; to the Committee on Coinage, Weights, and Measures.

By Mr. HAMILTON of West Virginia: Papers to accompany bill for the relief of Joseph P. Jones; to the Committee on Claims.

By Mr. HENSLEY: Petition of the German-American Alliance, De Soto, Mo., protesting against the passage of Senate bill 4043, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. LEE of Pennsylvania: Petition of the Philadelphia Maritime Exchange, favoring the passage of Senate bill 7503, providing for a reduction on first-class mail matter; to the Committee on the Post Office and Post Roads.

By Mr. REILLY: Petition of the Connecticut Federation of Women's Clubs, New Haven, Conn., favoring the passage of the Page bill (S. 3) giving Federal aid to vocational education; to the Committee on Agriculture.

By Mr. REYBURN: Petition of the Philadelphia Maritime Exchange, favoring the passage of Senate bill 7503, reducing the postage on first-class mail matter; to the Committee on the Post Office and Post Roads.

By Mr. SLOAN: Petition of the Church of Brethren, Carlisle, Nebr., favoring the passage of the Kenyon "red light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of citizens of Polk County, Nebr., protesting against the passage of any legislation looking toward the enlargement of the parcel-post zone bill; to the Committee on the Post Office and Post Roads.

By Mr. TILSON: Petition of Harry P. Bliss, Middletown, Conn., making a suggestion relative to the bill for naturalization, etc.; to the Committee on Immigration and Naturalization.

By Mr. UNDERHILL: Petition of the Federation of Jewish Farmers of America, favoring the passage of legislation establishing a system of farmers' credit unions; to the Committee on Banking and Currency.

Also, petition of the Association of National Advertising Managers of the United States of America, protesting against the passage of section 2 of House bill 23417, prohibiting the fixing of prices by manufacturers of patent goods; to the Committee on Patents.

Also, petition of a committee appointed at an informal meeting at the time of the meeting of the National Association of State Universities at Washington, D. C., protesting against the passage of Senate bill 3, for vocational education; to the Committee on Agriculture.

Also, petition of the New York Civic League, New York, favoring the passage of legislation prohibiting the shipment of liquor into dry territory for illegal purposes; to the Committee on the Judiciary.

By Mr. WICKERSHAM: Petition of the people of Wrangell, Alaska, favoring the passage of legislation to prevent the setting of traps in the tidal waters of Alaska; to the Committee on the Territories.

By Mr. WILLIS: Papers to accompany bill (H. R. 18219) granting a pension to Catherine Alspach; to the Committee on War Claims.

By Mr. WILSON of New York: Petition of the Chamber of Commerce of the State of New York, protesting against the passage of Senate bill 7208, proposing several changes in the laws of the United States relating to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

By Mr. WOOD of New Jersey: Papers to accompany House bill 27873, granting an increase of pension to James G. Hagaman; to the Committee on Invalid Pensions.

SENATE.

FRIDAY, *January 10, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of ascertainment of electors for President and Vice President appointed in the State of New York at the election held in that State on November 5, 1912, which was ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed a bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a memorial of the officers of the Twentieth Century Club, of Washington, D. C., remonstrating against the enactment of legislation granting authority to the several States to dispose of their natural resources, which was referred to the Committee on Conservation of National Resources.

Mr. PAGE presented a memorial of sundry citizens of Middletown Springs, Vt., remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which was ordered to lie on the table.

Mr. GALLINGER presented a petition of the Woman's Christian Temperance Union of Berlin, N. H., praying that an appropriation be made for the construction of a public building in that city, which was referred to the Committee on Public Buildings and Grounds.

He also presented a petition of members of Porter Garrison, Army and Navy Union, of Washington, D. C., praying for the passage of the so-called police and firemen's pension bill, which was referred to the Committee on the District of Columbia.

He also presented a petition of the congregation of the Rhode Island Avenue Methodist Episcopal Church, of Washington, D. C., and a petition of members of the Southwest Colored Citizens' Association, of Washington, D. C., praying for the passage of the so-called Kenyon red-light injunction bill, which were referred to the Committee on the District of Columbia.

Mr. BRISTOW presented sundry papers to accompany the bill (S. 2305) providing for the adjustment and payment of accounts to laborers and mechanics under the eight-hour law, which were referred to the Committee on Education and Labor.

Mr. DU PONT presented a petition of the Chamber of Commerce of Aberdeen, Wash., praying that an appropriation be

made for the fortification of Grays and Willapa Harbors, in that State, which was referred to the Committee on Appropriations.

Mr. TOWNSEND (for Mr. SMITH of Michigan) presented petitions of the Michigan Annual Conference of the Methodist Episcopal Church and of sundry citizens of Walled Lake and Grand Rapids, all in the State of Michigan, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also (for Mr. SMITH of Michigan) presented a memorial of John A. Logan Post, No. 1, Department of Michigan, Grand Army of the Republic, remonstrating against the passage of the so-called Swanson bill for the relief of certain Confederate officers, which was referred to the Committee on Military Affairs.

TWENTIETH INTERNATIONAL IRRIGATION CONGRESS.

Mr. SMOOT. I have a copy of resolutions adopted by the Twentieth International Irrigation Congress, held at Salt Lake City, Utah, October 3, 1912. I ask that the resolutions lie on the table and be printed in the RECORD.

There being no objection, the resolutions were ordered to lie on the table and to be printed in the RECORD, as follows:

Resolutions of the Twentieth International Irrigation Congress, adopted at Salt Lake City, Utah, October 3, 1912.

We, the delegates to the Twentieth International Irrigation Congress, assembled in Salt Lake City, State of Utah, extend cordial greetings to the irrigation host throughout our country, and submit the following resolutions as a declaration of principles:

1. We hold that Federal control as between the States is essential to the equitable distribution and utilization of the water of interstate streams.

2. We approve the development of navigation throughout the rivers and lakes of the United States in accordance with the most comprehensive plan.

3. We renew our indorsement of the Newlands river regulation bill, and urge its enactment by the Federal Congress during the coming session. This bill provides for the complete control of the flood waters of our rivers in such way as to promote irrigation and drainage, the development of power, the extension of navigation, and the protection of the lowlands from destructive floods.

4. We heartily approve the Federal forestry policy, and favor its continuance and extension, and commend the cooperation of State and Federal authority in the work of forest protection.

5. We recognize the establishment of the United States Reclamation Service as second only in importance to the passing of the reclamation act in the development of the arid West. Experience has demonstrated the expediency of certain administrative changes:

5a. We believe the law should be so amended as to require that all contracts for the sale of power developed by, or in connection with, any reclamation project shall be approved by the Project Water Users' Association under such project having an interest in such contract.

5b. We believe that the profits arising from the operation of any project should be covered into the reclamation fund to the credit of such project.

5c. We favor the establishment of water users' associations under all Government projects when 20 per cent of the land thereunder shall have passed into private ownership.

5d. We recommend that complete plans and specifications of any work contemplated on any project should be delivered to the Project Water Users' Association before such work is begun, and that itemized semi-annual reports of all charges and expenditures under each reclamation project should be furnished to the officers of the water users' association under such project, and we favor the appointment of a consulting engineer under each project, to be selected by and paid by the Project Water Users' Association having access to the plans, specifications, and accounts, but without supervisory power.

6. We commend the work of the United States Geological Survey, and strongly recommend that more liberal appropriations be made by the Federal Congress and the legislatures of the States for cooperation in the prosecution of the work of the topographic and water resources branches of this bureau.

7. We commend the irrigation and drainage investigations of experiment stations, the soil and water investigations of the Bureau of Soils, and dry-farming investigations of the United States Department of Agriculture, and equally commend the work of the agricultural experiment stations and engineering departments in the several States; we favor further investigation of natural subirrigation and of irrigation by pumping; and we urge more liberal appropriations by the Federal Congress and by the States for the work and cooperation of these agencies, and for the more general distribution of the reports and bulletins recording their operations and results.

8. We believe that the administration of the Carey Act can be made more effective by the establishment of effective State supervision for all projects undertaken in any such States.

9. We deprecate the sale of abandoned military posts for wholly inadequate prices, and recommend their transfer to the States in which they may be situated for use as agricultural schools, experiment stations, or other public uses.

10. We recommend that the Congress of the United States rescind its action relative to the payment of expenses of Government officers and employees in attending sessions of the Irrigation Congress, in so far as the same relates to experts whose work bears a relation to the purposes of this congress.

11. Realizing that the opening of the Panama Canal in 1914 will greatly increase the influx of immigrants by permitting their landing on the Pacific as well as the Atlantic coast, and that the greatest benefits of foreign immigration can be attained only when the immigrants settle permanently on farms where they can quickly develop the spirit of citizenship and help to render this a Nation of homes; we commend cooperation among the various State officers in the establishment of common agencies, including expositions and other means of diffusing accurate information, to the end that immigrants may be located on the land under conditions suitable to their habits and conducive to the best development of the country.

12. We also recommend to the legislative bodies and to the various commercial organizations, particularly of the States west of the Rocky Mountains, the establishment and maintenance of bureaus at those Pacific coast ports where the immigrants will land, and where accurate information concerning agricultural lands and conditions can be supplied to them.

13. We further recommend that the Congress of the United States create a commission to investigate and report upon the colonization systems now in vogue in other countries concerning rural settlement as well as the methods of cooperative farm loan systems.

14. *Resolved*, That the International Irrigation Congress cooperate to the fullest extent with the Panama-California Exposition in producing at San Diego in 1915 the most elaborate and comprehensive international irrigation exhibit that has ever been assembled; that we invoke the aid of the legislators of the several States from the western part of the Union and of the Governments of all foreign countries interested in irrigation, to the end that this plan may be successfully consummated.

15. We invite the attention of the president and directors of the Panama-Pacific Exposition to the propriety of making provision for an adequate exhibit of irrigated farm products from the several irrigated States at the San Francisco Exposition to be held in 1915.

16. The Twentieth International Irrigation Congress proffers its sincere thanks to the State of Utah and to the city of Salt Lake, including the citizens and the Commercial Club and other organizations thereof, for the generous welcome and gracious hospitality extended to its members. The Irrigation Congress has felt at home in the city of its nativity. Its hearty thanks are tendered to Prof. J. J. McClellan and to Prof. Evan Stephens and to the Tabernacle choir for the inspiring music which graced the opening session of the congress. Especial thanks are extended to the Western Union Telegraph Co. for the unusual interest taken in advertising the congress throughout the United States and foreign countries and for special wire and messenger service afforded the congress.

Cordial thanks are extended to the Saltair Railroad and Emigration Canyon Railway for the pleasant excursions tendered to the members of the congress, and to the press of Salt Lake City for its interesting and complete reports of our proceedings. The congress is to be congratulated upon the presence at this session of the accredited delegates from the United Commonwealth of Australia, from the United States of Mexico, from the Republic of Brazil, from the Republic of Portugal, from the Republic of Guatemala, from the Provinces of Ontario, Alberta, and British Columbia, Dominion of Canada. We bespeak for future sessions of the congress addresses by eminent authorities on irrigation from these and other nations, to the end that the congress may become the clearing house for the exchange of the most advanced ideas of all nations upon subjects pertaining to irrigation.

We commend our distinguished president, Senator FRANCIS G. NEWLANDS, for his inspiring leadership and his impartial conduct in the chair. We commend Mr. Arthur Hooker for his untiring services as secretary of the congress. The Utah Board of Control is entitled to the thanks of all for the splendid success which has attended its preparations for the Twentieth Irrigation Congress.

REPORTS OF COMMITTEES.

Mr. WORKS, from the Committee on the District of Columbia, to which was referred the bill (S. 7498) fixing the punishment for cruelty to or abandonment of animals in the District of Columbia, submitted an adverse report (No. 1094) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. DU PONT, from the Committee on Military Affairs, to which was referred a petition from the Chamber of Commerce of Montesano, Wash., praying for an appropriation for the fortification of Grays and Willapa Harbors in that State, asked to be discharged from its further consideration and that it be referred to the Committee on Appropriations, which was agreed to.

PRESIDENTIAL INAUGURAL CEREMONIES.

Mr. JONES. From the Committee on the District of Columbia I report back favorably, with amendments, the joint resolution (S. J. Res. 145) to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913, and I submit a report (No. 1095) thereon. This is not a very long measure, and it is of some importance. It should be promptly acted on, and I ask for its present consideration.

The PRESIDENT pro tempore. The joint resolution will be read for the information of the Senate.

The Secretary read the joint resolution, and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendments were, on page 2, line 3, after the words "said period," to insert "fixing fares to be charged for the use of the same"; and on page 2, line 7, after the words "District of Columbia," to insert "and in such other manner as the commissioners may deem best to acquaint the public with the same," so as to make the joint resolution read:

Resolved, etc., That $23,000, or so much thereof as may be necessary payable from any money in the Treasury not otherwise appropriated and from the revenues of the District of Columbia in equal parts, is hereby appropriated to enable the Commissioners of the District of Columbia to maintain public order and protect life and property in said District from the 28th of February to the 10th of March, 1913, both inclusive. Said commissioners are hereby authorized and directed to make all reasonable regulations necessary to secure such preservation of public order and protection of life and property and fixing fares by public conveyance, and to make special regulations respecting the standing, movements, and operating of vehicles of whatever character or kind during said period and fixing fares to be charged for the use of the same. Such regulations shall be in force one week prior to said inauguration, during said inauguration, and one week subsequent thereto, and shall be published in one or more of the daily newspapers published in the District of Columbia and in such other manner as the commissioners may deem best to acquaint the public with the same; and no penalty prescribed for the violation of any of such regulations

shall be enforced until five days after such publication. Any person violating any of such regulations shall be liable for each such offense to a fine not to exceed $100 in the police court of said District, and in default of payment thereof to imprisonment in the workhouse of said District for not longer than 60 days. And the sum of $2,000, or so much thereof as may be necessary, is hereby likewise appropriated, to be expended by the Commissioners of the District of Columbia, for the construction, maintenance, and expenses incident to the operation of temporary public comfort stations and information booths during the period aforesaid.

The amendments were agreed to.

Mr. CURTIS. I should like to ask the Senator from Washington having charge of the joint resolution if the rates referred to apply only to the inauguration week?

Mr. JONES. That is the time they apply to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

COL. RICHARD H. WILSON.

Mr. MYERS. Mr. President, yesterday during the morning hour I could not be here. I should like to have been here, but it was impossible, when the Senator from Wyoming [Mr. WARREN], from the Committee on Military Affairs, reported to the Senate favorably a substitute for the bill (S. 7515) for the relief of Col. Richard H. Wilson, Fourteenth Infantry, United States Army. That measure was thoroughly investigated by the Senator from Wyoming and was unanimously recommended by the Committee on Military Affairs. It is a small bill, which pertains to a local matter in Montana, and it is very urgent. The Senator from Wyoming and the Senator from Delaware [Mr. DU PONT] can vouch for the urgency of it. I ask unanimous consent for the immediate consideration of the bill.

The PRESIDENT pro tempore. The Senator from Montana asks unanimous consent for the present consideration of Senate bill 7515. Is there objection?

Mr. SMOOT. I should like to ask what is the nature of the bill and of the urgency?

Mr. MYERS. The nature of it is this: Col. Wilson was in charge of Fort William Henry Harrison at Helena, Mont. The sum of about $7,000—the exact sum is disclosed by the substitute reported—was stolen from the safe in the paymaster's office while Col. Wilson was temporarily in charge. It was stolen, it appears, by a couple of men who were deserters and have not been captured.

There was an investigation and Col. Wilson was thoroughly exonerated. Technically, I understand, under the law he is responsible for this money, but the War Department recommended that a bill be introduced and passed relieving him from that obligation.

All the facts are known to the Senator from Wyoming [Mr. WARREN] and the Senator from Delaware [Mr. DU PONT], the Senator from Delaware being the chairman of the Committee on Military Affairs. After investigating it and knowing the facts, they recommended the passage of the bill, and it was unanimously reported by the committee.

Mr. CRAWFORD. May I ask the Senator if the report has been printed? I do not find it on my file.

Mr. MYERS. It was made yesterday. I suppose it has been printed.

Mr. CRAWFORD. It does not seem to have been yet printed.

Mr. MYERS. I ask to have it read for the information of the Senate.

Mr. SMOOT. Not the bill, but the report.

Mr. MYERS. I ask to have the report read.

Mr. BRISTOW. Mr. President, I think this is like a great many other bills. I am somewhat familiar with it. I would like to have it go over. I must object to its present consideration.

The PRESIDENT pro tempore. The Senator from Kansas objects.

Mr. MYERS. I must say that if the bill has to take the regular course, I see no hope of its getting through at this session. I have no hope of the bill getting through the Senate and the House if it must take its regular course.

Mr. BRISTOW. It is a measure that I think ought to be considered before it is passed.

Mr. MYERS. I have asked to have it considered now, but, of course, I will have to wait.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. McLEAN:

A bill (S. 8058) providing for an increase of salary of the United States attorney for the district of Connecticut; to the Committee on the Judiciary.

By Mr. KENYON:

A bill (S. 8059) granting a pension to Sarah C. Goodrich;

A bill (S. 8060) granting an increase of pension to Isaac O. Foote; and

A bill (S. 8061) granting an increase of pension to James W. Ellis; to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 8062) granting a pension to Alice M. Keeny; to the Committee on Pensions.

By Mr. SMOOT:

A bill (S. 8063) granting an increase of pension to Francis M. Bishop (with accompanying papers); to the Committee on Pensions.

By Mr. WORKS:

A bill (S. 8064) granting a pension to John A. Lennon (with accompanying papers); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 8066) for the relief of Pay Inspector F. T. Arms, United States Navy; to the Committee on Naval Affairs.

By Mr. STEPHENSON:

A bill (S. 8067) granting an increase of pension to George W. Vincent (with accompanying papers); to the Committee on Pensions.

By Mr. OLIVER:

A bill (S. 8068) granting an increase of pension to Annie S. Aul (with accompanying papers); and

A bill (S. 8069) granting an increase of pension to Richard T. Blaikie (with accompanying papers); to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 8070) granting a pension to Iselo Nicely;

A bill (S. 8071) granting a pension to Daniel Hand; and

A bill (S. 8072) granting an increase of pension to William Holdaway (with accompanying papers); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 8073) repealing a provision of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913," and for other purposes, approved August 24, 1912; to the Committee on Appropriations.

AMENDMENT TO LEGISLATIVE APPROPRIATION BILL.

Mr. BRANDEGEE submitted an amendment proposing to reduce the number of clerks of class 2 in the Office of the Surgeon General from 26 to 24, etc., intended to be proposed by him to the legislative appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. SANDERS. Mr. President, I offer the following.

The PRESIDING OFFICER (Mr. CLAPP in the chair). It will be read.

The SECRETARY. The Senator from Tennessee proposes the following unanimous-consent agreement:

It is agreed by unanimous consent that on Monday, January 20, 1913, at 5 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases be taken up for consideration, not to interfere with appropriation bills, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself not later than the hour of 6 o'clock on that day.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee? The Chair hears none. It is so ordered.

AMENDMENT OF ANTITRUST LAW.

Mr. SMOOT. Mr. President——

Mr. OWEN. I introduce a bill proposing to amend the Sherman antitrust law, giving the States an opportunity to seek redress for trade restraint. I ask that the brief accompanying the bill be printed in connection therewith, and that it, together with the bill, be referred to the Committee on the Judiciary.

The bill (S. 8065) to amend an act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, was, with the accompanying paper, ordered to be printed and referred to the Committee on the Judiciary.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. SMOOT. Was there a unanimous-consent agreement just entered?

The PRESIDING OFFICER. There was. It was just agreed to.

Mr. SMOOT. I know there are a number of Senators out of the Chamber who did not expect it to come up at this time. I was in my seat, and if I had heard it read I would have objected to the unanimous-consent agreement. I therefore ask that it be reconsidered.

The PRESIDING OFFICER. The Chair understands that it is beyond the power of the Senate. The Chair may be mistaken

in that view, but the Chair thinks that it is beyond the power of the Senate to change or interfere with a unanimous-consent agreement after it is made.

Mr. SMOOT. I appeal to the Senator from Tennessee, for the Senator knows there are a number of Senators who are deeply interested in the bill and desire to speak on it. A number of them have so stated. I do not think the Senator from Tennessee ought, when but a few Senators are in their seats, ask unanimous consent to agree to vote upon a measure that he knows there is objection to. My attention was diverted for the moment by the Senator from Arkansas [Mr. CLARKE], and we were discussing a question of public business. If I had heard the request read, I would not have agreed to it unless the Senators who are interested in the measure were present and agreed to the unanimous-consent agreement. I ask the Senator from Tennessee to withdraw the request under the circumstances.

Mr. GRONNA. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from North Dakota?

Mr. SMOOT. I yield to the Senator from North Dakota.

Mr. GRONNA. As I understand the rule of the Senate, it can only be reconsidered by unanimous consent, not by a vote of the Senate.

Mr. SMOOT. It can be withdrawn by the Senator who made the request.

Mr. SANDERS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Tennessee?

Mr. SMOOT. I do.

Mr. SANDERS. I see on the floor of the Senate as many Members as there are usually here, and I have been bringing this matter up from day to day. There is no snap judgment about it in any sort of way.

Mr. SMOOT. I have never yet in the history of the Senate, since I have been here, known of a Senator asking for a unanimous-consent agreement when he knew there were absent certain Senators who had made objections before, and when the fact of their absence was called to his attention insisted upon it. I appeal to the Senator from Tennessee now to adhere to that rule.

Mr. SANDERS. Mr. President, I want to explain that some of the Senators who have objected to the agreement in the past have since then told me that they would not further object. So I do not think the point is well taken with reference to it.

Mr. SMOOT. I was in the Chamber, and I intended, at the request of a number of Senators, to object to it in their absence.

The PRESIDING OFFICER. Let the Chair say a word. There is too much confusion in the Senate. This unanimous-consent offer was made, was read very clearly and with great deliberation by the Secretary, and stated with deliberation by the Chair. The trouble is there is too much confusion in the Chamber.

Mr. SMOOT. I admit this: I was sitting in my seat at the time the order was presented talking to the Senator from Arkansas upon a question that is of interest not only to him but to the Senate. The Senator from Tennessee knows that there are a great many Senators who have stated that they did not want to agree upon a date for a vote on this bill until they had spoken upon it. I would have objected if I had heard the request made, for the reason that I have already stated to the Senator. I do not believe there was ever in the history of the Senate a unanimous-consent agreement secured in this way, and I therefore ask the Senator from Tennessee to withdraw his request.

Mr. CLARKE of Arkansas. I want to confirm, if confirmation is necessary, the statement made by the Senator from Utah [Mr. SMOOT]. I think to take advantage of the circumstance by which his attention was diverted from something that he deliberately intended to object to would be to make an unfair application of an incident that was not due to his fault. By virtue of his position as chairman of one of the committees of the Senate it became necessary for me to address an inquiry to him. The order of business under which the Senate was proceeding was the introduction of bills. I observed certain Senators on their feet with bills in their hands, which indicated to me that that order of business would continue for some minutes; but it suddenly came to an end, and this matter was disposed of without the knowledge of the Senator from Utah or of mine. I say to the Senator from Tennessee [Mr. SANDERS] that I think it would be unfair to take advantage of a circumstance that was not due to inattention or to indifference of the particular Senator who had it in his mind to object to unanimous consent with reference to the consideration of that matter. I should feel disposed to go to some length to see that he did not succeed in taking advantage of the incident if it were necessary to do so.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from California?

Mr. SMOOT. I do.

Mr. WORKS. It seems to me that no injustice can result from this order if it continues in force. There are 10 days left to discuss this question between now and the time fixed for a vote upon it, which ought to give ample opportunity for its discussion by any Senator who desires to discuss it.

Mr. CLARKE of Arkansas. My proposition is to restore the status quo and therefore give the Senator from Utah [Mr. SMOOT] the right that he intended to exercise. I have been the innocent cause of depriving him of that right, and I do not believe the Senate is going to insist upon a condition of that sort.

Mr. MARTINE of New Jersey. Mr. President, I object——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from New Jersey?

Mr. SMOOT. I yield.

Mr. MARTINE of New Jersey. I object to the consideration of the bill at this time.

Mr. SMOOT. That is not the question.

The PRESIDING OFFICER. The objection is not well founded.

Mr. MARTINE of New Jersey. I may not have just the trend of that which went on previous to my coming into the Chamber. I am willing to vote on the question at an opportune time, but I object to its consideration at this particular time.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Kansas?

Mr. SMOOT. I yield.

Mr. BRISTOW. I am very much in favor of the bill in which the Senator from Tennessee [Mr. SANDERS] is interested, and I expect to support it; but I do think that it would be absolutely unfair to insist on this unanimous-consent agreement standing. I want to say now that if it were a bill in which I was interested, and the unanimous-consent agreement was obtained in this way, I would not support it, because the unanimous-consent agreement is a sacred agreement here in the Senate, and it should not be enforced unless every Senator has an opportunity to be heard when it is proposed. It is a very drastic practice that we have. I am speaking as one who is interested in the passage of the bill.

Mr. SMOOT. I wish to say that, so far as I am personally concerned, I have not made up my mind what action I shall take on the bill, but I promised a number of Senators, and I told them that if I were in the Chamber and they were not present, I would object to any unanimous-consent agreement. Morning business was in progress, and I did not expect such consent would then be asked. As I have heretofore stated, I was talking to the Senator from Arkansas at the time. I think it would be unfortunate if the Senator from Tennessee should insist upon the unanimous-consent agreement.

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from South Dakota?

Mr. SMOOT. I do.

Mr. CRAWFORD. I do not desire to interrupt the Senator. I only want an opportunity to say that I am very much in favor of the bill; I want to assist in passing it; I want to vote for it; but I can not consent to giving my approval to the situation here, if it is insisted upon, in enforcing the unanimous-consent agreement, because with a Senator in the Chamber with his intention and his purpose fixed to object to unanimous consent, he being misled through an inadvertence and by having his attention withdrawn in the manner narrated here—to take advantage of such a situation and insist on the enforcement of the unanimous-consent agreement, to my mind, would not be fair, and it is action which will injure the enforcement by the honor of the Senate of unanimous-consent agreements in the manner which has always prevailed. I believe it will injure the custom, the practice, and the rule, if it shall be insisted upon under such circumstances.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Idaho?

Mr. SMOOT. I do.

Mr. BORAH. Do I understand that the request for unanimous consent has been agreed to?

The PRESIDING OFFICER. The request for unanimous consent has been agreed to.

Mr. BORAH. Then, I do not understand that the Senator from Tennessee [Mr. SANDERS] has power to change the consent agreement or withdraw it.

Mr. SMOOT. The Senator from Tennessee who made the request has a right to ask that the vote by which it was agreed to may be reconsidered, and that is what I ask the Senator now to do.

The PRESIDING OFFICER. The Chair would say to the Senator from Utah that the present occupant of the chair does not profess to be an authority on parliamentary law, but he has heard it stated time and time again in the Senate that a unanimous-consent agreement once entered into could not, even by unanimous consent, be modified or in any maner altered or changed, and the Chair certainly would want some authority to entertain such a request.

Mr. SMOOT. Mr. President, such agreements have been modified by unanimous consent time and time again since I have been in the Senate. I do not think but what the Senate can do anything that it desires by unanimous consent. They can change by unanimous consent a unanimous-consent agreement.

Mr. BORAH. Mr. President, without discussing the merits of this particular agreement, I take issue with the Senator from Utah upon that proposition. If that were true, there would be no such thing as a unanimous-consent agreement in the Senate Chamber. If a unanimous-consent agreement could be entered into here and the next day set aside when other Senators who had relied upon it were not here, there would be no such thing as a unanimous-consent agreement in this Senate.

Mr. CRAWFORD. If the Senator from Idaho will permit me a question there. Is it really a unanimous-consent agreement? A Member being present intending to object did not give his consent because his attention was diverted by another Senator, and under a proceeding that was then in order, the introduction of bills. He did not hear the statement read; he was opposed to the unanimous-consent agreement, and through his attention being so diverted he did not give his consent, but he was deprived of the opportunity of withholding his consent, although present and intending to do it. Those facts are stated here by Senators and are not in dispute. Did the Senate, then, unanimously consent to this order?

Mr. SMOOT. If I had been out of the Chamber, it would have been an entirely different proposition.

Mr. CRAWFORD. But the Senator from Utah was here.

Mr. SMOOT. I was here and the Senate was acting under the order of morning business.

Mr. BORAH. That makes it all the more difficult to get rid of this situation. If the Senator had been out of the Chamber, it might have been different; but the Senator was in the Chamber.

Mr. SMOOT. Well, Mr. President, if the Senate of the United States wants to establish this rule, and if the Senate will not by unanimous consent agree to the abrogation of this unanimous-consent agreement, I think there is a very dangerous precedent being established.

Mr. BRISTOW and Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas [Mr. BRISTOW] is recognized. The Senator from Missouri [Mr. REED] will be recognized when the Senator from Kansas concludes.

Mr. BRISTOW. Mr. President, I regard this as a very serious matter. If a unanimous-consent agreement of this kind were secured on a bill in which I was interested, I would not respect the unanimous-consent agreement; I would violate it without any hesitation, as I would have a right to do under the rules of the Senate and under my obligations as a Senator to my constituents. If it is proposed now to break down the rule of unanimous consent, we can do it.

Mr. REED. Mr. President, I desire to make an inquiry for information, because I was engaged as a member of the Commerce Committee in listening to the hearing now being held by that committee. In company with several other Senators, all of us anxious to come to the Senate, we were at that work, and remained because we relied upon the fact that the order of business was the presentation of petitions and memorials, reports of committees, and the introduction of bills. A messenger was sent down from the committee to ascertain what head the Senate was under and had reported only a moment before I left the committee room. I want to inquire, therefore, what order of business the Senate was actually under at the time this unanimous consent was asked?

Mr. SMOOT. The introduction of bills.

The PRESIDING OFFICER. The Senate was acting under the order of introduction of bills.

Mr. REED. Now, Mr. President, was unanimous consent asked to vary the order of business or was this request for unanimous consent thrust into the order of business and out of order itself?

The PRESIDING OFFICER. The unanimous-consent order was asked for separately and independently, by itself.

Mr. REED. That is to say, we were under the order of the introduction of bills when unanimous consent was asked without first getting the consent of the Senate in any way to set aside the order then before the Senate. If that is true, exactly the same situation is presented that was presented yesterday. On yesterday the Senator from Tennessee, under this same order of business, arose. He did not ask to have the order of business temporarily laid aside, but he asked for unanimous consent to have his bill taken up at some future date. I raised the point of order that the request was out of order. The then Presiding Officer, I think misapprehending the situation, ruled that the Senate could do anything by unanimous consent. That is practically true, but the unanimous consent which should have been asked was to vary the order of business, and after that had been granted then the request for the unanimous-consent agreement should have been presented.

Mr. President, without using any harsh terms, it is manifestly in the nature of a snap judgment upon the members of the Senate who were absent——

Mr. SANDERS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Tennessee?

Mr. REED. When I conclude the sentence—who were absent from the Senate and relying upon the order of business being carried out if that order of business has thrust into it something which is entirely foreign to it and is not properly introducable at that particular time.

I do not mean to say that the Senator from Tennessee meant to take an unfair advantage, but if this practice were to be indulged in, then manifestly all that any Senator can do who has service upon a committee to perform is to be here in his seat every moment, trusting nothing to the rules, nothing to the order of business, and understanding that an order may at any time be made binding upon him and the Senate, which can not be set aside by the Senate itself by unanimous consent, even with the acquiescence of the Senator who obtained the order. That is the situation in which we would be placed if the construction of the Senator from Idaho is correct.

Mr. SANDERS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Tennessee?

Mr. REED. Certainly.

Mr. SANDERS. Mr. President, I have been waiting patiently for an opportunity to disclaim any intention of taking an undue advantage of Senators. I am glad to hear the Senator from Missouri retract the statement that I did take such an advantage. I should like to see other Senators also retract. But while I was waiting for that opportunity a point of order was raised, I waited until that was decided.

I want to say that I have not been here very long, not so long as some of the Senators who are now objecting, and I may not have learned my lesson properly; but I have seen unanimous-consent agreements made here when there were not half as many Members in the Senate as there are now; I have seen unanimous-consent agreements made without any technical call for a change of the order of business; I have seen unanimous-consent agreements made here this morning and under the same circumstances, and no objection was made. So, as I have said, I may be a little premature in this matter and a little inexperienced, but I have learned what I am doing and saying from some of the older Senators who are here.

I want to say now that I positively disclaim any intention to take any advantage of anybody, and if the point of order that the unanimous-consent agreement can not be withdrawn is not sustained, I would be willing to yield to the Senators who have expressed a different view; but I should like to have the point of order made by the Senator from Idaho [Mr. BORAH] passed upon.

Mr. REED. Mr. President, I want to say to the Senator from Tennessee that I did not retract anything I said, because I intended to say nothing to reflect upon the Senator from Tennessee. What I said was that if this practice was indulged in it might lay the foundation for what we might term snap judgment, but I said that I did not want to employ that harsh a term. I will embrace this opportunity to express for the Senator from Tennessee the highest regard and to say that I do not think he has been actuated by any improper motive.

Now, with reference to the point of order, I suggest this to the Presiding Officer before he rules: It is quite one thing for the Senate, fully advised of what it is doing, to grant unanimous consent and to then pass on to some other order of business, so that Senators who were here at the time the unanimous-consent agreement was made may, some of them, have passed from the Chamber, and then, when there is a different membership present, to ask to vary the order of business. That would be one thing; but it is the rule——

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. REED. I will when I conclude my sentence—but it is the rule everywhere that an act can be set aside when the request is made simultaneously with the doing of the act. A judgment of court is made, and when solemnly entered the court sometimes can not set aside that judgment, but when the judge has merely announced a judgment and instantly his attention is called to a mistake he can always at the time disregard the order. So I make the point that under these circumstances, when the request comes immediately after the ruling of the Chair, it would be a very harsh and a very dangerous rule to say that something had been done which can never be altered. If time had elapsed, if the membership had changed, a different question would be presented.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. REED. Certainly.

Mr. BORAH. I did not formally raise a point of order. I simply suggested the proposition that having made a unanimous-consent agreement I did not see how we could change it. In view of the attitude of mind of the Senator interested in this matter, I do not want to make the point of order. If he can do so, I certainly should not interpose any objection to his undertaking to do so. I have no doubt myself—and I say it in the presence of the parliamentarians of the Senate—that we are now establishing a precedent never established before; but I shall not formally raise the point of order. It would perhaps be embarrassing to the Senator who asked for the agreement for me to do so. I think the peculiar circumstances ought to exempt this proceeding from becoming a precedent.

Mr. OLIVER. I think there is a way of avoiding this difficulty without doing violence to any of our rules or any of our customs. The request for unanimous consent was made by the Senator from Tennessee. The Senator from Utah, who would ordinarily have objected to it, had his attention temporarily called to other matters——

Mr. KENYON. Mr. President, there is so much noise——

Mr. BRANDEGEE. Mr. President, I ask that there may be order. I am unable to hear the Senator from Pennsylvania.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield to the Senator from Iowa?

Mr. OLIVER. I will finish what I have to say in one moment.

Mr. KENYON. There is so much confusion in the Chamber that we can not hear.

Mr. OLIVER. It is very difficult for me to speak anyway, as I am suffering from a severe cold.

I have seen times without number when a proposition was put before the Senate and the Chair decided that it was carried, that the vote was taken again. If the Chair decided that the "ayes" had it or the "noes" had it, a second division was called for. I think this is precisely a parallel case. The Chair had no more than announced that there was no objection and that the unanimous-consent agreement was ordered, than the Senator from Utah rose and called the attention of the Chair to the fact that he had not known that the discussion was going on.

Mr. WORKS. Mr. President——

Mr. OLIVER. I think it is entirely within the power of the Senate to consider the question as not settled and, as a matter of courtesy if nothing else, to allow it to be put a second time to the Senate.

I want to say, Mr. President, that I heard this motion put. I knew it was going on, and I had no intention of objecting to it. I am rather inclined to think that when this bill comes before the Senate for action I will vote in its favor. But I think every Senator opposed to it ought to have a right to be heard, and especially to interpose objection to a unanimous-consent agreement.

Mr. GALLINGER addressed the Chair.

The PRESIDING OFFICER. Just a moment. The Chair will say to the Senator from Pennsylvania that after agreement to the unanimous consent had been announced by the Chair other business was transacted.

Mr. SMOOT. But I was on the floor asking for recognition.

Mr. OLIVER. The Clerk has just informed me——

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GALLINGER. Mr. President, I was unavoidably kept out of the Chamber during the morning hour or during the time intervening between 12 o'clock——

Mr. STONE. Mr. President, I should like to hear what the Senator from New Hampshire is saying.

Mr. GALLINGER. I suggested, Mr. President, that I was unavoidably kept from the Chamber when this transaction occurred. Having been out of the Chamber, if I had been opposed to this unanimous-consent agreement, to which I am not opposed, I would not have felt that I had any right after the unanimous-consent agreement was made to raise an objection, even though I had entered the Chamber at the very moment the Chair announced the result.

The Senator from Tennessee, I take it, asked for a unanimous-consent agreement in the usual way. It is done over and over and over again during the morning hour. We do not formally lay aside the order of petitions or reports of committees or bills and joint resolutions to allow Senators to make requests of this kind, and I submit to the Chair, although I apprehend it is unnecessary, that this consent having been given it can not by any possibility under our rules be vacated.

Mr. CRAWFORD. Will the Senator permit me to ask him——

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from South Dakota?

Mr. GALLINGER. Certainly.

Mr. CRAWFORD. I want to submit to the Senator—I do not know whether he was here when I before called attention to it—whether or not it is a unanimous consent of the Senate; whether or not the Senate has given unanimous consent if a Senator is present in the Chamber at the time, opposed to the unanimous-consent agreement, fully intending to make objection to it, and because he is chairman of an important committee another Senator comes to him on official business of this body and his attention is momentarily diverted while the tentative proposal is being read, and he, being present, not having heard it, and being opposed to it, immediately upon learning of it makes his protest—I wish to know whether it has, in that condition, assumed the form of a unanimous-consent agreement which absolutely bars this body from correcting what it has done through inadvertence when a Member was present at the time who did not consent.

Mr. GALLINGER. Mr. President, I apprehend there are several Senators here now who would have made objection had they been in the Chamber, but as no one in the Chamber made objection, the fact that a Senator's attention was diverted is no reason why the agreement should not stand. If we establish any other rule, we will vacate every unanimous-consent agreement that is made in this body.

I again submit that the fact that a Senator's attention was diverted is not sufficient reason for asking that a unanimous-consent agreement should be annulled. The Senator from Tennessee, as I recall it, has on several former occasions asked for this consent agreement under precisely similar circumstances that he asked this morning, and objection was made. He made another request, which was granted, and it is now asked that it shall be again submitted because some Senator did not hear it.

Now, Mr. President, all I desire to say is this: That if we are not going to observe unanimous-consent agreements when they are properly submitted and agreed to, the Chair declaring that there is no objection to the request, then we might just as well do away entirely with efforts to get unanimous-consent agreements.

Mr. SUTHERLAND. Will the Senator permit me to ask him a question?

Mr. GALLINGER. Certainly.

Mr. SUTHERLAND. Does the Senator think that if a unanimous-consent request was made, and the Chair stated that no objection was heard, and immediately a Senator was to rise and say that his attention had been for the moment diverted and asked that the question be again put, there would be any objection, parliamentary or otherwise, to its being again put?

Mr. GALLINGER. In answer to that I will say that under those circumstances, if I was in the chair, I would not again put the request simply because some Senator demanded it; and I am sure that if I undertook to do it a single objection would lie against it.

Mr. SUTHERLAND. Would not the Senator have recognized the request——

Mr. GALLINGER. I would not.

Mr. SUTHERLAND. Or a statement made by a Senator that his attention was diverted?

Mr. GALLINGER. I would not.

Mr. SUTHERLAND. And that he intended to object?

Mr. GALLINGER. I would not.

Mr. SUTHERLAND. And a request that the question be put again?

Mr. GALLINGER. I would not, any more than if a Senator had come in and stated that he had been called into the lobby, and that if he had been present he would have objected?

Mr. SUTHERLAND. If that is the case——

Mr. BRANDEGEE. I do not desire to interrupt the Senator.

Mr. SUTHERLAND. If that is the case, I should say it would be a very unsatisfactory condition. If a Senator was in his seat and intended to object to a request for unanimous consent, and had his attention momentarily distracted, and immediately made that statement to the Senate, it seems to me the Chair should, without the slightest hesitation, again put the question, just as we have seen the question put upon votes here time and time again.

Mr. BRANDEGEE. I was called from the Chamber at the time on a matter of business before the Senate and did not hear what was the unanimous-consent agreement asked for. I knew nothing about it, except that I assume it fixes a date to vote on the so-called Kenyon bill.

I have asked the Reporter if he would be kind enough to read the proceedings from the time the Senator from Tennessee made his request until the request was granted, if the Chair will allow it to be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Reporter read as follows:

Mr. SANDERS. Mr. President, I offer the following.

The PRESIDING OFFICER (Mr. CLARK in the chair). It will be read.

The SECRETARY. The Senator from Tennessee proposes the following unanimous-consent agreement:

It is agreed by unanimous consent that on Monday, January 20, 1913, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases be taken up for consideration, not to interfere with appropriation bills, and that the vote be taken on all amendments pending and amendments to be offered and upon the bill itself not later than the hour of 6 o'clock on that day.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee? The Chair hears none. It is so ordered.

Mr. SMOOT. Mr. President——

Mr. OWEN. I submit a proposed amendment to the Sherman Antitrust Act and ask that it be printed with the memorandum in relation thereto as a part of the bill.

The PRESIDING OFFICER. It will be so ordered.

Mr. SMOOT. Was there a unanimous-consent agreement just entered?

The PRESIDING OFFICER. There was; just agreed to.

Mr. SMOOT. I know there are a number of Senators out of the Chamber, etc.

Mr. CLARKE of Arkansas obtained the floor.

Mr. SANDERS. Will the Senator from Arkansas allow me to say a word?

Mr. CLARKE of Arkansas. Yes, sir.

Mr. SANDERS. Mr. President, I think the atmosphere is somewhat cleared now, and with an apology to the Senate for presenting this matter, I will pursue a different procedure. I think——

Mr. CLARKE of Arkansas. Mr. President——

Mr. SANDERS. Just a word, if you please. This is a very grave question——

Mr. CLARKE of Arkansas. I yielded for a question, and if the Senator has a question he may propound it.

The PRESIDING OFFICER. The Senator from Arkansas has the floor, and if he does not further yield——

Mr. CLARKE of Arkansas. I yielded for a question, thinking the Senator desired to ask a question; but if he desires to make a speech he will have an opportunity in about three minutes.

Mr. SANDERS. I beg pardon.

Mr. CLARKE of Arkansas. The question that is being discussed here now is broader than the question immediately involved. What would be the capacity of the Senate to deal with a unanimous-consent agreement is broader than the question with which we are now confronted.

The contention is made, and rightfully made, that no unanimous consent was given willingly. The Senator from Utah said it was his fixed purpose to enter his objection to the consideration of that application, and that he was only prevented from doing so by being called on to discharge the duties pertaining to his place by one who had a right to apply for such service; and that although present, his mind never gave consent to what was sought to be done.

For myself I would be very glad to see such an order entered. I am in favor of the bill and will vote at any time to take it up. I think the time allowed is very reasonable. It is a bill I favor. But I do not favor the Senate giving unanimous consent, directly or indirectly, under such circumstances. The dominant law of this Chamber is courtesy, and every Senator is treated with at least fairness, and when a Senator states upon his word that he intended to pursue a certain course and has been deprived of the opportunity to do so, it has been the pleasure of the Senate to promptly respond and to place him where he would have been placed had he not been casually deprived of his right in that behalf.

While I am ardently in favor of the passage of the bill, which would be advanced by acquiescence in the request of the Senator from Tennessee, I would not favor methods of that kind to further its progress.

The PRESIDING OFFICER. Will the Senator from Arkansas suspend for a moment to enable the Senate to receive a message from the House of Representatives?

A message from the House of Representatives, by Mr. Hempstead, its enrolling clerk, was received.

Mr. CLARKE of Arkansas. I shall not detain the Senate any further. I think I have stated the reasons why I think this is an exceptional case and why exceptional treatment should be applied.

Mr. SANDERS. Having explained my intention and position in this matter, I now wish——

The PRESIDING OFFICER. The Senator from Tennessee will suspend for a moment to enable the Senate to receive a message from the President of the United States.

A message from the President of the United States, by Mr. Latta, one of his secretaries, was received.

Mr. SANDERS. I wish to ask that this matter be again submitted to the Senate, giving to anyone who wishes to object an opportunity to do so.

The PRESIDING OFFICER. In what form does the Senator put his request?

Mr. SANDERS. The request I made, which I think is a very great mistake, I want to say, is that the question be submitted to the Senate again, giving opportunity for Senators to object if they wish.

The PRESIDING OFFICER. By unanimous consent——

Mr. SMITH of Georgia. Mr. President——

Mr. SANDERS. I am free to say I have been criticized so much now as to the procedure this morning that I do not wish to say just what form it should take.

Mr. SMITH of Georgia. Mr. President, not as a matter of unanimous consent, but as a matter of right, over and over again the Chair rules here that a bill has passed. We do business rapidly in that way. The Chair afterwards hears objection from a Senator and stops and says that the bill is still before the Senate. Just so in this case.

Mr. WORKS. Mr. President——

Mr. SMITH of Georgia. I do not yield quite yet to the Senator from California. Just so in this case. This unanimous-consent request was laid before the Senate, and the Senator from Utah rose as the Chair made his announcement to ask if it was before the Senate, and that was done before the Senate had passed to any other business.

The PRESIDING OFFICER. Just one moment. The Chair must remind the Senator from Georgia that the Senator from Utah rose to ask of the Chair if the Senate had considered——

Mr. SMITH of Georgia. Precisely; so that he might learn whether that had been before the Senate, and then record his dissent.

Mr. GALLINGER. And after other business had been transacted.

Mr. SMITH of Georgia. The President of the Senate, over and over again, rules rapidly on questions, and allows Senators immediately afterwards to reopen the question. It is a mode of rapid procedure that is conducted in the Senate in the nature of unanimous consent, which yields immediately afterwards to the objection of any Senator.

Now, Mr. President, it seems to me, with our lax mode of allowing requests for unanimous consent, which perhaps should be reached by a rule fixing the exact hour when they should be made, in order that we might all be present to watch against them, we should at least have the privilege, when we catch a request of that kind before the Senate has passed to something else, to ask to record objections. Otherwise a Senator could not speak to another Senator for a moment, otherwise he could not write a letter, he could not examine another measure.

In this instance the Senator from Utah, before the Senate had changed to any other subject, before anything else had been done, rose and inquired to learn the matter that had been brought before the Senate, that he might still object. I have never seen in the Senate during the past nine months a measure passed or action taken on a decision by the Chair upon a matter pending before the Senate where a Senator at once rose and desired still to object that the Chair did not at once say the matter is still open and allow the Senator to be heard. So it seems to me the proper course of action for us to take is to declare the matter still before the Senate. If that action is taken, then, it seems to me, the course we should pursue would be to submit to the Senate the right to fix a practice—there is no rule controlling it—and that practice should be that a unanimous consent can be set aside by another unanimous consent.

Mr. GRONNA. Mr. President, I am not going to say what shall be done with this unanimous-consent agreement, but I want to testify to the transaction that occurred when the Senator from Tennessee offered the order. The Senator from Tennessee rose and asked for recognition. He was recognized by the Chair——

The PRESIDENT pro tempore. The Senator from North Dakota will suspend. The hour of 1 o'clock having arrived, under the order of the Senate legislative business must now be laid aside.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The PRESIDENT pro tempore. The Sergeant at Arms will make proclamation.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last day's proceedings.

The Secretary read the Journal of the proceedings of the Senate of Thursday, January 9, 1913, sitting as a court.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. WORTHINGTON. Mr. President, before we proceed with the argument to-day I should like to know to what time I may speak in order that the time between now and 6 o'clock may be divided so as to give the managers their full half of the time spent in argument.

The PRESIDENT pro tempore. The Secretary has kept the time occupied by each side and will read the same.

The SECRETARY. Up to the hour of 1 o'clock to-day the House managers have occupied 4 hours and 58 minutes, the respondent's counsel 4 hours and 23 minutes.

Mr. Manager CLAYTON. Mr. President, I beg to say that I was very particular the other day in stating in the opening and before agreeing to this arrangement, in response to an inquiry addressed to the managers by the Chair, that seven hours and a half for the discussion of this question accorded to the managers would be acceptable to the managers. As I understand it, Mr. President, that interpretation of the allotment of time was agreed to by the Chair, and it was the understanding; and therefore, Mr. President, I am constrained to ask the Senate to accord to me not a division of the remainder of the time, but the time which I have reserved, to wit, 2 hours and 32 minutes. The Chair will readily perceive——

The PRESIDENT pro tempore. The manager will permit the Chair to state that he will make the necessary order in the matter.

Mr. Manager CLAYTON. It was only in reply to the suggestion of the respondent's counsel, who sought to cut me off from that.

The PRESIDENT pro tempore. The Chair is not criticizing the manager, but he simply desires to accommodate his wishes.

Mr. Manager CLAYTON. That is entirely satisfactory.

Mr. SMOOT. I move that the Senate continue in session as a Court of Impeachment this day long enough after 6 o'clock to give both sides the allotted time, seven hours and a half.

The PRESIDENT pro tempore. It is moved by the Senator from Utah that the Senate to-day shall continue in session long enough after 6 o'clock to give to the managers and also counsel for the respondent the seven hours and a half originally contemplated. Without objection, it is so ordered.

Mr. WILLIAMS. What was the request? To remain in session to-night?

The PRESIDENT pro tempore. The request was that after 6 o'clock, which is the ordinary hour for adjournment, the Senate shall stay in session long enough to give each side the time originally contemplated, the difficulty having arisen out of the consumption of a part of the time by other matters. It will probably not be over half an hour.

Mr. WILLIAMS. How long will we be kept in session after 6 o'clock?

The PRESIDENT pro tempore. About half an hour, under the order adopted on motion of the Senator from Utah. Mr. Worthington has the floor.

CONTINUATION OF ARGUMENT OF MR. WORTHINGTON OF COUNSEL FOR RESPONDENT.

Mr. WORTHINGTON. Mr. President and Senators, I am not a prophet, but I venture to guess that it will not be necessary, as far as the time I shall occupy is concerned, to extend the time of the session beyond the usual hour of 6 o'clock, giving to the manager who is to close the argument his full remainder of the seven hours and a half for his side.

I want for a moment to recur briefly to the questions of law which I discussed yesterday.

A great many text writers have been cited by the managers, and some of them say that certain offenses which should constitute impeachable offenses are not crimes and therefore would not be indictable. But as to most of the offenses of that kind to which the text writers and managers refer I think it will clearly appear from the authorities to which I referred the Senate yesterday that they are criminal by the common law as misconduct in office. As to several of the others they distinctly state that where an officer is guilty of maladministration—not referring to judges alone, but all civil officers—whether indictable or not, he should be impeached; whereas we all know that in the Constitutional Convention, as was read yesterday—it was doubtless unnecessary to read it to anybody in the Senate—the word "maladministration," which was first offered, was struck out because it was too general and would practically allow all civil officers to be removed at any time at the pleasure of the Senate, and the words "high crimes and misdemeanors" were substituted.

But, taking the textbooks, I do not see that any comfort can be gathered by the managers from considering all that they say on the subject. I have here an extract from Story on the Constitution, on whom the managers seem most to rely in this connection to support their claim that it is not necessary that an officer who is impeached by the House should be charged with an offense which is indictable. I shall read a paragraph from Story on this subject, which the managers did not read, from section 797 of his work on the Constitution. In what was read by the managers, Story states his conception of the old English cases on impeachment. Then he goes on to say—and to this I ask the particular attention of Senators—

> Resort, then, must be had either to parliamentary practice and the common law, in order to ascertain what are high crimes and misdemeanors, or the whole subject must be left to the arbitrary discretion of the Senate for the time being. (Story on the Constitution, Vol. I, p. 581.)

That the matter must be left to the arbitrary discretion of the Senate is what the managers now claim, so far as any of them have addressed themselves to this question up to this time.

> The latter is so incompatible with the genius of our institutions that no lawyer or statesman would be inclined to countenance so absolute a despotism of opinion and practice, which might make that a crime at one time, or in one person, which would be deemed innocent at another time, or in another person. The only safe guide in such cases must be the common law, which is the guardian at once of private rights and public liberties. (Story on the Constitution, Vol. I, p. 581.)

In the same connection he characterized as harsh and severe the English authority or rules which he referred to in the passage which has been read and is here relied upon by the managers.

In another place, section 798, I read one clause on page 582:

> It is remarkable that the First Congress, assembled in October, 1774, in their famous declaration of the rights of the Colonies, asserted—

Quoting from the declaration of 1774—

> that the respective Colonies are entitled to the common law of England, and that they are entitled to the benefit of such of the English statutes as existed at the time of their colonization, and which they have by experience, respectively, found to be applicable to their several local and other circumstances.

That is the end of the quotation. Story goes on:

> It would be singular enough if, in framing a national government, that common law so justly dear to the Colonies as their guide and protection should cease to have any existence as applicable to the powers, rights, and privileges of people or the obligations and duties and powers of the departments of the National Government. If the common law has no existence as to the Union as a rule or guide, the whole proceedings are completely at the arbitrary pleasure of the Government and its functionaries in all its departments. (Story on the Constitution, Vol. I, p. 583.)

Story was there dealing with the proposition to which I referred yesterday, that since the Supreme Court had decided that there are no common-law offenses in the Federal courts generally, therefore there is no common law upon which the

Senate can act in cases of impeachment; and dealing with that very subject he reaches the same conclusion which we had reached in our argument on that point.

As to the State cases I shall not undertake to deal with them especially, but I want also to read a paragraph or two from the language of that great jurist Lemuel Shaw when he was chairman of the managers in the Prescott case in Massachusetts, opposed to Daniel Webster, who represented the respondent. He had been referring to the removal by address, which, as we all know, was a proceeding by which any civil officer could be removed in England, and can to-day be removed in most of the States, without charging him with any crime or offense and putting him only in that plight which any civil officer is in to-day if the President happens to turn him out. I am reading from page 118 of the Prescott Trial. He says:

> The two modes of proceeding are altogether distinct, and in my humble apprehension were designed to effect totally distinct objects. No, sir; had the house of representatives expected to attain their object—

That is, the House of Representatives of Massachusetts—

> by any means short of the allegation, proof, and conviction of criminal misconduct an address and not an impeachment would have been the course of proceeding adopted by them. (Prescott's Trial, 1821, p. 182.)

He is speaking for the managers, of whom he was the chairman. He says that if the managers had been sent to the Senate and had "expected to attain their object by any means short of the allegation, proof, and conviction of criminal misconduct, an address and not an impeachment would have been the course of proceeding adopted by them."

> We readily therefore agree that here is no question of expediency, of fitness or unfitness, but one of judicial inquiry of guilt or innocence. We make no appeal to the will or discretion, but address ourselves solely to the understanding, the judgment, and the consciences of the judges of this honorable court. We also cheerfully accede to the proposition that this is a court of justice of criminal jurisdiction, possessing all the attributes and incidents of such a court.

Further along on the same page:

> The general principle of law, upon which we rely in support of this prosecution, is that any willful violation of law, or any willful and corrupt act of omission or commission, in execution, or under color of that office, the duties of which the respondent has sworn to perform and discharge faithfully and impartially according to the best of his abilities and understanding, agreeable to the constitution and laws of this Commonwealth, is such an act of misconduct and maladministration in office as will render him liable to punishment by impeachment. Such oath of office, being prescribed by the supreme law, in addition to the religious obligation upon the conscience of the officer, imposes a legal obligation as binding and explicit as if the constitution had provided in other words that every officer acting under it, should so perform and discharge the duties of his office under pain of impeachment. But what those duties are must be a subject of inquiry in each particular case, and must be ascertained by reference to express laws relating to such office or to the principles of the common law, and those general and obvious rules resulting from the nature, purposes, and powers of the office in question.

That was the statement made by Judge Shaw, on behalf of the managers in that case, as to what they claimed under a constitution which used the word "maladministration" as one of the things for which an officer could be removed. If you apply that doctrine to this case, then by what these managers say over and over again and have admitted during the arguments in this case this respondent must be acquitted, because they do not charge anything of the kind.

Now, Mr. Manager HOWLAND referred to the Barnard case in New York bearing upon this doctrine, and I understood him to say there was a certain part of the charge which it was argued did not amount to an indictable offense, and that notwithstanding that the respondent was convicted. Either I misunderstood him or he has misunderstood the case. What happened was this: There was a certain article of impeachment which made a general charge and then gave a long list of specifications under that charge, some 20 in number, as I remember. As to one of those specifications, it was argued at great length that the respondent should not be convicted upon that because that specification did not set forth an indictable offense. But no vote was ever taken upon that specification, and that question was not passed upon at all by the court. When the end came a vote was taken upon the general charge in that article with all its specifications, and Judge Barnard was convicted of the general charge, so that it made no difference whether the particular specification referred to did or did not charge an impeachable offense.

Some of the illustrations used in the briefs which I had the pleasure of reading last night, which have been submitted by Mr. Manager NORRIS and Mr. Manager DAVIS, contain the suggestion that a judge may decide cases contrary to his honest conviction, and that that would not be an indictable offense.

I know not where the managers find that law; they do not find it in the common law of England or of any place in this country, because if a judge does intentionally disregard his duty and decides a case or makes any order in a way he believes to be wrong, he is guilty of an indictable offense and could from time immemorial be punished for it. So they go on to say he may decide from partiality or, as one of the learned managers says, unblushingly use partiality. Of course that is nothing but bribery. Or he may be drunk on the bench; that is disorderly conduct, as in the Pickering case. Or he may be guilty of usurpation of power; I confess that that is a thing which appeals to me and appeals to a great many people in this country; there have been some recent events which have brought it to the attention of everybody. If a judge does intentionally send a man to jail, usurps that power, not believing that he has the right to do it, then, of course, he has committed an indictable offense as well as an impeachable offense. That was the whole question in the Peck trial, where a lawyer who appeared before Judge Peck was sent to jail and was suspended from practice for 18 months for having criticized a decision of the judge in his case. The whole question in the case was whether the judge honestly believed he had the right to do that. His counsel never pretended that Judge Peck was not guilty of an indictable and impeachable offense if he had sent Lawless to jail believing that he did not have the right to do so.

Just a word about the law relating to articles 7, 8, 9, 10, and 11. The Barnard case is one in which the court decided that since the respondent in that case was holding the second term of the same office, he might be impeached for what he did in the first term; but in the report of that case, on pages 158 to 160, is a reference to another case in the same court—the case of Fuller—from which I quote:

> Proceedings which were taken in the assembly upon an inquiry made into the judicial conduct of one Phil. C. Fuller, the house directed the judiciary committee to inquire and report:
>
> First. Whether a person could be impeached who at the time of his impeachment was not the holder of an office under the laws of this State.
>
> Second. Whether a person could be impeached and deprived of his office for malconduct or offenses done or committed under a prior term of the same or any other office.
>
> Presenting what I suppose is intended to be a distinction between many cases and the present on the part of my learned adversary, founded upon the fact that Justice Barnard was an incumbent of this office from the term preceding the 1st of January, 1869, I do not well perceive how that circumstance could give foundation for any discrimination, because the principle upon which the doctrine is founded—that you can not impeach for acts committed previous to the tenure of the office—is that the new election, signifying the voice and the judgment of the people, purges and purifies the offender from the contamination of any previous conduct or offense. That it is an expression of the will of the people, not only a judgment upon his qualifications but an expression of that will; that as he is and whatever he may be he is by that sovereign voice selected as a delegate to represent their power in the office to which he may be selected.
>
> Mr. Weeks, from the judiciary committee, reported that:
>
> "The only clause in the constitution relating to judgment upon impeachments provides that judgments in such cases shall not extend further than the removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under this State, but the party impeached shall be liable to indictment and punishment according to law.
>
> "From this and from the theory upon which our Government is based the committee have come to the conclusion:
>
> "First. That no person can be impeached who was not at the time of the commission of the alleged offense and at the time of the impeachment holding some office under the laws of this State.
>
> "That the person impeached must have been in office at the time of the commission of the alleged offense is clear from the theory of our Government, viz, that all power is with the people, who, if they saw fit, might elect a man to office guilty of every moral turpitude, and no court has the power to thwart this their will and say he shall not hold the office to which they have elected him. A contrary doctrine would subvert the spirit of our institutions.
>
> "It is equally clear from the tenor of the constitution that the person must be in office at the time of the impeachment. This instrument provides but two modes of punishment, viz, removal from office, or removal or disqualification to hold office. In either mode of punishment the person must be in office, for removal is contemplated in both cases, which can not be effected unless the person is in office.
>
> "The courts are the only tribunals that have jurisdiction over a delinquent after his term of office has expired to punish him for offenses committed in the discharge of the duties of his office."
>
> The committee have further come to the conclusion—
>
> "Secondly. That no person can be impeached and deprived of his present term of office for offenses alleged to have been committed during a prior term of the same or any other office.
>
> "Neither by the constitution nor by our laws is there any period limited in which an impeachment may be found. It is but fair, therefore, to infer that the intention was to confine the time to the term of office during which the offenses were alleged to have been committed; indeed any other conclusion would lead to results which could not be sustained, for who can say but that the people knew of this malconduct, these offenses, and elected the individual notwithstanding? True, an extreme case might be put of fraud committed on the last day of the term of an office, to which office the individual might be immediately reelected, yet who could say this was not known to the people? How is the matter to be settled? The mere statement of the question shows the dilemma in which we would be placed at every election if the tenure or stability of an office depended upon a legal inquiry as to whether the people knew the characters of the individuals they had elected to office and had exercised a proper discretion.
>
> "However much it may be desired to have men of high integrity and honesty to fill our public offices of trust and honor, yet by our constitution and the fundamental principles of our Government no particular scale of integrity, honesty, or morality is fixed. No inquisition as to what character had been can be held; it is enough that the people have willed the person should hold the office, and the courts, which are but the mere creatures of the public, will have no power to interfere.
>
> "The constitution provides, as we have seen, that a person can not be impeached after he is out of office. Then, if the same person should be reelected to the same office a year afterwards, would this right of impeachment be revived? In fine, by his reelection would he incur any other liabilities or acquire any other rights than those incident to his present term of office? We think a moment's reflection would convince each person that it could not.
>
> "Again, could an officer be deprived of his present office by impeachment for malconduct in another and different office, or even the same office, 20 years before his present term commenced? If not, could he after one year or one moment had elapsed? Where is the difference in the principle? The time is nothing. The question is, Is he out of office? It matters not if he is the next moment inducted in.
>
> "The committee think it clear, in every light they have been able to view this matter, that the constitution intended to confine impeachments to persons in office and for offenses committed during the term of the office for which the person is sought to be removed. In pursuance of this conclusion the committee recommend to the house the adoption of the following resolution:
>
> "*Resolved*, That the committee of investigation into the official conduct of State officers and of persons lately, but not now, holding office, be instructed—
>
> "1. That a person whose term of office has expired is not liable to impeachment for any misconduct under section 1, article 6, of the constitution.
>
> "2. That a person holding an elective office is not liable to be impeached, under section 1, article 6, of the constitution, for any misconduct before the commencement of his term, although such misconduct occurred while he held the same or another office under a previous election."

Counsel also referred to the Belknap case. That was a case in which a majority of the Senate decided that Belknap could be impeached, notwithstanding that he was not an officer when he was impeached. But in that case it appeared, as I stated yesterday and as everybody who looks at the record will see, that Belknap was over in the room of the Judiciary Committee of the House at 10 o'clock in the morning of a certain day, when that committee was closing the taking of testimony in his case, and he there learned that a resolution was that day to be reported to the House when it should meet recommending his impeachment. He thereupon went directly to the White House—these are admitted facts—saw President Grant, tendered his resignation, and had it accepted. So that he was out of office before the House met and before there was an opportunity on the part of the Judiciary Committee to report the resolution favoring his impeachment. Afterwards, but on the same day, it was passed by the House. The managers, when they came here, put in the plea that even if an officer ordinarily could not be punished for a crime committed in office after his term of office had expired, he could be punished after he resigned for the purpose of escaping punishment. How many of the Senators who voted that he might be impeached did so on that ground, and how many on the ground that an officer may be impeached at any length of time after he is out of office, I do not know and nobody can tell to this day.

There was another case which has not yet been referred to, a very interesting case in this connection. When Mr. Schuyler Colfax was the Speaker of the House, he, with a number of other Members of the House, became involved in what was called the Credit Mobilier scandal.

It appeared in the testimony that was taken by the investigating committee of the House in that case that he received from Oakes Ames a number of shares of the stock of a company which was largely interested in getting legislation through Congress for the construction of the Union Pacific Railroad. His guilt appeared to be manifest by the ex parte testimony which was taken, and the House took steps looking to his impeachment. He was, however, then Vice President of the United States; he was no longer Speaker of the House; but had become Vice President and presided here. The matter was considered by the Judiciary Committee, but no action was taken upon it, because it appeared that the term of the House was about to expire and his office as Vice President was about to come to an end, and so they dropped it. There was no reason for dropping it if the contention of the managers is correct about that matter.

There is another thing that I do not like to refer to here, but I feel obliged to do so, notwithstanding it calls to mind the misdeeds of one who was once a Member of this body and has now gone to his last rest. The gentleman of whom I speak was once cashier of a bank in this city. While he was cashier he embezzled a sum of between twenty-five and thirty thousand dollars. His friends or family made up the amount and he was never prosecuted; just why I do not know, and it does not matter, but he went out to a far Western State, and in due course of time he had so rehabilitated himself and so conducted himself that he came to Washington as a Member of this body—as a Senator from the State of North Dakota. In the Senate, while he was here, the question was raised whether he should not be expelled because he had committed this offense, notwithstanding that it was committed before he was a Senator. The matter was discussed at great length by Senators on either side. I have not the reference here to the place in the RECORD in which that debate is recorded. The matter was never even brought to a vote, the argument being made, and apparently being unanswerable, that for anything that he had done before his State sent him to this body he could not here be held accountable.

It certainly would be a remarkable thing if this doctrine should be established, because in that case every man who has been in public life at any time should take notice that he remains liable to impeachment so long as he lives. The President of the United States, for instance, held four or five different offices under this Government before he became President, and, according to this doctrine, he could now be impeached for anything he did while he was Solicitor General, or governor of the Philippines, or Secretary of War, and, upon conviction, he would be forever debarred from holding any office of honor, trust, or profit under the United States, even that which he now holds. And that might have been done in the case of his predecessor, who was formerly Assistant Secretary of the Navy, if anybody had chosen to take that step while he was President. So that any man who has held one or more public offices is always at the mercy of somebody who may stir up some offense which he is alleged to have committed at some other period and in some other office and bring him to the bar of the Senate to defend himself years after his witnesses are dead, his papers are lost, and his memory fails to record the transaction.

I pass from that, and I proceed again to discuss the merits of this case, the articles of impeachment, which have been left to me particularly to consider. I was referring to article 6 yesterday when the adjournment came, and I want to add a few words about that article.

I know how difficult it is for Senators to carry these different articles and transactions and the evidence which relates to them in their minds. That was a case in which it was charged in four or five lines of the article, without any specification whatever, that Judge Archbald had sought to use his influence as a judge to induce the Lehigh Valley Railroad or the Lehigh Valley Coal Co., which was a part of that railroad company, to purchase the interest of certain persons, called the Everharts, in the mine which that company was working.

It appears that Mr. Williams took Mr. Dainty, who was the person concerned in that transaction, to Judge Archbald's office and told him that Judge Archbald wanted to see him. At that time, as the evidence discloses and as it will appear when I come to consider article 1, Judge Archbald and Williams had a letter from Capt. May stating that he would recommend a sale of the interest of his company in the Katydid dump. They were stopped in that transaction because of the outstanding claim of the Everhart heirs, from whom they had no writing or authority. Those heirs were scattered in various parts of the United States and held small fractional interests in the Katydid dump. Dainty says that when he arrived at the judge's office the judge told him that he wanted to see him about getting the interest of the Everhart heirs in the Katydid dump. It appears from Dainty's testimony and from the testimony of other witnesses that Dainty was in close communication with the Everhart heirs and was the one person in that region who would be likely to get them to dispose of their interest in the Katydid dump. After the judge had told him that that was what he wanted, Dainty said, "Judge, I should like to see Mr. Warriner; they want to get the Everhart interest in their property, too, and I should like to have them buy the Everhart interest and let me attend to it." Of course, he was after his commission for bringing about a sale of the interests of the Everhart heirs. The judge said, "Why do you not go and see Mr. Warriner?" Dainty replied, "I do not know Mr. Warriner," and he asked the judge to see Warriner and make that representation for him. The judge, with that kindness with which he acted for all the people who came to him to ask him to help them, in consideration, evidently, of the fact that he was asking Dainty to get him the Everhart interest in the Katydid dump, offered to see Mr. Warriner and ask him to let Mr. Dainty get him the Everhart interest in the property of Warriner's company. He went there and had one conversation, at least, with him, and possibly two, although the evidence is not clear on that point, and was told that the coal company would buy the Everhart interest whenever they could, paying whatever they had paid for the other proportionate interests of the same kind. There the transaction ended, and there was nothing more of it.

Now, it should be borne in mind that at that time, as Mr. Warriner testifies, it was not proposed or suggested that they

would pay any more than they had paid for the other interests. They would only pay in the same proportion. They were paying the outstanding Everhart interests their royalties, and if they paid them the money which was due them, some $30,000, they would stop paying the royalties. So it was simply a question of royalties against interest, and the two things amounted to the same thing; so it was not a matter which concerned Mr. Warriner's company to any great extent.

The Morris & Essex tract, which was referred to in connection with the testimony of Mr. Dainty, is a tract of land which is owned by the Lehigh Valley Coal Co., but which was not on or near its lines, so that it could not possibly work it.

I want, next, to take up the culm-dump cases. I doubt if there is a Member of this body who is not now impressed with the fact that Judge Archbald voluntarily and intentionally, after he became a member of the Commerce Court, went to work to do a wholesale business in culm dumps. That matter has been brought up in such a way, has been published so often, and so much has been said about it by the managers and otherwise, that it seems impossible that anybody should fail to have that impression. So it becomes my duty, as it is my pleasure as one of the counsel of Judge Archbald, to show to the Senate now from the testimony in the case and the correspondence with regard to it, that the statement is absolutely without a particle of foundation. I know that is a broad statement to make, but I make it unhesitatingly, and I expect to make good my word.

It was said in the opening statement of the managers and is charged in article 13 that Judge Archbald got numerous contracts and numerous agreements as to coal properties, and that in all of them he concealed from everybody, except the officials of the railroad company with which he was dealing, the fact that he was interested; that the railroad company knew it, and nobody else did. I say again there is not a particle of foundation for that statement, and I propose to make good those words. As a matter of fact, instead of Judge Archbald having made up his mind when he went on the Commerce Court bench that he would go into culm-dump transactions or other transactions with railroad companies which had cases or might have cases before the Commerce Court, the fact is that there are just two of those cases with which he had any connection. In one he took the initiative steps at the instance of a man who was sent to him by William P. Boland to get him to do it, and in the other instance he did it because he was seeking to purchase a dump which was held by a private concern with which no railroad company had the slightest connection; and it was suggested to him in that connection that instead of getting that dump by itself it would be better to get one near by which was under lease by a railroad company.

I repudiate the suggestion that has been made here by one of the managers that Judge Archbald, through his counsel, is seeking to hide behind the men who made these suggestions to him. It was said that I had made that remark in my opening statement in this case. I challenge the manager who is to conclude the argument of this case to find a suggestion or word which justifies that statement. What I did say was that it was not true, as was charged in the thirteenth article, that the respondent, being on the Commerce Court, conceived the idea of compelling the railroad companies which might have cases before him to make good bargains with him. Not a single instance of that kind occurred. In each of the two cases in question the idea of making the application originated in other brains, and the suggestion was made to him. What he did after that he is responsible for; but no one can read the testimony in this case and say that Judge Archbald himself conceived the idea and then acted accordingly.

Now, taking up these culm dump transactions, which are illustrated by the maps which are upon your wall, I am going to take up, first, article 3, which deals with a dump shown on the map which is on the left as we look at the door. That dump is known as Packer No. 3. On that map there are quite a number of dumps located. In the lower part of the map, in the middle, is what is called the Oxford washery and the Oxford dump, and right in the middle, where the black spot is, which you can see from all over the Chamber, is Packer No. 4. Up farther to the left is Packer No. 2, and to the right you will see a conglomeration of lines. There is a big letter "B" there; and to the left of that is a small dump which is eastern Packer No. 4, and to the right is Packer No. 3 dump.

I now take up the story as it is shown by the testimony in this case, as manifested by the written correspondence in evidence and by the testimony of witnesses that the managers have produced. The first witness on the subject to whose testimony I refer is John Henry Jones, who had heard of the Oxford dump from a man named Gray. That Oxford dump was the one which was controlled by a concern known as the Oxford Coal Co., and worked by another concern—Madeira, Hill & Co. I ask Senators to bear in mind that no railroad company had any connection with it whatever; it was a private concern; and Judge Archbald had just as much right to go and deal in regard to it as he had to go down to the grocery to buy supplies for his house.

John Henry Jones, after hearing of this dump, mentioned it to Judge Archbald, and requested the judge to get an option on it so that they might together see if they could make a sale of it and make some profit out of it. Judge Archbald accordingly communicated with the people who owned that dump, and he received a written option. There are a series of letters, first, one giving an option, and then others extending it, which will be found on pages 1203 and 1204 of the record. Then he and John Henry Jones tried to sell that dump. Jones tried to sell it to Mr. Peale, and the letter is in evidence by which he tried to get Peale to buy it, and it is found on page 1016 of the record.

Then, John Henry Jones says that Thomas H. Jones, who is known here as Star Jones, "asked me if I knew of a dump, saying he had a purchaser; and I told him about this Oxford dump"; and that is where Thomas H. Jones, or Star Jones, as he is known in this case, got into the matter. Here is his testimony:

> John Henry Jones told me that the Oxford dump was for sale, and that he got his information from Judge Archbald. I offered it for sale, and it was turned down because it was too rocky.

John Henry Jones went on the dump, and this is his testimony, on pages 360 and 367:

> The superintendent of the Oxford dump told me if I could get a dump across the way—

Across the creek, it means—

> that a fair operation could be made of it by bringing that coal to the Oxford washery. I examined the dump, and when I got back from that examination I told the judge that if Packer No. 3 could be obtained, it would be a fair operation.

That is the way Judge Archbald knew that there was such a thing in existence as Packer No. 3.

Mr. President, I now have demonstrated, as I started out to demonstrate, that the fact that there was such a dump as Packer No. 3 and that it would be a good thing to operate it was brought to the attention of Judge Archbald by another person with whom he was in cooperation on another dump, with which only private parties were connected.

The next thing that appears in the record in this connection is a letter from the judge to a man named Lathrop, dated August 1, 1911, which is found on page 643 of the record:

> SCRANTON, *August 1.*
>
> W. A. Lathrop, superintendent Lehigh Valley Coal Co.—

That shows how intimately Judge Archbald was concerned with this railroad company, because Lathrop had not been superintendent of that coal company for about 10 years. He wrote to Judge Archbald that he had not anything to do with it, and that Mr. Warriner was now the proper man to write to. But in that letter Judge Archbald says:

> I have an option on this [Oxford] washery, and the culm dump which goes with it is not quite what it ought to be and ought to be strengthened with another.

So, you see the correspondence shows he was doing exactly what the oral testimony shows he was doing. He had been dealing for the Oxford; he had been told it was a good thing to get the Packer No. 3 to work with it; and he writes to the man who he supposed at that time was superintendent of the Lehigh Valley Coal Co. and asks if anything can be done about it.

The next is a letter to Mr. Warriner, which is precisely the same thing. The judge has found out now that Mr. Lathrop has nothing to do with it, and he writes to Mr. Warriner on the 11th of August, 1911, saying:

> In negotiating with regard to that [Oxford] washery I find that it needs an additional dump, or will in the near future, and I am therefore writing to inquire whether any arrangement could be made with your company for one or more of the dumps which I have referred to.

Next you find a letter from the judge's nephew, Col. Archbald, the engineer of the Girard estate—and here I must remind the Senators that all these packer dumps belonged to the estate of Mr. Girard, the millionaire, who died and left a great charitable bequest to the city of Philadelphia. That estate is now managed by a corporation called the Board of City Trusts. That corporation had leased all these culm dumps, these Packer dumps, and a vast amount of other property to the Lehigh Valley Coal Co., and the lease was to expire at the end of this year. Col. Archbald was the nephew of Judge Archbald and was the engineer of the Girard estate. The judge wrote to him on the 14th of August, 1911, as to the Oxford, saying:

> I understand that lease runs out in two years. Will the Girard estate extend the time to cover the life of the dump?

This is a quotation from his letter:

> I have written to the Lehigh Valley people to see whether I could get any arrangement with them about one or other of the adjoining dumps, but have not heard from them.

And, next, on the 27th of September, 1911, Mr. Warriner himself writes Judge Archbald—

> I now have a report from our superintendent on the situation, and I think it will be possible for us to accede to your wishes.

And he suggests an interview between Judge Archbald and his, Mr. Warriner's, superintendent.

I ask you to observe from that that Mr. Warriner, when he had this application from Judge Archbald, a judge of the Commerce Court, in a letter written on Commerce Court paper, did not send for the judge to come over and have a talk with him and see how much money he wanted to make out of that dump. He made inquiries of his superintendent as to whether Packer No. 3 was one that he had better hold on to, and he suggested that the judge come over and have a talk with him and his superintendent. He says, further, in that letter that Mr. Humphrey, who was his superintendent, was present at the conference which followed. He says that he does not recollect positively that Mr. Humphrey recommended consenting to a lease of the dump, but, he says, to refer to his testimony on page 653—

> We [Humphrey and himself] agreed upon a line of the proposed lease which would not interfere with our operation and would include only such coal as we had no intention of mining ourselves and did not consider it profitable to mine during the life of the lease, and that both Mr. Humphrey and myself were agreed upon that.

Then comes a letter from Col. Archbald to Judge Archbald, dated November 20, 1911, saying:

> Neither of these banks is very good and would hardly warrant separate operation. It would pay the Oxford Coal Co. to take them, which is probably your idea.

As it was said, you see—

> The board of directors—as these banks are not first class—may be willing to have them worked under Oxford rates if taken by the Oxford Coal Co.

Next comes the letter of November 22 from the judge to his nephew, saying:

> I think probably that I will ask for a separate lease and not tie up with the Oxford people.

Now, as to Madeira, Hill & Co., the other people. It was stated here by the managers—and I do not like to criticize gentlemen of such high standing, and I know of such absolute fairness of intention—but they have stated a great many things in their arguments in this case as to what the evidence discloses that is erroneous. It was stated to the Senate by one of the managers, I have forgotten which, though I think by Mr. Manager STERLING, and if not by him by one of the other managers, perhaps by Mr. Manager WEBB, that Madeira, Hill & Co. made application to the Lehigh Valley Coal Co. for this same Packer No. 3 dump, and offered to pay them a royalty on the coal in that dump of 10 cents and 5 cents, according to the size—chestnut and above or pea—and that instead of accepting that proposition they afterwards agreed to let the Girard estate, if it would, lease that same dump to Judge Archbald and his associates on paying a royalty of 1 or 2 cents.

Now, if that were true, it would be a very strong piece of evidence to show that the Lehigh Valley Coal Co. people were yielding something to Judge Archbald as a member of the Commerce Court, or in some other way. Whether it would tend to show that the judge knew that such influence was being exercised is another question. But it is not true; it is an absolute mistake. The letter to which counsel refers, page 659 in the record, is a letter from Madeira, Hill & Co. to Mr. Warriner, dated March 26, 1910, a year or more before Judge Archbald had any connection with these dumps, and that company applied for dump No. 4, and offered on that dump only 10 cents per ton on domestic sizes—that is, chestnut and over—and 5 cents on pea and buck in excess of the royalties that were to be paid to the Girard estate. The letter making this offer concludes:

> If we can close on this, we will take up the consideration of No. 2 bank.

So here was the proposition that was made by Madeira, Hill & Co., who had been for a long time working that Oxford dump and had these dumps Nos. 2, 3, and 4 spread out on the opposite side of the creek, right in front of them. They saw these dumps, and applied for No. 4, and said if they got that they would think of applying for No. 2; but they made no application for No. 3, and why they made no application will appear before I have proceeded much further.

So Mr. Warriner wrote to Mr. Hill on the 3d of May, 1910, answering that letter, "We are inclined to believe that it is best to operate those banks ourselves," on account of certain complications. The complication, it appears, was a question of the difficulties of the Oxford Coal Co., if it washed that coal, shipping the coal over the rails of the Lehigh Valley Railroad Co.

Now, I said I would show the reasons not why they said they would give a dump to Judge Archbald, or consent that it might go to him, and would not consent that it go to Madeira, Hill & Co., but why they were unwilling that No. 2 and No. 4 should be leased and were willing that No. 3 should be taken.

Mr. Manager WEBB. I did not discuss that proposition at all; it was Judge STERLING, I guess.

Mr. WORTHINGTON. I beg your pardon. Of course it was an inadvertent error, no matter who said it.

Now, Mr. Warriner gives at great length, at pages 659 to 661, the reasons why his company did not want to operate No. 3 bank itself. And Col. Archbald, who was not an employee of the coal company or the railroad company but of the Girard estate, gives the same reasons. Mr. Weller, who was the mine inspector of the Girard estate, gives the same testimony about it, and they all say this: In the first place, the coal in this dump was much poorer in quality and much harder to get out than in the other dumps. It was surrounded by a wall of rock. And they say that where the letter B is upon that map [indicating]—and you can see it from where I stand—the Lehigh Valley Coal Co. had dug a hole down into the mine below and had undertaken to use that coal, and after using or trying to use it for a short time found it was not merchantable and gave it up and abandoned it. And they all testified that that No. 3 dump would not stand any royalties except those that had to be paid to the Girard estate in any event.

Now, Mr. Humphrey was a witness, and I particularly ask your attention to his testimony. He was the chief mining engineer of the Lehigh Valley Coal Co. at the time he was examined, but at the time of these transactions he was their division superintendent, he having in the meantime been promoted. He says that before Judge Archbald came to that meeting at which he was present with Mr. Warriner, Mr. Warriner had referred to him the question whether it would be a good thing to lease No. 3, and he said:

> I advised leasing it because of the inferior location and quality of the coal and the distance from the breaker and the large rock bank between the breaker and the dump, and the first I knew that Judge Archbald was interested was when he came to the office after I had made my recommendation.

Now, gentlemen, there is a case in which Mr. Warriner, in charge for this coal company of this Packer No. 3 dump, which they had tried to work and concluded they would not work because it would not pay, as the coal was so inferior, and had let it stay there year after year, and the lease was about running out, when they would have to pay additional royalties if they could get it at all, and he says to his trusted superintendent and adviser, "You go and look at that dump and let me know what you think about it and what we should do about it." Mr. Humphrey, who did not even know that Judge Archbald, or any other judge, was concerned or supposed to be concerned in the transaction, goes and examines this property and comes back to his chief and says, "I think it will be a good thing for you to get rid of that dump if you can."

The result was that the whole matter was referred to the Board of City Trusts of the Girard estate, Mr. Warriner saying, in writing—and the letter is in evidence—that he would be willing to let them lease No. 3 dump to anybody upon paying to his company a royalty of one or two cents on all the coal.

In the offer which was made by Madeira, Hill & Co. for the much better dumps, Nos. 2 and 4, they had offered to pay a greater royalty, but on the larger sizes only. This was an offer to pay a royalty on all sizes; and I am advised that if you look at the two transactions and estimate the royalty at 10 and 5 cents on the larger sizes only and take the royalty of 1 and 2 cents on all the sizes, as those sizes are shown to have existed in that dump, it will reach as much, if not more, under the last proposition than under the first.

That is the transaction in relation to Packer No. 3 dump, and you can judge from that whether it appears that Judge Archbald made up his mind that he would go to the Lehigh Valley Railroad Co. or the Lehigh Valley Coal Co., which the railroad company controlled, and try to drive a good bargain, or that the company on account of that influence undertook to give him a good bargain.

Now, I take up next the second of these two culm-pile transactions, that relating to the Katydid dump. I venture again to suggest that there is not a Senator who is listening to what I say who has not a pretty firm conviction that the Hillside Coal & Iron Co., a subsidiary of the Erie Railroad Co., had agreed to sell to Judge Archbald a dump which was worth a large amount of money for a very small consideration. But I

say it will appear that that idea, too, from whatever source it may have come, is absolutely without the slightest foundation.

In the first place, this dump was not sold at all. The only piece of evidence is a letter from Capt. May to Mr. Williams, dated the 30th of August, which I wish to read to the Senate. Every manager who has spoken in this case, I believe, unless it be Mr. Manager HOWLAND—and he did not refer at all to the facts in the case, but dealt with the law—has told you, unless I am much mistaken, that after the visit which Judge Archbald made to Mr. Brownell, the Hillside Coal & Iron Co. agreed to sell to Judge Archbald the Katydid dump. It never did. This whole case, so far as article No. 1 is concerned, rests upon this letter dated August 30, 1911, addressed to Williams and signed by May:

(Pennsylvania Coal Co., Hillside Coal & Iron Co., New York; Susquehanna & Western Coal Co., Northwestern Mining & Exchange Co., and Bloosburg Coal Co.)

OFFICE OF THE GENERAL MANAGER,
Scranton, Pa., August 30, 1911.

Mr. E. J. WILLIAMS,
626 South Blakely Street, Dunmore, Pa.

DEAR SIR: As stated to you to-day verbally, I shall recommend the sale of whatever interest the Hillside Coal & Iron Co. has in what is known as the Katydid culm dump, made by Messrs. Robertson & Law in the operation of the Katydid breaker, for $4,500.

In order that it may not be lost sight of, I will mention that any coal above the size of pea coal will be subject to a royalty to the owners of lot 46, upon the surface of which the bank is located.

It is also understood that the bank will not be conveyed to anyone else without the consent of the Hillside Coal & Iron Co., and that if the offer is accepted articles of agreement will be drawn to cover the transaction.

Yours, very truly,
W. A. MAY,
General Manager.

So that all that Capt. May did was to say that he, to his superiors, would recommend the sale of his company's interest in this dump. Now, what is the Katydid dump?

I may say before I proceed with this that the statement which the managers made to the House and the statement which they made here, and which they started out to prove here by Mr. Rittenhouse, was that the Katydid bank was of the value of $47,000, or, under a certain probable contingency, between three and four thousand dollars more. In other words, that for $4,500 to the Hillside Coal & Iron Co. and $3,500 to Robertson, or $8,000 in all, Judge Archbald acquired the ownership of a piece of property which was worth $52,000. That is what they stated to the House when they asked the House to impeach Judge Archbald. That is what Mr. Manager CLAYTON read to you in his opening statement, quoting what had been said to the House of Representatives. They put Mr. Rittenhouse on the stand to prove it. But we had not proceeded very far in this case when Mr. Manager STERLING, on behalf of his brother managers, rose in his seat here and moved to strike out the evidence of Mr. Rittenhouse and all the evidence in the case as to the value of this property, stating it was a wholly immaterial matter whether it was of any value or not.

We shall see why that extraordinary change of front occurred. Mr. Robertson was on the stand when that motion was made. He was one of the first witnesses examined by us. Mr. Robertson was the man who made that dump. You have heard the explosions, if I may use that word without affront to the managers here, in reference to the proposition that no railroad company controlling land ever let go its property to other people; that they hold on to it like grim death; that if anybody gets one of their coal claims from them it must mean that some improper influence has been used.

Senators, in the year 1885 this very Katydid property was leased by the Hillside Coal & Iron Co. to Mr. Robertson. The property with which you are dealing in this first article is a piece of property which the Hillside Coal & Iron Co. let go of 25 or more years ago.

Again, as my associate reminds me, in 1901, in a letter which is in evidence, the Hillside Coal & Iron Co. confirmed that arrangement and fixed the royalties which Mr. Robertson was to pay the company for mining its coal. Only four or five hundred feet away to-day and for years past the Hillside Coal & Iron Co. has that great operation which was referred to here as the Consolidated mine. They have their machinery there working that great operation.

They leased this part of that property to Mr. Robertson, who was not a member of the Commerce Court, or of any other court, but a plain, industrious man, who was trying to make a living in the coal business; and he operated that Katydid mine, and in the operation thereof made the Katydid dump; and under the decisions of the Supreme Court of Pennsylvania, which nobody disputes, that Katydid dump belonged to the man who made it.

They talk here about the Hillside Coal & Iron Co. selling that dump to Judge Archbald. They could not sell it to anybody. They had their royalty rights in it and they had nothing more.

Mr. Robertson tells you that they began their operations on that mine in 1885 or 1886 and continued working it until 1908, Mr. Law coming in with him, under the firm name of Robertson & Law, for a few years in the middle of the term. Law went out again and Robertson continued the work alone until 1908. In 1908, on account of some operations of another coal company, the Delaware & Hudson, in the immediate vicinity, something happened which cut off Robertson's supply of water and he could not go on with his washery operations, which he had begun in 1905 and had continued for three years. He could not go on more than two hours a day, because he could not get the water. He therefore stopped his washery. A few months afterwards, in the latter part of 1908, the breaker and the washery all burned down.

Mr. Robertson, as well as Judge Knapp, an eminent lawyer in Scranton, who testified concerning this matter and was counsel for the Hillside Coal & Iron Co., tells us that Robertson did not resume the mining operation because he had nearly worked out the piece of property which he had leased from the Hillside Coal & Iron Co. Thus Robertson was left with the Katydid dump on his hands.

Now, what happened? Mr. Robertson was the man who had been from 1905 to 1908 using the washery on that dump, reclaiming the small sizes of coal, which have become valuable in these later years. He started to work the oldest part, which, as he says, and as everybody says, is the best part of all the dumps, when the fire occurred and burned down his washery, as well as his breaker. Why did he not rebuild it? Because, he says, it would not pay to build a washery there. There was not enough coal left to justify it. His foreman, Mr. Monie, who was there running this operation for him all these years, we brought here and put upon the witness stand, and he confirmed Mr. Robertson in every one of the particulars I have stated in regard to what happened in reference to the Katydid dump. He says that they ran out of water and that besides, after the fire, the dump could not be operated to advantage.

What happened then? Robertson, having that Katydid dump on his hands, and knowing that there was no money in it, because he knew almost every piece of coal that was in it, he made it, having the advice of his foreman, who had made it for him and under his eyes, knowing that it would not pay to build a washery there, that he would never get back the money spent on it if he did, then went to work trying to find somebody to whom he could sell it. In the early part of 1909 he found the Du Pont Powder Co. wanted to buy a coal dump, because they were proposing to establish a plant there in their business. He immediately got into communication with the Du Pont Powder Co. He first went to Capt. May and said to Capt. May, "Now, this dump we want to sell; I think I have a purchaser to take it off our hands, and I propose to sell it for $10,000. I will take $8,000 of the $10,0000 and you may take $2,000." Capt. May said to him, "Go ahead; I will recommend that."

That was in the early part of 1909. So Robertson testifies, so May testifies, so do Mr. Belin and Mr. Saum, Belin being the representative of the Du Pont Powder Co. and Saum their expert, who had investigated the bank at that time for Belin.

So you see that in the early part of 1909 Capt. May was willing to dispose of the interest of his company in this dump and to recommend exactly what he has done here, and all he has done here, saying "I will recommend the sale of the interest of my company in that dump for $2,000."

So Mr. Robertson, having the authority of Capt. May to sell the dump for $10,000—$8,000 for himself and $2,000 only to the Hillside Coal & Iron Co.—went to Mr. Belin and said to him, "You can buy that dump for $8,000." Belin said, "Will I get the Hillside Co.'s interest as well as yours?" "Yes, sir." Then he went to Mr. Saum and asked him to investigate the dump and let him know whether it was worth $10,000. Mr. Saum did make the examination, and Mr. Belin said because of that report and because at the same time his company found it could make a good arrangement in another way to get their power without manufacturing it themselves, they gave up the idea of buying.

That left Mr. Robertson in the early part of 1909 with this great $50,000 piece of property on his hands, and he could not get rid of it for anything to anybody. He went time and again, as he testified and as May testified, to Capt. May trying to sell his interest to May's company. May would not buy it. He would not make any offer for it at all.

It seems to me, Senators, that I ought not to have to go a step further to show there is nothing in this proposition about the Katydid dump and the sale of a valuable piece of property to Judge Archbald for the benefit of his prospective influence as a judge in the Commerce Court, but I propose to go on and show the other testimony to show that there can not be any

possible question about that, to show why the honorable managers, when this question was entered upon by us, after this impeachment had been obtained by the statement that that property had been sold to Judge Archbald for $8,000 which was worth $52,000, and how the honorable managers wished to get the whole matter out of the case.

Mr. Law says that during the time he was with Robertson he observed that they were building a pile of ashes there. Robertson and his foreman Monie have both testified to that. I have not referred to it as I went along, but on that map of the Katydid you see on the wall, down on the southwest corner, there is a very considerable proportion of it. That is marked and named there conical dump. Mr. Robertson, Mr. Monie, and Mr. Law all say that that was where they dumped their ashes from their works for 15 or 16 years or longer, and after they had dumped the ashes there, or while they were dumping the ashes there, they removed a large amount of rock, not coal mixed with rock, but rock, where they had for some reason in their mining operation to take out a quantity of rock. They piled that on the ashes, and on top of the ashes and the rock there had been some coal, and when Mr. Robertson had been working his washery between 1905 and 1908 he washed the coal that was there, so far as he could get at it, and left nothing but the very fine refuse that was not worth anything. That is the conical dump which contains some 15,000 or 16,000 tons, according to the testimony of all those who measured it. Mr. Monie and Mr. Robertson and Mr. Law all concur about that.

There is another thing. You see upon that map one place that has the legend upon it, Slush bank. The testimony shows that that was the place where they had made a pile of absolute rock. Nobody claims that that was any part of the coal dump, but the testimony shows that that bank which is all rock, with some slush put on top of rock, and that is the reason they call it slush bank, was made at the same time the coal dump was made.

Everybody knows if you empty from vehicles material of rock, coal, or dirt, or sand, forming a dump, it will spread at a certain slope in all directions as you go along. Mr. Rittenhouse, in making his estimate, supposed that coal dump to have that slope there, and did not know what these witnesses testified to, that the coal dump was built side by side with the rock dump at the same time, so that a line between them would be practically a vertical one.

Mr. Frank A. Johnson, who was the general coal inspector of the Hillside Co. and has worked around the Consolidated breaker, which was near this dump, said he was on that Katydid dump ground daily for 17 or 18 years, and on the conical dump he saw them working a great part of it the second time.

Mr. Petersen, who managed that consolidated operation for the Hillside Co. and was in the employ of that company for over 25 years and has been engaged in mining in all its departments, including washeries, says he knew the Katydid dump quite well, and when asked what it was worth said, "I would give five or six thousand dollars for it." He saw Robertson working when he was operating his washery there between 1905 and 1908, and said that he had worked the best part of the dump.

Mr. Saum, the expert to whom I have referred, who was employed by Mr. Berlin, of the Du Pont Powder Co., after the dump had been offered to him for $10,000, first went and made cursory examination of it in February or March, 1909. A little later than that he went there again. He first figured out that the value of what was there was about $33,000. According to the testimony of the experts it would cost nearly that or more than that to build the washery itself. Mr. Saum himself, who was employed in this matter, you will remember, by Mr. Berlin, of the Du Pont Powder Co., and for it only, no railroad ghost pervading the atmosphere in any degree at that time, told Mr. Berlin it would cost $35,000 to put in a proper and complete washery to handle that property, which he said was worth only $36,000, and that the cost of operation in addition to that would be about $15,000. If you add the $35,000 for the cost of the plant and the fifteen thousand and odd dollars for the cost of operation and the $8,000 which Judge Archbald and Mr. Williams were to pay for the dump, you will find that whoever took and operated it on that basis would lose the sum of twenty-two thousand and odd dollars.

He says in that calculation he included that conical dump as all coal. He did not know it was a pile of rock and ashes and that there was nothing there that was worth anything.

The next man who testified about that dump was this same Thomas H. Jones, to whom I referred in connection with Packer No. 3 dump. On the 6th of April, 1912, he got a written option from Judge Archbald, offering to sell him that dump for $25,000; and he was trying to find a purchaser for it. He went there with three other men to examine that dump and he said the estimate was that there were about 22,000 tons of coal there, which would be worth, at the rate fixed by all these experts, less than the $8,000, which was to be paid by Judge Archbald for the dump if he got it. He said, "I then went and I told Williams, if you get me an option on it I will get a competent engineer to make an estimate." He says Williams said that there was a great deal more coal in it than Mr. Jones thought there was, and it was then they went to Judge Archbald and got the option.

Then Mr. Reese Alonzo Davis went there with Jones. He said that he—Davis—had a purchaser named Beardslee. He went there with Beardslee and Jones to make a sale. He was trying to get a commission by selling to somebody. Beardslee went with him and looked at it, and he—Davis—said he thought there were 20,000 tons of fair coal there. Beardslee said he would not take it as a gift. Then Jones got a man named Motiska, a mining engineer, to go there, and Motiska made an estimate of 68,000 gross tons, and told Jones how much coal he could get out of it. Then Jones concluded there was no money in it; he dropped it.

Beardslee, who was the next witness on the stand, said he was in the business of washing coal dumps. He wanted to get such a dump. He was told this Katydid dump could be got at a reasonable price, and he went with Jones and Davis to look at it. He said it was too small to warrant an operation at all; that it would not pay for building a washery.

In addition to that, he could not see that he could get any water, and when he was asked what it would cost to furnish the water to run it he said he did not see where he could get it at all. He was in exactly the same plight as Robertson was when he stopped work. There was no water there to wash the dump, and probably it would cost as much to get water there for that purpose, without regard to what the machinery would cost, as the coal in the dump was worth.

Another gentleman who examined that dump was Mr. Thomas Ellsworth Davis. He has been a mining engineer for nearly 30 years. He is the official appraiser at the present time of coal properties for taxation for the counties of Lackawanna and Luzerne, and he is the consulting engineer on that subject of the State tax board. He tells you he examined that dump about the same time these other parties did, and the value in his opinion was about $2,500 to $3,000. He went there to examine it for some people who wanted to buy it, and he said he reported to them not to touch it.

Frank A. Johnson was still another witness on this point. He was inspector of the Hillside Coal & Iron Co.. I am coming down to what is most important in regard to this question. When Judge Archbald wrote his letter of March 31, 1911, to Capt. May asking him whether his company would sell the Katydid culm dump and at what price, Capt. May immediately directed an examination to be made of that dump. That letter is here in evidence, and upon the letter were the notations he made as to the directions he gave.

Mr. Johnson went there at the direction of Capt. May with a man named Merriman. Merriman was the man who was to find out how much material there was in the dump. That was his business. Johnson was the man to see what kind of coal there was, how much coal, and what sizes. So the combined information they would give Capt. May would let him know what that dump was worth to the Hillside Coal & Iron Co.—what amount in royalties the company might expect to get out of it.

Johnson went there with Merriman. He says when he went there he did not know whether that bank was to be bought or whether it was to be sold. His chief, Capt. May, said, "Go there and examine that dump with Merriman and find out what there is in it and find out what it is worth, and make your report to me." So he and Merriman went there to inform their superior officer what that dump was worth, not having the slightest idea what was to be done, whether he wanted to buy or whether he wanted to sell.

He described that conical dump and tells about the rock there. He knew about that. Merriman left it out; he knew all about it. Then they made their report to Capt. May that there were about 55,000 tons of gross material in the dump, and Mr. Merriman made a blue print, in which he gave the representation of that dump the same as the map there, except on a smaller scale, and except also that he left out the conical dump. He figured on it and stated at the bottom what the 55,000 tons gross meant, using the same language there from which the managers have contended that that meant 55,000 tons of coal. I shall address myself, as I go along, to that proposition and show there is nothing in it.

Mr. Johnson was one of the men who made that report, and he says he told the captain there were 55,000 tons altogether, and that that is what Mr. Merriman reported. Mr. Merriman is dead and we can not have the benefit of his testimony.

The next witness on the subject is Mr. Jennings, general inspector of the Hillside Coal & Iron Co., who built the Consolidated and was in charge of it from March, 1909, until the present time. He went to the Katydid with May in the latter part of May, 1911. Here is another employee of Capt. May's, his general inspector. These two people, of whom I have already spoken, Merriman and Johnson, went there in April immediately after the receipt of Judge Archbald's letter of March 31. Jennings went there with Capt. May in the latter part of May, 1911.

He had an idea that some day Robertson would rebuild and undertake to wash that dump. We know it is not so, because Robertson had washed it for awhile and knew what was in it, and knew that it would not pay to build a washery, and, as he told you on the witness stand, that is the reason he did not resume work.

Jennings says:

I told him that when Robertson & Law started again to wash that dump all we would get would be the royalty we would pay—

"We." The record should read "they"—

and it was just a question with us of waiting to get our money by actual shipment or taking the money—that is, we had a very unstable agreement upon which we operated this mining, at least a part of it, on lot 46; and if we sold it, it would be off our hands and we would have the money.

And at that time—

Says Mr. Jennings—

I knew nothing as to Judge Archbald having any communication with Capt. May about this matter.

Now, here again, as in the case of Packer No. 3, you find the man who was in charge of this dump taking his most trusted and reliable advisers, asking them to give him information as to the value of the interest of his company in the property, and not letting them know who it was for whom he was getting information or what his object was in getting it, and they all three of them concur practically that the property is not worth anything and he had better get out of it what he could.

Therefore, when this report was submitted to Capt. May, there was simply presented to him the proposition, "We have the right to royalty on the coal that is in that dump that will come out of it if anybody can be induced to go to the expense of building a washery; and if nobody does build a washery, we will get nothing out of it.

On that map of Mr. Merriman's which is in evidence are figures made by Capt. May showing how he got the value of that royalty. He figured it that the value of his company's interest was $6,000. Capt. May testified, and Mr. Williams has testified, that when Williams went to May on the last days of August to get this letter from May, Capt. May then demanded $6,000, and Williams beat him down to $4,500; and on those same figures Capt. May has added the $3,500 which was to be paid to Robertson.

Now, bear in mind this further fact, Senators. When, in February or March, 1909, Robertson and May together had offered that property to the powder company for $10,000, Robertson to have $8,000, May being willing to take $2,000, Robertson, who made that dump and knew what was in it, in 1911 had come down from $8,000, which was his former price, to $3,500, which he asked Judge Archbald for it; and Capt. May, who was terribly influenced by the overwhelming power of a judge of the Commerce Court, and who had offered to sell in the spring of 1909 the interest of his company, their royalties, for $2,000, demanded $4,500 from the judge of the Commerce Court, and put that in his letter. If that is the effect of judicial influence in obtaining favors, I pray I may never have the benefit of it.

Capt. May says the engineers reported 55,000 tons of material—not 55,000 tons of coal—in the dump. It is a curious thing that all through the taking of the testimony in this regard the learned managers, and especially Mr. Manager STERLING, who seemed to have charge of the examination of witnesses about this particular dump, insisted that that 55,000 tons meant 55,000 tons of coal. I have shown by the testimony of all these witnesses that it was 55,000 tons gross, not more than half of which would be coal. If that be so, on the testimony of every witness in this case it would not pay to build a washery to reclaim it.

But later in the taking of the testimony in this case the report of Mr. Rittenhouse, upon which they have relied from beginning to end as to the value of this dump, was formally put in evidence by consent, and in that report, as the managers will find on page 1050, Mr. Rittenhouse himself says that these engineers reported to Capt. May that the dump contained 55,000 tons gross and not 55,000 tons of coal.

I want to go on to the history of this transaction. They found a purchaser. How they found a purchaser we will consider a little later, but Mr. Conn, who was the representative of the line running from Wilkes-Barre to Scranton, called the Laurel line, became a prospective purchaser of this dump. There is a contract in evidence here by which, if the title had proved satisfactory, he would have taken it, and he agreed to pay 27½ cents a ton for the coal in it.

I take the report of Mr. Rittenhouse, which included that conical dump and included the coal which he supposed to be in the slope to which I referred a few minutes ago, making 25,000 tons more of coal than was actually in the dump. At his figure, taking the whole quantity of coal thus found to be in that dump at 27½ cents a ton, which Conn was to pay, the total amount would have been $14,000; there would have been a profit of $6,000, and that is the most that can be figured out of this transaction that Judge Archbald and Mr. Williams could have received in any possible event.

Conn would not pay any lump sum; he was on his guard. All that the venders would have received under that contract would have been $10,000, or a profit of $1,000 each to Mr. Williams and Judge Archbald.

Now I come to another step in this case, and one upon which the managers have relied here as they relied on it when they made their report to the House, copied it and read it in the opening statement which is made here to you, and they have repeated it time and again in your hearing, and I have no doubt it has influenced the mind of every Member of this body who has been here and heard what was said about it. Why, the managers exclaim they sold this dump to Mr. Bradley for $20,000, making a profit of $12,000, of which sum $6,000 was to go into the pocket of Judge Archbald.

Now, let us see. Mr. Bradley is a plain man. I wish you all had seen him. I do not know how many of those who are listening to me saw him on the stand. I venture to say that nobody who did see him would question his absolute truthfulness. He said he went down to see that dump at the instance of Mr. Williams, and concluded it was worth $16,000 after hearing what Williams had to say about it. Then he went back to the office of William P. Boland, and there Williams and William P. Boland made him think it was worth more and he agreed to pay $20,000 for it.

How was that done? Why, said Williams and Boland to Bradley, "Jones is going to buy that dump for $25,000"—this same Jones who had a 10-day option for $25,000—the same Jones who went down there with his friend as a purchaser to see what it was worth, and the friend who proposed to be a purchaser would not take the dump as a gift. "But," said Boland and Williams to Bradley, and Bradley himself tells us this, "Why, you can sell this dump to Jones for $25,000. He has got a man who will pay $25,000 for it, and if you will get it for $20,000 you will make $5,000." Mr. Dainty was there at the same time, and Mr. Bradley, the honest fellow, tells you, "I was to get that, and I was going to give Dainty $2,000 and keep the other $3,000 myself. That was the profit I was to have out of it." Mr. Bradley tells you that William P. Boland was the first man who spoke to him about that dump or about his buying it, and that "he urged me to buy and he told me it was worth more than $16,000. He hurried me along. I went down to the dump one day, and the next day we went over to Capt. May to see if it was all right."

Now, mark this: These men had made that poor fellow Bradley understand, as he says, that there were from eighty to a hundred thousand tons of coal in that dump; so he says; and he proceeded upon that basis when he made that proposition—that there were eighty or a hundred thousand tons of coal there—when, according to the exaggerated estimate even of Mr. Rittenhouse, the man who put the greatest value on the dump, there were between eighty-five and ninety thousand tons of stuff there altogether.

Was there a sale to Bradley? Not at all. Says Mr. Bradley: "I did not intend to complete the transaction until I went to see my lawyer, and I never got far enough." He never did see the lawyer. Of course, if he had, the result would have been the same as it was when they were trying to sell to Mr. Conn.

Inasmuch as that Rittenhouse report is the only thing relied upon in the House or here to show that that property was worth forty-five or fifty thousand dollars, I must devote a little more attention to it than I have already done. I think I have shown by testimony that is overwhelming that Rittenhouse's testimony could not be considered at all—that this dump was practically worth nothing. The testimony of the man who made it and his foreman alone would be sufficient for that; but let us look at Rittenhouse's report.

The very first item that he has in the report is an item of chestnut coal, which he appraises at $3.25 a ton, and makes

of that the enormous total of $17,800.25. Now, by the testimony of a dozen witnesses, it is shown that there was no chestnut coal in that dump that was worth anything and that in none of these dumps is the chestnut worth anything; so that that $17,800.25 will have to be struck from the report. When these dumps were being made the chestnut coal was of a marketable size; nobody took and threw into a dump lumps of coal the size of chestnut and above which were all coal and were always valuable. It was only when it was mixed with bone or rock or some substance which made it impossible to handle it in the original size that it was thrown into the dump.

Mr. Robertson was working that very dump for three years, and working the oldest part of it, which everybody concedes was the best part of it. The managers themselves did concede that over and over again. Robertson could not market a particle of chestnut out of the best part of that dump for the reason that it cost more to separate it than it would amount to. He said all the coal in that dump was very small—"No. 3 buck" and smaller; he could not get anything larger than "buck No. 1." John Monie, Robertson's foreman, says, "We tried chestnut, and we failed utterly; we just stopped trying to make it, and we run the stuff back into the bank." Frank A. Johnson, the coal inspector of the Hillside Co., said it was impossible to run the larger sizes. Robertson failed to do it, and his report was that that bank contained five-tenths or one-half of 1 per cent of chestnut and three-tenths of 1 per cent of pea.

Capt. May, who, of course, knew all about that dump and its contents, says there is no marketable chestnut in the Katydid; and Mr. Jennings, the general inspector of the Hillside, says you can not do anything with the chestnut; the proportion of coal is so small you can not clean it on account of the amount of machinery required to do it. Mr. Saums, who was Mr. Belin's expert, says he had never found it practicable to work dump coal and clean it and get chestnut out of it. He included coal larger than pea, he says in his report to Belin, because he was estimating the coal, slate, and culm all mixed together. He says Belin asked him to put a value on it, and therefore he had to classify it. Mr. Reese Davis, who went to look at the Katydid, could see no pea or chestnut. Mr. Ellsworth Davies said there was about one-half or 2 per cent of chestnut there. Petersen, who ran the consolidated dump and its washery, also said when they started the Katydid they tried to win chestnut to make it pay, but because there was so much impurity and waste to be handled in proportion to the small amount of coal it was not commercially feasible.

The most remarkable thing of all is that Mr. Rittenhouse himself, who in his report puts the chestnut coal in the dump at $17,500 or thereabouts, says it would hardly be worth while to put the screens all on for the small quantity of larger sizes.

I think that I have demonstrated by the mouths of numerous witnesses and out of the written report of Mr. Rittenhouse himself, upon which alone the managers have relied to fix a great value on this Katydid dump, that the item of seventeen thousand and odd dollars which he puts in as the value of the chestnut coal in that dump must be stricken from it entirely; and it is not worth while to deal with or to consider at all the rest of his figures.

Now, I have come to a different matter from the consideration of the value of the Katydid dump, and I must ask the pardon of the Senate for having devoted so much time to it, because it seemed to me, in view of the numerous statements which have been made outside and which must have reached the ears of Senators, and the statements on this subject which have been made to the House, which come before you in the CONGRESSIONAL RECORD, and those which have been made here in the opening statement of Mr. Manager CLAYTON, that there must be lodged in your minds the idea that this Katydid dump, instead of being a worthless pile of refuse was a piece of property of great value. But I come now to consider other matters.

I want, in the first place, to take up the visit that Judge Archbald made to Mr. Brownell, the general counsel of the Erie Railroad Co. One of the managers—and I am sure that it was Mr. Manager WEBB—in reference to a letter which Judge Archbald wrote to Mr. Brownell in the latter part of July, 1911, asking for an appointment, undertook to convey the idea that there was something about that letter of a mysterious and secret character. As an evidence of that, he said it was not written on Commerce Court paper. It would be a curious thing for Judge Archbald, in writing to Mr. Brownell, the general counsel of the company, who he is said to have wished to influence by his judicial position, should omit to use Commerce Court paper, when he used it in writing to everybody else; but, as a matter of fact, the learned manager is mistaken.

The letter, as anybody may see by examining it here in the hands of the Secretary, is on Commerce Court paper, and as the letter is printed in the record, at page 216, the printed heading of the Commerce Court is there.

It has been assumed here by the managers that prior to the time Judge Archbald went to see Mr. Brownell Capt. May had refused to sell this property. There is no testimony to justify that statement. Capt. May never did refuse. As we have seen, he started this investigation on March 31 and was continuing it down into the month of May. Then Mr. William P. Boland, who had suggested to Mr. Williams, in the first instance, to go to Judge Archbald and get a letter to Capt. May, said to Mr. Williams—and this William P. Boland testifies to himself—"I said to Williams, Go to Judge Archbald and get him to go to the New York office of the Erie Co." I do not mention that as any defense of Judge Archbald if he did anything that he should not do in going to see Mr. Brownell but as showing again that he never conceived the idea himself of going to the headquarters of the Erie Railroad Co. for the purpose of influencing its officials. And what story did Williams tell when he came to Judge Archbald to get him to do that? "Why," he said, "Judge Archbald, there was some trouble about the title of this Katydid dump, and Judge Willard"—then a member of the firm of Willard, Warren & Knapp, in Scranton—"had examined that title and made a report on it, and there has never been any final determination of the matter." Then he suggested to Judge Archbald that he might go to the headquarters of the company and find out what was the result of that inquiry as to the title of the company. So Judge Archbald went to see Mr. Brownell, to learn what had become of the investigation that was being made or had been started in reference to the title of the Katydid dump.

There is no word of testimony in this case that justifies the statement that has been made over and over again that when Judge Archbald did act upon that suggestion and went to see Mr. Brownell he knew that anything had taken place between Mr. Richardson and Capt. May in the month of June preceding in reference to advice by Richardson to May to let the matter drop for the present. Mr. Brownell says that when the judge came there, what he said to him and all he said to him was that he understood the matter of clearing up the title had been referred to him, Brownell. That fits in exactly with the testimony as to what Williams said to Judge Archbald and as to Judge Archbald's reason for going to see Mr. Brownell. He said he understood the matter of clearing up the title had been referred to him, Brownell, and he wondered if that was what was holding up the matter of the disposal of the interest of the Hillside in that dump. And Richardson says that when Brownell brought the judge in to see him the latter told him that he wanted to know the result. He says he did not promise the judge anything. He simply said he would see the general manager, just as he told everybody else making such communications; that there was no change in Mr. May's mind about the matter, so far as he, Richardson, knew; that Richardson simply said to May to take it up again and see what could be done with it.

The principal reason why May favored it was this—and now I call your attention to this small matter, which might make very little impression upon you and in which you might think perhaps there was no point—"Why," says Capt. May," I wanted to sell that property so as to see my friend Robertson get his money out of it."

Capt. May from the beginning to the end was always in favor of selling the property; nobody suggests that he ever changed his mind about it. When Mr. Robertson was upon the stand he testified that he would not allow this property to be sold to anybody who was not satisfactory to the Hillside Coal & Iron Co. If anybody wanted to get his interest in that dump, he had first to make his peace with the Hillside Coal & Iron Co., because he was not going to make any trouble for his friend, Capt. May. Capt. May told you that, when the question of selling it came up and he saw that Robertson could make $3,500 out of it, he was very anxious to have it sold so that Robertson could get his money. Can you not see the picture of these two lifelong friends, one of them working the dump and paying the royalties and the other receiving the royalties and distributing them, meeting each other on the streets of Scranton day after day for 20 long years, working about this business, each thinking of and respecting the other, and neither of them wanting to make trouble for the other? Robertson would not sell to anybody that May was not satisfied with, and May was very anxious that the property should be sold so that his friend Robertson would get the money he never would get unless somebody else took charge of that dump, because Robertson himself knew that there was not enough money in it to justify the erection of a washery.

Now, another thing about this. It does not appear that Capt. May or Mr. Brownell or Mr. Richardson ever knew that Judge Archbald was financially interested in the purchase of this property. Every one of them says that Judge Archbald never told him in what regard he was acting, whether for himself or as representing somebody else who wanted to buy it. Each one of them explicitly makes that statement, and they all say that they would—Capt. May says explicitly he would—have sold at the same price to anybody. Robertson says the same thing. They have both testified on this stand that anybody can go there and have that dump new for $4,500 so far as Capt. May is concerned, and for $3,500 so far as Robertson is concerned.

As to the price of this dump, Capt. May never had a word or communication, verbally or otherwise, with Mr. Richardson about the price that was to be charged for their royalty interest in that piece of waste stuff they called the Katydid coal dump. Mr. May got the reports from his subordinates, and he determined that he would recommend the sale for $4,500. He was an officer of the Hillside Coal & Iron Co. He was not connected with the Erie Co. in any way directly, although his company, of course, was owned by the Erie Co. He did not know that the Erie Railroad Co. had any litigation in the Commerce Court, and he never heard about the Lighterage case nor the fuel case, nor any of this other litigation, till this investigation began.

Thus you have, in the first place, a piece of property that was not worth anything; that would not be worked; out of which no royalties could be got, and Capt. May, finding out what the royalties would be worth if somebody would work it, offered to sell the interest of his company, as much as anything else, so that his friend Robertson could get his money out of it, he himself fixing the price of those royalties without knowing that there was any litigation in the Commerce Court in which the Erie Co. was concerned.

Mr. Richardson says that he never changed his attitude about the matter. He uses that expression: "I did not change my attitude. I did not know whether Judge Archbald was interested for himself or others. I did not know he was financially interested. I knew nothing of the Erie lighterage case."

Mr. Richardson, when he spoke to Capt. May in June and told him to take up the matter again and report on it, did not know anything about the Lighterage case that was pending in the Commerce Court. He says: "I might or might not have approved May's recommendation. No sale would stand without my approval. I simply told him to go on with the investigation and report to me. I have received no report. I did not tell May what my recommendation would be. I did not see how he could give the option, the interest was so small; and when he told me in June of overtures that were being made by somebody for the purchase of that dump he did not call my attention to the fact that Judge Archbald was the person who was interested."

It seems to me that we are pretty near to the end of the proposition that Judge Archbald went to the office of the Erie Railroad Co., and they directed this property to be sold to him, because he was a judge of the Commerce Court.

I want, now, to consider for a few moments this remarkable man and witness, Mr. Edward J. Williams. He was put upon the stand by the managers and examined by them and cross-examined by us. A few days ago one of the managers, Mr. Manager WEAN, I think it was—you will find this recorded on page 972—said, "We disclaim Williams as our witness." I had made some remark to the effect that Mr. Williams was their witness, and he said, "We disclaim him." Well, he certainly was not our witness; we never offered him here as a person upon whose testimony we asked you to rely in any degree whatever. The managers disclaim him, and I do not see how anything can be done with his testimony except to throw it out of court. But I will suppose that you may take a different view about it, and I will consider him for a moment.

There is one thing that can be said about Williams, and that is that he was an impartial witness. As to everything, I think, which was material in his testimony he testified distinctly and clearly on both sides. He said, on page 136, that the judge told him he would see Brownell about it, and on the next page he says that the judge did not tell him he would see Brownell about it. On page 139 he said he got an option one or two weeks after seeing him. Now, as illustrating the value of Mr. Williams's testimony—and I do not wish to be severe upon the old man; I have my own ideas about him—he took that letter of Judge Archbald's to Capt. May on the 31st of March, 1911; he went back to May and got the letter which I read, in which May says he will recommend the sale of his company's interest, on the 30th of August following—April, May, June, July, August—five months had intervened, and yet when Mr. Williams is asked how long it was from the time he went with the first letter until he got the option, he says, "It was one or two weeks." That is to be found on page 139 of the record in this case. Then he says that Judge Archbald never said that he would hurt Capt. May, or anything like that. On page 138, when the words were forcibly put in his mouth on the ground that the managers had a right to cross-examine him, he says he did say it. That is on page 166.

There is another matter which illustrates the value of his testimony, and it is more striking than anything that I have mentioned. I refer to the $500 note that Judge Archbald indorsed for John Henry Jones in December, 1909. It was a three months' note, I believe, although that does not make any difference, and has been renewed continuously from that time down every three or four months. It has been renewed over and over again, and every time Jones signed it, Judge Archbald indorsed it, and Williams indorsed it; the last time Williams indorsed it, being only a day or two before he came down here to testify before the Judiciary Committee. He was asked about that, not by us, but by the managers, whose witness he then was, and he said he indorsed the first $500 note, but he never indorsed one afterwards, whereas he indorsed every one of them, as everybody admits and the bank records show, from the beginning down to the end.

Now, I will ask you to remember another thing about that man. I will speak a little later of how Mr. Boland got him to agree with him to try to get Judge Archbald to do things that Mr. Boland thought might make trouble, but I want to speak of Williams now as a witness. In the first place, he lived in William P. Boland's office. He told us that for a good many long years past, every day, except on Sunday, when the office probably was not open, he spent practically the whole of his time in William P. Boland's office; and after Mr. William P. Boland started the trouble, which has resulted in this trial and in the course of proceedings, Mr. Wrisley Brown, the gentleman who has been doing us the honor to be present during these ceremonies, sitting with the managers and assisting them in the presentation of this case, took the statement in Scranton of Mr. Edward J. Williams, Mr. William P. Boland sat at his side, and from time to time made suggestions or asked questions. Williams says he asked all the questions, but the record shows that he asked very few. Then, Mr. Boland, after he had been down before the Interstate Commerce Commission and an arrangement had been made by a member of the Interstate Commerce Commission for a hearing in this matter before the Attorney General, Mr. Boland sends a telegram to his wife or to some other member of his family a little short of midnight on a certain day, and they rush over to Williams's house, put him in a carriage, take him to the station, rush him down to Washington, and take him to the Attorney General's office, where William P. Boland and Mr. Cockrell, who was there representing the Interstate Commerce Commission, one on one side and one on the other, put words into his mouth and lead him to talk there. Finally he is summoned down before the Judiciary Committee of the House. He appears there as the first witness in the case and sits at the witness table, and William P. Boland has the audacity to separate himself from the audience at that hearing and walk up and sit down at that table beside this old man Williams, so that their elbows touched, and stayed there until Mr. HIGGINS, a member of the Judiciary Committee, perceived what an indecent thing was being done, and suggested that that table was for witnesses and for nobody else.

So it was that this old man, whose understanding of the English language and manner of expressing himself are not of the best, on these three several occasions had been influenced by William P. Boland to make statements, and when he came upon the stand here if in giving his recollection he did not satisfy the honorable managers as to anything he knew or said, there was immediately crammed into his mouth something that had been said by him on one of these former occasions. That is why as to so many of these matters he contradicted himself.

Another thing, Mr. Edward J. Williams was not always a man about whom such remarks might be made as those we have heard here, as one who is not a fit associate for a man of Judge Archbald's standing. He had himself been a man of some substance and influence up there, and had been engaged in a number of important transactions, so that, as he himself said, Mr. William P. Boland had dubbed him "Option" Williams. That is the name he went by to William P. Boland. He was one of the persons who had enabled William P. Boland and Christopher G. Boland to secure that very Marian coal dump, about which we have heard so much, the dump which the Marian Coal Co. was operating near Scranton, and Williams testifies, on page 202 of this testimony, that the Bolands owe him $1,300 and $1,100 out of that transaction. He says, "They told me they were

going to pay me as soon as they get their money out of that property. They can not make a dividend until they get it." So that old man, who I need not say is in very hard lines nowadays, with a sum of $2,500 in the hands of the Bolands, which is due to him, an indebtedness which they did not deny in any degree upon this witness stand, finds himself tied between his desire to tell the truth about Judge Archbald and his desire to say what the Bolands had made him testify to heretofore, and what they wanted him to testify again, so that some of these days he might get that $2,500. That is the reason that poor old man upon this stand made such a sorry exhibition of himself. When he was asked why he went to that office so often and what business he had there, he said, on page 202 of this record, "I always went there to get some of the money they owed me."

That brings me to the paper which has figured somewhat in this hearing—the so-called silent party paper. On the 5th of September, 1911, in the office of William P. Boland—present, William P. Boland, his employee, Mr. Pryor, and his stenographer and niece, Miss Mary Boland—this paper was concocted. It was suggested that the word "concocted" was not a proper word to use in addressing the witness on the stand; but it is an eminently appropriate word to use now, and I use it. William P. Boland, who, as he tells you, at that time had made up his mind that he would get Judge Archbald into trouble, had that old man Williams sign that paper. Now, I want to call your attention to the fact that it was about that time that Mr. Boland testified that he would get letters written and get photographs made and have things done with a view of getting Judge Archbald into trouble. The only thing that has ever been said in this record as any excuse for that proceeding on his part was that Judge Archbald had done something wrong in connection with the case of Peale against the Marian Coal Co. All that the judge had even done in that case was to decide against the Marian Coal Co. a demurrer which they filed to the original bill, which raised the simple question whether the suit should be brought there or in another jurisdiction—in the third judicial circuit of the United States—and had made the usual order fixing the time for taking testimony, as to which there never was any complaint. Mr. Boland gets Mr. Williams to sit down and sign this paper, in which it is stated that nobody but Williams and Boland himself and Robertson and Capt. May know anything about the judge's interest in this matter, and assign a two-thirds interest in the contract to Mr. William P. Boland and to Judge Archbald.

Now, Mr. Williams—the only person whose testimony I refer to about it—said this: On two occasions he said that Judge Archbald had nothing to do with that paper—pages 48 and 160. He said that the judge had nothing whatever to do with it, on pages 160, 161, 162, 163, 196, 197, 198, 211, and 212. On two occasions he swore he never told Judge Archbald about it, and he said that the judge never suggested concealing his name and he never had any authority from the judge to sell to Boland.

And Judge Archbald, I need not remind you, has testified that the first he ever heard of that paper was when it came out in the proceedings before the Judiciary Committee; and yet in spite of that testimony, which is all the testimony there is in this case upon the subject of Judge Archbald's knowledge of that paper, one of the learned managers in his argument here said Judge Archbald accepted it. I know not what could have been in the mind of the manager who made that statement, but he certainly owes it to the Senate, before this case closes, to show by the record where there is any testimony to justify that statement, or else to withdraw it.

Mr. Manager STERLING. Taking advantage of the opportunity, I will state to counsel that I never made any such statement. I said that he accepted the interest in this coal dump which this paper offered to convey. I did not say he accepted the paper.

Mr. WORTHINGTON. I am very much obliged to the manager.

Mr. Manager STERLING. You are entirely welcome.

Mr. WORTHINGTON. I am very glad the explanation has been made, but I am quite sure that while the manager undoubtedly meant to say what he says he did, he is not so reported in the record. Moreover, the statement, as I am reminded by associate counsel, is just as erroneous as now corrected as it was before in the way in which I understood it.

Where is there any evidence that Judge Archbald accepted anything under this paper? This man Williams pulled out of his pocket here a couple of papers when testifying on his direct examination and said, "I have papers here." The learned managers did not ask him, strangely enough—and it was the first time their curiosity had not been aroused upon the production of a paper by a witness—to explain what those papers were. Now, it happened that I had asked Mr. Williams about this paper in Scranton, when I was there preparing for the trial of this case, and that Mr. Williams had told me he had these papers, and that I had suggested to him to bring them along when he came down here. So he produced them. There were two carbon copies of this silent-party paper made, and that old man has carried them in his pocket from that day to this.

Mr. William P. Boland no doubt had an idea that Williams would get Judge Archbald to sign one of them, and he would have Judge Archbald's name to the paper. But the old man kept these copies in his pocket, and when testifying before the Judiciary Committee testified that he had never received a copy of it, never knew of the paper, and yet he testified here later that, as he told us in Scranton, that when he made that statement he had the two copies in his pocket.

I will proceed with the comforting assurance, to myself at least, until otherwise advised, that no member of this tribunal will consider that paper for any purpose whatever as against Judge Archbald.

Now, there is another thing which is sought to be charged against Judge Archbald, as showing that he acted in a manner indicative of guilt in this case, and that is the recall of the so-called Bradley contract. You will all remember that when that sale to Mr. Bradley was hurried through in April last Capt. May, having had the contract drawn by his counsel, the same Judge Knapp to whom I referred some time ago, sent that form of contract to Bradley with a letter, in which he said that he submitted it and wanted to know whether it would meet the approval of Bradley, taking occasion to send also a copy of the letter to Mr. Williams.

On the next day May met Bradley at the station there—the Laurel line station, I think it is said—and told him he wanted that contract back; that they had concluded there were complications about it which would not justify the company in going on with the sale; and Bradley did give it back to them, and that was the end of it.

Now, it is claimed here—I have not heard anything about it in the argument so far, and I do not know whether my distinguished friend Mr. Manager CLAYTON is going to refer to it or not; but there has been a good deal about this said in the taking of the testimony and in the arguments concerning the admission of the testimony, and therefore I conceive that I must address myself to it for a few moments. Judge Archbald came to the city of Washington, as the records of the hotels show, on the 8th day of April of that year. He was here for two or three days at the Hamilton House, by himself, when Mrs. Archbald came here and joined him, and then they went to the Grafton Hotel, on Connecticut Avenue, and were there until the 20th day of April, as the evidence shows.

It was during this time that this transaction occurred. Capt. May testifies that, after having received that contract from his counsel, and while he had it on his desk, a certain Mr. Holden, whose wife was one of the Everhart heirs and claimed an interest in this Katydid dump, came into the office and talked with him about another matter, another part of the calm transaction which the Everhart heirs had with the Hillside Coal & Iron Co., and that he mentioned to Mr. Holden that he had that contract and was about to sell his company's interest in the Katydid dump. Thereupon Mr. Holden at once objected to it and said that he did not want any sale made unless their interests, too, were conveyed. Mr. Holden then went out and got some other parties who were interested as Everhart heirs to write letters to Capt. May objecting to the sale, and himself went to New York, which is only four hours from Scranton, and before taking his train to Boston wrote a similar notice himself, and that that stopped the sale.

Capt. May took these letters to his counsel, and his counsel, as he says, and as Judge Knapp says, advised him not to let the transaction go on.

Senators may wonder what this has to do with this case. Why, it is this: The managers say that at that time there were rumors around Scranton that this investigation was coming on and Capt. May withdrew that contract because he was afraid of the storm that was approaching and of which this is the ultimate result. Capt. May denies it. Judge Knapp, who gave him the advice as to the contract, denies it. Mr. Holden denies that anything of that kind had been heard. The other gentlemen wrote letters at the same time, all denying it; and the evidence is that nothing was known in Scranton about that transaction until the 21st of April, when the Philadelphia North American arrived there with a statement of the charges, and the next day the matter was published in the Scranton papers.

The argument was made, why should Capt. May, of the Hillside Coal & Iron Co., stop this supposedly advantageous sale, because of the complaints that were made in these letters, when he was selling only his company's interest in the

dump? Why, Capt. May explains that, and his counsel, Judge Knapp, explains it, in a most satisfactory way. It appears that the Hillside Coal & Iron Co. was operating to a very large extent coal property there in which the Everharts had a one-half interest, property compared to which this culm dump was a mere flea bite, which they were working for the Everharts, and they were working it under a supposed letter written 25 or 30 years before by a Mr. Darling, who was supposed to have represented the Everhart heirs. Mr. Darling was dead and the letter was lost, and the Hillside Coal & Iron Co. had not a scrap of writing or any authority whatever to justify them except what had been going on in the past. Judge Knapp said to his client, "If you get into any trouble with these Everhart heirs, they may stop all your proceedings; they may say 'you will have to pay a higher royalty hereafter; we want you to account for what you have done in the past.'"

But whatever may have been the reason that actuated Capt. May in doing that, or have influenced Judge Knapp in advising Capt. May to do it, there is no evidence in this case that Judge Archbald had anything to do with it, and he was in fact in the city of Washington when it occurred.

And, further than that, I call the attention of the managers to the fact that the evidence discloses that Judge Archbald never knew about the Bradley sale until it came out before the Judiciary Committee in May. Mr. Williams says he did not tell him about it; Mr. Bradley says he did not tell him about it; Capt. May says he did not tell him about it; and Mr. Robertson says that he did not tell him anything about it; and Judge Archbald says he knew nothing about it. The Bradley sale was one that was concocted in the office of W. P. Boland, who did know this investigation was going on, for the purpose of rushing through a sale of some kind, so that when the matter should come out it would appear that Judge Archbald had realized some benefit from the transaction.

Mr. Williams, when asked if he ever told the judge about it, said "No"; he said, "No; I did not tell the judge about it, but I did not intend to cheat him; I intended to give him his one-half."

Now, coming to this charge in the last article of impeachment, and charged here by the managers over and over again, that Judge Archbald entered into these arrangements with the railroad companies and concealed from everybody except the railroad officials the fact that he was interested, I propose to address myself for a few moments to the evidence on that proposition.

Mr. May says that he did not know what the judge's interest was; Mr. Brownell says he did no know what the judge's interest was, so far as the Katydid matter is concerned; and Mr. Richardson said he did not know.

So, as to these railroad officials who were concerned in this transaction, they knew only that Judge Archbald for some reason was interested in it; whether for himself or others they did not know. I do not mean in the slightest degree to detract from the effect of the evidence as to their knowledge that in some way he was interested. I rest my argument on this proposition, upon the fact that there was no concealment from anybody else.

Mr. Robertson was informed about it. Mr. Robertson came to the judge's office in the spring of 1911, long before he gave his option, and talked it over with the judge, and when the contract was to be drawn by which Mr. Robertson was to give his option, the judge drew it in his own handwriting and himself witnessed Mr. Robertson's signature.

Mr. Pryor knew about it. He witnessed Williams's signature to the silent-party paper and heard the talk about it in Mr. Boland's office. Miss Boland knew about it for the same reason. Mr. Wells knew about it, because he examined the title for Mr. Conn, and his partners, Mr. Torrey and Judge Knapp, of Scranton, knew about it, because they talked about it with the judge when the title was discussed. Mr. Holden and Mr. Heckle knew about it. Mr. Heckle says the judge came to him and tried to get the address of the Everhart heirs.

And, more than all, in the two letters which he wrote to Mr. Conn, proposing that Mr. Conn should buy this dump, he distinctly says that he is negotiating with Mr. Conn for a dump which he and Mr. Williams are purchasing, distinctly stating in both letters that that is the situation of the case, that he is interested in the purchase. Mr. Conn at once employed Mr. Rittenhouse, and told him that Judge Archbald was interested, and afterwards Mr. Rittenhouse went to talk to the judge about it, and finally, in the contract which Judge Archbald drew, by which the sale to Mr. Conn was to be carried into effect, he stated that it was between Robert W. Archbald and E. J. Williams of the one part and this Laurel line on the other part.

I am surprised that the managers should contend with reference to Packer No. 3 that there was any suggestion of concealment, because everything regarding that dump is in writing, everything coming from Judge Archbald is signed by him, and in every letter that was written in regard to it it appears as though the transaction was for him alone, except that when the formal offer of the proposition was made to the Girard estate to lease that packer dump it was signed by Judge Archbald and the three other persons with whom he was associated at that time in the matter—Mr. Bell and Mr. Petersen and Mr. Thomas Howell Jones.

Mr. Warriner testifies that there was never any suggestion of concealment in regard to it. He said that when Judge Archbald came there to talk to him about it, there were many callers there who heard the conversation. Mr. Kirkpatrick, the agent of the Girard Trust, says that when the judge talked with him about it there was no suggestion of concealment. His nephew, Col. Archbald, says the same thing. Mr. Hellbutt, and Mr. Farrell, and Mr. Petersen, and Mr. Bell, and Thomas Howell Jones all say the same thing. There were 15 or 20 witnesses altogether who testified to this. There is nothing in the world to justify the suggestion that it was a secret matter, but everything showing that it was absolutely open and above board.

Again, it is urged that it was an unusual thing to sell these dumps, so unusual that the fact that the Hillside Coal & Iron Co. agreed to sell its royalty interest in the Katydid to Judge Archbald, and that the Lehigh Valley Coal Co. was willing that the Girard Trust Co. should let Judge Archbald have Packer No. 3 dump, though paying royalties to both. This the managers claim is evidence of some improper influence used in bringing about the result. I therefore propose to refer to that for just a moment.

There is evidence here of at least 15 different transactions of the same kind. Most of them are in regard to so-called fills of the Pennsylvania Coal Co., which was another of the subsidiary companies of the Erie Railroad Co., of which Capt. May was the general manager. But I am not going to take up the time with them because it appears, in the first place, that this same Hillside Coal & Iron Co. only a short time before had sold its interest in the Florence dump, which was owned by the Hillside Coal & Iron Co. and which was in this vicinity—a transaction in which Judge Archbald had not the slightest concern—and sold its interest in that dump for the very reason it was disposing of its interest in the Katydid dump; and that is, that there were these same complications about the title.

And then, as I have already said, there is the fact that this very Katydid dump had been leased; the Katydid coal mine, not the dump only, but the coal mine itself had been leased by this Hillside Coal & Iron Co. to Mr. Robertson, and he had been operating the mine and running the breaker through which the coal from the mine was put, and running a washery which from 1905 to 1908 took the better part of the Katydid culm dump away. So, as to this very dump, the Hillside Coal & Iron Co. had disposed of its interest, retaining only a small royalty, long before Judge Archbald had anything to do with the matter.

Now that is all I propose to say directly about this article No. 1 and article No. 3, which refer to the two, and the only two, culm-dump propositions with which Judge Archbald was connected for the purpose of having any possible interest in them himself, and which belonged to any company which could possibly have any business before the Commerce Court.

I propose now to say a few words about article 13. It seems to have been the purpose of the framers of article 13 to try and combine some of the different transactions which are referred to in the other articles. They say that while Judge Archbald was on the bench as district judge, and while on the Commerce Court bench, he devised a scheme of getting litigants in his court to discount notes for him and to go into the buying of culm banks, and get the companies which might have business before him in the Commerce Court to sell him culm dumps at a low valuation. In the first place, I remark about the illogical character of that article, because there is no pretense that while Judge Archbald was district judge he ever had anything to do with culm dumps, and there is no pretense that after he became a judge of the Commerce Court he ever signed or indorsed a note for anybody to discount. There are two notes in question while the respondent was district judge, and these two culm dumps—Katydid and Packer No. 3—while he was circuit judge.

So there is absolutely no connection between the two sets of transactions.

It appears that in none of the transactions which are involved in all these counts did Judge Archbald take the initiative, save alone in No. 4, the one which refers to the Bruce correspondence. And I noticed in reading last night the brief which has been filed here by Mr. Manager Davis, that he has the fairness to call attention to the fact that as to certain of these transactions the judge was induced to go into them by somebody else asking him to do it. As to article No. 1, it appears that William P. Boland got Williams to suggest to him going into it. As to article No. 2, Mr. Watson came to him. As to article No. 3, Mr. Jones came to him. As to article No. 5, Mr. Warnke came to him. As to article No. 6, Mr. Dainty came to him. As to article No. 7, Mr. Rissinger approached him; and as to articles Nos. 8 and 9, John Henry Jones approached him. And so as to the trip abroad with Mr. Cannon, which resulted from Mr. Cannon's letter to Mrs. Archbald—the purse transaction, as it has been called—was brought to him by Judge Searle on shipboard. Lastly, in the matter of the appointment of Mr. Woodward, the initiative was taken by the law which required him to make the appointment.

As to one of these cases, I will add a word in addition to what has been said, and so well said, by my associate, Mr. Simpson, and that is as to article No. 2, about the initiative that was taken in that case. It has been said here over and over again that Judge Archbald tried to induce the settlement of the litigation between the Marian Coal Co. and the Lackawanna Railroad Co. for personal profit. It appears that he went into that matter, in the first place, at the suggestion of Mr. Watson, and he has told how Mr. C. G. Boland came to see him. I suggest that in reference to the charges that have been made against Judge Archbald and the innuendoes that have been thrown out about his allowing these different persons upon whom the managers reflect—Mr. Dainty and Mr. Williams or Mr. Warnke—and Mr. Warnke seems to be considered a person who is not a proper one to be associated with; why I know not; and these other gentlemen who came into Judge Archbald's office—it appears here that Judge Archbald's office always had the open door; the door was always open. Anybody who wanted to come into the office and talk to Judge Archbald could come in; he excluded nobody.

It was never shut except once, so far as the evidence in this case discloses, and that was when Christopher G. Boland came into his office and closed the door, and said, "Judge Archbald, my brother William is going crazy. He is so worked up over these troubles of his about the Marian Coal Co. that if a settlement is not reached and these troubles go on, I think my brother is going to lose his mind." And with tears standing in his eyes, with that door closed so that nobody would hear about his brother's mental condition, he said, "Judge, go to those officers of the Lackawanna Railroad Co. and try to get them to bring about a settlement of the dispute to save my brother."

Two or three times he did that, Judge Archbald said, and Mr. Boland did not deny it. After the negotiations had ceased, after that imploration had been made to Judge Archbald, and the papers returned, and after he said that nothing could be done, Mr. Christopher G. Boland goes to Col. Phillips, the officer of the company, and makes a similar statement himself, and tells him that his brother will lose his mind if this matter is not settled, and he says that his brother can not sleep; that he is suffering from insomnia, and says, "I wish you would settle this case."

And there I want to call attention to one thing that is most remarkable in this question in view of the contention that the managers make about the $100,000 proposition. They say that Mr. Watson was to settle that business for $100,000 and to get $5,000 for himself, and if he was demanding $161,000 that was without their authority or knowledge. But when Mr. Christopher Boland went to see Col. Phillips after those negotiations were all over, including all that Judge Archbald had done, he said to him, when he was trying to get him to save the mine of his brother William. "We will settle if you will give us $75,000 and assume the claims of Peale against the company," which claims had then ripened into a judgment. The claims of Peale amounted to $34,000, and the $34,000 added to $75,000 would make $109,000.

Let me also remind the Senators that it has not yet been made criminal, or even a wrong matter, for a judge to engage in business transactions, and that, so far as the neighborhood of Scranton is concerned, if a man is to go into any business whatever it is almost impossible for him to keep from going into a business that relates to coal properties, because that whole country is built up from the coal mines and the operations that grow out of them.

It is not an unusual thing for judges of the Federal court, or judges of any other court, to be engaged in business, to be stockholders, and to be dealing in real estate.

I want also to call attention to a remark made here by one of the managers in the arguments as indicating the character of Judge Archbald and the feeling that people in that part of the country about Scranton and all that part of Pennsylvania have toward him. The managers said that they had to wring their testimony from unwilling witnesses. Well, I think it is true that out of a hundred-odd witnesses who were examined here, nearly all of whom were from that region of the country and nearly all of whom knew Judge Archbald or knew about him, with the exception of the two Bolands they were all his friends.

I ask you to add that to the character of the evidence we have here and which we had to stop producing because there was so much of it and it was taking up the time of the Senate with what was not denied, as showing that if they want to go anywhere to get witnesses who are not friends of Judge Archbald they must go to some place where he is not known.

I wish to add a word to what was said by my associate yesterday in regard to article No. 4, which relates to the Bruce correspondence. I, like him, do not undertake to say that what Judge Archbald did in that case in writing to Bruce and in not sending copies of the correspondence to counsel on the other side was not a mistake on his part, but I do maintain that it is nothing for which he should be adjudged a criminal or for which he should be impeached in this proceeding.

I think every Member of this body will take notice of the fact that here in Washington in the committee inquiries and in inquiries in the Senate and before the various commissions, of which we have so many, the proceedings are not conducted strictly in the manner in which lawyers usually proceed in the ordinary courts of justice, and that the members of those bodies consider that they have the privilege of getting at information in any way that they please when their object is only to get at what are the facts and to do what is right.

In this very case it appears that so notable a body, a body made up of such able and public-minded and fair-minded men as the Interstate Commerce Commission, have done, without it occurring to anybody that they might be criticized, a thing which is infinitely more objectionable than anything that was suggested against Judge Archbald in relation to the Bruce matter. The Marian Coal Co. had filed in the Interstate Commerce Commission this petition, which was referred to in what was known as the rate case, in which it charged not only that the railroad company had charged excessive rates, but that they were trying to ruin the Marian Coal Co. They had deprived them of their water; they had set fire to their dump, burning their own coal so as to burn the coal of the Marian Coal Co. That is the charge made. The record is here. The petition was put in evidence, and when William P. Boland came down to Washington in January of 1912, as he tells you himself, he went to that commission not for the purpose of making any charge against Judge Archbald, but for the purpose of showing to that commission that the railroad company, the opposite party in that litigation, was trying to ruin him; that they had gone to Judge Archbald and Judge Witmer and Mr. Loomis, and Heaven knows to whom, to hurry along the Peale case, which was a suit against the Marian Coal Co., and get a judgment against it and take its property and ruin it so it could not go on with the litigation before the Interstate Commerce Commission.

When Mr. William P. Boland came down to make that statement to Mr. Meyer, a member of the Interstate Commerce Commission, did he send for the attorneys of the Lackawanna Coal Co.? When he received a letter from Mr. Reynolds about the matter, or the letter from Boland, which is in evidence, written to Mr. Cockrell, saying that he was getting more evidence along the same line which he would send to the commission pretty soon, did they send notice of that correspondence to the Lackawanna Railroad Co.? No; Mr. Meyer said they got Mr. Reynolds, the attorney of the Bolands, and Mr. William P. Boland himself to come to Washington on the day that the Rate case was to be heard before the Interstate Commerce Commission, and they said to them outside of the court room, "Do not bring up this matter of Judge Archbald and Judge Witmer and these other complaints in the hearing to-day; keep quiet about that;" and it was kept quiet, but as soon as the hearing was over then, pursuant to an arrangement previously made by Commissioner Meyer, Boland and Williams were taken up to the Attorney General's office.

I do not say that for the purpose of criticizing those gentlemen. They were doing what they thought was perfectly right and proper. They are all honorable men with whom I have the pleasure of being acquainted, and doubtless you know them; but it was a thing done in that way in a case that was pending in that court where the people on one side were heard about the most vital elements in that case without the other party knowing anything about it.

I have here a case which was decided in the Supreme Court of the United States a few days ago which illustrates what I am saying. It is a case of the United States against The Baltimore & Ohio Southwestern Railway Co. It is in volume 226 of the Supreme Court Reports, and I read from page 20 of this

pamphlet. It is a case which had come up to that court from the Interstate Commerce Commission:

It is unnecessary to consider objections to the conclusion of the commission that it was safe and reasonably practicable, etc., to establish the switch. We remark that it is stated in the commission's report that they base their conclusion more largely upon their own investigation than upon the testimony of the witnesses. It would be a very strong proposition to say that the parties were bound in the higher courts by a finding based on specific investigations made in the case without notice to them.

So, there the Interstate Commerce Commission, in pursuance of the public and important duties devolved upon it, which it has exercised so honestly and so greatly to the public benefit, conceived that it had the right to make an investigation and reach a conclusion upon information obtained by an investigation which the parties knew nothing about and had no opportunity to meet. Yet I suppose it never occurred to anybody that the members of the Interstate Commerce Commission should be impeached, much less be held to have done something of which they ought to be ashamed when they did that. It was a mistake, but a mistake only, and in that way the Supreme Court treated it.

But, Senators, there has something occurred in this Chamber in the trial of this case which is more important than that, and which illustrates what I am saying. You will find in the record of this case, on page 809, that growing out of a suggestion of the Senator from California [Mr. WORKS] there was a discussion or colloquy here as to why the briefs had not been filed which the Senator understood the Senate had directed should be filed. Counsel had not so understood it and the briefs had not been filed. Mr. Manager CLAYTON thereupon said, "I have handed copies of our brief to some of the Senators." We were not informed of that fact. This tribunal before which I am speaking is a court. It is to decide upon questions as a court decides upon them, and the question involved is one of as great interest to my client as anything that will ever happen to him in this world can possibly be.

The managers are the counsel on the other side, and they had handed to our judges in this proceeding copies of their brief. What the brief was I knew not. I do not know to this day. I make no complaint about it. It was perfectly proper to hand it to the judges if they chose to do so. It is a perfectly proper thing for the judges to receive it; but I should like to know how the manager can stand here and ask you to impeach Judge Archbald for having done in the case of the Louisville & Nashville rate case what he has himself done in this very case.

In regard to the note which is referred to in articles 8 and 9, I call attention to a slip of the tongue which my brother Simpson made. It may have attracted the attention of some Members of the Senate when he said in reference to that $500 note that the Judge testified that Jones told him either that the note had been or would be presented to the Bolands and they had refused to discount it. What the judge testified to, and what he says in his answer, is that Jones at some time told him that the note had been or would be presented to the Bolands, and nothing more. His testimony is that he never afterwards heard what was done, and the Bolands say that they never communicated with him on the subject. Williams says the same thing, and Jones says the same thing.

Now, as we are reaching the closing hours of this case, Senators, I want to devote a few words to the history of it. When a discussion arose in the course of the trial about the charge which we are making against the Bolands, as the managers put it, the managers said they wanted the Senate to know something about the history of this case, and they put in a little of that history. I propose to call attention to what is before you in regard to that matter to show how it was that the feeling which at one time existed against Judge Archbald in reference to this matter was aroused, improperly, I will not say, but aroused by the belief of the public that things existed which were absolutely without any foundation whatever.

The managers say that in the opening statement counsel for Judge Archbald charge that this was a conspiracy on the part of the Bolands, and that we are trying to defend Judge Archbald on that ground. If the managers will read the opening statement they will find that there is nothing in it to justify that averment. What I said then was that these proceedings began by charges that were made by William P. Boland, and that they arose out of his disordered mind and had no real existence. I know that it takes two to make a conspiracy, and the managers, of course, know that, too; and they know that the charge could not be properly construed into a charge of conspiracy between William P. Boland and anybody else. I make no charge of anything wrong against William P. Boland. I look upon it now as I looked upon it then, as the act of a man whose brain is in such a condition that he is to be pitied, not to be blamed, and I think that what took place in this case justifies me in making that statement.

Now, mark the connection of Boland with this case. He had got into his mind, without, as it appears here, the slightest foundation of any kind, that Judge Archbald, while on the district court hearing the Peale case, had done something against him. When you look at what he has testified to here, he says the judge sent the case to New York. Of course, that is simply an hallucination. There were some depositions, it appears, taken in New York by counsel on both sides by agreement; but he got it into his head that the judge in some way had transferred that case to New York. That is the thing which he says made him undertake to see what he could do in getting the judge into trouble. He found the Katydid dump, and he told Williams about it, and then said to Williams, "You go to Judge Archbald and get him to give you a letter to Capt. May." Then, after he had gotten the letter to Capt. May and the sale was not made, he said, "You go to Judge Archbald and get him to go to the New York office of the Erie." When the option was made out, which Judge Archbald prepared in his own handwriting, with Robertson, by which Robertson agreed to sell his interest for $3,500, Judge Archbald drew that, as I said, and witnessed it; and gave it to Williams to keep. Williams showed it to Boland, and Boland did the extraordinary thing of getting the grantee to acknowledge it. Then he took it over to the recording office and recorded it, and paid for recording it. Then he took a photograph of this silent party paper which he himself had concocted in his office, and got any letters Williams had and had them photographed; and then he came down to the Interstate Commerce Commission.

I invite the attention of the Senate to what took place when he came here and how this prosecution began. It is on page 702 of the record in this case. I ask Senators to remember that this paper was offered in evidence by the managers for the purpose of letting the Senate know that it was not true, as we charged, that this proceeding was begun by anything that William P. Boland did.

Now, see this extraordinary document, a document that a member of the Interstate Commerce Commission took to the President of the United States as representing the result of an investigation that had been made in the office of the Interstate Commerce Commission. He says, in the first place, that a demurrer had been filed in the Peale case; that thereafter the $500 note that is referred to in the evidence was presented to the Bolands for discount; that they refused to discount it, and that thereupon Judge Archbald overruled the demurrer.

It is established here, so that nobody disputes it, that the demurrer had been overruled three months before the note had any existence, and that the statement was the creation merely of the disordered brain of William P. Boland. He himself said on the stand, "I have always believed that note was before the demurrer was overruled." Everybody agrees it was not so. The bank officers were brought here, and you have the record of the bank where it was first discounted, and are told the date when it was discounted, which was in December, 1909. The note was dated in December and the demurrer was overruled in the previous September. Then, listen to this. The judge is represented in this Cockrell statement by "A."

"A." went to New York and saw Mr. Brownell, vice president of the Erie road, who telephoned Mr. May, superintendent of the Hillside company, to give Williams an option on the culm bank.

Now, think of that. That was the statement that originated in the same disordered brain.

"A." returned to Scranton and made out in his own handwriting and signed as witness an option giving Williams the right to purchase the culm bank for the sum of $3,500.

Can you imagine anything more grotesque, more absolutely untrue and ridiculous than that statement? The judge went to Brownell; Brownell went to the telephone and telephoned to May to sell that property for $3,500. The judge takes a train and comes back to Scranton and goes over to see May and writes out the option for him to sign; the whole statement is without the slightest excuse, except that the man who made it was a crazy man.

I will not go into all the details of it. There are other things almost equally as bad. Finally he says:

Boland says the litigation referred to by Seager is the suit filed by Peale and that Seager has inside advance information of the decision of the court, which has not yet been handed down.

The court had decided the case. Judge Witmer had decided it in the previous August. He had decided that Peale was in the right in the case and had given a perpetual injunction against the Marian Coal Co. in favor of Peale, and the question whether the amount which was to be paid in the way of damages should be $18,000 or more was the only thing that was left open.

The excuse is made for that proceeding by Mr. Meyer that it was prepared by Mr. Cockrell, and that if Judge Witmer's name was left out of it or there was anything else wrong about the statement it was Mr. Cockrell's mistake. We brought Mr. Cockrell here to see why it was that he had prepared a letter to be taken to the President making charges against a Federal judge, whose name until that time was untarnished, by such an extraordinary document as that. He said that Boland was there in the morning and made a statement to him. He did not make any notes of it, but in the afternoon he jotted down, according to his recollection, what had been said. That statement is taken to the President of the United States—that misstatement, I should say. The President directs an inquiry to be made. The Attorney General has the matter in charge. He sends Mr. Wrisley Brown up to Scranton to make an investigation. He makes his ex parte investigation, Judge Archbald knowing nothing about it, and it being intentionally kept from him for the reason, no doubt, that Mr. Wrisley Brown did not want to have this matter get out and injure the judge's reputation if there was nothing in the charges.

It comes back to the Attorney General, and the Attorney General in a formal paper, when the papers in this case were sent to the Judiciary Committee of the House, said:

I had proceeded so far in this investigation that I intended to notify Judge Archbald and ask him to explain, but the resolution passed the House calling for the papers, and therefore the investigation proceeded no further.

So the matter went to the House.

Now then, in the course of this proceeding, in the early days of August last, by Mr. Manager CLAYTON, when we were considering whether we should be forced into a trial of this case at that time, and again during the argument of the case by Mr. Manager WEBB, day before yesterday, you have been impressed with the fact that the judgment of the House of Representatives in this case in favor of impeachment was practically unanimous, the only vote against it being that of Mr. FARR, who comes from the Scranton district and who, like so many of the witnesses here, knew Judge Archbald personally.

I never heard it suggested, and I do not believe that Mr. Manager CLAYTON, when he was district attorney in the district down in Alabama, ever heard it was a proper thing in trying a case before a jury to try to urge the jury to convict by telling them that the grand jury were unanimous in reaching a conclusion in the case.

I think it was a great mistake on the part of Mr. Manager CLAYTON and on the part of Mr. Manager WEBB to try to affect your action here by telling you that in the hearing which was had before the House of Representatives the conclusion that was reached was unanimous.

I desire to call your attention to a few things that the managers here said to the House of Representatives, by which they obtained that unanimous verdict. Mr. Manager CLAYTON, on pages 40 and 41 and 113 of the first volume of the proceedings in this case, said to the House that the proceedings were ex parte.

On page 65, Manager STERLING told them the same thing. On page 67, Mr. Manager WEBB said the same thing.

I especially call attention to what appears on pages 100 and 111 of this record. On page 100, Hon. Mr. HOWLAND, now Mr. Manager HOWLAND, said:

The proceedings thus far have been ex parte, and every friend of Judge Archbald on this floor owes it to him at this stage of this proceeding to vote in favor of this resolution to-day, in order that he may have a full and free opportunity before the bar of the Senate to prove, if he can—and I trust in good faith and in all sincerity that he can—that he is absolutely innocent of the prima facie case which is made in this resolution.

On page 111, I read from what was said not by one of the members of the committee but by Mr. AINEY:

In voting to-day I do so upon the ground frequently expressed here in debate, that this vote is not upon the guilt or innocence of the accused, but I cast it in the sympathetic hope and belief that in the tribunal provided by the Constitution, under the fullest investigation which will there be had, his name will be cleared and his fame shine forth as brightly and as unsullied as in the days of yore.

So that some of the managers on the part of this impeachment appealed to the House that every man there who was a friend of Judge Archbald's should vote for the resolution sending the case here, not because it was found that Judge Archbald was guilty of anything or that it was the expression of the opinion of the Members of the House of his guilt or innocence, but to give him an opportunity for a hearing where the question of his guilt or innocence might be determined.

But more, Mr. Manager STERLING said to the House that Mr. Williams saw the brief in the Lighterage case on the judge's desk on the 31st day of March. So testified Mr. Williams in this case. Mr. Williams said that he took that letter to Mr. May on the 31st day of March, the day it is dated, and he went back to Judge Archbald's office on that day or the next day, and then it was that he saw these papers, whatever they were, relating to the Lighterage case, and had a conversation with Judge Archbald about that case. The Lighterage case did not get into the Commerce Court until the middle of the following month of April. By no possibility could there have been a brief, list of cases, or anything else relating to that case on Judge Archbald's desk on the 31st day of March or anywhere near that time.

Let me, while I am speaking about that lighterage matter, also remind the Senate that some time in August, 1911, Mr. William P. Boland conceived the idea that he would have everything that E. J. Williams said preserved. So he directed his stenographer, Mary Boland, every time Williams came there, to take down in shorthand or make a record of everything he said. She was here with those notes under our subpœna, which show that on the 18th day of September Williams said he had been at Judge Archbald's office and had seen on the judge's desk a brief in the Lighterage case, and on the 28th day of September those notes show that Williams came in in the morning and said he was going over to see the judge about that case, and later in the day he came back and said he had talked with the judge about it. And the undisputed evidence discloses that the trial list or docket of the Commerce Court containing the word "lighterage" in connection with that case was sent to Judge Archbald on or about the middle of September.

Now, that was after the judge had been to Mr. Brownell, and it was long after Capt. May had written the letter in which he said he would recommend the sale of the Katydid dump for the sum of $4,500 to his company.

It is impossible, in the first place, that Judge Archbald could have said anything to Mr. Williams about this case at the time Williams said he did, and it is impossible, if the conversation took place at the time the notes of Mary Boland indicate it did, that it could have had any effect upon the action of the Hillside Coal & Iron Co.

In this connection I wish to refer to the fact that it appears that Mr. William P. Boland got Williams to go into the room which is next to Judge Archbald's office, the room through which you go to get into his office, occupied usually by his clerk or a subordinate of some kind, and to stand at that window and show him the lighterage paper, whatever it was. That is Boland's story.

I suggest to the Senate whether that does not indicate that this whole lighterage business is one of those things which was concocted by the unbalanced mind of William P. Boland, and that as a matter of fact Williams never had any conversation with the judge about it at any time or any place. If he ever did have any such conversation, it occurred long after the option, or what they call the option, had been given to Mr. May, and it occurred after the Lighterage case had been decided by Judge Archbald and the other members of the Commerce Court, and while the case had gone up to the Supreme Court of the United States on appeal from their judgment.

But more extraordinary still, Senators, is the statement which was made to the House by Mr. Manager STERLING and which has heretofore been referred to in the taking of testimony in this case, on page 59. You will bear in mind that Judge Archbald never knew anything about the Bradley transaction. He was in Washington when it occurred; Capt. May was the person who sent the contract to Bradley and recalled it at the station. This is what Mr. Manager STERLING recollected of that transaction when he was informing the House what was the evidence against Judge Archbald:

That—

Referring to the contract—

was sent to Bradley on one day, and the next day Archbald sees Bradley at the depot and asks him to call that off, that some complications have arisen, and they had better stop the negotiations, and also writes him a letter to the same effect, in which he tells him the transaction will be withdrawn on account of certain complications. No one knows what complications were referred to, excepting there had appeared in the newspapers in the meantime this scandal about Judge Archbald's relations with persons who had litigation in his court.

The most extraordinary travesty on evidence that I ever heard stated in any court anywhere. Instead of stating that Judge Archbald never had anything whatever to do with the Bradley transaction and that Capt. May had recalled the contract because of the contention growing out of letters written to him by adverse claimants and on the advice of his counsel had withdrawn it, to tell the House that Judge Archbald was making the sale to Bradley, and that after the thing had been published in the newspapers, which was not until 10 days after the contract was withdrawn, the judge went and recalled it, thereby practically telling the House that Judge Archbald had confessed his guilt.

There are other things in the same line that I thought of referring to, but I shall not take up your time in that way. These are sufficient. But I ask the Senate to consider how much weight should be given to the fact that the President of the United States thought worth while to have this matter investigated, when his action was brought about by presenting to him a paper obtained in the way that this Cockrell statement was prepared, containing a tissue of misstatements so erroneous that they were absurd; when that paper was made upon the statements of a man who was clearly out of his mind, and made without any investigation to determine whether he was telling the truth; when the Judiciary Committee took that inquiry out of the hands of the executive department of the Government just at the time when Judge Archbald was to have an opportunity to defend himself and to show what the real facts were? I ask what weight shall be given to the fact that practically all the Members of the other House voted in favor of these impeachment articles, when that vote was obtained upon the erroneous statements which the managers so innocently made to the House, bearing so terribly against Judge Archbald and so entirely inconsistent with the real facts? Further, what consideration should be given to that vote when it was obtained upon the statement made to the House by three members of the Judiciary Committee, who are here to-day as managers, that it was not to be considered as a vote upon the guilt or the innocence of Judge Archbald, but that every friend of his in that House should vote for it so as to send the case to the Senate, where he should be given, what he had never before had, an opportunity to show what the facts were?

It is not until now, when the last of his counsel to speak is closing the argument for the respondent, that the Senators who are doing me the honor to listen to me know what the facts in this case are, because it is simply impossible for anybody, except those who have been familiar with the case heretofore, who have gone over the case with the witnesses before they came on the stand, and who have examined and classified the evidence and arranged it as we have had to do for your information, to know what the facts are. I ask you now, after the evidence is all in, to see how pitifully poor are the real facts against Judge Archbald in this case, and whether you will consider that you will throw aside the language of the Constitution, which says that in order to convict you must find that he has committed a crime or something that is punishable, and that you will say that upon those transactions which are so trivial and which any man in his condition, however honest and upright, might have innocently done—I ask whether you will say that you will find him guilty and deprive him of his office? I take my seat, with the conviction that you never will do it. I can say no more.

ARGUMENT OF MR. CLAYTON, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager CLAYTON. Mr. President, I congratulate the Senate that the unusual and painful duty which has been devolved upon this body will soon be fully discharged, and I felicitate the managers and the counsel for the respondent as well as the respondent himself that our labors in regard to this case are about at an end.

Mr. President, before I shall discuss the propositions involved in this case, either of law or fact, I desire to call the attention of the Senate away from that case which the distinguished counsel for the respondent has tried to make before the Senate. If a stranger had appeared in this Chamber so long consecrated to public service by the acts of the great men who have filled it from time to time as the representatives of the States of the federated Union, that stranger might have imagined that the managers of the House of Representatives were themselves being lectured for misconduct rather than that a judge was on trial for misbehavior. I need not say that there was no impropriety in the managers handing to Senators at their request the brief embodied in the report which was made by the Committee on the Judiciary of the House of Representatives to the House of Representatives, carrying the identical views expressed here and which have been but little added to by the brief which has been formally presented on behalf of the managers to the Senate.

The gentlemen who represent the respondent are oblivions of the fact that it is highly proper for any Member of the House, or even any humble official of that body who has charge of the matter, to hand to any of you or to anybody else a public document. I need not dwell further upon that. The Senate will readily draw the distinction between that act and the secret procurement by a judge of a brief from a railroad attorney to be used in a case pending then before his court, delivered to him at the instance of the judge through the medium of private correspondence, never permitted to be seen or examined by anyone else.

Mr. President, the managers were also lectured by the counsel who first addressed you for the respondent. He animadverted on the manners of the managers of the House. Everything that the managers have done in this case, from its very inception, has a precedent for it. The language used by Mr. Manager WEBB, which the counsel but a short time ago criticized, was in substance used by former managers in this august tribunal. I only refer to this for the purpose of showing to the Senate what I now assert, that the effort has been on the part of the respondent and his honorable counsel from the very beginning to mystify this case, to obfuscate the questions of law and fact, if, indeed, there be necessary facts which are not admitted by the respondent in his answer and on the stand.

Mr. President, we are not trying the managers of the House of Representatives; we are not trying Christy Boland, whom the judge addressed as "Dear Christy"; we are not trying William P. Boland; we are trying a high judicial officer for a breach of a high public trust. This trustee, clothed with authority, with power, with a discretion in the administration of justice that no legislative body can have, has been unfaithful to this position of trust; he has not had due regard for the high nature of the place of power and confidence, fraught with good or ill as he might discharge his public duty. We have come here, Mr. President, to try this judge for his misbehavior while clothed with this high and responsible privilege—for it is a privilege conferred upon him by the political power of the Government; and, more than that, it was his duty to be the unswerving and irreproachable minister of public justice.

Oh, all this effort to divert the attention of the Senate from the real case on trial is the trick of the criminal lawyer! And let me call attention to the senseless refinements and useless technicalities so frequently interposed by the counsel for the respondent—the gratuitous interjections of remarks in this case by the counsel—and the general conduct of the excellent gentlemen who have represented this respondent, to show that they are adepts in the art of defending common criminals, and that every trick and every device short of positive offense has been employed by these honorable gentlemen. I do not complain, for I wanted the respondent to have the benefit of all that the ingenuity of the legal profession could afford him. Certainly, Mr. President, he has been ably defended.

Permit me to further call the attention of the Senate to the design of the counsel by their ingenuity to direct your attention away from the case that you have before you. They have undertaken to confuse in the minds of the Senate personal rights which belong to the defendant under the Constitution—under the Bill of Rights—with a political privilege which is not covered by the Bill of Rights. The right of free speech, the right of trial by jury, the right of freedom of conscience are protected by the Bill of Rights, and it is not within the power of this great body to take from the humblest citizen of the land any of those rights. We are not trying that sort of a case. The expert criminal lawyer always likes to try some imaginary case; but, in the language of the frontier, this tribunal will bring these gentlemen back to the lick log and will try this case which the Senate has under consideration.

I have said that this judge holds a position by virtue of political privilege—a privilege, and not a right. It is the enjoyment of a trusteeship, of a privilege, coupled with which privilege is a solemn duty. That is what is involved in the case we have before the Senate.

Mr. President, much confusion has been attempted to be created by the counsel for the respondent in their effort to show that this is a court in the ordinary acceptation of that term. Whatever name you may call this body sitting here now, whatever functions they may discharge, it can not be said to be a court as that word is employed in the Constitution or understood by the ordinary man. It is more than a court. Under our Government it is clothed with the highest and most extraordinary powers of any body or any functionary or any agency of our Federal Government. Your powers here invoked are political in their nature. Mr. Bayard announced that doctrine in the first impeachment case—that of Blount. Every commentator, including Story and all the rest, have quoted it with approval, and should any man deny it he would at once confess himself ignorant of the history and the law of impeachments. Why is it political? Read the Constitution, and you find in Article III that:

SECTION 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

I desire here, for the purpose of completing the argument or suggesting a way that it may be completed, for in view of the limited time at my disposal I shall take the license that poets indulge in of making the suggestion of the idea to the mind of the Senate and with confidence leave it to your learning and intelligence to develop the argument.

Said Mr. Sumner:

By the National Constitution it is expressly provided that "the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish," thus positively excluding the Senate from any exercise of "the judicial power." And yet this same Constitution provides that "the Senate shall have the sole power to try all impeachments." In the face of these plain texts it is impossible not to conclude that in trying impeachments Senators exercise a function which is not regarded by the National Constitution as "judicial," or, in other words, as subject to the ordinary conditions of judicial power. Call it senatorial or political, it is a power by itself and subject to its own conditions. (The Works of Charles Sumner, Vol. XII, E. 415, 6 S., 93, p. 321.)

Again, Mr. Sumner said:

Discerning the true character of impeachment under the National Constitution, we are constrained to confess that it is a political proceeding before a political body with political purposes; that it is founded on political offenses, proper for the consideration of a political body, and subject to a political judgment only. Even in cases of treason and bribery the judgment is political and nothing more. If I were to sum up in one word the object of impeachment under the National Constitution, meaning what if has especially in view, with its practical limitation, I should say expulsion from office.

Further, Mr. Sumner said:

There is another provision of the National Constitution which testifies still further and, if possible, more completely. It is the limitation of the judgment in cases of impeachment, making it political and nothing else. It is not punishment, but protection, to the Republic. It is confined to removal from office and disqualification; but, as I aware that this was no punishment, the National Constitution further provides that this judgment shall be no impediment to trial, judgment, and punishment, "according to law." Thus again is the distinction declared between an impeachment and a proceeding "according to law." The former, which is political, belongs to the Senate, which is a political body; the latter, which is judicial, belongs to the courts, which are judicial bodies. The Senate removes from office; the courts punish. I am not alone in drawing this distinction. It is well known to all who have studied the subject. Early in our history it was put forth by the distinguished Mr. Bayard, of Delaware, the father of Senators, in the case of Blount; and it is adopted by no less an authority than our highest commentator, Judge Story, who was as much disposed as anybody to amplify the judicial power. In speaking of this text he says that impeachment "is not so much designed to punish an offender as to secure the state against gross official misdemeanors; it touches neither his person nor his property, but simply divests him of his political capacity."

Samuel J. Tilden, in his Public Writings and Speeches, volume 1, page 474, said:

Impeachment, as it exists in the United States under the Federal Constitution and the State constitution, is a procedure for the removal from office of a public officer if cause therefor is found to exist. Its object is not to punish the individual but to protect the people. Even a disqualification afterward to hold office, if it be superadded to the removal, is more preventive than penal.

So we form a correct conception of what this tribunal is, its purposes, and its powers. Again, if it be necessary, let me ask from what power did this judge derive that trust which he has violated? Did he derive it from the judicial power? No. It was derived from the exercise of a political power. The President, exercising political power, nominated him for this office and the Senate of the United States, with its power of disapproval, with its vitalizing power of confirmation, before he could become a public officer, exercised not a legislative function, not a judicial function, but brought into operation a power which, in its very nature and in any just conception you can take of it, was a political power.

Now, Mr. President, I say this because I want to get away from the murky and unhealthful atmosphere of a police court, and I want to try on a higher plane this great cause involving the rights—the civil rights—the power, and the majesty of the American people on the one side and on the other the puny privilege of an unfaithful judge to desecrate his official position. It is political. Why? Because under representative institutions that is the only way under our Constitution that the political power exercised in the creation of a Federal judge can be performed. Under the State constitutions, or most of them, that political power is exercised by the people in their primary capacity when they select by ballot their judges to preside over them and administer public justice.

So we come at once to a correct conception of the purpose of impeachment, a correct conception of the law of impeachment. My associates have given you the authorities upon this proposition. They can not be answered. Oh, the effort is made here, as has been made in all other cases and will likely continue to be made in the future until—and God forbid—and I say it reverently—that that time shall come—the remedy of impeachment shall be decided by this august tribunal and the American people to be futile. Senators, will you tell the American people that this remedy is futile? If you do, they will find an effective remedy to drive from place and power the unworthy judge.

Referring to the function of impeachments, Rawle, in his work on the Constitution (p. 211), says:

The delegation of important trusts affecting the higher interests of society is always, from various causes, liable to abuse. The fondness frequently felt for the inordinate extension of power, the influence of party and of prejudice, the seductions of foreign States, or the baser appetite for illegitimate emoluments are sometimes productive of what are not unaptly termed "political offenses" (Federalist, No. 65), which it would be difficult to take cognizance of in the ordinary course of judicial proceeding.

The involutions and varieties of vice are too many and too artful to be anticipated by positive law.

Mr. President, every court in this land is clothed with that indefinable power—judicial discretion; more extraordinary, more far-reaching, more hurtful in case of abuse than any power which is vested by the Constitution in the Senate as a legislative body or as an organization for the trial of an impeachment case. And yet judicial discretion must exist, and yet the power of removal must exist. "Nature abhors a vacuum." This great Government of ours can not be paraded before the people as being powerless to remove a puplic official from office. There is no such vacuum in the power of government. There can be no such hiatus in the power of a successive government.

I shall quote from one of the earliest writers, one of the most frequently quoted, and so far as my reading has allowed me to know, this authority has never been quoted except with approval. I refer to Wooddeson's Lectures.

It is certain that magistrates and officers intrusted with the administration of public affairs, may abuse their delegated powers to the injury or ruin of the community and at the same time in offenses not properly cognizable before the ordinary tribunals. The influence of such delinquents, and the nature of such offenses may not unsuitably engage the authority of the highest court and the wisdom of the sagest assembly. The Commons, therefore, as the grand inquest of the nation, become suitors for penal justice; and they can not consistently, either with their own dignity or with safety to the accused, sue to any other court but that of those who share with them in the legislature.

On this policy is founded the origin of impeachment, which began soon after the Constitution assumed its present form * * *. (1, 501.) Such kind of misdeeds, however, as peculiarly injure the Commonwealth by the abuse of high officers of trust, are the most proper and have been the most usual grounds for this kind of prosecution. Thus, if a lord chancellor be guilty of bribery, or of acting grossly contrary to the duty of his office, if the judges mislead their sovereign by unconstitutional opinions, if any other magistrate attempt to subvert the fundamental laws, or introduce arbitrary power, these have been deemed cases adapted to parliamentary inquiry and decision. So, where a lord chancellor has been thought to have put the seal to an ignominious treaty, a lord admiral to neglect the safeguard of the sea, an ambassador to betray his trust, a privy counselor to propound or support pernicious and dishonorable measures or a confidential advisor of his sovereign to obtain exorbitant grants or incompatible employments, these imputations have properly occasioned impeachments, because it is apparent how little the ordinary tribunals are calculated to take cognizance of such offenses, or to investigate and reform the general polity of the state. (Wooddeson's Lectures on Laws of England, 3 volumes in 1, p. 499.)

I shall also quote, now, from the Fifteenth American Law Register, pages 646–647, where Judge William Lawrence said:

Whatever "crimes and misdemeanors" were the subjects of impeachment in England prior to the adoption of our Constitution, and as understood by its framers, are therefore subjects of impeachment before the Senate of the United States, subject only to the limitations of the Constitution.

The framers of our Constitution, looking to the impeachment trials of England and to the writers on parliamentary and common law and to the constitutions and usages of our own States, saw that no act of Parliament or of any State legislature ever undertook to define an impeachable crime. They saw that the whole system of crimes, as defined in acts of Parliament and as recognized at common law, was prescribed for and adapted to the ordinary courts.

They saw that the high court of impeachment took jurisdiction of cases where no indictable crime had been committed, in many instances, and there were then as there yet are, "two parallel modes of reaching" some, but not all, offenders; one by impeachment, the other by indictment.

In such cases a party first indicted may be impeached afterwards, and the latter trial may proceed notwithstanding the indictment. On the other hand, the King's bench held in Fitzharris's case that an impeachment was no answer to an indictment in that court.

The two systems are in no way connected, though each may adopt principles applicable to the other and each may shine by the other's borrowed light.

With these landmarks to guide them, our fathers adopted a Constitution under which official malfeasance and nonfeasance, and, in some

cases, misfeasance, may be the subject of impeachment, although not made criminal by act of Congress or so recognized by the common law of England or of any State of the Union. They adopted impeachment as a means of removing men from office whose misconduct imperils the public safety and renders them unfit to occupy official position.

Mr. President, I shall also read from Pomeroy on the Constitution, pages 608–609:

We must adopt the second and more enlarged theory, because it is in strict harmony with the general design of the organic law, and because it alone will effectively protect the rights and liberties of the people against the unlawful encroachments of power. Narrow the scope of impeachment, and the restraint over the acts of rulers is lessened. If any fact respecting the Constitution is incontrovertible, it is that the convention which framed, and the people who adopted it, while providing a government sufficiently stable and strong, intended to deprive all officers, from the highest to the lowest, of any opportunity to violate their public duties, to enlarge their authority, and thus to encroach gradually or suddenly upon the liberties of the citizen. To this end elections were made as frequent, and the terms of office as short, as was deemed compatible with an uniform course of administration. But lest these political contrivances should not be sufficient, the impeachment clauses were added as a sanction bearing upon official rights and duties alone, by which officers might be completely confined within the scope of the functions committed to them. We can not argue from the British constitution to our own, because the English impeachment is not, nor was it intended to be, such a sanction. But the English law recognizes a compulsive measure far more terrible, because far more liable to abuse than impeachment. What the British Commons and Lords may not do by impeachment, the Parliament may accomplish by a bill of attainder. If the Commons can only present, and the Lords can only try, articles which charge an indictable offense, there is no such restriction upon their resort to a bill of attainder, or of pains and penalties. The Constitution has very properly prohibited this species of legislation; but the constitutional impeachment was intended to partially supply its place under another and better form by introducing the orderly methods of judicial trial, and by requiring a majority of two-thirds of the Senate to convict.

The same considerations will apply with equal force to that branch of the argument which is based upon the phrase "high crimes and misdemeanors." Even had the words been "felonies and misdemeanors," we should not be obliged to take them in a strict technical sense; they would be susceptible of a more general meaning descriptive of classes of wrongful acts, of violations of official duty, punishable through the means of impeachment. But in fact the language used can not be reconciled with the assumed technical interpretation. The phrase "high crimes and misdemeanors" seems to have been left purposely vague; the words point out the general character of the acts as unlawful; the context and the whole design of the impeachment clauses show that these acts were to be official, and the unlawfulness was to consist in a violation of public duty, which might or might not have been made an ordinary indictable offense.

Mr. President, we come now to the expression employed in the Constitution—"treason, bribery, and high crimes and misdemeanors." "Treason" needs no definition; "bribery" needs no definition; but you can nowhere find the meaning of the term "high crimes" or the term "misdemeanors," as they are there used, except by a resort to the English parliamentary law and to the American precedents which have followed that law.

But the counsel say you must go to the English common law, thereby meaning the English municipal law, which has been defined to be a rule or rules "commanding that which is right and forbidding that which is wrong." No, no, Mr. President. No commentator has said that. No adjudicated case has held that. The correct doctrine is that for the true interpretation of those words you go to the body that invented and employed them. Where else would you go? There is the fountain source. I go to the ordinary courts of law for the common law of Great Britain.

The common law; what is it? The decisions, opinions, judgments, and precedents of common-law tribunals. What law court in this country or in Great Britain, sitting as a law court, building up and adding to and interpreting municipal law, ever dealt with the question of what constituted high crimes and misdemeanors or what constituted an impeachable offense? To interpret and expound that law has never been a function of any court. Impeachment has been always, when employed by our British ancestors down to this good hour, a proceeding apart from that of the ordinary courts that are constituted and organized to sit and hear causes that are justiciable. I think I need not dwell further upon that.

Mr. President, as to the definition of impeachable offenses, as Rawle said, it is difficult to define what they are. The fact is that many provisions of the Constitution are incapable of an advanced, comprehensive, or satisfactory definition to meet every case that may possibly arise. The mistake that these gentlemen representing the respondent make is that they confuse the question of jurisdiction with the question of definition. It is familiar to every Senator, whether he be a lawyer or layman, that the Constitution is an instrument of enumeration and not of definitions. So, when you come to the clause that gives you jurisdiction of this case, the impeachment case, you know from the history of the formation of our Government that such provision was inserted in order to clothe somebody under the Federal Government with the jurisdiction to remove civil officers. The fathers thought it not wise to give it to the President, for the King had it and had abused it. They thought it not wise to turn it over to the House of Representatives or the House and the Senate jointly. They looked with confidence to the far future, when possibly the country might be imperiled on account of the faithlessness of public officials, and they said the Senate, the representatives of the States, the States each choosing the Senators through the medium of their legislature or, as I hope it will be soon, through the medium exercised directly by the people, that this body, the Senate, could be intrusted with this power. Why? Because, in addition to what I have said, it was less likely to be abused here than elsewhere. Possibly a President might want to coerce the judiciary; possibly the House of Representatives might be inflamed in times of excitement; but this body, composed of men of long tenure, of trained minds, of experience in public affairs, could be intrusted with this extraordinary jurisdiction and power.

I will not undertake to frame a complete definition of all the causes to which impeachment applies. The Constitution has abstained from attempting such a definition. The causes for which a civil officer of the United States may be removed from office by impeachment were purposely made indefinite by the framers of the Constitution, just as under the Articles of War the causes for which an officer of the Army or Navy may be summarily removed from office by sentence of court-martial were purposely made indefinite.

An impeachable high crime or misdemeanor may be said to be a political offense by a civil officer of the United States which is prejudicial to the public interest. It may consist in any official misconduct or misbehavior, not necessarily committed under color of office, which in its natural consequences tends to destroy the confidence of the public in the official integrity or bring into disrepute the personal character of the offender.

I may be permitted to read from Guthrie's fourteenth amendment:

Such a constitution is an enumeration of general principles and powers or of limitations upon the exercise of governmental functions, and it is not a mere code of rules to regulate particular cases. All progress and improvement would be barred and a constitution would soon become useless if it were not construed as a declaration of general principles to be applied and adapted as new conditions presented themselves. * * * As Chief Justice Marshall said in the famous case of McCulloch v. Maryland: "A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would probably never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves." And ex-President Harrison has well said in his interesting book on This Country of Ours: "To the lay mind it may seem puzzling and not a little discouraging that a century has not sufficed to interpret the Constitution; but the explanation is largely in the fact that constitutional provisions are general and not particular, and the court is required constantly to apply them to particulars and to new conditions."

Nor should the courts attempt to define with precision the scope of a constitutional provision, although this is constantly and necessarily done in construing statutes. A definition of the scope of a constitutional provision can not be necessary in any case. An exposition of the general meaning of the principle is all that should be attempted. The sole inquiry must be whether the particular case submitted for adjudication is or is not within the principle of the constitutional provision invoked or to be implied therefrom, for what is implied is as much a part of the instrument as what is expressed. The Supreme Court of the United States has repeatedly declared that it was wiser to ascertain the scope and application of the fourteenth amendment by the "gradual process of judicial inclusion and exclusion as the cases presented for decision shall require, with the reasoning on which such decisions may be founded."

And, Mr. President, may I say that the Supreme Court has never undertaken to define the meaning of "the equal protection of the laws"? The Supreme Court has never undertaken to give a comprehensive definition of "due process of law." It has pursued the process of construing that law in the light of the case that it has before it. And by no other process of reasoning, nor in any other way, can the fourteenth amendment, particularly these two provisions that I have mentioned, be defined or construed. Will any man here tell me that he can write the meaning of "due process of law" or of "the equal protection of the laws" applicable to every case? Let me invite you to look at the cases wherein the meaning of these terms has been under consideration and construed. And, Mr. President, from time to time new cases demand the further application and definition of these provisions. But I have not the time to dwell further upon that subject.

Now I come to another proposition. It is elementary to say that in construing an instrument, I care not whether it be a statute or whether it be a constitution—or I believe I may add that I care not whether it be a contract: You must look at the whole instrument, be it constitution or be it an act of a legislature, be it a contract or other written instrument.

That is laid down in Southerland, in Sedgwick, and stated by all the writers, and I shall quote from them, Mr. President, not for the purpose of enlightening this learned body upon so elementary a proposition, but merely for the sake of completing the harmony of my argument:

It is to be presumed that all the subsidiary provisions of an act harmonize with each other, and with the purpose of the law; if the act is intended to embrace several objects, that they do not conflict. Therefore it is an elementary rule of construction that all the parts of an act relating to the same subject should be considered together and not each by itself. By such a reading and consideration of a statute its object or general intent is sought for, and the consistent auxiliary effect of each individual part. Flexible language, which may be used in a restricted or extensive sense, will be construed to make it consistent with the purpose of the act and the intended modes of its operation, as indicated by such general intent, survey, and comparison—ex antecedentibus et consequentibus fit optima interpretatio. (Southerland on Statutory Construction, pp. 284, 285.)

239. The intention is to be ascertained by considering the entire statute. The practical inquiry is usually what a particular provision, clause, or word means. To answer it one must proceed as he would with any other composition—construe it with reference to the leading idea or purpose of the whole instrument. The whole and every part must be considered. The general intent should be kept in view in determining the scope and meaning of any part. This survey and comparison are necessary to ascertain the purpose of the act and to make all the parts harmonious. They are to be brought into accord if practicable, and thus, if possible, give a sensible and intelligible effect to each in furtherance of the general design. A statute should be so construed as a whole and its several parts as most reasonably to accomplish the legislative purpose. If practicable, effect must be given to all the language employed, and inconsistent expressions are to be harmonized to reach the real intent of the legislature. It is said to be the most natural exposition of a statute to construe one part by another, for that expresses the meaning of the makers; this expression is ex vercertius actus. The words and meaning of one part may lead to and furnish an explanation of the sense of another. "To discover," says Pollock, C. B., "the true construction of any particular clause of a statute the first thing to be attended to, no doubt, is the actual language of the clause itself; as introduced by the preamble; second, the words or expressions which obviously or by design omitted; third, the connection of the clause with other clauses in the same statute, and the conclusions which, on comparison with other clauses, may reasonably and obviously be drawn. * * * If the comparison of one clause with the rest of the statutes makes a certain proposition clear and undoubted, the act must be construed accordingly, and ought to be so construed as to make it a consistent whole. If, after all, it turns out that that can not be done, the construction that produces the greatest harmony and the least inconsistency is that which ought to prevail."

240. General intent of statute key to meaning of the parts.—The presumption is that the lawmaker has a definite purpose in every enactment and has adapted and formulated the subsidiary provisions in harmony with that purpose; that these are needful to accomplish it, and that, if they have the intended effect, they will at least conduce to effectuate it. That purpose is an implied limitation on the sense of general terms, and a touchstone for the expansion of narrower terms. This intention affords a key to the sense and scope of minor provisions. From this assumption proceeds the general rule that the cardinal purpose or intent of the whole act shall control, and that all the parts be interpreted as subsidiary and harmonious. They are to be brought into harmony, if possible, and so construed that no clause, sentence, or word shall be void; superfluous, or insignificant. But where a word in a statute would make the clause in which it occurs unintelligible, the word may be eliminated and the clause read without it. It would be mischievous to attempt to wrest such words from their proper and legal meaning merely because they are superfluous.

241. The intention of the whole act will control interpretation of the parts.—Words and clauses in different parts of a statute must be read in a sense which harmonizes with the subject matter and general purpose of the statute. No clearer statement has been, or can be, made of the law as to the dominating influence of the intention of a statute in the construction of all its parts than that which is found in Kent's Commentaries: "In the exposition of a statute the intention of the lawmaker will prevail over the literal sense of the terms; and its reason and intention will prevail over the strict letter. When the words are not explicit the intent is to be collected from the context, from the occasion and necessity of the law, from the mischief felt, and the remedy in view, and the intention is to be taken or presumed according to what is consonant with reason and good discretion." If upon examination the general meaning and object of the statute be found inconsistent with the literal import of any particular clause or section, such clause or section must, if possible, be construed according to that purpose. But to warrant the change of the sense, according to the natural reading, to accommodate it to the broader or narrower import of the act, the intention of the legislature must be clear and manifest. The application of particular provisions is not to be extended beyond the general scope of a statute unless such extension is manifestly designed. Legislatures like courts must be considered as using expressions concerning the thing they have in hand; and it would not be a fair method of interpretation to apply their words to subjects not within their consideration, and which, if thought of, would have been more particularly and carefully disposed of. The mere literal construction ought not to prevail if it is opposed to the intention of the legislature apparent from the statute; and if the words are sufficiently flexible to admit of some other construction by which that intention can be better effected the law requires that construction to be adopted. The intention of an act involves a consideration of its subject matter and the change in, or an addition to, the law which it proposes; hence the supreme importance of the rule that a statute should be construed with reference to its general purpose and aim. "Where the words," says Lush, J., "employed by the legislature do not directly apply to the particular case, we must consider the object of the act." (Southerland on Statutory Construction, pp. 317–321).

Every part of a statute must be viewed in connection with the whole, so as to make all its parts harmonize, if practicable, and give a sensible and intelligent effect to each. It is not presumed that the legislature intended any part of a statute to be without meaning. (Southerland on Statutory Construction, p. 412.)

Now, we have heard discussed the jurisdictional power of this body, the power to impeach. Mark you, Mr. President, the impeaching clause confers jurisdiction and power upon you. It contains the limitation that this power is confined to civil officers. The Constitution of the United States is an instrument of delegated powers, and I take it that even without the tenth amendment power not delegated to the Federal Government would not, under the theory of the federal scheme that the States entered into, have been conferred upon the Federal Government. This power here invoked was given to you—this jurisdiction, this process, if you please. Why is the process necessary? You can speak of removal from public office, or, in the language of the respondent's ingenious counsel, you can speak of the "recall." We have under the Constitution power of removal vested somewhere and applicable to the case of every official or functionary of the Federal Government.

The President is automatically "recalled," if you please, automatically removed every four years. You, Senators, are automatically "recalled" every six years. A Representative has to face a "recall" or a removal every two years. Every civil officer is removable by a time limit or is removable at the pleasure of the appointing power except one, and that one is the Federal judge, who can be removed by the judgment of the Senate only.

Oh, it is monstrous, say the counsel, to contemplate taking from his high position of violated trust this judge. Let us see the conditions upon which he acquired that trust. Here I invoke the doctrine that this provision of the Constitution must be construed in pari materia with the jurisdictional provision which has been so often referred to. Says the Constitution: "Judges * * * shall hold their offices during good behavior."

Mr. President, that was the contract. That is a corollary to the appointing power. That was the limitation. That was the protection promised to the people against abuse. Yet this cardinal canon of construction to which I have referred is to be ignored and the tenure conditioned upon good behavior is to be read out of the Constitution. Watson and Tucker and all of the other authorities say if you construe it as the counsel in this case construe it you render it a nullity.

Did our fathers write meaningless phrases into the organic law of our country? Did they not have a purpose—a well-considered purpose—when they put those words into that instrument? You can not get away from the proposition that in the case of a judge his tenure is limited to during good behavior. It carries with it the undoubted meaning and force that if he misbehaves himself he shall not longer hold that office.

In his work on the Constitution, Foster says (p. 586):

The Constitution provides that—

"The judges both of the Supreme and inferior courts shall hold their office during good behavior."

This necessarily implies that they may be removed in case of bad behavior. But no means except impeachment is provided for their removal, and judicial misconduct is not indictable by either a statute of the United States or the common law.

The Constitution provides that the judges shall hold their position during good behavior, and as an unavoidable corollary to this provision it must follow that misbehavior on the part of the judge will, when the jurisdiction and power of this tribunal is invoked, remove him on account of the forfeiture of title to his judicial office.

This provision in the Constitution is an admonition against misbehavior by a judge. Thus, when a judge commits acts constituting misbehavior within the meaning of this provision, he violates the positive law of the land. A statute of Congress has no force or effect unless it is passed in pursuance of the legislative powers granted to Congress by the Constitution. Therefore, if Congress should pass a statute making misbehavior or misconduct on the part of a Federal judge an indictable offense, the question which would confront the Senate would be precisely the same as the question which is presented in the case now before you for your determination.

Senators, your powers are derived from the Constitution just as the powers of the Supreme Court are derived from that instrument. It is not competent, it is not within the power of Congress by any enactment, to add to the jurisdiction or powers of this body or of the Supreme Court.

It may be that if an act of Congress should denounce certain things as constituting high crimes and misdemeanors the Senate would take it as a legislative interpretation of the Constitution. You might follow it and agree to it. But if you saw fit to say that the offenses denounced by such act of Congress do not constitute high crimes and misdemeanors as contemplated by the Constitution, what power can gainsay your rightful authority to so determine?

In the old case of Marbury v. Madison the Supreme Court held that you can not add to the jurisdiction of that tribunal,

because it was of a constitutional derivation. The same power that denies the enlargement denies the subtraction.

Now, Mr. President, it is not necessary that the offense be committed under the color of office. Suppose a judge were to commit highway robbery and be put in the penitentiary, would you hold that he could not be impeached upon the ground that it was not done in his judicial capacity? Would you say that he could go on and hold that office and administer justice in behalf of the people of the Federal Union from the walls of the penitentiary of some State? It is an absurdity.

I read from Black on the Constitution:

Treason and bribery are well-defined crime. But the phrase, "other high crimes and misdemeanors," is so very indefinite that practically it is not susceptible of exact definition or limitation, but the power of impeachment may be brought to bear on any offense against the Constitution or the laws which, in the judgment of the House, is deserving of punishment by this means or is of such a character as to render the party accused unfit to hold and exercise his office. It is, of course, primarily directed against official misconduct. Any gross malversation in office, whether or not it is a punishable offense at law, may be made the ground of an impeachment. But the power of impeachment is not restricted to political crimes alone. The Constitution provides that the party convicted upon impeachment shall still remain liable to trial and punishment according to law. From this it is to be inferred that the commission of any crime which is of a grave nature, though it may have nothing to do with the person's official position, except that it shows a character or motives inconsistent with the due administration of his office, would render him liable to impeachment. It will be perceived that the power to determine what crimes are impeachable rests very much with Congress. For the House, before preferring articles of impeachment, will decide whether the acts or conduct complained of constitute a "high crime or misdemeanor." And the Senate, in trying the case, will also have to consider the same question. If in the judgment of the Senate the offense charged is not impeachable, they will acquit; otherwise, upon sufficient proof and the concurrence of the necessary majority, they will convict. And in either case there is no other power which can review or reverse their decision. (2d ed., pp. 121-122.)

I now read from Mr. Tilden's Public Writings and Speeches:

Misconduct, wholly outside of the functions of an office, may be of such a nature as to exercise a reflected influence upon those functions and to disqualify and incapacitate an officer from usefully performing those functions. This is especially and peculiarly true of the judicial office. In such cases the misconduct constitutes an impeachable offense and is ground for removal. The words "high crimes and misdemeanors" are not limited to official acts. (P. 481.)

Now, the question of misbehavior, I take it, has been fully dealt with by my associates in their discussion of the case.

Mr. President, we come now to consider one thing in this case, to use the language of the street, that "bobs up serenely" in every criminal case. Every old criminal lawyer on earth raises it in every case, and in this high tribunal, when this man's acts are revealed to you in their nakedness, in their probative force, from which you can draw your own inference or conclusion, the "fog machine" is put to work on intent. But sensible men, as you, Senators, are, need not the voluntary aid of this accused man to tell you his intent. It was significant in the trial that one of the counsel read from an authority the concluding sentence of which was that such evidence given by a defendant is of little value. Indeed, it is of little value in this case.

Mr. President, there never was a criminal on earth who would not disclaim a bad intent; and yet shall they go unwhipped of justice? It is a peculiar characteristic of persons afflicted with paranoia that they think they are right.

I shall not be personal here, but a judge stands before you who is forced under cross-examination to admit that he engaged in a practice so reprehensible that no honorable judge was ever accused of the like before—brazenly admitted that he had done it, that he had sought the money, that he wanted it, and said on the witness stand here "what of it?"

Mr. President and Senators, that is one thing the matter today with the Federal judiciary, some of them. I am glad to say that I think, in point of integrity and fairness and ability, the Federal judiciary averages in every respect as high as the judiciary of any State. I pause long enough to pay that great branch of our Government this tribute, that nearly all of them are honest, highminded, faithful ministers of public justice.

I read from One hundred and sixty-fifth United States, page 53, the case of Agnew v. United States. It was claimed in this case that the trial court erred in giving the following instructions:

The law presumes that every man intends the legitimate consequence of his own acts. Wrongful acts knowingly or intentionally committed can neither be justified or excused on the ground of innocent intent. The color of the act determines the complexion of the intent. The intent to injure or defraud is presumed when the unlawful act, which results in loss or injury, is proved to have been knowingly committed.

But Chief Justice Fuller said:

In our opinion there was evidence tending to establish a state of case justifying the giving of this instruction, which was unexceptionable as matter of law.

Now, I come to discuss briefly the question of character. It is not pleasant to me to have to animadvert upon the conduct of one of my brethren who belongs to the opposition in this discussion. He made much ado about nothing. Senators, shall I say that he took an unimportant matter and distorted it into something that it did not mean for the purpose of beguiling you into a belief that is not founded upon fact for the purpose, as a part of an argument, to mislead? I shall not say to deceive, for that is a harsh word. He adverted to the proceedings when Mr. Manager CLAYTON (who is now addressing you), in order to expedite this trial, said repeatedly it is not necessary to have a multitude of witnesses here to establish a good character or a good reputation in Scranton on the part of this man. We do not put that reputation in issue. We will offer no witnesses.

The Senate will recall that the manager said that this right to examine character witnesses had a limitation in every court in every State in the Union, either limited by the discretion of the judge, or limited by the rule of the court, or limited by statute, and I said that in the State of Illinois by a rule of the supreme court that had the force and effect of statute, it was limited to eight; and yet, forsooth, when I was trying to aid this body to bring this cause to a conclusion, on that little circumstance he builds up his assertion not warranted, saying, "Oh, this man's character, his integrity is unassailed and unassailable." Oh, puny argument! Oh, despicable suggestion! Oh, how inexecrable. Oh, oh, miserable pettifogging!

Mr. President, the character of this man or his reputation at Scranton is not what we are trying. We are trying him for misbehavior. Honorable counsel for the respondent referred to a case in Holy Writ, where Christ shielded the woman from being stoned. I do not know what application he meant to make of that; but I suppose that he meant to say that Christ forgave the sinning woman who had not a good reputation, and therefore by what he believes to be ineluctable logic you should forgive this sinful judge. Atoning grace is never extended except following contrite confession.

Mr. President, I may be pardoned for referring to another case in the Scriptures often referred to. The betrayer of our Savior, who gave that betraying kiss for the 30 pieces of silver, had a good reputation, and could have proved it by all the other Apostles and by the people who saw that body going about doing good; and yet, Mr. President, and still yet, he was guilty of betraying his Lord and Master, just as this man, clothed on account of his high reputation with power and responsibility, has prostituted that power and responsibility for the greed of gain!

Again, let me quote from the Book that the counsel for the respondent who first spoke seems to think a good authority here:

He that is greedy of gain troubleth his own house, but he that hateth gifts shall live.

And again:

Thou shalt take no gift, for the gift blindeth the wise and perverteth the words of the righteous.

That is what it would do to him. The reward that was to come to his henchmen is also dealt with, I think, in this same Book. They were to get money; these railroad officials were to have the favor of the judge; they were to be welcomed among the high and the mighty who sat in the judgment seat in the Commerce Court. "A man's gift maketh room for him and bringeth him before great men," namely, the judges of the Commerce Court of the United States.

Mr. President, the necessary effect of this judge's conduct, regardless of his intent, was repeated misbehaviors. It in nowise subtracts from the sum of his wrong conduct if his standard was as low as it seems to have been. We are not to judge him by that degraded view, but we are to pronounce judgment according to the better rule of the results, the consequences, and the effect of his conduct.

Mr. President, counsel has said that the judge did not write a letter to Brownell on Commerce Court paper.

Mr. WORTHINGTON. I said he did.

Mr. Manager CLAYTON. Then I misunderstood you.

Mr. WORTHINGTON. One of the managers said he did not, and I was correcting him and said that he did.

Mr. Manager CLAYTON. Very well. The counsel for the respondent, after contemptuous reference, waived aside as of no importance the fact that the judge used the official letterheads of the Commerce Court in his correspondence with the officials of corporations engaged in interstate commerce. Of course, the mere value of the paper falls under the doctrine of de minimis, but this correspondence on these official letterheads is a pertinent and important fact. In effect the counsel has said that it is common for public officials to use official paper in their correspondence. Of course, Mr. President, "there would be no impropriety in writing a note to a lady on such stationery," as counsel has said, but let me state an extreme case: It would be

highly improper for any public official to write a note on such paper to a bawd for the purpose of making a liaison. The evil in this case consisted in the persistent use of the letterheads of the court in correspondence with perfectly reputable gentlemen representing corporations having litigation or likely to have litigation in his court. There should not be a suggestion made by a judge in his business dealings that he has power or authority over those from whom he seeks to obtain a contract of benefit to himself. And this is true whether or not such conduct influenced reputable gentlemen. The judge sought to do so.

The same counsel has said that the judge made no effort to conceal his identity or his connection with these culm dumps. He drew two of the options for the purchase of culm dumps or coal properties, and in neither one of those options in which he was to share, according to the testimony, is his name disclosed as a party in interest, and in all, or nearly all—I am sure that is accurate—he did disclose his name when he wanted that disclosure to have effect upon the railroads or upon their officials.

Oh, it is said that the judge has not been guilty of bribery or a statutable offense. Possibly not. Bribery, like highway robbery, is a brutal and vulgar offense. It is not an artistic performance. Of course, when he was going to the railroad officials, either in Pennsylvania or in New York, when he made his repeated visits to the various cities of Pennsylvania—several of them—and to New York, he did not send those people word, "I must have money; I must be allowed to make an advantageous trade; and you must afford to me that privilege."

Oh, no, Mr. President; he did not say that. That would have been rough and brutal, and would have probably subjected him to an indictment under the bribery statute. He was too learned for that, too polished, too suave, too artful. If he had gone into the offices of one of those officials and said, "I demand, by virtue of my power and influence as a judge of a court which will deal with your corporation, that you give me a profitable trade," he doubtless would have been ordered out. He might have been thought insane. But he did not adopt that method. He wrote some 25 or 30 letters to those officials—and they are here in evidence—and in these 25 or 30 letters, in nearly every instance, he used the official paper with the heading of the Commerce Court printed on it. "Oh, but," he said on the stand, "I just dictated those letters, and it was a matter of indifference to me; I never thought about it; my stenographer selected the paper." But this letter to Brownell, as well as other letters in evidence, were not dictated to stenographers; they are in his own handwriting and were written under the same letterheads.

His method was this: To send a sweet note making an engagement, soft in its terms, free from the positive assertion that "I want money" or "I want to force you to give me an advantageous trade." No; those letters amounted to a messenger in each case saying to those officials in honeyed accents, "The judge says you ought to be good enough to accord him the opportunity to make some money out of trading with your company"; and he follows his messenger into the offices of those people in Pennsylvania and in New York. Instead of a verbal demand we can imagine we hear him say softly, "Good morning, my dear sir," and we imagine that they might have replied, "Good morning, Judge; you are a judge of the Commerce Court. We have cases before you." And the judge might have answered, "Yes; you have cases before me for adjudication, but we will not talk about that. What I have come for is for you to give me an advantageous trade. You denied the opportunity to Williams; you denied those trades to all the others of the common herd in Scranton—give them to me." Why? He was judge, and he sought in this way to commercialize his potentiality as a judge. I do not say, Mr. President, that such a conversation occurred, but the judge put himself in the compromising position which may suggest the possibility of the thought.

Is that bad behavior in office? For that or other conduct like it in one isolated case you might give him the benefit of the doubt, but there are five coal transactions in the record. That is the system to which Mr. Manager STERLING referred. Five transactions in regard to coal dumps or fills for which he sought to acquire contracts that he might make money out of corporations engaged in interstate commerce. That is the system. One incident follows right along after the other, and now I will state a significant fact, Senators, or several significant facts. I want to call your attention to them. These facts are pregnant, persuasive, and conclusive that the judge misbehaved himself:

First. Judge Archbald undertook to acquire the five coal properties or to deal with the five coal properties after he became judge of the Commerce Court, and not before. The railroads were engaged in interstate commerce. He held the rights of those railroads in one side of the scale and the rights of the shippers in the other. He had potentiality; and after he acquired that potentiality he became afflicted with the itching palm—"the love of money, the root of all evil," according to the Blessed Book. This overshadowed and swept away all desire to preserve unsullied his judicial integrity and name. Then his official salary of $9,000 per annum was regarded by him as insufficient for his comfortable maintenance.

Second. Judge Archbald had never attempted to acquire coal property before he became a judge of the Commerce Court.

Third. In no case did any of the deals involve the expenditure of so much as a cent of money by the judge.

Fourth. His sole contribution in each case was his personal service. There were lawyers and lawyers in Scranton; there were business men there who could draw an option; they had but to copy them. There were lawyers and lawyers there who could have advised them. What was his service? Influence as a judge? With whom? With the people engaged in interstate commerce who controlled these coal properties. Answer that pregnant fact, if you can.

Fifth. In each case his services were first invited by some third person, some "go-between," who requested him to take up the matter with the railroad or some of its subordinate officials or some of its ancillary corporations. Oh, the door of his office was open, says the counsel. Yes; so open, so notoriously so that the John Henry Joneses, the Thomas Starr Joneses, the E. J. Williamses, and men of like standing and irresponsibility had a welcome access to it. And Watson had his willing ear. So anxious was he to help Watson to settle a case which was likely to come before his court that he telegraphed him and went to meet him down at the Raleigh Hotel on a cold day. Take all that. He was easy, because they knew his desire to make gainful bargains with litigants or probable litigants before his court.

Mr. President, I shall here state the facts regarding the Lighterage case, which has been prominently mentioned in testimony throughout this case. This case was a proceeding originally brought before the Interstate Commerce Commission by the Federal Sugar Refining Co. against the Baltimore & Ohio Railroad and other railroads, including the Delaware, Lackawanna & Western, the Erie, and the Lehigh Valley, for the purpose of securing relief from discriminatory lighterage charges in New York Harbor. It will be remembered by the Senators that Judge Archbald negotiated with the officers of the Erie Railroad for the purchase of the Katydid culm dump, as charged in article No. 1; that he negotiated with the officers of the Delaware, Lackawanna & Western Railroad for settlement of a case brought by the Marian Coal Co. against that railroad before the Interstate Commerce Commission; and that Judge Archbald negotiated with the Lehigh Valley Railroad for the purpose of securing an operating lease on the culm dump known as Packer No. 3, charged in article 3. The Interstate Commerce Commission granted an order in favor of the complainant on December 5, 1910. The railroads took the case to the Commerce Court, by petition filed on April 12, 1911 (Commerce Court docket No. 38), and a preliminary injunction, temporarily suspending the operation of the order of the commission, was granted by the court on May 22, 1911, without an opinion. In June, 1911, the United States, the Interstate Commerce Commission, and the Federal Sugar Refining Co. noted an appeal to the Supreme Court. The Supreme Court passed on the action of the Commerce Court in granting this preliminary injunction, on June 10, 1912. The Supreme Court ruled that the Commerce Court had power to issue the temporary injunction and remanded the case to that court for adjudication on the merits. The minutes of the proceedings of the Commerce Court on October 2, 1911, which appear in the testimony of Mr. A. F. Gallagher, page 333 of the record, shows conclusively that Judge Archbald considered that this case was pending in the Commerce Court for adjudication on the merits at that time. From this stenographic report it appears that the counsel for the United States objected to the taking of the testimony in that case until the Supreme Court should pass upon the appeal from the temporary injunction. But in answer to this objection Judge Archbald asked from the bench the following significant question: "If they want to hear all of the case, how can you deny it?" This shows conclusively that Judge Archbald regarded this case as still before his court on the merits.

These statements also apply to the so-called restricted fuel rate case (Commerce Court docket No. 39), to which these railroads were parties in interest.

Now, I want to come to a more particular discussion of some of the other articles. Of course, I regret that I have not the time to take up these articles seriatim and discuss them at length, but even in that situation I count myself happy, because my associates have demonstrated, I think, that we have sustained these articles, and I think that their arguments have not been answered. Furthermore, I am happy in the belief that the

Senate has or will read the excellent presentation of this case as made by my associates.

Necessarily, I will have to deal with only a few of the suggestions made in the argument by the counsel for the respondent.

Mr. Worthington says the letter by May to Williams saying he would recommend the sale of the Katydid was all that ever happened. As a fact, it was merely the beginning. The railroad did not follow May's recommendation until Archbald had gone to New York and had seen Brownell and Richardson. Counsel for the respondent can not get away from the ugly fact that Vice President Richardson, of the Erie Railroad, was opposed to the sale of this Katydid dump until Judge Archbald came to see himself and Brownell.

After this visit Mr. Richardson changed his decision regarding the matter, and directed May to grant the option. The testimony of both May and Richardson shows this conclusively. Capt. May did not fix any price on the dump until after Archbald's visit to Richardson.

Counsel for the respondent said that the Katydid culm dump was a worthless dump. Mr. President, let us see. The testimony of Mr. Rittenhouse, the civil engineer, is here. It shows that it was a most valuable culm dump. That examination and that report were made by him without knowing for what particular purpose they were made and without knowing that he would ever be called here as a witness. It is a true and impartial report, as I believe, and when I say I believe, I recur to a criticism that the counsel for the respondent made upon one of the managers. The House of Representatives is here now before you, theoretically, telling you what the House believes. In the ancient days the House actually attended these sessions. Now the managers come here as the House. And would it not be strange that the House could not tell this body that it believes in what that House did under sanctity of oath when they voted the articles of impeachment?

A worthless culm dump! It was valuable. But, Mr. President, I am not going to discuss that. Let us see. Judge Archbald then finds himself in the attitude of acquiring without paying one cent a worthless coal dump! Then he attempted to sell it for a large profit!

The last time the amount asked by him was $25,000. Subtract from that about $8,000, the amount that he was to pay, and the balance represented is profit. I think, Mr. President, it would be a better defense if they were to admit that it was valuable rather than to say it was worthless and that this high-minded judge was trying to put off worthless property upon people for a large sum of money.

Mr. WORTHINGTON. Would you mind telling the Senate to whom he sold it for $25,000?

Mr. Manager CLAYTON. I say he made the contract—the option. I refer to the letter of September 20, 1911:

> MY DEAR MR. CONN: This will introduce Mr. Edward Williams, who is interested with me in the culm dump about which I spoke to you the other day. We have options on it both from the Hillside Coal Co. and from Mr. Robertson, representing Robertson & Law, these options covering the whole interest in the dump.

This letter shows that he considered that he was getting a clear title to this dump through the options from May and Robertson.

There were several of these options where the property was to be sold one time to this concern; another time, I believe, to Thomas Star Jones's concern. These options were drawn by Judge Archbald, and he omitted his name from each of them.

Mr. President, I pass now to another error committed by the counsel. The Hillside Coal & Iron Co. refused to buy Mr. Robertson's interest in the Katydid culm dump because they denied that Robertson had any interest in it by reason of his abandonment of the operation for a period of over three years. The Du Pont Powder Co. gave up the idea of buying the Katydid dump because they decided to buy their power from a power company. The transaction occurred a number of years ago when the culm was not nearly so valuable as it is to-day.

Again, Mr. Manager STERLING simply moved to strike out the testimony of one of the witnesses for the respondent. That is my answer to what he said about Judge STERLING's effort to exclude the Rittenhouse report. On the contrary, Mr. President, you will bear in mind that we had his report, and when his report was omitted from the printed record by the reporter the manager who is now addressing you came before the Senate the next day, or as soon as he could, and had it printed as a part of the proceedings.

This illustrates many of the errors, inaccuracies, and unintentional, I think, misstatements indulged in by counsel.

The lease to Robertson was a colliery operating lease on a royalty basis made many years ago—a very different proposition from an outright sale of a culm dump.

Respondent's counsel stated that the plat made by Merriman, on which May made his estimate when he fixed the price at $4,500, showed 55,000 gross tons of material of all kinds. This is so utterly unwarranted that I feel that I should not let it go unchallenged. May testified that he figured on a basis of 80,000 tons of gross material (see record, p. 987); but to show how entirely worthless is all of counsel's argument as to the value of the Katydid, he insists that the map made by Merriman showed 55,000 gross tons of material. The map plainly shows 55,000 gross tons of coal. Here is the map. It speaks for itself. Look at the footnote made by the engineer. The map appears on page 987 of these proceedings. I hope every Senator will turn to it and interpret it for himself. At the bottom of the map is this notation:

> Estimate 55,000 gross tons (available), exclusive of slush, rock, dirt, etc., of no value.
>
> As per Mr. Johnson, inspector.

That is a map that counsel said showed only 55,000 gross tons of material. It shows by its footnote that this engineer reported 55,000 tons of coal and not of slush, rock, and the like, and coal combined.

Mr. President, the counsel animadverted upon the witness Williams. They may say what they please about him—Edward J. Williams—he was the associate, the business partner, the intimate friend of Judge Archbald, made Judge Archbald's office his headquarters, where he spent much of his time. Counsel further say that May always wanted to sell the Katydid culm dump. Mr. Williams reported to the judge that May treated him gruffly; that he could not trade with him. He had to get the judge, referring to the statement of Mr. Manager STERLING, which is correct, to "intercede" with Mr. May, and to intercede with the higher railroad officials, in order to have May to make that trade. And Judge Archbald did intercede with them, as the testimony abundantly shows.

But something was said in argument to the effect that the judge did not say he was to have a half interest. Why, Mr. President, the judge admitted all along through this testimony that he was to have a part of the profit out of these properties. I can not stop now to cite the testimony, but the Senate will bear it in mind that he admitted it, and in one instance he said, "Why not?"—admitted it and said "Why not?"

Another significant fact is that he did not become very busy to help Williams acquire a culm dump until Williams had made it certain that he was to have an interest in it.

Now, Mr. President, I want to revert further to this article 1. If the Senate will take article 1 and put in one column the charge in that article and put into a parallel column the admissions of the defendant, you will find that every charge embraced in that article is admitted except on the question of intent. He denies that he undertook to influence the officers of said company except as he has admitted that in the agreement to sell the Katydid culm dump. He denied that he willfully or unlawfully or corruptly or otherwise took any advantage of his official position as judge to effect that contract. But he does admit all the other allegations; that he responded to the suggestion of Williams, and solicited by conference and letter May, the manager of the Hillside Co., to put a price on the Katydid. He admits that, failing to get the price from May, respondent in August, 1911, while in New York, applied to George F. Brownell, general counsel of the Erie Railroad Co., for information concerning the proposed sale. He admits that Brownell informed respondent that Richardson was the proper officer of the company to approach in the matter, and introduced the respondent to Richardson, and respondent said to Richardson he was there simply for the purpose of getting an early answer, one way or another, to the request for the sale of the Katydid. He admits that Richardson informed the respondent that he would communicate with May; and on August 29, 1911, when respondent casually met May in the streets of Scranton, he was informed by him that the Hillside Coal Co. had decided to sell its interest, and was requested by May to tell Williams to call on May. He admits that respondent notified Williams of this conversation, and that on the next day May advised Williams that the Hillside Coal Co. would sell the dump for $4,500. He admits that during the whole period of these negotiations and transactions the respondent was a judge as charged in the article; that the Erie Railroad Co. was a party litigant in the suits mentioned in the article; and that divers proceedings were pending in the Commerce Court, and divers actions taken by that court in those cases.

I have mentioned his denial of the charges which goes simply to the question of intent. We submit the substantial facts, the substantial admissions, and ask the Senate to judge of him rather than by his denial and by his disclaimer of wrongful intent made here upon the witness stand.

Oh, but they undertake to try the Bolands and to say that the judge was trapped in this matter. Mr. President, that is a sickly defense. The idea of a judge of a great court of the United States being innocently trapped into this sort of a transaction by Boland and by Williams—by Boland, whose mentality the counsel reflects upon, and by Williams, for whose lack of mental acumen he apologizes.

I read, Mr. President, from the case of Grimm v. The United States (156 U. S., 610), where Mr. Justice Brewer said:

> It does not appear that it was the purpose of the post-office inspector to induce or solicit the commission of a crime, but it was to ascertain whether the defendant was engaged in an unlawful business. The mere facts that the letters were written under an assumed name and that he was a Government official—a detective he may be called—do not of themselves constitute a defense to the crime actually committed. The official, suspecting that the defendant was engaged in a business offensive to good morals, sought information directly from him, and the defendant, responding thereto, violated a law of the United States by using the mails to convey such information, and he can not plead in defense that he would not have violated the law if inquiry had not been made of him by such Government official. The authorities in support of this proposition are many and well considered.

May I inquire, Mr. President, how many minutes I have remaining?

The PRESIDENT pro tempore. The Chair is informed that half an hour of time is remaining to the manager.

Mr. Manager CLAYTON. Now, Mr. President, I shall not have time to further answer the ingenious devices and suggestions resorted to by the counsel for the respondent concerning article No. 1. I shall therefore refer you to what my associate managers have said in the preceding arguments, and I do it with confidence, for their reasoning was illuminating and their logic was irresistible.

Now I revert to the second count, the Marian Coal Co. I desire to answer certain arguments and statements made by counsel for the respondent in regard to article 2, which is commonly referred to as the Marian Coal Co.'s case.

Mr. Simpson said in his zeal on behalf of his client on yesterday that Christy Boland, one of the witnesses introduced on behalf of the managers, had testified to an untruth in giving his testimony before Mr. Wrisley Brown. Mr. President, there is no evidence to sustain such a statement, and I am sorry that the counsel who made that criticism used harsh and unparliamentary language in denouncing Mr. Christy Boland, who was Judge Archbald's "Dear Christy."

But it must be excused somewhat upon the fact, I suppose, that our friend Simpson is of a highly nervous organization, and sometimes that nature forces an unparliamentary explosion.

Mr. Brown met Mr. C. G. Boland, sometimes called "Christy," and had a conversation with him, in which he asked Boland certain questions, and to which Boland made reply. Brown's stenographer was present and took notes of what was said. When the statement of the conversation was written out it was submitted to C. G. Boland and he was asked to sign it and swear to it. This he positively refused to do. It is in the printed copy of the stenographer's transcribed notes in which the matter referred to is found, and is as follows:

> Mr. BROWN. Did Watson give you any intimation of what was to become of this large excess over the $100,000?
>
> C. G. BOLAND. No.
>
> Mr. BROWN. You did not concern yourself about it?
>
> C. G. BOLAND. No.
>
> (Page 720, Senate Record.)

Mr. Boland finally agreed to give Brown a statement, which he prepared himself, and in that statement he cut out all reference to the questions and answers referred to which appear in the stenographer's notes. Mr. Boland's full explanation of this whole matter appears on pages 723 and 724 of the hearings before the Senate.

Counsel for respondent on yesterday, if I understood him correctly, admitted that if Judge Archbald used his influence to aid Mr. Watson in securing a $5,000 fee, and did it corruptly, he would be guilty of the charge made against him in this article, although he might not himself share in the fee. I think the learned counsel has done himself credit to make such admission, for I hardly think that a position to the contrary could be successfully maintained before this high Court of Impeachment.

What are the facts? Edward J. Williams, an associate of the judge in the Katydid transaction, went to C. G. Boland and told Mr. Boland that he believed that George M. Watson, an attorney of Scranton, was in position to settle the controversy of the Marian Coal Co. with the Lackawanna Railroad Co. Mr. Boland called upon Mr. Watson and they finally reached an agreement whereby Mr. Watson was employed to make an effort to effect the settlement. It was agreed that the Bolands would sell their two-thirds of the stock of the Marian Coal Co. for a lump sum of $100,000, and that if Mr. Watson could secure a settlement upon that basis he would be paid a fee of $5,000.

According to the testimony of C. G. Boland, a day or two after that agreement was entered into with Watson, he was called over the telephone to come to Judge Archbald's office. In response to the telephone call, he went to Judge Archbald's office and found Judge Archbald and Mr. Watson there. He states that Judge Archbald stated over to him that he understood that they were to sell their entire interest in the property for $100,000 and had agreed to pay Watson a $5,000 fee if he could bring about a settlement on that basis. He further testifies that in the same conversation, that Mr. Watson told him in Judge Archbald's presence that the judge had agreed to help him in securing the settlement, and that the judge assented to the proposition and stated that he would be glad to do all he could to assist Mr. Watson in effecting a settlement. He further testifies that in the same conversation a suggestion was made either by Judge Archbald or Mr. Watson that there ought to be some kind of a writing to guarantee that Mr. Watson would get the $5,000 in the event he was successful in the matter. Mr. Boland further testified that as a result of that suggestion, he went immediately to his brother, W. P. Boland, president of the Marian Coal Co., and procured a written statement, which is in the evidence, stating that in the event that Mr. Watson succeeded in bringing about a satisfactory settlement between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co., that he would be paid a fee of $5,000 for his services. This is the testimony of Mr. C. G. Boland. While this conversation is not admitted it is not positively denied either by Mr. Watson or Judge Archbald in their testimony. The judge says he doesn't remember any such conversation when he, Watson, and Boland were together, but as I remember his testimony he does not positively deny the substantial facts testified to by Christopher G. Boland. The effect of Watson's testimony upon the same point is precisely similar to that of the judge. He does not remember the conversation detailed by Mr. Boland. Judge Archbald in his testimony does admit, however, that he understood that Watson was to be paid a fee of $5,000 for his services in effecting a settlement of the controversy between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co., and he admits and pleads in his answer that he did agree to assist Watson in his efforts to bring about that settlement through friendship for Watson and through friendship for Christopher G. Boland. The testimony shows that he did aid and assist, and did attempt to aid and assist, Mr. Watson to effect that settlement by personal interviews and conferences with railroad officials, by writing letters and by counseling with Watson with regard to the settlement.

The testimony shows that although the price that the Marian Coal Co. was to receive was fixed in the agreement at $100,000, it is further shown by the testimony and is admitted by Judge Archbald that he knew that the proposition which Mr. Watson proposed to submit to the railroad company was $161,000. The testimony does not disclose any satisfactory or reasonable excuse why the consideration was raised from $100,000 to $161,000; it is not shown by any testimony in the whole case that the Bolands ever expected at any stage of the proceedings to receive any amount in excess of $100,000 if the settlement was made. Out of this $100,000 the $5,000 fee was to be paid under the agreement, so that the net amount that the Bolands would receive on settlement was $95,000. There is no testimony in the case to show that Watson or the Bolands had any agreement with John W. Peale during any stage of these negotiations that the suit which was pending against the Marian Coal Co., in which he was plaintiff, was to be taken care of in that settlement. So the evidence offered in support of this article of impeachment shows conclusively, under our view of the case, that this United States circuit judge, this judge of the Commerce Court, did undertake, not only to aid and assist Watson, his friend, in securing the $5,000 fee, but undertook to aid and assist Watson in wrongfully demanding from the railroad company $61,000 in excess of the amount which his clients had agreed to take on settlement. If such conduct does not show that Judge Archbald acted corruptly, it is difficult for the managers to conceive what amount of testimony will be required to show corruption on the part of a judge.

In article No. 5 Judge Archbald is charged with receiving from one Frederick Warnke & Co., which company is known as the Premier Coal Co., a $500 note in consideration of favors shown by Judge Archbald to Frederick Warnke for services rendered by the judge in Warnke's behalf. Why do I say for "services rendered by Judge Archbald"? Because in respondent's answer to a charge contained in article 13, that the judge

invested no money or other thing of value in any of the properties in which he acquired interests or sought to acquire interests, he makes this admission. I quote:

Respondent further admits that in the very few cases in which he was interested in the proposed purchase of culm banks or other coal property from railroad companies he did not invest any money or other thing of value except his own personal services in consideration of any interest acquired or sought to be acquired.

In view of this admission and the testimony in the case, I care not whether you call this $510 note a gift, fee, reward, or commission. The managers insist that the note was given in consideration of improper services rendered by Judge Archbald in behalf of Frederick Warnke, and this contention is abundantly established by the testimony. It is absurd to contend that it was due Judge Archbald for making a sale of the old Gravity fill, for the judge did not make that sale. It is equally absurd to contend that he was entitled to receive it as a commission by reason of the fact that he had an option on the property, for the evidence shows that he did not at the time of the sale hold any option thereon and had not for months previous to the consummation of the deal.

The sale was made by John W. Berry, agent of Lacoe & Shiffer, directly to the purchasers, and neither Judge Archbald nor John Henry Jones had anything to do with closing the deal. The facts shown by the testimony in regard to this transaction are as follows: Frederick Warnke owned a mining operation at Lorberry, which was held under a lease from the Philadelphia & Reading Coal Co., a subsidiary of the Philadelphia & Reading Railroad Co. W. J. Richards was vice president of both the coal company and the railroad company; George F. Baer was president of both companies. Mr. Warnke had purchased a two-thirds interest in this lease from one Baird Snyder under an agreement that the Philadelphia & Reading Coal Co. would furnish an assignment of the lease to Warnke. Mr. Warnke took possession of the property, made considerable improvements thereon preparatory to operating the same, and then called upon the coal company for the mining maps pertaining to the same, whereupon he was notified by the company that the lease under which he claimed title had been forfeited two years previously, and the coal company refused to recognize his rights in the premises. Mr. Warnke then made repeated efforts in person by conferences with Mr. Richards and President Baer to get them to reconsider their action and allow him to operate the property under a lease, which they refused to do. Then he endeavored to get them to allow him a lease on another property owned by the Philadelphia & Reading Coal Co. known as the Lincoln dump, and this they also refused to do. He then made efforts, through his attorneys and other friends, to get these officials to reconsider their action, but they persistently refused to do so. Finally he appealed to Judge Archbald and asked the judge to intercede for him with Richards, the vice president of the coal company. The judge agreed to do so and made an arrangement with Mr. Richards for an interview with him at Wilkes-Barre, which is 80 miles distant from Scranton.

Judge Archbald called on Richards at Wilkes-Barre in Warnke's behalf, but failed to get Mr. Richards to reconsider his action in regard to the lease at Lorberry or to give Mr. Warnke a lease on the Lincoln culm dump. Shortly after this occurred Mr. Warnke was employed by a brewing company to examine a property known as the old gravity fill, which they were considering purchasing from Judge Archbald and John Henry Jones, who, as already stated, at one time had an option on the property. The brewing company decided not to purchase the property and Warnke decided to consider the question of purchasing it for himself and went to John Henry Jones to inquire about the title. John Henry Jones referred him to Judge Archbald, telling him that Judge Archbald knew all about the title. Warnke then called upon Judge Archbald in the Federal building and the following occurred, as shown on page 738 of the proceedings. Warnke testified:

So I asked the judge about the title and he said he could not be my attorney. I says, "I understand you know something about these right of ways that went through this property—this Lacoe & Shiffer property." He said he did. I says, "All I want is your opinion whether you think the title is right or wrong." He told me the title as far as he knew, and he went on to explain the right of ways, and how the Pennsylvania came in possession of it, and told me then how it was dated back to Lacoe & Shiffer. I told him then that I was thinking of purchasing the property. Q. You were then asked what month or year, and you stated it was sometime in December and proceeded. Yes. So I told the judge that his information to me, as far as the title was concerned, was just as good for me as to get an attorney, and I would compensate him for it, and he says, "No; you need not do that at all." I says, "I really consider it worth to me just as much as an attorney's fee, and I would like to have you accept it from me if I purchase the property."

This testimony was given by Mr. Warnke before the Judiciary Committee, and was read to the witness when he appeared before the Senate in this trial, and after it was read the following questions were propounded to him:

Q. (By Manager DAVIS.) Is that your statement of the interview?
The WITNESS. Yes, sir.
Q. Is that correct?—A. Yes, sir.

This is all the evidence in the case pertaining to any kind of service rendered by Judge Archbald to Frederick Warnke or to any member of the company in consideration for which he demanded and received the $500 note referred to.

The facts, briefly stated, concerning the transaction which Judge Archbald had with W. W. Rissinger are these: Rissinger was the chief owner of the old Plymouth Coal Co. In 1908 he sued a number of insurance companies for a fire loss which occurred in his coal properties. Some of these cases were transferred from the State court to the United States court at Scranton, over which Judge Archbald presided on October 3. They came on for trial early in November. After the plaintiff had offered his evidence the defendant insurance companies demurred to the evidence. Judge Archbald overruled the demurrer and held that the evidence which Rissinger had offered was sufficient to send the cases to the jury, thereupon the attorney for the defendant insurance companies proposed a settlement, and after some negotiations it was agreed that judgments for about $25,000 be entered payable in 15 days, which time expired about November 28.

After these suits had been commenced Rissinger began negotiations with Judge Archbald concerning an interest in the gold-mining scheme in Honduras. He had George Russell, the promoter of the scheme, come from New York and have a conference with the judge the latter part of September. Negotiations continued until the 28th day of November. On that date Rissinger made a note for $2,500 payable to Judge Archbald and to Mrs. Hutchinson, the mother-in-law of Rissinger. This note was indorsed by Judge Archbald and delivered to Rissinger.

After some inquiry on the part of the bank as to the financial standing of Mrs. Hutchinson the bank discounted the note, and judgment was immediately taken by confession against Rissinger and Mrs. Hutchinson, his mother-in-law, but not against Judge Archbald. It seems from the evidence that the bank was relying, or had agreed to rely, solely on Rissinger and Mrs. Hutchinson for payment, as is manifest by the fact that judgment was not taken against Archbald. The note was discounted about December 12, and some two months later 84 shares of stock were issued by the Scranton Gold Mining Co., which Rissinger had organized for the purpose of taking an interest in the Honduras gold mining scheme, for which he paid nothing. He never paid any part of the $2,500 note, and was never called upon to pay it. It was paid by Rissinger, together with interest. Rissinger testified that Judge Archbald gave no obligation of any kind to pay for this stock, and he was not expected to pay for it. So far as the testimony disclosed, it was purely a gift. The judge's explanation that he understood it to be collateral security for his liability on the note is controverted by all the facts and circumstances in the case. The note ran for four months, and this stock was issued and delivered about two months after the note was given. If Judge Archbald was liable at all on the note he was liable for $2,500. Even the face value of this stock amounted only to $1,680. The stock was not assigned to Judge Archbald. It was issued originally to him by the corporation.

Why this gift from Rissinger? It was on account of one of two things. Either it had relation to the suits which Rissinger had had before Judge Archbald or it was for the purpose of giving better standing to the gold-scheme enterprise in which Rissinger was interested, and to enable Rissinger thereby to use Archbald's name for the promotion of the scheme. In either view of the case Judge Archbald was culpable, and indicates plainly that he was willing to accept gifts which had relation to his official duties, or was willing to barter the things, which came to him by reason of being judge, for filthy lucre.

Now, Mr. President, I need not discuss the doctrine of reasonable doubt. I do not think it has any real application here. I think the facts are plain and palpable. I think they are in their nature susceptible of being understood, susceptible of being construed, and I think the Senate capable of drawing its own conclusion from the admitted and proven facts. Reasonable doubt is the refuge that is invoked in behalf of the petty criminal, but, Mr. President, I do not recall in all the cases of impeachment heretofore had before the Senate of the United States that witnesses have been called to put in issue the character of the respondent.

But whether that be correct or not, this is not a case dependent upon circumstancial evidence or of such doubt that his

reputation or character can save him from the inevitable result of his persistent and inexcusable course of conduct.

Mr. President, try this case by the standard of ethics promulgated by any bar association, by the standard of ethics announced by any judge, by the standard of ethics which obtains in respect to the conduct of any high-minded judge. I think I am authorized in saying that the counsel for the respondent filed a brief before the committee in the House in which they admitted improprieties and indiscretions, but claimed that they were only improprieties and indiscretions. It remained for them to come to the Senate to deny that those acts were improper and indiscreet. In effect the judge says, "Yes, I made the trades; yes, I took the money; what of it? I am in office for life; you can not get me out." Senators, what of it? His conduct was improper. His course of conduct in repeated instances shows impeachable misbehavior, impeachable misdemeanors. Take the Century Dictionary and read the meaning of the phrase "during good behavior."

During good behavior: As long as one remains blameless in the discharge of one's duties or the conduct of one's life; as, an office held during good behavior.

In the case of State ex rel. Attorney General v. Lazarus (1 So. Rep., 376) Judge Poche said, in reference to those who framed the constitution of Louisiana:

They acted on the idea contained in the paternal recommendation of the first, the great chief justice of Louisiana, Judge Martin, when he said, "All those who minister in the temple of justice, from the highest to the lowest, should be above reproach and suspicion. None should serve at its altar whose conduct is at variance with his obligations."

Sharswood, in his work Professional Ethics, says this:

Counsel should ever remember how necessary it is for the dignified and honorable administration of justice, upon which the dignity and honor of their profession entirely depend, that the courts and the members of the courts should be regarded with respect by the suitors and people; that on all occasions of difficulty or danger to that department of government they should have the good opinion and confidence of the public on their side. Good men of all parties prefer to live in a country in which justice according to law is impartially administered. (P. 63.)

Another plain duty of counsel is to present everything in the cause to the court openly in the course of the public discharge of its duties. It is not often, indeed, that gentlemen of the bar so far forget themselves as to attempt to exert privately an influence upon the judge, to seek private interviews, or take occasional opportunities of accidental or social meetings to make ex parte statements or to endeavor to impress their views. They know that such conduct is wrong in itself and has a tendency to impair confidence in the administration of justice, which ought not only to be pure, but unsuspected. (Pp. 66, 67.)

I now read from the case of Leeson v. General Council of Medical Education and Registration (43 Chancery Div. Law Rep., 384, 385), where Lord Justice Bowen said:

As the lord justice has said, nothing can be clearer than the principle of law that a person who has a judicial duty to perform disqualifies himself for performing it if he has a pecuniary interest in the decision which he is about to give or a bias which renders him otherwise than an impartial judge. If he is an accuser, he must not be a judge. If he has a pecuniary interest in the success of the accusation, he must not be a judge. Where such a pecuniary interest exists, the law does not allow any further inquiry as to whether or not the mind was actually biased by the pecuniary interest. The fact is established from which the inference is drawn that he is interested in the decision, and he can not act as a judge. But it must be in all cases a question of substance and of fact whether one of the judges has in truth also been an accuser. The question which has to be answered by the tribunal which has to decide—the legal tribunal before which the controversy is waged—must be: Has the judge whose impartiality is impugned taken any part whatever in the prosecution, either by himself or by his agents? I think it is to be regretted that these two gentlemen, as soon as they found that the person who was accused was a person against whom a complaint was being alleged by the council of a society to which they subscribed and to which they in law belonged as members, did not at once retire from the council. I think it is to be regretted, because judges, like Cæsar's wife, should be above suspicion, and in the minds of strangers the position which they occupied upon the council was one which required explanation.

Mr. President, if it were becoming on this occasion, and if I were trained in the dramatic art, I could indulge in realism and I could picture to you this judge, sent hence unwhipped of justice, saying to the world, "I have done nothing wrong; the Senate has approved my course of conduct; my soiled garments have been washed, and the judicial ermine is restored in snowy whiteness to my shoulders." You could see him on the bench. But what, Mr. President, would the humble shipper engaged in interstate commerce think when he came to try his case before this judge and recalled his secret correspondence with and the secret arguments made by Helm Bruce, the railroad attorney, and remembered the obligations under which the railroads had put the judge? Ah, Mr. President, would that humble suitor for justice at his hands have confidence in him? Would he not think that justice would be denied to him by such a man? Let me say, any underground connection between corporations engaged in interstate commerce and Federal judges must not be tolerated or excused.

The counsel for the respondent made the Christmas bells ring; he heard the singing of the Christmas carols; he invoked love and forgiveness, those blessed attributes of our Savior, in behalf of his guilty client. But let us remember that while love and mercy are divine attributes, perhaps a higher attribute is justice. Let us remember that, long after the first Christmas carols had been sung and the Savior of mankind had reached maturity, endowed as He was with divine gifts and with the best that is in humanity as well, He had the attribute of justice; He had the impulse of righteous indignation. Wrong and outrage fired His soul, so that when He looked into the sacred temple and witnessed the profanation of that hallowed place, not love, not forgiveness, but justice was the high motive, the divine impulse that swelled in His combined nature of God and man and made him scourge from the temple the money changers who had desecrated its holy altars!

Mr. President and Senators, in behalf of the House of Representatives, I thank you for your courteous treatment of the managers; I thank you for this patient and impartial trial. I thank especially the Presiding Officer, who has so long, so patiently, and with such conspicuous fairness and ability guided these proceedings.

Mr. President, the case is now left with you and your associates in the confident belief that the people of the United States in their organic law have a remedy to expel from office a faithless judge. We confidently submit the case to the deliberation and high judgment of this Senate.

Mr. REED. Mr. President, I desire to send to the desk and have read a question which, however much it may appear on its face to be out of order, I want to ask the Senate to permit to be read to Judge Archbald for his answer. The question will show its own importance, I trust.

The PRESIDENT pro tempore. The Senator from Missouri sends to the desk a question which he asks permission of the Senate to have propounded to the respondent. Is there objection?

Mr. WORTHINGTON. Mr. President, as one of the counsel for Judge Archbald, before the question is asked, I want to say that we can not make objection to any question that is put by a Senator, provided it be understood after the answer is made that we shall have the right to address ourselves to the Senate as to the effect of the answer or its bearing upon the case.

Mr. REED. I ask now that the question be read to the Senate for its information, so that the Senate may understand the request.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Missouri?

Mr. LODGE. That the question be read?

The PRESIDENT pro tempore. The Senator from Missouri has really submitted two requests. One is that the question submitted by him shall be read, and the other is that it be propounded to the witness.

Mr. REED. My request now is that the question be read to the Senate in order that the Senate may determine whether it desires to have it propounded to the witness.

The PRESIDENT pro tempore. Is there objection to the reading of the question which the Senator from Missouri desires to have propounded to the respondent? The Chair hears none, and the Secretary will read the question.

The Secretary read as follows:

You have testified that you were in doubt with reference to the proper construction to be placed upon the testimony of Mr. Compton, and that thereupon you wrote a letter to Helm Bruce, the attorney, asking him for his construction of the evidence; and you have further stated that you attached the reply written by Helm Bruce to the record. It appears in the original record that in the sentence which appears in typewriting, "We did apply it there," an alteration is made by pen and ink, a caret being inserted between the words "did" and "apply," and a line is drawn from this caret to the margin and the word "not" written. Did you make this alteration?

Mr. REED. Mr. President, the purpose of the question is this: In the original record it appears that the text of the answer was actually changed, so that the record now to go before the Supreme Court goes with the word "not" written in it. I desire to know, and I think the Senate ought to know, whether Judge Archbald wrote that word "not" in that record. I ask that the question be propounded.

Mr. CRAWFORD. Mr. President, I simply desire to ask a question of the Senator from Missouri.

The PRESIDENT pro tempore. The Chair is obliged to say that the rules will not permit the Senator to do so.

Mr. CRAWFORD. Very well. I did not recollect that the testimony showed the condition which the Senator from Missouri states in his question.

Mr. WORTHINGTON. Mr. President, on behalf of Judge Archbald, I object to the question being put to him at this stage

of the proceedings, unless his counsel may have the opportunity, after the evidence is introduced, of making an argument upon the case as it may then be presented.

The PRESIDENT pro tempore. Is there objection to proponding the question?

Mr. CLARK of Wyoming. Mr. President, I move that the doors be closed for deliberation.

The motion was agreed to; and the Senate proceeded to deliberate with closed doors.

The managers on the part of the House of Representatives and the respondent and his counsel thereupon withdrew from the Chamber.

After 1 hour and 4 minutes the doors were reopened.

The respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The PRESIDENT pro tempore. The Chair will state as to the question of the Senator from Missouri [Mr. REED], that the Senate in private conference determined that the question should not be asked.

Mr. REED. Mr. President, in order to save the Senate voting upon the question in public, simply to save the time of the Senate, I will withdraw the request.

Mr. CLARK of Wyoming. I move that the Senate sitting as a Court of Impeachment adjourn.

The PRESIDENT pro tempore. The Chair hopes the Senator will withhold the motion for a moment.

Mr. CLARK of Wyoming. Certainly.

The PRESIDENT pro tempore. The Chair thinks it is due, in order properly to keep the record, to announce that the junior Senator from Arkansas [Mr. HEISKELL] has not been sworn in in this proceeding; and the Chair calls the attention of the Senator from Mississippi [Mr. WILLIAMS] to that announcement.

Mr. WILLIAMS. Mr. President, I am authorized by the junior Senator from Arkansas to say that he has not been able to read the pleadings or the evidence; that he has come here so recently that he has heard none of the evidence and that he has heard only a part even of the argument; and that under those circumstances he does not consider that he would be quite a competent judge in deciding the grave issues that would be presented before him. He therefore asks to be excused from being sworn in as an impeachment judge.

The PRESIDENT pro tempore. Without objection, that direction will be given to it.

Mr. CLARK of Wyoming. I move that the Senate sitting as a Court of Impeachment adjourn.

The motion was agreed to.

Mr. GRONNA. I move that the Senate adjourn.

Mr. SMOOT. I hope the Senator will withhold the motion for a moment.

Mr. Manager CLAYTON. May I ask, Mr. President, whether the Senate sitting as a Court of Impeachment adjourns to a time set?

The PRESIDENT pro tempore. The Chair should have stated that the Senate sitting as a Court of Impeachment stands adjourned until 1 o'clock to-morrow. It would have resulted that way anyhow, because that is the regular order.

The managers on the part of the House, the respondent, and his counsel thereupon withdrew.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. SMOOT. Mr. President, this morning unanimous consent was asked for agreement to vote on the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases at 3 o'clock on the 20th of January. I ask consent that that be resubmitted to the Senate.

Mr. GRONNA. I rise to a point of order.

Mr. WILLIAMS. A parliamentary inquiry. Does it require unanimous consent to vacate the previous unanimous consent?

The PRESIDENT pro tempore. It can not be done.

Mr. SMOOT. I ask that it be resubmitted.

Mr. LODGE. He asks that it be resubmitted.

Mr. WILLIAMS. Does the Senator request unanimous consent?

The PRESIDENT pro tempore. The Chair did not understand the Senator from Utah to make that request.

Mr. WILLIAMS. Then I make the point of order that a unanimous-consent agreement can not be repealed except by unanimous consent, and that the only proper request is a request for unanimous consent to reconsider what was done by unanimous consent. I do not know what are the rules of the Senate, but I do know, as a matter of common sense, that that which can be done by unanimous consent can be undone by unanimous consent, and that that which has been done by unanimous consent can not be undone in any other way.

The PRESIDENT pro tempore. The Chair recognized the Senator from North Dakota, and he made a motion to adjourn, and he has not withdrawn it.

Mr. KENYON. On that I ask for the yeas and nays.

The PRESIDENT pro tempore. The Senator from Iowa asks for the yeas and nays.

Mr. WILLIAMS. I ask a ruling, then, upon the point of order.

The PRESIDENT pro tempore. The motion to adjourn is pending.

Mr. WILLIAMS. I beg the Chair's pardon. I thought that had been disposed of.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from North Dakota that the Senate adjourn, on which the Senator from Iowa asks the yeas and nays.

The yeas and nays were not ordered.

The motion was not agreed to.

Mr. SMOOT. I now ask again that the question be resubmitted to the Senate for a unanimous-consent agreement setting a certain date to vote upon Senate bill 4043, upon the ground that when it was presented to the Senate this morning I was in the Chamber and did not hear it offered or read, but addressed the Chair for the purpose of objecting before any other business was transacted. I ask that it be resubmitted upon that ground.

Mr. SANDERS. I simply wish to say that this morning, without reflection, I requested that the question be resubmitted. But since then I have had time for consideration and am of the opinion that it is a question for the Chair to decide, and that what I said about reconsideration is of no effect whatever.

Mr. WILLIAMS. Mr. President, I make the point of order, and if the Chair will indulge me for a few moments I will say a few words on the point of order.

The point of order which I make is that the Senate having, by unanimous consent, adopted a certain course of procedure and the decision of the Senate having been announced to the Senate—— [A pause.]

The PRESIDENT pro tempore. The Chair is listening to the Senator from Mississippi.

Mr. WILLIAMS. The point of order which I make—— [A pause.]

The PRESIDENT pro tempore. The Chair is listening to the Senator.

Mr. WILLIAMS. But the Chair can not hear me when the Clerk is talking to him.

The point of order which I make is that unanimous consent having been once requested of the Senate, the request having been put to the Senate, the Senate having agreed to it, the temporary occupant of the chair having announced that the Senate had agreed to it, it becomes an order of the Senate by unanimous consent, and that there is no way by which the unanimous-consent order can be dispensed with except by a request for unanimous consent to reconsider or reverse the previous order.

Now, I understand that the gravamen of the argument upon the other side is this: That the Senator from Utah happened at the time to have his attention diverted to something else, and having his attention diverted he did not hear the request for unanimous consent; that as soon as he was informed of the nature of the request and of the action of the Senate and of the announcement of the Chair he arose for the purpose of saying that if his attention had been called to the request he would have objected, and then urging, as a matter of courtesy among Senators, that his objection should be taken nunc pro tunc.

Now, I admit that the main rule in the Senate is one of courtesy amongst Senators; but I submit that while the Senate owes Senators courtesy, Senators also owe the Senate courtesy. I suppose I am perhaps the most unfortunate man in this body to make this argument. I am more than half deaf, and very frequently things occur in the Senate, even when the Senate is in order, which I do not hear; but I do not think it would be in order for me—because that is my misfortune—to rise and ask the Senate, acting for 90,000,000 people, to reverse itself and to reverse its entire procedure because I had been unfortunate enough not to hear, whether the fact of my not hearing was due to the fact that I could not hear or because at the time I was doing something else, or was at the time outside the Senate Chamber.

I make the point of order, Mr. President, and I should like a ruling on it for the guidance of the Senate in the future. Perhaps, and for all I know, some ruling may have been made upon the same point in the past. I do know that at the other end of

the Capitol the request would not even be considered for one second; it would have been passed by upon the curt statement of the Chair that the House had already decided the question and that that announcement could not be reversed except by unanimous consent. A Member would be permitted to make request for unanimous consent to reconsider, and if that were objected to it would fall by the wayside. My only object in making the point of order is that we may have certain guidance for the future.

Mr. LODGE. Mr. President——

The PRESIDENT pro tempore. The Senator from Massachusetts——

Mr. WILLIAMS. I am not through. I was only waiting for the President to get through with the Clerk.

The PRESIDENT pro tempore. The Senator from Mississippi will proceed.

Mr. WILLIAMS. My only object, as I said, in making the point of order is that the Senate may have guidance for certain conduct in the future, so that we may know to a certainty by what rules we are guided.

As far as I am individually concerned, although I am in favor of the passage of the bill—not upon the ground for which gentlemen contend, but because I am absolutely a States-rights Democrat—in spite of all that, if the request for unanimous consent is made I shall not object. But I do make the point of order that a unanimous-consent agreement can not be vacated. [A pause.] I will take my seat, Mr. President.

The PRESIDENT pro tempore. The Chair hopes the Senator from Mississippi will proceed. The Chair has directed——

Mr. WILLIAMS. I notice that, and that is the reason I took my seat. I was about through, at any rate.

The PRESIDENT pro tempore. The Chair hopes the Senator will hear what the Chair was about to say. He had directed the Secretary not to interfere.

Mr. WILLIAMS. All I have to add is that if the question is put, and if I shall be listening and hear it, I shall not make objection to the request for unanimous consent, because I think there was a certain amount of misfortune about the matter; but I do want a decision of the occupant of the chair and the Senate upon the question whether a unanimous consent once granted by the Senate, deliberately, too, because it was deliberately granted, although the Senator from Utah happened not to hear it; the request was very deliberately made; and the then occupant of the chair, the Senator from Minnesota [Mr. CLAPP] very deliberately put the question—well, I beg the pardon of the Senator from Massachusetts [Mr. LODGE], but a mere shaking of his head will not destroy my impression. My question is whether, after that is done, a unanimous consent granted by the Senate, in open session, after an open request, after an open demand, and after a query by the Chair "Is there objection?" and after an open announcement that "The Chair hears none," can be vacated in any other possible way than by unanimous consent.

Mr. LODGE. Mr. President, I do not think a unanimous consent once made can be vacated by another unanimous consent, for there is no proof whatever that those who agreed to vacate were all present when the unanimous consent was given. Of those who were present when the unanimous consent was given, some may be absent, and it has always been held here that unanimous consent could not be vacated. This is not an attempt to vacate a unanimous consent. I was not present when this occurred this morning; I was in a conference and heard no part of it. I am speaking simply to the parliamentary question involved. This is not, as I understand, a question of vacating unanimous consent. It proceeds upon the proposition that no unanimous consent was ever properly given, that no unanimous consent ever existed.

Mr. WILLIAMS. Will the Senator submit to an interrogation?

Mr. LODGE. Certainly.

Mr. WILLIAMS. How, then, can the Senate give a unanimous consent except by some Senator requesting it, the Chair announcing the request to the Senate, and then waiting a due time and asking if there is objection, and then saying that the Chair hears none, and then announcing that the consent has been given? Is there any other way in which the Senate can give unanimous consent?

Mr. LODGE. Mr. President, it has occurred again and again in this Senate. I have heard it year after year. I have heard the occupant of the chair say, "Is there objection?" and hearing none, state that the order is made, and then some Senator, who has been trying to engage his attention, raises the point that he had not been observed.

I heard the late Vice President Sherman say more than once, "If that is the case, the Chair will resubmit the question." As I say, I am not speaking of the merits of what happened to-day, but the adequacy of this unanimous consent was called in question, as I understand, immediately after it was announced, that it had never been properly given, that the question was raised at once, and discussion was cut off only by the arrival of the hour of 1 o'clock.

Mr. WILLIAMS. If the Senator from Massachusetts will permit an interruption one second——

Mr. LODGE. I will.

Mr. WILLIAMS. I may be wrong, but I do not understand the facts to be as the Senator from Massachusetts states them. I understand the fact to be that in between the time when the occupant of the chair announced that he heard no objection and the time when he made the announcement that the order would be granted there was intervening business, I think, by the Senator from Minnesota. Now, if there is any doubt about that, I would like to have the record read.

Mr. LODGE. It was read this morning.

Mr. WILLIAMS. I heard it and I heard the stenographer read it later, and what he read was this: That at that time the Senator from Utah rose, and then he said that the Senator from Minnesota, or somewhere else—I do not remember where—rose, and the Chair recognized the other Senator and attended to the business which he had in hand, and then, after that, the Senator from Utah was recognized by the Chair.

Mr. LODGE. That is a question of recognition, and not of objection to it at once. The Senator from Utah, if I am correctly informed—I was not present—was on his feet asking recognition.

Mr. WILLIAMS. He may have intended to object, and did not. In other words, the Chair recognized——

Mr. LODGE. But, Mr. President, I have never before in my experience in the Senate, when the granting of a unanimous consent has been questioned, seen any attempt made to prevent a resubmission. There is no other way of getting at it.

But on the question of the point of order. I would call the attention of the Chair to the ruling made by Mr. Frye, which I remember. He said:

> The Chair can not rule on a question arising from a unanimous-consent agreement; it is for the Senators themselves to determine what it means.

It is not a matter of rule. It is a matter of unanimous consent and agreement.

Now, Mr. President, it seems to me it is too important a question to be decided at this late hour in a thin Senate. I should have made no objection to the unanimous consent; I should have assented to it very cheerfully, but I think it is of the utmost importance in the conduct of the business of the Senate that there should never be unanimous consent about which any Senator or Senators have any doubt as to its fairness or about the way in which it was obtained.

Mr. GRONNA. Mr. President, a parliamentary inquiry. I should like to know what question is before the Senate.

The PRESIDENT pro tempore. The Senator from Utah asked for a resubmission of the question as to whether or not there should be unanimous consent. The Senator from Mississippi raised a point of order upon that request to the effect that a unanimous consent once granted can not be set aside by another unanimous consent. The Chair understands that to be the point of the Senator, and that is the parliamentary situation.

Mr. SMOOT. I have not asked for unanimous consent.

Mr. GRONNA. Mr. President, I think the point of order is so well taken that I shall not attempt to make any further argument upon it. I believe, as the Senator from Mississippi has said, that this question can not now be resubmitted. Certainly the Senator from Utah can not ask for a reconsideration, for I do not believe that he could pretend that he voted for it; and no question can be open for a reconsideration except by a Senator who votes for the particular question.

Mr. LODGE. If the Senator will allow me one moment, you can not reconsider a unanimous-consent agreement, of course.

Mr. GRONNA. That is the point I make.

Mr. LODGE. No reconsideration is possible.

Mr. GRONNA. That is the point I was making. As to the procedure this morning, I had the floor when the Senate went into session as a court, and I attempted then to say that the request for this special order was considered deliberately. It was offered by the Senator from Tennessee; it was read by the Secretary; and the Chair propounded the question to the Senate, Is there objection? I was sitting in my seat and I paid particular attention to what was going on.

It is true, as the record shows, that the Senator from Utah rose in his seat after the announcement, but another Senator was recognized. The Senator from Oklahoma [Mr. OWEN] was

recognized, and other business was done before the Senator from Utah was recognized.

So I contend, Mr. President, that this question can not now be resubmitted.

The PRESIDENT pro tempore. On the question of order raised by the Senator from Mississippi [Mr. WILLIAMS], the Chair would state that if this were asking to set aside a recognized unanimous-consent agreement the Chair would undoubtedly hold that that could not be done; but the Chair does not understand that to be the question.

The present occupant of the chair was not occupying the chair when the incident occurred which is now the subject matter of discussion, and was not in the Chamber. The Chair is informed, however, that the motion to resubmit is based upon the contention that there was an immediate objection to it, and a statement that it was not heard.

The Chair thinks the Senator from Massachusetts [Mr. LODGE] has correctly stated the practice of the Senate; but it has been the practice of the Senate, certainly within the administration of the late Vice President, whenever a result was announced by him, and Senators would challenge the correctness of it, stating that they had not agreed to it and had not had the opportunity to interpose an objection, in a very great many cases the Vice President has promptly said that he would again submit the question.

That, the Chair understands, is the nature of the proposition which is now made by the Senator from Utah. It involves the question whether or not it has been finally submitted to the Senate and agreed to by unanimous consent.

The Chair would not undertake to decide that for the Senate, but he thinks it is entirely competent for the Senate to determine whether or not there has or has not been unanimous consent. Therefore the Chair will submit to the Senate for its determination the question whether there has or has not been unanimous consent, and he will submit it in the form of a motion for resubmission, which would involve the same question.

Mr. BRANDEGEE. Mr. President, in view of what the Senator from Massachusetts has said about the importance of the question which is now before us and the argument which he made as to why one unanimous consent should not be allowed to be set aside by another unanimous consent, to wit, that the same group of Senators who gave the unanimous consent might not be upon the floor when it was attempted to set it aside, it seems to me the same argument exists why a unanimous-consent agreement once granted should not be resubmitted after the expiration of such a long period of time as eight hours, and for the same reason—that the same Senators may not be on the floor now who were on the floor when the agreement was entered into.

Mr. LODGE. The Senator assumes that consent has been granted. The point of contention, as I understand it, is that it never was granted.

Mr. BRANDEGEE. I understand what the Senator means to claim upon that point.

Mr. LODGE. I do not claim it. I was not present, and know nothing of the fact.

Mr. BRANDEGEE. I assumed the Senator claimed it now.

Mr. LODGE. I do not claim anything; I do not know.

Mr. BRANDEGEE. Very well. I make this claim: That the record shows that the consent was granted, as read by the stenographer this morning from his notes; and the question is whether a consent having been granted it shall stand when certain Senators intended to object, but by excusable inadvertence perhaps were not allowed; that they attempted to address the Chair, but were not recognized for the purpose, as was the case of the Senator from Utah. Whatever may be the merits of submitting the question by the Chair at that time, when the same Senators were on the floor, it seems to me it may be a grave question whether it ought to be submitted, as I said, at a period eight hours subsequent to the granting of it.

Mr. SMOOT. I suggest that we adjourn until to-morrow morning.

Mr. BRANDEGEE. I say this irrespective of any opinion I may have on the bill. It is immaterial to me, as far as the pending bill is concerned, which way it is decided, but it is of great importance, I agree with the Senator from Massachusetts and the Senator from Mississippi, to have it decided, so that Senators may be able to rely upon a unanimous-consent agreement and have a uniform practice in relation to it.

Mr. GRONNA. Mr. President——

Mr. LODGE. In reply to the Senator from Connecticut——

Mr. GRONNA. I suggest the absence of a quorum.

Mr. LODGE. If there is one thing more important than any other in a unanimous-consent agreement, it is that Senators should feel that they must carry it out in the most rigid good faith, and it should be obtained with the utmost possible fairness. Otherwise you will have no unanimous-consent agreements. These do not exist under rules. There is not a rule in the world that relates to them. They are mere agreements among Senators, and the Chair, as I have read Senator Frye, refuses to rule upon them at all. It is very important, in my judgment, to maintain the character of a unanimous-consent agreement.

I know nothing about this case. I should have given my consent. I know nothing about this case except that it is disputed that it was ever fairly given, and I think that is a very serious matter.

Mr. SMITH of Georgia. Will the Senator yield for one question?

Mr. LODGE. Certainly.

Mr. SMITH of Georgia. Suppose a unanimous consent stands upon our calendar, where Senators feel that they had not given consent, is there any power in the Chair to enforce it? Can it not be disregarded by the Senate if Senators see fit to do so?

Mr. LODGE. Absolutely. I will read what Senator Frye said at the same time. The President pro tempore further said:

> The responsibility of violating the agreement must rest with the Senators themselves. The Chair has no power to enforce it.

Mr. STONE. I should like to make this suggestion to the Senator. A unanimous consent agreement is a question that rests in the honor of Senators.

Mr. LODGE. Precisely.

Mr. STONE. The order for it, when fairly made, ought not to be violated.

Mr. LODGE. Precisely.

Mr. STONE. When a unanimous consent has been asked for, and even where the Chair held that he hears no objection, and it has been entered in a formal way, and a Senator rises and makes the inquiry that was made by the Senator from Utah this morning, it has been the uniform practice of the Senate, as I understand and as I have observed over and over again during my service, for the Chair to say that the question will be again submitted. It seems to me that the practices of the Senate in that respect, so uniform and long continued, are entitled to as much respect and consideration in a matter of this kind as the unanimous consent itself.

Mr. LODGE. I agree. All I have been contending for is the character of the unanimous consent. In this particular one I have no objection or interest.

Mr. WILLIAMS. I should like to ask the Senator from Massachusetts a question, because I want to get it into my mind as to what my duty shall be in future. I want to do what is right in the Senate. I understand, now, if the Senate can set aside this officially announced unanimous-consent agreement—whether it be by unanimous consent or not, it has been so officially announced and appears in the RECORD—because a Senator was having his attention momentarily diverted, what would be the rule about a man who did not hear because he was still further incapacitated by deafness, and what would be the rule about a Senator who did not hear it because he was outside of the Chamber? In other words, where are we to draw the line? If there be one official announcement by unanimous consent that is to be vacated on account of courtesy merely, a most highly estimable private virtue, then where are you to draw the line? Are you to draw it merely where a Senator was engaged in conversation, and therefore did not hear, or are you to draw it where a Senator is incapacitated in one ear and had that ear presented, and therefore did not hear, or are you to draw it because a Senator was engaged in necessary committee work and therefore was not present? Where are you to draw it and within what limit or time?

Mr. LODGE. If the Senator will allow me, I will tell him where the Senate has drawn the line. It has always drawn the line on a Senator who was present and who said to the Senate that he had not heard or that he had not been recognized in time, but not on a Senator who was absent from the Chamber. He was bound by the consent, because he was absent at his own risk when he knew it was likely to come up.

Mr. WILLIAMS. I would be glad to see that rule established. I want to know what is the rule.

Mr. LODGE. If a unanimous-consent agreement was adopted, and the Senator from Mississippi failed for any reason to hear it, and then it was brought to his attention and he should rise and say to the Chair, "I have not heard what was being asked; I ask that it be resubmitted," I think under the uniform practice of the Senate it would be resubmitted.

Mr. WILLIAMS. That would suit me remarkably well. What I waut to have is a uniform rule on the subject.

Mr. KENYON. Mr. President, the Senator from North Dakota [Mr. GRONNA] was recognized and made the suggestion of the absence of a quorum.

The PRESIDENT pro tempore. The Chair did not recognize the Senator from North Dakota on that statement. The Chair did not even hear the statement. It is not too late, if the Senator now makes it.

Mr. GRONNA. I suggest the want of a quorum.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to, and (at 8 o'clock and 14 minutes p. m.) the Senate adjourned until to-morrow, Saturday, January 11, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January 10, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We bless Thee, our Father in heaven, that though there are wide differences of opinion among men upon questions of theology, there is great unanimity of opinion upon pure religion and the questions of ethics. Since long before the ten great commandments were written on the tables of stone they were written in the hearts of men, so that above the value of wealth, of position, of everything else in this world a premium is set upon honesty, integrity, sobriety, and virtue. There is nothing stronger than faith, purer than virtue, warmer than love, nor more enduring than hope, and we pray that these things may live and grow until pure and undefiled religion shall be shed abroad in every heart. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

RESIGNATION OF REPRESENTATIVE HANNA.

The SPEAKER laid before the House the following communication:

FARGO, N. DAK., *January 2, 1913.*

Hon. CHAMP CLARK,
Speaker of the House of Representatives, Washington, D. C.

MY DEAR SIR: This is to advise you that I have this day tendered to Hon. John Burke, governor of North Dakota, my resignation as a Representative in Congress from the State of North Dakota; said resignation to take effect January 7, 1913.

Sincerely, L. B. HANNA.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Military Affairs was discharged from the further consideration of House Documents Nos. 1226 and 1228, Sixty-second Congress, estimates for appropriations for Benecia Arsenal, Benecia, Cal., and the same were referred to the Committee on Appropriations.

THE HALL OF THE HOUSE.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 771.

Resolved, That the Superintendent of the Capitol Building and Grounds is hereby authorized, under the direction and supervision of the commission, to rearrange and reconstruct the Hall of the House of Representatives and, within a total expenditure not exceeding $25,000, to procure and install the necessary furniture and furnishings in the Hall of Representatives for accommodating and seating the Members of the House of the Sixty-third Congress, and to do all such other things, under said direction and supervision and within said limit of cost, as may be necessary in the preparation of the Hall of Representatives for the assembling of the Sixty-third Congress.

The SPEAKER. Is there objection to the present consideration of this resolution?

There was no objection.

Mr. FOSTER. I would like to ask if this contemplates the removal of the desks.

Mr. FITZGERALD. Mr. Speaker, I desire to make this statement to the House: The present House has 396 Members, and now there are 400 seats and desks. The next House will have 435 Members. Several weeks ago, at my suggestion, the Superintendent of the Capitol Building and Grounds prepared a number of plans for rearrangement of the House, experimentally, to accommodate all of the Members. The commission to rearrange and reconstruct the Hall, under a statute passed a few years ago, met and had these various plans before it and decided to put in temporarily, or experimentally, benches without desks. It will require the rearrangement of the risers upon which the present desks are located. If the matter is to be done within the month of March, it is necessary that the superintendent be authorized to make the necessary contracts for the construction of the seats at once. It was believed desirable during the extra session to try out whether the House could do business permanently without desks, and it is believed to be important to have that trial before directions are given to make the permanent changes in the Hall directed some years ago. The purpose of this resolution is to provide for the rearrangement of the House so that during the extra session of the Sixty-third Congress which is to be held the business of the House will be transacted without desks, with an arrangement by which there will be two tables placed in the fore part of the Hall, at which men in charge of bills shall be expected to take their place at such times.

Mr. FOSTER. My recollection is that the plan submitted at one time was that there should be tables on either side of the aisle, back in the body of the Hall.

Mr. FITZGERALD. The particular location is somewhat indefinite. The plan contemplates taking out the first row, at present, of these seats, and desks will be located wherever, after the work has progressed, it is deemed most desirable and convenient to have them.

Mr. GARRETT. If the gentleman will permit, the tentative plan does not contemplate now any change in the walls?

Mr. FITZGERALD. None whatever. But it will be necessary to arrange the risers or steps in order to bring the Members as closely together as is possible with such an arrangement, and if no change were made in them it would be impossible to tell whether there would be any advantage in having them more compactly together. It is necessary, in order to make arrangements for the next Congress, that work begin at once on whatever is to be done.

Mr. STEPHENS of Texas. Will the gentleman permit a question? Will the gentleman be willing to add a line as to better ventilation?

Mr. FITZGERALD. It is impossible within the time that will elapse to do anything toward changing the ventilation of the House.

Mr. STEPHENS of Texas. Allow me to suggest to the gentleman that I think I could provide better ventilation by shutting all the doors here and giving us direct ventilation.

Mr. FITZGERALD. I am basing my statement largely on the technical advice of men who have made an exhaustive study of this Chamber. At any rate, it would require such alterations in the Chamber as could not be possibly made in the time available.

Mr. STEPHENS of Texas. Would there be any objection to changing the ventilation so as to protect the health of the Members?

Mr. FITZGERALD. I am heartily in favor of doing so, and I shall be very glad to have the gentleman bring his suggestions to the commission.

Mr. STEPHENS of Texas. I believe we have a Committee on Acoustics and Ventilation, have we not? Possibly it will be proper to refer it to that committee.

Mr. FITZGERALD. I believe that committee no longer exists.

Mr. STEPHENS of Texas. There should be such a committee.

Mr. FITZGERALD. It finished its labors and has been abolished.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

On motion of Mr. FITZGERALD, a motion to reconsider the vote whereby the resolution was passed was laid on the table.

ORDER OF BUSINESS.

Mr. RUSSELL. Mr. Speaker, this is, as I understand, Private Calendar day, set apart for pension business. I desire to submit this offer for unanimous consent: Inasmuch as the Post Office appropriation bill is pending and the gentlemen in charge of it are anxious to continue with it, I ask unanimous consent that the day following the completion of that bill, provided it does not fall on Monday or Wednesday, shall be set aside as a substitute for to-day, with all of the business that could come before the House to-day permissible on that day.

The SPEAKER. This is Private Calendar day, with the preference in favor of the pension committees, and the gentleman from Missouri [Mr. RUSSELL] submits a request for unanimous consent that the first day after the Post Office appropriation bill has been completed, provided it does not fall on Monday or Wednesday, shall be substituted for this day. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, would not the gentleman make his request that only pension bills on the Private Calendar be considered on that day?

Mr. RUSSELL. Some gentlemen have spoken to me about other bills pending on the Private Calendar, and requested that all the rights of the day be permissible as to such bills on that day. I did not want to cut out anybody.

Mr. MANN. Well, probably we would not go ahead with anything except pension bills if we had such a day set apart, and I think the consideration of pension bills only should be provided for on that day.

Mr. FITZGERALD. Mr. Speaker, the Post Office appropriation is reported; the Committee on Military Affairs is ready to report the Army appropriation bill, and the Committee on Appropriations is practically ready to report the fortifications appropriation bill. Only two of the general appropriation bills have passed the House thus far. Under those circumstances I am not able to consent to setting apart any day for any special class of bills. If the House desires to transact private business in preference to public business that must be enacted before the 4th of March, it must be so determined under the rules.

The SPEAKER. Is there objection?

Mr. FITZGERALD. I object.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 27148, the Post Office appropriation bill.

The SPEAKER. The gentleman from Tennessee [Mr. MOON] moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 27148, the Post Office appropriation bill.

Mr. RUSSELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RUSSELL. I would like to ask, if this motion prevails, whether or not there will be any chance for considering the pension bills pending on the calendar until two weeks from to-day?

The SPEAKER. There would not be. If gentlemen want to consider this appropriation bill, they will vote for the motion of the gentleman from Tennessee. If they want to take up the Private Calendar, they will vote against the gentleman's motion.

Mr. RUSSELL. I ask unanimous consent that we proceed now to consider the pension bills on the Private Calendar in the House as in Committee of the Whole.

Mr. MOON of Tennessee. I object, Mr. Speaker.

The SPEAKER. The gentleman from Tennessee objects. The question is on the motion of the gentleman from Tennessee.

The question was taken, and the Speaker announced that the "noes" seemed to have it.

Mr. MOON of Tennessee. A division, Mr. Speaker.

The SPEAKER. Those in favor of resolving the House into Committee of the Whole House on the state of the Union to consider the Post Office appropriation bill will rise and stand until they are counted. [After counting.] Forty-two gentlemen have arisen in the affirmative. Those opposed will rise and stand until they are counted. [After counting.] Forty-five gentlemen have arisen in the negative. On this question the "ayes" are 42 and the "noes" are 45.

Mr. MOON of Tennessee. No quorum, Mr. Speaker.

The SPEAKER. The gentleman from Tennessee raises the point of no quorum. Evidently there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. Those in favor of going into the Committee of the Whole House on the state of the Union for the consideration of the Post Office appropriation bill will answer "yea" when their names are called; those opposed will answer "nay."

The question was taken; and there were—yeas 86, nays 144, answered "present" 7, not voting 147, as follows:

YEAS—86.

Allen	Cox	Hay	Rouse
Ayres	Dent	Heflin	Shackleford
Beall, Tex.	Dies	Helm	Sheppard
Bell, Ga.	Doughton	Henry, Tex.	Sherley
Berger	Edwards	Holland	Sims
Blackmon	Ellerbe	Houston	Sisson
Borland	Evans	Humphreys, Miss.	Slayden
Brantley	Falson	Johnson, S. C.	Smith, Tex.
Broussard	Ferris	Jones	Sparkman
Buchanan	Fitzgerald	Lamb	Stedman
Burgess	Flood, Va.	Lee, Ga.	Stephens, Miss.
Burleson	Floyd, Ark.	Lever	Stephens, Nebr.
Byrns, S. C.	Fornes	Levy	Stephens, Tex.
Byrns, Tenn.	Garner	Lewis	Thayer
Callaway	Garrett	Lloyd	Townsend
Candler	Gill	McDermott	Tribble
Cantrill	Godwin, N. C.	Macon	Watkins
Carlin	Gregg, Pa.	Moon, Tenn.	Whitacre
Carter	Gregg, Tex.	Padgett	Witherspoon
Collier	Hardwick	Page	Young, Tex.
Cooper	Hardy	Reilly	
Covington	Harrison, Miss.	Roddenbery	

NAYS—144.

Adair	Fields	Kopp	Prince
Ainey	Foss	Korbly	Raker
Akin, N. Y.	Foster	La Follette	Ranch
Alexander	Fowler	Langham	Rees
Anderson	Francis	Langley	Richardson
Anthony	French	Lee, Pa.	Roberts, Nev.
Bathrick	Gallagher	Lenroot	Rodenberg
Beehne	Gillett	Lindbergh	Rothermel
Booher	Glass	Lobeck	Rubey
Brown	Goeke	Loud	Rucker, Colo.
Browning	Good	McCreary	Russell
Bulkley	Graham	McGillicuddy	Scully
Burke, Wis.	Gray	McKenzie	Sharp
Cannon	Greene, Mass.	McKinley	Simmons
Cary	Griest	McKinney	Siemp
Claypool	Hamill	McLaughlin	Sloan
Cline	Hamilton, Mich.	Madden	Smith, J. M. C.
Cooper	Hamilton, W. Va.	Maguire, Nebr.	Smith, N. Y.
Cullop	Hamlin	Martin, S. Dak.	Speer
Curley	Hammond	Matthews	Steenerson
Currier	Haugen	Merritt	Stephens, Cal.
Curry	Hawley	Miller	Sterling
Dalzell	Hayden	Mondell	Stone
Danforth	Hayes	Morgan, Okla.	Sweet
Davenport	Helgesen	Morrison	Switzer
Denver	Hensley	Moss, Ind.	Talcott, N. Y.
Dickson, Miss.	Howland	Mott	Thistlewood
Dodds	Hughes, Ga.	Murdock	Thomas
Donohoe	Humphrey, Wash.	Murray	Tilson
Doremus	Kendall	Neeley	Underhill
Draper	Kennedy	Norris	Volstead
Driscoll, D. A.	Kindred	Nye	Warburton
Dyer	Kinkaid, Nebr.	Patton, Pa.	White
Esch	Kinkead, N. J.	Pepper	Willis
Fairchild	Knowland	Post	Wood, N. J.
Farr	Konop	Powers	Young, Kans.

ANSWERED "PRESENT"—7.

Adamson	Dwight	Mann	Talbott, Md.
Bartlett	Hinds	Parran	

NOT VOTING—147.

Aiken, S. C.	Fordney	Lindsay	Redfield
Ames	Fuller	Linthicum	Reyburn
Andrus	Gardner, Mass.	Littlepage	Riordan
Ansberry	Gardner, N. J.	Littleton	Roberts, Mass.
Ashbrook	George	Longworth	Robinson
Austin	Goldfogle	McCall	Rucker, Mo.
Barchfeld	Goodwin, Ark.	McCoy	Sabath
Barnhart	Gould	McGuire, Okla.	Saunders
Bartholdt	Green, Iowa	McKellar	Scott
Bates	Greene, Vt.	McMorran	Sells
Bradley	Gudger	Maher	Sherwood
Burke, Pa.	Guernsey	Martin, Colo.	Small
Burke, S. Dak.	Harris	Mays	Smith, Saml. W.
Burnett	Harrison, N. Y.	Moon, Pa.	Smith, Cal.
Butler	Hart	Moore, Pa.	Stack
Calder	Hartman	Moore, Tex.	Stanley
Campbell	Heald	Morgan, La.	Stevens, Minn.
Clark, Fla.	Henry, Conn.	Morse, Wis.	Sulloway
Clayton	Higgins	Needham	Taggart
Copley	Hill	Nelson	Taylor, Ala.
Crago	Hobson	Oldfield	Taylor, Colo.
Cravens	Howard	Olmsted	Taylor, Ohio
Crumpacker	Howell	O'Shaunessy	Towner
Daugherty	Hughes, W. Va.	Palmer	Turnbull
Davidson	Hull	Patten, N. Y.	Tuttle
Davis, Minn.	Jackson	Payne	Underwood
Davis, W. Va.	Jacoway	Peters	Vare
De Forest	James	Pickett	Vreeland
Dickinson	Johnson, Ky.	Plumley	Webb
Difenderfer	Kahn	Porter	Weeks
Dixon, Ind.	Kent	Pou	Wilder
Driscoll, M. E.	Kitchin	Pray	Wilson, Ill.
Dupré	Konig	Pronty	Wilson, N. Y.
Estopinal	Lafean	Pujo	Wilson, Pa.
Fergusson	Lafferty	Ralney	Woods, Iowa
Finley	Lawrence	Randell, Tex.	Young, Mich.
Focht	Legare	Ransdell, La.	

So the motion was rejected.

The Clerk announced the following pairs:

For the session:

Mr. RIORDAN with Mr. ANDRUS.

Mr. PALMER with Mr. HILL.

Mr. LITTLETON with Mr. DWIGHT.

Mr. BARTLETT with Mr. BUTLER.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Until further notice:

Mr. GOULD with Mr. HINDS.

Mr. JAMES with Mr. LONGWORTH.

Mr. MARTIN of Colorado with Mr. WOODS of Iowa.

Mr. LEGARE with Mr. WILSON of Illinois.

Mr. LINDSAY with Mr. WILDER.

Mr. CRAVENS with Mr. WEEKS.

Mr. LITTLEPAGE with Mr. VREELAND.

Mr. ROBINSON with Mr. VARE.

Mr. WILSON of New York with Mr. TOWNER.

Mr. WILSON of Pennsylvania with Mr. TAYLOR of Ohio.

Mr. TUTTLE with Mr. SULLOWAY.

Mr. TURNBULL with Mr. SMITH of California.

Mr. TAYLOR of Colorado with Mr. SAMUEL W. SMITH.

Mr. TAYLOR of Alabama with Mr. SELLS.

Mr. TAGGART with Mr. SCOTT.

Mr. STANLEY with Mr. ROBERTS of Massachusetts.

Mr. SMALL with Mr. PROUTY.

Mr. SHERWOOD with Mr. PRAY.

Mr. SAUNDERS with Mr. PORTER.

Mr. SABATH with Mr. PLUMLEY.

Mr. RANSDELL of Louisiana with Mr. PICKETT.

Mr. RUCKER of Missouri with Mr. PAYNE.

Mr. RANDELL of Texas with Mr. OLMSTED.

Mr. RAINEY with Mr. NELSON.

Mr. POU with Mr. NEEDHAM.

Mr. PETERS with Mr. MOORE of Pennsylvania.

Mr. O'SHAUNESSY with Mr. MOON of Pennsylvania.

Mr. OLDFIELD with Mr. MCGUIRE of Oklahoma.

Mr. HOBSON with Mr. LAWRENCE.

Mr. MORGAN of Louisiana with Mr. LAFEAN.

Mr. MAYS with Mr. KAHN.

Mr. MAHER with Mr. HUGHES of West Virginia.

Mr. MCKELLAR with Mr. HOWELL.

Mr. MCCOY with Mr. HIGGINS.

Mr. LINTHICUM with Mr. HENRY of Connecticut.

Mr. KONIG with Mr. HEALD.

Mr. KITCHIN with Mr. HARTMAN.

Mr. JOHNSON of Kentucky with Mr. HARRIS.

Mr. HULL with Mr. GREENE of Vermont.

Mr. JACOWAY with Mr. GUERNSEY.

Mr. HOWARD with Mr. GREEN of Iowa.

Mr. HART with Mr. GARDNER of New Jersey.

Mr. HARRISON of New York with Mr. FULLER.

Mr. GUDGER with Mr. FORDNEY.

Mr. GOODWIN of Arkansas with Mr. FOCHT.

Mr. GOLDFOGLE with Mr. MICHAEL E. DRISCOLL.

Mr. GEORGE with Mr. DE FOREST.

Mr. FERGUSSON with Mr. DAVIS of Minnesota.

Mr. ESTOPINAL with Mr. CRUMPACKER.

Mr. DIXON of Indiana with Mr. CRAGO.

Mr. DIFENDERFER with Mr. COPLEY.

Mr. DICKINSON with Mr. CALDER.

Mr. CLARK of Florida with Mr. BURKE of South Dakota.

Mr. BURNETT with Mr. BURKE of Pennsylvania.

Mr. ANSBERRY with Mr. BARCHFELD.

Mr. AIKEN of South Carolina with Mr. AUSTIN.

Mr. PATTEN of New York with Mr. MCCALL.

Mr. POU with Mr. MCMORRAN.

Mr. UNDERWOOD with Mr. MANN.

On this vote:

Mr. FINLEY with Mr. DAVIDSON.

Mr. BARTLETT. Did the gentleman from Pennsylvania, Mr. BUTLER, vote?

The SPEAKER. He did not.

Mr. BARTLETT. I am paired with him, and I desire to change my vote and to vote "present."

Mr. MANN. I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote and to be recorded present.

Mr. PARRAN. I am paired with the gentleman from Maryland, Mr. TALBOTT, and desire to withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present. The Doorkeeper will open the doors.

MESSAGE FROM THE PRESIDENT.

A message, in writing, from the President of the United States was communicated to the House by Mr. LATTA, one of his secretaries.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House to consider House bill 27475.

The SPEAKER. The motion is to go into the Committee of the Whole House to consider pension bills on the Private Calendar.

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. Do I understand that the Chair is submitting the motion as stated by the gentleman from Missouri [Mr. RUSSELL].

The SPEAKER. The Chair is submitting the motion as it ought to be stated.

The question was taken; and on a division (demanded by Mr. RUSSELL) there were—ayes 91, noes 37.

Mr. MOON of Tennessee. Mr. Speaker, I make the point of no quorum.

Mr. FITZGERALD. I make the point of order that the presence of a quorum has just been disclosed, and that the point of no quorum is dilatory. There has been no other business transacted since the presence of a quorum was disclosed.

Mr. MOON of Tennessee. There has been other business transacted.

The SPEAKER. The Chair thinks the point is dilatory.

Mr. MOON of Tennessee. Mr. Speaker, may I ask what the vote was?

The SPEAKER. The vote was 91 ayes and 37 noes.

Mr. MOON of Tennessee. Does it not appear from that vote that there is no quorum?

The SPEAKER. On a yea-and-nay vote immediately before this the presence of a quorum was developed.

Mr. MOON of Tennessee. The quorum may have left the Hall, and the rising vote just taken shows that there is less than a quorum here.

The SPEAKER. There were 240 Members here on the roll call.

Mr. MOON of Tennessee. Yes; and only 128 have voted on this question.

The SPEAKER. That is not conclusive.

Mr. FITZGERALD. Mr. Speaker, the invariable practice is that when no business intervenes between a roll call and a division the point of no quorum is held to be dilatory.

Mr. MOON of Tennessee. There was business intervening, namely, the motion to go into the Committee of the Whole House to consider pensions.

The SPEAKER. It was on that motion. The invariable practice since the Chair has been a Member of this House, 18 years, has been that where a roll call develops a good, substantial quorum, and the point of no quorum has been made before any other business is transacted, a quorum has been assumed to be present. The Chair has been very liberal about construing that.

Mr. MOON of Tennessee. I just want to call attention to the fact that the assumption of the Chair is probably not correct. The roll call shows that it is not.

The SPEAKER. No; the roll call did not show that.

Mr. MOON of Tennessee. I mean to say that the last vote did.

The SPEAKER. That can not show it, because a whole lot of Members sat around who did not stand up at all. The ayes have it, and the motion is agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House, with Mr. MURRAY in the chair.

The CHAIRMAN. The Clerk will report the first bill.

Mr. RUSSELL. Mr. Chairman, I desire to call up the bill H. R. 27475, and I ask that it be reported.

Mr. RODDENBERY. Mr. Chairman, I ask for the regular order.

The CHAIRMAN. The regular order is the first pension bill on the calendar, which is the bill the Clerk is about to read. The Clerk will report the bill.

Mr. TILSON. A parliamentary inquiry, Mr. Chairman.

Mr. RODDENBERY. Mr. Chairman——

The CHAIRMAN. The gentleman from Connecticut [Mr. TILSON] is recognized.

Mr. TILSON. May I ask whether bills from the Military Affairs Committee have not been considered on the same footing with pension bills?

Mr. RUSSELL. Pension bills have precedence on the second Friday of the month.

The CHAIRMAN. The Chair is prepared to rule as indicated by the gentleman from Missouri [Mr. RUSSELL]. The Chair reads from page 390 of the Manual:

On the second and fourth Fridays of each month preference shall be given to the consideration of private pension claims—

And so forth. Under that provision private pension claims are preferred on this Friday.

Mr. TILSON. Would the Chair hold that immediately after the pension bills have been disposed of bills from the Military Affairs Committee to remove disabilities would be in order?

The CHAIRMAN. The Chair will be prepared to rule on that question when the pension bills have been disposed of.

Mr. RODDENBERY. Mr. Chairman, I desire to submit a point of order, that the first pension bill is not in order unless the bill is first on the Private Calendar. I call the attention of the Chair to section 847, page 375, of the Manual, which is as follows:

In Committees of the Whole House business on their calendars may be taken up in regular order, or in such order as the committee may determine, unless the bill to be considered was determined by the House at the time of going into committee.

Now, I respectfully submit that the motion made by the gentleman from Missouri [Mr. RUSSELL] was that the House resolve itself into Committee of the Whole House for the consideration of bills on the Private Calendar. Under section 847 bills on the Private Calendar come up in their regular order.

The CHAIRMAN. The Chair is prepared to rule. The gentleman from Georgia seems to have fallen into the error that the

motion as put by the Speaker was to go into Committee of the Whole House on the state of the Union. The Chair heard the Speaker put the motion, and it was put that the House go into Committee of the Whole House for the purpose of the consideration of private pension bills.

Mr. RODDENBERY. And the language the Speaker referred to appears specifically in the rule, it shall be in order to entertain a motion for the House to resolve itself into Committee of the Whole House to consider business on the Private Calendar in the following order:

On the second and fourth Fridays of each month preference shall be given to the consideration of private pension claims and bills removing political disabilities and bills removing the charge of desertion.

It is purely a matter of language, and under the rule private pension claims and bills removing political disabilities and bills removing charges of desertion are all of equal priority and equal dignity, and the language does not give private pension bills any priority over the right to call up a bill for the removal of disabilities I have referred to, and the Chair will find no ruling where it has ever been so held.

Mr. MANN. Mr. Chairman, I think the last statement of the gentleman from Georgia is quite correct, nor do I understand that the Chair has ruled otherwise. Pension bills, bills to remove political disabilities, bills to remove the charge of desertion have equal standing on the second and fourth Fridays of each month.

The CHAIRMAN. The Chair has ruled in accordance with the statement of the gentleman from Illinois.

Mr. MANN. I understood that was the position of the Chair, but I understood the position of the gentleman from Georgia was that other bills on the calendar could be taken up ahead of these bills. The rule gives the preference to these bills on this day.

Mr. RODDENBERY. Mr. Chairman, I am in thorough accord with the gentleman from Illinois.

The CHAIRMAN. If the gentleman is, the Chair will rule that under the terms of the rule, as stated on page 390 of the Manual, to which the Chair has referred, on the second and fourth Fridays of the month preference shall be given to the consideration of private pension claims, bills to remove political disabilities, and bills to remove the charge of desertion. The Clerk will report the first bill of that character on the Private Calendar.

Mr. RUSSELL. Mr. Chairman, if I understand correctly, the bill I ask to have considered is a pension bill on the Private Calendar.

The CHAIRMAN. The bill to remove a political disability comes ahead of that bill which the gentleman desires to have considered at this time.

Mr. RUSSELL. Mr. Chairman, I move that the committee proceed to the consideration of the bill H. R. 27475, which is a private pension bill.

Mr. RODDENBERY. Mr. Chairman, I make the point of order that that is not the first bill under the rule on the Private Calendar.

The CHAIRMAN. The point of order is not well taken, because the committee has the right to determine which bill shall be taken up for consideration and in what order. The Chair therefore overrules the point of order and will put the motion of the gentleman from Missouri.

Mr. RODDENBERY. Mr. Chairman, I move as a substitute for the gentleman's motion that the committee proceed to consider the bill S. 4778, an act to correct the military record of John T. Haines.

Mr. RUSSELL. Mr. Chairman, if I understand correctly, the bill I asked to be considered is a pension bill and the first pension bill on the Private Calendar.

I make the point of order, Mr. Chairman, that the substitute is not in order.

The CHAIRMAN. The point of order of the gentleman from Missouri is not well taken.

Mr. MANN. I make the point of order that the bill which the gentleman from Georgia proposes to substitute is not in order, because it is not a bill to remove a political disability nor to remove a charge of desertion.

The CHAIRMAN. The Chair will sustain the point of order made by the gentleman from Illinois, since the bill is not a bill to remove a charge of desertion, but is a bill to correct the military record of John T. Haines. The question is on the motion made by the gentleman from Missouri.

Mr. RODDENBERY. Mr. Chairman, I desire to offer a substitute.

The CHAIRMAN. The motion made by the gentleman from Missouri is that the committee proceed to the consideration of the bill H. R. 27475, a private pension bill.

Mr. RODDENBERY. I move to amend by way of substitute that the Committee of the Whole now proceed to consider the bill H. R. 15241, a bill for the relief of Fred R. Payne.

Mr. MANN. I make the point of order that that is not a privileged bill.

The CHAIRMAN. The gentleman from Illinois makes the point of order against the motion of the gentleman from Georgia, and after reference to the bill the Chair rules that the point of order is well taken.

Mr. RODDENBERY. Mr. Chairman, I move an amendment, by way of substitute, that the committee now take up for consideration the bill (S. 6408) for the relief of Margaret McQuade.

Mr. FITZGERALD. Mr. Chairman, I make the point of order that the motion is dilatory. The gentleman has already proposed two amendments that were clearly not in order, and the purpose is apparent that it is merely to obstruct the transaction of business.

The CHAIRMAN. The Chair is unwilling to determine at this time that the point of order is well taken, for the reason that while the two bills referred to are not in order under the rule, this one may be.

Mr. FITZGERALD. It is apparent that the gentleman by doing this is not attempting to have the committee consider the bill, but merely to obstruct business.

Mr. MANN. Mr. Chairman, I make the point of order that the bill is not within the rule.

The CHAIRMAN. The Chair sustains the point of order made by the gentleman from Illinois, that the bill is not within the rule.

Mr. RODDENBERY. Mr. Chairman, I move an amendment, by way of substitute, that the committee proceed to consider the bill (H. R. 5221) granting a pension claim to Joseph Hunter.

Mr. FITZGERALD. Mr. Chairman, I insist upon the point of order that the motion of the gentleman from Georgia is dilatory.

The CHAIRMAN. The gentleman from New York makes the point of order that the motion of the gentleman from Georgia is dilatory. The Chair sustains the point of order. The question is on the motion of the gentleman from Missouri that the committee proceed to consider the bill H. R. 27475.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were—ayes 97, noes 5.

So the motion was agreed to.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain widows and dependent children of soldiers and sailors of said war.

Mr. RUSSELL. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to dispense with the first reading of the bill. Is there objection?

Mr. MOON of Tennessee. Mr. Chairman, I object.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of William Andrews, late of Company C, Twenty-second Regiment, Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Emma L. Cole, widow of William C. Cole, acting assistant surgeon, United States Army, and pay her a pension at the rate of $12 per month.

The name of Leonard A. Harper, late of Company G, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

Julia A. Rouse, $12 per month.

Mr. TRIBBLE. Mr. Chairman, I make the point of order that the Clerk is not reading the bill in full.

The CHAIRMAN. The Clerk will proceed with the reading of the bill in full.

The Clerk read as follows:

The name of Julia A. Rouse, widow of Oliver H. P. Rouse, late of Company D, Eighteenth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Louisa Pitts, widow of Jacob Pitts, late of Company D, One hundred and thirteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Jesburon Bailey, late of Company A, One hundred and eighty-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Evan Miller, late of Company D, One hundred and fourth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Solomon Barr, late of Company K, Two hundred and thirteenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James E. Ashwill, late of Company F, One hundred and fortieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth M. Rutherford, widow of George Rutherford, late of Company F, Second Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Torger Hansod, late of Company G, Fifth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John D. Sampson, late of Company K, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Julia A. Suver, former widow of Llewellyn J. Thacker, late of Company K, Ninety-fifth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Allen M. Gibbons, late of Company D, Ninth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William Dalton, late of Company G, Eighty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mathias O'Biennis, late of Company E, Seventh Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Rosetta Graves Moore, former widow of Daniel Graves, late of Company A, Second Regiment West Virginia Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Mary Shattuck, widow of George M. Shattuck, late of Company I, Ninth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Marcus D. Stevens, late of Company A, One hundred and first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Daniel Pope, late of Company G, Fifth Regiment Pennsylvania Reserve Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of George W. Stahl, late of Company C, Twenty-first Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Clinton S. Palmer, late of Company B, Thirty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James W. Cannon, late of Company G, Seventeenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma E. Kanzleiter, widow of Daniel Kanzleiter, late of Company E, One hundred and thirty-sixth Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Lorenco D. Hays, late of Company B, Forty-ninth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas Palmer, late of Company A, Gasconade County Battalion Missouri Home Guards, and pay him a pension at the rate of $12 per month.

The name of Jeremiah Wildasinn, late of Company H, One hundred and fifteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Joseph P. Dawes, late of Company H, Nineteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Jeanie Harding, widow of Hewitt Harding, late of Company G, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Gideon F. Denton, late of Company H, Seventh Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David W. Stafford, late of Company D, Eighty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of David A. Wynegar, late of Company F, Sixteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of William T. West, late of Company C, Ninth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Charles P. Harder, late of Company C, One hundred and eighty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Catherine M. Hazelton, widow of Frank B. Hazelton, late first lieutenant and adjutant Twenty-seventh Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John Ent, late of Company K, Ninth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lorinda D. Smith, former widow of Harvey H. Newton, late of Company H, One hundred and seventy-second Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Frederick Kinner, late of Company H, Fifty-fifth Regiment Kentucky Mounted Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Calvin D. Weatherman, late of Company F, First Regiment Arkansas Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Carrie C. Washburn, helpless and dependent child of John Washburn, late of Company E, Twenty-ninth Regiment Massachusetts Volunteer Infantry, and Company D, Thirty-sixth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Sarah Bray, widow of Thomas Bray, late of Company B, Fifth Regiment United States Colored Volunteer Heavy Artillery, and pay her a pension at the rate of $12 per month.

The name of David H. Martin, late of Company C, Fifty-first Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John P. Locey, late of Company D, Fifth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Jesse Clark, late of Company C, Thirty-sixth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James Hodges, late of Company H, One hundredth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Jesse Lydick, dependent father of Noah Lydick, late of Company A, Seventeenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of George W. Wallace, late of Company D, One hundred and twentieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $45 per month in lieu of that he is now receiving.

The name of Milton W. Burnham, late of Company K, Thirty-first Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of James K. Waltermire, late of Company I, Third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month.

The name of Walter S. Reeder, late of Company C, Seventy-fifth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary A. Clark, widow of Benjamin F. Clark, late of Company D, Seventh Regiment Maryland Volunteer Infantry, and Eighteenth Company, Second Battallon Veteran Reserve Corps, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Senobio Cordova, late of Capt. Graydon's Independent company of New Mexico Mounted Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Harriet E. Downs, widow of Edward S. Downs, late of Company F, Sixth Regiment Connecticut Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Susan Jenkins, widow of Nathaniel Jenkins, late of Company A, Sixth Regiment Kentucky Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George A. Clevinger, late of Company D, Thirteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Caroline R. Springer, widow of William O. G. Springer, late surgeon's steward U. S. S. Alexandria, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elizabeth Gregg, widow of James Gregg, late of Company A, Fifth Regiment Rhode Island Volunteer Artillery, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Naaman R. Aller, late of Company C, Second Regiment United States Colored Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Elizabeth Shock, widow of Lemuel W. Shock, late of Company I, Ninety-ninth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Mary M. Ackerman, widow of Curtis Ackerman, late of Company E, One hundred and twenty-fourth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah A. Jefferson, widow of Joseph Jefferson, late of Company K, Eighth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Jasper N. Baker, late of Company F, One hundred and fifty-third Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Sophia A. Smith, widow of John Smith, late of Company C, Twenty-fifth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Oliver Kimmel, late of Company I, First Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ira C. Knoll, late of Company A, Forty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Samuel J. Fulwider, late of Company B, Tenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James R. Le Lacheur, late of Company L, Sixth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary P. King, widow of Michael D. King, late of Company B, Second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Bettie Lawson, helpless and dependent child of John M. Lawson, late of Company F, Sixth Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of John W. Boileau, late of Company A, Twenty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Herriet M. Engley, widow of Davis B. Engley, late of Companies G and I, Thirty-sixth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Theodore L. Trew, late of Company D, Fifty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Rebecca Simmons, widow of Lemuel C. Simmons, late of Company B, Fifty-fourth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Emanuel B. Stiott, late of Company E, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Daniel Wilson, late of Company H, Fourth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Leah A. Jackson, widow of Elliphalet Jackson, late of Company K, One hundredth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Patrick L. Kennedy, late of Company F, Second Regiment Massachusetts Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Sarah Garber, widow of Charles Garber, late of Company C, One hundred and thirty-eighth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Wilson Murphy, late of Company D, Seventeenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Watson Boyden, late of Company A, Twenty-seventh Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William F. Ramsey, late of Company I, Second Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Gordon F. Stamps, late of Company M, Ninth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary L. Brent, widow of James K. Brent, late of Company E, One hundred and thirty-eighth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Sarah S. Sherman, former widow of Kinsman P. Chase, late of Company F, Ninth Regiment Vermont Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Joseph L. Buckley, late of Company E, First Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Daniel Carey, late of Company F, Eighty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Nancy A. Cotterell, widow of John Cotterell, late of Company H, One hundred and thirtieth Regiment Illinois Volunteer Infantry, and Company B, Seventy-seventh Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of John Cavin, late of Company H, Ninth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Elizabeth O'Reiley, widow of Peter O'Reiley, late of Company K, Thirty-fifth Regiment New Jersey Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James Hall, late of Company E, Sixteenth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John P. Hultquist, late of Company D, Third Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lena Lehr, widow of John Lehr, late of Company I, Third Regiment Pennsylvania Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Josephine Stewart, helpless and dependent child of Alfred Stewart, late of Company L, Seventh Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of John Ralston, late of Company K, One hundred and sixty-first Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Eliza A. Cuthbert, widow of Elijah Cuthbert, late of Company E, First Regiment Michigan Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elsie A. Gibbs, widow of John Gibbs, late of Company H, Seventy-eighth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Daniel W. Green, late of Company G, Sixth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William S. Randlett, late of Company E, First Regiment Maine Volunteer Heavy Artillery, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Benjamin Daveler, late of Company C, Twentieth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John L. Phillips, late of Company F, One hundred and fifteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Abraham L. McLevain, late of Company M, Seventeenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John McCloud, late of Company C, Thirteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Webb, late of Company E, Ninth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $45 per month in lieu of that he is now receiving.

The name of Mary E. Bacon, widow of George T. Bacon, late of Company A, Twentieth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Lissette M. Minden, widow of George E. Minden, late of Company G, Tenth Regiment Missouri State Militia Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Robert Platt, late of Company H, One hundred and twelfth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Senn Shuster, widow of Smith J. Shuster, late of Company B, One hundred and forty-ninth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Adolphus D. Lovan, late of Company H, One hundred and fifty-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Wilson H. Richards, late of Company E, Sixty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Margaret C. De Puy, former widow of Joseph W. Roberts, late of Company F, Twenty-seventh Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John H. Norris, late of Company K, First Regiment Pennsylvania Volunteer Rifles, and Company H, One hundred and ninetieth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George L. Creighton, late of Company C, Sixteenth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Oliver Jones Tresse, late of Company I, Eighth Regiment California Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Izanna J. Kemp, widow of George H. Kemp, late of Company K, Fourth Regiment Massachusetts Volunteer Heavy Artillery, and pay her a pension at the rate of $12 per month.

The name of James David Rich, late of Company A, Second Regiment Tennessee Mounted Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Charles Reynolds, late chaplain, Eighty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Abner O. Davis, late of Company H, Eighteenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Tyler, late of Company D, Thirty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Jesse Brown, late of Company A, Seventeenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary A. Williams, widow of Richard F. Williams, late of Company C, One hundred and seventy-third Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Adair Agey, helpless and dependent child of William A. Agey, late of Company D, Fifty-sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of George F. Wheeler, late of Company A, Seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Roxana Alvira Mansfield, former widow of Orris C. Peebles, late of Company G, Ninety-fifth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Elizabeth Canady, widow of Robert W. Canady, late of Company H, Twenty-sixth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Caroline Koch, former widow of Jonathan Kennedy, late of Company H, One hundred and fourth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Frances M. Dille, widow of John B. Dille, late of Company K, Seventy-sixth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Melvina W. Smith, widow of Charles H. Smith, late of Company K, Seventy-sixth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Charles E. Bigelow, late of Company D, First Regiment Illinois Volunteer Light Artillery, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Arcenith F. Walker, late of Company K, Tenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis B. Overlook, late of Company F, Ninth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. MOON of Tennessee. Mr. Chairman, I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOON of Tennessee. Mr. Chairman, pending the reading of this bill, it is apparent that there are only about 20 Members on the floor of the House. If it is in order, I will make the point of no quorum.

The CHAIRMAN. Manifestly, there is no quorum present. The Clerk will continue to read.

Mr. MOON of Tennessee. But, Mr. Chairman, I do not think the Clerk should read without the presence of a quorum.

The CHAIRMAN. The Clerk will read unless the gentleman makes a point of no quorum.

Mr. MOON of Tennessee. I make the point of no quorum.

The CHAIRMAN. Evidently there is no quorum present, and the Clerk will call the roll.

Mr. TRIBBLE. Mr. Chairman, I make the point of order that the Clerk has no right to call the roll unless some Member of the House makes such a motion.

The CHAIRMAN. The point of order is overruled. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken, S. C.	Curley	Gould	Knowland
Ames	Curry	Greene, Vt.	Korbly
Andrus	Daugherty	Gregg, Tex.	Lafean
Ansberry	Davenport	Griest	Lafferty
Anthony	Davidson	Gudger	Lamb
Ashbrook	Davis, Minn.	Guernsey	Langley
Austin	Davis, W. Va.	Hamill	Lawrence
Ayres	De Forest	Hammond	Legare
Barchfeld	Dickinson	Harris	Lenroot
Barnhart	Difenderfer	Harrison, N. Y.	Levy
Bartholdt	Dixon, Ind.	Hart	Lewis
Bates	Driscoll, M. E.	Hartman	Lindsay
Berger	Dwight	Haugen	Littleton
Bradley	Ellerbe	Hayes	Longworth
Broussard	Estopinal	Heald	McCall
Burke, Pa.	Evans	Helm	McCoy
Burke, S. Dak.	Fairchild	Henry, Conn.	McGillicuddy
Butler	Finley	Higgins	McGuire, Okla.
Calder	Fitzgerald	Hill	McKellar
Callaway	Floyd, Ark.	Hobson	McMorran
Campbell	Focht	Howell	Martin, Colo.
Candler	Fordney	Howland	Matthews
Cantrill	Foss	Hull	Mays
Clark, Fla.	Fuller	Humphreys, Miss.	Moon, Pa.
Clayton	Gardner, Mass.	Jacoway	Moore, Pa.
Copley	Gardner, N. J.	Johnson, Ky.	Moore, Tex.
Covington	Gill	Jones	Morse, Wis.
Crago	Glass	Kent	Needham
Cravens	Goldfogle	Kindred	Nelson
Crumpacker	Goodwin, Ark.	Kitchin	Nye

Oldfield	Pujo	Sisson	Townsend
Olmsted	Randell, Tex.	Smith, Saml. W.	Turnbull
O'Shaunessy	Ransdell, La.	Smith, Cal.	Tuttle
Palmer	Rauch	Sparkman	Underwood
Patten, N. Y.	Redfield	Stack	Vare
Patton, Pa.	Reyburn	Stephens, Tex.	Vreeland
Peters	Richardson	Sterling	Webb
Pickett	Roberts, Mass.	Sulloway	Weeks
Plumley	Robinson	Taylor, Ala.	Wilder
Porter	Rucker, Mo.	Taylor, Colo.	Wilson, N. Y.
Pou	Sells	Thayer	Woods, Iowa
Prouty	Sherwood	Towner	Young, Mich.

The committee rose; and the Speaker having resumed the chair, Mr. MURRAY, Chairman of the Committee of the Whole House, reported that that committee had found itself without a quorum, and that he had directed the roll to be called; that 216 Members answered to their names, a quorum, and he reported the names of the absentees.

The committee resumed its sitting.

The CHAIRMAN. The Clerk will resume the reading of the bill.

The Clerk read as follows:

The name of John Weicher, late of Company G, Eighth Regiment West Virginia Volunteer Infantry, and Company G, Seventh Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Jacob F. Hoffman, late of Company A, Two hundred and eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary A. Chase, widow of Benjamin F. Chase, late of Company K, First Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jacobena McGath, former widow of Jacob Schneider, late of Company F, Fifth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

Mr. RAKER. Mr. Chairman, I ask unanimous consent that the further reading of the bill may be dispensed with.

The CHAIRMAN. Is there objection?

Mr. MOON of Tennessee. I object.

Mr. TRIBBLE. I object.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The name of Henry M. McCarty, late of Eighteenth Independent Battery, New York Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma Bee, widow of Benjamin W. Bee, late of Company K, Fourteenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The name of Lizzie Dovener, widow of Robert G. Dovener, late assistant surgeon, Fifteenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Alexander R. Walters, late of Company F, One hundred and sixty-ninth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Cicero Wingfield, late of Company D, Twenty-eighth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jesse M. Manson, late of Company A, One hundred and twenty-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles Stetson, late of Company G, Seventh Regiment Virginia Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Mary H. Hurlbut, dependent mother of William H. Farmer, late of Company C, Forty-eighth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Anna V. Rice, widow of Calvin M. Rice, late of Company H, Eighty-third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elizabeth J. Todd, former widow of Ephraim L. Webb, late of Company E, Forty-fourth Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Ann Charlotte Timberman, widow of James C. Timberman, late of Company D, One hundred and thirty-eighth Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Benjamin Boggess, late of Company A, Thirteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Perry G. Shaver, late of Company D, Seventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Agnes C. Wunderligh, helpless and dependent child of Edward Wunderligh, late quartermaster sergeant Fifth Regiment United States Cavalry, and pay her a pension at the rate of $12 per month.

The name of William D. Reed, late of Company K, One hundred and forty-eighth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John C. Babbs, late of Company F, Thirty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry Eller, late of Company G, One hundred and forty-seventh Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lozina L. Rosengrant, former widow of Jacob O. Thompson, late of Company B, First Regiment Missouri Volunteer Engineers, and pay her a pension at the rate of $12 per month.

The name of Amos Smith, late of Company G, Fifty-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John McMillen, late of Company F, Twenty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Mary J. Weddel, helpless and dependent child of William P. Weddel, late of Company A, Twelfth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Francis M. Raburn, late of Company H, Seventy-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George W. Copley, late of Company B, Forty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Melvin J. Ringler, late of Company C, Sixty-fourth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jacob Shivler, late of Company K, Twenty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Tilla L. Eckard, widow of Calvin J. Eckard, late of Company B, Thirteenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jacob N. Easterly, late of Company A, Thirteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Harrison A. Galloway, late of Company D, Seventy-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary F. Hess, former widow of Thomas K. Hess, late of Company F, Thirty-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jessie Banta, helpless and dependent child of Perry Banta, late of Company G, Twenty-fourth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of George H. Parrar, late of Company D, Fourth Regiment Wisconsin Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Bridget Tierney, widow of Thomas Tierney, late of Company A, Sixty-third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Arrena T. D. Beverly, widow of William L. Beverly, late scout and spy, United States Volunteers, and pay her a pension at the rate of $12 per month.

The name of Levi Shaw, late of Company A, Second Regiment Potomac Home Brigade, Maryland Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Maria A. Potter, widow of Edwin Potter, late of Company H, One hundred and fifty-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of David R. Edmonds, late of Company A, Thirty-fifth Regiment Kentucky Mounted Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lucien G. Winney, late of Company C, Second Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary A. Missner, former widow of Mitchell Haynes, late of Company H, One hundred and second Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John M. Allender, late of Company B, Fifty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ova O. Nutting, late of Company B, Twelfth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Louisa Taylor, widow of Charles C. Taylor, late of Company F, One hundred and seventy-third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Lorrenna J. Wilkinson, widow of Alfred Wilkinson, late acting third assistant engineer, United States Navy, and pay her a pension at the rate of $12 per month.

The name of Harriet Littlefield, former widow of Francis W. Fitzgerald, late of Company D, Thirteenth Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Margaret Matheney, widow of Michael Matheney, late of Company E, Thirteenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Rachel Sturgeon, widow of William A. Sturgeon, late of Company E, Thirty-sixth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Lucy Elma Sturgeon, helpless and dependent daughter of said William A. Sturgeon, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Rachel Sturgeon, the name of said Lucy Elma Sturgeon shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Rachel Sturgeon.

The name of Mary Ordner, widow of John Ordner, late of Company A, Tenth Regiment New York Volunteer Cavalry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of Mary C. Titman, widow of Baltus T. Titman, late of Company D, Second Regiment New Jersey Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Joseph L. Titman, helpless and dependent child of said Baltus T. Titman, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Mary C. Titman, the name of said Joseph L. Titman shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Mary C. Titman.

The name of Samuel K. Howard, late of Company K, Fifteenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Francis Short, late of Company C, First Regiment Delaware Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary E. Thacker, widow of James R. Thacker, late of Company B, Sixth Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Seth A. Bonney, late of Company H, Fifty-fourth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Cummings, late of Company I, Twenty-fourth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of John R. Cravens, late of Company B, Fourth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Sallie Arlington, widow of Henry P. Arlington, late of Company A, Sixty-ninth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Lucy A. Warner, former widow of Oliver Warner, late of Company F, Thirty-seventh Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Eliza Haines, helpless and dependent child of William Haines, late of Company A, Forty-ninth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Eliza J. Blythe, widow of John Blythe, late of Company B, First Regiment Minnesota Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Frances C. Babcock, widow of Leonard G. Babcock, late of Company E, Eleventh Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Samuel S. Jones, late of Company B, Twelfth Regiment Kansas Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emily S. Van Beuren, widow of Sylvester Van Beuren, late second-class fireman on the U. S. S. New Hampshire, Cimmeron, and Princeton, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Jane Fleming, widow of James Fleming, late of Company G, Two hundred and sixth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Roxanna Fleming, helpless and dependent daughter of said James Fleming, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Jane Fleming, the name of said Roxanna Fleming shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Jane Fleming.

The name of William M. Temple, late of Company K, One hundred and fifteenth Regiment Ohio Volunteer Infantry, and Company K, One hundred and eighty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Lavenia A. Drennen, widow of George A. Drennen, late of Company E, First Regiment West Virginia Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Emma C. Devor, widow of Richard Devor, late of Company D, Seventy-seventh Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Helen F. Hoffman, widow of Thomas W. Hoffman, late of Company A, Two hundred and eighth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Elizabeth J. Lane, widow of Josiah Lane, late of Company A, First Regiment Indiana Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Martha Dickinson, widow of James D. Dickinson, late of Company D, Seventeenth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of William T. Mills, late of Company E, Forty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of William D. Crawford, late of Company A, One hundred and ninety-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Isaac Jones, late of Companies D, E, and K, Nineteenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alice C. Kies, widow of William P. Kies, late of Battery K, Third Regiment New York Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of Charles Rosenkranz, dependent and helpless child of August Rosenkranz, late of Company G, Seventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Mary A. Hooker, widow of James J. Hooker, late of Company C, Fifteenth Regiment Illinois Volunteer Infantry, and Veteran Battalion Fourteenth and Fifteenth Regiments Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mary F. Murphy, widow of Christopher Murphy, late of Company H, Twenty-ninth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Frances M. Rounds, widow of Henry Rounds, late of Company B, Third Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Pearl Rounds, helpless and dependent daughter of said Henry Rounds, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Frances M. Rounds, the name of said Pearl Rounds shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Frances M. Rounds.

The name of James M. Butterworth, late of Company A, One hundred and forty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel A. Pearce, late of Company B, One hundred and ninety-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Fredericka Welfley, now Wurthner, former widow of Gottlieb Frederick Welfley, late of Company H, Sixteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Thomas Smith, late ship's corporal, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William G. Stine, late of Company B, Two hundredth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James McEvoy, late of Company G, Seventy-sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John C. O'Bryan, late of Company K, Forty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Bavin Copeland, late of Company C, Seventy-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of James H. Rowland, late of Company K, One hundred and sixty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Caroline A. Dodge, widow of John W. Dodge, late of Company F, Second Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elizabeth W. Wilcox, widow of Benjamin Wilcox, late of Company D, One hundred and fifty-second Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Emily A. Kennedy, widow of Oliver H. S. Kennedy, late of Companies B and F, Fortieth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Mary Gourno, now Earle, widow of Louis Gourno, late of Company E, Sixty-fourth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Anna M. Consaul, former widow of Elijah G. Crane, late of Company C, One hundred and thirtieth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of James T. Kissinger, late of Company B, Twenty-third Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Levi P. Miller, late of Company F, One hundred and sixteenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary Hahn, widow of Lewis Hahn, late of Company F, One hundred and ninety-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Joanna Swander, widow of William H. Swander, late assistant surgeon, Seventy-ninth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Martha Pendergrass, widow of James Pendergrass, late of Company F, Twenty-ninth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jennie Smith, helpless and dependent child of Andrew Smith, late of Company H, Ninth Regiment Missouri State Militia Cavalry, and pay her a pension at the rate of $12 per month.

The name of William Dyas, late of Company H, One hundred and seventeenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Julia A. Moffatt, widow of Joseph L. Moffatt, late of Company I, Seventh Regiment United States Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Della Case, widow of William W. Case, late of Company F, One hundredth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry C. Gray, late of Company I, One hundred and sixty-seventh Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Charles W. Jackson, late of Company D, Thirty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas Higgins, late of Companies L and H, Second Regiment Massachusetts Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Marinda Lowe, widow of John Lowe, late of Company D, One hundred and seventy-ninth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. RODDENBERY. Mr. Chairman, I make the point of order that there is no quorum present.

THE CHAIRMAN (Mr. RAKER). The Chair will count. [After counting.] One hundred and three Members are present, a quorum, and the Clerk will read.

The Clerk concluded the reading of the bill, as follows:

The name of Archibald McLain, late of Company C, Eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The foregoing bill is a substitute for the following House bills referred to the Committee on Invalid Pensions:

H. R. 87. William Andrews.
H. R. 111. Emma L. Cole.
H. R. 505. Leonard A. Harper.
H. R. 835. Julia A. Rouse.
H. R. 2078. Louisa Pitts.
H. R. 2138. Jeshuron Bailey.
H. R. 2361. Evan Miller.
H. R. 2363. Solomon Barr.
H. R. 2617. James E. Ashwill.
H. R. 2680. Elizabeth M. Rutherford.
H. R. 2706. Torger Hanson.
H. R. 3909. John D. Sampson.
H. R. 3910. Julia A. Suver.
H. R. 3921. Allen M. Gibbons.
H. R. 4210. William Dalton.
H. R. 4218. Mathias O'Biennis.
H. R. 4257. Rosetta Graves Moore.
H. R. 4258. Mary Shattuck.
H. R. 4613. Marcus D. Stevens.
H. R. 5400. Daniel Pope.
H. R. 5418. George W. Stahl.
H. R. 5591. Clinton S. Palmer.
H. R. 5858. James W. Cannon.
H. R. 5980. Emma E. Kanzleiter.
H. R. 7093. Lorenzo D. Hays.
H. R. 7097. Thomas Palmer.
H. R. 7233. Jeremiah Wildasinn.
H. R. 7236. Joseph P. Dawes.
H. R. 7363. Jennie Harding.
H. R. 7463. Gideon F. Denton.
H. R. 7616. David W. Stafford.
H. R. 8729. David A. Wynegar.
H. R. 8751. William T. West.
H. R. 9296. Charles P. Harder.
H. R. 9299. Catherine M. Hazlet.
H. R. 9355. John Ent.
H. R. 9410. Lorinda D. Smith.

H. R. 9765. Frederick Kinner.
H. R. 10403. Calvin D. Weatherman.
H. R. 10699. Carrie C. Washburn.
H. R. 11292. Sarah Bray.
H. R. 11434. David H. Martin.
H. R. 11960. John P. Locey.
H. R. 11996. Jesse Clark.
H. R. 12080. James Hodges.
H. R. 12469. Jesse Lydick.
H. R. 12506. George W. Wallace.
H. R. 12561. Milton W. Burnham.
H. R. 12652. James K. Waltermire.
H. R. 12709. Walter S. Reeder.
H. R. 12770. Mary A. Clark.
H. R. 13048. Senobia Cordova.
H. R. 13191. Harriet E. Downs.
H. R. 13332. Susan Jenkins.
H. R. 13548. George A. Clevinger.
H. R. 13688. Caroline R. Springer.
H. R. 13704. Elizabeth Gregg.
H. R. 13767. Naaman R. Aller.
H. R. 13973. Elizabeth Shock.
H. R. 14172. Mary M. Ackerman.
H. R. 14183. Sarah A. Jefferson.
H. R. 14292. Jasper N. Baker.
H. R. 14376. Sophia A. Smith.
H. R. 14466. Oliver Kimmel.
H. R. 14542. Ira C. Knoll.
H. R. 14573. Samuel J. Fulwider.
H. R. 14587. James R. Le Lacheur.
H. R. 14718. Mary P. King.
H. R. 15098. Bettie Lawson.
H. R. 15243. John W. Boileau.
H. R. 15248. Harriet M. Engley.
H. R. 15478. Theodore L. Trow.
H. R. 15518. Rebecca Simmons.
H. R. 15669. Emanuel B. Silcott.
H. R. 15704. Daniel Wilson.
H. R. 15792. Leah A. Jackson.
H. R. 15836. Patrick L. Kennedy.
H. R. 15861. Sara Garlic.
H. R. 15937. Wilson Murphy.
H. R. 15939. Watson Boyden.
H. R. 16058. William F. Ramsey.
H. R. 16235. Gordon F. Stamps.
H. R. 16249. Mary L. Brent.
H. R. 16363. Sarah S. Sherman.
H. R. 16381. Joseph L. Buckley.
H. R. 16422. Daniel Carey.
H. R. 16591. Nancy A. Cotterel.
H. R. 16727. John Cavin.
H. R. 16755. Elizabeth O'Relley.
H. R. 16777. James Hall.
H. R. 16783. John P. Hultquist.
H. R. 16954. Lena Lehr.
H. R. 17001. Josephine Stewart.
H. R. 17048. John Ralston.
H. R. 17131. Eliza A. Cuthbert.
H. R. 17319. Elsie A. Gibbs.
H. R. 17402. Daniel W. Green.
H. R. 17516. William S. Randlett.
H. R. 17637. Benjamin Daveler.
H. R. 17697. John L. Phillips.
H. R. 17987. Abraham L. McLevain.
H. R. 18100. John McCloud.
H. R. 18146. William Webb.
H. R. 18361. Mary E. Bacon.
H. R. 18402. Lissette M. Minden.
H. R. 18518. Robert Platt.
H. R. 18754. Sena Shuster.
H. R. 18766. Adolphus D. Lovan.
H. R. 18959. Wilson H. Richards.
H. R. 19025. Margaret C. De Puy.
H. R. 19189. John H. Norris.
H. R. 19395. George L. Creighton.
H. R. 19578. Oliver Jones Treese.
H. R. 19731. Izanna J. Kemp.
H. R. 19773. James David Rich.
H. R. 20019. Charles Reynolds.
H. R. 20146. Abner O. Davis.
H. R. 20178. George W. Tyler.
H. R. 20316. Jesse Brown.
H. R. 20355. Mary A. Williams.
H. R. 20533. John Adair Agey.
H. R. 20619. George F. Wheeler.
H. R. 20852. Roxana Alvira Mansfield.
H. R. 21006. Elizabeth Canady.
H. R. 21078. Caroline Koch.
H. R. 21030. Frances M. Dille.
H. R. 21300. Melvina W. Smith.
H. R. 21395. Charles E. Bigelow.
H. R. 21429. Arcenith F. Walker.
H. R. 21440. Francis B. Overlook.
H. R. 21860. John Welcher.
H. R. 21864. Jacob F. Hoffman.
H. R. 21880. Mary A. Chase.
H. R. 22122. Jacobena McCath.
H. R. 22138. Henry M. McCarty.
H. R. 22273. Emma Bee.
H. R. 22321. Lizzie Dovener.
H. R. 22364. Alexander R. Walters.
H. R. 22404. Cicero Wingfield.
H. R. 22451. Jesse M. Manson.
H. R. 22491. Charles Stetson.
H. R. 22513. Mary H. Hurlbut.
H. R. 22534. Anna V. Rice.
H. R. 22695. Elizabeth J. Todd.
H. R. 22735. Ann Charlotte Timberman.
H. R. 22816. Benjamin Boggess.
H. R. 22817. Perry G. Shaver.
H. R. 23042. Agnes C. Wunderligh.
H. R. 23081. William D. Reed.
H. R. 23107. John C. Babbs.
H. R. 23250. Henry Eller.
H. R. 23281. Lozina L. Rosengrant.
H. R. 23367. Amos Smith.
H. R. 23482. John McMillen.
H. R. 23708. Mary J. Weddel.
H. R. 23846. Francis M. Raburn.
H. R. 23851. George W. Copley.
H. R. 23891. Melvin J. Ringler.
H. R. 23907. Jacob Shivler.
H. R. 23970. Tilla L. Eckard.
H. R. 23977. Jacob N. Easterly.
H. R. 23987. Harrison A. Galloway.
H. R. 24047. Mary F. Hess.
H. R. 24109. Jessie Banta.
H. R. 24132. George H. Farrar.
H. R. 24184. Bridget Tierney.
H. R. 24214. Arrena T. D. Beverly.
H. R. 24246. Levi Shaw.
H. R. 24307. Marla A. Potter.
H. R. 24345. David R. Edmonds.
H. R. 24346. Lucien G. Winney.
H. R. 24354. Mary A. Missner.
H. R. 24373. John M. Allender.
H. R. 24617. Ovo O. Nutting.
H. R. 24677. Louise Taylor.
H. R. 24709. Lorrenna J. Wilkinson.
H. R. 24742. Harriet Littlefield.
H. R. 24816. Margaret Matheney.
H. R. 24850. Rachel Sturgeon.
H. R. 24881. Mary Ordner.
H. R. 24932. Mary C. Titman.
H. R. 24949. Samuel K. Howard.
H. R. 24974. Francis Short.
H. R. 24991. Mary E. Thacker.
H. R. 25022. Seth A. Bonney.
H. R. 25303. William H. Cummings.
H. R. 25388. John R. Cravens.
H. R. 25220. Sallie Arlington.
H. R. 25229. Lucy A. Warner.
H. R. 25258. Eliza Haines.
H. R. 25425. Eliza J. Blythe.
H. R. 25439. Frances C. Babcock.
H. R. 25492. Samuel S. Jones.
H. R. 25542. Emily S. Van Beuren.
H. R. 25544. Jane Fleming.
H. R. 25562. William M. Temple.
H. R. 25643. Lavenia A. Drennen.
H. R. 25655. Emma C. Devor.
H. R. 25729. Helen F. Hoffman.
H. R. 25812. Elizabeth J. Lane.
H. R. 25902. Martha Dickinson.
H. R. 25939. William T. Mills.
H. R. 25950. William D. Crawford.
H. R. 26017. Isaac Jones.
H. R. 26039. Alice C. Kies.
H. R. 26079. Charles Rosenkranz.
H. R. 26155. Mary A. Hooker.
H. R. 26242. Mary F. Murphy.
H. R. 26364. Frances M. Rounds.
H. R. 26380. James M. Butterworth
H. R. 26406. Samuel A. Pearce.
H. R. 26436. Fredericka Welfley, now Wurthner.
H. R. 26438. Thomas Smith.
H. R. 26497. William G. Stine.
H. R. 26554. James McEvoy.
H. R. 26596. John C. O'Bryan.
H. R. 26651. Bavin Copeland.
H. R. 26684. James H. Rowland.
H. R. 26689. Caroline A. Dodge.
H. R. 26768. Elizabeth W. Wilcox.
H. R. 26769. Emily A. Kennedy.
H. R. 26798. Mary Gourno, now Earle.
H. R. 26799. Anna M. Consaul.
H. R. 26825. James T. Kissinger.
H. R. 26836. Levi P. Miller.
H. R. 26844. Mary Hahn.
H. R. 26926. Joanna Swander.
H. R. 26966. Martha Pendergrass.
H. R. 26991. Jennie Smith.
H. R. 26995. William Dyas.
H. R. 27170. Julia A. Moffatt.
H. R. 27175. Della Case.
H. R. 27212. Henry C. Gray.
H. R. 27251. Charles W. Jackson.
H. R. 27266. Thomas Higgins.
H. R. 27407. Marinda Lowe.
H. R. 5120. Archibald McLain.

Mr. RUSSELL. Mr. Chairman, this bill, H. R. 27475, is a private pension bill that is very moderate in length, and, we think, very reasonable and just in its provisions. It contains in all 237 items, and in this there are 57 widows of old soldiers. There are sometimes objections made to the passing of private pension bills to-day because, they say, that at the last session of this Congress we passed a general pension bill, known as the Sherwood bill. But that objection can not reasonably be made to a bill like this, because of the fact that the Sherwood pension bill did not include any widows in its provisions.

Again, there are a number of parties in this bill who are drawing very small pensions under the general law, by reason of being young in years. And under this bill some of those are granted pensions at $20, some at $24, some at $25, and so on. This is not an extravagant bill. The total amount of money carried by this bill per annum is $68,112, about half of which is now being paid under the general law, so that this bill provides for an increase of only about $34,056 per annum—not an extravagant sum.

Mr. Chairman, your committee has endeavored as diligently and as carefully as it could to investigate these cases, and we confidently believe that they are meritorious—many of the old soldiers being blind, many of them bedfast, and some of them upon crutches. We believe that the provisions of this bill are just and that it ought to be promptly passed.

I reserve, Mr. Chairman, the balance of my time.

Mr. MANN. Before the gentleman yields, may I ask him a question?

The CHAIRMAN. Does the gentleman from Missouri [Mr. RUSSELL] yield to the gentleman from Illinois [Mr. MANN]?

Mr. RUSSELL. I yield.

Mr. MANN. I ask for information. I notice in several cases in this bill—it may be customary in the law, but I am not familiar enough with it to know—where you provide an increase of pension for a widow to cover a dependent child you provide in the case of death that "the pension herein shall cease and determine." Under that provision, will the pension which the widow already draws come back to her?

Mr. RUSSELL. The pension which the widow draws in her own right would continue to her. The pension provided as payable to her because of the helpless child will cease at the death of the child.

Mr. MANN. I was attracted by the language of the bill, which may have been construed as I say. I do not know whether that is true here or not. It provides in the case of a widow to pay her a pension of $24 a month in lieu of that she is now receiving. Of course, $12 of it is intended for the widow and $12 for the dependent child, with the further provision if the child dies then the additional pension herein granted shall cease and determine. What I wished to inquire was whether or not there was a construction under which the widow in the case of the death of the child would obtain the pension she is now receiving, although this language seems to strike out that pension.

Mr. RUSSELL. The construction has always been, as I understand, that when a helpless child dies that part of the pension ceases, and the widow continues to draw only what she has drawn in her own right.

Mr. MANN. This is the usual language, then?

Mr. RUSSELL. Yes; that is the usual language in such cases.

Mr. RICHARDSON. Mr. Chairman, I desire to call up the bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of wars other than the Civil War and the widows of such soldiers and sailors.

THE CHAIRMAN. The gentleman is informed that there is already a bill being considered before the committee.

Mr. RICHARDSON. I thought you were through with that bill.

Mr. RUSSELL. Our bill is not finished yet.

Mr. RODDENBERY. Mr. Chairman, I desire to ask unanimous consent that the bill offered by the gentleman from Missouri [Mr. RUSSELL] and the bill offered by the gentleman from Alabama [Mr. RICHARDSON] be considered contemporaneously and together.

THE CHAIRMAN. Is there objection?

Mr. MOON of Tennessee. I object.

Mr. RUSSELL. I reserve the balance of my time.

Mr. TRIBBLE. Mr. Chairman——

THE CHAIRMAN. Is the gentleman a member of the committee?

Mr. TRIBBLE. I see no reason why I should not be a member of this committee, unless I am debarred on account of my pension attitude. [Laughter.]

Mr. Chairman, I do not rise for the purpose of making a lengthy argument at this time, but I propose when this bill is read to show to this committee that the chairman of the Pension Committee is not fair in the statement he has made. He is usually very fair, I concede, and I have conceded to him that fairness frequently on the floor of this House, but he is certainly not fair in the statement he has made here to-day. He undertakes to lead the Members of the House to believe that

all the names included in this bill—about 300—are those that can not be provided for under the general law, and I am here to say to you, sir, that there are a number of persons in that bill who are drawing pensions under the Sherwood Act of 1912, and almost before the ink on that bill is dry you are here to-day asking that those pensions be increased.

Mr. RUSSELL. Will the gentleman yield?

Mr. TRIBBLE. Yes, sir.

Mr. RUSSELL. I did not state that this bill did not contain any of the names of pensioners who are drawing pensions under the general law. I said that the 57 widows in this bill did not draw any pension under the general law, and that there were several soldiers included in this bill who by reason of being young in years or of having served a short time did not get what we believed they were entitled to considering their physical condition, and that this bill is an increase of cases of that sort.

Mr. TRIBBLE. Now, Mr. Chairman, I am here to say that some of these young men that the gentleman refers to are deserters; they are bounty jumpers, as shown by this bill and the record connected with the bill. I am here to say to you that not only deserters and bounty jumpers are carried in this bill but negroes are here provided for when they can not draw pensions under the Sherwood bill. I am here to say to you that there is a negro widow in this bill who has been increased to $20 a month, who is not a war widow, and that there are war widows in this bill, white, from one end of it to the other, who are from 75 to 100 years old, that are drawing only $12 a month.

Now, I want to know what the constituents of these gentlemen who prepared this bill here are going to say, back at home, when they are faced with the statements and the charges that I am making here to-day, and I am prepared to prove these charges.

Now, Mr. Chairman, we stand here to-day with this bill full of deserters, full of bounty jumpers, full of people who are not entitled to draw pensions under the law, after the country had been promised last session, when the Sherwood bill was passed, that this House would no more be flooded with pension bills. Here we are confronted with 300 to-day, and we were confronted with 300 two weeks ago—over 600 up to the present time. Half of this session has gone. This House has considered only two appropriation bills. There are appropriation bills that are waiting now, carrying nearly a billion dollars—the naval bill, for instance; the agricultural bill; measures in which the people of this country are interested—and we have got only 38 days more to consider 12 appropriation bills, carrying a billion of dollars. And here we are to-day held up with a private pension bill, pensioning deserters, negroes, and bounty jumpers, who are not entitled to draw pensions under the laws of the United States, after we have been burdened with $180,000,000 for the payment of pensions since the enactment of the Sherwood Act.

Now, Mr. Chairman, I shall discuss these cases as they come up.

The CHAIRMAN. The Clerk will read.

Mr. MOON of Tennessee. Mr. Chairman, I understand this is general debate.

The CHAIRMAN. The Chair will recognize the gentleman for an hour if he wishes to use the time.

Mr. MOON of Tennessee. I want to make an inquiry of the Chair before proceeding. Does the Chair hold that any other subject may be discussed in general debate, as is usual on appropriation bills? The custom in general debate on appropriation bills generally is to discuss any subject that is desired to be discussed—that is, in the Committee of the Whole House on the state of the Union.

The CHAIRMAN. The rule of practice provides:

In Committee of the Whole House on the state of the Union during general debate the Member need not confine himself to the subject (v., 5235–5238); but this privilege does not extend to the Committee of the Whole House (v., 5239).

We are now in Committee of the Whole, and the discussion would have to be confined to the subject of the bill pending.

Mr. MOON of Tennessee. I just wanted to know what we could talk about. If it were in order, I would wish to talk on the Post Office appropriation bill, so as to save some of the time for general debate that this House took away from that committee this morning. But while I may not agree fully with the views of the Chair as to the rule, or certainly as to the practice of the House, yet I do not desire to transgress the ruling of the Chair on that subject, and I will confine myself to the matters connected with this particular bill, and only for a little while.

Mr. Chairman, it is altogether out of order for me or for any other Member of this House to censure or to criticize the actions of this body upon any measure that comes before it, but I believe that I would be derelict to the duty that I owe to this House and to this country if I let this occasion pass without at least suggesting that the policy pursued with reference to the adoption of the order that brings this bill before the House is unwise.

We have here a vast number of appropriation bills, as the gentleman from Georgia [Mr. TRIBBLE] has said, with but little time in which to pass them; and yet we saw to-day, by a vote of this House, the largest bill ever presented to it in all of its history, and perhaps the most important, carrying 278,000,000 of money to be used for the benefit of the people all over this great Republic—we saw that bill sidetracked on a motion in the interest of a petty pension bill.

I would not make objection but for the apparent hypocrisy indicated in that vote. I recollect that on the floor of this House, when the pension bill a year ago was before this body, after a Democratic caucus had ordered it to be introduced and ordered it to be passed and it was reported, I saw a large and overwhelming majority of the Democrats from one section of this country repudiate the action of the party and vote against that pension bill. I believe that only three other gentlemen besides myself living south of Mason and Dixon's line supported the party on that measure.

Mr. HARDWICK. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Tennessee yield?

Mr. MOON of Tennessee. I will not yield for the present, thank you.

The CHAIRMAN. The gentleman declines to yield.

Mr. MOON of Tennessee. I want to say that I do not censure those gentlemen for that; not in the slightest. That is their judgment, and not mine. They have a right to do as they want to. I mention it only in order to call the attention of the House to the fact that this morning many of those Democrats who were unwilling to support that measure looking to the protection of the Union soldiers of the United States were exceedingly anxious to take up this little bill to provide a few thousand dollars for deserters. The issue is not before the country now. That election is passed. The prejudices that they thought would exist against them in the South, and which did, for I had to meet them in my own district, have passed. They are very friendly to a pension bill now. You reinstate yourselves with the voters, with the soldiers. I do not propose to be put in any wrong position about it. I am going to support this measure at the proper time. I am opposing its passage now because it was wrong to present it until these appropriation bills are passed. Until they are determined—until they are passed—we owe the obligation to this country to look after the general business of the country first, and these minor matters last.

I have no fear of the soldiers in the section of country that I live in being opposed to this position, because they are now, as they have always been, patriotic men who look to the best interests of a common country and its general welfare under general laws before a petty measure of this character.

Mr. RUSSELL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MOON of Tennessee. Yes; I yield.

Mr. RUSSELL. I want to ask the gentleman in the first place if he is not mistaken about the Sherwood bill having been made a caucus measure?

Mr. MOON of Tennessee. No; I do not think I am. It may not have been a formal caucus, but it was the judgment of the Democratic Party that it should pass.

Mr. HARDWICK. If the gentleman will permit me—he would not yield to me just now.

Mr. MOON of Tennessee. Call it a caucus measure if you want to. It makes no difference to me. It was reported by a Democratic committee—a majority of them—to this House, which is practically the same thing, and you did not have the courage to vote for it then. You are trying to deceive the people about that measure now.

Mr. RUSSELL. The rules of the House set apart to-day as a special day for bills of this sort, do they not?

Mr. MOON of Tennessee. I think they do.

Mr. RUSSELL. Then in asking to call up the bill to-day we were within our rights under the rules of this House.

Mr. MOON of Tennessee. I am not objecting to the gentleman calling it up. It is just a piece of bad judgment and a want of good sense, in my judgment, to take up a measure of this sort, in view of the fact that great appropriation bills ought to be taken up and considered.

Mr. RUSSELL. I will ask you if the acting chairman of the Pension Committee did not ask unanimous consent to set apart the day following the completion of the bill?

Mr. MOON of Tennessee. Yes; and there was no objection on my part to that.

Mr. RUSSELL. But there was objection made by the chairman of the Committee on Appropriations.

Mr. MOON of Tennessee. Certainly; and I do not want to be understood as saying that the gentleman was not within his rights under the rules, because he was, but I do want to be understood as saying that it is unwise policy for the Democratic Party to pretend here that the interests of a few pensioners are a higher order of legislation than the great appropriation bills before this House. Let us deal fairly with the country on that question. I am as good a Democrat as ever lived, and I have a right to criticize my party in this House and out of it in the interest of my country, and I will do it whenever I feel like it, regardless of what any man thinks of it. [Applause.]

Now, Mr. Chairman, there is no reason why this bill should pass to-day. I am not opposed to the bill itself. I am simply opposed to its consideration now. I think this House ought to understand that whenever it undertakes to override a committee that has a bill of the importance of the Post Office appropriation bill, when the time is so short, if Members are going to play politics, two can play at that game, and this bill will pass, if it passes at all, over my objection, simply as an earnest protest against a senseless method of procedure.

Mr. Chairman, I have said about all I desire to say in a general way upon this measure. There are in this bill a number of pension claims which were introduced by me. I am, perhaps, as much interested in the passage of this bill, from a personal point of view, as any man in this House. I think that in the general public interest a bill ought to have been brought in here that would cover the legitimate pension cases pending in the office to the extent of perhaps 400, as I am informed, instead of 200, which you now propose to pass, and assume you have made good to the soldiers of this country on the subject of pensions.

I have waited to see the chairman of this committee present to this House his report and the reasons why each one of these measures should pass. We are not here to pass a pension bill in omnibus form without knowing the merits of each measure involved in it. Here are omnibus 200 bills. You propose to shoot them through on this occasion without any explanation of them. I assume that because the chairman has not offered to have read to this House the meager and insufficient report that has been made upon these measures.

But for what it is worth, in order that the House may have some reasons to act or not act upon this question, I ask that in the balance of my time so much of the report as can be read shall be read from the Clerk's desk.

The CHAIRMAN. The Clerk will read.

Mr. FOSTER. What is the gentleman's request?

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] requests that the report of the committee on this bill be read in his time.

Mr. FOSTER. I object.

The CHAIRMAN (Mr. RAKER). The gentleman from Illinois objects. It is therefore the duty of the Chair to submit the question to the committee.

Mr. MOON of Tennessee. Mr. Chairman, just send that report down here. I am a pretty fair reader myself. [Laughter.]

The CHAIRMAN. Does the gentleman withdraw his request?

Mr. MOON of Tennessee. I am going to take my time in reading this report myself.

The CHAIRMAN. The gentleman withdraws his request. He will proceed.

Mr. MOON of Tennessee (reading)—

The following are the facts ascertained by the committee concerning the case of each beneficiary in said bills and the conclusions of the committee as to the proper amount of pension or increases which should be granted.

Mr. TILSON. Mr. Chairman, a parliamentary inquiry. Can the gentleman read this against the objection of a Member?

Mr. MOON of Tennessee. I guess I can, as a part of my speech which I am making here now.

Mr. TILSON. The gentleman is reading from a report which is already before this House. He is not reading a speech of his own. I make the parliamentary inquiry whether he can do that.

Mr. MOON of Tennessee. The gentleman is assuming something that he does not know anything about. I am reading from this report, and I propose to comment on it a little in a few minutes.

The CHAIRMAN. Does the gentleman from Connecticut insist on his parliamentary inquiry?

Mr. TILSON. I ask for information whether the gentleman can read this report.

Mr. MOON of Tennessee. And comment upon it.

Mr. TILSON. Whether against objection he can read a report to this House.

The CHAIRMAN. The view of the Chair is that the gentleman will be permitted to read anything in his own time if it is germane and a legitimate argument concerning the bill before the committee. And this being the report of the committee, undoubtedly it would be germane, and the gentleman is entitled to read it, or as much of it as he can within his time.

Mr. RODDENBERY. I make the point of order that the report is so inconsistent with the facts in the case that it is not germane to the bill. [Laughter.]

The CHAIRMAN. The point of order is overruled. The Chair assumes that the committee understood what they were doing, and made a legitimate report.

Mr. MOON of Tennessee. Mr. Chairman, the report says:

H. R. 87. William Andrews, aged 64 years, served as a private in Company C, Twenty-second Regiment Michigan Volunteers, from July 31, 1862, to June 26, 1865, and is now a pensioner under the act of June 27, 1890, at $12 per month on account of lumbago and disease of heart. He had a prior service in Company E, Ninth Michigan Volunteers, from September 20 to October 24, 1861, when he deserted.

I want to ask the gentleman from Missouri, who has charge of the bill, what was the character of the party, and how did you pension him when the record shows that he had deserted?

Mr. RUSSELL. I do not recall the facts of the case.

Mr. MOON of Tennessee. I judged that the gentleman did not, and that is the reason I asked him.

Mr. RUSSELL. What is the bill?

Mr. MOON of Tennessee. It is H. R. 87, on page 3 of the report.

Mr. RUSSELL. He had been pensioned in the Pension Bureau, and the bureau does not pension anybody unless they have an honorable discharge.

Mr. MOON of Tennessee. But you say here that he did not have an honorable discharge, and then you give no reason why you override the amount given in the Pension Bureau. What about that?

Mr. RUSSELL. I do not prepare every one of these reports; they are prepared by the secretary of the committee.

Mr. MOON of Tennessee. I accept the gentleman's apology. If the gentleman is not prepared to answer, and if he does not know anything about the measure which is before the House, let some Member who is familiar with it answer.

Mr. RUSSELL. I do know something about the measure.

Mr. MOON of Tennessee. The gentleman does not seem to know much about this case.

Mr. RUSSELL. I can not answer the question that the gentleman asked just now.

Mr. MOON of Tennessee. Is there anybody on the committee that can answer? It appearing that the chairman nor any man on the committee can give a reason for the passage of the bill, I will ask whether it is not about time that this House should be able to learn something about the measures pending before it?

Let us pass along and take up another one. Perhaps we can find somebody that knows something about it.

H. R. 111. Emma L. Cole, about 61 years of age, is the widow of William C. Cole, who served as acting assistant surgeon, United States Army, from August 21, 1863, to October 5, 1863, and from October 31, 1863, to December 17, 1864, and who died December 29, 1902, of paralysis, while a pensioner under the general law at $20 per month on account of an injury to the lower jaw and back received in line of duty in September, 1864.

The claimant, who married the surgeon on January 3, 1870, sought pension under the general law, but her claim was properly rejected in July, 1908, upon the ground that her husband's fatal paralysis had no connection with the disabilities for which he was pensioned and was not otherwise shown to have been due to his military service.

She also sought pension under the act of June 27, 1890, but this claim was likewise rejected on the ground that her husband was neither an enlisted man nor a commissioned officer in the military establishment.

Claimant is a resident of Van Wert, Ohio, and is shown by proof filed with your committee to have no property and to be dependent upon her own labor for a support.

Congress having repeatedly granted relief to the men who served as contract surgeons and to the widows of such persons, like relief is believed to be warranted in this case, and a pension of $12 per month is therefore recommended.

I will ask the gentleman if this committee is not confined to granting pensions under the law, and if it is usual for the committee where upon a state of facts that is made out here the claimant is not entitled to be granted a pension as would a soldier, but simply a widow who, not falling under the operation of the general law, practically is a civil pensioner?

Mr. RUSSELL. I will state to the gentleman from Tennessee that as a matter of course the Pension Committee is not confined to cases where they may obtain a pension from the bureau. If they did, the widow could obtain this pension without coming to the committee.

Mr. MOON of Tennessee. There is no difference between the gentleman and myself on that. I understand the power of this Congress grants a pension under any conditions. I am questioning the policy of surrounding the law and granting a pension which might be proper under a general law to the soldier but which granted to the widow under the facts stated here makes her a civil pensioner

Mr. RUSSELL. Is the gentleman opposed to any pensions of that sort?

Mr. MOON of Tennessee. No; I am for them if they are all right and within the law, but I want a reason in each case.

Mr. RUSSELL. The gentleman knows very well that the reports can not be as complete and full as the testimony before the committee; at least it has never been customary to make them so. No member of that committee can, out of the thousand bills before it in any one Congress, remember all the detailed facts of each case.

Mr. MOON of Tennessee. I understand that; that is true often, and it is generally the rule that they do not know the facts of the case after it comes up here, after they get cold. But you come in here and ask us to pass a bill, and yet now, on the very second case mentioned here, you are not able to give a legal reason for the legislation that you are asking the House for. Is there any other gentleman on this committee that can give us the information? It seems that no one knows anything about it.

Then I will pass to the third case:

H. R. 2073. Louisa Pitts, aged 60 years, is the widow of Jacob Pitts, who served as a private in Company D, One hundred and thirteenth Regiment Ohio Infantry, from October 20, 1862, to July 6, 1865 (2 years and 8½ months). Address, Johnstown, Mo.

Soldier never applied for pension; he died March 28, 1880. He and pensioner were married November 13, 1859, and she has been pensioned under the general law at $8 from the date of his death, and at $12 from March 19, 1883.

Dr. J. M. Miller certifies pensioner suffers from chronic cystitis and cancer of the nose, and is 69 years old and is unable to earn a livelihood.

Applicant and two neighbors testify that she owns a house and lot of the value of $100; no other property and no income but her pension.

As she is a war widow, is old and poor, and unable to work, an increase to $20 is justified.

I am going to say to the gentleman from Missouri that if he does not know that that is right, I do. I commend his committee for that; it is a good pension bill and ought to pass.

I will call up another one, H. R. 2118:

H. R. 2118. Jeshuron Bailey, aged 65 years, served as a private in Company A, One hundred and eighty-sixth Regiment New York Volunteer Infantry, from August 20, 1864, to June 2, 1865 (9 months and 12 days), and is now a pensioner under the act of February 6, 1907, at $12 per month on account of age. Address, 1935 Mormon Coulee Road, La Crosse, Wis.

No report from a board of surgeons. Medical testimony is that applicant has neuralgia of head and heart, water in the scrotum, hydrocele, chronic kidney trouble, and compound fracture of the right ankle, and is totally unable to do manual labor. Other testimony is that applicant has no property and no means of support but his pension.

An increase to $24 a month is recommended.

I do not know what diseases that man has, but if my friend from Missouri [Mr. RUSSELL] says he has got them, I am willing to pass this one.

Mr. RUSSELL. I am not one of the witnesses in the case.

Mr. MOON of Tennessee. There is no proof here that he had them. I will pass over that case to the next one—H. R. 2363:

H. R. 2363. Solomon Barr, 67 years of age, served as a private in Company K, Two hundred and thirteenth Pennsylvania Volunteers, from February 22, 1865, to November 18, 1865, and is a pensioner under the act of June 27, 1890, at $12 on account of rheumatism and disease of the heart.

He was formerly pensioned under the general law at $6 on account of rheumatism.

He was last examined 20 years ago by the Allentown (Pa.) board of surgeons, and was then rated $8 for rheumatism affecting both knee joints and shoulder joints, and $4 for valvular disease of the heart.

He is a resident of South Bethlehem, Pa., and according to the testimony of Dr. Yost, of that place, is now suffering from inflammatory rheumatism in a chronic form, which had taken a firm hold on the upper and lower extremities, weakness of the right lung with chronic capillary trouble of the same lung, hemorrhoids and general debility, and to be entirely disabled for doing any manual labor of any kind.

The soldier owns no property and has no means of support aside from his pension.

Some measure of relief, to aid in his support, is justified by the facts set forth, and an increase of his pension to $24 per month is recommended.

What is the reason you did not get proof about these matters since 20 years ago except the statement of one physician? It looks to me like a very bad policy, if a man has lived 20 years under disabilities, to grant him a pension without the proof of a late date as to his physical condition. I suppose it does not make any difference whether he has been sick 20 years or 40 years; if it is the right place for a pension he should get it.

Mr. RUSSELL. The reference to 20 years ago was when he was last examined by the pension board. The report shows that he was a resident of South Bethlehem, Pa., and according to the testimony of Dr. Yost—that date is not given, but I feel safe in saying that it was within the last 12 months. The secretary of the committee says that this was recent testimony.

Mr. MOON of Tennessee. Then we have this case: A man has not been examined for a pension for 20 years and a pension is granted, and the chairman of the committee justifies it alone upon the meager belief that possibly within 12 months last there was some proof that justified such action. Ought the House to act on that sort of testimony?

Take the next case, H. R. 2680:

H. R. 2680. Elizabeth M. Rutherford, aged 67 years, is the widow of George Rutherford, who served as a sergeant in Company F, Second Regiment Minnesota Volunteer Infantry, from July 3, 1861, to June 21, 1865 (3 years 11½ months). Address, 2505 Buchanan Street NE., Minneapolis, Minn.

Soldier was pensioned at $24 a month under the general law for gunshot wound of left arm. He died July 3, 1895. Soldier and pensioner were married March 24, 1867. Her application under the general law was rejected December 13, 1900, on the ground that soldier's fatal disease of heart was not shown to be of service origin. However, she is pensioned under act of June 27, 1890, as amended, at $8 from August 15, 1895, and $2 for minor child, and at $12 from April 19, 1908. A special act granting her $12 from May 13, 1908, was passed, but she elected to remain on the rolls under act of June 27, 1890.

Dr. H. M. Guilford has treated pensioner for 12 years. She suffers from stomach trouble, indigestion, nervousness, and some tuberculosis of the lungs, and is not capable of earning her support in any way.

She owns 18 lots in northeast Minneapolis, worth about $4,500, mortgaged at $1,800, bearing 6 per cent interest; taxes, $133.20. She also owns a homestead in Custer County, worth $600, and is in debt for improvements thereon to the full value of the homestead. She is unable to sell the lots or homestead and derives no income therefrom. She has no personal effects of value and no support or income from any source other than her pension. This condition of affairs is shown by her own testimony and of two reputable acquaintances.

An increase to $20 a month is recommended.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. MOON of Tennessee. Certainly.

Mr. FIELDS. I think, in justice to the committee, that the gentleman from Tennessee should read the report correctly.

Mr. MOON of Tennessee. Why, what have I left out?

Mr. FIELDS. On page 7, in the fourth line of the third paragraph, the gentleman left out the words "for improvements thereon to the full value of the homestead."

Mr. MOON of Tennessee. I surely read that.

Mr. FIELDS. Oh, I have noticed all along that the gentleman has not read the report in full.

Mr. MOON of Tennessee. The gentleman has not noticed any such thing. He is mistaken. I did read it.

Mr. FIELDS. I beg the gentleman's pardon.

Mr. MOON of Tennessee. Oh, the gentleman will just take his seat. I have the floor. I say this statement is incorrect. I never misstated anything about anybody.

The CHAIRMAN. The gentleman declines to yield.

Mr. MOON of Tennessee. Here is a case where a woman is worth $4,500 in lots in Minneapolis, a large, growing city, and worth $600 in a homestead in Custer County, and the pretext they offer for the increase of this pension is that you can not sell lots worth $4,500 in Minneapolis and land worth $600 in Custer County. Wherever a pensioner has an income, a pension is not granted as a rule. Where they have at least $300 income, they do not grant pensions as a rule. There is property that is worth fifty-odd hundred dollars. If it were sold for what they say it is worth, that money could be put out at interest and bring in an income of more than $300 per annum, even at 6 per cent. I am not objecting to this lady getting that pension. I do not care anything about that. I am just showing that they do not know what they are doing, that they have brought a bill here about which they do not know anything, that they are violating the law and the precedents of this House in presenting measures of that sort and attempting to pass them.

The idea of bringing here a bill where a woman is worth $5,000 and is already drawing a pension of $12 and asking for an increase of that to $20, and for what? Because there is not a good sale for fine lots in Minneapolis! What a reason for a sensible committee to offer! Mr. Chairman, I am not censuring the gentleman from Missouri [Mr. RUSSELL], because he concedes that he knows but little about these matters, and I have called all over this House for those men on the committee to tell me what they know about it, and there is not a man who knows anything about it. Our common sense teaches us that that sort of a bill ought not to pass. I have just been reading these cases at random. I never read one of them before in my life, and that is the way they appear in this bill. If the bill is that way all the way through, you ought to kick it out of the House without letting it get by the Speaker's desk, even.

Mr. RUSSELL. Mr. Chairman, will the gentleman yield?

Mr. MOON of Tennessee. I do not yield right now. I have some more for the gentleman.

The CHAIRMAN. The gentleman declines to yield.

Mr. MOON of Tennessee. I want to find one that I would agree to pass. I did find one awhile ago, and I thought it ought to pass, but the gentleman hesitated about that a little bit. He knew the others were too bad.

Mr. RUSSELL. I am sure the gentleman wants to be fair as he goes along.

Mr. MOON of Tennessee. If I did not want to be fair I would stop. But I will stop now and be fair by letting you talk for a minute.

Mr. RUSSELL. The gentleman says that the report shows that this widow is worth $5,000.

Mr. MOON of Tennessee. No; I did not say that. I stated that the report showed that she owns 18 lots in northeast Minneapolis, worth about $4,500, and mortgaged for $1,800, bearing 6 per cent interest. Then, she owns a homestead in Custer County worth $600. The $600 and the $4,500 make about $5,100, with that mortgage on it, and if you can realize $5,100 for it I will take the money and give you good security at 7 per cent.

Mr. RUSSELL. But, if I am not mistaken, in a general way the gentleman stated that this lady was shown to be worth $5,000. The total sum was $5,100, with a mortgage, which left $3,300.

Mr. MOON of Tennessee. Yes.

Mr. RUSSELL. That makes quite a difference. And, then, the report also states that she has no income whatever on this property.

Mr. MOON of Tennessee. Now, is the gentleman prepared to say about this, that he is going to pension every widow and soldier in these United States beyond $12 who can show up $3,300 in assets? I am taking the gentleman's own figures.

Mr. RUSSELL. I have voted against many of these items in the committee.

Mr. MOON of Tennessee. Take the gentleman's own figures—or call it $3,000.

Mr. RUSSELL. I do not always vote for those items in the committee. I am not the entire committee.

Mr. MOON of Tennessee. I know the gentleman is not the entire committee. There seems to be no entire committee, because nobody seems to know anything about it. You have here a lot of stuff in this House and you can not account for presenting it here, not a bit of it. I am going to find one that is good, that I may relieve the gentleman from his dilemma. I am tired of putting the hard ones up to him. I will next take up the bill H. R. 2706:

Torger Hanson, aged 65 years, served as a private in Company G, Fifth Regiment Minnesota Infantry, from August 15, 1864, to May 24, 1865 (9 months), and is now a pensioner under the act of February 6, 1907, at $12 per month, on account of age. Formerly pensioned under act of June 27, 1890, at $8, for impaired use of right arm and lame back. Address: 3735 Snelling Avenue, Minneapolis, Minn.

Medical examination, March 1, 1905, shows pensioned causes catarrh and an old fracture of eighth rib.

Dr. T. R. Woodard declares that right arm shows evidence of burns, which impairs the use of the arm; that he has rheumatism, and is a broken-down old man, which is substantiated by Dr. R. R. Knight, who adds that the soldier has chronic bronchitis and mitral insufficiency, and is unable to do much manual labor.

Lay testimony shows that he has a home worth $800, mortgaged at $200, and has less than $100 of personal property. His wife is affected bodily and mentally and can not aid in his support, and besides his pension has no other means of support.

An increase to $24 is recommended.

There is the case of a poor old man, and I am mighty glad that you have given him his pension. That is an honest statement.

Mr. RUSSELL. The gentleman indorsed another one a little while ago.

Mr. MOON of Tennessee. Yes; that was pretty good, but this is a better one. I am going to give the gentleman credit for everything that he has done; but I have read seven or eight of these, and out of the eight there are two that I commend myself, and the gentleman commends them also, while the other six show that they are bad on their face and you can not defend them, and you have not done it, and there is nobody else, though called upon, who is able to do so.

I will now pass over to page 12 and take up one at random there and see what it is:

H. R. 5858. James W. Cannon, aged 63 years, served as a private in Company G, Seventeenth Regiment Kentucky Cavalry, from September 1, 1864, to September 20, 1865 (1 year), and is now a pensioner under the act of July 14, 1862, at $17 per month, on account of rheumatism and resulting disease of heart and disease of eyes. Address, Bowling Green, Ky.

Medical examination, March 21, 1910, rates pensioner $30 for his pensioned disabilities, but the Bureau of Pensions denied an increase on said examination.

Dr. W. R. Francis, April 16, 1912, his physician, states he is now a total invalid, due to heart disease in an aggravated form, partial paralysis of left side, hip-joint disease, and arteriosclerosis. This is corroborated by Dr. J. F. Duncan.

Neighbors testify that pensioner owns no property of any kind, and his means of support is his pension.

An increase to $30 is recommended.

What has the gentleman to say about that?

Mr. RUSSELL. That seems to be a good case.

Mr. MOON of Tennessee. I think it is a very fair case.

Mr. THOMAS. You think it is a fair case?

Mr. MOON of Tennessee. I do.

Mr. THOMAS. And you have not the slightest objection to it?

Mr. MOON of Tennessee. I have not. I want all these good pensions passed.

Mr. THOMAS. I want to say that I can defend all the pensioners that I have in this bill or any other bill.

Mr. MOON of Tennessee. You can defend anything by your right.

Mr. THOMAS. Yes, sir; and I will always be on hand ready to do it. [Laughter.]

Mr. MOON of Tennessee. That is right. I notice the gentleman did not have much to say about it until he heard it stated that it was a good case.

Mr. THOMAS. I do not have any other kind.

Mr. MOON of Tennessee. Here is another case:

H. R. 12652. James K. Waltermire, aged 77 years, served as a private in Company I, Third Regiment Ohio Volunteer Infantry, from April 25, 1861, to August 22, 1861 (3 months 27 days), and was formerly a pensioner under the act of February 6, 1907, at $15 per month on account of age. Address, Scipio, Route No. 2, Ind.

He was formerly pensioned under the act of June 27, 1890, at $12 per month by reason of disease of chest and senile debility.

Board of surgeons, March 4, 1903, found asthma, emphysema, and heart disease.

Medical testimony is that applicant has enlargement of the heart and is totally disabled. He is growing worse.

It appears that the applicant has no property.

While the applicant was dropped from the rolls by the Bureau of Pensions because, as it was claimed, his service—actual military service—was less than 90 days, it appears from the applicant's sworn statement and from other sworn statements that he was engaged in active recruiting service under the direction of a Capt. Rose after he returned from the front, and so continued in such active recruiting service until he was honorably mustered out.

In view of the facts, peculiar to this case, it is recommended that the applicant be placed on the roll of pensioners at $20 per month.

Well, now, what is the peculiar fact that justifies that violation of the 90-day law?

Mr. RUSSELL. His helpless condition and no property.

Mr. MOON of Tennessee. Then, it is conceded that the general statute that requires a service of 90 days' enlistment is violated and the relief is given on the ground that the soldier has no means and is a cripple? I understand that is the reason why you give the relief?

Mr. RUSSELL. He was in the recruiting service. He was out of the regular service.

Mr. MOON of Tennessee. I understand; but that is not the 90 days required under the law.

I have no serious censure to make of the action of the committee in stretching the law a little if it be so expanded that you can justify under the real facts the necessities of the case, because a power exists with Congress, outside of that general law in a specific case, to grant the relief anyway. But I want to ask the chairman of the committee if he does not think it a bad idea, when the First, Second, Third, Fourth, Fifth, and Sixth Regiments of the United States are now prohibited by law and by the action of the department, although they served more than a year in the service of the United States, were regularly enlisted and honorably discharged, and are now denied pensions under the ruling of the department, and when there was some sort of an agreement that a pension would not be asked for the reason they were not participating directly in the suppression of the rebellion, being in frontier service—that that hard rule should be adhered to by your committee as to 6,000 soldiers in the United States and has to be invoked on the subject of muster in and muster out and honorable discharges to the soldiers as to the 90-day service of those men who are denied that right under the law to-day? How do you justify and ride over that statute and make a special example in the interest of one man? Why did you not provide, if you are going to do anything for the soldiers in a general way, by a general law that would give these six regiments of the United States a right to participate in the general pension fund in the general law? Why did you not provide for these men generally who did not serve the 90 days in the Regular Army and yet performed more than 90 days' service in recruiting, driving wagons, and other work, practically civilian in its character—why did you not give them in the general law the benefits that you single out for one man? I am not objecting to this poor man having it. We have the power, and we ought to exercise it wisely and justly, and, although the general law would not embrace him within its operation, I have no objection to this

man or any other similarly unfortunately situated having the benefit of the law. But in the discharge of your duty why do you select one man and leave out these hosts of more than equally worthy men from the benefit of the bounty of the Government?

Mr. RUSSELL. There has been no such bill before our committee.

Mr. MOON of Tennessee. I know; but it is your place to make bills.

Very well. Here is the case of Harriet Downs, the widow of Edward S. Downs, who served as a private in Company F, Sixth Regiment Connecticut Volunteers. Now comes my friend from Connecticut [Mr. TILSON], I reckon.

Mr. RUSSELL. What page is that?

Mr. MOON of Tennessee. It is on page 23. He died September 10, 1880, without ever having applied for a pension. He was a good, straight, honest man, who stood for his country and did not want any pension. The report further says:

Claimant, who married the soldier on March 20, 1867, has been a pensioner under the act of June 27, 1890, ever since August 20, 1890, and is now receiving the rate of $12 per month provided by the first section of the act of April 19, 1908.

She resides at 27 Chamberlain Street, New Haven, Conn., and Dr. E. J. Walker testifies that she is not physically helpless, but that owing to her years and to the effects of lagrippe can not earn a living.

Neighbors testify she has no property, but earns $1.50 a week by baking; has no income but her pension of $12 a month.

Giving due consideration to soldier's long service, her years, and destitution, an increase to $20 a month is proper.

What have you to say about that?

Mr. RUSSELL. I only know what the report states. I do not remember the details of it.

Mr. MOON of Tennessee. Is that all there is of the report?

Mr. RUSSELL. That is all there is of the report. You understand that a report here can not contain all the evidence. It never does.

Mr. MOON of Tennessee. I am not going to criticize you about that. I think that is all right, too. Well, we will refer to another one. You have three out of ten.

Mr. RUSSELL. You would agree to all of them if you had the evidence before you. I want to say in that connection that the gentleman from Tennessee [Mr. MOON] knows very well that this House can not get all the evidence in each of these cases and consider each case. You have got to trust some to your committee, as you trust other things to the committees of this House.

Mr. MOON of Tennessee. I am fully aware of the fact that the gentleman is correct in that statement, but this House certainly ought to be able to depend upon somebody in that committee, some member of it, when called upon to furnish these facts. I know you can not present all the facts in detail in each and every case, but the gentleman must recollect that he has not been able to give me facts in a single case where it has been disputed and where the records on the facts show a legal condition or one that is obtainable in point of fact. I am not blaming the gentleman because he is chairman of the committee. I am taking these things at random and at what they are worth when we come to them, and the gentleman has not been able yet, and he says he can not, and the balance of the committee say they can not, tell us whether these matters ought to pass or not, legally and wisely.

My attention is called by my friend from New Jersey [Mr. TOWNSEND], in this same report, to a case on page 78, and I am going to read it. It is H. R. 26364. The report says:

Frances M. Rounds is the widow of Henry Rounds, who served as a sergeant in Company B, Third Regiment Ohio Volunteer Cavalry, from July 16, 1863, to August 4, 1865 (2 years).

Soldier was pensioned under act of June 27, 1890, at $10 a month by reason of chronic rheumatism, disease of heart, and obesity. His claim under the general law was rejected March 9, 1886, on the ground of no pensionable disability. He died September 6, 1905, and his widow was pensioned under the act of June 27, 1890, at $8 a month from September 18, 1905. She was married to the soldier May 31, 1890; was his third wife. His first wife, the mother of the claimant, died January 1, 1880, when she was about 1 year old. Soldier was divorced from his second wife May 12, 1890.

Inasmuch as Pearl Rounds was over 16 at the date of soldier's death she was not entitled to any rate under existing law.

Dr. Edward Remy gives the following history of the case: The father of Pearl Rounds died in 1906; mother died of pulmonary tuberculosis when Miss Rounds was but 8 months of age. There are three brothers and one sister, all living, and as far as known all are in good health.

Now I will read the "personal history." It seems to be quite a long one, but I would just as soon read this as any of them. I read:

Personal history: After the death of the mother, Miss Rounds, being the youngest in the family, was cared for by her brothers and sister, who being still quite young, were unable to give her the proper attention. At about 1 year of age she was taken by Mrs. John Bergdoerfer and, although was never adopted, she has ever since made her home with Mrs. Bergdoerfer. The latter reports that while Miss Rounds was still under the care of her brothers and sister, she had repeated falls; at one time from a table and others being caused by the overturning of a chair; each time producing more or less injury to the back. About one year after coming under the care of Mrs. Bergdoerfer she noticed the child having a grunting respiration and, in beginning to walk, supported herself with her right hand upon her right knee and with the left hand upon the back. Some bulging of the spine about the middle of the back was noticed at this time. At about 8 years of age the spine became tender and with abscess formation. Miss Rounds claims that she has not grown in height since about 14 years of age; the prominence of the back steadily increasing until about 20 years of age. She claims to have been operated upon by Dr. H. F. Biggar, of Cleveland, Ohio, when 23 years of age. The nature of the operation is not positively known by the patient, but was performed on the left side of the back, and the diagnosis at that time, according to her own statement, was "tuberculosis of the bone."

Physical examination: She is of small stature, being 4 feet 12 inches tall; not very well nourished; weight, 66 pounds.

Did you pension her?

Mr. RUSSELL. This is Gen. SHERWOOD's case; the case of Gen. SHERWOOD, the chairman of the committee.

Mr. MOON of Tennessee. This is an exceedingly long and interesting report. I was curious to know if the pension was recommended to be given on the facts.

Mr. RUSSELL. The Committee on Pensions was divided into subcommittees.

Mr. MOON of Tennessee. I will skip just a section or two of the proof here about the heart, lungs, and abdominal trouble. Now I read:

It is proposed by this bill to increase the pension of the widow who has been appointed guardian of the helpless child, Pearl Rounds, now 33 years old, to $24 a month, in order that the child may receive proper care and support.

Mr. John Bergdoerfer having died and left his wife without means of support, and the child, Pearl Rounds, having none, it is proper that the soldier's helpless child be provided with means sufficient for her care; therefore, it is recommended that the widow's pension be increased to $24 a month; provided, that in the event of the death of Pearl Rounds, the additional pension granted to the widow shall cease and determine; and provided further, that in the event of the death of Frances M. Rounds the name of said Pearl Rounds shall be placed on the pension roll, subject to the limitations and provisions of the pension laws, at the rate of $12 per month from and after the death of said Frances M. Rounds.

Now, tell me what right you have to do that under the law? The law provides that you shall not give pensions to children of soldiers if the children are over 16 years of age. There is no exception to the law on that subject, and you try to circumvent the law on that question by giving the pension to the widow, and then you provide that if the child dies, that poor old widow shall not have a pension, and then you provide that if the widow dies the pension shall accrue to the child, attempting to pension both ways.

Mr. LANGLEY. The gentleman overlooks the provision in the pension law that a permanently helpless child is pensionable regardless of its age.

Mr. MOON of Tennessee. No; I am not overlooking that provision at all. You have a double-acting pension here. You attempt to pension the widow in the first place; that is what you do. You do not pension the child at all, and in the next place you provide that when the widow dies the child shall inherit the pension.

Has it come in this country to the point where Congress is going to grant pensions inheritable between mother and child, and father and son?

Now, that is just driving the question a little too far. You have no justification in the law for such a thing. Of course you may contend that Congress has the power to do it. Who doubts the plenary power of this body? You may contend that the Congress has the power to give away the Treasury for any purpose it sees fit, for anything it wants to give it for. The Constitution lays no bounds on this body. All you have to do is to exercise your general legislative discretion, and that is the end of it. [Applause.]

The CHAIRMAN (Mr. MURRAY). The time of the gentleman from Tennessee has expired.

Mr. RUSSELL. Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The gentleman from Missouri [Mr. RUSSELL] moves that the committee do now rise.

Mr. RODDENBERY. Mr. Chairman, I make the point of no quorum present.

The CHAIRMAN. The Chair will rule that the point of order is not material to the motion of the gentleman from Missouri [Mr. RUSSELL], and the Chair will put the motion that the committee do now rise.

The question was taken, and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MURRAY, Chairman of the Committee of the Whole House, reported that that committee had had under consideration the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war and had come to no resolution thereon.

PORTO RICO (H. DOC. NO. 1256).

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, with the accompanying documents, referred to the Committee on Insular Affairs and ordered to be printed:

To the Senate and House of Representatives:

As required by section 32 of the act of Congress approved April 12, 1900, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," I transmit herewith certified copies of franchises granted by the Executive Council of Porto Rico, which are described in the accompanying letter from the Secretary of War transmitting them to me. Such of these as relate to railroad, street railway, telegraph, and telephone franchises, privileges, or concessions have been approved by me, as required by the joint resolution of May 1, 1900 (31 Stat., 715).

WM. H. TAFT.

THE WHITE HOUSE, *January 9, 1913.*

SAMOAN CLAIMS (H. DOC. NO. 1257).

The SPEAKER laid before the House the following message from the President of the United States, which was read:

To the Senate and the House of Representatives:

I transmit herewith a report by the Secretary of State of the action taken by him in pursuance of the act of Congress approved June 23, 1910, authorizing and directing him to ascertain the "amounts due, if any, respectively, to American citizens on claims heretofore filed in the Department of State growing out of the joint naval operations of the United States and Great Britain in and about the town of Apia, in the Samoan Islands, in the months of March, April, and May, 1899 * * * and report the same to Congress."

Accompanying the report of the Secretary of State is the report of the officer who, pursuant to the Secretary's direction, visited the Samoan Islands for the purpose of collecting evidence regarding the claims mentioned. Of the total amount of American claims of about $64,677.88, payment of $14,811.42 is recommended by the agent. This finding is approved by the Secretary of State, who submits for the consideration of Congress the question of an immediate appropriation for the payment of the claims recommended.

WM. H. TAFT.

THE WHITE HOUSE, *January 10, 1913.*

The SPEAKER. This message, with the accompanying documents, will be printed and referred to the Committee on Foreign Affairs.

Mr. MANN. Mr. Speaker, is not that a matter which should properly be referred to the Committee on Claims? It recommends the payment of a number of claims. The Committee on Foreign Affairs has no jurisdiction over that.

The SPEAKER. The message and accompanying documents will be ordered printed and referred to the Committee on Claims.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House for the further consideration of the pension bill, H. R. 27475, and pending that, I ask unanimous consent that general debate be closed in 10 minutes.

Mr. MOON of Tennessee. Mr. Speaker, I shall have to object to that, and I hope I may be indulged just a moment for the purpose of giving reasons which I think are reasonable and tenable. Here are 217 bills included in this one omnibus bill. The report is 90 pages in length. In the discussion in Committee of the Whole, which has just occurred, 10 of these cases were picked out at random and read, and only 3 of them were in such shape that any member of this committee could give an intelligent reason why they should pass. The others were so bad, so thoroughly rotten, that I believe this House would do itself great injustice not to take the time in general debate for their discussion, and in the five-minute debate—and some of them can not be disposed of probably in that time—in order that the country may know that this bill has not had consideration by the committee or anybody else, and that it ought not to pass. I object.

Mr. RODDENBERY. Before the gentleman objects, will he reserve his objection for a moment?

SEVERAL MEMBERS. Regular order!

The SPEAKER. This whole business is proceeding by unanimous consent, and the regular order is demanded, which is equivalent to an objection.

Mr. RUSSELL. I move that the general debate upon this bill close in 10 minutes.

The SPEAKER. The gentleman from Missouri moves that the general debate on this bill close in 10 minutes.

Mr. RODDENBERY. Mr. Speaker, I move to amend the motion of the gentleman from Missouri, that general debate close in two hours.

The SPEAKER. The gentleman from Georgia [Mr. RODDENBERY] offers an amendment, that general debate close in two hours.

Mr. RICHARDSON. Mr. Speaker, when this discussion began I understood that this was pension day. We have pending before the House the report of the Pensions Committee, embracing 23 bills, I believe. And if there is to be a discussion of cases reported from the Committee on Invalid Pensions, it seems to me that our bill from the Pensions Committee ought not to be longer delayed, but that it ought to be considered.

The SPEAKER. This bill that is under consideration is a pension bill.

Mr. RICHARDSON. I do not think the gentleman from Tennessee can make the criticism of the Pensions Committee that he has made of the Invalid Pensions Committee.

Mr. MOON of Tennessee. Neither do I. I think you are a better set of men.

Mr. RICHARDSON. This is pension day, and there is no division between us. Let us go on now and consider the Pensions Committee cases.

The SPEAKER. The Chair states to the gentleman from Alabama that the bill now under consideration is a pension bill, and it is not possible to consider two pension bills at one time. The bill under consideration was called first, and its consideration is in order.

Mr. RICHARDSON. I desire to say, Mr. Speaker, that the Pensions Committee are not afraid of the criticisms of the gentleman from Tennessee.

The SPEAKER. That is not a parliamentary controversy. The question is on the amendment of the gentleman from Georgia [Mr. RODDENBERY] for two hours' general debate on this bill.

The question being taken; on a division (demanded by Mr. RODDENBERY) there were—ayes 8, noes 69.

Mr. RODDENBERY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Georgia makes the point of order that there is no quorum present. It is evident that there is not. The Doorkeeper will close the doors——

Mr. MOON of Tennessee. Mr. Speaker, I move that the House do now adjourn.

Mr. MANN. I make the point of order that that motion is dilatory at this time in the afternoon.

The SPEAKER. The Chair is not prepared to rule that that motion is dilatory.

Mr. MANN. The Chair ruled that it was when I made it.

The SPEAKER. That was under different circumstances. [Laughter.]

Mr. MANN. This is under worse circumstances.

The SPEAKER. The Chair will try to give you all fair consideration, anyway. The gentleman from Tennessee moves that the House do now adjourn.

The question being taken, the motion was rejected.

The SPEAKER. The House refuses to adjourn. A quorum not being present, the Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, those in favor of the Roddenbery amendment to close debate in two hours will answer aye, those opposed no, and the Clerk will call the roll.

The question was taken, and there were—yeas 40, nays 152, answered "present" 7, not voting 185, as follows:

YEAS—40.

Adamson	Collier	Gregg, Tex.	Roddenbery
Beall, Tex.	Dent	Harrison, Miss.	Sheppard
Bell, Ga.	Dickson, Miss.	Hay	Smith, Tex.
Berger	Dies	Hellin	Stephens, Miss.
Blackmon	Dupré	Hughes, Ga.	Townsend
Burgess	Edwards	Humphreys, Miss.	Tribble
Byrnes, S. C.	Ellerbe	Lee, Ga.	Warburton
Byrns, Tenn.	Estopinal	Lever	Watkins
Callaway	Falson	Macon	Witherspoon
Candler	Flood, Va.	Moon, Tenn.	Young, Tex.

NAYS—152.

Adair	Burke, Wis.	Davenport	Foss
Alney	Burnett	Davis, Minn.	Foster
Akin, N. Y.	Cannon	Denver	Fowler
Allen	Cary	Dodds	Francis
Anderson	Claypool	Donohoe	Gallagher
Anthony	Cline	Doremus	Garner
Bartholdt	Conry	Doughton	Garrett
Bates	Covington	Draper	George
Bathrick	Cox	Dyer	Gillett
Boehne	Crago	Esch	Godwin, N. C.
Booher	Cravens	Farr	Goeke
Borland	Cullop	Fergusson	Good
Buchanan	Currier	Fields	Graham
Bulkley	Danforth	Fitzgerald	Gray

Greene, Mass.	Langham	Murray	Slayden
Griest	Langley	Neeley	Slemp
Hamilton, Mich.	Lee, Pa.	Nye	Sloan
Hamilton, W. Va.	Lenroot	Page	Smith, J. M. C.
Hamlin	Levy	Patton, Pa.	Smith, N. Y.
Hardwick	Lewis	Powers	Stedman
Harris	Littlepage	Pray	Steenerson
Haugen	Lloyd	Prince	Stephens, Cal.
Helgesen	Lobeck	Raker	Stevens, Minn.
Helm	Loud	Redfield	Stone
Hensley	McGillicuddy	Rees	Sweet
Houston	McKenzie	Reilly	Switzer
Jackson	McKinley	Richardson	Talcott, N. Y.
Kahn	McKinney	Roberts, Nev.	Thistlewood
Kendall	Madden	Rodenberg	Thomas
Kennedy	Maguire, Nebr.	Rouse	Tilson
Kinkaid, Nebr.	Martin, S. Dak.	Ruby	Underhill
Kinkead, N. J.	Miller	Rucker, Colo.	Volstead
Knowland	Mondell	Russell	White
Konop	Morgan, Okla.	Sabath	Willis
Korbly	Morrison	Shackleford	Wilson, Ill.
Lafferty	Moss, Ind.	Sharp	Wilson, Pa.
La Follette	Mott	Simmons	Wood, N. J.
Lamb	Murdock	Sims	Young, Kans.

ANSWERED "PRESENT"—7.

Bartlett	Dwight	Mann	Stanley
Browning	Hawley	Riordan	

NOT VOTING—185.

Aiken, S. C.	Fornes	Lafean	Randell, Tex.
Alexander	French	Lawrence	Ransdell, La.
Ames	Fuller	Legare	Rauch
Anderson	Gardner, Mass.	Lindbergh	Reyburn
Ansberry	Gardner, N. J.	Lindsay	Roberts, Mass.
Ashbrook	Gill	Linthicum	Robinson
Austin	Glass	Littleton	Rothermel
Ayres	Goldfogle	Longworth	Rucker, Mo.
Barchfeld	Goodwin, Ark.	McCall	Saunders
Barnhart	Gould	McCoy	Scott
Bradley	Green, Iowa	McCreary	Scully
Brantley	Greene, Vt.	McDermott	Sells
Broussard	Gregg, Pa.	McGuire, Okla.	Sherley
Brown	Gudger	McKellar	Sherwood
Burke, Pa.	Guernsey	McLaughlin	Sisson
Burke, S. Dak.	Hamill	McMorran	Small
Burleson	Hammond	Maher	Smith, Saml. W.
Butler	Hardy	Martin, Colo.	Smith, Cal.
Calder	Harrison, N. Y.	Matthews	Sparkman
Campbell	Hart	Mays	Speer
Cantrill	Hartman	Merritt	Stack
Carlin	Hayden	Moon, Pa.	Stephens, Nebr.
Carter	Hayes	Moore, Pa.	Stephens, Tex.
Clark, Fla.	Heald	Moore, Tex.	Sterling
Clayton	Henry, Conn.	Morgan, La.	Sulloway
Cooper	Henry, Tex.	Morse, Wis.	Taggart
Copley	Higgins	Needham	Talbott, Md.
Crumpacker	Hill	Nelson	Taylor, Ala.
Curley	Hinds	Norris	Taylor, Colo.
Curry	Hobson	Oldfield	Taylor, Ohio
Dalzell	Holland	Olmsted	Thayer
Daugherty	Howard	O'Shaunessy	Towner
Davidson	Howell	Padgett	Turnbull
Davis, W. Va.	Howland	Palmer	Tuttle
De Forest	Hughes, W. Va.	Parran	Underwood
Dickinson	Hull	Patten, N. Y.	Vare
Diffenderfer	Humphrey, Wash.	Payne	Vreeland
Dixon, Ind.	Jacoway	Pepper	Webb
Driscoll, D. A.	James	Peters	Weeks
Driscoll, M. E.	Johnson, Ky.	Pickett	Whitacre
Evans	Johnson, S. C.	Plumley	Wilder
Fairchild	Jones	Porter	Wilson, N. Y.
Ferris	Kent	Post	Woods, Iowa
Finley	Kindred	Pou	Young, Mich.
Floyd, Ark.	Kitchin	Prouty	
Foelt	Konig	Pujo	
Fordney	Kopp	Rainey	

So the amendment of Mr. RODDENBERY was lost.

The following additional pairs were announced:

For the session:

Mr. FORNES with Mr. BRADLEY.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Until further notice:

Mr. SCULLY with Mr. BROWNING.

Mr. ALEXANDER with Mr. AMES.

Mr. AYRES with Mr. BURKE of Pennsylvania.

Mr. BARNHART with Mr. CALDER.

Mr. BRANTLEY with Mr. CAMPBELL.

Mr. BURLESON with Mr. CRUMPACKER.

Mr. CARLIN with Mr. DE FOREST.

Mr. CANTRILL with Mr. DALZELL.

Mr. CURLEY with Mr. HENRY of Connecticut.

Mr. DANIEL A. DRISCOLL with Mr. FRENCH.

Mr. FERRIS with Mr. HAYES.

Mr. GLASS with Mr. HUMPHREY of Washington.

Mr. GREGG of Pennsylvania with Mr. WOODS of Iowa.

Mr. SPARKMAN with Mr. WEEKS.

Mr. HARDY with Mr. VREELAND.

Mr. HENRY of Texas with Mr. MCCREARY.

Mr. HOLLAND with Mr. VARE.

Mr. JOHNSON of South Carolina with Mr. MCLAUGHLIN.

Mr. PADGETT with Mr. MATTHEWS.

Mr. PEPPER with Mr. MERRITT.

Mr. STEPHENS of Texas with Mr. LAWRENCE.

Mr. RAUCH with Mr. PORTER.

Mr. ROTHERMEL with Mr. SPEER.

Mr. SHERLEY with Mr. PICKETT.

Mr. SISSON with Mr. REYBURN.

Mr. STEPHENS of Nebraska with Mr. TOWNER.

Mr. HAWLEY with Mr. MCDERMOTT.

Mr. ASHBROOK with Mr. HARTMAN.

Commencing January 10:

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. BROWNING. Mr. Speaker, did the gentleman from New Jersey, Mr. SCULLY, vote?

The SPEAKER. He did not.

Mr. BROWNING. Then I wish to withdraw my vote of "no" and answer "present."

The result of the vote was then announced as above recorded.

The SPEAKER. A quorum is present, and the Doorkeeper will open the doors. The question is on the motion of the gentleman from Missouri [Mr. RUSSELL] to close general debate in 10 minutes.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were—ayes 110, noes 5.

So the motion was agreed to.

The SPEAKER. The question now recurs on the motion of the gentleman from Missouri, that the House resolve itself into Committee of the Whole House for the further consideration of the bill H. R. 27475—the pension bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House, with Mr. MURRAY in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the consideratoin of the bill H. R. 27475. General debate has been limited to 10 minutes, and the gentleman from Missouri [Mr. RUSSELL] is recognized.

Mr. RUSSELL. Mr. Chairman, is there anybody on that side of the House opposed to the bill that desires five minutes?

Mr. RODDENBERY. I would like five minutes.

Mr. RUSSELL. I will yield five minutes to the gentleman from Georgia [Mr. RODDENBERY].

Mr. RODDENBERY. Before taking the five minutes I desire to yield to anyone who may desire to oppose the bill. Mr. Chairman, it is somewhat remarkable that a distinguished Member of this House, in general debate when the pension bill is being considered, arises in his place and takes the report of the committee in conjunction with the bill, discusses the germane elements of the report and the bill, and that throughout an hour's discussion, with one exception, the author of not a single bill would rise to explain to the House of Representatives what the merits of his proposals were. It is a unique period in the history of legislation in a republican government when the author of a bill and no member of the committee should rise to give to a distinguished Member an explanation of why the Treasury of the people of the country should be charged with the expenditure of their tax money. We see during Judge MOON's remarks where he discloses infirmities of legislation and asked for an explanation that there was none. When he had concluded and other Members sought to be recognized to discuss the legislation the chairman of the committee moved that the committee rise, and forthwith moved that general debate be limited to 30 minutes. Thirty minutes, and now 10 minutes, in which to discuss 237 items, every one of them charging your constituents and mine with the levy of Federal taxation.

The record of this day's proceedings will disclose that Members on the roll call voted to suppress discussion to prevent exposure of fraud and reward the deserters and traitors to the country, thus putting on the taxpayers of this country added thousands of dollars.

Gentlemen, are you afraid of the bill? Gentlemen, do you not dare to discuss the merits of the proposition by which you seek to take money from the pockets of the people? Has the old soldier of this age, with two hundred millions of appropriations for his pensions now confronting us, has the old soldier's cause reached the stage when his supporters on the floor will not defend the merits of his claims? The old soldiers of this country will indorse no such methods, no such practices. Every soldier of the Union in this bill, or his widow, want their rights considered by the House. Every deserter, every wealthy person, every fraudulent impostor on the people will applaud the vote that stifles debate and denies discussion. It is the history of legislation that when the people stand face to face with exposure that he who seeks to profit by the surreptitious legislation will applaud every effort to deny the people full discussion of the truth. I wonder now if the gentlemen, under the five-minute rule, propose to prevent the discussion of these bills. We will see in just a few minutes.

Mr. RUSSELL. Mr. Chairman, if no one desires to speak in favor of the bill, the Clerk may read.

The CHAIRMAN. The gentleman from Missouri yields back his time. All time has expired, and the Clerk will read.

The Clerk read as follows:

The name of William Andrews, late of Company C, Twenty-second Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. MOON of Tennessee. Mr. Chairman, if the gentleman from Missouri does not desire to say anything in support of the bill, I would like a moment. I have always favored proper and legitimate pensions of all soldiers of the United States. I favored the private bills wherever they were just and fair. I have favored the general laws in their behalf and the general appropriations in their behalf. I do not know that upon a proper explanation of the facts in the case there is a single bill reported here on the measure under consideration to which I would have any opposition. But it was disclosed in general debate that the committee were unable in at least 8 out of 10 cases that were referred to—merely at random and for the first time, not having been selected for the purpose of reference—to give an intelligent explanation of the reasons why they asked the appropriation in each of these cases. This is an omnibus bill. Evidently there are bad bills and there are good bills. It would be an exceptional thing if there were not bad bills. If we want to legislate honestly in the interest of the soldiers of the country—and I am sure there is no soldier who wants an improper bill passed—I feel it is our duty to know the facts. We are entitled to know from this committee the facts and the reasons why they make the recommendations for appropriations in each and every one of these bills. As I said before, I have no reason for objecting to this bill—to the first one, or to any of the others—but I feel it is due to the House that substantial and honest reasons may be given for this legislation, that we may justify ourselves in its enactment. Here is a measure carrying several bills. The first bill is reported on facts that are meagerly stated, and upon their face they hardly justify an appropriation, and yet a full disclosure of the facts may show that this is a proper bill for passage. I offer no opposition to the bill, but I do insist that the report of the committee on this bill be read, and that the chairman of this committee give an explanation, if he can, why he asks for this legislation.

Mr. RUSSELL. Mr. Chairman, I assume that the gentleman from Tennessee is sincere in asking me as acting chairman of this committee to-day to explain this item in this bill. I want to state, and he knows he has already in the discussion of the bill said that he knows that that is true, that no member of this committee can be acquainted with all the testimony offered in support of an item like this.

Mr. MOON of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. RUSSELL. Yes.

Mr. MOON of Tennessee. If the gentleman concedes that he is not able to give a full statement of these facts, would it not be well for some member of the committee or some one interested in this particular bill to make a statement to the House as to what all the facts are in justification of this enactment? At least, would it not be well that the House hear the report upon that bill?

Mr. RUSSELL. This bill was introduced by the gentleman from Ohio [Mr. ANSBERRY]. I presume if he were here he might be able to give all of the facts in the case, but it happens to-day that he is not present.

Mr. COX. He is a member of the Committee on Ways and Means, which is now in session.

Mr. RUSSELL. He is away attending to his official duties.

Mr. MOON of Tennessee. If there is nobody here who knows the facts, if no one can state an intelligent reason for the passage of this bill, why should the committee ask the House to approve this legislation?

Mr. RUSSELL. Simply for the reason that this House in every case does trust and ought to trust the committees. It has to trust the committees that have to do the work. [Applause.]

Mr. MOON of Tennessee. Of course. Of course you are obliged to trust the committee. We trust the committee, however, upon the presumption that the committee knows the facts, and we blindly follow the committee even along these lines, but when a question is raised and it is clearly disclosed that the committee does not know the facts, does not common sense dictate that we ought not to legislate until we do know the facts?

Mr. RUSSELL. The gentleman from Tennessee has already admitted to-day in the discussion here that he knows that it is absolutely impossible and not expected that a member of this committee will be able to state all the details of the evidence in these cases.

Mr. MOON of Tennessee. Then would not the gentleman have the report read?

Mr. RUSSELL. Does the gentleman from Tennessee believe that if this report were read here from the Clerk's desk the membership of this House would give attention to it while it was being read?

Mr. MOON of Tennessee. Of course. Here is a bill pending, and there is a short report upon this particular bill, ought not this House to know at least that much about it?

Mr. RUSSELL. I want to say that we have been passing these pension bills ever since I have been in Congress. We have passed a great many bills coming from this committee offered by the gentleman from Tennessee himself, and he never before asked for a report to be read. [Applause.]

Mr. LANGLEY. And he never before took the position that he is taking to-day, although he has served years and years in this House.

Mr. MOON of Tennessee. Mr. Chairman, that is not the fact. The exact opposite of that is true. The gentleman from Tennessee on various occasions has defended the measures that he has had here when they have been assailed. He never does defend them unless they are assailed.

Mr. LANGLEY. Did the gentleman ever before ask for the reading of these reports in each case as he is doing now?

Mr. MOON of Tennessee. The gentleman has not only had the reports read, but the gentleman on one occasion stood here for four hours and defended a bill in favor of a pension.

Mr. LANGLEY. I expect that the gentleman may have presented a bill here at some time the merits of which were such as to require four hours of defense.

Mr. MOON of Tennessee. And it went through by a vote of 300 to 1. I will ask the gentleman from Missouri to tell us what he knows about that bill.

Mr. RUSSELL. I do not recall the testimony on this item when it was offered before the committee.

Mr. MOON of Tennessee. Is there anybody here who does?

Mr. RUSSELL. I do not know. The gentleman from Ohio [Mr. ANSBERRY] is not here. Perhaps if he were here he might be able to explain items in that bill.

Mr. MOON of Tennessee. Have you not the report?

Mr. RUSSELL. Here is the report, and the affidavits are on file, and they can be procured and brought here.

Mr. MOON of Tennessee. I do not want to be unreasonable, but I will ask the gentleman to report what he has there.

Mr. RUSSELL. Does the gentleman believe that this House wants to set aside the report of the committee and its work and its honest judgment and bring all of the affidavits here in these 237 cases that have been passed by the House? [Applause.]

Mr. MOON of Tennessee. No, indeed.

Mr. RUSSELL. If you can not trust this committee as you trust other committees in the House, then the legislation can not be enacted at all, and that seems to be the result of the filibuster.

Mr. MOON of Tennessee. The gentleman has made a report in this case.

Mr. RUSSELL. Yes; here is the report.

Mr. MOON of Tennessee. Read it and let the House know its contents.

Mr. RUSSELL. The gentleman has already read the report to the House. You have to trust the committee.

Mr. MOON of Tennessee. I am willing to trust this committee, but not to trust it blindly when the committee says it does not know anything about its work. I can not trust it in that event.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. TRIBBLE. The chairman of this committee says the committee should be trusted. Now, this committee has been trusted, and let me show you what they have done with that trust. The laws of the United States provided that when this man entered he could not enter under 18 years of age. At the time William Andrews entered the service he enlisted at 13 years of age. In the first place, does anybody in this House believe he saw service at all? Soldier boy—13 years of age baby pension! [Laughter.] Now, they come here, Mr. Chairman, and propose to put on this roll of pensioners a boy 13 years of age, who was a deserter, as stated in the committee's own report now before this House. You do not have to have a full report like the gentleman from Tennessee is calling for. Take this report. It is sufficient to expose, before this House and the country, pension methods. I say the boy was a deserter. That alone should have ended this claim, and the committee should have kicked it out the door. This claim was refused by the Bureau of Pensions. When the doctors examined him for the

Pension Bureau he claimed to have at that time lumbago, disease of heart, and bronchitis. The Bureau of Pensions turned him down, and said he did not have any such diseases. He went out there to Defiance, Ohio, and picked up another doctor by the name of Dr. Ury. This Dr. Ury credits him with about 10 other diseases, and does not mention any one of the three diseases the applicant claimed in first examination to have. And yet you talk about being trusted. The Pension Bureau, schooled to pass all kinds of claims, would not stand for baby soldier, deserter, and man who transferred his lumbago, heart disease, and bronchitis for numerous other diseases. [Laughter.]

Mr. RUSSELL. Let the Clerk read.

The Clerk read as follows:

The name of Emma L. Cole, widow of William C. Cole, acting assistant surgeon, United States Army, and pay her a pension at the rate of $12 per month.

Mr. MOON of Tennessee. Mr. Chairman, I ask that the report of the committee in this case be read for the information of the House.

Mr. RUSSELL. I object.

Mr. MOON of Tennessee. We have a right to have it read in the Committee of the Whole.

The CHAIRMAN. Not without a motion. The Chair will, however, construe the request as a motion to have the report read.

Mr. MOON of Tennessee. Under the rule, as I understand it, we have the right to have this report, anyway.

The CHAIRMAN. The Chair will submit the motion of the gentleman from Tennessee [Mr. MOON] to the committee.

Mr. MOON of Tennessee. I think the Chair has a right to rule on that question.

The CHAIRMAN. Well, the rule is very clear. Rule XXX, page 404, is as follows:

When the reading of a paper other than one upon which the House is called to give a final vote is demanded and the same is objected to by any Member, it shall be determined without debate by vote of the House.

There has been objection.

Mr. MOON of Tennessee. Here is a paper that the House has determined.

Mr. FOSTER. I submit to the Chair that the House does not determine a vote upon the report of the committee, but upon the bill itself.

Mr. MOON of Tennessee. Of course——

Mr. FOSTER. And the gentleman's statement is erroneous, so far as that is concerned.

Mr. MOON of Tennessee. I insist that the House has a right to hear the report of this committee.

The CHAIRMAN. There is no disagreement between the gentleman and the Chair on that point, but the committee has a right to say whether it will hear the report read or not. The Chair will submit the motion of the gentleman from Tennessee [Mr. MOON], that the report of the committee be read.

The question was taken, and the Chairman reported that the noes seemed to have it.

Mr. RODDENBERY. Division, Mr. Chairman.

The committee divided, and there were—ayes 14, noes 87.

So the motion was rejected.

Mr. MOON of Tennessee. Mr. Chairman, as I remarked before, I do not know that there is any special objection which I have to a number of these bills, but I shall in my own time on the floor read as follows as part of my remarks in this case:

H. R. 111. Emma L. Cole, about 61 years of age, is the widow of William C. Cole, who served as acting assistant surgeon, United States Army, from August 21, 1863, to October 5, 1863, and from October 31, 1863, to December 17, 1864, and who died December 29, 1902, of paralysis, while a pensioner under the general law at $30 per month on account of an injury to the lower jaw and back received in line of duty in September, 1864.

The claimant, who married the surgeon on January 3, 1870, sought pension under the general law, but her claim was properly rejected in July, 1908, upon the ground that her husband's fatal paralysis had no connection with the disabilities for which he was pensioned and was not otherwise shown to have been due to his military service.

She also sought pension under the act of June 27, 1890, but this claim was likewise rejected on the ground that her husband was neither an enlisted man nor a commissioned officer in the military establishment.

Claimant is a resident of Van Wert, Ohio, and is shown by proof filed with your committee to have no property and to be dependent upon her own labor for a support.

Congress having repeatedly granted relief to the men who served as contract surgeons and to the widows of such persons, like relief is believed to be warranted in this case, and a pension of $12 per month is therefore recommended.

Now, there is not a soldier nor a commissioned officer in the Army whose widow is receiving a pension under this bill. Under the general law pensions must be granted alone to enlisted soldiers or the widows of enlisted soldiers. Now, I am about the last person in the world who would want to deny a pension to a worthy person, but here is practically the granting of a civil pension. It is not a pension to a soldier nor to a commissioned officer of the Army, but it is to one who occupied no military psition, no enlisted position of any kind, and surely the law will be overridden in a case like this. If you can grant pensions to persons occupying a situation like this, then you might subvert the law in another instance and grant them to widows who married since the act of 1869, and also grant them to a widow of a soldier who served less than 90 days. Let us give fair, legitimate, and honest pensions to the soldiers and widows of soldiers, but not to those who were not soldiers. And the argument that Congress may have violated the principles of the law heretofore—it might have gone further than it ought to have gone—is no justification for it now, however far it may have gone in the past. I do not want to offer any serious objection to a pension, but in all common decency this Congress ought to show some special reason for the passage of this one.

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. MOON] has expired.

Mr. RUSSELL. The gentleman from Tennessee [Mr. MOON] wants to know why this widow is granted a pension, stating that her husband was not a soldier. This report—although he criticizes our report—shows that her husband was a surgeon in the Army.

Mr. MOON of Tennessee. He was not a soldier and enlisted.

Mr. RUSSELL. But he was a surgeon, and under the general law was pensioned at $30 a month. Now, then, are you opposed to the pension law of the country under which he was pensioned; and if he was given a pension under the general law, why should his widow, who married him forty and odd years ago, be denied a pension when she is shown to be deserving in every other way?

Mr. MOON of Tennessee. Your own statement shows here that her pension was denied under the general law.

Mr. RUSSELL. But he was pensioned at $30 a month under the general law. Of course, if we are not to give pensions to anyone who can not get them in the department, you have no use for an Invalid Pension Committee to represent you in the House.

Mr. MOON of Tennessee. The gentleman has at last given a satisfactory reason, perhaps, in law. I offer no objection to the pension, but you have got to show why you want these laws passed.

Mr. RUSSELL. The reason I have given is printed here in that report.

Mr. MOON of Tennessee. Why did you not want the report read?

Mr. RUSSELL. I know the gentleman did read it, but I still insist that he gave no reason why the pension should be granted. Now, after I have read it, the gentleman sees that it does give reasons.

Mr. MOON of Tennessee. No; I say that the gentleman has made an explanation of it that is more satisfactory than it was before. The report shows it.

Mr. RUCKER of Colorado. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Colorado moves to strike out the last word.

Mr. RUCKER of Colorado. Mr. Chairman, it is a notorious fact that I am unalterably opposed to any species of monopoly, and that intense opposition embraces in its beneficent breadth legislative as well as commercial monopoly. Indeed, sir, when we pause to reflect upon the import of these two closely allied monopolies, it is difficult at times to determine which of the two is the more serious menace in our political and economic affairs, there being frequently a similarity of result in the exercise of either. We have restraint of trade on the one side and restraint of speech on the other, and just as some promising infant industry, from the standpoint of commerce, only too frequently feels the relentless and murderous hand of monopoly at its very vitals, just so some promising, and what might develop into a product of effective, utterance may, in the exigencies of parliamentary procedure, be strangled at its very birth. [Laughter.]

But, Mr. Chairman, I am convinced that my effort now will meet with no such untoward fate, for I rise to the assistance of the criticizers of this measure. I can not silently assent to the selfish desire of three very distinguished Members of this House to appropriate to themselves all of the deserving criticism that is to be leveled against it. [Laughter.]

It has been truly said that "Competition is the life of trade," and similarly it can be as truthfully said that competition means sometimes the life of legislators, and I may pause to suggest that this improvised axiom seems rather reminiscent of

my late political experience. [Laughter.] Still let me now, while I may, enlist as a contemporaneous competitive critic of the action of the committee. Indeed, let me go further and be, in the modern acceptation of the term, a true "progressive" in the race of criticism; and we all know what that means, even though I may not hope to cope with some of the leaders of the "progressives" in appropriate adjectives. I would outstrip my friends the criticizers. They are at best but novices in the art. While their lances are keen, they have but skinned the bark; they have by no means penetrated to the heart of the subject.

Mr. Chairman, during my service in this body the proud distinction has, at unfortunately rare intervals, been mine to temporarily preside over its sometimes heated deliberations, if I may so express it; and, like an ambitious student of parliamentary tactics, I have carefully noted from that exalted position the methods of those who have been unjustly denominated "filibusterers." Mr. Chairman, that is an unmerited reflection upon a class of gentlemen who should be dignified by the designation "legislative critics" [laughter], whose salutary presence is indispensable to the intelligent and effective performance of our duties as legislators. Criticism by way of nonparticipation in vicious legislation has had a very wholesome effect in our legislative history, while those who indulge in this species of criticism are unthinkingly regarded by some as obstructionists. That is eminently unfair.

I charge this committee with recreancy of duty in that it has, with some unrevealed and mysterious motive, withheld from this House the evidence, underlying its surreptitious attempt to insinuate its grim, grimy hand into the sacred bowels of the Treasury and withdraw the sum of $20 per month as a pension for the widow of one "Joseph Jefferson." As Marcus Tullius Cicero said, pointing his condemning finger at Mark Antony, "Romans, he is agitated; he perspires; he turns pale"—so will I presently call upon you, my colleagues, when I have further exposed this daring raid upon the Treasury, to turn your attention in the direction where my finger is pointing and behold what is equivalent to a confession—the blanched face and trembling lips of the chairman of this committee. [Laughter.]

But in the profound utterance of the immortal Dane—

Brief let me be.

My distinguished friends have addressed themselves with characteristic pointedness and eloquent persuasiveness to many paragraphs of this bill. Mr. Chairman, theirs were appropriate and relevant suggestions, and I here and now eagerly avail myself of the opportunity to supplement and, if possible, to fortify their forcible and well-merited arraignment of the committee, and to this end I desire to call the earnest and prayerful attention of the House to another item in this bill, which by inadvertence they overlooked, appearing on page 11, which is equally susceptible of serious criticism. On the page referred to we are confronted with this startling provision:

The name of Sarah A. Jefferson, widow of Joseph Jefferson, late of Company K, Eighth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Why, I ask in the joint names of propriety and accuracy, are we cunningly deprived of evidence by this neglectful committee which would be so controlling and enlightening upon the all-important full and complete name of "Sarah A. Jefferson?" [Laughter.] Had her middle initial appeared as a modest and retiring "V" all intelligent thespian historians on this floor would have instantly deduced that that initial was synonymous with "Van Winkle," for she is boldly and bluntly stated to be "the widow of Joseph Jefferson," and the conclusion would be absolutely irresistible, that name being so inseparably associated with that of the immortal impersonator of the famous "Rip" that the mere initial would have carried its own convincing proof. [Laughter.] And, too, as a further rebuke to the thoughtlessness of the committee, it may be said that it is contrary to the truth of history to designate him as a "soldier," and especially as a "colored" soldier. Of course, he was neither. "The only war ever engaged in by 'Joseph Jefferson'" consisted of the innumerable war of words with his recalcitrant spouse, and in which, it may be stated, he was always on the defensive and was finally ignominously routed, and the only gun he ever handled was his trusty and, as subsequent developments proved, rusty fowling piece which led him, with his faithful dog, "Schneider," to the hazy heights of the Catskills in quest of game, and the "game," as well as the gun, as is well known, conspired to his undoing in his long and forgetful sleep. Alas, to use Rip's own brief but mournful soliloquy, "How soon are we forgot when we are gone." Poor old Rip, in the cold, gray dawn of the morning, after his memorable festivities with the "boys of the glen," completely lost his identity, just as the "Sarah" of this late day has lost hers in its essential entirety; and it is eminently desirable that we should now ascertain why the committee should withhold this important bit of enlightenment in this instance, namely, who is "Sarah A. Jefferson" and why it failed to probe further into the true significance of the initial "A." Had the faithful "Schneider" been called as a witness he could have doubtless established her true identity. [Laughter.]

The termigant spouse in the legend of Irving bore the simple and familiar designation "Dame Van Winkle," and as the personality of "Joseph Jefferson" was so completely merged into that of "Rip Van Winkle," and as his energetic wife is nowhere named "Sarah A.," although she might have been, we are led to suspect some ulterior motive on the part of the committee. Why their reticence in disclosing the full middle name? If it were "Ann," "Annie," "Arabella," "Adaline," or any other good English name above the realm of suspicion, why not have unhesitatingly revealed it?

Ah, Mr. Chairman, herein lies the very pith and essence of the natural suspicion attaching to the committee, for we are reluctantly forced to the conclusion, in the absence of the necessary and much-desired proof to the contrary, that the middle name of this widow of "Joseph Jefferson" may have been "Aspasia," as an hereditary compliment to that seemingly irresistible Grecian enchantress of the golden tresses and olive cast whom we are told, with reckless abandon, lured the fickle swains of ancient Greece from the paths of rectitude to the gilded palace of sin; and having by a master stroke of ingenuity secured this piece of inside information, the committee doubtless virtuously, but nevertheless quite reprehensibly, suppressed the evidence and contented itself with the simple and otherwise guileless letter "A."

Mr. Chairman, I feel keenly this wanton lack of frankness on the part of the committee. Are we, as American legislators, to be juggled with, and is important information of this character to be with impunity withheld from us? [Laughter.]

I might, Mr. Chairman, take exception to numerous other serious delinquencies on the part of the committee but my time is too limited to recount them. Suffice it to say, in conclusion, that I am in hearty accord with the just criticisms of my friends upon my left with respect to their attitude toward these old, seared soldiers, because I feel that that committee is guilty of a deliberate fraud, or attempted fraud, upon the Treasury when it agrees to report a bill to pay a pension of $20 a month to a widow of a deceased soldier whose name is simply said to be "Sarah A," without furnishing the important and necessary proof even that her name was actually "Sarah," and also the further substantiation of her full and complete middle name [laughter], and to stigmatize the greatest actor of the modern age by associating him with a negro regiment without any explanation, or submitting proof that he was not really "acting a part," is nothing short of a national humiliation and outrage, and fully sympathizing with the sentiments of my colleagues and in the interest of the already overburdened taxpayers of the country, I here and now as a Representative in this great Congress against this diabolical, colossal, and inexcusable outrage I desire to register my solemn protest. [Applause.]

The CHAIRMAN. The time of the gentleman has expired. The gentleman withdraws his pro forma amendment.

Mr. RUSSELL. Mr. Chairman, I ask that the Clerk read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The name of Julia A. Rouse, widow of Oliver H. P. Rouse, late of Company D, Eighteenth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. TRIBBLE. Mr. Chairman, I desire to call the attention of the House to the fact that Julia A. Rouse is placed upon this list, and there are two reasons why her name should be stricken from it.

In the first place, the record shows that her husband, Oliver H. P. Rouse, had no pensionable status; that he could not draw a pension; and where he could not draw a pension under the law, then his widow can not draw a pension. Why? Because it does not appear that he received any injury while in the service.

The gentlemen of the committee thoroughly understand that principle. In the second place, it ought to be stricken because the widow married since 1890. She has no standing before this committee as a widow. She was married since the date of act of June 27, 1890.

There are two reasons; and yet they have placed this woman's name upon this list. If you read the report of the committee, you will find that two of her children have been on the pension roll, and stayed on there until they were 16 years of age.

The Government paid them without authority. They had no right upon this pension roll. Their father did not have a right to draw a pension and therefore they could not draw a pension.

Now, these things are in the committee's report. You do not have to go out and seek them; they are right here before your eyes.

Mr. LANGLEY. The gentleman is mistaken. The report shows that the soldier was pensioned under the act of June 27, 1890, and that he died on August 11, 1898. That is shown in the report on the bill H. R. 835, on page 4 of this report.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. TRIBBLE] has expired. The gentleman withdraws his pro forma amendment. The Clerk will read.

The Clerk read as follows:

The name of Louisa Pitts, widow of Jacob Pitts, late of Company D, One hundred and thirteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. TRIBBLE. Mr. Chairman, I rise for the purpose of reading to the gentleman this statement. He questioned the correctness of my statement. It is stated here in this report that the widow when she applied for a pension under the general law was denied because the soldier's death from dysentery and chronic diarrhea was not shown to be due to his military service in the war.

Mr. LANGLEY. He was not pensioned because of disability incurred in service. That is true. He was pensioned under the act of June 27, 1890.

Mr. TRIBBLE. I do not make statements that I can not stand for in this House. The report reads as follows:

She applied for pension under the general law, which was denied because soldier's death from dysentery and chronic diarrhea was not shown to be due to his military service. Having married soldier subsequent to June 27, 1890, she had no status under that act.

Now, sir, you have the exact language of the report.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The name of Jeshuron Bailey, late of Company A, One hundred and eighty-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. MOON of Tennessee. Mr. Chairman, I surely have no disposition to obstruct legislation in this House further than it would seem necessary and proper to do it in the interest of good legislation. As I said before, every bill here may be a good one; I do not know. I am ready to support it if it is.

I would like to have information, however, that would justify me in the support of these measures. I would be glad to support them if I can. But the House has determined on a vote that it does not want to hear the reports read in this House. I have read some of them myself. On a motion here the House determined that it did not want the reports read. It clearly appears from the debate that the committee is unable to give any explanation in the majority of the cases that have been up as to why this legislation is asked for. It is a lot of legislation tumbled into a bill here that is sought to be passed without, so far as the facts show, any reason for it. Surely I am doing my duty when I insist that the facts ought to be intelligently stated by some one in this House who knows them before we act upon them. Surely the report of the committee, meager and insufficient as it is, ought to be read. But if the Democratic Party, coming into power, is willing to proceed along this line of legislation in this way I think there is nothing that more thoroughly demonstrates its unfitness and its incapacity than a procedure along this line in this way.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The name of Elizabeth M. Rutherford, widow of George Rutherford, late of Company F, Second Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. TRIBBLE. In this report you will find with reference to the claim of Elizabeth Rutherford the following words:

Her application under the general law was rejected December 13, 1909, on the ground of the soldier's fatal disease of heart was not known to be of service origin.

In the first place the claim of this woman was rejected. In the second place, she came before this Congress years ago, because she could not get a pension under the general laws of this country, and a special act was passed putting her name on the pension roll when she was not entitled to go there. To-day we see her moving on the Treasury of the United States to get an increase. We are asked here to-day to pass a second special act increasing that special pension from $12 to $20. Why? Because, forsooth, this woman is worth $4,000 or $5,000. What about these old war widows throughout the country who are receiving nothing, really dependent and deserving? What have you to say about them—widows who are 65, 70, and 80 years of age—who have not a dollar in this world? What have you to say of the old widows from one end of this country to the other who are receiving $12 a month? Yet you take up the case of one who is not entitled to a pension at all, who was pensioned by special act, and you now propose by special act to increase her pension from $12 to $20 a month, and she worth $4,000 or $5,000. In the name of humanity, if you insist on raiding the Treasury for pensions, give to the poor and worthy. This woman has 18 lots in Minneapolis and a homestead in Custer County and no pension standing, yet this is the second special act for her benefit.

Mr. NYE. Mr. Chairman, I do not like to take up the time of the committee on this bill, but in view of the fact that some statements were made by the gentleman from Tennessee [Mr. MOON] in my absence, and now by the gentleman from Georgia, I beg the indulgence of the committee just a moment. I personally know something of the facts of the case. This woman has been known to be in poor health for years, and I can say without exaggeration that she is nervously broken down. Her husband was a worthy soldier for nearly four years. He was sergeant of his company. This woman married him in 1867 and raised a family. She is drawing a pension of $12 a month, as I understand the facts, under the act of 1890. I personally know the family. They stand well. She has had much trouble to break her down nervously, and the only criticism that can fairly be made is with reference to property matters. The report would seem to show, and the facts are on their face, that if the property could be sold at what it is considered to be worth there might be an equity of something like $2,700. It is heavily taxed. I know from the location of the property that it is hardly salable at the present time, and has not been for years, and no income from it. I know that the woman has had a struggle to live.

I want to say generally in regard to pensions that there is one thing that has impressed me ever since I have been a Member of this House. While we have been generous and perhaps have granted to men in many cases greater pensions than they deserve, we have never been generous or even just to the widows of worthy soldiers. [Applause.] If we would fittingly recognize the valuable and trusted services of a man who for four years fought for his country and would fittingly honor his memory and his service, it would include some honor to the widow whom he has left, who is struggling for a living. I do not believe there is an item in this bill more worthy or more just than this one. I personally know this woman. I knew her family personally. I knew her late husband personally to some extent. I am not here to urge bills that are unconscionable or unjust, and I appeal to you to know if this is an unjust bill which gives $20, an increase of $8, to a struggling widow who is nearly 70 years of age.

Mr. RODDENBERY. Mr. Chairman, I desire to offer an amendment to this paragraph.

The CHAIRMAN. The gentleman offers an amendment, which the Clerk will report.

The Clerk read as follows:

Insert as a new paragraph the following:
"The name of James L. Davenport, of Company B, Fortieth Wisconsin Regiment, $1 per month in lieu of that he is now receiving."

Mr. RODDENBERY. Mr. Chairman, I entirely agree with the distinguished gentleman from Minnesota——

Mr. LANGLEY. Mr. Chairman, I rise to a point of order.

Mr. RODDENBERY. I make the point of order that the gentleman is too late.

Mr. LANGLEY. I want to make the point of order that the amendment is out of order because it is not germane.

Mr. RODDENBERY. I make the point of order that the gentleman's point comes too late.

Mr. LANGLEY. It is not too late, Mr. Chairman. I endeavored to get recognition as soon as the reading was finished and just as the gentleman took the floor for debate.

Mr. RODDENBERY. If the Chair has any misgivings I should like to submit——

The CHAIRMAN. What is the gentleman's point of order?

Mr. LANGLEY. That the amendment is not germane to the bill, and——

The CHAIRMAN. The Chair will rule that the amendment is germane.

Mr. LANGLEY (continuing). That it is not germane to the purpose of the bill.

The CHAIRMAN. The Chair will rule that the amendment is germane. The gentleman from Georgia [Mr. RODDENBERY] is recognized and has four minutes remaining.

Mr. RODDENBERY. Mr. Chairman, the gentleman referred to in this amendment is none other than the Commissioner of Pensions of the United States, who for many years has been

drawing a salary of $5,000 a year from the Government as such Pension Commissioner, and in addition to that for 20 years has been drawing a pension of $16 or more per month.

I hold in my hand a card which contains these words:

John R. King, past commander in chief Grand Army of the Republic; president of the Grand Army Club of Maryland—

and four other official connections that he has with the Grand Army of the Republic. I hold in my hand a communication signed by this gentleman, whom I do not know. Effort may be made to show that he had as bad a record as Gen. Francis Adams had, whose views of the pension system I called to the attention of the House some time ago. I do not know. I never saw Mr. Davenport. Here is his military record as given by Past Commander in Chief Grand Army of the Republic King:

At the end of the Civil War, at a period when big bounties were being paid, he (Commissioner Davenport) enlisted in Company B, Fortieth Wisconsin One hundred Days Regiment. He never got within 40 miles of the front, never heard a hostile gun fired, yet 21 years after the war—July, 1886—while holding a position in the Pension Bureau, had himself placed on the pension rolls at $16 per month for chronic diarrhea by certificate numbered 431111. This is a travesty on the pension laws and warrants congressional investigation. Twenty-one years plus 20 years with chronic diarrhea would mean by this time, if by a miracle he still lives, a human skeleton. But look at him, a perfect picture of health, and it is said that he is a constant sufferer from constipation.

Call for the papers in his case and demand that he be examined by a board of surgeons, not of his own appointment, however. He is constantly dropping men from the rolls "disability ceased." Give him a dose of his own medicine.

This is the language of his comrade, King—not mine.

I also hold in my hand an autograph letter, under date of January 2 of this year, dated Baltimore, Md., addressed to me by John R. King, as follows:

BALTIMORE, MD., *January 2, 1913.*

Hon. S. A. RODDENBERY,
Washington, D. C.

DEAR SIR: I believe you are in favor of honest pensions to the survivors of the Civil War. So are all real soldiers.

I inclose a copy of the military record of James L. Davenport, Commissioner of Pensions. I believe the pension rolls should be purged of all such frauds. Think of it. This man, who never got within 40 miles of the front, never heard a hostile gun fired, 21 years after the war has himself placed on the pension rolls at $16 per month for chronic diarrhea. Could it be possible for a man to live that long with such a wasting disease? And according to law he must be still suffering from it or be dropped from the rolls. At the time he received that pension 1, who served 2 years and 10 months (34 months), wounded three times, crippled for life, with 5½ inches of bone out of my right leg, and must use a mechanical brace to enable me to walk, was receiving the magnificent sum of $10 per month.

Is this not a clear case for congressional inquiry? The country has a right to know how and by what means he got on the rolls and is still there. I hope, in the interest of the Government and in justice to the real soldiers who bore the whole heat and burden of the day, that this inquiry shall be made, and you are the man to demand it.

Respectfully,

JOHN R. KING.

Gentlemen, I think we had better give him $1 and thus cut the graft off that he is getting.

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment offered by the gentleman from Georgia.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were 11 ayes and 89 noes.

So the amendment was lost.

The Clerk read as follows:

The name of Torger Hansod, late of Company G, Fifth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. RUSSELL. Mr. Chairman, I offer the formal amendment in line 13, page 3, in the name "Hansod" that the "d" be changed to an "n" so that it will read "Hanson."

The amendment was agreed to.

The Clerk read as follows:

The name of John D. Sampson, late of Company K, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

Mr. RODDENBERY. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the recommendation that it lie on the table and be postponed for two weeks.

The CHAIRMAN. The gentleman from Georgia moves that the committee do now rise and report the bill back with the recommendation that it be postponed for two weeks.

Mr. RODDENBERY. I do that that we may look into these things.

Mr. RUSSELL. I make the point of order, Mr. Chairman, that the motion is not in order.

The CHAIRMAN. The Chair will rule that the motion is in order.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were 4 ayes and 97 noes.

So the motion was lost.

The Clerk read as follows:

The name of Jennie Harding, widow of Hewitt Harding, late of Company G, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. RODDENBERY. Mr. Chairman, I move to amend, in line 15, page 6, by striking out the word "twelve" and inserting in lieu thereof the word "sixteen," so that it will read "$16 a month."

The CHAIRMAN. The question is on the amendment.

Mr. RODDENBERY. Mr. Chairman, in offering this amendment I think it is fair to call the attention of the committee to this fact. The record shows in this bill, and it is undisputed, that a woman worth $3,100 of net property is being given a pension of $30 a month; yet here is this paragraph that gives a woman $12 a month whom the report says—if it can be relied upon, and they say we must trust the committee—has no property at all and is helpless and dependent. It is a queer thing to me that a woman worth $3,100 is recommended by a committee for $30 a month, while a poor, forsaken woman, without property and without means, is to get only $12 a month. I will not go the whole distance for fear that gentlemen might be afraid of trespassing on a depleted Treasury. I merely raise it to $16 a month, so that this helpless widow can get as much pension as the Commissioner of Pensions, who draws a permanent disability pension of $16 a month and $5,000 a year salary from the Government besides.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia [Mr. RODDENBERY].

Mr. RUSSELL. Mr. Chairman, I understand in this case that the bill asks for only $12.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were—ayes 6, noes 94.

So the amendment was rejected.

The Clerk read as follows:

The name of David A. Wynegar, late of Company F, Sixteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

Mr. RODDENBERY. Mr. Chairman, I offer the following proviso as an amendment to be placed at the end of that section:

Provided, That no pensioner under this or any act shall attend the White House receptions in a swallow-tail coat.

Mr. RUSSELL. Mr. Chairman, on that I make the point of order that it is not germane and that it is ridiculous.

Mr. LANGLEY. And several other things.

The CHAIRMAN. The gentleman from Missouri makes the point of order that the amendment is not germane.

Mr. RODDENBERY. Mr. Chairman, it is a limitation on the appropriation. It will cost less money for these pensioners to go to these receptions.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

The name of Elizabeth Shock, widow of Lemuel W. Shock, late of Company I, Ninety-ninth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. TRIBBLE. Mr. Chairman, if one will take the time to read this report—and some Members of the House do not seem to want to know anything about the report—he will find some things in here that will interest him. I think I can point out some things in this report that ought to at least interest the Members of this House, and I know will open the eyes of the country.

Mr. RUSSELL. From what page of the report is the gentleman reading?

Mr. TRIBBLE. I will now take up page 25 of the report, the case of Elizabeth Shock. The report reads as follows:

Both claims were rejected on the ground of claimant's inability to prove that she is soldier's legal widow, being unable to prove the death or divorce of her first husband.

The Pension Bureau, Mr. Chairman, refused to pension a woman whose husband was in all probability living. The Pension Bureau said the duty was upon her to show that her husband was dead or that she was divorced; and yet this virtuous committee comes in here and claims that this House ought to take everything that it does without question. Let me call the attention of the House and of the chairman of this committee to the facts. This woman was never divorced and that real husband is no doubt living, yet the woman is drawing a pension as his widow. Where is that deserter? Now, what has the gentleman to say in his virtuous indignation about that? It does seem to me that this House ought to have these exposures made on the floor of this House if the committee insists time after time on coming in here and bringing in reports, with deserters and bounty jumpers and all kinds of claims, including negroes with no pensionable status.

Mr. RUSSELL. Will the gentleman yield?

Mr. TRIBBLE. No. I usually yield, but I will not yield at this moment. The husband of the woman is living. I rose to call especial attention to another claim on this same page—a negro camp follower.

On the following page you will find the Jefferson negro of whom my friend from Colorado spoke with so much levity. This negro is named Aller, not Jefferson.

There are two negroes, one following right after the other on successive pages. One is defended on the ground that he happened to have the name of Jefferson. Let me tell the gentleman from Colorado [Mr. RUCKER] that he had better turn back with me to page 10.

Mr. RUCKER of Colorado. Of the report?

Mr. TRIBBLE. Yes. I just happened to pick this up since you made your remarks. On page 10 he will find two widows, one named Moore and one named Shattuck. These two widows are going through this life with one foot in the grave—79 years of age.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. RUSSELL. Mr. Chairman, I think I ought to take one minute in this case. As I understand, the gentleman is mistaken about the fact. I understand the gentleman to state that this lady's husband was a deserter.

Mr. TRIBBLE. What does the report say?

Mr. RUSSELL. It says that her former husband was a deserter. Her name is now Elizabeth Shock. She is the widow of a soldier named Lemuel W. Shock, and her former husband, whose name was John Flower, was a deserter. She married Shock in 1866, and the presumption, of course, is that her other husband, who has not been heard from since he deserted, is dead.

Mr. TRIBBLE. What law is there in this country that contains such a presumption, or what court in this country will adopt such presumption?

Mr. RUSSELL. There is a law in this country that where a man is absent and not heard of for seven years he is presumed to be dead.

Mr. TRIBBLE. Where is the evidence of that fact? She married in four years after her husband deserted and had no divorce. Why do you not bring the report to the committee here in full?

Mr. RUSSELL. Why did you state this was the widow of a deserter? This woman's husband, whom she married in 1866, was not a deserter.

Mr. TRIBBLE. It does not improve the matter that she was mixed up with a man when her husband was gone and unaccounted for and remarried in four years without a divorce. She was not legally married to this man, and therefore has no right to a pension. I do not know whether her husband deserted her or not, the record does not show—she may have deserted him. He deserted the Army.

The Clerk read as follows:

The name of Mary M. Ackerman, widow of Curtis Ackerman, late of Company E, One hundred and twenty-fourth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. TRIBBLE. Mr. Chairman, if the gentleman from Colorado will turn to the report he will find that these widows are drawing $12 each; and here is the wife of a negro man who is drawing a pension of $20 a month, as provided for in this bill, and she was not a war widow at all. Now, these war widows went through the war; they suffered the hardships of the war; they went almost to the mouth of death in suffering the perils through which they had to go. This committee takes up a negro woman who did not go through the war and gives her $20, preferring her to white war widows. I am satisfied the gentleman from Colorado is too fair to come on the floor of this House and defend the committee in any such proceeding.

Mr. RUCKER of Colorado. Mr. Chairman, I move to strike out the last word. Constituted as I am, it is impossible for me to reply to the gentleman from Georgia. I have not the sense of humor to do it. [Laughter.]

The Clerk read as follows:

The name of Theodore L. Trew, late of Company D, Fifty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

Mr. RODDENBERY. Mr. Chairman, on page 13, line 15, I move to strike out the figures "40" and insert "30."

The CHAIRMAN. The gentleman from Georgia [Mr. RODDENBERY] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 13, line 15, strike out the figures "40" and insert in lieu thereof the figures "30."

Mr. RODDENBERY. Mr. Chairman, on the 11th of May, 1912, the general pension bill was passed. Gentlemen here are familiar with it. It begins at the age of 62 years or over, and measures the differing times in which the soldiers served in the Army. One of 62 years of age only gets a less pension than one of 70 years of age. One who serves 6 months gets a less pension than one who served 18 months or 36 months, and so on. These old soldiers are scheduled by periods of service and by their age. That law contains the following provisions:

That any person who served 90 days or more in the military or naval service of the United States during the late Civil War, who has been honorably discharged therefrom, and who has reached the age of 62 years or over, shall, upon making proof of such facts, according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the pension roll and be entitled to receive a pension as follows: In case such person has reached the age of 62 years and served 90 days, $13 per month; 6 months, $13.50 per month; 1 year, $14 per month; 1½ years, $14.50 per month; 2 years, $15 per month; 2½ years, $15.50 per month; 3 years or over, $16 per month. In case such person has reached the age of 66 years and served 90 days, $15 per month; 6 months, $15.50 per month; 1 year, $16 per month; 1½ years, $16.50 per month; 2 years, $17 per month; 2½ years, $18 per month; 3 years or over, $19 per month. In case such person has reached the age of 70 years and served 90 days, $18 per month; 6 months, $19 per month; 1 year, $20 per month, 1½ years, $21.50 per month; 2 years, $23 per month; 2½ years, $24 per month; 3 years or over, $25 per month. In case such person has reached the age of 75 years and served 90 days, $21 per month; 6 months, $22.50 per month; 1 year, $24 per month; 1½ years, $27 per month; 2 years or over, $30 per month. That any person who served in the military or naval service of the United States during the Civil War and received an honorable discharge, and who was wounded in battle or in line of duty and is now unfit for manual labor by reason thereof, or who from disease or other causes incurred in line of duty resulting in his disability is now unable to perform manual labor, shall be paid the maximum pension under this act, to wit, $30 per month, without regard to length of service or age.

Notice that the law says:

That any person who served in the military or naval service of the United States during the Civil War and received an honorable discharge, and who was wounded in battle or in line of duty, and is now unfit for manual labor by reason thereof, or who from disease or other causes incurred in line of duty resulting in his disability is now unable to perform manual labor, shall be paid the maximum pension under this act, to wit, $30 per month, without regard to length of service or age.

There will be perhaps 400,000 regular pensioners under the foregoing act. It does occur to me that for these special bills to come in here from time to time, raising other soldiers no more dependent, no more deserving, to $36, to $40, and to $50 is not an act of justice to the great mass of Union soldiers, but it is an act of discrimination that places these few fortunate pensioners in a class above the vast multitude of the old heroes of that great war. And I submit to the judgment of gentlemen if it is in keeping with a wise and patriotic policy for certain favored soldiers to obtain $36, $40, or $50 a month pension when the vast rank and file of their old comrades in arms are patriotically, contentedly, and with satisfaction accepting all the way from $30 down to $15?

I trust that gentlemen will be moved to reduce these $40 amounts and $50 amounts to $30, so that they may not be favored by special legislation above the other thousands of old soldiers who are abiding in the general law of the country.

I should like to read some letters—thousands, I say; yes, thousands—from Union soldiers of this country which I have received since one year ago from now. But I do not desire to discontent those old heroes with their condition. I do not desire to present their names or their communications to the committee unless necessities require it; but I would like to see them all, in their enfeebled years, live with confidence in the justness of their lawmakers, with confidence that they are all treated justly, equally, fairly, and that there is no favoritism in high place, and that there is no soldier with political pull who can get any more consideration from Congress than the rank and file of these old men. We should not go on from week to week passing favoritism in legislation for 100 or 200 men when thousands go on their way to the grave contented in their equality with their colleagues, as in equality they went to the front to fight from 1860 to 1865. It is a matter of national justice.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ALLEN and Mr. CURLEY rose.

The CHAIRMAN. The Chair will recognize the gentleman from Massachusetts [Mr. CURLEY].

Mr. CURLEY. Mr. Chairman, I move to strike out the last two words. It was not my purpose to participate in the debate, but I heard the gentleman on the other side of the Chamber say he had a large number of letters from different citizens, veterans of the war, and I heard one of those letters read in regard to the Pension Commissioner, Mr. Davenport, and I learned for the first time here this afternoon that loyalty to country was an insignia of dishonor, and that loyalty to one's comrades was something that deserved universal condemnation.

I made it my business to telephone the Pension Commissioner, and he informed me that he endeavored on three occasions to enlist in the Union Army in his native section in New Hampshire, but was rejected because of his youthfulness. He was

less than 18 years of age, and in order that he might serve his country, in order that he might assist in keeping this Union whole, he left home, a boy under 18 years of age, and worked his way westward to Wisconsin, and was finally accepted and enlisted in Wisconsin; that he served five months in the Civil War in Mississippi and in Tennessee, and that he participated in the battle of Memphis, on August 5, 1864.

I can very readily conceive that some joker has been indulging in the very pleasing task of writing letters, and if my good friend from Georgia [Mr. RODDENBERY] had used a little judgment and exercised a little humor he would have seen the humorous side of the letter which declared that a man became subject to chronic diarrhea who was not within 40 miles of the sound of a gun.

His reference to the present condition of the commissioner and his acceptance of a pension is an unwarranted gratuity. The commissioner should feel ashamed of himself, and his comrades in arms would be justified in feeling ashamed of him, if because of his financial condition he refused to accept of a pension and, in other words, said to the world that a pension by this Government to one who was ready when a mere boy to lay down his life that the Government might live would cause him to be regarded as an object of charity instead of its being the fulfillment of a contract between the Government and an individual who enlisted in order that the Union might remain whole. I believe, Mr. Chairman, that this is the most flagrant insult ever offered to an old soldier in the history of this House. [Applause.] In the light of the testimony of the commissioner himself, who would not dare state an untruth as far as his record is concerned, because it could be easily discovered by an investigation of the records at the War Department, I believe it is not only unjust, but it is unwarranted, it is unfair, and it should be condemned. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. LANGLEY. Mr. Chairman——

The CHAIRMAN. The gentleman from Kentucky [Mr. LANGLEY], a member of the committee, is recognized.

Mr. LANGLEY. Mr. Chairman, I beg the indulgence of the committee for a moment or two. I wanted to answer the gentleman from Georgia awhile ago when he was attacking the Commissioner of Pensions, but I refrained from doing so because I wanted to expedite as much as possible the passage of the bill by avoiding unnecessary debate. Now that the matter has been mentioned, I want to say that in my judgment there is not a more capable, a more efficient, or a more honorable officer of this Government than J. L. Davenport. I have known him for a quarter of a century. Many years ago he and I were fellow clerks in the Pension Office. I have known him well during all the intervening years. His life, both public and private, has been upright and honorable, and his record is that of a faithful and patriotic public servant, whose merit has advanced him from a humble to the highest position in a great bureau. Of his record as a soldier I need not speak. The gentleman from Massachusetts has done that and has done it well. The things that have been said against him here to-day can do him no harm—certainly not with those who know him or his record. But, Mr. Chairman, as his personal friend I feel it my duty to say this much to the country in his defense in view of what has already gone in the RECORD. [Applause.]

Mr. ALLEN. Mr. Chairman, I am not personally cognizant of the facts with relation to Commissioner Davenport, but I accept what has been stated as true. I do know the facts, however, in connection with the old soldier named in the paragraph just read. He served his country for four years. He is a hopeless paralytic. He owns no property. He has no means of support. He requires attendance day and night, and is wholly dependent upon friends and relatives for assistance. [Applause.]

The CHAIRMAN. An amendment is pending. The Clerk will read the amendment offered by the gentleman from Georgia [Mr. RODDENBERY].

The Clerk read as follows:

Amend, page 13, line 15, by striking out the figures "40" and inserting in lieu thereof the figures "30."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia [Mr. RODDENBERY].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The name of Emanuel B. Silcott, late of Company E, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. TRIBBLE. Mr. Chairman, with the permission of the committee, in the few remarks that I have to make at this time I will cover several cases at once and thus shorten the matter by not waiting to take them up case by case.

I want to call attention to the fact that in the next four pages, containing some 10 or 12 cases successively following, are cases where the service was limited to from 3 to 10 months. Now, this committee comes in here and proposes to enact special legislation for short-term soldiers, for men who never saw real service. It proposes in this lump of 10 or 12 cases to discriminate against the old soldier who fought for four years, who went almost to the mouth of hell, who saw service in storm, amid shot and shell; and here are men who never saw real service, men of four months' and three months' enlistments, who are taken up by this committee and preferred over the old soldiers of four and five years' service.

Now, in this list there is one case intervening to which I call particular attention. It is the case of a party possessing property preferred over and above those who have no property. Not only that, Mr. Chairman, but, as the record shows, the soldier was rejected. There is the book, there is the report. Read it. Now, this pensioner with money, with property, but with no pensionable status—that virtuous committee that never commits an error prefers this man of property with no right to pension to the poor, long-service soldiers.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The name of Mary L. Brent, widow of James K. Brent, late of Company E, One hundred and thirty-eighth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. RODDENBERY. Mr. Chairman, I am unable to hear the Clerk read. What page is he reading?

The CHAIRMAN. Page 15, line 12. The Clerk will read.

The Clerk read as follows:

The name of Robert Piatt, late of Company H, One hundred and twelfth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

Mr. RODDENBERY. I move to strike out the paragraph.

Mr. Chairman, I do not know precisely whether this motion should be made or not. If I entertained the hope that in order to act intelligently and accurately upon these pension matters the Committee on Invalid Pensions would join me in a resolution of inquiry to ascertain how many employees and officers of the Government are drawing over $1,000 salary from the Government and at the same time drawing pensions as ex-soldiers, on the ground of physical incapacity to do work and labor and on the ground of permanent physical disability, I do not know that I would press this motion. If I believed I could get the Committee on Invalid Pensions to bring out a resolution of that character and let us go down the line with an investigation of the Interior Department and the War Department and the Treasury Department and the Bureau of Indian Affairs and the customhouses and ascertain how many people employed there are drawing pensions on the ground of inability to work and labor and are also drawing at the same time salaries all the way from $1,000 to $5,000 a year, I should be content. If gentlemen will agree to that inquiry, then my friend from Kentucky [Mr. LANGLEY] and my friend from Massachusetts [Mr. CURLEY] will not have to rush to the telephone to inquire of Mr. Davenport about what his war record is or what his physical condition is. Order an investigation which will give a chance to go before a fair committee, and I will face the Commissioner of Pensions there. Gentlemen will not need the telephone then. John R. King, the old past commander of the Grand Army of the Republic, will face him there, and we will demonstrate that the joke the gentleman referred to will disclose that the honorable commissioner draws a pension to-day, on the ground not of wounds, not of injury, but of a disease that physically incapacitates him for work. And yet the gentleman from Kentucky [Mr. LANGLEY] says that he was in the Pension Office with him years ago for many years, where they worked together. This Commissioner of Pensions is drawing a salary of $5,000 a year and is preserving his record in the Army and securing the recognition of his patriotic services by getting a pension of $16 a month. I do not know John R. King, but John R. King and I will be there if you will have a committee to investigate it; and if John R. King or the Member from Georgia have made statements that are not justified, condemnation will fall where it belongs. I challenge you now to open the record and let Congress and the people see.

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment to strike out the paragraph.

The question being taken, the amendment was rejected.

The Clerk read as follows:

The name of George W. Tyler, late of Company D, Thirty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

Mr. RODDENBERY. I move to strike out the paragraph.

Mr. Chairman, I read from the rules of the Invalid Pensions Committee, House of Representatives, Sixty-second Congress, the part of the rule touching this matter.

The Pension Committees of the two Houses of Congress were created to consider a very few claims in which, from their peculiar circumstances of extreme disability and destitution, adequate relief could not be obtained from the bureau, and also to consider a limited number of claims, some of which were necessarily rejected by the bureau for the reason that they were not covered by any existing law, while others were rejected upon legal or medical technicalities which Congress could properly set aside as a matter of equity and justice. It was not the intention to have Congress flooded with pension bills.

This bill makes about 6,000 private pensions for this Congress to date. In the last Congress there were 9,000, and the number theretofore had been steadily growing. Yet the rule says that it was never intended that wholesale special pension legislation should be thus enacted. In the very language of the committee, it was to consider a "very few cases," a "limited number." Yet you may turn to any copy of the CONGRESSIONAL RECORD since this session of Congress opened and find what has taken place. I turn to January 6, 1913. You can turn to any day in January or any day in December, and you will find an entire page of 50 or more bills, all granting increases of pension or special pension bills; and every volume of the CONGRESSIONAL RECORD since the beginning of this session of Congress and since the passage of the Sherwood bill will show a wholesale record of applications and bills for increases of pension, for new pensions, for special pension legislation, notwithstanding the rule of the committee says it was never designed for anything except a "few cases" of rare destitution and a "limited number" of those who are unfortunate.

Gentlemen, it is a mad rush to grant pensions, to gratify persons at home with strong political influence themselves in many cases and strong political influence of family and others, as well as the honest merits of many of these cases which we are willing, cheerfully, and readily to concede. Yet we can not have any debate. With the exception of two or three gentlemen, no man rises here to explain his pension bill. Nobody comes to explain the case of the widow, the old soldier, or the orphan. But the minute you touch the head of the Pension Bureau, who is drawing a salary of $5,000, great God, Massachusetts and Kentucky and Ohio all rush in by telephone to exonerate him and give him a good record. Why, in the name of justice, do you not defend these destitute, dependent, and unfortunate pensioners. O you authors of these bills, where are you?

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment to strike out the paragraph.

The amendment was rejected.

The Clerk read as follows:

The name of Francis B. Overlook, late of Company F, Ninth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. RODDENBERY. Mr. Chairman, I move to strike out the paragraph. If I were allowed to do so, I would like to have the gentleman from Kentucky and the gentleman from Massachusetts who communicated with the Pension Office just now over the telephone, to again communicate with the Pension Office between now and 7 o'clock and find out whether or not there is an officer under a salary from the Government now in the Pension Office, drawing a pension for total deafness, who answers the telephone every day. I wonder if gentlemen will find out between now and 7 o'clock if that is true. Was he deaf when he got his pension? And if he is not now deaf, the law is that if his disability becomes removed his pension stops. I wish gentlemen would find out over the telephone, if the man was deaf when he got the pension and is not deaf now when he answers the telephone, whether he is still drawing a pension.

Now, gentlemen, come to the rescue of the Pension Department, if you can do it; let us have the investigation. Call for it and we will find out. Of course it may develop that they have installed in Washington a system of telephones whereby the deaf can hear as well as those not so afflicted. I am sure gentlemen can run to the telephone and find out from Commissioner Davenport or his daily associate who answers the telephone every day whether he now is drawing a pension because he is totally deaf.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

The question was taken, and the amendment was lost.

The Clerk read as follows:

The name of Jesse M. Manson, late of Company A, One hundred and twenty-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

Mr. RODDENBERY. Mr. Chairman, I respectfully make the point of order that no quorum is present.

The CHAIRMAN. The Chair will count. [After counting.] Eighty-seven Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adamson	Fairchild	Kinkaid, Nebr	Pujo
Aiken, S. C.	Fergusson	Kitchin	Randell, Tex.
Ames	Ferris	Knowland	Ransdell, La
Andrus	Finley	Konig	Rauch
Ansberry	Flood, Va.	Kopp	Redfield
Anthony	Floyd, Ark.	Lafean	Reyburn
Ashbrook	Focht	Lafferty	Richardson
Austin	Fordney	Lamb	Riordan
Ayres	Fornes	Lawrence	Roberts, Mass.
Barchfeld	Fuller	Legare	Robinson
Barnhart	Gallagher	Lever	Rouse
Bartholdt	Gardner, Mass	Levy	Rucker, Mo.
Bates	Gardner, N. J.	Lewis	Saunders
Beall, Tex	George	Lindbergh	Scott
Boehne	Gill	Lindsay	Scully
Borland	Gillett	Linthicum	Sells
Bradley	Glass	Littleton	Sharp
Brantley	Goeke	Longworth	Sheppard
Broussard	Goldfogle	Loud	Sherley
Buchanan	Good	McCall	Sherwood
Burke, Pa.	Gould	McCoy	Sims
Burke, S. Dak.	Green, Iowa	McCreary	Sisson
Burleson	Greene, Vt.	McDermott	Slayden
Burnett	Gregg, Pa.	McGuire, Okla.	Slemp
Butler	Gregg, Tex.	McKellar	Small
Byrnes, S. C.	Griest	McKinley	Smith, Sam'l W.
Calder	Gudger	McMorran	Smith, Cal.
Callaway	Guernsey	Madden	Smith, Tex.
Campbell	Hamill	Maher	Sparkman
Cannon	Hamlin	Mann	Stack
Cantrill	Hammond	Martin, Colo.	Stanley
Carlin	Hardwick	Martin, S. Dak.	Steenerson
Carter	Hardy	Matthews	Stephens, Nebr.
Clark, Fla.	Harrison, N. Y.	Mays	Stephens, Miss.
Claypool	Hart	Mondell	Sterling
Clayton	Hartman	Moon, Pa.	Stevens, Minn.
Copley	Haugen	Moore, Pa.	Sulloway
Covington	Hayden	Moore, Tex.	Talbott, Md.
Crago	Heald	Morgan, La.	Taylor, Ala.
Cravens	Heflin	Morse	Taylor, Colo.
Crumpacker	Henry, Conn.	Mott	Taylor, Ohio
Curry	Henry, Tex.	Needham	Thayer
Dalzell	Higgins	Nelson	Tilson
Danforth	Hill	Oldfield	Towner
Daugherty	Hinds	Olmsted	Townsend
Davidson	Hobson	O'Shaunessy	Turnbull
Davis, Minn.	Holland	Padgett	Tuttle
Davis, W. Va.	Houston	Page	Underwood
De Forest	Howard	Palmer	Vare
Dickinson	Howland	Parran	Volstead
Dies	Hughes, Ga.	Patten, N. Y.	Vreeland
Difenderfer	Hull	Patton, Pa.	Webb
Dodds	Humphrey, Wash.	Payne	Weeks
Doughton	Humphreys, Miss.	Pepper	Wilder
Draper	Jacoway	Peters	Wilson, Ill.
Driscoll, M. E.	James	Pickett	Wilson, N. Y.
Dupré	Johnson, Ky	Plumley	Wilson, Pa.
Dwight	Johnson, S. C.	Porter	Witherspoon
Ellerbe	Jones	Post	Wood, N. J.
Esch	Kahn	Pou	Woods, Iowa
Estopinal	Kent	Prince	Young, Kans.
Evans	Kindred	Prouty	Young, Mich.

During the call of the roll the following occurred:

The SPEAKER. The Clerk will call my name.

The Clerk called the name of Mr. CLARK of Missouri, and he answered "Present."

The committee rose; and Mr. MURRAY, Chairman of the Committee of the Whole House, reported that the Committee of the Whole finding itself without a quorum, he had caused the roll to be called and 138 Members had answered to their names, and he presented a list of the absentees to the House.

The committee resumed its session.

The Clerk read as follows:

The name of Melvin J. Ringler, late of Company C, Sixty-fourth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

Mr. TRIBBLE. Mr. Chairman, I desire to call attention to the fact that this item provides for a pension of $30 a month for a musician. It seems to me that it is not quite fair to the old soldiers who participated in a carnage of battle, unequaled in the history of all times, that they should be paid $10 and $12, $15, $25, or $30 a month and that a musician by a special act of this Congress should get $30 a month. That does not look fair to me, but I will tell you what hurts me worse than that. It seems still more unfair to me to know that that musician, parading in the band with long-tailed coat, had a colored face and was followed by an infantry of his own color. If you gentlemen can go back to your constituents and explain to them how you can afford to give a negro musician more pension than the old soldiers who followed the banner from one to five years and went through that carnage of strife, then it is up to you to do it. I feel that it is my duty to call this matter to the attention of the House and the country in order that the country may know what you are doing. I propose to put the country on notice what you are doing with the money of men who live by the sweat of their brow. All men who see this protest from me who think this negro should have $30 per month I want them to write me, so stating.

The Clerk read as follows:

The name of Lorrenna J. Wilkinson, widow of Alfred Wilkinson, late acting third assistant engineer, United States Navy, and pay her a pension at the rate of $12 per month.

Mr. TRIBBLE. Mr. Chairman, I desire to call attention of the House to this case. The report reads:

She never applied for a pension, as, having married sailor subsequent to June 27, 1890, she is barred under act of April 19, 1908.

This woman, as this record shows, owns $2,800 worth of property; nearly $3,000 worth. The record shows that she is not entitled to be placed on this pension roll. She was not placed here. She has been ruled out by the Bureau of Pensions. She is worth $3,000, and, of course, as we all know, these estimates are usually about one-third of the real value of the property; but just take the record as it is here. Yet she is placed on this roll without any pensionable standing whatever.

I feel, Mr. Chairman, as we read along here that it is not out of place, certainly, to call the attention of the country to these things and to place this case in the record in order that the old soldiers at home who have not a dollar in this world and who served through the war, as I have mentioned before, may have it called to their attention that others who have property are being preferred to them. It is up to you gentlemen to explain these things. I am calling the attention of the country to the fact.

The Clerk read as follows:

The name of Rachel Sturgeon, widow of William A. Sturgeon, late of Company E, Thirty-sixth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Lucy Elma Sturgeon, helpless and dependent daughter of said William A. Sturgeon, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Rachel Sturgeon, the name of said Lucy Elma Sturgeon shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Rachel Sturgeon.

Mr. RODDENBERY. Mr. Chairman, I make the point of order on the paragraph just read that the proviso is not in order, on the ground that there is no authority in law and the Congress is without jurisdiction to pass an act based upon such a remote contingency.

The CHAIRMAN. The point of order is overruled.

The Clerk read as follows:

The name of Elizabeth W. Wilcox, widow of Benjamin Wilcox, late of Company D, One hundred and fifty-second Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. RODDENBERY. Mr. Chairman, I move to strike out the paragraph. I would be very glad, Mr. Chairman, if the report gave some full information on the subject, but, as pointed out by the gentleman from Tennessee [Mr. MOON], the report is indefinite, and the committee will not even answer interrogations respecting it. I desire to say this, that I feel much gratified at the results to-day, which are beyond all expectations. Twelve months ago, and for several months thereafter, when these matters arose, I had to stand almost alone with the report of the committee and the bill and present these matters to the committee. But few of my colleagues seemed then to think it of sufficient importance to fight over. Moreover, many then said it was a hopeless undertaking. It is gratifying now for me to know that my distinguished friend from Tennessee [Mr. MOON], with greater ability, and with more force, and with greater clearness has to-day fallen in line and is calling the attention of the committee to the fact that these reports are ill-considered and filled with deserters. It renews my courage to see others now doing likewise. I hope, in the course of months, that other gentlemen will fall into line. It is well known that gentlemen from various portions of the country tell these things to their constituents at home, and I have often been surprised that they do not stand up here and repeat on the floor what they say on the stump.

I merely desire to state to the committee that I shall likely divert my attention from these detailed items, and the reports of the committee, and leave it to these other gentlemen so that I may undertake in the course of the next few months, if possible, to make odious and a stench in the nostrils of this country the fact that the administration of our pension laws permit high officers who ride in automobiles, who draw high salaries, who cut the fastest step at the fashionable receptions in Washington, to draw big pensions from the Government, as well as salaries, the pensions being drawn for physical disability which incapacitates them from labor.

We have read into the RECORD the names of one or two of them, but as time goes by and opportunity presents itself we shall put into the public record the names of more of these pension-grafting high cockalorums of Washington society who disdain the street car and scoff at one who appears at an evening dinner in a business suit because he can not afford to wear a swallowtail coat and a white vest adorned with pearl studs. I sometimes wonder what these poor old soldiers out in the West drawing $15 a month would think of their disabled city comrade who draws a $3,000 salary from the Government and $50 a month pension if he could see him some night doing the "turkey trot" act at a swell Washington social function. Mr. Chairman, it is iniquitous; it is outrageous; it is a national shame.

A MEMBER. Louder.

Mr. RODDENBERY. And the gentlemen who are calling "louder" after a while will be voting for a resolution of investigation. You will not have the political courage not to do it. Ah, you can say "louder," but I will lead you like driven sheep and you will either dodge the vote or vote for an investigation. Louder! Ah, it will be louder then. You will rush back home to proclaim how you voted to expose the pension steals. Yes, Mr. Chairman, then we will find out who are these long-coated, patent-leathered, pearl-studded gentlemen who are drawing big salaries and pensions from the Government because they can neither labor nor work, who in order to get a pension claimed to have all of the infirmities that are found in the catalogue of the science of medicine. When this subject, by investigation, is held up to public view our legislation permitting such impostors to prey upon the tax money of the citizen will yet stink in the nostrils of the people and they will rise up and through you and through me, by legislation, will spew them out from the pension rolls of the country. [Applause.]

The CHAIRMAN. The question is on the amendment to strike out the paragraph.

The question was taken, and the amendment was rejected.

Mr. RUSSELL. Mr. Chairman, I ask unanimous consent to return to page 4 of the bill in order that I may move to strike out the paragraph from lines 5 to 8, inclusive, the beneficiary, William Dalton, being dead.

The CHAIRMAN. Is there objection?

Mr. RODDENBERY. Reserving the right to object, for what purpose is it?

Mr. RUSSELL. The beneficiary is dead, and I desire to ask unanimous consent to strike out the paragraph.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none. The question is on the amendment of the gentleman from Missouri that the item on page 4 of the bill, from lines 5 to 8, inclusive, be stricken out.

The amendment was agreed to.

The Clerk read as follows:

The name of Henry C. Gray, late of Company I, One hundred and sixty-seventh Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

Mr. RODDENBERY. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Georgia [Mr. RODDENBERY] makes a point of order that there is no quorum present. The Chair will count. [After counting.] Eighty-six Members are present, not a quorum, and the Clerk will call the roll.

The roll was called, and the following-named Members failed to answer to their names:

Aiken, S. C.	Calder	Dies	Gill
Alexander	Callaway	Difenderfer	Gillett
Allen	Campbell	Dodds	Glass
Ames	Candler	Doremus	Godwin, N. C.
Andrus	Cannon	Draper	Goeke
Ansberry	Cantrill	Driscoll, D. A.	Goldfogle
Anthony	Carlin	Driscoll, M. E.	Good
Ashbrook	Carter	Dupré	Gould
Austin	Clark, Fla.	Dwight	Green, Iowa
Ayres	Clayton	Dyer	Greene, Vt.
Barchfeld	Cline	Edwards	Gregg, Pa.
Barnhart	Copley	Estopinal	Gregg, Tex.
Bartholdt	Covington	Evans	Griest
Bates	Crago	Fairchild	Gudger
Bathrick	Cravens	Ferguson	Guernsey
Beall, Tex.	Crumpacker	Ferris	Hamill
Boehne	Cullop	Finley	Hamlin
Borland	Curley	Flood, Va.	Hammond
Bradley	Curry	Floyd, Ark.	Hardwick
Brantley	Dalzell	Focht	Hardy
Broussard	Danforth	Fordney	Harrison, Miss.
Brown	Daugherty	Fornes	Harrison, N. Y.
Buchanan	Davenport	Foss	Hart
Burgess	Davidson	Francis	Hartman
Burke, Pa.	Davis, Minn.	Fuller	Haugen
Burke, S. Dak.	Davis, W. Va.	Gallagher	Heald
Burleson	De Forest	Gardner, Mass.	Heflin
Burnett	Denver	Gardner, N. J.	Henry, Conn.
Butler	Dickinson	Garner	Henry, Tex.
Byrnes, S. C.	Dickson, Miss.	George	Higgins

Hill	Longworth	Pickett	Stanley
Hinds	Loud	Plumley	Steenerson
Hobson	McCall	Porter	Stephens, Nebr.
Holland	McCoy	Post	Stephens, Tex.
Howard	McCreary	Pou	Sterling
Howell	McGuire, Okla.	Powers	Stevens, Minn.
Howland	McKellar	Prince	Sulloway
Hughes, Ga.	McKinley	Prouty	Sweet
Hughes, W. Va.	McLaughlin	Pujo	Talbott, Md.
Hull	McMorran	Rainey	Taylor, Ala.
Humphrey, Wash.	Madden	Randell, Tex.	Taylor, Colo.
Jackson	Maher	Ransdell, La.	Taylor, Ohio
Jacoway	Mann	Rauch	Thayer
James	Martin, Colo.	Redfield	Tilson
Johnson, Ky.	Mays	Reilly	Towner
Johnson, S. C.	Mondell	Reyburn	Townsend
Jones	Moon, Pa.	Richardson	Tribble
Kahn	Moore, Pa.	Riordan	Turnbull
Kent	Moore, Tex.	Roberts, Mass.	Tuttle
Kindred	Morgan, La.	Robinson	Underhill
Kinkaid, Nebr.	Morse, Wis.	Sabath	Underwood
Kitchin	Moss, Ind.	Saunders	Vare
Knowland	Mott	Scully	Volstead
Konig	Murdock	Sells	Vreeland
Kopp	Needham	Shackleford	Webb
Korbly	Neeley	Sharp	Weeks
Lafean	Nelson	Sheppard	Whitacre
Lafferty	Oldfield	Sherley	White
Langley	Olmsted	Sherwood	Wilder
Lawrence	O'Shaunessy	Sims	Wilson, Ill.
Lee, Ga.	Padgett	Sisson	Wilson, N. Y.
Legare	Page	Slayden	Wilson, Pa.
Lever	Palmer	Slemp	Witherspoon
Levy	Parran	Small	Wood, N. J.
Lewis	Patten, N. Y.	Smith, S. W.	Woods, Iowa
Lindbergh	Patton, Pa.	Smith, Cal.	Young, Mich.
Lindsay	Payne	Smith, Tex.	Young, Tex.
Linthicum	Pepper	Sparkman	
Littleton	Peters	Stack	

The SPEAKER. The Clerk will call my name.

The name of the Speaker was called, and he voted "Present."

The SPEAKER. One hundred and eleven Members are present—a quorum.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MURRAY, Chairman of the Committee of the Whole House, reported that that committee having under consideration the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, and finding itself without a quorum, he had caused the roll to be called, that 111 Members had answered to their names, and that he reported the names of the absentees to the House.

Mr. RODDENBERY. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. RODDENBERY. I move that the message of the President, now on the Speaker's table, be read.

Mr. FOSTER. I make the point of order, Mr. Speaker, that that motion is not in order.

The SPEAKER. There is nothing to do but to go into the Committee of the Whole House on the state of the Union; and besides there is no message on the table. [Laughter.]

The committee resumed its session.

The Clerk read as follows:

The name of Marinda Lowe, widow of John Lowe, late of Company D, One hundred and seventy-ninth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. RODDENBERY. Mr. Chairman, I move to strike out the paragraph. I will be glad, Mr. Chairman, to avoid striking out this paragraph, but evidently the committee will do it when the vote is taken. If the chairman would advise us that his committee would cooperate toward having an investigation of pension frauds, and those especially relating to pensions drawn by officials who also draw big salaries, the amendment would not now be offered.

Mr. RUSSELL. Is the gentleman asking me a question?

Mr. RODDENBERY. Yes; I want to ask the chairman if he would use his offices to promote the passage of a resolution of inquiry into pensions drawn by persons as soldiers and war veterans who at this time are likewise drawing salaries in excess of $1,000 and up to $7,500, including Congressmen of the United States?

Mr. RUSSELL. I will vote for a bill at any time to amend the Sherwood bill so that it will not give any increase of pension to anyone who has an income of $1,000 or over, and I voted for that amendment when the Sherwood bill was before the House.

Mr. RODDENBERY. Does not the gentleman think that for Congress to tabulate and locate these instances where now able-bodied men do draw pensions for alleged incapacity, and have a salary of over $1,000, would be the proper thing? In this way we may ascertain to what extent the pension roll of our Government is festooned with cases of able-bodied men who are drawing pensions and, at the same time, drawing large salaries from the Government in the Army, Navy, and all the Government departments? Is not that a fair proposition to investigate? I want to keep these old soldiers who served for four years separated from these grafters whom they say are on the pension roll. Some of them I know are on the pension roll and are at this moment drawing all the way from $1,000 to $7,500 a year in salaries, who are able enough to be Members of the United States Congress—they are able enough to be superintendents of great divisions of government, having under them thousands of employees. I ask the gentleman if he does not look with favor on such an inquiry and such an investigation?

The CHAIRMAN. The time of the gentleman from Georgia [Mr. RODDENBERY] has expired.

Mr. RODDENBERY. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk resumed and completed the reading of the bill.

Mr. RUSSELL. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MURRAY, Chairman of the Committee of the Whole House, reported that that committee had had under consideration the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, and had directed him to report the same to the House with amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. RUSSELL. Mr. Speaker, I yield to the gentleman from Virginia [Mr. HAY] for a moment.

ARMY APPROPRIATION BILL.

Mr. HAY, by direction of the Committee on Military Affairs, reported the bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914, which, with the accompanying report (H. Rept. 1289), was ordered printed and referred to the Committee of the Whole House on the state of the Union.

Mr. FITZGERALD. Mr. Speaker, I reserve all points of order on the bill.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] reserves all points of order on the bill.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed Senate joint resolution 145, to provide for the maintenance of public order and the protection of life and property in connection with the presidential inauguration ceremonies in 1913.

SENATE RESOLUTIONS REFERRED.

Under clause 2, of Rule XXIV, the following Senate concurrent resolution and Senate joint resolution were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

Senate concurrent resolution 34.

Resolved by the Senate (the House of Representatives concurring), That there be printed 30,000 copies of the Judicial Code of the United States, prepared under the direction of the Judiciary Committee of the Senate, 10,000 copies of which shall be for the use of the Senate, and 15,000 copies for the use of the House of Representatives, and 5,000 copies for the use of the Senate Document Room—

to the Committee on Printing.

Senate joint resolution 145.

To provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913—

to the Committee on Appropriations.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I move the previous question on the bill (H. R. 27475), just now considered by the House, and all amendments thereto to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. At what time is a motion to recommit in order?

The SPEAKER. After the third reading.

Mr. RODDENBERY. The previous question being ordered, is it not in order now? I desire to offer a motion to recommit at this stage.

The SPEAKER. The Chair is inclined to think that it is in order. The Chair will have the authorities examined. It will do no harm to have the motion read, anyway. The Clerk will report the motion submitted by the gentleman from Georgia [Mr. RODDENBERY].

Mr. FITZGERALD. Mr. Speaker, under the practice, the previous question having been ordered, a motion to recommit is not in order until after the third reading of the bill.

Mr. RODDENBERY. I submit, Mr. Speaker, that under the rule the motion is in order.

The SPEAKER. The rule provides:

It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

The custom has been—and it will serve the gentleman's purpose just as well—to make the motion after the third reading.

Mr. RODDENBERY. Mr. Speaker, if I may do so, I insist upon being recognized to make the motion now.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Motion by Mr. RODDENBERY:

"I move to recommit H. R. 27475 to the Committee on Invalid Pensions, with instructions to report the same back to the House with the following amendment:

"'Strike out the following names from said bill wherever they occur: William Andrew, N. A. Aller, E. B. Silcott, Daniel Wilson, P. L. Kenney, Wilson Murphy, Watson Boyden, William F. Ramsey, G. F. Slamps, M. J. Rengler, L. J. Wilkeson, William F. Mills, William D. Crawford, J. H. Rowland; women, Julia Rouse, Elizabeth Rutherford, Elizabeth Shock, Sarah Jefferson, Leah Jackson, Sarah Garber, Mary Brent, Sarah Sherman, Tilla Eckard.'"

Mr. RUSSELL. Mr. Speaker, if it is in order, I move the previous question on the motion to recommit.

The SPEAKER. The gentleman from Missouri [Mr. RUSSELL] moves the previous question on the motion to recommit. The question is on agreeing to the motion of the gentleman from Missouri.

The question was taken, and the Speaker announced that the "ayes" seemed to have it.

Mr. RODDENBERY. I ask for a division, Mr. Speaker.

The House divided; and there were—ayes 100, noes 5.

Mr. RODDENBERY. Mr. Speaker, I make the point of no quorum.

The SPEAKER. Evidently there is no quorum present.

Mr. RUSSELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RUSSELL. The previous question having been ordered on the bill and amendments to final passage, would it be in order to have this bill taken up and voted upon to-morrow morning for completion?

The SPEAKER. The Chair thinks it would be.

ADJOURNMENT.

Mr. RUSSELL. I move, Mr. Speaker, that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 36 minutes p. m.) the House adjourned until to-morrow, Saturday, January 11, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting with a letter from the Chief of Engineers report of examination and survey of New Haven Harbor, Conn. (H. Doc. No. 1258); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

A letter from the Secretary of War, transmitting with a letter from the Chief of Engineers report of examination and survey of White River at and near Devalls Bluff, Ark. (H. Doc. No. 1259); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

A letter from the Secretary of War, transmitting with a letter from the Chief of Engineers report of examination and survey of Frankford Creek, Pa. (H. Doc. No. 1260); to the Committee on Rivers and Harbors and ordered to be printed.

A letter from the Secretary of War, transmitting with a letter from the Chief of Engineers report of examination and survey of Six Mile Creek, Fla. (H. Doc. No. 1261); to the Committee on Rivers and Harbors and ordered to be printed.

A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of New York at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HAY, from the Committee on Military Affairs, to which was referred the joint resolution (H. J. Res. 365) to permit Col. William C. Gorgas and certain officers of the Medical Corps and certain officers of the Engineer Corps of the Army to accept service under the Republic of Ecuador, reported the same with amendment, accompanied by a report (No. 1286), which said bill and report were referred to the House Calendar.

Mr. FERRIS, from the Committee on Indian Affairs, to which was referred the joint resolution (H. J. Res. 326) providing for extending provisions of the act authorizing extension of payments to homesteaders on the Coeur d'Alene Indian Reservation, Idaho, reported the same without amendment, accompanied by a report (No. 1287), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. SABATH, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27723) to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill., reported the same with amendment, accompanied by a report (No. 1288), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under Clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. NORRIS: A bill (H. R. 27907) to amend an act entitled "An act to expedite the hearing and determination of suits in equity, and for other purposes"; to the Committee on the Judiciary.

By Mr. ANDERSON: A bill (H. R. 27908) to amend section 8 of an act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes," approved August 24, 1912; to the Committee on the Post Office and Post Roads.

By Mr. LANGLEY: A bill (H. R. 27909) to authorize the acquisition of a site and the erection of a Federal building at Hazard, Ky.; to the Committee on Public Buildings and Grounds.

By Mr. CARLIN: A bill (H. R. 27910) to authorize the Secretary of War to make examination and survey of Occoquan Creek, Va.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 27911) to authorize the Secretary of War to fill the low ground situated in the southeast portion of United States reservation of Arlington estate, in the State of Virginia, and for other purposes; to the Committee on Rivers and Harbors.

By Mr. RIORDAN: A bill (H. R. 27912) to equalize the allowances of warrant officers with those of other officers in the Navy; to the Committee on Naval Affairs.

By Mr. LEGARE: A bill (H. R. 27913) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C.; to the Committee on Interstate and Foreign Commerce.

By Mr. GLASS: A bill (H. R. 27914) prohibiting officers and directors of national banks from receiving benefit, fee, or compensation of any kind for business transactions made on behalf of such banks; to the Committee on Banking and Currency.

By Mr. HAY: A bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914; to the Committee of the Whole House on the state of the Union.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANSBERRY: A bill (H. R. 27915) granting a pension to John Johnson; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 27916) for the relief of Mary H. Johnston; to the Committee on Claims.

By Mr. BATHRICK: A bill (H. R. 27917) granting a pension to Wickliff Loomis; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 27918) granting an increase of pension to Elizabeth Lanllers; to the Committee on Invalid Pensions.

By Mr. CANTRILL: A bill (H. R. 27919) for the relief of the fiscal court of Bourbon County, Ky.; to the Committee on War Claims.

Also, a bill (H. R. 27920) for the relief of Lexington Lodge, No. 1, Ancient Free and Accepted Masons, of Lexington, Ky., and the Grand Lodge, Ancient Free and Accepted Masons, of the State of Kentucky; to the Committee on War Claims.

By Mr. DOREMUS: A bill (H. R. 27921) granting a pension to Adelaide A. Havens; to the Committee on Invalid Pensions.

By Mr. JACOWAY: A bill (H. R. 27922) for the relief of the heirs of Jacob Pennington; to the Committee on War Claims.

By Mr. LITTLEPAGE: A bill (H. R. 27923) granting a pension to John Hammons; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 27924) granting an increase of pension to Michael Quinlan; to the Committee on Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 27925) granting an increase of pension to Lucinda Hughes; to the Committee on Pensions.

By Mr. NEELEY: A bill (H. R. 27926) granting a pension to Thomas Barton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27927) granting a pension to Samuel Collins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27928) to remove the charge of desertion from the record of Basil D. Johnson; to the Committee on Military Affairs.

By Mr. PRAY: A bill (H. R. 27929) for the relief of F. A. Carnal and R. X. Lewis; to the Committee on Claims.

By Mr. PRINCE: A bill (H. R. 27930) granting an increase of pension to Andrew W. Cochrun; to the Committee on Invalid Pensions.

By Mr. POWERS: A bill (H. R. 27931) for the relief of Andrew P. Inabintt; to the Committee on War Claims.

Also, a bill (H. R. 27932) for the relief of the heirs of James W. Tucker, deceased; to the Committee on War Claims.

By Mr. RUSSELL: A bill (H. R. 27933) granting an increase of pension to Malcolm G. Parsons; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 27934) granting an increase of pension to George Gray; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27935) granting an increase of pension to Nancy Olmstead; to the Committee on Invalid Pensions.

By Mr. SPEER: A bill (H. R. 27936) granting a pension to Bertha B. Jordan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27937) granting an increase of pension to George W. Boal; to the Committee on Invalid Pensions.

By Mr. STEENERSON: A bill (H. R. 27938) granting a pension to Emma L. Wallace; to the Committee on Pensions.

By Mr. STERLING: A bill (H. R. 27939) granting a pension to Charles C. Sterling; to the Committee on Pensions.

Also, a bill (H. R. 27940) granting an increase of pension to Marion McCormick; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 27942) granting an increase of pension to Mary A. Davis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27943) granting an increase of pension to Amelia J. Fagan; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the Illinois State Legislative Board of Brotherhood of Locomotive Firemen and Enginemen, Chicago, Ill., protesting against the passage of the Brantley workmen's compensation bill (S. 5382); to the Committee on the Judiciary.

Also (by request), petition of the Twentieth Century Club, Washington, D. C., protesting against the passage of the so-called Coosa Dam bill and favoring the general principles of conservation, etc.; to the Committee on Rivers and Harbors.

By Mr. ASHBROOK: Petition of George A. Cornet and six other merchants of Port Washington, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power over express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. BATHRICK: Petition of the Seed Leaf Tobacco Board of Trade, Cincinnati, Ohio, favoring the passage of legislation for the reduction of tariff on imported wrapper tobacco; to the Committee on Ways and Means.

Also, petition of the De Forest Sheet & Tinplate Co., Niles, Ohio, and the Brier Hill Steel Co., Youngstown, Ohio, both protesting against the proposed reduction of tariff on sheet steel, etc.; to the Committee on Ways and Means.

By Mr. BORLAND: Petition of the Common Council of Kansas City, Mo., favoring the passage of legislation for investigation of Federal judges in appointing receivers of gas companies; to the Committee on the Judiciary.

Also, petition of the Common Council of Kansas City, Mo., relative to friendly receiverships of public service corporations; to the Committee on the Judiciary.

By Mr. CALDER: Petition of the Italian Chamber of Commerce, New York, protesting against the passage of legislation (S. 3175) for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of National Academy of Design, New York, protesting against any action on the part of Congress conflicting with the design for the development of the city of Washington by the Washington Park Commission; to the Committee on the Library.

By Mr. DANFORTH: Petition of 26 onion growers of South Lima, N. Y., protesting against the passage of legislation changing the present tariff on onions; to the Committee on Ways and Means.

By Mr. DRAPER: Petition of Columbia and Snake Waterways Association, favoring the passage of legislation making an appropriation of $1,400,000 for the completion of the Celilo Canal; to the Committee on Rivers and Harbors.

By Mr. DYER: Petition of the Tenth Ward Improvement Co., St. Louis, Mo., favoring the passage of legislation for the construction of a subtreasury building in St. Louis; to the Committee on Public Buildings and Grounds.

Also, petition of T. C. Albright, St. Louis, Mo., favoring the passage of legislation granting a pension to the veterans of the Indian wars; to the Committee on Pensions.

Also, petition of Blue Wing Gun Club, St. Louis, Mo., and citizens of St. Louis, favoring the passage of House bill 36, giving Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. GARDNER of Massachusetts: Petition of Massachusetts Association of Sealers of Weights and Measures, favoring the passage of House bill 23113 fixing the standard barrel for fruits, vegetables, etc.; to the Committee on Ways and Means.

By Mr. GRIEST: Resolution adopted by the Pennsylvania Sealers' Conference, favoring the passage of House bill 23113 fixing the standard barrel for fruits, vegetables, etc.; to the Committee on Ways and Means.

By Mr. KNOWLAND: Petition of officers and members of the Tenth Avenue Baptist Church, Oakland, Cal., favoring the passage of the Kenyon-Sheppard bill prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. LA FOLLETTE: Petition of W. A. Logue and citizens of Stevens and Pend Oreille Counties, Wash., and also of Arthur J. Collins and 12 citizens of Pend Oreille County, Wash., all favoring the passage of legislation for the amendment of the three-year homestead law; to the Committee on Public Lands.

By Mr. LEVY: Petition of the employees of the Eagle Pencil Co., New York, protesting against the proposed reduction of tariff on lead pencils; to the Committee on Ways and Means.

By Mr. LINDSAY: Petition of National Academy of Design, New York, protesting against any action on the part of Congress that shall conflict with the development of the city of Washington as drawn by the Washington Park Commission, etc.; to the Committee on the Library.

By Mr. MANN: Petition of Cigar Leaf Tobacco Board of Trade, of Cincinnati, Ohio, favoring the passage of legislation to reduce the tariff on imported wrapper tobacco; to the Committee on Ways and Means.

Also, petition of Italian Chamber of Commerce, protesting against the passage of Senate bill 3175 for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. MOON of Tennessee: Papers to accompany bill for the relief of Lucinda Hughes; to the Committee on Pensions.

By Mr. MOTT: Petition of the Columbia State River Waterways Association, favoring the passage of legislation making an appropriation of $1,400,000 for the completion of the Celilo Canal; to the Committee on Rivers and Harbors.

Also, petition of Massachusetts Association of Sealers of Weights and Measures, favoring the passage of House bill 23113 fixing the standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Ways and Means.

By Mr. NEELEY. Petition of citizens of Ford County, Kans., favoring the passage of the Kenyon-Sheppard bill prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. NORRIS: Petition of citizens of Lincoln, Nebr., favoring the passage of legislation giving the Government control of all telephone and telegraph lines; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Minden, Nebr., favoring the passage of the Kenyon "red light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. PEPPER: Petition of Ministers' Association, Clinton, Iowa, favoring the passage of the Kenyon-Sheppard liquor bill, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. POWERS: Petition of citizens of the eleventh congressional district of Kentucky, favoring the passage of legislation for protection of merchants and others from the nonpayment of debts contracted by soldiers drawing pensions; to the Committee on Pensions.

By Mr. RAKER: Petition of California Retail Grocers Association, San Francisco, Cal., protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturer of patent goods; to the Committee on Patents.

By Mr. SHEPPARD: Papers accompanying House bill 4312, to correct the military record of H. S. Hathaway; to the Committee on Military Affairs.

By Mr. TILSON: Petition of Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. UNDERHILL: Petition of the Chamber of Commerce of the State of New York, protesting against the proposed changes in Senate bill 7208, relative to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Indian War Veterans, Denver, Colo., favoring the passage of legislation granting pensions to the veterans of the Indian wars; to the Committee on Pensions.

Also, petition of Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Pine Bluff Lodge, No. 305, Brotherhood of Railroad Trainmen, protesting against the passage of the workmen's compensation bill; to the Committee on the Judiciary.

By Mr. WEEKS: Petition of Waltham Progressive Club, Waltham, Mass., favoring the passage of legislation in connection with the pending tariff legislation that such law or laws take effect one year from passage; to the Committee on Ways and Means.

By Mr. WICKERSHAM: Petition of resident fishermen of Petersburg, Alaska, favoring the passage of legislation preventing the setting of fish traps in tidal waters of Alaska; to the Committee on the Territories.

SENATE.

SATURDAY, *January 11, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE SESSION.

Mr. WARREN. Mr. President, there is a situation regarding certain prominent officers in the Army whereby their nominations will have to be considered to-day or they go out of the Army. I therefore move that the Senate proceed to the consideration of executive business.

The PRESIDENT pro tempore (Mr. BACON). The Senator from Wyoming moves that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 56 minutes spent in executive session the doors were reopened.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last session of the Senate sitting for the consideration of the articles of impeachment.

The Journal of yesterday's proceedings of the Senate sitting as a Court of Impeachment was read.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved. What is the pleasure of the Senate?

Mr. CLARK of Wyoming. I move that the doors be closed for deliberation.

The PRESIDENT pro tempore. The Senator from Wyoming moves that the doors be closed for deliberation on the part of Senators. [Putting the question.]

Mr. Manager CLAYTON. Before the motion is announced as having been carried, I will state that I submitted a communication to the President of the Senate this morning directing attention to what I think is an infraction of the rules of the Senate on the part of Mr. Worthington, of counsel for the respondent, who has withheld his remarks from the RECORD.

Mr. President, everyone else printed his remarks when those remarks were completed, without withholding them; and I know of no rule of any court which permits this to be done. Against that, Mr. President, I desire to say that I think it is improper. I have called the attention of the Presiding Officer to that fact, and I hope that the order made in this case will be observed.

Mr. WORTHINGTON. I have only to say, Mr. President, that after the late hour when we adjourned here last night, as soon as possible I got to work at the manuscript which had been forwarded to me and continued to work on it until midnight. I was then told that it was too late to get it in the RECORD of to-day.

I was not aware of any rule of the Senate which prevented this from being done, and I observed, I think, that the remarks of one of the managers, Mr. Manager HOWLAND, had been withheld.

Mr. BRANDEGEE. Mr. President, I rise to a question of order, which is that the motion to close the doors is not debatable.

Mr. Manager CLAYTON. Mr. President, may I not make, with the permission of the Senator, another suggestion? The manager who is now addressing you remained at his office last night until the hour of 12.30 in order to read the manuscript of the report of his remarks made here yesterday, made after the gentleman who has just addressed you made his. And it will be borne in mind that Mr. Worthington made part of his argument day before yesterday.

Mr. President, it seems to me that in all fairness and due observance of this rule his remarks should have been in the RECORD this morning. This manager, who labored under greater disadvantage than he did, has put his in the RECORD this morning.

The PRESIDENT pro tempore. The Chair withheld the announcement of the vote out of courtesy to the manager on the part of the House of Representatives, which the Chair supposed would meet with the acquiescence and approval of the Senate. Strictly, of course, the order to close the doors ought to have been made, but this was the only opportunity, and the manager on the part of the House of Representatives, in the opinion of the Chair, was entitled to that courtesy. The Chair will now, however, declare that the motion of the Senator from Wyoming is carried, and the Sergeant at Arms is directed to clear the galleries and close the doors.

The managers on the part of the House, the respondent, and his counsel thereupon withdrew.

The galleries having been cleared, the Senate proceeded to deliberate with closed doors.

After 1 hour and 32 minutes the doors were reopened.

Mr. Worthington, Mr. Robert W. Archbald, jr., and Mr. Martin, of counsel for the respondent, appeared.

The managers on the part of the House of Representatives appeared in the seats provided for them.

Mr. CLARK of Wyoming. I offer two separate orders, which I ask may be acted upon in the order in which they are sent to the desk.

The PRESIDENT pro tempore. The Secretary will read the first order proposed by the Senator from Wyoming.

The Secretary read as follows:

Ordered, That on Monday, January 13, 1913, at the hour of 1 o'clock p. m., a final vote be taken on the articles of impeachment presented by the House of Representatives against Robert W. Archbald, additional circuit judge of the United States.

The order was considered by unanimous consent and agreed to.

The PRESIDENT pro tempore. The next order submitted by the Senator from Wyoming will be read.

The Secretary read as follows:

Ordered, That the Secretary of the Senate do acquaint the House of Representatives that the Senate sitting as a High Court of Impeachment will on Monday, the 13th day of January, instant, at the hour of 1 o'clock p. m., proceed to pronounce judgment on the articles of impeachment exhibited by the House of Representatives against Robert W. Archbald.

The order was considered by unanimous consent and agreed to.

Mr. ROOT. I offer the following order.

The Secretary read as follows:

Ordered, That upon the final vote the Presiding Officer shall direct the Secretary to read the several articles successively, and after the

reading of each article the Presiding Officer shall put the question following, namely:

"Mr. Senator ———, how say you; is the respondent, Robert W. Archbald, guilty or not guilty of the high misdemeanors, or a high crime and misdemeanor, as the case may be, as charged in this article?"

The PRESIDENT pro tempore. The question is upon the adoption of the order offered by the Senator from New York, which has just been read.

Mr. CLARKE of Arkansas. Mr. President, do I correctly understand that the Chair is to adopt the formula as stated in the proposed order and address it to each Senator? Why not address it to the Senate and call the roll? In other words, why not address that inquiry to Senators collectively? That inquiry to each Senator will require vastly more time than the taking of the vote, and I do not see that it will serve any good purpose, but will simply consume time unnecessarily. I therefore move that an amendment be made to the order that will conform to that idea. What does the Senator from New York say to that?

Mr. ROOT. I have no objection to that. That was the form followed in the Johnson case and the Belknap case.

Mr. CLARKE of Arkansas. Yes; but we have at hand a short session, and if the proceeding can be abbreviated somewhat without destroying its solemnity and importance I think it should be done.

Mr. ROOT. That can be ordered. If the order can be returned to me, I will modify it in order to meet that suggestion.

Mr. FLETCHER. I suggest that Rule XXII covers the matter sufficiently. It reads that "on the final question whether the impeachment is sustained," which is the whole question, it seems to me, that ought to be submitted, "the yeas and nays shall be taken on each article of impeachment separately."

Mr. ROOT. Mr. President, as there seems to be some question regarding the form, I will withdraw this proposed order and leave the question open under the rule as it stands, without any addition.

Mr. OWEN. That is better.

Mr. GALLINGER. Yes; that is better.

Mr. ROOT. I offer the following order, which is a copy of the order made in the Belknap case.

The Secretary read as follows:

Ordered, That upon the final vote in the pending case each Senator may, in giving his vote, state his reasons therefor, occupying not more than one minute; which reason shall be entered in the Journal in connection with his vote; and each Senator may within two days after the final vote file his opinion in writing, to be published in the printed proceedings in the case.

Mr. McCUMBER. I move to amend the proposed order by striking out the first of it, relating to the one-minute explanation of a vote, so that the latter portion may still stand.

The PRESIDENT pro tempore. The question is on the motion of the Senator from North Dakota to amend the order as indicated.

Mr. BRISTOW. I should like the yeas and nays on that question.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. TOWNSEND (when the name of Mr. SMITH of Michigan was called). I desire to announce that the senior Senator from Michigan [Mr. SMITH] is in Mexico on the investigating committee appointed by the Senate, and for that reason he is, unfortunately, absent.

The roll call having been concluded, the result was announced—yeas 40, nays 31, not voting 23, as follows:

YEAS—40.

Borah	Clapp	La Follette	Poindexter
Bourne	Crane	Lippitt	Sanders
Bradley	Crawford	Lodge	Shively
Brandegee	Cummins	McCumber	Smith, Ariz.
Bristow	Curtis	Myers	Smith, Md.
Brown	Dillingham	O'Gorman	Smoot
Burnham	Gronna	Oliver	Sutherland
Burton	Johnson, Me.	Paynter	Swanson
Catron	Kenyon	Penrose	Townsend
Chamberlain	Kern	Perkins	Williams

NAYS—31.

Ashurst	Fletcher	Newlands	Smith, Ga.
Bacon	Foster	Owen	Stone
Bryan	Gallinger	Page	Thornton
Clark, Wyo.	Hitchcock	Perky	Tillman
Clarke, Ark.	Jones	Pomerene	Warren
Culberson	Martin, Va.	Reed	Wetmore
Cullom	Martine, N. J.	Root	Works
du Pont	Nelson	Simmons	

NOT VOTING—23.

Bankhead	Gardner	Johnston, Tex.	Richardson
Briggs	Gore	Lea	Smith, Mich.
Chilton	Guggenheim	McLean	Smith, S. C.
Dixon	Heikkell	Massey	Stephenson
Fall	Jackson	Overman	Watson
Gamble	Johnston, Ala.	Percy	

So the amendment to the order was agreed to.

The PRESIDENT pro tempore. The question now is upon the adoption of the order as amended.

The order as amended was agreed to.

Mr. WORTHINGTON. Mr. President, I should like to ask, for the information of counsel for the respondent, just in what form the question is to be put, under the action the Senate has just taken?

The PRESIDENT pro tempore. The Chair is unable to answer the question. Does counsel inquire of the Chair?

Mr. WORTHINGTON. I was asking the Chair for information.

The PRESIDENT pro tempore. The order adopted will leave it to the Chair to frame the question.

Mr. CRAWFORD. I move that the Senate sitting as a Court of Impeachment do now adjourn until Monday next at 1 o'clock.

The motion was agreed to.

The managers on the part of the House, the respondent, and his counsel thereupon withdrew.

LOANS IN THE DISTRICT OF COLUMBIA.

Mr. CURTIS. I move that the Senate take up the conference report on the loan-shark bill, so called.

Mr. SMITH of Georgia. Are we not in an unfinished state as to what the Senate actually did in reference to giving a unanimous consent

The PRESIDENT pro tempore. That is not in the nature of unfinished business. It can be called up again. The question is on agreeing to the motion of the Senator from Kansas, that the conference report on the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia be now taken up. [Putting the question.] By the sound, the noes appear to have it.

Mr. CURTIS. I call for a division.

Mr. SMITH of Georgia. What is the motion?

The PRESIDENT pro tempore. The Senator from Kansas moves to take up the conference report on House bill 8768, commonly known as the loan-shark bill. Upon that question the Senator from Kansas asks for a division.

Mr. GALLINGER. I ask for the yeas and nays. It will save time.

The yeas and nays were ordered.

Mr. REED. Mr. President, I have not the slightest objection to taking up this proposition at the present time, but I think before the Senate disposes of any other business we ought to settle the question whether the unanimous-consent agreement, or alleged unanimous-consent agreement, which has been so much discussed was, in fact, a unanimous-consent agreement. We ought to do that before we proceed with other business. Therefore I hope this motion will be voted down.

Mr. GALLINGER. It is not debatable.

The PRESIDENT pro tempore. The matter is not debatable.

Mr. CUMMINS. A parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator from Iowa will state it.

Mr. CUMMINS. If this motion prevails, what will be its effect upon the unfinished business—the proposed constitutional amendment?

The PRESIDENT pro tempore. The Chair is of the opinion that it would be displaced. It is not now the morning hour.

Mr. CUMMINS. I simply want Senators to understand, before voting upon the pending motion, that that will be its effect.

Mr. CURTIS. I do not understand that it displaces the unfinished business except for the time being, and a motion is in order at any time to take up a conference report.

The PRESIDENT pro tempore. That is true; but when it is made out of the morning hour any vote of the Senate to proceed to the consideration of any particular matter will cause what has theretofore been the unfinished business to be displaced.

Mr. WARREN. I want to inquire just how the unfinished business would be before us to the exclusion of other business. Would it come up at 2 o'clock or what hour to-day?

Mr. CUMMINS. It is on the theory that the unfinished business is now before the Senate.

The PRESIDENT pro tempore. It is now in order, but it has not been laid before the Senate.

Mr. CURTIS. I suggest that the motion be withdrawn and the unfinished business be laid before the Senate and then temporarily laid aside. It was not my purpose to interfere with the unfinished business. I ask the consent of the Senate that that be done.

Mr. PENROSE. Let the unfinished business be laid before the Senate.

The PRESIDENT pro tempore. That can be done.

Mr. CURTIS. I ask unanimous consent, then, to withdraw the request for the time being, with the understanding that the unfinished business will be laid aside. I will then renew my motion.

Mr. CUMMINS. I ask that the unfinished business be laid before the Senate, if it is not automatically before the Senate.

The PRESIDENT pro tempore. It is the duty of the Chair to lay it before the Senate.

Mr. STONE. I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Missouri will state it.

Mr. STONE. The Senator from Kansas withdraws his motion. That does not give him any right to the floor thereafter?

The PRESIDENT pro tempore. None whatever.

Mr. STONE. I move to temporarily lay aside the unfinished business.

The PRESIDENT pro tempore. The unfinished business must first be laid before the Senate, and then a motion to lay it aside will be in order. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by title.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. CUMMINS. I ask that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Iowa asks that the unfinished business be temporarily laid aside. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. CURTIS. I move that the Senate proceed to the consideration of the conference report on the loan-shark bill.

The PRESIDENT pro tempore. The Senator from Kansas moves that the Senate now proceed to the consideration of the conference report on House bill 8768.

Mr. SMITH of Georgia. Mr. President, I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. SMITH of Georgia. Is not the question which has been raised as to the procedure of the Senate in connection with whether unanimous consent had been given in the nature of a privileged question, which should be disposed of?

Mr. GALLINGER. It is not.

The PRESIDENT pro tempore. The Chair thinks not. Certainly not unless the time had arrived when it was to be acted upon. The question is on agreeing to the motion made by the Senator from Kansas [Mr. CURTIS]. [Putting the question.] The noes appear to have it.

Mr. GALLINGER and Mr. CURTIS called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. LIPPITT (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA], which I transfer to the Senator from South Dakota [Mr. GAMBLE] and will vote. I vote "yea."

Mr. SIMMONS (when Mr. OVERMAN'S name was called). I desire to announce that my colleague [Mr. OVERMAN] is absent on account of sickness.

Mr. PERKINS (when his name was called). I have a general pair with the Senator from North Carolina [Mr. OVERMAN]. I transfer it to the junior Senator from Nevada [Mr. MASSEY] and will vote. I vote "yea."

The roll call was concluded.

Mr. O'GORMAN. I desire to announce that the Senator from West Virginia [Mr. CHILTON] is absent from the Chamber because of illness in his family.

Mr. BRYAN. I desire to announce that the junior Senator from Alabama [Mr. JOHNSTON] is detained from the Chamber on account of illness, and is paired with the Senator from New Mexico [Mr. FALL].

The result was announced—yeas 40, nays 14, as follows:

YEAS—40.

Ashurst	Curtis	Martine, N. J.	Root
Bankhead	Dillingham	Myers	Sanders
Borah	Fletcher	O'Gorman	Simmons
Brandegee	Foster	Oliver	Smith, Ariz.
Brown	Gallinger	Page	Swanson
Bryan	Gronna	Penrose	Thornton
Catron	Johnson, Me.	Perkins	Tillman
Chamberlain	Jones	Perky	Warren
Clapp	Kenyon	Poindexter	Wetmore
Cummins	Lippitt	Pomerene	Works

NAYS—14.

Bradley	Hitchcock	Shively	Townsend
Bristow	Kern	Smoot	Williams
Burton	Paynter	Stone	
Clarke, Ark.	Reed	Sutherland	

NOT VOTING—40.

Bacon	Dixon	Johnston, Tex.	Overman
Bourne	du Pont	La Follette	Owen
Briggs	Fall	Lea	Percy
Burnham	Gamble	Lodge	Richardson
Chilton	Gardner	McCumber	Smith, Ga.
Clark, Wyo.	Gore	McLean	Smith, Md.
Crane	Guggenheim	Martin, Va.	Smith, Mich.
Crawford	Heikkell	Massey	Smith, S. C.
Culberson	Jackson	Nelson	Stephenson
Cullom	Johnston, Ala.	Newlands	Watson

So the motion to proceed to the consideration of the conference report was agreed to.

Mr. CURTIS. Mr. President, the report has been read, and I ask for a vote on it, unless some explanation is asked.

Mr. President, the main point in dispute between the House and the Senate is whether or not the pawnbrokers doing business in the city of Washington should be included in this loan-shark bill and limited in their charge of interest to 12 per cent per annum. The Senate committee first took the ground that because of the fact that there was a separate law applying to pawnbrokers, the act of 1889, any amendment in reference to them as to the amount of interest which might be charged by them should be considered as an amendment to that law.

But the bill was amended and sent to conference, and after several meetings it was found that the managers could not reach an agreement unless the pawnbrokers were included; and so at last the Senate conferees gave in on that point, and this bill as it has been agreed to and reported to the Senate, and to which report the Senate is requested to accede, includes pawnbrokers, and hereafter it will not be lawful for them to charge more than 1 per cent a month, or 12 per cent per annum, upon their loans.

Under the existing law they are permitted to charge 3 per cent a month, or 36 per cent a year. It was discovered, as I stated before, that some of the loan sharks in this city were charging poor, unfortunate men and women as high as 372 per cent for the loan of money, and your committee, after a most careful consideration, concluded that this bill was the best method by which the loan sharks could be regulated and controlled. So they have reported it. I think I may safely say that when this question was presented to the committee the vote was unanimous, that rather than defeat the loan-shark bill the pawnbrokers should be included in it.

With this statement, unless some Senator wishes to ask a question, I ask for a vote upon the report.

Mr. JONES. I wish to ask the Senator from Kansas if the conference report preserves the other regulations now existing with reference to pawnbrokers except as to the rate.

Mr. CURTIS. That question was discussed in the conference. A majority of the conferees thought that it did cover them and that the existing law would apply, only changing the rate of interest which might be charged by the pawnbrokers.

Mr. TOWNSEND. Will the Senator yield for a question?

Mr. CURTIS. Certainly.

Mr. TOWNSEND. It has been reported to me that the commissioners and practically all of the civic societies here in the city of Washington are opposed to this bill, not because it puts the loan sharks out of business but because it will put the pawnbrokers out of business. I should like to ask the opinion of the Senator in reference to that statement.

Mr. CURTIS. I think that statement goes too far. It is true that representatives of a large number of organizations appeared before members of the committee and urged the committee not to consent that the pawnbrokers should be included, and asked if there was any legislation in regard to pawnbrokers that it should be applied to the existing law. But after considerable discussion and several meetings it was found that no agreement could be reached upon the loan-shark bill unless the pawnbrokers were included. Therefore the conferees on the part of the Senate consented to that, and their action was indorsed by a vote of the Committee on the District of Columbia.

Mr. TOWNSEND. Would it be a fact, as is charged, that this limitation to 1 per cent would result simply in a sale always of pledges, and that poor men, men who have very little property to put up as a pledge, would thus be denied a privilege which they claim is very dear to them?

Mr. CURTIS. There has been organized within a year in the District of Columbia a company that is now loaning money at 6 per cent, or rather 6 per cent discount, and the officers and managers of that company informed members of the committee that they are ready to continue loans at that rate. Some members of the committee thought that the interest charged by the pawnbrokers, where they had security, 36 per cent, was entirely too large. With this new company and others who are doing a loaning business, and with the information that the com-

mittee had in reference to business done by companies in New York, Chicago, Boston, and other large cities, it was believed those who desired small loans would be accommodated. This one company is now doing business and other companies can be organized, and money can be loaned here at 6 and 8 per cent; at any rate, at a lower rate than is permitted in this bill, which allows them to charge 12 per cent, or 1 per cent a month.

Mr. TOWNSEND. Does the new company to which the Senator refers loan money on personal property as security?

Mr. CURTIS. I understand they have made loans on personal property or even upon the notes of individual members of the family.

Mr. TOWNSEND. How do they differ from ordinary pawnbrokers?

Mr. CURTIS. I can not tell you that. I do not know about their security. The matter was brought to my attention a few days ago, but I did not inquire extensively into how they are doing business.

I ask for a vote, Mr. President, on the conference report.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

The report was agreed to.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. SMOOT. Mr. President, at the close of the session last evening the question of the unanimous-consent agreement to vote on Monday, January 20, 1913, at 3 o'clock upon the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases was under discussion, and I asked that it be resubmitted to the Senate and gave a short statement as to why it should be. I again, Mr. President, ask that that question be resubmitted to the Senate.

I wish to say, Mr. President, that the RECORD shows it was presented to the Senate in an unusual way. The Senator from Tennessee [Mr. SANDERS] did not ask unanimous consent for the consideration of the order. He simply stated, "I present the following," and then it was read by the Secretary of the Senate.

I heard the Presiding Officer make the statement, "Is there objection? The Chair hears none, and it is so ordered." I immediately rose to my feet and addressed the Chair, but his attention was drawn to the other side of the Chamber, and he recognized the Senator from Oklahoma [Mr. OWEN]. I rose for the purpose of objecting and giving my reasons why. I have already stated to the Senate how it happened. I was in the Senate at the time the unanimous consent was passed upon, and before any other business had been attended to I addressed the Chair.

Mr. President, under the circumstances I ask that the question be resubmitted to the Senate.

Mr. CLAPP. Mr. President, I desire to say in connection with this matter that it seems to me the Senate is establishing a very dangerous precedent in opening the door to a means by which a majority of the Senate at any time can practically nullify a unanimous-consent rule. It has been urged, I do not know whether on the floor of the Senate, that if this order stands there are Senators who will disregard it. I think that possible danger of far less importance to the Senate than the step it is proposed to take, which would open a way to set aside a unanimous-consent agreement.

It happened yesterday morning that I came into the Senate. The President pro tempore had to take charge at 1 o'clock of the impeachment proceedings, and he usually has some one occupy the chair while he secures a lunch. He happened to ask me to occupy the chair. It is needless to say that I knew nothing whatever of any proposed unanimous-consent request, but upon taking the chair the Senator from Tennessee sent the request to the desk. The Chair directed the reading of the request, which the Secretary did, announcing in the reading that the Senator from Tennessee was asking for unanimous consent.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Utah?

Mr. CLAPP. Certainly; with pleasure.

Mr. SMOOT. I think that statement is absolutely correct; but the Senator from Minnesota, who was the Presiding Officer at the time, will remember that he made this statement:

Let the Chair say a word. There is too much confusion in the Senate. This unanimous-consent offer was made, was read very clearly and with great deliberation by the Secretary, and stated with deliberation by the Chair. The trouble is there is too much confusion in the Chamber.

Mr. CLAPP. I will reach that in chronological order in my statement. I think those who were in the Senate yesterday morning when this unanimous consent was asked for will bear out that the Secretary of the Senate read it with care and with deliberation. The request or suggestion as to whether there was objection was made with much more deliberation than some requests which have been submitted to-day. After the statement that the Chair heard no objection, there was a pause and then the usual order, "It is so ordered." After that the Senator from Utah addressed the Chair; but the Chair did not see him, and recognized the Senator from Oklahoma. Upon the completion of the business proposed by the Senator from Oklahoma, the Senator from Utah obtained the floor and asked whether the Senate had been considering a request for unanimous consent, and was advised that it had just passed upon that kind of a request. The Senator then suggested a reconsideration of the vote. The Chair held that there could be no reconsideration of a vote fixing a unanimous consent; that an agreement for unanimous consent could not be changed, modified, or set aside even by unanimous consent after it was made. The rule for that has already been stated by the Senator from Massachusetts [Mr. LODGE], and requires, it seems to me, at my hands no discussion.

Subsequently, and I might say generally, if I may be permitted to say it without a seeming reflection, the Chair stated that there was too much confusion. There is too much confusion too often upon the floor of the Senate. If the Senator from Utah had suggested, or if it had been suggested to the Chair at that time that he resubmit the question, a different question might have been presented. The controversy, and no one was to blame for that, turned at once upon the right of the Senate to deal with a unanimous-consent agreement after it had been made. After that question had been discussed pro and con for some time, then the suggestion was made that the subject matter be resubmitted to the Senate.

Now, Senators, this is simply my own view—every man is entitled to his own; every man can settle these questions for himself—but it seems to me that if this unanimous-consent agreement can be set aside, not by a direct vote to reconsider it, not by a vote to set it aside, but upon the plea that it was not in fact adopted, you are establishing a very dangerous precedent; you are getting into a twilight zone where there is no well-defined line that can be laid down either by the Senate or by the Presiding Officer.

I do not know that anyone has questioned the fairness of the matter. It is a matter I do not care to discuss. I say again that the then occupant of the chair had no suggestion that the Senator from Tennessee was going to submit a request, nor did he know what the request was until it was read from the desk, and then the Chair proceeded with deliberation. Clearly no one could claim that he was taken by surprise or that any advantage was taken of him.

I want to say again, it appears to me that if by this means, in this instance, while it may seem perhaps a hardship, although it is not a vote, it is not decisive of anything except that some day the Senate will vote upon a measure, if a unanimous-consent agreement can be set aside upon this ground we are making a precedent and opening a dangerous pathway to the modification and setting aside of unanimous-consent agreements. For one I shall feel constrained to vote against resubmitting this matter to the Senate.

Mr. LODGE. Mr. President, I am in sympathy with the objects and purposes of this bill. If I had been here yesterday, I should have made no objection whatever to the unanimous-consent agreement.

I venture to take the floor for a few moments because there seems to be much more involved here than anything affecting a single measure. The business of the Senate is largely transacted through unanimous-consent agreements, not only the important unanimous-consent agreements which are reached often with much difficulty on large and generally contested measures, but constantly on all the small business of the Senate we depend on unanimous consent to enable us to transact the public business. We do it in executive session, and we do it in legislative session. We have never put any restraint upon it. We have never fixed any time, as is done in the House, when a unanimous-consent agreement can be asked.

Now, Mr. President, it seems to me, after listening to the debate on this subject, as if there was more or less misconception, misapprehension perhaps, on the part of some Senators as to the nature of a unanimous-consent agreement. It has no recognition in the rules at all. It is no more within the control of the Chair than the maintenance of a pair is in the control of the Chair. The chair when occupied by Mr. Frye, who was high authority, stated the position of the Chair, once for all, that he had no power to enforce a unanimous-consent agreement any more than he had power to enforce a pair. A unanimous-consent agreement is something that rests absolutely and entirely on the will and the good faith of Senators themselves, just like a pair.

If any number of Senators choose, or if one Senator chooses, to say that any unanimous consent was improperly obtained, that there never was a unanimous consent, and a Senator declines to observe it, there is no power on earth that can prevent his taking the floor and carrying that unanimous consent over so that it becomes void and of no effect.

Therefore, Mr. President, I have always felt since I have been in the Senate the greatest anxiety that we should preserve, in the first place, most absolutely unanimous-consent agreements, without modification, without amendment. They certainly can not be reconsidered; they can not be modified. I do not think that they can be vacated by another unanimous consent, unless you can be assured that every Senator who consented was present when the original unanimous consent was asked to be vacated, and that is practically out of the question. I do not believe there is anyone in the Senate who has more strongly felt the importance for the transaction of the Senate business that unanimous-consent agreement should be most strictly observed than I have.

I agree with the Senator from Minnesota [Mr. CLAPP] that it would be a very dangerous precedent to establish if we should set aside unanimous-consent agreement in any way. I have no doubt of the right of the Chair to resubmit it. I have very grave doubt as to whether we can order its resubmission by a vote of the Senate.

As to the Chair's right to resubmit, it has been done again and again. I regret that the Senator from New Hampshire [Mr. GALLINGER], who has had a longer experience than almost any other Senator in this body, who is an experienced parliamentarian, should, as I see by the RECORD, differ with me on that practice.

The present occupant of the chair agreed with me about it, and I think there is no question as to the fact. Of course this is all a matter of practice. There is no rule to guide us. But where the Chair saw that any Senator had not had an opportunity to make objection, had not been recognized, I do not think any occupant of the chair has ever hesitated to resubmit a unanimous-consent request.

Mr. President, within the memory of living men, I have seen a motion made by the Senator from Texas and in the course of discussion lost sight of, and another motion offered and submitted by the Chair, and on his attention being called to the fact that the original motion had been overlooked he acknowledged the oversight and submitted the original motion.

Nobody can occupy that chair, and in the confusion which often happens on the floor, fail to occasionally overlook some Senator who rises for the purpose of objection or make some slight mistake about the order of motions; and it is impossible to suppose that the Chair is not to have the right and has not the right to resubmit, as he has the right to submit, if he is satisfied in his own mind that any Senator present and on the floor has been by his action deprived of his undoubted right and power to give assent.

Admitting, Mr. President, the danger of establishing a precedent by modifying a unanimous-consent agreement, there is also another danger which I think equally great and which I think should be just as much guarded against if we wish to preserve, as I do, unanimous-consent agreements as essential to the transaction of the business. The idea must never for a moment be allowed that a unanimous-consent agreement was passed by mistake or error, was a snap judgment, or that any Senator who was present on the floor was deprived of his opportunity to give or withhold his assent.

I was not present yesterday, and I speak only from what appears in the RECORD. It appears by the RECORD that an order was sent by the Senator from Tennessee [Mr. SANDERS] to the desk. In somewhat long experience here no doubt there may have been many such, but I do not recall an instance of a Senator seeking a unanimous-consent agreement and not asking for it himself. The Senator in charge of the bill or the Senator interested in the bill, great or small, makes the request himself. If he chooses, as he has an undoubted right to do, to put his unanimous-consent request in the form of an order, it comes in undoubtedly in order under the last subject in the call of morning business; that is, concurrent and other resolutions.

This was offered, I see by examining the RECORD, during the order of the introduction of bills. It was sent to the desk without any remark being made by the Senator from Tennessee, and he was not bound to make any remark. It was then read from the desk.

Mr. SMITH of Georgia. I wish to ask the Senator if it is not the custom whenever a request for unanimous consent is made to call attention to it from the floor and to explain it before it is sent to the desk?

Mr. LODGE. Mr. President, it is never safe to indulge in a universal negative, but I do not recall an instance of a unanimous-consent agreement being asked for that was not asked for from the floor, and usually the unanimous-consent agreement is asked for and is put in form by the clerks at the desk. I do not say that except to show that the method, although absolutely legitimate, was not usual.

Mr. BRANDEGEE. Mr. President, will the Senator let me ask him a question there?

Mr. LODGE. Certainly.

Mr. BRANDEGEE. I read the RECORD, as the Senator from Massachusetts has done, and I note that the order was sent to the desk and was reported by the Secretary, and I do not think, if my memory serves me, that even the request for the present consideration of it at that time was asked for.

Mr. SMITH of Georgia. It was not.

Mr. LODGE. It was not. Of course it was out of order at that time, except by unanimous consent. There was no request made for its consideration at that time.

Mr. SMITH of Georgia. Ought there not to have been a request for the suspension of the regular order to admit it, and——

Mr. LODGE. Mr. President——

Mr. SMITH of Georgia. Just let me finish the question. And had not the Senators on the floor the right to suppose that nothing but new bills would be read, unless the order of business was suspended?

Mr. LODGE. Strictly speaking, under that order of the introduction of bills, of course nothing but the introduction of bills is in order; and, strictly speaking, the request for consideration was the proper step to take. But it is only fair to say that unanimous-consent agreements are habitually asked for at all times during a session.

My point is that there was neither a request for its present consideration nor was the unanimous consent asked for; but an order was sent to the desk containing a request for unanimous consent. It was laid before the Senate by the Chair without, as I recall, asking whether there was objection to its consideration at that time.

Mr. GALLINGER. That is never asked, and never was asked.

Mr. LODGE. Well, I think it is pretty hard to indulge in such absolute statements as that it was never asked. I have been here some time and I have heard it asked a great many times. I have heard it asked from the Chair over and over again, "Is there objection to consideration at this time?" I should be inclined to think my friend from New Hampshire had made that inquiry from the Chair himself a good many times.

Mr. GALLINGER. If the Senator will permit me, I will say that I never knew an instance where, when a unanimous-consent agreement was proposed, the Chair asked whether or not it would be allowed to be considered, and I——

Mr. LODGE. Mr. President, my point is that unanimous consent was not proposed.

Mr. GALLINGER. Well, of course, the Senator and I differ on that, and I will state my views after he gets through.

Mr. LODGE. Well, it was not proposed according to the RECORD. Of course, I was not here, and I can only quote the RECORD.

Mr. WILLIAMS. Will the Senator from Massachusetts pardon me just a moment?

Mr. LODGE. Certainly.

Mr. WILLIAMS. I find here just below where the Secretary read the request for unanimous consent that the Presiding Officer said:

Is there objection to the request of the Senator from Tennessee? The Chair hears none.

Mr. LODGE. That is not what I am referring to. I am referring to a request for its consideration out of order. Strictly speaking it was not in order at all then. Nothing was in order at that time but the introduction of bills.

Mr. GALLINGER. Will the Senator from Massachusetts permit me to interrupt him?

Mr. LODGE. Certainly.

Mr. GALLINGER. A motion to proceed to the consideration of any bill on the calendar would have been in order.

Mr. LODGE. Certainly if it was made; but my point is that it was not made.

Mr. GALLINGER. Unanimous-consent agreements have been asked at any stage of our proceedings.

Mr. LODGE. So I have said.

Mr. GALLINGER. To my knowledge for 21 years I never heard the question raised before that such requests were out of order.

Mr. LODGE. Mr. President, I said that it was habitual to ask unanimous consent at any stage of the proceedings in the Senate, but not strictly under the rules. I do not think, however, it can be disputed that no business is in order during the time for the introduction of bills except the introduction of bills. If other business is offered, it must be by motion or request.

If a Senator reports a bill from a committee and asks unanimous consent for its immediate consideration, the Chair always first asks the Senate if they will give consent to the consideration of the bill at that time, and that it is a unanimous consent that is being asked for. In this case the order was read. The Presiding Officer then made the usual inquiry:

Is there objection to the request of the Senator from Tennessee? The Chair hears none. It is so ordered.

And then I see the Senator from Utah [Mr. SMOOT] addressed the Chair and said: "Mr. President," and Mr. OWEN was recognized. That is all that the RECORD discloses.

Mr. President, the point that is made by the Senator from Utah is that he failed to get recognition from the Chair when he was entitled to it; that his consent was never given; that he was on the floor; that he tried to get recognition and failed; and that he has been deprived of his right of withholding or giving his consent. Other Senators who were present at the time, I find by reading over the debate, arose in their places and said they did not consider themselves bound by the unanimous consent just given. That is the point on which I wish to lay stress. The whole virtue and merit of the unanimous-consent agreements, the qualification without which it can not continue, is that all Senators shall admit that they are fairly and properly given and shall feel themselves bound by them. If Senators do not feel themselves bound by a unanimous-consent agreement, it makes no matter what the Senate does, the unanimous consent given falls to the ground.

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. I do.

Mr. POMERENE. May I call the Senator's attention to the fact that the RECORD shows that the Senator from Utah was the first Senator to address the Chair immediately following the reading of the unanimous-consent agreement?

Mr. LODGE. That is what I intended to point out.

Mr. WILLIAMS. Ah, but, Mr. President, if the Senator from Massachusetts will pardon just one interruption, the Senator from Ohio [Mr. POMERENE] has made a mistake in his statement.

Mr. LODGE. No; he has not.

Mr. WILLIAMS. The Senator from Utah did not rise immediately after the reading. The Senator from Utah rose after the Chair had put the request and had decided that there was no objection.

Mr. LODGE. Unquestionably; there is no doubt about it.

Mr. WILLIAMS. Which is a totally different thing.

Mr. LODGE. Undoubtedly.

Mr. WILLIAMS. But the Senator from Ohio said that the Senator from Utah arose immediately after the Secretary had read the statement.

Mr. LODGE. Oh, no; he arose immediately after the words "It is so ordered" had been spoken.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from California?

Mr. LODGE. Yes.

Mr. WORKS. I desire, in justice to the position which is taken by the Senator from Utah, to confirm from my own knowledge and recollection just what the facts were. I was sitting very near the Senator from Utah and was paying attention to what was going on. I was looking and listening for an objection to be made to the consideration of this order, and I am able to say of my own knowledge that the Senator from Utah did address the Chair first, but the attention of the Chair was directed to the Senator from Oklahoma [Mr. OWEN] and he was recognized; but, as a matter of fact, the Senator from Utah did first address the Chair, and addressed him twice or three times, and loudly; I might say rather frantically.

Mr. LODGE. Well, Mr. President, that confirms the testimony of the RECORD.

Mr. President, I would say, as one who is in sympathy with the bill and who would not have objected to the unanimous-consent agreement, that I think it is a very unfortunate thing, however our opinions may differ as to questions of practice involved, to have a unanimous-consent agreement in regard to which any considerable number of Senators, or any number, great or small, feel that it was not properly obtained. I do not mean by improper methods, but I mean that they feel that it was not obtained with the consent of those whose consent was necessary. The question involved here is, whether that consent exists; not whether it shall be held. Nobody can hold it; there is no power to compel Senators to obey that unanimous-consent agreement. It all rests on our own good faith and our own adhesion to the rules of the Senate; and it would be just as unfortunate, in my mind, to force a unanimous-consent agreement about which there was any doubt or about which Senators felt that they had not been fairly treated—it would be just as bad as to tamper with or modify or try to upset a unanimous-consent agreement fairly and properly obtained. I think one would be just as prejudicial to our system of unanimous-consent agreements as would the other.

I do not want to see in the Senate what I think will be very likely to grow out of this—some strict limitation put upon obtaining unanimous-consent agreements as used to be done in the other House. I can not speak of their rules at present; but I think they have, certainly they formerly had, set times when unanimous consents could be asked, and they could not be asked for at other times. I do not want to see those restrictions put upon the Senate. I think it is one of the great merits and advantages of this body that we have so much freedom and latitude, but the price we must pay for it is a very careful observance of all the necessary conditions to make a unanimous-consent agreement consented to by everybody.

Mr. President, I may differ with other Senators on this point, but I do not think the Senate has power to compel the resubmission of the question by vote. Unless provided for in the rules, as in the case of messages and conference reports, I think the matter of resubmitting a question to the Senate is one that must rest within the discretion of the Chair. Of course, it is in the power of any number of Senators or of any Senator to reduce this unanimous-consent agreement to nothing. It exists only by the willingness of Senators; it has no other power, no other strength. It is for that reason that I sincerely hope that those who are interested in preserving the unanimous-consent agreement will see that a unanimous consent about which Senators feel, as many Senators obviously do feel in this case, may be perfectly worthless, and in any event would establish a precedent which would make it infinitely more difficult to obtain other unanimous-consent agreements and might throw a cloud over the whole system and lead to restrictions which, I think, would be most unfortunate.

I am not speaking, Mr. President, in the least in the interest of this bill or against it. As I have twice before said, I sympathize with the purposes of the bill. I should have agreed to the unanimous consent; but I do feel deeply about the importance of preserving the system of unanimous-consent agreements, so that on the one hand every Senator shall realize, when once they have been properly obtained, that they can not be modified or tampered with or affected by anybody or in any way; and on the other hand that they shall always be obtained in such manner that no Senator who was present can question the fact that his consent was obtained.

Mr. GALLINGER. Mr. President, I had not intended to say another word about this matter, but the rather extraordinary speech of the Senator from Massachusetts [Mr. LODGE] leads me to make an observation or two.

The Senator from Massachusetts made rather an adroit argument, but I think it is founded entirely on false principles. Before proceeding, however, Mr. President, I will ask what is before the Senate? I was out of the Chamber when this discussion commenced.

The PRESIDENT pro tempore. The Chair does not recall whether or not the Senator from Utah [Mr. SMOOT] made a distinct motion, as there was so much confusion in the Chamber at the time. The Chair would inquire of the Senator from Utah——

Mr. WILLIAMS. Mr. President, what has become of the point of order which I made yesterday and which was pending when we then adjourned?

The PRESIDENT pro tempore. The matter has been renewed this morning. No motion which was then pending——

Mr. WILLIAMS. Ah, but there was a point of order which I made which was pending. The point of order was distinctly made.

The PRESIDENT pro tempore. The whole proceeding fell with the adjournment of the Senate. It was not the unfinished business.

Mr. WILLIAMS. Very well. I will renew the point of order in a moment.

Mr. GALLINGER. That was my understanding, Mr. President, and it was for that reason that I asked what was before the Senate before proceeding with my remarks.

The PRESIDENT pro tempore. The Chair will inquire of the Senator from Utah whether or not he made any distinct motion?

Mr. SMOOT. I did not put it in the form of a motion, but I asked that the question of unanimous consent be resubmitted to the Senate.

Mr. WILLIAMS. Now, Mr. President, without going into details, I renew the point of order which I made yesterday.

The PRESIDENT pro tempore. Does the Senator from New Hampshire yield the floor for that purpose?

Mr. GALLINGER. I do not yield the floor; no.

The PRESIDENT pro tempore. The Senator from New Hampshire will proceed, then.

Mr. GALLINGER. Mr. President, it is an extraordinary proposition that, after a matter is settled, in one day thereafter the Presiding Officer can resubmit the question. If it can be done one day afterwards, it can be done a month afterwards. We might have a unanimous-consent agreement standing on our calendar, and one week or two weeks or three weeks afterwards some Senator might find fault and state that it got there improperly, and ask the Chair to resubmit it. I think it is a very extraordinary proposition, and, in my judgment, it can not properly be done.

Mr. President, I will turn to the RECORD concerning the procedure in this instance. It is idle for Senators to argue that a unanimous-consent agreement can not be asked for during the morning hour. During 21 years I have seen it done time and time again; and this is the first occasion it has ever been called in question, so that I assume that the time was opportune and the procedure correct. The Senator from Tennessee had, I think, on three former occasions—I will ask him how many times?

Mr. SANDERS. Three times. The Senator is correct.

Mr. GALLINGER. On three former occasions asked for this unanimous consent, and it had been refused. On yesterday, again, the Senator from Tennessee rose in his seat—it is not necessary that a Senator should read a resolution he is going to offer or an order that he is going to offer or a request he is going to make, the Secretary has got to receive it anyway—and sent to the Chair this paper. I now read from the RECORD:

Mr. SANDERS. Mr. President, I offer the following.

The PRESIDING OFFICER (Mr. CLARK in the chair). It will be read.

The SECRETARY. The Senator from Tennessee proposes the following unanimous-consent agreement:

So it was stated in distinct terms—the clerks at the desk speak very distinctly—that it was a unanimous-consent agreement. The unanimous-consent agreement was then read, and then the Presiding Officer, who likewise has a good voice, inquired:

Is there objection to the request of the Senator from Tennessee? The Chair hears none. It is so ordered.

Now, Mr. President, if that is not a unanimous-consent agreement that ought to stand, I never have known one that ought to have been given consideration by this body.

Mr. HITCHCOCK. Mr. President——

Mr. GALLINGER. I yield to the Senator.

Mr. HITCHCOCK. The Senator from New Hampshire calls attention to the fact that the Senator from Tennessee had on several previous occasions asked for the same unanimous-consent agreement. I call the Senator's attention to the fact that on all those previous occasions the Senator from Tennessee, having risen in his seat, specifically stated that he asked for a unanimous-consent agreement——

Mr. GALLINGER. That is sticking in the bark.

Mr. HITCHCOCK. Whereas in this case he made no such statement.

Mr. GALLINGER. But the Secretary did. I repeat, that is sticking in the bark, Mr. President; it does not amount to anything at all; it can be done in either one way or the other.

The Senator from Ohio [Mr. POMERENE] broke in to say that immediately upon the reading of this consent agreement the Senator from Utah addressed the Chair. Manifestly, the Senator from Utah did not. He did not address the Chair before the Chair's announcement had been made that there was no objection and that the order was agreed to.

Mr. POMERENE. Mr. President, if I may be permitted to interrupt the Senator——

The PRESIDENT pro tempore. Does the Senator from New Hampshire yield to the Senator from Ohio?

Mr. GALLINGER. I yield to the Senator.

Mr. POMERENE. The matter which I wished especially to call to the attention of the Senator from Massachusetts at the time I was on my feet was that the Senator from Utah was the first to address the Chair after the matter had been disposed of. I think I was not very happy in the expression which I used at the time.

Mr. STONE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Hampshire yield to the Senator from Missouri?

Mr. GALLINGER. I yield to the Senator from Missouri.

Mr. STONE. I thought the Senator was through.

Mr. GALLINGER. No; I am not through.

Mr. STONE. I desire, if the Senator will permit me, in connection with his remarks to have read a resolution which I intend to propose. He may address himself to it, if he cares to do so.

Mr. GALLINGER. I will yield for that purpose. Anything that will enlighten us on this subject I welcome.

Mr. STONE. I do not know whether it will enlighten the Senator, but it will serve to bring the matter to a head.

The PRESIDENT pro tempore. For the information of the Senate, the Secretary will read the resolution intended to be proposed by the Senator from Missouri.

The Secretary read as follows:

Resolved, That the order appearing in the RECORD of January 10, 1913, at page 1328, purporting to fix January 20, 1913, as a day for the consideration and disposition of S. 4043, as by unanimous consent, be, and the same hereby is, vacated and expunged from the RECORD, for the following reason: That the said order was not in fact made by unanimous consent, according to the usual practices of the Senate, and, therefore, was not properly entered in the RECORD.

Mr. LODGE. Mr. President, with regard to that resolution, ought it not to read "vacated and expunged from the RECORD and the Journal"?

Mr. STONE. Yes; let it be modified in that way.

Mr. GALLINGER. Mr. President, evidently some revolutionary tactics are to be resorted to now; and I want to give notice, in a very modest way, that if unanimous-consent agreements are to be treated in this manner there will be reprisals. It is very unusual to challenge the fairness and the correctness of a decision made by the Chair. I am not here to defend the distinguished Senator who then occupied the chair; but when it is said that this unanimous-consent agreement has been forced unfairly upon the Senate, it is a pretty serious charge, and had I been in the chair I certainly would resent it very warmly.

Mr. President, I have been here a good while; I have declined always to filibuster on bills; I have held to the opinion that the majority of this body ought to be given an opportunity to vote on every public measure. I have been solicited time and time again to join others in factious opposition to legislation, but I have not done so, and never will do so.

This bill has a history. I believe it was before the Senate prior to the present Congress. At any rate, it was introduced in the Senate during this Congress on December 21, 1911, more than one year ago. Senators have had it before them to consider. It was reported to the Senate on July 23, 1912, almost six months ago, and it has been on the calendar during that time. It is a bill of great public interest. True, there is a diversity of opinion about it. The liquor sellers and the liquor dealers, who have sent me vast volumes of literature on the subject, some of which has been very absurd, are against it; certain Senators are against it; and they have good reason, no doubt, for opposing it. On the other hand, there are a great many of our people in favor of this legislation. My own State has passed just such a law. We have a local option law in New Hampshire. A large proportion of towns and some of the cities have voted against licensing the liquor traffic. Immediately upon that law going into effect, the liquor houses in Boston flooded our no-license towns with liquor by express and otherwise. Our people thought it was a great wrong, and they passed a law a few years ago prohibiting that practice, and it is on the statute book to-day. It is proper that I should say that the liquor interests at the present time, while our legislature is in session, are making a strenuous effort to have that law repealed, but I do not think they will succeed.

The pending bill is in accord with that law. It provides that if a State shall, by its laws, prohibit the sale of liquor, it shall not have its territory invaded by parties outside of the State who are engaged in that traffic. It is a wholesome and proper provision, and I think for that reason the bill ought to pass.

We need not have any concealments about this matter, Mr. President. It is not intended that a vote shall be taken on this bill, in my judgment, and if this unanimous-consent agreement is set aside, no vote will be taken on this bill during this Congress.

My desire to see a vote on this measure, as I would desire to see a vote on any other measure of great public concern, is such that I hope no extraordinary procedure will be approved by the Senate, and I trust that the unanimous-consent agree-

ment, which is now printed on our calendar, will be allowed to stand. If it is not allowed to stand, there is nothing in the world to prevent me from taking a good deal of the time of the Senate in claiming that the other unanimous-consent agreement, which is here on the calendar, ought not to remain in force because I was not present when it was made.

I want further to say, Mr. President, that if a Senator who is here in the discharge of his duties neglects to hear an order which has been read and announced by the Secretary to be a unanimous-consent agreement and declared by the Presiding Officer as having been agreed to—if it is to be contended that because a Senator neglected to observe what was going on in the Chamber, he can protest against it and have a unanimous-consent agreement invalidated, there is no reason why I, if I had entered the door just at the conclusion of that agreement or a few moments afterwards, should not have arisen and said, "Mr. President, I was absent; I was in the lobby; I was in my committee room; but had I been present I would not have agreed to that unanimous-consent agreement, and I ask that it shall be resubmitted." Of course, resubmission carries with it the suggestion that it will not be agreed to.

I agree with the Senator from Massachusetts that it is important that we shall deal fairly with each other, and that in the matter of unanimous-consent agreements we shall be careful not to do anything that is irregular or that is contrary to our rules or that is unusual; but in this case I can not, for the life of me, see anything that was irregular, contrary to our rules, or unusual. The unanimous-consent agreement stands on our calendar, and, in my judgment, it would be a great mistake if it were stricken off, because if it should be, Mr. President, requests for unanimous consent will in the future be scanned more closely than they have been heretofore, and it will not be so easy to secure unanimous-consent agreements as it has been in the past. Many unanimous-consent agreement of which I did not approve have been made in my absence; but I have never thought it was my privilege to come in here 24 hours after or 24 seconds after they had been made and say that if I had been present I would have objected to them, and demand, or request, that they be resubmitted, so that I might have the privilege of objecting.

Mr. LODGE. Mr. President, I only desire to ask the Senator a question.

Mr. GALLINGER. I yield.

Mr. LODGE. The Senator does not think that I suggested that I was unfairly treated. I was absent from the Senate on a conference at the time the request was made.

Mr. GALLINGER. I so understood.

Mr. LODGE. And, of course, even if I had been against the unanimous-consent agreement, which I was not, I had no claim whatever, and there never has been any suggestion from anybody that a Senator who was absent from the Senate has any right to object to a unanimous-consent agreement.

Mr. GALLINGER. I did not charge that the Senator had made that suggestion. I made it on my own responsibility.

Mr. LODGE. I only said to the Senator that I did not suppose he included me in that suggestion.

Mr. GALLINGER. I certainly did not. Now, Mr. President, I do not think it is competent for the Senate to change this agreement; I do not think it is competent for the Chair to resubmit it, and I very gravely doubt whether or not a resolution such as the Senator from Missouri [Mr. STONE] proposes to offer ought to be entertained; but if it is entertained, I trust that it will not be agreed to by the Senate.

Mr. BRANDEGEE. Mr. President, I desire to ask the Senator from New Hampshire a question before he takes his seat. The RECORD shows that as soon as the Presiding Officer declared that he heard no objection to the request for unanimous consent, and that it was so ordered, the Senator from Utah was on his feet immediately.

Mr. SMITH of Georgia. In point of fact, he was on his feet before the announcement was concluded, was he not?

Mr. BRANDEGEE. As the Senator from Massachusetts [Mr. LODGE] said to the Senator from California [Mr. WORKS], that is additional corroboration of the RECORD and of my statement.

Mr. GALLINGER. The Senator from Connecticut is addressing me, so I am still entitled to the floor, I presume. If the Senator from Utah was on his feet at such an early stage, he certainly could have said "I object" as well as he could have said anything else, but he did not do so.

Mr. BRANDEGEE. Mr. President, I did not say that he was on his feet when the Chair made the announcement. What I say is that the RECORD shows that as soon as the Presiding Officer said that he heard no objection, and that the unanimous consent was ordered, immediately the next thing the RECORD discloses is that the Senator from Utah addressed the Chair and said, "Mr. President." Now, what I want to ask the Senator from New Hampshire is: Supposing that the Chair had recognized the Senator from Utah, in accordance with his earnest request to be recognized, would, then, the Senator from New Hampshire say that the Chair could not have restated the question if the Senator from Utah had said that he wanted to object?

Mr. GALLINGER. Yesterday when the same question was put to me I stated, whether I would have been right or wrong, had I been in the chair I would not have resubmitted it.

Mr. POINDEXTER. Mr. President——

Mr. BRANDEGEE. I yield to the Senator from Washington.

Mr. POINDEXTER. I have in my hand the RECORD of the proceedings at that time, and it seems that some other distinct business intervened.

Mr. BRANDEGEE. Will the Senator cite the page?

Mr. POINDEXTER. Page 1324.

Mr. BRANDEGEE. Will the Senator proceed and state what intervened?

Mr. POINDEXTER. The Senator from Oklahoma [Mr. OWEN] introduced a bill to amend the Sherman antitrust law.

Mr. BRANDEGEE. The Senator is mistaken, I am quite sure.

Mr. SMITH of Georgia. That was because the Chair did not recognize the Senator from Utah. The RECORD shows that the Senator from Utah [Mr. SMOOT] said "Mr. President" first, and tried to get the ear of the Chair, and was on his feet; but the Chair looked over in this direction and recognized the Senator from Oklahoma. The Senator from Utah was on his feet and tried to be heard before the Chair finished his statement. The Senator from Utah not having heard the agreement, but hearing what the Chair was saying, was on his feet for recognition.

I expect to vote for the Kenyon bill, and I am willing to give consent that it shall be considered just as soon as possible, but it does not seem to me that there was clearly any unanimous-consent agreement in this case. I do not think there was any unanimous consent given in this case. I think the Chair was mistaken about it. The Senator from Utah was on his feet asking for recognition when the announcement was finished.

Mr. POINDEXTER, Mr. SMOOT, and others addressed the Chair.

Mr. BRANDEGEE. I am willing to yield to any Senator for a question, but I would like to conclude my statement, which is very brief.

The PRESIDENT pro tempore. The Senator from Connecticut has the floor. He will proceed.

Mr. BRANDEGEE. Does the Senator from Washington wish me to yield to him further?

Mr. POINDEXTER. For just a moment, in order that I may complete the statement. The RECORD does show that before any objection was made by the Senator from Utah the intervening business took place. The RECORD shows that the Senator from Utah addressed the Chair. But he made no objection; he made no statement to the Chair as to what was his purpose.

Mr. SMOOT. I could not; I had not been recognized.

Mr. SMITH of Georgia. He did not have a chance.

The PRESIDENT pro tempore. The Senator from Connecticut has the floor. Does the Senator yield?

Mr. SMOOT. Will the Senator yield to me for a moment?

Mr. BRANDEGEE. I will yield the floor if necessary, although I did want to conclude my statement.

Mr. SMOOT. Not at all. I can make my statement later.

Mr. BRANDEGEE. I do not claim that the Senator from Utah objected. The Senator from Washington has misapprehended me if he understood me so to claim. I do claim that the minute the Presiding Officer stated "It is so ordered"—I read from the RECORD—the next thing in the RECORD is:

Mr. SMOOT. Mr. President——

He did not object, because he was not recognized by the Chair and could not object.

Then the RECORD shows that the Senator from Oklahoma [Mr. OWEN] was recognized and introduced a bill. And then, within three lines, Mr SMOOT came right back and he asked—

Was there a unanimous-consent agreement just entered?
The PRESIDING OFFICER. There was; just agreed to.
Mr. SMOOT. I know that there are a number of Senators out of the Chamber.

And so forth.

Now, that shows that the Senator from Utah, immediately upon the announcement by the Chair that it had been agreed to, was addressing the Chair for the purpose of stating that he objected to it.

Of course, I assume that no one claims that the unanimous consent was obtained unfairly. I do not think it was. But I

think it was obtained in an unusual manner, and certain Senators think, inasmuch as it was obtained in a way so that Senators did not understand it, that it was not in fact a unanimous consent; that the minds of the Senators who were supposed to have consented to it never met, and that there was not in fact a unanimous consent, although the RECORD shows that it was agreed to.

Mr. WORKS. Mr. President——

Mr. BRANDEGEE. I yield to the Senator from California.

Mr. WORKS. Only a short time ago I made the statement that I would not like the statement made by the Senator from Georgia [Mr. SMITH] to pass without challenge. The Senator from Utah did not address the Chair before the final order was made. But immediately after and before the Chair was addressed by the Senator from Oklahoma, he addressed the Chair. Those are the facts I am quite sure.

Mr. BRANDEGEE. The Senator is corroborated, as I recollect it, by the statement that the Senator from Utah [Mr. SMOOT] made yesterday, that at the time the Senator from Arkansas [Mr. CLARKE] had diverted his attention by addressing to him a question, and that as soon as his attention was called to the fact that this matter was on he tried to object and was not allowed to.

Mr. SMOOT. Mr. President——

Mr. BRANDEGEE. I yield to the Senator from Utah.

Mr. SMOOT. So that it will be perfectly clear I wish to say this: It is true that the Senator from Arkansas [Mr. CLARKE] was directing a question to me, and my attention was momentarily diverted, as I stated yesterday. The only words I heard the Presiding Officer say were, "The Chair hears none. It is so ordered." I did hear those words, and I knew that those words were only used in the case of a unanimous-consent agreement. I did not know what the unanimous-consent agreement was, but I knew there was one, and I immediately—after it was announced by the Chair, "It is so ordered"—I said: "Mr. President;" just as the Senator from California has stated.

Mr. BRANDEGEE. I have said, Mr. President, that while nobody claims that this consent was obtained unfairly, it was obtained under unusual circumstances.

It has been stated here that the Senator from Tennessee [Mr. SANDERS] had several times before made this same request, or a similar one; but that the conditions under which the requests were made before were entirely different from those at the time this request was granted. When the Senator made his request, before he stood in his place on the floor, as will appear on page 1256 of the RECORD, and stated as follows:

Mr. SANDERS. Mr. President——
The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Petitions and memorials are in order. The Senator from Tennessee.
Mr. SANDERS. Mr. President, on last Monday I asked unanimous consent that the bill to prohibit interstate commerce in intoxicating liquors be taken up next Monday. Objection was made, * * *——

The Senator himself, standing in his place, goes on for the equivalent of 3 inches of space in the RECORD explaining what the matter was for which he asked present consideration and unanimous consent. Now, what happened yesterday was simply this:

Mr. SANDERS. Mr. President, I offer the following:

Then he sends the paper to the desk. He does not say, which is the usual custom at least, "Mr. President, I ask unanimous consent for the consideration of the following order which I send to the desk." He simply said, "I send the following——"

Mr. GALLINGER. Read what the Secretary said.

Mr. BRANDEGEE. And the Presiding Officer——

Mr. GALLINGER. No; read what the Secretary said.

Mr. BRANDEGEE. The Presiding Officer said:

The PRESIDING OFFICER (Mr. CLAPP in the chair). It will be read.

And then:

The SECRETARY. The Senator from Tennessee proposes the following unanimous-consent agreement.

If a Senator knows it to be a unanimous-consent agreement, stated by the Senator himself, it might excite his attention; but when the Senator does not say it is to be a unanimous-consent agreement, as he had done previously on other days, but simply sends the paper up, and a Senator sits here talking with another Senator, and here is the Secretary reading something, it seems to me that that procedure does not put Senators, who are supposed to give their positive and active consent to the proposition, upon their guard as the other course of procedure would tend to.

Yesterday I made the statement upon this question that it seemed to me that if the request for a resubmission of the unanimous-consent agreement had been made at once it ought to have been granted, but that I thought after eight hours had gone by it was late to grant it, because if it could be granted after that interval of time had elapsed there was no limit at the end of which it might not be granted. But on thinking the matter over and recalling the circumstances of yesterday's proceedings, it appears that the entire hour between the time the unanimous consent had been agreed to and the time the Impeachment Court came in at 1 o'clock was occupied by the Senator from Utah in attempting to enforce his right to make objection to this request. Then he was swept off his feet by the previous order of the Senate as to the impeachment proceedings, and as soon as the Impeachment Court adjourned for the day he took it up again, and for the whole day labored to obtain what, upon such attention as I have been able to give to it, was, I think, the right of any Senator, if we are all to treat each other fairly and if unanimous-consent agreements are really and in fact to be what they purport to be.

Mr. WILLIAMS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield?

Mr. BRANDEGEE. Certainly.

Mr. WILLIAMS. I should like to ask the Senator from Connecticut a question. The Senator says that it has become a sort of a custom for the Chair, when a Senator arises immediately after the Chair has announced a result like this and says he did not understand it, to resubmit the question. I want to ask the Senator if he ever knew a resubmission to be made under circumstances like those, except in the form of a request for unanimous consent itself? In other words, does not the Chair uniformly say, "The Senator from A. B., not having heard the matter just passed upon, the Chair will, without objection, resubmit it"? Did you ever know it to be done in any other way? And that very form is putting another request for unanimous consent in order to reverse a former one.

Mr. BRANDEGEE. Mr. President, even that was not done. Even that was not said by the Presiding Officer. He did not say, "The Chair will again submit this matter, if there is no objection," because it did not appear to the Chair that the Senator from Utah had risen to make an objection.

Mr. WILLIAMS. The Senator from Connecticut misunderstands me. I am talking not about this case but about cases where the Chair does resubmit. Did the Senator ever know the Chair to resubmit except in this form, "The Chair will, without objection, resubmit it," and the very phrase "without objection" is a request for unanimous consent. I ask the Senator if he ever knew it to be put in any other way? I never did.

Mr. BRANDEGEE. I do not remember at this minute a specific instance that I can now find in the RECORD, for I have no time to look up whether unanimous consents have been resubmitted in the past and, if they have, in what form of language they have been submitted by the Chair; but I do remember on all sorts of matters continuously in this Senate when the Chair has declared the Senate has acted this way or that way, and any Senator has doubted it or said he did not know what was the question the Senate was voting on and asked to have the question resubmitted to the Senate, it is universally done, and the Chair does not even ask the consent of the Senate. It is always said by the Chair, "The Chair will again state the question."

Mr. WILLIAMS. I do not remember ever having heard it put except that the Chair would, without objection, resubmit. Certainly the Chair would not have any right to do so of its own motion.

Mr. SMOOT. I simply want to suggest this——

Mr. BRANDEGEE. I yield to the Senator from Utah.

Mr. SMOOT. The Chair has not yet had a chance to say that he will resubmit it to the Senate, because it has been discussed here every minute that there has been a chance to discuss it from the time I first arose until the present time.

Mr. BRANDEGEE. I think, Mr. President, very justly so, because I agree with the Senator from Massachusetts and the Senator from New Hampshire that entirely irrespective of the bill about which the unanimous-consent agreement was had it involves the possibility of the transaction of business by the Senate in its whole future, for almost all the business that is crowded up here at the end of a busy session can only be put through by unanimous-consent agreements, and if they are to be played fast and loose with, as the Senator from New Hampshire says, we would be in chaos.

But this is a case which will be quoted as a precedent, no doubt, in the future. As I say, I would not, after Senators, some of whom had been on the floor and had agreed to the request for unanimous consent, had left the Chamber—I would not, after several hours had elapsed, or after a considerable period of time had elapsed, consent that one Senator might get up and ask to have the request resubmitted, because the Senator who had secured the consent may have left the city on a

train on the assumption that the bill or the matter about which the agreement was made would not be acted upon until the day agreed to, and would be acted upon then.

But this case seems to me to constitute an exception to anything that I have been familiar with. A Senator immediately gets upon his feet and addresses the Chair, as the Senator from California says, three or four times, and almost frantically, and fails to obtain recognition, and as soon as he can recur to it goes at it again, and the whole day yesterday, except the time taken by the impeachment proceedings, was consumed by that Senator in trying to get the matter resubmitted; and the same way to-day.

Now, the only reason I have made this statement is that I intend to vote, if the Chair submits to the Senate the question whether it will be resubmitted or not, to resubmit it; and I want to explain the change in my views on that subject, which had occurred since I expressed them yesterday.

Mr. CLARKE of Arkansas. Mr. President, I have listened with some attention to what has been said by Senators on this subject. In the light of all that has been said I am entirely convinced that this matter should be resubmitted to the Senate, for the simple and sole reason that it has been disclosed to my satisfaction—and that accords with my personal knowledge—that the Senator from Utah had it in mind to object to the unanimous consent which was asked, and that he was deprived of the opportunity without any fault of his own and while he was discharging his duties on this floor, and in a transaction to which I was a party.

I am in favor of some such legislation as the Kenyon bill, and I think the request preferred by the Senator from Tennessee was an entirely reasonable one and ought to be agreed to now, and I know he did nothing wrong either in the manner of making the application for unanimous consent or anything that transpired before or subsequent to it. It was just one of those cases where the unusual happened, and the Senator from Utah found himself at a disadvantage in consequence of it. Under the generous law of courtesy that prevails here he ought to be put back into the possession of his rights to be exercised as he would have exercised them had his duties not diverted him for a moment.

I think I see a purpose here not to consider this bill as promptly as it should be considered, but it will be considered, and it will be considered, too, without violating the proprieties of this Chamber in taking advantage of an order which has been entered when it would not have been made had fuller knowledge of what was going on and an opportunity to object been afforded.

I do not think we accomplish anything by undertaking to avail ourselves of snap judgment on anybody. There has never in my experience here been denied to a Senator the right to explain why he did not do this, that, or the other. Such an instance seldom arises. The exceptional instance has come now, when the Senator from Utah has stated that by an attempt to discharge his duties at the request of another Senator he was deprived of a right which he desired to exercise, and I happen to know personally that that statement is true, if it is necessary to support any statement which he might make. I do not believe it is. But I simply state that fact in order to emphasize the circumstances that this is not a unanimous-consent agreement. Nothing is unanimous consent until unanimously consented to, and that consent can not be given until everybody understands what he is consenting to. That state of facts does not exist.

So I think the proper thing for the Senate to do is to reopen the question, so that it will be just as it was when the Senator from Utah had his attention diverted. I think we will better conform to the general spirit of fairness which prevails in this Chamber by doing that. We can take our chances of getting a vote on this bill. Laws are written because they are laws and they are not laws because they are written. That axiom still exists. If it is right, public opinion will force its recognition, and no sort of indirection will prevent it here.

The law of courtesy and fairness that prevails here is the best protection we have in the discharge of our duty. We can do better under that régime or under that benign influence than we can do in any other way; and simply and solely because I know the Senator from Utah was deprived of the right he was entitled to exercise by circumstances over which he had no control I unite with those who say that the matter should be resubmitted at this time.

I want also to add that when the matter is submitted again, if the time limit proposed is too short, while some fair limit should be fixed, there ought to be a time fixed when a vote on the bill shall be taken.

Mr. WILLIAMS. Mr. President, I desire to make a point of order in regard to the matter offered by the Senator from Missouri. Upon yesterday——

The PRESIDENT pro tempore. The question before the Senate is that submitted by the Senator from Utah. The resolution of the Senator from Missouri was read for information. The question before the Senate is the request of the Senator from Utah that the application for unanimous consent be again submitted to the Senate.

Mr. WILLIAMS. Very well. Then I make the point of order against that request. The point of order is that a unanimous-consent agreement made by the Senate and declared by the Chair to have been made can not be reperled except by unanimous consent. I do not care to argue it. I argued it yesterday.

The PRESIDENT pro tempore. The Chair will state that there is no rule of the Senate in regard to unanimous-consent agreements. There is no rule which provides for a unanimous-consent agreement, nor is there any rule which provides in what way a unanimous-consent agreement may be set aside. It is not one of the rules of the Senate. It is simply a practice voluntarily pursued by the Senate, absolutely within the control of the Senate to observe and regard, or to disregard. It is entirely with the Senate, and not a matter of parliamentary law, nor is it a matter arising under the rules of the Senate.

Mr. WILLIAMS. Of course I do not contend that unanimous-consent agreements are under the rules of the Senate. There is just one thing that any body of men—whether a parliamentary body or a business body, or whether it is a voluntary or accidental meeting of three men—can do at all times, and that is unanimously to agree to do a certain thing. For that very reason no rule governs the question of unanimous consent. It is a mere question of common sense, and the common sense of it is that no body of men can ever be so helpless, so idiotic, as not to have the power to do a thing if all of them agree to do it.

If a majority of men can do a thing, a fortiori all of them can do it. It needed no rule to give the Senate the right to do a thing by unanimous consent, or to give to any other body of men the power by unanimous consent to do a thing within the purview of their jurisdiction, whatever it is.

The common sense of the situation, in the first place—not the rules at all—is that any body of men, including even the United States Senate, and that is putting it pretty strong, can unanimously consent to do a certain thing; and the second point is that, having unanimously agreed to do a certain thing, they can unanimously agree to undo it. The third proposition is that having unanimously agreed to do a thing, having pledged their honors to one another to do it, under the rule—and the rules have nothing to do with it, except that they admit the request for unanimous consent; that is all—that unanimous-consent agreement can not be set aside by any less force than that which created it, to wit, another unanimous-consent agreement.

Now, there are a dozen things that are submitted to the Chair and which are within the power of a body to transact which are provided for by no express rule. It would be stupid for a rule to say that the Senate could unanimously agree. Why should it say a thing that goes without saying? Any three of us meeting on the street corner could unanimously agree to leave the street corner, and then we could unanimously agree to go back to the street corner. So that what the Chair says about the rules has nothing in the world to do with it.

Now, one other thing. I have heard, not only in this body but in another several times, the Chair say: The Member from such-and-such a State or the Senator from such-and-such a State not having understood the question, the Chair will, without objection, resubmit it; but I have never heard the Chair resubmit a question upon the Chair's own volition without giving the body to which it was resubmitted the opportunity to set it aside in precisely the same way in which it had adopted it, to wit, by unanimous consent. The very language, "The Chair will, without objection, resubmit," is itself a request for unanimous consent.

Mr. GALLINGER. Mr. President, I desire to say that when I was interrogated, I think by the Senator from Connecticut, as to whether, had I been in the chair and the request to resubmit had been made, I would have acceded to it or not, and I said I would not, I meant to add, unless unanimous consent was given for that purpose.

I entirely agree with the Senator from Mississippi [Mr. WILLIAMS] that if there is no objection to a resubmission it may properly be made, but if the Chair of his own volition should resubmit a question of that kind, I think it would be not quite proper; and had the request been submitted to the Senate as to whether there was objection to resubmitting it, and had I been

in the Chamber I would have objected, and I presume there are 20 others probably who would have objected, too. So we would want to preserve our rights as well as the Senators on the other side desire to preserve theirs.

The PRESIDENT pro tempore. The request of the Senator from Utah is that the question shall be again submitted to the Senate as to whether unanimous consent shall be granted in this case. As has been previously stated, the present occupant of the chair was not in the chair when the matter now under discussion originated, and was not even in the Chamber; and for that reason, and for the additional reason, as has been stated on the floor, that it is something which is apt to make a precedent, the Chair prefers that it shall be decided by the Senate.

Therefore the Chair will submit to the Senate the question whether there shall be a resubmission on the ground that there has not been already obtained unanimous consent. The Chair will put it in the form of a question; those who are in favor of the Chair again submitting it will vote in the affirmative and those who are opposed in the negative. The Chair now puts the question: Those who are in favor of the Chair's resubmitting to the Senate the application for unanimous consent will say "aye"; those opposed "no."

Mr. KENYON. On that I ask for the yeas and nays.

The PRESIDENT pro tempore. The Senator from Iowa asks for the yeas and nays.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The Chair will state the question. As many as favor the direction to the Chair to resubmit the question to the Senate will vote "yea" as their names are called. Those who are opposed to such direction being given to the Chair will, as their names are called, answer "nay." The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. WILLIAMS (when his name was called). I have a general pair with the Senator from Pennsylvania [Mr PENROSE]. I notice that he is not in his seat. If he were present, I should vote "nay." As it is, I withhold my vote.

The roll call was concluded.

Mr. DU PONT (after having voted in the affirmative). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is not in the Chamber, I will withdraw my vote. If he were present, as already indicated, I would vote "yea."

Mr. CURTIS. I was requested to announce that the junior Senator from Rhode Island [Mr. LIPPITT] is detained from the Senate on official business. I do not know how he would vote were he here.

Mr. SANDERS. The senior Senator from Tennessee [Mr. LEA] is detained from the Chamber in an unavoidable way.

Mr. SIMMONS. I desire to announce that my colleague [Mr. OVERMAN] is unavoidably absent on account of sickness.

Mr. BANKHEAD. My colleague [Mr. JOHNSTON of Alabama] is absent from the Chamber on account of illness.

Mr. KERN. I desire again to announce the unavoidable absence of the Senator from South Carolina [Mr. SMITH] on account of a death in his family.

Mr. MYERS (after having voted in the negative). I ask if the Senator from Connecticut [Mr. McLEAN] has voted.

The PRESIDENT pro tempore. The Chair is informed that he has not.

Mr. MYERS. I have a general pair with that Senator, and I therefore withdraw my vote.

The result was announced—yeas 40, nays 17, as follows:

YEAS—40.

Bacon	Crane	Martine, N. J.	Simmons
Bankhead	Crawford	O'Gorman	Smith, Ariz.
Bourne	Cullom	Owen	Smith, Ga.
Bradley	Fletcher	Page	Smoot
Brandegee	Foster	Paynter	Stone
Bristow	Heiskell	Perky	Sutherland
Burton	Hitchcock	Pomerene	Thornton
Catron	Kern	Reed	Tillman
Clark, Wyo.	La Follette	Root	Warren
Clarke, Ark.	Lodge	Shively	Wetmore

NAYS—17.

Ashurst	Clapp	Jones	Swanson
Borah	Cummins	Kenyon	Townsend
Brown	Curtis	Martin, Va.	
Burnham	Gallinger	Poindexter	
Chamberlain	Gronna	Sanders	

NOT VOTING—37.

Briggs	Goré	Massey	Smith, Md.
Bryan	Guggenheim	Myers	Smith, Mich.
Chilton	Jackson	Nelson	Smith, S. C.
Culberson	Johnson, Me.	Newlands	Stephenson
Dillingham	Johnston, Ala.	Oliver	Watson
Dixon	Johnston, Tex.	Overman	Williams
du Pont	Lea	Penrose	Works
Fall	Lippitt	Percy	
Gamble	McCumber	Perkins	
Gardner	McLean	Richardson	

The PRESIDENT pro tempore. So the Chair is instructed by the Senate to submit the question again to the Senate which is involved in the request for unanimous consent sent to the desk by the Senator from Tennessee [Mr. SANDERS]. The Secretary will again read it.

The Secretary read as follows:

The Senator from Tennessee asks unanimous consent that on Monday, January 20, 1913, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases be taken up for consideration, not to interfere with appropriation bills, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself, not later than the hour of 6 o'clock on that day.

The PRESIDENT pro tempore. Is there objection to the unanimous consent asked?

Mr. SMOOT. I object.

Mr. GALLINGER. The Senator from Utah objects?

The PRESIDENT pro tempore. The Senator from Utah objects.

Mr. GALLINGER. I ask unanimous consent that on Monday, February 10, 1913, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases be taken up for consideration, not to interfere with appropriation bills, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself, not later than the hour of 6 o'clock on that day.

The PRESIDENT pro tempore. Unless it is desired that the request shall be read by the Secretary the Chair will put the question. Is there objection? The Chair hears none.

Mr. SUTHERLAND. What date was fixed?

Mr. GALLINGER. February 10. That is all right.

The PRESIDENT pro tempore. The Chair hears no objection, and it is so ordered.

HOUSE BILL REFERRED.

H. R. 26874. An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, was read twice by its title and referred to the Committee on Indian Affairs.

CLAIMS OF DECEASED CIVILIAN EMPLOYEES (S. DOC. NO. 999).

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair) laid before the Senate a communication from the Secretary of the Treasury, recommending the enactment of legislation authorizing the payment, without administration, of amounts found due deceased civilian United States employees or their legal heirs, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The PRESIDING OFFICER presented resolutions adopted by the Chamber of Commerce of Sumter, S. C., favoring the enactment of legislation prohibiting the manufacture and sale of pistols, which were referred to the Committee on the Judiciary.

Mr. PAGE presented a petition of sundry patrons and teachers of the public schools of Louisiana, praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

Mr. McLEAN presented a petition of the Court of Common Council of New London, Conn., praying for the repeal of that part of the act of August 24, 1912, relating to the appointment of cadets and cadet engineers, Revenue-Cutter Service, which was referred to the Committee on Appropriations.

Mr. GRONNA. I present a telegram in the nature of a memorial from members of the National Guard Association of my State, unanimously indorsing the Federal pay bill. I ask that the telegram be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objection, the telegram was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

BISMARCK, N. DAK., *January 10, 1913.*

Senator A. J. GRONNA,
Washington, D. C.:

Meeting of National Guard Association of North Dakota, assembled at Bismarck, composed of delegates from the guard of entire State, unanimously indorse the Federal pay bill, and respectfully request your earnest support to bring it to passage this session.

Lieut. THEODORE S. HENRY,
Committee.

Mr. PERKINS presented a memorial of members of the German-American Alliance of Los Angeles, Cal., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a memorial of the Chamber of Commerce of Santa Ana, Cal., remonstrating against the reduction of the duty on sugar, which was referred to the Committee on Finance.

Mr. NELSON presented a memorial of members of the Commercial Club of Moorhead, Minn., remonstrating against granting the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a resolution adopted by members of the Winona County Medical Society, of Winona, Minn., approving the work of the Post Office Department in diminishing the widespread evil of criminal abortion, which was referred to the Committee on Public Health and National Quarantine.

Mr. BRANDEGEE presented resolutions adopted by the Court of Common Council of New London, Conn., favoring the repeal of the act of August 24, 1912, relative to appointment of cadets or cadet engineers in the Revenue-Cutter Service, which were referred to the Committee on Appropriations.

REPORTS OF COMMITTEE ON PUBLIC LANDS.

Mr. JONES, from the Committee on Public Lands, to which was referred the bill (S. 7785) confirming titles to Deborah A. Griffin and Mary F. Griffin, and for other purposes, reported it with amendments and submitted a report (No. 1096) thereon.

Mr. SMOOT, from the Committee on Public Lands, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 25515. An act for the relief of Joshua H. Hutchinson (Rept. No. 1098);

H. R. 22437. An act for the relief of the heirs of Anna M. Toreson, deceased (Rept. No. 1099); and

S. 7294. A bill to amend sections 2380 and 2381, Revised Statutes of the United States (Rept. No. 1100).

NATIONAL AERODYNAMICAL LABORATORY.

Mr. REED. On the 9th instant I introduced a bill, being Senate bill 8053, to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory and prescribing the duties of said commission, and providing for the expenses thereof. The bill is somewhat of an emergency matter, and I am informed that it was referred to the wrong committee. I ask unanimous consent that the Committee on Naval Affairs be discharged from the further consideration of the bill and that it be referred to the Committee on Appropriations.

The PRESIDING OFFICER. Without objection it is so ordered.

CHOCTAW AND CHICKASAW INDIAN LANDS.

Mr. OWEN. From the Committee on Indian Affairs I make a unanimous report in favor of Senate joint resolution No. 149, extending the time for the survey, classification, and appraisement of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma, and I submit a report (No. 1097) thereon. This measure was drawn by the Interior Department, and for the reasons explained in the letter of the Secretary of the Interior the committee has made a unanimous report in favor of it. It extends the time within which appraisement can be made, and it is necessary, because the time within which it could be made under a previous statute has expired. It is an important matter locally, will take only a few minutes, and give rise to no debate. I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

Mr. SMOOT. Let it be read.

The PRESIDING OFFICER. It will be read.

The Secretary read the joint resolution; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WARREN:

A bill (S. 8074) granting an increase of pension to Esther B. Shultz (with accompanying paper); to the Committee on Pensions.

A bill (S. 8075) for the relief of Charles B. Boyce; to the Committee on Claims.

By Mr. OWEN:

A bill (S. 8076) to authorize the Choctaw and Chickasaw Nations to bring suit in the Court of Claims, and for other purposes; to the Committee on Indian Affairs.

By Mr. CLAPP (for Mr. GAMBLE):

A bill (S. 8077) for the relief of the Turtle Mountain Chippewa Indians, and for other purposes; to the Committee on Indian Affairs.

A bill (S. 8078) granting an increase of pension to Marcellus B. Kent (with accompanying papers); to the Committee on Pensions.

By Mr. GRONNA:

A bill (S. 8079) authorizing the Secretary of War, in his discretion, to deliver to the city of Grand Forks, in the State of North Dakota, one condemned cannon, with its carriage and outfit of cannon balls; and

A bill (S. 8080) authorizing the Secretary of War, in his discretion, to deliver to the city of Lakota, in the State of North Dakota, one condemned cannon, with its carriage and outfit of cannon balls; to the Committee on Military Affairs.

A bill (S. 8081) granting an increase of pension to Mary J. Swift (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. PERKINS submitted an amendment proposing to appropriate $40,751 for the support and education of 125 Indian pupils at the Fort Bidwell Indian School, Fort Bidwell, Cal., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $56,500 for the support and education of 100 Indian pupils at the Greenville Indian School, Greenville, Cal., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JONES submitted an amendment proposing to appropriate $150,000 for the improvement of roads in the Mount Rainier National Park, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $25,000 for a survey for the extension of the present road from its present terminus east to the eastern boundary line of the forest reserve surrounding the Mount Rainier National Park, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment authorizing the Secretary of the Treasury to pay the award of $1,900 made by the Secretary of the Interior December 31, 1912, pursuant to the authority contained in the act approved July 6, 1912, etc., intended to be proposed by him to the Indian appropriation bill, which was ordered to be printed and, with the accompanying paper, referred to the Committee on Indian Affairs.

Mr. ASHURST submitted an amendment proposing to appropriate $25,000 for the construction of a bridge across the Colorado River from School Hill, on the Yuma Indian Reservation, Cal., to Penitentiary Hill, in the town of Yuma, Ariz., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $200,000 for surveying the land within the San Carlos or White Mountain, Fort Apache, and Mescalero Apache Indian Reservations in Arizona and New Mexico, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. WILLIAMS submitted an amendment proposing to appropriate $5,000 for continuing the improvements of the Yazoo River, Miss., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

EULOGIES ON THE LATE VICE PRESIDENT.

Mr. ROOT submitted the following resolution (S. Res. 426), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Committee on Rules be, and it is, directed to report to the Senate an order for suitable ceremonies in the Senate in honor of the memory of the late Vice President of the United States, JAMES S. SHERMAN.

LIMITATION ON CHARGES TO JURIES.

Mr. TILLMAN. I ask unanimous consent for the consideration of the resolution I send to the desk, which is an order to print.

The PRESIDING OFFICER. The resolution will be read.

The Secretary read as follows:

That Senate bill No. 8007, Sixty-second Congress, third session, with the matter which accompanied its introduction, be printed as a Senate document.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. WILLIAMS. Reserving the right to object, I should like to know the nature of the matter to be printed.

Mr. TILLMAN. It is some papers accompanying the bill I introduced some days ago limiting the charges to juries by Federal judges.

Mr. WILLIAMS. I have no objection.

Mr. SMOOT. I ask to have the resolution read.

The PRESIDING OFFICER. The Secretary will read the resolution.

The Secretary read the resolution (S. Res. 427), as follows:

Resolved, That the following matter be printed as a Senate document, namely:

1. Senate bill No. 8007, Sixty-second Congress, third session.
2. The letter of December 23, 1912, with its two inclosures, which accompanied the introduction of the said bill.
3. And a copy of the judicial records referred to in the petition, which, on December 23, 1912, was presented to the Supreme Court of the United States, the first of the two inclosures in the letter aforesaid being a copy of the said petition. A certified copy of the said records in printed form as presented to the court with the petition aforesaid, including a copy of the brief referred to in the said petition.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

The resolution was considered by unanimous consent and agreed to.

FARM CREDITS (S. DOC. NO. 1001).

Mr. CLARKE of Arkansas. I ask unanimous consent to have printed an article by Mr. John R. Dos Passos on the much-discussed subject of "Farm credits."

The PRESIDING OFFICER. The Senator from Arkansas asks for the printing as a public document of a paper the character of which he has stated. Without objection, it is so ordered.

PENNSYLVANIA HEALTH BULLETIN (S. DOC. NO. 1000).

Mr. OWEN. I present a pamphlet outlining the organization of the State department of health of Pennsylvania, and also a copy of the mortality statistics of the years 1906 to 1911 of the State of Pennsylvania. I ask that the papers be printed as a Senate document and referred to the Committee on Public Health and National Quarantine.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDEPENDENT HEALTH SERVICE (S. DOC. NO. 1002).

Mr. OWEN. I present a copy of the report of the Commission on Economy and Efficiency recommending the establishment of an independent health service. I ask that the report be printed as a Senate document and referred to the Committee on Public Health and National Quarantine.

The PRESIDING OFFICER. Without objection, it is so ordered.

SYSTEM OF RURAL COOPERATIVE CREDITS.

Mr. GRONNA. I ask that Senate Document No. 572, Sixty-second Congress, second session, being a general theory of cooperative credit in France and other foreign countries, prepared by Maurice Dufourmantelle and translated from the French by Pauline Carter Biddle, and also Senate Document No. 574, Sixty-second Congress, second session, being an outline of European cooperative credit systems from bulletins of economic and social intelligence, published by the International Institute of Agriculture, 1,000 copies each, be required for the use of the Senate.

Mr. SMOOT. I will say to the Senator that perhaps he can accomplish what he desires by giving an order on the Public Printer.

Mr. GRONNA. I have a great many requests for these documents.

Mr. SMOOT. If the cost of printing in each case will not amount to more than $200, we can simply issue an order on the Public Printer to have them reprinted; but, of course, if the Senator would prefer to have his order entered it can be done in that way.

Mr. GRONNA. I prefer to have the request submitted.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Dakota? The Chair hears none, and the order is entered.

EULOGIES ON THE LATE REPRESENTATIVES MADISON AND MITCHELL.

Mr. CURTIS. I desire to give notice that on Saturday, February 8, 1913, I will ask the Senate to consider resolutions commemorative of the life, high character, and public services of Hon. EDMOND H. MADISON and Hon. A. C. MITCHELL, late Members of the House of Representatives from the State of Kansas.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I desire to give notice that at the close of the morning business on Monday next I will ask the Senate to resume the consideration of the omnibus claims bill.

HOUSE BILL REFERRED.

H. R. 27475. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, was read twice by its title and referred to the Committee on Pensions.

SAMOAN CLAIMS (H. DOC. NO. 1257).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Senate and the House of Representatives:

I transmit herewith a report by the Secretary of State of the action taken by him in pursuance of the act of Congress approved June 23, 1910, authorizing and directing him to ascertain the "amounts due, if any, respectively, to American citizens on claims heretofore filed in the Department of State, growing out of the joint naval operations of the United States and Great Britain in and about the town of Apia in the Samoan Islands, in the months of March, April, and May, 1899, * * * and report the same to Congress."

Accompanying the report of the Secretary of State is the report of the officer who, pursuant to the Secretary's direction, visited the Samoan Islands for the purpose of collecting evidence regarding the claims mentioned. Of the total amount of American claims, of about $64,677.88, payment of $14,811.42 is recommended by the agent. This finding is approved by the Secretary of State, who submits for the consideration of Congress the question of an immediate appropriation for the payment of the claims recommended.

WM. H. TAFT.

THE WHITE HOUSE, *January 10, 1913.*

FRANCHISES IN PORTO RICO (H. DOC. NO. 1256).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on the Pacific Islands and Porto Rico and ordered to be printed:

To the Senate and House of Representatives:

As required by section 32 of the act of Congress approved April 12, 1900, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," I transmit herewith certified copies of franchises granted by the Executive Council of Porto Rico, which are described in the accompanying letter from the Secretary of War transmitting them to me. Such of these as relate to railroad, street railway, telegraph, and telephone franchises, privileges, or concessions have been approved by me, as required by the joint resolution of May 1, 1900 (31 Stat., 715).

WM. H. TAFT.

THE WHITE HOUSE, *January 10, 1913.*

Mr. SMOOT. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 25 minutes p. m.) the Senate adjourned until Monday, January 13, 1913, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 11, 1913.

MINISTER AND CONSUL GENERAL.

Fred R. Moore, of New York, to be minister resident and consul general of the United States at Monrovia, Liberia, vice William D. Crum, deceased.

CHIEF JUSTICE OF THE COURT OF CLAIMS.

Fenton W. Booth, of Illinois, to be chief justice of the Court of Claims, commencing February 12, 1913, vice Stanton J. Peelle, whose resignation has been accepted to take effect at the close of February 11, 1913.

JUDGE OF THE COURT OF CLAIMS.

Henry S. Boutell, of Illinois, to be judge of the Court of Claims, commencing February 12, 1913, vice Fenton W. Booth, nominated to be chief justice of said court.

JUDGES OF THE CIRCUIT COURT OF HAWAII.

John A. Matthewman, of Hawaii, to be judge of the Circuit Court of the Third Circuit of the Territory of Hawaii. A reappointment, his term expiring January 6, 1913.

Charles F. Parsons, of Hawaii, to be judge of the Circuit Court of the Fourth Circuit of the Territory of Hawaii. A reappointment, his term expiring January 6, 1913.

UNITED STATES MARSHALS.

Henry K. Love, of Alaska, to be United States marshal for the District of Alaska, Division No. 4. A reappointment, his term expiring January 12, 1913.

George F. White, of Georgia, to be United States marshal, southern district of Georgia. A reappointment, his term expiring January 20, 1913.

RECEIVERS OF PUBLIC MONEYS.

James T. Farris, of Glasgow, Mont., to be receiver of public moneys at Glasgow, Mont., vice Walter Shanley, term expired and resigned.

Jesse W. Freeman, of Arkansas, to be receiver of public moneys at Harrison, Ark., his term expiring January 14, 1913. (Reappointment.)

REAPPOINTMENT IN THE ARMY.

Brig. Gen. George H. Torney, Surgeon General, to be Surgeon General with the rank of brigadier general for the period of four years beginning January 14, 1913, with rank from January 14, 1909. His present appointment will expire January 13, 1913.

APPOINTMENTS IN THE ARMY.

CAVALRY ARM.

To be second lieutenant with rank from November 30, 1912.

Russell Brown Patterson, of New Hampshire.

COAST ARTILLERY CORPS.

Harold Aron Strauss, ensign, United States Navy, to be second lieutenant in the Coast Artillery Corps, with rank from January 2, 1913.

INFANTRY ARM.

Robert H. Peck, late captain, Twenty-fourth Infantry, to be captain of Infantry with rank from January 8, 1913.

CHAPLAIN.

Rev. Alva Jennings Brasted, of Iowa, to be chaplain with the rank of first lieutenant from January 3, 1913, vice Chaplain Albert J. Bader, Ninth Infantry, resigned September 16, 1912.

MEDICAL RESERVE CORPS.

To be first lieutenants with rank from December 28, 1912.

Walter M. Brickner, of New York.
Charles Gilchrist Darling, of Illinois.
Carl Braden Davis, of Illinois.
George Gilbert Davis, of Illinois.
Edward Tyler Edgerly, of Iowa.
Thomas Alfred Fletcher, of Ohio.
Fielding Hudson Garrison, of the District of Columbia.
Leander Johnson Graves, of Alabama.
Edwin Richard Hodge, of the District of Columbia.
William Byrd Hunter, of West Virginia.
Ernest Edward Irons, of Illinois.
Isaac Dee Kelley, jr., of Missouri.
Orson Pope Kingsley, of Wyoming.
George Earl Orsborn, of Colorado.
Frank Ellis Pierce, of Illinois.
Louis Livingston Seaman, of New York.
James Cyrus Tucker, of Nebraska.
Russell Morse Wilder, of Illinois.

To be first lieutenant with rank from December 30, 1912.

Wilson Carlisle von Kessler, of Pennsylvania.

PROMOTIONS IN THE ARMY.

CAVALRY ARM.

Lieut. Col. Augustus P. Blocksom, Sixth Cavalry, to be colonel from January 1, 1913. (Under the provisions of an act of Congress approved March 3, 1911, for advancement in grade in accordance with the rank he would have been entitled to hold had promotion been lineal throughout his arm since the date of his entry into the arm to which he permanently belongs.)

FIELD ARTILLERY ARM.

Lieut. Col. Samuel D. Sturgis, Third Field Artillery, to be colonel from December 27, 1912, vice Col. David J. Rumbough, First Field Artillery, who died December 26, 1912.

Maj. Edward F. McGlachlin, jr., Second Field Artillery, to be lieutenant colonel from December 27, 1912, vice Lieut. Col. Samuel D. Sturgis, Third Field Artillery, promoted.

Capt. Willard D. Newbill, Third Field Artillery, to be major from December 27, 1912, vice Maj. Edward F. McGlachlin, jr., Second Field Artillery, promoted.

COAST ARTILLERY CORPS.

Second Lieut. Cary R. Wilson, Coast Artillery Corps, to be first lieutenant from December 15, 1912, vice First Lieut. Walter E. Donahue, resigned December 14, 1912.

PROMOTIONS IN THE NAVY.

Passed Asst. Surg. James R. Dykes to be a surgeon in the Navy from the 2d day of September, 1912, to fill a vacancy.

Passed Asst. Paymaster Fred W. Holt to be a paymaster in the Navy from the 19th day of October, 1912, to fill a vacancy.

Asst. Civil Engineer Carl A. Bostrom, with rank of ensign, to be an assistant civil engineer in the Navy with rank of lieutenant (junior grade) from the 16th day of October, 1912.

Asst. Civil Engineer Ralph M. Warfield, with rank of ensign, to be an assistant civil engineer in the Navy with rank of lieutenant (junior grade) from the 3d day of December, 1912.

Second Lieut. Bernard L. Smith to be a first lieutenant in the Marine Corps from the 22d day of December, 1912, to fill a vacancy.

Asst. Paymaster Omar D. Conger to be a passed assistant paymaster in the Navy from the 22d day of August, 1912, to fill a vacancy.

Asst. Paymaster Spencer E. Dickinson to be a passed assistant paymaster in the Navy from the 23d day of August, 1912, to fill a vacancy.

Machinist Charles Allen to be a chief machinist in the Navy from the 27th day of December, 1912, upon the completion of six years' service as a machinist.

MARINE CORPS.

First Lieut. William P. Upshur to be a captain in the Marine Corps from the 22d day of August, 1912, to fill a vacancy.

Second Lieut. Clarence E. Nutting to be a first lieutenant in the Marine Corps from the 5th day of October, 1912, to fill a vacancy.

PROMOTIONS IN THE PUBLIC HEALTH SERVICE.

Passed Asst. Surg. Victor G. Heiser to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Arthur H. Glennan, promoted.

Asst. Surg. Joseph R. Ridlon to be passed assistant surgeon in the Public Health Service, United States, to rank as such from October 24, 1912.

COMMISSIONER OF LABOR.

Charles P. Neill, of the District of Columbia, to be Commissioner of Labor, Department of Commerce and Labor, to take effect February 1, 1913. (Reappointment.)

MISSISSIPPI RIVER COMMISSION.

Lieut. Col. Lansing H. Beach, Corps of Engineers, United States Army, for appointment as member of the Mississippi River Commission, provided for by the act of Congress approved June 28, 1879, entitled "An act to provide for the appointment of a 'Mississippi River Commission,' for the improvement of said river from the Head of Passes near its mouth to its headwaters," vice Col. William T. Rossell, Corps of Engineers, United States Army, to be relieved.

EXECUTIVE COUNCIL OF PORTO RICO.

The persons herein named for appointment as members of the Executive Council of Porto Rico, provided for in section 18 of the act of Congress approved April 12, 1900, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes."

Frank Martinez, of Porto Rico, to take effect January 9, 1913, vice Rafael del Valle.

Luis Sanchez Morales, of Porto Rico, to take effect January 16, 1913. (Reappointment.)

REGISTERS OF THE LAND OFFICE.

W. Hall Irons, of South Dakota, to be register of the land office at Chamberlain, S. Dak. (Reappointment.)

Bryson P. Blair, of Colorado, to be register of the land office at Montrose, Colo., his term expiring January 17, 1913. (Reappointment.)

John R. McFie, of Santa Fe, N. Mex., to be register of the land office at Santa Fe, vice Manuel R. Otero, term expired.

Lester Bartlett, of Minnesota, to be register of the land office at Cass Lake, Minn., his term expiring January 20, 1913. (Reappointment.)

PURCHASING AGENT, POST OFFICE DEPARTMENT.

John A. Holmes, of the District of Columbia, to be purchasing agent for the Post Office Department for a period of four years, beginning January 12, 1913. (Reappointment.)

POSTMASTERS.

ALABAMA.

Harvey E. Berkstresser to be postmaster at Dadeville, Ala., in place of Harvey E. Berkstresser. Incumbent's commission expires January 13, 1913.

George W. Russell to be postmaster at Eufaula, Ala., in place of George W. Russell. Incumbent's commission expires January 11, 1913.

Sylvanus L. Sherrill to be postmaster at Hartsells, Ala., in place of Sylvanus L. Sherrill. Incumbent's commission expires January 13, 1913.

Thomas H. Stephens to be postmaster at Gadsden, Ala., in place of Thomas H. Stephens. Incumbent's commission expired December 16, 1912.

Charley N. Thompson to be postmaster at Piedmont, Ala., in place of Charley N. Thompson. Incumbent's commission expired December 16, 1912.

ALASKA.

Thomas L. Thurston to be postmaster at Iditarod, Alaska. Office became presidential July 1, 1912.

ARKANSAS.

Benjamin W. Allen to be postmaster at Hamburg, Ark., in place of Benjamin W. Allen. Incumbent's commission expires January 28, 1913.

Hiram F. Butler to be postmaster at Warren, Ark., in place of Hiram F. Butler. Incumbent's commission expires January 22, 1913.

W. M. Howard to be postmaster at Paris, Ark., in place of W. M. Howard. Incumbent's commission expires January 22, 1913.

James H. Johnson to be postmaster at Atkins, Ark., in place of James F. Burrus. Incumbent's commission expired December 17, 1912.

Anna L. Owen to be postmaster at Conway, Ark., in place of Owen J. Owen, jr., deceased.

Charles L. Perry to be postmaster at Stuttgart, Ark., in place of Edward Hall, deceased.

John W. Terry to be postmaster at Marvell, Ark., in place of John W. Terry. Incumbent's commission expires February 10, 1913.

Charles H. Tisdale to be postmaster at Hazen, Ark., in place of Charles H. Tisdale. Incumbent's commission expires January 28, 1913.

William E. Yeager to be postmaster at Hope, Ark., in place of J. E. Woodson. Incumbent's commission expired December 17, 1912.

CALIFORNIA.

Josiah R. Baker to be postmaster at Antioch, Cal., in place of Josiah R. Baker. Incumbent's commission expired January 6, 1913.

Frank H. Bangham to be postmaster at Susanville, Cal., in place of Frank H. Bangham. Incumbent's commission expires January 22, 1913.

Emma D. Benedict to be postmaster at Lancaster, Cal. Office became presidential January 1, 1913.

Clyde L. De Armond to be postmaster at Orland, Cal., in place of Clyde L. De Armond. Incumbent's commission expires January 20, 1913.

Frederic S. Harrison to be postmaster at Patterson, Cal. Office became presidential January 1, 1913.

Flora S. Knauer to be postmaster at Reedley, Cal., in place of Flora S. Knauer. Incumbent's commission expires January 28, 1913

George P. Manley to be postmaster at Sanger, Cal., in place of George P. Manley. Incumbent's commission expires February 9, 1913.

Oscar L. Meek to be postmaster at Marysville, Cal., in place of Oscar L. Meek. Incumbent's commission expired December 14, 1912.

Presentation M. Soto to be postmaster at Concord, Cal., in place of Presentation M. Soto. Incumbent's commission expires January 26, 1913.

George M. Treichler to be postmaster at Sacramento, Cal., in place of Robert M. Richardson, resigned.

John J. West to be postmaster at Willow, Cal., in place of John J. West. Incumbent's commission expires February 20, 1913.

Thomas B. Wilson to be postmaster at Cloverdale, Cal., in place of Thomas B. Wilson. Incumbent's commission expired January 23, 1912.

CONNECTICUT.

George E. Andrews to be postmaster at Noank, Conn., in place of George E. Andrews. Incumbent's commission expires February 9, 1913.

John W. Cook to be postmaster at Beacon Falls, Conn., in place of John W. Cook. Incumbent's commission expired December 14, 1912.

Judson D. Foote to be postmaster at Montowese, Conn., in place of Judson D. Foote. Incumbent's commission expires January 11, 1913.

William L. Judson to be postmaster at Woodbury, Conn., in place of William L. Judson. Incumbent's commission expired December 14, 1912.

Samuel H. Kellogg to be postmaster at Colchester, Conn., in place of Samuel H. Kellogg. Incumbent's commission expires February 9, 1913.

FLORIDA.

Frank Vans Agnew to be postmaster at Kissimmee, Fla., in place of Frank Vans Agnew. Incumbent's commission expired December 10, 1912.

John H. Gillespie to be postmaster at Sarasota, Fla., in place of Carrie S. Abbe. Incumbent's commission expires January 26, 1913.

Charles E. Hood to be postmaster at Dunnellon, Fla., in place of George W. Neville, resigned.

Charles C. Peck to be postmaster at Brooksville, Fla., in place of Charles C. Peck. Incumbent's commission expires January 26, 1913.

William C. Smith to be postmaster at Daytona, Fla., in place of William C. Smith. Incumbent's commission expires January 13, 1913.

GEORGIA.

Stephen D. Cherry to be postmaster at Donalsonville, Ga., in place of William E. Perry, resigned.

Vivian McCurdy to be postmaster at Stone Mountain, Ga., in place of Vivian McCurdy. Incumbent's commission expires January 27, 1913.

Hugh D. North to be postmaster at Midville, Ga. Office became presidential January 1, 1913.

Thomas M. Scoville to be postmaster at Oglethorpe, Ga., in place of Thomas M. Scovill. Incumbent's commission expires January 27, 1913.

Claude E. Smith to be postmaster at Carrollton, Ga., in place of Claude E. Smith. Incumbent's commission expires January 26, 1913.

William R. Watson to be postmaster at Lithonia, Ga., in place of William R. Watson. Incumbent's commission expires January 12, 1913.

HAWAII.

M. T. Lyons to be postmaster at Wailuku, Hawaii, in place of M. T. Lyons. Incumbent's commission expired December 16, 1912.

IDAHO.

James F. Bridwell to be postmaster at Kamiah, Idaho. Office became presidential January 1, 1913.

ILLINOIS.

Jacob W. Barkdoll to be postmaster at Tremont, Ill., in place of Jacob W. Barkdoll. Incumbent's commission expires January 11, 1913.

Fremont C. Blandin to be postmaster at Rutland, Ill. Office became presidential January 1, 1913.

Carey B. Garret to be postmaster at Mendon, Ill. Office became presidential January 1, 1913.

Joseph G. Greeson to be postmaster at Greenup, Ill., in place of Joseph G. Greeson. Incumbent's commission expires January 11, 1913.

William D. Hall to be postmaster at Table Grove, Ill., in place of William D. Hall. Incumbent's commission expires January 11, 1913.

Oscar H. Harpham to be postmaster at Havana, Ill., in place of Oscar H. Harpham. Incumbent's commission expires January 14, 1913.

Carrie Hovda to be postmaster at Leland, Ill., in place of Carrie Hovda. Incumbent's commission expires January 11, 1913.

Mabel J. Heavenhill to be postmaster at Sheridan, Ill., in place of Mabel J. Heavenhill. Incumbent's commission expires January 11, 1913.

Jacob H. Koch to be postmaster at New Athens, Ill., in place of Jacob H. Koch. Incumbent's commission expires January 28, 1913.

Warren J. Lincoln to be postmaster at Mount Pulaski, Ill., in place of Warren J. Lincoln. Incumbent's commission expired December 14, 1912.

John L. Linville to be postmaster at Hubbard Woods, Ill. Office became presidential July 1, 1912.

Thomas Millet, jr., to be postmaster at Troy, Ill., in place of Thomas Millet, jr. Incumbent's commission expires January 11, 1913.

Henry Noll to be postmaster at Virden, Ill., in place of Henry Noll. Incumbent's commission expires January 11, 1913.

James S. Thompson to be postmaster at Melvin, Ill. Office became presidential January 1, 1913.

Fred S. Wallich to be postmaster at Knoxville, Ill., in place of Orange L. Campbell. Incumbent's commission expired December 14, 1912.

Fred C. Whisler to be postmaster at Mackinaw, Ill., in place of Fred C. Whisler. Incumbent's commission expires January 11, 1913.

John Yost to be postmaster at Eldorado, Ill., in place of John Yost. Incumbent's commission expired December 11, 1911.

INDIANA.

Louis T. Bell to be postmaster at Flora, Ind., in place of Louis T. Bell. Incumbent's commission expires January 13, 1913.

John C. Jenkins to be postmaster at Fortville, Ind., in place of John C. Jenkins. Incumbent's commission expires March 3, 1913.

John R. Nordyke to be postmaster at Wolcott, Ind., in place of John R. Nordyke. Incumbent's commission expires January 13, 1913.

A. R. Schimpff to be postmaster at Jeffersonville, Ind., in place of Albert L. Anderson, removed.

Herman Schumacher to be postmaster at Newburg, Ind., in place of Herman Schumacher. Incumbent's commission expires February 1, 1913.

IOWA.

Cyrus P. Bean to be postmaster at Zearing, Iowa. Office became presidential January 1, 1913.

Edgar O. Beanblossom to be postmaster at Whiting, Iowa, in place of Edgar O. Beanblossom. Incumbent's commission expired December 14, 1912.

Marion Bruce to be postmaster at Rolfe, Iowa, in place of Marion Bruce. Incumbent's commission expired January 10, 1910.

Hans Evenson to be postmaster at Calmar, Iowa, in place of Hans Evenson. Incumbent's commission expired December 14, 1912.

James S. Francis to be postmaster at Gravity, Iowa. Office became presidential January 1, 1913.

William L. Gustin to be postmaster at Kellerton, Iowa, in place of William L. Gustin. Incumbent's commission expires January 11, 1913.

Samuel H. Hall to be postmaster at Lime Spring, Iowa, in place of Samuel H. Hall. Incumbent's commission expired May 11, 1912.

Annas M. Henderson to be postmaster at Story City, Iowa, in place of Annas M. Henderson. Incumbent's commission expired January 9, 1912.

Harry Higman to be postmaster at Winthrop, Iowa, in place of Harry Higman. Incumbent's commission expires January 11, 1913.

Louis N. Kramer to be postmaster at McGregor, Iowa, in place of Louis N. Kramer. Incumbent's commission expired December 14, 1912.

Albert R. Kullmer to be postmaster at Dysart, Iowa, in place of Albert R. Kullmer. Incumbent's commission expires January 11, 1913.

J. B. Landhuis to be postmaster at Hospers, Iowa. Office became presidential January 1, 1913.

W. D. Miller to be postmaster at Ogden, Iowa, in place of Clinton L. Zollinger, resigned.

Alex Porter to be postmaster at Strawberry Point, Iowa, in place of Gilbert Cooley, deceased.

Charles A. Stevens to be postmaster at Salem, Iowa. Office became presidential January 1, 1913.

Eugene Stiles to be postmaster at Sidney, Iowa, in place of Eugene Stiles. Incumbent's commission expires January 11, 1913.

Will M. Stoakes to be postmaster at Traer, Iowa, in place of B. F. Thomas, deceased.

Herman Ternes to be postmaster at Dubuque, Iowa, in place of Herman Ternes. Incumbent's commission expires February 20, 1913.

Frank J. Tishenbanner to be postmaster at Gilmore City, Iowa, in place of Frank J. Tishenbanner. Incumbent's commission expired December 14, 1912.

James W. Thorn to be postmaster at Lacona, Iowa, in place of James W. Thorn. Incumbent's commission expires January 11, 1913.

KANSAS.

H. E. Adams to be postmaster at Summerfield, Kans., in place of William A. Fleming. Incumbent's commission expired April 17, 1912.

Joseph E. Aldrich to be postmaster at Sylvia, Kans., in place of Joseph E. Aldrich. Incumbent's commission expires January 11, 1913.

Henry Avery to be postmaster at Wakefield, Kans., in place of Henry Avery. Incumbent's commission expired February 12, 1912.

Eva M. Baird to be postmaster at Spearville, Kans., in place of Eva M. Baird. Incumbent's commission expires January 14, 1913.

James M. Brown to be postmaster at Wilson, Kans., in place of James M. Brown. Incumbent's commission expires February 9, 1913.

Charles T. Dallam to be postmaster at Hoxie, Kans., in place of Charles T. Dallam. Incumbent's commission expired March 31, 1912.

Frank W. Elliott to be postmaster at Edna, Kans., in place of Frank W. Elliott. Incumbent's commission expires January 28, 1913.

Bert Fancher to be postmaster at Claflin, Kans., in place of Bert Fancher. Incumbent's commission expires January 12, 1913.

Frank E. George to be postmaster at Altamont, Kans., in place of Frank E. George. Incumbent's commission expires January 11, 1913.

Charles W. Hawes to be postmaster at Augusta, Kans., in place of Charles W. Hawes. Incumbent's commission expires January 11, 1913.

William R. Honnell to be postmaster at Kansas City, Kans., in place of Wesley R. Childs. Incumbent's commission expired December 9, 1911.

KENTUCKY.

Frank E. Acker to be postmaster at Livermore, Ky. Office became presidential January 1, 1913.

John D. Campbell to be postmaster at Jenkins, Ky. Office became presidential January 1, 1913.

James D. Edmonson to be postmaster at Clay, Ky. Office became presidential January 1, 1913.

Bessie Hedden to be postmaster at Taylorsville, Ky., in place of William H. Stratton, deceased.

George W. Hutcheson to be postmaster at Lawrenceburg, Ky., in place of George W. Hutcheson. Incumbent's commission expires March 1, 1913.

Anna E. Miller to be postmaster at Mount Vernon, Ky. Office became presidential January 1, 1913.

Robert A. Russell to be postmaster at Kevil, Ky. Office became presidential January 1, 1913.

James P. Spilman to be postmaster at Harrodsburg, Ky., in place of James P. Spilman. Incumbent's commission expired February 7, 1911.

LOUISIANA.

Lee R. Broussard to be postmaster at Breaux Bridge, La. Office became presidential January 1, 1913.

Lawrence T. Hebert to be postmaster at White Castle, La., in place of Philip P. Blanchard. Incumbent's commission expires January 20, 1913.

Joseph J. Lafargue to be postmaster at Donaldsonville, La., in place of Joseph J. Lafargue. Incumbent's commission expires January 20, 1913.

Wellington D. Landry to be postmaster at Sulphur, La., in place of John J. Drost, deceased.

L. B. Ligon to be postmaster at Kentwood, La., in place of L. B. Ligon. Incumbent's commission expires February 9, 1913.

Francis S. Norfleet to be postmaster at Lecompte, La., in place of Francis S. Norfleet. Incumbent's commission expires January 20, 1913.

Jacob Plonsky to be postmaster at Washington, La., in place of Jacob Plonsky. Incumbent's commission expires February 18, 1913.

MARYLAND.

Joseph Mallalieu to be postmaster at Millington, Md., in place of Rose E. Walls. Incumbent's commission expires January 11, 1913.

Mary W. Stewart to be postmaster at Oxford, Md. Office became presidential October 1, 1912.

MASSACHUSETTS.

Samuel Atwell to be postmaster at Kingston, Mass., in place of Samuel Atwell. Incumbent's commission expired December 14, 1912.

Charles W. Bemis to be postmaster at Foxboro, Mass., in place of Charles W. Bemis. Incumbent's commission expires January 26, 1913.

Anna N. Daniels to be postmaster at Millis, Mass., in place of Jeremiah B. Daniels, deceased.

Charles M. Hoyt to be postmaster at Haverhill, Mass., in place of Charles M. Hoyt. Incumbent's commission expires January 12, 1913.

Charles J. Shepard to be postmaster at Waltham, Mass., in place of Charles J. Shepard. Incumbent's commission expired December 14, 1912.

Susan F. Twiss to be postmaster at Three Rivers, Mass., in place of Susan F. Twiss. Incumbent's commission expired January 5, 1913.

MICHIGAN.

Frank A. Bywater to be postmaster at Memphis, Mich. Office became presidential January 1, 1913.

Christopher C. Smith to be postmaster at Algonac, Mich., in place of Christopher C. Smith. Incumbent's commission expired December 14, 1912.

William Glerum to be postmaster at Zeeland, Mich., in place of William Glerum. Incumbent's commission expired December 11, 1911.

Carl M. Lund to be postmaster at Harrisville, Mich., in place of Carl M. Lund. Incumbent's commission expires January 11, 1913.

Louis H. Tovatt to be postmaster at Standish, Mich., in place of Louis H. Tovatt Incumbent's commission expires January 11, 1913.

MINNESOTA.

William B. Anderson to be postmaster at Hopkins, Minn., in place of William B. Anderson. Incumbent's commission expired January 5, 1913.

Iver Bondy to be postmaster at Henning, Minn., in place of Iver Bondy. Incumbent's commission expires January 11, 1913.

Robert K. Brough to be postmaster at Alexandria, Minn., in place of Robert K. Brough. Incumbent's commission expired January 5, 1913.

Aaron R. Butler to be postmaster at Bagley, Minn., in place of Aaron R. Butler. Incumbent's commission expires January 22, 1913.

Alfred W. Johnson to be postmaster at Sebeka, Minn., in place of John Anderson, resigned.

Michael J. McCarthy to be postmaster at Watkins, Minn. Office became presidential January 1, 1913.

Belle N. Maxwell to be postmaster at Fulda, Minn., in place of Jesse A. Maxwell, resigned.

Albert W. Nary to be postmaster at Maple Lake, Minn. Office became presidential January 1, 1913.

William O'Brien to be postmaster at Eden Valley, Minn. Office became presidential January 1, 1913.

Herman Ohde to be postmaster at Henderson, Minn., in place of Herman Ohde. Incumbent's commission expires January 28, 1913.

Lee M. Shell to be postmaster at Worthington, Minn., in place of Frank R. Coughran, resigned.

William Wichman to be postmaster at Morton, Minn., in place of Robert B. Henton, resigned.

MISSISSIPPI.

Robert S. Majure to be postmaster at Newton, Miss., in place of Henry C. Majure, resigned.

MISSOURI.

John W. Bence to be postmaster at Memphis, Mo., in place of Robert D. Cramer. Incumbent's commission expired April 13, 1910.

Thomas G. Bernard to be postmaster at Osceola, Mo., in place of Alansan H. Dent, resigned.

Herman E. Christrop to be postmaster at Martinsburg, Mo., in place of Edwin W. Pritchett. Incumbent's commission expired December 14, 1912.

Charles M. Clark to be postmaster at Montrose, Mo., in place of Charles M. Clark. Incumbent's commission expires February 9, 1913.

A. H. Doermann to be postmaster at Eldorado Springs, Mo., in place of A. H. Doermann. Incumbent's commission expires March 2, 1913.

William H. Funk to be postmaster at Queen City, Mo., in place of William H. Funk. Incumbent's commission expires February 9, 1913.

Daniel M. Gause to be postmaster at Buffalo, Mo., in place of Robert A. Booth, resigned.

Corwin S. Gohn to be postmaster at Alton, Mo. Office became presidential January 1, 1913.

Bayless L. Guffy to be postmaster at Hayti, Mo., in place of Bayless L. Guffy. Incumbent's commission expires January 12, 1913.

Charles L. Harris to be postmaster at Harrisonville, Mo., in place of Charles L. Harris. Incumbent's commission expired March 20, 1912.

John H. Harris to be postmaster at Lockwood, Mo., in place of John H. Harris. Incumbent's commission expires January 22, 1913.

Elmer E. Hart to be postmaster at Eldon, Mo., in place of Elmer E. Hart. Incumbent's commission expires January 11, 1913.

Clarence C. Jenkins to be postmaster at Clarksville, Mo., in place of William L. H. Silliman, deceased.

Leonard D. Kennedy to be postmaster at Frankford, Mo., in place of Leonard D. Kennedy. Incumbent's commission expires January 26, 1913.

John A. Knowles to be postmaster at Flat River, Mo., in place of John A. Knowles. Incumbent's commission expires January 11, 1913.

John W. Key to be postmaster at Mountain Grove, Mo., in place of John W. Key. Incumbent's commission expired December 14, 1912.

Francis M. Jones to be postmaster at Winona, Mo., in place of Francis M. Jones. Incumbent's commission expires January 11, 1913.

William F. Norris to be postmaster at Perry, Mo., in place of William F. Norris. Incumbent's commission expired December 14, 1912.

Warren W. Parish to be postmaster at Adrian, Mo., in place of Warren W. Parish. Incumbent's commission expires January 11, 1913.

George L. Root to be postmaster at South St. Joseph, Mo., Office became presidential January 1, 1913.

William E. Templeton to be postmaster at Excelsior Springs, Mo., in place of William E. Templeton. Incumbent's commission expires January 26, 1913.

John E. Turpin to be postmaster at Crocker, Mo. Office became presidential January 1, 1913.

MONTANA.

Edward L. Fenton to be postmaster at Laurel, Mont., in place of Edward L. Fenton. Incumbent's commission expires January 26, 1913.

H. E. Hamment to be postmaster at Belt, Mont., in place of Eugene R. Clingan, removed.

Grace Lamont to be postmaster at Dillon, Mont., in place of Grace Lamont. Incumbent's commission expires January 26, 1913.

Walter E. Williamson to be postmaster at Wibaux, Mont., in place of Walter E. Williamson. Incumbent's commission expires February 20, 1913.

NEBRASKA.

William E. Alexander to be postmaster at Orchard, Nebr., in place of William E. Alexander. Incumbent's commission expires January 11, 1913.

Hubert L. Buckingham to be postmaster at Plainview, Nebr., in place of Hubert L. Buckingham. Incumbent's commission expires January 11, 1913.

William A. Grant to be postmaster at Coleridge, Nebr., in place of William A. Grant. Incumbent's commission expires January 13, 1913.

Lucy K. Partridge to be postmaster at Kenesaw, Nebr., in place of Lucy K. Partridge. Incumbent's commission expires January 14, 1913.

John F. Diener to be postmaster at Syracuse, Nebr., in place of John F. Diener. Incumbent's commission expires February 9, 1913.

Albert W. Searl to be postmaster at Elwood, Nebr., in place of Albert W. Searl. Incumbent's commission expires February 10, 1913.

NEVADA.

Herbert Badt to be postmaster at Wells, Nev., in place of Herbert Badt. Incumbent's commission expired December 14, 1912.

K. C. Berg to be postmaster at Round Mountain, Nev. Office became presidential January 1, 1913.

Alton A. Carman to be postmaster at Pioche, Nev., in place of Alton A. Carman. Incumbent's commission expires January 14, 1913.

Fred L. Littell to be postmaster at Yerington, Nev., in place of Fred L. Littell. Incumbent's commission expired December 14, 1912.

William L. Lockhart to be postmaster at Ruth, Nev. Office became presidential January 1, 1913.

NEW HAMPSHIRE.

Joseph H. Avery to be postmaster at Milton, N. H., in place of Joseph H. Avery. Incumbent's commission expired December 14, 1912.

NEW JERSEY.

Joshua L. Allen to be postmaster at Pennington, N. J., in place of Joshua L. Allen. Incumbent's commission expires January 11, 1913.

Alfred B. Gibb to be postmaster at Bernardsville, N. J., in place of Alfred B. Gibb. Incumbent's commission expires January 13, 1913.

Uzal S. Hancy to be postmaster at Franklin Furnace, N. J., in place of Uzal S. Hancy. Incumbent's commission expires January 13, 1913.

Farley F. Holcombe to be postmaster at Hopewell, N. J., in place of Farley F. Holcombe. Incumbent's commission expires January 11, 1913.

NEW YORK.

Francis C. Allen to be postmaster at Ovid, N. Y., in place of Francis C. Allen. Incumbent's commission expired April 22, 1912.

Flora E. Bassett to be postmaster at Walton, N. Y., in place of Flora E. Bassett. Incumbent's commission expired December 16, 1912.

Linn C. Beebe to be postmaster at Hamilton, N. Y., in place of James W. Welch. Incumbent's commission expired January 5, 1913.

Henry E. Corwin to be postmaster at Bellport, N. Y., in place of Henry E. Corwin. Incumbent's commission expired December 16, 1912.

Robert L. Craig to be postmaster at Fultonville, N. Y., in place of John N. Van Antwerp, deceased.

Frederic H. Coggeshall to be postmaster at Waterville, N. Y., in place of Frederic H. Coggeshall. Incumbent's commission expires January 26, 1913.

John W. Hedges to be postmaster at Pine Plains, N. Y., in place of John W. Hedges. Incumbent's commission expires January 21, 1913.

Edwin B. Hughes to be postmaster at Staatsburg, N. Y., in place of Edwin B. Hughes. Incumbent's commission expires January 29, 1913.

Robert H. Hunter to be postmaster at Poughkeepsie, N. Y., in place of Robert H. Hunter. Incumbent's commission expires January 12, 1913.

Frank H. Johnson to be postmaster at Interlaken, N. Y., in place of Frank H. Johnson. Incumbent's commission expires January 11, 1913.

Harlan W. Leggett to be postmaster at Schuylerville, N. Y., in place of Orley W. Closson, removed.

William H. Marshall to be postmaster at Pleasantville (late Pleasantville Station), N. Y., in place of William H. Marshall. To change the name of office.

William A. Serven to be postmaster at Pearl River, N. Y., in place of William A. Serven. Incumbent's commission expires January 18, 1913.

Daniel Smiley to be postmaster at Mohonk Lake, N. Y., in place of Daniel Smiley. Incumbent's commission expires January 13, 1913.

Joseph F. Stephens to be postmaster at Highland Falls, N. Y., in place of Joseph F. Stephens. Incumbent's commission expires January 22, 1913.

Charles J. Sweet to be postmaster at Black River, N. Y., in place of Charles J. Sweet. Incumbent's commission expired January 5, 1913.

Alexander S. Taylor to be postmaster at Westbury, N. Y., in place of Alexander S. Taylor. Incumbent's commission expired December 16, 1912.

Gerow Van Wyck to be postmaster at Wallkill, N. Y., in place of Evert B. Du Bois, resigned.

Charles M. Waters to be postmaster at Lyons Falls, N. Y., in place of Charles M. Waters. Incumbent's commission expired January 5, 1913.

Earl L. Whiting to be postmaster at Delevan, N. Y., in place of Earl L. Whiting. Incumbent's commission expired January 5, 1913.

NORTH CAROLINA.

Ida Augusta Phelps to be postmaster at Plymouth, N. C., in place of Ida Augusta Phelps. Incumbent's commission expired February 12, 1912.

NORTH DAKOTA.

H. B. Allen to be postmaster at Steele, N. Dak., in place of H. B. Allen. Incumbent's commission expires February 20, 1913.

Andrew D. Cochrane to be postmaster at York, N. Dak., in place of Andrew D. Cochrane. Incumbent's commission expires February 17, 1913.

Christ Fuoter to be postmaster at Ray, N. Dak., in place of Christ Fuoter. Incumbent's commission expired December 13, 1910.

A. A. Lane to be postmaster at Sherwood, N. Dak., in place of Perry Brown. Incumbent's commission expires January 14, 1913.

Charles Lano to be postmaster at Mohall, N. Dak., in place of Charles Lano. Incumbent's commission expires February 10, 1913.

A. C. O. Lomen to be postmaster at Ryder, N. Dak., in place of Ole J. Bye, resigned.

Elstow McKoane to be postmaster at Ambrose, N. Dak., in place of Elstow McKoane. Incumbent's commission expires March 1, 1913.

Mark Waind to be postmaster at Milton, N. Dak., in place of J. W. Pratten, resigned.

OHIO.

Charles E. Ainger to be postmaster at Andover, Ohio, in place of Charles E. Ainger. Incumbent's commission expires January 21, 1913.

Harlow N. Aldrich to be postmaster at Elmore, Ohio, in place of Harlow N. Aldrich. Incumbent's commission expires January 20, 1913.

William S. Atchison to be postmaster at Salem, Ohio, in place of William S. Atchison. Incumbent's commission expired January 5, 1913.

Louis G. Bidwell to be postmaster at Kinsman, Ohio, in place of Louis G. Bidwell. Incumbent's commission expires January 21, 1913.

Selah S. Connell to be postmaster at West Carrollton, Ohio, in place of Selah S. Connell. Incumbent's commission expires February 11, 1913.

Richard C. Dowling to be postmaster at Middletown, Ohio, in place of Edmund L. McCallay, resigned.

John Ellis to be postmaster at Massillon, Ohio, in place of John Ellis. Incumbent's commission expires January 21, 1913.

Albert Felke to be postmaster at Lynchburg, Ohio. Office became presidential January 1, 1913.

John G. Gunzenhauser to be postmaster at Huron, Ohio, in place of William R. Tyler, deceased.

Chauncy A. Hamilton to be postmaster at Plymouth, Ohio, in place of Samuel E. Nimmons, resigned.

Percy May to be postmaster at New Holland, Ohio, in place of Percy May. Incumbent's commission expires January 13, 1913.

E. Calvin Miller to be postmaster at New Carlisle, Ohio, in place of E. Calvin Miller. Incumbent's commission expires January 13, 1913.

Isaac N. W. Reed to be postmaster at Ansonia, Ohio. Office became presidential January 1, 1913.

Samuel F. Rose to be postmaster at Clarington, Ohio, in place of Samuel F. Rose. Incumbent's commission expires January 20, 1913.

OKLAHOMA.

William T. Brooks to be postmaster at Broken Arrow, Okla., in place of William T. Brooks. Incumbent's commission expires January 14, 1913.

Louis N. Bushorr to be postmaster at Pawnee, Okla., in place of Louis N. Bushorr. Incumbent's commission expired April 28, 1912.

Gaylord S. Clute to be postmaster at Avant, Okla. Office became presidential January 1, 1913.

Horace Gray to be postmaster at Tahlequah, Okla., in place of Horace Gray. Incumbent's commission expired December 17, 1912.

Alexander B. Holliday to be postmaster at Crescent, Okla., in place of Alexander B. Holliday. Incumbent's commission expired December 17, 1912.

Will Huston to be postmaster at Thomas, Okla., in place of Will Huston. Incumbent's commission expired December 17, 1912.

Charles H. Jennings to be postmaster at Walch, Okla. Office became presidential January 1, 1913.

Karl Sweem to be postmaster at Miami, Okla., in place of Harland J. Butler, removed.

J. Ed Van Mater to be postmaster at Altus, Okla., in place of J. Ed Van Mater. Incumbent's commission expires January 14, 1913.

Arthur J. Weir to be postmaster at Hugo, Okla., in place of Enoch Needham. Incumbent's commission expires January 14, 1913.

John E. White to be postmaster at Lenapah, Okla. Office became presidential January 1, 1913.

OREGON.

John E. Beezley to be postmaster at Falls City, Oreg., in place of John E. Beezley. Incumbent's commission expires January 20, 1913.

William M. Brown to be postmaster at Lebanon, Oreg., in place of William M. Brown. Incumbent's commission expires January 20, 1913.

PENNSYLVANIA.

Andrew C. Allison to be postmaster at Mifflintown, Pa., in place of Andrew C. Allison. Incumbent's commission expires February 9, 1913.

Jerry J. Coffey to be postmaster at Osceola Mills, Pa., in place of John H. Warren, deceased.

George W. De Coursey to be postmaster at Newtown, Pa., in place of George W. De Coursey. Incumbent's commission expires January 25, 1913.

Matthew P. Frederick to be postmaster at Gallitzin, Pa., in place of Matthew P. Frederick. Incumbent's commission expires January 12, 1913.

Henry O. Garber to be postmaster at Berwyn, Pa., in place of Henry O. Garber. Incumbent's commission expired December 16, 1912.

Hugh W. Gilbert to be postmaster at Quarryville, Pa., in place of Hugh W. Gilbert. Incumbent's commission expires February 9, 1913.

William S. Gleason to be postmaster at Johnsonburg, Pa., in place of William S. Gleason. Incumbent's commission expires January 12, 1913.

Alexander B. Grosh to be postmaster at New Bloomfield, Pa., in place of Alexander B. Grosh. Incumbent's commission expires February 9, 1913.

A. J. Pettit to be postmaster at Port Royal, Pa. Office became presidential January 1, 1913.

William M. Toy to be postmaster at Austin, Pa., in place of William M. Toy. Incumbent's commission expires January 12, 1913.

Samuel B. Willard to be postmaster at Yardley, Pa., in place of Samuel B. Willard. Incumbent's commission expires January 25, 1913.

RHODE ISLAND.

Edward W. Jones to be postmaster at River Point, R. I., in place of Edward W. Jones. Incumbent's commission expired December 14, 1912.

SOUTH CAROLINA.

George A. Reed to be postmaster at Beaufort, S. C., in place of George A. Reed. Incumbent's commission expired April 29, 1912.

SOUTH DAKOTA.

George E. Culver to be postmaster at Corsica, S. Dak. Office became presidential January 1, 1913.

Joseph Kubler to be postmaster at Custer, S. Dak., in place of Joseph Kubler. Incumbent's commission expires January 28, 1913.

TENNESSEE.

William E. Byers to be postmaster at Tracy City, Tenn., in place of William E. Byers. Incumbent's commission expires March 3, 1913.

Jasper N. Fitzwater to be postmaster at Collierville, Tenn., in place of Jasper N. Fitzwater. Incumbent's commission expires January 11, 1913.

William L. Green to be postmaster at Spring Hill, Tenn., in place of William L. Green. Incumbent's commission expires March 3, 1913.

Joel F. Ruffin to be postmaster at Cedar Hill, Tenn., in place of Joel F. Ruffin. Incumbent's commission expires March 3, 1913.

John A. Wilson to be postmaster at Sharon, Tenn. Office became presidential January 1, 1913.

TEXAS.

Arch Campbell to be postmaster at Brazoria, Tex. Office became presidential January 1, 1913.

Herman H. Duncan to be postmaster at Kaufman, Tex., in place of Robert H. Armstrong. Incumbent's commission expired April 28, 1912.

W. M. Gibson to be postmaster at Alvord, Tex., in place of Henry L. Sands, deceased.

J. S. House to be postmaster at Kingsville, Tex., in place of J. S. House. Incumbent's commission expired December 16, 1912.

Evert Johnson to be postmaster at Jacksboro, Tex., in place of Evert Johnson. Incumbent's commission expired December 16, 1912.

James E. Lindsey to be postmaster at Rule, Tex., in place of James E. Lindsey. Incumbent's commission expired April 28, 1912.

Theodore F. Loose to be postmaster at Marble Falls, Tex., in place of Effie J. Cochran. Incumbent's commission expired December 16, 1911.

Claude P. McGregor to be postmaster at Cameron, Tex., in place of Thomas A. Pope. Incumbent's commission expired December 16, 1912.

George F. Rockhold to be postmaster at Dallas, Tex., in place of Sloan Simpson.

UTAH.

John A. Israelsen to be postmaster at Hyrum, Utah. Office became presidential January 1, 1913.

Henry A. Pace to be postmaster at Price, Utah, in place of Charles A. Guiwits. Incumbent's commission expires January 22, 1913.

VERMONT.

Alton B. Ashley to be postmaster at Milton, Vt., in place of Alton B. Ashley. Incumbent's commission expired March 11, 1912.

Emeroy G. Page to be postmaster at Hyde Park, Vt., in place of Emeroy G. Page. Incumbent's commission expires January 22, 1913.

Lewis A. Skiff to be postmaster at Middlebury, Vt., in place of Lewis A. Skiff. Incumbent's commission expires January 22, 1913.

Heman I. Spafford to be postmaster at North Bennington, Vt., in place of Heman I. Spafford. Incumbent's commission expired May 19, 1912.

William O. Williams to be postmaster at West Pawlet, Vt., in place of William O. Williams. Incumbent's commission expired May 15, 1912.

VIRGINIA.

Harry Fulwiler to be postmaster at Buchanan, Va., in place of Harry Fulwiler. Incumbent's commission expires January 11, 1913.

Benjamin P. Gay to be postmaster at Smithfield, Va., in place of Benjamin P. Gay. Incumbent's commission expired March 11, 1912.

M. L. Slemp to be postmaster at Pennington Gap, Va., in place of M. L. Slemp. Incumbent's commission expires January 11, 1913.

J. B. Vaughn to be postmaster at Keysville, Va., in place of Frederick I. Hanmer. Incumbent's commission expired December 14, 1912.

WASHINGTON.

Howard J. Fender to be postmaster at Prescott, Wash. Office became presidential January 1, 1913.

Clara McArthur to be postmaster at Okanogan, Wash., in place of Harvey S. Irwin, resigned.

William H. McCoy to be postmaster at Reardan, Wash., in place of William H. McCoy. Incumbent's commission expires January 28, 1913.

I. N. McGrath to be postmaster at Ephrata, Wash. Office became presidential July 1, 1910.

F. W. Martin to be postmaster at Cle Elum, Wash., in place of F. W. Martin. Incumbent's commission expires January 28, 1913.

Judson J. Merriam to be postmaster at Lind, Wash., in place of Judson J. Merriam. Incumbent's commission expired February 13, 1912.

William L. Shearer to be postmaster at Toppenish, Wash., in place of William L. Shearer. Incumbent's commission expires January 28, 1913.

Samuel F. Street to be postmaster at Edmonds, Wash., in place of Samuel F. Street. Incumbent's commission expired January 6, 1913.

WEST VIRGINIA.

Sarah K. Rush to be postmaster at Newell, W. Va., in place of Sarah K. Rush. Incumbent's commission expires February 9, 1913.

WISCONSIN.

Oliver W. Babcock to be postmaster at Omro, Wis., in place of Oliver W. Babcock. Incumbent's commission expires January 22, 1913.

James Carr to be postmaster at Bangor, Wis., in place of James Carr. Incumbent's commission expires January 12, 1913.

Charles A. Clark to be postmaster at Reedsburg, Wis., in place of Howard B. Quimby. Incumbent's commission expired January 13, 1912.

Myron W. De Lap to be postmaster at Abbottsford, Wis., in place of Myron W. De Lap. Incumbent's commission expires January 12, 1913.

J. P. Fitzgerald to be postmaster at Mellen, Wis., in place of Robert Johnson. Incumbent's commission expired December 14, 1912.

Joseph M. Garlick to be postmaster at Independence, Wis., in place of Joseph M. Garlick. Incumbent's commission expires January 26, 1913.

George Green to be postmaster at Loyal, Wis., in place of George Green. Incumbent's commission expires January 26, 1913.

August G. Koch to be postmaster at Kewaskum, Wis., in place of August G. Koch. Incumbent's commission expired December 11, 1911.

Rose M. Kropp to be postmaster at Hilbert, Wis., in place of John A. Kropp, resigned.

Matthew O'Regan to be postmaster at National Home, Wis., in place of Matthew O'Regan. Incumbent's commission expires January 12, 1913.

James R. Shaver to be postmaster at Augusta, Wis., in place of James R. Shaver. Incumbent's commission expires January 28, 1913.

John C. Southworth to be postmaster at Whitehall, Wis., in place of John C. Southworth. Incumbent's commission expires January 12, 1913.

WYOMING.

Ella J. Perry to be postmaster at Upton, Wyo. Office became presidential July 1, 1911.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 11, 1913.

PROMOTIONS IN THE ARMY.

QUARTERMASTER CORPS.

Brig. Gen. James B. Aleshire, quartermaster general, to be Chief of the Quartermaster Corps, with the rank of major general.

SURGEON GENERAL.

George H. Torney to be surgeon general with the rank of brigadier general.

WITHDRAWALS.

Executive nominations withdrawn January 11, 1913.

Russell Brown Patterson, of New Hampshire, for appointment as second lieutenant in the Infantry Arm.

POSTMASTER.

John F. Purlow to be postmaster at Alvord, in the State of Texas.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January 11, 1913.*

The House met at 12 o'clock noon.

Rev. John Van Schaick, jr., pastor of the Church of Our Father, Washington, D. C., offered the following prayer:

Almighty God, who art the giver of every good and perfect gift, we lift up unto Thee the voice of our thanksgiving. We praise Thee for the life which Thou hast given us, for the service to which Thou hast appointed us, for the knowledge of Thy will and the inspiration of Thy love; for the work which our hands have found to do, for the truth which we are permitted to learn, for whatever good there has been in our past life, and for the hopes that lead us on to better things. Make us less unworthy of these Thy mercies and Thy blessings, and give us strength to do and dare Thy perfect will; through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

EULOGIES ON THE LATE REPRESENTATIVE WICKLIFFE.

Mr. MORGAN of Louisiana. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

On motion of Mr. MORGAN of Louisiana, by unanimous consent, it is ordered that Sunday, the 23d day of February, 1913, at 12 o'clock m., be set apart for addresses on the life, character, and public services of Hon. ROBERT C. WICKLIFFE, late a Representative from the State of Louisiana.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection.

The resolution was agreed to.

PENSIONS.

The SPEAKER. The unfinished business is House bill 27475, granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

Mr. GARRETT. Mr. Speaker, I desire to make a point of order on that.

The SPEAKER. What point of order does the gentleman make?

Mr. GARRETT. I make the point of order that that is not the unfinished business for this day under the rule.

The SPEAKER. The Chair will hear the gentleman.

Mr. GARRETT. I call the attention of the Chair to clause 3, Rule XXIV. In the new Manual it appears on page 386:

The consideration of the unfinished business in which the House may be engaged at an adjournment, except business in the morning hour, shall be resumed as soon as the business on the Speaker's table is finished, and at the same time each day thereafter until disposed of; and the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules.

Now, this is private pension legislation. The fact that it is in an omnibus bill does not in any respect destroy its private character. Under the rule, with which the Speaker is perfectly familiar, and which it is not necessary to read, it is only in order to consider legislation of this character on Fridays. I call the attention of the Chair further to page 386 of the new Manual:

In general, all business unfinished in the general legislative time goes over as unfinished business under the rule—

And so forth. I need not continue the reading of that; but a little further on—

Thus a motion relating to the order of business does not recur as unfinished business on a succeeding day, even though the yeas and nays may have been ordered on it. The question of construction also, when not disposed of at an adjournment, does not recur as unfinished business on a succeeding day.

On the next page, in paragraph 865—

The rule excepts by its terms certain classes of business which are considered in periods set apart for classes of business, viz:
(a) Bills considered in the morning hour for the call of committees.
(b) Bills in Committee of the Whole.
(c) Private bills considered on Fridays.
(d) District of Columbia bills.
(e) Bills brought up under the rule setting apart days for motions to suspend the rules.

And in that connection, Mr. Speaker, if I remember correctly, on last Monday there was pending a proposition to suspend the rules, and the House was proceeding to vote upon that question when adjournment was taken. That did not come up the next day as unfinished business, but, as I understand, will come up on the next suspension Monday.

Mr. RUSSELL. But in this case the previous question has been ordered.

Mr. FOSTER. The previous question has been ordered on the bill and amendments to the final passage.

Mr. GARRETT. I understand the previous question has been ordered on this. The previous question was not ordered on the motion to suspend the rules, because we do not order the previous question on that motion. It does not alter the situation that the previous question has been ordered. The fact of the previous question being ordered does not determine it, but it is determined by the class of business.

The SPEAKER. That bill, as a matter of fact, broke down before the House ever got to the previous question.

Mr. GARRETT. We do not demand the previous question on the motion to suspend the rules.

The SPEAKER. That is true, but you never did get anywhere with that bill.

Mr. GARRETT. I think the point of no quorum was made, perhaps, but my recollection is that the House was dividing upon the proposition at the time.

The SPEAKER. That was under suspension of the rules, and there is no previous question on that.

service in the cities towns, and smaller villages, another 15 years—and I am not a prophet—will show this bill to carry over $600,000,000 of money, and it ought to produce a profit of over $60,000,000.

I did not intend to digress into this line of thought when I rose to speak. My only purpose was to call attention to some features of the bill, particularly in reference to some matters that the committee have thought wise to deal with in the way we have in this bill on the subject of the parcel post. That law, as you recollect, was only enacted in the last session, and went into effect on the 1st of January. If we are to credit the press and the unofficial information from the department, there has been an immense rush of business to the Government in the parcel post in the first zone of 50 miles.

There has not been, and will not be, and it was not intended, I take it, that there should be any very great amount of business developed in the other seven zones for the present until we have perfected the system now in its incipiency under the report that is to come before a great while from the committee constituted for that purpose, and from the Postmaster General, which show the experimental work of this division. It is an immense service, and a great deal of money must yet be employed in carrying it out. I will call the attention of the House to a few matters of importance covering the aggregate amount of which I spoke awhile ago, of some $3,000,000 to $5,000,000 added to this bill on that account. This bill has but few large changes in amount, and a little increase growing out of the natural increase of the business, and the increases resulting from this system. For instance, we have been forced to add 2,400 clerks and employees in the first, second, and third class post offices of the United States, and this increase is chargeable largely to this service. Printers, mechanics, and laborers, 150 clerks. For contract stations we have added $320,000 to that appropriation. Rent, light, and fuel for first, second, and third class post offices, not altogether, but partly on account of this service, $500,000. Then there are several hundred thousand dollars in the miscellaneous items. Pay of letter carriers, largely on account of this service, $2,107,000. Substitutes, due to parcel post and the eight-hour law—and that eight-hour law was a very wise provision for the men and for the Government, but it costs the Government money to enforce it—$685,000 in this bill on that account.

For wagons, automobiles, and all vehicular service necessarily on account of the parcel post almost exclusively, $550,000. Inland transportation by steamer routes in Alaska, the increase being due mainly to parcel post, $258,300. Inland transportation by steamboat, estimated, of course, due to parcel post—and I call attention to the fact that this is not railway transportation—$40,574.

Mail messenger service due mainly to parcel post, $455,000. Railway wagon service, $407,000.

Mail bags, $47,500. Compensation to laborers, $3,300. Mail locks and keys, $3,000. Labor, mail lock shops, parcel post alone, $15,000.

Mr. GILLETT. Will the gentleman yield?

Mr. MOON of Tennessee. I will.

Mr. GILLETT. Will the gentleman tell us how much of the total of this bill is caused by parcel post?

Mr. MOON of Tennessee. I can not tell exactly, because the department has never given us accurate information. The gentleman from Massachusetts will observe that the department is asking for $281,000,000 of money and the committee has given them about $279,000,000, and owing to some changes in the bill that would increase it a little over that, but it is safe to say that three-quarters of the increase is due to the parcel post.

Mr. GILLETT. Is not the gentleman from Tennessee mistaken, and has not the committee given more than the department estimated for?

Mr. MOON of Tennessee. No; it has given less by about three millions.

Mr. GILLETT. Three millions more than what the department estimated for?

Mr. MOON of Tennessee. No; three millions less than the department asked for. I will state to the gentleman from Massachusetts that while the appropriations are practically about $3,000,000 less than the department asked for, the committee did not feel justified in complying with the demands of the department on this matter, because it is largely a matter of speculation as to what additional cost would accrue to the Government on account of this particular service, and, as it always is for the coming fiscal year as to the matter of increase of the general business, it can only be an estimate, and the committee to be on the safe side of these questions always cut the estimates.

There is included in the estimates the sum of $750,000, which we are asked to make immediately available for the extension of the parcel-post service, in addition to the things referred to in the bill. The committee could not give that. I have just received a telegram less than an hour ago from the Postmaster General urging that the $750,000 be put in. It may be that it ought to be contained in the bill, but it is asked to be made immediately available. It is to supply a deficiency, and this House on a test vote a year ago held that this committee had not the jurisdiction; that the Committee on Appropriations had jurisdiction to supply deficiencies of that character. So we could not give now the $750,000 in this bill.

Mr. GILLETT. The figures I have are that the estimates were two hundred and eighty-one millions and something over, and the committee has appropriated $283,000,000, or about $2,000,000 more than the estimate.

Mr. MOON of Tennessee. No; the appropriations are $278,489,781.

Mr. GILLETT. Is that on the second report?

Mr. MOON of Tennessee. That is the first report. That report is erroneous as to the amount. Increases were put on in the First and Second Assistants' office, put in since the report was first made, because an error was made in the printing of the bill by giving last year's items instead of the estimates, and it had to be revised and reprinted, and the increase would probably run the amount up to $280,000,000 of money.

Mr. GILLETT. I have it figured up at $283,000,000.

Mr. MOON of Tennessee. I do not think that is correct; but whether it is correct or not, that is the amount called for by the estimates.

Mr. GILLETT. The estimates are two hundred and eighty-one millions and the committee has given two hundred and eighty-three millions, or two millions more than the estimates. Now, I want to understand——

Mr. MOON of Tennessee. We have not given any more than the original estimates.

Mr. GILLETT. Of course the gentleman knows more about his bill than I do, and my figures may be wrong.

Mr. MOON of Tennessee. I will show the gentleman wherein he is wrong.

Mr. MANN. Will the gentleman from Tennessee allow me to make a suggestion which, I think, will explain the matter? The department in making the estimates estimates for so many clerks, and in the end also estimates for the total amount; that is, the amount that is carried in the bill. The Treasury Department, which the gentleman from Massachusetts follows, does not pay any attention to the total amount carried in the bill, but estimates the total appropriation by the number of clerks at certain salaries. If you take this year you must compare the same thing with last year. If you take the department's estimates as to the number of clerks, then the bill is less than the estimates.

Mr. MOON of Tennessee. These clerks do not go in all at once.

Mr. MANN. I understand; but I am speaking of the way the gentleman from Massachusetts arrives at his figures. The gentleman from Massachusetts takes the number of clerks estimated for and compares that with the total amount estimated for, and those two will not jibe.

Mr. MOON of Tennessee. I will say to the gentleman from Massachusetts that on a revision of the matter, in view of the uncertainty of the situation, we attempted to give to the department all we possibly could consistently, reserving, in our own judgment, a small amount in view of the fact that the estimates were generally sufficiently large. There are places where we have cut the estimates. Upon the face of the matter, while the original figures showed $278,000,000, we made some increases, but not as much as the estimates.

Mr. GILLETT. May I ask the gentleman another question? This bill exceeds last year's bill by about $12,000,000?

Mr. MOON of Tennessee. No; the amount last year was two hundred and seventy-one million and odd dollars.

Mr. GILLETT. The question I wanted to get at is: How much of that is due to the parcel post? Can the gentleman tell me that?

Mr. MOON of Tennessee. Last year?

Mr. GILLETT. No. How much of that excess of this year over last year is due to the parcel post?

Mr. MOON of Tennessee. The bill last year was for two hundred and seventy-one million and odd dollars, and this year it is $278,485,000. That makes a difference of $7,000,000 and something.

Mr. GILLETT. That is the first bill.

Mr. MOON of Tennessee. That is the first; and I take it that of those eight and a half million dollars there are about five and a half millions that are due to the parcel post. That would be the rough figures. I have here the various items chargeable

to the parcel post in the opinion, of course, of the gentlemen having the matters in charge, and they have given their best judgment.

I will now proceed to state some of the items further under the fourth assistant's office that are chargeable to that service. There is an addition of $5,000 for stationery in money-order offices, $5,000 for registry, and $2,500 for blank books and printed matter. Letter balances and scales, which they had to buy for the parcels post, $100,000. Facing slips, $5,000. Purchase, exchange, and repair of typewriters, $5,000. Inland transportation by star routes due to the parcels post, $73,000.

I have not attempted to give to this House any elaborate explanation or discussion of this bill. I have prepared nothing upon that subject. In view of the fact that the last bill contains so much legislation, and this one so little that is new, I think the House will have no trouble in reaching the amount of money that ought to go to these departments. When the bill is taken up by items, if it is desired, if the committee is able to do so, we shall try to give Members some further explanations.

Mr. CANNON. Mr. Chairman, will the gentleman yield?

Mr. MOON of Tennessee. Certainly.

Mr. CANNON. Mr. Chairman, I do not know that I correctly caught the gentleman's remark in reply to the gentleman from Georgia [Mr. BARTLETT], touching the increase of inspectors in view of the late order that brings the southern and western portions of the country, as to fourth-class postmasters, into the classified service. I understood the gentleman to say that no allowance was made from that standpoint, and that he apprehended, I take it upon this bill, to take those officials out of the classified service by legislation.

Mr. MOON of Tennessee. No; I did not mean to convey the idea that there would be any attempt in this bill to take those gentlemen out of the classified service. I meant simply to say that the 300-odd men are now employed, and that they have not any more work than they ought to do, or, in my opinion, as much work as they ought to do; and that they can perform all the duties incumbent upon them without any increase in number on account of this proposed change; and I expressed simply the hope that matters might be so adjusted before a great while that it would not be necessary for inspectors to have anything to do with the appointment of fourth-class postmasters.

Mr. CANNON. The gentleman had in view, of course, the thought that the order of the President should be revoked.

Mr. MOON of Tennessee. I hope the President will revoke that civil-service order, and hope so with all my soul. I think it is wrong.

Mr. CANNON. Including the northern and eastern parts of the country?

Mr. MOON of Tennessee. Yes. I would not have the northern and eastern part of the country treated any differently than the southern. I want to say to the gentleman that, in my opinion, this Government ought not to be put to one cent of expense of any character on account of fourth-class postmasters. If the postmaster is appointed and he is required to buy the equipment of his office and account for it at the end of the year and make a settlement with the auditor here, paying for that equipment, having given a bond and security to protect it, and he obtains the amount of money that is due him, there will be no expense in the world to the Government of the United States except the mere keeping of the accounts; while under the present system and under the proposed system hundreds of thousands of dollars will be wasted in a useless investigation of an office that needs no investigation. It is so plain and so simple and so easily managed that any business man could carry the whole on his books with no other cost than his entry with a perfect protection under bond.

Mr. CANNON. If the gentleman will permit me, I would suggest that as to the order placing all territory north of Mason and Dixon's line and east of the Mississippi River, as to fourth-class postmasters, in the classified service, leaving the fourth-class postmasters south of that line and west of the Mississippi River out of the classified service, there are people who profess to believe that the order very seriously affected the political condition in 1908 and 1912. If I may be pardoned by the gentleman, I would say further that I am inclined to believe that the order as it was made under the last administration as to a part of the country has worked well, and I think it would have worked much better if it had covered all the country instead of a part of the country.

Mr. MOON of Tennessee. Mr. Chairman, it is always with great deference that I disagree with the distinguished gentleman from Illinois. I do not believe that that last Executive order covering, without examination, one-fourth of the post-offices of the fourth class into the civil service was just or right, not merely on account of the condition and circumstances under which it was made, but I believe it is intrinsically wrong in the application of the civil-service proposition to say that men in office, ignorant as most of them are in fourth-class offices, never having had an examination, shall remain in those offices until death or removal for cause, and that then the successor must be put to the rigid test of a civil-service examination. Really there is no examination needed for a fourth-class postmaster. Any man who knows how to measure calico and to weigh sugar and nails can keep a fourth-class post office, and there is no sense in these inspectors, as I have said, putting this country to expense by their operations of hundreds of thousands of dollars when the measure to which I have referred, if adopted, would save it.

Mr. CANNON. Mr. Chairman, I quite agree with the gentleman in what he has just stated, and I further agree with him that the force of inspectors is quite large enough.

Mr. MOON of Tennessee. Yes; I think it is. I think ultimately it will have to be cut down.

While on that question of civil service, I am aware that it is a very good thing where the service that an employee must perform is intricate in its character and where the specific or special information he must have is needed for the benefit of the Government. In such case it is well that some system prevail by which he be held in office in order that the most beneficial service may be rendered to the Government of the United States. But I do believe the time has come in this country when it must be democratic in the broad sense of the word, when it must be republican in the broad sense of the word, and whatever you may say about the issues and the controversies that arose from questions fundamental in their nature in the last contest, the American people have arisen to the knowledge of the fact that they have not and never have had a Republic in the United States. To-day the central Federal power under the Constitution is greater than any power exercised by any monarchy in all Europe. These conditions ought not to exist. This ought to be a government of law under the Constitution and not of men clothed with power to appoint men all over the 48 great States contrary to the will of the people. I know of no reason in good morals or in justice why a Republican President could place in post offices throughout the South, where the people are Democratic, men who are offensive to those people, and force the people to submit to the service. I know of no just reason why, if the voice of the people must rule in this Government, if local self-government amounts to anything, if the citizen is an integral factor in the Government, and has the voice of a sovereign, this Democratic administration coming into power should be clothed with the right to impose upon the people or a State that is Republican to the core Democratic officials who would be offensive to them.

The truth is that of all the hundreds of thousands of officers in the United States there is but one officer who is chosen by the people, and that is the Representative in Congress. Your President is chosen by electors. Your Senators are chosen by the legislatures, and the people have no voice in anything under any condition. This is in a sense monarchy pure and simple. We do violence to our intelligence in talking the senseless jargon that this is a great Republic in which the people rule. Why is it that under the law to-day your Constitution is the shield of despotism? Truly, the fathers did not intend that this Republic should remain for centuries like the initial Republic struggling with monarchy for existence, but they intended the development and progress of American institutions. Why can you not elect your marshal in the district in which he serves and have the votes certified to the President for his commission? Why can you not elect your district attorney in the same way? Why is it you can not select your collector of customs in the same way? Why is it you can not elect your postmasters within the territory of the patrons who are served by that office in the same way?

If you were to do this, you could claim some of the privileges of Government, some of the rights of citizens who vote at the ballot box, and some of the demands that we are ever insisting upon in local self-government might and would be recognized. Participation by the people in the selection of these officials would draw them closer to the Federal institution. There would be no longer any jealousy against the Federal Government. The people would feel toward it, when participating in its affairs, as they do in State affairs—that same loyal devotion and love, that same exalted patriotism, that men feel for the States in which they live and in which they first saw the light. We need in these United States the growth of a sentiment that draws the people to the flag of the Republic and unifies a Nation from one end to the other, and nothing but the right of the citizen

to participate as a citizen at the ballot box in the affairs of his country will ever obtain it. [Applause.]

Mr. CANNON. Will the gentleman yield?

The CHAIRMAN. Will the gentleman from Tennessee [Mr. MOON] yield to the gentleman from Illinois [Mr. CANNON]?

Mr. MOON of Tennessee. I yield to the gentleman from Illinois.

Mr. CANNON. As I understand it, while I agree with much that the gentleman says so far as sentiment is concerned, the true and genuine reformer who wants the people to rule is for the short ballot, substantially as it exists in the State of New Jersey, where, if I understand it aright, the governor when elected has, perhaps more than a governor in any other State of the Union, the patronage by way of appointments. And the reason I interrupt the gentleman is to say that in my State the ballot at the last election was as long as these two desks in the country districts, to say nothing about the size of the ballot in Chicago and other large cities, and broader than the desk, containing the names of many candidates for many offices. Now, while I, too, believe in the rule of the people and the settlement of the policies of the Government at the ballot box, I will ask the gentleman if he goes the length of the true and genuine reformer that wants the people to rule and who declares for the short ballot? For instance, would he elect a President and let him appoint everybody substantially, except where the Constitution would prevent, and where, carried into the States, would spread over them substantially the condition which exists in New Jersey, which, I understand, involves the short ballot?

Mr. MOON of Tennessee. I do not favor the short ballot if that is the result of it, and I would favor a constitutional amendment that would do away with the short ballot if it brings that condition of things. The truth is, Mr. Chairman, that in this country a genuine democracy, a genuine republican idea, is no longer prevailing in the minds of many of the people. They are not caring about these questions in some sections so much as they are about other questions that are destructive of the welfare of Government. I speak not of the majority but of the minority of the people of the United States. Whenever you begin that policy of Government under institutions like ours, where the State, separate from the Federal Government and sovereign and supreme within its powers under the Constitution, and where the Federal Government of limited power is supreme to the extent of the delegated power, and that fairly implied from it, more trouble can arise, more complex situations can come, than from a Government single in form.

The CHAIRMAN. The Chair will inform the gentleman that he has occupied an hour.

Mr. MOON of Tennessee. Then I will yield to myself more time, as I control it all. [Laughter.]

We find here and there throughout this country men who do not believe in law and order, men who advocate certain positions that seemingly are very popular, for the purpose of producing and bringing about a situation of chaos, where law and order may be overthrown.

I do not like to say it, because so many good people believe in it and think it is right, but the doctrine of the recall of judges is anarchy. That is all it is. There is no use to discuss that question. The doctrine of the initiative and referendum, while not anarchy, is not a good method of government, and if the people had the right to pass upon all these offices that I speak of immediately and recognize these officials as their immediate creatures for the control of their affairs, the people would not desire to initiate legislation, and they would not desire the referendum except when some great question arose that affected them as a whole, except when a controversy arose over something like your prohibition propositions in your States. They might want it then, but otherwise it would scarcely ever be demanded.

It may be said further, too, while discussing this question in connection with the post-office proposition, that we ought to have, and most of us do have, a profound respect for the administrators of the law. If law be discarded, the Government is lost, anarchy prevails, and disaster and ruin follow throughout the land. But while we may love the law and its enforcement, and while we may have the profoundest respect for its judges, one of the greatest dangers, in my opinion, to-day is over-reverence in some sections of the judicial official. I think that he ought to be with the law, but not above it; that he ought to be with the people and hold the law with the people, but never above the people. I see no reason why a judge of a circuit court of the United States and a judge of a district court of the United States might not be elected for a term of 10, 12, or 15 years and rendered ineligible afterwards, and make a better official, or as good a one at least, for all the people as the man who holds a tenure for life. I do not believe in any tenure for life in any office, unless that tenure is given to the official in successive elections by a majority of the people at the ballot box. We ought not to have any positions in this country of a life tenure. We ought not to have but few, if any, positions that the people do not pass upon.

May I say, here and now—and I would not have said anything on this question but for the suggestion of the gentleman from Illinois—that I hope the day is not far distant when the American people will have more participation in their government than they have now, when they can go to the ballot box with the same pride for the Republic that they have for their States when they go to cast their ballots for their State officials, and that they may no longer feel that the Government of the United States is foreign and alien to them, but that it is their own, established to protect and defend their rights and liberties and their posterity forever. [Applause.]

Mr. MONDELL. Mr. Chairman, before the gentleman takes his seat I would like to ask him a question.

The CHAIRMAN. Does the gentleman yield?

Mr. MOON of Tennessee. I yield.

Mr. MONDELL. May I ask the gentleman a question in regard to the bill? I have been waiting for some time to secure some enlightenment in regard to the provisions of the bill.

Mr. MOON of Tennessee. Yes.

Mr. MONDELL. I notice in the estimates of the department that they estimate that the new parcel-post system will increase the cost of the routes in Alaska 100 per cent. They estimate that the parcel post will increase the cost of inland transportation by steamboats 5 per cent; that it will increase the mail messenger service 25 per cent; that it will increase the railway pay 5 per cent; that it will increase the cost of railway post-office car service 20 per cent; and that the committee has granted in the main those estimated increases—not to the full amount, but very largely.

Mr. MOON of Tennessee. The gentleman will recollect that I myself read all those items awhile ago.

Mr. MONDELL. I did not finish my question. When you came to the item of star routes, the increase in the estimate is only 1 per cent, and that in spite of the fact that the star-route service is the only service in connection with which the readjustment of pay was specifically provided for by the parcel-post bill. The increase there is only 1 per cent. Does the chairman think that increased appropriation of 1 per cent is going to be sufficient both to meet the demands for readjustments on the star routes and to provide for the increased cost on star routes in connection with the parcel post?

Mr. MOON of Tennessee. I did not quite catch the point of the question. I heard the statement of facts, but what is the question?

Mr. MONDELL. Briefly, the committee has increased the appropriation for star routes 1 per cent.

Mr. MOON of Tennessee. That is $73,000. Of course, it is about 1 per cent.

Mr. MONDELL. It is only 1 per cent of the cost?

Mr. MOON of Tennessee. Yes.

Mr. MONDELL. On account of the estimated increase due to the cost of the parcel post?

Mr. MOON of Tennessee. Yes.

Mr. MONDELL. Does the chairman believe that an increase of 1 per cent is going to be sufficient to meet the demands for readjustments and to meet the increased cost of the service by reason of the parcel post?

Mr. MOON of Tennessee. Well, the gentleman has observed, no doubt, that the star-route service is being covered into the rural-route service to a considerable extent, and he will observe also that while for inland transportation by star routes $73,000 additional is given, that is all that has been asked for by the department in this particular line. For the methods of handling the mails very large sums have been asked for here, and are used, and will be used for this service. You can not separate the service in any one particular item. The parcel post is a general service.

Mr. MONDELL. But there is no other item in the bill the appropriation for which can be used for the pay of star-route carriers. This is the only one.

Mr. MOON of Tennessee. The purpose of the department, I take it, in asking so little is that they want to reduce these star routes right along and cover them into the rural service.

Mr. MONDELL. That might be done, provided they established Rural Delivery Service, but in my State we have practically no rural routes. There is no such thing as changing on any considerable scale the star routes to rural routes, and we have a constantly increasing demand for rural star service.

Mr. MOON of Tennessee. I will say this to the gentleman: I do not know, of course, just what was in the minds of the

department officials in making this estimate. The committee in passing upon estimates usually does not give more than the department asks for. We yield to them the credit of asking for as much as they ought to have. The star route is a contract service, and we do not change by the law any of these contracts at all. While it may be true that a greater burden will be placed upon the men carrying the mail in the contract service than heretofore, on account of the parcel post, we have made no provision for it, and I do not think any is necessary to be made for it, for the reason that in all these contracts the right exists in the Government to alter, change, and amend them as the Government sees fit. The department, of course, can add to the compensation if it desires, or to the contracts if there is any great burden imposed upon them. I assume that the department thought this $73,000 would meet an emergency of that sort until next year.

Mr. MONDELL. During the hearings, in answer to a question of the gentleman from Missouri [Mr. LLOYD], an official of the department who appeared before the committee himself suggested that this was a very, very small increase, and it seems to me that it is a very small increase, if the Chairman will allow me, when we take into consideration first——

Mr. MOON of Tennessee. That was the estimate of the department, was it not?

Mr. MONDELL. When we take into consideration the fact that this is the cheapest of all the branches of the postal service, and, second, that the star-route carrier suffers in two ways. First, heretofore he has been carrying small parcels and has been paid for such carriage, and practically all of these contacts are let in expectation of some revenue from that source and in some cases a considerable revenue from that source. Otherwise the contracts could not be let so low. Second, the parcel post not only deprives him of that source of income, but places on him the burden of carrying an additional weight, without any increase in his contract pay.

Mr. MOON of Tennessee. Which the Government might adjust by changing the contracts, however.

Mr. MONDELL. There is authority to do that carried in the parcel-post bill, and what amazes me is that, while we give the postal-car service 25 per cent increase, while we give Alaska 80 per cent increase, while we give the mail messenger service 10 per cent increase, while we give the railroads 5 per cent increase, and the steamboats 5 per cent increase in the appropriations, it is proposed to give but 1 per cent increase to the men who suffer the most.

Mr. MOON of Tennessee. You mean the contractors on the star routes?

Mr. MONDELL. The contractors on the star routes lose both ways. They lose in the loss of revenue and they lose in the additional weight to be carried, requiring, in many instances, more live stock to carry the route.

Mr. MOON of Tennessee. But they are in a position that the others are not in. They occupy a contractual relation with the Government, by which changes can be made.

Mr. MONDELL. By which the Government treats them as it should not treat any of its employees. By reason of the fact that the Government contracts with these people, it sometimes grinds them down in a way that would shame the meanest sweat-shop operator in the world.

Mr. MADDEN. If the chairman will allow me, the fact of the matter, as far as I understand it from all that has taken place in the consideration of this question, is that the amount of star-route service to be performed during the coming year is to be very much curtailed and the amount of rural delivery service very much enlarged, and because of the enlargement of the one and the curtailment of the other the increase in the star-route service is to be a much smaller percentage of increase than in other lines of service that are not to be affected by the increase in the Rural Delivery Service.

Mr. MOON of Tennessee. I suggest to the gentleman from Wyoming that if he has any facts and figures that show petitions for increases over the department's estimate for star-route service, we would be glad to hear from him when we come to that item in the bill.

Mr. MONDELL. If the gentleman will allow me just a moment of his time to reply to the gentleman from Illinois——

Mr. MOON of Tennessee. I promised to yield to others and I can not occupy the floor longer.

Mr. MONDELL. I want to reply to the gentleman from Illinois [Mr. MADDEN], who evidently does not understand the situation.

Mr. LLOYD. The gentleman can do that when we reach this item in the bill.

Mr. GILLETT. Will the gentleman yield for a moment?

Mr. MOON of Tennessee. I have promised the remainder of my time.

Mr. GILLETT. Is not the gentleman willing to answer a question about the bill?

Mr. MOON of Tennessee. I have no more time.

Mr. MURDOCK. I will yield time to the gentleman.

Mr. MOON of Tennessee. All right; I shall be glad to do it.

The CHAIRMAN. How much time does the gentleman from Kansas yield?

Mr. MURDOCK. Ten minutes.

Mr. GILLETT. I observe in the paragraph of the bill on page 19, in line 4, the total of the payments to the railway mail clerks is stated at $24,360,000. Now, when you come to add up the items in that paragraph they amount to a million and a half more than that.

Mr. MOON of Tennessee. That may be.

Mr. GILLETT. I should like to ask the gentleman how that discrepancy is explained.

Mr. MOON of Tennessee. That is due to the fact that the report when first made did not contain that which the committee desired, but it was made up from last year's report.

Mr. GILLETT. I am speaking of the present bill, not the first print.

Mr. MOON of Tennessee. I know, but the gentleman will recall that this bill was introduced in this House on December 11 or 12 last, and that accompanying it was a report, and that that bill had about 50 errors in it because it was printed from last year's bill, and they had to be corrected; but the report has not yet been corrected.

Mr. GILLETT. Does the gentleman mean that in this bill the totals have not been corrected, but that the items have been?

Mr. MOON of Tennessee. Yes.

Mr. GILLETT. Then, really, this bill appropriates several million dollars more.

Mr. MOON of Tennessee. As I stated to the gentleman a while ago, instead of appropriating $278,000,000, this bill appropriates perhaps $280,000,000.

Mr. GILLETT. So it runs several million dollars more?

Mr. MOON of Tennessee. Yes; and about two-thirds of that increased amount is for the parcel post.

Mr. GILLETT. And that, of course, will be corrected when we come to the five-minute debate.

Mr. MOON of Tennessee. Yes; it is all corrected in the bill.

Mr. GILLETT. Not in the bill which I have.

Mr. MOON of Tennessee. Has the gentleman the last print of the bill?

Mr. GILLETT. Perhaps I have not. I thought I had.

Mr. MANN. Will the gentleman from Tennessee yield?

Mr. MOON of Tennessee. Yes.

Mr. MANN. I think the gentleman from Massachusetts is correct, and the gentleman from Tennessee [Mr. MOON] is slightly in error, and the situation arises in this way, if I may be permitted to state it: It has been the custom of the Post Office Department for many years in making estimates, and of the committee in reporting the bill, and of Congress in passing the law, to provide a certain number of clerks at certain salaries, so many at $3,000, so many at $600, and others at amounts between those two extremes.

Because these clerks are appointed during the year and do not draw pay for the entire fiscal year it was the practice of the Post Office Department and the committee to make a lump-sum appropriation at the end, as is done in this bill, which is less than the total number of clerks in each class multiplied by the salary that is drawn; but there was added to that total sum a provision that the total amount to be expended by the department could not exceed the total sum appropriated in the figures.

After the law was passed providing for automatic promotions of post-office clerks it was manifest that in case the total sum which was put in at the end of the appropriation was not sufficient to make these automatic promotions they could not be made, although the law provided that they should be made if the limitation was made in the bill.

Thereupon, I have consistently made a point of order against that limitation and it has stayed out of the bill for several years. The appropriation for automatic promotion of clerks was carried in the bill last year, and the total for clerks was $3,780,000. When the appropriation bill reached the Treasury Department they marked up to the credit of the Post Office Department three million nine hundred and some odd thousand dollars. I apprehend that has not been expended, but it cuts no particular figure, and the same thing is carried in this bill.

May I ask the gentleman from Tennessee in reference to a few figures that he gave about the increase of service for parcel post. In the first place, in the current law there is a lump-sum appropriation of $750,000 which covers special equipment, maps, stamps, directories, and printed instructions as may be necessary, and to include the hiring of teams, drivers, and so

forth. Are all of these things now practically covered by specific items in the bill?

Mr. MOON of Tennessee. They all come in under each head.

Mr. MANN. There are enough specific items to cover all these?

Mr. MOON of Tennessee. Yes; that is what we think.

Mr. MANN. I did not suppose there was any provision in the bill which would directly provide for the employment of teams and drivers for the parcel post especially.

Mr. MOON of Tennessee. No; it is under the section that provides for teams, vehicles, and drivers; we increased the amount so as to meet that additional service.

Mr. MANN. I understand the parcel post was inaugurated really after this bill was reported, and it may be that the department will derive additional information which it will be able to place before the Senate even after the bill passes the House, which would lead both bodies to agree to some additional appropriations if necessary.

Mr. LLOYD. If the gentleman will pardon me, it is the understanding that they are to make an investigation during the first 15 days of this month and make a report to the Senate, and of course the House will have the benefit of the same information before the bill comes in here for final consideration.

Mr. MANN. I understood the gentleman from Tennessee to state in figures he gave in reference to the contract stations that there was an increase of $320,000 in the bill. If the gentleman has the figures there, I would like to ask him if that is correct?

Mr. MOON of Tennessee. I think the gentleman will have to refer to the hearings.

Mr. MANN. I think the gentleman made a statement as to the probable amount, but that is not the amount carried in the bill.

Mr. MOON of Tennessee. The hearings will show how that is.

Mr. MANN. The gentleman read from some figures.

The CHAIRMAN. The Chair will state that the gentleman from Kansas [Mr. MURDOCK] yielded 10 minutes to the gentleman from Tennessee [Mr. MOON]. That 10 minutes so yielded has expired, and the gentleman from Tennessee has 15 minutes in his own right.

Mr. MURDOCK. Mr. Chairman, I yield a further 10 minutes to the gentleman from Tennessee.

Mr. MOON of Tennessee. Mr. Chairman, my memorandum shows $320,000 as the amount of increase.

Mr. MANN. I did not know how much that had been considered in the committee. Three hundred and twenty thousand was the increase in the estimates?

Mr. MOON of Tennessee. Yes; due in the main to parcel post. It is impossible for the committee or anybody to judge what is due to parcel post.

Mr. MANN. I understand. I will say that the department makes a rule as to the amount of compensation that will be allowed at a contract station, based on the amount of certain classes of business, and says that when a certain amount of business is done they will increase the compensation to such an extent. So far the appropriations have not been sufficient to do that; the rule has not been carried into effect, and every little while they have changed the rule. There has been a good deal of complaint about it. In my section of Chicago, where we have to depend largely on contract stations for postal service, men have resigned and refused to carry on the service because the department could not comply with the agreement that had been made.

Mr. MOON of Tennessee. Does the gentleman think that that item ought to be further increased?

Mr. MANN. I am not sure that that above $300 ought to be increased, but below that rate there are a large number usually starting out at $100, and if business develops under the rules the amount they are to receive is $200, and there ought to be sufficient appropriations to permit these increases to be made where a man will not keep the station without it.

Mr. MOON of Tennessee. Mr. Chairman, does the gentleman from Kansas desire to use any time?

Mr. MURDOCK. There are no requests for further time on this side.

The CHAIRMAN. In order that the Chair may keep the time correctly, he will say that the gentleman from Kansas yielded 10 minutes to the gentleman from Tennessee, who only used 2 minutes. Does the gentleman from Tennessee yield back that time?

Mr. MOON of Tennessee. I am trying to keep all I can get, Mr. Chairman, and if the gentleman from Kansas does not object I will keep it.

I now yield five minutes to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Chairman, I send an article to the Clerk's desk, and ask that it may be read in my time.

The Clerk read as follows:

ONLY THE FUTURE COUNTS.

On another page will be found an editorial which recently appeared in the St. Louis Republic. The Commoner has not commented upon the many editorials that have mentioned Mr. Bryan, favorably or unfavorably, in connection with a Cabinet position, but it begs to protest against an argument presented by the St. Louis Republic, which says:

"Woodrow Wilson's debt to Bryan is the biggest debt possible in American politics. Proper acknowledgment of that debt is expected. Popular belief is that it will be paid."

Another sentence reads:

"As to Mr. Bryan's fitness for the premiership or for the ranking ambassadorship, opinion may differ."

There are other sentences complimentary to Mr. Bryan, but these two passages bring out the point to which the Commoner wishes to call attention.

Cabinet positions ought not to be regarded as currency with which to pay debts. They are responsible positions, and in filling them the President elect should look to the future and not to the past. A public official has no right to discharge political obligations at the expense of the public. The men selected by Mr. Wilson for the Cabinet should be selected not because of personal service rendered to him, nor even because of past service rendered to the party. The individual counts for little; the cause counts for much. An individual, if he has had a proper motive for working, finds sufficient compensation in the triumph of ideas, principles, and policies; he does not need the consolations of office. Offices should be used to strengthen the party and to advance the things for which the party stands. It is pleasant to reward those who have been faithful, where that reward can be given without sacrificing public interests, but where past service is considered it is better to consider it as an assurance of future service than merely because it has been rendered.

The Commoner declines to discuss Cabinet possibilities, but it ventures to express the hope that Gov. Wilson will be governed by a higher motive than gratitude in the selection of his official household. A great responsibility rests upon him, and he will need the assistance of the best and bravest for his work. He ought to feel free to select for each place the man best fitted for it; in no other way can he hope to measure up to the expectations of the public. He need not—he should not—consider any service that Mr. Bryan has rendered to him or to the public. Mr. Bryan has been abundantly rewarded for all he has done, and does not feel that the party or any individual in the party owes him anything. If he ever holds any office, it ought to be given, whether by appointment or by election, with the view to the service that can be rendered in connection with the work yet to be done, not with the idea of rewarding him for anything that he has done. And the rule which is here laid down for Mr. Bryan is the rule which he believes should be laid down for all. In other words, the welfare of the party and the welfare of the country, not the ambitions of men or the interests of individuals, should be considered.

Mr. SIMS. Mr. Chairman, I had that article read as a basis for a few remarks that I desire to make. Whether we be Bryanites or anti-Bryanites, with the ideas and principles advocated in that article I think we must all agree. But we see a great deal stated in the newspapers about who is to be in the Cabinet, suggesting this man, that man, and the other man. I desire to say that the kind of men I want to be in the Cabinet are men who will tell the President the truth, though the heavens fall, without either exaggerating or minimizing it. I do not want anyone to go into the Cabinet for the purpose of influencing the President in favor of or against any individual. The President, as it were, must look through the Cabinet to see the conditions of the country. The Cabinet is in a way the eyes of the President. When I was a youth I read that under the English law they did not punish the king for any wrong done, but they punished his advisers. I thought at that time that it was a great outrage, but I have since concluded that it was a very wise provision of law. Those who get next to the king, those who get next to the President, who are intrusted with his confidence and who instead of telling him the plain truth as they see it color it so that he does not see the facts, but views them through colored glasses, and therefore does wrong through misinformation through the desire of individuals to either promote somebody's interest or to prevent the interest of somebody being promoted, I am in favor of hanging these advisors instead of punishing the President. This country believes and this country has confidence that Gov. Wilson has the judgment to do the right thing, if he can only have the facts presented to him without color, without prejudice, and without bias. It makes no difference to me who the man is who goes into the Cabinet so long as he be a man of ability, a man of full information as to the department to which he may be appointed. But above all he ought to forget himself, forget his friends, and, if he has enemies, forget them and tell the President the plain truth and let the President's judgment rest upon a clear understanding of the facts.

Mr. GARNER. Mr. Chairman, will the gentleman yield for a question?

Mr. SIMS. Yes.

Mr. GARNER. Is the gentleman complaining now of what he thinks the President elect is going to do?

Mr. SIMS. No.

Mr. GARNER. Is the gentleman writing him a letter through the columns of the CONGRESSIONAL RECORD as to what he thinks he ought to do?

Mr. SIMS. I am not intending in this way to advise the President. I am trying to point out what I think would be an ident member of the Cabinet.

Mr. MANN. Is not the gentleman telling what he will do when he is a member of the Cabinet? [Laughter.]

Mr. SIMS. Mr. Chairman, I have no thought, not the slightest, of ever being so honored.

Mr. CANNON. Has the gentleman anybody in mind who will fill the bill? [Laughter.]

Mr. SIMS. I have nobody in mind. I am making no insinuations, but I will tell you what I do think, and that is the reason I am making these remarks. I think that within the last hundred years some Presidents of the United States have been misled and have been prejudiced unduly against some people, and have been used to reward others unjustly by reason of the false information given them. I think good Presidents in the last hundred years have done that which they would not have done if they had known the facts. When men secretly, privately, under the guise of friendship, mislead the King, the President, or anyone else, in order to secure some other end than the public welfare, they ought to hang instead of the King or the President. Therefore, I do not believe that such a position ought to be sought, or that it ought to be lobbied for, or that men ought to be appointed by reason of their extraordinary willingness to serve, but that they should be selected with reference to the general welfare with no other motive than that the public good is to be enhanced and not the ambition of some private citizen promoted.

The CHAIRMAN. The time of the gentleman from Tennessee has expired. The Chair will state that the gentleman from Tennessee [Mr. MOON] has 13 minutes remaining, and the gentleman from Kansas [Mr. MURDOCK] has 40 minutes remaining.

Mr. MOON of Tennessee. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana [Mr. COX].

Mr. COX. Mr. Chairman, I send up some newspaper clippings and ask that they may be read in my time.

The Clerk read as follows:

RAILWAY POSTAL CLERKS PROTEST—PARCEL-POST PACKAGES NECESSITATE EXTRA DUTY, DECLARES THEIR LEADER.

MINNEAPOLIS, MINN., *January 7.*

President Carl C. Van Dyke, of the Railway Mail Clerks' Association, is en route to-day to Washington to take up with Congress committees grievances of the clerks over the parcel-post law.

Not since the threatened strike of railway mail clerks two years ago, declare postal clerks, has there been so much dissatisfaction among the employees as at present. It is charged the department has failed to provide sufficient help, equipment, or car space to handle the flood of parcels.

Before leaving, Van Dyke said: "Several chief clerks have prepared extra-duty schedules, so as to handle the parcels. This is unfair to the clerks, who are entitled to sufficient time off to keep up with their distribution."

—

PARCEL-POST PLAN MAY CAUSE STRIKE—MAIL CLERKS' HEAD SAYS GOVERNMENT IMPOSES ON 17,000 MEN—HE SCENTS TROUBLE.

Is the attitude of the United States Government, under the Taft administration and Frank Hitchcock, Postmaster General, relative to the parcel post likely to precipitate trouble with the railway mail clerks to the point of a strike?

Carl C. Van Dyke, president Tenth Division Railway Mail Association, says he scents some such trouble.

He declares he believes the Government, under Hitchcock's plans, is endeavoring to hamper the parcel post to the point of proving it a failure and that the influence of express companies is at work along similar lines.

The parcel post, it is admitted, will cause a great increase in postoffice business. The volume, in fact, probably will be immensely increased and perhaps nearly doubled.

No provision, Mr. Van Dyke says, has been made for an increase in men, especially in the railway mail end.

ADJUSTMENT HOPED FOR.

It is confidently expected, however, Mr. Van Dyke says, that the incoming Wilson administration will take swift action and add a sufficient number of men. Otherwise, Mr. Van Dayke says, the mail clerks are likely to revolt.

"No provision has been made to care for the extra parcel-post mail on the road," said Mr. Van Dyke to-day. "The regular yearly increase, 1,000 men in the United States, demanded by increased volume of ordinary mail, is all that has been done. Practically all lines are still tied up from the Christmas mail.

"The situation with the parcel post is getting serious.

"The Government has an 8-hour law for employees. Clerks are supposed to work 8 hours. Even now they exceed that, but with the parcel post they will be forced to work from 10 to 16 hours a day.

"They receive no extra pay for this overtime.

NO ADDITIONAL CARS.

"No provision, in addition, has been made for added mail cars. A million mail clerks can not handle the parcel post and regular mail without increased room. It is impossible. An additional car must be placed on every trunk-line train, such as mail trains between Chicago and the Twin Cities.

"It is a positive essential necessity that local trains be given more mail space.

"For example, Chicago mail-order houses have announced that they will send a carload a day on each trunk line from Chicago of parcel-post matter. No provision has been made to handle this matter.

"Again, a woodenware company, in Watertown, Wis., has announced that it will send a drayload of pails by parcel post every few days. Judged by these two examples, it is easily seen that there must be, and quickly, provision made for handling the traffic.

"The Government may be experimenting, but it is doing so at the expense of 17,000 railway mail clerks, and it is easy to see the impossibilities of the present policy."

Mr. COX. Mr. Chairman, the purpose I had in mind in having the articles read was to get, if possible, the railway postal clerks in the country before the House and before the country in a proper light. It is true beyond doubt that the establishment of the parcel post will throw a tremendous amount of additional work upon the 17,000 railway postal clerks at present in the employ of the Government. I know of no higher class of men in the Government service than the railway postal clerks. Of the millions and millions of tons of mail that are handled yearly, practically the entire amount in some way or other goes through the hands of these 17,000 men. I do not know Mr. Van Dyke, the gentleman who put out the interview, but, if his interview expressed truly the feelings of the railway postal clerks, it might bring a serious condition upon the country. As soon as my attention was called to those articles I asked Mr. Schardt, the president of the Railway Postal Clerks' Association, what would be their position and as to whether or not there was any ground for the reported interview. Mr. Schardt answers me, under the date of January 10, 1913, to the effect that, while it is true that the parcel post will throw a tremendous amount of work on the railway postal clerks, and while they realize that to be true, yet they further realize it to be a fact that the parcel post up until this time and the close of the present fiscal year will to a large extent be experimental, and he informs me, as the president of his association, that the 17,000 railway postal clerks upon whose shoulders this increased burden will fall are perfectly willing to assume the additional burden and work hand in hand with the Government until it is finally determined how much additional work will be thrown upon them.

In other words, whatever additional burdens might be required by the parcel-post legislation, there is no danger of any railway postal clerks being disgruntled and sore.

Now I ask, Mr. Chairman, that the letter be read in the remainder of my time.

The CHAIRMAN. Without objection, the Clerk will read.

The Clerk read as follows:

RAILWAY MAIL ASSOCIATION,
OFFICE OF THE PRESIDENT,
Washington, D. C., January 10, 1913.

Hon. W. E. COX,
Committee on the Post Office and Post Roads,
House of Representatives, United States.

DEAR MR. COX: Replying to your inquiry regarding certain sensational interviews given to the press recently by individuals claiming to speak for the employees of the Railway Mail Service, I beg to advise you that the sentiments expressed in the press dispatches referred to do not in any sense represent the attitude of the rank and file of our service.

The parcel-post service became operative January 1, and one of the dispatches advertising our men as being in revolt against the system was given out January 2. The men of the Railway Mail Service do not complain until they are hurt. They are broad-minded enough to recognize that in the early operations of our newly inaugurated parcel-post system it is inevitable that some complications should arise. Their loyalty and patriotism will prompt them to put forth their best efforts to help the Government make a success of this new feature of the postal service.

The men of the Railway Mail Service have every confidence that as the needs of this service manifest themselves the Government will make adequate provision, so that whatever complications or hardships may arise while the service is adjusting itself to the new conditions shall only be temporary.

The men of our service entertain no thought of revolt or strike, and it is to be regretted that the press dispatches should have advertised us in such an unwarranted light. Such talk is only a part of the pernicious agitation carried on by a few disappointed and disgruntled ex-employees of the service who thrive on the unrest and disloyalty they are able to incite.

Referring to your allusion to the offensive references and insinuating charges directed against the Committees on Post Offices and Post Roads of both the House and Senate during the last session by a publication claiming to represent railway postal clerks, I beg to advise you that we do not indorse the course pursued by this publication. We recognize only too well that such attacks are not calculated to encourage a proper regard in the minds of the younger men of our service for the integrity of Congress. The men who are in the service and have the best interest of the service at heart are desirous of maintaining respectful and cooperative relations with the Congress and the department, and they have no sympathy with the efforts of these outsiders who engender disrespect and contempt for constituted authority and we do not wish to be judged, either by Congress or by the public, by the tactics of these irresponsible individuals.

The Railway Mail Association appreciates what Congress has accomplished for our service, and we know of no better way to show our appreciation than by cooperating with Congress and the Post Office Department in everything that will make for a better and greater service and a satisfied and loyal corps of employees.

Assuring you that the men of the Railway Mail Service will be found ready and willing to do their part to make the parcel post a success, I am,

Sincerely, yours,

P. J. SCHARDT,
President Railway Mail Association.

Mr. MOON of Tennessee. Mr. Chairman, I yield to the gentleman from New York [Mr. LEVY].

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] has but two minutes remaining.

Mr. MURDOCK. Mr. Chairman, I will yield to the gentleman from Tennessee [Mr. MOON] the time he desires to give to the gentleman.

The CHAIRMAN. The gentleman from New York [Mr. LEVY] is recognized.

Mr. LEVY. Mr. Chairman, at the beginning of the investigation of the money question before the Banking and Currency Committee I insisted that what we required was remedial legislation and not investigation, as the public was thoroughly acquainted with the situation.

I have introduced a bill (H. R. 27139), which bill provides a remedy for the defects of our currency system without attempting to formulate a new and untried system, which may or may not be suited to our wants, and is of much more importance to the banking community than the investigation which is now being conducted by the House. Therefore I take this opportunity to address the House, and when it is reported out from the Committee on Banking and Currency and comes before the House I shall make a more complete statement.

CENTRAL BANK.

I do not believe in a central bank, though it may be called by a different name. The dominant political party has condemned it in its platform, and, I believe, that condemnation is wise and in accordance with true Democratic doctrine. To vest any one corporation with the exclusive right to issue paper money is to transfer sovereign power from the people and to constitute a monopoly, compared with which all so-called trusts and combinations in restraint of trade are but pigmies. We want no giant vested with a power which can destroy the very liberties of a self-governing people. We must preserve the separate units of our banking system free from the concentrated control of any one powerful organization.

DEFECTIVE SYSTEM.

I concede, as everybody does, that we have a defective banking system, but I feel sure these defects have come from unwise legislation originally begun as a war necessity, which can be pointed out and remedied, and I do not believe it is necessary to legislate in antagonism to the whole theory of our form of government in order to remedy these defects.

After giving much thought and study to the subject, I believe the cause of our monetary troubles may be succinctly stated thus:

The destruction of the bank function of note issue and the false assumption that debt represented by paper money is equivalent to coin.

I maintain that the present restricted issue of bank currency is not the exercise of the bank function of note issue (or circulation), and that so long as it exists we can have no elasticity in such circulation and no issue of bank debts in the form of currency responsive to the demands of trade.

All students of the subject, by different processes of reasoning, have reached the conclusion that a bond-secured bank currency can never be responsive to the demands of a commercial community. I think a satisfactory explanation of that fact is that such currency is really issued in payment of the Government debt it represents, and hence can not be issued in response to a commercial demand.

ALDRICH REMEDY.

We must therefore get rid of this bond-secured bank currency, and the question is, How? Mr. Aldrich's remedy is for one central bank to issue its notes and thereby take up all the present bank notes outstanding, receiving the bonds held as security, and increase the interest to be paid on such bonds 1 per cent, or about $7,000,000 per annum. He makes these notes a "legal reserve" for other banks, thus continuing the fiction that a debt is equivalent to coin—one of our great sources of trouble.

I can not see what benefit accrues to the public from having this bond-secured currency issued by one instead of many banks; the want of flexibility or elasticity remains the same to the extent that such issuance is used to pay for the Government debt represented by the bonds taken over. I can see a very distinct disadvantage in providing that these bank notes, which are used to pay for the bonds, may be counted as legal reserve of other banks; it is a species of inflation of the circulating medium, and continues a legal fiction which we all know is not true and which is contrary to all sound principles of good banking. It needs no argument to convince anyone who thinks on the subject—for the mere assertion is conclusive—that the proper reserve for bank indebtedness is gold coin, and that no amount of legislation can make any debt equivalent to coin, as a matter of fact.

The indebtedness represented by the notes of one central bank, or of all the banks, is carried by the public, which holds the notes; the Government debt or bonds is the security for this note indebtedness; the public is the creditor in either case.

H. R. 27139.

My proposition is to continue the public as the creditor for the indebtedness of the Government, and leave the banks free to exercise their proper function of note issue under normal conditions, subject only to such reasonable restrictions in the matter of reserves and supervision as the public interest demands.

INTERCHANGEABLE BONDS.

Sections 1, 2, and 3 of the bill provide that the 2 per cent bonds of the Government outstanding be made interchangeable with currency certificates at the option of the holder, the debt to bear interest when in the form of bonds and not to bear interest when in the form of currency. These certificates will represent the bonds deposited and will not be a promise to pay coin on demand, and hence can not be counted as a bank's legal reserve. Being receivable for all debts and demands due the Government and reissuable, they will be accepted readily by the people in their daily interchange of commodities and service, and being redeemable only in the time obligations of the Government can never be a source of embarrassment in times of financial stress or panic. This being done and the provision adopted for the funding of greenbacks, as is also suggested, we shall have one form of Government currency in all of which the Government will be bailee only, being certificates of deposit for either gold, silver, or bonds. The advantages of this procedure may be summarized as follows:

ADVANTAGES.

First. It enables the holder of a Government 2 per cent bond to obtain the currency equivalent at any time he may desire at 2 per cent interest.

Second. It saves the Government the interest thereon so long as the currency is needed, instead of paying such interest to a national bank.

Third. It prevents excessively high rates of interest.

Fourth. It furnishes a convenient and elastic Government currency which will automatically adjust itself in volume to the business interests of the country.

Fifth. It follows the demands of trade, irrespective of the question whether or not the issuance or retirement of circulating notes is profitable to a bank.

Sixth. It has none of the objections existing to the issuance of so-called "greenbacks," not being a legal tender for private indebtedness, and is in no sense "fiat" money.

Seventh. It should be welcomed by all bankers, both State and national, for it enables them to hold a form of quick assets bearing interest convertible at once into actual cash.

Eighth. It can not produce inflation of the currency, for such currency is convertible into interest-bearing obligations whenever redundant.

Ninth. It can not produce exportation of gold under "Gresham's law," being the most desirable form of paper money circulating.

Tenth. It can not cause any increase in the circulating medium, for the reason that practically all United States 2 per cent bonds are now pledged as security for bank circulation, and the banks, in thus disposing of their bonds without loss, must cause a corresponding amount of their own notes to be canceled.

GREENBACKS.

Section 4 allows United States notes (greenbacks) to be converted into 2 per cent bonds, but as these bonds are interchangeable with currency certificates there will thereby be no reduction in the volume of the circulating medium. It will, however, enable the people, if they so elect, to remove from our financial escutcheon the only blot it has by abolishing the only "fiat" money we have; it will substitute coin in the reserves of our banks for the Government debt now allowed to be called reserve, so that reserve may mean what it should mean, namely, coin and coin only, and we may forget the term "legal reserve," invented to cover a fiction made necessary by the Civil War.

BANK CURRENCY.

Section 5 allows banks to issue circulating notes against assets to the extent of one-half of their capital by requiring 50 per cent of the issue to be maintained in gold coin as a legal reserve, of which one-half must be kept with the Treasury. This restores the bank function of circulation, or note issue, which is a necessity of every commercial community. The mechanism of commercial banks can not be properly maintained without this function, and the needs of the community demand it. Deposits in banks are debts which circulate as money through the medium of checks, and bank notes are only similar debts which

Mr. SIMS. I am not intending in this way to advise the President. I am trying to point out what I think would be an ideal member of the Cabinet.

Mr. MANN. Is not the gentleman telling what he will do when he is a member of the Cabinet? [Laughter.]

Mr. SIMS. Mr. Chairman, I have no thought, not the slightest, of ever being so honored.

Mr. CANNON. Has the gentleman in anybody in mind who will fill the bill? [Laughter.]

Mr. SIMS. I have nobody in mind. I am making no insinuations, but I will tell you what I do think, and that is the reason I am making these remarks. I think that within the last hundred years some Presidents of the United States have been misled and have been prejudiced unduly against some people, and have been used to reward others unjustly by reason of the false information given them. I think good Presidents in the last hundred years have done that which they would not have done if they had known the facts. When men secretly, privately, under the guise of friendship, mislead the King, the President, or anyone else, in order to secure some other end than the public welfare, they ought to hang instead of the King or the President. Therefore, I do not believe that such a position ought to be sought, or that it ought to be lobbied for, or that men ought to be appointed by reason of their extraordinary willingness to serve, but that they should be selected with reference to the general welfare with no other motive than that the public good is to be enhanced and not the ambition of some private citizen promoted.

The CHAIRMAN. The time of the gentleman from Tennessee has expired. The Chair will state that the gentleman from Tennessee [Mr. MOON] has 13 minutes remaining, and the gentleman from Kansas [Mr. MURDOCK] has 40 minutes remaining.

Mr. MOON of Tennessee. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana [Mr. COX].

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RAILWAY POSTAL CLERKS PROTEST—PARCEL-POST PACKAGES NECESSITATE EXTRA DUTY, DECLARES THEIR LEADER.

MINNEAPOLIS, MINN., *January 7.*

President Carl C. Van Dyke, of the Railway Mail Clerks' Association, is en route to-day to Washington to take up with Congress committees grievances of the clerks over the parcel-post law.

Not since the threatened strike of railway mail clerks two years ago, declare postal clerks, has there been so much dissatisfaction among the employees as at present. It is charged the department has failed to provide sufficient help, equipment, or car space to handle the flood of parcels.

Before leaving, Van Dyke said: "Several chief clerks have prepared extra duty schedules, so as to handle the parcels. This is unfair to the clerks, who are entitled to sufficient time off to keep up with their distribution."

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PARCEL-POST PLAN MAY CAUSE STRIKE—MAIL CLERKS' HEAD SAYS GOVERNMENT IMPOSES ON 17,000 MEN—HE SCENTS TROUBLE.

Is the attitude of the United States Government, under the Taft administration and Frank Hitchcock, Postmaster General, relative to the parcel post likely to precipitate trouble with the railway mail clerks to the point of a strike?

Carl C. Van Dyke, president Tenth Division Railway Mail Association, says he scents some such trouble.

He declares he believes the Government, under Hitchcock's plans, is endeavoring to hamper the parcel post to the point of proving it a failure and that the influence of express companies is at work along similar lines.

The parcel post, it is admitted, will cause a great increase in postoffice business. The volume, in fact, probably will be immensely increased and perhaps nearly doubled.

No provision, Mr. Van Dyke says, has been made for an increase in men, especially in the railway mail end.

ADJUSTMENT HOPED FOR.

It is confidently expected, however, Mr. Van Dyke says, that the incoming Wilson administration will take swift action and add a sufficient number of men. Otherwise, Mr. Van Dayke says, the mail clerks are likely to revolt.

"No provision has been made to care for the extra parcel-post mail on the road," said Mr. Van Dyke to-day. "The regular yearly increase, 1,000 men in the United States, demanded by increased volume of ordinary mail, is all that has been done. Practically all lines are still tied up from the Christmas mail.

"The situation with the parcel post is getting serious.

"The Government has an 8-hour law for employees. Clerks are supposed to work 8 hours. Even now they exceed that, but with the parcel post they will be forced to work from 10 to 16 hours a day.

"They receive no extra pay for this overtime.

NO ADDITIONAL CARS.

"No provision, in addition, has been made for added mail cars. A million mail clerks can not handle the parcel post and regular mail without increased room. It is impossible. An additional car must be placed on every trunk-line train, such as mail trains between Chicago and the Twin Cities.

"It is a positive essential necessity that local trains be given more mail space.

"For example, Chicago mail-order houses have announced that they will send a carload a day on each trunk line from Chicago of parcel-post matter. No provision has been made to handle this matter.

"Again, a woodenware company, in Watertown, Wis., has announced that it will send a drayload of pails by parcel post every few days. Judged by these two examples, it is easily seen that there must be, and quickly, provision made for handling the traffic.

"The Government may be experimenting, but it is doing so at the expense of 17,000 railway mail clerks, and it is easy to see the impossibilities of the present policy."

Mr. COX. Mr. Chairman, the purpose I had in mind in having the articles read was to get, if possible, the railway postal clerks in the country before the House and before the country in a proper light. It is true beyond doubt that the establishment of the parcel post will throw a tremendous amount of additional work upon the 17,000 railway postal clerks at present in the employ of the Government. I know of no higher class of men in the Government service than the railway postal clerks. Of the millions and millions of tons of mail that are handled yearly, practically the entire amount in some way or other goes through the hands of these 17,000 men. I do not know Mr. Van Dyke, the gentleman who put out the interview, but, if his interview expressed truly the feelings of the railway postal clerks, it might bring a serious condition upon the country. As soon as my attention was called to those articles I asked Mr. Schardt, the president of the Railway Postal Clerks' Association, what would be their position and as to whether or not there was any ground for the reported interview. Mr. Schardt answers me, under the date of January 10, 1913, to the effect that, while it is true that the parcel post will throw a tremendous amount of work on the railway postal clerks, and while they realize that to be true, yet they further realize it to be a fact that the parcel post up until this time and the close of the present fiscal year will to a large extent be experimental, and he informs me, as the president of his association, that the 17,000 railway postal clerks upon whose shoulders this increased burden will fall are perfectly willing to assume the additional burden and work hand in hand with the Government until it is finally determined how much additional work will be thrown upon them.

In other words, whatever additional burdens might be required by the parcel-post legislation, there is no danger of any railway postal clerks being disgruntled and sore.

Now I ask, Mr. Chairman, that the letter be read in the remainder of my time.

The CHAIRMAN. Without objection, the Clerk will read.

The Clerk read as follows:

RAILWAY MAIL ASSOCIATION.
OFFICE OF THE PRESIDENT,
Washington, D. C., January 10, 1913.

Hon. W. E. COX,
Committee on the Post Office and Post Roads,
House of Representatives, United States.

DEAR MR. COX: Replying to your inquiry regarding certain sensational interviews given to the press recently by individuals claiming to speak for the employees of the Railway Mail Service, I beg to advise you that the sentiments expressed in the press dispatches referred to do not in any sense represent the attitude of the rank and file of our service.

The parcel-post service became operative January 1, and one of the dispatches advertising our men as being in revolt against the system was given out January 2. The men of the Railway Mail Service do not complain until they are hurt. They are broad-minded enough to recognize that in the early operations of our newly inaugurated parcel-post system it is inevitable that some complications should arise. Their loyalty and patriotism will prompt them to put forth their best efforts to help the Government make a success of this new feature of the postal service.

The men of the Railway Mail Service have every confidence that as the needs of this service manifest themselves the Government will make adequate provision, so that whatever complications or hardships may arise while the service is adjusting itself to the new conditions shall only be temporary.

The men of our service entertain no thought of revolt or strike, and it is to be regretted that the press dispatches should have advertised us in such an unwarranted light. Such talk is only a part of the pernicious agitation carried on by a few disappointed and disgruntled ex-employees of the service who thrive on the unrest and disloyalty they are able to incite.

Referring to your allusion to the offensive references and insinuating charges directed against the Committees on Post Offices and Post Roads of both the House and Senate during the last session by a publication claiming to represent railway postal clerks, I beg to advise you that we do not indorse the course pursued by this publication. We recognize only too well that such attacks are not calculated to encourage a proper regard in the minds of the younger men of our service for the integrity of Congress. The men who are in the service and have the best interest of the service at heart are desirous of maintaining respectful and cooperative relations with the Congress and the department, and they have no sympathy with the efforts of these outsiders who engender disrespect and contempt for constituted authority and we do not wish to be judged, either by Congress or by the public, by the tactics of these irresponsible individuals.

The Railway Mail Association appreciates what Congress has accomplished for our service, and we know of no better way to show our appreciation than by cooperating with Congress and the Post Office Department in everything that will make for a better and greater service and a satisfied and loyal corps of employees.

Assuring you that the men of the Railway Mail Service will be found ready and willing to do their part to make the parcel post a success, I am,

Sincerely, yours,

P. J. SCHARDT,
President Railway Mail Association.

Mr. MOON of Tennessee. Mr. Chairman, I yield to the gentleman from New York [Mr. LEVY].

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] has but two minutes remaining.

Mr. MURDOCK. Mr. Chairman, I will yield to the gentleman from Tennessee [Mr. MOON] the time he desires to give to the gentleman.

The CHAIRMAN. The gentleman from New York [Mr. LEVY] is recognized.

Mr. LEVY. Mr. Chairman, at the beginning of the investigation of the money question before the Banking and Currency Committee I insisted that what we required was remedial legislation and not investigation, as the public was thoroughly acquainted with the situation.

I have introduced a bill (H. R. 27139), which bill provides a remedy for the defects of our currency system without attempting to formulate a new and untried system, which may or may not be suited to our wants, and is of much more importance to the banking community than the investigation which is now being conducted by the House. Therefore I take this opportunity to address the House, and when it is reported out from the Committee on Banking and Currency and comes before the House I shall make a more complete statement.

CENTRAL BANK.

I do not believe in a central bank, though it may be called by a different name. The dominant political party has condemned it in its platform, and, I believe, that condemnation is wise and in accordance with true Democratic doctrine. To vest any one corporation with the exclusive right to issue paper money is to transfer sovereign power from the people and to constitute a monopoly, compared with which all so-called trusts and combinations in restraint of trade are but pigmies. We want no giant vested with a power which can destroy the very liberties of a self-governing people. We must preserve the separate units of our banking system free from the concentrated control of any one powerful organization.

DEFECTIVE SYSTEM.

I concede, as everybody does, that we have a defective banking system, but I feel sure these defects have come from unwise legislation originally begun as a war necessity, which can be pointed out and remedied, and I do not believe it is necessary to legislate in antagonism to the whole theory of our form of government in order to remedy these defects.

After giving much thought and study to the subject, I believe the cause of our monetary troubles may be succinctly stated thus:

The destruction of the bank function of note issue and the false assumption that debt represented by paper money is equivalent to coin.

I maintain that the present restricted issue of bank currency is not the exercise of the bank function of note issue (or circulation), and that so long as it exists we can have no elasticity in such circulation and no issue of bank debts in the form of currency responsive to the demands of trade.

All students of the subject, by different processes of reasoning, have reached the conclusion that a bond-secured bank currency can never be responsive to the demands of a commercial community. I think a satisfactory explanation of that fact is that such currency is really issued in payment of the Government debt it represents, and hence can not be issued in response to a commercial demand.

ALDRICH REMEDY.

We must therefore get rid of this bond-secured bank currency, and the question is, How? Mr. Aldrich's remedy is for one central bank to issue its notes and thereby take up all the present bank notes outstanding, receiving the bonds held as security, and increase the interest to be paid on such bonds 1 per cent, or about $7,000,000 per annum. He makes these notes a "legal reserve" for other banks, thus continuing the fiction that a debt is equivalent to coin—one of our great sources of trouble.

I can not see what benefit accrues to the public from having this bond-secured currency issued by one instead of many banks; the want of flexibility or elasticity remains the same to the extent that such issuance is used to pay for the Government debt represented by the bonds taken over. I can see a very distinct disadvantage in providing that these bank notes, which are used to pay for the bonds, may be counted as legal reserve of other banks; it is a species of inflation of the circulating medium, and continues a legal fiction which we all know is not true and which is contrary to all sound principles of good banking. It needs no argument to convince anyone who thinks on the subject—for the mere assertion is conclusive—that the proper reserve for bank indebtedness is gold coin, and that no amount of legislation can make any debt equivalent to coin, as a matter of fact.

The indebtedness represented by the notes of one central bank, or of all the banks, is carried by the public, which holds the notes; the Government debt or bonds is the security for this note indebtedness; the public is the creditor in either case.

H. R. 27139.

My proposition is to continue the public as the creditor for the indebtedness of the Government, and leave the banks free to exercise their proper function of note issue under normal conditions, subject only to such reasonable restrictions in the matter of reserves and supervision as the public interest demands.

INTERCHANGEABLE BONDS.

Sections 1, 2, and 3 of the bill provide that the 2 per cent bonds of the Government outstanding be made interchangeable with currency certificates at the option of the holder, the debt to bear interest when in the form of bonds and not to bear interest when in the form of currency. These certificates will represent the bonds deposited and will not be a promise to pay coin on demand, and hence can not be counted as a bank's legal reserve. Being receivable for all debts and demands due the Government and reissuable, they will be accepted readily by the people in their daily interchange of commodities and service, and being redeemable only in the time obligations of the Government can never be a source of embarrassment in times of financial stress or panic. This being done and the provision adopted for the funding of greenbacks, as is also suggested, we shall have one form of Government currency in all of which the Government will be bailee only, being certificates of deposit for either gold, silver, or bonds. The advantages of this procedure may be summarized as follows:

ADVANTAGES.

First. It enables the holder of a Government 2 per cent bond to obtain the currency equivalent at any time he may desire at 2 per cent interest.

Second. It saves the Government the interest thereon so long as the currency is needed, instead of paying such interest to a national bank.

Third. It prevents excessively high rates of interest.

Fourth. It furnishes a convenient and elastic Government currency which will automatically adjust itself in volume to the business interests of the country.

Fifth. It follows the demands of trade, irrespective of the question whether or not the issuance or retirement of circulating notes is profitable to a bank.

Sixth. It has none of the objections existing to the issuance of so-called "greenbacks," not being a legal tender for private indebtedness, and is in no sense "fiat" money.

Seventh. It should be welcomed by all bankers, both State and national, for it enables them to hold a form of quick assets bearing interest convertible at once into actual cash.

Eighth. It can not produce inflation of the currency, for such currency is convertible into interest-bearing obligations whenever redundant.

Ninth. It can not produce exportation of gold under "Gresham's law," being the most desirable form of paper money circulating.

Tenth. It can not cause any increase in the circulating medium, for the reason that practically all United States 2 per cent bonds are now pledged as security for bank circulation, and the banks, in thus disposing of their bonds without loss, must cause a corresponding amount of their own notes to be canceled.

GREENBACKS.

Section 4 allows United States notes (greenbacks) to be converted into 2 per cent bonds, but as these bonds are interchangeable with currency certificates there will thereby be no reduction in the volume of the circulating medium. It will, however, enable the people, if they so elect, to remove from our financial escutcheon the only blot it has by abolishing the only "fiat" money we have; it will substitute coin in the reserves of our banks for the Government debt now allowed to be called reserve, so that reserve may mean what it should mean, namely, coin and coin only, and we may forget the term "legal reserve," invented to cover a fiction made necessary by the Civil War.

BANK CURRENCY.

Section 5 allows banks to issue circulating notes against assets to the extent of one-half of their capital by requiring 50 per cent of the issue to be maintained in gold coin as a legal reserve, of which one-half must be kept with the Treasury. This restores the bank function of circulation, or note issue, which is a necessity of every commercial community. The mechanism of commercial banks can not be properly maintained without this function, and the needs of the community demand it. Deposits in banks are debts which circulate as money through the medium of checks, and bank notes are only similar debts which

circulate as money by delivery. The fixed restriction by law of the amount of bank indebtedness, which can be expressed in bank notes, has been the principal cause of our financial panics, and certainly the only cause of solvent bank suspensions, to which we alone of all civilized nations have been subject.

Uniformity of circulation at par everywhere is provided by having one place of redemption; knowledge of the volume outstanding is secured by Government supervision as now. Elasticity is obtained by the coin-reserve requirement, as the Treasury will become the clearing house for all bank circulation, each bank sending in for redemption the notes of other banks in order to maintain its own gold reserve. Thus we shall secure for the country a bank currency on a gold basis, circulating at par everywhere, which adjusts itself automatically to the demand of trade.

RESERVE CREDIT.

Section 6 amends the emergency act of May 30, 1908, so as to make it available in case of need by repealing the requirement for having 40 per cent of capital in bond-secured circulation, and also repeals the expiration clause of said act.

It is a well-known principle of banking that in times of financial distress and panic there must exist some source from which undoubted credit may issue. Until the Aldrich-Vreeland law we had no legal method whereby banks could combine and issue their joint negotiable evidence of indebtedness, which would control credit and allay panics. The various clearing houses of the country have, however, been compelled to issue clearing-house certificates not only for their own protection but for the general protection of the whole financial structure; these certificates being the joint and several obligations of all the clearing-house banks, have invariably served their purpose and been the means, though of doubtful legality, of allaying panicky conditions and preserving the credit system from a general collapse.

The law of May 30, 1908, utilized the knowledge of the benefits of this experience and authorized the formation of NATIONAL CURRENCY ASSOCIATIONS, which are practically a combination of separate banks authorized to do legally and promptly what they had heretofore done, only when compelled by necessity, irrespective of the law. Under the Aldrich-Vreeland law we have now existing 296 banks combined into 18 national-currency associations with an aggregate capital and surplus of $575,526,720. The general benefit to be derived from these organizations in time of need may be incalculable, and as a matter of precaution they should be preserved.

UNIFORM TAX.

Section 7 repeals the prohibitive tax on the circulation of NATIONAL CURRENCY ASSOCIATIONS and leaves the tax the same as on other national-bank circulation.

The theory on which this excessive tax was fixed was to prohibit any issuance of notes, except in case of the direst necessity, by depriving the banks of any profit thereon.

The theory of regulating the volume of the circulation by taxation is wrong; banks should be free to express their indebtedness either as a deposit or as a circulating note, in whichever form the customer requires. In the case of the national-currency association the issuance of notes will never be resorted to, except as a means of self-protection and public necessity; the inherent provision of their organization—that all the banks are liable for the indebtedness of any one bank—will, in practice, be a sufficient barrier to incurring such indebtedness in the form of a circulating note if no tax whatever be imposed.

TREASURY FUNDS.

Section 8 requires the Secretary of the Treasury to deposit with the banks any redundant funds of the Treasury in excess of $20,000,000; provides uniform security in all cases, but requires the rate of interest which shall be paid to be fixed by competitive bids.

It has always been considered one of the defects of our financial system that when revenues are largely in excess of expenditures the available circulating medium is contracted by the amount of such excess. Usually the defect is said to be inherent to a separate Treasury system, and the fact is used as an argument for its abolishment.

The truth is, that this defect comes from the destruction of the bank function of note issue, and hence the restricted amount of the currency or form in which the Treasury makes its collections. No financial system can be considered workable or desirable which does not allow Government revenues to be collected without disturbance.

The separate Treasury system, confirmed by 75 years' experience, is most desirable and efficient, and it can be readily adapted to our banking mechanism by simply fixing a limit beyond which its collections do not withdraw the circulating medium from the ordinary channels of trade.

The bill suggests $30,000,000 as this limit. I am informed $25,000,000 available cash or working balance will fully meet all the requirements of the Treasury.

FOREIGN TRADE.

Section 9 allows banks with $5,000,000 capital and surplus to establish foreign branches for the purpose of enlarging and facilitating trade with foreign countries.

The banking capital of the country is consolidated through corporate organizations, and these corporations are not allowed, under the law, to extend the usual facilities which are a necessary requisite of foreign commerce. The purpose of this section is to remedy this defect.

REAL ESTATE LOANS.

Section 10 allows national banks to loan 20 per cent of capital and surplus on real estate security, not because this is sound practice for commercial banks, but because the banks in agricultural communities find it necessary in their legitimate competition with State banks. In response to an inquiry made by the Comptroller of the Currency, 81 per cent of the banks favored this extension of corporate power.

RESERVE AGENTS.

Section 11 prohibits the iniquitous practice of allowing country banks from counting their debit balances against banks located in reserve cities as a part of their legal reserve. The provision of the national bank act allowing this practice was a corollary of the greenback idea that legislation can make a paper debt equivalent to coin. Under such provision the following may be mentioned as some of the absurd results and ill effects:

First. It allows a country bank to convert its own debt, in the form of a circulating note and the similar debt of another bank, into what the law calls a "legal reserve"—"equivalent to coin." The country bank has only to send its notes, or other bank notes, to a reserve city bank and then call the debt "Due from reserve agents."

Second. It diminishes the "legal reserve" required for the whole country by converting the debt of a reserve agent into what is called a "legal reserve." The reserve required under the law for the country bank is eliminated, and the city bank is required to hold a reserve only on its debt to the country bank.

Third. It accumulates in the reserve cities a great volume of undesirable indebtedness called "deposits" or "due to banks," which does not represent the bona fide debts of banks utilized by the industrial community to circulate as money through the medium of checks. Such debts are subject to interest charges and at the same time must be available to the country banks for the legitimate needs of trade. Hence arises the practice of call loans at the stock exchange, thereby forcing the use of this capital for speculative purposes, with the immense variations in rates of interest to which such loans are subject, and the unrest produced in the public mind, not only by such variations but by the rapid rise and fall in the price of securities caused thereby.

DEBT LIMIT.

Section 12 limits the liabilities of banks in proportion to their capital and surplus—that is, in proportion to the margin of security they offer for their indebtedness—and thus places a limit beyond which banks can not be used in overtrading and speculation. The present limit to expansion is fixed only by the amount of reserve required on deposits.

It would seem reasonable and desirable for the general good that bank debts, which are the instruments or substitutes for coin by which the daily interchange of commodities and service is made among the people, should be limited in proportion to the margin of security they furnish. This is the rule and practice in every commercial transaction, and the law in the case of many municipalities.

It is proposed that banks, which under the law are required to carry 15 per cent reserve, shall be limited in liabilities to five times their capital and surplus, and that banks which carry 25 per cent reserve be limited to ten times their capital and surplus, thus making in both cases 35 per cent margin of security when the maximum of liability is attained.

The tendency of this provision will be to induce banks to accumulate surplus earnings and to increase capital stock instead of indebtedness when business requirements demand additional capital, both of which are to the public benefit.

UNIFORMITY OF DEPOSITS.

Section 14 allows the Treasurer of the United States to transfer funds from place to place without charge, and requires

banks to do likewise, so as to produce uniformity in bank deposits throughout the country.

We have the bank debt, in the form of currency, circulating at par everywhere, by having one place of redemption, and there is every reason to believe that the other form of debt, called deposit, may be made equally current.

It is hoped this provision may induce the banks to have one central clearing house for checks, and it would appear that this can be accomplished by extending the membership of the principal Clearing House Association to embrace as a member each of the clearing houses of the central reserve cities and of such other reserve cities as might desire membership. [Applause.]

A bill (H. R. 27139) to amend the national banking laws.

Be it enacted, etc., That any holder of any obligation of the United States bearing interest at the rate of 2 per cent per annum may present the same to the Treasurer or any assistant treasurer thereof and receive in exchange therefor an equal amount of noninterest-bearing certificates of deposit in denominations of $5, $10, $20, $50, and $100 each at the holder's option. Such certificates shall be receivable at their face value for all taxes, debts, and demands due the United States, except customs, and when so received may be reissued.

SEC. 2. That the holder of any such certificate may, at his option, present the same to the Treasurer of the United States and receive in exchange therefor, when presented in multiples of $100, interest-bearing obligations of the Government to the face value of such certificates, bearing interest from the date of such exchange at the rate of 2 per centum per annum, and payable on the same terms and conditions as the original obligation represented by such certificates.

SEC. 3. That the exchange of interest-bearing obligations for certificates of deposit and the reexchange thereof shall be subject to such rules and regulations as the Secretary of the Treasury may adopt in order to facilitate the free interchange thereof.

SEC. 4. That any United States note when presented in multiples of $100 may be converted at par into United States bonds bearing 2 per centum interest per annum, and payable at the option of the Government, and when so converted shall be canceled and destroyed.

SEC. 5. That any national banking association may upon application receive from the Comptroller of the Currency circulating notes to the full amount of its capital stock; such notes are to be secured either by United States bonds, as now required by law, or by a gold coin reserve of 50 per cent of the amount not secured by United States bonds; of such gold coin reserve at least one-half shall always be kept with the United States Treasury, to the credit of such banking association, available for the redemption of the circulating notes upon presentation. Certificate of deposit for gold coin, issued by the United States Treasury, shall be considered as equivalent to gold coin.

All circulating notes issued under the provisions hereof shall constitute a prior lien on all the assets of the issuing bank, and in case of liquidation, whether voluntary or involuntary, all such outstanding notes shall be redeemed and canceled, or a sufficient amount therefor deposited with the United States Treasurer before any division of assets among other creditors. In the event there should be insufficient assets to pay the outstanding circulating notes of the liquidating bank, any deficit shall be assessed and paid pro rata by all other banks having outstanding circulating notes under the provisions of this act at the time of such assessment.

SEC. 6. That the act of May 30, 1908, is hereby amended as follows: In section 1 and section 3 the words following the word "outstanding" are hereby repealed and erased, to wit, "secured by the deposit of bonds of the United States to an amount not less than 40 per centum of its capital stock." Section 20 of said act of May 30, 1908, limiting its duration is also hereby repealed.

SEC. 7. That all circulating notes issued under the provisions of the act of May 30, 1908, shall be subject to the same rate of taxation as provided by section 5214 of the Revised Statutes, prior to the passage of said act, for circulating notes issued against a deposit of United States bonds bearing 2 per centum interest.

SEC. 8. That whenever the available cash balance in the Treasury shall exceed the sum of $30,000,000 it shall be the duty of the Secretary of the Treasury, in his discretion, to require such excess to be distributed equitably and deposited to the credit of the Treasurer of the United States in such designated banks as may by him be selected. Such deposits shall bear interest as may be determined by competitive bids, and are to be payable on demand to the order of the Treasurer, or such person as he may designate, and are to be limited in amount as to any one bank to 50 per centum of its capital and surplus, but the Secretary shall require, before any deposit is made, adequate security to the full extent of such deposit. They may be secured by a deposit with the Treasurer of bonds which are a legal investment for postal savings banks, or by approved commercial bills or notes maturing within four months, indorsed by the depository bank, the face value of such notes to be at least double the amount secured thereby. Such deposits may also be secured by the guaranty or indorsement of the National Currency Association (organized under the act approved May 30, 1908), of which the depository bank is a member. In case of voluntary or involuntary liquidation such deposits shall constitute a prior lien on all the assets of the depository bank.

SEC. 9. That any national banking association having a paid-up capital and surplus amounting to $5,000,000 may establish one or more places of business in the capital or a seaport city of any foreign country for the purpose of facilitating exchanges, granting letters of credit, dealing in gold coin or bullion, and such other business as is authorized by its charter; but such association shall not issue or receive from the Comptroller of the Currency circulating notes in any other unit of value than the dollar of the present standard, though it may be expressed upon the fact of such circulating note the equivalent in foreign gold coin at which it is redeemable on presentation. Such place of business shall be denominated a foreign department or branch, and shall be subject to the same visitorial and other powers as are now conferred by law on the Comptroller of the Currency for all national banking associations; any additional expense attending the periodical examination of such foreign department or branch or the issuance of its circulation shall be assessed and paid by the parent institution.

SEC. 10. That it shall be lawful for any national banking association to loan of its assets not exceeding 20 per centum of its capital and surplus upon real estate security.

SEC. 11. That all provisions of the national-bank act allowing balances due from other banks located in designated reserve cities to be counted as a part of a bank's "legal money reserve" are hereby repealed.

SEC. 12. That the total liabilities of any national banking association (exclusive of its capital stock and surplus) now required by law to keep 15 per centum lawful money reserve shall not exceed five times its capital and surplus, and the similar liabilities of any national banking association now required by law to keep 25 per centum lawful money reserve shall not exceed 10 times its capital and surplus, unless in each case such excess liabilities are fully covered by additional cash assets equal to such excess.

SEC. 13. That the Treasurer or any Assistant Treasurer of the United States is hereby authorized to transfer funds without charge from any depository bank or subtreasury to another against a deposit with him of gold coin or currency, and hereafter it shall be unlawful for any national banking association to make any charge for exchange in making similar domestic transfers.

SEC. 14. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

The CHAIRMAN. The gentleman from Tennessee has one minute remaining.

Mr. MOON of Tennessee. I ask the gentleman from Kansas [Mr. MURDOCK] if he wishes to use any of his time.

Mr. MURDOCK. I will say to the gentleman that there is no request for time on this side.

Mr. MOON of Tennessee. Then I ask the Clerk to read.

The Clerk read as follows:

For salaries of post-office inspectors: For salaries of 15 inspectors in charge of divisions, at $3,000 each; 10 inspectors, at $2,400 each; 15 inspectors, at $2,250 each; 26 inspectors, at $2,100 each; 15 inspectors, at $2,000 each; 29 inspectors, at $1,900 each; 65 inspectors, at $1,800 each; 65 inspectors, at $1,700 each; 75 inspectors, at $1,600 each; and 65 inspectors, at $1,500 each; in all, $704,450: *Provided*, That, for the purpose of inspecting and investigating rural-delivery routes and proposed rural-delivery routes, a number of inspectors, not exceeding 30, shall be placed subject to the orders of the Fourth Assistant Postmaster General whenever and for such periods as in his judgment they may be needed for that purpose.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I notice in this paragraph the items are all precisely the same as in the current law, with the exception that the number of inspectors at $1,700 each is reduced from 75 to 65. The total amount appropriated is not reduced at all.

Mr. LLOYD. Mr. Chairman, the number should be 75.

Mr. MANN. I thought probably that was a clerical error.

Mr. LLOYD. Mr. Chairman, I move to amend by making the number of those who receive salaries at $1,700 75 instead of 65.

The CHAIRMAN. Without objection, the pro forma amendment offered by the gentleman from Illinois [Mr. MANN] will be withdrawn. The gentleman from Missouri [Mr. LLOYD] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 2, line 8, strike out the second word "sixty-five," and insert the word "seventy-five."

Mr. MURDOCK. Mr. Chairman, that is the recommendation of the department, is it?

Mr. LLOYD. Yes, sir; that is the recommendation of the department, and it is the same as the existing law.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Missouri [Mr. LLOYD].

The amendment was agreed to.

The Clerk read as follows:

For per diem allowance of inspectors in the field while actually traveling on official business away from their homes, their official domiciles, and their headquarters, at a rate to be fixed by the Postmaster General, not to exceed $3 per day, $261,400.

Provided, That the Postmaster General may, in his discretion, allow inspectors per diem while temporarily located at any place on business away from their homes or their designated domiciles for a period not exceeding 20 consecutive days at any one place, and make rules and regulations governing the foregoing provisions relating to per diem: *And provided further*, That no per diem shall be paid to inspectors receiving annual salaries of $2,000 or more, except the 26 inspectors receiving $2,100 each.

Mr. BARTLETT. Mr. Chairman, I have an amendment which I wish to offer.

The CHAIRMAN. The gentleman from Georgia [Mr. BARTLETT] has an amendment which the Clerk will report.

The Clerk read as follows:

Amend, page 3, at the end of line 5, by inserting:

"*And provided further*, That no part of the sums herein provided for the salaries of post-office inspectors or for per diem allowances to such inspectors shall be paid or allowed to them while they may be engaged in making selections and recommendations for the appointment of fourth-class postmasters."

Mr. LLOYD. Mr. Chairman, I reserve a point of order against that.

Mr. BARTLETT. Mr. Chairman, I do not think the amendment is subject to the point of order. I will not discuss that, because really it is a limitation as to the expenditure of the money. This question as to whether it was subject to a point of order was decided by the chairman who presided over the Committee of the Whole House on the state of the Union when the legislative, executive, and judicial appropriation bill was under consideration, and I think the Chair is informed as well

new of the parliamentary precedents as he would be if I should discuss it for any length of time. It is a limitation on the expenditure of the money provided for in this particular paragraph for these particular officers.

Now, Mr. Chairman, the gentleman from Tennessee [Mr. MOON], in charge of this bill, stated that in the matter of fourth-class post offices there was no reason why the Government should be involved in any expense whatever. I hold in my hand the order and the regulations promulgated by the Civil Service Commission and by the Postmaster General, and approved by the President, carrying out his order of October 15, 1912, in which he placed the fourth-class offices, which had not already been by the preceding administration put under the civil service. I had occasion on the 6th of December, when I offered a similar amendment to the executive, legislative, and judicial appropriation bill, to call attention to this order and to offer the same amendment to that bill. I concede now that it was not exactly in place upon the legislative, executive, and judicial appropriation bill as I offered it, and the reason, I apprehend, that it was not received more favorably by the committee then considering the bill was that it was awkwardly expressed in relation to the subject matter then being considered by the committee. And I remember very well that the gentleman from New York [Mr. FITZGERALD], and those who opposed it, insisted that that was not the proper place in which to make such an amendment. Now we have the proper place for it. We have the Post Office appropriation bill here to provide for the salaries and the per diem, and the expenses of the post-office inspectors. Now, Mr. Chairman, at the time of this order there were some thirty-six thousand three hundred and odd offices covered into the civil service.

Of this number 31,799 would come under the provisions of the order and regulation which permits post-office inspectors to investigate, to make reports and recommendations with reference to the appointment of these fourth-class postmasters. So that we have here a provision for the pay of 395 post-office inspectors; upon this order devolves the duty of selecting fourth-class postmasters.

Last year when the appropriation bill for the Post Office was up I had occasion to call attention to the fact and to read from hearings before the committee as to why it was that those of us who are entitled to the consideration of our applications from our districts to establish and extend the rural free-delivery routes had been met with the statement from the Post Office Department that there had been this long delay in the establishment of rural routes because the inspectors were engaged on other work.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. Mr. Chairman, I ask for 10 minutes more. Then I shall not ask any further time.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. BARTLETT. I understand, Mr. Chairman, that I am proceeding in order when I discuss the merits of the amendment.

Mr. LLOYD. Mr. Chairman, in order that there shall be no question about that, I withdraw the reservation of the point of order and will let this be voted on upon its merits.

Mr. BARTLETT. Now, Mr. Chairman, we know that these inspectors were engaged on the business that had accumulated in the department, on frauds that had been perpetrated in the use of the mails, and we were told that that was one reason why this service of rural routes could not be extended, as contemplated by Congress. We were also met with the report that out of the money appropriated by Congress for this service there remained $1,200,000 unexpended. We were also met with the statement that there were applications that had received the favorable indorsement of the inspectors for two years remaining unacted upon.

Now, it is proposed by this order to place 36,000 post offices under the civil-service law, and to burden the inspectors of the Post Office Department with the duty of selecting or rather recommending for appointment 32,000 of these. Now, Mr. Chairman, speaking for myself—and I believe for the section of country from which I come—I do not appreciate that keen desire to look after the civil service and its proper observance that waits until these offices have been filled, without regard to the recommendations of the patrons of the offices, without any recommendations from the Representatives of the people in those districts, without even consultation, until those offices had been filled by the indorsement of those whom this Republican administration has seen fit to call its referees in those various States, and when those various postmasters from the first to the fourth class have, for four successive presidential campaigns, been called upon to aid in furnishing delegates favorable to the nomination of some one candidate for President. I say I do not relish that or appreciate that keen desire now on the part of the Executive to cover hurriedly into the civil service the men thus appointed to fourth-class post offices in the section from which I come.

Now, let us see what these inspectors will have to do in connection with appointments to offices having an annual compensation of less than $500, and there are some 32,000 of them embraced in this order. Those appointments will be made in the following manner:

When a vacancy has occurred or is about to occur in any such office, the Postmaster General shall direct a post-office inspector to visit the locality and make selection and recommendation for appointment from among the persons filing applications, such selection and recommendation to be based solely upon the suitability of the applicant and his ability to provide proper facilities for transacting the business of the office. The inspector shall make his report in duplicate and accompany each duplicate with a list of all applicants. Such report shall include a statement of the qualifications of each applicant and of the reasons for the selection and recommendation. The Post Office Department shall transmit to the Civil Service Commission one copy of such report, showing its action thereon.

Now, the duty is devolved upon these inspectors by this civil-service order—not by a statute, but by an order of the President and the Civil Service Commission, approved by the Postmaster General—and this increases the duties of these inspectors and puts an additional duty upon them to go to the communities where there is a vacancy, to investigate and hear all the applicants, to take the testimony, and make a selection or report or recommendation to the Postmaster General. Now, I apprehend that some of us are going through the process of being told who is the best man to serve as postmaster in a particular office. I know I am.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. BARTLETT. Yes.

Mr. LLOYD. Suppose this order should not be revoked or materially changed. Would the gentleman have these inspectors render the service without compensation?

Mr. BARTLETT. No; I would not. But this is the only way I can legitimately put upon this bill my disapproval, and I apprehend that the Postmaster General, if Congress will not permit him to pay for this, will not require this service. If this bill becomes a law and carries this provision, I hope in the near future that this pretension, this sham reform in the civil service, will meet at the hands of the incoming President the fate it deserves—to be suspended or revoked altogether. So far as I am concerned, I have no hesitancy in saying that I hope he will revoke it. But for the reason that the proposition would be in violation of the rule, I would offer in this bill an amendment to revoke it by legislative action.

Now, Mr. Chairman, I have no desire to punish the inspector. I have no desire to say that the inspector shall not be paid what he deserves or for the work that he performs. But will the gentleman from Missouri [Mr. LLOYD] tell me what authority the Civil Service Commission has to direct how the postmasters shall be appointed? What authority have they to require that the inspector shall investigate and make this report for appointment of postmasters?

Mr. LLOYD. Mr. Chairman, under the law at the present time the Postmaster General makes the appointments of fourth-class postmasters, and the President of the United States made this order.

Mr. BARTLETT. Yes; that is true. But I apprehend the Postmaster General, if Congress adopts this provision, will not require the inspectors to perform a service for which they are not paid, and the Postmaster General will not allow them a per diem and will not force them to perform service for which they shall not be paid.

Mr. GARNER. Mr. Chairman, will the gentleman from Georgia permit me to ask the gentleman from Missouri a question?

Mr. BARTLETT. Yes.

Mr. GARNER. Do I understand the gentleman from Missouri to say that this is the best way to enforce the Civil Service Commission's rules with reference to fourth-class postmasters?

Mr. LLOYD. No, sir. I am not taking any position about it at all. The only thing pending is the amendment offered by the gentleman from Georgia, and the purpose of the questions I have asked him is to draw out his opinion and to get his views on it. I am not taking any position on it as yet.

Mr. BARTLETT. Now, Mr. Chairman, the purpose of this was to acquire information as to the qualifications, and yet in reference to fourth-class postmasters their qualifications are to be ascertained by an examination conducted in accordance with the circular which I have in my hand, proceeding from the Civil Service Commission. But that only applies to about

4,000 officers embraced in this last order. When it comes down to the vast majority of these officers—32,000—no qualification is necessary except the indorsement of the post-office inspector. So that is another travesty upon the effort to improve the civil service. In 4,000 offices they must be efficient, as shown by an examination. In 32,000 they only have to satisfy the post-office inspectors.

Mr. COX. Will the gentleman yield for a question?

Mr. BARTLETT. Certainly.

Mr. COX. The gentleman does not believe, does he, that the purpose of the civil-service law has been carried out in the selection of fourth-class postmasters or rural route carriers or any others?

Mr. BARTLETT. I do not think it has been carried out in my section in the selection of fourth-class postmasters, because they have all been selected regardless of anything except the indorsement of the three Republican referees of the State of Georgia, and the same in other Southern States likewise.

Mr. COX. The gentleman believes that politics has played a very important part?

Mr. BARTLETT. Not only a very important part, but the chief part. The sole requirement is the indorsement of the political referees.

Mr. COX. What has been the politics of the fourth-class postmasters who have been selected?

Mr. BARTLETT. Where they could get a Republican, they took him. Where they could get a man who was not a Democrat, they took him. When they could do nothing else, they took a Democrat; and sometimes they appointed a woman.

Mr. COX. Can the gentleman give any idea about what proportion of postmasters are Republicans and what proportion Democrats?

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. I should like a few minutes more. I have no information upon that subject, because when it became a fact that men not residing in my district, who had no interests there, were the authority who selected the postmasters in my district, whether they were wanted by the patrons or not, I had nothing further to do with it and did not feel that I was called upon to keep posted as to what number were of one political faith and what number were not. Fortunately, in my part of the country it was very rare that they could find a Republican.

Mr. GARNER. But wherever they could find a Republican they invariably appointed him, regardless of the sentiment of the community to be served?

Mr. BARTLETT. Yes; and they appointed that man, whether he called himself a Democrat, a Populist, or nothing, and sometimes a lady, who had the indorsement of the political referees or of a member of the Republican committee in that district; and sometimes, as the facts will show, those appointments were sold, so much being paid for the recommendation, not to the three referees, but to the particular committeeman in the district who recommended him, whose recommendation was all powerful with the referees; so much so that this Congress passed a law making it a crime to pay money for recommendations to office, and that law was passed in this House at the instance of my colleague, Mr. HARDWICK, because of this abuse in the recommendations for the appointment of postmasters. Therefore, I say that it a late day to wake up to realize that the post offices need "civil-service reform."

Mr. CLINE. I should like to ask whether civil-service examinations for fourth-class postmasters extend also to assistant postmasters in first, second, and third class offices when vacancies occur?

Mr. BARTLETT. I think so. I see from the testimony of the First Assistant Postmaster General that there are no assistants in the third-class post offices, except that provision is made in addition to the salary of the postmaster, who himself employs his assistants out of that salary. In the first and second class offices I understand that, they having been covered into the classified civil service in 1910 by order of the President, they now are to be appointed by promotion from those who are are on the civil-service list, and assistant postmasters are to remain covered in as they were by that order; or, if a vacancy occurs, they are to be appointed under the civil-service law by promotion from the employees in the post office. That I understand to be the testimony of Dr. Grandfield, First Assistant Postmaster General. That is as far as I can answer the gentleman's question.

Mr. FOWLER. Mr. Chairman, I move to amend the amendment by striking out the last word.

I am not unmindful of the high duties imposed upon post-office inspectors. Neither am I unmindful of the great necessity of having such public servants; but within the last year I have found certain post-office inspectors making trips down into southern Illinois and making unfair investigations in at least two instances. I rise for the purpose of protesting against any man—public servant—being sent into any locality for the purpose of serving any other purpose than that of high moral and important duty to the United States. I insist, Mr. Chairman, that no post-office inspector has a right to go into any community as the servant of any class of men in that community or elsewhere for the purpose of making an unfair investigation so that the record of an incumbent postmaster may be blotted by a foul and unholy report made for that purpose. I insist that wherever such has been the case and wherever it is attempted public opinion and public interest ought to be respected and protests ought to be sent in by the people to the Post Office Department.

I have no disposition to criticize the Post Office Department of this country, but I do have a disposition to protest against any investigation in my district for the purpose of bringing about a partisan or an unfair investigation of the management of any post office in my district. My first duty is to my district, and my second duty is to the other districts of my country. And wherever an attempt is made to investigate a post office in my district for the purpose of gratifying the desire or whim of any set of men who seek to make a false record of local sentiment or to blacken the record of any incumbent postmaster, whether he be Republican or Democrat, Progressive or otherwise, as long as I represent that district I shall protest against it.

Mr. Chairman, I have discovered in one instance wherein one of these post-office inspectors fell into the hands of a certain class of men who sought no other end than that of defeating the will of the majority of the people in that town, and his recommendations, which were founded on the evidence of this class of people, were taken by the Post Office Department as the truth and as the will of the people of that town. I withdraw my pro forma amendment.

Mr. MANN. Mr. Chairman, the Constitution of the United States in describing the power of the President provides that—

He shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

It is quite within the power of Congress to provide that fourth-class postmasters shall be appointed by the Postmaster General, taking it wholly out of the hands of the President. President Taft has issued an order providing that these appointments shall be made through the Civil Service Commission and—in fact, to a large extent—through the post-office inspectors. It is within the power of Dr. Wilson, who will be President after the 4th of March, to revoke that order instantly, if he desires to do so, and to provide that fourth-class postmasters throughout the Union shall be appointed hereafter as they were appointed 10 years ago.

Now, the gentleman from Georgia [Mr. BARTLETT] offers an amendment, which my colleague from Illinois [Mr. FOWLER] supports, that the inspectors shall not be paid for services which they render. Of course, if Congress provides that the inspectors shall not be paid, the President will provide an order under which somebody else under the Civil Service Commission will select these fourth-class postmasters. It would not change the selection under the civil-service order except the manner of selecting them, and certainly President Taft will not be overwhelmed by Congress providing that the post-office inspectors shall not be paid when they render services in selecting postmasters. All he has to do is to change the order and provide that they shall be selected, as most other employees in the classified service are selected, purely through the Civil Service Commission.

If that side of the House really desires to place itself on record in favor of the spoils system, the proper way to do it is to pass a law, which you have the power to do, providing that these officers shall be appointed by the Postmaster General, or else get Dr. Wilson to state that he will revoke the order, and when he is installed as President let him revoke the order.

Mr. GARNER. Will the gentleman yield?

Mr. MANN. I will.

Mr. GARNER. If I understand the tenor of the gentleman's remarks, does he believe in selecting fourth-class postmasters by civil service?

Mr. MANN. I believe in selecting all administration officers of the Government, outside of the very heads, through the merit system. They are all in the civil service, and I do not know exactly what the gentleman means.

Mr. GARNER. Does the gentleman believe it to be fair and in the best interests of the Post Office Department to cover into the civil service in the State of Texas all fourth-class post-

masters who have been selected by one man, regardless of the views of the patrons to be served or the qualifications of the men who render the service?

Mr. MANN. These men are in the offices, and they can be removed if there are any charges against them for which they ought to be removed. They can be removed by the next administration as well as by the present administration. There are thousands of Democrats holding office in Washington now who were covered into the classified service by order of President Cleveland, issued as he was leaving his office. We are not complaining about that. What you complain of is an order issued by President Taft covering a portion of the fourth-class offices into the classified service because it happens to hit you now.

Mr. NORRIS. Will the gentleman yield?

Mr. MANN. I will.

Mr. NORRIS. I would like to ask if it is not true that every order that has ever been issued by a Republican or a Democratic President has covered into service men who were then holding positions?

Mr. MANN. Of course; that is always the case.

Mr. NORRIS. And always must be the case.

Mr. MANN. Yes; there is no other way to provide for the extension of the civil service except in that manner. But I wish the gentlemen, if they really believe that this change ought to be made, would make the proposition in such a way that it will be effective.

Mr. LLOYD. Mr. Chairman, in connection with the inspection service there is one unfortunate thing, and that is, viewing it purely from the standpoint of the civil-service law, by some kind of means. I know not whether it is fair or unfair, there are at the present time about 334 Republican inspectors out of 395; and the unfortunate situation that presents itself practically is that a Democratic administration is coming into office and about 40,000 postmasters, who were selected because of their political inclinations, are, at the close of a Republican administration, covered into the service.

Now, if this law permitted an examination of some kind to be made before the individual secured his position, and if the post offices of the country were left open for examination under civil-service regulations after the 4th of March, I do not believe that the Democratic Party would be in a position to make the complaint that it now makes. We are not disposed, and the gentleman from Georgia, notwithstanding he offers this amendment and offers it in the best of faith, to interfere with the efficient service of this Government. But when you cover into the service at the close of the administration 40,000 employees, who secured their positions because of their political faith, and then say, in effect, that these men are to remain in their positions as long as they live or until charges shall have been preferred against them, it does not appeal to a party that will come into power after the 4th of March.

Mr. GARNER. Neither does it appeal to the sense of justice with reference to covering into the civil service men who have been elected regardless of their efficiency, and men that could not be elected to the positions that they are now serving in.

Mr. BARTLETT. And did not get the indorsement of their patrons.

Mr. MURDOCK. Mr. Chairman, I am somewhat interested in the remarks of the gentleman from Missouri, and I would like to know upon what evidence he bases his statement that there are more than 300 Republican inspectors?

Mr. LLOYD. By a kind of investigation that I think is somewhat correct.

Mr. MANN. I think there ought to be better evidence than that; my information is that the gentleman is entirely incorrect in that statement.

Mr. GARNER. Mr. Chairman, will the gentleman from Illinois [Mr. MANN] give us his understanding of the political faith of the post-office inspectors of the United States?

Mr. MANN. I do not know what the proportion is, and I do not believe another soul on earth does.

Mr. BARTLETT. Not now.

Mr. GARNER. I understood the gentleman to say that was his information?

Mr. MANN. Yes.

Mr. GARNER. Then the gentleman must have some information on the subject?

Mr. MANN. I have information enough to say, from what I have been informed, that I believe there are more Democratic inspectors than stated by the gentleman from Missouri [Mr. LLOYD] by a considerable number.

Mr. MURDOCK. There will be after March 4, 1913.

Mr. GARNER. About what percentage?

The CHAIRMAN. The gentleman from Missouri [Mr. LLOYD] has the floor.

Mr. LLOYD. Mr. Chairman, if the test were a request of the inspectors to determine what was their political faith on the 4th of March, 1909, then I think no man who is advised at all would question my statement.

Mr. MADDEN. Yes; but I think the test should be as to what their politics is as of the 4th of March, 1913. You will have them all Democrats then.

Mr. LLOYD. But if you want to raise the question with the inspector to-day, with the knowledge that on the 4th of March the administration will change, I think you would find that perhaps 50 per cent of them were Democrats on the 4th of March, 1913.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. LLOYD. Mr. Chairman, I ask unanimous consent to proceed for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LLOYD. Mr. Chairman, I do not want to treat lightly the post-office inspector. He is one of the most important factors in the postal regulations. He is one of the best men in that service. More is dependent upon him than on any other employee in the postal service. As a rule he is a man of honor, of integrity, of uprightness, and he wants to do the fair thing. There are exceptions. I do not wish to see him placed in a position where the charge of partisanship in the selection of postmasters throughout the country will be made against him.

Mr. NORRIS. Mr. Chairman, I do not believe anyone would be so unjust as to suggest that in trying to discuss this question I am moved by any partisan motive, because it has been quite a long time since I have had any opportunity to recommend for office anybody with any hope whatever of their getting the office. In fact, my recommendation was sufficient for the loss of all hope, and yet I want to say to the gentlemen on the other side that it seems to me they are taking a narrow view of this situation when they criticize President Taft for placing the fourth-class post offices under the merit system. If I had my way, I would put the whole Post Office Department under that system. I would put the Postmaster General under that system.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. NORRIS. I will in a few minutes. It can be done under the Constitution by the passage of proper legislation by Congress. The gentleman from Missouri [Mr. LLOYD] has referred to the large proportion of Republicans who are post-office inspectors. I have an idea, without definite knowledge of it, but from general conditions I think it would be apparent that under Republican administration the majority of them would be Republicans and under Democratic administration the reverse would be true, and they would be the same men holding the same offices, to a great extent.

The gentleman from Missouri has himself suggested an answer to his own question. That is natural. I will admit there are a great many evils, and there always will be. It is merely a question of reaching as near an ideal condition as possible. We can not expect the inspectors to be any different when the men who are above them are partisans. They necessarily want to please those who have power and jurisdiction over them, and it is quite natural, at least in the majority of cases, that men should shade their partisanship in accordance with the necessities of the occasion. We can remedy all of that if we will take out of politics the men above them. My experience, brief as it has been, with post-office inspectors has been very pleasant. Those with whom I have come in contact I have thought were trying to do their duty—almost all of them at least—without regard to politics and without regard to anything except the conscientious performance of duty. There are exceptions. Even those who want to do what is right might be led to stretch their conscience and do something in a partisan way that was not right if they knew it would please those above them who hold their office as a reward for partisan work in political campaigns.

The Post Office Department is the greatest department of our Government. You can compare it to a great corporation. It ought to be run on principles that are entirely foreign to partisanship. There is not any reason why the postmaster in Georgia or in Nebraska should change simply because there is a change in the occupant of the White House. There is not an official duty or any official in the Post Office Department, from the Postmaster General down to the man who cleans the spittoons in the post office, that is in any way partisan or that bears any relation to partisanship, and partisanship ought to be divorced from it in order that the entire people, regardless of politics, might be best served, and in order that all the work of that great department should be done in the highest order with the greatest efficiency and the greatest amount of good

and the least amount of unnecessary expenditures of public funds.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NORRIS. Mr. Chairman, I desire to yield to the gentleman from Missouri [Mr. LLOYD], who wanted to ask me a question, and I will ask that my time be extended for five minutes in order that I may do so.

The CHAIRMAN. The gentleman from Nebraska asks unanimous consent that his time be extended for five minutes. Is there objection?

There was no objection.

Mr. LLOYD. I was going to ask as a question of fairness and equity, as the situation now presents itself, with 40,000 postmasters selected because of their partisan faith, why they should now be covered into the service and the Democratic Party have no right to change their political complexion.

Mr. NORRIS. Mr. Chairman, I get the force of the gentleman's suggestion. The only criticism I have of President Taft's order is that he should have issued it three or four years earlier than he did; but in defense of it I would say that he has precedents for all of these orders. Grover Cleveland did the same thing, and so did other Presidents. Whenever they extended the merit system under the law they put under the system the officeholders who were then holding the positions. If President Taft has now placed anybody under that system who is incompetent, I presume it would be proper that charges should be preferred against him and he would be removed, as he ought to be.

If there is a way to put them under, to extend this merit system, without putting those of a political partisan belief in complete control, I would be glad to do it.

Mr. LLOYD. Under the Civil Service Commission, if these are to be covered into the service, could not the order be so changed as to provide for the examination and to allow all parties—Democrat, Republican, Progressive, Socialist, and Prohibition—to come in?

Mr. NORRIS. It applies to the appointments——

Mr. LLOYD. It applies to new appointments; but the fact is, the man is in, and he is going to stay in as long as he can.

Mr. BARTLETT. If the gentleman will permit me, the examination does not apply to the new appointments except where the offices pay over $500, and there are 30,000 that do not pay over $500.

Mr. NORRIS. I had that particular question up with the Civil Service Commission—and I do not think anybody here will charge those gentlemen with being in any way partisan in the discharge of their office. I had up that particular proposition, and they were laboring then, at the request of the President, on the question of seeing whether it was a practical proposition to put these fourth-class post offices under the merit system. They told me at that time—and I think it will appeal to all of us—that in a great many fourth-class post offices the competition was not between men to get the office, but the question was to get somebody to take the office. We have many fourth-class offices in different districts in which we do not have men to take the post office—at least I do have many in my district—and in the question of post offices it is more often a question of getting somebody to take an office, and in such offices, when I recommended men for appointment, there never was a question of politics raised. It did not make any difference what the politics of a man was in those small offices; it was a question of getting a man to take it. But the Civil Service Commission in working out a practical scheme concluded it was useless to make extended examinations and make provisions for examinations to be made when there was no one who wanted the office, and they provided this plan of inspectors to make the investigation. I think they did it in good faith. I do not know how it has worked. If it is working all right, I think it ought to be continued. If it is not working right, I think the Civil Service Commission would be glad to change it. But there are a large number of fourth-class post offices where, if you were to advertise for applicants, you would not get a single applicant. If there is any better way of extending the merit system so as to include the fourth-class postmasters than is provided in this order, then let us have it. The President followed the precedents in doing it, but I am not wedded to it on this account, and I would be glad to support any plan to improve it; but it is a big improvement over past conditions, and I will not consent to tear it down until you can suggest something better to replace it.

Mr. MADDEN. Mr. Chairman, we are talking on this question of post-office inspectors on the assumption that it is a political office and that everything the post-office inspector does is a partisan act. No man can be appointed a post-office inspector who is not recruited from the ranks of the post-office service. No man in the ranks can get a place as post-office inspector until he has served a certain number of years and reached a certain grade, and even then he can get to be a post-office inspector only as the result of examinations, for which he is designated.

Mr. LLOYD. That is absolutely true, unless an order is made waiving the rule.

Mr. MURDOCK. Will the gentleman yield for just one word there?

Mr. MADDEN. Yes.

Mr. MURDOCK. Will the gentleman explain what the process of designation is in the Post Office Department for the examination of those who desire to be inspectors?

Mr. MADDEN. So far as I am able to do so I will. I made a sort of an examination of the chief inspector one day before the Post Office Committee, and I made some inquiry as to how these men reached the place known as post-office inspectors, and I was told just what I have stated, that the man must have been in the service a certain number of years; that he must have reached a certain grade before he could be designated for an examination; that the designation is made, of course, by the chief inspector, and if the chief inspector is a rank partisan he can reject an applicant and designate anybody that he chooses, and to that extent, of course, the chief inspector has the power of life or death over the appointment of an inspector. I think that that is a fair statement of the case. But in the city from which I come——

Mr. BARTLETT. May I interrupt the gentleman?

Mr. MADDEN. Surely.

Mr. BARTLETT. The gentleman does not understand me as making any attack on inspectors? I have not done so here. I am attacking the system.

Mr. MADDEN. I am only trying to explain what I understand to be the situation.

Mr. BARTLETT. The gentleman does not understand that I said anything in reference to the political office of inspector? I know some of them, and I know some of them who are pretty rank partisans, too.

Mr. MADDEN. What I was saying, Mr. Chairman, was this, that under the civil-service rules any citizen of the United States who is of good character and proper age, and who has the necessary qualifications, can take the examination which is prescribed, and enter the public service, and I undertake to say that in the neighborhood of where I live there are more Democrats who take the examination for entry to the public service than there are Republicans, and I have never yet seen any discrimination exercised by the appointing power of the local post office in Chicago.

Mr. GARNER. The gentleman just a moment ago said something as to his entering the public service. It is rather a particular service.

Mr. MADDEN. The Post Office Department——

Mr. GARNER. That does not include postmasters?

Mr. MADDEN. No.

Mr. GARNER. That includes those who have gone into the service under the civil service?

Mr. MADDEN. Yes. And it is from this class of men that I describe, who are eligible to appointment after examination, that inspectors are made. Now, whether the man who is at the head of the inspecting force already has power to appoint, may be so rank in his partisanship that he will not recognize merit rather than politics, I do not know.

But I assume that men do not rise to places of merit in a great business institution like the postal service unless they are qualified, and I do not know of anything in the nature of partisan politics that ever qualified a man for the performance of a business function.

Mr. TOWNSEND. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from New Jersey?

Mr. MADDEN. Certainly.

Mr. TOWNSEND. I would like to inquire of the gentleman how this eligible list from which these appointments are made is established.

Mr. MADDEN. It is established by reason of the fact that the man has served the requisite number of years and has reached a requisite standard of efficiency, and from that class of men designations are made, and from that class only.

MESSAGE FROM THE SENATE.

The committee informally rose, and Mr. RUSSELL took the chair as Speaker pro tempore.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8768) to regulate the business of loaning money on security of any kind

by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia.

The message also announced that the Senate had passed the following order:

Ordered, That the Secretary of the Senate do acquaint the House of Representatives that the Senate, sitting as a High Court of Impeachment, will on Monday, the 13th day of January, instant, at the hour of 1 o'clock p. m., proceed to announce judgment on the articles of impeachment exhibited by the House of Representatives against Robert W. Archbald.

POST OFFICE APPROPRIATION BILL.

The committee resumed its session for the further consideration of the Post Office appropriation bill, H. R. 27148.

Mr. RODENBERG. Mr. Chairman, I would like to ask my friend from Missouri [Mr. LLOYD] a question. He seems to be greatly exercised about the Executive order placing fourth-class postmasters under the protection of the civil service. I would like to inquire whether the gentleman is aware of the fact that the organization known as the National Civil Service Reform League has for years been advocating the classification of fourth-class postmasters?

Mr. LLOYD. Yes; I am aware of that.

Mr. RODENBERG. Is the gentleman also aware of the fact that the President elect, Woodrow Wilson, has for years been a most active member of that National Civil Service Reform League, and that he has frequently participated in the deliberations of that league where they unanimously advocated the classification of postmasters?

Mr. LLOYD. No, sir; I did not know that.

Mr. BARTLETT. May I ask the gentleman a question while he is up?

The CHAIRMAN. Does the gentleman yield?

Mr. RODENBERG. Yes.

Mr. BARTLETT. The gentleman himself was at one time a member of the Civil Service Commission, was he not?

Mr. RODENBERG. Yes, sir; and that is the reason why I happen to know the attitude of the President elect, because he was one of the active members of the Civil Service Reform League.

Mr. LLOYD. So far as I am personally concerned, I do not know anything about the views of the incoming President.

Mr. CANNON. Does the gentleman think he has reformed? [Laughter.]

Mr. RODENBERG. I have no information about his reformation.

Mr. CLINE rose.

The CHAIRMAN. The gentleman from Indiana [Mr. CLINE] is recognized.

Mr. CLINE. Mr. Chairman, I want to make an observation about the extreme fairness that has been assumed by the gentlemen on the other side and in justification of the President as to the execution of the civil-service law. I am speaking as the result of my own observation, and my belief is that there is not a first, second, or third assistant postmaster in the range of my acquaintance that is not a Republican politician and who was appointed simply because he was a political factor, had rendered political service, and received his position as a reward for the service he had rendered.

Now, if the President had sought to present to the country an exhibition of fairness, why did he not invoke the same rule then, or see that it was enforced, that he now seeks to invoke, namely, that when a vacancy occurs in a first, second, or third assistant postmastership in these offices one of the staff in the post office should be promoted to that position, one who has gone through the examination and qualified himself. That would have been an exhibition, I take it, of real fairness on the part of the President.

I say it is not an exhibition of good faith in the execution of the law to induct into responsible official positions a lot of ward politicians, without examination, without any qualification except that they are Republicans, and then cover them with a civil-service blanket, under the pretense that you are executing the civil-service law for the good of the country.

I want to say to gentlemen on the other side that we on this side are just as strongly in favor of the execution of the civil-service law as you are. What we are opposed to is the system by which you have emasculated the law. That is what we are opposed to. In some manner, in some way, through some process in the execution of the civil-service law it has happened in places such, for instance, as those of rural carriers and fourth-class postmasters, that 90 or 95 per cent are Republicans. Take my own district, which has 168 rural carriers. Less than 20 of them are Democrats.

Mr. RODENBERG. How many of those carriers were appointed before the civil-service examination was required?

Mr. CLINE. I do not know. I can not answer that question.

Mr. RODENBERG. That is quite material.

Mr. CLINE. Less than 20 of the 168 are Democrats. But the method of appointing rural carriers which is actually in practice was adopted because, as every man in this Chamber knows, they are the most efficient political agency there is in the country.

Mr. RODENBERG. They were not very effective last November.

Mr. CLINE. That was not their fault. Every carrier who goes out to deliver mail on a rural route knows the politics of every man on his route, and I know that it has been made a part of his business to report to his superior the political condition of every man on his route where there is any question about his political loyalty. I am not arraigning the rural carriers. They are good men, but because of the environment of their appointment, the manner of their selection, they felt under obligations to the men who appointed them or to the party that appointed them. We are as much in favor of a pure civil service as you are, but we do not want to have a vicious system employed for the emasculation of the law. We want the law executed in good faith. That is our position upon that point. We say that in order to exhibit the fairness that it is now pretended the President has shown in his order he ought to have advanced the first, second, and third class assistant postmasters in the same manner in which he now seeks to have them appointed, by promotion from the places that have been filled by examination. [Applause.]

Mr. COX. Mr. Chairman, as discussion upon this question seems to be the rule, I want to say a few words. In the first place, I desire to say that I am in favor of the civil-service law as it is written on the statute books, and I am further in favor of its being administered according to its spirit and intent. I have no quarrel with the law. I think it was originally designed for a splendid purpose. I think if it was justly and properly administered it would serve the country admirably. But I desire in a few words to call the attention of members of this committee to its fraudulent and vicious administration in the State of Indiana.

I want to add to what my colleague [Mr. CLINE] has said, and I base my statement upon an investigation which I have made in the State of Indiana relating to rural carriers, city carriers, and fourth-class postmasters in the State of Indiana. There are between 1,500 and 1,800 rural-route carriers in Indiana, and less than 5 per cent of them are Democrats. Less than 5 per cent of them were Democrats when they were appointed. I am not laying the blame for this at the doorstep of the Civil Service Commission. I do not know where to lay the blame. If I did, I would lay it there. But to me and to everyone in the State who has given a moment's thought to the subject, it is plain that there is some underground tunneling method somewhere; that there has been an undertunneling method somewhere, some place, somehow, to always indicate the name of the Republican who stood the examination.

Mr. MADDEN. Perhaps you will find it when you get into power.

Mr. COX. I am going to do my level best to do it.

Mr. MANN. That is something I have never been able to do.

Mr. BEALL of Texas. Does the gentleman from Indiana intend to use it when he finds it?

Mr. COX. I intend to use it if I ever get the chance. Some system has been in vogue by which somebody, either the Civil Service Commission or the head of a department who calls for a certain employee to be certified by the commission, is told that a certain man is of a certain political faith.

Mr. MADDEN. The Civil Service Commission are Democratic now, and have been for a good many years.

Mr. COX. They say they are.

Mr. MADDEN. Oh, well, they are.

Mr. COX. I do not know anything about their politics, but if they are Democrats they or some one else has played a great game of politics for the Republican Party. I am talking about conditions, and I am talking about the manner in which I know the civil-service law has been administered in the State of Indiana.

Mr. MURDOCK. Does the gentleman mean to segregate the rural carrier service when he makes his last statement? I am interested in what the gentleman says, and I am anxious to know if he intends his remarks to apply particularly to the rural carrier service.

Mr. COX. My remarks apply all along the line, as to the manner in which the civil-service law has been administered, including the Rural Free Delivery Service.

Mr. MARTIN of South Dakota. In all the gentleman's investigations has he not been able to locate the way in which the civil-service administration could be twisted politically?

Mr. COX. I will say to the gentleman from South Dakota that I have not got to that point, but I am getting the information compiled now in the State of Indiana, and later on I proposed to introduce a resolution, and if I can have the House pass it, I propose to locate the responsible parties who have dug the underground tunnel whereby the law has been violated or not enforced at all in any sense of the word.

Mr. MOON of Tennessee. Does the gentleman from Indiana know how it is that the inspectors are frequently appointed?

Mr. COX. I know that the present inspector was appointed from civil life. He was not a post-office inspector at all. The President just suspended the civil-service law and dumped him into the office.

Mr. MADDEN. You can do that when you get your man in.

Mr. COX. The trouble is they have got all the jobs filled in Indiana, so far as the rural routes are concerned.

Now, Mr. Chairman, I desire to restate briefly what I stated a moment ago, at the risk of repetition. I am in favor of the civil-service law. I believe it was originally designed for a splendid purpose.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COX. I ask unanimous consent for three minutes more.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to extend his remarks for three minutes. Is there objection.

There was no objection.

Mr. COX. I believe that if the civil-service law was carried out it would serve the country and serve it admirably, but I state that some system has been found out in my State by which to get around it. For instance, an interview was sent out from the city of Washington the other day to one of the Indianapolis papers, and one of our State officers read it and wrote me a letter about it, in which he said:

Your interview is absolutely correct. We have 23 rural-route carriers in my county. I know every one of them. They are to-day solidly Republican, and every one of them was a Republican at the time of his appointment.

I have reports in my office from a little more than 40 of the 92 counties in the State of Indiana, which reports disclose the fact that less than 5 per cent of the rural-route carriers in the State of Indiana are to-day members of the Democratic Party. I am not quarreling about that, but if we have a civil-service law I am in favor of letting merit win and not political pull, and the way it has been administered merit has had but little or nothing to do with it. I am in favor of President Wilson revoking President Taft's order putting these 36,000 post offices under the civil service and restore them to a competitive examination, where brains and brains alone will win. The very fact that the law has been administered in the way it has is what has bred contempt for the law. All over my State it is a known fact as to the way and manner of administration of this law. It has been so notoriously administered from a partisan viewpoint that many bright, active, intelligent, and well-educated Democrats of late have refused to go in and stand an examination, feeling that some roundabout way would be devised to evade the law. I have now in my possession a large amount of data backing what I say, and I have only begun to gather it.

I am in favor of restoring the fourth-class post offices to a point whereby an honest, fair, conscientious examination will be held, and let brains win, and not an underground-tunnel method control. If my party can not stand up and win with this test, so far as I am concerned, they have got to lose. [Applause.]

Mr. MURDOCK. I would like to ask the gentleman from Indiana how he is going to find this underground tunnel with reference to fourth-class postmasters. In the selection of clerks for the post offices they have to choose from the first three men at the head of the list.

Mr. COX. Yes; and in my judgment that is the nib to it.

Mr. MURDOCK. That is a perfectly plain way of discovering the underground tunnel, so far as the post-office clerks are concerned, but the local postmaster who is a Republican has no control in the selection of the rural carriers.

Mr. COX. The gentleman knows that before a rural route is established an inspector goes out and goes over the route, and then, as the gentleman from Missouri says, out of the three hundred and sixty-odd post-office inspectors more than 300 are Republicans. I am not sure, Mr. Chairman, but right there is the other nib.

Mr. MURDOCK. I do not believe that the gentleman will find any underground tunnel in the Rural Free Delivery Service.

Mr. COX. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to revise and extend his remarks. Is there objection?

There was no objection.

Mr. MOON of Tennessee. Mr. Chairman, I move that all debate on this amendment close in 10 minutes.

The CHAIRMAN (Mr. RODDENBERY). The gentleman from Tennessee moves that all debate on this amendment close in 10 minutes.

The motion was agreed to.

Mr. GILLETT. Mr. Chairman, I think to some of us on this side of the House what the gentleman from Indiana [Mr. COX] has just stated seems quite natural. I think we would be disposed to agree that both at present and always in the future, so long as the merit system shall prevail and appointments are made by competitive examination, not more than 5 per cent of the successful ones will naturally be Democrats. That possibly explains the condition in Indiana. Now, I know nothing about conditions there, but the one thing which I think is striking is that the opposition on that side of the House to the fourth-class postmasters being under the civil service has only sprung up since a Democratic President was elected.

Mr. COX. I think I can truthfully state that that was the only hope that was held out to the Democratic Party whereby we could ever hope to overtake you.

Mr. GILLETT. But when we were in power four or five years ago and we covered into the civil service in a portion of the country the fourth-class postmasters no objection then on that side of the House was made. You were perfectly willing that they should not be patronage appointments so long as we had the President. But as soon as you are going to have the President you want to have the old spoils system reinstated, so that you may have the appointments and enjoy the fruits of victory.

Now, the gentleman says he is in favor of the civil service in the abstract. I am happy to see that it is not as popular now as it was 10 or 15 years ago for a man to get up and say that he was in favor of the old system, and therefore men now readily say that they are in favor of civil service, but they couple it with some such a proposition as the gentleman says he wants, to repeal the order which now exists. They favor some modification which gives them an excuse to oppose the system.

Mr. COX. Restore it and make it a competitive examination.

Mr. GILLETT. Yes; you always want something that is different. You want to go back to the old system and say you will get something better. We all know that the present system is not perfect, but I believe it is a great deal better than the old system. I will confess that when the fourth-class postmasters were put in the classified service by President Roosevelt I thought it was a mistake. I did not believe it would be a good way to select postmasters, but I think it has worked well. A great many extensions to the civil service I have at times criticized, but I have invariably found so far that in practical operation they have worked well. The only opposition apparently on that side of the House to it now is that it does not appoint enough Democrats to office. That is the real gist of the position which they are taking. That is the gist of this amendment which is pending, that the inspectors shall not be allowed. You want to take the fourth-class postmasters out of the civil service because you want the patronage.

Mr. FITZGERALD. Will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. FITZGERALD. Is the order that has been issued as to the method of selecting the fourth-class postmasters different now from what it was when the fourth-class postmasters were originally put into the classified service?

Mr. GILLETT. I do not know whether there is any difference or not.

Mr. FITZGERALD. My recollection is that under the order for the selection of these men, if the office pays over $500, they are selected from the classified service after examination. But if it pays less than $500 they are selected by the post-office inspectors, and as about 99.9 of the post-office inspectors happen to be Republicans the gentleman would hardly expect Democrats to be satisfied to have Republican officials select, without the protection of the civil-service system, employees under a Democratic administration.

Mr. GILLETT. The gentleman does not think that the post-office inspectors, whatever their politics, are political agents.

Mr. FITZGERALD. They are at times. Four years ago, when the gentleman who is now Speaker of the House was a candidate for membership in the House, and it was a notorious fact that if the Democrats succeeded in carrying the House he would be Speaker, the post-office inspectors went through his district campaigning against him, and they were so active that he was compelled to file charges against some of them in the Post Office Department. Those are the men who will be selecting fourth-class postmasters in offices where the compensation is less than $500 in a Democratic administration, if this order continues without change.

Mr. GILLETT. This order can be modified by the President.

Mr. FITZGERALD. It is not a question of modification; it is a question of propriety in issuing it just before an adverse administration comes into power.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. FITZGERALD. Mr. Chairman, I ask that the time of the gentleman from Massachusetts be extended for I did not mean to take up his time.

Mr. GILLETT. I ask for one minute more.

The CHAIRMAN. The gentleman from Massachusetts asks for one minute more. Is there objection?

There was no objection.

Mr. GILLETT. The answer to that is that it is not necessary for us to repeal it; the whole matter is in the hands of the President. He can modify it in any way he sees fit. If there is danger of partisan unfairness in it, all he has to do is to modify it. There is no necessity for the House overturning the order and putting us back into the spoils system.

Mr. FITZGERALD. As to what he should or should not do may be a debatable question, but the gentleman can not believe if an error has been made or a wrong has been done, simply because the administration may remove the wrong, that the House ought to refuse to exercise any power it may have.

Mr. GILLETT. Yes; I do believe that if there is one part of the order which the gentleman thinks is partisan it is not necessary for us to repeal the whole order, for the Democratic President can be trusted to prevent Republican partisanship; and if you proceed to repeal the whole order on that criticism no one will believe that that is the real purpose. They will believe, as I do, that what you want is to go back and have the old patronage system.

Mr. FITZGERALD. Mr. Chairman, I have no fourth-class post offices in my district, but if I had I should want Democrats filling those offices during a Democratic administration. [Applause on the Democratic side.]

Mr. GILLETT. That is just what I thought was at the bottom of all this agitation on that side of the House.

Mr. SMALL. Mr. Chairman, I do not desire to discuss the wisdom or unwisdom of putting the fourth-class postmasters in the classified service, but largely in answer to the remarks of the gentleman from Massachusetts [Mr. GILLETT] I do desire to criticize the personnel of the fourth-class postmasters, certainly in my own State and, as I understand, generally in the South. If there is any local official who comes in close contact with the citizens of the community and who should be typical of the best there is in the community, possessing their confidence, it is a rural fourth-class postmaster. The fourth-class postmasters, in North Carolina at least, as they have been heretofore selected, are not of the class which is typical of the best element of the community. There are good Republicans in my State, but very few of them as a rule have sought or at least have been appointed to these offices. The rule there has been during the Republican administrations, when there was a vacancy, to certify that fact to the State referee who was ordinarily the State Republican chairman. He, in turn, referred it to the county chairman, and the county chairman selected the fourth-class postmaster to fill the vacancy, regardless of protest respecting his unfitness for the position. Protests were unheeded, and the selection of the county chairman was certified by the State referee, and the appointment was made.

The misfortune connected with this order is in covering these men into the civil service, to be removed only upon charges, and all of us know how difficult it is to make charges sufficient before the Civil Service Commission to remove the incumbent of any subordinate office. If any arrangement could be made by which the terms of all of these fourth-class postmasters, in my State, to illustrate, could be declared vacant and there could be a new deal by which every citizen could have an opportunity, even under the regulations now in force, to receive the appointment of fourth-class postmaster, I admit that much of the ground for criticism of this order would be removed, in my humble judgment. But because of the personnel of these fourth-class postmasters and of the manner of their appointment, and because they do not represent the best element in the community, I regard this order as particularly unfortunate and ill timed.

The CHAIRMAN. The time of the gentleman from North Carolina has expired. All debate on this amendment is exhausted. The question is on the amendment offered by the gentleman from Georgia.

The question was taken; and on a division (demanded by Mr. BARTLETT) there were—ayes 28, noes 19.

So the amendment was agreed to.

Mr. MONDELL. Mr. Chairman, I desire to offer an amendment. I understand that the figures "65," line 8, page 2, are in error, and that the number should be 75.

The CHAIRMAN. The Chair will state to the gentleman from Wyoming that an amendment to that effect has been agreed to.

Mr. MONDELL. Mr. Chairman, I move to amend by striking out the word "seventy-five" and inserting the word "ninety."

The CHAIRMAN. The gentleman from Wyoming offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 2, line 8, strike out the word "seventy-five," as amended, and insert in lieu thereof the word "ninety."

Mr. MOON of Tennessee. Mr. Chairman, on that I make the point of order that it is increasing the amount provided by the general law.

Mr. MANN. Mr. Chairman, while that point of order would not be good, I think, I will reserve the point of order that the amendment having been adopted by the committee it is not now subject to further amendment.

Mr. MONDELL. Mr. Chairman, I trust the gentleman from Tennessee will reserve his point of order.

Mr. MOON of Tennessee. Mr. Chairman, if the gentleman desires to talk, I have no objection, and I will reserve the point of order.

Mr. MONDELL. Mr. Chairman, I would like at this time to speak briefly to the merits of the amendment. I am not informed as to what the President-elect proposes to do with regard to the recent order placing fourth-class postmasters under the merit system. I am not in the councils of the leaders of the Democratic Party, and therefore I do not know what they are going to insist upon. But I think it is our duty to pass this bill and provide for the Government service under the conditions that now exist, and no one will claim that there are sufficient post-office inspectors in the service, provided the present civil-service order, or something akin to it, with reference to fourth-class postmasters is to stand.

Mr. MOON of Tennessee. Mr. Chairman, I would not agree to that. I think we could cut that down one-third, even if it stands.

Mr. MONDELL. Mr. Chairman, I live in a country where we have many fourth-class post offices. There are over 400 in my State. I have been recommending the appointment of fourth-class postmasters for 18 years, and I sometimes marvel, having had that experience for 18 years, that I am here to-day.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. BARTLETT. Some of us have been here that long and have not been able to recommend anybody, and we want to see what the experience will be like. [Laughter.]

Mr. MONDELL. Mr. Chairman, out of the abundance of my experience, I want to suggest to my good friends on the other side, that I have so high regard for them that I could not think of uniting in a proposition that would give them the experience that I have had in all these years. They might not be as lucky as I have been.

Mr. ADAMSON. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. ADAMSON. Would it not have been a little more consistent for the gentleman to have favored that change at the beginning of his experience instead of at the end of it?

Mr. MONDELL. Mr. Chairman, about the time of the beginning of that experience, to wit, after my defeat at the end of my first congressional term, I for a short time served the Government in the General Land Office. That office at that time was entirely filled with a large number of very excellent gentlemen, worthy and qualified. Most of them were in the main from the sunny South, all appointed by Grover Cleveland, and in the very closing days of his administration all of them were covered by his order into the civil service.

Mr. BARTLETT. Is it not a fact that in order for my friend to have a position for himself a Democrat appointed by Cleveland had to be demoted?

Mr. MONDELL. Not much. He was kept in a very honorable and well-paid position for a long time, and he was worthy

of it, as my friend knows. But, Mr. Speaker, we must pass upon this bill under the conditions as they now exist. This is the situation: Vacancies are occurring in the fourth-class post offices. I am delighted to be relieved of the responsibility of saying who at various lonesome corners in seven or eight counties shall be the fortunate recipient of the honor and responsibility of handling the Government mail. I was generally able to very promptly make a recommendation formerly, owing to my wide acquaintance in the community. I think in the main my recommendations were reasonably fair, else I would not have been here. A great many of the men I have recommended have been Democrats, and I have never in any case of a fourth-class post office, where I was sure the party was qualified and was the choice of the people, inquired as to the politics of the candidate.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, inasmuch as I have been somewhat interrupted, I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] asks unanimous consent for five minutes more. Is there objection?

There was no objection.

Mr. MONDELL. But under present conditions there can be no appointment at all until there has been an investigation and examination by a post-office inspector. It happens to be the case that the few inspectors that my friend from Missouri [Mr. LLOYD] has found in the service seem to be all in our locality, for the inspectors in my State, I think, are mostly Democrats. I do not quarrel with that. I think that is very appropriate for the incoming Democratic administration. But these gentlemen have great distances to travel, and I can not agree with the chairman of the committee that it is possible for them to perform these added duties and to make these recommendations within a reasonable time. It is utterly impossible. Either the system is to break down—and possibly our friends on the other side want it to break down and come into disrepute by failure to make recommendations——

Mr. MOON of Tennessee. You have about eight inspectors.

Mr. MONDELL. Oh, no. We have only two or three in our State.

Mr. MOON of Tennessee. I am talking about the average of the State.

Mr. MONDELL. I do not know anything about the average of the State. But I know that the force is entirely inadequate to care for these added responsibilities, and I have absolute confidence in the fairness and justice of the inspectors—Democrats and Republicans alike—to make fair and wise recommendations, so far as it is possible for them to do so with their knowledge of the situation. But we must provide a sufficient number of men to perform this service, else the system will be very unpopular by reason of the long delays in making recommendations. I have asked for an increase of 15 men of the lowest grade. It is not enough when you take into consideration the fact that there are thirty and odd thousand of these places. Vacancies constantly occur. The distances in the region where the fourth-class post offices are most numerous are very great. If the service is to be carried on in a satisfactory way we must have inspectors enough to make these inspections promptly.

Mr. FITZGERALD. Will the gentleman yield?

Mr. MONDELL. I will be glad to do so.

Mr. FITZGERALD. Is the service unsatisfactory now?

Mr. MONDELL. Under the old system?

Mr. FITZGERALD. Under the present system.

Mr. MONDELL. Well, there are not enough inspectors now. The order was issued comparatively recently. There have been, possibly, very many vacancies since the order was issued, but I think there have been no appointments at all in our State, which is evidence that they have not had inspectors enough to make the inspections.

Mr. MANN. Will the gentleman yield?

Mr. MONDELL. I will be glad to do so.

Mr. MANN. The gentleman has noticed that the House has just passed an amendment providing that these inspectors can not receive any pay while making these examinations for fourth-class post offices, and I apprehend nobody can require them to work for nothing. What is the object of increasing them for the reason the gentleman gives?

Mr. MONDELL. I suppose the amendment was simply adopted for the time being for political effect. I do not assume it will go into the bill when the bill becomes a law, and there is not a gentleman on the floor who has any idea that it will. So I am offering my amendment without regard to that merely political amendment which was adopted here a few moments ago.

Mr. MANN. The gentleman means the job-seeking amendment?

Mr. MONDELL. Job-seeking amendment is not so polite a term, and I desire to be polite.

The CHAIRMAN. The time of the gentleman from Wyoming has again expired.

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. GREEN of Iowa. Is it not a fact that in the offices that pay only three or four hundred dollars it is often difficult to find people to take them?

Mr. MONDELL. It is very difficult in some cases to find anyone to take a fourth-class office.

Mr. GREEN of Iowa. Does not the gentleman think that on account of the insufficiency of the number of inspectors that those who have these offices to fill will experience great delay? I have tried for two months to get an inspector to go to an office which a man wants to give up.

Mr. MONDELL. That is true. We are not able to have inspections made relative to applicants. Inspections are not being made so as to relieve the present incumbents. Therefore our friends on the other side in refusing to allow these additional inspectors are unquestionably keeping some good Democrats out of office, because if the Republicans now holding these positions could resign in these cases where they are attempting to resign, Democrats might likely be appointed.

The CHAIRMAN. The time of the gentleman from Wyoming has again expired.

The gentleman from Tennessee [Mr. MOON] has made and reserved a point of order.

Mr. MOON of Tennessee. Mr. Chairman, it may be that the point of order I made is not well taken, because I understand the committee, while I was absent a few moments ago, increased the number. The point of order made by the gentleman from Illinois [Mr. MANN] that my point of order is not well taken may be true.

Mr. MANN. My point of order is well taken.

The CHAIRMAN. Will the gentleman from Illinois make his point of order?

Mr. MOON of Tennessee. I reserve my point of order, too.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

For traveling expenses of inspectors without per diem allowance, inspectors in charge, and the chief post-office inspector, and expenses incurred by inspectors not covered by per diem allowance, unusual and extraordinary expenses necessarily incurred for maintenance by inspectors over and above per diem allowance while traveling on official business in the District of Alaska, and for the traveling expenses of two clerks performing stenographic and clerical assistance to post-office inspectors in the investigation of important fraud cases, $41,400.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I do so for the purpose of suggesting to the gentleman in charge of the bill that he offer an amendment to strike out, in line 16, the words "the District of," so that it would read "traveling on official business in Alaska." We have created Alaska into a Territory, and it is not necessary to describe it.

Mr. MOON of Tennessee. I have no objection to the amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. MANN].

The Clerk read as follows:

On page 3, line 16, strike out the words "the District of," so that it will read "on official business in Alaska."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For payment of rewards for the detection, arrest, and conviction of post-office burglars, robbers, and highway mail robbers, $7,500: *Provided*, That of the amount herein appropriated not to exceed $5,000 may be expended, in the discretion of the Postmaster General, for the purpose of securing information concerning violations of the postal laws and for services and information looking toward the apprehension of criminals.

Mr. TOWNER. Mr. Chairman, I desire to present an amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Insert, in line 8, page 4, following the word "criminals," the following: "That section 17 of the act of March 3, 1879, chapter 180, first supplement, 245, be, and the same is hereby, amended as follows:

"Strike out the word 'books' and the comma following it in the first line of said section of said act.

"SEC. 2. That books and bound pamphlets not intended or used in whole or in part for advertising purposes, and not classed as magazines

or periodicals, shall be entitled to the parcel-post rates as stated and specified in section 8 of the act of August 24, 1912, being an act making appropriations for the service of the Post Office Department."

Mr. MOON of Tennessee. I make a point of order on that amendment. It is new law.

Mr. TOWNER. Mr. Chairman, will the gentleman reserve the point of order until I can make a brief statement?

Mr. MOON of Tennessee. I will reserve it for five minutes.

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] is recognized for five minutes.

Mr. TOWNER. Mr. Chairman, the point of order is, I suppose, good, notwithstanding the fact that it seems to me it would be nothing more than right and proper that it should not be made as against this proposed amendment.

Gentlemen will remember that the parcel-post law was included as a part of the last Post Office appropriation bill, and it is for the purpose of curing an omission or a mistake in that law that this amendment is now offered.

I presume it will be a surprise to many gentlemen to know that books are not included in the reduced rates that are granted under the parcel-post law. I presume it will be a surprise to many to learn that codfish and beans can go through the post office now at a less rate than books can. It has only recently become understood that such is the case.

I think I may say that it was almost universally supposed that books would at least have the rates of such commodities as I have mentioned. The matter was called to my attention by some of the librarians of the country, who are surprised to find that books can not be sent to them or from one library to another, or that the great system of traveling libraries that is now in operation in almost all the States can not have the benefit of the parcel-post rates.

I can not understand why they should not have such rates, I am informed upon inquiry, in trying to ascertain the cause, that the proposition came before the committee for consideration in an effort to consolidate the third and fourth class rates, and that that would have resulted, perhaps, in including some matters under the parcel-post rates that are now having a better rate than they would then have secured. But certainly there can be no objection anywhere to books having the rates that merchandise has under the fourth-class rate; and that is the only object and purpose of this amendment.

I sincerely hope that the chairman of the committee and gentlemen interested will not make the point of order as against my proposed amendment at this time.

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] makes a point of order. The Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

OFFICE OF THE FIRST ASSISTANT POSTMASTER GENERAL.

For compensation to postmasters, $30,250,000.

Mr. MURDOCK. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Kansas [Mr. MURDOCK] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 5, line 2, after the figures "$30,250,000," insert the words: "*Provided*, That no part of this appropriation shall be expended in the payment to postmasters of the first class where any part of the amount of the salary has been computed on the sales of parcel-post stamps."

Mr. MURDOCK. Mr. Chairman, the postmasters of the country are paid on the basis of the amount of receipts at the offices. The first-class post offices are those offices which reach in annual receipts $45,000, and the salary of the postmaster increases thereafter up to a point where the receipts reach $600,000, whereupon the salary of the postmaster becomes $6,000, which, with the exception of the post offices at New York and Chicago, is the maximum salary of first-class postmasters.

Mr. LLOYD. This amendment applies only to first-class post offices?

Mr. MURDOCK. Yes; it applies only to first-class post offices.

In the case of second-class postmasters it is the same as with the first, save that the salary increases on smaller receipts. It is the same with third-class postmasters. In the case of fourth-class pastmasters, as most members of the committee know, the system is different. On the first $50 sale of stamps the fourth-class postmaster gets 100 per cent. On the first $100 sale of stamps he gets 60 per cent, and so on up to the time he sells $5,000 worth, when the salary becomes third class.

Mr. MOON of Tennessee. I will say that the gentleman's amendment appears to be a very good one.

Mr. MANN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Kansas yield?

Mr. MURDOCK. Yes.

Mr. MANN. Would it not be possible under that amendment for a postmaster of the second class to receive as high a salary, or possibly a higher salary, than a postmaster of the first class?

Mr. MURDOCK. I do not think it would.

Mr. MANN. I should think, without knowing, that it certainly would.

Mr. MURDOCK. No, I will say to the gentleman from Illinois. It might send some of the second-class postmasters into the first class, but it would not give the second-class postmasters more than the salary of a first-class postmaster, because if a second-class postmaster had sufficient receipts to pass him into the first class further increment by the sale of parcel-post stamps would cease.

Mr. MANN. The question, then, would be whether under the amendment a second-class office would pass into the first class by the sale of parcel-post stamps. Forty-five thousand dollars is the limit for a first-class office, is it not?

Mr. MURDOCK. Yes.

Mr. MANN. Suppose the receipts from a post office were $44,500. That would be a second-class office. Another office that has receipts of $45,000 is a first-class office. I suppose the salaries are practically the same now. In a second-class office the sale of parcel-post stamps has some effect. It is perfectly apparent that these cases will arise. I do not say that it would be an injustice, but it is perfectly apparent that you can not keep such a thing on the statute books very long.

Mr. MURDOCK. My purpose in offering the amendment, as the gentleman knows, is because it is estimated that we will sell something like $50,000,000 worth of parcel-post stamps the first year.

Mr. MANN. I do not know who made the estimate, but I think it is a wild, extravagant estimate. I hope the amount will not be that large.

Mr. MURDOCK. That is an estimate made by the men in the Post Office Department, and I do not think it is very far afield. Our sale of stamps for first-class postage is now, I think, above $150,000,000, and I want to say to the gentleman from Illinois that this should be done for this reason——

Mr. MANN. If the gentleman's amendment goes in, it practically forecloses the proposition of allowing the ordinary stamps to be used on parcels, which, it seems to me, ought to be allowed.

Mr. MADDEN. They will not allow you to use them now.

Mr. MANN. No; I know the law forbids that now, as it did when they first commenced the special delivery of letters. There are thousands of packages which have been deposited in post offices throughout the country which have been stamped with ordinary stamps without knowledge that the law required special parcel-post stamps. And probably that will always continue.

Mr. MURDOCK. I want to say to the gentleman that while I understand that point is well taken, here we have an old law—29 years old now—under which we pay postmasters; and I think the gentleman appreciates that that is an antiquated law which is out of date so far as first-class postmasters are concerned, if not second and third class postmasters. For instance, a man in a large office, whose receipts are something like $200,000 or $300,000 a year, has nothing to do personally with the sale of stamps, and the fact that the sale of stamps increases $50,000 or $60,000 a year does not add anything to his burden, and but little to his responsibility, and this is a chance to start in now and prevent a large increase of expenditure in the way of salaries under this antiquated law.

Mr. FITZGERALD. Why should not such a limitation be placed on second-class postmasters?

Mr. MURDOCK. I have simply tried it on the first-class offices in the way of a beginning. I would be glad to accept an amendment extending it to other postmasters.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MURDOCK. I ask five minutes more.

The CHAIRMAN. The gentleman from Kansas asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. MURDOCK. My idea was that if my amendment included second and third class postmasters it would arouse opposition which might be fatal to it, because of the fact that in some of the second and third class post offices the parcel-post business undoubtedly does add to the burdens and responsibilities of the postmaster.

Mr. FITZGERALD. Let me ask the gentleman if the receipts from the sale of parcel-post stamps will increase the receipts of second-class offices so as to make them first class,

would not their elimination have the effect of throwing the offices in and out?

Mr. MURDOCK. I think not. I think it will throw the second-class postmaster into the first class, and make the office a first-class post office.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Kansas [Mr. MURDOCK].

The amendment was agreed to.

The Clerk read as follows:

Auditors, and superintendents of mails, 7, at not exceeding $3,000 each.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I think there is an error in printing the figures, either in this paragraph or the next one. There are under the current law 7 of these officials at $3,000 each. The department recommended 17. This paragraph does not increase the number. In the next paragraph there are now 15, and the department estimated for 10. The committee took the department's estimate of the decrease from 15 to 10 without making any increase in the former class. I am quite sure it was not the intention to reduce the number.

Mr. MOON of Tennessee. I have just looked into that matter. These are the figures of the Assistant Postmaster General.

Mr. MANN. Then the Assistant Postmaster General has made a mistake.

Mr. MOON of Tennessee. In what respect?

Mr. MANN. There are now 7 of these officials at $3,000 and 15 at $2,700. The department asked for an increase of from 7 to 17 in the $3,000 class and a reduction from 15 to 10 in the $2,700 class. That was a total increase of 5. Instead of giving the increase, the number has been reduced 5. I think inadvertently. You have given the decrease of 5, but no increase. I think it is not the intention to decrease the number.

Mr. MOON of Tennessee. It evidently is an error.

Mr. MANN. I do not know whether you wish it in this paragraph or the next, but if you want the total number to remain the same as it is now, you ought either to increase the number of these officials in this paragraph from 7 to 12, or if you want it in the next paragraph you ought to increase the number there from 10 to 15.

Mr. MOON of Tennessee. It ought to be in the lower grade.

Mr. MADDEN. It ought to be 15 instead of 10.

Mr. MOON of Tennessee. Let that correction be made.

Mr. MANN. After the next paragraph is read.

The Clerk read as follows:

Assistant superintendents of mails, superintendents of delivery, and superintendents of mails, 10, at not exceeding $2,700 each.

Mr. MANN. Mr. Chairman, I move to strike out the word "ten," in line 7, and insert the word "fifteen."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 7, page 6, strike out the word "ten" and insert the word "fifteen."

The amendment was agreed to.

The Clerk read as follows:

For compensation to clerks in charge of contract stations, at a rate above $300 each and not to exceed $1,000 each, $430,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word. The estimate of the department for this item and the succeeding item was combined at $1,250,000. That was an increase of $320,000 over the current appropriation. You have segregated the two items as is now carried in that law and made an increase in the two of $200,000—$100,000 for each item. In every other place practically you have taken the department's estimate on the increase of work that was expected through the parcel post.

Mr. MOON of Tennessee. Not in all of them; we have reduced some.

Mr. MANN. To a large extent, in the main, you have, as to post offices themselves and the operation of the post offices, but as to the clerks and carriers I think you took it practically as they gave it. Now, in the cities, in districts like mine, and I think it is true of other large cities, we depend on what you call the contract station. There are places in my district, thickly populated, where you can not buy a postage stamp within the radius of a mile, which is neither to the convenience of the people nor the interest of the postal service.

Mr. MOON of Tennessee. Does the gentleman from Illinois think the increase of $200,000 is not sufficient.

Mr. MANN. I think it is not quite sufficient.

Mr. FITZGERALD. Why?

Mr. MANN. Because it will not cover the additional contract stations.

Mr. FITZGERALD. How does the gentleman know?

Mr. MOON of Tennessee. As the gentleman knows, this is a good deal of guesswork.

Mr. MANN. Of course, there is more or less guesswork about it.

Mr. FITZGERALD. Let me suggest. At present, under the parcel-post system, do they permit them to use the contract station? Must they not go to the main office?

Mr. GARNER. I know from observation that they do handle parcel-post matter at the contract stations.

Mr. MANN. Of course; it is perfectly apparent to anyone that it must be done that way in the large cities. You can not expect to send the people a number of miles in a city in order to deposit mail to go by parcel post. I wish the gentleman from Tennessee would increase this item $20,000.

Mr. MOON of Tennessee. Last year there was an unexpected balance of $77,000. Now with the increase that we have allowed that would give $277,000. I do not want to do anything that will cripple the service in Chicago or in New York, but we are all more or less guessing at it.

Mr. MANN. I know it is more or less an experiment, but these stations can not receive any pay unless they do a certain amount of money order or registry business. They are paid on the basis of the money order and registry business, and no station can receive over $100 unless it does a large amount of money order and registry business. No station does a large amount of that business unless it does a large amount of postal business in addition.

Mr. GARNER. As I understand, what the gentleman from Illinois criticizes——

Mr. MANN. I am not criticizing anything.

Mr. GARNER. What the gentleman is complaining about—it may not be in the order of a complaint, but he says that they have to go a mile in his district to buy a postage stamp. That is the fault of the Post Office Department in not establishing stations at more convenient places in the city of Chicago, and not a valid criticism of Congress for not making the appropriation when we have $77,000 left over from last year.

Mr. MANN. Well, I always accept the statement of the gentleman from Tennessee.

Mr. MOON of Tennessee. I got my figures from the department.

Mr. MANN. I know that they have informed me that in many cases where stations were asked for in certain localities that they did not have the money with which they could establish a station. I have had the information recently.

Mr. GARNER. The gentleman from Tennessee makes the statement that he gets his figures from the Post Office Department itself, and so if the Post Office Department has made the statement which the gentleman from Illinois says it has, there is an error on the part of some official in giving incorrect information, either to the chairman of the committee or the gentleman from Illinois.

Mr. MOON of Tennessee. No; I do not think so. In the expenditures of last year there is an unexpended balance of over $77,000.

Mr. MANN. The committee gave $100,000 under the estimate of the department in this particular place, which is very material.

Mr. MOON of Tennessee. We gave $43,000 under the estimate of the department.

Mr. LLOYD. We are increasing this appropriation nearly 25 per cent, and that is a much larger increase than we have ever given before. There never has been an increase to compare with this. This appropriation from time to time has been running for five or six years with a very slight increase. Now we make an increase of 25 per cent, and we thought we were doing remarkably well.

Mr. MOON of Tennessee. What figures does the gentleman from Illinois want?

Mr. MANN. What I want is an increase in the next item where they use the contract stations.

Mr. MOON of Tennessee. How much does the gentleman want there?

Mr. MANN. Fifty thousand dollars. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

For compensation to clerks in charge of contract stations, at a rate not to exceed $300 each, $700,000.

Mr. MANN. Mr. Chairman, I move to strike out, in line 5, page 12, the figures "700,000" and insert "750,000."

The Clerk read as follows:

Page 12, line 5, strike out the figures "700,000" and insert "750,000."

Mr. MOON of Tennessee. Does the gentleman think that will give the service that he wants?

Mr. MANN. I hope and pray that it will.

Mr. MOON of Tennessee. Mr. Chairman, we will agree to that.

Mr. FOWLER. Mr. Chairman, I understand that the $700,000 is an increase over the current amount of something like 25 per cent; that is, above the appropriation carried for this item last year.

Mr. MANN. It was an increase, not of 25 per cent, but from $600,000 to $700,000.

Mr. FOWLER. As I understand, there is an unexpended balance.

Mr. MANN. I do not know which item had the unexpended balance.

Mr. MOON of Tennessee. There was an unexpended balance of the two items, one of $40,000 and one of $37,000. Of course you could not get the benefit of that under the law.

Mr. MADDEN. I think we ought to get it.

Mr. MANN. We need the money for actual postal service.

Mr. FOWLER. Mr. Chairman, I understand that is true; but if the business could have been transacted by, say, $40,000 less than the amount appropriated in the last bill, and now there is an increase of $100,000, that is equal to $140,000 above what was used during the last fiscal year.

Mr. MANN. Mr. Chairman, if the gentleman from Illinois, my colleague [Mr. FOWLER], will pardon me, the increase that is carried in the bill will not increase the number of stations at all, although it would apparently give 100 new stations or more, because with the parcel-post proposition, under the regulations of the department, there will be a large number of increases from 100 to 200 and from 200 to 300, which would fully absorb the increase carried by the bill, without making any provision at all for new stations, and the gentleman understands that in the cities as they grow there is a necessity for new stations in localities. They will not establish with us a station anywhere that is within half a mile of another station.

Mr. MADDEN. And I may say that we have built in Chicago 60 miles of street frontage of buildings last year, and that means a very large increase in the population, and of course it requires increased facilities.

Mr. GARNER. Mr. Chairman, will the gentleman from Illinois yield?

Mr. FOWLER. Certainly.

Mr. GARNER. Mr. Chairman, I can not understand how it is that the gentleman from Illinois [Mr. MANN] and the gentleman from Illinois [Mr. MADDEN] are complaining for the want of money when the report here shows in these identical items the Post Office Department turns back into the Treasury a large sum of money.

Mr. MADDEN. But there was no parcel post last year.

Mr. GARNER. But that does not make any difference. The gentleman is calling attention to conditions in Chicago, want of facilities there to handle the business in these contract stations. The Post Office Department has the money to do this work and if it has not been done, it is the fault of the Post Office Department and not the fault of Congress.

Mr. LLOYD. Mr. Chairman, if the gentleman will permit, I think that may be answered very well in connection with something with which he has had experience. We have from time to time made appropriations for extension of the rural service, but in order to show economy in the administration of postal affairs, they have not expended the money appropriated from time to time, and it went back into the Treasury, and the consequence is that the gentleman and his constituents do not get the service that they ought to have, and that Congress intended they should have.

Mr. GARNER. Mr. Chairman, I fully agree with what the gentleman from Missouri [Mr. LLOYD] says, but this state of affairs exists here. The committee is proposing to agree to an amendment offered by the gentleman from Illinois [Mr. MANN] for the reason that they want additional service in Chicago. It is merely a guess. If the committee had sufficient money, why does the gentleman want to encumber this bill with an additional appropriation, to be charged up to this House in the total amount appropriated, when you are not going to use the money?

Mr. MOON of Tennessee. I will say to the gentleman, Mr. Chairman, that there was an unexpended balance on one item of $40,000 and of $37,000 on another. The department estimates that it will need $320,000 on account of this additional service. They can not tell accurately what it will be, but that is the best judgment, and from my experience I think that $320,000 will be needed. The committee gave $200,000, in view of the fact that there was an unexpended balance of $77,000 from the previous year. The gentleman from Illinois [Mr. MANN] asks for $50,000, and I think it is reasonable that he should have that amount because still the allowance by the House will be $70,000 less than the Post Office Department recommends.

Mr. GARNER. Mr. Chairman, will the gentleman from Illinois yield further?

Mr. FOWLER. Yes.

Mr. GARNER. Mr. Chairman, I can not understand how a great committee of this House, having the largest bill brought into the House, can come in here and then permit a Member of the House who is not a member of the committee, who has not made any investigation about the matter, the gentleman from Illinois [Mr. MANN], upon a mere statement from him to obtain an increase in the appropriation of $50,000. Evidently one of two things is true—the committee has not investigated as much as it ought to have investigated, or it ought to be able to say that the gentleman from Illinois is not entitled to this amount.

Mr. MOON of Tennessee. No, Mr. Chairman, it ought not to be able to say any such thing. The fact is this: It is purely an estimate on the part of the department to begin with, and it is purely an estimate on the part of the committee. The committee reduced the estimate of the department in accordance with the policy of cutting down and reducing as best we could, but the gentleman from Illinois [Mr. MANN] comes in here and states the conditions in the city of Chicago and asks that we give $50,000 more, which is $70,000 less than the department thinks we ought to give.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FOWLER. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MOON of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. Certainly.

Mr. MOON of Tennessee. We have to pay some consideration to Members in this House who are not members of the committee. There may be committees in the House that arrogate to themselves that superiority that will brook nothing that comes from the gentlemen in the House who are not upon the committee, but the Post Office Committee does not claim all the wisdom of this House. It can be in error. It can make mistakes like others, and the explanation of the gentleman from Illinois [Mr. MANN] ought to be enough for an intelligent man to get $50,000.

Mr. GARNER. Mr. Chairman, may I ask the chairman of the committee a question?

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] has the floor.

Mr. GARNER. Very well, I shall not take up further time now, but will wait until I can get the floor in my own right.

Mr. FOWLER. Mr. Chairman, I do not desire to be captious about any of these matters. I am aware of the necessity for an appropriation to carry out the great business of the Post Office Department, but we gave consideration to this item in the committee, as we did to other items, and, in my opinion, it is as fully adequate to carry out the business for which it is intended as any other item in this bill, and I can see no reason whatever for an increase of $50,000 to this one small item. I know that there are additional stations required in great populous, growing cities of this country, and we ought to prepare for them as liberally as we do in the country for the rural route delivery and any other part of the machinery of the great Post Office Department; but in view of the liberal increase that was made in these two items, giving something like $240,000——

Mr. MOON of Tennessee. Two hundred thousand dollars.

Mr. FOWLER. And taking into consideration the amount of the unexpended balance——

Mr. GARNER. Two hundred and seventy-eight thousand dollars.

Mr. FOWLER. It makes something like $275,000.

And I do say, Mr. Chairman, in the light of all the wisdom of the committee, notwithstanding the honorable chairman's profession of not knowing very much about it, yet he is as familiar with the ins and outs of this department as any other chairman that I have had the honor to serve with. And, Mr. Chairman, I say, in the light of the wisdom of the committee and the liberality which was given in the increased appropriation in these two items, I do not think the amendment is warranted, and I will vote against it.

Mr. MADDEN. Mr. Chairman, I want to say a word on this.

The CHAIRMAN. Is the gentleman in favor of the amendment?

Mr. MADDEN. I move to strike out the last word.

The CHAIRMAN. The gentleman is recognized to support the amendment.

Mr. MADDEN. I have thought in the consideration of this item in the committee room that the committee was not sufficiently liberal in its recommendations. We are establishing a parcel post that is going to add materially to the work of all these contract stations. In the city of Chicago alone in 1912 there were $100,000,000 spent in the construction of new buildings. Sixty miles of street frontage of new buildings was erected during 1912, making provisions for more than 150,000 increased population.

The work performed by these contract stations during 1912 was not adequate to meet the needs of that great city. The territory from which my colleague [Mr. MANN] comes has increased so rapidly that it is hard work for the Post Office Department to keep pace with the increased growth of that community. And, as he says, stations are now more than a mile apart. You can not buy a postage stamp without walking a mile; you can not register a letter; and the compensation paid for the service rendered in these contract stations everywhere throughout the United States is inadequate for the work performed. If it was for no other purpose than to pay adequate compensation for the work done by the men who occupy these contract stations, there ought to be added appropriations made.

Why, $60,000 worth of stamps are sold in some of these small stations in a year, and if one man occupies the place for any considerable length of time for the performance of that business he is paid $600 a year. He has to pay out more than he gets for clerk hire, and if he by some chance complains because of the inadequacy of the compensation and resigns from the place, why, the Government undertakes to contract with some other man for the performance of the work. It is outrageous to think that a great Government like this would squeeze a man who has to occupy a small place, such as the clerk of a drug store, down to the pay of $100 for performing $60,000 worth of work a year.

In order to increase the number of stations to accommodate the increase of population of these great centers, there ought to be some compensation paid to the men for the work that is done. Fifty thousand dollars is not enough to meet the present needs, but $50,000 is better than nothing, and I hope the amendment will prevail.

Mr. TOWNSEND. Beyond the qualification of having served, is there also an examination for that particular branch of the service?

Mr. MADDEN. Yes, sir; and he must have attained a certain rate of efficiency and a certain rank, and he must have been in service a certain length of time, and he must be able to pass the prescribed examination, even after he is designated, in order to be appointed.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MADDEN. Mr. Chairman, I ask for two minutes more.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. LLOYD. I wish to say, Mr. Chairman, that there is this difference between the selection of a post-office inspector and a selection ordinarily in the civil service elsewhere: Ordinarily under the civil service the Civil Service Commission certifies three men, and you are permitted to make choice amongst the three. Under regulations affecting the post-office inspectors one man applies, and if he passes the necessary examination he may be admitted without competition with anybody else.

Mr. MADDEN. That is true; but after he does apply, I wish to say to my colleague, he can not be designated unless he stands in the rank to which he must have attained before he can be designated.

Mr. LLOYD. That is true; and here is where the difference is with reference to post-office inspectors: The persons that have been designated to take examinations from time to time in recent years have largely been from the dominant party, and that accounts for the fact that at the present time the larger number of post-office inspectors are Republicans.

Mr. MADDEN. If these men who are inspectors in the postal service are like most men who have been employed in the public service elsewhere, whether they went in as Democrats or Republicans, they will find their minds to be of such an elastic character, when the time comes for a change of administration, that they will be able to prove to the incoming administration that they are of its own political faith. [Laughter.]

Mr. GARNER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Texas?

Mr. MADDEN. Yes.

Mr. GARNER. Is this a matter of law, or is it a matter of rule and regulation made by the department?

Mr. MADDEN. It is a matter of rule.

Mr. GARNER. Why is this change made of three in one?

Mr. MADDEN. This is a rule of the department, to select men well qualified for the place. It was made to secure efficient men.

Mr. FITZGERALD. Mr. Chairman, I wish to oppose the amendment of the gentleman from Illinois [Mr. MADDEN]. The gentleman does not intend to have the House believe that those who seek these contract stations seek them because of the money they make out of handling the Government business. They seek such contract stations because of the advantage they are to them in the particular business in which they are engaged. I do not know of a pharmacist in the city of New York that is not very anxious and willing to have a contract station, because it brings the traffic and the business of the locality to his particular place of business.

Mr. Chairman, what surprises me is the attitude of the Committee on the Post Office and Post Roads. This committee is supposed to have carefully investigated these matters, and with all of the information possible and available, to have made such a recommendation as they believed sufficient to permit the carrying on of the postal service. I do not doubt that the gentleman from Illinois [Mr. MANN] is very familiar with the conditions in Chicago, but I am quite certain he has not submitted any information to this committee that justifies anybody in reaching the conclusion that the recommendation of the Committee on the Post Office and Post Roads is erroneous.

The committee has been very liberal in this bill. I have had it checked up carefully, and it carries $1,929,973 in excess of the estimates for the next fiscal year. I know the report does not indicate that to be the fact——

Mr. MOON of Tennessee. The bill was changed after the report was made.

Mr. MANN. The gentleman from New York is mistaken, because that is not the fact.

Mr. FITZGERALD. The gentleman is not mistaken. I have had the calculation made by men who are the most accurate and reliable in this character of business in connection with the House.

Mr. MANN. They have not figured on the estimates, probably.

Mr. MOON of Tennessee. It could not be true, because the bill does not carry the estimates in lots of places.

Mr. MANN. If the gentleman from New York [Mr. FITZGERALD] will pardon the suggestion, the amount of $281,000,000 comprises the figures given in the estimates, but are not the sum of the items. Now, the gentleman from New York has computed the sum of the items without taking the totals, and so it exceeded the estimates. The estimates give both the items and the totals.

You can not take the totals in that one place and then add some of the items in another place and compare them.

Mr. FITZGERALD. Unfortunately the committee did not include the limitations in the various paragraphs that would have limited the appropriations in accordance with the intentions of the department.

Mr. MANN. I think they are not in the estimates either.

Mr. FITZGERALD. They are in some places at least, because I have a memorandum of them; the bill carries $283,721,481.

Mr. MOON of Tennessee. Well, you just got somebody that can not calculate aright within about $3,000,000. [Laughter.]

Mr. FITZGERALD. There is a difference of $1,973,000. Of course the statement of the gentleman from Tennessee may seem humorous, but, Mr. Chairman, I am willing to place the calculations made by the clerks of the Committee on Appropriations, who are noted for accuracy, against those made by any other clerks in the Government service.

Mr. MOON of Tennessee. If the estimates were only $281,000,000 in round figures, and the allowances made through the bill cut the estimates largely, from five hundred to two hundred thousand dollars, how is it possible to make the bill $283,000,000?

Mr. FITZGERALD. The gentleman's statement is erroneous, because the bill states in various paragraphs certain totals which are not accurate.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FITZGERALD. Mr. Chairman, I ask that my time be extended two or three minutes. I do not care to speak long.

The CHAIRMAN. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. FITZGERALD. When the totals are computed, in accordance with the law, it is found that the bill carries nearly $2,000,000 in excess of the estimates. I have not relied upon any calculations made by myself. I have had the calculations made by the best equipped men in the Government service, and I am willing to rest content upon their calculations, regardless of the indifference of the gentleman from Tennessee to them.

Mr. MOON of Tennessee. I rely upon calculations made by some men in the department just as well equipped as yours.

Mr. FITZGERALD. I know, Mr. Chairman, from experience, that the calculations of the departments are not always accurate, and I do know that the calculations made in the place where I have had these made are seldom, if ever, erroneous.

Mr. MOON of Tennessee. I wish the gentleman would tell me who that infallible individual of his is.

Mr. FITZGERALD. It is the two clerks of the Committee on Appropriations. One of them has been connected with the committee 33 years and is well known to the gentleman from Tennessee.

Mr. MOON of Tennessee. That is neither here nor there.

Mr. FITZGERALD. Aside from that, Mr. Chairman, the Committee on the Post Office and Post Roads has brought in this recommendation with an increase in this item over the current law by over $100,000, and, without anything being submitted that would influence anybody's judgment, he is willing to accept an amendment to increase the item $50,000 more.

Mr. MOON of Tennessee. Has the gentleman read the hearings on page 25 on this section?

Mr. FITZGERALD. No; I have not read them.

Mr. MOON of Tennessee. The gentleman ought to know something about that. The gentleman will find the information he requires there.

Mr. FITZGERALD. The gentleman from Tennessee has not only read them, but he was present when the testimony was taken, and his committee formed certain conclusions from the consideration of that testimony; and yet, without additional information being submitted, but upon the statement of the gentleman from Illinois [Mr. MANN], who is in my own condition so far as examining the hearings is concerned, the gentleman from Tennessee is willing to increase this item by $50,000 more.

If the recommendations of the committee are of no more value and are not to be any more relied upon in the other instances than they are in this case, I think it would be incumbent upon some Members to examine more carefully the hearings and form their own conclusions rather than attempt to rely upon the recommendations of the committee.

Here is the largest appropriation bill reported to the House carrying $12,000,000 in excess of the current law. It seems to me that after the committee has reached its conclusions and made its recommendations to the House, items should not be increased by consent of the committee except upon submission of information which was not before it, and in the present instance that is not of sufficient weight to justify the House in accepting such amendments.

Mr. MOON of Tennessee. Mr. Chairman, I know that the gentleman from New York is the guardian of the Treasury. I know that he thinks there is not anybody that knows anything about appropriations or anybody that has got sense enough to make a mathematical calculation correctly except some clerk in his committee. Those things are all patent to us. The arrogance of the gentleman from New York has been apparent to us all from time to time.

I want to commend him, however, for his attempt to keep down appropriations. He knows as well as I do that when this money is appropriated it will be returned to the Treasury if it is not used in the performance of the law. The only point that he has got to make about it is that he wants to keep down the appearances in the matter; that is all.

But if these people in Chicago and New York and elsewhere in our big cities are entitled to this money, I do not feel like taking it away from them. The department has made an estimate. You will find here, on pages 25 and 26, a very careful statement by the assistants in this office and a full review of this whole question. They say they need $320,000. They were asked if they had any basis upon which they could fix the amount. They gave as their reason the natural increase of the business there, and said it would require a great amount of this money, and that the parcel post would require a large amount of it. They were catechized as to the exactness of their information. They could not tell positively. No living man could do it, except, I suppose, somebody on the Committee on Appropriations. They could not tell exactly the amount that would come out of the parcel post and other increases, but they gave the best information they could; and in pursuance of the policy cutting down the appropriations to the extent we thought justifiable, we cut this estimate from $320,000 down to $200,000.

This was the tentative view of the committee. This committee does not assume to say that it was exactly correct on that figure. But when the gentleman from Illinois [Mr. MANN] came here and stated the conditions in Chicago, his city, and the other gentleman from Illinois [Mr. MADDEN] stated the conditions in his city—and it is fair to assume that the conditions there are the same as in other cities—I think it is just as well to be a little liberal and just in these matters and increase the amount. If we can not and do not go to the full amount that the department estimates, it seems to me this is just, in view of the additional facts brought before the House by the gentleman from Illinois [Mr. MANN], because if the money is not needed it will still be in the Treasury.

Mr. GARNER. In view of the fact that the gentleman from Illinois is complaining of a state of facts that now exist under the present appropriation, and in view of the fact that the report shows that they had $78,000 of this fund out of which they could have established these stations, does it seem reasonable or necessary, or will it remedy the situation which the gentleman complains of, to appropriate $50,000 or $500,000, when it is a matter that is the result of the neglect of the department and not for the want of funds? Why increase this appropriation when we have no assurance that the increasing of it will bring the relief sought by the gentleman from Illinois?

Mr. MOON of Tennessee. The gentleman must not assume, as he does, that it is always a matter of administration in every way simply because gentlemen do not happen to agree politically or in some other way. There is not much wisdom in that. These are people of the United States in these cities, and if the administration has been derelict, as the gentleman thinks it has, and has not given them the accommodation, let us at least make a sufficient appropriation so that the accommodation can be given to the people.

I move that all debate on this amendment be now closed.

The CHAIRMAN. The gentleman from Tennessee moves that all debate on this amendment be now closed.

The motion was agreed to.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Illinois [Mr. MANN].

The amendment was agreed to.

The Clerk read as follows:

For the purchase, exchange, repair, and maintenance of mechanical and labor-saving devices, $50,000.

Mr. MANN. I move to strike out the last word, for the purpose of inquiring of the gentleman whether he does not think that to proceed after a quarter to 6 o'clock on Saturday night is not nearly a violation of the rules of the union? [Laughter.]

Mr. MOON of Tennessee. Let us go on until 6 o'clock.

Mr. MANN. The gentleman knows that the Geographical Society has a dinner to-night, and a great many of the Members desire to go there.

Mr. MOON of Tennessee. I am willing to quit now if you will agree that when we get into the House we may have an understanding that we will meet at 11 o'clock Monday, and the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of this bill.

Mr. MANN. Of course we could not make an agreement of that kind in the committee.

Mr. MOON of Tennessee. If the gentleman will not oppose it——

Mr. MANN. I shall not oppose meeting at 11 o'clock. Monday is District day. What the District Committee will say about it I do not know.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The Postmaster General is hereby authorized to pay, in his discretion, rewards to postal employees whose inventions are adopted for use in the postal service, and for that purpose the sum of $10,000 is hereby appropriated: *Provided*, That not to exceed $1,000 shall be paid for one invention.

Mr. MANN. Mr. Chairman, I move to strike out the last word, and ask unanimous consent that that paragraph be passed over without prejudice, with the object of preparing an amendment to make it conform with other provisions in other departments.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the paragraph just read be passed over without prejudice. Does the gentleman mean to be recurred to at the end of the bill?

Mr. MANN. To be recurred to by the committee whenever the chairman desires.

The CHAIRMAN. Is there objection?

Mr. FOWLER. On what page is that?

Mr. MANN. The first paragraph on page 14.

Mr. FOWLER. I have no objection.

The CHAIRMAN. Is there objection?

There was no objection.

The Clerk read as follows:

That substitute carriers and substitute clerks when assigned to perform the work of regular employees absent on vacations, or when performing auxiliary or temporary work, shall be paid at the rate of 30 cents an hour. Every substitute carrier and substitute post-office clerk who has served as such substitute for a period of one year or more shall, when appointed to a regular position, receive the salary of a second-grade carrier or clerk, $900 per annum, as his initial salary, and all other promotions shall be regulated according to the classification act approved March 2, 1907.

Mr. COX. Mr. Chairman, I ask unanimous consent that this paragraph be passed over. I do not care about taking it up now.

Mr. MOON of Tennessee. Has the gentleman any objection to the paragraph?

Mr. COX. I want to get some information.

Mr. MOON of Tennessee. It is entirely new law. It is in the interest of the service. The gentleman can reserve a point of order on it if he wishes.

Mr. COX. I did not reserve any point of order on it.

The CHAIRMAN. The gentleman from Indiana [Mr. COX] asks unanimous consent that the paragraph be passed without prejudice. Is there objection?

There was no objection.

The Clerk read as follows:

For pay of substitutes for letter carriers absent with pay, and of auxiliary and temporary letter carriers at offices where city delivery is already established, $2,285,000.

Mr. MOON of Tennessee. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. GARRETT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, and had come to no resolution thereon.

HOUR OF MEETING ON MONDAY.

Mr. MOON of Tennessee. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock on Monday morning, and that the House immediately resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Post Office appropriation bill.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that when the House adjourns to-day it adjourn to meet on Monday at 11 o'clock a. m., and that the House then immediately resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Post Office appropriation bill.

Mr. NORRIS. Mr. Speaker, I should like to suggest to the gentleman that the latter part of his request is objectionable. Monday is District day.

Mr. FITZGERALD. Then just ask to meet at 11 o'clock.

Mr. NORRIS. There are very few Members here, and it is hardly fair to those who are not here, unless they have notice of the meeting at 11 o'clock.

Mr. MOON of Tennessee. The notice will be given in the RECORD.

Mr. NORRIS. That is a part of the RECORD that Members ordinarily do not pay much attention to.

Mr. FITZGERALD. Let the gentleman modify his request and make it simply that the House meet at 11 o'clock on Monday.

Mr. NORRIS. I think the chairman of the Committee on the District of Columbia ought to have actual notice of this.

Mr. MOON of Tennessee. Very well, Mr. Speaker, I will simply make the request that we meet at 11 o'clock on Monday.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock on Monday next. Is there objection?

There was no objection.

THE LATE REPRESENTATIVE WEDEMEYER.

Mr. HAMILTON of Michigan. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The Clerk read as follows:

House resolution 772.

Resolved, That a committee of 15 Members of the House, with such Members of the Senate as may be joined, be appointed to attend memorial services for Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan, to be held at Ann Arbor, Mich.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of this resolution, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection.

The resolution was agreed to.

Mr. HAMILTON of Michigan. Now, Mr. Speaker, I send the following order to the Clerk's desk and ask for its immediate consideration.

The Clerk read as follows:

Ordered, That Sunday, the 16th day of February, 1913, at 12 o'clock, be set apart for addresses on the life, character, and public services of Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan.

The SPEAKER. Is there objection to the present consideration of the order? [After a pause.] The Chair hears none.

The order was agreed to.

ADJOURNMENT.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 57 minutes p. m.) the House, under its previous order, adjourned until Monday, January 13, 1913, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting a copy of communications from the Secretary of the Navy submitting urgent deficiency estimates of appropriations for the naval service (H. Doc. No. 1263); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of communications from the Secretary of State, submitting estimates of urgent deficiency appropriations required by the Department of State (H. Doc. No. 1262); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of the Navy, submitting supplemental estimates of appropriations required for the naval service for the fiscal year ending June 30, 1914 (H. Doc. No. 1264); to the Committee on Naval Affairs and ordered to be printed.

4. A letter from the Acting Secretary of the Treasury, transmitting communications from the Postmaster General, submitting supplemental and revised estimates of appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914 (H. Doc. No. 1265); to the Committee on the Post Office and Post Roads and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII.

Mr. TOWNSEND, from the Committee on the Library, to which was referred the bill (H. R. 18505) incorporating the American Academy of Arts and Letters, reported the same without amendment, accompanied by a report (No. 1291), which said bill and report were referred to the House Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Claims was discharged from the consideration of the bill (H. R. 14540) for the relief of Harriet Hamilton Pratt, and the same was referred to the Committee on Naval Affairs.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. NYE: A bill (H. R. 27944) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRISON of Mississippi: A bill (H. R. 27945) providing for examination and survey of channel in Back Bay of Biloxi, Miss.; to the Committee on Rivers and Harbors.

By Mr. GRAY: A bill (H. R. 27946) to provide for purchase of a site and erection of a public building at Shelbyville, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. KINKEAD of New Jersey: A bill (H. R. 27947) providing for the erection of a public building at the city of Bayonne, N. J.; to the Committee on Public Buildings and Grounds.

By Mr. NEEDHAM: A bill (H. R. 27948) providing for a right of way for the United States from the Yosemite Valley

Railroad Co. and for payment therefor; to the Committee on the Public Lands.

By Mr. McGUIRE of Oklahoma: A bill (H. R. 27949) to authorize the Atchison, Topeka & Santa Fe Railway Co. to change its line of railroad through the Chilocco Indian Reservation, State of Oklahoma; to the Committee on Indian Affairs.

By Mr. MORGAN of Oklahoma: A bill (H. R. 27950) to equalize the grant of lands to the State of Oklahoma for common schools with grants made to other States for such schools, and for other purposes; to the Committee on the Public Lands.

By Mr. COLLIER: A bill (H. R. 27951) authorizing a survey of Yazoo River Canal opposite the city of Vicksburg, Miss.; to the Committee on Rivers and Harbors.

By Mr. MAGUIRE of Nebraska: A bill (H. R. 27952) to authorize the extension and enlargement of the post-office building in the city of Lincoln, Nebr.; to the Committee on Public Buildings and Grounds.

By Mr. TILSON: A bill (H. R. 27980) authorizing the Postmaster General to pay a cash reward for inventions and suggestions submitted by employees of the Post Office Department for improvement or economy in the postal service; to the Committee on the Post Office and Post Roads.

By Mr. CARTER: Joint resolution (H. J. Res. 381) authorizing the Secretary of the Interior to make a per capita distribution to the enrolled members of the Choctaw and Chickasaw Tribes of Indians in Oklahoma of funds held in the Treasury to the credit of said tribes; to the Committee on Indian Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 27953) granting an increase of pension to Henry F. Sterry; to the Committee on Pensions.

By Mr. ASHBROOK: A bill (H. R. 27954) granting an increase of pension to Charles W. Wood; to the Committee on Pensions.

By Mr. BOEHNE: A bill (H. R. 27955) granting an increase of pension to James H. Paul; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 27956) for the relief of the heirs of James L. Pyne, deceased; to the Committee on War Claims.

By Mr. CARLIN: A bill (H. R. 27957) for the relief of the legal representatives of the estate of Charles E. Mix; to the Committee on War Claims.

By Mr. COOPER: A bill (H. R. 27958) granting a pension to Electa Paradise; to the Committee on Invalid Pensions.

By Mr. DAVIS of West Virginia: A bill (H. R. 27959) granting a pension to Elizabeth Pierson; to the Committee on Invalid Pensions.

By Mr. DONOHOE: A bill (H. R. 27960) granting a pension to William Costello; to the Committee on Invalid Pensions.

By Mr. DOUGHTON: A bill (H. R. 27961) for the relief of the heirs of Nathaniel Boyden; to the Committee on Claims.

By Mr. FERRIS: A bill (H. R. 27962) granting an increase of pension to Della M. Smith; to the Committee on Invalid Pensions.

By Mr. HAMMOND: A bill (H. R. 27963) granting a pension to Mary U. Hull; to the Committee on Invalid Pensions.

By Mr. HAY: A bill (H. R. 27964) granting a pension to Mary MacArthur; to the Committee on Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 27965) granting an increase of pension to Mary E. Workman; to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 27966) granting an increase of pension to William J. Doyle; to the Committee on Invalid Pensions.

By Mr. MAGUIRE of Nebraska: A bill (H. R. 27967) granting a pension to Kate King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27968) granting a pension to Jesse Reason; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27969) granting an increase of pension to Thomas C. Diltz; to the Committee on Invalid Pensions.

By Mr. MAHER: A bill (H. R. 27970) granting an increase of pension to William Fagan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27971) granting an increase of pension to James McCullough; to the Committee on Invalid Pensions.

By Mr. ROUSE: A bill (H. R. 27972) granting an increase of pension to John W. Jenkins; to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 27973) granting a pension to Dolphus A. Gilliam; to the Committee on Pensions.

By Mr. SWITZER: A bill (H. R. 27974) granting a pension to Maria Chavis; to the Committee on Invalid Pensions.

By Mr. TALCOTT of New York: A bill (H. R. 27975) granting a pension to Abbie H. Lewis; to the Committee on Invalid Pensions.

By Mr. WILSON of Illinois: A bill (H. R. 27976) granting an increase of pension to Mattie B. Carr; to the Committee on Invalid Pensions.

By Mr. WITHERSPOON: A bill (H. R. 27977) for the relief of the trustees of the Sageville Methodist Episcopal Church South, of Sageville, Lauderdale County, Miss.; to the Committee on War Claims.

By Mr. CAMPBELL: A bill (H. R. 27978) granting an increase of pension to John Scott; to the Committee on Invalid Pensions.

By Mr. DAUGHERTY: A bill (H. R. 27979) for the relief of Ed P. Ambrose; to the Committee on Claims.

By Mr. LONGWORTH: A bill (H. R. 27981) directing the Secretary of War to issue to John A. Cassell a certificate of merit for distinguished service as cipher operator during the Civil War; to the Committee on Military Affairs.

Also, a bill (H. R. 27982) granting an increase of pension to Pauline White; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of R. E. Cunniny and 6 other merchants of Gnadenhutten, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward the control of the express companies; to the Committee on the Judiciary.

By Mr. AYRES: Petition of the social science section of the American Association for the Advancement of Science, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. BARTHOLDT: Petition of R. S. Hawes, of St. Louis, Mo., favoring the passage of the uniform bills of lading act (S. 975), for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Blue Wing Gun Club, St. Louis, Mo., and H. E. Welker, of St. Louis, Mo., favoring the passage of House bill 36, for Federal protection of all migratory birds; to the Committee on Agriculture.

Also, petition of the Merchants' Exchange of St. Louis, Mo., favoring the passage of House bill 25106, for the incorporation of the Chamber of Commerce of the United States of America; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Swope Shoe Co., of St. Louis, Mo., protesting against the passage of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent articles; to the Committee on Patents.

Also, petitions of Charles T. Durand and 3 other citizens of St. Louis, Mo., and the National War Veterans of Denver, Colo., all favoring the passage of legislation granting pensions to the veterans of the Indian wars; to the Committee on Pensions.

Also, petition of the Whitman Agriculture Co., St. Louis, Mo., favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

By Mr. BATHRICK: Petition of the Akron Chamber of Commerce, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

By Mr. BROWN: Papers for the relief of the heirs of James L. Pyne; to the Committee on War Claims.

By Mr. CALDER: Petition of the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of House bill 25106, granting them a Federal charter; to the Committee on the Judiciary.

Also, petition of the Farmers' National Congress, Chicago, Ill., favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Maryland and District of Columbia Launderers' Association, Baltimore, Md., favoring the passage of House bill 25685, for the labeling and tagging of all fabrics and articles of clothing intended for sale; to the Committee on Interstate and Foreign Commerce.

By Mr. CARLIN: Papers to accompany bill for the relief of the legal representative of the estate of Charles E. Nix; to the Committee on War Claims.

By Mr. CLINE: Petition of citizens of Steuben County, Ind., favoring the passage of legislation for the retention of duty on onions; to the Committee on Ways and Means.

By Mr. DENVER: Petition of shoe workers in Bethel and Georgetown, Ohio, protesting against the passage of legislation for the placing of boots and shoes on the free list; to the Committee on Ways and Means.

By Mr. DYER: Petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Judson G. Wall, New York, N. Y., favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Merchants' Exchange of St. Louis, Mo., favoring the passage of legislation for the reestablishment of a grain standardization laboratory in St. Louis; to the Committee on Agriculture.

By Mr. ESCH: Petition of Judson G. Wall, New York, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FORNES: Petition of the National Academy of Design, New York, N. Y., protesting against any action on the part of Congress that will interfere with the design for the development of Washington as drawn up by the Washington Park Commission; to the Committee on the Library.

By Mr. HAMILL: Petition of the Italian Chamber of Commerce of New York, N. Y., protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. KINDRED: Petition of Judson G. Wall, of New York, N. Y., and the Farmers' National Congress, Chicago, Ill., favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the National Academy of Design, New York, N. Y., protesting against any action on the part of Congress interfering with the plans of the Washington Park Commission for the development of Washington; to the Committee on the Library.

Also, petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the National Indian War Veterans, Denver, Colo., favoring the passage of legislation granting pensions to veterans of the Indian wars; to the Committee on Pensions.

Also, petition of the Chamber of Commerce of the United States of America, favoring the passage of House bill 25106, granting them a Federal charter; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of Judson G. Wall, of New York, favoring the passage of Senate bill 3, giving Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of William Reilly, Yonkers, N. Y.; George W. Brown, James M. McGee, and Myron Wood, Philadelphia, Pa., favoring the passage of House bill 1339, granting an increase of pension to veterans who lost an arm or leg in the Civil War; to the Committee on Invalid Pensions.

Also, petition of the Italian Chamber of Commerce of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. PARRAN: Papers to accompany bill (H. R. 27395) granting a pension to Elizabeth Freeman; to the Committee on Invalid Pensions.

By Mr. REILLY: Petition of the Court of Common Council of the City of New London, protesting against the provision in the sundry civil bill for making no additional appointments of cadets or cadet engineers to the Revenue-Cutter Service unless authorized by Congress; to the Committee on Naval Affairs.

Also, petition of the Massachusetts Association of Sealers of Weights and Measures, favoring the passage of House bill 23113, fixing a standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Ways and Means.

By Mr. TILSON: Petition of the Court of Common Council, New London, Conn., favoring legislation repealing the section of the sundry civil appropriation act which provides that no additional appointments as cadets or cadet engineers shall be made in the Revenue-Cutter Service unless authorized by Congress; to the Committee on Naval Affairs.

By Mr. UNDERHILL: Petition of the Social Science Section of the American Association for the Advancement of Science, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

SENATE.

MONDAY, *January 13, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. CULLOM and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ILLINOIS RIVER BRIDGE.

Mr. CULLOM. I should like to have passed the bill (S. 7637) to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill. It is somewhat important, owing to the emergency of the situation, that it should be passed at once.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a joint resolution adopted by the Legislature of Vermont, relative to the submission of an amendment to the Constitution to prohibit polygamy, which was referred to the Committee on the Judiciary and ordered to be printed in the RECORD, as follows:

Joint resolution making application to Congress under the provisions of Article V of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited.

Whereas it appears from investigation recently made by the Senate of the United States, and otherwise, that polygamy still exists in certain places in the United States, notwithstanding prohibitory statutes enacted by the several States thereof; and

Whereas the practice of polygamy is generally condemned by the people of the United States and there is a demand for the more effectual prohibition thereof by placing the subject under Federal jurisdiction and control, at the same time reserving to each State the right to make and enforce its own laws relating to marriage and divorce: Now therefore

Resolved by the senate and house of representatives, That the application be made, and hereby is made to Congress, under the provisions of Article V of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited, and Congress shall be given power to enforce such prohibition by appropriate legislation.

Resolved, That the legislatures of all other States of the United States, now in session or when next convened, be, and they hereby are, respectfully requested to join in this application by the adoption of this or an equivalent resolution.

Resolved further, That the secretary of state be, and he hereby is, directed to transmit copies of this application to the Senate and House of Representatives of the United States and to the several Members of said bodies representing this State therein; also to transmit copies hereof to the legislatures of all other States of the United States.

FRANK E. HOWE,
President of the Senate.
CHARLES A. PLUMLEY,
Speaker of the House of Representatives.

Approved December 18, 1912.

ALLEN M. FLETCHER, *Governor.*

STATE OF VERMONT,
Office of the Secretary of State.

I hereby certify that the foregoing is a true copy of "A joint resolution making application to Congress under the provisions of Article V of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited." Approved December 18, 1912, as appears by the files and records of this office.

Witness my signature and the seal of this office, at Montpelier, this 10th day of January, 1913.

[SEAL.] GUY W. BAILEY,
Secretary of State.

Mr. BRANDEGEE presented a memorial of members of the German-American Alliance, of Bridgeport, Conn., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. FLETCHER presented a petition of the United States Live Stock Sanitary Association, praying that an increased appropriation be made for use of the Bureau of Animal Industry, Department of Agriculture, in its work toward tick eradication and control and eradication of hog cholera, which was referred to the Committee on Agriculture and Forestry.

REPORTS OF COMMITTEES.

Mr. WARREN. I am directed by the Committee on Appropriations, to which was referred the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, to report it with amendments, and

I submit a report (No. 1104) thereon. I give notice that, if agreeable to the Senate, I will ask consideration of the bill on Wednesday morning next.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

Mr. ASHURST, from the Committee on Indian Affairs, to which was referred the bill (H. R. 25878) granting certain lands for a cemetery to the Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes, reported it without amendment and submitted a report (No. 1105) thereon.

JOSEPH W. M'CALL.

Mr. SANDERS. From the Committee on Military Affairs I report back favorably without amendment the bill (H. R. 20339) for the relief of Joseph W. McCall, and I submit a report (No. 1101) thereon. It is a bill with reference to the term of service of Surg. McCall, and I ask unanimous consent for its immediate consideration.

Mr. SMOOT. Let it be read.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that in the administration of laws conferring rights, privileges, and benefits upon officers of the Volunteer Army in the Civil War, Joseph W. McCall shall hereafter be held and considered to have been in the military service of the United States as assistant surgeon of the Second Regiment West Tennessee Volunteer Cavalry (subsequently known as the Seventh Regiment Tennessee Volunteer Cavalry) from the 15th day of September, 1862, to the 15th day of October, 1862, and as assistant surgeon of the same regiment (Seventh Regiment Tennessee Volunteer Cavalry) from the 1st day of March, 1864, to the 15th day of March, 1864, and to have been honorably discharged from said service on the date hereinbefore last named. But no pay or other allowances shall become due or payable by reason of the passage of this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PUBLICITY OF EVIDENCE.

Mr. NELSON. I am directed by the Committee on the Judiciary, to which was referred the bill (S. 8000) providing for publicity in taking evidence under the act of July 2, 1890, to report it favorably with an amendment, and I ask for its immediate consideration.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The bill is before the Senate as in Committee of the Whole, and will be read.

The Secretary read the bill, as follows:

Be it enacted, etc., That in the taking of depositions of witnesses for use in any suit in equity brought by the United States under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and in the hearings before any examiner or special master appointed to take testimony therein, the proceedings shall be open to the public as freely as are trials in open court; and no order heretofore or hereafter made by any court excluding the public from attendance on any such proceedings shall be valid or enforceable.

The amendment was, in lines 10 and 11, to strike out the words "heretofore or hereafter made by any court."

Mr. CLARKE of Arkansas. Mr. President, I do not care to object, but I should like to have the Senator from Minnesota who has charge of the bill state what particular exigency requires its passage.

Mr. NELSON. The object of the bill is this, Mr. President: In a suit instituted by the Department of Justice against the so-called Boot Machinery Trust in Massachusetts, the judge ordered that the testimony should be taken behind closed doors and refused to take it in public, as has always been done in court heretofore. This is to compel such testimony to be taken in open court, and not behind closed doors.

Mr. CLARKE of Arkansas. I believe I will object until I have an opportunity to look into it.

The PRESIDENT pro tempore. Objection is made, and the bill goes to the calendar.

Mr. CLARKE of Arkansas subsequently said: I have now had an opportunity to examine Senate bill 8000, reported by the Senator from Minnesota from the Committee on the Judiciary. I ask permission to withdraw the objection I interposed to the present consideration of the bill.

Mr. NELSON. Then, at the instance of the committee, I renew my request for its present consideration.

I wish to state to the Senate that it is important that this bill should pass immediately. It relates to a matter of this kind: A suit was instituted by the Department of Justice under the antitrust law against the Boot Machinery Trust of Boston, and the judge ordered the testimony in that case to be taken behind closed doors. The purpose of the bill is to get rid of the situation and provide that the testimony shall be taken in public. It is important that the law should be passed immediately.

The PRESIDENT pro tempore. The Senator from Minnesota asks for the present consideration of the bill (S. 8000) providing for publicity in taking evidence under the act of July 2, 1890. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. NELSON. There is an amendment of the committee.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. In lines 10 and 11 strike out the words "heretofore or hereafter made by any court."

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

Mr. BORAH. I should like to know more about what this bill is, if the Senator will state it. I did not get the drift of it. A special bill to enable the publicity of testimony is rather an interesting proposition.

Mr. NELSON. A suit was instituted against the Boot Machinery Trust in Massachusetts in the United States court, and the judge of that court ordered that the testimony before the master be taken behind closed doors, not open to the public. The bill provides in all such cases, under the antitrust law, the testimony shall be taken publicly as in open court. It is a bill recommended by the Department of Justice, and the Committee on the Judiciary were unanimously in favor of it. The Senator from Idaho did not happen to be in the committee at the time it was acted on.

Mr. BORAH. Does it appear why the judge ordered the testimony to be taken behind closed doors?

Mr. NELSON. The Attorney General states that fact.

Mr. BORAH. And why was it?

Mr. NELSON. It was in the district court of Massachusetts.

Mr. BORAH. But what I want to know is why the testimony was taken behind closed doors.

Mr. NELSON. That I am unable to say.

Mr. LODGE. The case was before the circuit court in Massachusetts, Judge Putnam presiding, and the testimony was ordered to be taken before a master in the ordinary way. The question arose whether it should be open to the public or not, and the court ruled that it should not be open.

Mr. NELSON. But that it should be taken behind closed doors.

Mr. BORAH. I am still at a loss to know why he did it.

Mr. LODGE. The only ground was that it was not usual.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ABATEMENT OF NUISANCES.

Mr. CURTIS. From the Committee on the District of Columbia I report back favorably, with an amendment, the bill (S. 5861) to enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof, and I submit a report (No. 1102) thereon. I ask unanimous consent for its immediate consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read.

Mr. REED. What is the title of this bill?

The PRESIDENT pro tempore. The title will be read.

The Secretary read the bill by title.

Mr. REED. Is the request for unanimous consent?

The PRESIDENT pro tempore. It is.

Mr. REED. Has it been granted?

The PRESIDENT pro tempore. It has been granted.

Mr. REED. For immediate consideration?

The PRESIDENT pro tempore. For immediate consideration.

Mr. REED. How long has the bill been on the calendar?

The PRESIDENT pro tempore. It was reported this morning. It has not been on the calendar.

Mr. REED. Mr. President, I was a moment late in coming to the Chamber. I am heartily in sympathy with many of the objects of the bill, but there are provisions in it revolutionary in character. If the copy which I received through the mails printed on pink paper and sent out by some gentlemen who are interested is correct. I should like to have time to examine the bill, and I hope that the proposer of it will give me time to look into it.

Mr. CURTIS. Mr. President, I have no objection to the Senator from Missouri taking all the time he desires. I want to say that the committee did not report the bill until after very careful consideration and numerous hearings, and it is a unanimous report from the Committee on the District of Columbia, with an amendment.

Mr. REED. Is the Senator willing to have it go over until to-morrow?

Mr. CURTIS. I am perfectly willing, if the Senator desires. I do not, of course, wish to have it considered until every Senator is satisfied about the bill.

Mr. REED. I thank the Senator. I ask that it go to the calendar.

Mr. CURTIS. I understand that the Senator will examine the bill. If there is no objection, I should like to call it up to-morrow.

The PRESIDENT pro tempore. The bill will go to the calendar, but still it can be called up to-morrow.

COLVILLE INDIAN RESERVATION LANDS.

Mr. ASHURST. From the Committee on Indian Affairs I report back favorably with an amendment the bill (S. 5379) granting certain lands of the diminished Colville Indian Reservation, in the State of Washington, to the Washington Historical Society, and I submit a report (No. 1103) thereon.

Mr. JONES. That is a short bill, and is a matter of some urgency. I ask unanimous consent for its present consideration.

Mr. CRAWFORD. I do not like to object, but I think it is rather a bad practice to act on bills as reported, when we have had no opportunity to see the report and it has not been printed, and where no serious harm can follow having the report printed and the bill placed on the calendar so that we may have an opportunity to examine it. I object to its immediate consideration.

The PRESIDENT pro tempore. The Senator from South Dakota objects, and the bill will be placed on the calendar.

EXPENSES OF INVESTIGATIONS.

Mr. WARREN. From the Committee on Appropriations I report back favorably the joint resolution (S. J. Res. 150) appropriating $40,000 for the expenses of inquiries and investigations ordered by the Senate. The joint resolution relates to the contingent fund of the Senate, and I ask for its present consideration.

The Secretary read the joint resolution; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It appropriates $40,000 for expenses of inquiries and investigations ordered by the Senate, including compensation to stenographers to committees, at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding $1.25 per printed page, to be immediately available.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MARTINE of New Jersey:

A bill (S. 8082) to amend section 1440 of the Revised Statutes (with accompanying paper); to the Committee on Naval Affairs.

By Mr. CHAMBERLAIN:

A bill (S. 8083) to appoint Brig. Gen. Thomas M. Anderson, United States Army, retired, to the grade of major general on the retired list of the Army; to the Committee on Military Affairs.

A bill (S. 8084) granting to the State of Oregon certain lands, claimed by the State of Oregon under the act of Congress approved September 28, 1850, and an act of Congress approved March 12, 1860; to the Committee on Public Lands.

By Mr. BRISTOW:

A bill (S. 8085) granting a pension to Martha Benner; and

A bill (S. 8086) granting a pension to Hiram Strayer (with accompanying papers); to the Committee on Pensions.

By Mr. CUMMINS:

A bill (S. 8087) granting authority to sell certain real property in Des Moines, Iowa, authorizing the acquisition of a new site and the erection of a building thereon, and making an appropriation therefor; to the Committee on Public Buildings and Grounds.

By Mr. GRONNA:

A bill (S. 8088) authorizing the Secretary of War, in his discretion, to deliver to the State of North Dakota, for use at the Fort Rice Memorial Park, two condemned cannon, with their carriages and outfits of cannon balls; to the Committee on Military Affairs.

A bill (S. 8089) permitting the building of a railroad bridge across the Yellowstone River from a point on the east bank in section 15 to a point on the west bank in section 16, township 151 north of range 104 west of the fifth principal meridian, in McKenzie County, N. Dak.; and

A bill (S. 8090) permitting the building of a railroad bridge across the Missouri River from a point on the east bank in section 14, Mountrail County, N. Dak., to a point on the west bank of said river in section 15 in McKenzie County, N. Dak., in township 152 north of range 93 west of the fifth principal meridian; to the Committee on Commerce.

By Mr. JONES:

A bill (S. 8091) authorizing the Secretary of War to make certain donations of cannon; to the Committee on Military Affairs.

By Mr. SMOOT:

A bill (S. 8092) granting to the Emigration Canon Railroad Co., a corporation of the State of Utah, permission, in so far as the United States is concerned, to occupy for a right of way for its railroad track a certain piece of land now included in the Mount Olivet Cemetery, Salt Lake County, Utah; to the Committee on Public Lands.

By Mr. BRANDEGEE:

A bill (S. 8093) granting an increase of pension to Josephine Roth; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8094) granting an increase of pension to Charles R. Bunnell (with accompanying papers); to the Committee on Pensions.

By Mr. CRANE:

A bill (S. 8095) granting an increase of pension to George W. Seymour; to the Committee on Pensions.

By Mr. WILLIAMS:

A bill (S. 8096) for the relief of the heirs of Isaac Whitaker, deceased; to the Committee on Claims.

By Mr. TILLMAN:

A bill (S. 8097) for the relief of St. John's Episcopal Church, at Winnsboro, S. C.; to the Committee on Claims.

By Mr. JOHNSON of Maine (for Mr. GARDNER):

A bill (S. 8098) granting an increase of pension to Horace C. Webber;

A bill (S. 8099) granting an increase of pension to Porter E. Nash;

A bill (S. 8100) granting an increase of pension to Joseph M. Davis; and

A bill (S. 8101) granting a pension to Mary J. Gooding (with accompanying paper); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 8102) granting an increase of pension to Edward Hearin (with accompanying papers);

A bill (S. 8103) granting an increase of pension to John W. Nash (with accompanying papers);

A bill (S. 8104) granting an increase of pension to Joel H. Grout (with accompanying paper);

A bill (S. 8105) granting an increase of pension to John M. Mower (with accompanying papers); and

A bill (S. 8106) granting a pension to William McFadzen (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. JONES submitted an amendment proposing to appropriate $10,000 for the survey of Nespelem and Omak Townships, on the Colville Indian Reservation, Wash., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $5,000 for the survey of the Klaxta Township, on the abandoned Spokane Military Reservation, now the Spokane Indian Reservation, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $25,000 for survey of public lands in the State of Washington, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

MEDALS TO SURVIVORS OF BATTLE OF GETTYSBURG.

Mr. O'GORMAN submitted an amendment intended to be proposed by him to the bill (S. 8031) providing for the presentation of medals to all surviving soldiers of the Battle of Gettysburg, which was referred to the Committee on Military Affairs and ordered to be printed.

WITHDRAWAL OF PAPERS—MICHAEL O'BRIEN.

On motion of Mr. LA FOLLETTE, it was

Ordered, That the papers accompanying the bill (S. 4449) granting an increase of pension to Michael O'Brien, Sixty-second Congress, second session, be withdrawn from the files of the Senate, no adverse report having been made thereon.

THE MONEY TRUST INQUIRY (S. DOC. NO. 1003).

Mr. BURTON. I ask to have printed as a Senate document copies of letters to the New York Evening Post, by A. Piatt Andrew, containing some facts and findings relating to the Money Trust inquiry.

The PRESIDENT pro tempore. Without objection, an order for the printing of the letters is entered.

MEMORIAL ADDRESSES.

Mr. SMOOT. Mr. President, I desire to state that during the Sixty-second Congress there died 16 Representatives, 5 Senators, and our Vice President. The eulogies on the lives and public services of the departed have not been delivered in the Senate, with the exception of those in relation to the late Senator Frye, of Maine. If the eulogies are to be printed at this session of Congress, memorial services should be held at an early date, and arrangements for that purpose should be made, because there are some twenty or more of them. I simply call attention to this fact so that Senators who may be interested may arrange a time at a very early date for the delivery of those eulogies.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. Mr. President, I ask that the Senate resume the consideration of what is know as the omnibus claims bill, House bill 19115.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. Mr. President, the pending question is upon the amendment which I proposed to the amendment offered by the Senator from Massachusetts [Mr. LODGE], seeking to incorporate into the bill what are known as the French spoliation claims. I now ask that the vote be taken upon the amendment offered by me to the amendment proposed by the Senator from Massachusetts.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from New Hampshire?

Mr. CRAWFORD. Certainly.

Mr. GALLINGER. Is the Senator through for the present?

Mr. CRAWFORD. Yes; and I yield to the Senator.

Mr. GALLINGER. Mr. President, I am going to occupy a very few moments in a discussion of this matter. On one or two previous occasions I spoke at some length in favor of the so-called French spoliation claims. I have not changed my mind on the subject at all, and I only desire to briefly restate my position.

These claims are very old; they are sometimes called stale; but I believe a claim never becomes stale that is pressed from time to time before the Congress; it becomes old but not stale, and the fact that these claims are very old is, to my mind, an added reason why they should be paid, provided they are honest claims.

Mr. President, I am not going to weary the Senate in going over the facts concerning these claims, the facts being well known to the Members of the Senate and to the country at large. From my point of view, the Government, in honor and in fairness, is bound to pay them.

In looking over the RECORD a few days ago I found that there have been 63 favorable reports made by committees of Congress on these claims. In three of those instances there was an adverse minority report, and there have been three adverse reports made during this more than 100 years. The total amount of the claims, as I recall, was between $4,000,000 and $5,000,000 of which between three and four million dollars have been paid, and there remain unpaid somewhere from six to eight hundred thousand dollars. If the payment of $3,000,000 or $4,000,000 was a correct payment, the payment of the six or eight hundred thousand dollars remaining must be equally correct; and I have been unable to discover any difference between the claims that have been paid and the claims that remain unpaid.

The first time I ever heard this matter discussed was in the House of Representatives in 1888. The Senator now occupying the chair [Mr. SHIVELY], as I recall, was a colleague of mine in the House at that time. Mr. Hooker, of Mississippi, a very able Representative, made a speech of some considerable length on the question, and I want to quote very briefly from what Mr. Hooker said. It impressed me then. I had not examined the matter very carefully up to that time, and it led me to take a very great interest in the matter, and, as some of these claims were from my own section of the country, I studied the subject as well as I could, and came to the conclusion then, which I still hold, that it is a great injustice to refuse to pay the remnant of these claims. Mr. Hooker said:

> If we have allowed decade after decade to pass, from 1801 down to the present time, if we have allowed generation after generation to pass away who were entitled to these claims, the original claimants and their descendants, is it any argument to the enlightened conscience and to the just sense of right of an American Congress to say that because we have persisted in wrong for nearly 100 years therefore we should persist in it for another 100 years? I say to these gentlemen whose names are recorded in favor of the law giving the Court of Claims the right of jurisdiction upon this question, if you did not intend to make a promise to the ear which was to be broken to the hope, if you did not intend that, then you ought to have raised all these objections when that bill was pending in this House, and you ought to have voted down the proposition to refer these matters to the Court of Claims, because, if the gentleman from Pennsylvania is correct, you were referring to that court claims the subject matter of which had no value, and the assumed beneficiaries of which were nefarious claimants of something to which they had no right.
>
> Yet the finding of your court answers him. Your tribunal, composed of five enlightened and able jurists, sitting for long weeks and months upon these cases, taking proof for the claimants and proof for the Government, tell you that certain of these claims which they have investigated are just, valid, subsisting claims against the Government of the United States.

Mr. President, I recall that speech to-day as it came to me at the time it was uttered in the House of Representatives; the discussion was one of great interest; and I was then persuaded that the Government was in honor bound to pay these claimants, and, as I said a moment ago, I have not been able to divest my mind of that feeling from that day to this. We referred the claims to the Court of Claims; the Court of Claims investigated them and reported them back to Congress as being just claims; and yet we have haggled over them year after year and decade after decade, and a portion of the claims remain unpaid to the present time, which is not to our credit from any point of view.

I trust, Mr. President, that as the Court of Claims found the full amount due as recognized in the amendment of the Senator from Massachusetts, the motion made by the Senator from South Dakota [Mr. CRAWFORD] to reduce the amount may not prevail, and that the amendment of the Senator from Massachusetts may receive the sanction of the Senate. As I said a moment ago, if the three or four million dollars that we have paid has been justly and honestly and honorably paid, we are equally in duty bound to pay the six or eight hundred thousand dollars that remain unpaid, and it is time that the Senate did its full duty in this matter. That is all I care to say, Mr. President.

Mr. ROOT. Mr. President, when this bill was before the Senate several days ago I put a question to the chairman of the committee when he was cut off by the arrival of the hour of 1 o'clock. That question I will repeat, in order that what he may say shall be understood.

As I understand, several million dollars of these French spoliation claims have been paid.

Mr. LODGE. Between $3,000,000 and $4,000,000.

Mr. ROOT. Between three and four million dollars, the Senator from Massachusetts says. That payment seems to me, coming as it did at different times, the judgments of successive Congresses upon the principle. It seemed to me that no one was at liberty to dispute the soundness and the equity of these claims in the face of the repeated decisions leading to those payments, unless he had himself made a thorough and exhaustive study of the subject and had come to a different conclusion. I think failing that, we are all bound to accept the decision already reached by Congress as stating the principle. That would leave nothing but the question of the amount, and the amount in the cases now before us has been settled by the judgments of the Court of Claims.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield?

Mr. ROOT. Certainly.

Mr. LODGE. Settled on exactly the same basis on which the previous claims were settled.

Mr. ROOT. I so understand. Now, my question to the chairman of the committee was whether the principle has not been settled in favor of these claimants so that we can proceed to act according to our conscience in regard to payments of the amounts which have been fixed upon by the Court of Claims.

Mr. CRAWFORD. These French spoliation claims have met with favorable action on the part of Congress in three several appropriations.

Mr. LODGE. Four.

Mr. CRAWFORD. One approved by President Harrison; one by President McKinley—possibly two by President McKinley—and one by President Roosevelt; I am not sure; possibly three or four. They came before Congress as items in general appropriation bills of some sort, and were not presented as independent propositions resting alone and discussed alone.

Before that time there had been bills presented for their allowance which were vetoed. President Cleveland vetoed one of these bills, and he placed his objection largely upon the ground that the claims contained what he thought were excessive amounts which they asked to be reimbursed on account of what they had paid as insurance premiums for insurance to cover this property and profits in the nature of freight earnings.

Now, we had the same question up two years ago in an omnibus claims bill, and it was discussed for several weeks in the Senate. The bill containing the French spoliation claims passed the Senate and went to the House, and there it was defeated. The entire bill was defeated on account of the very decided hostility to the items in that bill appropriating money for French spoliation claims. When the subject of presenting the present bill, which passed the House without the French spoliation claims in it, came up before the Committee on Claims the whole question was discussed whether or not the French spoliation claims should be incorporated in this bill.

As is well known, upon the general principle of obligation to satisfy these claims my own judgment was in recognition of the principle of payment. But I was only one member of the committee. The hostility to the claims on the question of incorporating them into the bill which passed the House was so marked and so decided that it looked like utter failure for the whole bill from the beginning if what are known as the French spoliation claims were incorporated in it. The matter was submitted to the committee, and after very careful consideration and on account of the situation—the sharp difference of opinion, the positive, aggressive opposition to these claims—the majority of the committee decided that it was inexpedient and unwise to attempt to incorporate those claims as an amendment upon the House bill. I am trying in good faith to execute the instructions which I received from this committee.

Now, as to the merits of the case, speaking particularly in regard to the amendment which I have proposed to the amendment offered by the Senator from Massachusetts, I wish to say this: It is undoubtedly true that in conventions and under previous adjudications that have occurred, items such as these claims for freight earnings and insurance premiums have been allowed. I do not think, however, that the situations are exactly similar, because in most of those instances we were dealing directly with a foreign nation and it was a matter of settlement and adjustment between the Government of the United States and a foreign power direct; and in one of the instances which the Senator from Massachusetts presented the other day, as he said, a lump sum was paid over to the United States much in excess of the amount of these individual claims, and the Government had this fund at its disposal and it was quite liberal in paying out to the claimants and reimbursing them for items such as insurance premiums, no matter how large, and freight earnings, and things of that kind.

I do not believe that there has been established any binding precedent which in any way ties the hands of the Congress of the United States in the matter of simply doing what it may decide is fair and reasonable justice in this particular case. These findings that come here from the Court of Claims are not judgments. The cases were sent over there for them to report findings simply for the advisory use that might be made of them by the Congress of the United States. That is all. They are findings which come to us in an advisory way.

So, while I recognize from my standpoint that a great many very just claims are here, can it be said because we have this finding we must in honor pay these claims? Let me call attention to the case of the brig *Sally*, John V. Villett, master. Here was a brig engaged in the slave trade. She purchased a cargo of slaves on the Gold Coast. Her master purchased a cargo of slaves and set sail for Savannah, Ga., intending to stop at St. Thomas, West Indies, for supplies. On March 6, 1797, she was seized by a French privateer and taken to Guadeloupe, where both vessel and cargo were condemned by a French prize tribunal and became a total loss to the owner. The governor of this island took possession of these slaves, 167 of them, and put them to work on government plantations there.

Now, here more than 100 years after, in the twentieth century, we are asked to pay descendants for their loss on freight earnings on 167 negroes—to reimburse them the freight earnings for the loss, because they were seized by the government of those islands in the West Indies. Is there any moral obligation, is there any obligation whatever, resting upon us of this time to pay the descendants of that old slaver for what was lost on the freight on human beings from the west coast of Africa?

Mr. LODGE. That slave case is becoming quite familiar, but is that——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Massachusetts?

Mr. CRAWFORD. I do.

Mr. LODGE. But does that apply to many cases?

Mr. CRAWFORD. Oh, no.

Mr. LODGE. The Senator knows, as I said to him the other day, that the Senator from Massachusetts does not advocate any such claim.

Mr. CRAWFORD. I understand that very well.

Here is another man who had a cargo of freight, and he paid 30 per cent premium for insurance on it. It was on its way to the West Indies, and was seized by a privateer. The cargo and the vessel were taken. Through some adjustment with the insurance company he got back every dollar of his loss. They paid him for the merchandise. They paid him for the vessel itself.

Now, if that was a transaction with the insurance company, he could not make them pay back the premium he had paid for his protection, could he? No; that is what he paid for his protection, and he got his loss absolutely repaid. But a hundred years later his children or his grandchildren want us to pay back that premium of 30 per cent.

I do not care anything about the Geneva award or some convention between this country and Spain or any other foreign power. I say as a matter of simple justice between the United States and its own citizens, are we obliged, in order to do justice, to pay the grandchildren of those losers of insurance premiums? Here is a company of underwriters that took 60 per cent premium for insuring this property, and when the loss occurred they paid the loss. My amendment would allow the claimants to be repaid the amount they paid in insurance, but not allow them to retain the enormous premium of 60 per cent that they exacted at the time they insured the property.

I thought under the circumstances it was no more than fair to at least submit this amendment of mine, which seeks to cut out freight earnings and insurance premiums, and confine the losses to actual property losses—I thought it was no more than fair to the Senate to segregate those items and give the Senate an opportunity to say whether or not in its judgment the insurance premiums and the prospective profits, or the freight earnings should be included in the amount that these people should receive; and that is what the pending amendment provides.

Mr. OWEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Oklahoma?

Mr. CRAWFORD. I do, but I desire to say again that if we are ever to have a vote on this proposition we ought to have it soon, because the appropriation bills are coming in and they will have the right of way.

Mr. OWEN. I wanted to ask how long these people have waited for a settlement——

Mr. CRAWFORD. That appears on the face of the record.

Mr. OWEN. I know, but how long——

Mr. CRAWFORD. Since the early part of the last century; and I am bound to say they have been diligent. That is all I care to say. Can we not have a vote, Mr. President?

Mr. LODGE. Upon the matter of the precedents in Congress, the Senator said three. There are four, as I thought, and I want to put them into the RECORD at a convenient point. Congress has heretofore by appropriation allowed the following amounts:

March 3, 1891 (Fifty-first Congress), $1,304,095.37. The bill was signed by President Harrison.

March 3, 1899 (Fifty-sixth Congress), $1,055,473.04. The bill was signed by President McKinley.

May 27, 1902 (Fifty-seventh Congress), $798,631.27.

February 24, 1905 (Fifty-eighth Congress), $752,660.93.

Total, $3,910,860.61.

That makes four payments on these claims already made by previous Congresses and made on the same basis as those now presented; made on findings of the Court of Claims, which differs in no respects of which I am aware from the findings here.

For that reason I object to the amendment of the Senator from South Dakota. If the claims are to be paid, this amendment differentiates this vast group from all the others that have gone before.

Now, Mr. President, there is one case of a slaver that I think should be omitted. I do not believe, even if it is technically correct, that we need pay old claims for the transportation of

slaves. But, Mr. President, that is but one case. The total amount is not large, and it is only one case among a great many. I desire to say just a word in regard to that matter of premiums. It is not possible for me to say it now, although I shall not take three minutes. But I want to say a word about the question of premiums which the Senator from South Dakota raised, and I hope the Senator will allow the bill to go over, as we only have two minutes now before the impeachment case comes up.

Mr. CRAWFORD. I am very anxious to get a vote on the bill.

Mr. LODGE. The Senator must see it is impossible to get a vote now.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, Mr. Worthington, Mr. Robert W. Archbald, jr., and Mr. Martin, of counsel for the respondent, appeared.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last session of the Senate sitting for the consideration of the articles of impeachment.

The Journal of the Senate sitting as a Court of Impeachment on Saturday last was read.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. ROOT. Mr. President, I offer an order which I have handed to the Secretary.

The PRESIDENT pro tempore. The Senator from New York proposes the following order, which will be read to the Senate.

The Secretary read as follows:

Ordered, That upon the final vote in the pending impeachment the Secretary shall read the articles of impeachment successively, and when the reading of each article is concluded the Presiding Officer shall state the question thereon as follows:

"Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article?"

Thereupon the roll of the Senate shall be called and each Senator, as his name is called, shall arise in his place and answer "guilty" or "not guilty."

The PRESIDENT pro tempore. The question is on the adoption of the order. [Putting the question.] The ayes have it, and the order is unanimously adopted. The Secretary will read the first article of impeachment.

Mr. KERN. Mr. President, if I may do so properly, I desire at this time to ask to be excused from voting upon the articles of impeachment. I was unavoidably detained from the Senate until the adjournment for the Christmas holidays, so that I did not see or hear the witnesses who were examined up to that time. While I have read the testimony and statement of counsel and heard the arguments, I do not feel that I can vote without at least taking the judgment of the Senate upon the question as to whether I may properly do so.

The PRESIDENT pro tempore. The Senator from Indiana asks that the Senate will excuse him from voting upon the articles of impeachment for the reason he has stated. Is there objection? The Chair hears none, and the Senator from Indiana is excused.

Mr. DILLINGHAM. Mr. President, owing to a protracted illness I was detained at my home in Vermont throughout the entire month of December. I heard none of the testimony that was offered in support of the articles of impeachment, nor have I been able by reason of other engagements to read the same since that time. I count myself as entirely disqualified to pass upon any question involved here to-day. For this reason I ask to be excused from voting on any one of the articles of impeachment.

The PRESIDENT pro tempore. The Senator from Vermont asks that he be excused from voting on the articles of impeachment for the reason he has stated. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. BRADLEY. Mr. President, during the session up to the holiday adjournment I was, unfortunately, ill and not able to be here. I have not had time since I came back to read the testimony with that care with which I think it ought to be read, and I ask the Senate to excuse me from voting.

The PRESIDENT pro tempore. The Senator from Kentucky asks to be excused from voting on the articles of impeachment for the reason he has stated. Is there objection? The Chair hears none, and the Senator stands excused.

The Chair will state that two other Senators have previously had practically the consent of the Senate to be excused from voting, the Senator from Arkansas [Mr. HEISKELL] and the Senator from Texas [Mr. JOHNSTON], both of whom came into the Senate near the close of the impeachment proceedings.

Mr. CLARKE of Arkansas. Mr. President, I believe I will ask the Senate to excuse me from voting on the counts which involve incriminating facts alleged to have occurred during the term of the respondent as United States district judge. I have not had sufficient time to convince my own mind that I ought to vote on those counts. I feel definitely well advised as to what I shall do with reference to the matters which transpired while he was judge of the Commerce Court. I think it is proper at this time to ask to be excused from voting on those counts which relate to the conduct of the respondent as judge of the district court, and I prefer that request now.

The PRESIDENT pro tempore. The Senator from Arkansas asks that the Senate excuse him from voting upon the articles indicated by him for the reason he has stated. Is there objection? The Chair hears none, and it is so ordered.

Mr. TILLMAN. Mr. President, as is known to Senators, I have been unable to attend the sessions of the Senate as I should like to have done. I am not prepared to vote on any article but the first one, and I ask to be excused from voting on all the rest.

The PRESIDENT pro tempore. The Senator from South Carolina asks that he be excused from voting upon all the articles of impeachment save only the first one, for the reason stated by him. Is there objection? The Chair hears none, and the Senator from South Carolina is excused as requested.

Mr. JACKSON. Mr. President, owing to the fact that I came into the Senate very recently and have been very busy with the details of my office, having heard practically none of the evidence or arguments in the case, I should like to be excused from voting.

The PRESIDENT pro tempore. The Senator from Maryland asks that he may be excused from voting upon the articles of impeachment, for the reason which he has stated. Is there objection? The Chair hears none, and the Senator stands excused.

The Secretary will proceed to read the first article.

The Secretary read as follows:

ARTICLE 1.

That the said Robert W. Archbald, at Scranton, in the State of Pennsylvania, being a United States circuit judge, and having been duly designated as one of the judges of the United States Commerce Court, and being then and there a judge of the said court, on March 31, 1911, entered into an agreement with one Edward J. Williams whereby the said Robert W. Archbald and the said Edward J. Williams agreed to become partners in the purchase of a certain culm dump, commonly known as the Katydid culm dump, near Moosic, Pa., owned by the Hillside Coal & Iron Co., a corporation, and one John M. Robertson, for the purpose of disposing of said property at a profit. That pursuant to said agreement, and in furtherance thereof, the said Robert W. Archbald, on the 31st day of March, 1911, and at divers other times and at different places, did undertake by correspondence, by personal conferences, and otherwise, to induce and influence, and did induce and influence, the officers of the said Hillside Coal & Iron Co., and of the Erie Railroad Co., a corporation, which owned all of the stock of said coal company, to enter into an agreement with the said Robert W. Archbald and the said Edward J. Williams to sell the interest of the said Hillside Coal & Iron Co. in the Katydid culm dump for a consideration of $4,500. That during the period covering the several negotiations and transactions leading up to the aforesaid agreement the said Robert W. Archbald was a judge of the United States Commerce Court, duly designated and acting as such judge; and at the time aforesaid and during the time the aforesaid negotiations were in progress the said Erie Railroad Co. was a common carrier engaged in interstate commerce and was a party litigant in certain suits, to wit, the Baltimore & Ohio Railroad Co. et al. v. The Interstate Commerce Commission, No. 38, and the Baltimore & Ohio Railroad Co. et al. v. The Interstate Commerce Commission, No. 39, then pending in the United States Commerce Court; and the said Robert W. Archbald, judge as aforesaid, well knowing these facts, willfully, unlawfully, and corruptly took advantage of his official position as such judge to induce and influence the officials of the said Erie Railroad Co. and the said Hillside Coal & Iron Co., a subsidiary corporation thereof, to enter into a contract with him and the said Edward J. Williams, as aforesaid, for profit to themselves, and that the said Robert W. Archbald then and there, through the influence exerted by reason of his position as such judge, willfully, unlawfully, and corruptly did induce the officers of said Erie Railroad Co. and of the said Hillside Coal & Iron Co. to enter into said contract for the consideration aforesaid.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a high crime and misdemeanor in office.

The PRESIDENT pro tempore. Before putting the vote on this article the Chair would request the Senate to excuse the present occupant of the Chair from voting for reasons which will readily occur to Senators, and which attach to him as the Presiding Officer during the trial, except in the case of an article where his vote may affect the result. Is there objection? The Chair hears none, and the Chair will exercise that privilege, with the permission of the Senate.

The Chair now submits article 1 to the judgment of the Senate.

Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will call the roll of the Senate for the separate response of each Senator.

The Secretary called the roll.

Mr. SIMMONS. I desire to announce that my colleague [Mr. OVERMAN] is absent on account of illness.

Mr. BANKHEAD. I wish to announce that my colleague [Mr. JOHNSTON of Alabama] is absent on account of illness.

Mr. KERN. I desire again to announce the absence of the Senator from South Carolina [Mr. SMITH] on account of illness and of death in his family.

Mr. MARTINE of New Jersey. I desire to state that my colleague [Mr. BRIGGS] is also absent on account of illness.

Mr. WILLIAMS. I wish to announce that my colleague [Mr. PERCY] is necessarily detained from the city.

Mr. JOHNSON of Maine. I desire to announce that my colleague [Mr. GARDNER] is necessarily detained from the Chamber.

Mr. O'GORMAN. I desire to announce that the Senator from West Virginia [Mr. CHILTON] is absent owing to illness in his family.

Mr. SANDERS. I wish to announce that my colleague [Mr. LEA] is unavoidably absent from the city.

Mr. CATRON. I desire to state that my colleague [Mr. FALL] is absent on business of the Senate.

Mr. TOWNSEND. I received a telegram from my colleague [Mr. SMITH of Michigan], dated New Orleans, Saturday, stating that he was there on the Mexican investigation and could not therefore be present in the Senate at this time.

Mr. SMOOT. I desire to state that the junior Senator from Nevada [Mr. MASSEY] is out of the city.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—68.

Ashurst	Cummins	McLean	Shively
Bankhead	Curtis	Martin, Va.	Simmons
Borah	Dixon	Martine, N. J.	Smith, Ariz.
Bourne	du Pont	Myers	Smith, Ga.
Brandegee	Fletcher	Nelson	Smith, Md.
Bristow	Foster	Newlands	Smoot
Brown	Gallinger	O'Gorman	Stephenson
Bryan	Gore	Owen	Stone
Burton	Gronna	Page	Sutherland
Chamberlain	Hitchcock	Perkins	Swanson
Clapp	Johnson, Me.	Perky	Thornton
Clark, Wyo.	Jones	Poindexter	Tillman
Clarke, Ark.	Kenyon	Pomerene	Townsend
Crane	La Follette	Reed	Warren
Crawford	Lippitt	Richardson	Wetmore
Culberson	Lodge	Root	Williams
Cullom	McCumber	Sanders	Works

NOT GUILTY—5.

Burnham	Oliver	Paynter	Penrose
Catron			

ABSENT OR NOT VOTING—21.

Bacon	Gamble	Johnston, Tex.	Smith, Mich.
Bradley	Gardner	Kern	Smith, S. C.
Briggs	Guggenheim	Lea	Watson
Chilton	Heiskell	Massey	
Dillingham	Jackson	Overman	
Fall	Johnston, Ala.	Percy	

The PRESIDENT pro tempore. It appears from the responses given by Senators that 68 Senators have voted "guilty" and 5 Senators have voted "not guilty." More than two-thirds of the Senators having voted "guilty," the Senate adjudges the respondent, Robert W. Archbald, guilty as charged in the first article of impeachment.

The Secretary will now read the second article of impeachment.

The Secretary proceeded to read article 2.

Mr. SMITH of Georgia. I move that the Senate close the doors and go into secret session.

The PRESIDENT pro tempore. The Senator from Georgia moves that——

Mr. CULBERSON. Mr. President, a point of order. The Senate has already decided to vote at this hour on the articles of impeachment.

The PRESIDENT pro tempore. That is true, and in the absence of any order to the contrary that order would undoubtedly be carried out. It is, however, for the Senate to determine whether it will at any time suspend that order. It is not a matter of unanimous consent, but it is an order which can be changed or not changed, as the Senate may see proper to do.

Mr. WORTHINGTON. Mr. President, before the question is put, I ask, if the motion be carried, whether it will result in excluding counsel for the respondent from the Senate Chamber?

The PRESIDENT pro tempore. Yes; it would, while the Senate was in secret deliberation, exclude everybody except Senators and those who are privileged under such circumstances.

Mr. WORTHINGTON. I trust that nothing will be done which will exclude counsel for the respondent while the vote is being taken.

The PRESIDENT pro tempore. There will be no vote taken in secret session; there can not be. The question is on the motion of the Senator from Georgia [Mr. SMITH] to now close the doors.

Mr. CLARKE of Arkansas. A parliamentary inquiry, Mr. President. Could voting continue in secret session upon counts or issues raised?

The PRESIDENT pro tempore. There can be no vote except in open session.

Mr. POINDEXTER. Mr. President, I rise to a point of order. Has the Chair just stated that the Senate could not vote upon these articles in secret session?

The PRESIDENT pro tempore. It could not.

Mr. POINDEXTER. The Senate has, I believe, by unanimous consent, fixed this hour for voting?

The PRESIDENT pro tempore. It has done so by order, not by unanimous consent.

Mr. POINDEXTER. It was by order that the Senate met in open session. My understanding was that there was a unanimous-consent agreement that we should vote at 1 o'clock to-day.

SEVERAL SENATORS. Question!

The PRESIDENT pro tempore. The question is on the motion of the Senator from Georgia.

Mr. SMITH of Georgia. Mr. President, I understand that all we could do in secret session would be to consider the question as to whether it is worth while to go on with the vote on these other charges, and it was only with a view of saving time in that way, we having disposed of the matter by a vote on one article, that I made the suggestion. If the Senate is willing, I will withdraw the suggestion.

The PRESIDENT pro tempore. The Senator from Georgia withdraws the motion. The Secretary will read the second article of impeachment.

Mr. LODGE. Mr. President, I ask that there be order in the Chamber and in the galleries during this proceeding, which is a solemn and very serious one, indeed. Those who are here by the courtesy of the Senate, I think, while the articles are being read and voted on, should maintain the strictest order.

The PRESIDENT pro tempore. The suggestion of the Senator from Massachusetts is eminently proper. The Chair particularly requests visitors not by any conversation or otherwise to disturb the entire quietude and solemnity of these proceedings.

The Secretary will proceed with the reading of the second article.

The Secretary read as follows:

ARTICLE 2.

That the said Robert W. Archbald, on the 1st day of August, 1911, was a United States circuit judge, and, having been duly designated as one of the judges of the United States Commerce Court, was then and there a judge of said court.

That at the time aforesaid the Marian Coal Co., a corporation, was the owner of a certain culm bank at Taylor, Pa., and was then and there engaged in the business of washing and shipping coal; that prior to that time the said Marian Coal Co. had filed before the Interstate Commerce Commission a complaint against the Delaware, Lackawanna & Western Railroad Co. and five other railroad companies as defendants, charging said defendants with discrimination in rates and with excessive charges for the transportation of coal shipped by the said Marian Coal Co. over their respective lines of road; that all of the said defendant companies were common carriers engaged in interstate commerce. That the decision of the said case by the Interstate Commerce Commission at the instance of either party thereto was subject to a review, under the laws, by the United States Commerce Court; that one Christopher G. Boland and one William P. Boland were then the principal stockholders of the said Marian Coal Co. and controlled the operation of the same, and they, the said Christopher G. Boland and the said William P. Boland, employed one George M. Watson as an attorney to settle the case then pending as aforesaid in the Interstate Commerce Commission and to sell to the Delaware, Lackawanna & Western Railroad Co. two-thirds of the stock of the said Marian Coal Co.; and at the time aforesaid there was pending in the United States Commerce Court a certain suit entitled "The Baltimore & Ohio Railroad Co. et al. v. The Interstate Commerce Commission, No. 38," to which suit the said Delaware, Lackawanna & Western Railroad Co. was a party litigant.

That the said Robert W. Archbald, being judge as aforesaid and well knowing these facts, did then and there engage for a consideration to assist the said George M. Watson to settle the aforesaid case then pending before the Interstate Commerce Commission and to sell to the said Delaware, Lackawanna & Western Railroad Co. the said two-thirds of the stock of the said Marian Coal Co., and in pursuance of said engagement the said Robert W. Archbald, on or about the 10th day of August, 1911, and at divers other times and at different places, did undertake, by correspondence, by personal conferences, and otherwise to induce and influence the officers of the Delaware, Lackawanna & Western Railroad Co. to enter into an agreement with the said George M. Watson for the settlement of the aforesaid case and the sale of said stock of the Marian Coal Co.; and the said Robert W. Archbald thereby willfully, unlawfully, and corruptly did use his influence as such judge in the attempt to settle said case and to sell said stock of the said Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a high crime and misdemeanor in office.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. SMITH of Georgia (when his name was called). I ask to be excused from voting, for I have not reached a conclusion satisfactory to myself.

The PRESIDENT pro tempore. Is there objection to excusing the Senator from Georgia? The Chair hears none, and he stands excused.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the vote.

The Secretary recapitulated the vote, which was as follows:

GUILTY—46.

Ashurst	Cummins	Martine, N. J.	Sanders
Bankhead	Curtis	Myers	Shively
Borah	Dixon	Nelson	Simmons
Bourne	Fletcher	Newlands	Smith, Ariz.
Bristow	Gronna	O'Gorman	Smith, Md.
Brown	Johnson, Me.	Owen	Stone
Bryan	Kenyon	Perkins	Sutherland
Burton	La Follette	Poindexter	Swanson
Clapp	Lippitt	Pomerene	Williams
Clarke, Ark.	Lodge	Reed	Works
Crawford	McLean	Richardson	
Cullom	Martin, Va.	Root	

NOT GUILTY—25.

Brandegee	du Pont	Oliver	Thornton
Burnham	Foster	Page	Townsend
Catron	Gallinger	Paynter	Warren
Chamberlain	Gore	Penrose	Wetmore
Clark, Wyo.	Hitchcock	Perky	
Crane	Jones	Smoot	
Culberson	McCumber	Stephenson	

ABSENT OR NOT VOTING—23.

Bacon	Gamble	Johnston, Tex.	Smith, Ga.
Bradley	Gardner	Kern	Smith, Mich.
Briggs	Guggenheim	Lea	Smith, S. C.
Chilton	Heiskell	Massey	Tillman
Dillingham	Jackson	Overman	Watson
Fall	Johnston, Ala.	Percy	

The PRESIDENT pro tempore. On the call of the roll of the Senate upon the question whether the respondent is guilty or not guilty under the charge in this article, those voting guilty number 46 and those voting not guilty number 25. Forty-eight would be the number necessary to make two-thirds. Less than two-thirds having voted in favor of the guilt of the respondent, the Senate adjudges that he is not guilty as charged in this article.

The Secretary will proceed to read the third article of impeachment.

The Secretary read as follows:

ARTICLE 3.

That the said Robert W. Archbald, being a United States circuit judge and a judge of the United States Commerce Court, on or about October 1, 1911, did secure from the Lehigh Valley Coal Co., a corporation, which coal company was then and there owned by the Lehigh Valley Railroad Co., a common carrier engaged in interstate commerce, and which railroad company was at that time a party litigant in certain suits then pending in the United States Commerce Court, to wit: The Baltimore & Ohio Railroad Co. et al. v. Interstate Commerce Commission et al., No. 38, and the Lehigh Valley Railroad Co. v. Interstate Commerce Commission et al., No. 49, all of which was well known to said Robert W. Archbald, an agreement which permitted said Robert W. Archbald and his associates to lease a culm dump, known as Packer No. 3, near Shenandoah, in the State of Pennsylvania, which said culm dump contained a large amount of coal, to wit, 472,670 tons, and which said culm dump the said Robert W. Archbald and his associates agreed to operate and to ship the product of the same exclusively over the lines of the Lehigh Valley Railroad Co.; and that the said Robert W. Archbald unlawfully and corruptly did use his official position and influence as such judge to secure from the said coal company the said agreement.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a misdemeanor in such office.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. FOSTER (when his name was called). Mr. President, I ask to be excused from voting on this article, as I have not been able to reach a conclusion satisfactory to myself.

The PRESIDENT pro tempore. The Senator from Louisiana asks to be excused from voting on this article for the reasons stated by him. Is there objection? The Chair hears none, and the Senator stands excused.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—60.

Ashurst	Burton	Cummins	Gronna
Bankhead	Chamberlain	Curtis	Hitchcock
Borah	Clapp	Dixon	Johnson, Me.
Bourne	Clarke, Ark.	du Pont	Jones
Bristow	Crawford	Fletcher	Kenyon
Brown	Culberson	Gallinger	La Follette
Bryan	Cullom	Gore	Lippitt
Lodge	O'Gorman	Richardson	Stone
McCumber	Owen	Root	Sutherland
McLean	Page	Sanders	Swanson
Martin, Va.	Perkins	Shively	Townsend
Martine, N. J.	Perky	Simmons	Warren
Myers	Poindexter	Smith, Ariz.	Wetmore
Nelson	Pomerene	Smith, Ga.	Williams
Newlands	Reed	Smith, Md.	Works

NOT GUILTY—11.

Brandegee	Clark, Wyo.	Paynter	Stephenson
Burnham	Crane	Penrose	Thornton
Catron	Oliver	Smoot	

ABSENT OR NOT VOTING—23.

Bacon	Foster	Johnston, Ala.	Percy
Bradley	Gamble	Johnston, Tex.	Smith, Mich.
Briggs	Gardner	Kern	Smith, S. C.
Chilton	Guggenheim	Lea	Tillman
Dillingham	Heiskell	Massey	Watson
Fall	Jackson	Overman	

The PRESIDENT pro tempore. Upon the call of the roll of the Senate, 60 Senators have voted that the respondent is guilty as charged in this article and 11 Senators have responded that he is not guilty as charged in this article. More than two-thirds of the Senate having responded that he is guilty, the Senate adjudges that the respondent, Robert W. Archbald, is guilty as charged in this article.

The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 4.

That the said Robert W. Archbald, while holding the office of United States circuit judge and being a member of the United States Commerce Court, was and is guilty of gross and improper conduct, and was and is guilty of a misdemeanor as said circuit judge and as a member of said Commerce Court in manner and form as follows, to wit: Prior to and on the 4th day of April, 1911, there was pending in said United States Commerce Court the suit of Louisville & Nashville Railroad Co. v. The Interstate Commerce Commission. Said suit was argued and submitted to said United States Commerce Court on the 4th day of April, 1911; that afterwards, to wit, on the 22d day of August, 1911, while said suit was still pending in said court, and before the same had been decided, the said Robert W. Archbald, as a member of said United States Commerce Court, secretly, wrongfully, and unlawfully did write a letter to the attorney for the said Louisville & Nashville Railroad Co. requesting said attorney to see one of the witnesses who had testified in said suit on behalf of said company and to get his explanation and interpretation of certain testimony that the said witness had given in said suit, and communicate the same to the said Robert W. Archbald, which request was complied with by said attorney; that afterwards, to wit, on the 10th day of January, 1912, while said suit was still pending, and before the same had been decided by said court, the said Robert W. Archbald, as judge of said court, secretly, wrongfully, and unlawfully again did write to the said attorney that other members of said United States Commerce Court had discovered evidence on file in said suit detrimental to the said railroad company and contrary to the statements and contentions made by the said attorney; and the said Robert W. Archbald, judge of said United States Commerce Court as aforesaid, in said letter requested the said attorney to make to him, the said Robert W. Archbald, an explanation and an answer thereto; and he, the said Robert W. Archbald, as a member of said United States Commerce Court aforesaid, did then and there request and solicit the said attorney for the said railroad company to make and deliver to the said Robert W. Archbald a further argument in support of the contentions of the said attorney so representing the said railroad company, which request was complied with by said attorney, all of which on the part of said Robert W. Archbald was done secretly, wrongfully, and unlawfully, and which was without the knowledge or consent of the said Interstate Commerce Commission or its attorneys.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary called the roll.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—52.

Ashurst	Curtis	Martin, Va.	Richardson
Bankhead	Dixon	Martine, N. J.	Sanders
Borah	Fletcher	Myers	Shively
Bourne	Foster	Nelson	Simmons
Bristow	Gore	Newlands	Smith, Ariz.
Brown	Gronna	O'Gorman	Smith, Ga.
Bryan	Hitchcock	Owen	Smith, Md.
Chamberlain	Johnson, Me.	Page	Smoot
Clapp	Jones	Perkins	Stone
Clarke, Ark.	Kenyon	Perky	Thornton
Crawford	La Follette	Poindexter	Townsend
Culberson	Lodge	Pomerene	Williams
Cummins	McLean	Reed	Works

NOT GUILTY—20.

Brandegee	Crane	McCumber	Stephenson
Burnham	Cullom	Oliver	Sutherland
Burton	du Pont	Paynter	Swanson
Catron	Gallinger	Penrose	Warren
Clark, Wyo.	Lippitt	Root	Wetmore

ABSENT OR NOT VOTING—22.

Bacon	Gamble	Johnston, Tex.	Smith, Mich.
Bradley	Gardner	Kern	Smith, S. C.
Briggs	Guggenheim	Lea	Tillman
Chilton	Heiskell	Massey	Watson
Dillingham	Jackson	Overman	
Fall	Johnston, Ala.	Percy	

The PRESIDENT pro tempore. Upon the call of the roll of the Senate, 52 Senators have voted that the respondent is guilty and 20 Senators have voted that he is not guilty. More than two-thirds having voted that he is guilty, the Senate decides that Robert W. Archbald is guilty as charged in this article.

The Secretary will read the next article.

The Secretary read as follows:

ARTICLE 5.

That in the year 1904 one Frederick Warnke, of Scranton, Pa., purchased a two-thirds interest in a lease on certain coal lands owned by the Philadelphia & Reading Coal & Iron Co., located near Lorberry Junction, in said State, and put up a number of improvements thereon and operated a culm dump located on said property for several years thereafter; that operations were carried on at a loss; that said Frederick Warnke thereupon applied to the Philadelphia & Reading Coal & Iron Co. for the mining maps of the said land covered by the said lease, and was informed that the lease under which he claimed had been forfeited two years before it was assigned to him, and his application for said maps was therefore denied; that said Frederick Warnke then made a proposition to George F. Baer, president of the Philadelphia & Reading Railroad Co. and president of the Philadelphia & Reading Coal & Iron Co., to relinquish any claim that he might have in this property under the said lease, provided that the Philadelphia & Reading Coal & Iron Co. would give him an operating lease on what was known as the Lincoln culm bank, located near Lorberry; that said George F. Baer referred said proposition to one W. J. Richards, vice president and general manager of the Philadelphia & Reading Coal & Iron Co., for consideration and action; that the general policy of the said coal company being adverse to the lease of any of its culm banks, the said George F. Baer and the said W. J. Richards declined to make the lease, and the said Frederick Warnke was so advised; that the said Frederick Warnke then made several attempts, through his attorneys and friends, to have the said George F. Baer and the said W. J. Richards reconsider their decision in the premises, but without avail; that on or about November 1, 1911, the said Frederick Warnke called upon Robert W. Archbald, who was then and now is a United States circuit judge, having been duly designated as one of the judges of the United States Commerce Court, and asked him, the said Robert W. Archbald, to intercede in his behalf with the said W. J. Richards; that on November 24, 1911, the said Robert W. Archbald, judge as aforesaid, pursuant to said request, did write a letter to the said W. J. Richards requesting an appointment with the said W. J. Richards; that several days thereafter the said Robert W. Archbald called at the office of the said W. J. Richards to intercede for the said Frederick Warnke; that the said W. J. Richards then and there informed the said Robert W. Archbald that the decision which he had given to the said Warnke must be considered as final, and the said Archbald so informed the said Warnke; that the entire capital stock of the Philadelphia & Reading Coal & Iron Co. is owned by the Reading Co., which also owns the entire capital stock of the Philadelphia & Reading Railroad Co., which last-named company is a common carrier engaged in interstate business.

That the said Robert W. Archbald, judge as aforesaid, well knowing all the aforesaid facts, did wrongfully attempt to use his influence as such judge to aid and assist the said Frederick Warnke to secure an operating lease of the said Lincoln culm dump, owned by the Philadelphia & Reading Coal & Iron Co., as aforesaid, which lease the officials of the said Philadelphia & Reading Coal & Iron Co. had theretofore refused to grant, which said fact was also well known to the said Robert W. Archbald.

That the said Robert W. Archbald, judge as aforesaid, shortly after the conclusion of his attempted negotiations with the officers of the Philadelphia & Reading Railroad Co. and of the Philadelphia & Reading Coal & Iron Co., aforesaid, in behalf of the said Frederick Warnke, and on or about the 31st day of March, 1912, willfully, unlawfully, and corruptly did accept, as a gift, reward, or present, from the said Frederick Warnke, tendered in consideration of favors shown him by said judge in his efforts to secure a settlement and agreement with the said railroad company and the said coal company, and for other favors shown by said judge to the said Frederick Warnke, a certain promissory note for $500 executed by the firm of Warnke & Co., of which the said Frederick Warnke was a member.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as a judge and high crimes and misdemeanors in office.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary called the roll.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary read the recapitulation of the vote, which was as follows:

GUILTY—66.

Ashurst	Curtis	Martin, Va.	Simmons
Bankhead	Dixon	Martine, N. J.	Smith, Ariz.
Borah	du Pont	Myers	Smith, Ga.
Bourne	Fletcher	Nelson	Smith, Md.
Brandegee	Foster	Newlands	Smoot
Bristow	Gallinger	O'Gorman	Stephenson
Brown	Gore	Owen	Stone
Bryan	Gronna	Page	Sutherland
Burton	Hitchcock	Perkins	Swanson
Chamberlain	Johnson, Me.	Perky	Thornton
Clapp	Jones	Poindexter	Townsend
Clarke, Ark.	Kenyon	Pomerene	Warren
Crane	La Follette	Reed	Wetmore
Crawford	Lippitt	Richardson	Williams
Culberson	Lodge	Root	Works
Cullom	McCumber	Sanders	
Cummins	McLean	Shively	

NOT GUILTY—6.

Burnham	Clark, Wyo.	Paynter	Penrose
Catron	Oliver		

ABSENT OR NOT VOTING—22.

Bacon	Gamble	Johnston, Tex.	Smith, Mich.
Bradley	Gardner	Kern	Smith, S. C.
Briggs	Guggenheim	Lea	Tillman
Chilton	Heiskell	Massey	Watson
Dillingham	Jackson	Overman	
Fall	Johnston, Ala.	Percy	

The PRESIDENT pro tempore. Upon the call of the Senate, 66 Senators have upon this article voted that the respondent is guilty and 6 Senators have voted that he is not guilty. More than two-thirds of the Senators having voted that the respondent is guilty, the Senate has decided that he is guilty as charged in this article.

Mr. PAYNTER. Mr. President, I have been advised that occupants of the galleries wish to retire, and I would suggest that they be permitted to do so, even if not permitted to return.

The PRESIDENT pro tempore. Permission will be given as suggested by the Senator from Kentucky for those who wish to retire to do so in an orderly way without confusion.

Mr. CRAWFORD. Mr. President, we have been here for a good while and we are not half through these article. The occupants of the galleries may be restless, and some of us are getting pretty hungry. I wish to suggest that we suspend the calling of the roll for half an hour that we may get our lunch and then come back again. I move that the Senate take a recess until a quarter of 3 o'clock.

The PRESIDENT pro tempore. To what hour?

Mr. CRAWFORD. Until 15 minutes before 3.

Mr. CLARKE of Arkansas and others. Regular order!

The PRESIDENT pro tempore. The Senator from South Dakota moves that the Senate take a recess until 2 o'clock and 45 minutes.

The motion was not agreed to.

The PRESIDENT pro tempore. The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 6.

That the said Robert W. Archbald, being a United States circuit judge and a judge of the United States Commerce Court, on or about the 1st day of December, 1911, did unlawfully, improperly, and corruptly attempt to use his influence as such judge with the Lehigh Valley Coal Co. and the Lehigh Valley Railway Co. to induce the officers of said companies to purchase a certain interest in a tract of coal land containing 800 acres, which interest at said time belonged to certain persons known as the Everhardt heirs.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. POINDEXTER (when his name was called). I ask to be excused from voting on this article. I have not been able to examine the evidence so as to reach a satisfactory conclusion upon it.

The PRESIDENT pro tempore. The Senator from Washington asks that he be excused, for the reason indicated by him, from voting on this article. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. WILLIAMS (when his name was called). Upon this article my mind is not clear and I have reached no satisfactory conclusion. I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Mississippi asks to be excused from voting, for the reason assigned by him. Is there objection? The Chair hears none, and he stands excused.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—24.

Ashurst	Burton	McCumber	Root
Bankhead	Clapp	McLean	Smoot
Bourne	Curtis	Martine, N. J.	Stone
Brandegee	Jones	Myers	Thornton
Bristow	La Follette	Newlands	Townsend
Brown	Lodge	O'Gorman	Works

NOT GUILTY—45.

Borah	Dixon	Nelson	Shively
Bryan	du Pont	Oliver	Simmons
Burnham	Fletcher	Owen	Smith, Ariz.
Catron	Foster	Page	Smith, Ga.
Chamberlain	Gallinger	Paynter	Smith, Md.
Clark, Wyo.	Gore	Penrose	Sutherland
Clarke, Ark.	Gronna	Perkins	Swanson
Crane	Hitchcock	Perky	Warren
Crawford	Johnson, Me.	Pomerene	Wetmore
Culberson	Kenyon	Reed	
Cullom	Lippitt	Richardson	
Cummins	Martin, Va.	Sanders	

ABSENT OR NOT VOTING—25.

Bacon	Gardner	Lea	Stephenson
Bradley	Guggenheim	Massey	Tillman
Briggs	Heikell	Overman	Watson
Chilton	Jackson	Percy	Williams
Dillingham	Johnston, Ala.	Poindexter	
Fall	Johnston, Tex.	Smith, Mich.	
Gamble	Kern	Smith, S. C.	

The PRESIDENT pro tempore. Upon the call of the roll, 24 Senators have voted that the respondent is guilty under the charges in this article and 45 Senators have voted that he is not guilty. Less than two-thirds having voted in favor of his guilt, the Senate adjudges that the respondent, Robert W. Archbald, is not guilty as charged in the article.

Mr. STONE. Articles 7, 8, 9, 10, 11, and 12 relate to charges of misbehavior alleged against the respondent while he was district judge. Some time ago he left that office, and he is not now holding it. I therefore ask to be excused from voting on those articles.

The PRESIDENT pro tempore. The Senator from Missouri asks to be excused from voting on the articles named by him for the reasons he has assigned.

Mr. KENYON. I inquire what are the reasons? We could not hear the Senator.

The PRESIDENT pro tempore. The Senator from Missouri will please restate his reasons.

Mr. STONE. I say, I have not reached a conclusion satisfactory to myself as to whether these alleged offenses could be reached by impeachment. I therefore ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Missouri asks to be excused from voting upon the articles he has enumerated for the reasons assigned by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. SWANSON. Mr. President, I am similarly situated as the Senator from Missouri [Mr. STONE]. I have not been able to reach a conclusion satisfactory to myself as to whether charges specifying offenses prior to the appointment of the respondent as a circuit judge can be tried under this impeachment. Consequently I ask to be excused from voting on articles 7, 8, and 9.

The PRESIDENT pro tempore. The Senator from Virginia asks to be excused from voting on the articles enumerated by him for the reasons he has assigned. Is there objection? The Chair hears none, and the Senator stands excused.

The Secretary will proceed to read the next article of impeachment.

The Secretary read as follows:

ARTICLE 7.

That during the months of October and November, A. D. 1908, there was pending in the United States district court, in the city of Scranton, State of Pennsylvania, over which court Robert W. Archbald was then presiding as the duly appointed judge thereof, a suit or action at law, wherein the Old Plymouth Coal Co. was plaintiff and the Equitable Fire & Marine Insurance Co. was defendant. That the said coal company was principally owned and entirely controlled by one W. W. Rissinger, which fact was well known to said Robert W. Archbald; that on or about November 1, 1908, and while said suit was pending, the said Robert W. Archbald and the said W. W. Rissinger wrongfully and corruptly agreed together to purchase stock in a gold-mining scheme in Honduras, Central America, for the purpose of speculation and profit; that in order to secure the money with which to purchase said stock, the said Rissinger executed his promissory note in the sum of $2,500, payable to Robert W. Archbald and Sophia J. Hutchison, which said note was indorsed then and there by the said Robert W. Archbald, for the purpose of having same discounted for cash; that one of the attorneys for said Rissinger in the trial of said suit was one John T. Lenahan; that on the 23d day of November, 1908, said suit came on for trial before said Robert W. Archbald, judge presiding, and a jury, and after the plaintiff's evidence was presented the defendant insurance company demurred to the sufficiency of said evidence and moved for a nonsuit, and, after extended argument by attorneys for both plaintiff and defendant, the said Robert W. Archbald ruled against the defendant and in favor of the plaintiff, and thereupon the defendant proceeded to introduce evidence, before the conclusion of which the jury was dismissed and a consent judgment rendered in favor of the plaintiff for $2,500, to be discharged upon the payment of $2,129.63 if paid within 15 days from November 23, 1908, and on the same day judgments were entered in a number of other like suits against different insurance companies, which resulted in the recovery of about $28,000 by the Old Plymouth Coal Co.; that before the expiration of said 15 days the said Rissinger, with the knowledge and consent of said Robert W. Archbald, presented said note to the said John T. Lenahan for discount, which was refused, and which was later discounted by a bank and has never been paid.

All of which acts on the part of said Robert W. Archbald were improper, unbecoming, and constituted misbehavior in his said office as judge, and render him guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed with the call of the roll of Senators for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. BORAH (when his name was called). Upon this article I vote "not guilty," and I file, to be printed in the RECORD, my reasons for so doing.

The PRESIDENT pro tempore. Under the order, the Senator has that privilege.

Mr. BRYAN (when his name was called). I file a statement of my views on this and succeeding articles down to and including article 12. On this article I vote "not guilty."

Mr. CRAWFORD (when his name was called). I vote "guilty," and I desire to say——

The PRESIDENT pro tempore. The Senator is not permitted under the rule to make any statement.

Mr. CRAWFORD. I thought we could make a statement of one minute.

The PRESIDENT pro tempore. No.

Mr. CRAWFORD. Very well. Then, I ask the privilege of filing my reasons hereafter.

The PRESIDENT pro tempore. That privilege has already been granted.

Mr. FOSTER (when his name was called). I am going to ask to be excused from voting on this article and the remainder of the articles.

The PRESIDENT pro tempore. The Senator will limit his present request to this article, as the roll is now being called on that.

Mr. FOSTER. I have not been able to reach a conclusion satisfactory to myself regarding this article.

The PRESIDENT pro tempore. The Senator from Louisiana asks to be excused from voting upon this article for the reason stated by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. SIMMONS. I vote "not guilty," but I desire to inquire whether, under the order adopted by the Senate, I can file my reasons hereafter?

The PRESIDENT pro tempore. There is an order to that effect.

Mr. SMITH of Georgia (when his name was called). I ask to be excused from voting upon this article, as I have not reached a conclusion as to whether these acts done prior to the occupancy of the defendant of a seat on the Commerce Court can now be the subject of impeachment.

The PRESIDENT pro tempore. The Senator from Georgia asks to be excused from voting upon this article for the reason assigned by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. SMITH of Maryland (when his name was called). As I am undecided in my own mind in regard to this article, I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Maryland asks to be excused, for the reason assigned by him, from voting upon this article. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. WORKS (when his name was called). I vote "not guilty," and, as provided for by the order of the Senate, I now file my reasons for my vote.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—29.

Ashurst	Dixon	Martine, N. J.	Shively
Bourne	Fletcher	Myers	Smith, Ariz.
Bristow	Gore	O'Gorman	Thornton
Brown	Gronna	Owen	Wetmore
Clapp	Jones	Perky	Williams
Crawford	Kenyon	Poindexter	
Culberson	La Follette	Pomerene	
Cummins	Martin, Va.	Reed	

NOT GUILTY—36.

Bankhead	Crane	McCumber	Richardson
Borah	Cullom	McLean	Root
Brandegee	Curtis	Nelson	Sanders
Bryan	du Pont	Newlands	Simmons
Burnham	Gallinger	Oliver	Smoot
Burton	Hitchcock	Page	Sutherland
Catron	Johnson, Me.	Penrose	Townsend
Chamberlain	Lippitt	Perkins	Warren
Clark, Wyo.	Lodge		Works

ABSENT AND NOT VOTING—29.

Bacon	Gamble	Lea	Stephenson
Bradley	Gardner	Massey	Stone
Briggs	Guggenheim	Overman	Swanson
Chilton	Heikell	Percy	Tillman
Clarke, Ark.	Jackson	Smith, Ga.	Watson
Dillingham	Johnston, Ala.	Smith, Md.	
Fall	Johnston, Tex.	Smith, Mich.	
Foster	Kern	Smith, S. C.	

The PRESIDENT pro tempore. On the call of the roll, 29 Senators have voted that the respondent is guilty as charged in this article and 36 Senators have voted that the respondent is not guilty as charged in this article. Less than two-thirds having voted in favor of guilt, the Senate has adjudged that the respondent is not guilty as charged in this article.

During the roll call the following statements were filed:

By Mr. BORAH: In voting not guilty upon those counts which charge misconduct at a time when said R. W. Archbald was district judge, an office which he no longer holds, I do so because of a doubt I entertain as to the law. I am not prepared to say we can not impeach a man for offenses or acts committed while holding an office which he no longer holds. But the legal proposition, to my mind, is involved in doubt. Furthermore, if we had a clear and undoubted right as a legal proposition to do so, I would hesitate to establish the precedent except upon a peculiar and extraordinary necessity. I am not willing under the circumstances of this case, the object of the impeachment being fully accomplished, to establish that precedent. I prefer to leave it open until expediency demands that the matter be definitely decided. I have not, therefore, undertaken to pass upon the facts supporting the counts, but determine the matter solely upon the doubt which I entertain as to the law and as to the propriety of exercising the power, even if we have it under such conditions as exist in this case.

By Mr. BRYAN: I am convinced that articles of impeachment lie only for conduct during the term of office then being filled, and that the "good behavior" required by the Constitution relates to the future and not to the past; to what the officer does after and not to what the citizen had done before he is nominated and confirmed.

Both the President when he nominates and the Senate when it advises and consents ought to be satisfied, it seems to me, with the character and qualifications of the citizen.

The primary object of an impeachment is removal from office, but this could not be attained if before that the office became vacant.

Taking this view, I vote to acquit the respondent on articles 7, 8, 9, 10, 11, and 12.

Mr. SMITH of Georgia. Mr. President, I desire to ask to be excused from voting on each of the other articles where they involve acts prior to the respondent's appointment to the Commerce Court.

The PRESIDENT pro tempore. The Senator will please indicate the numbers of the articles.

Mr. SMITH of Georgia. They are the ones immediately following down to article 13. I ask to be excused from voting for the reason that I gave a few moments ago on the seventh article.

The PRESIDENT pro tempore. The Senator from Georgia asks to be excused from voting on the articles indicated by him for the reason he has given. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. NEWLANDS. Mr. President, I ask to be excused from voting upon the same articles as those indicated by the Senator from Georgia [Mr. SMITH] for the same reason.

The PRESIDENT pro tempore. The Senator from Nevada asks to be excused from voting upon the articles indicated for the reason assigned by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. FOSTER. Mr. President, I make a similar request.

The PRESIDENT pro tempore. The Senator from Louisiana asks to be excused from voting upon the articles indicated for the reason assigned by him. Is there objection? The Chair hears none, and the Senator stands excused.

The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 8.

That during the summer and fall of the year 1909 there was pending in the United States District Court for the Middle District of Pennsylvania, in the city of Scranton, over which court the said Robert W. Archbald was then and there presiding as the duly appointed judge thereof, a civil action wherein the Marian Coal Co. was defendant, which action involved a large sum of money, and which defendant coal company was principally owned and controlled by one Christopher G. Boland and one William P. Boland, all of which was well known to said Robert W. Archbald; and while said suit was so pending the said Robert W. Archbald drew a note for $500 payable to himself, and which note was signed by one John Henry Jones and indorsed by the said Robert W. Archbald, and then and there during the pendency of said suit as aforesaid the said Robert W. Archbald wrongfully agreed and consented that the said note should be presented to the said Christopher G. Boland and the said William P. Boland, or one of them, for the purpose of having the said note discounted, corruptly intending that his name on said note would coerce and induce the said Christopher G. Boland and the said William P. Boland, or one of them, to discount the same because of the said Robert W. Archbald's position as judge and because the said Bolands were at that time litigants in his said court.

Wherefore the said Robert W. Archbald was and is guilty of gross misconduct in his office as judge, and was and is guilty of a misdemeanor in his said office as judge.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary called the roll.

The PRESIDENT pro tempore. The Secretary will recapitulate the vote.

The Secretary recapitulated the vote, which was as follows:

GUILTY—22.

Ashurst	Crawford	Martine, N. J.	Pomerene
Bourne	Culberson	Myers	Reed
Bristow	Dixon	O'Gorman	Smith, Ariz.
Brown	Gronna	Owen	Williams
Chamberlain	Kenyon	Perky	
Clapp	La Follette	Poindexter	

NOT GUILTY—42.

Bankhead	du Pont	Nelson	Smith, Md.
Brandegee	Fletcher	Oliver	Smoot
Bryan	Gallinger	Page	Stephenson
Burnham	Hitchcock	Paynter	Sutherland
Burton	Johnson, Me.	Penrose	Thornton
Catron	Jones	Perkins	Townsend
Clark, Wyo.	Lippitt	Richardson	Warren
Crane	Lodge	Root	Wetmore
Cullom	McCumber	Sanders	Works
Cummins	McLean	Shively	
Curtis	Martin, Va.	Simmons	

ABSENT OR NOT VOTING—30.

Bacon	Foster	Johnston, Tex.	Smith, Mich.
Borah	Gamble	Kern	Smith, S. C.
Bradley	Gardner	Lea	Stone
Briggs	Gore	Massey	Swanson
Chilton	Guggenheim	Newlands	Tillman
Clarke, Ark.	Heikell	Overman	Watson
Dillingham	Jackson	Percy	
Fall	Johnston, Ala.	Smith, Ga.	

The PRESIDENT pro tempore. On the call of the roll of the Senate, 22 Senators have voted that the respondent is guilty as charged in this article and 42 Senators have voted that he is not guilty as charged in this article. The Senate has therefore adjudged that the respondent is not guilty as charged in this article. The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 9.

That the said Robert W. Archbald, of the city of Scranton and State of Pennsylvania, on or about November 1, 1909, being then and there a United States district judge in and for the middle district of Pennsylvania, in the city of Scranton and State aforesaid, did draw a note in his own proper handwriting, payable to himself, in the sum of $500, which said note was signed by one John Henry Jones, which said note the said Robert W. Archbald indorsed for the purpose of securing the sum of $500, and the said Robert W. Archbald, well knowing that his indorsement would not secure money in the usual commercial channels, then and there wrongfully did permit the said John Henry Jones to present said note for discount, at his law office, to one C. H. Von Storch, attorney at law and practitioner in said district court, which said Von Storch, a short time prior thereto, was a party defendant in a suit in the said district court presided over by the said Robert W. Archbald, which said suit was decided in favor of the said Von Storch upon a ruling by the said Robert W. Archbald; and when the said note was presented to the said Von Storch for discount, as aforesaid, the said Robert W. Archbald wrongfully and improperly used his influence as such judge to induce the said Von Storch to discount same; that the said note was then and there discounted by the said Von Storch, and the same has never been paid but is still due and owing.

Wherefore the said Robert W. Archbald was and is guilty of gross misconduct in his said office, and was and is guilty of a misdemeanor in his said office as judge.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the names of Senators for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. BRANDEGEE (when his name was called). I vote "not guilty" on this article, and take this opportunity of filing my reasons under the rule.

The PRESIDENT pro tempore. The views filed by the Senator from Connecticut will be printed in the RECORD.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of the Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—23.

Ashurst	Crawford	La Follette	Poindexter
Bourne	Culberson	Martine, N. J.	Pomerene
Bristow	Cullom	Myers	Reed
Brown	Dixon	O'Gorman	Shively
Chamberlain	Gronna	Owen	Smith, Ariz.
Clapp	Kenyon	Perky	

NOT GUILTY—39.

Bankhead	du Pont	Nelson	Smoot
Brandegee	Fletcher	Oliver	Stephenson
Bryan	Gallinger	Page	Sutherland
Burnham	Johnson, Me.	Paynter	Thornton
Burton	Jones	Penrose	Townsend
Catron	Lippitt	Perkins	Warren
Clark, Wyo.	Lodge	Richardson	Wetmore
Crane	McCumber	Root	Williams
Cummins	McLean	Sanders	Works
Curtis	Martin, Va.	Simmons	

ABSENT OR NOT VOTING—32.

Bacon	Foster	Johnston, Ala.	Smith, Ga.
Borah	Gamble	Johnston, Tex.	Smith, Md.
Bradley	Gardner	Kern	Smith, Mich.
Briggs	Gore	Lea	Smith, S. C.
Chilton	Guggenheim	Massey	Stone
Clarke, Ark.	Heiskell	Newlands	Swanson
Dillingham	Hitchcock	Overman	Tillman
Fall	Jackson	Percy	Watson

The PRESIDENT pro tempore. On the call of the roll of the Senate, 23 Senators have voted that the respondent is guilty as charged in this article and 39 Senators have voted that he is not guilty as charged in this article. The Senate therefore has adjudged that the respondent is not guilty as charged in this article.

During the calling of the roll the following statement was filed:

By Mr. BRANDEGEE: I vote "not guilty" on articles 7 to 12, inclusive, because I do not think that impeachment will lie for offenses alleged to have been committed by the respondent while holding an office which he does not now hold and did not hold at the time the articles of impeachment were adopted by the House of Representatives.

The PRESIDENT pro tempore. The Secretary will proceed to the next article.

The Secretary read as follows:

ARTICLE 10.

That the said Robert W. Archbald, while holding the office of United States district judge in and for the middle district of the State of Pennsylvania, on or about the 1st day of May, 1910, wrongfully and unlawfully did accept and receive a large sum of money, the exact amount of which is unknown to the House of Representatives, from one Henry W. Cannon; that said money so given by the said Henry W. Cannon and so unlawfully and wrongfully received and accepted by the said Robert W. Archbald, judge as aforesaid, was for the purpose of defraying the expenses of a pleasure trip of the said Robert W. Archbald to Europe; that the said Henry W. Cannon, at the time of the giving of said money and the receipt thereof by the said Robert W. Archbald, was a stockholder and officer in various and divers interstate railway corporations, to wit: A director in the Great Northern Railway; a director in the Lake Erie & Western Railroad Co.; and a director in the Fort Wayne, Cincinnati & Louisville Railroad Co.; that the said Henry W. Cannon was president and chairman of the board of directors of the Pacific Coast Co., a corporation which owned the entire capital stock of the Columbia & Puget Sound Railroad Co., the Pacific Coast Railway Co., the Pacific Coast Steamship Co., and various other corporations engaged in the mining of coal and in the development of agricultural and timber land in various parts of the United States; that the acceptance by the said Robert W. Archbald, while holding said office of United States district judge, of said favors from an officer and official of the said corporations, any of which in the due course of business was liable to be interested in litigation pending in the said court over which he presided as such judge, was improper and had a tendency to and did bring his said office of district judge into disrepute.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article?

The Secretary will proceed to call the roll for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. REED (when his name was called). Availing myself of the rule, I send to the Clerk's desk my reasons for the vote I am about to cast. I vote "not guilty."

The roll call was concluded.

Mr. SWANSON. Mr. President, I asked to be excused from voting on certain articles, but I am not quite sure just what articles the request included. I have no desire to be excused from voting on articles 10, 11, 12, or 13.

Mr. SWANSON's name was thereupon called, and he voted "not guilty."

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—1.

Ashurst

NOT GUILTY—65.

Bankhead	Curtis	Martine, N. J.	Shively
Bourne	Dixon	Myers	Simmons
Brandegee	du Pont	Nelson	Smith, Ariz.
Bristow	Fletcher	O'Gorman	Smith, Md.
Brown	Gallinger	Oliver	Smoot
Bryan	Gore	Owen	Stephenson
Burnham	Gronna	Page	Sutherland
Burton	Hitchcock	Paynter	Swanson
Catron	Johnson, Me.	Penrose	Thornton
Chamberlain	Jones	Perkins	Townsend
Clapp	Kenyon	Perky	Warren
Clark, Wyo.	La Follette	Poindexter	Wetmore
Crane	Lippitt	Pomerene	Williams
Crawford	Lodge	Reed	Works
Culberson	McCumber	Richardson	
Cullom	McLean	Root	
Cummins	Martin, Va.	Sanders	

ABSENT OR NOT VOTING—28.

Bacon	Fall	Johnston, Ala.	Percy
Borah	Foster	Johnston, Tex.	Smith, Ga.
Bradley	Gamble	Kern	Smith, Mich.
Briggs	Gardner	Lea	Smith, S. C.
Chilton	Guggenheim	Massey	Stone
Clarke, Ark.	Heiskell	Newlands	Tillman
Dillingham	Jackson	Overman	Watson

The PRESIDENT pro tempore. Upon the call of the roll of the Senate, 1 Senator has voted that the respondent is guilty as charged in this article and 65 Senators have voted that the respondent is not guilty as charged in this article. The Senate has therefore adjudged that the respondent is not guilty as charged in this article.

The reasons filed by Mr. REED for his vote on the roll call are as follows:

By Mr. REED: In my opinion, article 10 is not sustained by the evidence. It is shown that Henry W. Cannon is a relative of the wife of the respondent, and that on other occasions the respondent and his wife had been the guests of Henry W. Cannon. The relationship existing between the families affords a proper reason for the invitation referred to in the article, and its acceptance. Under these conditions it is my opinion that the action of the respondent ought to receive that construction which accords with innocence.

The PRESIDENT pro tempore. The Secretary will proceed with the reading of the next article.

The Secretary read as follows:

ARTICLE 11.

That the said Robert W. Archbald, while holding the office of United States district judge in and for the middle district of the State of Pennsylvania, did, on or about the 1st day of May, 1910, wrongfully and unlawfully accept and receive a sum of money in excess of $500, which sum of money was contributed and given to the said Robert W. Archbald by various attorneys who were practitioners in the said court presided over by the said Robert W. Archbald; that said money was raised by subscription and solicitation from said attorneys by two of the officers of said court, to wit, Edward R. W. Searle, clerk of said court, and J. B. Woodward, jury commissioner of said court, both the said Edward R. W. Searle and the said J. B. Woodward having been appointed to the said positions by the said Robert W. Archbald, judge aforesaid.

Wherefore said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will call the roll for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. POINDEXTER (when his name was called). Under the rule, I desire to file a statement of the reasons for my vote. I vote "not guilty."

Mr. REED (when his name was called). I vote "not guilty" and, under the rule, I file my reasons.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—11.

Ashurst	Brown	La Follette	Owen
Bourne	Clapp	Lippitt	Perky
Bristow	Dixon	Myers	

NOT GUILTY—51.

Bankhead	du Pont	Nelson	Shively
Brandegee	Fletcher	O'Gorman	Simmons
Bryan	Gallinger	Oliver	Smith, Ariz.
Burnham	Gore	Page	Smith, Md.
Burton	Gronna	Paynter	Smoot
Catron	Johnson, Me.	Penrose	Sutherland
Chamberlain	Jones	Perkins	Thornton
Clark, Wyo.	Kenyon	Poindexter	Townsend
Crane	Lodge	Pomerene	Warren
Culberson	McCumber	Reed	Wetmore
Cullom	McLean	Richardson	Williams
Cummins	Martin, Va.	Root	Works
Curtis	Martine, N. J.	Sanders	

ABSENT OR NOT VOTING—32.

Bacon	Fall	Johnston, Ala.	Smith, Ga.
Borah	Foster	Johnston, Tex.	Smith, Mich.
Bradley	Gamble	Kern	Smith, S. C.
Briggs	Gardner	Lea	Stephenson
Chilton	Guggenheim	Massey	Stone
Clarke, Ark.	Heiskell	Newlands	Swanson
Crawford	Hitchcock	Overman	Tillman
Dillingham	Jackson	Percy	Watson

The PRESIDENT pro tempore. Upon the call of the roll, 11 Senators have voted that the respondent is guilty as charged in this article and 51 Senators have voted that the respondent is not guilty as charged in this article. The Senate has therefore adjudged that the respondent is not guilty as charged in this article.

During the roll call the following statements were filed:

By Mr. POINDEXTER: As to articles 10, 11, and 12, while I regard the acts charged therein, and partly admitted by the respondent, as reprehensible and justly subject to censure and objection, I do not regard them, standing alone, as sufficient cause for impeachment.

By Mr. REED: In explanation of my vote upon this article, I desire to state that I regard the practice sometimes indulged in by judges of courts, of accepting gifts of moneys contributed by attorneys practicing before them, as one which should not only be discountenanced but absolutely discontinued. Indeed, it is my opinion that it should be prohibited by positive statute. Nevertheless, it is my opinion that the evidence in this case does not go far enough to show that the money was contributed or accepted because of any sinister reason. Under these circumstances I do not think the act of sufficient gravity to warrant a finding of guilty. If the evidence had shown by direct testimony or by circumstances that the money was contributed for the purpose of promoting favoritism, and that it was accepted in such a manner as to create an obligation, a different case would have been presented.

The PRESIDENT pro tempore. The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 12.

That on the 9th day of April, 1901, and for a long time prior thereto, one J. B. Woodward was a general attorney for the Lehigh Valley Railroad Co., a corporation and common carrier doing a general railroad business; that on said day the said Robert W. Archbald, being then and there a United States district judge in and for the middle district of Pennsylvania, and while acting as such judge, did appoint the said J. B. Woodward as a jury commissioner in and for said judicial district, and the said J. B. Woodward, by virtue of said appointment and with the continued consent and approval of the said Robert W. Archbald, held such office and performed all the duties pertaining thereto during all the time that the said Robert W. Archbald held said office of United State district judge, and that during all of said time the said J. B. Woodward continued to act as a general attorney for the said Lehigh Valley Railroad Co.; all of which was at all times well known to the said Robert W. Archbald.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to the call of the roll for the separate response of each Senator.

The Secretary called the roll.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses.

The Secretary recapitulated the vote, which was as follows:

GUILTY—19.

Ashurst	Clapp	Gore	Perky
Bourne	Crawford	Gronna	Reed
Bristow	Culberson	Kenyon	Shively
Brown	Cummins	La Follette	Smith, Ariz.
Chamberlain	Dixon	Myers	

NOT GUILTY—46.

Bankhead	Gallinger	Oliver	Smith, Md.
Brandegee	Hitchcock	Owen	Smoot
Bryan	Johnson, Me.	Page	Stephenson
Burnham	Jones	Paynter	Sutherland
Burton	Lippitt	Penrose	Thornton
Catron	Lodge	Perkins	Townsend
Clark, Wyo.	McCumber	Poindexter	Warren
Crane	McLean	Pomerene	Wetmore
Cullom	Martin, Va.	Richardson	Williams
Curtis	Martine, N. J.	Root	Works
du Pont	Nelson	Sanders	
Fletcher	O'Gorman	Simmons	

ABSENT OR NOT VOTING—29.

Bacon	Foster	Kern	Smith, S. C.
Borah	Gamble	Lea	Stone
Bradley	Gardner	Massey	Swanson
Briggs	Guggenheim	Newlands	Tillman
Chilton	Heiskell	Overman	Watson
Clarke, Ark.	Jackson	Percy	
Dillingham	Johnston, Ala.	Smith, Ga.	
Fall	Johnston, Tex.	Smith, Mich.	

The PRESIDENT pro tempore. Upon the call of the roll of the Senate, 19 Senators have responded that the respondent is guilty as charged in this article and 46 Senators have responded that the respondent is not guilty as charged in this article. The Senate has therefore adjudged that the respondent is not guilty as charged in this article.

Mr. SUTHERLAND. Mr. President, the remaining article, 13, includes, in general terms, as I understand, the various articles which have preceded it and I find it exceedingly difficult to vote upon it one way or the other, because if I vote "guilty"——

The PRESIDENT pro tempore. Has the Senator a request to make?

Mr. SUTHERLAND. I desire to make this statement, because if I am not permitted to make a certain motion I want to ask to be excused from voting. This is preliminary to asking to be excused.

The PRESIDENT pro tempore. The Senator can give his reasons for wishing to be excused.

Mr. HITCHCOCK. Will the Senator please speak a little louder?

Mr. SUTHERLAND. I say that I find myself embarrassed to vote upon this question either way—guilty or not guilty.

The PRESIDENT pro tempore. The Senator can not enter into an argument upon the subject. He can state his reasons.

Mr. SUTHERLAND. Mr. President, I understand that I am stating my reasons.

The PRESIDENT pro tempore. With the permission of the Senate, the Senator may proceed.

Mr. SUTHERLAND. I was giving the reason why I think I should be excused from voting, and that is that I have voted upon some of these articles "guilty" and upon some of them "not guilty," and, as it occurs to me, I can not consistently vote upon this one article one way or the other. I desire to be excused, and before that request is put I desire to make a parliamentary inquiry. Would it be in order now to move to indefinitely postpone the consideration of article 13?

The PRESIDENT pro tempore. The Chair does not know that that is strictly a parliamentary question, as it is controlled by the rule of the Senate that the Senators shall vote upon it. It is a matter upon which the Chair would not take the responsibility of ruling, but will submit it to the Senate if the Senator desires it.

Mr. SUTHERLAND. Then, Mr. President, I move that the further consideration of article 13 be indefinitely postponed.

The PRESIDENT pro tempore. The Chair submits to the Senate the question of order.

Mr. WILLIAMS. Is that subject to debate?

The PRESIDENT pro tempore. There is nothing open to debate under the rule.

Mr. WILLIAMS. Then I want to submit this point of order to the Chair. I submit that it is the duty of the Chair to decide the point, for the simple reason that——

The PRESIDENT pro tempore. The Chair will decide it, then, and rule the motion to be out of order.

Mr. WILLIAMS. Yes; because the order under which we are working forbids debate.

Mr. SUTHERLAND. Then I ask to have my request put. I ask to be excused from voting upon this article for the reasons I have stated.

The PRESIDENT pro tempore. The Senator from Utah asks that he be excused from voting on article 13 for the reasons indicated by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. CHAMBERLAIN. I make the same request, and for the same reasons as those given by the Senator from Utah.

The PRESIDENT pro tempore. The Senator from Oregon [Mr. CHAMBERLAIN] makes the request that he be excused for the reasons indicated by the Senator from Utah. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. CLARK of Wyoming. For the same reasons I ask to be excused.

The PRESIDENT pro tempore. The Senator from Wyoming asks to be excused for reasons already given. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. JOHNSON of Maine. I ask to be excused for the same reasons as those assigned by the several Senators.

The PRESIDENT pro tempore. The Senator from Maine asks to be excused. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. WARREN. This article seems to be an omnium gatherum, including all the other charges, and for the same reasons expressed by the Senator from Utah I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Wyoming asks to be excused from voting. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. DU PONT. For the same reason which was so well stated a few moments ago by the Senator from Utah [Mr. SUTHERLAND], I ask to be excused from voting.

Mr. CLAPP. Mr. President, I shall have to object to these requests. They will leave us where we will not have a quorum.

The PRESIDENT pro tempore. The Senator from Minnesota objects.

Mr. LIPPITT. For the reason that I can not consistently with my other votes vote on this article, I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Rhode Island asks to be excused from voting on this article. Is there

objection? The Chair hears none, and the Senator stands excused.

Mr. SIMMONS. For the reasons given by other Senators, I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from North Carolina, for the reasons indicated, asks to be excused from voting. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. GRONNA. I do not believe that I can consistently vote on this article, and therefore I ask to be excused.

The PRESIDENT pro tempore. The Senator from North Dakota asks to be excused from voting on this article.

Mr. REED. If it is in order, I should like to make a motion with reference to this matter for the action of the Senate.

The PRESIDENT pro tempore. The Chair is now putting the request of the Senator from North Dakota.

Mr. REED. Ah.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from North Dakota? The Chair hears none, and the Senator stands excused. The Senator from Missouri.

Mr. REED. Mr. President, this presents a peculiar question, and I therefore move that the doors of the Senate be closed.

The PRESIDENT pro tempore. The Senator from Missouri moves that the doors of the Senate be closed for deliberation.

Mr. DU PONT. I renew my request, for the reason stated, that I may be excused from voting.

The PRESIDENT pro tempore. There is a motion pending, made by the Senator from Missouri. The motion is that the doors of the Senate shall be closed for private conference.

Mr. O'GORMAN. I hope the motion will not prevail.

Mr. LODGE. I make the point that no debate is in order.

Mr. O'GORMAN. There are 13 articles on which Senators are prepared to render judgment. We have passed on 12 of those articles, and I assume that Senators will not be embarrassed in passing on the thirteenth; and that, I assume, is the regular order.

Mr. LODGE. I make the point that no debate is in order.

The PRESIDENT pro tempore. There is no rule on the subject that the Chair can find.

Mr. LODGE. It is the rule of the Senate that we shall vote without debate.

The PRESIDENT pro tempore. But the question is on the motion to go into private conference.

Mr. LODGE. That must be voted on without debate, like everything else.

Mr. ASHURST. On the motion of the Senator from Missouri [Mr. REED] I demand the yeas and nays.

Mr. POINDEXTER. It seems the Chair has ruled that it is open to debate, and I want to say only one word.

The PRESIDENT pro tempore. The Chair, on reflection, thinks the point of order made by the Senator from Massachusetts is correct. The Chair will rule that debate is not in order.

Mr. OLIVER. I call for the regular order.

The PRESIDENT pro tempore. The regular order is the demand for the yeas and nays made by the Senator from Arizona on the motion of the Senator from Missouri.

The yeas and nays were not ordered.

Mr. JONES. Mr. President. I rise to a point of order. Under the rule we have to determine all these questions by a roll call.

The PRESIDENT pro tempore. Not unless one-fifth of the Senators present demand it. The Senator will find that the rule is explicit on that subject.

Mr. JONES. I understood the rule did not require any second when the Senate is sitting as a Court of Impeachment.

Mr. CRAWFORD. I ask for the regular order.

The PRESIDENT pro tempore. The Senator from Washington has made a point of order, and it is proper to rule on it.

Mr. REED. When I made the motion I thought it would save time. If there is no objection, I will withdraw it.

The PRESIDENT pro tempore. The Senator from Missouri withdraws the motion, but the Chair will state to the Senator from Washington that if he will refer to the rules he will find explicit provision that the question shall be decided without division unless the yeas and nays are demanded. The Senator from Missouri withdraws the motion for the closing of the doors, and the Secretary will read article 13.

Mr. GALLINGER. I ask unanimous consent that the consideration of article 13 be indefinitely postponed.

Mr. POINDEXTER. I object.

The PRESIDENT pro tempore. Objection is made.

Mr. McCUMBER. Mr. President, I rise to a point of order. We are, under the rule, compelled to vote on the article. It can not be withdrawn.

Mr. CULBERSON, Mr. LA FOLLETTE, and others. Regular order!

The PRESIDENT pro tempore. The article will be read. The article has not yet been read.

The Secretary read as follows:

ARTICLE 13.

That Robert W. Archbald, on the 29th day of March, 1901, was duly appointed United States district judge for the middle district of Pennsylvania and held such office until the 31st day of January, 1911, on which last-named date he was duly appointed a United States circuit judge and designated as a judge of the United States Commerce Court.

That during the time in which the said Robert W. Archbald has acted as such United States district judge and judge of the United States Commerce Court he, the said Robert W. Archbald, at divers times and places, has sought wrongfully to obtain credit from and through certain persons who were interested in the result of suits then pending and suits that had been pending in the court over which he presided as judge of the district court, and in suits pending in the United States Commerce Court, of which the said Robert W. Archbald is a member.

That the said Robert W. Archbald, being United States circuit judge and being then and there a judge of the United States Commerce Court, at Scranton, in the State of Pennsylvania, on the 31st day of March, 1911, and at divers other times and places, did undertake to carry on a general business for speculation and profit in the purchase and sale of culm dumps, coal lands, and other coal properties, and for a valuable consideration to compromise litigation pending before the Interstate Commerce Commission, and in the furtherance of his efforts to compromise such litigation and of his speculations in coal properties, willfully, unlawfully, and corruptly did use his influence as a judge of the said United States Commerce Court to induce the officers of the Erie Railroad Co., the Delaware, Lackawanna & Western Railroad Co., the Lackawanna & Wyoming Valley Railroad Co., and other railroad companies engaged in interstate commerce, respectively, to enter into various and divers contracts and agreements in which he was then and there financially interested with divers persons, to wit, Edward J. Williams, John Henry Jones, Thomas H. Jones, George M. Watson, and others, without disclosing his said interest therein on the face of the contract, but which interest was well known to the officers and agents of said railroad companies.

That the said Robert W. Archbald did not invest any money or other thing of value in consideration of any interest acquired or sought to be acquired by him in securing or in attempting to secure such contracts or agreements or properties as aforesaid, but used his influence as such judge with the contracting parties thereto, and received an interest in said contracts, agreements, and properties in consideration of such influence in aiding and assisting in securing same.

That the said several railroad companies were and are engaged in interstate commerce, and at the time of the execution of the several contracts and agreements aforesaid and of entering into negotiations looking to such agreements had divers suits pending in the United States Commerce Court, and that the conduct and efforts of the said Robert W. Archbald in endeavoring to secure and in securing such contracts and agreements from said railroad companies was continuous and persistent from the said 31st day of March, 1911, to about the 15th day of April, 1912.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of misdemeanors in office.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will call the roll of the Senate for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. BRANDEGEE (when his name was called). I take this opportunity to file my reasons.

Mr. POINDEXTER (when his name was called). Under the rule I desire to file the following statement.

The roll call was concluded.

Mr. SIMMONS. I will withdraw my request to be excused and will vote and will file my reasons. I vote "guilty."

Mr. DU PONT. I withdraw my request to be excused and file my reasons. I vote "not guilty."

The PRESIDENT pro tempore. The Secretary will proceed to recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—42.

Ashurst	Dixon	Martine, N. J.	Simmons
Bourne	Foster	Myers	Smith, Ariz.
Bristow	Gore	O'Gorman	Smith, Ga.
Brown	Hitchcock	Owen	Smith, Md.
Burton	Jones	Perky	Stone
Clapp	Kenyon	Poindexter	Swanson
Crawford	La Follette	Pomerene	Townsend
Culberson	Lodge	Reed	Williams
Cullom	McCumber	Root	Works.
Cummins	McLean	Sanders	
Curtis	Martin, Va.	Shively	

NOT GUILTY—20.

Bankhead	Crane	Oliver	Richardson
Brandegee	du Pont	Page	Smoot
Bryan	Fletcher	Paynter	Stephenson
Burnham	Gallinger	Pearose	Thornton
Catron	Nelson	Perkins	Wetmore

ABSENT OR NOT VOTING—32.

Bacon	Dillingham	Johnson, Me.	Overman
Borah	Fall	Johnston, Ala.	Percy
Bradley	Gamble	Johnston, Tex.	Smith, Mich.
Briggs	Gardner	Kern	Smith, S. C.
Chamberlain	Gronna	Lea	Sutherland
Chilton	Guggenheim	Lippitt	Tillman
Clark, Wyo.	Heisler	Massey	Warren
Clarke, Ark.	Jackson	Newlands	Watson

The PRESIDENT pro tempore. On the call of the roll of the Senate, 42 Senators have responded that the respondent is

guilty as charged in this article and 20 Senators have responded that he is not guilty as charged in this article. More than two-thirds having voted that the respondent is guilty, the Senate has adjudged that the respondent is guilty as charged in the article.

The reasons filed by Senators are as follows:

By Mr. BRANDEGEE: I vote "not guilty" on article 13 because it alleges offenses some of which are alleged to have been committed by the respondent while he was a judge of the United States district court, which office he does not hold at present and did not hold at the time the articles were adopted by the House of Representatives; and also because it is impossible to separate the offenses alleged to have been committed as district judge from those alleged to have been committed as circuit judge and because I do not think all the allegations have been proved.

By Mr. POINDEXTER: Mr. POINDEXTER stated, as to article 13, that while it includes particular acts charged in other articles it, nevertheless, charges a distinct offense, in that it charges that the respondent made a regular business for profit of such acts.

By Mr. DU PONT: Reasons filed by Senator DU PONT with respect to certain votes cast by him during this session:

My vote of "not guilty" upon the articles of impeachment against Judge R. W. Archbald numbered 7, 8, 9, 10, 11, 12, and 13 was based, in the main, upon the fact that the offenses therein charged were alleged to have been committed prior to January 31, 1911, when he was not holding his present office. In my judgment, the legality of the impeachment, so far as such offenses are concerned, is questionable, and, in any event, a precedent fraught with danger is created.

By Mr. OWEN: Views of Mr. OWEN on articles 7, 8, 9, etc.:

Impeachment is the exercise of political power and not the exercise of mere judicial authority under a criminal code. Impeachment is the only mode of removing from office those persons proven to be unfit because of treason or high crimes or misdemeanors.

Whether these crimes be committed during the holding of a present office or a preceding office is immaterial, if such crimes demonstrate the gross unfitness of such official to hold the great offices and dignities of the people.

A wise public policy forbids the precedent to be set that promotion in office of a criminal precludes his impeachment on the ground of his discovered high crimes and misdemeanors in a previous office, from which he has just been promoted.

For these reasons, it is my judgment that articles 7, 8, 9, etc., in so far as they charge crimes committed by R. W. Archbald while United States district judge comprise impeachable offenses and may be alleged against him as judge of the Commerce Court.

Mr. O'GORMAN. I offer the following resolution.

The PRESIDENT pro tempore. The Senator from New York offers an order, which will be read to the Senate.

Mr. JONES. Before that order is presented, I wish to make a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Washington will state it.

Mr. JONES. My inquiry is whether those who asked to be excused from voting will be considered as present on the roll call? The Constitution requires that a vote of two-thirds of those present will sustain the article, and the inquiry is if the vote announced by the Chair of the number voting guilty was two-thirds of those present?

The PRESIDENT pro tempore. The Chair knows of no way of determining the presence of Senators except by the recorded vote.

Mr. JONES. A number of Senators were excused from this roll call, and it seems to me that they should be counted as present.

The PRESIDENT pro tempore. The Chair has no right to count anyone who has not voted.

Mr. ROOT. I call for the regular order.

The PRESIDENT pro tempore. The Senator from New York [Mr. O'GORMAN] presents a resolution in the nature of an order, which will be read.

The Secretary read as follows:

Ordered, That the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be removed from office and be forever disqualified from holding and enjoying any office of honor, trust, or profit under the United States.

Mr. ROOT. Mr. President, I move that the doors be closed for deliberation upon the sentence to be imposed by the Senate.

Mr. POINDEXTER. Will the Senator from New York yield to me just a moment that I may file a brief statement?

Mr. ROOT. That can be done at any time. It is not necessary that it be filed now.

Mr. WARREN. At any time within two days.

By Mr. POINDEXTER: The statement submitted by Mr. POINDEXTER is as follows: As to articles 7, 8, and 9, although the offenses charged were committed while the respondent was district judge and before he was appointed circuit judge, yet, since the penalty for impeachable offenses is not only forfeiture of office but disqualification to hold office thereafter, I am of opinion that the offenses charged in these articles, although committed before respondent's appointment as circuit judge, nevertheless disqualify him, on impeachment therefor, from holding office as such circuit judge or as judge of the Commerce Court. There is no statute of limitations nor law of limitations in impeachment proceedings.

The PRESIDENT pro tempore. The Senator from New York [Mr. ROOT] moves that the doors be closed in order that the Senate may deliberate in private. The question is on the motion of the Senator from New York.

The motion was agreed to.

The managers on the part of the House and the counsel for the respondent withdrew from the Chamber.

The galleries having been cleared, the Senate (at 3 o'clock and 50 minutes p. m.) proceeded to deliberate with closed doors.

At 4 o'clock and 20 minutes p. m. the doors were reopened.

Mr. Worthington, Mr. Robert W. Archbald, jr., and Mr. Martin, of counsel for the respondent, appeared in the seats provided for them.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The PRESIDENT pro tempore. What is the pleasure of the Senate?

Mr. O'GORMAN. Mr. President, I should like to have the order which I presented read, and then I shall ask for a vote upon it.

The PRESIDENT pro tempore. The Senator from New York asks that the order which he presents be read.

The Secretary read the order, as follows:

Ordered, That the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be removed from office, and be forever disqualified from holding and enjoying any office of honor, trust, or profit under the United States.

Mr. OLIVER. I ask for a division of the question.

The PRESIDENT pro tempore. The Senator from Pennsylvania desires a division of the question. The Chair will direct that the first part of the proposed order, beginning with the word "*Ordered*" and concluding with the word "office," be first submitted to the Senate. That portion will now be stated by the Secretary.

The Secretary read as follows:

Ordered, That the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be removed from office.

The PRESIDENT pro tempore. The question is on the adoption of the first portion of the proposed order, which has just been read.

The first portion of the order was agreed to.

The PRESIDENT pro tempore. The question now is upon the concluding portion of the order, which the Secretary will read.

The Secretary read as follows:

And be forever disqualified from holding and enjoying any office of honor, trust, or profit under the United States.

The PRESIDENT pro tempore. The question is upon agreeing to the portion of the order just read by the Secretary.

Mr. PENROSE and Mr. LA FOLLETTE called for the yeas and yeas.

The yeas and nays were ordered; and, having been taken, resulted—yeas 39, nays 35, as follows:

YEAS—39.

Ashurst	Culberson	La Follette	Reed
Borah	Cummins	Martin, Va.	Shively
Bourne	Dixon	Martine, N. J.	Simmons
Bristow	Fletcher	Newlands	Smith, Ariz.
Brown	Gore	O'Gorman	Smith, Md.
Bryan	Gronna	Owen	Stone
Chamberlain	Hitchcock	Page	Swanson
Clapp	Johnson, Me.	Perky	Tillman
Clarke, Ark.	Kenyon	Poindexter	Williams
Crawford	Kern	Pomerene	

NAYS—35.

Bacon	Curtis	Nelson	Smoot
Bankhead	du Pont	Oliver	Stephenson
Brandegee	Foster	Paynter	Sutherland
Burnham	Gallinger	Penrose	Thornton
Burton	Jones	Perkins	Townsend
Catron	Lippitt	Richardson	Warren
Clark, Wyo.	Lodge	Root	Wetmore
Crane	McCumber	Sanders	Works
Cullom	McLean	Smith, Ga.	

NOT VOTING—20.

Bradley	Gamble	Johnston, Ala.	Overman
Briggs	Gardner	Johnston, Tex.	Percy
Chilton	Guggenheim	Lea	Smith, Mich.
Dillingham	Helskell	Massey	Smith, S. C.
Fall	Jackson	Myers	Watson

The PRESIDENT pro tempore. Upon the question of the adoption of the latter part of the order, which has just been read, the "yeas" are 39 and the "nays" 25. The "yeas" have it, and the latter part of the order is adopted, as well as the first, and the entire order is adopted. Is it the pleasure of the Senate that the Presiding Officer shall now pronounce the judgment of the Senate?

Mr. Manager CLAYTON. Mr. President, I desire that the Senate take appropriate action to communicate its judgment to the House of Representatives and the Executive Department.

The PRESIDENT pro tempore. The Senate has not yet pronounced judgment. That will be for the Senate to do.

JUDGMENT OF THE SENATE.

The PRESIDENT pro tempore (Mr. BACON) thereupon pronounced the judgment of the Senate as follows:

The Senate therefore do order and decree, and it is hereby adjudged, that the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be, and he is hereby, removed from office; and that he be, and is hereby, forever disqualified to hold and enjoy any office of honor, trust, or profit under the United States.

OPINIONS OF SENATORS FILED AND PUBLISHED BY ORDER OF THE SENATE SITTING ON THE TRIAL OF THE IMPEACHMENT OF ROBERT W. ARCHBALD, CIRCUIT JUDGE OF THE UNITED STATES FROM THE THIRD JUDICIAL CIRCUIT, AND DESIGNATED TO SERVE IN THE COMMERCE COURT.

OPINIONS OF SENATOR ROOT AND SENATOR LODGE.

In the impeachment of Robert W. Archbald, January 13, 1913:

I have voted that the respondent is guilty under articles 1, 2, 3, 5, 6, and 13, because I find that he used the power and influence of his office as judge of the Court of Commerce to secure favors of money value for himself and his friends from railroad companies, some of which were litigants in his court and all of which were under the regulation of the Interstate Commerce Commission, subject to the review of the Court of Commerce.

I consider this course of conduct, and each instance of it, to be a high crime and misdemeanor.

I have voted "not guilty," upon the other articles, because, while most of them involve improper conduct, I do not consider that the acts proved are high crimes and misdemeanors.

I have no doubt that the respondent is liable to impeachment for acts done while he was a judge of the district court and that the Senate has jurisdiction to try him for such acts.

ELIHU ROOT.

I concur in the foregoing, except as to article 4, upon which I voted the respondent guilty.

H. C. LODGE.

The PRESIDENT pro tempore. What is the further pleasure of the Senate?

Mr. ROOT. I move that the Senate, sitting in the impeachment of Robert W. Archbald, do now adjourn without day.

Mr. GALLINGER. Would it not be proper, before that is done, to direct that the action of the Senate be communicated to the House of Representatives?

The PRESIDENT pro tempore. That is for the Senate.

Mr. GALLINGER. I would then move, Mr. President, that the action of the Senate in the case of the impeachment of Robert W. Archbald be communicated to the House of Representatives and to the President of the United States.

The motion was reduced to writing and agreed to, as follows:

Resolved, That the Secretary be directed to communicate to the President of the United States and to the House of Representatives the foregoing order and judgment of the Senate and transmit a certified copy of the same to each.

The PRESIDENT pro tempore. The question now is on the motion of the Senator from New York [Mr. ROOT] that the Senate sitting for the consideration of the articles of impeachment presented against Robert W. Archbald do now adjourn sine die.

The motion was agreed to.

The managers on the part of the House of Representatives, and Mr. Worthington, Mr. Robert W. Archbald, jr., and Mr. Martin, of counsel for the respondent, thereupon withdrew.

The PRESIDENT pro tempore. The Senate is now in legislative session.

Mr. CURTIS. I move that the Senate adjourn.

Mr. SMOOT. If we adjourn now, without the unfinished business being temporarily laid aside, will it displace the unfinished business?

Mr. CRAWFORD. I did not suppose the unfinished business would be affected in its status by an adjournment.

Mr. BORAH. The matter of adjournment does not affect the status of the unfinished business.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Kansas that the Senate adjourn.

The motion was agreed to, and (at 4 o'clock and 40 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, January 14, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

MONDAY, *January 13, 1913.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We come to Thee, O God, our heavenly Father, to renew our allegiance to Thee, to add to our spiritual strength, for we realize that the crowning glory of each man's life is character. Strengthen us that we may resist evil and make us strong to overcome temptation, that we may fulfill the obligations of this day, and keep our character free from the contamination of sin by doing all things in accordance with Thy will. Hear us, and thus bless us, in the name of Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday, January 11, 1913, was read and approved.

MEMORIAL SERVICES.

The SPEAKER. In connection with setting the date for the memorial services for the late Representative WEDEMEYER, the Chair desires to make a suggestion to the House so that Members may take it under consideration. It has always appeared to the Chair that 12 o'clock on Sunday is a very inconvenient hour at which to have these services. The suggestion of the Chair is that they be set for 2 or 3 o'clock on that day. The Chair would be glad to have the Members consider this matter among themselves.

POST OFFICE APPROPRIATION BILL.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 27148, the Post Office appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the Post Office appropriation bill, with Mr. GARRETT in the chair.

The Clerk read as follows:

Office of the Second Assistant Postmaster General.

Mr. MADDEN. Mr. Speaker, has the item with relation to the pay and arrangement for substitute carriers and clerks been passed over?

The CHAIRMAN. That was passed over, to be called up at the suggestion of the Chair.

The Clerk read as follows:

For inland transportation by star routes in Alaska, $450,000: *Provided*, That out of this appropriation the Postmaster General is authorized to provide difficult or emergency mail service in Alaska, including the establishment and equipment of relay stations, in such manner as he may think advisable, without advertising therefor.

Mr. SHARP. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 16, line 7, after the word "stations," insert the words "and the transportation of mail by aeroplane or other air craft."

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order on that.

Mr. SHARP. Mr. Chairman, will the gentleman from Tennessee reserve his point of order for a few minutes?

Mr. MOON of Tennessee. Mr. Chairman, I will reserve the point of order for five minutes.

Mr. SHARP. Mr. Chairman, I very much hope that the chairman of this important committee will not insist upon his point of order. Nearly a year ago, when this same committee reported out its bill for appropriations to take care of the post-office service, I offered an amendment appropriating $50,000 for carrying mail by aeroplane or other air craft. There was no point of order made at that time, which, of course, while it serves no precedent, still called for an extra appropriation.

At the present time, and in this amendment which I offer, there is no money called for, and the language of the provision itself leaves a large amount of discretion and latitude with the Postmaster General, because it covers, as it plainly recites, cases of emergency. I took this matter up the other day with the Second Assistant Postmaster General, Mr. Stewart, and I asked him why he had not presented this phase of the subject at the hearings at this time. He said he had met with such discouragement before that he thought it was out of the question to get any extra appropriation.

Mr. MOON of Tennessee. Does not the gentleman think it better that all of these aeroplane projects be left to the War and Navy Departments rather than to the Post Office Department?

Mr. SHARP. Mr. Chairman, I am very glad to answer that question. I am glad the gentleman has asked that question, because having given no little thought to this whole subject myself, I wish to say that one difficulty that has confronted the development of aerial navigation in the United States, as far as the Government patronage is concerned, has been due to the fact that we have fortunately no war upon us, and we have for that purpose no present existing urgent need of the adoption of this kind of defense; but we have every day in the year an opportunity for testing this new method of carrying mail, especially with the inauguration of the parcel post. I wish to impress—and I want to use such earnestness as lies in my power—upon this House the opportunity which it now has of beginning, I will not say experiments, because the matter has passed beyond experiments, but beginning a transportation system that will revolutionize and work wonders in this country in the next few years if we can obtain Government recognition and patronage.

Mr. FOSTER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN (Mr. GARNER). Does the gentleman from Ohio yield to the gentleman from Illinois?

Mr. SHARP. Certainly.

Mr. FOSTER. Is it the gentleman's idea that this will facilitate the transportation of first-class mail or parcel post?

Mr. SHARP. Mr. Chairman, I thank the gentleman for that question, and I will ask the indulgence of the House, if my time expires, for a few moments in which to read some extracts from an article bearing upon this subject to the House. In the hearings upon this question of general transportation of mail in Alaska, either by water or by rail, the Second Assistant Postmaster General said that there is an accumulation of about 25,000 pounds of mail that lasts through the winter, because it has been impossible to transport that mail through the winter months.

Mr. FOSTER. Has any experiments been made in aerial navigation in the cold climate of Alaska?

Mr. SHARP. Not in Alaska, but they have repeatedly in the Alps and Pyrenees and over other high altitudes, and I only wish I had not been pledged to secrecy and could tell the details of the wonderful experiments which have been made within the last 18 hours over our broad Potomac, right here at our doors, where at a height at times of 80 feet a hydroplane traveled 70 miles an hour. These birdmen are doing it under our very eyes. They carried the mail down the Mississippi River, a distance of 400 miles, last year, and I wish I might have time to read an extract from what one of the experts has said upon the use of the hydroplanes, which he contributes to the National Waterways in the November issue.

Mr. FOSTER. The gentleman does not think that hydroplanes would be very useful in Alaska?

Mr. SHARP. That is the place preeminently above all others where they would be useful. They can traverse the Yukon River and traverse it whether frozen or not. Nine out of ten of the populous towns in Alaska are upon the rivers. May I take the time briefly to read from the remarks to which I refer?

Mr. WILLIS. I desire to ask the gentleman if it is not a fact that there are many places in Alaska where it is desirable to deliver the mail, where it could be delivered in this way at little expense, and where under the ordinary method it could not be delivered during several months in the year?

Mr. SHARP. There is no question about it at all. Mr. Jerome Fanciulli, in his essay on "A New Use for Waterways," uses this language:

It has been through the construction of the hydroaeroplane, however, that the field for marine aviation has really opened up. Robinson's flight down the Mississippi River from Minneapolis to Rock Island, a distance of nearly 400 miles, demonstrated the practicability of the marine aeroplane. On this occasion the aviator delivered and received mail at the various important towns along the river. Traveling at a speed that averaged over 70 miles an hour, the hydroaeroplane on that occasion demonstrated in a very practical manner a new use to which the waterways of the country will be put.

This gentleman is vice president of the Curtiss Aeroplane Co., which makes hundreds of test flights a year. He says further:

To my mind this carrying of the mails offers the most practical application of the marine flying craft in its present stage of development. Many places situated on watercourses suffer serious loss through poor railroad service. This means poor mail service, which is detrimental to any community.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHARP. Mr. Chairman, I ask unanimous consent that I may have a short time in which to conclude my remarks.

Mr. MOON of Tennessee. I want to say to the gentleman that I have no objection to his talking, but I shall insist upon the point of order, for the simple reason that we are having very great difficulty now in handling this mail matter on land and water, and I am hardly able to consent to getting into the air with it.

Mr. SHARP. My idea is to get rid of these difficulties.

Mr. MOON of Tennessee. I do not think we ought to take up this matter without consideration by the committee.

Mr. SHARP. Mr. Chairman, I ask unanimous consent for five minutes more.

Mr. MOON of Tennessee. I have no objection to the gentleman proceeding for five minutes longer.

The CHAIRMAN. The gentleman from Ohio [Mr. SHARP] asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SHARP. Mr. Fanciulli says further:

Aeroplane manufacturers can now build machines that can carry nearly a ton of weight for long distances at a speed of 60 miles an hour. Aerial mail delivery service with such machines on those waterways reaching towns that have little or no railroad service would be of incalculable value.

Aerial mail service along watercourses would afford the fastest transportation of the mail at a minimum expense. A route 200 miles long could be covered twice a day with a thousand pounds of mail matter at a total annual expense of $18,000, including the cost of equipment. These machines, used for aerial mail service, could do a double duty in that the operators could discover breaks in the river banks during high-water periods.

Mr. MANN. Will the gentleman yield for a question?

Mr. SHARP. Just for a question. I would like to have more time. The time allowed to me is very short, but I will yield.

Mr. MANN. Does the gentleman think that the science of navigating the air has progressed yet so that with weather way below zero, with very tempestuous winds, we can carry mails by aeroplane in Alaska?

Mr. SHARP. In answer to that question I will say the temperature has nothing whatever to do with the flying of these machines as far as successful operation is concerned. It is a well-known fact that the hydroaeroplane is of great value and that there is less variation of wind and temperature on sea than on land. Yesterday we witnessed one of the greatest gales we have had for months, but I can on authority say to you that a gentleman flew over the Potomac in the face of that gale at the rate of 60 miles an hour.

Mr. MANN. But this transportation is over mountains and over frozen rivers in the wintertime. The only proposition the gentleman has in regard to transportation prevails in Alaska. The gentleman says the temperature has nothing to do with it. Has the temperature nothing to do with the operation of these motors?

Mr. SHARP. The temperature may affect them somewhat, but I wish to inform the gentleman that they have already attained altitudes of 18,000 feet, where the temperature is as cold as in any season of the year in Alaska. They have ascended and surmounted all the mountain peaks in Europe.

Thanking the gentleman for his question, I wish to proceed further by saying it was only last week that the President of the United States, upon the recommendation of the Secretary of the Navy, appointed a commission—so important did he consider this subject of aero navigation—to inquire into the needs, requirements, and uses of an aerodynamic laboratory, and I hope that the Smithsonian Institution, that splendid institution with which my friend from Illinois, Mr. MANN, is connected as a Regent, I believe, will have it under its exclusive charge and will resume the work that Prof. Langley took up before his death. But these objections as to the expeditious delivery of mail in Alaska only emphasize the reason why we should depart from the well-beaten path of transportation and at this time not calling for extra money, not calling for a dollar to use beyond the appropriation, but to give the Postmaster General the opportunity, in his discretion, not to build aeroplanes, not to construct them, but to let out the contract and allow somebody else at his risk and his expense, when those rivers are frozen up or when the mail trains can not do the work, to deliver this mail expeditiously at the rate of 60 or 70 miles an hour. I will say

to the gentleman that it is an accomplished fact. We have exclusive jurisdiction over Alaska. Let us give one of the departments of this Government enough latitude to so use some of the funds, if he thinks best, for the initiation, I was going to say, of this new method of carrying the mail, but I can better say, for the permanent establishment of this very satisfactory and superior method of carrying mail.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. SHARP. Now, if I may speak upon this point of order, I would like to be heard. I have not the parliamentary knowledge and skill of the gentleman who has made the point of order, but it seems to me this is not new legislation. This section itself provides for it. If it means anything at all, it means what it says, "That out of this appropriation the Postmaster General is authorized to provide difficult or emergency mail service in Alaska, including the establishment and equipment of relay stations," and so forth. It does not seem to me, if that is the point the gentleman raises, that it is in the form of new legislation. It simply pertains to the method of carrying the mails.

Mr. MOON of Tennessee. The law provides the method of carrying the mail and does not provide this method, and therefore this would be new law.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

For regulation screen or other wagon service, $2,000,000.

Mr. TILSON. Mr. Chairman, may I ask the chairman of the Committee on the Post Office and Post Roads a question as to the increase of this amount?

Mr. MOON of Tennessee. Yes.

Mr. TILSON. Has there been a considerable increase in order to take care of the parcel-post service?

Mr. MOON of Tennessee. Which item is that?

Mr. TILSON. The screen-wagon service.

Mr. MOON of Tennessee. Yes.

Mr. TILSON. It is a fact that the service has been largely increased?

Mr. MOON of Tennessee. Yes. The gentleman will notice in the last report that there was an unexpended balance on June 30, 1912, of $111,841. The appropriation this year is $2,000,000.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For rent, light, fuel, electric power, and incidental expenses pertaining to the maintenance of a subworkshop for the repair of mail equipment at Chicago, Ill., $2,400.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I was temporarily out of the Chamber when the item was passed, commencing on line 19, page 16, "For mail bags, cord fasteners, label cases, and material necessary for manufacture and repairing of equipment," and so forth. I wanted to ask the gentleman whether this item ought not to include equipment for the transportation of parcels that go by parcel post, such as mail baskets, mail chests, or boxes?

Mr. MOON of Tennessee. I do not think it is particularly necessary to do that, because the parcel-post proposition is not made a separate one. It is covered into and involves the whole question of the transportation of fourth-class mail matter in each branch of the service.

Mr. MANN. I understand.

Mr. MOON of Tennessee. It is made under the particular branch, and not under the specific head of the parcel post.

Mr. MANN. I was not suggesting any increase in the appropriation, but inquiring whether in handling the parcel post it will not be necessary to provide baskets or chests in place of mail bags. This provision says:

For mail bags, metal for mail-bag attachments, cord fasteners, label cases, and material necessary for manufacture and repairing of equipment.

And it might be held not to permit them to handle baskets or boxes or chests.

Mr. MOON of Tennessee. The department has not asked for anything of the kind, and I take it that the general language here will be held by the department to cover all things that are used in connection with transportation. I doubt the wisdom of specifically defining baskets and crates and things of that sort, because there might be other means that we would not include, and that might be held to be an exclusion of them.

Mr. MANN. The enumeration that we have given seems to me to be an exclusion of anything else.

Mr. LLOYD. At the present time, Mr. Chairman, the Post Office Department is making regulations with reference to the parcels that may be presented for carriage, and if a particular thing is presented for carriage it must be presented in a certain way. For example, eggs can not be put in a sack, loosely. They must be packed in some proper kind of shape.

Mr. MANN. If the gentleman will remember, under the old law everything was mailable as fourth-class matter which could be transported through the mails without injury to the equipment, and some other provision, but under that the department make regulations which would exclude a great many articles on the ground that they could not be transported in mail bags without danger of injury to the equipment. I take it that it goes without saying that in the handling of parcels it will be necessary to have baskets or chests of some kind, apart from what are called mail bags.

Mr. MOON of Tennessee. Would not that be covered by the general term equipment?

Mr. MANN. This provision is "material necessary for the manufacture and repairing of equipment."

Mr. MOON of Tennessee. Yes.

Mr. MANN. Well, they might not desire to manufacture mail bags or mail chests. It might not be an economical method of getting them. I do not know. I am sure the gentleman and I will agree that it is necessary to give them authority to provide such equipment as may be desirable for the transportation of this mail matter. I call it to the gentleman's attention and to the attention of the House because I am satisfied that under this provision of the law it is doubtful if they now have authority to provide the equipment that will be most convenient and safe in the handling of parcels.

Mr. MOON of Tennessee. I am uncertain, in view of what the gentleman has said, whether this language is broad enough to cover every class of equipment; but it seems from the construction that has been given by the department that they are making arrangements to carry everything that is covered by fourth-class mail.

Mr. MANN. I do not know how they construe it, whether they can provide anything except something in the form of a mail bag.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For inland transportation by railroad routes, $49,000,000: *Provided*, That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis.

Mr. RODENBERG. Mr. Chairman, I make a point of order against that proviso.

The CHAIRMAN. Will the gentleman from Illinois suspend for just a moment? The present occupant of the chair is not the designated chairman for the consideration of the Post Office appropriation bill. The gentleman from Tennessee, Mr. GARRETT, the chairman, told me a moment ago, when he asked me to occupy the chair temporarily, that he was satisfied that a point of order would be made against this paragraph, and that he had looked the matter up and prepared an opinion on it, as I understood him to say. I will ask the gentleman from Illinois to let this point of order go over temporarily until the gentleman from Tennessee returns. Without objection, the point of order will be passed over temporarily.

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Railway Mail Service: For 15 division superintendents, at $3,000 each; 4 assistant superintendents, at $2,200 each; 15 assistant division superintendents, at $2,000 each; 112 chief clerks, at not exceeding $2,000 each; 32 clerks, grade 10, at not exceeding $1,800 each; 304 clerks, grade 9, at not exceeding $1,700 each; 1,527 clerks, grade 8, at not exceeding $1,600 each; 1,168 clerks, grade 7, at not exceeding $1,500 each; 4,201 clerks, grade 6, at not exceeding $1,400 each, 5,292 clerks, grade 5, at not exceeding $1,300 each; 3,656 clerks, grade 4, at not exceeding $1,200 each; 405 clerks, grade 3, at not exceeding $1,100 each; 1,695 clerks, grade 2, at not exceeding $1,000 each; 1,750 clerks, grade 1, at not exceeding $900 each; in all, $24,360,000; and, to enable the Postmaster General to reclassify the salaries of railway postal clerks, he may exceed the number of clerks in such of the grades as may be necessary: *Provided*, That the number of clerks in the aggregate as herein authorized be not exceeded.

Mr. MOON of Tennessee. Mr. Chairman, right there I want to offer an amendment:

That the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater expenditure than this sum.

This is subject to a point of order, unquestionably. It has been made heretofore. But the differences in the calculations between the Treasury Department under this bill and the actual figures are very great. In other words, the Treasury gives a credit for very large sums of money to the Post Office Department that the department does not ask for, and ought not to have, in view of the fact that these clerks, many of them, do not go in on the first day of the fiscal year, but are distributed through different parts of the year, while the Treasury Department calculates the whole sum from the initial day. It makes quite a difference in the amounts available for the department.

It is not intended to make available any more than that which is provided in this bill.

The CHAIRMAN. The gentleman from Tennessee offers an amendment. Will he again state his amendment?

Mr. MOON of Tennessee. In line 8, page 19, add the words:

And the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater aggregate expenditure than this sum.

The CHAIRMAN. Will the gentleman send up his amendment so that the Clerk can report it?

The Clerk read as follows:

Page 19, line 8, after the word "exceeded," insert the following: "And the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater aggregate expenditure than this sum."

Mr. MANN. I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois reserves a point of order.

Mr. MOON of Tennessee. I concede that the point of order is well taken.

Mr. MANN. I reserve the point of order. As I understand, the law that we passed last year provided that clerks in charge should receive a higher rate of compensation, or at least be promoted to a higher grade than the other clerks, after three years' continuous and satisfactory service. I notice in the bill that there are 32 clerks of grade 10, not exceeding $1,800 each, which is the same number as are carried in the current law.

Mr. LLOYD. In that connection the question has been raised since the estimates were submitted, and since the hearing before the committee, as to whether this provides in a proper way for the promotion of these clerks. The department, as we have learned in the last few days, holds that an individual is not eligible to be promoted until he has served at least three years.

Mr. MURDOCK. At least three years in a given place.

Mr. LLOYD. At least three years in a given place, and the result of that has made considerable confusion, and the railway clerks are not satisfied with the provision as it now presents itself. After consultation with the chairman and other members of the committee, it is understood that this matter shall be investigated and a statement obtained from the Post Office Department as to what will be the effect of the suggested change, and what is the effect of this provision as it now stands; and we expect the matter to be threshed out in the Senate, and an accurate statement given by that time, so that we will have information as to what should be done.

Mr. MANN. The law now provides that these clerks shall receive promotions under certain conditions. That is a matter of construction of the law which may be decided by the Court of Claims if it becomes necessary. If a proper construction of the law is not given, and if a man does not receive proper promotion, he may be able to go into the Court of Claims and have the Court of Claims construe the law; but if the amendment now offered is agreed to and becomes a part of the law, such a man will have no right in the Court of Claims at all, because, however much right of promotion he may have under existing law, that right is cut off by the amendment offered by the gentleman in charge of the bill. I had understood that these railway-mail clerks were entitled to certain classification and promotion under the law that we adopted last year. There is a controversy as to whether they have received that promotion. It does not seem to me that we ought to construe the law contrary to what we thought it was when we adopted it last year.

Mr. LLOYD. We are not aiming to construe it that way at all, and the committee quite fully agree with the gentleman's view of the matter, I think. The gentleman has not gone far enough to explain his view fully, but I am quite sure it is the purpose of the committee to get the information that is necessary with reference to this matter. The estimate was submitted by the department in accordance with the classification. The appropriation is made in accordance with that estimate, and it was supposed by the department, I imagine, and certainly it was supposed by the committee, that we were carrying out the classification law and making the necessary appropriation for it; but since the bill came to the House certain representatives of the Railway Mail Service have said that the construction that is placed upon the law by the department is not the construction which they believe the committee and the Congress intended.

Mr. MANN. I believe the question is, where the law now provides that the appropriation shall be made after three years of continuous and satisfactory service, whether that means service after this law took effect, on the 1st of October last, or whether it means three years' service including the service prior to that. I think when the bill was passed everyone here understood that it meant what it said—three years' continuous and satisfactory service.

Mr. LLOYD. That is the way we understand it.

Mr. MANN. I think it was not intended to say that the law should not be in effect until three years after it took effect. With the amendment offered by the gentleman from Tennessee [Mr. MOON] everything is foreclosed, because the department can not exceed the total of the appropriation, regardless of whether a man in the service is entitled to promotion under the existing law or not.

Mr. LLOYD. But if in the Senate this matter is changed, they will change the totals.

Mr. MANN. Does not the gentleman think that if in the Senate this matter is changed it will then be time enough to insert this limitation?

Mr. MOON of Tennessee. If the gentleman from Illinois insists on his point of order, of course, it is well taken. I think the amount, however, covers the changes.

Mr. MANN. I reserved the point of order. I think it is a matter of considerable interest.

Mr. BUCHANAN. I should like to ask my colleague, or the chairman of the committee, a question.

Mr. MANN. Certainly.

Mr. BUCHANAN. In regard to the increase of the railway postal clerks that is provided in the bill of last year, it seems to be operating very unsatisfactorily, as I have had many complaints from my district, and I have heard of complaints coming in from other places. I should like to know, if the information can be given me, whether it is due to the fact that they have not had sufficient money?

Mr. MOON of Tennessee. I did not catch the gentleman's question.

Mr. BUCHANAN. I said I had had many complaints from railway postal clerks in my district, and I have heard of many in other places, that they have not been promoted as they consider they are entitled to be. The law is not operating satisfactorily, as they consider the law should be applied which was passed last year. The information I want is whether that is due to any arbitrary position taken by the department, or whether it is because they have not had a sufficient amount of money to put it into effect?

Mr. MOON of Tennessee. I do not understand that there is any lack of money. The inquiry was made by me of the department, and the information was that it was due to the efficiency record of the clerks; they did not promote those that were not entitled to be promoted. They determine the degree of efficiency that will entitle them to promotion, and in instances where it has not been given they have uniformly advised me that it was on account of the want of efficiency. I have had half a dozen cases of that kind.

Mr. BUCHANAN. The chairman of the committee has had complaints in regard to it, I understand?

Mr. MOON of Tennessee. Yes.

Mr. BUCHANAN. I would like to ask whether the committee has considered it and whether it is necessary to make any further provision?

Mr. MOON of Tennessee. I do not know how Congress can make provision that promotion shall be given to clerks that are not efficient, and I know of no way that Congress can determine the efficiency of the clerk. It is a matter of discretion and judgment that must be left to the department.

Mr. BUCHANAN. Is there no way of avoiding discrimination by the department?

Mr. MOON of Tennessee. There is no way of avoiding discrimination by the party into whose hands the law puts the judgment and discretion.

Mr. BUCHANAN. I have had complaints from clerks that they have been discriminated against, and that if they got to a place where they could pass the examination and be promoted they have been changed to another part of the country, which made it impossible for them to qualify under this provision in the Post Office bill. To me this is not a light matter. There is a great deal of dissatisfaction among the clerks, and I am asking for information in regard to the matter.

Mr. MOON of Tennessee. I have given the gentleman all the information I have. If the gentleman has any amendment that will properly remove the situation, it will be accepted by the committee. I know of no way that we can control it.

Mr. MANN. If the gentleman will pardon me one more suggestion——

Mr. MOON of Tennessee. Certainly.

Mr. MANN. While the bill fixes the number of clerks in the different classes, it contains the catchall provision that the Postmaster General may exceed the number of clerks in such of the grades as may be necessary in order to make a reclassification, provided that the number of clerks in the aggregate as herein authorized be not exceeded.

That would authorize the Postmaster General, in order to carry out the classification, to increase the number of clerks in the grade of $1,800 and take those off from the $900 grade. But with the amendment now pending, restricting the total appropriation to the amount named in the bill, of course that could not be effective without reducing the number of clerks.

Mr. GILLETT. May I ask the chairman of the committee a question?

Mr. MOON of Tennessee. Certainly.

Mr. GILLETT. I notice this appropriation is between $300,000 and $400,000 less than the estimates. Does the chairman think it would be sufficient to provide for the promotion referred to by the gentleman from Illinois?

Mr. MOON of Tennessee. The department thought so.

Mr. GILLETT. But the department estimate was $400,000 more than the committee gives.

Mr. MOON of Tennessee. If the gentleman will turn to pages 58, 59, and 60 of the hearings, he will find the views of the Second Assistant Postmaster General on this question. But, Mr. Chairman, I do not care to prolong the discussion on this question. I think that the department can take care of itself. If the gentleman from Illinois makes the point of order, I will concede it.

Mr. MANN. As the matter stands now, Mr. Chairman, I shall feel compelled to make the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. REILLY. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 18, line 14, amend by striking out the words "thirty-two" and inserting the words "three hundred and twelve." Lines 15 and 16, strike out the words "three hundred and four" and insert the words "one thousand three hundred and sixty-six." In lines 16 and 17 strike out the words "one thousand five hundred and twenty-seven" and insert the words "three hundred and two." Lines 18 and 19, strike out the words "one thousand one hundred and sixty-eight" and insert the words "two thousand nine hundred and thirty-four." Line 20, strike out the words "four thousand two hundred and one" and insert the words "two thousand three hundred and eighteen."

Mr. REILLY. Mr. Chairman, the passage of this amendment——

Mr. LLOYD. Mr. Chairman, I make the point of order against that amendment. I will reserve the point of order.

Mr. MURDOCK. What is the point of order?

Mr. LLOYD. I have reserved it.

Mr. REILLY. Mr. Chairman, I do not believe that this is subject to a point of order. This does not increase in any way the number of employees, but it provides for carrying out the intention of the existing law, which was passed by this House last year, providing that after a service of three years clerks in charge should be given a certain promotion. This bill does not provide for that promotion, but this amendment is to make the promotions legal and in order.

Mr. LLOYD. Mr. Chairman, I am in full accord with the purpose of the amendment, but I have no information at the present time whether this accomplishes that purpose or not. I have had presented to me a statement similar to the one the gentleman from Connecticut had, handed me by one of the representatives of the railway mail clerks, but I do not know whether it is accurate. It is not my purpose to vote blindly on these questions. I do not believe at this time we could wisely, without any information from the Post Office Department, without knowledge ourselves, correct that which we do not know is correct or not. So I believe the best thing to do is to let the matter rest as it is, as it was presented by the Post Office Department and passed upon by the committee.

The CHAIRMAN. Does the gentleman from Missouri make the point of order?

Mr. LLOYD. No, Mr. Chairman; I will not make the point of order.

Mr. MURDOCK. Mr. Chairman, I was going to address myself to the point of order, if one was made by the gentleman from Missouri, but he has withdrawn it. But I want to say about this item that the clerks in charge of the Railway Mail Service are men who have charge of a car, with others under them, and of course these men draw under the present law from $1,400 to $1,800 a year. In our reclassification act, which we passed last year, it was provided that after a man had served three years in the capacity of a clerk in charge he would be entitled to another promotion. The department has held—and if the law passes as it is reported in the bill—a man will not get promotion from one of these grades to the grade succeeding until he shall have served another three years. If the amendment offered by the gentleman from Connecticut is adopted, then these promotions will come, where there is efficiency once a year to the men who are now in charge, provided they have been clerks in charge three years, and that is the real purpose of the amendment and what it would accomplish.

Mr. MANN. I did not quite catch the gentleman's statement. Class A is $1,300 to $1,400, is it not?

Mr. MURDOCK. Yes.

Mr. MANN. The clerk in charge is supposed to receive $1,400?

Mr. MURDOCK. One thousand four hundred dollars.

Mr. MANN. That is, after three years' service?

Mr. MURDOCK. After three years' service he gets this promotion.

Mr. MANN. The gentleman says that under the proposition that is now made he would be entitled to that promotion in one year. What does the gentleman mean by that?

Mr. MURDOCK. I mean that after he has become a clerk in charge the department is holding that he shall serve three years additional in that capacity at $1,300 before receiving a promotion to $1,400. If the gentleman's amendment passes, he can get that promotion within a year.

Mr. MANN. After he has served three years satisfactorily?

Mr. MURDOCK. Oh, yes; after he has had three years of service in the service as a clerk in charge.

Mr. MANN. Is he not entitled to the promotion at once under the existing law if he has served three years continuously satisfactorily, if he is placed in charge?

Mr. MURDOCK. My understanding is that he is, and he should be promoted after he has served three years, but I think the gentleman from Illinois [Mr. MANN] does not catch me on this, that after he has served in the $1,300 class for one year the department, under its interpretation of the law, does not give him a promotion if he is entitled to it, but holds that he must serve three years in each succeeding grade.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK. Surely.

Mr. MADDEN. Here is what happens, as I understand it. At present a great many in the Railway Mail Service have served anywhere from 3 to 25 years, but under the bill reported by the committee none of these men would be eligible to promotion immediately, if the bill were interpreted strictly; and the amendment of the gentleman from Connecticut [Mr. REILLY] is intended to clear up that doubt, and to permit the promotion of men to the next highest grade who have served creditably for more than three years after the enactment of this bill.

Mr. MURDOCK. And it will do that thing.

Mr. MADDEN. That is what it will do. Otherwise, it is altogether likely that the department will rule that an additional three years of service will be required before anyone of these men is entitled to promotion.

Mr. REILLY. Mr. Chairman, in answer to the suggestion of the gentleman from Missouri [Mr. LLOYD], a member of the committee, that this is a matter that should go to the Senate before it is put into the bill, I would state that the estimate of the increase in this reclassification has been quite carefully made.

Mr. LLOYD. By whom has it been made?

Mr. REILLY. By those in a position to do it, who are thoroughly familiar with it.

Mr. LLOYD. Has it been made by the department?

Mr. REILLY. It has not, so far as I know.

Mr. LLOYD. Has it been made by the Post Office Committee of the House?

Mr. REILLY. It has not, except by members——

Mr. LLOYD. Has any suggestion of this amendment been made to the Committee on the Post Office of the House?

Mr. REILLY. Not as a committee, so far as I know.

Mr. LLOYD. The information the gentleman has gathered is information that he obtained from the railway postal clerks, and I do not doubt that it may be correct; but the point with me is I do not know. The committee has not investigated it. The department has not passed upon it, and we are asked, at the instance of one or two men on the outside, to change this appropriation bill. We should be cautious about such a procedure.

Mr. COX. Mr. Chairman, the purpose of the amendment is to simply carry out what Congress intended to carry out when it enacted section 7 of the bill last year.

Mr. REILLY. Simply that.

Mr. LLOYD. Mr. Chairman, I said a moment ago that I was in full sympathy with the purpose of the gentleman from Connecticut [Mr. REILLY], but I do not know whether he accomplishes that purpose or not by the amendment. I want to carry out the law, as far as I am concerned, in good faith, and I want this appropriation bill to do it, and if it does not I will cheerfully support any amendment which does meet the provisions of

the law when I am convinced that such amendment will accomplish that result.

Mr. MOON of Tennessee. I want to inquire of the gentleman from Connecticut if his amendment increases a number of clerks or simply rearranges a different classification?

Mr. REILLY. It does not increase the number of clerks at all, but it rearranges the classification.

Mr. LOBECK. And it does not increase the amount?

Mr. LLOYD. It does.

Mr. COX. If it was the intention of Congress last year to provide an automatic increase in the postal clerks, then your amendment does not add one dollar to the appropriation.

Mr. REILLY. None whatever.

Mr. COX. It simply carries out the intention that Congress had when it enacted section 7.

Mr. LLOYD. Mr. Chairman, I beg the gentleman's pardon, but it does add to the appropriation now pending.

Mr. COX. That may be true; but it does not, if Congress had in view last year to provide for an automatic increase in this force. I think it does it, but that is what Congress wanted to do.

Mr. KENDALL. That was the intention?

Mr. REILLY. Yes.

Mr. FOWLER. As I understand it, this does not increase the number of clerks in the department.

Mr. REILLY. Not at all.

Mr. FOWLER. But I understand it may increase the appropriation.

Mr. REILLY. But not more than the correct interpretation of the law, as we passed it last year, would increase it.

Mr. FOWLER. It may increase the appropriation as the bill now stands.

Mr. REILLY. Yes.

Mr. FOWLER. But it does not conflict with the law that was passed at the last session of Congress?

Mr. REILLY. In no way whatever.

Mr. FOWLER. And it is intended to carry out the provisions of that law in spirit and in fact?

Mr. REILLY. In spirit and in fact.

Mr. FOWLER. And if this amendment passes, it will do that?

Mr. REILLY. Yes.

Mr. FOWLER. And will be perfectly satisfactory to the railway postal clerks.

Mr. REILLY. And everybody else who believes in fair treatment and the carrying out of the law as intended.

Mr. FOWLER. And will be not only a substantial but a complete compliance with the law?

Mr. BUCHANAN. Will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. REILLY] has expired.

Mr. LLOYD. Mr. Chairman, I ask that the time of the gentleman from Connecticut be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. REILLY. I yield to the gentleman from Illinois [Mr. BUCHANAN].

Mr. BUCHANAN. I would like to ask the gentleman if he knows why, under the circumstances, the committee did not take up this question and try to make the provision under this law apply as was intended by Congress one year ago. The gentleman from Missouri [Mr. LLOYD] says the committee has not considered the matter. There has been complaint about this law not being in effect, and that is why I would like to know why the committee did not consider it.

Mr. REILLY. It did not come before the committee.

Mr. BARTHOLDT. And I would like to ask if the amendment of the gentleman from Connecticut is adopted by this House it will make possible the promotion of those clerks in accordance with the law passed by Congress?

Mr. REILLY. Those clerks who will have served three years.

Mr. BARTHOLDT. Then if the bill passes without the gentleman's amendment it will make a delay of the promotions Congress has provided for?

Mr. REILLY. If this amendment is not passed, there will be no promotion among clerks in charge who previous to last October have served more than three years as such.

The CHAIRMAN. The question is on the amendment of the gentleman from Connecticut [Mr. REILLY]. The Chair will state that the entire amendment includes several propositions. Without objection, they will be put as a whole.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. GILLETT. Mr. Chairman, I move to amend by striking out "24,360,000" of the figures and inserting instead the figures "25,941,100."

The CHAIRMAN. The gentleman from Massachusetts [Mr. GILLETT] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 19, line 4, by striking out the figures "24,360,000" and insert in lieu thereof "25,941,100."

Mr. LLOYD. If I understand this amendment, it is subject to a point of order.

The CHAIRMAN. Does the gentleman make the point of order?

Mr. LLOYD. I make the point of order, but withhold it if the gentleman wishes to be heard.

Mr. GILLETT. All right. I do not see how it is in the slightest degree subject to a point of order, for it only changes a total. I made this amendment merely to point out what I think is an error, not only in this paragraph but in other paragraphs of the bill, because the payments to the clerks which precede this gross sum, multiplied by the number of clerks, will amount not to the figure which is in the bill but the figure which I have named.

Mr. LLOYD. Mr. Chairman, the trouble is that the gentleman's statement is based on two things.

Mr. GILLETT. I will be glad to have it explained.

Mr. LLOYD. You base your statement upon what you suppose to be the fact, that all these clerks will be employed during the whole of the year.

Mr. GILLETT. Oh, no.

Mr. LLOYD. There is added to the force in this provision quite a number of clerks. Some of these will be added in three months and some of them in six months and others in nine months, and they will not serve during the whole of the year. Now, the effect of the bill is to provide for promotion from time to time, but it does not provide for all promotions at the beginning of the year, and hence if we make an appropriation which provides for the full number of clerks with full pay we provide far more money than the department asks or it is intended to carry in this bill, and the reason these are carried in this bill is to permit the department to make promotions from one class to another and also during the year to add to the force, and it is not intended to secure a full force at the beginning and keep it to the end, nor is it intended that all promotions shall be made on the 1st day of July.

Mr. GILLETT. Now, Mr. Chairman, I appreciate fully the facts that the gentleman has stated. I appreciate it is true here, as it is true in other departments of the Government, that in appropriating for a certain number of clerks we appropriate more than is expended, because clerks may die and there may be vacancies, as there always are. But it does not seem to me that that excuses the committee from making a statement which does not correspond to the facts.

Now, the gentleman from Tennessee [Mr. MOON] offered his amendment, to which the gentleman from Illinois [Mr. MANN] made the point of order. If that amendment had prevailed, I recognize that then it would have been perfectly proper to have left this total amount as it is, because that would have limited the expense to the amount which you think is all that would be spent. And I think the gentleman is correct about it, and if that amendment had been adopted, then I think it would have been proper that the figures should remain as they are. But inasmuch as that amendment was not adopted, it seems to me that the committee is falling into this error, that we are appropriating for a certain number of clerks a certain amount, and then at the end we are pretending that we do not appropriate that amount, although we do, and that is the way the bill was reported from the committee. And although I recognize that the full amount of what we appropriate is never spent in any of the departments or bureaus, yet to pretend that we are not appropriating so much is cutting down the apparent appropriation a million and a half below what we really are appropriating, because we are really apropriating in this twenty-five and a half millions and not really appropriating the twenty-four millions, and it seems to me it is a deception to say that we are appropriating only twenty-four millions, and makes an unreal and delusive appearance of economy.

Mr. MOON of Tennessee. Will the gentleman permit an interruption for just a moment? He will notice there is an unexpended balance on this appropriation of more than half a million in the last year?

Mr. GILLETT. I appreciate that.

Mr. MOON of Tennessee. We have cut the appropriation less than five hundred. The gentleman will notice, further, that there is an increase of salaries in the recommendation here

which the committee has not allowed. There is ample money to take care of these men.

Mr. GILLETT. Certainly; but when the department made this estimate they had in it the clause which the gentleman offered as an amendment, and that has gone out on a point of order. If that clause were in, this amount would be proper; but as it is, although it makes no practical difference in the amount of money the department will expend, yet the difference it makes is that the gentleman here is saying in his bill that he only appropriates $24,360,000, when he really appropriates $25,500,000, so that the appropriation bill is a million and a half in appearance less than it really is; and I do not think that is proper finance.

Mr. MOON of Tennessee. Oh, no; not at all.

Mr. MANN. Upon what basis does the gentleman arrive at the figures he offers—the bill as reported to the House or the bill as perfected by the gentleman from Connecticut [Mr. REILLY]?

Mr. GILLETT. I recognize that they can not be absolutely correct, because——

Mr. MANN. We have just added very materially to the total appropriation by items, and the gentleman from Massachusetts [Mr. GILLETT] says that it is not exactly a fraud, but intimates that we are not appropriating, in fact, what we apparently are appropriating, and he offers an amendment which is subject to precisely the same criticism that he makes against the original bill.

Mr. GILLETT. I admit that. But my amendment was prepared before the amendment of the gentleman from Connecticut [Mr. REILLY] was offered.

Mr. MOON of Tennessee. We do not wholly adopt, I may say to the gentleman, the recommendation of the department, because we declined to raise some positions and raise some salaries; for instance, three division superintendents at $3,500 each. We put them at only $3,000 each.

Mr. GILLETT. My amendment was prepared before the introduction of this amendment. The gentleman is mistaken in saying that my amendment was prepared in accordance with the estimates of the department. Mine was prepared before the amendment of the gentleman from Connecticut [Mr. REILLY] was adopted. It is true that not only in this paragraph but that in other paragraphs we appropriate——

Mr. MOON of Tennessee. It is the same position that the gentleman from Massachusetts took on Saturday, when it was controverted.

Mr. GILLETT. The gentleman said then that when the paragraph was reached the correction would be made. Now it has been reached.

Mr. MOON of Tennessee. Mr. Chairman, I want to say to the gentleman from Massachusetts, in order to save time, that I think that amendment will go in yet.

Mr. GILLETT. It has not gone in in the House. I want to call attention to the fact that this bill really appropriates several million dollars more than the figures show. That is all.

Mr. LLOYD. Mr. Chairman, if the gentleman from Tennessee will permit, with reference to the statement that the gentleman from Massachusetts [Mr. GILLETT] made on Saturday, and which was concurred in by the gentleman's colleague on the Committee on Appropriations, Mr. FITZGERALD, of New York, I want to say that the gentleman from Massachusetts failed, in making his comparison between the estimate and the action of the committee, to take into account the fact that the department in making its estimates does not carry them out as the gentleman proposes to carry them out now; and when the gentleman said in his statement on Saturday that the committee had exceeded the estimates, the gentleman was mistaken, because the department had pursued exactly the same course with reference to these appropriations as the committee, or rather the committee had pursued exactly the same course as the department.

The estimates are made according to the amount of money that is supposed to be needed. The department has done that, and so has the committee, and when the gentleman from Massachusetts says that the bill carries more than was recommended by the department, I feel quite sure the gentleman is at fault in his statement.

Mr. GILLETT. Mr. Chairman, I differ with the gentleman from Missouri there, but that is not what I am discussing now, and I do not care to revert to it. What I say now—and apparently it is not controverted by the gentlemen on that side, and can not be—is that the amounts given in the summary are much less than the details really aggregate, and although I agree that probably no larger sum will be expended than is mentioned in the summary, yet I say it is misleading, because the appropriation bill really appropriates several million dollars more than the committee says it will amount to, and I do not think that is good legislation.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. GILLETT. Certainly.

Mr. MADDEN. This appropriation bill is based on the experience of the department, is it not——

Mr. GILLETT. Yes——

Mr. MADDEN. That a given percentage of the men in this service will be promoted, and that at a certain period of the year men will be getting $800, and that at a certain period of the year they will be getting $900?

Mr. GILLETT. I appreciate that.

Mr. MADDEN. And none of the grades contain the total number of men for the year?

Mr. GILLETT. Yes.

Mr. MADDEN. And, as a matter of fact, the appropriation covers the exact experience of the department, regardless of what the figures in the bill might lead one to conclude. Is not that true?

Mr. GILLETT. Well, that is what will be expended, but we are now appropriating what can be expended, not what will be. What the total of the bill holds is not the amount that will probably be expended, but the amount that the department has at its disposal to expend.

Mr. MADDEN. I grant that if you appointed every man on the 1st of January and kept him continuously employed until the 31st of next December, more will be expended than is appropriated.

Mr. GILLETT. Yes; and under this bill the department has the right to do that.

Mr. MADDEN. Without the limitation?

Mr. GILLETT. Yes; without the limitation, and the limitation has been struck out; and the figures in the bill purport to be not what amount will be expended, but the amount that will be in the power of the department to expend; and I say, in view of that, that the figures are misleading.

Mr. MANN. Mr. Chairman, I would like to ask the gentleman from Connecticut [Mr. REILLY], whose amendment was adopted, considerably increasing the authorization of expenditures, whether he intends to propose an amendment increasing the total carried on line 4, page 19?

Mr. REILLY. I would be perfectly willing to see that amendment offered, increasing it $300,000.

Mr. MADDEN. $231,000. That is what it figures.

Mr. MANN. It will be more than $231,000. I apprehend that it will.

Mr. MADDEN. That is the way it figures in my mind.

Mr. MANN. The gentleman figured that probably by just adding $100 to the different grades, whereas in some grades $300 are added.

Mr. COX. I think it is about $300,000.

Mr. GILLETT. The department here has estimated nearly $420,000 more than this $24,360,000.

Mr. MANN. Now, Mr. Chairman, the criticism offered by the gentleman from Massachusetts [Mr. GILLETT] is in one sense correct and in another sense it is hardly justified. It is true that under the existing law, when the appropriation is made in the form in which it is made here, the Treasury Department takes the items instead of the total, and the items amount to more than the total.

On the other hand, the total is taken as a sort of guide at least by the Post Office Department, and I think it never has been exceeded. If it were exceeded, there would probably be criticism of it. But in view of the statement of the gentleman from Tennessee [Mr. MOON] that the limitation amendment which he offered a while ago, which was not agreed to because of a point of order which I made, would probably go in to the bill here or elsewhere, I do not know that I should make the point of order if this correction were made. Does not the gentleman from Connecticut [Mr. REILLY] think that the total here should be corrected at least to correspond with the correction of the item? If that be done, I shall have no objection to the limitation.

Mr. REILLY. I think it ought to be done.

Mr. MOON of Tennessee. I think we have money enough, in view of the fact that these clerks do not all go in at the beginning of the fiscal year and there is an unexpended balance.

Mr. KENDALL. Let it be passed over until it can be properly prepared.

Mr. MOON of Tennessee. I should rather take a vote on the gentleman's proposition. I think this bill has all the money that is needed. The gentleman has been complaining bitterly because it carried too much and now he wants to add to it.

Mr. MANN. I should like to have an amendment adopted which would actually carry the law into effect.

Mr. GILLETT. Mr. Chairman, I am willing to withdraw the amendment for the present.

The CHAIRMAN. If there be no objection, the amendment will be withdrawn.

Mr. MANN. Why not let the paragraph be passed over until the gentleman can see what the amount is that is to be added by this item? Then his limitation can be put in.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the paragraph be passed over without prejudice, to be recurred to later.

Mr. MOON of Tennessee. For the purpose of making a correction, if found necessary.

Mr. MANN. And you may want to offer your amendment.

Mr. MOON of Tennessee. And for the purpose of offering an amendment to limit the appropriation.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the paragraph be passed without prejudice, to be recurred to at the desire of the chairman of the committee. Without objection, it will be so ordered.

There was no objection.

Mr. RODENBERG. Before proceeding further with the bill, I ask that we return to page 17, lines 21-24, which were passed during the temporary absence of the Chairman of the Committee of the Whole.

The CHAIRMAN. The gentleman from Illinois [Mr. RODENBERG] asks unanimous consent to return to the last paragraph on page 17, which was passed during the temporary absence of the permanent Chairman of the Committee of the Whole House on the state of the Union.

Mr. MOON of Tennessee. I will ask the gentleman to wait until we finish the office of the Second Assistant Postmaster General.

Mr. RODENBERG. Very well.

The CHAIRMAN. Does the gentleman insist on his request?

Mr. RODENBERG. No; I will not insist on it.

Mr. MOON of Tennessee. There are two or three pages to be read under the Second Assistant Postmaster General.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For travel allowances to railway postal clerks, acting railway postal clerks, and substitute railway postal clerks, including substitute railway postal clerks for railway postal clerks granted leave with pay on account of sickness, $1,465,030.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FOSTER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following joint resolution:

S. J. Res. 149. Extending the time for the survey, classification, and appraisement of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma.

POST OFFICE APPROPRIATION BILL.

The committee resumed its session for the further consideration of the Post Office appropriation bill, H. R. 27148.

Mr. NORRIS. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Nebraska [Mr. NORRIS] offers an amendment, which the Clerk will report.

The Clerk read as follows:

After line 13, page 19, add the following:

"Hereafter railway postal clerks shall be allowed an annual leave of absence of 30 days with full pay."

Mr. MOON of Tennessee. Mr. Chairman, I believe that is subject to a point of order, and I make the point of order.

The CHAIRMAN. The gentleman from Tennessee makes the point of order.

Mr. NORRIS. I will ask the gentleman if he will reserve it for a moment or two?

Mr. MOON of Tennessee. Yes.

The CHAIRMAN. The gentleman reserves the point of order.

Mr. NORRIS. Mr. Chairman, I desire to have the attention particularly of the chairman of the committee. I understand that these clerks under the law now have an annual leave, with pay, of 15 days only, and that practically all other employees of the Government have an annual leave of 30 days with pay. Is that true?

Mr. MOON of Tennessee. I understand that is about the fact.

Mr. NORRIS. While I admit that this is legislation and is subject to the point of order that the chairman of the committee seems disposed to make, I have never been able to understand why this class of employees should not be allowed the 30 days' annual leave that practically all the other employees of the Government have. If there is a class of employees in the Government who are entitled to liberal treatment it seems to me it is the railway post-office clerks who are doing a work that is not only dangerous, but is difficult in every respect, and whose salaries are as low, in my judgment, for the amount of work they do and the labor they have to perform as any other class of employees. I understand that an ordinary clerk here in any of the offices in Washington gets 30 days' leave of absence with pay, and why these men who perform a service that is second to none in the entire Government service should not be given the same privileges is something that I never could understand. It seems to me it is hardly fair.

Mr. MOON of Tennessee. They only run about half the time.

Mr. KENDALL. But the other half of the time they are engaged in preparing themselves for their work.

Mr. NORRIS. While it is true that some of these employees are working only a portion of the time and are off the balance of the time, the time that they are off is necessary for their preparation to perform their duty properly when they are on. The routes are constantly changing, and it requires constant and almost daily study on the part of these men to keep up the efficiency that they have attained. There are some postal clerks who run every day. I think they, however, are perhaps a small proportion of the service, so far as number is concerned; but those who have difficult runs and make long distances can not, from the physical standpoint alone, perform that work every day, because it is too difficult.

In the next place, it is necessary, if I understand it, that they should retain the proficiency, and they must engage in study when they are not actually on trains doing the work.

Mr. HAMILL. Will the gentleman yield?

Mr. NORRIS. Certainly.

Mr. HAMILL. Are these the only classes of post-office employees that are given 15 days leave of absence?

Mr. NORRIS. I do not know. As far as my information goes this particular class is the only class in the Government service, and yet I presume there are others.

Mr. MANN. Will the gentleman allow me a question?

Mr. NORRIS. I will.

Mr. MANN. How much vacation do the clerks and carriers in the post offices get?

Mr. NORRIS. Well, I think they get 15 days.

Mr. MANN. I think they all get the same, and if the gentleman's proposition to increase the vacation period of one is passed, we might as well increase them all.

Mr. NORRIS. We have already fixed the vacation of a majority of clerks in the employ of the Government at 30 days.

Mr. MANN. I think not outside of Washington.

Mr. NORRIS. Why should Washington be an exception?

Mr. MANN. I do not know that it should, although having been here a few summers I think there are some reasons that would apply to the clerks in Washington and not to clerks in other parts of the country.

Mr. NORRIS. Some of these railway postal clerks are doing work in a climate as bad as the city of Washington and some of it worse. Their work is of such a nature that it ought to appeal to every man to give them more of a vacation.

Mr. MOON of Tennessee. Mr. Chairman, I want to say in reference to this item that we have done a good deal for the railway postal clerks in the committee, in the House, and the Senate, and are trying to do more.

Mr. NORRIS. Well, here is a good opportunity.

Mr. MOON of Tennessee. But we must not be asked to do everything at once. These men are off one-half of their time, and while they do have to study their schedules when they are off the gentleman knows, as I do, that they do not apply themselves all the time to that duty while they are off. It is practically a vacation a part of each week.

Mr. NORRIS. Will the gentleman yield?

Mr. MOON of Tennessee. Certainly.

Mr. NORRIS. Is it not true that they have to take an examination every six months?

Mr. MOON of Tennessee. Yes; but it does not take all of their time.

Mr. NORRIS. Is it not necessary that they should study the schedules?

Mr. MOON of Tennessee. Yes; but the gentleman knows that when a man is off with his wife and children and at home half of the time that it is practically a vacation, that he is not sitting down and studying his schedules all the time. Mr. Chairman, I make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

For actual and necessary expenses, general superintendents and assistant general superintendents, division superintendents, assistant division superintendents, and chief clerks, Railway Mail Service, and

railway postal clerks, while actually traveling on business of the Post Office Department and away from their several designated headquarters, $80,000.

Mr. MOON of Tennessee. Mr. Chairman, I move to amend, in line 4, by striking out the "s" in the word "superintendents," and also in the second word "superintendents," in the same line, strike out the letter "s."

The Clerk read as follows:

In line 4 strike out the letter "s" in the word "superintendents" where it first occurs, and also the "s" in the word "superintendents" where it next occurs, so that it will read "general superintendent" and "assistant general superintendent."

The amendment was agreed to.

The Clerk read as follows:

For rent, light, fuel, telegraph, and miscellaneous office expenses, schedules of mail trains, telephone service, and badges for railway postal clerks, $80,000, including rental of offices for division headquarters, Railway Mail Service, in Washington, D. C.

Mr. MOON of Tennessee. Mr. Chairman, I move to amend, line 10, by striking out the word "and" after the word "telegraph" and inserting the word "and" after the word "miscellaneous."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 20, line 10, strike out the word "and" before "miscellaneous" and insert the word "and" after the word "miscellaneous."

The amendment was agreed to.

Mr. MOON of Tennessee. Mr. Chairman, I move to amend, in line 13, after the word "headquarters," by inserting the words "and chief clerks."

The Clerk read as follows:

Page 20, line 13, insert after the word "headquarters" the words "and chief clerks."

The amendment was agreed to.

The Clerk read as follows:

For inland transportation of mail by electric and cable cars, $800,000: *Provided*, That the rate of compensation to be paid per mile shall not exceed the rate now paid to companies performing such service, except that the Postmaster General, in cases where the quantity of mail is large and the number of exchange points numerous, may, in his discretion, authorize payment for closed-pouch service at a rate per mile not to exceed one-third above the rate per mile now paid for closed-pouch service; and for mail cars and apartments carrying the mails, not to exceed the rate of 1 cent per linear foot per car-mile of travel: *Provided further*, That the rates for electric-car service on routes over 20 miles in length outside of cities shall not exceed the rates paid for service on steam railroads: *Provided, however*, That not to exceed $15,000 of the sum hereby appropriated may be expended, in the discretion of the Postmaster General, where unusual conditions exist or where such service will be more expeditious and efficient and at no greater cost than otherwise, and not to exceed $100,000 of this appropriation may be expended for regulation, screen, or motor screen wagon service which may be authorized in lieu of electric or cable car service.

Mr. FOWLER. Mr. Chairman, I offer the following amendment as an addition to that paragraph. Add after line 18 the words "*Provided*, That when such railway shall violate any part of such service according to its contract, then all pay for such carriage of mails shall cease."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Add after line 18, page 20, the words "*Provided*, That when such railway shall violate any part of such service according to its contract, then all pay for such carriage of mails shall cease."

Mr. MOON of Tennessee. To that, Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman from Tennessee makes the point of order. The Chair will hear the gentleman from Illinois.

Mr. FOWLER. Mr. Chairman, I do not think the amendment is subject to a point of order at all. It is in keeping with the limitation. Here is a provision for the purpose of giving employment to inland mail service carried by railways. This can only be done by contract with the United States, and that contract must be specific on its face. Its terms must be specific. The number of mails carried by the road during the day must be specified, the amount to be paid must be specified.

Now, Mr. Chairman, if that be true, then this amendment is simply in keeping with the provisions of this paragraph which seeks to carry out the contract which the Government makes with the railway. If the Government makes a contract with the railroad to carry for a specified sum a certain number of trips through a certain territory, then if that railway should fail to comply with the contract this amendment, of course, would stop the pay of the railroad as long as the violation continued. That is the object of the amendment. In my opinion, it could not be new legislation in any sense whatever. It is intended to carry out in good faith the objects of this paragraph.

Now, Mr. Chairman, I have heard from the distinguished chairman of this committee no reason for his point of order, and I can see no reason for it.

Mr. MOON of Tennessee. Will the gentleman let me state my point of order?

Mr. FOWLER. Certainly.

Mr. MOON of Tennessee. It is that this is new law and not a limitation on the appropriation, for which the gentleman might have a right to offer an amendment in proper language. This is an entirely new proposition respecting the contractual relations between the Government and the carrier.

Mr. FOWLER. Yes; but, Mr. Chairman, it does in its terms seek to lessen the appropriation and comes directly under the Holman rule.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. Yes.

Mr. CULLOP. Mr. Chairman, I would like to ask the chairman of the committee a question. Beginning on line 7, page 21, we find this provision:

Provided further, That the rates for electric-car service on routes over 20 miles in length outside of cities shall not exceed the rates paid for service on steam railroads.

Now, if the gentleman's amendment is new legislation it applies to this provision in the paragraph, which is also new legislation, and the point of order made against the amendment of the gentleman from Illinois [Mr. FOWLER] would be carried back to that part of the paragraph, and if good as against his amendment must be good as against that.

Mr. MOON of Tennessee. Does the gentleman make the point of order against that amendment?

Mr. CULLOP. No, I am not making the point of order; but what I do insist upon as a matter of parliamentary practice is that if the point of order be made against this amendment and be insisted upon, that that point of order necessarily will be carried back and will strike out that provision. It is just like a demurrer to a complaint or answer in a case in court. It searches the whole paragraph to which it is directed, and must be so considered in ruling on the point of order.

The CHAIRMAN. Will the gentleman from Illinois permit the Chair to ask the gentleman from Tennessee a question?

Mr. FOWLER. Certainly.

The CHAIRMAN. Does the gentleman from Tennessee [Mr. MOON] concede that that is all new law, beginning with line 8 and extending to the end of the paragraph?

Mr. MOON of Tennessee. Mr. Chairman, I do not recollect whether it is or not. It has been carried in the appropriation bills, but I do not know whether the general statute provides for it or not.

Mr. CULLOP. Does not the statute by which this contract is made with the railroad companies provide only for the carrying of mail on steam railroads, and was it not passed before the practice of carrying mail on electric railways had arisen?

Mr. MOON of Tennessee. That is the old statute. There is no question about that.

Mr. CULLOP. And it never has been amended upon that subject. I not only indorse this new legislation that is offered here, because I think it is appropriate, but I do insist that the amendment of the gentleman from Illinois [Mr. FOWLER] is germane to that part of the paragraph.

The CHAIRMAN. To which part of the paragraph?

Mr. CULLOP. To the part of the paragraph beginning with the word "*Provided*," in line 7, which I read to the Chair a moment ago.

The CHAIRMAN. The Chair calls attention to the fact that the amendment is not proposed at that point, but is proposed at the end of the paragraph.

Mr. CULLOP. It was proposed at the end of the paragraph because the gentleman from Illinois could not be recognized at that part of the paragraph where it specifically applies, because, under the rule, the whole paragraph must be read through before he could be recognized; but it is germane to that part of it.

The CHAIRMAN. If the gentleman from Illinois will permit, the Chair will suggest that, of course, at the conclusion of the paragraph the gentleman from Illinois, being recognized, could have proposed his amendment to any portion of the paragraph to which he desired to propose it. The Chair desires to get rid of the point of order as soon as possible. The Chair understands that when new legislation is proposed in an appropriation bill, and the point of order is not made, that then any amendment germane to that legislation is itself in order, even though it may be new legislation. The Chair understands that to be a well-settled proposition of parliamentary law.

Mr. MOON of Tennessee. Mr. Chairman, I would like to have the gentleman's amendment again reported. I think it is an independent section.

Mr. FOWLER. No; it is not.

Mr. MANN. Mr. Chairman, before the Chair rules——

The CHAIRMAN. The Chair has not ruled. He simply suggested a principle of parliamentary law.

Mr. MANN. It is upon that item that I desire to be heard.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] has the floor, if he desires to say anything further.

Mr. FOWLER. Mr. Chairman, I desire to say that this paragraph containing new legislation, a point of order to the whole paragraph would be sustained by the Chair, inasmuch as the paragraph carries that new legislation, conceded to be such by the chairman of the committee; but an amendment to the paragraph would be in order under the rule that when there is new legislation proposed in a paragraph an amendment which is germane to that is in order. Had a point of order been made against this paragraph, the Chair would have been compelled to sustain the point of order, and the paragraph would have gone out.

Mr. MOON of Tennessee. Mr. Chairman, I do not want to spend all of the day here discussing the point of order. I will submit the question to the judgment of the House and withdraw the point of order.

Mr. MANN. Mr. Chairman, I make the point of order. Mr. Chairman, while the rule is, as stated by the Chair a moment ago, in part, at least, that where an item in a bill subject to a point of order gets beyond the point of making it, it is subject to amendment; still such an amendment, in order to be considered germane under the rules of the House, is restricted to a narrower field than would ordinarily be so in reference to an amendment. The rule is well settled that when an amendment offered to a provision which was itself subject to the point of order can not introduce a new subject matter, the amendment may in a sense be germane, and it may be that the amendment would have been in order under the ordinary rules of the House, and yet the rulings in recent years have been consistent that if any amendment proposed introduced a new subject matter it was subject to the point of order, although offered to a provision which had gotten beyond the point of making the point of order.

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. FOWLER. Is not the provision in this paragraph made for the purpose of paying for the transportation of inland mail over railroads, and is not that the subject, and the whole subject, of this paragraph?

Mr. MANN. As I understood the amendment of the gentleman, it purported to enforce a penalty in reference to contracts. There is no provision in this paragraph relative to contracts or relative to penalty for contracts, or for the failure to carry out contracts. And if under an amendment, on the ground that the original paragraph was subject to a point of order, you can offer now any amendment relating to any contract which the Government may make for carrying the mail, you can offer anything and hold that it is germane. It seems to me—and I do not even understand what the gentleman desires to accomplish—but it seems to me that it introduces an entirely new subject matter, which is not referred to at all in the proposition carried in the bill.

Mr. FOWLER. I will say that this amendment deals directly with the pay of railroads for carrying inland mail.

Mr. MOON of Tennessee. I will ask the gentleman from Illinois [Mr. FOWLER] for information: Suppose your amendment passed, would it add anything to the law as it now exists? The Government has the right to do what you want to do now.

Mr. FOWLER. It would be a limitation on the amount of money paid to the railroads who had violated their contracts.

Mr. MOON of Tennessee. Of course it would be a limitation under the law and under the contract. But you are attempting to add a thing they have a right to do now in the department. If carriers violate the law, they stop the pay.

Mr. FOWLER. Suppose that is not done; and I know it is not done——

Mr. MOON of Tennessee. The law requires it now to be done. What are you going to do about making it good hereafter by another law? Do you want to continue to pass laws every time they fail to execute the law?

Mr. FOWLER. Because of the fact if there is a law specifically requiring the pay to stop, I do not know of it.

Mr. MOON of Tennessee. Of course it is not specific. It is true of a contract made under the law for carrying the mail, if you take all the laws on the subject. If this law is violated the Government has a right to stop the pay.

Mr. FOWLER. If the rural-route carrier fails to carry the mail one day you stop his pay, but when a great corporation agrees to carry the mail twice a day and only makes one trip instead of two, you seek to prevent a reduction.

Mr. MOON of Tennessee. You do not do yourself or your interests any good, for the simple reason that you have somebody in the department that is there to administer the law. You could not strengthen the law by your amendment.

Mr. FOWLER. If your position is correct, then the point of order can not be maintained at all.

Mr. MOON of Tennessee. I do not think it can, but I withdrew my point of order in order to quit this debate, and ask the Chair to rule on the point of order; but the gentleman from Illinois renewed the point of order.

Mr. BARTLETT. May I ask that the amendment be again read?

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

Amend, page 21, by inserting at the end of line 18 the following: "*Provided*, That whenever any railway shall violate its contract for such service, then all pay for such contract shall cease."

Mr. MADDEN. Would my colleague want to have the carriage of mail cease at the same time the contract ceases?

Mr. FOWLER. Not at all.

Mr. MADDEN. That is what would happen.

Mr. FOWLER. My amendment is offered for the purpose of making its carriage more certain. If it can not be carried by the party who has contracted to do it, then it is high time that you find a man or a corporation who has sufficient honor and respect for contracts to carry them out in the spirit of the law, for the good of the mail service of this country.

Mr. MADDEN. While there might be a dispute about whether it was being carried out or not, it might be wise to let the man continue to carry it until you could ascertain the facts. I do not think it would be a wise provision of law to say that the contractor must discontinue his work while the Government discontinues the pay arbitrarily.

Mr. FOWLER. It is not intended to discontinue the carriers, but it is intended to make the party who contracts to do the work perform it according to the contract.

Mr. MADDEN. It just provides to discontinue the pay.

The CHAIRMAN. I would like to ask the gentleman from Illinois [Mr. MANN], who made the point of order, a question. Does this proposed amendment, in the form it is now, in the opinion of the gentleman from Illinois, change existing law?

Mr. MANN. Undoubtedly.

The CHAIRMAN. In what respect?

Mr. MANN. The department is now authorized, I take it, to make contracts and to provide for penalties in the contract. Here is a proposition now expressly directing that where a violation of the contract is made, that the pay under the contract shall cease, although the contract itself, under existing law, may provide and does provide for the penalties which should be invoked for violations of the contract. It absolutely changes existing law.

Mr. GARDNER of New Jersey. I just came in, and I want to ask the chairman of the committee if this is not the provision in the railway postal laws providing for the transportation of mail by electric cars?

Mr. MADDEN. Yes.

Mr. GARDNER of New Jersey. To emphasize, then, the statement of the gentleman from Illinois [Mr. MANN], Mr. Chairman, that this does change existing law, it may be necessary to state the history of this provision. It was found in certain instances in the country, but very few, that under the extension of the trolleys the mail could be delivered by trolley not only cheaper than by the star route, but more expeditiously. In other words, it was the difference between the speed of a trolley and the speed of a star-route wagon, and to meet those cases a provision was inserted in the law years ago that where the road was not over 20 miles in length the Postmaster General might cause the mail to be transported by trolley at no greater expense than otherwise. That was the original language. I have not the bill before me as it reads now.

Now, under this provision of law, renewed annually, as stated by the gentleman from Illinois [Mr. MADDEN], contracts have been made. I state this piece of history in order to emphasize the force of his statement that it does change existing law, because it applies to those contracts new law which did not apply to them heretofore, not being in existence.

The CHAIRMAN. The Chair is prepared to rule. The gentleman from Illinois [Mr. FOWLER] offers an amendment to insert certain language after the word "service," in line 18. It seems to the Chair that the proposition contained in the amendment proposed by the gentleman from Illinois is broader even than that part of the legislation contained in the bill which is proposed as new legislation; that at the place at which it is offered, construing the section as a whole, it would apply to more of the bill than that part which is conceded to be new legislation in the bill; and, following the precedents, which the Chair will not take time to quote, but which he has examined, the Chair is of opinion that this comes under the inhibition of

the rule, and the Chair sustains the point of order against the amendment of the gentleman from Illinois.

Mr. FOWLER. Mr. Chairman, does it not come under the Holman rule in that it is a limitation upon the appropriation?

The CHAIRMAN. The Chair thinks that the gentleman misconceives, or does not state accurately, what is called the Holman rule. That part of the Holman rule to which the gentleman refers provides:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

Under the consistent rulings of various Chairmen and Speakers construing this rule, it has been held that it must clearly appear on the face of the amendment that it does propose to retrench expenditures in one of the ways suggested. The Chair holds that this does not so show, and therefore it does not come within the scope of the Holman rule.

Mr. FOWLER. Mr. Chairman, I offer the following amendment:

Whenever such railway violates its contract of carriage of such mail, then one-half of the salary paid to such railway shall cease until such contract is complied with by such railroad.

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order against that amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] offers an amendment, which the Clerk will report. Will the gentleman send his amendment to the desk? Has the gentleman his amendment prepared in writing?

Mr. FOWLER. No; I do not have it prepared in writing.

Mr. MOORE of Pennsylvania. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOORE of Pennsylvania. I do not wish to be captious, but I have noticed on several occasions recently that amendments have been dictated from the floor. Is it not a standing rule of the House that the whole amendment shall be presented in writing?

The CHAIRMAN. That is the fact, but, of course, it is of very frequent occurrence that a number of amendments are offered otherwise.

Mr. MOORE of Pennsylvania. I have been trying to follow the gentleman's argument, but it is impossible to get the amendment at the Clerk's desk, so that the importance of having the amendment in writing is apparent.

The CHAIRMAN. The Chair is informed by the Clerk that in practice the matter is largely a matter of discretion with the Chair. The gentleman from Illinois [Mr. FOWLER] will now offer his amendment.

Mr. HAMILL. Mr. Chairman, I ask for a rereading of the gentleman's amendment.

The CHAIRMAN. The gentleman has not yet sent up his amendment.

Mr. FOWLER. Mr. Chairman, I am ready to present my amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. FOWLER]:

The Clerk read as follows:

Amend, page 21, by inserting at the end of line 18 the following: "*Provided*, That whenever any railway shall violate its contract for such service then one-half of the pay for such service shall cease."

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order against that.

The CHAIRMAN. The gentleman from Tennessee makes a point of order against the amendment. Does the gentleman make it at this time?

Mr. MOON of Tennessee. Yes.

The CHAIRMAN. The gentleman makes the point of order. The Chair thinks that this comes within the reasoning of the first part of his ruling just made, and sustains the point of order.

Mr. FOWLER. Mr. Chairman, is it not a reduction of the salary of the employee? Does it not come under that phase of the Holman rule?

The CHAIRMAN. The Chair does not think it is in the form that brings it under that rule, the Chair will state.

Mr. MOORE of Pennsylvania. Mr. Chairman, I now renew my request that the Chair will rule on the question as to whether it is not essential that an amendment offered from the floor shall be in writing.

The CHAIRMAN. The parliamentary clerk at the Speaker's table has just handed to the Chair the following rule:

RULE XVI.

1. Every motion made to the House and entertained by the Speaker shall be reduced to writing on the demand of any Member, and it shall be entered on the Journal in the name of the Member making it, unless it is withdrawn the same day.

It would seem that if a Member proposes an amendment it is within the power of any other Member to demand that it shall be reduced to writing. Otherwise it seems to be in the discretion of the Chair.

Mr. MURDOCK. Mr. Chairman, on the contrary, if no one does object to a verbal amendment the verbal amendment will stand?

The CHAIRMAN. It is a matter resting in the discretion of the Chair, evidently. The Clerk will read.

The Clerk read as follows:

For transportation of foreign mails, $3,900,000: *Provided*, That the Postmaster General shall be authorized to expend such sums as may be necessary, not exceeding $112,800, to cover one-half of the cost of transportation, compensation, and expenses of clerks to be employed in assorting and pouching mails in transit on steamships between the United States and other postal administrations in the International Postal Union, and not exceeding $88,100 for transferring the foreign mail from incoming steamships in New York Bay to the steamship and railway piers, and for transferring the foreign mail from incoming steamships in San Francisco Bay to the piers; also for transferring the mail from steamships performing service under contract for transporting United States mail: *Provided*, That acting clerks may be employed in place of clerks or substitutes injured while on duty who shall be granted leave of absence with full pay during the period of disability, but not exceeding one year, then at the rate of 50 per cent of the clerk's annual salary for the period of disability exceeding 1 year but not exceeding 12 months additional, and that the Postmaster General may pay the sum of $2,000, which shall be exempt from payment of debts of the deceased, to the legal representative of any sea-post clerk or substitute sea-post clerk who shall be killed while on duty, or who, being injured while on duty, shall die within one year thereafter as the result of such injury.

Mr. MOON of Tennessee. Mr. Chairman, I offer an amendment to come in after the word "cover," in line 22, page 21. I move to strike out the balance of that line, lines 23 and 24, and all of line 1 on page 22, and the word "union," which is the first word in line 2 on page 22, and insert in lieu thereof the following:

The cost to the United States of maintaining seaport service on steamships conveying the mails.

The CHAIRMAN. The gentleman from Tennessee offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 21, line 22, after the word "cover," strike out all the remainder of that line and all of lines 23 and 24 and all of line 1 on page 22, and the word "union" at the beginning of line 2, and insert the following: "The cost to the United States of maintaining seaport service on steamships conveying the mails."

Mr. MURDOCK. Mr. Chairman, what does that amendment do?

Mr. MANN. It makes it conform to existing law.

Mr. MOON of Tennessee. That is the recommendation of the department.

Mr. MANN. It accomplishes the same purpose.

The amendment was agreed to.

Mr. MOON of Tennessee. Mr. Chairman, in line 6 I move to strike out the word "piers" and insert the following:

And for transferring the foreign mails from incoming steamships at Honolulu from quarantine to the piers.

The CHAIRMAN. The gentleman from Tennessee offers a further amendment, which the Clerk will report.

The Clerk read as follows:

Page 22, line 6, strike out the word "piers" and insert the following: "And for transferring the foreign mails from incoming steamships at Honolulu from quarantine to the piers."

The amendment was agreed to.

Mr. BORLAND. I move to strike out the last word, for the purpose of asking unanimous consent to extend in the RECORD my remarks on the bill.

The CHAIRMAN. The gentleman from Missouri moves to strike out the last word and asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. MANN. Reserving the right to object, does the gentleman from Missouri desire to insert in the RECORD at this point a speech upon some other subject, or will the gentleman get leave to insert it at the end of the RECORD?

Mr. BORLAND. I do not quite understand.

Mr. MANN. I am very much opposed to the getting of leave to extend, and then inserting in the actual proceedings of the House speeches relating to some other matter. If the gentleman will obtain leave to insert his remarks at the end of the RECORD if they do not relate to postal matters, I shall have no objection.

Mr. BORLAND. The matter I intend to insert relates to post roads. It relates to the bill in general, but does not belong at this particular point in the bill.

Mr. MANN. Then will the gentleman insert it in the RECORD at the end of the proceedings, where such insertions are usually made?

Mr. BORLAND. I have no objection to that.

Mr. MANN. To insert a long speech into the actual proceedings, which the Members read, makes it inconvenient.

Mr. MURDOCK. Mr. Chairman, I should like to ask if it is within the power of a Member of the House to designate the place in the RECORD where a printed speech may be placed? I appreciate the point of the gentleman's objection, that the continuity of the proceedings ought not to be broken by the insertion of matter that does not relate to the subject. Has the gentleman from Missouri any power to designate the place where his speech shall be printed?

Mr. MANN. He has. If he gets leave to print now and gives his remarks to the reporters, they may be put in at this place in the proceedings, or he can ask them to put it in the latter part of the RECORD, where speeches are printed that are held out for revision.

Mr. MOORE of Pennsylvania. Mr. Chairman, I have a similar request to make, but I make it with the understanding that I will withhold the copy until to-morrow.

Mr. BORLAND. I will make my request in the same way. I have no desire to print the speech at this particular point in the proceedings.

Mr. MANN. I did not suppose the gentleman had.

Mr. BORLAND. I make the request with the understanding that the speech be printed at the end of the proceedings.

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] and the gentleman from Pennsylvania [Mr. MOORE] ask unanimous consent to extend their remarks in the RECORD. Is there objection?

There was no objection.

The Clerk read as follows:

For travel and miscellaneous expenses in the postal service, office of the Second Assistant Postmaster General, $1,000.

Mr. CULLOP. I offer the following amendment as a new paragraph.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of line 24, on page 22, insert the following: "That the Executive order of date September 30, 1910, whereby assistant postmasters and clerks at first and second class post offices were placed within the classified civil service, and the Executive order of October 15, 1912, whereby postmasters of the fourth class were placed within the classified civil service, are hereby annulled and set aside."

Mr. MANN. Mr. Chairman, may I ask the gentleman just what will be accomplished by this amendment if it is agreed to? I did not quite catch its import. Do I understand from the amendment that it is proposed to take out of the classified service all of the clerks in first and second class post offices; and if so, would it include carriers as well?

Mr. CULLOP. No, sir; it does not. It only embraces the assistant postmasters and clerks in first and second class offices included in the Executive order of September 30, 1910, placing them in the classified civil service. The other relates to fourth-class postmasters, annulling the order of October 15, 1912, whereby they were placed under the classified civil service and given life positions. That is the object of it, and these are the only classes of officials which it affects.

Mr. MANN. Mr. Chairman, as I understand the amendment, it is proposed to take out of the classified service the assistant postmasters in the first and second class offices and also the postmasters in the fourth-class offices. In other words, to take out of the merit system these officers and return them to the spoils system of politics. I am quite willing to submit that to a vote of Congress. I shall watch with great interest to see how gentlemen are recorded upon it, not because it will make any difference to me, but just to see the squirming that will be done now and hereafter. We already have one proposition upon which we will get a roll call on the subject, and I would like to see one that is effective, for the first one will not amount to much, except to give an opportunity to express an opinion. I do not know whether the President would pay any attention to the provision or not.

Mr. CANNON. Will the gentleman allow me a question?

Mr. MANN. Certainly.

Mr. CANNON. I want to see what this applies to. It appears to apply to assistant postmasters and clerks at first and second class offices.

Mr. MANN. That is what I understood it applied to.

Mr. CANNON. It applies to the first and second class offices and clerks within the classified service in the Executive order of September 30, 1910, whereby assistant postmasters and clerks at first and second class offices, as well as to the order of 1912 as to the fourth-class postmasters. Does the gentleman know what clerks besides the assistant postmasters this would cover?

Mr. MANN. I do not. I inquired of the gentleman from Indiana, who offered the amendment, and was assured that it did not cover any clerks, as I understood it. Unless I misunderstood the gentleman, he stated that the first part of the order only covered, in fact, assistant postmasters.

Mr. CULLOP. And clerks.

Mr. MANN. I know that the gentleman did not intend to mislead me.

Mr. CANNON. The gentleman from Indiana says "and clerks under the order of 1910."

Mr. MANN. Whatever it may be, I regret that the gentleman is not willing to go the whole hog. If I wanted to put myself on record in advocacy of the spoils system, I would propose to take all of the employees of the postal service out of the merit system and give them to my party.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. GARDNER of New Jersey. Mr. Chairman, I rise simply to ascertain gentlemen's opinion as to the effect of this amendment. What is it going to do? There is a civil-service law 20 or 35 years old which gives to the President such power. In 1910 and 1912 the President exercised the powers given him by that statute and issued two Executive orders placing two classes of employees in the civil service. This amendment, if I understand it, proposes to revoke those two orders, but not to change the statute by its terms. If the amendment does not change the statute, if it simply revokes the orders, the President might sign the act to-day and reissue the orders to-morrow. Indeed, the orders might be written and lie on the desk and be signed one minute or a half a minute after the bill itself was signed. Is that the purpose of the amendment? Is it the gentleman's construction that the revocation of these orders is an amendment to the civil-service law, a provision of permanent law that two classes of employees shall never, under that act, be placed in the civil service? Which is the construction of the gentleman's amendment?

Mr. CULLOP. Mr. Chairman, in response to the gentleman from Illinois and the gentleman from New Jersey, I have set out the language in this amendment just as it was given me by the First Assistant Postmaster General, and that is, by the Executive order of September 30, 1910, assistant postmasters and clerks in first and second class post offices were placed within the classified civil service, and that by the President's order of October 15, 1912, postmasters of the fourth class were also placed within the classified civil service.

Mr. HAMILL. Will the gentleman yield?

Mr. CULLOP. I will, although I have only five minutes.

Mr. HAMILL. Who appoints the clerks and assistant postmasters in the first-class offices?

Mr. CULLOP. As a rule the postmaster at the post office appoints, subject to approval, I think, in nearly every instance.

Now, Mr. Chairman, it has been stated by the gentleman from Illinois that this is one of the emanations growing out of the desire for spoils. Let me say in answer that these men were put in office under the spoils system, many of them appointed just before the order of September 30, 1910, went into effect. The fourth-class postmasters were selected under the spoils system, and now it is proposed by Executive order to fasten them upon the country for life as a result of the work of the spoilsmen of this country. Is it not better to annul those orders, and if you are to enforce this branch of the law in the selection of these officers, let them be selected according to merit and not according to their political affiliations, for their work in the party which is just going out of power? They were selected upon that theory; that is how they came into office; and it is proposed now by these Executive orders to put them in office and keep them for life. I am opposed to the policy and the country is opposed to it. A large number of the opposite party is opposed to it because they know the manner in which their selection was brought about and the manner in which it is proposed now to keep them in office. This Congress is not repealing any statute by this amendment, but simply annulling two of the Executive orders of the President of the United States in reference to these officers.

A man who gets an office for life does not have the ambition to improve the service that a man has who is dependent upon his good, efficient work in holding his office. The inducement for the improvement of the service is taken away. But the thing we are interested in is to revoke these orders and rebuke the attempt to foist the spoils system upon the country through the Executive orders, and thereby enable officials to be kept in office for life when the administration of this country is about to change, and when there is a great desire to improve the public service by inducting new blood in official circles.

Mr. HAMILL. Will the gentleman state how long since these orders have been made?

Mr. CULLOP. The one in reference to fourth-class postmasters, affecting over 40,000 officeholders, was made on the 15th of October, 1912, just 19 days before the election. The other one was made September 30, 1910, and between the issuance of the order and the taking effect, December 1, 1910, all over the country there were removals of assistant postmasters and new

assistant postmasters appointed to take their place, selected to go into the service after these orders were made and before they became operative. These, in many instances, were made in violation of good public service and as a reward for political activity and all selected from the Republican Party. Selections were made from that party alone in all such instances, and it could not be contended it was solely for the good of the public service. It was a mere political action that was taken to reward political service by the changes that were made.

Mr. HAMILL. Assuming that it was and that these men have given satisfactory service and have shown evidences of their continuing to give satisfactory service, does not the gentleman think that the order should be allowed to stand?

Mr. CULLOP. No, I do not; and they have not in all cases given satisfactory service. The vote of the people on the 4th day of last November repudiated their service and demanded a change in the holding of the offices throughout the country.

Mr. HAMILL. As a general principle, does not the gentleman believe that life tenure should be the rule in Government service?

Mr. CULLOP. Never, in any service. It is a detriment rather than a benefit to good service. It takes from a man the inspiration to render good service, because he is fixed for life, and there is not any reason why he should be more active and diligent in the discharge of his official duties; and for that reason it is not in the interest of good service. But it is contended that this amendment is in furtherance of the "spoils system." I deny it. The Executive orders which it proposes to annul were in support of the spoils system, because each and every officer embraced under said orders were selected under the spoils system as a reward for political service and not because of superior qualifications.

If they were really in aid of good service, for the improvement of the discharge of public duties, why not make such an Executive order, but open all the places to selection anew, and select them from all applicants in competitive examinations? This would be fair and would then sustain the claim that the same was done for the purpose of improving the public service and for the good advantage of the discharge of official duties.

We are all for good civil service; we believe in the faithful and efficient discharge of official duties; but we can not, however, agree that these two Executive orders were calculated to improve the public service or inspire a better discharge of official duties. If so, fairness in this matter requires that these orders be annulled and the matter thrown open to competitive examinations, where all may participate, and the selections made on merit and not, as has been done in these cases, as reward for partisan political service.

For these reasons I hope the amendment will be adopted. It is against it more than in favor of it, and the sooner the policy is changed the better. I am opposed, I may say, to any life tenure of office, because fixed terms of office inspire the occupant of the office to better service and to greater activity.

It may be said "that to the victor belong the spoils." I indorse that doctrine. I believe any business can better be operated by its friends than its enemies; that the administration of public affairs can better be administered by those friendly to its policies than by those hostile to them. This, I take it, no one will deny, because we insist upon this doctrine does not mean we are opposed to good public service. It can not be so construed, but on the contrary it means we favor a good public service, and are desirous of securing only the best by placing the administration of the public business in the hands of competent officials in full sympathy with the policies of the incoming administration, which is charged with the responsibility thereof. It is with this object in view we advocate the adoption of this amendment.

Mr. HAMILL. Mr. Chairman, it is quite singular that the gentleman from Indiana [Mr. CULLOP] and I should draw opposite conclusions from the same facts. My contention is, and I believe it is borne out by all experience, that life service, assured tenure in public office, is one of the greatest inspirations we can have toward making public servants faithful and diligent. The curse of this country has been the old spoils system, which happily has been done away with by recent legislation. If we give a man an assurance that so long as he is faithful to his work his tenure will not be molested, then we have a man whose undivided attention and industry is given to his work; but if a man is working with the sword of Damocles hanging over his head every moment of his time, then we have a man who instead of attending with undivided industry and attention to his work, is always fearing the appointing authority, and he can not give faithful service to the Government. I think that any measure that would be a blow at civil service ought to be spurned by the Members of this House. I know that in taking a position whereby assistant postmasters could be removed I would be doing something which, from the point of view of patronage, would be very beneficial to myself. I believe, however, that since we have established civil service and recognized life tenure, this House would make a mistake at this time if it passed any legislation that would menace or imperil the continuance of that meritorious and experience-proven system. [Applause.]

Mr. ROBERTS of Massachusetts. Mr. Chairman, I would like to ask the gentleman from Indiana [Mr. CULLOP] what class of clerks was placed under civil service in the first and second class post office by the Executive order of 1910, and how many of them were embraced in that class or classes?

Mr. CULLOP. Mr. Chairman, I have not that information. I wrote to the First Assistant Postmaster General, but he did not give me a detailed statement of it; but it applies to deputy postmasters and clerks in the first and second class offices, the assistants and the clerks in the offices, and not the carriers. I only wish that the amendment applied to them as well.

Mr. ROBERTS of Massachusetts. Mr. Chairman, I had understood that the clerks in the postal service were all under civil service prior to 1910.

Mr. CULLOP. Not in these offices.

Mr. ROBERTS of Massachusetts. In the first and second class offices?

Mr. CULLOP. That is my understanding from the Postmaster General. It was true of the third class.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Indiana.

The question was taken, and the Chairman announced that the ayes seemed to have it.

Mr. CULLOP. Mr. Chairman, I demand a division.

The committee divided.

The CHAIRMAN. Upon this vote the ayes are 15 and the noes 11——

Mr. ALLEN. Mr. Chairman, I demand tellers.

Mr. HAMILL. Mr. Chairman, I demand tellers.

Mr. CULLOP. Mr. Chairman, I make the point of order that the Chair had announced the result and that the demand for tellers came too late.

Mr. FOSTER. Mr. Chairman, I submit to the Chair that the Members could not tell how the vote went until the Chair had announced it.

The CHAIRMAN. The Chair had stated that the ayes were 15 and the noes 11, and upon that came the demand for tellers. The gentleman from New Jersey was in time. As many as favor ordering tellers will rise and stand until counted. [After counting.] Fourteen Members have risen, not a sufficient number, and tellers are refused. The ayes have it, and the amendment is agreed to.

Mr. REILLY. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] Fifty-four Members are present; not a quorum, and the Clerk will call the roll.

Mr. REILLY. Mr. Chairman, I would like to inquire if that amendment is agreed to?

The CHAIRMAN. The Chair announced that the ayes were 15 and the noes 11. It was at this stage that the point of order of no quorum was made. The Chair has held there is no quorum present, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Davis, Minn.	Harrison, N. Y.	Littleton
Aiken, S. C.	Davis, W. Va.	Hart	Lobeck
Ames	De Forest	Hartman	Longworth
Anderson	Denver	Haugen	Loud
Ansberry	Difenderfer	Hawley	McCall
Anthony	Donohoe	Hayden	McCoy
Ashbrook	Driscoll, D. A.	Hayes	McCreary
Ayres	Driscoll, M. E.	Heald	McGillicuddy
Barchfeld	Dupré	Heligesen	McKellar
Bartholdt	Dyer	Henry, Conn.	McMorran
Bartlett	Ellerbe	Higgins	Martin, Colo.
Bates	Estopinal	Hill	Merritt
Booher	Evans	Holland	Moon, Pa.
Broussard	Fairchild	Howard	Moore, Pa.
Brown	Fergusson	Howland	Moore, Tex.
Browning	Fields	Hull	Morgan, La.
Bulkley	Fitzgerald	Humphreys, Miss.	Mott
Burke, Pa.	Floyd, Ark.	Jacoway	Murray
Burnett	Focht	Johnson, Ky.	Needham
Butler	Francis	Jones	Norris
Calder	Fuller	Kahn	Nye
Campbell	George	Kent	Oldfield
Clark, Fla.	Goldfogle	Kitchin	Olmsted
Claypool	Gould	Kopp	O'Shaunessy
Clayton	Graham	Lafean	Palmer
Conry	Greene, Vt.	Lafferty	Parran
Cooper	Griest	Legare	Patten, N. Y.
Covington	Gudger	Lenroot	Peters
Crago	Hamilton, W. Va.	Langley	Pickett
Curley	Hamlin	Lawrence	Post
Danforth	Hardwick	Levy	Powers
Davidson	Harris	Lindsay	Prouty

Pujo	Scott	Sweet	Webb
Randell, Tex.	Scully	Taylor, Ala.	Weeks
Redfield	Sells	Taylor, Colo.	Whitacre
Reyburn	Slayden	Thomas	White
Richardson	Sloan	Turnbull	Wilson, N. Y.
Riordan	Smith, J. M. C.	Underhill	Wood, N. J.
Robinson	Smith, S. W.	Underwood	Woods, Iowa
Rubey	Smith, Cal.	Vare	Young, Tex.
Rucker, Colo.	Stack	Vreeland	
Rucker, Mo.	Sterling	Warburton	
Sabath	Sulloway	Watkins	

The committee rose; and the Speaker having taken the chair, Mr. GARRETT, the Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had found itself without a quorum; that he had directed the roll to be called; that 216 Members had answered to their names, a quorum; and he reported the list of absentees.

The committee resumed its session.

The CHAIRMAN (Mr. GARRETT). The question is upon the amendment offered by the gentleman from Indiana [Mr. CULLOP].

Mr. HAY. I make the point of order that the question is on the demand for tellers.

The CHAIRMAN. The point of order made by the gentleman from Virginia [Mr. HAY] is well taken.

Mr. MANN. Mr. Chairman, may we have order so that we may know what the point of order is?

The CHAIRMAN. The Chair had stated that the question is on the amendment proposed by the gentleman from Indiana [Mr. CULLOP]. Thereupon the gentleman from Virginia [Mr. HAY] made the point of order that the question was upon the demand for tellers on that amendment. It seems to the Chair that the point of order made by the gentleman from Virginia [Mr. HAY] is well taken.

Mr. CULLOP. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. CULLOP. The motion for tellers had been voted down, and the Chair so declared as I understood it. Then the Chair announced that the amendment was adopted, and not until then was the point of no quorum made by the gentleman from New Jersey [Mr. HAMILL]. Now, what I inquire of the Chair is, the proceedings having gone that far, was not the amendment already adopted before the point of no quorum was raised?

The CHAIRMAN. The Chair will state that the situation is this: The gentleman from Indiana [Mr. CULLOP] proposed an amendment, which was discussed for some 15 or 20 minutes, and the vote was then had viva voce. The Chair stated that "The noes seemed to have it," whereupon a division was demanded, and the House divided. The minutes show that the Chair stated:

Upon this vote the ayes are 15, and the noes 11.

Whereupon the gentleman from Ohio [Mr. ALLEN] demanded tellers, and the gentleman from New Jersey [Mr. HAMILL] demanded tellers.

Then the following occurred:

Mr. CULLOP. Mr. Chairman, I make the point of order that the Chair had announced the result and that the demand for tellers came too late.

Mr. FOSTER. Mr. Chairman, I submit to the Chair that the Members could not tell how the vote went until the Chair had announced it.

The CHAIRMAN. The Chair had stated that the ayes were 15 and the noes 11, and upon that came the demand for tellers. The gentleman from New Jersey was in time. As many as favor ordering tellers will rise and stand until counted. [After counting.] Fourteen Members have arisen—not a sufficient number—and tellers are refused. The ayes have it, and the amendment is agreed to.

Mr. REILLY. Mr. Chairman, I make the point of order that there is no quorum present.

Now, it seems perfectly apparent to the Chair that, under the constitutional provision as to a quorum, had these proceedings been in the House, upon the point of no quorum coming at the time it did, and in the connection in which it did, necessarily it would have vacated the proceedings and brought the matter to an issue in another way. It seems to the Chair that the rule must be construed in the Committee of the Whole House on the state of the Union in the same spirit and in the same manner as would apply in the House. Therefore the Chair thinks that the demand for tellers is in order.

Mr. MANN. A parliamentary inquiry.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] will state it.

Mr. MANN. I understand the Chair has sustained the point of order made by the gentleman from Virginia [Mr. HAY].

The CHAIRMAN. The Chair had so stated.

Mr. MANN. I shall not appeal from the decision of the Chair, because I think it makes no difference. I am quite sure that when the Chair reflects upon it hereafter the Chair will change its judgment upon that question.

The CHAIRMAN. The Chair is very anxious to proceed in order.

Mr. MANN. I understand.

The CHAIRMAN. Now is as good a time as any for the Chair to change his decision.

Mr. MANN. This particular matter makes no difference. I think when the present occupant of the chair, who is a very able parliamentarian, thinks the matter over he will see that the ruling he now makes is not logical with the situation.

The CHAIRMAN. On the motion for tellers or——

Mr. MANN. On the point made by the gentleman from Virginia about tellers.

Mr. CULLOP. Mr. Chairman, is not the purpose of the announcement of the Chair that either "the ayes or noes seem to have it" to give opportunity to anyone who wants to demand a vote some other way to make that demand between that announcement and the announcement that "the ayes or noes have it," whichever way the Chair has decided? Now, that has been a practice ever since I have been a Member of the House, and after the Chair has made an announcement, I think if the Chair will look up the precedents on this subject he will find that frequently Speakers and Chairmen have ruled that way. In other words, the matter was adopted or rejected, but the point of no quorum can be raised at any time in order to get a quorum in the committee to do business. That is the point I am insisting on, and I believe the precedents abundantly sustain this view of the matter.

Mr. SAUNDERS. Mr. Chairman, just in this connection I wish to say a word in reply to the gentleman from Illinois. There were two stages in this matter. The announcement of the Chair was made with respect to the first stage. In the next stage the call was made for tellers, and the call was not sustained. Then the point of no quorum was made. The announcement of the Chair was to the effect that by the vote prior to the call for tellers, the amendment had been agreed to. When the request was made for tellers, and the vote was taken on that request, it was made apparent that no quorum was present. Thereupon the point of order of no quorum was made. On the discovery that no quorum was present, the action taken in respect to tellers thereby became of no effect.

Mr. KENDALL. Will the gentleman from Virginia [Mr. SAUNDERS] yield right there?

Mr. SAUNDERS. Yes.

Mr. KENDALL. After the demand for tellers was refused because not a sufficient number of gentlemen arose to command tellers, the Chairman announced that the amendment had been adopted.

Mr. SAUNDERS. That has already been stated. The facts in that connection have already been given, namely, that the amendment was agreed to by the first vote, but in connection with the gentleman's request for tellers, the point was made of no quorum, and when that point was made and the fact of no quorum was ascertained everything that was done in relation to tellers was of no effect. The Committee of the Whole can no more act without a quorum than the full House.

Mr. CULLOP. The gentleman has misunderstood the reading of the RECORD. The Chair read the RECORD. It was after all that the gentleman has mentioned had taken place that the Chair announced that the amendment was adopted and before a point of no quorum had been made.

Mr. SAUNDERS. That, of course, must be determined by reference to the RECORD.

Mr. HAY. Mr. Chairman, I withdraw the point of order I made.

Mr. SAUNDERS. If I apprehend the reading of the RECORD, the ruling made by the Chair is logical and appropriate.

The CHAIRMAN. The gentleman from Virginia [Mr. HAY] made the point of order that the question was on the demand for tellers. The Chair presumes the language used by the Chair was such as to show that the Chair sustained that point of order, although the Chair's first impression was otherwise. The gentleman from Virginia [Mr. HAY] now states that he desires to withdraw that point of order. By unanimous consent those proceedings will be vacated, and the Chair will hold that the matter comes up de novo upon the amendment. The question is on agreeing to the amendment.

Mr. KENDALL. Mr. Chairman, I ask unanimous consent that the amendment be stated again.

The CHAIRMAN. Without objection, the Clerk will again report the amendment proposed by the gentleman from Indiana [Mr. CULLOP].

The Clerk read as follows:

On page 22, after line 24, insert the following: "That the Executive order of date September 30, 1910, whereby assistant postmasters and clerks at first and second class post offices were placed within the classified civil service, and the Executive order of October 18, 1912, whereby fourth-class postmasters were placed within the classified civil service, are hereby annulled and set aside."

The CHAIRMAN. The question is upon the amendment.

The question was taken, and the Chairman announced that the "noes" appeared to have it.

Mr. CULLOP. A division, Mr. Chairman.

The committee divided; and there were—ayes 49, noes 18.

Mr. ALLEN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ALLEN. Is it appropriate to take notice of the fact at this time that the Members on the Republican side are not voting? [Laughter.]

Mr. MANN. It is improper to make the statement. If the gentleman understood the proprieties he would not be willing to take a chance about that. [Laughter.]

The CHAIRMAN. The Chair does not think that that is a parliamentary inquiry. On this vote the ayes are 49 and the noes 18. The ayes have it, and the amendment is agreed to.

Mr. REILLY. Tellers, Mr. Chairman.

Mr. SAUNDERS. Mr. Chairman, I make the point of no quorum.

Mr. CULLOP. And I make the point, Mr. Chairman, that that is dilatory.

Mr. REILLY. Mr. Chairman, I demand tellers.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and ten gentlemen are present—a quorum. The gentleman from Connecticut [Mr. REILLY] demands tellers.

Mr. CULLOP. Mr. Chairman, I make the point of order now that that demand comes too late. The Chair has announced the result.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MANN rose.

The CHAIRMAN. For what purpose does the gentleman from Illinois rise?

Mr. MANN. The gentleman from Connecticut [Mr. REILLY] demanded tellers as soon as the vote was announced before.

Mr. CULLOP. Regular order!

The CHAIRMAN. The Chair will state to the gentleman——

Mr. MANN. The Chair is more courteous than the gentleman from Indiana knows how to be.

The CHAIRMAN. The Chair will state to the gentleman from Illinois [Mr. MANN] that upon the conclusion of the vote by tellers the Chair announced that the ayes were 49 and noes were 18. Thereupon the gentleman from Connecticut [Mr. REILLY] was observed by the Chair to be standing, and the Chair hesitated. The Chair understood the gentleman from Connecticut to say, "Mr. Chairman—" and he stopped. The gentleman did not pursue it, and the Chair then very deliberately stated, "The ayes have it." The Chair thinks the demand of the gentleman from Connecticut, in view of the situation, came too late.

Mr. MANN. But, Mr. Chairman, it has been the invariable practice, and that is the rule laid down in Jefferson's Manual, that the demand for tellers comes after the announcement of the result of a vote on a division.

Mr. MOON of Tennessee. Mr. Chairman, I believe there is nothing before the House, and I demand the regular order.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will read.

Mr. MOON of Tennessee. The gentleman from Illinois [Mr. RODENBERG] requested that we return to page 17 to consider the item at the foot of that page. I ask unanimous consent that that be done.

The CHAIRMAN. The gentleman from Illinois [Mr. RODENBERG] submits a request that the committee return to the last paragraph on page 17. Without objection, it is so ordered. The Clerk will report the paragraph.

The Clerk read as follows:

For inland transportation by railroad routes, $49,000,000: *Provided*, That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis.

Mr. RODENBERG. Mr. Chairman, I make a point of order against that proviso. My point is that this amendment is new legislation, changing existing law; and further, that there is nothing in this amendment appearing on its face to indicate that its adoption will result in retrenchment, and for that reason I insist that it is in direct conflict with Rule XXI of the House. That is the point that I make.

The CHAIRMAN. Does the gentleman desire to be heard further on his point of order at this time?

Mr. RODENBERG. If some one objects to the point, I want to be heard.

Mr. MURDOCK. Mr. Chairman, I intend to resist the point of order. I think that the amendment that has been placed in the bill by the committee, to wit—

That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis—

is saved by the proviso at the end of the second clause of Rule XXI of the House. As the Chair knows, that second clause is one which defines limitations in the form of amendments to appropriation bills, and contains the well-known general statement that—

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

Now, I believe that the following proviso is the one which protects this amendment from a successful point of order. The proviso is as follows:

Provided, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.

I want to call the attention of the Chairman to the fact that there may be a material difference between the reduction of an appropriation and a retrenchment in the expenditures under that appropriation. The lump-sum appropriation for this service carried in this bill is $49,000,000. As a matter of fact, if the amendment should stay in the bill and become a law, then there would be an expenditure of less than $49,000,000. I ask the Chairman to follow me while I visualize the situation as it exists.

The St. Louis Terminal Association controls the station and the tracks leading thereto from all directions in the city of St. Louis, but the St. Louis Terminal Association receives pay as a separate entity only on that part of the mail which comes into St. Louis over one of the bridges leading into the city from the east. I point out to the Chairman that the tracks leading into St. Louis from the west are owned by the same terminal association, but pay is not given to the terminal association for the transportation of mail over the tracks which lead into St. Louis from that direction, but only on the tracks that lead across the river from the east, and over one bridge, the Eads Bridge. Pay is given for the transportation of the mail in St. Louis in two ways. We have a statute which provides pay for the transportation of mail by the railroads on the amount of mail transported, with the weight multiplied by the distance carried and fixed upon a graduated scale of rates; and on all mail that comes into the terminal station at St. Louis the mileage system of pay for the transportation of mail is used except in the one instance. But we have another law, which I now wish to read to the Chairman. It is brief, and is as follows:

That the Postmaster General is hereby authorized, in his discretion, to pay, from appropriations for transportation by railroad routes, for the special transfer and terminal service between the Union Station and East St. Louis, Ill., and the Union Station and St. Louis, Mo., including the use, lighting and heating of mail buildings and the transfer service at St. Louis, at a rate of not exceeding $50,000 per annum, beginning on the 1st day of July, 1899.

That is the law under which the Government now pays to the St. Louis Terminal Association $50,000 a year out of this lump sum of $49,000,000. I want to point out to the Chairman——

The CHAIRMAN. Will the gentleman permit the Chair to ask a question?

Mr. MURDOCK. Certainly.

The CHAIRMAN. Is the $50,000 paid for transportation, as well as for the other things mentioned in the act which the gentleman has just read?

Mr. MURDOCK. I will say to the Chair that it is. The $50,000 is a payment for the transportation of the mail, first, from East St. Louis to the terminal at St. Louis, a distance of 3.80 miles, and for heating and lighting rooms in the station and for transfer service in the station.

Now, if the proviso which the committee has included in the bill should become law, then the Government, as I will show a little later, will pay the St. Louis Terminal Association a sum of money based on the mileage charge between East St. Louis and St. Louis, which, according to the report of the Post Office Department, will reach the sum of $19,000. So there can be no question at all about the fact that this amendment will result in a retrenchment in expenditures.

The committee does not assume to change the total of the lump-sum appropriation, but by the very nature of things—and a long history will bear me out in this—the amendment places the payment for the transportation of that mail on a mileage basis and results, as the department says, in a reduction of some $19,000 a year.

In that connection I am not merely making the argument for the purpose of carrying out my own point of view, but I find that since this was last in controversy in this House—and

it has been up very frequently for discussion—there has been published a report from the department in which it recommends that this change shall be made, and states that a saving will be accomplished.

I call the attention of the chairman to the fact Rule XXI can be construed strictly and narrowly and to the letter, or on the other hand it can be construed broadly, and for my part I would like to see the so-called Holman provisions of the rule given the broadest sort of construction.

If an individual Member of the House, without the authorization of the committee, should offer this amendment as I have done myself repeatedly in the past, I can see where the contention of the gentleman from Illinois and his point of order might be well taken; but where, under the provisions of this rule, a committee has regularly, following the rule, reported an amendment which does retrench expenditures, then I do not believe that the point of order should lie against it.

Mr. MADDEN. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Illinois?

Mr. MURDOCK. I yield to the gentleman from Illinois.

Mr. MADDEN. I was asking recognition in my own right. I thought the gentleman from Kansas had concluded.

The CHAIRMAN. The Chair will recognize the gentleman from Illinois in a few moments. The Chair desires to propound a question to the gentleman from Kansas. Assuming, as the gentleman does, that this provision depends wholly upon the Holman rule, and that it would not be in order unless in order under the Holman rule, the Chair wishes to ask the gentleman if he has examined the ruling of Mr. Speaker Kerr, which is the first ruling on the Holman rule, and subsequent rulings, particularly a ruling by Mr. Chairman SAUNDERS, of Virginia, in the last session of Congress on the Army bill, the substance of which was that any amendment or legislation so proposed must show clearly upon its face that it is a retrenchment. If so, what has the gentleman to say as to this amendment showing that upon its face?

Mr. MURDOCK. I have read the decision of Chairman SAUNDERS and the decision of the present occupant of the Chair, and also a decision by the gentleman from Kentucky [Mr. JOHNSON]; and, if my recollection serves me right, the gentleman from Kentucky [Mr. JOHNSON] ruled that where a substantial reduction was apparent from the context and from the provision itself, it came within the Holman rule.

The CHAIRMAN. Undoubtedly that is the rule, but the question is, taking the amendment of the committee or the proviso placed in the bill by the committee in connection with the original act which the gentleman from Kansas has read, which lodges discretion in the Postmaster General with respect to this matter, can the Chair, without extraneous information, determine from the act and the proviso itself that it does work a retrenchment?

Mr. MURDOCK. That is precisely my contention. The gentleman from Illinois contends that an amendment to come within the Holman rule must show upon its face a reduction, and it is my belief that the Chairman can see by the very nature of the amendment that it does mean a reduction, certainly not an increase. The Chairman must know that an amendment of this kind can not result in an increase. We have the general statute which provides for the pay of the railroads for the carriage of the mails on a certain system, and the Chair has a right to consider that general rule for the payment of railroads. I want to repeat that the Chair has a right to consider that we have one general law which applies to all railroads in the pay for the transportation of the mails on a railroad, and that an amendment thereto which restricts the pay for the carriage of the mail or the handling of the mail to that one general statute providing for payment—the Chair has a right to consider that that is necessarily a reduction, which it is in fact.

I want to say, further, to the Chairman, however he may decide, that a study of the chronological history of the item itself proves this very matter. The old Eads Bridge was constructed in 1875, and thereafter for some 20 years there was carried currently in appropriation bills a law which gave $25,000 a year for the transportation of the mail for these 3½ miles across the bridge and its housing and transfer at St. Louis. In 1899 we made the provision permanent law, and it has continued now for 12 or 13 years as permanent law.

No one contends, I think, for a moment—and I do not think the gentlemn from Illinois will contend—that this amendment or proviso would result in increasing the pay of the St. Louis Terminal Association. It will result in a reduction. It was written for that purpose, and the history of the item shows that it will result in that way, and I believe the chairman of the committee has a right to consider the bearing on the subject of the fact that we pay for the transportation of mails in one general statute and that the amendment to a law restricting any payment to that one general statute where the carriage of the mails is involved must necessarily result in a reduction of the expenditures.

The CHAIRMAN. Will the gentleman permit the Chair again? The proviso of the committee reads:

That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis.

The act from which the gentleman from Kansas has read and of which the Chair has a copy before him, provides:

SEC. 3. That the Postmaster General is hereby authorized, in his discretion, to pay from appropriations for transportation by railroad routes for the special transfer and terminal service between the Union Station at East St. Louis, Ill., and the Union Station at St. Louis, Mo., including the use, lighting, and heating of mail building and the transfer service at St. Louis at the rate of not exceeding $50,000 per annum, beginning on the 1st day of July, 1889.

The discretionary act, if it may be so termed, seems to the Chair much broader than the proviso of the committee. Is the gentleman from Kansas sure that if the committee's proviso were to pass that it would repeal the entire special act or would it simply repeal it pro tanto?

Mr. MURDOCK. I will show to the Chair where it would repeal that act, because the act which he has just quoted provides that "the Postmaster General is hereby authorized, in his discretion, to pay from the appropriations for transportation by railroad routes," and if the payment can not be made except from this item, certainly it can not be paid from any other item of appropriations in this or any other bill, and that amount of appropriation would fail and cease to be available.

In other words, Mr. Chairman, there is no other appropriation out of which this service can be paid for. Now, if under the Holman Act we reduce expenditures through the restriction upon the way in which that money shall be expended, namely, the lump sum of $49,000,000, it seems to me that under these circumstances it must come within the rule. It certainly does limit the discretion which the special act the Chair has just mentioned gives to the Postmaster General. He now can pay not to exceed $50,000 for the special transfer of the mail, the heating and lighting of the buildings, and for the carriage of the mail included, but the minute this amendment is adopted and becomes law, then the Postmaster General is able to pay only for the transportation of mail over the St. Louis bridge on a mileage basis.

The CHAIRMAN. That is the point that came into the mind of the Chair, in an attempt to construe the act, as to whether or not, if the proviso shall be held in order and become a law, the Postmaster General can not, under it and under the other special act, pay on a mileage basis for carrying the mails, and then, if in his discretion he sees fit to do so, pay all the balance for the other special things mentioned in the special act.

Mr. MURDOCK. I am glad the Chairman asked that question, because I can answer positively no. There is no pay to any of the 14 railroads which cross Eads bridge into St. Louis for transportation of the mail from East St. Louis to St. Louis. All the mail routes at present cease at the station at East St. Louis, and all the pay that is given for the transportation of the mail from the bridge over to St. Louis is in this payment of $50,000. Answering the Chairman's question strictly, the Postmaster General, if this amendment should pass, would pay the 14 railroads for transportation of mail from East St. Louis to St. Louis on a mileage basis, and would not be enabled to pay any money whatever from any source in this or any other appropriation bill to the Terminal Co. for heat, lighting, special transfer, and so forth.

Mr. RODENBERG. Mr. Chairman, I do not care to address myself to the merits of the transfer service across the bridge to St. Louis, but I will confine myself to a discussion of the parliamentary situation. I do not claim to have much familiarity with the rules of this House, but I do know that the decisions of every Speaker and every Chairman who has been called upon to construe the so-called Holman rule sets forth in clear and unmistakable language that amendments on an appropriation bill, to be in order under that rule, must indicate on its face that, if adopted, it will result in retrenchment and reduction of expenditures.

My contention is that this amendment does not indicate anything of that kind. The act of March 1, 1899, under which the Terminal Railroad Association is now being paid for this service, and which has been read by the gentleman from Kansas [Mr. MURDOCK], and also by the Chairman, expressly states that compensation shall be paid not only for carrying the mail across the bridge, but also for the special transfer and terminal serv-

ice, including the use, lighting, and heating of mail buildings. It must be noted by every member of the committee that compensation is provided for for service in addition to carrying the mail. It must also be noted that the whole matter of payment is addressed to the discretion of the Postmaster General. He may pay for all of this service any sum that he sees fit to pay, so long as it is not in excess of $50,000. This amendment specifically directs payment for one of the items covered in the general act, that of carrying the mail alone. It must certainly be apparent that this kind of limitation is not a retrenchment, because no one can tell in what manner the Postmaster General will exercise that discretion. I undertake to say, further, that if this amendment should be adopted it might result in an increase of expenditures. The Post Office Department would be called upon to pay upon a mileage basis for carrying the mail across the bridge, and under the general act the Postmaster General might in his discretion still pay not to exceed $50,000 for the other service that is performed at that point, and if the gentleman's statement is correct, and the estimate of the Second Assistant Postmaster General is correct, and the payment on mileage basis will amounnt to $19,000, then, if the Postmaster General should in the exercise of his discretion conclude to pay the maximum amount of $50,000, the amendment of the committee would result not in a retrenchment, but in an increase, instead of a decrease in expenditures.

Mr. Chairman, I contend that the act of March 1, 1889, is a discretionary act. It places certain discretionary authority in the hands of the Postmaster General, and I contend, further, that so long as that discretion is lodged in the Postmaster General no amendment can be incorporated in this appropriation bill which will clearly set forth that it will result in a retrenchment, because there is no way of determining just how the Postmaster General may exercise his discretion. He could now under the general law pay less than $19,000 for all of the service at St. Louis. He could pay $10,000. He could pay $5,000. He can pay less than the sum that would be fixed by compensation on the mileage basis. Therefore I contend that you can not, as long as that discretionary power is lodged in the Postmaster General, and so long as there is no way of determining how that discretion will be exercised, put an amendment on this appropriation bill that will absolutely guarantee a reduction of expenditures.

Mr. GARDNER of New Jersey. Mr. Chairman, I do not want to get into this discussion, but it seems to me that there is no way of proceeding to the consideration of this question without first meeting the legal question that presents itself on the face of the bill. Does this proviso repeal the special act? If the answer be no, then all the contentions that the amendment is in order fall. There is nothing in the suggestion that there will be no fund from which to pay the money if this proviso goes in, unless it be first held that it repeals the special act, because as long as the special act stands there will be authority in the Postmaster General to pay the $50,000. That is clear, as the law reads and has been read to the Chair. That is the only suggestion I mean to make. This amendment does nothing that brings it within any rule unless it be first held that it repeals the special act.

Mr. MURDOCK. Mr. Chairman, just a word before the Chair rules. I think it should be stated in answer to the gentleman from Illinois [Mr. RODENBERG] and in answer to the gentleman from New Jersey [Mr. GARDNER], what has not been hitherto stated, and that is this, that there is no general law in the United States which provides payments to railway companies for the housing or transfer of mails at stations.

Mr. GARDNER of New Jersey. But that special law does.

Mr. MURDOCK. That special law does.

Mr. RODENBERG. And you must repeal it first.

Mr. MURDOCK. And under that one special law the Terminal Association is paid out of this sum specifically named here $50,000 for two services, namely, the handling of the mail from East St. Louis to St. Louis and the transfer of the mails in the station there at St. Louis.

Mr. RODENBERG. And for furnishing of mail facilities.

Mr. MURDOCK. And heating and lighting. In case of a limitation in this appropriation bill which provides that the Postmaster General can not pay for the handling of that mail across the Mississippi River, save on a mileage basis, then, as a matter of fact, without any question, that limitation would repeal the force and effect of the special law which gives compensation for the handling and transfer of the mail in the St. Louis station. If there were a general law in this country providing for the pay to railways for the handling of mail and the transfer of it in stations and for the heating and lighting of mail rooms in the station, then my argument would fall to the ground; but inasmuch as there is no general statute to that effect, then the passage of this amendment would put upon the Postmaster General, no matter who he was, the necessity of paying to the 14 railroads which use the Eads Bridge pay on the mileage basis, and would prevent the Postmaster General from giving any compensation to the St. Louis Terminal Association for the use of rooms in the station.

The CHAIRMAN. The Chair is prepared to rule. It has been conceded by all participating in this discussion that if the provision be in order it is made in order by the latter part of the so-called Holman Rule, which reads:

Provided, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.

This measure, if presented as an original bill, would, of course, go to the Committee on the Post Office and Post Roads under the rules of the House. Therefore the committee which brings it in as an integral part of this bill is the committee which should have jurisdiction of it, standing as independent legislation, and therefore no objection could lie on that score.

But the question in the mind of the Chair, and which has given the Chair considerable trouble, is whether this meets the requirement of the Holman rule or that provision of the Holman rule as to retrenchment, and whether it shows upon its face satisfactorily, not necessarily conclusively, but to such an extent as that a reasonable man looking at the proposal and measuring it by the act which it proposes to alter, would say it was a retrenchment. The Chair is not at all satisfied that if this proviso should become a law that it would repeal all of the original act. The Chair will read it again:

SEC. 3. That the Postmaster General is hereby authorized, in his discretion, to pay from appropriations for transportation by railroad routes for the special transfer and terminal service between the Union Station at East St. Louis, Ill., and the Union Station at St. Louis, Mo., including the use, lighting, and heating of mail building and the transfer service at St. Louis, at the rate of not exceeding $50,000 per annum, beginning on the 1st day of July, 1889.

That is the law of the land. Whether it is wise or unwise, whether it is just or unjust, the Chair does not know, nor does it concern the Chair at this stage of the proceedings. But evidently that act, on its face, at least, does provide for the payment for something besides the transfer or the carrying of the mails. That is to say, it lodges discretion in the Postmaster General to pay for something besides the carrying of the mails across that bridge, out of this particular fund, if he deems it proper. Now, the language of the proviso is:

That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis other than upon a mileage basis.

Suppose that becomes the law? Is not there still left to the Postmaster General a discretion he can exercise in paying for lighting, heating, and so forth? Upon the facts of it, it seems to the Chair that unquestionably there is; and, therefore, it does not touch the discretion of the Postmaster General, except upon one particular of the whole sum of items for which he is permitted to pay in his discretion—that is, the matter of carrying—and that being the case, it only touching that single item, how can the Chair possibly say that upon its face it shows a retrenchment such as is required to be done to make it in order under the Holman rule?

The Chair has given considerable attention to this matter and considerable study, and does not think that it shows upon its face that it works a retrenchment such as is required under the Holman rule; and the Chair sustains the point of order.

Mr. REILLY. Mr. Chairman, I ask unanimous consent that we return to page 19 for the purpose of an amendment, as suggested by the House action.

The CHAIRMAN. The gentleman from Connecticut [Mr. REILLY] asks unanimous consent to return to page 19, to the paragraph which was there passed.

Mr. JACKSON. Mr. Chairman, I would like to ask the gentleman if he will withhold his request until I offer an amendment?

The CHAIRMAN. The gentleman from Kansas [Mr. JACKSON] will be recognized for the purpose of offering an amendment to the section. Does he desire to offer an amendment to the paragraph which has just been passed?

Mr. JACKSON. I do.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read a portion of the amendment, as follows:

Amend, line 21, page 17, by striking out "$49,000,000," and insert in lieu thereof "$48,500,000"; and by adding thereto:

"*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors for transmission to or delivery in any State, county, municipality wherein the sale of such liquors is or may be hereafter prohibited by State law, or when like pieces of mail matter are intended

to promote the sale of stocks, shares, bonds, or other forms of indebtedness, of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States."

Mr. MOON of Tennessee. I make a point of order upon the proviso to the section.

The CHAIRMAN. The gentleman from Tennessee makes a point of order upon the proviso to the section.

Mr. MOON of Tennessee. He reduces the amount from $48,000,000 to $45,000,000; that is not subject to a point of order; but to the balance of the amendment I make a point of order.

Mr. HOBSON. Will not the gentleman reserve the point of order?

Mr. MOON of Tennessee. No: I will not reserve it.

The CHAIRMAN. Does the gentleman now insist on the point of order?

Mr. MOON of Tennessee. I make it now.

Mr. JACKSON. I would like to have the Clerk conclude the reading of the amendment.

Mr. MOON of Tennessee. But I shall insist on the point of order being discussed alone, and not a lot of prohibition rot, in this House.

The CHAIRMAN. The Clerk will finish the reading of the amendment.

The Clerk read as follows:

And the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid the railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States.

The CHAIRMAN. The Chair will hear the gentleman from Kansas upon the point of order.

Mr. JACKSON. Now, Mr. Chairman, the amendment is not offered for the purpose of exploiting what the gentleman from Tennessee [Mr. MOON] is pleased to call "prohibition rot." There is not any such thing as prohibition rot among well-informed people, and I regret very much that the gentleman is pleased to meet this amendment by attempting to indulge in such unparliamentary language.

Mr. MOON of Tennessee. Do I understand the gentleman is discussing the point of order?

Mr. JACKSON. Mr. Chairman, I am not responsible for the gentleman's inability to understand the English language.

Mr. MOON of Tennessee. I understand the English language, but you are responsible, though, for making a statement here to the committee on the point of order that is not in order.

Mr. JACKSON. I refuse to yield.

Mr. MOON of Tennessee. I insist on the rule that the gentleman discuss the point of order.

The CHAIRMAN. The gentleman from Kansas [Mr. JACKSON] will proceed in order.

Mr. JACKSON. Mr. Chairman, I was attempting to do so. Now, I shall not attempt to review the decisions which have just been cited to the Chair upon the amendment offered by my colleague or the decisions referred to by the Chair in his decision except in so far as I think they are applicable to this rule. And so far as that is concerned, the merit of the proposition is involved in the point of order, because the merit of the proposition, if it has any, is involved in this attempt to retrench expenditures under this appropriation.

Now I call the attention of the Chair, in the first place, to the fact that the amendment upon its face does reduce the amount of the appropriation. The gentleman from Tennessee [Mr. MOON] concedes that so much of the amendment is in order.

Mr. MOON of Tennessee. Concedes what? Mr. Chairman, does the gentleman yield?

Mr. JACKSON. Mr. Chairman, I shall insist that we have order and that the chairman of the Committee on the Post Office and Post Roads observe order.

Mr. MOON of Tennessee. I asked the gentleman if he would yield. He said I conceded something. I want to know what it is.

Mr. JACKSON. I will repeat what I said, for the benefit of the gentleman. I said that the chairman conceded that so much of the amendment as reduced the amount of the appropriation is in order. In addition to that, Mr. Chairman, the amendment proceeds to provide for a reduction of the amount of money that is to be paid out of the Treasury. So that for two reasons the amendment comes within the Holman rule. I concede that if it were not for the Holman rule it would not be in order, because, while it is a limitation upon the appropriation, it does change existing law and directs the Postmaster General to take certain procedure.

The CHAIRMAN. Will the gentleman from Kansas permit the Chair a question right there?

Mr. JACKSON. In just a moment. I desire now to call the Chair's attention to the very point which the Chair made in connection with the amendment of my colleague, Mr. MURDOCK, concerning the bridge transportation—that it did not follow necessarily that it would mean a reduction of expenditures that is only made in this amendment by the mere fact that this amendment seeks to take out of the mails a large amount of matter which is at the present time, under existing law, transported in the mail, and reduces the appropriation for that purpose.

Now, in that connection I call the attention of the Chair to precedent 3892, cited in Volume IV of Hinds' Precedents, with which I have no doubt the Chair is familiar. The amendment in that case was offered by Mr. Robinson, of Massachusetts, May 5, 1880, under the old Holman rule. It reads as follows:

Strike out all in the sixtieth and sixty-first and sixty-second lines between the word "namely," in the sixtieth line, and the word "Provided," in the sixty-second line, and substitute the following:

"For transportation on railroad routes, $9,490,000, of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881."

Mr. James H. Blount, of Georgia, made a point of order against the amendment under Rule XXI as it then existed, in a modified form adopted at that session of Congress:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

After debate the chairman said:

"Although the meaning of the words 'necessary' and 'special facilities for postal service' is not very clear, yet the Chair held yesterday, after giving the subject some consideration, that the effect of such an amendment would be to change existing law. The Chair still adheres to that opinion. But under the third clause of Rule XXI an individual Member upon the floor may offer an amendment changing existing law, provided it retrenches expenditures in one of three modes: First, by reducing the number and salaries of the officers of the United States, or, secondly, by reducing the compensation of persons paid out of the Treasury of the United States, or, thirdly, by reducing the amounts covered by the bill. The amendment offered by the gentleman from Massachusetts does not propose to add an appropriation of $150,000 to the bill, but it provides that of the amount appropriated by the bill the sum of $150,000 may be used for certain purposes, and it diminishes the amount covered by the bill by striking out '$9,500,000' and inserting '$9,490,000.' So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule. Whether the language actually used in this rule accomplishes the exact purpose which the House had in view in adopting it is not a question for the Chair to decide, but taking the language of the rule as it stands and putting upon it the construction which ordinarily would be put upon such language in a statute or in a rule of the House, the Chair is compelled to hold that the amendment comes within the rule, and is in order."

Now, Mr. Chairman, the language of this amendment complies exactly with the amendment offered under this precedent. In addition to that, it complies in every particular with the decision rendered by the gentleman from Virginia [Mr. SAUNDERS] on the Army appropriation bill at the last session, because the amendment, if it is carried out, must necessarily reduce the amount of mail matter carried over the railroads of the country.

Now, the point to the Saunders decision, as I understand it and as the Chair understands it, was that the Chair may look to existing law for the purpose of determining whether the amendment will retrench expenditures, and also whether it will reduce the amount of money paid out of the Treasury for compensation to any officers or persons.

Now, we all know that the amount of the compensation paid to railroads is fixed by law, subject to an examination or weighing of the mails by the Postmaster General, and that he may at any time weigh the mails and reduce the amount paid to the railroads. We also know that this will take out of the mails a great amount of matter that is now carried over the railroads of the country—a very large per cent of it.

And, Mr. Chairman, I want to give an example of the class of mail that will be excluded by the enforcement of this amendment by the Postmaster General. I have here an example of that class of mail. I have here an editorial which I presume every Member of the House received in an envelope recently. It is an editorial of only a few lines, printed, it seems, very strange to say, right under that famous motto of the immortal Joseph Pulitzer, asking for fair play, arraigning corruption and tainted news, and demanding the independence of the press; and yet I will ask any gentleman of this House to look at this publication, marked as it is, and sent through the mails to every Member of this House, and answer under his conscience whether or not he believes that something outside of fair play inspired that editorial, and caused to be placed underneath the motto under which this famous paper is circulated through the mails of the United States and all over the world.

The heading of this editorial is "Lobbying for tyranny," and it proceeds to denounce bills like the Kenyon-Sheppard bill as bills for enforcing tyranny. Then it states that the Prohibitionists are wanting the Congress to enforce their laws for them.

Mr. Chairman, I denounce that statement as absolutely false. The Prohibitionists do not want this amendment, they do not want the Kenyon-Sheppard bill, or kindred bills, for the purpose of having the Federal Government enforce their laws for them, but they want such bills for the purpose of not having the Federal Government enforce upon them provisions of law which are absolutely incompatible with their own local police laws.

A statement was introduced into the RECORD the other day by a Senator, which advertised the fact that Uncle Sam was in partnership with the liquor interests of the country; a picture of Uncle Sam, and underneath it a statement that Uncle Sam is our partner, circulated through the mails of the United States all over the country by certain liquor houses, for the purpose of making it difficult for the States to enforce their local laws.

The purpose of this amendment is simply that the United States shall go out of partnership with the liquor interests of the country, that it shall withhold Government agency from the purpose of assisting these men to do in the States what the State law says its own citizens shall not do; and I say that the purpose of the amendment is not only right and just and consonant with good morals and the enforcement of the local laws of the States, but it is bound to reduce the expenditures of the Government. Why should the Government continue to pay out immense sums of money for the purpose of promoting the business of the liquor corporations and the business of the sellers of fake corporation stocks? I think any gentleman upon the floor of this House will agree with me that if that class of literature was stricken out of the mails of the United States, at least 10 per cent——

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order that the gentleman is not discussing the question before the House, and in violation of the rules of the House is discussing just what I thought he would, something else than the question before the committee.

Mr. JACKSON. The gentleman is mistaken.

The CHAIRMAN. The Chair thinks that the gentleman is making an argument to reenforce the proposition that he has laid down, that there will be a reduction in expenditures by this amendment.

Mr. MOON of Tennessee. He has not been talking about that for at least five minutes.

Mr. JACKSON. I assume that the gentleman from Tennessee will be bound by the ruling of the Chair, and I would like to state that in my opinion, and I believe in the opinion of every Member of this House, if this amendment should be adopted striking from the mails of the United States the liquor advertisements and the liquor literature, and the promotion literature of the country put out for the purpose of swindling the innocent purchasers of corporation stock, much of which is already barred from the mails by fraud orders of the Post Office Department, and therefore strictly germane to that subject, the volume of mail carried by the country would be reduced at least 10 per cent. But, of course, the Chair is not concerned with the percentage. One per cent is just as good as 10 per cent for the legal question involved here. The Chair must see, in line with the opinion of Mr. Chairman Saunders, that this amendment will necessarily reduce the amount of mail carried over the railroads of the country, and if the Postmaster General complies with the law and with the direction of this amendment and weighs the mails, the amount paid out of the Treasury under this appropriation will be lessened, and in line with this precedent at section 3892 the reduction of the appropriation itself makes the entire amendment legal and proper at this time.

Mr. RODDENBERY. Mr. Chairman——

The CHAIRMAN. Is the gentleman opposed to the point of order?

Mr. RODDENBERY. I am opposed to the point of order. I think the amendment is clearly in order.

The CHAIRMAN. The Chair would like to hear from some one in favor of the point of order.

Mr. MOON of Tennessee. Mr. Chairman, I want to say a word, perhaps using some of the latitude that the gentleman from Kansas took. Of course, I know the feeling of the Chair on this question and his sympathy, perhaps, with the motion of the gentleman, but I know that will not influence the action of the Chair. When I politely asked the gentleman from Kansas [Mr. JACKSON] what he meant by what he said, because I did not understand him, owing to the confusion and the distance that he was from me, he very promptly and very readily replied, with that commonplace and indecent stock repartee, that he was not responsible for my not having enough sense or ability to understand him. That is possibly true, Mr. Chairman. He may not be responsible for that. The argument made by the gentleman may be so intricate and so learned and so able that I can not understand it, but I hardly think so, in view of the judgment of the gentleman's constituents, who have recently repudiated him, and very meritoriously so, as unfit for service in this House. I want to say that, while the proposition to reduce the appropriation from $49,000,000 to $48,500,000 is in order, and while the proposition to make any reduction may be in order, yet when it is coupled with a proposal to establish a new law for the expenditure of the whole of the appropriation reduced from $49,000,000 to $48,500,000, the subject matter following the figures of the reduction being entirely new and there being no general law to support it or justify it, it is clearly out of order. The rule requires that no new matter shall be incorporated into an appropriation bill and that the appropriations shall be such only as are required to be made under general law. You can not by subterfuge and a pretended limitation of this character violate that rule of the House. Of course, everybody knows that the reduction proposed brings it within the section of the Holman rule, but are you to say that you can circumvent the purpose and intent of the law and the rule by adding after that reduction the imposition of new duties upon the department which possibly may cost even more than the $49,000,000? You have got no way to go into that question. You can not analyze it. You can not tell from the face of the proposition whether it is within or without the rule. It is left in doubt, in my judgment. I do not want to discuss the question fully, but I suggest that line of thought.

Mr. HOBSON. Mr. Chairman, the eloquent chairman of the Committee on the Post Office and Post Roads [Mr. MOON of Tennessee] has practically conceded in one part of his remarks that he is in error with regard to his point of order.

Mr. MOON of Tennessee. I shall be glad to have the gentleman point out the place where I conceded that.

Mr. HOBSON. I will point it out to the gentleman. The gentleman remarked that the specific provision, by reducing the appropriation, was in order, but that the way in which it would be reduced was not in order.

Mr. MOON of Tennessee. Oh, the gentleman has misunderstood me.

Mr. HOBSON. I will go a little further, and perhaps the gentleman will see it. He said that because it was a modification of the law it would be subject to the point of order.

Mr. MOON of Tennessee. The gentleman is mixed.

Mr. HOBSON. The gentleman admits that if the first part of the amendment had not been in it it would have made no difference. The amendment does not have to make itself a provision for the reduction, provided that the carrying out of the amendment would clearly on the face of it result in a reduction. Furthermore, the gentleman as he was elaborating his position practically said that the new cost of the added duties of the Post Office Department would stand over against the saving which he thereby admitted would exist in the reduction of the deficit in carrying the second-class mail matter.

Mr. MOON of Tennessee. There was no admission of that kind made.

Mr. HOBSON. His very argument admitted it by saying that the added duties of the department might cost more than any alleged reduction. He thereby admitted that the amendment itself did produce a reduction. Now, then, I will submit it to any practical man that the expense in the duties of supervision to cut out matter could never be as great as the expense involved in the matter itself; that inspection is never as expensive as the work itself, and that the added cost of inspection would probably be nil, because the same authorities that are employed now would carry out the added inspection; that the reduced force in connection with the reduced volume would of itself of necessity be greater than any added force if there were any added force at all.

In other words, Mr. Chairman, it is plain on the face of it, and it is plainly inferable from the remarks of the gentleman from Tennessee, that the subject matter of this amendment, irrespective of its merits, would reduce the volume of the mails, and that part of the volume of the mails that is not self-sustaining, that part which entails a deficit, and therefore that the amendment would result in a reduction.

Mr. MOON of Tennessee. Will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. MOON of Tennessee. What particular class does the gentleman say there is a deficit in?

Mr. HOBSON. Particularly in the second-class mail matter.

Mr. MOON of Tennessee. Does the gentleman insist that the whole deficit is in the second-class matter?

Mr. HOBSON. No; but much of just such matter as is mailed into my district and into the district of the gentleman from Kansas, and into prohibition territory everywhere, is carried at a loss.

Mr. MOON of Tennessee. So are newspapers and magazines.

Mr. HOBSON. Certainly; and if an amendment was offered to cut down the transportation of newspapers and magazines the amendment would be in order under the Holman rule. I do not believe that when this is understood it can be thrown out on a point of order. I do not believe that it was the original intention to discuss in all its phases the prohibition question, and I regret that my friend from Tennessee was impatient in his remarks at the outset.

Mr. MOON of Tennessee. I want to say that I do not know what right the gentleman from Alabama has to say that I was impatient in my expression that there was a lot of rot to this question of prohibition. The gentleman ought to know that there is a lot of foolish stuff said about it, and he must know that there is more common rot and hypocrisy about this political issue than any other that I have known.

Mr. HOBSON. I would like to say on the question that every State has a right to its own local self-government; it has the right to exercise its own police powers; and that there is no subject under the Government that lies deeper toward the foundation of the Government.

The practice of the Federal Government in being a party to the violation of local law in this regard has no other analogue in the Government, has no parallel in history. The Federal Government to-day is a party to the violation of law in my district. It is a party to the violation of the law in the district and in the State of the gentleman who offered this amendment. When the Federal Government inculcates observance of law, in fact depends upon law, depends for its very perpetuity upon law and respect for law, it is certainly not consistent that an amendment asking that the Federal Government withdraw itself from partisanship in the violation of the law should be denied.

Mr. MOON of Tennessee. May I ask the gentleman a question?

Mr. HOBSON. Certainly.

Mr. MOON of Tennessee. If the gentleman really wants to present that issue and cover these questions and do something effectual in the interest of prohibition, does he think that he can get any advantage by the suggestion of a reduction of this item of $49,000,000? Does he think there is anything involved in it except the display of eloquence on the matter?

Mr. HOBSON. I will say to my friend that I have not been accustomed to make a display on the question here. When the proper time comes and the question is up on its merits, as I hope it will be some day and a day not far distant, I hope to have some remarks to make. I do not believe the object of display was the purpose of the gentleman from Kansas in offering the amendment. I do want to say that the question of saving the Government $100,000 in the Post Office appropriation bill, while it is worthy of consideration, nevertheless is not commensurate with the importance of the greater question as to whether in the operation of this bill, or any other bill now and at any other time and at all times, the Federal Government should withdraw wherever it can legitimately do it from abetting, aiding, and becoming an outlaw under the police power and legitimate laws of States and of districts and of counties.

Mr. MANN. Will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. MANN. On the point of order I understood the gentleman to say that the proviso in the amendment would be in order under the Holman rule on the ground that it would reduce the amount expended by the Government by cutting out a portion of second-class matter which is not self-sustaining. If that amendment should prevail, would it not become necessary for the postal officials to examine all second-class mail matter covered by it?

Mr. HOBSON. I do not think so. I think it would be simply sufficient for the postmasters at the points where this mail matter now comes into the mail to simply examine it. I do not believe that it would require a single new official under the Government.

Mr. MANN. I am not saying whether it would require any new official or not, but would it not require an examination by some postal official of every piece of second-class mail matter deposited in the mails?

Mr. HOBSON. I do not think so.

Mr. MANN. How, then, would it become effective?

Mr. HOBSON. I think each postmaster where the mail matter was put in would be able to tell at once with reasonable certainty, and if finally he found he was not catching it he would later be able to tell at once in the ordinary exercise of his duties whether it was illegal or not.

Mr. MANN. Could he tell without any examination of the second-class mail matter?

Mr. HOBSON. I do not mean to maintain, as the gentleman must so understand, that it would require no examination to enforce the law, but I do mean to say that if there was any possible increase in the cost due to excluding it from the mail it would not be commensurate with and could not be commensurate with the saving to the Government in the body of the matter itself.

Mr. MANN. Would it not, as a matter of fact, be sure to require quite a corps of officials in the Post Office Department in cities like New York, Boston, Philadelphia, and Chicago to examine and read through all of the second-class mail matter offered for deposit in order to see whether either the advertising or the reading matter contravened the provisions of the law?

Mr. HOBSON. Under the supposition of the gentleman to-day every official in the Post Office Department would be reading all of the second-class mail matter to see if the anti-lottery law was being enforced.

Mr. MANN. But there is a special provision against putting lottery matter in the mail, which of itself enforces that law to a certain extent—it does not enforce it completely; but here is a provision affecting inland transportation, and it seems to me that it would require the examination by some one—I do not mean to say of every piece of second-class mail matter, but of each issue of all second-class mail matter which was published.

Mr. HOBSON. I think it would require and would involve the scrutiny of mail matter sent out by these particular interests at their particular localities, but on the face of it it is a plain question, and any possible, slight, incidental increase in cost could not possibly be commensurate with the saving in cost from the bulk of the matter which is excluded.

Mr. MANN. Is not that a pure matter of argument?

Mr. HOBSON. No; it is self-evident. I think the question raised by the gentleman is a pure matter of argument.

Mr. MANN. But the gentleman assumes it is self-evident, when no one in the world can tell. It is a pure guess at that. On one side you say there is a saving and on the other side there is an admitted expense. No one on earth can tell in advance which side will be the heaviest.

Mr. HOBSON. I will say to the gentleman that the matter of additional expense is questionable, but the matter of saving is material and is self-evident. It is borne on the face of the amendment itself.

Mr. RODDENBERY. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. RODDENBERY. In connection with the colloquy with the gentleman from Illinois [Mr. MANN], the postal laws now provide against the mailing of lewd and lascivious publications and pamphlets, and certain mechanical devices, certain things dangerous to the mail, certain instrumentalities for the prevention of conception. Divers and sundry other items are positively excluded from the mail.

Mr. MANN. They are all in the criminal code.

Mr. RODDENBERY. They are prohibited and made penal under the existing law. If this proviso goes in, it not only provides for the exclusion of this matter and on its face reduces the amount of money covered by the bill, but in addition to that, in the very language of the proviso, it appears that there is excluded from the mails a large volume of matter; and the Chair will take cognizance of the fact that the cost to the Government is based on what is transported measured in weight by pounds.

The question of the cost to the Government of the enforcement of this provision as a set-off against the amount carried in the bill, as a parliamentary question, can not possibly be involved. Besides, under this provision, in consideration of and in conjunction with the general law, it not only becomes prohibited in an appropriation bill, but it becomes a crime to transport it, because by law it is declared unmailable matter, and the same employees, agents, and instrumentalities of the Government that enforce the provisions of existing laws not covered in this particular law will be adequate entirely for inspection, detection, and enforcement of this amendment if enacted. I would also suggest further to the gentleman that if the part of the amendment conceded to be in order by the gentleman from Tennessee [Mr. MOON] were not in the amendment, that the proviso itself in its very terms, without any presumption, shows a reduction in the amount covered by the bill. It is indisputable. It in no way comes under the provision of the rule relating to amend-

ments reported from a committee having jurisdiction, and therefore, if the English language means anything and if common intelligence can be applied to that language, there can be but one deduction, and that is that it will reduce the necessary expenses of the Government in transporting mail on a weight basis. The amendment, however, provides in terms for the reduction of the appropriation by half a million dollars.

Mr. HOBSON. Mr. Chairman, I want to thank the gentleman. I think he is clearly right, that the officials of the Post Office Department now are constantly looking through the mail to see whether any part of it is illegal. And the gentleman from Illinois [Mr. MANN] only makes the suggestion that the difference would be that we do not carry any penalty for this violation, but, as the gentleman from Georgia just pointed out, that is not necessary when you make a general law on an appropriation bill. Any part of all the provisions of this bill when enacted into law would have the whole force of the Government for its enforcement.

Mr. STEENERSON. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. Yes.

Mr. STEENERSON. The gentleman bases his argument upon the fact that the volume of second-class mail will be reduced and that there is a loss on second-class mail, and therefore the result would be a saving.

Mr. HOBSON. Yes; and the volume would be less, and, of course, the Government would not pay on that.

Mr. STEENERSON. I desire to call attention to the fact that this amendment excludes first-class mail.

Mr. HOBSON. Somewhat.

Mr. STEENERSON. And that upon first-class mail there is a very large profit, so that by reducing the volume of first-class mail you will entail a loss.

Mr. HOBSON. I will answer the gentleman in his own kind, I think, by telling him that the general prosperity of the Nation resulting from a better enforcement of law, that reduces the amount of toxin that is a specific for degeneracy—and I assume the gentleman knows that——

Mr. STEENERSON. I do not know anything about that; but I do know that there is a profit on first-class mail.

Mr. HOBSON. That this particular toxin is a specific for degeneracy.

The general increase of intelligence and prosperity of the people, resulting from the reduced consumption of the specific in degeneracy, would far more than make up for any supposititious loss from reducing first-class mail matter, and would, in fact, increase the volume of all business, and consequently the volume of first-class mail matter.

Mr. STEENERSON. My suggestion is if on its face it does not involve a loss to the first-class mail matter on which there is a profit?

Mr. HOBSON. It does not on the matter that comes into my district. I shall be perfectly willing to see a modification that would cut it out of the first class.

Mr. STEENERSON. That might save your amendment.

Mr. HOBSON. I think it is suppositiious. I do not think that the amendment needs saving.

Mr. MOON of Tennessee. Mr. Chairman, I would be glad, whichever way this matter is to be decided, that it should be done.

Mr. GARDNER. Mr. Chairman, I would like to make a suggestion to the Chair if not sufficient time has been had in order for the Chair to rule?

The CHAIRMAN. The Chair wishes to know if anyone desires to be heard against the point of order.

Mr. CANNON. Mr. Chairman, I would like to be heard. As I understand the rule, Mr. Chairman, if any part of an amendment is subject to a point of order the amendment fails. That is to say, the first two lines are clearly in order, but in my judgment the balance is clearly out of order.

The CHAIRMAN. I would like to ask the gentleman if he understands that is true where a proposition is submitted under the Holman rule?

Mr. CANNON. Well, I think so. Otherwise you could put the whole criminal or civil code, or all legislation, into an amendment that could be tortured into being germane. But I will also make a point of order in addition to one that was made on the proviso. Now, what is this? Does it appear upon this proviso that it would retrench expenditures? Not at all. That is purely a matter of argument.

Mr. JACKSON. Will the gentleman yield for a suggestion?

Mr. CANNON. Certainly.

Mr. JACKSON. The way I read this precedent, it holds exactly to the contrary of what the gentleman from Illinois [Mr. CANNON] has said.

Mr. CANNON. What is the precedent? When was the decision made?

Mr. JACKSON. This was a decision made May 5, 1880, under the old Holman rule. The Chairman was Mr. John G. Carlisle, of Kentucky. He said:

The amendment offered by the gentleman from Massachusetts does not propose to add an appropriation of $150,000 to the bill, but it provides that of the amount appropriated by the bill the sum of $150,000 may be used for certain purposes, and it diminishes the amount covered by the bill by striking out "$9,500,000" and inserting "$9,490,000." So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule.

Mr. CANNON. Has the gentleman the amendment there?

Mr. JACKSON. Yes; I will read that to the gentleman. It says:

For transportation on railroad routes, $9,490,000, of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881.

The latter part of the amendment following the reduction in the appropriation bill mentioned in the opinion of the Chair.

Mr. CANNON. I recollect the precedent that the gentleman speaks of, and, although the decision was made by so famous a parliamentarian as ex-Speaker Carlisle, it seems to me it was not well made. I recollect when it was made. However, let that be as it may, this proviso and this amendment are not upon all fours with that precedent. This amendment provides:

That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical, advertising for sale either directly or indirectly any spirituous, malt, vinous, or other intoxicating liquors for transportation to or delivery in any State, county, municipality wherein the sale of such liquor is or may be hereafter prohibited by State law or when like pieces of mail matter are intended to promote the sale of stock, shares, or bonds, or other forms of indebtedness of any corporation, company, or association unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States, and the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid to railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States.

I do not suppose that the chairman of the committee can take notice that any newspaper carries an advertisement or any of the advertisements referred to or that any letter is written. And while it is true that it strikes off $500,000 from the appropriation, it adds $100,000 in directing a reweighing of the mails.

Mr. JACKSON. The gentleman misunderstands.

Mr. CANNON. It says:

Is hereby authorized and directed.

That is legislation to do what? To use $100,000 for the purpose of weighing the mails and readjusting and reducing the compensation now paid to railway companies for transporting the mails. That is not all:

By excluding said classes of mail matter from the mails of the United States.

Now, it seems to me that the proviso is subject to a point of order. If it is, it seems to me that the whole amendment goes out. But if it does not, the point of order has also been made upon the proviso. If this can be done, then the Holman rule and the rule that prohibits legislation upon appropriation bills is nullified, and you can put under the guise of an amendment a revision of the laws of the United States.

The CHAIRMAN. Will the gentleman from Illinois permit the Chair a question right there?

Mr. CANNON. Certainly.

The CHAIRMAN. The Chair is very anxious to determine this question in accordance with the spirit of the rules of the House. The Chair would suggest to the gentleman this idea, which is in the Chairman's mind: It seems to be conceded that the first sentence there, involving a reduction of $500,000, is in order.

Mr. CANNON. Yes.

The CHAIRMAN. Now query: If there be connected with that proposition, which is in order, a proposition that is directly related to it, as this rather appears to be, pointing out the way apparently in which that reduction can be brought about, does it not seem to come within the Holman rule, particularly when considered in the light of the precedents laid down by Mr. Speaker Carlisle, although the Chair believes the gentleman from Illinois has taken issue with that decision?

Mr. CANNON. Well, I think that decision does not cover this amendment. I think if this would be in order it would be in order to amend the amendment, making a rate of 5 cents a pound or 2 cents a pound for the transportation of newspapers and magazines. I think, as I said before, that you could put a whole code on the bill. It would be in order, it seems to me,

to amend so as to exclude all matter that would, by argument, reduce expenditures.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. CANNON. In a moment. Can the Chair determine from this amendment whether there are any newspapers circulated or letters written? The Chair must construe that, and the amendment must speak for itself. The Chair must be able to say that from the proviso upon its face without argument there would be a reduction of expenditures.

Now, I should argue the other side of the question that the $100,000 with which the Postmaster General is arbitrarily clothed would be an increase.

The CHAIRMAN. Does the gentleman mean that the Chair must have actual or judicial knowledge of it?

Mr. CANNON. It must appear on the face of the proviso.

Mr. SHERLEY. Mr. Chairman, if the gentleman will permit——

Mr. CANNON. On the proviso. That is what I claim.

Mr. MADDEN. Would the Postmaster General under this amendment be required to open letters to ascertain whether or not they contained anything in violation of the prohibition laws of the various States? Would he have authority to do it?

Mr. CANNON. I do not care to discuss it. The mere asking of the question shows how far we could go if this amendment be in order and germane.

Mr. JACKSON. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Illinois yield?

Mr. CANNON. Certainly.

Mr. JACKSON. We do now have machinery and officials under the direction of the Post Office Department to do the very thing that the gentleman mentions—to open letters and examine mail for the purpose of seeing whether the law is being violated, do we not?

Mr. CANNON. I am not aware of it. If there be any law authorizing the Postmaster General or his subordinates to open a letter with a 2-cent stamp on it, I am not aware of it.

Mr. JACKSON. Is not the gentleman aware of the fact that the Attorney General seized a lot of mail in the city of New York recently?

Mr. CANNON. Well, there are people who might say that the Attorney General has, perchance, violated the law. I know of no law that authorizes the breaking of the seal of a letter being in the United States mails.

Mr. JACKSON. Does the gentleman understand me? If the Post Office Department issues an order—and it certainly has that right—does the gentleman deny the authority of that department or the authority of the Department of Justice to open a letter for the purpose of ascertaining that fact?

Mr. CANNON. I do absolutely deny it.

Mr. JACKSON. The gentleman should inform the President, then.

Mr. SHERLEY. Mr. Chairman, I desire simply to say this, in response to the suggestion of the Chairman: The proposed amendment is not really one amendment; it is three amendments. Now, if it be in order, you are met with this situation, that by the reduction of the amount appropriated in any particular item, by a fraction of a cent, and then by adding to that any language relating to the subject matter with which the paragraph deals—and I make a distinction relating to the subject matter, but not to the economy in dealing with the subject matter—it becomes in order because, according to the contention of the gentleman, they have made an economical proposal by simply reducing the amount appropriated. Now, I contend that this must be true: Any legislation that is attached to an amendment which reduces the amount, in order to be in order must on its face, not as a matter of conclusion, not as a matter of argument or deduction, but absolutely because of the language used, show that it will bring about a reduction in expenditure.

Now, if a proviso had been put in, not only reducing the amount but saying also that there shall be a less sum paid—as, for instance, 60 per cent of the pay heretofore paid per pound—it would be manifest that such an amendment would on its face show that it went in the direction of economy. But when you undertake to argue from the broad statement of an exclusion of a particular kind of mail matter, which of itself requires, in order to be excluded, a great deal of work and search, that that will bring about a reduction, you are simply arguing a conclusion in which one man's judgment is as good as another's. I might, for example, take the suggestion inferentially made by the gentleman from Alabama [Mr. HOBSON] and say that seemingly, in accordance with his prohibition view, it is going to improve the health of the people and to increase their wealth and happiness to exclude from the mails the matter referred to, and therefore there will result, instead of a reduction, an additional expenditure, due to additional quantities of mail resulting from greater industry and prosperity, the Nation having gotten rid of the blight of intoxicants. If the Chair holds this in order, it follows that any man can make in order on any paragraph anything relating to that paragraph by the very easy device of providing a reduction of half a cent in the amount appropriated.

Mr. GARDNER of Massachusetts. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARDNER of Massachusetts. Would it be in order to demand a division of that amendment at this time?

The CHAIRMAN. The Chair thinks not, except upon a vote. The Chair will state that the gentleman from Tennessee [Mr. MOON] made his point of order merely to the proviso.

Mr. GARDNER of Massachusetts. The reason I ask the question is this: It is clear that the argument that this amendment is not obnoxious to the point of order rests on the fact that on its face it makes a reduction in the amount carried by the bill. If it merely provided for a retrenchment, it would be in order only when presented by a committee, not by an individual. If the question is divided, the legislative proposition is at once divorced from the reduction.

The CHAIRMAN. Will the gentleman permit the Chair a question?

Mr. GARDNER of Massachusetts. Certainly.

The CHAIRMAN. Does the gentleman understand that the rules of the House will permit the division of a question before a ruling by the Chair?

Mr. GARDNER of Massachusetts. I am uncertain as to that.

The CHAIRMAN. The Chair thinks otherwise.

Mr. SHERLEY. There may not be a division in the sense in which you have a division when a vote is had; but I submit to the Chair that in considering whether a matter is really germane and not subject to a point of order that very question must arise, because otherwise all I have to do is to insert the word "and" after the clause proposing the reduction and then continue indefinitely any sort of legislation that relates to that particular matter.

Mr. GARDNER of Massachusetts. I know the Chair has before him the star-route case. As he will observe, an attempt was made, under the Holman rule, to reduce an appropriation by $500 and couple with this reduction a legislative proposition with regard to the method of making star-route contracts, or something of the kind. It seems to me that this is a parallel case. I remember that the parliamentarian who preceded Mr. HINDS, a gentleman named Crutchfield, in his book made the comment that the same result could have been arrived at by demanding a division of the question. This comment appears, I think, in the Manual of the Fifty-third Congress. That is why I ask whether the present moment would be an appropriate time to demand a division of the amendment.

Mr. MANN. The gentleman says the same result could have been arrived at. What result?

Mr. GARDNER of Massachusetts. The result of projecting the point of order on the legislation and not on the reduction. In the star-route case the Chair sustained the point of order as against the legislative provision.

The CHAIRMAN. The gentleman from Massachusetts is familiar with the star-route ruling to which he has called the attention of the Chair. That proposed to refund $500, I believe, in the amount carried by the bill, and then proposed a contract system for the star routes; but there really was not any effort to show any connection, was there, between the contract system proposed and the reduction of $500?

Mr. GARDNER of Massachusetts. There has been scarcely more than a pro forma attempt here.

The CHAIRMAN. That is a question, of course.

Mr. HOBSON. The Chair had not finished his statement. We would like to hear it.

The CHAIRMAN. The Chair asked a question of the gentleman.

Mr. GARDNER of Massachusetts. Will the gentleman permit me to answer the Chair's question without interrupting?

Mr. HOBSON. I wonder if the gentleman from Massachusetts would condescend to allow the Chairman to finish a simple statement?

Mr. GARDNER of Massachusetts. After the gentleman has been recognized——

Mr. HOBSON. I assumed, of course, that when the glorious gentleman from Massachusetts spoke to me, I was recognized by every rule in the world.

Mr. MANN. How good natured they all are. [Laughter.]

The CHAIRMAN. The Chair will hear the gentleman from Massachusetts.

Mr. GARDNER of Massachusetts. The gentleman from Massachusetts has now forgotten the question asked by the Chair.

The CHAIRMAN. The suggestion of the Chair was this: In the star-route case, to which the gentleman kindly called the attention of the Chair, there does not seem to have been any effort to connect the reduction with the proposed legislation, whereas in the mind of the Chair there does seem to be in this amendment some connection between the legislation and the proposed reduction.

Mr. SHERLEY. If the Chair will permit me, I said that that is just the point to be determined. When there is simply a suggestion it does not come within the rule. It must absolutely appear upon the face of it that it will result in a reduction in order to come within the rule; and whenever it requires a suggestion, whenever it requires an argument, whenever the Chair's mind must go out exploring in order to come to a conclusion as to whether it does or does not result in a reduction, that moment, by the very process that the Chair has to undertake, he should determine that it does not in a parliamentary sense show a reduction.

The CHAIRMAN. Assuming that matter of the kind described passes through the mail—and frankly the Chair thinks he must take cognizance of that fact—the elimination of that matter from the mail would reduce the weight of it.

Mr. SHERLEY. But the weight is not the only thing that determines the expense.

The CHAIRMAN. Weight is the only thing that determines the expense, so far as this particular item is concerned, is it not?

Mr. SHERLEY. Perhaps; but that is not the proposition that is before the Chair. It does not simply say that it must reduce expenses in this particular way, but that it must reduce expenses. The rule does not qualify it to the extent that the Chair undertakes to qualify it.

Mr. JACKSON. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Kentucky yield to the gentleman from Kansas?

Mr. SHERLEY. Certainly.

Mr. JACKSON. Has the gentleman read the amendment carefully?

Mr. SHERLEY. I have read it several times.

Mr. JACKSON. I was going to suggest that the gentleman's last statement indicated that he misunderstood the latter part of it. The amendment does direct the way in which the reduction shall be made—that it shall be made by excluding from the mails these pieces of mail matter which are carried at the present time.

Now, if I understand Judge SAUNDERS's opinion, it says that the Chair must look at the law to determine whether the result will be a retrenchment of expenses. The cases are very similar, Mr. Chairman. When the Army bill was before the House, the number of regiments was reduced from 15 to 10. Judge SAUNDERS said that that must necessarily result in a reduction of expenses.

Mr. SHERLEY. Mr. Chairman, I suggest to the gentleman that by the very language of his amendment he excludes letters that contain matter relating to alcoholic liquors, letters that go by first-class mail. It is a matter of knowledge, it is a matter of proof, that the first-class mail is the profitable mail of the country—the mail that practically sustains the Government in its large losses from other mail matter. Can the gentleman say by virtue of his amendment that the exclusion of first-class mail matter, of postage that carries such mail matter, will result in an economy to the Government?

Mr. JACKSON. Mr. Chairman, the suggestion of the gentleman from Kentucky is a good one, and I am glad he made it, as I wanted an opportunity to say something on that subject. The gentleman says that the Chair must take knowledge of the fact that some of this matter goes by letter.

Mr. SHERLEY. If the gentleman will permit, I did not say that.

Mr. JACKSON. I so understood the gentleman.

Mr. SHERLEY. I said that the gentleman's amendment expressly related to letters which are carried in the first-class mail.

Mr. JACKSON. And the gentleman further stated that the Chair must take knowledge of the fact that the first-class mail is a profitable mail.

Mr. SHERLEY. I did not say that.

Mr. JACKSON. The gentleman will wait until I conclude——

Mr. SHERLEY. But the gentleman is talking in my time, and he must not misrepresent me.

Mr. JACKSON. I think that the gentleman will acknowledge that I do not misrepresent him if he will wait. The gentleman said that the Chair must consider the fact, or take knowledge of the fact, that the first-class mail is the profitable mail.

Mr. SHERLEY. No; I do not think I said that.

Mr. JACKSON. What did the gentleman say?

Mr. SHERLEY. I can give the gentleman the information, but I can not furnish him the understanding.

Mr. JACKSON. Now, I have been castigated for using that expression, and I hope the gentleman will not incur the displeasure of the chairman of the committee, the gentleman from Tennessee.

Mr. SHERLEY. Perhaps the difference is in the application of it.

Mr. JACKSON. I say that if it is the duty of the Chair to recognize that the first-class mail is a profitable mail, it is also his duty to recognize that second and third class mail is unprofitable, and the hearings on this very bill show that the entire second-class matter was carried last year at a deficit. So it must necessarily follow that any reduction in the amount of mail will result in a retrenchment of expenditures.

Mr. SHERLEY. If the gentleman will permit, I desire to say to the Chair that I did not say, and do not now say, that the Chair can take judicial knowledge of the fact that first-class mail matter is profitable or unprofitable. I said it might be well argued inasmuch as the amendment of the gentleman related to first-class mail matter, that therefore since it was a matter of common knowledge that there would be a loss of revenue since you were lessening the class of mail that brought in a profitable revenue.

But, Mr. Chairman, all of this is for the purpose of showing that the whole matter is one of argument. The gentleman's speech, my speech, the speeches here, the very need for constant reiteration of information, shows that it is a matter of information and that the language itself is not so plain as to be within the meaning of the rule and show that there must be a reduction by virtue of its adoption. That is the meat of the whole thing, and the very fact that the Chair has to go out and weigh and balance the proof shows that it does not come within the rule.

Mr. SAUNDERS. Mr. Chairman, in response to the last suggestion of the gentleman from Kentucky, I will say that the mere fact that the Chair has to weigh and balance the merits of the amendment submitted does not show that the point of order is well taken. On the contrary it is perfectly proper for the Chair before passing on a point of order to an amendment, claimed to be within the Holman rule, to balance the pros and cons of the proposition on its merits. If he is satisfied on the whole, that the necessary effect of the amendment, operating by its own force, will be a retrenchment of expenditures in one of the three ways contemplated by the rule, then the point of order should be overruled.

Mr. SHERLEY. Will the gentleman permit an interruption?

Mr. SAUNDERS. Not just now. I wish to present in their sequence some thoughts which I have in mind. It is not necessary on behalf of an amendment of this character to establish with the inexorable severity of a mathematical demonstration that it will effect retrenchment of expenditures. Nor is the Chair confined to consideration of the face of the amendment, or of the paragraph, or compelled to determine from the same without extraneous aid, or assistance, whether it will effect a retrenchment.

Mr. Speaker Kerr expressly ruled, and this ruling has been uniformly followed, that in determining whether an amendment will effect retrenchment, the Chair can look to the pending bill, the specific section, or amendment under consideration, the law of the land, so far as applicable, and the parliamentary rules and practices of the House. Keeping these aids to a conclusion in mind, the Chair must determine whether the amendment under consideration will operate of its own force to reduce expenditures. The mere fact that the Chair may think that it is likely that an amendment may operate to effect retrenchment, is not sufficient ground on which to hold that such amendment is in order. There must be something more. To be in order, the amendment must necessarily bring about such a result, ex proprio vigore. But the determination on this point must be reached by the Chair. If he is reasonably satisfied that such a result will follow, this conclusion of his own mind will fix his ruling, and sustain the amendment. It is insisted in this debate, that if the conclusion of retrenchment, from the operation of an amendment, is a matter of debate, or argument, then it does

not appear from the amendment itself that it will effect retrenchment, and therefore the same will be out of order. This contention is not sound. Any proposition may be the subject of debate. Conceding that the Chair is limited to an inspection of the face of the amendment, even then the proper conclusion to be drawn therefrom, may be contested, and appropriately debated. The opponents of the amendment may contend with vehemence that no rule of economy will attend its operation, while with equal vehemence and superior logic the friends of the amendment may demonstrate that from its operation such a result will be a reasonably necessary sequence. Hence, the mere fact that the effect of a proposition may be assailed in debate, will not operate to establish its invalidity, or put it beyond the pale of the Holman rule. The true doctrine is, that before sustaining an amendment offered under the Holman rule, the Chair must be reasonably satisfied, whether with or without debate, that such amendment operating by its own force will effect a retrenchment of expenditures. If the processes of his own mind bring him to this conclusion, after the consideration of all the matter proper to be considered under Speaker Kerr's ruling, then the point of order should be overruled. The Holman rule should be viewed in the light of reason, and of what it is designed to accomplish.

I agree that if the Chair is in doubt, if he can not reasonably determine whether retrenchment will follow the amendment, if with all the light before him he is unable to concur in the view urged by the friends of the pending proposition that it is one of necessary economy, then the point of order should be sustained; but if the Chair upon a reasonable view of the situation—because we are all supposedly reasonable beings, doing the best that we can with our problems, and applying the rule of reason to the solution of our difficulties—if, I say, the Chair upon full consideration of the subject matter reaches the conclusion that a reduction of expenditures will be effected with reasonable certainty by the amendment, then such an amendment, I submit, will be in order. The Chair is entitled to look to the legislative features of the amendment designed to effect economies, and to the reduction of $500,000 in the total amount appropriated, which is a part of the amendment and is presented as a result of the legislation in the proposed provision. He is also entitled to consider whatever is presented by the experience of the department as actual results in the handling of material of this character. If upon the whole, the Chair reasonably concludes, having in mind the known cost of transporting this class of matter, the provisions of the amendment, and the change in the total appropriation, that a reduction of expenditures will follow the enactment of this amendment, then upon such a view the amendment is in order, whatever the Chair may think of its merits, or the propriety of its passage.

Mr. JACKSON. Mr. Chairman, I desire to say just a few words in somewhat of a personal way.

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order that the gentleman has already spoken about three times, as often as any other gentleman has spoken upon this subject.

The CHAIRMAN. The Chair is prepared to rule. The present occupant of the chair has been in the chair on different occasions when different phases of this Holman rule have been construed, and the Chair thinks that the reading of such decisions as he has already made upon those matters will indicate the tendency of the present occupant of the chair to always construe that rule strictly and not to give it wider latitude than the clear import of the language used in it justifies. The Chair is disposed to apply that same principle in the decision that he is now called upon to make.

The amendment proposed by the gentleman from Kansas [Mr. JACKSON] is as follows:

Amend, line 21, page 17, by striking out "$49,000,000" and insert in lieu thereof "$48,500,000," and by adding thereto:

"*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors, for transmission to or delivery in any State, county, municipality, wherein the sale of such liquors is or may be hereafter prohibited by State law, or when like pieces of mail matter are intended to promote the sale of stocks, shares, bonds, or other forms of indebtedness of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States; and the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid the railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States."

It is conceded that the first part of the amendment is in order under the Holman rule, as it carries a reduction of $500,000 in the appropriation. It is the opinion of the Chair that where a proposition of legislation follows a proposition to reduce the amount and is so related to that proposition to reduce the amount as to be clearly and logically germane thereto, it is brought within the operation of the rule.

The decision referred to has been read, but the order was not altogether good at the time, and the Chair will ask the indulgence of the House while he reads it again:

On May 5, 1880, the Post Office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. George D. Robinson, of Massachusetts, offered this amendment to the paragraph providing $9,500,000 for transportation of mails on railroad routes:

"Strike out all in the sixtieth and sixty-first and sixty-second lines between the word 'namely,' in the sixtieth line, and the word '*Provided*,' in the sixty-second line, and substitute the following:

"'For transportation on railroad routes, $9,490,000, of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881.'"

Mr. James H. Blount, of Georgia, made a point of order against the amendment, under Rule XXI, as it then existed, in a modified form adopted at that session of Congress:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

The Chair will state that the form was the same as it is now, except that it did not then contain the proviso, or at least the proviso was not invoked in that discussion.

After debate, the Chairman, Mr. John G. Carlisle, of Kentucky, overruled the point of order in the following language:

Although the meaning of the words "necessary and special facilities for postal service" is not very clear, yet the Chair held yesterday, after giving the subject some consideration, that the effect of such an amendment would be to change existing law. The Chair still adheres to that opinion. But under the third clause of Rule XXI an individual Member upon the floor may offer an amendment changing existing law provided it retrenches expenditures in one of three modes: First, by reducing the number and salaries of the officers of the United States; or, second, by reducing the compensation of persons paid out of the Treasury of the United States; or, third, by reducing the amounts covered by the bill. The amendment offered by the gentleman from Massachusetts does not propose to add an appropriation of $150,000 to the bill; but it provides that of the amount appropriated by the bill the sum of $150,000 may be used for certain purposes, and it diminishes the amount covered by the bill by striking out "$9,500,000" and inserting "$9,490,000." So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule. Whether the language actually used in this rule accomplishes the exact purpose which the House had in view in adopting it is not a question for the Chair to decide; but taking the language of the rule as it stands and putting upon it the construction which ordinarily would be put upon such language in a statute or in a rule of the House, the Chair is compelled to hold that the amendment comes within the rule, and is in order.

We have here one more proposition than was contained in the proposition on which Mr. Carlisle then had occasion to rule. That contained a proposition to reduce the amount, a proposition to authorize $150,000 for a certain purpose. The proposition presented by the gentleman from Kansas seeks to reduce the amount, and then it proposes to have certain governmental activities, or to lay certain limitations that upon the face of it would appear to the Chair to make it possible to make some reduction of amount at least, and then another proposition similar to that which was contained in the amendment ruled upon by Mr. Carlisle.

It seems to the Chair that the proviso against which the gentleman from Tennessee [Mr. MOON] makes the point of order is so related to that portion of the amendment proposed by the gentleman from Kansas, which is admitted to be in order, that it is germane, and the Chair therefore overrules the point of order.

The question is on the amendment offered by the gentleman from Kansas.

Mr. SHERLEY. Mr. Chairman, I demand a division of the amendment.

Mr. STEENERSON. Mr. Chairman, I desire to offer an amendment to the amendment.

The CHAIRMAN. The Clerk will report the first part of the amendment.

The Clerk read as follows:

Amend, line 21, page 17, by striking out "$49,000,000" and insert in lieu thereof "$48,500,000."

Mr. SHERLEY. Mr. Chairman, I think that is a substantive proposition, and I insist that that as a single amendment shall be put to the House.

The CHAIRMAN. Does the gentleman from Minnesota desire to offer an amendment to that portion of the amendment which I just read?

Mr. STEENERSON. No.

The CHAIRMAN. The question is on the amendment just read by the Clerk.

The question was taken; and on a division (demanded by Mr. JACKSON) there were—ayes 20, noes 49.

So the amendment was rejected.

The CHAIRMAN. The Clerk will report the next amendment.

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order that the balance of this proposition is not now in order in view of the vote of the committee.

Mr. HAUGEN. Mr. Chairman, I wish to offer an amendment.

Mr. SHERLEY. Mr. Chairman, I make the further point of order that an amendment is not in order pending the point of order of the gentleman from Tennessee [Mr. MOON].

Mr. HAUGEN. I understood that the matter had been disposed of.

Mr. STEENERSON. I have an amendment which, as soon as it is in order, I want to offer.

Mr. JACKSON. Mr. Chairman, a parliamentary question.

The CHAIRMAN. The gentleman from Kansas will state it.

Mr. JACKSON. I want to inquire of the Chairman if we are going to be permitted to discuss this amendment?

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] has made the point of order upon the second part of the gentleman's amendment. The Clerk had not reported that part of the amendment. The gentleman from Kentucky [Mr. SHERLEY] has demanded a division. Will the gentleman from Tennessee [Mr. MOON] permit the Clerk to report what would be the second amendment?

Mr. MOON of Tennessee. I will.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows.

Page 17, after line 21:

"*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors for transmission to or delivery in any State, county, or municipality wherein the sale of such liquors is or may be hereafter prohibited by State law or when like pieces of mail matter are intended to promote the sale of stocks, shares, bonds, or other forms of indebtedness of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States."

The CHAIRMAN. And to that the gentleman from Tennessee [Mr. MOON] makes a point of order.

Mr. RODDENBERY. Mr. Chairman, if the Chair will indulge me, I should like to be heard in opposition to the point of order.

The CHAIRMAN. The Chair will hear the gentleman briefly.

Mr. RODDENBERY. Mr. Chairman, as I have already stated, when the gentleman from Alabama [Mr. HOBSON] courteously yielded to me, the proviso in itself shows a retrenchment of expenditures, and it is in conformity with the ruling of the Chair already announced. The ruling of Mr. Speaker Carlisle was based on the proposition of reducing the amount carried in the bill, and under the additional proviso that the Postmaster General might exercise certain powers in availing himself of $150,000 of the appropriation. Now, the pending amendment or proviso goes still further. It meets both the conditions of the ruling of Mr. Speaker Carlisle, and, in addition to that, it shows on its face that there will be denied and excluded from the carrying in the mails a very large volume of matter which is at present carried. The Chair undoubtedly will take cognizance that such elimination from the mails will lessen the cost to the Government.

The Chair will no doubt take further cognizance that the matter sought to be prohibited involves many tons of mail. Then this proviso, if adopted and enforced, will have a result that can not but be apparent to the Chair. The Chair of course will assume, as he must assume, that the provisions of the law will be executed, hence the result is that there will be excluded from railway mail transportation a weighty volume of expensive and chargeable matter. If this be correct, it is not necessary that there be any provision reducing the actual amount in dollars. It is not assumed that the Government will pay any more of the appropriation than is necessary to execute the enactment of Congress upon the subject. And it is the law that the mails are transported by weight charges paid by the Government to the carriers, for which this appropriation is made. It must also be conceded that when this appropriation is passed it is not known, as a matter of law or fact, what the weights of the mail will be, nor, therefore, what the charge in dollars for transportation will be. Then, if the proviso shows on its face that the quantity of matter carried by the mails would be reduced, this appropriation, based upon weight, will be likewise reduced. It is a matter of unescapable logic and deduction that there will be a reduction of expenses and retrenchment. If there be no retrenchment under this proviso, it must be because the administrative department provided for in the law and included in the proviso pays a rate in excess of law or pays for matter that is not carried. Such would be an unwarranted, if not impossible, assumption. And I submit, Mr. Chairman, as stated heretofore, that the proviso itself conforms to the literal terms of the Holman rule. It is germane, as the Chair has ruled, and it did not require the $500,000 reduction amendment to make it germane. Hence, voting down the first division of the amendment does not alter that part. It has in it the element of reducing the cost to the Government, and it does not take an amendment reducing in dollars the amount carried by the bill for that to be made to appear. Hence, voting down the first division of the amendment does not take the proviso out of the Holman rule. If this be true, the proviso would seem to be not subject to the point of order.

The CHAIRMAN. Will the gentleman from Tennessee [Mr. MOON] permit the Chair to ask a question? The Chair has ruled upon this proposition, standing as a whole, and then the gentleman from Kentucky [Mr. SHERLEY] demanded a division of the question, that division being demanded for the purpose of having a division on the vote. It was conceded, as the Chair understood, by the gentleman from Kentucky that a division could not be made prior to the ruling of the Chair for the purpose of having a ruling upon each matter separately. Now, query: Can you do by indirection that which can not be done by direction?

Mr. MOON of Tennessee. This is not a question of that sort. The whole basis for the amendment rests upon the fact that there is to be a reduction in the expense to the Government and to establish the fact that they purpose in the amendment to reduce it from $49,000,000 to $48,500,000. The Chair has held that under the Holman rule that is a basis for the ruling in favor of the point of order, both the proviso and the amount. Now, the House has declined to make any reduction in the amount. The question comes in, Does the proviso stand alone; the House having sustained the amount of $49,000,000 and not agreed to the other amount? Does the amendment alone, standing upon its face, force the Chair to the conclusion that a reduction will still be maintained under the Holman rule?

Now, I do not want to discuss this question seriously very long. Everybody knows that if this amendment were carried and became a law you would have to open up every package of letters in every place in the United States, and it would take more men to attend to that work than it takes to carry the mail. Without being offensive to anybody, or intending to be, it seems that any man removed three degrees from idiocy would know that it would cost this Government four or five millions of dollars to carry out this amendment.

Mr. HOBSON. Mr. Chairman, I make the point of order against the point of order that the question itself has already been passed upon by the Chair.

The CHAIRMAN. The gentleman from Alabama [Mr. HOBSON] makes the point of order that the question has already been ruled upon by the Chair.

Mr. HARDWICK. Mr. Chairman, I want to call the attention of the Chair and of the committee to the ruling made in the Fifty-second Congress, in which the Chairman himself decided this same question, as noted on page 409 of the Manual.

The CHAIRMAN. The old one or the new one?

Mr. HARDWICK. The new one, the second session Manual.

The CHAIRMAN. What rule is it under?

Mr. HARDWICK. It was under the Holman rule. I read:

An amendment was proposed reducing by one the number of clerks in a bureau provided for in the bill, coupled with a distinct provision repealing part of an act, the effect of which repeal would dispense with the one clerk in such bureau. Held that so much of the amendment as provided for the repeal was subject to the point of order, its effect not being directly to reduce expenditure.

In other words, in that case, if the Chair will get the Precedents and look it up he will find, I think, that this happened: That it was held that part of the amendment which reduced in so many figures the total of the appropriation carried in the bill was in order, but that another part of the amendment was not in order, the question being separated and the Chair holding one part as in order and the other part not in order that sought indirectly to carry out that purpose. He held that that part was not in order. It appears to me here that the second part of the amendment is subject to the point of order under the Holman rule, and that the question is susceptible of a division. That same thing was done in the case I cite.

The CHAIRMAN. It is the opinion of the gentleman from Georgia [Mr. HARDWICK] that the Chair having passed upon the matter as a whole, and not having divided the subject, it is

still in order when a division is demanded for the purpose of voting?

Mr. HARDWICK. Undoubtedly the Chair could pass on it separately.

Mr. HOBSON. Mr. Chairman, if the second part of the paragraph had been out of order, the Chair would have ruled the whole as being out of order, and the Chair having ruled the whole as in order, one part could not be out of order.

Mr. MANN. Mr. Chairman, I thought when the amendment was offered by the gentleman from Kansas [Mr. JACKSON] that under the Holman rule it was in order. The Chair held it to be in order. Thereupon the committee amended the amendment. But the amendment having been held to be in order, and an amendment to that amendment having been agreed to, I do not see how it is possible to declare a portion of the original amendment out of order so long as a change has been made by the committee by way of amendment.

If the original amendment was in order when it was offered, it certainly still is in order when presented to the House to vote upon it. The very fact that the committee has amended the amendment would ordinarily preclude the making of a point of order against the amendment, because after an amendment is offered to the amendment, which in the first place was subject to a point of order, it is too late to raise the point of order. But the amendment having been held to be in order, as proposed by the gentleman from Kansas [Mr. JACKSON], I do not see how an amendment agreed to by the committee to that amendment will thereby render it out of order.

Mr. HOBSON. Mr. Chairman, I ask for a ruling on my point of order.

Mr. SHERLEY. If the Chair please, it was the right, and the Chair so held, of anyone to demand a division. A division is granted because there are distinct propositions. In this case there were three propositions. Now, those three propositions were considered by the Chair on a former point of order, and in weighing any one of the three the Chair weighed it in connection with the other two, and the decision of the Chair expressly showed that. But when it came to voting, a Member in the exercise of his right demanded a division, which was granted, so that now there come before the House three distinct propositions, because that is the meaning of the division itself. One of those propositions has been voted down. With its voting down there falls the support from which the second proposition got its right to appear at all, and therefore the condition being now as if the first proposition had never been, because legislatively it does not exist, it is no part of the bill under discussion. The Chair has confronting it a proposition—the second proposition here—and on that the point of order is made, because there is nothing to predicate the contention on.

Mr. HOBSON. Mr. Chairman, will the gentleman allow an interruption?

Mr. SHERLEY. There is nothing on which to predicate the contention that it necessarily brings about a reduction in expenditure. And in that connection I desire to call the attention of the Chair to the rule. The rule provides that a reduction of expenditure generally holds only where an amendment is offered by authority of the committee, but where the amendment is offered by an individual the reduction must be in the amount carried in the bill.

Now I yield to the gentleman from Alabama.

The CHAIRMAN. Before the gentleman from Kentucky yields to the gentleman from Alabama [Mr. HOBSON] the Chair will say that he had in mind a matter which the gentleman from Kentucky [Mr. SHERLEY] has just suggested and meant to propound that inquiry later on; but the matter which is in the mind of the Chair just now is, having ruled upon this proposition as a whole, and as the gentleman from Illinois [Mr. MANN] has expressed it, the Committee of the Whole having amended that amendment that was proposed, that is virtually amending it by failing to adopt a portion of it, whether the Committee of the Whole should not vote on the other part of it.

Mr. SHERLEY. If the Chair will permit, in thinking over the matter I think the only trouble was in holding that the matter was not divisible as a subject for the point of order. I submit that the only reason for a division is because more than one substantive provision is proposed. That is the only ground on which you can have a division. Therefore, we have not amended the amendment. We have refused to agree to one of three amendments and we now have before the House two amendments. I maintain that the second of those three, that is, the first of the remaining two, has nothing on which to rest. Now I yield to the gentleman from Alabama [Mr. HOBSON] for a question.

Mr. HOBSON. The gentleman realizes perfectly well that under the ruling of the Chair on the whole amendment that ruling covered every part of the amendment, so that we are now presented with the situation that but a few moments ago the Chair ruled on that part of the amendment that is now before the House and against which the gentleman from Tennessee [Mr. MOON] makes the point of order, and therefore the call for a second ruling, following on the heels of the other ruling, is dilatory and out of order. I will ask the gentleman, Does he not recognize that this amendment has been ruled on as being in order?

Mr. SHERLEY. In the sense in which the gentleman asks the question, I will say no, for this reason: That you have now a concrete proposition presented to you. What is past is behind us, and it is not a part of one amendment that is being prescated to the House. It is a single affirmative proposition. It must have been a single affirmative proposition or it could not have been divided from the rest. One of these affirmative propositions has disappeared, as if it had never existed. The other stands in front of you now, to which the point of order is raised, and the situation that confronts you is not the situation of a division——

Mr. HOBSON. Will the gentleman yield for a question?

Mr. SHERLEY. For a question.

Mr. HOBSON. I am quite sure the gentleman will recognize this: That the second part, upon which the ruling is now requested, was substantive and was not affected by the first part, which reduced the appropriation.

Mr. SHERLEY. I do not admit anything of the kind.

Mr. HOBSON. That, whether it was or not, the second part was the one that was included in the ruling.

Mr. SHERLEY. I do not admit that.

Now, if I have the floor, I will yield to the gentleman from Massachusetts [Mr. GARDNER].

Mr. GARDNER of Massachusetts. I am going to read from Crutchfield's Manual. Here are his remarks on the division of the question in the star-route case, which was referred to earlier in the day. I am aware that a text book is not so controlling as a decision, but Crutchfield was an able parliamentarian. Here is what he says in commenting on the star-route case. I am reading from the Constitution, Manual, and Digest of the House of Representatives, first session Fifty-third Congress, page 268:

It will be noted that the point of order was made against the amendment as a whole. The propositions contained in the amendment were divisible, namely, first, to substitute $49,500 for $50,000; and, second, the provision "to be disbursed in such manner," etc. The second branch of the amendment did not of itself result in a reduction of the amount carried by the bill, and had a division of the question been demanded and a point of order made against the latter branch the provision changing the law as to the manner of disbursements would no doubt have been held out of order.

Now, before the Chair decided on the first point of order, I made a parliamentary inquiry as to whether that moment was the time for me to demand a division of the question. The Chair replied by asking me what my own opinion was. I expressed my opinion, and it is still my opinion, that the proper time to demand a division of the question is when the question is about to be put and not when the point of order has been raised. The Chair decided the amendment as offered to be in order. Clearly it must have been in order only because it carried a reduction in terms. Now that the committee has voted down that reduction, the proposition on which we are about to vote is at best merely a retrenchment, and therefore not in order unless presented by a committee having jurisdiction. I am sending the comment of Mr. Crutchfield to the Chair, so that he can read it for himself.

Mr. MANN. Mr. Chairman, I heard the gentleman from Massachusetts demand a division of the question, but recalling the rule that a motion to strike out and insert is not divisible, I did not suppose that the gentleman was serious in his demand.

Mr. GARDNER of Massachusetts. The committee has already divided the question on the demand of the gentleman from Kentucky [Mr. SHERLEY]. The division was after the motion to strike out and insert and before the legislative proviso.

Mr. MANN. But the motion of the gentleman from Kansas was to strike out $49,000,000 and insert something in its place.

Mr. MOON of Tennessee. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOON of Tennessee. Is it in order for me to withdraw my point of order?

Mr. HOBSON. I will say that he can not withdraw it until my point of order is disposed of first. I am willing to withdraw my point of order if the gentleman will withdraw his.

Mr. MOON of Tennessee. I want to say that there have been three or four hours of the public time wasted on this question, which ought to have been settled in 10 minutes, and I am willing to withdraw the point of order.

Mr. HOBSON. Then, Mr. Chairman, I withdraw my point of order against the gentleman's point of order.

Mr. SHERLEY. I will renew the point of order.

Mr. HOBSON. Then I make the point of order against the point of order of the gentleman from Kentucky, and I simply repeat that the Chair has ruled upon the point and the request is dilatory and out of order.

The CHAIRMAN. The Chair may be in error in regard to this matter, and if he is in error of course it will not be taken as a precedent. It seems that, the Chair having ruled on the proposition as a whole, and there having been no demand for a division for the purpose of the ruling, it brought this entire amendment before the House for a vote. Then it was the right of any Member to raise the demand for a division of the proposition for a vote, and by a failure to adopt any part of the amendment when it was subdivided that vote virtually amended the amendment. The Chair does not think this action places the portion now before the House in such a parliamentary situation as that it is subject to the point of order made by the gentleman from Kentucky [Mr. SHERLEY], and therefore the Chair sustains the point of order made by the gentleman from Alabama.

Mr. STEENERSON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

After the word "liquors," in the amendment, insert the following: "Smoking and chewing tobacco, snuff, cigars, and cigarettes."

Mr. HOBSON. Will the gentleman from Minnesota yield for a question?

Mr. STEENERSON. I will yield after I have opened the discussion.

Mr. HOBSON. Very well, I will not ask it now if the gentleman desires to discuss it.

Mr. STEENERSON. Mr. Chairman, it is generally conceded that nine times as many men use tobacco as use liquor, that it is a greater evil perhaps because more insidious and more habit-forming drugs are contained in various preparations of tobacco, especially in the last item—snuff. I am informed by men who have made a special investigation that the habit-forming power of the snuff generally distributed through the country is very great. The advertisements in the magazines of beautiful pictures of men smoking tobacco does a great damage to the welfare of citizens.

Mr. HOBSON. Will the gentleman yield?

Mr. STEENERSON. Yes.

Mr. HOBSON. I wanted to ask the gentleman if he knows of any State in the Union where it is against the law to sell all these articles?

Mr. STEENERSON. Some of them. I think it is against the law in my State to sell cigarettes, and it ought to be against the law to sell snuff, because it contains so many habit-forming drugs.

Mr. HOBSON. I am asking for information. Does the gentleman recommend to the people of this country——

Mr. STEENERSON. Kansas prohibits the sale of cigarettes.

Mr. HOBSON. And cigars and snuff?

Mr. STEENERSON. I do not know about that, but I would be willing to compromise on cigarettes and snuff. I think there is no more insidious evil than the distribution of advertisements of tobacco in all its forms. You see in all the magazines pictures of men seated in easy chairs in luxurious apartments smoking cigarettes and cigars and pictures of golden snuff-boxes that they use to imbibe the snuff. The Government should not aid in distributing these advertisements among the people. They are more injurious in their tendencies than those containing advertisements of fraudulent investment schemes or even of liquors.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment to the gentleman's amendment by way of a substitute.

The Clerk read as follows:

And "playing cards and poker chips."

Mr. STEENERSON. I make the point of order, Mr. Chairman, that that is not germane.

Mr. MOORE of Pennsylvania. Mr. Chairman, a great many young men go astray playing poker, and there are so many alluring advertisements of cards and poker chips that it seems to me, so long as we are venturing on the field of reform, that we ought to be thorough and workmanlike.

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. What will the first vote come upon if the amendment offered by the gentleman from Pennsylvania is a substitute?

The CHAIRMAN. On the substitute.

Mr. MANN. A substitute is not in order to be submitted until the original amendment is perfected.

The CHAIRMAN. The gentleman from Pennsylvania offered his amendment as a substitute for the amendment proposed by the gentleman from Minnesota.

Mr. MOORE of Pennsylvania. That is what I did.

Mr. MANN. A substitute can be offered for the original proposition, but I do not understand that a substitute can be offered to an amendment to the original proposition.

Mr. STEENERSON. The substitute can be voted on after the original proposition.

The CHAIRMAN. The Chair understood the gentleman from Pennsylvania to offer his amendment as a substitute for the amendment proposed by the gentleman from Minnesota.

Mr. MOORE of Pennsylvania. It seems to me my substitute should be adopted if we are going into these other reforms.

Mr. HOBSON. Mr. Chairman, I make a point of order against the amendment of the gentleman from Pennsylvania if it is a substitute for the amendment to an amendment.

Mr. SHERLEY. I make the point of order that, there having been discussion, it is too late.

The CHAIRMAN. The point of order is sustained.

Mr. HOBSON. Mr. Chairman, I ask to be heard on the amendment.

The CHAIRMAN. The gentleman from Alabama is entitled to the floor for five minutes.

Mr. HOBSON. Mr. Chairman, I do not desire to take five minutes, but I wanted to say to the gentleman from Minnesota, when I asked him the question, that I intended to vote for his proposed amendment and also for that of the gentleman from Pennsylvania, but I want to point out that I recognize perfectly well that it would, at least the last one, be harmful to the original amendment. Of course, the gentleman from Pennsylvania realizes that there is not a State or county or municipality in the Union where there is a law against the sale of poker chips or of playing cards.

Mr. CANNON. Will the gentleman allow me?

Mr. HOBSON. Certainly.

Mr. CANNON. There is a law, I think not repealed, that imposes a penalty for the sale of playing cards in the State of Illinois, enacted in 1819, and also against the importation of billiard tables. There is a law in the State of Kansas, as I am credibly informed, that makes it a penitentiary offense to use playing cards in gaming, and there have been convictions under that law, and men are in the penitentiary for it.

Mr. MOORE of Pennsylvania. Mr. Chairman will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. MOORE of Pennsylvania. We still have laws in Pennsylvania known as blue laws, dating way back to 1794.

Mr. HOBSON. Does the State like to enforce those laws?

Mr. MOORE of Pennsylvania. Sometimes they are not enforced any more than the liquor law is enforced in certain sections of the country.

Mr. MANN. Mr. Chairman, when the amendment was first proposed by the gentleman from Pennsylvania [Mr. MOORE], I made the point of order against it and the Chair stated that it was offered as a substitute, which would be in order as a substitute for the original proposition. But a substitute for an amendment to an amendment is not in order. Under the rules a proposition is in order, an amendment to that proposition is in order, and a substitute for the original proposition and an amendment to the substitute is in order, but if a substitute to an amendment were held in order, then an amendment to the substitute would be in order, thereby getting in an amendment in the third degree to the original proposition, and if this is offered as a substitute for the original amendment it is in order to vote upon it when that is reached, but, I think, not in order at this time.

The CHAIRMAN. The gentleman from Illinois is correct. It is not in order to offer a substitute for the amendment of the gentleman from Minnesota.

Mr. STEENERSON. Then, Mr. Chairman, the vote is on my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. STEENERSON].

Mr. JACKSON. Mr. Chairman, I desire to be heard on my amendment.

The CHAIRMAN. The gentleman from Kansas is recognized.

Mr. JACKSON. I shall not detain the House very long.

Mr. MOON of Tennessee. Mr. Chairman, I move that all debate close upon this section.

The CHAIRMAN. The gentleman from Kansas has the floor for five minutes. The gentleman from Tennessee will be recognized when he is through.

Mr. MOON of Tennessee. I do not want to be recognized after the time has been all used by the gentleman from Kansas. He has had plenty of time.

The CHAIRMAN. The Chair will state to the gentleman from Tennessee that the gentleman from Kansas is within his rights under the five-minute rule.

Mr. MOON of Tennessee. Then let him proceed.

The CHAIRMAN. The gentleman from Tennessee seemed a trifle impatient with the Chair when the Chair said he would recognize the gentleman.

Mr. JACKSON. Mr. Chairman, I think I have been very patient and have occupied little time of the House in discussing this proposition. I presented it to the House in the utmost good faith, because I believed that the United States Government should no longer continue the partnership with the liquor houses and the circulation of fraudulent matter in the mails. I regret very much that the gentleman from Tennessee has been so petulant and impatient——

Mr. MOON of Tennessee. Mr. Chairman, I object to any statement about the gentleman from Tennessee by the gentleman from Kansas.

Mr. JACKSON. Mr. Chairman, I am simply replying to what the gentleman said to me. I believe I have a right to reply in my own time to a statement concerning myself.

Mr. MOON of Tennessee. The gentleman has not the right to make any remarks of that kind.

Mr. JACKSON. Well, the gentleman made it.

The CHAIRMAN. The gentleman from Kansas is familiar with the rule—when debate is proceeding under the five-minute rule that it must be confined to the subject matter of the amendment. The gentleman will proceed in order.

Mr. JACKSON. Mr. Chairman, the gentleman challenges my good faith in offering this amendment. What I said was said in reply to the gentleman's suggestion that it contains nothing but rot, and I congratulate the State of Tennessee, which is in a way committed to the subject of prohibition, that it has a Representative in Congress who stands here on the floor of the House and denounces any attempt to take out of the mails of the United States this class of literature as pure rot and hypocrisy. The gentleman saw fit to make remarks upon the result of the recent election concerning myself. It is true that I was defeated, as many other better gentleman were defeated, by a change of politics in my district, but I can not forget, Mr. Chairman, that in every little town and hamlet in that district I found from 15 to 20 men, at the instance of the agents of the breweries and liquor houses, fighting me openly because of my attitude upon the floor of this House on the temperance question and in the enforcement of the State laws. I also congratulate the State of Tennessee that the same argument that was in the mouths of the breweries in our State has followed us to the Halls of Congress and now finds proclamation from the mouth of the distinguished chairman of the Committee on the Post Office and Post Roads. And in reply to the suggestion that my amendment was not rot, the gentleman makes this reply, this unparliamentary, ungentlemanly reply, which could have no other object than to insult me personally, and, therefore, I will not be as bad as he is and characterize it, as it should be characterized, as cowardly as well as unparliamentary and ungentlemanly.

Mr. MOON of Tennessee. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. MOON of Tennessee. I do not want to disturb the gentleman until he is through. I desire to be recognized when he has concluded.

The CHAIRMAN. The Chair desires to caution the gentleman from Kansas to proceed in order.

Mr. JACKSON. Mr. Chairman, this amendment will reduce the mails. It will take out of the mail much of the matter that never should have been circulated in the mail, and the State of Kansas does not come here asking this amendment alone for herself. We can enforce our own laws, and we do enforce them, and I venture to say that the laws concerning the sale of intoxicating liquors in Kansas are as well enforced as the State law against murder or any other misdemeanor is in any State of the Union. No newspaper published within the confines of the State of Kansas circulates these advertisements. No self-respecting editor—and two of them, I am proud to say, are on our delegation in Congress from Kansas—would accept such advertisements, and none of the papers in Kansas does so.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. JACKSON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by including therein a statement of the governor of the State of Kansas concerning the way in which the intoxicating liquor laws of Kansas are enforced.

Mr. MOON of Tennessee. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Tennessee objects.

Mr. MOON of Tennessee. Mr. Chairman, I have at no time a desire to be the least bit personal in this or other matters. I generally speak my views of men and measures. I notice the gentleman as he stands on that side of the aisle to suggest that what I have done or said in this House was ungentlemanly or cowardly. I want to say to the gentleman that he can have an opportunity, if he thinks he can make anything out of it, to say that to me anywhere, at any time, or under any circumstances. I do not want to discuss the gentleman, and I am only going to refer for a few moments to what he said to me on this floor. I said, and I say it again, that there is more contemptible rot and hypocrisy by demagogues and scoundrels about this prohibition question than any other question that was ever presented in this country. There is no doubt in the world about that. Every man that gets crooked on it feels that it is necessary for him to do something to impress somebody, somewhere, that he has more morality and more decency than other men.

I have thought only of keeping off this bill legislation of this sort that does not belong on it. So far as the question of temperance is concerned, I have cast more temperance votes and done more for the cause of legitimate temperance than a dozen men like the gentleman from Kansas. [Applause.]

I am not going to talk about him. I am sorry I referred to him again. It is just as true of the politically dead as it is of those who are actually dead, that one ought not to say anything about them except that which is good. But I can not keep from congratulating his district and this country that a man of his type should have been signally and disgracefully repudiated by his constituents.

Mr. HOBSON. Will the gentleman yield for a moment?

Mr. MOON of Tennessee. No; I will not yield to you for anything.

Mr. JACKSON. I make the point of order that the gentleman from Tennessee is out of order.

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] will proceed in order.

Mr. MOON of Tennessee. I do not care whether you put this measure on the bill or not, so far as whisky is concerned. I wish all the whisky was out of the world, so far as that is concerned, and nobody could get drunk or ever would be drunk, but the case would involve more definite and thorough discussion than we could give here, and I am not going to be drawn into a controversy either for or against prohibition. I have a record on that question. But I do say, if this House undertakes to put this amendment on this bill, the effect of it will be to add thousands and tens of thousands of officials in the United States to determine by the opening of every letter and every paper whether this law has been complied with or not. You can, and will, add millions under this amendment. If you want to pass upon that question, do it openly and honestly. Take up your bills and pass on them, and then we will see who is in favor of or who is against proper legislation on this question. But I do protest against attempting to put as a rider on this Post Office appropriation bill an immature and ill-considered proposition, moral in its nature, it is true, but one that has no place here because of the injury it will do to this service and to the Government. Let us deal with it as we would with any proper legislative enactment, and not attempt to incorporate it upon this bill or any other. [Applause.]

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Minnesota [Mr. STEENERSON] to the amendment proposed by the gentleman from Kansas [Mr. JACKSON].

The question was taken, and the amendment to the amendment was rejected.

Mr. HOBSON. Mr. Chairman, I desire to be heard on the original amendment now, and I do not care to take the five minutes to which I am entitled.

Mr. MANN. A parliamentary inquiry, Mr. Chairman. Is the substitute offered by the gentleman from Pennsylvania [Mr. MOORE] still before the House?

The CHAIRMAN. It was ruled out of order.

Mr. MANN. I made a point of order against it.

The CHAIRMAN. It has not been reoffered.

Mr. HOBSON. Mr. Chairman, I regret very much that the gentleman from Tennessee [Mr. MOON], a good friend of mine, should have included me in his impatience. I recognize that at times there have been cases where people have sought cover behind an assumed support of prohibition, but I have seen many other cases where they have taken cover behind liquor.

I dare say there are some scoundrels who are associated with law enforcement, but I will answer that there is not one to a thousand as compared with those who are associated with the violation of law that this amendment is trying to reach.

I wish that the gentleman from Tennessee had permitted us to proceed at the outset on the discussion of this question on its merits. I will say to him that under the five-minute rule my discussion of it on its merits would not have been on prohibition per se, but would have been purely and simply on a ground on which I am sure he would join with me and strike hands with me, namely, that if a citizen ought not to violate law, certainly the Federal Government ought not to be an accessory to the violation of law [applause]; and that wherever in appropriation bills or elsewhere the question arises in the deliberations of this House where we could promote, under the rules, by legitimate methods the better observance of law we should do so, and particularly the law of the weaker, the State, the county, the town, law that they believe in, even if they are mistaken, law that they believe affects the very question of their perpetuity. Alcohol having been declared to be a specific for degeneracy, they recognize that in that degeneracy, the blight not only upon the man but upon his children, is involved their prosperity, their liberties, and in the end the very question of life and death.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment of the gentleman from Kansas.

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. JACKSON. Division, Mr. Chairman.

The committee divided; and there were—ayes 33, noes 57.

Mr. JACKSON. Tellers, Mr. Chairman.

Tellers were ordered.

The gentleman from Kansas [Mr. JACKSON] and the gentleman from Connecticut [Mr. REILLY] took their places as tellers.

Mr. CANNON. Mr. Chairman, may I ask how many gentlemen desired tellers?

The CHAIRMAN. Twenty-three.

The committee again divided; and the tellers reported—ayes 35, noes 56.

So the amendment was rejected.

Mr. STEENERSON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. REILLY. Mr. Chairman, what has become of the amendment that I sent to the desk?

The CHAIRMAN. Is it an amendment to the amendment?

Mr. REILLY. It is an amendment that was temporarily placed on the table.

The CHAIRMAN. There is another portion of this other amendment to be disposed of. The Clerk will report it.

The Clerk read as follows:

On page 17, after line 21, insert the following: "The Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid to railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The gentleman from Connecticut [Mr. REILLY] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 19, line 4, by striking out the figures "$24,360,000" and inserting in lieu thereof the figures "$24,826,000."

Mr. MOON of Tennessee. That would make the section conform to the amendments?

Mr. REILLY. Yes; that was done in order to conform with the amendments already passed. It adds $466,000.

The CHAIRMAN. The question is on agreeing to the amendment proposed by the gentleman from Connecticut [Mr. REILLY].

Mr. MANN. Mr. Chairman, the gentleman has computed the items, and this covers all of them?

Mr. REILLY. Yes.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Connecticut.

The question was taken, and the amendment was agreed to.

Mr. HAUGEN. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Iowa [Mr. HAUGEN] offers an amendment, which the Clerk will report. Will the gentleman from Iowa kindly indicate where the amendment he proposes is intended to appear?

Mr. HAUGEN. Immediately after the section under consideration. It should come in on page 17, at the bottom, after line 25.

Mr. MANN. Mr. Chairman, that has been passed over.

Mr. MOON of Tennessee. You can not go back to page 17.

The CHAIRMAN. The Chair will state to the gentleman that that paragraph has been passed.

Mr. HAUGEN. We are considering the paragraph, as I understand it.

Mr. MURDOCK. Mr. Chairman, as a matter of fact we are considering the paragraph at the bottom of page 17.

The CHAIRMAN. The gentleman from Connecticut [Mr. REILLY] had proposed an amendment on page 19. Of course we were considering that paragraph at the bottom of page 17.

Mr. HAUGEN. Mr. Chairman, I was on my feet asking to be recognized.

The CHAIRMAN. The Chair will recognize the gentleman.

Mr. LLOYD. Mr. Chairman, there seems to be a misunderstanding about this matter. It was understood this morning that we should recur to page 19 whenever the gentleman from Connecticut [Mr. REILLY] had his amendment prepared to complete these footings, and only for that purpose.

Mr. MANN. And he just asked unanimous consent to recur to page 19 for that purpose, and the amendment was agreed to.

Mr. LLOYD. We did not revert to page 19 at all except for that purpose.

The CHAIRMAN. The Chair will state that his understanding is that the paragraph at the bottom of page 17 was passed this morning while the present incumbent of the chair was temporarily absent. He was informed at the desk that the paragraph was passed over with a point of order reserved by the gentleman from Illinois [Mr. RODENBERG]. Now, that having been attended to and that part of it having been disposed of, as well as some amendments to it having been disposed of, it would seem that the gentleman from Iowa [Mr. HAUGEN] is entitled to recognition to offer his amendment.

Mr. MOON of Tennessee. I do not know how we will get through at that rate.

Mr. HAUGEN. I will say, Mr. Chairman, that the amendment I offer has sufficient merit to enable it to be disposed of in a very short time.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Iowa [Mr. HAUGEN].

The Clerk read as follows:

On page 17, after line 21, insert: "*Provided*, That the Postmaster General be, and he is hereby, authorized and directed to readjust the compensation to be paid from and after the 1st day of July, 1913, for transportation of mails on railroad routes by reducing the compensation to all railroad companies for the transportation of mails 10 per cent per annum from the rates fixed and allowed by the first section of an act entitled 'An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1874, and for other purposes,' approved March 3, 1873, for the transportation of mails on the basis of the approved weight, and amended by an act of July 12, 1876, and by an act of June 17, 1878, and an act of March 2, 1907."

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order on the amendment.

Mr. HAUGEN. I understood the gentleman to say a moment ago that any amendment having for its object the reduction of the amount to be appropriated would be in order. I also understood the Chair to hold that any amendment germane to the proposed new legislation would be held in order.

The CHAIRMAN. It seems to the Chair that the amendment is in order under the Holman rule.

Mr. MOON of Tennessee. Let us take a vote on it.

Mr. HAUGEN. Mr. Chairman, I shall not detain the House at this time except to say that the amendment provides for a 10 per cent reduction, which will, if the amendment is adopted, amount to $5,400,000. It is a simple proposition. I think the fact that this Government is now paying an average of more than 4 cents per pound for the carriage of mail matter, and whereas the express companies pay less than 1 cent per pound for a similar service, that alone is sufficient evidence to prove the merits of the proposition and to warrant the proposed reduction.

Mr. MOON of Tennessee. Mr. Chairman, we have had a parcel-post proposition here, adding millions of money that must be expended for the service of the Government. The general growth of the service is great, and this Congress, in order to be intelligently informed about the matter, has actually created a commission, with instructions to report as soon as practicable upon this question. I think it would be very unwise to take up a proposition of a 10 per cent reduction without any information on it at all.

Mr. HAUGEN. Mr. Chairman, the very fact that we have added the parcel-post service is another good reason why we should now reduce the pay. Every hundred pounds of express

transferred from the express to the mail increases the pay to the railroad companies for carrying more than 3 cents per pound, hence the excessive, unjust, and unreasonable high rate now paid will add millions of dollars to the already excessive receipts of the railroad companies, and if for no other reason that alone would warrant the reduction proposed in the amendment.

Mr. MURDOCK. Will the gentleman yield for a question?

Mr. HAUGEN. Yes.

Mr. MURDOCK. I tried to understand the amendment of the gentleman from Iowa. I should like to ask him if his amendment reduces merely the pay to the railroads for the carriage of the mails in the matter of weight? Does he at all go into the question of pay for the railway mail cars?

Mr. HAUGEN. It reduces the amount 10 per cent on both the $49,000,000 for carrying the mail and on the $5,000,000 item for the mail cars, the reduction of 10 per cent amounting to in the aggregate $5,400,000.

Mr. CANNON. Mr. Chairman, this is a very important amendment. It may be that the railways in this country receive too much pay now, but the fact that the gentleman states that the Postmaster General recommends the reduction is no argument to me in favor of a reduction without full consideration. The Postmaster General asserts that we lose $60,000,000 on carrying second-class matter. I do not know whether we do or not. It may be that after a full consideration that great loss, as compared with the proposed 10 per cent reduction to the railways, should be taken into account. For one I am not ready to take it into account except as it may be intelligently and fully discussed. We have in the United States almost half the railways in the world carrying practically one-half of the railway commerce of the world. They go to all our States, crossing the continent. It may be that they receive too much pay. I do not know. From time to time their pay has been reduced. I hold no brief for the defense of the railways more than for any other corporations or any other individuals performing service for the Government. It is necessary that they should make improvements and betterments in order to keep pace with the rapid increase of population and commerce, and there are people who look with apprehension on the physical condition of the railways. We are told by the newspapers that they are driven to the negotiation of short-time notes for construction and repair of terminals and tracks, some at 6 per cent, and so far as I have noticed, none under 5 per cent, because they can not negotiate their bonds.

I say again, it may be that the newspaper postage ought to be increased. It may be that the railway-mail pay ought to be reduced, but in almost the closing days of this session for an amendment to be offered here hop, skip, and jump, without a chance for full consideration, to make a reduction of 10 per cent in the railway-mail pay does not address itself to my discretion as a legislator. I do not now, and never did, own a share of stock in any railway corporation, nor did I ever represent one as an attorney, directly or indirectly, in any way or form. It is important to all the people, nearly a hundred million of them, that these great arteries for the transportation of our enormous products should be fairly dealt with. Not only is it important to the railways themselves, but it is more important to all the people than it is to the railways. I notice that some people connected with railway management in New England, and some in New York, and some in Indiana, and possibly some in Ohio, have been indicted lately for not having their railways in sufficient repair. My service in this House will soon close, and while I should not regret to see the reduction of railway-mail pay, if it ought to be reduced, my judgment is that it ought not to be done until after full investigation, full consideration, and after the intelligent judgment of the majority of the House believes that it should be done, and how far it should be decreased.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Iowa [Mr. HAUGEN].

The question was taken; and on a division (demanded by Mr. HAUGEN), there were—ayes 16, noes 42.

Accordingly the amendment was rejected.

The Clerk read as follows:

OFFICE OF THE THIRD ASSISTANT POSTMASTER GENERAL.

For manufacture of adhesive postage stamps, special-delivery stamps, books of stamps, and for coiling of stamps, $800,000.

Mr. FOSTER. Mr. Chairman, I desire to offer an amendment.

Mr. MANN. Mr. Chairman, we have been at work very hard since 11 o'clock this morning. It is plain that we can not finish this bill to-night anyhow.

Mr. MOON of Tennessee. I want to finish the bill to-night.

Mr. MANN. It is not possible to finish the bill to-night. There have been several things passed over.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 23, at the end of line 4, insert the following:

"*Provided*, That from and after July 1, 1913, it shall be lawful to place any ordinary stamps of any denomination with the words "parcel post" written or printed on the package under such regulation as the Postmaster General may prescribe, and said package shall be handled, transmitted, and delivered in all respects as though it bore regulation parcel-post stamp or stamps.

Mr. FOSTER. Mr. Chairman, this is only to bring about a change in the regulations as to parcel-post stamps, which I think all Members will call to mind has caused a good deal of trouble since the parcel post was instituted.

Mr. CANNON. This is to make the ordinary stamps available for parcel post.

Mr. FOSTER. Yes.

Mr. CANNON. Does not the gentleman think it is important from the standpoint of future regulation that we should know the amount of revenue that is brought in by the parcel post?

Mr. FOSTER. This provides that the package shall be marked "parcel post" and that the provision shall not go into effect until next July.

Mr. CANNON. And up to that time we would have the regular parcel-post stamps?

Mr. FOSTER. Yes.

Mr. MANN. Mr. Chairman, can we have the amendment again reported?

The CHAIRMAN. Without objection, the amendment will again be reported.

The Clerk again read the amendment.

Mr. MANN. Mr. Chairman, I would like to ask the gentleman from Illinois whether he is sure that the wording of the amendment would be construed to mean that there must be stamps of sufficient value placed on the package, as is now provided by existing law.

Mr. FOSTER. I think so. "Under such regulation as the Postmaster General may prescribe."

Mr. MANN. I suppose it would be so construed, without question.

Mr. CANNON. Mr. Chairman, I am not sure that I understand my colleague. Do I understand that after the 1st of July a special parcel-post stamp will not be placed on packages?

Mr. FOSTER. They can use the ordinary stamps.

Mr. CANNON. Does not my friend think that if we keep track of the revenue it would require a great deal of bookkeeping and a great deal of clerical attention in order to get at the revenue from carrying the mail by parcel post, which might be avoided if we continue to use special stamps?

Mr. FOSTER. This gives six months in which to make the calculation, and then, if the department should determine that it was necessary to have a further time so that they could keep track of the cost, they could keep track of the packages that go under the ordinary stamp.

Mr. CANNON. Suppose the income, we will say for the parcel post, amounts to $50,000,000, and we use the same stamps that we use on letters. They would not be sold as parcel-post stamps?

Mr. FOSTER. No.

Mr. CANNON. There is the trouble, if we are to keep track of the revenue from the parcel post. It seems to me that they should be by special stamps because the sale of the special stamps would tell the whole story. Otherwise every postmaster must examine at the place of origin the number of stamps on the package and keep an account of the postage. It seems to me it would lead to keeping of thousands of accounts that might otherwise be avoided, because the sale of the special stamps would tell the whole story.

Mr. SISSON. Mr. Chairman, I would like to ask the gentleman from Illinois a question. Has the gentleman considered the fact that the fourth-class postmasters throughout the country—200,000 of them—if they keep up with this as a business proposition until the department can ascertain just what it will cost to haul the packages, will be compelled to keep accounts, and that it may entail a great deal of additional clerical assistance and cause a great deal of expense?

Mr. FOSTER. I think that will hardly be the case, for there will be six months in which to make that estimate. I believe the accommodation of the people at the end of the six months is worth something.

Mr. SISSON. Mr. Chairman, I am inclined to agree thoroughly with the gentleman from Illinois, that, at the proper time, when the parcel post is worked out, it will not be necessary to keep two sets of stamps. But for the present, as a business

proposition, it would only be necessary for the department to have parcel-post stamps issued and sold, and then in the course of two or three years, after they have ascertained the cost of hauling the packages to the different sections of the country, the legislation which the gentleman desires might be had. But for the present, it seems to me, it would entail an interminable amount of work on the fourth-class postmasters.

Mr. FINLEY. Will the gentleman yield?

Mr. SISSON. Certainly.

Mr. FINLEY. There is a joint committee of the House and Senate appointed at the last session of Congress to investigate and report upon the parcel post. I want to say, as one of the committee, that as to the information to what extent the parcel post is used by the public and what is the revenue, I hope my friend from Illinois will withdraw the amendment, because we want all the information possible. I think next December, perhaps, there would be no objection to it.

Mr. SISSON. Mr. Chairman, I believe that as to the fourth-class post offices throughout the country many people are called upon to take the post office largely as a convenience to the people. As it is now they only have to keep one stamp account. They are charged with the number of stamps sent and they account for the number sold. This would necessitate, in order to keep track of this business, the keeping of a set of books, and when a package comes into the office—and stamps might be obtained at some other office—it would be necessary for the postmaster to keep an account of the number of stamps on the packages when posted. I can see many difficulties that would arise in keeping the books straight for several years to come. But at the end of two or three years if it is necessary to be done in order to make the parcel post a success, then the amendment that the gentleman offers might be adopted.

Mr. ALEXANDER. Will the gentleman yield?

Mr. SISSON. Certainly.

Mr. ALEXANDER. Is it not an experimental question whether the parcel-post rates now are too high or too low, and is there any practical method devised except by the sale of stamps to ascertain the fact?

Mr. SISSON. I think the gentleman from Missouri is absolutely right. Postmasters would have to keep track of the number of stamps, the number of packages handled, and estimate the difference between the cost of the service now and the cost of the service without the parcel post.

Mr. FOSTER. Mr. Chairman, I ask unanimous consent to modify the amendment, so as to read, "January 1, 1914."

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to modify his amendment so as to make it read, "January 1, 1914." Is there objection?

There was no objection.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Illinois.

Mr. MARTIN of South Dakota. Mr. Chairman, I move to strike out the last word of the amendment. It seems to me that the gentleman's amendment is hastily proposed to the House, and this is a subject of too great importance for us to say at this time that on January 1, 1914, a year hence, this entire system must be changed. It is important that this business, in its initial stages, shall be kept by itself, and we ought not to say at this time that one year from now the system must be changed. Let us rather watch the development of this great new service, and let whatever amendments may be offered to it be offered after the development of it shows the necessity for them.

The reason for allowing the use of ordinary stamps on special-delivery letters is a very different subject. That is something that the sender considers important and wants to get hastily delivered. Consequently the leaning of the law and the regulations ought to be to permit him to do it in almost any way he can do it. But here is a new system for fourth-class matter, where speed is not so great an element, and where I think the people, at least, for some time to come might very properly yield personal convenience to the proper development of the system.

Mr. TILSON. And may I suggest further that, even in the case of special delivery, for a long time they used a special stamp before one was allowed to put ordinary stamps on the letter for that purpose, and that was done so that the department might find what the cost of the delivery was.

Mr. MARTIN of South Dakota. Furthermore, Mr. Chairman, on the suggestions that have come from all parts of the House, the gentleman has found it best to extend the time of his original amendment six months longer. The subject is so embryonic that we ought not at this time change the fundamental principles of the law, in as much as it has not been in operation for 15 days.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For travel and miscellaneous expenses in the postal service, office of the Third Assistant Postmaster General, $1,000.

Mr. MURDOCK. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have it read.

The Clerk read as follows:

Insert after line 20, page 23:

"That from and after the passage of this act all periodical publications issued from a known place of publication at stated intervals, and as frequently as four times a year, by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than 1,000 persons, or by a regularly incorporated institution of learning, or by a regularly established State institution of learning supported in whole or in part by public taxation, or by or under the auspices of a trades-union, and all publications of strictly professional, literary, historical, or scientific societies, including the bulletins issued by the State boards of health or industrial commissions and by State boards or departments of public charities and corrections, shall be admitted to the mails as second-class matter, and the postage thereon shall be the same as on other second-class matter; and such periodical publications, issued by or under the auspices of benevolent or fraternal societies or orders or trades-unions, or by strictly professional, literary, historical, or scientific societies, shall have the right to carry advertising matter, whether such matter pertains to such benevolent or fraternal societies or orders, trades-unions, strictly professional, literary, historical, or scientific societies, or to other persons, institutions, or concerns; but such periodical publications, hereby permitted to carry advertising matter, must not be designed or published primarily for advertising purposes, and shall be originated and published to further the objects and purposes of such benevolent or fraternal societies or orders, trades-unions, or other societies, respectively; and all such periodicals shall be formed of printed paper sheets, without board, cloth, leather, or other substantial binding, such as distinguish printed books for preservation from periodical publications: *Provided*, That the circulation through the mails of periodical publications issued by or under the auspices of benevolent or fraternal societies or orders, or trades-unions, or by strictly professional, literary, historical, or scientific societies, as second-class mail matter, shall be limited to copies mailed to such members as pay therefor, either as a part of their dues or assessments, or otherwise, not less than 50 per cent of the regular subscription price; to other bona fide subscribers; to exchanges; and 10 per cent of such circulation as sample copies: *Provided further*, That when such members pay therefor as a part of their dues or assessments, individual subscriptions or receipts shall not be required: *Provided further*, That the office of publication of any such periodical publication shall be fixed by the association or body by which it is published, or by its executive board, and such publication shall be printed at such place and entered at the nearest post office thereto."

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order on that.

Mr. MANN. Mr. Chairman, I reserve the point of order.

Mr. MURDOCK. Mr. Chairman, I will ask the gentleman from Tennessee to reserve his point of order until I can explain to him just what change is made, and then he may not press it after I make it.

Mr. MANN. Mr. Chairman, I again suggest to the gentleman from Tennessee that it is now 10 minutes of 6 o'clock. The House, at his request, met at 11 o'clock this morning, and I am sure that he can judge of this proposed amendment a great deal better if he can only see it in print.

Mr. MURDOCK. I can explain it very easily.

Mr. MOON of Tennessee. Oh, let us get through this.

Mr. MURDOCK. Yes; let us get through.

Mr. MANN. I would insist on reading it through, even if the gentleman from Tennessee did not.

Mr. MOON of Tennessee. I expect to make the point of order, anyway, but I would like to hear the gentleman from Kansas.

Mr. KENDALL. That is because he is such an interesting talker.

Mr. MANN. I would like to hear the gentleman from Kansas, but I know the gentleman from Kansas will keep until to-morrow.

Mr. MOON of Tennessee. I can not keep the point of order until to-morrow. I suggest to the gentleman from Illinois that we hear the gentleman from Kansas to-night and get through.

Mr. MANN. But the gentleman from Tennessee can not get through the bill to-night.

Mr. MOON of Tennessee. No; but this is at the close of the Third Assistant's Office.

Mr. MANN. We have been very good to the gentleman from Tennessee, so far as time is concerned. No Post Office bill has ever proceeded as rapidly as this one has this year.

Mr. MOON of Tennessee. Let us dispose of this, and then I will move to rise.

Mr. MURDOCK. Mr. Chairman, this amendment that I have offered merely adds to what is known as the Dodds bill, which was passed last year, a provision that the second-class privileges shall be extended to State industrial boards. Wisconsin and other States now have industrial boards which issue monthly bulletins dealing with labor, hazardous employment, accidents, and so forth, and those bulletins are of moment. They

are modern and their circulation is of a great deal more importance than other matters to which we have extended the second-class privilege. That is all the amendment does.

Mr. MOON of Tennessee. Would it not be better before dealing with this question to look into the report of the Hughes Commission so that we can have an understanding of this whole second-class matter and dispose of it altogether?

Mr. MURDOCK. I will say to the gentleman that the Dodds matter, which extended the second-class privileges to these various institutions, came into the House after the Hughes report, and the privilege has been extended to many State boards, like State boards of health, and so forth. This industrial commission work is of real importance, and is modern and new and ought to have the privilege of the second class extended to it. I am not going to press the matter, however, at this late hour.

Mr. MOON of Tennessee. We are extending and extending, and we ought to settle the matter once and for all. I insist upon the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. GREGG of Pennsylvania. Mr. Chairman, I offer the following amendment, which I send to the desk.

Mr. MOON of Tennessee. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARRETT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 27148, the Post Office appropriation bill, and had come to no resolution thereon.

SENATE JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, a Senate joint resolution of the following title was taken from the Speaker's table and referred to the appropriate committee, as follows:

S. J. Res. 149. Extending the time for the survey, classification, and appraisement of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma; to the Committee on Indian Affairs.

LATE REPRESENTATIVE ANDERSON, OF OHIO.

Mr. GOEKE. Mr. Speaker, I ask unanimous consent for the present consideration of an order which I send to the Clerk's desk.

The SPEAKER. The gentleman from Ohio [Mr. GOEKE] asks unanimous consent for the present consideration of an order, which the Clerk will report.

The Clerk read as follows:

Ordered, That Sunday, the 23d day of February, 1913, be set apart for addresses on the life, character, and public services of the Hon. CARL CAREY ANDERSON, late a Representative from the State of Ohio.

The SPEAKER. Is there objection?

There was no objection.

So the order was agreed to.

HOUR OF MEETING TO-MORROW.

Mr. MOON of Tennessee. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day that it adjourn to meet at 11 o'clock a. m. to-morrow.

The SPEAKER. The gentleman from Tennessee moves that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow. Is there objection? [After a pause.] The Chair hears none.

ADJOURNMENT.

Mr. MOON of Tennessee. I move that the House do adjourn.

The motion was agreed to; accordingly (at 6 o'clock p. m.) the House adjourned until Tuesday, January 14, 1913, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of preliminary investigations and surveys of Patuxent River as a source of water supply for the District of Columbia (H. Doc. No. 1266); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

2. A letter from the Secretary of the Treasury, recommending the enactment of a law authorizing the payment of the widow or heirs of a deceased civilian employee the amount found due said employee if the amount does not exceed $500, without administration (S. Doc. No. 999); to the Committee on the Judiciary and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting supplemental estimate of appropriation for the Federal building at Denver, Colo. (H. Doc. No. 1267); to the Committee on Appropriations and ordered to be printed.

4. A letter from the Secretary of War, transmitting report of an inspection of the several branches of the National Home for Disabled Volunteer Soldiers made September 18, 1912, to December 5, 1912 (H. Doc. No. 987); to the Committee on Military Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. EVANS, from the Committee on the Library, to which was referred the concurrent resolution (S. Con. Res. 32) approving plan, design, and location for a Lincoln memorial, reported the same without amendment, accompanied by a report (No. 1294), which said concurrent resolution and report were referred to the House Calendar.

Mr. COVINGTON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27789) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes, reported the same with amendment, accompanied by a report (No. 1295), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. FARR, from the Committee on Claims, to which was referred the bill (H. R. 27090) for the relief of Cora Evans, reported the same without amendment, accompanied by a report (No. 1292), which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON, from the Committee on Pensions, to which was referred the bill (S. 2666) granting an increase of pension to William P. Clark, reported the same without amendment, accompanied by a report (No. 1293), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BROUSSARD: A bill (H. R. 27983) for the erection of a public building to be used as a post office at Houma, La.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27984) for the erection of a public building to be used as a post office and customhouse at Morgan City, La.; to the Committee on Public Buildings and Grounds.

By Mr. DOUGHTON: A bill (H. R. 27985) providing for the purchase of a site and the erection thereon of a public building at Lenoir, in the State of North Carolina; to the Committee on Public Buildings and Grounds.

By Mr. NYE: A bill (H. R. 27986) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 27987) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 27988) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city; to the Committee on Interstate and Foreign Commerce.

By Mr. GILLETT: A bill (H. R. 27989) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut; to the Committee on Interstate and Foreign Commerce.

By Mr. FRENCH: A bill (H. R. 27990) to provide for the improvement of the Coeur d'Alene River in Idaho; to the Committee on Rivers and Harbors.

By Mr. MOORE of Pennsylvania: A bill (H. R. 27991) to repeal part of an act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone," approved August 24, 1912; to the Committee on Ways and Means.

By Mr. HOBSON: A bill (H. R. 27992) to authorize the creation of a temporary commission to investigate and make rec-

commendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof; to the Committee on Naval Affairs.

By Mr. HEFLIN: A bill (H. R. 27993) to provide for the erection of a public building on the line between the city of West Point, Ga., and the city of Lanett, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. ADAMSON: A bill (H. R. 27994) to provide for the erection of a public building on the line between the city of West Point, Ga., and the city of Lanett, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. FERRIS: A bill (H. R. 27995) for the relief of the Iowa Tribe of Indians of Oklahoma; to the Committee on Indian Affairs.

By Mr. HOUSTON: A bill (H. R. 27996) to amend an act approved August 23, 1912, entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes"; to the Committee on the Census.

By Mr. AUSTIN: A bill (H. R. 27997) to further amend an act approved August 13, 1894, entitled "An act for the protection of persons furnishing materials and labor for the construction of public works," and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. FERRIS: Resolution (H. Res. 773) referring the bill (H. R. 27995) for the relief of the Iowa Tribe of Indians in Oklahoma to the Court of Claims; to the Committee on Indian Affairs.

By Mr. KINDRED: Resolution (H. Res. 774) authorizing the printing and binding in volume form, with accompanying illustrations, of 100,000 copies of the special article on trachoma, etc., among the Indians and others in the United States; to the Committee on Printing.

By Mr. HOBSON: Joint resolution (H. J. Res. 382) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Wisconsin: A bill (H. R. 27998) granting an increase of pension to Elvin A. Estey; to the Committee on Invalid Pensions.

By Mr. DICKINSON: A bill (H. R. 27999) granting an increase of pension to Robert L. McMurtry; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 28000) for the relief of the legal representatives of Mary A. Cameron and John Cameron, deceased; to the Committee on War Claims.

By Mr. FERGUSSON: A bill (H. R. 28001) for the relief of Alfonso M. Skinner; to the Committee on Naval Affairs.

Also, a bill (H. R. 28002) granting an increase of pension to Pascualita J. Garcia de Amya; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28003) granting an increase of pension to Margarita S. Salazar; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 28004) for the relief of H. E. Johnson, John F. Shelley, Jane M. Johnson, and Duff Quinn; to the Committee on Claims.

By Mr. GARDNER of Massachusetts: A bill (H. R. 28005) granting a pension to Sarah K. Marshall; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 28006) granting a pension to Annie Burk; to the Committee on Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 28007) granting an increase of pension to Cornelius A. Enterline; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 28008) to correct the military record of Sylvester De Forest; to the Committee on Military Affairs.

By Mr. PARRAN: A bill (H. R. 28009) for the relief of Joseph Sedlack; to the Committee on Naval Affairs.

By Mr. PRINCE: A bill (H. R. 28010) granting an increase of pension to Andrew T. Machesney; to the Committee on Invalid Pensions.

By Mr. THAYER: A bill (H. R. 28011) granting a pension to Elno H. Abells; to the Committee on Invalid Pensions.

By Mr. WEBB: A bill (H. R. 28012) granting a pension to Mary N. Nichols; to the Committee on Invalid Pensions.

By Mr. WHITE: A bill (H. R. 28013) granting an increase of pension to Emma C. Kennedy; to the Committee on Invalid Pensions.

By Mr. WILDER: A bill (H. R. 28014) granting a pension to Lucy Button; to the Committee on Invalid Pensions.

By Mr. WOOD of New Jersey: A bill (H. R. 28015) granting a pension to Wesley C. Beatty; to the Committee on Pensions.

Also, a bill (H. R. 28016) granting an increase of pension to Catharine J. Wesley; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of W. H. Packhard and 5 other merchants of Uhrichsville, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward the control of express companies; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Order of the Knights of Labor, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. DRAPER: Petition of Judson G. Wall, of New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. FORNES: Petition of the Italian Chamber of Commerce, of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Judson G. Wall, of New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of Sol Bloom, of New York, protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent articles; to the Committee on Patents.

By Mr. HIGGINS: Petition of the city council of the city of New London, Conn., asking the repeal of amendment of the sundry civil appropriation bill prohibiting further appointments of cadets or cadet engineers for the Revenue-Cutter Service except by consent of Congress; to the Committee on Appropriations.

By Mr. LINDSAY: Petition of John Traver, Samsonville, N. Y., favoring the passage of House bill 1339, granting increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of Sol Bloom, New York, protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the National Soil Fertility League, Chicago, Ill., favoring the passage of the Smith-Lever bill for the improvement of agriculture; to the Committee on Agriculture.

By Mr. MANN: Petition of Victor L. Barkey and I. B. Rosenback, of Chicago, Ill., protesting against the passage of House bill 27158 relative to making and selling of shoes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORE of Pennsylvania: Petition of the Italian Chamber of Commerce of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. NEELEY: Petition of citizens of Laden and Kiowa and Gray Counties, Kans., all favoring the passage of the Kenyon-Sheppard liquor bill prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of citizens of Barton County, Kans., protesting against the passage of House bill 26464, granting pensions to Presidents of the United States and their widows and minor children; to the Committee on Pensions.

By Mr. PLUMLEY: Petition of George M. McKnight and 11 others, asking that the Vermont delegation in Congress take no action detrimental to the interest of the farmers of Vermont; to the Committee on Agriculture.

Also, petition of John Harrigan and 18 other merchants of Northfield, Vt., protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent articles; to the Committee on Patents.

By Mr. SMITH of Texas: Petition of citizens of Buffalo Gap, Tex., favoring the passage of legislation prohibiting the persecution of the editors of the Appeal to Reason by the officials of the United States; to the Committee on Rules.

By Mr. STEPHENS of California: Petition of residents of Los Angeles County, Cal., protesting against the proposed tariff reduction on raw and refined sugar; to the Committee on Ways and Means.

By Mr. TILSON: Petition of the Connecticut Fish and Game Protective Association of the State of Connecticut, favoring the passage of House bill 23839, for the establishment of game

reservations on national lands; to the Committee on Agriculture.

By Mr. UNDERHILL: Petition of the Central Federated Union of New York and Vicinity, protesting against the passage of the Kenyon-Sheppard bill; to the Committee on the Judiciary.

Also, petition of the American Federation of Labor, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. WICKERSHAM: Petition of resident fishermen of Ketchikan, Alaska, praying for the passage of legislation prohibiting the setting of fish traps in the tidal waters of Alaska; to the Committee on the Territories.

By Mr. WILSON of New York: Petition of the National Academy of Design, of New York, protesting against any action on the part of Congress conflicting with the design set forth by the Washington Park Commission for the development of Washington; to the Committee on the Library.

Also, petition of the Italian Chamber of Commerce of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. WOOD of New Jersey: Petition of the Presbyterian Synod of New Jersey, favoring the passage of legislation to enforce the proper observance of the Sabbath in the District of Columbia; to the Committee on the District of Columbia.

Also, petition of the Presbyterian Synod of New Jersey, favoring the passage of the Kenyon-Sheppard bill, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

SENATE.

TUESDAY, *January 14, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

PRAIRIE COUNTY, ARK., V. THE UNITED STATES (S. DOC. NO. 1005).

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of Prairie County, Ark., *v.* The United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

PRESERVATION OF NATIONAL ARCHIVES.

The PRESIDENT pro tempore. The Chair presents a communication from the president of the New Hampshire Historical Society——

Mr. GALLINGER. I ask that it may be read, so that it may go in the RECORD.

The PRESIDENT pro tempore. It will be read, as requested by the Senator from New Hampshire.

The communication was read, as follows:

WASHINGTON, D. C., *January 11, 1913.*

To the PRESIDENT PRO TEMPORE OF THE SENATE,
Washington, D. C.

SIR: At the annual meeting of the New Hampshire Historical Society, which was fully attended, on January 9, 1913, the society voted unanimously in favor of an appropriation by the Congress of the United States for the erection of a building for the preservation of the national archives at Washington.

As president of the society, I am directed to communicate to the Senate the fact that this vote was passed.

So urgent is the need, and so worthy the object, that I indulge the hope that at the present session a suitable appropriation will be voted by the Senate. I have the honor to be

Your obedient servant,

FRANK W. HACKETT,
President of the New Hampshire Historical Society.

Mr. GALLINGER. I move that the communication be referred to the Committee on Appropriations and be printed.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented petitions of the Union Evangelistic Committee of sundry churches of Nashua, and of the congregations of the Central Congregational Church, of Derry, and of the First Baptist Church of Nashua, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of White Mountain Council, No. 506, Knights of Columbus, of Berlin, N. H., praying that an appropriation be made for the construction of a public building in that city, which was referred to the Committee on Public Buildings and Grounds.

Mr. WORKS presented a memorial of sundry citizens of Los Angeles County, Cal., remonstrating against a reduction of the duty on sugar, which was referred to the Committee on Finance.

Mr. JACKSON presented a petition of sundry citizens of Montgomery County, Md., praying that an appropriation be made for the construction of a public highway from Washington, D. C., to Gettysburg, Pa., as a memorial to Abraham Lincoln, which was ordered to lie on the table.

He also presented a petition of sundry citizens of Princess Anne, Md., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BRISTOW presented a petition of the congregation of the Metropolitan Presbyterian Church, of Washington, D. C., praying for the passage of the so-called Kenyon "red-light" injunction bill, which was ordered to lie on the table.

Mr. O'GORMAN presented a petition of sundry assistant inspectors of steam vessels at the port of New York, praying that they be granted an increase in their salaries, which was referred to the Committee on Appropriations.

He also presented a resolution adopted by the Board of Aldermen of Buffalo, N. Y., favoring the selection of the name "City of Buffalo" for one of the proposed new battleships, which was referred to the Committee on Naval Affairs.

Mr. LODGE presented the memorial of Joseph R. Churchill, of Dorchester, Mass., and a memorial of members of the Massachusetts Civic Alliance, remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which were ordered to lie on the table.

He also presented petitions of sundry citizens of West Newton and Newtonville, in the State of Massachusetts, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a resolution adopted by the Woman's Club, of Fall River, Mass., remonstrating against transferring the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a petition of sundry citizens of Lee, Mass., praying for the enactment of legislation providing for the protection and preservation of migratory birds, which was ordered to lie on the table.

Mr. WETMORE presented a petition of Nanaquaket Grange, of Tiverton, R. I., and a petition of North Scituate Grange, Patrons of Husbandry, praying for the establishment of agricultural extension departments in connection with State agricultural colleges, which were ordered to lie on the table.

NATIONAL AERODYNAMICAL LABORATORY.

Mr. WARREN, from the Committee on Appropriations, to which was referred the bill (S. 8053) to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof, reported it without amendment and submitted a report (No. 1107) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BRISTOW:

A bill (S. 8107) granting an increase of pension to Minnie A. Piety; to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 8108) authorizing the purchase or acquisition of the aviation field at College Park, Md., and property adjacent thereto for aviation, maneuvers, and other military purposes (with accompanying papers); to the Committee on Military Affairs.

By Mr. McLEAN:

A bill (S. 8109) granting an increase of pension to Anna M. Thomas (with accompanying papers); to the Committee on Pensions.

By Mr. GUGGENHEIM:

A bill (S. 8110) authorizing the Secretary of War, in his discretion, to deliver to the city of Trinidad, Colo., two condemned bronze or brass cannon, with their carriages and a suitable outfit of cannon balls; and

A bill (S. 8111) authorizing the Secretary of War, in his discretion, to deliver to the city of Rocky Ford, Colo., two condemned bronze or brass cannon, with their carriages and a suitable outfit of cannon balls; to the Committee on Military Affairs.

By Mr. STONE:

A bill (S. 8112) to correct the military record of Patrick F. Carmody; to the Committee on Military Affairs.

By Mr. PERKINS:

A bill (S. 8113) to amend section 3221 of the Revised Statutes of the United States as amended by section 6 of the act of March 1, 1879; to the Committee on Finance.

By Mr. ROOT:

A bill (S. 8114) to prevent discrimination in Panama Canal tolls; to the Committee on Interoceanic Canals.

By Mr. O'GORMAN:

A bill (S. 8115) granting an increase of pension to Gail E. Plankett (with accompanying papers); to the Committee on Pensions.

By Mr. GORE:

A bill (S. 8116) to amend the judicial system of the United States by increasing the membership of the Supreme Court of the United States; to the Committee on the Judiciary.

By Mr. OWEN:

A bill (S. 8117) for the relief of the Iowa Tribe of Indians in Oklahoma; to the Committee on Indian Affairs.

A bill (S. 8118) providing means for making effective the law relating to the publicity of campaign contributions, and for other purposes; to the Committee on Privileges and Elections.

CONSTITUTIONAL AMENDMENT RELATIVE TO IMPEACHMENT.

Mr. POMERENE. I introduce a joint resolution, and ask that it may lie on the table until I call it up on a subsequent day. I also ask that the joint resolution may be read.

The joint resolution (S. J. Res. 152) proposing an amendment to the Constitution relating to impeachment was read the first time by its title and the second time at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein):

First, that clause 5 of section 2 of Article I of the Constitution be amended so as to read as follows:

"The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment, except, however, that the Congress may provide by law for other methods of impeachment for all civil officers of the United States except the President, Vice President, and members of the Supreme Court."

Second, that clause 6, section 3, of Article I of the Constitution be amended so as to read as follows:

"The Senate shall have the sole power to try all impeachments. When sitting for that purpose Senators shall be on oath or affirmation. When the President of the United States is tried the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present; except, however, that the Congress may provide by law for other causes of impeachment than those now provided for and other methods for the trial of all civil officers except the President, Vice President, and members of the Supreme Court."

The PRESIDENT pro tempore. The joint resolution will lie on the table in accordance with the request of the Senator from Ohio.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CATRON submitted an amendment proposing to appropriate $121,600 for the support and education of 400 Indian pupils at the Indian school at Albuquerque, N. Mex., and $124,600 for the support and education of 400 Indian pupils at the Indian school at Santa Fe, N. Mex., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to increase the appropriation for the salaries of the day watchmen at the parks in the District of Columbia from $720 per annum to $900 per annum etc., intended to be proposed by him to the legislative appropriation bill, which was ordered to lie on the table and be printed.

Mr. MYERS submitted an amendment proposing to appropriate $18 to pay Henry McClain for services in carrying the mail between Carlton, Mont., and the Northern Pacific Railway station, from August 1 to September 13, 1907, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $25,000 for the extermination of the Rocky Mountain spotted fever, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $100,000 for surveying public lands in the State of Montana, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. GUGGENHEIM submitted an amendment authorizing the Secretary of the Interior to enroll Tilla A. Provost and her son Harold Provost upon the roll of the Nebraska Winnebago Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment authorizing the Commissioners of the District of Columbia to strike from the plan of the permanent system of highways for the District of Columbia Crittenden Street NW., between Iowa Avenue and Seventeenth Street, etc., intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on the District of Columbia and ordered to be printed.

Mr. OWEN submitted an amendment, proposing to appropriate $600,000, being the balance and final payment due the loyal Creek Indians on the award made by the Senate the 16th day of February, 1903, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. PERKINS submitted an amendment, providing that the proceeds arising from the sale of the lands known as the Klamath River Indian Reservation shall constitute a fund to be used for the maintenance and education of the Indians and their children now residing on those lands, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

IOWA INDIANS.

Mr. OWEN submitted the following resolution (S. Res. 429), which was read and referred to the Committee on Indian Affairs:

Resolved, That the bill (S. 8117) for the relief of the Iowa Indians, with the accompanying papers, including Senate Document No. 486, Sixty-second Congress, second session, be, and the same is hereby, referred to the Court of Claims for a finding of fact and conclusions of law, under the provisions of the act approved March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary."

RURAL BANKING SYSTEM IN VIRGINIA (S. DOC. NO. 1006).

Mr. FLETCHER. I ask to have printed as a document a proposed plan for the organization of a rural banking system in Virginia. It is a paper prepared by Charles Hall Davis, a distinguished attorney of Petersburg, Va. I make this request with the idea that it may be of use throughout the country. It is simply a plan on the subject of rural banks. It is not a very long paper, and I should like to have it printed as a document.

The PRESIDENT pro tempore. The Senator from Florida asks unanimous consent that the paper relative to rural banking may be printed as a Senate document. Is there objection? The Chair hears none, and it is so ordered. Are there any concurrent or other resolutions to be offered? If not, the morning business is closed.

MEMORIAL SERVICES FOR THE LATE REPRESENTATIVE W. W. WEDEMEYER.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced to the Senate that the House had passed a resolution appointing a committee of 15 Members, with such Members of the Senate as may be joined, to attend memorial services for Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan, to be held at Ann Arbor, Mich.

Mr. TOWNSEND. May I ask to have laid before the Senate the resolutions which have just come from the House?

The PRESIDENT pro tempore laid before the Senate the following resolutions of the House of Representatives, which were read:

IN THE HOUSE OF REPRESENTATIVES,
January 11, 1913.

Resolved, That a committee of 15 Members of the House, with such Members of the Senate as may be joined, be appointed to attend memorial services for Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan, to be held at Ann Arbor, Mich.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of this resolution, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Mr. TOWNSEND. I offer the following resolution and ask for its immediate consideration.

The PRESIDENT pro tempore. The resolution will be read.

The resolution (S. Res. 430) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That a committee of six Senators be appointed by the President pro tempore, to join a committee appointed by the House of Representatives, to attend memorial services for Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan, to be held at Ann Arbor, Mich., on January 26, 1913, at 2 o'clock p. m.

The PRESIDENT pro tempore appointed as the committee on the part of the Senate under the resolution Mr. TOWNSEND, Mr. SMITH of Michigan, Mr. JONES, Mr. KENYON, Mr. ASHURST, and Mr. POMERENE.

PANAMA CANAL TOLLS.

Mr. ROOT. Mr. President, I ask leave to give notice that on Tuesday next, the 21st of this month, immediately after the routine morning business, with the permission of the Senate, I shall make some observations regarding the rights and duties of the United States in respect of tolls for passing through the Panama Canal.

THE PRESIDENTIAL TERM.

Mr. CUMMINS. Mr. President, I desire to call the attention of the Senate to the unfinished business, which is the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States, and to ask unanimous consent to fix a time for a vote upon the joint resolution. I feel, Mr. President, that in order to be fair to the Senator from Vermont [Mr. PAGE], who is in charge of the bill to be taken up immediately after the joint resolution is disposed of, I must do what I can to bring the joint resolution on for a vote.

I therefore ask unanimous consent that on Thursday of this week, immediately after the disposition of the routine morning business, Senate joint resolution 78 shall be taken up and considered continuously, and that a vote shall be taken upon it and upon all amendments that have been or may be offered to it during that legislative day.

Mr. GALLINGER. I will ask the Senator whether many Senators or any Senators have signified a desire to discuss the joint resolution?

Mr. CUMMINS. I have heard of but one Senator who desires to speak on the joint resolution who has not already spoken.

Mr. GALLINGER. I will say for myself, while I shall not discuss it I should like to hear some Senators who are better able and better prepared to discuss the question than I myself am, because my mind is unsettled at the present moment as to whether or not I shall vote for the joint resolution. I have been inclined to do so, but I am not quite certain as to whether I am sufficiently informed.

Mr. CUMMINS. I name this early date not because I am opposed to a somewhat later date, but I feel that the Senator from Vermont has a right to insist that I shall do everything in my power to bring the joint resolution to a vote, inasmuch as, having had unanimous consent for the consideration of his bill upon the disposition of this joint resolution, he can not move until we do vote upon the joint resolution.

Mr. GALLINGER. I quite sympathize with the view the Senator has expressed and his desire to be courteous toward the Senator from Vermont, yet I think the date the Senator suggests is too early. I think if the Senator would ask for a vote on the joint resolution upon some day next week, probably there would be no objection; say a week from Thursday.

Mr. CUMMINS. I will then change it to a week from Thursday. I think that would probably be satisfactory to the Senator from Vermont.

Mr. ROOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New York?

Mr. CUMMINS. I do.

Mr. ROOT. I feel a little troubled about the prospect of having one of our hard and fast unanimous-consent agreements shut down the discussion of this proposed constitutional amendment. I am in favor of the principle of the amendment. I think I reported to the Judiciary Committee favorably the original joint resolution introduced by the Senator from California [Mr. WORKS] with some slight changes. That has now been reported to the Senate with still further changes. But it is a matter of very great importance, and it seems to me what we ought to do is to discuss it. I should like some course to be followed which would compel the mind of the Senate to be put upon this measure before we vote on it. It would be very unfortunate if we had to vote without having thought about it. Would not that purpose be answered by making it a special order for consideration without having an absolute time fixed?

Mr. LODGE. It is now the unfinished business and comes up every day automatically. A special order for its consideration is not required.

Mr. CUMMINS. I quite agree with the Senator from New York, but if we fix it for Thursday of next week, and then allow the legislative day for its consideration, there is no possibility of cutting off debate.

Mr. GALLINGER. If the Senator will permit me, in the meantime it comes up automatically at 2 o'clock each day until that time, and unless it is laid aside it can be discussed.

Mr. ROOT. I will agree to any course so long as we shall not find ourselves face to face to a vote without anyone having discussed it or our minds having been put on it.

Mr. CUMMINS. I may say that I intend, in the meantime, to make some observations on it.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I do.

Mr. WORKS. I was about to announce this morning, when the unfinished business should come before the Senate, that I expect to insist on its being kept before the Senate in order that it may be discussed, and not allow it to be passed over, as it has been, for weeks and weeks without anyone having said anything about it. That would give everyone an opportunity to express his views with respect to it.

But I agree with the Senator from Iowa that some time should be fixed for a vote. In the meantime I hope Senators will take the opportunity to discuss the joint resolution, because it is a very important measure. I have said all probably that I shall desire to say about it, but I shall hope to hear other Senators express their views upon this question, which I regard of much importance to the country.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Kansas?

Mr. CUMMINS. I yield to the Senator from Kansas.

Mr. BRISTOW. There are one or two Senators not present who I know are very much interested in the joint resolution, and if the Senator from Iowa will not press his request for unanimous consent for a vote, but simply bring up the measure as the unfinished business and insist upon its consideration for a day or two, I should think it would be more desirable.

Mr. CUMMINS. I do not feel that I can do that. The Senator from Kansas must, I am sure, appreciate the obligation that I feel toward the Senator from Vermont.

Mr. ROOT. The Senator from Iowa wishes to get the joint resolution out of the way.

Mr. CUMMINS. The Senator from Vermont had his bill, by unanimous consent, fixed for the time after the disposition of this joint resolution. He comes to me, naturally, and says, "You must keep the joint resolution before the Senate and have a vote upon it and dispose of it." I recognize the validity of that position. If we could have a time fixed for a legislative day in which we were to dispose of it, I think he would be wholly satisfied with that arrangement.

Mr. ROOT. Mr. President, we have been occupied during the whole of this session to a great extent with the trial of the impeachment case, so that there has not been any opportunity to consider and deal with other matters of serious importance. This subject broadens out in several directions. There is a joint resolution now in the hands of the Judiciary Committee relating to the change of the date of inauguration. That involves the broad question of the arrangement of our short term of the meeting of the old Congress, and legislation by the old Congress after the new Congress has been elected. I think there is a very general feeling that if we are to amend the Constitution in this particular, if we are going through the process of a constitutional amendment relating to the term of office of President, we ought to consider and deal with the present anomalous arrangement regarding the beginning of the presidential term and the beginning of the term of the new Congress elected at the same time with the President. As it now stands, we elect a President and a new Congress in the first week in November. Then, while this newly elected President and newly elected Congress stand about for four months waiting for their opportunity, the old President and the old Congress proceed with the government of the country. There are many inconveniences and evils arising from that arrangement. The reasons which led to the establishment of that long intervening period in the early history of the country no longer exist.

The whole subject is now treated in a report which is pending before the Judiciary Committee, and I think it ought to be considered at the same time that we consider this proposed amendment regarding the length of the term of the presidential office.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from California?

Mr. CUMMINS. I thought I yielded to the Senator from Kansas [Mr. BRISTOW]. I do not want to give up my right to the floor.

Mr. WORKS. I should like to ask the Senator from New York what necessary connection he thinks there is between the mere fixing of the term and the time of the commencement of that term, and why the two should be considered together?

Mr. ROOT. Of course, Mr. President, we could change the length of the term without changing the time for its beginning, but if we are going through the process of a constitutional amendment about the term of the President, it certainly would be prudent to make whatever change we are going to make in one amendment and with one submission to the people.

Mr. WORKS. However, the amendments relate to different sections of the Constitution and can not be considered together. There would have to be a separate vote upon them, and they would necessarily have to be considered separately. I fail to see any connection between the two that would involve any joint discussion of them. The discussion of one or the other might retard action upon either, and might have some effect upon the passage of one or the other, which I think should not happen.

Mr. CUMMINS. I yield to the Senator from Kansas [Mr. BRISTOW], who rose a moment ago.

Mr. BRISTOW. Mr. President, I wanted to ask the Senator from Iowa not to press for unanimous consent for a vote to-day, but to content himself with having the matter taken up as the unfinished business, and to insist upon its consideration. That would be much more satisfactory to me, because, as I have said, I know of one or two Senators, who are not now present, who would like to be present before a positive date is fixed for a vote.

Mr. CUMMINS. I recognize that the Senator from Kansas can prevent a unanimous-consent agreement; but I think any Senator who wants to debate the joint resolution would have a better opportunity under my proposal than he would if it were taken up this afternoon.

In answer, however, to the Senator from Kansas, I will say that if the unanimous consent is not granted I shall feel it my duty to insist upon the consideration of the joint resolution at 2 o'clock, and that we proceed with it until it is acted upon, or until it is displaced by a vote of the Senate.

Mr. BRISTOW. I have no objection to the consideration of the joint resolution. Of course, I do not suppose the Senator from Iowa would want to unduly press it to a vote; but if he gets a vote within the next week or so, I suppose that would be acceptable.

Mr. CUMMINS. Mr. President, I do not think anyone can charge me with having unduly pressed the joint resolution. It has been the unfinished business for a long time. I tried very hard to get a vote upon it at the last session, as Senators know, and I think, when I have suggested that 10 days nearly shall elapse before we proceed with it, and then that the vote shall be taken during the legislative day named, I have given every opportunity to consider the question that fairness would require.

Mr. BRISTOW. If the Senator will defer his request until later in the day, I probably shall not make any objection to it; but I would rather it should not be pressed just at this time.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I do.

Mr. WORKS. In this connection I desire to give notice that, unless some time is fixed for a vote upon the joint resolution, I shall insist upon its being kept before the Senate. That will give every Senator an opportunity to discuss it, if he so desires; but it seems to me that it has been postponed long enough and that the Senate should consider it at this time. Of course, if a unanimous-consent agreement can be arrived at which will fix the time for voting, I have no objection to that at all; but otherwise, I repeat, I shall insist upon the regular order when the joint resolution comes up for consideration.

Mr. BRISTOW. For the present I shall have to interpose an objection to the fixing of the date proposed. I may withdraw that objection later on during the day when the Senator again brings up the joint resolution. For the present, however, I would rather not have that date fixed.

Mr. McLEAN. Mr. President——

Mr. ROOT. Mr. President, has morning business closed?

The PRESIDENT pro tempore. Morning business has closed. That announcement has been made, and the Senator from Connecticut [Mr. McLEAN] has been recognized. The Chair, however, will receive anything which Senators may now desire to offer by unanimous consent.

PETACA LAND GRANT.

Mr. ROOT. I ask leave to submit a report.

The PRESIDENT pro tempore. The report will be received, in the absence of objection.

Mr. ROOT. I am directed by the Committee on the Judiciary, to which was referred the bill (S. 7385) to relinquish the claim of the United States against the grantees, their legal representatives and assigns, for timber cut on Petaca land grant, to report it without amendment, and to submit a report (No. 1106) thereon.

Mr. CATRON. I ask unanimous consent for the immediate consideration of the bill just reported by the Senator from New York [Mr. ROOT].

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield? The Chair had recognized the Senator from Connecticut, and he yielded for the introduction of morning business.

Mr. McLEAN. I understand I have the floor, Mr. President.

The PRESIDENT pro tempore. The Senator from Connecticut has the floor.

PROTECTION OF BIRDS.

Mr. McLEAN. Mr. President, as the bill in regard to which I desire to address the Senate is very short, I ask that the Secretary read it.

The PRESIDENT pro tempore. The bill referred to by the Senator from Connecticut will be read.

The Secretary read the bill (S. 6497) to protect migratory game and insectivorous birds in the United States, as follows:

Be it enacted, etc., That all wild geese, wild swans, brant, wild ducks, snipe, plover, woodcock, rail, wild pigeons, and all other migratory game and insectivorous birds which in their northern and southern migrations pass through or do not remain permanently the entire year within the borders of any State or Territory, shall hereafter be deemed to be within the custody and protection of the Government of the United States, and shall not be destroyed or taken contrary to regulations hereinafter provided therefor.

SEC. 2. That the Department of Agriculture is hereby authorized to adopt suitable regulations to give effect to the previous section by prescribing and fixing closed seasons, having due regard to the zones of temperature, breeding habits, and times and line of migratory flight, thereby enabling the department to select and designate suitable districts for different portions of the country within which said closed seasons it shall not be lawful to shoot or by any device kill or seize and capture migratory birds within the protection of this law, and by declaring penalties by fine of not more than $100 or imprisonment for 90 days, or both, for violations of such regulations.

SEC. 3. That the Department of Agriculture, after the preparation of said regulations, shall cause the same to be made public, and shall allow a period of three months in which said regulations may be examined and considered before final adoption, permitting, when deemed proper, public hearings thereon, and after final adoption to cause same to be engrossed and submitted to the President of the United States for approval: *Provided, however*, That nothing herein contained shall be deemed to affect or interfere with the local laws of the States and Territories for the protection of nonmigratory game and other birds resident and breeding within their borders, nor to prevent the States and Territories from enacting laws and regulations to promote and render efficient the regulations of the Department of Agriculture provided under this statute.

SEC. 4. That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of carrying out the provisions of this act, the sum of $10,000.

Mr. McLEAN. Mr. President, this bill, as will be noted, was reported back to the Senate in April, 1912. It has been on the calendar nine months, during six of which Congress has been in session. I have not tried to hasten action upon this measure, for several reasons. I think it probable that few Senators outside of the members of the committee which considered it have had the time or the opportunity to inform themselves with regard to its provisions. It presents a subject in which but few Senators have heretofore taken any interest, and a subject which at first is likely to arouse antagonisms which I believe are wholly undeserved. But, Mr. President, I think the time has come now when it is my duty to ask the Senate to consider some of the reasons which are urged in support of this measure, for it has been made clear to me that thousands, and I think I may say millions, of our constituents believe this bill to be of as high promise and importance as any remedial measure now pending before Congress.

Before I come to the question of ways and means, I want to put into the RECORD some of the reasons why Congress should find ways and means to protect the bird life of the country, and although my personal interest in the subject is considerable and my conclusions have been reached after some years of observation, I shall not assume to take the time of the Senate to do more than call attention to the opinions of those who speak as experts and who have made birds and their habits a life study.

As it is highly probable that very few Senators have had the time to read the reports of the Senate and House committees, or the printed report of the hearings before the Senate Committee on Forest Reservations and the Protection of Game, bearing upon this subject, I will first call attention to some of the data and conclusions found in these reports.

Mr. LEE of Georgia, from the House Committee on Agriculture, has the following observations to make on pages 1 and 2 of his report on H. R. 36, a bill to protect migratory and insectivorous game birds of the United States:

The committee gave a public hearing and a large amount of testimony was produced before it to sustain the provisions of the bill. It appeared that most of the States of the Union have laws more or less

effective in the protection of game or other birds resident and breeding within their borders, and by special reservation in the bill none of its provisions are to be deemed to affect or to interfere with these laws as to such birds or to prevent the States from enacting laws and regulations in aid of the regulations of the Department of Agriculture provided for in this bill. Through these local laws, however, it appeared that because of their nomadic habits little or no real protection was afforded water fowl and other migratory game birds, and therefore, to secure for them adequate protection, particularly in the spring, when they are on their way to their nesting grounds, they should be placed under the custody of the General Government. It also appeared that some of the most valuable species of these nomads would soon be extinct unless immediate congressional protection is afforded.

It was clearly shown that the economic aspect was twofold. The game birds yield a considerable and an important amount of highly valued food, and if given adequate protection will be a constant valuable asset. The insectivorous migratory birds destroy annually thousands of tons of noxious weed seed and billions of harmful insects. These birds are the deadliest foe yet found of the boll weevil, the gypsy and brown-tailed moths, and other like pests. The yearly value of a meadow lark or a quail in a 10-acre field of cotton, corn, or wheat is reckoned by experts at $5. The damage done to growing crops in the United States by insects each year is estimated, by those who have made the matter a special study, at about $800,000,000.

The majority of the committee believe that to give Federal protection to these birds is no invasion of State rights, for being migratory they belong to no single State, but to all the States over which they pass and within which they simply pause for food, rest, or breeding. It is believed that the question is purely a Federal one and that under the strictest construction of the Constitution these migratory birds may and should be subject and entitled to national protection by act of Congress.

The report from the Senate committee, beginning at the bottom of page 2, argues the case for the birds in the following language:

Anyone who has read recent estimates of the decrease in insectivorous birds and the increase of herbivorous insects can readily believe that as the mammals succeeded reptiles insects will soon possess the earth unless some way is discovered to check their increase.

We are prone to bear the usual and slowly accumulating burdens with dull resignation and patience. The life and property losses and taxes that are inherited and constant we take for granted. It is the concentrated and unusual calamities that shock and excite the spirit of opposition and the desire to prevent a recurrence. By the sinking of the *Titanic* 1,300 lives were lost, and the world was filled with fear and sympathy. Tuberculosis claims 190,000 victims a year in this country and pneumonia 160,000, yet we bear this awful loss of life with the passing comment that it is a great pity.

The San Francisco earthquake destroyed property to the value of $100,000,000. This loss was the superinducing cause of the panic of 1907, which reduced values by the billions. If it were known to-day that the country would suffer another such loss within its borders in the year 1912, the wheels of progress the world over would halt in sympathetic fear.

A short time ago the farmers of the country, especially in the Northwest, were much agitated because of the proposed reciprocity agreement with Canada. The loss which they, together with other farmers of the country, will suffer this year and which will benefit no one will exceed by hundreds of millions of dollars the total value of the entire wheat crop of the Nation.

As long ago as 1904 Dr. C. L. Marlatt, basing his estimates on the crop reports of the United States Department of Agriculture, asserted that the loss to the agricultural industries in that year caused by insects alone could be conservatively placed at $795,100,000, and this estimate does not include dollar for the use of insecticides.

Mr. Forbush, in his most comprehensive book entitled "Useful Birds," maintains that the insect pests destroy agricultural products to the value of $800,000,000 a year. We use large numbers so freely in these days that hundreds of millions mean no more to us than hundreds of thousands did a few years ago. There are about 600 colleges in the United States to-day. Their buildings and endowments have been centuries in accumulation. The value of the college and university buildings is estimated at $250,000,000 and the endowments at $210,000,000. If they should be destroyed to-morrow—buildings and endowments—the insect tax of one year would replace them and leave a balance sufficient to endow 32 new universities in the sum of $10,000,000 each.

We have in this country to-day about 20,000,000 school children, and the cost of their education has become by far the heaviest tax laid upon the surplus of the country, yet it costs more by many millions to feed our insects than it does to educate our children. If there is any way in which this vast and destructive tax upon the national income can be prevented or stayed or resisted in any appreciable measure it would seem to be the part of wisdom to act without delay.

For many years individuals, at their own expense, and voluntary societies and representatives of the civilized nations the world over have studied and estimated the value of birds to the human race. We call attention at this time to but a few of the estimates made, and such as seem to be fair and reliable, but enough, we think, to prove that in this country at least we have ruthlessly disturbed, if not destroyed, one of nature's wisest and most valuable balances between the birds and their natural food, and it is clear to those informed upon this subject that unless radical and immediate measures are adopted to restore a sure, safe, and natural equilibrium between insectivorous birds and their foods the time will soon come when the annual loss caused by insects to agriculture in this country alone will be counted in billions instead of millions of dollars.

Most insects, like the green leaf louse, or aphis, so destructive to the hop industry and many other of our most valuable fruits and vegetables, reproduce their kind at the rate of ten sextillion to the pair in one season. This number means 40,000 for every square inch of land that is above water. Placed in Indian file, 10 to the inch, it would take light, traveling at the rate of 180,000 miles per second, 2,500 years to reach the file leader.

The potato bug is less fecund. One pair will reproduce from fifty to sixty millions only in a season. The natural increase of one pair of gypsy moths would defoliate the United States in eight years.

These estimates I quote from Prof. Forbush, who in turn gathered them from the United States Biological Survey, and we may say that these cases are fair examples of the reproductive powers of the insectile world. Locusts, army worms, and chinch bugs, unless checked in procreation, soon become countless hordes, devastating wide areas of the earth's surface.

It is to be remembered that insects live to eat. Some of them increase their size at birth 10,000 times in 30 days. Dr. Lintner, of the New Jersey Board of Agriculture, reports 176 species of insects attacking the apple tree. (U. S. Biological Survey.) About the same number attack the peach, plum, and cherry trees. Dr. Packard finds 400 species feeding upon the oak; 300 attack the conifera. The number feeding upon cereals, grains, and garden crops is also very large.

The reports of the Bureau of Entomology show that destruction by some insects is widely spread and are increasing. Dr. Marlatt estimates that the loss to the wheat-growing States in 1904 occasioned by the Hessian fly was about $50,000,000. Dr. Shimer estimates the damage done to crops in the Mississippi Valley caused by the chinch bug in one year as high as $100,000,000. The Rocky Mountain locusts, in years of their greatest activity, caused the States of the Northwest more than $150,000,000. Dr. Lintner estimates the annual loss to farmers caused by cut-worms at $100,000,000. The terrible loss of $800,000,000 a year is fairly easy of proof.

That the worm does not eat everything that grows is due to several causes—weather, parasites, fungi, insect diseases, insectivorous birds, and mechanically applied poisons, which are expensive, unnatural, and dangerous. However large may be the share of parasites, fungi, and weather in checking the increase of destructive insects, investigation shows that it is lamentably insufficient, and the briefs of the bird defenders pretty clearly indicate that the birds have been, are, and will be without question one of the most important agencies in staying the inroads of insect devastation. Men who have had this subject at heart and in hand for many years assert that bird life is one of the most indispensable balancing forces of nature.

We cite a few instances in support of the foregoing. All birds eat, and most of them eat most of the time, and they eat insects and little else. The old bird has just as keen an appetite as the young bird, and he is much larger and his daily ration is almost incredible.

Mr. Treadwell, of the Boston Society of Natural History, fed a young robin 68 angle or earth worms in one day. Mr. Nash, of the Ontario Department of Agriculture, fed a robin 70 cutworms a day for 15 days. A young crow will eat twice its weight a day of almost anything that happens to be brought before him. The State ornithologist of Massachusetts, Mr. Forbush, by careful and painstaking observation has collected much reliable information on this subject. He has seen two parent grosbeaks in 11 hours make 450 trips to their nests carrying two or more larvæ at a time. Sparrows, chickadees, vireos, martens, and warblers made from 40 to 60 trips an hour with their beaks filled with all manner of insects. Under the supervision of the United States Biological Survey the crops of 3,500 birds were examined. Thirty grasshoppers and 250 caterpillars were found in the crops of cuckoos. In the crop of a nighthawk were found 60 grasshoppers and in another 500 mosquitoes; 38 cutworms were found in the crop of a blackbird; 70 cankerworms were found in the crop of a cedar bird. Prof. Taschudi estimates the diet of a song sparrow at 1,500 larvæ a day.

Mr. Forbush estimates that a single yellow-throated warbler will consume 10,000 aphids or tree lice in a day. Scarlet tanagers have been seen to eat 35 gipsy moths a minute for 18 minutes at a time.

To quote further from Mr. Forbush on Birds:

"More than 50 kinds of birds feed upon different varieties of caterpillars; 38 varieties are known to feed upon devastating plant lice.

"Mr. McAtee, of the United States Biological Survey, reports that several of the most destructive species of scale insects are the food of not less than 50 kinds of birds. Beetles, cutworms, grubs, borers, locusts, grasshoppers, crickets, in fact most all of the injurious insects are food for a very great majority of the different kinds of birds.

"It is the general belief that the so-called game birds are seed rather than insect eaters. The fact is that the bulk of food of most of this class of birds consists of insects when insects are to be had.

"The quail, though not a migratory bird, and therefore not within the scope of the pending bill, should, however, be carefully protected by State legislation. It feeds upon locusts, chinchbugs, cotton worms, cotton-boll weevils, army worms, Colorado potato beetles, striped cucumber beetles, grasshoppers, ground beetles, and many others. The young feed almost entirely upon insects. Such seeds as they eat are largely those of the harmful weeds, as ragweed, smartweed, red sorrel, mercury, pigweed, and the like. If the quail can be protected and become numerous and fearless, they would become the most useful assistants and allies of the farmer.

"This is true in a great measure of the partridge or ruffed grouse, snipe, plover, sandpiper, woodcock, wood duck, and black duck, once so common all along the shores of our streams and pools. They were formerly great insect eaters, but they have been so persecuted by the hunters that they hardly now ever live there."

Prairie chickens, like the grouse and wild turkey, feed their growing young almost entirely upon insects, and the mature birds prefer this diet.

We quote from Prof. Forbush a few instances of crops saved from destruction by birds:

"In Pomerania an immense forest was in danger of being utterly ruined by caterpillars and was unexpectedly saved by cuckoos, which though on the point of migrating established themselves there for weeks and so thoroughly cleared the trees that next year neither depredators nor depredations were seen.

"In Europe, in 1848, there was a great outbreak of gypsy moths. The hand of man seemed powerless to work off the affliction, but on the approach of the winter titmice and wrens paid daily visits to the infested trees, and before spring the eggs of the moths were entirely destroyed.

"According to 'Reanmer,' the larvæ of the gypsy moth were at one time so numerous on the Limes at Brussels that many of the great trees were nearly defoliated. The moths swarmed like bees in the summer. If one-half of the eggs had hatched the following spring scarcely a leaf would have remained in these favorite places of public resort. Two months later scarcely an egg cluster would be found. This happy result was attributed to the titmice and creepers, which were seen busily running up and down the tree trunks.

"In 1892 Australia was afflicted with incursions of immense clouds of locusts. In Glen Thompson district several large flocks of ibis were seen eating the young locusts in a wholesome manner. Near Victoria swarms of locusts were seen in a paddock. Just as it was feared that all the sheep would have to be sold for want of grass, starlings, spoonbills, and cranes made their appearance, and in a few days made so complete a destruction of the locusts that but a few acres of grass were lost.

"When Utah was settled the first year's crop was almost utterly destroyed by myriads of crickets that came down from the mountains.

The first crop having been almost destroyed, they had sowed seed for the second year. The crop promised well, but when the crickets appeared the people were in danger of starvation. In describing the condition Mr. George Q. Cannon said: 'Black crickets came down by millions and destroyed our grain crops, promising fields of wheat in the morning were by evening as smooth as a man's hand—devoured by insects. At this juncture sea gulls came by thousands, and before the crops were entirely destroyed these gulls devoured the crickets, so that our fields were entirely free from them." Several times afterwards the crops were attacked by the crickets and were saved by the gulls.

"In 1902 locusts hatched out in countless numbers in Nebraska. Some fields of corn and wheat were entirely destroyed by them. A large field of corn near Dacotah City was literally covered with locusts, and there were indications that not a stalk would escape. About this time blackbirds appeared in large numbers and made this field their feeding ground. The locusts gradually disappeared. Although the crop had to be replanted, it was due to the birds that a crop was raised at all. Many fields were saved with but slight loss by the work of blackbirds, plover, quail, and prairie chickens.

"A severe outbreak of forest tent caterpillars occurred in New York and parts of New England in 1898. Thousands of acres of woodland were devastated, and great damage was done to the sugar-maple orchards of New York and Vermont. Birds—warblers, orioles, sparrows, robins, cuckoos, cedar birds, and many others—attacked the caterpillars vigorously, and by 1900 the plague had been so reduced that the injury was not seen.

"Increase of insects and damage by them follows destruction of birds. Frederick of Prussia, being particularly fond of cherries, was annoyed to see the sparrows destroy his favorite fruit. An edict was issued ordering sparrow extermination. The campaign against the birds was so successful that not only were the sparrows destroyed, but many other birds were either killed or driven away. Within two years cherries and most other fruits were wanting. The trees were defoliated by caterpillars and other insects, and the King, seeing his error, imported sparrows to take the place of those that had been killed.

"A few years since the harvests of France began to fail. A commission to investigate the cause of the deficiency was appointed by the minister of agriculture. This commission took counsel with experienced naturalists, and the deficiency was attributed to the ravages of insects that it is the function of birds to destroy. It seems that the French people had been killing and eating not only the game birds but the smaller birds as well. Birds' eggs had been taken in immense numbers. A single child had been known to come in at night with a hundred eggs. The number of eggs of birds destroyed in the country annually was estimated to be from eighty to one hundred millions. Before such persecution the birds were rapidly disappearing. As an apparent result of the destruction of the birds the vines, fruit trees, forest trees, grain and field crops were suffering much from destructive insects. It was concluded that by no other agency than the birds could the ravages of insects be kept down, and the commission called for prompt and energetic remedies to prevent the destruction of birds.

"The greatest losses from the ravages of the Rocky Mountain locust were coincident with or followed soon after the destruction by the people of countless thousands of blackbirds, prairie chickens, quail, upland plover, curlew, and other birds. This coincidence is significant at least. Prof. Aughey tells how this slaughter was accomplished. Vast numbers of them were poisoned with strychnine in and around the cornfields. It was done under the belief that the blackbirds were damaging the corn crop, but a great number of birds of other species were destroyed as well as the blackbirds.

"In Dakota County, in Nebraska, in one autumn not less than 50,000 birds must have been destroyed. Prof. Aughey writes thus of this destruction: 'Supposing that each of these 30,000 birds ate 150 insects daily, we then have the enormous number of 135,000,000 insects saved in this one county in one month that ought to have been destroyed by the agency of birds.' When we consider that most of these birds were migratory, and that they would have been busy in other regions the rest of the time in helping to keep down the increase of insects, the harm that their destruction did is beyond computation. The killing of such birds is not a local, it is a national, a continental loss."

All of the foregoing evidence goes to demonstrate the existence of a natural economic relation between these three orders of life. There is a sort of interdependence, and the existence of each one is dependent upon the existence of the others. But for the vegetation the insects would perish, and but for the insects the birds would perish, and but for the birds the vegetation would be utterly destroyed by the unchecked increase of insect destroyers.

Mr. GALLINGER. Will the Senator from Connecticut permit an interruption?

Mr. McLEAN. Certainly.

Mr. GALLINGER. The subject the Senator is discussing is one very dear my heart, and I have been hoping the Senator would press this bill for consideration. I notice in the list of birds enumerated the wild pigeon. Does the Senator know where a live wild pigeon can be found to-day?

Mr. McLEAN. There are none; they are extinct.

Mr. GALLINGER. I think there is a stuffed one in the Smithsonian Institute, which is regarded as a curiosity. There was a time in my life when wild pigeons were so numerous in the country where I lived that we could pick them from the trees in the evening; the heavens were clouded with wild pigeons on certain days. And yet to-day, as I understand, there is not a live wild pigeon on this continent.

What is true of that bird is relatively true of a great many other very valuable birds, some of them song birds. The robins are being slaughtered, song birds of different kinds are being slaughtered ruthlessly, and we sit idly by and let it go on.

Last evening I spent an hour or two in looking over Hornaday's recent work on that subject, and I wish every Senator would peruse that book and ask himself the question whether the work the Senator is engaged in in trying to pass this bill is not one that ought to command the cooperation and support of every man in public life.

I am glad the Senator is discussing the subject in such an interesting way.

Mr. McLEAN. I will say that the book to which the Senator has referred, Mr. Hornaday's book, contains a photograph of the last survivor of its species—the wild pigeon—and that one is now dead.

Mr. GALLINGER. Yes; it does.

Mr. McLEAN. I call the attention of the Senate to the fact that Dr. Hornaday is conceded to be one of the great naturalists of the world. He is at present a director of the New York Zoological Park.

I will add here a few items bearing upon this subject which I have gathered since the printing of the Senate report.

Mr. William A. Lucas, dean of the American Game Bird Culture, is authority for the statement that—

If the present rate of ruthless destruction of our game birds is not checked, and species left to prey continually upon them, they will pass out of existence with the passing of this century.

From the publication of the Clifton Game and Forest Society of North America I desire to quote as follows:

Recent conquest of nature: When the last century opened, man's conquest of crude nature had not gone far except in scattered spots. An aeroplane survey of the world showed in Europe, Asia, and America a few immense national clear farming spaces, but the earth was still almost like a Garden of Eden. Ocean swarmed with whale, seals, sea otter, and sea birds. Animal and vegetable life of Africa and America had achieved perfect balance. Africa swarmed with life, mostly monstrous floral and faunal survivals of the latter end of the Tertiary epoch, while the Quaternary bird, beast, and plant life of America was amazing. The buffalo of Africa and the bison of America perhaps equaled in number all the world's beef cattle of to-day. The measureless wild pastures were kept cropped and orderly by vegetable eaters, and the vegetarians were prevented from eating the world to a blank, greenless desert by the hungry flesh eaters, for one lion at a meal could swallow all that a buffalo had eaten in a year. In this way meat-eating animals paradoxically preserved the vegetarians by eating them; saved vegetarians from themselves, kept down their number, and thus saved plant life, for everything depends upon plant life, and plant eaters, left alone by man and other meat eaters, would surely make a desert of the earth for themselves.

Animals and primitive man: As for man and his primitive weapons, the animals regarded him as a kind of Adam in Eden, so little did they fear him. Daniel Boone had to beat bison off with sticks, and the first Boers of the Veldt were stopped for days at a time by great, curious, fearless herds.

Clearing the earth of nature: White man's travels, trade, bullets, and bacteria are turning Africa into a faunal desert, and weeds are taking the place of its great beautifully balanced floral world. America has been cut, cleared, and harrowed of most wild things until only man's good and evil, wheat and weeds, possess it. Where white man goes, either his weeds or his farms must follow. So that by the end of this century the zoological and botanical gardens will be the only place for the lover of nature to see the scant remains of the world's paradise of biologic centuries agone, when all here was a finely balanced, well-ordered Garden of Eden, an earth full of the plants and animals that the Bible tells about.

I quote now from Dr. Hornaday, whose opinions are entitled to great weight:

Show me one farmer or forester who goes out of his way and labors and spends money to protect and attract his feathered friends and I will show you 99 who never lift one finger or spend a penny a year in such work.

And again—

If there was anything I could say that would penetrate the farmer's armor of indifference and sting him into activity on this subject, I would quickly insert the stinger, even at my own cost and loss. Did you ever know a real sure-enough farmer to subscribe to a fund for game protection or to spend time and money in attending legislative hearings in behalf of bird protection and increase? I never did; I mean the real farmers who depend upon their crops for their bread and butter.

Regarding the killing of robins and other song birds as food for man in a land of plenty there can not be two opinions. It is not necessary; it is not "sport"; it is very injurious to our farmers and fruit growers, and entirely reprehensible. No self-respecting man or boy can be guilty of such wrongdoing; no civilized community should tolerate it; and no farmer can afford to permit it. I would rather that any friend of mine should be caught stealing sheep than killing robins for food or "sport."

Because negroes of the South and others who know no better are disposed to kill robins and flickers and other valuable birds is no reason why we should either destroy or permit the destruction of our best friends.

Every one of the perching birds is worth its weight in gold to the farmer. It will indeed be a sad day for the American agriculturist when the last insect-destroying bird is brought fluttering and dead to the ground; then, if never before, will he appreciate the value of the allies he has lost forever; then, indeed, when it is too late will he be willing to exchange any quantity of berries or cherries for just one pair of living robins, catbirds, or other birds so despised and neglected to-day.

It is interesting to note here that in six States—Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Maryland—the robin is a game bird and is killed by the tens of thousands annually. In Louisiana, South Carolina, Tennessee, and Pennsylvania the blackbird is legally killed without limit, although it is recognized as one of the most effective destroyers of the harmful insects and worms. In 26 of the States the "mourning" or "turtle" dove has no protection from slaughter, although it is well known to feed chiefly on weed seeds. In many of the States the spring shooting of wild water fowl extends far beyond reasonable limits. In Virginia the season does

not close until May 1; in Maryland, April 10; Delaware, April 10; West Virginia, April 20; Indiana, April 15; Illinois, April 15; Nebraska, April 15; South Dakota, April 10; Pennsylvania, April 10; New Jersey, March 15; Rhode Island, March 31; North Carolina, March 31. It will be observed that in a line of States covering the entire flight of these birds shooting is allowed from the 1st of September until the 1st of May.

Dr. Joseph Kalbfus, secretary of the board of game commissioners, of Harrisburg, Pa., in his report of November 15, 1911, says:

It is sad, indeed, to consider how many there are in all walks of life who still fail to understand the work being done by sportsmen or the necessity for that work.

This is a condition brought to my notice almost daily, and I am writing this bulletin in the hope that I may say something that will cause you who may read it to take an interest in bird protection, and I care not whether the motive be religious, economic, æsthetic, humane, pathetic, or what not, only so you do something for the birds now; not after awhile, but to-day, before it is too late. How much better it would have been for this State and Nation if the question of forestry had been intelligently considered 40 or more years ago instead of now. How much better it would have been if the State had long ago thrown around her fisheries and her water supply and the health of her people the strong arm of protection that she is now attempting to extend. Our birds, once extinct, are gone forever. Remember that.

To the great majority of people birds are simply birds and nothing more; they are of no special value, either singly or collectively, because so many of us, although we have eyes, "see not." That is, we do not understand what the birds are doing. We fail to realize that birds are found everywhere throughout the known world, excepting in the center of the great deserts, and that no difference where they are found each family is doing a special work in its own peculiar way that no other family attempts to do except to a limited extent.

I some time ago had occasion to arrest one of this class, a trucker living near Harrisburg, for killing 12 robins in his cabbage patch. He admitted the killing, and said: "These birds were deliberately pulling up and destroying my cabbage plants; I know what I saw." A visit to this cabbage patch showed that many of the plants had been destroyed in some way. I saw robins vigorously pulling at and casting aside numerous plants, and it appeared from a distance that they were really doing a wrong. A closer examination demonstrated the fact that not a single root had been pulled from the ground. Every missing plant had been cut from the root below the ground line by wireworms, the larvæ of the clock beetle, not cutworms. I examined the hills where many plants had stood and took from the ground with my hands wireworms in numbers varying from 3, the least found at any place examined, to 43, the most found around any plant. These birds were doing a work for this man that he could not do for himself and at the same time gathering food for their young; and this person, calling himself a good citizen, had, without thought, without an examination, deliberately murdered these birds and left their little ones to starve in the nest. His attorney, who was with me, when shown the worms, said: "Doctor, he did not understand." This lack of understanding is the great trouble. If men only understood what the birds were doing they would not treat them as they do.

The cuckoo and the oriole appear to be created specially to destroy hairy caterpillars. The great naturalist, Audubon, writing of these two birds, said, "Their stomachs are lined with hair." And the dissection of the stomachs of either of these birds during the warm summer days will frequently show this statement to be true, a closer investigation demonstrating that while hair is found apparently growing upon the inside of the stomach it is really not the product of the stomach, but is instead the hair from the caterpillars eaten by the bird, each hair having perforated the inner lining of the stomach and remaining in that place, dissolved by the juices of the bird's stomach.

Dr. Kalbfus in this report quotes from the Biological Survey of the Department of Agriculture as follows:

Each family of our birds, almost without exception, is doing a work peculiar to itself; a special work that is of great value to the farmers and fruit growers of the Nation and that entitles each family of birds to protection.

In Farmers' Bulletin No. 497, issued May 6, 1912, William L. McAtee and F. E. L. Beal, assistants, Biological Survey, make the following report as to the value of upland plover and killdeer on pages 14 to 18, inclusive:

The upland plover forms a striking exception in habits to its closest relatives, the sandpipers. While sandpipers love the vicinity of water, the upland plover frequents dry hills and prairies and is most abundant in the interior. This so-called plover breeds from Oregon, Oklahoma, and Virginia north to Alaska, Mackenzie, and Maine, and migrates over the more southern parts of the continent, passing to the pampas of Argentina to spend the winters.

From its habits the upland plover would naturally be expected to have a closer relation to agriculture than most sandpipers, and such proves to be the case. Almost half its food is made up of grasshoppers, crickets, and weevils, all of which exact heavy toll from cultivated crops. Among the weevils eaten are the cotton-boll weevil; greater and lesser clover-leaf weevils; clover-root weevil; *Epicærus imbricatus*, which is known to attack almost all garden and orchard crops; cowpea curculio; *Tanymecus confertus*, an enemy of sugar beets; *Thecesternus humeralis*, which has been known to injure grapevines; and bill bugs. *Thecesternus* alone composes 3.65 per cent of the seasonal food of the 163 stomachs examined, and bill bugs constitute 5.83 per cent. No fewer than eight species of bill bugs were identified from the stomachs. These weevils injure, often seriously, such crops as corn, wheat, barley, and rye, as well as forage plants of many kinds.

The upland plover further makes itself useful to the farmer by devouring leaf-beetles, including the grapevine colaspis, southern corn-leaf beetles, and other injurious species—wireworms and their adult forms, the click beetles, white grubs and their parents, the May beetles, cutworms, army worms, cotton worms, cotton cutworms, sawfly larvæ, and leatherjackets or crane-fly larvæ. They befriend cattle by eating horseflies and their larvæ, and cattle ticks. They eat a variety of other animal forms, such as moths, ants, and other Hymenoptera, flies, bugs, centipedes, and millepedes, spiders, snails, and earthworms. Practically 97 per cent of the food consists of animal matter, chiefly of injurious and neutral forms. The vegetable food comprises the seeds of such weed pests as buttonweed, foxtail grass, and sand spurs, and hence is also to the credit of the bird.

Notwithstanding that the upland plover injures no crop and consumes a host of the worst enemies of agriculture, it is one of the numerous shore birds that have been hunted to the verge of extinction. Can it be that the American public will allow one of the best friends of agriculture to be exterminated by hunters who care only for the momentary excitement of dropping these swiftly flying birds and the pleasure of devouring the few mouthfuls of savory flesh they afford?

The killdeer is one of the best-known American birds. It frequents cultivated lands and even roads and the vicinity of buildings. It is well named "vociferous," for it delights in repeating the loud and penetrating call of "kill-dee, kill-dee," from which its common name is taken. The killdeer nests throughout the United States and southern Canada. Some individuals spend the winter in the southern half of the United States or occasionally even farther north, while others go as far south as northern South America.

Like the upland plover, the killdeer spends much of its time away from water. It frequently nests in cornfields or pastures and, as noted above, even comes about the abode of man. These preferences naturally influence the food habits of the species, affording it an opportunity to destroy insects which are directly related to agriculture. The food of the killdeer is varied, being composed of the following principal items: Beetles, 37.06 per cent; other insects, as grasshoppers, caterpillars, ants, bugs, caddis flies, dragon flies, and two-winged flies, 39.54 per cent; and other invertebrates, as centipedes, spiders, ticks, oyster worms, earthworms, snails, crabs, and other crustacea, 21.12 per cent. Vegetable matter composes 2.28 per cent of the total food, and is chiefly made up of weed seeds, such as buttonweed, smartweed, foxtail grass, and nightshade.

Among the injurious beetles consumed are the following weevils: Alfalfa weevil, cotton-boll weevil, clover-root weevil, clover-leaf weevil, rice weevil, cowpea curculio, white-pine weevil, and bill bugs. The latter alone constitute more than 2 per cent of the whole food. The alfalfa weevil, a new and destructive pest, is relished by the killdeer, 41 being found in a single stomach. Other destructive beetles devoured are white grubs and their adult forms, the May beetles; wireworms and their imagos, the click beetles; larvæ of the genus *Lygyrus*, which attack sugar cane, corn, and carrots; brown-fruit beetles, which injure apples and corn; the grapevine leaf-beetles; southern corn-leaf beetle; two-striped tortoise beetle, which injures sweet potatoes; and a flea beetle which attacks tobacco and sugar beets.

Cicadas, buffalo tree hoppers, and negro bugs, the last named injuring parsley and raspberries, are some of the true bugs relished by the killdeer. Caterpillars are a favorite article of diet, and several very injurious species are eaten, as the cotton worm, cotton cutworm, other cutworms, and caterpillars of the genus *Phlegethontius*, which damage tomatoes and tobacco. Grasshoppers and crickets, including mole crickets, are a staple food. Two-winged flies or Diptera furnish 11.91 per cent of the food of the killdeer. Such pests as crane flies and their larvæ, known as leatherjackets, are eaten, as well as horseflies and mosquitoes and their larvæ. One stomach contained hundreds of larvæ of the salt-marsh mosquito (*Aëdes sollicitans*), which is one of the most troublesome of the biting species. The State of New Jersey has spent thousands of dollars in trying to reduce the numbers of this pest. The killdeer thus befriends man, but it does something also for the domestic animals, not only by eating horseflies and mosquitoes, as just mentioned, but also by preying upon ticks, including the American fever or cattle tick, which has caused such enormous losses in some parts of the South.

Crawfish, well-known pests in levees and even in corn and other fields in certain localities, are another item of the killdeer's food, and 3.62 per cent of the subsistence of the 229 birds examined was composed of worms of the genus *Nereis*, which prey upon oysters.

In all, 97.72 per cent of the killdeer's food is composed of insects and other animal matter. The bird preys upon many of the worst crop pests and is a valuable economic factor. There can be no logical reason for continuing to regard it as a game bird.

I will now quote from the Craftsman, which notes an instance in the experience of Germany in its modern scientific bird conservation:

Baron Von Berlepsch, called the father of modern scientific bird conservation, has equipped his large estate at Seebach as an experimental station for bird protection. His methods of feeding, his skill in imitating the natural holes found in old trees that birds use for nesting purposes, his clever and sympathetic way of making birds that nest in the grass, bushes, thickets, tall trees, dead trees, clay banks, etc., feel at home are copied by many other landowners. And the wisdom of his protection has been thoroughly proved—

Says the Craftsman—

for at times when adjoining estates were ruined by insect pests his were fresh and unharmed. His fields and his orchards, which were supplied with nesting boxes, were free from noxious insects and caterpillars when all the rest of the neighborhood suffers from these pests.

Mr. John Davey, the celebrated tree surgeon, asserts:

That approximately $100,000,000 loss is caused in the United States yearly by reason of the decrease in the number of native song birds and the increase in the activities of the human—or, rather, inhuman—tree butcher. If we could get plenty of native song birds, no trees would be troubled by insects.

I desire here to call attention to two letters printed in the report of the hearings before your committee, one from Texas and one from Alabama, as follows:

AUSTIN, TEX, *March 2, 1912.*

AMERICAN GAME PROTECTIVE AND PROPAGATION ASSOCIATION,
111 Broadway, New York City.

Impossible to be present at hearing of protective bills before congressional committee. Migratory birds belong to no State, and no State has right to slaughter them at cost of other States. It is purely Federal question, and Congress, under most strict construction of Constitution by Democrats like myself, can not avoid conclusion that interstate birds are as interstate commerce. An open season for wild ducks all the year in Texas and a closed season for them in States lying north is an absurdity. We kill them as they leave and kill them as they come from Mexico on their way to their nests.

W. G. STERETT,
Game, Fish, and Oyster Commission of Texas.

DEPARTMENT OF GAME AND FISH,
Montgomery, March 10, 1912.

AMERICAN GAME PROTECTIVE AND PROPAGATION ASSOCIATION,
111 Broadway, New York City.

DEAR SIRS: I am in receipt of your favor of the 8th, and have also received a communication from Senator McLEAN. Every possible energy I possess will be exercised in bringing all available influences to bear on every Member of Congress of my acquaintance, to the end that the McLean and Weeks bills may be favorably reported and successfully passed.

I have been informed by Senator McLEAN that there is opposition to these bills by many Members of Congress, originating by objection on the part of those who are opposed to Federal interference with powers now exercised by the States. This hostility we must overcome.

I believe that by the promulgation of educational propaganda circulated through the medium of the press of the Nation sufficient sentiment will be generated among the people to cause the various constituents of the different Members of Congress to bring compelling pressure upon their Congressmen, causing them to disregard the idea that the Nation has no right to interfere with what certain Congressmen believe to be States rights. This contention does not apply in any sense, in my opinion, to migratory birds.

I practiced law for a number of years, and was likewise a member of the legislature for several terms, and I have studied these questions. I do not believe that there is unconstitutional inhibition against Federal legislation for the protection of birds of passage.

I inclose herewith a copy of a telegram I sent to the chairmen of the Senate and House committees having jurisdiction of the bills which we are urging for passage.

Very truly, yours, JOHN H. WALLACE, Jr.,
Commissioner.

I will add to these letters a few extracts from the report of the Alabama department of game and fish, bulletin No. 3, March, 1912:

[Alabama Department of Game and Fish, Bulletin No. 3.]

CONSERVATION OF THE GAME, BIRDS, AND FISH OF ALABAMA—THE DUTIES OF GAME WARDENS DEFINED, BY JOHN H. WALLACE, JR., STATE GAME AND FISH COMMISSIONER.

THE CONSERVATION OF OUR NATURAL RESOURCES.

The progress so rapidly made in the various States looking to the preservation of the natural resources of the American Continent is a cause of delight to every naturalist and sportsman, and to all patriotic citizens anywhere and everywhere.

Perhaps no nation has ever been so abundantly endowed with the blessings of forests, mines, waterways, game, birds, and fish as the citizenship of the United States. The splendid abundance of these necessities, comforts, and luxuries of life in pristine times caused our people to prosecute a campaign of relentless annihilation upon the treasures of nature's storehouse, believing that the supply could not be exhausted.

As the star of civilization wended its relentless way toward the golden West the forests were destroyed, and the land that once had been the haunts of the deer, the bear, and the bison became transformed into fertile fields, dotted with happy homes, while the trackless wilderness blossomed at the touch of the peaceful industry of the American husbandman.

Game and birds constituted the principal part of the daily food of the early settlers. Found in its primeval abundance, the wild life of the American Continent was not deemed necessary of protection, even during the breeding season; it was not until many of our most valuable species of birds and game were slaughtered to the point of extermination did our people comprehend the immense value of the natural assets.

LOCAL GAME LAWS FAILURES.

The first effort toward game and bird preservation contemplated protection by the enactment of local laws. These statutes were most conspicuous and pronounced failures, and were openly and notoriously violated on every hand. The cause of such persistent infraction is palpable; there was no specially constituted service to enforce these statutes; no one felt called upon to prosecute his neighbor; and while all agreed that the birds and game should be protected, yet local laws were annulled by the grand juries and abrogated by the petit juries, and still the campaign of relentless destruction continued to be ceaselessly waged.

DOVE BAITING A BARBAROUS PRACTICE.

Formerly, it was the custom to scatter wheat or other provisions on fields for the purpose of attracting doves in large numbers. This practice served to collect in close proximity to the baited field practically all the doves within a radius of 50 miles. At an appointed time, hunters in great numbers would repair by daybreak to the baited field, and the rapid discharge of firearms could be likened unto the raging of a mighty battle. As many as 6,000 doves have been bagged in one field in Alabama in a single morning. Probably one-fourth more were fatally shot, being so badly wounded that they were unable to fly but a short way, only to die. The baiting of fields is but a relic of barbarism, and no surer method is conceivable by which doves can be speedily exterminated than the pernicious practice of baiting fields. This custom has been practically stopped in Alabama, and doves have rapidly increased.

THE PROTECTION OF MIGRATORY BIRDS.

As a reciprocal obligation which is due by us to those who reside in the North, migratory game birds should be protected by the Southern States. Were it not for the fact that during the nesting and breeding season these birds are protected, it would not be long before there would be no birds to migrate during the autumn and winter seasons to this section. Birds know no State lines, and, so far as the preservation and protection of those that belong to the migratory family is concerned, it is a national and not a State question.

A few of our citizens have objected to the protection of robins. These birds nest to the north in orchards and in the immediate vicinity of the homes of citizens; they are much loved on account of their friendliness to man and because of their sweet songs during the spring. Formerly, robins were slaughtered by millions in the South, and oftentimes were fed to hogs. The sensation of horror that must have been felt by the people whose sweetest songbird is the robin would be much akin to that which we would experience if our mocking bird, the Southland's sacred songster, should migrate to Cuba and be there butchered, as robins were formerly in Alabama.

NATIONAL UNIFORMITY NEEDED.

The most imperative need of the present is a uniformity of game and bird laws applying to the States in the same latitude. Likewise national legislation should be had looking to the preservation of migratory birds, in their northern and southern migratory passage through the country, as they do not remain permanently the entire year within the borders of any particular State or Territory. These nomads should be placed within the custody and protection of the Government of the United States. The Department of Agriculture, at Washington, should be authorized to adopt suitable regulations looking to this end by prescribing and fixing closed seasons on game birds which migrate, having due regard to the zones, temperature, breeding habits, and times and lines of migratory flight.

On account of the variability of the statutes relating to the protection of migratory birds in the various States, little or no protection is afforded waterfowl and migratory song and insectivorous birds. In order that many of the most valuable species of migratory birds be saved from extinction, immediate congressional action is imperative.

PROVISIONS UNDER WHICH GAME IS BEST RESTRICTED.

By disarming the pothunter, and quelling his rapacious appetite to slaughter game for the purpose of selling it, by taking out of the fields and forests the vast black horde of negroes that formerly slaughtered game in many sections of the State, almost to the point of extinction, by the prevention of the shipping of live game and dead from our State, and in fact, by placing hunting within the reach of only those who should hunt, we have guaranteed not only to the present generation a fair supply of game and birds, but have assured to those yet to be a priceless benefaction under these splendid statutes.

SONG AND INSECTIVOROUS BIRDS THE FARMER'S FRIENDS.

As a result of scientific research of the most extended nature it has been ascertained that the cause of the prevalence of many maladies and the problem of weed control is largely attributed to the slaughter of insectivorous birds, which in the past have been wantonly murdered by the millions. Birds annually destroy thousands of tons of noxious weed seeds and billions of harmful insects; they were designed to hold in check certain forces that are antagonistic to the vegetable kingdom. The Mexican boll weevil which has made such desperate ravages on the cotton fields of Texas is steadily marching into Alabama, and it has been ascertained that birds are its deadliest enemies. A noted French scientist has asserted that without birds to check the ravages of insects human life would vanish from this planet in the short space of nine years; he insists that insects would first destroy the growing cereals, next would fall upon the grass and upon the foliage, which would leave nothing upon which cattle and stock could subsist.

The possibilities of agriculture having been destroyed, domestic animals having perished for want of provender, man, in his extremity in a barren and desolate land would be driven to the necessity of becoming canabalized or subsisting exclusively on a diet of fish. Even granting that only a portion of what the eminent Frenchman asserts is true, it is easy to glean from this theory that birds are man's best allies and should be protected not only on account of their innocence, bright plumage, and inspiring songs, but because they render to the farmer valuable assistance every day.

The wholesale slaughter of our song and insectivorous birds, which was so persistently waged in the past, has been practically stopped; even in the cities where birds were curiosities they are now seen in large numbers to the delectation of the inhabitants who delight to hear once more the clear, sweet notes of the trilling songsters of the forests.

SAVE THE BIRDS.

Those who love Alabama, who glorify her splendid history, who delight in her imperishable traditions, and who take pride in her boundless natural resources are eager to preserve and protect all that combine to fashion our magnificent State.

The principal vocation of our brave and patriotic people is agriculture, which is one of the most ancient and honorable arts known to man. Upon the yield of our fields depends the happiness and prosperity of our citizens. Where there are abundant crops of fleecy cotton and our garners are full of golden grain the anthems of contentment and the cadences of joy resound throughout our realms and all the world seems set to a tune that is played by happy hearts.

We are assisted in making good crops by an army of feathered friends that work for the husbandman without pay. The part that birds play in protecting farmers from the ravages of injurious insects that prey upon the crops and orchards would be well understood if all the bright colored, harmless songsters of the trees should be exterminated. Without birds our fair State would soon become not only nonproductive, but absolutely uninhabitable.

Cruel men and wanton boys sometimes shoot for sport man's feathered allies. It would be cheaper if the rifle that discharged the shot were loaded with a golden bullet and fired into the sea. Boys were erstwhile allowed to catch and sell young mocking birds and redbirds for 50 cents each. The State is made at least $100 poorer by the act. It would be more economical in the end to give away a golden bird of the same weight. The meadow lark or each one of a bevy of quail in a 10-acre wheat, corn, or cotton field each earns $5 in a single season as an insect destroyer.

Every precaution is taken by us to prevent a thief from stealing even the most trifling of our possessions, but we are oblivious of any effort to dissuade the gunner from shooting birds upon whose existence depends our very livelihood.

Let us unite every energy we possess to save our friends, the birds, from destruction; if we do this, soon every bush will contain a singer, and every tree a choir.

I desire at this point to put into the RECORD a list of the States represented officially before your committee in favor of the pending legislation:

Forty-four of the 48 States of the Union were represented at the committee hearing by letter or in person either through their governors or their State game commissioners, or through representatives of sportsmen's associations, National Association of Audubon Societies, the American Game Protection and Propagation Associations, the Boone and Crockett Clubs, the League of American Sportsmen, the New York Zoological Society, and other national associations interested in the protection proposed by the bill. All favored this legislation being added

to the Federal Statutes. Three of the States—Oklahoma, New York, and Massachusetts—have indorsed the proposition by legislative act.

Alabama: State game and fish commissioners.
Arkansas: State game warden.
California: Board of fish and game commissioners.
Colorado: Game commissioner, and letter from Gov. Shafroth.
Connecticut: Commissioner of fish and game.
Delaware: Board of game and fish commissioners.
Georgia: Fish and game protective association.
Idaho: Letter from Gov. Hawley.
Illinois: State game commissioner.
Indiana: State fish and game commissioner, and letter from Gov. Marshall.
Iowa: State fish and game warden.
Kansas: State fish and game warden.
Kentucky: Fish and game commissioner.
Maine: President Maine Fish and Game Associations.
Maryland: State fish and game warden.
Massachusetts: Fish and game commission.
Michigan: State game, fish, and forestry warden, and letter from Gov. Osborn.
Minnesota: Minnesota Game and Fish Commission, and letter from Gov. Eberhart.
Mississippi: State game warden.
Missouri: State game and fish department.
Montana: State game warden.
Nebraska: Chief game warden.
New Hampshire: Board of fish and game commissioners.
New Jersey: Fish and game commissioners.
New Mexico: Game warden.
New York: Board of fish and game commissioners, and letter from Gov. Dix.
North Carolina: President North Carolina Audubon Society.
North Dakota: Letter from Gov. Burke.
Ohio: Chief fish and game warden.
Oklahoma: State game and fish warden, and letter from Gov. Cruce.
Oregon: Fish and game commission, and letter from Gov. West.
Pennsylvania: Board of game commissioners.
Rhode Island: Chairman of bird commission.
South Carolina: Chief game warden.
South Dakota: State game warden, and letter from Gov. Vessey.
Tennessee: State game warden.
Texas: Game, fish, and oyster commissioner, and letter from Gov. Colquitt.
Utah: Fish and game commissioner, and letter from Gov. Spry.
Vermont: Department of fisheries and game.
Virginia: Secretary Game Protective Association.
Washington: Fish and game commissioner.
West Virginia: West Virginia State forest, game, and fish warden.
Wisconsin: State game warden, and letter from Gov. McGovern.
Wyoming: Letter from Gov. Carey.
Nova Scotia: Chief game commissioner.

Also resolutions of the Legislatures of Oklahoma, New York, and Massachusetts, urging the enactment of the Senate bill.

And now, Mr. President, I come to the question of ways and means. I shall expect very few Members of this body will object to the ends sought to be accomplished by this bill, but I must expect that every Senator will want to know by what authority Congress seeks to establish its right to enact the proposed legislation. I shall not attempt to discuss this branch of the subject at any length at this time. I simply desire to call the attention of the Senate to a few suggestions which have led me to the conclusion that this law does not offend the Constitution.

When this question was first brought to my attention, more than a year ago, the friends of the bill suggested that Congress might go for its authority to that apparently inexhaustible mine of legislative indulgencies—the interstate-commerce clause of the Constitution. We must all admit, I think, that this clause is now held to include authority to protect the health, safety, and morals of the people in ways not anticipated by the founders, but I do not believe that it is necessary to go to that source to find constitutional support for the bill now under consideration.

It has been suggested to me by others that this bill can be defended under the grant of power to lay taxes and provide for the common defense. If the destruction caused by insects should increase during the next 20 years as rapidly as it has increased since 1893, it is urged that we may well reach a condition so desperate that the protection of the Nation against insects will be as necessary and justifiable as is now the protection of the people against contagious diseases and hostile fleets. Congress is to-day spending millions of dollars annually in ineffective efforts to protect certain portions of the country against the ravages of the army worm, boll weevil, gypsy moth, and so forth. No one will question the wisdom or legitimacy of these appropriations. If Federal aid can be invoked to restrain the ravages of migratory insects, it is asserted that Congress must have authority to use any and all legitimate means to accomplish this purpose, including the protection of birds which destroy insects more effectively and at less expense than any other instrument which it is possible for the Government to employ. Would such protection on the part of Congress be any further from the anticipations of the founders than scores of other laws now in force? For instance, than the laws which defend and protect the youth of the country against the contaminating influence of unwholesome literature, the authority for which is found in the power to establish post offices and post roads? These laws, when first proposed, were denounced as unconstitutional and void by both Mr. Webster and Mr. Calhoun, who in their day represented both horns of the constitutional dilemma upon which the Nation was impaled, until rescued by Marshall and others who had the good sense to perpetuate in the Constitution the spirit, as well as the language, of its framers.

These suggestions are worth considering, but as it is my firm belief that Congress is competent to enact this law without the aid of either of the grants of power to which I have referred, I will not discuss them further. When I have what I believe to be a good excuse I do not care to cloud it with what may prove to be an insufficient one.

A year ago I felt so uncertain of the authority of Congress in the premises that I introduced a resolution proposing an amendment to the Constitution, giving Congress full power to protect migratory birds. Since that time, and upon a careful study of the matter, I have become convinced that every nation worthy of the name has the power to protect its migratory feræ naturæ.

In the first place wild game is not property. Under the common law and by the decisions of the Supreme Court of the United States, wild game belongs to no one. The right to take wild game from time immemorial has always rested in the sovereignty. A State may prohibit the killing of feræ naturæ altogether, and when killed a State may attach to its use or disposal any condition it may desire. The one thing therefore, which should be borne in mind in the consideration of this subject is that from no point of view is any property or political right involved. No matter how sensitive or how justly jealous any Member of this body may be of the right of his State to enjoy supreme control over the civil, political, or jural rights of its citizens, there is nothing in the pending bill that need give him the least concern. No vested right under the common, State, or Federal law can ever be endangered, effaced, or modified by the Federal protection of the migratory birds of the air. The fact that the States have heretofore assumed and exercised control over wild game, both migratory and nonmigratory, where no discrimination has been suggested or desired, is immaterial, and the fact that there is in the Constitution no expressed grant of such control to the Congress may not be material.

It is worth while to note at the beginning of our consideration of the powers of Congress over this matter that the nations of Europe, as far back as 1873, faced a situation not unlike that which the countries of the Western Hemisphere are now facing. In 1873 the Congress of Agriculturists and Foresters moved "That the Imperial Austrian Government be requested to secure the protection of birds by means of treaties with other states of Europe." In 1875 Germany, Austria, and Italy entered into a joint declaration for the protection of birds. Since that time four international ornithological congresses have been held at different periods in London, Paris, Budapest, and Vienna, and finally, in 1906, 11 European powers ratified an international agreement consisting of 11 articles, which formed a comprehensive code for the protection of birds.

I take it for granted that should Great Britain and Mexico invite the United States to enter into a treaty agreement for the protection of migratory birds, inhabiting at stated periods all three nations, the United States would have the right to accept this invitation.

Mr. Butler, in the latest edition of his work on the Treaty-Making Power, after reviewing the history of the leading cases on the subject, says:

First. That the treaty-making power of the United States as vested in the Central Government is derived not only from the powers expressly conferred by the Constitution, but that it is also possessed by that Government as an attribute of sovereignty, and that it extends to every subject which can be the basis of negotiation and contract between any of the sovereign powers of the world, or in regard to which the several States of the Union themselves could have negotiated and contracted if the Constitution had not expressly prohibited the States from exercising the treaty-making power exclusively in and expressly delegated it to the Federal Government.

Second. That the power to legislate in regard to all matters affected by treaty stipulations and relations is coextensive with the treaty-making power, and that acts of Congress enforcing such stipulations which in the absence of treaty stipulations would be unconstitutional as infringing upon the powers reserved to the States are constitutional and can be enforced, even though they may conflict with State laws or provisions of State constitutions.

Third. That all provisions in State statutes or constitutions which in any way conflict with any treaty stipulations, whether they have been made prior or subsequent thereto, must give way to the provisions of the treaty or act of Congress based on and enforcing the same, even if such provisions relate to matters wholly within State jurisdiction.

It is a significant fact that there is pending at the present time a treaty with Great Britain which provides for the preservation and protection of food fishes in the boundary waters of the United States and Canada. This treaty includes lakes en-

tirely within State control, as, for instance, Lake Champlain. All this may be true, and yet it will not necessarily follow that Congress can in the absence of a treaty exercise control over migratory birds or fishes. It does indicate, however, that the subject matter is one of national concern and one which the Nation only can control effectively.

Mr. LODGE. If the Senator will allow me, I notice he says the treaty is pending. The treaty has been ratified, but the law to carry out the treaty is pending in the Parliament.

Mr. McLEAN. In this connection, the fact that Congress has in the past assumed the right to regulate the taking of food fishes in waters within State control is very important. In 1871 Congress enacted the following provision—section 4398 of the Revised Statutes:

The commissioner—

That is, the fish commissioner—

may at all times in the waters of the seacoast of the United States where the tide ebbs and flows, and also in the waters of the lakes, take such fish, or specimens thereof, as, in his judgment, may from time to time be needful for the conduct of his duties, any law, custom, or usage of any State to the contrary notwithstanding.

Again, in 1887, Congress enacted a law regulating the taking of mackerel on the Atlantic coast. This law was enforced for five years, and its constitutionality was never questioned. Here we have two instances of the clear assertion on the part of the Federal Government of full power to regulate and protect the migratory fishes in waters entirely under State control. "any law, custom, or usage of any State to the contrary notwithstanding." It is true that the Supreme Court has never passed upon the constitutionality of either of these acts. All I claim is that if these laws are constitutional the pending bill is constitutional.

It seems to me that the analogy between migratory birds and fishes is complete, and that the argument in favor of Federal control of migratory birds is much stronger than that which obtains in the control of migratory fishes. Take, for instance, the fishes of Lake Champlain. It is hardly possible that fish hatched within 10 miles of the southern boundary of that lake would ever get within 50 miles of the Canadian boundary, yet we know that the wild goose that may be choosing its mate in the waters of Currituck Sound in March will be in Canada in April unless by permission of some State it is killed in migration. The fishes are confined both by habit and by the element in which they live to a much smaller sphere of migration than the birds. In fact, migratory birds are bounded only by the extent of the atmosphere. Many of them that spend the summer in North America spend the winter in the Argentine Republic, or in some of the distant islands of the sea.

If I am not mistaken in assuming that the Federal Government has to the same or far greater extent the right to protect migratory birds that it has to protect the swimming fishes, the purposes of this bill have been clearly approved by the Supreme Court of the United States in a decision to which I will now call attention.

On February 12, 1912, Mr. Chief Justice White delivered the opinion of the court in the case of the vessel *Abby Dodge* v. The United States. This case arose under the act of Congress prohibiting the taking of sponges by means of diving or diving apparatus from the waters of the Gulf of Mexico or the Straits of Florida. In the opinion the court refers to the case of Manchester v. Massachusetts (139 U. S., 240) in the following language:

Again, in Manchester v. Massachusetts (139 U. S., 240), in upholding a statute of the State of Massachusetts regulating the taking of menhaden in Buzzards Bay, the doctrine of the case just cited was expressly reiterated. True, further in that case, probably having in mind the declaration made in the opinion in the McCready case, that fish running within the tidewaters of the several States were subject to State ownership "so far as they are capable of ownership while running," the question was reserved as to whether or not Congress would have the right to control the menhaden fisheries. But here also for the reason that the question arising relates only to sponges growing on the soil covered by water we are not concerned with the subject of running fish and the extent of State and National power over such subjects.

Bearing in mind that in this case the court says, "We are not concerned with the subject of running fish and the extent of State and National power over the subject," we now turn to the case of Manchester v. Massachusetts, where the court was concerned with that subject, and I now quote from the opinion in that case delivered by Justice Blatchford (pp. 262–266):

The statutes of Massachusetts in regard to bays at least make definite boundaries which before the passage of the statutes were somewhat indefinite; and Rhode Island and some other States have passed similar statutes defining their boundaries. (Public Statutes of Rhode Island, 1882, c. 1, secs. 1 and 2; c. 3, sec. 6; Gould on Waters, sec. 10 and note.) The waters of Buzzards Bay are, of course, navigable waters of the United States, and the jurisdiction of Massachusetts over them is necessarily limited (Commonwealth v. King, 150 Mass., 221); but there is no occasion to consider the power of the United States to regulate or control, either by treaty or legislation, the fisheries in these waters, because there are no existing treaties or acts of Congress which relate to the menhaden fisheries within such a bay. The rights granted to British subjects by the treaties of June 5, 1854, and May 8, 1871, to take fish upon the shores of the United States had expired before the statute of Massachusetts (Stat., 1886, c. 152) was passed, which the defendant is charged with violating. The Fish Commission was instituted "for the protection and preservation of the food fishes of the coast of the United States." Title 51 of the Revised Statutes relates solely to food fisheries, and so does the act of 1887. Nor are we referred to any decision which holds that the other acts of Congress alluded to apply to fisheries for menhaden which is found as a fact in this case to be a food fish and to be only valuable for the purpose of bait and of manufacture of oil.

The statute of Massachusetts, which the defendant is charged with violating, is in terms confined to waters "within the jurisdiction of this Commonwealth," and it was evidently passed for the preservation of the fish, and makes no discrimination in favor of citizens of Massachusetts and against citizens of other States. If there be a liberty of fishing for swimming fish in the navigable waters of the United States common to the inhabitants or the citizens of the United States, upon which we express no opinion, the statute may well be considered as an impartial and reasonable regulation of this liberty; and the subject is one which a State may well be permitted to regulate within its territory, in the absence of any regulation by the United States. The preservation of fish, even although they are not used as food for human beings but as food for other fish which are so used, is for the common benefit; and we are of the opinion that the statute is not repugnant to the Constitution and laws of the United States.

It may be observed that section 4398 of the Revised Statutes (a reenactment of section 4 of the joint resolution of February 9, 1871) provides as follows in regard to the Commissioner of Fish and Fisheries: "The commissioner may take or cause to be taken at all times in the waters of the seacoast of the United States, where the tide ebbs and flows, and also in the waters of the lakes, such fish or specimens thereof as may in his judgment from time to time be needful or proper for the conduct of his duties, any law, custom, or usage of any State to the contrary notwithstanding." This enactment may not improperly be construed as suggesting that, as against the law of a State, the Fish Commissioner might not otherwise have the right to take fish in places covered by the State law.

The pertinent observation may be made that as Congress does not assert by legislation a right to control pilots in the bays, inlets, rivers, harbors, and ports of the United States, but leaves the regulation of that matter to the States (Cooley v. Board of Wardens, 12 How., 299), so if it does not assert by affirmative legislation its right or will to assume the control of menhaden fisheries in such bays the right to control such fisheries must remain with the State which contains such bays.

We do not consider the question whether or not Congress would have the right to control the menhaden fisheries which the statute of Massachusetts assumes to control; but we mean to say only that as the right of control exists in the State in the absence of affirmative action of Congress taking such control, the fact that Congress has never assumed control of such fisheries is persuasive evidence that the right to control them still remains in the State.

Is not this a clear intimation by the Supreme Court of the United States that Congress has the right to assume control of migratory fishes?

In New York v. Hill (184 N. Y., 126) the court, in discussing the constitutionality of the Lacey Act, says:

The object of this legislation—the Lacey Act—was to enable the States by their local laws to exercise a power over the subject of the preservation of game and song birds, which, without that legislation, they could not exert. By the Lacey Act Congress determined to aid the States in the enforcement of their game laws, but did not deem it wise to enact a game law of its own, and this for the very obvious reason that the game laws of the States vary, a variation justified in no small degree by the varying climatic conditions.

I quote this case in order that the Senate may see how easily the virgin minds of the judges of our highest courts accord to the Nation this simple and plain attribute of sovereignty which every nation must have. There seems to have been no doubt in the mind of the Supreme Court of New York that Congress could have enacted a law of its own had it so desired.

In the case of Geer v. Connecticut (161 U. S.) and other cases where the court has held that the State has final jurisdiction to protect and regulate the killing of wild game the game involved was in every instance nonmigratory, and the right of the Federal Government to control the taking of migratory birds has, so far as my research goes, has never been denied or questioned. Such observations as the Supreme Court has been led to make in cases involving the authority of Congress over feræ naturæ clearly support my contention as it seems to me.

In considering questions which involve the general powers of the Government it is always interesting to refer to the debates and discussions in the convention that framed the Constitution, but I came to the conclusion some years ago that the Constitution was made by and for strict and loose constructionists alike. Certainly history subsequent to the formation of the Union is full of the names of strict constructionists who, when clothed with high authority, have had the courage to give to the Constitution the loosest possible interpretation when wisdom and patriotism have demanded it. This is as it should be if this Union of States is to be a political and economic success and not a political and economic failure. The foundations were laid by the fathers broad and strong and deep enough to meet the needs of the Nation however great that Nation might become. The fact that the Federal Government has for many years failed to assume or exert a dormant power is of no consequence; neither can any State or the United States lose an inherent right or power by nonuser, and these rights and powers may be

concurrent. A State may and does regulate many matters which are permissive merely and may be suspended at any time by the Federal Government. In the case of Gilman v. Philadelphia (3 Wall., 713) the court used the following language:

The States may exercise concurrent or dependent power in all cases but three:

1. Where the power is lodged exclusively in the Federal Constitution.
2. Where it is given to the United States and prohibited to States.
3. Where, from the nature and subjects of the power, it must necessarily be exercised by the National Government exclusively.

It is no objection to distinct substantive powers that they may be exercised upon the same subject. It is not possible to fix definitely their respective boundaries. In some instances their actions become blended. In some the action of the State limits or displaces the action of the Nation; in others the action of the State is void, because it seeks to reach objects beyond the limits of State authority.

The defendants are proceeding in no wanton or aggressive spirit. The authority upon which they rely was given and afterwards deliberately renewed by the State. The case stands before us as if the parties were the State of Pennsylvania and the United States. The river being wholly within her limits we can not say the State has exceeded the bounds of her authority. Until the dormant power of the Constitution is awakened and made effective by appropriate legislation, the reserved power of the States is plenary, and its exercise in good faith can not be made the subject of review by this court.

The junior Senator from Idaho [Mr. BORAH] presented to the Senate during the second session of the Sixty-first Congress Senate Document 417, a statement prepared by the junior Senator from Utah [Mr. SUTHERLAND], which I think is a very conservative and sound statement of the powers of the National Government, and with his permission I quote that document, as follows:

That all necessary power over external affairs should be vested in the National Government was clearly within the contemplation of the framers of the Constitution. The first paragraph of Mr. Randolph's proposed plan was to the effect that the Articles of Confederation ought to be enlarged so as to accomplish the objects of their institution, namely, "the common defense, security of liberty, and general welfare," and the sixth paragraph declared that the National Legislature—

"ought to be empowered to enjoy the legislative rights vested in Congress by the confederation, and moreover to legislate in *all* cases to which the *separate* States are *incompetent*, or in which the harmony of the United States will be interrupted by the exercise of individual legislation." (Madison Papers, 5 Elliott's Debates, p. 127.)

After some discussion this latter paragraph was adopted, and in this form it was reported to the convention from the committee of the whole. In the convention Mr. Sherman proposed to amend it by substituting the words "to make laws binding on the people of the United States in all cases which may concern the common interests of the Union; but not to interfere with the government of the individual States in matter of internal police which respect the government of such States only, and wherein the general welfare of the United States is not concerned." But this was rejected. Finally, on motion of Mr. Bedford, it was amended so as to read, "and moreover to legislate in all cases for the general interests of the Union, and also in those to which the States are severally incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation," and in this form it was referred to the committee of detail (the word "separately" being substituted for the word "severally") as one of the resolutions *to govern them in the preparation of the Constitution* to be finally submitted to the convention. It will be seen, therefore, that it was the unanimous opinion of the framers' convention that power should be conferred by the Constitution upon Congress to legislate in *all cases to which the States were severally incompetent*. It does not appear that the members of this convention at any time changed their opinions, and it therefore must be assumed that in the judgment of these men who framed the Constitution such power was conferred by that instrument. The declared purpose of the Constitution as stated in the preamble is "to form a more perfect union, establish justice, insure domestic tranquillity, *provide for the common defense, promote the general welfare*, and secure the blessings of liberty to ourselves and our posterity." While it is true that the preamble can not be construed as a substantive grant of power, it is valuable as reflecting light upon the powers granted, and the meaning and intent of those who framed and adopted the Constitution. In other words, the preamble states the ultimate objects to be attained by the establishment of the Constitution, and, among them, to "provide for the common defense and promote the general welfare." These are the *ends* to be attained, the powers conferred upon the Government are the *means*; but always the end is more important than the means. The *powers* of government must be commensurate with the *objects* of government, else only a semigovernment has been created.

On page 7 of the same document, 417, Senator SUTHERLAND says:

They were familiar with the great principles which governed the various nations as political entities, and knew that in the eye of international law every sovereign nation was *ipso facto* equal to every other sovereign nation, and that the highest law of every nation was that of self-preservation. Vattel had written in 1758, and this they read: "Whatever is lawful for one nation is equally lawful for another; and whatever is unjustifiable in the one is equally so in the other." Why should any citizen of the great Republic, proud of its strength and glory, desire that *his* government should be inferior in power to any government or less potential in ability to act for the benefit of the people or in the upbuilding of their country and institutions? Such governmental authority is less to be feared under our institutions than under those of the great monarchies across the sea, because there the government dictates and the people obey, but here the people command and the government obeys, and in the last analysis it is the people who exercise the power through the government which is the servant and agent of the people. It is time we realized, not in phrases alone, but in fact, that the Government of the United States is perfect in all its limbs and not a cripple among the full-grown governments of the world.

The construction of the Constitution has undergone a process of progressive evolution. The earlier decisions of the Supreme Court, notably those written by Chief Justice Marshall, laid down the doctrine of the implied powers, and it was held that Congress possessed not only those powers which were expressly conferred, but implied power to pass all legislation necessary to carry them into effect. But from time to time Congress passed laws not referable to or capable of being implied from any one particular express power, and the legislation was upheld if the authority could be deduced from a number of express powers grouped together, or from the sum total of all of them combined. But Congress has from time to time gone beyond even this and passed laws that by no reasoning can be justified under any or all of the express powers or by virtue of any implication to be drawn therefrom. Some of these acts have been passed upon by the Supreme Court, while others have never been considered by that tribunal. Members of the court have from time to time broadly announced the doctrine that the General Government is one of enumerated powers and can exercise no authority not expressed or implied in the written words of the Constitution, yet some of the decisions can be logically justified only upon the theory that the Government possesses certain powers which result from the fact that it is a *National* Government and the only Government capable of exercising the powers in question. The doctrine is foreshadowed if not stated by Hamilton, when he says: "There are express and implied powers, and the latter are as effectually delegated as the former. There is also another class of powers which may be called *resulting* powers—resulting from the whole mass of the power of government and from the *nature of political society* rather than as a consequence of any especially enumerated power." There is, for example, no express language in the Constitution conferring upon the Government of the United States the power to acquire additional territory. The question first arose in connection with the Louisiana purchase. Mr. Jefferson thought the acquisition unconstitutional. Albert Gallatin, then Secretary of the Treasury, and a statesman and lawyer of great ability, gave it as his opinion that the acquisition was valid, either as an *inherent right* of the United States *as a nation* to acquire territory or as a constitutional right under the treaty-making power. It seems to have finally been determined that this acquisition as well as some others were justified under the treaty-making power."

On page 10 of the same document, 417, Senator SUTHERLAND quotes:

Chief Justice Marshall in Gibbons v. Ogden (9 Wheat., 195):

"The genius and character of the whole Government seem to be that its action is to be applied to all the external concerns of the Nation, and to those internal concerns which affect the States generally; but not to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere, for the purpose of executing some of the general powers of the Government."

Senator SUTHERLAND, in closing his article on the Powers of National Government, says:

If we are to preserve the great governmental system conceived by the Declaration of Independence and perfected by the Constitution we must realize in feeling and in fact that the rights of the States and the rights of the Nation are not antagonistic but complementary; and that the usurpation by the General Government of any State power over local affairs, and the denial to the General Government of any necessary power over national affairs are equally unfortunate and equally subversive of the spirit of the Constitution, which is the paramount law of State and Nation alike.

Again, in the report of the Judiciary Committee of the Senate on the Federal accident and compensation bill I find plenty of encouragement for taking the position that I do upon this matter, and I quote from that report, as follows:

(5) The Constitution is the same to-day as it was when adopted. It continues to speak with the same meaning, but the application of its provisions is capable of constant extension to meet new and altered social, political, and industrial conditions.

In the same report, on page 27, the committee quotes from the case of Debs (158 U. S., 564, 591):

Constitutional provisions do not change, but their operation extends to new matters as the modes of business and the habits of life of the people vary with each succeding generation.

In the same report, on page 33, the committee quotes from the case of Hurtado v. California (110 U. S., 516):

The Constitution of the United States was ordained, it is true, by descendents of Englishmen, who inherited the traditions of English law and history; but it was made for an undefined and expanding future.

No man in the Senate is more jealous of State, municipal, or community government than I am, but it is my belief that the way to preserve and perpetuate State and community control over local affairs is to willingly render to the Nation the things that the Nation alone can wisely and effectively control. Every time the States trust the Nation to do that which the States severally can not do, the States add confidence and strength to their right to retain control of the functions they are best fitted to perform.

While the preamble is not a part of the body of the Constitution, is it not its very soul and spirit? And if some twentieth-century Marshall should put the soul within the body, where it belongs, the throne of State sovereignty would, in my opinion, totter less frequently than at present.

The expressed purpose of the founders was to create a nation—a sovereignty that could provide for the common defense and promote the general welfare. These are the things that the confederation had failed to do. If in the throes of compromise and State jealousies and fears the purposes and main desire of the founders was defeated, then our much-boasted Government "of, for, and by the people" has never existed. If the Nation has not the power to promote by law the general welfare of

the people, then we must conclude that the people in their grant of power to Congress denied to themselves the right to govern themselves wisely and well—denied to themselves the very thing the Constitution was created to secure. If this mistake was made, it is a mistake that will and should be remedied.

As has been well said, this great Nation is not a menagerie consisting of 48 different cages, each cage containing a different species of animal. It is a great Nation, composed of a homogeneous patriotic people.

Mr. President, my contention is that Congress has the implied power as a natural and necessary attribute of its sovereignty to provide for the common defense and promote the general welfare of the Nation whenever the need is general and manifest, and the subject is such that no State, acting separately, can protect and defend itself against the threatened danger or secure to itself those benefits to which it is justly entitled as a part of the Nation. This question, like all others relating to social formulas, soon reduces itself to the simple question of reason and justice, and justice does not have one set of scales for the big things and another for the little things. The same law that causes the apple to fall to the ground keeps the stars in their places; the same simple principle of right that forbids the trespasses of neighbors forbids the trespasses of nations and forbids any State of this Union to encroach upon the natural and just rights of any other State. It is not the right to kill that is paramount. It is the right to the protection which the birds afford; it is the right to preserve the flora, the grain, vegetables, and fruits that is paramount.

The point of first importance in considering questions of this kind is the gravity and imminence of the danger threatened and the extent and nature of the benefit to be derived from the proposed legislation. No one questions the right of the Federal Government to quarantine its ports against the introduction of plagues and contagious diseases. No one questions the right of any State to protect its borders. The question as to whether the Nation and the State have concurrent jurisdiction or whether sole jurisdiction shall be given to the one or the other is the question of competency. If the State, by exerting its authority, can secure to its citizens the protection to which it is justly and fairly entitled, there will be no need of Federal interference except as it may be complementary and at the request and with the approval of the State, but if need for assistance is manifest, if the danger is real and general and it is not within the power of a single State to protect itself and secure the benefits and protection to which it is justly and fairly entitled, then there is, as it seems to me, no escape from the conclusion that the common defense and general welfare of the people must utterly fail unless the Nation can come to the rescue.

So, Mr. President, if it be true that the migratory birds of the Western Hemisphere are worth saving, and I shall assume that they are, is it not equally true that the State of Connecticut is incompetent and powerless to accomplish this result single handed? If it is true that the people of Connecticut are entitled to their share of the benefits resulting from the preservation of the migratory birds of the Western Hemisphere, I insist that however small that share may be the State of Connecticut is utterly incompetent and powerless to preserve and protect it. It must be clear that during six months of each year every one of these birds may be killed with impunity, the laws of the State of Connecticut to the contrary notwithstanding. Mr. President, no State and no group of States can provide the remedy needed. The State is wholly incompetent. The Nation itself is competent to a degree only.

Mr. BORAH. Mr. President, I desire to ask the Senator, in view of the statement he has just made, why it would not be possible for the States individually to afford protection, if they should act in unison and in concert in regard to the matter—that is, if all of them should act upon the subject?

Mr. McLEAN. They have had the experience of a century and a quarter, I suppose, doing the best they could under the circumstances; but in the very nature of the case it is a matter that excites jealousies and retaliations. So far as the broad question is concerned, it is not a State matter; it is not a national matter; it is a continental question; it is a question for the Western Hemisphere to decide, as it seems to me.

Mr. BORAH. Have the States which have petitioned Congress for this action and which have spoken through their game wardens, and so forth, themselves made any effort to protect the situation? Have they laws upon the subject?

Mr. McLEAN. Yes; nearly every State in the Union; and, as the Senator will see from some of the extracts which I have inserted in my remarks, the best efforts that can be made State wise have up to date proven utterly ineffective.

Mr. BORAH. The reason I asked that question——

Mr. McLEAN. State comity can not be exercised because the matter is one which would breed a spirit of retaliation. Each State is anxious to get the most it can, especially of the game birds. As I have told the Senate, in seven States of the Union the robin is to-day a game bird, and is killed by the tens of thousands. It is estimated that in Louisiana alone two years ago 50,000 robins were killed.

Mr. BORAH. Then, where is the law in Louisiana which prohibits that?

Mr. McLEAN. There is none.

Mr. BORAH. That is exactly what I wished to know. The State has not undertaken to do anything at all.

Mr. McLEAN. Only in regard to game birds, and they have a closed season for some of the song birds, but the State laws are like a crazy quilt.

Mr. BORAH. The reason I asked the question was because I have an abiding conviction that when we formed this Government there were no powers of government lost anywhere. A power rests either with the National Government or with the State governments. If the State governments have not the power and can not, in the exercise of the powers which they have, protect themselves in this respect, that is a strong argument, to my mind, why the National Government may have the power; there is a power somewhere. But I do not see that the States have taken any concerted action in regard to this matter at all, and it seems clear that they have the power, but have simply failed to use it.

Mr. McLEAN. None whatever, only to trespass upon each other and kill all the birds they can.

Mr. BORAH. On the other hand, I do not think that the Constitution of the United States can be construed in the light of the negligence of the States. Simply because the States neglect to use their reserved powers constitutes no reason why the National Government should assume to exercise unconstitutional powers. The very fact that the States decline to exercise a power may be an expression, as it were, of their desire that power be not used.

Mr. McLEAN. Mr. President, when we give this question the consideration it deserves, we must see at once that it presents a problem far beyond that of State pride or State sovereignty. It calls for an exercise of authority as far removed from State legislation as Patagonia is distant from Alaska. It is not a State question—it is not a national question; it is a continental question. It does not involve the right of either State or Nation to destroy bird life. It is not the right to kill the robin; it is the right every State and nation has to enjoy its just share of the blessings of Providence—its natural resources. It is the duty of the United States to lead the way now; i. e., go as far as it can and start now, as it was the duty of Austria to lead the way for the European nations 40 years ago. Future generations will never forgive us if we delay this matter longer, and we will not deserve forgiveness if we delay longer. If this law is enacted we may hope and expect that the other nations of the Western Hemisphere will recognize the wisdom and necessity of following our lead, and either by treaty or law bear witness to the fact that American civilization has ceased to recognize the wanton destruction of one of its most beautiful and useful natural blessings and benefits as the right of any man or set of men.

The senior Senator from New York, in a recent address before the Pennsylvania Society, put this branch of the subject where I am quite willing to leave it for the present. In this address the distinguished Senator says:

> The instinct of self-government among the people of the United States is too strong to respect anyone's right to exercise a power which he fails to exercise. If the States fail to furnish it in due measure, sooner or later constructions of the Constitution will be found to vest the power where it will be exercised—in the National Government.

Mr. BORAH. I do not understand that the Senator from New York advocated that that could be done without an amendment to the Constitution; that the neglect of a State to act would give rise rightfully to a new interpretation or justify the construing into the Constitution of a new provision.

Mr. McLEAN. The Senator from New York did not say that.

Mr. ROOT. The Senator from New York was not advocating anything except that the States should perform their duty. He was giving a warning to the States that if they did not perform their duties, if they did not exercise their powers, they might expect sooner or later to lose their powers. It was not advocacy; it was warning.

Mr. BORAH. The Senator from Idaho understood the Senator from New York correctly. The Senator was not arguing that by reason of the failure of the States to do their duty the National Government could constitutionally assume the powers which had been reserved to the States.

Mr. ROOT. Certainly not.

Mr. McLEAN. Mr. President, my point is that no single State is competent to furnish the protection that is necessary.

It is beyond the power of any State to do it, and there is no other way to secure this legislation, which will reach the general welfare, if we can believe anything that these gentlemen who have made a life study of this question tell us, than for the Federal Government to assume control; and we must expect that in due time we shall have a Pan-American agreement in regard to this matter, just as they have in Europe. I do not believe there will be any other way to effectively accomplish the protection of the insectivorous bird.

Now, Mr. President, I want to say just a word about the administration of this proposed law.

ADMINISTRATION.

The administration of this law has been placed in the Department of Agriculture, with certain restrictions as to penalties and other conditions preventing interference with State regulations. This bill provides that the Secretary of Agriculture shall establish certain zones dependent upon climatic conditions and the habits of the birds to be protected and make such regulations within these zones as the law directs.

I am myself opposed to the multiplication of administrative laws or the delegation of judicial powers to commissions unless the necessity is very clear. We have to-day scores of governmental agencies and bureaus clothed with judicial functions, some of them giving wide scope to the discretion of administrative officers. But it does not follow that a lack of caution in one case should demand unreasonable and unnecessary caution in another. Where Government officers and agents are clothed with full authority to seize and destroy private property to the end that the health, morals, and safety of the community may be conserved, injustice and hardship may occur unless the Government agency is of the highest order.

But again I call your attention to the fact that the bill under consideration in no way affects or imperils property or private rights. No harm can come to any citizen unless he destroys life in which he has no property right, and in every such case the constitutional rights of the accused, both as regards his arrest and trial, are left wholly undisturbed.

The only power delegated in this bill is the power to designate and bound the several zones. I am heartily in favor of leaving this matter to the Department of Agriculture, because there is every reason to believe that its officers will act with much more accurate information than can be had by a congressional committee. Indeed, if Congress should undertake to establish the zones provided for in this bill, its best source of information would be the ornithologists and experts in the Agricultural Department.

It is to be borne in mind that this bill is a beginning. Improvements upon the pending legislation will probably come with experience, but the bill as it stands can result in no harm to any human being or his possessions. It has more than an even chance, I think, of becoming one of the most beneficial and highly prized institutions of the country. If anyone is concerned about the expense which may be entailed in the operation of this law, I will call his attention to the fact that since 1903 Congress has appropriated $3,530,284, which has been expended by the Bureau of Entomology in its investigations of insects injurious or beneficial to agriculture, horticulture, and arboriculture:

Appropriations for the fiscal years 1903–1913.

1903.	General expenses, Bureau of Entomology	$45,500
1904.	General expenses, Bureau of Entomology	65,500
1905.	General expenses, Bureau of Entomology	70,000
	Cotton-boll weevil investigations (allotted to Bureau of Entomology)	80,000
1906.	General expenses, Bureau of Entomology	68,000
	Cotton-boll weevil investigations (allotted to Bureau of Entomology)	84,444
1907.	General expenses, Bureau of Entomology	75,000
	Prevent spread of moths	82,500
	Cotton-boll weevil investigations (allotted to Bureau of Entomology)	85,000
1908.	General expenses, Bureau of Entomology	113,800
	Preventing spread of moths	150,000
	Cotton-boll weevil investigations (allotted to Bureau of Entomology)	40,000
1909.	General expenses, Bureau of Entomology	158,800
	Preventing spread of moths	250,000
1910.	General expenses, Bureau of Entomology	198,400
	Preventing spread of moths	300,000
1911.	General expenses, Bureau of Entomology	202,900
	Preventing spread of moths	300,000
1912.	General expenses, Bureau of Entomology	256,950
	Preventing spread of moths	284,840
1913.	General expenses, Bureau of Entomology	328,750
	Preventing spread of moths	284,840
	Exterminating the army worm	5,000
	Total	3,530,284

If Congress can legitimately expend millions of dollars in ineffective and temporary efforts to protect the flora of the country from the ravages of insects, I can see neither economy nor statesmanship in a refusal to use agencies that promise permanent protection to a very considerable extent and at a very slight cost. If 10 per cent of the loss now caused annually by destructive insects can be prevented, it means an annual saving of $80,000,000 to the agricultural interests of the country, and this bill calls for but $10,000. And now, Mr. President, I conclude with a few sentences which will apply to this and several other matters now on the calendar.

Mr. REED. Would it interrupt the Senator if I should ask him a question in regard to this subject?

Mr. McLEAN. Not at all.

Mr. REED. I desire to say, as a preliminary, that I am interested in the bill and believe that some action should be taken in the direction suggested. My question is, Under what clause of the Constitution does the Senator think we can exercise the right to prevent the killing of game?

Mr. McLEAN. I have presented my views with regard to that question.

Mr. REED. I beg the Senator's pardon. I was obliged to be out of the Chamber for awhile and did not hear him. I would not ask him to restate them.

Mr. McLEAN. I frankly said that I did not myself find authority for it in any express clause of the Constitution, but I thought it was one of the implied attributes of sovereignty, based upon the incompetency of any State to accomplish the results desired, and that it is absolutely necessary that any nation worthy of the name shall have this power; and I cited instances of treaties and conventions between European nations. They have there a very complete code for the protection of game birds, and my hope is that the nations of the Western Hemisphere will, when the United States sets the example, quickly follow it.

The Senator will admit that a great many things have been decided as constitutional for which our fathers, at least, found no special constitutional grant, and that is my position. I agree it is fallow ground, and I cited but one case in which the Supreme Court clearly intimated that it was a dormant right that the Nation has a right to exert any time it chooses.

Mr. REED. What I had in mind was this thought: The Federal Government is a Government of delegated powers, and possesses no powers whatsoever except those that are expressly delegated and those necessarily incident thereto. I should be glad if we could find ground upon which to protect migratory birds.

The Senator speaks of the sovereignties of Europe having, by conventions or mutual agreements, protected game birds. In that case each of these nations is a sovereign and possesses absolute power.

Mr. McLEAN. I hope the United States is or will be in due time.

Mr. REED. It possesses absolute power, whereas the United States is a sovereignty limited in its powers by the Constitution. England having the right to do as it pleases with birds——

Mr. McLEAN. Mr. President, I am very anxious to finish my remarks before 2 o'clock.

Mr. REED. I beg the Senator's pardon. I did not know I was trenching upon his time, but if he will permit me to finish that sentence——

Mr. McLEAN. I am willing to yield for a question, but the discussion of this subject, I will admit, if thoroughly gone into by the constitutional experts of the Senate, would take more time than we shall have before 2 o'clock.

Mr. REED. I do not profess to be a constitutional expert. I simply wanted to get the Senator's view. I will take pleasure in reading the remarks of the Senator.

Mr. McLEAN. It is something the States can not do. The State of Connecticut can not protect the migratory birds of the Western Hemisphere; it is something no single State can do. Now, if the Nation has not the power to promote the general welfare in this regard, where the demand is insistent and imminent, all I have to say is that if I were a member of the Supreme Court of the United States I should not hesitate to say that the spirit of the Constitution should be read into its language to that extent.

There is at the present time an ever-increasing interest in and demand for the initiative and referendum. I do not intend to discuss the merits or demerits of these measures, but I think that a very important factor in the genesis of the demand for the initiative and referendum is the feeling among the people that the representative system fails to respond as quickly as it should to reasonable requests for remedial legislation.

I consider Senator Bailey's recent defense of our representative system of government one of the ablest ever made. I was charmed with its force and eloquence. But through it all there

ran in my mind this question. If the system is without fault, why is it that so many honest and able men find fault with it? That there is a widespread dissatisfaction with the fruits of representative government no one can deny. If the system is sound, why does it fail to satisfy? Is it the violin or the violinist that causes the discord? Has the representative system failed or have we failed to understand how to apply it? Congress is the only place to which the people can come for remedial legislation affecting the general welfare. We speak and act for them by their direction and with their consent. We may hold with Burke that it is our judgment and not theirs that will best conserve the interests of the people. We may insist that we are chosen because of our superior knowledge and experience in legislative matters, and it is therefore our duty to resist the unwise demands of the people as a physician would resist the use of injurious drugs, although demanded by his patient. I know that the congressional machine is geared to run slowly, and that for the best of reasons. The 30,000 or more bills now pending in Congress present hundreds of thousands of questions. Many of these questions can not be answered in the affirmative; many of them ought not to be answered at all. The people understand this just as well as we do. They know that Congress is a mill to which chaff is brought in much larger quantities than grain, but they expect us to return to them the best that is possible under the circumstances. They do not want the mill to stop on account of the chaff. It is therefore my opinion that when a measure of great public interest has been carefully considered by a committee and reported back to this body with the recommendation that the measure be favorably acted upon it should be acted upon within a reasonable time.

I have no fault to find up to date with the lack of progress that has attended this bill. I have been a Member of the Senate nearly two years, and I have been profoundly impressed with the spirit of courtesy which governs its deliberations. I do not say that I have ever seen this spirit abused, but it is my belief that the people are not interested as much in this time-honored and chivalrous consideration of our individual importance as they are in securing wise and timely action upon the important measures pending.

So, Mr. President, I feel it my duty to say that I shall ask the Senate to fix a day some time this month in which at least we can agree upon a vote. I think this bill is entitled to a vote this session. It must be manifest that if the friends of this bill are right, the sooner we recognize the necessity of action the better; if the birds are worth saving, we had better save them before they are all destroyed.

I realize that it may be difficult to secure action upon this bill in both Houses this session, but if the Senate will consent to a vote upon this measure, if it gets the support I believe it will have, it may pass this body in time to pass the House; and so I give notice that on Wednesday of next week I will ask the Senate to take up this bill and consider it after the routine morning business, with the hope that at that time there may be an agreement reached for a vote some time during the month of January.

Mr. ROOT. Mr. President, I ask permission out of order to introduce a resolution, and to it I call the attention of the Senator from Connecticut in connection with his very interesting argument.

The PRESIDING OFFICER (Mr. CLARK of Wyoming in the chair). The Senator from New York presents a resolution, which will be read for information.

The resolution (S. Res. 428) was read, as follows:

Resolved, That the President be requested to propose to the governments of other North American countries the negotiation of a convention for the mutual protection and preservation of migratory birds.

Mr. ROOT. I ask that the resolution be referred to the Committee on Foreign Relations.

The PRESIDING OFFICER. It will be so ordered.

Mr. ROOT. I think, sir, that that may furnish a pathway along which we can proceed to some practical relief in regard to the very urgent and pressing evil which the Senator from Connecticut has described. We already have a treaty regarding migratory fish in the Great Lakes and in that system of waters, and it may be that under the treaty-making power a situation can be created in which the Government of the United States will have constitutional authority to deal with this subject. At all events, that is worthy of careful consideration, and for that purpose I open it by the offer of this resolution.

THE PRESIDENTIAL TERM.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which is Senate joint resolution No. 78.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. GALLINGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	McCumber	Shively
Bacon	Crawford	McLean	Simmons
Bankhead	Culberson	Martin, Va.	Smith, Ariz.
Borah	Cullom	Martine, N. J.	Smith, Ga.
Bourne	Cummins	Newlands	Smoot
Bradley	Dillingham	O'Gorman	Stephenson
Bristow	Fletcher	Page	Sutherland
Bryan	Foster	Penrose	Swanson
Burnham	Gallinger	Perkins	Thornton
Burton	Gronna	Perky	Tillman
Catron	Heikkell	Pomerene	Townsend
Chamberlain	Johnson, Me.	Reed	Warren
Clapp	Jones	Richardson	Wetmore
Clark, Wyo.	Kenyon	Root	Williams
Clarke, Ark.	Lodge	Sanders	Works

The PRESIDENT pro tempore. On the call of the roll of the Senate 60 Senators have responded to their names, and a quorum of the Senate is present.

Mr. CUMMINS. I believe that the amendment offered by the Senator from Georgia [Mr. BACON], now in the chair, to the joint resolution under consideration is the pending question.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. On page 2, line 6, before the word "years" strike out "six" and insert "four," so as to read:

The term of the office of President shall be four years.

The PRESIDENT pro tempore. The question is on the adoption of the amendment just read.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After three hours and eight minutes spent in executive session the doors were reopened.

IMPEACHMENT OF ROBERT W. ARCHBALD.

OPINIONS OF SENATORS FILED AND PUBLISHED BY ORDER OF THE SENATE SITTING ON THE TRIAL OF THE IMPEACHMENT OF ROBERT W. ARCHBALD, CIRCUIT JUDGE OF THE UNITED STATES FROM THE THIRD JUDICIAL CIRCUIT, AND DESIGNATED TO SERVE IN THE COMMERCE COURT.

OPINION OF MR. WORKS.

Under the Constitution appointments to office are made "during good behavior." Necessarily, then, bad behavior forfeits the right to longer hold the office. There is but one way to legally terminate the office thus forfeited, namely, by impeachment. The cause of removal must be as broad as the act that forfeits the place. If good behavior is a condition upon which the holder of it is entitled to continue in the office, logically bad behavior affecting his conduct as a judge and the duties and proprieties of the office must be a ground of impeachment.

The claim is made here, and ably and earnestly maintained, that the respondent can be impeached only for high crimes and misdemeanors, and that the word "misdemeanor," as used in this connection, must be taken in its technical legal sense as describing a criminal offense less than a felony. The broader meaning of the word, as defined by lexicographers, is "ill behavior, evil conduct, a misdeed." To give it only the limited meaning contended for would render the Constitution, as it relates to the tenure of office, contradictory and illogical. In fixing the length of the term it is made to depend upon good behavior. In providing for the termination of the office, construed as contended for by counsel for the respondent, it could not be done for any bad behavior, however flagrant or however clearly it showed the holder of the office to be unfit for the place. Thus construed, the officer may commit every possible misdeed not amounting to a crime, and yet the Government be powerless to relieve itself of such an unworthy and unfit public servant. Certainly one sitting as judge in so grave a matter could not give such a construction to the Constitution unless forced to do so by its express and unambiguous terms. That is not so in this instance. In the one clause providing for the term of office the term "good behavior" is used, in the clause providing for impeachment the word "misdemeanor." The definition of misdemeanor in its broader and proper sense is just the opposite of good behavior. To give it this meaning makes the whole provision relating to the subject perfectly logical and

harmonious. In my judgment no other construction can be given it without doing violence to the purpose and intent of its framers. Not only so, but the effect of such a construction is to continue in office a public servant who has clearly forfeited his right to the office by violating the condition upon which alone he is justly entitled to hold it, and would be wrong and unjust to the people whose servant he is.

Then the simple question is, Has the respondent been guilty of such bad behavior, evil conduct, or misdeeds relating to the conduct of his office and his duties as a judge as should deprive him of an office that he is entitled to hold only during good behavior?

Judged by the Constitution, as I am convinced it should be construed, I have no hesitation in saying that the respondent has been guilty of such misconduct as should forfeit his right to further hold his office, and that at least a part of the charges made against him by the House of Representatives are sufficient in law and sustained by the evidence, and that therefore the respondent should be impeached, and I shall vote accordingly.

I am of the opinion that the respondent can not be impeached for offenses committed before his appointment to his present office. The Constitution provides in express terms that judges appointed "shall hold their offices during good behavior." Therefore, if a judge has maintained his good behavior during that time, he has done nothing to forfeit his office. The condition upon which he is entitled to continue in office is good behavior during his service, not before. Conversely, it is only bad behavior during the same time that can forfeit the office or warrant his impeachment. Neither can such misbehavior committed before his appointment warrant a judgment disqualifying him from holding office, because such a judgment can be rendered only on his impeachment, which can not be had for such offenses. Such offenses might show his unfitness to hold office and properly prevent his appointment, but they can not be cause for his impeachment.

STATEMENT OF SENATOR WILLIAM J. STONE.

I requested the Senate to excuse me, and the Senate did excuse me, from voting on articles 7, 8, 9, 10, 11, and 12; and I desire now to state somewhat more fully than I could under the circumstances of the moment, and yet briefly, the reasons for this request. These particular articles of impeachment charge the respondent, Judge Archbald, with having committed certain acts, alleged to be official misbehavior, while he was serving as a district judge in Pennsylvania. He ceased to be a district judge long before these articles of impeachment were preferred or presented by the House of Representatives. I have grave doubt as to whether acts committed by an official while holding a given office can, after he ceases to hold that office, be made the basis of impeachment proceedings. As stated, Judge Archbald ceased to be a district judge long before the acts charged in these articles as misdemeanors were committed. I seriously doubt whether a man in the circumstances of this case can be impeached and removed from another wholly different office. If that course should be established as a fixed policy, I fear it might lead to gross abuses, and I feel that we ought to act with great deliberation, not only with respect to the moment but with respect to the future. It would not be difficult to conceive—having in view what has previously happened in our history—of a case, for instance, where one who had been a district judge had been appointed to the Supreme Bench of the United States, and who thereafter had served for years on that bench without committing any act that could by any possibility subject him to impeachment; yet, under great pressure, when the country was in a state of high political excitement, and when some supposed political exigency was influencing a partisan public opinion, a hostile partisan majority might hark back to some alleged misbehavior of the judge when he held the former minor judicial position and make that the basis of impeaching him. The same rule of practice, if once established, might well be invoked and applied to any other civil officer, including the President, who is subject to impeachment under the Constitution. I am conscious, of course, that plausible reasons may be given to support the contrary opinion, but being strongly inclined to the view above expressed I am unwilling by my vote to establish or sanction the precedent that a man may be impeached for alleged official misbehavior in an office he has long since ceased to hold and to use that as a basis for removing him from another official station in the discharge of the duties of which no complaint is made. I am all the more inclined to take that position on this hearing because of the fact that already the Senate has by a majority vote found this respondent guilty on several articles of impeachment charging him with misbehavior, high crimes, and misdemeanors in the office of which he is now the incumbent; and therefore, as I view it, there is no necessity of going further and giving the sanction of the Senate to a precedent that might be pregnant of danger in the future abuse of it.

STATEMENT OF SENATOR GRONNA RELATIVE TO HIS VOTE ON THE ARTICLES OF IMPEACHMENT AGAINST ROBERT W. ARCHBALD.

Fully realizing the solemn responsibility resting upon me, I have felt compelled to vote to convict Judge Robert W. Archbald on all the charges against him except those contained in articles 6, 10, 11, and 13.

Article 6 charges him with having attempted to use his influence to induce the officers of the Lehigh Valley Coal Co. and the Lehigh Valley Railway Co. to purchase an interest in a tract of coal land belonging to the Everhart heirs. Judge Archbald testified that he did nothing except what was necessary to protect the interests of the Everhart heirs. In my opinion, the evidence offered in support of the charge in this article is insufficient to sustain it.

Article 10 charges him with receiving, while a United States district judge, a sum of money from Mr. Henry W. Cannon, a director in various corporations, for the purpose of defraying the expenses of a pleasure trip to Europe. It appears that Mr. Cannon is a first cousin of Judge Archbald's wife, and that he invited them to take a trip to Europe at his expense, which invitation they accepted. No corrupt intent has been shown either on the part of Mr. Cannon or of Judge Archbald; it has not been shown that Mr. Cannon was interested in any cases before Judge Archbald's court or that Judge Archbald had any reason to believe that any cases would come before his court in which Mr. Cannon would be interested. The near relationship of the parties would seem to offer a sufficient explanation of Mr. Cannon's act, and in the absence of a showing of anything from which a corrupt intent can fairly be presumed, I do not find that the act charged in this article, as proved, is an impeachable offense.

Article 11 charges Judge Archbald with accepting a purse of some $500 contributed by attorneys practicing before his court. It appears that the purse was made up by a large number of attorneys and that the envelope containing it was handed to Judge Archbald as he was embarking for Europe, with the request not to open it until he had been two days at sea. While of doubtful propriety, I do not find that the act proved was, under the circumstances, an impeachable offense.

Several of the acts charged in the articles were committed while Judge Archbald was a United States district judge. The defense has urged that as these acts were committed while he held a different office from the one held when impeached, he should not be placed on trial for these acts. While I realize that there is room for a difference of opinion on this question, I find that in the Belknap case the Senate held that an officer may be impeached and that the Senate will have jurisdiction to try the case even if the said officer resigned from his office prior to the impeachment and was not at the time of the impeachment and trial an officer of the United States. In this case it appears to me there is even stronger reason for asserting the jurisdiction of the Senate; while Judge Archbald was not at the time of the impeachment holding the identical office which he did when the offenses referred to were committed, the office is closely linked to the one he previously held, and the duties he was called on to perform were of the same general nature; his appointment as a circuit judge was in the nature of a promotion. If we were to hold that the Senate can not take jurisdiction over offenses committed while he was a district judge, we should, it seems to me, adopt a rule which, if followed in future cases, might make it impossible to secure the removal of a totally unfit officer if he succeeded in obtaining an appointment to another office before the facts of the offenses which he had committed became generally known. It seems to me that where the Senate has the sole power to try public officers for high crimes and misdemeanors committed by them, it must of necessity assert its jurisdiction at least so long as such officers remain in the public service.

On article 13 I asked to be excused from voting because it is, as I understand it, a repetition of the charges contained in all the preceding articles, on some of which I voted to acquit. In my opinion this article is unnecessary, as all the charges in it had previously been separately submitted to the Senate.

OPINION OF MR. CRAWFORD.

The following facts alleged in the articles of impeachment are admitted by respondent in his answer. They are not in controversy. That is to say, it is established without conflict of testimony that at a time when he was serving in the Commerce Court as a circuit judge of the United States and at a time when the Erie Railroad Co. was a real party in interest in two

suits pending and undetermined in that court, the respondent and one Edward J. Williams, for the purpose of making a profit of two or three thousand dollars each, agreed to cooperate in securing an option to purchase the interest of the Hillside Coal & Iron Co., a subsidiary corporation of the Erie Railroad Co.—together with the interest of one John W. Robertson—in a certain culm dump near Moosic, Pa., known as the Katydid dump; that the particular service to be rendered by the respondent in this undertaking was to secure the option from the Hillside Co.; and by telephone and letters he made his desire known to the superintendent of the company at Scranton, and not being successful there, called at the offices of the general counsel of the Erie Railroad Co.—who was also general counsel for the Hillside Co.—in the city of New York, when he was there holding a term of court as a judge of the circuit court of the United States, and made his desire to secure the option to purchase this dump known to the general counsel; also, on the same day, to Mr. Richardson, one of the vice presidents of the Hillside Co. As a result of his efforts the Hillside Co., which before that time had refused to deal with Williams, gave to him a written proposal to sell its interest in the Katydid dump for the sum of $4,500; all this occurred while these important suits in which the Erie Railroad Co. was a party in interest were pending and undetermined in the Court of Commerce; the respondent had a joint pecuniary interest in this venture with Williams. In my judgment this was misconduct in office and a high misdemeanor.

Respondent also admits that while a certain suit, in which the Delaware, Lackawanna & Western Railroad Co. was a real party in interest, was pending in the Court of Commerce, and while the respondent was serving as a member of that court, and while certain other important cases in which that railroad company was a party in interest and a defendant, and in which the Marian Coal Co., of which Christopher G. Boland and his brothers owned a two-thirds interest, was complainant, were pending before the Interstate Commerce Commission—cases in which the defendant was charged with unjust discriminations and excessive transportation charges—the decision of the commission being subject to review in the Commerce Court, Boland and his brother employed an intimate friend of respondent, an attorney named Watson, who was not their attorney of record in these suits, to make a settlement of the differences in litigation between the Marian Coal Co. and the Lackawanna Railroad Co. and to effect a sale of the property of the former to the latter company, for which services, if successful, Watson was to receive the sum of $5,000; that at the request of Watson, and with the knowledge and consent of the Bolands, the respondent agreed to cooperate with and aid Watson in making this settlement, and in carrying out the joint undertaking he had interviews with Mr. Loomis, vice president of the Lackawanna Co.; wrote him letters about the matter; suggested offering his services direct; recommended a personal conference between Watson and Loomis and Mr. Truesdale, president of the company, remarking that "there is nothing like a personal interview to bring about such a result." He admits that after repeated efforts made by himself and Watson had failed of results Watson met him by appointment in Washington, where the respondent gave Watson a copy of the petition in the Maker case, in which the Interstate Commerce Commission had made a decision materially affecting one of the questions involved in the suit between the Marian Coal Co. and the Delaware & Lackawanna Railroad Co.; and several days after giving a copy of this petition to Watson, respondent had another interview with Mr. Loomis, of the Lackawanna Co., and urged him to make a settlement with the Bolands. Both Watson and Boland, when urging respondent to assist in effecting this settlement, knew of these suits in the Commerce Court and before the Interstate Commerce Commission; and respondent, when cooperating with them to effect the common result they were all working to bring about, knew that in case of a successful outcome his friend Watson would receive the sum of $5,000. I think this was misconduct in office and a high misdemeanor.

The respondent has also admitted that while he was a judge of the Circuit Court of the United States and acting as a judge of the Commerce Court, and during a period when the Lehigh Valley Railroad Co. was a real party in interest in certain suits pending and undetermined in the Commerce Court, he secured, by personal solicitation from the Lehigh Coal Co.—owned by the Lehigh Valley Railroad Co.—an agreement by which the Lehigh Coal Co. undertook to surrender to him all its rights as lessee for the unexpired term of two years in a lease it held—from a trustee under the will of Stephen Girard, deceased—of a valuable culm dump known as Packer No. 3, near Shenandoah, Pa., owned by the city of Philadelphia, the trustee. This, in my judgment, was misconduct in office and a high misdemeanor.

He also admits that while he was acting as a judge of the Commerce Court the Louisville & Nashville Railroad Co. brought to that court a suit in which it sought to reverse or annul an order made against it by the Interstate Commerce Commission; and that after this case had been orally argued by counsel for both parties and after the record and briefs and arguments of counsel for both parties had been submitted to the court, respondent, without the knowledge or consent of the court, or of any other member of it, and without the knowledge or consent of opposing counsel or notice to them, wrote letters to Mr. Bruce, of Louisville, Ky., a lawyer who appeared in the case as counsel for the Louisville & Nashville Railroad Co. In one of these letters he asked Mr. Bruce to confer with Mr. Compton, one of the officers of the railway company, who was one of its material witnesses in the case, and ascertain if he had not intended to say, "We did not apply it there," instead of saying what the record of the case reported him as saying, "We did apply it there," in testimony concerning the application of a certain combination rate; that Mr. Bruce complied with the request, saw Mr. Compton, and by a letter addressed to respondent stated that Compton meant to say, "We did not apply it there." Respondent inserted this letter in the record of the case in the Commerce Court without notice to the opposing party. In another of these letters he explained to Mr. Bruce that one of the members of the court had discovered certain evidence in the record which it was claimed refuted the argument of Mr. Bruce and sustained the commission, and invited Mr. Bruce to send in further argument to meet this claim. He admits that he received from Mr. Bruce in reply a long letter containing a statement of the contention of the railroad company and that the receipt of this letter and its contents were not disclosed by him to counsel on the other side nor to the other members of the court.

It is admitted also that after receiving these letters from Mr. Bruce and without further hearing or notice to opposing counsel the order of the Interstate Commerce Commission against the Louisville & Nashville Railroad Co. was reversed by the Commerce Court. In my judgment this was official misconduct and a high misdemeanor.

He has also admitted that while he was acting as a judge of the Commerce Court and while the Philadelphia & Reading Railway Co. sustained an intimate relation to the Philadelphia & Reading Coal & Iron Co., the Reading Railroad Co. being a common carrier engaged in interstate commerce, he solicited an interview with W. J. Richards, general manager of the Philadelphia & Reading Coal & Iron Co. and sought to induce Richards to recognize his friend, one Warnke, as the assignee of a certain lease executed by the coal and iron company to other parties, or in lieu thereof to give to Warnke a lease of what was known as the Lincoln culm dump, belonging to the company, and that he had such an interview in the last of November, 1911. He also admits that in December, 1911, this same friend Warnke, as a member of a company known as the Premier Coal Co., had some transactions with the seller of a culm bank known as the old gravity fill, which was purchased by the Premier Coal Co. from the Lacoe & Shiffer Coal Co.; that neither Warnke nor his associates as purchasers understood that they were to pay a commission on the sale, but after they had made the purchase Warnke indorsed a note made by the Plymouth Co. to the respondent for $510, which was delivered to him and which he cashed at a bank. I decide that this is misconduct and a high misdemeanor.

He has also admitted that during the period from September 1, 1908, to the 1st of December, 1908, while he was judge of the District Court of the United States for the Middle District of Pennsylvania, which office he continued to hold until commissioned as an additional judge of the circuit court of the United States, litigation was pending in that court between the Old Plymouth Coal Co., in which one Rissinger and his brother owned a controlling interest, and certain insurance companies, involving about $28,000; and that in September, 1908, negotiations began between himself, Rissinger, and others in connection with a mining scheme in Honduras and were still pending when these cases came on for trial before him in November, 1908; that he denied a motion for nonsuit entered by the counsel for the insurance companies, after which ruling an agreement for settlement was made by the parties and consent judgments entered in favor of the plaintiffs, to be released on payment of the agreed amounts within 15 days after November 23, 1908. He also admits that on or about November 28 he indorsed Rissinger's note for $2,500, which was discounted by a bank in Scranton, and that in February, 1909, he received from Rissinger certificates representing stock issued to him in a corporation organized by Rissinger and others for the purpose of operating a gold placer mine in Honduras, for which he paid no consideration.

In this I find respondent guilty of misconduct, but it occurred before he became the incumbent of his present office. He had ceased to be a district judge when this charge was filed; and while he was guilty of misconduct, I do not believe impeachment can be sustained on this article for the reason stated.

He also admits that in 1909, while he was district judge of the middle district, a suit was pending before him for a large sum of money against the Marian Coal Co., owned by Christopher G. Boland and his brothers; that while this suit was pending and undetermined, he prepared a promissory note, payable to himself or order for $500, which was signed by one John Henry Jones, of Scranton; that respondent then indorsed the note and gave it to Jones; that he was afterwards told by Jones that this note might be presented to Christopher G. Boland for discount, and that he made no objections; that he also had a conversation with Charles H. Von Storch, president of the Providence Bank of Scranton, in regard to this note, and told him that he had indorsed it; that Von Storch was an attorney at law in practice in Scranton, and that nearly a year before this time, as judge of the circuit court, the respondent had decided a suit, in which Von Storch was a party defendant, in his favor; that the Providence Bank, of which Von Storch was president, discounted the note, which is still unpaid, except that $25 has been paid upon it by Jones.

I find respondent guilty of misconduct, but because it occurred before he became the incumbent of his present office, I do not believe the law would sustain an impeachment on this particular charge.

He also admits that in 1910 while he was a judge of the district court of the United States, and knew that Henry W. Cannon was a director in the Great Northern Railway Co. and president of a steamship company and engaged, among other things, in the mining of coal, and that Mr. Cannon was a full cousin of his wife; with knowledge of these facts, he and his wife became the guests of Mr. Cannon, and at his expense accompanied him for the period of about three months on a trip to Europe, including a visit to Mr. Cannon's villa in Florence, Italy. While I do not find that this act—after the explanation given—was misconduct, it does appear that at the time of his departure on this trip to Europe he received and accepted the sum of $525 from some of the attorneys and practitioners of the court over which he presided as judge; that at the time Edward R. W. Searle was clerk and J. B. Woodward was jury commissioner of the court, and both had been appointed by him, and that Searle collected these donations. I think the acceptance of this money was misconduct in office. Because it occurred before he entered upon his duties as a circuit judge, it can not, in my opinion, sustain an impeachment.

He also admits the appointment of J. B. Woodward as jury commissioner, and that Woodward was and is a general attorney for the Lehigh Valley Railroad Co.; but respondent says he did not know that fact at the time he appointed him and first learned it several years afterwards. He admits, however, that Woodward, with his permission, continued to act as jury commissioner during all the time respondent was judge of the middle district, during all of which time he was general attorney for the railroad company. This was official misconduct, but it occurred before he became the incumbent of the office of circuit judge, and because of that fact alone, in my judgment, it does not sustain impeachment.

In addition to these admitted facts, the evidence submitted to the Senate shows clearly that the respondent entered into business relations with E. J. Williams and John Henry Jones, which not only tended to injure his own personal standing as a man, but tended to bring the court in which he was a public officer of the Government of the United States into disrepute. Both Williams and Jones were insolvents, without credit. Their appearance here as witnesses did not create a favorable impression. Williams, according to the testimony, boasted that Judge Archbald would tell him most anything. He advised John Henry Jones to request Boland to discount the $500 note, executed by Jones and indorsed by Archbald, and told Boland he made a mistake in not doing so, because the Peale case was pending in the United States court and he would have saved all the costs if he had discounted that note. Williams received letters from the respondent introducing him to Mr. Conn, vice president of what was known as the Laurel Line Co., and made offers on behalf of Williams and himself to sell the Katydid culm dump to Mr. Conn. Respondent also wrote letters to Capt. May, of the Hillside Coal & Iron Co., and had personal interviews with May in reference to transactions in which he invited May to deal with Williams as his business associate. He knew the kind of man Williams was. He knew the kind of man John Henry Jones was. Nevertheless the undisputed evidence shows that he allowed his name to be connected with theirs as maker and indorser of promissory notes which were peddled about the streets of Scranton and presented for discount to parties having suits pending and undetermined in the court over which respondent presided as judge. He allowed the world to know that he was willing to maintain business relations with a man like Williams, who, without notice to him, executed an agreement assigning an interest in the options on the Katydid dump to William P. Boland, referring to respondent as "a silent party" in the transaction; business relations with a man who boasted to others of the privileges he had with a Federal judge, and that Judge Archbald could get properties along the lines of the anthracite coal-carrying roads for him; "that he (respondent) had influence with the railroads" (442, 443); business relations with a man who claimed to others that at the time he and respondent were in the joint undertaking to secure an option on the Katydid dump the respondent explained to him the nature of the Lighterage cases pending in the Court of Commerce in which the Erie Railroad was a party, and said he would go to New York and see Mr. Brownell, the general counsel for the Erie, about getting the option; "that he might do him some injury for refusing such a small favor" (166). It is not proven that respondent made these statements, but it is beyond dispute that he maintained business relations with the man and invited others to deal with the man who says he made them and who told other people that he made them.

The undisputed testimony shows further that during the time respondent and Watson were engaged in the prosecution of the joint undertaking to settle the differences between the Marian Coal & Iron Co. and the Delaware, Lackawanna & Western Railroad Co. Watson, in explaining to Christopher G. Boland the reason why he demanded that the Lackawanna Co. pay the Marian Co. more than the $100,000 which had been named by the Bolands, said it was because the respondent "would be very influential in bringing this sale about, and he intended to have him compensated for it" (p. 721).

The undisputed testimony also shows that while both Rissinger and Judge Archbald resided in Scranton, where the $2,500 note executed by Rissinger and indorsed by Archbald in the Honduras mining scheme was made and delivered, Rissinger took that note to Wilkes-Barre during the period between the entering of the judgments against the insurance companies and the expiration of the 15-day stay, and requested his attorney in those cases—Mr. Lanahan, a resident of Wilkes-Barre—to discount it. Mr. Lanahan declined, and made the pertinent inquiry of Rissinger, "Why he should come to Wilkes-Barre, a strange town to him, and not get his note discounted in his own town" (p. 730).

These facts are established beyond controversy, and they convince me beyond any reasonable doubt that the behavior of the respondent as a judge of the district and circuit courts of the United States was not that "good behavior" contemplated by section 1 of Article III of the Constitution; but that on the contrary they show a course of conduct in office which is so clearly reckless and improper that it amounted, to say the least, to misbehavior. The tenure of his office depends entirely upon good behavior, and when that is shown to be wanting respondent's right to hold this high judicial position ends. The only tribunal clothed with the power to hear and determine whether his official tenure shall cease because of misbehavior is the Senate of these United States sitting as a court of impeachment. Section 3 of Article I declaring that the Senate shall have the sole power to try all impeachments, section 4 of Article II declaring that the President and Vice President and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors, and section 1 of Article III declaring that the judges shall hold their offices during good behavior, are each and all entitled to equal consideration in determining the question before this Senate. The acts of the respondent, which I have just enumerated, while not defined by any express law of Congress as crimes, are in their essence and nature public offenses as serious—indeed, more serious—than many other official delinquencies which Congress has declared to be indictable as crimes. The act approved March 3, 1911, prohibits Federal judges from engaging in the practice of law and from accepting employment as counsel, and declares the violation of the act to be a "high" misdemeanor. (36 Rev. Stat., 1161.)

Is it any more of a public offense for a judge to accept employment as counsel or to engage in practice than it is for him to solicit options to buy property from litigants who have causes

pending and undetermined in the court of which he is a member, or to give his opinion concerning the title to a culm dump to aid a sale from which he is to receive a commission or other pecuniary compensation? If the offense described in the act of March 3, 1911, is a high misdemeanor, certainly these acts of the respondent are offenses in the same class and may be designated as high misdemeanors.

The act of Congress approved March 4, 1909, makes it an indictable offense for an agent, having any direct or indirect interest in the pecuniary profits or contracts of any corporation, to be employed by or to act as an officer or agent for the United States in the transaction of any business with such corporation. If it is a public offense for an agent to act as a servant of the Government when his relation to a party dealing with him as the Government's official representative is such as to tempt him to do a wrong or to violate the trust imposed in him by the Government, is it any the less a public offense for a judge, at a time when parties have large interests pending and undecided in his court, to solicit from one of them substantial favors from which he or his friend expects to realize a pecuniary profit?

It seems to me it would come far short of meeting the fair intendment of these provisions of the Constitution if we were to regard as sufficient grounds for impeachment only the committing of indictable offenses by the judge and disregard all others. To such a construction I can not agree. It is for the Senate alone to say how it shall construe the words "other high crimes and misdemeanors"; and it is sufficient to define "misdemeanor" as the lexicographers define it in our dictionaries, where it is given as a synonym for "misbehavior."

The purposes of this trial do not relate to the penalties of some criminal statute; they are to ascertain whether there is sufficient cause for removing this judge from his office. The fact that he fills a high position in the Government and that acts of misbehavior done by him are followed by consequences far more injurious than could possibly follow such acts if done by a person in private life—injuries to the State, justifying so solemn an inquest as the one in which we have been engaged—this, and this alone, distinguishes the offense and brings it within that class known to the fathers as a "high misdemeanor." I am convinced that the respondent is guilty of misbehavior in office belonging to that class of offenses. I therefore find him guilty as charged in the thirteenth article.

OPINION OF MR. OLIVER.

I voted not guilty as to each of the articles of impeachment in the Archbald case for the following reasons:

The only charges which, in my opinion, were at all worthy of consideration were those which charged that the respondent used his influence with certain officials to secure favors for himself or his friends. As to these articles I am satisfied by the evidence that in none of the transactions referred to did Judge Archbald intend that the officials with whom he was dealing should be induced to grant favors either to him or others on account of his judicial position, nor do I think that the evidence establishes the fact that any such officials were in fact so influenced.

I followed the evidence in this case closely. I heard most of it and carefully read that which I did not hear. In my opinion the evidence utterly failed to disclose any corrupt intent on the part of Judge Archbald, and in the absence of such intent I could not see how I could vote to visit upon him the extreme penalties involved in impeachment.

GEORGE T. OLIVER.

OPINION OF MR. M'CUMBER.

Mr. President, pursuant to the resolution of the Senate authorizing any Senator to file within two days his reasons for any vote upon the several articles of impeachment in the case of the United States against Robert W. Archbald, I herewith present and ask to be filed as a part of the proceedings in said case the following:

The said articles of impeachment charged the said Robert W. Archbald in a number of counts with having corruptly used his influence as judge in securing and assisting to secure the sale and transfer of properties owned directly or indirectly by those who had litigation before his court and in attempting to influence parties litigant to settle such cases for the accommodation of his friends.

The general character of these offenses is illustrated in the charge contained in article I, in which it is claimed that the said judge did induce and influence the officers of a railroad company and a coal company to enter into an agreement to sell a certain coal dump to said judge and another interested with him in its purchase; that he applied to the officers of said company to make such sale; and that at the time of the negotiations for sale the said companies were parties to an action pending in his court.

Judge Archbald admits the facts, but denies the wrongful or unlawful inference charged. The evidence does not satisfy me either that he intended to do an injustice in any of the many acts charged or that he actually influenced litigants to favor him in any way, or that his judicial acts were in any way influenced or affected by the refusal or the granting of any request made by him.

I hold, however, that such acts on the part of the judge of a court were extremely improper; that while they may not have been done with any wrongful purpose, the fact that any person or company had an action pending before his court upon which he might pass judgment might very naturally influence such person or corporation to accede to his request for a favor or his importunities for the sale of property. Every layman knows, and certainly every judge should know, the natural impulse of the human mind to yield favor for favor, benefit for benefit, and often to expect it; and he should equally understand the natural fear to incur the displeasure of one whose power might be exercised to injure.

Such acts were further exceedingly improper because they subjected the court to suspicion and criticism and tended to diminish the faith, respect, and credit that ought to be accorded by the public to all judicial acts.

Had I been compelled to vote directly upon the question, first, whether Judge Archbald had intentionally used his official position for the purpose of securing an undue advantage, or, second, whether he had secured any undue advantage because of his official position in any business matter, I should have been compelled to have voted that the charges had not been established by the evidence.

My vote of guilty upon any article on which such vote was recorded was a vote that Judge Archbald had been guilty of judicial impropriety or misbehavior, and not a vote that such impropriety or misbehavior had improperly influenced either the acts of litigants or his own judicial acts.

The question which then presented itself to my mind was whether official misconduct in order to be an impeachable offense must be of such nature and of such gravity as to constitute an indictable offense or one which could be punished under indictment or other criminal process.

Section 4 of Article II of the Constitution of the United States reads as follows:

> The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

The words, "other high crimes and misdemeanors," in my opinion were intended to mean others of like gravity.

I am aware that at the time of the adoption of the Constitution the practice in the British Parliament did not limit the offenses for which impeachment was had, either to those of the gravity indicated in section 4 of Article II of the Constitution, or to those which were indictable or punishable under the common law. But in the absence of any parliamentary statute defining the offenses for which impeachment would lie, I am of the opinion that in adopting that portion of the Constitution the framers did not adopt or seek to adopt a construction upon it to conform to British precedents. Applying the ordinary rules of construction to the words "treason, bribery, or other high crimes and misdemeanors," as they appear in said section 4, standing alone, I could hardly bring myself to believe that they were intended to mean merely improper or reprehensible conduct.

But, further on in the Constitution, in section 1, Article III, we find the following provision:

> The judges, both of the supreme and inferior courts, shall hold their offices during good behavior.

Who is to determine what is good behavior and in what forum is that determination to be had? The Constitution provides no method of removal from office except through the process of impeachment. As impeachment is the only process by which removal can be had, and as a judge is entitled to hold his office only during good behavior, it necessarily follows, it seems to me, that an impeachment must lie against a judge for an act which constitutes bad behavior, and therefore, taking the Constitution as a whole and giving effect to both section 4 of Article II and section 1 of Article III of the Constitution, that at least so far as the judges of our courts are concerned the provisions of section 4 of Article II are made applicable to acts of judicial misbehavior, even though such acts are not subject to punishment under indictment or criminal process.

Turning, now, to the several articles of impeachment, I found that the charges contained in articles 1, 3, 5, and 6 were established either by admissions or by testimony, and holding,

as I do, that criminal or corrupt intent on the part of Judge Archbald is unnecessary to establish an impeachable offense, I voted "guilty" on said articles.

I hold that the charges contained in articles 2 and 4 were not established by the evidence, or at least that no grave offense was so established, and voted "not guilty" on those articles.

Articles 7, 8, 9, 10, 11, and 12 charge offenses committed while Judge Archbald was judge of the United States District Court for the Middle District of the State of Pennsylvania. They charge offenses committed while Judge Archbald was holding another and distinct official position.

I hold that the purpose of the Constitution in providing for impeachment proceedings was to purge the official roll of the courts of improper officers and nothing further. The Constitution therefore provided that the judgment of the Senate should not go beyond removal from office and disqualification to hold and enjoy office of honor, trust, or profit under the United States. Its purpose was not to inflict punishment, except in so far as such punishment was necessary to accomplish its legitimate end, and therefore impeachment proceedings can not lie against a person for an act committed while holding an official position from which he is separated. Of course, if jurisdiction had been obtained of the case while the respondent was holding the position, resignation by him could not operate to divest the jurisdiction. The jurisdiction to enter judgment of disqualification would continue. I therefore voted "not guilty" on each and all of said articles, 7 to 12, inclusive. It is but proper, however, for me to state that, independent of the legal proposition, I should have been compelled to have voted "not guilty" on some of them, either because the charge did not constitute judicial misbehavior or that such charge was not established. This is especially true as to articles 8, 10, 11, and 12.

Article 13 generalizes and includes all of the specific charges contained in articles 1 to 12, inclusive. I voted "guilty" upon said article 13, but in doing so my vote was intended to express my conviction only as to those specific charges included in article 13 upon which I had already voted "guilty."

More than two-thirds of the Senate having voted the respondent guilty on a number of charges, the Constitution makes it incumbent upon the Senate to enter judgment of removal from office, and I therefore with deepest regret voted to carry that judgment into effect.

I voted against that portion of the order for judgment which disqualified the respondent from holding any official position of honor, trust, or profit under the United States, because this seemed to me to be unnecessary and excessive punishment for the offense. The punishment of removal from office I regard as extremely harsh and excessive for the offenses established by the evidence, and I sincerely wish that a lighter one could have been imposed under the Constitution.

OPINION OF MR. CATRON.

It is my judgment that none of the charges are proper, because they do not charge either treason, bribery, or any other high crime or misdemeanor against the respondent.

Section 4 of Article II of the Constitution of the United States provides:

> The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

It is an invariable rule of construction that where a statute makes acts punishable and in defining the acts selects certain ones by specific designation and provides for all others, as in this case, "or other high crimes and misdemeanors," that the acts or cases embraced under the word "other" high crimes and misdemeanors must be of a similar class to that of those actually mentioned; that is to say, they must be a genus of the same species. The words "other high crimes" can not be construed to mean other crimes than felonies, the two previously mentioned being felonies, and the word "misdemeanors," used in that section, must mean a crime of a lower order of punishment, but it can not mean anything but a crime; it can not mean a mere misbehavior or neglect of duty unless these things are made crimes. This is the universal construction of such statutes unless there be something in the statute which indicates that a different construction was intended; but there is nothing in the section showing that a different construction is intended; on the contrary, the entire context of that section, and of the remainder of the Constitution, indicates that such was the construction which was intended. It is, however, contended that the provision in Article III of the Constitution, which says—

> The judges, both of the supreme and inferior court, shall hold their offices during good behavior—

meant and intended that the want of good behavior should be deemed proper ground for removal under impeachment; but the want of good behavior is not necessarily a crime; nor can one tell what character of misbehavior would be offensive to section 4 of Article III if that was to be embraced within it. No man, let him be judge or otherwise, always conforms to what may be good behavior. As long as mankind are fallible they are liable to depart sometimes from the strict line of absolute "good behavior." It is said that there would be no other way to get rid of a judge who is guilty of misbehavior. There may not be under the Constitution alone, and there may not be because no law has been passed to provide for the removal of a judge for the want of good behavior.

In the enumeration in the Constitution of the powers of Congress the eighteenth clause thereof provides:

> That Congress shall have the power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Under this clause the Congress of the United States can enact a law providing that a judge's office shall terminate on account of the want of good behavior and how that shall be determined.

The Congress of the United States has to a certain extent acted under that section. They have provided that judges of the United States courts may be retired from office after they have served a certain length of time and reached a certain age. If the provision of the Constitution which provides that judges shall hold their office during good behavior is to be taken literally, Congress has no power to authorize them to be retired on reaching 70 years of age, after having served 10 years on the bench. But the Constitution, in effect, provides that when a judge is guilty of misbehavior he shall not or may not hold his office any longer. How is that to be determined? Can not Congress, under the clause last quoted, provide by an act some other manner of determining the misbehavior of the judge or the want of good behavior in him? And when that is done the Executive can declare his office terminated and appoint his successor. It is claimed by some Senators that if a judge became insane or incapacitated to perform the duties of his office that he might be impeached and put out of the office, and that that would be the only way to get him out. There are many ways that could be provided for. A statute could be enacted to retire him, as a matter of course, upon such being determined by some competent authority, or even if he was not able to perform the duties of his office the statute might provide for an additional judge in the district where such judge presided, just as it does now provide that the judges of the Supreme Court may be retired upon full pay, at their option, and another judge appointed to fill their place.

Not believing that it is competent to impeach a judge for anything except a felony or a misdemeanor, both of which constitute a crime of a greater or less degree, I can not give my assent to finding the respondent guilty of something which I believe is improperly charged against him. This applies to all of the charges, as in my conception no crime or misdemeanor of any kind has been charged against Judge Archbald.

The charges—Nos. 7, 8, 9, 10, 11, and 12—against Judge Archbald of acts committed during the time that he was district judge and before he became a circuit judge, in my opinion, have no validity in them.

Section 4 of Article II of the Constitution is restricted by the terms of that section to the actual President, Vice President, or any civil officer who is actually such at the time the charges are made, and in my judgment is limited to the acts done by him in that particular office. Judge Archbald, when these charges were preferred against him, had long ceased to be a district judge of the United States, and in my opinion when he was promoted to the office of circuit judge, if he had done anything wrong, all such offenses, whatever they might be, either criminal or amounting to a misbehavior only, had been condoned. The President is supposed to have looked into the private, official, and judicial character of Judge Archbald when he appointed him. In addition to that, his nomination was sent to the United States Senate, and a committee of the Senate took the same under advisement and is supposed to have looked into the character and standing of Judge Archbald and reported to the Senate on the subject. The Senate is supposed to have been satisfied thereon and to have adopted the recommendations of that committee. I do not believe that the House of Representatives had the right to go back of the present office held by Judge Archbald, to hunt up any of his acts to charge against him, so as to remove him from the office he now holds.

In addition to the foregoing reasons, I have made a careful study of the evidence, and I can not find anything outside of a mere, remote supposition, to be surmised from the facts, that

Judge Archbald ever used his official position to accomplish anything which he is charged with having accomplished or attempted to accomplish. There is no proof that he alluded to himself in any way or held himself out in any way as a judge when he was attempting to get the options on the coal dumps or make any of the deals which are mentioned in the charges. It would take a stretch of imagination, in my judgment, to connect Judge Archbald's purpose to use his official position in the cases which he is charged with doing, so as to influence the other parties. It may be possible that the parties dealing with Judge Archbald may have been influenced by his official position, and it may be possible, as was stated by some of the witnesses, in substance, that his character was supposed to have some influence. There is no showing that Judge Archbald did anything further in any of those cases than to use his own personality, and did not call upon his judicial position in any respect. It would seem very strange in the number of acts which are charged against him as using his official position—and all of them charge that—that nowhere did he mention or insinuate that he as judge of the court desired the accomplishment of any of those acts, and I can not give my assent to the fact that we can draw upon our imagination sufficiently to connect the actions of Judge Archbald with an intentional and corrupt disposition to make use of his judicial position to favor his dealings. The charges are that he intentionally, corruptly, and improperly used his judicial position to accomplish those acts, and there is not a scintilla of proof to establish the same. There is a single charge against Judge Archbald in his capacity as a judge, and that is the one which charges him with writing to a lawyer in the Louisville & Nashville case, asking him to interview a witness and get the construction of the testimony that witness had given in the case. As I understand it, the witness in that case before Judge Archbald used language which, if taken alone, meant one thing, but when taken in connection with the other language used evidently showed that there was a mistake in the use of the language of the witness first used, and that the language as shown by the whole of the testimony of that witness was the way Judge Archbald considered it, even before and after the witness had given his version as to what he meant by his testimony. It may be that it was imprudent and impolitic for Judge Archbald to write such letter without interviewing the attorneys on the other side, but if it was a mere imprudence of irregularity did it amount to a crime, or did it amount to such character that Judge Archbald should be held to be corrupt and debased and not fit to hold the office of a judge? It seems that the court reversed itself by changing from its first conclusion, reached before judgment was entered, and taking the opposite ground, favored by Judge Archbald. It may be that this action of Judge Archbald brought about that result, but it was a correct result and an honest result, and Judge Archbald is charged with an offense for getting at the correct and honest facts and conclusion. Although he did it in an irregular and impolitic way, was there anything corruptly wrong or radically wrong in the suggestion to the attorney to send him further authorities on the subject? I do not believe that there is a lawyer in the land that does not, one time or another, without consulting the opposite side, furnish additional authorities to a judge having a case under advisement. It is irregular on the part of the lawyer to do that, and it is irregular on the part of the judge to receive it; yet it is often done. No complaint can be made against it when the opinion reached is a correct opinion and gives the correct results. That is all that can be made out in that case. It is one of those things that was an impropriety. It was not good legal ethics, but, yet, it was not of the character or condition to make the acts of Judge Archbald absolutely vicious, corrupt, and vile, sufficiently so to turn him out of the office and disqualify him forever from holding it.

I do not believe that the evidence establishes that Judge Archbald used his official position corruptly or illegally to accomplish any of the objects which are charged to have been accomplished by him, or attempted to be accomplished by him, and for that reason my opinion is that he is not guilty.

I believe that the guilt of the person accused must be established beyond a reasonable doubt, to the exclusion of every other reasonable hypothesis, and I do not believe that the evidence in this case established anything as to Judge Archbald's methods, either official or otherwise, that made his acts vicious or corrupt or of a criminal character, to the exclusion of every other reasonable hypothesis.

T. B. CATRON.

Mr. SMITH of Georgia. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 18 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, January 15, 1913, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate January 14, 1913.

SURVEYOR OF CUSTOMS.

J. Frank Taylor, of Kentucky, to be surveyor of customs for the port of Louisville, in the State of Kentucky. (Reappointment.)

COLLECTORS OF CUSTOMS.

John H. Burgard, of Oregon, to be collector of customs for the district of Portland, in the State of Oregon, in place of Philip S. Malcolm, whose term of office expired by limitation January 9, 1911.

Frank L. Parker, of Oregon, to be collector of customs for the district of Astoria, in the State of Oregon, in place of William F. McGregor, whose term of office expired by limitation June 15, 1912.

UNITED STATES MARSHAL.

E. C. Kirkpatrick, of Oregon, to be United States marshal for the district of Oregon, vice Leslie M. Scott, who is serving under an appointment by the United States district court.

REGISTER OF THE LAND OFFICE.

Harry Y. Saint, of Washington, to be register of the land office at North Yakima, Wash., his term having expired January 11, 1913. (Reappointment.)

APPOINTMENT IN THE ARMY.

SIGNAL CORPS.

Col. George P. Scriven, Signal Corps, to be Chief Signal Officer, with the rank of brigadier general, for the period of four years beginning February 14, 1913, vice Brig. Gen. James Allen, Chief Signal Officer, to be retired February 13, 1913, by operation of law.

PURCHASING AGENT FOR THE POST OFFICE DEPARTMENT.

Frederick H. Austin, of Missouri, to be purchasing agent for the Post Office Department, vice John A. Holmes, resigned.

POSTMASTERS.

INDIANA.

John B. Davis to be postmaster at Poseyville, Ind., in place of John B. Davis. Incumbent's commission expires February 1, 1913.

IOWA.

Arthur Farquhar to be postmaster at Audubon, Iowa, in place of Harper W. Wilson. Incumbent's commission expired January 11, 1913.

MARYLAND.

Frank L. Hewitt to be postmaster at Silver Spring, Md. Office became presidential October 1, 1912.

MINNESOTA.

L. A. Levorsen to be postmaster at Fergus Falls, Minn., in place of Benjamin D. Underwood. Incumbent's commission expired January 11, 1913.

MISSOURI.

Jesse L. Martin to be postmaster at Independence, Mo., in place of William Bostian. Incumbent's commission expired December 17, 1912.

OHIO.

Milton B. Dickerson to be postmaster at Marion, Ohio, in place of Milton B. Dickerson. Incumbent's commission expires February 10, 1913.

Edward Peterson to be postmaster at Bergholz, Ohio. Office became presidential January 1, 1913.

John O. Thomas to be postmaster at Oak Hill, Ohio, in place of John O. Thomas. Incumbent's commission expires February 24, 1913.

OREGON.

Merritt A. Baker to be postmaster at Weston, Oreg., in place of Merritt A. Baker. Incumbent's commission expires January 20, 1913.

Frank J. Carney to be postmaster at Astoria, Oreg., in place of Frank J. Carney. Incumbent's commission expires January 26, 1913.

F. W. Haynes to be postmaster at Roseburg, Oreg., in place of Charles W. Parks. Incumbent's commission expires January 20, 1913.

Edgar Hostetler to be postmaster at The Dalles, Oreg., in place of Edgar Hostetler. Incumbent's commission expires February 18, 1913.

Philip A. Livesly to be postmaster at Woodburn, Oreg., in place of William P. Pennebaker. Incumbent's commission expired January 15, 1910.

John E. Loggan to be postmaster at Burns, Oreg., in place of John E. Loggan. Incumbent's commission expired December 14, 1912.

Thomas McCusker to be postmaster at Portland, Oreg., in place of Charles B. Merrick, deceased.

John F. Miller to be postmaster at Jacksonville, Oreg., in place of Mabel Miller, deceased.

J. H. Peare to be postmaster at La Grande, Oreg., in place of George M. Richey. Incumbent's commission expired January 6, 1913.

Ella V. Powers to be postmaster at Canyon City, Oreg., in place of Ella V. Powers. Incumbent's commission expires January 20, 1913.

SOUTH CAROLINA.

David Hunt to be postmaster at Seneca, S. C., in place of James G. Harper. Incumbent's commission expired January 12, 1913.

Louis Jacobs to be postmaster at Kingstree, S. C., in place of Louis Jacobs. Incumbent's commission expired December 16, 1912.

James F. McKelvey to be postmaster at Fountain Inn, S. C., in place of James A. Cannon. Incumbent's commission expired January 12, 1913.

James P. Metcalf to be postmaster at Inman, S. C. Office became presidential January 1, 1912.

CONFIRMATION.

Executive nomination confirmed by the Senate January 14, 1913.

APPOINTMENT IN THE ARMY.

GENERAL OFFICER.

Brig. Gen. William Wallace Wotherspoon to be major general.

WITHDRAWAL.

Executive nomination withdrawn from the Senate January 14, 1913.

PURCHASING AGENT FOR THE POST OFFICE DEPARTMENT.

John A. Holmes, of the District of Columbia, to be purchasing agent for the Post Office Department.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January 14, 1913.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Let Thy blessing be upon us, O God, our heavenly Father, as we pass through the remaining hours of this day. As Thou hast reposed confidence in us, so may we put our confidence in Thee and in our fellow men, shunning the evil, holding fast to the good, doing faithfully and conscientiously the work Thou hast given us to do, leaving the results to infinite wisdom, power, and goodness; and glory and honor and praise be Thine forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

ONE HUNDRED YEARS OF PEACE (H. DOC. NO. 1268).

Mr. KENDALL. Mr. Speaker, a short time ago there appeared in The Outlook an article by HENRY CABOT LODGE, entitled "One Hundred Years of Peace." It is a contribution of so much historical interest that I ask unanimous consent that it may be printed as a House document.

The SPEAKER. The gentleman from Iowa [Mr. KENDALL] asks unanimous consent to print as a House document a certain speech on One Hundred Years of Peace, delivered by the Hon. HENRY CABOT LODGE. Is there objection?

There was no objection.

POST OFFICE APPROPRIATION BILL.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union, for the further consideration of the bill H. R. 27148, the Post Office appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, for the further consideration of the Post Office appropriation bill, with Mr. GARRETT in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 27148, of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes.

The CHAIRMAN. When the House adjourned last evening an amendment was pending, proposed by the gentleman from Pennsylvania [Mr. GREGG]. The Clerk will report the amendment.

The Clerk read as follows:

Insert as a new paragraph on page 23, after line 20, the following: "The Postmaster General is hereby authorized and directed to admit to the mails and forward to the delivery office return-reply envelopes and post cards without stamps affixed. Each of said envelopes and cards shall bear upon its face a printed address, a permit number, and the statement 'Postage prepaid; no stamp required,' and that it shall be unmailable if address is altered. All such return-reply matter shall be delivered to the addressee at the delivery post office upon the payment of postage at the rate required by law. The Postmaster General shall require a sum in money or stamps to be deposited in such amounts and at such post offices as he may designate to secure the payment of postage on any and all such return-reply matter received for delivery. In the event of default in payment by the addressee of such postage, the postmaster at the delivery post office shall deduct the amount thereof from the money or postage stamps so deposited and deliver all such mail to the depositor.

"The Postmaster General shall prescribe such rules and regulations as may be necessary to carry immediately into effect the foregoing provision."

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order on that amendment.

The CHAIRMAN. The gentleman from Tennessee makes a point of order on the amendment.

Mr. GREGG of Pennsylvania. Mr. Chairman, I will ask the gentleman from Tennessee to reserve his point of order.

Mr. MOON of Tennessee. I will for awhile.

The CHAIRMAN. The gentleman from Tennessee reserves the point of order by unanimous consent.

Mr. GREGG of Pennsylvania. Mr. Chairman, I might say that there is no question but that the amendment is subject to a point of order. Under existing law those who desire to advertise their wares or merchandise or anything else of a legitimate character are permitted to send through the mails post cards which are mailed as a rule for the purpose of receiving some answer from the person to whom they are sent. The object of this amendment is to permit those who desire to advertise in that way to send out post cards, say in gross quantities, without such postage having been stamped upon the post cards themselves, and to require a deposit, in the post office from which the post cards are sent out of a sum sufficient to cover the postage on the matter sent out.

Now, at first blush it would seem that there would be no particular advantage to the Government in doing anything of that kind, but this matter has for a number of years undergone some investigation on the part of advertisers. The matter came into my hands through a constituent of mine, by whom I was informed that sometime last summer, when the Post Office bill was pending before the Senate Committee on Post Offices and Post Roads, the matter was called to the attention of the Postmaster General. I have inquired of the Postmaster General and ascertained that on July 3, 1912, he wrote this letter to Senator BOURNE, chairman of the Senate Committee on Post Offices and Post Roads, which I send to the desk and ask to have read, and which will throw some light on the question of revenue.

The CHAIRMAN. Without objection, the letter will be read.

The Clerk read as follows:

JULY 3, 1912.

Hon. JONATHAN BOURNE, Jr.,
Chairman Committee on Post Offices and Post Roads,
United States Senate, Washington, D. C.

MY DEAR SENATOR: There is considerable public demand for a postal arrangement by which the postage on return mail matter sent by advertisers and others may be paid at the office of original mailing, but, after careful consideration by this department, the conclusion has been reached that there is no authority under existing law for putting such plan into effect. Believing that the inauguration of such system would provide a needed public convenience, and at the same time increase the postal revenues, I have the honor to recommend that there be inserted in the pending postal appropriation bill legislation therefor in substantially the following form:

"The senders of mail matter who desire to pay postage on replies thereto to the number of at least 2,000 identical pieces are hereby granted that privilege upon their depositing, at the time of mailing, a sufficient sum to pay first-class postage thereon, the payment to be made in such way, and under such regulations, as the Postmaster General may prescribe."

Yours, very truly,

F. H. HITCHCOCK,
Postmaster General.

Mr. GREGG of Pennsylvania. Now, Mr. Chairman, it seems to me that in view of the statement that is made therein by the Postmaster General, this is only a measure to assist, as I think, the business men of our country, the advertisers of our country, and there should be no objection made to this amendment at this time.

There is nothing particularly serious about it, and I can very easily see that if this plan is adopted by the Post Office Department, after the passage of a provision of this character, the revenues of the United States Post Office Department would increase very materially, because of the fact that more persons would take advantage of the opportunity to send out these post cards, provided they believed they could get them returned.

Now, if that is the case, and it is for the general benefit and general welfare of the business men of our country, I can see no reason why it should not go into the law.

Mr. MOON of Tennessee. I will ask the gentleman if he does not think it better that legislation along this line should come as a whole instead of piecemeal in this way? Does not the gentleman think it would be better to wait until action is taken by the commissions that are to report on these questions? There have been no hearings had before the committee on this proposition, and I doubt the wisdom of taking it up here in the Committee of the Whole House on the state of the Union for the first time. Oftentimes many views are developed in reference to these matters coming in connection with other postal matters that would influence us.

I suggest that the gentleman had better not press it now. I agree with the gentleman that the postal laws of our country need revision, but I do not believe this to be absolutely necessary, and think we should wait until the Hughes commission's report on it can be fully considered and acted upon.

Mr. MANN. Will the gentleman yield for a question?

Mr. GREGG of Pennsylvania. Certainly.

Mr. MANN. So that we may understand the amendment. At present the practice is to send out, either with a letter or a circular, a regular postal card for reply. The person who sends those out must pay postage on the postal card by buying the postal card, whether that postal card be used or not. Under the gentleman's amendment, as I understand it, the person sending these out would not have to pay the postage when they were sent out, and would not have to pay the postage on any of the postal cards except those that were returned to the sender.

Mr. GREGG of Pennsylvania. The proposition is that the sender shall make a deposit at the place from which he sends the postal cards, say from the city of Washington, for instance, covering the number of cards that he sends out, and then after a certain specified time, which would come under the rules and regulations that would be promulgated by the Postmaster General, the money would be returned to the sender for those cards that had not been used.

Mr. MANN. Under existing law the person who sends these cards out in the first place has to pay the postage whether they are used or not.

Mr. GREGG of Pennsylvania. Yes.

Mr. MANN. Many of them are not used. Very few of them which come to me are used, and every Member receives a great many. Now, under the gentleman's amendment the postage would not have to be paid except on those postal cards which were used. How would that be to the advantage of the Government?

Mr. GREGG of Pennsylvania. I believe if a regulation of the kind proposed by this amendment was put into effect, it would result in more general advertising of this character by the merchants of the country at large. In other words, instead of 2,000 being sent out through the mails in envelopes, or by what is known as the return post card, that same merchant might send out 5,000 or 10,000.

Mr. MANN. The gentleman thinks it would add very materially to the number of these circular letters with the postal cards contained, which people generally receive and which have already become quite a nuisance.

Mr. GREGG of Pennsylvania. That is a matter for the recipient to decide.

Mr. MONDELL. Will the gentleman yield for a question?

Mr. GREGG of Pennsylvania. Certainly.

Mr. MONDELL. Do I understand that it is proposed to charge no postage at all on postal cards unless they are returned?

Mr. GREGG of Pennsylvania. That is it exactly.

Mr. MONDELL. If a million are sent out and only 100 are returned, where would the postal revenues stand on that kind of a proceeding, and what is there in the gentleman's proposition to provide for the sending out of these cards in such a manner and with purpose to bring a return?

Mr. GREGG of Pennsylvania. I believe that would be a matter for the individual advertiser to determine for himself.

Mr. MONDELL. But the individual advertiser may well be content if he can get, say, a million post cards sent out, many of which would be read, and but few returned.

Mr. GREGG of Pennsylvania. If there were a million sent out, the Government would receive the revenue from the sending out of the 1,000,000, whereas if he only sent out 10,000 the Government would only receive the benefit of the revenue on the 10,000. By the increased number sent out the Government would be the beneficiary.

Mr. MONDELL. Evidently the gentleman has not understood my question or the question of the gentleman from Illinois, or I have not understood him. Is the postage paid on the postal cards sent out, without regard to whether they come back or not?

Mr. GREGG of Pennsylvania. Not in this amendment.

Mr. MONDELL. That is it. Then, it is not true that the Government would get the postage on the postal cards sent out. It would get no postage at all except on cards sent out that came back.

Mr. GREGG of Pennsylvania. I am afraid the gentleman does not understand me.

Mr. GARDNER of New Jersey. Mr. Chairman, will the gentleman from Wyoming yield?

Mr. MONDELL. I think my question was reasonably clear. Does the sender of the postal cards, in the first instance, pay the postage on the transmission of the cards originally, without regard to whether the cards come back or not?

Mr. GARDNER of New Jersey. Let me answer that question. The gentleman has received what are called return postal cards?

Mr. MONDELL. The proposition stands as I suggested, that a man might send out a million cards without caring very much whether any of them came back or not, provided he could get some advertising from the sending of the million cards, and if none came back he would pay no postage at all.

Mr. GARDNER of New Jersey. He would pay 1 cent on every double card sent out.

Mr. MONDELL. That is what I have been trying to learn.

Mr. GARDNER of New Jersey. That is what I am trying to tell the gentleman. He has seen double postal cards, and on the outside one there is a 1-cent stamp printed.

Mr. MONDELL. Now, I will propound the question to the gentleman from New Jersey. Is it proposed that in any event the postage must be paid on the original transmission of this postal card?

Mr. GARDNER of New Jersey. Let us get this straight. We send out a double postal card, on one part of which the stamp is printed. If you want to return the other part you tear it off and put a 1-cent stamp on it. It goes now with the one stamp, and if the party receiving it does not detach it and put a stamp on the other part it is never returned.

Mr. MONDELL. Certainly.

Mr. GARDNER of New Jersey. Now, as I understand it, the gentleman from Pennsylvania proposes that that arrangement shall continue as to the sending out, and the Government shall get the same pay for sending them out that it gets now.

Mr. MONDELL. And that is to be paid for by the sender without recourse.

Mr. GARDNER of New Jersey. Certainly; just as now.

Mr. MONDELL. And this proposition is that the postmaster shall simply collect the return postage on those that are returned?

Mr. GARDNER of New Jersey. That is the proposition.

Mr. MONDELL. And it has nothing to do with the postage on the cards as they go out?

Mr. GARDNER of New Jersey. The gentleman is correct.

Mr. GREGG of Pennsylvania. That is correct; but I had not in view in offering this amendment what are known as the return post cards—that is, the double cards. The thing I had in view was the sending out of an envelope containing a circular and a post card, and then upon the return of this post card the postage would be taken from the deposit that was made in the post office from which the original circular or post card was sent.

The CHAIRMAN. Does the gentleman from Tennessee insist upon the point of order?

Mr. MOON of Tennessee. I do.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BYRNES of South Carolina. Mr. Chairman, I desire to offer and have read an amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert, after line 20, on page 23, the following: "That hereafter seeds, cuttings, bulbs, roots, scions, and plants shall be mailable at parcel-post rates."

Mr. MANN. Mr. Chairman, I reserve a point of order on the amendment.

Mr. BYRNES of South Carolina. Mr. Chairman, the parcel-post measure passed at the last session in the first section declared that fourth-class mail matter should include all farm products, but in section 6 it makes an exception to this declaration, providing "that this act shall not in any way affect the postage rate on seeds, cuttings, bulbs, roots, scions, and plants as fixed by section 482 of the Postal Laws and Regulations." Under that provision at least 60 to 70 per cent of the merchandise that the farmer would receive or send by the parcel post is excluded from the benefit of the lower rates granted by the parcel post. As an instance of how these rates discriminate against the farmer in this regard, I ask to read and have incorporated in my remarks a letter addressed to the Hon. A. F. LEVER from W. C. Geraty & Co. I might say that along the coast of South Carolina the industry of the growing of cabbage plants in the winter for shipment to northern States has developed into a great industry. During the shipping season 6 to 10 carloads a day are shipped. These plants are perishable, and immediately after their receipt at the express office must be delivered to the farmer. The farmer anticipated, with the passage of this bill, that he could save the time and the expense involved in this trip to the express office by receiving those plants, seeds, and bulbs on the rural free-delivery route, but he is denied this by the construction placed—and a proper construction—upon this act by the Postmaster General. W. C. Geraty & Co., writing to Mr. LEVER, illustrates the difference in rates as follows:

Practically all of the farmers buy their seeds, cuttings, bulbs, roots, scions, and plants from dealers or growers within a radius of 600 miles, and most of them from dealers or growers within a radius of 200 or 300 miles; therefore we will now make the comparison of the rates charged on all of the merchandise admitted to the parcel-post mails under the regular rates and the charge for these commodities admitted under discriminating rates.

For shipment within the first zone, or within a radius of 50 miles, an 11-pound package of merchandise would cost 35 cents. The same weight package of seeds, plants, etc., would cost 88 cents, or a discrimination of 151$\frac{4}{7}$ per cent against seeds, plants, etc. For the second zone, or within a radius of 150 miles, an 11-pound package of general merchandise would cost 46 cents; the same weight package of plants, seeds, etc., 88 cents, or a discrimination against the plants and seeds amounting to 91$\frac{4}{7}$ per cent. For the third zone, or within a radius of 300 miles, an 11-pound package of general merchandise would cost 57 cents. The same weight package of plants, seeds, etc., would cost 88 cents, or a discrimination against plants, seeds, etc., of 54$\frac{4}{7}$ per cent. For the fourth zone, or a radius of 600 miles, an 11-pound package of general merchandise would cost 68 cents; the same weight package of plants, seeds, etc., 88 cents, or a discrimination against plants, seeds, etc., of 29$\frac{4}{7}$ per cent.

By making a general average of these four zones the average discrimination against plants, seeds, etc., as compared with all other kinds of merchandise, would be 81$\frac{4}{7}$ per cent.

We feel satisfied, however, that at least 75 per cent of all of the plants, seeds, bulbs, etc., purchased by the farmers are bought from dealers and growers within a radius of 50 to 150 miles; therefore, on the largest percentage of these shipments there would be a discrimination in rate against these special commodities of over 120 per cent as compared with all other commodities admitted to the parcel-post mails.

Mr. AUSTIN. What reason does the Postmaster General give for his interpretation of the law which discriminates against the articles the gentleman has mentioned?

Mr. BYRNES of South Carolina. I will say to the gentleman that under the section there is no doubt that seeds, cuttings, bulbs, and roots can be mailable only under section 482 of the Postal Regulations, which rate is 2 ounces for a cent. It is declared that these commodities will be continued to be classed at fourth-class matter, but will be denied the parcel-post rates. I am informed that this was the result of a compromise which was necessary in order to secure the passage of any bill.

I can not understand it myself, because the parcel-post rate is 120 per cent less than the rate that is given to them under this section, and besides that, the great benefit to the farmer is not so much in the reduction of the rate but in the saving of time and the expense that he incurs by reason of having to stop his business and go to the express office, which is not always close to his farm.

Mr. MARTIN of South Dakota. If the gentleman will permit, is it not a fact that this class of commodity is paying third-class instead of fourth-class rates?

Mr. BYRNES of South Carolina. I am frank to say whether this is third-class rate or not I do not know, but I know it is a much higher rate than under the parcel post. It is declared to be fourth-class matter, under section 482, but by this section the parcel-post rate does not apply to these particular articles.

Mr. MARTIN of South Dakota. In other words, as a matter of revenue it is classed as third-class mail matter?

Mr. LEVER. Mr. Chairman, I was about to suggest to my colleague that this is a very peculiar situation which arises on account of section 482. If a plant grower should send his plants through the mail, they would take the rate as prescribed in this section which my colleague has read. If he should take the full-grown cabbage and send it through the mail, it would take the parcel-post rate. In other words, the department holds, and I think properly so, that any seed or plant sent through the mail for propagation purposes shall go at the rate prescribed by section 482. You could send a bushel of wheat which is to be ground into flour at the parcel-post rate, but not a bushel of wheat that was to be planted. It is a rather anomalous situation that ought to be corrected.

Mr. MARTIN of South Dakota. Mr. Chairman, is not that quite the reverse of the general policy of the Government toward the transportation and admission from foreign countries of articles for purposes of propagation?

Mr. LEVER. Yes.

Mr. MARTIN of South Dakota. Has not the whole policy of the Government heretofore been to give lower rates and greater encouragement to the transmission of articles for the purpose of propagation rather than merchandise?

Mr. LEVER. That is undoubtedly true, and I think I may say to my friend from South Dakota that if this matter had been more thoroughly considered, and had not been put through Congress at the close of the session, this contradictory situation would not exist in the law.

Mr. MARTIN of South Dakota. I think it is remarkable that it ever should have gotten into the law.

Mr. BYRNES of South Carolina. Mr. Chairman, it amounts to this in the case of cabbage plants: A cabbage can be sent through the mail in the first zone—an 11-pound package—for 46 cents under the parcel-post rate. A package of cabbage plants weighing the same amount costs the farmer 88 cents. Right now we have to make an explanation to these dealers. These dealers, believing that the parcel post was the blessing to the farmers that it was heralded to be, prepared advertising, expecting to ship the cabbage plants to the farmers. They wrote to the Post Office Department in December for instructions as to how they should be packed and prepared. They were informed by the department that they could not send them at parcel-post rate. We have heard from the dealers. Later, when the farmer in the gentleman's district, who expected to purchase them and have them shipped to him at the parcel-post rate, is informed by the dealer or the grower that he can not ship them by the parcel post, but that he will have to pay the express rate, as he now has to do, and will have to continue to go to the express office, the farmer then is going to write to the gentleman about it, and he will be called upon to explain what we have tried to explain, that a cabbage can go through at the parcel-post rate but that a cabbage plant can not. If the gentleman can satisfactorily explain that, I wish he would send me a copy of his letter, for it will help me out materially.

I now desire simply to say this to the gentleman from Illinois [Mr. MANN], who reserved the point of order: I know it can be said that this matter can wait until some other session of Congress, but the condition of this matter is this: If this bill in the Senate is in the hands of as efficient and competent a chairman as we have in the House, the bill may get through in time to enable the farmers this spring to purchase the plants and have them shipped at the lower rates; but if the point of order is made, and we do not have an opportunity to remedy this evil now, certainly for this season and the next season the farmers will have to bear this burden instead of enjoying the blessing of the parcel post.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. BYRNES of South Carolina. Yes.

Mr. MURDOCK. Is the gentleman aware of the fact that for years under the present postage rates onions sent as seeds went at one rate and onions sent as food went at another.

Mr. BYRNES of South Carolina. No; I have not been aware of that, and I would hate to have to explain why that is so.

Mr. MURDOCK. That is true.

Mr. MANN. Mr. Chairman, the gentleman from South Carolina [Mr. LEVER] said to the House that under the existing law cabbage plants sent to be planted went at a higher rate than cabbage which was grown for food, which is true. It is also true that before the parcel-post law was passed a cabbage sent for food went at double the rate a cabbage sent for planting did. So the fact that there is an inconsistency now is because there was an inconsistency before. If the House will pardon me for making a little statement in reference to this matter, I would say that when the parcel-post proposition was pending before Congress at the last session the American Seed Trade Association, covering not only seedsmen but people who grow plants for sale, entered a vigorous protest against the parcel-post proposition which was pending before the House

and the Senate. They desired to have a flat-rate parcel post, and opposed covering into the parcel-post law their commodities, which then enjoyed a special rate of one-half the ordinary rate for similar commodities. The printers throughout the country did the same thing. There were a great many protests sent by printing houses and others engaged in the preparation of circulars and printed matter, insisting that the proposed parcel-post bill would increase their rate. I helped to eliminate both propositions from the bill, as far as I had any influence, so that the parcel-post bill might become a law. When it became a law these gentlemen found that the protests which they sent out in language which was very vigorous and sometimes unparliamentary, as far as use in a legislative body was concerned, was a mistake on their part; that the parcel-post law which they were vigorously opposing, if applied to them, would have given better rates than they were enjoying. It is very likely that ought to be corrected; but it applies to books, it applies to printed matter, and it applies to all of the third-class matter, and if a change is to be made it seems to me it ought to be made, taking into consideration all those articles which formerly went at a lower rate than an ordinary parcel and which now go at a higher rate. The change should not be confined to merely young cabbages intended for planting.

While I sympathize with the gentleman, it is true that the cabbages pay no higher rate now than they did a year ago at this time. It may be that they have been discriminated against in this way, but they have lost nothing. They go at the same rate now that they did a year ago. I do not know whether the American Seed Trade Association, including all of these growers practically, or the men who furnish the seeds and who grow large quantities, want the rate changed or whether the printing trades want the rate changed and apply the zone system to their business instead of the flat-rate system which now prevails. But it is a matter on which there ought to be some hearing before a proper committee, and the whole subject, it seems to me, ought to be considered when this bill goes to another body, where, if the gentleman will call it to the attention of that body, it can be considered, and, as I take it, it has not been called to the attention of the committee of this body, I shall feel constrained at this time——

Mr. LLOYD. May I interrupt the gentleman?

Mr. MANN. Certainly.

Mr. LLOYD. Is it not true that the cabbage to which he now refers, if it should be sent to the fifth or sixth zone, would be required under the parcel-post law to pay more than under the existing law?

Mr. MANN. That would depend largely on the size of the package.

Mr. LLOYD. Suppose the package is 4 pounds?

Mr. MANN. I have not figured that out. I do not know; but, of course, these packages now go under the flat rate.

Mr. LLOYD. Under the flat rate they would pay 8 cents a pound, and it would not make any difference whether it was 1 mile or 10,000 miles. Now, under the parcel-post system it would depend on the distance as to what it would be, and, as a matter of fact, if this amendment were to become a law, seeds sent to a remote part of the country from where they are started would have to pay more under the parcel-post law than they pay under the existing law. So that does not remedy this matter altogether. It does remedy it in the first or second zone.

Mr. LEVER. Up to the sixth zone.

Mr. MANN. And for that reason, it seems to me, it ought to be considered by a committee.

Mr. LLOYD. As the gentleman is well aware, there is a Parcel Post Commission charged with the investigation of such matters as that, and they happen to be investigating it now. I am not a member of the commission, and so I do not know what is being done in regard to it. But the matter needs to be adjusted. These gentlemen are right in wishing something to be done so that the fourth-class rate may be adjusted and this peculiar instance that may be mentioned will be corrected. But this Parcel Post Commission is charged with the duty of making recommendations, and will probably suggest that which will remedy this imperfection.

Mr. MANN. I am quite frank in saying that a situation exists which needs remedying, and the reason these matters were left out of the parcel post a year ago was because none of the gentlemen of the House thought it desirable just on the eve of the vote in the House to have the House bombarded with letters and telegrams from all the printing houses of the country and all the people engaged in the growing or selling of seeds against the parcel-post proposition, which they did not understand.

Mr. LEVER. I would like to suggest to the gentleman from Illinois [Mr. MANN], if he will permit it, that while I do not know what consideration the Committee on the Post Office and Post Roads has given to this proposition, I think it only just to myself to say that I took the matter up with the chairman of that committee and filed with him a letter from Mr. Geraty, fully explaining this situation, a letter similar to the one that my colleague [Mr. BYRNES of South Carolina] has read.

Mr. MOON of Tennessee. That was after the bill was reported.

Mr. LEVER. I think the gentleman is mistaken. I think it was really during the first days of the session.

Mr. KENDALL. Will the gentleman yield?

Mr. LEVER. Yes.

Mr. KENDALL. Would not it be possible, in view of the suggestion made by the gentleman from Missouri [Mr. LLOYD], and in view of unanimous opinion that this ought to be corrected, to have the Parcel Post Commission investigate the matter pending the time the bill goes to the Post Office Committee in the Senate?

Mr. LLOYD. I am not able to reveal anything as to what has been done. I am not a member of the Parcel Post Commission, and I do not know just what they have been doing. But I had a conversation with the chairman, in which we had something of a discussion of the very matter that is now before us.

Mr. KENDALL. Of course there was no impropriety whatever in the suggestion of the gentleman from Missouri [Mr. LLOYD], but it seems it would offer a solution to this difficulty, which would be a very proper and adequate one. If the Parcel Post Commission could consider this question, together with the suggestion of the gentleman from Illinois [Mr. MANN] as to the printing trades, and then make a recommendation to the Senate, it would cover the business entirely.

Mr. LLOYD. This defect in the law applies to books as it does to this matter, and recommendations should be made to bring the third-class——

Mr. KENDALL. Have a general revision, as suggested by the gentleman from Illinois [Mr. MANN].

Mr. LEVER. The proposition of the gentleman from Illinois [Mr. MANN] is that there is here a matter that should be remedied immediately, and therefore, having agreed upon it, there is not much further use of having a controversy about it.

Mr. KENDALL. It simply means making two bites of one cherry.

Mr. LEVER. And we are willing to take the bite now.

Mr. BYRNES of South Carolina. There is a difference between the section as to the books and this one; that under the section under which they are now mailable they are declared to be fourth-class matter, and this is the only exception.

Mr. MANN. The gentleman will remember that originally these commodities went as fourth-class matter. They secured special legislation to give them the same rate that is provided for third-class matter, and while they are nominally fourth-class, they are, in fact, practically third-class matter, and carry the same rate as third-class matter, and all the reasoning that applies to one applies to the other, probably. The gentleman from Iowa [Mr. TOWNER] the other day—I will not say at the instance, but because of the action of some association of librarians—proposed that the parcel post should carry books under the same provision as other parcels are carried. A point of order was made against that, and I think properly, so that it might receive further consideration. I think the same thing is true of this proposition.

Mr. BYRNES of South Carolina. I can only say for the Post Office Committee, inasmuch as the gentleman's point is that that committee has not considered the matter, that I am told by my colleagues that some members of the committee did consider it. There seems to be some misunderstanding as to when it was.

Mr. MOON of Tennessee. There is no misunderstanding in my mind about when it was. This bill was ready to be reported on the 10th day of December.

Mr. BYRNES of South Carolina. I think the committee is ready to vote on this proposition.

Mr. MANN. Well, while I appreciate the desire of gentlemen to sell cabbage plants cheaply, or to distribute them cheaply, that is not the only thing to be considered. I think all these things should be considered in a proper way. I make the point of order, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois makes a point of order, and the point of order is sustained. The Clerk will read.

The Clerk read as follows:

For stationery, including all money-order offices, $105,000.

Mr. FOWLER. Mr. Chairman, I call attention to the fact that line 21 has not been read. There was something pending that was the order of business.

The CHAIRMAN. The Clerk will read line 21.

The Clerk read as follows:

Office of the Fourth Assistant Postmaster General.

Mr. FOWLER. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The Clerk read as follows:

Amend, page 23, after line 21, by inserting the following as a new paragraph:

"That for the purposes of this act certain highways of the several States, and the civil subdivisions thereof, are classified as follows:

"'Class A shall embrace roads of not less than 1 mile in length, upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, well drained, with a road track not less than 9 feet wide, composed of shells, vitrified brick, or macadam, graded, crowned, compacted, and maintained in such manner that it shall have continuously a firm, smooth surface, and all other roads having a road track not less than 9 feet wide of a construction equally smooth, firm, durable, and expensive, and continuously kept in proper repair. Class B shall embrace roads of not less than 1 mile in length, upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, well drained, with a road track not less than 9 feet wide composed of burnt clay, gravel, or a proper combination of sand and clay, sand and gravel, or rock and gravel, constructed and maintained in such manner as to have continuously a firm, smooth surface. Class C shall embrace roads of not less than 1 mile in length upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, with ample side ditches, so constructed and crowned as to shed water quickly into the side ditches, continuously kept well compacted and with a firm, smooth surface by dragging or other adequate means, so that it shall be reasonably passable for wheeled vehicles at all times. That whenever the United States shall use any highway of any State, or civil subdivision thereof, which falls within classes A, B, or C, for the purpose of transporting rural or star route mail, compensation for such use shall be made at the rate of $25 per annum per mile for highways of class A, $20 per annum per mile for highways of class B, and $15 per annum per mile for highways of class C. The United States shall not pay any compensation or toll for such use of such highways other than that provided for in this section, and shall pay no compensation whatever for the use of any highway not falling within classes A, B, or C: *Provided*, That in calculating or otherwise ascertaining the distance that mail is transported over any highway, such distance shall be measured or calculated in only one direction, and only one use of or travel over any such highway, or any part thereof, on any one trip by a carrier using the same, shall be considered. That any question arising as to the proper classification of any road used for transporting rural or star route mail shall be determined by the Secretary of Agriculture. That the compensation herein provided for shall be paid at the end of each fiscal year by the Treasurer of the United States upon warrants drawn upon him by the Postmaster General to the officers entitled to the custody of the funds of the respective highways entitled to compensation under this act under and in accordance with rules and regulations prescribed jointly by the Secretary of the Treasury and the Postmaster General: *Provided, however*, That no payment shall be made under the provisions of this paragraph for the use of any privately owned or toll road.'

"That provisions of this paragraph shall go into effect on the 1st day of July, 1914."

Mr. MOON of Tennessee. Mr. Chairman, it is very evident that that amendment is subject to a point of order and and obnoxious to the rules of the House. I make a point of order against it.

Mr. FOWLER. Mr. Chairman, I hope the gentleman will withhold his point of order.

Mr. MOON of Tennessee. I do not feel justified in taking up the time of the committee in withholding the point of order, in view of the fact that there is a road commission engaged in looking into this matter.

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] makes a point of order against the amendment. The point of order is sustained.

Mr. FOWLER. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For the purchase, exchange, and repair of typewriting machines, envelope-opening machines, and computing machines, and for the purchase of copying presses, numbering machines, and miscellaneous articles purchased and furnished directly to the postal service, $80,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] moves to strike out the last word.

Mr. MANN. I do it for the purpose of asking a question of the chairman of the committee. Do they have no occasion for repairing or exchanging numbering machines? Heretofore the item has carried a provision for the purchase, exchange, and repair of various machines, including numbering machines. By the language this year the authority, so far as numbering machines are concerned, is only for the purchase of copying presses, numbering machines, and miscellaneous articles. Do they have no occasion to repair or exchange numbering machines?

Mr. FINLEY. Mr. Chairman, I call the gentleman's attention to the language beginning with line 4:

For the purchase, exchange, and repair of typewriting machines, envelope-opening machines, and computing machines.

Mr. MANN. And the item continues—

And for the purchase of copying presses, numbering machines, and miscellaneous articles.

Mr. FINLEY. The gentleman's question was relative to——

Mr. MANN. Numbering machines.

Mr. FINLEY. I understood it was computing machines.

Mr. MANN. No; I beg the gentleman's pardon. I said "numbering machines." I supposed there was some occasion for repairing or exchanging numbering machines. What is the occasion for limiting that part of the authority simply to the purchase? The authority to purchase is included, of course, in the first part of the paragraph.

Mr. MOON of Tennessee. We do not object to putting that in, because they do own and repair some of them.

Mr. MANN. Then if you strike out the language "for repair and purchase" you would have authority to purchase and repair all the machines provided under the current law.

Mr. TILSON. Strike out the word "and."

Mr. FINLEY. Is the gentleman from Illinois through?

Mr. MANN. Yes; I am through.

Mr. FINLEY. Mr. Chairman, on line 6, I move to strike out the words "and for the purchase of."

The CHAIRMAN. Will the gentleman from South Carolina kindly state the amendment again?

Mr. FINLEY. On page 25, line 6, strike out the words "and for the purchase of."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from South Carolina [Mr. FINLEY].

The Clerk read as follows:

On page 25, line 6, strike out the words "and for the purchase of."

Mr. KENDALL. You want to strike out the word "and," in line 5, too.

Mr. FINLEY. And in line 5, page 25, strike out the word "and."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

And in line 5, page 25, strike out the word "and."

The CHAIRMAN. The question is on agreeing to the first amendment offered by the gentleman from South Carolina.

Mr. MANN. It is all the same amendment.

The CHAIRMAN. Without objection, both amendments will be treated as one.

There was no objection.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina [Mr. FINLEY].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For inland transportation by star routes (excepting service in Alaska), including temporary service to newly established offices, $7,105,000: *Provided*, That no part of this appropriation shall be expended for continuance of any star-route service the patronage of which shall be served entirely by the extension of Rural Delivery Service, nor shall any of said sum be expended for the establishment of new star-route service for a patronage which is already entirely served by Rural Delivery Service.

MESSAGE FROM THE SENATE.

The committee informally rose, and Mr. HARDWICK took the chair as Speaker pro tempore.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following order:

Ordered, That the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be removed from office and be forever disqualified from holding and enjoying any office of honor, trust, or profit under the United States.

Resolved, That the Secretary be directed to communicate to the President of the United States and to the House of Representatives the foregoing order and judgment of the Senate and transmit a certified copy of the same to each.

The message also announced that the Senate had passed sundry bills and a joint resolution of the following titles:

H. R. 20339. An act for the relief of Joseph W. McCall;

S. 7637. An act to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.;

S. 8000. An act providing for publicity in taking evidence under act of July 2, 1890; and

S. J. Res. 150. Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate.

POST OFFICE APPROPRIATION BILL.

The committee resumed its session for the further consideration of the bill H. R. 27148, the Post Office appropriation bill.

Mr. HARDWICK. Mr. Chairman, I rise to move to strike out the last word, for the purpose of asking the chairman of the

committee a question. The question is this, if the gentleman will give me his attention: Since the establishment of the parcel-post system the duties of these star-route carriers have, in many cases, if not in all cases, been very largely increased. Is there any provision under existing law by which their compensation can be correspondingly increased by the department without additional legislation?

Mr. MOON of Tennessee. I do not think there is any additional legislation needed on the subject, and we could not put in additional legislation under the rules. It would be subject to a point of order.

Mr. HARDWICK. Yes.

Mr. MOON of Tennessee. But as these star-route matters are matters of contract with the department and the appropriation seems to be ample, there seems to be no reason why they can not readjust the pay on account of the additional service in the contracts.

Mr. HARDWICK. If the gentleman will pardon me just a minute, these contracts are made for a period of years in the future?

Mr. MOON of Tennessee. Yes.

Mr. HARDWICK. I have not investigated the subject recently, but I understand in a general way that it has been contended in the past at least that any change in the length of service or the character of the contract, of a physical kind more than anything else, has been required to authorize these readjustments in compensation. For instance, if the route were extended or if for any reason it were more difficult to perform the service, that has been held to be sufficient to authorize these readjustments. But I am afraid the view of the department will be that without authority of law they can not compensate these carriers for this additional service imposed by the parcel-post system. If the gentleman can give me any information on that point, I shall be obliged to him.

Mr. MOON of Tennessee. My understanding is that under such conditions they can compensate under the general postal act; but under the contract itself, if the Government were to impose burdens far in excess of those contemplated when the contract was made, evidently the obligation would not exist to carry it out any further on the part of the contractor; and the option rests with the Government all the time under this contract to annul the contracts and make new ones.

Mr. HARDWICK. Yes; but I am speaking of the act from the standpoint of the man who has made the contract with the Government. He has no such option.

Mr. MOON of Tennessee. I know he has not, but under the general postal law he has the right to refuse to carry out the contract, as I say, if the burdens imposed are far in excess of those contemplated when the contract was made.

Mr. HARDWICK. I am glad to get the gentleman's opinion on that. I understand, then, that under the general postal law——

Mr. MOON of Tennessee. Under the parcel-post law.

Mr. HARDWICK. Under the parcel post the Government could make regulations without additional legislation.

Mr. MOON of Tennessee. Yes.

Mr. HAMILTON of West Virginia. This bill makes appropriations for the year beginning next July.

Mr. HARDWICK. Yes.

Mr. HAMILTON of West Virginia. The contracts will expire before that time and the bidders for star routes will have to take into consideration this new service.

Mr. HARDWICK. I do not think all the contracts do expire before the 1st of July, and if the appropriation of seven million and some odd thousand dollars for this service is on the basis of the duties that were required of these carriers before the adoption of the parcel-post proposition, then it will be apparent offhand, I think, that there will not be enough money appropriated to pay them if you are to increase their compensation because of these additional duties imposed. Ought not the appropriation for that reason to be larger?

Mr. FINLEY. If the gentleman will take the Post Office appropriation act of last session, on page 22 he will see a provision that the Postmaster General may readjust the compensation of star-route and screen-wagon contractors if it shall appear that, as a result of the parcel-post system, the weight of the mail handled by them has been materially increased.

Mr. HARDWICK. That is a complete answer to my first question. Now, I will ask another question of the gentleman from South Carolina. Is this appropriation made on the basis of looking out for that?

Mr. FINLEY. We are unable to say how much the weight of the mails will be increased on account of the parcel post, but it will occasion no inconvenience and no harm to the contractors. We will meet here next December, and long before the expiration of the fiscal year, and whatever increased appropriation is necessary Congress can provide for at that time.

Mr. HARDWICK. As a deficiency, if necessary.

Mr. FINLEY. Yes.

Mr. HARDWICK. I agree with the gentleman.

Mr. MOON of Tennessee. Under the policy of the department they are gradually decreasing the number of star-route contracts and covering them into the rural service, and this bill provides for $73,000 just along the lines the gentleman speaks of.

Mr. HARDWICK. Then it does cover that?

Mr. MOON of Tennessee. Yes.

The CHAIRMAN. If there be no objection, the pro forma amendment proposed by the gentleman from Georgia will be withdrawn.

Mr. MONDELL. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Wyoming offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 25, line 21, strike out $7,105,000 and insert $7,355,000.

Mr. MONDELL. Mr. Chairman, I hope I may have the attention of the committee for a brief discussion of this amendment in line with the suggestion just made by the gentleman from Georgia [Mr. HARDWICK].

Gentlemen will recall that star-route and screen-wagon contractors are peculiarly affected by the adoption of the parcel post. These contractors contract to carry the mail for a certain sum per annum without regard to weight, and it has been the habit of star-route carriers from time immemorial to carry small packages for the patrons of their routes, for which they are paid varying sums. The very small pay which they receive—smaller in proportion to the service rendered than any other class of postal employees—8 cents a mile on an average against about 14 for the rural-delivery carrier—is partly excused on the theory and in view of the fact that the star-route carrier does secure some small income for the carrying of parcels. Therefore the parcel post affects him adversely in two ways. First, it takes from him the income which he now has and which was contemplated in the letting of his contract for the carrying of parcels for the people along the route. Second, it burdens him with the additional weight for which he receives no additional compensation. These facts were so well understood that when we passed the parcel-post bill we made a special provision, which the gentleman from South Carolina [Mr. FINLEY] has referred to, authorizing the Postmaster General to readjust the pay of these men on the basis of the increased weight carried by them. What are the facts with regard to the appropriation? The committee have granted what the department asked for. The difficulty is that the department did not make their estimate high enough, and that was admitted in the very brief statement made to the gentleman from Missouri [Mr. LLOYD], who was the only member of the committee who asked any questions with regard to this item.

He questioned Chief Clerk Satterfield with regard to this item, and in answer to his question the statement was made that the proposed increase is "very, very small," and I think he might have well said very, very, very small. What is the fact?

Mr. LLOYD. Mr. Chairman, if the gentleman will yield, I suppose the gentleman wants to be accurate?

Mr. MONDELL. I do.

Mr. LLOYD. The expression was "very conservative."

Mr. MONDELL. "Very conservative"? I thought it was "very small." I want to be accurate, and I want the gentleman from Missouri to be accurate. On page 93 of the hearings——

Mr. LLOYD. It is on page 92 of the hearings.

Mr. MONDELL. I am referring to page 93 of the hearings, line 5, where he says, "we have Congress to come to if we need more money, and that is the reason we made it very, very small." S-m-a-l-l—small.

Mr. LLOYD. Yes; but when asked in regard to the matter he said, "That is conservative; very conservative," and the chairman said, "Do you ever make any other kind of estimates than conservative ones?" And Mr. Satterfield said, "I said very conservative. There is this to be said about that. When we get to it, when we actually face the situation, we have Congress to come to if we need more money, and that is the reason we made it very, very small."

Mr. MANN. He undoubtedly thinks "conservative" and "small" mean the same thing.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent for 10 minutes. I have studied this question considerably, and I am deeply interested in it.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent that he may proceed for 10 minutes. Is there objection?

There was no objection.

Mr. MONDELL. Now, Mr. Chairman, I want to call the attention of the gentleman from Missouri, if he will bear with me, to the fact that the estimate is not only "very, very small," but it is erroneous. The department started out to estimate the cost of the increase of this service upon the statement that the cost of the service the last fiscal year was $6,769,000. The cost of the service was in fact $6,819,297 for the year 1912, or about $50,000 more than stated.

Now, starting out with a sum $50,000 too small, they then estimated the cost of the first section, a net increase of $154,256. That increased cost is known because these contracts will be let very shortly. Then they estimate for all of the other sections, a less increase in cost than the actual increase of cost in the first section shown by the bids in the first section.

In other words, the actual increase in cost in the first section, where bids are already received, is 11½ per cent. They estimated the increased cost in the other three sections at less than 3 per cent, or about 2½ per cent. So, starting with an amount $50,000 too low, reducing on account of reduction of service, adding the known increase in the first section, then estimating an increase altogether too low for the other sections, they arrive at a conclusion that is very far short of what will be necessary to conduct this service.

Mr. MADDEN. Will the gentleman yield?

Mr. MONDELL. Before I yield I want to show what the committee has already done in regard to parcel post in connection with other estimates. Either the committee is wrong in regard to other items or it is wrong in regard to this, and the committee can take it one way or the other.

Mr. MADDEN. Will the gentleman allow me to lay the foundation for him?

Mr. MONDELL. Not now.

Mr. MADDEN. The gentleman does not want information?

Mr. MONDELL. The gentleman from Illinois can not give me any information on this matter, for I know more about it than he does.

Mr. MADDEN. I do not think so.

Mr. MONDELL. I not only think, I know.

Mr. MADDEN. The gentleman has a good opinion of his own information.

Mr. MONDELL. I may not know very much, but what I know I know as well as the gentleman from Illinois does. I have given this matter some attention, and the gentleman from Illinois has given it no attention, in my opinion.

Mr. MADDEN. The gentleman from Wyoming is wrong; I have given some attention to it.

Mr. MONDELL. There were only two questions put in regard to it in the hearings, and those were by the gentleman from Missouri.

Mr. MOON of Tennessee. If the gentleman from Wyoming is not more accurate with reference to his other facts in regard to this, we need not pay much attention to it. The questions were not asked by the gentleman from Missouri.

Mr. MADDEN. It is not necessary to ask questions in order to have information.

Mr. MONDELL. The gentleman from Missouri did ask some questions in regard to the matter.

Mr. MOON of Tennessee. Where?

Mr. MONDELL. The chairman asked some questions, too, in regard to the matter.

Mr. MOON of Tennessee. The gentleman from Missouri did not ask any questions.

Mr. MONDELL. Very well, we will let the chairman have his way as to who asked the questions. I want to call the attention of the chairman and of his committee to the fact that they increased the appropriation by reason of parcel post on behalf of everybody except the man in the country that carries the star route. He is forgotten.

In the Alaska appropriation you increase the appropriation 80 per cent on account of parcel post, or practically $200,000. In the matter of steamboat transportation you increase the item $100,000, approximately, or 12½ per cent, on account of parcel post, and for that reason alone, because in all these cases the various items are carefully put down and the parcel-post increase is carried by itself. In the matter of mail-messenger service the item is increased $165,000, or 9 per cent, and in the matter of post-office car service there is an increase on account of parcel post—and these increases are all increases specifically by reason of this service—the increase is approximately half a million dollars, or 11 per cent.

But when you come to the star-route carrier, the only man who had to take an additional burden, who had no option because he was under contract, you take away from him, on the one hand, his income heretofore received, and, on the other hand, put the additional burden on him whether he would or no because he is under contract to carry the mail. Now, I am not blaming the committee, unless it is to blame for not having gone into the matter more carefully with the officers of the Post Office Department. They allowed the amount estimated.

I have offered this amendment in the best of faith, and I have offered an amount so small that certainly the committee can not in good faith do anything but accept it. I am only proposing to increase this item 2½ per cent, so that with the increase already in the bill it will be an increase of 3½ per cent, when there is no other service affected by the parcel post that is not increased in this bill by at least 9 per cent. Under the circumstances it seems to me that this increase of $250,000—not quite 3 per cent of the amount carried—is exceedingly small. The same terms can be applied to it that the department applied to the very, very limited increase they proposed. It is altogether too small, but it will at least give us such a sum that the department will be able to afford some little relief in the case of these men who are now receiving smaller pay for the work they do than any other class of people in the postal service. I want to make this clear, because some member of the committee may suggest that this item ought to have been reduced in contemplation of the probable cutting off of star-route service, but that has all been considered in the estimate as made up.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MOON of Tennessee. Mr. Chairman, I desire to make only a remark or two in reference to this matter, it not being the disposition of the committee to cut off the appropriation for this service. My friend from Wyoming [Mr. MONDELL] very strenuously insists that he is very familiar with this question. He is very positive in his views. I called attention awhile ago to the fact that he had not studied this question as closely as he thinks he has, because he said there were no questions asked on that subject except by the gentleman from Missouri [Mr. LLOYD]. Here is the record, and it shows that Mr. LLOYD did not ask a single question on the subject, but that the chairman and others did.

Mr. MONDELL. Mr. Chairman, does the gentleman from Tennessee think that is really very important?

Mr. MOON of Tennessee. No; it is not very important.

Mr. MONDELL. I read this entire record, and I do not think it is so extraordinary I forgot who asked one or two questions.

Mr. MOON of Tennessee. I say it is not very important so far as the facts in the case are concerned, but it is important to show that the recollection of the gentleman is not as good as he said it was. I will demonstrate a little further on that he is in error about other matters. Mr. Chairman, whether he intends it or not, the gentleman's remarks have left the impression on this House that the star-route contractors occupy the same sort of relation to the Government that the rural-route carrier and the city carrier occupy. We know that is not so. The bids are submitted for carrying the star-route service, and the man gets a contract under his bid. He gets it from the Government, if he gets it at all, and at the figure that he fixes himself for the carrying of the mail. It is immaterial whether he has made a good bid or a bad bid. It is his judgment. But the Government is beneficent and just; it does not want to change the contract by adding burdens to it without giving him additional compensation, so the law of the land has provided for a readjustment of compensation by the department.

Mr. MONDELL. Has the gentleman provided in his bill for readjustment?

Mr. MOON of Tennessee. Then the question comes, have we given money enough for that purpose, and that is all he could complain of. The main reason the gentleman insists upon is, that we do not give as much in proportion to the service here as we do under other heads. Let us see whether we do or not. Here is a constantly diminishing service, a service that is being covered rapidly into the Rural Delivery Service, one that will be wiped out after a while. The appropriation here for this service is $7,105,000.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. MOON of Tennessee. Yes.

Mr. MONDELL. All those matters of reduced service were taken into consideration by the estimate of the department.

Mr. MOON of Tennessee. I understand they were taken into consideration, and so were some other facts that I am going to relate. It was not necessary to use in the last fiscal year $305,428 of the money that was appropriated for the purpose of carrying on this service in adjusting these differences, yet the department comes up and in view of the law and the authority that is conferred upon it, to deal justly with these star-route men, it asks this committee to reappropriate a large sum of money and for an additional sum of $73,000. So we have to-day, with an appropriation that carries only $7,105,000 the sum of $378,400 to make good any burdens that may be imposed or may have been imposed upon these contractors by reason of the change in the law. We have not only done fairly by them, but we have done liberally by them. We have given every cent that the department has asked and every cent that the facts justify.

Mr. MONDELL. Where does the gentleman find any provision for the reappropriation of any sum. There will be no such sum left at the end of the fiscal year as the gentleman suggests, and if there were, it would not be available for the coming fiscal year.

Mr. FOWLER. Mr. Chairman, I offer an amendment to the amendment of the gentleman from Wyoming, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend the amendment by reducing the sum contained therein to $7,200,000.

Mr. FOWLER. Mr. Chairman, the star-route carriers of America are not only the poorest paid of any mail carriers in the country, but they are required to travel over the worst roads in the country. They are really a class of people by themselves. They are required to send in competitive bids for every contract which is made for the purpose of carrying the mail.

It is entirely different with the rural-route carrier and the letter carrier. These men have fixed salaries, and when they are employed it is well known that their salaries are so fixed that they will receive the amount fixed by law. But in these competitive places the star-route carriers know nothing about the hardships in many instances which they meet in carrying these mails. I know one man who contracted in the southern part of my State to carry the mail on one of these routes, and he was required, as is required by all others, to give bonds for that purpose. He failed. He was carrying that mail some 40 miles a day on a salary of 88 cents a day, and he failed to comply with his contract. His bondsmen were required by the Government to carry the mail and make good the contract, and I know that one of the bondsmen undertook to carry out the contract and killed four blooded horses in trying to do so. And I say, Mr. Chairman, these men ought to be paid better, and I think that is the duty of this committee and of this Congress to look into such cases and see that these men are placed upon a salary, the same as rural route and letter mail carriers are paid. Mr. Chairman, they are required to carry the mail over the worst——

Mr. MOON of Tennessee. Will the gentleman yield?

Mr. FOWLER. No; I can not yield now.

They are required to carry the mail over the worst class of roads in this country, and for that reason I sought here by an amendment to secure national aid for the purpose of helping to construct post roads throughout this country in order to relieve this class of mail carriers. It was thought, Mr. Chairman, during the last session of this Congress that the amendment which I offered was good legislation. It passed this House by an overwhelming majority, and I offered an amendment embodying practically the same provisions awhile ago, in order to see what the House thinks of such legislation after the election. It thought it was good legislation before the election, and now I want to determine just what its views are upon national aid for the construction of good roads after the election.

Mr. MADDEN. Mr. Chairman, I hope that neither of these amendments will prevail. I think the committee has made ample provision for the star-route service. During the coming year 242 star routes will be discontinued, aggregating 2,408 miles, making a saving of $266,200. Does anybody assume that when you substitute rural service for star-route service there should not be a saving in the star-route service? It is a simple matter of mathematical calculation. It is easy to understand when you substitute rural-delivery service for the star-route service that you ought not to pay for both. If the department estimates only 1 per cent additional for the fiscal year 1913-14 for star-route expenses, it does so because there is much less territory served by the star-route method. It is absurd to assume that the star-route service should go on increasing every year in cost and at the same time have that service rendered by rural-delivery carriers. No business house in the world would act upon the argument of the gentleman from Wyoming [Mr. MONDELL]; no business could be carried on successfully by the method which he suggests.

The Committee on the Post Office and Post Roads has made ample provision for the work of star-route delivery. I am of the opinion that the amount recommended by the committee will be far in excess of the star-route needs. Why, last year over $300,000 of the amount appropriated was turned back into the Treasury, and this year we propose to take away from this service 2,400 miles of routes and pay $266,000 to rural-delivery carriers for performing that service. And yet the gentleman from Wyoming [Mr. MONDELL] assumes that we should continue to increase the amount appropriated to meet his imaginary needs.

Mr. McKENZIE. Mr. Chairman——

Mr. MADDEN. There is no justification for the proposition submitted by the gentleman from Wyoming to the committee.

The CHAIRMAN. Does the gentleman from Illinois [Mr. MADDEN] yield to his colleague [Mr. McKENZIE]?

Mr. MADDEN. Yes; surely, I will yield.

Mr. McKENZIE. What is the amount of the reduction in this item from that of last year?

Mr. MADDEN. We increase it 1 per cent.

Mr. McKENZIE. Notwithstanding the fact that these star routes are going out of existence?

Mr. MADDEN. Surely; and we increase it because, notwithstanding the establishment of these rural delivery routes, we realize that there will be some added work in the star routes remaining because of the establishment of the parcel post.

Mr. KENDALL. Will the gentleman yield for a question?

Mr. MADDEN. Surely.

Mr. KENDALL. I want to ask if the department did not take all the gentleman has stated into account when it made its estimate?

Mr. MADDEN. The department took all of that into account and recommended only an increase of 1 per cent.

Mr. MOON of Tennessee. Will the gentleman from Illinois [Mr. MADDEN] allow me an interruption?

Mr. MADDEN. Yes, sir.

Mr. MOON of Tennessee. The department only recommended an increase of 1 per cent, it is true, but that was largely perhaps due to the fact that there was $305,000 of this appropriation unexpended.

Mr. MADDEN. And also due to the fact that a number of rural delivery routes have been substituted for star routes?

Mr. MOON of Tennessee. Certainly; and they would have that sum available in the new appropriation in addition to that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MADDEN. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. The gentleman from Illinois [Mr. MADDEN] asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. MADDEN. Now, Mr. Chairman, the gentleman from Wyoming [Mr. MONDELL] complains that there is an increase of 9 per cent in the transportation allowance by rail; that there is an increase for other service, and a higher percentage of increase for still other service, while the star-route service alone is reduced to 1 per cent increase. The fact is that in every other branch of the service there is added work and justification for the increase recommended, whereas in the star-route service there is reduced work, and, consequently, justification for the reduced appropriations recommended by the committee.

The gentleman from Wyoming assumes that the committee does not understand what it is doing, but that he is all-wise, that he has information which nobody else could obtain and which no other Member of the House possesses. He is always certain that he is right, and quite certain that everybody else is wrong.

I do not think he helps his case much by assuming that he is the only one who knows the situation; by stating that members of a great committee, having given consideration to this important subject, have no knowledge upon which to base the action which they have recommended to the House.

It is not necessary to ask questions of some governmental functionary in order to be informed upon a subject. There are other methods by which information can be obtained. The members of the Committee on the Post Office and Post Roads, all of them, can read; they are industrious; they are at work. They realize that they have important duties to perform. They endeavor to perform them to the best interests of all the people of the country, and they are not, because of the activity and

aggressive force of the gentleman from Wyoming, making recommendations for the appropriation of money for star-route service that is not justified.

I can understand very well why the gentleman from Wyoming is anxious to place himself on record aggressively in favor of large appropriations for the territory from which he comes. Much of the mail delivery there is by star-route service. Railroads are scarce. The country is mountainous. The gentleman is a true representative of that western territory. He never hesitates to ask, and he gets all he can, and, as a rule, he gets a good deal more than anybody else gets. I am proud of his aggressiveness; but I want him to understand that other members of this committee on the floor of this House have information upon the subjects that come before the committee for consideration—that he is not the only man who has any intelligence, the only man who has any wisdom, the only man who has any knowledge.

He was not exactly frank with the House when he made his statement about the needs of the star-route service. He forgot to lay the necessary foundation by stating that 2,408 miles of star-route service had been discontinued and turned into the rural free-delivery service, and that the country is expending $266,000 for that service which prior to that time was expended for star-route service. I hope that neither the amendment of my colleague [Mr. FOWLER] nor the amendment of the gentleman from Wyoming [Mr. MONDELL] will prevail. [Applause.]

Mr. MONDELL. Mr. Chairman, a wise man has said that it is better that a man shall not know so much than that he shall know a great deal that is not so. [Laughter.] That saying was never better illustrated in the world than by the speech of the gentleman from Illinois [Mr. MADDEN].

He says that I assume to have information that others have not. I assume nothing of the sort. But the gentleman alleges facts which no one else can find anywhere, in any written or oral statement made by anybody on the face of the earth. The fact is that the department, in making its estimates for the star-route service, estimated—and it is on page 109 of the hearings, if the gentleman will take the trouble to read it—an expected reduction of mileage, and took it out of the sums they would otherwise have asked for.

Mr. MARTIN of South Dakota. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from Wyoming yield?

Mr. MONDELL. In a moment. They took $205,326 from their estimates on the basis of reduced mileage. They add the sum of $154,256, on the basis of new contracts in the first section, to go into operation when this bill becomes a law, on the same day. After they figured the reduced mileage, figured the known increased cost, they added, on account of parcel post, approximately 1½ per cent—$150,000.

Now, in other parts of the bill the committee itself has increased the appropriations, directly and specifically, on account of parcel post. There are many increases not on account of anything but parcel post, but these increases that I am talking about are on account of parcel post and nothing else. In the case of Alaska they have added about $200,000, or about 80 per cent. On account of the mail messenger service they have added $165,000, or 10 per cent, and on account of railway post-office car service they have added half a million dollars, or 12 per cent. And on account of parcel post they added to the service most affected by the parcel post, upon which the greatest burden is placed by parcel post, namely, the star-route service, only 1½ per cent, and you can not get away from those figures because they are printed in the RECORD.

It is not any information that I have that other gentlemen have not, but it is information that I happen to have because I have read it, and some other gentlemen have not taken the trouble to do it.

I ask now not for the increase we ought to have for this service, not for the increase that the other services have of from 9 per cent to 12 per cent, but for a measly increase of 3 per cent. Still the gentleman from Illinois [Mr. MADDEN] says we ought not to have it, and the gentleman from Tennessee [Mr. MOON] says that because we contracted with these men before we had a parcel post, in spite of the fact that we gave them additional burdens, we ought now to deny them any relief because they made a contract with us before we put on the added burden.

Mr. MOON of Tennessee. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MONDELL. I will be glad to.

Mr. MOON of Tennessee. I think the gentleman is mistaken about that.

Mr. MONDELL. I misunderstood the gentleman.

Mr. MOON of Tennessee. I was speaking of the relation between this service and the other. I do not insist that anybody should be denied any rights which they have.

Mr. MARTIN of South Dakota. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from South Dakota?

Mr. MONDELL. Yes.

Mr. MARTIN of South Dakota. Is this increase of 1½ per cent that the gentleman is talking about an increase by reason of the parcel post on the basis of the old operations of the contract service, or 1½ per cent on the basis of the diminished service that is contemplated?

Mr. MONDELL. They first asked for what the service would call for if it were not for the parcel post cutting it down by reason of the expected increased mileage, and then they asked for 1½ per cent more on account of parcel post—$150,000.

Mr. MARTIN of South Dakota. On the new basis?

Mr. MONDELL. On the new basis.

Mr. MARTIN of South Dakota. I move to strike out the last word.

Mr. MOON of Tennessee. I move that all debate on the amendment and the amendment to the amendment be now closed.

The CHAIRMAN. The gentleman from Tennessee moves that all debate on the amendment and the amendment to the amendment be now closed.

The motion was agreed to.

Mr. MARTIN of South Dakota. Mr. Chairman, is all debate closed on the amendment of the gentleman from Illinois as well as on the other amendment?

The CHAIRMAN. That was the motion proposed by the gentleman from Tennessee.

Mr. MANN. I ask unanimous consent that the gentleman from South Dakota have two minutes.

Mr. MARTIN of South Dakota. I have not consumed any unnecessary time.

Mr. MOON of Tennessee. I am aware that the gentleman has not consumed any unnecessary time, and I do not want to shut him off. I shall be glad to let him have two minutes, with the understanding that the debate come to a close at the conclusion of his remarks.

Mr. MANN. Debate has already been closed by order of the committee. I ask unanimous consent that the gentleman from South Dakota have two minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MARTIN of South Dakota. We have listened with a great deal of interest to a very heated debate over a question of fact. If the gentleman from Wyoming [Mr. MONDELL] is correct, and, as a matter of fact, this increased per cent for the parcel post on the star-route service is made upon the revised estimates after reductions have been made by the department in contemplation of the reduced mileage, the argument of the gentleman from Illinois [Mr. MADDEN] counts for nothing. I assume that the last statement of the gentleman from Wyoming [Mr. MONDELL], uncontradicted by the committee, is correct. If so, a very inadequate appropriation is made by this committee upon the subject of increased service by reason of the parcel post.

Mr. MOON of Tennessee. What statement did the gentleman think was uncontradicted by the committee?

Mr. MARTIN of South Dakota. This statement that the increased appropriation estimated by the department and put in by the committee by reason of the parcel post for the star-route service is 1½ per cent of the estimate for the revised or reduced service by reason of the reduced mileage of 2,600 miles.

Mr. MOON of Tennessee. The fact is this: That the $7,105,000 appropriation was made in view of an unexpended balance of $305,000. So the department did not need all of the appropriation heretofore made, and we have added $73,000. That will give you a leeway on this question of $378,000 out of an appropriation of $7,105,000. Their compensation will not be affected.

Mr. MARTIN of South Dakota. Let me ask the gentleman the question which was propounded by the gentleman from Wyoming [Mr. MONDELL]: Is this proposed increase of 1½ per cent by reason of the parcel-post service on star routes based upon the estimates of the department in consideration of the reduced mileage of something like 2,600 miles in this service or not?

Mr. MOON of Tennessee. No; it is in view of all the facts with reference to that service.

Mr. MARTIN of South Dakota. Is it 1½ per cent of this reduced estimate, or is it not?

Mr. MOON of Tennessee. The appropriation is $7,105,000, and $73,000 was added to the parcel post primarily, and we have also taken into consideration the fact that there is an unexpended balance of the money heretofore appropriated of $305,000 which may be used, and this was supposed to be entirely sufficient in view of the fact that this is a diminishing service, which is being rapidly covered into the rural service.

Mr. MARTIN of South Dakota. I ask unanimous consent for an additional three minutes for the purpose of getting this information.

Mr. MOON of Tennessee. I ask that the gentleman be allowed three minutes more, as I have used some of his time.

The CHAIRMAN. The gentleman asks unanimous consent that the gentleman from South Dakota have three minutes more. Is there objection?

There was no objection.

Mr. MARTIN of South Dakota. It is possible that the committee have this subject clearly in mind after the statement of the chairman of the committee, but I have not. The argument has been waxing warm back and forth here between the gentleman from Illinois [Mr. MADDEN] and the gentleman from Wyoming [Mr. MONDELL] over this precise question whether this reduced mileage of something like 2,600 miles in the star-route service for the coming fiscal year has been taken into consideration in the estimate that the amount of allowance for parcel post increased service is 1½ per cent. I think that ought to be answered clearly and satisfactorily to the committee.

Mr. FINLEY. If the gentleman will pardon me, I shall be glad to answer his question.

Mr. MARTIN of South Dakota. Certainly.

Mr. FINLEY. The amount carried in the bill is an estimate, of course, but it will not affect the compensation of any star-route carrier. He will receive his pay, whatever his contract calls for. Each and every one of them will receive what his contract calls for, whether the estimate is correct or incorrect. I think it is correct.

Mr. KENDALL. That has nothing to do with it.

Mr. FINLEY. I think the estimate as carried in the bill is sufficient.

Mr. MARTIN of South Dakota. I give it as my judgment that it is pretty clearly established here that it is not sufficient.

Mr. MADDEN. Will the gentleman allow me to interrupt him?

Mr. MARTIN of South Dakota. Certainly.

Mr. MADDEN. As a matter of course, the deduction of 2,408 miles from the star-route service, which will be turned into the Rural Delivery Service, reduced the amount of work in the star-route service, and consequently reduced the necessity for a greater appropriation.

Mr. MARTIN of South Dakota. If that is true, then I am correct in what I have been assuming—that this increase is only 1½ per cent, based on the reduced amount. I want to say in the concluding moment I have that the gentleman from Wyoming is right in his statement that the increased burdens falling upon the star-route service are proportionately larger than upon any other service, and the increase on account of the parcel-post service in the star-route service is only 1½ per cent, whereas the lowest increase for any other branch of the service is 9 per cent. It is not an adequate appropriation for that branch of the service, which is going to receive in larger proportion than any other the increased burdens of the parcel post.

The CHAIRMAN. The question is on the amendment to the amendment proposed by the gentleman from Illinois [Mr. FOWLER].

The question being taken, the amendment to the amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment proposed by the gentleman from Wyoming.

The question was taken; and on a division (demanded by Mr. MONDELL) there were 26 ayes and 47 noes.

Mr. MONDELL. Mr. Chairman, I ask for tellers.

The CHAIRMAN. The gentleman from Wyoming demands tellers.

The question of ordering tellers was taken.

The CHAIRMAN. Fifteen gentlemen have arisen, not a sufficient number, and tellers are refused.

So the amendment was lost.

Mr. MONDELL. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 26, after line 3, insert the following as a new paragraph:

"To pay cost of readjustments of compensation of star-route and screen-wagon contractors on account of increased weight of mails by reason of parcel post as provided in section 8 of the act approved August 24, 1912, making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, $200,000."

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order on that amendment.

Mr. MONDELL. Mr. Chairman, I want to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. MONDELL. The amendment is not subject to a point of order because it proposes to carry out a paragraph of a provision in the parcel-post law. One of the paragraphs in section 8 is as follows:

The Postmaster General may readjust the compensation of star-route and screen-wagon contractors if it should appear that as a result of the parcel-post system the weight of the mails handled by them has been materially increased.

That is a provision of the law, and the appropriation to carry that provision of law into effect and to meet the expenses incurred is, of course, in order on the Post Office appropriation bill.

Mr. MOON of Tennessee. I do not care to be heard, Mr. Chairman.

The CHAIRMAN. The Chair will call the attention of the gentleman from Tennessee to the language just read by the gentleman from Wyoming, quoting from a provision from the so-called parcel-post law, which says:

The Postmaster General may readjust the compensation of star-route and screen-wagon contractors if it should appear that as a result of the parcel-post system the weight of the mails handled by them has been materially increased.

Mr. MOON of Tennessee. That is the existing law, and I do not think the amendment of the gentleman from Wyoming adds anything to it.

The CHAIRMAN. But the gentleman proposes an amendment for an appropriation based on this law, and insists, therefore, that it is in order.

Mr. MOON of Tennessee. The law provides for the payment, and he proposes to change it.

Mr. MONDELL. If the Chairman will permit, there is no way to carry out this provision of the law and give the beneficiaries the benefit of it except an appropriation, and this is the bill which must carry that appropriation.

Mr. MOON of Tennessee. But I remind the gentleman from Wyoming that there is an appropriation already made.

Mr. MONDELL. There is no appropriation made at all for this purpose. If there were, that fact would not preclude the offering of another provision containing an additional appropriation.

Mr. MOON of Tennessee. If it was in strict conformity with existing law.

The CHAIRMAN. The law seems to provide for a readjustment, and the amendment proposed by the gentleman from Wyoming contains an appropriation to enable that readjustment to be made if it is desirable. If an appropriation is made at another place the committee will call the Chair's attention to it.

Mr. LLOYD. Mr. Chairman, there can be no question as to the screen-wagon service and no question about the star-route carriers, and there is no doubt but that the bill provides additional pay on account of the parcel post. Both the question of the screen-wagon service and the star-route service are covered.

The CHAIRMAN. If that be true, that does not affect the parliamentary situation.

Mr. LLOYD. The only purpose of this amendment is to accomplish by indirection what the gentleman undertook to accomplish by his amendment a few moments ago. This is an indirect method of reaching that same result.

The CHAIRMAN. The point of order was not made to the other amendment proposed by the gentleman from Wyoming. It appears to the Chair that the law provides for a readjustment in the discretion of the Postmaster General, and the amendment proposed by the gentleman from Wyoming provides the funds for that readjustment. The Chair overrules the point of order.

Mr. MONDELL. Mr. Chairman, I do not want to take up the time of the House and detain the committee. We must remember that there are in operation star routes costing approximately $7,000,000. In framing the parcel-post law we realized that the law would impose a peculiarly heavy burden on the star-route carriers, and provision was made for a readjustment of their contracts. Now, assume for the sake of argument, and only for the sake of argument, that the appropriation in the paragraph just passed is sufficient for the ordinary purposes of the star-route service. This appropriation is necessary to provide for the readjustments which are contemplated by law.

Now, if the gentlemen here from the rural districts do not desire to have the carriers in their districts paid for this additional service, which is promised in the parcel-post law, very good. If the gentlemen from the city districts, who have increased the appropriations all along the line for city and urban service, want now to deny any measure of relief to the people in the country, why, of course, they are privileged to do that.

Mr. LLOYD. Mr. Chairman, the gentleman a moment ago, in discussing the other amendment, insisted that only $300,000 was provided for additional pay that would come on account of parcel post. Now he argues on this amendment that we have made no such appropriation. The truth is we have undertaken to provide for the extra compensation that will come to the star-route carrier after the adjustment of the service. It is fully provided for in this bill, and there is no occasion for the amendment of the gentleman from Wyoming in order to accomplish the result. Every adjustment is provided for, and every carrier who is entitled to additional compensation will receive it under the provisions of this bill.

Mr. MONDELL. Mr. Chairman, the gentleman from Missouri takes up the most of my five minutes misstating my position and making an additional misstatement of facts. In the first place, I have not said at any time that no provision was made for increased cost on account of parcel post. I have said at all times that there was an increase of 1½ per cent, or $150,000. But that is not enough. When the gentleman says any provision is made anywhere in the bill for additional cost by reason of readjustments, the gentleman must have got his information somewhere except from anything written or printed in regard to the bill. There is not a line or a syllable in this bill to provide for the readjustment contemplated by the parcel-post law. The star-route carriers will not receive the sums due them by reason of the readjustments unless we make an appropriation for it.

Mr. TOWNSEND. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. TOWNSEND. Mr. Chairman, I would ask the gentleman upon what ascertained fact he reiterates the statement that the largest amount of the burden of the parcel-post service will fall upon the star-route carriers?

Mr. MONDELL. Mr. Chairman, the gentleman from New Jersey [Mr. TOWNSEND] is unfortunate in not being a resident of a rural district, otherwise he would know, and then perhaps he is further unfortunate in not having heard my opening remarks. I called attention to the fact that the star-route carrier has a contract without regard to the weight of the mail he carries, and that at the same time it has been the habit of star-route carriers, from time immemorial, to carry packages from the towns and deliver them along the line of their routes and receive compensation therefor. He now loses both ways. He loses compensation that he has heretofore had and he has an additional weight to carry without more pay.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. TOWNSEND. Mr. Chairman, I move to strike out the last word.

Mr. MOON of Tennessee. Mr. Chairman, will the gentleman yield until I may make a motion?

Mr. TOWNSEND. Certainly.

Mr. MOON of Tennessee. Mr. Chairman, I move all debate on the paragraph and all amendments thereto close in five minutes.

The CHAIRMAN. The question is on the motion of the gentleman from Tennessee, that all debate on the paragraph and all amendments thereto close in five minutes.

The motion was agreed to.

Mr. TOWNSEND. Mr. Chairman, I am still unconvinced from what the gentleman from Wyoming has said that the greatest amount of this increased service, because of the parcel post, will fall upon the star-route service. I have had an opportunity within a week to observe, for instance, what has happened because of the parcel-post act in the city of Newark, part of which is in my district. I went through that portion of the floor the post office devoted to the care of that service. The number of parcels deposited there under this act has increased daily by 1,000. As closely as I could in going by the countless miles, almost, of tables covered with these parcels, I observed that the addresses on almost all of them were within the first 50-mile zone. Within 15 days the service there has reached a sum of 12,000 packages, beginning with 1, and that amounts to an increase of about 1,000 a day, allowing for one holiday and two Sundays intervening. In New York City, which is within the zone where we are situated, the number of deposits of parcels have now reached 100,000 a day. Those packages are very largely directed to people within what we know in that part of the country as the metropolitan zone, within 50 miles of the city hall of Manhattan. When you deduct such enormous deposits of parcels from the total, I can not conceive that there is any considerable quantity of them going to reach the star routes in the gentleman's State.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. TOWNSEND. Certainly.

Mr. MONDELL. I think the gentleman confuses the word "service" with the word "burden," which I used. The increase in the amount of service in the large cities is enormous. That simply means, however, adding to the force. That does not decrease the salary of anyone and does not necessarily increase anyone's work. It simply calls for more people to do the increased work. The star-route carrier, on the contrary, has his income decreased, because he no longer receives the small sums heretofore paid him for carrying parcels now carried by the parcel post, and in many cases these men are carrying these lines for half what they are worth, with the expectation that the other half of their income will be made up from this source which is now denied them.

In addition to that loss, a direct loss of revenue by reason of the parcel post, there is the additional burden of carrying that matter without any increased compensation. They are the only people under the service where the individual loses both ways. The force in New York and other cities is simply increased. More men are put on. The service is larger. The burden on any one individual is not any greater for any considerable length of time.

Mr. TOWNSEND. Mr. Chairman, I will say to the gentleman from Wyoming that I do not refer only to the force in the city which handles these parcels where they initiate, but to their ultimate destination.

Mr. MONDELL. Oh, in that case they increase the carriers.

Mr. TOWNSEND. Just a moment—but to their ultimate destination. They are also handled by rural free-delivery carriers and regular mail carriers. There is no burden from such a large initiative point; neither, presumably, from Chicago, which has the largest mail-order business in the country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming.

The question was taken, and the amendment was rejected.

Mr. MONDELL. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 26, after line 3, insert: "That the provision in section 8 of the act of August 24, 1912, making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, authorizing the Postmaster General to readjust the compensation of star-route and screen-wagon contractors, on account of increased weight resulting from parcel post, shall be held to authorize the allowance of increased compensation, if clearly earned, for service rendered prior to the issuance of the order for such payment."

Mr. FINLEY. Mr. Chairman, on that I make the point of order.

Mr. MONDELL. Mr. Chairman, will the gentleman reserve his point of order?

The CHAIRMAN. The Chair sustains the point of order.

Mr. MONDELL. Mr. Chairman, I desire to call attention to the importance of this, because I think it is a matter which the committee must take up.

Mr. MOON of Tennessee. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For pay of letter carriers, substitutes for carriers on annual leave, clerks in charge of substations, and tolls and ferriage, Rural Delivery Service, $47,500,000: *Provided*, That not to exceed $20,000 of the amount hereby appropriated may be used for compensation of clerks in charge of substations.

Mr. GREGG of Pennsylvania. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Pennsylvania [Mr. GREGG].

The Clerk read as follows:

On page 26, line 6, after the colon, insert the following: "*Provided*, That the unit of compensation for such letter carriers and substitutes for carriers shall be computed on the basis of 1 mile in the number of miles required to be traveled on any route in one day; *Provided further, however*, That because of the compensation herein provided no rural letter carrier shall receive less salary than before the passage of this act."

Mr. MANN. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] reserves a point of order on the amendment.

Mr. GREGG of Pennsylvania. Mr. Chairman, I think it is generally understood that the standard rural route is 24 miles long, for which a compensation is allowed the rural free delivery carrier of $1,100.

Beginning with a route of not less than 6 miles and less than 8 miles, the department issued an order on the 24th day of August, 1912, under which, what we might term the "unit of compensation," the unit was fixed at 2 miles. In other words, if a mail carrier has a route of 23 miles daily, he is paid, under the order of the Postmaster General, $1,056, which comes under the unit of compensation for the length of route of 22 miles and less than 24 miles; and so on down over the various routes.

Now, in some routes, not very many, in western Pennsylvania—and I can speak advisedly of that—there are a number of carriers who receive compensation on a basis of 22 miles and some on the basis of 20 miles when, as a matter of fact, they travel as much as 23 miles, 23½ miles, and 23¾ miles on a 22-mile route, and the same in proportion on a 20-mile route.

A man supposedly traveling 20 miles in a 22-mile route travels as much as 21 miles and 21½ miles. Now, the free rural delivery carrier travels on an average 300 days in a year. If he travels 1 more mile per day than he is paid for he travels, then, in a year probably over 300 miles in excess of what he is paid for.

I agree that in some sections of the country this difference of a mile per day will not amount to so much, but if you take the case in western Pennsylvania or in West Virginia and in a great number of the New England States and especially in New York, where there is rural free delivery service, the life of the horse, the wear and tear of the buggy, and the maintenance of the horse will amount to a very considerable sum to the carrier each year. If you will take it through the sections that I have mentioned, there is scarcely a rural carrier who is not compelled to own at least two horses in the winter time.

I ask that this amendment may be adopted, and I trust that the gentleman from Illinois [Mr. MANN] will not insist upon his point of order. It is a very fair proposition. It is intended simply to pay the men the actual number of miles they travel. I am sure that it will make no very great difference in the general amount to be appropriated.

The CHAIRMAN. Does the gentleman from Illinois insist upon his point of order?

Mr. MANN. Mr. Chairman, the gentleman from Pennsylvania [Mr. GREGG] may be correct. I do not undertake to say that he is not. But I suppose there never will be found any method of adjusting the pay of the carrier, based on distance, that will be perfectly satisfactory to everybody. A matter of this sort ought to be considered by the committee before it is agreed to by the House. I therefore make the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wyoming moves to strike out the last word.

Mr. MONDELL. And at the same time I wish to express my astonishment that anyone should make the point of order on the amendment just offered—perhaps no one but the gentleman from Illinois [Mr. MANN] would do that—because the pressure upon gentlemen by rural-route carriers in their districts has been so intense for years past that we have seen a constant succession of increases in the pay of the carriers, until we have reached the point that we are now actually paying men for carrying the mails on rural free-delivery routes just twice as much per mile as we pay men under contract.

Rural carriers who carry mail on macadamized roads out of this city and elsewhere are paid just twice as much for every mile they travel as men are paid on the average on the country roads traveled by star routes and more by considerable than carriers in my State are paid for carrying the mail across mountain ranges, where they may be compelled to go part of the way in wagons and part of the way on sleds and part of the way on snowshoes.

Mr. MOON of Tennessee. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOON of Tennessee. I want to ask, What is before the House?

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] moved to strike out the last word.

Mr. MOON of Tennessee. I insist, Mr. Chairman, that the gentleman confine himself to debate on the last word. [Laughter.]

The CHAIRMAN. The gentleman from Wyoming will proceed in order.

Mr. MONDELL. I was saying that rural carriers travel over macadamized roads and receive twice as much pay as men receive who travel over country roads, facing storms and blizzards. And yet when I offer an amendment here proposing to do what the law says we shall do, even gentlemen from the rural districts on the Democratic side slavishly follow the lead of the committee—slavishly follow the lead of a committee that apparently has given no attention to this matter at all, because if they had they certainly would have dealt as fairly by the men that carry the star routes as by the men in other branches of the service.

But I suppose that is the way it will be in the future, as it has been in the past. The pressure of the rural carrier behind the average Member will probably continue to increase his rate of pay, while the poor devil who contracts with the Government and happens to live in regions from which there are not a great many Members of Congress is forgotten in contemplation of what gentlemen feel they must do for his more active and numerous brothers in the thickly settled portions of the country.

The CHAIRMAN. The time of the gentleman from Wyoming [Mr. MONDELL] has expired.

Mr. LLOYD. The difference between the gentleman from Wyoming [Mr. MONDELL] and the most of us is that we have no devils carrying mail in most of our star-route districts.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

For travel and miscellaneous expenses in the postal service, Office of the Fourth Assistant Postmaster General, $1,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. The committee did not do me the courtesy to give me an opportunity to discuss even for a moment the very important amendment which I offered a moment ago.

Mr. MOON of Tennessee. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman from Tennessee [Mr. MOON] rise?

Mr. MOON of Tennessee. To ask the gentleman from Wyoming [Mr. MONDELL] a question.

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from Tennessee?

Mr. MONDELL. I will be glad to do so.

Mr. MOON of Tennessee. Is the gentleman going to discuss something now germane to the last section read or is he going to discuss some other subject?

Mr. MONDELL. Oh, yes.

Mr. MOON of Tennessee. I just want to insist that this debate shall close, and that the gentleman be confined to the subject of debate provided under the rules.

Mr. MONDELL. That is entirely satisfactory.

Mr. MANN. The gentleman is actually discussing matters relating to the postal service, and ought to be allowed to proceed.

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] will proceed in order.

Mr. MONDELL. The paragraph has to do with travel—star-route carriers' travel over their routes; hence in discussing star-route carriers I am discussing the proposition before the House. I want to call attention again to the fact that Congress, realizing its obligation under the parcel post for increased burdens for the star-route carrier, made a provision for the readjustment of his pay. And it so happens there is a provision of the postal laws—section 1287, I think it is—which provides that no compensation shall be paid for any additional regular service rendered before the issuing of a pay order.

Now, the parcel post went into operation the 1st of January. These additional burdens on the star-route carriers began immediately, but there is no provision for their payment in advance of the issuance of an order for adjustment. We will not have a reweighing until April or May, and then, after we have had the reweighing of the mails, this section I have referred to seems to stand in the way of the readjustment and payment for services rendered prior to the issuance of the order for payment. There may be several months during which these men were rendering additional service for carrying largely increased weights, and yet it might be held that during that time they could not be paid. I hope the postal authorities will feel justified in construing the provision in the parcel-post law as repealing by implication this provision to which I have referred. Otherwise there must be some such amendment as I have proposed in order to meet the condition.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk resumed and completed the reading of the bill.

Mr. COX. Mr. Chairman, on Saturday evening I asked that the paragraph beginning on page 14, line 1, be passed over.

Mr. MOON of Tennessee. I ask unanimous consent that we return to it.

The CHAIRMAN. Is there objection?

Mr. COX. The paragraph under consideration begins with line 19.

The CHAIRMAN. Under the order which was made, the matter is in control of the chairman of the Committee on the Post Office and Post Roads.

Mr. MOON of Tennessee. I call up page 14, line 1.

The CHAIRMAN. The Clerk will report the paragraph.

The Clerk read as follows:

The Postmaster General is hereby authorized to pay, in his discretion, rewards to postal employees whose inventions are adopted for use in the postal service, and for that purpose the sum of $10,000 is hereby appropriated: *Provided*, That not to exceed $1,000 shall be paid for one invention.

Mr. HAY. Mr. Chairman, I reserve a point of order.

Mr. MANN. It is impossible to reserve a point of order.

Mr. MOON of Tennessee. I believe the paragraph was passed without prejudice.

Mr. MANN. It was not passed subject to a point of order being reserved. It was passed over after some discussion, I will say to the gentleman. I moved to strike out the last word, and asked that it be passed over without prejudice.

Mr. MOON of Tennessee. The motion was that this be passed without prejudice.

Mr. MANN. This item passed after the matter had been discussed. It is not subject to a point of order.

The CHAIRMAN. The Chair's personal recollection of the situation is that immediately upon the paragraph being read the gentleman from Illinois [Mr. MANN] rose and moved to strike out the last word, and then a colloquy ensued between the gentleman from Illinois and the chairman of the committee. Then the request was submitted that the paragraph be passed over without prejudice.

Mr. MANN. That is correct. It was passed over for the purpose of returning to it in order to offer an amendment. It got beyond the point where a point of order would hold.

Mr. CHAIRMAN. The RECORD shows this, if the gentlemen will permit, after the reading of the paragraph:

Mr. MANN. Mr. Chairman, I move to strike out the last word and ask unanimous consent that that paragraph be passed over without prejudice, with the object of preparing an amendment to make it conform with other provisions in other departments.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the paragraph just read be passed over without prejudice. Does the gentleman mean to be recurred to at the end of the bill?

Mr. MANN. To be recurred to by the committee whenever the chairman desires.

And then followed some other talk. The Chair is not at all clear that the point of order will be in order to this paragraph. It seems to have been passed without prejudice. The purpose of the gentleman from Illinois [Mr. MANN] was to offer an amendment.

Mr. MANN. After an amendment was moved to it, it was too late to make the point of order.

The CHAIRMAN. Well, ordinarily that is true.

Mr. MANN. After the amendment which I proposed it was too late to make a point of order.

The CHAIRMAN. That is true ordinarily. The rule is sometimes very liberally construed. If there is any gentleman who would state that he at that time proposed to make a point of order, the Chair would be disposed to recognize him, but there is no statement of that sort. Will the gentleman from Virginia [Mr. HAY] give his attention for a moment? The Chair was about to state that the point of order made by the gentleman from Illinois [Mr. MANN] to the point of order made by the gentleman from Virginia——

Mr. HAY. Mr. Chairman, I simply reserved a point of order, and if the Chair decides it is not subject to a point of order because of the fact that the gentleman from Illinois [Mr. MANN] had offered an amendment to the paragraph, that, of course, ends it.

The CHAIRMAN. The Chair was about to state this: That in view of the situation which existed at that time it was at that time the purpose of the gentleman to make a point of order.

Mr. HAY. It was not my purpose at that time, because I did not happen to be in the Hall.

The CHAIRMAN. Then the Chair thinks the ordinary practice ought to apply.

Mr. MANN. Now, Mr. Chairman, I will say to the gentleman that this provision is in the existing law, so far as that is concerned. I asked to have it passed over to see whether we could not have an amendment inserted in place of the provision in the bill, which conformed to the law reported from the Committee on Military Affairs, so far as the Army is concerned, and a similar law adopted, so far as related to the Committee on Naval Affairs.

The gentleman from Connecticut [Mr. TILSON], who introduced the bill that came from the Committee on Military Affairs and became a law, so far as the Army is concerned, drafted an amendment, which was introduced as a bill, to make the language here conform with the laws already adopted relating to the other two services. I will offer that as an amendment, so as to get it before the committee.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 14 strike out lines 1 to 5, inclusive, and insert in lieu thereof as follows:

"The Postmaster General is hereby authorized to offer and pay periodically a cash reward for the invention, suggestion, or series of suggestions for an improvement or economy in device, design, or process applicable to the postal service submitted by one or more employees of the Post Office Department which shall be deemed the most valuable of those submitted and adopted for use, and for that purpose the sum of $10,000 is hereby appropriated: *Provided*, That to obtain this reward the winning suggestion or invention must be one that will clearly effect a material economy or increase efficiency: *Provided further*, That the sums awarded to employees in accordance with this act shall be paid them in addition to their usual compensation: *Provided further*, That the total amount paid under the provisions of this act shall not exceed $1,000 in any month or for any one invention or suggestion: *And provided further*, That no employee shall be paid a reward under this act until he has properly executed an agreement to the effect that the use by the United States of the invention, suggestion, or series of suggestions made by him shall not form the basis of a further claim of any nature upon the United States by him, his heirs, or assigns, and that no application for patent has been made for any such invention."

Mr. MANN. That is simply to conform with the law already passed by Congress as a result of a bill reported from the Committee on Military Affairs, as to the ordnance bureaus of the Government, and a similar provision, I believe, as to the Navy. The idea in offering the amendment is that the same condition shall prevail in the different services where this award is adopted. For instance, this provides, as is provided in the existing law relating to the Army, that the award can not be paid unless the Government is relieved from other claims for the invention, and no patent has been obtained for it.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Illinois [Mr. MANN].

The amendment was agreed to.

Mr. MADDEN. Mr. Chairman, I ask unanimous consent to return to the item on page 14, from lines 6 to 18, inclusive, for the purpose of offering an amendment.

The CHAIRMAN. Does the gentleman from Tennessee [Mr. MOON] yield to the gentleman from Illinois for the purpose of making that request?

Mr. MOON of Tennessee. Before yielding I want to ask the gentleman what he wants to do.

Mr. MADDEN. I want to offer an amendment in line 15. The language reads:

Substitute letter carriers and substitute post-office clerks employed in the city-delivery service of the Post Office Department.

I wish to strike out, in line 15, the words "the city-delivery service of the" and add to the word "office" the letter "s," and strike out the word "department," in line 16, and substitute for that the words "first and second class."

The reason for that, Mr. Chairman, is that in cities like Chicago, New York, Newark, Buffalo, and other large cities, they have four divisions in the post-office service, one known as the mailing division, one the registry division, third the money-order division, and fourth the city-delivery division. My fear is that the language as it appears in the body of this paragraph will be construed to mean that clerks in these large cities will not be entitled to the benefits of this bill, except such clerks as may be at work in the city-delivery division.

Mr. MOON of Tennessee. I think that in legal effect the language the gentleman proposes and that in the bill are practically the same, and therefore I will make no objection.

Mr. MADDEN. In its present form it leaves it to the construction of somebody.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to return to page 14, line 6. Is there objection?

There was no objection.

Mr. MADDEN. I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 14, line 15, strike out the words "the City Delivery Service of the"; add the letter "s" after the word "office" at the end of the line. At the beginning of line 16 strike out the word "department," and add the words "first and second class."

So that the clause will read:

Substitute letter carriers and substitute post-office clerks employed in first and second class post offices shall, when working for a carrier or clerk—

And so forth.

Mr. MADDEN. I move the adoption of that amendment.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Illinois.

The amendment was agreed to.

Mr. REILLY. Mr. Chairman, as a member of the Committee on the Post Office and Post Roads, whose duty it was to help prepare the appropriation bill now under consideration, and as a Member of this body who has tried to make a complete study of the postal service, I beg leave to submit a statement of facts for your consideration.

When I entered this House as a Member of the Sixty-second Congress, I was appointed a member of the Committee on the Post Office and Post Roads. Being desirous of knowing something of the postal service, which is so near and dear to the public, I sought information from the Post Office Department officials, and read reports of the Post Office Department, and interviewed many officials in local post offices whenever the opportunity afforded. I also sought information from the rank and file of the workers, such as the city carriers, the post-office clerks, the rural carriers, the railway-mail clerks, and the laborers whenever I had an opportunity of meeting them. It was not long before I discovered that there was only one source from which I could get any information that could be used in a public way with the statement where the information came from, and that was from the Postmaster General or his official representative.

The working force were bound and gagged by official orders which prevented them from making known anything pertaining to the postal service or the conditions under which they worked, and when they were asked questions they would refer me to the local officials. I soon learned that it was as much as a man's job was worth to give any information to the public or even to a Member of Congress. The invariable reply to my questioning was "You had better see the postmaster, as it is contrary to the rules of the service for employees to give any information."

In many instances I have questioned postmasters and supervisory officers, but with rare exceptions I could learn nothing of the actual inside workings of the postal service, notwithstanding the fact that as a member of the Post Office Committee I would be called upon to cast my vote for appropriations of more than $250,000,000 for conducting the service for one fiscal year. The only place I could get information was from the department officials in Washington, and in so far as I can learn not a single one of them has had actual experience in practical post-office work and they are issuing orders based entirely on theoretical knowledge. I made up my mind, however, that I would get at the facts, and by assuring the employees that I would respect their confidence and protect their interests I have been able to learn much. A great deal of this information I imparted to the Members of this House on April 12, 1912, which is contained in the official proceedings of that date. I will not attempt to burden you again with a repetition of what I stated at that time, but will confine myself to one subject that is before us in this bill.

The honored chairman of the Committee on the Post Office and Post Roads introduced in this House on December 6, 1912, a bill for relief of substitute carriers and clerks in city delivery post offices. That bill has received the approval of the full committee and is now pending on the calendar. It is a bill possessed of so much merit that I believe it will receive the vote of every Member who knows anything about the conditions under which the substitutes are employed. It is a bill that cries out for justice for a body of men who have been working for a pittance for this great Government. Knowing the uncertainties of the enactment of legislation, no matter how much merit it possesses, the committee recommended that this legislation should be placed on the Post Office appropriation bill in the hope of getting it agreed to, in which event its success will be practically assured.

And now, Mr. Chairman, I will endeavor in a few brief words to give you a résumé of the life a substitute clerk or carrier exists, for theirs is a mere existence if they depend on the position of substitute for a livelihood. As a rule an announcement is printed in the public press at certain specified times that a competitive examination will be held on a certain day and place for the position of post-office clerk and letter carrier. The information is given to the public that the salaries are fixed at an entrance of $600 per annum and that promotions are made automatically each year, and that the employees are allowed annual leaves of absence for vacations. In fact, the news item reads so well that it is an invitation to any bright, ambitious young man who has not decided on some particular career to enter the postal service, as the prospects look up brighter than in any ordinary business.

At these competitive examinations can be found some of the brightest and most intelligent young men in the whole community. After the examination is over the applicants wait in anxiety for the publication of the lists and for official notice from the Civil Service Commission, giving the percentage and relative standing of each. More anxious days are spent looking forward to and hoping for the official letter that calls them to the office of the local postmaster for appointment. What a happy day for the successful one, and how often is he the envy of his more fortunate if less successful neighbor. Well, Mr. Chairman, he obeys the summons and calls at the post office on the specified day, and with a heart filled with hope he takes the oath which is administered to the Members of this House and to the Postmaster General, and, in fact, all Government servants of high and low degree. His first official order is to procure a uniform, which he does. He is then turned over to a subordinate official, and then, Mr. Chairman, his troubles begin. In fact, he wakes up. Yes; wakes to the fact that it is all a dream. Instead of receiving an appointment to a regular position, with a fixed salary and annual automatic promotions and regular hours of duty and an annual vacation, he finds that all these things are but glittering promises. He is a substitute; and now let me tell you what a substitute is: He is a man who is required to report for duty in the morning as early as 5 o'clock in order to take the place of a regular employee in case one of them fails to report on time. If all the regulars report for duty and there is no work for him to do he sits around until granted permission either to go home or to a restaurant to get something to eat. He reports back again at a specified time, and if a regular employee is excused from duty for any cause the substitute is assigned to perform the work of the regular. If there is an extraordinary rush or influx of mail that can not be handled promptly by the regular employees he might be given a few hours' work. However, in order to show good faith, if he is assigned to duty he is paid 30 cents an hour for each hour that he is employed. If there is no assignment for him he sits around until the regular employees leave for their last delivery, after which he can be excused by his superintendent and permitted to go about his business. He might be at the post office from early morning until late at night and not receive a single cent because there was no actual labor to perform.

You ask the question as to how much it is he averages monthly. Well, Mr. Chairman, the average varies in each city, but the average for the whole country of all the substitutes is much less than $30 a month. Just think of it, and ask ourselves if this condition of affairs should not be remedied at once. And now, Mr. Chairman, let me tell you how long these men serve as substitutes. The average time served by the substitutes of the country is more than three years. There are men in the regular service who have probably served less time and there are many who have served for a far longer period. I had my attention drawn a few days ago to one particular case of a substitute in an office in Pennsylvania who has been serving as a substitute for more than 12 years, and the poor fellow is still hanging on in the hope of some day receiving a regular appointment. Such a condition of affairs is a shame and should not be tolerated, and I feel that the Members of this House will be glad of the opportunity to relieve this condition now that the facts are before them.

Mr. Chairman, the recommendations contained in this bill are modest in the extreme, and I am of the opinion that they can be put into effect without the necessity of making any additional appropriation of money.

In explaining the provisions of the bill I will endeavor to show the reasons upon which I base my conclusion that it will not require an additional appropriation.

There are two simple provisions contained in this bill which, if approved, will relieve the present unsatisfactory condition of the substitute employees. In the first place it is intended to pay the substitute the rate of pay of the regular employee in whose place he serves. When a regular carrier or clerk is off duty for any cause, with the exception of his regular 15 days' leave of absence, there is a pro rata amount deducted from his salary for all the time that he loses. This money reverts to the Treasury of the United States. Under the present law a substitute receives 30 cents an hour when working in the place of a regular employee, and if this recommendation of the committee is accepted the pro rata pay will be substituted for the 30 cents an hour. It will therefore be seen that this will not require an additional appropriation, as Congress must of necessity provide for the salaries of the regular employees as these salaries are to a large extent regulated by law. If the substitute performs the work of a regular employee, it is nothing more than equitable that he should receive the pay of the man in whose place he serves.

The second provision is to make the initial salary of an employee who has served as a substitute for one year or more $800. At the present time the initial salary is $600. If these employees were to start in on a regular salary from the time

they receive their original appointments, the initial salary could be made $600 and there would be no complaint; but when we take into consideration the fact that they are required to work a number of years for a very meager and uncertain amount and that they are generally in debt when they receive a regular appointment, the initial salary should at least be sufficient to meet their necessary obligations and at least be a partial reward for the sacrifices that they make during their substitute service. I base my contentions that this will not require an additional appropriation, on the following ground: Wherever new service is about to be established, the employees start in under the present classification act at a salary of $600, and it is not proposed to change the law in this respect. It is only the employees who have substituted for a period of more than one year who will receive the benefits of the provisions of the proposed legislation. In cities where the service has been established for a period of years there are a number of changes made each year on account of deaths, resignations, and removals from the service for all causes. The employees whose places are vacated are as a rule men who have been in the service a number of years and are receiving the highest grade salaries. When a vacancy exists in an office, the appointment to fill that vacancy is made from the substitute list, and there is a saving in the amount between the initial salary of the new appointee and the salary of the employee who has been separated from the service. In this one item alone there is a large unexpended balance to the credit of this particular part of the appropriation bill at the end of each fiscal year. It will therefore be seen that in order to carry this provision into effect it will not require an additional appropriation of the public funds.

I have endeavored to show the merits of the proposed new legislation and am of the opinion that its enactment into law will work for the best interests of the postal service and will relieve a condition of affairs that to my mind should not exist in the Government service. I believe that this legislation is wise and just and that it will meet with public approval.

Mr. HAMILL. This bill carries a provision for relief of substitute letter carriers and post-office clerks that, in my opinion, should be enacted into law.

A great majority of the men who take the civil-service examinations for the position of clerk or carrier in the postal service do so under a very grave and serious misapprehension. The examinations are advertised inviting young men and women to take the examination, and the impression is conveyed that appointments are made from the eligible register to regular positions at salaries beginning at $600 per annum, with automatic promotions to $1,100 in second-class offices and to $1,200 in first-class offices. The facts of the matter are that the appointments are made to a substitute service, which carries no regular salary with the appointment. These substitutes are employed to perform temporary and auxiliary work at the rate of 30 cents an hour for the actual time that they are employed or to serve the places of regular carriers and clerks who are absent from duty for any cause. There is no certainty as to whether a substitute will be employed one hour a day or eight hours, or whether he will be employed at all. A substitute must, however, so regulate his affairs that he will be ready to perform service if called upon by the postmaster to do so. The period of time during which these men are employed as substitutes and before they receive regular appointments varies to a great extent. The average time of these substitutes is more than three years, and during this period of substitution they eke out a very precarious living. The result of such a system is that competent and efficient men will not stay in the service until such time as they receive a regular appointment, but give up as soon as they can find a position that is more certain of employment and returns. Many of these young men who seek outdoor employment continue to hold on and anxiously hope and look forward to the day when, through the natural increase in the service or through the death or resignation or separation from the service, a vacancy may exist, to which they will be appointed on the regular force.

The positions in the regular force of clerks and carriers are recruited from the substitute service, and to my mind the postal service should be constituted of the best possible timber from among our young men that can be induced to enter and make it their life work. The bill provides that when substitutes are employed in the places of regular carriers and clerks who are off duty without pay that the substitutes should receive the salary of the regular employees in whose places they serve. It provides that for auxiliary and temporary work or for service of regular employees who are on their annual vacations that the substitute shall receive pay at the rate of 30 cents an hour. It also provides that when one of these employees has served as a substitute for a period of one year or longer that the initial salary on entry to the regular service shall be $800 per annum. It is not much that the committee has offered, but it is sufficient to meet the modest requests of the substitute carriers and clerks. It is reasonable and it is just, and I hope that the recommendation of the committee will meet the approval of the Members of this body.

Mr. MADDEN. The provision in the Post Office appropriation bill on page 14, providing for the payment to substitute clerks and substitute carriers when assigned to the work of regular employees absent on vacation or when performing auxiliary or temporary work, of 30 cents an hour, is one which should meet the favorable action of the House; and the provision which admits of the appointment of substitute carriers and substitute clerks who have served as substitutes for a period of a year or more at a salary of $800 a year instead of $600, as at present, is but simple justice to the men engaged in the postal service.

The average time which a man appointed as a substitute is required to serve before being appointed to the regular service is three years. During that period he is required to report for duty every day, and if he should happen to live in a large city like Chicago or New York he would have to pay car fare to and from his home. After reporting in the morning, if there should not happen to be any employment for him, under the rules he is required to remain for several hours awaiting orders, and if there should be no need for his services only then would he be free to go; and all the time while he was reporting for duty he would be unable to accept other employment. After his appointment as a substitute he would be required to purchase a uniform and incur other expense connected with his appointment as such substitute. While acting as a substitute he would be required to study schemes for the distribution of mail, for which service he would receive no compensation. At best he would not be able to earn during his service as substitute over $30 per month. He would be fortunate if he earned that amount. At the end of two or three years he probably would have worked himself up to the head of the substitute list and be ready for appointment in the regular service. He naturally would find himself in debt when he secured the appointment because of the long time he had served as a substitute without pay. To be required, then, to enter the service at $600 a year has worked a great hardship on the men who have entered the service. Fifty dollars a month for the first year's service would not pay his current expenses, to say nothing about the indebtedness which he had incurred during his service as a substitute. Fifty dollars a month does not mean that the man entering the service would get $600 a year, because part of the year he might be sick, during which period his salary would be deducted, and it is fair to assume he would not average more than $480 the first year. He never could hope to reach more than $1,100 or $1,200 a year in the service, and to do that he would have to remain in the service several years.

The interest of the public service, I think, will be best served by dealing justly with the men who enter it. The best men in the citizenship of the country should be encouraged to enter the public service. Six hundred dollars a year to begin with does not seem sufficient to encourage men of the highest type to seek employment in the postal service. Eight hundred dollars, which this provides for men who are regularly appointed in the postal service, comes nearer a just compensation for the work required than that paid in the past.

This proposed legislation means that even substitutes are to be better provided for than they have been heretofore. In the future they are to receive the regular pay of the clerks or carriers who are absent from duty without pay, when they are employed in the place of such clerks or carriers. This is as it should be. If a substitute acts in the place of a regular clerk or carrier he ought to receive the pay. This bill provides that he shall receive it. When the substitute is employed to perform the work of regular employees absent on vacation, or when performing auxiliary or temporary work, he is to receive pay at the rate of 30 cents an hour. This is the same condition which prevails under the present law.

Nothing could be more just than the proposition to pay men who have served as substitutes for from one to three years without pay the sum of $800 per annum on first entering the service as regular appointees.

I have long believed that a great injustice was done the postal clerks and carriers by requiring them to enter the service at as low a rate as $600. The men entering this service must have an education; they must be able to pass the examinations; they must be gentlemen; they must have ability of a high order; they must go to considerable expense in the purchase of uniforms. They are required to give a large amount of their time to the Government free for several years before being

regularly appointed. During all the free time given to the Government they are required to do a lot of important work, such as familiarizing themselves with the details of the distribution of the mails. After they are appointed regularly it is not merely the question of the eight hours which the law requires them to work and they are called upon to serve, but when they are off duty it frequently happens their time is occupied from one to two or three hours a day in studying the schemes that they are required to understand.

The abolishment of the $600 and $700 grades is a step in the right direction. The payment of $800 per annum to clerks and carriers, in the first instance, is a work of simple justice on the part of the Government. Their work is exacting, it is constant, it is wearing. The men who enter the Government service should be encouraged to give the best there is in them. This legislation will inaugurate such a system of encouragement.

The work of the Post Office Department is becoming more voluminous. The department is dealing with every household in the land. It is the arteries, so to speak, through which flows the daily information which the people receive on the live topics of the day. The instrumentalities through which this lifeblood of information flows should be an active force in the distribution of the information sought. Young, virile, forceful, systematic, courteous, intelligent, painstaking, active, untiring men should be encouraged to enter the service of the Post Office Department to the end that the people may, through them, be able to feel themselves intimately connected with the Government and satisfied that the Post Office Department, as an instrumentality for the distribution of information, has performed its functions in such a way as to encourage the people in the heartiest cooperation for the maintenance of Government institutions.

I am glad to have been associated with the other men on the Post Office Committee who have had the courage and the foresight and the sympathy necessary to bring about this salutary improvement in the working conditions of the men who are always faithful to the trust reposed in them and who have no motive except the performance of their duties to the satisfaction of their superiors and the general good of the public. I congratulate the men themselves on the success of the legislation, and I venture the prediction that its enactment into law will create an esprit de corps in the Post Office Department which will justify the committee in their belief that the payment of the additional money involved by the increase of salary to the men entering the Post Office service will yield to the people returns far in excess of the money involved.

Mr. AUSTIN. Mr. Chairman, I move to strike out the last word.

Mr. MOON of Tennessee. That stage of the consideration of the bill has been passed.

Mr. AUSTIN. I ask unanimous consent to address the committee for five minutes.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to address the committee for five minutes. Is there objection?

There was no objection.

Mr. AUSTIN. Mr. Chairman, during the last session of Congress I took occasion, at the close of the consideration of the Post Office appropriation bill, to say something in connection with that measure and the number of splendid features it contained. I also took occasion to congratulate the House upon the fact that we had in the person of the chairman of that committee, the gentleman from Tennessee [Mr. MOON], the right man for the right place. [Applause.]

A few days ago there was read into the RECORD by my colleague [Mr. SIMS] an editorial from Mr. Bryan's paper. That editorial stated that Mr. Bryan entertained the hope that President Wilson would not seek to fill his Cabinet on grounds of gratitude, but that he would, in making his selection, find the best men for the positions.

The great Post Office Department is a business department. It affects the vital interests of all classes of our population. No bill reported to this Congress dealing with postal affairs carried so many wise and progressive provisions as the Post Office bill reported at the last session of Congress. It had a provision providing for the safety of postal employees in compelling the railroad companies to construct steel cars for the protection of the lives and limbs of postal employees. It had a provision fixing and defining eight hours for the employment of clerks and other employees in the postal service. It carried a wise and just and long-delayed provision looking to the reclassification of the railroad postal clerks. It carried a provision which we have been discussing here in the consideration of the bill—the parcel-post system, which will be a boon and benefit to every community and a relief from the oppression of express monopoly that has robbed and oppressed the American people for years and years. It had in it a provision looking to national aid for the construction of public roads. First, the adoption of the Shackleford amendment, which was afterwards changed by the Senate and agreed upon in conference, in which there was a provision creating a commission, which is now engaged in preparing a bill which will be reported to Congress providing for national aid in road improvement, which will do much for our entire country and be of benefit to every farm, village, and hamlet. It carried an increase of pay for more than 40,000 rural free delivery carriers in the United States, men who work in and out of season in all kinds and conditions of weather and roads and whose burdens and trials have been increased on account of the creation of the parcel post.

Then it had also a provision which gave the postal employees the right, without intimidation, to appeal to Members of Congress for redress or an investigation of any grievance that they might have—the repeal of the so-called gag law. It carried with it a provision looking to an annual leave of 30 days to these hard-working and deserving public postal officials.

Now, the man of all men to whom the American people, in my judgment, was indebted for this progressive legislation is the Hon. JOHN A. MOON, the chairman of the Committee on the Post Office and Post Roads. [Applause.]

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. LLOYD. Mr. Chairman, I ask unanimous consent that the time of the gentleman from Tennessee be extended five minutes.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent that the time of the gentleman from Tennessee be extended five minutes. Is there objection?

There was no objection.

Mr. AUSTIN. Mr. Chairman, the American people would be serving their best interests in selecting as the Chief Ruler of this Nation of practically 100,000,000 of people as a public servant a man who has seen long years of service either in this Chamber or in the Senate, but in the absence of the selection of such a man it is of vital interest to all the people that in the selection of all the officials of his family, in order to avail himself of a faithful and satisfactory administration of the public affairs of this country, that he, the President of the United States, should not fail to select his advisers and get as many of them from the trained, experienced lawmakers of Congress as he can. [Applause.] And in the selection of the Postmaster General for his Cabinet no man should be intrusted to that position who has not had the training and experience enjoyed and possessed by the chairman of the Committee on the Post Office and Post Roads. [Applause.] President Elect Wilson, looking at the interests of all the people, and certainly the success of his administration, can not do better in the selection of a Postmaster General than to honor the man and his administration with the appointment of the Hon. JOHN A. MOON, of Tennessee. [Applause.]

Mr. MOON of Tennessee. Mr. Chairman, I move that the committee do now rise and report the bill with amendments to the House, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARRETT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 27148) making appropriations for the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, and had directed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. MOON of Tennessee. Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

The motion was agreed to.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. REILLY. Mr. Speaker, I demand a separate vote on the so-called Cullop amendment in line 24, page 22.

Mr. MANN. Mr. Speaker, I demand a separate vote not only on the amendment referred to by the gentleman from Connecticut, but also the so-called Bartlett amendment on page 3, line 5.

Mr. FOWLER. Mr. Speaker, I demand a separate vote on the paragraph beginning at page 12, for compensation to clerks in charge of contract stations, wherein there was an increase of $50,000, known as the Mann amendment.

The SPEAKER. The remaining amendments will be agreed to in gross.

The remaining amendments were agreed to.

The SPEAKER. The first vote will be taken on the so-called Bartlett amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 3, at the end of line 5, by inserting: "*And provided further*, That no part of the sums herein provided for the salaries of post-office inspectors or for per diem allowances to such inspectors shall be paid or allowed to them while they may be engaged in making selections and recommendations for the appointment of fourth-class postmasters."

Mr. MANN. Upon that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FINLEY. Mr. Speaker, I make the point of order that no quorum is present.

Mr. MANN. It will do no good to make that point now.

The SPEAKER. That is a work of supererogation. The Clerk will call the roll.

The question was taken; and there were—yeas 121, nays 116, answered "present" 7, not voting 139, as follows:

YEAS—121.

Adair	Dickinson	Henry, Tex.	Roddenbery
Adamson	Dickson, Miss.	Hensley	Rothermel
Akin, N. Y.	Dies	Hobson	Rouse
Alexander	Doremus	Holland	Ruby
Allen	Doughton	Houston	Rucker, Colo.
Bartlett	Edwards	Hughes, Ga.	Rucker, Mo.
Bathrick	Ellerbe	Humphreys, Miss.	Russell
Beall, Tex.	Falson	James	Sheppard
Bell, Ga.	Finley	Jones	Sherley
Blackmon	Flood, Va.	Kinkead, N. J.	Sherwood
Booher	Fornes	Konop	Sims
Borland	Foster	Lee, Ga.	Small
Brantley	Fowler	Lee, Pa.	Smith, Tex.
Broussard	Gallagher	Lever	Stanley
Brown	Garner	Littlepage	Stedman
Bulkley	Gill	Lloyd	Stephens, Miss.
Burgess	Glass	Lobeck	Stone
Burke, Wis.	Godwin, N. C.	McCoy	Sweet
Burnett	Goodwin, Ark.	McGillicuddy	Taggart
Byrnes, S. C.	Graham	Macon	Thayer
Byrns, Tenn.	Gray	Mays	Thomas
Candler	Gregg, Pa.	Moon, Tenn.	Townsend
Cantrill	Hamilton, W. Va.	Morgan, La.	Tribble
Claypool	Hamlin	Padgett	Tuttle
Cline	Hardwick	Page	Watkins
Collier	Hardy	Pepper	Wilson, Pa.
Cox	Harrison, Miss.	Pou	Witherspoon
Cullop	Hay	Rainey	Young, Tex.
Daugherty	Hayden	Raker	
Dent	Heflin	Rauch	
Denver	Helm	Reilly	

NAYS—116.

Anderson	Green, Iowa	McCreary	Prince
Austin	Greene, Mass.	McGuire, Okla.	Rees
Barnhart	Greene, Vt.	McKenzie	Roberts, Mass.
Bartholdt	Guernsey	McKinley	Roberts, Nev.
Boehne	Hamill	McKinney	Rodenberg
Bradley	Hamilton, Mich.	McLaughlin	Scott
Browning	Hammond	Madden	Scully
Buchanan	Hart	Maguire, Nebr.	Slemp
Burke, S. Dak.	Hawley	Martin, S. Dak.	Sloan
Calder	Heald	Matthews	Smith, J. M. C.
Cannon	Helgesen	Miller	Smith, N. Y.
Cary	Higgins	Mondell	Speer
Cooper	Hinds	Moon, Pa.	Steenerson
Copley	Howell	Moore, Pa.	Stephens, Cal.
Currier	Howland	Morgan, Okla.	Stephens, Nebr.
Danforth	Humphrey, Wash.	Morrison	Stevens, Minn.
Davis, W. Va.	Jackson	Morse, Wis.	Switzer
Dodds	Kendall	Moss, Ind.	Talcott, N. Y.
Draper	Kennedy	Murdock	Taylor, Ohio
Esch	Kinkaid, Nebr.	Needham	Tilson
Fairchild	Knowland	Neeley	Towner
Farr	Kopp	Nelson	Vare
Fordney	Korbly	Norris	Volstead
Foss	La Follette	Nye	Wilder
French	Lenroot	Olmsted	Willis
Gardner, Mass.	Lewis	O'Shaunessy	Wilson, Ill.
Gardner, N. J.	Lindbergh	Plumley	Wood, N. J.
Gillett	Linthicum	Porter	Young, Kans.
Good	Loud	Powers	Young, Mich.

ANSWERED "PRESENT"—7.

Andrus	Langley	Mann	Talbott, Md.
Goldfogle	McDermott	Sharp	

NOT VOTING—139.

Aiken, S. C.	Cravens	Fitzgerald	Jacoway
Ainey	Crumpacker	Floyd, Ark.	Johnson, Ky.
Ames	Curley	Focht	Johnson, S. C.
Ansberry	Curry	Francis	Kahn
Anthony	Dalzell	Fuller	Kent
Ashbrook	Davenport	Garrett	Kindred
Ayres	Davidson	George	Kitchin
Barchfeld	Davis, Minn.	Goeke	Konig
Bates	De Forest	Gould	Lafean
Berger	Difenderfer	Gregg, Tex.	Lafferty
Burke, Pa.	Dixon, Ind.	Griest	Lamb
Burleson	Donohoe	Gudger	Langham
Butler	Driscoll, D. A.	Harris	Lawrence
Callaway	Driscoll, M. E.	Harrison, N. Y.	Legare
Campbell	Dupré	Hartman	Levy
Carlin	Dwight	Haugen	Lindsay
Carter	Dyer	Hayes	Littleton
Clark, Fla.	Estopinal	Henry, Conn.	Longworth
Clayton	Evans	Hill	McCall
Conry	Fergusson	Howard	McKellar
Covington	Ferris	Hughes, W. Va.	McMorran
Crago	Fields	Hull	Maher
Martin, Colo.	Post	Shackleford	Thistlewood
Merritt	Pray	Simmons	Turnbull
Moore, Tex.	Prouty	Sisson	Underhill
Mott	Pujo	Slayden	Underwood
Murray	Randell, Tex.	Smith, Saml. W.	Vreeland
Oldfield	Ransdell, La.	Smith, Cal.	Warburton
Palmer	Redfield	Sparkman	Webb
Parran	Reyburn	Stack	Weeks
Patten, N. Y.	Richardson	Stephens, Tex.	Whitacre
Patton, Pa.	Riordan	Sterling	White
Payne	Sabath	Sulloway	Wilson, N. Y.
Peters	Saunders	Taylor, Ala.	Woods, Iowa
Pickett	Sells	Taylor, Colo.	

So the amendment was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. RIORDAN with Mr. ANDRUS.

Mr. PALMER with Mr. HILL.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. LITTLETON with Mr. DWIGHT.

Until further notice:

Mr. MCKELLAR with Mr. PICKETT.

Mr. KITCHIN with Mr. MERRITT.

Mr. GOLDFOGLE with Mr. HARTMAN.

Mr. AIKEN of South Carolina with Mr. BARCHFELD.

Mr. CONRY with Mr. MICHAEL E. DRISCOLL.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. ASHBROOK with Mr. BURKE of Pennsylvania.

Mr. HENSLEY with Mr. KOPP.

Mr. FIELDS with Mr. LANGLEY.

Mr. SABATH with Mr. REYBURN.

Mr. UNDERWOOD with Mr. MANN.

Mr. PUJO with Mr. MCMORRAN.

Mr. PATTEN of New York with Mr. MCCALL.

Mr. GOULD with Mr. DE FOREST.

Mr. CARLIN with Mr. LAFEAN.

Mr. ANSBERRY with Mr. AINEY.

Mr. BURLESON with Mr. AMES.

Mr. CARTER with Mr. ANTHONY.

Mr. CLARK of Florida with Mr. BATES.

Mr. CLAYTON with Mr. DAVIS.

Mr. DAVENPORT with Mr. BUTLER.

Mr. DIFENDERFER with Mr. CRAGO.

Mr. DIXON of Indiana with Mr. CRUMPACKER.

Mr. DONOHOE with Mr. DALZELL.

Mr. DANIEL A. DRISCOLL with Mr. DYER.

Mr. DUPRÉ with Mr. FULLER.

Mr. FERRIS with Mr. GRIEST.

Mr. FITZGERALD with Mr. HARRIS.

Mr. FLOYD of Arkansas with Mr. HAUGEN.

Mr. FRANCIS with Mr. HAYES.

Mr. GEORGE with Mr. LAFFERTY.

Mr. GREGG of Texas with Mr. LANGHAM.

Mr. GUDGER with Mr. LAWRENCE.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. HOWARD with Mr. MOTT.

Mr. HULL with Mr. PRAY.

Mr. JACOWAY with Mr. PROUTY.

Mr. JOHNSON of Kentucky with Mr. SIMMONS.

Mr. LEVY with Mr. SELLS.

Mr. MURRAY with Mr. SAMUEL W. SMITH.

Mr. CURLEY with Mr. SMITH of California.

Mr. OLDFIELD with Mr. STERLING.

Mr. POST with Mr. SULLOWAY.

Mr. RICHARDSON with Mr. THISTLEWOOD.

Mr. SISSON with Mr. VREELAND.

Mr. SLAYDEN with Mr. WARBURTON.

Mr. STEPHENS of Texas with Mr. WEEKS.

Mr. TURNBULL with Mr. HENRY of Connecticut.

Mr. UNDERHILL with Mr. HUGHES of West Virginia.

Mr. WEBB with Mr. KAHN.

Mr. MAHER with Mr. WOODS of Iowa.

Mr. ESTOPINAL with Mr. PATTON of Pennsylvania.

Until February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Mr. LANGLEY. Mr. Speaker, I voted "no" on this roll call. I have just been informed that my colleague, Mr. FIELDS, is absent on account of illness in his family. I promised to pair with him if those circumstances arose. I desire to withdraw my vote of "no" and answer "present."

The name of Mr. LANGLEY was called, and he answered "Present."

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD. I desire to withdraw my vote of "no" and be recorded "present."

The name of Mr. MANN was called, and he answered "Present."

Mr. CALLAWAY. Mr. Speaker, I desire to vote "yea."

The SPEAKER. Was the gentleman in the Hall and listening when his name was called or should have been called?

Mr. CALLAWAY. I just came in.

The SPEAKER. Did the gentleman hear his name called?

Mr. CALLAWAY. No.

The SPEAKER. Was the gentleman inside the Hall when it was called?

Mr. CALLAWAY. I was not in the Hall. I just came in a moment ago, as the roll was being concluded?

The SPEAKER. The gentleman does not bring himself within the rules.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Page 12, line 5, erase the figures "700" and substitute therefor the figures "750," so that it will read "$750,000."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 101, noes 5.

So the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment, which is the amendment offered by the gentleman from Indiana [Mr. CULLOP].

The Clerk read as follows:

Page 22, after line 24, insert the following:

"That the Executive order of date September 30, 1910, whereby assistant postmasters and clerks at first and second class post offices were placed within the classified civil service, and the Executive order of October 18, 1912, whereby fourth-class postmasters were placed within the classified civil service, are hereby annulled and set aside."

Mr. HARRISON of Mississippi. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. HARRISON of Mississippi. I ask for a division of the two questions advanced in the amendment offered by the gentleman from Indiana [Mr. CULLOP].

The SPEAKER. The Clerk will report the first half of the amendment.

The Clerk read as follows:

That the Executive order of date September 30, 1910, whereby assistant postmasters and clerks at first and second class post offices were placed within the classified civil service——

Mr. MANN. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. The amendment having been adopted as one amendment by the Committee of the Whole House on the state of the Union, is it in order to provide for a division of the amendment in the House? And, as reported by the Clerk, there is no substantive proposition there.

The SPEAKER. The Chair does not understand the last remark.

Mr. MANN. The Clerk did not report any substantive proposition. If you adopt what the Clerk read, it would be like debating that much hot air. It would not say anything.

Mr. CULLOP. The two propositions are not divisible, as I understand it, from the manner in which the amendment is drawn.

The SPEAKER. The House will be in order. The rule about this question is very simple. It is as follows:

On the demand of any Member before the question is put, a question shall be divided if it include propositions so distinct in substance that one being taken away a substantive proposition shall remain.

There is no such condition existing in this amendment. You will have to hitch the last part of it onto either one of the two propositions in order to make a substantive proposition, and if you hitch it onto one of them and make it a substantive proposition the other one is not a substantive proposition. So the request is overruled.

The question is on agreeing to the amendment.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. CULLOP. Division, Mr. Speaker.

The House proceeded to divide.

Mr. CULLOP. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 108, nays 140, answered "present" 6, not voting 129, as follows:

YEAS—108.

Adair	Burgess	Carter	Dent
Adamson	Burke, Wis.	Claypool	Denver
Alexander	Burnett	Cline	Dickinson
Ashbrook	Byrnes, S. C.	Collier	Dickson, Miss.
Bartlett	Byrns, Tenn.	Cox	Dies
Beall, Tex.	Callaway	Cravens	Dixon, Ind.
Blackmon	Candler	Cullop	Doughton
Booher	Cantrill	Daugherty	Edwards
Brown	Carlin	Davenport	Ellerbe
Falson	Hangen	Lever	Rucker, Colo.
Ferris	Hay	Littlepage	Rucker, Mo.
Finley	Heflin	Lloyd	Russell
Flood, Va.	Helm	McGillicuddy	Sheppard
Foster	Henry, Tex.	Macon	Sherwood
Garner	Hensley	Mays	Sims
Gill	Hobson	Moon, Tenn.	Small
Godwin, N. C.	Holland	Morgan, La.	Smith, Tex.
Goeke	Houston	Padgett	Stanley
Goodwin, Ark.	Hughes, Ga.	Page	Stedman
Gray	Humphreys, Miss.	Pepper	Stephens, Miss.
Gregg, Pa.	James	Poll	Thayer
Hamilton, W. Va.	Jones	Ransdell, La.	Thomas
Hamlin	Kindred	Rauch	Townsend
Hardwick	Konig	Roddenbery	Tribble
Hardy	Lafferty	Rothermel	Watkins
Harrison, Miss.	Lamb	Rouse	Witherspoon
Hart	Lee, Ga.	Rubey	Young, Tex.

NAYS—140.

Akin, N. Y.	Gardner, N. J.	Linthicum	Raker
Allen	Gillett	Lobeck	Rees
Anderson	Good	Lond	Reilly
Austin	Graham	McCoy	Roberts, Mass.
Barnhart	Green, Iowa	McCreary	Roberts, Nev.
Bartholdt	Greene, Mass.	McDermott	Scott
Bathrick	Greene, Vt.	McGuire, Okla.	Sherley
Bell, Ga.	Gregg, Tex.	McKenzie	Simmons
Boehne	Guernsey	McKinley	Slemp
Borland	Hamill	McKinney	Sloan
Bradley	Hamilton, Mich.	McLaughlin	Smith, J. M. C.
Browning	Harris	Madden	Smith, N. Y.
Buchanan	Hawley	Maguire, Nebr.	Speer
Bulkley	Hayden	Martin, S. Dak.	Steenerson
Burke, S. Dak.	Heald	Matthews	Stephens, Cal.
Calder	Helgesen	Miller	Stephens, Nebr.
Cannon	Howell	Mondell	Sterling
Cary	Howland	Moon, Pa.	Stone
Cooper	Hughes, W. Va.	Moore, Pa.	Switzer
Copley	Humphrey, Wash.	Morgan, Okla.	Taggart
Currier	Jackson	Morrison	Talcott, N. Y.
Danforth	Kendall	Morse, Wis.	Taylor, Ohio
Davis, Minn.	Kennedy	Moss, Ind.	Thistlewood
Davis, W. Va.	Kinkaid, Nebr.	Murdock	Tilson
Dodds	Kinkead, N. J.	Needham	Towner
Doremus	Knowland	Neeley	Tuttle
Draper	Konop	Nelson	Vare
Esch	Kopp	Norris	Volstead
Farr	Korbly	Nye	Wilder
Fornes	La Follette	Olmsted	Willis
Foss	Lawrence	O'Shaunessy	Wilson, Ill.
Fowler	Lee, Pa.	Plumley	Wilson, Pa.
French	Lenroot	Porter	Wood, N. J.
Gallagher	Lewis	Powers	Young, Kans.
Gardner, Mass.	Lindbergh	Prince	Young, Mich.

ANSWERED "PRESENT"—6.

Andrus	Langley	Rodenberg	Talbott, Md.
Goldfogle	Mann		

NOT VOTING—129.

Aiken, S. C.	Estopinal	Lafean	Riordan
Ainey	Evans	Langham	Sabath
Ames	Fairchild	Legare	Saunders
Ansberry	Fergusson	Levy	Scully
Anthony	Fields	Lindsay	Sells
Ayres	Fitzgerald	Littleton	Shackleford
Barchfeld	Floyd, Ark.	Longworth	Sharp
Bates	Focht	McCall	Sisson
Berger	Fordney	McKellar	Slayden
Brantley	Francis	McMorran	Smith, Saml. W.
Broussard	Fuller	Maher	Smith, Cal.
Burke, Pa.	Garrett	Martin, Colo.	Sparkman
Burleson	George	Merritt	Stack
Butler	Glass	Moore, Tex.	Stephens, Tex.
Campbell	Gould	Mott	Stevens, Minn.
Clark, Fla.	Griest	Murray	Sulloway
Clayton	Gudger	Oldfield	Sweet
Conry	Hammond	Palmer	Taylor, Ala.
Covington	Harrison, N. Y.	Parran	Taylor, Colo.
Crago	Hartman	Patten, N. Y.	Turnbull
Crumpacker	Hayes	Patton, Pa.	Underhill
Curley	Henry, Conn.	Payne	Underwood
Curry	Higgins	Peters	Vreeland
Dalzell	Hill	Pickett	Warburton
Davidson	Hinds	Post	Webb
De Forest	Howard	Pray	Weeks
Difenderfer	Hull	Prouty	Whitacre
Donohoe	Jacoway	Pujo	White
Driscoll, D. A.	Johnson, Ky.	Rainey	Wilson, N. Y.
Driscoll, M. E.	Johnson, S. C.	Randell, Tex.	Woods, Iowa
Dupré	Kahn	Redfield	
Dwight	Kent	Reyburn	
Dyer	Kitchin	Richardson	

So the amendment was rejected.

The Clerk announced the following additional pairs:

On the vote:

Mr. GARRETT with Mr. RODENBERG.

Until further notice:

Mr. GOULD with Mr. HINDS.

Mr. BRANTLEY with Mr. BURKE of Pennsylvania.

Mr. FLOYD of Arkansas with Mr. ANTHONY.

Mr. CLAYTON with Mr. CRUMPACKER.

Mr. FERGUSSON with Mr. FAIRCHILD.

Mr. GEORGE with Mr. FOCHT.

Mr. GUDGER with Mr. HIGGINS.

Mr. HAMMOND with Mr. FORDNEY.

Mr. RAINEY with Mr. LANGHAM.

Mr. JOHNSON of South Carolina with Mr. BUTLER.

Mr. WHITE with Mr. STEVENS of Minnesota.

Mr. LANGLEY. How am I recorded, Mr. Speaker?

The SPEAKER. In the negative.

Mr. LANGLEY. Being opposed to this amendment, I voted "nay"; but I am paired with my colleague, Mr. FIELDS, and I therefore desire to withdraw my vote and vote "present."

Mr. MANN. Mr. Speaker, I voted "nay"; but I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote and vote "present."

Mr. HAUGEN. Mr. Speaker, I wish to have my vote recorded.

The SPEAKER. Was the gentleman in the Hall, listening?

Mr. HAUGEN. I was right at the door when my name was called.

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. HAUGEN, and he voted "nay."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. MURDOCK. Mr. Speaker, I move to recommit.

Mr. GARDNER of New Jersey. Mr. Speaker, I offer a motion to recommit this bill.

Mr. CULLOP. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman from New Jersey [Mr. GARDNER] opposed to the bill?

Mr. GARDNER of New Jersey. I am not opposed to the bill in the sense that I would vote against it as it now stands, but I am opposed to a provision in it as it stands, and I would like to get it out.

Mr. MURDOCK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman from Kansas opposed to this bill?

Mr. MURDOCK. I am.

The SPEAKER. Under the rulings the gentleman has the right, being on the committee, to offer the motion to recommit. The gentleman from New Jersey [Mr. GARDNER] is also on the committee and ranks the gentleman from Kansas, but the gentleman from New Jersey did not answer affirmatively.

Mr. MURDOCK. I move, Mr. Speaker, to recommit the bill with instructions, and upon that I move the previous question.

The SPEAKER. The Clerk will report the instructions.

The Clerk read as follows:

Mr. MURDOCK moves to recommit the bill H. R. 27148 to the Committee on the Post Office and Post Roads, with instructions to amend the bill as follows: At the end of line 21, page 17, strike out "$49,000,000" and insert in lieu thereof "$48,500,000," and add thereto the following: "*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical, advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors for transmission to or delivery in any State, county, or municipality wherein the sale of such liquors is or may be hereafter prohibited by State law; that the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mail and readjusting and reducing the compensation now paid to railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States," and to forthwith report the bill so amended.

Mr. SHERLEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SHERLEY. Is it necessary now to demand a division and make any point of order, or will that be in order after the vote is had on the previous question?

The SPEAKER. The Chair thinks if the gentleman has a point of order, he would be on the safe side to make it now.

Mr. SHERLEY. I desire, Mr. Speaker, first to demand a division of the motion, and I also make a point of order against the proposed amendment.

Mr. MURDOCK. I make a point of order, Mr. Speaker——

The SPEAKER. The Chair will conduct the matter decently and in order and will hear what the gentleman from Kentucky has to say.

Mr. SHERLEY. First, I desire to ask the Chair whether it is in order now to make the point of order or after the division of the question?

The SPEAKER. What point of order?

Mr. SHERLEY. Any point of order that would lie to it.

The SPEAKER. The Chair thinks it is.

Mr. SHERLEY. Then I make the point of order that the motion is out of order, as not being germane to the bill, and I demand a division of the motion. And I desire to make a point of order, also, to each of the various affirmative propositions contained in the motion.

Mr. MURDOCK. Mr. Speaker, I make the point of order that the gentleman from Kentucky [Mr. SHERLEY] can not make the point of order and demand a division.

The SPEAKER. Well, why not?

Mr. MURDOCK. Under the rules of the House he might make a point of order, but——

The SPEAKER. The gentleman from Kentucky [Mr. SHERLEY] or any other gentleman has the right to make a point of order. There is no question about that. It does not make any difference whether the point of order is well taken or not, for the purpose of this statement. Then the gentleman from Kentucky or anybody else has the right to demand a division of the proposition.

Mr. MURDOCK. Mr. Speaker, can he do both of these things at once?

The SPEAKER. No.

Mr. MURDOCK. That is what he has done.

The SPEAKER. The Chair can not possibly entertain both propositions at once.

Mr. MURDOCK. That is my point.

The SPEAKER. But so far as the amendment not being germane to the bill is concerned, the Chair overrules the point.

Mr. SHERLEY. Mr. Speaker, if the Chair will permit me to be heard, I will be glad. If the Chair is against me, I do not desire to waste the time of the Chair or my own; but if the Chair will permit, I would like to present a very serious proposition that is involved here.

Mr. MURDOCK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURDOCK. I understood the Chair to say that he overruled the point of order.

The SPEAKER. The Chair did say that he overruled the point of order, but the Chair does not think that his decision offhand is infallible on any proposition, and the Chair is always willing to gather information wherever he can. The Chair will hear the gentleman from Kentucky.

Mr. HENRY of Texas. Mr. Speaker, I ask that the amendment be reported again.

The SPEAKER. The Clerk will again report the motion to recommit.

The motion was again read.

Mr. SHERLEY. Mr. Speaker, I desire——

Mr. MANN. I make the further point of order that this is not offered as one amendment, but is two amendments, and it must be decided that one amendment is in order and that the other is not.

The SPEAKER. Does the gentleman from Illinois contend that this is not one amendment?

Mr. MANN. It is not one amendment. According to the wording of the amendment it provides to strike out $49,000,000 and to insert $48,500,000, and add thereto——

Mr. SHERLEY. It was just that point——

The SPEAKER. Does the gentleman from Illinois seriously contend that the words which he has practically quoted—

At the end of line 21, page 17, strike out $49,000,000 and insert in lieu thereof $48,500,000—

is one amendment and that what follows after it is another?

Mr. MANN. I contend this, Mr. Speaker: Under the rules of the House, the motion to strike out and insert is indivisible. If this were the ordinary motion to strike out and insert language, it seems to me it would not be divisible, but the motion is made to strike out language and insert other language, and then it goes on and proposes to add another paragraph to the bill. I can not see how this is offered as one amendment. It is not a motion to strike out and insert as one indivisible motion, and is not so offered.

The SPEAKER. What is the reason it is not? It says:

At the end of line 21, page 17, strike out $49,000,000 and insert in lieu thereof $48,500,000, and add thereto—

And so forth.

Mr. SHERLEY. Now, if the Chair will permit, I desire to add this to what the gentleman from Illinois has said: It is true that this is not one proposition even in the sense that the amendment offered in Committee of the Whole presented one proposition. But I desire to ask the Chair to reconsider the matter, notwithstanding the decision of the chairman of the Committee of the Whole on substantially the same proposition. I submit to the Chair this fundamental proposition, that it can not be in order simply by offering an amendment that itself is in order, and then adding to it in the form of a substantive proposition, whatever you please, to make the subsequent matter in order, if it would not otherwise have been in order. In other words, you can not take one proposition like the reduction of an amount which is in order, and having made that, then simply by the use of the word "and" carry along into order, because of the company it is keeping, any proposition whatsoever; but the very right to demand a separate vote upon every substantive proposition carries with it necessarily and logically the right to have the question determined whether

that substantive proposition is itself in order. Otherwise the rules become matters of nonsense, and all you have to do in order to avoid and disregard the rules as to what is in order and as to what is germane, is to make one amendment cutting down the amount of an appropriation, use the word "and," and then gather anything to it that you see fit.

Now, here are three substantive propositions. If they were not, the right to a division could not be had upon them; and I insist that, being substantive propositions, representing each a distinct proposal, a point of order may lie as to any one of them, and you have the right to have the point of order considered as to any one of them. If that premise of mine be properly taken, I further insist that the second affirmative and substantive proposition has nothing in it to make it in order under the Holman rule, and it has never been contended that it was in order as a limitation upon the bill.

The SPEAKER. The Chair will ask the gentleman from Kentucky a question.

Mr. SHERLEY. Certainly.

The SPEAKER. Does the gentleman insist that under the Holman rule an amendment that would not be germane under the general rule can not do anything except cut down the amount of the appropriation?

Mr. SHERLEY. I mean to say this, that anything that would not be in order as new legislation is only made in order by the terms of the Holman rule when it does one of several things; and so as not to risk my memory I will read to the Chair the exact rule. Rule XXI itself expressly declares what it must be that shall make it in order. That rule says:

> Nor shall any provision in any such bill or amendment thereto changing existing law be in order—

Manifestly this changes existing law—

> except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided*, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.

Now, all of that contained in the proviso does not apply here, because here is no motion made by authority of any committee or commission, but a motion made upon the individual responsibility of a Member, and I insist that the second proposition does not come within the rest of the Holman rule. It does not show on its face that it is a reduction of the amounts of money covered by the bill, nor that it results in the reduction of the compensation of any person paid out of the Treasury of the United States.

I appreciate that this matter was discussed at length in the Committee of the Whole; but I submit to the Chair that if the Holman rule means what by the construction put upon it by the chairman of the Committee of the Whole when this matter was up yesterday, it is said to mean, we have reached the point when that very salutary rule to protect the House against hasty and ill-considered action which prohibits new legislation upon an appropriation bill, has been absolutely whittled away and now amounts to nothing. It is within the ability of the mere novice in parliamentary law now to offer any provision in such a form as to make it in order on any appropriation bill, and it was for that reason that I asked the indulgence of the Chair, even though the Chair has indicated an opinion contrary to that which I am urging.

Mr. GARDNER of Massachusetts. Mr. Speaker, as the gentleman from Kentucky has pointed out, individuals in this House are only empowered to take advantage of the Holman retrenchment rule if the amendment which they propose does certain things. It must cut down salaries, reduce the number of public officials, or reduce the amount carried in the bill. Now, yesterday the gentleman from Kansas [Mr. JACKSON] introduced an amendment which contained a broad legislative proposition, and coupled with it was a direct reduction in terms of the amount carried in the bill. The Chairman of the Committee of the Whole—wrongly, I think—decided that inasmuch as a reduction was carried on its face the whole amendment taken together was in order. Before he made his ruling I asked the parliamentary question as to whether it was proper to demand a division of the question at that time, so that we might have a separate ruling on the legislative proposition. To this the Chairman replied that in his opinion any demand for a division of the question must come later, after he had decided the point of order against the Jackson amendment as a whole.

After the Chair had given his decision a division of the question was demanded for the purpose of voting, and this demand was granted. The House at once negatived the first section of the amendment, to wit, the proposed reduction. This negative vote left nothing before the House except the legislative proposition, which was simply a change in existing law likely, as was alleged, to result in a retrenchment.

The Holman rule permits committees to recommend changes in existing law which entail retrenchment, even if there is no reduction in the amount of money appropriated. Individuals, however, have no such right.

After the committee had negatived the reduction the gentleman from Tennessee [Mr. MOON] raised the point of order that the second division of the Jackson amendment no longer was in order under the Holman rule. Against this the gentleman from Alabama [Mr. HOBSON] raised the point of order that the question of order had already been decided by the Chair, inasmuch as he had decided an inclusive amendment to be in order. The Chair agreed with the gentleman from Alabama. This ruling, by the way, is directly contrary to the doctrine laid down by Mr. Crutchfield a number of years ago, which I shall read to the Chair in a minute or two. The point is that a situation had been arrived at where the amendment awaiting the action of the House no longer met the conditions imposed by the Holman rule, even assuming the soundness of the Chair's original decision.

The Chair had ruled that the coupled proposition was in order; but the proposition had been uncoupled, and the committee had rejected that portion which was essential under the Holman rule. The Chair sustained the gentleman from Alabama and held that his original ruling covered the entire Jackson amendment, even though the surviving portion of that amendment might be obnoxious to the point of order.

Now, if the Speaker will permit, I shall read Mr. Crutchfield's views. In the star route case cited yesterday an amendment was proposed reducing the appropriation by the nominal sum of $500,000, and a legislative proposition was coupled with it concerning contracts for star routes. Here is what Mr. Crutchfield says in his manual:

> It will be noted that the point of order was made against the amendment as a whole. The propositions contained in the amendment were divisible, namely, first, to substitute $49,500 for $50,000; and, second, the provision "to be disbursed in such manner," etc. The second branch of the amendment did not of itself result in a reduction of the amount carried by the bill, and had a division of the question been demanded and a point of order made against the latter branch the provision changing the law as to the manner of disbursements would no doubt have been held out of order.

That view of Mr. Crutchfield seems to be based on sound parliamentary philosophy. I think the Chair was in error yesterday in holding the contrary. As the gentleman from Kentucky has said, the result of the series of rulings made by the Chair yesterday is this: The privilege reserved by the Holman rule for committees alone, to wit, the privilege of proposing retrenchment amendments, whether or not they carry a reduced appropriation, is now thrown open to every Member of the House if he attaches a provision reducing the total amount carried in the bill. In other words, if these rulings are to stand, there is no retrenchment amendment which a committee is empowered by the Holman rule to propose which can not equally well be proposed by an individual who exercises a little ingenuity in drafting his amendment.

The SPEAKER. Does the gentleman from Massachusetts contend that a Member in a motion to recommit can not offer anything except what the committee can offer on the floor of the House in Committee of the Whole House on the state of the Union?

Mr. GARDNER of Massachusetts. I contend that he can not offer in a motion to recommit that which would have been out of order if offered in the Committee of the Whole House. In addition, I believe that by a demand for a division of the question, which I believe to be quite in order, we can get another ruling from the present Chair.

Mr. FITZGERALD. Mr. Speaker, the proposed motion by the gentleman from Kansas, in my opinion, is subject to the point of order because it involves legislation in violation of the rules. It is not necessary to discuss whether it comes within the provisions of the Holman rule or not, because, regardless of that rule, in my opinion, it is not in order. It contains a positive direction to an executive officer to do a certain act. It either controls the discretion which he now has under the statute or imposes upon him a duty which he does not have. No amendment ever submitted, purporting to be in order because it purported to reduce expenditures, has had coupled with it a proviso attempting to control the discretion of any executive officer, particularly if that part of the amendment of itself was

not a substantive proposition which on its face retrenched expenditures.

This amendment provides that the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation—

> for the purpose of weighing the mails and reducing the rates of compensation now paid to railroad companies for transporting the mails by excluding said class of mail from the mails of the United States.

Such a provision as that attached to an amendment purporting to reduce the amount carried by the bill has never, in any ruling with which I am familiar, made under the Holman rule, been held to be in order.

This provision is similar to a number of provisions of a somewhat similar character that from time to time have been held contrary to the rule.

Paragraph 3854 of Hinds' Precedents, volume 4, the Chairman, Mr. Hepburn, in a ruling upon an amendment states:

> A provision authorizing and directing an officer of the Government to do things involves legislation.

Legislation of such a peculiar character has never so far been seriously contended to be in order on an appropriation bill on the ground that the retrenchment was to be effected and the amount carried by the bill reduced.

Eliminating the balance of the amendment it would read:

> Strike out "$49,000,000" and insert in lieu thereof "$48,500,000": *Provided*, That the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation—

And so forth.

This proposed direction to the Postmaster General has no relation whatever to the terms in which the appropriation in the bill is carried. It is not germane to that particular provision, and it is an affirmative direction to the Postmaster General to utilize a certain portion of the appropriation in a certain way, which either in itself is legislation or else it attempts to control the discretion which he now has under the law, and which under a long line of precedents has been held to be legislation. I submit that under those circumstances this proposed motion, if offered as an amendment, either in the committee or in the House, would be subject to the point of order, and the same rule applies when it is offered as a motion to recommit.

The SPEAKER. The Chair will ask the gentleman from New York this question: Can the language in this motion beginning with the word "and," after the proposed reduction, be considered in any proper sense a limitation on the appropriation?

Mr. FITZGERALD. The Speaker refers to the word "and" where it occurs after "$48,500,000," and add thereto the following?

The SPEAKER. Yes.

Mr. FITZGERALD. If any portion of that provision is subject to a point of order, it all would be subject to a point of order. It has been repeatedly held that a direction to use a specific part of an appropriation carried in a provision can not in any way be construed to be a limitation. It is not a limitation upon the use. It is a direction as to the use. That is one of the clear lines that is drawn between what is a limitation and what is not. A limitation withholds an appropriation from use in certain ways. This directs the use of the appropriation by the Postmaster General in a particular way.

Either he has the power under the law to use it in that way or he has not. If he has not the power, this is legislation. If he has the power and has the discretion to use it or not to use it in the particular manner, this is an attempt to control the discretion lodged in him by the statute, and that has been construed to be legislation. Any attempt to control the discretion lodged in an official as to his action, as to his use of money, is legislation, while a limitation does not control the action of the official at all. It merely inhibits the use of the money for a particular purpose. This amendment clearly has in it such affirmative directions to the Postmaster General as to constitute an attempt to control his discretion, or to determine that he shall act in a particular manner. Under a long line of rulings, such an attempt has always been held to be legislation.

The provision of the bill, page 17, line 21, which this seeks to amend, is:

> For inland transportation by railroad routes, $49,000,000.

The amendment endeavors to strike out "$49,000,000" and to insert "$48,500,000," and to add a direction to use a particular portion of that sum in a particular manner.

Mr. GARRETT. Mr. Speaker, will the gentleman from New York yield?

The SPEAKER. Does the gentleman from New York yield to the gentleman from Tennessee?

Mr. FITZGERALD. Yes.

Mr. GARRETT. Mr. Speaker, I understood the gentleman to state that he was not familiar with any precedent holding that such a proposition as the gentleman just stated was in order. I wish to direct his attention to the ruling of Mr. Chairman Carlisle, made before he was Speaker, or at the time, at least, when he was not Speaker, and which was cited by the Chair yesterday.

Mr. FITZGERALD. Mr. Speaker, I have not looked at those rulings recently, although I have examined them very carefully on other occasions.

Mr. GARRETT. It is to be found on page 1471 of the RECORD, near the bottom of the last column. The gentleman will there find the question, and then at the top of the next column he will find the ruling of Mr. Carlisle.

Mr. FITZGERALD. Mr. Speaker, there is a very clear distinction between the two amendments. One was that the Postmaster General "may" use a certain sum, while this amendment provides that he must use it. It is very clear that that did not attempt to limit his discretion in any way, while this compelled his action in a certain way. The language of this amendment is:

> The Postmaster General is hereby authorized and directed.

He has no discretion in the matter at all. It removes any discretion he may have, and the ruling to which the gentleman calls attention, I think, is based upon an amendment which in a very essential feature is so different that it does not cover this particular case.

The pending motion is not such as to be indivisible. So far as it purports to strike out $49,000,000 and to insert $48,500,000 it is indivisible; but it adds after the insertion positive, substantive, independent legislative provision. They do not depend for their vitality upon the matter to be stricken out or inserted. They do not on their face purport to retrench expenditures, and such is not their purpose. It is an attempt to utilize a beneficial rule to enact legislation never contemplated as in order under it.

Mr. MURDOCK. Mr. Speaker, within the last 24 hours I have been twice up against rulings on the Holman rule. The rule which we have in this House which goes to the scope and definition of the power of an amendment to an appropriation bill must have been in the first place adopted to save appropriations from general legislation, and it seems to me that the gentlemen who have preceded me to-day, particularly the gentleman from New York [Mr. FITZGERALD], have been arguing in terms of simple limitation. The Holman rule is a definite departure from the philosophy of strict limitation. The Holman rule necessarily is built upon the proposition that you may change existing law and that you may touch upon the discretion of an executive officer. Yesterday, preceding this present amendment, which was ruled in order by the Chairman, the gentleman from Tennessee [Mr. GARRETT], I defended another amendment which came in the bill from the committee.

The Chairman held that under the Holman rule that amendment did not show a reduction in expenditures on its face. In other rulings under the new Holman rule I note that that seems to be a vital and essential part of an amendment in order under that rule, namely, that it shall show not only a reduction but a reduction on its face. Now, this amendment offered originally yesterday by the gentleman from Kansas [Mr. JACKSON] does show on its face a reduction. It is germane, was held in order yesterday, and I do not believe that the Speaker can hold that it infringes upon the discretion of a departmental officer and still keep full vitality in the Holman rule. I want also to say while I am on my feet, Mr. Speaker, that this is a motion to strike out and insert, and under the rules of the House it is not divisible.

Mr. SHERLEY. Will the gentleman yield to a question?

Mr. MURDOCK. Certainly.

Mr. SHERLEY. Waiving for the moment the question of a point of order, does the gentleman think that no division could be had upon a proposition like this so as to have a separate vote on the different affirmative propositions?

Mr. MURDOCK. I think under the rules of the House, this being a motion to strike out and insert, it is not divisible. The rule so states in specific terms.

Mr. SHERLEY. Let me ask the gentleman this question: According to the gentleman's contention, is it not possible, if it be correct, by simply moving a reduction of any amount and then using the word "and" to couple any legislation, whether the legislation be germane to the paragraph or not?

Mr. MURDOCK. Exactly; and that is the object of the Holman rule. Let me say to the gentleman that I believe he is also

arguing in the terms of strict limitation. The basis of his remarks to-day is that we can not change existing law.

Mr. SHERLEY. The gentleman does not, in my judgment, know the real philosophy of the parliamentary rule.

Mr. MURDOCK. That may be true.

Mr. SHERLEY. I do not mean that offensively. I am going to try to show you. The reason for a rule that limits legislation on appropriation bills is because the experience of legislators has shown that without it it results in ill-considered and unwise legislation. Therefore the general rule, that has been a rule for more than 60 years, was brought into play. Then there came along the desirability of economy, and therefore the other rule was justified for the particular purpose of economizing. But the reason for the other rule applies with all its force unless you are economizing. Therefore it must follow that in considering the Holman rule it must be considered strictly so as to clearly show that every affirmative proposition is let in because of the virtue it had in economizing.

Mr. MURDOCK. I know; but I have no dispute with the gentleman from Kentucky on the statement he now makes. But this amendment does show a reduction on its face, and it does then come within the Holman rule, and it accomplishes the very thing the Holman rule wants to accomplish, as described by the gentleman from Kentucky.

Mr. SHERLEY. If I believed in the gentleman's premises, it would be possible to admit his conclusion. I insist they are different propositions——

Mr. MURDOCK. Let me say to the gentleman from Kentucky [Mr. SHERLEY] that he has said to me repeatedly in private conversation that there is a remedy in the rules of the House for everything.

Mr. SHERLEY. I do not remember of ever having said it, by the way.

Mr. MURDOCK. He does not have to divide the question to vote it down. Let him vote it down in its entirety.

Mr. SHERLEY. The gentleman's argument, if carried to its full logical conclusion, would abolish the necessity of any rule, because this body, as a whole, could control.

Mr. MURDOCK. I have one decision which I would like to cite to the Speaker.

The SPEAKER. Before the gentleman goes to that, the Chair would like to ask him a question. The rule is that a motion to strike out and insert is not divisible. Let us see what we have here:

At the end of line 21, page 17, strike out "$49,000,000" and insert in lieu thereof "$48,500,000," and add thereto the following.

Now, how far in this motion does that rule about striking out and insert apply?

Mr. MURDOCK. It must go to all of the inserted matter.

The SPEAKER. Let us see how much is inserted matter:

Strike out "$49,000,000" and insert in lieu thereof "$48,500,000."

And then it says:

And add thereto the following.

And then comes the rest of the document.

Mr. MURDOCK. Mr. Speaker, that is no more a part of the legislation than "I move to recommit."

The SPEAKER. Is what follows the word "and," namely, "add the following," a part of the matter you are inserting or is that something brand-new?

Mr. MURDOCK. That is part of the matter I am inserting.

The SPEAKER. You did not insert it in place of the $49,000,000?

Mr. MURDOCK. I strike out the "$49,000,000" and substitute "$48,500,000," with that addition.

The SPEAKER. It does not say that. It says "and add the following."

Mr. MURDOCK. I do not know how we could have it otherwise, except to insert a semicolon or a colon or "provided."

The SPEAKER. So far as that difficulty is concerned, it could have been remedied very easily by making it run this way:

At the end of line 21, page 17, strike out "$49,000,000" and insert the following: "$48,500,000, provided"—

And so forth. There is no trouble about having it made right.

Mr. MURDOCK. It means precisely the same thing.

The SPEAKER. It means ultimately the same thing, but the Chair is talking about this rule of dividing the propositoin to strike out and insert. You have got to take all these rules and construe them together. Now the Chair will hear the gentleman's authorities.

Mr. MURDOCK. Mr. Speaker, the substance of the matter is just as the Speaker has recited it, and you might leave out those words "and add thereto," and leave a colon or a semicolon, or insert the word "provided," and it would have the same effect, and any change of any kind under the Speaker's suggestion would be one of verbiage, and not one changing the materiality of the amendment.

Mr. SHERLEY. Mr. Speaker, if the gentleman will permit, the very question of verbiage is what determines whether it is in order or not. It is not what a man means, but what he says. [Laughter.]

The SPEAKER. For instance, this morning there was an amendment here that ran this way, in substance—the Chair does not try to quote the exact language: There were two propositions followed by one condition. Now, if you undertook to strike out the proposition to hold for naught the Executive order of 1910, then in order to eke out and make a whole proposition you had to jump the second proposition about repealing the order of 1912 and hitch onto the last end of it. Now, when you had done that you did not have any whole proposition left in the middle. It was up in the air, to use a military phrase. [Laughter.] So the Chair ruled it out of order. He ruled that there were not two substitutive propositions in it, and the Chair thinks he ruled correctly.

The question in this matter primarily is, What do you strike out, and what do you insert in place of what you did strike out?

Mr. JACKSON. Mr. Speaker——

The SPEAKER. In a moment. If you strike out "$49,000,000" and insert "$48,500,000," you can not divide that proposition; and then you add the following——

Mr. MURDOCK. That is, "add the following," immediately after the insertion of the $48,500,000.

Mr. JACKSON. Mr. Speaker, does my colleague yield?

Mr. MURDOCK. Yes.

Mr. JACKSON. I suggest to the Speaker that the language used there means just the same thing as if you had said, "Also insert $48,500,000; also provided," and so forth. The language means the same thing. Certainly in ruling upon these questions the Chair will look at the substance of the amendment, and, to use the language of the Speaker, its ultimate effect, rather than the language in which the mere amendment is suggested on paper. The amendment as it reads, when inserted in the bill, will be just as the Speaker says—"$48,500,000: *Provided*," and so forth. The other language is the mere vehicle, the mere machinery, by which the committee is directed to perpetuate and accomplish the amendment.

The SPEAKER. Where is the authority that the gentleman from Kansas [Mr. MURDOCK] has?

Mr. MURDOCK. I think the Speaker has had it cited to him, but I wanted to make sure. It is the decision of Chairman Carlisle, of Kentucky, in the railroad case in 1880. It can be found in the CONGRESSIONAL RECORD, page 1471.

The SPEAKER. Does the gentleman from Kansas think that the case that Mr. Chairman Carlisle was deciding is a case similar to this?

Mr. MURDOCK. In part. It was a case where a sum—$9,480,000, for the transportation of the mails, just this same item in this bill—was, by amendment, reduced, with a direction to the Postmaster General to divert a portion of the remaining sum for a certain purpose.

The SPEAKER. Was it a direction to the Postmaster General or a permission to the Postmaster General?

Mr. MURDOCK. Strictly construed, it was a permission, because the word "may" was used.

The SPEAKER. In this case it is a positive direction, is it not? The language of the gentleman's motion is a positive direction.

Mr. MURDOCK. Yes; I think that is true.

Mr. JACKSON. Mr. Speaker, may I add just a word?

The SPEAKER. The gentleman from Kansas [Mr. JACKSON].

Mr. JACKSON. I wanted to call the attention of the Speaker especially to the position taken by the Chairman yesterday in ruling upon this question in reference to the opinion of Mr. Speaker Carlisle. The amendment was very similar to this; very similar, indeed, with the one exception that the Speaker suggests; and the Chairman of the committee yesterday stated it so nicely that I can better state what I mean by reading it:

It is conceded that the first part of the amendment is in order under the Holman rule, as it carries a reduction of $500,000 in the appropriation. It is the opinion of the Chair that where a proposition of legislation follows a proposition to reduce the amount, and is so related to that proposition to reduce the amount as to be clearly and logically germane thereto, it is brought within the operation of the rule.

Now that was in substance what was held by Mr. Speaker Carlisle in that opinion, and this machinery that is provided here for the purpose of reducing the appropriation and reducing the amount to be paid out of the Treasury under the appropriation is appropriate machinery. It follows logically after the reduction of the amount of the appropriation, and no one

can look at the amendment without seeing that it was intended for that purpose, and therefore it should not only be considered as a whole, but should be considered as an amendment on its face which reduces the amount of the appropriation and the expenditures to be paid out of the Treasury.

Now, as to the question that it is a direction to the Postmaster General, rather than the grant of an authority to use discretion, permit me to say, Mr. Speaker, that if the Holman rule had any effect whatever, it is, as my colleague [Mr. MURDOCK] suggested, to permit to be introduced as a part of an appropriation bill a proposition to change legislation; and will it be contended that you may change legislation and make new law and yet not be able to control the discretion of an officer who acts under the law? That would be an absurdity—that you can change law and change the authority under which the officer acts and under which he is appointed, and yet not be able to change his discretion under the law. Of course, the opposite must follow; and if you can change the law you can change the discretion of the officer, under the Holman rule, which you can not do under the limitations placed upon an appropriation bill.

Mr. SAUNDERS and Mr. HARDWICK rose.

The SPEAKER. The Chair will hear the gentleman from Virginia [Mr. SAUNDERS] first and then the gentleman from Georgia [Mr. HARDWICK]. That is the order in which they rose.

Mr. SAUNDERS. Mr. Speaker, the question of the controlling principle in the interpretation of the Holman rule is one of the utmost importance. It has been said in argument in connection with the pending parliamentary proposition, that the Holman rule must be construed strictly. I deny that absolutely. It has been ruled that this rule is one of beneficence, and on that account should be liberally construed, in order that its essential purpose may be carried out, and retrenchments effected.

It has also been suggested in the argument upon the Murdock amendment that if that interpretation is given to the rule which will make this amendment in order any tyro in the House can amend existing law by an amendment to an appropriation bill. This, Mr. Speaker, is the purpose of the Holman rule. If a tyro can work out any efficient scheme by which a substantial reduction of expenditures can be accomplished, he should not be debarred from attaching it to an appropriation bill. The purpose of the Holman rule is to afford to the tyro, and the expert alike the opportunity to bring his propositions before the House, passing in the first instance the scrutiny of the Chair who must be reasonably satisfied that they will effect a reduction of expenditures.

So that as I have said, the question of attitude is of the utmost importance in determining the proper construction of the Holman rule.

I desire more particularly to address myself to the Carlisle decision, because if I can understand the effect of a parliamentary precedent, this decision is absolutely in point, and decisive of this controversy.

The facts in the Carlisle ruling are as follows: A reduction of $10,000, was made in the aggregate appropriation. Coupled with this reduction of $10,000 an appropriation of $150,000 was authorized to maintain and secure certain necessary facilities for the postal service. As a result of this reduction in the appropriation, Mr. Chairman Carlisle held that the affirmative legislation disposing of $150,000, was in order. The amendment was as follows. For transportation on railroad routes $9,490,000 (instead of $9,500,000), of which sum $150,000 may be used by the Postmaster General to maintain and secure from the railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881.

It is suggested by the gentleman from New York [Mr. FITZGERALD] that the difference between this and the pending amendment is the word "direct" is used in the Murdock amendment while the words "may be used," occur in the amendment on which Mr. Chairman Carlisle made his ruling. This difference in the words used does not affect the value of the Carlisle precedent. Even if the Postmaster General was given discretion to use the $150,000 for the purposes indicated, this provision affording that discretion was none the less legislation. It was treated as legislation, and referred to as legislation by Mr. Carlisle who ruled that it was in order, though legislation, by virtue of the Holman rule and its relation to the reduction afforded. Permit me in this connection to read from the ruling:

For transportation on railroad routes——

The SPEAKER. What is the gentleman reading from?

Mr. SAUNDERS. This is from Mr. Carlisle's ruling. It is on page 1465 of the RECORD of yesterday.

For transportation on railroad routes, $9,490,000.

The reduction afforded being, as I have stated, merely $10,000.

The legislation that follows, so far as I can see, is not related in anywise to the reduction. This fact makes a difference between this precedent, and the proposition that is presented to the Chair this evening, and therefore renders this precedent so much the more authoritative. For if the Carlisle ruling is good parliamentary law, I insist that the amendment now before the House must be in order. I will now read the legislative provision:

Of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881.

Note that this provision is in nowise the result of the reduction in the total of $9,500,000 nor does it effect that retrenchment. In the amendment that is before the Speaker, the legislation is considered to be the efficient cause of the reduction of $500,000. In the same connection the amount of $100,000 is set apart for certain things necessary to be done as a part of this concrete scheme. As soon as this reduction is effected by the operation of the legislation set out in the amendment, it is proper that the Post Office Department should take steps to ascertain the proper reduction to be made in the amounts that would otherwise be paid to the railroad companies. If the railroad companies as a result of this amendment will haul less mail matter of a second-class character, then of course the compensation of these companies should be reduced. Hence this legislation is vitally related to the legislation which effects the reduction. It is germane, and appropriate. The reducing legislation of the amendment, if I may so style it, is that legislation which forbids a vast mass of second-class matter of a certain character, to be transported in the mails. Now the legislation comprehended in the amendment on which Mr. Carlisle made his ruling, in other words, the disposition of the $150,000, had no sort of relation so far as I can see it, to the reduction of $10,000 in the aggregate appropriation.

It is a well-known fact that this second-class matter is carried at a loss. Hence the exclusion of a large mass of it from the mails will effect, as a matter of necessary consequence, a considerable saving, if an appropriate reduction is made in the compensation to be paid to the railroad companies. This reduction will be proper since the bulk of mail to be carried will be materially reduced. But it is insisted that on the whole it can not be determined whether a reduction will be effected, since the cost of making the inspections directed by the amendment can not be ascertained. This contention is not well taken. The department must make the inspection with the present force, and is not authorized to incur any additional liability. If the present force is inadequate to make a complete inspection, this will not authorize the employment of additional force, and no provision is made for additional force. Hence the cost of inspection will not be an additional cost, and can not be used to offset the positive reduction of $500,000. Whatever costs may be incurred in the use of the present force to make this inspection, will be trifling as compared with this sum of $500,000. Moreover if any portion of this mail matter will become first-class mail, as a result of this amendment, and necessarily it will, such mail will be carried at a profit, and this will be in addition to the saving of $500,000. Is the matter in the amendment ruled on by Mr. Carlisle, legislation? I will answer that query by reading from the ruling on page 1466. (Bear in mind that the point of order made to this amendment, was identical with the one under discussion, and under the same rule.)

Mr. Carlisle said:

Although the meaning of the words "necessary" and "special facilities for postal service" is not very clear, yet the Chair held yesterday, after giving the subject some consideration, that the effect of such an amendment would be to change existing law.

In other words whether, or not, this "may," is "must," or "shall," the provision is legislative, since the amendment changes existing law. In the light of this ruling what becomes of the suggestion that the pending amendment changes existing law by a positive direction, and is differentiated from the provision to which Mr. Carlisle's ruling was directed, because that provision contains the word "may."

So that, Mr. Speaker, we find that the legislative provision in Mr. Carlisle's ruling was held to be in order, because it was coupled with a reduction, though I fail to see the relation between the legislation and the reduction. In the present instance the legislation effects, and makes possible the consequent reduction. The language of the chairman in the ruling cited is:

So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule. Taking the language of the rule as it stands, and putting upon it the construction which would ordinarily be put upon such language in a statute, or in a rule of the House, the Chair is compelled to hold that the amendment comes within the rule and is in order.

Look at the pending amendment for a moment. This amendment directs that certain mail matter shall not in the future be carried in the mails. Information afforded by the Post Office Department advises us that this matter is carried at a loss. Hence the less that is carried, the less the loss will be. As a result of not carrying this character of mail a reduction of $500,000 is made in the aggregate appropriation. Then follows the germane and appropriate provision that the sum of $100,000—I believe that is the amount—shall be used for the purpose of making certain ascertainments and certain abatements in connection with the transportation of this class of matter by the railway companies.

So Mr. Speaker I return to my original proposition that unless the ruling of Mr. Carlisle can be overthrown, and the facts in the case to which that ruling relates render its authority particularly impressive in the present instance, then this amendment is in order, and the point of order should be overruled.

The same conclusion will be reached upon a just consideration of the Holman rule, apart from the Carlisle precedent. It is not pretended that a reduction can be made in the amount of an appropriation, and upon that as a peg, may be hung unrelated propositions of affirmative legislation. A point of order may be properly directed to such legislation. But it is insisted that if affirmative legislation effects the consequent reduction in the appropriation, wherever that appropriation may occur, then such legislation is in order under the Holman rule.

Mr. HARDWICK. Mr. Speaker, I think everybody participating in this debate concedes that under the guise of a motion to recommit, no proposition can be submitted to the House that would not be in order under the general rules of the House if submitted as an amendment. Therefore if a motion to recommit contains matter that as an amendment would be out of order if offered in the House in that form, it could not be correctly submitted to the House in this form.

Now, Mr. Speaker, it seems to me the question that the Speaker is called upon to decide is one absolutely settled by eminent authority and in exactly the opposite way from that contended for by the gentleman from Virginia [Mr. SAUNDERS] and others who take that view of the case.

I find that on the 9th of February, 1893, Mr. Dingley, of Maine, offered this amendment in the House of Representatives.

The Clerk read as follows:

Court of Claims: For salaries of five judges of the Court of Claims, at $4,500 each; chief clerk, $3,000; one assistant clerk, $2,000; bailiff, $1,500; four clerks, at $1,200 each; and one messenger—in all, $34,640.

Mr. Dingley offered an amendment to this provision, as follows:

Amend by striking out all after the words "one thousand five hundred dollars," in line 6, on page 107, and insert: "Three clerks at $1,200 each, and one messenger; in all, $33,440: *Provided*, That so much of an act 'to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government,' approved March 3, 1883, as authorizes any committee of the Senate or House of Representatives to refer any claim against the Government to the Court of Claims, is hereby repealed."

Mr. Enloe made a point of order on that amendment that it changed existing law and did not reduce expenditures.

Mr. Dingley said:

The amendment is entirely within the exception to the rule. While it does change the existing law, to the extent of repealing so much of the so-called "Bowman Act" as authorizes a committee of either House to send a case to the Court of Claims, yet it does reduce expenditures to the extent of one clerk who is required to attend to that work in the Court of Claims, and reduces the amount of the bill to the extent of that salary. It is brought specifically within the rule.

I will not read the balance of this, except that which seems to appertain to this question.

Now, Mr. Holman, who was the author of the rule now under consideration, participated in this debate, and I want to read you his view. He took the opposite side from Mr. Dingley, and contended that none of this proposition was in order. Mr. Holman said:

That leaves only one question to be considered, and that is this: Does it, as a matter of fact, reduce expenditures by reducing the number of employees of the Government? As it does that, the only question is whether the subsequent provision is necessary to carry that provision into effect.

Now, I concede that you can not arbitrarily by striking out a word and inserting a provision not connected with the proposition make an act of independent legislation. I agree that you can not do that. The repealing force of the provision must be for the purpose of accomplishing the prior object of reduction. Under the third clause of Rule XXI, you can legislate in one of three ways or for one of three objects; first, reducing the number or compensation of officers provided for in the bill; second, reducing the salary or compensation of any employee of the Government; or, third, reducing the amount carried by the bill.

Mr. Blanchard, of Louisiana, used this language referring to a ruling made by him as chairman of the Committee of the Whole House during the previous session of the same Congress:

Mr. BLANCHARD. I have not the words that were proposed to be stricken out, but I will read the amendment again. It was in the following language:

"Strike out after the word 'cents,' in line 18, down to the words 'ninety-three,' in line 23, and insert as follows:

"'An the act entitled "An act to provide for ocean mail service between the United States and foreign ports, and to promote commerce," approved March 3, 1891, is hereby repealed.'"

Mr. HOLMAN. But the important question is, in that connection, as to the language proposed to be stricken out.

Mr. BLANCHARD. I did not know what words were stricken out. I have not the bill before me. I will, however, again read for the benefit of the gentleman from Indiana the ruling of the Chairman on the point of order then raised, in which he said that the amendment contained two substantive propositions, one of which would be in order under the rule, the other would not, and that the first part being in order, and the second not in order, made the whole amendment obnoxious to the rule, and, viewing it as a whole, it was not in order and could not be entertained.

Now, in deciding this question, Chairman Richardson used this language:

The CHAIRMAN. Now, the amendment certainly covers two substantive propositions. One is in order and retrenches expenditures in the manner provided in the rule. The other does not. The amendment, therefore, is obnoxious to the rule, because the latter clause is obnoxious, but it may be divided if the gentleman sees fit to divide it.

Mr. DINGLEY. Of course, if a part of my amendment is out of order, the whole of it is.

The CHAIRMAN. Yes. If the gentleman proposed to accomplish simply the repeal of the Bowman Act by a provision in the appropriation bill, it seems to the Chair that he would be compelled to hold immediately that it was not in order. Now, when he seeks to couple with it a reduction of the employees of the Government, with a view of making the latter part of it within the rule, it seems to the Chair it can not be done.

If this can be done, then the whole internal-revenue law could be repealed in this appropriation bill; because the bill provides for paying some of the employees or clerical force of the Internal-Revenue Service. Now, if the gentleman moved to strike out the appropriation for one clerk in that bureau, he could, if this amendment is in order, hang upon that a provision repealing the internal-revenue law and other laws where clerical forces are appropriated for in this bill.

Now, I want to call the Speaker's attention to one or two observations on the propositions involved. It seems to me the first substantive proposition in the motion to recommit is clearly in order, for it comes within the first object of the Holman rule, in that it provides in so many figures a reduction of the appropriation carried in the bill. But it seems to me the second proposition, where you strike out and insert and add a proviso, is not in order, because it does not necessarily mean, and can not be held by the Chair to mean, a reduction in expenditure, standing by itself.

Besides, Mr. Chairman, it is clearly legislation and a violation of the rule of the House, unless saved by the Holman rule. Take the case decided by the gentleman from Virginia, the Carlisle decision, and it seems to me the decision in that case, Mr. Speaker, can be clearly differentiated from the question now pending.

In the case ruled upon by Mr. Chairman Carlisle, there was no old law repealed and there was no new law made. Whatever may have been the language used, obiter dictum, by the distinguished gentleman, it was not a change of existing law. In that case no statute of the United States was repealed by the proviso that was held in order, and no new statute was made. A discretion was merely given to an executive officer to do a certain thing if he thought best to do it.

The SPEAKER. What does the gentleman say to the contention of the gentleman from Virginia [Mr. SAUNDERS] that in that kind of a statute the word "may" has been generally construed by the courts to mean "shall"?

Mr. HARDWICK. Mr. Speaker, I do not think that is the general rule. Certainly not unless the context forces such a construction. The Postmaster General may use an appropriation in a certain way. He is not forced to do it. The use or adoption of the legislative provision may influence him in determining what his policy ought to be, but if Congress does not order him to do it, in so many words, I do not believe that follows as a matter of course that the law is necessarily changed. Therefore I say that this proposition can not be held to be in order under the precedents in the Fifty-second Congress, and there are no precedents anywhere else that necessarily conflict with these precedents unless each and every substantive proposition—not only the first motion to strike out $49,000,000 and insert $48,500,000 in lieu thereof, but also to insert the proviso, making two other separate and distinct substantive propositions—be held to be in order, and they can not be held to be in order, because the second proposition is not necessarily, and no presiding officer can so hold it to be, a retrenchment. Standing alone, it does not mean retrenchment, and the third substantive proposition is clearly and solely legislative.

The SPEAKER. What does the gentleman say about the proposition that the whole of this paper is to be inserted in lieu of the words stricken out?

Mr. HARDWICK. No; because the amendment on its face provides otherwise. It strikes out "$49,000,000" and inserts in lieu thereof "$48,500,000," and then proposes to add a proviso in addition to that. It strikes out and inserts, and then adds a proviso. It seems to me it has not been drawn in the most skillful way in which it could have been drawn.

Mr. Speaker, I have about concluded what I want to say, except this: This language can not be saved as being nonlegislative. It clearly changes the law. No presiding officer can say that this second substantive proposition standing alone, construed by itself, would necessarily or even probably mean a reduction of expenditure, and why? Because no man can calculate whether the amount of inspection necessary would not be more than the amount sayed from the diminution in the amount of second-class mail matter, which is unprofitable, and no man can tell to what extent the first-class mail, which is profitable, would be affected. So, if it be true, as ruled by these distinguished gentlemen in the second session of the Sixty-second Congress, Messrs. Blanchard and Richardson, that all these substantive propositions must come within the Holman rule or else the whole motion is subject to the point of order, then I contend that the motion of the gentleman from Kansas to recommit is clearly out of order. It seems to me that no other ruling can possibly be made by the Speaker.

Mr. SHERLEY. Mr. Chairman, if the Chair will indulge me, I would like to read another decision, which I think is directly in point.

The SPEAKER. The Chair will hear the gentleman after he hears the gentleman from Pennsylvania [Mr. OLMSTED].

Mr. OLMSTED. Mr. Speaker, undoubtedly these instructions might have been drawn in the form of a single proposition to strike out and insert, which would not have been divisible, but they are not so drawn. To my mind the motion embraces at least three separate and distinct propositions, first, the motion to strike out "$49,000,000" and insert in lieu thereof "$48,500,000." That is the motion to strike out and insert, and is the only motion to strike out and insert that there is in the proposition. It stops there, so far as any suggestion to strike out and insert is concerned. Then follows another proposition to "add the following," namely, a provision that no part of the money expended shall be used for the transportation of certain matter under certain circumstances. I am inclined to think that second provision is in the nature of a limitation. If in order at all it is in order as a limitation. But we then come to the third proposition, which is a separate and distinct proposition in the paper as drawn, that $100,000 shall be expended by the Postmaster General in determining certain things, which he is not now required or authorized to determine. That provision clearly changes existing law and is out of order, unless it is saved by the Holman rule.

The Holman bill has been read, and I shall not repeat it. It applies only where there is a reduction in the amount of the expenditure provided by the bill or a reduction in the salaries or compensation provided for in the bill. Does this proposition to expend $100,000 show upon its face that its necessary effect will be a reduction in the expenses of the Government or in the amount that would have to be expended under the bill? I submit that it would be impossible for the Chair to find in that provision, as worded, any language or any thought from which the Chair or anybody else could definitely determine that the expenditure of that $100,000 would reduce the expenses of the Government to the extent of a single cent. It would be a mere matter of conjecture. There is nothing on the face of the paper to show any reduction whatever. The only definite thing about it would be the expenditure of $100,000. There is certainly no clear provision for the reduction of any expenses or the amount to be paid to any person in salary or for any other purpose. If, as I suggest, that third proposition is out of order, then it follows that the point of order made by the gentleman from Kentucky [Mr. SHERLEY] must be sustained, because it is made against this whole motion; and if any part of it is out of order, the whole must fall. If the point of order should be overruled, then I submit the motion would be divisible into three parts; but if, as I contend, the third proposition is out of order, then the point of order made by the gentleman from Kentucky must be sustained.

Mr. SHERLEY. Mr. Speaker, in the Fifty-second Congress, on June 2, 1892, in the consideration of the Post Office appropriation bill the following amendment was offered by Mr. Bergen:

Amend, by adding, on page 3, line 9, after the word "dollars," the following: "That when a new post office is established the Postmaster General shall immediately provide for a mail route to such office and shall make contract for carrying mail to such office, and that after providing by general advertisement for the transportation of the mails in any State or Territory, as authorized by law, the Postmaster General may secure any mail service that may become necessary before the next general advertisement for said State or Territory by posting notices for a period of not less than 10 days in the post offices at the termini of any route to be let."

And so forth. It then goes on dealing with the contract. To that a point of order was made and sustained. The gentleman then offered the same amendment, with this addition:

And the appropriation herein for star routes is hereby reduced $500.

It was contended when he offered his first amendment that it was not in order because it changed existing law, and that it did not come under the Holman rule, because it did not reduce expenditures, and the Chair so ruled. Thereupon, in order to get within the Holman rule, Mr. Bergen reoffered it, and added the lines I have just read, namely, "the appropriation herein for star routes is hereby reduced $500."

He then argued that inasmuch as there was a reduction, it was in order under the Holman rule. A point of order was again made, and the Chair sustained the point of order, holding that you could not by simply tying it to this reduction make it in order. Thereupon an appeal was taken to the House, and the Chair was sustained by a vote of 73 ayes as against 21 noes.

Now, the only difference between that proposition and this is that here we start in by reducing the amount and then bring in other faulty legislation, whereas there he started out with faulty legislation and then added a provision to reduce the amount.

Mr. GARDNER of Massachusetts. If the gentleman will look at the bottom of the first page where that amendment was introduced by Mr. Bergen, he will find Mr. Lind's name at the end of the second column, and turning over to the next page he will find Mr. Lind directly says that this will result in a retrenchment, in his opinion, to which the Chair says that, although Mr. Lind may be correct in his opinion, it has nothing to do with the case.

Mr. SHERLEY. The gentleman is quite right. The language is this:

Mr. LIND. Mr. Chairman, I do not believe that this point of order is well taken, for the reason that the existing law, as I understand it, limits the amount that may be expended for a star-route service in the first instance, after the establishment of it, to two-thirds of the revenue. This simply substitutes a general power under the law to let a contract. Now, is the Chair going to assume as a matter of law and fact that two-thirds of the revenue of a new office is less than the amount that it would take under a letting to competitive bidders. The Chair can not assume, as a matter of law, that it would carry more money than the existing law. My contention is that it would carry less. That is all I have to suggest. The Chair can not rule that it would increase expenditures. I contend that it will economize and save expenditures.

The CHAIRMAN. The Chair does not know whether it will increase or decrease expenditures. There is nothing on the face of the amendment to show whether it will or not; but it changes existing law, and in the absence of a direct expression on the face of the bill to show that it would decrease expenditures under the rule, the Chair will have to sustain the point of order.

Mr. LIND. I desire to make that expression to the Chair. I give it as my judgment, that it would result in a saving to the Government.

Mr. BLOUNT. Regular order.

Mr. LIND. I think my opinion is entitled to some weight with the Chair.

The CHAIRMAN. The gentleman from Minnesota may be entirely correct in his opinion, but there is nothing on the face of the amendment to show——

Mr. BLOUNT. I insist on the regular order.

The CHAIRMAN. The Chair sustains the point of order.

And that is the exact situation here to-day.

Mr. HOBSON. Mr. Chairman, there is a fundamental difference between the present case and the case stated by the gentleman from Kentucky [Mr. SHERLEY]. He quoted the language of the then chairman, stating that a mere opinion on the part of a Member could not be taken as final. This case is different. It is not a question of opinion here. It is self-evident on its face irrespective of any strained opinion. Now, to start with, we are operating under the Holman rule.

The SPEAKER. Now, what is it that is plain?

Mr. HOBSON. I will show to the Speaker. I am going to start at the bottom. It is, that on its face this amendment would reduce the expenditures of the Government. Now, I contend it must be admitted that that is the whole question at issue, not a matter of opinion but a matter of evident fact whether the provision reduces the cost of the service to the Government or not. And if it does, it comes under the Holman rule; all the citations to the contrary notwithstanding. There is a fundamental difference between this and any case thus far cited, in none of which was it evident that the cost would be reduced. Now, to start with, even where the latter part of this amendment provides $100,000 to be used by the Postmaster General for certain purposes, what are those purposes? For the purpose of weighing the mail and readjusting and reducing

the compensation now paid to the railway companies for transporting the mails, by excluding said classes of mail matter from the mails of the United States.

The SPEAKER. The Chair will ask the gentleman whether or not that last proposition on the face of it shows that there would be a reduction?

Mr. HOBSON. It does. I am coming to that.

The SPEAKER. How does it show it?

Mr. HOBSON. Because it does not take as much to pay an inspector to change the weighing and readjust the weighing and accounting as is involved in the weighing itself, or change in the bulk of the material.

The SPEAKER. I will ask the gentleman this question: How can anybody even guess the cost of examining the mails to see whether this prohibited matter is in the mails or not?

Mr. HOBSON. Mr. Speaker, I will come to that later.

The SPEAKER. All right.

Mr. HOBSON. In this particular part the provision for meeting the expenses of readjustment could not equal the adjustment and its saving. It is plain that the money required to determine the readjustments can not be as much as the saving from the readjustment itself. That is self-evident in all business operations.

Mr. CANNON. Mr. Speaker, may I ask the gentleman a question?

Mr. HOBSON. Certainly.

Mr. CANNON. Does the gentleman claim that he can come anywhere near guessing how many pounds of mail matter and letters would be eliminated by this provision if it were enacted into law?

Mr. HOBSON. No; I can not guess; but I can say this: The cost to determine it, no matter what it were, would not be commensurate with the amount involved or the cost saved to the Government.

Mr. CANNON. Now, the gentleman says that. For the sake of determining this question, I deny it.

Mr. HOBSON. Well, I submit, on the face of it, that in any system of business in the world the inspection is never as expensive as the system itself; that the amount of the Government's payments to its employees incident to the operation of its mail service in that regard is not equal to the amount that would be saved or to the amount that would be returned because of the reduced volume of mail, because if the employees now engaged attended to the work the expense would not be to any appreciable degree greater, and if they were not required to devote their full time to it on account of the reduced volume of mail, the Government would not need to have as many employees. The department would either reduce the number of employees or else it would more than save the additional expense involved by the employment of the same number or even a slightly increased number.

Mr. MOON of Tennessee. Mr. Speaker, I want to suggest to the gentleman that he is in error in some instances in reference to the cost of inspection, the service itself frequently being less in cost than the cost of inspection. Does the gentleman know that we are now inspecting some post offices in the United States at a cost of $40 or $50 a year when those offices are not yielding $5 at a profit?

Mr. HOBSON. I will say to the gentleman also that it does not require the full services of the inspector to inspect those post offices; that the cost of inspection of post offices is less than the revenues derived from the post offices; that the cost of inspecting the revenue service, for example, is less than the revenues that come as the result of that inspection. And I assert that, on the face of it, you can readjust the force required for inspection until it is far below the amount of the Government business involved and the revenues derived. That is self-evident. Now, we will pass to the next point.

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. HOBSON. Certainly.

Mr. MADDEN. If we assume that the inspection will involve the opening of all letters and newspaper packages that go through the post offices, then how about the inspection?

Mr. HOBSON. I will come to that now. I have been discussing the $100,000 authorization, Mr. Speaker.

Mr. OLMSTED. Mr. Speaker, will the gentleman yield there?

The SPEAKER. Does the gentleman from Alabama yield to the gentleman from Pennsylvania?

Mr. HOBSON. Yes.

Mr. OLMSTED. Does the gentleman assume that the passage of this amendment would reduce the amount of mail to be transported by the Government?

Mr. HOBSON. Very largely.

Mr. OLMSTED. Where does the gentleman find any authority for that proposition?

Mr. HOBSON. That appears on the face of it.

Mr. OLMSTED. But by this legislation you would simply prohibit the papers from carrying certain advertisements.

Mr. HOBSON. I will ask the gentleman if he imagines for a minute that these advertisements would be mailed if they were not transported?

Mr. OLMSTED. I will say to the gentleman that the newspapers under this amendment would simply eliminate the advertisements, but the papers can go through the mails just the same.

Mr. HOBSON. I am familiar with that matter. There is not a postmaster in my district but knows, just as soon as the mail bag is opened, just what the liquor advertisement is. He throws those papers over in a pile and waits before distributing them until he finishes distributing the other mail. It would not require any additional inspection; but if it did, the saving would amount to more than the cost of inspection on the face of it.

Now I will come to the general question of the opening of the mails. This, Mr. Speaker, is not anything new. The Federal Government is constantly giving supervision, through the existing machinery of the Post Office Department, over the matters that pass through the mails. There are all kinds of matter that are being excluded to-day from the mails, and matter of that kind has to be inspected in order to ascertain whether it is legal or not. This would not increase hardly by one employee in a town big as any town in my district—in a town as big as Birmingham—the force that would be required.

I do not believe that in its actual working it could possibly require one additional person in the machinery of the service. The same inspections would be made that are being now made, only the inspectors would be on the lookout for new kinds of illegal matter. The methods of inspection would not be changed while the volume of work would be materially reduced. I know that.

This kind of matter enters the mail at certain well-defined points. It enters the mail at the centers that do the shipping of these goods into the "dry" territory, and it would scarcely require an additional detective in the service of the Post Office Department to locate any of these centers of shipment that were trying to send this kind of matter illegally through the mails.

On the very face of it the exclusion of this kind of matter reduces largely, substantially, the volume of the mail, and does not require any new machinery of inspection. In its operation it is not parallel at all to the establishment of new routes or new post offices as in the cases cited. I repeat that on its face it would curtail the amount of matter in the mails, and would not appreciably increase the machinery that is required for its operation, on the face of it. There is no kind of argument and there is no amount of citation of precedents that can change the simple fact that the cost of transporting the mails of the United States every year would be substantially less, and that the readjustment of that cost would not involve new machinery of any appreciable magnitude, and its cost can not be considered as commensurate with the material saving of cost in the volume of mail. This question of order should not be decided on any technicality; but on the simple, plain, evident fact borne on the very face of the amendment, that there would be self-evident reduction in the expense of the mail service of the Government, and therefore this amendment must come, without any hair splitting, without any straining, without any violence under the Holman rule.

Mr. MOON of Tennessee. Mr. Speaker, it is not my purpose to enter into any lengthy discussion of this point of order. It has been so clearly and lucidly presented by the gentleman from Kentucky [Mr. SHERLEY] and by the gentleman from New York [Mr. FITZGERALD] and by the gentleman from Georgia [Mr. HARDWICK] that it is hardly necessary for me to go into the details of that discussion. I approve very fully what they have said, but I want to touch on just a few points in this discussion, in order to call them to the attention of the Speaker in reaching his conclusion. Of course, we all understand that it is a violation of the rules of this House to offer on an appropriation bill any new legislation. That rule applies in the Committee of the Whole House on the state of the Union. It applies here. If this is not new legislation, then it is in order, in my opinion.

Now, is it new legislation? It is conceded, and I need not argue that question, that, taken as a proposition standing alone, it is not germane, perhaps, to this bill and is new legislation, in that it provides and gives direction to the department, changing the law and changing the discretion of the department on this subject in the mails.

Now, that being conceded, what is there to take it out of the rule that it is new legislation? It is answered that it comes under the general rule of the House and is in order, although new legislation, because it is a limitation upon the appropriation or a reduction of the appropriation, and therefore in order under the Holman rule. Well, if the gentlemen are right about that contention, then it is in order. Take that side of the case to begin with and let us discuss it. Let us see whether or not it is in order under the Holman rule. The purpose of that rule was to produce a substantial reduction in the expenses of the Government. How was that to be determined by the Chair? From the facts apparent in the amendment proposed. Now, how are you going to determine that? Is it to be a mere recital of the figures that happened to be used on the face of an amendment, or is the whole text and subject matter of the amendment to be taken together to determine whether there is a substantial reduction or not?

Suppose this amendment had provided that the figures $49,000,000 should be stricken out and $48,500,000 inserted instead, and it had then provided that for the purpose of obtaining better facilities under this section the mail trains should be run on every trunk line in the United States 10 times a day. There you would have a case, where on the face of the amendment, there was a reduction in the actual appropriation proposed, and yet the Chair would have to call into requisition his common sense and his knowledge of the department and of the law generally to ascertain whether, taking the whole amendment, there would be any reduction or not, and you would at once reach the conclusion that the reduction of the figures from $49,000,000 to $48,500,000 was a fraud attempted to be practiced upon the House for the purpose of incorporating into that amendment legislation that was in violation of the rules of the House of Representatives, and the point of order would promptly be sustained.

Now, take this amendment. Apply the same common sense to it—and I have no reflection to make upon the gentleman from Alabama [Mr. HOBSON]. He indicates very clearly, though, a want of information as to the conduct of the Post Office Department when he says that it would put no additional expense upon that department to carry out the terms of this amendment. Let us see.

Mr. HOBSON. Will the gentleman yield?

Mr. MOON of Tennessee. Yes.

Mr. HOBSON. I meant, and I thought I said, to an appreciable difference in proportion to the amount.

Mr. MOON of Tennessee. Have it that way. Let us see whether it is an appreciable difference or not. Here is $500,000 proposed to be stricken out and another $100,000 to be used in certain adjustments of weights, making a net of $400,000 saving. Let us see if that is a real reduction on the face of the amendment. Take up the operation of it, and let us see what the policy of the department must be. Here are closed pouches of mail; they are put on at every station along every road in the United States; they are delivered from station to station. It would take an inspector on every train in the United States, traveling the whole time, opening mail pouches and ascertaining whether in magazines, in newspapers, in letters, or in any other way, there were advertisements of this character.

Mr. HOBSON. Mr. Speaker, will the gentleman yield?

Mr. MOON of Tennessee. Oh, yes; I will yield again.

Mr. HOBSON. Will the gentleman explain to the House or the Chair how the present laws relating to obscene matter and matters coming under the lottery law are administered?

Mr. MOON of Tennessee. That comes through the inspectors' department, and ninety-nine times in one hundred it comes in information furnished from the outside to the inspectors' department; and then the inspectors are put to work to make a case, and nine times out of ten it costs the Government ten times what it ought to cost. That is after the matter has passed through the mails, too.

Let me go further. Every steamboat line in the United States, every electric car line, every star route, and the 42,000 rural routes may carry mail containing these advertisements. Let there be an inspector to carry out the purpose of this amendment on all of them, and it does not take a man with any sense at all to see that it would add $5,000,000 or $10,000,000 of money annually to the cost and expense of the Post Office Department of the United States.

Again, what else have you got to do? These inspectors have got, in each and every one of these cases, to make their examination and reject the matter, and of necessity, in the readjustment of mail rates, it would take a new weigher on every road, for the parties interested and the Government, and there would arise contests on almost every railroad in the United States.

The question arises as to the power of the Department. There would be endless trouble and litigation. There could not have been conceived an amendment which would bring more trouble, more annoyance and disturbance to the Government, and greater expense to it than this very amendment. The Chair, of course, sees, and everybody knows, that it is not the purpose of this amendment to accomplish any good in an orderly and decent manner in the affairs of the department, but it is the exploitation of a question that unfortunately ought not to be in the politics of this country, brought upon the floor on a bill that of all others ought to be free from any such thing.

Mr. HOBSON. Before the gentleman takes his seat may I ask him another question? Will he point out wherein this matter excluded from the mail would be different in the matter of inspection from other matters excluded and for which inspection exists?

Mr. MOON of Tennessee. Because every single magazine, newspaper, and letter would have to be hunted to look for these advertisements, and you would have to look at every advertisement in them.

Mr. HOBSON. Why is this matter any different from obscene matter?

Mr. MOON of Tennessee. The obscene matter is not looked for in any such way. There is no statute that requires inspectors or people to hunt it up. There is no statute like this proposed amendment.

Mr. HOBSON. Does the gentleman say there is no provision about it?

Mr. MOON of Tennessee. It is a matter that never comes to the department unless it is called to their attention by some one in the nature of a prosecutor. I want to say right now that there is a whole lot of work there done by the department along that line just to give employment to inspectors who are practically useless.

Mr. HOBSON. Then those inspectors could be used for this purpose.

Mr. MOON of Tennessee. Oh, no. Your inspectors ought to be reduced.

Mr. HOBSON. Suppose they were reduced; would not that bring about a reduction in cost, if the volume of the mail were less?

Mr. MOON of Tennessee. You could not, to save your soul, find what the difference in the mail matter would be, outside of this question of inspection and report, until you had actually had all the mails weighed.

Mr. HOBSON. There would not be a post office in my district where the mail would not be reduced and reduced every day.

Mr. MOON of Tennessee. The gentleman is so used to going after these circulars that he could dig them out of every hole and corner.

Mr. MANN. Will the gentleman from Tennessee yield for a question?

Mr. MOON of Tennessee. Certainly.

Mr. MANN. As to the obscene matter and lottery matter, is not there a prohibition against its mailing?

Mr. MOON of Tennessee. Yes; there is a penalty attached to that.

Mr. MANN. Is there any provision in the law which forbids the payment to the transportation companies for carrying that mail matter if it is carried?

Mr. MOON of Tennessee. None whatever; one is a penal provision and the other is a different provision. I want to say another thing to the Chair. It has been suggested that this is a direct statute and not a mandatory statute. The gentleman from Virginia has said that the courts construe the word "shall" to mean "may." He will not find anywhere that the courts ever made any such construction except where they took the whole context of the statute, and it was determined that the legislators intended that such should be the construction.

Mr. SAUNDERS. The context is appealed to to determine whether "may" shall be construed as "shall"?

Mr. MOON of Tennessee. It is often.

Mr. SAUNDERS. I would like to call the gentleman's attention to the context here:

For transportation, $9,290,000; of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary facilities, etc.

Do not the words "necessary facilities" clearly show that "may" must be "shall"?

Mr. MOON of Tennessee. The gentleman has got to construe it in connection with what goes before.

Mr. SAUNDERS. Construe it as a whole.

Mr. MOON of Tennessee. The argument is fallacious. No lawyer believes that that statute is intended to be directory; its language is mandatory and complete. Mr. Speaker, I did not intend to say even this much, and I beg the pardon of the House for taking up so much time.

Mr. GREEN of Iowa. Mr. Speaker, either the gentleman from Alabama has failed to catch the point of the decision cited by the gentleman from Kentucky [Mr. SHERLEY] and the gentleman from Georgia [Mr. HARDWICK] or else he fails to follow the Holman rule to its complete conclusion. The gentleman from Kentucky and the gentleman from Georgia have shown that a provision obnoxious to, or subject to a point or order under, the Holman rule would not be relieved of that point of order by tacking onto it a reduction in the appropriation. The decision which they cited, as it seemed to me, was clear and complete on that point. Now, if that decision be correct it is entirely immaterial whether the proviso of this amendment which is now under consideration reduces expenditure or not, because that proviso is not admissible under the Holman rule. It is not sufficient where the amendment is introduced by an individual Member, and not by a committee, that it should retrench expenditure; it must reduce the number of officers, their salaries, or it must reduce the total amount of the expenditure.

Mr. HOBSON. Will the gentleman yield?

Mr. GREEN of Iowa. I will.

Mr. HOBSON. Does not the gentleman recognize that the Government pays for the amount of mail transported, and that if that amount is clearly reduced the sum the Government is to pay is reduced whether they have the same number of employees or a less number?

Mr. GREEN of Iowa. Does the gentleman think that if he introduces an amendment to this bill that reduces the expenditure, that that is all he has to do to bring it under the Holman rule?

Mr. HOBSON. I believe that if an amendment does substantially reduce the expenses of the Government it comes under the Holman rule.

Mr. GREEN of Iowa. The gentleman does not represent the Post Office Committee. The Post Office Committee is the one that can introduce an amendment of that kind and bring it under the Holman rule. If the gentleman, as a Member of the House, introduces an amendment, he has got to go further than that and show that the amendment reduces the number of salaries and the officers of the United States and reduces the compensation of the persons paid out of the Treasury of the United States or by the reduction of the amount of money covered by the bill.

Mr. HOBSON. Yes; a reduction of the amount of money covered by the bill.

Mr. GREEN of Iowa. The gentleman still fails to appreciate the point of the decision cited by the gentleman from Kentucky and the gentleman from Georgia.

Mr. MURDOCK. Will the gentleman from Iowa yield?

Mr. GREEN of Iowa. Certainly.

Mr. MURDOCK. Does the gentleman know that I could move to strike out the sum in the bill and substitute a lesser sum before the Holman rule was adopted? Is he aware of that fact, that it was in order to strike out the sum and insert a lesser sum without any Holman rule?

Mr. GREEN of Iowa. Mr. Speaker, I will not discuss that question with the gentleman after he has undertaken to show that this did apply and was governed by the Holman rule. I do not care to go into a discussion of such a matter. The gentleman is evading the question.

Mr. MURDOCK. I was going to follow that by asking the gentleman the question if I can strike out the sum and put in a lesser sum without the benefit of the Holman rule, what does the Holman rule stand me for unless it enables me to do something besides that which I could do before? That is a legitimate question.

Mr. GREEN of Iowa. That does not apply to new legislation. The gentleman has brought in new legislation, and is undertaking to justify it on the ground that it reduces expenditures, and I say it does not bring it under the Holman rule, that he has to bring in a separate provision before the proviso in order to make it admissible under the decision cited by the gentleman from Kentucky and the gentleman from Georgia.

I wish to show to the Chair how easy it would be to nullify the Holman rule if this position, which is the one contended for by the gentleman from Kansas, is to be sustained. Suppose the gentleman wants to introduce new legislation as to how money shall be expended, and on an appropriation bill. If his contention is sustained all he has to do is to tack in front of it a statement that the total amount is reduced by $500 or $200, and it all comes in. Mr. Chairman, I am in sympathy with the purpose of the provision, so far as that is concerned, but I am also interested in the orderly procedure of the House under its rules and that new legislation shall not be illegally introduced into appropriation bills.

The SPEAKER. The Chair is prepared to rule. This debate upon this point of order has been very illuminating. In the opinion of the Chair in order to get new legislation into a bill under the provisions of the Holman rule, the proposed legislation should very clearly do one of the things stated in the rule, which provides:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

Mr. HOBSON. Mr. Speaker, will the Chair permit an interruption there in order that I may make a parliamentary inquiry?

The SPEAKER. Yes.

Mr. HOBSON. And that is whether the word "person" would be interpreted to include a corporation?

The SPEAKER. Certainly.

Mr. HOBSON. I assumed that.

The SPEAKER. The Chair thinks that in order to bring a proposition under that rule it ought to clearly do one of those three things.

There are two or three rules involved in this proposition. The Chair has just stated one of them. The other is that a motion to strike out and insert is not divisible. The third one is that if part of an amendment is bad it vitiates the entire amendment. The fourth is that you can not do anything by way of amendment in a motion to recommit that you could not do in the Committee of the Whole by way of amendment.

As to the first proposition—the Holman rule—after hearing all of these arguments and examining the matter carefully from time to time, the Chair does not believe that anyone can assert positively that this whole proposition taken together would reduce the expenditures of the Government. On the face of it it reduces it $500,000, but no mortal man can even guess how much money it would require to enforce the first half of that proviso. The Chair can not do it, and the Chair takes it that no Member can tell the method of procedure under that first half of the proviso. Whether the inspectors would undertake to inspect all the letters that go through the mail and all the documents and all the magazines and all of the newspapers the Chair does not know. The Chair does know that if the inspectors undertook any such thing as that it would cost a good deal more than $500,000 a year. That would work an increase rather than a decrease in expenditures in that behalf.

Passing that over, the rule against dividing a proposition to strike out and insert applies to this motion to recommit. The essential parts of it are as follows:

At the end of line 21, page 17, strike out "$49,000,000" and insert in lieu thereof "$48,500,000," and add thereto the following.

The Chair believes that the proposition to strike out and insert applies only to that portion of it ending with the figures "$48,500,000." This motion to recommit could have been so drawn that it would have brought itself within the rule that a proposition to strike out and insert is not divisible, but the paper is not so drawn. Therefore the proposition down to the end of "$48,500,000" can not be divided. But the motion is susceptible of being divided into three parts, and the part just mentioned is clearly in order. If that stood alone, of course there could not be any two opinions about that.

But following the proposition to strike out $49,000,000 and insert $48,500,000 there are two separate propositions, neither one of which standing alone, in the judgment of the Chair, comes within the provisions of the Holman rule. Here is the first proposition:

And by adding thereto:

"*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors for transmission to or delivery in any State, county, municipality wherein the sale of such liquors is or may be hereafter prohibited by State law."

Clearly, you can not tell and the Chair can not tell whether the circumstance of enforcing that proposition would be greater than the amount saved or not.

The third proposition is:

That the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mail and readjusting and reducing the compensation now paid to railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States.

If that had been tacked on as a proviso at the end of the figures "$48,500,000," it would not have been in order, because it is a direction to an officer as to what he shall do. It is not a limitation. Clearly, it is new legislation and increases the total amount appropriated. The first of the propositions obnoxious to the rule as matters stand would be in order provided anybody could ascertain that the reduction would be greater than the increase.

So if the motion to recommit is to be considered as a whole, the Chair would have to rule it out. The Chair is willing to have the gentleman from Kansas withdraw his motion to recommit, strike out the obnoxious parts, if he chooses, and submit the part that is in order.

The Chair sustains the point of order.

Mr. MURDOCK. The Chair refers to the two latter propositions as being obnoxious.

The SPEAKER. Yes. Taking it as a whole, the Chair sustains the point of order.

Mr. CULLOP. Mr. Chairman, I offer the following motion to recommit with instructions, which I send to the desk and ask to have read.

Mr. MANN. Mr. Speaker, I desire to submit a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Is the gentleman from Indiana opposed to the Post Office appropriation bill?

Mr. CULLOP. I am.

Mr. MANN. I just wanted to see whether the gentleman would say he was.

The SPEAKER. That is correct. The Chair thanks the gentleman for making the suggestion. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CULLOP moves to recommit, with instructions to report the bill forthwith with the following amendment, at end of line 24, on page 22, by inserting "That the Executive order of date of October 15, 1912, and all previous Executive orders whereby postmasters of the fourth class are placed in the classified service, are hereby annulled and revoked."

Mr. MOON of Tennessee. Mr. Speaker, on that I move the previous question.

Mr. FOSTER. Mr. Speaker, I make the point of order against it.

Mr. HARDWICK. Mr. Speaker, I make the point of order.

Mr. MANN. Mr. Speaker, I reserve the point of order.

Mr. HARDWICK. The motion of the gentleman is not in order under the rule. It is clearly legislation.

The SPEAKER. There is not any question on earth about this being out of order. [Laughter.] It is new legislation pure and simple. The question is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. MOON of Tennessee, a motion to reconsider the vote by which the bill as amended was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. BROWN, for four days, on account of illness in his family.

To Mr. GEORGE, indefinitely, on account of illness.

ARMY APPROPRIATION BILL.

Mr. HAY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914.

The SPEAKER. The gentleman from Virginia moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 27941) the Army appropriation bill.

Mr. HAY. And pending that, Mr. Speaker, I ask unanimous consent that general debate may continue for three hours, one hour and a half to be controlled by the gentleman from Illinois [Mr. PRINCE] and the other half by myself.

The SPEAKER. And pending that the gentleman from Virginia [Mr. HAY] asks unanimous consent that general debate be confined to three hours on the bill, one half to be controlled by himself and the other half by the gentleman from Illinois [Mr. PRINCE].

Mr. MANN. Mr. Speaker, reserving the right to object, may I ask the gentleman that if the House resolves itself into the Committee of the Whole House on the state of the Union now, after the first reading of the bill is dispensed with, he expects to move to rise?

Mr. HAY. To move to rise.

The SPEAKER. Is there objection?

There was no objection.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 27941, the Army appropriation bill, with Mr. SAUNDERS in the chair.

Mr. HAY. Mr. Chairman, I move that the Clerk report the bill by title.

The motion was agreed to.

The Clerk read as follows:

A bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914.

Mr. HAY. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. HAY. Mr. Chairman, I do not propose to go into a discussion of the bill this evening. Therefore I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill H. R. 27941, the Army appropriation bill, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following order:

Resolved, That a committee of six Senators be appointed by the President pro tempore, to join a committee appointed by the House of Representatives, to attend memorial services for Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan, to be held at Ann Arbor, Mich., on January 26, 1913, at 2 o'clock p. m.

In compliance with the foregoing resolution the President pro tempore appointed as said committee Mr. TOWNSEND, Mr. SMITH of Michigan, Mr. JONES, Mr. KENYON, Mr. ASHURST, and Mr. POMERENE.

SENATE BILL AND A JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and a joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 8000. An act providing for publicity in taking evidence under the act of July 2, 1890; to the Committee on the Judiciary.

S. J. Res. 150. Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate; to the Committee on Appropriations.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled the bill of the following title, when the Speaker signed the same:

H. R. 20339. A bill for the relief of Joseph W. McCall.

THE LATE REPRESENTATIVE HUBBARD.

Mr. HAUGEN. Mr. Speaker, I ask unanimous consent for the present consideration of the order which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the order.

The Clerk read as follows:

Ordered, That Sunday, the 9th day of February, 1913, at 12 o'clock m., be set apart for addresses on the life, character, and public services of the Hon. ELBERT HAMILTON HUBBARD, late a Representative from the State of Iowa.

The SPEAKER. Is there objection to the present consideration of the order?

There was no objection.

The order was agreed to.

ADJOURNMENT.

Mr. HAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 20 minutes p. m.) the House adjourned until Wednesday, January 15, 1913, at 12 o'clock m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. TALBOTT of Maryland, from the Committee on Banking and Currency, to which was referred the bill (H. R. 26279) granting the Fifth-Third National Bank of Cincinnati, Ohio, the

right to use original charter No. 20, reported the same without amendment, accompanied by a report (No. 1297), which said bill and report were referred to the House Calendar.

Mr. SABATH, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27157) granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois, reported the same without amendment, accompanied by a report (No. 1298), which said bill and report were referred to the House Calendar.

Mr. SMITH of Texas, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 26540) to provide for the construction or purchase of motor boat for customs service, reported the same with amendment, accompanied by a report (No. 1299), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. POU, from the Committee on Claims, to which was referred the bill (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property, with Senate amendments, submitted a report (No. 1296), which said bill and report were referred to the Private Calendar.

Mr. FERRIS, from the Committee on Indian Affairs, to which was referred the bill (H. R. 27428) confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes, reported the same with amendment, accompanied by a report (No. 1300), which said bill and report were referred to the Private Calendar.

Mr. KNOWLAND, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 13939) for the relief of Luke Rattigan, reported the same without amendment, accompanied by a report (No. 1301), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BROUSSARD: A bill (H. R. 28017) providing that the title of the State of Louisiana be confirmed to a certain tract of land; to the Committee on the Public Lands.

By Mr. TAGGART: A bill (H. R. 28018) authorizing and directing the Secretary of War to donate to Princeton Post, No. 111, Grand Army of the Republic, of Princeton, Kans., an obsolete piece of ordnance, together with its carriage or mounting, and six cannon balls; to the Committee on Military Affairs.

By Mr. DENT: A bill (H. R. 28019) to prevent false advertising in the District of Columbia; to the Committee on the District of Columbia.

By Mr. FRENCH: A bill (H. R. 28020) to amend an act entitled "An act to amend section 2291 and section 2297 of the Revised Statutes of the United States, relating to homesteads"; to the Committee on the Public Lands.

By Mr. HELGESEN: A bill (H. R. 28021) authorizing the Minneapolis, St. Paul & Sault Ste. Marie Railway Co. to build a bridge across the Yellowstone River in sections 15 and 16, township 151 north, range 104 west of the fifth principal meridian, in the State of North Dakota; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 28022) authorizing the Minneapolis, St. Paul & Sault Ste. Marie Railway Co. to build a bridge across the Missouri River in sections 14 and 15, township 152 north, range 93 west of the fifth principal meridian, in the State of North Dakota; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRISON of New York: A bill (H. R. 28023) providing for registration with the collectors of internal revenue of dealers in or producers of certain drugs; to the Committee on Ways and Means.

By Mr. ANDRUS: A bill (H. R. 28024) to provide for the purchase of a site and erection of a public building at White Plains, N. Y.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 28025) to increase the cost of a site and public building in Yonkers, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. JONES: A bill (H. R. 28026) authorizing the President to restore to the Philippine Government lands reserved by Executive order for public purposes of the United States; to the Committee on Insular Affairs.

By Mr. DAVENPORT: Resolution (H. Res. 775) requesting the Secretary of the Interior to furnish information regarding the employment of M. L. Mott as an attorney; to the Committee on Indian Affairs.

By Mr. HOBSON: Joint resolution (H. J. Res. 383) proposing an amendment to the Constitution providing that the President and Vice President shall be nominated and elected by direct vote of the people of the several States; to the Committee on Election of President, Vice President, and Representatives in Congress.

By the SPEAKER: Memorial from the Legislature of the State of Vermont, favoring a convention to propose an amendment to the Constitution of the United States concerning polygamy; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDRUS: A bill (H. R. 28027) granting an increase of pension to Mary A. Shay; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28028) granting an increase of pension to Moses A. Craft; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28029) granting an increase of pension to John L. Foster; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28030) granting an increase of pension to Charlotte E. Hiscott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28031) granting an increase of pension to Margaret A. Hewitt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28032) granting an increase of pension to Bridget M. Cleary; to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 28033) granting an increase of pension to Benjamin F. Fronfield; to the Committee on Invalid Pensions.

By Mr. ANTHONY: A bill (H. R. 28034) for the relief of James Stanton; to the Committee on Claims.

By Mr. BEALL of Texas: A bill (H. R. 28035) for the relief of J. C. Lankford; to the Committee on War Claims.

Also, a bill (H. R. 28036) for the relief of the estate of Nathan Renwick, deceased; to the Committee on War Claims.

By Mr. BELL of Georgia: A bill (H. R. 28037) for the relief of Capt. Frederick S. L. Price; to the Committee on Military Affairs.

By Mr. BURKE of Wisconsin: A bill (H. R. 28038) granting a pension to Emma Steele; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28039) granting an increase of pension to Frederick Strasburg; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 28040) providing for the refund of certain duties incorrectly collected on wild celery seed; to the Committee on Claims.

By Mr. CANTRILL: A bill (H. R. 28041) to carry out the findings of the Court of Claims in the case of James H. Dennis; to the Committee on Claims.

By Mr. COX: A bill (H. R. 28042) granting a pension to William F. Songer; to the Committee on Invalid Pensions.

By Mr. CRAVENS: A bill (H. R. 28043) for the relief of the legal representatives of the estate of Robert B. Pearce; to the Committee on Claims.

By Mr. DICKINSON: A bill (H. R. 28044) for the relief of W. W. Wall; to the Committee on Claims.

By Mr. DOUGHTON: A bill (H. R. 28045) for the relief of W. H. Carter; to the Committee on Claims.

By Mr. DRAPER: A bill (H. R. 28046) granting an increase of pension to Joseph G. McNutt; to the Committee on Invalid Pensions.

By Mr. DUPRÉ: A bill (H. R. 28047) for the relief of John Streckfus; to the Committee on Claims.

By Mr. DWIGHT: A bill (H. R. 28048) granting a pension to Frances L. Fuller; to the Committee on Invalid Pensions.

By Mr. DYER: A bill (H. R. 28049) for the relief of John H. Rheinlander; to the Committee on Claims.

By Mr. FRANCIS: A bill (H. R. 28050) for the relief of Wickliff Fry, for horse lost while hired by the United States Geological Survey; to the Committee on Claims.

By Mr. FIELDS: A bill (H. R. 28051) for the relief of John W. Kincaid; to the Committee on Military Affairs.

By Mr. FITZGERALD: A bill (H. R. 28052) to remove the charge of desertion against Charles A. Lester; to the Committee on Military Affairs.

By Mr. FORDNEY: A bill (H. R. 28053) granting an increase of pension to Orin J. Moon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28054) granting an increase of pension to John La Mott; to the Committee on Invalid Pensions.

By Mr. FOSS: A bill (H. R. 28055) granting an increase of pension to George C. Rogers; to the Committee on Invalid Pensions.

By Mr. GILLETT: A bill (H. R. 28056) for the relief of Albert W. Phelps; to the Committee on Claims.

By Mr. HAMILTON of Michigan: A bill (H. R. 28057) for the relief of Amanda Honert; to the Committee on Claims.

By Mr. HAMILTON of West Virginia: A bill (H. R. 28058) for the relief of James A. Showen; to the Committee on Claims.

By Mr. HARRISON of Mississippi: A bill (H. R. 28059) to reimburse Gaston R. Poitevin for property lost by him while assistant light keeper at East Pascagoula River (Miss.) light station, as recommended by the Lighthouse Board; to the Committee on Claims.

By Mr. HAWLEY: A bill (H. R. 28060) for the relief of Preston B. C. Lucas; to the Committee on Claims.

Also, a bill (H. R. 28061) granting an increase of pension to William Lyman Chittenden; to the Committee on Pensions.

By Mr. HAYES: A bill (H. R. 28062) granting a pension to Margaret L. Miller; to the Committee on Invalid Pensions.

By Mr. HOWELL: A bill (H. R. 28063) for the relief of Thomas Haycock; to the Committee on Claims.

By Mr. HOWLAND: A bill (H. R. 28064) to reimburse John A. Lowrie, postmaster of Seville, Medina County, Ohio, for postal savings stamps stolen; to the Committee on Claims.

By Mr. JACOWAY: A bill (H. R. 28065) for the relief of the heirs of Abraham Adkins; to the Committee on War Claims.

By Mr. JONES: A bill (H. R. 28066) for the relief of the trustees of the Zion Methodist Church, of York County, Va.; to the Committee on War Claims.

By Mr. KINKAID of Nebraska: A bill (H. R. 28067) granting a pension to William L. Judkins; to the Committee on Pensions.

By Mr. KNOWLAND: A bill (H. R. 28068) granting a pension to Edward F. McKeon; to the Committee on Pensions.

Also, a bill (H. R. 28069) to authorize the exchange of certain lands in the State of California; to the Committee on Indian Affairs.

By Mr. LAMB: A bill (H. R. 28070) for the relief of J. N. Whittaker; to the Committee on Claims.

By Mr. LENROOT: A bill (H. R. 28071) for the relief of Frank Murray; to the Committee on Claims.

By Mr. LITTLEPAGE: A bill (H. R. 28072) for the relief of H. A. Shirkey; to the Committee on Claims.

By Mr. MANN: A bill (H. R. 28073) granting an increase of pension to Margaret S. McNiff; to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 28074) for the relief of Thomas Laug; to the Committee on Military Affairs.

By Mr. MOORE of Pennsylvania: A bill (H. R. 28075) for the relief of the Pennsylvania Engineering Co., of the city of Philadelphia; to the Committee on Claims.

By Mr. MOSS of Indiana: A bill (H. R. 28076) granting an increase of pension to Henry Trackwell; to the Committee on Invalid Pensions.

By Mr. MOTT: A bill (H. R. 28077) for the relief of the estate of William D. Allen; to the Committee on Claims.

By Mr. PAYNE: A bill (H. R. 28078) granting an increase of pension to Isaac Tunnison; to the Committee on Invalid Pensions.

By Mr. POU: A bill (H. R. 28079) for the relief of Oscar F. Lackey; to the Committee on Claims.

By Mr. RAKER: A bill (H. R. 28080) for the relief of W. W. Blood; to the Committee on Claims.

Also, a bill (H. R. 28081) granting a pension to Henry Sprick; to the Committee on Pensions.

By Mr. RUCKER of Colorado: A bill (H. R. 28082) for the relief of Jeanie G. Lyles; to the Committee on Claims.

Also, a bill (H. R. 28083) granting an increase of pension to William Malony; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 28084) for the relief of Thomas R. Mason; to the Committee on Claims.

By Mr. STEPHENS of Mississippi: A bill (H. R. 28085) for the relief of the heirs of the late Peter Deel; to the Committee on Claims.

By Mr. SWITZER: A bill (H. R. 28086) granting a pension to Moses Baker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28087) granting a pension to David A. Poindexter; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 28088) granting a pension to Jesse Dobyns; to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 28089) granting an increase of pension to Parilee Murphy; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 28090) to carry out the findings of the Court of Claims in the case of Herbert O. Dunn; to the Committee on Claims.

By Mr. WILLIS: A bill (H. R. 28091) granting an increase of pension to William Ash; to the Committee on Invalid Pensions.

By Mr. WOODS of Iowa: A bill (H. R. 28092) for the relief of Mrs. L. A. Royster; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of the Ohio State Legislative Board, Brotherhood of Locomotive Firemen and Enginemen, protesting against the passage of Senate bill 5382, the compulsory workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the General Executive Committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of Siegrist & Williams and 13 other merchants and business men of Coshocton, Ohio, favoring the passage of legislation granting the Interstate Commerce Commission further power toward the control of the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. BELL of Georgia: Papers to accompany bill for the relief of Capt. Frederick S. L. Price; to the Committee on Military Affairs.

By Mr. BOOKER: Petition of Swift & Co. and Charles H. Mayer and other citizens of St. Joseph, Mo., favoring the passage of House bill 23839 for Federal protection of migratory birds; to the Committee on Agriculture.

By Mr. BULKLEY: Petition of the Council of the City of Cleveland favoring the passage of legislation for the removal of tax on the manufacture of oleomargarine; to the Committee on Ways and Means.

By Mr. CALDER: Petition of Alphonzo Smith, Brooklyn, N. Y., and Sol Bloom, New York, both protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of Judson G. Wall, New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. DAVIS of West Virginia: Petition of the Common Council of Elkins, W. Va., favoring the passage of legislation for the establishment of a regular term of Federal court in the town of Elkins; to the Committee on the Judiciary.

By Mr. HAYES: Petition of the Chamber of Commerce of Santa Ana, Cal., protesting against the passage of proposed reduction of duty on raw and refined sugar; to the Committee on Ways and Means.

Also, petition of the West Sacramento Co., Sacramento, Cal., favoring the passage of House bill 25782, for the establishment of a bureau of farm power in the Department of Agriculture; to the Committee on Agriculture.

Also, petition of the California Retail Grocers & Merchants' Association, San Francisco, Cal., protesting against the passage of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Farmers' National Congress, favoring the passage of the Page bill for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Los Angeles Examiner, Los Angeles, Cal., favoring the passage of legislation making appropriation for the prevention of frosts in the citrus region; to the Committee on Agriculture.

By Mr. LEVY: Petition of the Columbia & Snake River Waterways Association and other business clubs, etc., of Idaho and Washington, favoring the passage of legislation making an appropriation of $1,400,000 for the finishing of the Celilo Canal; to the Committee on Rivers and Harbors.

Also, petition of the National Academy of Design, of New York, protesting against any action on the part of Congress interfering with the development of Washington as set forth by the Washington Park Commission; to the Committee on the Library.

Also, petition of the American Automobile Association, Chicago, Ill., favoring the passage of legislation making appropriations for the building of national highways; to the Committee on Appropriations.

Also, petition of the Italian Chamber of Commerce of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. MAGUIRE of Nebraska: Petition of citizens of Lincoln, Nebr., favoring the passage of legislation for the national control and ownership of all public telephone and telegraph lines; to the Committee on Interstate and Foreign Commerce.

By Mr. WICKERSHAM: Petition of Indians and other resident fishermen of Sitka, Alaska, praying for legislation by Congress preventing the setting of fish traps in the tidal waters of Alaska; to the Committee on the Territories.

SENATE.

WEDNESDAY, *January 15, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

FOREIGN AND DOMESTIC COMMERCE (S. DOC. NO. 1009).

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of Commerce and Labor, submitting an estimate of appropriation in the sum of $20,000 to enable the Bureau of Foreign and Domestic Commerce to carry out the provisions of the act approved August 23, 1912, relating to investigations concerning the cost of producing articles dutiable in the United States and leading countries where such articles are produced, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

REPORT OF THE CHESAPEAKE & POTOMAC TELEPHONE CO. (H. DOC. NO. 1270).

The PRESIDENT pro tempore laid before the Senate the annual report of the Chesapeake & Potomac Telephone Co. for the year 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the House insists upon its amendment to the bill (S. 109) authorizing the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. STEPHENS of Texas, Mr. FERRIS, and Mr. BURKE of South Dakota managers at the conference on the part of the House.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. 20339) for the relief of Joseph W. McCall, and it was thereupon signed by the President pro tempore.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented petitions of the congregations of the First Baptist Church of Franklin; the West Congregational Church, of Concord; the First Baptist Church of Cornish; the Baker Memorial Methodist Episcopal Church, of Concord; the Unitarian Church of Charlestown; the Franklin Unitarian Church, of Franklin; the Christian Church of Franklin; the First Baptist Church of Claremont; the Baptist, Congregational, and Methodist Churches of Newport; the Curtis Memorial Free Baptist Church, of Concord; the Advent Christian Church of Dover; the Crown Hill Baptist Church and the Arlington Street Methodist Episcopal Church, of Nashua; and of the First Methodist Church of Concord, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a report of a special committee of the Georgetown Citizens' Association relative to assessment and taxation of property in the District, which was referred to the Committee on the District of Columbia.

Mr. BRISTOW presented petitions of sundry citizens of Altoona, Langton, and Alden, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BURNHAM presented resolutions adopted by the congregations of the Baptist, Congregational, and Methodist churches of Newport, N. H., favoring the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. NELSON presented a resolution adopted by the Commercial Club of Mankato, Minn., remonstrating against the enactment of legislation transferring the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a resolution adopted by Local Union No. 412, United Mine Workers of America, of Hymera, Ind., favoring the passage of the so-called Clayton contempt bill, which was referred to the Committee on the Judiciary.

Mr. JONES presented resolutions adopted by the Columbia and Snake River Waterways Association, Idaho State League of Commercial Bodies, Idaho-Washington Development League, the Commercial Club of Lewiston, Idaho, and of the Chamber of Commerce of Clarkston, Wash., favoring an appropriation for the completion of the Celilo Canal and the improvement of the Columbia and Snake Rivers, which were referred to the Committee on Commerce.

Mr. PERKINS presented resolutions adopted by the Chamber of Commerce of Los Angeles, Cal., and resolutions adopted by the Southern California Wholesale Grocers' Association, remonstrating against any reduction of the duty on sugar, which was referred to the Committee on Finance.

Mr. SHIVELY presented memorials of the congregations of the Seventh-day Adventist Churches of Marion, Elwood, Noblesville, South Bend, and Wolf Lake, all in the State of Indiana, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented memorials of H. J. Evans, C. V. Mull, J. W. Bucks, E. Shanafelt, D. Glasgow, George Beyler, G. E. Mangun, and 176 other citizens of South Bend, and of the congregation and Sunday School of the First Reformed Church of South Bend, all in the State of Indiana, remonstrating against the repeal of the law providing for the closing of post offices on Sunday, which were referred to the Committee on Post Offices and Post Roads.

Mr. TOWNSEND presented a petition of the congregation of the Methodist Episcopal Church of Orion, Mich., praying for the passage of the so-called Kenyon red-light injunction bill, which was ordered to lie on the table.

He also presented memorials of the congregations of the Seventh-day Adventist Churches of Muskegon, Arbela, and Hillsdale, all in the State of Michigan, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. TOWNSEND (for Mr. SMITH of Michigan) presented a memorial of the congregation of the Seventh-day Adventist Church of Onaway, Mich., and a memorial of the congregation of the Seventh-day Adventist Church of Ann Arbor, Mich., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. PENROSE presented a memorial of the board of directors of the Philadelphia Maritime Exchange of Pennsylvania, remonstrating against the enactment of legislation to abolish the involuntary servitude imposed upon seamen of the merchant marine of the United States while in foreign ports, etc., which was referred to the Committee on Commerce.

WATER POWER AND TRANSMISSION LINES (S. DOC. NO. 1008).

Mr. SMOOT. I present the permit to the Great Falls Power Co. for a transmission line and the agreement between that company and the Government of the United States. I ask that

the agreement be printed as a public document, and in this connection I have a certain number of newspaper clippings bearing upon the matter that I request be printed in the RECORD.

Mr. CULBERSON. Will the Senator kindly restate his proposition?

Mr. SMOOT. I will state that the Secretary of the Interior sent me a copy of the permit issued to the Great Falls Power Co. by the Secretary of the Interior for a transmission line over certain public lands. There have been calls for copies of the agreement from all parts of the country, and the Secretary of the Interior desires that it be made a public document. I therefore ask that it be printed as a public document, excluding, however, the price agreed upon between the power company and the railway company.

Mr. GALLINGER. I will ask the Senator if it is the Great Falls of the Potomac?

Mr. SMOOT. No; of Montana.

Mr. CLARK of Wyoming. I ask the Senator from Utah why not print the whole agreement?

Mr. SMOOT. I have asked that the whole agreement be printed except the rate to be paid per kilowatt per hour.

Mr. CLARK of Wyoming. Why not print the rate?

Mr. SMOOT. The Secretary thought there may be objections on the part of the companies to having it printed.

Mr. ROOT. I should think there are obvious reasons for having it printed, being an agreement between this company and the Government of the United States, or the Secretary of the Interior.

Mr. SMOOT. The agreement is with the Secretary of the Interior.

Mr. ROOT. If it is worth printing at all it seems to me it is worth printing as it is.

Mr. SMOOT. I do not think the Secretary will object to printing the rate to be paid. It is a new policy that is about to be entered upon between the Secretary of the Interior and users of water for power purposes whose lines run over the public domain, and there are calls for copies of the agreement. I suppose every Senator has noticed that the newspapers of the country are stating that the agreement has already been made. It is for that reason that I desire to have it printed as a public document, so that it may be distributed throughout the United States.

Mr. CLARK of Wyoming. I ask that it all be printed.

Mr. SMOOT. I will withdraw my request at this time and secure the rate and have it included in the agreement. I know that there is no objection on the part of the Secretary of the Interior, and I do not believe there will be any objection on the part of the company.

Mr. CLARK of Wyoming. There certainly should not be objection, because it is a public contract entered into by the Government of the United States.

Mr. SHIVELY. Has the Senator the agreement there?

Mr. SMOOT. I have a copy of the agreement.

Mr. SHIVELY. Does that copy contain the rate?

Mr. SMOOT. The place where the rate is mentioned in the original agreement is left blank in the copy. I will state that the Secretary of the Interior called my attention to that fact, and he thought that perhaps it would be just as well, by way of information at least, as applying to the form of the agreement, not to have the rate mentioned in the document.

Mr. SHIVELY. Why can not the Senator have the order made now if he understands that the rate is to be inserted?

Mr. CLARK of Wyoming. I will say to the Senator that my objection will be obviated if it is to be printed simply as the form of a contract which the Secretary of the Interior proposes to use.

Mr. SMOOT. I made the request that this form of a contract which has already been used be printed. I do not believe that there will be any objection on the part of the company to inserting the price paid per kilowatt, and I am positive there will be no objection on the part of the Secretary of the Interior.

Mr. President, I will withdraw the request now and state that I shall get into communication with the Secretary of the Interior; and if there is no objection on the part of the company, I shall ask that the rate paid per kilowatt per hour be inserted in the agreement to be printed as a public document. I shall ask again some time to-day that it be printed as a document.

Mr. CLARK of Wyoming. Will the Senator give the Senate the benefit of the information whether or not there is objection?

Mr. SMOOT. If there is objection, I shall not ask that it be printed as a public document.

Mr. CLARK of Wyoming. I ask the Senator if there is objection to give that information to the Senate.

Mr. SMOOT. All right.

Mr. SHIVELY. Does not the Senator think that if there is an objection there should be a resolution introduced by him to secure that information?

Mr. SMOOT. I do not think there will be any objection. I will say, again, that I know there is no objection on the part of the Secretary of the Interior.

Mr. ROOT. If there is objection, we certainly ought to have the information; there is no doubt about that.

The PRESIDENT pro tempore. The request is withdrawn. Reports of committees are in order.

Mr. SMOOT subsequently said: Mr. President, I ask that a copy of the contract issued to the Great Falls Power Co. for its transmission line be printed as a public document. I will state to the Senate that I have included here the price per kilowatt hour as provided in the contract.

Mr. BURTON. May I ask what Great Falls the Senator has reference to?

Mr. SMOOT. Great Falls, Mont.

Mr. DIXON. I should like to inquire whether the document the Senator is asking to have printed relates to the Great Falls Power Co.?

Mr. SMOOT. Yes; I am asking to have it printed as a public document. I will say that it is an agreement between the Great Falls Power Co., a corporation organized under the laws of the State of Montana, party of the first part, and the Chicago, Milwaukee & Puget Sound Railroad Co.

Mr. DIXON. It is an agreement relating to a transmission line for the electrification of the Milwaukee Railroad.

Mr. SMOOT. To a transmission line of about 450 miles to run the cars by electricity.

Mr. JONES. Mr. President——

The PRESIDING OFFICER (Mr. SHIVELY in the chair). Does the Senator from Utah yield to the Senator from Washington?

Mr. SMOOT. I yield.

Mr. JONES. If I understand correctly, the Senator intends to print the entire contract.

Mr. SMOOT. Yes; the entire contract.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah? The Chair hears none, and it is so ordered.

Mr. SMOOT. I also ask that certain clippings from the New York Times, the Washington Evening Star, and the New York Evening Post relative to the same proposition be printed in the RECORD, without being made a part of the public document.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

[Clipping from the New York Times, Jan. 8, 1913.]

ELECTRIFYING 450 MILES—PUGET SOUND DIVISION TO BE THE LONGEST ELECTRIC LINE IN THE WORLD.

The Puget Sound division of the St. Paul system will soon let contracts for the electrification of a stretch of 450 miles of its main line in Montana and Idaho, making the longest piece of electric railway in the world. A. J. Earling, president of the Chicago, Milwaukee & St. Paul, said yesterday that the installation of the electrical equipment would be completed as soon as possible, and that the company expected to be able to dispense with the use of steam locomotives on that section within three years. The mileage to be electrified traverses three principal mountain ranges—the Belt Mountains, the Rockies, and the Bitter Root chain.

The combination of water powers in the section where electrification work is to be done under practically one ownership and management is the one thing, in Mr. Earling's opinion, that makes the projected improvement possible. Short stretches of road may be electrified where the power is supplied from one or two developments, but in this contract it is provided that nine separate and distinct water-power systems, to be connected through their transmission lines, will furnish the necessary power. Electrification of steam road on such a scale has never before been attempted.

President Earling gave it as his opinion that the Secretary of the Interior, in confirming the grant mentioned yesterday in Washington dispatches, had taken a greater step forward in the conservation of the country's resources than had been taken by any previous administration. Substitution of electric current for motive power over the mountains would not only conserve a great amount of coal in the ground, he pointed out, but would provide for the utilization of water power which has hitherto gone to waste.

[Clipping from the Washington Evening Star, Jan. 7, 1913.]

UNITED STATES ISSUES A GRANT—REGARDED AS IMPORTANT STEP IN WATER-POWER DEVELOPMENT—GUARDS PUBLIC INTERESTS—MARKS BEGINNING OF ELECTRIFICATION OF TRANSCONTINENTAL RAILROADS—RATE REGULATION PROVIDED—UNIFORM ACCOUNTING AND COMPLETE PUBLICITY OF BOOKS AND RECORDS ARE STIPULATED.

The Department of the Interior to-day issued a grant which it regards as the most important step in water-power and electrical development that has been taken for many years. It marks the beginning of the long-predicted electrification of the transcontinental railroads between the Rocky Mountains and the Pacific coast, but much more important than this is the fact that this step is to be taken under a grant which embodies the fundamental principles of water-power policy which

the Department of the Interior has been advocating for the past two years.

It demonstrates not only that the provisions for the protection of the public interests, upon which the department insists, do not prohibit water-power development, as has been claimed by its opponents, but that the greatest development which has yet taken place in the practical application of electricity can be and is being taken under these very provisions.

COMPENSATION TO UNITED STATES PROVIDED.

The grant issued to-day provides for compensation to the Federal Government, very small at first, but subject to periodical readjustment every 10 years.

It provides for regulation of the rates and service, uniform accounting, and complete publicity of books and records; the sale of power to the United States, and to the State within which the transmission lines are located, and to municipal corporations in such State at as low a rate as given to any other purchaser for a like use under similar conditions; protection against fire; and prohibits any transfer or assignment of the permit without the written approval of the Secretary of the Interior. The company is forbidden to claim any earning value for the grant, or any selling value should the public take over the company's works at any time.

The compensation or rentals fixed for each decade must be reasonable, and the company has the right to contest in the courts any rental it believes to be unreasonable; but the burden of proof on this point rests on the company.

The railroad which is taking this epoch-making step is the Chicago, Milwaukee & Puget Sound Railroad, which is electrifying 450 miles of its main tracks between Harlowtown, Mont., and Avery, Idaho; and the company which is furnishing the electricity is the Great Falls Power Co. There is no act of Congress under which the policy which the department has been advocating can be adopted so far as it relates to power sites on the public domain.

PERMIT ESTABLISHES PRECEDENT.

However, under the act passed March 4, 1911, relating exclusively to electrical transmission, telephone, and telegraph lines, it has been found possible to work out a permit which the department regards as a precedent which will have far-reaching effect. The act is not as satisfactory as it should be, but it has been possible under it to demonstrate that private and public interests can be reconciled and coordinated with fairness and justice to both. Indeed, the fact that the power company is willing to accept the fullest provisions for the protection of public interests, even where all it is asking for is a permit for a transmission line, makes the transaction especially significant.

The power company and the Department of the Interior have found that they can cooperate cordially and effectively in working out general rules and regulations under this act and in fixing the terms of a grant so as to recognize effectively both public and private interests and rights. The department wishes to commend particularly the candor and public spirit shown by the representatives of the company in the negotiations which have led up to the issuance of the grant.

[Clipping from the New York Evening Post of Jan. 10, 1913.]

(Interview with Mr. John D. Ryan.)

NEW POWER FOR RAILROADS—ST. PAUL LINE OBTAINS GRANT FOR WESTERN WATERS—WILL OPERATE 450 MILES OF TRACK WITH ELECTRICITY GENERATED IN THE MOUNTAIN STREAMS—WILL COST $8,000,000 TO MAKE CHANGE, WHICH WILL PAY FOR ITSELF WITHIN FIVE YEARS.

John D. Ryan believes that the grant just received from the Government by the Great Falls Power Co., of Montana, to transmit over public domain power for the electrification of 450 miles of the Chicago, Milwaukee & St. Paul main line between Harlowtown, Mont., and Avery, Idaho, marks the most important step ever taken in the development of northwestern railroads.

In discussing the subject to-day, Ryan, who is president of the Amalgamated Copper Co., as well as the Great Falls Power Co., grew very enthusiastic. The man who succeeded H. H. Rogers as president of the Amalgamated Copper Co. belongs to the younger generation. That means, partly, that he is not afraid to talk for publication, when he has anything to say which concerns the public.

"Until you get into the subject, it is hard to realize what electrification will mean to the western railroad," the president of the Great Falls Power Co. said. "Railroad men themselves are only just beginning to understand. Yesterday one of the best-known operating officials in the Northwest said he was stunned by the announcement that our grant from the Government was based on the understanding that the electrification of 450 miles of St. Paul's track would be completed within three years. He said railroad men knew that the electrification of the northwestern railroads by use of water power was coming, but they all had supposed that it would not come inside of 10 years, and that, therefore, they would have plenty of time to plan."

WATER POWER WASTED.

When Ryan is interested in his subject he talks with almost boyish frankness, and as he picked up one paper after another at his desk on the twentieth floor of No. 42 Broadway, near a large window overlooking the Hudson River, his black eyes danced with excitement.

"Why, the water power that is now being wasted in the Northwest can be transformed into a finished product and delivered to the railroads so it can be turned on and off with a switch like pipe water or an electric light. Last year the St. Paul Railroad, not including its Pacific coast extension, spent $6,202,000 for fuel for locomotives. That was just the bare cost of coal. On a mountain line a railroad uses one-third of its entire equipment for hauling fuel. With electricity that equipment could be earning money and the cost of operating it to haul fuel could be saved.

"As for the economies made possible by electricity, the average cost of steam power in the West is $150 per horsepower. By simply harnessing the water power that is now going to waste electric power can be generated and delivered to the railroads ready for use by turning on a switch for $40 a horsepower.

"After a 150-mile run a steam locomotive has to go to a roundhouse for inspection; to-day the New York Central is using its electric locomotives for 1,200 miles between inspections. For the units of service derived from a ton of coal a steam locomotive is the most wasteful machine ever invented. Every railroad man knows that. An electric locomotive does not stand in a station or sidetrack and 'blow off.' When it is not being used the power is turned off.

"In many places in the Northwest it is physically impossible to build double tracks; the mountain passes will not permit it. Under electricity the capacity of a single-track road can be doubled. The trains move quicker; the equipment and labor now used to haul fuel can be used to handle revenue freight, and operating expenses can be reduced in many other ways. The St. Paul's work will cost $8,000,000, and carefully made estimates show that that amount can be saved in five years by reducing operating expenses."

A 50-YEAR RIGHT.

Ryan added that Secretary Fisher, of the Interior Department, had gone into the question of conservation thoroughly and had given every consideration to the needs of the power company and the railway company, and that the grant confers upon the power company, which has owned its water-power sites for many years, a right of way for 50 years over public lands for reasonable compensation to the Government, under reasonable conditions, which provide for compliance on the part of the power company with State regulations covering business of the kind in which the company is engaged.

He said the power company found no desire on the part of Secretary Fisher to impose any conditions that were not justified by the protection of public interest, and it is believed that general legislation will be enacted along the lines laid down in this grant, which will give a great impetus to water-power development and to railway electrification.

The water powers in the Rocky Mountains and the Cascades in the Northwestern States, he said, would be sufficient to operate every mile of railway west of a line drawn north and south through the center of the State of Montana and north of a line drawn from the southern boundary of Colorado to the Pacific coast.

Ryan said that the necessity for the consolidation of water powers by connecting transmission lines and provision for interchange of power is recognized by all who have given the question any consideration. Railways could not possibly depend for their operation upon power derived from one source or one transmission line.

He believed that not less than 10,000 miles of mountain railway in the Western States will be electrified within the next few years, because of the step taken by the Chicago, Milwaukee & Puget Sound Railway, and that the Government, through Secretary Fisher, has done a great deal to avert the waste which has gone on heretofore, both by the failure to harness water powers and in the consumption of coal which will be needed by future generations. In addition to this, the danger of fires from coal-burning locomotives in the great forests of the West will be avoided. Work on the St. Paul, he concluded, would begin at once.

REPORTS OF COMMITTEE ON PUBLIC LANDS.

Mr. CLARK of Wyoming, from the Committee on Public Lands, to which was referred the bill (S. 7746) to provide for agricultural entry of oil lands, reported it with amendments and submitted a report (No. 1108) thereon.

Mr. GUGGENHEIM, from the Committee on Public Lands, to which was referred the bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., reported it with amendments and submitted a report (No. 1109) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BURNHAM:

A bill (S. 8119) granting an increase of pension to Lucinda M. Fuller (with accompanying papers); to the Committee on Pensions.

By Mr. CUMMINS:

A bill (S. 8120) to tax certain sales, options, and contracts for sale made upon, in, through, in connection with, or under the regulations of certain exchanges and boards of trade; to the Committee on Finance.

By Mr. NELSON:

A bill (S. 8121) to provide an annual vacation for all railway mail clerks; to the Committee on Post Offices and Post Roads.

By Mr. BORAH:

A bill (S. 8122) to amend an act entitled "An act to amend sections 2291 and 2297 of the Revised Statutes of the United States relating to homesteads"; to the Committee on Public Lands.

By Mr. KENYON:

A bill (S. 8123) granting an increase of pension to Ellen Maher;

A bill (S. 8124) granting an increase of pension to Thomas J. Tucker;

A bill (S. 8125) granting an increase of pension to George F. Brechtel; and

A bill (S. 8126) granting a pension to Elizabeth J. Edson; to the Committee on Pensions.

By Mr. JOHNSON of Maine (for Mr. GARDNER):

A bill (S. 8127) granting a pension to John F. Scribner; to the Committee on Pensions.

By Mr. JACKSON:

A bill (S. 8128) for the relief of Samuel Henson; to the Committee on Claims.

By Mr. McLEAN:

A bill (S. 8129) granting a pension to Margaret Brennan (with accompanying papers); to the Committee on Pensions.

By Mr. GUGGENHEIM:

A bill (S. 8130) granting to the town of Nevadaville, Colo., the right to purchase certain lands for the protection of water supply (with accompanying papers); to the Committee on Public Lands.

By Mr. CLAPP:

A bill (S. 8131) granting an increase of pension to Stanley A. Husted (with accompanying papers); to the Committee on Pensions.

By Mr. TOWNSEND (for Mr. SMITH of Michigan):

A bill (S. 8132) to remove the charge of desertion from the record of Joseph Neveux;

A bill (S. 8133) to remove the charge of desertion from the record of Joseph Hadden (with accompanying paper); and

A bill (S. 8134) to correct the military record of Capt. Daniel H. Powers; to the Committee on Military Affairs.

By Mr. DU PONT:

A bill (S. 8135) granting a pension to Mary Helen Harrison;

A bill (S. 8136) granting an increase of pension to John E. Devnish; and

A bill (S. 8137) granting a pension to Susan T. Saunders; to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 8138) to authorize the Choctaw and Chickasaw Nations to bring suit in the Court of Claims, and for other purposes; to the Committee on Indian Affairs.

By Mr. JOHNSTON of Alabama:

A bill (S. 8139) for the relief of William W. Prude (with accompanying papers); to the Committee on Military Affairs.

By Mr. OWEN:

A bill (S. 8140) to authorize the Choctaw and Chickasaw Indians to bring suit in the Court of Claims, and for other purposes; to the Committee on Indian Affairs.

By Mr. SMITH of Maryland:

A joint resolution (S. J. Res. 153) granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia; to the Committee on the District of Columbia.

AMENDMENTS TO THE INDIAN APPROPRIATION BILL.

Mr. CATRON submitted an amendment providing that no part of the $200,000 appropriated by the act of April 24, 1912, shall be used for the purpose of transporting or making settlement of Apache Indians, prisoners of war at Fort Sill Military Reservation, Okla., within the State of New Mexico or State of Arizona, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $1,000 to investigate the conditions on the Northeast Navajo Indian Reservation, in San Juan County, N. Mex., with respect to the necessity of constructing a bridge across the San Juan River, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

MARY CATHCART RANSDELL.

Mr. DILLINGHAM submitted the following resolution (S. Res. 431), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mary Cathcart Ransdell, widow of Daniel M. Ransdell, late Sergeant at Arms of the Senate, a sum equal to 12 months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

THE SENATE CHAMBER.

Mr. REED submitted the following resolution (S. Res. 432), which was read, considered by unanimous consent, and agreed to:

Resolved, That the President of the Senate pro tempore is hereby authorized to appoint a special committee of five Senators. Said committee shall investigate and at the earliest practicable date report to the Senate whether it is feasible and desirable to improve or remodel the Senate Chamber and the rooms thereunto appertaining.

CHOCTAW AND CHICKASAW INDIANS (S. DOC. NO. 1007).

Mr. OWEN. I present a paper, being a memorial from the principal chief of the Choctaw Nation of Indians, to accompany the bill (S. 8138) to authorize the Choctaw and Chickasaw Nations to bring suit in the Court of Claims, and for other purposes, introduced to-day by me. I ask that the memorial be printed as a Senate document, with illustrations, and referred to the Committee on Indian Affairs.

The PRESIDENT pro tempore. Without objection, it is so ordered.

HOUSE BILL REFERRED.

H. R. 27148. An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, was read twice by its title and referred to the Committee on Post Offices and Post Roads.

IMPEACHMENT OF ROBERT W. ARCHBALD.

OPINIONS OF SENATORS FILED AND PUBLISHED BY ORDER OF THE SENATE SITTING ON THE TRIAL OF THE IMPEACHMENT OF ROBERT W. ARCHBALD, CIRCUIT JUDGE OF THE UNITED STATES FROM THE THIRD JUDICIAL CIRCUIT, AND DESIGNATED TO SERVE IN THE COMMERCE COURT.

OPINION OF MR. CULLOM.

On articles 1, 2, 3, 5, 9, and 13 I have voted "guilty" because I believe the respondent is guilty of high crimes and misdemeanors, as charged in these articles.

The testimony clearly shows, in my opinion, that the respondent, by reason of his influence as a judge of the Court of Commerce, secured for himself and others with whom he was associated favors and concessions of value from railroads, which were, or might be, involved in litigation before the Court of Commerce. It is evident that these favors and concessions were granted by the railroads because they believed it would result advantageously to them. To refuse the demands of the respondent would result to their detriment.

I further believe that by his acts the respondent dishonored the high office which he occupied; that he was not honored as one should be occupying so exalted a position, but was regarded as a go-between to further the interests of others.

While I do not believe in the doctrine of recall, yet I do believe that every judge, State or Federal, should have regard for his oath and the law, and if he violates either he should be subjected to impeachment. Judges are placed on the bench to conserve and protect the interests of the people, dealing with one and all alike, and not to connive with others to deprive them of justice and fair treatment.

I voted "not guilty" on articles 4, 6, 7, 8, 10, 11, and 12, believing that they do not constitute the offense of high crimes and misdemeanors, and not because the acts were committed while the respondent was a judge of the district court. In my opinion the Senate would have jurisdiction to try respondent if the articles should warrant such action.

S. M. CULLOM.

OPINION OF MR. CUMMINS.

Statement submitted by ALBERT B. CUMMINS to accompany his votes upon the impeachment of Robert W. Archbald.

The material facts relating to articles 1, 2, 3, 4, 5, 7, and 12 are not in dispute. In my judgment, they are stated in the evidence of Judge Archbald himself as clearly and strongly as in any other part of the testimony. Article 13 does nothing more than to charge a course of conduct which is the legal effect of the facts established and admitted under the seven articles I have first enumerated.

The moral quality of the things done by the respondent was barely mentioned by his counsel, much less defended. This phase of the matter has been substantially ignored by counsel for the respondent and they have seemed to rely upon two propositions, viz: First, that none of the articles accuse the respondent of an offense indictable under the laws of the United States and that therefore there can be no conviction in an impeachment proceeding.

Second, that the respondent being a circuit judge can not be impeached for offenses committed during the time he was a district judge.

I can not accept either of these propositions. While I believe that it is within the power of Congress to provide a distinct procedure for the ascertainment of the behavior of a judge appointed to hold his office during good behavior, yet I have no doubt whatever that there may be misconduct in office which comes within the constitutional phrase "high crimes or misdemeanors." The common law recognized misconduct in office as a crime or misdemeanor; and it can not be fairly questioned that the framers of the Constitution intended to authorize impeachment for such offenses, even though Congress should never pass a criminal statute. It also seems clear to me that a crime or misdemeanor committed by the respondent while district judge which indicates unfitness to hold the office of circuit judge presents an impeachable offense. The identity in the character of the duties to be performed and the continuity of the service emphasize the correctness of this conclusion.

Nothing remains but to say that the conduct and practices admitted by the respondent under articles 1, 2, 3, 4, 5, 7, and 12 were so flagrantly wrong and so obviously in violation of the civilized sense of honor and propriety on the part of a person holding the office of judge that they compelled me to vote "guilty" upon each of these articles, and my vote upon article 13 followed as an inevitable consequence. My vote of "not guilty" upon articles 6, 8, and 9 was because, in my opinion, the evidence failed in an essential particular in each instance. A like vote on article 10 was because there was nothing wrong in the

thing actually done by the respondent, and a similar vote on article 11 was because the act admitted, though censurable, does not warrant impeachment.

OPINION OF MR. PENROSE.

Mr. PENROSE. I submit a statement of my views on the impeachment of Judge Archbald, which I ask may be filed.

Judge Archbald is 65 years of age, and has been upon the bench 28 years. It is not alleged or proved that he ever violated any law or wronged anyone. It is not alleged or proved that he ever neglected any duty, denied or delayed justice, was partial to any litigant, or even impatient with or discourteous to counsel or clients in any case. On the contrary, it was expressly admitted by the managers who were presenting the case that his integrity, both as a judge and as a man, were incontrovertible; that he was able, industrious, and impartial in the performance of his judicial duties and of good behavior on the bench. His private and public life, so far as has been either charged or proved, is stainless; and it was shown that the people where he lives and has lived for nearly 60 years, the lawyers who practice before him, and his associates on the bench, respect, esteem, and love him. It would be supposed from those admitted facts that there could be no doubt that he was a faithful public official and ought to be retained in his office. Yet he is charged in each of the 13 articles of impeachment with being guilty of a "high crime and misdemeanor," a charge wholly inconsistent with the facts admitted by the managers themselves, as above stated. Under such circumstances but little need be said touching each charge, but they will each be briefly referred to.

The facts touching article 1 show that a gentleman named John M. Robertson owned the Katydid culm dump, and that he was washing the coal from it when his washery burned down. He was required by his lease to pay royalty to the Hillside Coal & Iron Co., a subsidiary of the Erie Railroad Co., for all the coal taken from the dump, and that company in turn paid royalty to the Everhart heirs, who owned a half interest in the land from which the coal in the dump had been taken. Judge Archbald and Edward J. Williams obtained an option from Mr. Robertson by which they were to pay him $3,500 for his interest in the dump, and upon application to the Hillside Coal & Iron Co. its general manager said he would recommend a sale of its interests for $4,500, thus capitalizing the royalties it would otherwise have received.

The matter never was consummated, because the Everhart heirs disputed the right to dispose of their interest. The Erie Railroad Co. had been a litigant before the Commerce Court, of which Judge Archbald was a member, but the litigation was then pending in the Supreme Court of the United States, and the judge did not take part in the decision of any case in which that road was interested during or after the time of these negotiations. It was alleged in the articles of impeachment that the dump was of greater value than the price being paid for it, but that claim was abandoned at the trial. It may be that it would have been better had the judge not engaged in any other business than in the performance of his judicial duties, but until the doing so is forbidden by law the fact that he or any other judge does so can not make their act a "high crime and misdemeanor." Especially can no inference of improper conduct be drawn as against Judge Archbald, in view of the express admissions above stated.

In article 2 the judge is charged with assisting in the settlement of certain pending litigation between the Delaware, Lackawanna & Western Railroad Co. and the Marian Coal Co. for a consideration to be paid him in case the settlement was made. At the trial the claim that he was to be paid was abandoned. The facts showed that one C. G. Boland, a neighbor and friend of Judge Archbald for over 30 years, employed one George M. Watson, an attorney in Scranton, to try and settle that litigation. Watson asked Judge Archbald to introduce him (Watson) to the proper official of the railroad. The judge wrote several letters and had several interviews with officials of the railroad to arrange for meetings between them and Watson, but took part in no negotiations touching the matter. Much of that which the judge did was done at the request of his friend Boland, who urged the judge to do what he did because he (Boland) feared that his brother, who was largely interested in the Marian Coal Co., would lose his mind if the case was not settled. It never was settled, and nobody was in any way harmed or wronged. To some it may seem that it would have been better had the judge not tried to help his old friend, but as no law forbade it surely it can not properly be called a "high crime and misdemeanor."

The facts as to article 3 show that the judge and three others tried to lease Packer No. 3 culm dump from the Girard estate with the consent of the Lehigh Valley Coal Co., which had a lease upon that and much other property of the Girard estate which lease was about expired. The Girard estate did not care to lease the dump, and nothing further was done in the matter. Here also it may be said that it would have been better had the judge not attempted to engage in business, but no law forbade it, and admittedly it did not affect him in any way.

The charge in article 4 is that the judge communicated with counsel on one side of a pending litigation without communicating the facts to counsel on the other side. It appeared that the case of the Louisville & Nashville Railroad Co. v. Interstate Commerce Commission had been argued in the Commerce Court, and in consultation the judges of that court had determined to decide the case against the railroad. Judge Archbald dissented from that conclusion, and in the course of writing his dissenting opinion discovered that there was a mistake in the typewritten testimony. He wrote to the counsel who offered that deposition in evidence to find if he was not correct in that conclusion, and upon receiving a reply that he was he pasted that letter on the margin of the testimony where everybody could see it. Subsequently he wrote to the same counsel in regard to a claim that there appeared in the evidence proof that the commodity rates which had been part of the litigation before the Interstate Commerce Commission showed frequent changes from what was known as the Cooley award, which formed the basis of all rates in the territory where the railroad operated. The answer showed that the case in the Commerce Court had nothing to do with commodity rates, because that matter had not yet been decided by the Interstate Commerce Commission. He did not show either letter to counsel on the other side, nor did either letter have anything to do with the decision of the case, the opinion in which, so far as relates to these two matters being written by another judge and decided upon grounds not referred to in either letter.

Article 5 charged that the judge received $500 for attempting to induce the Philadelphia & Reading Coal & Iron Co. to sell a culm dump to one Frederick Warnke. Six witnesses testified that that charge was untrue and no one testified that it was. The $500 was in fact paid as a commission for effecting the sale of a fill belonging to the Lacoe & Shiffer Coal Co. to the Premier Coal Co. Of that commission the judge received $250, but the matter had no connection whatever with Mr. Warnke and the Philadelphia & Reading Coal & Iron Co.

The allegation in article 6 that the judge used his influence to induce the Lehigh Valley Railroad Co. to purchase from the Everhart heirs their interest in 600 acres of land had no evidence to support it, nor would it have been a high crime and misdemeanor had the fact been so.

Article 7 charged that the judge corruptly agreed to purchase from one W. W. Rissinger an interest in a gold-mining scheme in Honduras; that while that matter was pending he acted as judge at the trial of a case in which Rissinger was largely interested and indorsed a note for $2,500, which was duly discounted and the proceeds of which was to pay for the interest in the gold-mining scheme. The evidence uncontradictedly showed that the note was indorsed five days after the case was ended, that it was not given for stock, but was purely for the accommodation of Rissinger, who had been a scholar in the judge's Bible class, and that the stock was held by the judge as collateral security for the payment of the note.

Articles 8 and 9 charged that the judge indorsed a note for $500, which he caused to be presented to C. G. Boland and W. P. Boland, who were interested in the company which was a party litigant in his court, and when they refused to discount it he caused it to be presented to one C. H. Von Storch, who had been a litigant in his court some time before, and that Von Storch caused his bank to discount it. The facts were shown to be that the judge indorsed the note as an accommodation to a friend, who alone arranged all the matters stated. All agreed that the judge saw no one in relation to the matter and that the only correspondence or conversation he had was with Von Storch, who called him up on the telephone to inquire if the indorsement was genuine. No one pretends that the judge ever did anything further in regard to the matter.

Article 10 charges that in 1910 the judge went to Europe at the expense of and as the guest of Henry W. Cannon, who was a director and officer of several corporations who might become litigants in the judge's court, which then was the middle district of Pennsylvania. The facts were that the corporations were the Great Northern Railroad and certain Pacific coast corporations, who never had and never were likely to have any litigation in that court; that Mrs. Archbald and Mr. Cannon were first cousins; had grown up together and been lifelong friends; that she had been ill; that Mr. Cannon invited her and the judge to visit him at his cottage near Florence; and that the judge, who had not had a vacation for several years,

consulted with the other judges in his circuit, and was advised to go with his wife, and did go. Why he should not have gone nobody can see. Certainly no one can understand how it is possible under the admission as to good character—integrity, as hereinbefore stated—it is possible to suppose that his going constituted a "high crime and misdemeanor."

Article 11 charged that when he went on that trip he accepted a gift of over $500 from attorneys practicing in his court. It appeared that a few minutes before the vessel sailed Judge Alonzo T. Searle, of Wayne County, Pa., handed Judge Archbald a sealed envelope, on which was written "Hon. R. W. Archbald. Sailing orders: Not to be opened until 24 hours at sea." When he asked what it meant he was told "A good sailor obeys orders." After the vessel sailed, he opened the envelope and found in it a list of subscribers to the fund who had been personal friends for many years and the sum of money. He was thus placed in a cruel dilemma, for if he returned the money it would appear as if he were accusing them of wrongdoing. For that reason he kept it. Until he opened the envelope he did not know that any attempt had been made or was being made in regard to that matter. That he can be guilty of a "high crime and misdemeanor" because when it was too late to return it to Judge Searle he did not metaphorically slap his friends in the face by returning it is not even conceivable.

Article 12 complains because he appointed a lawyer who was counsel for a railroad company as jury commissioner. The law requires that the jury commissioner shall be a citizen of the district in good standing and of the opposite party from the clerk of the court. The appointee, J. Butler Woodward, was all those things, and we are told, and no one contradicted it, that he comes from an honorable and respected family in Pennsylvania. The managers admitted at the trial that he had done nothing wrong, and it was proved by the records that he did not practice in the court of which he was jury commissioner. If a lawyer ought not to be a jury commissioner, it is easy to say so by act of Congress, but there is as yet no such act. Hence there can be no just ground of complaint against the judge.

Article 13 is a general clause without particulars, intended to embrace in general language the first nine articles, except the fourth, without adding anything new. Judge Archbald was declared not guilty upon the second, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles.

OPINION OF MR. PAYNTER.

Mr. PAYNTER. Mr. President, I have prepared a statement of my reasons for my votes in the Archbald impeachment case. While I do not think it requires an order, I do not like to submit them without announcing that I am ready to file and do file them.

I have reached the conclusion to vote not guilty on each of the articles of impeachment. I do not intend to enter into an extended discussion in giving the reasons which have influenced me in reaching that conclusion. I shall not attempt to cite the precedents which bear upon the question, but I am of the opinion that they do not support the position of the prosecution. My opinion is that the reasoning of the authorities and eminent men who have taken the position that it is essential to maintain an article of impeachment that the accused should be charged with a crime for which an indictment would lie is conclusive.

The penalty in case of conviction is of a very serious character, and for that reason we are strongly admonished to proceed to the consideration of the case as just and impartial judges. If the respondent has committed the acts with which he is charged, then he violated neither statute or common law of the land, nor could such acts be the basis for a prosecution by indictment or information; besides, the alleged acts are not of a character which show turpitude.

After reading the testimony, and especially after hearing the respondent in his own behalf, I am thoroughly convinced that he did not do a single act with any purpose to misuse the official position which he then held. No act, save one, of which complaint is made was an official act. The only one that can be said to be official was the appointment of a jury commissioner, which was his duty under the law to do. The man appointed was not only capable but was a high type of man and worthy to fill the position.

The logic of the prosecution is reduced to this, that though the acts were not official and did not make him guilty of a crime, nor did they involve turpitude, still he should be removed from office and disgraced because he happened at that time to hold the official positions named.

It had been urged by the prosecution that each Senator should erect his own standard, determine the quality of the acts charged, and the respondent's guilt or innocence by that standard. The position of the prosecution is well stated by one of the managers when he said:

> Each Senator must fix his own standard, and the result of this trial depends upon whether or not these offenses we have charged against Judge Archbald come within the law laid down by the conscience of each Senator for himself.

If this be true, then each Senator can enact a statute at the time he votes and impose the penalty which is prescribed by the Constitution for entirely different acts than those for which one is being tried. Those who made the Constitution to protect the lives and the liberties of the people declared that there could be no ex post facto laws enacted, yet each Senator, in the trial of an impeachment proceeding, can then enact an ex post facto law and inflict a punishment for its violation. If this is to be the rule of action by a court, then it no longer can be said to be a government of law; it can no longer be said that the life and liberty of the citizen is safe. While such a rule differs in character from the rule of the mob, yet it is slightly less objectionable.

If such a doctrine is to prevail, then there is too much danger that the consciences of those who try impeachment cases will be affected by a hysterical or debauched public sentiment. Let us hope that this body may never proclaim such a rule, because if it does then is great danger that on some future occasion a sane and safe judicial sentiment may not pervade this Chamber, but, on the contrary, there may be seen the spirit of the mob stalking in its hideous form within these sacred walls.

Should this ever come to pass, the sane and patriotic people of the land will be justified in exclaiming "O judgment! Thou art fled to brutish beasts!" Mr. Story seems to have entertained the views which I have expressed, for he said, in his work on the Constitution, volume 1, page 538:

> The latter is so incompatible with the genius of our institutions that no lawyer or statesman would be inclined to countenance so absolute a despotism of opinion and practice which might make that a crime at one time or in one person which would be deemed innocent at another time or in another person.

At a time when passion was swaying the minds of the people in this country, and when a majority of the leaders of the then dominant political party desired to impeach Andrew Johnson, then President of the United States, the House of Representatives refused to break from its constitutional moorings and adopt a resolution looking to the impeachment of Andrew Johnson, when the articles reported did not charge him with a crime. The minority of the committee of the House of Representatives which passed upon the question presented their views to the House of Representatives, to the effect that as no indictable offense was charged an impeachment proceeding could not be sustained, and the House accepted their view of the law as the correct one.

It discusses with such great clearness the legal question involved in this case I take the liberty of quoting from that report as follows:

> The Constitution of the United States declares that "the House of Representatives * * * shall have the sole power of impeachment." What is the nature and extent of this power? Is it as boundless as it is exclusive? Having the sole power to impeach, may the House of Representatives lawfully exercise it whenever and for whatever a majority of the body may determine? Is it a lawless power, controlled by no rules, guided by no reason, and made active only by the likes or dislikes of those to whom it is intrusted? Have civil officers of the United States nothing to insure them against an exercise of this power except an adjustment of their opinions and official conduct to the standard set up by the dominant party in the House of Representatives? Happily for the Nation this power is not without its constitutional boundaries and is not above the law. When we examine the Constitution to ascertain in what cases the power of impeachment may be exercised—for what acts civil officers may be impeached—we are informed that—
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> "The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." (Art. II, sec. 2.)
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> In these cases only can the power of impeachment be lawfully used. It would seem to be difficult to mistake the import of this plain provision of the fundamental law of the land; and yet it is not free from conflicting interpretations. This conflict does not arise upon the terms "treason" and "bribery," for they are too well understood and too clearly defined in the Constitution and the laws of the land to admit of any disputation concerning them. They are both crimes of a high grade, and punishable upon indictment in the courts of the United States. They are offenses against the public weal, with just and adequate penalties prescribed for them by the law of the Nation. There is no difficulty in ascertaining the meaning of the Constitution, in so far as it relates to these crimes. Whatever conflict of opinion has arisen respecting the extent of the power of impeachment finds its origin in the terms "other high crimes and misdemeanors." These terms, it has been claimed, give a latitude to the power reaching far beyond the field of indictable offenses. This doctrine is denied. Here arises the only doubt concerning the jurisdiction of the impeaching power of the House of Representatives.
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> The fact that the framers of the Constitution selected by name two indictable crimes as causes of impeachment would seem to go far toward establishing as the true construction of the term "high crimes and misdemeanors" that all other offenses for which impeachment will

He must also be indictable. Having fettered the House of Representatives by naming two well-defined crimes of the highest grade, it is not to be presumed that the same hands which did it clothed the House with the right to ramble through all grades of crimes and misdemeanors, all instances of improper official conduct and improprieties of official life, grave and unimportant, harmful and harmless, alike. It is unreasonable to say that the men who framed our Constitution, after undertaking to place a limitation on the power of impeachment, ended their effort by throwing away all restraints upon its exercise and placing it entirely within the keeping of those upon whom it was intended to confer only a limited power. There is something more stable than the whims, caprices, and passions of a majority established as a restraint upon this power by the Constitution. The House of Representatives may impeach a civil officer, but it must be done according to law. It must be for some offense known to the law and not created by the fancy of the Member of the House. As was very pertinently remarked by Hopkinson on the trial of Chase, "The power of impeachment is with the House of Representatives, but only for impeachable offenses. They are to proceed against the offense, but not to create the offense and make any act criminal and impeachable at their will and pleasure. What is an offense is a question to be decided by the Constitution and the law, not by the opinion of a single branch of the Legislature; and when the offense thus described by the Constitution or the law has been committed, then, and not till then, has the House of Representatives power to impeach the offender."

A civil officer may be impeached for a high crime. What is a crime? It is such a violation of some known law as will render the offender liable to be prosecuted and punished. "Though all willful violations of rights come under the generic name of wrongs, only certain of those made penal are called crimes." (Encyc. Brit., Vol. XIII, 275.) The offense must be a violation of the law of the sovereignty which seeks to punish the offender; for no act is a crime in any sovereignty except such as is made so by its own laws. In England no act is a crime save such as is so declared either by the written or unwritten law of the Kingdom, and therefore only crimes by the law of England are indictable in England. Crimes are defined and punished by law—by the law of the sovereignty against which the crime is committed—and nothing is a crime which is not thus defined and punished. "Municipal law" (which, among its multiplicity of offices, defines and punishes crimes) "is a rule of action prescribed by the supreme power in a State, commanding what is right and prohibiting what is wrong." (1 Blackstone, 44.) Nothing is a crime which is not such a breach of this command or prohibition as carries with it a prescribed penalty. Blackstone said: "All laws should be therefore made to commence in future." The citizen must be notified of what acts are crimes, and he can not be lawfully punished for any others. The reasonableness of this rule was appreciated and its enforcement provided for by the convention which framed the Constitution of the United States when they placed in that instrument the declaration that "no * * * ex post facto law shall be passed." No act which was not a crime at the time of its commission can be made so by subsequent legislative or judicial action; and this doctrine is as binding on the House of Representatives when exercising its powers of impeachment as when employed in ordinary criminal legislation.

All that has been said herein concerning the term "crimes" may be applied with equal force to the term "misdemeanors," as used in the Constitution. The latter term in nowise extends the jurisdiction of the House of Representatives beyond the range of indictable offenses. Indeed, the terms "crime" and "misdemeanor" are, in their general sense, synonymous, both being such violations of law as expose the persons committing them to some prescribed punishment; and, although it can not be claimed that all crimes are misdemeanors, it may be properly said that all misdemeanors are crimes. Blackstone, in his Commentaries, states it thus: "In common usage, the word crimes is made use of to denote such offenses as are of a more atrocious dye; while smaller faults, and omissions of less consequence, are comprised under the gentle name of misdemeanors only." Hale, in his Pleas of the Crown, states the doctrine in this wise: "Temporal crimes, which are offenses against the laws of this realm, whether the common law or acts of Parliament, are divided into two general ranks, or distributions, in respect to the punishments that are by law appointed for them, or in respect of their nature or degree; and thus they may be divided into capital offenses, or offenses only criminal, or rather, and more properly, and felonies and misdemeanors. And the same distribution is to be made touching misdemeanors, namely: They are such as are so by the common law, or such as are specially made punishable as misdemeanors by act of Parliament."

Thus it appears that the terms "crime" and "misdemeanor" merely indicate the different degrees of offenses against law—crime marking the felonious degree, misdemeanor denoting "all offenses inferior to felony." Both indicate indictable offenses. They are terms of well-established legal signification. There is nothing uncertain about them. The framers of the Constitution used these terms as terms of art, and we have no authority for expounding them beyond their true technical limits.

An examination of the several provisions of the Constitution which have any bearing upon this subject will strengthen the position heretofore assumed. Section 3, Article I, reads thus: "The Senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside, and no person shall be convicted without the concurrence of two-thirds of the Members present." When the Senate is organized under this section of the Constitution as a high court of impeachment, it is simply a court of special criminal jurisdiction—nothing more, nothing less. It is bound by the rules which bind other courts. It is as much restrained by law as any other criminal court. It is not a tribunal above the law and without rule to guide it; if it were, it might well be addressed in the language of Burke, in one of his speeches in the Hastings case, when he said: "This high court, * * * this highest court of criminal jurisdiction, exercised upon the requisition of the House of Commons, if left without a rule, would be as lawless as the wild savage and as unprincipled as the prisoner that stands at your bar." (Burke's Works, vol. 8, p. 8.) No man would be safe before such a court—a court that could make the crime, determine its mode of proof, pronounce and execute judgment without restraint from the Constitution or laws of the land. No such irresponsible engine of wrong and oppression has been created by the Constitution. The British constitution allows no such unrestricted power to the House of Lords. "An impeachment before the Lords by the Commons in Great Britain, in Parliament, is a prosecution of the already known and established law and has been frequently put in practice, being a presentment to the most high and supreme court of criminal jurisdiction by the most solemn grand inquest of the whole Kingdom" (4 Blackstone, 259); and when this most high and supreme court of criminal jurisdiction is assembled for the trial of a person impeached for a violation of the "already known and established law" it must proceed according to the known and established law, for although "the trial must vary in external ceremony, it differs not in essentials from criminal prosecutions before inferior courts. The same rules of evidence, the same legal notions of crimes and punishments prevail." (Woodeson, vol. 2, 611.) A doctrine which would assert for the Senate of the United States greater and more despotic power in cases of impeachment than is possessed by the House of Lords will never be accepted by the American people.

If the Senate, sitting as a high court of impeachment, is not to be bound by the laws which bind other courts, why require the Senators to be put on oath or affirmation? If this court may declare anything a high crime or misdemeanor which may be presented as such by the House of Representatives and pronounce judgment against a civil officer thereon, why swear the members of the court at all? The oath is not a solemn mockery. It is prescribed for some good purpose. What is it? The form of oath adopted by the Senate in Chase's case affords a very satisfactory answer, and it is therefore here quoted, as follows: "You solemnly swear or affirm that in all things appertaining to the trial of the impeachment of ——, you will do impartial justice according to the Constitution and laws of the United States." (Chase's Trial, vol. 1, p. 12.) This oath is very comprehensive. It covers the charge, the evidence, and all the rules thereof; the decisions upon all questions arising during the progress of the trial; and the final judgment. In all these several respects the members of the court are to be guided by the Constitution and laws of the United States. They can try upon no charges other than treason, bribery, or other high crimes and misdemeanors; and the offense charged must be known to the Constitution or to the laws of the United States. The rules of evidence under and in pursuance of which crimes may be proved upon indictment in the courts of the United States are to be observed. The judgment "shall not extend further than a removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States." The office of the oath is to insure a strict observance of these requirements of the Constitution and the laws. This seems clear without further reference to other provisions of the Constitution; but it is proper that we should look at all of its clauses bearing upon the question under discussion.

The Constitution having created a court for the trial of impeachments, prescribed its jurisdiction and placed a limitation on its power to pronounce judgment, then declares that "the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law." It would seem difficult, indeed, to misunderstand this language. A civil officer convicted on impeachment is, notwithstanding such conviction, still liable to a prosecution for the same offense in the courts of ordinary criminal jurisdiction. How can this be if his offense be not an indictable crime? The court of impeachment can not apply the usual statutory punishment. It can not go beyond removal from and disqualification to hold office under the United States. The enforcement of other penalties for the same criminal conduct is left to the criminal courts of the country after conviction upon indictment. Is not this substantially a constitutional direction to the court of impeachment not to convict a civil officer of any crime or misdemeanor for which an indictment will not lie? This view of the question was very forcibly stated by Mr. Martin in his argument in Chase's case, in these words: "The very clause in the Constitution of itself shows that it was intended the persons impeached and removed from office might still be indicted and punished for the same offense, else the provision would have been not only nugatory but a reflection on the enlightened body who framed the Constitution, since no person ever could have dreamed that a conviction on impeachment and a removal from office in consequence for one offense could prevent the same person from being indicted and punished for another and different offense." (Chase's Trial, vol. 2, p. 137.) How can the force of this argument be avoided? Wherein does it lack the support of sound reason and good sense? But does not rest merely upon the clauses of the Constitution above quoted; others, yet to be noticed, give it much additional strength, and these will now be examined.

The section of the Constitution securing the trial by jury reads as follows: "The trial of all crimes, except in cases of impeachment, shall be by jury." (Sec. 2, Art. III.) Can it be successfully claimed that the word "crimes," as here used, is less comprehensive than it is where it occurs in section 4 of Article II? If not, then the crimes for which a civil officer may be impeached are the subjects of indictment or presentment; for such only can be tried by a jury. Any act which is a crime within the meaning of the last-named section is also a crime within the intent of the former, although the converse of this proposition is not true, as it is not every crime with which a jury may try that will render a civil officer committing it liable to impeachment. For the latter purpose the crime must "have reference to public character and official duty." (Rawle on the Constitution, 204.) The plain inference to be drawn from the section is, "that cases of impeachment are cases of trials for crimes."

Again, in that part of the Constitution which clothes the President with the power to grant pardons, it is said, "He shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment." (Art. II, sec. 2.) What is the meaning of the term "offenses"? It can not mean less than such acts as render offenders liable to punishment, else why is a pardon necessary or even desirable? No one needs a pardon who has not committed a crime. A pardon shields from or relieves of punishment. Punishment follows trial and conviction. Trial and conviction for crime can be had only for a violation of an existing law declaring the act done a crime. The term offenses, then, means crimes, in which, of course, is included misdemeanors.

High crimes and misdemeanors are subject to two jurisdictions—first, in the ordinary criminal courts of the country; second, in the high court of impeachment. The same party, for the same acts, may be on trial in both tribunals at the same time. If convicted in both cases, the President may pardon the criminal and relieve him of the consequences resulting from a conviction by the first-named jurisdiction, but the Constitution forbids his interference with the last. The grant of power and the exception are both in the same clause of the same section, and the fact that they are thus intimately associated shows that they relate to the same subjects—indictable offenses.

So intimately are these several sections and clauses of the Constitution connected with each other; so unerringly do they point in the same direction; so irresistibly do they suggest a consecutive train of thought; so perfectly does each part adjust itself to the whole, that it seems impossible to escape the conclusion that nothing less than an indictable crime or misdemeanor will support an impeachment of a civil officer of the United States. A fact recorded in the trial of Chase is very suggestive in this connection. Eight articles were preferred against him by the House of Representatives. It seems to have been admitted that all of the articles except the fifth charged him with

criminal conduct. In regard to the fifth, his counsel made the point that it did not "charge in express terms some criminal intent on the respondent." The proof was as clear upon this article as it was upon the remaining seven. Thirty-four Senators voted on the several articles, and while the votes on seven of them ranged from 8 to 19 for conviction, every Senator answered "Not guilty" on the fifth. It is fair to conclude, in view of the proof submitted in support of the several articles, that the members of the court approved the position taken by the counsel of Chase on the trial.

It is claimed by those who oppose the doctrine herein advanced that it is contrary to the current of the English and American authorities. This is an error which a careful examination of the cases will not fail to expose. Comparatively little attention has been devoted to the power of impeachment and to the laws and principles which govern it in this country. Popular opinion is more at fault with respect to this subject than perhaps any other within the entire range of the Constitution. It is generally considered a kind of unlimited, undefined, and undefinable power, whose proper office it is to supply all defects of law and to provide all desired remedies respecting civil officers and their official conduct—a patent medicine for the speedy cure of all cases which baffle the skill of the regular practice. It seems strange that this idea should have become so prevalent, for it has not a fair, impartial, well-considered case in either the United States or Great Britain to support it.

The first case of impeachment by the House of Representatives was that of William Blount, a Senator from the State of Tennessee, in 1797. The articles in this case were five in number. "The first charged the said William Blount with intending to carry into effect a hostile expedition in favor of the English against the Spanish possessions of Louisiana and Florida; the second, with attempts to engage the Creek and Cherokee Indians in the said expedition; the third, with having alienated the affections of the said Indians from Ben. Hawkins, an agent of the United States among the Indians, the better to answer his said purposes; the fourth, with having seduced James Cary, an interpreter of the United States among the Indians, for the purpose of assisting in his criminal intentions; and the fifth, with having attempted to diminish the confidence of the Cherokee Indians in relation to the boundary line, and had been run in consequence of the treaty which had been held between the United States and the said Indians." (Annals of Congress, 5th Cong., vol 1, pp. 499, 919.) These charges were set out with great particularity and were declared to be criminal breaches of Blount's "trust and station as a Senator, in violation of the obligations of neutrality, and against the laws of the United States." They were undoubtedly considered as indictable offenses. Why they were so regarded will appear hereafter.

Blount appeared by his counsel, Jared Ingersoll and A. J. Dallas, who entered in his behalf a plea to the jurisdiction of the court. The plea set up four reasons why the court should not entertain jurisdiction of the case, though it appears that the matter was disposed of upon a single point. After argument, the following motion was voted on by the court: "That William Blount was a civil officer of the United States, within the meaning of the Constitution of the United States, and therefore liable to be impeached by the House of Representatives; that as the articles of impeachment charge him with the high crimes and misdemeanors, supposed to have been committed while he was a Senator of the United States, his plea ought to be overruled."

The vote of the Senators upon this motion stood—yeas 11, nays 14; and thereupon the managers of the House of Representatives and the counsel for Blount were informed that—

The court is of opinion that the matter alleged in the plea of the defendant is sufficient in law to show that this court ought not to hold jurisdiction of the said impeachment, and that the said impeachment be dismissed." (Ibid., vol. 2, pp. 2318, 2319.) This is the only point decided in the Blount case.

The next case presented by the House of Representatives was that against John Pickering, judge of the United States District Court of the District of New Hampshire. He was charged with gross misconduct in the trial of a revenue case which grew out of the seizure of a certain vessel lost by the act of the defendant, "regardless of his trust and duty as a judge of the said district court, against the laws of the United States, to the great injury of the public revenue, and in violation of the solemn oath which he had taken to administer equal and impartial justice"; and that he did this "wickedly, intending to injure the revenue of the United States, and willfully to lessen their public credit." This was the substance of three of the articles presented in the case. The other one (there being four in all) charged him with "being a man of loose morals and intemperate habits"; and that he appeared on the bench for the purpose of administering justice "in a total state of intoxication." * * * "and did then and there frequently, in a most profane and indecent manner, invoke the name of the Supreme Being," etc. (Ibid., 1st sess., 8th Cong., 321.)

Judge Pickering did not appear in the case, but his son sent to the Vice President a petition, which was laid before the court, asking for a postponement of the trial, and that, as his father was incapable of defending himself, he might be defended by his friends. The petition alleged, among other things, that "at the time when the crimes wherewith the said John [Pickering] stands charged are supposed to have been committed the said John was, and for more than two years before and ever since has been, and now is, insane, his mind wholly deranged, and altogether incapable of transacting any kind of business which requires the exercise of judgment or the faculties of reason, and, therefore, that the said John Pickering is incapable of corruption of judgment, no subject of impeachment, or amenable to any tribunal for his actions." (Ibid., 328.)

A discussion arose on this petition, in which the managers of the House of Representatives opposed the reception of the petition and the introduction of evidence in support. But the court decided to "hear evidence and counsel respecting the insanity of John Pickering" by a vote of—yeas 18, nays 12. (Ibid., 332.) A number of depositions were read in support of the petition, and it will be difficult to find any fact in the case better supported or more substantially proved than that of the insanity of the respondent. This issue was a grave and pertinent one, and yet the court, after deciding to entertain it and proceeding to its trial, finally disposed of the case as though no such issue had been raised. This conduct of the court is both remarkable and discreditable; but not more so than its final action on the question of the guilt or innocence of the accused. Pickering was impeached for high crimes and misdemeanors. If convicted at all, the Constitution required that it should be for high crimes and misdemeanors, as there were no charges of treason or bribery in the case. In order that the guilt or innocence of the respondent should be directly passed upon by the court, without any improper evasion of its real and legal merits, Senator White moved that the "following question be put to each Member upon each article of impeachment, viz, Is John Pickering, district judge of the district of New Hampshire, guilty of high crimes and misdemeanors upon the charges contained in the —— article of impeachment, or not guilty?" The mover stated that he had borrowed the form of the question from the one used in the case of Warren Hastings. The question was fair in form, and presented the identical issue which the court was about to decide; but it did not suit the purpose of those who were determined to convict; and it was rejected by a vote of—yeas 10, nays 18. Thereupon Senator Anderson moved the following form, viz, "Is John Pickering, district judge of the district of New Hampshire, guilty as charged in the —— article of the impeachment exhibited against him by the House of Representatives?" This form was adopted by—yeas 18, nays 9. (Ibid., 364.) So the court, after entertaining the plea of insanity and neglecting to decide it, on the foregoing evasive and unmeaning question, convicted Pickering on each article, and removed him from office; but this end was reached by a strict party vote. Senator Dayton said of the form of the question and the reason of its adoption: "They were simply to be allowed to vote whether Judge Pickering was guilty as charged—that is, guilty of the facts charged in each article—aye or no. If voted guilty of the facts, the sentence was to follow, without any previous question whether those facts amounted to a high crime or misdemeanor. The latent reason of this course was too obvious.

There were Members who were disposed to give sentence of removal against this unhappy judge, upon the ground of the facts alleged and proved, who could not, however, conscientiously vote that they amounted to high crimes and misdemeanors, especially when committed by a man proved at the very time to be insane, and to have been so ever since, even to the present moment." (Ibid., 365.) If this rule is to be followed, any civil officer may be impeached, convicted, and removed from office, for acts entirely proper and strictly lawful. Who can wonder that members of the court denounced the whole proceeding as "a mere mockery of trial"? Surely, the case reflects no credit on the Senate which tried it, and in one short year the Members of the body seem to have arrived at the same conclusion; for, on the trial of Judge Chase, the form of the question adopted to be propounded to each member of the court was as follows, viz, "Mr. ——, how say you; is the respondent, Samuel Chase, guilty or not guilty of a high crime or misdemeanor, as charged in the —— article of impeachment?" (Ibid., 2d sess., 8th Cong., 664.) It is to be hoped that no one will ever quote the Pickering case as an authority to guide the House in presenting, or the Senate in trying, a case of impeachment. It decided nothing except that party prejudice can secure the conviction of an officer impeached in spite of law and evidence.

The next case carried to the Senate by the House of Representatives has gone into history as one "without sufficient foundation in fact or law." (Hildreth's History of the United States, Vol. V, 254.) The case of Samuel Chase, a judge of the Supreme Court of the United States, is now referred to. Chase was impeached for high crimes and misdemeanors in eight articles. It is not necessary to set out the substance of these articles. One of them was founded on his conduct at the trial of John Fries for treason, before the circuit court of the United States at Philadelphia, in April and May, 1800, more than four years before his impeachment. Five of them were based on his conduct at the trial of James Thompson Callender "for printing and publishing, against the form of the act of Congress, a false, scandalous, and malicious libel," etc., "against John Adams, then President of the United States," etc. The remaining two rested on his charge to the grand jury in and for the district of Maryland in May, 1803, and his refusal to discharge the grand jury in and for the district of Delaware in June, 1800. The articles portrayed the conduct of Judge Chase in as offensive a manner as the committee could command. The bitterness of Randolph appeared in every article, and the enemies of the accused felt confident of his conviction.

Chase answered minutely and elaborately to the several articles, and filed against each the following plea, viz, "And the said Samuel Chase, for plea to the said article of impeachment, saith that he is not guilty of any high crime or misdemeanor, as in and by said first article is alleged; and this he prays may be inquired of by this honorable court in such manner as law and justice shall seem to the court to require." (Ibid., 117.) This was the issue on which the case went to trial. The result was the acquittal of Chase on each article. This result was not owing to a failure of the evidence produced to support the facts alleged; for, so far as at least four of the articles are concerned, the allegations were supported in almost every material point, and had the same form of question been used on the conclusion of the trial as was adopted in the Pickering case, Chase doubtless would have been convicted. The questions propounded in both cases have already been quoted, and a mere glance at them will show how Pickering was convicted and Chase acquitted.

If this case establishes anything, it is that an impeachment can not be supported by any act which falls short of an indictable crime or misdemeanor. This point was urged by the able counsel for Chase with great ability and pertinacity; and the force with which it was presented drove the managers of the House of Representatives to seek shelter under that clause of the Constitution which says: "The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior." (Manager Nicholson's speech, ibid., 597.) This provision, respecting the tenure of the judicial office, it was claimed would authorize the impeachment of a judge for misbehavior which would not support an indictment. The court did not approve this position, and very properly; for as the Constitution provides that civil officers may be impeached for high crimes or misdemeanors, and nothing is known to the law as a high crime or misdemeanor which is not indictable, of course an impeachment for anything else would be improper.

If the position assumed by the managers in the Chase case, that a judge may be impeached for mere misbehavior in office, not amounting to an indictable offense, because such conduct is a breach of the tenure by which the judicial office is held, is correct, what would be its effect on the case which this committee now have in hand? If resort must be had to the clause of the Constitution which prescribes the tenure of the judicial office to justify an impeachment of a judge on account of conduct not known to the law as a crime, does it not reach too far to serve the purposes of those who would impeach the President of the United States because of acts for which he may not be indicted? The President holds his office by a different tenure. The Constitution says: "The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years." (Art II, sec. 1.) This provision of the Constitution stands firmly in the way of those persons who would tone down the term misdemeanor below the indictable standard by resorting to the clause fixing the judicial tenure. Judges hold their respective offices during good behavior; the President holds for a definite time—four years. If, therefore, the argument proves anything in the former case, it proves too much for the latter. If a judge may be impeached for nonindictable conduct because he holds his office during good behavior, it follows

logically that an officer who holds for a term of years can not be so impeached. This exposes the fallacy of the entire argument.

In 1830 the House of Representatives carried another impeachment to the Senate for trial. This was the case against James H. Peck, judge of the district court of the United States for the district of Missouri. The charge against Judge Peck was of high misdemeanor in office. But one article was presented, which set out with great particularity the facts on which the accusation was based and charged that the "said James H. Peck, judge as aforesaid, unmindful of the solemn duties of his station, and that he held the same, by the Constitution of the United States, during good behavior only, with intention wrongfully and unjustly to oppress, imprison, and otherwise injure Judge Edward Lawless, did, thereafter, at a term of the said district court of the United States for the district of Missouri, * * * arbitrarily, oppressively, and unjustly, and under color and pretense that the said Luke Edward Lawless was answerable to said court, * * * as for a contempt thereof," etc.; that he caused Lawless to be unlawfully arrested; that he unjustly, oppressively, and arbitrarily imprisoned said Lawless in the common prison and suspended him from practicing in said court, "to the great disparagement of public justice, the abuse of judicial authority, and to the subversion of the liberties of the people of the United States." (Trial of Judge Peck, 51.)

Peck filed a lengthy answer, in which he justified his conduct. He alleged that "in all the actions and doings of the respondent in the premises he avers that he was supported and justified by the Constitution and laws of the land." This was the issue tendered by the respondent. He did not rest upon any real or supposed weakness of the case, as presented by the House of Representatives, but boldly declared that his conduct was proper, lawful, and right. He elected to present an affirmative defense and to rely upon the strength of his own cause, and the court sustained him. The vote stood "guilty," 21; "not guilty," 22. (Ibid., 474.)

The next and last case of impeachment by the House of Representatives was that of West H. Humphries, judge of the United States district court for the several districts of the State of Tennessee, in 1862. Seven articles were preferred against Humphries. Each of them charged him in direct and indirect terms with the crime of treason, for they all occurred after the secession of South Carolina and the assembling of armed men to enforce and render successful the treasonable position assumed by that State. The South Carolina convention passed the ordinance of secession on the 17th day of December, 1860. The first criminal act laid to the charge of Humphries was alleged to have transpired on the 29th day of December, 1860, at which time he urged the people of Tennessee to secede, and thus made himself a party to the treason which had already levied war against the United States in South Carolina. The third article charged him with having, in conjunction with others, organized armed rebellion and levied war against the United States; and all of the other articles charged treasonable acts upon him. (Congressional Globe, vol. 48, p. 2277.) Humphries was convicted, as it was right he should be. He was charged with a crime against the known law of the land; he was a traitor against the Government of the United States.

Five cases only of impeachment have been presented to the Senate by the House of Representatives. One of them, as has been shown, was disposed of on a plea to the jurisdiction of the court, two resulted in the acquittal of the accused, and two in conviction.

An examination of the English cases will not, it is believed, lead to a different conclusion. Cases can doubtless be found wherein Parliament has exercised this high power in a most extraordinary manner and convicted persons upon charges not indictable. The power of Parliament over the subject is far greater than that which the two Houses of Congress can exercise over the citizen. The power of Parliament embraces impeachments, bills of attainder, and bills of pains and penalties. In times of high party excitement this power has been in some cases most shamefully and oppressively exercised. Excitement arising from other causes has sometimes put this irresponsible engine of good and evil into motion.

* * * * * * *

When we take up the reports of the well-considered case of parliamentary impeachments, cases which were controlled by the judgments instead of the passions of men, we find but little difficulty in ascertaining the doctrines on which they rest. No unbiased mind can be misguided by them. They rest upon the known law of England, and were had for its enforcement. They exhibit the House of Lords sitting as a court and bound by the laws and rules which were observed by the other criminal courts of the realm, a court for the trial of offenders against laws which existed when the offenses were committed, and which looked into those laws to see whether or no the persons arraigned at its bar had violated a "rule of conduct prescribed by the supreme power of the State."

In the year 1724 the Commons impeached the Earl of Macclesfield, lord chancellor of England, of high crimes and misdemeanors, in that he had unlawfully sold offices, masterships in chancery, for his own private gain. He had realized large sums of money from this source. This case is given at length in 16 Howell, State Trials, and the conviction hinged exclusively on the fact that he had committed an indictable offense. Of this case Lord Campbell remarks: "There has been a disposition in recent times to consider that Lord Macclesfield was wrongfully condemned. 'The unanimity of his judges,' says Lord Mahon, 'might seem decisive as to his guilt, yet it may perhaps be doubted whether they did not unjustly heap the fault of the system on one man; whether Parker had not rather, in fact, failed to check gradual abuses, than introduced them by his authority or encouraged them by his example.' I must say that although it is impossible not to pity a man of such high qualities when so disgraced, and it must be acknowledged that, with good luck, notwithstanding all that he did, he might have escaped exposure and preserved an untarnished fame; yet, in my opinion, his conviction was lawful, and his punishment was mild. There can be no doubt that the sale of all offices touching the administration of justice (with the strange exception in favor of common law judges) was forbidden by the statute of Edward VI, and every chancellor who afterwards sold a mastership in chancery must have been aware that he was thereby violating that statute." (Lives of the Lord Chancellors, vol. 4, p. 574.)

The report of this case perfectly sustains this position of Lord Campbell. It establishes beyond doubt that had not Macclesfield's conduct been made criminal by the statute of Edward VI, he would not have been convicted. The action of both houses of Parliament outside of the case confirms this understanding of the record. Hatsell (vol. 4, 358), in a note to the case of Macclesfield, furnishes the following facts respecting the action had for the indemnity of the masters who had purchased offices of the lord chancellor. On the charge being sent to the House of Lords, Hatsell says: "The Commons immediately ordered in a bill for indemnifying the masters in chancery from the penalties of the act of fifth and sixth of Edward VI, chapter 16, against buying and selling offices, upon discovering what consideration they paid for their respective offices." The bill was quickly passed by both houses.

But we need not go outside of the very complete report of the case as given in the State trials to sustain the declaration that the proceedings would have resulted in an acquittal of Macclesfield had the charges made against him not involved indictable crimes. Not one of the several able managers for the Commons pretended to claim a conviction in the absence of proof of an indictable crime. The effort of the managers throughout the entire trial was to show that such crimes had been committed by the accused earl. They claimed that the acts with which he stood charged were crimes at common law, by the statute of 12 Richard II, and of Edward VI; in the language of one of the managers, "criminal by the common law and criminal by act of Parliament."

No unbiased mind can examine this case and arrive at a conclusion respecting it different from that which has been stated above. The doctrine of the case is, beyond all question, that an act, to be impeachable, must also be indictable.

The case was free from all passion, resentment, revenge, or partisan bias. It was well considered, and the vote in favor of conviction was unanimous. The case reflects the law of England respecting impeachments as well as any one that was ever tried by the House of Lords. The rules of law concerning crimes and their proof were observed and adhered to throughout, and Macclesfield was convicted because he was proved guilty of crimes declared by the law, and indictable in the courts of England.

The case of Warren Hastings is another full of instruction. No one can read the 22 articles preferred against Hastings and fail to discover a multitude of crimes prescribed by the law of England. Bribery, peculation, usurpation of powers, official corruption, official oppression, and extortion all appear in the long array of crimes laid to the charge of Hastings, and each of them was indictable in the criminal courts of the realm.

Of these crimes Burke, in his speech on the third day, said:

"As to the crime which we charge, we first considered well what it was in its nature and under all the circumstances which attended it. We weighed it with all its extenuations and with all its aggravations. On that review we are warranted to assert that the crimes with which we charge the prisoner at the bar are substantial crimes; that they are not errors or mistakes, such as wise and good men might possibly fall into; which may even produce very pernicious effects without being, in fact, great offenses. The Commons are too alliberal not to allow for the difficulties of a great and arduous public situation. They know, too well, the domineering necessities which frequently occur in all great affairs. They know the exigency of a pressing occasion which in its precipitate career bears everything down before it, which does not give time to the mind to recollect its faculties, to reenforce its reason, and to have recourse to fixed principles, but, by compelling an instant and tumultuous decision, too often obliges men to decide in a manner that calm judgment would certainly have rejected. We know, as we are to be served by men, that the persons who serve us must be tried as men, and with a very large allowance indeed to human infirmity and human error. This, my Lords, we know, and we weighed before we came before you. But the crimes which we charge in these articles are not lapses, defects, errors of common human frailty, which as we know and feel we can allow for. We charge this offender with no crimes that have not arisen from passions which it is criminal to harbor; with no offenses that have not their root in avarice, rapacity, pride, insolence, ferocity, treachery, cruelty, malignity of temper; in short, in nothing that does not argue a total extinction of all moral principle, that does not manifest an inveterate blackness, dyed ingrain with malice, vitiated, corrupted, gangrened to the very core. If we do not plant his crimes in those vices which the heart of man is made to abhor, and the spirit of all laws human and divine to interdict, we desire no longer to be heard on this occasion. Let everything that can be pleaded on the ground of surprise or error upon those grounds be pleaded with success; we give up the whole of those predicaments. We urge no crimes that are not crimes of forethought. We charge him with nothing that he did not commit upon deliberation; that he did not commit against advice, supplication, and remonstrance; that he did not commit against the direct command of lawful authority; that he did not commit after reproof and reprimand, the reproof and reprimand of those who are authorized by the laws to reprove and reprimand him. The crimes of Mr. Hastings are crimes not only in themselves, but aggravated by being crimes of contumacy. They were crimes not against forms, but against those eternal laws of justice which are our rule and our birthright. His offenses are, not in formal, technical language, but in reality, in substance and effect, high crimes and high misdemeanors." (Burke's Works, vol. 7, pp. 13, 14.)

This is Mr. Burke's own interpretation of his articles against Warren Hastings. Apply to this the doctrine that acts which are malum in se are crimes at common law, and what must become of every attempt to torture this case into a prop to uphold the dangerous doctrine that public officers may be impeached for acts not known to the law as crimes or misdemeanors? It is believed safe to aver that every offense for which a conviction was really claimed by the managers on behalf of the Commons was known to the law of England as an indictable crime.

For some seven years the trial of this ponderous case "dragged its slow length along" before a conclusion was reached. During the whole trial the rules of the criminal law of England were applied to the case. Questions relative to which the Lords had doubts were submitted to the judges. The managers complained of some of the opinions of the judges, but the Lords followed the judges. The end of the case was an acquittal of Hastings. But it would be difficult to understand how this result could have been arrived at if the doctrine that an impeachment may be had for acts not indictable had been countenanced by the Lords, for no one can doubt that the evidence disclosed sufficient in the way of mistakes, errors, and misbehavior to justify a conviction under that doctrine.

The last English impeachment case was that of Visconnt Melville in 1806. A very complete report of this case may be found in 29 How. S. T., 550 to 1482, inclusive, and it will well repay a careful perusal, as it was a thoroughly and calmly considered case, and undoubtedly presents the settled doctrine of the English law of impeachment.

Melville was treasurer of the navy, and the Commons charged him in 10 articles with having "fraudulently, corruptly, and illegally" used, and permitted others to use, the public money intrusted to him for private gain. Sir Samuel Romilly, solicitor general, who was one of the managers for the Commons, in his argument stated the case thus: "My Lords, the crimes imputed to the noble lord are of two kinds; they are offenses against the common law, and a direct breach of a positive act of Parliament. The first and the tenth articles of impeachment relate only to offenses at the common law, and the other articles comprise in them offenses at the common law and likewise

violations of the act of Parliament" (p. 1151). He insisted that Melville's acts were indictable crimes, and in no part of his argument did he claim, nor did any other manager for the Commons claim, that a conviction could be justified on any other ground than that the evidence disclosed an indictable offense. No one during the entire course of the proceeding and trial questioned that such was the law of England.

At the close of the case the Lords sent three questions to the judges, substantially directing them to inform the House whether the facts recited constituted such unlawful proceedings on the part of Melville as "would have been a misdemeanor or punishable by information or indictment." The judges answered that they were not such unlawful acts as could be thus punished (pp. 1469–1471). Melville was thereupon acquitted upon each of the 10 articles preferred against him. And this closes the list of parliamentary impeachments in England.

Cases can be found in parliamentary history in conflict with the doctrine stated. But that it would be wise, safe, or lawful for the House of Representatives to follow such cases is utterly denied. If we are to be guided at all by English cases, let us resort to those which were the best considered, the latest, the most calmly tried, the most enlightened to be found on the records of Parliament, and not those that were molded in the midst of revolution, directed by passion, and decided by unreasoning prejudice.

No precedent should be followed which is not founded in reason. The enlightenment of the present day should not be obscured, nor its progress obstructed, by the follies, mistakes, or passions of men who passed away centuries ago. Who would think of respecting the infamous ruling of Jeffreys in Sidney's case because it was the act of a judge upon the bench? And yet who does not know many of the parliamentary impeachments were as full of passion and as void of law as the court in which Sidney, and Russell, and Armstrong, and Baxter were tried?

The idea that the House of Representatives may impeach a civil officer of the United States for any and every act for which a parliamentary precedent can be found is too preposterous to be seriously considered. However well such precedents may answer present purposes, they may return to plague those who give them countenance. Those who hold to the doctrine that the "Senate is the sole judge" of what are high crimes and misdemeanors, and that "there is no revising court" (Am. Law Reg., Sept., 1867, p. 660), forget how often appeals in this country are carried from Senates, Congresses, Presidents, and courts to the high tribunal of the people at the ballot box, and how inexorable are the mandates of reversal which proceed therefrom. The history of this country is crowded full of such appeals and of their results.

The Constitution provides that the judges, both of the Supreme Court and inferior courts, shall hold their office during good behavior. In the discussion of the case much importance has been attached to this clause. It seems to be the opinion of some that because the Constitution provides that a judge shall hold his office during good behavior the Senate can remove him for any act, regardless of its character or quality, if in its judgment it regards such an act misbehavior. The Senate is absolutely without jurisdiction to determine when a judge has been guilty of misbehavior which deprives him of the right to hold office except on the trial of impeachment proceedings. The only acts for which the Senate can remove a judge is when he is found guilty of treason, bribery, or other high crimes and misdemeanors.

The clause of the Constitution relating to the holding of office during good behavior has nothing whatever to do with the jurisdiction of the Senate of the question of removal. If the clause was entirely eliminated from the Constitution, still if the Senate should find that the accused had been guilty of treason, bribery, or high crimes or misdemeanors its power to adjudge a removal would be complete.

In conclusion, I desire to say that I do not believe Judge Archbald used his official position to aid him in the prosecution of business transactions. If I had any doubt about it, his 28 years' service as an impartial and upright judge would remove it.

T. H. PAYNTER.

OPINION OF MR. SIMMONS.

Mr. SIMMONS. Mr. President, in explanation of my votes, pursuant to consent given by the Senate, on the articles of impeachment against Robert W. Archbald, charging misbehavior in office while he held the office of district judge—an office which he did not hold at the time the Senate voted upon his impeachment—I wish to state I voted "not guilty" on these articles for the reason that I was in doubt as to whether we had the right to impeach the respondent for acts committed in an office which he no longer held, and I felt it my duty to give the respondent the benefit of this doubt.

The thirteenth article of impeachment charged the said Archbald with sundry acts of misconduct while he was district judge, and with sundry acts of misconduct while he was circuit judge, the latter being the office held by him at the time the Senate voted upon the articles of impeachment. I voted "guilty" upon this article because, in my opinion, the charge contained therein was sustained if he was guilty of some of the material acts of misconduct therein charged while he was holding the office of circuit judge.

EIGHT-HOUR LAW.

The PRESIDENT pro tempore. The morning business is closed.

Mr. WARREN. Agreeably with the notice given by me, I now ask to take up Senate bill 26680, the legislative, executive, and judicial appropriation bill.

The PRESIDENT pro tempore. The Senator from Wyoming ask that the Senate take up for consideration House bill 26680. Without objection, it will be so ordered.

Mr. SHIVELY. Will the Senator yield while I put a request to pass a bill on the calendar? It should not take three minutes to pass it.

Mr. WARREN. I do not like to deny the Senator. If it leads to no debate and if I am at liberty to yield, I shall be glad to do so, but I hope there will be no other request of that kind made.

Mr. SHIVELY. I conceive that it will not lead to debate. It is House bill 18787.

The PRESIDENT pro tempore. The Senator from Indiana asks for the present consideration of House bill 18787. Is there objection?

Mr. GALLINGER. Let it be read for information.

The PRESIDENT pro tempore. The Secretary will read the bill.

The Secretary read the bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia.

Mr. BURTON. I should like to inquire what change is made in the existing law by this proposed act?

Mr. SHIVELY. Mr. President, only this change is proposed to be made in the existing law: The courts have decided that workers on dredges engaged in the Government service fall in the category of sailors, and have therefore held them to be subject to maritime jurisdiction. This bill simply proposes to extend the eight-hour principle to the workers on dredges just as it is extended to workers on other public works.

Mr. BURTON. That is, it proposes to extend it to those engaged on dredges employed by contractors who are doing river and harbor work for the Government?

Mr. SHIVELY. Yes.

Mr. BURTON. From what committee does this bill come?

Mr. SHIVELY. From the Committee on Education and Labor.

Mr. CLARKE of Arkansas. Mr. President, the answer of the Senator from Indiana [Mr. SHIVELY] to the question propounded by the Senator from Ohio [Mr. BURTON] makes it necessary for me to ask another question. In the general eight-hour law an exception was made in favor of such work as was done upon the levees and upon the beds of streams in connection with bank protection and other safeguards against overflows. Dredging is a feature of that work at times. I should like to have an opportunity to see to what extent this proposed law would modify that. It is very undesirable to modify it at all, because that work is, in its nature, emergency work. If it would suit the Senator from Indiana to permit this matter to go over for a little while, I should be glad. That would afford me an opportunity to make the comparison between the two, with a view to determining whether this proposed law interferes with the recent action of Congress.

Mr. SHIVELY. Mr. President, when I called up this bill I engaged with the Senator from Wyoming [Mr. WARREN] that there would not be much time consumed in debate on it. Under the circumstances, I feel bound to let the bill go over.

Mr. CLARKE of Arkansas. Very well. I will promise the Senator that I will not unduly delay the consideration of the bill.

The PRESIDENT pro tempore. The bill goes over.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. WARREN. Mr. President, I ask unanimous consent to dispense with the formal reading of the bill and that it be read first for committee amendments, other amendments to follow.

The PRESIDENT pro tempore. The Senator from Wyoming asks unanimous consent that the formal reading of the bill be dispensed with and that the bill be now read for the consideration of committee amendments.

Mr. JONES. Mr. President, it seems to me that the policy we pursued at the last session with reference to offering amendments was a good one, and that the bill should be read, not only for committee amendments, but for all other amendments.

Mr. WARREN. Mr. President, I am perfectly willing to withdraw my request, but, as the Senator understands, unless we pursue this course, the bill will be formally read; the amendments will not be considered on that reading; and, then, there will have to be a second reading for amendments. I think Senators will understand the bill better if we proceed as I have indicated, by dispensing with the formal reading of the bill and considering the committee amendments as we go along.

Mr. JONES. I do not want to object to that part of the request, but the idea I had was that, if the bill is read for amendment, all amendments, whether committee amendments or amendments offered by Senators, might be considered as the reading proceeds; otherwise we will be compelled to wait here until the bill is read clear through and all the committee amendments have been disposed of before any individual amendments can be offered from the floor.

Mr. WARREN. Mr. President, in reply to that statement I have this to say: Oftentimes a Senator—and I think all should be here when the bill is being considered—will find what he seeks in some other part of the bill and he is better equipped to offer his amendment after the committee amendments have been disposed of.

Mr. JONES. I will say to the Senator that I know what amendments I intend to offer, and they are not in the bill.

The PRESIDENT pro tempore. Does the Senator make any motion in regard to it? The question before the Senate is the request of the Senator from Wyoming [Mr. WARREN], that the formal reading of the bill be dispensed with and that it be read for amendment, the committee amendments to be first considered.

Mr. JONES. I do not object at all to dispensing with the formal reading of the bill. I agree that that shall be done; and then I ask that the bill be read for amendment, so that all amendments may be considered.

Mr. WARREN. Mr. President, I withdraw my request.

The PRESIDENT pro tempore. The Senator from Wyoming withdraws his request. The Secretary will proceed with the reading of the bill.

Mr. LODGE. Mr. President, there is no objection, certainly, to dispensing with the formal reading of the bill.

The PRESIDENT pro tempore. The Senator from Wyoming withdrew his request to that effect.

Mr. LODGE. Then, I ask that the formal reading of the bill be dispensed with.

Mr. WARREN. Of course, I am willing that any other Senator shall take charge of the bill if he thinks he is more competent.

Mr. LODGE. It is not a question of competency. I was simply seeking to save the time of the Senate.

Mr. WARREN. The question about the formal reading has come up here several times in the past, and sometimes there seems an insinuation that somebody wants to prevent enough reading of bills, so that I think that we ought to proceed under the rule.

Mr. LODGE. Mr. President, the Senator from Washington, as I understood, simply asked for a modification of the usual request in regard to amendments. Because he has made that request, it seems rather hard that the formal reading of this long bill shall therefore be inflicted upon the Senate.

The PRESIDENT pro tempore. The bill will have to be read at some time.

Mr. LODGE. Of course the bill is read when it is read for amendment. The Chair, of course, is aware, as I am, that there is no provision in the rules for the formal reading. A bill has to be read; and if it is read for amendment it entirely covers the requirement of the rule. The formal reading is a mere habit. After the bill is read formally, then you simply offer the amendments. If you read it for amendment, the same result is obtained.

The PRESIDENT pro tempore. The Secretary will proceed with the reading of the bill.

The Secretary read the bill.

Mr. WARREN. On page 2, lines 24 and 25, is the first amendment of the committee.

The PRESIDING OFFICER (Mr. LODGE in the chair). It will be stated.

The first amendment of the Committee on Appropriations was, under the head of "Legislative," subhead "Senate," in the item of appropriation for the maintenance of the office of the Secretary, on page 2, line 24, after the words "harbor bill," to insert the name "Woodbury Pulsifer," so as to read:

Compiler of Navy Yearbook and Senate report on river and harbor bill, Woodbury Pulsifer, $2,220.

The amendment was agreed to.

Mr. CHAMBERLAIN. Mr. President, I rise to a parliamentary inquiry. I suppose that amendments which Senators may desire to offer will be considered after the committee amendments are disposed of.

Mr. WARREN. There is no such inhibition. The bill is open for amendments to be offered as we go along. The privilege of considering committee amendments first was denied, so that the bill is open to amendment now.

Mr. CHAMBERLAIN. I desire to offer an amendment on page 2, and that was the reason of my inquiry.

Mr. CLARKE of Arkansas. It can be offered at any time.

Mr. WARREN. The next amendment of the committee is on page 7, unless the Senator from Oregon wants to put in an amendment now.

Mr. CHAMBERLAIN. I desire to offer an amendment on the second page.

The PRESIDING OFFICER. It will be read.

The SECRETARY. On page 2, line 15, after the amount "$3,250," and before the semicolon, insert "and $1,250 additional while the office is held by the present incumbent," so as to read:

Chief clerk, $3,250, and $1,250 additional while the office is held by the present incumbent.

Mr. WARREN. Mr. President, I have only this to say: The committee, in considering salary advancements of that kind, have felt indisposed to enter into the field at this time, believing that such advancements should pass over to the next Congress, which will take charge of the appropriations under a different régime.

This increase was not estimated for, but I shall make no point of order on that account. It is for the Senate to decide. But on this and other questions of a similar character I want to have it understood where the committee stands.

The committee has no desire to control arbitrarily these salaries, but it would submit the committee and the Senate itself to criticism to raise a line of salaries at this time, just as the administration and control of one side of the Chamber is about to change to the other.

That is all I have to say.

Mr. CHAMBERLAIN. Mr. President, I desire to say, in reply to the Senator from Wyoming, that this is not an innovation on the practice that the Senate has followed heretofore in recognizing efficient service performed by men who have been in the employ of the Senate for a great many years. This amendment proposes to increase the salary of the Chief Clerk, who has been in the service of the Senate for more than 30 years, and he not only acts as Chief Clerk but he acts as parliamentarian of the Senate as well. It is unnecessary for me to call the attention of the Senate to the efficient service that he has rendered at all times to the Vice President of the United States in matters that come before him. For the same service that he is rendering here, in the House of Representatives, I think, $4,250 or $4,500 is paid. The provision which I suggest ends with the term of the present incumbent, and the salary would then go back to the original amount. I hope the Senate will adopt the amendment.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Oregon [Mr. CHAMBERLAIN].

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in the item of appropriation for clerks and messengers to committees of the Senate, on page 7, line 3, before the word "messenger," to strike out "assistant clerk, $1,440," and, in line 13, after the words "in all," to strike out "$370,940" and insert "$369,940," so as to read:

Assistant clerk $1,800, messenger $1,440; Railroads—clerk $2,220, messenger $1,440; Revolutionary Claims—clerk $2,220, messenger $1,440; Rules—clerk $2,220, assitant clerk $1,800, messenger $1,440; Standards, Weights, and Measures—clerk, $2,220, messenger $1,440; Territories—clerk $2,220, assistant clerk $1,440, messenger $1,440; Transportation and Sale of Meat Products—clerk $2,220, messenger $1,440; Transportation Routes to the Seaboard—clerk $2,220, messenger $1,440; University of the United States—clerk $2,220, messenger $1,440; Woman Suffrage—clerk $2,220, messenger $1,440; in all, $369,940.

The amendment was agreed to.

Mr. WARREN. I ask the Chair to instruct the Secretary to check up all totals, because the amendments that come in from time to time will change the totals. It is better to do that way than to undertake to change them as we go along.

The PRESIDING OFFICER. Without objection, that order will be made, and the Secretary will correct the totals as requested.

The next amendment of the Committee on Appropriations was, on page 7, after line 14, to insert:

For additional amount for the clerk to the Committee on Rules for revising and preparing for publication biennially, under the direction of the committee, the Senate Manual, to be immediately available, $1,000.

The amendment was agreed to.

Mr. PENROSE. I desire to offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Pennsylvania will be stated.

The SECRETARY. On page 7, in lines 22 and 23, it is proposed to strike out the words "two thousand five hundred and ninety-two dollars" where they occur and to insert in lieu thereof "three thousand dollars," so as to read:

Assistant Doorkeeper, $3,000; Acting Assistant Doorkeeper, $3,000.

Mr. WARREN. Mr. President, I wish to say that my remarks just now made as to another amendment are applicable here. I think I ought to say, however, that during the period in which I have had charge of this bill all, or nearly all, of these Senate employees' salaries have been raised, and it has been my pleasure to be one of the most liberal of all Senators. I do not object to the amendment, but I leave it in the same manner that I did the other—for the Senate to vote upon. I suggest, however, to the Senator that it ought to apply to these particular officials on both sides of the Chamber.

Mr. PENROSE. As I understand the amendment, it is applied to both sides.

Mr. CLARKE of Arkansas. Let the amendment be again stated.

The PRESIDING OFFICER. The amendment will be again stated.

The Secretary again read the amendment proposed by Mr. PENROSE.

Mr. CLARKE of Arkansas. What is the effect of that amendment?

Mr. PENROSE. The effect of it is to raise the salaries of the Assistant Doorkeeper and the Acting Assistant Doorkeeper, covering the Democratic and Republican officials in this Chamber holding those places. Their salaries, I understand, have not been changed for 40 years. This is putting them back to the condition which existed when Mr. Bassett held the position of Assistant Doorkeeper of the Senate. I think it is a very fair, meritorious, and well-earned increase.

Mr. CLARKE of Arkansas. What particular circumstance directs attention to these particular positions at this particular time, just at the end not only of a Congress but at the end of an administration?

Mr. PENROSE. The end of the administration has nothing to do with this Congress. When the Senate is organized by our friends on the other side of the Chamber the caucus nominee, who will then be the Assistant Doorkeeper, will be the beneficiary of this salary.

Mr. CLARKE of Arkansas. Nobody ought to be the beneficiary of it unless it is right. What are the grounds for insisting upon this increase at this time—the high cost of living?

Mr. PENROSE. The ground, Mr. President, is that these salaries have not been raised for 40 years.

Mr. CLARKE of Arkansas. Is there any rule which requires salaries to be raised every 40 years?

Mr. PENROSE. No; but a large number of other salaries in connection with positions in and about this Chamber have been raised. As I understand, when Mr. Bassett was here he had an appropriation which made the salary the equivalent of the one which this amendment will make it, and I sincerely hope that the Senator from Arkansas will not make any opposition, or, at least, that he will let the amendment go to conference.

Mr. CLARKE of Arkansas. Very well.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in the item of appropriation for the maintenance of the office of Sergeant at Arms and Doorkeeper, on page 8, line 14, after the word "session," to strike out "$8,440" and to insert "$8,480," so as to read:

Sixteen pages for the Senate Chamber, at the rate of $2.50 per day each during the session, $8,480.

The amendment was agreed to.

The next amendment was, after the amendment just adopted, on page 8, line 15, to insert:

And the accounting officers of the Treasury Department are hereby directed to credit the Secretary of the Senate in the sum of $200 under the appropriation entitled "Salaries, officers, and employees, Senate, 1913," being the amount paid 16 pages of the Senate at the rate of $2.50 per diem for the five days remaining of the month of August, 1912, after the day of adjournment, and for said purpose the sum of $200 is hereby appropriated, said sum to be immediately available.

The amendment was agreed to.

Mr. BRISTOW. I should like to inquire of the chairman of the committee whether there is not an omission of a word in lines 20 and 21, on page 6, "clerk of printing records." Does not that refer to the clerk of a committee?

Mr. WARREN. As to what amendment?

Mr. BRISTOW. The provision on page 6, line 21. Is not the name of a committee omitted at that point?

Mr. WARREN. No; I think not.

Mr. BRISTOW. Just after the provision in reference to the Committee on Post Offices and Post Roads.

Mr. WARREN. "The clerk of printing records." That is not a committee at all, but it is authorized under the law, and a Senate clerk looks after that printing; but it does not really belong to any committee.

Mr. BRISTOW. I refer to the point where it reads:

Assistant clerk, $1,800; messenger, $1,440.

Mr. WARREN. They are the assistants of this man.

Mr. BRISTOW. Where are they employed?

Mr. WARREN. They are employed between the Printing Office and the Capitol, back and forth.

Mr. BRISTOW. They are put in here as though they were committee clerks. That is the reason I made the inquiry.

Mr. WARREN. That may be true; but the item is in the same position where it was originally put, and we saw no reason to change it. It is the existing law.

Mr. SWANSON. Mr. President, I offer the amendment which I send to the desk, to come in on page 29, line 11.

The PRESIDING OFFICER. The Senator from Virginia offers an amendment, which will be stated. The Chair, however, will state to the Senator from Virginia that that point in the bill has not yet been reached. Of course the Senator has a right to offer the amendment to any part of the bill if he so desires.

Mr. WARREN. We shall get to that in a few moments.

Mr. SWANSON. I have a very urgent engagement, and I should like to offer the amendment at this time.

The PRESIDING OFFICER. The amendment proposed by the Senator from Virginia will be stated.

The SECRETARY. On page 29, line 17, after the word "watchmen," it is proposed to strike out "$720" and to insert in lieu thereof "$900."

Mr. SWANSON. Mr. President, I should like to say in this connection that this amendment is to increase the salaries of the 17 men who are designated as watchmen, but who are really policemen for the Library. The policemen of the Capitol get $1,050, and $720 is all that these men have been getting since the completion of the Library, though the cost of living has greatly increased. This increase of salary has been recommended by Maj. Green, who was Superintendent of the Library for a great many years; but, through some oversight, there has been no increase. The men who are watchmen or policemen for the Library are a very fine class of men; it requires men of a high class of efficiency. They work eight hours a day and alternate day and night. It seems to me a salary of $900 is not excessive for these men.

Mr. CLARKE of Arkansas. Mr. President, it seems that we have set out here upon a systematic increase of salaries, without any definite basis upon which to fix them. This just seems to be an opportunity when things are going along easily that anybody who wants anything has only to butt in and get it. The services of the gentlemen who are to be the beneficiaries of this increase, as they are described by the Senator from Virginia [Mr. SWANSON], are not very onerous. The Library is not a place where criminals assemble, these men have no police duties to perform, and they are there but for the very extensive term of eight hours a day.

Mr. WARREN. Will the Senator from Arkansas allow me to interrupt him?

Mr. CLARKE of Arkansas. Certainly.

Mr. WARREN. They are not policemen; they are watchmen.

Mr. CLARKE of Arkansas. I was getting to that. I understood what the Senator from Virginia had said. He said that they were virtually policemen at that place. No policemen are required there; it is not a place where the services of an ordinary policeman are needed. They are simply to direct persons where to go. The service is a very light one, and the compensation provided by law is a very ample one. If it is intended to set out upon a readjustment of salaries, then we ought to do it in a systematic way, so that we may know who is being underpaid and who is being overpaid, and may cut down the salaries of those who are receiving more pay than they ought to have. It is quite the fashion here to take some extremely meritorious case as it is detailed by some particular Senator and make an allowance in one man's favor that when applied and confined to that particular person would not seem excessive on that occasion. Frequently his disabilities are taken advantage of as the foundation of the demand. Then the very next thing you know that circumstance is advanced as a reason why the salary of everybody else should be increased and a comparison is instituted between that particular person and others who render service of equal importance.

I am opposed to these increases without a systematic investigation by some responsible committee of the Senate. I think the amendment is subject to a point of order. It has not been reported from a committee and it is not estimated for. So I make the point of order against its further consideration.

Mr. SWANSON. Mr. President, I desire to occupy simply a few moments. These men receive $60 per month. They have to support their families and they work eight hours a day and alternate in the night work. As I have said, it takes a very fine class of men to fill these positions. More people visit the Library than visit the Capitol. Nearly everybody who comes to Washington as a visitor goes to the Library; it is crowded. The work of these men is heavy all the time, and, upon investigation, I am satisfied they are the poorest paid employees of the Government.

The Senator has well said that it is very easy to get increases in many cases, but I have noticed the increases are generally for the higher officials, and that the men who work and toil have much difficulty in securing proper increases. I do not know whether or not this bill carries an increase for the high officials of the Library, but I have noticed the antagonism to increases is generally directed to the employees who are paid the lower salaries. It takes more than an ordinary man to do this work in the Library.

Mr. CLARKE of Arkansas. If the Senator will permit the Chair to rule upon the point of order, it may not be necessary for me to reply.

Mr. SWANSON. I know the point of order has been interposed. I simply wish to put in the RECORD the reasons why these men should have their salaries increased, as I would not like to let pass unchallenged the statement of the Senator from Arkansas that they are amply compensated. There has been no increase in the salary of these employees, and anybody who visits the Library must know that it is crowded all the time. These men work excessively, and I know of no class of employees of this Government who receive so small a compensation for the class of work they perform as the watchmen at the Library. I hope the Senator will not make any point of order against the amendment.

Mr. CLARKE of Arkansas. I will have to disappoint the Senator; I insist upon the point of order.

The PRESIDING OFFICER. The amendment is clearly obnoxious to the rule. The Chair sustains the point of order.

The next amendment of the Committee on Appropriations was, at the top of page 9, to insert:

For the following for service of the Senate Chamber (heretofore paid from appropriation "Miscellaneous items on account of the Maltby Building"), namely: Messengers—4 at $1,440 each, 1 at $1,000; laborers—3 at $900, 5 at $720 each; in all, $12,760.

Mr. SMITH of Georgia. Mr. President, when the legislative, executive, and judicial appropriation bill was being considered at the last session, objection was made to the Maltby Building pay roll, and I wish to renew the objection. Nothing is going on there that requires any such force, and this is simply a way, it seems to me, of using the employees somewhere else.

Mr. WARREN. Will the Senator permit me a moment?

Mr. SMITH of Georgia. Yes.

Mr. WARREN. These men are now and have been for a long time employed here at the Senate doors.

Mr. SMITH of Georgia. I understand that.

Mr. WARREN. We have closed the Maltby Building, so far as any employees of the Senate are concerned. This amendment only refers to those who are daily employed here.

Mr. SMITH of Georgia. I understand that, Mr. President, and that is just what I am objecting to. I object to carrying on the pay roll as for the Maltby Building men who are not for the Maltby Building. If they are needed here, I do not object to them here, but I object to the system of appropriating for men for one place when in reality we are going to use them somewhere else. I think the bill should show where these employees are to be used, if they are to be used.

Mr. WARREN. Mr. President, I will say to the Senator that his wish is exactly mine and that of the committee, but the bill came over from the House with an entire cutting out of any reference to the Maltby Building. They did not understand the matter. I have here the list of these employees, and if the Senator wishes it to go into the RECORD, it can go in. The intention, of course, is when the next appropriation bill is taken up to have them estimated for among the employees in the regular way, but the committee had no authority to estimate for them, and the House, not understanding the situation, said that they would no longer make provision for the support of the Maltby Building as a Senate proposition, although they intended to use it, perhaps, for the overflow of their Members, and left it out. So the only way we can reach the matter is that provided in the bill. The employees covered by the amendment are not for the Maltby Building. As the Senator will notice, the amendment reads:

For the following for service of the Senate Chamber (heretofore paid from appropriation "Miscellaneous items on account of the Maltby Building"), etc.

I am entirely in sympathy with the Senator's idea about it. If the Senator wishes the list of the employees, I have it here and it can be put in the RECORD.

Mr. SMITH of Georgia. I have said all I care to say about it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, on page 9, line 9, before the word "attendant," to strike out "two messengers, at $1,440 each," and in line 14, after the words "in all," to strike out "$13,500" and to insert "$10,620," so as to make the clause read:

For the following for Senate Office Building under the Sergeant at Arms, namely: Stenographer in charge of furniture accounts and keeper of furniture records, $1,200; attendant in charge of bathing rooms, $1,800; 2 attendants in bathing rooms, at $720 each; 3 attendants to women's toilet rooms, at $720 each; janitor for bathing rooms, $720; 2 messengers, acting as mail carriers, at $1,200 each; messenger for service to the press correspondents, $900; in all, $10,620.

The amendment was agreed to.

The next amendment was, on page 10, line 11, before the word "annual," to strike out "thirty-five" and insert "thirty," and, in line 13, after the word "each," to strike out "$70,000" and insert "$60,000," so as to make the clause read:

Clerks to Senators: For 30 annual clerks to Senators who are not chairmen of committees, at $2,000 each, $60,000.

The amendment was agreed to.

The next amendment was, on page 10, line 15, before the word "stenographers," to strike out "twenty-two" and insert "twenty-three"; in line 17, before the word "minority," to strike out "the three junior" and insert "three"; and in the same line, after the word "each," to strike out "$30,000" and insert "$31,200," so as to make the clause read:

Stenographers to Senators: For 23 stenographers to Senators who are not chairmen of committees, and 3 stenographers to the chairman of three minority committees, at $1,200 each, $31,200.

Mr. BRISTOW. Mr. President, there is one amendment which the Secretary seems to have omitted. Is it proposed that the amendments shall be jumped just as is done when the bill is being read?

The PRESIDING OFFICER. The Chair will call the attention of the Senator to the fact that it was agreed that the Secretary should correct all totals throughout the bill, so that the amendments correcting totals are omitted from the reading.

Mr. BRISTOW. Very well; I was absent at the time that was done.

Mr. WARREN. It is a safer way.

The PRESIDING OFFICER. The question is on agreeing to the amendment stated by the Secretary.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, on page 11, after line 15, to insert:

For removal and expenses incident thereto of the documents now in a rented warehouse to a building or buildings owned by the Government, including the Maltby Building, and building or buildings on squares 634 and 685, to be under the supervision of the Sergeant at Arms of the Senate and Superintendent of the Capitol Building and Grounds, to whom authority is hereby given, to be immediately available, $3,500.

The amendment was agreed to.

The next amendment was, on page 11, after line 23, to insert:

For shoring building or buildings made necessary on account of removal of documents, including material, under the direction of the Superintendent of the Capitol Building and Grounds, to be immediately available, $1,200.

The amendment was agreed to.

The next amendment was, on page 12, line 7, after the word "page," to strike out "$25,000" and insert "$50,000," so as to make the clause read:

For expenses of inquiries and investigations ordered by the Senate, including compensation to stenographers to committees, at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding $1.25 per printed page, $50,000.

The amendment was agreed to.

The next amendment was, under the subhead "Capitol Police," on page 12, line 11, before the word "lieutenants," to strike out "two" and insert "three"; in line 13, before the word "privates," to strike out "thirty-three" and insert "sixty-seven"; and in line 16, after the words "in all," to strike out "$41,250" and insert "$78,150," so as to make the clause read:

For captain, $1,800; 3 lieutenants, at $1,200 each; 2 special officers, at $1,200 each; 67 privates, at $1,050 each; one-half of said privates to be selected by the Sergeant at Arms of the Senate and one-half by the Sergeant at Arms of the House of Representatives; in all, $78,150, one half to be disbursed by the Secretary of the Senate and the other half to be disbursed by the Clerk of the House of Representatives.

The amendment was agreed to.

The next amendment was, on page 12, line 19, after the word "expenses," to strike out "$200" and insert "$300," so as to make the clause read:

For contingent expenses, $300, one half to be disbursed by the Secretary of the Senate and the other half to be disbursed by the Clerk of the House of Representatives.

The amendment was agreed to.

The next amendment was, under the subhead "Joint Committee on Printing," on page 12, line 23, after the word "Printing," to insert the name "George H. Carter," so as to make the clause read:

For clerk to the Joint Committee on Printing, George H. Carter, $3,000.

Mr. SMITH of Georgia. Mr. President, I object to that. It does not seem to me that the name of that clerk ought to be inserted.

Mr. SMOOT. Mr. President——

Mr. WARREN. Just a moment. I simply desire to say that this has been done heretofore in both the House and the Senate, where the man employed is one who is so peculiarly fitted and is so valuable that it is thought best to give him a permanent place. In this case there seemed to be assent on the part of all parties interested on both sides, and that is the reason for the committee inserting the name in this case as they have done in some other cases.

Mr. SMITH of Georgia. I do not think it ought to be done, and I object to the insertion of names in an appropriation that attaches the permanent office by legislative enactment.

Mr. WARREN. It is only for one year.

Mr. SMITH of Georgia. I think the matter ought to be left open for the action of those in authority.

Mr. SMOOT. Mr. President, it would have that effect for only one year. I will say to the Senator there is not a member of the committee of whom I know who is not in favor of putting the name of George H. Carter in the bill. One who has not been on the committee can hardly realize the amount of detail work that has to be taken care of by this committee, and Mr. Carter is eminently fitted and qualified for the place as is no other man in the United States. I understand that Senators on the other side of the Chamber have made the request that his name go in, and I certainly hope the Senator will not object to it. I am positive that if the Senator knew the work the man has to do and the qualifications he has for it, he would not object to it.

Mr. SMITH of Georgia. No doubt if I agreed with that view and were on the committee I would vote for the retention of the services of this gentleman, if I had the privilege of voting for it. I do not know anything about him, and it is not with any view of striking at him. I simply believe that the proper way to legislate is to leave out the name and not undertake to fill the office by legislation instead of by appointment.

Mr. SMOOT. Ordinarily that is true.

Mr. SMITH of Georgia. If I were on the committee and the services of this man were as indicated, I would be in favor of keeping him, and I have no doubt, from what the Senator says, that his services are of that character. I do not mean at all that I am in favor of changing such an employee. I think the good of the service should be first considered and that no changes should be made where the good of the service would be sacrificed; and I merely repeat that it is not in opposition to this gentleman, because I only caught the name here this morning and had before heard nothing about it; but I do not believe in putting in names in legislation.

Mr. OWEN. Mr. President, I observe that the same thing has been done in other cases, for instance, on page 2, where Mr. Pulsifer's name has been put in. I do not know Mr. Pulsifer or Mr. Carter, either one, but I do not think it is good practice, because it makes an exception in these cases, which, I presume, is based in each of these two cases on the peculiar fitness of these gentlemen; but if they should die the place which is expressly for them would be vacant, and this appropriation being made expressly for this individual person, if the person should resign or find it expedient to separate himself from the office for any reason, it would leave no appropriation for the office, because this appropriation is made expressly for Mr. Pulsifer and Mr. Carter.

I do not think it is a good practice, and I do not think the Senate ought to follow the practice. It has been done, I know, in previous years in several cases where the officers have been of extraordinary service, and I had not been inclined to make any objection to it heretofore, but I do not think it ought to be extended. It has now been done in a number of cases. I do not think it is good practice, and I do think the Senator from Georgia is right.

Mr. SMOOT. I want to call the attention of the Senator to the fact that there are in the House two or three cases similar to this, and I am positive good will come from this amendment if it is allowed to stand.

Mr. SMITH of Georgia. How many of those are there?

Mr. SMOOT. I think there are five altogether.

Mr. CLARKE of Arkansas. How many are there in other bills?

Mr. SMOOT. As I remember, five are all there are in all the appropriation bills.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, under the subhead "House of Representatives," on page 15, line 7, after the word "each," to insert "assistant engineer, $1,200"; in line 12, before the word "laborers," to strike out "four" and insert "three"; and in the same line, after the words "in all," to strike out "$40,300" and insert "$40,700," so as to make the clause read:

Under Superintendent of the Capitol Building and Grounds: Chief engineer, $1,900; 3 assistant engineers, at $1,300 each; assistant engineer, $1,200; 24 conductors of elevators, including 14 for service in the House Office Building, at $1,200 each, who shall be under the supervision and direction of the Superintendent of the Capitol Building and Grounds; machinist, $1,300; electrician, $1,200; 3 laborers, at $880 each; in all, $40,700.

The amendment was agreed to.

The next amendment was, under the subhead "Library of Congress," on page 23, line 17, before the word "junior," to insert "one $540," and in line 18, after the words "in all," to strike out "$3,480" and insert "$4,020," so as to make the clause read:

Mail and delivery: Assistant in charge, $1,500; assistants—one $900, one $720, one $540; junior messenger, $360; in all, $4,020.

The amendment was agreed to.

The next amendment was, at the top of page 25, to insert:

To pay Etta J. Giffin, assistant in charge of division for the blind, her salary for the months of July, August, and September, 1912, to be immediately available, $300.

The amendment was agreed to.

The next amendment was, on page 26, line 15, after the word "each," to strike out "three" and insert "four," and, in line 22, after the words "in all," to strike out "$100,780" and insert "$102,580," so as to make the clause read:

Copyright office, under the direction of the Librarian of Congress: Register of copyrights, $4,000; assistant register of copyrights, $3,000; clerks—4 at $2,000 each, 4 at $1,800 each, 7 at $1,600 each; 1 $1,500, 8 at $1,400 each, 10 at $1,200 each, 10 at $1,000 each; 18 at $900 each, 2 at $800 each, 10 at $720 each, 4 at $600 each, 2 at $480 each; 4 junior messengers, at $360 each. Arrears, special service: Three clerks, at $1,200 each; porter, $720; junior messenger, $360; in all, $102,580.

The amendment was agreed to.

The next amendment was, on page 29, line 11, before the word "watchmen," to strike out "sixteen" and insert "seventeen"; in line 13, before the word "each," to strike out "$480" and insert "$540"; in line 16, before the word "charwomen," to strike out "forty-seven" and insert "fifty-two"; in line 17, after the word "electrician," to strike out "$1,200" and insert "$1,500"; and in line 20, after the words "in all," to strike out "$72,185" and insert "$75,245," so as to make the clause read:

Custody, care, and maintenance of Library building and grounds: Superintendent, $5,000; chief clerk, $2,000; clerks—1 $1,600, 1 $1,400, 1 $1,000; messenger; assistant messenger; telephone switchboard operator; assistant telephone switchboard operator; captain of watch, $1,400; lieutenant of watch, $1,000; 17 watchmen, at $720 each; carpenter, painter, and foreman of laborers, at $900 each; 14 laborers, at $540 each; 2 attendants in ladies' room, at $480 each; 4 check boys, at $360 each; mistress of charwomen, $425; assistant mistress of charwomen, $300; 52 charwomen; chief engineer, $1,500; assistant engineers—1 $1,200, 3 at $900 each; electrician, $1,500; machinists—1 $1,000, 1 $900; 2 wiremen, and 1 plumber, at $900 each; 3 elevator conductors, and 10 skilled laborers, at $720 each; in all, $75,245.

The amendment was agreed to.

The next amendment was, under the head of "Civil Service Commission," on page 32, line 25, after the word "year," to strike out "clerks, 1 (in charge) of class 3, 2 of class 2, 3 of class 1, 1 (stenographer and typewriter), $1,000; 5 temporary clerks, at $900 each, needed for one year during the installation of the system; in all, $13,500," and insert: "For the establishment and maintenance of system of efficiency ratings for initial year, $15,000, to be immediately available. The Civil Service Commission shall investigate and report to the President, with its recommendations, as to the administrative needs of the service relating to personnel in the several executive departments and independent establishments in the District of Columbia, and report to Congress details of expenditure and of

progress of work hereunder at the beginning of each regular session."

The amendment was agreed to.

The next amendment was, under the head of "Department of State," on page 35, line 14, after the word "care," to strike out "exchange"; in line 17, after the word "wagon," to insert "including the exchange of same"; and in the same line, after the word "harness," to insert "equipment of drivers," so as to make the clause read:

For miscellaneous expenses, including the purchase, care, and subsistence of horses, to be used only for official purposes, repair and maintenance of vehicles and automobile mail wagon, including the exchange of the same, harness, equipment of drivers, street-car tickets not exceeding $100, and other items not included in the foregoing, $7,000.

Mr. BRISTOW. Is that an automobile mail wagon?

Mr. WARREN. The Senator will notice that the amendment below this refers to the same matter.

Mr. BRISTOW. What I wanted to inquire about was whether that could be construed so as to permit the purchase of an automobile, or is it an automobile truck that is used in handling the mail?

Mr. WARREN. I will say to the Senator that the Library mail has been thus handled for the last two years. The Senator probably has seen the truck coming and going.

Mr. BRISTOW. And it is for that purpose?

Mr. WARREN. It is for that purpose. In fact, some of the carriers in cities have automobile wagons for deliveries.

Mr. SMITH of Georgia. Is the entire paragraph, carrying $7,000, limited to vehicles for Government service, or does it include vehicles for private use?

Mr. WARREN. The bill states in the body of it that they are to be used only for official purposes. If the Senator will notice lines 15 and 16 he will see that it is restricted to public use.

The amendment was agreed to.

The next amendment was, under the head of "Treasury Department," on page 37, line 17, after the words "Chief of division," to strike out "$3,500" and insert "$4,000"; in line 18, after the words "assistant chief of division," to strike out "$2,700" and insert "$3,000"; and in line 23, after the words "in all," to strike out "$87,180" and insert "$87,980," so as to make the clause read:

Division of Bookkeeping and Warrants: Chief of division, $4,000; assistant chief of division, $3,000; estimate and digest clerk, $2,500; 2 principal bookkeepers, at $2,100 each; 12 bookkeepers, at $2,000 each; clerks—14 of class 4, 6 of class 3, 6 of class 2, 3 of class 1; messenger; 3 assistant messengers; messenger boy, $480; in all $87,980.

The amendment was agreed to.

The next amendment was, on page 48, after line 5, to insert:

For purchase of furniture, adding machines, labor-saving machines, tabulating equipment, including exchange, repairs, miscellaneous expenses of installation, cards and filing devices, and for rental of tabulating and card-sorting machines, for use in the office of the Treasurer of the United States, $6,000, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 48, after line 11, to insert:

The Secretary of the Treasury is authorized, from the date of passage of this act until June 30, 1914, to detail such employees in the offices of Assistant Treasurers as may be necessary for duty in the District of Columbia in the office of the Treasurer of the United States.

The amendment was agreed to.

The next amendment was, on page 51, line 19, after the word "Chief," to strike out "$3,000" and insert "$4,500," and in line 23, after the words "in all," to strike out "$15,720" and insert "$16,620," so as to make the clause read:

Secret Service Division: Chief, $4,500; assistant chief, who shall discharge the duties of chief clerk, $3,000; clerks—1 of class 4, 1 of class 3, 2 of class 2, 1 of class 1, 1 at $1,000; assistant messenger; in all, $16,620.

The amendment was agreed to.

The next amendment was, on page 52, line 6, after the words "assay offices," to strike out "$10,000" and insert "$25,000," so as to make the clause read:

For freight on bullion and coin, by registered mail or otherwise, between mints and assay offices, $25,000.

The amendment was agreed to.

The next amendment was, on page 52, line 16, after the words "United States," to strike out "$3,000" and insert "$4,800," so as to make the clause read:

For examinations of mints, expense in visiting mints for the purpose of superintending the annual settlements, and for special examinations, and for the collection of statistics relative to the annual production and consumption of the precious metals in the United States, $4,800.

The amendment was agreed to.

The next amendment was, on page 52, line 20, before the words "of class 3," to strike out "two" and insert "three"; in line 21, before the words "of class 2," to strike out "six" and insert "seven"; in line 22, after the words "of class 1," to insert "3, at $1,000 each"; and in line 24, after the words "in all," to strike out "$43,780" and insert "$49,780," so as to make the clause read:

Office of the Surgeon General of Public Health Service: Surgeon General, $6,000; chief clerk, $2,000; private secretary to the Surgeon General, $1,800; assistant editor, $1,800; clerks—3 of class 4, 3 of class 3, 7 of class 2, one of whom shall be translator, 7 of class 1, 3 at $1,000 each; 3 at $900 each; messenger; 3 assistant messengers; 2 laborers, at $540 each; in all, $49,780.

The amendment was agreed to.

The next amendment was, on page 56, line 3, after the word "machines," to insert "and supplies for same," so as to make the clause read:

For purchase of labor-saving machines and supplies for same, including the purchase and exchange of registering accountants, numbering machines, and other machines of a similar character, including time stamps for stamping date of receipt of official mail and telegrams, and repairs thereto, $8,000.

The amendment was agreed to:

The next amendment was under the subhead "Collecting internal revenue," on page 58, after line 18, to insert:

On and after October 1, 1913, the whole number of collection districts for the collection of internal revenue and the whole number of collectors of internal revenue shall not exceed 67.

The amendment was agreed to.

The next amendment was, on page 59, line 2, after the word "storekeeper-gaugers," to strike out "$2,565,000" and insert "$2,620,000," so as to make the clause read:

For salaries and expenses of 40 revenue agents provided for by law, and fees and expenses of gaugers, salaries and expenses of storekeepers and storekeeper-guagers, $2,620,000.

Mr. POMERENE. I note that on page 58 there is a provision to the effect that the number of collectors of internal revenue shall not exceed 67. Is that a reduction of the number?

Mr. WARREN. No. That is permission to have 4 more than there are now. I will say to the Senator that a year ago the Commissioner of Internal Revenue, in making his report, called attention to the fact that there was at that time and for two years preceding at three or four offices very light receipts, and hence the House thought it best to reduce the number from 67 to 63.

Now, in some way—and I have not tried to locate where the difficulty occurred—there were 4 offices taken out which the commissioner says are among the most valuable of the lot—1 in Pennsylvania, 1 in Texas, the only 1 in South Carolina, and 1 in California. The representation from that office is that it would very sadly cripple the work if they did not have these reinstated, and so we are putting the number back where it was. Of course, it is within the province of the President to reduce the number at any time.

The PRESIDING OFFICER. The question is on agreeing to the amendment which has been stated.

The amendment was agreed to.

The next amendment was, on page 59, line 14, after the word "killed," to strike out "$90,000" and insert "$100,000," so as to make the clause read:

For rent of offices outside of the District of Columbia, telephone service, and other miscellaneous expenses incident to the collection of internal revenue, and for the purchase of necessary books of reference and periodicals for the chemical laboratory and law library, at a cost not to exceed $500, and reasonable expenses for not exceeding 60 days immediately following the injury of field officers or employees in the Internal-Revenue Service while in line of duty, of medical attendance, surgeon's and hospital bills made necessary by reason of such injury, and for horses crippled or killed while being used by officers in making raids, not exceeding $150 for any horse so crippled or killed, $100,000.

The amendment was agreed to.

The next amendment was, under the subhead "Independent treasury," on page 61, line 3, before the words "vault clerk," to insert "assistant cashier, $2,000"; in line 7, before the word "nine," to strike out "2 at $1,600 each" and insert "1 $1,600"; and, in line 11, after the words "in all," to strike out "$83,320" and insert "$83,720," so as to make the clause read:

Office of assistant treasurer at Chicago: Assistant treasurer, $5,000; cashier, $3,000; assistant cashier, $2,000; vault clerk, $2,250; paying teller, $2,500; assorting teller, $2,000; redemption teller, $2,000; change teller, $2,000; receiving teller, $2,000; bookkeepers—1 at $1,800, 2 at $1,500 each; clerks—1 $1,750, 1 $1,600, 9 at $1,500 each, 22 at $1,200 each, 1 $900; hallman, $1,100; messenger, $840; 3 watchmen at $720 each; janitor, $720; 8 money counters and handlers for money laundry machines at $900 each; in all, $83,720.

The amendment was agreed to.

The next amendment was, on page 62, line 5, after the word "messenger," to strike out "$500" and insert "$600," and, in line 7, after the words "in all," to strike out "$32,490" and insert "$32,590," so as to make the clause read:

Office of assistant treasurer at St. Louis: Assistant treasurer, $4,500; cashier, $2,500; paying teller, $2,000; receiving teller, $2,000; vault clerk, $1,800; bookkeeper, $1,500; assorting teller, $1,200; clerks—1 $1,500, 6 at $1,200 each, 2 at $1,000 each; typewriter and stenographer, $1,000; day watchman, $720; night watchman, $720; messenger, $600; 4 money counters and handlers for money laundry machines at $900 each; in all, $32,590.

The next amendment was, under the head of "Mints and assay offices," on page 64, after line 21, to insert:

Mint at Carson, Nev.: Assayer in charge, who shall also perform the duties of melter, $2,250; assistant assayer, $1,500; chief clerk, $1,000; clerk, $1,000; in all, $6,350.

For wages of workmen and other employees, $5,550.

For incidental and contingent expenses, $3,000.

The amendment was agreed to.

The next amendment was, on page 67, after line 11, to insert:

Assay office at Boise, Idaho: Assayer in charge, who shall also perform the duties of melter, $2,250; assistant assayer, $1,600; chief clerk, who shall also perform the duties of cashier, $1,500; assayer's assistant, $1,500; clerk, $1,200; in all, $8,050.

For wages of workmen and other employees, $3,540.

For incidental and contingent expenses, $2,250.

The amendment was agreed to.

The next amendment was, on page 67, after line 18, to insert:

Assay office at Charlotte, N. C.: Assayer and melter, $1,500.

For wages of workmen and other clerks and employees, $900.

For incidental and contingent expenses, $400.

The amendment was agreed to.

The next amendment was, on page 67, after line 23, to insert:

Assay office at Deadwood, S. Dak.: Assayer in charge, who shall also perform the duties of melter, $2,000; clerk, $1,200; assistant assayer, $1,600; assayer's assistant, $1,400; in all, $6,200.

For wages of workmen and other employees, $3,000.

For incidental and contingent expenses, new machinery, etc., $1,500.

Mr. SHIVELY. Permit me to inquire of the chairman of the committee if the amendment involves the creation of new places?

Mr. WARREN. Not at all. It does not make new places. And, furthermore, it reduces the amounts under the current law in all, or nearly all, of these cases. We have not gone a penny beyond the estimate in any one particular, and the estimates are made as to nearly all of these offices on a lower basis than current law.

Mr. SHIVELY. These are not new establishments?

Mr. WARREN. Not at all; every man is in his place and every office is open, and will be until the 1st day of July, under current law.

Mr. SHIVELY. Then how does it become necessary for the Senate to act? Were these omitted in the House?

Mr. WARREN. They were. I will say they were not omitted by not having attention; they were intentionally omitted.

Mr. SHIVELY. What is the reason for their insertion here?

Mr. WARREN. I suppose they preferred that they should be inserted here. The reason for inserting them is that they are most important offices. I imagine that those who opposed them on the other side are not so located as to know the necessities for these offices. They are necessary not only for the business of to-day, but they are of immense help in the development of the country which is giving up its mineral riches to the Nation.

Mr. CRAWFORD. May I ask the Senator from Wyoming a question?

The PRESIDING OFFICER. Does the Senator from Wyoming yield?

Mr. WARREN. Certainly.

Mr. CRAWFORD. Is it not a fact that the Deadwood assay office is practically self-sustaining?

Mr. WARREN. Oh, that might be said of most of them.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee, which has been stated.

The amendment was agreed to.

The next amendment was, on page 68, after line 5, to insert:

Assay office at Helena, Mont.: Assayer in charge, $2,500; chief clerk, who shall also perform the duties of cashier, $1,800; assistant assayer, $1,700; assayer's assistant, $1,400; clerk, $1,400; in all, $8,800.

For wages of workmen and other employees, $4,600.

For incidental and contingent expenses, $3,000.

The amendment was agreed to.

Mr. REED. Is the bill open now to amendment other than committee amendments?

The PRESIDING OFFICER (Mr. BORAH in the chair). It is open to amendment.

Mr. WARREN. I desire to say that the bill is open to amendment from any Senator.

Mr. REED. I offer the following amendment. I would have waited until we reached the particular place in the bill, but I will not be able to stay in the Chamber very much longer.

The PRESIDING OFFICER. The amendment submitted by the Senator from Missouri will be stated.

The SECRETARY. On page 95, after line 5, insert:

To pay the expenses of a commission created by the President to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, $5,000, or so much thereof as may be necessary.

Mr. GALLINGER. I will suggest to the Senator that I think the title is aerodynamical laboratory commission. The Senator should insert the word "commission."

Mr. REED. I will accept that change if it is necessary.

The PRESIDING OFFICER. Without objection, the amendment as modified is agreed to.

The next amendment was, on page 68, line 22, after the word "melting," to insert "and refining," so as to make the clause read:

For incidental and contingent expenses, including new machinery and repairs, wastage in the melting and refining department, and loss on sale of sweeps arising from the treatment of bullion, $60,000.

The amendment was agreed to.

The next amendment was, at the top of page 69, to insert:

Assay office at Salt Lake City, Utah: Assayer in charge, who shall also perform the duties of melter, $2,500; assistant assayer, $1,600; chief clerk, who shall also perform the duties of cashier, $1,600; clerk, $1,400; in all, $7,100.

For wages of workmen and other employees, $4,500.

For incidental and contingent expenses, $3,500.

The amendment was agreed to.

THE PRESIDENTIAL TERM—VOCATIONAL EDUCATION.

Mr. CUMMINS. Has the hour of 2 o'clock arrived?

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. CUMMINS. Mr. President, I should like to renew my request, so often made, for consent that a vote be taken on this joint resolution. I have had some difficulty about fixing a time, in order to meet the views of various Senators. The two who are apparently most interested are not in the Chamber at this time.

Mr. WARREN. Would the Senator prefer to lay aside the joint resolution temporarily, subject to his call, and call it up at some later hour, when those Senators may be here?

Mr. CUMMINS. I do not feel like asking for a unanimous-consent agreement without the presence of the Senator from Vermont [Mr. PAGE] and the Senator from Kansas [Mr. BRISTOW]. Therefore, I will ask unanimous consent that the joint resolution may be temporarily laid aside, with the suggestion, however, that the very moment I can find both the Senator from Kansas and the Senator from Vermont in the Chamber I shall call it up and ask the unanimous consent of the Senate to fix a time to vote upon it.

Mr. WARREN. I assume the Senator would ask for a roll call, so that all might be advised of it at the time——

Mr. CUMMINS. No; I do not think I will promise that.

Mr. WARREN. I ask for no promise.

Mr. CUMMINS. Because it has been up so often and the points of objection seem to have come down to Vermont and Kansas instead of Vermont and Utah. Therefore, if I find those Senators here, I intend to present the request.

Mr. REED. Mr. President, lest the Senator from Iowa should be under any misapprehension, I want to say that I am not going to oppose fixing a date to vote upon the joint resolution at some reasonable time in the future, but I am opposed to the joint resolution in its present form. I will say to the Senator now that I shall hope that the time will not be fixed at too early a date. Does the Senator have in mind a very early date?

Mr. CUMMINS. I may say, in answer to the Senator from Missouri, that I am willing that the time shall be fixed for the 30th of the month, but the Senator from Vermont, who has a unanimous-consent agreement that follows the unfinished business, objects to that date, thinking that it ought to be fixed earlier. He tells me that he will agree that it shall be fixed for the 23d, a week from to-morrow.

The Senator from Kansas [Mr. BRISTOW] is now in the Chamber, and in order to bring the matter to the attention of the Senate, so that we can have it disposed of, I ask unanimous consent that a vote be taken upon this joint resolution on the legislative day of January 23, the joint resolution to be taken up for consideration immediately after the routine morning business is disposed of and continued until we reach a vote upon the joint resolution and all amendments that have been offered or may be offered to it.

The PRESIDING OFFICER. The Secretary will state the request of the Senator from Iowa.

The SECRETARY. The Senator from Iowa asks unanimous consent that on Thursday, January 23, 1913, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States, and before adjournment on that legislative day will vote upon any amendments that may be pending, any amendments that may be offered, and upon the joint resolution through the regular parliamentary stages to its final disposition.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa?

Mr. REED. Mr. President, I do not want to make an objection, and I will not make an objection if the Senator can fix the date three or four days later. I will state my reasons for it. It is somewhat personal. I am obliged to be absent from the Senate for the next six or seven days. I am greatly interested in this question, as I think all Senators ought to be. I would not ask to have the question put off if it was merely to accommodate me personally, but if it could go a day or two longer I would be very thankful to the Senator.

Mr. CUMMINS. I will be very glad to meet the views of the Senator from Missouri. I am only embarrassed by the attitude which the educational bill bears toward this measure. If the Senator from Vermont will consent, I will suggest the following Tuesday; that is, the Tuesday coming after January the 23d, which will be the 28th.

Mr. BRISTOW. Mr. President, I wish the Senator would fix it for Thursday the 30th. Some Senators are likely to be away at that time. The 30th is only a week from the 23d, and it gives more time and fixes a definite date for the disposition of the joint resolution.

Mr. CUMMINS. As I said day before yesterday, I am willing to fix the 30th; but I owe an obligation to the Senator from Vermont in regard to the matter. If he does not object to the 30th, I am willing to accept that date.

Mr. PAGE. Mr. President, this joint resolution, as the Senator from Iowa well knows, has stood as a block to Senate bill No. 3 since as early as August last. Now, the Senator from Missouri asks that the time be extended for a day or two beyond a week from to-morrow. If a day or two days will answer I do not think I will interpose any objection. But if the suggestion of the Senator from Kansas is agreed to it puts off the consideration of Senate bill No. 3 until about the 1st of February, and we all know that at that time the appropriation bills and other matters will probably come, which would be likely to defeat the consideration of Senate bill No. 3.

It does seem to me that in view of the time the joint resolution has been before us, as it has been the blockade to other business since last August, we certainly ought to consent to fix a time, but that we should not extend it more than a day or two, as suggested by the Senator from Missouri.

Mr. REED. I do not understand how the joint resolution necessarily prevents the consideration of the bill the Senator from Vermont is interested in.

Mr. CUMMINS. If the Senator from Missouri will turn to the calendar of to-day and observe the first unanimous-consent order, he will see how they are connected. I beg that he will read it, so that the whole Senate may understand it. I may say, however, that this is the way it stands:

It is agreed by unanimous consent that at the conclusion of the consideration of a joint resolution to amend the Constitution of the United States (S. J. Res. 78), Senate bill No. 3, a bill to cooperate with the States in encouraging instruction in agriculture, the trades and industries, etc., be made a special order and be taken up for consideration.

The Senator from Vermont, therefore, can not bring on his bill until this joint resolution is disposed of. I am sorry he ever got himself into that position, but there it is by unanimous consent, and it can not be changed.

Mr. TOWNSEND. May I suggest to the Senator from Iowa, in fixing upon a date for the consideration of any of these measures, I wish it might be borne in mind that the Senate has already taken action in appointing a committee to attend the memorial services of the late Congressman WEDEMEYER, who will leave here on Saturday, the 25th, and will not be back until Monday night, the 27th. So we will be away during those two days.

Mr. CUMMINS. There are only two days really mentioned—the 23d and the 30th—and neither of them would interfere with the arrangement suggested by the Senator from Michigan. I hope very much the Senator from Vermont will find it consistent with his ideas of duty to consent to the 30th.

Mr. BRISTOW. I want to say to the Senator from Vermont, if the Senator from Iowa will permit me——

Mr. CUMMINS. I yield to the Senator.

Mr. BRISTOW. I was talking with a Senator this morning who is interested in the measure, and he said the 30th would be perfectly safe for him, that he would be back by that time, but he did not want it set for an earlier date. The date suggested by the Senator from Missouri would be Tuesday, the 28th. It is only two days from the 28th to the 30th, and while it might make no difference in the consideration of the joint resolution, it will make a difference in the return of Senators who are away.

Mr. PAGE. If it might be agreed by the unanimous consent that we shall vote upon Senate bill No. 3 on the 3d day of February, I would be content with the suggestion of the Senator from Kansas.

Mr. CUMMINS. Mr. President, I do not believe that the fixing of a date for voting upon this joint resolution ought to be a matter of trade with any other measure pending before the Senate. I think that would be distinctly inappropriate.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I do.

Mr. WORKS. I have a rather special interest in this joint resolution, having introduced the joint resolution in its original form that was reported back from the Judiciary Committee. The joint resolution has been pending here for months as the unfinished business, going away back into the last session of Congress. I have been waiting patiently to have it brought to a vote, and I do hope that the Senator from Vermont and the Senator from Kansas can harmonize their views on this subject so that we may get it to a vote at an early day. I think to put it off until the 30th is longer than it should be delayed, but I am willing to consent to that if it can be agreed upon. However, I think the request of the Senator from Kansas that it shall be postponed until that date is rather unreasonable. It could certainly be fully discussed before that time, and unless there is some special reason for not fixing an earlier date I hope that date will not be insisted upon.

Mr. BRISTOW. It was to suit the desires of some Senators who do not expect to be able to be present during the early part of that week.

Mr. WORKS. The trouble about it is that there are too many Senators who are not here when these matters should be determined, and we are compelled from time to time to postpone the consideration and voting upon measures that ought to be disposed of because some Senators are absent from the Senate. I do not regard that as a very good reason, unless there is some imperative reason for a Senator to be absent. I do not know what the facts may be in this case.

Mr BRISTOW. I have not inquired of the Senator whether he had a good reason for being away. I did not think that that was within my province. He said he would have to be away, and I accepted his word for it.

Mr. PAGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Vermont?

Mr. CUMMINS. I do.

Mr. PAGE. I should like to ask the Senator from Iowa, if he thinks it proper to do so, to withhold his request for a vote and let me prefer a request to the Senate that it give unanimous consent that my bill shall be taken up on the 3d of February.

Mr. CUMMINS. No.

Mr. SMITH of Georgia. The objection to that is this: We can not tell just how long the discussion of the constitutional amendment will take. I am perfectly willing to consent that immediately after disposing of the constitutional amendment on the next legislative day we shall take up the bill of the Senator from Vermont, but that we should agree now that we should dispose of Senate bill No. 3 on February 3, and take up the constitutional amendment on February 1, and we may not have it finished by February 3 or until sometime during February 3, it might leave no time for the discussion of the bill of the Senator from Vermont. It is not my desire to hinder the consideration of that bill. I wish we were able to consider it as soon as we have finished the pending appropriation bill. I will be glad to have it heard as soon as possible, but I do not think we ought to put our agreement in such a shape that it might leave us with no opportunity whatever to discuss that bill.

Mr. WARREN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Wyoming?

Mr. CUMMINS. In just a moment. I will say to the Senator from Vermont that I will do everything in my power to aid the Senator in securing a vote upon the bill to which he refers, but I do not think I ought to withdraw this request for the purpose of having him submit another, understanding that if he is not successful in his request he intends to object to the one that I have proposed.

Mr. SMITH of Georgia. If the Senator from Vermont will put his request in the shape of a consent that Senate bill No. 3 shall be disposed of during the next legislative day after the disposal of the constitutional amendment, I would not object. I desire merely to have it so arranged that we may be sure we will have an opportunity to consider that bill.

Mr. PAGE. I shall be very glad, indeed, to submit that request. It does seem to me as though it would not interfere

with the Senator from Iowa, if all others are willing, that on the next legislative day the Senate shall take up my bill, and that it be agreed to at this time.

Mr. WARREN. If the Senator from Iowa will allow me——

Mr. CUMMINS. I yield to the Senator from Wyoming.

Mr. WARREN. Mr. President, we are now in the middle of this session of Congress. We have not passed a single appropriation bill. There are 16 bills, including the river and harbor and public building bills, that are already begun or will be enacted in the House. All these must be considered in the Senate. I do not think there should be any unanimous-consent agreement to take up a matter and finish it on some legislative day which may run two or three weeks, unless the consideration of appropriation bills is excepted and those special orders not to interfere with consideration of any of these great supply bills.

I have no factious opposition to offer. I want to facilitate business. I want all the appropriation bills to pass and I want these other measures to have full attention.

If it should be proposed to vote upon the calendar day of the 30th, or at some hour the Senate would commence voting and finish in that day; but even then we ought to except the appropriation bills. I think it is my duty to call the attention of the Senate to the condition we are in.

I wish to say, furthermore, that no committee of the Senate can be blamed for the tardiness of the appropriation bills. The reasons are obvious. We have been tied up as a court. Senators had, in duty to their conscience and their constituents, to act as a jury. They have been forbidden to leave the Chamber except for a few moments at a time. The legislative appropriation bill, which is the most complicated of all, was reported on the very day that we had decided on finishing the other matter, so there can be no just criticism of the committee.

I think there should be help from all sides to the various committees. I do not speak for the Committee on Appropriations alone, but here are the Army appropriation bill, the naval appropriation bill, the agricultural appropriation bill, and others that all Senators are interested in. I beg them to take this into consideration, and in fixing dates to except the appropriation bills. As far as I am concerned, with those which I have charge of, I will say that I shall try to stand in no Senator's way, and I shall try to facilitate the business of the Senate.

Mr. PAGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Vermont?

Mr. CUMMINS. I yield to the Senator from Vermont.

Mr. PAGE. I should be very glad indeed to make the exception suggested by the Senator from Wyoming—that this bill shall not interfere with appropriation bills—if I may do so safely.

Mr. President, with that exception I ask unanimous consent that on the next legislative day following the consideration of Senate joint resolution No. 78, immediately at the conclusion of that, we shall take up Senate bill No. 3, and that not later than the conclusion of that legislative day the Senate shall proceed without further debate to vote upon any amendment that may be pending, or amendments that may be offered, and upon the bill, through the regular parliamentary stages to its final disposition.

Mr. WARREN. My attention was diverted. Did the Senator except the consideration of appropriation bills?

Mr. PAGE. Certainly; I except the consideration of appropriation bills.

Mr. GALLINGER. Not to interfere with appropriation bills.

Mr. WARREN. Not to interfere with appropriation bills.

The PRESIDING OFFICER. The Chair understands that the matter before the Senate is the request preferred by the Senator from Iowa.

Mr. CUMMINS. I understand the Senator from Vermont really adds that to the request I made, so that it may all be adopted at the same time.

Mr. PAGE. I am perfectly willing that that shall be done.

Mr. WARREN. Will the Senator from Iowa, as long as we give so much time, make it the calendar day and finish it up on that day?

Mr. CUMMINS. May I suggest to the Senator from Wyoming that I have tried to do that, and I meet with objection. Therefore I am driven to the legislative day. But there is no reason why it should take up a very great deal of time.

Mr. WARREN. I have no interest except what other Senators have.

Mr. CUMMINS. I know.

Mr. WARREN. The Senator will understand the embarrassment of the various committees.

Mr. CUMMINS. I can.

The PRESIDING OFFICER. The Secretary will state the request of the Senator from Vermont.

The SECRETARY. The Senator from Vermont asks unanimous consent that on Thursday, January 30, 1913, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States, and before adjournment on that legislative day will vote upon any amendment that may be pending, any amendment that may be offered, and upon the joint resolution, through the regular parliamentary stages, to its final disposition.

Further, that on the day following the disposition of Senate joint resolution 78, and immediately upon the conclusion of the routine morning business on that day, the Senate will proceed to the consideration of Senate bill 3, to cooperate with the States in encouraging instruction in agriculture, the trades and industries, and so forth, and that before adjournment on that day will vote upon any amendment that may be pending, any amendment that may be offered, and upon the bill, through the regular parliamentary stages, to its final disposition; such consideration, however, not to interfere with the consideration of appropriation bills.

Mr. SMITH of Georgia. That is not the agreement. I can not accept that, Mr. President. The Secretary did not read "legislative day." He said "on that day" as to Senate bill 3.

The SECRETARY. In the second paragraph read "and that before adjournment on that legislative day."

Mr. REED. Mr. President, a parliamentary inquiry. There is at present a unanimous-consent agreement that Senate bill 3 shall be made a special order and taken up for consideration immediately after the disposition of joint resolution 78. Is not the proposition now, in fact, a variation of that unanimous-consent agreement previously made, and if it is a variation, can it be made by unanimous consent?

I am not doing this, I want to say, to bar the Senator from Vermont from the right to have his bill considered, because I think he has been very patient, long suffering, slow to wrath, and of great kindness, but I do think that we are in a doubtful position.

Mr. SMOOT. Very doubtful, indeed.

Mr. CUMMINS. It does change the present situation very much. In the first place, there is no unanimous consent upon this joint resolution, and, in the second place, there is no unanimous consent at the present time for a vote upon Senate bill 3.

Mr. SMOOT. There is, however, a unanimous-consent agreement that Senate bill No. 3 shall follow immediately after the disposition of the joint resolution; that it shall be made a special order and be taken up for consideration immediately thereafter.

Mr. CUMMINS. But not to proceed to vote.

Mr. SMOOT. No. The unanimous-consent agreement asked for now is a change in that unanimous-consent agreement.

Mr. CUMMINS. That is the only addition to the unanimous-consent agreement now standing.

Mr. SMOOT. No unanimous consent can be changed by a unanimous consent. It was so held the other day.

Mr. CRAWFORD. This does not conflict with it in the slightest degree.

Mr. SMOOT. It is adding to it and making a change.

Mr. CRAWFORD. Both can stand without conflicting with each other.

Mr. REED. But there is a conflict, because it makes——

The PRESIDING OFFICER. Senators will address the Chair.

Mr. REED. It does conflict, because it now interjects the proposition to make it subject to the consideration of the appropriation bills, which is an absolute modification of the present unanimous consent.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do.

Mr. SUTHERLAND. It seems to me that there is absolutely no conflict between the unanimous-consent order that has already been entered and the one which is now requested. The unanimous-consent agreement now is that at the conclusion of the consideration of this joint resolution Senate bill No. 3 shall be made a special order and be taken up for consideration. That unanimous-consent agreement would be entirely satisfied if immediately after the disposition of the joint resolution the Senate would proceed to the consideration of Senate bill No. 3 for five minutes and then adjourn. That would be the end of that unanimous-consent agreement.

Now, the request is, first, by unanimous consent to take up the joint resolution and vote upon it before the end of the legis-

lative day of January 30, and then upon the day following that, to take up Senate bill No. 3 for consideration and vote before the end of that legislative day. So, before the second subdivision of this unanimous-consent agreement is entered upon the unanimous-consent agreement already upon the calendar will have been disposed of. I can not see that there is any conflict whatsoever.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from New Hampshire?

Mr. CUMMINS. I do.

Mr. GALLINGER. I suggest to the Senator from Utah that while his suggestion is correct, if the bill the Senator from Vermont is interested in should be considered briefly and then the Senate should take up something else it would be displaced, but if it is considered during the day it then becomes the unfinished business. So the Senator from Vermont does not lose his rights because of that fact.

Mr. SUTHERLAND. No; but the point I make is that there is no conflict between the two.

Mr. GALLINGER. No; I think not, either.

Mr. SUTHERLAND. The Senate may certainly unanimously agree to do a particular thing and then unanimously agree to do something in addition to that particular thing. It can not agree by unanimous consent to do something in conflict with a unanimous-consent agreement. That is the point I am making.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Missouri?

Mr. CUMMINS. I do.

Mr. REED. I want to ask the Senator from Utah a question, if he will permit me. I do not agree with the Senator's last suggestion, but is not this the situation: We absolutely agree in the present unanimous-consent arrangement that at the conclusion of the consideration of joint resolution No. 78 we will consider Senate bill No. 3? That is unqualified and absolute and positive. Now, it is proposed to say we will consider it subject to appropriation bills. That is a qualification distinctly taking away from the previous agreement, so that, as the resolution now stands, it would be our duty to take up that matter and consider it. If the proposition now before the Senate is agreed to, then we would not be in the position of unqualifiedly taking it up, but we would take it up subject to the superior and dominant rights of appropriation bills. I ask the Senator if he does not think that is the situation? I want to get it right; that is all.

Mr. PAGE. Allow me——

Mr. SUTHERLAND. If the Senator from Vermont will permit me to answer the question, I was not directing my suggestions to that particular phase of the matter, the Senator will recall. I think there is much in the suggestion which the Senator now makes. Perhaps in that particular it may be regarded as a change or modification of the present unanimous-consent agreement.

Mr. SMITH of Georgia. I should like to make this further suggestion to the Senator from Vermont——

Mr. SUTHERLAND. If the Senator from Georgia will permit me, I suggest to the Senator from Vermont that it might be well if he would withdraw that part of his request.

Mr. SMITH of Georgia. I should like to ask the Senator from Utah if there is not this further trouble: We go to bill No. 3 under a unanimous-consent agreement that we will continue upon it during the legislative day until it is finished; we also have the exception that appropriation bills can come in at any time and stop it. We might be on appropriation bills and this bill, then, for a number of days without any morning hour. We would take the appropriation bills, then, in that legislative day, and we would have to finish the appropriation bills also during the legislative day. The injection of appropriation bills into the agreement would cause us a great deal of confusion.

Now, I should like to make this suggestion to the Senator from Vermont: I want to say to him that there is not the slightest desire on this side to stop action on this bill——

Mr. PAGE. Mr. President——

Mr. SMITH of Georgia. One moment. All I desire is that we should have just a few hours to discuss it. We can take it up at once; but it is stopped by the joint resolution proposing a constitutional amendment. If we set a day and get rid of the joint resolution relative to the constitutional amendment, then the bill of the Senator from Vermont becomes the unfinished business; we can take it up the very next day at 2 o'clock; and we shall have from 2 o'clock to 4 o'clock, and in all probability can finish it. As there is no desire to prolong debate and no desire to interfere with it, I do not really think it needs any unanimous consent at all to secure consideration.

Mr. PAGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Vermont?

Mr. CUMMINS. I do.

Mr. PAGE. I want to say that, in view of the very kindly attitude toward my bill, I want to withdraw my request.

Mr. CUMMINS. Now I ask that the request which I made may be put.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa?

Mr. JONES. I simply want to find out what date was fixed for a vote, whether it was the 25th or the 30th.

Mr. CUMMINS. January 30.

Mr. JONES. Very well.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa? The Chair hears none, and it is so ordered.

Mr. REED. Mr. President, this unanimous-consent agreement has not been passed upon, has it?

The PRESIDING OFFICER. It has been.

Mr. REED. In what form? I stopped and turned to answer a question. I thought I was watching the proceedings, and I should like to know what has been done.

The PRESIDING OFFICER. The Secretary will read the request of the Senator from Iowa, which has been agreed to.

The Secretary read as follows:

It is agreed by unanimous consent that on Thursday, January 30, 1913, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of Senate joint resolution 78, proposing an amendment to the Constitution of the United States, and before adjournment on that legislative day will vote upon any amendment that may be pending, any amendments that may be offered, and upon the resolution, through the regular parliamentary stages, to its final disposition.

Mr. REED. The agreement only applies to one measure?

The PRESIDING OFFICER. That is all.

Mr. REED. Very well.

The PRESIDING OFFICER. Does the Senator from Iowa now ask to have the unfinished business temporarily laid aside?

Mr. CUMMINS. In view of the unanimous consent just given, I ask that the joint resolution be temporarily laid aside.

The PRESIDING OFFICER. The Senator from Iowa asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and it is so ordered.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in the Committee of the Whole, resumed the consideration of the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The next amendment of the Committee on Appropriations was, under the subhead "Government in the Territories," on page 69, line 16, before the words "of Alaska," to strike out "District" and insert "Territory," so as to make the clause read:

Territory of Alaska: Governor, $7,000; 4 judges, at $7,500 each; 4 attorneys, at $5,000 each; 4 marshals, at $4,000 each; 4 clerks, at $3,500 each; in all, $87,000.

The amendment was agreed to.

The next amendment was, on page 69, line 23, after the word "business," to strike out "rent of offices and quarters in Juneau" and insert "repair and preservation of executive mansion," so as to make the clause read:

For incidental and contingent expenses, clerk hire, not to exceed $2,250; janitor service, not to exceed $900; traveling expenses of the governor while absent from Juneau on official business; repair and preservation of executive mansion, stationery, lights, and fuel, to be expended under the direction of the governor, $7,150.

Mr. SHIVELY. Mr. President, I want to inquire why the words "repair and preservation of executive mansion" are employed? Is that a Government building now? Have we had a Government building constructed at Juneau within the last year?

Mr. WARREN. There is a building erected there. It was impossible to rent proper quarters, and appropriations were made for the building. I think it is called the executive mansion.

Mr. SHIVELY. Is this building owned by the Government?

Mr. WARREN. It is owned by the Government.

Mr. SHIVELY. And has been procured within the last year?

Mr. WARREN. No; it was provided for, I think, two years ago and has since been erected. That is my remembrance.

Mr. SHIVELY. I notice that in the current appropriation—that is, the appropriation for the present year—provision is simply made for rent.

Mr. WARREN. We took that provision out, because we presumed when we appropriated last year, though we were not certain, that they would have to pay rent for a part of the year; but now I assume that they have moved in and that it is not necessary to further provide for rent.

Mr. CUMMINS. Will the Senator from Wyoming allow me to ask him a question, as I was absent attending a committee meeting, and therefore do not know just what has happened?

Mr. WARREN. Certainly.

Mr. CUMMINS. Is the Senate now adopting any part of this bill or simply the amendments offered by the committee?

Mr. WARREN. The Senate is adopting or rejecting all amendments of the committee, and it is also considering amendments offered by Senators.

Mr. CUMMINS. But the whole bill will be open for amendment after the present order?

Mr. WARREN. I, of course, shall not object to a reasonable turning back, if it be necessary, to accommodate Senators.

Mr. CUMMINS. Very well.

Mr. WARREN. I assume that the Senator does not want to go back and reconsider, but to go back——

Mr. CUMMINS. I do not know that I want to go back at all; but there is an amendment that I desire to offer on page 87.

Mr. GALLINGER. We have not reached that point.

Mr. WARREN. The Senator can offer his amendment at any time he wishes.

Mr. CUMMINS. I will wait until the committee amendments are finished, because I think the committee ought to have its chance.

The PRESIDING OFFICER (Mr. PAGE in the chair). Without objection, the pending committee amendment is agreed to.

The next amendment of the Committee on Appropriations was, on page 70, after line 2, to insert:

For legislative expenses, namely: Salaries of members, $21,600; mileage of members, $6,500; salaries of employees, $5,160; printing of laws, $5,000; rent of legislative halls and committee rooms, $2,000; stationery, supplies, printing of bills, reports, etc., $5,000; in all, $45,260, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 70, line 18, after the sum "$2,000," to insert "for traveling expenses of the governor while absent from the capital on official business, $500," and in line 19, after the words "in all," to strike out "$3,000" and insert "$3,500," so as to make the clause read:

For contingent expenses of the Territory of Hawaii, to be expended by the governor for stationery, postage, and incidentals, $1,000, and for private secretary to the governor, $2,000; for traveling expenses of the governor while absent from the capital on official business, $500; in all, $3,500.

The amendment was agreed to.

The next amendment was, under the head of "War Department," on page 70, line 23, after the sum "$5,000," to insert "assistant and chief clerk, $4,000," and, on page 71, after the words "in all," at the end of line 16, to strike out "$144,160" and insert "$148,160," so as to make the clause read:

Office of the Secretary: Secretary of War, $12,000; Assistant Secretary, $5,000; assistant and chief clerk, $4,000; private secretary to the Secretary, $2,500; clerk to the Secretary, $2,000; stenographer to the Secretary, $2,000; clerk to the Assistant Secretary, $2,400; assistant chief clerk, $2,400; disbursing clerk, $2,750; appointment clerk, $2,250; four chiefs of division, at $2,000 each; superintendent of buildings outside of State, War, and Navy Department Building, in addition to compensation as chief of division, $500; chief telegrapher, $1,800; clerks—4 of class 4, 5 of class 3, 15 of class 2, 19 of class 1, 6 at $1,000 each, 1 $900; foreman, $1,200; carpenter, $1,200; chief messenger, $1,000; carpenter, $1,080; skilled laborer, $1,080; 6 messengers; 7 assistant messengers; 2 assistant messengers, at $600 each; telephone switchboard operator; assistant telephone switchboard operator; engineer, $900; assistant engineer, $720; fireman; 4 watchmen; 5 watchmen, at $660 each; 8 laborers; hostlers—1 $600, 1 at $540; elevator conductors—1 at $600; 4 charwomen; in all, $148,160.

The amendment was agreed to.

The next amendment was, on page 74, line 11, after the words "Chief clerk," to strike out "$2,000" and insert "$2,250"; in line 13, before the words "of class 3," to strike out "eleven" and insert "thirteen"; in the same line, before the words "of class 2," to strike out "twenty-six" and insert "twenty-four"; and in line 22, after the words "in all," to strike out "$166,108" and insert "$166,758," so as to make the clause read:

Office of the Surgeon General: Chief clerk, $2,250; law clerk, $2,000; clerks—13 of class 4, 13 of class 3, 24 of class 2, 32 of class 1, 10 at $1,000 each, 3 at $900 each; anatomist, $1,600; engineer, $1,400; 3 firemen; skilled mechanic, $1,000; 2 messengers; 10 assistant messengers; 3 watchmen; superintendent of building (Army Medical Museum and Library), $250; 6 laborers; chemist, $2,088; assistant chemist, $1,500; principal assistant librarian, $2,250; pathologist, $1,800; microscopist, $1,800; assistant librarian, $1,800; 4 charwomen; in all, $166,758.

The amendment was agreed to.

The next amendment was, on page 75, line 18, after the words "Chief clerk," to strike out "$2,000" and insert "$2,250," and in line 23, after the words "in all," to strike out "$103,820" and insert "$104,070," so as to make the clause read:

Office of the Chief of Engineers: Chief clerk, $2,250; 2 chiefs of division, at $2,000 each; clerks—8 of class 4, 11 of class 3, 13 of class 2, 16 of class 1, 10 at $1,000 each, 11 at $900 each; 6 messengers; 3 assistant messengers; 2 laborers; in all, $104,070.

The amendment was agreed to.

The next amendment was, on page 76, line 16, before the words "of class 3," to strike out "three" and insert "seven"; in the same line, before the words "of class 2," to strike out "ten" and insert "eleven"; in line 17, before the words "of class 1," to strike out "nineteen" and insert "fourteen"; and in line 19, after the words "in all," to strike out "$88,430" and insert "$90,230," so as to make the clause read:

Office of the Bureau of Insular Affairs: Law officer, $4,500; chief clerk, $2,250; clerks—10 of class 4, 7 of class 3, 11 of class 2, 14 of class 1, 15 at $1,000 each; 3 messengers; 2 assistant messengers; 4 laborers; 2 charwomen; in all, $90,230.

The amendment was agreed to.

Mr. GALLINGER. Mr. President, I offer an amendment which I send to the desk, and I desire to say a word in reference to it.

The PRESIDING OFFICER. The amendment proposed by the Senator from New Hampshire will be stated.

The SECRETARY. On page 79, line 20, before the word "each," it is proposed to strike out "$720" and to insert in lieu thereof "$900," and on page 80, line 8, before the word "each," to strike out "$720" and to insert in lieu thereof "$900."

Mr. GALLINGER. Mr. President, my amendment relates to what are called park watchmen, more properly park policemen, and I want to read just a few words from a report made by Col. Spencer Cosby, who is in charge of the parks here. He says:

The Washington park policeman is probably the poorest paid man in the United States who has police duty to perform. He has practically the same duties to perform as the Metropolitan police. The same intelligence and physical qualifications are required of him. His moral character must be good; his discipline is much the same. He has as many arrests to make as the average policeman. He runs the same risks as to injury from vicious people as the man doing duty on the street. * * * He has a uniform to buy once a year in order to look neat, and yet the pay of these policemen is only $60 per month. The Government requires the street railway companies to pay their crossing police officers $75 per month for a great deal less exacting and laborious duty.

The fact is, Mr. President, that at the last session the pay of crossing policemen was increased to $100 per month, which they are now receiving. In a letter from Col. Cosby to the Committee on the District of Columbia, dated December 14, 1912, he says:

I desire to call the special attention of your committee to the changes asked for under the head of park watchmen, and to the request that the designation be changed to park police. In my last annual report is contained the following statement:

"The park watchmen receive only $60 a month and their uniforms, the allowance for which amounts to a little less than $5 per month. I do not know of any other men doing police duty in a large city who are as poorly paid. The Metropolitan police of this city, the crossing police, and the Capitol police all receive much higher salaries. This inequality should be removed and the pay of the park watchmen increased."

I believe it would be only fair and equitable to increase the pay of the privates of park police to $900 per year each.

The fact is, Mr. President, and I have a pretty correct knowledge of this matter, that here are men performing police duty and working long hours, and they are paid the miserable pittance of $60 per month. How on earth they live is beyond my comprehension. I should very much like to have this amendment agreed to and let it go into conference. If it fails, then I have done my duty and the Senate has done its duty. I trust that it will be permitted to become an amendment to the bill, and that it will be looked into very carefully before the bill finally becomes a law.

Mr. SMOOT. Mr. President, so that the record may be straight, I desire to call the Senator's attention to the fact that on page 80 there is a provision appropriating $2,800 "for purchasing and supplying uniforms to park, monument, and bridge watchmen." I do not know that the Senator's attention has been called to that. I understand that these employees do not furnish their uniforms, but they are furnished out of the appropriation to which I have just called the Senator's attention.

Mr. GALLINGER. Mr. President, that is news to me, for the reason that Col. Cosby states that they do purchase their uniforms; but whether they do or not, admitting that their uniforms are furnished—and it is possible that some change may have been made in the last year or two—admitting that to be the fact, I submit that to ask men to go into our parks to guard the parks and to arrest offenders, to risk their lives, and to work long hours for $60 a month at the present cost of living is bordering on what I think is inhuman.

Mr. SMOOT. I simply called the attention of the Senator to this matter so that the record might be straight, not that I objected to the increase.

Mr. GALLINGER. I am very glad the Senator did so. I was not aware of the fact to which he called attention.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from New Hampshire.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "Navy Department," on page 82, line 2, before the words "of class 2," to strike out "four" and insert "five"; in line 3, before the words "of class 1," to strike out "five" and insert "six"; and in line 8, after the words "in all," to strike out "$75,060" and insert "$77,660," so as to make the clause read:

Office of the Secretary: Secretary of the Navy, $12,000; Assistant Secretary of the Navy, $5,000; chief clerk, $3,000; private secretary to Secretary, $2,500; clerk to Secretary, $2,250; clerk to Assistant Secretary, $2,000; disbursing clerk, $2,250; stenographer, $1,800; clerks—4 of class 4, 2 of class 3, 5 of class 2, 6 of class 1; 1, $1,100; 4 at $1,000 each; stenographer, $1,200; telegraph operator, $1,100; 2 copyists; carpenter, $900; 4 messengers; 4 assistant messengers; 3 laborers; 3 messenger boys, at $600 each; messenger boy, $420; messenger boy, $400; telephone switchboard operator; assistant telephone switchboard operator; in all, $77,660.

The amendment was agreed to.

The next amendment was, on page 84, line 23, after the figures "$2,000," to insert "chief clerk, $1,800," and in line 25, before the word "one," to strike out "two at $1,600 each," and insert "one $1,600," so as to read:

Hydrographic Office: Hydrographic engineer, $3,000; assistant, $2,200; assistant, $2,000; chief clerk, $1,800; nautical experts—one $1,800, one $1,600, one $1,400, three at $1,200 each.

The amendment was agreed to.

The next amendment was, on page 36, line 17, to change the total from $102,700 to $102,900.

The amendment was agreed to.

The next amendment was, on page 86, line 13, after the word "publications," to insert "books of reference," so as to make the clause read:

For purchase of copperplates, steel plates, chart paper, packing boxes, chart portfolios, electrotyping copperplates, cleaning copperplates; tools, instruments, power, materials for drawing, engraving, and printing; materials for and mounting charts; reduction of charts by photography; photolithographing charts for immediate use; transfer of photolithographic and other charts to copper; care and repairs to printing presses, furniture, instruments, and tools; extra drawing and engraving; translating from foreign languages; telegrams on public business; the preparation of Pilot Charts and their supplements, and the printing and mailing of the same; purchase of data for charts and sailing directions and other nautical publications; books of reference, works and periodicals relating to hydrography, marine meteorology, navigation, surveying, oceanography, and terrestrial magnetism, $26,000.

The amendment was agreed to.

The next amendment was, on page 87, line 4, after the word "established," to strike out "$11,000" and insert "$14,000," so as to make the clause read:

Contingent expenses of branch offices at Boston, New York, Philadelphia, Baltimore, Norfolk, Savannah, New Orleans, San Francisco, Portland (Oreg.), Portland (Me.), Chicago, Cleveland, Buffalo, Duluth, Sault Ste. Marie, Seattle, Panama, and Galveston, including furniture, fuel, lights, works and periodicals relating to hydrography, marine meteorology, navigation, surveying, oceanography, and terrestrial magnetism, stationery, miscellaneous articles, rent and care of offices, care of time balls, car fare and ferriage in visiting merchant vessels, freight and express charges, telegrams, and other necessary expenses incurred in collecting the latest information for the Pilot Charts, and for other purposes for which the offices were established, $14,000.

The amendment was agreed to.

The next amendment was, on page 87, line 5, after the word "offices," to strike out "$17,960" and insert $22,000," so as to make the clause read:

For services of necessary employees at branch offices, $22,000.

The amendment was agreed to.

Mr. CUMMINS. Mr. President, I offer the amendment which I send to the desk, to come in on page 87.

The PRESIDING OFFICER. The Senator from Iowa offers an amendment, which will be stated.

The SECRETARY. On page 87, at the end of line 25, it is proposed to insert:

The Hydrographic Office shall not be removed to the building and grounds of the Naval Observatory.

Mr. WARREN. Mr. President, as that is not estimated for and is new legislation, perhaps the Senator would like to give us his reasons, because otherwise, should the amendment go to conference, we would be without any basis for discussing it.

Mr. CUMMINS. Of course, there is no estimate for it, because it does not involve any appropriation.

Mr. WARREN. If the Senator will permit me before he proceeds, I will say that we left out what might have been considered an appropriation to effect the removal of that office. There is no appropriation in the bill for its removal.

Mr. CUMMINS. I am advised that it is now in the power of the President or of some other officer of the Government to remove the Hydrographic Office to the building of the Naval Observatory. I know that there has been such an enterprise on foot. I have given the matter a good deal of investigation, and I am deeply convinced that it would greatly interfere with the value of the work done at the Naval Observatory if it were combined with the Hydrographic Office. I want therefore to put it out of the power of any department, at least pending these appropriations, to make that removal and consolidation.

It is obvious to anyone who is familiar with the subject that there is nothing whatsoever in common between the work of the Hydrographic Office and the work of the Naval Observatory or the work connected with the Ephemeris or the Nautical Almanac, and I have become persuaded that it would be most injurious to this institution if the proposed consolidation or removal were brought about. For that reason I have offered the amendment just read.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Iowa.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, on page 88, line 3, before the word "assistant," to strike out "2, at $1,800 each" and insert "1 $2,000, 1 $1,800"; in line 7, before the word "each," to strike out "$1,000" and insert "$1,200"; and in line 10, after the words "in all," to strike out "$43,640" and insert "$44,240," so as to make the clause read:

Naval Observatory: Assistant astronomers—1 $2,400, 1 $2,000, 1 $1,800; assistant in department of nautical instruments, $1,600; clerks—1 of class 4, 1 of class 2; instrument maker, $1,500; electrician, $1,500; librarian, $1,800; assistants—3 at $1,600 each, 3 at $1,400 each, two at $1,200 each; stenographer and typewriter, $900; foreman and captain of the watch, $1,000; carpenter and engineer, at $1,000 each; 2 firemen; 6 watchmen; elevator conductor, $720; 9 laborers; in all, $44,240.

The amendment was agreed to.

The next amendment was, on page 88, line 13, after the word "books," to insert "books of reference," so as to make the clause read:

For professional and scientific books, books of reference, periodicals (subscriptions to periodicals may be paid in advance), engravings, photographs, and fixtures for the library, $750.

The amendment was agreed to.

Mr. JONES. Mr. President, I offer an amendment, to come in on page 89.

The PRESIDING OFFICER. The Senator from Washington offers an amendment, which will be stated.

The SECRETARY. On page 89, line 8, after the sum "$2,000," it is proposed to insert "who may hereafter act as or be appointed director."

Mr. WARREN. Mr. President, that is not estimated for, and I notice in the hearings before the House committee the officials who appeared there from the department objected to its going in. I have no factious opposition to offer, but I want the Senator to know the situation. The House had before them only the fact that it was not requested nor desired by the department.

Mr. JONES. In the hearings the Senator will remember that Capt. Jayne simply said that these words were in the last bill, but were not put in at the request of the department, and they did not consider them necessary. That was the only objection they made to it. I hope the Senate will adopt the amendment. I am satisfied that the House will concur in the amendment, because it was understood, I am informed, that the language we put in the bill last year was considered permanent. I ask for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Washington.

The amendment was agreed to.

Mr. TOWNSEND. I was called from the Chamber at the time we passed page 83, and I should like to return to that page a moment for the purpose of offering an amendment.

Mr. CUMMINS. Mr. President, will the Senator from Michigan yield to me for a moment?

Mr. TOWNSEND. I yield.

Mr. CUMMINS. On the subject of the Naval Observatory and Ephemeris and Nautical Almanac, embraced in the provisions of the bill now before the Senate, I wish to suggest to the chairman of the committee that I intend to offer an amendment before the time is past for offering amendments striking out the word "Naval" and inserting the word "National," so that it will be the "National Observatory" instead of the "Naval Observatory." I will also offer an amendment transferring the National Observatory to the Department of Commerce and Labor, instead of allowing it to remain under the Navy Department, where it now is.

Mr. WARREN. Mr. President, of course, I do not want to say what I will do when the amendment is offered, but while I might not raise any objection to the change in the name, it seems to me that a matter so important as changing the department under which the Naval Observatory is to be administered ought to be considered in a measure outside of an appropriation bill, because, if we proceed in that way with appropriation bills we shall hardly find an end.

Mr. CUMMINS. I concede the force of the statement just made by the Senator from Wyoming; but is it not fair that we legislate on some subjects on appropriation bills and then restrict ourselves as to others. We have fallen into the habit of doing this thing. I am perfectly willing to abandon the habit; but so long as we are pursuing it I do not feel any moral wrong in participating in it, and I am so thoroughly convinced that the name "Naval Observatory" is a misnomer and so thoroughly convinced that it is very inadequate for the work which it is supposed to do that I desire to begin at least a campaign to make the observatory what it ought to be. It has no more relation to the Navy than it has to the Army.

Mr. PERKINS. Naval officers are in charge of it.

Mr. CUMMINS. Naval officers happen to be in charge of it, as suggested by my friend from California; but I do not think that necessarily naval officers ought to be in charge of it. I think it ought to be in the hands of distinguished scientists.

Mr. ROOT. Did it not grow from the Navy?

Mr. CUMMINS. The work which it does, or ought to do, is of practically no importance in the preparation of the Ephemeris or the Nautical Almanac. It is popularly supposed there is a very intimate connection between the work of the observatory and the work of the Ephemeris and the Almanac. I do not believe this is true. I believe that the observatory ought to be a purely scientific institution, carried on for the purpose of making observations not for our own use alone but for the use of the world, and in the end we will put the observatory in the hands of men who have demonstrated their qualifications for that kind of work, as other nations have already put their observatories into the hands of such scientists.

Mark you, I am not in any wise impeaching or even criticizing the management of the Naval Observatory or the skill or knowledge of the men who are connected with it. I only say that it is founded on a false principle, and I intend to do what little I can do to remove it from the sphere which I think it ought not to occupy.

I can not, however, offer the amendments which I have suggested at this moment. I did not believe that we would reach this part of the bill so soon, and therefore I have not prepared them; but before there is any adoption by the Senate of these two pages I desire to have an opportunity to present the amendments which I have outlined to the chairman of the committee and to the Senate.

Mr. TOWNSEND. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The Senator from Michigan offers an amendment, which will be stated.

The SECRETARY. On page 83, line 21, it is proposed to strike out "1 of class 2" and insert in lieu thereof "1 of class 3"; and also, in line 23, to strike out "$12,100" and insert "$12,300."

Mr. WARREN. Mr. President, I understand the Senator wishes to raise the salary of one clerk.

Mr. TOWNSEND. To raise his salary $200, as estimated for by the department.

Mr. WARREN. That is estimated for, and there is no objection on the part of the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROOT. Mr. President, I should like to say a few words regarding the remarks of the Senator from Iowa [Mr. CUMMINS]. I may not be here when he offers the amendment of which he has given notice, so that I will speak now. I do not know whether I would be in favor of such an amendment or not. I think it may be that it would be advisable, but I do not know, and I do not think the Senate can know that fact as the result merely of a discussion on the floor.

It seems to me that the proposal of so radical a change in the management of an institution which has grown up in one department, which has been under the direction of that department for many years, ought to be presented at such a time that it can be referred to the appropriate committee, and that the committee may inquire into the subject, call before them the representatives of the different departments involved, and come to a deliberate judgment which they can report to the Senate, as to whether this change or any such change ought to be made.

I do not believe we ought to step in, upon an amendment offered on the floor, never having been referred to a committee, and undertake to make such a change. I do not think we ought to consider it.

Mr. LODGE. Will the Senator from New York allow me?

Mr. ROOT. Certainly.

Mr. LODGE. I do not want now to discuss this question of the Naval Observatory. It is a very large question, and the amendment, which I understand the Senator from Iowa has suggested but not offered, would, of course, be clearly out of order as proposing general legislation and totally changing existing law. It is a subject that has been much discussed in past years, and Congress, on the whole, has thought it best to leave the observatory where it is.

There are certain functions of the Naval Observatory that are purely naval—the care of the chronometers and things of that sort—and it is too large a subject to be dealt with on an amendment offered without warning on an appropriation bill. There is a great deal to be said on both sides, I recognize. I have been familiar with the question for a great many years, and I think it would require a great deal of discussion before being acted upon. The proposition ought to be in the form of a bill, as the Senator from New York [Mr. ROOT] suggests, and go to the proper committee, so that the matter could be heard. We have had those hearings before, and they have generally resulted in leaving the matter where it was. A similar change was tried in France. They took the observatory out of naval hands and put it into civilian hands, and in a very short time they put it back again. So it does not follow that it is always wise to take such a step. I merely say this now because I want to give notice that if anything of that sort is contemplated it would, in my opinion, lead necessarily to a very great deal of discussion.

Mr. CUMMINS obtained the floor.

Mr. ROOT. May I say one word more?

Mr. CUMMINS. Yes.

Mr. ROOT. If this subject were to be acted upon I should want to have the Senate consider whether the institution ought to be put under the charge of the Department of Commerce and Labor or whether it should not be put under the direction of the Smithsonian Institution, which is really the scientific branch of the Government of the United States.

Mr. CUMMINS. I should much prefer that it should go under the charge of the Smithsonian Institution.

Mr. ROOT. I should think that would be very much to be preferred.

Mr. CUMMINS. While I realize the force of the statements made by the Senator from New York, they are somewhat impaired possibly or the objections are somewhat met by the immediately following statement of the Senator from Massachusetts, in which he said, and said very correctly, that this matter has been before Congress a great many times and in a great many phases; and I assume that most Senators have given the subject some investigation. I do not want to take time just now, but I suppose the consideration of this bill will not be concluded to-day, and I will have my amendment ready to-morrow morning.

Mr. WARREN. I hope it may be concluded to-day.

If the Senator will permit me, in addition to what has been said, this bill provides for certain employees specifically, and there are certain employees that you might say are quasi Naval Observatory and quasi Navy Department proper, and if such a change is to be made there should have been notice before the committee long ago, so that hearings could be had and the financial part of it arranged.

Mr. CUMMINS. I do not think there would be any difficulty about that, and I think the Senator from Wyoming will agree with me, save in one respect. I agree that if my amendments were to prevail, and nothing more were done, it would leave the observatory without a director, the present director being, of course, a naval officer, who receives compensation, I assume, through the ordinary channels of his rank. But I think that could be easily taken care of.

Mr. LODGE. I will say further that the question of separating the Naval Observatory from the Navy Department, is, of course, a subject that pertains to naval affairs, and has always been so recognized. This provides merely for the clerical and astronomical force there, but the Naval Observatory is part of the Naval Establishment, and would have to be dealt with in connection with the Navy. I have never known the change to be proposed on this bill; it has always been on the naval bill.

The PRESIDING OFFICER. The next amendment will be stated.

The next amendment was, on page 92, line 11, before the words "of class 2," to strike out "one" and insert "two," and in line 24, after the words "in all," to strike out "$18,550" and insert "$19,950," so as to make the clause read:

Bureau of Medicine and Surgery: Chief clerk, $2,250; clerks—2 of class 4, 1 of class 3, 2 of class 2, 1 of class 1, 2 at $1,100 each, 3 at $1,000 each; copyist, $840; assistant messenger; laborer; driver for naval dispensary, $660; laborer for naval dispensary, $480; in all, $19,950.

The amendment was agreed to.

The next amendment was, on page 94, after line 12, to strike out:

For the rental of the Mills Building during the fiscal year 1914, $24,500.

And insert:

For the rental of additional quarters for the Navy Department for the fiscal year ending June 30, 1914, $31,200, and the Secretary of the Navy is hereby authorized to enter into contract for the rental of a suitable fireproof building or buildings or parts thereof for the use of the Navy Department for a period of not exceeding 10 years from July 1, 1913, at an annual rental of not exceeding $31,200.

The amount heretofore appropriated for the rental of the Mills Building for the fiscal year ending June 30, 1913, is hereby made available for the rental of the Mills Building or any other building or buildings or parts thereof for the Navy Department for the period from April 1 to June 30, 1913, and the additional sum of $1,675, to be immediately available, is hereby appropriated for the same purpose.

The amendment was agreed to.

The next amendment was, under the head of "Department of the Interior," in the item of appropriation for the maintenance of the office of the Secretary of the Interior, on page 95, line 24, after the words "chief disbursing clerk," to strike out "$2,250" and insert "$2,750"; on page 96, line 3, before the words "of class 3" to strike out "eighteen" and insert "nineteen," so as to read:

Chief disbursing clerk, $2,750; clerk in charge of supplies, $2,250; clerk in charge of mails, files, and archives, $2,250; clerk in charge of publications, $2,250; private secretary to the Secretary, $2,500; clerks—4, at $2,000 each; 13 of class 4, 19 of class 3.

The amendment was agreed to.

The next amendment was, in the item of appropriation for the maintenance of the office of the Secretary of the Interior, on page 96, line 22, after the words "in all," to strike out "$275,570" and insert "$277,670," so as to make the clause read:

Assistant engineer, $1,000; 7 firemen; clerk to sign, under the direction of the Secretary, in his name and for him, his approval of all tribal deeds to allottees and deeds for town lots made and executed according to law for any of the Five Civilized Tribes of Indians in the Indian Territory, $1,200; in all, $277,670.

The amendment was agreed to.

The next amendment was, on page 98, line 4, after the words "chief clerk," to strike out "$2,750" and insert "$3,000"; in line 7, after the figures "$2,000," to insert "chief of division of surveys, $2,750"; in line 8, after the word "division," to strike out "two at $2,400 each" and insert "one at $2,500"; and in line 20, after the words "in all," to strike out "$630,650" and insert "$631,350," so as to make the clause read:

General Land Office: Commissioner, $5,000; assistant commissioner, $3,500; chief clerk, $3,000; chief law clerk, $2,500; 2 law clerks, at $2,200 each; 3 law examiners of surveyors general and district land offices, at $2,000 each; recorder, $2,000; chief of division of surveys, $2,750; chiefs of division—1 at $2,500, 10 at $2,000 each; assistant chief of division, $2,000; law examiners—13 at $2,000 each, 10 at $1,800 each, 18 at $1,600 each; clerks—27 of class 4, 51 of class 3, 74 of class 2, 77 of class 1, 65 at $1,000 each; 65 copyists; 26 copyists, at $720 each; 2 messengers; 10 assistant messengers; messenger boys—10 at $600 each, 6 at $480 each; 6 skilled laborers, who may act as assistant messengers when required, at $660 each; 16 laborers; laborer, $480; packer, $720; depositary acting for the commissioner as receiver of public moneys, $2,000; clerk and librarian, $1,000; in all, $631,350.

The amendment was agreed to.

The next amendment was, on page 100, line 3, after the words "chief clerk," to strike out "$2,250" and insert "$2,750"; in line 6, before the words "of class 4," to strike out "fourteen" and insert "fifteen"; in line 8, before the words "of class 1," to strike out "forty-three" and insert "forty-five"; and in line 11, after the words "in all," to strike out "$231,710" and insert "$236,410," so as to make the clause read:

Indian Office: Commissioner, $5,000; assistant commissioner, $3,500; second assistant commissioner, who shall also perform the duties of chief clerk, $2,750; financial clerk, $2,250; chiefs of division—1 at $2,250, 1 at $2,000; law clerk, $2,000; assistant chief of division, $2,000; private secretary, $1,800; clerks—15 of class 4, 25 of class 3, 24 of class 2, 2 at $1,500 each, 45 of class 1, 23 at $1,000 each; stenographer, $1,000; 29 copyists; messenger; 4 assistant messengers; 9 messenger boys, at $360 each; in all, $236,410.

The amendment was agreed to.

The next amendment was, on page 100, line 15, before the words "of class 4," to strike out "five" and insert "eight"; in the same line, before the words "of class 3," to strike out "four" and insert "seven"; in the same line, before the words "of class 2," to strike out "three" and insert "five"; in line 16, before the words "of class 1," to strike out "twelve" and insert "ten"; in line 23, after the word "one," to insert "Medical field supervision work: Clerk of class 2 (heretofore in the field). Field construction work: Draftsman, $1,600 (heretofore in the field)"; and in line 25, after the words "in all," to strike out "$71,340" and insert "$83,940," so as to make the clause read:

For the following heretofore paid out of annual appropriations provided for in the Indian appropriation act, namely: Allotment work: Expert accountant, $2,000; clerks—8 of class 4, 7 of class 3, 5 of class 2, 10 of class 1, 8 at $1,000 each, 5 at $900 each (formerly copyists). Forestry work: Forester, $3,000; clerks—1 of class 4, 2 of class 1; draftsman, $1,400. Irrigation work: Irrigation engineer, $2,000; examiner of irrigation accounts, $1,800; stenographer, $1,200; draftsman, $1,200. Indian employment: Clerk of class 2; 2 junior clerks, at $720 each. Indexing old files: Three clerks of class 1. Medical field supervision work: Clerk of class 2 (heretofore in the field). Field construction work: Draftsman, $1,600 (heretofore in the field). In all, $83,940.

The amendment was agreed to.

The next amendment was, on page 101, line 5, after the word "each," to insert "chief of finance division, $2,250"; in line 6, before the word "chief," to strike out "eight" and insert "seven"; and in line 22, after the words "in all," to strike out "$1,478,100" and insert "$1,478,350," so as to make the clause read:

Pension Office: Commissioner, $5,000; deputy commissioner, $3,600; chief clerk, $2,500; assistant chief clerk, $2,000; medical referee, $3,000; assistant medical referee, $2,250; 2 qualified surgeons, at $2,000 each; 15 medical examiners, at $1,800 each; chief of finance division, $2,250; 7 chiefs of division, at $2,000 each; law clerk, $2,250; chief of board of review, $2,250; 57 principal examiners, at $2,000 each; private secretary, to be selected and appointed by the Commissioner of Pensions, $2,000; 16 assistant chiefs of division, at $1,800 each; 3 stenographers, at $1,600 each; clerks—95 of class 4, 100 of class 3, 275 of class 2, 295 of class 1, 65 at $1,000 each; 30 copyists; 27 messengers; 12 assistant messengers; 17 skilled laborers, at $660 each; 20 messenger boys, at $400 each; superintendent of building, $1,400; 23 laborers; 10 female laborers, at $400 each; 15 charwomen; painter, and cabinet-maker, skilled in their trades, at $900 each; captain of the watch, $840; 3 sergeants of the watch, at $750 each; 20 watchmen; engineer, $1,200; 2 firemen; in all, $1,478,350.

The amendment was agreed to.

The next amendment was, on page 103, line 9, after the word "commissioner," to strike out "$3,500" and insert "$4,000"; in line 12, after the word "each," to strike out "examiner of interferences, $2,700" and insert "two examiners of interferences, at $2,700 each"; and in line 15, before the word "six," to insert "examiner of trade-marks and designs, $2,400," so as to read:

Patent Office: Commissioner, $5,000; first assistant commissioner, who shall perform such duties pertaining to the office of commissioner as may be assigned to him by the commissioner, $4,500; assistant commissioner, who shall perform such duties pertaining to the office of commissioner as may be assigned to him by the commissioner, $4,000; chief clerk, who shall be qualified to act as principal examiner, $3,000; 2 law examiners, at $2,750 each; 3 examiners in chief, at $3,500 each; 2 examiners of interferences, at $2,700 each; examiner of trade-marks and designs, $2,700; examiner of trade-marks and designs, $2,400.

The amendment was agreed to.

The next amendment was, in the item of appropriation for the maintenance of the Patent Office, on page 104, line 9, after the words "in all," to strike out "$1,311,010" and insert "$1,316,610," so as to read:

Ninety copyists; 50 copyists, at $720 each; 4 messengers; 25 assistant messengers; 14 laborers, at $600 each; 45 laborers, at $480 each; 40 messenger boys, at $360 each; in all, $1,316,610.

The amendment was agreed to.

The next amendment was, on page 105, after line 16, to insert:

For necessary traveling expenses of the commissioner and employees acting under his direction, $1,500.

The next amendment was agreed to.

The next amendment was, on page 106, line 7, after the word "same," to strike out "$2,400" and insert "$2,500," so as to make the clause read:

For the purchase, distribution, and exchange of educational documents, and for the collection, exchange, and cataloguing of educational apparatus and appliances, textbooks, and educational reference books, articles of school furniture and models of school buildings illustrative of foreign and domestic systems and methods of education, and for repairing the same, $2,500.

The amendment was agreed to.

The next amendment was, on page 106, line 11, after the word "each," to strike out "clerk, $1,600; stenographer and typewriter, $1,000," and insert "2 clerks at $1,200 each"; in line 20, after the word "accountant," to strike out "$1,800" and insert "$2,200"; in the same line, before the words "in all," to strike out "stenographer, $720," and, in the same line, after the words "in all," to strike out "$30,480" and insert "$29,960," so as to make the clause read:

Office of the Superintendent of the Capitol Building and Grounds: Superintendent, $6,000; chief clerk, $2,000; chief electrical engineer, $3,000; civil engineer, $2,400; 2 draftsmen, at $1,200 each; 2 clerks, at $1,200 each; compensation to disbursing clerk, $1,000; messenger; person in charge of the heating of the Supreme Court and

central portion of the Capitol, $1,000; laborer in charge of water-closets in central portion of the Capitol, $660; 7 laborers for cleaning Rotunda, corridors, Dome, and old library portion of Capitol, at $660 each; 2 laborers in charge of public closets of the House of Representatives and in the terrace, at $720 each; bookkeeper and accountant, $2,200; in all, $29,960.

The amendment was agreed to.

The next amendment was, on page 108, line 16, after the words "Geological Survey," to strike out "$32,900" and insert "$37,400"; in line 17, before the words "in all," to strike out "Bureau of Mines, $10,000," and in the same line, after the words "in all," to strike out "$59,775" and insert "$54,275," so as to make the clause read:

For rent of buildings for the Department of the Interior: Geological Survey, $37,400; Civil Service Commission, $16,875; in all, $54,275.

The amendment was agreed to.

The next amendment was, on page 108, after line 18, to insert:

For rent of building for the Bureau of Mines, $12,000.

The amendment was agreed to.

The next amendment was, on page 108, after line 19, to insert:

For dismantling and removing chemical laboratories, equipment, and office furniture from the offices now occupied by the Bureau of Mines and for reinstalling the laboratories in the offices of the Bureau of Mines, with fixtures, including laboratory plumbing, sinks, hoods, coal sampling and crushing machinery, and the necessary connection with the central heating and power plant of the Interior Department, $2,000, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 109, after line 2, to insert:

For rent for the Bureau of Mines for the months of March, April, May, and June, 1913, to be immediately available, $3,323.34: *Provided*, That the unexpended balance of the sum of $10,000 appropriated for rent for the Bureau of Mines for the fiscal year 1913 is hereby made available within said year for the payment of rent of any building designated by the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, under the subhead "surveyors general and their clerks," on page 109, line 22, before the words "of Alaska," to strike out "District" and insert "Territory"; in the same line, after the word "office," to strike out "$7,000" and insert "$11,000"; and in line 23, after the words "in all," to strike out "$11,000" and insert "$15,000," so as to make the clause read:

For surveyor general and ex officio secretary of the Territory of Alaska, $4,000; clerks in his office, $11,000; in all, $15,000.

The amendment was agreed to.

The next amendment was, on page 110, line 3, after the word "typewriters," to strike out "$2,500" and insert "$3,205," so as to make the clause read:

For rent of offices for surveyor general, pay of messenger, stationery, printing, binding, drafting instruments, typewriters, books of reference for office use, furniture, fuel, lights, and other incidental expenses, including the exchange of typewriters, $3,205.

The amendment was agreed to.

The next amendment was, on page 110, line 12, after the word "office," to strike out "$11,400" and insert "$12,000," and, in the same line, after the words "in all," to strike out "$14,400" and insert "$15,000," so as to make the clause read:

For surveyor general of California, $3,000; clerks in his office, $12,000; in all, $15,000.

The amendment was agreed to.

The next amendment was, on page 110, line 19, after the word "office," to strike out "$22,000" and insert "$23,590," and, in the same line, after the words "in all," to strike out "$25,000" and insert "$26,590," so as to make the clause read:

For surveyor general of Colorado, $3,000; clerks in his office, $23,590; in all, $26,590.

The amendment was agreed to.

The next amendment was, on page 111, line 4, after the word "office," to strike out "$16,000" and insert "$17,500," and, in the same line, after the words "in all," to strike out "$19,000" and insert "$20,500," so as to make the clause read:

For surveyor general of Idaho, $3,000; clerks in his office, $17,500; in all, $20,500.

The amendment was agreed to.

The next amendment was, on page 111, line 17, after the word "office," to strike out "$8,000" and insert "$11,400," and, in the same line, after the words "in all," to strike out "$11,000" and insert "$14,400," so as to make the clause read:

For surveyor general of Nevada, $3,000; clerks in his office, $11,400; in all, $14,400.

The amendment was agreed to.

The next amendment was, on page 111, line 23, after the word "office," to strike out "$15,500" and insert "$18,100," and, in the same line, after the words "in all," to strike out "$18,500" and insert "$21,100," so as to make the clause read:

For surveyor general of New Mexico, $3,000; clerks in his office, $18,100; in all, $21,100.

The amendment was agreed to.

The next amendment was, on page 112, line 8, after the word "typewriters," to strike out "$900" and insert "$1,000," so as to make the clause read:

For stationery, telephone, towels, binding, post-office box rent, books of reference for office use, and other incidental expenses, including the exchange of typewriters, $1,000.

The amendment was agreed to.

The next amendment was, on page 112, after line 9, to insert:

For surveyor general of South Dakota, $2,000; clerks in his office, $5,000; in all, $7,000.

For rent of office for the surveyor general, pay of messenger, stationery supplies, drafting instruments, fuel, ice, binding records, post-office box rent, telegrams, registration of letters, towels, furniture and typewriter repairs, books of reference for office use, and other incidental expenses, including the exchange of typewriters, $800.

The amendment was agreed to.

The next amendment was, on page 112, line 19, after the word "office," to strike out "$14,000" and insert "$20,200," and, in the same line, after the words "in all," to strike out "$17,000" and insert "$23,200," so as to make the clause read:

For surveyor general of Utah, $3,000; clerks in his office, $20,200; in all, $23,200.

The amendment was agreed to.

The next amendment was, on page 113, line 8, after the word "office," to strike out "$17,000" and insert "$22,300," and, in the same line, after the words "in all," to strike out "$20,000" and insert "$25,300," so as to make the clause read:

For surveyor general of Wyoming, $3,000, and for the clerks in his office, $22,300; in all, $25,300.

The amendment was agreed to.

The next amendment was, under the head of "Post Office Department," on page 113, line 25, after the words "disbursing clerk," to strike out "$2,250" and insert "$2,500," and, on page 114, line 2, after the words "assistant to chief clerk," to strike out "$2,000" and insert "$2,250," so as to read:

Office Postmaster General: Postmaster General, $12,000; chief clerk, including $500 as superintendent of Post Office Department buildings, $4,000; private secretary, $2,500; disbursing clerk, $2,500; bookkeeper and accountant, $1,800; 2 stenographers, at $1,000 each; appointment clerk, $2,000; clerk, assistant to chief clerk, $2,250.

The amendment was agreed to.

The next amendment was, in the item of appropriation for the maintenance of the office of the Postmaster General, on page 114, line 20, after the words "in all," to strike out "$187,950" and insert "$188,450," so as to read:

Female laborers—1 $540, 3 at $500 each, 3 at $480 each; 45 charwomen; in all, $188,450.

The amendment was agreed to.

The next amendment was, on page 119, line 6, after the word "envelopes," to strike out "$20,000" and insert "$40,000," so as to make the clause read:

Contingent expenses, Post Office Department: For stationery and blank books, index and guide cards, folders, and binding devices, including amount necessary for the purchase of free penalty envelopes, $40,000.

The amendment was agreed to.

The next amendment was, on page 119, line 9, after the word "ashes," to strike out "$35,000" and insert "$40,000," so as to make the clause read:

For fuel and repairs to heating, lighting, and power plant, including repairs to elevators, purchase and exchange of tools, and electrical supplies, and removal of ashes, $40,000.

The amendment was agreed to.

The next amendment was, on page 119, line 12, after the word "telegraphing," to strike out "$4,000" and insert "$5,000," so as to make the clause read:

For telegraphing, $5,000.

The amendment was agreed to.

The next amendment was, on page 119, line 23, after the words "Universal Postal Union," to strike out "$20,000" and insert "$35,000," so as to read:

For miscellaneous items, including the purchase, exchange, and repair of typewriters, adding machines, and other labor-saving devices; street car tickets not exceeding $200; plumbing, floor covering; postage stamps for correspondence addressed abroad which is not exempt under article 11 of the Rome convention of the Universal Postal Union, $35,000.

Mr. WARREN. I offer the following committee amendment to the amendment.

The SECRETARY. On page 119, line 24, after the word "Union," insert:

The reimbursement of the Secretary of the Treasury for expenses incident to the preparation, issue, and registration of the bonds authorized by the act of June 25, 1910.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 120, line 5, after the word "cabinets," to strike out "$5,000" and insert "$8,000," so as to make the clause read:

For furniture and filing cabinets, $8,000.

The amendment was agreed to.

The next amendment was, on page 120, line 7, after the words "Post Office Department," to strike out "$3,000" and insert "$4,000," so as to make the clause read:

For rent of a suitable building for storage of the files of the Post Office Department, $4,000.

The amendment was agreed to.

The next amendment was, on page 120, line 11, after the words "executive departments," to strike out "$24,000" and insert "$25,000," so as to make the clause read:

For the publication of copies of the Official Postal Guide, including not exceeding 3,000 copies for the use of the executive departments, $25,000.

The amendment was agreed to.

The next amendment was, under the head of "Department of Justice," in the item of appropriation for the maintenance of the office of the Attorney General, on page 122, line 10, before the words "of class 4," to strike out "seven" and insert "eight"; in the same line, before the words "of class 3," to strike out "eleven" and insert "ten"; in line 11, before the words "of class 1," to strike out "fifteen" and insert "sixteen"; in line 12, before the words "at $900 each," to strike out "twenty-one" and insert "twenty"; in line 19, before the figures "$2,500," to strike out "examiner" and insert "administrative accountant"; in line 20, before the words "of class 4," to strike out "four" and insert "three"; in line 21, before the words "of class 3," to strike out "five" and insert "six"; in the same line, before the words "of class 1," to strike out "six" and insert "five"; and in line 22, before the words "at $900 each," to strike out "two" and insert "three," so as to read:

Clerks—8 of class 4, 10 of class 3, 7 of class 2, 16 of class 1, 14 at $1,000 each, 20 at $900 each; chief messenger, $1,000; packer, $900; messenger, $960; 5 messengers; 13 assistant messengers; 7 laborers; 7 watchmen; engineer, $1,200; 2 assistant engineers, at $900 each; 4 firemen; 2 conductors of the elevator, at $720 each; head charwoman, $480; 22 charwomen. Division of Accounts: Chief of Division of Accounts, $2,500; administrative accountant, $2,500; chief bookkeeper and record clerk, $2,000; clerks—5 on class 4, 6 of class 3, 6 of class 2, 5 of class 1, 3 at $900 each; in all, $424,610.

The amendment was agreed to.

Mr. WARREN. I offer a committee amendment, returning to page 37, as follows:

The SECRETARY. On page 37, line 19, after "$2,500," insert "executive clerk, $2,500."

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "Department of Commerce and Labor," on page 128, line 8, after the figures "$711,240," to insert: "*Provided*, That the limitation placed upon the number of temporary clerks authorized in the Bureau of the Census for the fiscal year ending June 30, 1913, in the legislative, executive, and judicial act for said fiscal year, approved August 23, 1912, is hereby removed, and nothing herein contained shall be construed as increasing the appropriation made for temporary clerks in the above-named act."

The amendment was agreed to.

The next amendment was, on page 130, line 2, after the word "supplies," to strike out "$10,000" and insert "$20,000," so as to make the clause read:

For experimental work in developing tabulating machines and repairs to such machinery and other mechanical appliances, including technical and mechanical service in connection therewith, whether performed in Washington, D. C., or elsewhere, and the purchase of necessary machinery and supplies, $20,000.

The amendment was agreed to.

The next amendment was, on page 133, line 7, after the figures "$600," to insert "at Honolulu, $1,200; at Mobile, $1,200," and in line 12, after the words "in all," to strike out "$29,500" and insert "$31,900," so as to make the clause read:

Shipping service: For salaries of shipping commissioners in amounts not exceeding the following: At Baltimore, $1,200; at Bath, $1,000; at Boston, $3,600; at Gloucester, $600; at Honolulu, $1,200; at Mobile, $1,200; at New Bedford, $1,200; at New Orleans, $1,500; at New York, $5,000; at Norfolk, $1,500; at Pascagoula, $300; at Philadelphia, $2,400; at Portland, Me., $1,300; at Port Townsend, $3,500; at Providence, $1,800; at Rockland, $1,200; at San Francisco, $4,000; in all, $31,900.

The amendment was agreed to.

The next amendment was, on page 134, line 3, after the word "expenses," to strike out "$3,000" and insert "$3,500, to be immediately available," so as to make the clause read:

To enable the Commissioner of Navigation to secure uniformity in the admeasurement of vessels, including the employment of an adjuster of admeasurements at a salary not to exceed $2,100, purchase and exchange of admeasuring instruments, traveling and incidental expenses, $3,500, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 135, line 14, before the words "of class 3," to strike out "eight" and insert "nine"; in the same line, before the words "of class 2," to strike out "ten" and insert "twelve"; in line 15, before the words "of class 1," to strike out "eleven" and insert "fifteen"; in the same line, before the words "at $1,000 each," to strike out "eight" and insert "ten"; and in line 17, after the words "in all," to strike out "$68,060" and insert "$79,260," so as to make the clause read:

For the purpose of carrying into effect the provisions of the act approved June 29, 1906, entitled "An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States," namely: Chief of Division of Naturalization, $3,500; assistant chief of division, $3,000; clerks—5 of class 4, 9 of class 3, 12 of class 2, 15 of class 1, 10 at $1,000 each, 2 at $900 each; messenger; 2 assistant messengers; messenger boy, $480; in all, $79,260.

The amendment was agreed to.

The next amendment was, in the item of appropriation for the maintenance of the Bureau of Standards, on page 136, line 14, after the word "librarian," to strike out "$1,400" and insert "$1,600," so as to make the clause read:

Bureau of Standards: Director, $6,000; physicists—chief, $4,800, 1 qualified in optics, $3,600, 2 at $3,600 each, 1 $3,000; associate physicists—3 at $2,700 each, 4 at $2,500 each, 4 at $2,200 each, 5 at $2,000 each; assistant physicists—9 at $1,800 each, 11 at $1,600 each, 14 at $1,400 each; chief chemist, $4,800; chemist, $3,500; associate chemists—1 $2,700, 2 at $2,500 each, 1 $2,200, 1 $2,000; assistant chemists—2 at $1,800 each, 3 at $1,600 each, 2 at $1,400 each; laboratory assistants—16 at $1,200 each, 13 at $1,000 each; 13 at $900 each; laboratory helpers—1 $840, 3 at $720 each; aids—10 at $720 each, 7 at $600 each; laboratory apprentices—6 at $540 each, 6 at $480 each; storekeeper, $1,000; librarian, $1,600.

The amendment was agreed to.

The next amendment was, on page 137, line 2, after the word "firemen," to strike out "two glass blowers, at $1,400 each" and insert "glass blower, $1,400; glassworker, $1,400," and in line 6, after the words "in all," to strike out "$290,740" and insert "$290,940," so as to make the clause read:

Pipe fitter, $1,000; 4 firemen; glass blower, $1,400; glassworker, $1,400; electricians—1 $1,200, 1 $960; 6 laborers; janitors—2 at $660 each, 1 $600; 2 female laborers, at $360 each; in all, $290,940.

The amendment was agreed to.

The next amendment was, on page 139, line 19, after the figures "$25,000," to insert "to be immediately available," so as to make the clause read:

For the purchase of storage batteries, transformers, switchboards, and other necessary equipment of the new electrical laboratory, $25,000, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 140, line 22, after the words "amounting to," to strike out "$66,500" and insert "$68,500," so as to make the clause read:

Contingent expenses, Department of Commerce and Labor: For contingent and miscellaneous expenses, * * * $68,500.

The amendment was agreed to.

The next amendment was, in the item of appropriation for contingent expenses, Department of Commerce and Labor, on page 141, line 14, before the word "expenses," to insert "enforcement of wireless-communication laws, $2,000," and in line 18, after the words "sum of," to strike out "$126,500" and insert "$128,500," so as to make the clause read:

Steamboat-inspection Service, $3,000; contingent expenses, shipping service, $500; instruments for measuring vessels and counting passengers, $500; enforcement of wireless-communication laws, $2,000; expenses of regulating immigration, $13,500; equipment, Bureau of Standards, $1,000; general expenses, Bureau of Standards, $1,800; general expenses, Coast and Geodetic Survey, $4,200; miscellaneous expenses, Bureau of Fisheries, $8,500; and the said total sum of $128,500 shall be and constitute the appropriation for contingent expenses, Department of Commerce and Labor, etc.

The amendment was agreed to.

The next amendment was, on page 142, after line 3, to insert:

The accounting officers of the Treasury are hereby authorized and directed to credit in the accounts of William L. Soleau, former disbursing clerk, Department of Commerce and Labor, the sum of $99.63, disallowed by the Auditor for the State and Other Departments.

The amendment was agreed to.

The next amendment was, on page 144, after line 11, to insert:

Commerce Court: For the Commerce Court, from March 5 to June 30, 1913, both dates inclusive, namely: Clerk, at the rate of $4,000 per annum; deputy clerk, at the rate of $2,500 per annum; marshal, at the rate of $3,000 per annum; deputy marshal, at the rate of $2,500 per annum; for rent of necessary quarters in Washington, D. C., and elsewhere, and furnishing same for the Commerce Court; for books, periodicals, stationery, printing, and binding; for pay of bailiffs and all other necessary employees at the seat of government and elsewhere, not otherwise specifically provided for, and for such other miscellaneous expenses as may be approved by the presiding judge, $16,111.11; in all, $19,977.78, to be immediately available.

Mr. DIXON. Mr. President——

Mr. WARREN. If the Senator will permit, perhaps we had better finish the remainder of the bill, if it is agreeable to the Senator, and then return to this amendment.

Mr. DIXON. I want to make a motion to strike out the item concerning the Commerce Court on page 144.

Mr. WARREN. Let us pass it for the time being.

Mr. GALLINGER. Yes; let us complete the remainder of the bill.

The PRESIDING OFFICER. Is it agreed that the pending amendment shall be passed over?

Mr. WARREN. Pass it over for a moment, and let us finish the rest of the bill.

The next amendment of the Committee on Appropriations was, on page 145, line 18, after the word "bailiff," to strike out "$1,500" and insert "$1,800"; in line 19, before the words "at $1,400 each," to strike out "two" and insert "three"; in the same line, before the words "at $1,200 each," to strike out "three" and insert "two"; and in line 22, after the words "in all," to strike out "$56,480" and insert "$56,980," so as to make the clause read:

Court of Claims: Chief justice, $6,500; 4 judges, at $6,000 each; chief clerk, $3,500; assistant clerk, $2,500; bailiff, $1,800; clerks—1 at $1,600, 3 at $1,400 each, 2 at $1,200 each; stenographer, $1,200; chief messenger, $1,000; 3 firemen; 3 watchmen; elevator conductor, $720; 2 assistant messengers; 2 laborers; 2 charwomen; in all, $56,980.

The amendment was agreed to.

The next amendment was, on page 146, line 2, after the word "court," to strike out "$6,000" and insert "$8,000," so as to make the clause read:

For auditors and additional stenographers, when deemed necessary, in the Court of Claims, and for a stenographer, at $1,600, for the chief justice, to be disbursed under the direction of the court, $8,000.

The amendment was agreed to.

The next amendment was, at the top of page 148, to add as a new section the following:

SEC. 5. That in the event of reductions being made in any force employed under the civil service or in any of the executive departments no honorably discharged soldier, sailor, or marine whose record is rated good shall be discharged or dropped or reduced in rank or salary. Any person knowingly violating the provisions of this section shall be summarily removed from office and may also upon conviction thereof be punished by a fine of not more than $1,000 or by imprisonment for not more than one year.

Mr. BORAH obtained the floor.

Mr. POMERENE. Mr. President——

Mr. BORAH. I yield to the Senator from Ohio.

Mr. POMERENE. I wish to offer an amendment to this section.

Mr. BORAH. Will the Senator withhold it for a moment until I make an inquiry about the matter?

Mr. POMERENE. Certainly.

Mr. BORAH. I see that this section 5 covers all honorably discharged soldiers, sailors, or marines. Under that section, I suppose, whether a person had ever seen any service or not, he would come under this rule.

Mr. WARREN. If he had made record service and had been honorably discharged. If the Senator will permit me, in the last bill, when we were arranging civil-service changes, providing for an efficiency board, we incorporated in that provision a similar clause to this in relation to the District of Columbia, and that is the only place where that particular provision prevails—that no honorably discharged soldier who has a good record shall be dropped. This carries those outside the District and puts them on the same footing.

Mr. OWEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Oklahoma?

Mr. BORAH. I yield.

Mr. OWEN. I rise to make a point of order against section 5, on page 148. It is legislation not properly upon an appropriation bill. Senators who are not present in the Chamber have a right to rely upon the integrity of the rules of the Senate that new legislation shall not go on appropriation bills. I do not think it a wise practice to have this done, and I make a point of order against the section for that reason.

Mr. WARREN. Perhaps the Senator will withhold the point of order until the Senator from Ohio can be heard.

Mr. OWEN. The Senator from Ohio proposes to offer an amendment to this section, which would not in any way obviate the point of order. I will yield, of course.

Mr. POMERENE. I have no objection to stating the amendment which I propose to offer. The Senator from Idaho, by his question, evidently had in mind just what I had in mind at the time of the preparation of this proposed amendment.

Under this section, as it appears, no honorably discharged soldier, sailor, or marine could be dropped from the service.

Mr. GALLINGER. If he has a good record.

Mr. POMERENE. I can understand why there should be some favor given to a soldier who has seen actual service either during the Civil War or during the War with Spain, but if it is some soldier who enlisted and has been in camp for three or four years, and should later be discharged from that service honorably and get under the civil service, and he is to be preferred to other men who are engaged under the civil service, I do not think we should extend that privilege that length.

Mr. WARREN. I have only to say, Mr. President, that this was inserted here with the idea that it was only fair to treat those outside of Washington as we treated those within the District. I should not object, if the point of order was withdrawn, to such an amendment as the Senator proposes, and perhaps indicated by the Senator from Idaho; but the only intention of the committee was to have the same privilege given to those who might be on the register or be employed by the United States outside the District as those inside the District of Columbia.

Mr. SMITH of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Georgia?

Mr. POMERENE. I do.

Mr. SMITH of Georgia. I do not understand that the Senator from Oklahoma has withdrawn the point of order, but if he did I renew it. I am opposed to any such special privilege anywhere.

The PRESIDING OFFICER. The Chair understood that the Senator from Oklahoma yielded to the Senator from Ohio to make a suggestion after the point of order was raised, and he did not withdraw it.

Mr. SMITH of Georgia. I want to state that I am opposed to any such privilege being given anywhere. Believing that it is improper here in the District, I am opposed to enlarging it to places outside of the District. I have never heretofore pressed that view, because so large a number of those who are deriving the benefit were soldiers of the Civil War, and I have always been willing to yield somewhat my general convictions in their interest, but now the Spanish-American War is included; all soldiers are included. I think that service in the Army and in the Navy also ought to be treated as a distinct proposition, and we ought not to burden our general service with men who are not entirely competent or keep them because they have done something somewhere else. I think the departments and all the public service are entitled to men of the highest efficiency, and they should remain in office on account of their efficiency, and for that reason only.

Mr. SUTHERLAND. If the point of order which was made is insisted upon, I suppose that those of us who are in favor of this proposition are helpless, but I call attention to the fact that we had exactly the same provision in the legislative appropriation act which passed less than a year ago. However, it is in the shape of a proviso to a section which deals only with the District of Columbia. My understanding is that it was the belief at that time that this proviso would apply to all parts of the country and to all persons employed in the executive departments. The provision is found in section 4 of the legislative appropriation act at page 413 of the last session laws. That section provides that—

The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency ratings for the classified service in the several executive departments in the District of Columbia—

And so on. Then follows the proviso:

Provided, That in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary.

So the language of that proviso is identical with the suggested amendment that is now under discussion. The Senator from Kansas [Mr. BRISTOW] says to me that there is something added, but on page 414 the law continues:

That any person violating section 4, etc., shall be summarily removed from office, and may also, upon conviction thereof, be punished by a fine—

And so on. It is the same thing.

Mr. President, as I said, I understand it was the understanding in putting this proviso in that it should apply to all the executive departments of the Government and to soldiers and sailors and marines wherever employed in those executive departments. But because it is in the form of a proviso the well-known rule of construction steps in, which is that a proviso is a mere limitation upon the main section of which it is a proviso, and therefore it can not have the wide scope it would have as an independent provision of law.

This amendment simply seeks to put in the law what it was the intention to put into the law in the legislative appropriation act of last year.

I very much hope the Senator from Oklahoma will see his way clear not to insist upon the point of order.

The Senator from Georgia has said that we ought not to make classes of this kind, but it has been the policy of the Government from the very beginning to make classifications of this very description. We are acting upon similar provisions all the time. Our laws provide that the ex-soldier shall be preferred in appointments under the civil service. This simply carries the proposition one step further and prevents an ex-soldier who has been appointed from being discharged. But the Government is amply protected, because the provision is that he shall be rated good in the department. If he has fallen below the standard, then, of course, he is amenable to the provisions of law which would authorize his dismissal.

Mr. SMITH of Georgia. Let me ask the Senator a question.

The PRESIDING OFFICER. The Chair understands that debate is proceeding by unanimous consent. Under the rule it is not debatable.

Mr. SMITH of Georgia. Suppose a soldier of the Spanish-American War had an $1,800 clerkship and was rated good, and lower down in the same service there is a clerk at $1,200 who is rated very good. There is a clerk, then, receiving a good deal less pay and doing a good deal better service, and simply because the $1,800 clerk had been in the Spanish-American War proficiency is not the test of his payment but something else is. That will be the practical effect of this rule. It is demoralizing to the effort to bring up the standard of proficiency.

Mr. SUTHERLAND. If the Senator will permit me to answer, the practical effect would be that the $1,200 clerk would not be prevented from being advanced if his record justified it, but the ex-soldier clerk who is receiving $1,800 would not be demoted if his record was good.

Mr. SMITH of Georgia. No; the appropriation bill fixes the number of $1,800 clerks, the number of $1,600 clerks, and $1,400 clerks, and $1,200 clerks, and he stands there at $1,800 without another $1,800 clerkship open, to the exclusion of the more proficient clerk in the same line or perhaps in the same office.

Mr. SUTHERLAND. It does exactly what I said. It will not interfere with the promotion if there is a place.

Mr. SMITH of Georgia. Oh, yes.

Mr. SUTHERLAND. If there is a place it will not interfere with the clerks of lower grade, but it will prevent the demotion of a clerk who occupies a place in that grade.

Mr. SMITH of Georgia. He occupies the place to the exclusion of one who is rendering better service to the Government.

Mr. SUTHERLAND. It will prevent his being supplanted by a clerk occupying a lower place, if the ex-soldier is rated good. Personally I am in favor of that sort of legislation. I am in favor of the provisions of law which are now upon the statute books, which permit a discrimination in favor of the ex-soldier.

Mr. ASHURST. Mr. President, I wish to make a parliamentary inquiry. I will inquire, if debate is in order, upon the merits.

The PRESIDING OFFICER. It is not; and the Chair has stated that this debate is proceeding by unanimous consent.

Mr. ASHURST. Then, under the rules, debate is not in order.

The PRESIDING OFFICER. Debate is not in order.

Mr. GALLINGER. It is in the hands of the Chair to permit debate or not, as the Chair sees fit.

The PRESIDING OFFICER. The Chair rules that the point of order made by the Senator from Oklahoma is well taken and that the amendment is not in order. The next amendment will be stated.

The next amendment was, on page 148, after line 9, to add as a new section the following:

SEC. 5. That section 8 of the District of Columbia appropriation act, approved June 28, 1912, shall not take effect or be operative during the fiscal year 1914 except to the extent that it prohibits the payment of membership fees or dues in societies or associations: *Provided*, That during the fiscal year 1914 expenses of attendance of officers or employees of the Government at any meeting or convention of members of any society or association shall be incurred only on the written authority and direction of the heads of executive departments or other Government establishments or the government of the District of Columbia; and a detailed statement of all such expenses incurred from June 30 until December 1, 1913, shall be submitted to Congress on or before January 1, 1914.

Mr. CRAWFORD. I simply wish to inquire what that language means. To one not acquainted with its purposes it is not clear.

Mr. WARREN. It will take but a moment to explain it. In the closing hours of the consideration of the District of Columbia appropriation bill last year there was a section inserted which was intended to remedy an acknowledged evil, that too much money was expended for the employees of different departments in traveling to meetings of associations, and so forth. It was, of course, supposed to be in the interest of the Government, but the conditions were made so drastic that the board of health, the Surgeon General, and others were prohibited from entering into any of these meetings or obtaining the benefit of the associations. So every department, I think, without exception, appealed to us, and in one bill and another—in the Agricultural appropriation bill and the others—in the last session we attempted to fix it.

When we got through the different bills they represented different privileges to different departments. So the committee on the House side put a provision like this one in the sundry civil bill. It was about the last measure enacted, and they put in this general provision, which would not only serve to remedy the evil, but would yet leave elasticity enough so that on the written order of a head of a department they could go to certain of these association meetings. But they are debarred from paying club or association fees, and so on.

It is merely continuing what was in the sundry civil appropriation act last year and is now current law.

Mr. OWEN. Mr. President, I feel constrained to make a point of order against this item. It is general legislation and changes existing law. I do not think it ought to go on the appropriation bill. I am very sorry not to be able to agree to it, but I do not think it should go on this appropriation bill.

Mr. WARREN. It does not change existing law. It simply continues law as everything in this appropriation bill does. It is word for word a continuation of the present law for the next fiscal year.

Mr. OWEN. It expressly changes existing law in its own language, that section 8 shall not take effect, and so on.

Mr. WARREN. But section 8 was repealed last year in the bill and this simply extends it the same as an appropriation of money would be extended.

Mr. GALLINGER. Mr. President, if the Senator will permit me, I desire to make only one observation about this matter. The original provision was on the District of Columbia appropriation bill, placed there against my judgment, and I think it was altogether too sweeping. It has worked a detriment to the service of the Government. It was put there under a misapprehension. As a matter of fact, it was intended to cure a small evil and it brought great harm.

Mr. WARREN. May I interrupt the Senator?

Mr. GALLINGER. Certainly.

Mr. WARREN. The same interest that insisted upon putting it in, later assented to this proposition and was glad to have it go in the bill.

Mr. GALLINGER. Mr. President, in the last bill corresponding to this one this provision was inserted. I think it was unfortunate that the word "hereafter" had not been put in the provision, because then it would have made it law. This is simply a continuation of the law that we enacted in the last legislative appropriation act.

While it is general legislation, I do hope the Senator from Oklahoma will withdraw his point of order. It affects the health service and many other departments of the Government, that really ought to be permitted to send a representative to a convention where he is expected to learn very much for the welfare of the people of the country.

Of course if the issue is to be made that no general legislation is to be permitted on appropriation bills, I think there will be some harm done in the future, because there are times, we have all learned, when it is the only way we can legislate to cure something that needs immediate attention. A bill can be introduced for this purpose, and possibly we might get it through Congress in one, two, or three years, but in the meantime harm is being done to the public good.

Mr. OWEN. I withdraw the point of order.

Mr. GALLINGER. I thank the Senator.

Mr. OWEN. I only wanted to emphasize upon the attention of the Senate the fact that appropriation bills shall not be made the vehicle for legislation. I realize that this provision has some value, and I do not insist upon the point of order.

Mr. GALLINGER. The Senator is right in his contention in a general way. I thank the Senator for withdrawing the point of order.

Mr. WARREN. Mr. President, I wish to say that I have no interest in this whatever, except an interest in the good of the service, and, as the Senator knows, it would not have gone into effect until the 1st of July, when the Senator's party will be in charge. I agree with him that legislation ought not be put in appropriation bills. In this case it was merely to cure a fault of earlier legislation.

The PRESIDING OFFICER. The Chair understands that the point of order is withdrawn. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DIXON. I ask the Senate to return to the amendment on page 144.

The PRESIDING OFFICER. The amendment on page 144 will be read.

The SECRETARY. On page 144, after line 11, the Committee on Appropriations reported to insert:

Commerce Court: For the Commerce Court, from March 5 to June 30, 1913, both dates inclusive, namely: Clerk, at the rate of $4,000 per annum; deputy clerk, at the rate of $2,500 per annum; marshal, at the rate of $3,000 per annum; deputy marshal, at the rate of $2,500 per annum; for rent of necessary quarters in Washington, D. C., and elsewhere, and furnishing same for the Commerce Court; for books, periodicals, stationery, printing, and binding; for pay of bailiffs and all other necessary employees at the seat of government and elsewhere, not otherwise specifically provided for, and for such other miscellaneous expenses as may be approved by the presiding judge, $16,111.11; in all, $19,977.78, to be immediately available.

Mr. DIXON. Mr. President, it was the understanding, I think, of practically every Member of the House and Senate and the understanding with the country at large that after the series of events regarding appropriations for the Commerce Court transpired last year the Commerce Court would, in effect, go out of business on March 4.

Now, this is an effort—and we might as well understand it—to rejuvenate and give new life to the Commerce Court, which, as I said, everyone supposed was going out of business on the 4th day of March, with the close of the present administration. The present appropriation included here calls for about $20,000 to carry it on to the 1st day of July. The original amendment, as reported by the subcommittee, not only carried it to the 1st of July, but appropriated for the full year of 1914. That went out in committee.

If the pending amendment is adopted it merely means another continuation of the lease of life of the Commerce Court. If it is not adopted it means that on the 4th day of March the Commerce Court comes to an end for lack of an appropriation.

The argument was made in committee, and it will be made here on the floor of the Senate, that we should appropriate for the Commerce Court up to the 1st day of July in order to allow it to wind up its business properly. I doubt whether that argument can be really sustained. I doubt seriously whether that is the purpose of the present amendment.

Mr. SMITH of Georgia. Will the Senator yield to me for a question?

Mr. DIXON. With pleasure.

Mr. SMITH of Georgia. Will we not have exactly the same trouble on the question after next July? Was not the limitation of this appropriation to March 4 notice that in so far as they could wind up their business it should be wound up by the 4th of March? Can they not wind it up by that time just as quickly as in July?

Mr. DIXON. The Senator from Georgia states the case very well. On the 1st day of July there would again be renewed a proposition for another appropriation. Now, the way to resume is to resume, and the way to abolish this Commerce Court is to strike this amendment from the bill.

Mr. WARREN. Will the Senator from Montana allow me just a moment in reply to the Senator from Georgia?

Mr. DIXON. With pleasure.

Mr. WARREN. The talk in conference at the time, when it was found necessary to leave all legislation out, was that there would be legislation in the meantime, between the 1st of December and March 4, whereby the business would be provided for in other courts.

Mr. SMITH of Georgia. Mr. President——

Mr. WARREN. Permit me to say further, on the part of the committee, that the subcommittee which prepared the bill for the full committee entertained, I think, the same opinion that the committee and the Senate entertain, that the duty of the Appropriations Committee is to provide for what is ordered under the law.

This court was in existence with business before it, and we had failed meantime to provide any way whereby the business could go to other courts, as I understand it.

Now, a litigant, a shipper, who has a difference with a transportation company and goes to the Interstate Commerce Commission and wins his case, unless we do something to relieve him, is almost at the mercy of the corporation. They appeal the case, and there we are.

That is why the subcommittee presented an appropriation to the full committee for the fiscal year of 1914, and for the four months remaining unprovided for in the present fiscal year; and it ought not to go out, because we have failed to provide any other way for the continuance of the Commerce Court business.

One word more. I have in my hand here the hearings which the Senate committee had. It took pains to try to hear from all interested parties. It heard from shippers and also had before it the Interstate Commerce Commissioners, Messrs. Prouty and Clements, and also had the leading solicitor and attorney of the Interstate Commerce Commission. In my opinion, those are the persons of all others who might object to the court. They all stated, and the attorneys most emphatically, that chaos would follow unless we provided some way for handling appeals, with the necessary and appropriate legislation, so that the business of the public would not be obstructed and shippers would not be completely at the mercy of transportation corporations.

Mr. SMITH of Georgia. Will the Senator from Montana yield to me just a moment?

Mr. DIXON. I yield to the Senator from Georgia.

Mr. SMITH of Georgia. The Senator from Iowa [Mr. CUMMINS] at the last session of Congress, with the assistance of a few other Senators, perfected a plan by which the business before the Commerce Court was to be handled, and provided broadly for the distribution of the cases and the continuation in the courts of the country other than the Commerce Court—the district and circuit courts—of the business of the Commerce Court. We sent that from the Senate as the action of the Senate, and it was yielded in conference.

Now, with very little difficulty, that amendment then perfected by the Senator from Iowa can be put into a separate bill, or, if the point of order is not made upon it, we can place it as an amendment on this appropriation bill. We can take care, with no difficulty, of the shippers who are concerned about the trial of their cases. We can easily provide for that, and the way to make sure that we will provide for it is to stop this appropriation. Then everybody will help us provide for it.

Mr. DIXON. As the Senator from Georgia remarked awhile ago, the continuation of the life of the Commerce Court by this appropriation until the 1st day of July will merely result in piling up more cases in the Commerce Court, whose jurisdiction must be redistributed to the Federal courts in different districts. I will be perfectly happy if the Senator will offer the amendment which the Senator from Iowa [Mr. CUMMINS] offered to the appropriation bill at the last session as a modus operandi of redistributing the jurisdiction of the cases already on file, but I reiterate this is merely allowing the camel's nose to get a little farther into the tent. It makes it more difficult all the time to abolish the court. The temper of the country is to abolish it. The record of the Commerce Court certainly has not reflected glory on itself, and the quicker it is abolished the happier the people of the country are going to be.

Mr. WARREN. May I ask this question: I take it for granted that, should there be an accumulation, the same legislation that would take ten cases would take a hundred if you should legislate and transfer the business to another court?

Mr. DIXON. Certainly. I would suggest to the chairman of the committee that I do not like to attack a bill from a committee of which I am a member, but I made this same fight in the committee. I did succeed there in striking out the appropriation for 1914.

I would be very happy to have the Senator from Iowa [Mr. CUMMINS] offer in lieu of this amendment the amendment which he offered to the appropriation bill last summer, providing a schedule for the transfer of the cases, and then on the 4th of March the thing will have been finally accomplished.

Mr. CUMMINS. Mr. President, my opposition to the Commerce Court began when it was originally proposed, and I have never ceased to be opposed to the existence of the court. But until the court is abolished and its jurisdiction is conferred upon some other court we ought to maintain the court. It would be an intolerable situation to preserve the jurisdiction of the court and refuse to give the court the means by which it could exercise its jurisdiction. No other court has the jurisdiction which is now conferred upon the Commerce Court. We must not, as it seems to me, allow a period from the 1st of March until the 1st of July to intervene in which the people of the country will have no opportunity to resort to the courts in those cases of which the Commerce Court now has jurisdiction. That seems to me to be fundamental.

Mr. BRISTOW. Mr. President——

Mr. CUMMINS. Just a moment. I will conclude what I was about to say, and I fancy I will advance the thought in

the mind of the Senator from Kansas in conclusion. The reason I have not offered to this bill the amendment which I offered to the bill of similar character of last session is that the bill, having passed Congress, went to the President for his approval. He disapproved the bill on the ground, among other things, that Congress had abolished the Commerce Court. His disapproval did not in any wise change my mind with regard to the matter, and I stand ready at any time to vote either for an amendment or an independent bill which abolishes the court and bestows its jurisdiction elsewhere. But we have the same President we had then, and I assume he has not changed his mind.

Mr. DIXON. Will the Senator allow me?

Mr. CUMMINS. In just a moment. I assume that the President would veto the bill as he did before, and that all we could do upon the return of the bill to us would be to surrender, as we did before, and pass the bill without the amendment. It has, therefore, seemed to me a rather foolish, or, at least, a futile, thing to do.

I now yield to the Senator from Kansas [Mr. BRISTOW], who, I think, asked me first to yield, if the Senator from Montana will allow me.

Mr. DIXON. I merely want to suggest, in connection with what the Senator has said, while we have the same President that we had when he vetoed the last bill, the President has, in the interim since he vetoed the last bill, heard from the country at large and, in consideration of what has happened, may have a different view of his own at this time.

Mr. CUMMINS. I do not know that the verdict of the country at large was a verdict upon that particular issue.

Mr. DIXON. I want to further suggest to the Senator from Iowa that this amendment, if it is necessary, can go on a half dozen appropriation bills which will come up between now and the 4th of March. Why not strike it from this bill, and in the meantime prepare the amendment which the Senator from Iowa offered last summer to be offered in connection with any supplementary appropriation bill on the sundry civil bill or on the deficiency bill or on half a dozen other appropriation bills which are coming up?

Mr. CUMMINS. Does the Senator from Montana really think that the President of the United States will approve an appropriation bill which abolishes the Commerce Court?

Mr. DIXON. I am not in the confidence of the President of the United States. There is plenty of time between now and the 4th of March—to which time an appropriation has already been provided for—for the Senator from Iowa to offer his schedule for redistributing the jurisdiction of cases now pending and to pass the bill through the Senate during the life of the present appropriation bill. I think, in view of the fact that this can very easily be done on any appropriation bill between now and the 4th of March, it is worth while to try it.

Mr. BRISTOW. Mr. President——

Mr. CUMMINS. I now yield to the Senator from Kansas.

Mr. BRISTOW. What I wanted to suggest to the Senator from Iowa was that there seems to be no effort being made to provide for the assignment of the jurisdiction to other courts which this court has had.

Mr. SMITH of Georgia. I have sent for a copy of the amendment prepared by the Senator from Iowa [Mr. CUMMINS], which was adopted by the Senate at the last session of Congress. I hope to have it in a few moments, and I think I shall offer it as an amendment to this bill.

Mr. CUMMINS. So far as I am concerned, I certainly shall vote for an amendment of that character, although I intend presently to take a resolution not to vote for any general legislation upon appropriation bills; but I have not yet taken it, and may defer it until the coming in of the next administration.

Mr. BRISTOW. What I wanted to further suggest was that we have here an appropriation continuing this court until the expiration of this fiscal year. If this amendment is defeated, the country will then be exactly in the same condition in which it will be on the 4th of March. This does no good; it simply postpones for three months the "chaos" we have been hearing about.

Mr. CUMMINS. No.

Mr. BRISTOW. Yes.

Mr. CUMMINS. This bill, to be logical, ought to make an appropriation for the fiscal year 1914.

Mr. BRISTOW. And if this goes through, I predict that that appropriation will find its way into some other bill continuing the court beyond the 1st of July. For one, I am very much in favor of an amendment to this bill, in lieu of this one, distributing the jurisdiction and directing this court to go out of business on the 4th of March.

Mr. CUMMINS. I also am very much in favor of such an amendment, but I have not believed, having met the experience of a disapproval of a similar bill, that it was worth while to attempt the abolition of the court without a majority of two-thirds in Congress under present circumstances.

Mr. GALLINGER, Mr. BRISTOW, and Mr. FOSTER addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Iowa yield, and to whom?

Mr. CUMMINS. I yield to the Senator from New Hampshire.

Mr. FOSTER. I wished to ask a question, as I thought the Senator from Iowa had yielded the floor.

Mr. GALLINGER. Mr. President, I voted for this provision in committee for the reason that I thought we would be in bad shape if we did not insert it in the bill. I am quite willing at any time to vote for the abolition of the Commerce Court. I believe that that is coming, and perhaps it had as well come at one time as another; but Mr. Farrell, who is the solicitor of the Interstate Commerce Commission—and I believe there is not any too kindly a feeling between the Interstate Commerce Commission and the Commerce Court—gave testimony which influenced me very much. Will the Senator from Iowa permit me to read a couple of paragraphs from his testimony?

Mr. CUMMINS. Certainly.

Mr. GALLINGER. Mr. Farrell said:

> Mr. FARRELL. Unless the Commerce Court is abolished or its appropriation continued a chaotic condition will ensue after March 4; and I have no hesitancy in saying that the Congress should either appropriate further for the Commerce Court or else abolish it and transfer its jurisdiction to other courts, so that they may operate on those cases after March 4.
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> * * * * * * *
>
> Senator FOSTER. Mr. Farrell, you said that, in your opinion, conditions would be chaotic as to the cases pending and cases to be brought unless there were additional legislation. Will you please explain a little more fully what you mean by the condition of those cases being chaotic?
>
> Mr. FARRELL. I mean that the Commerce Court would still have its jurisdiction, but no practical way of exercising that jurisdiction; that it would have no money with which to do business, and still would have business to do.
>
> The CHAIRMAN. And the right of appeal from your commission would exist with no legal way of putting it into effect.
>
> Mr. FARRELL. That is correct.
>
> Senator FOSTER. The court still exists, and the jurisdiction of the court still exists, and there is no machinery to carry on the cases and enforce either the power or the jurisdiction of the court.
>
> Mr. FARRELL. Yes.

Then Mr. Needham, in giving testimony, practically repeated the same language that Mr. Farrell had used.

While, as I have said, I am quite ready at any time to vote for the abolition of the Commerce Court, if provision is made to transfer its jurisdiction to other courts, it occurs to me that we ought not to do it offhand to-day and leave cases hanging in the air, whereby litigants would be denied their rights for some time to come. That is the attitude I held in committee, and I think it is correct.

Mr. CUMMINS. I take much the same position; but I think, so long as the court exists, that we ought to maintain it. Our first step should be to abolish the court and transfer its jurisdiction, which is a highly necessary jurisdiction, to some other tribunal. Then, of course, the appropriation becomes unnecessary; but to leave the court in existence without the possibility of discharging its functions would be to impose a very great hardship upon the people of this country. I do not think the Senate would intentionally or consciously leave that void in the judicial system of the country.

Mr. FOSTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Louisiana?

Mr. CUMMINS. I now yield the floor, having said all that I desire to say.

Mr. FOSTER. Mr. President, as a member of the Appropriations Committee I think it but just and proper that the Senate should understand the reasons that prompted at least a majority of the members of that committee in submitting this amendment.

In 1909 or 1910 the Commerce Court was created, and exclusive original jurisdiction was conferred upon that court for the trial of all cases wherein the orders of the Interstate Commerce Commission were involved. The jurisdiction which had theretofore extended to and been exercised by the circuit courts of the country was withdrawn and exclusive original jurisdiction was given to the Commerce Court for the purpose of trying all those cases. In the act creating this court there were also provisions made for certain officers, setting out the number of the officers and the salaries that should be paid to those officers. At the last session of Congress, after the bill carrying with it an abolition of the court had been vetoed—I think, upon that ground the veto was based—there was a compromise effected in the conference committee, by which an appropriation was made for rent, stationery, and the payment of the officials of that court

until the 4th of March. As we found the law in the committee, it was that the Commerce Court as a court still existed; that it enjoyed the identical jurisdiction which was conferred upon it in the act creating it; but that from the 4th of March until the end of the fiscal year there was no appropriation made for carrying on and operating the machinery of that court.

So, Mr. President, the law has left the court in existence and it has left it with its jurisdiction, but it has left it without any means of carrying on the court, because of the failure to appropriate for a building in which the court was to hold its sessions, for clerks to file the papers of the court, or for marshals to execute the orders of the court or to give notices. In that situation it seemed to me at least that it was necessary and that it was the duty of this committee to report an appropriation in order to make available the money necessary to carry on that court from March until July. In fact, I favor an appropriation for the whole year. That did not involve, nor am I going to discuss, the question of the desirability of the abolition of the court. I did not believe that it was a proper method of legislating to carry into general appropriation bills general legislation. That has always been my position.

I believe, further, Mr. President, that the President would do just what he has heretofore done if this provision had been put in the bill.

Unless this amendment shall be adopted, what will be the result? You will have the Commerce Court as a court, you will have it with its jurisdiction, and you will have all the cases now pending before that court and the cases hereafter to be brought returnable to that court without any machinery at all to operate the court. It will completely tie up all of the interstate commerce litigation.

When this matter was up for consideration by the committee there appeared before the committee two lawyers of the Interstate Commerce Commission. Both of those lawyers have had large experience in the conduct of these cases. One of them was Mr. Farrell. I asked him before the committee:

> Senator FOSTER. Of course, as you understand, this is an appropriation bill. The bill fails to make any appropriation for rent of building or purchase of stationery or the payment of any of the officials of the court. As I understand the bill, it does not abolish the Commerce Court, but it practically stops the operation of the machinery of the court. Now, if the bill passes in its present form, failing to make these appropriations, what will become of the cases now pending in that court and of the cases hereafter to be filed by any litigant?

Mr. Farrell's answer was:

> Unless the Commerce Court is abolished or its appropriation continued, a chaotic condition will ensue after March 4; and I have no hesitancy in saying that the Congress should either appropriate further for the Commerce Court or else abolish it and transfer its jurisdiction to other courts, so that they may operate on those cases after March 4.

Then I asked Mr. Needham, who seems to have had a very extended experience in Commerce Court litigation, this question:

> Senator FOSTER. We might ask Mr. Needham if he agrees with Mr. Farrell as to the chaos that would follow in the event that there were no other legislation than that which refuses to make any appropriation for the support and maintenance of the Commerce Court?
>
> Mr. NEEDHAM. Oh, yes; that would be a deplorable condition.
>
> The CHAIRMAN. Of course there must be either legislation or appropriation.
>
> Mr. NEEDHAM. There would be no way of disposing of applications for restraining orders, and so forth.
>
> The CHAIRMAN. Your cases would simply be hung up in the air, and both shippers and transportation companies would be in limbo.
>
> Mr. NEEDHAM. Oh, yes; it would be a condition of chaos.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Kansas?

Mr. FOSTER. Certainly.

Mr. BRISTOW. Let me inquire of the Senator if this awful condition which we are about to confront can not be remedied by providing for the distribution of the jurisdiction of this court to other courts? Congress has very emphatically taken a position in regard to the continuance of this court. Now, instead of trying to force its continuance by presenting to the Senate and the country this chaotic condition that will exist if the appropriation is not made, why not offer some remedy for it and let the court go out of existence, as it is clearly and manifestly the intention of Congress that it shall?

Mr. FOSTER. Mr. President, I will answer the Senator. Of course, the Appropriations Committee had nothing to do with the legislation in regard to the Commerce Court and, in my opinion, ought not to have anything to do with it. If there is a bill passed abolishing the Commerce Court, that bill necessarily carries with it the abolition of all the officers under the court, and all appropriations for those officers will cease, because there will be no officers in existence to receive the appropriations.

These are the reasons, Mr. President, that impelled me to vote in committee for this amendment. As I have stated, general legislation of the character that was put on this bill last year, I believe, is against the better policy of legislation; and so far as I am concerned, I shall object to it being placed upon this bill.

Mr. CLARKE of Arkansas. Mr. President, I have cooperated for several sessions with that contingent in the Congress of the United States which sought to abolish the Commerce Court, and my service was that of an ally rather than a veteran.

So far as the court itself is concerned, it is a distinct improvement of the judicial system of the United States. It supplies a real want and will facilitate, as nothing else will facilitate, the administration of the interstate-commerce law so far as it relates to transportation. Anybody who is at all familiar with the history of one of these rate cases in a United States district court will understand at once that the delay in itself amounts almost to a denial of justice. That has been the experience in all the Western States; it has been the experience in Arkansas, and we have there just as industrious, just as competent, and just as able a judge as any of the district judges in this country. The defect is in the system and not due to any particular deficiency in the judge.

The subject of transportation in its relation to interstate commerce has grown to such an extent that it has become of itself an independent topic of sufficient proportions to justify a special tribunal to deal with it. In the contracts of merchants time is of the essence; and in the matter of transportation it is of the utmost importance to know just exactly what the law is, because it enters into commerce in all of its branches. The railroads have had no better friend than the procrastination that has been imposed upon litigation in this country by the congested condition of the dockets of the courts.

The Commerce Court was an experiment when it was tried; that is to say, the public demand was crudely responded to. I voted for that feature of the law in opposition to the wishes of some of my associates on this side of the Chamber.

My principal business in life has been in the courthouse, and, whilst I did not distinguish myself there very greatly, I have learned some things by observation, more particularly relating to lawsuits conducted by other and abler lawyers. One of the things I did learn is that promptness in the disposition of litigation is quite as important as correct decision in the end.

We are just in the infancy of interstate commerce. Every time the Supreme Court of the United States meets it lays down some novel, almost startling, doctrine. The business of transportation is nation-wide. The technicalities connected with it are such as to perplex those who devote their lives to attempting to unravel them. A special class of lawyers has been raised up in the profession to take charge of the litigation of that kind which has grown up. So special or technical is it in its character that lawyers familiar with the ordinary rules of law that would serve them in general practice are not deemed to be competent to take charge of such controversies.

I think that demand has extended beyond the bar, and has now become a necessity, so far as the court itself is concerned. The subjects of the enforcement of the rights of shippers and the protection of the rights of the public have become separate subjects of the law. It is a distinct achievement in the direction of a better condition to have to deal with these questions a court instructed in all of the rules and matters and all the peculiar practical features of railroad construction and railroad operation. There grows up there much more quickly than it can in the different district courts of the country a body of laws peculiarly applicable to controversies of that kind. A special court grows familiar with such controversies; it can act quicker; its decisions are rendered quicker; and cases are finally disposed of quicker. All those things contribute to the efficiency of government and reduce the expense and uncertainty of controversies such as these. They prevent many controversies which otherwise would be precipitated by the public-service corporations, whose activities are subject to the jurisdiction of that court, because they know now that the time usually devoted to business of that kind has been very greatly shortened; and where they know they are not right, they are not likely to contend.

I have voted to abolish the court and the judges of it. My objection, however, was to the character of judges who were put there. I was utterly disappointed when the President announced the list of judges whom he had selected to constitute the membership of that court. He had been looked upon as possessing peculiar qualifications for selecting, from among the body of lawyers, judges who were qualified to discharge the duties that would be imposed upon them; but he has made the impression upon me, and I feel safe in saying that he has made

the impression upon others, that if there is one particular service in which he has proven to be a signal failure, it has been in that behalf; and you do not have to go outside of the membership of that court to condemn him as being utterly incapable of rising above the peculiar group of circumstances, not at all to his discredit, when he comes to make nominations for places of that importance.

The character of judges that he placed there discredited the court before the country. The very first thing they did was to constitute themselves the censors of the Interstate Commerce Commission. They took it upon themselves to review de novo every order that had been made, not limiting their jurisdiction to laying down principles of law and accepting the findings of fact of that tribunal; but one of the members of the court who was taken from that commission sought to make his dissenting opinions as a commissioner the rule of the law of transportation of this country.

True, the Supreme Court has set them right in some of its opinions. It may be that the definition of jurisdiction contained in the amendment to the interstate-commerce act is not as accurate as it should be; but improvements along that line, with a different class of judges, would, in my opinion, remove whatever dissatisfaction there exists in connection with the Commerce Court.

I am not disposed here to undertake to cripple the court now. The court, as I have said, does not stand well, not because of the structure of the court or the constitution of the court, but rather because of the judges who were appointed to administer that particular feature of the judicial function. In the first place, they discredited themselves in the extravagance with which they fitted up their court room. That was exhibited here on this floor. No such recklessness has been displayed by any public officials who have had charge of the disbursement of money for purposes of that kind. They showed a weakness and a vanity about it that was certain to impress one with the thought that they felt themselves to be a little different from what the law intended they should be. Then their habitual raids upon the jurisdiction of the Interstate Commerce Commission were such as to create the impression that that tribunal had been abolished, except as a place where controversies could be originated, and that the real hearing and disposition was to take place in the Commerce Court.

I have my own notions about that kind of a court. I believe there should be a central court, composed of the very best judges who can be found on this continent, who should be paid a salary that will secure them. Whenever we have that kind of a court, they will vindicate the wisdom of the establishment of such a court by demonstrating to the country that no other means that can be adopted involving no greater expense than that can be inaugurated with such gratifying results.

The proposition now pending is to allow sufficient money to keep the court running until July. I believe I shall lend the aid of my vote to that proposition. I believe that before many months roll around, certainly before many years roll around, we will have an opportunity to deal with the court in a broader way, and it is possible that some means can be found by which the just criticisms of the country may be obviated and the usefulness of the court may be increased.

The PRESIDING OFFICER (Mr. SHIVELY in the chair). The question is on agreeing to the amendment reported by the committee on page 144 of the bill.

Mr. DIXON. I understood that the Senator from Georgia [Mr. SMITH] was going to offer an amendment——

Mr. LODGE. The question will be divided anyway.

Mr. DIXON. I understood the Senator from Georgia was going to offer as an amendment the schedule prepared and adopted at the last session of Congress.

Mr. SMITH of Georgia. I understood that the Senator from Louisiana [Mr. FOSTER] would make the point of order against the amendment, and it clearly is out of order to put this proposed legislation on an appropriation bill. So I abandoned the idea of presenting the point of order. I think the proposition should be submitted to the Senate as a separate question.

Mr. DIXON. I should think that the Senator from Georgia would offer the amendment and allow the responsibility to rest on the Senator from Louisiana [Mr. FOSTER] for redistributing the cases now pending before the Commerce Court——

Mr. FOSTER. I hope the Senator does not think the Senator from Louisiana is going to hesitate to take the responsibility.

Mr. DIXON. No.

Mr. SMITH of Georgia. Mr. President, when I heard the statement of the Senator from Louisiana [Mr. FOSTER] I knew it was so, and I think the only remedy would be to kill this appropriation and introduce an independent bill. If we divide this appropriation an independent bill will certainly pass both Houses.

Mr. OWEN. Mr. President, I think this item should be stricken out of the bill. The Congress of the United States has heretofore expressed its desire that the Commerce Court should go out of existence. The President of the United States has used his veto power to prevent the will of Congress becoming effective. Therefore the Congress of the United States has the right, under the practice of government, to refuse supplies, in this connection, as a means of making good its protest against this court. Congress is entirely justified in this, in my judgment, and the refusal of the supplies necessary to carry on this court will make necessary the abolition of the jurisdiction of this court, the distribution of the cases before the court, and provision for dealing with cases which are on appeal from this court. That can be done in due order, but I think this item should be struck out, and I wish to say as much.

The PRESIDING OFFICER. The Chair wishes to suggest that the question is not on a motion to strike out. The question is on agreeing to the committee amendment.

Mr. GALLINGER. Yes; it has to be put affirmatively.

Mr. DIXON. On that let us have the yeas and nays.

The yeas and nays were ordered.

Mr. OWEN. Mr. President, I suggest the absence of a quorum.

Mr. GALLINGER. The motion will be put affirmatively upon agreeing to the committee amendment?

The PRESIDING OFFICER. That is the question. The question is, Shall the committee amendment be agreed to?

Mr. OWEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names.

Ashurst	Crawford	Martin, Va.	Simmons
Bacon	Cullom	Martine, N. J.	Smith, Ariz.
Borah	Cummins	Nelson	Smith, Ga.
Bradley	Dillingham	Owen	Smith, Md.
Bristow	Dixon	Page	Smoot
Bryan	du Pont	Paynter	Sutherland
Burnham	Fletcher	Penrose	Swanson
Burton	Foster	Perkins	Thornton
Catron	Gallinger	Perky	Townsend
Chamberlain	Heiskell	Poindexter	Warren
Clapp	Jones	Pomerene	Wetmore
Clark, Wyo.	Kenyon	Root	
Clarke, Ark.	La Follette	Sanders	
Crane	Lodge	Shively	

The PRESIDING OFFICER. Fifty-three Senators have answered to their names. A quorum is present.

Mr. POINDEXTER. Mr. President, I was not here during the discussion of this item, and I do not know whether any attention has been called to the form of the amendment offered by the committee. I notice at the close of the amendment the amount appropriated in all is $19,977.78; but it appears from a tabulation of the items preceding that that the amount it provides for is a great deal more than that. The separate items, added together, amount to the sum of $31,977, apparently. As I say, I was not here during the previous discussion, and this matter may have been explained.

Mr. WARREN. I think the Senator is mistaken about his figures. It provides for these expenses at certain rates per annum, but only for the remainder of March after the 4th of March, and April, May, and June; in other words, it covers the contingent expenses and salaries of the employees from March 4 to June 30.

Mr. POINDEXTER. This paragraph, as I understand, does not specify the amount appropriated, but leaves it to be determined by a mathematical calculation.

Mr. WARREN. It is at the rate of so much per annum.

Mr. POINDEXTER. It does not state how much.

Mr. WARREN. Yes; it does. I beg the Senator's pardon, but if he will have it read he will see that it does.

Mr. POINDEXTER. It states how much per annum, but it does not state the amount of the appropriation for salaries.

Mr. WARREN. This is upon the basis of the current law, except they cut down in rent, and the basis on which the appropriation asked is the number of days in which the court would be provided for at the rates of salary established by law, and at a lower rate of rental, which is made as low as possible. Of course, the old appropriation for traveling expenses is left out entirely. But the amount is as stated, a little short of $20,000—$19,977.17.

Mr. POINDEXTER. There is nothing in the amendment proposed by the committee from which it can be determined how much of this money is to be expended for rent, how much for furniture, and how much for any other incidental expenses.

I notice in a statement which I have in my hand among some of the incidental expenses of this court, pasteboard fitting pipes and drapery, $150; slip covers for 55 window draperies and 7

court screens, $145; 13 mahogany and silk-lined window shades, $122; altering 5 judge's court-room chairs, original cost $945; 72 feet mahogany bookcases, $1,404; 1 leather davenport, $175; models for carved work, $160; 5 judge's court-room chairs, $690; 3 plate-glass tops for desks, $57; and 7 leather pillows, $77.

I should like to inquire of the Senator from Wyoming if he can state what portion of this item of $16,111, specified in the last item in the amendment, is available for expenses of the kind I have just mentioned.

Mr. WARREN. The first appropriation for this court was on a basis of $100,000 for the first year. For the current bill or the present fiscal year was a trifle over $62,000.

The proposed sum for four months to complete the present fiscal year is on the basis of the $62,000 a year, and amounts to a little less than $20,000 for the four months. This amount covers every expenditure of every character of the Commerce Court, excepting, of course, the salaries of the judges themselves.

Mr. DIXON. That would be $16,000.

Mr. POINDEXTER. It would take some little time, and I am not going to undertake to make the calculation the Senator refers to. My understanding has been that ordinarily in appropriation bills the amounts appropriated for the items specified are stated in the bill. Of course, it would make no difference what explanation the Senator from Wyoming would give or what were the intentions of the Senate in appropriating this amount. The law on the face of it leaves absolute discretion in the Commerce Court to spend the entire $16,000 for leather pillows, or mahogany bookcases, or altering judge's chairs, or plate-glass tops for desks.

I desire to call attention to the absolute lack of any limitation in this amendment of the proportion of the sum appropriated which may be used for incidental expenses. There is no specification of the portion of this sum which is to be spent for rent; and if we are to judge by the practice of the court heretofore in expending money, I would suggest that if the appropriation is going to be made at all it ought to be limited to the purposes for which Congress intends it to be used.

Mr. WARREN. The Senator does not strengthen his case by repeating it. There is no such latitude as the Senator states. This specifically provides that a certain amount, which it is easy to calculate if a man will take a pencil and a piece of paper, is to be spent within a certain length of time and for a certain purpose.

The difference between the salaries at the rate per annum stated for the length of time stated, which, as I have already said, amount to over $12,000 of this sum, and the total appropriation under this paragraph would be the amount available for the items referred to.

Mr. GALLINGER. The total amount is $19,000.

Mr. POINDEXTER. That is the entire sum.

Mr. DIXON. If the Senator from Washington will pardon me, the amount for salaries is less than $4,000. The $12,000 is for the entire year. You are appropriating for the period only from March to June. The amount that you are appropriating for salaries is the difference between $16,111.11 and $19,977.78. There is absolutely $16,000 that can be expended there on the certification of the presiding judge without any regard to the question whether it is for leather sofa pillows or mahogany bookcases or plate-glass tops or what not.

Mr. WARREN. The Senator will understand that this, in addition to rent, is to cover the cost of books and periodicals, pay of bailiffs, and so on, at the seat of government. These items are, of course, in the estimate, and if it is desired to make the point that each one should be specifically stated, it makes the case different from our appropriations for other courts. But that can be done.

Mr. POINDEXTER. Mr. President, this appropriation is for the support of the court, which the Senate, at its last session, after thorough debate and a full discussion of the record of the court, and the relations of the court with the Interstate Commerce Commission, and the revolution which the court had worked in the Interstate Commerce Commission, and the interference with the functions of that commission, had abolished to all intents and purposes. It seems to me it is not a particularly edifying spectacle before the country when the Senate, after great deliberation and thorough debate, has decided a matter of this kind, that we should reverse that action at the succeeding session of Congress. I am not aware of anything that has occurred in the meantime that renders this court more acceptable now than it was then, nothing that has occurred that has in any way indicated that the court is disposed to change its attitude toward the Interstate Commerce Commission, or in the construction and abuse of powers which the court has or claims to have under the law under which it was organized.

The same reasons that applied then apply now. So far as I am concerned, I expect to vote the same way now that I voted then, and it seems to me that the Senate, unless there is some reason proposed, ought to refuse to reverse the action which it took at the last session.

The Supreme Court of the United States has declared in one of its decisions, which has already been cited, that the action of the Commerce Court—the rules undertaken to be laid down by the Commerce Court—had the effect of revolutionizing the law under which the Interstate Commerce Commission was exercising its functions. Before this court was created the Interstate Commerce Commission was regarded as an administrative body, acting under a rule or policy laid down by Congress, and its administrative acts were final; its findings as to facts, except where there was an excess of jurisdiction, were final. But this court, set up as a supervisory power, or setting itself up as a supervisory power, as to the findings of fact made by the Interstate Commerce Commission, has rendered the Interstate Commerce Commission practically useless.

These things were all discussed at the last session, and it would be useless, and I do not propose to go into them now. I simply want to register an objection, as far as I am concerned, for one, to a reconsideration of the question, when there is no reason advanced for a reconsideration of it.

The experiences which we have had with other courts that undertake to set themselves up above the law has not tended in any way to support the position taken by the Commerce Court. Very recently in the State of Idaho the supreme court of that State took a position very analogous to that which has been taken by the Commerce Court in regard to its functions, and laid down the rule that the Legislature of the State of Idaho had no power to limit punishment for contempt of court; that the court was supreme; that the court was above the legislature; that it had some inherent power derived from some mysterious source, which it did not explain, which was not subject to regulation by the legislature. It undertook to imprison publishers of a newspaper for a period of time double the limitation fixed by the legislature of the State as a penalty for contempt, and expressly declared that the legislature had no right to limit the power of the court. That, to all intents and purposes, is the attitude that has been taken by this Commerce Court.

It is a superfluous body. It is not needed, even though it had subjected itself to the law that has been laid down by the Supreme Court of the United States. But it has not done that. It has assumed an authority which the law does not give it, and has announced the same doctrine in the performance of its functions, in the issuance of temporary injunctions to restrain orders made by the Interstate Commerce Commission, which the Supreme Court of Idaho announced in this contempt case, namely, that it had certain inherent powers above the people, acting through the legislature, which had undertaken to define the limit of its power.

The expenses of this court amount to almost $100,000 a year, taking into account those matters which are not included in the items specified in this bill. The money has been expended extravagantly and recklessly, and if this amendment passes it will leave absolutely in the discretion of the court, as has been already stated, an opportunity to continue the extravagant expenditure of this large amount of money for purposes which are utterly unnecessary and improper.

Mr. BORAH. Mr. President, the manner in which this amendment comes up makes it a little difficult and embarrassing to one who is opposed to the Commerce Court and at the same time would like to see its existence terminated in an orderly way. I was opposed to the creation of the Commerce Court and I am opposed to its continued existence. I hesitate, however, to vote against appropriating the money necessary to run the court so long as it is in existence.

If I were not of the opinion that the act would be followed, if successful, by some means or method of disposing of the cases and transferring them in an orderly way and in disposing of the court, I should not vote against this appropriation. But it seems to me that if we are successful in cutting off the appropriation it will be followed in an orderly way with an act which will dispense with the court and transfer its jurisdiction to other courts.

For that reason, while it is somewhat of an incongruous position for one to occupy who is in favor of appropriating money whenever a court is in existence, I propose to cast my vote against the appropriation. I am so thoroughly opposed to the

court that I can not give my consent to anything which would seem to favor its continuance.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Appropriations, on page 144 of the bill, on which the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. CRANE (when his name was called). I am paired with the junior Senator from Maine [Mr. GARDNER] and therefore withhold my vote.

Mr. GALLINGER (when his name was called). I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. I think that Senator is not in the Chamber. I will transfer my pair to the Senator from South Dakota [Mr. GAMBLE] and vote "yea."

Mr. THORNTON (when Mr. O'GORMAN'S name was called). I desire to announce that the junior Senator from New York [Mr. O'GORMAN] is necessarily absent from the Chamber. He is paired with the senior Senator from New Hampshire [Mr. GALLINGER], as has been announced by that Senator.

Mr. PENROSE (when his name was called). I am paired with the junior Senator from Mississippi [Mr. WILLIAMS]. I observe that he is not in the Chamber. I transfer that pair to my colleague, the junior Senator from Pennsylvania [Mr. OLIVER], thereby permitting the junior Senator from Oregon [Mr. CHAMBERLAIN] and myself to vote. I vote "yea."

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. He is necessarily absent on account of sickness. Not knowing how he would vote if present, I withhold my vote.

The roll call was concluded.

Mr. DU PONT. I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. I transfer that pair to the junior Senator from Maryland [Mr. JACKSON] and vote. I vote "yea."

Mr. CLARK of Wyoming. I have a general pair with the Senator from Missouri [Mr. STONE]. In the absence of that Senator I transfer my pair to the Senator from New Mexico [Mr. FALL] and vote. I vote "yea."

Mr. BRADLEY. May I inquire whether the Senator from Indiana [Mr. KERN] has voted?

The PRESIDING OFFICER. He has not voted.

Mr. BRADLEY. I am paired with that Senator. On account of his absence I decline to vote. Were he here I would vote "yea."

Mr. MYERS. Has the Senator from Connecticut [Mr. MCLEAN] voted?

The PRESIDING OFFICER. He has not.

Mr. MYERS. I have a pair with the Senator from Connecticut [Mr. MCLEAN], and he being absent I withhold my vote.

Mr. SIMMONS. I desire to announce that my colleague [Mr. OVERMAN] is absent from the Senate on account of illness.

The result was announced—yeas 33, nays 20, as follows:

YEAS—33.

Bryan	Dillingham	Page	Sutherland
Burnham	du Pont	Payntor	Swanson
Burton	Fletcher	Penrose	Thornton
Catron	Foster	Root	Townsend
Clark, Wyo.	Gallinger	Sanders	Warren
Clarke, Ark.	Jones	Simmons	Wetmore
Cullom	Kenyon	Smith, Md.	
Cummins	Lodge	Smoot	
Curtis	Martin, Va.	Stephenson	

NAYS—20.

Ashurst	Crawford	Martine, N. J.	Pomerene
Borah	Dixon	Newlands	Shively
Bristow	Heikell	Owen	Smith, Ariz.
Chamberlain	Johnson, Me.	Perky	Smith, Ga.
Clapp	La Follette	Poindexter	Tillman

NOT VOTING—41.

Bacon	Gamble	Lippitt	Reed
Bankhead	Gardner	McCumber	Richardson
Bourne	Gore	McLean	Smith, Mich.
Bradley	Gronna	Massey	Smith, S. C.
Brandegee	Guggenheim	Myers	Stone
Briggs	Hitchcock	Nelson	Watson
Brown	Jackson	O'Gorman	Williams
Chilton	Johnston, Ala.	Oliver	Works
Crane	Johnston, Tex.	Overman	
Culberson	Kern	Percy	
Fall	Lea	Perkins	

So the amendment of the committee was agreed to.

Mr. OWEN. On page 26, after line 6, I move to insert:

For legislative reference bureau, under the direction of the Librarian of Congress, $10,000.

Mr. WARREN. I make a point of order against the amendment. It is not estimated for and is not recommended by any committee.

The PRESIDING OFFICER. The point of order is sustained.

Mr. OWEN. I think the point of order is well made. I offered the amendment, however, because it is a matter of great importance to the future usefulness of the Senate and the House of Representatives to begin the establishment of a reference bureau from which a Senator or Representative may obtain authoritative information on legislative questions. It has been established in Wisconsin and has proved very useful there. I hope the Senator from Wyoming will not insist upon his point of order.

The PRESIDING OFFICER. The Chair will withdraw his ruling if the Senator from Wyoming desires to withdraw the point of order.

Mr. WARREN. Mr. President, I do not feel that I ought to withdraw the point of order, because, in the first place, there is no law or estimate for it, and it has not had the consideration of the committee. I think it should have the consideration of the committee, which the committee has not been able to give it. I therefore insist on the point of order.

Mr. OWEN. I remind the Senator that it passed the Senate a year ago, if I am not mistaken.

The PRESIDING OFFICER. The point of order made by the Senator from Wyoming is sustained.

Mr. MARTINE of New Jersey. I desire to present an amendment.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. Under the head of "Legislative," insert:

That the salary of all employees of the United States Senate who are receiving less than $1,800 are hereby increased 25 per cent. In no case, however, shall the salary so increased exceed $1,800.

Mr. MARTINE of New Jersey. My purpose, Mr. President, in offering the amendment is that we may reach those of lower grade. I feel that it is manifestly fair. It is a universally admitted fact that the cost of living has increased from 40 to 60 per cent, and these salaries have not been increased in years. I feel that it is a matter of simple justice.

Mr. WARREN. Mr. President, early in the consideration of the bill the manager of the bill felt that those who were not satisfied with the committee's action upon these Senate positions ought to have the opportunity to settle it here on the floor of the Senate. Therefore, all similar amendments are for the Senate itself to settle.

Mr. CLARKE of Arkansas. Mr. President, I think this is an inopportune time for increasing salaries, and we should not increase a salary until we know that there is a special reason for so doing. The same reason which prompted me to object to the amendment offered by the Senator from Virginia prompts me to raise the point of order against this amendment. It may be that increases will hereafter be made. It may be that an equalization of salaries will take place. I raise the point of order that this item has not been estimated for and is not otherwise within our rule.

The PRESIDING OFFICER. A point of order is made by the Senator from Arkansas. The Chair must sustain the point of order.

Mr. WARREN. That completes the bill, so far as committee amendments are concerned.

Mr. CUMMINS. I desire to ask the Senator from Wyoming whether the amendment known as section 5 was adopted? I was called from the Chamber for a few minutes this afternoon.

Mr. WARREN. Section 5 was stricken out on a point of order made by the Senator from Oklahoma [Mr. OWEN] and sustained by the Chair.

Mr. CUMMINS. The whole of section 5?

Mr. WARREN. The whole of section 5.

The PRESIDING OFFICER. The bill is still as in Committee of the Whole and open to amendment.

Mr. CUMMINS. I wish to make one further statement. I stated this afternoon that before the disposition of the bill I intended to offer an amendment relating to the Naval Observatory, the American Ephemeris, and the Nautical Almanac. I have concluded not to do so, but I shall offer a resolution presently for an investigation of that subject by the Committee on Naval Affairs.

Mr. SMITH of Georgia. I wish to give notice that immediately after the conclusion of the omnibus claims bill, which is in charge of the Senator from South Dakota, I shall ask the Senate to take up and consider House bill 22871, to establish agricultural extension departments in connection with the agricultural colleges of the several States.

Mr. CRAWFORD. I could not hear the first part of the statement of the Senator from Georgia.

Mr. SMITH of Georgia. Immediately after action by the Senate upon the omnibus claims bill, which is under the Senator's direction, I shall then ask the Senate to take up the agricultural extension bill.

Mr. CRAWFORD. I am very glad the Senator is making that exception, but from the speed which I have been making with the omnibus claims bill I think it is a little discouraging to both the bill which I am trying to get action on and the bill in which the Senator from Georgia is interested.

Mr. LODGE. The regular order.

Mr. WARREN. What has become of the appropriation bill?

Mr. SMITH of Georgia. I understood the claims bill was to follow the appropriation bill.

Mr. WARREN. The appropriation bill has not yet been passed.

Mr. SMITH of Georgia. But I understood that the Senator from South Dakota intended to ask the Senate to take up his bill immediately after the appropriation bill is passed.

Mr. GALLINGER. The regular order.

The PRESIDING OFFICER. The bill is as in Committee of the Whole, and open to amendment. If there are no further amendments as in Committee of the Whole the bill will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. MARTIN of Virginia. On page 16, in line 15, I move to amend by striking out "$2,500" and inserting "$3,000" after the word "clerk."

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 16, line 15, strike out "$2,500" and insert "$3,000."

Mr. MARTIN of Virginia. And in the same line, as a part of the same amendment, after the words "assistant clerk," I move to strike out "$1,600" and insert "$2,000"; and after the word "janitor," in the same line, to strike out "$720" and insert "$1,000."

I will say to the chairman of the committee that they are the salaries of the clerks of the Judiciary Committee of the House, and I have a letter from the chairman of the House committee asking that these amendments be made. I have a letter here from Mr. FITZGERALD, and also from the chairman of the Committee on the Judiciary of the House.

Mr. WARREN. Will the Senator allow me to see the letter of the chairman?

Mr. CLARKE of Arkansas. What is the necessity for it?

Mr. MARTIN of Virginia. I will say that it has been the uniform custom to let each House fix the expenses of its own employees.

Mr. WARREN. I wish only to have the letters read; and, if the Senator will permit me here, I desire to say that there is a comity between the Senate and the House committees. The Senate has never, to my knowledge, proposed an amendment, or those in charge of appropriation bills consented to an amendment, to strictly House of Representatives matters, such as salaries, except where there came a written request from the other House. There seems to be a request at the present time from the chairman of the House Committee on Appropriations to have this done.

Mr. SMOOT. Mr. President, I should like to ask the Senator from Virginia if this amendment was made to the bill in the other House or whether the House has acted on it at all?

Mr. MARTIN of Virginia. It was not made there. Through inadvertence attention was not called to it. The chairman of the Committee on the Judiciary in the House feels that his clerks are not sufficiently paid, but through inadvertence the matter was not taken up in the House at all, and he now asks that it be put on in the Senate and be permitted to go to conference. The chairman of the Committee on Appropriations of the House, Mr. FITZGERALD, writes a letter making a request that these increases be made, so that the matter may go to conference and have the consideration of the House.

Mr. WARREN. Let the letters go into the RECORD.

Mr. CLARKE of Arkansas. Let the letters be read.

Mr. CRAWFORD. May I ask the Senator from Virginia a question?

The PRESIDING OFFICER. Does the Senator from Virginia yield to the Senator from South Dakota?

Mr. MARTIN of Virginia. I do.

Mr. CRAWFORD. Is the amount which is already in the bill the amount which those officials have been receiving during a considerable period in the past?

Mr. MARTIN of Virginia. I suppose so; though the chairman of the Committee on the Judiciary in the House feels that his clerks are not paid salaries commensurate with the salaries paid to the clerks of committees of like dignity and with equal responsibility and work, and the thinks their salaries ought to be increased.

The PRESIDING OFFICER. The question is on the amendment submitted by the Senator from Virginia [Mr. MARTIN].

Mr. SMITH of Georgia. I ask that the letters be read.

The PRESIDING OFFICER. The Secretary will read the letters referred to.

The Secretary read as follows:

WASHINGTON, D. C., *January 13, 1913.*

To the COMMITTEE ON APPROPRIATIONS,
United States Senate.

DEAR SIRS: I should like to see the salaries of the clerks and the janitor of the House Committee on the Judiciary made commensurate with the duties performed by them. The bill was reported to the House before I took this matter up, and I am therefore addressing your committee on the subject.

The clerk of the Committee on the Judiciary of the House now receives $2,500. I think this salary ought to be increased to $3,000. The assistant clerk now receives $1,600; I think this salary ought to be raised to $2,000. The janitor now receives $720; I believe his salary ought to be increased to $1,000.

During the last session of Congress the Committee on the Judiciary was in session, on the average, every day of the session of Congress, and sat, on the average, two and a half hours for each session of the committee. The clerks were kept at the rooms of the committee in the discharge of their duties until late into the night more often than not. The work of the clerical force has greatly increased since the salaries were fixed at their present figures.

Respectfully, yours,

H. D. CLAYTON,
Chairman Committee on the Judiciary,
House of Representatives.

—

COMMITTEE ON APPROPRIATIONS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., January 15, 1913.

Hon. F. E. WARREN,
Chairman Committee on Appropriations,
United States Senate.

DEAR SIR: The Committee on Judiciary of the House desires to have some changes made in the legislative, etc., bill with reference to its clerical force. After consulting with the House managers who will have it in charge I have to request that you will make such changes as Mr. CLAYTON requests, so that the matter may be taken up in conference.

Very truly, yours,

JOHN J. FITZGERALD,
Chairman Committee on Appropriations,
House of Representatives.

Mr. WARREN. Mr. President, it will be observed that the chairman of the House committee asks that this amendment be made here and that the matter go to conference. I hope that the Senate will follow that course. I feel sure that the chairman of the committee on the House side will in conference or House session bring the matter up in a way that will settle it to the general satisfaction of the House.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Virginia [Mr. MARTIN].

Mr. CLARKE of Arkansas. Mr. President, it seems to me that this practice is not one that is to be commended. The House of Representatives never will have an opportunity of passing upon the matter of fixing the salaries of some of its own subordinate employees. This is a request, addressed by two individual Members of the House, to an individual Member of the Senate. If they had communicated it to the Senate in an official way, bringing to the notice of this body the fact that an omission had been made through inadvertence, I think the rule would be a safe one, but I do not favor it as a general practice. I am not prepared to say how far I am willing to go on this occasion in having matters of that kind disposed of on such a basis.

The salaries named are in excess of the salaries paid generally in Congress to clerks of committees; they are higher than the salaries paid at this end of the Capitol.

Mr. LODGE and others. Oh, no.

Mr. CLARKE of Arkansas. It seems so to me. Are there any clerks here who receive as much as a salary of $3,000?

Mr. LODGE. The clerk of the Committee on Appropriations receives a salary of $4,000.

Mr. SMITH of Georgia. It is higher than the salary received by anyone around the office of the Senator from Arkansas.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arkansas yield to the Senator from Kansas?

Mr. CLARKE of Arkansas. I do. The Senator from Kansas always says something worth while.

Mr. BRISTOW. I understand this is $500 more than the clerk of the Judiciary Committee of the Senate receives.

Mr. CLARKE of Arkansas. That is what I had particular reference to.

Mr. GALLINGER. But, if the Senator will permit me, the Judiciary Committee of the Senate, as I recall, has two employees—certainly one employee—more than has the Judiciary

Committee of the House, and I think two. I will look it up in a moment.

Mr. CLARKE of Arkansas. If it is a rule, I do not care to change it; if it is a practice based on comity, I do not care to change it; but I do say that it will set a precedent that will soon be followed in this Chamber when applications are made for the increase of somebody's salary because a similar salary is being paid for similar service elsewhere.

Mr. LODGE. I think this rests on the long practice of the Senate, and a right practice, that each House should fix absolutely the salaries of its own employees throughout, and that the other House should not interfere with them. I think that has been our universal practice, and I think it will be a great misfortune if we do not comply with the wishes of the House. What they choose to pay their clerks, it seems to me, is no business of ours.

Mr. SMITH of Georgia. I should like to ask the Senator from Massachusetts how does he think we ought to find out what the House wishes to pay—by letters written in this way or by what they actually do?

Mr. LODGE. This is a suggestion of the chairman of the Committee on Appropriations, who is responsible for the bill and will be one of the conferees. This amendment, if adopted in conference, will go back to the House, and can not be adopted without the approval of the House.

Mr. CLARKE of Arkansas. For the approval of the entire report on the bill.

Mr. LODGE. Certainly.

Mr. CLARKE of Arkansas. This item can not, then, be singled out for a vote.

Mr. LODGE. They can single out any item they wish and have a vote on it.

Mr. CLARKE of Arkansas. Not on the conference report.

Mr. LODGE. Excuse me; it is perfectly possible to select——

Mr. CLARKE of Arkansas. The conference report must be adopted as an entirety.

Mr. LODGE. Oh, no; but it can not be amended.

Mr. CLARKE of Arkansas. That is our rule.

Mr. LODGE. It can not be amended, but any item can be selected to be acted on.

Mr. CLARKE of Arkansas. What is the use of voting on it if you can not amend it? That would be a naked right.

Mr. LODGE. If the Senator will allow me a moment——

Mr. CLARKE of Arkansas. I think I understand that the object of having a vote is to do something that you want to do.

Mr. LODGE. The practice of the House differs from that of the Senate. They are in the habit of instructing their conferees on specific items of bills, and, if they choose to instruct on this item and refuse to assent to the Senate amendment, it is wholly in their power to do so.

Mr. CLARKE of Arkansas. I understand that is so before it goes to conference; but when the conference report is made it is acted upon as an entirety; it must be adopted as an entirety or rejected as an entirety. There is no such thing as taking out an item of a conference report.

Mr. LODGE. The Senator will remember that we are constantly accepting portions of conference reports in the Senate.

Mr. CLARKE of Arkansas. That is a partial report.

Mr. LODGE. It is a conference report to go back to the House.

Mr. CLARKE of Arkansas. Yes; that is in the case of partial reports from conference committees.

Mr. LODGE. We do not have the practice of selecting items, but it is wholly within the power of the House to do so; and it is within the power of the Senate to do so if it chooses.

Mr. CLARKE of Arkansas. A great many things are in the power of the House to do if attention is ever called to them. What I object to is that this matter may go in the bill as amendment numbered so and so, and the House may never know what it is.

Mr. LODGE. The motion in the House would be to instruct the conferees.

Mr. CLARKE of Arkansas. On a $2,500 clerkship?

Mr. LODGE. In any event, I think it is their business.

Mr. MARTIN of Virginia. Mr. President, as a matter of comity between the two Houses, each House has been permitted since I have been a Member of the Senate to determine the compensation of its own officers and employees.

Mr. CULLOM. That has always been the practice.

Mr. MARTIN of Virginia. I do not know whether or not the compensation asked for in this case is reasonable. I am not in a position, nor are other Members of the Senate in a position, to judge of the labor performed by these clerks and the responsibility imposed upon them, but the chairman of the House committee who, as we all know, was engaged in the impeachment trial, overlooked presenting this matter to the House committee when it had under consideration the legislative, executive, and judicial appropriation bill, and in the last few hours he wrote the letter which has been read. I read it very hastily. I did not know to whom it was addressed, and supposed it was addressed to me, because it was handed to me on the floor by a Member of the House of Representatives. The chairman of the House Committee on Appropriations also had a conversation with me, and there has also been read his letter asking the Senate to put this bill in such a shape that the House can consider these increases of salary. I think it is in accordance with sound usage that we should adopt this amendment requested of us in this way, so that the House may determine what compensation it will pay to its own employees.

When this matter was presented to the committee by me the chairman of the committee stated that the action desired was in accordance with the uniform custom of his committee, but that he would not favor the adoption of the amendment increasing these salaries unless he had a written request to that effect from the chairman of the Committee on Appropriations of the other House, as well as from the chairman of the Judiciary Committee of that body. Both have written such letters; and according to the custom of the Senate, and in view of the comity between the two bodies, I think the amendment ought to be adopted, and I hope it will be adopted.

Mr. BRISTOW. Mr. President, if the House had increased these salaries and the bill had come here containing such increases, of course I would not be disposed to oppose them, although I do not think they would be justified; but if these increases are made, it is fair to presume that the conferees on the part of the House will agree to them, because a member of the House Appropriations Committee, who will be on the conference committee, has requested that this amendment be incorporated in this bill, and the conference report——

Mr. WARREN. Mr. President, that was stated, I think, inadvertently. The chairman of the committee, who has written the letter, will probably not be one of the conferees unless they change the program in appointing conference committees. The members of the subcommittee—Mr. JOHNSON of South Carolina and Mr. BURLESON—would probably be the conferees from the House representing the majority.

Mr. BRISTOW. I had supposed the chairman of the Committee on Appropriations would be one of the conferees.

Mr. WARREN. Not on this particular bill.

Mr. BRISTOW. I may be mistaken about that; but, in any event, when the conference report is agreed upon it will be reported to both Houses, and the House will not have an opportunity to express its desires as to these specific salaries. The only way the House can get at it is to reject the conference report; and it certainly would be an unreasonable proposition to insist upon the rejection of a bill carrying something over $30,000,000 because an increase of $500 had been made in the salary of a clerk. The adoption of this amendment by the Senate will put the House in a position where they can not take the sense of the House upon this particular amendment.

Mr. WARREN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from Wyoming?

Mr. BRISTOW. Certainly.

Mr. WARREN. I know the Senator wants to be right, and, of course, I have no more interest in this than he has; but, as a matter of fact, the rules of the House provide that no bill shall go to conference except by unanimous consent unless it is referred first to a committee.

In the case of the legislative, executive, and judicial appropriation bill, last year when the bill went back to the House certain matters were passed on. For instance, an amendment offered by the Senator from Ohio as to the Pension Office clerks was taken up on motion of Mr. CANNON and settled before the bill went to conference. Then there were two or three other matters. Almost anything in this bill, under the House rules, can be taken up and be passed on by the House before the bill goes to conference; and it can only go to conference by unanimous consent when it goes over there without first going back to the committee, as I understand the House rules and practices.

Mr. BRISTOW. The chairman of the committee, of course, is very much better acquainted with the details of the House procedure than I am. I was judging from our own rules here.

I want to say, further, that if these employees of the Committee on the Judiciary of the House have earned more than their salary because of extra work that has been imposed upon them as a result of the impeachment trial, then there should be an appropriation made to pay them an additional amount for that additional work; but it seems to me that to increase the salaries of committee clerks and employees away beyond the

amount paid other committee clerks and employees in either body for the same services in this way is a very dangerous thing to do, and I intend to vote against it. It is proposed to pay $1,000 to a janitor. We do not pay that anywhere.

Mr. CLARK of Wyoming. Mr. President, I have no question whatever but that probably the salary of the clerk of the Committee on the Judiciary of the House should be $3,000. I would be glad if it were made that; but it occurs to me that the record in this case will show that if this amendment is adopted the Senate is fixing the salary of the employees of the House. The House sending the bill to the Senate has fixed the salary of the clerk of the Judiciary Committee at $2,500. It may have been through inadvertence, as undoubtedly it was; but notwithstanding that, the fact is that as this bill came here passed by the House it fixed the salary of its own employee at $2,500.

Mr. LODGE. Two thousand.

Mr. CLARK of Wyoming. No; $2,500. It appears in the Senate in that way. We have accompanying that a letter from the chairman of the House Judiciary Committee saying that, in his opinion, the salary ought to be $3,000. We also have a letter from the chairman of the Committee on Appropriations of the House saying that, so far as he is concerned, it ought to be $3,000; but we have the action of the House itself in passing on the bill as having fixed it at $2,500. Now, does not the Senate put itself in the position, if this amendment is agreed to, of saying to the House of Representatives, "We do not take your view as to what the salary of the committee clerks ought to be, but we take the view of the Senate, fortified by the view of the chairman of the Committee on the Judiciary and also of the chairman of the Appropriations Committee"? It occurs to me that, no matter how worthy this appropriation might be, we are putting ourselves in a strange position by seeking to remedy an oversight of the House in this particular way. If the House is in favor of this, I suppose a supplemental bill can be passed fixing the salary of the clerk at $3,000. I am only throwing out this as a suggestion, because I am convinced from what has been said that the salary of the clerk of that committee ought to be $3,000. I am merely suggesting it in the light of the conditions and the circumstances.

Mr. GALLINGER. Mr. President, I think we ought not to hesitate about this matter. The truth is that in the case of the Committee on the Judiciary of the Senate, which presumably has not more help than is needed, the salary list amounts to more than twice that of the same committee of the House; and, while I hesitate to call attention to any committee, for instance, the Committee on Pacific Islands and Porto Rico of the Senate has a salary list larger than that of the Judiciary Committee of the House.

Mr. BRISTOW. Mr. President——

Mr. GALLINGER. The Committee on Expenditures in the Department of Justice of the Senate pays more in salaries than is paid to the employees of the Committee on the Judiciary of the House. I do not mean to allude to any particular committee in any disagreeable way. The House in framing this bill have not interfered with our list of employees; they have been very generous; but it seems to me if we haggle over this matter the House may take a hand in saying that the Senate has more employees than it ought to have and make trouble for us in our appropriation bills.

Mr. CLARK of Wyoming. Will the Senator yield to me for a question?

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Wyoming?

Mr. GALLINGER. Certainly.

Mr. CLARK of Wyoming. Are we not, in taking the action proposed, interfering with the action of the House as to their employees?

Mr. GALLINGER. I think not, inasmuch as the request has come from the chairman of the Committee on the Judiciary and the chairman of the Committee on Appropriations of the House. I think courtesy demands that we should accede to the request, and I do not think it is interfering at all——

Mr. CLARK of Wyoming. That is just the point, Mr. President, with which I had difficulty—that we were interfering with the action of the House. That is what I want to avoid.

Mr. GALLINGER. That does not trouble me at all. I think it is a matter of courtesy that we ought to accede to and not discuss it very much, because if we get into a wrangle between the two Houses as to the matter of the salaries that are paid our employees, I confess I think the Senate would get the worst of it. That is my judgment; and I should like to have this passed over as quietly as possible and let the request be acceded to, and I do not think we will ever hear from it again.

Mr. BRISTOW. Mr. President, I wanted to say in regard to the comparisons which the Senator from New Hampshire has been making, that I do not think they are fair, because the clerical allowance for a Senator is more than that for a Member of the House, and it ought to be, because his constituents embrace the entire State, and he has correspondence with the constituency of every Member of the House from his State. I do not think the comparisons made are at all pertinent to this question.

Mr. CRAWFORD. Mr. President, this looks queer to me. Here is a Senate Committee on the Judiciary. All judicial appointments come before the Senate for confirmation. They are referred to that committee. It certainly has as much work to do as the House committee.

Mr. CLARK of Wyoming. Mr. President——

Mr. CRAWFORD. And we have a clerk. We pay him $2,500 a year.

Mr. CLARK of Wyoming. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Wyoming?

Mr. CRAWFORD. Let me finish this.

Mr. CLARK of Wyoming. Very well.

Mr. CRAWFORD. The House pays $2,500 to its clerk, and it passed an appropriation bill with provision for paying him, as usual, and then it comes over here in this very strange way at the last minute, just after we have refused to give to our own employees in the Senate any increase, after we have refused to consider a proposition made here with relation to our own employees; and when the House has failed to provide for this man, passed the bill without doing it, it comes in here in this peculiar way and asks us to increase the salary of one of its clerks. It is a small matter, but it seems to me a very peculiar proceeding.

Mr. LODGE. Mr. President, it seems to me this debate illustrates just the reason for the comity which has heretofore existed between the Houses. We can not pass on the needs or the requirements of their committees or of their employees. We can not do it properly or intelligently, and we are not the guardian of the House. They have the power to look after their own expenses, and I should resent very much any attempt on the part of the House to say what we should pay our employees.

Mr. CLARK of Wyoming. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Wyoming?

Mr. LODGE. Certainly, I yield.

Mr. CLARK of Wyoming. I want to ask the Senator if the House of Representatives has asked for this?

Mr. LODGE. In my judgment, that point, if the chairman of the Committee on Appropriations and the chairman of the Committee on the Judiciary in the other House are to be called in question as representing the House, does not appeal to me. I think they are responsible to the House for what they do. Their request is published here; everybody in the House will read it to-morrow. If they do not represent the House and the House objects to what they are doing, then it is for the House to deal with them. But I do not think it is for us to question their responsibility.

Mr. ROOT. Mr. President, we know the chairman of the Judiciary Committee of the House and a considerable number of the members of that committee have been here during the entire session attending upon the trial of the Archbald impeachment. They undoubtedly have been very much engrossed in performing their duties as managers, and it is quite natural that they should have overlooked a matter of this kind, and as long as we are told that it is a matter of inadvertence I do not care about standing on details of punctilio about it. I think we ought to accede to it.

Mr. CUMMINS. Mr. President, I am not as familiar with the rules as possibly I ought to be, but I think this amendment is contrary to the rules of the Senate, and I make the point of order against it that it increases the appropriation already contained in the bill, and that it has not been moved by direction of a standing or select committee of the Senate or proposed in pursuance of an estimate of the head of any department, and therefore it is inadmissible under the rules of the Senate.

Mr. WARREN. Will the Senator from Iowa withhold for a moment? There has been some talk here as to the Senate controlling exclusively its own employees and their salaries. I was taught early in my work here that the Senate should control its employees and their salaries, and the House should control its employees and their salaries.

It will be remembered that last year we had a quite large addition—the Senator from Iowa was one of a subcommittee that reported to the full committee on this side—we had in the bill

a great many new Senate places. The point was made by the House that we had added too many and that they had a right—that is, the conferees—to have a say about the employees of the Senate. We contested the matter nearly three weeks in conference, the Senate conferees maintaining that they had the right to control the Senate employees, and that right was finally conceded by the House conferees.

Now, the Senator is right that the correct place to have fixed this item was in the House, but as it is to go into conference, in which the House would be represented, and as it has to go to the House first, they can cut it out if they want to. I very much fear that to change the rule or practice of comity between the House and the Senate may place in jeopardy some amendments of the Senate the retention of which may be deemed desirable.

I have felt that in conference the conferees would not allow higher salaries there than here, probably, and it would be adjusted so that each House could maintain its respective position.

Mr. CUMMINS. Mr. President, I do not believe that the House will recognize this infraction of the rule of courtesy, which permits each House to fix the salaries of its own employees. We have the House bill before us and this is not a proposition to reduce the salary.

If a mistake has been made, and one seems to have been made, the method that is suggested is not, in my opinion, the proper way to correct it, and therefore I insist upon my point of order.

The PRESIDING OFFICER. The Senator from Iowa makes the point of order that this amendment is out of order under Rule XVI. The Chair submits that point to the judgment of the Senate. Senators who think it is in order will say "aye," and those that think it is not in order will say "no." [Putting the question.] The "ayes" seem to have it.

Mr. CLARKE of Arkansas. I call for a division.

Mr. CUMMINS. I call for the yeas and nays.

Mr. WARREN. Just call for a division.

Mr. BRISTOW. No; let us have the yeas and nays.

Mr. CUMMINS. As we are to construe a rule of the Senate, I want it done with a proper sense of responsibility.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BRISTOW. May I ask that the question be stated, so that we may know just what we are voting on?

The PRESIDING OFFICER. The question is, Is the amendment in order? Those who say that it is in order will say "yea" and those opposed will say "nay."

The Secretary resumed the calling of the roll.

Mr. DILLINGHAM (when his name was called). I withhold my vote on account of my general pair with the senior Senator from South Carolina [Mr. TILLMAN], who is absent.

Mr. GALLINGER (when his name was called). I again announce my pair with the junior Senator from New York [Mr. O'GORMAN], and I transfer that pair to the senior Senator from South Dakota [Mr. GAMBLE]. I vote "yea."

Mr. PENROSE (when his name was called). I transfer my pair with the junior Senator from Mississippi [Mr. WILLIAMS] to the junior Senator from Maryland [Mr. JACKSON] and vote "yea."

Mr. SIMMONS (when his name was called). I am paired with the junior Senator from Minnesota [Mr. CLAPP], and therefore withhold my vote.

The roll call was concluded.

Mr. CLARK of Wyoming. I have a general pair with the Senator from Missouri [Mr. STONE]. In the absence of that Senator, I withhold my vote.

Mr. THORNTON. I wish to announce the necessary absence from the Chamber of the junior Senator from New York [Mr. O'GORMAN]. He is paired with the senior Senator from New Hampshire [Mr. GALLINGER].

The result was announced—yeas 17, nays 14, not voting 63, as follows:

YEAS—17.

Catron	Lodge	Perky	Warren
Fletcher	Martin, Va.	Root	Wetmore
Foster	Martine, N. J.	Smith, Md.	
Gallinger	Page	Stephenson	
Jones	Penrose	Thornton	

NAYS—14.

Ashurst	Burton	Poindexter	Smith, Ga.
Borah	Clarke, Ark.	Sanders	Smoot
Bristow	Cummins	Shively	
Bryan	Heiskell	Smith, Ariz.	

NOT VOTING—63.

Bacon	Briggs	Clapp	Cullom
Bankhead	Brown	Clark, Wyo.	Curtis
Beverme	Burnham	Crane	Dillingham
Bradley	Chamberlain	Crawford	Dixon
Brandegee	Chilton	Culberson	du Pont
Fall	Kenyon	O'Gorman	Smith, Mich.
Gamble	Kern	Oliver	Smith, S. C.
Gardner	La Follette	Overman	Stone
Gore	Lea	Owen	Sutherland
Gronna	Lippitt	Paynter	Swanson
Guggenheim	McCumber	Percy	Tillman
Hitchcock	McLean	Perkins	Townsend
Jackson	Massey	Pomerene	Watson
Johnson, Me.	Myers	Reed	Williams
Johnston, Ala.	Nelson	Richardson	Works
Johnston, Tex.	Newlands	Simmons	

The PRESIDING OFFICER. The vote discloses no quorum.

Mr. WARREN. I give notice that I will ask to take up this bill for completion, if it is the pleasure of the Senate, immediately after the routine morning business to-morrow.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I desire to give notice that to-morrow, at the conclusion of the consideration of the legislative appropriation bill, I shall ask the Senate to resume the consideration of the omnibus claims bill.

Mr. WARREN. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 57 minutes post meridian) the Senate adjourned until to-morrow, Thursday, January 16, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 15, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou who knowest the beginning and the end, and who holdest in Thy grasp the destiny of men, prepare us with fortitude to meet whatever may come to us this day, in joy or sorrow, victory or defeat, and give to us the courage and the strength to do our duty as it is given us to see it. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

INCREASE OF JAPANESE IN CALIFORNIA.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to address the House for three minutes.

The SPEAKER. The gentleman from California [Mr. RAKER] asks unanimous consent to address the House for three minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. RAKER. Mr. Speaker, as to the question whether or not the Japanese are increasing in California, or liable to increase, contrary to a statement that is being circulated, I desire to have the Clerk read an article in the San Francisco Chronicle, of January 8, 1913.

The SPEAKER. Without objection, the Clerk will read.

The Clerk read as follows:

ONE BRIDE IN EVERY SEVEN IS JAPANESE.

SACRAMENTO, *January 7.*

One-seventh of all the marriages in San Francisco are between Japanese subjects, according to George Leslie, statistician of the State board of health. During the year 1912 San Francisco had 6,102 marriages, and of this number 867 brides were of Japanese nativity, or 14.2 per cent. For 1911 the proportion of Japanese brides was only about one-tenth, the total number of brides being 5,226, of which 553, or 10.6 per cent, were from the Flowery Kingdom. Many of the Japanese brides are said to be recently arrived "picture brides," who are married American fashion.

Mr. RAKER. Now, Mr. Speaker, I yield the balance of my time.

LANDS IN STANDING ROCK INDIAN RESERVATION, SOUTH AND NORTH DAKOTA.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to ask unanimous consent to call up Senate bill 109, an act authorizing the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of North Dakota and South Dakota, and making appropriation and provision to carry the same into effect, and to agree to a conference asked by the Senate on the bill.

The SPEAKER. The gentleman from Texas [Mr. STEPHENS] asks unanimous consent to agree to the conference asked by the Senate on the bill, which the Clerk will report.

The Clerk read the title of the bill, as follows:

An act (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Chair announces the following conferees on the part of the House: Mr. STEPHENS of Texas, Mr. FERRIS, and Mr. BURKE of South Dakota.

QUESTION OF PERSONAL PRIVILEGE.

Mr. SIMS. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. This is Calendar Wednesday, and the gentleman from Tennessee [Mr. SIMS] rises to a question of personal privilege. The gentleman will state his question.

Mr. SIMS. Mr. Speaker, I do not make a practice of asking the House to listen to a question of personal privilege connected with some newspaper remark or report. I do not think a man can afford to do that. But there is an investigation going on now before the House Committee on the District of Columbia with reference to the valuation in part of a building in the city of Washington known as the Southern Building. Witnesses are being examined under oath before that committee, and on the 30th day of December last, I believe it was, there was a witness before that committee, Mr. Charles C. Glover. After making a statement as to everything that was pertinent to the investigation then being made, on page 420, as published, Mr. Glover said:

Mr. JOHNSON. Mr. Glover, do you desire to make any other statement?

Mr. GLOVER. I would like you to indulge me for a moment in connection with a matter that has had some inquiry made in connection with the value of the property known as Massachusetts Avenue Heights. I would like to state very briefly my connection with that property.

In 1906, desiring to bring the Potomac Park and the Rock Creek Park together—that is, assuming that the Zoological Park is a part of Rock Creek Park—I got an option on 100 acres of this property for the sum of $420,000. In 1907 I caused to be introduced into the Senate and House a bill looking to the purchase of this property at the option named, but with $3,000 added by the Commissioners of the District of Columbia for expenses that might be incurred in acquiring it.

Mr. JOHNSON. Who introduced those measures?

Mr. GLOVER. A Member of the House and a Member of the Senate.

Mr. JOHNSON. Do you recall whom?

Mr. GLOVER. I do not at the present moment. I am not sure that the commissioners did not ask for the introduction of this bill. I took the bill to the then Commissioners of the District of Columbia and they thoroughly approved of the scheme.

My option was for two years, and for two sessions of Congress this property was offered at the price named—$420,000.

Mr. JOHNSON. How was the property described? Was there any particular name for it?

Mr. GLOVER. Yes; it was the property lying between Connecticut Avenue and Massachusetts Avenue Bridges, and ran out to the Protestant Episcopal Cathedral Foundation. There were also 33 acres south of the Massachusetts Avenue Bridge. It was my intention to continue down Rock Creek until these parks were finally joined. As the panic had created a very extremely critical and serious condition in the money market—

Mr. JOHNSON. Which panic?

Mr. GLOVER. The panic of 1907, which ran well into 1908 and 1909. I endeavored to have this option renewed for another year, having failed within the two years to cause the passage of this bill. After much difficulty I succeeded in having it continued for another year, in writing. A short time ago somebody told me that I had better get the CONGRESSIONAL RECORD of 1909, of March 3; that I would probably find therein the cause of what I have been told has frequently occurred—a defense of my character by my friends before members of the House committees. Mr. Judson has told me that frequently he has had to defend me.

Mr. JOHNSON. In this committee?

Mr. GLOVER. In this committee, no; other committees of the House, and dating three years back.

I read this record for the first time about a week ago, and I find, Mr. Chairman, this statement by Mr. ANDRUS, of New York.

Mr. GEORGE. What is the date of that?

Mr. GLOVER. March 3, 1909; and I am reading from page 3877 of the CONGRESSIONAL RECORD. There is a good deal more of it, but I just want to read this statement, because it bears directly on what I have to say:

"Mr. NORRIS. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. ANDRUS]. [Applause.]

"Mr. ANDRUS. Mr. Speaker, the work of a session of Congress apparently is never completed until we have some little discussion in regard to an appropriation for the purchase of land in Rock Creek Park. My time is rather limited, but at the outset I want to state how I stand on parks. I am in favor of parks, as I am in favor of public schools, in favor of churches; churches to grow a better moral influence in the community, schools so that the children may acquire an education, and parks where the children can play and grow bone and muscle and nerve to help them bear the heavy burdens of life that will follow. I would like to give you just a hasty résumé of this matter for four years. On March 27, 1906, Senate bill 5289 called for $600,000. On the 27th of March a Senator wrote to the president of the District Commissioners asking certain information, and among the information asked for I find this.

"I read from his report. It is calendar No. 2811, near the bottom of the third page:

"'The price named in the bill, $600,000, for about 437,000 square feet of land, or about $1.37 a square foot, is in excess of the estimated value of the land by the board of assessors, their value being $230,000.'

"Mr. Speaker, I have had some experience, having bought a few lots during my life, and I found the assessor's value, as a rule, a pretty good criterion on which to act. On March 30, 1906, evidently a conscience was pricked, and a bill, H. R. 5102, was introduced for $550,000—$50,000 less. On February 16, 1907, conferees of the House and the Senate came to an agreement of $475,000, but it was not satisfactory to the House Committee on Public Buildings and Grounds, and the matter was dropped with the expiration of the Fifty-ninth Congress.

"The thing took on new life, and on January 27, 1908, the bill S. 4441—which I have here—was reported for $423,000, a gradual coming down. That bill went directly to one of the appropriation committees, and on May 26 last, under a suspension of the rules, it was defeated by a vote of 57 for and 164 against.

"Mr. NORRIS. That was this same bill?

"Mr. ANDRUS. This same bill that is brought up to-day. Now, what have the Government and the people lost in these three years? We are talking now about $423,000 as against $600,000 three years ago, a saving to some one of $177,000. The interest on $600,000 for three years at 2 per cent is $36,000. It makes a total of $213,000. It may be a small sum in this House, but, Mr. Chairman, there are 10,000 boys in my district who would be exceedingly happy if in a legitimate way they could make that money in three years. [Applause.]"

I want to now read what Mr. SIMS, of Tennessee, has to say on the same subject:

"Mr. NORRIS. I yield five minutes to the gentleman from Tennessee, Mr. SIMS.

"Mr. SIMS. Mr. Speaker, when this identical bill, without the change of a letter, was voted on by yeas and nays in this House on the 26th day of May last, 164 noes were recorded as against 57 ayes. How many gentlemen are going to change, and what reason are you going to give for your flop in so short a time? Now, there will be a yea-and-nay vote at this time on this bill, and you will have to explain some day why you changed in so short a time, without any new evidence or any new reason given for the change. There is no option on this land at this time. I will read from a statement made by Mr. Charles Glover in the hearing before the Committee on Appropriations last year, before this bill was voted on in May last.

"'The CHAIRMAN. How is it, Mr. Glover, with respect to the 88 or 98 acres; would it be possible for you to have the option renewed another year?

"'Mr. GLOVER. No, sir; that is out of the question, Mr. Tawney. They have assessed this ground at $7,500 an acre. The assessment has gone up tremendously.

"'Mr. FITZGERALD. The assessed valuation of it?

"'Mr. GLOVER. Yes; they have put it up enormously, and justly so. It is a pretty fine piece of ground. Bell told me the other day that they hardly knew what to do about this thing.

"'The CHAIRMAN. You think it would be impossible to renew the option?

"'Mr. GLOVER. Absolutely.

"'The CHAIRMAN. When will the option expire?

"'Now listen——

"'Mr. GLOVER. With this session of Congress.'"

I succeeded, after many conferences and much difficulty, and owing to the fact that the panic had made it almost impossible to borrow on that character of real estate, in securing an option for another year. This is the debate at the end of that last year that this property was offered to the Government of the United States.

Mr. SIMS continued as follows:

"That was the last session Mr. Glover said this option expired. When has it been renewed? If he told the truth then, and I do not question his veracity, there is no option on that land at this time. I was told by as good a Member as there is in this House that another Member, who is a Member now, is interested in one of the syndicates mentioned by Mr. Glover, in one of these pieces of land. Are you going to be influenced into enacting such legislation as this under suspension of the rules?

"Mr. CLAYTON. May I ask the gentleman a question?

"Mr. SIMS. Certainly.

"Mr. CLAYTON. Do you think it is fair to the membership of this House to make that statement without naming the man or at least giving the authority?

"Mr. SIMS. The gentleman who told me is in his seat on the floor of the House at this moment, and he can tell the name of the Member if he so desires.

"Mr. CLAYTON. On which side of the Chamber?

"Mr. SIMS. On the other side of the Chamber.

"Mr. CLAYTON. What is the color of his hair?

"Mr. SIMS. Oh, his hair is all right.

"Mr. CAMPBELL. I think that if the gentleman has any information upon that subject he ought to name the man.

"Mr. SIMS. The gentleman who told me is present, and he will tell you that a Member of this House is now or was, interested in one of these pieces of land, and has used his personal influence heretofore to pass this bill.

"Mr. CLAYTON. I insist that the gentleman from Tennessee ought to give the name of the Member from whom he obtained that information.

"Mr. SIMS. Oh, he is now in the Chamber.

"Mr. CLAYTON. I want to hear all the information and I insist that he furnish the name. Give us the name.

"Mr. SIMS. The gentleman who told me is on the floor of the House; he can give it.

"Mr. CLAYTON. Name him.

"Mr. SIMS. I will not name him. He is here and hears what I say. Will giving the name tend to prove anything except this: That whenever people in this District have land they can not sell to anybody else they try to sell it to the Government before it goes up? They started in on this tract at $600,000 and now they have got it down to $435,000. Of course, the gentleman from Ohio, Mr. BURTON, and the other gentlemen who have spoken in behalf of this bill, did not know that any Member of the House was interested in any of this land."

Mr. Chairman, the statement that I offered that property to the Congress of the United States at $600,000; that I was pricked by conscience and reduced the sum to $550,000; that it was embodied in any bill by my authority at $475,000, or, as Mr. SIMS says, it is now before this House at $435,000 is an absolute and unqualified falsehood. I never offered the property save at the one single price of $420,000 plus the $3,000 added by the Commissioners of the District of Columbia.

As that charge stands, I can well understand why Maj. Judson has had to defend my character before some Members of the House. It leaves me, instead of being a public-spirited citizen, a man with an option on a piece of property at $420,000 endeavoring to palm it off on the Government of the United States at $600,000.

I do not believe, Mr. Chairman, that these gentlemen intended to make an untrue statement, but the bill was before them. Here is the identical bill, and the last clause of that bill says that the price of that land was $423,000.

Mr. Speaker, I have examined Webster's Unabridged Dictionary as to the definition of the word "falsehood." True, the dictionary does not set out any distinction between an "absolute and an unqualified falsehood" and any other kind, but Webster says:

A falsehood is a deliberate, intentional assertion of what is known to be untrue; a departure from moral integrity; a lie.

As I say, this is in a sworn statement made before a committee of the House, and it becomes a part of the record of Congress and will remain here for all time.

I want to say, Mr. Speaker, that any Member of this House who in debate on the floor of the House makes a false statement about what is pertinent to be considered at the time and misleads the Members of the House and causes them to vote otherwise than they would ought to be expelled. No such man has any business in this House.

Now, I do not propose to do anything more than to give the facts. I am aware that Members of the House under the privileges of this House can get up and denounce individuals and make derogatory statements about men, and under the law they can be held responsible for it nowhere else. Consequently, I do not think it is a manifestation of great moral or physical courage to get up here and denounce individuals, when you can not be called to account for it, but I do think that when a Member is assailed in this way, under the solemn form of an oath, that a Member owes it not only to himself, but also to the House, to state the facts, and let the facts themselves constitute the characterization of the man who made it.

Now, this statement was made in connection with a bill that was before the House for a number of years, beginning several years ago, known as the Rock Creek Park addition bill, or a bill seeking to acquire about 100 acres of land in part lying on Rock Creek Valley, between Connecticut Avenue and Massachusetts Avenue, running out more or less at right angles to Rock Creek in the direction of the Cathedral Foundation, or the Cathedral School. That bill never came to any committee of which I was a member, but bills for that purpose had been considered before the Committee on Public Buildings and Grounds and before the Committee on Appropriations. In 1908, however, the Senate passed a bill, Senate bill 4441, pertaining to said lands.

Now, this gentleman, Mr. Charles C. Glover, had an option on the land, as he explained it, by which he could buy it for $420,000, and he added $3,000 to cover any expenses that might be incurred in connection therewith, making $423,000. He claimed to want the Government to own it for park purposes. This project had been examined several times, had been before the House several times, but the bill had never gotten through. By that I do not mean this particular bill, but a bill seeking to acquire this land had been before the House several times, but it never had passed.

This bill (S. 4441) passed the Senate and came to the House and was sent to the Committee on Appropriations, and that committee made the following report, report 1681, to accompany Senate bill 4441. The whole report consisted of four lines, and read as follows:

Report to accompany S. 4441.

The Committee on Appropriations, to whom was referred Senate bill 4441, to acquire certain land in the District of Columbia as an addition to Rock Creek Park, having considered the same, report it back herewith and recommend its passage.

There is absolutely not a line in that report to give anyone any information as to the desirability of that purchase, or anything about it. But I am not criticizing the Appropriations Committee about that, because the matter had been before the House so often that the subject was very well understood by Members who had been in the House when bills for the same purpose had formerly been considered, and they knew perfectly well what was referred to.

There was an attempt to pass this same bill at a former session of the House, but it was voted down. To be accurate, I will give the exact figures. I believe the vote was 57 for it and 164 against it.

The bill, of course, remained on the calendar, because that vote was on a motion to suspend the rules. On the 3d of March, 1909, the last day of that Congress, when, as we all know, we have to stay up all night to consider conference reports and matters of that kind, there was a motion made to suspend the rules and pass this bill, and it was debated for 20 minutes on a side. I did not happen to be in this Chamber at the time the motion was made, but came in while it was under discussion, the gentleman from Nebraska [Mr. NORRIS] having demanded a second. The gentleman from New York [Mr. ANDRUS], who was a member of the Committee on Public Buildings and Grounds, had five minutes' time given him, and he made some remarks pertaining to the bill, because it had been before his committee, in which he said what I have already read to the House, and which appears in Mr. Glover's testimony.

I heard the remarks of the gentleman from New York [Mr. ANDRUS], and I was yielded five minutes, in which I discussed the bill as best I could from what I knew of it, and I did say, as appears in the RECORD, that whenever people in this district have land they can not sell to anybody else they try to sell it to the Government before it goes up; that they started in on this tract of land at $600,000, and now they have got down to $435,000; that, of course, the gentleman from Ohio [Mr. BURTON] and other gentlemen, who had spoken in behalf of this bill, did not know that any Member of this House was interested in any of this land.

Now, the facts were that the bill was for $423,000. I am quoted in the RECORD as saying $435,000. Now, at nearly the hour of midnight, on the last day of the session, on a motion to suspend the rules, when there was no time to investigate and understand anything, almost anyone was liable to be misled. But the gentleman from New York [Mr. ANDRUS] spoke before I did and read from a report by Senator GALLINGER, made April 23, 1906, to accompany Senate bill 5201, which did give the report of the Commissioners of the District of Columbia with reference to this tract of land; but as that bill, which this report accompanied, also embraced another tract of land, known as the Meridian Hill tract, the two being together, the gentleman from New York [Mr. ANDRUS] made the mistake of reading from that part of the Senate report which referred to the Meridian Hill property instead of this Rock Creek Park addition. He read it at the time. He held the report in his hand, and that report of the Commissioners of the District of Columbia contained the very language quoted by the gentleman from New York [Mr. ANDRUS], which I heard, and which I believed. Therefore, how could the gentleman from New York [Mr. ANDRUS] or myself, either of us have made a false statement, knowing it to be false at the time? The number of the bill was given by the gentleman from New York [Mr. ANDRUS], the number of the report was given by him and read from in my hearing; but the facts are that not a word in that report or in the speech of Mr. ANDRUS or myself ever charged that Mr. Glover had an option on that land at $423,000 and was trying to sell it to the Government at $600,000. I will admit that by Mr. ANDRUS saying it was this identical bill, and reading from the report of the Senate committee made on the same item in a former bill, I did think myself that was what it referred to, not being a member of the committee that had investigated it. But, Mr. Speaker, the report I have just mentioned, by Senator GALLINGER, is as follows:

Mr. GALLINGER, from the Committee on the District of Columbia, submitted the following report to accompany S. 5201:

The Committee on the District of Columbia, to whom was referred the bill (S. 5201) to acquire certain land in the District of Columbia as an addition to Rock Creek Park, having considered the same, report thereon with the following amendments:

On page 1, line 14, before the word "which," insert the words "and the location of proposed new streets."

On page 3, line 14, after the word "therefrom," insert the words "along the center of a proposed new street."

On page 3, line 16, after the word "line" where it first occurs, insert the words "following the center line of a proposed new street."

On page 6, line 1, after the word "plan," strike out the words "as 90 feet in width."

On page 6, line 2, after the word "are," strike out the word "not," and after the word "for," in the same line, strike out the words "in said plan" and substitute the word "herein."

Add sections 7, 8, 9, 10, and 11 to the bill.

Also amend the title so as to read: "To acquire certain land in the District of Columbia as an addition to Rock Creek Park and in Hall and Elvan's subdivision of Meridian Hill for a public park."

Two bills, (S. 5201) "To acquire certain land in the District of Columbia as an addition to Rock Creek Park" and (S. 5289) "To acquire certain ground in Hall and Elvan's subdivision of Meridian Hill for a Government reservation," were submitted to the Commissioners of the District of Columbia for examination and report, and their replies are hereto appended, as follows:

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, March 27, 1906.

SENATOR: The Commissioners of the District of Columbia have the honor to submit the following on Senate bill 5201, Fifty-ninth Congress, first session, "To acquire certain land in the District of Columbia as an addition to Rock Creek Park," which you referred to them for report touching the merits of the bill and the propriety of its passage.

A blue print is inclosed, showing, on a large scale, the pieces and parcels of land proposed to be condemned for the addition to Rock Creek Park, and also a map on a smaller scale showing the relation of the proposed addition to Rock Creek Park and the connection between the two.

Rock Creek Park as now established starts at the District line, extends along both sides of Rock Creek to the Zoological Park, and then south of this latter park in a narrow strip along the east side of Rock Creek to Massachusetts Avenue. South of this point the United States owns a small strip of land about 500 or 600 feet in length, bought for the use of the Washington Aqueduct.

The addition proposed by this bill joins this latter part of the park. It will lie along the west of Rock Creek, and extends up the valley of a small branch running about parallel to Massachusetts Avenue. The valley of this branch is very deep, and the tract of land abutting the creek is well wooded with large and beautiful trees, making it an ideal piece of property for park purposes. The tract proposed to be acquired extends about 4,000 feet along Rock Creek and northwest about 4,000 feet along Massachusetts Avenue, with a width of 500 to 1,000 feet.

The tracts included in the proposed addition have been owned by two or three estates, which up to the present time have not developed the property. Recently, however, in continuation of the rapid development of that section, a large tract of land has been purchased by a syndicate

and arrangements are being made to lay off the land into lots and blocks for the purpose of building. This tract includes about 88 acres of the land this bill proposes to purchase for park purposes, and unless the land is acquired by the Government it will undoubtedly be built upon within a short time. All of this section will probably develop rapidly during the next year or two and the value be greatly enhanced.

In determining on the part of these tracts to be used for park purposes, it was endeavored to leave what was most suitable for building purposes and take for park purposes such part as was best adapted to such use. The area of the land proposed for a park is about 100 acres, and the price is about $4,200 per acre, which is considered to be reasonable, in view of all the circumstances. Options are held on it so that it can all be acquired at such figures as to bring it within the amount appropriated in the bill.

It is further provided in the bill that a small piece of property belonging to the United States lying south of Massachusetts Avenue may be exchanged for an equal amount of land lying to the north. The Naval Observatory grounds are located in this vicinity. The original grounds of the observatory contained about 75 acres, irregular in shape. The opening of Massachusetts Avenue and Observatory Circle, in accordance with the authorized system of highway extension, leaves two strips of the original tract—one on the north of Massachusetts Avenue, containing 14 acres, and one on the south side of the avenue, lying in the angle between Massachusetts Avenue and Observatory Circle, containing about seven-tenths of an acre. This latter strip is proposed to be exchanged. It is of little value to the observatory or to the United States on account of being separated from the remainder of the holdings of the observatory by streets, so that it would seem desirable to exchange it, as proposed in the bill, for an equal amount of land that can be used. The 14 acres to the north can be used as part of a park or such other use as the United States may desire.

The bill further provides that a short section of a projected street called Benton Street shall be abandoned as a highway. This is private property, and the provision means simply that the system of street extension is changed to that extent. It can be seen from the small map that this street will be superfluous if the land is acquired for park purposes.

The bill further provides that the landowners surrounding the proposed park shall dedicate 30 feet for a street and establish a building line of 15 feet, and that the United States shall do the same along the park boundary. This will give a street practically 90 feet wide around the park, which is eminently desirable.

In order to more fully carry out the intention, a few minor amendments are necessary to be made in the bill, as follows:

Insert, in line 14, page 1, before the word "which," the words "and the location of proposed new streets."

Insert after the word "therefrom," in line 14, page 3, the following words: "along the center of a proposed new street."

Insert, in line 16, page 3, after the word "line," the following: "following the center line of a proposed new street."

Strike out the words "as 90 feet in width," line 1, page 6, and also the words "not" and "in said plan," in line 2, page 6. Also insert after the word "for," in line 2, page 6, the word "herein."

The commissioners recommend the passage of this bill as being a measure of public benefit. The land is located within easy access of a large population. It is eminently suited to park purposes on account of the hilly character and the magnificent trees, which could not be grown in many years. It is to-day, although private property, used by many persons as a park, and with the rapid increase of population will certainly prove of the greatest value. The commissioners further believe that, if not purchased before being subdivided and developed, its cost would be greatly increased, and, besides, many of the trees will be cut down and the beauty impaired.

Very respectfully,

HENRY B. F. MACFARLAND,
President Board of Commissioners District of Columbia.

Hon. J. H. GALLINGER,
Chairman Committee on the District of Columbia,
United States Senate.

MARCH 30, 1906.

SENATOR: The Commissioners of the District of Columbia have the honor to submit the following on Senate bill 5289, Fifty-ninth Congress, first session: "To acquire certain ground in Hall and Elvan's subdivision of Meridian Hill for a Government reservation," which you referred to them for report touching the merits of the bill and the propriety of its passage.

A plat is inclosed showing in blue the land proposed to be condemned.

The object of the bill is to acquire for a Government reservation tracts of land aggregating about 10 acres in extent, lying between Euclid Street, Columbia Avenue or Fifteenth Street, W Street or Florida Avenue, and Sixteenth Street extended, in Hall & Elvan's subdivision of Meridian Hill. The reservation proposed is similar in nature to the small reservations or parks now existing throughout the city of Washington, such as Lincoln Park, Judiciary Square, Garfield Park, Franklin and Lafayette Squares, which reservations add so much to the attractiveness and health of the city. There are no parks of this type north of Florida Avenue and nothing in the shape of public reservations to the south, except some small triangles, nearer than Iowa or Dupont Circle, a mile or more distant, and the nearest large park is the Zoological Park, in the valley of Rock Creek, about three-quarters of a mile away. The land is being rapidly built up as a resident section, and a large section of the subdivisions of Columbia Heights, Mount Pleasant, and Meridian Hill, and, in addition, those living in the portion of the city to the south would make use of this reservation.

An inspection will show the great use of these small parks in the residence sections and will demonstrate their utility, as well as their beauty. This proposed reservation might also be made use of for governmental purposes, such as the construction of buildings, the laying off of gardens, etc. For a small reservation its location is unique. There is no other tract of land in this vicinity which could take its place for such use. It lies along the great boulevard, Sixteenth Street, which connects the White House with Rock Creek Park, and is situated on the crest of the line of hills surrounding the lower valley of the Potomac. All of this crest from North Capitol Street to Rock Creek is now practically built up, so that it is the only space of its kind that remains unimproved.

It has a view over the city and down the valley of the Potomac River, and in the summer is exposed to the southwest breezes prevalent in this section of the country. It extends down the steep slope of a hill from a point between Chapin and Belmont Streets to W Street, and this slope is necessary as a part of the reservation to prevent the construction of houses which would cut off the view and the sweep of the wind. This portion would also give greater diversity in the character of the park. The upper part is flat and well adapted either to the laying out of a garden or the erection of public buildings. To diminish the size of the park would be detrimental to its value as a park.

The price named in the bill—$600,000 for about 437,000 square feet of land, or about $1.37 per square foot—is in excess of the estimate of value of the land by the board of assessors, their value being $230,000. Very little property has changed hands in this immediate vicinity recently, so it is difficult to gauge the value, but from prices paid by the District for the condemnation of Sixteenth Street extended, about five years ago, which amounted to from $1.25 to $1.75 per square foot, and from figures at which it is known some of the owners of the land in this vicinity hold the same, it is not thought that the land could be obtained for less than that named in the bill. In fact, it is due to a large portion of this tract being on the market on account of the settlement of an estate that so low a figure as that proposed in the bill can be obtained. Conditions are improving in that vicinity, and an early increase in the value of the land is anticipated.

The commissioners believe that this is an opportunity to obtain a reservation in the line of those laid out in the original city limits in a locality which is without a park at present and where one is much needed now and will be more needed as this section of the city builds up; that to obtain this reservation will greatly enhance the beauty of the city and its environments and will add greatly to the beauty of the Sixteenth Street Boulevard, and in that way would be of benefit to all the people of the United States, a great number of whom in visiting Washington drive on this boulevard; that at the present time the land can be purchased at a more reasonable figure than it can be in a year or two from now; and that there is no other site in the District as suitable for a Government reservation.

The commissioners therefore recommend favorable action on the bill.

Very respectfully,

HENRY B. F. MACFARLAND,
President Board of Commissioners District of Columbia.

Hon. J. H. GALLINGER,
Chairman Committee on the District of Columbia,
United States Senate.

It will be observed that the commissioners recommend the purchase of the properties included in both bills, and for the purpose of simplifying the matter your committee have combined them in one bill, the passage of which is recommended.

Mr. Glover says:

I read this record for the first time about a week ago, and I find, Mr. Chairman, this statement by Mr. ANDRUS of New York.

Now, I want to state that the facts are these about his not knowing anything about it: This debate occurred on the 3d of March, 1909, at night. In the following November, 1909, just before the meeting of the House of Representatives, I was in the city. Some acquaintances of mine were here, and I was showing them the sights. Among others, as I always do, I showed them the Riggs National Bank. It is one of the oldest banks in the city. It is historic, and the building in which it is located is a very fine building. While in there this same gentleman, Charles C. Glover, three years ago last November, spoke to me and said, in substance, that we had made a great mistake in not accepting that piece of property, and he went on to quote from the language that Mr. ANDRUS had used about its being offered at $600,000 and at $550,000, and about my using the words "$435,000." He said himself that that language read by Mr. ANDRUS had reference to the Meridian Hill land and not his—the Rock Creek Park addition—and that Mr. ANDRUS was mistaken. Not having the RECORD before me, I said, "Very likely." I said to him, "I will be glad, Mr. Glover, to correct anything in the RECORD that may have been said to put you in a false light, and anything that you will send to me I will be glad to put in the RECORD."

Mr. SAMUEL W. SMITH, who was then chairman of the Committee on the District of Columbia, was present and heard the very words that I am now telling you, and yet Mr. Glover, under oath, says that he knew nothing about this language, in substance, until a few days before, when his attention was called to it; and I state to you, as a Member of this House, that he talked with me about it three years ago in the presence of Mr. SAMUEL W. SMITH in a very pleasant manner.

Now, my opposition to the purchase of this land was that the Government did not need it and that it was under option. He stated, as you will see in the hearings which I have quoted, that he got an option in 1907; that in two years he had difficulty in renewing it; but on account of the panic and the conditions prevailing and the difficulty of borrowing money on such property he got it renewed one more year. I said in the debate that some people having land in the District of Columbia that they could not sell to anybody else tried to unload it on the Government, and when I use the word "Government" I mean the District of Columbia or the Government of the United States, or both.

He offered the land to the Government for $423,000—about $4,000 an acre. He stated himself in the hearing before the Appropriation Committee:

The CHAIRMAN. How is it, Mr. Glover with respect to the 88 or 98 acres; would it be possible for you to have the option renewed another year?

Mr. GLOVER. No, sir; that is out of the question, Mr. Tawney. They have assessed this ground at $7,500 an acre. The assessment has gone up tremendously.

Now, the assessment is at two-thirds value, and as this was assessed at $7,500 an acre it was worth $11,200 an acre, and he had an option on it and the right to buy it at $423,000. At what he swears was then the value—over $1,100 an acre—he would make nearly, if not quite, a million dollars.

Now, if that language was true, and he says that it was and swears to it, the assessment shows that if he could have exercised his option, paid for it, and could have given the Government more than half of it he would have made a big profit out of the balance.

But he did not exercise that option. He let it go back to those who held the property or the option or contract on it. What has happened since? About a year ago the owners, or those acting for the owners, dedicated to or contributed to the District of Columbia 17½ acres of this land for nothing, to be used for park purposes. What does that prove? Does it not prove what I said—that when a man had land in the District he could not sell to anybody else he tried to unload it on the Government?

Now, I have a map here, and I wish I could hold it up so that you could all see it. The part marked in green is the part deeded to the Government. Here is Rock Creek, and this is the boundary on the westward part of the 84½ acres. Now, they have deeded the part that is marked here in green, lying along Rock Creek, and the green strip the entire length away up to the extreme western line of that land. They have absolutely dedicated it for nothing to the District of Columbia or the Government. Only three years ago they undertook to have Congress buy it at $4,000 an acre. At that rate it would have been worth $70,000.

Mr. MONDELL. Will the gentleman yield?

Mr. SIMS. Certainly.

Mr. MONDELL. Was the grant to which the gentleman refers made with the understanding that a road would be established and improved?

Mr. SIMS. It was given for park purposes, and that is all I know about it. That is what the assessor told me. Now, I want to tell gentlemen of the House what this strip is. It is a gulch, a deep ravine, between precipitous hills. It is a great advantage to have the Government take charge of it and improve it, a great advantage to those owning the adjoining land.

Mr. MONDELL. Is that the gulch up by Sixteenth Street?

Mr. SIMS. Oh, no; this is between Connecticut Avenue and Massachusetts Avenue. If the land was worth what Mr. Glover said it was before the Appropriations Committee—$11,250 an acre—then they deeded as a gift, dedicated to the Government or the District of Columbia nearly $200,000 worth of real estate, 17½ acres.

So I was right when I said that some people owned land in this District who, when they could not sell it to anybody else, lobbied around this House and the other end of the Capitol to turn it loose on the Government, because that is what has happened as to this identical piece of land.

What else has happened? I have not the slightest disposition to treat Mr. Glover unjustly. I have no quarrel with him. I have no reason to quarrel with him. He had a right to do this thing and to pursue his own course. I have not noticed anything unusual about Mr. Glover except that he appears to be a man of excessive modesty and rarely ever alludes to himself in connection with the discussion of any matters. He takes great credit for the acquisition of Rock Creek Park, acquiring 1,000 acres for about $1,200,000. Under oath he admitted that the land in Rock Creek Park that he takes so much credit for was unloaded on the Government at eight times its assessed value. In other words, he is a man who is disposed to help the Government by "causing" it to buy something at five or six times its market value, and then boasts of it.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. SIMS. I will.

Mr. MARTIN of South Dakota. How does the gentleman explain the statement that this property, which he says is comparatively valueless, appears to be assessed at $7,000?

Mr. SIMS. $7,500 per acre. I do not know, but Mr. Glover in the same testimony says that the land is now worth two to four million dollars on account of the rapid increase in value, but he never told the committee that many hundred thousands of dollars had been expended in improving the western portion of the land.

Another thing about which I think Mr. Glover was not candid or frank: In all the hearings that I have read, before the Committee on Appropriations, and in all of the talks that I had with Mr. Glover himself, or had up to the time this bill was considered, he never for one time told us that a then Member of the House owned part of the land embraced in this option. According to Mr. Glover's statement the land was worth over $11,000 an acre at the time he made the statement, and he was buying it for $4,000 an acre. He was simply offering to sell it to the Government without profit, but the Member of the House who owned part of the land was offering to sell it to the Government through that option at a loss, which was no discredit, if the facts had only been known. Why did he not tell us that one of our own Members thought so much of this for park purposes that he had agreed to let his part of the land go at this reduced, sacrificial price; but not a word of this did he ever mention. In the hearings before the subcommittee of the District Committee he never said a word about 17½ acres having been since deeded to the District of Columbia, and in a long statement of his, in which he tells what he had to do in acquiring Rock Creek Park, he goes on to state that afterwards he bought some land beyond a reservoir out on Sixteenth Street at from $1,000 to $2,500 an acre. He states also that since that time he has sold some of the land that cost him $1,000 to $1,100 an acre for $11,000 an acre. What else does he say? He claims to be the father of Rock Creek Park, the father of the movement. In his characteristically modest language, as will be seen all through these reports and hearings, he says that he caused the bill to be introduced; that he caused it to pass—"I did this, I did that, I did the other"—and among other things that he named three of the commissioners who were appointed to look after this Rock Creek original acquisition.

I desire to refer here to a section in the law by which Rock Creek Park was acquired. The law says, in reference to the acquisition of Rock Creek Park, that the—

> commission having ascertained the cost of the land, including expenses, shall assess such proportion of such costs and expenses upon the land, lots, and blocks situated in the District of Columbia especially benefited by reason of the location and improvement of said park, as nearly as may be in proportion to the benefits resulting to such real estate.

What are the facts? There never was a dollar of improvements assessed against any of the abutting property, any of the adjoining land that was sold, according to his own statement, at eight times the assessed value. Yet he has the nerve to say that there was no improvements, no added value to the adjoining lands, when he admits himself that long afterwards he bought some land near this park at $1,000 to $1,100 an acre and has since sold it for $11,000 an acre.

When the chairman of the committee, the gentleman from Kentucky [Mr. JOHNSON] called his attention to this and asked why these assessments for benefits could not still be made, what does this modest man say? He replied:

> Mr. Perry could give you the fullest information on the points on which you wish to be informed. I hope Mr. GEORGE's suggestion will not be carried out, however, as I own quite a little patch of land out there.

He says that he hopes Mr. GEORGE's suggestion will not be carried out, because he owns a little patch of land there, and the record shows by his own statement that it is 45 or 50 acres This public-spirited, high-minded gentleman, who is working for the public good, and who, as a result of the purchase of this land by the Government at eight times its assessed value, has property of his own, acquired since that time, which is now worth six, seven, or eight, or ten times as much as it was then, is not willing that the benefits be assessed against the adjoining property.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. SIMS. Yes.

Mr. MOORE of Pennsylvania. In this Rock Creek Park matter did not a majority of the House vote with the gentleman from Tennessee?

Mr. SIMS. Why, it was almost a solid vote.

Mr. MOORE of Pennsylvania. That is what I thought.

Mr. SIMS. Only 31 Members on the roll call of March 3, 1909, voted to pass that bill.

Mr. MOORE of Pennsylvania. Does not the gentleman feel that he has the confidence of the House in the proposition that he is stating, and that he has had it all along in this Rock Creek matter?

Mr. SIMS. From everything that I can see, I think I have.

Mr. MOORE of Pennsylvania. I was wondering whether the confidence of the House was not enough to satisfy the gentleman.

Mr. SIMS. But here is a sworn statement put into the record of hearings by a committee of this House, and I feel that it is due to Mr. ANDRUS, an old and honest Member of the House from the State of New York, to state the facts. Mr. ANDRUS read a report from the Senate committee, and made no statement which was unauthorized by that report, with the exception that he read a part that applied to the wrong tract of land.

Mr. MOORE of Pennsylvania. On the original proposition did not the gentleman from New York [Mr. ANDRUS] vote with the gentleman from Tennessee?

Mr. SIMS. Yes.

Mr. MOORE of Pennsylvania. And I think most of the Members of the House stood with him.

Mr. SIMS. All but 31.

Mr. MOORE of Pennsylvania. Was it not the sentiment of the House, as expressed by the vote, that the price asked for that land was entirely too high?

Mr. SIMS. Yes; 31 for and 192 against was the vote.

Mr. MOORE of Pennsylvania. I was wondering whether the gentleman ought not to be entirely satisfied with the situation as it is.

Mr. SIMS. I am satisfied so far as those Members of the House are concerned who know anything about it. But every newspaper in Washington printed in substance what this gentleman has stated, and one paper printed the entire matter as related by him. It must have been a paid advertisement.

Mr. MOORE of Pennsylvania. I have so much respect for the gentleman from Tennessee [Mr. SIMS] that I hoped he would not get so serious over what the newspapers say, because they say things about every Member of the House, and it is just as likely to happen to one as to another. And if everyone was to rise to a question of personal privilege because of newspaper reports there would not be much time for any other business.

Mr. SIMS. If it had been a newspaper report only I would not have said anything about it. But it is a sworn statement and a permanent record of the committee.

I want the Members of this House and of the next House to understand this thing. I have always had a suspicion of anybody who gets option on lands and comes to try to sell them to the Government. The Government does not need anybody's option. Private concerns have to do this thing. They have to get land by contract. The United States has the power of condemnation and can acquire it in spite of the owner, and the owner is entitled to full value for it, and I do not think it reflects any credit upon a banker of large means to have acquired an option on land at not much more than one-third of its value from private owners and then sell it to the Government even without profit, which is abundantly able to pay all that it is worth. Another thing: I do not approve of the members of the District government going around and getting options on land in this District and then lobbying in either House to have us purchase it. That thing will come again, or things like it, and it is very well for Members of the House to know how these things go. A great Government, worth billions of dollars, with the power of condemnation over every foot of land in this District, can acquire any property it needs, and ought to pay every dollar it is worth. To the extent that I had any part in defeating that bill I am proud of it; I saved the Government $70,000 for 17½ acres, even at the option price. And what else? I saved to you in round numbers $200,000 if the property had been acquired by condemnation, because these 17½ acres have since been given us absolutely for nothing. If I, by anything I did, caused this gentleman's option to expire, so that it was returned to the people who owned that land, and had paid for it, and it is now worth to them two to four millions of dollars, it seems to me they ought to get up and call Mr. ANDRUS blessed. I say that I am opposed to this option business. I hope it will never come up again in this or any other Congress. Let the Congress buy, as it always has bought, under its right of eminent domain, by condemnation. It may pay more for Rock Creek land, as it does in every case, than the market price, but the citizen is entitled to all the property is worth against the Government as purchaser.

As I said to Mr. Glover a few years ago, when he said he was going to quit and have nothing to do with it, that I thought he had done enough, and that I did not blame him for retiring from the field of action, as the Members of the House had not been convinced, and there was no use of him wasting his valuable time among Members of Congress who seemed averse to what he advocated.

Now, I have not said any unkind word in the way of adverse comment on Mr. Glover, but I will leave the question to you as to whether Mr. ANDRUS or myself ought to be expelled.

CONGRATULATIONS OF PORTO RICO ASSEMBLY.

The SPEAKER. The Chair lays before the House the following communication, which the Clerk will read.

The Clerk read as follows:

SAN JUAN, *January 14, 1913.*

HOUSE OF REPRESENTATIVES, *Washington:*

The House of Delegates of Porto Rico upon the opening of the seventh legislative assembly tenders to the House of Representatives of the United States its profound homage of sincere fraternity. Our house, the genuine representation of the people of Porto Rico, after 14 years of reiterated and fruitless demands for liberty and justice, now has absolute confidence that the cause of the great Democratic victory, the principles proclaimed by Jefferson, will from the Capitol and the White House reach Porto Rico. Our people request a new constitution providing for two elective houses, ample legislative powers in all local matters, an executive cabinet composed of bona fide residents of Porto Rico, and other measures of self-government worthy of the high sense of justice of the American people and of the demonstrated capacity and natural right of the people of Porto Rico.

JOSE DEDIEGO, *Speaker.*

LEAVE OF ABSENCE.

Mr. BATHRICK, by unanimous consent, was granted leave of absence, for one week, on account of illness.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday, and the unfinished business is the bill H. R. 23669.

TOWN SITES IN CONNECTION WITH RECLAMATION PROJECTS.

Mr. RUCKER of Colorado. Mr. Speaker, I ask unanimous consent to address the House upon this matter for two minutes.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. RUCKER of Colorado. Mr. Speaker, when this matter came up last Wednesday I was not then informed concerning the condition of my colleague, Mr. TAYLOR of Colorado, who reported this bill. Since then I have ascertained that he will be here on Saturday, and therefore I would like the House to pass this bill over until next Wednesday, when he can have charge of it. And I ask, therefore, unanimous consent for the passing of this bill from to-day's calendar until next Wednesday's calendar without prejudice.

The SPEAKER. The gentleman from Colorado [Mr. RUCKER] asks unanimous consent that on account of the probable appearance of his colleague, Mr. TAYLOR, who had charge of this bill and reported it, by next Wednesday, that this matter go over until that time as unfinished business.

Mr. MANN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MANN. Does the gentleman's request mean that it will come up next Wednesday the first thing, or would it be postponed for any other unfinished business that went over from to-day until next Wednesday?

The SPEAKER. The Chair does not really understand the request the gentleman from Colorado [Mr. RUCKER] preferred. The Chair understands that the House can start in with another bill and have it unfinished business next Wednesday.

Mr. RUCKER of Colorado. My request is, if the gentleman from Illinois will permit, that this bill go over without prejudice and be called up on next Wednesday, just as it is called up to-day, as unfinished business.

The SPEAKER. The Chair would hold that if the request is granted, if the House starts on another bill to-day and it is not finished, that the latter bill would have the right of way.

Mr. MARTIN of South Dakota. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MARTIN of South Dakota. In the instance the Chair now states, is it correct that, on the disposition of that business, although it might take all of to-day and take both matters over to the following Wednesday, this matter would lose its place?

The SPEAKER. Of course, it is purely arbitrary. But in the judgment of the Chair this bill would follow whatever was unfinished. Is there objection to the request of the gentleman from Colorado [Mr. RUCKER]? [After a pause.] The Chair hears none. The Clerk will call the committees.

ALIEN INSANE.

Mr. BURNETT (when the Committee on Immigration and Naturalization was called). Mr. Speaker, I am directed by the Committee on Immigration and Naturalization to call up the bill H. R. 19544, House Calendar No. 195.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill, as follows:

A bill (H. R. 19544) to amend section 9 of the immigration act approved February 20, 1907.

Be it enacted, etc., That section 9 of the immigration act approved February 20, 1907, be amended as follows:

"After the word 'epileptics' insert the words 'insane persons,' so that section 9 shall read as follows:

"'SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent,

or consignee of any vessel to bring to the United States any alien subject to any of the following disabilities: Idiots, imbeciles, epileptics, insane persons, or persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200 for each and every violation of the provisions of this section; and no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, and in the event such fine is imposed, while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.'"

Mr. BURNETT. Mr. Speaker, there are one or two verbal amendments to that bill. The purpose of the bill is to penalize the steamship companies for bringing in alien insane. As the law now is, the steamship companies are penalized and required to pay a fine of $100 for bringing in people who are idiots, imbeciles, epileptics, and so on, and, while the alien insane are excludable and deportable now, there is no penalty on the steamship companies for bringing them in.

That is one change. The other change is to increase the penalty in that section from $100 to $200. It is now $100 in the present law, as it stands now. This is to increase that.

I think the bill has the approval of the entire committee, according to my recollection. I know that some gentlemen tried to get it up by unanimous consent a few days ago. Certain gentlemen from New York were very much in favor of it, and gentlemen from other States along the Atlantic seaboard were in favor of it, because the insane asylums in cities along the Atlantic seaboard are being filled with alien insane; and, as I said before, while they are deportable, there is no penalty on the steamship companies under existing law for bringing them in.

Mr. MOORE of Pennsylvania. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Alabama yield to the gentleman from Pennsylvania?

Mr. BURNETT. Yes; I yield to the gentleman.

Mr. MOORE of Pennsylvania. I have just been able to get a copy of the bill. I wanted to ask the gentleman if any change has been made in this bill? I could not hear the earlier part of the gentleman's statement.

Mr. BURNETT. Change in existing law?

Mr. MOORE of Pennsylvania. Change in the bill. The gentleman referred to a couple of committee amendments.

Mr. BURNETT. It is apparent on the face of the bill what they are. In the original bill section 9 of the immigration act approved February 20, 1907, is proposed to be amended so as to read as follows:

After the word "epileptics" insert the words "insane persons."

Instead of that we amend it "so as to read as follows," and then put in the entire section amended.

Mr. MOORE of Pennsylvania. This adds to the classes to be excluded? It adds insane persons, and increases the penalty on the steamship companies from $100 to $200?

Mr. BURNETT. Yes. The insane are excludable now, but there is no penalty, as I say, imposed on the steamship company for bringing them in. It adds insane as one of the classes, and increases the penalty from $100 to $200 for bringing in any of those classes.

Mr. MOORE of Pennsylvania. I understand there are no serious objections to the bill—certainly not on my part—if it is the bill that the committee agreed upon. I ask these questions because I have had no opportunity to examine the bill—the print not being here. Listening to the gentleman's statement I was confused by the remark that there had been some changes of committee amendments.

Mr. BURNETT. Oh, none of committee amendments.

Mr. SABATH. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. BURNETT. Yes.

Mr. SABATH. I desire to inquire of the gentleman whether he would have any objection to eliminating that exception in the bill and make it applicable to the railroads as well as to the steamship companies? If it is wrong for the steamship companies to bring in the insane, why is it not just as wrong for the railroads to bring them in from Canada and Mexico?

Mr. BURNETT. I think it is. The attention of the committee was not called to that point.

Mr. GARNER. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. BURNETT. Yes.

Mr. GARNER. Has the gentleman ever taken into consideration the question of the expense to the railroad or transportation companies to have experts investigate, for instance, as to the sanity of passengers on all railroad trains? I can illustrate it no better than by saying that in my section of the country a train may have two or three hundred immigrants coming into this country from Mexico. Now, if this bill is to apply to the railroad companies, they would necessarily have to detain that train when it got to the border line for a sufficient length of time to enable an expert to examine all the passengers to determine whether or not any of them were insane and deportable.

Now, this law could properly apply to the steamship companies, because they have plenty of time in which to ascertain whether their passengers are of the nature or character that is described in this bill, whereas the railroad companies coming from Mexico or from Canada could not take the time to do that because they are making two or three daily passages to this country.

I would suggest to the gentleman from Alabama [Mr. BURNETT] and to the gentleman from Illinois [Mr. SABATH] that the complaints which this bill is intended to reach come from New York principally as to the steamship companies, and you have had no complaint from those people who have had to take care of insane coming from Mexico and Canada.

Mr. GARDNER of Massachusetts. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Alabama yield to the gentleman from Massachusetts?

Mr. BURNETT. I will yield to the gentleman from Massachusetts after I shall have concluded with the gentleman from Illinois [Mr. SABATH]. I would prefer that this amendment be not made now, and that the bill be not incumbered with it.

The argument of the gentleman from Texas [Mr. GARNER] is not a good one, from the fact that these people are now required to come in at the ports of entry that are established all along the Canadian border line and the Mexican border, and the immigrants have to be examined at those ports of entry; and for that reason it would be no greater hardship to examine them as to their sanity than to examine them as to any other question, as, for example, the question of head tax. If they have lived in Canada for a certain length of time, they have had to pay a head tax on coming from other countries. I think that the argument of the gentleman from Texas is not a good one.

However, I hope the gentleman from Illinois [Mr. SABATH] will not offer an amendment and will let the bill go in as it is.

Mr. MOORE of Pennsylvania. If the gentleman from Alabama would admit that amendment, would he not raise at once the question of the expense and supervision at all the railroad stations and crossings on both border lines?

Mr. BURNETT. Oh, of course, there is no question about that.

Mr. MOORE of Pennsylvania. And the inconvenience to passengers from holding up trains?

Mr. BURNETT. Yes; all that was referred to by the gentleman from Texas.

Mr. MOORE of Pennsylvania. It involves a big, broad question, which will probably interfere with the passage of this bill.

Mr. BURNETT. I think it ought not to be injected into the bill now.

Mr. GARDNER of Massachusetts. Mr. Chairman, in my opinion the principal purpose of this bill is to prevent the infliction of misery on an alien who comes from a long distance away—say Armenia—and gets to Ellis Island and finds that he must be turned back. Experience has shown that the steamship companies often bring doubtful immigrants here on the chance that they will be admitted. This bill is intended to discourage them from taking chances. It is largely a humanitarian bill. No such circumstances surround the rejection of aliens who come here by rail. He has not come from a long distance. He has not made a journey half way around the world in vain. The expense, difficulty, and delay would be great, by the way, in applying this law to the ferryboats crossing from Windsor to Detroit were it not for the fact that the same passengers cross back and forth every day. The reasons which call for this legislation do not apply to emigrants coming from foreign contiguous territory.

Mr. BURNETT. I will state to the gentleman that, as was stated by the gentleman from Texas, there has been no complaint from these border States. The complaint comes entirely from the seaport States—Massachusetts, New York, and other States—where the steamship companies bring in these insane.

Mr. MANN. Mr. Chairman——

Mr. BURNETT. The gentleman from Illinois [Mr. SABATH] desires to address himself to the bill, but I yield to the gentleman from Illinois [Mr. MANN] for a question.

Mr. MANN. I wish to ask a question. The bill, as I understand, only inserts insane persons in this paragraph, and doubles the penalty on the steamship companies.

Mr. BURNETT. That is all.

Mr. MANN. Now, supposing a man is in fact insane when he embarks at some place in Europe to come to this country, but gives no general appearance of insanity. While he is on shipboard he shows that he is insane. Of course, when he comes here he is excluded. Are the steamship companies to be fined for that because they have not made a competent medical examination by an expert alienist before the man starts? A competent medical examination for insanity means a careful examination by an expert alienist, and usually requires days of observation.

Mr. SABATH. Will the gentleman permit me to answer that?

Mr. BURNETT. Yes.

Mr. SABATH. I desire to say, in answer to my colleague, that the bill provides that if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected——

Mr. MANN. By means of a competent medical examination.

Mr. SABATH. By means of a competent medical examination at such time.

Mr. MANN. Which means that every person who comes from abroad must have a competent expert alienist examine him as to his mental condition, because no one can tell by a casual observation whether a man is sane or insane unless he is a maniac. The steamship companies can not tell unless they have an expert alienist examine him, and sometimes that requires days of observation, and even then they will not agree.

Mr. MOORE of Pennsylvania. There is no question——

Mr. FOSTER. There is a question about that.

Mr. MANN. About their agreeing?

Mr. FOSTER. About their agreeing, and the reason why. I will say to my colleague that there is no line of demarcation where you can say that upon this side of that line every man is sane and on the other side every man is insane; but there is a large borderland in which possibly no man can say whether people are sane or insane.

Mr. MANN. That is true; and there is a borderland condition in which it takes some time to ascertain.

Mr. FOSTER. I agree with my colleague that unless the symptoms are pronounced no man can tell on a casual examination whether a person is sane or insane.

Mr. MANN. The existing law forbids insane persons coming into the country.

Mr. BURNETT. Yes.

Mr. MANN. The only purpose of this amendment, so far as insane persons are concerned, is to invoke a penalty against the steamship companies for bringing them in.

Mr. BURNETT. That is it.

Mr. MANN. Of course, if a man is insane and the steamship company brings him here, they ought to be fined, but it seems to me somebody ought to have the authority not to require the fine when it would be impossible to have the services of an expert alienist—and that is what a "competent medical examination" means—to examine everybody in advance.

Mr. BURNETT. The same argument might apply against fining them for bringing in tuberculosis patients. Perhaps it would require considerable examination to detect that.

Mr. FOSTER. I take it that this provision in the bill means that an alien coming to this country would present to the steamship company a certificate from a recognized reputable physician in that country from which he comes certifying to the fact that he was of sound mind and body, and that all the steamship company would be expected to do would be to take that sort of a certificate and admit the man; but it would hardly be expected under the provisions of this bill that the company must have a certificate from an expert in that particular line.

Mr. MANN. What is the practice in the administration of the law now? Do the steamship companies take the certificate of any physician?

Mr. BURNETT. Oh, no. There is an examination when they get here, and one result of it is that on account of the congested conditions at New York there are so many who escape examination and the vigilance of the New York authorities that in the State of New York alone the alien insane are costing them $4,000,000 a year; and I notice that just before Gov. Sulzer was inaugurated, Gov. Dix was discussing the calling of a convention of twelve or fifteen of those States whose asylums are being overrun by these people, to take some action to memorialize Congress, asking that the Federal Government support these insane because they allow them to escape the Ellis Island examination and get in. Even if it were to work hardship occasionally, it seems to me better to require this than that this great influx of alien insane should be continued as it has been for the last few years.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. BURNETT. I will.

Mr. MOORE of Pennsylvania. I want to say to the gentleman from Illinois [Mr. MANN] that this bill puts the burden on the steamship company to detect insane persons, and if detected on arrival at the port the steamship company would have to carry them back, and the steamship company would be fined $200 under this bill. Now, there were alienists before the committee—and I say this for the information of the gentleman from Illinois [Mr. FOSTER], who is a distinguished physician—who contended that by merely looking at a man, a specialist trained in the matter of insanity could detect symptoms of insanity; that a man standing at the port and looking at a line of people could pick out those who showed signs of being mentally unbalanced.

Mr. FOSTER. That may be in a certain proportion of cases. But there are a large number, as suggested by my colleague, that it would require a considerable length of time to determine whether a person was sane or insane. For instance, in the Army, in recruiting men for the service, at the large recruiting stations, there is an alienist whose duty it is to observe men enlisted into the Army. They sit there and study the young men from day to day and determine whether they are likely to go insane from some cause that may be brought out in the Army. They are not able to tell by a casual examination whether or not the young man is insane or sane at that particular time, and so they study them for that reason. There are cases, I will say to the gentleman, that are so plain that no one could make a mistake. A certificate given by a physician that that person was sane would involve the steamship company either paying a fine or refusing to accept the physician's affidavit from that particular locality.

Mr. MOORE of Pennsylvania. I did not want to bring on any difference of opinion between experts.

Mr. FOSTER. Oh, I am no expert.

Mr. MOORE of Pennsylvania. I have said that there were witnesses before the committee in support of the bill which provided that alienists should be placed at the various ports to inspect the incoming immigrants, who said that specialists could detect those that were mentally unbalanced, as subjects for special treatment. Their testimony was so clear that I felt that even if members of the committee had to pass, as we do between the tellers, with those alienists standing by, there might be some question whether some of us would get through.

Mr. FOSTER. Let me suggest this to the gentleman, that what they meant was, for instance, in a line of people passing along there may be those that they suspect who would be taken away for further observation. That is probably what they meant when they stated what they did.

Mr. CARY. Will the gentleman from Pennsylvania yield?

Mr. MOORE of Pennsylvania. I am speaking in the time of the gentleman from Alabama.

Mr. BURNETT. I will yield.

Mr. CARY. I want to ask the gentleman from Pennsylvania, who lives in the city of Philadelphia, where these boats arrive, is it true that many men desert ships when they arrive on this side and that vessels go back without a full crew?

Mr. MOORE of Pennsylvania. That is one of the real evils of the immigration law. Men do come to this country shipping as sailors, and I question whether the bill we passed at the last session, the seaman's bill, is effective in this respect. I undertook to offer an amendment to cover that point and it was rejected.

Mr. CARY. They desert and get away and no track is kept of the men.

Mr. MOORE of Pennsylvania. They are gone, but if they are detected by means of their own confession they may be apprehended and deported. The moment they leave the ship they are gone.

Mr. CARY. Has the gentleman any information as to the rumor which I have heard quite frequently—that men who can not pass an examination at the originating port in some way arrange with the steward and hire out as a sailor for the very purpose of getting over here and then deserting?

Mr. MOORE of Pennsylvania. The gentleman is getting down to an interesting point, in which there may be some basis of fact. The question raised by the gentleman from Illinois a moment ago involved that proposition—that we should inspect the emigrants on the other side of the water and not wait until

they get over here and inspect them and take the chance of losing some of them. Shall we put the burden on the steamship company of examining the emigrants before they enter the vessel or put the Government of the United States to the expense of apprehending them after they get here?

Mr. TALCOTT of New York rose.

Mr. SISSON. Will the gentleman yield?

Mr. MOORE of Pennsylvania. The gentleman from Alabama has the floor.

Mr. BURNETT. Mr. Speaker, I have yielded to the gentleman from Pennsylvania, and I now yield two minutes more.

Mr. MOORE of Pennsylvania. Then I yield first to the gentleman from New York [Mr. TALCOTT].

Mr. TALCOTT of New York. Is it a fact that many countries across the water object to making inspection there?

Mr. MOORE of Pennsylvania. I think some of them do. I do not think there is a great desire on the part of the Italian Government to promote emigration.

Mr. TALCOTT of New York. Are there not some countries that have objected to it?

Mr. MOORE of Pennsylvania. Yes. I think Germany has objected to it, and wants to hold her people.

Mr. BURNETT. Mr. Speaker, I will yield to the gentleman from Mississippi for a question.

Mr. SISSON. Mr. Speaker, I want to ask the gentleman from Alabama in reference to his bill. The law now prevents insane persons being admitted to the United States?

Mr. BURNETT. Yes.

Mr. SISSON. In the event a steamship company should bring an insane person, a person that they know to be insane or should have known to be insane by the exercise of reasonable diligence, would there be any penalty now attached to the steamship company for bringing such an insane person here?

Mr. BURNETT. Not at all; that is what this bill seeks to accomplish.

Mr. SISSON. The bill is really for the enforcement of the present law?

Mr. BURNETT. Yes; and to enlarge it.

Mr. SISSON. The law as it now stands is nugatory, because when they do bring the insane person here no penalty is attached to it, and they do not have to carry them back, and they become a charge to the respective States where they come. Is that true?

Mr. BURNETT. They are required to carry them back, and they can be sent back by the steamship company, but no penalty is attached to it. If they escape and get out into the country there is a great deal of trouble to get them deported, and they can not be deported unless you get an order from the Secretary of Commerce and Labor on the company to carry them back.

Mr. SISSON. And in the meantime there is a charge on the community?

Mr. BURNETT. Yes; and on that line this is asked for by the governor of New York, and I notice last year there was an agreement between the steamship company and the hospitals by which the company did agree to take back several hundred that the Secretary of Commerce and Labor had not issued a warrant for.

But it leaves it entirely optional with them to take them back, unless the Secretary of Commerce and Labor orders them deported by these lines, and this is to penalize them for bringing them over.

Mr. SISSON. It was suggested that in a great many countries there was an objection made to the inspection of an immigrant. Would not this law require ship companies to be more careful about the acceptance of an immigrant in foreign ports, and thereby give us the same protection that the Government of those countries decline to give?

Mr. BURNETT. That is the purpose of the law—to make the steamship companies more careful.

Mr. GARDNER of Massachusetts. I think, Mr. Speaker, that the gentleman from Alabama has pointed out to the gentleman from Mississippi the crux of the proposition.

Mr. MURRAY. Mr. Speaker, will the gentleman yield?

Mr. BURNETT. Certainly.

Mr. MURRAY. I merely wish to inquire of my colleague, the gentleman from Massachusetts [Mr. GARDNER], whether or not he understands this evil or unfortunate condition that has been pointed out by the chairman of the committee, as to the burdens placed upon local communities in the care of insane immigrants who have been brought over by the steamship companies, to be a local condition. My understanding is that we are able to transport them back, and the steamship companies are required to transport aliens to the country whence they came, just as soon as the place they came from is determined, and that fact is frequently determined in Massachusetts under our insane hospital boards. I desire to ask the gentleman from Massachusetts if he thinks it is a bad condition from which we are suffering?

Mr. GARDNER of Massachusetts. Mr. Speaker, I did not hear the whole of the gentleman's question, but perhaps I can answer it. Of course when an insane person is turned back in the port of Boston, he is deported at once in the vessel in which he came and at the expense of the steamship company that brought him.

Mr. MURRAY. Yes.

Mr. GARDNER of Massachusetts. If that insane person stays a certain length of time and is found in Boston, he is sent back at the expense of the company. If he has gone into the interior, my impression is that half of the expense to the port of embarkation is borne by the company and half by the United States Government. If he has been here more than a certain length of time, I think three years, we have no power to deport him at all. The gentleman from Alabama can tell me whether that is correct or not.

Mr. BURNETT. That is my recollection of the existing law.

Mr. GARDNER of Massachusetts. As I recollect it offhand, that is the existing law.

Mr. MURRAY. And that is upon the theory that the condition may have been caused since the time of entry into the United States?

Mr. GARDNER of Massachusetts. And also on the general feeling that we must make some limit. For instance, suppose the causes arose prior to entry into the United States, but that after entry the immigrant had married a wife and had children born to him in this country. We have come to the conclusion, after a good deal of discussion, that three years is about the correct time within which deportation may be made, except in the case of prostitutes and procurers, where under another law the Congress of the United States thought otherwise.

Mr. MURRAY. I am not out of sympathy with the legislation, if it seems to be desirable, from the local point of view and from the general point of view, but I have not seen anything in the bill that is at all supplementary of what we now have. In other words, I was inclined to believe that we had pretty general power to look after the situation as it is.

Mr. GARDNER of Massachusetts. I think the gentleman is correct, but experience has shown that these steamship companies will take a big risk if the only penalty is deportation at their expense; whereas, if we put a fine on them for bringing into the country inadmissible aliens, when they could have found out previously that the alien ought not to come in, they will be much more unwilling to take that risk. That is the purpose of the act, as I understand it.

Mr. BURNETT. Mr. Speaker, in answer to the gentleman's question of whether there has been any complaint, particularly from his section, I would state that quite a number of the North Atlantic States have made complaints through their boards of aliens. My recollection is that we have had very urgent complaints by those in charge of the insane hospitals of the gentleman's State. I have not the data before me and have not examined the matter lately, but that is my recollection. I know we have had complaints from Rhode Island, Connecticut, and New York, and I think from Massachusetts.

Mr. MURRAY. May I ask the gentleman to incorporate that in his remarks in the RECORD?

Mr. BURNETT. Yes. If I have the statement I will incorporate it.

Mr. SABATH. Mr. Speaker, will the gentleman yield?

Mr. BURNETT. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Speaker, it is not my intention to detain the membership of this House. All I desire to say is this: I am in favor of this bill. Furthermore, I am in favor of enlarging the scope of the bill and of including also the examination of all those aliens that come in here from contiguous territory, namely, those that come by railroad. This bill excludes all insane that seek to enter the United States from foreign territory. I am of opinion that an insane person is just as insane if he comes from Mexico or Canada as if he comes from England, Germany, or France.

And therefore I have suggested to the chairman of the committee to accept the amendment which would eliminate these words:

Other than railway lines.

So that we would force not only the steamship lines but also the railroad companies to carefully examine all those who are probably suffering from insanity. The present law excludes all of these. All that we desire to do is to impose higher fines on the steamship companies so as to force more careful examination in order to protect the unfortunate immigrant from being turned away after he arrives in this country.

Mr. SISSON. Will the gentleman yield?

Mr. SABATH. I will.

Mr. SISSON. Has the gentleman considered the condition of the facilities of the steamship companies for making examinations, and the facilities of the railroad companies coming from Canada or Mexico?

Mr. SABATH. Well, if I am not mistaken, we have very few lines that run between Mexico and the United States. I would say there are six border lines.

Mr. SISSON. I am not informed about the condition, but it just occurred to me that there may be a good deal of difference in the method of handling the railway passenger and the way of handling the ship passenger, and it might require a different kind of legislation. I will say to the gentleman I am in entire sympathy with his views.

Mr. GARDNER of Massachusetts. Mr. Speaker——

The SPEAKER. Does the gentleman from Illinois [Mr. SABATH] yield to the gentleman from Massachusetts [Mr. GARDNER]?

Mr. SABATH. I yield to the gentleman from Massachusetts.

Mr. GARDNER of Massachusetts. I call the attention of the gentleman from Illinois [Mr. SABATH] to the fact that there is a street railroad running across the Rio Grande where the fare is 10 cents. Does the gentleman think it right to force the railroad company to maintain a force of physicians and to fine the company $200 if it brings an alien here and it is found subsequently that he is insane?

Mr. SABATH. It might be a hardship to that street railway company; but if they are bringing hundreds and hundreds of people over here from Canada, why should we not protect ourselves on that border as well as on any other border?

Mr. GARDNER of Massachusetts. One other question: The gentleman is aware that the examination of European immigrants who come here through Canada takes place in the Canadian ports by agreement between the two Governments, and not on our border.

Mr. SABATH. I am aware of that fact.

Mr. GARDNER of Massachusetts. And suppose after a United States inspector has passed an immigrant in the port of Montreal and that that immigrant is found to be insane after he came to the United States and after having been passed by the inspector in the port of Montreal, would he consider it just to charge the railroad company $100 for bringing him in?

Mr. SABATH. Well, personally, I do not know whether under the present law they would not be subjected to a fine.

Of course, at the present time they are excluded, it is true, but if by chance they are brought across the channel on a boat, it matters not how small it may be, plying between some two points across a narrow strip of water, the boat would come under the provisions of this act. And if it is good law for a steamship line, why should it not be as good for the railroad? Personally, of course, the gentleman recognizes the fact that I am not trying in any way to eliminate the steamship companies from performing their duties.

Mr. GARDNER of Massachusetts. I understand.

Mr. SABATH. I believe that this is a good provision, and that we have a right to demand from the steamship lines that they should be careful in examining the people they are bringing to this country; but I go further and say that we should make some demand on the railroads.

Mr. GARDNER of Massachusetts. Let us take the Quebec Central Railroad, which runs from Quebec to Boston, part of the way over the Central Vermont. I suppose the trains may stop at 30 or 40 places between the St. Lawrence and the border. At each one of those stations passengers are likely to board the train. Does the gentleman think it right that the railroad should be required to have surgeons at each of those stations.

Mr. SABATH. The railroad company would not need to have specialists at each of those stations. It would suffice if they had one at the last station and examine all of those who were about to cross. So, instead of having one in each and every station, it would suffice to have one or two at the port of entry.

Mr. GARDNER of Massachusetts. And the gentleman would advocate, for instance, legislation which would produce this state of affairs: Suppose I came back, for instance, from Quebec in the daytime, as I often do, my train would be stopped by the railroad authorities pending the examination of persons for lunacy before we reached the United States line, and, after crossing it, would be stopped for examination once more?

Mr. SABATH. Notwithstanding the fact that I have not a great deal of confidence in these alienists or experts, I do hope that they would have sense enough not to interfere with the gentleman from Massachusetts when they saw him arrive, and that they would be easily able to detect that he does not come under the provisions of any of these exclusions.

Mr. MURRAY. May I ask my colleague from Massachusetts [Mr. GARDNER], if the situation that he assumes is less reasonable than the situation that is likely to come as the result of the probable passage of the literacy test at Detroit, where every day, as I understand it, hundreds of men come across the river to go to their daily employment and occupation in the city of Detroit, but where, in the future, under the provisions of the literacy test, if it becomes a law, as it is likely to do, they will daily have to be stopped while they read for the inspectors 30 or 40 words in the language they are supposed to speak?

The SPEAKER. The time of the gentleman from Illinois [Mr. SABATH] has expired.

Mr. BURNETT. Mr. Speaker, I yield five minutes more to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Speaker, I yield to the gentleman from Massachusetts time to answer the question.

Mr. GARDNER of Massachusetts. I expect that at first there is going to be some difficulty such as the gentleman indicates connected with the enforcement of the illiteracy test. I think the evolution will be approximately the same as has resulted from existing law. The immigrant inspectors know practically everybody by sight who goes from Windsor to Detroit.

Mr. MURRAY. Is the gentleman unwilling to trust the operation of a wise provision such as the gentleman from Illinois suggests?

Mr. GARDNER of Massachusetts. Yes; but the railroads are an entirely different proposition. The ferryboat runs between two places, and it is very easy to become familiar with the passengers who habitually go to and from the same places every day. With passengers on railroad trains, however, it is entirely different.

Mr. MURRAY. Of course, that is true, and the number varies, and the persons from day to day vary on railroad trains to a greater extent than on steamships or ferryboats going from Windsor to Detroit. But could there not be some development under the law by wise administrators that would cure the defects which the gentleman conceives would make this law ridiculous as applied to railroads?

Mr. GARDNER of Massachusetts. No. You are going to put a penalty on the railroads for bringing the people here.

Mr. MURRAY. You are only going to penalize the railroads for doing the same thing that the steamship companies are penalized for doing under the law. The gentleman is unfair in his language when he says that that is our plan.

Mr. GARDNER of Massachusetts. What is the plan that the gentleman refers to?

Mr. MURRAY. To penalize the railroads for doing the same thing that the steamship companies under this are penalized for doing.

Mr. GARDNER of Massachusetts. What is that?

Mr. MURRAY. Bringing in the insane.

Mr. GARDNER of Massachusetts. Before the gentleman came on the floor of the House I endeavored to explain that there had been a very great demand that these immigrants should be protected against taking a journey half way around the world after selling their household goods, only to be turned back on arrival at the port of New York. I pointed out the difference between being turned back after a short land trip and being turned back after a trip from the other side of the world.

Mr. MURRAY. This measure is chiefly a measure of humanity for the suffering conditions now existing in the various States. I gathered the idea from the remarks of the chairman of the committee [Mr. BURNETT] that it was intended to protect such States as New York and Massachusetts, and the Nation generally, from the undesirable immigrants that we are getting. If the purpose is other than that I have entirely mistaken the progress of this debate, but I do hope that along the line of the suggestion that the gentleman from Illinois [Mr. SABATH] wisely makes his amendment may be made covering those immigrants that come in under the other conditions.

The SPEAKER. The time of the gentleman from Illinois [Mr. SABATH] has expired.

Mr. TALCOTT of New York. Mr. Speaker, I ask that the gentleman have his time extended.

Mr. BURNETT. The gentleman from Alabama has control of the time.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] has control of the time.

Mr. BURNETT. Mr. Speaker, how much time have I?

The SPEAKER. The gentleman has 10 minutes.

Mr. BURNETT. I want to yield five minutes to the gentleman from New York [Mr. KINDRED], the author of the bill, and I want myself about five minutes.

Mr. TALCOTT of New York. Mr. Speaker, will the gentleman from Alabama yield to me two minutes?

Mr. BURNETT. Yes.

Mr. TALCOTT of New York. Does not the amendment amending the section refer to all excluded classes, as well as the insane?

Mr. SABATH. Yes. It includes the insane. Formerly they were not included.

Mr. TALCOTT of New York. The gentleman's suggestion covers all classes?

Mr. SABATH. Yes; all these classes.

Now, Mr. Speaker, as I stated, I am in favor of the bill, and I desire to go even further than the gentleman who has drafted this bill, and I am in favor of making the bill apply to the railroads. For that reason I move that the words on line 9, after the word "company," be stricken out, namely "other than railway lines," so that the section of the bill would read:

It shall be unlawful for any person, including transportation companies entering the United States—

And so on.

The SPEAKER. The Chair will state to the gentleman from Illinois that he has the floor for the purpose of debate and not for the purpose of offering an amendment. After the time of the gentleman from Alabama [Mr. BURNETT] expires, the Chair will recognize the gentleman from Illinois, provided the gentleman from Alabama does not cut him off by the previous question.

Mr. SABATH. I presume he could do it under the rules of the House.

The SPEAKER. He could do it if he could get votes enough.

Mr. BURNETT. Mr. Speaker, have the two minutes of the gentleman from New York [Mr. TALCOTT] expired?

The SPEAKER. The gentleman's two minutes have expired.

Mr. BURNETT. How much time have I remaining, Mr. Speaker?

The SPEAKER. Nine minutes.

Mr. BURNETT. I yield four minutes to the gentleman from New York [Mr. KINDRED].

Mr. KINDRED. Mr. Speaker, as the author of this bill, I desire to refer very briefly to the aspect of humanity involved in it, which has been mentioned by the gentleman from Massachusetts [Mr. MURRAY] and others. In the first place, if the bringing in of the insane is made finable, the steamship companies and common carriers will refrain from allowing the insane to commence the trip.

At present the fact of their being brought in entails great hardships to individuals and to whole families. I have known personally of cases of insane who will be finable and excludable under this proposed act to stay at Ellis Island and first be detained indefinitely and then be taken to the almshouses and various institutions at great expense to the public in the first place, and in instances where the families are possessed of means the expense is chargeable directly to their relatives who live in this country.

Mr. SABATH. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. KINDRED. I will yield for a minute.

Mr. SABATH. Is it not a fact that under the present law the Government has the right to deport these people at any time within three years?

Mr. KINDRED. I will say to the gentleman that the bringing in of insane into this country is not finable under the present law.

Mr. SABATH. But they are deportable. Does not the gentleman know that last year we deported 524 insane?

Mr. KINDRED. They are deportable, and the very process of deportation and care for them is costing the State of New York over $2,500,000 each year.

Mr. SABATH. Is it not a fact that the Government pays for the deportation and the passage of the insane, and the State of New York is not obliged to expend a single cent?

Mr. KINDRED. As a matter of fact, the board of alienists, as the proper agency of the State of New York, is doing this work and charging it to the State of New York directly. In some cases the United States Government pays it.

Mr. SABATH. They make examinations, and of course we realize that they are very expensive gentlemen.

Mr. KINDRED. I want to make a statement along the line not of the economics of this great humanitarian question but along the line of humanity, as some gentleman has defined it. Not only, as I have stated, is it inhuman and cruel and inconvenient to the individual insane and their families to bring them here under the present conditions, subjecting them to the hardships to which I have briefly referred——

Mr. HAMILL. Will the gentleman yield for a question?

Mr. KINDRED. I have only a very brief time. Otherwise I would gladly yield.

We come now to the question of humanity involved in this, and that is the lesson which we get from the Jukes family, which in the matter of degeneracy from heredity represents a most colossal family tree and a most interesting one, perhaps the most interesting in the world. The origin of the Jukes family from a given parent was an origin of insanity. The descendants of that family ramify throughout the States, and the result has been not only calamity to the individuals who, through no fault of their own, came into the world under such abnormal conditions through such heredity, but our asylums and eleemosynary institutions have been caused untold expense. Therefore it is a question secondarily of economics and primarily of humanity to the individual and a question of the greatest social importance. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. BURNETT. Mr. Speaker, I call attention to the fact that where this deportation is not done under the warrant of the Secretary of Commerce and Labor the expense of it has to be borne either by the State or by private individuals; and the case to which I called attention a moment ago was a case where the State of New York, through some of its officials, had made a tentative agreement with the steamship companies by which there would be a deportation, as the paper stated, of something like 1,500 of these aliens who have gone recently into the insane asylums of New York, and the State is to bear the expense of that kind of deportation. Under the Federal law if the deportation is on the warrant of the Secretary of Commerce and Labor the steamship companies bear the expense of deportation; but they say that there are many cases that have escaped the investigation of Ellis Island, have gotten out, and gotten into the asylums, and in those cases the Secretary of Commerce and Labor will not order the deportation, and hence the steamship companies are in nowise responsible, and they will not take these people back unless somebody pays the expense of their passage. This newspaper article said that the State of New York had agreed to pay the expense of the deportation.

There is another difficulty. In some cases the country from which they have come refuses to take them back, and it puts them in an anomalous attitude. The steamship companies have made that excuse for refusing to deport them. The country that they come from will not receive them.

Therefore, as has been said by gentlemen, the putting of the penalty upon the steamship companies will increase the diligence of those companies in the investigation on the other side, because if they are penalized for bringing them in they will not bring them over here, and the trouble caused by the refusal of the mother country to take them back will be avoided.

The gentleman from Massachusetts [Mr. MURRAY] has referred to a similar anomalous condition that might arise along the border in regard to the railways. We have in the general law now and also in the Dillingham bill, if it should be passed as amended, and with amendments that perhaps the conference committee may agree upon, a provision that the Secretary of Commerce and Labor may make agreements with the railroad companies along these borders, where there is a contiguous foreign country, for the purpose of expediting this traffic. So the statement of the gentleman that a man who comes over from Canada on a street railway or a steam railroad will have to be examined every day to ascertain whether he can read or not is incorrect. The Secretary of Commerce and Labor arranged with the railway companies a method by which that examination might be made at one time, and the person admitted after that time.

Mr. MURRAY. Mr. Speaker, was the provision that the gentleman speaks of in the bill as it passed the House of Representatives?

Mr. BURNETT. If the gentleman had read the existing law, he would know that that is the law already; and the bill that passed the House of Representatives did not propose to amend that law.

Mr. MURRAY. Mr. Speaker, is the gentleman correct in saying that the bill we voted on, the amended Senate bill, did not propose to amend the existing law? It proposed an amendment to the existing law in the first paragraph of it, and the gentleman knows that I read the bill, because I read it with him. It changed existing law, and the objection I suggest was pointed out in debate on the floor of the House——

Mr. BURNETT. Does the gentleman, in asking his question, intend to interlard it with a speech?

Mr. MURRAY. No.

Mr. BURNETT. The Senate bill does not amend that feature of the existing law. It adds to the classes already excluded and leaves the existing law, with its 42 sections, absolutely as it is already.

I move the previous question on the bill and amendment to the final passage.

Mr. KINDRED. Will the gentleman reserve that motion for a moment in order that I may ask unanimous consent to extend my remarks in the RECORD on this question?

The SPEAKER. The gentleman from New York [Mr. KINDRED] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. SABATH. Mr. Speaker——

Mr. BURNETT. I move the previous question on the bill and amendments to the final passage.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] moves the previous question on the bill and amendments to the final passage.

Mr. SABATH. Mr. Speaker, a parliamentary inquiry. That precludes me from offering my amendment, does it not?

The SPEAKER. It does, provided enough gentlemen vote for that motion. If a majority vote the other way, then the gentleman from Illinois [Mr. SABATH] is entitled to an hour if the Chair recognizes him, which he will do.

The question being taken, the previous question was ordered.

The SPEAKER. The Clerk will report the first amendment.

The Clerk read as follows:

Page 1, line 4, after the word "amended," insert the words "so as to read."

The amendment was agreed to.

The Clerk reported the next committee amendment, as follows:

Page 1, strike out all of lines 6 and 7.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

On motion of Mr. BURNETT, a motion to reconsider the last vote was laid on the table.

Mr. SABATH. I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

AMENDING THE NATURALIZATION LAWS.

The SPEAKER. Is that all the business that this committee has?

Mr. BURNETT. No, Mr. Speaker; I call up the bill (H. R. 20195) to amend the naturalization laws.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 4 of the act approved June 29, 1906, entitled "An act to establish a Bureau of Immigration and Naturalization and to provide for a uniform rule for the naturalization of aliens throughout the United States," is hereby amended by adding two subdivisions to read as follows:

"Seventh. That any alien of the age of 21 years and upward who has enlisted or may hereafter enlist in the Armies of the United States, either the Regular or the Volunteer forces, or in the United States Navy or Marine Corps, or in the Revenue-Cutter Service, or who is serving or has served on board a merchant vessel of the United States may, after three years of such service, while still in the service or within six months after an honorable discharge therefrom, petition for naturalization in any court authorized to grant citizenship; and the honorable-discharge certificate of such alien from the service of the United States, or a certificate of such three years' service and good conduct during that time, signed by a commissioned officer under whom he is serving, or an affidavit of the master of said merchant vessel certifying to such three years' service and good conduct, as aforesaid, and the affidavits of two credible witnesses, citizens of the United States, identifying the applicant as the person named in the certificate presented, shall be deemed competent and sufficient proof of the residence and good moral character required by law, and either the original or a verified copy of such discharge shall be attached to and made a part of the petition; such applicant shall not be required to prove one year's residence within the State in which he files his application to become a citizen; and the petition of any such alien shall be docketed and final hearing had thereon by the court immediately, or at the convenience of the court.

"Eighth. That every seaman being an alien shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years upon such merchant vessel of the United States, be deemed a citizen of the United States for the purpose of manning and serving on board any such merchant vessel of the United States, anything to the contrary in any act of Congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such after the filing of his declaration of intention to become such citizen."

SEC. 2. That sections 2166 and 2174 of the Revised Statutes of the United States of America, and so much of an act approved July 26, 1894, entitled "An act making provisions for the naval service for the fiscal year ending June 30, 1895, and for other purposes," being chapter 165 of the laws of 1894 (28 Stat. L., p. 124), reading as follows: "Any alien of the age of 21 years and upward who has enlisted or may enlist in the United States Navy or Marine Corps, and has served or may hereafter serve five consecutive years in the United States Navy or one enlistment in the United States Marine Corps, and has been or may hereafter be honorably discharged, shall be admitted to become a citizen of the United States upon his petition, without any previous declaration of his intention to become such; and the court admitting such alien shall, in addition to proof of good moral character, be satisfied by competent proof of such person's service in and honorable discharge from the United States Navy or Marine Corps"; and all acts or parts of acts inconsistent with or repugnant to the provisions of this act are hereby repealed; but nothing in this act shall repeal or in any way enlarge section 2169 of the Revised Statutes: *Provided*, That for the purposes of the prosecution of all crimes and offenses against the naturalization laws of the United States which may have been committed prior to this act the statutes and laws hereby repealed shall remain in full force and effect: *Provided further*, That as to all aliens who, prior to January 1, 1866, served in the Armies of the United States and were honorably discharged therefrom, section 2166 of the Revised Statutes of the United States shall be and remain in full force and effect, anything in this act to the contrary notwithstanding.

Mr. GARDNER of Massachusetts. Mr. Speaker, the object of this bill is to make uniform conditions under which aliens who have served in the Army, Navy, or Marine Corps of the United States may be naturalized. Also to extend to persons in the Revenue-Cutter Service of the United States the same provisions which are extended to alien seamen in the matter of naturalization.

As the situation is at present, any alien who serves in the Army of the United States can be naturalized on his declaration of intention to become a citizen after one year's service. Any alien who serves in the Navy must have five years' service to his credit. Anyone who serves in the Marine Corps must have such term of service to his credit as an enlistment in the Marine Corps may from time to time require. I rather think that the term of enlistment for the Marine Corps was made four years by an act passed somewhere about the year 1900.

This bill seeks to make uniform the conditions of naturalization for all aliens who have served either in the Regular or Volunteer forces of the United States, or in the United States Navy, or Marine Corps, or in the Revenue Service, or who have served on board a merchant vessel of the United States a uniform period of three years.

Mr. HAMILL. Will the gentleman yield?

Mr. GARDNER of Massachusetts. Certainly.

Mr. HAMILL. Will the gentleman, so that we may have it clear in mind, state just what provisions are in the law that a man would have to comply with in the absence of this legislation?

Mr. GARDNER of Massachusetts. To the best of my ability I shall be glad to do so, but this bill has been on the calendar many months, and I have not refreshed my memory until this afternoon.

Mr. HAMILL. I understand from a rapid reading of the bill that the seventh section extends the present requirement of one year to three years in the case of a discharged soldier from the United States Army. Is that correct?

Mr. GARDNER of Massachusetts. Yes.

Mr. HAMILL. What is the necessity of adding to his term of probation? Is not his service of one year in the Army an indication of the patriotism desired of the coming citizen—is not that enough without making it a three-year period?

Mr. GARDNER of Massachusetts. It did not seem so to the committee.

Mr. HAMILL. What is the gentleman's own opinion?

Mr. GARDNER of Massachusetts. That is the gentleman's own opinion. I voted to report this bill. As the law stands at present, as the gentleman has pointed out, only one year's service is required of a soldier. On the other hand, an alien in the Navy is required to serve five years, or one enlistment in the United States Marine Corps, which is now four years. The Immigration Committee has made the period uniform at three years for all the classes which I have mentioned.

Now, in regard to the alien seamen on merchant vessels, I think the report is a little wrong. At present the alien seamen on merchant vessels can be naturalized at the end of three years. This bill leaves it permissible to naturalize them at the end of three years.

Mr. HAMILL. In that regard this proposed law does not change the existing law in regard to a seaman.

Mr. GARDNER of Massachusetts. Mr. Speaker, as I was about to say, my information is that the change in regard to seamen consists in permitting them to prove their three years' residence in a different way from that which is now required. The naturalization law passed in 1906 requires everyone to show by two witnesses evidence of their residence for the period of three years. This bill provides that the fact that seamen have served on a ship of the United States—that is, a merchant ship of the United States—and have been honorably discharged, shall in itself be taken as evidence of residence, inasmuch as it is impossible for a seaman to acquire a continuous residence ashore owing to the fact that he is in and out of port all the time.

Answering the gentleman from New Jersey, the three-year period required of seamen on merchant vessels is not changed by this bill from the requirement of section 2174 of the Revised Statutes.

Mr. HAMILL. I take it the gentleman draws this distinction between the proposed law and the law as it now exists—that the law as it exists calls for the proof of three years' residence, and the gentleman does not consider the three years' residence at sea would prove the residence, whereas this specifically says that three years' service at sea shall entitle him to the right of citizenship.

Mr. GARDNER of Massachusetts. I thank the gentleman for having stated it much more lucidly than I did. He is correct.

Mr. HAMILL. The gentleman will pardon me if I say I think the law to-day would consider three years' service on an American ship as proof of three years' citizenship in the United States, and that the proposed law does nothing really in that regard.

Mr. BURNETT. If the gentleman from Massachusetts will permit me, the department says that it has not been construed that way; that while it ought to be, yet the existing law is such that if a man has been afloat all that time and has been one year at one port with his family and another year at another, he can not be naturalized.

Mr. HAMILL. On an American ship?

Mr. BURNETT. Yes. That would not be construed as a residence at that place for the required time, and therefore the department recommended the changes in that way.

Mr. GARDNER of Massachusetts. Mr. Speaker, the gentleman from Alabama, I think, is correct. Now, as to the evidence as to character, if I recollect rightly, there is a requirement that one of the witnesses as to character must come from the same State as the applicant. I am by no means sure. That is my impression, but I have not examined the law for eight months. There are two things of which I am sure. One is that under this bill the period of time is not changed during which a seaman on a merchant vessel is required to serve prior to attaining a right to naturalization. The other thing of which I am sure is that the main purpose of the bill is to provide uniform conditions for the naturalization of aliens in the Army, the Navy, the Marine Corps, the Revenue-Cutter Service, and the merchant marine.

I call attention to one exception in this bill. A soldier who served in the War of the Rebellion and was honorably discharged at the end of his service is allowed to secure citizenship, as formerly, after one year's service.

Mr. HAMILL. What is the provision as to the Marine Corps that they must serve for the same number of years as are included in one contract of enlistment?

Mr. GARDNER of Massachusetts. That is existing law. This bill makes the period three years. I understand the present term of enlistment for the Marine Corps is four years. I have not looked into that question, but am trusting entirely to my memory. I did not know that this bill was on the calendar until an hour ago, and have been trying to refresh my memory ever since.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. GARDNER of Massachusetts. I will.

Mr. MOORE of Pennsylvania. In the effort to establish uniformity in the matter of naturalization, was not it apparent to the committee that there was a decided advantage given to the sailor on the merchant vessel who in no way was in the service of the United States, in that he could be naturalized after three years of service upon a merchant vessel, where those who volunteered their services to the United States and served in the Army and the Navy were obliged to remain at least five years before they could become citizens?

Mr. GARDNER of Massachusetts. My recollection is that the gentleman is correct. I had not remembered that fact, but it comes back to me, now that he mentions it.

Mr. MOORE of Pennsylvania. And that it was regarded as unfair that we should hold up for a period of five or more years a man who entered the service of the United States as a soldier or sailor, when we permitted a sailor on a merchant vessel in no way connected with the United States to be admitted to citizenship, after a period of three years of such service, under an independent captain or under an independent concern.

Mr. HAMILL. Mr. Speaker, I would ask if the general idea of this bill is not restrictive—that is, it is to make it more difficult to-day for a man who has served his country as a soldier, or for a sailor on an American ship, to receive the rights of citizenship than it is under existing law? Outside of the uniformity feature, that is the effect of this law, is it not?

Mr. GARDNER of Massachusetts. The gentleman is mistaken. This bill makes it easier for a sailor to become a citizen of the United States, because the present law requires him to prove something which is not a fact.

Mr. HAMILL. That is a detail of procedure, and in so far as that is concerned the proposed law is commendable. But what is the necessity of extending from one year to three years the time of a discharged soldier? That is restrictive.

Mr. GARDNER of Massachusetts. So as to make it uniform with the period of service required of a discharged sailor.

Mr. HAMILL. It is restrictive.

Mr. GARDNER of Massachusetts. As to soldiers.

Mr. HAMILL. Would it not be far better instead of putting more hardships on the soldier who has served his country rather to bring the other qualifications down to the qualifications now required of him as to residence?

Mr. GARDNER of Massachusetts. No.

Mr. HAMILL. Why not?

Mr. GARDNER of Massachusetts. Three years is short enough time for any man to be in the United States before he is made a citizen.

Mr. HAMILL. When a man serves in the Army, is it not pretty strong, presumptive evidence, almost indisputable, that he is fit for the rights of citizenship, for he then takes the chances of fighting for this country in the case of war?

Mr. GARDNER of Massachusetts. Not in the least.

Mr. MOORE of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. GARDNER of Massachusetts. Yes.

Mr. MOORE of Pennsylvania. I am simply stating my recollection, which is somewhat at fault. The gentleman admits that his is slightly at fault, because this bill has been pending so long; but it was a matter of amazement to me to find that owing to some conditions, of which we were not fully informed, a sailor from any foreign country, embarking on a voyage on any American vessels in any foreign port, could, after a service of three years on that vessel, on the certificate of his captain, be admitted to naturalization in the United States—and that upon the simple certificate of the captain that the man had been in the service of the ship. It was after I heard that statement and learned that that condition prevailed, and that anyone from any foreign country, by the mere accident of service on an American ship, could, upon such an uncertain certificate presented to a court, become a citizen after three years of service on a ship that I agreed with the committee that there should be passed a bill which would give some aid to the foreigner who enlists in the service of the United States in the Army or in the Navy.

Mr. HAMILL. Mr. Speaker, has not the gentleman——

Mr. GARDNER of Massachusetts. O Mr. Speaker, I shall have to insist that I have the floor.

Mr. HAMILL. Let me ask the gentleman this question.

Mr. MOORE of Pennsylvania. I understand we have simply made it easier for men in the Army and Navy to become naturalized.

Mr. HAMILL. Have we not made it more difficult for a man in the Army?

Mr. MOORE of Pennsylvania. No; we have made it easier.

Mr. GARDNER of Massachusetts. No; the gentleman from New Jersey is correct. We have made it more difficult for an honorably discharged soldier to become naturalized.

Mr. FINLEY. Mr. Speaker, will the gentleman yield?

Mr. GARDNER of Massachusetts. I yield to the gentleman from South Carolina for a question.

Mr. FINLEY. Is there anything in this bill that enlarges the limitations as to race for those seeking or entitled to naturalization?

Mr. GARDNER of Massachusetts. No; there is no change, except as to what shall be deemed evidence of residence, and as to the length of service required before soldiers, sailors, marines, and seamen may become naturalized.

Mr. FOWLER. Mr. Speaker, will the gentleman yield?

Mr. GARDNER of Massachusetts. I yield to the gentleman from Illinois.

Mr. FOWLER. Is there any change made with reference to the proof of good moral character?

Mr. GARDNER of Massachusetts. I think that has been strengthened. I shall have to refresh my recollection as to that.

Mr. FOWLER. The proof of good moral character is required now, and if this bill does not pass it will be required in every one of the instances to which this bill deals. Is not that the fact?

Mr. GARDNER of Massachusetts. Yes.

Mr. SABATH. I refer the gentleman from Massachusetts to lines 14 and 15, on page 2. The gentleman will there find the provision.

Mr. GARDNER of Massachusetts. Yes. I read from the bill—

and the affidavits of two credible witnesses, citizens of the United States, identifying the applicant as the person named in the certificate presented.

That is to say, the certificate of good conduct and honorable discharge, which is required by line 7 of the bill, and the certificate of such three years' service, must be signed by a commissioned officer. Then line 14 provides that the affidavits of two credible witnesses, and so forth—

shall be deemed competent and sufficient proof of the residence and good moral character required by law.

Mr. FOWLER. Do you not think that the discipline in the Navy and in the Army is of such a high and strict character that no man could go through it for three years and be honorably discharged without being of good moral character?

Mr. GARDNER of Massachusetts. That is why I am in favor of the three-year provision. I should not agree with that as to one year's service.

Mr. FOWLER. One more question before I leave the subject: As the law now stands, is there any difference as to the requirements of the proof of good moral character by the United States of men dealt with in this bill?

Mr. GARDNER of Massachusetts. Why, I think they all now require certificates of good moral character from neighbors. I think one of the witnesses must be a resident of the same State as the applicant, although I am simply stating this from memory. But knowing that it is impracticable for persons on board ship to furnish the evidence now required, we propose by this bill that in lieu thereof they must bring certificates of honorable discharge and good conduct, signed by a commissioned officer under whom they serve. Moreover, they must furnish the certificate of credible witnesses for purposes of identification.

Mr. FOWLER. Not being a member of the committee, I am not sure whether there is a distinction made in the law as it now exists as to the requirements of proof of good moral character concerning the four classes of men dealt with in this bill.

Mr. GARDNER of Massachusetts. There is this difference: That the existing law requires that the petition shall be verified by the affidavits of two credible witnesses, who shall be citizens of the United States and who shall state that they have known the man for a period at least of one year preceding the date of the filing of his petition, and that they each have personal knowledge that the petitioner is of good moral character. In lieu thereof we now propose to accept a certificate of three years' service and good conduct, together with an honorable discharge certificate, signed by a commissioned officer under whom the applicant for naturalization has served, or the affidavit of a master of a merchant vessel, certifying to three years' service and good conduct. Obviously a man might be shifted from one ship to another in the Navy, and it might be impossible to find two citizens who could testify to everything required by the statute.

Mr. FOWLER. You understand that the statute applies to all the aliens serving in the United States?

Mr. GARDNER of Massachusetts. Distinctly. The naturalization law, I think, recites that persons may be naturalized in such and such a way, and in no other. I take it that that is the difficulty which we are trying to overcome by this bill, although, as I said before, my recollection is not as complete as I could wish. I think that what I have told the gentleman is substantially accurate.

Mr. FOWLER. One of the gentlemen here, in speaking of the service of the man on the American merchant vessel, said that all he had to do was to send in his certificate of service signed by a captain of such vessel.

Mr. GARDNER of Massachusetts. Under the old law.

Mr. FOWLER. Does that dispense with the proof of good moral character?

Mr. GARDNER of Massachusetts. Yes; it did under the Revised Statutes, page 2174. He produces his certificate of discharge and good conduct during that time.

Mr. BURNETT. Will the gentleman permit me a suggestion?

Mr. GARDNER of Massachusetts. Yes, sir.

Mr. BURNETT. That is a part of the reason for making this law uniform as to this particular as well as the length of term of service. Now, by reading the various statutes the gentleman will find that different proof along that very line that he inquires about was required of the applicants for naturalization who had been in these different lines of service. Now, briefly, I will call attention to it:

Any alien of the age of 21 years and upward, who has enlisted, or may enlist, in the Armies of the United States, either the Regular or the Volunteer forces, and has been or may be hereafter honorably discharged, shall be admitted to become a citizen of the United States upon his petition, without any previous declaration of his intention to become such; and he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character as now provided by law, be satisfied by competent proof of such person having been honorably discharged from the service of the United States.

Now, that was in the case of honorably discharged soldiers. Now, when we go over to section 174, that my colleague has called attention to, it gives the seaman there the right the soldier did not have. It says:

Every seaman, being a foreigner, who declares his intention of becoming a citizen of the United States in any competent court, and shall have served three years on board of a merchant vessel of the United States subsequent to the date of such declaration, may, on his application to any competent court and the production of his certificate of discharge and good conduct during that time, together with the certificate of his declaration of intention to become a citizen, be admitted a citizen of the United States; and every seaman, being a foreigner, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant vessel of the United States, anything to the contrary in any act of Congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such after the filing of his declaration of intention to become such citizen.

So that proof, it seems, of good moral character was not required of the seaman that was even of a soldier.

Mr. FOWLER. The proof of good moral character as the law is now is not uniform?

Mr. BURNETT. That is the proposition.

Mr. FOWLER. Now, you seek by this bill not only to make the proof of good moral character uniform but the length of service uniform also?

Mr. BURNETT. Exactly.

Mr. FOWLER. And are these the only two features this bill seeks to modify?

Mr. BURNETT. These are the two features, as I recollect. And I want to call attention to the Army and Navy and Marine Corps:

And the court admitting such aliens shall, in addition to proof of good moral character, be satisfied by competent proof of such person's service in and honorable discharge from the United States Navy or Marine Corps.

So you see, as to the soldiers and those serving in the Navy, there was proof of good moral character required, but as to merchant vessels that was not required.

Mr. MURRAY. Is it not true that you also extend this proviso to those who serve in the volunteer militia of the various States?

Mr. GARDNER of Massachusetts. Only the volunteer forces of the United States.

Mr. MURRAY. What does that mean?

Mr. GARDNER of Massachusetts. It means those who serve the United States in the case of war.

Mr. MURRAY. Not the State militia as now organized?

Mr. GARDNER of Massachusetts. Oh, no. If the gentleman will look at section 2766 of the United States Statutes, he will find——

Mr. MURRAY. Of course, that is not before me as it is before the gentleman.

Mr. GARDNER of Massachusetts. It provides for the naturalization of aliens in the Regular and Volunteer forces.

Mr. MURRAY. Under the provisions of the Dick bill, of course, every organization in the State national guard is part of the volunteer forces.

Mr. GARDNER of Massachusetts. Only when it becomes a volunteer force.

Mr. MURRAY. That was enacted as the result of our service and the service of like men in the Spanish War. The Dick bill was intended to put the country on a military basis. The gentleman knows that the militia are subject now to inspection only by an inspector of the United States, belonging to the United States Inspector General's Department. I would like to know if this provision means to include men in the various State militia organizations?

Mr. GARDNER of Massachusetts. That certainly was not its intention.

Mr. MURRAY. Well, it is in it.

Mr. GARDNER of Massachusetts. It would have the same effect, I should say, as the language in the existing law. If the gentleman is correct in his premise that by the passage of the Dick bill that which has hitherto been regarded as the militia of the various States has now become the volunteer force of the United States, then he is correct in his conclusion that this bill extends the privilege of a shorter residential requirement to any alien who might enlist in the Massachusetts Militia. But I think the gentleman is incorrect. I can not imagine that such a construction of the law would be correct.

Mr. MURRAY. Mr. Speaker, I can only say, upon my reading of the bill, that there was not any question in my mind but that it applied to the militia forces. I suppose my colleague had the point of view entertained by the committee with respect to it. That had not occurred to me when I read that section. I had in mind the fact that it does extend to the militia organization.

Mr. GARDNER of Massachusetts. In that particular respect there is no change from the present law. The present law extends this special naturalization privilege to the Regular and Volunteer forces. Now, even if the gentleman is correct, this bill proposes no change in the law as to the Volunteer forces.

Mr. BURNETT. Might it not be, on the idea that the Dick bill was passed since the law we are amending was enacted, and this being an amendment without exempting them, that there might be some force in the remarks of the gentleman from Massachusetts [Mr. MURRAY]?

Mr. MURRAY. I do not want to refer to it particularly.

Mr. GARDNER of Massachusetts. Does the gentleman mean that by reenacting the law in regard to the Regular and Volunteer forces, we make its application different from what it would be if we let it alone?

Mr. MURRAY. Mr. Speaker, I simply mean to say that in my mind "the volunteer forces" to-day have a very different meaning from what they had in 1898. I simply mean to say that those words, "volunteer forces," may have a very different meaning from what they had when the naturalization act was adopted.

Mr. GARDNER of Massachusetts. Let me ask the gentleman this question: Suppose we do not pass this legislation which I have in my hand?

Mr. MURRAY. Which is the pending legislation?

Mr. GARDNER of Massachusetts. Yes; which is the pending legislation. Does the law as it stands to-day permit the naturalization within one year of an alien in the Massachusetts militia?

Mr. MURRAY. I can only determine that question for myself, Mr. Speaker, when I find out when that naturalization act was passed with respect to the date of the enactment of the Dick bill. If it was before, I do not believe it does include militiamen. If it was after the passage of the Dick bill, I believe clearly that it does include them. I have in mind the date.

Mr. GARDNER of Massachusetts. This is 1906. No; I beg pardon; this is very old.

Mr. MURRAY. The Dick bill was passed in 1904. When was the existing naturalization law passed?

Mr. GARDNER of Massachusetts. It was passed in 1906, but it did not include the title to which we have been referring.

Mr. MURRAY. That is the way I determine the question for myself.

Mr. GARDNER of Massachusetts. This law with regard to the naturalization of soldiers was passed in 1862.

Mr. MURRAY. It seems to me the meaning of "volunteer forces" there is different from what it would be if you reenacted those words.

Mr. GARDNER of Massachusetts. The gentleman says the meaning of the words "volunteer forces" is now different from what it would be if we reenacted those words?

Mr. MURRAY. Yes.

Mr. GARDNER of Massachusetts. If the gentleman will prepare an amendment, without asking other questions, excluding the militiamen, I shall offer it myself.

Mr. MURRAY. I am not willing to do that, because I would be delighted to see the militiamen included. In every sense they are on the same basis as the regular forces, except continuous service. Under the Dick bill the militiamen are under the orders of the commander in chief of the State they are in, and I think that is a wise provision, and I want to commend the committee for drafting such a resolution. I am not willing to present an amendment.

Mr. MANN. Mr. Speaker, may I inquire what is pending?

The SPEAKER pro tempore (Mr. KINDRED). Amendments to the bill.

Mr. GARDNER of Massachusetts. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. Thirty minutes.

Mr. GARDNER of Massachusetts. Does the gentleman from Illinois [Mr. MANN] desire time?

Mr. MANN. I only wanted to ask a question about the bill. It may duplicate questions that have been already asked, because it has been impossible to hear the conversation that has been taking place over there.

Mr. GARDNER of Massachusetts. I invite the attention of the gentleman from Illinois to the fact that I can not hear him. [Laughter.]

Mr. FOSTER. I suggest that if gentlemen over there would come over here they would be heard.

Mr. KENDALL. Suppose the committee moves over to the House. [Laughter.]

Mr. SABATH. I suggest, Mr. Speaker, that the gentlemen from Massachusetts should not always be so far apart. They should get together.

Mr. GARDNER of Massachusetts. What is the gentleman's question.

Mr. MANN. I notice the bill provides that an original or a verified copy of such discharge shall be attached to and made a part of the petition. Just what is meant by that?

Mr. GARDNER of Massachusetts. What is that conundrum? What is the gentleman reading from?

Mr. MANN. Page 2, line 15, in reference to the evidence that is desired. It says that either the original or a verified copy of such discharge shall be attached to and made a part of the petition. Will that be obligatory in every case? Is that what it means?

Mr. GARDNER of Massachusetts. If the gentleman will tell me what kind of a trap he is trying to lead me into I will answer his question.

Mr. MANN. I am not trying to lead the gentleman into a trap, but I will explain what I have in mind.

Mr. GARDNER of Massachusetts. That is what I want to know.

Mr. MANN. The bill provides that the petition may be filed either before or after the discharge from the Government service. It may also be filed either before or after discharge from the merchant-marine service. In the first case there is an honorable discharge, and in the other case there may be a certificate of the master. Apparently the bill would require either a copy of the original discharge or the original itself to be filed with every petition, although there may have been no discharge, as in the case of surgeons on merchant vessels, where there is no discharge, but only a certificate to be filed.

Mr. GARDNER of Massachusetts. May I ask the gentleman a question?

Mr. MANN. Certainly.

Mr. GARDNER of Massachusetts. I do not want to interrupt the gentleman, but if he will turn to line 16, page 2, would the gentleman's difficulty be cured if the words "or certificate as aforesaid" are inserted after the word "discharge"?

Mr. MANN. It would if there is a discharge at all, but this petition may be filed before the sailor is discharged. At the top of page 2 the gentleman will see it says:

> After three years of such service, while still in the service, or within six months after an honorable discharge therefrom.

Mr. GARDNER of Massachusetts. The gentleman is correct. That must be remedied in some way.

Mr. MANN. I would suggest to the gentleman, then, that if he will add after the word "discharge" the words "or certificate, if any," that would probably cover the case.

Mr. GARDNER of Massachusetts. Insert the words "certificate, if any."

Mr. MANN. "Discharge, if any." I would put "certificate" before "discharge."

Mr. BURNETT. After the word "such."

Mr. MANN. So that it will read:

> Copy of such certificate or discharge, if any.

Mr. GARDNER of Massachusetts. I think the gentleman is perfectly correct.

Mr. MURRAY. If the gentleman has concluded, may I ask him to withhold his motion for the previous question until after I have opportunity to move an amendment?

Mr. GARDNER of Massachusetts. I will yield to the gentleman for debate, not for the purpose of offering an amendment.

Mr. MURRAY. I should like to be recognized, so that I can offer an amendment.

Mr. GARDNER of Massachusetts. I propose to offer an amendment myself. How much time does the gentleman want for debate?

Mr. MURRAY. Five or ten minutes will do for debate.

Mr. GARDNER of Massachusetts. I do not want to yield the floor.

Mr. MURRAY. I am not asking the gentleman to do that.

Mr. GARDNER of Massachusetts. I am going to move the previous question, in accordance with the custom of the House.

Mr. MURRAY. If the gentleman will allow me to offer this amendment I think it may save time.

Mr. GARDNER of Massachusetts. The gentleman can take his own course about that.

Mr. MURRAY. Before the House votes on the previous question, I should like to offer my amendment.

Mr. GARDNER of Massachusetts. The gentleman can read it in his time. I yield to my colleague five minutes.

Mr. MURRAY. Mr. Speaker, I have tried to arrange with the gentleman from Massachusetts [Mr. GARDNER] that he withhold his motion for the previous question, in order that I might move to amend by adding a new section to the measure that will bring clearly before the House at this time the matter of affirming or withholding affirmation from the present naturalization laws. I have sent to the Clerk's desk, in order that it might be presented to the House, a proposed amendment, which I will now read:

> Seventh. That any alien of the age of 21 years and upward, who has lived continuously for five years in the United States of America, has declared his intention to forswear allegiance to any king, queen, prince, or foreign potentate, and to become a citizen of the United States of America, and has satisfied the judge of any court authorized to grant citizenship that the applicant alien is of sound mind and of healthy body, may petition for naturalization in any court authorized to grant citizenship; and the petition of any such alien shall be docketed and final hearing had thereon by the court immediately, or at the convenience of the court, and within 90 days.

Mr. Speaker, the purpose of that amendment is to get away from some of the conditions which, to my mind, are entire hardships in the matter of the administration of the present naturalization laws. My first question to the gentleman from Massachusets, my colleague [Mr. GARDNER], when I succeeded in obtaining recognition was to ask him to state directly what are the present requirements of the naturalization laws. That statement has not been made to the House, and the reason why the gentleman is withholding a statement of the present requirements of the naturalization laws is known to him, but is not known to me. It may be that it is because even he recognizes that those requirements are harsh, indeed, for any man who is of the right sort and the right material to become a valued citizen of our country.

The conditions not only require five years of actual residence and the filing of the request for first papers at a time several months in advance of the granting of the final papers, but they also require that no certificate of citizenship, regardless of the length of residence of the alien, regardless of the time that may have elapsed since the first papers were applied for, shall be issued to any alien within 90 days of his application or 30 days of a general election.

Mr. Speaker, I insist that that requirement of the naturalization laws is a hardship so great that it has deterred many desirable men from making final application. The matter of voting at an election is not uppermost in the mind of the average man during most of the days of the year. Men do not begin to think of matters pertaining to election until the elections are upon us. Many applications are not made, therefore, until just before an election or a primary that may cause general interest in the matter of the right to vote. I say that provision of application before an election is a hardship that ought not to be continued, and I say that it has done more to keep desirable aliens from making application for citizenship than any other single feature of the naturalization laws.

Mr. Speaker, my proposed amendment requires certain things as the test of the question whether a man shall have final citizenship papers granted to him or not. It requires first five years of continuous residence in the country—not a year of residence and a year of departure to other countries, as has been frequently done under the system that is even now in vogue, but five years continuous residence—in order that we may be sure that the applicant is one who values residence as he will value citizenship in this country of ours.

It requires, too, that the alien shall forswear allegiance to any foreign king, queen, prince, or potentate, which ought to be an early step in the progress toward citizenship. It requires, too, the clear determination or intention that is firmly fixed in the mind of the applicant, that he desires to become a citizen of this country, that he may boast with pride of his American citizenship as men in early days used to boast of the citizenship that was theirs. It requires that he must satisfy the judge of the court to whom his application is addressed that he is of sound mind and healthy body.

I think it is a shocking scandal for agents of the Bureau of Naturalization to require men to pass civil-service examinations in some instances before they may be permitted to receive their final citizenship papers. My words are a feeble protest against that system, and the purpose of this amendment is to force a vote, if I may do so, at this time upon that matter.

The SPEAKER. The time of the gentleman has expired.

Mr. GARDNER of Massachusetts. Mr. Speaker, I do not think that this is a suitable time to introduce an amendment changing the whole naturalization law without its being thoroughly considered by the committee.

Mr. MURRAY. Does the gentleman yield?

The SPEAKER. Does the gentleman from Massachusetts yield to his colleague?

Mr. GARDNER of Massachusetts. Yes; I yield.

Mr. MURRAY. May I inquire what opportunity has been afforded to get a hearing before the committee on similar propositions?

Mr. BURNETT. Has the gentleman ever asked for a hearing?

Mr. MURRAY. No; but many of my colleagues have.

Mr. BURNETT. None have been refused.

Mr. GARDNER of Massachusetts. I think the gentleman is doing an injustice to the chairman of the committee and the members of the committee. I know of no such case.

Mr. MURRAY. Does the gentleman know of any bill now pending before this House which has been referred to his committee, to lessen the requirements of the naturalization laws of the United States?

Mr. GARDNER of Massachusetts. We have a very long list of bills. I can not answer that question directly.

Mr. MURRAY. The thing that deterred me from introducing this bill and having it referred to the committee was a clear understanding that the point of view of the majority of the Democratic members and the majority of the Republican members of the committee was that this matter ought not to get into the subjects under consideration. I have informally discussed it with members of the committee. I have informally discussed it with my own colleague, Mr. CURLEY, a member of the committee. He is not here at this time, but I have understood from him and others that the committee was so busy with the Dillingham bill and the Burnett bill and other matters affecting the immigration laws that they were not willing to consider any proposed changes in the naturalization laws of the United States. It is a matter of surprise, indeed, to me to find even this bill to amend the naturalization laws, and I am taking advantage of the first opportunity that I reasonably believe I have to cause this amendment to be considered.

Mr. GARDNER of Massachusetts. How much time have I left?

The SPEAKER. The gentleman has 11 minutes.

Mr. GARDNER of Massachusetts. I yield to the gentleman from Illinois.

Mr. SABATH. Mr. Speaker, I desire to ask the gentleman from Massachusetts whether or not he is of the opinion that these high fees which are now paid by the applicant for citizenship should be remitted in these cases. At the present time every applicant is compelled to pay a fee of $5. I am of the opinion that after a man has served his country for five years in the Army or the Navy and is desirous to become naturalized it is unfair for us to impose this high fee upon him. I believe we can easily remit the fees of such applicants—men who have served their new adopted country faithfully for three or five years and have been honorably discharged.

Mr. GARDNER of Massachusetts. Mr. Speaker, the gentleman is a member of the committee. He knows that we never considered that proposition; at least, I do not remember that the committee considered it. I think it ought to have been brought to the attention of the committee for the committee to consider, and find out what the reasons were in favor or against the high fees. The gentleman from Illinois voted for reporting the bill as it stands.

Mr. SABATH. If I am not mistaken, Mr. Speaker, I did vote to report the bill, but I believe some consideration should be shown to these men who have faithfully and honestly served our country. It, however, did not occur to me while the bill was being considered in the committee, but it does occur to me now; and for that reason I thought that I might call the attention of the House to it and also call it to the attention of the gentleman from Massachusetts, and inquire of him whether he would not be in favor now of accepting such an amendment, as it never is too late to do right.

Mr. GARDNER of Massachusetts. The gentleman realizes perfectly well the situation which obtains here to-day. Some bills came up unexpectedly where the work had to be divided, where the committee was not as thoroughly prepared as it would like to have been, and the situation is such and I am acting in such a capacity that I am bound, no matter what my own views might be on remitting the dues, to insist on protecting the committee I happen to be representing at the present instance and insist that such questions should be reserved for the committee's prior consideration.

Mr. SABATH. I notice the chairman of the committee who is responsible for this measure sitting right close by the gentleman from Massachusetts. It would not take more than a minute to consult with him, and the chances are that he will agree to such an amendment.

Mr. BURNETT. If the gentleman from Massachusetts will pardon me, I will state that instead of reducing the fees I have been all the time in favor of increasing them. The fees are now so low that the clerks in the courts in the interior, where they have little of this business to do, have refused to take naturalization cases and have the papers on hand for the courts to pass upon. In my own town the clerks in our own courts have returned the papers. You can not force a State court to do it, and men are forced to go to Birmingham or somewhere else for the purpose of reaching a Federal court at great expense, because the fees are so insignificant that the clerks in the interior will not take them.

Now, we are making concessions to these men; we are making concessions that are not made to the German farmer that comes into the country for the purpose of making it a home, and why should we make any more concessions, cut off this measly fee of $5, to these men when we do not do it to men who come to make their homes among us? Why should we do it for these men when we are not doing it for others? I am for higher fees straight out.

Mr. SABATH. I mean to eliminate the fees only for those who have served the country in the Army and Navy. They surely can not be bad or objectionable people, and for that reason we should make it easier for them to become American citizens.

Mr. GARDNER of Massachusetts. Now, Mr. Speaker, I have an amendment to offer, which I send to the Clerk's desk.

The Clerk read as follows:

Page 2, line 16, strike out the word "discharge" and insert the words "certificate or discharge, if any."

Mr. HAMILL. Will the gentleman yield?

Mr. GARDNER of Massachusetts. Certainly.

Mr. HAMILL. What change does that make in the law?

Mr. GARDNER of Massachusetts. The law as we propose it says that the certificate or discharge must be attached to the petition; but we have provided also in the law that a man may make a petition before he gets his discharge, so that it might be possible that there would be no discharge.

Now, Mr. Speaker, I move the previous question on the bill and amendment.

The question was taken; and on a division (demanded by Mr. MURRAY) there were 43 ayes and 8 noes.

Mr. MURRAY. Mr. Speaker, I suggest the absence of a quorum.

The SPEAKER. Evidently no quorum is present. The Doorkeeper will close the doors and the Sergeant at Arms will notify the absentees. All those in favor of ordering the previous question will, when their names are called, answer "yea," and those who are opposed will answer "nay," and the Clerk will call the roll.

The question was taken; and there were—yeas 208, nays 10, answered "present" 8, not voting 157, as follows:

YEAS—208.

Adamson	Davis, Minn.	Gudger	Linthicum
Akin, N. Y.	Davis, W. Va.	Hamill	Littlepage
Alexander	Dent	Hamilton, Mich.	Lobeck
Allen	Dickinson	Hamlin	McCreary
Anderson	Dickson, Miss.	Hardwick	McGillicuddy
Anthony	Dies	Hardy	McGuire, Okla.
Ashbrook	Difenderfer	Hart	McKenzie
Austin	Dodds	Haugen	McKinley
Bartlett	Donohoe	Hayden	McKinney
Bates	Doremus	Hayes	McLaughlin
Beall, Tex.	Doughton	Hedin	Macon
Bell, Ga.	Draper	Helgesen	Maguire, Nebr.
Blackmon	Dupré	Helm	Martin, S. Dak.
Booher	Edwards	Henry, Tex.	Matthews
Brantley	Ellerbe	Higgins	Miller
Buchanan	Esch	Holland	Moon, Tenn.
Bulkley	Evans	Houston	Morgan, La.
Burke, S. Dak.	Falson	Howard	Morgan, Okla.
Burke, Wis.	Farr	Howland	Morrison
Burnett	Ferris	Hughes, Ga.	Moss, Ind.
Butler	Flood, Va.	Humphrey, Wash.	Murdock
Byrnes, S. C.	Floyd, Ark.	Jacoway	Nelson
Byrns, Tenn.	Foss	Johnson, S. C.	Nye
Calder	Foster	Kahn	Olmsted
Callaway	Fowler	Kennedy	O'Shaunessy
Candler	French	Kent	Padgett
Cannon	Gardner, Mass.	Kindred	Plumley
Cantrill	Gardner, N. J.	Kinkaid, Nebr.	Porter
Carlin	Garner	Kinkead, N. J.	Pou
Claypool	Garrett	Knowland	Powers
Clayton	Gill	Konop	Pray
Collier	Gillett	La Follette	Rainey
Cooper	Godwin, N. C.	Lamb	Raker
Copley	Good	Langham	Ranch
Covington	Goodwin, Ark.	Langley	Roberts, Mass.
Cox	Graham	Lawrence	Roberts, Nev.
Crago	Gray	Lee, Ga.	Roddenbery
Crumpacker	Green, Iowa	Lee, Pa.	Rodenberg
Cullop	Greene, Mass.	Lenroot	Rouse
Currier	Greene, Vt.	Lever	Rubey
Dalzell	Gregg, Pa.	Lewis	Russell
Danforth	Gregg, Tex.	Lindbergh	Sharp
Sims	Stephens, Nebr.	Thomas	Whitacre
Slayden	Stephens, Tex.	Tilson	Wilder
Slemp	Sterling	Towner	Willis
Sloan	Stone	Townsend	Wilson, Ill.
Smith, J. M. C.	Sweet	Tribble	Wilson, Pa.
Smith, N. Y.	Switzer	Tuttle	Witherspoon
Smith, Tex.	Taggart	Vare	Wood, N. J.
Stedman	Talcott, N. Y.	Volstead	Young, Kans.
Stephens, Cal.	Taylor, Ohio	Warburton	Young, Mich.
Stephens, Miss.	Thistlewood	Watkins	Young, Tex.

NAYS—10.

Borland	Gallagher	Reilly	Thayer
Burleson	Lafferty	Sabath	
Curley	Murray	Sherwood	

ANSWERED "PRESENT"—8.

Browning	Hobson	Kendall	Saunders
Hinds	Jackson	Mann	Talbott, Md.

NOT VOTING—157.

Adair	Finley	Lindsay	Redfield
Aiken, S. C.	Fitzgerald	Littleton	Rees
Ainey	Focht	Lloyd	Reyburn
Ames	Fordney	Longworth	Richardson
Andrus	Fornes	Loud	Riordan
Ansberry	Francis	McCall	Rothermel
Ayres	Fuller	McCoy	Rucker, Colo.
Barchfeld	George	McDermott	Rucker, Mo.
Barnhart	Glass	McKellar	Scott
Bartholdt	Gooke	McMorran	Scully
Bathrick	Goldfogle	Madden	Sells
Berger	Gould	Maher	Shackleford
Boehne	Griest	Martin, Colo.	Sheppard
Bradley	Guernsey	Mays	Sherley
Broussard	Hamilton, W. Va.	Merritt	Simmons
Brown	Hammond	Mondell	Sisson
Burgess	Harris	Moon, Pa.	Small
Burke, Pa.	Harrison, Miss.	Moore, Pa.	Smith, Saml. W.
Campbell	Harrison, N. Y.	Moore, Tex.	Smith, Cal.
Carter	Hartman	Morse, Wis.	Sparkman
Cary	Hawley	Mott	Speer
Clark, Fla.	Hay	Needham	Stack
Cline	Heald	Neeley	Stanley
Conry	Henry, Conn.	Norris	Steenerson
Cravens	Hensley	Oldfield	Stevens, Minn.
Curry	Hill	Page	Sulloway
Daugherty	Howell	Palmer	Taylor, Ala.
Davenport	Hughes, W. Va.	Parran	Taylor, Colo.
Davidson	Hull	Patten, N. Y.	Turnbull
De Forest	Humphreys, Miss.	Patton, Pa.	Underhill
Denver	James	Payne	Underwood
Dixon, Ind.	Johnson, Ky.	Pepper	Vreeland
Driscoll, D. A.	Jones	Peters	Webb
Driscoll, M. E.	Kitchin	Pickett	Weeks
Dwight	Konig	Post	White
Dyer	Kopp	Prince	Wilson, N. Y.
Estopinal	Korbly	Prouty	Woods, Iowa
Fairchild	Lafean	Pujo	
Fergusson	Legare	Randell, Tex.	
Fields	Levy	Ransdell, La.	

So the previous question was ordered.

The Clerk announced the following pairs:

For the session:

Mr. LITTLETON with Mr. DWIGHT.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. PALMER with Mr. HILL.

Mr. RIORDAN with Mr. ANDRUS.

Mr. FORNES with Mr. BRADLEY.

Mr. HOBSON with Mr. FAIRCHILD.

Until further notice:

Mr. SCULLY with Mr. BROWNING.

Mr. PATTEN of New York with Mr. MCCALL.

Mr. PUJO with Mr. MCMORRAN.

Mr. UNDERWOOD with Mr. MANN.

Mr. HENSLEY with Mr. KOPP.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. FINLEY with Mr. SULLOWAY.

Mr. CONRY with Mr. MICHAEL E. DRISCOLL.

Mr. MCKELLAR with Mr. PICKETT.

Mr. GOULD with Mr. HINDS.

Mr. AIKEN of South Carolina with Mr. AINEY.

Mr. ADAIR with Mr. AMES.

Mr. ANSBERRY with Mr. BARCHFELD.

Mr. AYRES with Mr. BARTHOLDT.

Mr. BARNHART with Mr. BURKE of Pennsylvania.

Mr. BATHRICK with Mr. CAMPBELL.

Mr. BOEHNE with Mr. CURRY.

Mr. BROWN with Mr. DYER.

Mr. BURGESS with Mr. FOCHT.

Mr. CARTER with Mr. FULLER.

Mr. CLARK of Florida with Mr. GRIEST.

Mr. DIXON of Indiana with Mr. HARTMAN.

Mr. ESTOPINAL with Mr. HAWLEY.

Mr. FIELDS with Mr. HEALD.

Mr. FITZGERALD with Mr. MERRITT.

Mr. FRANCIS with Mr. HENRY of Connecticut.

Mr. GEORGE with Mr. HOWELL.

Mr. GLASS with Mr. HUGHES of West Virginia.

Mr. HAMMOND with Mr. LAFEAN.

Mr. HARRISON of New York with Mr. FORDNEY.

Mr. HARRISON of Mississippi with Mr. MOON of Pennsylvania.

Mr. HAY with Mr. PATTON of Pennsylvania.

Mr. HULL with Mr. PAYNE.

Mr. HUMPHREYS of Mississippi with Mr. PRINCE.

Mr. JAMES with Mr. PROUTY.

Mr. JOHNSON of Kentucky with Mr. REES.

Mr. KITCHIN with Mr. NEEDHAM.

Mr. KONIG with Mr. REYBURN.

Mr. KORBLY with Mr. SCOTT.

Mr. LEVY with Mr. SELLS.

Mr. MCCOY with Mr. SIMMONS.

Mr. MCDERMOTT with Mr. SMITH of California.

Mr. OLDFIELD with Mr. SAMUEL W. SMITH.

Mr. PAGE with Mr. SPEER.

Mr. PEPPER with Mr. STEVENS of Minnesota.

Mr. PETERS with Mr. WEEKS.

Mr. POST with Mr. VREELAND.

Mr. RICHARDSON with Mr. WOODS of Iowa.

Mr. ROTHERMEL with Mr. MOORE of Pennsylvania.

Mr. RUCKER of Missouri with Mr. MONDELL.

Mr. SMALL with Mr. MOTT.

Mr. UNDERHILL with Mr. LOUD.

Mr. WEBB with Mr. HARRIS.

Mr. STANLEY with Mr. GUERNSEY.

For this day:

Mr. SISSON with Mr. KENDALL.

Mr. LLOYD with Mr. DE FOREST.

Until February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Mr. BROWNING. Mr. Speaker, did the gentleman from New Jersey, Mr. SCULLY, vote?

The SPEAKER. He did not.

Mr. BROWNING. Mr. Speaker, I desire to withdraw my vote of "yea" and answer "present."

The name of Mr. BROWNING was called, and he answered "Present."

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD. I desire to withdraw my vote of "yea" and be recorded "present."

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

A quorum being present, the doors were opened.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read a third time, and passed.

On motion of Mr. GARDNER of Massachusetts, a motion to reconsider the vote by which the bill was passed was laid on the table.

EXPENDITURES IN THE STATE DEPARTMENT.

When the Committee on Expenditures in the State Department was called:

Mr. HAMLIN. Mr. Speaker, the Committee on Expenditures in the State Department instructed me to call up a bill, but after conference with certain members of said committee I think I shall ask unanimous consent to occupy about five minutes of time in making a statement in relation to it and not call up the bill at this time. I do this because there are so many bills of vital importance which ought to be passed before March 4 next that we feel, under the circumstances, we ought not to take up the time of the House now.

The SPEAKER. Is there objection?

There was no objection.

Mr. HAMLIN. I was instructed to call up the bill (H. R. 21224) to amend section 291 of the Revised Statutes of the United States. The purpose of this bill was to restrict expenditures of a certain fund appropriated each year for use in the State Department, known as the diplomatic or consular fund, commonly known as the "secret fund." The Members of the House are familiar with the fact that our committee held extended hearings some months ago in relation to the expenditures of moneys by the State Department, and found what we thought to be a very great abuse in the expenditures of that department, especially in the expenditure of the so-called "secret fund." As a result of that fact the committee reported a bill here providing for the creation of a joint committee, composed of three Members of the House, with three Members of the Senate, to which committee the President and Secretary of State should report each year by an itemized statement the expenditures out of this secret fund. Then that committee would determine what portion, if any, of this expenditure should be made public, and what portion, if any, should not be made public. The only purpose of this committee was to prevent the useless, reckless, and unlawful use of that fund by the State Department. Before the close of the hearings, however, we felt that the purpose we intended to bring about had been accomplished, as evidenced by the statement of the present Secretary of State. We called upon him for the production of certain vouchers which showed the expenditure of money covered in settlement with the Treasury under section 291 of the Revised Statutes of the United States. After refusing for some time to produce those vouchers, he finally did so, and made this statement in answer to the following question by the chairman:

The CHAIRMAN. Mr. Secretary, I certainly congratulate you upon getting around to our view of this matter.

Secretary KNOX. I had not the slightest hesitation in getting there when I got started.

The CHAIRMAN. We have certainly done some good if we have convinced you that these expenditures should not have been covered by secret certificates under section 291.

Secretary KNOX. There was no excuse for it whatever.

The CHAIRMAN. I do not hesitate to say, speaking for myself, that it was not so much this particular item as it was the principle of the thing for which I have been contending. We felt that you had a practice in the State Department of covering in settlement with the Treasury expenditures out of appropriations that ought not to be covered by certificates under section 291, and it was for the purpose of settling the question as to whether you could legally do that that you have been called upon to produce these vouchers.

Secretary KNOX. As I said to you the other day, it became evident to me that there had been loose practice in the department in regard to the authority conferred by section 291, and for that reason—and I think it is due to you to say that the investigations by this committee directed my attention to the subject—I issued the order that I told you about the other day, a copy of which I will furnish you.

The copy of the order is as follows, and I will ask permission to incorporate in the statement I am making a copy of those orders:

[No. 32.]

REGULATIONS GOVERNING EXPENDITURES FROM THE APPROPRIATION FOR "UNFORESEEN EMERGENCIES ARISING IN THE DIPLOMATIC AND CONSULAR SERVICE, AND TO EXTEND THE COMMERCIAL AND OTHER INTERESTS OF THE UNITED STATES."

1. Expenditures from the appropriation for emergencies will be made solely upon written authorizations signed by the President or by the Secretary of State, or, in his absence, by the Acting Secretary of State, in all cases prior to the making of an expenditure or the issuing of any instruction placing a charge upon the appropriation.

2. All authorizations when submitted for signature shall set forth, except as hereinafter ordered to the contrary, (1) the purpose of the expenditure; (2) the rate of compensation if for services; (3) the period of employment or expenditure, if for a fixed term, or, when not definitely known, the approximate term; (4) the total charge to be made against the appropriation, if it can be ascertained, and if not, an approximate estimate; (5) the available balance of the appropriation at the time of authorization (the balance to be inserted in the authorization by the Chief of the Bureau of Accounts over his initials prior to the signing of the authorization by the Secretary of State).

3. Persons traveling or on special detail in connection with the objects of the appropriation, whose accounts are payable from the appropriation, shall receive reimbursement for actual, reasonable, and necessary expenses in addition to their regular compensation provided by law or regulation. Persons not in the employ of the Government may be given a stipulated rate of compensation and actual and necessary expenses, or a per diem in lieu of compensation and expenses according to the direction of the President or the Secretary of State in each case. A per diem allowance for expenses in addition to salary provided by law is prohibited. A copy of the appointment, designation, or contract in each case must be annexed to the account when submitted for approval.

4. The disbursement of moneys from the appropriation shall ordinarily be made by check, but cash payment may be made in those cases authorized by Treasury Regulations when the payment is made by the disbursing officer in person or by his deputy and the exchange of money and the receipt therefor is simultaneous.

5. When for any reason the President or the Secretary of State may deem it inexpedient in the public interest to make known the purpose or manner of a proposed expenditure from the appropriation, the authorization will be so drawn for the amount stipulated and the money will be paid over to the President or the Secretary of State upon the execution of a receipt therefor, which shall be filed as a voucher.

6. When presented for approval, all accounts for moneys chargeable to the appropriation shall have attached thereto the authorization in each case, and shall be itemized and supported by vouchers according to the usual practice required by law and the regulations of the Comptroller of the Treasury, except in cases where from the nature and method of the expenditure it is impracticable or inexpedient in the public interest to do so, and in such cases the personal certificate of the person expending the money may be accepted in lieu of vouchers in support of the account, when approved by the Secretary of State.

7. All accounts for moneys payable from the appropriation for emergencies that are not of a confidential nature shall be settled with the accounting officers of the Treasury by submitting the original paid vouchers in the same manner as expenditures from other appropriations, but such as may be considered confidential will be settled upon a certificate signed by the Secretary of State, or in his absence by the Acting Secretary of State, under section 291 of the Revised Statutes.

8. All authorizations, accounts, and certificates relating to the aforesaid appropriation will be presented for the signature of the Secretary or Acting Secretary of State through the Director of the Consular Service or such other officer as shall have been designated by the Secretary of State to supervise the finances of the department.

9. The authorizations given shall be numbered and filed numerically by the Bureau of Accounts and separate from the paid voucher, the number and date of each authorization being noted upon the account to which it relates.

10. All correspondence in relation to expenditures from the appropriation for emergencies shall be signed by the Secretary of State, or in his absence by the Acting Secretary of State.

These regulations will become effective on and after June 15, 1911.

P. C. KNOX.

DEPARTMENT OF STATE,
Washington, June 1, 1911.

[No. 31.]

It is hereby ordered that from this date and until otherwise directed the general administrative departmental supervision of all financial matters affecting the foreign-service establishment shall be in charge of the Director of the Consular Service, acting under the general direction of the department.

The formal signature and approval required by law to be by Assistant Secretaries will continue as now allotted. The administrative direction and responsibility in all financial matters affecting the Departmental, Diplomatic, and Consular Services will continue under the administrative direction and supervision of the chief clerk, the Third Assistant Secretary, and the Director of the Consular Service, respectively, as at present.

The Third Assistant Secretary of State and the Director of the Consular Service will require, respectively, from the Chiefs of the Diplomatic and Consular Bureaus, as well as from other departmental officers concerned, the most painstaking and methodical assistance. The chief clerk will make similar requirement of all departmental officers concerned, and including especially those in charge of the stationery room, mail room, stables, etc., and those concerned in the purchase or handling of departmental supplies. The chief clerk will also take all steps to introduce labor-saving methods in the department, and to make sure day by day that the clerical force is so distributed as to accomplish the maximum amount of work.

In this connection the chief clerk will proceed at once to collect and submit to the general direction of the department the absolutely accurate efficiency reports upon department personnel contemplated by the Executive order of November 26, 1909.

The Bureau of Accounts will report directly to the Director of the Consular Service in addition to conferring with the Third Assistant Secretary and the chief clerk. No class of correspondence will be carried on by the Bureau of Accounts except as specifically authorized by the Director of the Consular Service, the Bureau of Accounts limiting its activities to the actual processes of accounting, verification, disbursement, estimates, etc.

Every item of proposed expenditures must be passed upon by the bureau, division, or office within the sphere of the work of which the object of the expenditure falls. It must also be passed upon by the Diplomatic Bureau, the Consular Bureau, or the chief clerk, according to the branch of the service affected. It must also be passed upon by the Third Assistant Secretary if diplomatic, and if consular by the Director of the Consular Service, who also in all doubtful cases will always consult the comptroller and when desirable the solicitor, who will familiarize himself with the laws bearing upon the financial affairs of the department. In case of any particularly important or unusual item, the general direction of the department will also be consulted before final authorization is given. With the exception of signatures required by law, the fact of approval may be indicated by the initials of the officer so approving.

The same officers will be responsible for the determination of the fact that the department got value received for the expenditure made, the Bureau of Accounts being responsible for such questions as those of availability of funds and the correctness of the whole process. These rules shall be rigidly applied to all expenditures.

To enable the Director of the Consular Service to assume this additional responsibility, he is hereby authorized so to strengthen the Consular Bureau, by transfers or otherwise, as to enable that bureau to relieve him of such amount of the detail of consular work as will leave him only what is appropriate and necessary for the attention of the administrative officer directing that service.

P. C. KNOX.

DEPARTMENT OF STATE,
Washington, May 20, 1911.

[No. 34.]

The Third Assistant Secretary and the chief clerk of the department are hereby designated to make, semiannually, an examination of all expenditures made by the Chief of the Bureau of Accounts and disbursing clerk other than those subject to the examination and audit of the accounting officers of the Treasury. Particular attention is to be directed to all expenditures covered by certificate in pursuance of section 291 of the Revised Statutes. The examination will take place during the months of July and January and will include an inspection of all vouchers, account books, and other evidences of expenditures of money, and the proper checking of those vouchers against the accounts of the various appropriations, and of the accounts of the Chief of the Bureau of Accounts and disbursing clerk. Upon the completion of each examination a written report will be made to the Secretary of State showing the condition of the accounts and pointing out any irregularities that may be found to exist or any improvements in methods that may be thought to be desirable.

This order shall be in effect on and after July 1, 1911.

P. C. KNOX.

DEPARTMENT OF STATE,
Washington, July 1, 1911.

Afterwards he made this statement:

Secretary KNOX. Under the operation of that order no vouchers are passed under section 291 unless they are brought to me in a separate envelope printed on the back in legible type, "These vouchers are for the personal inspection of the Secretary of State," for the purpose of considering whether they are proper to be passed under section 291; they are not brought to me with the mail, and the chief clerk is directed to deliver them to my private secretary with instructions that these are vouchers proposed to be passed under section 291 and are to be handed to me personally, so that I am trying to do everything in my power, at least, to see that proper practice is followed.

The CHAIRMAN. I am very much obliged to you for that statement, and I will say, furthermore, that I am sure it is not the purpose of this committee to try to get hold of information that we ought not to have; but we had reached the conclusion—some of us at least—as I said a while ago, that the practice in the State Department had been such that many dollars of the public money was being expended and information in regard to the expenditures denied to Congress and to the public that ought not to be denied to the public. I feel, of course, that Congress being the body that appropriates the money, it is entitled to all the information as to how it is expended, and that if there is anything that ought to be kept secret we can keep it as well as anybody else.

In view of that statement, Mr. Speaker, the committee has felt that the only purpose that we had in view has perhaps been accomplished. We have no pride of authorship in any bill which we report here but only to prohibit the misuse of this money. If our efforts have been successful in calling the attention of the present Secretary of State to the fact, and he has finally consented to correct this evil, we express the hope and belief that the next Secretary of State will follow along the same lines and throw around the expenditure of this money all the safeguards necessary, in order that the money may not be misused. Then we will have accomplished our purpose and will therefore have no desire to impose upon the House the consideration of this bill at this time.

That is all I care to say. [Applause.]

The SPEAKER. For what did the gentleman from Missouri [Mr. HAMLIN] ask unanimous consent?

Mr. HAMLIN. Mr. Speaker, I desire to ask unanimous consent to insert some copies of orders of the Secretary of State, which I did not read, in my remarks. I will ask permission to extend my remarks in the RECORD for the purpose of inserting some documents.

The SPEAKER. What was the gentleman's request which he submitted a moment ago?

Mr. HAMLIN. That the bill be passed by now.

The SPEAKER. The gentleman asks unanimous consent——

Mr. HAMLIN. I did not ask unanimous consent to pass our committee. I said that we would not avail ourselves of the opportunity of calling up the bill at this time.

The SPEAKER. Is there objection to the gentleman from Missouri extending his remarks in the RECORD? [After a pause.] The Chair hears none.

BUSINESS OF COMMITTEE ON RULES.

Mr. HENRY of Texas (when the Committee on Rules was called). Mr. Chairman, I ask unanimous consent that the Committee on Rules be passed without prejudice.

The SPEAKER. The gentleman from Texas [Mr. HENRY] asks unanimous consent to pass the Committee on Rules without prejudice.

Mr. MANN. Reserving the right to object, it seems to me a strange request to come from the Committee on Rules, which at any time can bring in a rule to make anything in order. Why does the gentleman desire to have the Committee on Rules passed?

Mr. HENRY of Texas. There are one or two little matters that are not privileged but that are on the calendar, and I would like to call them up from the calendar.

Mr. MANN. There is nothing on the calendar reported from the Committee on Rules which has not been there for a long time, and the gentleman knows that we are approaching the end of Calendar Wednesday so far as this session of Congress is concerned. I think we ought to understand in the House what may possibly come up. If you pass over a committee without knowing what may be called up from that committee the House can have no conception of what may come before it.

What is the gentleman's purpose? Let us be frank in regard to it. There is only one thing on the calendar reported from the Committee on Rules, and the gentleman can state what his objection is in regard to that.

Mr. HENRY of Texas. There are several matters on the calendar from the Committee on Rules. I do not know that the committee will call up anything, but this is one time that the committee would like to be passed over for a while.

Mr. MANN. There are two propositions reported from the Committee on Rules. One is a good-roads proposition, introduced by the gentleman from Alabama [Mr. UNDERWOOD], which was incorporated in the Post Office appropriation bill last summer, and, I take it, is not likely to be called up again. The other is the Monticello proposition, in which Members of the House are interested, and I think we ought to know whether the gentleman intends to call that up or not.

Mr. HENRY of Texas. Well, I will state that I am not ready to say whether I will or not. I may, and I may not. I have not made up my mind that I shall call it up. But the good-roads proposition is on the calendar, and there are one or two incidental matters that may be hooked onto that that would be of interest to the House.

Mr. MANN. The good-roads proposition is to create a commission, and that commission has already been created by law.

Mr. HENRY of Texas. It is on the calendar yet, and we have the right to dispose of it. I hope the gentleman from Illinois will not object. I do not know that I shall bring up

anything, but I simply request that we pass this committee over.

Mr. MANN. I do not want to object to the request of the gentleman from Texas, but in view of the fact that his committee can at any time bring in a rule for the consideration of measures, I will ask him to break up the practice of passing over committees. If we commence to do that we are lost.

Mr. BURKE of South Dakota. I would like to ask the gentleman from Texas a question.

Mr. HENRY of Texas. Very well.

Mr. BURKE of South Dakota. I would like to ask the gentleman what is meant by passing a committee without prejudice?

Mr. HENRY of Texas. I suppose that it means that we can take it up on the next Calendar Wednesday as unfinished business.

Mr. BURKE of South Dakota. Is there any precedent for that, and would not the gentleman have to take his chance if the committee is simply passed over without prejudice?

Mr. HENRY of Texas. We could take our chance and go back as soon as the irrigation bill is considered.

Mr. BURKE of South Dakota. The gentleman is technical. I doubt very much if the passing of the committee without prejudice would entitle that committee to the privilege of calling up a bill on the next Calendar Wednesday.

Mr. HENRY of Texas. I think that would be the understanding.

Mr. SLAYDEN. Mr. Speaker, I want to ask my colleague a question.

The SPEAKER. Does the gentleman yield?

Mr. HENRY of Texas. Yes.

Mr. SLAYDEN. I want to ask if that is his interpretation of the rule and if he is reasonably confident of that fact, if the committee were now passed, that he would come in at the conclusion of the unfinished business on the following Calendar Wednesday?

Mr. HENRY of Texas. I think that would be the construction, that the House could afford to take up the business of that committee when the unfinished business is disposed of.

The SPEAKER. Is there objection?

Mr. MANN. I object.

The SPEAKER. The gentleman from Illinois [Mr. MANN] objects. Does the gentleman from Texas [Mr. HENRY] desire to call up anything of his committee?

Mr. HENRY of Texas. I pass now.

The SPEAKER. But the gentleman from Illinois [Mr. MANN] objected to passing.

Mr. HENRY of Texas. I do not care to call up anything from the Committee on Rules.

The SPEAKER. The Clerk will call the next committee.

The Clerk proceeded with the call of committees.

Mr. TALBOTT of Maryland (when the Committee on the Library was called). I move, Mr. Speaker, that the House do now adjourn.

The SPEAKER. The gentleman from Maryland [Mr. TALBOTT] moves that the House do now adjourn. The question is on agreeing to that motion.

The question was taken; and the Speaker announced that the "noes" seemed to have it.

Mr. LINTHICUM. I ask for a division, Mr. Speaker.

The House divided; and there were—ayes 39, noes 67.

So the House refused to adjourn.

The SPEAKER. The gentleman from Texas [Mr. SLAYDEN] is recognized.

AMERICAN ACADEMY OF ARTS AND LETTERS.

Mr. SLAYDEN. Mr. Speaker, I call up House bill 18505, House Calendar No. 351, incorporating the American Academy of Arts and Letters.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill, as follows:

A bill (H. R. 18505) incorporating the American Academy of Arts and Letters.

Be it enacted, etc., That William Dean Howells, of New York; Henry James, of Massachusetts; Henry Adams, of the District of Columbia; Thomas Raynesford Lounsbury, of Connecticut; Theodore Roosevelt, of New York; John Singer Sargent, of Massachusetts; Horace Howard Furness, of Pennsylvania; Alfred Thayer Mahan, of New York; Daniel Chester French, of New York; John Burroughs, of New York; James Ford Rhodes, of Massachusetts; Horatio William Parker, of Connecticut; William Milligan Sloane, of New York; Robert Underwood Johnson, of New York; George Washington Cable, of Massachusetts; Andrew Dickson White, of New York; Henry van Dyke, of New Jersey; William Crary Brownell, of New York; Basil Lanneau Gildersleeve, of Maryland; Woodrow Wilson, of New Jersey; Arthur Twining Hadley, of Connecticut; HENRY CABOT LODGE, of Massachusetts; Francis Hopkinson Smith, of New York; Edwin Howland Blashfield, of New York; William Merritt Chase, of New York; Thomas Hastings, of New York; Hamilton Wright Mabie, of New Jersey; Brander Matthews, of New York; Thomas Nelson Page, of the District of Columbia; Elihu Vedder, of Massachusetts; George Edward Woodberry, of Massachusetts; Kenyon Cox, of New York; George Whitefield Chadwick, of Massachusetts; Abbott Handerson Thayer, of New Hampshire; John Muir, of California; Charles Francis Adams, of Massachusetts; Henry Mills Alden, of New Jersey; George de Forest Brush, of New Hampshire; William Rutherford Mead, of New York; John White Alexander, of New York; Bliss Perry, of Massachusetts; Francis Davis Millet, of New York; Abbott Lawrence Lowell, of Massachusetts; James Whitcomb Riley, of Indiana; Nicholas Murray Butler, of New York; Paul Wayland Bartlett, of New York; George Browne Post, of New York, and their successors, duly chosen, are hereby incorporated, constituted, and declared to be a body corporate of the District of Columbia, by the name of the American Academy of Arts and Letters.

SEC. 2. That the purposes of this corporation are and shall be the furtherance of the interests of literature and the fine arts.

SEC. 3. That the American Academy of Arts and Letters shall consist of not more than 50 regular members, and the said corporation hereby constituted shall have power to make by-laws and rules and regulations; to fill all vacancies created by death, resignation, or otherwise; to provide for the election of foreign, domestic, or honorary associate members, and the division of such members into classes, and to do all other matters needful or usual in such institutions.

SEC. 4. That the American Academy of Arts and Letters shall hold an annual meeting at such place in the United States as may be designated and shall make an annual report to the Congress, to be filed with the Librarian of Congress.

SEC. 5. That the American Academy of Arts and Letters be, and the same is hereby, authorized and empowered to receive bequests and donations of real or personal property and to hold the same in trust, and to invest and reinvest the same for the purpose of furthering the interests of literature and the fine arts.

The SPEAKER. The question is on the engrossment and third reading of the bill.

Mr. BARTLETT. Mr. Speaker, I am opposed to this bill.

The SPEAKER. The gentleman is recognized for an hour.

Mr. BARTLETT. I do not desire, Mr. Speaker, to take the gentleman from Texas [Mr. SLAYDEN] off the floor. I yield to the gentleman.

Mr. SLAYDEN. Mr. Speaker, I am entitled to the time, but the gentleman from Georgia can go ahead.

The SPEAKER. The gentleman from Texas [Mr. SLAYDEN] undoubtedly would have been entitled to the time, but the gentleman from Georgia [Mr. BARTLETT] rose and the gentleman from Texas did not.

Mr. BARTLETT. Mr. Speaker, I reserve my time, and yield the floor to the gentleman.

The SPEAKER. How much time does the gentleman yield?

Mr. BARTLETT. I reserve the balance of my time, and yield to the gentleman from Texas. I do not desire to take the floor in advance against the gentleman. I only took the floor because the Speaker was about to put the question.

Mr. GARNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARNER. If the gentleman from Georgia [Mr. BARTLETT] yields the floor and the gentleman from Texas [Mr. SLAYDEN] takes the floor, can the gentleman from Georgia reserve the right to take the floor again? I simply want to ask the question as a parliamentary inquiry.

Mr. MANN. Whoever has the floor in his own right can move the previous question.

Mr. GARNER. That is what I thought.

The SPEAKER. What was the remark of the gentleman from Illinois?

Mr. MANN. I said whoever yields the floor in his own right can move the previous question.

The SPEAKER. But suppose he does not want to move the previous question?

Mr. MANN. Then the gentleman from Georgia would be entitled to his time.

Mr. GARNER. This was the parliamentary inquiry that I asked in the endeavor to get from the Chair a ruling on this point: If the gentleman from Georgia reserves the balance of his time and yields the floor to the gentleman from Texas, and if the gentleman from Texas, in his own time, sees proper to move the previous question, would he not cut off the time of the gentleman from Georgia?

Mr. MANN. He would if it was ordered.

The SPEAKER. Undoubtedly. If the House sustained the demand, that is what would happen.

Mr. TALBOTT of Maryland. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TALBOTT of Maryland. The gentleman from Georgia having been recognized, is he not entitled to an hour?

The SPEAKER. Answering the gentleman from Maryland, it is the uniform practice of the House for the Chairman or the Speaker, or whoever happens to be presiding, to recognize the gentleman that is in charge of the bill, and he is recognized for an hour if he shows any disposition to take it. If he uses up his hour and does not move the previous question, another gentleman is recognized, and so on, to the end of the chapter. But the Member who is managing the bill, or anybody else who

has the floor, can move the previous question, and if the House orders the previous question, that is the end of it.

Now, no one rose, and the Chair started to put the question as to the engrossment and third reading of the bill. After the Chair started to put that question the gentleman from Georgia rose and was undoubtedly entitled to the floor. If the gentleman from Georgia yields the floor and the gentleman from Texas takes the floor in his own right, whenever he gets ready he can move the previous question.

Mr. BARTLETT. Mr. Speaker, I desire to say that I was in the observance of the rights of a Member of the House when I rose and stated that I was opposed to the bill. At that time nobody suggested that he desired to take the floor in advocacy of the bill, but I desired to present some reasons for not supporting it. Now, out of courtesy, I desire to yield the floor, and, if the previous question is not ordered, could not the Chair recognize me again?

The SPEAKER. If the gentleman from Texas takes his seat without moving the previous question, the Chair will recognize the first gentleman who wants recognition.

Mr. KENDALL. But the gentleman from Georgia would have no prior right over anybody else.

The SPEAKER. No; but the Chair might see him a little more quickly.

Mr. SLAYDEN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SLAYDEN. I shall have to make a brief statement to make my inquiry clear. I called up this resolution and expected to make a brief statement about it, and then turn it over to my colleague on the committee, Mr. TOWNSEND. Just at that moment there was so much confusion that I could not hear what was going on, and by an accident my papers were knocked off the desk, and while I was endeavoring to recover the papers the Speaker, properly assuming that I had nothing to say about it, took it for granted I did not intend to offer any explanation and started to put the question as to the engrossment and third reading of the bill. I did intend to avail myself of the right to an hour, for the purpose of giving the gentleman from New Jersey an opportunity to make an explanation. If I had the floor I certainly would not move the previous question and shut off my friend, the gentleman from Georgia.

Mr. BARTLETT. Then, Mr. Speaker, as far as I am concerned, I yield the floor.

Mr. SLAYDEN. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. TOWNSEND] for an explanation of the bill.

Mr. TOWNSEND. Mr. Speaker, this bill was so recently reported that I assume that Members have had little opportunity to read the report submitted by the committee. It is brief, and I shall take the liberty of reading it first because it makes a very clear exposition of why these gentlemen have come to Congress for this purpose. This bill, I may say, is supplementary to another bill already passed the House to incorporate the institute.

The report is as follows:

The purpose of this bill is to incorporate a distinguished body of authors, artists, and composers of music analagous to the National Academy of Sciences, which received a national charter in 1863. It may fairly be said to occupy the same relative position toward literature and the arts which the latter organization has always occupied toward science.

The object of the academy is to stimulate the production of good professional work by upholding the best standards and giving recognition to excellence.

It is neither the purpose nor desire to obtain financial aid from the Government, but merely to enable the organization to receive and expend any fund which, for the purpose of advancing literature and the arts, may be intrusted to its good faith, its experience, and its knowledge of the best use to which such fund may be put.

In the constitution of the academy there is no sectional, partisan, social, or other bias. The members are men of national reputation in their several activities. They are chosen, as vacancies occur, from the membership of the National Institute of Arts and Letters, by which the academy was established in 1906, and which, in turn, was organized in 1898 by the American Social Science Association.

The academy has no commercial purpose in view, and the granting of the charter will prove an encouragement and a stimulus to literature and the arts. The committee is unanimously of the opinion that the charter should be granted.

Now, Mr. Speaker, if the Members took notice during the reading of the bill of the names of the 50 gentlemen and their locality, they, of course, saw, without any argument, that they are the names of 50 men, distinguished gentlemen in arts, and letters, and composition of music in the United States. While it has never been the business of these gentlemen to favor any section, they have been very fortunate in finding men and women whose excellence either in art or letters or musical composition entitles them to be classed with these 50; there is scarcely a section of the country that is not represented by some literary or artistic person in this list.

These gentlemen are asking only what has been done by Congress for the scientific bodies of this country, and if this body is incorporated it will be to literature, arts, and music what the incorporated scientific body is to science, and no one with any interest in such matters but can have observed how greatly science has been encouraged by the promotion of this scientific body in giving encouragement to the young and eager workers in science. Just exactly such encouragement will be given to the workers in arts and letters by the measure we present here to-day.

Mr. Speaker, it is undoubtedly true, I think, as has been stated here, that the United States is the only country with any profession whatever for a love of or encouragement of literature and art that has not an incorporated body such as is here designed. Perhaps Members are most familiar with that incorporated in France, which has done for the literature of France immeasurable good. Undoubtedly this body could do a great deal of good, because those who work in this profession, perhaps, are the only ones who really recognize how much assistance it is to the young author to have his work recognized by the masters of his profession, men that he looks up to as able critics. Encouragement and other help will be given by this body to establish some definite basis of what constitutes that rather peculiar quality, style in work. Of course we have produced within the past 20 years numerous best sellers, but I think it will be the judgment of anyone here who has taken the pains to read the best sellers that some of them lack very largely in the best qualities of literature. Doubtless that is true in sculpture and the graphic arts and music, but with them I am not so familiar.

It seems to me that there is no good excuse to be argued against the desire of these gentlemen to encourage that which we so much admire. There was a great school of New England literature that has now almost died out. Possibly the encouragement of arts and literature by this body may re-create that school, and it may re-create it in some unlooked for portion of the United States. Young musicians, sculptors, and painters are not necessarily a product of the oldest cities. They may arise unexpectedly in places far removed from what we are accustomed to call the centers of literature and art, and it will be the effort of this body of gentlemen to encourage evidences of art progress wherever it may be discovered.

Mr. BARTLETT. May I ask the gentleman a question right there?

Mr. TOWNSEND. Certainly.

Mr. BARTLETT. I notice you say in the bill that this is declared to be a body corporate of the District of Columbia.

Mr. TOWNSEND. Yes.

Mr. BARTLETT. Why is it necessary that Congress should grant a charter to these men? Has not the District of Columbia a code of laws which provide for the incorporation or chartering of persons like these? And why should Congress be called upon to grant a charter of this kind?

Mr. TOWNSEND. Mr. Speaker, if what I have said has suggested to any gentleman here that this is a desirable incorporation, of course it follows, as a matter of course, that the greater the prestige given to this body the more useful its work will be, and I frankly confess that that is the greatest good this bill will do. It will give to this body a prestige which will be reflected in its criticism of the work which naturally it will consider.

Now, that is not a substantial fact. It is nothing which can be weighed or measured, if you please, but it is something nevertheless quite important. If these gentlemen have this very great prestige of being a national body, the encouragement and help which they give to those who are struggling in arts or letters will be just that much more weighty.

Mr. TOWNER. Will the gentleman yield for a question?

Mr. TOWNSEND. Certainly.

Mr. TOWNER. As I understand the bill it provides that vacancies are to be filled by the choice made by those who remain. Am I correct in that?

Mr. TOWNSEND. Yes.

Mr. TOWNER. So that one object and purpose of the bill is to recognize distinction in the arts or in literature.

Mr. TOWNSEND. I should say that that is so.

Mr. TOWNER. So that an election to this body will be considered in the future as a recognition of excellence in literature or in the arts.

Mr. TOWNSEND. The gentleman will remember that when Pierre Loti was elected to the French Academy it was considered that for the first time those competent to judge of literature in France had placed the seal of their approval on his works; and to carry the analogy here, with the possibility of this reward before men engaged in these professions, they certainly would take greater pains, would strive harder and more earnestly to accomplish good work, because they would desire

this recognition, which in its way would be the highest recognition they could gain.

Mr. TOWNER. Of course, an election to the French Academy is a recognition of merit and distinction that is known and goes all over the world. That is one of the objects and purposes of this incorporation. There is another, as I understand it, and that is for the purpose of encouraging the arts and literature and of establishing standards in art and literature in this country. That is really the double purpose that this association will have.

Mr. TOWNSEND. First, if you please, you establish a body which is by general consent the highest authority of criticism upon these classes of work. Then their approval of work naturally follows, and I think that no one will cavil at the statement that the approval by this body of any work done does place the stamp of excellence upon that work, an approval which now has no means of such expression.

Mr. TOWNER. I am exceedingly anxious that this bill should pass and only wanted to make these observations in order that the Members of the House might understand the proper purpose of it.

Mr. GARNER. I want to call the attention of the gentleman to section 5 in reference to the right of this corporation to own real and personal property, to inquire whether or not they could own it in any State of the Union; and if so, whether it would be subject to taxation, and so forth? If the gentleman has not reached that subject, I am perfectly willing to have him postpone the answer to my inquiry.

Mr. TOWNSEND. I am not prepared to answer that question. I think the chairman of the committee is competent to answer it.

Mr. GARNER. I think that is quite an important inquiry, because we want to know whether or not this company can own real estate in Texas, and if so, how much and how long, and whether or not it would have to pay taxes.

Mr. TOWNSEND. I hope the gentleman will withhold his question until the chairman of the committee has an opportunity to answer it.

Mr. GARNER. Certainly.

Mr. SHERLEY. Mr. Speaker, will the gentleman yield for a question?

Mr. TOWNSEND. Certainly.

Mr. SHERLEY. I should like to ask how these particular men were chosen to be the incorporators of the academy?

Mr. TOWNSEND. They were chosen from the national institute.

Mr. SHERLEY. How was that created?

Mr. TOWNSEND. I presume that was an accretion, a growth, from a meeting of people interested in arts and letters in the various cities, and upon occasion they got together, and the value of instituting some such body naturally suggested itself, just as there is a national body for automobiles, baseball, advertising, and so forth.

Mr. SHERLEY. If I understand the gentleman correctly, then, and if my own impressions, formed prior to the gentleman's statement, are correct, these gentlemen have associated themselves together, and under their self-perpetuating organization propose to determine hereafter who shall be among the elect in art and letters.

Mr. TOWNSEND. I can imagine no better jury to determine who shall number among the 50 foremost men in arts and letters than such a jury as it is here purposed to establish for that purpose.

Mr. SHERLEY. I think perhaps a determination in the first instance by some one other than those who are to exercise the power might be better, in order to get an impartial judgment. But, waiving that, I should like to ask the gentleman this question, following what the gentleman from Georgia [Mr. BARTLETT] suggests: Does the gentleman believe that the Federal Government should be asked to charter this association, in order to give it a better standing in arts and literature, and is it not the better rule that a voluntary association of self-elected judges of art or letters should have their prestige rest upon their deserved ability, and not upon the gift of the Government, to afford them prestige by a national incorporation?

Mr. TOWNSEND. I will say to the gentleman from Kentucky that these gentlemen are incapable of giving to themselves, by anything which they may do, any prestige which would make them a more helpful body as critics. That prestige must come from an outside source, and certainly the highest source that such prestige can be given to them is from the Congress of the United States. Possibly these gentlemen entertain an opinion, which I share, that they do constitute a jury of the highest qualifications, but they can not proclaim that fact, and if they did proclaim it it would not put the stamp of prestige upon them.

If Congress, by incorporating them as a national body for the purposes which have been set forth, gives them that prestige, then the force and effect and value of that prestige goes with their work, and their work is to encourage arts and letters.

Mr. SHERLEY. Mr. Speaker, if the gentleman will permit another observation, I suggest that perhaps the way to determine the prestige they are entitled to have is by what they do, and that the mere incorporation of them by the National Government should not be used for the purpose of giving them a prestige that they may not deserve. I am not undertaking to express an opinion upon whether they are or are not the people to make of themselves the critics of art, but, assuming that they are, the justice of that assumption will be demonstrated by their action and by themselves. The French Academy does not gain its prestige by an act of incorporation by France. It gains it by the personnel of the association and the wisdom with which it exercises its functions; and some of the great of France have been great in spite of the refusal of that academy to reward them with recognition within its limited folds.

Mr. TOWNSEND. Can the gentleman think of any distinguished author in France, aside from Zola, whose work was not promptly recognized by that academy?

Mr. SHERLEY. I can not while upon my feet at this moment, but I would guarantee to tell the gentleman several in a very few minutes if necessary.

Mr. GRAHAM. Mr. Speaker, will the gentleman yield?

Mr. TOWNSEND. Certainly.

Mr. GRAHAM. Mr. Speaker, I would like to ask the gentleman from New Jersey as to the merits of the whole matter. He refers to the French Academy, and suggests that this is in line with the idea it rests upon. Is it not true that English literature, without any academy, without any arbitrary critics, or any empirical method of deciding matters, is superior in nearly every respect to French literature, and is it not more in keeping with American affairs to leave the literary men, like other men, leeway, and let the public ultimately deckle their merits without having them measured by any yardstick?

Mr. TOWNSEND. Mr. Speaker, I will answer the gentleman by saying, in response to one of his several questions, if my opinion in the matter is of any value whatever, that as literature the literature of France to-day is superior to that of England to-day or of any other country.

In response to the gentleman's suggestion that there is no such aid to art or letters in England, I will remind him that it is just as much a strife for an English artist to become an academician as it will be for any American artist to become a member of this academy, and I will impress this subject upon his mind by suggesting the story, which does not bear out my suggestion of the importance of the British Academy, of the American, Whistler, who was a member of the Academy of British Artists. Having resigned, he was asked about the academy, and responded, "It has become the Academy of British." However, I would say to the gentleman that the influence of the British Academy upon art has been most excellent. The British Museum to-day is growing rapidly to be one of the best in the world, and the selection and collection of these masterpieces in the British Academy has been the result of the work of the British academicians, the Associated Artists of Great Britain.

Mr. GRAHAM. But the gentleman has not answered my query as to letters.

Mr. TOWNSEND. I will be glad to answer that in a moment. For the present I yield to the gentleman from Texas, the chairman of the committee.

Mr. SLAYDEN. Mr. Speaker, I suggest to the gentleman that the gentleman from Massachusetts desires to ask him a question.

Mr. GARDNER of Massachusetts. Mr. Speaker, I desire to offer a suggestion to the gentleman from New Jersey, my colleague on the committee. I call the gentleman's attention to a portion of his answers to the gentleman from Kentucky [Mr. SHERLEY], who had asked about this incorporation of American Arts and Sciences. I do not think that the gentleman understands that the National Academy of Science is already incorporated and that this corporation is to do for art and letters what has already been done for science.

Mr. TOWNSEND. Precisely. The gentleman from Kentucky lacked the advantage of hearing the opening of my remarks. The Academy of Science is already incorporated.

Mr. SHERLEY. Mr. Speaker, the gentleman from Kentucky is still of the same opinion that he was before he heard the

statement of the gentleman from Massachusetts. I understood the other society had been incorporated, but I was trying to bring out how it occurred that these men here named were chosen as the men to perpetuate themselves and their successors.

Mr. TOWNSEND. Mr. Speaker, I tried to explain to the gentleman that this sort of body grows through the processes with which he is familiar. There is undoubtedly a very excellent club in the gentleman's town, a club of social distinction, which undoubtedly had its origin in this manner.

Mr. SHERLEY. Mr. Speaker, I never knew a social distinction worth having that required an act of incorporation to give it prestige.

Mr. TOWNSEND. This is not a social distinction that these gentlemen seek. Any literary distinction that could come to them has come to them from their own work. I call the gentleman's attention to the list here. Does he suppose that Mr. Woodrow Wilson, of New Jersey, requires to be a part of an incorporation to have the gentleman from Kentucky acclaim him to be a great literary genius?

Mr. SHERLEY. No; and for that reason I would not ask that he be made part of a national incorporation.

Mr. TOWNSEND. But he has asked it.

Mr. SHERLEY. I would suggest to the gentleman that we have in this country a population of 90,000,000 people and there are some 50 names mentioned in this act of incorporation. I find that of these 50 the great majority come from one little section of the country. It may be that that section has a monopoly upon art. It may also be that it has a monopoly simply on a belief in its own importance. In any event, it does not strike me that this Congress, without having examined into the matter at all, should undertake to give the prestige these gentlemen so much seek, of national incorporation, to 50 gentlemen who choose to select themselves to pass on the eligibility of others to enter their sacred portals.

Mr. TOWNSEND. In conclusion, I will say to the gentleman from Kentucky [Mr. SHERLEY] that he will find there is something like a geographical center attached to these names; that a great many of these names are the names of aspiring, competent young men and women who have come to New York from other States, and possibly a number of them from Kentucky.

Mr. DIES rose.

The SPEAKER. Does the gentleman yield to the gentleman from Texas [Mr. DIES]?

Mr. SLAYDEN. Mr. Speaker, how much time does my colleague desire?

Mr. DIES. About 10 minutes.

Mr. SLAYDEN. I will yield first to the gentleman from Georgia [Mr. ADAMSON].

Mr. ADAMSON. Mr. Speaker, I have given to the press the following interview:

"I have repeatedly been asked why I do not press the bill introduced by Mr. SIMS to repeal the exemption of coastwise ships from Panama Canal tolls. I have refrained from doing so for various reasons, some of which I will state, now that Senator ROOT has introduced a similar bill. I have always favored uniform tolls. I made the best fight I could and lost. I don't wish to appear ugly or sore, nor have I believed it wise to do anything that might embarrass the efforts of the President to settle differences with England by diplomacy. But the best reason of all is that I have not been satisfied that Congress is ready to repeal the exemption, nor that the President is ready to approve it. If I did so believe, I would vote to report out the Sims bill at once. When the President suggested that Congress disclaim intention to violate the treaty and provide for a judicial adjudication of the questions under the treaty, statesmen who helped him secure the discrimination refused to favor such disclaimer. I thought as the operation of the canal was a long ways off the President would have ample time to agree with England by making her some concessions elsewhere, if it should appear to be the settled policy of Congress to discriminate in favor of coastwise vessels. Just what concessions might be desired by England, or granted by this Government, I don't know, but there are a great many points at which the interests and transactions of the English people and our people come in contact. I thought that if there was a genuine desire for an adjustment it could be reached by a diligent effort to find a basis. I would never favor, however, making concessions of similar exemption to the Canadian coastwise trade. I have no doubt that would satisfy England, but it would mean a double burden to our people and a double inroad on the Treasury. If the exemption of our coastwise vessels deprives our Treasury of $2,000,000 per annum, a like concession to the Canadian coastwise trade would double the amount and deprive the Treasury of that much more money, and to that extent make the canal a heavier charge on the Treasury.

I do not care to discuss the question of arbitration. The State Department has that under consideration, and if Congress adheres to the position taken it is the duty of the State Department, first, to deal with international differences. It is not out of place, however, to say that when you are lost in the jungle the surest way to get out is to take the route by which you came in. It requires manhood to take the back track, and few men are big enough to display that much moral courage, but inasmuch as the President by a message aided the ship interests to mislead Congress into error, the President would earn a reputation for greatness if he would send a message to Congress advising a repeal of the exemption clause and confessing his error. There is no doubt that a great blunder has been committed, and the President could very greatly aid in correcting that blunder by adopting the above suggestion. Equality is common honesty. At the first blush that is what is naturally expected. The burden is on the party proposing a variation therefrom. Disinterested men expect and demand nothing else.

There are three reasons why uniform tolls should prevail.

First. All commerce using the canal, which shortens the journeys of all alike about 8,000 miles per journey, should equally share the expense of operating and maintaining the canal, which confers such great benefit upon all. There is little doubt that for the first few years the cost for the operation and maintenance will exceed the revenues derived from collecting from all vessels, except the official vessels belonging to our Government, all the uniform tolls that the traffic will bear. Optimists and theorists have prophesied otherwise, but their prophesy will come to naught. The operation and maintenance of the canal will for the first years be a charge upon the Treasury to some extent, and if our coastwise ships be exempt from tolls the charge on the Treasury will be a very large one. Just what effect discrimination in favor of our coastwise ships against all other vessels, including those of our own people in the foreign trade, will have in repelling business which would otherwise, under fair conditions, patronize our canal no man can tell, but whatever the extent may be it will surely be adverse to the patronage and profits of the canal.

Second. Exempting the coastwise ships from tolls is nothing more nor less than diverting from the common Treasury of the people a dollar and twenty cents per ton on ships belonging to a special interest, to which we give that large bonus and bounty out of the money belonging to all the people; and that special interest belongs to a body of people numerically insignificant, but financially powerful, already holding a monopoly of the coastwise trade against all the world, dividing up and parceling among them the ports and routes of travel, holding up rates by not competing with one another; they are the most highly protected people in the world and have absolutely no need of financial help from the Government.

The advocates and supporters of exemption make a mistake when they take comfort and press as unction to their souls the idea that there is a difference between this exemption and the ordinary subsidy; that they do not really take the money out out the Treasury, but only head it off and keep it from going into the Treasury. It is true the money is not actually in the Treasury, and it may be easier to fool the people and delude them into believing that nobody is taking their money and that there is nothing lost, but such people ought to read the ancient law which made it a greater crime to steal wet linen hanging out to dry than that which was actually locked up so it could be protected. If any difference, it is a meaner subsidy than taking from the Treasury direct. I am unable to find in the Constitution, my oath of office, or the Ten Commandments any justification to vote to take or divert money from the Treasury belonging to 96,000,000 people whom we represent and who are not here to pass on it themselves and give it to a small private interest.

Third. We are constructing that canal under a treaty. It was not convenient to cut the canal from ocean to ocean across our territory. We had to make two contracts, one with England and one with Panama, before we could construct a canal in a foreign country. Those who claim that conditions have changed by virtue of our sovereignty speak without due reference to diplomatic history. England expressly provided in the Hay-Pauncefote treaty that no change in sovereignty should affect the stipulations of that treaty as to equality. Our sovereignty is decidedly imperfect if you remember the stipulations we made with Panama and the treaty by which it is claimed that we acquired sovereignty, for in that selfsame treaty we reaffirmed the stipulation as to equality of charges and conditions of traffic. We are under obligation in that same treaty to pay perpetually an annual rental of $250,000. Unfortunately, the Ship Trust, by the most stupendous and extended lobbying

ever known on earth, conducted systematically ever since the work on the Panama Canal began, secured the aid of the yellow journals and procured the mistaken indorsements of various civic organizations throughout the country and inflamed the jingoes into obscuring the real question and substituting therefor in the popular mind the false and impertinent issue as to whether England shall be allowed to manage our affairs. There is no such question at issue. England has simply reminded us that we have agreed to charge everybody at the canal alike, which is the truth, and we ought to be honest with ourselves without the aid of England. If we would just observe Shakespeare's lines—

> To thine own self be true, * * *
> Thou canst not then be false to any man—

we would first deal fairly with our own people by refusing to give their money to special interests, then England would have no cause of complaint against us for broken faith through the violation of the treaty.

The construction England puts upon the treaty will inevitably and unavoidably be reached by anybody who will read the diplomatic history of transit across the Isthmus. Since the days of Henry Clay and John Quincy Adams, when Nicaragua first suggested to us the building of a canal, we have insisted on the very same position which England now holds—that all nations and all vessels and all commerce should be treated alike. We have ourselves often complained of alleged violations of that equality in other dealings and joint use of facilities with England, have insisted on correction, and have always obtained it. The claim that coastwise vessels can be treated differently from ships in the foreign trade is not sustained by an examination of our treaties. Among all the treaties we have made with other Governments for amity and commerce there is no distinction as to the privileges of different classes of vessels, except when it is expressly so stated. In every case when a nation desired to reserve domestic control of its coastwise trade it has been so stipulated in the treaty. The absence of such stipulations leaves no distinction in any case. In all treaties touching transit across the Isthmus the only case in which it is pretended that foreign vessels and commerce may be treated differently from domestic vessels and commerce is in the case of Mexico dealing with the Tehuantepec Railroad. Inasmuch as that railroad was built on Mexican soil entirely, beginning and ending at Mexican ports and constructed with Mexican capital or credit, she was not constrained by any consideration to grant equality to all. Standing in that condition, she rightfully and expressly stipulated that that railroad would treat all other nations alike, but favor Mexican commerce if it was desired. But constructing a canal across the Isthmus by a Government and by a people not resident on the Isthmus was entirely a different proposition. Under the Clayton-Bulwer treaty we were not permitted to build a Government canal; we were not permitted to fortify it; we were bound with other nations to protect its neutrality; and in the preamble and in section 8 we were all bound to exact equality in the operation of the canal in charges and conditions of traffic. In consideration of preserving those last provisions and stipulations unimpaired, and expressly so stated in the Hay-Pauncefote treaty, our Government and England modified the Clayton-Bulwer treaty so as to permit us to construct it at our Government's expense, operate, and take the profits, we further agreeing to relieve England and the balance of the world of preserving neutrality, and therefore we were permitted to police and fortify the canal. In brief, that is all there is to it. Unless we do have the manliness to protect our honor among the nations and protect the interests of our people and the integrity of the Treasury by voluntarily repealing the exemption of the coastwise ships from tolls, I do not see how we are going to escape submitting to arbitration and maintain any pretense to honor and respect among the nations of the world.

I am very much surprised to find advocates of the exemption opposing submission to arbitration, because one argument the advocates of the special privileges used to carry the exemption through Congress was that we could assume the right under the treaty to make the exemption, let England make the issue if she wished to object, formulate an issue, and submit it to arbitration. In the House, pending the consideration of the canal bill, that proposition was replied to by me. When the President manifested uneasiness and confusion on suddenly discovering the dissatisfaction of England, just before he signed the canal bill, I drew a bill to repeal the exemption, intending to introduce it as soon as the President signed the bill for the operation of the canal. Being called away before that approval came in, I gave the bill to Mr. SIMS and requested him to introduce it, which he afterwards did. I do not care to do a useless piece of work; but if I become satisfied in the next five weeks that Congress would pass the Sims bill and that the President would approve it, I will call it up in the committee and do my best to have it reported. If I discover no such favorable indications, I shall favor waiting for the next Congress and the next administration to deal with the subject—protect the interests of our people, preserve the integrity of our Treasury, and maintain the honor of our Republic among the nations of the world.

Mr. SLAYDEN. Mr. Speaker, I now yield to the gentleman from Georgia [Mr. BARTLETT].

The SPEAKER. How much time does the gentleman yield?

Mr. SLAYDEN. Mr. Speaker, I would like to submit a parliamentary question to the Chair.

The SPEAKER. The gentleman will state it.

Mr. SLAYDEN. My understanding of the rules is that I had one hour in which to address the House.

The SPEAKER. The gentleman had one hour, beginning at 5 minutes before 4 o'clock.

Mr. SLAYDEN. Does the opposition have an hour also?

The SPEAKER. Not if the gentleman moves the previous question and gets it carried during his hour.

Mr. SLAYDEN. Mr. Speaker, I have assured the gentlemen who are opposed to this measure that I will not move the previous question.

The SPEAKER. Then the gentleman who gets the floor has an hour, if he wants it, and can do as he pleases with it.

Mr. SLAYDEN. I reserve the balance of my time and yield to the gentleman from Georgia [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker——

Mr. SHACKLEFORD. Mr. Speaker, I want to be recognized in opposition to the bill.

The SPEAKER. The gentleman from Texas [Mr. SLAYDEN] reserves 30 minutes. The gentleman from Georgia was on his feet and had the eye of the Chair, and the Chair recognizes him for one hour.

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT. Is it not a privilige of the gentleman who has an hour to yield to other gentlemen?

The SPEAKER. Yes; he can yield every particle of it.

Mr. BARTLETT. That is what I thought.

Mr. Speaker, I have no desire to consume the time of the House in presenting my views in opposition to this bill. Its purpose may be meritorious, though it does not appeal to me that Congress should be called upon simply to give prestige to the incorporation, or give to the gentlemen who have sought to compose that corporation the power and authority to be incorporated by Congress, simply to give it prestige. I have nothing to say in criticism of these gentlemen here who are sought to be incorporated under this bill. It but demonstrates, Mr. Speaker, what I have called attention to before, that if Congress shall embark into the business of incorporating everybody for any and every purpose that they desire, we will be engaged in doing very little else. All powers of the State will be minimized, and if people think they can secure a charter from Congress which will carry with it the prestige and power of the National Government, you will find the House flooded with bills and our calendars crowded with this kind of legislation.

I had occasion, when the House was considering other bills of this character, Mr. Speaker, to state my opposition to them. It is true this bill says it is to be incorporated under a certain name in the District of Columbia.

To obviate the necessity of continually appealing to Congress to incorporate or grant charters incorporating people for the purposes of this and like character in the District of Columbia, Congress has already provided a method by which charters can be obtained in the District of Columbia. But that is too small a business for gentlemen who aspire to have the authority and prestige of the United States Government given them by special charters. They want the power and the prestige and the authority of the Government of the United States behind them. I do not believe, Mr. Speaker, that Congress either has the power to grant this sort of charter, or that it ought to be the policy of Congress to grant it.

Congress, if it saw fit, if it has the power, if it has the constitutional authority to grant indiscriminate charters of this kind, or every kind, it has it by reason of its supreme sovereignty over subjects matter of this character, by reason of its inherent power as a sovereign to grant charters, however far the courts may have gone with reference to extending the powers of Congress to grant charters. However far the courts may have gone with reference to extending the powers of Congress, the Supreme Court of the United States has never yet decided that Congress had any inherent power to grant a charter. On the contrary, the only enunciation upon that subject has been

that Congress did not have the inherent power to grant charters, and it only had power to grant them when it undertook to give to the corporation some public duty or performs some act for the Government.

I instance other occasions that carried out that theory, namely, when you created a bank to become the fiscal agent of the Government or to issue money as part of the fiscal agent of the Government, in the case of the United States Bank or the National Bank, or in the case of the incorporation of the great transcontinental railroad companies, with authority to convey the military forces of the United States or develop the undeveloped lands of the United States and another, where they granted the right of a bridge company to build a bridge across a navigable stream, by reason of the fact that Congress could regulate interstate commerce and had control of the navigable streams of the country. Those are the only charters which the courts have yet approved as being within the power of Congress to grant. Here we have applications for charters of various kinds. There is, if I mistake not, upon the calendar an application to charter a national board of trade. Whenever a body of men want to display themselves before the United States or the world as something beyond the common ordinary corporations that can get a charter from the States or the District of Columbia or the Territories, they want attached to it the great seal of this great Republic, in order to give them prestige and power at home and abroad. So far as I am concerned, Mr. Speaker, I am deaf to all appeals like this and all requests to me to withdraw any objections I may have with reference to granting this kind of charter.

This charter, like the others, gives the incorporation power to hold real and personal property. Without some statement being contained in the bill to the contrary, it might be held by the courts, and doubtless it would be so held, that a State could not tax the property of a corporation that was incorporated by Congress, if Congress had authority to grant the charter. That was the decision in the case of McCullough against Maryland.

Mr. CULLOP. Mr. Speaker, I would like to ask the gentleman a question.

The SPEAKER. Does the gentleman yield?

Mr. BARTLETT. With pleasure, I yield to the gentleman from Indiana.

Mr. CULLOP. I see by section 5 it is provided that—

The American Academy of Arts and Letters be, and the same is hereby, authorized and empowered to receive bequests and donations on real or personal property and to hold the same in trust, and to invest and reinvest the same for the purpose of furthering the interests of literature and the fine arts.

Now, by the provision of that section could not the organization enter into speculation in both real and personal property? It has the right under this provision to invest and reinvest. That, of course, would give the power to convey and to have conveyed and to buy and sell as a speculative matter, and easily it might take shelter under the other provision of the act. Now, has it not the power under that provision?

Mr. BARTLETT. The power is to hold and to receive donations of real and personal property, "and to hold the same in trust, and to invest and reinvest the same for the purpose of furthering the interests of literature and the fine arts." I do not doubt but that they could receive donations, which they could increase by investment either in personal or real estate. I do not know about speculation. I apprehend these gentlemen do not speculate. I do not know that they do. Anyhow, there is nothing in the charter to prevent them doing what the gentleman from Indiana thinks they might do. In other words, it would not be ultra vires, in order to increase their profits and administer the property they had, to speculate either in personal or real estate.

Mr. CULLOP. Now, if the power is given under that provision to purchase and sell real estate, although the intention for which the organization is to be incorporated now may be of the character expressed in the bill, yet in the succeeding management of the trustees the intention might be changed, and still under this provision, if it did change, they would have the right to enter it upon a business career and buy and sell and speculate, and should not that section, at least, be amended if the bill is passed?

Mr. BARTLETT. There is no limit in this bill at the present time as to what this corporation may do in the matter of holding and investing and reinvesting in property for the purpose of increasing its profits.

Mr. CULLOP. Mr. Speaker, will the gentleman yield further there?

Mr. BARTLETT. Yes; certainly.

Mr. CULLOP. Now, before the passage of this bill ought not some limitation be made as an amendment to section 5 to prevent just such procedure as that?

Mr. BARTLETT. I think it ought to be made. But so far as I am concerned, Mr. Speaker, I am not interested in perfecting a bad bill in order to enable it to pass, when I do not think that, however good it may be, I would under any circumstances vote for it. I am opposed to this kind of legislation, not altogether upon the idea that it is not as good as we may make it but because no matter how good you make it it is bad, and I shall not vote for it on other grounds. There is no purpose, Mr. Speaker, however good, that would lead me to support such a bill as this. I want to say that I voiced these views even when the purpose was good, as in the case of the Red Cross Society, when its incorporation was proposed here. I have said I would not vote for the incorporation of the Carnegie Fund, or vote to incorporate the Red Cross Society or the National Board of Trade. There is no purpose, however good, Mr. Speaker, which would induce me to forsake the position that I have occupied upon legislation of this kind, and that position is that such legislation ought not to find in this House a place to be considered and adopted. My objection to this legislation goes to the root and foundation of it, and not to the details of it.

Mr. WILLIS. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. Yes; I yield to the gentleman.

Mr. WILLIS. Does the gentleman find in this bill any reservation to a future Congress of the power to change or amend or alter the charter in any respect?

Mr. BARTLETT. I have not found it, but that power rests in Congress whether it is there or not.

Mr. WILLIS. The Dartmouth College case involved that question.

Mr. BARTLETT. Yes; and the Dartmouth College case has been in many cases departed from since that decision.

Mr. WILLIS. If the bill is to pass—and I am not in favor of its passage in its present form—ought there not to be a section inserted reserving the power to amend, alter, or repeal in a future Congress?

Mr. BARTLETT. It would not only be safe, but it would be advisable to amend it in that respect.

Mr. CULLOP. Mr. Speaker, will the gentleman yield again?

Mr. BARTLETT. Yes.

Mr. CULLOP. Does the gentleman believe that in the granting of a charter, even one that is proper at any time, we should make it perpetual? This is a perpetual charter which is asked for.

Mr. BARTLETT. No; I do not, and the amendment suggested by the gentleman from Ohio [Mr. WILLIS] would cure that feature.

Mr. CULLOP. Does the gentleman think that any charter ought to be granted for a longer period than 50 years? That is half a century.

Mr. BARTLETT. I would not think it ought to be longer. It depends on the purposes of the corporation and what they are required to do.

Now, Mr. Speaker, at the proper time I want to make a motion to strike out the enacting clause. I could not add to my objections if I were to repeat them, nor could I enforce them with any additional statement which I might make.

Mr. HAMILTON of Michigan. Will the gentleman yield for a question?

Mr. BARTLETT. With pleasure.

Mr. HAMILTON of Michigan. The inquiry of the gentleman from Indiana prompts me to submit an inquiry to the gentleman from Georgia as to whether he has any information as to the basis upon which this illustrious list was limited to 50?

Mr. BARTLETT. I have not.

Mr. HAMILTON of Michigan. Take for illustration the State of Indiana. Everybody knows that malaria in that State, commingled with natural gas, has been transformed into inspiration for genius. Yet we have in this list only one genius from Indiana. I want to know why George Ade and Booth Tarkington and the two McCutcheons have been excluded from this illustrious list? [Laughter.]

Mr. CULLOP. And Charles S. Major.

Mr. TOWNER. The gentleman should not forget the Sweet Singer of Michigan.

Mr. HAMILTON of Michigan. I do not forget any of the sweet singers of Michigan, but time will not permit me even to attempt to enumerate them.

Mr. BARTLETT. I can not answer the gentleman, except to say that it must appear from the colloquy between my friend from Kentucky [Mr. SHERLEY] and the gentleman from New Jersey [Mr. TOWNSEND] that these 50 immortals have met, either by themselves or in company with others who were willing to give them as much immortality of this sort as they could in this way, and put them forward as the 50 immortals who alone are worthy of this great consideration at the hands of Congress.

Mr. HAMILTON of Michigan. The gentleman will concede that it is not fair to Indiana.

Mr. TOWNSEND. If the gentleman will yield, I will say that Booth Tarkington, George Ade, and the entire McCutcheon family, as well as a large and estimable collection from the literary belt of Indiana, are already members of the institute. As suggested by my friend from Missouri, Mr. SHACKLEFORD, they are already members of the lower house, and undoubtedly will be elevated to the upper house when they grow older and are more dignified and have a more fatherly expression. George Ade is a very young-looking man and so is Booth Tarkington. The McCutcheon family range from 10 to 70. I do not know how many of them there are. They are all brilliant. They are Indianans, and that means that they are brilliant. They are all in the institute and they will all be in the academy some day, and that ought to satisfy the gentleman from Indiana.

Mr. HAMILTON of Michigan. No; I am from Michigan. But I want to ask the gentleman, is antiquity an essential element in eligibility to this list?

Mr. TOWNSEND. Not at all; but the gentleman has observed the progress of the work of artists and literary men, and he knows that they do not do their work best while they are in knickerbockers.

Mr. BARTLETT. Mr. Speaker, I want to say in conclusion that I am sorry that these distinguished gentleman from Indiana who have been referred to are not named in this bill if they desire to be. If they were, no doubt their names would add something to it; but whether those who have been left out were put in or whether those who have been embraced were stricken from it, I should still oppose the measure, although I might do so more reluctantly if the gentlemen from Indiana who have been referred to were among the incorporators.

I now yield to the gentleman from Missouri [Mr. SHACKLEFORD] 10 minutes.

The SPEAKER pro tempore (Mr. HOUSTON). The gentleman from Missouri [Mr. SHACKLEFORD] is recognized for 10 minutes.

Mr. SHACKLEFORD. Mr. Speaker, at the proper time I desire to offer this amendment as a new section:

SEC. 6. That said corporation shall not have power to buy, sell, rent, lease, or hold any real estate or any interest in any real estate for the purpose of deriving profit therefrom; that any real estate or any interest in any real estate which it shall receive by gift, grant, bequest, devise, or donation shall be converted into cash by public sale upon reasonable notice within one year from the time it is so received.

Mr. Speaker, this is said to be a harmless little corporation. I hope it is so. I hope it is only one of the highbrowed frills of upper literarydom; but I am not concerned with that feature.

The Committee on the Library has been bringing in here from time to time bills for Federal incorporation, conferring special privileges and special favors—privileges and favors not enjoyed by corporations otherwise incorporated.

If one corporation were all, I should not look with so much horror upon the possibilities of this legislation, but with the multitudinous number of these corporations coming in we shall have over this country a landlordism and a tenantry that will put old Ireland to shame.

There is now pending upon the calendar the bill for the incorporation of the Rockefeller Foundation Fund, authorizing it to invest $100,000,000 in real estate if it so desires. If they would take $100,000,000 into the State of my good friend, the gentleman from Mississippi who sits just in front of me [Mr. SISSON], and invest it in farm lands to-day, in 10 years that $100,000,000 would grow to be worth $1,000,000,0000, and upon that billion dollars' worth of real estate owned by the proposed corporation would be a tenantry as much subject to Rockefeller and his tribe as have been the unhappy citizens of old Ireland to the English landlords in days gone by.

Mr. Speaker, the lands of this country ought to belong to the people who live upon them.

It is said that the purposes of these corporations are for charity, for literature, for uplifts. But, Mr. Speaker, the capital they have is not devoted to that purpose. The capital of the Rockefeller Foundation is to be devoted to earning profit in competition with the citizens of this country who have to make a living for themselves and their families. The rents and profits that shall be derived by the Rockefeller Foundation Fund, by this high-browed literary crowd, and by the multitudinous other corporations that are being given these special charters, will all be brought to Washington and held in the District of Columbia. It is not for the common welfare that there should be built up in the capital at Washington the immense capitalism that these bills will stimulate. This capital ought not to be made the center of wealthy classes who drain profits from every part of the Republic, whether for charity, for self-enrichment, for the uplift of high-browed literati, or for any other purpose. The effects of such a policy must be vicious and hurtful to our people.

A few years ago foreign landlordism became so grievous that some of our States had to legislate against it. One English earl owns, I am told, 20,000 acres of the finest and fairest farm land in Missouri. It is inhabited by his tenants. He is farming in competition with the citizens of my State and taking the profits away to far-off England.

But, Mr. Speaker, that is not nearly so bad as to have corporations housed and homed here in Washington, with illimitable capital, with power of making illimitable investment in lands to be used to earn profit in competition with the people who have to earn a living for themselves and families.

What does Rockefeller want to do? Take his money and give it to charity? No; he wants to pursue the same line he has always pursued, of grasping profit in competition with the people. He says he will devote the profits to charitable purposes. Who will be the judge? The toplofty board of directors will be the judge as to what constitutes charity.

Mr. Speaker, an overspreading and overawing monopoly of land owned by the proposed Rockefeller Foundation Fund ought not have life breathed into it by Congress. It is said to be for charity; but that makes no difference. It would be oppressive to the people none the less.

Mr. SLAYDEN. Mr. Speaker, I will use five minutes of my time.

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT. Do I lose any of my rights or my time by not using it now?

The SPEAKER pro tempore (Mr. HOUSTON). The Chair thinks not.

Mr. SHACKLEFORD. Mr. Speaker, I ask unanimous consent to extend and revise my remarks.

The SPEAKER pro tempore. The gentleman from Missouri asks unanimous consent to extend and revise his remarks. Is there objection?

There was no objection.

Mr. SLAYDEN. Mr. Speaker, I have listened with interest to the eloquent and earnest remarks of my friend from Missouri [Mr. SHACKLEFORD], who always talks interestingly and sometimes convincingly; but I am afraid that in this instance he has set up a man of straw, and particularly is he wrong in his apparent charge against the Committee on the Library of having furthered that monstrosity, the Rockefeller Foundation, the aspect of which so affrights him.

The committee had nothing to do with that. As a Member of this House, I did say when the matter was up the other day that if Mr. Rockefeller wanted, out of his huge fortune, to give the people of this country $100,000,000 I would not object; that if he wanted to double the amount and turn it over to the public I should rejoice twice as much. My understanding of that bill was that he was not giving or investing this money for profit to retain control himself, but that he gave the principal to the Rockefeller Foundation, the earnings of which presumably will go on for centuries after Mr. Rockefeller has been gathered to his fathers and will be devoted to the spread of science and the advancement of medical and other branches of science in the interest of the human family.

But that has nothing to do with the bill. A statement was made by the gentleman from Ohio [Mr. WILLIS] to the effect that the bill should be amended so as to give Congress the right to alter, amend, or repeal the act. I want to say, in reply to the suggestion of the gentleman, that I have not the slightest objection to that being done. Nor have I any objection to the essence of what was proposed by my friend from Missouri [Mr. SHACKLEFORD]. Mr. SHACKLEFORD'S argument was, when you get away from his talk about the Rockefeller Foundation and the monstrous accumulation of money in the hands of Mr. Rockefeller, that he objected to having the corporation become a landlord and objected to it owning large quantities of land from which it could exact rent forever. Mr. Speaker, I am not lacking in sympathy with that suggestion, and when properly shaped I think I would be willing, and I think the other members of the Committee of the Library would be willing, to accept it as an amendment to the bill.

This committee wants to do whatever is right to shape this measure, so that if this body of men is ever created it will be for the good of the public. If there shall be selected a few of these "high-brow" literati the gentleman speaks about, we want them chosen because of merit. We want them to be the most distinguished men in the country for art and letters. We want membership in that body to be an inspiration to the younger men in those various branches of the fine arts, to drive them on to better and ever better work, in order that they may

reflect glory upon themselves and be a credit to the country. I take it for granted, Mr. Speaker, that there is not much question of the right of this Congress to grant such a charter. It has done so in many instances. Whether that is a proper power to lodge with this body is not a question to-day. But I believe it has the power. I could not of course enter into a discussion of fine legal points with my learned friend from Georgia [Mr. BARTLETT]. I believe it has the power. The only question is whether it can exercise it with wisdom on this occasion.

Mr. HOBSON. Mr. Speaker, will the gentleman yield?

Mr. SLAYDEN. Yes.

Mr. HOBSON. I simply want to ask whether this measure, as drawn, still reserves to Congress sole authority to modify, repeal, or revoke it.

Mr. SLAYDEN. I have just stated that an amendment of that kind was suggested by the gentleman from Ohio [Mr. WILLIS], and I was quite willing to accept it as an amendment to the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, I yield 10 minutes to the gentleman from Texas [Mr. DIES].

Mr. DIES. Mr. Speaker, before the very, very brief discussion that I want to give to the measure, I desire to beg leave respectfully to disagree with the sentiment expressed by my colleague [Mr. SLAYDEN]. I would not have the American Nation take the Rockfeller millions or the Carnegie millions. This is a great, a wealthy, and a wonderful nation of people. Our children ought to be taught that the accumulation of great wealth or the accumulation of wealth in any quantity, by means deemed in the eye of public justice to be wrong, is a disgrace to those who acquire it, rather than an honor. I commiserate men like Mr. Carnegie who want to bribe history and ameliorate the judgment of posterity upon their business careers; but as a Member of this great Congress I am not willing to help them soothe the wounds that come to them from having pursued a course which pricks their conscience.

Mr. Speaker, I shall vote against this bill, unless some satisfactory explanation of its origin and its purpose shall be presented to the House. I want to know by what process this committee selected these particular 50 names to incorporate in a sort of body of nobility of letters and arts and make them the 50-charter members upon which to base this exclusive order in America.

For instance, if another society selected these 50 names I would like to know the processes by which they selected them; and if they were selected by this committee I hope its chairman or some member of the committee will tell us how it arrived at the conclusion that these particular 50 names were entitled, by reason of their greatness in achievement, to have the seal of approval placed upon them by the Congress of the United States.

Mr. TOWNSEND. Mr. Speaker, will the gentleman yield in order that I may give him an answer to his inquiry?

Mr. DIES. Mr. Speaker, I strove with such vigor to obtain that information during the gentleman's remarks that I shall now have to forego the pleasure of hearing his explanation at this moment.

Mr. GARRETT. Mr. Speaker, will the gentleman yield?

Mr. DIES. Certainly.

Mr. GARRETT. Will the gentleman not add to the inquiry which he has made this: That there shall be an explanation of what this corporation is to do after it is created?

Mr. DIES. Precisely. That is true; and moreover, of course, you and I have read all the books and viewed all the paintings and gazed upon all of the sculpture, the product of these wonderful hundred hands; but perchance some gentleman from Indiana or from some Western State which is new, grown up like a mushroom, which has not yet produced its names for immortality, whose people have been too busy in careers of farming or politics—perchance they have not yet had time to gaze upon this architecture, this sculpture, these paintings; and gentlemen, before they vote as Members of Congress to set up an order of superiority, would like to know if the committee has gone into the merits of these several productions. I know you would at least like to know something about it yourselves.

Of course, you understand what Thomas Raynesford Lounsbury, of Connecticut, has done, and you understand what John Singer Sargent, of Massachusetts, has done, what Horace Howard Furness, of Pennsylvania, has done. That is known to all of you—that is, those of you who have devoted hours to the pursuit of knowledge and of literature and of art—as well as it is known to myself; but ought I, because my life has been more fortunate than yours, because the gentleman from New Jersey [Mr. TOWNSEND], for instance, and myself in our closets have delved into these wonderful works and gazed upon these wonderful works of art and read the productions of these wonderful men—ought we to take snap judgment on you gentlemen who are more or less rustic in the arts and in literature? [Laughter and applause.]

For myself, Mr. Speaker, as I gaze back now upon my moments of leisure, when I pored over literature and read the works of critiques of art while a good many of you were busily engaged getting elected to Congress, in the magnanimity of my soul, I am not willing to vote these 50 men upon you until you at least know which ones are painters, which sculptors, and which are authors. [Laughter and applause.]

Mr. HOBSON. Mr. Speaker, will the gentleman yield?

Mr. DIES. Certainly.

Mr. HOBSON. I do not desire to interrupt the charming flow of the gentleman's discourse, but I would like to know whether he should not regard the persons included in this particular list more as a matter of business, incorporated for promotive purposes, rather than as a matter of selection?

Mr. DIES. I take the explanation of a member of the committee, the gentleman from New Jersey [Mr. TOWNSEND], who says it is to be likened to the Academy of Arts in France, where it is worth a king's ransom to have your name enrolled, and where the body corporate places a badge of honor upon the remotest generations.

Mr. HOBSON. That is the gist of the question I am asking the gentleman. Does he regard a corporate body in America that might have any names, irrespective of accomplishments, that might involve many business operations in promotion of this or any other business, because they are incorporated and are made a body apart, subject to the laws——

Mr. DIES. And I say, in no degree of pique or resentment, that that new raw-beef-producing State of Texas is not honored with an inclusion here. I do not feel at all piqued that the great Southern States and the great Western States are not honored at all with an inclusion here. I know that we have come up like a mushroom. I know, of course, that we are new in the business, and could hardly be expected to be included in this list of men of letters. And, on the subject of lists, Mr. Speaker, I am just about thinking who would have been considered to have written the works of Shakespeare if these 50 had passed upon it? How about the letters of Junius, about which the world has never decided the authorship? And I am wondering as to Michael Montesquieu, when he presented his manuscript to the greatest pursuers of literature and art in France, and they said that its publication would disgrace him, if these 50 had to do with them?

I would not establish a corporation of literature and art in this country, where men may adorn themselves with badges and support themselves on the balance of the citizens. But if your committee want to do it, let us do it in a businesslike way.

Mr. BARTLETT. Mr. Speaker, I yield five minutes to the gentleman from Mississippi [Mr. SISSON].

Mr. SISSON. Mr. Speaker, I could not undertake to give all my objections to this bill in five minutes. I agree very heartily with what the gentleman from Missouri [Mr. SHACKLEFORD] and the gentleman from Texas [Mr. DIES] have said in reference to this bill, but my chief objection to the bill as it is now drawn is section 5. In the first place, I am opposed to any corporation, either State or Federal, owning any land for agricultural purposes, and I am unwilling the corporation shall own the land for any other purpose than that of executing the purpose for which the corporation was chartered. I am willing for a corporation to own land for the purpose of establishing manufacturing plants, building railroads, etc., but not to own land to rent, farm, or to speculate in, for there is no monopoly that is half so wicked as a land monopoly.

Now, in all of these charters that are being issued like this an effort is being made to get estate in land so that the income of the corporation will be fixed and permanent and nothing can be found that will be so permanent for vast sums of money as to invest in real estate.

Mr. SLAYDEN. Will my friend from Mississippi permit me a moment?

Mr. SISSON. Certainly.

Mr. SLAYDEN. Did you hear my statement that we were quite willing to accept an amendment to meet that objection about land owning?

Mr. SISSON. That does not mean necessarily that the amendment would pass the House. I presume it would if the gentleman would accept it. But it shows how poorly this bill has been conceived. It shows that the bill originally conceived the idea of permitting incorporations of this kind to buy and

sell and deal in and own real estate. I am opposed to any Federal charter that would grant to a Federal incorporation the right to own and to control land in any State.

Now, the gentleman from Texas [Mr. SLAYDEN] says that he is willing to accept the amendment offered by the gentleman from Missouri [Mr. SHACKLEFORD]. Some of these charters which have been passed have no such limitation or restriction in them as that, and I am glad the gentleman from Texas is now willing to accept that amendment. I also understand the gentleman from Texas is willing to accept an amendment limiting the life of a charter to 50 years.

Mr. SLAYDEN. What I said was at the suggestion of the gentleman from Ohio [Mr. WILLIS], which was as to the right of Congress to alter, amend, or repeal.

Mr. WILLIS. The gentleman states it correctly.

Mr. SISSON. This House on several occasions in the past has declined to grant charters of any kind for longer than 50 years. I do not know why this corporation should be exempt. But I sincerely trust that in the future when bills of this kind are brought into the House there will be no power in the bill granting the corporation authorizing them to own real estate in any of the States except just so much as is necessary to transact properly the business for which the corporation is organized. Why, out in my own State millions of dollars are being invested in farm lands by corporations organized in England, in Holland, in New Jersey, and in other places which grant the most liberal charters, and many thousands of acres of land in my State are passing out of the hands and control of the people of the State. The trouble with Ireland to-day is the fact that the land of Ireland is not owned by the Irish people. The revolution in Mexico to-day finds its reason originally in the landlord system in that country. There is a man in Mexico who owns an estate, which he got from a Spanish land grant, that is two-thirds as large as my own State. In other words, gentlemen of the House, no monopoly can ever be half as wicked as a land monopoly, and if this bill should pass as it was originally drawn it would give these people the right for all time to come to own real estate and to continue to buy real estate.

In the past the English people have had trouble with great corporations owning lands and passing them into dead hands so that the ownership may be perpetual.

The SPEAKER. The time of the gentleman has expired.

Mr. SISSON. Will the gentleman from Georgia give me a few minutes more?

Mr. BARTLETT. I yield three minutes more to the gentleman.

The SPEAKER. The gentleman from Mississippi [Mr. SISSON] is recognized for three minutes more.

Mr. SISSON. The struggle in England in reference to the ownership of land in the early days was a terrific struggle, because so much land had passed out of the hands of the people and into the hands of the church. Now, no man will deny that the establishment of the Christian church was one of the greatest of all the purposes of the organization of a corporation or any other institution in the world, and because this organization now under discussion happens to be an organization which intends to promote letters and the arts is no reason why it should become a part of numbers of corporations that may go out and own and operate farms in competition with the people of your State and mine.

Mr. GARNER. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Mississippi yield to the gentleman from Texas?

Mr. SISSON. Yes.

Mr. GARNER. Is it not a fact that a number of the States have adopted in their constitutions provisions which force all corporations to alienate their lands except what they have in actual use?

Mr. SISSON. Yes. In the constitution of the State of Oklahoma it is provided that no corporation shall own any land except for agricultural purposes, and that three years after the acquirement of an estate, if it is bought in to satisfy a judgment or other indebtedness, they are compelled to alienate the land. In the State of Illinois, in the case referred to by the gentleman from Missouri [Mr. SHACKLEFORD], a law was passed to prevent a corporation from owning farm lands and to prevent monopoly.

Mr. MANN. If the gentleman will yield, I will say we do not allow any corporation to own land for any purpose except for the purpose of incorporation.

Mr. GARNER. We require the same thing in the State of Texas.

Mr. CARLIN. And we require the same thing in Virginia.

Mr. SISSON. But many of the States of the Union do not do that. We had to pass in the Legislature of Mississippi, at the last session of the legislature, a law to prevent the corporate ownership of land, because in one body 80,000 acres of land had passed into the hands of an English syndicate, which proposed to farm it out with the cheapest labor they could get. The law in my own State is not half as drastic as it should be. The people of my State raised quite a protest, and the State legislature has endeavored to stop it, but have not gone far enough.

The SPEAKER. The time of the gentleman from Mississippi has again expired.

Mr. BARTLETT. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has 10 minutes remaining.

Mr. BARTLETT. I yield 10 minutes to the gentleman from Missouri [Mr. BORLAND].

The SPEAKER. The gentleman from Missouri [Mr. BORLAND] is recognized for 10 minutes.

Mr. GARRETT. Mr. Speaker, I make the point that there is no quorum present.

The SPEAKER. The gentleman from Tennessee [Mr. GARRETT] makes the point that there is no quorum present. Evidently there is not.

ADJOURNMENT.

Mr. GARNER. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from Texas [Mr. GARNER] moves that the House do now adjourn. The question is on agreeing to that motion.

The question was taken, and the Speaker announced that the "ayes" seemed to have it.

Mr. MANN. Mr. Speaker, I demand a division.

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands a division.

The House divided; and there were—ayes 49, noes 23.

So the House decided to adjourn.

Accordingly (at 5 o'clock and 20 minutes p. m.) the House adjourned until to-morrow, Thursday, January 16, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the president of the Chesapeake & Potomac Telephone Co., transmitting, pursuant to law, the annual report of said company for the year 1912 (H. Doc. No. 1270); to the Committee on the District of Columbia and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Acting Secretary of Commerce and Labor, reporting claims for damages which have been considered, adjusted, and determined by the Commission of Lighthouses in favor of the Union Steamship Co. and in favor of the S. E. Slade Lumber Co., all of San Francisco, Cal. (H. Doc. No. 1269); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. GARDNER of Massachusetts, from the Committee on the Library, to which was referred the joint resolution (H. J. Res. 369) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., reported the same without amendment, accompanied by a report (No. 1302), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FLOOD of Virginia, from the Committee on Foreign Affairs, to which was referred the joint resolution (S. J. Res. 132) providing for an American commission for the investigation of rural credits in Europe, reported the same without amendment, accompanied by a report (No. 1303), which said bill and report were referred to the House Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 27713) granting an increase of pension to Annie Conroy, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. RUSSELL: A bill (H. R. 28093) to amend the general pension act of May 11, 1912; to the Committee on Invalid Pensions.

By Mr. McCOY: A bill (H. R. 28094) to amend section 96, chapter 5, of the act of Congress of March 3, 1911, entitled "The Judicial Code"; to the Committee on the Judiciary.

By Mr. STEPHENS of Texas: A bill (H. R. 28095) authorizing the Secretary of the Interior to make per capita payments to members of the Five Civilized Tribes; to the Committee on Indian Affairs.

By Mr. CARY: A bill (H. R. 28096) granting an increase of compensation to bookbinders, printers, and pressmen in the Government Printing Office; to the Committee on Printing.

By Mr. CARLIN (by request): A bill (H. R. 28097) to establish land and coin banks and to increase the currency; to the Committee on Banking and Currency.

By Mr. DIES: A bill (H. R. 28098) to authorize the construction of a bridge across the Sabine River at Orange, Tex.; to the Committee on Interstate and Foreign Commerce.

By Mr. RAKER: A bill (H. R. 28099) to amend an act entitled "An act to establish postal savings depositories for depositing savings at interest with security of the Government for repayment thereof, and for other purposes," approved June 25, 1910; to the Committee on the Post Office and Post Roads.

By Mr. MOORE of Pennsylvania: A bill (H. R. 28100) authorizing the Secretary of the Navy to recover the hull, guns, and other equipment of the U. S. frigate *Philadelphia*, now lying in the harbor of Tripoli, and making appropriation therefor; to the Committee on Appropriations.

By Mr. GALLAGHER: Resolution (H. Res. 776) instructing the Committee on Banking and Currency to investigate profits of national banks, and to make report of such facts as it ascertains; to the Committee on Banking and Currency.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANSBERRY: A bill (H. R. 28101) granting an increase of pension to Benjamin F. H. Hankins; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 28102) granting an increase of pension to Mary H. Johnston; to the Committee on Invalid Pensions.

By Mr. CARY: A bill (H. R. 28103) granting a pension to Catherine C. Weeks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28104) granting a pension to Mary MacArthur; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28105) granting an increase of pension to Mary A. Stewart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28106) granting an increase of pension to Robert Pratt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28107) granting an increase of pension to Fritz Janzen; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 28108) granting an increase of pension to John T. Langley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28109) granting an increase of pension to Reuben S. McClun; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 28110) for the relief of F. G. Hodges; to the Committee on War Claims.

Also, a bill (H. R. 28111) for the relief of the heirs of John Van Landingham; to the Committee on War Claims.

By Mr. FOWLER: A bill (H. R. 28112) granting a pension to Daniel Linder; to the Committee on Pensions.

By Mr. GOULD: A bill (H. R. 28113) granting an increase of pension to Benjamin F. Hall; to the Committee on Invalid Pensions.

By Mr. GRAY: A bill (H. R. 28114) granting a pension to Rebbecca S. Merritt; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 28115) granting a pension to Priscilla E. Fletcher; to the Committee on Pensions.

Also, a bill (H. R. 28116) to amend and correct the military record of Robert Pearson; to the Committee on Military Affairs.

By Mr. KONOP: A bill (H. R. 28117) granting a pension to Virginia M. Gaspard; to the Committee on Pensions.

By Mr. LANGHAM: A bill (H. R. 28118) granting an increase of pension to W. P. Altman; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 28119) granting an increase of pension to Araminta Ward; to the Committee on Invalid Pensions.

By Mr. LINDBERGH: A bill (H. R. 28120) granting a pension to Jacob Heffley; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 28121) for the relief of M. E. Russell; to the Committee on War Claims.

Also, a bill (H. R. 28122) granting an increase of pension to Levi W. Moore; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28123) granting an increase of pension to Theresa Reed; to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 28124) granting a pension to Margeret E. Plummer; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 28125) granting an increase of pension to George W. Livengood; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 28126) granting a pension to Hannah Kizer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28127) granting an increase of pension to Cyrus W. Patch; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28128) granting an increase of pension to Ryerson J. Parkhurst; to the Committee on Invalid Pensions.

By Mr. RAINEY: A bill (H. R. 28129) granting a pension to Eliza Browning; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28130) granting a pension to Mary McKee; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 28131) granting a pension to Charles Thomas; to the Committee on Pensions.

By Mr. REYBURN: A bill (H. R. 28132) granting an honorable discharge to George M. Bryan; to the Committee on Military Affairs.

By Mr. SMITH of New York: A bill (H. R. 28133) granting an increase of pension to Michael Minehan; to the Committee on Invalid Pensions.

By Mr. SPEER: A bill (H. R. 28134) granting an increase of pension to William Ashton; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: A bill (H. R. 28135) granting an increase of pension to Laura Hill; to the Committee on Invalid Pensions.

By Mr. VARE: A bill (H. R. 28136) granting an increase of pension to George D. Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28137) to correct the lineal and relative rank of First Lieut. Thomas J. Leary, Medical Corps, United States Army; to the Committee on Military Affairs.

By Mr. YOUNG of Kansas: A bill (H. R. 28138) granting an increase of pension to Benjamin Butler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28139) granting an increase of pension to George Klonz; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Resolutions of the Senate and House of Representatives of the State of Vermont, making application to Congress, under provisions of Article V of the Constitution of the United States, favoring the passage of legislation amending the Constitution so as to prohibit polygamy and polygamous cohabitation; to the Committee on the Judiciary.

By Mr. ASHBROOK: Petition of J. E. Russell and 40 other citizens of West Lafayette, Ohio, favoring the passage of the Webb-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of Dr. J. A. Honabargar and 4 other citizens of Warsaw, Ohio, asking for an appropriation for the continuance of an investigation as to the cultivation of ginseng and goldea seal; to the Committee on Appropriations.

By Mr. CALDER: Petition of the Brooklyn Institute of Arts and Sciences, favoring the passage of the Crawford-Sulzer bill for an international conference on the high cost of living; to the Committee on Foreign Affairs.

By Mr. CARY: Petition of the Crex Carpet Co., New York, protesting against any legislation for the reduction of tariff on matting, carpeting, etc.; to the Committee on Ways and Means.

Also, petition of the American Machine Tool Manufacturers, protesting against the passage of any legislation for the reduction of tariff on machine tools, etc.; to the Committee on Ways and Means.

Also, petition of the social science section of the American Association of Advanced Science, favoring the passage of Senate bill 3 for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Wisconsin beet sugar companies, protesting against any reduction of tariff on all raw and refined sugar; to the Committee on Ways and Means.

By Mr. CURRIER: Petition of New Hampshire merchants and business men, favoring the passage of legislation granting the Interstate Commerce Commission further power toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

Also, petition of the New Hampshire Historical Society, favoring the passage of legislation making an appropriation for the preservation of the national archives; to the Committee on the Library.

By Mr. GUERNSEY: Petition of W. W. Ansby, favoring the passage of legislation for the construction of the Lincoln memorial road from Washington to Gettysburg; to the Committee on the Library.

By Mr. HAYES: Petition of the Chamber of Commerce of San Francisco, Cal., favoring the passage of House bill 22589, making an appropriation for the building of embassy, legation, etc., buildings; to the Committee on Foreign Affairs.

Also, petition of P. W. Deckman, Omard, Cal., favoring the passage of House bill 19800, granting pension to veterans of the Indian wars; to the Committee on Pensions.

Also, petition of Judson G. Wall, New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Chamber of Commerce of San Francisco, Cal., protesting against the reduction of tariff on raw and refined sugars; to the Committee on Ways and Means.

Also, petition of S. H. Frank & Co., of San Francisco, Cal., favoring the passage of legislation for the reduction of duty on tanning extracts; to the Committee on Ways and Means.

Also, petition of R. F. Shackelford, Bakersfield, Cal., favoring the amending of House bill 5392—the Sutherland compensation bill; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of Josiah Whippey, Newell, W. Va., favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of the Navy League of the United States, of Washington, D. C., favoring the passage of House bill 1309, for a council of national defense; to the Committee on Naval Affairs.

By Mr. PADGETT: Petition of citizens of the seventh district of Pennsylvania, favoring the passage of legislation compelling all concerns selling goods direct to the consumer entirely by mail to contribute their portion of the funds for the development of the local community, etc.; to the Committee on Interstate and Foreign Commerce.

By Mr. REYBURN: Petition of the Philadelphia Chamber of Commerce, favoring the passage of legislation for the construction of a 1,700-foot dry dock at League Island; to the Committee on Naval Affairs.

By Mr. ROBERTS of Massachusetts: Petition of citizens of Stoneham, Mass., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. SCULLY: Petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Pine Bluff Lodge, No. 305, Brotherhood of Railroad Trainmen, protesting against the passage of the workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the National Society for the Promotion of Industrial Education, New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Columbia and Snake River Waterways Association and other business clubs, etc., of Idaho and Washington, favoring the passage of legislation making an appropriation of $1,400,000 for the completion of the Celilo Canal; to the Committee on Rivers and Harbors.

By Mr. SLOAN: Petition of the Methodist congregation of Geneva, Nebr., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. TILSON: Petition of the Connecticut Pharmaceutical Association, favoring the passage of House bill 25834; to the Committee on Ways and Means.

By Mr. GUERNSEY: Petition of residents of Monticello, Me., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. VARE: Petition of the Blaisdell Paper Pencil Co., Philadelphia, Pa., protesting against the proposed reduction of tariff on lead for pencils; to the Committee on Ways and Means.

By Mr. WILLIS: Papers to accompany House bill 28091, granting a pension to William Ash; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: Petition of Judson G. Wall, of New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

SENATE.

THURSDAY, *January 16, 1913.*

Rev. Oliver Johnson, of Winnsboro, S. C., offered the following prayer:

Our Father, who art in heaven, we all need that wisdom which cometh down from above, which is first pure, then peaceable, gentle, easy to be entreated, full of mercy and good fruits, without partiality and without hypocrisy. Make each of us earnestly to desire that his wisdom may be Thy wisdom and his will Thy will, that the Divine approval may rest upon all our acts. And whatsoever things are true and honest and of good report, may we think on those things, and so think on them that we shall love them and do them. Through our Lord Jesus Christ. Amen.

The Journal of yesterday's proceedings was read and approved.

FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact and conclusions filed by the court in the following causes:

Benjamin Jarvis *v.* United States (S. Doc. No. 1011).
James Munns *v.* United States (S. Doc. No. 1012).
Charles M. Marshall *v.* United States (S. Doc. No. 1013).
James J. Buck *v.* United States (S. Doc. No. 1014).
Richard L. Gorman *v.* United States (S. Doc. No. 1015).
Louis W. Knobe *v.* United States (S. Doc. No. 1016).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and opinion filed by the court in the case of T. L. Love, surviving partner of Robert Love & Son, *v.* United States (S. Doc. No. 1017), which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a memorial of members of the National Association of Audubon Societies, remonstrating against the transfer of the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

Mr. TOWNSEND (for Mr. SMITH of Michigan) presented memorials of the congregations of the Seventh-day Adventist Churches of Battle Creek, Sumner, Charlotte, North Branch, Lakefield, Lowell, Grandville, Berrien Springs, Flint, Lansing, Allegan, Sturgis, Grand Rapids, Chesaning, Hastings, Quincy, Oxford, and Urbandale, all in the State of Michigan, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. KERN presented memorials of sundry citizens of South Bend, Ind., remonstrating against the enactment of legislation providing for the opening of post offices on Sunday, which were referred to the Committee on Post Offices and Post Roads.

Mr. GALLINGER presented a memorial of sundry citizens of Berlin, N. H., remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which was ordered to lie on the table.

He also presented petitions of the congregations of the Pilgrim Church, of Nashua; the Village Church, of Franklin; and the Baptist Church of Meriden, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BRANDEGEE presented a petition of members of the Village Improvement Association, of Milford, Conn., and a petition of sundry citizens of Washington, Conn., praying for the enactment of legislation providing for the protection of migratory birds, which were ordered to lie on the table.

He also presented memorials of the congregations of the Seventh-day Adventist Churches of Norwich, Hartford, Guilford, and New London, all in the State of Connecticut, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. LODGE presented petitions of the students of the Newton Technical High School, of Newtonville, Mass., praying for the passage of the so-called Page vocational-education bill, which were ordered to lie on the table.

Mr. SHIVELY presented a memorial of the congregation of the Seventh-day Adventist Church of Goshen, Ind., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

He also presented memorials of Jacob Schott, Sherman L. Naftzger, A. G. Schafer, and 59 other citizens of South Bend,

Ind., remonstrating against the repeal of the law providing for the closing of post offices on Sunday, which were referred to the Committee on Post Offices and Post Roads.

Mr. OLIVER presented a petition of the East Liberty Presbyterian Congregation, of Pittsburgh, Pa., and a petition of the congregation of the First Presbyterian Church of Oil City, Pa., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of the Conference of Baptist Ministers of Philadelphia; of the East Liberty Presbyterian Congregation, of Pittsburgh; of the congregations of the Friendship Avenue Presbyterian Church, of Pittsburgh; the First Baptist Church of Hollidaysburg; and of the First Presbyterian Church of Oil City; and of the Men's Bible Class of the First Methodist Episcopal Church of Scottdale, all in the State of Pennsylvania, praying for the passage of the so-called Kenyon "red light" injunction bill, which were ordered to lie on the table.

He also presented a petition of the Maritime Exchange of Philadelphia, Pa., praying for a reduction of the postage on first-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

Mr. MARTIN of Virginia presented sundry papers to accompany the bill (S. 5554) granting a pension to Lucy W. Lockwood, which were referred to the Committee on Pensions.

Mr. WORKS presented a memorial of the Chamber of Commerce of Los Angeles, Cal., remonstrating against a reduction of the duty on sugar, which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. LODGE, from the Committee on Immigration, to which was referred the bill (H. R. 21220) to extend the power of the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, reported it with amendments.

Mr. CRAWFORD (for Mr. CRANE), from the Committee on Commerce, to which was referred the joint resolution (H. J. Res. 210) authorizing the President to appoint a member of the New Jersey and New York Joint Harbor Line Commission, reported it without amendment and submitted a report (No. 1112) thereon.

Mr. JOHNSTON of Alabama, from the Committee on Military Affairs, to which was referred the bill (H. R. 3769) for the relief of Theodore N. Gates, reported it without amendment and submitted a report (No. 1113) thereon.

He also, from the same committee, to which was referred the bill (S. 6082) granting an honorable discharge to George M. Bryan, submitted an adverse report (No. 1114) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. MARTIN of Virginia, from the Committee on Commerce, to which was referred the bill (S. 7792) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C., reported it without amendment.

Mr. SMOOT, from the Committee on Public Lands, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 5859. A bill to amend section 3 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1902, and for other purposes," approved March 3, 1901 (31 Stat. L., p. 1133; Rept. No. 1115); and

S. 6506. A bill authorizing the State of California to select public lands in lieu of certain lands granted to it in Imperial County, Cal. (Rept. No. 1116).

Mr. HITCHCOCK, from the Committee on Military Affairs, to which was referred the bill (H. R. 18425) to remove the charge of desertion from the military record of Simon Nager, reported it with amendments and submitted a report (No. 1117) thereon.

Mr. NELSON, from the Committee on Commerce, to which was referred the bill (H. R. 23001) to amend section 4472 of the Revised Statutes of the United States, relating to the carrying of dangerous articles on passenger steamers, reported it without amendment and submitted a report (No. 1118) thereon.

CROW INDIANS OF MONTANA.

Mr. CHAMBERLAIN. From the Committee on Indian Affairs I report back Senate resolution 352, with a substitute, and I submit a report (No. 1110) thereon. It is short, and I ask unanimous consent for its immediate consideration.

The PRESIDENT pro tempore. The resolution will be read by title for information.

Mr. GALLINGER. Let it be read for information.

The PRESIDENT pro tempore. The resolution will first be read as introduced.

The Secretary read the resolution submitted by Mr. TOWNSEND July 6, 1912, as follows:

Resolved, That the Secretary of the Interior be, and he is hereby, authorized to place in the hands of the Attorney General such papers, records, and other information in reference to the affairs of the Crow Indians of Montana as will enable the Attorney General to investigate such affairs and to bring such action as may be necessary to protect the interests and secure the rights of said Indians; and the Attorney General is hereby authorized to make such investigation and to bring such action, if any, as the investigation may disclose to be necessary.

The PRESIDENT pro tempore. The Secretary will now read the amendment for the information of the Senate.

The SECRETARY. The Committee on Public Lands proposes a complete substitute, to read as follows:

Resolved, That the Attorney General be, and he is hereby, authorized to investigate the affairs of the Crow Indians of Montana and to bring and prosecute such action as may be necessary to protect the interests and secure the rights of such Indians, or of any member of them, and all departments of the Government are authorized to turn over to the Attorney General such records, papers, and other information as he may require to make such investigation or bring such action.

Mr. BORAH. Mr. President, what is the nature of the work which the resolution calls for?

Mr. CHAMBERLAIN. There have been a number of investigations of the Crow Indian Agency and its affairs, and it never seems to have been settled satisfactorily to anyone. This resolution is for the purpose of putting it under the Department of Justice and having that department investigate and make report, leaving to them discretion by moving in the matter or not, as they see fit.

Mr. BORAH. Does the resolution authorize and instruct the Attorney General to proceed?

Mr. CHAMBERLAIN. It authorizes him; it does not instruct him.

Mr. BORAH. Does he need any authorization now?

Mr. CHAMBERLAIN. I rather think he does, under the practice of the departments. I do not think he would feel disposed to do it without such an authorization.

Mr. BORAH. What I had in mind particularly was that at the last session when we undertook to pass a resolution here directing the Attorney General to proceed with a certain prosecution it was claimed that we had no authority to do it. I am very glad to see the precedent established.

Mr. CHAMBERLAIN. I should like to see it established myself.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

Mr. DIXON. Mr. President——

The PRESIDENT pro tempore. The question now is simply the question of consideration, and that is not debatable.

Mr. DIXON. I do not care to object to the consideration of the resolution. I think, in justice to the Senate, there ought to be some explanation made of this matter by at least some member of the Committee on Indian Affairs who knows the circumstances.

If the purpose of the resolution was not to investigate an Indian reservation within my own State, I would object to it without any hesitancy whatever, but for fear my action might be misconstrued, simply because the Crow Reservation is situated in the State of Montana, I shall not object to its consideration. I do think that the passage of this resolution is a foolish piece of business.

Mr. WARREN. Then why not object?

Mr. DIXON. Because it is within my own State I fear my objection might be misconstrued. I want to say to Senators who are not familiar with the Crow Reservation matter that the Committee on Indian Affairs for five successive winters have heard this woman come before it and tell her story.

Mr. WARREN. I beg the Senator's pardon, but is this the woman Gray?

Mr. DIXON. Helen Pierce Gray. She has repeatedly been before the Senate Committee on Indian Affairs; last year she was before the House committee; and she has caused, I think, up to this time an expenditure of at least $25,000.

The PRESIDENT pro tempore. The question is now whether the resolution shall be considered.

Mr. DIXON. I shall not object to its consideration, but when it comes up for passage I shall want to make a statement to the Senate.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

Mr. BROWN. I think the resolution ought to be printed and lie over for a day, so as to give us an opportunity to examine it.

The PRESIDENT pro tempore. Undoubtedly, if there is any objection, it will go over.

Mr. BROWN. I do object.

The PRESIDENT pro tempore. The Senator from Nebraska objects.

Mr. DIXON. I should like to ask unanimous consent of the Senate for just about three minutes to explain more than what appears in the report.

The PRESIDENT pro tempore. Without objection, the Senator from Montana will proceed.

Mr. DIXON. Five years ago Helen Pierce Gray came to Washington with a story of crime and misconduct and maladministration on the Crow Reservation.

I want to say that there is not an officer on the Crow Reservation, there is not an employee there, who was ever appointed through my recommendation or influence, and I do not think I know personally a single employee on the Crow Reservation. I have never seen the present agent. He has been there for two years.

When Mrs. Gray first appeared before the Committee on Indian Affairs of the Senate some of us were much impressed by this woman's story and sat patiently for six weeks and heard her story concerning Crow Reservation affairs. The committee authorized the bringing to Washington of Chief Plenty Coos and a delegation of 8 or 10 of the chiefs and head men of the tribe. They came down here and we heard their story day after day.

The result of that investigation was the printing of the hearings, a book of 800 pages, which is still on file, and any Member of the Senate can read it. It resulted in a lot of voluminous, indiscriminate charges against every employee of the reservation—against Commissioner Leupp, against Secretary Garfield, against President Roosevelt—charging every one of them with being criminally connected with the administration of Crow Reservation affairs.

After the whole winter's investigation the committee unanimously instructed the Secretary to send out special agents and investigate thoroughly. The Indian Bureau investigated not once but three different times, by three different special agents, all of the charges then made by this same woman.

The Indian Rights' Association was very much concerned over this woman's story and sent two of their special agents—Sniffens and Broslus—to the Crow Reservation to investigate. Before the investigation was over she had not only included in her list of indictments every member of the Interior Department but the Indian Rights' Association as well. She charged that the agents of the Indian Rights' Association were also in some way mixed up in some great, mysterious steal.

The next winter the Senate committee again heard the same story. I think the next winter we again heard Crow Reservation charges, and another delegation of Crow Indians again were brought to Washington to testify before the committee.

Last year the House Committee on Indian Affairs took up the matter and put this woman on the pay roll and gave orders to the Interior Department to give Mrs. Gray carte blanche authority to investigate all the records. She was there for months on the pay roll of the House Committee on Indian Affairs.

Every inspector who investigated reported the Crow Indian Reservation as clean of any maladministration as any other Indian reservation.

We never could get any specific charges made. If they were, they were of such character that immediately resolved themselves into thin air on a candid investigation of the records of the Indian office.

Now, what were the charges before the committee? I want to say to the Senate that the Committee on Indian Affairs at this time is simply running away from this continuous investigation of the Crow Reservation, and, by reporting this resolution to "authorize the Attorney General to investigate," washing its hands. They do not want to hear any more trouble about the Crow Indians, and they think it is the easiest way—I am putting it mildly—to pass a resolution and have the Attorney General's office investigate it.

It has been investigated by special agents of the Secretary's office and special agents of the Indian Office. This woman has charged both Commissioners Leupp and Valentine with being criminals, and she charged Secretary Fisher the other morning in open committee with being a criminal and mixed up with some great conspiracy "that would shock the world." Every person who has in any way sought to elucidate the charges made by Mrs. Gray and find out what has been the trouble on the Crow Reservation, has been immediately included in her category of criminals.

If there is anything on the Crow Reservation that needs investigating, I think I would be the first man in the Senate to ask to have it done. As I said, I do not even know the present Indian agent. He has been there over two years. I understand that he is a brother of ex-Congressman Scott, of Kansas, who had been in the Indian service and was transferred to Crow Agency from some other place.

I have heard Mrs. Gray make many charges about Crow Reservation matters which I knew were not true, which could not be true. I heard her one morning in the committee make the charge that 10 town sites on the Huntley irrigation project, which at one time was a part of the Crow Indian Reservation, had been surreptitiously turned over to the Burlington Railroad. As a matter of fact, these town sites do not even lie on the line of the Burlington Railroad; they are lands that lie along the Northern Pacific Railroad.

But charges of this kind have been made without any shadow of foundation of any kind, made equally with the same positive assertion as something which might possibly be founded in fact.

Mr. GALLINGER. Who is she?

Mr. DIXON. Helen Pierce Gray.

Mr. GALLINGER. A Montana woman?

Mr. DIXON. No; a Minnesota woman. In the Committee on Indian Affairs the other morning, with the kindest intent, I asked her to make specific these charges. Immediately the person who makes the inquiry is branded as a criminal himself.

She charged the other morning that Indians had been murdered there; that one Indian in the city of Billings had been murdered in a hotel and boxed up in a coffin, and hermetically sealed, and sent to the reservation to be buried, so that nobody could find out how he was killed. He was Alexander Upshaw. I remember him. As I now remember the actual facts, he was killed in a drunken row of some kind in the city of Billings. But these stories are spread before the Committee on Indian Affairs as positive facts.

As a Member of the Senate I think it is my duty, as one member of the Committee on Indian Affairs who has patiently heard these stories for five successive winters, who has heard delegations of the Crows themselves, to state that the Crow chiefs and the head men are on record in the Indian Office that they do not want this woman to come back there and make any more trouble. I heard Inspector McLaughlin, of the Indian service, the oldest inspector in that service, the man who wrote the book My Friend the Indian, and who is probably the best authority on Indian affairs of any man living, say that if this woman had gone to the Sioux Reservation and scattered these insinuating stories among those poor, ignorant, and illiterate Indians, you would have had to call out the United States troops to put down the insurrection that would have followed.

This resolution was reported by the committee with only three members present. Three different Secretaries of the Interior—Garfield, Ballinger, and Fisher—have investigated the charges made by Mrs. Gray.

Two different Indian commissioners, Leupp and Valentine, have investigated through their inspectors; the Indian Rights Association have patiently investigated all these matters; and this woman now brands each of these officials and all the inspectors as bad and criminal. Now, the Indian Committee pass the matter on to the Department of Justice and say they may or may not investigate it. That is the extent of the resolution. If the Senate wants to pass it, well and good. If it did not affect a matter within my State, I would fight it to a finish, because I believe it is a pure waste of time and money. You are authorizing the Department of Justice to make the investigation if they want to do so. That is all there is in it; it amounts to nothing more.

Mr. TOWNSEND. Mr. President, I do not feel that this matter ought to rest here even for the day, going over, as it does, until to-morrow, without some kind of a statement in reply to the Senator from Montana [Mr. DIXON].

I am not personally interested in any matter connected with any reservation; nor have I any friends that I know of who are. My attention was first called to this matter when I was a Member of the other House and by a member of the Committee on Indian Affairs there. I listened with a great deal of interest to the things which the now Senator from Montana [Mr. DIXON] and others had to say at that time, which compelled me to believe that perhaps there was not the best, the most economical, and the most honest administration of some of the Indian affairs.

I know very little about Mrs. Gray, but it is not true, if I understand the testimony correctly, that she has made no specific charges, for she has. Neither is it true that every investigation which has been made on that reservation has given a clean bill of health to the administration of affairs. For instance, I notice one very recent report by Inspector Holcomb, I think, which was to the effect that he discovered on the Crow Reservation a man in the employ of the United States Government who, under the law, was forbidden to have any dealings

with the Indians in the nature of purchasing their lands, and so forth; that he married an Indian woman, or one adopted by that tribe, and she had property dealings with the Indians while her husband was agent or superintendent, and that she had acquired considerable property. The inspector condemned this as being an improper thing to do and recommended that the offender be reprimanded and assigned to some other Indian reservation. Mrs. Gray makes specific charges. She brings up charges in reference to the Huntley village site, to which the Senator from Montana calls attention, and brings some certificates from there, showing that certain Indians had located claims where Huntley now is, and that these claims are legal, although the Indians are fraudulently deprived of them, and that these lands so claimed by the Indians are worth many thousands of dollars.

Furthermore, Mr. President, it is true, as the Senator says, that these investigations have been made by the Department of the Interior for the last five years. Whenever Mrs. Gray has been put upon the stand or has appeared before committees, she has been cross-examined unmercifully, and the records will disclose that the attempt seemed to be to convict her of something rather than to investigate the particular charges to which she had called specific attention.

My reason for introducing this resolution was because I believed that the Department of Justice, having an organized force which has been investigating the White Earth Reservation in Minnesota and the Pima Indian Reservation in Arizona, has accomplished much and is well equipped to do the proposed work, and I have asked that this resolution be passed authorizing that department to proceed, and I have done this without any intention to reflect upon any person or department of the Government. I would simply authorize the other departments to turn over to the Attorney General such papers, records, and information as might have a bearing upon this matter.

The committee proceeded to have hearings on this resolution, and proceeded for several days, having much difficulty in getting a quorum, but finally it was determined that, on account of the criminations and recriminations which were indulged in back and forth before the committee and the difficulties of securing records, and so forth, it would be better to end the hearings and turn it over to the Attorney General for proper investigation, if he shall see fit to make it. Sufficient evidence, however, was received by the committee to warrant this report. It is true, possibly, that only a few Members were actually present when the report was authorized. I do not remember just how many were there, but a constructive quorum was at least present. I understand that the pending resolution was presented to the members of the Committee on Indian Affairs on a poll, and that a majority of the committee voted to report it favorably. It is properly before the Senate.

I feel it will be a great mistake, if, after all that has occurred in reference to these investigations, this resolution shall not be speedily adopted. It is due to the Department of the Interior, it is due to everybody connected with it, that a proper investigation be made of these charges, for they are charges. There are specific charges to the effect that in the administration of the affairs of the Crow Indians in Montana great fraud has been practiced upon those Indians. Mrs. Gray charges that the rolls of the Interior Department have not been properly kept. As corroborating that at the last hearing, the Department of the Interior brought before the committee what purported to be Schedule B, if I recall it—either A, B, or C—which the gentleman in charge, Mr. Holcomb, said he was not able to find at the other hearing, but finally he found it in the archives of the department somewhere, and that paper, which purported to be the record of allotments of the Indians, amounting to millions of dollars in value, was the kind of a paper that a man would expect to find if he had carried the roll around in his hip pocket for months in the summer time. It was almost illegible. No permanent record was there, and anyone could carry this paper away in his pocket.

So it seems to me, Mr. President, that after all the investigations and hearings that have been had it is the part of wisdom that the department, which is organized to investigate these things and to prosecute them, should proceed to determine whether or not there is anything wrong. If there is something wrong, then Congress and the country ought to know it; and if there is nothing wrong, then that also should be disclosed, and thus put an end to these charges, which will never be terminated until a full, fair, and complete investigation has been had.

Personally I say to Senators upon my honor, after having investigated the subject quite carefully, I believe that there are things in connection with Crow Indians which ought to be investigated. There are men who have been connected with the Indian department who have been discharged and are no longer officially connected with it, who are able to get information from the department which others not so familiar with records there can not obtain.

I do not now want to reflect upon the Interior Department. I know that the Secretary of the Interior, Mr. Fisher, must necessarily rely upon people under him; he must rely on those who get in touch with these things from the outside; and these men, or some of them, are included among the offenders in the charges submitted to the Committee on Indian Affairs.

I am profoundly impressed with the conviction that our duty to our Indian wards has not been completely fulfilled. Their affairs from the very nature of things offer a great opportunity for the corrupt and the conscienceless, and we will fall far short of our full duty if we longer postpone what is clearly our obligation to do. Certainly enough has been presented to put us on notice, and no honest man can be hurt by a disclosure of the true situation in reference to the Crow Reservation.

Mr. DIXON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Montana?

Mr. TOWNSEND. I do.

Mr. DIXON. I should like to ask the Senator from Michigan what specific thing or wrong does he want investigated out there? Does he have any definite thing in view, or is this just a shotgun fire?

Mr. TOWNSEND. There are certain things in reference to the general question of allotments, the rights of descendants of dead Indians, and the actions of certain men interested as agents, which are specifically mentioned in that written statement which Mrs. Gray filed, and I think they ought to be investigated. There are many grave and specific charges before the committee. But, sir, I would not limit it. If, when the Department of Justice gets into this matter, it discovers that there are things which ought to be investigated, I want it to go to the limit. I do not believe that the Department of Justice will proceed on a cold track and simply for the purpose of conducting "a shotgun investigation." I believe that we owe it to ourselves that this investigation be made.

Mr. DIXON. Does the Senator have in mind any special wrongdoing which he wants investigated on the Crow Reservation?

Mr. TOWNSEND. I have mentioned certain matters. I can repeat them if the Senator wants me to do so.

Mr. DIXON. I was unable to get any definite information.

Mr. TOWNSEND. I can recall the two Indians whose claims were presented to the committee, one of them relating to the Huntley village site——

Mr. DIXON. I heard the statement which the Senator made about the rolls. The Senator charges that the rolls were kept in some unsafe place. Is the Senator aware that whenever an Indian reservation is surveyed, there is a plat book kept here in the Land Office showing by quarter sections the Indian allotments, and there are other plat books kept upon the reservation and in the Indian Office showing absolutely every Indian's allotment, the same as in the United States Land Office, so that there could be no misconstruction.

Mr. TOWNSEND. I understand that there should be such a roll kept.

Mr. DIXON. Did the Senator hear the chief inspector of the Indian Office say that the plat books were down here in the Land Office? Is the Senator aware of the fact that in Schedule B are the signatures—not copies, but the originals—of the three men who made the treaty with the Indians in 1891?

Mr. TOWNSEND. I saw all of that and that is why I am interested.

Mr. DIXON. Has the Senator read the hearing we had five years ago, which is embraced in a great big book of 800 pages?

Mr. TOWNSEND. I will not say that I have read all of that.

Mr. DIXON. Does the Senator recall the awful wrong which we investigated about Joe Cooper, a "white" Indian, a half-breed, who was alleged to have been starved and wronged and persecuted? This much-wronged Indian, this martyr, as Mrs. Gray made him out to be before the committee, was brought down here, and it turned out on the hearing that Cooper and his children had had allotted to them over 1,800 acres of irrigated land. It was developed that Joe Cooper, the martyr, as Mrs. Gray had held him out to the committee, this much-wronged Indian, living there for 20 years, had cultivated not to exceed 1 acre of this 1,800 acres of irrigated land, and that the house in which he had lived and which the Government agent had given him free of charge, he had burned for firewood? I am simply citing cases which she retailed here five years ago in listing the great wrongs of the Crow Indians. Joe Cooper, the "white" Indian, was one of them, and the main charge at that time was in relation to him.

Mr. TOWNSEND. I desire to state, Mr. President, that I am not making my statement upon an intimate knowledge of all of the previous investigations, but I have talked with members of the committee who were then in the Senate and who were convinced by those previous times that no sufficient investigation had been made. I repeat, with these charges pending and with the charge the Senator suggests, that men have been condemned in a wholesale manner by this woman—she makes some exceptions. There is no escape for us, it seems to me, from the duty to proceed under this resolution and have an investigation made.

Mr. DIXON. I only desire to ask the Senator one other question. Is the Senator aware that Secretary Garfield investigated the Crow Reservation; that Secretary Ballinger, with his inspectors, investigated it; and that Secretary Fisher, with his inspectors, has investigated the Crow Reservation? Is the Senator aware that, in addition to the fact that three Secretaries of the Interior, with their whole force of special agents, have investigated the Crow Reservation, Commissioner Leupp, with his inspectors, investigated it; that Commissioner Valentine, under this continuous agitation as to the Crow Reservation, investigated it with his inspectors; and that the present Assistant Commissioner of Indian Affairs, Mr. Abbott, went there personally and made an investigation?

Mr. TOWNSEND. I am aware of all that, and think I have so stated.

Mr. DIXON. Is the Senator aware that all these Government officials reported that the Crow Reservation was on a par with all the other Indian reservations in the West and that there was nothing in the charges made by this woman, who professes to be a newspaper correspondent?

Mr. TOWNSEND. With the statement of facts as stated by the Senator I can not agree. Those are matters which will be disclosed; but I do know that this woman has been persecuted relentlessly every time she has sought to bring conditions to official attention. I do know that she claims—and she shows pretty good authority for her statement—that she was to go out there under the administration of Secretary Garfield to look into these matters. I know, as a result of her activities, that before she got through she served time in jail and was accused of being insane, but was discharged, and that she was treated with all kinds of indignity, which she says was due to the fact that she was trying to disclose things that some of her persecutors were interested in. That may not be true; but if it is not true, it will be disclosed by a proper investigation, and in no other manner can the truth be known.

Mr. DIXON. I made a suggestion to the committee the other morning, which I will renew to the Senate. The lawyer who defended her after she was arrested after a year out there is T. J. Walsh, one of the best lawyers in my State, who will succeed me on the floor of the Senate on the 4th of March. I suggested that we wait until Mr. Walsh came here and took his oath of office; and as he was her attorney, if he should then say this investigation ought to be made, I would be perfectly happy to have it made.

Mr. TOWNSEND. Will the Senator advise me what his objection is to this investigation?

Mr. DIXON. Simply because this woman for five years has been appearing in the newspaper headlines, and she has caused the expenditure, I think, of $25,000—that, I think, would be the minimum expenditure which she has caused.

Mr. TOWNSEND. She is not unique in her position as a "headliner."

Mr. TOWNSEND subsequently said: Mr. President, in connection with the discussion on Senate resolution 352 the Senator from Montana [Mr. DIXON] suggested that no specific charges had been made by Mrs. Gray. I ask unanimous consent to have printed in connection with my remarks this morning the printed statement of Mrs. Gray, made before the Indian Affairs Committee on January 9.

The PRESIDING OFFICER (Mr. FLETCHER in the chair). Is there objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

STATEMENT OF MRS. HELEN FIERCE GRAY.

Mrs. GRAY. Mr. Chairman and gentlemen, I will say in the beginning that I am going over some of the ground that some of the older members of the committee know probably too much about, but some of the newer members have asked me so many questions that I thought it would be better to go back so that they will fully understand the situation.

In 1906 I was associated with the Byles News Bureau at Omaha, Nebr., which was receiving the news service of the Omaha Bee. My business was to prepare special articles on western topics. To get data I often worked with the land departments of different railways, the Reclamation Service in the West, private irrigating and mining companies, and anyone interested in the development of western lands and resources. The return of Buffalo Bill's party from Europe to Cody, Wyo., the center of an irrigation district to be watered by the Shoshone Dam and Corbett Tunnel, gave opportunity for special stories concerning this district, introduced and featured with his picturesque personality. I collected a large amount of data and wanted to get away by myself to write it up. The nearby Crow Reservation was promising, and I went there. I secured a room in the boys' dormitory of the Government Indian School, and took meals with the teachers. Notice of the conditions of the school was impressed on me. I talked with Supt. Creel; the doctor; Reynolds, the agent; and the teachers, of the horrible eye disease that affected nearly every child, and a throat affection on the neck under the jaws. I noticed the matron washed all children in the same water, used one flesh brush for all, though the diseased eye and throat sores were discharging. When five years ago I told this story before this committee my statement so shocked the members of the committee that I fear it discredited many of the other things I then said. Investigations afterwards showed that I minimized the facts. This eye disease is trachoma. The gland disease, lumpy jaw.

Later I went back 30 miles to an Indian home on the Little Big Horn. Engaged in my writing, I found whenever I went out of doors Indians waiting to talk to me. They came in groups, two to five or six. They questioned me mainly about the conditions at Washington as to their property. I had never seen an Indian reservation before; knew nothing of Indians or Indian affairs, and never dreamed I was violating a law by telling them if they signed a 25-year lease for the entire reservation, which Commissioner Leupp was then promoting, they would probably come out paupers. I asked Agent Reynolds about this lease. He gave me the printed annual report of the commissioner for 1905–6, containing a statement under the heading of "Crow Indian sugar-beet project." I gave this to the Indians. Later they wanted to know more about this lease, but explained to me for the first time that the agent had threatened to arrest them if they talked to me any more about this business. They were willing to face imprisonment if only permitted to get the facts and save their people. They told me they had called a meeting of the Crow Indian lodge at an adjacent Indian's home and asked me if I were afraid to come to the house and meet the lodge and explain to them about the leases; that the older Indians did not understand what the returned students had explained, but that they would believe me. I went, but sent word to the agent, who had come to Lodgegrass to arrest them, that I wanted him present at the meeting. He sent word he would come, but did not.

They discussed the grazing leases; said they never received their money, though the land had been leased 35 years at $45,000 a year; that they were sure the lessors had very many more cattle and sheep on the reservation than they were paying for; that their stock trespassed on Indians' farms, so that the Indians had been obliged to give up farming; that lessors branded Indians' cattle as their own. They said that when the reservation was opened under the act of 1904 the Indians' allotments on the ceded portion should be protected; that they should receive $1,150,000 in cash and other things; that they had never received any money; that their allotments on the ceded portion had been taken away from them; that allotments had been made to Indians who had been dead for generations, and that the land so allotted has been sold; that there was such intimidation they believed that that night would be the only opportunity to discuss these matters. They were willing to suffer, but their children in the Government school had been tortured to bring the fathers to terms. We stayed until morning, and they told me of many other grievances. I was unspeakably shocked, and told them if they would take a petition to President Roosevelt I was certain he would put a stop to such conditions on the reservation. They said they had tried it, and it invariably ended in the agent dealing misery to everyone concerned. They begged me to go to Washington with them, and would raise the money and pay my expenses. They were in such a state of fear that I told them I would do everything I could to help them to put the matter before President Roosevelt in person. In the morning I was arrested by Agent Reynolds. He refused to tell me what I was arrested for; refused to let me communicate with anybody off the reservation. I was taken to Billings.

The agent told the Indians that I had been bought off. A number of them then started to Washington to carry out the plan. They were arrested and thrown into jail at Sheridan. I sent for the agent and told him that unless he released them I would telegraph the men's story all over the United States. Reynolds released the Indians; sent three of them to me in Billings, and we discussed the situation. They said that it would be impossible for them to leave the reservation, but gave me $300 for my expenses to go to Washington. I sent for Reynolds and told him what I was going to do, and his reply was that I would find that all the rights that the Indians had, or that I had was such as he chose to permit us. I told him I knew what he said was not true; that the Indians were American citizens and so was I. I have found Reynolds's statement, up to the present time, to be true. When I reached Washington I laid the case before President Roosevelt personally. The President directed that Commissioner Leupp give me access to the Crow records and furnish me with a stenographer and show me every courtesy in order that I might prepare a statement to accompany the petition that I brought for the Indians. I prepared such a statement. President Roosevelt spent some hours with me going over my statement and the petition of the Indians. He sent for the then Secretary, Garfield, to come to the White House. He put the statement in his hands, telling him to go over it with me very carefully; that he was going to handle the matter personally. It was arranged that Mr. Garfield's private secretary, Z. L. Dalby, should accompany me to the reservation and make an investigation along the lines that we had arranged. I told the President that I depended upon my writing for my living and had expected to use this story. But we agreed that, inasmuch as making it public would inform those whom we were to investigate, that I would not publish the story. Dalby and I were to spend the necessary time to look over records here. I then started west. I had waited in Chicago more than a month.

I wrote President Roosevelt that I had continual complaints from the Indians that their sheep as well as cattle were being taken off, thus cleaning up the reservation in advance of the investigation; that my promise of silence was solely on the condition that they keep silence and get to the investigation as soon as possible; that something like two months had already elapsed. I also asked that I be sent immediately a proper written commission to return to the reservation. In reply I received a letter from Secretary Garfield informing me that Mr. Dalby would start very shortly for the reservation, but he trusted that I would use none of the information that I had acquired for publication. I also received a letter from Commissioner Leupp, inclosing my authority to return to the reservation, and also a letter from Mr. Dalby explaining what he was doing to cause the delay. I replied that I was perfectly willing to keep silent, but was going to the reservation at once. In order to avoid any publicity on my return, I wired certain Indians to meet me at an out-of-the-way station. I was very much surprised the next night when Mr. Reynolds, in company with a number of other agency officials, came to the place where I was staying, tell-

ing me I was under arrest for returning to the reservation. I told him I had Mr. Leupp's permission to do so. He laughed and said he did not care anything about Mr. Leupp's permission, he had come there to arrest me. He compelled me to accompany him to the agency, about 30 miles distant, without adequate wraps, on a cold night. It was near midnight when we arrived. In the meantime I had nothing to eat.

The Indian court was in session to try my case, and Joe Cooper, president of the Crow Lodge, was in the guardhouse under arrest. They told me that I also was to be locked up in the guardhouse. This guardhouse was a cow shed and filthy beyond comprehension. It was one of the principal instruments for intimidation of the Indians. I warned Reynolds urgently against such a course, and he finally dismissed the court and telegraphed to Washington. I also telegraphed the Chicago Record-Herald, which was backing the investigation at the time, with the result that I was given a room at the hotel and released in the morning by order from Washington. However, I was ill and unable to leave my bed. Toward noon the hotel keeper, Fred Server, came to the door and told me under no circumstances to speak to anyone or to get up. He added that there were some things he could not stand for. About an hour afterwards Mr. Reynolds came to my room with a physician, and I discovered they were examining me as a lunatic. When they went out of the room I got up and found that they had a court in lunacy in session, the clerk acting as United States commissioner. Server secretly wired to Sheridan for a physician. The physician's arrival in the afternoon ended the proceedings in lunacy, and I accompanied him back to Sheridan, where I received a telegram that Mr. Dalby was starting from Washington. On Dalby's arrival he requested that I should remain in Sheridan while he went to the reservation and began the investigation. I consented, remaining there several days.

The residents warned me that Dalby was in continual conference with the gang on the reservation and it would be unsafe for me to go. I wired Dalby he must permit me to come to the reservation at once or I should abandon our plan. He came to Sheridan and agreed that if I would wait several days he would be ready to begin the investigation with me. I did so, starting at the time agreed upon. The Indians came to the train as it reached the reservation and told me that certain petitioners for the investigation had been arrested. I went to the agency, sent for Dalby, and asked him about the arrest. He said he had nothing to do with it. I introduced him to the Indians. He told them that he had come to make a thorough investigation, with their petition and my charges as the basis. They expressed relief and started out at once to summon the Indians, with his consent, for a council to meet him at Lodge Grass. It was raining and nearly dark; some of the Indians would have to ride 200 miles, but they started out at once in high hopes. I returned to my former stopping place on the Little Big Horn. Dalby set a time for the council which gave the Indians barely time to assemble. As Dalby progressed, he told them he would not have anything to do with them unless they dismissed me and had me arrested for interfering. This was against the wishes of the Indians. I was roughly handled. Dalby told the Indians my arrest was by the President's order, to show what he thought of me. He also showed them telegrams and letters that I had written to the President, saying that everything had been turned over to him. Dalby ordered Alex Upshaw to search my trunk. He did so, taking such papers as seemed to be wanted. I was then expelled from the reservation without money and without my baggage. Fortunately, a cattleman who knew Reynolds was at the station and urged me to accept a loan of $50, which I thankfully did. It was five days before I could get my baggage. Dalby then investigated by himself, threatening some and buying others.

Then Secretary Garfield came to Montana and opened the Huntley irrigation project. Continuing as a writer, I went to Billings. I found there the reservation ring in force, and that it would be impossible for me to go to Huntley. However, I went to Denver, to the lands convention, meeting Secretary Garfield and Mr. Pinchot there. Later I returned to Montana. Meantime I had written to magazine editors in New York of conditions on Crow, and had been asked to come to New York to handle the story. I started, by way of Billings. When I changed trains at Billings I was arrested while buying my ticket to New York, on charge of returning to the reservation after I had been put off. I was taken to the station. While I was sitting in the common room there, some man, who appeared to be a gentleman, and known to the officials, came and said that I would be more comfortable in a smaller room where I was to wait. A man was in this smaller room. He proved to be a United States commissioner, and I discovered the first man was conducting a hearing before him on my case. When I made this discovery I found the door locked. I threatened to open the window and call for help if he did not desist; said I wanted a lawyer, and I wanted to know what they were doing. This hearing was postponed; I was put under $500 bail, which some unknown person put up in cash. Meanwhile Dalby and Reynolds arrived from the reservation and made additional charges against me of having entered into a contract with restricted Indians without the consent of the Secretary. I was bound over to the grand jury and kept in jail in Helena, incommunicado, for nearly four months, until I managed to get bail. A petition for writ of habeas corpus was denied by Federal Judge Hunt, now of the Commerce Court here, by whom it was heard perfunctorily. After I got out of jail the cattlemen got together and started a paper in Billings, which was purchased by one of the lessors on the reservation, Charley Bair, for the purpose of preventing further publicity.

When the grand jury met they completely exonerated me. I came at once to Washington and had a hearing before this committee, which was reported in Senate Document 445, parts 1 and 2, Sixtieth Congress, first session. The result of the hearing was that the Senate ordered an investigation and made appropriations for the same. The Senate refused to confirm Dalby's appointment as Indian inspector until in August, 1909, at which time he was confirmed on condition that he would immediately resign from the service. Dalby did resign, but immediately returned to Washington as attorney for the very lessors on the Crow Reservation whom he had been sent to investigate, and whose conduct he had whitewashed in his report. Near midnight of March 3, 1909, the original resolution making the appropriation was rescinded by Senator Kean. The following year the House Indian Committee unanimously asked for an investigation, but, being near the end of the session, no appropriation was made. As the result of my first efforts, some of the conditions on the reservation were remedied and the income from the leases was increased from $45,000 to $150,000. Numerous pretended investigations have been made by officials of the Interior Department, all of which, in effect, whitewashed the conditions and protected the people engaged in looting the Indians.

The resolution which your committee is now considering is for the purpose of having an actual investigation by the Department of Justice.

ALLOTMENTS.

This is what I found: Allotments originally made, which had been for years enjoyed and upon which some cultivation had been made in each instance, and in many instances where the Indian owners had died and left heirs, were summarily and fraudulently canceled. The Indians were persuaded or driven from them if living, and if dead the allotments switched to their heirs on lands in a different locality, provided such heirs agreed in advance to sell to interested parties; but if the legal heirs were unwilling to sell, bogus heirs were substituted for the real ones.

Down on the Yellowstone there were some 300 or 400 Indians allotted. Under the act of 1882 these allotments were approved. In 1904 one John Rankin began allotting. The Indians were told that their allotments were not good, and he canceled many of them, although the Indians had been making these allotments their homes for years and had built irrigation ditches there. Some of these allotments were worth as much as $25,000 each. The Interior Department canceled these Yellowstone allotments where the Indians had died. Mr. Rankin reallotted the dead Indian to very choice land west of the Big Horn when sure the new allotments would be sold. New family rolls were prepared in such a way that the purported heirs to this land were those who would agree to sell it. These allottees on the Yellowstone have been subjected to every form of intimidation conceivable. Some of them are still holding on. Some of the allotments have been canceled within the past two or three years without any shadow of authority for having done so.

Second. Indians who had been allotted to the land where the Huntley irrigation project is, and to the land that is now covered by the Two Leggings ditch, had their allotments arbitrarily canceled. They were given new allotments under their protest on the diminished reservation, anywhere the students could be put in, the best land having been taken up.

Third. Indians whose allotments were on the diminished reservation were tricked into relinquishing the old allotments in such a way that they seemed to have taken a new allotment in 1904.

Fourth. Indians who had held allotments were forcibly removed and taken to community farms, compelling them in effect to abandon their old allotments. After this was done the irrigated allotments were cut down arbitrarily and without any legislative act from 160 acres to 80 and 40 acres. This irrigated land did not come under any reclamation project, but the irrigation had been put in with the money of the Crow Indians, received in payment for land.

Fifth. The rolls also have been padded fraudulently by the insertion of many employees on the reservation, with their families. These were thereby given the right to deal in Indian lands and the right to buy Indian allotments without competition and in private. All this is strictly contrary to that provision of the criminal code of the United States forbidding officers of the Indian service or Interior Department officials from dealing in Indian or public lands. The rolls have been further falsified by dropping the names of many Crow Indians who heretofore had valuable allotments. The rolls are further deficient in the fact that many children born since 1899 have not been enrolled for allotment, though there remains in the neighborhood of 2,000,000 acres of surplus land.

TRIBAL ROLLS.

The original rolls showing these allotment frauds have disappeared. The law says specifically that they shall be kept intact in Crow Agency and in Washington. To a proper investigating party I will show that this had not been done. When Commissioner Valentine was shown the discrepancy in the rolls he ordered the old rolls to be produced. After a diligent search the rolls were not found, and those whose duty it was to know about the rolls said they have been taken care of and they were not produced. At Crow Agency I found that the Crow land book, which is the old Crow rolls, had also disappeared. It could not be found. There are papers existent, some of which I have, that will demonstrate the falsity of the newly manufactured roll and the importance to the Interior Department of procuring certain attorneys to be attorneys for the Crow Indians and the desirability of the passage of certain legislation, approved by the Interior Department, designed to ratify and confirm the present roll and to destroy the rights of the Crow Indians to recover their allotments and other rights. These new rolls consist of three large books, which were placed in the hands of the Department of Justice when Commissioner Valentine's direction to have them examined with a view of investigating and setting forth these frauds. It was with reference to the possession of these rolls that I was arrested last summer on the order of Assistant Secretary Adams.

GRAZING AND AGRICULTURAL LEASES.

There is in the neighborhood of 3,000,000 acres on Crow Reservation. The entire reservation is particularly fine grazing land. When Senator Teller was Secretary of the Interior, about 35 years ago, the surplus land on Crow Reservation, which then included the Yellowstone country, was leased for about $45,000 a year to stockmen. In 1906, when I met the Indians at their Crow Indian lodge meeting, they complained very bitterly that the cattle and sheep men occupied the reservation to their exclusion, and were paying very little for the privilege, some of them nothing, and that what money they did pay the Indians never saw. In the hearing before this committee it was established that the leases were not given to the highest bidders. That was proven to be a fact when the leases were made the next time. One lease to Frank Henry was especially discussed. He was paying that year $1,800 for his privileges. After Mr. Dalby's retirement as Indian inspector he appeared at the Indian Office as attorney for Frank Henry, and submitted a plan under which Henry voluntarily offered to pay $48,000 for the land he formerly obtained for $1,800. Higher bids then submitted, which the Indians wanted to accept, were refused in the Indian Office, all of which investigation will demonstrate. The lessors on Crow formed a ring of men who are acquiring the reservation, oppressing the Indians in every possible manner, and violating the law constantly. They are not checked by the officials at the agency, but the officials protect the lessors from the Indians and the Indians are thus left to their despoilers. The leases in almost every instance are let on the basis of per capita payment of live stock. There is no data at the agency to show how many head of stock are turned in under any lease or what are added.

The Indians complain that their own cattle and horses have been starved to death; that the lessors have branded their calves and colts, thus stealing them; that they have no protection against the cattle and the sheep of the lessors, which, as the Indians wrote me, were trampling them to death. These leases include the portion that was set aside for grazing the Indians' cattle, known as the I-D Range. Formerly this land had never been leased and the Indians bitterly opposed it, as they have no other place for their own stock. To force

the lease upon them, a business committee was appointed by the agent; a council was called; the agent wrote Commissioner Abbott he could not get consent from a general council; Chief Supervisor of Schools Holcomb was sent there to deal with this so-called business committee. The leases of this range had already been illegally approved by the Assistant Secretary of the Interior. Adams, the minutes of the council had been prepared in advance in Washington by Assistant Commissioner Abbott, Chief Supervisor Holcomb procured the signatures of the agent, the business council, and other necessary officers to these spurious council proceedings, and sent them all to Washington with his official sanction. The Crow Indians, being cattlemen, bitterly object to sheep on the reservation as they bring the loco weed and destroy the range. Nevertheless, large portions of the reservation was let to sheep and the sheep are permitted in portions of the reservation where there is no lease. The Indians' individual allotments are included in these grazing leases and they are prevented from acquiring possession of their own allotted lands which would be the only possible source of income they have. As a result the Indians are driven to eating the diseased beef which the lessors sell in violation of law at $15 a head. This disease is known technically as lumpy jaw. So deadly to the cattle and so contagious is it that there is a statute forbidding its interstate transportation and directing that the animals affected shall be slaughtered and buried. Instead of this, these lumpy-jawed cattle are sold to the Indians on the reservation and also to the Indian Government school. I am confident that real investigation will show not only on Crow, but nearly every other Indian reservation where there are cattle, that what is called a form of tuberculosis is, in fact, lumpy jaw.

As to agricultural leases: There is a large amount of very valuable irrigated land. More than $1,000,000 of Crow money was used putting in this system. When the allotments were fraudulently canceled much of this was taken from the Indians and termed surplus land. This land, by some alleged law, which I can not find, is being leased for agricultural purposes. Indians owning this irrigated land can not get the water from their own water systems and are compelled to lease. It is leased only to the ring for sums that are ridiculously small, in terms which permit the lessor to cut timber without building houses, to beyond the agent's knowledge, to place salt where it will actually mine the coal on the land without any recompense to the Indians, and fixed for compensation; it disappears somewhere. On account of these conditions, young Indians returning from school have no land, and when they seek to lease lands belonging even to their own families they are prevented from doing so. Causes made by Indians returning students are disapproved by the Interior Department. In this way the young educated Indian, both woman and man, who comes back from school has no possible means of support, and become the prey of the land and agency rings or returns to the blanket.

IRRIGATION.

On Crow there are two large rivers, the Big Horn and the Little Big Horn. There are also smaller streams—Soap Creek, Warm Springs, Lodge Grass, Pass Creek, and Pryor Creek. The land lying under these streams is mostly flat and can be irrigated easily without dams by mere diversion ditches. The Indians complain bitterly that private ditches are taken out by white men without authority. In particular, this is true of the Two Leggings ditch and the Pass Creek ditch. Prior to the year 1909 certain white men who had no authority to do so and could not obtain it properly took their chances and built a ditch 34 miles long, 50 feet wide, from the Big Horn River right across the allotted Indians' land, that would water the land through which it passed on the diminished reservation. This unlawful act was permitted by the Indian agent. It supplied also water to land taken by the act of 1904, in which, to the knowledge of some members of this committee, a forged power of attorney was used to procure the consent of Congress to the passage of the act. Those using the power of attorney now buy the land. The Indians whose land was crossed by this ditch have been asking relief from the oppression of these trespassers. Inspector Holcomb was sent to Crow Reservation and practically reported that the ditch did not cross the land of certain complaining Indians. The facts show that his report was incorrect. The Indians also complained that these trespassers cut their large timber and had not built bridges over the ditch; that they had taken possession of their houses and of their lands and that the Indians could not get water to cultivate such portions of their land as might be left to them. These Indians asked for investigations and protection.

In the spring of 1912 these white trespassers were in Washington seeking the approval by the Interior Department of their trespassing ditch and other iniquities on Crow Reservation. A concerted attempt was made to accomplish this purpose, which included personal attacks on myself from high sources, and in spite of my protests and the petitions signed by every Indian under the ditch, the trespassers accomplished their purpose in the Interior Department. The ditch was approved and the order of the House of Representatives ordering an investigation and making appropriations therefor was nullified.

The Two Leggings ditch is in the western extremity of the reservation. In the eastern extremity is another ditch almost identical in character, put in by the Spear Bros. and others. This ditch takes the water from Pass Creek and crosses many Indian allotments. It can not be less than 20 miles in length and may be as much as 40. It waters lands that have been acquired from the Indians by the lessors in such a manner that the Indians claim they have been defrauded in different ways; one way, of which they complain most bitterly, is that the location of their allotments has been changed so that where they supposed their land lay on the bottom of a valley they find it is on a bench where no water can reach it. The land the Indians claim has passed to the lessors. Pass Creek is one of the principal tributaries of the Little Big Horn. Diverting the water through the Pass Creek ditch has so lowered the water of the Little Big Horn that the irrigation system of the Indians, depending upon this river, is deficient in water. Another thing is the expenditure of money for irrigation. The income from the grazing leases, which is tribal money, is about $150,000 a year. Nearly all of this money is expended for irrigation. It will be readily seen from irrigation maps of Crow Reservation that the money is being expended to irrigate lands that belong to white men and not to Indians, including the land of very many of the employees of the reservation, whose land has been obtained in defiance of the criminal laws.

There is also the money from the sale of ceded land. This expenditure is specifically provided for by act of Congress. This act is disregarded.

I have now made an outline statement of a portion of the evils that are in existence to-day on Crow Reservation, protected and fostered by the Interior Department. This protection is given in different ways. But it amounts to this: That any Indian or white person who attempts to interfere with such graft is subjected to any form of intimidation that may appear to be most effective in the instance. The intimidation is exercised in different ways. One has been by calling out soldiers and shooting the Indians or arresting them. Another is by sending inspectors who will carry out the desires of the grafters—such men as Mr. Dalby, Holcomb, and McLaughlin, who have been before this committee.

On an Indian reservation the agent has power of life and death over the Indian. If an Indian attempts to appeal above the agent, he must do it through the agent. If he succeed in attracting the attention of any one above the agent, it is customary to send to the reservation an inspector or supervisor. If the Indian makes any formal charges to the inspector or supervisor against the agent, he must do it in the presence of the agent, who has power of life and death not only over him but over his family, including even his little children, who are in Government schools, any of whom may be subjected to torture in various forms. When I reported to President Roosevelt in 1906 the conditions I found in the Crow Reservation Mr. Z. Louis Dalby was sent out to investigate them.

Dalby's report, which is on file in the Indian Office, admitted the truth of many of the charges I made, but whitewashed the grafters entirely. Dalby's report was accepted by the Interior Department as gospel, but the Senate, on learning of his conduct, refused to confirm his appointment as Indian inspector, except on condition that he resign. This Dalby did, and in less than three weeks after his resignation he blossomed out as attorney before the Interior Department for the very grafters he had been sent to investigate and whom he had whitewashed and which fought so valiantly for his confirmation. And he has ever since been the favored son of the Interior Department, and has been able to accomplish more as the attorney for the ring on the Crow Reservation than he would have been able to accomplish had he remained inspector, being apparently in control of the situation. When it was found that Mr. Dalby had been put in control of other Indian reservations in the same manner, charges setting forth the history of his conduct on Crow Reservation were filed with the Interior Department looking toward his disbarment from practice. Acting Secretary Adams himself peremptorily ordered that these charges be dismissed and that no investigation of them be had. Secretary Ballinger visited the reservation, and after looking into the situation ordered an investigation. Jack Munroe made the investigation and submitted a report, which was suppressed by the Interior Department. Chief Supervisor E. P. Holcomb was the next to investigate. He ignored very many of the charges of graft and eulogized and exonerated not only Agent Reynolds but the other officials on the reservation. Other inspectors and supervisors have been to Crow Reservation and have made reports, of which I have heard but none of which I have read. The Secretary of the Interior has stated that a report was recently made of these conditions by Inspector Norris, but that this report was confidential and that I could not have access to it. Concerning these pretended investigations, it need only be said that practically nothing has been done by the Interior Department to remedy the conditions that have existed for years on Crow Reservation.

Another form of protecting the evils on the reservation is through the use of attorneys who are willing to carry out the iniquity of the Indian Bureau. One firm of attorneys in Washington, also favorite sons of the Interior Department, procured a contract from a delegation of Crow Indians while these Indians were in a state of intoxication, by the terms of which contract this firm was to become the tribal attorneys for them and represent them in presenting large claims against the Government. The conduct of this firm of attorneys in this matter was called to the attention of the Acting Secretary of the Interior Department. Charges sworn to in part by a former United States Senator, and sworn to entirely by myself, were submitted to him, but he refused to investigate them or call witnesses. At the same time he was urging this same firm upon the Osage Indians as their tribal attorneys. One of the most potent instruments of fraud is the business committee and tribal council. It is the custom of the Interior Department to appoint these councils and delegations in such a manner that the interests of the grafters will be represented rather than the interests of the Indians. Another way is by the use of money or its equivalent. This includes the preparation by Government officials in Washington, in advance, of the minutes of councils intended to be held on the reservations.

Mr. DIXON. And, as I have said, the matter has already been investigated by three successive Secretaries of the Interior, by three Commissioners of the Indian Office, with all their force of inspectors, and also by the Indian Rights Association. I say to the Senator from Michigan that if there was anything wrong there which needed investigation, certainly the Indian Rights Association would have added their request that this investigation be made for the eighth time.

While the reservation happens to be in my State, it is 400 miles from where I live. I will not interpose any objection to and I shall not vote against the resolution, but I think the United States Senate is being made a cat's-paw for a self-exploiting individual.

Mr. PAYNTER. Mr. President, I should like to take just one moment, or a little less, on this question. I was on the Committee on Indian Affairs of this body during the first session I was here, and perhaps also the second. Mrs. Gray appeared before that committee; she testified and attempted to give that committee a great deal of information regarding the subject matter of the proposed investigation. I can not to-day recall the charges which Mrs. Gray made, because I have not given the subject any attention or thought since that time, and I know nothing about how the agency is now being conducted or what has occurred there, but I do know of facts, which, under the circumstances, I think I ought to tell the Senate, because it has been stated here that Secretary Garfield's department investigated the Crow Agency and the charges made by Mrs. Gray. Secretary Garfield sent there one of his Indian inspectors by the name of Dalby to investigate the charges Mrs.

Gray made. She had gone to the Department of the Interior, Mr. Garfield then being Secretary of the Interior, and did not get any assurance there that there would be any investigation, and she went to President Roosevelt, and as the result of that visit an investigation was ordered. When Mr. Dalby appeared on the Crow Reservation upon the first day that the investigation began he had Mrs. Gray arrested. He was there to investigate the charges which she had made. She was present to assist in the investigation. She was almost immediately arrested at the instance of Mr. Dalby, soon removed from the reservation, and incarcerated in jail, where she remained for some time. So she was not even permitted to make good, if she could, the charges she had made, and there was, as stated by the Senator from Michigan [Mr. TOWNSEND], great hostility shown her.

Now, if what has been done in the subsequent investigations by Secretary Ballinger and Secretary Fisher is of the same character as that conducted by Secretary Garfield, I say some investigation by some branch of this Government ought to be made, and made speedily.

There is another thing I want to say, Mr. President, and that is I opposed the confirmation of Mr. Dalby when he was reappointed Indian inspector, because of his conduct, as stated by me. His nomination was held up for some time, and he would not have been confirmed, as I understood before it took place, if he had not given assurance to some Members of this body that he would resign as soon as his confirmation took place; and I was advised that immediately after his confirmation he did resign.

QUESTION OF PERSONAL PRIVILEGE.

Mr. ROOT. Mr. President, I ask the indulgence of the Senate while I make a statement in a matter of personal privilege.

On the 26th of October last there was published in the newspaper El Cronista, in Tegucigalpa, the capital of Honduras, a false and fabricated pretended speech alleged to have been made by me regarding the relations between the United States and Central and South America. I send to the desk a translation of this pretended speech, and will ask that it be printed in the RECORD as a part of my statement, without detaining the Senate by reading it in full.

[Translation of pretended speech falsely attributed to Senator ROOT.]

[El Cronista, Tegucigalpa, Oct. 26, 1912—No. 60.]

ELIHU ROOT BEFORE LATIN AMERICA.

The following paragraphs of a recent speech of Mr. ROOT, United States Senator, ex-Secretary of State, and one of the most eminent personages of the Yankee country, ought to be known in Central America, as follows:

"Our position in the Western Hemisphere is unique and without example in modern history. This Nation is a greater and nobler Rome, placed by God to act as arbitrator, not only in the destinies of all America, but also in Europe and Asia, through its natural resources and industrial products which supply the world. The English and German Armies are fed with the meat which we send them. The supplies which Europe buys of us it could not obtain in any other world market if our exportation were suspended.

"Our manifest destiny as controller of the destinies of all America is a fact so inevitable and logical that only the means which we should employ in order to arrive at this end are left to be discussed; but no one doubts our mission and our intention to fulfill it, or, what is more significant, of our power to accomplish it.

"In the second half of the twentieth century they who study the map will be very surprised that we should have 'waited so long' to round out the natural frontiers of our territory to the Panama Canal, and on the other side, to the Southern Continent, and that in the same manner (haya pasado con las Antillas todas, como en el viejo mundo, de no haberse encontrado el nuevo) the same should have happened to all the Antilles as happened in the Old World—that is, not to have discovered the New World, with the difference that we have no need of a Columbus, but rather of a simple joint resolution of our Congress.

"It is a question of time when Mexico, Central America, and the islands which we still lack in the Caribbean Sea shall fall beneath our flag. When the Panama Canal is open it would be as insufficient to place a sentinel only in Porto Rico, without doing the same in Cuba, as if a man tied one arm in order to row, or a lady to put in one earring to adorn herself for a feast.

"Not long ago the Porto Rican delegates, headed by the representative of that island, who has a seat in our Congress, but does not vote, visited me in order that I, as president of the committee on Latin America affairs, should inform them what policy we proposed to follow in Porto Rico, and I expressed myself more or less as follows:

"I told them that I have been, and always shall be, opposed to granting North American citizenship to the Porto Ricans, as well as to other Latin Americans who, for inevitable reasons, pass under our control. I believe that it would be prejudicial for both parties.

"As this desired citizenship from the outset would have to be understood in autonomous form, once granted greater discontent would not be long in following, maintaining that as citizens they are not equal to those of the Union.

"The granting of citizenship implies many other things and is clothed with uncertainty; and in any case it is too much to ask that we compromise ourselves for the Antilles with their handful of millions of inhabitants whose race, civilization, aspirations, and customs are not only distinct, but even antagonistic to ours.

"I told them that they were, after all, Latins, and as such, although the inheritors of glorious historic and artistic traditions and possessed of great domestic virtue and instruction, above all in abstract sciences, and a disposition for the arts, as Latins, I repeat, they understood citizenship and other fundamental principles in a different way to the Saxons; and as these principles are judged by results, we are right and they are wrong. With the Latin Americans there does not exist, nor can we have anything in common, if we accept the good will which we mutually profess, but great as are these good wishes, they do not suffice to fill the gulf which separates us.

"The United States augments in population, riches, and importance daily, and we can with difficulty take care of our own affairs, but being the case, 'why complicate our task with new lodgers in the house, as the Latin Americans converted into citizens of our great Nation can not help but be?'

"I understand and confess that we are governing badly in Porto Rico, as we governed badly in Cuba the second time. But though we may do it badly we shall always do it better than the natives. In the Philippines, where our rule has been more strict, the results have been admirable. And the Porto Ricans, Cubans, and Filipinos should be convinced of the fact that, since our experience with the annexation of Hawaii, we will not repeat the expedient of citizenship.

"If it were possible for these Latin America nationalities to understand 'self-control' and 'self-government,' as is the case with our northern neighbors, then Pan Americanism would be a beautiful reality, without necessitating our learning to command in Spanish; but can they or do they know how to govern themselves? Let Haiti say; let Mexico say; let Colombia, Panama, Nicaragua, and, above all, Cuba, twice instructed by us, watched diplomatically since and whose present economical disorganization is as disastrous as in the colonial epochs, say. In the hands of these people is their fate; but I doubt whether it will be good, unless it is beneath our protectorate.

"Did not the North American Government find itself on the eve of change to replace the present administration or to confirm it in power, no one would deny that in these hours we would have already solved the Mexican and Central American complication and given special attention to the economical affairs of the Great Antilla (Cuba). And whoever speaks of national finances, speaks of all the Government and national system. Fortunately, and soon, we shall reach a tragical position, since 'alea jacta est,' and whoever of the three candidates occupies the White House, as they are of one opinion regarding foreign policy and, above all, expansion in America, the country can trust in the Congress, which with hands free will know how to second the Chief of State, as in 1812, 1845, 1861, and 1898."

This pretended speech contains most arrogant and offensive statements as to the relations which do and should exist between the United States and the Latin-American countries of these continents. I have denied over my own signature the authenticity of this speech, and my denial has been published in Tegucigalpa. I should let the matter rest there were it not that this pretended speech is being published all over Central and South America, and that some years ago, while Secretary of State, I made a visit to South America and represented the United States in many expressions of friendship toward the people of the Latin-American countries. Owing to this and to the fact that I am still connected with the Government of the United States, these expressions in this pretended speech are being treated by the people of Latin America as indicating either a change in the attitude of the people of the United States or insincerity in the former expressions of friendship.

I send to the desk and ask to have the Secretary read one illustration of the way in which this paper is being used. It is an extract from an editorial published in the newspaper El Fonografa, of Maracaibo, Venezuela, on the 28th day of November, 1912.

The PRESIDENT pro tempore. It will be read as desired.

The Secretary read as follows:

[El Fonografa, Maracaibo, Venezuela, November 28, 1912.]

Senator ELIHU ROOT, who before the whole Spanish America protested, when he was Secretary of State, that the United States did not desire even 1 inch more of territory than that which it already possessed and that the sovereignty of our different States would be respected, and who praised us for our ability and aptness for self-government, by one stroke of the pen has blotted out those statements and other still stronger ones which he made in regard to the autonomy and independence of Spanish America. In his last speech he says: "All America down to Panama, including the islands of the Caribbean Sea, must be under our flag. We need Cuba, Mexico, and Central America as a man needs his two arms and a woman her two earrings."

In view of this flagrant contradiction, will there be anyone amongst us who will have a particle of faith in the friendly protests of the United States?

We must not entertain any illusions. It is evident that the United States not only do not intend to endeavor to prevent Europe from taking possession of Latin America, but they themselves pretend to become the arbiters of our political and commercial destinies.

Mr. ROOT. Because of the use which is being made of this publication by the enemies of the United States, by the men who wish to stir up strife and create ill feeling between the Latin-American countries and the United States, I wish to repeat here in the most formal and public manner, and to make a public record of the denials which I have already made as to the authenticity of this pretended speech.

The alleged expressions which are thus imputed to me are impudent forgeries. I never made any such speech. I never said any such things or wrote any such things. The expressions contained in these spurious and pretended extracts are inconsistent with my opinions and abhorrent to my feelings. They are the exact opposite of the views which I have expressed on hundreds of occasions during many years, both publicly and privately, officially and personally, and which I now hold and maintain. I will add, Mr. President, that they are inconsistent with the views and the feelings of the great body of the American people.

ATCHISON, TOPEKA & SANTA FE RAILWAY.

Mr. JONES. From the Committee on Military Affairs I report favorably, with amendments, the bill (S. 7415) granting to the Atchison, Topeka & Santa Fe Railway Co. a right of way through the Fort Wingate Military Reservation in New Mexico, and for other purposes, and I submit a report (No. 1119) thereon. I call the attention of the Senator from New Mexico [Mr. CATRON] to the bill.

Mr. CATRON. I ask unanimous consent for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Military Affairs with amendments.

The amendments were, on page 1, line 5, after the word "hereby," to strike out "empowered" and insert "granted a revocable license," and on page 2, line 22, after the word "taken," to insert:

Provided further, That any other person or duly organized corporation constructing a railroad along a line necessitating the crossing of said reservation may, upon obtaining a license from the Secretary of War, use the track and other constructions herein authorized to be placed upon the reservation by the said Atchison, Topeka & Santa Fe Railway Co. upon paying just compensation; and, if the parties concerned can not agree upon the amount of such compensation, the sum or sums to be paid for said use shall be fixed by the Secretary of War: *Provided further*, That before this act shall become operative a description by metes and bounds of the lands herein authorized to be taken shall be approved by the Secretary of War.

On page 2, line 29, after the word "Kansas," to insert "and other parties obtaining license from the Secretary of War as hereinbefore provided," and to insert new sections, 3 and 4, so as to make the bill read:

Be it enacted, etc., That the Atchison, Topeka & Santa Fe Railway Co., of Kansas, a corporation created under and by virtue of the laws of the State of Kansas, be, and the same is hereby, granted a revocable license to survey, locate, construct, and maintain a railway, telegraph, and telephone line into and upon Fort Wingate Military Reservation, N. Mex., to connect with its present right of way, as may be determined and approved by the Secretary of War or the chief officer of the department under whose supervision such reservation may otherwise fall.

SEC. 2. That said corporation is authorized to take and use for all purposes of a railway, telegraph, and telephone line, and for no other purpose, a right of way 200 feet in width, through said Fort Wingate Reservation, with the right to use other additional ground when cuts and fills may be necessary for the construction and maintenance of said roadbed, not exceeding 100 feet in width on each side of the said right of way, or as much thereof as may be included in said cut or fill, excepting, however, from said right of way hereby granted that strip or portion thereof which would be included within the limits of the present 200-foot right of way heretofore granted to said Atchison, Topeka & Santa Fe Railway Co. and used by it as its main line right of way: *Provided*, That no part of the lands herein authorized to be taken shall be used except in such manner and for such purposes as shall be necessary for the construction and convenient operation of said railway, telegraph, and telephone lines and the use and enjoyment of the rights and privileges herein granted; and when any portion thereof shall cease to be so used such portion shall revert to the United States, from which the same shall be taken: *Provided further*, That any other person or duly organized corporation constructing a railroad along a line necessitating the crossing of said reservation may, upon obtaining a license from the Secretary of War, use the track and other constructions herein authorized to be placed upon the reservation by the said Atchison, Topeka & Santa Fe Railway Co. upon paying just compensation; and, if the parties concerned can not agree upon the amount of such compensation, the sum or sums to be paid for said use shall be fixed by the Secretary of War: *Provided further*, That before this act shall become operative a description by metes and bounds of the lands herein authorized to be taken shall be approved by the Secretary of War: *Provided further*, That the said Atchison, Topeka & Santa Fe Railway Co., of Kansas, and other parties obtaining license from the Secretary of War as hereinbefore provided, shall comply with such other regulations or conditions as may from time to time be prescribed by the Secretary of War.

SEC. 3. That the powers herein granted are limited to a period of 50 years unless sooner altered, amended, or repealed by Congress.

SEC. 4. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting to the Atchison, Topeka & Santa Fe Railway Co. a right of way through the Fort Wingate Military Reservation in New Mexico, and for other purposes."

QUAGMIRE LANDS IN NEVADA.

Mr. NEWLANDS. I am directed by the Committee on Public Lands, to which was referred the bill (S. 4994) to authorize the inclosure of certain lands in the State of Nevada containing dangerous quagmires, to report it without amendment, and I submit a report (No. 1111) thereon. I ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. The Senator from Nevada asks unanimous consent for the present consideration of the bill just reported.

Mr. WARREN. I do not want to——

Mr. CLARK of Wyoming. There is no objection to the present consideration of the bill, but I think it will evoke some considerable discussion.

Mr. WARREN. I rise to say that, while I do not object to this particular bill, I feel I ought, in justice to appropriation bills, to object to a bill that will consume any time in debate; and if this bill will probably consume time in debate, I should feel that I had to object.

Mr. NEWLANDS. I supposed, Mr. President, there would be no objection to this bill, which is reported from the Committee on Public Lands, and I ask the Senator from Wyoming whether he intends to discuss it?

Mr. WARREN. I have no intention of discussing the bill, but two or three Senators about me have said that it would lead to discussion, and that they wanted to discuss it.

Mr. CULLOM. Let it go over.

Mr. NEWLANDS. I ask the Senator from Wyoming whether he will not permit the present consideration of this bill?

Mr. CLARK of Wyoming. I do not object to the present consideration of this bill. I will say to the Senator from Nevada that, on the contrary, I am quite willing that it should be considered at this time, but I think it is quite evident that it will evoke some discussion in the Senate before it is finally voted upon. I certainly have some few suggestions that I should like to present upon the bill, and I think there are other Senators who have.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. The question is on the request for unanimous consent for the present consideration of the bill, which is not debatable except by unanimous consent.

Mr. CRAWFORD. I desire to object. If I am not allowed to say anything further, I simply object.

The PRESIDENT pro tempore. The Chair does not endeavor to control the Senator in that regard. The Senator from South Dakota objects and the bill will be placed on the calendar.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MARTIN of Virginia:

A bill (S. 8141) for the relief of S. W. Niemeyer; to the Committee on Claims.

(By request.) A bill (S. 8142) to acquire certain land between Peabody and Underwood Streets, east of Georgia Avenue, for a public park; to the Committee on the District of Columbia.

By Mr. CULLOM:

A bill (S. 8143) for the relief of Edward N. McCarty; to the Committee on Claims.

By Mr. McCUMBER:

A bill (S. 8144) granting an increase of pension to William L. Sheaff;

A bill (S. 8145) granting an increase of pension to Joseph Cassiday;

A bill (S. 8146) granting an increase of pension to John Emanuel Smith (with accompanying papers); and

A bill (S. 8147) granting an increase of pension to Allen H. De Groff; to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 8148) granting an increase of pension to Lottie E. Limont; and

A bill (S. 8149) granting a pension to Catherine Soper (with accompanying papers); to the Committee on Pensions.

By Mr. BORAH:

A bill (S. 8150) providing for an extension of the limits of time provided by sections 1 and 2 of the act of March 3, 1911, entitled "An act providing for the validation of certain homestead entries"; to the Committee on Public Lands.

A bill (S. 8151) to provide for the acquiring of additional ground for the site of the public building at Lewiston, Idaho; to the Committee on Public Buildings and Grounds.

By Mr. GRONNA:

A bill (S. 8152) providing for second homestead and desert-land entries; to the Committee on Public Lands.

By Mr. SANDERS:

A bill (S. 8153) to create in the War Department and the Navy Department, respectively, a roll designated as "The Civil War Volunteer Officers' Retired List," to authorize placing thereon with retired pay certain surviving officers who served in the Army, Navy, or Marine Corps of the United States in the

Civil War, and for other purposes; to the Committee on Military Affairs.

By Mr. NEWLANDS:

A bill (S. 8154) for the relief of Peter Magsam, alias Peter Moxom, alias Peter Groh; to the Committee on Military Affairs.

By Mr. KERN:

A bill (S. 8155) granting an increase of pension to Thomas Jarell (with accompanying papers); and

A bill (S. 8156) granting a pension to Omar E. Brown (with accompanying papers); to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 8157) granting an increase of pension to Louis C. Emmett (with accompanying papers); to the Committee on Pensions.

By Mr. OLIVER:

A bill (S. 8158) granting an increase of pension to Christian Bowman (with accompanying papers); to the Committee on Pensions.

By Mr. TOWNSEND:

A bill (S. 8159) granting an increase of pension to Stephen Collar (with accompanying papers); and

A bill (S. 8160) granting an increase of pension to Baxter Johnson (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. SMOOT submitted an amendment proposing to appropriate $100,000 for the purchase of stock, seeds, implements, and such other articles as may be necessary to enable the Indians residing and having tribal rights on the Uintah and Ouray Reservations, Utah, to become established in a self-supporting industry on their allotments of land, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. MARTIN of Virginia submitted an amendment proposing to appropriate $10,000 and $7,483.01, respectively, to credit in the accounts of Pay Directors Lawrence G. Boggs and S. R. Colhoun, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

Mr. McCUMBER submitted an amendment proposing to appropriate $5,000 and interest thereon at the rate of 5 per cent per annum from October 30, 1843, to pay to the administrator of the estate of John W. West, deceased, out of any money in the Treasury standing to the credit of the Cherokee Nation of Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

WITHDRAWAL OF PAPERS—JESSE J. LAMKIN.

On motion of Mr. CHAMBERLAIN, it was

Ordered, That the papers in the case of Jesse J. Lamkin, late of Troop H, First Regiment United States Cavalry, be withdrawn from the files of the Senate, there being no adverse report on the same.

CHOCTAW AND CHICKASAW INDIANS (S. DOC. NO. 1010).

Mr. OWEN. I present a paper in the nature of a memorial from the Choctaw and Chickasaw Indians with reference to their leased district. I ask that the memorial, with illustrations, be printed as a Senate document and referred to the Committee on Indian Affairs to accompany the bill (S. 8140) to authorize the Choctaw and Chickasaw Indians to bring suit in the Court of Claims, and for other purposes, introduced by me on yesterday.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PUBLICITY OF CAMPAIGN CONTRIBUTIONS.

Mr. OWEN. I submit a resolution and ask that it be read.

The resolution (S. Res. 433) was read, as follows:

Resolved, That the Committee on Privileges and Elections is directed to report on Senate bill 8118 by February 3.

Mr. OWEN. Mr. President, the bill referred to, Senate bill 8118, is a bill providing——

The PRESIDENT pro tempore. Does the Senator from Oklahoma ask for the present consideration of the resolution?

Mr. OWEN. I ask for its present consideration and I wish briefly to explain it.

The PRESIDENT pro tempore. The Senator from Oklahoma asks for the present consideration of the resolution which has just been read.

Mr. LODGE. The chairman of the committee is absent. I think the resolution had better go over until he is here as it proposes instructions to his committee.

The PRESIDENT pro tempore. Under the rule, on an objection, the resolution will go over until to-morrow.

Mr. OWEN. I shall not be able to be present again for some days, and I desire to call the attention of the Senate to it.

The PRESIDENT pro tempore. The Senator will proceed, by the consent of the Senate, to make such remarks as he may wish.

Mr. OWEN. The bill provides for making effective the law relating to the publicity of campaign contributions. There is no adequate method now by which it can be required. The bill provides that the circuit or district court, upon a proper showing, may require the publicity fixed by law to be made. It also provides means for an inquiry into the question of the campaign contributions. I think it is a bill which ought to be reported on, so as to make complete the law which we have passed. The committee will have three meetings between now and the date which I suggest should be fixed for the report. I hope that the matter may be acted on, whether I shall be present or not.

The PRESIDENT pro tempore. The resolution goes over on objection.

COL. RICHARD H. WILSON.

Mr. MYERS. I ask unanimous consent for the immediate consideration of the bill (S. 7515) for the relief of Col. Richard H. Wilson, Fourteenth Infantry United States Army.

Mr. SMOOT. That bill will lead to some discussion I think, will it not?

Mr. MYERS. I do not think so. It is a bill that I tried to get up the other day, and a couple of Senators who objected at that time have withdrawn their objection. I do not think there will be any discussion or objection to it. I may take two or three minutes to explain it, but I do not think it will lead to any discussion.

Mr. SMOOT. Let it be read first. I really do not remember the bill.

The PRESIDENT pro tempore. The bill will be read.

The SECRETARY. The Committee on Military Affairs report as an amendment to strike out all after the enacting clause and to insert:

That Col. Richard H. Wilson, Fourteenth Infantry United States Army, be, and he is hereby, exonerated from all responsibility for the loss of the sum of $7,181.64 at Fort William Henry Harrison, Mont., on or about May 16 to 20, 1912. And the accounting officers of the Treasury are hereby authorized and directed to credit in the accounts of Capt. Charles W. Castle, paymaster, the sum of $7,181.64.

Mr. WARREN. Mr. President, as I said a few moments ago, I shall feel constrained to object if the bill is to lead to an extensive debate. The bill is a most just one. The subject I know all about, and I should be glad to see it passed. So I shall not object if the bill does not lead to an extensive debate.

Mr. CRAWFORD. Mr. President, I am unable to find the report on this bill. It seems to me that we ought not to be asked to vote upon a measure under a unanimous consent where we can find out nothing to guide us in the report of the committee. The report of the committee certainly ought to be on file before we are asked to vote on these measures.

The PRESIDENT pro tempore. The Chair is informed that the report is on the desk.

Mr. CRAWFORD. It is not on our desks here.

Mr. MYERS. I should like to say to the Senator from South Dakota that I called up this bill about a week ago, and objection was made because the report had not been printed. It was printed a week ago and is on the desks of all Senators.

Mr. DU PONT. Mr. President, I merely wish to say that the full report submitted by the Committee on Military Affairs shows all the facts in the case. The bill was unanimously approved by the Military Committee, and is a most meritorious one, and it ought to pass unanimously.

Mr. DIXON. I should like to say to the Senator from South Dakota that Col. Wilson's pay is now being held up at the War Department on account of money sent to pay the troops being stolen from the paymaster. He was technically in charge. I never saw him. It happened at Fort Harrison. I think it is probably as crucial a little bill as has been reported here. I hope there will be no objection to it.

Mr. CRAWFORD. I withdraw my objection. I had not been able to find the report.

There being no objection, the bill was considered as in Committee of the Whole.

The PRESIDENT pro tempore. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. WARREN. I ask the Senate to take up the legislative, executive, and judicial appropriation bill, being House bill 20680.

There being no objection, the Senate resumed the consideration of the bill (H. R. 20680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The PRESIDENT pro tempore. The present occupant of the chair was not in the chair when the Senate adjourned. The Chair is informed that the question is upon the amendment proposed in the Senate, which was pending at the time of adjournment, and upon which the yeas and nays had been ordered.

Mr. CUMMINS. I think the pending question is upon the point of order.

Mr. LODGE. And it was submitted by the Chair to the Senate.

Mr. CUMMINS. It was made by myself and submitted by the Chair to a vote of the Senate.

The PRESIDENT pro tempore. The pending question was on the point of order?

Mr. LODGE. Yes.

Mr. WARREN. And upon the vote the yeas and nays were called, and a want of a quorum was developed. I wish the Senator from Iowa could see his way clear to recall his point of order. In my own opinion a point of order hardly lies against the matter in any way, because the employees of the House and Senate are at the will of those Houses and there is no regular estimate expected and none had. Such matters are usually settled between the House and the Senate. This only requires it to go to conference.

Mr. CUMMINS. If there were any way in which the submission to the Senate could be avoided I would be very glad to have the Chair rule upon the point of order, so that it could be speedily disposed of.

Mr. LODGE. The Senator from Iowa can withdraw the point of order.

The PRESIDENT pro tempore. What is the suggestion of the Senator from Iowa?

Mr. CUMMINS. I said if there were any way in which the submission to the Senate could be avoided I would be very glad if the Chair in the regular way would decide the point of order.

Mr. LODGE. The point of order has been submitted to the Senate and a roll call has been had upon it. I do not see how the Chair can now rule upon it.

The PRESIDENT pro tempore. The Chair can not.

Mr. CUMMINS. I do not see that the Chair can.

The PRESIDENT pro tempore. Except by unanimous consent.

Mr. CUMMINS. I said I would be perfectly willing to take that course in order to avoid the consumption of time.

The PRESIDENT pro tempore. The Chair, unless there is a request for unanimous consent on that line, will direct the roll to be called.

Mr. LODGE. Mr. President, I am not sure, an ineffective roll call having been had, whether it is possible to make any further statement in regard to it, because we must call the roll on that question. Whether it is still open to debate, one roll call having been had, I confess for the moment I do not know.

The PRESIDENT pro tempore. The Chair thinks the Senate having adjourned for the lack of a quorum, the matter is before the Senate de novo.

Mr. BRISTOW. Mr. President——

Mr. LODGE. The roll call, of course, has been ordered. That can not be undone.

The PRESIDENT pro tempore. No.

Mr. LODGE. Then, I should like to say one word about it, if it is open.

The PRESIDENT pro tempore. The Senator from Massachusetts will proceed.

Mr. LODGE. A point of order was made on the amendment proposed by the Senator from Virginia [Mr. MARTIN]. I am not going to discuss the merits of the amendment. I am very clear as to what the Senate ought to do, and I said so last night. I am going to confine myself simply to the point of order. The point of order, if these are expenses estimated for, of course, is a good one. The chairman of the Committee on Appropriations suggests that these payments of employees are not estimated for in the ordinary way and that a point of order would not lie.

What I desired to call attention to was this: There seemed to be a misapprehension in regard to the question of submission. The Chair, under our rules, is required to submit a point of order to the effect that an amendment is not germane. He has permission to submit any other question of order. It has been the practice of the occupants of the chair to comparatively rarely submit questions of order, and I think it ought to be done very seldom, indeed; but the purpose of that power of submission is to relieve the Chair from the necessity of breaking a rule in a case where an emergency exists, so that the Senate, if it chooses, may suspend the rule for that particular item. It has been done here repeatedly—not often, but repeatedly. The famous Platt amendment, on which all our relations with Cuba depend, had to be passed at a certain time. It unquestionably was out of order; it was put on an appropriation bill, but it had to go on an appropriation bill in order to become a law. The point of order would certainly have thrown it out; it was general legislation beyond any question, but I do not remember whether the point of order was raised. I merely mean that if it had been raised it would have been a case for this action, which I have seen taken more than once in the Senate, to give the Senate an opportunity in a particular case to suspend the operation of one of its rules against amendments.

Mr. President, though that is, I am aware, a very large discretion and one to be very sparingly exercised, it is absolutely necessary that somewhere in the procedure of the two Houses there should be some point where there should be a little discretion, a little elasticity, in a case that might arise of the necessity of an amendment to an appropriation bill.

My own impression, I will say frankly, last night was that the amendment was clearly out of order. If I had been in the chair, I would have so ruled. The point which the Senator from Wyoming has just made had not occurred to me. If I had been compelled to rule, I should have so ruled; but the Chair, under the authority given him by the rules for that particular purpose, submitted that question to the Senate, and I voted in the affirmative—that is, I voted that it should be submitted—not that I thought it was in order, but because I felt very decidedly that it was an instance in which that rule ought to be suspended by the action of the Senate in order to admit the amendment—a very trifling amendment in itself, but one which in its nature involves the relations between the two Houses. That the relations between the two Houses should be good always is essential to the orderly conduct of Government business. Last night in the debate there was an illustration of the importance of it. We all know that it is the practice of the Senate not to refer to what has occurred in the other House. That is inherited from the English practice. We do not discuss what is said in the other House; so far as possible we avoid reference to their actions; we never refer to a Member of the other House by name or personally. That is a rule that is always strictly observed and it is absolutely necessary; yet last night, in the discussion which arose, we began to discuss here the authority of the chairman of the Judiciary Committee of the House, and of the chairman of the Appropriations Committee of the House, to make the request here. I only mention that to show to what sort of thing this would lead. We must not discuss their arrangements or the conduct of their own affairs in their own House, and they must not discuss ours, because, if we should do so, in a very short time there would grow up a fashion of recrimination between the two Houses which would lead to ill feeling, to the arrest of legislation, and to the greatest possible trouble.

That is the reason why I thought this trifling amendment, raising the pay of a House employee $500, or whatever it was, involved a matter of great importance, of such great importance that it seemed to me necessary to submit it to the Senate, and I thought the presiding officer was correct in submitting it to the Senate in view of its importance, and of such great importance that I thought it my duty to vote to sustain the rule. I did not undertake to vote that the amendment was in order, for I thought at the time it was distinctly out of order, and, as I have stated, I should have so ruled had I been in the chair; but I did think it was an occasion which justified the suspension of the rule in that manner, as I have seen it done more than once, as I have already said.

Mr. President, just a word in conclusion. I have said that much in explanation of my attitude and why I voted as I did, as I have known other Senators to vote in the past; but the point which the Senator from Wyoming has made did not occur to me—that this amendment referring to the salary of an employee to one of the Houses is not obnoxious to the rule and is not subject to the point of order.

Mr. BRISTOW. Let me inquire if those expenditures are not contained in the Book of Estimates the same as expenditures in the departments?

Mr. LODGE. They are transmitted, but the lists are made up here in the offices of the Senate and in those of the House; not a figure is changed, not a suggestion is offered, and no estimate——

Mr. BRISTOW. But they are contained in the Book of Estimates.

Mr. LODGE. Certainly, they are contained in the Book of Estimates.

Mr. BRISTOW. The same as all other department expenditures.

Mr. LODGE. As a memorandum only.

Mr. BRISTOW. Just as this Book of Estimates is made for the various departments and the various bureaus and for Congress.

Mr. LODGE. No; it is not.

Mr. BRISTOW. Of course, the information comes from the Secretary of the Senate and the Clerk of the House, the same as from the Cabinet officers for the various departments.

Mr. LODGE. The estimates proper come from the Cabinet officers. These estimates do not come from them. They really are not estimates, but are simply transmitted here to show what stands on the books as the current law.

Mr. BRISTOW. The estimates of the expenditures that come under the jurisdiction of a Cabinet officer are made by the Cabinet officer; the estimates that come under the Senate are made by the officers of the Senate and furnished to the Secretary of the Treasury.

Mr. LODGE. They have no authority to estimate for us; not the slightest.

Mr. BRISTOW. Well, but the Secretary of the Treasury is required to estimate for the expenses of the Government, and he does it under the law.

Mr. LODGE. Why, Mr. President, the Senator forgets our rule, "or proposed in pursuance of an estimate of the head of some one of the departments." There is no estimate from the head of a department about our expenditures. Would any Senator suggest for a moment that the Secretary of the Treasury or any other head of a department is to estimate what the contingent fund of the Senate or of the House should be or what they shall pay their clerks? Of course, Mr. President, these estimates are simply submitted for information. The mere inclusion of the figures in the Book of Estimates does not make an estimate. The rule says "an estimate of the head of some one of the departments." No head of a department estimates for the expenses of the Senate.

Mr. CUMMINS. Mr. President, I do not care whether the salary of the clerk of the Judiciary Committee of the House of Representatives is $2,500 or $3,000. If he earns $3,000, he ought to have it; but I do not want anybody to assume that I make the point of order because I have any disposition to interfere with the House in fixing the salaries of its own employees. It is to preserve that very rule that I have made the point of order. The House has fixed in this bill the salaries of its employees, and we have not interfered with their work, nor do we propose to do so.

The thing which it seems to me is wrong, and which may lead to great trouble in the future, is that certain suggestions made by certain Members of the House are offered here and submitted, and we are asked to accept their suggestions as the equivalent of an act of the House. It is not difficult to see that if we recognize that procedure we may in the end entirely lose the benefit of the rule of courtesy and comity to which reference has been made.

The Senator from Massachusetts [Mr. LODGE] spoke so emphatically, and so wisely, too, upon the rule which forbids a reference here to the individual Members of the House that it seems to me he condemned in the strongest possible way the introduction of a communication to the Senate from either the chairman of the Judiciary Committee or the chairman of the Appropriations Committee of the House. We must take the work of the House as it comes to us through the regular channels. I think that rule ought to be inviolably preserved.

Now, I want the Senate to know that I have no objection, of course, to the submission of the point of order to the Senate. The Presiding Officer was quite within his rights, and I think probably quite within a fair exercise of the discretion that officer has, in submitting to the Senate the interpretation of the rule. I am not complaining about that; but when the Senator from Massachusetts says that because these amounts are not estimated for by the head of a department therefore they are not within the rule which I invoke, I think he is obviously mistaken. The rule provides that—

> no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless—

And then the rule proceeds to point out certain exceptions. If this increase is not within one of those exceptions, it is forbidden by the rule, and no one claims that it is within any of the exceptions.

I am inclined to differ from the Senator from Kansas [Mr. BRISTOW] with regard to the words "head of a department." I am inclined to think that does not apply to estimates submitted by the officers of the House of Representatives or of the Senate; but that makes no difference whatsoever. Unless you find some exception here which will take the case out of the general rule announced in the words which I have read, then it is plainly forbidden by the rule.

It seems to me, of course, that this is not a very material matter. We have many other appropriation bills, and if the House wants to put this provision in any other appropriation bill it can do so, and if it wants to pass an independent measure of that kind it can do so. I think the great importance of the matter lies in preserving the integrity of the rules of the Senate, for if we fall into the habit of disregarding them then we become rather chaotic in our procedure, it seems to me.

Mr. SHIVELY. Mr. President, having occupied the chair on yesterday when this amendment was offered, I choose now to submit an observation or two in reference to the situation and proceeding attending its consideration. As the RECORD discloses, after some explanatory discussion of the amendment the point was made by the senior Senator from Iowa [Mr. CUMMINS] that the amendment was not in order under the rules on the pending appropriation bill. It is only frankness to state that on the question being raised the then occupant of the chair had no doubt whatever as to the status of the amendment under either clause 1 or clause 3 of Rule XVI. But in the preliminary discussion it had developed that a somewhat delicate question of amity, or comity, or courtesy, or whatever you may see fit to call it, as between the two Houses was involved. Under the peculiar circumstances of the case the then occupant of the chair felt constrained in deference to the Senate to exercise the discretion lodged in the Chair under the rules and submit the question of order to the judgment of the Senate. The question could have been so framed as to simply submit the interrogatory whether the question on the amendment should be put to the Senate, but this would have been a palpable evasion of the question of order under the rule.

Mr. LODGE. Mr. President, if I may say one word more, this amendment, if not in order, could be so held only under two provisions. It is not general legislation. It is not a private claim. It must be out of order, because it is not "moved by direction of a standing or select committee of the Senate, or proposed in pursuance of an estimate of the head of some one of the departments." Last night, if I had been in the chair and had been called upon to rule, I should have ruled that it was not estimated for.

Mr. CUMMINS. Rule XVI, paragraph 1, provides:

> And no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill or to add a new item of appropriation—

How does the Senator from Massachusetts——

Mr. LODGE. It also says "unless"——

Mr. CUMMINS. How does the Senator from Massachusetts escape that prohibition?

Mr. LODGE. It may come under the "unless" clause.

Mr. CUMMINS. Read the exception.

Mr. LODGE. Of course, it is not to carry out any provision of existing law or treaty stipulation——

Mr. CUMMINS. That does not cover it.

Mr. LODGE. That does not cover it. I was about to say I should have ruled it out on the ground that it was not estimated for, and, therefore, did not fulfill that condition; but I think after the suggestion made by the Senator from Wyoming that that does not apply.

Mr. CUMMINS. But the——

Mr. LODGE. One moment. I am discussing the various suggestions. Last night I certainly should not have ruled it out, if I had to rule on it, on the ground that it was not proposed by a committee, because I should have held that an amendment accepted by the committee became a committee amendment and the work of the committee. It never would have occurred to me to rule it defective on that ground.

Mr. WARREN. It was offered by a member of the committee as a committee amendment.

Mr. LODGE. That is what takes it out of the rule.

Mr. CUMMINS. I did not understand that it was offered as a committee amendment.

Mr. LODGE. It was offered by a member of the committee and was accepted by the chairman, as I supposed, acting for the committee, and no member of the committee objected. That, I considered, made it a committee amendment. But the trouble I had last night was that I thought it was not estimated for.

Mr. CUMMINS. I does not need to be estimated for.

Mr. LODGE. The chairman has now made it clear that appropriations for the payment of our own employees or those of the House do not require to be estimated for; that we can fix them ourselves. I ought to have thought of that, but I did not. It is undoubtedly true.

Mr. CUMMINS. I do not want to be misunderstood. I supposed, as a general proposition, that no Member of the Senate could offer an amendment increasing an appropriation contained in the bill, or to add a new item, unless it is to carry out existing law, or unless it has been approved by a standing committee.

Mr. LODGE. I think this fulfills that provision——

Mr. CUMMINS. Or unless it has been estimated for.

Mr. LODGE. It does not need to be estimated for, and the amendment has been proposed by a standing committee.

Mr. CUMMINS. No; it does not have to be estimated for if it is moved by a standing committee, or if it is to carry out existing law; but this amendment is neither to carry out existing law nor moved by a standing committee——

Mr. LODGE. That is where I differ with the Senator.

Mr. CUMMINS. Nor estimated for. Now, if it is put this morning in the form of being offered or moved by the Appropriations Committee, then, of course, my point of order disappears at once.

Mr. SMITH of Georgia. Mr. President, I voted yesterday afternoon in accordance with my opinion that the proposed increase was out of order. I did not understand that the Committee on Appropriations was the father of this amendment or presented it. Of course, as the Senator from Iowa says, if the Committee on Appropriations takes the responsibility for it now, it is not subject to the point of order and it is clearly within the power of the Senate to act upon it.

Mr. LODGE. As I said, I supposed last night that it was offered by a member of the committee and that it was offered as a committee amendment. I have been informed that since then the committee has been formally polled and that a majority of the committee favor the amendment. It will let us out of the trouble we are in if the Senator from Iowa will withdraw his point of order and allow the amendment to be reoffered in the name of the committee.

Mr. CUMMINS. With the understanding that it is to take that form, and that the amendment is to be withdrawn as an individual amendment, I withdraw the point of order. I do not care to insist upon a vote on an immaterial question.

Mr. LODGE. Then if the Senator from Virginia will withdraw it as an individual amendment, all the subsequent proceedings fall, and he can reoffer it as a committee amendment.

Mr. MARTIN of Virginia. Mr. President, it is true I am a member of the committee, but I offered the amendment as an individual Senator. But I withdraw it, and it will now be presented as a committee amendment, the committee having in the meantime taken action in regard to it. If the chairman of the committee will indicate that he will make that motion, I will withdraw the amendment.

The PRESIDENT pro tempore. It will be necessary, first, in order that the parliamentary situation may be directly kept in view, that the Senate get rid of the order already passed for taking the vote by yeas and nays. That can be done by unanimous consent.

Mr. WARREN. I wish to say that even last night I would have asked to put the matter in the way now proposed except for the parliamentary situation. The true situation is this: The amendment was practically offered by the committee; it was considered by the committee in the method we have always followed and agreed to, provided we should later receive the written request of the chairman of the Committee on Appropriations. We received later the request in writing of the chairman of the committee on the other side of the Capitol that the committee report it. That came in at a later hour and was handed to the Senator from Virginia [Mr. MARTIN], who offered the amendment, not observing, probably, that one of the letters was addressed to the committee and the other to the chairman. It would have been perfectly competent for me to have offered it as a committee amendment because it was, in fact, such.

As to the parliamentary situation, I leave that to the Chair.

Mr. CUMMINS. I do not want to be put in a false position. The Senator from Wyoming is in error. If he will turn to the RECORD of the Senate he will see that the amendment was not offered on behalf of the committee, neither by the chairman nor by any other member of it. It was offered by the Senator from Virginia in his individual right.

Mr. WARREN. Oh, well, Mr. President, you might as well say that I offer in my individual right any amendment agreed upon by the committee. The Senator from Virginia is a member of the committee.

Mr. CUMMINS. Then may I ask the Senator from Wyoming what does the rule mean when it says "moved by a standing committee"? Who acts for the committee?

Mr. WARREN. The Senator can make his own construction of that; but amendments are offered by various members of the committee; sometimes by the chairman and sometimes by other members of the committee.

Mr. CUMMINS. Then I take it the Senator from Wyoming believes that whenever a Senator who happens to be a member of a committee offers an amendment relating to a bill of which the committee has been in charge, it is understood as being a committee amendment?

Mr. WARREN. If it is authorized by the committee.

Mr. CUMMINS. There was no suggestion in the RECORD of yesterday that that was the case.

Mr. WARREN. It is supposed to be taken as a matter of course. I may have been at fault in not elaborating that, but I supposed that that was taken as a matter of course.

Mr. BRISTOW. If I may be permitted to make a suggestion, the Senator who offered the amendment has just stated that he did not offer it as a committee amendment, but offered it as an individual amendment.

Mr. CUMMINS. I simply want the RECORD to be perfectly clear on that point. Otherwise I would not have made the point of order. The RECORD states:

> Mr. MARTIN of Virginia. On page 16, in line 15, I move to amend by striking out "$2,500" and inserting "$3,000" after the word "clerk."

And so on. Never a suggestion that it had received the concurrence of the committee or was authorized by the committee.

Mr. MARTIN of Virginia. Mr. President, I desire to say that when those two letters were sent to the desk I had not read them. I did not know they were addressed to the chairman of the committee. They were handed to me on the floor of the Senate when the bill was almost in the act of being passed. I had not taken time even to read them. The Member of the House who handed them to me told me what they contained as he handed them to me. If I had known the letters were addressed to the chairman of the committtee, I should have handed them to him and he would have made the motion instead of myself.

Mr. WARREN. Will the Senator from Virginia allow me?

Mr. MARTIN of Virginia. One minute, please. But when I made the motion I made it, I say, under those circumstances and as an individual Senator, and did not offer it as a committee amendment. I did not even know what was in those letters. But the chairman of the committee at once accepted the amendment, and I supposed that that made it a committee amendment.

Mr. WARREN. Now will the Senator from Virginia allow me?

Mr. MARTIN of Virginia. Certainly.

Mr. WARREN. Perhaps the Senator will remember that he brought the subject up to me and other members of the committee, and we stated then that if those letters appeared, we would offer it as a committee amendment.

Mr. MARTIN of Virginia. Beyond doubt that is the fact. At a full meeting the committee authorized this to be reported to the Senate as a committee amendment when these conditions were met. I did not know when I offered the amendment whether these conditions would be met, and I had not read the letters; but the letters being read, disclosed the fact that the conditions the committee had prescribed in order to have this offered as a committee amendment had been complied with. That is the condition of the matter.

Mr. GALLINGER. Mr. President, it seems to me we can easily get out of this trouble, which I think is unfortunate in every aspect. I am going to ask unanimous consent that the order for the yeas and nays be vacated. Then I suggest that a majority of the Committee on Appropriations have in writing now given their assent to this amendment, and it will then be offered by the Senator from Wyoming as a committee amendment. I first ask unanimous consent that the order for the yeas and nays be vacated.

The PRESIDENT pro tempore. The Senator from New Hampshire asks unanimous consent that the order directing the vote to be taken by yeas and nays be vacated. Is there objection? The Chair hears none, and the order is vacated by unanimous consent.

Mr. WARREN. There are two or three other committee amendments, which I send up.

Mr. LODGE. Let us dispose of this first.

The PRESIDENT pro tempore. The Chair understands that the Senator from Iowa practically withdraws his point of order. The amendment proposed by the Senator from Wyoming on behalf of the committee will be stated.

The SECRETARY. On page 16, line 15, strike out "$2,500" and insert in lieu thereof "$3,000"; in the same line strike out "$1,600" and insert "$2,000"; and in the same line strike out

"$720" and insert in lieu thereof "$1,000," so that if amended it will read:

Judiciary—Clerk $3,000, assistant clerk $2,000, janitor $1,000.

Mr. CUMMINS. Understanding, Mr. President, that this amendment is now offered by the authority of the committee and is therefore moved by a standing committee, I do not make any point of order against it.

The PRESIDENT pro tempore. The question is on the adoption of the amendment offered by the Senator from Wyoming.

The amendment was agreed to.

Mr. WARREN. I have a supplemental request or estimate from the Auditor of the Post Office Department which, as it leads to economy, I offer. It is to reduce or change 14 clerks to 7 clerks and 7 skilled laborers.

The SECRETARY. On page 46, line 13, strike out "14 at $1,000 each," and insert in lieu thereof "7 at $1,000 each; 7 skilled laborers at $900," and in line 14 change the total to read "$49,300."

The amendment was agreed to.

Mr. MARTIN of Virginia. I desire to ask the chairman of the committee the reason why on line 23, page 12, we find inserted the name "George H. Carter" as clerk of the Joint Committee on Printing. Other clerks of committees are, without exception, appropriated for by the office, and not by name.

Mr. President, I am not questioning the competency of this clerk or intimating that he ought not to be continued in the position he holds; but I do not understand why a clerk who has hitherto been appropriated for by his office as clerk to the Joint Committee on Printing should now be appropriated for by name. If that policy is to be adopted, I do not know why a particular clerk should be singled out and designated by name, when scores of clerks of committees are appropriated for by the office which they hold, and not by name. I should like to know from the chairman of the committee if there is any good reason why this exception should be made.

Mr. WARREN. It is not an innovation; it is nothing new. We have for many years carried one or more names, sometimes in the House and sometimes in the Senate, and now both. One of the gentlemen at the desk of the Senate has his name included in every bill. The superintendent of the document room has been appropriated for by name almost ever since I have been a member of the Senate. There is a man accredited to the Committee on Commerce whose name is inserted in the bill. It is not the plan followed, except in exceptional cases.

It was represented to the committee, and the committee's investigation bore out the representation, that this man had very great talent to fill this place, and it was the expressed wish of the members of the committee on both sides politically, and from both the House and the Senate, that this should be done; and in order to get at it it was brought up in that way.

I agree with the Senator that a general practice of putting the names of clerks in the appropriation bill would be improper, but there are cases where we have old and valued employees. For instance, the committee of which he is an honored member and of which I am chairman had inserted in the bill not the name but the words "the present incumbent," which every one knew to refer to the clerk—Mr. Cleaves. On the House side the same thing is true in the case of the clerk to the Committee on Appropriations. The clerk of that committee has been there longer than I have been a Member of this body. Every year, while his name is not mentioned, the extra appropriation is made for him as "the present incumbent." So whether the practice is good or bad it is not a new one, and, of course, it must require, I will not say unanimous consent, but large support. However, it is not new, and it was not put in in any surreptitious manner. It came in in the regular manner.

Mr. MARTIN of Virginia. Oh, Mr. President, I have not intimated that it got in in any surreptitious manner. Of course it did not get in in any surreptitious manner. It is printed here, and everybody knows it.

We all know that for several years, perhaps, an assistant secretary of the Senate has been mentioned by name in the appropriation act, and his very able and faithful and useful services here are such that I would not appear to be wounding him by making any suggestion as to a continuation in his case of what has heretofore been done. It having been done in his case, and he being an exceptionally admirable officer, I would not even make a suggestion by moving to amend it. I would not do that because it might be construed as unfriendly, perhaps, as his name has been inserted heretofore so often.

The same is true as to Mr. Boyd in the document room. I have not made any suggestion as to that, and for the same reason, although it is bad practice, and it ought not to be done. As a legislative procedure it can not be justified. Employees of the Senate ought not to be appropriated for by name, but by the offices which they hold, and so long as they hold those offices they would draw the pay assigned to the office by the action of the Senate. But I do say that this practice ought not to be extended. As to those two cases, I have not made any motion, and do not intend to make any motion, although I consider the practice a bad one. In the case of the other gentlemen I have referred to who have been included by name heretofore I shall not ask that any change be made, but I wanted to know whether there was any good reason why this bad rule should be extended.

If there is any reason why it should be extended in this case, why not extend it and name all the clerks and appropriate for all the committee clerks by name? I do not believe myself there is any justification for this extension of this bad rule, and as no reason has been assigned why it should be done, I move that the name be stricken out and that the bill be amended——

Mr. SMOOT. Will the Senator withhold his motion until I can make a statement?

Mr. MARTIN of Virginia. I will.

Mr. SMOOT. This question came up yesterday and was discussed somewhat, as the Senator will see if he has read the RECORD this morning.

Mr. George H. Carter is so eminently qualified for the position that there is not a member on the committee on the part of the Senate who has not requested that he be designated by name in the appropriation bill for the place. George H. Carter has given years of attention to the work, and the Senator himself knows that there is no committee of the Senate that has the daily detail drudgery to perform that the Joint Committee on Printing is called upon to do. Mr. Carter is familiar with every phase of the work. He knows the printing law and all the rules of the committee. He is eminently qualified for the position. It was for that reason his name was put in the bill.

It is not a question, Mr. President, of politics. Mr. George H. Carter is a gentleman from Iowa. I suppose many, many Senators know him. As I said yesterday, I do not believe there is a man in the United States so well qualified for the place as Mr. Carter. Think of the hundreds and thousands and even millions of documents printed by the Government. Yet Mr. Carter knows just where they are stored, how many there are, and how they should be distributed. It seems to me there should be no objection to his name being mentioned in the bill as clerk of the committee.

Mr. MARTIN of Virginia. Mr. President, if Mr. Carter is so eminently qualified and so thoroughly satisfactory to every one, why ask to tie the hands of those who are to come after him? I am not intimating that he ought not to be continued as clerk of that committee. From what has been stated, it seems to me there is no doubt about the fact that he will be continued as the clerk of the committee. But why single him out? There are other committee clerks here who are just as efficient and just as faithful and just as satisfactory. Why not let the committee determine that? If this high qualification exists, and I do not doubt it, why not trust the committee to use a wise discretion and continue him as clerk of the committee, if they think it is proper to do so? Why forestall their action and interfere with their freedom of choice in the selection of a clerk of that committee?

There can be, Mr. President, no good reason for that. I never imagined that it was politics. I did not think it was politics, but I did think that there was a desire—and not an objectionable desire—to be a little personal in this matter, and I do not know but that it was shared in just as much by Democrats as Republicans. Indeed I am sure of it, for at least one member of that committee has spoken to me on this subject very much on the line of the Senator from Utah. But I do not think we should be showing partiality and personal favors in the general legislation of Congress. I do not think this name ought to be inserted in the bill, unless you are going to adopt a new rule and appropriate for committee clerks by name. I look upon it as bad legislation. It has been done in a few instances in the past, and I am simply protesting against the extension of that system. In this particular instance no good reason has been assigned why it should be done.

I hope the Senate will, in that item of the appropriation bill, in lines 23 and 24, strike out the name George H. Carter.

Mr. SMOOT. I desire to say to the Senator——

Mr. CLARKE of Arkansas. May I ask the Senator from Utah a question?

Mr. SMOOT. Certainly.

Mr. CLARKE of Arkansas. What substantial advantage would Mr. Carter obtain by having his name included in the bill?

Mr. SMOOT. It will secure him the place for the next year. Every member of the committee on the part of the Senate desires that he should be continued as clerk of the committee.

Mr. CLARKE of Arkansas. I infer from the statement of the Senator from Utah that it will give a certain degree of permanency to his tenure in this particular place.

Mr. SMOOT. That is the object of it. I wish to say that there is no partiality shown to him as a man.

Mr. CLARKE of Arkansas. I am not objecting, I will say.

Mr. SMOOT. There are dozens of clerks around the Senate for whom I have just as high regard as I have for Mr. Carter, but I do know——

Mr. CLARKE of Arkansas. The Senator need not defend Mr. Carter against any implied accusation in any remarks I made. I simply wanted to know what he was doing and what the effect would be. The explanation made about Mr. Carter's competency is sufficient. The place requiring long training and experience, the explanation satisfies me, and I want to leave it there, but I want to know what I am doing when I leave it there. You legislate him into the bill until the appropriation expires in July, 1914?

Mr. SMOOT. It is continuing him only one year.

Mr. CLARKE of Arkansas. One year from June 30. Having known what I am to do and what my vote amounts to, I am prepared to cast it to leave his name in the bill.

Mr. WORKS. I should like to inquire what has become of the unfinished business.

Mr. WARREN. I do not understand that this question has been disposed of. There is a motion pending.

Mr. WORKS. I do not want any vote to be taken to displace the unfinished business. The hour has arrived.

The PRESIDING OFFICER (Mr. FLETCHER in the chair). The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. WORKS. Unless some Senator desires to address the Senate upon the unfinished business, I ask that it be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending question is on the motion of the Senator from Virginia. The question in the mind of the Chair is whether the motion should not be to reconsider the action whereby the amendmnet was agreed to.

Mr. GALLINGER. It has been adopted?

Mr. SMOOT. Yes.

Mr. GALLINGER. It should be reconsidered, then.

The PRESIDING OFFICER. The Chair understands that the amendment was agreed to by the Senate as in Committee of the Whole, and then in the Senate the action was to concur in the amendment made as in Committee of the Whole, and now the bill stands with that amendment concurred in. It seems to the Chair that the motion must be to reconsider the vote by which the amendment was concurred in.

Mr. MARTIN of Virginia. My understanding is that the bill came from the committee to the Senate with that amendment in it, and it is in order to act on the amendment when we get into the Senate.

The PRESIDING OFFICER. It is the recollection of the Chair, and the RECORD will show, that the amendments made as in Committee of the Whole were concurred in in the Senate.

Mr. MARTIN of Virginia. There has been nothing of that sort done, as I understand it.

The PRESIDING OFFICER. It will be found on page 1565 of the RECORD.

Mr. WARREN. The RECORD shows that the amendments made as in Committee of the Whole were concurred in in the Senate.

Mr. MARTIN of Virginia. They have not been approved in the Senate?

The PRESIDING OFFICER. Here is the language, on page 1565:

The PRESIDING OFFICER. The bill is as in Committee of the Whole and open to amendment. If there are no further amendments as in Committee of the Whole, the bill will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. MARTIN of Virginia. I move, then, to reconsider the vote. I was not aware of the fact that the amendment had been concurred in in the Senate. I move, therefore, that the action of the Senate so far as this item is concerned be reconsidered.

Mr. SMITH of Georgia. I wish to ask that the Senator enlarge his motion so as to cover each one of the amendments inserting the name of an individual. There are several of them.

Mr. WARREN. The Senator surely does not mean to take those in the current law.

Mr. SMITH of Georgia. No; but each of the amendments reported by the committee adding a new name.

Mr. MARTIN of Virginia. I think the better practice is to act on each one as they come in different parts of the bill.

Mr. GALLINGER. One at a time.

Mr. MARTIN of Virginia. One at a time. This is an innovation. It is an extension of the practice which I think is a bad legislative practice. This name has not been in any other appropriation bill, and I prefer, therefore, that it should be singled out and disposed of individually and separately. Then any other name will be open to the same objection, if a Senator desires to offer the amendment. The present motion, therefore, is to reconsider the vote by which the amendment on lines 23 and 24 on page 12 was concurred in.

The PRESIDING OFFICER. The question is on the motion made by the Senator from Virginia, to reconsider the vote by which the amendment indicated by him was concurred in. [Putting the question.] The noes appear to have it.

Mr. SMITH of Georgia. A division!

Mr. MARTIN of Virginia. I ask for a division.

Mr. GALLINGER. We always gain time by calling for the yeas and nays when a division is demanded.

Mr. SMITH of Georgia. All right—the yeas and nays.

Mr. GALLINGER. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. In the absence of that Senator, I withhold my vote.

Mr. GALLINGER (when his name was called). I am paired with the junior Senator from New York [Mr. O'GORMAN]. I transfer that pair to the senior Senator from Kansas [Mr. CURTIS] and vote "nay."

Mr. MARTIN of Virginia (when Mr. O'GORMAN's name was called). The junior Senator from New York [Mr. O'GORMAN] is unavoidably absent from the city to-day.

Mr. OLIVER (when his name was called). I have a general pair with the junior Senator from Oregon [Mr. CHAMBERLAIN]. I transfer that pair to the Senator from New Mexico [Mr. FALL] and vote. I vote "nay."

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN], who is detained from the Senate on account of sickness. I transfer that pair to the junior Senator from Nevada [Mr. MASSEY] and vote "nay."

Mr. FOSTER (when Mr. THORNTON's name was called). I wish to announce that my colleague [Mr. THORNTON] is unavoidably absent from the Senate.

The roll call was concluded.

Mr. PAYNTER. I desire to inquire if the Senator from Colorado [Mr. GUGGENHEIM] has voted.

The PRESIDING OFFICER. He has not.

Mr. PAYNTER. I have a general pair with that Senator and I therefore withhold my vote.

Mr. LIPPITT (after having voted in the negative). In voting, I neglected to state that I have a pair with the senior Senator from Tennessee [Mr. LEA], which I transfer to the Senator from South Dakota [Mr. GAMBLE].

Mr. DU PONT (after having voted in the negative). When I voted I supposed that the senior Senator from Texas [Mr. CULBERSON] was in the Chamber. As I have a general pair with that Senator, and he is not present, I will withdraw my vote.

Mr. MYERS. I am paired with the Senator from Connecticut [Mr. McLEAN]. I transfer that pair to the Senator from Arizona [Mr. ASHURST] and vote "yea."

Mr. McCUMBER (after having voted in the negative). I understand that my pair is not present in the Chamber, and I therefore withdraw my vote.

The result was announced—yeas 32, nays 28, as follows:

YEAS—32.

Bankhead	Heiskell	Martin, Va.	Shively
Borah	Hitchcock	Martine, N. J.	Simmons
Bristow	Johnson, Me.	Myers	Smith, Ga.
Bryan	Johnston, Ala.	Newlands	Smith, Md.
Burton	Johnston, Tex.	Owen	Swanson
Clapp	Jones	Perky	Tillman
Crawford	Kern	Poindexter	Townsend
Gore	La Follette	Pomerene	Works

NAYS—28.

Bourne	Cummins	Kenyon	Root
Brandegee	Dillingham	Lippitt	Sanders
Brown	Fletcher	Lodge	Smoot
Burnham	Foster	Nelson	Stephenson
Catron	Gallinger	Oliver	Sutherland
Clarke, Ark.	Grouna	Page	Warren
Cullom	Jackson	Perkins	Wetmore

NOT VOTING—34.

Ashurst	Curtis	McLean	Smith, Ariz.
Bacon	Dixon	Massey	Smith, Mich.
Bradley	du Pont	O'Gorman	Smith, S. C.
Briggs	Fall	Overman	Stone
Chamberlain	Gamble	Paynter	Thornton
Chilton	Gardner	Penrose	Watson
Clark, Wyo.	Guggenheim	Percy	Williams
Crane	Lea	Reed	
Culberson	McCumber	Richardson	

So the motion of Mr. MARTIN of Virginia to reconsider was agreed to.

Mr. MARTIN of Virginia. I now move that the bill be amended by striking out the name "George H. Carter," in lines 23 and 24, on page 12.

The PRESIDING OFFICER. The Chair takes it that the motion having been reconsidered whereby the amendment was concurred in, the question now comes on concurring in the amendment made as in Committee of the Whole. A negative vote, of course, would be in favor of the proposition which the Senator from Virginia makes to strike out.

Mr. MARTIN of Virginia. I understand, then, the Chair will put the question whether or not the amendment shall be concurred in.

The PRESIDING OFFICER. That is the question.

Mr. MARTIN of Virginia. Those who want to have the name taken out will vote "nay."

The PRESIDING OFFICER. They will vote "nay." The question is on concurring in the amendment, made as in Committee of the Whole, inserting the name "George H. Carter." [Putting the question.] The "noes" seem to have it.

Mr. SMOOT. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CULLOM (when his name was called). I am paired with the junior Senator from West Virginia [Mr. CHILTON], I therefore withhold my vote.

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. He is not present in the Chamber, and I will withhold my vote. If I were at liberty to vote, I would vote to sustain the committee.

Mr. GALLINGER (when his name was called). I will again announce my pair with the junior Senator from New York [Mr. O'GORMAN] and its transfer to the Senator from Kansas [Mr. CURTIS], as on the previous vote. I vote "yea."

Mr. LIPPITT (when his name was called). I again announce my pair with the senior Senator from Tennessee [Mr. LEA], which I transfer to the senior Senator from South Dakota [Mr. GAMBLE], and I vote. I vote "yea."

Mr. PAYNTER (when his name was called). I have a general pair with the Senator from Colorado [Mr. GUGGENHEIM]. In his absence I withhold my vote.

Mr. PERKINS (when his name was called). I again announce my pair with the junior Senator from North Carolina [Mr. OVERMAN] and its transfer to the junior Senator from Nevada [Mr. MASSEY]. I vote "yea."

The roll call was concluded.

Mr. SIMMONS (after having voted in the negative). I desire to announce that my colleague [Mr. OVERMAN] is absent from the Senate on account of illness. While I am on my feet I will inquire whether the junior Senator from Minnesota [Mr. CLAPP] has voted. I do not see him in the Chamber.

The PRESIDING OFFICER. He has not voted.

Mr. SIMMONS. I transfer my pair with that Senator to the Senator from Arizona [Mr. ASHURST] and vote. I vote "nay."

Mr. THORNTON. I desire, first, to announce the necessary absence from the Senate Chamber of the junior Senator from New York [Mr. O'GORMAN]. I wish to announce, further, that he is paired with the senior Senator from New Hampshire [Mr. GALLINGER]. I vote "nay."

Mr. CLARK of Wyoming. I have a general pair with the Senator from Missouri [Mr. STONE]. I transfer that pair to the Senator from New Mexico [Mr. CATRON] and vote "yea."

Mr. DU PONT. I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. I transfer that pair to the Senator from New Mexico [Mr. FALL] and vote. I vote "yea."

Mr. GALLINGER. I was requested to announce that the Senator from New Jersey [Mr. BRIGGS] is paired with the Senator from West Virginia [Mr. WATSON], that the Senator from Delaware [Mr. RICHARDSON] is paired with the Senator from South Carolina [Mr. SMITH], and that the Senator from Michigan [Mr. SMITH] is paired with the Senator from Missouri [Mr. REED].

The result was announced—yeas 31, nays 30, as follows:

YEAS—31.

Bourne	Cummins	Kenyon	Root
Bradley	Dillingham	Lippitt	Sanders
Brandegee	du Pont	Lodge	Smoot
Brown	Fletcher	McLean	Stephenson
Burnham	Foster	Nelson	Sutherland
Burton	Gallinger	Oliver	Warren
Clark, Wyo.	Gronna	Page	Wetmore
Crawford	Jackson	Perkins	

NAYS—30.

Bankhead	Johnston, Ala.	Newlands	Smith, Ga.
Bristow	Johnston, Tex.	Owen	Smith, Md.
Bryan	Jones	Perky	Swanson
Chamberlain	Kern	Poindexter	Thornton
Gore	La Follette	Pomerene	Tillman
Heikkell	Martin, Va.	Shively	Works
Hitchcock	Martine, N. J.	Simmons	
Johnson, Me.	Myers	Smith, Ariz.	

NOT VOTING—33.

Ashurst	Culberson	McCumber	Smith, Mich.
Bacon	Cullom	Massey	Smith, S. C.
Borah	Curtis	O'Gorman	Stone
Briggs	Dixon	Overman	Townsend
Catron	Fall	Paynter	Watson
Chilton	Gamble	Penrose	Williams
Clapp	Gardner	Percy	
Clarke, Ark.	Guggenheim	Reed	
Crane	Lea	Richardson	

So the amendment was concurred in.

Mr. SUTHERLAND. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to add at the end of the bill a new section, as follows:

SEC. 7. That hereafter in the event of reductions being made in any force employed under the civil service or in any of the executive departments or independent establishments no honorably discharged soldier, sailor, or marine who has had active service in the Civil War, the Spanish-American War, or the Philippine insurrection, whose record is rated good shall be discharged or dropped or reduced in rank, class, salary, or compensation. Any person knowingly violating the provisions of this section shall be summarily removed from office and may also upon conviction thereof be punished by a fine of not more than $1,000 or by imprisonment for not more than one year.

Mr. SUTHERLAND. Mr. President, the amendment which I have offered modifies section 5, which went out on a point of order yesterday, made by the Senator from Oklahoma [Mr. OWEN]. I have modified it now by limiting it to those soldiers, sailors, and marines who have had active service either in the Civil War, the Spanish-American War, or the Philippine insurrection. I hope in that form that we may be permitted to vote upon it.

Mr. WARREN. Mr. President, I assume that perhaps the Senator from Utah can assure me that the amendment is in the exact terms of the legislation of last year, which took care of those in Washington, and merely extends the same privilege to those outside the District that the original provision did to those inside.

Mr. SUTHERLAND. Not quite in the same terms. I have made it a little more definite. For example, I have put in after the first word, "That," the word "hereafter." It read in the original law, "That in the event of reductions." I simply put in the word "hereafter," so as to make it the permanent law. Then I have added, after the word "departments," the words "or independent establishments," because there are some establishments that are not under the executive departments. The original law did not include the word "hereafter." For the same reason, to make it entirely clear and definite, I have added after the word "rank" the word "class," and after the word "salary" the words "or compensation," so as to embrace the whole subject matter. With those changes, which simply add to the certainty and clearness of the law, I have simply put in the limitation to which I have already called attention, namely, that it shall only apply to soldiers, sailors, and marines who have seen active service in the Civil War, the Spanish-American War, or the Philippine insurrection.

Mr. JONES. I do not know at what point in the amendment the words should come in, but after the word "executive" I move to amend the amendment proposed by the Senator from Utah by inserting the words "or legislative."

Mr. SUTHERLAND. I have no objection to that.

The PRESIDING OFFICER. Does the Senator from Utah accept the modification suggested by the Senator from Washington as a part of his amendment?

Mr. SUTHERLAND. I accept the modification suggested by the Senator from Washington.

Mr. OWEN. Mr. President, I make the point of order against the proposed amendment as modified that it is legislation on an appropriaton bill and that it changes existing law. I commented on the matter yesterday, that it is not good policy to use appropriation bills for general legislation. Many Senators who are absent are absent relying upon the integrity of the rules of the Senate, not expecting that there will be put upon appropriation bills legislative items which they have not seen and which they would not perhaps agree to if they did see. I therefore make the point of order against the amendment.

Mr. POINDEXTER. Mr. President, it seems to me that the point of order made by the Senator from Oklahoma [Mr. OWEN], which is based upon the rule against general legislation being attached to appropriation bills, is not exactly applicable to the amendment proposed by the Senator from Utah [Mr. SUTHERLAND] for the reason that the amendment simply proposes to establish conditions under which the appropriations shall be expended. The amendment relates to employees for whose salaries the appropriations are made and provides for conditions under which the salaries appropriated in the bill shall be apportioned to the various employees. It seems to me for that reason that the amendment is an exception to the general rule, and that the objection to it is not pertinent.

Mr. OWEN. In addition to the suggestions which I have heretofore made against the amendment, I suggest that it would be a criminal statute.

The PRESIDING OFFICER. It seems to the Chair that the amendment proposes general legislation. The Chair therefore holds that the point of order made by the Senator from Oklahoma is well taken, and it is sustained by the Chair.

Mr. LA FOLLETTE. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Wisconsin will be stated.

The SECRETARY. It is proposed to insert:

That the salaries of the members of the police force employed in the Capitol and in the Senate and House Office Buildings be made equal to the salaries paid to the elevator conductors employed in the said buildings, to wit, $1,200 per annum.

Mr. CLARKE of Arkansas. Mr. President, I think I shall make the point of order against that amendment for the same reason that I indicated yesterday. If it is a fact that there are gross and palpable inequalities in the pay that is being given to the different employees of the Senate, there ought to be some comprehensive and thorough examination into that matter and the inequalities developed. I am inclined to believe that some salaries will be found to be above the natural average, but by taking off from the employees who are overpaid and giving to those who are underpaid we may bring about an equilibrium that will come nearer doing justice than legislating in this blind way. I raise the point of order against the amendment.

The PRESIDING OFFICER. The point of order is sustained.

Mr. OWEN. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Oklahoma will be stated.

The SECRETARY. On page 26, after line 6, it is proposed to insert:

For legislative reference bureau under the direction of the Librarian of Congress, $10,000.

Mr. WARREN. Mr. President, that is not estimated for and it has not been brought before the committee for consideration.

Mr. OWEN. Before the Senator from Wyoming makes the point of order on the amendment I should like to be heard.

Mr. WARREN. I will withhold the point until the Senator from Oklahoma can speak on the amendment.

Mr. OWEN. Mr. President, I should like to have an opportunity to explain the purpose of this proposed provision. We have a very great volume of information in our Library and in the records of this Government, which is not conveniently digested altogether for the use of Members of the Senate and of the other House. The legislative reference bureau which has been established in Wisconsin has proved to be of very great value to that State in promoting the character of legislation, in enabling the members of the senate and of the house to perform their duties efficiently, with knowledge of the law relating to any given subject and the decisions of the courts in relation to any given statute. It has been so useful that I think it is obvious that the Congress of the United States ought to have a department of the same character. I should like to ask the Senator from Wisconsin [Mr. LA FOLLETTE], who is so familiar with this matter, to explain to the Senate in a few words the legislative reference bureau of Wisconsin. As I say, he is very familiar with it and its service. The matter has been reported on by the Librarian of Congress, who appreciates its importance. I will ask the Senator from Wisconsin to explain to the Senate what the system is in Wisconsin and its value there.

Mr. LA FOLLETTE. Mr. President, my attention was diverted when the Senator began to speak. I presume he is making his remarks upon an amendment which he has offered.

Mr. OWEN. Yes.

Mr. LA FOLLETTE. Well, Mr. President, I do not care to take the time of the Senate simply to spread some remarks upon the RECORD here. I presume that a point of order will be made against the amendment and that it will be ruled out as obnoxious to the rule. That being so, I will not at this time submit any observations on the subject. I will say, however, that I purpose to introduce a bill to establish a legislative reference department, which I deem to be of very great importance to Congress and to the country, and endeavor to secure a report upon it in time to offer it as an amendment to another appropriation bill at this session. Since conferring with my friend, the Senator from Oklahoma [Mr. OWEN], yesterday, regarding the matter, I have made a partial canvass of the members of the Library Committee, and I believe we will be able to have a bill more complete and comprehensive than any amendment which could now be offered reported from that committee before another appropriation bill to which it would be germane as an amendment passes the Senate. Then I hope, Mr. President, to take the time of the Senate very briefly to set forth what has been done in Wisconsin by the establishment of the legislative reference department. I might say its work is broader than that; that does not properly describe it; it is a department of research and investigation and has been very helpful to legislators in Wisconsin in acquiring that exact and comprehensive knowledge of the subjects treated, to insure a body of economically sound progressive statutes.

Mr. OWEN. I withdraw the amendment, Mr. President.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. WARREN. Mr. President, I wish simply to say a word. I have nothing to urge against the merits of the amendment, and I am very glad the Senator from Wisconsin was given an opportunity to say that the proposition will be thoroughly perfected before it shall come before the Committee on Appropriations.

The PRESIDING OFFICER. Are there further amendments to be offered in the Senate? If not, the amendments will be ordered to be engrossed and to be read a third time.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

GERMAN ORPHAN ASYLUM ASSOCIATION.

Mr. CRAWFORD. I ask that the Senate resume consideration of House bill 19115, commonly known as the omnibus claims bill.

Mr. GALLINGER. Mr. President, I ask the Senator if he will kindly yield to me to request consideration of a bill which, if objected to or debated at all, I will immediately withdraw. It is a District of Columbia bill, which is important to a charitable organization.

Mr. CRAWFORD. If the matter will not provoke any discussion, I will yield to the Senator.

Mr. GALLINGER. It will be immediately withdrawn if it does.

Mr. CRAWFORD. I want to insist upon pushing the claims bill, because it has been before the Senate a long while and no vote has been had upon it.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill (S. 7508) to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia."

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend the act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia," approved February 6, 1901, by adding to and making a part of section 1 of that act the following:

And the said German Orphan Asylum Association of the District of Columbia may hereafter fix, limit, and determine the number of directors to constitute its board of directors by any constitution or constitutions which may hereafter be adopted by the said association, and the number of its said directors may be decreased or increased as provided by any constitution or constitutions, or any amendment or amendments thereto, which the said association may lawfully adopt.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. GALLINGER. I thank the Senator from South Dakota for his courtesy.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. Mr. President, I ask for a vote upon the pending amendment, which is the amendment offered by me to the amendment proposed by the Senator from Massachusetts [Mr. LODGE].

The PRESIDING OFFICER. The Chair suggests that the bill has not yet been taken up in the regular way.

Mr. CRAWFORD. I thought the bill was before the Senate.

The PRESIDING OFFICER. The Senator withdrew his request before the bill was taken up in favor of the Senator from New Hampshire [Mr. GALLINGER].

Mr. CRAWFORD. I did not withdraw it; I simply withheld the request in order that a small bill might be considered.

The PRESIDING OFFICER. The bill was not regularly taken up.

Mr. CRAWFORD. Then I renew my request that the Senate resume the consideration of House bill 19115, known as the omnibus claims bill.

I desire to say that we have discussed more or less now for a number of days the question of incorporating the French spoliation claims into this bill. I am anxious to have that matter disposed of one way or the other, because in a large degree it will determine whether or not we are to go on with this bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CLARKE of Arkansas. Mr. President, before we take a vote on any of the features of the amendment offered by the Senator from Massachusetts [Mr. LODGE] I think we ought to have a fuller attendance of the Senate, and I make the point——

Mr. CRAWFORD. If the Senator will permit me, the Senator from Massachusetts has said to me several times that, so far as my amendment to the amendment proposed by him is concerned, he would not ask for a roll call. I desire to have that amendment to the amendment disposed of. Then I should not want to take up the amendment of the Senator from Massachusetts without his being in the Chamber, and I shall send for him.

Mr. CLARKE of Arkansas. I supposed that the amendments would follow in natural order and that after the amendment of the Senator from South Dakota to the amendment of the Senator from Massachusetts had been disposed of the question would recur on the amendment offered by the Senator from Massachusetts. If that be not the case, I see no necessity for taking the time.

Mr. CRAWFORD. I should like to have a vote on the amendment offered by me to the amendment of the Senator from Massachusetts.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota [Mr. CRAWFORD] to the amendment of the Senator from Massachusetts [Mr. LODGE].

Mr. LODGE. Mr. President, I only want to say a word in regard to the matter of premium, which was alluded to the other day. The war premium, as was held in the Alabama cases, was paid on account of the war, on account of the danger, in one case from the Confederate cruisers and in the other from the cruisers of France, and they were obliged to pay the excessive premiums which constituted a part of their loss because of the situation of France. That is all I wanted to say, merely to explain that. I am perfectly ready now to take a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota to the amendment offered by the Senator from Massachusetts.

The amendment to the amendment was agreed to.

Mr. LODGE. On the main amendment, as amended, I should like to have the yeas and nays.

The PRESIDING OFFICER. Is there a second?

Mr. CLARKE of Arkansas. Mr. President, while the calling of the yeas and nays may automatically disclose the absence of a quorum, I make the point, technically, that there is no quorum present.

The PRESIDING OFFICER. The absence of a quorum being suggested, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	du Pont	McCumber	Shively
Bankhead	Fletcher	McLean	Simmons
Bourne	Gallinger	Martin, Va.	Smith, Ariz.
Bradley	Gronna	Martine, N. J.	Smith, Md.
Brandegee	Heiskell	Myers	Smoot
Brown	Hitchcock	Oliver	Stephenson
Bryan	Jackson	Owen	Sutherland
Burnham	Johnson, Me.	Page	Swanson
Burton	Johnston, Ala.	Paynter	Thornton
Chamberlain	Johnston, Tex.	Perkins	Tillman
Clapp	Jones	Perky	Wetmore
Clark, Wyo.	Kern	Poindexter	Williams
Cullom	La Follette	Pomerene	Works
Cummins	Lippitt	Root	
Dillingham	Lodge	Sanders	

Mr. THORNTON. I announce the necessary absence from the Chamber of the junior Senator from New York [Mr. O'GORMAN], and ask that this announcement stand for the day.

Mr. KERN. I desire to announce that the junior Senator from South Carolina [Mr. SMITH] is absent on account of a death in his family. I ask that this announcement stand for the day.

The PRESIDING OFFICER. Fifty-eight Senators have answered to their names. A quorum of the Senate is present. The question is on the adoption of the amendment offered by the Senator from Massachusetts [Mr. LODGE] as amended on motion of the Senator from South Dakota [Mr. CRAWFORD], on which the yeas and nays have been ordered.

Mr. CRAWFORD. Mr. President, before the vote is taken, as a matter of justice to myself, I am glad to say that as the French spoliation claims amendment is now proposed, if it were here as an independent proposal I should vote for it. But representing the committee, and in view of the policy of the committee, and the rules adopted by the committee in framing this bill, and as it was decided there that it was inexpedient to attach the French spoliation claims to this bill, inasmuch as it would simply mean the defeat of the omnibus claims bill, I shall, simply because of my belief that it is inexpedient, vote against the amendment to incorporate them on this bill.

Mr. CLARKE of Arkansas. Mr. President, I quite fall in with the idea indicated by the Senator from South Dakota [Mr. CRAWFORD], the chairman of the Committee on Claims. I shall not at this time address myself to the merits, or so-called merits, of the French spoliation claims, because in my judgment it is inexpedient for some of us to vote for the incorporation of these claims in this bill at the present time. As the bill came from the House it contained several hundred thousand dollars of so-called Southern war claims, the validity of which had been adjudicated by the Court of Claims. As a part of the policy announced by the Senator from South Dakota all of the individual claims of that class were omitted from the bill and only such items included as related to the injury or destruction of churches or schoolhouses.

Many of us interested in the passage of the bill in its original form acquiesced in that under the belief that we thereby facilitated the payment of some part of the indebtedness, and we simplified the issues that would arise subsequently, not only in regard to the individual claims in favor of southern claimants, but that we would also be in a more independent attitude with reference to these French spoliation claims. So purely as a matter of legislative procedure many of us will vote against the consideration of these claims at the present time.

There has been developed a sharp and irreconcilable conflict between the two Houses in reference to the payment of these claims, and at least two bills failed of enactment because both classes of claims were largely represented in the same bill. So I may say that now—and I think I speak not only for myself but for a number of other Senators on this side of the Chamber who are similarly situated—that wholly without reference to the merits or demerits of the so-called French spoliation claims, we deem it inexpedient to vote to put them on this bill at the present time.

There has been no claims bill since 1907, and while a great many reasons have cooperated to produce that result, none has contributed more than the fact of the so-called French spoliation claims being made a part of the bill. Their merits are distinct, if they have any merits, and I say they have none. But I will devote a little time to that at a later stage of their consideration.

But now, having acquiesced in the elimination of all the claims that come from the section of the country from which many of us on this side come, we feel it would be nothing but fair to test out the sentiment of Congress in the matter of paying these claims of churches and schoolhouses. They are in a class distinct from other claims that are usually included in this bill. They were never founded in absolute right. They were never recognized for some 30 years after the war. A sentiment developed here, under the leadership of the late Senator from Massachusetts, Mr. Hoar, in favor of recognizing these claims as sort of a benevolence. I think it was an egregious blunder. The people of the South are not particularly concerned about what churches and schoolhouses were destroyed 50 years ago. That whole section has been rehabilitated entirely beyond the dream of the wildest friend that section had. These things are not at all essential to the prosperity of the community, but, having been allowed and recognized as claims, individual communities have taken them up, and they feel that the same treatment should be accorded to those, the validity of which has now been adjudged, that has been accorded to the same class of claims on former occasions.

It is to get rid of that so-called exhibition of benevolence on the part of Congress that I have been inclined to agree to

the proposition made by the Committee on Claims. The people of the South did not need such an exhibition of generosity on the part of the late Senator from Massachusetts to convince them that they had rights that were to be respected and duties that were to be discharged.

The reconciliation of the sections and of the classes did not depend upon a few dollars here and a few dollars there for a destroyed or damaged church. That was a mere bagatelle, and it has come into prominence only by reason of the fact that payments of that character have been made, and claim agents have become busy and have stirred up claims locally, and that reacts on us here, and we find ourselves continually prodded for our negligence in failing to get recognition for claims that now remain, whereas similar claims have received favorable recognition.

As I desire to reduce the number of conflicts in connection with this bill and come down to a basis where we can fairly and independently consider the merits of the so-called French spoliation claims and open up a way to increase the independence of the other side of the Chamber to investigate the merits of the so-called southern war claims, I think this bill ought to pass just in accordance with the plan laid down by the Committee on Claims. I shall therefore vote against the consideration of the spoliation claims at this time, without indicating in detail the reasons why I do so.

Mr. BRISTOW. Mr. President, I devoted considerable time to a discussion of these claims upon a former occasion. Having talked with a number of Senators, I am convinced that it is not the purpose of the Senate to incorporate these claims into the bill at this time; and not wishing to occupy the time of the Senate in discussing the merits of the claims, believing that they will not be made a part of the bill, I therefore will not discuss them at this time, as otherwise I would.

Mr. WILLIAMS. Before the Senator from Kansas takes his seat I should like to ask him a question. Did not the United States Government receive from the French Government a large amount of money for the purpose of paying these claims?

Mr. BRISTOW. It did not.

Mr. LODGE. It received its equivalent.

Mr. WILLIAMS. I have always thought that the United States did. In the Louisiana treaty there were some three and one-half million dollars——

Mr. BRISTOW. That is not the treaty upon which these claims are based.

Mr. WILLIAMS. It may not be; but under the Louisiana treaty there was an amount—I forget precisely what it was, but I think it was three million and a fraction dollars—that the Government of the United States assumed as claims of Frenchmen against the United States Government, in consequence of the war de facto, although never declared by either nation; and that is the point to which I am referring.

Mr. BRISTOW. That does not relate to these claims. It relates to a different matter.

Mr. LODGE. If the Senator from Mississippi will allow me, what was done was this: In consideration of our undertaking the payment of our claimants, France undertook the payment of her claimants against us.

Mr. WILLIAMS. I understand that, and that was a part of the same treaty.

Mr. LODGE. No; I think that was an earlier treaty.

Mr. WILLIAMS. Well, I may be mistaken about that.

Mr. BRISTOW. That was a separate treaty.

Mr. WILLIAMS. But my recollection is that in the sum total we had to pay for Louisiana; in addition to the $15,000,000, which we paid in cash, there were some three million and a fraction of dollars that were included, which we assumed for our own citizens who had claims against France. I do not mean for French subjects who had claims against us.

Mr. BRISTOW. That was another treaty and related to a different matter. I will say to the Senator from Mississippi.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts [Mr. LODGE] as amended, upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. CULLOM (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. CHILTON], which I transfer to the Senator from New Mexico [Mr. CATRON] and will vote. I vote "yea."

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. I transfer it to the Senator from New Mexico [Mr. FALL] and will vote. I vote "yea."

Mr. PAYNTER (when his name was called). I have a general pair with the Senator from Colorado [Mr. GUGGENHEIM]. In his absence, I withhold my vote. Except for that, I would vote "yea."

Mr. PERKINS (when his name was called). I have a pair with the junior Senator from North Carolina [Mr. OVERMAN], which I transfer to the junior Senator from Nevada [Mr. MASSEY] and will vote. I vote "nay."

The roll call was concluded.

Mr. WARREN. I am paired with the senior Senator from Louisiana [Mr. FOSTER]. If he were present and I were at liberty to vote, I should vote "yea."

Mr. GALLINGER. I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. I transfer it to the junior Senator from Maryland [Mr. JACKSON], who would vote for this amendment, and will vote. I vote "yea."

Mr. LIPPITT. I again announce the transfer of my pair with the senior Senator from Tennessee [Mr. LEA] to the senior Senator from South Dakota [Mr. GAMBLE]. I vote "yea."

The result was announced—yeas 21, nays 41, as follows:

YEAS—21.

Bradley	du Pont	McLean	Thornton
Brandegee	Gallinger	Martin, Va.	Wetmore
Burnham	Johnson, Me.	Oliver	Williams
Clapp	Lippitt	Page	
Cullom	Lodge	Penrose	
Dillingham	McCumber	Root	

NAYS—41.

Ashurst	Curtis	La Follette	Smith, Ga.
Bankhead	Dixon	Martine, N. J.	Smoot
Bourne	Fletcher	Myers	Stephenson
Bristow	Gronna	Perkins	Sutherland
Brown	Heiskell	Perky	Swanson
Bryan	Hitchcock	Poindexter	Tillman
Burton	Johnston, Ala.	Pomerene	Townsend
Chamberlain	Johnston, Tex.	Sanders	Works
Clarke, Ark.	Jones	Shively	
Crawford	Kenyon	Simmons	
Cummins	Kern	Smith, Ariz.	

NOT VOTING—32.

Bacon	Fall	Massey	Reed
Borah	Foster	Nelson	Richardson
Briggs	Gamble	Newlands	Smith, Md.
Catron	Gardner	O'Gorman	Smith, Mich.
Chilton	Gore	Overman	Smith, S. C.
Clark, Wyo.	Guggenheim	Owen	Stone
Crane	Jackson	Paynter	Warren
Culberson	Lea	Percy	Watson.

So Mr. LODGE's amendment as amended was rejected.

EXECUTIVE SESSION.

Mr. SMOOT. Mr. President, I move that the Senate proceed to the consideration of executive business.

Mr. CRAWFORD. I desire to give notice that I will ask the Senate to resume consideration of the omnibus claims bill after the routine morning business to-morrow, and hope we may then be able to dispose of it.

The PRESIDING OFFICER (Mr. POMERENE in the chair). The question is on agreeing to the motion of the Senator from Utah, that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 1 hour and 27 minutes spent in executive session the doors were reopened, and (at 4 o'clock and 47 minutes p. m.) the Senate adjourned until to-morrow, Friday, January 17, 1913, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 16, 1913.

COLLECTOR OF CUSTOMS.

John R. Willis, of Alaska, to be collector of customs for the district of Alaska, in the Territory of Alaska. (Reappointment.)

REGISTER OF THE LAND OFFICE.

John L. Lockhart, of South Dakota, to be register of the land office at Pierre, S. Dak., his term expiring January 27, 1913. (Reappointment.)

PROMOTIONS IN THE NAVY.

Ensign Henry E. Rossell to be an assistant naval constructor in the Navy from the 7th day of January, 1913, to fill a vacancy (vice John C. Sweeney, jr., late assistant naval constructor, United States Navy, declared a deserter from the naval service from June 6, 1910).

The following-named machinists to be chief machinists in the Navy from the 27th day of December, 1912, upon the completion of six years' service as machinists:

Arthur W. Bird and
Willis Dixon.

Pharmacist Stephen W. Douglass to be a chief pharmacist in the Navy from the 22d day of August, 1912, in accordance with the provisions of an act of Congress approved on that date.

The following-named citizens to be assistant surgeons in the Medical Reserve Corps of the Navy from the 6th day of January, 1913, in accordance with the provisions of the act of Congress approved August 22, 1912:

John C. Da Costa, a citizen of Pennsylvania, and

Hobart A. Hare, a citizen of Pennsylvania.

APPOINTMENTS IN THE ARMY.

FIELD ARTILLERY ARM.

Richard Christian Scott, of Virginia, late midshipman, United States Navy, to be second lieutenant of Field Artillery, with rank from January 15, 1913.

CORPS OF ENGINEERS.

John Carl Gotwals, of New York, to be probational second lieutenant in the Corps of Engineers for a period of one year.

PROMOTIONS IN THE ARMY.

QUARTERMASTER CORPS.

Capt. Julius N. Killan, Quartermaster Corps, to be major from November 1, 1912.

Capt. Salmon F. Dutton, Quartermaster Corps, to be major from November 1, 1912.

POSTMASTERS.

CALIFORNIA.

James C. Arthur to be postmaster at Petaluma, Cal., in place of James E. Olmsted, resigned.

ILLINOIS.

Frederick H. Ballinger to be postmaster at Chenoa, Ill., in place of Frederick H. Ballinger. Incumbent's commission expires February 20, 1913.

Eva J. Harrison to be postmaster at Johnson City, Ill., in place of Eva J. Harrison. Incumbent's commission expires January 26, 1913.

W. A. Perrine to be postmaster at Herrin, Ill., in place of W. A. Perrine. Incumbent's commission expires February 9, 1913.

Seneca Selby to be postmaster at Golden, Ill., in place of Seneca Selby. Incumbent's commission expired January 11, 1913.

IOWA.

G. H. Mohr to be postmaster at Wall Lake, Iowa, in place of Charles B. Dean, deceased.

KANSAS.

Floyd E. Richmond to be postmaster at Logan, Kans., in place of Floyd E. Richmond. Incumbent's commission expired January 11, 1913.

LOUISIANA.

Edward I Hall to be postmaster at Jennings, La., in place of Edward I. Hall. Incumbent's commission expires January 29, 1913.

MINNESOTA.

William K. Wilcox to be postmaster at Elysian, Minn. Office became presidential October 1, 1912.

NEW JERSEY.

Charlotte C. Ketcham to be postmaster at Belvidere, N. J., in place of Charlotte C. Ketcham. Incumbent's commission expired January 11, 1913.

Erurn Knapp Kenworthy to be postmaster at Millington, N. J., in place of Frederick P. Baker. Incumbent's commission expired January 5, 1913.

NEW YORK.

Thomas A. Chisholm to be postmaster at Fort Covington, N. Y., in place of Thomas A. Chisholm. Incumbent's commission expired December 16, 1912.

Edward L. Ware to be postmaster at Lake Placid, N. Y., in place of Edward L. Ware. Incumbent's commission expired January 11, 1913.

OHIO.

W. E. Halley to be postmaster at Greenville, Ohio, in place of W. E. Halley. Incumbent's commission expires February 11, 1913.

Thomas J. Maxwell to be postmaster at Fremont, Ohio, in place of Gustavus A. Gessner. Incumbent's commission expires February 9, 1913.

Joseph R. Taber to be postmaster at Canfield, Ohio, in place of Joseph R. Taber. Incumbent's commission expires February 9, 1913.

OKLAHOMA.

George M. Massingale to be postmaster at Leedey, Okla. Office became presidential January 1, 1913.

Olin W. Meacham to be postmaster at Henryetta, Okla., in place of Olin W. Meacham. Incumbent's commission expired January 14, 1913.

PENNSYLVANIA.

Frank R. Alter to be postmaster at Parnassus, Pa., in place of Renwick Rowan, deceased.

Clarence L. Dindinger to be postmaster at Zellenople, Pa., in place of Clarence L. Dindinger. Incumbent's commission expires March 1, 1913.

Thomas Pickrell to be postmaster at Old Forge, Pa., in place of Thomas Pickrell. Incumbent's commission expires February 20, 1913.

TEXAS.

Prince A. Hazzard to be postmaster at Colorado, Tex., in place of Prince A. Hazzard. Incumbent's commission expired January 11, 1913.

UTAH.

William H. Capwell to be postmaster at Tremonton, Utah. Office became presidential January 1, 1913.

VIRGINIA.

Thomas C. Bunting to be postmaster at Exmore, Va. Office became presidential October 1, 1911.

WASHINGTON.

John C. Davis to be postmaster at Leavenworth, Wash., in place of John C. Davis. Incumbent's commission expires February 9, 1913.

P. R. Parks to be postmaster at Colville, Wash., in place of P. R. Parks. Incumbent's commission expires February 11, 1913.

George B. Stocking to be postmaster at Republic, Wash., in place of George B. Stocking. Incumbent's commission expires February 20, 1913.

WEST VIRGINIA.

Harry W. Smith to be postmaster at Middlebourne, W. Va., in place of Harry W. Smith. Incumbent's commission expired January 14, 1913.

CONFIRMATION.

Executive nomination confirmed by the Senate January 16, 1913.

PROMOTION IN THE ARMY.

Edward J. McClernand to be brigadier general.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January 16, 1913.*

The House met at 12 o'clock noon.

Rev. William I. McKenney, pastor of the Wesley Methodist Episcopal Church, Washington, D. C., offered the following prayer:

Almighty God, our heavenly Father, we come to acknowledge Thy sovereignty and express our thanksgiving and praise to Thee for Thy manifold blessings. Thou hast said, If any man lack wisdom, let him ask of God, who giveth to all men liberally and upbraideth not. Give to these, Thy servants, wisdom and righteousness in the discharge of their duties, and breadth of sympathy and vision. We pray for God's blessing upon Thy servant, our Chief Magistrate. Bless our President elect. Preserve his life and health to enter upon the duties of his great office, and God grant that his administration may be a conspicuous success and a blessing to all the people. Command Thy blessing, we beseech Thee, upon Thy servant, the Chaplain of the House. Lay Thy healing hand upon him and restore him to health and strength. These blessings we ask through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

THE LATE REPRESENTATIVE MALBY.

Mr. MERRITT. Mr. Speaker, I ask unanimous consent for the present consideration of the order which I send to the Clerk's desk.

The SPEAKER. The gentleman from New York asks unanimous consent for the present consideration of a resolution which the Clerk will report.

The Clerk read as follows:

Ordered, That Sunday, January 26, 1913, at 12 o'clock noon, be set apart for addresses on the life, character, and public services of Hon. GEORGE R. MALBY, late a Representative from the State of New York.

The SPEAKER. Is there objection?

There was no objection.

ARMY APPROPRIATION BILL.

Mr. HAY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Army appropriation bill, H. R. 27941.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914, with Mr. SAUNDERS in the chair.

Mr. HAY. Mr. Chairman, this bill is, I may say, a straight appropriation bill. It carries very little if any new legislation. There are one or two items in the bill which have not been in the Army appropriation bill before, one of which is a provision increasing the pay of officers engaged in aviation. It may be remembered that in the last session of this Congress the House passed a bill increasing the pay of these aviation officers. That bill went to the Senate and has not been acted upon there, and we have thought that the matter is of sufficient importance to include it now in this bill.

There is also an appropriation of $25,000 for the international shooting match at Camp Perry, Ohio. It makes provision for the entertainment of the rifle teams from other countries, and provides that they shall bring in their paraphernalia, in the way of arms, and so forth, free of duty. I think those are the only two items in the bill that may be called new.

The bill carries an appropriation of $93,830,177, which is a reduction of $1,717,453 of the estimate.

Last year the bill carried an appropriation of $90,907,466. This bill is an increase of about two and one-half million dollars over last year's bill.

Mr. SHERWOOD. Will the gentleman yield for a question?

Mr. HAY. Yes.

Mr. SHERWOOD. What is the aggregate increase in the pay of officers?

Mr. HAY. There is no increase except in the pay of aviation officers.

Mr. SHERWOOD. How large is that increase?

Mr. HAY. It will be about $30,000.

Last year the committee, in making appropriations for the pay of the Army, thought they had provided a sufficient amount for that purpose, but during the present fiscal year the Army has been materially increased, and there will be a deficiency of $2,500,000 in the pay of the Army, as I am informed by the War Department.

There will also be a deficiency of about $750,000 in the subsistence of the Army, due to a great extent to the increase of the price of the articles of food which go to make up the Army ration. For that reason the present bill is increased beyond what it was last year.

Also last year the usual appropriation of $1,000,000 for the maneuvers of the Organized Militia was in a separate bill, because of the necessity of getting it passed by the 1st of July. For that reason the bill of last year would have been $1,000,000 more, and the expenses of the Army were in reality $1,000,000 more than were carried in that bill.

I think I have stated the salient points in the bill, and unless somebody desires to ask me a question, I reserve the balance of my time.

Mr. BURKE of South Dakota. Mr. Chairman, I desire to ask the gentleman if there is anything in this bill which authorizes expenditures for polo tournaments, race-track events, horse shows, and things of that kind?

Mr. HAY. There is no such provision in the bill.

Mr. BURKE of South Dakota. Is there any language in the bill that would prohibit it different from what has been in other bills?

Mr. HAY. There has been no change in the bill in regard to polo tournaments. So far as I know there has never been in the bill any provision for polo tournaments.

Mr. BURKE of South Dakota. I should like to read from a letter which I have received——

Mr. KAHN. Will the gentleman from Virginia yield to me for a moment?

Mr. HAY. I can only yield to one gentleman at a time. I have yielded to the gentleman from South Dakota.

Mr. BURKE of South Dakota. I have a letter from the Assistant Secretary of the Treasury, under date of August 23, 1912, in which he states that there are on file in the office of the Auditor for the War Department vouchers paid by disbursing officers of the Army on account of expenses in connection with the attendance of officers, enlisted men, and civilians upon polo tournaments, race-track events, and horse shows, which were paid from the appropriations for "Regular supplies, Quartermaster's Department," "Incidental expenses, Quartermaster's Department," "Transportation of the Army and its supplies," "Barracks and quarters," "Subsistence of the Army," and "Mileage to officers."

That would indicate that money is being expended from some appropriation, made, I assume, in the Army appropriation bill, and it is on that account that I make my inquiry.

Mr. HAY. I will say that all those appropriations are carried in this bill, but under what particular provision of those items these expenses have been paid I am unable to say.

Mr. BURKE of South Dakota. Then I understand the gentleman has not intended that any appropriation carried in the bill should be expended for these purposes, and if the proper amendment is proposed at a suitable place in the bill, and if the gentleman shall be convinced that money is being so expended, I presume he will consent to an amendment prohibiting it.

Mr. HAY. I would if it was demonstrated that these polo tournaments are held for the benefit of the public and not for the benefit of the service.

Mr. BURKE of South Dakota. There are a few other items in the bill that I would like to bring to the attention of the chairman, but perhaps I had better wait until the bill is taken up under the five-minute rule.

Mr. HAY. I will answer them now.

Mr. BURKE of South Dakota. In regard to the expenditure of the appropriation carried in this bill which has reference to commutation—I think it is on page 13 of the bill, commutation of quarters to commissioned officers, and so forth. I would like to ask the gentleman to explain, if he will, how that is expended. As I understand it, if an officer is entitled by his rank to quarters at a military post of, say, five rooms, if he is detailed at some polut other than a military post, for instance, at the War Department in the city of Washington, that he receives in cash on the basis of five rooms, $12 a month, which would be $60. He receives also in cash for the lighting and heating of five rooms, though he may only occupy one room or two rooms. Will the gentleman explain how that is?

Mr. HAY. I will state that the item to which the gentleman calls my attention refers to officers, dental surgeons, and so forth, who have not quarters at a military post and who have to have hired quarters. They get commutation of quarters in accordance with their rank, a second lieutenant getting two rooms and a first lieutenant three rooms, and so forth.

Mr. BURKE of South Dakota. Does not a captain get five rooms?

Mr. HAY. No; a captain gets four rooms, a major five rooms, and so forth. It is fixed by the rank of the officer, each room is $12 a month, and they are paid in cash when not stationed at military posts.

Mr. BURKE of South Dakota. And are they not always paid for heat and light for that number of rooms, regardless of the fact whether they occupy that number of rooms or not?

Mr. HAY. The commutation of heat and light is based on the number of rooms which they are allowed.

Mr. BURKE of South Dakota. They receive it for fuel in the summer months the same as in winter months, do they not?

Mr. HAY. I think not, but I am not positive about that.

Mr. BURKE of South Dakota. Is it not true in many instances a great many officers are drawing $75 and $100 a month in cash in lieu of quarters and light and heat?

Mr. HAY. I suppose they are—a colonel, a major, a lieutenant-colonel.

Mr. BURKE of South Dakota. Is it not true that there are a large number of officers in the city of Washington, as many as 175, that are drawing money in lieu of quarters and for fuel and light?

Mr. HAY. All officers in the city who are not stationed at the military post here at the Washington Barracks are drawing their commutation of quarters and allowances for fuel and light.

Mr. BURKE of South Dakota. I will discuss the matter further under the five-minute rule, and will make some further observations.

Mr. KAHN. If the chairman of the committee will allow me, I think there is a provision in the Military Academy bill which permits the purchase of horses of a certain size, which are used as polo ponies at West Point. That is allowed by law.

Mr. HAY. The gentleman from South Dakota was talking about the expenses of the polo tournaments held not at West Point, but at other places; one was held here last summer. Now, Mr. Chairman, I reserve the balance of my time.

Mr. PRINCE. Mr. Chairman, I yield one hour to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Chairman, the Constitution of the United States, Article II, section 3, provides:

He—

The President—

may on extraordinary occasions convene both Houses or either of them.

The word "extraordinary" in its usual and ordinary signification means beyond or exceeding the common order or degree. An "extraordinary occasion" as thus construed would be an uncommon, an unwonted, an unusual occasion. This was the view of the older commentators.

St. George Tucker, in his comments on Blackstone's Commentaries, volume 1, page 344, says:

The power of the President to convene either or both Houses of Congress was a provision indispensably necessary in a Government organized as the Federal Government is by the Constitution. Occasions may occur during the recess of Congress for taking the most vigorous and decisive measures to repel injury or provide for defense; Congress only is competent to these objects; the President may therefore convene them for that purpose. Or it may happen that an important treaty hath been negotiated during the recess of the Senate, and their advice be required thereupon without delay, either that the ratification may be exchanged in due time or for some other important reason. On such extraordinary occasions as these if there were not a power lodged in the President to convene the Senate, or the Congress, as the case might require, the affairs of the Nation might be thrown into confusion and perplexity, or worse.

Story on the Constitution, volume 2, section 1562, says:

The power to convene Congress on extraordinary occasions is indispensable to the proper operation and even safety of the Government. Occasions may occur in the recess of Congress requiring the Government to take vigorous measures to repel foreign aggressions, depredations, and direct hostilities; to provide adequate means to mitigate or overcome unexpected calamities; to suppress insurrections; and to provide for innumerable other important exigencies arising out of the intercourse and revolutions among nations.

In practice the earlier Presidents in summoning both Houses recognized this interpretation.

John Adams, May 15, 1797, by proclamation convened Congress, stating: "Whereas an extraordinary occasion exists for convening Congress." In his message giving reasons he cites the refusal of the French Republic to receive the American minister until the United States had acceded to their demands for "redress of grievances," the decrees of the Directory under which our commerce was being destroyed, and the necessity under the circumstances of strengthening our Army and Navy. In reply to this message both the Senate and the House passed "addresses" to the President approving the action in convening Congress "on this momentous occasion."

James Madison, May 22, 1809, convened Congress in special session, the "critical state of our foreign relations" being the occasion. War was threatened with both France and England, whose outrages on our seamen, depredations on our commerce, and contemptuous disregard for our rights were continually augmenting.

The War of 1812 with Great Britain made it necessary for President Madison to again call Congress in special session May 25, 1813, for the purpose of strengthening our Army and Navy and providing a revenue to meet the extraordinary demands of a conflict with the most powerful nation in the world.

Martin Van Buren, September 4, 1837, issued a proclamation convening Congress in extraordinary session, stating that "great and weighty matters claiming the consideration of the Congress of the United States form an extraordinary occasion for convening them." The suspension of specie payment by the banks and the panic which ensued made it necessary to provide for these "unexpected exigencies," which were "indispensably necessary to the public service before the regular period of your meeting."

William Henry Harrison, March 17, 1841, issued a proclamation calling Congress together May 31, 1841, to consider "sundry important and weighty matters, principally growing out of the conditions of the revenue and finances of the country."

President Harrison did not live until the date when Congress was to convene. He died April 4, 1841.

President Tyler, who succeeded to the Presidency, in his special-session message said he did not feel it would be becoming to him to disturb what had been ordered by his predecessor, and was "most happy" to have the counsel and advice of Congress "as to the best mode of extricating the Government and the country from the embarrassments weighing heavily on both."

Franklin Pierce, August, 1856, called Congress together, his proclamation stating:

Whereas whilst hostilities exist with various Indian tribes on the remote frontiers of the United States, and whilst in other respects the public peace is seriously threatened, Congress has adjourned without granting the necessary supplies for the Army, depriving the Executive of the power to perform his duty in relation to the common defense and security, an extraordinary occasion has thus arisen for assembling the two Houses of Congress.

Abraham Lincoln, July 4, 1861, convened Congress in extraordinary session. The Southern States had seceded, Sumter had been fired upon, war was then in progress, armies were in the field, a blockade had been ordered, and the President called upon Congress to give him "the legal means for making the contest a short and decisive one."

Rutherford B. Hayes, October 15, 1877, called Congress together because the preceding Congress had adjourned without making appropriations for the Army, the Navy, and to defray the expenses of the United States courts.

Again, March 18, 1879, he called Congress together because the Forty-fifth Congress made no appropriations for the Army or for the legislative, executive, and judicial branches of the Government.

Grover Cleveland called a special session August 8, 1893, his message stating:

The existence of an alarming and extraordinary business situation, involving the welfare and prosperity of all our people, has constrained me to call together in extra session the people's Representatives in Congress.

It will be seen from this review that on only 10 occasions during the first century of the Republic had its Presidents exercised their power to convene Congress in extra session. War, foreign aggressions, widespread panic, or a failure to make the necessary appropriations to carry on the Government were the reasons assigned. There will be no contention that the existence of any of these conditions would not constitute an "extraordinary occasion" justifying the exercise of the Executive prerogative.

The few instances of the exercise of this power by our Presidents during the first century of our history, and the facts existing in each case clearly justifying the call, merit the language of Justice Miller in his lectures on the Constitution:

The power of the President to convene both Houses, or either of them, on extraordinary occasions has been rarely exercised, and certainly has not been abused during the history of the Government.

While the exercise of the power during these years is clearly justified in calling both Houses, it is by no means so clear with regard to the exercise of the power in calling one alone. No President has ever convened the lower House alone, but special sessions of the Senate have been frequently called from the beginning of our Government down to the present time. Washington called the Senate in special session four times, John Adams twice, and Jefferson, Madison, Monroe, John Quincy Adams, Jackson, Van Buren, Tyler, and Polk once each. Indeed, the practice has continued down to the present day.

The occasion for these calls for a special session of the Senate has been the necessity of action by the Senate in confirming the important appointments of the President. Especially does it appear necessary when an administration changes. The President assuming his duties March 4, and the regular session of the Senate not occurring until the following December, the executive department can not be fully organized without the appointment and confirmation of the Cabinet officers. Hence it has been the practice to call special sessions of the Senate for the purpose of securing these important confirmations. While the exercise of the Executive prerogative is not so clearly justified in these cases, it has been considered indispensable so long as the Constitution makes no provision for dealing otherwise with such exigencies. It has therefore never been questioned.

In later years we find a new practice with regard to the calling of both Houses established which constitutes in reality an entire abandonment of the "extraordinary occasion" requirement for the exercise of the power. Our later Presidents call Congress in special session whenever in their judgment any important reason exists for so doing. Thus, William McKinley, March 15, 1897, called Congress in special session. In his message he said:

Regretting the necessity which has required me to call you together, I feel that your assembling in extraordinary session is indispensable because of the condition in which we find the revenues of the Government. It is conceded that its current expenditures are greater than its receipts, and that such a condition has existed for now more than three years.

It was true that the revenues of the Government were not equal to the expenditures. Prior deficits had been met, however, by bond issues, which, while undesirable, were not sufficiently serious to constitute an extraordinary emergency. To have awaited from March until December would not have materially changed conditions or seriously injured the country. The bulk of the President's special session message, however, was devoted to a discussion of the tariff, and it was generally understood that Congress was called together for the purpose of revising the tariff.

It may well be doubted if tariff revision under any circumstances can constitute an "extraordinary occasion" within the meaning of the Constitution. When it is remembered that such

action is in response to a political rather than an essential or inherently justifiable demand, its wisdom as well as its constitutionality may fairly be questioned. It will hardly be contended that a seeming political advantage will justify the exercise of a doubtful constitutional power, and it may be safely assumed that no such exercise of power can in the long run help the party in whose supposed interest it is made.

The unwise precedent set by President McKinley was followed by Theodore Roosevelt November 9, 1903, who convened Congress in extraordinary session to "consider the legislation necessary to put into operation the commercial treaty with Cuba."

The treaty had been ratified by the Senate and by Cuba, but its reciprocal features contemplated legislation by Congress. In this case there was hardly a pretense that the occasion was "extraordinary." The President did not even allude to it as such. He merely desired early action and took this means of securing it on a pet measure of no general interest or particular importance.

It is unquestionably true that it is entirely within the power of the President to determine what is an "extraordinary occasion." Thus Watson on the Constitution (vol. 2, p. 1001), a late work, discussing the exercise of this power, says:

The term "extraordinary occasions" would imply that the framers of the Constitution thought that some urgent necessity might arise, when it would be necessary for Congress, or either branch thereof, to be called together, and they accordingly conferred upon the President the power to do so at such times. What is an extraordinary occasion is for the President to determine. A State constitution by a similar provision authorized the governor to call the State legislature together, and it was held that though the governor might err in doing so there was no power to prevent him or to correct the error. Another State constitution contained the exact language on the subject which is found in the Constitution of the United States—that is, it authorized the governor to call the legislature, or either branch thereof, together on "extraordinary occasions." The governor having exercised his authority and called the legislature together, it was claimed by a very large part of the people of the State that no "extraordinary occasion" existed, and that in consequence the call was invalid and the proposed legislation unnecessary. The court said the fact that a large majority of the people of the State might not consider that an "extraordinary occasion" existed, or that they believed that the legislation which it was proposed should be enacted was unnecessary, vicious, or injurious to the interests of the State, would not justify a court in declaring that the governor had violated his constitutional prerogative in calling the legislature together.

Whatever view may be taken as to the justification for calling Congress in extraordinary session in any given case, there is no way to legally contest it. The President is the sole judge as to what constitutes an extraordinary occasion, and his only restraint in the exercise of the power is moral. The determination of what is his duty under the Constitution he is sworn to support and obey ought to be a sufficient guide. If he shall determine to disregard his constitutional duty or to lightly treat its obligations, he has the power to do so, but it will not redound to his credit or to the credit of his administration.

William Howard Taft, March 16, 1909, convened Congress "in order to enable it to give immediate consideration to the revision of the Dingley Tariff Act." Conditions had so changed, he said, as to require a readjustment of rates. The revenues were not sufficient to pay the authorized expenditures, the successful party was pledged to revision, the country expected it, and the suspense as to the nature of the change caused a halt in business. "For these reasons I have deemed the present to be an extraordinary occasion within the meaning of the Constitution justifying and requiring the calling of an extra session."

It is perhaps needless to say that none of the matters stated as constituting an "extraordinary occasion," nor all of them together, justified the call. There was no emergency that under a fair interpretation demanded immediate legislation. There was no condition shown to exist which might not reasonably have been borne from March until December. It may fairly be stated that the revision of the tariff could have been better and more satisfactorily accomplished had the President allowed the matter to wait until the regular session. If there is any one subject of legislation that can and should await the opportunity for full consideration and calm deliberation it is a revision of the tariff.

President Taft again exercised his prerogative by assembling the Sixty-second Congress in special session April 4, 1911. His purpose was to secure the adoption of the proposed reciprocal trade agreement with Canada.

In concluding the negotiations—

He said—

the representatives of the two countries bound themselves to use their utmost efforts to bring about the tariff changes provided for in the agreement by concurrent legislation at Washington and Ottawa. I have felt it my duty, therefore, not to acquiesce in relegation of action until the opening of Congress in December, but to use my constitutional prerogative and convoke the Sixty-second Congress in extra session in order that there shall be no break in continuity in considering and acting upon this most important subject.

President Taft endeavored to secure the approval of this trade agreement by the Sixty-first Congress. It passed the House February 14, 1911, a majority of the Republicans voting against it. A determined opposition to the bill developed in the Senate, whereupon the President announced that if no action was taken on the bill before Congress came to an end, March 4, he would call a special session of the Sixty-second Congress to pass upon it. The statement, however, had no effect, and the Senate took no action. The special session was called and the President secured the passage of the reciprocity pact by the Sixty-second Congress, July 22, 1911.

No action was taken by Canada until July 29, when Laurier dissolved Parliament and appealed to the people. The vote in Canada was taken September 21 following, when the Conservatives won an almost unprecedented victory and secured a new Parliament overwhelmingly opposed to reciprocity.

It will be seen that there was no occasion for haste. It was apparent that the President thought the chance of passage in the United States was better early and that the influence of successful action here would be helpful in Canada. Such considerations were far from constituting a justification of the exercise of the power of calling an extraordinary session of Congress. The President might well have acquiesced in "relegation of action until the opening of Congress in December," and it would have been fully as wise to have allowed a "break of continuity" here as in Canada.

The country is now at peace. Our people are enjoying an unprecedented measure of prosperity. Business conditions are good. The largest crops ever produced have been harvested. There is more money on deposit in our banks than ever before. Our exports and imports are the largest ever recorded, and the balance of trade is strongly in our favor. Our revenues exceed our expenditures, and we have a surplus in the Treasury. It is vehemently declared that these conditions will and must continue. Nevertheless it is announced by the President elect that he will summon Congress early in the year in extraordinary session to revise the tariff. And this is to be done not because of any announced constitutional sanction but because his party associates demand it. Indeed, it is almost ludicrous to consider that the President in November announces that an "extraordinary occasion" will arise for the exercise of his constitutional prerogative the next March or April. In effect this is a determination that, no matter what conditions then may exist in the country, the political pressure of his party associates for tariff revision as a party policy, in fulfillment of party pledges, constitutes an "extraordinary occasion" within the contemplation of the Constitution for calling an extra session of Congress.

It cost the country in increased expenditures for the extra session of 1911 probably more than a quarter of a million dollars. For session employees of the House and Senate the cost was $33,591.64. For mileage it was $138,489.20. Other expenditures, such as increased amounts for stationery, materials, light, heat, and so forth, were incurred, the amount of which can not be readily ascertained. It is not probable that the contemplated extra session will cost less.

Have those who have advised the President elect that it would be good politics to call the extra session considered this feature? Are those Democrats who are pledged to rebuke the "mad extravagance" of the Republicans ready to stand responsible for this utterly needless expense? Is a quarter of a million dollars less in their consideration than the salary of a superfluous clerk? An opinion is somewhat generally entertained that the lavish and almost limitless expenditures for investigations, which have marked if not distinguished the history of the present House, were incurred more for party advantage than for justifiable ends. Will it be wise now to add this large additional expenditure whose only possible purpose is pure politics?

It will be claimed that this call of an extra session to revise the tariff is but the call of the people, to which faithful and obedient statesmen should immediately respond. But the people, or at least a large majority of them, do not want any such revision of the tariff as is promised by the Democratic Party.

It should begin to be understood by the leaders of that party that it was neither their principles or their candidate that caused their success. It was Republican division and not Democratic worth that brought about Republican defeat.

Of the three parties which really contended for the supremacy at the last election two declared unequivocally for the policy of protection. The other declared against it. A majority of over a million votes was cast for the parties which declared against a tariff for revenue revision. The popular vote for Mr. Wilson was 6,303,000; that for Mr. Taft was 3,439,000; and that for Mr. Roosevelt was 4,168,000. The combined vote for Mr. Taft and Mr. Roosevelt, or the total vote for protection,

was 7,608,000, a majority on the vote cast for protection as against tariff for revenue of 1,305,000. The vote of Mr. Wilson with the normal increase as measured by the increase of population should have been 6,931,000. Instead, it was 628,000 less, and 104,919 less than Mr. Bryan received in 1908.

In view of these facts there is little appearance of an imperious, unappeasable, immediately-to-be-answered demand for tariff revision. Indeed, when it is considered that the total vote of 1912 was only 155,000 larger than the vote for 1908, despite the fact that two new States had been admitted and suffrage to women had been granted in California and Washington, and that if the additional vote of those States be omitted, the total vote of 1912 was smaller than in 1908, notwithstanding the fact that during that period the population of the country had increased 8 per cent; if, in addition, it is remembered that the total vote cast at the last election, including the Socialist, Prohibition, and Socialist-Labor vote, was only 15,041,000, while the number of males of voting age in the United States was 26,999,000, it is apparent both that no great interest was taken in the demand for tariff revision, and that the less than one-quarter of our total voting population who demand such action ought reasonably to be satisfied if action be deferred until reached in the ordinary course of orderly procedure.

The only avowed purpose of the extra session is to revise the tariff. That the tariff needs revision may be freely admitted, but that surely can wait until the regular session. The country is at least not suffering under our present tariff. It may be too high in some of its items, but that will always be the case. It may be too low in some particulars, but such conditions will always exist. Under it as it now is we are prospering mightily. All admit the year just closed was the golden year of the Nation's progress and prosperity. We have ample revenue. There is no deficit. Business is sound. There is no panic. There is no sudden emergency calling for action; no "occasion" justifying the exercise of the "extraordinary" powers of the Government.

The President elect in his letter of acceptance said that as the business of the country had been built up on protective-tariff schedules "its foundations must not be too radically or too suddenly disturbed." Later during the campaign he said:

> These changes can not be brought about suddenly. We can not arbitrarily turn right about face and pull our policy up by its roots and cast it aside while we plant another in virgin soil. A great industrial system has been built up in this country under the fosterage of the Government behind a wall of unproductive taxes. This change must be brought about first here, and then there, and then there again. We must move from step to step with as much prudence as resolution.

These words were fair words; they were wise words; they were words of moderation and wisdom. It will scarcely be contended that they were not honestly spoken. It can hardly be believed they were uttered for campaign purposes only; that they were only intended to allay alarm, to win confidence, to secure votes, and that the real purpose was something exactly opposite. And yet that is exactly the reproach the persons who have induced the President to call this extra session bring upon him. His words before the election promised moderation, deliberation, consideration. His act will belie all this and will do the very things he promised not to do.

One wonders if history is again to repeat itself. Grover Cleveland in his letter of acceptance said:

> We will not destroy any industry; we will remodel the tariff; we will give lower duties; we will even the burdens of the people; and we will give freer raw material.

And yet when President he became the earnest advocate not of freer but of free raw materials, denounced the Wilson-Gorman law as "party perfidy and party dishonor," and refused to sign it, not because it was too radical but because it was not radical enough. Nevertheless, as it was, Senator Hoar declared in Congress that the experiment of radical tariff revision made under the Cleveland administration cost the people of this country more in dollars and cents than the entire cost of the Civil War.

What may be expected at the coming extra session in the present state of mind of the dominant leaders may be determined by the words of Mr. UNDERWOOD, leader of the majority, who is reported as saying recently, "The bills already passed by the House indicate the line of revision that will be followed." These bills put on the free list nearly $6,000,000,000 of products now on the dutiable list. They greatly reduce the duty on $9,000,000,000 more of our products. And these bills left many of the schedules untouched which it is now proposed shall be "revised."

Yet Mr. Wilson declares that they "do not want to disturb the industry of the country; we are here not to destroy." And yet with such an announced program of radical, revolutionary revision he yields to the pressure of politicians, whom he is unwilling or unable to resist.

The Springfield Republican refers to the past tariff activities of the present House as "more of a study in political jockeying than in tariff making." Political success seemed so desirable, so deliciously sweet, so rapturously blissful, that the end to be attained appeared to justify almost any means to secure it. But the hour of responsibility will end the pleasant pastime of jockeying, and the stage play, which both diverted and deceived, must cease when in the cold, clear light of open day the handling of elemental forces begins.

The coming administration holds in its hands four years of our country's history. It may write on its pages much good or much evil. To an extent that is not realized the policies of an administration affect the happiness of the people. It is sometimes lightly said that it makes little difference which party succeeds or who is elected, but that is a mistaken idea. In some manner every administration touches every citizen—the humblest as well as the highest. It reaches every hearthstone; it is felt in remotest regions. In the success of the coming administration every patriotic American citizen must be interested. For its success every one not blinded by partisanship or actuated by sinister motives must wish. Every wrong step, every mistake, every blunder hurts us all, and in the glory that may come from continued or increased progress and prosperity we can not help but share.

Extra sessions of Congress called for political purposes to serve party ends have never brought satisfaction to the Executive, credit to the administration, or benefit to the country. The proposed extra session will be no exception. Looking merely for party advantage, Republicans might view with complacency this first blunder of the new administration; but as Americans, with the best interests of the people at heart, it is difficult to see any possible good to our country in the proposed extra session of Congress.

Mr. PRINCE. Mr. Chairman, I now yield 15 minutes to the gentleman from California [Mr. KAHN].

Mr. KAHN. Mr. Chairman, when the Army appropriation bill was before the House last summer my colleagues on this side of the House and myself endeavored to point out the fact that unless the items for pay were increased there would positively be a deficit this year. Our prediction has come true. The chairman of the committee, the gentleman from Virginia [Mr. HAY], said in his statement that the deficit is due to the increase in the Army. It is true that the Army was increased, but the order for the increase was issued on the 30th of March, 1911, some months before the Army bill was finally passed; and the fact that the order for the increase had been made before the bill had passed was all the more reason why the amendments offered by my colleagues and myself should have been adopted. But the political campaign is over, and the present bill carries the amounts which the real necessities of the Army demand.

The bill of last summer carried considerable legislation. One of the provisions was for an increase of the enlistment period. In the San Francisco Chronicle, a few weeks ago, I noticed an article to the effect that there had been a considerable falling off in the number of enlistments at that point since the new law went into effect on the 1st of last November. Having read the item, I took occasion to find out just what that falling off might be. Of course, one can only make a comparison of the enlistments and reenlistments that occurred in the months of November and December of previous years.

I find that the total enlistments and reenlistments for 1910 was 6,331 during the months of November and December. The total enlistments and reenlistments during these two months in 1911 was 7,559. The total enlistments and reenlistments during the months of November and December, 1912, fell to the remarkably low figure of 3,677, or less than 50 per cent of what it had been during these two months in the year before. Again the predictions of the minority have come true. The long period of enlistment does not meet with the favor of the men who are likely to enlist in the Army. I firmly believe that it will become necessary by law to change the enlistment period.

Mr. HAY. Mr. Chairman, will the gentleman yield?

Mr. KAHN. Yes.

Mr. HAY. The present period of enlistment is, under the law, seven years.

Mr. KAHN. Yes.

Mr. HAY. Three years of which are served in the reserves.

Mr. KAHN. Yes.

Mr. HAY. Is it not a fact that the Secretary of War and the Chief of Staff insisted upon having that reserve feature, thereby adding the three years?

Mr. KAHN. The Secretary of War and the Chief of Staff did want a reserve period. Their preference was for a three-year enlistment period, with two years in the reserves; but

when it became evident that it was impossible to secure a three-year enlistment period, then they advocated the four-year period, which a majority of the conferees had agreed upon, plus three years in the reserves. During the summer I had occasion to speak with many of the enlisted men regarding this matter of the enlistment period, and I found that practically all of them preferred the short-enlistment period. Personally, I feel that many men should be allowed to retire from the Army at the end of the first year. I feel that where a man finds that he has no aptitude for the service he should be allowed to retire at the end of the first year, without being compelled to purchase his discharge. In that way the men who would have had a year's experience would go out into the body of the citizenship of the country with a friendly feeling toward the Army. I feel that if the call to the colors should come, a very large percentage of these men would respond in case they were required for actual service in the field.

Many of the desertions in the Army are due to the fact that young men who enlist, after they have been in the service a few months, become homesick and want to get out. If they felt that they could get an honorable discharge at the end of the year, I believe that very few of them would ever desert. They would practically all remain. A three-year term with two years in the reserves should be the longest in the Army, in my judgment. You would find that men would continue to enlist just as they had been enlisting before this increased term became the law. I hope, however, that the system which the law provided for will have a thorough test, and if it should develop that the falling off in the number of enlistments shall continue, then I hope that the Committee on Military Affairs will promptly bring in another bill to reduce the term of enlistment.

Mr. MURDOCK. What does the gentleman mean by a thorough test—what length of time?

Mr. KAHN. Oh, I should say a year. A year would undoubtedly develop the fact very thoroughly as to whether the present law is a success or not.

Mr. MURDOCK. Then if the present rate of diminution, which has developed in November and December, should continue for one year the gentleman would offer an amendment to cure that?

Mr. KAHN. I should introduce a bill.

Mr. MURDOCK. To reduce the term of service to one year?

Mr. KAHN. No; to three years; but I would have a proviso to give the soldier the privilege of taking an honorable discharge at the end of one year if he should desire to do so.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. KAHN. Certainly.

Mr. HOBSON. I would ask the gentleman whether they have been able to find from the recruiting officers any cause that they can put their finger on? I will put the question in another way, and ask whether the fact that the soldier is to receive no compensation during the three years of reserve is not the reason for the falling off rather than the length of service? I want to say that I agree with the gentleman that it may be it is the length of enlistment that may have produced this falling off, but there is also the question there of three years of service in the reserves without compensation.

Mr. KAHN. I have not had information upon that point, and therefore I stated that I would give the present law an opportunity to work out its own salvation. If, after the end of the first year, it should develop that the enlistments still continue to fall off and that the reason for the falling off is the one suggested by the gentleman from Alabama [Mr. HOBSON], then the correction should be made as to that. I will state that, having spoken on that subject with a number of enlisted men, I believe it is the long period of service that is responsible for the falling off.

Mr. Chairman, there are a number of matters contained in the bill of a year ago that should be given a thorough opportunity to be tried. There was a provision in the sections providing for a Quartermaster Corps that, I think, will develop a condition that ought to be carefully studied. Perhaps I should say that it will develop an improvement that ought to be worked out right through the Army. I refer to the matter of having one list with all the officers upon it, with rank upon that list from the date of their commission. There is a grievous complaint in the Army that officers frequently get promotions over their seniors, due to the branch of the service which the officer enters. For instance, one officer will graduate from West Point, say, in 1902. He goes into a certain branch of the service. Four or six years afterwards another officer will graduate from West Point who possibly will have been appointed from the same congressional district. That second officer goes into another branch of the service where promotions are much more rapid, and in the course of a few years he is a captain, while the man who graduated four or six years earlier is still a lieutenant. That condition is bound to create dissatisfaction, and if the provision contained in the Army bill passed last summer, to place all officers in the Quartermaster Corps on one list, according to the date of their commission, shall work out satisfactorily, then I believe that a law should be passed so that we may place all of the officers in the various branches of the Army on one list. I am satisfied that a great deal of the dissatisfaction would be dissipated, and it would work to the advantage of the Army. The Navy has only one list, and a man can look forward with absolute certainty to his promotion from rank to rank. That is impossible in the Army to-day, and such a condition should not be allowed to prevail. [Applause.]

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. PRINCE. Mr. Chairman, I do not know of anybody else on this side of the House who desires to speak.

The CHAIRMAN. Does the gentleman from Virginia desire to use any more time?

Mr. HAY. I do not.

Mr. PRINCE. Then I do not.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending June 30, 1914.

Mr. MANN. Mr. Chairman, I move to strike out the last word. The agreement was that there should be three hours of general debate, which, of course, does not bind the committee to use the time. Many Members went away on the supposition that there would be three hours of general debate, and I will ask the gentleman whether in the bill he knows of any controverted items that Members who perhaps are not present might wish to be heard upon?

Mr. HAY. I do not. The only item I heard about was the one concerning which the inquiry was made by the gentleman from South Dakota [Mr. BURKE]. That is the only controverted item I know anything about. I do not know that there is any item in this bill that is opposed by any member of the committee.

Mr. MANN. I am not speaking of the members of the committee. It is their business to be here.

Mr. KAHN. The gentleman from South Dakota [Mr. BURKE] told me in the cloakroom that when those items were reached in the bill he desired to call the attention of the committee to some abuses that he thought ought to be corrected, and I judged from what he said that he would offer some amendment.

Mr. HAY. That item will not be reached for some time, I will say to the gentleman.

Mr. MANN. Very well.

The Clerk read as follows:

OFFICE OF THE CHIEF OF STAFF.

Army War College: For expenses of the Army War College, being for the purchase of the necessary stationery, typewriters and exchange of same, office, toilet, and desk furniture, textbooks, books of reference, scientific and professional papers and periodicals, printing and binding, maps, police utensils, employment of temporary, technical, or special services, and for all other absolutely necessary expenses, including $25 per month additional to regular compensation to chief clerk of division for superintendence of the War College Building, $9,000.

Mr. HAY. Mr. Chairman, I offer the following amendment as a new paragraph.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 2, after line 8, insert the following as a new paragraph:

"That hereafter the President of the United States be, and is hereby, authorized to detail from the Army or Navy of the United States one officer, who shall serve as his personal aide, and who while so serving shall have the rank, pay, and allowances of a colonel of the Army."

Mr. PRINCE. Mr. Chairman, I reserve a point of order against that.

Mr. HAY. I will say to the gentleman from Illinois that this is offered upon the request of the President of the United States, and I would ask the Clerk to read the communication which I have received from the President.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

THE WHITE HOUSE,
Washington, January 13, 1913.

Hon. JAMES HAY,
Chairman Committee on Military Affairs,
House of Representatives.

MY DEAR MR. HAY: I write to urge upon you the introduction into the military appropriation bill of a provision for a personal aide to the President, to be detailed by him from officers of either the Army or the Navy, and to hold during such detail the rank and to receive the pay of a colonel of Infantry.

I do this after four years' experience, which makes me feel that a personal aide is necessary to the President, and that he should have the rank and pay of a colonel. This is the rank of aides to governors.

It is the rank of the aide of a full general in the Army, and as the President is the Chief Executive and the Commander in Chief of the Army and Navy, it would seem as if his aide ought to have equal rank and emolument.

I would not recommend it if my personal experience did not make me feel that such an aide is essential. It is true that the Engineer officer in charge of the public grounds and parks and, indeed, of the White House has the rank and pay of a colonel. In the old times it probably was given with the idea that he would serve as the personal aide of the President as well. But his duties are so many that, except at special social functions at the White House, it is impossible for him to be in attendance upon the President.

There is no law expressly authorizing a personal aide to the President, but my predecessors and I have exercised the power of the Commander in Chief to detail a captain or a major for the purpose. I think it would be better to have special authority on this subject, and, in the interest of my successor, to furnish him what I regard as needed assistance, I venture to send you this letter.

I have written a similar letter to Mr. MANN, leader of the opposition, with the hope that the provision may be treated in a nonpartisan spirit.

Sincerely, yours,

WM. H. TAFT.

Mr. SIMS. Mr. Chairman, has an amendment been offered to carry out the suggestion of the letter?

Mr. HAY. Yes; and the gentleman from Illinois [Mr. PRINCE] reserved a point of order.

Mr. SIMS. A point of order, then, is reserved?

Mr. PRINCE. It is reserved.

Mr. SIMS. If you decide to surrender it, I want an opportunity to make it.

Mr. HAY. I suggest that if you are going to make it that it be made now. There is no question that it is subject to a point of order.

Mr. SIMS. I understand from the letter that the Superintendent of Public Buildings and Grounds does act as aide to the President, with rank of colonel.

Mr. HAY. It states just the opposite, namely, that the duties of the Superintendent of Public Buildings and Grounds in the city are such that it is not possible for him now to so act, and that heretofore the President and other Presidents have exercised their right as Commander in Chief of the Army to detail some person to act as their personal aide, generally a captain. The object of this amendment is to authorize the President to detail an officer of the Army or Navy, and while such officer is serving as personal aide he shall receive the rank, pay, and allowances of a colonel.

Mr. MURDOCK. May I ask the gentleman what the duties of the military aide of the President are, as a fact?

Mr. HAY. The gentleman from Kansas knows them as well as I do.

Mr. MURDOCK. I will say to the gentleman that all I ever see of him is at the presidential receptions. What are his duties outside of that?

Mr. HAY. His duties are greater than that. He travels with the President, he meets many people for the President, and he is constantly in attendance on him, and his duties, in my judgment, are very onerous.

Mr. MURDOCK. Does the military aide, as a mater of fact, have daily duties?

Mr. HAY. Undoubtedly; yes.

Mr. MURDOCK. What are his duties at the White House?

Mr. HAY. He is there at the call of the President to perform any duty which the President chooses to impose upon him. He has to be there, as I understand it, all the time.

Mr. SIMS. Let me ask the gentleman this question: At present he does detail an officer of the rank of captain?

Mr. HAY. I think the present aide has the rank of major.

Mr. SIMS. And pay of major?

Mr. HAY. I think the present aide is a major in the Medical Corps.

Mr. SIMS. Is it the idea that a major, when serving as an aide, should have higher pay than when serving with his command?

Mr. HAY. That is the purpose of the amendment, namely, to give him the rank, pay, and allowances of a colonel.

Mr. SIMS. Is the service so much more onerous than it would be when serving in his regular position that he should receive extra pay? Is that the ground on which this is based?

Mr. HAY. The President informed me that the expenses of a man in that position were very much increased by reason of the position, and he thought he ought to have this increase of pay.

Mr. SIMS. On account of the social functions he has to attend? I remember that Col. Bingham used to introduce visitors and people attending the White House receptions to the President.

Mr. HAY. It may be that the Superintendent of Public Buildings and Grounds does that now. That is a very small part. You will remember that Maj. Butt, whom we all remember pleasantly and whose unfortunate end we lament, was the military aide of the President, and I happen to know that he was constantly on duty, and, occupying the position he did in relation to the President, he had a great many more expenses probably and had to live in a manner which he certainly would not otherwise have had to do.

Mr. SIMS. Does the gentleman from Virginia [Mr. HAY], the chairman of this committee, personally think, as a matter of personal judgment, that this ought to be a law? Is the gentleman acting as a matter of courtesy or upon his own judgment?

Mr. HAY. I am acting upon the request and information and experience of the President, who thinks this ought to be done; and he places it also upon the further ground that if every governor has a personal aide with the rank of colonel, that if a general of the Army has a personal aide with the rank of colonel, the Chief Executive of the country ought at least to have an aide with the same rank as that of a governor of a State or a general of the Army. Now, personally I know nothing about it. The President states in his letter that he does not expect to receive any benefit from this himself, but that he is doing it in the interest of his successor.

Mr. SIMS. I want to say to the chairman of this committee, in whom I have great confidence, that I have never yet made a point of order on an amendment that he offered, and if he approves of this I will make no point of order against it, but will rely on the gentleman exclusively if he is confident that he is correct in this matter.

Mr. HAY. I am relying on the information I have received, and I think that information is entitled to still more consideration when it is remembered that the amendment will cost very little; and if it is any satisfaction to the President to have a man with the rank of colonel as his aide I think Congress ought not to withhold it.

Mr. COVINGTON. Mr. Chairman, will the gentleman permit an interruption?

The CHAIRMAN. Does the gentleman from Virginia yield?

Mr. HAY. Certainly.

Mr. COVINGTON. The President is Commander in Chief of the Army, is he not?

Mr. HAY. Yes; he is.

Mr. COVINGTON. Does not the gentleman believe that if the President desires to have as his personal aide an officer with the rank of colonel he can find somewhere among the colonels in the Army a man who might be of such a personal character as to perform most efficiently and satisfactorily such service as may be required of him as aide to the President?

Mr. HAY. Yes; and if he did it he would have the pay and the emoluments and allowances of a colonel. If you restrict him to the selection of a man with the rank of colonel, he could not select the officer he desires from any other rank, but would have to select a colonel. I do not think it would be wise to select a colonel, who ought to be in command of his regiment, and it would be a pretty bad precedent to set to take a colonel away from his command and bring him here to the White House to be the personal aide of the President.

Mr. SLAYDEN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. HAY. Yes.

Mr. SLAYDEN. I would like to ask the gentleman from Maryland [Mr. COVINGTON], with the permission of the committee, whether it would not be satisfactory to provide that the person to be selected for this position should not be below the grade of major or lieutenant colonel?

Mr. COVINGTON. I do not see why you should discriminate against captains and lieutenants if you want to select an aide below the rank of colonel.

Mr. SLAYDEN. I think there is a reason. I think the captains are of vastly more use and benefit with their companies, to be frank with the gentleman.

Mr. COVINGTON. Then the gentleman thinks that the colonel is of great use to the Army in the command of his regiment, and that the captain is of great use to the Army in command of his company, but that the major, coming in between the two, is of doubtful use to anybody?

Mr. HAY. Mr. Chairman, I do not think the President ought to be restricted in the right to name any person he pleases in the Army to serve as his personal aide. I believe that under the Constitution he has the power, as Commander in Chief of the Army, to detail anybody he pleases for that purpose unless restricted by law. The only question here is whether you will give that man the rank and pay and allowances of a colonel.

Mr. COVINGTON. Mr. Chairman, if the gentleman will permit a question, I would like to ask if it is not a fact that at the present time these appointments at the White House, as they are commonly termed, are greatly sought by Army officers?

Mr. HAY. I think that is so; indeed, I know it is so.

Mr. COVINGTON. And that, even with only the pay of their rank, the peculiar attractiveness of service at the White House makes appointments as aides to the President peculiarly sought after by certain officers of the Army in grades as low as captain and lieutenant?

Mr. HAY. Yes; by certain officers of the Army. There are certain officers who are very anxious to receive such assignments.

Mr. COVINGTON. Under the present conditions, then, the President has no difficulty in procuring a suitable officer as his personal aide?

Mr. HAY. No; there is no difficulty. The only question here is whether or not the person selected is going to receive the rank, pay, and allowances of a colonel.

Mr. PRINCE. The question has been presented rather suddenly, and for that reason I reserve a point of order so as to get my memory to work. I have been told, whether correctly or not, that Mr. Lincoln got along with a civilian; that Gen. Grant got along with a civilian; that President Cleveland got along with civilians. I do not like this idea of having an Army officer act as the personal aide to the President, who is elected by the people. It smacks, to my western way of thinking, a little too much of flunkeyism. It may be all right. The people may approve of it, but I do not like it myself.

Now, the President is Commander in Chief of the Army and Navy, and if as Commander in Chief of the Army and Navy he wants to order them all to be around him in Washington, that is his right. But I am not going to be one, as a Member of this House, to consent by legislative enactment to an indorsement of that kind of work. For that reason I shall not only reserve a point of order, but will insist on the point of order.

The CHAIRMAN. Is the point of order insisted on?

Mr. HAY. Yes.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

Contingencies Military Information Section, General Staff Corps: For contingent expenses of the Military Information Section, General Staff Corps, including the purchase of law books, professional books of reference, professional and technical periodicals and newspapers, and of the military attachés at the United States embassies and legations abroad; and of the branch office of the Military Information Section at Manila, to be expended under the direction of the Secretary of War, $10,000: *Provided*, That section 3648, Revised Statutes, shall not apply to subscriptions for foreign and professional newspapers and periodicals to be paid for from this appropriation, $10,000.

Mr. FOWLER. Mr. Chairman, I desire to ask the chairman of the committee what force the figures "$10,000" at the end of this paragraph have?

Mr. HAY. I was just going to move to amend by striking out those figures at the end of the proviso.

Mr. FOWLER. And put a period at the end of the word "appropriation"?

Mr. HAY. Yes.

The CHAIRMAN. The gentleman from Virginia is recognized.

Mr. HAY. I move, Mr. Chairman, to strike out the figures "$10,000" at the end of the proviso, and in place of the comma after the word "appropriation" put a period.

The CHAIRMAN. The Chair will place the two amendments together. The Clerk will read the amendment.

The Clerk read as follows:

Amend, page 2, line 20, by striking out the figures "$10,000" at the end of the proviso, and in place of the comma after the word "appropriation" insert a period.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For contingent expenses of the Military Information Section, General Staff Corps, including the purchase of law books, professional books of reference, professional and technical periodicals and newspapers, drafting and messenger service, and of the military attachés at the United States embassies and legations abroad, and of the branch office of the Military Information Section at Manila, to be expended under the direction of the Secretary of War, $10,000: *Provided*, That hereafter sections 3648 and 3682, Revised Statutes, shall not apply to subscriptions for foreign and professional newspapers and periodicals, nor to official or clerical compensation to be paid for from this appropriation.

Mr. HAY. Mr. Chairman, this is a duplication of the preceding paragraph, and was put in the bill by mistake, with the exception that section 3682 of the Revised Statutes shall not apply to subscriptions, and so on.

The second paragraph is the form in which the department desire this language to be inserted; but upon examination of section 3682, which they do not wish to have apply to this appropriation, I am satisfied that it ought not to be in the bill, because out of this appropriation, if we repeal or suspend section 3682, they could pay both officers and clerks, and it never was intended that that should be done. Therefore I move to strike out that paragraph.

Mr. PRINCE. This is a duplication, is it not?

Mr. HAY. With the exception I have stated.

Mr. PRINCE. What is section 3682?

Mr. HAY. That section provides that contingencies shall not be used to pay officials or clerical employees.

Mr. PRINCE. Yes; I remember that.

Mr. HAY. If this exception is put in there, they can take from this appropriation money to pay clerks and officers in addition to what they already receive. I do not think that ought to be done.

Mr. PRINCE. You want to strike it all out?

Mr. HAY. Yes.

The CHAIRMAN. The Clerk is not very clear as to what the gentleman's amendment is.

Mr. HAY. I move to strike out the entire paragraph.

The amendment was agreed to.

The Clerk read as follows:

United States service schools: To provide means for the theoretical and practical instruction at the Staff College (including the Army School of the Line, Army Field Engineer School, and the Army Signal School) at Fort Leavenworth, Kans., the Mounted Service School at Fort Riley, Kans., and the School of Fire for Field Artillery at Fort Sill, Okla., by the purchase of textbooks, books of reference, scientific and professional papers, the purchase of modern instruments and material for theoretical and practical instruction, and for all other absolutely necessary expenses, to be allotted in such proportions as may, in the opinion of the Secretary of War, be for the best interests of the military service, $30,350.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word, for the purpose of asking the chairman of the committee what was the occasion for increasing this item $5,000 above that appropriated in the last session of Congress?

Mr. HAY. The increase was made because of increased expenditures at these various schools.

Mr. FOWLER. Was there any deficiency in the appropriation of the last session?

Mr. HAY. The appropriation last year was $30,000, so that the increase is only $350.

Mr. FOWLER. The appropriation last year was $25,000, was it not?

Mr. HAY. I beg the gentleman's pardon, but if he will look at the last Army bill, under the head of "United States service schools," he will find that the appropriation was $30,000.

Mr. FOWLER. If I made no mistake in making the comparison, it was $25,000. I may have made a mistake. The comparison was made by an assistant.

Mr. HAY. I have the law here.

Mr. FOWLER. I take the gentleman's word for it. He states that the $350 is the only increase.

Mr. HAY. The only increase is $350.

Mr. FOWLER. Is there any deficit this year?

Mr. HAY. No; I think not. I am very sure there is not. The $350 was added for the purpose of meeting some additional expenditures at one of these schools.

Mr. FOWLER. I withdraw the pro forma amendment.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

THE ADJUTANT GENERAL'S DEPARTMENT.

Contingencies, headquarters of military divisions and departments: For contingent expenses at the headquarters of the several military divisions and departments, including the Staff Corps serving thereat, being for the purchase of the necessary articles of office, toilet, and desk furniture, binding, maps, technical books of reference, professional and technical newspapers and periodicals, and police utensils, to be allotted by the Secretary of War, and to be expended in the discretion of the several military division and department commanders, $7,500.

Mr. BURKE of South Dakota. I move to strike out the last word. I want to call the attention of the chairman to the words in line 2 of this paragraph:

The necessary articles of office.

Mr. Chairman, it seems to me this language is so general that there is no limit to the purchases which may be made under it.

Mr. KAHN. Necessary articles of office furniture.

Mr. BURKE of South Dakota. No; it says:

The necessary articles of office.

I am only speaking as to this particular item, because provisions of this kind creep into appropriation bills, and it generally results in advantage being taken of them and expenditures being made that Congress has not contemplated. For the purpose of ascertaining whether or not any money has been expended under this item that perhaps Congress did not intend to authorize, I have made some inquiry to ascertain how this amount was expended in the last appropriation bill, or for the fiscal year ending June 30 last.

If I understand the law, official envelopes have to be purchased through the Postmaster General under contract. The different bureaus are not permitted to purchase penalty envelopes for the use of their offices except through the Postmaster General under authority of law.

In this particular instance I find that an account was submitted for envelopes and stationery. The item in the particular concrete case that I am referring to is a small one—only $58—and it was disallowed by the Treasury Department because it was not authorized by the language that I have referred to and because the law provides that official envelopes must be purchased under contract through the Postmaster General. The officer who incurred the expenditure stated that the envelopes and stationery were used for semiofficial correspondence and that it was desirable to have stationery that was a little more "classy"—that is the word used—than that furnished by the Government under the contract. The stationery was, it seems, in this instance embossed, $13 of the amount being for embossing the stationery that was used. The Treasury Department disallowed the item, as I have stated, because they thought it was not authorized by law and because of the statement that it was not to be used entirely for official purposes. The matter went to the Comptroller, and the Comptroller decided that under the language I have called attention to in line 2 the expenditure was authorized by that language.

I am only mentioning this particular case to call the attention of the committee to the fact that we put language in appropriation bills that enables expenditures to be made that are not contemplated by the appropriation.

Mr. HAY. I will say to the gentleman from South Dakota that the language of the paragraph seems to me to justify the decision made by the first officer of the Treasury Department who passed upon it, and that the comptroller ought to have sustained his subordinate officer, because it says clearly, "necessary articles of office, toilet, and desk furniture." Surely embossed stationery is not a necessary article of office in the War Department or elsewhere, and I do not think the language of the paragraph is of such a character as to authorize the comptroller to permit an expenditure of that kind. I do not see how you could confine the language any closer than it now is. "Necessary" is a word well understood as applied to an office. I do not know how we could make the language any stronger so as to prohibit what the gentleman has pointed out as an abuse, and I agree with him it is an abuse and ought not to be allowed.

Mr. BURKE of South Dakota. Mr. Chairman, I withdraw my pro forma amendment.

Mr. MANN. I will ask the gentleman from South Dakota or the gentleman from Virginia whether they think it a terrible abuse to have embossed stationery, and whether both of them do not use it at the Government expense?

Mr. HAY. I say that embossed stationery for personal use is an abuse. Stationery that I have embossed is stationery which I use, and I suppose the gentleman from Illinois uses, in an official capacity.

Mr. MANN. All the stationery I get I use in an official capacity, in a private capacity, or any other capacity that I want to use stationery. I do not keep one bunch for official use and another bunch for other purposes. As a rule I do not use embossed stationery because I think there is no occasion for it. I notice, however, that nearly all Members of Congress do, and nearly all the heads of departments want it, and I think it ought to be abolished all through. But I wonder that gentlemen should criticize the department for buying $50 worth of embossed stationery when they use it themselves.

Mr. BURKE of South Dakota. The law prohibits the purchase of envelopes except through the Postmaster General, and here are envelopes purchased out of the appropriation "Necessary expenses of office."

Mr. MANN. I am not seeking to review the decision of the Comptroller of the Treasury. It is quite safe to say to the gentleman from South Dakota that the law does not require the purchase of any envelopes through the Postmaster General unless they are penalty envelopes.

Mr. BURKE of South Dakota. It is contemplated that all the envelopes used by the department for the Government are being used for official business, and envelopes so used do bear the penalty stamp.

Mr. MANN. There are many envelopes used by the department for official business that are not penalty envelopes.

The Clerk read as follows:

Signal Service of the Army: For expenses of the Signal Service of the Army, as follows: Purchase, equipment, and repair of field electric telegraphs, signal equipments and stores, binocular glasses, telescopes, heliostats, and other necessary instruments, including necessary meteorological instruments for use on target ranges; war balloons and airships, including their maintenance and repair; telephone apparatus (exclusive of exchange service) and maintenance of the same; electrical installations and maintenance at military posts; fire control and direction apparatus and material for field artillery; maintenance and repair of military telegraph lines and cables, including salaries of civilian employees, supplies, and general repairs, and other expenses connected with the duty of collecting and transmitting information for the Army by telegraph or otherwise, $375,000: *Provided, however*, That not more than $125,000 of said amount shall be used for the purchase, maintenance, operation, and repair of airships and other aerial machines: *Provided further*, That from and after the passage and approval of this act the pay and allowances that are now or may be hereafter fixed by law for officers of the Regular Army shall be increased 50 per cent for such officers as are now or may be hereafter detailed by the Secretary of War on aviation duty: *Provided*, That this increase of pay and allowances shall be given to such officers only as are actual flyers of heavier-than-aircraft, and while so detailed, as provided in section 1: *Provided further*, that no more than 50 officers shall be detailed to the aviation service: *Provided further*, That paragraph 2 of section 26 of an act of Congress approved February 2, 1901, entitled "An act to increase the efficiency of the permanent military establishment of the United States," shall not limit the tour of detail to aviation duty of officers below the grade of lieutenant colonel: *Provided further*, That nothing in this provision shall be construed to increase the total number of officers now in the Regular Army.

Mr. FOWLER. Mr. Chairman, I reserve a point of order to that paragraph.

Mr. HAY. I will say that a part of it, providing for aviation officers, is subject to a point of order.

Mr. FOWLER. I desire to make an inquiry concerning the expenditure of $100,000 appropriated last year for aviation purposes. Has that amount been expended?

Mr. HAY. It either has been expended for the fiscal year or arrangements have been made to buy airships which will consume it all.

Mr. FOWLER. In the judgment of the military authorities, was that sufficient for making adequate preparations for airships?

Mr. HAY. It was not. The military authorities are asking a much larger appropriation than $125,000 carried in the bill. I mean that they are in favor of it; they did not estimate for it; but they are in favor of expending more money on these airships.

Mr. FOWLER. The amount, you say, was not estimated by them. The increase to $125,000 was the result of the deliberation of your committee?

Mr. HAY. I will say that heretofore in all bills that carried this item for some years it has been $125,000; that has been set aside for the purchase and repair of airships; but last year, owing to some difficulty on the floor, that was reduced to $100,000.

Mr. FOWLER. The bill for 1910 did not carry anything for aviation purposes, did it?

Mr. HAY. That is probably true; but I will say to the gentleman that the military authorities regard this airship proposition from a military standpoint as very important, and they regard the expenditure of $125,000 as a mere bagatelle and not furnishing them with sufficient airships. The reason why they have not asked or estimated for more money is that owing to the size of the Signal Corps of the Army they have not officers enough to man the airships if we provide more than we are providing under this appropriation. They are asking that we shall increase the Signal Corps of the Army by 55 officers, in order that they may have men enough to provide a fleet of airships to operate with the Army.

Mr. FOWLER. Is that the reason you offer the additional 50 per cent for aviators, because of the insufficiency of aviators?

Mr. HAY. No; there is no lack of aviators.

Mr. FOWLER. Then I misunderstood the gentleman.

Mr. HAY. They can get aviators; these officers are not detailed to aviation duty unless they volunteer. The service is a very hazardous one and four officers of the United States Army have been killed in this service.

Mr. FOSTER. Will the gentleman yield?

Mr. FOWLER. I will.

Mr. FOSTER. I would like to ask the chairman if an officer loses his life in the discharge of his duty he is paid anything extra by the Government?

Mr. HAY. Not any more than if he was in any other service.

Mr. FOSTER. They get double pay, I understand.

Mr. HAY. No; they do not get double pay.

Mr. FOSTER. I thought the bill of last year provided for that.

Mr. HAY. That bill did not pass the Senate. They serve at the same pay as officers in the Infantry, the Cavalry, or any other branch of the service.

Mr. COX. Do their heirs or their family get any more by reason of losing their life in the aviation service?

Mr. HAY. They do not; but there is a provision providing that an officer or enlisted man can designate a beneficiary who shall receive six months' pay.

Mr. KAHN. Mr. Chairman, I desire to call to the attention of the chairman of the committee the words in lines 12 and 13, as provided in section 1.

Mr. HAY. If no point of order is made, we will perfect that.

Mr. FOWLER. I desire to know why the 50 per cent increase is offered as a reward to aviators. Is that because you can not get volunteer aviators to take charge of these airships?

Mr. HAY. No; the 50 per cent increase that we are proposing to give to these aviation officers is given to them because of the hazardous duties which they have to perform, and because the insurance companies refuse to insure them. When they undertake this duty, they carry their lives practically in their hands every time they go up into the air in one of these ships, and it has been thought that they should receive extra compensation. The House at the last session passed a bill, by unanimous consent, giving them an increase of 100 per cent instead of 50 per cent, as is carried in this bill. From my observation and from what I know of this service and from what I have learned in the hearings before the committee, I am satisfied it is nothing but an act of justice that these men who are employed in perfecting military aviation should receive larger pay than men who do not run the same risk.

Mr. FOWLER. I agree with the gentleman, but why does not the bill fix an outright salary for this grade of Army men?

Mr. HAY. We do—50 per cent.

Mr. FOWLER. Yes; but the gentleman says that the bill at the last session made it 100 per cent of the salary paid, and now it is only 50 per cent. What I am after in my interrogatory is, Why not fix a specific sum as a salary for these men, so that it may not be left to the caprice of the membership of the committee? I am using the word "caprice" with a great deal of reservation, not having any application to any committee whatever, but sometimes there is a caprice. Why not fix a sum so that it will be definite?

Mr. HAY. I will say to the gentleman that the paragraph does that very thing. It provides that hereafter the pay of these officers engaged in aviation duty shall be 50 per cent greater for such officers that are now or may hereafter be detailed to that duty. The officers detailed are generally second lieutenants and first lieutenants and captains, and you can not fix any certain amount for each individual; but by this language you simply add 50 per cent to their pay as a second or a first lieutenant or as a captain, as the case may be, and it would not be at the caprice of the committee every year to change it.

Mr. FOWLER. That is just what I was after. The gentleman's line of argument for the increase is because of the extra danger. You now limit this increase to those who are actual aviators. If that be the theory upon which the increase is to be based, why not give all of them the same salary, because undoubtedly every time one man goes up in the air his life is as much in danger as that of his superior in rank, so far as the salary is concerned.

Mr. HAY. That is very true, but I will say to the gentleman from Illinois that it is a principle of military discipline and of military law that the man of higher rank receives a higher pay than the man of lower rank.

Mr. FOWLER. Why not put all of the aviators as first lieutenants, then?

Mr. HAY. Because you might not be able to get a sufficient number of first lieutenants to volunteer for this service.

Mr. FOWLER. A provision could be made for that purpose.

Mr. HAY. Oh, yes; it could be made. Of course we could confine the aviators to the rank of first lieutenant. That could be done, but the question is whether it would be wise.

Mr. FOWLER. Does not the gentleman think that would be a wise provision?

Mr. HAY. I do not, because then you could not get a second lieutenant or a captain into this service.

Mr. FOWLER. Yes; you could do that. Whenever a man qualifies himself for an aviator, let him at once become a first lieutenant.

Mr. SLAYDEN. But suppose he was a captain.

Mr. FOWLER. By virtue of law you could make an aviator a first lieutenant as soon as he was inducted into the aviator business. He would then become a first lieutenant.

Mr. HAY. Of course, that would apply to the second lieutenant, but a captain would have already passed the rank of first lieutenant and it would not apply to him.

Mr. FOWLER. I agree with the gentleman that the danger ought to receive some consideration, and I am heartily in favor of this provision; but I am seeking to put the danger of one man on the same plane as the danger of another man, whether the rank of office be the same or not.

Mr. HAY. I understand the gentleman's purpose, and I will point out to him that in a war when a regiment goes into battle and all of the officers of the regiment and the enlisted men of the regiment are exposed to equal danger from the fire of the enemy, yet the colonel gets a larger pay than the lieutenant colonel, and so on down. This is so in all armies, and in the aviation corps. The man of higher rank, for the sake of discipline and for the purpose of maintaining the relative rank, always receives a higher pay than the may of lower rank.

Mr. FOWLER. I understand that full well; but you limit your increase to the man who is actually a flyer.

Mr. HAY. That is true.

Mr. FOWLER. A man who is a flyer ought not to be subordinated, in my opinion, so far as the question of danger is concerned. He ought to receive the same pay, although he might be a captain, as the man who is a second or a first lieutenant. I would be very glad to see the bill amended so that all aviators who are flyers might receive the salary of a first lieutenant, and that the increase might be made 50 per cent.

Mr. SLAYDEN. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. Certainly.

Mr. SLAYDEN. As a matter of fact, there are some gentlemen now in the aviation service, capable officers, doing good work, helping to develop that branch of the military service, who are captains. It would certainly be no temptation to them to take on extra hazard in that vocation if it involved a reduction in pay.

The captain would not like to be reduced to the rank of second lieutenant and get 50 per cent in addition to the pay of first lieutenant, when under the terms of this act he would be entitled to increase of pay with the rank of captain. The most active men in the Aviation Corps of the Army are second lieutenants, who are usually young and generally of lighter weight, and thereby better suited for this particular branch of the service. This measure has been thought out and is entirely satisfactory to the officers of the corps, and is less expensive to the Government than would be the gentleman's idea of creating a military grade to be conferred on everybody in the Aviation Corps engaged in that work.

Mr. FOWLER. It would emphasize the position, and it ought to be so on account of the danger, and there ought to be an increase of salary, on account of the danger. There ought not to be any distinction in grade. Where a man can take an airship through the air for Army service he certainly ought to receive the same pay that any man does who performs the same dangerous work.

Mr. SLAYDEN. He does receive the same relative increase of pay, and they are entirely satisfied with it, and the bill is a more economical one than would be the suggestion of the gentleman from Illinois, and when it provides what is satisfactory and is more economical to the people, and does not disturb the relative military rank, and does not create new military rank, I can see no reason for adopting the idea which the gentleman proposes.

Mr. FOWLER. I submit it is not in harmony with the plan of a superior in everything in the Army. There seems to be an idea in the Army that a superior must always be at the head of every department in the Army. But here is one department where, if a man goes into the air as the manager of an airship, he becomes the sole owner of it for that purpose, like a great pilot on a great vessel on a large body of water, when the ship or vessel is in his hands. Here the airship is in the hands of the flyer, or the manager, or the captain.

I do not, Mr. Chairman, desire to interpose a point of order, but I am very anxious that all men who take like risks in the air shall receive like pay. I withdraw the point of order.

Mr. SHARP. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Ohio [Mr. SHARP] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 6, in line 8, substitute for the word "fifty" the words "one hundred."

Mr. SHARP. Mr. Chairman, I very much appreciate and approve the remarks of the very able chairman of this important committee, in so far as they pertain to the proper recognition of the aviation service of this country. I am very glad that not only the chairman but the entire Committee on Military Affairs have given this subject so much favorable consideration during the past two years. It was pointed out the other day in an objection to an amendment which I offered pertaining to establishing this service in the Post Office Department that the Army and the Navy were the proper places for the recognition of the aviation service. While I in part subscribe to that,

yet I answer that objection by the statement, and it is a very fortunate fact, that our country at present is not engaged in warfare. I hope it never will be, but we are constantly giving evidence of the need and the practicability of carrying mails by aeroplane or other air craft.

This subject of aviation appealed to me when I first learned what was being done by the late Prof. Langley, and which afterwards was successfully carried out by the Wright Bros. From that day to this I have been very greatly interested in all that pertains to aviation, and, as some of my colleagues on this floor know, have taken occasion at different times to advocate governmental aid and recognition to this coming means, not only of national defense and attack, but of transportation in every phase of that subject. I introduced a bill, after giving it some attention, with the thought to better recognize the services of these men who fly through the air and who every time they do so literally and actually take their lives in their hands. I arose a minute ago to answer, for the information of the gentleman from Illinois [Mr. FOSTER] a question as to what provision, if any, was made in the case of the sudden taking away of these bold experimenters. There is no provision whatever beyond that which applies in Army circles to give six months pay in case of the death of an Army officer. And yet it is a well-known fact, as pointed out by the chairman of this committee, that because of the very vocation of these men who sail the air there is no life insurance company that will write them for a dollar, because aviation is by all odds the most hazardous vocation or undertaking to which men can devote themselves.

I introduced the bill referred to, in company with the gentleman from Georgia [Mr. HARDWICK]. We happened, by coincidence, neither of us knowing the intention or purpose of the other, to introduce bills about a year ago on the same day in the House, and they were referred to the Committee on Military Affairs. Those bills embrace similar features, but are not exactly the same.

My bill, I remember in particular, not only provided for a larger increase in the pay of these men, but also an increase in rank, and had in it a provision which I wish might be incorporated in this bill at this time, to give, instead of six months' pay in the case of the sudden taking away of these men while making actual flights, a whole year's pay. I think that would be fairer, more just, and equitable.

I am not, Mr. Chairman, going to enter into a lengthy discussion of this very important subject. I am very glad to say its importance is becoming more apparent before the House at every session. I want to say, while it was pointed out by my friend from Texas, Mr. SLAYDEN, that the Army officers were satisfied with this provision, that that statement ought to be qualified. They were satisfied, because at this time they thought it was the best proposition they could get; but from my talk with several of these gentlemen who have been engaged in this service for two or three years past, one of them having made more than 200 flights, every time taking his life in his hands, I am convinced that they believe they should have more of an increase than this bill provides. I must say to their praise and credit that there has not been a time in the last two years when these men could not have quit the service and received much better compensation.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. KENDALL. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio may proceed for five minutes longer.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SHARP. I was told by one of these officers, who is the leading aviator in our service under the Signal Corps, that he had been offered time and time again by the men who conduct exhibition flights several times the salary that he is now getting as an officer in the United States Army. There has not been any question but that some of these spectacular aviators can command and have commanded from $25,000 to $30,000 at a single season. But none of those men was willing for a single moment, at the inducement of any financial consideration, to leave the service of the flag that they had sworn to protect. They are in the service to-day, and they expect to live and die in that service.

In appealing to this House for an increase of recognition in their behalf, I am doing that which has already been granted to men in like service in European countries. Why, to draw a comparison between what we have done and what France, Germany, and England have done, not only in providing for their national defense, but also for the promotion of this entire field of aviation, would be like comparing the strength of a child with that of a giant. In popular subscriptions they have raised millions of dollars over there for the advancement of this science of aviation, and in continental Europe a man is considered a hero and almost a martyr, I might say, who enlists under this particular service, involving so much of danger.

I stated recently upon the floor here, that it is one of the most encouraging signs of recent legislation or proposed legislation that this House has now—thanks to the gentleman who is chairman and his colleagues of this committee, and also to the Committee on Naval Affairs—come to recognize the growing and urgent importance of this line of research. The President of the United States within the last two weeks has appointed a commission of most distinguished personnel, consisting of noted scientific men, who have given several years of thought to this particular line, in order that they may recommend the establishment, according to the best known plans, of an aerodynamic laboratory.

We all know how, nearly a quarter of a century ago, M. Eiffel, the distinguished Frenchman, astounded the world and won its admiration by the construction of a sky-piercing tower in Paris. It is standing there intact to-day and is still the highest of all monuments. It is this mechanician Eiffel in the ripening years of his old age—and he is a man now upward of 80 years of age and is still a devotee to the sciences—who has erected one of the most magnificent temples to this science of aviation by the building of a great aerodynamic laboratory.

These are the things which are the forerunners of what we must have here if we would intelligently master its problems. I think that not alone is my amendment of importance in giving to these men a better recognition for their services, but above all else the chief value of such an amendment is to serve notice upon those men who would enlist under the Signal Corps that Congress, the representative legislative body of the Government, is back of the work with its encouragement.

A question was asked a moment ago as to whether there was any difficulty in recruiting this service, whether there was any difficulty in getting a sufficient number of men willing to volunteer in this hazardous work. I want to say—and it is to the credit of the American youth and to those who want to distinguish themselves not only in the Army but also in scientific exploitation—that we always have a liberal supply of volunteers, away beyond the number that our present law will accommodate, owing to the restricted size of the Signal Corps. Until the provision was made in this or a former bill, I think only seven men were detailed to that particular service. I do not recall whether this bill now provides for 30 or 40. Which is correct, Mr. Chairman?

Mr. HAY. Thirty.

Mr. SHARP. The bill provides for 30. Gen. Allen, of the Signal Corps, who has given much time during the last few years to this splendid subject of aviation, has done more than any other one man in the Government to bring it to fruition. He is a man of unerring vision—one whose chief monument, if I mistake not, shall in the years to come be the evolution brought about by the successful navigation of the air as it affects alike the problems of warfare, transportation, and scientific research.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHARP. Mr. Chairman, I ask the privilege of extending my remarks in the RECORD.

The CHAIRMAN. The gentleman from Ohio [Mr. SHARP] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. HARDWICK. Mr. Chairman, I earnestly hope that the committee will adopt the amendment. In doing so, if the committee sees fit to do it, we shall only be standing by our own record.

Last July this House, by a unanimous vote, passed a bill, which I had the honor to introduce, giving a 100 per cent increase. That bill was reported with the unanimous support of the Committee on Military Affairs on this floor, and it had the approval of the department. In the Senate some objection was raised——

Mr. MANN. I do not think it had the approval of the department.

Mr. HARDWICK. I think I am right. The chairman will correct me if I am wrong.

Mr. HAY. I will state to the gentleman that I understood the department to recommend a 50 per cent increase.

Mr. HARDWICK. I am in error, then, in that one particular. I know that every other detail of the bill had the approval of the department, and I thought they had agreed to the 100 per cent increase. However, this House, without a dissenting vote, put in a 100 per cent increase last July. There is no reason why we should modify our position.

Mr. MURDOCK. What was the objection in the Senate?

Mr. HAY. They objected to the size of the increase.

Mr. HARDWICK. They did not want 100 per cent increase. They wanted, I think, some increases to other branches of the Signal Corps. I am not familiar with all the details. They wanted to apply the same sort of increase to some other branches of the Signal Corps and they did not want to put this higher than the others. But, gentlemen of the committee, it seems to me this amendment of the gentleman from Ohio [Mr. SHARP] is absolutely right, and that we ought to enact it.

To-day this country is behind, is woefully behind, every other civilized country on earth, every other great power on earth, in this great matter of aviation. While I join with my friend from Ohio [Mr. SHARP] in congratulating the able chairman of this committee and the other members of the committee for the splendid progress that we are making, and upon the fact that we have apparently awakened at last to the necessity of doing something in this matter, the step we propose to-day is only a very short step in the right direction. Gentlemen, these officers can not even get life insurance. The percentage of mortality here and abroad is simply frightful among the men engaged in this work.

Mr. MONDELL. Can a soldier ordinarily get life insurance?

Mr. HARDWICK. This is the only branch of the service under the War Department in which the officers are unable to obtain life insurance, according to the testimony.

Mr. MONDELL. Then insurance companies do not consider ordinary warfare as particularly dangerous?

Mr. HARDWICK. They do not insure any of them in time of war, but these men can not get insurance even in time of peace.

Mr. MONDELL. I understand that it is difficult.

Mr. HARDWICK. They can not get it at all, I think. All the best life insurance companies refuse it.

Mr. GREENE of Vermont. Mr. Chairman, I do not know what may be the practice of insurance companies now, as I am not particularly informed about it, but I know from my own personal experience that they do insure in time of war, or did during the Spanish War.

Mr. HARDWICK. The gentleman means that life insurance companies insured officers?

Mr. GREENE of Vermont. Yes.

Mr. SLAYDEN. The Spanish War was not regarded as very dangerous.

Mr. HARDWICK. If my friend from Wyoming [Mr. MONDELL] wants real information, I will say to him that no matter what they do about other Army officers in time of war, they will not insure the officers in this aviation corps even in time of peace. The mortality among them is frightful. The rate of pay even at the 100 per cent increase proposed by the gentleman from Ohio [Mr. SHARP], and that this House unanimously adopted a few months ago, is not equal to what it is in any other great country on earth.

Mr. ANTHONY. Will the gentleman state what the rate of mortality is—how many deaths have occurred in our service?

Mr. HARDWICK. The chairman of the committee can state.

Mr. HAY. Four officers, and I think about 12 in all have been detailed to this duty.

Mr. HARDWICK. That would be 33⅓ per cent. Anyhow, I know the mortality is perfectly frightful, and I do think that even with double pay these men are underpaid, as my friend from Ohio [Mr. SHARP] has said; and as numbers of these officers have told me in person, and as they have stated before your committee, any one of them could make many times more just as a matter of speculation if he would go into commercial aviation.

Mr. SHARP. Double pay, as the language states, only applies while the officer is in actual duty.

Mr. HARDWICK. It is only when they are actually engaged in aviation for the Government. If they were engaged in aviation as a private enterprise, taking exactly the same chances, no more and no less, they would get many times more than they will even with an increase of 100 per cent.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARDWICK. I would like two minutes more.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent for two minutes more. Is there objection?

There was no objection.

Mr. HARDWICK. I earnestly urge that we adopt this amendment. If we can not get it through the Senate at 100 per cent, if we have to accept some compromise later, it will be time enough to do so then, but I do think we ought to make a stand here to-day for a 100 per cent increase, just as we did last July, and take the matter into conference at least.

Mr. SLAYDEN. Mr. Chairman, I voted for the 100 per cent increase of pay last year. I did so under the impression that it was not excessive, and I do not know that it is excessive. I have been interested in this legislation, and in an humble way I have cooperated to bring it about. I have conferred with the authorities; I have conferred with a gentleman connected with the Signal Corps who is jealous of the honor and rights of that corps and who wants to do what he can to promote it reasonably. This measure came to us as the recommendation of the War Department. I have also conferred with gentlemen who have been detailed to duty as aviators. They have expressed themselves to me as being satisfied with the proposed legislation and have said they would be glad to see it enacted. Naturally they would be glad to get still more money if possible, but they are entirely content to have this legislation go through.

Mr. SHARP. I want to say that Capt. Paul Beck, who is one of the leading aviators, and I think outside of Capt. Chandler the leading aviator in our service, with whom I have had many conversations, and who has made 250 flights in different parts of the country, says they should have at least 100 per cent increase. He thought they ought to have an increase in rank; but when we came before this committee and had our hearings we became satisfied that that would create embarrassment, if not dissention, in changing the rank, so it was confined purely to a question of compensation. That is my understanding of it from the aviators themselves.

Mr. HARDWICK. If the gentleman will permit, I think the position taken by these officers detailed as aviators is very disinterested and patriotic. They would not interfere with this legislation. They would rather have the legislation for the improvement of the service, even if they could get nothing in the way of increased pay. But the gentleman does not mean to leave them in the attitude of saying that a 50 per cent increase is perfectly satisfactory to them, I am sure.

Mr. SLAYDEN. I have talked with some of them who told me that they would be glad to have this legislation, and that it would be satisfactory.

Mr. HARDWICK. Only 50 per cent?

Mr. SLAYDEN. On the 50 per cent proposition; yes. I do not know what caused them to reach that conclusion, whether they were afraid that they would have to go on serving, as they do now under detail to that duty, without additional pay. That would be looking behind their statements and trying to dig up the reasons that induced them to come to that conclusion. Naturally, as I said a moment ago, they would like more pay.

Mr. PRINCE. Mr. Chairman, the Committee on Military Affairs have done the best they could under all the circumstances toward these aviators. We have recommended—

> That from and after the passage and approval of this act the pay and allowances that are now or may be hereafter fixed by law for officers of the Regular Army shall be increased 50 per cent for such officers as are now or may be hereafter detailed by the Secretary of War on aviation duty: *Provided*, That this increase of pay and allowances shall be given to such officers only as are actual flyers of heavier-than-air craft, and while so detailed, as provided in section 1.

We worked this out as a workable proposition, although we may not have done all that ought to be done.

Mr. HARDWICK. Last July you worked it out on 100 per cent basis.

Mr. PRINCE. That is true, but that bill is not yet a law.

Mr. HARDWICK. But you have taken this bill and put it in the exact words of the other.

Mr. PRINCE. That may be, but we want to accomplish something. Those of us who have been here a number of years know that it is better to do something than to attempt to do something that you can not do. This is what we are trying to do, and that is to accomplish something for the material benefit of the men who are engaged in this hazardous enterprise under orders from superiors. The 100 per cent proposition has not passed the other body and has not been reported, as I understand, out of the committee. There may be plenty of time to do that, but it has not come yet. We are now as far as we can be in the future, and that is the present.

My friend from Ohio states that a distinguished aviator had made 250 flights and has met with no harm thus far.

Mr. SHARP. Will the gentleman permit me?

Mr. PRINCE. Certainly.

Mr. SHARP. During that time he states that he has had three or four narrow escapes, as narrow as a man is ever permitted to have and still live. He has fallen from 50 to 100 feet in height and wrecked his machines.

Mr. PRINCE. We want to do what is best and to take a step in the right direction. If later on it should be established that 100 per cent is the proper thing, we can do it by subsequent legislation. But under all the circumstances, I think the Committee of the Whole should stand by the committee in the bill, because it has presented to this House the best bill it believes can become effective in the form of law.

Mr. TOWNSEND. Will the gentleman yield?

Mr. PRINCE. Certainly.

Mr. TOWNSEND. Is it the gentleman's understanding that the increase of pay attaches to the service from the time the officer is detailed for aviation service, not necessarily that he shall become an actual flyer?

Mr. PRINCE. I rather think this language is clear.

Mr. TOWNSEND. It seems to say that when he is detailed, and then qualifies it. I should think it ought to apply to all of those who enter the service with the chance of being made flyers.

Mr. PRINCE. No; our purpose was as we have expressed it in the proviso:

Provided, That this increase of pay and allowances shall be given to such officers only as are actual flyers of heavier than air craft and while so detailed, as provided in section 1.

There may be two or three officers detailed who may be mechanical experts just watching the machines, never flying, in fact, but studying and preparing themselves. They are in no more danger by reason of that detail than though they had not been detailed. The hazardous part in the whole detail is in actual flying. We seek to pay for the hazardous part, and pay the men who are the actual flyers.

Mr. MANN. Mr. Chairman, the item in reference to the purchase of airships was inserted in the Army bill several years ago on my motion, after the War Department had refused to make an estimate for it and the committee had failed to make any provision in the bill. I have consistently supported all such provisions since that time and the increase of the amount that might be appropriated for aviation. I think I may be considered a friend of aviation.

Mr. FOWLER. Will the gentleman yield?

Mr. MANN. I will.

Mr. FOWLER. Does the gentleman know when the War Department first made a recommendation for money to be set apart for aviation in the Army appropriation bill?

Mr. MANN. My recollection is that the first time it came in as an estimate was last year.

Mr. FOWLER. When was the first time that any amount was set apart for that purpose?

Mr. MANN. I think two years ago by the bill, but I may be mistaken.

Mr. FOWLER. I see in the law of June, 1910, no money was set apart for that purpose.

Mr. MANN. I think that is correct. I think it was two years ago that the Signal Service asked for an estimate. The Secretary of War did not make an estimate, and hence it was not transmitted to Congress.

Now, I remember that when the bill passed at the last session it went through by unanimous consent, although I stated then that I thought 50 per cent was enough of an increase for the interests of the aviation service, which to me is the controlling feature.

If I had supposed this morning that the proposition was to be presented to the House to make this 100 per cent, I should have made a point of order on the paragraph. For this reason, while this proposition is supposed to be confined to actual flyers of airships, still we all know as a matter of fact that anyone can qualify under that in a few minutes time and without any danger at all. A man can become an actual flyer of a machine without getting more than 4 feet from the ground. All of them who are detailed will probably become actual flyers of machines. I take it that the purpose of the Government now is largely to educate officers who may be able to handle flying machines in time of need in addition to the experimentation with flying machines.

If you make it too much of an object for a man to remain in the aviation detail it will be very difficult to dislodge him from it. They go there practically by their own consent.

Mr. KAHN. Will the gentleman yield?

Mr. MANN. I will.

Mr. KAHN. The Chief of the Signal Corps stated before the committee that men do withdraw from the aviation force after they have learned to fly.

Mr. MANN. They do now because they do not get any extra pay, but the purpose of this scheme is to educate men to handle the flying machines. In time of war we can increase the number of flying machines very rapidly. We want men who understand how to handle them.

Mr. SHARP. Will the gentleman allow an interruption?

Mr. MANN. Certainly.

Mr. SHARP. The proof of the pudding is in the eating, and it applies to the illustration I may give. In the countries where aviation has made the most advancement and where they have come to the front rank, they have pursued a different policy from what the gentleman outlines. They give the aviators two or three times the amount of salary that they would otherwise give.

Mr. MANN. While that is true, Mr. Chairman, it is also true—and I have just received the figures from the Navy and War Departments to substantiate it—that we pay more for our small Army and Navy than any other nation in the world pays for their large ones. We pay for our Army, to our officers and enlisted men, many times the compensation that Germany pays to her immense army.

So it can not be said that they are not fairly well paid; but it is not desirable when an officer is detailed to this aviation service, not often flying a machine but still receiving the extra pay, to make it so large that he wants to stay there forever and become the envy of every other officer in the field. You can not give officers extra pay without the desire on the part of other men to get the extra pay, unless there really is extra-hazardous service. I have always supposed that one reason that the Army and Navy were fairly well paid and provided with pensions in case of injury, pensions to their widows in case of death, and retired pay in case of injury, was that the whole undertaking was hazardous. My understanding of the Army is that an Army officer takes the risk of being injured. That is what he goes into the service for. That is the whole theory of the Government's treatment of him. While I think it is perfectly proper to give some extra attention to these aviation officers, yet to double their pay is only to excite discontent among all the rest of the Army officers and to do more injury to the Army in the end than good.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. SHARP. I ask the question purely for information and not to challenge the accuracy of the gentleman's statement. Has that been the experience in the Ordnance Department, where, recognizing the extra hazard of that department, the Government has uniformly increased the pay of the men in that service, as I understand it?

Mr. HAY. Oh, no.

Mr. MANN. How much is the increase, I will ask the gentleman?

Mr. SHARP. I do not know what it is.

Mr. MANN. I never heard of it before.

Mr. HAY. The Ordnance officers do not get any more than any other officer.

Mr. SHARP. Then I have been misinformed.

Mr. MANN. On the contrary, the House at the last session cut off, in part at least, the extra pay for foreign duty, because a good many officers were seeking foreign duty to get the extra pay, which was only 10 per cent. I thought it was worth that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio.

The question was taken; and on a division (demanded by Mr. SHARP) there were—ayes 8, noes 37.

So the amendment was rejected.

Mr. KAHN. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 6, lines 12 and 13, strike out the words "as provided in section 1."

The CHAIRMAN. The question is on the amendment offered by the gentleman from California.

The question was taken, and the amendment was agreed to.

Mr. ANTHONY. Mr. Chairman, I offer the amendment that, in line 7, on page 6, after the word "officers," there be added the words "and enlisted men."

The Clerk read as follows:

Amend, page 6, line 7, by inserting after the word "officers" the words "and enlisted men."

Mr. ANTHONY. Also the same amendment after the word "officers" in lines 8 and 11.

Mr. MANN. Mr. Chairman, I reserve the point of order on those amendments.

Mr. ANTHONY. Mr. Chairman, I offer this amendment for the reason that while enlisted men are not now engaged in the work of actual flying, there is no reason why they should not be so used, and the encouragement should be held out to the enlisted men of the Army if they are used in this work, and they should be given the same advance in pay.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. ANTHONY. Yes.

Mr. MANN. The purpose of this provision is to give extra pay because of the extreme hazard. Officers of the Army now receive at the very lowest rate $125 a month, and that pay does not last very long. The enlisted man receives at the highest rate less than $50 a month, unless he has been in the service a long while and has become old. Upon what theory does the gentleman propose to say that you will add 50 per cent to the pay of officers for this service, thereby adding from seventy to one hundred and fifty or two hundred dollars a month, and add only seven or eight dollars a month to the pay of the enlisted man for exactly the same service?

Mr. ANTHONY. Mr. Chairman, I would say to the gentleman that there are unquestionably a number of noncommissioned officers who receive, as he says, from $50 to $60 a month. An increase of 50 per cent in their pay would be a very substantial increase.

Mr. MANN. But they are usually too old to go to work and operate flying machines.

Mr. ANTHONY. Oh, no; there are a number of young men, and I think every inducement should be held out to enlisted men to interest themselves in this service. I am not in harmony with the idea of the department that they should be excluded from it. If a young enlisted man is bright and capable and has a tendency toward this art, we ought to give him an opportunity.

Mr. MANN. Mr. Chairman, I would agree with the gentleman in this proposition: That the Army might well afford to employ the services of men for the special purpose of operating flying machines and pay them accordingly along the same grade. I should not be in favor of a proposition which will permit some Army officer getting 50 per cent more pay, amounting to a large sum of money, and having alongside of him an enlisted man who receives only $25 a month, and ordering the enlisted man to start a flying machine and run it while he watched it. That would be the result.

Mr. KENDALL. That would be voluntary service.

Mr. MANN. Oh, no; it would not.

Mr. KENDALL. The private is not compelled to go into the service.

Mr. HAY. I would say that enlisted men as well as officers volunteer for this service.

Mr. MANN. But that is not the law.

Mr. HAY. That is not the law, but that is a regulation of the department.

Mr. MANN. That is now, but at present the enlisted men are not permitted to operate these flying machines.

Mr. HAY. I know they are not permitted to do so now, but they would not be required to operate them unless they volunteered for that service, in my judgment. There is no more reason why they should be required to do it than an officer should be required to do it.

Mr. MANN. Well, this is a new service. It will not be a long time that men will be taken simply because they volunteer, any more than in any other branch of the service. Men who are thought to have satisfactory qualifications will be put in this service.

Mr. HAY. I think it ought to be so.

Mr. MANN. I think it ought to be so.

Mr. HAY. Particularly if there is an increase in pay. The gentleman's argument is the same as that of his colleague [Mr. FOWLER]—that all these men ought to be placed on the same basis. The gentleman knows very well that in time of war an enlisted man is as much exposed to danger as an officer; but he does not get the same pay as the officer, and the only way you can increase the pay of enlisted men or officers there is to increase it upon the basis of the pay they are receiving. That is the only way you can do it, and I agree with my friend from Kansas [Mr. ANTHONY] that the enlisted man ought to be offered an inducement, as well as the officer.

Mr. BUTLER. Double his pay?

Mr. HAY. I have no objection to giving him a hundred per cent.

Mr. KENDALL. Will the gentleman permit an inquiry?

Mr. HAY. Yes.

Mr. KENDALL. What officers are permitted to volunteer for this service?

Mr. HAY. Any officer in the Army who is eligible.

Mr. KENDALL. Then, if the proposition of the gentleman from Kansas [Mr. ANTHONY] is regarded favorably, why not give a private while on that detail the same pay as an officer?

Mr. HAY. Because you would destroy military discipline. Why not give to the private soldier in battle the same pay as an officer?

Mr. KENDALL. I think there is too much discrepancy there.

Mr. HAY. The officer has responsibility, has the command, and has to do the thinking. The officer is placed in a position where he is not only exposed to danger, but he has all the responsibility that attaches to the service which he is performing, whereas the enlisted man simply obeys orders.

Mr. KENDALL. Well, an officer up in a flying machine has no more responsibility than a private in a flying machine.

Mr. HAY. The probability is the private would go up with the officer in the flying machine.

Mr. MANN. Mr. Chairman, I think the amendment is subject to a point of order. The proposition in the bill, of course, was subject to a point of order, and is subject, of course, to a germane amendment, and if this were a bill presented by itself I think the amendment offered by the gentleman from Kansas [Mr. ANTHONY] would be germane. But the rulings have been quite consistent in recent years that, although a proposition is subject to a point of order which is not made, that an amendment made to that, covering new matter, is itself subject to a point of order. At any rate, I make the point of order.

Mr. HAY. Mr. Chairman, I hardly think this is subject to a point of order. It is a clause in this bill referring to the aviation service, and referring to men in the Army detailed to perform that duty. And the enlisted man is as capable of performing the duty as an officer. Surely it seems to me to be germane to the object and purpose of the paragraph.

Mr. MANN. But the gentleman will admit that the item in the bill only relates to detail of officers.

Mr. HAY. Yes; but while it is true it only relates to detail of officers, and would have been subject to the point of order—the whole paragraph, if anybody had made it—it not having been made it is not now subject to the point of order.

Mr. MANN. It would be akin to this: Suppose a proposition were offered to add after the words "Army" and "Navy," so as to make it read "officers of the Army and Navy who would receive increased pay." I think that would be subject to a point of order. Because it is a new proposition, an enlargement of the original one, that was subject to a point of order, and while any amendment relating to officers would be in order, I do not think you could introduce under the guise of an amendment a new subject, although this was itself subject to a point of order.

The CHAIRMAN. Of course, in a large sense this matter might be considered germane. It relates to a military matter. But it strikes the Chair, however, that under the paragraph relating to officers of the Regular Army who may be detailed on aviation duty, an amendment providing for men who may be detailed for like duty is new legislation, and is a detail perfecting the paragraph in a germane way. The Chair sustains the point of order.

Mr. ROBERTS of Massachusetts. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 6, line 7, after the word "Army," insert the words "Navy and Marine Corps."

Mr. FOSTER. Mr. Chairman, I make a point of order against that.

Mr. ROBERTS of Massachusetts. Will the gentleman reserve the point of order?

Mr. FOSTER. Yes; I reserve the point of order.

Mr. ROBERTS of Massachusetts. I will say to the gentleman from Illinois [Mr. FOSTER] that when the bill was up in the last session of Congress, and the clause relating to the Army aviators was under discussion, a similar amendment was offered and accepted, placing the aviators of the Navy on the same footing with those in the Army. If we are going to consider the matter of permanent law for the aviators in the military service of the Government, it would seem, while this is the Army bill, perfectly proper that we should recognize that the Navy is engaged in aviation, and that the hazards are as great for the naval officers, if not greater, than for the Army officers, and that they should be put on an equality. That is the purpose I have in offering this amendment at the present time. In view of that, I would like to ask the gentleman if he will not withdraw his point of order, and let us make one bite of the cherry instead of bringing the matter up in the naval bill?

Mr. FOSTER. Mr. Chairman, this being purely a bill for the support of the Army for the next fiscal year, it seems to me that it is hardly the proper thing to put on it certain things relating to the Navy, and I can not withdraw the point of order under the circumstances.

Mr. HAY. I understand the gentleman makes a point of order?

Mr. FOSTER. Yes. I make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

That all laws and parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

Mr. MANN. Mr. Chairman, I reserve a point of order on that paragraph.

Mr. HAY. Mr. Chairman, I move to strike out lines 23 and 24. They were put in inadvertently.

Mr. MANN. Of course, there is no question but that a point of order would take them out?

Mr. HAY. No.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Virginia [Mr. HAY].

The Clerk read as follows:

Amend, page 6, by striking out lines 23 and 24.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Washington-Alaska military cable and telegraph system: For defraying the cost of such extension and betterments of the Washington-Alaska military cable and telegraph system as may be approved by the Secretary of War, to be available until the close of the fiscal year 1915, from the receipts of the Washington-Alaska military cable and telegraph system that have been covered into the Treasury of the United States, the extent of such extensions and the cost thereof to be reported to Congress by the Secretary of War, $50,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word, for the purpose of asking the chairman if he has convenient or at hand the information concerning the receipts and expenditures of this cable.

Mr. HAY. Yes; I have. I can give the gentleman the cash receipts from 1907 down to the last fiscal year.

Mr. MANN. I mean only for the last fiscal year.

Mr. HAY. Yes. For the last fiscal year the receipts were $182,641.94. For the present fiscal year we have no figures as yet. They have not yet come in.

Mr. MANN. Are the receipts that the gentleman gives the gross receipts or the net receipts?

Mr. HAY. The gross receipts.

Mr. MANN. What was the cost of maintenance?

Mr. HAY. The cost of maintenance is difficult to ascertain, because it comes out of the item of $375,000 for the Signal Corps, which we have just passed. Gen. Allen, the Chief Signal Officer, states that the average commercial receipts from 1907 to 1912 were $198,000 and that they are not decreasing, but that in 1912 they were interrupted because of an earthquake, which destroyed part of the lines which were in use, and it took some two months to have them mended, and they lost the receipts that they were in the habit of receiving from that part of the line.

Mr. MANN. I am aware of the fact that this cable is a military necessity as yet. If we had information that would let us know whether it was maintained out of its commercial receipts it would be a matter of great interest.

Mr. HAY. It costs more than we receive from it. There is no question about that.

Mr. MANN. How much of it would be charged to military needs and how much of the maintenance is defrayed by the commercial receipts? I do not care about going into minute details.

Mr. HAY. I can not give the gentleman that information in figures, but I think the commercial receipts do not pay for this telegraph and cable system, and do not pay for it by a good deal. But the subject was pretty fully developed in the hearings of last year. If the gentleman desires, I will procure a copy for the gentleman and give him what the actual cost of it is.

Mr. MANN. What extensions are proposed? Are these land extensions or sea extensions?

Mr. HAY. As I understand, they do not propose this year any extension. This is altogether for the maintenance.

Mr. MANN. Betterments?

Mr. HAY. Yes.

Mr. MANN. This item is not for maintenance.

Mr. HAY. They have to maintain it, of course.

Mr. MANN. I think the maintenance is not paid for out of this item.

Mr. HAY. No. The maintenance is paid for out of the other items.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For pay of officers of the line, $7,710,800.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. I see this item is for the pay of officers in line.

Mr. HAY. Of the line.

Mr. FOWLER. Yes; of the line. I discovered that in the bill of June last the appropriation was $6,890,908, and that in June, 1910, the amount was $7,000,000 even. What is the cause of the increase here of something near a million dollars over the appropriation of last year?

Mr. HAY. I will state to the gentleman that we did not appropriate money enough last year, and that is the cause of the increase.

Mr. FOWLER. Is there a deficiency in this item?

Mr. HAY. Yes; there is a deficiency in the item of pay of the Army which includes this item of $2,500,000.

Mr. KAHN. Two million eight hundred thousand dollars.

Mr. HAY. Two million five hundred thousand dollars is what I understand.

Mr. FOWLER. I understand that there is a deficiency of $2,800,000, but two years ago $7,000,000 paid this item.

Mr. HAY. No; it did not. There was a deficiency two years ago of over a million dollars.

Mr. FOWLER. In this item?

Mr. HAY. In the item of pay of the Army. The gentleman will find that there is a provision at the end of these pay items providing that they shall all be disbursed as one fund, and these items have been very carefully worked out.

Mr. FOWLER. There has been no increase in the number of officers this year?

Mr. HAY. No; there has been no increase in the number of officers this year, but last year there was an increase in the surgeons in accordance with the bill passed several years ago, which provided that every year so many should be added. I will say to the gentleman that the Chief of the Quartermaster Corps has worked out this item very carefully, based on the number of officers in the Army. He has worked that out with great care, and that is the conclusion he has arrived at. I know he is very accurate.

Mr. FOWLER. Is the increase in the item following because of a deficiency also? That is length of service pay.

Mr. HAY. Yes.

Mr. FOWLER. That is the reason for the increase of both of these items?

Mr. HAY. Yes; and of every item in this pay part of the bill.

Mr. FOWLER. Mr. Chairman, I withdraw the pro forma amendment.

Mr. MANN. Mr. Chairman, I could not hear distinctly, so that I could catch the colloquy which took place between my colleague and the gentleman from Virginia with reference to the pay of the officers of the line. I notice that there are several items there where there are considerable increases over last year. Is there any increase in the number of officers or the number of enlisted men to cause this?

Mr. HAY. There is an increase in the number of enlisted men, but not in the number of officers—that is, it is proposed by the present administration, as I understand it, to increase the number of enlisted men during the fiscal year beginning June 30, 1913. I do not think there is any increase in the number of officers.

Mr. MANN. Is there a deficiency estimate on these items?

Mr. HAY. There has been no deficiency estimate sent to Congress, but the Chief of the Quartermaster Corps informed the Committee on Military Affairs that there would be a deficiency—I understood him to say of $2,500,000—in the pay department. It may be $2,800,000.

Mr. MANN. Then the appropriation which was made last year was not sufficient?

Mr. HAY. No; it was not enough.

Mr. MANN. The gentleman will remember that there was considerable controversy in the House as to whether it would be enough.

Mr. HAY. I remember all about that, and I remember that the same controversy took place in the last session of the Sixty-first Congress, when I insisted that they would not have a sufficient amount, and it turned out that I was right, and there was a deficiency then.

Mr. MANN. Undoubtedly, and the gentleman with that experience ought to have provided against it last year. He ought to have gained wisdom by experience.

Mr. HAY. I do not deny that. We all live and learn.

Mr. MANN. There is no gentleman in the House who has more the confidence of the House than the gentleman from Virginia [Mr. HAY]. [Applause.] Of course, we all know that the decrease in the appropriation last year was a part of the game of politics which I believe the gentleman from Virginia entered into with great reluctance, and I doubt whether he will ever repeat it.

Mr. HAY. I will assure the gentleman that so far as I am concerned there will be no deficiency in the Army appropriation bill hereafter if I can prevent it.

The Clerk read as follows:

Additional pay for length of service, $2,291,574.56: *Provided*, That hereafter no officer or enlisted man in active service, who shall be absent from duty on account of disease resulting from his own intemperate use of drugs, or alcoholic liquors, or other misconduct, shall receive pay for the period of such absence from any part of the appropriation in this act for the pay of officers or enlisted men, the time so absent and the cause thereof to be ascertained under such procedure and regulations as may be prescribed by the Secretary of War.

Mr. MANN. I reserve a point of order on that paragraph.

Mr. HAY. I will state to the gentleman, if he desires an explanation of that proviso——

Mr. MANN. Does the gentleman think it is desirable to enact that into permanent law at this time?

Mr. HAY. The committee put that in the bill because it is not considered desirable to carry the proviso constantly in the bill each year, if it is advisable to make it permanent law.

Mr. MANN. I thought last year we had some sort of an understanding that we would try it and see how it worked before we made it permanent law.

Mr. HAY. The Surgeon General tells us it has operated very efficiently.

Mr. MANN. That may be, but it has been on trial only a very short time—a few months.

Mr. HAY. If the gentleman objects, I will move to strike out the word "hereafter," in line 23, page 7.

Mr. MANN. I withdraw the point of order.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 23, page 7, strike out the word "hereafter."

The amendment was agreed to.

The Clerk read as follows:

Additional pay for length of service, $83,000.

Mr. FOWLER. I move to strike out the last word. The quartermaster's department, the subsistence department, and the pay department were consolidated last year into the Quartermaster Corps.

Mr. HAY. Yes.

Mr. FOWLER. It was urged at that time that such a consolidation would result in a great saving, as I recollect, in the way of expenses.

Mr. HAY. Yes.

Mr. FOWLER. I have studied this bill in the best light I have. I would be glad to have the chairman of the committee point out some of the savings which have been made.

Mr. HAY. I will say to the gentleman that the savings that have been made have been made in the items of regular supplies, barracks and quarters, incidental expenses, subsistence of the Army, transportation, and so forth.

Now, the gentleman is evidently leading up to the question why it is that there are 407 quartermaster sergeants when only 200 were appropriated for last year. I will state to the gentleman that in last year's bill there were 207 commissary sergeants appropriated for, and these 207 commissary sergeants are now in the Quartermaster Corps. They, added to the 200 quartermaster sergeants appropriated for last year, make the 407, so that there is no increase at all on account of the consolidation. We have simply brought them under the Quartermaster Corps.

Mr. FOWLER. And there is no decrease by this consolidation?

Mr. HAY. Not in this particular item.

Mr. FOWLER. Is there any decrease in the service in this department or in the administration of the department?

Mr. HAY. Yes; the chief of the Quartermaster Corps stated in our hearings that the estimate for this bill, by reason of the consolidation, had been decreased in the department by $2,750,000. In that one item alone there was a decrease of 43 clerks, who are not, however, carried in this bill, but are carried in the legislative bill. Their pay amounted to over $50,000.

Mr. FOWLER. How much do you estimate has been saved by this consolidation?

Mr. HAY. On this bill?

Mr. FOWLER. Yes.

Mr. HAY. There has been a saving of $2,750,000.

Mr. FOWLER. How much by this one consolidation?

Mr. HAY. A saving of $2,750,000 on the estimates made by the War Department in this bill. Of course it does not save any pay except the 40 officers who will eventually be gotten rid of by that consolidation. The pay of the Army is one thing. The supplies of the Army are something else.

Mr. FOWLER. The distinguished chairman is certainly to be complimented because of his long vision in the make-up of the Army appropriation bill last year, and I congratulate him and his committee.

The Clerk read as follows:

For pay of 135 first-class sergeants, at $540 each, $72,900.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. The number of men cared for by the bill last session was 132. What is the necessity for the increase?

Mr. HAY. Mr. Chairman, the law authorizes the employment of 135 first-class sergeants.

Mr. FOWLER. Was that carried in the bill last session?

Mr. HAY. No; this session the department estimated for the three additional first-class sergeants. That is the information we had, and we thought that they ought to be given the three first-class sergeants.

Mr. FOWLER. You make an increase from 36 to 42 Signal Corps electricians in the paragraph just above. Is that because of the provisions of the law?

Mr. HAY. Yes; they are allowed that by law, and these estimates are on that basis.

Mr. FOWLER. I did not see the necessity of the increase and that is the reason I asked the question.

Mr. HAY. They said they had to have them.

Mr. FOWLER. And you took their word for it?

Mr. HAY. Yes.

Mr. FOWLER. I withdraw my pro forma amendment, Mr. Chairman.

The Clerk read as follows:

For pay of 552 first-class private, at $18 per month each, $119,232.

Mr. MURDOCK. Mr. Chairman, I would like to ask the gentleman what a first-class private is. What is the meaning of that term?

Mr. MURRAY. With the permission of the Chairman, I will answer the gentleman from Kansas. I do so because I happen to have been a first-class private in the Signal Corps and I may be qualified therefore to answer it. There are various grades in the Signal Corps, and it is entirely because of the convenience of rating for the purpose of payment to have the different grades, and also for the purpose of rating men in the particular grades of work that the difference is made between privates of one class and another and sergeants of one class and another. The Signal Corps, as the gentleman probably knows, has to do largely with technical kinds of work in the Army in connection with the matter of conducting a campaign either of warfare or of occupation. The Signal Corps is charged with the conduct and maintenance of the telephone communication as soon as a brigade or corps command has been established. The Signal Corps has the work of maintaining and carrying on telegraphic communication. The Signal Corps, since the development of aeroplanes and flights through the air, has had had that kind of work to do. Manifestly, it is important to have men of one grade of experience and mental equipment to do particular kinds of work as distinguished from men of another grade.

Mr. MURDOCK. How many grades of privates are there?

Mr. MURRAY. I think only two.

Mr. MURDOCK. How are they designated?

Mr. MURRAY. Privates of the first class and privates.

Mr. MURDOCK. It is a mere matter of gradation?

Mr. MURRAY. That is all.

Mr. FOWLER. And of pay.

Mr. MURRAY. It is for the purpose of compensation, also, just as in the navy yards we have first-class machinists and first-class wiremen. The separation is mainly for the kind of work to be done and largely for the purpose of the pay roll.

Mr. TILSON. May I interrupt the gentleman?

Mr. MURRAY. Certainly.

Mr. TILSON. There is this further convenience, if I may suggest to the gentleman, that in the Signal Corps oftentimes they are split up into very small detachments.

Mr. MURRAY. Frequently.

Mr. TILSON. In the mobile army of the Infantry the smallest detachment is the squad with a corporal in command. In the Signal Corps it is often the case that they are sent out with only two men together, and in that case it is a convenience for one man to rank the other and have charge over the station. In that case the first-class private would have charge of it rather than the other private.

Mr. MURRAY. The suggestion of the gentleman from Connecticut is entirely sound.

The Clerk read as follows:

Additional pay for length of service, $61,064.64.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. I would be glad to have the chairman explain the cause for the increase in this item, "Additional pay for length of service," on page 9.

Mr. HAY. Additional pay for length of service is fixed by law. The department knows how long each man has served, and in this instance it happens that men have served the requisite time which entitles them to additional pay to the extent of the increase in the item.

Mr. FOWLER. This is for privates.

Mr. HAY. Yes; every private is entitled to additional pay for length of service.

Mr. FOWLER. If he serves a certain length of time.

Mr. HAY. Automatically so much is added to the pay.

Mr. FOWLER. It was $50,000 last year.

Mr. HAY. I think so.

Mr. FOWLER. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

For additional pay to such officers for length of service, to be paid with their current monthly pay, $55,180.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. I see in line 7 for additional pay to such officers there is an increase from $104,930 to $118,610. In line 11, for additional pay to such officers for length of service, $55,180. The appropriation heretofore, as I recollect, in August last was $61,620. I desire to ask the chairman why the increase is in one instance and a decrease in the other?

Mr. HAY. They are two different departments. One is the Corps of Engineers and the other the Ordnance. There is a much larger number of officers in the Corps of Engineers than in the Ordnance Department.

Mr. FOWLER. That says for pay for length of service. I see in the Corps of Engineers you appropriate for officers $400,200. That is the same as two years ago and also for last year. Now, when you come to the Ordnance Department your appropriation there for officers is exactly the same—$228,500. Now, for the additional pay of men it is only $55,180, whereas it was $61,620 last year?

Mr. HAY. The gentleman wants to know about the decrease?

Mr. FOWLER. Yes.

Mr. HAY. The reason is that officers may have died.

Mr. FOWLER. Can the gentleman tell which one it is?

Mr. HAY. No; that operates automatically. For example, an officer who has served five years in the Army gets an increase at the end of the five years of 10 per cent of the pay which he is receiving. At the end of 10 years he gets 20 per cent, and at the end of 15, 30 per cent; and at the end of 20 years he gets 40 per cent. That is fixed by law, and it is automatic and if in the Ordnance Corps it turns out this year there are not as many officers entitled to this length-of-service pay as there were last year, of course there would be a decrease in the item.

Mr. FOWLER. I presume the gentleman relied upon the report from the War Department for this estimate.

Mr. HAY. Yes; we relied, of course, upon the estimate. We had nothing else to go by.

Mr. FOWLER. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

For additional pay to such officers for length of service, to be paid with their current monthly pay, $22,350.

Mr. FOWLER. Mr. Chairman, I reserve the point of order to that paragraph.

Mr. HAY. Mr. Chairman, I do not think it is subject to the point of order.

Mr. FOWLER. Mr. Chairman, I am not disposed to make the point of order.

Mr. HAY. Mr. Chairman, I will be very glad to explain the matter to the gentleman.

Mr. FOWLER. The reason I reserve the point of order is because I am inclined to think that it is subject to a point of order, but I do not desire to make the point of order now. I do desire to ask the chairman the reason for limiting the number by positive law to the number fixed in this paragraph.

Mr. HAY. The purpose of it is to decrease the expense. On May 18, 1911, the Quartermaster General of the Army, in hearings before the Committee on Military Affairs on the bill to create a general service corps in the Army, stated, concerning the first provision of the bill then before the committee, that if the rate of pay was increased from $150 a month to $175 a month all of the pay clerks could be replaced by enlisted men of the service corps, as some of the pay clerks receive as high as $2,000 a year. The change making the highest pay in the service corps $175 a month was made in section 4 of an act making appropriations for the support of the Army for the fiscal year ending June 30, 1913. It is not desired to displace any pay clerks now in the service, but as it is thought that sergeants of the first class and sergeants of the Quartermaster Corps can be trained to perform the duty efficiently, in the interest of economy it was recommended that a provision be inserted, after the lines in the Army appropriation bill providing for pay of pay clerks, that hereafter no vacancies shall be filled.

Mr. FOWLER. They are all placed on a salary now of $1,125 a year, are they not?

Mr. HAY. No; they get an increase by virtue of length of service; and after a service of some years, as I understand it, they get $2,000 a year.

Mr. FOWLER. Are these pay clerks looked upon favorably by the War Department?

Mr. HAY. I think they are considered a very excellent body of men; yes.

Mr. FOWLER. I understood the gentleman to say, in answer to my first question, that the limitation was placed and the only reason given was that certain other men might do the same work in the department.

Mr. HAY. Yes; do the same work as the pay clerks.

Mr. FOWLER. Then, if they are looked upon favorably, why limit the number so that it can not be increased hereafter?

Mr. HAY. The number is limited now. Under the law they can only have 85 pay clerks. This provision provides that hereafter no further appointments shall be made.

Mr. FOWLER. Suppose all of the pay clerks that are now in the service as pay clerks should by some means be taken out of that department of the service, by death or otherwise, then what would you do if this paragraph be passed?

Mr. HAY. Of course if they were all to fall down and die at the same time, it wond be very unfortunate, but that is hardly within the range of possibilities.

Mr. FOWLER. I concede that is true.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. Yes.

Mr. MANN. These pay clerks were covered into this corps under the consolidation act that we passed, were they not?

Mr. HAY. The pay clerks were provided for before that time.

Mr. MANN. I understand; but they were covered into the Quartermaster Corps by the consolidation act that we passed.

Mr. HAY. They were.

Mr. MANN. And there was a proposition at one time to dispense with all civilians in that service, but they were kept in the service.

Mr. HAY. Yes; they were kept in the service.

Mr. MANN. And now as they disappear it is desired to have their places taken by enlisted men.

Mr. HAY. That is right, by sergeants in the Quartermaster Corps.

Mr. MANN. Because it would be more economical?

Mr. HAY. Yes.

Mr. FOWLER. And the same work could be done by other men for less money?

Mr. HAY. That is right.

Mr. FOWLER. Then they are not really looked upon so very favorably by the department?

Mr. HAY. I think they are a very excellent body of men.

Mr. FOWLER. The work is looked upon as favorable to be done, I know, but these pay clerks might be dispensed with and other men might do the work for less money.

Mr. HAY. That is the purpose of this amendment.

Mr. FOWLER. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

For pay of 85 pay clerks, at $1,125 each per annum, $95,625: *Provided*, That hereafter no further appointments of pay clerks shall be made.

Mr. HAY. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 11, line 22, after the word "department," insert the words "and acting dental surgeons and contract surgeons."

Mr. HAY. Mr. Chairman, I offer this amendment because acting dental surgeons and contract surgeons are not officers. And therefore if those words were not added they could not receive that pay.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. HAY].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For pay of one superintendent Nurse Corps, at $1,800 per annum, $1,800: *Provided*, That hereafter the superintendent shall receive such allowances of quarters, subsistence, and medical care during illness as may be prescribed in regulations by the Secretary of War.

Mr. MANN. Mr. Chairman, I reserve a point of order on that. There is just one superintendent, I take it. There has been a good deal of talk about the reorganization of the Nurse Corps, has there not?

Mr. HAY. A reorganization of what?

Mr. MANN. Of the Nurse Corps.

Mr. HAY. No; there has not. There is only one superintendent.

Mr. MANN. I have had a number of communications about it.

Mr. HAY. Some project of that sort has been spoken of, but we have never had anything submitted to us with regard to the reorganization that I know of.

Mr. MANN. What does the superintendent of the Nurse Corps now get? Are these allowances for quarters?

Mr. HAY. This item was carried in the bill last year giving these quarters, and so forth, and we put the word "hereafter" in so as not to make it permanent law.

Mr. MANN. What does this superintendent receive?

Mr. HAY. Eighteen hundred dollars.

Mr. MANN. And fogey pay?

Mr. HAY. No. The superintendent does not receive any fogey pay. It only provides for allowances and quarters, but the superintendent of the Nurse Corps does not receive fogey pay. She is not an officer, nor is she enlisted.

Mr. MANN. Does the gentleman say how much the allowances for quarters and subsistence are to the superintendent? There is no statement in here of what the allowance for quarters will be.

Mr. HAY. As may be prescribed in regulations by the Secretary of War. It gives the Secretary of War——

Mr. MANN. I know; but what is the allowance now? Does the gentleman know?

Mr. HAY. I do not think she gets any now.

Mr. MANN. It is in the current law——

Mr. HAY. You mean last year. I do not know how much she got.

Mr. MANN. It seems to me as a rule it ought not to be left as permanent law to the discretion of the Secretary of War as to what allowances shall be.

Mr. HAY. I agree with the gentleman, except it is very difficult in a case of this sort, where a person has no status as an officer or enlisted man, to fix just what the quarters should be. It might be that the superintendent would have better quarters at some posts than others.

Mr. MANN. There is only the one superintendent?

Mr. HAY. Only one.

Mr. MANN. After it is ascertained what that superintendent receives, I think it would be just as easy to enact it into law as it would be to leave it to the War Department to be hereafter—I will not say harried, because that might occur with another superintendent——

Mr. HAY. I do not think there will ever be but one superintendent of the Nurse Corps.

Mr. MANN. In course of time the superintendent will pass away and another will come in.

Mr. HAY. Oh, yes.

Mr. MANN. Does the gentleman know if there is any exception, where if it is left to the supervisory officer to fix the salary and amount of compensation, that officer is not in the end besieged by some occupant of the position?

Mr. HAY. I know that to be the practice, and I think we ought to have it determined in the law; but I will say to the gentleman that the matter was not called personally to my attention. Next year I will try to see if I can learn what her allowances are, and fix them in the law accordingly.

Mr. MANN. Then why not leave out the word "hereafter"?

Mr. HAY. Mr. Chairman, I move to strike out the word "hereafter" on page 12, line 2.

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Virginia.

The amendment was agreed to.

The Clerk read as follows:

For pay of officers on the retired list and for officers who may be placed thereon during the current year, $2,877,000.

Mr. TILSON and Mr. CULLOP rose.

The CHAIRMAN. The Chair will recognize the gentleman from Connecticut [Mr. TILSON], a member of the committee.

Mr. TILSON. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Connecticut offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 12, line 23, strike out "$2,877,000" and insert in lieu thereof the following: "$2,874,500: *Provided*, That hereafter when any officer who has been retired for disability is found by an examining board, to be appointed by the Secretary of War, to be physically and mentally qualified for active service, the President may, in his discretion, reinstate such officer upon the active list as an extra officer, with the rank and relative position he would have held if he had not been retired: *Provided further*, That such officer shall continue as an extra officer only until such time as a vacancy shall occur in his grade and arm of the service, and if again retired for disability he shall be retired with the rank and pay received by him before his reinstatement."

Mr. HAY. Mr. Chairman, I make a point of order on that.

The CHAIRMAN. Does the gentleman make it or reserve it.

Mr. HAY. I make it.

The CHAIRMAN. Does the gentleman from Connecticut [Mr. TILSON] desire to be heard on the point of order?

Mr. TILSON. Yes, Mr. Chairman. I do not believe this is subject to a point of order. It clearly would be except for the so-called Holman rule. It is very clear that the effect of this, if the amendment is enacted into law, would be to reduce the retired pay.

In this case I have made a reduction in the total equal to the retired pay of one captain, because I happen to have in mind a bill in regard to it—and it is on the calendar of this House with the unanimous report of this committee—one captain who under the terms of this law would be reinstated; and the total result of that reinstatement is the taking from the retired list this one retired officer. In other words, the total retired pay would be reduced by $2,508. I have subtracted this sum from the appropriation. There might be others; there probably would be others; there should be others.

Mr. Chairman, without going into the merits of the case, which I could not properly do under this point of order, it is very clear that the retired list has been abused. There are men on that list who ought to be doing active service; men who are as well as you and I; men who having served on the active list of the Army until they could be retired are now drawing three-quarters pay and are engaged in the civil activities of life. I believe these men should go back on the active list and do actual service; and if they do every one that can do so under the provisions of this amendment would reduce the retired list just to that extent.

As we all know, there are just so many officers provided for in the Army, and when that list is filled we add one more and he becomes an extra officer. In the course of every 10 days, we will say—we could take the average for several years past—about once in 10 days throughout the year there occurs a vacancy. As soon as the vacancy occurs this extra officer would slip into that vacancy, and thereafter there would be no extra officer, and after this officer ceased to be an extra officer there would be a saving of the amount of his retired pay.

In other words, he would be on the active list serving where he ought to be, and some other man, who otherwise would have filled this particular place, would not be there—that is, he would be out of the service, because there would not be any place for him in the service. Therefore clearly, Mr. Chairman, it is a reduction of retired pay if any man avails himself of this amendment. It seems to be beyond question a reduction, and it is in order under the Holman rule.

Mr. HAY. Mr. Chairman, I would like to see the amendment if the Chair has no immediate use for it. I want to call the attention of the Chair to the fact that while there seems to be a reduction under this item, yet if you put this man on the active list he will be receiving a larger amount from the Government than he is receiving now.

Mr. TILSON. Mr. Chairman, may I interrupt the gentlemen?

Mr. HAY. Yes.

Mr. TILSON. Will he not fill the place of some man who otherwise would be on the active list?

Mr. HAY. Not at all.

Mr. TILSON. Oh, yes. Are there any vacancies to-day in the rank of captain?

Mr. HAY. I do not know.

Mr. TILSON. They would fill them right up.

Mr. HAY. I do not know whether there are any vacancies in that rank or not.

Mr. TILSON. If there is such a vacancy it would be filled at once, would it not?

Mr. HAY. I do not know. I only know that the effect of this amendment would be to increase the amount in this bill, because if you take this amount that the gentleman speaks of from the item of retired officers, you must put it on to the pay of officers of the line, because you will have to provide for the pay of a captain on the active list.

Mr. TRIBBLE. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Virginia yield?

Mr. HAY. Certainly.

Mr. TRIBBLE. If you retire a man and another man is put in his place, what is the reason that you are not paying for two? You are paying the man who is put in the place of the man on the retired list, and you are paying the man on the retired list, too.

Mr. HAY. The gentleman's proposition is this, that hereafter when any officer is retired for disability and he should be found by an examining board, to be appointed by the Secretary of War, to be physically and mentally qualified for active service, the President may, in his discretion, reinstate such

officer on the active list as an extra officer. Therefore, he would be an extra officer. I say, Mr. Chairman, this amendment provides that he shall be placed on the active list as an extra officer, and if he is placed on the active list as an extra officer he could not take the place of some other man who is on the active list.

Mr. TILSON. Mr. Chairman, may I interrupt the chairman there?

Mr. HAY. Yes.

Mr. TILSON. The gentleman will realize, if he will read the whole amendment, that, that will last only until there is a vacancy.

Mr. HAY. We do not know how long it will be until there is a vacancy.

Mr. TILSON. If we take the average number of vacancies last year, or of two years ago, or as long back as the gentleman wishes to cover, we know that a vacancy in this rank does not exist certainly longer than a month.

Mr. HAY. Then for that length of time you would be increasing the appropriation, instead of decreasing it.

Mr. TILSON. That would be maximum, a month, and 10 days would be the average. During the rest of the year we would be decreasing it.

Mr. HAY. I might be willing, Mr. Chairman, to have this done in the case of a particular officer about whose condition I was satisfied and who I knew ought to be returned from the retired list to the active list. But to make this a general provision and a general law, and make it mandatory on the Secretary of War to receive these men into the active service, notwithstanding the fact that they are to be examined, seems to me to be bad legislation. There is no question about the fact, that instead of decreasing the appropriation it would increase it, and that being true, it does not come within the Holman rule.

Mr. ROBERTS of Massachusetts. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Virginia [Mr. HAY] yield to the gentleman from Massachusetts?

Mr. HAY. Yes.

Mr. ROBERTS of Massachusetts. If this amendment as proposed should become law, would it not be possible for a man on the retired list with the rank of first lieutenant to get back into the Army with the rank of major?

Mr. HAY. Undoubtedly.

Mr. ROBERTS of Massachusetts. In other words, he would be getting promotion while on the retired list?

Mr. HAY. Undoubtedly; and he would be disarranging the promotion, probably, of all the officers in the arm of the service to which he would go back, and the possibilities contained in this amendment are such that, in my judgment, it would be very bad legislation to enact. And if it is subject to the point of order, as I believe it is, that it does not decrease expenditures, I can not consent to accept it.

Mr. ROBERTS of Massachusetts. There is nothing on the face of it to show that it decreases expenditures.

Mr. HAY. It does not decrease them.

The CHAIRMAN. As the Chair understands the effect of this amendment—and he would like the members of the Military Committee to correct him if he is in error—potentially everybody on the retired list could be restored to the active list. Once restored they would draw the increased pay that would attach as a result of that restoration. It is not contended however that such a wholesale restoration is likely, or probable. The reduction made in the total is, I believe, the sum of $3,500.

Mr. TILSON. It is intended to be the pay of one captain for one year on the retired list, $2,500.

The CHAIRMAN. Having in mind the possible number of restorations that will reasonably follow upon the enactment of this amendment, and the suggestion of the gentleman from Massachusetts [Mr. ROBERTS] that an officer who was retired in one rank, might be restored in an advanced rank carrying larger pay, it is perfectly clear, to the Chair at least, that it can not be reasonably ascertained that the operation of this amendment will reduce expenditures. The view taken by the Chair is that the crucial test of a proposition submitted under the Holman rule is whether it will effect a retrenchment. In this connection, I am referring to the legislative features of the amendment. The Chair before holding such a legislative proposition to be in order must be satisfied to a reasonable certainty, that in its working effect, it will reduce expenditures. I am not satisfied that a reduction of expenditures will attach to the operation of this amendment. Hence it is not within the rule, and the point of order must be sustained.

Mr. TILSON. Mr. Chairman, one moment. The amendment itself carries a reduction.

The CHAIRMAN. Yes, but the Chair has ruled heretofore that a reduction can not be made a peg on which to hang any sort of legislation. If the legislation brings about the reduction, that is another situation; but the mere fact that a reduction is offered in an aggregate total, does not justify legislation which can not be reasonably regarded as the efficient cause of the reduction. The legislation must be the efficient inducing cause of the reduction.

Mr. TILSON. There is no use arguing with the court after he has made his decision, but it seems to me the Chair has stated only half the proposition.

The CHAIRMAN. The Chair is perfectly willing to have the other half stated.

Mr. MILLER. If I may have the privilege, although I am not a military man, and although the Chair has ruled, I desire to submit——

The CHAIRMAN. The Chair is perfectly willing to correct his ruling if he is in error. The Chair has no desire save to carry out the reasonable intent of the Holman rule.

Mr. MILLER. It seems to me that the logical conclusion which must be drawn from the remarks of the chairman of the committee is that the more you increase the retired list, the more you retrench expenditures, and the more you reduce the retired list, the more you increase expenditures. As a matter of fact an enlargement of the retired list, it seems to me, must necessitate an increase of expenditures, and a decrease of the retired list must of necessity reduce expenditures. They are supernumeraries. I do not say that in any disrespectful sense, either. They are no longer in active service. The active work of the Army must be performed, and the law provides the number of officers who must be kept to do that work.

Mr. TILSON. That is correct.

Mr. MILLER. It seems to me an absolutely necessary deduction that if you decrease the number on the retired list you must reduce expenditures.

Mr. HAY. But if you replace them, you replace them at increased pay, and they do not take the places of other active officers.

Mr. ROBERTS of Massachusetts. They go back as extra numbers.

The CHAIRMAN. Will the gentleman answer one question? Can the gentleman figure out how many officers under this amendment could conceivably be restored to full pay?

Mr. MILLER. I could not; but suppose there are 2,000 officers in the active service of the United States Army. That is the number authorized by law, and it is kept as nearly full as possible. There is always a shortage. Suppose there are 1,000 men on the retired list. If we reduce that number by 50, we leave 950 on the retired list and put 50 back, who will form a part of the 2,000.

Mr. ROBERTS of Massachusetts. No; they are extra numbers.

Mr. MILLER. It may be that they would not for a moment become a part of the 2,000. Perhaps each man would stay 10 days. Suppose he stayed 20 days or 3 months. After he had passed the time in which he would get increased pay he would spend the rest of the time in taking the place of some one of the 2,000 active officers.

The CHAIRMAN. In the meantime the extra compensation might amount to a geat deal more than the reduction of $2,500. That is what the Chair is seeking to point out. You can not possibly figure out that the reduction of $2,500 is a necessary consequence of this amendment. The arguments pro and con are too nearly balanced, the facts are too uncertain to furnish the ground for a satisfactory conclusion of retrenchment.

Mr. MANN. Will the Chair permit me a moment on the point of order?

Mr. HAY. I thought the Chair had ruled on the point of order.

The CHAIRMAN. The Chair will hear the gentleman from Illinois.

Mr. MANN. Under the Holman rule there are four phases of adding legislation to an appropriation bill. The last one, which, of course, is not applicable to this amendment, is that it shall be in order further to amend such bill upon the report of a committee, and so forth, which amendment being germane to the subject matter of the bill shall retrench expenditures.

Under that provision of the Holman rule, as I understand the decisions, it is necessary for the Chair to be able to see on the face of the amendment, or with such information as he is furnished, that the amendment will reduce expenditures.

There is the other provision in the Holman rule—

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

It is admitted that the amendment is germane to the bill.

Mr. HAY. Oh, no, Mr. Chairman. I do not admit that at all.

Mr. MANN. I assume that it is because it is perfectly patent on its face. The amendment is germane to the bill. Now, the amendment does reduce the amount of money covered by the bill carrying legislation with that which it is claimed will further reduce the expenditures of the Government. But I do not understand from the decisions heretofore made that it is the duty of the Chair to determine whether the additional legislation will reduce expenditures or not when it is coupled with the proposition which does in fact reduce the amount carried by the bill.

It is for the House, then, to determine whether, in their opinion, there will be a reduction of expenditures which would entitle the House to favor the amendment. It is impossible in any event, except where you cut off officers or cut off salaries, or dispense with the service through officers or salary, to say that anything will reduce expenditures. These two points are carried by the first two provisions of this rule—"shall retrench expenditures by the reduction of the number and salary of the officers or by reduction of the compensation of any person." There is practically no other way of reducing expenditures except by decreasing the purchase of supplies.

Here is an amendment which does, in fact, reduce the amount of money carried by the bill, but it is claimed that the reason for making that reduction is that the legislation proposed will accomplish the reduction. I do not see how there is any escape from the proposition that the amendment making a reduction in the amount carried by the bill and carrying legislation with it for the purpose of making the retrenchment is in order.

The CHAIRMAN. The Chair would like to ask the gentleman a question. The gentleman puts his contention on the ground that this will reduce the number of officers?

Mr. MANN. My contention is that it reduces the amount carried in the bill, with a germane amendment which it is contended accounts for that reduction; in fact, I think it reduces the total number of officers, but that may be speculation.

The CHAIRMAN. The Chair will ask the chairman of the committee whether, in his judgment, the effect will be to reduce the number of officers?

Mr. HAY. No, Mr. Chairman; the effect of it will be to increase the number of officers, and admittedly so; that is, to increase the number of officers on the active list, where they receive a larger compensation than they do on the retired list.

Mr. TILSON. It is perfectly clear on the face of the amendment that there would be no additional officer, because you take one off the retired list and put him on the active list. The net result is there is no more than you started with.

The CHAIRMAN. But is there a reduction?

Mr. TILSON. After the first vacancy occurs there is a reduction of one. The chairman of the committee is not satisfied that there will be a vacancy soon. I know that during the year 1912, which was a normal year, there were three such vacancies every month, so there would be a reduction at the end of the first vacancy which might occur in a week, and it might possibly be a month.

Mr. HAY. Will the gentleman inform the House how many officers under his amendment would be carried from the retired list to the active list?

Mr. TILSON. No one knows.

Mr. HAY. That is the point I make—nobody can tell.

Mr. TILSON. Every one that occurred would be so much reduction.

Mr. HAY. Not at all; they might all be extra officers. There might be 40 officers added to the Army by virtue of this amendment.

Mr. TILSON. They could not last as extra officers.

Mr. HAY. They might be there six months or a year.

Mr. TILSON. There would still be a reduction.

Mr. TRIBBLE. Mr. Chairman, as I understand this question, the gentleman from Virginia [Mr. HAY] and the gentleman from Connecticut [Mr. TILSON] are both wrong as to increase and decrease of officers. There is no increase of official positions and no decrease of active officers, but you do take officers from the retired list, and in so removing them reduce the amount carried in the bill—that is to say, keep them in the active list of officers.

The CHAIRMAN. According to the rule there must be a reduction or a decrease of officers.

Mr. TRIBBLE. Mr. Chairman, this question was discussed before the Naval Committee, and the same statement made before the Naval Committee is now made by the chairman of this committee. I sought information from the Secretary of the Navy, and here is his statement, which I hold in my hand; 12 retired men, retired by the plucking board, were placed on the retired list, at a salary of $44,700 in the total. Now, their successors, who filled their places, received $65,065. I mean, the successors of these men who have gone to the retired list. All along down the line they have created 33 vacancies—commanders and lieutenant commanders. They amounted approximately to $128,000. Now these are the successors of those retired. After they are promoted it increases their salary to $157,000.

Now, Mr. Chairman, there is an increase from $128,000 to $157,000 in one year, and what would it amount to in 100 years, 12 being retired or plucked each year? Those retired are receiving $44,000 after they go on the retired list. If you keep them on the active list, there is no retired $44,000 to pay and no increase in pay of the 33 promotions to fill vacancies. When you take one man from the active list you create a vacancy that goes all the way down the line, and you promote the men all the way from one end of the line to the other. If you refuse to move the men to the retired list, then, sir, you do not create any retired list, and you keep them there, and there is no vacancy to fill, and consequently no $44,000 retired pay. This is not a difficult proposition. It seems to me any one can see this enormous increase as applied to any retirement. I think the proposition before the House is the same.

Mr. HAY. Mr. Chairman, I do not see that what the gentleman says about the Navy would apply to this question here. We have not in the Army what they call a plucking board. We have no institution of that kind in the Army; and, moreover, the fact is the gentleman is mistaken in his view that the object of this amendment is to put somebody on the retired list. It is to put somebody from the retired list onto the active list.

The CHAIRMAN. The Chair is prepared to rule. First, in relation to the suggestion of the gentleman from Illinois [Mr. MANN], that the amount covered in this bill is reduced, it may be said that the suggestion is well taken. The aggregate total is reduced by the amount of $2,500. Having this reduction in mind it is argued that germane legislation sufficient to account for that reduction, is in order. The Chair admits that this argument is sound, and holds that germane legislation effecting the reduction is in order. But unrelated legislation can not be attached to the reduction, for an amendment reducing a total does not require the authority of the Holman rule, and hence can not be made the basis of legislation which is not the necesary and efficient cause of the reduction. Using the reduction in the total as a peg, you can not hang all sorts of unrelated legislation on that reduction. The reduction must be accounted for by the legislation, and the point that the Chair undertakes to present in this connection is that, after listening to the contention of the participants in his debate, and looking to the amendment, he is unable to perceive that in its necessary operation it will effect the reduction of $2,500, or any portion thereof. If it does not effect this reduction, then it is not in order. If it does account for it, the Chair will hold that the amendment is in order. From the arguments submitted, the Chair understands that the possible effect of this amendment will be to restore an indefinite number of officers to their old pay, or possibly to greater pay, since their grade may be advanced. They may, or may not render the promotions of other officers unnecessary or reduce the number required. For a time at least they might receive this increased pay without rendering service. It is difficult to see that in its operation as a whole this amendment will reduce expenditures. In fact its economic operation is altogether problematical. The Chair sustains the point of order.

Medical Department: For pay of officers in the Medical Department, $1,600,000.

Mr. HELM. Mr. Chairman, I move to strike out the last word for the purpose of inquiring of the chairman what is the total amount carried in the bill.

Mr. HAY. $93,833,177.

Mr. HELM. Has the chairman made any estimate, or is he in a position to tell the committee, what portion of that sum, including length of service pay, is paid to officers of the Army, the staff, line, commissioned, noncommissioned, and retired officers?

Mr. HAY. I can state to the gentleman that the pay of the Army is about one-half of the amount of the bill.

Mr. HELM. One-half of the $93,000,000 goes to the officers of the Army?

Mr. HAY. The officers and men of the Army.

Mr. HELM. Does that mean the enlisted soldiers?

Mr. HAY. Yes. I say that about one-half of the amount carried in the bill goes to the pay of the Army.

Mr. HELM. Do I understand the chairman to mean the pay of the Army includes the pay for all classes and grades and enlisted men?

Mr. HAY. Yes.

Mr. HELM. Is not the gentleman mistaken when he says that one-half of the $93,000,000 goes to the officers of the Army and to the enlisted men?

Mr. HAY. Of course that includes the officers on the retired list and the enlisted men on the retired list.

Mr. HELM. What I am trying to get at is this: Is it not a fact that one-half of the $93,000,000 goes to the officers of the Army of all classes—staff, line, commissioned, and noncommissioned, and their increased pay, and so forth, and length of service pay, and so forth. Does not that include one-half of the $93,000,000, exclusive of the pay of the enlisted men?

Mr. HAY. No.

Mr. HELM. I believe if the gentleman will investigate it closely he will find that about $40,000,000 of this sum of money that is carried by this bill goes to the officers, exclusive of the enlisted men.

Mr. HAY. The gentleman is mistaken. If the gentleman will add up the pay items, including the $16,000,000 for enlisted men, he will find that the pay is about $47,000,000, and that includes the entire pay of the Army.

Mr. HELM. I am not in a position to take issue with the gentleman directly on this bill, but if this bill corresponds approximately with the bill of last year, I believe that I am in a position to state, and I believe that I will be sustained by the fact, that one-half of this $93,000,000 goes to the officers of the Army, exclusive of the enlisted men.

Mr. HAY. I can only say to the gentleman that he can very easily verify it by adding up the pay items, but I can assure him that he is mistaken.

Mr. KAHN. Mr. Chairman, if the gentleman from Virginia will yield, I will call the attention of the gentleman from Kentucky to the items in this bill on page 7.

Mr. HELM. Will the gentleman permit me to interrupt him a moment?

Mr. KAHN. Yes.

Mr. HELM. Does this bill, in its appropriations for the pay of the officers of the Army, differ materially from the bill of last year in amount or in the number of officers?

Mr. KAHN. Not in the appropriation features.

Mr. HELM. In the amount for the pay of men and officers?

Mr. KAHN. It is a little larger than last year.

Mr. HELM. But the underlying principle is the same?

Mr. KAHN. Yes. On page 7, as I was informing the gentleman, the pay of officers of the line is $7,710,800, appropriated in this bill. The additional pay of officers for length of service is $1,742,916.73. The pay of enlisted men is $16,973,474, and the additional pay for length of service of enlisted men is $2,291,574.56. In that one item alone the pay allowed to enlisted men is more than double the amount of the same character of pay allowed to the officers.

Mr. HELM. The gentleman refers to the pay of officers of the line on page 7. From page 7 of the bill to line 5 on page 13 of the bill, are not all of the items that have just been read, inclusive, for the pay of officers of some grade in the Army?

Mr. KAHN. Not of officers, but principally of enlisted men.

Mr. HAY. One item alone of $750,000 is for 20 per cent foreign pay. I will say to the gentleman from Kentucky that more of the items appropriated for pay of the Army is for enlisted men than for the officers. There can not be any question about that.

Mr. COX. I would like to ask the gentleman this question, if he is prepared to give the figures on it.

Mr. HELM. Pardon me a moment. Do I understand the gentleman from Virginia [Mr. HAY] to say that the enlisted men receive more of the entire appropriation in this bill than the officers?

Mr. HAY. Yes, sir.

Mr. HELM. Officers of all grades—officers of the line, staff, commissioned, and noncommissioned?

Mr. HAY. Yes, sir.

Mr. MONDELL. Will the gentleman from Kentucky yield to me for a moment? The very last statement of the gentleman from Kentucky [Mr. HELM] brings a new consideration into the argument. The gentleman used the term "commissioned and noncommissioned." Of course, if the gentleman from Kentucky is adding the noncommissioned officers—sergeants and corporals—to the commissioned officers and is segregating everybody from the buck private in the rear rank, he is probably correct.

Mr. HELM. That is just what I meant at the outset of the statement——

Mr. MONDELL. The sergeants and corporals are just as much enlisted men as the buck private who has no sort of rank, and the item——

Mr. HELM. I understand that when a man is in the Army he is in the Army.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. HELM] has expired.

Mr. HAY. Mr. Chairman, I ask unanimous consent that the gentleman may be allowed to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HELM. The point I am trying to make to the committee is this: That we have got a top-heavy arrangement; that when we come to speak of the Army, our officers, to use an expression of the street, seem to me to be "hogging the patch"; that if we are going to appropriate $90,000,000 that we should be getting better results for the amount of money that you are expending. And I do not think that I miss the mark very far when I say that I doubt extremely whether there is an officer in the United States Army to-day that could stand behind a line of battle such as is drawn in the Bulgarian-Turkish War and command that line of battle.

Now, what strikes me as being out of balance in this Army of ours is that instead of getting some results in the way of effective tactical organization with this expenditure of ninety millions, the entire contest here on the floor, when the Army appropriation bill comes up, is for some class or grade of officers to get some promotion and increase in their pay or some additional emolument; some amendment that gives some other particular class of the Army officers so much per month or per year more than they are now receiving; they are getting so much for quarters; they are getting so much for light and heat, so much for salary, and every imaginable thing, and they all want more. It occurs to me that this whole thing has grown up in a contest between the different grades or divisions of the officers of the Army as to who will get the most money out of this Army appropriation bill, instead of service and efficiency, and not how good a machine for war purposes can be obtained.

Now, I know it is an unpopular thing for a Member to stand on the floor here and criticize the officers of the Army. I have had them take very serious exceptions to positions I have had to take as the chairman of the Committee on Expenditures in the War Department. They are quite tender. You have to sort of tiptoe around. They are very touchy. They are very jealous of the position and the rank that they occupy. But it occurs to me the time has come when we ought to do some pruning, to cut off some of these good things that you are handing out annually to these officers.

Mr. MONDELL. Will the gentleman yield?

Mr. HELM. I certainly will.

Mr. MONDELL. Did the gentleman vote for the bill before the House the other day proposing to give rank and increase of pay to horse doctors as officers?

Mr. HELM. Unfortunately, I was not on the floor. This is the first information I have had that that bill was up for consideration; but I will say, since you have brought it to my mind, that you have more horse doctors for the amount of horses that you have in the Army than you have any use for. I come from a section of the country where they have a good many horses and very good ones, too. Now, if I understand, you have one regiment of Cavalry in the Philippine Islands. Is not that a fact? I would like to ask some one.

Mr. HAY. We have two regiments of Cavalry there.

Mr. HELM. Is it not a fact that you have four regiments of Infantry and one regiment of Cavalry?

Mr. HAY. Two regiments of Cavalry and four regiments of Infantry.

Mr. HELM. How many veterinary surgeons have you?

Mr. HAY. Four.

Mr. HELM. Is it not a fact that you have nine?

Mr. HAY. Each regiment of Cavalry is entitled to two veterinarians.

Mr. HELM. I believe, if the gentleman will examine it closely, he will find that we have nine veterinary surgeons in the Philippine Islands.

Mr. HAY. If they have them, they are not with the command.

Mr. HELM. Where else are they?

Mr. HAY. The quartermaster may have them out there. They have veterinarians in the Field Artillery, but there is no Field Artillery there, I think.

Mr. HELM. I would like to ask the chairman of the committee——

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. HELM] has again expired.

Mr. HELM. Mr. Chairman, I would like two minutes more.

Mr. HAY. Mr. Chairman, I ask unanimous consent that the gentleman may have two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HELM. How many horses is a veterinary surgeon supposed to be able to look after and care for?

Mr. HAY. I will say to the gentleman that a full regiment of Cavalry, such as they have in the Philippine Islands, has in it somewhere about 1,300 or 1,400 horses, and therefore there would be, say, 650 horses to be cared for by a veterinarian.

Mr. HELM. That is all I wanted to know.

Mr. HAY. Mr. Chairman——

Mr. SISSON. I want to ask the gentleman one question.

The CHAIRMAN. Does the gentleman from Virginia [Mr. HAY] yield to the gentleman from Mississippi?

Mr. HAY. I yield to the gentleman.

Mr. SISSON. Can the gentleman from Virginia [Mr. HAY] tell the proportion of men and officers in the Army? About what is the proportion?

Mr. HAY. As I understand it, there are about 80,000 enlisted men now, and about 4,000 officers; something like that.

Mr. COX. Can the gentleman tell the committee about what is the total amount carried in this bill to pay retired officers, and then to cover appropriations for additional pay on account of length of service, and so on? Has the gentleman any calculation showing the total amount that is paid for that?

Mr. HAY. I may say that it is $2,877,600.

Mr. COX. Has the gentleman got it anywhere in the act—the sum total?

Mr. HAY. The number of officers, does the gentleman mean?

Mr. COX. The amount appropriated in this bill for the officers, and the amount that is appropriated in this bill for extra length of service.

Mr. HAY. The amount appropriated for retired officers——

Mr. COX. I could find out if I looked into it, if the chairman please, but what is the sum total?

Mr. HAY. I will state to the gentleman that it is about one-half. I have not segregated those items from the other items.

Mr. COX. That is what I wanted to ask, whether that had been added up.

Mr. HAY. It has been added up by the clerk of the committee, and in examining the result of his computation I was struck by the fact that about one-half of the amount went to the pay of the Army.

Mr. COX. Then it would take about six or seven million dollars, would it not, to pay the retired officers for their pay and——

Mr. HAY. No; it would not.

Mr. COX. I am not through with my question. It would take something like six or seven million dollars, would it not, to pay the officers who have been retired, and then to pay officers for length of service and to pay enlisted men extra pay for length of service? It will approximate about six or seven million dollars, will it not?

Mr. HAY. It is about $5,400,000.

Now, Mr. Chairman, I want to say in answer to the statemnet of the gentleman from Kentucky [Mr. HELM] that there is not a single provision carried in this bill that adds any emoluments to any officers beyond what they are already receiving on account of existing law. The pay of the Army is fixed by law, and the appropriation bill is made up of items taken from the law.

I want to say, too, to the gentleman in regard to his statement to the effect that the officers of the Army of the United States could not stand behind a battle line and command the army as is now being done in Bulgaria, that there has never been a time in the history of this Government when the officers of the United States Army have not been equal to every task which has been committed to their care. [Applause.] They are equal now to do their duty in battle and measure up to the officers of any army under the shining sun, I do not care where they may be. [Applause.]

I am proud of the records which the officers of the Army of the United States have made through all our history, and I am sure my friend from Kentucky hardly measured his words when he stated what he did about the ability of the officers of the Army of this country. In every branch of the Army, in every duty, whether that of the Army proper or the civilian duties, such as this great task of building the Panama Canal, the Army officers have always been called upon in emergencies of that character [applause], and they have always measured up to the occasion. [Applause.]

Mr. MONDELL. Mr. Chairman, it seems to me there ought to be no difference of opinion in regard to the views just expressed by the gentleman from Virginia [Mr. HAY] as to the gallantry and efficiency of the officers of the Army of the United States. We have, in my opinion, the best military schools in the world, and we have certainly the best material in the world from which to draw the young men who attend those schools for the purpose of preparing themselves to become officers of the Army and of the Navy. And we have the best plan in the world under which we select the young men who are to become the officers of the Army and of the Navy. We are the only Nation in the world that gives all of the young men of the country who are ambitious to serve their country an opportunity to secure an appointment and a military education, and there never has been a time, in my opinion, when the Army, both the men and officers, was as thoroughly fit and prepared for any emergency as it is this day. There has never been a time when we had as good an organization, when the men and officers were kept so thoroughly up to a concert pitch of preparedness, physically and mentally, as they are to-day.

And yet I sympathize somewhat with the views expressed by the gentleman from Kentucky [Mr. HELM]. He makes a mistake, in my opinion, when he attempts to segregate the enlisted men and to assume that the noncommissioned men among the enlisted men are officers. They are in no sense, as the term is ordinarily used in the Army, officers. They are enlisted men holding a higher rank than their fellows by reason of their ability and their service.

But it is true, in my opinion, that we have been much given in this country of late years to yielding to the importuning of the Army, to the social influence of the Army, in increasing the Army pay and the Army emoluments, and in no way have we erred more, in my opinion, than in giving rank and title and other peculiar military recognition to men who are not performing, or who are not called upon to perform, purely military duty. We are wiping out the line between the fighting men and the auxiliaries of the fighting force. In my opinion that is not a wise thing to do. And we have increased the pay and allowances, pay active and fogy, allowances and commutation, and all that sort of thing—well, at least as much as they should have been increased.

Mr. PRINCE. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. And it is only very recently that we have realized the gap between the rewards of the officers and the rewards of the enlisted men, and have sought more nearly to equalize the pay.

The CHAIRMAN. Does the gentleman yield?

Mr. MONDELL. Yes.

Mr. PRINCE. I was just going to ask my colleague if we have not made very liberal provision for the pay of enlisted men?

Mr. MONDELL. We have made much more liberal provision than we did formerly, and in my opinion the enlisted men of the Army are at this time very well paid, and the service is one that should and does command the attention of some of the best young men of the country.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. HELM. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The gentleman from Kentucky [Mr. HELM] moves to strike out the last two words.

Mr. HELM. I do not want to consume the time of the committee, but in response to the statement of my very much esteemed friend from Wyoming I want to add this observation in support of the statement I have made. He says that we have fine schools for the education of the officers of the Army. Well, a fine law school does not necessarily make a fine lawyer, and a fine medical school does not necessarily make a fine doctor. I doubt very much whether your fine schools come up to the standard which you have stated they do. I presume you refer to the War College, do you not?

Mr. MONDELL. I refer, primarily, to the Military and Naval Academies.

Mr. HELM. We are speaking now of the Army. We are not talking about the Navy.

Mr. MONDELL. The various service schools carry on the work.

Mr. HELM. If it is true that we have such exceptionally fine schools for the training of these officers, why have they not effected a tactical divisional organization? Nearly all the members of the Military Affairs Committee are here, and I want to ask you, Have you to-day a tactical divisional organization? Please, some of you, answer me

Mr. HAY. I will state to the gentleman that that is wholly a matter for the Executive, and not for the Military Affairs Committee.

Mr. HELM. You concede that you have not such an organization, do you not?

Mr. HAY. If we have not the proper tactical arrangements, it is the fault of the War Department, and not the fault of Congress.

Mr. HELM. Ah, there you are. Now when you get up here and boast of what you have, it sounds all right. It reads well. We like to hear it. It falls good on our ears; but when you come to put the test to it you have not got it. Now, what is the work that your good schools are doing? Let me ask you this question: Can we go to war with anything less than a division? Can this country go to war with anything less than a division? We are speaking now of a fighting machine. Now answer me that question, please.

Mr. KAHN. The gentleman knows that the War Department at the present time is working out a system of tactical units.

Mr. HELM. They have been doing that ever since I have been in Congress.

Mr. KAHN. No.

Mr. HELM. Just about this time of the year. I leave it to your candor. About the time the Army appropriation bill comes up you see it stated here and there that there is a group of Army officers somewhere incubating something that will look like a system if it ever hatches, but it never borns. It dies aborning. Now, you will not hear anything more of this thing for 12 months more. I understand quite a number of distinguished officers of the Army have been here in the city for the purpose of working out a plan, and the newspapers state that it has been accomplished and that the report is ready to be submitted. But where is that report?

Mr. KAHN. Will the gentleman yield?

Mr. HELM. I will.

Mr. KAHN. About a year ago the War Department for the first time undertook to organize the Army along——

Mr. HELM. I have yielded to the gentleman for a question, not a statement.

Mr. KAHN. The gentleman asked me a question, and I am trying to give him the answer.

Mr. HELM. The simple question I asked was if you have a division tactical organization, which question can be answered yes or no.

Mr. KAHN. No; but one was started less than a year ago, and is nearly perfected.

Mr. HELM. Is it nearly perfected?

Mr. KAHN. Yes.

Mr. MADDEN. It is out of the incubator. [Laughter.]

Mr. HELM. Have you any information as to when we will receive it? Will it be about the time the next Army appropriation bill comes up?

Mr. KAHN. I will say, for the information of the gentleman, that the matter has been worked on all through the period since the adjournment of the last session.

Mr. HELM. For how many years?

Mr. KAHN. Less than one year.

Mr. HELM. Does the gentleman make that statement advisedly?

Mr. KAHN. I do.

Mr. HELM. That they have been working on this particular proposition for one year?

Mr. KAHN. Less than one year.

Mr. HELM. What other propositions have they had similar to this, and how long?

Mr. KAHN. The question of reorganization along lines of tactical or divisional units was not taken up by the Army until about last April or May.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. HELM. I ask unanimous consent for five minutes longer.

Mr. HAY. I ask unanimous consent that all debate on this paragraph and amendments thereto be closed in five minutes.

The CHAIRMAN. The gentleman from Virginia [Mr. HAY] asks unanimous consent that at the expiration of five minutes the debate upon this paragraph and amendments thereto be closed. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Kentucky [Mr. HELM] asks unanimous consent for five minutes more. Is there objection?

There was no objection.

Mr. HELM. Mr. Chairman, I think the proposition that I laid down in the outset has been fairly well sustained, by reason of the failure of the members of the Military Affairs Committee to show that you have what they claim to have. I want to ask my good friend from Wyoming [Mr. MONDELL] when was there ever a division of the Army assembled since the Civil War; and how can you get up on the floor here and say—and how can my good friend, the chairman of the Military Affairs Committee, the gentleman from Virginia [Mr. HAY], get up on the floor here and say that you have the officers to do the work that is being done in the Balkan-Turkish War, when, in the first place, you have not a divisional organization, and, in the second place, there has not been such a thing since the Civil War?

Mr. MONDELL. Does the gentleman complain because the Army is not large enough?

Mr. HELM. I say the Army is too large. I am not complaining about the Army not being large enough.

Mr. MONDELL. Does the gentleman complain that we have not a large enough Army, or that we have not our present Army so concentrated as to have a division in one locality that can be easily gathered together and concentrated quickly? Is that the gentleman's complaint?

Mr. HELM. I am not complaining that the Army is too small. I am complaining that you have nothing that resembles a divisional organization within the Army. I will say that a well-organized army of 25,000 men is better than an unorganized army of 75,000 men.

Mr. HAY. Will the gentleman allow me to ask him a question?

Mr. HELM. Certainly.

Mr. HAY. Was there before the Civil War an Army of the United States large enough to gather together a division? Of course, the gentleman must say there was not, because we did not have as many men in the Army as we have now.

Mr. HELM. As I was born since the war, of course I can not answer.

Mr. HAY. The officers of that Army who served on the northern side and the southern side displayed an amount of genius that has never been displayed by any other set of officers in any other country in any other age.

Mr. HELM. Mr. Chairman, that sounds good again. That appeals to you, that stirs your blood and starts you going; it makes you feel good. [Laughter.] You like to hear your Army bragged about as my good friend likes to hear his children bragged about.

Mr. ANTHONY. Will the gentleman yield?

Mr. HELM. I will.

Mr. ANTHONY. Is the gentleman arguing that the standing Army should be increased?

Mr. HELM. No, sir.

Mr. ANTHONY. Does the gentleman know how many men compose a divisional unit? He is speaking of nine or eighteen thousand men.

Mr. HELM. I do not know how to run a railroad train, but I can sit in the passenger coach and tell when the track is in good shape and whether the men in charge of the train know how to run the train.

Mr. ANTHONY. The gentleman is talking about something that he knows very little about.

Mr. HELM. As I said, I do not know anything about operating a railroad, but I can tell something about the roadbed as soon as I take passage, and I can tell by the way the trains are handled whether the Chesapeake & Ohio Railroad is as good a railroad proposition as the Pennsylvania Railroad.

Mr. MANN. Is the Chesapeake & Ohio a good proposition? [Laughter.]

Mr. HELM. It is not as well organized or systematized as the Pennsylvania Railroad, and yet I do not know a thing in the world about railroads, either as to construction or operation.

Mr. BURKE of Pennsylvania. Is there any division in the Chesapeake & Ohio?

Mr. HELM. Oh, there are plenty of them—divisional organizations.

Mr. BURKE of Pennsylvania. Will the gentleman yield?

Mr. HELM. Yes.

Mr. BURKE of Pennsylvania. How much does the gentleman think that the Army ought to be increased?

Mr. HELM. I would say just as small as you could possibly get it, and as soon as we can get rid of the Philippine Islands I would say reduce it to 25,000 men. These islands are the only excuse you men have for a big army and big navy. The moment you get rid of the Philippine Islands your big navy and your big army is gone. You recognize it, and the War Department and the Navy Department recognize it.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

The Clerk read as follows:

For pay of the enlisted men of the Army on the retired list, $2,400,935.20.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I hoped that I could entirely concur in the latest speech of my friend from Kentucky, but unfortunately he has fallen into a common error. In discussing what it may be are the faults of our military organizations, he insists that we should have a smaller military organization, and yet we should have one large enough so that we may have divisional units; and I assume that he would have this small Army so located that it would be divided up into a considerable number of very large units. His wish is a good deal like that of the little boy who hoped it would rain just hard enough so that he did not have to go to school and not so hard but that he could go fishing. He wants the Army so small that it will not be efficient and yet big enough to divide into large units. You can not do those two things. I am one of the people who believe that it is not so tremendously important that we shall have worked out every problem that the very latest craze of military development in Europe may have suggested as being important. Our history, the history of all the world, is that it is not necessary to have a great army, and that it is not necessary to have an army concentrated, and it is not necessary for men to have had in time of peace a great number of men to operate in order to develop military genius in order to be able to handle great military problems.

At the beginning of the Civil War, as the gentleman from Virginia stated a moment ago, we had men who had never commanded more than a fragment of a regiment; men who had had no experience with large numbers of troops, who immediately developed the ability to handle corps, divisions, and armies. I dare say that the men who have been handling the armies of the allied troops in the Balkans are men who never had experience with large commands.

Mr. HELM. Will the gentleman yield?

Mr. MONDELL. My time is very brief.

Mr. HELM. How long between the time that the war was declared between the Balkans and the Turks until the allied troops drove the Turks back to Constantinople; how many days elapsed?

Mr. MONDELL. I was engaged in my duties here, and was not giving all my attention to that fact.

Mr. HELM. The gentleman has made statements about not being prepared; does the gentleman want to know how long it was?

Mr. MONDELL. It was only a few days until they had advanced, and they were prepared to advance.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent that he may proceed for five minutes. Is there objection?

There was no objection.

Mr. HELM. Does the gentleman believe the result could have been accomplished unless the men in charge of the Balkan troops and their allies had made preparations and knew what to do and how to command these troops and drive the Turks back in 18 days?

Mr. MONDELL. Certainly no man ever accomplished anything if he did not know how to do it; but many men have accomplished great things once that they never had the opportunity to practice before, and a great many men have won great battles and have proven themselves great strategists and soldiers who have never commanded great armies; and while the gentleman belongs to that class of people who want an army so small that it would be entirely insufficient, practically valueless in the present condition of the country, at the same time he is arguing for the very things in organization that men argue for who want a very large army. We have grown way beyond an army of 25,000 men. We have grown to an Army of the present size beyond all question, whether we have the Philippines or no, and being one of those who do not believe in ever sending soldiers to the Panama Canal, except, perhaps, a corporal's guard possibly, I still believe we need all the soldiers we now have without regard to the Panama Canal, because we have not too many men to form the nucleus that will be necessary for expansion if we have foreign trouble. But it is not necessary to concentrate these men in great bodies. To do it is un-American. It is not necessary to have worked out to the last gnat's heel of detail some peculiar scheme of organization. It is necessary to get the right kind of material, men and officers, give them the proper instruction in the schools and in the fields, select them carefully for command as they discover their ability, and with the population to draw from that we have, the schools of instruction that we furnish, the field operations we now have, no one can doubt but that when called upon the Army of the United States will respond, men and officers, as nobly to the duties they are called upon to perform as ever did a soldier in the history of the world. [Applause.]

The Clerk read as follows:

For commutation of quarters to commissioned officers, dental surgeons, veterinarians, and pay clerks on duty without troops at stations where there are no public quarters, $500,000.

Mr. HAY. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 13, line 22, insert the word "acting" after the word "dental."

Mr. HAY. Mr. Chairman, I offer this amendment, because otherwise these acting dental surgeons could not receive the commutation of quarters.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. HAY. Certainly.

Mr. MANN. Are there not dental surgeons also?

Mr. HAY. Yes; but they are commissioned officers.

Mr. MANN. They will be included under the term "commissioned officers"?

Mr. HAY. Yes.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Virginia.

The question was taken, and the amendment was agreed to.

Mr. WEBB. Mr. Chairman, I move to strike out the last word. I desire to ask the chairman of the committee a question or two, and then I may offer an amendment. I would like to know how many officers under this provision which has just been read receive commutation here in Washington?

Mr. HAY. I could not state to the gentleman how many officers are now in the city, but I can state to him that all of those who are stationed here who are not at the military posts get commutation of quarters.

Mr. WEBB. That commutation of quarters includes room rent?

Mr. HAY. And fuel and light.

Mr. WEBB. Can the gentleman tell me how many Army officers are transferred from Fort Myer to Washington on detailed duty who receive this commutation?

Mr. HAY. I do not think there are any detailed from Fort Myer. Those stationed at Fort Myer do not get commutation of quarters.

Mr. WEBB. Mr. Chairman, the object of this question was to bring out the fact that there has grown up in this commutation allowance an abuse which I think will be apparent. Under the present law, as I understand it, a captain, if he is detailed away from his barracks, or his Government quarters, gets five rooms at the rate of $12 a month for each room. That is $60 a month for room rent. A lieutenant gets three rooms, or $36. A colonel gets seven rooms, or $84, and a brigadier general gets eight rooms, at $12, or $96 a month. That was all that the Government originally intended to pay these officers as commutation, as I understand it, but according to the ruling of the Comptroller of the Treasury on January 31, 1907, it seems to me apparent that that ruling engrafted on to what Congress intended to allow them for commutation an additional allowance for heat and light. It is my understanding that there are 175 of these officers in this city who are drawing this unusual and splendid commutation of $12 a month a room, and heat and light pay also.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Certainly.

Mr. BURKE of South Dakota. I understand the number to be 192, I will state to the gentleman.

Mr. WEBB. Then the number is larger than I thought it was.

Mr. HAY. Mr. Chairman, I would point out to the gentleman that a captain may have a wife and family.

Mr. WEBB. I will get to that.

Mr. HAY. And therefore four rooms would not be too great an amount, and he could not rent for himself and family proper quarters in this city for $48 a month.

Mr. WEBB. Mr. Chairman, while that may be so now and then, I am informed that there are many captains and colonels and the rest of them who get this entire commutation and do not use but one or two of the rooms, or one-half of the rooms, and receive not only the entire commutation for room rent, but heat and light allowance also, although practically every room in this city is furnished heat free with the rent. Where an officer gets his room rent for $12 a month, say, a colonel who gets $96 per month for room rent, in addition to that he also gets $30 a

month for heat and light. I say that is a species of—well, I shall not call it graft, but Congress never intended to allow that, and it ought not to be allowed by this House. Something like $50,000 to $60,000 are paid out in this city every year as commutation for heat and light alone, or about $5,000 per month.

Mr. HELM. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Certainly.

Mr. HELM. How many rooms is a brigadier general allowed commutation of quarters, heat, and light for?

Mr. WEBB. Eight rooms—I really believe nine now.

Mr. HELM. Suppose he is a bachelor?

Mr. WEBB. I have heard of a case where a colonel had seven rooms and occupied only two, but he drew his entire seven-room rent, and heat and light besides, and I learn that this practice is general.

Mr. HELM. Of course, the theory of the law was that in allowing a man five or six or seven rooms it was to house his family; but suppose he is an officer without a family; is he still entitled to this $12 a room a month?

Mr. WEBB. Oh, yes; that is as certain and regular as his salary.

Mr. HELM. Do I understand that a brigadier general gets $96 per month?

Mr. WEBB. Yes. I believe it is now $108 for nine rooms.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. FOSTER. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Certainly.

Mr. MURDOCK. The gentleman seems to have investigated this subject, and I would like to ask him if I am under a wrong impression. I have been informed that the gas and electric light companies of this city do not present bills for electricity and gas to officers of the Army who are resident in Washington. Does the gentleman know whether that is true or not?

Mr. WEBB. I could not answer that, but I have heard that such is the case, though I can not vouch for its accuracy. I communicated with The Adjutant General's office this afternoon and asked what was the commutation allowance for a captain.

Mr. MURDOCK. An officer has commutation for gas and electricity?

Mr. HAY. He has a certain allowance for heat and light.

Mr. WEBB. It averages for a captain about $19 a month for four rooms, whether he uses one room or four. The total allowance for his room rent by the year is $576, and $228 additional for heat and light, or a total of $804 for four rooms, heat, and light per year.

Mr. COX. Who furnished the figures to the gentleman?

Mr. WEBB. The Adjutant General's office.

Mr. COX. It is authoritative, then?

Mr. WEBB. I suppose it is. Now, take a colonel, and he gets $84 a month for room rent, $30 a month for heat and light—a total of $1,368 a year for room rent, heat, and light.

Mr. HELM. Mr. Chairman, does this colonel have some horses furnished him, and some provender, and a caretaker for the horses, and blacksmith service, and a stable in which to keep his horse, and heat and light for his horse?

Mr. WEBB. I have not investigated that yet, Mr. Chairman. I understand a colonel has a chance to buy a good horse which costs the Government $75 or $100 when it is young, and when it——

Mr. HELM. As a matter of fact, does he not get two instead of one?

Mr. WEBB. Yes; I think they all have plenty of horses and vehicles, and things like that, and a veterinary surgeon to doctor them, and maintenance.

Mr. BURKE of Pennsylvania. Does the gentleman regard $110 a month as excessive to furnish a colonel of the United States Army with a home, and light and heat for the same?

Mr. WEBB. That depends very largely. In some instances it might not be too much and in others it might be a great deal too much.

Mr. BURKE of Pennsylvania. I am asking the gentleman to state it from the standpoint of the argument he is making in reference to these officers he has under observation.

Mr. WEBB. A colonel ought not to be allowed to draw room rent for eight rooms at $12 each, and light and heat allowances, $30, for that number of rooms and live in only two of them.

Mr. BURKE of Pennsylvania. If the Army officer is allowed so much money per annum to furnish him a home, has not he a right to choose whether he shall live in two comfortable rooms or six uncomfortable rooms?

Mr. WEBB. No; I think he ought to be paid what he necessarily and economically spends for room rent and heat and light.

Mr. MANN. Will the gentleman yield for a question?

Mr. WEBB. Yes, sir.

Mr. MANN. Congress having provided that the officer shall have that as a part of his compensation, is the officer to blame for taking it?

Mr. WEBB. I will reply to that by saying that Congress has never authorized, so far as I can find, giving these officers heat and light commutation in addition to the room rental. The Comptroller of the Treasury made that ruling and grafted it on to the congressional act.

Mr. MANN. We passed a law to that effect. Congress has specifically provided for the number of rooms, and also provided for the heat and light by law.

Mr. WEBB. Now, tell me what a captain gets for heat and light by law? I do not think it has ever been specifically authorized by law when the officer is away from Government quarters.

Mr. MANN. I can not tell the gentleman now. I know that we had it up when we had the Public Health Service under consideration, which was asking the same thing. We did not give it to them in the law passed at the last session. The gentleman was probably in favor of the bill that did give them that. We did not provide that in the public health bill, and I wanted to correct that matter at that time. Congress had provided by law compensation for rooms and for heat and light to the Army officers who did not have it furnished in kind.

Mr. HAY. And that is only to those who are not stationed at the Army posts.

Mr. MANN. Not furnished in kind.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WEBB] has again expired.

Mr. SLAYDEN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. Does the gentleman from Texas [Mr. SLAYDEN] wish to occupy the time in his own right?

Mr. SLAYDEN. I intended to do so and to yield to the gentleman from North Carolina [Mr. WEBB].

The CHAIRMAN. Well, the gentleman can use time in his own right, and then the Chair will ask if the gentleman from North Carolina desires more time.

Mr. SLAYDEN. I will take the time in my own right as a member of the committee. I think the gentleman is in error when he says there is no law for heat, fuel, and light to officers who are occupying houses not at military posts, where they have quarters.

Mr. WEBB. If the gentleman will permit me, I said I thought the law originated by interpretation of the Comptroller of the Treasury. That is the first time we had it grafted on the law—heat and light allowance—as payable to these officers. It was built up by construction and interpretation.

Mr. SLAYDEN. I do not remember exactly the time the law was passed that did give them fuel and lights. I remember I was opposed to it. But it is a law, and it made a very material increase in the allowance to officers not stationed at military posts.

Now, there is no objection that I can see to an officer taking the allowances that are provided by Congress. If they are excessive, cut them down; but no just criticism can be leveled at a colonel or a man of any other rank for taking the compensation that is provided for him by law.

Mr. WEBB rose.

The CHAIRMAN. Does the gentleman from North Carolina [Mr. WEBB] desire to submit a request?

Mr. WEBB. I would like to have five minutes, Mr. Chairman.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield for just a moment?

Mr. WEBB. Yes.

Mr. BURKE of South Dakota. I want to call the gentleman's attention to a provision in the statutes. I agree with him in what he is contending for. I want to call the gentleman's attention to the statute authorizing payment for fuel and light. It provides:

> That hereafter the heating and lighting actually necessary for the authorized allowance of quarters for officers and enlisted men shall be furnished at the expense of the United States under such regulations as the Secretary of War may prescribe.

Now, under that language it is held that they could not pay for fuel and light that was not actually furnished.

Mr. WEBB. What is the date of that act?

Mr. BURKE of South Dakota. March 2, 1907. Now, as I understand it, what the gentleman is contending for is that they are being allowed for fuel and light a certain amount, although it has not been expended?

Mr. WEBB. Exactly; and that law, I think, applies to officers in Government quarters, and was not intended to be given them when detailed away from such quarters, but only an allowance for room rent.

Mr. BURKE of South Dakota. In other words, an officer who gets $96 a month is allowed in cash $36.

Mr. WEBB. Thirty-four dollars.

Mr. BURKE of South Dakota. It is under a regulation of the War Department, and the Auditor for the War Department held that that could not be done. But the Comptroller of the Treasury held otherwise and reversed the Auditor for the War Department, since which time they have been paying in cash to each one of these officers this amount. I think it averages about $25 a month, if I am not mistaken; and to the officers located in the city of Washington it would be between fifty and sixty thousand dollars a year. It is based on the number of rooms.

Mr. WEBB. It was never intended, Mr. Chairman, that this allowance for heat and light should be grafted on the law as it has been. Let us give them enough room rent and stop heat and light allowance. It was no doubt understood that the room rent should include heat and light. It is ridiculous to provide that a colonel should have $480 a year for heat and light alone. Usually heat and light are furnished with a rented room, or at least the room is heated. I do not censure officers for taking this allowance, for it is lawful for them to do so, but I am contending that we should change this ruling or law.

Mr. MANN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Illinois?

Mr. WEBB. Certainly.

Mr. MANN. Is it not the experience of the gentleman, when it comes to renting quarters in the city of Washington, that they will take all you have got? [Laughter.]

Mr. WEBB. There is something in that, I will agree, especially if you are a Member of Congress.

Now, Mr. Chairman, I want to offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman will send it to the desk. The Clerk will report the amendment offered by the gentleman from North Carolina [Mr. WEBB].

The Clerk read as follows:

> Add, after "$500,000," in line 24, page 13, the following: "*Provided*, That no part of this appropriation shall be expended in payment for heat and light to commissioned officers, dental surgeons, veterinarians, and pay clerks drawing commutation of quarters."

Mr. HAY. Mr. Chairman, I want to be frank with the gentleman. No part of this amount is paid for fuel and light, anyway. This is the pay for commutation of quarters. The money that is paid for heat and light is paid out of an appropriation for regular supplies. If the gentleman wants to offer an amendment, he ought to wait until we get to the item where the appropriation is made.

Mr. WEBB. I understood that this commutation was paid out of this particular appropriation of $500,000.

Mr. HAY. No; fuel and light are not paid out of this. This is commutation of quarters.

Mr. WEBB. Does not commutation of quarters come under that head?

Mr. HAY. That is for the pay of room rent.

Mr. WEBB. Where does it come in?

Mr. HAY. Under supplies in the Quartermaster's Department.

Mr. BURKE of South Dakota. Mr. Chairman, in regard to that, may I ask the gentleman in charge of the bill a question?

The CHAIRMAN. Does the gentleman from North Carolina yield?

Mr. WEBB. Yes.

Mr. BURKE of South Dakota. Is any part of this money paid for heat and light?

Mr. HAY. No.

Mr. BURKE of South Dakota. Then the amendment should be offered to some other part of the bill.

Mr. HAY. I will say to the gentleman from North Carolina that the item to which he refers is carried on page 21, line 22:

> For furnishing heat and light for the authorized allowance of quarters for officers and enlisted men, for contract surgeons and contract dental surgeons when stationed at and occupying public quarters at military posts.

Mr. WEBB. Then I shall offer my amendment after the word "school," on page 22, line 2, and withdraw it for the present.

The CHAIRMAN. The Clerk will read:

The Clerk read as follows:

> For interest on soldiers' deposits, $90,000.
>
> For pay of translator and librarian of the military information section, General Staff Corps, $1,800.
>
> For pay of expert accountant for the Inspector General's Department, $2,500.

Mr. MANN. Mr. Chairman, I move to strike out the last word for the purpose of asking a question. Is there any provision in the bill as presented for paying back soldiers' deposits?

Mr. HAY. That has been carried in the bill heretofore for paying back soldiers' deposits, but we were told it was not necessary to do it; that the appropriation that was made was not enough to pay them back, and therefore it was not necessary to have that appropriation.

Mr. MANN. Heretofore you carried the item, and now you say it is not necessary to carry it?

Mr. HAY. It is not necessary to carry the item.

Mr. MANN. But, of course, it is necessary to pay them back.

Mr. CULLOP. Mr. Chairman, I desire to ask the chairman of the Committee on Military Affairs a question for information. On page 14, line 6, is the item "For pay of expert accountant for the Inspector General's Department, $2,500." Do they employ accountants outside or some person connected with the department or the Army to do this work? If it is done by men in the department, do they pay them extra compensation for it?

Mr. HAY. No. This is one particular man, who is the expert accountant of the Inspector General's Department.

Mr. CULLOP. Is he connected with the department?

Mr. HAY. He is connected with the Inspector General's Department. He is the only expert accountant connected with that department.

Mr. CULLOP. It is not an outside man, then, employed for the purpose?

Mr. HAY. Oh, no. This has been in the bill for a good long time.

The Clerk read as follows:

> For mileage to officers, dental surgeons, veterinarians, contract surgeons, pay clerks, and expert accountant, Inspector General's Department, when authorized by law, $550,000.

Mr. HAY. I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the clerk will report.

The Clerk read as follows:

> Page 14, line 20, after the word "surgeons," insert the words "acting dental surgeons."

Mr. MANN. All the gentleman needs to do is to insert the word "acting," as the words "dental surgeons" are already in the bill.

Mr. HAY. Yes; that will do it.

The CHAIRMAN. Does the gentleman withdraw his amendment?

Mr. HAY. I withdraw my amendment and move to amend by inserting the word "acting" before the word "dental," in line 20.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Page 14, line 20, insert, before the word "dental," the word "acting."

The amendment was agreed to.

Mr. COX. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the clerk will report.

The Clerk read as follows:

> Amend, page 14, by striking out lines 20, 21, 22, and 23 and inserting in lieu thereof the following:
>
> "For mileage to officers, dental surgeons, veterinarians, contract surgeons, pay clerks, and expert accountant, Inspector General's Department, when authorized by law, $392,855: *Provided*, That hereafter all officers of the Army when traveling under orders shall be paid their actual traveling expenses and no more."

Mr. MANN. I reserve a point of order on the amendment.

Mr. HAY. So do I.

Mr. COX. In order to make the amendment conform to the section as already amended by the committee, I believe my amendment should contain the word "acting" before the word "dental."

Mr. MANN. The gentleman does not change the wording of the paragraph. He simply changes the amount and adds a proviso.

Mr. COX. That is all. Is the gentleman from Illinois going to make the point of order?

Mr. MANN. I think I will in the end. I think it is subject to the point of order.

Mr. COX. I do not think the amendment which I have submitted is subject to a point of order.

Mr. HAY. Suppose we have that disposed of first.

Mr. COX. Yes; it had just as well be disposed of now as afterwards.

Mr. MANN. Mr. Chairman, it seems to me that precisely the same question arises here on the point of order that arose on the amendment offered by the gentleman from Connecticut [Mr. TILSON]. The gentleman from Indiana [Mr. COX], in his amendment, offered to reduce the amount, with a provision that officers shall be paid their actual expenses. I know of no way by which anybody can determine whether the actual expenses of officers will be greater than the amount allowed now by law. It is a mere matter of argument to say that they will, and I understood the Chair awhile ago to make the ruling that the reduction of the amount was not of itself sufficient to bring an amendment within the Holman rule, unless on the face of the amendment or in connection with the statement made to the Chair it appeared that the legislation proposed would in fact accomplish the reduction.

I do not know how anyone can tell. A few years ago there was a provision inserted in a bill in the House here authorizing the payment of an Army officer or a naval officer his actual expenses, which were four or five times the amount then authorized by law, and necessarily so.

Mr. HAY. If the gentleman will allow me the interruption I will make this statement, in support of what he has said: Under the present law an officer receives 7 cents a mile, which includes subsistence at the point to which he is ordered. For example, suppose an officer stationed at Fort Sheridan is ordered down into Missouri to buy mules, and he stays there 7 or 10 days, or 2 weeks, on that service. He gets only the 7 cents a mile between Chicago and the point to which he goes, and has to subsist himself during that 10 days or 2 weeks on the 7 cents a mile. So that, as the gentleman says, the actual expenses would be very much more than the 7 cents a mile. And I may say to the gentleman that this matter has been threshed out, about this mileage of officers, over and over again. Various methods have been sought to be arrived at in order to decrease this item, but it was found that after all the best way to decrease it was to give them the 7 cents a mile, rather than to give them the actual expenses, and it is very evident that a man's actual expenses in traveling can be made to be very much more than if the allowance is a fixed sum; for instance, 7 cents a mile. I really think there is no way of finding out whether or not this will be a reduction.

Mr. BURKE of Pennsylvania. Will the gentleman allow a suggestion in that connection?

Mr. HAY. The gentleman from Illinois has the floor.

Mr. MANN. I yield to the gentleman from Pennsylvania.

Mr. BURKE of Pennsylvania. At the time the hearings were held, Gen. Aleshire was asked whether or not the experience of the department in these two methods had not resulted in leading to the inevitable conclusion that the present mileage system was the cheaper and the more economical for the United States Government? I think the chairman of the committee will recall that fact. His statement is the only record on the subject which there is before us.

Mr. HAY. Gen. Aleshire said in the hearings——

Mr. KAHN. At page 66.

Mr. HAY. Gen. Aleshire said—

I believe it would cost the Government more if they undertook to pay the actual traveling expenses, but I believe it would be better for the officers——

That is, that the officer would get more out of it than they do under the present system.

Mr. MANN. Mr. Chairman, I believe I am in sympathy with what the gentleman from Indiana [Mr. COX] is seeking to accomplish. I have no doubt there have been abuses about this mileage.

In the investigation that I made in connection with the Public-Health Service there was bitter complaint many times that it cost officers more than they received, and I have heard the same complaints about the Army. That, however, goes only to the point of order. I do not think the amendment shows that it would effect any reduction in the expenditures to the Government, and personally I do not believe that it would effect any reduction.

The CHAIRMAN. The Chair will say that the principle of the Holman rule, as the Chair understands it, was stated a moment ago by the gentleman from Illinois. So the burden is on the gentleman from Indiana to show reasonably and sufficiently that the operation of the legislation would bring about the result.

Mr. COX. Mr. Chairman, if I understand parliamentary law, the burden is always on the person who makes the point of order to show that the point of order is well taken, but I am willing to abide by the suggestion of the Chair. I do not know whether I will be able to do it, but I will undertake it. The suggestion of the gentleman from Illinois as to the amendment offered by the gentleman from Connecticut a moment ago being decisive of this case, I do not think it is parallel at all. I do not believe the Chair will have great difficulty in distinguishing between the amendment offered by the gentleman from Connecticut as applied to the Holman rule, and the amendment offered by myself when the Holman rule is applied to it. If I understood the amendment of the gentleman from Connecticut offered a moment ago, under which the Holman rule was sought to be invoked to make his amendment germane to the bill, it was that his amendment on its face showed that it failed to reduce expenditures. When an Army officer is retired, no matter at what age—62 or 64—he is retired at three-quarters pay. Then if the gentleman's amendment had obtained and the officer had been restored to active duty he would naturally have been restored to the pay he was drawing at the time and before he was retired. Therefore it was disclosed upon the face of the amendment that it did not reduce expenditures, but, on the contrary, as the chairman of the Military Committee well argued and as the Chairman finally took the view of it, it increased expenditure.

So I can readily see, unless I am mistaken, a vast difference between the two, and a difference in the line of argument between the amendment offered by the gentleman from Connecticut and mine when the Holman rule is applied to both of them.

Now, then, as the Chair has announced that the burden is on me to show that my amendment does reduce expenditure, I will try and demonstrate it. I take it that the Chair has a perfect right to surround himself with all the physical facts and circumstances connected with this particular item. I remember when I began the practice of law, one of the first principles I ever learned from the law books was that the court judicially knew certain things; that no proof was required one way or the other to substantiate or maintain them. I ask this Chair whether or not it is not fair to invoke the same rule when the Chair comes to pass upon the point of order made against the amendment which I submit? If it be fair, I say to the Chair that almost universally the rule of railroads over this country, of which I know of no exception, especially the trunk lines, transport people for 2 cents a mile. I take it the Chair or any other person can travel from Washington City to San Francisco at a rate of 2 cents a mile, and from Chicago to New Orleans at the same rate.

Mr. HAY. Does the gentleman understand that in this 7 cents a mile, when they get to the point to which they are ordered that they have to pay their subsistence out of it?

Mr. COX. Yes; I understand that. I repeat, and put it to the Chair, that the Chair has a right to judicially take cognizance of the fact that, as far as the ordinary transportation is concerned, you can travel all over the United States on the trunk lines at 2 cents a mile.

Mr. TILSON. Will the gentleman yield?

Mr. COX. Not just now.

The CHAIRMAN. The Chair will take cognizance of that fact.

Mr. COX. To that, Mr. Chairman, must be added the Pullman service. To that must be added the food while traveling on the train. At the ordinary rate of travel, a passenger train will travel per day, I take it, 750 miles. An Army officer traveling that distance would get approximately $50 or a little more. And yet, if the Chairman please, paying his 2-cent fare, $4 for Pullman fare, allowing him $2 or $3 per meal for his three meals a day would amount to less than $25. So he has $25 absolutely to his credit.

Now, the amount allowed in my amendment is 5 cents a mile, and that is the amount that is allowed in most instances to witnesses attending court. That is what the Federal Government allows their witnesses when they subpœna them all over the country to attend courts and trials. They give them 5 cents a mile, and I have never heard it argued for a moment that it was too small.

Mr. KAHN. Will the gentleman allow me?

Mr. COX. Yes.

Mr. KAHN. If the gentleman will remember, during the trial of the Hyde-Benson cases in Washington there was complaint——

Mr. COX. I only yielded to the gentleman for a question.

Mr. KAHN. The gentleman does not want to misstate the facts.

Mr. COX. The gentleman can make his statement in his own time. I looked up the question of mileage, and I find it has been changed several times. I do not know that I have all the citations bearing on the question of mileage. In 1873 Congress passed an act giving the Army officers 10 cents a mile while traveling under orders. It was 10 cents a mile from 1873 to 1876, when it was reduced to 8 cents a mile. In 1885 it was put on an actual-expense basis. I am not clear, Mr. Chairman, how many years it remained on the expense basis nor have I looked that question up, but in 1905 it was then put on a 4-cents-a-mile basis, and in 1890 it was increased to 7 cents a mile, where it has remained ever since.

Now, that shows to my mind, Mr. Chairman, one thing conclusively, and that is that these Army officers have had an awful struggle in order to get the tremendous mileage question finally settled. It was evidently found at one time that 10 cents a mile was too much; at another that 8 cents a mile was too much. Whether or not it was found that the actual-expense basis was not satisfactory to the Army officers I do not know, or whether it was further found at one time that the 4-cents-a-mile basis was not sufficient I do not know.

The CHAIRMAN. Will the gentleman permit the Chair to ask him a question?

Mr. COX. Certainly.

The CHAIRMAN. What is the mileage allowance now?

Mr. COX. Seven cents a mile.

The CHAIRMAN. What is that intended to cover?

Mr. COX. It is intended to pay traveling expenses, train fare, Pullman fare, food on the train, and I expect where they stop at hotels in places where they do not have Army quarters, it is also to pay their hotel bills. If I understood the chairman of the committee a moment ago, he said he did not know any plan or any way whereby it could be determined as a question of fact whether or not 7 cents a mile was too much or whether if they be put upon the actual expense basis that would amount to more than 7 cents a mile. I recall this instance, and it is a matter of record since I have been in this Congress. I think I have repeated it before, and at the risk of repetition, I will repeat it again. Up until three or four or possibly five years ago all post-office inspectors were paid $4 per diem. I raised the question in the Post Office Committee. It was strenuously argued there and insisted upon that post-office inspectors could not get along for anything less than $4 per diem. Finally the Postmaster General made this agreement, to make a test case out of it, that he would try the post-office inspectors and put them on the actual expense basis, if I recall correctly, for three months, with a view of seeing whether or not $4 per diem was too much and with a further view of seeing whether or not the per diem could be reduced and whether or not it would be better to put them on the actual expense basis. What was the result? Mr. Chairman, after three months' experience it was found that if the post-office inspectors were reduced from $4 to $3 per day it would save this Government sixty thousand dollars and odd a year, if I recollect correctly, and I do not want to misquote it. It was further found by a matter of calculation, by reducing the per diem from $4 to $3, that that would practically equal the actual expense basis, and it was reduced to $3 per day.

I merely repeat that for the purpose of meeting the argument made by the chairman of the Military Committee, if I remember his statement correctly, when he said that he knew of no way whereby this question could be determined whether or not 7 cents a mile was too much and whether or not, if it be put on the actual basis, it would amount to more than 7 cents a mile. Let a test be made by putting it on the expense basis.

The CHAIRMAN. Will the gentleman permit me to ask another question?

Mr. COX. Certainly.

The CHAIRMAN. If an officer is ordered from one post to another he has an allowance of 7 cents a mile?

Mr. COX. Yes.

The CHAIRMAN. As the Chair understands it, that is to cover the railway fare, Pullman fare, and meals on the train?

Mr. COX. Yes.

The CHAIRMAN. When he reaches his place of destination he is provided for there in some other way?

Mr. COX. No.

The CHAIRMAN. When he reaches his destination, if he stops in a town or a city where there are no Army quarters, out of this 7 cents a mile he pays his hotel bills?

Mr. COX. I think that is correct.

Mr. HAY. It is only when he is traveling on orders that he gets the 7 cents a mile at all.

Mr. COX. Yes; but he may be traveling from one Army post to another Army post, and while traveling between those two points he gets his 7 cents a mile, and when he reaches his final destination, if it is an Army post, it does not cost him anything to stay there.

The CHAIRMAN. That is the fact that the Chair is trying to develop.

Mr. ANTHONY. Mr. Chairman, I think the gentleman is mistaken.

Mr. COX. I do not think I am, and I refuse to be interrupted, Mr. Chairman.

The CHAIRMAN. The gentleman declines to yield. Those are the facts the Chair is trying to develop. What do the records show as to the proportion of traveling between posts and posts?

Mr. HAY. Mr. Chairman, in order that the Chairman may be informed, whether the gentleman from Indiana is or not, I will state that there is no allowance of 7 cents a mile paid to an Army officer for traveling from one post to another when he is ordered to change stations. It is only when he is traveling on orders away from his post to some other place, like Chicago or Omaha, where he is sent on duty, that he gets the 7 cents a mile. He does not get 7 cents a mile every time he goes from one Army post to another. He does not get 7 cents a mile when he comes from the Philippine Islands here, when his regiment or command is ordered from the Philippine Islands here.

Mr. COX. But that is covered by another statute entirely. When he is traveling outside of the United States he draws his mileage under another statute, which pays less than 7 cents per mile.

Mr. HAY. He does not get anything personally.

The CHAIRMAN. If he is ordered from Washington to Chicago or to some place where there is not an Army post, and he has to stay there in connection with that assignment for a week or less or more, does he have to pay his own expenses out of that allowance of 7 cents a mile?

Mr. HAY. Yes; out of his own pocket.

Mr. COX. But if he goes to an Army post, then he is not required to pay anything out of the 7 cents a mile.

Mr. ANTHONY. Mr. Chairman——

Mr. COX. Mr. Chairman, I believe I have the floor.

Mr. ANTHONY. Does the gentleman want to talk all of the time?

Mr. COX. No; but the chairman has thrown the burden upon me of showing that my amendment reduces or tends to reduce expenditures, and I want to do it if I can.

Mr. HAY. Oh, I think the gentleman ought, when he makes a statement, if we happen to know that he is mistaken in that statement, to permit us to correct him so that the Chair may be properly informed.

Mr. COX. If I make an erroneous statement, they can correct me in their own time, Mr. Chairman.

The CHAIRMAN. The Chair will state the exact status. The gentleman from Indiana has the floor. He can not be interrupted by other gentlemen except with his consent. If he yields, very well; if he declines to yield, the gentleman from Indiana is within his rights. Any request, of course, must be directed to the gentleman from Indiana.

Mr. COX. I will state to the Members that when I reach the point I will readily yield. I do not want to present an erroneous statement at all, but I never could present a matter satisfactorily to myself with several persons picking at me, and the only person I am trying to satisfy now is myself.

Now, Mr. Chairman, with all due deference to the committee that investigated this item, a very small amount of evidence was brought out, and I am now going to call attention to the hearings before the committee on this question with a view of meeting the question of whether or not my amendment is within the Holman rule, as far as the evidence developed by the committee sheds any light on the subject. It only covers a little more than one page. No request is made here at all by the chairman of the Military Committee or any member of the committee in order to let us determine this question in some way or other by putting this, at least for a period of time, upon the actual expense basis and trying it out with a view of seeing whether or not 7 cents a mile was too much or too little. And I want to state here, Mr. Chairman, that I am not caring so much about the economy of the proposition, although I do believe that 5 cents a mile would be sufficient, and, if my amendment obtains, it will save one hundred and fifty thousand and odd dollars, and while this is small, yet it is an item worthy of being looked after. But that is not the primary purpose of my amendment, Mr. Chairman, at all. My purpose not only in this amendment, but in all mileage propositions, is to bring the Government as near as we possibly can upon the same basis that all business men treat these propositions. No business concern in all this country would think of paying their employees mileage. The argument that this is not enough does not appeal to me, and should not appeal, in my candid judgment,

to anybody else. I mean the amount carried in my amendment, which is 5 cents per mile.

Now, reading from the hearings on page 66:

Mr. LEWIS. Have you any figures that would throw light upon that proposition?

Gen. ALESHIRE. I do not know, sir.

Mr. KAHN. If an officer were sent to some out-of-the-way post, like Sequoia National Park, his transportation by stagecoach would cost him almost 7 cents a mile.

Well, that is an isolated case. Not many Army officers travel to-day, I imagine, by stagecoach. Why was this isolated case selected?

And then the following:

Mr. SLAYDEN. Is it not true, General, that mileage has been made a very considerable source of profit to some officers, somewhat to the scandal of the service on occasion?

Gen. ALESHIRE. I do not know, Mr. SLAYDEN.

Mr. SLAYDEN. Omitting the last part of that question, is it not true that mileage has been made a source of considerable profit on occasion?

Gen. ALESHIRE. I think perhaps there are some officers who draw more mileage than others, but I would rather not express an opinion.

Mr. MCKELLAR. Why do dental surgeons and veterinarians have to travel? Do they not have one at each post ordinarily?

Gen. ALESHIRE. They are mentioned specifically there because their allowances are those of a second lieutenant. All commissioned officers get mileage, and therefore they include dental surgeons and veterinarians. They do not travel very much.

Mr. LEWIS. Suppose an officer takes a trip to Chicago, which is about 900 miles. That would amount to $63 going there and $63 coming back, $126. Let us say he is a day at Chicago. The actual train fare would be about 2½ cents a mile, which would include Pullman fare. His whole expense would be about $55 and his allowance $126.

I have read that, Mr. Chairman, for the purpose of showing that there was not much testimony before the committee upon this question. But I repeat what I said a moment ago, that the amendment which I have offered reduces this appropriation $157,000. It is a separate and independent amendment when you undertake to apply the Holman rule to it and the amendment offered by the gentleman from Connecticut [Mr. TILSON] a moment ago. Again, as I said a moment ago, under the rulings of the Chair heretofore made, if it can be fairly inferred from the fact set out in the amendment that it tends to reduce expenditures, then it comes within the Holman rule. Now, does it reduce expenditures or even tend to secure expenditures? If it does, the point of order is not well taken. Meeting that question or that query, I will put it to the Chair to take under consideration the usual modes of travel in this country. As Mr. LEWIS puts it here, the average rate of travel, paying Pullman fare, would be 2½ cents a mile. The proviso which I intend to make permanent law, if the committee chooses to pass it when taking all the facts and circumstances into consideration, which the Chair will judicially notice, tends to reduce expenditures under this item.

The CHAIRMAN. The Chair will ask, taking off the cost of Pullman fare, railroad fare, the meals on the train, what expenses are to be paid out of the 7 cents a mile?

Mr. COX. Well, I think I have told the Chair.

The CHAIRMAN. The Chair means in addition to the railway fare and Pullman fare and the cost of meals on the train.

Mr. COX. Nothing, except when they stop at cities where there is no Army post, and at those places they have to pay their expenses.

Now, in that connection, Mr. Chairman, there is but one great department of this Government that has had the nerve to recommend to Congress that its mileage be repealed. The Department of Commerce and Labor in its recommendation has asked Congress to repeal their mileage and put them on an actual expense basis, and on the strength of their recommendation I wrote them a letter as to how much it would save this country, and the reply was that it would save $15,000 a year. The Department of Commerce and Labor, recognizing this evil, in its recommendation this year recommends that their employees be taken off the mileage basis and that they be paid on the actual expense basis. And I understand most of the employees who will be affected there are Army officers, and for this recommendation I desire to heartily commend this great department. So if it will work economy and save $15,000 a year to put the employees of the Department of Commerce and Labor on an actual expense basis, when most of their employees who would be thus affected are officers of the Army, why will it not be economy to put all the officers when traveling under orders on an actual expense basis?

The CHAIRMAN. What was the mileage allowance of the Department of Commerce and Labor?

Mr. COX. I think 7 cents a mile.

Mr. HAY. What has been the result since they have had the actual expense basis?

Mr. COX. They are not on the actual expense basis. The Department of Commerce and Labor recommends that their department be taken off the mileage basis and put on the actual expense basis, and this recommendation was only made this year. When the head of a great department shows a Democratic House how we can economize and save the country $15,000, are we going to turn a deaf ear to it? Is this in line with the economy we have talked so long and loud about?

Mr. HAY. Then it will be very much better for the employees because they will get more money out of it.

Mr. COX. No. The Secretary of Commerce and Labor says they will save $15,000 a year by it, and I imagine the Secretary knows just what he is talking about. The Democratic Party pledged the people economy. Here is a Republican Secretary of the Department of Commerce and Labor telling us where we can save money and asking us to do it, and we are putting ourselves in the attitude of refusing it.

Mr. BURKE of Pennsylvania. Mr. Chairman, the Chair has indicated that he is desirous of determining this question on the record. The gentleman from Indiana, in sustaining the burden that has been placed upon him, fortifies himself in a very ingenious special plea by quoting from the testimony of Gen. Aleshire, beginning at the foot of page 66 in the hearings had before the Committee on Military Affairs. And if the Chair will take the pains to consult the very line at which the gentleman from Indiana began his reading, the Chair will be impressed with the fact that the gentleman from Indiana began just where Gen. Aleshire left off the important or salient points of his testimony in this regard. The Chair wishes, as I understand, to determine whether or not this provision will result in an actual decrease of the expenses of the Government?

The CHAIRMAN. That is what the Chair inquired about.

Mr. BURKE of Pennsylvania. There is but one record available, and that, so far as this committee is concerned, is the record of the hearings and the testimony of the Army officer in charge of this particular expenditure, under the examination and the cross-examination of the Committee on Military Affairs; and Gen. Aleshire, the authority on this subject, was asked this specific question:

What sort of mileage allowance is actually made them? Is it the actual cost of transportation?

The CHAIRMAN. On what page is that?

Mr. BURKE of Pennsylvania. On page 66. Here is the answer:

Gen. ALESHIRE. No, sir; they get 7 cents a mile.

Mr. LEWIS. A dental surgeon gets 7 cents a mile?

Gen. ALESHIRE. Yes, sir; when he is making certain journeys; and the order provides that the travel is necessary in the public service.

Mr. LEWIS. What is the idea of giving him 7 cents when 2 cents would pay his fare?

In the answer that follows, Gen. Aleshire covers the question put by the Chair. Here is Gen. Aleshire's answer:

Gen. ALESHIRE. Perhaps I can better answer that by referring to the experience of an officer assigned to duty purchasing animals. This officer would be ordered from Chicago, his station, to a point in Missouri or Kentucky, where he would remain for 10 days or two weeks, receiving 7 cents a mile going and returning. All hotel bills and other expenses incident to the journey and absence from his station.

Now mark, Mr. Chairman, how comprehensive that is!

All hotel bills and other expenses incident to the journey and absence from his station, in addition to the cost of transportation, must be paid from the mileage allowance, and if this is not sufficient the deficit must be met from the officer's private funds.

Now, that is the record so far. That answers the question as to what burden is borne by the officers whose allowance is here in question. The examination proceeds:

Mr. KAHN. You also have to pay your Pullman fare out of that allowance?

Gen. ALESHIRE. Everything; and the 7 cents a mile is simply to enable an officer to provide his own transportation and pay his other expenses as far as he can while he is on such a journey. For instance, an officer sent to Chicago from St. Louis received 7 cents a mile and remained at Chicago six months, living at a hotel.

That is all he would be entitled to; an aggregate of 14 cents a mile between the city of Chicago and the city of St. Louis. I read further:

Mr. LEWIS. Of course, a special case could be cited to sustain almost any proposition; but would it not be better to give them actual expenses?

Now, here is the testimony of the expert, the one man of experience, and the only testimony that the Chair has before him:

Gen. ALESHIRE. I believe it would cost the Government more if they undertook to pay the actual traveling expenses and allowances, but I believe it would be better for the officers.

In other words, it would be more remunerative for the officers if the change suggested by the gentleman from Indiana were to be made and more burdensome to the Government.

Now, at that point the gentleman from Indiana began to read, and all that I have read the gentleman from Indiana omitted, and the gentleman from Indiana, furthermore, added

the suggestion that there was very little testimony taken on the subject. Of course there was very little testimony taken on the subject if the gentleman's observation, so far as the record is concerned, began at the foot of the page instead of at the head of the page.

Now, if there is any other testimony that any other gentleman on the committee can submit that will refute the testimony of the individual in charge of these disbursements, an officer of long years' experience, then it is in the province of the gentleman from Indiana to submit it, and by refuting it possibly get in a position where he can successfully controvert the argument of the chairman of the committee who has reported this bill, and that of the gentleman from Illinois who makes the point of order. But until he has refuted it with something better than mere hearsay, I think the Chair ought to have very little difficulty in deciding that the point of order is well taken.

Mr. KAHN. Mr. Chairman, the gentleman from Indiana starts out with a false premise. He says you can travel on any of the trunk lines of this country for 2 cents a mile. I have just taken occasion to ring up one of the agents of one of the transcontinental trunk lines of this country, and he tells me that in the ride across the continent there are parts of the line on which the fare is from 3 to 4 cents a mile, especially between stations. There are stretches of railroad in the West where they could not afford to carry passengers for 2 cents a mile, by reason of the fact that they pass station after station where they do not take on any passengers at all. So they charge from 3 to 4 cents a mile.

Mr. COX. Will the gentleman yield?

Mr. KAHN. Certainly.

Mr. COX. Does the gentleman mean to say that they charge from 3 to 4 cents a mile on through tickets on any trunk line?

Mr. KAHN. I say on some portions of the line.

Mr. COX. That is not the question I am propounding to the gentleman.

Mr. KAHN. That is what I said.

Mr. COX. Does the gentleman say it costs 3 or 4 cents a mile from the city of Washington to Seattle?

Mr. KAHN. No; I said on portions of the line. Of course the gentleman knows, if he knows anything about the proposition, that a through ticket is sold for a certain amount.

Mr. COX. For $63 from here to Seattle.

Mr. KAHN. I think the gentleman is mistaken about that amount.

Mr. COX. No; I have called up and found out.

Mr. KAHN. I know it is more than that from here to San Francisco, and I believe from here to Seattle is a greater distance than from here to San Francisco; but the total amount is distributed between the various roads that carry the passengers. Here in the East the trunk lines do carry passengers for 2 cents a mile; but when you get west of Chicago, and especially west of the Missouri River, you pay from 3 to 4 cents a mile. Those are the facts. Officers are frequently sent from Chicago to Cheyenne, from Chicago to Denver, from Chicago to Seattle, and on those western roads they can not travel for 2 cents a mile.

The CHAIRMAN. Are any further remarks desired?

Mr. COX. I just want to say a word, in response to the statement of my friend the gentleman from Pennsylvania [Mr. BURKE], that I did not read all that Gen. Aleshire said. That is true; but, Mr. Chairman, the absolute physical facts meet Gen. Aleshire and convince this committee, on a moment's consideration, that he did not know what he was talking about. By the physical facts I mean the very things to which I called the attention of the Chair awhile ago as to the cost of travel in this country.

The idea that the Army are in favor of economy in this thing is absurd to me. It is ridiculous. It is laughable. If they were not making money out of it they would be up here at every opportunity they got, insisting upon additional mileage pay.

To repeat, if the Chairman please, I insist seriously that the point of order is not well taken. My amendment shows a reduction of expenditures on its face, and the part which I propose to make permanent law, taken in connection with all the physical facts concerning it, tends to show a reduction of expenditures, so far as this item is concerned, and the point of order should be overruled.

The CHAIRMAN. Before ruling the Chair will make a statement of the essential facts. The principle of the ruling having been heretofore announced, it is unnecessary to restate it.

First with relation to the reduction in the total amount, it may be stated that an amendment to this effect does not need the authority of the Holman rule to make it in order. The gentleman from Indiana can offer an amendment affecting a reduction in any aggregate total without reference to this rule.

Now in respect to the legislative portion of the amendment, the Chair will say that if the allowance of 7 cents a mile was merely intended to cover the cost of railroad transportation, the Pullman cost, tips, and meals on the train, the Chair would not have the slightest hesitation in reaching the conclusion that a provision for actual expenses would necessarily reduce expenses, having reference to facts of the cost of railway travel that are matters of common knowledge.

But another feature is presented. It appears that this allowance of 7 cents a mile is intended to cover other expenses than the cost of travel on the railways, tips, Pullman fares, and the cost of meals. When the party entitled to this allowance reaches his destination, his expenses for an indefinite period are paid out of this same fund. Sometimes the allowance might be more than sufficient to pay the costs of travel, and the further costs accruing at the point of destination. At other times this allowance might be insufficient. Having reference to the entire body of expenses it is a matter of speculation, whether an allowance of 7 cents a mile, or the payment of actual expenses would be the cheaper policy for the Government. But looking in the hearings to the testimony of one man who ought to have some practical, I might almost say expert knowledge on the subject, (I refer to the testimony of Gen. Aleshire), I find that he states that in his judgment, under the policy of paying actual expenses, as compared with an allowance of 7 cents a mile, the Government would be the loser, and the officers the gainers.

Having in mind all the facts, including the statement of this witness how can the Chair conclude that this amendment will reasonably and sufficiently operate to reduce expenses? And yet to hold that this amendment is in order the Chair must be reasonably satisfied that the legislative portion of the amendment operating of its own force will effect a reduction of expenditures. This is the whole question as the Chair sees it, and so far as the Chair is apprised this amendment will not necessarily effect a retrenchment.

There seems to be such a succession of rulings necessary to be made under the Holman rule, that the Chair would be very glad to have an appeal taken from some one ruling, and the question of principle involved, affirmatively settled by the committee. The Chair has no pride of opinion. He merely desires to see the controlling principle of interpretation correctly and authoritatively announced. On an appeal, the committee could determine whether this amendment will operate with reasonable certainty to reduce expenditures. Unless it will so operate, it is not in order. The Chair sustains the point of order to the amendment.

Mr. HAY. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914, and had come to no resolution thereon.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN, from the Committee on Rivers and Harbors, reported a bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report (No. 1341), ordered to be printed.

Mr. MANN. Mr. Speaker, I reserve all points of order on the bill.

The SPEAKER. The gentleman from Illinois reserves all points of order on the bill.

Mr. SPARKMAN. I desire to give notice that I wish to call up this bill for consideration immediately after the conclusion of the Army appropriation bill.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I desire to present the conference report on the immigration bill, S. 3175, an act to regulate the immigration of aliens to and the residence of aliens in the United States.

The SPEAKER. It will be printed, under the rule.

Mr. SABATH. Mr. Speaker, is it necessary to now reserve points of order against the conference report?

The SPEAKER. The gentleman can reserve them now or make them some other time.

Mr. SABATH. I do not desire to be deprived of my rights.

The SPEAKER. The gentleman can make his points of order before the statement is read.

Mr. BURNETT. Mr. Speaker, I give notice that I will call this report up immediately after the reading of the Journal in the morning.

BRIDGE ACROSS THE ILLINOIS RIVER NEAR HAVANA, ILL.

Mr. GRAHAM. Mr. Speaker, I call up from the Speaker's table a similar bill, being on the House Calendar, the bill (S. 7637) authorizing the construction of a bridge across the Illinois River near Havana.

The SPEAKER laid the bill before the House, which the Clerk read, as follows:

Be it enacted, etc., That Chicago, Peoria & St. Louis Railroad Co., a corporation organized and existing under and by virtue of the laws of the State of Illinois, and its successors and assigns, be, and they are hereby authorized to construct, maintain, and operate a bridge and approaches thereto across the Illinois River, at a point suitable to the interests of navigation, at or near the city of Havana, in the State of Illinois, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

The SPEAKER. Without objection, a similar House bill will lie on the table.

There was no objection.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bill:

H. R. 20339. An act for the relief of Joseph W. McCall.

EXPENSES OF INVESTIGATIONS ORDERED BY THE SENATE.

Mr. FITZGERALD. Mr. Speaker, by direction of the Committee on Appropriations I report the following Senate joint resolution, and ask unanimous consent for its present consideration in the House as in Committee of the Whole. (H. Rept. 1342.)

The Clerk read as follows:

Senate joint resolution 150.

Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate.

Resolved, etc., That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the following sum:

"For expenses of inquiries and investigations ordered by the Senate, including compensation to stenographers to committees at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding $1.25 per printed page, to be immediately available, $40,000."

The SPEAKER. The gentleman from New York asks unanimous consent for the present consideration of the resolution in the House as in Committee of the Whole. Is there objection?

There was no objection.

The resolution was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. FITZGERALD, a motion to reconsider the vote whereby the resolution was passed was laid on the table.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Rivers and Harbors was discharged from the consideration of the bill (H. R. 25518) for constructing a fish ladder over Derby Dam, Truckee River, Nev., and the same was referred to the Committee on Irrigation of Arid Lands.

ADJOURNMENT.

Mr. HAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 12 minutes p. m.) the House adjourned until to-morrow, Friday, January 17, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Acting Secretary of Commerce and Labor, transmitting a statement of expenditures in the Coast and Geodetic Survey for the fiscal year ended June 30, 1912 (H. Doc. No. 1271); to the Committee on Expenditures in the Department of Commerce and Labor and ordered to be printed.

2. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of John A. Kress v. The United States (H. Doc. No. 1272); to the Committee on War Claims and ordered to be printed.

3. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Lorenzo W. Cooke v. The United States (H. Doc. No. 1273); to the Committee on War Claims and ordered to be printed.

4. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Daniel C. Pearson v. The United States (H. Doc. No. 1274); to the Committee on War Claims and ordered to be printed.

5. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Abner H. Merrill v. The United States (H. Doc. No. 1275); to the Committee on War Claims and ordered to be printed.

6. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of Quincy O'M. Gillmore v. The United States (H. Doc. No. 1276); to the Committee on War Claims and ordered to be printed.

7. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings of the court filed in the case of Charles E. L. B. Davis v. The United States (H. Doc. No. 1277); to the Committee on War Claims and ordered to be printed.

8. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings of the court filed in the case of Edward Davis v. The United States (H. Doc. No. 1278); to the Committee on War Claims and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. GRAHAM, from the Committee on Expenditures in the Interior Department, submitted a report (No. 1336) in the matter of the investigation of the White Earth Reservation, situated in the State of Minnesota, with transcript of testimony taken and exhibits offered from July 25, 1911, to March 28, 1912, which report was referred to the House Calendar.

Mr. HENSLEY, from the Committee on Expenditures in the Interior Department, submitted a report (No. 1335) in the matter of the investigation of charges that the Interior Department permitted the unlawful fencing and inclosure of certain lands of the public domain in the States of Colorado and Wyoming, and more particularly the fencing and inclosure of 46,330 acres of public lands in Wyoming and 1,120 acres in Colorado by the Warren Live Stock Co., which said report was referred to the House Calendar, together with the minority views.

Mr. BRANTLEY, from the Committee on Ways and Means, to which was referred the resolution (H. Res. 767) requesting from the President of the United States information concerning the exemption of American importers of manila hemp from payment of the export tax thereon, reported the same with amendment, accompanied by a report (No. 1338), which said resolution and report were referred to the House Calendar.

Mr. SLAYDEN, from the Committee on Military Affairs, to which was referred the bill (H. R. 27875) authorizing the President to convey certain land to the State of Texas, reported the same with amendment, accompanied by a report (No. 1337), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BRANTLEY, from the Committee on Ways and Means, to which was referred the bill (H. R. 27323) to provide for refund or abatement under certain conditions of penalty taxes imposed by section 38 of the act of August 5, 1909, known as the special excise corporation-tax law, reported the same without amendment, accompanied by a report (No. 1339), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. LEVY, from the Committee on Claims, to which was referred the bill (H. R. 28056) for the relief of Albert W. Phelps, reported the same with amendment, accompanied by a report (No. 1304), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 28043) for the relief of the legal representatives of the estate of Robert B. Pearce, reported the same without amendment, accompanied by a report (No. 1305), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 28075) for the relief of the Pennsylvania Engineering Co., of the city of Philadelphia, reported the same without amendment, accompanied by a report (No. 1306), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 28040) providing for the refund of certain duties incorrectly collected on wild-celery seed, reported the same without amendment, accompanied by a report (No. 1307), which said bill and report were referred to the Private Calendar.

Mr. CANTRILL, from the Committee on Claims, to which was referred the bill (H. R. 28063) for the relief of Thomas Haycock, reported the same without amendment, accompanied by a report (No. 1308), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 28080) for the relief of W. W. Blood, reported the same without amendment, accompanied by a report (No. 1309), which said bill and report were referred to the Private Calendar.

Mr. FRANCIS, from the Committee on Claims, to which was referred the bill (H. R. 28030) for the relief of Preston B. C. Lucas, reported the same with amendment, accompanied by a report (No. 1310), which said bill and report were referred to the Private Calendar.

Mr. MOTT, from the Committee on Claims, to which was referred the bill (H. R. 28072) for the relief of H. A. Shirkey, reported the same without amendment, accompanied by a report (No. 1311), which said bill and report were referred to the Private Calendar.

Mr. FRANCIS, from the Committee on Claims, to which was referred the bill (H. R. 28050) for the relief of Wickliff Fry, for horse lost while hired by the United States Geological Survey, reported the same with amendment, accompanied by a report (No. 1312), which said bill and report were referred to the Private Calendar.

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (H. R. 28084) for the relief of Thomas R. Mason, reported the same without amendment, accompanied by a report (No. 1313), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 391) to reimburse William Van Derveer, of Millboro, Va., for excess revenue taxes assessed against and collected from him, reported the same without amendment, accompanied by a report (No. 1314), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (S. 4166) for the relief of Lawson Reno, collector second district of Kentucky, reported the same without amendment, accompanied by a report (No. 1315), which said bill and report were referred to the Private Calendar.

Mr. GREEN of Iowa, from the Committee on Claims, to which was referred the bill (H. R. 19415) for the relief of Edward William Bailey, reported the same with amendment, accompanied by a report (No. 1316), which said bill and report were referred to the Private Calendar.

Mr. MOTT, from the Committee on Claims, to which was referred the bill (H. R. 28077) for the relief of the estate of William D. Allen, reported the same with amendment, accompanied by a report (No. 1317), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 28034) for the relief of James Stanton, reported the same without amendment, accompanied by a report (No. 1318), which said bill and report were referred to the Private Calendar.

Mr. GREEN of Iowa, from the Committee on Claims, to which was referred the bill (H. R. 28092) for the relief of Mrs. L. A. Royster, reported the same with amendment, accompanied by a report (No. 1319), which said bill and report were referred to the Private Calendar.

Mr. MOTT, from the Committee on Claims, to which was referred the bill (H. R. 28057) for the relief of Amanda Honert, reported the same without amendment, accompanied by a report (No. 1320), which said bill and report were referred to the Private Calendar.

Mr. MAGUIRE of Nebraska, from the Committee on Claims, to which was referred the bill (H. R. 28047) for the relief of John Streckfus, reported the same with amendment, accompanied by a report (No. 1321), which said bill and report were referred to the Private Calendar.

Mr. FOWLER, from the Committee on Claims, to which was referred the bill (H. R. 28078) for the relief of James A. Showen, reported the same with amendment, accompanied by a report (No. 1322), which said bill and report were referred to the Private Calendar.

Mr. POU, from the Committee on Claims, to which was referred the bill (H. R. 28044) for the relief of W. W. Wall, reported the same without amendment, accompanied by a report (No. 1323), which said bill and report were referred to the Private Calendar.

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (H. R. 28059) to reimburse Gaston R. Poitevin for property lost by him while assistant light keeper at East Pascagoula River (Miss.) light station, as recommended by the Lighthouse Board, reported the same without amendment, accompanied by a report (No. 1324), which said bill and report were referred to the Private Calendar.

Mr. FOWLER, from the Committee on Claims, to which was referred the bill (H. R. 28082) for the relief of Jeanie G. Lyles, reported the same with amendment, accompanied by a report (No. 1325), which said bill and report were referred to the Private Calendar.

Mr. GREEN of Iowa, from the Committee on Claims, to which was referred the bill (H. R. 28079) for the relief of Oscar F. Lackey, reported the same without amendment, accompanied by a report (No. 1326), which said bill and report were referred to the Private Calendar.

Mr. FRANCIS, from the Committee on Claims, to which was referred the bill (H. R. 28049) for the relief of John H. Rheinlander, reported the same with amendment, accompanied by a report (No. 1327), which said bill and report were referred to the Private Calendar.

Mr. CANTRILL, from the Committee on Claims, to which was referred the bill (H. R. 28041) to carry out the findings of the Court of Claims in the case of James H. Dennis, reported the same without amendment, accompanied by a report (No. 1328), which said bill and report were referred to the Private Calendar.

Mr. AINEY, from the Committee on Claims, to which was referred the bill (H. R. 28090) to carry out the findings of the Court of Claims in the case of Herbert O. Dunn, reported the same without amendment, accompanied by a report (No. 1329), which said bill and report were referred to the Private Calendar.

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (H. R. 28085) for the relief of the heirs of the late Peter Deel, reported the same without amendment, accompanied by a report (No. 1330), which said bill and report were referred to the Private Calendar.

Mr. AINEY, from the Committee on Claims, to which was referred the bill (H. H. 28070) for the relief of J. N. Whittaker, reported the same without amendment, accompanied by a report (No. 1331), which said bill and report were referred to the Private Calendar.

Mr. POU, from the Committee on Claims, to which was referred the bill (H. R. 28045) for the relief of W. H. Carter, reported the same without amendment, accompanied by a report (No. 1332), which said bill and report were referred to the Private Calendar.

Mr. LEVY, from the Committee on Claims, to which was referred the bill (H. R. 8849) for the relief of Emory Scott Land, reported the same without amendment, accompanied by a report (No. 1333), which said bill and report were referred to the Private Calendar.

Mr. CANTRILL, from the Committee on Claims, to which was referred the bill (H. R. 21234) for the relief of George T. Larkin, reported the same with amendment, accompanied by a report (No. 1334), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 13447) granting a pension to Frederick M. Miller, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MANN: A bill (H. R. 28140) to acquire a site for post-office building on East Sixty-third Street in the city of Chicago, State of Illinois; to the Committee on Public Buildings and Grounds.

By Mr. LAFFERTY: A bill (H. R. 28141) providing for second homestead and desert-land entries; to the Committee on the Public Lands.

By Mr. KENT: A bill (H. R. 28142) for the protection and increase of State game preserves; to the Committee on Agriculture.

By Mr. FOSTER: A bill (H. R. 28143) for the erection of laboratories and other buildings for the Bureau of Mines, at Pittsburgh, Pa., and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. GUERNSEY: A bill (H. R. 28144) authorizing the Secretary of War to furnish to the Hannah Weston Chapter, Daughters of the American Revolution Society, of Machias, in the State of Maine, three condemned bronze or brass cannon or fieldpieces, with their carriages and with suitable outfit of cannon balls; to the Committee on Military Affairs.

By Mr. BRADLEY: A bill (H. R. 28145) to provide for the enlargement of the Federal building and the site thereof at Newburgh, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. STEPHENS of Texas: A bill (H. R. 28146) to provide for the payment of improvement taxes assessed against unsold town lots in Oklahoma belonging to any of the Five Civilized Tribes; to the Committee on Indian Affairs.

By Mr. PUJO: A bill (H. R. 28147) for the appropriation of an additional sum for the construction of a public building and the purchase of a site at Crowley, La.; to the Committee on Public Buildings and Grounds.

By Mr. CURLEY: A bill (H. R. 28148) establishing compensation of certain customs officials; to the Committee on Ways and Means.

By Mr. GARDNER of Massachusetts: A bill (H. R. 28179) to provide for the erection of a public building at Newburyport, in the State of Massachusetts; to the Committee on Public Buildings and Grounds.

By Mr. SPARKMAN: A bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes; to the Committee of the Whole House on the state of the Union.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANTHONY: A bill (H. R. 28149) granting a pension to Evaline Welch; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28150) to correct the military record of Oliver T. Worman; to the Committee on Military Affairs.

Also, a bill (H. R. 28151) granting an increase of pension to James M. Dumenil; to the Committee on Invalid Pensions.

By Mr. BATES: A bill (H. R. 28152) granting an increase of pension to Mary E. Hollister; to the Committee on Invalid Pensions.

By Mr. BORLAND: A bill (H. R. 28153) granting an increase of pension to Rachel Stewart; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 28154) for the relief of Daniel J. Ryan; to the Committee on Claims.

Also, a bill (H. R. 28155) granting an increase of pension to Margaret E. L. Kenny; to the Committee on Invalid Pensions.

By Mr. DAVIDSON: A bill (H. R. 28156) granting a pension to Mary MacArthur; to the Committee on Pensions.

Also, a bill (H. R. 28157) granting an increase of pension to Albert J. Bailey; to the Committee on Invalid Pensions.

By Mr. DONOHOE: A bill (H. R. 28158) authorizing Capt. P. H. Uberroth, United States Revenue-Cutter Service, and Gunner Carl Johannson, United States Revenue-Cutter Service, to accept watches tendered to them by the Canadian Government; to the Committee on Interstate and Foreign Commerce.

By Mr. FAIRCHILD: A bill (H. R. 28159) deeding to city of Oneonta, N. Y., a 10-foot strip of land off South Main Street side of the Federal building site in said city; to the Committee on Public Buildings and Grounds.

By Mr. FERGUSSON: A bill (H. R. 28160) granting an increase of pension to Maria C. Lopez; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28161) to provide compensation for the owners of property injured or destroyed by overflow caused by the Government works at Lake McMillan, a part of the Carlsbad project in New Mexico; to the Committee on Claims.

By Mr. FERRIS: A bill (H. R. 28162) granting an increase of pension to William R. Sanner; to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: A bill (H. R. 28163) granting a pension to Annette B. Wonson; to the Committee on Invalid Pensions.

By Mr. GUERNSEY: A bill (H. R. 28164) granting an increase of pension to Isaiah Davis; to the Committee on Invalid Pensions.

By Mr. LOBECK: A bill (H. R. 28165) granting an increase of pension to Barbara Wilkinson; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 28166) granting an increase of pension to Ora E. Jones; to the Committee on Invalid Pensions.

By Mr. NELSON: A bill (H. R. 28167) granting an increase of pension to Harlow J. Greenfield; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 28168) granting an increase of pension to Sarah E. McCann; to the Committee on Invalid Pensions.

By Mr. PORTER: A bill (H. R. 28169) granting an increase of pension to Sophia Davis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28170) granting an increase of pension to Susanna Barclay; to the Committee on Invalid Pensions.

By Mr. RICHARDSON: A bill (H. R. 28171) for the relief of the heirs of John Y. Jackson, deceased; to the Committee on War Claims.

Also, a bill (H. R. 28172) granting an increase of pension to Oscar Knott; to the Committee on Pensions.

By Mr. ROUSE: A bill (H. R. 28173) granting an increase of pension to James L. Young; to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 28174) granting an increase of pension to Robert Morray; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28175) granting an increase of pension to Louisa M. King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28176) granting an increase of pension to Henry C. Nevill; to the Committee on Invalid Pensions.

By Mr. WARBURTON: A bill (H. R. 28177) granting an increase of pension to Joseph Legarde; to the Committee on Pensions.

Also, a bill (H. R. 28178) to remove the charge of desertion from Wilson Douglas; to the Committee on Military Affairs.

By Mr. COVINGTON: A bill (H. R. 28181) for the relief of James A. Merritt; to the Committee on Claims.

By Mr. NEELEY: A bill (H. R. 28182) granting a pension to Margaret E. Oursborn; to the Committee on Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 28183) granting an increase of pension to Fannie E. Newberry; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of the National Wholesale Liquor Dealers' Association of America, Cincinnati, Ohio, protesting against the passage of the Kenyon liquor bill (S. 4043), preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the American Federation of Labor, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. AYRES: Petition of the Eastern Talking Machine Dealers' Association, protesting against the passage of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. BATES: Petition of the Baptist, Methodist, Presbyterian, and United Brethren Churches, Union City, Pa., favoring the passage of the Kenyon "red light" injunction bill, for cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the State Federation of Pennsylvania Women, favoring the passage of the Page bill (S. 3), for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. CALDER: Petition of the Brooklyn Merchants Ladies' Tailors Association, Brooklyn, N. Y., protesting against any reduction of tariff on wearing apparel imported from foreign countries; to the Committee on Ways and Means.

By Mr. DRAPER: Petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. FORNES: Petition of the Eastern Talking Machine Dealers' Association and Joseph P. Glassmacher, New York, N. Y., protesting against the passage of section 2 of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Navy League of the United States, Washington, D. C., favoring the passage of House bill 1309, for appointing a council of national defense; to the Committee on Naval Affairs.

By Mr. FULLER: Petition of the Eastern Talking Machine Dealers' Association, protesting against the passage of section 2 of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of Wesley J. Knaggs, Bay City, Mich., favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of Judson G. Wall, New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. GEORGE: Petition of citizens of New York, N. Y., favoring the passage of House bill 26277, to establish a United States court of patent appeals; to the Committee on Patents.

By Mr. HAYDEN: Petition of X. N. Steeves and sundry other citizens of northern Arizona, protesting against the passage of the Lever bill (H. R. 19857) providing for the leasing of the public domain; to the Committee on the Public Lands.

By Mr. HAYES: Petition of Leon Lebhmann, A. Levy, Charles Donlan, J. M. Waterman, Charles F. Blackstock, Louis G. Maulhardt, Joseph D. McGrath, and I. W. Stewart, of Oxnard, Cal., protesting against the proposed reduction of tariff on sugar; to the Committee on Ways and Means.

By Mr. KINDRED: Petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the board of trustees of the Trinity Methodist Episcopal Church, Astoria, Long Island, N. Y., favoring the passage of the Kenyon bill (S. 4043), preventing the shipment of liquor into dry territory; to the Committee on the Territories.

By Mr. MILLER: Petition of farmers and citizens of Minnesota, protesting against any legislation proposing a reduction of tariff on foreign potato starch; to the Committee on Ways and Means.

By Mr. MOORE of Pennsylvania: Resolutions of the board of directors of the Philadelphia Chamber of Commerce, favoring legislation to build a 1,700-foot dry dock at the Philadelphia Navy Yard; to the Committee on Naval Affairs.

By Mr. NEELEY: Petition of citizens of Langdon, Kans., favoring the passage of the Kenyon-Sheppard bill, for preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. PUJO: Letter from the Secretary of the Treasury with reference to the building of the post office at Crowley, La.; to the Committee on Public Buildings and Grounds.

By Mr. RICHARDSON: Papers to accompany bill for the relief of the estate of John Y. Jackson, Giles County, Tenn.; to the Committee on War Claims.

By Mr. SCULLY: Petition of Thomas A. Edison (Inc.), Orange, N. J., protesting against the passage of the Oldfield patent bill (H. R. 23417), prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. TILSON: Petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. WEEKS: Petition of citizens of Newtonville, Mass., favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr WOOD of New Jersey: Papers to accompany bill (H. R. 28016) granting an increase of pension to Catharine J. Wesley; to the Committee on Invalid Pensions.

Also, papers to accompany bill (H. R. 28015) granting a pension to Wesley C. Beatty; to the Committee on Pensions.

SENATE.

FRIDAY, *January 17, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

NAMING A PRESIDING OFFICER.

Mr. HITCHCOCK (at the Vice President's desk) directed the Secretary to read the following communication:

UNITED STATES SENATE,
Washington, D. C., January 17, 1913.

To the Senate:

I hereby name Hon. GILBERT M. HITCHCOCK, junior Senator from the State of Nebraska, to perform the duties of the Chair during my absence Friday, the 17th day of January, 1913.

AUGUSTUS O. BACON,
President of the Senate pro tempore.

Mr. HITCHCOCK thereupon took the chair as presiding officer for to-day, and directed that the Journal be read.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. CULBERSON and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 19544. An act to amend section 9 of the immigration act, approved February 20, 1907; and

H. R. 20195. An act to amend the naturalization laws.

CREDENTIALS.

Mr. JOHNSON of Maine presented the credentials of EDWIN C. BURLEIGH, chosen by the Legislature of the State of Maine a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

Mr. CRANE presented the credentials of JOHN W. WEEKS, chosen by the Legislature of the State of Massachusetts a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. CULLOM presented resolutions adopted by sundry citizens of Brooklyn, N. Y., favoring the ratification of an arbitration treaty between the United States and Great Britain regarding Panama Canal tolls, which were referred to the Committee on Foreign Relations.

Mr. JOHNSON of Maine presented a petition of sundry citizens of Fryeburg, Me., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. McLEAN presented a petition of sundry citizens of Canaan, Conn., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. GRONNA presented a petition of sundry citizens of Wimbledon, N. Dak., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. BROWN presented a petition of sundry citizens of Laurel, Nebr., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. ROOT presented the petition of Miss Eugenia McGarrah, of Brooklyn, N. Y., praying for the passage of the so-called Kenyon red-light bill, which was ordered to lie on the table.

Mr. WORKS presented a memorial of the pupils in the history and civil-government classes of the Pine Avenue School, of Long Beach, Cal., approving certain legislation regarding the Panama Canal and remonstrating against interference from any other country with the commercial policy of the United States, which was referred to the Committee on Interoceanic Canals.

THE PRESIDENTIAL TERM.

Mr. WORKS. I have here a memorial of the National Business League of America in support of Senate joint resolution 78, together with some short newspaper editorials bearing upon the same subject. Some of these editorials go back as far as 1904, at which time this same business league was supporting the principle involved in the joint resolution. I ask that the memorial and the editorials be printed in the RECORD.

There being no objection, the matter was ordered to lie on the table, and to be printed in the RECORD, as follows:

THE BEGINNING OF THE MOVEMENT FOR A SINGLE SIX-YEAR TERM FOR THE PRESIDENT OF THE UNITED STATES OF AMERICA.

At a meeting of the executive committee of the National Business League, held in Chicago, January 14, 1904, a movement was inaugurated, by unanimous adoption of the following preamble and resolutions, to amend the Constitution of the United States, so as to provide for a six-year presidential term, making the Chief Executive ineligible for reelection:

Whereas in view of the vast, diversified, and rapidly increasing industries and commerce of the United States and the multitude of people relying on the successful operation of productive and trade enterprises, which, to be continuously and evenly prosperous, should be unhampered by frequent distracting influences of the public mind; and

Whereas the President of the United States of America is, as provided in section 1, Article II, of the Constitution of the United States, elected to office for the brief term of four years, and thereafter is eligible for reelection as President for a like term or terms; and

Whereas a presidential campaign, aside from its frequent recurrence, and by reason of its expensive methods, inevitable political excitement over candidates, new issues and the possibility of a change of policy by new administrations, especially as to the tariff and finances, involves the commercial interests of the country in a condition of unrest and uncertainty, producing a partial paralysis of business activities and delaying promotion of new undertakings for at least one year before and possibly for some time subsequent to, the election of a Chief Executive: Therefore be it

Resolved, That, as a measure of the greatest import to the manufacturing and commercial interests, wage earners, and the people generally, by reason of a consequent longer period of industrial tran-

quillity and prosperity, also as a means of relieving the President of many annoyances that seriously interfere with the unrestricted discharge of his official duties to the people, the National Business League hereby recommends an amendment to the Constitution of the United States, fixing the presidential term at six years and making the Chief Executive ineligible for reelection; and be it also

Resolved, That the National Business League hereby adopts the proposition as an important subject of its efforts for the common good, on which its best endeavors shall be directed until the aforesaid proposed amendment is duly ratified by the States and confirmed by the Congress of the United States; and be it further

Resolved, That copies of these resolutions be sent to each Member of the Senate and House of Representatives at Washington, to all manufacturers, commercial organizations, prominent business firms, and the press throughout the country.

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[Editorial from the Chicago Evening Post, Aug. 17, 1904.]

SIX-YEAR PRESIDENTIAL TERM.

Elsewhere in this issue the Evening Post presents the views of prominent business and professional men of the country regarding the movement set afoot by the National Business League to secure an amendment to the Constitution of the United States which would lengthen the presidential term to six years and make the Chief Executive ineligible for reelection. The reasons advanced for the change are eminently sound and the Evening Post heartily indorses the proposition.

As the league points out in the letter which invited the responses printed, presidential campaigns now are too frequent, enormously expensive to business interests, and sure creators of turmoil and uncertainty "to the great disadvantage of capital and labor." They "indefinitely prevent the beginning and check the growth of industrial enterprises," and presidential years show a decidedly bad effect on commercial transactions generally.

Such arguments as the foregoing must appeal with peculiar force to business interests everywhere; but the fourth reason given by the league should have the thoughtful consideration of every citizen: "The President during his first term naturally being anxious to succeed himself is kept busy considering the demands of politicians and planning for a second term; meanwhile important legislation for the general good waits."

Commenting on this Judge Tuley says that such a constitutional amendment "will mean the overthrow of the 'boss' and 'machine' government of the people now existing." Deprived of patronage the "boss" and the "machine" must cease to exist. Then, in the words of Judge Tuley, "the people will again govern themselves."

Of the hundreds of replies received by the league not more than 1 per cent are unfavorable or indifferent to the movement. It is a plan certain to be indorsed by every business interest in the country. Add to this the desirableness of a return to genuine self-government through freeing the President from the dictation of the political "boss" and the political "machine" and we easily may foresee hearty popular recommendation of the initiative taken by the National Business League.

The practical politician may oppose the movement because he is the only one to be hurt by its success. But let it once be clearly understood that the people and the business interests desire the amendment; that the welfare of the Nation demands it, and there will be few States in the Union that will hesitate to give to Congress the necessary authority to act finally once the question is submitted to them.

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[Editorial from Chicago Evening Post, Oct. 24, 1904.]

THE SIX-YEAR TERM.

To-day the Evening Post prints a second installment of letters that have come to the National Business League of Chicago in response to its proposal regarding a six-year single-tenure term for the President of the United States. These letters show that the efforts of the league are systematic and well organized; but they show, with equal force, that the business interests of the country are taking up this matter with an earnestness that promises ultimate success.

As clearly brought out in this and the previous article in the Evening Post, there are many strong arguments in favor of the proposition and very few against it. Here and there a politician objects to lengthening the presidential term, and especially to making an incumbent of the high office ineligible for reelection, but the reasons given are among the most convincing arguments offered in support of the change—they show so plainly the manifest evils of the present system.

The National Business League is not unmindful of the difficulties that lie in the way of securing any amendment to the National Constitution, but it realizes the vast power and influence that must be wielded by the united business interests of this preeminently commercial Nation. It does not follow that because the only amendments made to the Constitution since its adoption were a result of war that nothing but war can secure an amendment. Great changes have taken place in this country and in the world since the latest additions were made to the fundamental law of the United States, not the least of which is the growing general recognition that the advances due to peaceful agitation are more likely to be safe and permanent than those forced by the sword.

What our business interests demand they sooner or later succeed in getting. The National Business League is securing the cordial cooperation of other business organizations and of influential men throughout the country. It has announced its determination not to relax its efforts until a satisfactory conclusion is reached. In this fact rests the greatest promise of success. The presidential election seriously disturbs business; the eligibility of the President to reelection has a baneful effect on our political life. Thurman said: "You will never have any genuine reform in the civil service until you adopt the one-term principle in reference to the Presidency."

Business wishes to have these periods of disturbance farther apart; the increasing number of independent citizens desires a genuine civil-service reform, cleaner politics, fewer opportunities for corruption in public life. These forces are certain to unite in support of the constitutional amendment advocated by the National Business League, and, once united, the object of their concerted effort is certain of attainment.

It is a very difficult but not an impossible thing to amend the Constitution of the United States, and in this age of unparalleled commercial and industrial activity we can fancy no more likely amendment than one intended primarily to protect and conserve our business interests.

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[Editorial from the Chicago Daily News.]

In urging the adoption of a constitutional amendment extending the presidential term to six years, and forbidding the reelection of a Chief Magistrate of the Nation, the executive committee of the National Business League has thrown its influence on the side of an important reform.

The business men of the country realize keenly that with the presidential year they are entering upon a period of political turmoil which in the existing circumstances is worse than useless. There are no great issues pressing for settlement. The country is prosperous and contented. Yet the approach of the national campaign has set the demagogues at work hunting issues and manufacturing party cries merely to get the voters stirred up and to render the public uneasy and apprehensive. The psychological effect of all this must be to spread the blight of uncertainty and vague alarm in business affairs, to the grievous hurt of the people generally. Why not lengthen the presidential term and thus reduce the number of these costly disturbances?

Students of political conditions are well aware that the first term of every President is largely influenced by the desire of himself and his supporters in and out of office to prepare the way for his reelection. Thus it comes about that the inducements to run the administration so as to gratify the President's personal ambition are almost irresistible. The interests of millions of people are continually subordinated to his longing for a second term.

To give the President a term of six years, with no possibility of obtaining a second under any circumstances, would be to bestow upon the country a larger measure of tranquillity and a government genuinely planned to promote the general welfare.

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[From the Chicago Record-Herald.]

No doubt the argument that will appeal most strongly to the business interests of the country, in fact to all men who love the peaceful pursuit of productive industry, is found in the fact that a six-year term would make the intervals between presidential campaigns longer and the disturbance of business conditions less frequent. The average business man does not believe that his aversion to political excitement and upheaval is incompatible with patriotism. He is willing to have the country "set on fire" by the spellbinders and business suspended for a few months in order to elect a President, provided it doesn't come too often. Once every six years would suit him perfectly.

But to most men who are familiar with politics and politicians the strongest feature of the proposed amendment is the one-term idea. If the President were ineligible for reelection, he would be absolutely free and untrammeled in the administration of his high office. He need not be hampered by the hungry horde of place hunters that generally dogs the steps of the President for months after his election. The business of "laying wires" to hold State delegations for a future nominating convention would be a thing of the past. The most high-minded, patriotic President is not free from an ambition to succeed himself. It is too much to expect him to offend the leaders who control the sources of party power, even though a high sense of public duty may seem at times to demand it.

The six-year-one-term idea for President will grow in popular favor the more its very obvious benefits are studied and understood.

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[Editorial from the Chicago Daily Journal, June 18, 1904.]

CHANGING THE PRESIDENTIAL TENURE.

The proposition to extend the presidential term to six years and to render the occupant ineligible for reelection will find favor in the business world.

Many good reasons for the change are set forth by the National Business League, which has taken the matter up with a vigor and persistence worthy of success.

It is claimed that presidential campaigns are too frequent, too expensive, and too disturbing in their effects upon business.

It is shown by the league that presidential years are marked by an increase of business failures and by a decrease of exports, bank clearings, stock sales, and commercial transactions generally.

Certainly these are strong reasons why national campaigns should not so frequently disturb the country.

But they will not appeal so readily to public sentiment as the second proposition—limiting the President to a single term.

The most serious menace to our republican form of government is the liberty afforded an ambitious Chief Executive, with unlimited patronage at his disposal, to build up a machine and continue himself in office.

While such power exists the people, no matter how ardently they may desire a change, are practically helpless.

Fortunately few of our Presidents have been disposed to exercise this unbridled advantage. The time may come, however, when its employment by an unscrupulous occupant of the White House will reveal to the people their political impotency.

Not the business interests of the country alone but the whole people are interested in the preservation of whatever rights the electorate may have in the choice of a Chief Magistrate.

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IN RE A SINGLE SIX-YEAR TERM FOR THE PRESIDENT OF THE UNITED STATES OF AMERICA.

Whereas on May 21, 1912, the Committee on the Judiciary of the United States Senate reported favorably the Senate joint resolution No. 78, introduced by Mr. WORKS of California, the text being as follows:

"The executive power shall be vested in a President of the United States of America. The term of the office of President shall be six years; and no person who has held the office by election, or discharged its powers or duties, or acted as President under the Constitution and laws made in pursuance thereof, shall be eligible to again hold the office by election.

"The President, together with a Vice President chosen for the same term, shall be elected as follows."

Therefore be it

Resolved, That the board of directors of the National Business League of America hereby indorses the said Senate joint resolution No. 78, as favorably reported by the Committee on the Judiciary.

Chicago, January 14, 1913.

GEO. W. SHELDON,
President.

[SEAL.] AUSTIN A. BURNHAM,
General Secretary.

ARMY AND NAVY UNION.

Mr. BRISTOW, from the Committee on Military Affairs, to which was referred the joint resolution (H. J. Res. 239) authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America, reported it without amendment and submitted a report (No. 1122) thereon.

MOUNT OLIVET CEMETERY LANDS, SALT LAKE COUNTY, UTAH.

Mr. SMOOT. From the Committee on Public Lands I report back favorably without amendment the bill (S. 8092) granting to the Emigration Canon Railroad Co., a corporation of the State of Utah, permission, in so far as the United States is concerned, to occupy for a right of way for its railroad track a certain piece of land now included in the Mount Olivet Cemetery, Salt Lake County, Utah, and I submit a report (No. 1120) thereon. I ask for the immediate consideration of the bill.

The PRESIDING OFFICER. The bill will be read for the information of the Senate.

Mr. CULBERSON. From what committee does it come?

Mr. SMOOT. From the Committee on Public Lands.

Mr. CULBERSON. Is it a unanimous report?

Mr. SMOOT. It is a unanimous report, Mr. President.

The PRESIDING OFFICER. The bill will be read for the information of the Senate.

The Secretary read the bill, as follows:

Be it enacted, etc., That the Emigration Canon Railroad Co., a corporation of the State of Utah, is hereby granted permission, in so far as the United States is concerned, to occupy, for a right of way for its railroad track, that piece of land now included in the Mount Olivet Cemetery, Salt Lake County, Utah, particularly bounded and described as follows: Commencing at a point 169 feet east and 100 feet north of the southwest corner of the Fort Douglas Military Reservation, in Salt Lake County, Utah; thence northwesterly rounding a twenty-degree curve, a distance of 351.99 feet, to a point on the west line of the said military reservation, a distance of 387.9 feet north from the southwest corner of said reservation; thence south to a point 100 feet north of the southwest corner of said Fort Douglas Military Reservation; thence east a distance of 169 feet to place of beginning; containing in all 0.319 acre.

Mr. BRISTOW. My attention was diverted. What is the bill, and what is the request?

Mr. SMOOT. By an act of Congress approved January 23, 1909, a portion of this reservation, amounting to about 50 acres, was conveyed by deed to the Mount Olivet Cemetery Association, Salt Lake, for the burial of the dead, with the reservation that it should be used for that purpose, and when not so used it should revert to the Government of the United States.

The Emigration Railroad has a track upon one side of it, and has had for years. At the end of it there is a 5½ per cent grade with a seventy-degree curve, and it is quite dangerous. The Mount Olivet Cemetery people are perfectly willing that the railroad company should take about one-third of an acre of the corner of the land so as to make a curve instead of a sharp turn.

There is no objection on the part of the department and no objection on the part of the cemetery people. It is simply obviating a very dangerous situation.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT BAY CITY, TEX.

Mr. CULBERSON. From the Committee on Public Buildings and Grounds I report back favorably without amendment the bill (S. 7639) to provide for the erection of a public building in the city of Bay City, in the State of Texas, and I ask for its present consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It authorizes to be erected upon the site already acquired in the city of Bay City, Tex., a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, for the use and accommodation of the United States post office in the city of Bay City, Tex., the cost of the building, including vaults, heating and ventilating apparatus, elevators, and approaches complete not to exceed $75,000.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CROW INDIANS OF MONTANA.

Mr. CHAMBERLAIN. I reported yesterday a resolution from the Committee on Indian Affairs, and it was discussed at some length. I desire now to renew the request for unanimous consent to consider that resolution.

The PRESIDING OFFICER. The resolution will be stated.

The SECRETARY. Senate resolution 352, authorizing the Secretary of the Interior to furnish information to the Attorney General and the Attorney General to make an investigation and bring action in reference to the affairs of the Crow Indians.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

The Senate, by unanimous consent, proceeded to consider the resolution.

The PRESIDING OFFICER. The amendment of the Committee on Indian Affairs will be read.

The SECRETARY. The Committee on Indian Affairs report to strike out all after the resolving clause and to insert:

That the Attorney General be, and he is hereby, authorized to investigate the affairs of the Crow Indians of Montana and to bring and prosecute such action as may be necessary to protect the interests and secure the rights of such Indians, or of any member of them, and all departments of the Government are authorized to turn over to the Attorney General such records, papers, and other information as he may require to make such investigation or bring such action.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The resolution as amended was agreed to.

JACOB M. COOPER.

Mr. SANDERS. From the Committee on Military Affairs I report back favorably, without amendment, the bill (S. 3859) for the relief of Jacob M. Cooper, and I submit a report (No. 1121) thereon. I ask for the immediate consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Jacob M. Cooper, now a resident of Iowa, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private in Company C, Twenty-second Regiment United States Infantry, July 18, 1868. But no pension shall accrue prior to the passage of this act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. TOWNSEND:

A bill (S. 8161) to provide for the erection of a public building in the city of Midland, Mich.; to the Committee on Public Buildings and Grounds.

By Mr. JOHNSON of Maine:

A bill (S. 8162) granting an increase of pension to Joseph A. Libby; to the Committee on Pensions.

By Mr. PAGE:

A bill (S. 8163) granting an increase of pension to Mary E. Allen (with accompanying papers); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8164) granting an increase of pension to Ellen M. Vinton (with accompanying papers);

A bill (S. 8165) granting an increase of pension to Don Pedro Griswold (with accompanying papers);

A bill (S. 8166) granting an increase of pension to Sarah J. Wheatley (with accompanying papers); and

A bill (S. 8167) granting an increase of pension to Anna R. Atwood (with accompanying papers); to the Committee on Pensions.

By Mr. PERKINS:

A bill (S. 8168) for the relief of George F. Schild; to the Committee on Claims.

A bill (S. 8169) for the protection and increase of State game preserves; to the Committee on Agriculture and Forestry.

By Mr. CURTIS:

A bill (S. 8170) granting an increase of pension to Monroe Garrett;

A bill (S. 8171) granting an increase of pension to Isaac M. White;

A bill (S. 8172) granting a pension to Thomas Taylor Moss; and

A bill (S. 8173) granting an increase of pension to Georgiana Packard; to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 8174) granting an increase of pension to James W. New (with accompanying papers); to the Committee on Pensions.

By Mr. KERN:

A bill (S. 8175) granting a pension to Durance R. McFeely (with accompanying papers); and

A bill (S. 8176) granting an increase of pension to Benjamin F. Havens (with accompanying papers); to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 8177) to prevent the transportation by interstate commerce of adulterated, concentrated, commercial feeding material for domestic animals and poultry, and providing a penalty for the violation of the act; to the Committee on Interstate Commerce.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MARTIN of Virginia submitted an amendment proposing to appropriate $12,000 for grading and macadamizing Longfellow Street in the District of Columbia, etc., intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. DIXON submitted an amendment proposing to increase the appropriation for continuing the construction of irrigation systems to irrigate the allotted lands of Indians on the Flathead Reservation in Montana, etc., from $150,000 to $400,000, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $2,573.25 to pay Omer D. Lewis, lease clerk at the Flathead Indian Agency, Mont., for expenses incurred for hospital and doctors' fees for personal injuries received while aiding Federal officers in suppressing the sale of liquor to Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. BROWN submitted an amendment proposing to appropriate $1,200 to repair the Government bridge across the Niobrara River in Knox County, Nebr., for the use of the Santee and Ponca Indians, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

PENSIONS AND INCREASE OF PENSIONS.

Mr. JONES submitted an amendment intended to be proposed by him to the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, which was referred to the Committee on Pensions and ordered to be printed.

FOREST RESERVES IN WASHINGTON.

Mr. JONES submitted the following resolution (S. Res. 434), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretary of Agriculture be, and he is hereby, directed to report to the Senate at as early a date as possible the names of the forest reserves in the State of Washington; the area of each; the number of homestead entries allowed in each under the act of June 11, 1906; the number of ranger stations in each and the area reserved for ranger purposes; the number of acres under cultivation in connection with ranger stations; the number of applications that are now pending under said act of June 11, 1906; the number rejected and the number allowed in each of said reserves.

FRIEDMANN CURE FOR TUBERCULOSIS (S. DOC. NO. 1018).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Public Health and National Quarantine, and ordered to be printed:

To the Senate of the United States:

I transmit herewith a memorandum of the Secretary of State, inclosing a report prepared by the consul general at Berlin, in regard to the Friedmann cure for tuberculosis.

The report is sent in reply to a resolution of the Senate of January 2, 1913, by which I am requested to submit to the Senate the results of any investigation of the Friedmann cure made or being made by the American consul general in Germany or any other officer of the United States.

WM. H. TAFT.

THE WHITE HOUSE, *January 16, 1913.*

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Immigration:

H. R. 19544. An act to amend section 9 of the immigration act approved February 20, 1907; and

H. R. 20195. An act to amend the naturalization laws.

ABATEMENT OF NUISANCES.

Mr. CURTIS. I ask unanimous consent for the present consideration of the bill (S. 5861) to enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof. The bill was read in full on the 13th.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. CRAWFORD. Is that a bill which is going to provoke discussion?

Mr. CURTIS. I think not. I will not press it if it does.

Mr. CRAWFORD. I will not object if it leads to no discussion.

Mr. CURTIS. I will withdraw it, if there is any trouble.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with amendments.

The first amendment was, in section 1, page 1, line 4, after the word "own," to insert "occupy," so as to read:

That whoever shall erect, establish, continue, maintain, use, own, occupy, or re-lease any building, erection, or place used for the purpose of lewdness, assignation, or prostitution in the District of Columbia is guilty of a nuisance, and the building, erection, or place, or the ground itself in or upon which such lewdness, assignation, or prostitution is conducted, permitted, or carried on, continued, or exists, and the furniture, fixtures, musical instruments, and contents are also declared a nuisance, and shall be enjoined and abated as hereinafter provided.

The amendment was agreed to.

The next amendment was, in section 5, page 5, line 6, after the word "section," to strike out the following:

For removing and selling the movable property the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution, and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

The amendment was agreed to.

The next amendment was, in section 8, page 6, line 22, after the word "to," to insert "the," and on page 7, line 6, after the word "act," to strike out "excepting that 10 per cent of the amount collected shall be paid by the collector of taxes to the attorney representing the United States for the District of Columbia in the injunction action at the time of final judgment," so as to read:

In case the assessor fails or neglects to make said assessment the same shall be made by the chief of police, and a return of said assessment shall be made to the collector of taxes. Said tax shall be a perpetual lien upon all property, both personal and real, used for the purpose of maintaining said nuisance, and the payment of said tax shall not relieve the person or building from any other penalties provided by law. The provisions of the law relating to the collection and distribution of taxes upon personal and real property shall govern in the collection and distribution of the tax herein prescribed in so far as the same are applicable and not in conflict with the provisions of this act.

The amendment was agreed to.

The next amendment was, on page 7, to strike out section 9, in the following words:

SEC. 9. That this act shall take effect and be in force 90 days after its passage.

The amendment was agreed to.

The next amendment was, on page 7, to insert a new section, as follows:

SEC. 9. The United States district attorney or other attorney representing the prosecution for violation of this statute, with the approval of the court, may grant immunity to any witness called to testify in behalf of the prosecution.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I ask that the Senate resume the consideration of House bill 19115, known as the omnibus claims bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. Mr. President, there are two or three amendments from the Committee on Claims in relation to longevity or overtime navy-yard charges, exactly similar to those which have already been incorporated in the bill. I will send them to the desk and ask to have them adopted:

The PRESIDING OFFICER. The amendments proposed by the Senator will be stated.

The SECRETARY. On page 153, after line 12, it is proposed to insert the following:

To Joseph M. Padgett, $451.09.

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment proposed by the Senator from South Dakota will be stated.

The SECRETARY. It is also proposed, on page 157, after line 14, to insert the following:

To Hannah McCray, widow of John McCray, deceased, $362.67.
To James H. Macon, sr., $126.50.

The amendment was agreed to.

The PRESIDING OFFICER. Does the Senator desire to have the findings in these cases printed in the RECORD?

Mr. CRAWFORD. I do.

The PRESIDING OFFICER. It will be so ordered.

Mr. CRAWFORD. I also submit an amendment covering several cases, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 203, after line 18, it is proposed to insert:

To Eleanor L. and Henry C. Lovell, sole heirs of Henry C. Lovell, deceased, $966.66.
To Annie I. Fernald Crowell, widow (remarried) of Alonzo Fernald, deceased, $386.40.
To Margaret A. Norton, widow of Daniel C. Norton, deceased, $596.86.
To Emma S. Wherren, administratrix of James W. Wherren, deceased, $140.43.

The PRESIDING OFFICER. Without objection, the amendment will be agreed to, and the findings will be printed in the RECORD.

The findings referred to are as follows:

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 3, 1912.

Hon. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

—

[Court of Claims. Congressional, No. 13727. Subnumbers 237 and 239. 237, Hannah McCray, widow of John McCray, deceased; 239, James H. Macon, sr., v. The United States. Pensacola Navy Yard.]

STATEMENT OF CASE.

This is a claim for the payment of the above-named claimants for services rendered at the Pensacola Navy Yard between March 21, 1878, and September 22, 1882, for extra labor above the legal day of eight hours.

On the 22d day of May, 1908, the United States Senate referred to the court a bill in the following words:

"[S. 6702, Sixtieth Congress, first session.]

"A bill for the relief of John W. Knight and others.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to John W. Knight, and to the others who have joined with him in a petition to this Congress, dated April 6, 1908, the amounts that may be found due to each of them, respectively, for extra labor, above the legal day of 8 hours, while employed by the United States as workmen, laborers, or mechanics of the various navy yards of the United States, performed by them by reason of and under the provisions of Circular No. 8, issued by the Secretary of the Navy on March 21, 1878."

Thereafter the claimants named above, and each of them, offered and filed their respective petitions herein, in which they, and each of them, aver substantially as follows:

That between March 21, 1878, and the 21st day of September, 1882, they, and each of them, were employed by the Government of the United States at the navy yard at Pensacola, Fla.; that on the 21st day of March, 1878, the Secretary of the Navy issued the order referred to in claimant's petition, known as "Circular No. 8" and set forth in Finding I herein.

That during the six months in each year from the date of said order to the 21st day of September, 1882, they worked during all or a portion of the time they were so employed in excess of eight hours per day, and that they, and each of them, were paid for only eight hours' work per day for the time that they were so employed during said period, and that they, and each of them, are entitled to the amounts set forth in their respective petitions, being the pay for all time worked during said period in excess of eight hours per day.

The case was brought to a hearing on the evidence and merits on the 8th day of January, 1912.

Messrs. Clarence W. De Knight and Brandenburg & Brandenburg appeared for the claimants, and the Attorney General, by Percy M. Cox, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the claimants herein, or their decedents, and each of them, were in the employ of the United States in the navy yard at Pensacola, Fla., during which time the following order was in force:

Circular No. 8.] NAVY DEPARTMENT,
Washington, D. C., March 21, 1878.

The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be, from March 21 to September 21, from 7 a. m. to 6 p. m.; from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The department will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of eight hours a day. All workmen electing to labor ten hours a day will receive a proportionate increase of their wages.

The commandant will notify the men employed or to be employed of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. THOMPSON,
Secretary of the Navy.

II. Said claimants, and each of them, or their decedents, while in the employ of the United States as aforesaid, worked on the average the number of hours set opposite their respective names in excess of 8 hours a day at the wages stated, to wit: 237, John McCray, 1,450¾ hours, at $2 per day; 239, James H. Macon, sr., 166½ hours, at $1.50 per day; 33 hours, at $1 per day; 419¾ hours, at $1.74 per day.

III. If it is considered that 8 hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then the claimants, or their decedents, have been underpaid the sums set opposite their respective names, as follows:

Hannah McCray, widow of John McCray, deceased, $362.67.
James H. Macon, sr., $126.50.

IV. Said claims were never presented to any department or officer of the Government prior to their presentation to Congress and reference to the court as hereinbefore set forth in the statement of the case, and no competent evidence is adduced to show why claimants did not earlier prosecute their said claims.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claims herein are not legal ones against the United States, and are equitable only in the sense that the United States received the benefit of the services of claimants, or their decedents, in excess of 8 hours a day, as above set forth.

BY THE COURT.

Filed February 12, 1912.
A true copy.
Test this 29th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

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COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 14, 1912.

Hon. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate, under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

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[In the Court of Claims of the United States. Congressional. No. 13476—23, 27, 32. No. 23, Annie I. Fernald Crowell, widow (remarried) of Alonzo Fernald, deceased; No. 27, Margaret A. Norton, widow of Daniel C. Norton, deceased; No. 32, Emma S. Wherren, administratrix of James W. Wherren, deceased, v. The United States.]

The claims herein are for services rendered by claimants at the Portsmouth (N. H.) Navy Yard between March 21, 1878, and September 22, 1882, for extra labor above the legal day of eight hours.

On the 19th day of February, 1908, the United States Senate by resolution referred to the court Senate bill No. 5528, which is in the following words:

"A bill for the relief of Joseph M. Padgett and others.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Joseph M. Padgett, and to the others who have joined with him in a petition to this Congress, dated February 17, 1908, the amounts that may be found due to each of them, respectively, for extra labor above the legal day of eight hours, while employed by the United States as workmen, laborers, or mechanics at the various navy yards of the United States, performed by them by reason and under the provisions of Circular No. 8, issued by the Secretary of the Navy on March 21, 1878."

Thereafter, the claimants above named appeared and filed their petitions in this court, in which they aver substantially as follows:

That between March 21, 1878, and September 21, 1882, they were employed by the Government of the United States at the navy yard at Portsmouth, N. H.; that on March 21, 1878, the Secretary of the Navy issued the order referred to in claimants' petitions, known as "Circular 8," and hereinafter set forth in Finding I.

That during the six months in each year from the date of said order to the 21st day of September, 1882, they worked during all or a portion of the time they were so employed during said period, and that they are entitled to the value of the time worked in excess of eight hours a day.

The cases were brought to a hearing on the evidence and merits on the 28th day of May, 1912.

Messrs. Brandenburg & Brandenburg and Clarence W. De Knight appeared for the claimants, and the Attorney General, by Percy M. Cox, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the decedents herein were in the employ of the United

States in the navy yard at Portsmouth, N. H., during which time the following order was in force:

Circular No. 8.] NAVY DEPARTMENT, *Washington, D. C., March 21, 1878.*

The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be, from March 21 to September 21, from 7 a. m. to 6 p. m., from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The department will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of eight hours a day. All workmen electing to labor ten hours a day will receive a proportionate increase in their wages.

The commandants will notify the men employed or to be employed of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. THOMPSON, *Secretary of the Navy.*

II. Said decedents and each of them, while in the employ of the United States as aforesaid, worked on the average the number of hours set opposite their respective names in excess of eight hours a day and at the wages below stated, to wit:

	Hours.
No. 23. Alonzo Fernald, at $3 per day	1,030½
No. 27. Daniel C. Norton:	
At $3 per day	1,438
At $2.74 per day	10
At $3.26 per day	133
No. 32. James W. Wherren, at $3 per day	374½

III. If it is considered that eight hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then claimants' decedents have been underpaid the sums set opposite their respective names, as follows:

No. 23. Annie I. Fernald Crowell, widow (remarried) of Alonzo Fernald, deceased, $386.40.

No. 27. Margaret A. Norton, widow of Daniel C. Norton, deceased, $596.86.

No. 32. Emma S. Wherren, administratrix of James W. Wherren, deceased, $140.43.

IV. The claim of Alonzo Fernald was filed in this court in 1888 under No. 16321, general jurisdiction, and same was dismissed in 1906 for want of prosecution, and no reason is given why the claim was not prosecuted to a final judgment in this court.

Except as above stated, the claims herein were never presented to any department or officer of the Government prior to the presentation thereof to Congress and reference to this court as set forth in the statement of the case, and no evidence is adduced to show why said claimants did not earlier prosecute their claims.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claims herein are not legal ones against the United States and are equitable only in the sense that the United States received the benefit of the services of said decedents in excess of eight hours a day as above set forth.

BY THE COURT.

Filed June 3, 1912.
A true copy.
Test this 13th day of June, 1912.
[SEAL.] JOHN RANDOLPH, *Assistant Clerk Court of Claims.*

COURT OF CLAIMS, CLERK'S OFFICE, *Washington, June 14, 1912.*

Hon. JAMES S. SHERMAN, *President of the Senate.*

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusions filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate, under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours, JOHN RANDOLPH, *Assistant Clerk Court of Claims.*

[In the Court of Claims of the United States. Congressional. No. 34188-70. Eleanor L. and Henry C. Lovell, sole heirs of Henry C. Lovell, v. The United States. Portsmouth (N. H.) Navy Yard.]

STATEMENT OF CASE.

This is a claim for payment of the above-named claimants for services rendered at the Portsmouth (N. H.) Navy Yard, between March 21, 1878, and September 22, 1882, for extra labor above the legal day of eight hours.

On the 22d day of May, 1908, the United States Senate referred to the court a bill in the following words:

"[S. 6702, Sixtieth Congress, first session.]

"A bill for the relief of John W. Knight and others.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay out of any money in the Treasury not otherwise appropriated to John W. Knight and to the others who have joined with him in a petition to this Congress, dated April 6, 1908, the amounts that may be found due to each of them, respectively, for extra labor above the legal day of eight hours while employed by the United States as workmen, laborers, or mechanics of the various navy yards of the United States, performed by them by reason of and under the provisions of Circular No. 8, issued by the Secretary on March 21, 1878."

Thereafter the claimants above named, and each of them, offered and filed their respective petitions herein in which they, and each of them, aver substantially as follows:

That between March 21, 1878, and the 21st day of September, 1882, they and each of them were employed by the Government of the United States at the navy yard at Portsmouth, N. H.; that on the 21st day of March, 1878, the Secretary of the Navy issued the order referred to in claimant's petition, known as "Circular No. 8," and set forth in Finding I herein.

That during the six months in each year from the date of said order to the 21st day of September, 1882, they worked during all of a portion of the time they were so employed in excess of eight hours per day, and that they, and each of them, were paid only for eight hours' work per day for the time that they were so employed during said period, and that they, and each of them, are entitled to the amounts set forth in their respective petitions, being the pay for all time worked during said period in excess of eight hours per day.

The case was brought to a hearing on the evidence and merits on the 29th day of May, 1912.

Messrs. Clarence W. De Knight and Brandenburg & Bradenburg appeared for the claimants, and the Attorney General, by Percy M. Cox, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the claimants herein, or their decedents, and each of them, were in the employ of the United States in the navy yard at Portsmouth, N. H., during which time the following order was in force:

Circular No. 8.] NAVY DEPARTMENT, *Washington, D. C., March 21, 1878.*

The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be, from March 21 to September 21, from 7 a. m. to 6 p. m.; from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The department will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of eight hours a day. All workmen electing to labor ten hours a day will receive a proportionate increase of their wages.

The commandant will notify the men employed, or to be employed, of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. THOMPSON, *Secretary of the Navy.*

II. Said decedent while in the employ of the United States as aforesaid worked on the average 1,450¾ hours in excess of eight hours a day, at the rate of $3 per day.

III. If it is considered that eight hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then said decedent has been underpaid the sum of $966.66.

IV. The claim herein was filed in this court in 1888 under No. 16321, general jurisdiction, and was dismissed in 196, for want of prosecution, and no reason is given why said claim was not prosecuted to final judgment in this court.

Except as above stated, the claim was never presented to any officer or department of the Government prior to its presentation to Congress and reference to this court, as set forth in the statement of the case, and no evidence is adduced to show why said claimants did not earlier prosecute the claim.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein is not a legal one against the United States, and is equitable only in the sense that the United States received the benefit of the services of said decedent in excess of eight hours a day, as above set forth.

BY THE COURT.

Filed June 3, 1912.
A true copy.
Test this 13th day of June, 1912.
[SEAL.] JOHN RANDOLPH, *Assistant Clerk Court of Claims.*

Mr. BRADLEY. I offer an amendment, to which the chairman of the committee has agreed.

Mr. CRAWFORD. It is a longevity claim, and is exactly similar to the others we have provided for in the bill.

The PRESIDING OFFICER. The amendment proposed by the Senator from Kentucky will be stated.

The SECRETARY. On page 261, after line 10, it is proposed to insert the following:

To William L. Marshall, of Washington, $1,786.27.

The amendment was agreed to.

The PRESIDING OFFICER. The findings of the Court of Claims in the case will be printed in the RECORD.

The findings referred to are as follows:

COURT OF CLAIMS, CLERK'S OFFICE, *Washington, May 31, 1912.*

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours, JOHN RANDOLPH, *Assistant Clerk Court of Claims.*

Hon. CHAMP CLARK, *Speaker of the House of Representatives.*

[Court of Claims of the United States. Congressional. No. 15589. William L. Marshall v. The United States.]

STATEMENT OF CASE.

The claim in the above-entitled case for longevity pay alleged to be due on account of the services of claimant in the United States Army was transmitted to the court by the Committee on War Claims of the House of Representatives on the 21st day of December, 1911, under the act of March 3, 1883, known as the Bowman Act.

The case was brought to a hearing on its merits on the 8th day of May, 1912.

Richard R. McMahon, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States, residing in the city of Washington, District of Columbia.

That he served as an enlisted man in Company A, Tenth Kentucky Cavalry, from August 16, 1862, to September 17, 1863; that he entered the United States Military Academy as a cadet July 1, 1864.

That he was appointed brevet second lieutenant of Engineers June 15, 1868; was promoted to be second lieutenant February 22, 1869; first lieutenant June 21, 1871; captain June 18, 1882; major May 10, 1895; lieutenant colonel April 23, 1904; colonel August 27, 1907; brigadier general, Chief of Engineers, July 2, 1908; accepted July 6, 1908; and was retired June 11, 1910.

That during the period of the petitioner's service as a commissioned officer in the Army of the United States the following statutory provisions respecting longevity pay were in force:

"That every commissioned officer of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the Army of the United States." (Act of July 5, 1838, sec. 15; 5 Stat. L., p. 258.)

"There shall be allowed and paid to each commissioned officer below the rank of brigadier general, including chaplains and others having assimilated rank or pay, 10 per cent of their current yearly pay for each term of five years' service." (Act of July 15, 1870, now sec. 1262, R. S.)

"* * * the actual time of service in the Army and Navy, or both, shall be allowed all officers in computing their pay." (Act of Feb. 24, 1881; 21 Stat. L., p. 346.)

That under a decision of the Second Comptroller of the Treasury, made July 24, 1838, the accounting officers of the Treasury, in the settlement of the petitioner's accounts, did not count his service at the Military Academy in computing his longevity pay and allowances for service prior to February 24, 1881.

That upon the construction of the act of July 5, 1838, by the Supreme Court of the United States, in the case of United States v. Watson (130 U. S., 80), the petitioner made application to the proper accounting officers of the Treasury for a settlement of his longevity pay and allowances in accordance with said decision, and, under the then prevailing ruling that service as a cadet could not be counted in computing longevity pay and allowances for service prior to February 24, 1881, petitioner's application was rejected December 13, 1890.

That upon the revocation of that ruling by the Comptroller of the Treasury on May 18, 1908, the petitioner again made application to the accounting officers of the Treasury for settlement of the longevity pay and allowances due him for service prior to February 24, 1881, but the Auditor for the War Department, October 21, 1909, refused to consider the petitioner's claim because it had been previously disallowed by the settlement of 1890.

That by this action of the accounting officers, in refusing to allow petitioner credit for his service at the Military Academy prior to February 24, 1881, there has been withheld from the petitioner the sum of $1,795.49, the amount he would have received had he been dealt with according to law.

That this claim had not been paid, assigned, or transferred, in whole or in part, and that petitioner has all his life been loyal to the Government of the United States.

The court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant herein, William L. Marshall, is a citizen of the United States, residing in the District of Columbia. He served as a private in the Tenth Kentucky Volunteer Cavalry from August 16, 1862, to September 17, 1863. He entered the United States Military Academy as a cadet July 1, 1864, and graduated therefrom and was appointed brevet second lieutenant of Engineers June 15, 1868. He was promoted to be second lieutenant February 22, 1869; first lieutenant June 21, 1871; captain June 15, 1882; major May 10, 1895; lieutenant colonel April 23, 1904; colonel August 27, 1907; brigadier general, Chief of Engineers, July 6, 1908; and was retired June 11, 1910.

He was paid his first longevity increase from June 15, 1873; second from June 15, 1878; third from May 14, 1882; and fourth longevity increase from November 1, 1884; and by settlements the accounting officers of the Treasury have allowed claimant longevity increase under the decisions of the Supreme Court in the cases of Tyler (105 U. S., 244) and Morton (112 U. S., 1), but said officers disallowed his claim for longevity increase under the Watson decision.

II. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said claimant would be entitled to additional allowance, as reported by the Auditor for the War Department, amounting to $1,786.27.

BY THE COURT.

Filed May 13, 1912.
A true copy.
Test this 29th day of May, 1912.
[SEAL.] JOHN RANDOLPH, *Assistant Clerk Court of Claims.*

Mr. GALLINGER. I submit an amendment, it being a longevity claim. I also ask that the findings relating thereto may be printed in the RECORD.

Mr. CRAWFORD. There is no objection on the part of the committee to the amendment proposed by the Senator from New Hampshire. It is the same as the others.

The PRESIDING OFFICER. The amendment proposed by the Senator from New Hampshire will be stated.

The SECRETARY. On page 263, after line 5, it is proposed to insert the following:

To James W. Scully, of Atlanta, $2,341.12.

The amendment was agreed to.

The PRESIDING OFFICER. The findings in the case will be printed in the RECORD.

The findings referred to are as follows:

COURT OF CLAIMS, CLERK'S OFFICE, *Washington, May 31, 1912.*

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours, JOHN RANDOLPH, *Assistant Clerk Court of Claims.*

Hon. CHAMP CLARK, *Speaker of the House of Representatives.*

[Court of Claims of the United States. Congressional, No. 15526. James W. Scully v. The United States.]

STATEMENT OF CASE.

This case was referred to the court by the Committee on War Claims of the House of Representatives on the 15th day of August, 1911, under the act of March 3, 1883, known as the Bowman Act.

The case was brought to a hearing on its merits on the 8th day of May, 1912.

Richard R. McMahon, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States, residing in the city of Atlanta, in the State of Georgia.

That he served in the United States Army as an enlisted man from September 20, 1856, to September 20, 1861; was appointed first lieutenant and regimental quartermaster Tenth Tennessee Infantry July 14, 1862; lieutenant colonel August 21, 1863; colonel June 6, 1864, and was honorably mustered out of the volunteer service May 25, 1865; was appointed captain and assistant quartermaster in the Regular Army September 27, 1865, and accepted October 2, 1865; was appointed major and quartermaster January 25, 1883; lieutenant colonel and deputy quartermaster general September 12, 1894; colonel and assistant quartermaster general February 4, 1898; was retired November 1, 1900, after having been in the service more than 42 years, at his own request, and was given the rank of brigadier general, retired, April 23, 1904.

That during the period of petitioner's service as a commissioned officer in the Army of the United States the following statutory provisions respecting longevity pay were in force:

"That every commissioned officers of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the Army of the United States." (Act of July 5, 1838, sec. 15; 5 Stat. L., p. 258.)

"There shall be allowed and paid to each commissioned officer below the rank of brigadier general, including chaplains and others having assimilated rank or pay, 10 per cent of their current yearly pay for each term of five years' service." (Act of July 15, 1870, now sec. 1262, R. S.)

"That on and after the passage of this act all officers of the Army of the United States who have served as officers in the volunteer forces during the War of the Rebellion, or as enlisted men in the armies of the United States, Regular or Volunteer, shall be and are hereby credited with the full time they may have served as such officers and as such enlisted men in computing their service for longevity pay and retirement." (Act of June 18, 1878, sec. 7; 20 Stat. L., p. 150.)

That in the settlement of petitioner's accounts the accounting officers of the Treasury did not count his service as an enlisted man from September 20, 1856, to September 20, 1861, in computing his longevity pay and allowances for services prior to June 18, 1878.

That under the decision of the Supreme Court of the United States in the case of United States v. Tyler (105 U. S., 244), petitioner was allowed the percentage increase upon his current pay, without counting petitioner's service as an enlisted man.

That upon the petitioner's application for the allowance of arrearages of longevity pay due him, the accounting officers, December 6, 1909, refused to consider his claim on the ground that the settlement under the Tyler decision was an adjudication of all his rights to longevity pay, under the ruling then in force that service as an enlisted man could not be counted in computing longevity pay prior to June 18, 1878.

That by this action of the accounting officers there has been withheld from the petitioner the sum of $2,500, which is lawfully due.

That he petitioner was always loyal to the Government of the United States.

The court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant herein is an officer of the United States Army, having served as an enlisted man from September 20, 1856, to September 20, 1861. He was mustered in as a first lieutenant, Tenth Tennessee Infantry, July 14, 1862; promoted to be lieutenant colonel August 21, 1863; colonel June 6, 1864; and was mustered out June 6, 1865. He was appointed captain and assistant quartermaster of Volunteers September 25, 1865; accepted October 2, 1865, and the position was vacated on same date. He was appointed captain and acting quartermaster, United States Army, September 27, 1865; accepted his commission October 2, 1865; was appointed major, quartermaster, January 25, 1883; lieutenant colonel, Deputy Quartermaster General, September 12, 1894; colonel and Acting Quartermaster General, February 4, 1898; and was retired November 1, 1900.

II. Claimant was paid his first longevity ration from November 9, 1867, and 10 per cent increase for each five years subsequent thereto. By settlement with the accounting officers he was allowed longevity increase under the Tyler decision (105 U. S., 244), and his claim for longevity increase on account of service as an enlisted man was disallowed December 9, 1909.

III. Under the decision of this court in the case of James Stewart v. The United States, No. 20810, decided February 23, 1899, from which no appeal was taken, service as an enlisted man should be counted in computing longevity pay and allowances, and the difference between the amounts actually paid to claimant on account of longevity pay and the amount to which he would be entitled under said decision, as reported by the Auditor for the War Department, is $2,341.12.

BY THE COURT.

Filed May 20, 1912.
A true copy.
Test this 29th day of May, 1912.
[SEAL.] JOHN RANDOLPH, *Assistant Clerk Court of Claims.*

The PRESIDING OFFICER. Are there further amendments?

Mr. CRAWFORD. The committee has nothing further to offer.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. CATRON. I wish to ask the Senate to consider three amendments separately. They are on page 66, under the head of "New Mexico."

The PRESIDING OFFICER. Those amendments will then be reserved for separate consideration. The question now is, Will the Senate concur in the other amendments made as in Committee of the Whole? Without objection, the other amendments will be concurred in. The bill is still in the Senate and open to amendment.

Mr. CATRON. Mr. President, I object to the amendments of the committee striking out the provisions of the bill found under the head of "New Mexico," on page 66. There are three of them. I will take them up in the order in which they appear. I do not know whether we can vote on them separately.

Mr. CRAWFORD. We might as well act on them all together.

Mr. CATRON. Mr. President, the first amendment to which I desire to refer is the claim of Anastacio de Baca for pay for a number of sheep, which were stolen from Francisco de Baca in the year 1862 by the Navajo Indians. Immediately after those sheep were stolen by the Navajo Indians Baca reported the occurrence to the then governor of New Mexico, Gov. Connelly. Gov. Connelly immediately sent word to the commanding officer at Fort Craig, on the Rio Grande. As this Indian depredation took place on the east side of the Canadian River and the Navajo Indians lived on the west side, supposing, naturally, that they would carry the sheep back, he sent word to Fort Craig, which is on the Rio Grande, and asked the commanding officer to look out for them. He did so, and his command captured or took away from the Indians 1,500 of these sheep, 2 donkeys or burros, and 1 mule. The commanding officer, after taking them away from the Indians, turned over 500 of these sheep to some Mexicans who were with them, not connected at all with the owner, and let them take the sheep away for their own use. The other thousand sheep were turned over to the commissary at Fort Craig. They were taken up by him on his property returns, and they were killed and issued to the soldiers as a part of their rations. The governor of New Mexico, at the request of Mr. Baca, asked Gen. Carleton, who was then commanding in New Mexico, to have the sheep returned to their owner, but nothing was ever done about it. Afterwards, in the year 1871, the Delegate in Congress from New Mexico, Col. Chaves, called the attention of the Commissary General to the fact that these sheep had been taken and applied to the Government's own use, and asked that the sheep be accounted for and paid for, but the Commissary Department did nothing in reference to it.

The matter remained in this condition under consideration from 1871 to 1876, when the Commissary General, who took the report from the Army officer who had taken the sheep and used them, concluded that the proofs did not satisfy him that the sheep were the property of the claimant, nor that the claimant was thoroughly loyal to the Government of the United States during the Civil War. The claimant, when asked to prove that they were his sheep, presented his certified brand or certified mark, and it was identified. So there was no trouble about that. Subsequently he established his ownership of the sheep and also established his loyalty.

The matter thus remained until 1886, when the papers were transmitted to the Third Auditor of the Treasury, "not recommended for settlement." On June 17, 1886, the accounting officer of the Treasury refused to take jurisdiction over the matter. In February, 1900, the case was referred to the Court of Claims under the Bowman Act for findings of fact. The Court of Claims found that the sheep had been taken and used by the Government and that the claimant was loyal. They found first that the value of the sheep was $825, but, as that was evidently a mistake, on reconsideration they found the value of the property taken to be $1,325.

This claim is, without doubt, as valid a claim as any that can be made. It has been rejected by the committee on the ground that the party slept on his rights for 38 years. The Government had notice of the claim right from the start, and it was kept before the Government. This man had no opportunity to present his claim before any tribunal until the passage of the Bowman Act. When the Bowman Act passed the claim was referred to the Court of Claims, proof was taken, the findings were in his favor, and the value of the property used was ascertained to be $1,325. I ask that the amendment striking out that claim be not concurred in.

The next claim is that of Col. Edward H. Bergmann, who claims $1,200 on account of money he expended in getting clothing for a company of troops of which he was captain during the Civil War.

It appears from the testimony and the facts in the case that Col. Bergmann was a Prussian by birth, and that when Gen. McClellan and several other officers went over to Europe to observe and inspect the armies of Europe to ascertain how they were managed and handled, for the purpose of improving the condition of our own Army, they came in contact with Bergmann and invited him to come over to the United States, promising that he might get a commission in the United States Army. Bergmann came over, but instead of getting a commission he enlisted in the Regular Army of the United States. When the Civil War broke out Bergmann was in New Mexico. There he raised a company of Volunteers, of which he was made captain, the company forming a part of Kit Carson's regiment. This was in 1862. His company had no clothing; there was at that time no clothing in New Mexico that could be issued to them, and they were in a ragged and destitute condition. In this situation Col. Bergmann, having some money of his own, expended $1,200 to buy clothing for these men. It was bought by him, given to the soldiers, and used in the service of the United States to clothe its troops. Being a very loyal and very patriotic man and getting his salary, and being a foreigner and not understanding our laws, he did not think of putting in his claim for the amount until sometime after the war closed. Then he had become impecunious. His attention was called to the fact that he had advanced this money, and he then put in his claim for the amount of $1,200, which he had previously paid for this clothing, of which, as I have said, the United States got the benefit for its soldiers.

The claim was not allowed. Afterwards, under the Bowman Act, it was referred to the Court of Claims. The Court of Claims found the facts to be as I have stated them—that he had paid the money and that it had never been paid back to him. Col. Bergmann had no earlier opportunity to put in his claim before any tribunal, although if he had thought about it he might have presented it to some accounting officer; but he took no action until 1890, when the claim was referred to the Court of Claims.

When his case was referred to the Court of Claims he immediately applied to the Assistant Attorney General to designate an attorney to take the proof in his case. The Assistant Attorney General intimated that the attorney whom they wanted was busy and they could not get him, but he would try to get a special attorney. A partial arrangement was then made to get a Mr. M. W. Mills, of Springer, N. Mex. Mr. Mills agreed to accept the appointment, but they never referred the case to him. The matter continued along until 1902, when the Government made arrangements to take the testimony and designated an attorney to appear. On a presentation of the case, the court found, as I have stated, that Col. Bergmann advanced this money; that the soldiers used the clothing; that the Government got the benefit of it in the actual service of the Government during the war; and that money had never been refunded.

The next claim—there are three of them, as I have stated—is that of Mary W. Littell, widow of William J. Littell. This is a claim in which the Senator from Kentucky might be interested. It seems that a regiment was organized in Kentucky during the Civil War, but the company did not reach a sufficient number of men to entitle it to the necessary lieutenants, and they had no lieutenant. Littell was first sergeant of the company. The governor of Kentucky, however, commissioned him as a lieutenant. I do not know what the law was at that time as to the appointment of lieutenants, as I was not on that side of the question; but Littell continued with the company until it was discharged and performed in every respect all the duties of a second lieutenant, although he only drew pay as first sergeant of the company and also drew rations. The Court of Claims has found these facts, and stated that if Littell could be considered a lieutenant, as he had been commissioned by the governor of Kentucky, the amount of his claim was $632.18, after deducting what he received as first sergeant and the value of his rations. I do not know so much about this claim as I do of the previous ones, but the Court of Claims found that Littell did this service; that he performed the duties of a first lieutenant, but only drew the pay of a sergeant and the rations of a sergeant; and that his pay would amount to $632.18 if he was considered as a lieutenant.

I ask that the amendments of the committee striking out these items of the bill be not concurred in.

Mr. CRAWFORD. Mr. President, the statement made by the Senator from New Mexico [Mr. CATRON] is very similar to the statements which are presented in most of these cases; that is, it comes from some attorney. I would not say specifically that it is true in the case which the Senator presents, but a similarity in the reasons given leads me to believe that some attorney, representing the claimants, has furnished this kind of information to the Senator. I have not the slightest doubt of the Senator's good faith in regard to the matter. The Bowman Act, under which the Senator seems to think he is justified in saying that laches can be waived, was passed in 1883. That is 29

years ago. The Tucker Act, which required the court to find what excuse the claimant had, if any, for his long delay, was passed in 1887, 25 years ago; and no excuse whatever is found by the Court of Claims in its report to explain the long delay in either of these cases.

That is not all. In the de Baca case claim is made on account of the loss of sheep in 1862. At a time when the claimant must have had in his possession fresh proof of the facts, and when witnesses must have been alive by whom he could establish his loyalty, he undertook to establish his claim, but the Government found against him on both propositions, finding that he did not prove the fact as to his loss and that he was unable to satisfy them as to his loyalty. While the Bowman Act was passed in 1883 and the Tucker Act in 1887, he did not ask to go to the Court of Claims until the year 1900, and in 1905 he secured in some way from it a finding of his loyalty. If that does not show a doubtful situation, under which it would be rather reckless for us to pay stale claims, it would be impossible to present one here.

The case of Bergmann, so far as concern laches and delays, is exactly in the same class. If we were to allow these claims to come in here now, it would open the door so that practically all of the items rejected by the Committee on Claims would be placed in the bill.

The third item is one of difference-in-pay claims, where an officer in the Army during the war was serving in a certain rank—he may have been captain, or he may have been major, or he may have been colonel—but his State gave him a rank higher than that held under the Federal Government. There may have been a vacancy ahead of him, into which he stepped and performed the service in a rank higher than that for which he held a commission from the Federal Government; but if his command was under the minimum, a law was passed—I have all the laws here—which allowed officers serving in a higher rank than that to which they were commissioned by the Federal Government under those circumstances to receive the pay of the higher rank, providing their command was not below the minimum.

In the last Congress a statute was passed absolutely barring all these claims, and it is sought, by putting them in the omnibus claims bill, to repeal that statute which fixed an absolute bar against these claims.

Mr. CATRON. I should like to ask the Senator if he thinks a statute passed a year ago, or at the last Congress, would apply to a claim which had originated a year before that statute was passed?

Mr. CRAWFORD. I do not; but these claims never had any foundation under the laws of the United States; absolutely none. The act of February 24, 1897, contained a proviso that—

> That this act shall be construed to apply only to those cases where the commission bears date prior to June 20, 1863, or after that date when the commands of the persons appointed or commissioned were not below the minimum number required by then existing laws and regulations.

In every one of these cases the court finds that the commission was dated after June 20, 1863, and the command was below the minimum. There are about a hundred-odd of these claims, and the committee did not propose to go against that statute passed at the time and the statutes passed since that time, one of them in 1897, which put up a bar to these claims.

I ask that the claim be rejected.

Mr CATRON. Just one word. The fact that this might open all the other claims is no argument at all. I know nothing about what the other claims are, but if they are as meritorious as these, I think they ought to be paid and ought to be included. If they are not, then each one stands upon its own footing. It seems to me this record shows a sufficient vigilance on the part of these first two claimants, and I ask that the first two claims be voted on separately from the others, because they are different—the Anastacio Baca and the Bergmann claim.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole, proposing to strike out two New Mexico items, on page 66, lines 5 to 9.

The amendment was concurred in.

The PRESIDING OFFICER. The question is now upon concurring in the amendment to strike out lines 10, 11, and 12, on the same page.

The amendment was concurred in.

The PRESIDING OFFICER. The question is on concurring in the remaining amendments made as in Committee of the Whole.

The amendments were concurred in.

The PRESIDING OFFICER. The bill is still in the Senate and open to amendment.

Mr. BRADLEY. I rise to make an inquiry.

The PRESIDING OFFICER. The Senator from Kentucky will state it.

Mr. BRADLEY. On the 7th of December, in my absence from this body, the Senator from Tennessee [Mr. SANDERS] was kind enough to offer an amendment to this bill. I should like to inquire what disposition has been made of that amendment?

The PRESIDING OFFICER. Can the Senator state upon what page of the bill the amendment appears?

Mr. CRAWFORD. What was it?

Mr. BRADLEY. It was:

> To the wardens of Christ Protestant Episcopal Church, Bowling Green, $300.

Mr. CRAWFORD. That was rejected.

Mr. BRADLEY. I simply wanted to know what became of it. I suspected that it had been rejected.

The PRESIDING OFFICER. Does the Senator from Kentucky desire to offer an amendment?

Mr. BRADLEY. I did; but I understand it was rejected by the committee, and I do not deem it worth while to offer the amendment now.

The amendments were ordered to be engrossed and the bill read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. CRAWFORD. Mr. President, just a word or two before the bill is finally disposed of. I desire to call attention to some of the items rejected by the committee that the Senate may form some idea about the character of a considerable number of claims that were in this bill when it came to the Senate.

Here is a sample. I call attention to paragraph 560. I do this because we may have something to do about this bill in some form after it has gone to conference. Here is an item in this bill for a chuck-a-luck gambler, a man following the rear of the Union Army in the South—a professional gambler. He comes in here in 1906 with a claim for some money lost in chuck-a-luck, and which he claims was not all gambling funds, but that part of it was money that was not won from him in chuck-a-luck but was taken from him by the commanding officer. He comes in and asks for an appropriation out of the Treasury to give him back his money. An inquiry was had in 1865 under the order of Gen. Hazen, and the claimant was required to present proofs that the money taken from him was not the fruits of gambling. The court, after considering the evidence, recommended that $376 be refunded and that the remaining $454 be forfeited, as coming within the instructions of Gen. Hazen for the confiscation of the proceeds of chuck-a-luck. The forfeited sum of $454 was disbursed by the commander of the division and not returned to the Treasury Department. None of the $860 has ever been returned to claimant. Claimant allowed his claim to sleep until 1891, for a period of 27 years, when he presented a claim to the Auditor for the War Department, and it was rejected. Then he came in here 42 years afterwards, without having peeped all that time during the interim, and asks the Congress of the United States to engage itself in the business of giving him back that fund. None of it ever went into the Treasury of the United States. That is one item in here.

I will call the attention of the Senate to one or two others. Here is paragraph 599. Five hundred and ninety-nine is an item that has long since been paid and satisfied. Ten thousand five hundred and twenty dollars was claimed. The money was appropriated in an appropriation act approved March 3, 1877, Nineteenth Statutes of the United States, page 538. The money was paid and the claim released and receipted for, and yet here is inserted a claim in the omnibus claims bill, as it comes over to the Senate, with that $10,000 item in it to be paid over again.

Here is another one—paragraph 737 in this bill. Seven hundred and thirty-seven is the claim of Henry E. Hilliard. It was absolutely paid and satisfied by an appropriation found in Thirty-third Statutes, part 1, page 768.

Here is an old claim, originating way back during the war, in which the claimant has slept on his rights for over a generation, and then comes here and asks money for hay which he claims he delivered to a commissary, and he wants pay at the rate of $55 a ton.

How such things get through I do not understand.

Here is a hotel company down in Memphis called the Overton Hotel Co. The claim is that the property was occupied by soldiers during the war. We all know what were the conditions in Memphis. You could not rent buildings for any considerable amount under the conditions that existed there. Several years ago that company got a bill through here appropriating, as I understand, some $53,000, took the money and released the claim. And yet they get inserted in the bill an item calling for the appropriation of $12,000 or $15,000, or more, because an

attorney claims that some sort of technical error was committed in making the computation.

On the matter of proof of loyalty—and I will stop with this case—I want to call the attention of the Senate to one claim, paragraph 800, which is typical of many of the claims we have stricken from this bill. In this particular case property was taken from the administrator, N. C. Perkins, during the War of the Rebellion, in Shelby County, in the State of Tennessee, by the military forces of the United States for the use of the Army—stores and supplies worth the sum of $5,684. It does not appear from the statement of facts whether the property was taken by any authority of the Government at all. The plantation from which the stores were taken, it was claimed, belonged to J. J. Todd at the commencement of the war, but he died in 1861, leaving by will his property to his daughter, Mrs. Newton C. Perkins. She is the wife of the administrator, N. C. Perkins, who makes this claim, and he was a captain in the Confederate Army. Understand that under the statute these claims can not be allowed unless loyalty is proven. Her husband, who appears here as administrator, was a captain in the Confederate Army. He was appointed administrator of the estate of his wife's father in 1862, and then he resigned his commission and came home to take charge of that estate—right out of the Confederate Army. I dare say Mrs. Perkins is a good woman; I would not say a word disrespectful about her, but this is what the court finds as to her loyalty:

Mrs. Perkins desired her husband to keep out of the Confederate service; she did not desire to take up arms; she did not wish him to join either army; after the war actually began she did not desire the subjugation of the South, and she did not wish for the defeat of the Confederacy to secure the perpetuity of the Union.

Now, with that sort of a straddle on the question of loyalty, and with the administrator himself having been an officer in the Confederate Army, thereafter, in 1900, a finding is made upon which an appropriation claim of that character is made.

Having thus characterized in a general way the items stricken out of the bill, I ask for the action of the Senate upon the bill.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill was passed.

Mr. NEWLANDS subsequently said: The omnibus claims bill was passed this morning during my absence from the Senate. I had pending before the Senate an important amendment involving the claims for extra pay of mechanics and laborers on public buildings, and it was my expectation to bring that matter before the Senate for its consideration. I have seen the Senator from South Dakota [Mr. CRAWFORD], who had charge of the bill, and he informs me that he will have no objection to a motion for a reconsideration of the bill in order to enable the Senate to consider the amendment which I tendered.

I therefore ask that the vote by which the bill was passed be reconsidered and that the bill stand on the calendar for consideration.

The PRESIDING OFFICER. The Chair will call the attention of the Senator from Nevada to the fact that the Senator from South Dakota, the chairman of the committee, is not present.

Mr. NEWLANDS. I consulted with the Senator from South Dakota about 15 minutes ago and he told me he would have no objection. I have sent word asking him to be here, but he is not here.

Mr. CLARKE of Arkansas. Mr. President, I would not assume to act instead of the chairman of the committee, the Senator from South Dakota, nor do I in the slightest degree desire to indicate any doubt about the statement made by the Senator from Nevada; but after the motion indicated by him has been made and considered there will be other motions made, and they should be made at once, so as not to delay the passage of the bill beyond to-day. If it would be agreeable to the Senator from Nevada to renew his motion at a somewhat later hour, we will undertake to have the Senator from South Dakota here, so that the whole matter may be disposed of.

Mr. NEWLANDS. It is entirely agreeable to me, Mr. President, that the action be had to-day.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Utah?

Mr. NEWLANDS. I have made my motion to reconsider the vote by which the omnibus claims bill was passed.

Mr. SMOOT. That is what I was going to suggest to the Senator from Nevada, to enter the motion, and then if it so happens that we can not act on the motion to-day, it will be pending.

Mr. CULBERSON (to Mr. NEWLANDS). Make the motion now.

Mr. NEWLANDS. I make the motion now.

Mr. CULBERSON. I understand that the Senator from Nevada makes the motion now to reconsider the vote by which the bill was passed.

The PRESIDING OFFICER. The motion will be entered.

Mr. CULBERSON. And it will be passed over for the future consideration of the Senate.

The PRESIDING OFFICER. The motion has been entered. The bill will be held here.

LANDS IN PENSACOLA, FLA.

Mr. SMITH of Georgia obtained the floor.

Mr. FLETCHER. Mr. President——

Mr. SMITH of Georgia. If, without losing my position in the premises, I can yield for a moment to the Senator from Florida, who desires to call up two local bills, I shall be glad to do so, although I can not afford to lose my place.

Mr. FLETCHER. It will take only a moment.

Mr. SMITH of Georgia. I yield, if I can, under the circumstances indicated.

Mr. FLETCHER. I desire to call up two bills, being Orders of Business 961 and 962, releasing the claims of the United States Government to certain lands in the city of Pensacola, Fla.

Mr. SMITH of Georgia. I yield for that purpose, if I may.

Mr. FLETCHER. I ask unanimous consent for the present consideration of the bill (S. 5378) releasing the claim of the United States Government to that portion of land, being a fractional block, bounded on the north and east by Bayou Cadet, on the west by Cevallos Street, and on the south by Intendencia Street, in the old city of Pensacola.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. FLETCHER. I now ask unanimous consent for the present consideration of the bill (S. 5377) releasing the claim of the United States Government to lot No. 306 in the old city of Pensacola. It is a bill of the same kind as the one just passed.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRACTICE OF PHARMACY AND SALE OF POISONS.

Mr. GALLINGER. I ask for the consideration of the bill (H. R. 8619) to amend an act entitled "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," approved May 7, 1906.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with an amendment to strike out all after the enacting clause and to insert:

That "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," approved May 7, 1906, be amended by adding after section 11 thereof a new section to be known as "section 11a," and to read as follows:

"SEC. 11a. That nothing contained in this act shall apply to sales at wholesale by any dental supply depot, carrying only a general stock of dental supplies, without being required to have a licensed pharmacist employed therein or connected therewith, to lawfully authorized practitioners of dentistry or medicine, for personal use in the practice of their profession, or to incorporated dental or medical colleges, for use therein, or to incorporated hospitals, for use therein, all drugs, chemicals and poisons used in the legitimate practice of dentistry: *Provided, however*, That no such dental supply depot shall so sell at wholesale any such drugs, chemicals, or poisons except upon the original written order of a lawfully authorized practitioner of dentistry or medicine, which order shall be dated and shall disclose the full name and address of such practitioner, and whether the articles ordered are for his personal professional use and account, or for the account, and use therein, of such college or hospital, and all such original orders shall, for a period of three years, be retained on file by the dental supply depot selling or furnishing the drugs, chemicals, or poisons specified therein. No proprietor, officer, agent, or employee of any dental supply depot shall sell or furnish any such drugs, chemicals, or poisons otherwise than as in this section provided, and no practitioner of dentistry or medicine shall purchase or obtain from any dental supply depot any such drugs, chemicals, or poisons otherwise than as in this section provided, or for any other purpose than as in this section permitted."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

COLVILLE INDIAN RESERVATION LANDS.

Mr. JONES. I ask unanimous consent for the present consideration of the bill (S. 5379) granting certain lands of the diminished Colville Indian Reservation, in the State of Washington, to the Washington Historical Society. This is purely a local bill.

Mr. SMOOT. I shall not object to the consideration of this bill, but I give notice that I shall object to the consideration of any further bills this morning by unanimous consent.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with an amendment to strike out all after the enacting clause and to insert:

That the Secretary of the Interior be, and he is hereby, authorized to patent to the Washington State Historical Society, for memorial and park purposes, the following described lands in the diminished Colville Indian Reservation, in the State of Washington, to wit: A tract of land not exceeding 4 acres in area located in the northwest corner of lot 2 of section 17, the precise description of said tract to be determined by said Washington Historical Society and the Secretary of the Interior prior to the issuance of the patent therefor, and lot 7, containing 20.90 acres of section 21, all in township 30 north, range 25 east of the Willamette meridian in Washington: *Provided*, That the lands hereby granted shall be paid for by the said society at their appraised value, to be ascertained in such manner as the Secretary of the Interior may prescribe, and the proceeds thereof placed in the Treasury of the United States to the credit of the Indians belonging on the reservation of which the lands herein described are a part and thereafter paid to the said Indians or used for their benefit in such manner as the Secretary of the Interior may deem for their best interests: *Provided further*, That the lands hereby granted shall be subject for a period of 25 years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia. I move that the Senate take up for consideration the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress, approved July 2, 1862, and of acts supplementary thereto.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment.

The PRESIDING OFFICER. The amendment of the committee will be read.

The SECRETARY. In section 6, page 5, line 14, strike out the words "duly appointed by the governing boards of said colleges" and insert "of the State, duly authorized by the laws of the State," so as to make the section read:

SEC. 6. That the sums hereby appropriated for extension work shall be annually paid in equal semiannual payments on the 1st of January and July of each year by the Secretary of the Treasury, upon the warrant of the Secretary of Agriculture, out of the Treasury of the United States, to the treasurer or other officer of the State, duly authorized by the laws of the State to receive the same; and such officer shall be required to report to the Secretary of Agriculture, on or before the 1st day of September of each year, a detailed statement of the amount so received during the previous fiscal year, and of its disbursement, on forms prescribed by the Secretary of Agriculture.

Mr. SMITH of Georgia. That is a mere verbal change to make the language perfectly accurate.

The amendment was agreed to.

Mr. SMITH of Georgia. I now send to the Secretary's desk the report made by the Committee on Agriculture and Forestry on this bill, which I would be glad to have read.

The PRESIDING OFFICER. The Secretary will read the report.

The Secretary read the report submitted by Mr. SMITH of Georgia December 14, 1912, as follows:

[Senate Report No. 1072, Sixty-second Congress, third session.]

ESTABLISHMENT OF AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia, from the Committee on Agriculture and Forestry, submitted the following report, to accompany H. R. 22871:

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto, having considered the same, beg to report it back to the Senate with one amendment and with the recommendation that the bill as amended do pass.

The object of the bill is to make provision for the establishment of extension departments in the land-grant agricultural colleges of each State and to carry to the farmers at their homes the knowledge gathered at the agricultural colleges and experiment stations.

Fifty years ago the Morrill Act became a law, and by aid from the appropriation which it made colleges of agriculture are now successfully conducted in every State.

Twenty-five years ago the Hatch bill became a law, and by aid from the appropriations which it made agricultural experiment stations are now successfully conducted in every State. Other legislation has also been enacted since the Morrill and Hatch Acts of further aid to the colleges and experiment stations.

The Morrill Act provides for the endowment and support of colleges, the leading object of which shall be "to teach such branches of learning as are related to agriculture and the mechanic arts." The Hatch Act provides for agricultural experiment stations where by investigation and experiment accurate knowledge is obtained upon farm problems.

The experiment stations were essential to proper instructions in the colleges. In most of the States these colleges and experiment stations have for years worked in close association. They have conducted investigations and made tests bearing upon many important questions connected with the farm, and their investigations and tests have been especially with reference to conditions in their respective States. They have studied plants and determined with accuracy the foods upon which they live and mature crops. They have analyzed different classes of soil in their respective States to determine the plant food contained and have learned how to make it available. They have ascertained defects of soils and how to remove them. They have worked out the improvement of seeds and have found the way to resist many plant diseases. They have tested stock, cattle, and hog foods and diseases. They have found what foods will bring the best results and have advanced in the treatment of diseases.

I do not claim that the knowledge which has been obtained is absolutely accurate in all lines, but I insist that they have learned many things of great value to those engaged upon farms; and their officers are as a rule able and capable men, practical as well as scientific, and devoted to their work.

These institutions are now engaged in their best work and will continue to demonstrate new truths which would be most helpful if understood and used in the daily work of the farm.

There are students at these colleges who are obtaining much aid from the instructions which they receive, but there is not sufficient provision to carry to the farmers at their homes the valuable information which has been and will be obtained by the work of the colleges and experiment stations.

The last census shows that the rural population of the 48 States was 49,384,882. The majority of our population is engaged in agricultural pursuits. It is my urgent plea that they should receive as speedily as possible the help which the successful use of all that has been learned and may yet be learned at the agricultural colleges and experiment stations would be to them.

The National Government has spent on the agricultural colleges and experiment stations, in round figures, $70,000,000. It spends now $3,940,000 cash annually upon them. From State appropriations and other sources they receive annually $11,000,000. A large part, however, of this last-named amount is required for new buildings and equipment required to meet the growing demands upon the colleges.

For the year ended June 30, 1912, Congress appropriated $15,000,000 for carrying on the exclusively agricultural work of the Department of Agriculture. Much the larger portion of this money is spent for investigation and experimentation. Information of great value to the rural interests of the country is secured, but a comparatively small amount is devoted to showing those at work upon farms how to apply this information.

Dr. True, Director of the Office of Experiment Stations, has stated:

"Heretofore interest in the agricultural development has largely been in the direction of securing new truths. A vast amount of valuable information is now in existence awaiting some effective means of getting it into operation by the farming people of the United States. It has been found that the mere publication of results in the bulletins and pamphlets is not sufficient, and that there is much even that these publications do not contain and can not be taught by them.

"The agricultural colleges were created and organized chiefly for the benefit of agriculture. They have devoted themselves to perfecting their organization and courses of study for the education of their students and by means of experiment stations to the investigation and discovery of agricultural truths. Recently there have arisen demands upon these institutions for information and assistance outside of their classrooms by persons engaged in agriculture unable to attend these colleges as students. These demands became so insistent that at the meeting of the Association of Agricultural Colleges and Experiment Stations held at Portland, Oreg., in 1909, the association by formal action changed its constitution by recognizing the obligation of the colleges to the rural people outside of their halls as equal to the obligation of resident students and their work of research. Forty-five colleges, representing 43 States, were conducting extension work during the college year which closed June 30, 1911, but their work was limited by lack of sufficient funds."

We are confronted, therefore, with the fact that the National Government has spent, and is spending, large sums of money upon the agricultural colleges and the experiment stations. The money so spent has aroused interest in the States, and they are appropriating to this work sums in excess of those appropriated by the National Government, but the inspiration for the work and the leadership in the work came from the national appropriation. These institutions are doing good, but much that they might do fails of accomplishment because there is no organized machinery, backed by necessary funds, to carry the information they gather to those actually engaged in agricultural pursuits.

The agricultural colleges, agencies in a sense of the National Government, are ready for immediate service at the home of the farmer. They are ready to furnish the information they have acquired to all upon the farms instead of to a few at the colleges. The bill which has passed the House is intended to enable them to increase their extension work at once and develop it in time upon a broad scale.

It is of vital importance to carry promptly to the farmers the knowledge acquired at these institutions.

A number of bills have been introduced during the past few years intended to accomplish this result. Last fall the executive committee of the State Agricultural Colleges and Experiment Stations, officers of the National Soil Fertility League, and representatives of the Agricultural Department prepared a bill, which was introduced in the Senate on the 16th day of January and in the House of Representatives on the 17th day of the same month. The House of Representatives has passed this bill with only two important amendments. One requires that 75 per cent of the money appropriated shall be used in actual demonstration work and the other provides that this bill shall not interfere with the demonstration work now being done by the Agricultural Department.

Many State legislatures will meet in January, and the passage of the House bill by the Senate at the earliest day possible is necessary to give them an opportunity to act.

The bill provides for the establishment and maintenance in each of the land-grant colleges of agriculture of an extension department to give instruction in agriculture and home economics to farmers at their homes.

This instruction is to be given by demonstration work and other means in the local farm communities.

It provides for a fixed appropriation from the Treasury of $10,000 unconditionally to each State. It provides also an appropriation be-

ginning with $300,000 a year, July 1, 1913, to be prorated among the States on a basis of rural population. This appropriation is to be increased each year $300,000 until the maximum of $3,000,000 is reached in 1923. No State is to receive a pro rata of this sum unless it provides an equal amount for the same purpose. The money is to be expended by the State colleges of agriculture through their extension departments in each State. Seventy-five per cent of the money must be used in actual field demonstration; 5 per cent may be used for printing and publications, and the remaining 20 per cent for instructions in household economics or for further field demonstrations. The bill provides that any Federal money lost or misused must be made good by the State, and it prohibits the use of the money for purposes except those specified. It provides for reports from the colleges to the Secretary of Agriculture, and through the Secretary of Agriculture to Congress.

The bill permits the purchase of no land by the Government. The representatives of the colleges in the various communities in each county in each State will enlist farmers, who, under the direction of the representative of the agricultural college, will test the value on their own land of the information brought by the representative of the agricultural college. The farmer will be invited to plant under the direction of the representative of the college. The character of the soil will be tested, the nature of the fertilizer to be used explained, the selection of seed advised, and the time of planting and manner of cultivation suggested, and demonstrations will be made which will teach and prove the value of the knowledge acquired at the colleges and stations. In another place the representative of the college will teach and by experimentation demonstrate the best manner for caring for fruit trees. In another, the best system for feeding cattle and stock and of dairying and butter making may be the subject of the demonstration.

Demonstrations will also be made in home economics and labor-saving machines.

The colleges of agriculture and the experiment stations in each State have devoted themselves to the study of the peculiar conditions of their State and the localities of their State and will, through their representatives, carry to the farmer in his home the accurate information which experimentation has demonstrated and in turn give a practical demonstration in the locality before the farmer and his neighbors of the value of the information acquired and how to use it. This phase of work will be supplemented by printed discussions of the best mode of farming, of hygiene, and of household economics, and the means available will be used to give those on the farm all that research can develop which will be of service to them.

The value of such instruction is not a matter of experiment. It has been tried in other countries, as well as to a limited extent in our own. A number of European countries for the past 25 years have been carrying the information gathered in their colleges and experiment stations to the homes of the farmers. Detailed information as to how the extension departments in other countries have been conducted and the beneficial results from them has been gathered by the National Director of the Office of Experiment Stations.

We have selected Belgium as an example and have examined the statistics prepared by the Department of Agriculture showing the effect there of agricultural extension work upon the lines proposed for our country by the bill under consideration. They disclose an average increase of production per acre in 20 years of 30 per cent. They also disclose a lessened cost of production per acre, and this splendid accomplishment is attributed to the information and instruction carried to the farmers by agricultural extension work.

The testimony before the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture furnishes convincing proof of the great benefits which have been accomplished by the limited work upon this line already carried on by the agencies created principally through congressional action.

Dr. Russell, dean of the college of agriculture of the University of Wisconsin, pointed out its value in the improvement of cattle and dairying in Wisconsin. Among other things, Dr. Russell said:

"The extension work is designated generally to take that work right to the man on the field, and it seems to me the advantageous feature of this bill is that it leaves it to the discretion of the agricultural college to organize this work along those lines that are going to be most effective for the community concerned."

He also pointed out a development of corn seed which in a portion of Wisconsin had enabled an increase of production per acre of over 50 bushels. He dwelt upon the necessity for soil diagnosis, and how at one point more phosphate was needed and at another more nitrogen and another more potash, and how for various crops portions of these necessary plant foods could be supplied and at other places other ingredients could be locally found, and he urged the importance of carrying accurate information upon this subject to the farmer at home, and he showed the work he was doing endeavoring to give such information to the farmers of Wisconsin.

Dr. Russell relates this incident, told him by Dr. Hopkins, of Illinois:

"Dr. Hopkins had demonstrated in southern Illinois what could be done with a dollar and a half's worth of phosphate to soil that needed this plant food. The average yield of corn in that locality was about 13 bushels. Dr. Hopkins demonstrated that with a little phosphorus and brains the yield could be increased fourfold. An old man came up with tears in his eyes and said: 'Dr. Hopkins, I want to thank you for what I have seen to-day; but, God help me, if I only knew that 40 years ago.' He said, 'I have six sons in my family and have labored night and day to keep body and breeches together and to keep the family together, and what have I got on my farm? Twelve to 15 or 16 bushels of corn to an acre—that's all I can make. I would have liked to send my boys to college. I would have liked to give those children an education; but I could not raise enough crop on the piece of land that I owned, so I have toiled all my life and have earned barely enough to support my family. Now, if a man had only come to me when I was comparatively young and told me the things you have told me to-day—that one dollar and a half's worth of phosphate would have given me 50 bushels of corn like the crop which was raised right over the fence from where I am—I could have sent my children to the high school and to a university.'"

Dr. Soule, of Georgia, discussed the subject along the same lines, and pointed out how corn and cotton production had been increased in various parts of the State nearly 100 per cent by the application of the knowledge developed in the State College of Agriculture and Experiment Station. He called attention to the different varieties of soil even in Georgia and the different character of plant foods contained in the different soils of the State. Among other things, he said:

"I have told you of the variations of our soil in Georgia. How can we direct this thing from a centralized position? It is impossible to do it. There is not a man not familiar with the agricultural conditions of California who would attempt to advise the farmers of that State. It is not possible to send out information and literature from Washington that will meet the needs of the farmers in Georgia, as well as in all the other States. We must conduct this as a localized proposition, studying and teaching through the agricultural colleges."

Dr. W. D. Gibbs, president of the New Hampshire College of Agriculture and Mechanic Arts, gave an illustration of the benefit of agricultural extension work of the kind that this bill contemplates through a young man who studied at the College of Agriculture of New Hampshire. He said:

"This old orchard was full of San Jose scale, and was an unproductive orchard, producing mediocre fruit in small quantity. The father had made his living by selling milk 8 miles away. This young man went to work on the orchard and pruned it and sprayed it and cared for it in other ways, and to-day they have one of the best apple orchards in New England. Instead of producing 800 barrels of poor fruit a year it is producing about 1,500 barrels of good fruit a year. The result is that the town has become an apple-producing center. Now, those farmers might have read agricultural experiment station bulletins for a hundred years on how to develop an orchard and they never would have done it. They believed their eyes and changed their methods.

"We are tremendously interested in this thing. The salvation of New England, it seems to me, is dependent upon increased agricultural prosperity. Agricultural extension is the way to bring it about. You can talk to farmers at farmers' institutes and you can send them bulletins by the ton, but they do not change their practice, but when you go to the farm and 'show' the man then he is your friend for life, and that, in my opinion, is the way to develop agriculture in New England or any other part of the United States."

Dr. Thompson, president of the University of Ohio, presented a strong appeal for the bill and declared that it was necessary to "develop the work of the American farmers," and as a "supplementary move that will reach the matured men and women, who, for one reason or another are not able to bring themselves to the school, and give them the full benefit of the appropriations already made to the colleges and experiment stations."

Dr. Howard H. Gross, president of the National Soil Fertility League, of Chicago, among other things, said:

"I believe this bill for agricultural extension, measured by its general benefits, is the most important constructive measure since the days of Abraham Lincoln. I believe that is the concensus of opinion of the gentlemen who have given it careful study."

He pointed out that at a low estimate the proposed extension work is not only the way to an increase of average yield per acre of 20 per cent, but also made the following statement:

"The approximate area of farm lands is 900,000,000 acres. The present crop value is about $9,000,000,000. Twenty per cent increase means $1,800,000,000, equal to $18 per capita on 100,000,000 population. This sum equals one-half of all the money in circulation. Surely the figures are tremendous. The maximum cost to the Federal Treasury under the bill before you will be $3,000,000 per year. The value of 20 per cent increase on one year's crop will pay for the proposed demonstration work for 600 years."

He also said:

"There appeared before the committee representatives of agricultural associations, representatives of the agricultural colleges and experiment stations, students of agricultural development, and leading bankers, all of whom urged the passage of this measure as one necessary for the improvement of the agriculture of the country, and they dwelt upon both the benefits which would go to the farmer and to the urban citizen as a consequence of the improved methods on the farm which this bill would bring about."

At a recent meeting of the presidents of the colleges of agriculture and experiment stations the following resolutions were passed:

"The Association of American Agricultural Colleges and Experiment Stations, in session at Atlanta, Ga., November 14, 1912, most respectfully requests the United States Senate to pass the agricultural extension bill, H. R. 22871, during the coming session of the Sixty-second Congress.

"For some years the institutions represented in this association have been urging the development of work in agricultural extension for the purpose of carrying to the farmer in his own community the successful experience of the experiment stations and the approved teachings of the colleges of agriculture.

"During the sessions of the Sixty-first Congress several bills looking to this end were introduced and hearings given to the representatives of the agricultural colleges, of the National Grange, of bankers' associations, and of others interested in the development of the Nation's agricultural resources.

"On January 16, 1912, the Hon. HOKE SMITH introduced in the United States Senate and Hon. A. F. LEVER introduced in the House of Representatives a bill to establish agricultural extension departments in connection with the agricultural colleges in the several States receiving the benefits of the act of Congress approved July 2, 1862. The bill now known as H. R. 22871, embodying substantially the provisions of the two bills referred to above, has passed the House of Representatives and is now pending in the Senate.

"The provisions of this bill have been fully discussed in the hearings before the Committees on Agriculture in both the House of Representatives and the Senate. Its provisions are simple and clear. The bill seeks to bring to the practical farmer by correspondence, instruction, and demonstration the accumulated and approved experience and methods of the colleges and experiment stations during the past 50 years.

"Fifty years ago the United States Congress passed the act providing for the land-grant colleges. Twenty-five years ago Congress pased the act providing for the experiment stations. Both these acts have been supplemented with legislation increasing the funds and the efficiency of both colleges and stations. It is now urged that on this anniversary year the agricultural extension bill be passed in order to enable these colleges to carry to the farmer who can not come to the college or station such demonstration of the results obtained in these institutions as shall enable him to maintain and develop the agricultural resources under his direction. This movement we believe to be in accord with sound public policy lying at the basis of the economic policies looking toward increased production as an important factor in determining the comfort and welfare of the whole people. This bill naturally and logically completes the chain of agencies fostered by the Federal Government for the betterment of agriculture. Hitherto we have maintained laboratories and field experiments at our colleges and stations, have put the results into bulletins, and have taught them in the classroom. It is now proposed to take these results to the local community, carry

the school to the farmer, and make his own fields a laboratory in which we can demonstrate the value of science when applied to agriculture.

"The association would call the attention of the Senate to two facts: First, the universal approval the country over of the wisdom of passing the land-grant act after an experience of 50 years; of the equally universal approval of the country of the act providing for the experiment stations after an experience of 25 years; and, second, to the fact that the agricultural interests as represented by the farmers, the colleges, the experiment stations, the agricultural press, and other interests as represented in bankers' associations and philanthropic agencies of various names are all united in a desire to see the bill for agricultural extension become a law.

"The Association of Agricultural Colleges, believing that these extension departments should be established without delay, and believing that this measure should receive favorable consideration upon its own merits without complication with other legislation, does most respectfully urge upon the Senate of the United States the importance of passing this bill for the establishing of agricultural extension departments in the agricultural colleges of the several States at the earliest possible date, to the end that the legislatures of the different States, many of which meet in January, may have opportunity to accept the provisions of the bill and to put the departments into operation during the coming year.

"Attention is respectfully called to the hearings before the Committee on Agriculture and Forestry in the United States Senate, Sixty-second Congress, second session (S. 4563), March 1, 1912, for a more complete statement of the merits of the bill and of the reasons for its enactment into law.

"Passed by the Association of American Agricultural Colleges and Experiment Stations, Atlanta, Ga., November 14, 1912.

"WINTHROP E. STONE, *President*.

"Attest:

"JOSEPH L. HILLS, *Secretary*."

The International Dry Farming Congress at Colorado Springs indorsed the bill by unanimous vote.

The New England Conference of Rural Progress, comprising 70 organizations, at a meeting in Boston, said:

"Of all the bills now before Congress, we believe the Lever bill to be the most practical form of legislation yet proposed."

The Tri-State Grain Growers' convention, comprising Minnesota and the two Dakotas, passed a resolution emphatically indorsing the bill.

The executive officers of the State Grange, the State Federation of Farmers' Clubs, and State Horticulture Society, of Michigan, unanimously indorsed the bill.

The Farmers' Union indorsed the bill.

The Third Wisconsin Country Life Conference, at Madison, passed a resolution urging the Members of Congress to pass the agricultural extension bill.

Secretary of Agriculture Hon. James Wilson, in a memorandum prepared for the President of the United States, after full discussion of the provisions of the bill, says:

"From time to time during the past three or four years bills have been introduced in Congress having for their object agricultural extension work, and upon these bills there has been considerable discussion. Public sentiment has gradually been crystallized on the matter until now we have before us House bill 18160, known as the Lever bill—a concrete proposition in regard to carrying the results of agricultural knowledge directly to the man on the land. Unquestionably such a plan, if properly carried out, would result in great good and would do much toward making useful and valuable the rapidly growing store of knowledge developed along agricultural lines."

(Secretary Wilson designated House bill 18160 as the bill to which he was referring. The present bill, as heretofore explained, is the substitute for that bill.)

The following are abstracts of indorsements of the bill as it was first introduced into the Senate, the present bill being practically the same measure, with only the changes to which we have heretofore called attention:

ALABAMA.

President State Agricultural and Mechanical College says it is "a splendid piece of prospective legislation."

President Alabama Polytechnic Institute: "We regard this work as one of the greatest possible good that can be rendered by the Government to our great farming interests. * * * This sort of constructive work done with the Government money seems to me is of even more value than what might be called the destructive work of the appropriations for guns and battleships."

ARIZONA.

President University of Arizona: "The newer sections of the country are in great need of the national help that such a bill as yours contemplates. * * * I am glad the whole subject is engaging the attention of Congress. * * *."

ARKANSAS.

President University of Arkansas: "I heartily approve of the bill and hope that it will be passed."

Dean and director College of Agriculture: "Senate bill 4563 * * * is a piece of proposed legislation which, to my mind, is of great importance."

CALIFORNIA.

President University of California: "There is no way in which we can do real good for the masses of our people better than through agricultural extension work. * * * There can be no question about our favoring the bill; we know what it means."

CONNECTICUT.

President Connecticut Agricultural College: "My personal opinion is that carrying of the latest scientific knowledge to the working farmer is one of the most important duties of the land-grant colleges. I sincerely hope that this bill will have favorable consideration by the present session of Congress."

DELAWARE.

President Delaware College: "I am very much pleased, indeed, to hear that the bill * * * has been read twice and referred to the Committee on Agriculture and Forestry. * * * Boys and girls of the common-school and high-school ages usually decide into what sphere of life they wish to enter. Formerly the dearth of agricultural education in that formative period rendered it impossible for the boy or girl to realize the importance of such instruction and consequently the country boy usually found a home in the city. I believe that this condition of affairs will be remedied by the operation of such a bill as you have proposed."

FLORIDA.

President University of Florida: "I sincerely hope that you will be successful in passing this measure. Our State at the present time is giving $7,500 annually for farmers' institutes and agricultural extension work. With double this amount we believe that the efficiency of the agricultural extension work would be quadrupled, as paradoxical as this may seem."

GEORGIA.

Chancellor University of Georgia: "It is the best bill for extension work that I have ever seen. It is the only bill for extension work which I have been able to read and understand. If there is any way in which I can aid in its passage I will be glad to know it."

President State College of Agriculture: "We are naturally very much gratified to see the progress you are making with your measure in the Senate, and hope Mr. LEVER will have equal success in the House."

HAWAII.

President College of Hawaii: "I have read the bill over carefully and heartily commend your efforts to secure this benefit for the large and important class of our people who are in need of its provisions. This is constructive legislation of the truest type. Efficiency and contentment in agriculture are at the foundation of the Nation's welfare. * * * I believe that extension teaching is most important of all our methods for the propagation of knowledge. * * * There is sufficient data to show that the endowment for the agricultural colleges and experiment stations and the appropriations for the Department of Agriculture must be considered as among the best investments that the Nation has ever made."

IDAHO.

President University of Idaho: "Even with the best preparation we can make, and the most generous support from the Government in all of its divisions, we expect to be swamped by applications for assistance through extension instruction. Practically every community in the State is clamoring for extension work, and only a small percentage of the requests can be complied with. With reasonable support, however, from the United States and the State, we may expect that practically the whole agricultural population of Idaho will go to school for a portion of each year."

ILLINOIS.

Vice president University of Illinois: "The bill (S. 4563) introduced by you into the Senate of the United States is one of very great importance to the people of our country, and if passed is destined to work wonderful results. It is well known to everybody who has thought on the matter that agriculture with us is in a state of low development. * * * The people of the rural districts are not sharing adequately in the general prosperity of the country, and the latter can not be maintained without a forward movement among these rural people. Everywhere of late is heard the cry, 'Back to the farm.' But until the farm becomes desirable as a source of living and of community life no adequate result can be reached. This bill will serve in a practical way to make this movement really successful. * * * The University of Illinois is doing a great deal of this work now from State appropriations. It can do much more with the aid that the bill is destined to give."

Editor Orange Judd Farmer, Chicago: "The demonstration idea has not been given great attention at the North. Its wonderful success South ought to be sufficient proof that it would be just as satisfactory at the North. We are heartily in favor of this kind of work. I am very anxious to do what I can to help this bill along."

INDIANA.

President Purdue University: "I am in favor of this kind of legislation rather than some of the other measures which are now before Congress. * * * I find the demands upon us for attention and for work which we would like to do far in excess of our resources. This kind of work is the thing now most needed in our agricultural colleges, and I hope the measure will pass."

KANSAS.

President State Agricultural College: "We shall be very glad to do anything necessary to be done to indicate the interest of the farming classes in this matter and to assure the Members of Congress that they will appreciate the enactment of a law along the line of this bill."

KENTUCKY.

Editor Home and Farm, Louisville: "The policy will result in great good. * * * Only through a better agricultural education will the farmers be able to diversify their crops intelligently, care for their soils, and increase their profits."

MAINE.

President University of Maine: "I have gone over Senate bill 4563 with very great interest. I see nothing whatever to criticize or change in the bill. If this bill becomes a law it will enable the land-grant colleges to render unusual service to the people of this country. If I can be of any service in bringing about the favorable consideration of this bill it will be a pleasure."

MASSACHUSETTS.

President Massachusetts Agricultural College: "I am more than glad to give a hearty indorsement to the bill. * * * I think that this is one of the most important educational measures ever introduced into Congress. I believe the time is ripe for a great Federal movement in popular education in agriculture and rural affairs. The States are doing something, but we need the stimulus, direction, and practical assistance of the National Government. * * * You will find the agricultural educators and farmers of America back of you in this effort to inaugurate a great movement. I know of nothing that the present Congress could do that would be more popular. I hope the bill may be passed at this session."

MICHIGAN.

President Michigan Agricultural College: "This bill has my hearty indorsement and I hope may pass. I shall do all I can to that end."

MINNESOTA.

Indorsements received from the officers of the State College of Agriculture and Experiment Stations of Minnesota.

MISSISSIPPI.

President Agricultural and Mechanical College: "I heartily indorse your bill. While I was president of the American Association of Institute Workers I delivered an address urging that such a bill be passed by the National Congress. Extension work is by far the most important work of the land-grant colleges at this time. * * * We

already have enough information to transform our agriculture if we could get the people to incorporate it in their practices."

MONTANA.

President Montana State College of Agriculture and Mechanic Arts: "I am heartily in favor of this movement, and I believe that the provisions of this bill will meet the approval of all the interests concerned. The amount required to carry out this bill is insignificant, and yet it will stimulate the States to expend several times this amount."

NEBRASKA.

Chancellor University of Nebraska: "The University of Nebraska has already organized a department of agricultural extension. For lack of funds, however, our work is conducted mainly along the line of farmers' institutes. I have read the bill, and most cordially indorse it in every particular."

NEW JERSEY.

President Rutgers College: "I am glad to express to you my emphatic indorsement of this measure and my earnest hope that it will be passed. The State Agricultural College of New Jersey, Rutgers College, is surely in position to do extension work throughout the State, and the work ought to be done."

NEVADA.

President College of Agriculture and Mechanical Arts: "I heartily approve your bill and hope that it will be adopted."

NEW HAMPSHIRE.

President New Hampshire College of Agriculture and the Mechanic Arts: "My personal belief is that if this bill is passed by Congress it will be one of the wisest pieces of legislation since the land grant act of 1862. * * * To my mind agricultural extension work is of the utmost importance at the present time. Our experiment stations have accumulated a large mass of facts and our colleges have done a wonderful work in accumulating and assimilating agricultural information of all kinds, and the most important thing we can do now is to extend this information to the farmers. This can be done only by demonstration and by other practical thorough-going methods. I hope that your bill will receive the hearty support of every Member of Congress."

NEW MEXICO.

President New Mexico College of Agriculture and Mechanic Arts: "I have read the bill with great care, and will say that I believe it to be the best of the several bills now pending before Congress which have this object in view. Whatever may be the merits of the various propositions to have the Federal Government support agricultural high schools, trade schools, district agricultural schools, and branch experiment stations, it seems clear that none of these ought to be tied up with the agricultural extension proposition, of which almost everybody is in favor. The Association of Agricultural Colleges at its recent meeting took the position that the support of agricultural extension work was the most important advance movement to be accomplished by legislation at this time."

NEW YORK.

President Cornell University: "It is a species of instruction which appeals to the public more than college instruction or investigation, for which provision has been made in previous acts of Congress."

NORTH CAROLINA.

President College of Agriculture and Mechanic Arts: "There is no work which the Nation can do now which would tell more for material progress than the extension work which would be so healthfully aided by your bill. If there is anything that our farmers need more than another it is for some one to carry directly to them the vast amount of scientific knowledge about crops and methods which has been made available in the past few years. The passage of this bill would give an opportunity to do this thing, and I am sure no step could count more for progress than would be taken by such action on the part of our Congress."

NORTH DAKOTA.

President North Dakota Agricultural College: "A resolution was adopted at the Tri-State Grain Growers' Convention indorsing the passage of your bill, and, as president of the convention, I sent copies of the resolution to the members of both houses in Minnesota and the two Dakotas. I trust the bill will find favor with both Congressmen and Senators and become a law."

OHIO.

Dr. Thompson, of the University of Ohio, appeared in person before the committee, advocating the bill.

OKLAHOMA.

President Oklahoma Agricultural and Mechanical College: "I am in hearty sympathy with the purpose of your bill."

OREGON.

President Oregon Agricultural College: "I am in hearty accord with all the provisions of this bill. I have already written Members of the Oregon delegation, urging that they give it their support. The Oregon State Agricultural College has a regularly organized department or division for extension work in agriculture and home economics. One great need is for money with which to carry on this work. I sincerely trust that your bill may be passed by the present Congress."

PENNSYLVANIA.

President Pennsylvania State College: "Let me thank you for copy of Senate bill 4563. * * * Wishing the bill success and thanking you for your efforts for the benefit of public education, I am, * * *."

Secretary State Horticultural Association of Pennsylvania: "I take this opportunity to especially commend Senate bill 4563, introduced by you, and to assure you of the interest and support of this association. This is a matter of immediate need and far-reaching advantage to the agricultural interests of the country. I sincerely hope that it may become a law."

RHODE ISLAND.

President Rhode Island State College: "I heartily approve of your bill and have no criticisms to make. This college has been prosecuting extension work for seven or eight years, laboring under the difficulty of lack of funds. * * * I am anxious to do whatever is possible to aid in the passage of this measure, and have written our Senators accordingly."

SOUTH CAROLINA.

President Clemson Agricultural College: "I have read this bill with a great deal of interest. * * * I consider it one of the most important pieces of constructive legislation proposed since the Hatch Act, establishing the agricultural experiment stations. There is no question but that the great need to-day is the dissemination of agricultural information among our rural people. We would welcome the passage of such a bill as yours, and assure you that we would try to make its application in South Carolina of the greatest usefulness to our people."

SOUTH DAKOTA.

President South Dakota State College: "The cause is one that has our hearty indorsement. I have not been negligent of Senate bill 4563. I believe that our delegation will support it."

Principal, School of Agriculture: "I think our farming people * * * have almost no realization of the advantages that will come from legislation of this kind. * * * I feel positive that this work will greatly advance the agricultural interests of this great State of South Dakota."

TENNESSEE.

President University of Tennessee: "I am heartily in favor of the passage of this act. I believe the work contemplated by it to be of the greatest importance. I will be glad to do anything in my power to influence its passage."

TEXAS.

President Agricultural and Mechanical College: "If this bill should become a law, I am sure that it will mark a new era in agricultural education among the masses in America. * * * I can think of no expenditure of money by the Government that would be more remunerative to the Nation and which would redound to the amelioration of so large a number of our most deserving fellow citizens."

Editor Farm and Ranch: "This is a very important measure and one that should be passed without opposition."

UTAH.

President Agricultural College of Utah: "Utah established an agricultural extension department several years ago. * * * We are unable, however, with the means at our disposal, to meet the demands made upon us. * * * You are at perfect liberty to quote the officials of the Utah Agricultural College as being in very hearty sympathy with any measure for the promotion of our industrial life through the development of extension work among the farmers and farmers' wives throughout the country. It is possibly the most important work now lying before the agricultural colleges, since it permits the proper distribution among those who need it of the splendid mass of facts gathered by the agricultural experiment stations."

VIRGINIA.

President Virginia Polytechnic Institute: "This is by far the best proposition which has yet come forward. * * * The bill seems carefully drawn, and I can most heartily indorse it."

WASHINGTON.

Vice president State College of Washington: "I have been waiting a little to find what was recommended by the meeting of the agricultural college representatives and find that they are all of them backing this particular bill. There is certainly a large demand for more extension work in the country. We need to rationalize our education and make it more helpful to the young men and young women who do not expect to enter professional life. I will write to our Representatives and Senators and ask for their hearty cooperation in the passage of Senate bill 4563."

WEST VIRGINIA.

President West Virginia University: "I thank you very much for a copy of the bill sent, and hasten to express my wish that it may become a law. * * * This is one of the greatest works for the benefit of the entire country to which public money can be devoted. It is through the extension work, and through it alone, as far as I can see, that the people of most of our rural communities can be thoroughly awakened to the need and value of agricultural education. The proposed bill seems to me to be satisfactory in every detail, and I hope that you will be successful in securing its passage."

Dean and director College of Agriculture, West Virginia University: "I am sending out a letter to some of our leading people urging the support of your bill, and would like to send a copy of the bill with these letters. * * * We shall give this measure every support possible."

WISCONSIN.

Dean University of Wisconsin: "Senate bill 5463 * * * is, to my mind, the most suggestive measure that is under consideration in Congress for the advancement of the agricultural welfare of the Nation. What is needed most imperatively is the carrying of present agricultural knowledge to the men on the farm. * * * The agricultural extension service is the only way in which this can be most effectively accomplished, and your bill most satisfactorily fulfills this need. * * * We in Wisconsin will do all that we can to aid in the passage of this measure."

Secretary Wisconsin Country Life Conference Association: "The following resolution was unanimously adopted by the conference association, representing all the varied interests of country life and rural progress in all parts of Wisconsin:

"'*Resolved*, That it is the sentiment of this conference association that we urge our Representatives in Congress to support the bill "To establish agricultural extension departments in connection with the agricultural colleges in the several States, etc." House bill 18160, Senate bill 4563.'

"I take pleasure in acquainting you with representative Wisconsin sentiment on this measure."

Secretary Wisconsin Live Stock Breeders' Association: "Inclosed herewith please find copy of resolution passed unanimously by the Wisconsin Live Stock Breeders' Association, an organization representing all of Wisconsin's best live-stock breeders:

"'MADISON, WIS., *February 8, 1912.*

"'*Resolved*, That the Wisconsin Live Stock Breeders' Association assembled in annual convention heartily indorses the principle of Government aid to agricultural college extension as embodied in the Lever bill (House bill 18160), and that we authorize the secretary of this association to send a copy of these resolutions to the chairmen of the Senate and House Committees on Agriculture and to Members of the Wisconsin delegation in Congress.'"

Secretary National Association of State Universities: "I am deeply interested in your Senate bill 4563. The bill ought to pass, and I should be glad to cooperate with you in any way within my power to bring about the desired result."

Mr. W. O. Thompson, member executive committee Association of American Agricultural Colleges and Experiment Stations and president Ohio State University: "As chairman of the executive committee of the Association of American Agricultural Colleges and Experiment Stations I should be very much pleased to be heard before the committees of both the House and Senate. As a little evidence of our interest, I may say that we started agricultural extension four years before the legislature authorized it, and had as many as 8,000 boys on the farms doing experimental work. * * * The Agricultural College Association expressed itself very decidedly last November in favor of agricultural extension."

Secretary New England Conference on Rural Progress: "At a meeting of the New England Conference on Rural Progress, March 8, at the offices of the State board of agriculture, statehouse, Boston, the following resolutions were unanimously voted:

"'Recognizing the latent possibilities of the New England States for agricultural development, especially along certain high-class, specialized lines and realizing that this development can be most speedily and effectively brought about through well-organized extension teaching in agriculture, the New England Conference on Rural Progress—representing more than 70 organizations interested in rural life—to-day assembled in convention in the city of Boston, would respectfully urge upon Congress the necessity and advisability of passing legislation granting Federal funds for the development of extension teaching in agriculture. Of the bills now before Congress we believe Senate bill 4563 and House bill 18160 to be the wisest and most practical forms of legislation yet proposed.'

"The delegates represent the agricultural colleges, the experiment stations, the State granges, and various special agricultural, live stock, dairying, and other organizations and agencies of New England."

State superintendent of farmers' institutes, Lansing, Mich.: "At the Michigan State Round-up Farmers' Institute, held at this place on February 27 to March 1, at which representative farmers from more than 50 of the counties of the State were present, the following resolution was adopted:

"'Whereas Representative A. F. LEVER, of the seventh district of South Carolina, has introduced a bill to establish agriculture extension departments in connection with agricultural colleges in the several States receiving the benefits of an act approved July 2, 1862, and acts supplementary thereto, and referred to the Committee on Agriculture: Therefore

"'*Resolved*, That the members of the Seventeenth Annual Farmers' Institute Round-up, in session at the Michigan Agricultural College, ask and urge its Senators and Members of Congress to favor the passage of this bill.'

"I would say that, in addition to the above delegates, the executive officers of the State Grange, State Federation of Farmers' Clubs, State Horticultural Society, and nearly 1,000 farmers were present and voted unanimously for the resolution."

Editor Agricultural Epitomist, Spencer, Ind.: "I congratulate you on so far-reaching a measure as Senate bill 4563 is intended to be. If Congress does nothing else than pass this bill, it will justify the wisdom of the forefathers."

UNION CITY, GA., *February 26, 1912.*

Dr. A. M. SOULE

(*Care Hon. Hoke Smith*), *Washington, D. C.:*

Resolutions adopted by Georgia Farmers' Union that the bills now pending in Congress which propose to appropriate a sum of money to each State for agricultural education, providing the State will appropriate a similar amount, known as House bill 18160 and Senate bill 4563, be heartily indorsed and supported.

J. F. MCDANIEL, *Secretary-Treasury.*

The committee recommends the passage of the bill as it came from the House, with only the following amendment:

On page 5, line 14, strike out the words "duly appointed by the governing boards of said colleges," and insert "of the State, duly authorized by the laws of the State."

During the reading of the report,

Mr. SMOOT. Mr. President, I should like to ask the Senator from Georgia if he would be satisfied to have the report printed in the RECORD without further reading?

Mr. SMITH of Georgia. There are a few suggestions I desire to make about it a little later on. This is the noon hour, and I would rather let the reading continue for the present, because when Senators get through with their lunch the probabilities are that there will be more of them in the Senate Chamber a little later on.

Mr. SMOOT. I thought there were so few in the Chamber that it would make no difference to the Senator if the report were printed in the RECORD without further reading.

The PRESIDING OFFICER. The Senator from Georgia requests that the reading be completed.

After the reading of the report had been concluded,

Mr. SMITH of Georgia. Mr. President, the Senator from Vermont [Mr. PAGE] has a substitute which he intends to offer to the pending bill, and I think this would probably be an appropriate time for him to offer it.

Mr. PAGE. I move, touching the bill now before the Senate, House bill 22871, to strike out all after the enacting clause and substitute what I send to the desk.

Mr. SMITH of Georgia. Before the Secretary reads the substitute, I would like to say to the Senate that under the provisions of the bill which the House has passed, to make the appropriations effective, with the exception of $10,000 to each State, duplicate appropriations must come from the respective States. It is also necessary that the States should accept the plan.

Nearly every State in the Union has its legislature in session at the present time. A number of the States will have no legislatures in session again for two years. It is, therefore, of very great importance that this House bill should pass as speedily as possible, so that the legislatures of the respective States may at once take up the subject of the acceptance of the provisions of the bill and of the appropriations which the respective States must make.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. WORKS. If no Senator desires to discuss this joint resolution, I ask that the unfinished business be temporarily laid aside. It would be an excellent opportunity for discussion, if Senators desire.

The PRESIDING OFFICER. The Senator from California asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none. The Senator from Georgia will proceed.

Mr. SMITH of Georgia. Mr. President, I only desire at this time to urge upon the Senate the importance of speedy action upon this bill. The Senator from Vermont has offered as a substitute the measure which has been pending for some time before the Senate, known as the Page vocational-educational bill. Whether the Senate adopts his substitutes or adopts the original bill, if we are to have legislation at this session of Congress it is important that action should be speedily taken.

Of course if the Senate adopts the substitute of the Senator from Vermont, it must go to conference, and we will see what can be done as a result of the conference. If the Senate adopts the bill as it has passed the House, we have the legislation certain, the House already having acted upon it.

But whatever may be the vote of the Senate, whether for the substitute of the Senator from Vermont or for the bill as it comes from the House, I wish to beg that the Senate give very speedy time for the hearing. If the bill passes as it comes from the House and we notify the States at once, nearly every State in the Union will through its legislature act upon this matter within the next two months.

I will not discuss the merits of the two measures just now, but I wish to ask Senators to consider whether we may not fix a day, within the next two or three days, when we will take up and dispose of this bill, together with the substitute of the Senator from Vermont. I do not think the debate would last long. I should like to request the Senator from Vermont to state what he thinks about it.

Mr. PAGE. I would be very glad, indeed, to know that the Senate would take up this substitute measure and discuss it at length, but I regret to say that my efforts to bring about a discussion have not yet been successful. I had hoped, and I join with the Senator from Georgia in the opinion, that there will not be much discussion on this measure. I also am very anxious that it shall receive early consideration, as suggested by the Senator from Georgia.

Mr. SMITH of Georgia. Mr. President——

Mr. GALLINGER. Will the Senator yield to me for a moment?

Mr. SMITH of Georgia. Certainly.

Mr. GALLINGER. I observe the Senator from Vermont suggested that he would like to have the bill discussed at length and then modified his statement. It seems to me that no lengthy discussion is needed. The Senator from Vermont has made one or two very illuminating speeches, and the Senator from Georgia is now discussing the measure. I am not quite sure how I shall vote, but this is a very important matter, and it does seem to me that we ought to get a vote without any very lengthy discussion of it.

Mr. SMITH of Georgia. I do not think I will wish to take over half an hour. I spoke before very briefly upon the House bill. The bill of the Senator from Vermont contains also, in a modified form, the measure which has been sent us from the House. As I understand it, no one is opposed to the agricultural extension work. We are all for that.

Mr. GALLINGER. It is a mere question of form, rather than substance

Mr. SMITH of Georgia. Well, as to the form, it is not so important. The real difference between the substitute of the Senator from Vermont and the House bill is whether just at this time we shall stop with the agricultural extension work or whether we are ready now to undertake to go further with the vocational educational work, and also whether we are satisfied with the measure for vocational educational work as it is presented.

I wish to disclaim opposition to the vocational educational work. I am for it. To-night the Senator from Vermont and I are to meet with a gentleman whom he regards as a special master of this subject to see if there is objection to the way in which the proposed substitute for the House bill provides vocational education.

I hope to be able while I am in the Senate to vote for a vocational educational bill. I have some doubt as to the details of this particular bill, but I am——

Mr. GALLINGER. If the Senator will permit me just a moment——

Mr. SMITH of Georgia. Certainly.

Mr. GALLINGER. I did not mean when I said it was a matter of form that there was no difference in the details. I understand perfectly the difference in the bills, and it is for the Senate to decide which, in the judgment of the Senate, is the better measure. Personally, while I am very strongly in favor of some legislation, I trust the suggestion the Senator has just made that there is to be a consultation may result in a compromise bill.

Mr. SMITH of Georgia. I wish to say that the Senator from Vermont has been just as courteous about his bill as a man possibly could be. He has urged me to suggest amendments where I felt there was just criticism. But I have not been able to satisfy myself about just what shape the measure should take. I would rather see his substitute pass and go to conference than not to have either the substitute or the original bill pass. I do not think the debate upon the bill will last two hours if we set a time for action upon it.

Mr. SMOOT. I suggest to the Senator that perhaps we can get to a vote at an earlier date by not agreeing upon a time. If there is to be no discussion and the Senate is ready to vote, it seems to me to be more likely that we can vote upon it at a much earlier date than if we should set a day at some future time.

Mr. SMITH of Georgia. Unless we set a date just a couple of days off. I think a good many Senators who are now absent wish to be present when the vote is taken. I stated to the Senator from Vermont and to the Senator from Utah that I would not undertake to press the bill to a vote to-day, because I understood there were Senators interested in the measure who would be absent.

Mr. SMOOT. That is true. Therefore it would be better not to ask for a unanimous-consent agreement at this time to fix a day. I believe that the quicker way to secure the passage of the bill would be to bring it up and discuss it, and when the discussion is through to vote on it.

Mr. SMITH of Georgia. Mr. President, just a word or two further to the Senate with reference to the subject.

The substitute that has been offered contains about seven or eight different provisions for the contribution of money to educational work. The first is to schools of a secondary grade, what we would usually term high schools. They are divided into two classes, those that have an equipment or a plant for manual training and those that have not. It appropriates $3,000,000 to be used toward the introduction of vocational work, manual training, and household economics into the latter class of schools. Then it puts $3,000,000 into those that have plants especially for vocational education. So $6,000,000 is to go to the secondary schools, which are the high schools, half of it to those that have a special plant or equipment for manual training or industrial schools exclusively and the other half to schools of secondary grade, even though they are generally engaged in high-school educational work free from vocational training.

It also appropriates money to the colleges of agriculture to establish a chair for the education of teachers on these lines. It also appropriates money to establish a chair in the normal schools for the training of teachers on these lines. It appropriates money for additional experiment stations throughout the States. It appropriates money to establish an agricultural high school in each congressional district.

These are the elements of appropriation which the substitute contains that are not covered by the House bill. In all, the Page substitute appropriates $13,000,000 for the purposes named not covered by the House bill. It also appropriates, in round sums, $3,000,000 to be used by the colleges of agriculture for the establishment of extension departments, to enable the colleges of agriculture and experiment stations to carry the information which they have gathered during the past 50 years and the truths that they have made clear by their experiment stations and demonstrate them alongside the home of the farmer.

The farm-demonstration work is one of seven things that the bill of the Senator from Vermont undertakes to do. That is the only thing the bill sent us by the House undertakes to do.

As to that particular work—the establishment of extension departments in the colleges of agriculture—each bill has exactly the same purpose. It might be said for the bill which has come to us from the House that it has been worked out a little more completely in detail and is in more perfect shape than the measure as it is found in the bill of the Senator from Vermont.

The friends of each measure approve the House bill. There is no conflict between us or between the advocates of either of the bills as to the wisdom of passing the House bill. The Page bill contains it as one of more than half a dozen things which it undertakes.

There is much that the Page bill undertakes to do that I am exceedingly desirous of seeing done. I am not satisfied that it is yet worked out in detail in a manner to suit the condition of the States and to justify the appropriations. If I had the control of both, and if I could satisfy the Senator from Vermont, I would say pass the House bill as it had been sent to us, and then pass a joint resolution and send it to the House providing for the appointment of a commission of about 25 men, each from a different State, two-thirds of them engaged in educational work, to whom the vocational bill might be referred, so that they could give us a more detailed plan for the work, with more perfect limitations as to the way in which the money is to be spent.

But I do not expect to make any fight upon the bill of the Senator from Vermont. I simply wish to point out the trouble in my mind upon it. I am so cordially in favor of doing something in that line that I hesitate even to criticize its details.

Now, I suppose the substitute of the Senator from Vermont will be read.

The PRESIDING OFFICER. The Senator from Vermont [Mr. PAGE] has offered Senate bill No. 3 as a substitute for House bill 22871. The substitute bill, as the Chair recalls it, has already been read, and it will be considered as read now.

Mr. PAGE. I am not positive that it has been read in its present form.

The PRESIDING OFFICER. The Chair is so informed.

Mr. PAGE. The Secretary will know.

Mr. GALLINGER. I think it has been read.

The PRESIDING OFFICER. It has been read.

Mr. PAGE. Mr. President, I wish to say in answer to what the Senator from Georgia has said—and I will take just a moment—that so far as I am concerned I am willing to submit my amendment to his bill to a vote this afternoon; but perhaps that had best not be done, because I have no doubt the Senator and myself can get together in a friendly way and discuss it to-night and improve the measure in some way. But as far as I am concerned I would be glad to have the earliest possible date named for a vote on the bill.

The PRESIDING OFFICER. Without objection, the substitute will be considered as having been read, and it is pending.

The amendment submitted by Mr. PAGE is to strike out all after the enacting clause of the bill and to substitute the following:

CONSTRUCTION.

That the following words and phrases, as hereafter used in this act, shall, unless a different meaning is plainly required by the context, have the following meanings:

First. "School of secondary grade" or "secondary school" or "high school" shall mean a school offering studies and courses of lower than college grade which are designed to provide vocational education in agriculture and home making for persons above 12 years of age and in the trades and industries for persons above 14 years of age; and which, by courses of training approved under the provisions of this act, give vocational instruction in all-day classes to those persons who are preparing for agricultural, industrial, or home-making occupations; or in part-time and continuation classes to persons engaged in or experienced in agricultural, industrial, or home-making vocations; or in evening classes to persons above 16 years of age employed during the day in the respective vocations for which they are given instruction.

Second. "State college of agriculture and the mechanic arts" shall mean a college now receiving, or which may hereafter receive, the benefits of the act of Congress of July 2, 1862, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts" and of acts supplementary thereto.

Third. "Agricultural-extension department or division" shall mean a department or division which is established under the provisions of this act and under the direction of a State college of agriculture and the mechanic arts in any State, and which gives instruction and demonstrations in agriculture and home economics to persons not residing at said college nor at the district agricultural schools provided for in this act and which conveys or imparts to such persons information on such subjects through field demonstrations, publications, and otherwise.

Fourth. "Separate industrial or home economics school" shall mean a school fitting for useful service in the trades and industries and the home, and having a separate plant and equipment, and separate organization of teachers and courses of study.

Fifth. "District agricultural high school" shall mean a separate agricultural school of secondary grade, in a district composed of a group of counties, and located on a farm.

Sixth. "Branch station" shall mean a branch of a State experiment station conducting field tests and breeding work, and located on a district agricultural high-school farm.

APPROPRIATIONS.

SEC. 2. That the several sums as herein provided in section 3 to section 10, inclusive, be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be paid, as hereinafter provided, to the respective States and the District of Columbia and to the Federal departments named herein, for instruction in agri-

culture, the trades and industries, and home economics, for agricultural tests and demonstrations, and for administrative purposes.

SEC. 3. That for the maintenance of instruction in agriculture, the trades and industries, and home economics in departments or divisions of schools of secondary grade, other than the separate industrial or home economics schools and the separate district agricultural high schools for which provision is hereinafter made, the sum of $3,000,000 annually, beginning with the fiscal year ending June 30, 1916, such sum to be allotted annually to the States and the District of Columbia in proportion to their population as shown by the Federal census next preceding the year for which such allotment is made. The moneys appropriated under this section shall be known as the secondary school department fund.

SEC. 4. That for the maintenance of instruction in the trades and industries and home economics in separate industrial or home economics schools of secondary grade, the sum of $3,000,000 annually, beginning with the fiscal year ending June 30, 1916, such sum to be allotted annually to the States and the District of Columbia in proportion to their population engaged in trades and transportation and in manufacturing and mechanical pursuits as shown by the Federal census next preceding the year for which such allotment is made. The moneys appropriated under this section shall be known as the industrial or home economics school fund.

SEC. 5. That for the maintenance of instruction in agriculture and home economics in district agricultural high schools of secondary grade as hereinafter provided, the sum of $3,000,000 annually, beginning with the fiscal year ending June 30, 1916, such sum to be allotted annually to the States in proportion to the number of persons engaged in agricultural pursuits as shown by the Federal census next preceding the year for which such allotment is made; and for each State with less than 100,000 people engaged in agriculture, according to such Federal census, the additional sum of $5,000 for the fiscal year ending June 30, 1916, and annually thereafter. The moneys appropriated under this section shall be known as the district agricultural high-school fund.

SEC. 6. That for the maintenance of branch stations, as provided for in this act, the sum of $1,000,000 annually, beginning with the fiscal year ending June 30, 1916, to be allotted annually to the States in proportion to the number of persons engaged in agricultural pursuits as shown by the Federal census next preceding the year for which such allotment is made; and for the maintenance of such branch stations in each State with less than 100,000 people engaged in agriculture, according to such Federal census, the additional sum of $2,000 for the fiscal year ending June 30, 1916, and annually thereafter. The moneys appropriated under this section shall be known as the branch-station fund.

SEC. 7. That for the support in each State college of agriculture and the mechanic arts of an extension department or division, the sum of $640,000 annually, beginning with the fiscal year ending June 30, 1913, of which annual appropriation $10,000 shall be allotted to each of the 48 States for the benefit of such extension departments; and for the maintenance of such extension departments, the additional sum of $460,000 for the fiscal year ending June 30, 1914; the additional sum of $700,000 for the fiscal year ending June 30, 1915; the additional sum of $1,000,000 for the fiscal year ending June 30, 1916; the additional sum of $1,300,000 for the fiscal year ending June 30, 1917; the additional sum of $1,600,000 for the fiscal year ending June 30, 1918; the additional sum of $1,900,000 for the fiscal year ending June 30, 1919; the additional sum of $2,200,000 for the fiscal year ending June 30, 1920; the additional sum of $2,500,000 for the fiscal year ending June 30, 1921, and annually thereafter; these additional sums to be allotted annually to the States in proportion to their population engaged in agriculture, as shown by the Federal census next preceding the year for which such allotment is made. The moneys appropriated under this section shall be known as the extension work fund.

SEC. 8. That for the preparation of teachers to give instruction in or closely related to agriculture, the trades and industries, and home economics, in departments or divisions of education in the State colleges of agriculture and the mechanic arts of the respective States, the sum of $640,000 for the fiscal year ending June 30, 1913, and annually thereafter; of which annual appropriation $20,000 shall be allotted for the use and benefit of said departments or divisions of education in land-grant colleges in each of the 16 States which maintain separate land-grant colleges for persons of the colored race, $10,000 of which shall be for the education of persons of the white race and $10,000 for the education of persons of the colored race; and $10,000 shall be annually allotted for the use and benefit of said departments or divisions of education in each of those States which do not maintain separate land-grant colleges for persons of the colored race. The moneys appropriated under this section shall be known as the college teachers' training fund.

SEC. 9. That for the preparation of teachers to give instruction in or closely related to agriculture, the trades and industries, and home economics in State normal schools and in other schools furnishing special training for teachers, the sum of $1,000,000 annually, beginning with the fiscal year ending June 30, 1913, to be allotted annually to the States and the District of Columbia in proportion to their population as shown by the Federal census next preceding the year for which such allotment is made; and, for such instruction as in this section is provided, in each State with less than 300,000 inhabitants the additional sum of $3,000 for the fiscal year ending June 30, 1913, and annually thereafter. The moneys appropriated under this section shall be known as the normal teachers' training fund.

SEC. 10. That the sum of $40,000 annually, beginning with the fiscal year ending June 30, 1913, to be expended under the direction of the Secretary of the Interior in paying the necessary expenses of administering the provisions of this act relating to schools of secondary grade and to the preparation of teachers in agriculture, trades and industries, and home economics; the sum of $20,000 annually, beginning with the fiscal year ending June 30, 1913, to be expended under the direction of the Secretary of Agriculture in paying the necessary expenses of administering the provisions of this act relating to extension departments or divisions and branch stations; the sum of $15,000 annually, beginning with the fiscal year ending June 30, 1913, to be expended by the Secretary of Agriculture in paying the necessary expenses of giving advice and assistance, as herein provided, to the Secretary of the Interior in the administration of the provisions of this act relating to all schools of secondary grade giving training in agriculture and home economics, and to the preparation of teachers in these vocations; the sum of $15,000 annually, beginning with the fiscal year ending June 30, 1913, to be expended under the direction of the Secretary of Commerce and Labor in paying the necessary expenses of giving advice and assistance, as herein provided, to the Secretary of the Interior in the administration of the provisions of this act relating to instruction in the trades and industries and to the preparation of teachers for these vocations. The moneys appropriated under this section shall be known as the administration fund.

SEC. 11. That the Secretary of the Interior is hereby charged with the duty, and to him is hereby given all necessary power, to administer the provisions of this act relating to all schools of secondary grade and to the preparation of teachers in agriculture, the trades and industries, and home economics as herein provided; to secure advice and assistance from the Secretary of Agriculture and the Secretary of Commerce and Labor in carrying out the provisions of this act, in the making of investigations concerning education in the industries, home economics, and agriculture, and in the making of reports thereon; to cooperate with the State boards for vocational education herein provided for the respective States and the District of Columbia in developing the work of such secondary schools and in the training of such teachers; and to give to such boards for vocational education such advice and assistance as will best enable them to carry out the provisions of this act.

SEC. 12. That the Secretary of Agriculture is hereby charged with the duty, and to him is hereby given all necessary power to administer the provisions of this act relating to extension departments and branch stations; to make investigations and studies relating to the work of such departments and branch stations, and to issue reports thereon; to cooperate with the authorities of the State colleges of agriculture and the mechanic arts and the State experiment stations in developing the work of such departments and branch stations and in giving such State experiment stations such advice and assistance as will best enable them to carry out the provisions of this act; and to aid the Secretary of the Interior by giving advice and assistance to him in carrying out the provisions of this act relating to instruction in agriculture and home economics in schools of secondary grade and to the preparation of teachers for these vocations, and to make such investigations in relation to agriculture and home economics and such reports thereon as may be necessary in discharging this responsibility.

SEC. 13. That the Secretary of Commerce and Labor is hereby charged with the duty, and to him is hereby given all necessary power to aid the Secretary of the Interior by giving advice and assistance to him in carrying out the provisions of this act relating to instruction in the trades and industries in schools of secondary grade and to the preparation of teachers for these vocations, and to make investigations relating to education and research in the trades and industries and issuing reports thereon.

SEC. 14. That in order to secure the benefits of any fund provided for in this act any State shall, through the legislative authority thereof, accept the provisions of this act relating to such fund, and shall appoint the State treasurer custodian, to be known as custodian for vocational education, for all moneys received by such State under this act, and shall provide for the proper custody administration, and disbursement of such moneys, as herein provided; and the District of Columbia shall, through the commissioners thereof, accept the provisions of this act, and shall appoint a custodian of all the moneys received by the District of Columbia under this act, to be known as custodian for vocational education, and shall provide for the proper custody, administration, and disbursement of such moneys. Any State or the District of Columbia may accept the benefit of any one or more of the respective funds herein appropriated to it, and may defer the acceptance of the benefit of any one or more of such funds, and shall be required to meet only the conditions imposed in relation to those funds the benefit of which it has accepted.

SEC. 15. That no State or the District of Columbia shall be entitled to the benefit of the secondary-school department fund, the industrial or home-economic school fund, the district agricultural high-school fund, the college teachers' training fund, or the normal teachers' training fund until the legislative authority thereof shall, by law, have created or designated a board of control, to be known as the board for vocational education, consisting of not less than three members, and having all necessary power to cooperate with the Secretary of the Interior in the administration of the provisions of this act relating to such schools of secondary grade and to such training of teachers; and such a board for vocational education for any State or the District of Columbia may consist of the board of education or other body having charge of the administration of public education therein.

SEC. 16. That no State shall be entitled to the benefit of the district agricultural high-school fund until it has, through the legislative authority thereof or through its board for vocational education, divided the State into districts, providing in each district for one district agricultural high school and in connection therewith a branch station, the total number of such districts and branch stations in a given State to be not less than one for each 15 counties nor more than one for each 5 counties and fraction of 5 counties; and in any State where separate district agricultural high schools are provided for the negro race the legislative authority of such State may divide the entire State into districts, providing in each district for one school for the white race, and may divide the entire State into other and different districts, which need not be coterminous with those for the white race, providing in each such district for one school for the negro race; but the total number of such schools for the white and the negro races in such a State shall not be less than one for each 15 counties nor more than one for each 5 counties or fraction of 5 counties. Any district agricultural high school shall be open to admission without tuition charges and upon the same conditions to all persons, otherwise qualified as herein provided, residing in the district in which such school is located; but such school may be supported and controlled by the State, or by the district in which it is located, or by a portion thereof.

SEC. 17. That no State shall be entitled to the benefit of the branch station fund until its legislative authority shall, by law, have provided for one branch station in connection with each district agricultural high school receiving funds under this act, and shall have provided as an appropriation for the annual maintenance of such branch stations a sum at least equal to that allotted annually for this purpose to the State under this act; and the sum paid to each State for branch stations shall be applied only to paying the necessary expenses of conducting, by such branch stations, field tests, plant breeding, and other scientific work bearing directly on the occupation of agriculture in the United States, having due regard for the varying conditions and needs of the respective States.

SEC. 18. That no State shall be entitled to any part or all of its allotment for extension department work until its legislative authority shall, by law, provide for the establishment of an extension department or division in the State college of agriculture and the mechanic arts as herein provided, and shall have provided as an appropriation for that work an amount at least equal to the amount annually allotted to the State for such extension work under this act.

SEC. 19. In order to secure the benefit of the secondary school department fund, the industrial or home economics school fund, the district agricultural school fund, the college teachers' training fund, or the normal teachers' training fund, the board for vocational education for each State and the District of Columbia shall adopt, with the approval of the Secretary of the Interior, and place in operation a general administrative scheme or plan, with such modifications as may be made from time to time, for the proper distribution of moneys to school of secondary grade and to colleges and normal schools as herein provided; for the inspection and approval of such schools and colleges under the provisions of this act; and for the formulation and application in such inspection and approval of standards and requirements in vocations; education as to types of schools, location, course of study, qualifications of teachers, methods of instruction, conditions of admission, and employment of pupils. In order that such a plan may be adapted to the needs of the State or the District of Columbia in which it is to become operative, the Secretary of the Interior shall, in passing upon it and its modifications from time to time, take into consideration the social, economic, industrial, educational, and administrative conditions, and all other relevant circumstances in such a State or the District of Columbia. It shall be the duty of such board for vocational education for any State or the District of Columbia to make annually to the Secretary of the Interior a full and detailed report of its administration of the provisions of this act relating to all such schools of secondary grade and to the training of teachers in colleges and normal schools as herein provided, and to make such additional statements and reports as may be required by the Secretary of the Interior in the discharge of his responsibility under this act.

SEC. 20. That it shall be the duty of the board of trustees or other authority having charge of any State college of agriculture and the mechanic arts receiving the benefit of the extension work fund to administer the provisions of this act relating to such extension work, under general plans approved by the Secretary of Agriculture; to cooperate with the Secretary of Agriculture in the development of such work; to make to the Secretary of Agriculture a full and detailed report of its operations in the direction of extension work as defined in this act, including a detailed statement of receipts and expenditures from all sources for this purpose, and to make such additional statements and reports as may be required by the Secretary of Agriculture in the discharge of his responsibility for such extension work under this act.

SEC. 21. That it shall be the duty of the board of trustees or other authority having charge of any State experiment station receiving the benefit of the branch station fund to administer the branch station work herein provided in accordance with the provisions of this act and as a part of such State experiment station, under general plans approved by the Secretary of Agriculture; to cooperate with the Secretary of Agriculture in the development of the work of such branch stations; to make to the Secretary of Agriculture a full and detailed report of all its operations in branch station work as defined in this act, including a detailed statement of receipts and expenditures from all sources for this purpose, and to make such additional statements and reports as may be required by the Secretary of Agriculture in the discharge of his responsibility for such branch stations under this act.

SEC. 22. That any school of secondary grade, or school or college for the preparation of teachers in agriculture, the trades and industries, and home economics, receiving funds under this act in any State or the District of Columbia shall, in order to receive the benefits of this act, conform to the requirements of the board for vocational education of such State or the District of Columbia; shall cooperate with such board in the development of the work of such school or college as herein provided; shall make to the board for vocational education of such State or the District of Columbia a full and detailed report of its operations in the administration of the funds received by it under this act, including a detailed statement of receipts and expenditures from all sources for this purpose; and shall make such additional statements and reports as may be required by such board for vocational education in the discharge of its responsibility for such school under this act.

SEC. 23. That in order that any State or the District of Columbia may receive the benefit of the secondary-school department fund, the industrial and home-economics school fund, the district agricultural high-school fund, the college teachers' training fund, or the normal teachers' training fund under this act, it shall be the duty of the custodian for vocational education of such State or the District of Columbia, as herein provided, to make annually to the board for vocational education of such State or the District of Columbia a full and detailed report of his administration of the moneys received by him from such fund, as herein provided; and in order that any State may receive the benefit of the extension-work fund or the branch-station fund under this act it shall be the duty of such custodian to make annually to the Secretary of Agriculture a full and detailed report of his administration of the moneys received by him from such fund as herein provided, and to make from time to time such additional statements and reports relating to moneys received by him from the secondary-school department fund, the industrial and household arts school fund, the district agricultural high-school fund, the college teachers' training fund, or the normal teachers' training fund as may be required by such board for vocational education, and such additional statements and reports relating to moneys received by him from the extension-work fund or the branch-station fund as may be required by the Secretary of Agriculture in the discharge of their respective responsibilities under this act.

SUPPORT.

SEC. 24. That the Secretary of the Interior shall annually, upon the basis of the annual reports and recommendations made by the board for vocational education for any State or the District of Columbia, together with such additional investigations as he may make in the discharge of his responsibility, ascertain whether such State or the District of Columbia is using the moneys received by it out of the secondary school department fund, the industrial or home economics school fund, the district agricultural high school fund, the college teachers' training fund, or the normal teachers' training fund, in accordance with the terms of this act. On or before the 1st day of July in each year after this act becomes operative he shall certify to the Secretary of the Treasury as to each State or the District of Columbia whether it has complied with the provisions of this act and is entitled to receive its share of such fund, as herein provided, for such State or the District of Columbia and the amounts from such fund which each State or the District of Columbia is entitled to receive. Upon the certification of the Secretary of the Interior, as herein provided, the Secretary of the Treasury shall pay quarterly in advance to the custodian for vocational education of such State or the District of Columbia the moneys to which it is entitled for such schools under this act. Upon the requisition of the board for vocational education of such State or the District of Columbia, such custodian shall pay to the governing board of any school of secondary grade, or school or college preparing teachers in agriculture, the trades and industries, and home economics, or other authority legally qualified to receive moneys for such school or college, the sum which it is entitled to receive under the provisions of this act.

SEC. 25. That the Secretary of Agriculture shall annually ascertain through investigations and reports whether the States receiving the benefit of the extension work fund or the branch station fund under the provisions of this act are using the funds granted to them in accordance with the terms of this act. On or before the 1st day of July in each year after this act becomes operative he shall certify to the Secretary of the Treasury as to each State whether it has complied with the provisions of this act and is entitled to receive its share of such extension work fund or such branch station fund herein provided for such State, and the amounts which each State is entitled to receive from such fund. Upon the certification of the Secretary of Agriculture herein provided, the Secretary of the Treasury shall pay quarterly in advance to the custodian for vocational education of such State the moneys to which such State is entitled for extension departments and branch stations under this act. Upon the requisition of the board of trustees or other board of control of any State college of agriculture and the mechanic arts or of any State experiment station of any State, such custodian shall pay to the treasurer, or other officer duly appointed by such board of control the moneys to which such college or State experiment station is entitled under the provisions of this act.

SEC. 26. That the secondary school department fund shall be used only for distinctive studies in or closely relating to agriculture, the trades and industries, and home economics; the industrial or home economics school fund shall be used only for distinctive studies in or closely relating to the trades and industries and home economics; the district agricultural school fund of secondary grade shall be used only for distinctive studies in or closely relating to agriculture and home economics; the college teachers' training fund shall be used only by departments or divisions of education in these colleges and only in the preparation of teachers to give practical or technical instruction fitting for useful service in agriculture, the trades and industries, or the home; the normal teachers' training fund shall be used only for distinctive studies which are given in separate units organized as departments or divisions of State normal schools or other training schools under a properly qualified head, and which are designed to prepare teachers to give practical or technical instruction fitting for useful service in agriculture, the trades and industries, or home economics; the extension-work fund shall be used only for instruction and demonstrations in agriculture, home economics, and rural affairs; and the branch-station fund shall be used only for field tests, plant breeding, animal breeding, home economics, and other scientific work under plans approved by the directors of the State experiment stations of the respective States.

SEC. 27. That if any portion of the moneys received by the custodian for vocational education of any State or the District of Columbia under this act, for any given purpose named in this act, shall, by any action or contingency, be diminished, lost, or misapplied, it shall be replaced by such State or the District of Columbia, and until it is so replaced no subsequent appropriation for such purpose shall be paid to such State; no portion of any moneys appropriated under this act for the benefit of the States or the District of Columbia shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings or equipment, or to the purchase or rental of lands; and no portion of such moneys shall be expended other than in institutions supported and controlled by the public.

SEC. 28. That whenever it shall appear to the Secretary of the Interior, from the annual statement of receipts and expenditures of the custodian for vocational education of any State or the District of Columbia, that a portion of the preceding annual disbursement made to such State or the District of Columbia from the secondary-school department fund, the industrial or home economics school fund, the district agricultural high-school fund, the college teachers' training fund, or the normal teachers' training fund remains unexpended, a sum equal to such portion or amount shall be deducted by him from the next succeeding annual disbursement from such fund to such State or the District of Columbia; and whenever it shall appear to the Secretary of Agriculture, from the annual statement of receipts and expenditures of the custodian for vocational education of any State or the District of Columbia, that a portion of the preceding disbursement made to such State or the District of Columbia from the extension-work fund or the branch-station fund remains unexpended, a sum equal to such portion shall be deducted by him from the next succeeding annual disbursement from such fund to such State or the District of Columbia, in order that the amount of money distributed to any State or the District of Columbia from any fund provided for in this act shall not exceed the amount actually and necessarily required by the State for the purpose for which such money from such fund may be expended under the provisions of this act.

SEC. 29. That each State and the District of Columbia shall receive for the respective purposes herein provided only such portion of the full amount of any fund to which such State or the District of Columbia would otherwise be entitled as in the judgment of the Secretary of the Interior or of the Secretary of Agriculture, in the discharge of their respective responsibilities under this act, it has made ample preparations to use to advantage. And all such moneys as would otherwise be allotted to the respective States and the District of Columbia, but as are not so allotted by the Secretary of the Interior or the Secretary of Agriculture, shall remain in the Treasury.

SEC. 30. That the Secretary of the Interior may withhold a certificate from any State or the District of Columbia for the whole or any part of its annual allotment of money for schools of secondary grade, or for the training of teachers in agriculture, the trades and industries, and home economics to which he decides it not to be entitled under the provisions of this act; and the Secretary of Agriculture may withhold a certificate from any State for the whole or any part of its annual allotment for extension departments or branch stations to which he decides it not to be entitled under the provisions of this act. If the Secretary of the Interior or the Secretary of Agriculture, as herein provided, shall withhold a certificate from any State or the District of Columbia for the whole or any part of its allotment, the facts and reasons therefor shall be reported to the President, in order that the State or the District of Columbia may, if it shall so desire, appeal to Congress from the determination of the Secretary of the Interior or the Secretary of Agriculture. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury.

SEC. 31. That the moneys received by any State or the District of Columbia for any given purpose under the provisions of this act shall be used only for such purpose, and shall be distributed among the institutions entitled to the benefit of such moneys in proportion to the amount which each expends out of other income derived from general

or from local public funds for the same purpose during the same period; or such money shall be distributed on some other basis and according to some other plan previously adopted by the Board for Vocational Education or by legislative authority for such State or the District of Columbia, with the approval of the Secretary of the Interior; but there shall in no case be disbursed under the terms of this act to any school or college, out of moneys derived from the secondary school department fund, the industrial or home economics school fund, the district agricultural school fund, the college teachers' training fund, or the normal teachers' training fund, as provided in this act, more money than 50 per cent of the amount which is supplied and expended during the same period for the same purpose for which such fund is to be expended out of either State and local or State or local public moneys.

SEC. 32. That all States, Territories, and the District of Columbia accepting the benefit of any fund under this act shall provide other moneys with which to pay the cost of providing the necessary lands and buildings, and to pay the entire cost of all instruction, supplementary to the practical and technical instruction provided for in this act, necessary in order to complete well-rounded courses of training, the main purposes of which are to give vocational as well as general preparation for agriculture, the trades and industries, and home making, or to prepare teachers for these vocations, suited to the needs of the respective sections and communities of the United States.

SEC. 33. That all correspondence for the furtherance of extension work, as provided for in this act, issued from the State colleges of agriculture and the mechanic arts, receiving the benefits of this act shall be transmitted in the mails of the United States and dependencies free of charge for postage, under such regulations as the Postmaster General may from time to time prescribe.

SEC. 34. That the Secretary of the Interior shall make an annual report to Congress on his administration of the secondary school department fund, the industrial and household arts school fund, the district agricultural high school fund, the college teachers' training fund, and the normal teachers' training fund, under the provisions of this act, and on the work of the boards for vocational education of each State and the District of Columbia in their administration of the moneys received from such funds under the provisions of this act; and he shall make one or more reports to Congress not later than June 30, 1915, concerning the organization of vocational education as provided for in this act.

SEC. 35. That the Secretary of Agriculture shall make an annual report to Congress on his administration of the extension department fund, and the branch station fund, and on the work of the boards of control of the colleges and experiment stations in their administration of the moneys received by them from such funds under the provisions of this act.

SEC. 36. That this act shall take effect immediately on its passage.

Mr. SMOOT. Mr. President, I wish to say that I shall vote for substituting Senate bill No. 3 for what is known as the Lever bill; but if that is carried and the Senate is to consider that bill, then I shall hope at least that, as the Lever bill refers only to extension work, it will be substituted for that part of Senate bill No. 3, because I believe that the Lever bill covers the extension department work in a much more satisfactory form than that work is covered under the Page bill. That can be done afterwards, if the Senate sees fit to substitute the Page bill for the Lever bill.

Mr. SMITH of Georgia. Or it can be done in conference.

Mr. PAGE. I wish to say in regard to that matter what I have said to the Senator from Georgia repeatedly, that the same purpose is aimed at, and if there is any way in which my bill could be amended to make good the purpose of his bill I would be very glad to have it done. I only ask that the fundamentals of the bill be maintained; and I shall hope that every Senator who can see any way to amend the bill in any detail will be prompt to move amendments to the substitute which I have offered.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Vermont [Mr. PAGE] to the bill.

Mr. BURTON. Mr. President, I desire to offer two amendments to the bill under consideration, House bill No. 22871. I ask to have them printed and lie on the table.

The PRESIDING OFFICER. The Senator from Ohio offers two amendments, and asks that they be printed and lie on the table.

Mr. PAGE. I wish that they might be read, if they are brief.

The PRESIDING OFFICER. Without objection, the amendments will be read.

The SECRETARY. At the end of section 2 strike out the period and add the words:

And farm-management work.

Mr. SMITH of Georgia. One moment, Mr. President. I think we would be glad to accept that amendment.

Mr. BURTON. I move its adoption.

Mr. GALLINGER. The substitute is pending.

The PRESIDING OFFICER. There is an amendment pending, the substitute offered by the Senator from Vermont.

Mr. SMITH of Georgia. This is an amendment to the original bill, and we have the right, of course, to perfect the original bill.

Mr. PAGE. Mr. President, a parliamentary inquiry. We are trying to make the measure acceptable, and so far as I am concerned, I would be glad to accept the amendment of the Senator from Ohio at this time.

The PRESIDING OFFICER. The Chair thinks as it is an amendment to the original bill and not to the substitute that it is in order to perfect the original bill.

Mr. GALLINGER. Yes; I beg pardon. I had the two bills confounded. It is evidently in order.

The PRESIDING OFFICER. The Secretary will again read the amendment proposed by the Senator from Ohio [Mr. BURTON].

The SECRETARY. At the end of section 2 strike out the period and insert the words:

And farm-management work.

Mr. GRONNA. Mr. President, I have no objection to this particular amendment. I had hoped the Senator from Vermont would ask that a day be fixed for the consideration of these two bills, and I also hope that all amendments presented now will be pending until such day as we may consider the bill.

Mr. PAGE. I had supposed the request to fix a time for the consideration of the bill should properly come from the Senator from Georgia, and I did not make that request.

Mr. SMITH of Georgia. I am just waiting to confer with Senators.

Mr. GRONNA. I understand that the bill is up for consideration now.

The PRESIDING OFFICER. It is now under consideration and open to amendment. An amendment is pending.

Mr. GRONNA. Very well.

The PRESIDING OFFICER. Does the Senator from Georgia accept the amendment offered by the Senator from Ohio [Mr. BURTON]?

Mr. SMITH of Georgia. I think, perhaps, at the suggestion of other Senators, it had better be printed, and that all the amendments lie on the table for the present.

Mr. CLARKE of Arkansas. Mr. President, I think the suggestion made by the Senator from North Dakota [Mr. GRONNA] an excellent one. For the first time many of us have come face to face with a situation that requires us to familiarize ourselves in absolute detail as to the difference between the two bills and the general purposes that they are to accomplish. It may be that there are some features in one that are excellent not contained in the other that we would desire to include in a composite bill if we had the opportunity, but if it is submitted now as a single question to take one or the other we may be deprived of that opportunity.

I think it a good idea to have all the amendments that are offered pending as well as the proposition to substitute the Page bill for the Lever bill, and when we come to deal with that on some fixed day we will then be prepared to know just exactly whether we want to substitute one bill or a part of it for the other, or take a part of one and a part of the other. It will contribute to a more intelligent disposition of the matter which everybody ought to feel an interest in, and I assume every Senator does feel an interest in it. Because of my own deficiencies in that respect, and I assume others are in the same fix that I am, I quite earnestly hope that it will be the pleasure of the Senate to agree to the suggestion made by the Senator from North Dakota.

Mr. PAGE. I ask that the second amendment, submitted by the Senator from Ohio [Mr. BURTON], may be read.

The PRESIDING OFFICER. The second amendment, submitted by the Senator from Ohio, will be read.

The SECRETARY. It is proposed to add at the end of section 9:

And he shall have authority to coordinate the extension work contemplated in this act with the agricultural demonstration work now being conducted by the United States Department of Agriculture.

The PRESIDING OFFICER. Without objection, this amendment will be printed and lie on the table for consideration with the substitute and the original bill. What is the pleasure of the Senate?

DEBORAH A. GRIFFIN AND MARY J. GRIFFIN.

Mr. JONES. While Senators are conferring with reference to the bill under consideration, I ask unanimous consent that the Senate consider the bill (S. 7785) confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes. It is purely a local measure.

The PRESIDING OFFICER. The Senator from Washington asks unanimous consent for the present consideration of the bill, which will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. CULBERSON. From what committee does that bill come?

Mr. JONES. From the Committee on Public Lands.

The bill was reported from the Committee on Public Lands with amendments.

The first amendment was, in section 1, page 1, line 4, after the word "allotment," to insert "in accordance with the provisions of the act of July 4, 1884 (23 Stat. L., 79)," and on page 2, line 2, after the name "Mary J. Griffin," to insert "and trust patent issue thereon under the provisions of the act of March 8, 1906 (34 Stat. L., 55)," so as to make the section read:

That the Secretary of the Interior be, and is hereby, authorized and directed to make an allotment, in accordance with the provisions of the act of July 4, 1884 (23 Stat. L., 79), of not more than 200 acres of land within the diminished Colville Indian Reservation, in the State of Washington, for the benefit of the heirs of Que-lock-us-soma, deceased, Moses agreement allottee No. 35, jointly, in lieu of the portion of the Moses agreement allotment No. 35 embraced within the patented homestead entries of Deborah A. Griffin and Mary J. Griffin, and trust patent issue thereon under the provisions of the act of March 8, 1906 (34 Stat. L., 55).

The amendment was agreed to.

The next amendment was, in section 2, page 2, line 13, after the word "quarter," to insert "of the southwest quarter," and in line 18, after the word "allotment," to strike out "for" and insert "of," so as to make the section read:

SEC. 2. That the patent in fee heretofore issued in the name of Deborah A. Griffin, June 30, 1906, for lots 1 and 2 and the northeast quarter southeast quarter section 6, and lots 1 and 2, section 5, township 36 north, range 27 east of the Willamette meridian; and a similar patent issued in the name of Mary J. Griffin, November 21, 1910, for the southeast quarter of the southwest quarter, and lots 5, 6, and 9 of section 31, township 37 north, range 27 east of the Willamette meridian, all situated in Okanogan County, Wash., be, and the same are hereby, confirmed and declared valid notwithstanding the previous allotment of a portion of this land under Moses agreement allotment No. 35.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LICENSES OF DRIVERS OF PASSENGER VEHICLES.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill (H. R. 22010) to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AGRICULTURAL EXTENSION DEPARTMENT.

Mr. SMOOT. Mr. President——

Mr. SMITH of Georgia. Mr. President, one word, if the Senator from Utah will allow me——

Mr. SMOOT. I yield to the Senator.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. SMITH of Georgia. Mr. President, I think now that it probably would be best to discontinue the consideration of the House bill for the creation of the extension divisions of the agricultural colleges; and, with the consent of the Senate, I will do so; but I desire to give notice that on Monday morning next, immediately after the morning business, I shall ask the Senate to again take up the bill for consideration, and at that time I shall endeavor to keep it before the Senate until a vote is had upon it. I do not ask unanimous consent, but simply give notice, so that Senators may all understand that the probability is that the bill will go forward on Monday to a vote, both upon the substitute and upon the original bill. I take this course in deference to the views of some of the Senators who are disposed to cooperate with me to give the bill a hearing on Monday and yet hesitate about making a unanimous-consent agreement.

EXECUTIVE SESSION.

Mr. SMOOT. I move that the Senate proceed to the consideration of executive business.

Mr. SMITH of Georgia. Mr. President, I do not think we have a quorum.

Mr. CULBERSON. Let us have an executive session.

Mr. CLARKE of Arkansas. Let us first have a quorum. I suggest the absence of a quorum.

The PRESIDING OFFICER. Pending the motion of the Senator from Utah [Mr. SMOOT], the Senator from Arkansas [Mr. CLARKE] suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bourne	Clapp	Curtis	Heyburn
Bradley	Clarke, Ark.	Dillingham	Hitchcock
Brandegee	Crane	Fletcher	Johnson, Me.
Bryan	Crawford	Gallinger	Johnston, Ala.
Burton	Culberson	Gore	Jones
Chamberlain	Cullom	Gronna	Kenyon
La Follette	Myers	Root	Stephenson
Lippitt	Newlands	Shively	Stone
Lodge	Oliver	Simmons	Sutherland
McCumber	Paynter	Smith, Ariz.	Swanson
McLean	Perkins	Smith, Ga.	Wetmore
Martin, Va	Perky	Smith, Md.	
Martine, N. J.	Poindexter	Smoot	

The PRESIDING OFFICER. Fifty Senators have answered to their names. A quorum of the Senate is present. The question is on agreeing to the motion of the Senator from Utah, that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After two hours and three minutes spent in executive session, the doors were reopened, and (at 4 o'clock and 45 minutes) the Senate adjourned until to-morrow, Saturday, January 18, 1913, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate January 17, 1913.

RECEIVERS OF PUBLIC MONEYS.

Elisha B. Wood, of Minnesota, to be receiver of public moneys at Cass Lake, Minn., his term expiring January 20, 1913. (Reappointment.)

Louis H. Arneson, of Oregon, to be receiver of public moneys at The Dalles, Oreg., his term having expired December 12, 1911. (Reappointment.)

APPOINTMENTS IN THE ARMY.

MEDICAL RESERVE CORPS.

To be first lieutenants with rank from January 16, 1913.

Frank Nicholas Cochems, of Colorado.
James Quitman Fountain, of Mississippi.
Edward Starr Judd, of Minnesota.
Joseph MacDonald, jr., of New Jersey.
Justus Matthews, of Minnesota.
Charles Horace Mayo, of Minnesota.
Irving David Steinhardt, of New York.

PROMOTIONS IN THE NAVY.

Medical Inspector Andrew R. Wentworth to be a medical director in the Navy from the 28th day of December, 1912, to fill a vacancy.

Surg. Edward S. Bogert, jr., to be a medical inspector in the Navy from the 28th day of December, 1912, to fill a vacancy.

Surg. Leckinski W. Spratling to be a medical inspector in the Navy from the 12th day of January, 1913, to fill a vacancy.

Machinist Adolph Peterson to be a chief machinist in the Navy from the 27th day of December, 1912, upon the completion of six years' service as a machinist.

Second Lieut. Robert W. Voeth to be a first lieutenant in the Marine Corps from the 22d day of August, 1912, to fill a vacancy.

POSTMASTERS.

ALABAMA.

Dallas B. Smith to be postmaster at Opelika, Ala., in place of Dallas B. Smith. Incumbent's commission expired January 11, 1913.

ARKANSAS.

Edward Bowers to be postmaster at De Witt, Ark., in place of Edward Bowers. Incumbent's commission expired January 14, 1913.

James N. Dowell to be postmaster at Danville, Ark. Office became presidential January 1, 1913.

CALIFORNIA.

Robert R. Allen to be postmaster at King City, Cal., in place of Robert R. Allen. Incumbent's commission expires February 20, 1913.

James T. Clayton to be postmaster at Elsinore, Cal., in place of James T. Clayton. Incumbent's commission expires January 20, 1913.

Lena O. Gregory to be postmaster at Rocklin, Cal., in place of Lena O. Gregory. Incumbent's commission expires January 20, 1913.

CONNECTICUT.

Edward E. Ashley to be postmaster at Plainfield, Conn. Office became presidential October 1, 1912.

Jerome S. Gainer to be postmaster at Norton Heights, Conn., in place of Jerome S. Gainer. Incumbent's commission expired January 11, 1913.

FLORIDA.

D. W. Burke to be postmaster at De Funiack Springs, Fla., in place of William C. Eddy. Incumbent's commission expires February 9, 1913.

GEORGIA.

Sallie S. Dailey to be postmaster at McDonough, Ga., in place of Samuel E. Dailey, deceased.

IDAHO.

A. L. Trenam to be postmaster at Weiser, Idaho, in place of Albert J. Hopkins. Incumbent's commission expired February 19, 1912.

ILLINOIS.

Lulu R. Anderson to be postmaster at Kirkland, Ill., in place of Lulu R. Anderson. Incumbent's commission expired January 11, 1913.

Philip H. Baker to be postmaster at Jonesboro, Ill., in place of Philip H. Baker. Incumbent's commission expired January 11, 1913.

Omer N. Custer to be postmaster at Galesburg, Ill., in place of Omer N. Custer. Incumbent's commission expired January 14, 1913.

Charles J. Ferguson to be postmaster at East Alton, Ill., in place of Charles J. Ferguson. Incumbent's commission expires February 20, 1913.

INDIANA.

Hattie Yarger to be postmaster at Wanatah, Ind., in place of Hattie Yarger. Incumbent's commission expired January 14, 1913.

IOWA.

Richard M. Boyd to be postmaster at Sanborn, Iowa, in place of Richard M. Boyd. Incumbent's commission expired January 11, 1913.

Clinton S. Grouse to be postmaster at Prescott, Iowa, in place of Clinton S. Grouse. Incumbent's commission expired January 11, 1913.

E. E. Heldridge to be postmaster at Milford, Iowa, in place of E. E. Heldridge. Incumbent's commission expires February 9, 1913.

James M. Hutcheson to be postmaster at Blanchard, Iowa, in place of James M. Hutcheson. Incumbent's commission expires February 9, 1913.

Chris Jensen to be postmaster at Graettinger, Iowa. Office became presidential January 1, 1912.

John M. Ryan to be postmaster at Eddyville, Iowa, in place of J. M. Crosson. Incumbent's commission expires February 9, 1913.

Thomas R. Shaw to be postmaster at Coin, Iowa, in place of Thomas R. Shaw. Incumbent's commission expires February 20, 1913.

Robert M. Willard to be postmaster at Lost Nation, Iowa, in place of Robert M. Willard. Incumbent's commission expired April 9, 1912.

KANSAS.

Charles E. Green to be postmaster at Effingham, Kans., in place of Charles E. Green. Incumbent's commission expires February 11, 1913.

LOUISIANA.

Lavinia Insley to be postmaster at Delhi, La., in place of Lavinia Insley. Incumbent's commission expires February 18, 1913.

Charles Manning to be postmaster at Cheneyville, La. Office became presidential January 1, 1913.

Adah Rous to be postmaster at Lake Providence, La., in place of Adah Rous. Incumbent's commission expires January 29, 1913.

MAINE.

Jacob F. Hersey to be postmaster at Patten, Me., in place of Jacob F. Hersey. Incumbent's commission expires January 20, 1913.

MASSACHUSETTS.

George A. Birnie to be postmaster at Ludlow, Mass., in place of George A. Birnie. Incumbent's commission expired January 11, 1913.

Lawrence W. Dower to be postmaster at Easthampton, Mass., in place of Lawrence W. Dower. Incumbent's commission expires February 11, 1913.

MICHIGAN.

R. F. Lemon to be postmaster at Harbor Springs, Mich., in place of R. F. Lemon. Incumbent's commission expired January 11, 1913.

Newton E. Miller to be postmaster at Athens, Mich., in place of Newton E. Miller. Incumbent's commission expired January 12, 1913.

Joseph H. Stephenson to be postmaster at Boyne Falls, Mich. Office became presidential January 1, 1913.

MINNESOTA.

John H. Frost to be postmaster at Minneota, Minn., in place of Gunnar B. Bjornson, resigned.

John P. Lundin to be postmaster at Stephen, Minn., in place of John P. Lundin. Incumbent's commission expired January 12, 1913.

Sterling V. Nixon to be postmaster at Eyota, Minn., in place of Rollo C. Dugan, resigned.

NEBRASKA.

Ray Hicks to be postmaster at Sargent, Nebr., in place of Similien L. Perin. Incumbent's commission expired March 31, 1912.

NEVADA.

Charles F. Littrell to be postmaster at Austin, Nev., in place of Charles F. Littrell. Incumbent's commission expired February 7, 1911.

NEW JERSEY.

W. Burtis Havens to be postmaster at Toms River, N. J., in place of W. Burtis Havens. Incumbent's commission expired December 18, 1911.

Charles D. Stainton to be postmaster at Englewood, N. J., in place of Charles D. Stainton. Incumbent's commission expired March 11, 1912.

NEW MEXICO.

R. E. Rowells to be postmaster at Clovis, N. Mex., in place of W. A. Davis, removed.

NEW YORK.

James P. Fulton to be postmaster at Stanley, N. Y. Office became presidential January 1, 1913.

OHIO.

Walter Elliott to be postmaster at Ada, Ohio, in place of Walter Elliott. Incumbent's commission expires January 26, 1913.

Guy M. Kingsbury to be postmaster at Dunkirk, Ohio, in place of Guy M. Kingsbury. Incumbent's commission expires February 11, 1913.

Henry G. Rock to be postmaster at Sherwood, Ohio. Office became presidential January 1, 1913.

Lawrence H. Warren to be postmaster at Ohio City, Ohio, in place of Sidney J. Winney, removed.

PENNSYLVANIA.

Joseph B. Colcord to be postmaster at Port Allegany, Pa., in place of Joseph B. Colcord. Incumbent's commission expired January 13, 1913.

Thomas J. Davis to be postmaster at Avoca, Pa., in place of Thomas J. Davis. Incumbent's commission expires February 9, 1913.

William Krause to be postmaster at Richland Center, Pa., in place of William Krause. Incumbent's commission expired January 12, 1913.

RHODE ISLAND.

Walter A. Kilton to be postmaster at Providence, R. I., in place of Walter A. Kilton. Incumbent's commission expires February 17, 1913.

SOUTH DAKOTA.

Peter R. Stading to be postmaster at Freeman, S. Dak. Office became presidential January 1, 1913.

TEXAS.

John J. Bartlett to be postmaster at Hughes Springs, Tex., in place of John J. Bartlett. Incumbent's commission expired April 28, 1912.

WASHINGTON.

Charles E. Gehres to be postmaster at Connell, Wash., in place of Emery Troxel, resigned.

George F. Russell to be postmaster at Seattle, Wash., in place of George F. Russell. Incumbent's commission expired December 9, 1912.

WISCONSIN.

Joseph Brehm to be postmaster at Rib Lake, Wis., in place of Duncan McLennan, deceased.

Donal P. Butts to be postmaster at Frederic, Wis., in place of Donal P. Butts. Incumbent's commission expires February 9, 1913.

George M. Carnachan to be postmaster at Bruce, Wis., in place of George M. Carnachan. Incumbent's commission expired January 12, 1913.

Arthur R. Curtis to be postmaster at National Home, Wis., in place of Matthew O'Regan, deceased.

Charles F. Fine to be postmaster at Hillsboro, Wis., in place of Charles F. Fine. Incumbent's commission expires February 18, 1913.

Ray Haggerty to be postmaster at Park Falls, Wis., in place of Ray Haggerty. Incumbent's commission expired December 14, 1912.

Charles F. Henrizi to be postmaster at Menomonee Falls, Wis., in place of Charles F. Henrizi. Incumbent's commission expired February 22, 1910.

Jessie P. Horan to be postmaster at Friendship, Wis. Office became presidential January 1, 1913.

Elizabeth K. Nevins to be postmaster at Bloomington, Wis., in place of Elizabeth K. Nevins. Incumbent's commission expired January 12, 1913.

Alfred S. Otis to be postmaster at Malden Rock, Wis., in place of Alfred S. Otis. Incumbent's commission expired January 12, 1913.

WYOMING.

John T. Johnson to be postmaster at Superior, Wyo., in place of Henry Harris, resigned.

WITHDRAWAL.

Executive nomination withdrawn from the Senate January 17, 1913.

POSTMASTER.

Matthew O'Regan to be postmaster at National Home, in the State of Wisconsin.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January 17, 1913.*

The House met at 12 o'clock noon.

Rev. W. R. Wedderspoon, D. D., of Washington, D. C., offered the following prayer:

Almighty God, our heavenly Father, we bow before Thee with reverence and with devotion. We realize our own weaknesses and our limitations, and we come to the God of wisdom and of power and of blessing and of guidance. We pray that Thou wilt peculiarly bless these, Thy servants, this day as they meet here together in deliberation. Give them a portion of the wisdom that Thou Thyself dost contain. Grant Thy peculiar blessings to these in Thy presence and to their homes, and bless the Chaplain in his sickness, and all Members of the House who may be detained for the same reason to-day.

Hear us for all the high interests that dominate and control us. Bless our own land and all in authority over us, from the one who sits in the chief place to the lowest in life's affairs; and all who have positions of trust, may they seek to live in Thy sight and move in Thy fear. Hear us for our own blessed land, and for the lands of the earth, and hasten the time when men everywhere will be found before Thee clothed in their right mind and dwelling as brothers everywhere. We ask for the pardon of every transgression in the name of our Lord and Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

Mr. MOORE of Pennsylvania. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The Chair will ask the gentleman to withhold his point of order until a few small matters may be disposed of.

Mr. MOORE of Pennsylvania. Certainly, Mr. Speaker, I will withhold the point of order for the present.

EUGENE C. BONNIWELL.

The SPEAKER. The Chair has in his possession two communications. One of them purports to be a notice of contest by Eugene C. Bonniwell against Mr. Butler, of the seventh Pennsylvania district. On examination of the document, however, it turns out not to be a notice of contest but to be something more in the nature of a memorial to this House, setting forth that the gentleman from Pennsylvania [Mr. BUTLER] ought to be expelled from the House. The Chair also has a copy of the reply of the gentleman from Pennsylvania [Mr. BUTLER], and without consuming any more time the Chair refers both papers to the Committee on Elections No. 1.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested.

H. R. 26680. An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 7515. An act for the relief of Col. Richard H. Wilson, Fourteenth Infantry, United States Army;

S. 7508. An act to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia; and

S. 7415. An act granting to the Atchison, Topeka & Santa Fe Railway Co. a right of way through the Fort Wingate Military Reservation, in New Mexico, and for other purposes.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 7515. An act for the relief of Col. Richard H. Wilson, Fourteenth Infantry, United States Army; to the Committee on Claims.

S. 7508. An act to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia; to the Committee on the District of Columbia.

S. 7415. An act granting to the Atchison, Topeka & Santa Fe Railway Co. a right of way through the Fort Wingate Military Reservation in New Mexico, and for other purposes; to the Committee on Military Affairs.

EMANCIPATION ACT CELEBRATION.

Mr. FITZGERALD. Mr. Speaker, by direction of the Committee on Appropriations I report back Senate bill 180, providing for the celebration of the semicentennial anniversary of the act of emancipation, and for other purposes, and move that it be referred to the Committee on Industrial Arts and Expositions.

Mr. HEFLIN. Mr. Speaker, I ask unanimous consent to address the House on this proposition.

The SPEAKER. The motion itself is not debatable. The gentleman from Alabama has asked unanimous consent to address the House. For how long?

Mr. HEFLIN. For 10 minutes.

Mr. FITZGERALD. Mr. Speaker, I suggest that if the gentleman desires to address the House he also ask that some one on behalf of the Committee on Appropriations be granted the same privilege.

Mr. HEFLIN. Mr. Speaker, if some one from the Committee on Appropriations would like to address the House, I shall not object.

The SPEAKER. The gentleman from Alabama asks unanimous consent to address the House for 10 minutes on the motion of the gentleman from New York [Mr. FITZGERALD].

Mr. HAMILL. Mr. Speaker, reserving the right to object, I would ask the introducer of the measure to tell us just what are the purposes of it.

Mr. FITZGERALD. Mr. Speaker, I can not. The motion is not debatable unless unanimous consent is given by the House.

Mr. HEFLIN. Mr. Speaker, let me put the proposition in this way, that seven and one-half minutes be given to me and that seven and one-half minutes be given to some member of the Committee on Appropriations, the time to be in control of the chairman of that committee.

The SPEAKER. The Chair will state that the gentleman from Pennsylvania made the point of no quorum, and that is a right which the Chair feels very much like reserving.

Mr. MOORE of Pennsylvania. Mr. Speaker, I think the gentleman from Alabama had better withhold his request for the present, because I shall insist upon the point of order unless he does. There are some very important matters pending, which may be called up at any time, and I think there should be a quorum present.

The SPEAKER. This matter is not debatable.

Mr. MOORE of Pennsylvania. Then, Mr. Speaker, I object to the request of the gentleman, and make the point of order that there is no quorum present.

The SPEAKER. Evidently there is no quorum present.

Mr. FITZGERALD. Mr. Speaker, I move a call of the House.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were—ayes 72, noes 5.

So the motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken, S. C.	Fields	Lewis	Randell, Tex.
Ainey	Flood, Va.	Lindsay	Reyburn
Akin, N. Y.	Focht	Longworth	Riordan
Ames	Fordney	McCall	Scully
Ansberry	Fornes	McCoy	Sells
Barchfeld	George	McKellar	Smith, J. M. C.
Baltrick	Goeke	Maher	Smith, Cal.
Berger	Gould	Martin, Colo.	Sparkman
Burleson	Gregg, Pa.	Matthews	Speer
Carter	Hammond	Merritt	Stack
Cary	Harrison, N. Y.	Moon, Pa.	Sulloway
Conry	Henry, Conn.	Moore, Tex.	Talbott, Md.
Covington	Hill	Mott	Taylor, Ala.
Craven	Howard	Needham	Taylor, Colo.
Currier	Howell	Nelson	Taylor, Ohio
Danforth	Howland	Oldfield	Townsend
Daugherty	James	Olmsted	Turnbull
Davis, Minn.	Johnson, Ky.	O'Shaunessy	Underwood
Davis, W. Va.	Kitchin	Palmer	Vare
De Forest	Konig	Parran	Vreeland
Dixon, Ind.	Lafean	Patten, N. Y.	Watkins
Driscoll, D. A.	Lafferty	Payne	White
Dwight	Langham	Peters	Wilson, Ill.
Ivey	Legare	Post	Wilson, N. Y.
Ellerbe	Lenroot	Pujo	Woods, Iowa
Fairchild	Levy	Rainey	

The SPEAKER. On this roll call 279 Members answered to their names, a quorum. The Doorkeeper will open the doors.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with further proceedings under the call.

The question was taken, and the motion was agreed to.

Mr. HEFLIN. Mr. Speaker——

Mr. BURNETT. Mr. Speaker——

Mr. FITZGERALD. Mr. Speaker, there is a motion pending.

The SPEAKER. The motion pending is for a change of reference.

Mr. GARRETT. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. FITZGERALD] may have five minutes and the gentleman from Alabama [Mr. HEFLIN] may have five minutes in which to address the House on this motion.

The SPEAKER. The gentleman from Tennessee [Mr. GARRETT] asks unanimous consent that the gentleman from New York [Mr. FITZGERALD] and the gentleman from Alabama [Mr. HEFLIN] may each have five minutes to address the House on this change of reference. Is there objection?

Mr. FOSTER. Mr. Speaker, I would just inquire if those gentlemen desire this time to make a statement?

The SPEAKER. Yes. Is there objection? [After a pause.] The Chair hears none.

Mr. FITZGERALD. Mr. Speaker, I ask that the bill be read in my time.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (S. 180) providing for the celebration of the semicentennial anniversary of the act of emancipation, and for other purposes.

Be it enacted, etc., That whenever the President of the United States shall be satisfied that the Semicentennial American Emancipation Exposition Co., a corporation organized under the laws of the State of Georgia, has made provision for an exposition to be held during the year 1913, to illustrate the history, progress, and present condition of the Negro race, and to celebrate the fiftieth anniversary of the proclamation of emancipation by President Lincoln, on the 1st day of January, 1863, and that the said corporation has raised and secured money or property to the amount of not less than $50,000 for the purposes of such exposition, the President is authorized and respectfully requested to make proclamation of the time and place and purpose of such exposition and celebration and of such other information in relation thereto as he may deem expedient.

SEC. 2. That in furtherance of the object set forth in section 1 of this act there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $250,000, to be expended under rules and regulations to be prescribed by the Secretary of the Treasury and upon vouchers to be approved by him.

SEC. 3. That the location, plan and scope, designs for buildings, provisions for public health and comfort, and rules for the conduct of the business and affairs of the exposition shall be subject to the approval and control of the Secretary of Commerce and Labor, who shall exercise supervision over the exposition through such representatives of the department as he shall designate.

Mr. FITZGERALD. Mr. Speaker, this bill provides for extending aid to an exposition to be held to commemorate the fiftieth anniversary of the Emancipation Proclamation. Under the rules of the House the Committee on Industrial Arts and Expositions has jurisdiction of all matters concerning expositions, excepting revenue and appropriations. The Committee on Appropriations on consideration of this bill believed that before it would be justified in recommending an appropriation of $250,000 to assist an exposition company which has only to raise $50,000 some investigation should be made by the committee most familiar with, and which, under the rules of the House, has control of such matters, in order to determine how much, if any, aid should be rendered and what safeguards, if any, should be placed in the bill.

Not desiring to encroach upon the jurisdiction of other committees, the Committee on Appropriations directed me to report back the bill and to make the motion, which is now pending, to refer it to the Committee on Industrial Arts and Expositions.

Mr. Speaker, at various times there seems to have been an impression that the Committee on Appropriations desires to usurp the functions of other committees. During my service at the head of that committee it has endeavored, as far as possible, to distribute the work of the House in order that no committee will be deprived of any of its functions because of the activities of the Committee on Appropriations. I respectfully submit that in this instance the Committee on Industrial Arts and Expositions should be given an opportunity to perform its duties in accordance with the rules of the House. The object of the bill I believe to be most commendable; yet, because of the necessity of taking such precautions as would ordinarily be taken in legislation, the committee asks the House to make this reference.

The SPEAKER. The gentleman from Alabama [Mr. HEFLIN] is recognized for five minutes. [Applause.]

Mr. HEFLIN. Mr. Speaker, this unselfish and generous conduct on the part of the Committee on Appropriations has touched me deeply.

I must apologize for an impression that I have had regarding that committee. I have mistaken the zeal and jealous care with which the members of that committee have guarded its jurisdictional bounds. I had thought that when that committee once laid its hands on anything in the way of a bill it would never give its consent to release its hold in behalf of another committee claiming jurisdiction, and I have been of the opinion that in no instance would the Committee on Appropriations of its own motion deliver over to another committee for consideration a bill once in the sacred precincts of its jurisdiction—so unanimously and magnanimously as it has in referring to my committee this "emancipation" bill. [Laughter.]

Mr. Speaker, I have done the committee an injustice, and I hasten to apologize. [Laughter.] I am glad to make this acknowledgment and I desire to express my appreciation for this unasked for, unselfish, and generous action on the part of the Committee on Appropriations. [Laughter.] Mr. Speaker, if I should live until my head is as white as a Norwegian rat's back I could never make my gratitude to these gentlemen fully understood. [Laughter and applause.] On the tablets of my memory I shall write their names in letters that can not be obliterated. [Laughter and applause.]

Mr. Speaker, if the House in its wisdom ratifies the action of the Committee on Appropriations in delivering this bill over to the Committee on Industrial Arts and Expositions, I shall cheerfully acquiesce in that decision. I am chairman of that committee and I am reminded of the fellow who went half shot, uninvited, and unannounced into a ballroom on the second floor where the dance was on in full swing. He whirled in the maze of the misty dance until two able-bodied men seized him and escorted him to the door and hurled him down the stairway, bumping and bruising his head against the sidewalk. He arose, pulled himself together, and gazed for a moment at the angry gentlemen at the top of the stairway and said, "Gentlemen, you can fool some people, but you can't fool me. I know why you throwed me down from up thar. You throwed me down from up thar because you didn't want me up thar." [Loud applause and laughter.]

I am reminded of another story, Mr. Speaker. A gentleman owned a piece of land of 120 acres—hilly, rocky, and rough. He said he could work one side as well as the other, that it hung up like a slate. [Laughter.] He met a gentleman in the road with a yoke of steers, and he said, "I will give you 60 acres of land for your steers." He said, "Good." They went to a justice of the peace to make the deed to the land, and the man who owned the land had forgotten the name of the fellow who owned the steers, and the justice did not know it, so when they reached the place in the deed where it says, "I bargain, sell, and convey," he said to the fellow, "Write your name here." He said, "I can not write." Then the land man whispered to the justice and stood back behind the door and laughed. He went his way rejoicing, and when he reached his home he was still laughing, and his sister said, "What is the matter?" He said, "I gave a fellow 60 acres of land for these steers, and when I went to make the deed I found that he could not read and write, and I put the whole 120 acres off on him." [Applause and laughter.]

The SPEAKER. The time of the gentleman has expired.

Mr. LINTHICUM. Mr. Speaker, I move that the gentleman be allowed five minutes additional time.

The SPEAKER. The gentleman from Maryland [Mr. LINTHICUM] moves that the gentleman from Alabama [Mr. HEFLIN] have five minutes more. Is there objection?

Mr. MANN. Reserving the right to object, I would like to ask the gentleman whether this is more important than transacting business?

The SPEAKER. Is there objection?

Mr. HEFLIN. I want only two minutes.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. HEFLIN. Mr. Speaker, this too generous conduct on the part of this Appropriations Committee reminds me of another thing. I have read the beautiful story of two brothers, one of whom was a man with a family—a wife and several children—and the other was an old bachelor. These brothers had wheat fields on opposite sides of the road, and one moonlight night the old bachelor had reasoned in his heart that the brother with the family needed more wheat than he did, and he was down there moving shocks of wheat out of his field across the road into his brother's field. At the same time a little farther up the road the brother who had the family was moving shocks of wheat out of his field across the road into his brother's field, reasoning after this fashion that his brother was an old bachelor and had no family to comfort and make him happy, and he needed more of this world's goods for that reason. They happened to meet, and each fell upon the neck of the other expressing love and gratitude for the generosity displayed. [Laughter.]

I have not discovered any member of my committee bearing gifts and meeting gentlemen of the Appropriations Committee as they came bearing aloft this kindly gift to the Committee on Industrial Arts and Expositions. [Laughter.] Some of the members of this committee may feel like falling on the neck of the chairman of the Committee on Appropriations—not, however, for the same purpose that the brothers fell on each other's neck. [Applause and laughter.]

The SPEAKER. The time of the gentleman from Alabama has again expired.

Mr. HEFLIN. Mr. Speaker, having submitted these serious observations for the consideration of the House, I stand ready to accept its judgment and do its will regarding this re-referred bill. [Loud applause and laughter.]

The SPEAKER. The question is on agreeing to the motion to change the reference of the Senate bill from the Committee on Appropriations to the Committee on Industrial Arts and Expositions.

The motion was agreed to.

THE LATE SENATOR WILLIAM P. FRYE.

Mr. GUERNSEY. Mr. Speaker, I wish to present an order for memorial services.

The SPEAKER. The Clerk will report the resolution offered by the gentleman from Maine [Mr. GUERNSEY].

The Clerk read as follows:

Ordered, That Sunday, the 9th day of February, 1913, at 12 o'clock, be set apart for addresses on the life, character, and public services of Hon. WILLIAM P. FRYE, late a Senator from the State of Maine.

The SPEAKER. The Chair will state to the gentleman from Maine that the words "at 12 o'clock" will have to be stricken out there. Memorial services for another have already been ordered for that hour. Without objection, the words "at 12 o'clock" will be stricken out.

There was no objection.

The SPEAKER. The question is on agreeing to the order as amended.

The order was agreed to.

FORTIFICATION APPROPRIATION BILL.

Mr. SHERLEY, by direction of the Committee on Appropriations, reported the bill (H. R. 28186) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report (No. 1345), ordered to be printed.

Mr. MANN. Mr. Speaker, I reserve all points of order on the bill.

The SPEAKER. The gentleman from Illinois [Mr. MANN] reserves all points of order on the bill.

AMERICAN HOSPITAL OF PARIS.

Mr. CLAYTON. Mr. Speaker, I ask that the bill (S. 6380) to incorporate the American Hospital of Paris be taken from the Speaker's table, and that the House agree to the conference requested by the Senate.

The SPEAKER. The gentleman from Alabama [Mr. CLAYTON] asks that Senate bill 6380 be taken from the Speaker's table, and that the House agree to the conference requested by the Senate. The Clerk will read the title of the bill.

The Clerk read as follows:

An act (S. 6380) to incorporate the American Hospital of Paris.

Mr. CLAYTON. Mr. Speaker, I ask that the House agree to the conference requested by the Senate.

Mr. MANN. Mr. Speaker, may I ask the gentleman what is the Senate amendment?

Mr. CLAYTON. The Senate amendment lengthens the time. The time limit for the existence of this charter was 50 years in the bill as it passed the House. The Senate has lengthened it to 75 years.

The SPEAKER. The gentleman from Alabama moves that the House agree to the conference asked by the Senate on that bill. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER. The Chair announces the following conferees, whose names the Clerk will report.

The Clerk read as follows:

Mr. CLAYTON, Mr. DAVIS of West Virginia, Mr. STERLING.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I desire to call up the conference report on Senate bill 3175, an act to regulate the immigration of aliens to and the residence of aliens in the United States, and ask for the adoption of the report of the conference committee.

Mr. SABATH. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SABATH. As a member of the conference committee making the report who disagrees with the majority of the conferees, I desire to know whether I have the right to go on record as dissenting and protesting against this report? What I mean is as to going on record on the report that has been submitted.

Mr. GARDNER of Massachusetts rose.

The SPEAKER. The gentleman from Massachusetts is recognized.

Mr. GARDNER of Massachusetts. Mr. Speaker, I have no objection, but if I recollect the rules correctly a minority member of the managers on the part of the House has no right to make a supplementary report. That is my recollection.

Mr. MOORE of Pennsylvania. Mr. Speaker, may I ask, as a parliamentary inquiry, how much time will be permitted for the discussion of this report

The SPEAKER. That is not exactly a parliamentary inquiry. The House determines that. The Chair is of the impression that a minority Member, under the rules or precedents, can not file a minority report, although the Chair recollects that he himself, as a member of a conference committee, threatened to do it once on a very serious question.

Mr. MANN. I think I have never known minority views to be filed on a conference report during my service.

The SPEAKER. The Chair will state that he investigated that matter some years ago, because he was on a conference and there was a very bitterly contested proposition, and the present occupant of the chair then threatened to file a minority report. But the present occupant of the chair finally got what he wanted into the conference report and did not have to do that. He investigated the authorities as best he could at that time and found out that he could not make a minority report under the rules and precedents.

Mr. SABATH. I am in an unlike position, Mr. Speaker, in that I have not succeeded in getting all that I wanted in the conference report, though I have got everything else that I did not want.

The SPEAKER. The last part of the Chair's statement applies to that.

Mr. GARDNER of Massachusetts. Mr. Speaker, there is a direct ruling on the question——

The SPEAKER. The gentleman need not read it. The Chair rules that way. Of course, if the gentleman from Illinois [Mr. SABATH] does not sign the conference report, that shows prima facie that he is against it

Mr. SABATH. But I submit, Mr. Speaker, that that does not show that I am opposed to the report.

The SPEAKER. The remarks of the gentleman here this morning show that very conclusively. [Laughter.]

Mr. MOORE of Pennsylvania. May I ask the gentleman from Alabama [Mr. BURNETT], the chairman of the committee, whether he has arranged for the control of the time on the part of those who are opposed to the conference report?

Mr. BURNETT. I think in view of the pressure of other business we ought not to consume more than the hour which, I believe, is usually allowed in these cases, under the rule.

Mr. MOORE of Pennsylvania. It happens that on this side of the House I am the only member of the committee who is opposed to the report in some particulars.

Mr. BURNETT. The gentleman means that he is the only member of the Committee on Immigration and Naturalization on that side who is opposed?

Mr. MOORE of Pennsylvania. Yes. A number of gentlemen desire to speak in opposition to the report, which contains 24 pages of new matter that has never been considered by the House. As the bill left the House there was about a page and a half of printed matter upon which the House had acted. Now the conference committee returns with a recommendation involving 24 pages in fine italic print of new matter, which has been considered only by the conferees. It seems to me the gentleman ought to permit the discussion of this new matter, because it is of vital importance to a vast number of people in this country.

Mr. SABATH. Let me correct the gentleman. There are 59 pages of new matter that has not been considered by the House.

Mr. MOORE of Pennsylvania. Can not the gentleman agree to give a little more time to those who would like to speak on some phases of this report that have not been considered in the House at all?

The SPEAKER. The House itself determines the question of the length of debate on a conference report. Under the rule the gentleman from Alabama [Mr. BURNETT] will have an hour if he wants to use it, and he can move the previous question at any time within that hour. If he fails to do that, then any other gentleman who can get recognition from the Chair has an hour, and so on, ad infinitum. If the gentleman from Alabama [Mr. BURNETT] makes the motion for the previous question, and other gentlemen have not had as much time as they want, they have the privilege of voting his motion for the previous question down if there are enough of them to do it.

Mr. HAMILL. Mr. Speaker, in view of the statement made by the gentleman from Pennsylvania and indorsed by his colleague from Illinois [Mr. SABATH] regarding the large amount of new matter injected into the report that was not in the bill as it passed the House, I desire now to move—and I have the motion in writing—that consideration of this conference report be postponed for one week, until next Friday, January 24. I believe that motion is in order.

Mr. LANGLEY. The gentleman will remember that next Friday is pension day.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] has the floor.

Mr. GOLDFOGLE. Mr. Speaker——

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

Mr. BURNETT. I have not yielded for any motion.

Mr. MANN. I submit, Mr. Speaker, that no one has the floor yet. The gentleman from Alabama [Mr. BURNETT] has called up the conference report, and unless some one makes a motion—that can not be made yet—it is the duty of the Chair to have the conference report laid before the House and read.

The SPEAKER. Of course that is the proper course of procedure.

Mr. BURNETT. Mr. Speaker, I certainly had the floor, and these remarks are coming out of my time.

Mr. MANN. The gentleman can not retain the floor. All he does is to call up the conference report. He has the right to call it up, unless the question of consideration is raised, and then I think the Chair should direct that the conference report be read to the House.

The SPEAKER. That is exactly what the Chair was going to do.

Mr. CANNON. And the proper time to raise the question of consideration or to move to postpone to a day certain is before the beginning of the reading of the conference report.

Mr. MANN. After it has been reported and read, I take it.

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MOORE of Pennsylvania. A moment ago, in answer to my question, the Speaker stated that the matter of the time for discussion was one to be determined by the House. It was then upon my mind to make a motion that a definite time be fixed for debate, but the gentleman from New Jersey [Mr. HAMILL] made a motion that there be a postponement of the consideration of the conference report until a day certain. I ask the Speaker now whether the question is for the House or whether the gentleman from Alabama [Mr. BURNETT] has the floor? If the gentleman from Alabama has the floor, that precludes it.

The SPEAKER. No Member has the floor until the report is read, and the Clerk will read it.

Mr. CANNON. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. CANNON. After the report is read it will be proper, if any Member desires to do so, to raise the question of consideration?

The SPEAKER. Undoubtedly.

Mr. CANNON. And not until that time to move to postpone to a day certain?

Mr. MANN. If he got the floor to make the motion.

The SPEAKER. After the report is read, then the question of consideration can be raised and also any of the motions that are permissible by the rule.

Mr. GARDNER of Massachusetts. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARDNER of Massachusetts. Is it not also true, if, after the question of consideration is voted on, the gentleman moves to postpone to a day certain, the gentleman from Alabama can take the question away from him by moving the previous question at once as a motion of higher precedence than a motion to postpone?

Mr. MANN. I think that question ought not to be answered until it is reached.

The SPEAKER. The motion for the previous question is next to the highest motion to be made in the House.

Mr. GARDNER of Massachusetts. In that case does the Chair think there will be 40 minutes' debate after the previous question is moved and carried?

The SPEAKER. On any question where there has been no debate if the previous question is ordered there is 40 minutes debate.

Mr. GARDNER of Massachusetts. Then there would be no hardship done if the gentleman moved a postponement——

Mr. SHERLEY. Oh, Mr. Speaker, that is not a parliamentary inquiry.

The SPEAKER. The Chair thinks that is not a parliamentary inquiry, and the Chair will not pass upon it.

Mr. CANNON. Mr. Speaker, my reason for asking the question was to know what rights the Members of the House had. I do not want to see those rights sacrificed. There is a general complaint that this long bill is reported here for the first time, a report that I have not read myself, and I would like to know the proper time, first, for consideration, and, second, when a motion would be in order to postpone to a day certain, not to antagonize the consideration of the conference report, but to give the House an opportunity to look into it.

The SPEAKER. The Chair will state his view upon the matter. The first thing to do is to read the report so that Members may be informed as to what is attempted to be done. Anyone can raise the question of consideration. If consideration is determined on, then any of the motions that are permissible to be made, for instance, to postpone to a day certain, and so forth, will be in order, and the gentleman from Alabama will have a right to move the previous question, and there will be 40 minutes' debate, provided nobody debates it beforehand.

Mr. HAMILL. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. HAMILL. If the motion to postpone to a day certain is made, will that entitle the maker of the motion to 40 minutes' time in which to debate the motion?

The SPEAKER. No; the gentleman from Alabama [Mr. BURNETT], for instance, moves the previous question, and that gives 40 minutes' debate, provided nobody debates it before the motion is made. Naturally the gentleman from Illinois [Mr. SABATH] would be entitled to 20 minutes of that time, as he seems to be the chief one in opposition.

Mr. HAMILL. He would move the previous question on the motion to postpone to a day certain and not shutting off debate on the conference report.

The SPEAKER. It would be 40 minutes' debate on the conference report.

Mr. BARTLETT. Mr. Speaker, section 4 of Rule XVI says that a motion to postpone to a day certain is to be decided without debate.

The SPEAKER. The Chair thinks the gentleman from Georgia is mistaken about the interpretation of that rule.

The rule is:

When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motion shall be decided without debate), to postpone to a day certain.

And so forth. The motions to postpone to a day certain, to refer, or to amend are debatable.

Mr. GARDNER of Massachusetts. Mr. Speaker, another parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARDNER of Massachusetts. If the gentleman from New Jersey makes a motion to postpone and subsequently, at once, the gentleman from Alabama moves the previous question, does the gentleman's motion take precedence, although it is made subsequent to the motion to postpone?

The SPEAKER. The Chair thinks so.

Mr. SHERLEY. Does the Chair mean by that that the motion for the previous question excludes the motion to postpone to a day certain?

The SPEAKER. No; that is the very question he is going to move the previous question on.

Mr. SHERLEY. The gentleman's motion seems to exclude the motion to postpone.

The SPEAKER. It is the motion to postpone that the gentleman proposes to order the previous question on.

Mr. MANN. Mr. Speaker, under the rule that says "which several motions shall have precedence in the foregoing order," would it not be in order, after a motion to postpone is made, to move the previous question on the conference report? That was the query that I understand was submitted.

Mr. GARDNER of Massachusetts. That is my query. Otherwise, there is no point in giving precedence under the rule.

Mr. MANN. I think the rule is quite plain, but I do not see why the Chair should be called upon to decide all of these things in advance on hypothetical propositions which may never arise.

The SPEAKER. The Chair agrees with the gentleman about that.

Mr. GARDNER of Massachusetts. Mr. Speaker, it is a very important question. I have always believed that that rule was unnecessary if the only question was who was active enough and vociferous enough to get on his feet first. The very purpose of the rule is that in case some one makes a motion of inferior preference, to wit, the motion to postpone the conference report, then somebody else may move a motion of superior preference, to wit, the previous question on the conference report.

Mr. MANN. It is too plain for argument.

The SPEAKER. The Chair will rule upon that, although it is out of time. The Chair does not believe that to move the previous question on the motion to postpone would automatically or in any other way order the previous question on the conference report itself. It seems to the Chair that that proposition is not tenable.

Mr. MANN. But supposing instead of moving the previous question on the motion to postpone the gentleman moves the previous question on the adoption of the conference report. It seems to me that under the rule he clearly has that right.

The SPEAKER. Then what becomes of the motion to postpone?

Mr. MANN. If the previous question is ordered on the conference report, that ends it.

Mr. GARDNER of Massachusetts. It goes out. The motion of superior preference takes its place.

Mr. MANN. If the previous question on the conference report is not ordered, then the motion to postpone comes before the House.

The SPEAKER. Provided the question of consideration is determined so that the conference report shall be considered, then the motion to postpone to a day certain is in order. A motion to order the previous question on that motion can then be made. That does not, in the opinion of the Chair, carry with it the conference report. If the House determines to consider the conference report, the Chair will recognize the gentleman from New Jersey [Mr. HAMILL] to make his motion to postpone. Then he will recognize the gentleman from Alabama [Mr. BURNETT] to move the previous question.

Mr. HAMILL. On what?

The SPEAKER. On the motion to postpone.

Mr. MANN. And, Mr. Speaker, if the Chair is making a ruling upon it, allow me to call attention to the rule. If consideration is ordered, then the conference report is before the House on a presumed motion to adopt the report, which is put without being made. Under the rules a motion to postpone would be in order, or a motion to amend is in order, and a motion to refer is in order. All three of them might be made if the previous question is not ordered on the conference report, but they are to be put in the order in which they have precedence.

The SPEAKER. That is true.

Mr. MANN. If you adopt a motion to postpone to a day certain, although you may have pending a motion to refer, you would dispose of the motion to refer by the adoption of the motion to postpone to a day certain. In the same way a motion for the previous question, having precedence over a motion to postpone, can be offered, and if the previous question be adopted—that is, Shall the main question be now put?—if agreed to, that disposes itself of the motion to postpone.

The SPEAKER. The Chair will ask the gentleman a question for information. Some gentleman makes a motion to postpone to a day certain. The previous question is moved on that motion. Does the gentleman from Illinois think it would be fair to the House to construe that motion as being a motion on the previous question on the bill?

Mr. MANN. Certainly not; but suppose, instead of moving the previous question on the motion to postpone, the gentleman moves the previous question on the motion to adopt the conference report, which has priority under the rules over the motion to postpone; having priority, it is in order.

The SPEAKER. The Chair will ask the gentleman another question: Was this privilege of making the motion to postpone put in the rule for amusement, or was it put in there to give somebody a right in the House?

Mr. MANN. There is a right to move to postpone as long as the previous question is not demanded or is not operating.

The SPEAKER. Has the gentleman any authority on that?

Mr. MANN. The rule itself says that, Mr. Speaker. I suggest, instead of the Speaker endeavoring to determine the matter at this time, that the report be read in the meantime, during which time the Speaker will have an opportunity to look into the question.

Mr. MOORE of Pennsylvania. Mr. Speaker, I call for the reading of the conference report.

Mr. LENROOT. Mr. Speaker, I would like to call attention to a ruling upon the point suggested by the Speaker.

The SPEAKER. The Chair suggests that that go over until we get this report read.

Mr. MOORE of Pennsylvania. Mr. Speaker, I call for a reading of the report.

The SPEAKER. The Clerk will read the report.

The Clerk read the report as follows:

CONFERENCE REPORT (NO. 1340).

The committee of conference on the disagreeing votes of the two Houses to the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States" having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

Strike out all of said amendment and insert in lieu thereof the following:

"An act to regulate the immigration of aliens to and the residence of aliens in the United States.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the word 'alien' wherever used in this act shall include any person not a native born or naturalized citizen of the United States, but this definition shall not be held to include Indians not taxed or citizens of the islands under the jurisdiction of the United States. That the term 'United States' as used in the title as well as in the various sections of this act shall be construed to mean the United States and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. That the term 'seaman' as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign part or place.

"That this act shall be enforced in the Philippine Islands by officers of the General Government thereof designated by appropriate legislation of said Government.

"SEC. 2. That there shall be levied, collected, and paid a tax of $5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port of customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such

vessel or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who shall enter the United States after an uninterrupted residence of at least one year, immediately preceding such entrance, in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, nor on account of otherwise admissible residents of any possession of the United States, nor on account of aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, by agreement with transportation lines, as provided in section 23 of this act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: *Provided further*, That said tax, when levied upon aliens entering the Philippine Islands, shall be paid into the treasury of said islands, to be expended for the benefit of such islands: *Provided further*, That in the cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall upon application be refunded to the alien: *Provided further*, That the provisions of this section shall not apply to aliens arriving in Guam or Hawaii; but if any such alien, not having become a citizen of the United States, shall later arrive at any port or place of the United States on the North American Continent the provisions of this section shall apply.

"SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had one or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have committed a felony or other crime or misdemeanor involving moral turpitude; citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port, the Secretary of Commerce and Labor shall have consented to their reapplying for admission; persons whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway may be admitted in the discretion of the Secretary of Commerce and Labor; all children under 16 years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe; persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

"That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

"All aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips, of uniform size, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plainly legible type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this act relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign Government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Commerce and Labor to be reached after a full hearing and an investigation into the facts of the case: *Provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants: *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign Government to its citizens or subjects to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular

possessions or from the Canal Zone: *Provided further*, That nothing in this act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of a concession or privilege for any fair or exposition authorized by act of Congress, from bringing into the United States, under contract, such alien mechanics, artisans, agents, or other employees, natives of his country, as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may prescribe both as to the admission and return of such persons: *Provided further*, That nothing in this act shall be construed to apply to accredited officials of foreign Governments nor to their suites, families, or guests: *Provided further*, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

"SEC. 4. That the importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import, into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall in every such case be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than 10 years and by a fine of not more than $5,000. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or in any district in which a violation of any of the foregoing provisions of this section occur. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this act which relate to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to or to enter the United States shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than two years. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against a wife or husband.

"SEC. 5. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to induce, assist, encourage, or solicit the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the provisions of section 3 of this act, and for every violation of any of the provisions of this section the person, partnership, company, or corporation violating the same shall forfeit and pay for every such offense the sum of $1,000, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such aliens thus offered or promised employment as aforesaid, as debts of like amount are now recovered in the courts of the United States; or for every violation of the provisions hereof the person violating the same may be prosecuted in a criminal action for a misdemeanor, and on conviction thereof shall be punished by a fine of $1,000, or by imprisonment for a term of not less than six months nor more than two years; and under either the civil or the criminal procedure mentioned separate suits or prosecutions may be brought for each alien thus offered or promised employment as aforesaid.

"SEC. 6. That it shall be unlawful and be deemed a violation of section 5 of this act to induce, assist, encourage, or solicit any alien to come into the United States by promise of employment through advertisements printed, published, or distributed in any foreign country, whether such promise is true or false, and either the civil or the criminal penalty imposed by said section shall be applicable to such a case: *Provided*, That States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States may advertise, and by written or oral communication with prospective alien settlers make known, the inducements they offer for immigration thereof, respectively.

"SEC. 7. That it shall be unlawful for any person, association, society, company, partnership, corporation, or others engaged in the business of transporting aliens to the United States, including owners, masters, officers, and agents of vessels, directly or indirectly, by writing, printing, or oral representation, to solicit, invite, or encourage any alien to come into the United States, and anyone violating any provision hereof shall be subject to either the civil or the criminal prosecution prescribed by section 5 of this act; or if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a violation by an owner, master, officer, or agent of a vessel, such owner, master, officer, or agent shall pay to the collector of customs of the customs district in which the port of arrival is located or in which any vessel of the line may be found the sum of $400 for each and every such violation; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while the fine imposed remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit with the collector of customs of a sum sufficient to cover such fine; *Provided further*, That whenever it shall be shown to the satisfaction of the Secretary of Commerce and Labor that the provisions of this section are persistently violated by or on behalf of any transportation company, it shall be the duty of said Secretary to deny to such company the privilege of landing alien immigrant passengers of any or all classes at United States ports for such a period as in his judgment may be necessary to insure an observance of such provisions: *Provided further*, That this section shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements, confined strictly to stating the sailings of their vessels and terms and facilities of transportation therein.

"SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, or shall conceal or harbor, or attempt to conceal or harbor, or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment for each and every alien so landed or brought in or attempted to be landed or brought in.

"SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel, to bring to the United States any alien afflicted with idiocy, insanity, imbecility, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200 for each and every violation of the provisions of this section. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental or physical defect of a nature which may affect his ability to earn a living, as contemplated in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25 for each and every violation of this provision. It shall also be unlawful for any such person to bring to any port of the United States any alien who is unable to read or who can not become eligible, under existing law, to become a citizen of the United States by naturalization, as provided in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens from a foreign port such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $100 for each and every violation of this provision. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, or while the fine remains unpaid, nor shall such fine

be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 10. That it shall be the mandatory and unqualified duty of every person, including owners, officers, and agents of vessels or transportation lines, other than those lines which may enter into a contract as provided in section 23 of this act, bringing an alien to any seaport or land border port of the United States to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers, and the failure of any such owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than $100 nor more than $1,000, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Commerce and Labor it is impracticable or inconvenient to prosecute the owner, master, officer, or agent of any such vessel, a pecuniary penalty of $1,000 shall be a lien upon the vessel whose owner, master, officer, or agent violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United States court.

"SEC. 11. That whenever he may deem such action necessary the Secretary of Commerce and Labor may, at the expense of the appropriation for the enforcement of this act, detail immigrant inspectors and matrons of the United States Immigration Service for duty on vessels carrying immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. On such voyages said inspectors and matrons shall remain in that part of the vessel where immigrant passengers are carried. It shall be the duty of such inspectors and matrons to observe such passengers during the voyage, and report to the immigration authorities in charge at the port of landing any information of value in determining the admissibility of such passengers under the laws regulating immigration of aliens into the United States. It shall further be the duty of such inspectors and matrons to observe violations of the provisions of such laws and the violation of such provisions of the 'passenger act' of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and report the same to the proper United States officials at ports of landing. Whenever the Secretary of Commerce and Labor so directs, a surgeon of the United States Public Health Service, detailed to the Immigration Service, not lower in rank than a passed assistant surgeon, shall be received and carried on any vessel transporting immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. Such surgeon shall be permitted to investigate and examine the condition of all immigrant and emigrant passengers in relation to any provisions of the laws regulating the immigration of aliens into the United States, and such provisions of the 'passenger act' of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and shall immediately report any violation of said laws to the master or commanding officer of the vessel, and shall also report said violations to the Secretary of Commerce, and Labor within 24 hours after the arrival of the vessel at the port of entry in the United States. Such surgeon shall accompany the master or captain of the vessel in his visits to the sanitary officers of the ports of call during the voyage, and, should contagious or infectious diseases prevail at any port where passengers are received, he shall request all reasonable precautionary measures for the health of persons on board. Such surgeon on arrival at ports of the United States shall also, if requested by the examining board, furnish any information he may possess in regard to immigrants arriving on the vessel to which he has been detailed. While on duty such surgeons shall wear the prescribed uniform of their service and shall be provided with first-class accommodations on such vessel at the expense of the appropriation for the enforcement of this act. For every violation of this section any person, including any transportation company, owning or operating the vessel in which such violation occurs shall pay to the collector of customs of the customs district in which the next United States port of arrival is located the sum of $1,000 for each and every day during which such violation continues, the term "violation" to include the refusal of any person having authority so to do to permit any such immigrant inspector, matron, or surgeon to be received on board such vessel, as provided in this section, and also the refusal of the master or commanding officer of any such vessel to permit the inspections and visits of any such surgeon, as provided in this section, and no vessel shall be granted clearance papers pending the determination of the question of the liability of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of all such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 12. That upon the arrival of any alien by water at any point within the United States on the North American Continent from a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or at any port of the said insular possessions from any foreign port, from a port in the United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners, or consignees of the steamer, sailing, or other vessel having said alien on board to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, contain full and accurate information as to each alien as follows: Full name, age, and sex; whether married or single; calling or occupation, personal description (including height, complexion, color of hair and eyes, and marks of identification); whether able to read; nationality; country of birth; race; country of last permanent residence; name and address of the nearest relative in the country from which the alien came; seaport for landing in the United States; final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; by whom passage was paid; whether going to join a relative or friend, and if so, what relative or friend, and his or her name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane or supported by charity; whether a polygamist; whether an anarchist; whether a person who believes in or advocates the overthrow by force or violence of the Government of the United States or of all forms of law, or who disbelieves in or is opposed to organized government, or who advocates the assassination of public officials, or is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States; the alien's condition of health, mental and physical; whether deformed or crippled, and if so, for how long and from what cause; and such master or commanding officer, owners, or consignees shall also furnish information in relation to the sex, age, class of travel, and the foreign port of embarkation of arriving passengers who are United States citizens. That it shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or from any port of the said insular possessions to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with the immigration officials before departure a list which shall contain full and accurate information in relation to the following matters regarding all alien passengers, and all citizens of the United States or insular possessions of the United States departing with the stated intent to reside permanently in a foreign country, taken on board: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States or insular possessions thereof; if a citizen of the United States or of the insular possessions thereof, whether native born or naturalized; intended future permanent residence; and time and port of last arrival in the United States, or insular possessions thereof; and such master or commanding officer shall also furnish information in relation to the sex, age, class of travel, and port of debarkation of the United States citizens departing who do not intend to reside permanently in a foreign country, and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each person of the classes specified taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall

be punishable as provided in section 14 of this act: *Provided*, That in the case of vessels making regular trips to ports of the United States the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further*, That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and, if a United States citizen, whether native born or naturalized.

"SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, the names of those coming from the same locality to be assembled so far as practicable, and no one list or manifest shall contain more than 30 names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, etc., is contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is of any of the classes excluded from admission into the United States by section 3 of this act, and that also according to the best of his knowledge and belief, the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens, the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessels, and the manifests shall be verified by such surgeon before a United States consular officer.

"SEC. 14. That it shall be unlawful for the master or commanding officer of any vessel bringing aliens into or carrying aliens out of the United States to refuse or fail to deliver to the immigration officials the accurate and full manifests or statements or information regarding all aliens on board or taken on board such vessel required by this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a refusal or failure, or that the lists delivered are not accurate and full, such master or commanding officer shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each alien concerning whom such accurate and full manifest or statement or information is not furnished, or concerning whom the manifest or statement or information is not prepared and sworn to as prescribed by this act. No vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine.

"SEC. 15. That upon the arrival at a port of the United States of any vessel bringing aliens it shall be the duty of the proper immigration officials to go or to send competent assistants to the vessel and there inspect all such aliens, or said immigration officials may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this act bind the said transportation lines, masters, agents, owners, or consignees: *Provided*, That where removal is made to premises owned or controlled by the United States, said transportation lines, masters, agents, owners, or consignees, and each of them shall, so long as detention there lasts, be relieved of responsibility for the safekeeping of such aliens. Whenever a temporary removal of aliens is made the transportation lines which brought them and the masters, owners, agents, and consignees of the vessel upon which they arrive shall pay all expenses of such removal and all expenses arising during subsequent detention, pending decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, such expenses to include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel in the even of deportation, excepting only where they arise under the terms of any of the provisos of section 18 thereof. Any refusal or failure to comply with the provisions hereof to be punished in the manner specified in section 18 of this act.

"SEC. 16. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine, and who shall certify, for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service, upon such terms as may be prescribed by the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental defect shall be detailed for duty or employed at all large ports of entry, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defects is suspected, and the services of interpreters shall be provided for such examination. That the inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this act, shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered under the provisions of this act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section 125 of the act approved March 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States." Any commissioner of immigration or inspector in charge shall also have power to require the attendance and testimony of witnesses before said inspectors and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States, and to that end may invoke the aid of any court of the United States, and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpœna issued by any commissioner of immigration or inspector in charge or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents is demanded, and testify; and any failure to obey such order of the court shall be punished by the court as a contempt thereof. That any person, including employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not less than six months nor more than two years, or by a fine of not less than two hun-

dred nor more than two thousand dollars; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall on conviction thereof be punished by imprisonment for not less than 1 nor more than 10 years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Commerce and Labor is permitted by this act, the alien shall be so informed and shall have the right to be represented by counsel or other advisor on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation.

"SEC. 17. That boards of special inquiry shall be appointed by the commissioner of immigration or inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, shall from time to time designate as qualified to serve on such boards. When in the opinion of the Secretary of Commerce and Labor the maintenance of a permanent board of special inquiry for service at any sea or land border port is not warranted, regularly constituted boards may be detailed from other stations for temporary service at such port, or, if that be impracticable, the Secretary of Commerce and Labor shall authorize the creation of boards of special inquiry by the immigration officials in charge at such ports, and shall determine what Government officials or other persons shall be eligible for service on such boards. Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. All hearings before such boards shall be separate and apart from the public. Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Commerce and Labor, and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision, which shall be rendered solely upon the evidence adduced before the board of special inquiry. In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of a board of special inquiry if adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Commerce and Labor: *Provided*, That the decision of a board of special inquiry, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens affected with tuberculosis in any form or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section 3 of this act.

"SEC. 18. That all aliens brought to this country in violation of law shall, if practicable, be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came on the vessels bringing them. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien; or to take any security from him for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act, unless prior to reembarkation the Secretary of Commerce and Labor has consented that such alien shall reapply for admission, as required by section 3 hereof; and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the customs district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of this section; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any alien found to have come in violation of any provision of this act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act, or such alien may be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required as a witness and for deportation. No alien certified, as provided in section 16 of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless with the express permission of the Secretary of Commerce and Labor: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

"SEC. 19. That any alien, at any time within three years after entry, who shall enter the United States in violation of law; any alien who within three years after entry becomes a public charge from causes existing prior to the landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within three years after the entry of the alien to the United States; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists, protects, or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified, shall return to and enter the United States; any alien convicted and im-

prisoned for a violation of any of the provisions of section 4 hereof; any alien, at any time within three years after entry, who shall enter the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, shall, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and deported: *Provided*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence, make a recommendation to the Secretary of Commerce and Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States. In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty now existing, the decisions of the Secretary of Commerce and Labor shall be final.

"SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Commerce and Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If effected at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such vessels or transportation line by which such aliens, respectively, came; or, if that is not practicable, at the expense of the appropriation for the enforcement of this act. If such deportation is effected later than five years after the entry of the alien, or, if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Commerce and Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section 18 of this act: *Provided*, That when in the opinion of the Secretary of Commerce and Labor the mental or physical condition of such alien is such as to require personal care and attendance, he may employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in like manner. Pending the final disposal of the case of any alien so taken into custody he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

"SEC. 21. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis in any form or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Commerce and Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof, holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. The admission of such alien shall be a consideration for the giving of such bond or undertaking. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, District, county, town, or municipality in which such alien becomes a public charge.

"SEC. 22. That wherever an alien shall have taken up his permanent residence in this country, and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife or minor children to join him, if said wife or any of said children shall be found to be affected with any contagious disorder, such wife or children shall be held, under such regulations as the Secretary of Commerce and Labor shall prescribe, until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable and the husband or father or other responsible person is willing to bear the expense of the treatment, they may be accorded treatment in hospital until cured and then be admitted, or if it shall be determined that they can be permitted to land without danger to other persons, they may, if otherwise admissible, thereupon be admitted.

"SEC. 23. That the Commissioner General of Immigration shall perform all his duties under the direction of the Secretary of Commerce and Labor. Under such direction he shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder; he shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid, and to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed; he shall prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico, so as not to unnecessarily delay, impede, or annoy persons in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose; it shall be the duty of the Commissioner General of Immigration to detail officers of the Immigration Service from time to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges. He may, with the approval of the Secretary of Commerce and Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this act, detail immigration officers, and also surgeons of the United States Public Health Service employed under this act for service in foreign countries. The duties of commissioners of immigration and other immigration officials in charge of districts, ports, or stations shall be of an administrative character, to be prescribed in detail by regulations prepared under the direction or with the approval of the Secretary of Commerce and Labor: *Provided*, That for the purpose of making effective the provisions of this section relating to the protection of aliens from fraud and loss, and also the provisions of section 30 of this act, relating to the distribution of aliens, the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors.

"SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and their compensation fixed and raised or decreased from time to time by the Secretary of Commerce and Labor, upon the recommendation of the Commissioner General of Immigration and in accordance with the provisions of the civil-service act of January 16, 1883: *Provided*, That said Secretary, in the enforcement of that portion of this act which excludes contract laborers, may employ, without reference to the provisions of the said civil-service act, or to the various acts relative to the compilation of the official register, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw annually from the appropriation for the enforcement of this act $50,000, or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Commerce and Labor certifies that an itemized account would not be for the best interests of the Government: *Provided further*, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation act approved August 18, 1894, or the official status of such commissioners heretofore appointed.

"SEC. 25. That the district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act. That it shall be the duty of the United States district attorney of the proper district to prosecute every such writ when brought by the United States under this act. Such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with such violation may be found. That no suit or proceeding for a violation of the provisions of this act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

"SEC. 26. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station, shall be disposed of after public competition, subject to such conditions and limitations as the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, may prescribe, and all receipts accruing from the disposal of such exclusive privileges shall be paid into the Treasury of the United States. No intoxicating liquors shall be sold at any such immigrant station.

"SEC. 27. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

"SEC. 28. That any person who knowingly aids or assists any anarchist or any person who believes in or advocates the overthrow by force or violence of the Government of the United States, or who disbelieves in or is opposed to organized government, or all forms of law, or who advocates the assassination of public officials, or who is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such anarchist or person aforesaid to enter therein shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.

"SEC. 29. That the President of the United States is authorized in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral, and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign Governments in their own territories to prevent the evasion of the laws of the United States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who, under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

"SEC. 30. That there shall be maintained a division of information in the Bureau of Immigration and Naturalization; and the Secretary of Commerce and Labor shall provide such clerical and other assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens at the immigrant stations of the United States and to such other persons as may desire the same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, have access to aliens who have been admitted to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner General of Immigration, who, with the approval of the Secretary of Commerce and Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

"SEC. 31. That any person, including the owner, agent, consignee, or master of any vessel arriving in the United States from any foreign port or place, who shall knowingly sign on the ship's articles, or bring to the United States as one of the crew of such vessel, any alien, with intent to permit such alien to land in the United States in violation of the laws and treaties of the United States regulating the immigration of aliens, or who shall falsely and knowingly represent to the immigration authorities at the port of arrival that any such alien is a bona fide member of the crew, shall be liable to a penalty not exceeding $5,000, for which sum the said vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 32. That no alien excluded from admission into the United States by any law or treaty of the United States regulating the immigration of aliens, and employed on board any vessel arriving in the United States from any foreign port or place, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to regulations prescribed by the Secretary of Commerce and Labor providing for the ultimate removal or deportation of such alien from the United States, and the negligent failure of the owner, agent, consignee, or master of such vessel to detain on board any such alien after notice in writing by the immigration officer in charge at the port of arrival, and to deport such alien, if required by such immigration officer or by the Secretary of Commerce and Labor, shall render such owner, agent, consignee, or master liable to a penalty not exceeding $1,000, for which sum the said vessel shall be liable, and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 33. That it shall be unlawful and be deemed a violation of the preceding section to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens: *Provided*, That in case any such alien intends to reship on board any other vessel bound to any foreign port or place he shall be allowed to land for the purpose of so reshipping, and may be paid off, discharged, and permitted to remove his effects, anything in such laws or treaties or in this act to the contrary notwithstanding, provided due notice of such proposed action first be given to the principal immigration officer in charge at the port of arrival.

"SEC. 34. That any alien seaman who shall desert his vessel in a port of the United States or who shall land therein contrary to the provisions of this act shall be deemed to be unlawfully in the United States and shall, at any time within three years thereafter, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section 20 of this act.

"SEC. 35. That it shall be unlawful for any vessel carrying passengers between a port of the United States and a port of a

foreign country, upon arrival in the United States, to have on board employed thereon any alien afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, if it appears to the satisfaction of the Secretary of Commerce and Labor, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel and that the existence of such affliction might have been detected by means of a competent medical examination at such time; and for every such alien so afflicted on board any such vessel at the time of arrival the owner, agent, consignee, or master thereof shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and while it remains unpaid: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine: *Provided further*, That such fine may, in the discretion of the Secretary of Commerce and Labor, be mitigated or remitted.

"SEC. 36. That upon arrival of any vessel in the United States from any foreign port or place it shall be the duty of the owner, agent, consignee, or master thereof to deliver to the principal immigration officer in charge of the port of arrival lists containing the names of all aliens employed on such vessel, stating the positions they respectively hold in the ship's company, when and where they were respectively shipped or engaged, and specifying those to be paid off and discharged in the port of arrival, or lists containing so much of such information as the Secretary of Commerce and Labor shall by regulation prescribe; and after the arrival of any such vessel it shall be the duty of such owner, agent, consignee, or master to report to such immigration officer, in writing, as soon as discovered, all cases in which any such alien has deserted the vessel, giving a description of such alien, together with any information likely to lead to his apprehension; and before the departure of any such vessel it shall be the duty of such owner, agent, consignee, or master to deliver to such immigration officer a further list containing the names of all alien employees who were not employed thereon at the time of the arrival, but who will leave port thereon at the time of her departure, and also the names of those, if any, who have been paid off and discharged, and of those, if any, who have deserted or landed or been duly admitted; and in case of the failure of such owner, agent, consignee, or master so to deliver either of the said lists of such aliens arriving and departing, respectively, or so to report such cases of desertion or landing, such owner, agent, consignee, or master shall, if required by the Secretary of Commerce and Labor, pay to the collector of customs of the customs district in which the port of arrival is located the sum of $10 for each alien concerning whom correct lists are not delivered or a true report is not made as above required; and no such vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and, in the event such fine is imposed, while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon deposit of a sum sufficient to cover such fine.

"SEC. 37. The word 'person' as used in this act shall be construed to import both the plural and the singular, as the case may be, and shall include corporations, companies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any director, officer, agent, or employee of any corporation, company, or association acting within the scope of his employment or office shall in every case be deemed to be the act, omission, or failure of such corporation, company, or association, as well as that of the person acting for or in behalf of such corporation, company, or association.

"SEC. 38. That this act, except as otherwise provided in section 3, shall take effect and be enforced from and after July 1, 1913. The act of March 26, 1910, amending the act of February 20, 1907, to regulate the immigration of aliens into the United States; the act of February 20, 1907, to regulate the immigration of aliens into the United States, except section 34 thereof; the act of March 3, 1903, to regulate the immigration of aliens into the United States, except section 34 thereof; and all other acts and parts of acts inconsistent with this act are hereby repealed on and after the taking effect of this act: *Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, nor to repeal, alter, or amend section 6, chapter 453, third session, Fifty-eighth Congress, approved February 6, 1905, or the act approved August 2, 1882, entitled 'An act to regulate the carriage of passengers by sea,' and amendments thereto: *Provided*, That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act, except as mentioned in the last proviso of section 19 hereof; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the laws or parts of laws repealed or amended by this act are hereby continued in force and effect."

JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.

H. C. LODGE,
WM. P. DILLINGHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the Senate bill (S. 3175) regulating the immigration of aliens, submit the following detailed statement in explanation of the effect agreed upon and recommended in the conference report:

The Senate having disagreed to the entire House amendment, which in its turn had stricken out the entire Senate bill, the whole subject of immigration came before the conference committee.

The bill as it passed the House contained no features except the illiteracy test. The Senate bill contemplated many changes in the law and an illiteracy test substantially similar to that proposed in the House, the principal difference being that the Senate included "writing" in its test and differed somewhat from the House as to the admissibility of illiterate relatives of qualified immigrants. On all substantial matters of difference between the Senate and the House touching the illiteracy test the Senate receded.

The principal changes in existing law proposed by the Senate to which the managers on the part of the House agreed are as follows:

First. An increase of the head tax from $4 to $5 per alien.

Second. The exclusion of aliens not eligible for naturalization.

Third. Making it permissible for the Secretary of Commerce and Labor to decide beforehand as to the necessity of importing such skilled contract labor as is now admissible under the existing contract-labor law.

Fourth. Providing more severe penalties for transportation lines which violate the law against advertising for immigrants and which bring to the United States aliens who are ineligible to enter.

Fifth. Providing for matrons, inspectors, and surgeons on immigrant ships at the discretion of the Secretary of Commerce and Labor.

Sixth. Providing machinery for compelling the attendance and testimony of witnesses before the immigration authorities when required.

Seventh. Providing for the deportation of aliens who become criminals within three years subsequent to entry.

Eighth. Providing for interior immigrant stations.

Ninth. Providing against the illegal entry of seamen and stowaways.

Tenth. Permitting aliens to be represented by counsel in the case of appeals from the decision of boards of special inquiry.

Eleventh. Providing experts in insanity at large ports of entry.

Twelfth. A definition of the meaning of the word "alien" where it appears in the bill.

A provision was added in conference requiring the production of penal certificates in certain cases for the purpose of facilitating the execution of that part of the Senate bill and of the present law which relates to the exclusion of criminals.

JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.

During the reading.

Mr. MANN. Mr. Speaker, as this is the only time we have had an opportunity to have the bill read in any way, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Illinois [Mr. MANN] makes the point of order that there is no quorum present, and evidently there is not.

Mr. BURNETT. Mr. Speaker, I move a call of the House.

The question was taken, and the motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The roll was called, and the following Members failed to answer to their names:

Aiken, S. C.	Focht	Lindsay	Scully
Ainey	Fordney	Littleton	Sells
Akin, N. Y.	Fornes	Longworth	Shackleford
Ames	George	McCall	Sisson
Anthony	Gillett	McCoy	Smith, J. M. C.
Ayres	Glass	McGuire, Okla.	Smith, Cal.
Bates	Goeke	McKellar	Smith, N. Y.
Bathrick	Gould	Madden	Sparkman
Berger	Greene, Vt.	Maher	Speer
Brown	Gregg, Pa.	Martin, Colo.	Stack
Byrnes, S. C.	Harris	Matthews	Stephens, Nebr.
Calder	Harrison, N. Y.	Merritt	Stevens, Minn.
Cantrill	Hart	Miller	Sulloway
Carlin	Haugen	Moon, Pa.	Talbott, Md.
Carter	Hill	Moore, Tex.	Talcott, N. Y.
Cary	Howard	Nelson	Taylor, Ala.
Conry	Hughes, W. Va.	Nye	Taylor, Colo.
Cox	Hull	Oldfield	Townsend
Curry, N. Mex.	Humphreys, Miss.	Olmsted	Turnbull
Danforth	James	Palmer	Tuttle
Davis, Minn.	Johnson, Ky.	Parran	Underwood
De Forest	Kindred	Patten, N. Y.	Vare
Dixon, Ind.	Kitchin	Payne	Vreeland
Doremus	Lafean	Peters	Warburton
Driscoll, D. A.	Lafferty	Plumley	Weeks
Dwight	Langham	Post	White
Dyer	Lawrence	Pujo	Wilson, N. Y.
Estopinal	Lee, Ga.	Randell, Tex.	Wood, N. J.
Fairchild	Legare	Redfield	Woods, Iowa
Ferris	Lever	Reyburn	
Fields	Levy	Richardson	
Fitzgerald	Lewis	Riordan	

The SPEAKER. Two hundred and fifty-eight Members—a quorum—have responded to their names.

Mr. BARTLETT. Mr. Speaker, I move that further proceedings under the call of the House be dispensed with.

The SPEAKER. The gentleman from Georgia [Mr. BARTLETT] moves that further proceedings under the call be dispensed with.

The question was taken, and the motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors, and the Clerk will proceed with the reading.

Mr. GARDNER of Massachusetts. Mr. Speaker, I ask unanimous consent that the further reading of the report be dispensed with and that the statement be read in lieu of the remainder.

Mr. MOORE of Pennsylvania. Mr. Speaker, I object——

Mr. SABATH. Mr. Speaker, I object.

The Clerk resumed and completed the reading of the conference report.

Mr. SABATH. Mr. Speaker——

Mr. HAMILL. Mr. Speaker——

Mr. SABATH. Mr. Speaker, I reserve all points of order.

Mr. MANN. Mr. Speaker, I make the point of order that the report can not be considered in the House until the original papers are before the House, and that the original papers are not in the possession of the House. I understand the original Senate bill is in the possession of the Clerk. The House adopted an amendment striking out all after the enacting clause, so it is claimed.

The SPEAKER. The Speaker wishes that the gentleman would go over that again. The House will be in order.

Mr. MANN. The House, I believe, agreed to an amendment striking out all after the enacting clause. Under the rules and the laws and the practice that amendment is sent by resolution from the House to the Senate. I have the form of the resolution in my hand, and the form of the resolution is in the possession of the Clerk. It has to be certified to or attested by the Clerk. That has not been done, and the papers that are before the Speaker, I have no doubt the original papers, properly attested by the Clerk, are in the possession of the Senate. I make the point of order that, in the absence of the original papers, the House can not consider the conference report.

The SPEAKER. How did the Senate ever get possession of it, then?

Mr. MANN. I suppose the Senate has possession of the original papers. I do not know what the Senate has done about it.

The SPEAKER. The original Senate bill is here, properly attested by "Charles G. Bennett, Secretary," and "H. M. Rose, Assistant Secretary."

Mr. MANN. The Senate bill is properly attested, as I understand it.

The SPEAKER. The House part, that is attached to the original Senate bill, does not seem to have been attested by the House Clerk. If we can get hold of him we can have him sign it nunc pro tunc.

Mr. MANN. By unanimous consent I suppose he could do that.

The SPEAKER. Why would it take unanimous consent? The Speaker has never investigated it, but he thinks he would have the same power in that kind of a case that a nisi prius judge has. The Chair is not certain about that, however.

Mr. MANN. I take it that we are entitled to the original papers.

The SPEAKER. Unquestionably.

Mr. MANN. We must proceed on what is officially before the House. The House did have this bill up for consideration and did agree to an amendment. We have not official information at this time as to what that amendment consists of, in the absence of the original papers, and if we adopt the practice of considering a bill without the original papers and without the attestation of the Clerk, no one knows what might be presented as the original papers.

Mr. GARDNER of Massachusetts. Mr. Speaker, I raise the point of order that the gentleman's point of order comes too late. The House has proceeded to consider such papers as it had before it.

The SPEAKER. The Chair thinks that that point of order is not well taken. This document, purporting to be the conference report, has been read. That is all the proceeding that has been taken on this matter except the parliamentary skirmish that took place earlier in the day. The Chair does not think that the gentleman's point of order comes too late.

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MOORE of Pennsylvania. I desire to know whether it is now in order to raise the question of consideration.

The SPEAKER. It is not in order to raise the question of consideration until this other matter is determined. The Chair does not have any doubt about the right of the Speaker to order the Clerk to sign that document.

Mr. MANN. Mr. Speaker, the question is whether the original papers are the ones that were presented to the Senate. Is the Speaker prepared to say that the resolution which was sent to the Senate, not attested, is not merely a copy of the papers that we want—is not merely a copy of the papers we are entitled to?

The SPEAKER. Here is the situation: We have a certified copy of the Senate bill. Then we have the conference report sent over by the Senate, with this House amendment, striking out all after the enacting clause and enacting a new law, so far as the House could make a law, and the Clerk failed to sign it. But the fact that the Senate bill has come back here attached to the House amendment seems to the Chair to be reasonable proof that the document that purports to be the report from the House that is included in this bundle of papers is the same document that the Clerk sent over to the Senate.

Mr. MANN. Well, that might be a guess. How can the Chair know that? It is presumed that the officers of the House properly perform their duties, in which case they sent to the Senate an attested copy of the House amendment.

The SPEAKER. Now comes the Clerk of the House and attests it. [Laughter.]

Mr. MANN. Without examining it?

The SPEAKER. The Chair will have him examine it.

Mr. SABATH. Mr. Speaker, it is rather late in the day for him to sign it.

The SPEAKER. The gentleman from Illinois [Mr. MANN] is a lawyer——

Mr. MANN. Used to be——

The SPEAKER. And has seen a hundred times, if not more, orders entered nunc pro tunc in a nisi prius court without objection from anybody. If there was any doubt about this being the correct paper, of course we would not tolerate it for a second.

Mr. MANN. Mr. Speaker, I do not know but that I would rule the same way the Speaker has ruled if I were in the chair.

The SPEAKER. That is what the Chair thinks himself. [Laughter.]

Mr. MANN. I make a further point of order. The matter is before the House, and perhaps some other Members desire to make a point of order. But the conferees have included matters in the conference report which were not in disagreement.

The SPEAKER. The gentleman will suspend a moment. The gentleman from Pennsylvania [Mr. MOORE] a while ago asked the Chair if the time had come to raise the question of consideration.

Mr. MOORE of Pennsylvania. I want to raise that question when the time comes.

Mr. MANN. I do not think that question can be raised until there has been a disposition of the point of order.

Mr. MOORE of Pennsylvania. I think I addressed the Chair in the interim between the determination of one point of order and the other.

The SPEAKER. The Chair thinks that if the House is not going to consider the bill there is no use arguing points of order about it.

Mr. MANN. If the question is raised, I think it is probably beyond a point of order, but I do not care.

The SPEAKER. The Chair will hear the gentleman on his point of order as soon as this question is determined. The question is, Will the House now consider this conference report on the immigration bill?

Mr. SHERLEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SHERLEY. Does the consideration of this motion preclude the making of other motions, such as to lay on the table, or should they be made now?

The SPEAKER. Oh, no; they can be made afterwards.

Mr. HAMILL. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. HAMILL. For the purpose of making a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HAMILL. Is it in order now, before the determination of this motion, to present a motion for the postponement of the consideration of this conference report?

The SPEAKER. That will come afterwards. The question is, Will the House consider this conference report at this time?

The question being taken, the Speaker announced that the ayes appeared to have it.

Mr. SABATH and Mr. MOORE of Pennsylvania demanded a division.

The House divided; and there were—ayes 66, noes 49.

Mr. SABATH and Mr. MOORE of Pennsylvania demanded the yeas and nays.

Pending the division on the ordering of the yeas and nays,

Mr. MOORE of Pennsylvania. Mr. Speaker, I make the point that no quorum is present.

The SPEAKER. The gentleman from Pennsylvania raises the point of no quorum present. Evidently there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. Those in favor of the consideration of this bill will, when their names are called, answer aye, those opposed no, and the Clerk will call the roll.

The question was taken; and there were—yeas 179, nays 73, answered "present" 6, not voting 125, as follows:

YEAS—179.

Adair	Doughton	Higgins	Porter
Adamson	Draper	Hinds	Pou
Aiken, S. C.	Edwards	Holland	Powers
Alexander	Evans	Houston	Pray
Allen	Falson	Hughes, Ga.	Prince
Anderson	Farr	Hughes, W. Va.	Raker
Anthony	Ferris	Hull	Ranch
Austin	Finley	Humphrey, Wash.	Redfield
Ayres	Flood, Va.	Humphreys, Miss.	Rees
Barnhart	Floyd, Ark.	Jackson	Richardson
Bartlett	Focht	Jacoway	Rodenberg
Beall, Tex.	Foss	Jones	Rouse
Bell, Ga.	Foster	Knowland	Rubey
Blackmon	Fowler	Kopp	Russell
Borland	Francis	La Follette	Sharp
Brantley	French	Langley	Sheppard
Burke, S. Dak.	Gardner, Mass.	Lawrence	Simmons
Burnett	Garner	Lenroot	Sims
Butler	Garrett	Lever	Slayden
Byrnes, S. C.	Glass	Lindbergh	Small
Byrns, Tenn.	Godwin, N. C.	Linthicum	Smith, Saml. W.
Callaway	Goodwin, Ark.	Littlepage	Smith, Tex.
Campbell	Gray	Lloyd	Stanley
Candler	Greene, Vt.	McGuire, Okla.	Stedman
Cantrill	Gregg, Pa.	McKenzie	Stephens, Cal.
Carlin	Gregg, Tex.	McKinley	Stephens, Miss.
Clark, Fla.	Grest	McKinney	Stephens, Tex.
Claypool	Gudger	McLaughlin	Sterling
Clayton	Guernsey	Macon	Sweet
Cline	Hamilton, Mich.	Maguire, Nebr.	Switzer
Collier	Hamilton, W. Va.	Mays	Taggart
Copley	Hamlin	Mondell	Thomas
Covington	Hardwick	Moon, Tenn.	Towner
Cox	Hardy	Morgan, Okla.	Tribble
Cullop	Hartman	Morrison	Underhill
Currier	Hay	Morse, Wis.	Warburton
Dalzell	Hayden	Moss, Ind.	Watkins
Daugherty	Hayes	Mott	Webb
Davenport	Heald	Murdock	White
Davis, W. Va.	Heflin	Neeley	Willis
Dent	Helgesen	Padgett	Wilson, Pa.
Dickinson	Helm	Page	Witherspoon
Dickson, Miss.	Henry, Conn.	Patton, Pa.	Young, Kans.
Dies	Henry, Tex.	Pepper	Young, Tex.
Difenderfer	Hensley	Plumley	

NAYS—73.

Barchfeld	Buchanan	Crago	Denver
Bartholdt	Bulkley	Crumpacker	Donohoe
Boehne	Burke, Wis.	Curley	Doremus
Booher	Cooper	Curry	Dupré
Esch	Howell	Murray	Steenerson
Estopinal	Kahn	O'Shaunessy	Stevens, Minn.
Fergusson	Kennedy	Pickett	Stone
Fitzgerald	Kinkead, N. J.	Prouty	Talcott, N. Y.
Fuller	Konop	Reilly	Thayer
Gallagher	Korbly	Roberts, Mass.	Thistlewood
Gill	Lafferty	Roberts, Nev.	Tilson
Goldfogle	Lee, Pa.	Rodenberg	Tuttle
Good	Lobeck	Rucker, Colo.	Whitacre
Graham	McCreary	Sabath	Wilder
Green, Iowa	McDermott	Scott	Wilson, Ill.
Greene, Mass	Madden	Sherley	Young, Mich.
Hamill	Miller	Sherwood	
Harrison, N. Y.	Moore, Pa.	Sloan	
Hawley	Morgan, La.	Smith, N. Y.	

ANSWERED "PRESENT"—6.

Browning	Driscoll, M. E.	McMorran	Mann
Davidson	Kendall		

NOT VOTING—125.

Ainey	Fordney	Littleton	Rothermel
Akin, N. Y.	Fornes	Longworth	Rucker, Mo.
Ames	Gardner, N. J.	Loud	Saunders
Andrus	George	McCall	Scully
Ansberry	Gillett	McCoy	Sells
Ashbrook	Goeke	McGillicuddy	Shackleford
Bates	Gould	McKellar	Sisson
Bathrick	Hammond	Maher	Slemp
Berger	Harris	Martin, Colo.	Smith, J. M. C.
Bradley	Harrison, Miss.	Martin, S. Dak.	Smith, Cal.
Bronssard	Hart	Matthews	Sparkman
Brown	Haugen	Merritt	Speer
Burgess	Hill	Moon, Pa.	Stack
Burke, Pa.	Hobson	Moore, Tex.	Stephens, Nebr.
Burleson	Howard	Needham	Sulloway
Calder	Howland	Nelson	Talbott, Md.
Cannon	James	Norris	Taylor, Ala.
Carter	Johnson, Ky.	Nye	Taylor, Colo.
Cary	Johnson, S. C.	Oldfield	Taylor, Ohio
Conry	Kent	Olmsted	Townsend
Cravens	Kindred	Palmer	Turnbull
Danforth	Kinkaid, Nebr.	Parran	Underwood
Davis, Minn.	Kitchin	Patten, N. Y.	Vare
De Forest	Konig	Payne	Volstead
Dixon, Ind.	Lafean	Peters	Vreeland
Dodds	Lamb	Post	Weeks
Driscoll, D. A.	Langham	Pujo	Wilson, N. Y.
Dwight	Lee, Ga.	Rainey	Wood, N. J.
Dyer	Legare	Randell, Tex.	Woods, Iowa
Ellerbe	Levy	Ransdell, La.	
Fairchild	Lewis	Reyburn	
Fields	Lindsay	Riordan	

So the House decided to consider the conference report.

The following pairs were announced:

For the session:

Mr. LITTLETON with Mr. DWIGHT.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. FORNES with Mr. BRADLEY.

Mr. RIORDAN with Mr. ANDRUS.

Mr. PALMER with Mr. HILL.

Until further notice:

Mr. KITCHIN with Mr. FORDNEY.

Mr. RAINEY with Mr. MCCALL.

Mr. PUJO with Mr. MCMORRAN.

Mr. CONRY with Mr. LANGHAM.

Mr. UNDERWOOD with Mr. MANN.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. BURGESS with Mr. M. E. DRISCOLL.

Mr. SCULLY with Mr. BROWNING.

Mr. DIXON of Indiana with Mr. CARY.

Mr. ELLERBE with Mr. HAUGEN.

Mr. GEORGE with Mr. GILLETT.

Mr. GOEKE with Mr. HOWLAND.

Mr. GOULD with Mr. LAFEAN.

Mr. HAMMOND with Mr. LOUD.

Mr. HARRISON of Mississippi with Mr. MARTIN of South Dakota.

Mr. HART with Mr. MATTHEWS.

Mr. JAMES with Mr. NEEDHAM.

Mr. JOHNSON of South Carolina with Mr. MERRITT.

Mr. JOHNSON of Kentucky with Mr. MOON of Pennsylvania.

Mr. KINDRED with Mr. NYE.

Mr. LAMB with Mr. OLMSTED.

Mr. LEWIS with Mr. SELLS.

Mr. MCCOY with Mr. REYBURN.

Mr. OLDFIELD with Mr. J. M. C. SMITH.

Mr. PATTEN of New York with Mr. SLEMP.

Mr. POST with Mr. SMITH of California.

Mr. ROTHERMEL with Mr. SPEER.

Mr. RUCKER of Missouri with Mr. SULLOWAY.

Mr. TAYLOR of Alabama with Mr. VOLSTEAD.

Mr. TOWNSEND with Mr. TAYLOR of Ohio.

Mr. WILSON of New York with Mr. VREELAND.

Mr. TAYLOR of Colorado with Mr. VARE.

Mr. MCGILLICUDDY with Mr. WEEKS.

Mr. MCKELLAR with Mr. WOODS of Iowa.

Mr. PETERS with Mr. PAYNE.

Mr. ANSBERRY with Mr. DAVIS of Minnesota.

Mr. ASHBROOK with Mr. DE FOREST.

Mr. BATHRICK with Mr. DODDS.

Mr. BROWN with Mr. DYER.

Mr. BURLESON with Mr. AMES.

Mr. CARTER with Mr. BATES.

Mr. DANIEL A. DRISCOLL with Mr. DANFORTH.

For consideration of conference report:

Mr. HOWARD (for) with Mr. CALDER (against).

Mr. FIELDS (for) with Mr. BURKE of Pennsylvania (against).

Mr. NELSON (for) with Mr. FITZGERALD (against).

Mr. KENT (for) with Mr. CANNON (against).

Mr. HARRIS (for) with Mr. LEVY (against).

Mr. SHACKLEFORD with Mr. LONGWORTH until February 1.

Mr. TRUMBULL with Mr. GARDNER of New Jersey until Monday.

Mr. LEE of Georgia with Mr. WOOD of New Jersey for this day.

Mr. SISSON with Mr. KENDALL on this vote.

Mr. BROWNING. Mr. Speaker, I have a general pair with the gentleman from New Jersey, Mr. SCULLY. He has not voted, and I wish to withdraw my vote of "aye" and answer "present."

The Clerk called the name of Mr. BROWNING, and he answered "Present," as above recorded.

Mr. MANN. Mr. Speaker, I voted "aye." I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I wish to withdraw my vote and answer "present."

The Clerk called the name of Mr. MANN, and he answered "Present," as above recorded.

Mr. KENDALL. Mr. Speaker, I voted "no," but I am paired with the gentleman from Mississippi, Mr. SISSON. I wish to withdraw that vote and answer "present."

The Clerk called the name of Mr. KENDALL, and he answered "Present," as above recorded.

Mr. LANGLEY. Mr. Speaker, I voted "aye." I am paired with my colleague, Mr. FIELD, but he is in favor of this bill, and I feel justified in voting as I did.

The SPEAKER. Does the gentleman wish his vote to stand?

Mr. LANGLEY. I do.

The SPEAKER. The Chair has nothing to do with pairs.

The result of the vote was then announced as above recorded.

The SPEAKER. A quorum is present. The Doorkeeper will open the doors.

Mr. MANN. Mr. Speaker, I make the point of order that the conference report is not in order, because it contains matter which was not properly before the conferees and matter not in dispute between the two Houses. I reserve all points of order on the conference report, so that other gentlemen may present their matters. The Speaker will notice by the original papers in possession of the House that the amendment adopted by the House was to strike out all after the enacting clause and insert certain matter that is set forth.

As a matter of fact, the title to the bill and the enacting clause were not in dispute. Yet the conferees have included in their report as a part of the amendment to be agreed to an enacting clause and a title, in addition to the title and enacting clause which go with the Senate bill. As the enacting clause and title were not in dispute, not in disagreement, it was without the power of the conferees to include in their report as a part of the proposition agreed upon a title and an enacting clause.

The conference report provides:

That the Senate recede from its disagreement to the amendment of the same with an amendment as follows: Strike out all of said amendment and insert in lieu thereof the following:

"An act to regulate the immigration of aliens to and residence of aliens in the United States.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled"—

And so on.

That is the matter which the conferees have included now as matter in lieu of the House amendment, but that matter was not in dispute, and if the conference report should be agreed to we will then have this anomalous condition.

We will pass an act containing—

An act to regulate the immigration of aliens to and the residence of aliens in the United States.

Containing an enacting clause—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

And then following that will again appear—

An act to regulate the immigration of aliens to and the residence of aliens in the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

And so forth.

The title and enacting clause not being in dispute, it was not in order for the conferees to insert that in the conference report, so that if agreed to it will appear twice in the law that may be enacted.

Mr. GARDNER of Massachusetts. Mr. Speaker, I felt perfectly sure that the point of order would certainly be made, either that we had two enacting clauses or that we had none. The fact is this: The amendment adopted by the House not only inserted certain words in lieu of the Senate bill, but it provided that the enacting clause should stand. The Senate and the conferees agreed to strike out the House amendment, which may be construed as the equivalent of saying that the enacting clause shall not stand, and therefore that its reinsertion is required. We gave this question some thought, and then we looked the matter up to see what happened under precisely similar circumstances on February 18, 1907, when the conference report on the immigration bill of that year was adopted. In fact, we used that report as our model, and copied the exact wording, used under exactly the same circumstances. Here is what we found:

That the Senate recede from its disagreements to the amendment of the House, and agree to the same with an amendment as follows:

Strike out all of said amendment and insert in lieu thereof the following: "An act entitled 'An act to regulate the immigration of aliens into the United States.'"

The cases are exactly parallel, and that was why we included the title in our conference report. Mr. Speaker, it does not make a particle of difference whether the bill has a double title or not. The conferees have the widest discretion, and the fact that we have duplicated words which the gentleman claims that both Houses have agreed upon is not in any way outside the discretion of the managers of the conference.

The SPEAKER. The point of order of the gentleman from Illinois [Mr. MANN] is overruled.

Mr. HAMILL. Mr. Speaker, I wish to offer the following motion, which I send to the desk and ask to have read.

Mr. SABATH. But, Mr. Speaker, I have reserved all points of order, and I desire to make a point of order to the report.

The SPEAKER. The Chair will recognize the gentleman from Illinois [Mr. SABATH] to state his point of order.

Mr. SABATH. Mr. Speaker, my point of order is that the conferees have exceeded their authority, and did not confine themselves to the differences committed to them; that they have inserted in this report matter and provisions that were not contained in the House bill or in the Senate bill. The language will be found beginning with the fourth line on the third page of the printed conference report, and is as follows:

Citizens and subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

That language, Mr. Speaker, is absolutely new, inserted by the conferees in violation of the rules of the House.

The SPEAKER. That was not in the Senate bill?

Mr. SABATH. No; nor in the House bill. It is a new provision. It is new matter, and I maintain, Mr. Speaker, that the conferees had no jurisdiction to insert that provision in the report or to agree to it. If there is any doubt in the Speaker's mind, I will refer him to the rules of the House. I read from page 279 of Jefferson's Manual, section 539:

The managers of a conference must confine themselves to the differences committed to them, and may not include subjects not within the disagreements, even though germane to the question in issue.

The SPEAKER. Is the gentleman finished?

Mr. SABATH. Mr. Speaker, I have also other authorities, but I do not think it is necessary for me to cite them. They hold the same way.

Mr. GARDNER of Massachusetts. Mr. Speaker, the gentleman is perfectly correct in his statement of the facts. It is entirely new matter, but it was not inserted until a very careful examination of the decision rendered by Mr. Speaker CLARK on August 14, 1911, in the matter of the woolen bill. I quote from the words of Mr. Speaker CLARK when a similar point of order was raised at that time:

The Chair does not know anything about the parliamentary clerks to Mr. Speaker Colfax and Mr. Speaker Carlisle, but the Chair is fully persuaded that every Member of this House who has served in prior Congresses will agree that Mr. Speaker Henderson and Mr. Speaker CANNON had the advantage of being advised by one of the most skillful parliamentarians in this country, the present Member from Maine [Mr. HINES]. [Applause.]

All four of these Speakers, three Republicans and one Democrat, have passed on this question, and they have all ruled that where everything after the enacting clause is stricken out and a new bill substituted it gives the conferees very wide discretion, extending even to the substitution of an entirely new bill.

Then the Speaker proceeded to have incorporated in his opinion the opinions of Mr. Speaker Colfax, Mr. Speaker Carlisle, Mr. Speaker CANNON, and Mr. Speaker Henderson, the opinion of Mr. Speaker CANNON being delivered on a case exactly on all fours with this. The opinion related to the conference on the immigration bill of 1907, to which I have already alluded. The much-discussed provision as to Japanese passports did not appear either in the House or in the Senate bill,

but was inserted in conference. That decision was cited by Mr. Speaker CLARK in overruling the point of order made under precisely similar circumstances against the new legislation in the woolen bill last year.

The SPEAKER. The Chair overrules the point of order, and the Clerk will report the motion of Mr. HAMILL, of New Jersey.

The Clerk read as follows:

Postpone the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and residence of aliens in the United States" until Thursday, January 23, 1913.

Mr. BURNETT. Mr. Speaker, I move the previous question on the motion to adopt the report of the conference committee.

Mr. SHERLEY. Mr. Speaker, I make the preferential motion that the report lie upon the table.

The SPEAKER. The motion of the gentleman from Kentucky [Mr. SHERLEY] has preference.

Mr. SABATH. What is his motion?

The SPEAKER. To lay on the table. That finishes the bill if carried.

Subdivision 4 of Rule XVI runs as follows:

When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motion shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order.

Now, there are three motions pending at once. The motion of the gentleman from Alabama takes precedence of the motion of the gentleman from New Jersey, and the motion of the gentleman from Kentucky takes precedence of both of them.

Mr. MOORE of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The Chair thinks that motion is dilatory. The question is on the motion of the gentleman from Kentucky [Mr. SHERLEY] to lay on the table.

The question was taken; and the Speaker announced the noes seemed to have it.

Mr. SHERLEY. Division, Mr. Speaker.

The House divided; and there were—ayes 39, noes 91.

Mr. BOEHNE. Mr. Speaker, I raise the point of order that there is no quorum present.

Mr. FOSTER. Mr. Speaker, I make the point of order that that motion is dilatory.

Mr. MANN. A point of no quorum can not be dilatory; that is a constitutional right.

Mr. FOSTER. We have just had a roll call and determined there was a quorum present.

Mr. MANN. The Speaker can determine whether there is a quorum present or not.

The SPEAKER. On this vote the ayes are 39 and the noes are 91.

Mr. BOEHNE. And I make the point of order that there is no quorum present.

Mr. FOSTER. Mr. Speaker, and I make the point of order that that is dilatory.

The SPEAKER. One hundred and seventy-three gentlemen are present; not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees——

Mr. GARDNER of Massachusetts. Mr. Speaker, is it too late to raise the point of order——

Mr. SHERLEY. Mr. Speaker, I demand the regular order.

Mr. GARDNER of Massachusetts. I am raising a point of order.

The SPEAKER. What is the gentleman's query?

Mr. GARDNER of Massachusetts. That it is not in order to lay a conference report on the table under the rule.

Mr. SHERLEY. Mr. Speaker, I make the point of order that it is too late and that in the absence of a quorum no business is in order.

Mr. GARDNER of Massachusetts. My query is, is it too late to raise that point of order?

The SPEAKER. One at a time, the gentleman from Massachusetts——

Mr. MANN. Mr. Speaker, I make the point of order that the Speaker having declared that no quorum was present the House can not transact any business until a quorum is here.

The SPEAKER. That is undoubtedly correct and the Clerk will call the roll.

The question was taken; and there were—yeas 60, nays 192, answered "present" 8, not voting 123, as follows:

YEAS—60.

Barchfeld	Bulkley	Esch	Goldfogle
Bartholdt	Burke, Wis.	Estopinal	Good
Boehne	Burleson	Fergusson	Graham
Booher	Curley	Fuller	Green, Iowa
Borland	Donohoe	Gallagher	Greene, Mass.
Broussard	Dupré	Gill	Hamill
Kahn	Madden	Roberts, Mass.	Thayer
Kinkead, N. J.	Miller	Rodenberg	Tilson
Konig	Moore, Pa.	Sabath	Towner
Konop	Morgan, La.	Scott	Tuttle
Korbly	Murray	Sherley	Volstead
Lee, Pa.	Nye	Smith, N. Y.	Whitacre
Lobeck	O'Shaunessy	Stevens, Minn.	Wilder
McCreary	Ransdell, La.	Stone	Wilson, Ill.
McDermott	Reilly	Talcott, N. Y.	Young, Mich.

NAYS—192.

Adair	Dodds	Holland	Pray
Adamson	Doughton	Houston	Prince
Alexander	Draper	Howell	Prouty
Allen	Edwards	Hughes, Ga.	Raker
Anderson	Evans	Hughes, W. Va.	Redfield
Anthony	Faison	Humphrey, Wash.	Rees
Ashbrook	Farr	Humphreys, Miss.	Roberts, Nev.
Austin	Ferris	Jackson	Roddenbery
Ayres	Finley	Jacoway	Rothermel
Bartlett	Flood, Va.	Jones	Rouse
Beall, Tex.	Floyd, Ark.	Kennedy	Rubey
Bell, Ga.	Focht	Kinkaid, Nebr.	Rucker, Colo.
Blackmon	Foss	Knowland	Russell
Brantley	Foster	Kopp	Saunders
Buchanan	Fowler	Lafferty	Sharp
Burke, S. Dak.	Francis	La Follette	Sheppard
Burnett	French	Langley	Sherwood
Butler	Gardner, Mass.	Lenroot	Simmons
Byrnes, S. C.	Garner	Lever	Sims
Byrns, Tenn.	Garrett	Lindbergh	Slayden
Callaway	Glass	Linthicum	Slemp
Campbell	Godwin, N. C.	Littlepage	Sloan
Candler	Goodwin, Ark.	Lloyd	Small
Cantrill	Gray	McKenzie	Smith, Saml. W.
Carlin	Greene, Vt.	McKinney	Smith, Tex.
Clark, Fla.	Gregg, Pa.	McLaughlin	Stanley
Clayton	Gregg, Tex.	Macon	Stedman
Cline	Gudger	Maguire, Nebr.	Steenerson
Collier	Guernsey	Martin, S. Dak.	Stephens, Cal.
Cooper	Hamilton, Mich.	Mays	Stephens, Miss.
Copley	Hamilton, W. Va.	Mondell	Stephens, Tex.
Covington	Hamlin	Moon, Tenn.	Sterling
Crago	Hardwick	Morgan, Okla.	Sweet
Cravens	Hardy	Morrison	Switzer
Crumpacker	Harrison, Miss.	Morse, Wis.	Taylor, Ala.
Cullop	Hart	Moss, Ind.	Thisdlewood
Currier	Hartman	Murdock	Thomas
Dalzell	Hay	Needham	Tribble
Daugherty	Hayden	Neeley	Underhill
Davenport	Hayes	Nelson	Warburton
Davis, Minn.	Heflin	Padgett	Watkins
Davis, W. Va.	Helgesen	Page	Webb
Dent	Helm	Patton, Pa.	White
Denver	Henry, Conn.	Pepper	Willis
Dickinson	Henry, Tex.	Pickett	Wilson, Pa.
Dickson, Miss.	Hensley	Plumley	Witherspoon
Dies	Higgins	Porter	Young, Kans.
Difenderfer	Hinds	Powers	Young, Tex.

ANSWERED "PRESENT"—8.

Browning	Haugen	Kendall	Mann
Fairchild	Hawley	McMorran	Sparkman

NOT VOTING—123.

Aiken, S. C.	Ellerbe	Legare	Rainey
Almey	Fields	Levy	Randell, Tex.
Akin, N. Y.	Fitzgerald	Lewis	Rauch
Ames	Fordney	Lindsay	Reyburn
Andrus	Fornes	Littleton	Richardson
Ansberry	Gardner, N. J.	Longworth	Riordan
Barnhart	George	Loud	Rucker, Mo.
Bates	Gillett	McCall	Scully
Bathrick	Gecke	McCoy	Sells
Berger	Gould	McGillicuddy	Shackleford
Bradley	Griest	McGuire, Okla.	Sisson
Brown	Hammond	McKellar	Smith, J. M. C.
Burgess	Harris	McKinley	Smith, Cal.
Burke, Pa.	Harrison, N. Y.	Maher	Speer
Calder	Heald	Martin, Colo.	Stack
Cannon	Hill	Matthews	Stephens, Nebr.
Carter	Hobson	Merritt	Sulloway
Cary	Howard	Moon, Pa.	Taggart
Claypool	Howland	Moore, Tex.	Talbott, Md.
Conry	Hull	Mott	Taylor, Colo.
Cox	James	Norris	Taylor, Ohio
Curry	Johnson, Ky.	Oldfield	Townsend
Danforth	Johnson, S. C.	Olmsted	Turnbull
Davidson	Kent	Palmer	Underwood
De Forest	Kindred	Parran	Vare
Dixon, Ind.	Kitchin	Patten, N. Y.	Vreeland
Doremus	Lafean	Payne	Weeks
Driscoll, D. A.	Lamb	Peters	Wilson, N. Y.
Driscoll, M. E.	Langham	Post	Wood, N. J.
Dwight	Lawrence	Pou	Woods, Iowa
Dyer	Lee, Ga.	Pujo	

So the motion to lay the conference report on the table was rejected.

The Clerk announced the following additional pairs:

Until further notice:

Mr. ANSBERRY with Mr. SPEER.

Mr. BATHRICK with Mr. AINEY.

Mr. JAMES with Mr. GILLETT.

Mr. HULL with Mr. AMES.

Mr. CLAYPOOL with Mr. BATES.

Mr. COX with Mr. HEALD.

Mr. FITZGERALD with Mr. MCKINLEY.

Mr. HARRISON of New York with Mr. MOTT.

Mr. NEELEY with Mr. CURRY.

Mr. POU with Mr. LAWRENCE.

Mr. TAGGART with Mr. VARE.

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. MANN. Mr. Speaker, I voted "nay," but because I am paired with the gentleman from Alabama, Mr. UNDERWOOD, I desire to be recorded "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. MANN, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present, and the Doorkeeper will open the doors.

Mr. GOLDFOGLE. Mr. Speaker, I desire to raise the point of order that the conferees exceeded their jurisdiction. I do not think the attention of the Chair was called——

The SPEAKER. It is too late. The Chair passed on that matter after elaborate argument.

Mr. GOLDFOGLE. Well, I wanted to say to the Chair that I do not think the attention of the Chair was called to the fact that there are certain provisions in this conference report that are in nowise pertinent to the provisions of the bill as it came from the Senate or as it was reported from the House committee.

The SPEAKER. The Chair ruled that it is too late. The gentleman from Illinois [Mr. SABATH] reserved a point of order; and the gentleman from Illinois [Mr. MANN] and the gentleman from Illinois [Mr. SABATH] both took a turn at that very question which the gentleman raises now, and the Chair passed on it and overruled their objections and points of order, and the House has passed on the question of laying the conference report on the table.

Mr. MURRAY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURRAY. Do I understand the Chair to rule that if the gentleman from New York [Mr. GOLDFOGLE] suggests something in addition to what has already been suggested as having been done beyond the rights of the conferees, it is not in order?

The SPEAKER. The bill has passed that stage, and the Chair has passed on it.

Mr. MURRAY. So that, even if additional matter is presented as having been included in the conference report outside of the rights of the conferees, it could not be in order?

The SPEAKER. No. There must be an end to everything.

Mr. GOLDFOGLE. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. GOLDFOGLE. If, as has occurred, the motion to lay the conference report on the table was voted on and defeated, would that prevent the raising of a point of order that the conferees had exceeded their jurisdiction?

The SPEAKER. That matter is res adjudicata. It has been passed upon, and there is a motion pending before the House——

Mr. GOLDFOGLE. Mr. Speaker, another parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GOLDFOGLE. If the point of order that I desire now to raise relates to matter that did not come up at all under the point of order that was raised before, am I not in order to raise that point now?

The SPEAKER. The orderly conduct of the House requires that everything have a time and a season, and when you pass that you can not get that up any more.

Mr. GOLDFOGLE. But that which is new to be presented is what we did not consider.

The SPEAKER. But the gentleman had the opportunity to consider it.

Mr. GOLDFOGLE. The gentlemen who argued the points of order presented their propositions, and thereupon a motion was made, which the Chair very properly recognized, namely, to lay the conference report on the table. The Chair was bound to put that motion when it was made.

The SPEAKER. Here is the situation: The gentleman from Illinois, Mr. MANN, and the gentleman from Illinois, Mr. SABATH, raised points of order, and each one of them raised the question that the gentleman raises now. They argued it elaborately and learnedly, and the Chair ruled them out of order, and that closed the incident, unless somebody else did then what the gentleman from New York is trying to do now.

Mr. GOLDFOGLE. But the further opportunity to raise points of order was cut off when the motion to lay on the table was made.

The SPEAKER. The Chair is aware of that, but a motion for the previous question is now pending. The question is on agreeing to the motion for the previous question.

The question was taken, and the Speaker announced that the "ayes" seemed to have it.

Mr. SABATH. Mr. Speaker, I demand a division.

The SPEAKER. The gentleman from Illinois [Mr. SABATH] demands a division.

The House divided; and there were—ayes 111, noes 67.

Mr. SABATH. Mr. Speaker, I demand the yeas and nays.

Mr. MADDEN. I make the point of no quorum.

The SPEAKER. This is the easiest way of finding out whether there is a quorum.

Mr. GOLDFOGLE. I raise the point of no quorum.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. Those in favor of ordering the previous question will, when their names are called, answer "aye"; those opposed will answer "no," and the Clerk will call the roll.

The question was taken; and there were—yeas 167, nays 76, answered "present" 9, not voting 131, as follows:

YEAS—167.

Adair	Dodds	Hensley	Pray
Adamson	Doughton	Higgins	Prince
Alexander	Draper	Hinds	Raker
Anthony	Edwards	Holland	Rauch
Ashbrook	Evans	Houston	Rees
Austin	Faison	Hughes, Ga.	Roberts, Nev.
Ayres	Farr	Hughes, W. Va.	Roddenbery
Bartlett	Ferris	Humphrey, Wash.	Rothermel
Beall, Tex.	Finley	Humphreys, Miss.	Rouse
Bell, Ga.	Flood, Va.	Jackson	Rubey
Blackmon	Floyd, Ark.	Jacoway	Rucker, Colo.
Borland	Focht	Johnson, S. C.	Russell
Brantley	Foss	Jones	Saunders
Buchanan	Foster	Kinkaid, Nebr.	Sharp
Burke, S. Dak.	Fowler	Knowland	Sheppard
Burnett	Francis	Kopp	Simmons
Butler	French	La Follette	Sims
Byrnes, S. C.	Fuller	Langley	Slayden
Callaway	Gardner, Mass.	Lawrence	Slemp
Campbell	Garner	Linthicum	Small
Candler	Glass	Littlepage	Smith, Saml. W.
Cantrill	Godwin, N. C.	Lloyd	Smith, Tex.
Carlin	Goodwin, Ark.	McKenzie	Stedman
Clark, Fla.	Gregg, Pa.	McKinney	Stephens, Cal.
Clayton	Gregg, Tex.	McLaughlin	Stephens, Miss.
Cline	Gudger	Macon	Stephens, Tex.
Collier	Guernsey	Maguire, Nebr.	Sterling
Copley	Hamilton, Mich.	Mays	Sweet
Covington	Hamilton, W. Va.	Moon, Tenn.	Switzer
Cravens	Hamlin	Morgan, Okla.	Taggart
Cullop	Hardwick	Morrison	Thomas
Currier	Hardy	Morse, Wis.	Tribble
Dalzell	Harrison, Miss.	Moss, Ind.	Underhill
Daugherty	Hartman	Mott	Webb
Davenport	Hay	Murdock	White
Davis, W. Va.	Hayden	Neeley	Willis
Dent	Hayes	Nelson	Wilson, Ill.
Denver	Heflin	Padgett	Wilson, Pa.
Dickinson	Helgesen	Page	Witherspoon
Dickson, Miss.	Helm	Patton, Pa.	Young, Kans.
Dies	Henry, Conn.	Pepper	Young, Tex.
Difenderfer	Henry, Tex.	Plumley	

NAYS—76.

Allen	Esch	Lenroot	Roberts, Mass.
Anderson	Fergusson	Lindbergh	Rodenberg
Barchfeld	Gallagher	Lobeck	Sabath
Barnhart	Gill	McCreary	Scott
Bartholdt	Goldfogle	McDermott	Sherley
Boehne	Good	Madden	Sherwood
Booher	Graham	Miller	Sloan
Broussard	Gray	Mondell	Steenerson
Bulkley	Green, Iowa	Moore, Pa.	Stevens, Minn.
Burleson	Greene, Mass.	Morgan, La.	Stone
Byrns, Tenn.	Hamill	Murray	Talcott, N. Y.
Cooper	Howell	Norris	Thayer
Crago	Kahn	Nye	Tilson
Crumpacker	Kennedy	O'Shaunessy	Towner
Curley	Kinkead, N. J.	Pickett	Townsend
Davis, Minn.	Konig	Powers	Tuttle
Donohoe	Konop	Prouty	Volstead
Doremus	Korbly	Ransdell, La.	Warburton
Dupré	Lee, Pa.	Reilly	Whitacre

ANSWERED "PRESENT"—9.

Bradley	Haugen	Kendall	McMorran
Browning	Hawley	Loud	Mann
Fairchild			

NOT VOTING—131.

Aiken, S. C.	Curry	Gould	Lamb
Almey	Danforth	Greene, Vt.	Langham
Akin, N. Y.	Davidson	Griest	Lee, Ga.
Ames	De Forest	Hammond	Legare
Andrus	Dixon, Ind.	Harris	Levy
Ansberry	Driscoll, D. A.	Harrison, N. Y.	Lewis
Bates	Driscoll, M. E.	Hart	Lindsey
Bathrick	Dwight	Heald	Littleton
Berger	Dyer	Hill	Longworth
Brown	Ellerbe	Hobson	McCall
Burgess	Estopinal	Howard	McCoy
Burke, Pa.	Fields	Howland	McGillicuddy
Burke, Wis.	Fitzgerald	Hull	McGuire, Okla.
Calder	Fordney	James	McKellar
Cannon	Fornes	Johnson, Ky.	McKinley
Carter	Gardner, N. J.	Kent	Maher
Cary	Garrett	Kindred	Martin, Colo.
Claypool	George	Kitchin	Martin, S. Dak.
Conry	Gillett	Lafean	Matthews
Cox	Gecke	Lafferty	

Morris	Pou	Smith, J. M. C.	Thistlewood
Moon, Pa.	Pujo	Smith, Cal.	Turnbull
Moore, Tex.	Rainey	Smith, N. Y.	Underwood
Needham	Randell, Tex.	Sparkman	Vare
Oldfield	Redfield	Speer	Vreeland
Olmsted	Reyburn	Stack	Watkins
Palmer	Richardson	Stanley	Weeks
Parran	Riordan	Stephens, Nebr.	Wilder
Patten, N. Y.	Rucker, Mo.	Sulloway	Wilson, N. Y.
Payne	Scully	Talbott, Md.	Wood, N. J.
Peters	Sells	Taylor, Ala.	Woods, Iowa
Porter	Shackleford	Taylor, Colo.	Young, Mich.
Post	Sisson	Taylor, Ohio	

So the previous question was ordered.

The Clerk announced the following additional pairs:

Until further notice:

Mr. WATKINS with Mr. DE FOREST.

Mr. ESTOPINAL with Mr. BATES.

Mr. GARRETT with Mr. MERRITT.

Mr. POU with Mr. GREENE of Vermont.

Mr. LEVER with Mr. MARTIN of South Dakota.

Mr. REDFIELD with Mr. PORTER.

Mr. SHERWOOD with Mr. THISTLEWOOD.

Mr. STANLEY with Mr. TAYLOR of Ohio.

Mr. SMITH of New York with Mr. LAFFERTY.

Mr. TAYLOR of Colorado with Mr. WILDER.

Mr. RANDELL of Texas with Mr. YOUNG of Michigan.

Mr. BRADLEY. Mr. Speaker, I am paired with the gentleman from New York, Mr. FORNES. I voted "aye," and I desire to withdraw that vote and to be recorded present.

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present. The Doorkeeper will open the doors. There will be a debate of 40 minutes, 20 minutes to be controlled by the gentleman from Alabama [Mr. BURNETT] and 20 minutes by the gentleman from Illinois [Mr. SABATH].

[Mr. BURNETT addressed the House. See Appendix.]

Mr. BURNETT. I now yield to the gentleman from Kentucky [Mr. POWERS].

[Mr. POWERS addressed the House. See Appendix.]

Mr. SABATH. Mr. Speaker, I will thank the Chair to notify me when I have consumed five minutes of time. I admit, Mr. Speaker, that the three provisions that the gentleman from Alabama [Mr. BURNETT] has stated were eliminated from the Dillingham bill were of some importance, but for every elimination from the Dillingham bill the conferees have substituted and inserted at least 10 harsh, stringent, and unfair provisions, so that now it is without doubt the most vicious, the most drastic, the most undemocratic and un-American measure that was ever brought to this House. [Applause.] Some weeks ago the House was called upon to vote upon the so-called Burnett bill, comprising a page and a half, which simply provided for the educational test. To-day you are urged to consider and vote upon a bill that contains 60 pages, and I venture to say that there are not 10 Members present who have read or who are acquainted with all of the provisions contained in this bill.

Mr. MURRAY. Mr. Speaker, will the gentleman yield?

Mr. SABATH. Certainly.

Mr. MURRAY. Is it not a fact that the bill itself is not yet printed, and is not available for distribution in the House?

Mr. SABATH. A copy of the report is printed, but I am satisfied that hardly a dozen Members have had an opportunity to see it or read it. I say without fear of successful contradiction that everything that was good in the Dillingham bill was eliminated, and everything that could possibly be inserted to make it harsher and more stringent was injected by the conferees. The limited time at my disposal does not permit of my going into details and pointing out to the Members of this House the various matters that have been inserted in the bill, but I wish to call attention to some of the harshest provisions now incorporated in this bill.

On the very first page we find that should this bill pass it will apply not only to immigrants but to all aliens, it matters not whether they have resided here for 5, 10, 15, or 20 years. Unless they become citizens, and our strict naturalization laws practically preclude this in the majority of instances, they will be subjected to all of the harsh provisions of this bill if, perchance, they go abroad to visit their aged father and mother or other relatives or to adjust any estate they may have in the old country.

The deportation clause in the bill provides that anyone who may be found guilty of a crime punishable by imprisonment for one or more years will be deported after the expiration of his sentence, though he has paid the penalty for his indiscretions, and notwithstanding the fact that he may have resided here for any number of years and may have an American wife and children born in this country.

The bill increases the head tax from $4 to $5, and this applies not only to immigrants but to all aliens.

Then, on the fourth page of this bill, we find the provision that "citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate shall be debarred." What is the significance of this, gentlemen? It means that practically one-half of the immigrants from such European countries as Russia, Austria, and other countries that issue such certificates will be prevented from entering this country, due to the fact that they will be unable to secure these certificates, for practically that number leave their homes surreptitiously for fear that if they make known their plans they will be prevented from embarking. I ask you, gentlemen, is it just that we should demand from these people a certificate of character when they already have so many obstacles interposed to prevent their leaving their native land? Is it fair that we should give to these Governments the power to say who can and who can not emigrate to America? [Applause.]

As to the educational test, the House managers did attempt to make some exceptions in the case of the wives, parents, and children of the immigrants, so that they would be exempted from this test, but further on in the bill this exemption is nullified by a provision which directs that a fine shall be imposed on anyone and on any steamship company that brings into this country anyone who does not know how to read. Are you gentlemen aware that this provision would debar practically all of the women who emigrate from Russia, Roumania, Galacia, Poland, and many other countries? These women are denied the opportunity of learning to read, and therefore this clause would absolutely prevent their entry into the United States. Then let me direct your attention to the proviso which stipulates that all persons shall be excluded who "have committed a felony"; notice that this does not provide for the exclusion of those who have been convicted of a felony, but those who have committed a felony. This will give the Russian spies an opportunity to cause the deportation of anyone whom they desire to have excluded, for all that is necessary is that they accuse the immigrant of having committed a felony. It also confers arbitrary power on immigrant inspectors to try aliens and punish them by deportation under an act which confers authority on the immigrant inspector to subpœna witnesses, but gives no such authority to the alien. No other law ever proposed was ever so unjust to one party to a trial.

I have mentioned only a few of the more drastic provisions which have been inserted in this bill, but there are numerous others which impose unjust and unreasonable restrictions upon those seeking admission to the United States.

I feel sure that those of you who voted for the passage of the Burnett bill were convinced that the literacy test which that measure provided was the utmost restriction that should be demanded. When the Dillingham bill was originally reported to the House it was very evident that the provisions contained therein were deemed most obnoxious, and it was voted that they be stricken out; yet you now have presented to you a much harsher and more drastic measure, the passage of which is advocated by a few professional patriots and narrow-minded restrictionists. [Applause.] Will you yield to their demands? For fear that you may, I again appeal to you to carefully consider your action lest you may later regret your haste and indiscretion.

Mr. Speaker, when the managers on the part of the House were appointed to this conference it was understood that they would represent the wishes of this House; yet they have tolerated and agreed to the insertion of practically all of the most stringent provisions of the original Dillingham bill—provisions that were rejected by this body—as well as additional provisions that were never considered by this House.

Will the Members of the House now ratify the action of the conferees, who have deliberately exceeded their power, by passing the measure. I hope not. If you do, you will establish a dangerous precedent, as you will sanction legislation by six—yes, by four—conferees, as in this case, instead of legislation by the House as a whole.

Before concluding permit me again to counsel you not to be carried away by prejudice. This legislation means a great deal to thousands upon thousands of honest, industrious, freedom and liberty seeking people, now persecuted and oppressed by tyrannical governments, for this bill will not keep out educated disturbers and anarchists, but it will exclude honest, thrifty, hard-working people, who have, on account of conditions over which they exercise no control, been deprived of an opportunity to secure an education.

Mr. Speaker, as a member of the Immigration Committee, as a member of this conference, and upon the floor of this House, I have done everything within my power to secure certain changes and modifications in this bill. In a few cases I have succeeded. In the majority I have failed, but I am confident that you will agree with me that my failure has not been due to indifference on my part. I am satisfied that I have done everything possible to convince the Members of this House of the justice of my views. If I have failed, I regret it exceedingly and feel sure that in the near future you will. [Applause.]

The SPEAKER. The gentleman has consumed five minutes.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Illinois [Mr. SABATH] asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. BURNETT. Mr. Speaker, how much time have I remaining?

The SPEAKER. Eight minutes.

Mr. BURNETT. I yield to the gentleman from California [Mr. HAYES], if he is present.

Mr. HAYES. Mr. Speaker, I desire to call to the attention of the House one of the provisions included by the conferees in this bill. It provides for the exclusion of a class of aliens not heretofore excluded under our laws by adding the following to the excluded classes:

> Persons who can not become eligible under existing law to become citizens of the United States by naturalization unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

Some of the exceptions of this provision I do not approve. I wish they were not in the bill. I doubt the wisdom of substituting a sort of gentlemen's agreement between nations for the provisions of legislative enactment, especially in a matter so vital as immigration. But I do enthusiastically indorse the principle which by the provision above quoted is incorporated into the immigration law. Any people who are not to be fully assimilated and included in the whole body of our citizenship, with all the rights and duties incident thereto should be rigidly excluded from our shores. This rule should be made a fundamental principle of our immigration laws, to be strictly adhered to at all times and under all circumstances. To admit to this country any considerable number of immigrants from a country the inhabitants of which we do not admit to citizenship under our laws is to import another race problem similar to the one we now have in the South. I believe that no man on this floor would like to see that problem duplicated in the West.

Four years ago I introduced a bill embodying the principle above referred to, and have been advocating it ever since. I am much gratified that the conferees on the part of the House have incorporated this provision in their report.

For many years I have advocated the extension of the Chinese-exclusion act so as to exclude all Asiatic laborers. I still believe that some positive legislative enactment which would effectually exclude them would be better than the gentleman's agreement between this country and Japan, and I still hope to see such an act take the place of that agreement. I will admit, however, that so far this agreement has worked fairly well. It is only fair to say that under it laborers from Japan have been generally excluded. It has worked quite as satisfactorily as the Chinese-exclusion act has in excluding Chinese laborers. When it ceases to so work the agreement can be abrogated and the provisions of the bill to which I have referred made applicable.

I also desire to especially commend the provision in the bill that when the classes excepted from the operation of its provisions—

> fail to maintain in the United States a status or occupation placing them within the excepted classes they shall be deemed to be in the United States contrary to law, and shall be subject to deportation.

The lack of such a provision has always been a great weakness in the Chinese-exclusion law. In the Fifty-ninth Congress I introduced a bill to incorporate such a provision in our exclusion laws, and have reintroduced it in every subsequent Congress, and I am gratified that at last it is in a fair way of becoming a part of the law of the land.

On the whole, the bill is a long step in the right direction. I shall cheerfully vote to adopt the conference report.

Mr. BURNETT. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. GUDGER].

[Mr. GUDGER addressed the House. See Appendix.]

Mr. BURNETT. Will the gentleman from Illinois yield some of his time?

Mr. SABATH. I yield to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. Mr. Speaker, it seems to me to be a very bad and dangerous practice to place in the hands of six conferees the power to write legislation that has never been considered in the House. We are confronted in this instance with a bill, the print of which in italics in the report covers 24 pages—the bill itself covering some 60 pages—and being a bill which practically revises all the immigration and naturalization laws of the United States. The House has not considered any phase of this legislation as it now comes up to us except the illiteracy test, which we discussed here in a separate bill several weeks ago. It seems to me this kind of legislation ought to originate in the House, and the House ought surely to have the right to discuss the change of laws affecting immigration.

As for the bill itself, I have not had the time to read it, and I question whether any other gentleman in the House has had time to read it carefully or to make comparisons with the existing law, but as I read some sections of the bill I find it to be very objectionable. There are some admirable features in the bill; some intended to prevent, for instance, the admission of those who surreptitiously ship as sailors or who seek to come in as stowaways. I have not time to enumerate any of these features. What I particularly object to is that feature of the bill providing an illiteracy test which bars from the country poor but law-abiding labor, which we need here and which comes of its own volition. Of course the anarchist, the murderer, the criminal, and certain objectionable classes are barred, but we have ample existing law against them. The hardship is as to the common laborer who can not read, and while the bill denies him admission, it excepts from the forbidden classes certain other classes that may be equally undesirable. Let me show you: Here is the lawyer. He can come in. Judging from the number of lawyers in this House and elsewhere throughout the country, it is fair to presume we have enough lawyers already. [Laughter.] But the American lawyer has no protection in this bill against the foreigner. The bill admits "ministers, religious teachers and missionaries, and students." The Lord knows we have enough poorly paid ministers in this country now. We also have plenty of students to preach all sorts of doctrines and stir up all sorts of unrest. Then the bill admits the "journalist." Will anyone tell me what a journalist is?

The SPEAKER. The time of the gentleman from Pennsylvania has expired.

Mr. MOORE of Pennsylvania. May I have one minute more?

Mr. SABATH. I am very sorry, but I can not yield to the gentleman.

Mr. MOORE of Pennsylvania. The journalist is that high-grade gentleman who trades upon the reputation of legitimate newspaper men——

The SPEAKER. The time of the gentleman has expired.

Mr. MOORE of Pennsylvania. Who are competed with in this bill. I ask unanimous consent to revise and extend my remarks.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. MOORE of Pennsylvania. Mr. Speaker, what has just transpired illustrates the absurdity of attempting to discuss a bill of this importance in three minutes. Altogether only 40 minutes of debate is to be allowed on this bill, and in that time the House is to learn all it is intended it should know about the repeal, revision, and amendment of nearly all the laws affecting immigration in addition to the new matter which has been injected into the bill in conference, without regard to either the Senate or the House. If the majority is satisfied to do business this way, however, there is no alternative but to submit until the people at large more thoroughly understand the sumptuary methods of propulsion and suppression that are possible under the rules of the House. If in the past, under any system of rules, there has been any just cause for grievance on the part of those who constitute a deliberative body, the action of to-day does not fall far short of the high record mark in the annals of parliamentary gagging.

But I was saying, Mr. Speaker, that the bill which has thus been thrust upon us keeps out the downtrodden poor and admits the elect. I have already referred to the lawyers, the

ministers, and the missionaries as excepted classes. The list must be extended to include physicians, chemists, engineers, teachers, students, authors, editors, merchants, bankers, and journalists. I have commented briefly upon journalists and have wondered whether, under this denomination, common labor being barred, it is proposed to admit every nonworking writer who has peculiar notions of government and who will unload upon us the moment he is admitted. It would seem to me we have enough poorly paid editors in this country, but the bill proposes to take on more, and apparently there is no labor union to step in and say "nay." It is interesting to note that "merchants" are to come in, the term being sufficiently elastic to include anyone from the shoe-string vender up to the mail-order house magnate, but common labor is not desired. To the Pujo investigating committee is commended that clause of the bill which admits "bankers" free. Evidently we have not enough of this commodity in the United States and invite competition.

Indeed, it is interesting to observe how we shut out the trench diggers and sewer builders, while we admit the professional classes, particularly the actors and actresses, the authors and preachers, who come over to pick up a few American dollars and go back to write up their impressions of the country. In the effort to prevent the separation of families, which is one of the cruel features of existing law, the bill makes some progress, but it is so severe on children under 16 years that it would exclude any child below that age who is sent to this country to be educated, and yet we have universities and colleges, particularly in medicine and dentistry, that are the admiration of the world.

On the whole, the bill as rewritten seems to favor the admission of nonworking professionals of whom we would seem to have a plenty in the United States, but it cuts out the drudge for whom, at least in some families and in some employments, there is a present need. I am obliged to the House for the leave thus granted to extend by remarks.

Mr. SABATH. I yield to the gentleman from New Jersey [Mr. HAMILL].

[Mr. HAMILL addressed the House. See Appendix.]

Mr. SABATH. Mr. Speaker, I yield two minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Speaker, I voted for the House bill. I have been in full sympathy with those who desire legislation upon this subject at this session, and have done what I could to bring it about. But, Mr. Speaker, I can not vote for this conference report chiefly because of one provision in the bill which reads as follows, as to excluded classes:

Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

That means, Mr. Speaker, that this country, for the first time in its history, is willing by this legislation to say to the world that in addition to the classes that we propose to exclude we will let them say what others shall be excluded as well from admission into the United States. Mr. Speaker, what will be the result? Russia could to-morrow issue certificates of character when this becomes a law, and does anyone believe for one moment a Jew after that could be admitted into the United States? You know he could not. And it is the same with other countries.

Another provision a little later in the bill exempts those who have been convicted of political offenses, but with this provision that I have quoted in the bill, though they have been convicted of political offenses, and they ought not to be excluded for that reason, does anyone believe any nation on earth would issue a certificate of character to one of its subjects who had been convicted of a political offense? And in the absence of the certificate they could not be admitted.

Another provision permits certain relatives of a citizen of the United States to come in without passing the illiteracy test. As the bill stands they will be required to produce a certificate of character. Failing to secure it, a man's wife will not be permitted to come into this country. Are we by this vote to say to these countries, "We will let you decide who shall not be admitted into this country," instead of deciding it for ourselves? [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. MURRAY. Mr. Speaker, in order to get it clearly in the RECORD, may I inquire of the Chair whether it is in order during this debate to move to strike out from the pending bill any of the objectionable provisions mentioned by the gentleman from Wisconsin [Mr. LENROOT]?

The SPEAKER. It is not. You will have to take the conference report as a whole or reject it as a whole.

Mr. KONIG. Mr. Speaker, I raise the point of no quorum.

Mr. BURNETT. I yield four minutes to the gentleman from Massachusetts [Mr. GARDNER].

Mr. KONIG. Mr. Speaker, I make the point of no quorum.

Mr. BURNETT. Mr. Speaker, I make the point of order that that motion is dilatory.

The SPEAKER. Does the gentleman from Maryland [Mr. KONIG] withdraw his point?

Mr. KONIG. I raise the point of order that there is no quorum present. You can not do business without a quorum.

The SPEAKER. The question is not debatable. The Chair will count. [After counting.] One hundred and fifty-three gentlemen are present, not a quorum.

Mr. BURNETT. Mr. Speaker, I move a call of the House.

Mr. SABATH. Mr. Speaker, I move to adjourn.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] moves a call of the House.

Mr. SABATH. I move to adjourn.

The SPEAKER. The gentleman from Illinois [Mr. SABATH] moves that the House do now adjourn.

Mr. BURNETT. I hope that will be voted down.

The SPEAKER. That is not debatable. The question is on the motion of the gentleman from Illinois [Mr. SABATH] that the House do now adjourn.

The question was taken; and the Speaker announced that the "noes" seemed to have it.

Mr. SHERLEY. Division, Mr. Speaker.

Mr. GARDNER of Massachusetts. To save time, Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Massachusetts [Mr. GARDNER] demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until they are counted. [After counting.] Nineteen gentlemen have arisen—not a sufficient number. The yeas and nays are refused. The gentleman from Kentucky [Mr. SHERLEY] demands a division on the motion to adjourn.

The House divided; and there were—ayes 63, noes 81.

So the House refused to adjourn.

Mr. MURRAY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. A quorum is not required on a question of adjournment.

Mr. MURRAY. But it requires a quorum to do business.

Mr. MANN. The motion for a call of the House has already been made.

The SPEAKER. The question is on the motion of the gentleman from Alabama [Mr. BURNETT], that there shall be a call of the House.

The question was taken; and the Speaker announced that the "ayes" seemed to have it.

Mr. GARNER. A division, Mr. Speaker.

The House divided; and there were—ayes 73, noes 65.

So a call of the House was ordered.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Aiken, S. C.	Fuller	Legare	Rucker, Colo.
Alney	Gardner, N. J.	Levy	Rucker, Mo.
Akin, N. Y.	George	Lewis	Scully
Ames	Gillett	Lindsay	Sells
Andrus	Glass	Littleton	Shackleford
Ansberry	Goeke	McCall	Sisson
Anthony	Good	McCoy	Slayden
Bates	Gould	McGillicuddy	Smith, J. M. C.
Bathrick	Guernsey	McGuire, Okla.	Smith, Cal.
Berger	Hammond	McKellar	Smith, N. Y.
Blackmon	Harris	McKinley	Speer
Brown	Harrison, N. Y.	Maher	Stack
Burgess	Hart	Martin, Colo.	Steenerson
Burke, Pa.	Haugen	Matthews	Stephens, Nebr.
Calder	Heald	Merritt	Sulloway
Cannon	Henry, Conn.	Moon, Pa.	Tagart
Cary	Hensley	Moore, Tex.	Talbott, Md.
Claypool	Higgins	Morgan, La.	Talcott, N. Y.
Conry	Hill	Needham	Taylor, Ala.
Covington	Hobson	Oldfield	Taylor, Colo.
Crumpacker	Howard	Olmsted	Taylor, Ohio
Curry	Howell	Parran	Thayer
Danforth	Howland	Patten, N. Y.	Thistlewood
Davidson	Hull	Peters	Townsend
De Forest	Humphreys, Miss.	Post	Turnbull
Dickson, Miss.	James	Prince	Underwood
Driscoll, D. A.	Johnson, Ky.	Prouty	Vare
Driscoll, M. E.	Johnson, S. C.	Pujo	Vreeland
Dupré	Kent	Rainey	Weeks
Dwight	Kindred	Randell, Tex.	Wilder
Dyer	Kinkaid, Nebr.	Ransdell, La.	Wilson, N. Y.
Estopinal	Lafean	Reyburn	Wood, N. J.
Fields	Lamb	Richardson	Woods, Iowa
Fitzgerald	Langham	Riordan	
Fornes	Lawrence	Rouse	

The SPEAKER. Two hundred and forty-four Members have responded to their names—a quorum.

Mr. FOSTER. I move to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors. The gentleman from Alabama [Mr. BURNETT] has seven minutes and the gentleman from Illinois [Mr. SABATH] has eight minutes remaining.

Mr. BURNETT. I yield four minutes to the gentleman from Massachusetts [Mr. GARDNER].

Mr. GARDNER of Massachusetts. Mr. Speaker, the gentleman from Wisconsin [Mr. LENROOT], who has discussed this question of penalty certificates, or certificates of character, evidently does not understand the meaning of the clause to which he objects. Italy—and, I believe, other countries—have a system under which every citizen is supplied with a document which he must show on demand. If he has ever been convicted of an offense the fact is entered on that document. When the Immigration Commission was abroad it was pointed out to them that it would be very wise to put into our law a provision of this sort which we are discussing. In order to exclude criminals, it was suggested that we should ordain that when an immigrant comes here who is a citizen of any country which issues these certificates of character and penal certificates, we should say to him, "Now, sir, show us that paper which your Government requires you to possess. If that paper shows that you are a criminal, then you can not come in. If there are no convictions against you, we judge that you are no criminal. If you come from Italy and refuse to show us your papers we shall believe that there is something wrong with you."

Mr. BARTHOLDT. Will the gentleman yield?

Mr. GARDNER of Massachusetts. I ask the gentleman to let me complete my statement. Now, Mr. Speaker, the Secretary of Commerce and Labor, Mr. Nagel, is at the head of the Bureau of Immigration, and this clause in the law is included in the recommendation of that bureau. I think section 10 of the draft bill submitted by the Bureau of Immigration contains exactly this language——

Mr. CURLEY. Mr. Speaker——

Mr. GARDNER of Massachusetts. I can not yield. The provision is:

Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

The commissioner points out in his report that this provision will be effective in preventing men with criminal records slipping by at Ellis Island.

Mr. GOLDFOGLE. Mr. Speaker——

Mr. GARDNER of Massachusetts. I can not yield.

The SPEAKER. The gentleman declines to yield.

Mr. GARDNER of Massachusetts. The gentleman says, "Oh, but suppose Russia passes a law and takes up that same system of criminal jurisprudence."

Was ever anything more fantastic than such a supposition? The gentleman perhaps believes that Russia is going to change her whole system of criminal jurisprudence for the purpose of keeping the Jews in Russia. Why, we know that the fact is that the Russian Government dislikes the Jews and does not wish to keep them in Russia. Nothing more fanciful has been dreamed in the whole course of this debate. Russia telling us whom we shall admit, forsooth!—and that was a very effective way in which the gentleman put it—Russia changing her criminal system merely to keep some of her people at home. She has plenty of ways of keeping them at home if she so desires. Do not be alarmed, Mr. Speaker, at the ghost of Russia instructing us as to whom we shall admit to this country. Russia is not going to tell us whom we shall admit and whom we shall exclude; but when would-be immigrants are in possession of documents which show whether or not they have criminal records, we propose to see those documents. Before men who possess certificates pass through Ellis Island they must produce those certificates, so that this country shall not be flooded with criminals.

The SPEAKER. The time of the gentleman has expired.

Mr. SABATH. I yield two minutes and a half to the gentleman from New York [Mr. GOLDFOGLE].

The SPEAKER. The gentleman from New York [Mr. GOLDFOGLE] is recognized for two minutes and a half.

Mr. GOLDFOGLE. Mr. Speaker, the brief time allotted to me to speak in opposition to the conference report affords no fair opportunity to analyze the many provisions which have been inserted by the conferees. I can but utter my earnest, vigorous, and emphatic protest against the adoption of this measure. It abounds with provisions that are pernicious and which, if enacted, will give rise to hardship. It is, with few exceptions, the Dillingham bill all over again, and in some one or two respects is somewhat worse than when that measure came to us from the Senate.

The method adopted to secure the enactment of this legislation calculated to restrict immigration is amazing. The House Committee on Immigration struck out the provisions of the Dillingham bill, and, lo, the conferees bring back the measure with most of the features of that bill all reinserted and even more drastic than before. I am conscious that the temper of this House to-day favors the report, yet I would not sit by and see this measure go through by this steam-roller process without uttering any protest against both this report and the hasty, ill-considered way in which it is proposed this bill shall become a law.

Only last night the conferees reported this measure to the House. As we passed the bill it contained but one provision. It was the literacy-test provision. It was the reading test proposed in the Burnett bill. Behold now, we get from the conferees a lengthy bill of about 60 printed pages, and this only found printed for the first time this morning. Certain it is that few Members have read the provisions of the bill. Few, indeed, could have in these few hours familiarized themselves with its many clauses and provisions. Legislation produced in this way and rushed through in this fashion can not ever be said to be the result of statesmanlike consideration or of deliberate action.

It has been already well suggested that under the bill as now reported by the conferees an alien who has been in this country for a considerable period of time and who for any reason may have temporarily returned to his mother country can not return here without being subjected to all the examinations and inconveniences and restrictions that apply to immigrants that come to our shores for the first time. I wish I had the time to illustrate fully the viciousness of this and the abuses to which such legislation may lead. A father or mother, though having been for years a law-abiding inhabitant of this country and then returning to his or her native land, might, through means of being subjected to the provisions of this restrictive legislation, be debarred from coming in again, and perhaps be separated from their families forever. So it might be in respect to sons and daughters who, returning from their native lands after having been lawfully here for some years, might meet with the obstacles and difficulties which this proposed law would put in their way when seeking readmittance to this country.

Yet, Mr. Speaker, while the first section of the bill brings forth these observations, because no longer, as in the present law, is the statute to apply to immigrants who have not heretofore been lawfully admitted to the country, but the bill is made to apply to "any person not a native-born or naturalized citizen of the United States" and is to include all these aliens. Yet important as it may be to carefully consider such a situation, or the effect of the language which the conferees have inserted, you want to rush this bill hastily and hurriedly to a vote.

In the third clause of the bill it is proposed to absolutely exclude from entrance into this country all "citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate." In countries such as Russia and Roumania the emigrant desirous of leaving to migrate hither might find himself or herself in severe plight and encounter intolerable hardships to get such certificate, if he or she belong to the class of people who come within their policy of proscription or against whom their religious or racial intolerance is directed.

In some countries, whether Russia or Italy, Roumania or Hungary, Poland or elsewhere, conditions might and at times are likely to arise when those who would seek to leave these foreign lands to come here would encounter difficulty to get such certificates. Any country may at any time adopt a system of issuing such certificates, and thus her subjects or citizens would come under these provisions. Russia already issues certificates of the nature called for by the bill before us. Need I tell you, from what you already know of the unfortunate and pitiful condition of the Jew in that autocratic country, what difficulty he would meet with there? How rich might be the field of petty officials in foreign lands when they would be called on to grant these certificates that would enable the intending emigrant to leave his country to turn his footsteps to this land of freedom and opportunity? Only a little more than a year ago this House by practically a unanimous vote condemned the autocratic and outrageous conduct of Russia against the Jew, and now here to-night you propose to subject the very class for whom you professed your sympathy to being compelled to seek a certificate from the hands of a government under whose oppression he lives before you will permit him

entrance to our shores. You would invest the Government of the Czar with the power, if it or its officials, high or low, great or petty, saw fit to exercise it, to keep the man or woman from coming here, though he or she would be in every way a desirable immigrant.

But I have not time to pursue this subject. I have heretofore opposed, as I still oppose, the educational or literacy test. It is no test of fitness or character. Under it the bad, the vicious, or criminal minded might, if they can read, come in, while those who may be worthy, able-bodied, capable of self-support, and honest, but, unfortunately, illiterate, be kept out.

So, with these hurried remarks, I conclude my protest. Regarding the measure proposed by the conferees as harsh, ill conceived, undemocratic, un-American, and opposed to American principles, and attended with a spirit of narrowness, I can not give it my vote.

The SPEAKER. The time of the gentleman has expired.

Mr. SABATH. Mr. Speaker, I yield three minutes to the gentleman from Missouri [Mr. BARTHOLDT].

Mr. BARTHOLDT. Mr. Speaker, hundreds of years ago the Chinese built a wall around their country for the purpose of keeping out foreigners, foreign influences, foreign culture, and whatever smacked of foreigners. We are much smarter than that. We do not build a physical wall, but we build a Chinese wall in the shape of a law, and we do it because we believe we already have a monopoly upon all the culture, all the science, all the arts the world is possessed of to-day. We do not need any more from the outside.

Mr. Speaker, I dislike to see the spirit which is behind this bill; it is not in harmony with the conception I have of true Americanism; it is a spirit of proscription, of intolerance, and of race prejudice; it is a spirit of nativism which has not been in the books of the fathers of this Republic.

It is impossible, of course, to discuss in the short time I have the several sections in this bill. I have been in this House for 20 years, but never within my recollection has it been attempted to pass a bill of this magnitude without the House of Representatives asserting its rights in at least preserving a chance to discuss and amend it. Yet we are confronted here with a parliamentary situation which requires this important measure to be acted upon without a chance for amendment, without a chance to discuss it. You are increasing the head tax from $4 to $5, and you think the steamship companies are to pay that. Nothing of the kind. The steamship companies will put it onto the immigrant, and taking a dollar from that poor man at a time when he needs it more than ever in all his life is like taking a nickel from the eyes of a blind man. Yet you insist on filching it from his pockets in spite of the fact that the immigrant fund is already overflowing with "blood money" collected in the same heartless manner.

Furthermore, you require a certificate of character from all immigrants coming from countries issuing such certificates. There may now be but one or two of such countries, but this new American statute will be incentive to all European countries to immediately pass laws stipulating, in effect, that certificates of character may be issued to those they want to get rid of and withheld from all those whom the authorities wish to stay at home. To this class belong, among others, all the young men subject to military duty, and thus the very flower of European manhood, the most desirable of all immigrants, will be prevented from coming to our shores.

I venture the prediction, Mr. Speaker, that it will not be long before you will deeply regret the action that is about to be taken. By this legislation you will build up Canada, Mexico, Brazil, and the Argentine Republic at the expense of the United States. You will find that you have killed the hen that lays the golden eggs, and that if our present prosperity is allowed to continue under Democratic rule, scarcity of labor will soon be the standing complaint of American industries. You will find that in enacting this bill you are listening to the voice of prejudice and ignorance rather than that of wisdom, to the braying of the jackass rather than to the voice of reason and intellect, and I can foresee the time when you will be willing not only to again open wide the doors of the Republic, but to offer premiums to immigrants whose coming you now regard as a hostile invasion; but then I am afraid it will be too late. By our unfriendly attitude we have already scared off the best—the Germans, the Irish, the Scandinavians—and with this new piece of legislation we will divert from us the balance of them.

I realize that those of us who have more closely studied the problem of immigration, and therefore more fully appreciate the monumental folly of this Know-nothing legislation, could preach until doomsday and yet could not make a dent on the prejudice which is responsible for it. It requires, like in the case of tariff legislation, the lessons of practical experience to change the people's minds. Indeed, it seems to be a human trait to exhaust every folly to its utmost extremity before reason will be given its way. This is true with respect to the war preparations of the nations at the time when the great masses of all of them are entirely willing to dwell in peace and harmony and settle their differences peacefully. It is true in regard to the prohibition movement, which foolishly contemplates the changing of innocent individual habits by law rather than by moral suasion; and it seems to be true in the matter of regulating the immigration problem, which you now propose to solve by simply stopping the influx of foreigners, totally ignoring the fact that you will thereby create a new problem much more serious than the one you are trying to solve. We shall see who is right.

The SPEAKER. The time of the gentleman from Missouri has expired.

Mr. KAHN. Mr. Speaker, the gentleman from Massachusetts [Mr. GARDNER] undertook to explain that Russia dislikes her Jewish subjects and does not want to keep them in that country. As a matter of fact, however, the reason assigned by the Government of the Czar for refusing to allow Jewish citizens of the United States of Russian birth to return to their native land under passports issued to them by the country of their adoption is that the Jews expatriated themselves and left Russia without the consent of the Russian Government. It seems to me that the provision contained in the conference report, which requires the production of penal certificates or certificates of character of any country that issues such certificates, in order to secure admission into the United States, will make it exceedingly difficult for the citizens of Russia of the Jewish faith to enter our ports in case Russia should adopt a law for the issuance of such certificates. It would also be difficult for political offenders from that country to come here. In my travels I have learned that it takes very little to constitute a political offense in most of the monarchical countries of Europe. The provision which has been inserted by the conferees requiring the production of such certificates to our officials constitutes one of my objections to the conference report. I think this feature of the law would result in many hardships.

I freely admit that there are many excellent provisions in the law, but there are also many provisions that, in my judgment, should never be enacted into law. The matter of the literacy test is the most important of these. I discussed that at some length when the Burnett bill was up for consideration in the House. The application of that test will be particularly hard in the case of the Territory of Hawaii, for the provisions in this bill will require all immigrants who go to the Territory of Hawaii to be able to read. For many years the labor in the sugar fields and plantations of Hawaii has been oriental. At first it was altogether Chinese coolies who were the workmen on these plantations. When we annexed Hawaii we extended our Chinese exclusion laws to the islands. Subsequently there was a large influx of Japanese coolies to the Territory. Indeed, the immigration of the latter was of such proportions that today the Japanese population far outnumbers any other on the Islands. The experience of many years has demonstrated that the oriental is not a satisfactory laborer. The planters and the citizens of Hawaii desire to supplant these orientals with Caucasian labor. An effort has been made to bring Portuguese and Spanish laborers to the islands to supplant the Chinese and Japanese laborers. Several shiploads of the former were brought to Hawaii to work on the plantations. This experiment met with great success. The natives of the Iberian Peninsula were paid one-third more salary than was paid the coolies of the Orient for similar services. The planters willingly paid the increase because they found that the Caucasian was a more desirable workman. But the Portuguese and Spaniards are largely illiterates. Under the terms of the conference report they could not be permitted to enter Hawaii and we will have the remarkable spectacle of one of our own Territories, which is trying to supplant its oriental workmen with Caucasian workmen, frustrated in its plans by the immigration laws of our own country. We find one of our Territories compelled to seek its labor from the exceedingly cheap labor countries of China and Japan. We of the West are decidedly averse to the orientalization of any section of our country. We of the West feel that Caucasian laborers are to be preferred to Chinese and Japanese coolies, and we feel that this bill, so far as Hawaii is concerned, discriminates in favor of the oriental and against the Caucasian.

It is needless for me to go into other details that make the conference report objectionable. I think those that I have enumerated show plainly that the measure has features that should never be placed upon the statute books, and for that reason I shall oppose the conference report.

Mr. SABATH. I now yield two minutes to the gentleman from Massachusetts [Mr. CURLEY].

Mr. CURLEY. Mr. Speaker, with reference to the section pointed out by the gentleman from Wisconsin [Mr. LENROOT] and which has been referred to by the gentleman from Massachusetts [Mr. GARDNER], which refers to the certificate of character from foreign governments, I want to point out that it is not the subjects of Russia alone with whom we are concerned as Members of this House, it is that splendid German citizenship, that French citizenship, that Italian citizenship, that we would have lost for the last 50 years if a bill of this character was on the statute books. We got the youth, we got the muscle, we get the intelligence, we got the determination, we got the ambition of those older civilizations in Europe whose people fled here to escape compulsory military service in Germany, in France, in Italy, and in every other section of Europe. [Applause.] This is the same old story. This bill comes in here, some 58 pages long, and in one afternoon's discussion an abomination has been discovered. I venture to say if we had seven days to discuss it there is not a man in the House who would be ready to vote for the bill. It is the same character of proscription that would have deprived this country of the splendid services of Thomas Francis Meagher, who at the head of his brigade captured more colors and standards than the rest of the Union Army put together in 1864. It would have deprived this country of the splendid attainments and qualifications of that masterly genius, John Boyle O'Reilly, who in protesting against the same character of proscriptive legislation, speaking for his own people, said:

No treason we bring from Erin,
Nor bring we shame nor guilt;
The sword we hold may be broken,
But we have not dropped the hilt.
The wreath we bear to Columbia
Is twisted of thorns, not bays,
And the songs we sing are saddened
By the thoughts of desolate days.
But the hearts we bring for freedom
Are bathed in a surge of tears,
And we claim our right by a freeman's fight
Outlasting a thousand years.

[Mr. BURNETT addressed the House. See Appendix.]

The SPEAKER. All time has expired.

Mr. SABATH. Mr. Speaker, I move that the House do now adjourn.

Mr. GARDNER of Massachusetts. Mr. Speaker, I make the point of order that the motion is dilatory.

Mr. SHERLEY. I submit, Mr. Speaker, that since any motion of that kind has been made we have debated at some length.

The SPEAKER. The motion is not debatable. The question is on the motion of the gentleman from Illinois that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. SABATH) there were—ayes 31, noes 141.

So the motion was rejected.

Mr. SABATH. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. A quorum is not required on a motion to adjourn.

Mr. MURRAY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURRAY. Is a quorum required to do business?

The SPEAKER. Certainly it is.

Mr. MURRAY. I suppose the thing the House will do is to proceed to do business after the declaration of the vote on the motion to adjourn?

The SPEAKER. The roll call which was had a short time ago disclosed the presence of a quorum; 244 Members answering to their names. [Applause.]

Mr. MURRAY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURRAY. Does the vote just declared by the Speaker disclose the absence of a quorum?

The SPEAKER. Every Member of the House does not stand up on a division.

Mr. MURRAY. A further parliamentary inquiry. Will the Chair take judicial notice of the fact that a quorum is present even in the absence of a quorum as disclosed by a recent division?

The SPEAKER. The Chair will take judicial notice of the fact that 10 minutes ago the roll was called and 244 Members answered to their names. [Applause.] The question is on agreeing to the conference report.

Mr. BOEHNE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BOEHNE. Mr. Speaker, is a motion in order at this time?

The SPEAKER. That depends upon what it is.

Mr. BOEHNE. Mr. Speaker, I move that the House disagree to the conference report and send it back to the conferees.

The SPEAKER. That is not in order. The question is on agreeing to the conference report.

Mr. BARTHOLDT. Mr. Speaker, I move to recommit the conference report to the committee on conference.

The SPEAKER. The gentleman will send his motion to the Clerk's desk, and the Clerk will report it.

The Clerk read as follows:

Mr. BARTHOLDT moves to recommit the bill to the committee on conference, with instruction to report forthwith and strike out the following: "Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate."

The SPEAKER. The question is on agreeing to the motion to recommit.

The question was taken; and the Speaker announced the "noes" seemed to have it.

On a division (demanded by Mr. BARTHOLDT) there were—ayes 62, noes 132.

Mr. GOLDFOGLE. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The Chair will count. [After counting.] Thirty-six gentlemen have arisen, not a sufficient number.

Mr. SABATH. Mr. Speaker, I demand the other side.

Mr. BURNETT. Too late; I make the point of order. Mr. Speaker.

Mr. SHERLEY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. But there is a quorum present on this count.

Mr. SHERLEY. I beg the Chair's pardon, the count did not disclose a quorum.

The SPEAKER. One hundred and thirty-one plus 62 makes 193, and the Speaker makes 194. [Applause.]

Mr. SHERLEY. Mr. Speaker, a parliamentary inquiry. What is twice that number?

The SPEAKER. Why, there are certain vacancies in the House that makes 194 a quorum.

Mr. SABATH. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. SABATH. I ask for the other side on this question.

Mr. BURNETT. It is too late.

The SPEAKER. No; it is not too late. The gentleman from Illinois demands the other side. [After counting.] Thirty-six have risen for the yeas and nays and 138 against it; that is one-fifth, and the Clerk will call the roll.

Mr. GARDNER of Massachusetts. Mr. Speaker, I ask for tellers upon the yeas and nays.

Mr. MANN. The gentleman has no right to demand tellers.

Mr. GARDNER of Massachusetts. Mr. Speaker, I withdraw the demand.

The SPEAKER. The Clerk will call the roll.

The question was taken; and there were—yeas 70, nays 149, answered "present" 9, not voting 155, as follows:

YEAS—70.

Allen	Esch	Lee, Pa.	O'Shaunessy
Anderson	Fergusson	Lenroot	Reilly
Barchfeld	Gallagher	Lindbergh	Roberts, Mass.
Bartholdt	Goldfogle	Lobeck	Rodenberg
Bartlett	Graham	Loud	Sabath
Boehne	Gray	McCreary	Scott
Booher	Green, Iowa	McDermott	Sherley
Broussard	Hamill	McLaughlin	Sherwood
Bulkley	Hardy	Madden	Sloan
Burke, Wis.	Hawley	Maguire, Nebr.	Stone
Burleson	Helgesen	Miller	Tilson
Byrns, Tenn.	Kahn	Mondell	Towner
Cline	Kendall	Moore, Pa.	Volstead
Cooper	Kennedy	Morgan, Okla.	Warburton
Curley	Kinkead, N. J.	Morse, Wis.	Wilson, Ill.
Denver	Konig	Murdock	Young, Mich.
Donohoe	Konop	Murray	
Doremus	Korbly	Nelson	

NAYS—149.

Adair	Carter	Dies	Foster
Alexander	Clark, Fla.	Difenderfer	Fowler
Ashbrook	Clayton	Dodds	Francis
Austin	Collier	Doughton	French
Ayres	Copley	Draper	Gardner, Mass.
Beall, Tex.	Cox	Edwards	Garner
Bell, Ga.	Crago	Ellerbe	Garrett
Borland	Cravens	Faison	Godwin, N. C.
Brantley	Cullop	Farr	Goodwin, Ark.
Buchanan	Currier	Ferris	Greene, Vt.
Burke, S. Dak.	Dalzell	Finley	Gregg, Pa.
Burnett	Daugherty	Flood, Va.	Gregg, Tex.
Butler	Davis, W. Va.	Floyd, Ark.	Griest
Byrnes, S. C.	Dent	Focht	Gudger
Candler	Dickinson	Fordney	Guernsey
Cantrill	Dickson, Miss.	Foss	Hamilton, Mich.

Hamilton, W. Va.	Knowland	Pepper	Smith, Saml. W.
Hamlin	Kopp	Plumley	Smith, Tex.
Hammond	La Follette	Porter	Stanley
Hardwick	Langley	Pou	Stedman
Harrison, Miss.	Lee, Ga.	Powers	Stephens, Cal.
Hartman	Lever	Pray	Stephens, Miss.
Hay	Linthicum	Rainey	Stephens, Tex.
Hayes	Littlepage	Raker	Sterling
Helgesen	Lloyd	Rauch	Switzer
Helm	McKenzie	Rees	Thomas
Henry, Tex.	McKinney	Roberts, Nev.	Tribble
Hinds	Macon	Roddenbery	Underhill
Holland	Mays	Rothermel	Watkins
Houston	Moon, Tenn.	Ruby	Webb
Hughes, Ga	Morrison	Russell	Willis
Hughes, W. Va.	Moss, Ind.	Saunders	Wilson, Pa.
Humphrey, Wash.	Mott	Sharp	Witherspoon
Jackson	Neeley	Sheppard	Young, Kans.
Jacoway	Norris	Simmons	Young, Tex.
Johnson, S. C.	Padgett	Sims	
Jones	Page	Sisson	
Kitchin	Payne	Small	

ANSWERED "PRESENT"—9.

Adamson	McMorran	Palmer	Ransdell, La.
Bradley	Mann	Pickett	Sparkman
Browning			

NOT VOTING—155.

Aiken, S. C.	Fairchild	Lawrence	Rucker, Colo.
Alney	Fields	Legare	Rucker, Mo.
Akin, N. Y.	Fitzgerald	Levy	Scully
Ames	Fornes	Lewis	Sells
Andrus	Fuller	Lindsay	Shackleford
Ansberry	Gardner, N. J.	Littleton	Slayden
Anthony	George	Longworth	Slemp
Barnhart	Gill	McCall	Smith, J. M. C.
Bates	Gillett	McCoy	Smith, Cal.
Bathrick	Glass	McGillicuddy	Smith, N. Y.
Berger	Goeke	McGuire, Okla.	Speer
Blackmon	Good	McKellar	Stack
Brown	Gould	McKinley	Steenerson
Burgess	Greene, Mass.	Maher	Stephens, Nebr.
Burke, Pa.	Harris	Martin, Colo.	Stevens, Minn.
Calder	Harrison, N. Y.	Martin, S. Dak.	Sulloway
Callaway	Hart	Matthews	Sweet.
Campbell	Haugen	Merritt	Taggart
Cannon	Hayden	Moon, Pa.	Talbott, Md.
Carlin	Heald	Moore, Tex.	Talcott, N. Y.
Cary	Henry, Conn.	Morgan, La.	Taylor, Ala.
Claypool	Hensley	Needham	Taylor, Colo.
Conry	Higgins	Nye	Taylor, Ohio
Covington	Hill	Oldfield	Thayer
Crumpacker	Hobson	Olmsted	Thistlewood
Curry	Howard	Parran	Townsend
Danforth	Howell	Patten, N. Y.	Turnbull
Davenport	Howland	Patton, Pa.	Tuttle
Davidson	Hull	Peters	Underwood
Davis, Minn.	Humphreys, Miss.	Post	Vare
De Forest	James	Prince	Vreeland
Dixon, Ind.	Johnson, Ky.	Prouty	Weeks
Driscoll, D. A.	Kent	Pujo	Whitacre
Driscoll, M. E.	Kindred	Randell, Tex.	White
Dupré	Kinkaid, Nebr.	Redfield	Wilder
Dwight	Lafean	Reyburn	Wilson, N. Y.
Dyer	Lafferty	Richardson	Wood, N. J.
Estopinal	Lamb	Riordan	Woods, Iowa
Evans	Langham	Rouse	

So the motion to recommit was rejected.

The Clerk announced the following additional pairs:

For the session:

Mr. ADAMSON with Mr. STEVENS of Minnesota.

On the vote:

Mr. PRINCE with Mr. CRUMPACKER.

Mr. TOWNSEND (to recommit) with Mr. GLASS (against).

Mr. FITZGERALD (in favor) with Mr. HIGGINS (against).

Mr. GILL (to recommit) with Mr. HENSLEY (against).

Mr. NYE (to recommit) with Mr. DAVIS of Minnesota (against).

Mr. RANSDELL of Louisiana (to recommit) with Mr. ROUSE (against).

Mr. DUPRÉ (to recommit) with Mr. BLACKMON (against).

Mr. PROUTY (to recommit) with Mr. COVINGTON (against).

Until further notice:

Mr. WHITE with Mr. LAFFERTY.

Mr. TUTTLE with Mr. PATTON of Pennsylvania.

Mr. TALCOTT of New York with Mr. MCKINLEY.

Mr. STEPHENS of Nebraska with Mr. MARTIN of South Dakota.

Mr. MORGAN of Louisiana with Mr. MCCALL.

Mr. MAHER with Mr. LAWRENCE.

Mr. HAYDEN with Mr. HOWELL.

Mr. HARRISON of New York with Mr. HENRY of Connecticut.

Mr. EVANS with Mr. GREENE of Massachusetts.

Mr. CARLIN with Mr. FULLER.

Mr. AIKEN of South Carolina with Mr. CAMPBELL.

Mr. SLAYDEN with Mr. PICKETT.

Mr. KINKAID of Nebraska with Mr. STEENERSON.

Mr. PALMER. Mr. Speaker, has the gentleman from Connecticut, Mr. HILL, voted?

The SPEAKER. He has not.

Mr. PALMER. I have a pair with the gentleman, Mr. Speaker. I voted "nay" upon this proposition. I wish to withdraw my vote and vote "present."

The name of Mr. PALMER was called, and he voted "Present."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken; and the Speaker announced that the "ayes" seemed to have it.

Mr. SABATH. Mr. Speaker, I demand the yeas and nays on that.

The SPEAKER. The gentleman from Illinois [Mr. SABATH] demands the yeas and nays. All those in favor of demanding the yeas and nays will rise and stand until counted. [After counting.] Twenty-six gentlemen have risen.

Mr. SABATH. Mr. Speaker, I demand the other side.

The SPEAKER. The other side is demanded. All those opposed to taking the vote by yeas and nays will rise and stand until counted. [After counting.] One hundred and thirty-six gentlemen have risen. Not a sufficient number, and the conference report is agreed to.

On motion of Mr. BURNETT, a motion to reconsider the vote by which the conference report was agreed to was laid on the table.

LEAVE OF ABSENCE.

Mr. MCCOY, by unanimous consent, was granted leave of absence for three days, on account of important business.

EXTENSION OF REMARKS.

Mr. BURNETT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. BURNETT. Mr. Speaker, I move that the House do now adjourn.

THE LATE SENATOR NIXON.

Mr. ROBERTS of Nevada. Mr. Speaker, I ask unanimous consent for the present consideration of the order which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the order.

The Clerk read as follows:

Ordered, That Sunday, February 16, 1913, be set apart for addresses on the life, character, and public services of Hon. GEORGE S. NIXON, late a United States Senator from the State of Nevada.

The SPEAKER. The question is on agreeing to the order.

The order was agreed to.

EXTENSION OF REMARKS.

Mr. BURNETT. Mr. Speaker, I ask unanimous consent that everyone who has spoken on the question may be permitted to extend his remarks in the RECORD.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I object. However, I do not object to the gentleman from Alabama [Mr. BURNETT] extending his remarks.

The SPEAKER. That was not his request. The request of the gentleman from Alabama was that all gentlemen who had spoken on this question might have unanimous consent to extend their remarks in the RECORD. To that the gentleman from Illinois [Mr. MANN] objected.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. REILLY. Mr. Speaker, I make the same request.

The SPEAKER. The gentleman from Connecticut makes the same request. Is there objection?

There was no objection.

Mr. FOCHT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. GARDNER of Massachusetts. Mr. Speaker, I make a similar request.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

ADJOURNMENT.

The SPEAKER. The question is on the motion of the gentleman from Alabama that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 15 minutes p. m.) the House adjourned until Saturday, January 18, 1913, at 12 o'clock m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Florida at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

2. A letter from the Secretary of the Treasury, submitting an estimate of appropriation for the protection of the person of the President elect of the United States (H. Doc. No. 1279); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of War, transmitting, pursuant to law, a list of leases granted by the Secretary of War during the calendar year 1912 (H. Doc. No. 1280); to the Committee on Appropriations and ordered to be printed.

4. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of State, submitting estimates of urgent deficiency appropriation for subjects relating to safety of life at sea (H. Doc. No. 1281); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of State, submitting estimate of increase in appropriation for expenses connected with the international joint commission under the waterways treaty between the United States and Great Britain (H. Doc. No. 1282); to the Committee on Appropriations and ordered to be printed.

6. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of the Navy, submitting supplemental estimate of appropriation for the purchase of additional land for extension of landing facilities at the naval station, Narragansett Bay, R. I. (H. Doc. No. 1283); to the Committee on Naval Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HOBSON, from the Committee on Naval Affairs, to which was referred the bill (H. R. 27992) to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof, reported the same without amendment, accompanied by a report (No. 1343), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HUGHES of Georgia, from the Committee on Military Affairs, to which was referred the bill (S. 1673) providing for the retirement of certain officers of the Philippine Scouts, reported the same without amendment, accompanied by a report (No. 1344), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HAMILL: A bill (H. R. 28184) to constitute Jersey City, in the State of New Jersey, a port of entry, and extending the privileges of the act of June 10, 1880, thereto; to the Committee on Ways and Means.

By Mr. BATES: A bill (H. R. 28185) for the better payment of pensioners; to the Committee on Invalid Pensions.

By Mr. SHERLEY: A bill (H. R. 28186) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. LITTLEPAGE: A bill (H. R. 28187) to authorize the construction, maintenance, and operation of a bridge across and over the Great Kanawha River, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BORLAND: A bill (H. R. 28188) to provide for the reconstruction and maintenance of the old national road from Cumberland, Md., to St. Louis, Mo., and extensions to the same, making it a continuous trunk-line road from the Atlantic Ocean to the Pacific Ocean; to the Committee on Agriculture.

By Mr. TOWNER: A bill (H. R. 28189) providing for a monument to commemorate the services and sacrifices of the women of the country at the time of the American Revolution; to the Committee on Public Buildings and Grounds.

By Mr. ROBERTS of Massachusetts: A bill (H. R. 28190) to authorize the construction of a public building at Malden, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. FERRIS: A bill (H. R. 28191) authorizing the extension of payments on certain town lots in the Kiowa, Comanche, and Apache ceded lands in Oklahoma; to the Committee on Indian Affairs.

By Mr. AUSTIN: A bill (H. R. 28192) for the relief of the city authorities of the city of Harriman, Roane County, Tenn.; to the Committee on Claims.

By Mr. BULKLEY: A bill (H. R. 28193) to provide for the construction of the Patent Office of the United States, and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. GOLDFOGLE: A bill (H. R. 28230) to promote the safety of travelers and employees upon railways engaged in interstate and foreign commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. FRANCIS: A bill (H. R. 28231) to provide for the reconstruction and maintenance of the old national road from Cumberland, Md., to St. Louis, Mo., and extensions to the same, making it a continuous trunk-line road of macadam or other permanent material from New York City to the Pacific coast; to the Committee on Agriculture.

By Mr. GOODWIN of Arkansas: Resolution (H. Res. 777) congratulating the people of Ireland on the passage of an Irish home-rule bill by the British House of Commons; to the Committee on Foreign Affairs.

By Mr. HOWLAND: Joint resolution (H. J. Res. 384) proposing an amendment to the Constitution of the United States relating to impeachments; to the Committee on the Judiciary.

By Mr. TAGGART: Joint resolution (H. J. Res. 385) to grant a leave of absence to certain employees of the United States; to the Committee on Reform in the Civil Service.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 28194) granting an increase of pension to Lauretta Elston; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 28195) granting a pension to Harry Adelbert Nichols; to the Committee on Invalid Pensions.

By Mr. AYRES: A bill (H. R. 28196) for the relief of William W. Case and Mattie E. Case; to the Committee on Claims.

By Mr. BURGESS: A bill (H. R. 28197) for the relief of J. O. King; to the Committee on Claims.

By Mr. CULLOP: A bill (H. R. 28198) granting a pension to Jennie Bridwell; to the Committee on Invalid Pensions.

By Mr. FERGUSSON: A bill (H. R. 28199) granting an increase of pension to Arthur L. Douglass; to the Committee on Pensions.

By Mr. FOCHT: A bill (H. R. 28200) granting a pension to William N. Hoffman; to the Committee on Invalid Pensions.

By Mr. FORDNEY: A bill (H. R. 28201) granting a pension to Polly R. Parker; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 28202) granting a pension to Albert Seelig; to the Committee on Pensions.

By Mr. GOEKE: A bill (H. R. 28203) granting an increase of pension to Cornelius Roush; to the Committee on Invalid Pensions.

By Mr. HUMPHREY of Washington: A bill (H. R. 28204) for the relief of George W. Trahey; to the Committee on Claims.

Also, a bill (H. R. 28205) for the relief of James Bender; to the Committee on Military Affairs.

Also, a bill (H. R. 28206) granting a pension to Arthur C. Dexter; to the Committee on Pensions.

Also, a bill (H. R. 28207) granting an increase of pension to George T. Murray; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28208) granting an increase of pension to Lanson S. Hogle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28209) granting an increase of pension to Estelle H. Wholley; to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 28210) granting a pension to Katherine S. Neeland; to the Committee on Pensions.

By Mr. KORBLY: A bill (H. R. 28211) granting a pension to Samantha West Miller; to the Committee on Pensions.

By Mr. LAWRENCE: A bill (H. R. 28212) restoring the name of Melina Day to the pension roll; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 28213) granting an increase of pension to George W. Conley; to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 28214) granting a pension to Monroe Flowers; to the Committee on Pensions.

Also, a bill (H. R. 28215) to remove the charge of desertion from the military record of Frederick Frosch; to the Committee on Military Affairs.

By Mr. MARTIN of South Dakota: A bill (H. R. 28216) granting an increase of pension to John Ferguson; to the Committee on Invalid Pensions.

By Mr. MOSS of Indiana: A bill (H. R. 28217) granting an increase of pension to James Chambers; to the Committee on Invalid Pensions.

By Mr. NEEDHAM: A bill (H. R. 28218) granting an increase of pension to Samuel Turpin; to the Committee on Invalid Pensions.

By Mr. NEELEY: A bill (H. R. 28219) granting a pension to Martha L. Manly; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 28220) granting an increase of pension to James D. Brown; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 28221) granting an increase of pension to Benjamin Dorwart; to the Committee on Invalid Pensions.

By Mr. RUCKER of Colorado: A bill (H. R. 28222) granting a pension to Sarah P. Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28223) to correct the military record of Eugene J. Rizer; to the Committee on Military Affairs.

By Mr. STANLEY: A bill (H. R. 28224) for the relief of the estate or heirs of Philip P. Phillips, deceased; to the Committee on War Claims.

By Mr. STEPHENS of Nebraska: A bill (H. R. 28225) granting an increase of pension to Orlando Wood; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 28226) granting a pension to Gabriel H. Leighty; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 28227) granting a pension to William H. Haight; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28228) granting an increase of pension to Alfred H. Guest; to the Committee on Invalid Pensions.

By Mr. WHITACRE: A bill (H. R. 28229) granting an increase of pension to Charles M. Reilly; to the Committee on Invalid Pensions.

By Mr. McKENZIE: A bill (H. R. 28232) granting a pension to Ida Wingart; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Judson C. Wall, New York, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, papers to accompany special bill for the relief of Mary H. Johnston; to the Committee on Invalid Pensions.

By Mr. CALDER: Petition of the Women's League of the Clinton Avenue Congregational Church, Brooklyn, N. Y., favoring action on the part of Congress that the tolls at the Panama Canal be adjusted by diplomacy; if that can not be done, by arbitration; to the Committee on Interstate and Foreign Commerce.

By Mr. DAVIS of West Virginia: Petition of the Randall County Bar Association, favoring the passage of legislation for a term of Federal district court of the United States of America at Elkins, W. Va.; to the Committee on the Judiciary.

By Mr. DIFENDERFER: Petition of Ezra W. Spragell and others, of Buck County, favoring the passage of the Kenyon-Sheppard bill for preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. ESCH: Petition of citizens of Curtis, Wis., protesting against the passage of the Lever agriculture bill; to the Committee on Agriculture.

By Mr. FITZGERALD: Petition of the National Academy of Design, of New York, urging that the proposed Lincoln memorial be erected on the site recommended by the Washington Park Commission; to the Committee on the Library.

Also, petition of the Italian Chamber of Commerce, of New York, protesting against the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Social Science Section of the American Association for the Advancement of Science, favoring the passage of Senate bill 3, for Federal aid to vocational eduction; to the Committee on Agriculture.

By Mr. LEVY: Petition of Sol Bloom (Inc.), New York, and the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. LINDSAY: Petition of Jerome D. Greene, trustee of the Rockefeller Institute for Medical Research, etc., favoring the passage of House bill 21532, to incorporate the Rockefeller Foundation; to the Committee on the Judiciary.

Also, petitions of the American Talking Machine Co., Brooklyn, N. Y.; the Eastern Talking Machine Dealers' Association, New York; and E. S. Cragen, Brooklyn, N. Y., protesting against the passage of section 2 of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of Hogan & Son and Earl & Wilson, New York, favoring the passage of House bill 27567, for a 1-cent letter rate; to the Committee on the Post Office and Post Roads.

Also, petitions of John Otterbacher, Charlottesville, Va.; Knaggs & Plum, Bay City, Mich.; and Hugh Thompson, Eastport, Me., favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: Papers to accompany bill (H. R. 7405) for the relief of Emma A. Ford; to the Committee on Pensions.

By Mr. NEELEY: Petition of citizens of Meade County, Kans., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. NORRIS: Petition of citizens of Nebraska, protesting against the passage of any legislation reducing the tariff on sugar; to the Committee on Ways and Means.

By Mr. TILSON: Petition of the Manufacturers' Association of Bridgeport, Conn., protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. UNDERHILL: Petition of the Eastern Talking Machine Dealers' Association, New York, protesting against passage of section 2 of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. WILLIS: Paper to accompany bill (H. R. 27526) granting a pension to Mary B. Showalter; to the Committee on Invalid Pensions.

SENATE.

SATURDAY, *January 18, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

NAMING A PRESIDING OFFICER.

Mr. SHIVELY (at the Vice President's desk) handed to the Secretary the following communication, which was read:

UNITED STATES SENATE,
Washington, D. C., January 18, 1913.

TO THE SENATE:

I hereby name Hon. BENJAMIN F. SHIVELY, senior Senator from the State of Indiana, to perform the duties of the Chair during my absence.

AUGUSTUS O. BACON,
President of the Senate Pro Tempore.

Mr. SHIVELY thereupon took the chair as Presiding Officer for to-day, and directed the Secretary to read the Journal of yesterday's proceedings.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDING OFFICER laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of ascertainment of electors for President and Vice President appointed in the State of Florida at the election held in that State December 5, 1912, which was ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bill and joint resolution:

S. 7637. An act to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.; and

S. J. Res. 150. Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States.

The message further announced that the House insists upon its amendments to the bill (S. 6380) to incorporate the American Hospital of Paris, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. CLAYTON, Mr. DAVIS of West Virginia, and Mr. STERLING managers at the conference on the part of the House.

PETITIONS AND MEMORIALS.

Mr. CURTIS presented petitions of sundry citizens of Hoisington, Altoona, and Larned, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. MARTINE of New Jersey presented a petition of sundry citizens of Summit, N. J., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. GALLINGER presented resolutions adopted by the Associated Charities of the District of Columbia, favoring an appropriation being made for the erection of a municipal hospital in the District of Columbia, which were referred to the Committee on Appropriations.

He also presented petitions of the congregations of the Belknap Congregational Church and the Free Baptist Church, of Dover, N. H., and of the board of managers of the National Temperance Society and Publication House of New York City, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. McCUMBER presented a petition of sundry citizens of Wimbledon, N. Dak., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. PAGE presented a petition of the congregation of the First Congregational Church of St. Johnsbury, Vt., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of the congregation of the First Congregational Church of St. Johnsbury, Vt., praying for the passage of the so-called Kenyon "red-light" injunction bill, which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. McCUMBER, from the Committee on Pensions, submitted a report (No. 1129) accompanied by a bill (S. 8178) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, the bill being a substitute for the following Senate bills heretofore referred to that committee:

S. 45. Michael Liebhart.
S. 503. William M. Copeland.
S. 531. E. Belle Platt.
S. 642. Charles Stewart.
S. 804. Robert R. Whiteman.
S. 1191. Joseph Lasier, jr.
S. 1459. Stephen Rice.
S. 1512. Isaac Henninger.
S. 1662. Ira Lyle.
S. 1759. Edgar W. Lauck.
S. 1824. George Alexander.
S. 1835. Frank Laflame.
S. 1999. Carrie Kellogg.
S. 2630. Jerome McWethy.
S. 2944. Mary J. Irwin.
S. 3305. Monroe J. Potts.
S. 3410. Henry D. Jayne.
S. 3412. Samuel R. Vose.
S. 3428. Jacob Lingenfelter.
S. 3492. Henry B. Spencer.
S. 3534. Hiram Rhodes.
S. 3663. Ozro M. Hale.
S. 3667. Dennis McCarthy 2d.
S. 3668. Jesse Nott.
S. 3698. Susan E. Miller.
S. 3742. Daniel Tracy.
S. 3996. Joseph A. Funk.
S. 4193. Andrew W. Stevens.
S. 4203. John Mallet.
S. 4304. Francis Kramer.
S. 4620. Martin Ressler.
S. 4690. John Scherff.
S. 4992. John Gordon.
S. 5012. Jackson Trult.
S. 5023. Joseph Antram.
S. 5049. Martha Ann Harvey.
S. 5209. John Chenoweth.
S. 5222. Joshua Eckman.
S. 5234. Charles T. Howard.
S. 5273. Frederick Buckmaster.
S. 5563. Emma C. Palmer.
S. 5584. Henrietta P. Cowgill.
S. 5969. Ellen S. Kirkham.
S. 5971. Cornelia M. Hale.
S. 6072. James J. Hasson.
S. 6300. Clement F. S. Almes.
S. 6416. Franklin W. Chapman.
S. 6514. Elizabeth A. Fisher.
S. 6544. James Smith.
S. 6737. Reuben Cooley.
S. 6756. John T. Craddock.
S. 6778. Edward Brown.
S. 6789. William T. Hutton.
S. 6828. James Hawkins.
S. 6999. John S. Edwards.
S. 7049. Samuel C. Planck.
S. 7095. David F. Entsler.
S. 7151. Jasper Fleener.
S. 7166. Job S. Sims.
S. 7178. John J. Jameson.
S. 7179. Charles T. Knight.
S. 7207. Cyrus N. Lyons.
S. 7270. George W. Jones.
S. 7272. Joseph Troyer.
S. 7311. Josephine M. Perry.
S. 7333. Oscar B. Vibert.
S. 7341. Albert T. Wharton.
S. 7364. David L. Denee.
S. 7387. Mary A. Bingaman.
S. 7478. Nettie W. Sisson.
S. 7485. Emily J. Chambers.
S. 7530. Sarah Tout.
S. 7576. Susan J. Littlefield.
S. 7580. Clinton E. Olmstead.
S. 7612. Daniel H. Strout.
S. 7618. John Miller.
S. 7643. Julius A. Record.
S. 7644. William L. Ham.
S. 7648. Lucretia B. Crockett.
S. 7676. George W. Barrett.
S. 7708. Olive Stull.
S. 7714. John W. Culver.
S. 7720. Gustaf Swanson.
S. 7741. Sophronia Dixon.
S. 7777. Eben S. Welch.
S. 7779. Thomas C. Aldrich.
S. 7789. Emily S. Reader.
S. 7790. Clara A. Long.
S. 7839. Maria L. Mann.
S. 7846. Mary J. Hubbard.
S. 7859. George W. Sumpter.
S. 7861. Lurinda P. Barnes.
S. 7864. Electa Marsh.
S. 7880. Edward A. Mace.
S. 7881. Mary J. Van Orden.
S. 7892. Susan M. Wyatt.
S. 7932. Luke Cassidy.
S. 7933. Lewis F. Branson.
S. 7934. Amanda E. Glenn.
S. 7935. Solomon Kessinger.
S. 7953. Peter Binkley.
S. 7962. Edmond Melton.
S. 7963. Eli W. Pierce.
S. 7978. Melissa A. McGowan.
S. 7984. Hannah Peavey.

Mr. SUTHERLAND, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 184) for the erection of a public building at Lancaster, Ky., reported it with amendments and submitted a report (No. 1123) thereon.

He also, from the same committee, to which were referred the following bills, reported them each with an amendment and submitted reports thereon:

S. 4524. A bill to increase the appropriation of $60,000 for the purchase of a site and the erection of a building for the use and accommodation of a post office at Middlesboro, Ky., to $125,000 (Rept. No. 1124); and

S. 7502. A bill for the erection of a public building at Ridgway, Pa. (Rept. No. 1125).

Mr. STEPHENSON, from the Committee on Public Buildings and Grounds, to which were referred the following bills, reported them each with an amendment and submitted a report thereon:

S. 7298. A bill for the purchase of a site and the erection thereon of a public building at Rhinelander, Wis. (Rept. No. 1126); and

S. 7297. A bill for the purchase of a site and the erection thereon of a public building at Mineral Point, Wis. (Rept. No. 1127).

Mr. MARTIN of Virginia, from the Committee on Commerce, to which was referred the bill (S. 7855) to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota, reported it without amendment and submitted a report (No. 1128) thereon.

Mr. PERKINS, from the Committee on Naval Affairs, to which was referred the bill (H. R. 20193) authorizing the Secretary of the Navy to pay a cash reward for suggestions submitted by civilian employees of the Navy Department for improvement or economy in manufacturing processes or plant, reported it with amendments and submitted a report (No. 1130) thereon.

MEMORIAL SERVICES FOR THE LATE VICE PRESIDENT.

Mr. CUMMINS. From the Committee on Rules, to which was referred Senate resolution 426, directing the Committee on Rules to report an order for ceremonies in honor of the memory of the late Vice President JAMES S. SHERMAN, I report a resolution which I ask to have read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The resolution (S. Res. 435) was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate, as follows:

Resolved, That Saturday, the 15th day of February, be set apart for appropriate exercises in commemoration of the life, character, and public service of the late JAMES S. SHERMAN, Vice President of the United States and President of the Senate of the United States.

That a committee of three Senators, composed of ELIHU ROOT, JAMES O'GORMAN, and CHARLES CURTIS, is hereby appointed with full power to make all arrangements and publish a suitable program for the aforesaid meeting of the Senate, and to issue the invitations hereinafter mentioned.

That invitations shall be extended to the President of the United States, the members of the Cabinet, the Chief Justice and Justices of the Supreme Court, the Speaker and Members of the House of Representatives, the judges of the Commerce Court, the judges of the Court of Customs Appeals, the judges of the courts of the District of Columbia, the officers of the Army and Navy stationed in Washington, the members of the Interstate Commerce Commission, the members of the Civil Service Commission. That such other invitations shall be issued as to the said committee shall seem best.

All expenses incurred by the committee in the execution of this order shall be paid from the contingent fund of the Senate.

HARRY S. WADE.

Mr. CRAWFORD. The Committee on Claims reported favorably just before the close of the last session the bill (H. R. 15181) for the relief of Harry S. Wade. It was passed by the Senate, and at the request of the Senator from Oregon [Mr. BOURNE] I entered a motion to reconsider the vote, and the bill was returned from the House. The session ended without its being acted upon, but the papers are here, the bill was passed here, and I should like to have the bill with the report of the Committee on Claims placed on the calendar so that the motion for reconsideration may come up in regular order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CLAIMS OF AMERICAN CITIZENS.

Mr. DU PONT. On December 14, 1912, the Secretary of War transmitted to the Senate a report of the commission appointed by the War Department to investigate the claims of American citizens for damages suffered within American territory and growing out of the late insurrection in Mexico, which was referred to the Committee on Military Affairs. I ask that that committee be discharged from the further consideration of the report, and that it be referred to the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ASHURST:

A bill (S. 8179) for the relief of Alfred Cluff, Orson Cluff, Henry E. Norton, William B. Ballard, Elijah Hancock, Susan R. Saline, Oscar Mann, Celia Thayne, William Cox, Theodore Farley, Adelaide Laxton, Clara L. Tenney, George M. Adams, Charlotte Jensen, and Sophia Huff (with accompanying papers); to the Committee on Claims.

By Mr. NELSON:

A bill (S. 8180) granting an increase of pension to Mary J. White; to the Committee on Pensions.

By Mr. KENYON:

A bill (S. 8181) granting an increase of pension to Farmer P. Oldfield; to the Committee on Pensions.

By Mr. CULLOM:

A bill (S. 8182) granting to the Inter-City Bridge Co., its successors and assigns, the right to construct, acquire, maintain, and operate a railway bridge across the Mississippi River; to the Committee on Commerce.

By Mr. TILLMAN:

A bill (S. 8183) for the relief of Capt. Frank Parker; to the Committee on Military Affairs.

By Mr. CATRON:

A bill (S. 8184) extending the provisions of an act of Congress approved April 28, 1904 (33 Stat. L., 547), to apply to the State of New Mexico; to the Committee on Public Lands.

A bill (S. 8185) granting an increase of pension to Grace A. Overhuls; to the Committee on Pensions.

By Mr. GORE:

A bill (S. 8186) to prohibit contracts with the members of certain Indian tribes in relation to tribal money, property, etc.; to the Committee on Indian Affairs.

By Mr. BOURNE:

A bill (S. 8187) granting a pension to Josephine E. Miller; to the Committee on Pensions.

By Mr. CHILTON:

A bill (S. 8188) to amend section 113 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911; to the Committee on the Judiciary.

By Mr. LODGE:

A joint resolution (S. J. Res. 154) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.; to the Committee on Finance.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. McCUMBER submitted an amendment proposing to appropriate $35,200 for the support and education of 200 Indian pupils at the Indian school, Wahpeton, N. Dak., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $43,200 for the support and education of 100 Indian pupils at the Indian school, Bismarck, N. Dak., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $100,000 for the purchase of cattle for the Northern Cheyenne Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JONES submitted an amendment proposing to appropriate $35,000 for the protection of Valdez, Alaska, and adjacent territory from glacial floods, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. GRONNA submitted an amendment intended to be proposed by him to the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto, which was ordered to lie on the table and be printed.

Mr. McCUMBER submitted an amendment intended to be proposed by him to the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States, receiving the benefits of an act of Congress, approved July 2, 1862, and of acts supplementary thereto, which was ordered to lie on the table and be printed.

COMPILATION OF SENATE ELECTION CASES.

Mr. DILLINGHAM submitted the following resolution (S. Res. 436), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Committee on Privileges and Elections be, and is hereby, authorized and directed to have compiled and printed as a document a revised edition of the document entitled "Compilation of Senate Election Cases," bringing the same down to the close of the Sixty-second Congress.

ALICE V. HOUGHTON.

Mr. CRAWFORD. The bill (S. 5137) for the relief of Alice V. Houghton, the young lady who met with a serious accident in the Census Office Building was, at the request of the Senator from New Jersey [Mr. MARTINE] recalled from the House and

nothing has been done about it since. I have had a conversation on the subject with the Senator from New Jersey. It seems to be proper to send the bill back to the Committee on Claims so that the subcommittee may make an investigation of the condition of the case at the present time and report it again to the full committee. I ask that the bill be rereferred to the Committee on Claims.

Mr. MARTINE of New Jersey. Mr. President, I trust the Senator from South Dakota will not press a rereference of the matter. It will only entail a further humiliation upon this poor young woman, who has suffered for nearly two years. I think the 30th of this January it will be two years since this unfortunate woman met with the horrid accident.

Night before last I went to her home in order that I might fortify myself with further facts regarding the case. I say today that she is blind in one eye; the other is in a weeping and weak condition; and she is unable to read and unable to write. Her scalp is still in an unhealed condition. A thin, crackly skin covers a portion of her skull, breaking out at the least provocation. The wounds are dressed each day now by the family. The son of the doctor, Dr. White, stated to me in my own office yesterday that he felt it was making a hill against the family that it would be hardly possible for them to meet, and he said to them, "I will teach you to dress these wounds, though I will come once a week," and he says that studiously and punctiliously he has been there every week for the purpose of dressing the wounds.

The horrid story need not be recited. Two years ago this accident occurred while in performance of her duties as tabulator in the Census Bureau. The girl has suffered the agony and tortures of the damned through being coiled on an unprotected revolving shaft, whereby she was bereft of her splendid shock of hair; a comely woman, 28 years old, has been in suffering and torture.

I have on my desk, and desire to bring it up, if possible, today, a bill proposing that the Senate shall appropriate for her the sum of $8,000, $2,000 of which shall be paid upon the passage of the bill and the further sum of $6,000 paid in installments of $75 a month until the $6,000 shall have been used up.

I feel that this is but humanity; and here in Christmas time, while we are talking good will and kind fellowship and love of our fellows, this poor girl is disfigured beyond parallel. The scalp was torn from the back of her head and from the nape of her neck, over to and including the eyebrows, and the skin was torn from the bridge of her nose. I will state that the skin on the bridge of her nose has healed, but the veins and muscles stand out like whipcords on this poor girl's forehead. For all purposes in life, with her comeliness gone, money recompense can not bring back to her her splendid shock of hair, her glorious tresses, the pride of womanhood, and money can not make compensation for it. None of us, for ourselves, our wives, or daughters, would take a sum three times that which I earnestly urge. But this in a way can relieve at least the situation in which this poor girl is placed.

I urge you, my fellow Senators, with big hearts and broad and generous impulses, in God's name do not press this young woman to further humiliation and torture. I have here the affidavit of three or four physicians; I have the statement of Director Durand, of the Census Office—all certifying to this case. We had it thrashed out in our committee, and I urge that this further humiliation be not placed on this poor and unfortunate woman.

Mr. NEWLANDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Jersey yield to the Senator from Nevada?

Mr. MARTINE of New Jersey. Certainly.

Mr. NEWLANDS. I should like to ask what is the amount of this claim?

Mr. MARTINE of New Jersey. There is no claim. The Senate passed a bill appropriating, I believe, $4,200.

Mr. NEWLANDS. How long has the case been pending?

Mr. MARTINE of New Jersey. Nearly two years.

Mr. NEWLANDS. I will ask the Senator if he does not think that any jury in a suit against a private corporation would bring in a verdict of ten or fifteen or twenty thousand dollars for such injuries?

Mr. MARTINE of New Jersey. Surely, against any private corporation in this land, I care not what. No jury in a civilized community would pretend to fix less than $25,000, and I believe in such a case the party could recover $50,000. That I do not ask.

Mr. NEWLANDS. I desire to inquire of the Senator from New Jersey the parliamentary attitude of this bill. I wish to say, so far as I am individually concerned, I have read of this accident in the newspapers and of the suffering of this poor woman from time to time; I have felt from the start that if it had been an ordinary case of employer's liability in a suit against a private corporation a verdict of an enormous amount would have been found. I have witnessed with indignation the delay of Congress in satisfying this claim. So far as I am concerned I want to act speedily and justly and liberally on this subject.

Mr. CULBERSON. I desire to ask what is the parliamentary status of the claim presented by the Senator from New Jersey?

The PRESIDING OFFICER. The Senator from South Dakota [Mr. CRAWFORD] asks unanimous consent for the reference of the bill back to the Committee on Claims.

Mr. CRAWFORD. May I be permitted to say a word?

Mr. CULBERSON. I should like to have the Senator explain the parliamentary status of the matter.

Mr. CRAWFORD. Mr. President, we are all, I think, in sympathy with what the Senator from New Jersey has said. It is an appealing case, and I do not for one moment wish it to be understood that I desire in the slightest degree, directly or indirectly, to retard the case, nor to take any steps that are unnecessary in the matter of having it fairly presented to the Senate.

The Committee on Claims had the bill before it. It gave it consideration and it made a report to the Senate. The report was adopted after some debate and the bill passed. Afterwards, during the last session, the Senator from New Jersey [Mr. MARTINE] made an appeal to the Senate on the ground that in his belief we had not allowed a sufficient amount, and the Senator from Mississippi [Mr. WILLIAMS] joined him in the request, and we brought the bill back from the House.

I do not think that responsibility for inaction since that time is chargeable to the Committee on Claims or to its chairman, because we have had no jurisdiction over it. The Senate recalled the bill from the House; and the Senator from New Jersey, who was active in having it recalled, has never brought the matter up, nor has the Senator from Mississippi. The chairman of the Committee on Claims has been engaged with the omnibus claims bill, and after having a conversation with the Senator from New Jersey, and sympathizing with him in his desire, my only object in bringing up the matter in this way was that we might, in an orderly manner, in the situation as it now exists, have the bill brought before the Senate and that we might take such action in regard to it as the merits of the case require.

If it is better to have it acted upon without going back to the committee, I will not insist upon it at all; but because it has been lying idle and nothing has been done about it since it came back from the other House, I desired to present it to the Senate, and I assure the Senator from New Jersey that he need have no apprehension that the claim upon its merits will not be considered by the Committee on Claims, so far as I am concerned.

Mr. MARTINE of New Jersey. I believe that.

The PRESIDING OFFICER. Does the Senator from New Jersey insist upon his objection?

Mr. MARTINE of New Jersey. I object, sir.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Objection is made.

Mr. MARTINE of New Jersey. In deference to the Senator from Massachusetts, I withdraw the objection until he may be heard in regard to the bill.

Mr. LODGE. Mr. President, I merely wanted to say that, as I understand, this bill has been recalled from the other House, and therefore it occupies exactly the same position as it did when it left the Senate. I can see no reason for recommitting the bill. I think we can dispose of it now, and I think we ought to dispose of it now.

Mr. MARTINE of New Jersey. Let me give one reason why the matter has been seemingly delayed. During the last session, in the interest and with the general purpose of facilitating public business, I was urged to hold the bill over from time to time, which I did. At that time I conferred with the Senator from South Dakota [Mr. CRAWFORD] regarding the matter. His suggestion was that the bill be again rereferred, and that prompted me immediately to go to the home of this young woman, and I have come back fortified and reenforced with the facts. I feel that I am justified, with no purpose other than to do justice to this suffering young woman, in asking that the bill be not rereferred to the committee. I should like, as the Senator from Massachusetts [Mr. LODGE] says, to have the bill taken up and disposed of now.

The PRESIDING OFFICER. Does the Senator from New Jersey ask unanimous consent for the present consideration of the bill?

Mr. MARTINE of New Jersey. Mr. President——

Mr. LODGE. I ask unanimous consent for the present consideration of the bill.

Mr. NEWLANDS. I ask unanimous consent for the present consideration of the bill.

The PRESIDING OFFICER. Unanimous consent is asked for the present consideration of the bill. Is there objection?

There being no objection, the Senate proceeded to consider the bill.

Mr. MARTINE of New Jersey. Now, Mr. President, I move to amend the bill, on page 1, line 5, after the name "Houghton," by adding the words:

Sum of $8,000, $2,000 of said sum to be paid to Alice V. Houghton upon the passage of this act, and the balance of said amount to be paid in monthly installments of $75 each: *Provided*, That no sum of money due or to become due to said Alice V. Houghton under this act shall be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, but shall inure wholly to the benefit of said Alice V. Houghton.

The PRESIDING OFFICER. The Chair suggests to the Senator from New Jersey that it would seem necessary to first move a reconsideration of the votes by which the bill was ordered to a third reading, read the third time, and passed.

Mr. MARTINE of New Jersey. Then, I move, Mr. President, a reconsideration of the votes by which the bill was ordered to a third reading, read the third time, and passed.

The motion was agreed to.

Mr. GALLINGER. Now, I should like to hear the bill read before we do anything further.

Mr. CRAWFORD. I inquire of the Senator from New Jersey whether he is using the printed copy of the bill as it previously passed the Senate? There were some changes made in it.

Mr. MARTINE of New Jersey. I am.

The PRESIDING OFFICER. The Secretary will read the bill as it passed the Senate.

The Secretary read the bill (S. 5137) for the relief of Alice V. Houghton, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Alice V. Houghton the sum of $4,200, for injuries received while employed in the Bureau of the Census, Washington, D. C., January 31, 1911, said amount to be paid in monthly installments of $50 each, and not otherwise, for the period of seven years: *Provided*, That no sum of money due or to become due to the said Alice V. Houghton under this act shall be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, but shall inure wholly to the benefit of the said Alice V. Houghton.

Mr. CULBERSON. Let the amendment proposed by the Senator from New Jersey be stated.

The PRESIDING OFFICER. The Secretary will state the amendment proposed by the Senator from New Jersey.

The Secretary again stated the amendment.

Mr. CULBERSON. Mr. President, I presume the Senator from New Jersey means to strike out certain words that appear in the bill and to insert the amendment proposed by him, though it is not so stated.

Mr. MARTINE of New Jersey. Undoubtedly; that is my proposition, Mr. President.

Mr. GALLINGER. Mr. President, I ask the chairman of the Committee on Claims what amount has already been paid to this unfortunate woman? I think there was a bill passed in her behalf some time ago.

Mr. CRAWFORD. Mr. President, no bill for her relief except this one has ever passed. At the time she was injured the Director of the Census came before the committee and some proceeding was had which possibly resulted in a bill being introduced.

Mr. SMOOT. It resulted in a bill being passed.

Mr. CRAWFORD. I think that is correct, but that was before I was chairman of the committee.

Mr. GALLINGER. It is unquestionably true.

Mr. CRAWFORD. There was an allowance for expenses in the hospital while she was there and for nurses, I think, although I am not sure about it, because it was before I had jurisdiction.

Mr. SMOOT. And her wage for one year.

Mr. CRAWFORD. It amounted to about $1,500, but it has now all been expended.

Mr. GALLINGER. Yes; I so understand, but I wanted the record correct. A payment has already been made.

Mr. CRAWFORD. I think that statement is absolutely correct, and I think the amount provided was $1,500. The Senator from Utah was on the committee at that time, and he may have some distinct recollection about it.

Mr. GALLINGER. I had an impression it was a thousand dollars, but I am not sure about it.

Mr. SMOOT. A relief bill for Miss Houghton was passed which allowed her her wage for one year, which, I think, amounted to a thousand dollars.

Mr. CRAWFORD. Eight hundred and forty dollars.

Mr. SMOOT. Eight hundred and forty dollars and whatever expenses there were. I do not remember just the exact amount.

Mr. CRAWFORD. My recollection is that it was $1,500.

Mr. McCUMBER. Was the $1,500 paid to her individually, for her own benefit?

Mr. CRAWFORD. I understand that some of it was expended in paying her expenses.

Mr. NEWLANDS. Mr. President, it is impossible to hear what is being said.

Mr. McCUMBER. What I am trying to get at is what has been received by this young lady herself.

Mr. CRAWFORD. Practically nothing, because, as I understand, every dollar of the appropriation which was made was used in defraying her expenses in the hospital and for nurses during the early period of her injury.

Mr. McCUMBER. Is that true, I will ask the Senator, regarding the $840 which was paid?

Mr. CRAWFORD. I understand so.

Mr. McCUMBER. And she received no benefit from that?

Mr. CRAWFORD. I have that impression about it—that it all went for her expenses.

Mr. MARTINE of New Jersey. That, I think, is correct, Mr. President.

Mr. NEWLANDS. I should like to ask the Senator from South Dakota whether he thinks the sum allowed by this amendment sufficiently compensates this young woman for this terrible accident?

Mr. CRAWFORD. No sum of money can compensate one for an injury of this kind. Money could not compensate the Senator for losing his sight or losing his hearing or losing a leg. There is no money which can compensate for injuries of that kind.

Mr. NEWLANDS. Let me ask the Senator another question. Does he not think that in a case against a private corporation involving an employer's liability the judgment obtained would be a larger sum than the Government of the United States proposes to pay, even under the amendment proposed by the Senator from New Jersey?

Mr. CRAWFORD. That would depend entirely upon the question of negligence and some other questions that might be involved whether it was purely accidental or not. This case was what you might class as an accident, not attributable to the negligence of this young lady nor attributable to the negligence of the Government. It was one of those unfortunate happenings which sometimes occur.

Mr. NEWLANDS. Was it not negligence to have such a shaft as that in that room uncovered and unprotected?

Mr. CRAWFORD. It was not unprotected. We went into that very carefully. There was a revolving shaft running horizontally near to the floor, which was protected by rods.

Mr. NEWLANDS. By what?

Mr. CRAWFORD. By rods; a network of rods covered it. I think it might be said it is just about a stand-off, when you come to the consideration of the question of negligence. This young lady had been working there for months; she knew about this shaft being there; she dropped some cards, as the record shows, and some of them fell under this revolving shaft, so that it was necessary for her to get down on the floor, apparently on her hands and knees, and put her head down pretty close to the floor to reach under and get what she had lost. In that way her hair came in contact with the shaft, even through these rods. Perhaps the electricity or magnetic influence of that shaft was responsible. At any rate her hair was caught and wrapped around the shaft. The accident occurred in that way.

I think the question of negligence is scarcely to be considered in the case at all, because it would be unfortunate for her if we should apply any such rule as that. It is not a clear case where you could charge the Government with being negligent. In view of the fact that the protecting rods had been placed over the shaft. That is the situation with reference to that matter.

If we follow the rule of undertaking to give full compensation, we will have to go back and reconsider many and many a case of injury in the gun shops and on the Isthmus, where we have paid the unfortunate victims only one year's salary, even where they have lost their eyes or both legs or both hands, and where there is present every element that appeals to sympathy.

Mr. NEWLANDS. Mr. President, so far as I am individually concerned, I regard this as a very inadequate compensation for this terrific injury and for the sufferings this poor girl has undergone, and I should be glad largely to increase this amount, but the Senator from New Jersey urges me to permit it to go through granting the amount provided for in his amendment, and, as he has had charge of the matter, I yield to his judgment, although individually, I repeat, I regard this as a very meager allowance to this young woman.

The PRESIDING OFFICER. The question is on the amendment submitted by the Senator from New Jersey. Does the Chair understand the Senator desires to modify his amendment?

Mr. MARTINE of New Jersey. I desire to modify it, as I have indicated to the Secretary.

The PRESIDING OFFICER. The amendment as modified will be stated.

The SECRETARY. On page 1, line 6, after the words "sum of," it is proposed to strike out "$4,200" and in lieu to insert "$8,000," and in line 9, after the date "1911," to strike out:

Said amount to be paid in monthly installments of $50 each, and not otherwise, for the period of seven years: *Provided*, That no sum of money due or to become due to the said Alice V. Houghton under this act shall be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, but shall inure wholly to the benefit of the said Alice V. Houghton.

And insert:

Two thousand dollars of said sum to be paid to the said Alice V. Houghton upon the passage of this act and the remainder of said sum to be paid in monthly installments of $75 each: *Provided*, That no sum of money due or to become due to said Alice V. Houghton under this act shall be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, but shall inure wholly to the benefit of the said Alice V. Houghton.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New Jersey.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

UNANIMOUS-CONSENT AGREEMENTS.

Mr. LODGE. Mr. President, I desire to have put into the RECORD certain precedents bearing on the question of unanimous-consent agreements, which we discussed here the other day, as to the power of the Chair to resubmit a request and whether the Chair should ask unanimous consent to resubmit it. I have only had opportunity to examine or have examined the RECORD of this Congress partly.

I find that on January 23, 1912, the following occurred:

Mr. BROWN. I wish to appeal to the Senator from Utah to let the bill go over. No hearing on the bill has been printed——

The VICE PRESIDENT. The Chair hardly thinks that this proceeding is regular. The motion is not debatable. It has been declared carried, and no Senator has questioned it.

Mr. BROWN. I question now whether the motion has been carried.

The VICE PRESIDENT. The Chair asked the Senator from Missouri if he questioned it; the Chair understood that he simply asked to make a statement; and the Chair asked if unanimous consent would be given therefor.

Mr. REED. The President is in error in regard to my position. I——

The VICE PRESIDENT. If that is so, the Chair will again put the motion. The Chair did not mean to foreclose anybody's right to vote on the proposition.

I find that on April 11, 1912, the following occurred:

Mr. WILLIAMS. I think it is absolutely necessary to have a fair expression of the Senate as to whether one-fifth of its membership or one-fifth of a quorum can demand the yeas and nays if a quorum is not present.

Mr. LODGE. Let the request be again put, Mr. President.

The VICE PRESIDENT. The Chair will again put the request.

Which had already been put and announced as carried.

On the 1st of May, 1912, the following took place:

The PRESIDING OFFICER. Without objection, the message of the President, with the accompanying report, will be referred to the Committee on Foreign Relations.

Mr. BACON. Mr. President, I had not finished.

The PRESIDING OFFICER. And, without objection, the resolution offered by the Senator from Maryland is referred to the Committee on Foreign Relations.

Mr. GALLINGER. The resolution should be stated from the desk.

Mr. BACON. Mr. President, I had the floor, and I had not finished.

The PRESIDING OFFICER. The Chair begs the pardon of the Senator from Georgia. The Chair supposed the Senator had finished.

The question was again put, as follows:

The PRESIDING OFFICER. The resolution proposed by the Senator from Maryland [Mr. RAYNER] will be read.

And it was again put.

Mr. GALLINGER. Mr. President——

Mr. LODGE. Just one more.

On August 10, 1912, the following took place:

Mr. SMOOT. I ask unanimous consent that the Senator from New Hampshire [Mr. GALLINGER] be the President of the Senate pro tempore from Monday, August 12, 1912, to Saturday, August 17, 1912, both inclusive.

The PRESIDENT pro tempore. The Senate has heard the motion of the Senator from Utah. Without objection, it will be so ordered.

Mr. GRONNA. We can not hear in this part of the Chamber.

The PRESIDENT pro tempore. The Senator from North Dakota not having heard the motion, the Secretary will state it from the desk.

And he put it again.

I merely wish to show that it is not unheard of for the Chair, without asking unanimous consent, to again put the question when any Senator rose and said he had not heard the request or could not obtain the floor before the request was announced as granted.

Mr. GALLINGER. I think there will be no controversy with the Senator from Massachusetts, and I do not think it very important that he should have put this in the RECORD.

None of the cases to which he alludes involved a unanimous-consent agreement to vote upon a bill on a certain day, and voting upon a bill on a certain day is very much more important than the questions involved in the citations the Senator has made.

I suggested, when interrogated, that had I been in the chair, and objection had been made, I would not have felt it my privilege to put the request again. But it is inconsequential. The Chair can do pretty much anything on matters of that kind as long as it is agreeable to Senators. But I doubt very much whether the authority of the Chair extends to the point the Senator from Massachusetts contends.

THE CALENDAR.

Mr. SMOOT. I ask unanimous consent that the Senate proceed, under Rule VIII, to the consideration of bills on the calendar to which there is no objection.

The PRESIDING OFFICER. The Senator from Utah asks unanimous consent for the consideration of unobjected cases on the calendar. Is there any objection? The Chair hears none, and the first bill in order will be stated.

The bill (S. 2493) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri was announced as first in order.

Mr. SMOOT. Let the bill go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 1505) for the relief of certain officers on the retired list of the United States Navy was announced as next in order.

Mr. GALLINGER. Let the bill go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 2151) to authorize the Secretary of the Treasury to use, at his discretion, surplus moneys in the Treasury in the purchase or redemption of the outstanding interest-bearing obligations of the United States was announced as next in order.

Mr. SMOOT. The bill has been read a couple of times.

Mr. GALLINGER. The bill has heretofore been read.

Mr. SMITH of Georgia. We should like to have the bill again read.

The Secretary again read the bill.

Mr. SMITH of Georgia. This bill has been on the calendar for a very great length of time, so much so that it has almost escaped the attention of a number of us. I had reached the conclusion that it would not be pressed. It seems to me, if it is desired to press it, it ought to go over for a few days, and that we ought to have a distinct understanding, so that all Senators may be notified that the bill is to come up.

Mr. SMOOT. Make the objection.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 256) affecting the sale and disposal of public or Indian lands in town sites, and for other purposes, was announced as next in order.

Mr. SUTHERLAND. The consideration of this bill has heretofore been objected to by the senior Senator from Georgia [Mr. BACON], whom I do not see in his seat, and I ask that it go over.

Mr. SMITH of Georgia. I desire to state that the senior Senator from Georgia is detained at home on account of serious illness in his family. He is in Macon.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 3) to cooperate with the States in encouraging instruction in agriculture, the trades, and industries and home economics in secondary schools; in maintaining instruction in these vocational subjects in State normal schools; in maintaining extension departments in State colleges of agriculture and mechanic arts; and to appropriate money and regulate its expenditure, was announced as next in order.

Mr. GALLINGER. Let the bill go over; and the next one.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 5076) to promote instruction in forestry in States and Territories which contain national forests, was announced as next in order.

Mr. SMOOT. I know there are a number of Senators who have objected to the bill in the past, and they are not at present in the Chamber. Therefore I ask that it go over, although I have no special objection to it.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 2234) to provide for a primary nominating election in the District of Columbia, at which the qualified electors of the said District shall have the opportunity to vote for their first and second choice among those aspiring to be candidates of their respective political parties for President and Vice Presi-

den of the United States, to elect their party delegates to their national conventions, and to elect their national committeemen, was announced as next in order.

Mr. SUTHERLAND. Let the bill go over.

The PRESIDING OFFICER. The bill will go over.

THE LIFE-SAVING SERVICE.

The bill (S. 2051) to promote the efficiency of the Life-Saving Service was announced as next in order.

The PRESIDING OFFICER. The bill has heretofore been considered in Committee of the Whole, and has been read.

Mr. SMOOT. Has the bill been read?

The PRESIDING OFFICER. It has been read twice.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS, ETC., PASSED OVER.

The bill (S. 5728) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Osage Nation of Indians against the United States, was announced as next in order.

Mr. CRAWFORD. I ask that it go over.

The PRESIDING OFFICER. It will go over.

The resolution (S. Res. 242) directing the Committee on Post Offices and Post Roads to inquire into and report to the Senate whether post-office inspectors are being sent through the country to influence postmasters to aid in the election of delegates for or against any candidate for the Presidency, etc., was announced as next in order.

Mr. LODGE. Let the resolution go over.

The PRESIDING OFFICER. Being objected to, it will go over.

Mr. GALLINGER. Let it go over under Rule IX. If it is to remain on the calendar at all. It ought to be indefinitely postponed.

Mr. SMOOT. I think so, too.

Mr. GALLINGER. I move its indefinite postponement.

Mr. BRISTOW. Let it go to the calendar under Rule IX instead of being indefinitely postponed.

Mr. GALLINGER. That is satisfactory.

The PRESIDING OFFICER. In the absence of objection, the resolution will go over under Rule IX.

Mr. GALLINGER. I withdraw my motion.

The PRESIDING OFFICER. The Senator from New Hampshire withdraws his motion to indefinitely postpone.

The bill (S. 3316) to repeal an act entitled "An act to promote reciprocal trade relations with the Dominion of Canada, and for other purposes," approved July 26, 1911, was announced as next in order.

Mr. GORE. Let the bill go over. I object.

The PRESIDING OFFICER. The bill is objected to, and goes over.

CONTRACTORS FOR BATTLESHIP INDIANA.

The bill (S. 4840) to carry into effect the judgment of the Court of Claims in favor of the contractors for building the United States battleship *Indiana* was announced as next in order.

Mr. GALLINGER. Let this and the next three bills be passed over.

Mr. CRAWFORD. I move that the bill be indefinitely postponed. There has been an adverse report here for months.

Mr. LODGE. And the next three bills.

Mr. CRAWFORD. The next three bills ought to be placed under Rule IX.

Mr. SMOOT. I hope the Senator will allow the bill for the relief of the contractors of the battleship *Indiana* to go over under Rule IX.

Mr. CRAWFORD. I desire to say to the Senator from Utah that that is utterly ridiculous. I have allowed that bill, notwithstanding an adverse report, to be kept here because parties have said they wanted to propose it as an amendment to the omnibus claims bill, and they have never even proposed the amendment.

Mr. SMOOT. Mr. President——

Mr. CRAWFORD. There is a unanimous adverse report here. No minority views have ever even been filed. As a matter of courtesy I allowed the bill to stand on the calendar, when it should have been indefinitely postponed months ago. It has been here for several months.

Mr. SMOOT. Does the Senator from South Dakota say the bill has received a unanimous adverse report from the committee?

Mr. CRAWFORD. It is a unanimous adverse report.

Mr. SMOOT. I did not so understand it.

Mr. OLIVER. I did not so understand it, either.

Mr. CRAWFORD. Where is the minority report, then?

Mr. OLIVER. It is not necessary to file the views of the minority.

Mr. SMOOT. Let the bill go over under Rule IX.

Mr. CRAWFORD. I insist upon the indefinite postponement of the bill. If counsel insist upon the bill remaining upon the calendar of the Senate, I will entertain the Senate with a two or three hours' discussion of the claim, and its merits can be aired. Otherwise Senators had better let it be indefinitely postponed. I am willing to give counsel a challenge on that right now. If anyone wants the merits of that claim challenged, he can get it.

Mr. OLIVER. What does the Senator from South Dakota mean by "counsel"?

Mr. SMOOT. Yes.

Mr. CRAWFORD. I mean "Senator." "Counsel" is an honorable designation, but I will change it.

The PRESIDING OFFICER. The Senator from South Dakota——

Mr. CRAWFORD. I move that the further consideration of the bill be indefinitely postponed, basing it upon the adverse report.

Mr. SMOOT. Under the unanimous-consent agreement we are proceeding here with the consideration of bills to which there is no objection.

Mr. GALLINGER. That is right; by unanimous consent.

Mr. SMOOT. We are proceeding with the consideration of bills to which there is no objection. Any Senator can object to the consideration of the bill. I have no more interest in this claim than I have in any other claim.

Mr. CRAWFORD. We will discuss it at length some day.

Mr. SMOOT. Under that rule I shall now reserve the right to object.

Mr. CRAWFORD. I ask that the bill may go over. I do not want it to go under Rule IX. There is no graveyard for the bill, unless it is going to be indefinitely postponed.

The PRESIDING OFFICER. The present consideration of the bill is objected to, and it goes over.

BILLS PASSED OVER.

Mr. GALLINGER. Let the next three bills be passed over.

The bill (S. 4159) for the relief of F. M. Lyman, jr., the bill (S. 4230) for the relief of Robert F. Scott, and the bill (S. 364) for the relief of Ranney Y. Lyman were announced as next in order on the calendar.

The PRESIDING OFFICER. The bills will be passed over.

Mr. GALLINGER. Let them go over under Rule IX, unless there is objection.

The PRESIDING OFFICER. The Chair hears no objection, and it is so ordered.

The bill (S. 111) to authorize the sale and disposition of the surplus and unallotted lands in Washabaugh County, in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriation to carry the same into effect, was announced as next in order.

Mr. CRAWFORD. Let that bill go over.

Mr. CLAPP rose.

Mr. CRAWFORD. Did the Senator from Minnesota desire to have it read?

Mr. CLAPP. The Senator's colleague, who is interested in the bill, is absent.

Mr. CRAWFORD. My colleague is likely to be here within a day or two. I think the bill should go over.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

The bill (S. 5186) to incorporate the Brotherhood of North American Indians was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

The bill (S. 461) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Ponca Tribe of Indians against the United States was announced as next in order.

Mr. GALLINGER. Let that go over, Mr. President.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 5917) relating to procedure in United States courts was announced as next in order.

Mr. BRISTOW. I ask that the bill may go over.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

Mr. BRISTOW subsequently said: Inadvertently I objected to the consideration of Senate bill 5917. I thought the Secretary was referring to Senate bill 461. Personally I have no objection to Senate bill 5917.

The PRESIDING OFFICER. Does the Senator from Kansas withdraw his objection?

Mr. BRISTOW. I do.

Mr. GALLINGER. Then let the bill be read.

The PRESIDING OFFICER. The objection having been withdrawn, the Senate will return to the bill, without objection.

Mr. CLARKE of Arkansas. Mr. President, the scope of that bill goes beyond its title. The effect of it would be to make a very radical change in the entire judicial system as administered in the Federal courts, and it ought to have very thorough discussion before it is seriously considered by the Senate. I object to its present consideration.

The PRESIDING OFFICER. Being objected to, the bill goes over.

The bill (S. 118) granting an increase of pension to Harriet Pierson Porter was announced as next in order.

Mr. McCUMBER. The Senator from Delaware [Mr. DU PONT] not being present, I ask that the bill go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 1) to establish a department of health, and for other purposes, was announced as next in order.

Mr. GALLINGER. Let the bill go over, Mr. President.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 5169) authorizing the Ponca Tribe of Indians to intervene in the suit of the Omaha Indians in the Court of Claims, and for other purposes, was announced as next in order.

Mr. CRAWFORD. I ask that the bill may go over.

The PRESIDING OFFICER. Consideration being objected to, the bill goes over.

The bill (S. 6497) to protect migratory game and insectivorous birds in the United States was announced as next in order.

Mr. SMOOT. Let the bill go over, as I understand the Senator from Connecticut [Mr. McLEAN], who has the bill in charge, has given notice that he will call it up next Wednesday.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

The bill (S. 3463) to establish a Bureau of National Parks, and for other purposes, was announced as next in order.

Mr. GALLINGER. Let the bill go over.

The PRESIDING OFFICER. Objection is made, and the bill goes over.

The bill (S. 2371) to amend section 3224 of the United States Compiled Statutes so as to prevent the restraining of the assessment or collection of any tax—State, county, municipal, district, or Federal—was announced as next in order.

Mr. SUTHERLAND. Let that bill go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 5455) to establish a system of wireless telegraphy in the Philippine Islands was announced as next in order.

Mr. BRISTOW. Let that go over.

The PRESIDING OFFICER. Consideration is objected to, and the bill goes over.

The bill (S. 1231) for the relief of the heirs of John W. West, deceased, was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill will go over.

Mr. GORE. I should like to have it go to Rule IX.

The PRESIDING OFFICER. The Senator from Oklahoma asks that the bill go over under Rule IX. Is there objection?

Mr. SMOOT. I have no objection.

Mr. GALLINGER. No objection.

The PRESIDING OFFICER. The Chair hears none, and it is so ordered.

The bill (S. 5955) for the relief of certain retired officers of the Navy and Marine Corps was announced as next in order.

Mr. CLARKE of Arkansas. Let that go over.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

The bill (H. R. 1332) regulating Indian allotments disposed of by will was announced as next in order.

Mr. GALLINGER. The Senator reporting the bill not being present, I ask that it may go over.

The PRESIDING OFFICER. Present consideration is objected to, and the bill goes over.

The bill (S. 5863) for the retirement of employees in the civil service, and for other purposes, was announced as next in order.

Mr. CLARKE of Arkansas. I object to the present consideration of that bill.

The PRESIDING OFFICER. Present consideration is objected to, and the bill goes over.

The bill (S. 4654) to regulate contracts for the future delivery of cotton was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDING OFFICER. Consideration is objected to, and the bill goes over.

STATE GAME RESOURCES.

The bill (S. 6109) for the protection and increase of State game resources was announced as next in order.

Mr. SMOOT. The Senator reporting the bill is not here to explain it.

Mr. BRANDEGEE. I have sent for the Senator from Connecticut [Mr. McLEAN], and he will be here in just a minute. Until he arrives I will take care of the bill, if the Senator will withhold his objection until that time.

Mr. SMOOT. I will withhold it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read.

Mr. BRANDEGEE. There is a report accompanying the bill, which I have not had time to look into. I notice that the bill was introduced by the Senator from California [Mr. PERKINS], who is a member of the committee from which it was reported. The chairman of the committee will be here in a minute. I will ask, if there be no objection, that the bill be put on its passage.

Mr. CLARKE of Arkansas. Mr. President, this is another measure of very comprehensive application. It is rather a novel subject to be treated by national legislation. I had always rested under the impression that the game of the several States belonged to the State until it was taken by the citizens of the State, and that it was subject to the statutes the several States saw proper to pass. It would be an interesting investigation to determine that ownership is in the National Government or subject to the regulation of the National Government, and I think the bill had better wait until we have time to discuss that. We are working to-day under a rule which provides for the consideration of unobjected bills, which practically means those that provoke no discussion and require no explanation—bills that are somewhat local in character or which are so obviously proper that nobody objects to their consideration.

I have no more interest in the general question involved in the bill than other Senators, but I would rather have it discussed and be ready to discuss it when there would be room for some remarks from me. I believe I will ask that the bill shall go over.

Mr. BRANDEGEE. Of course, what the Senator says is equivalent to an objection, and I therefore make no further request.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

PUBLIC BUILDING AT LAS VEGAS, N. MEX.

The bill (S. 6744) to provide for the purchase of an extension to the site and the erection of a Federal building in Las Vegas, N. Mex., was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Buildings and Grounds with an amendment, to strike out all after the enacting clause and to insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to contract for the erection and completion in the city of Las Vegas, N. Mex., of a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, complete, for the use and accommodation of the United States post office, Federal court, and other Government offices upon ground already authorized by the Government for such purpose, the cost of said building not to exceed the sum of $100,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to provide for the erection of a Federal building in Las Vegas, N. Mex."

BILLS, ETC., PASSED OVER.

The next business on the calendar was the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. LODGE. Let that go over.

The PRESIDING OFFICER. The joint resolution will go over.

The bill (S. 4584) to promote the efficiency of the Naval Militia, and for other purposes, was announced as next in order.

Mr. CLARKE of Arkansas. I object to that bill being considered to-day.

The PRESIDING OFFICER. The consideration of the bill being objected to, it goes over.

The bill (S. 5069) to promote the efficiency of the enlisted personnel of the United States Navy was announced as next in order.

Mr. CLARKE of Arkansas. I make the same request as to that bill.

The PRESIDING OFFICER. The present consideration of the bill being objected to, it goes over.

PAROLE OF PRISONERS.

The bill (H. R. 14925) to amend "An act to parole United States prisoners, and for other purposes," approved June 25, 1910, was considered as in Committee of the Whole. It proposes to amend section 1 of the "Act to parole United States prisoners, and for other purposes," approved June 25, 1910, so as to read:

That every prisoner who has been or may hereafter be convicted of any offense against the United States and is confined in execution of the judgment of such conviction in any United States penitentiary or prison for a definite term or terms of over one year, or for the term of his natural life, whose record of conduct shows that he has observed the rules of such institution, and who, if sentenced for a definite term, has served one-third of the total of such term or terms for which he was sentenced, or, if sentenced for the term of his natural life, has served not less than 15 years, may be released on parole as hereinafter provided.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. BRANDEGEE. I ask permission to insert the following letter from the Attorney General in relation to the bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE, *July 31, 1912.*

MY DEAR SENATOR: I am very much interested in a bill now pending before the Senate, having passed the House, being H. R. 14925, amending the act to parole United States prisoners, approved June 25, 1910, by extending the benefit of the parole law to prisoners who have been sentenced for life terms. This amendment was recommended by the members of the Federal boards of parole (see Report Attorney General, Appendix 29, p. 308) and by me in my annual report for 1911 (p. 73). In that report I used the following language:

"I concur in the recommendations made by the boards of parole in their report that the law should be modified so as to include within its provisions prisoners undergoing life sentences by providing, as is done in the statutes of a number of States, that such prisoners shall be eligible to parole when they shall have actually served some long period of years. There are now upward of 200 prisoners serving life sentences in Federal penitentiaries. At present the only hope of a life prisoner, no matter how exemplary his conduct may be, lies in the exercise by the President of the power of Executive clemency. I believe it to be more to the interests of society that such prisoners should be liberated on parole, subject to the supervision and regulation which is possible under the parole law, than that they should be discharged absolutely by Executive pardon. In this connection I invite careful attention to a consideration by Congress of the desirability of adopting the indeterminate sentence for prisoners, such as prevails in many of the States. That system is an important, if not a necessary, adjunct to a parole law. The system has produced excellent results and is regarded by the most enlightened penologists as embodying the most successful method of dealing with the punishment of crime."

The subject of the extension of the parole law to life prisoners was considered by the American Prison Association, among whose members are the most able and prominent students of prison discipline and reform in the country, at its meeting held at Richmond, Va., in 1908, and a committee of five was appointed to make investigations and report the following year upon the advisability of extending the benefit of parole to life prisoners. That committee submitted a report to the association at its meeting in Seattle in 1909, which is printed in the report of the transactions of the association for that year. It unanimously reported in favor of the extension of the benefit of parole to life prisoners, discussing very fully all of the arguments for and against such action, and its report was adopted by the association. The committee discusses the two main hostile criticisms which have been urged against the extension of the parole law to cover life prisoners, namely, first, that it would tend to blur the deterrent effects of life imprisonment; and, second, that the power of parole might be exercised unwisely. These objections, the committee states, seem to mistake fears for facts and shadows for substance. The first for the reason that, after a period ranging from 10 to 30 years and after the details of the crime have faded from public memory, the deterrent influence which life imprisonment exerts upon others becomes vitiated, if, indeed, the value of life penalties is not rated too highly as a preventive force; and the second for the reason that, to quote the words of the committee:

"* * * every consideration by which responsible authorities are moved would encourage the avoidance of rashness and the exercise of caution and discrimination in granting conditional releases to life prisoners and would operate against any reckless breaking of eggs to make liberty omelets."

The conclusions reached by the committee are as follows:

"1. The extension of parole to life prisoners who, according to expert judgment, are safe to be at large, whose offense was born of an overmastering impulse, and whose previous record was not vicious puts in their hands the tools of social rehabilitation, interprets penalties in terms of humanity and of hope, fosters a more even distribution of justice, and is a sound public policy.

"2. No parole that would offend public opinion in the State should be granted. Conditional releases that affront popular sentiment would tend to discredit the whole parole system and would be a tragedy of administration.

"3. No life prisoner should be paroled until he has served long enough to satisfy the reasonable requirements of justice, as construed by the enlightened sentiment of the Commonwealth, and until the immediate prejudices growing out of the crime disappear and suitable employment for the convict has been procured.

"4. A parole should not be based on any arbitrary compliance with prison rules, but the question should be determined by a broad consideration of all the facts bearing on the case, such as the nature and circumstances of the crime, the man's record in prison and out of prison, his general character, and the likelihood of his leading an honorable life. Emphatically no political or personal pressure should be permitted to influence the calm judgment of the paroling authority.

"5. The wisdom of discarding the definite life penalty for an indeterminate sentence, whose minimum term shall be fixed by law or by the court, and whose maximum term shall be the offender's natural life, is commended to the attention of State legislatures."

I inclose a memorandum of the laws of those States which have extended the benefits of the parole system to life prisoners. Fifteen States in all have taken this action. In probably not more than two of them is it necessary for a life prisoner to serve more than 15 years before he is eligible to parole. This period would seem to be amply sufficient to impress upon the prisoner the seriousness of his crime and to act as a deterrent to others, while at the same time not being long enough to prevent his release until the period when his mental and physical powers are so deteriorated that he can not be of any value in the community. The alternative to granting a parole is the present system of Executive clemency. I inclose a memorandum showing the commutations of sentences which have resulted in the release of prisoners sentenced for terms of life imprisonment during the past five years. There are 51 of them in all, an average of about 10 a year, and of that number only 10 had actually served more than 15 years' imprisonment, the average being about 11½ years. Of course, these prisoners being discharged on the commutation of sentence, the authorities had no further hold upon them, and the experiment of release must be solved in advance, whereas under the parole system, should the release of the prisoner prove to be detrimental to society, he may be retaken and returned to the penitentiary.

There are applications for Executive clemency in 21 life cases now pending before the department, action on which has been delayed because of the pendency of the bill H. R. 14925.

I believe the proposed law is in conformity with the views of the best-known penologists and of the most thoughtful students of prison reform. I sincerely hope you may see your way clear to support it, and I should be much obliged if you would give me an opportunity to discuss the matter further with you in case you are not disposed to favor the passage of the bill.

Very respectfully, yours, GEORGE W. WICKERSHAM,
Attorney General.

BOTANICAL LABORATORY.

The bill (S. 93) to establish a botanical laboratory at Denver, Colo., was announced as next in order.

Mr. OLIVER. Let that go over.

The PRESIDING OFFICER. Objection is made and the bill goes over.

MOUNT RAINIER NATIONAL PARK.

The bill (S. 4958) to accept the cession by the State of Washington of exclusive jurisdiction over the lands embraced within the Mount Rainier National Park, and for other purposes, was announced as next in order.

Mr. JONES. Mr. President, I simply desire to state that the bill is practically a copy of the law that is now in force with reference to the protection of the Yellowstone National Park. While it contains a number of provisions of a criminal character and so on, those provisions are just the same as those which have been in force in connection with the Yellowstone National Park. The bill is urged very strongly by the Secretary of the Interior, and it is a matter of considerable importance.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Lands with amendments.

The first amendment was, in section 2, page 2, line 15, before the word "courts," to strike out "and circuit," so as to make the section read:

SEC. 2. That said park shall constitute a part of the United States judicial district of Washington, and the district courts of the United States in and for said district shall have jurisdiction of all offenses committed within said boundaries.

The amendment was agreed to.

The next amendment was, on page 6, to strike out section 7, in the following words:

SEC. 7. That any United States commissioner duly appointed by the United States Court for the Western District of Washington and residing in said district shall have power and jurisdiction to hear and act upon all complaints made of any and all violations of this act or of the rules and regulations made by the Secretary of the Interior for the government of the park and for the protection of the animals, birds, and fish, and objects of interest therein, and for other purposes authorized by this act. That any such commissioner shall have power, upon sworn complaint, to issue process in the name of the United States for the arrest of any person charged with a violation of this act or of the rules and regulations made by the Secretary of the Interior, as aforesaid, or with any misdemeanor or other like offense, the punishment provided for which does not exceed a fine of $100, and to try the person thus charged, and, if found guilty, to impose the punishment and adjudge the forfeiture prescribed. In all cases of conviction an appeal shall lie from the judgment of any such commissioner to the United States District Court for the Western District of Washington. The said United States district court shall prescribe rules of procedure and practice for said commissioner in the trial of cases and with reference to said appeals.

And to insert in lieu thereof a new section, as follows:

SEC. 7. That the United States District Court for the Western District of Washington shall appoint a commissioner, who shall reside in the park and who shall have jurisdiction to hear and act upon all complaints made of any violation of law or of the rules and regulations made by the Secretary of the Interior for the government of the park and for the protection of the animals, birds, and fish, and objects of interest therein, and for other purposes authorized by this act. Such commissioner shall have power, upon sworn information, to issue process in the name of the United States for the arrest of any person charged with the commission of any misdemeanor, or charged with a violation of the rules and regulations, or with a violation of any provision of this act prescribed for the government of said park and for the protection of the animals, birds, and fish in said park, and to try the person so charged, and, if found guilty, to impose the punishment and adjudge the forfeiture prescribed. In all cases of conviction an appeal shall lie from the judgment of said commissioner to the United States District Court for the Western District of Washington, and the United States district court in said district shall prescribe rules of procedure and practice for said commissioner in the trial of cases and for appeal to said United States district court.

The amendment was agreed to.

The next amendment was, on page 8, to strike out section 10, in the following words:

SEC. 10. That such commissioner and the marshal of the United States and his deputies in the western district of Washington shall be paid the same fees and compensation as are now provided by law for like services in said district.

And to insert in lieu thereof a new section, as follows:

SEC. 10. That the commissioner provided for in this act shall, in addition to the fees allowed by law to commissioners of the district courts of the United States, be paid an annual salary of $1,500, payable quarterly.

The amendment was agreed to.

Mr. SUTHERLAND. I call attention to the word "courts," in section 2, page 2, line 15. It should be in the singular number; it should be "court."

The PRESIDING OFFICER. The amendment suggested by the Senator from Utah will be stated.

The SECRETARY. In section 2, page 2, line 15, after the words "the district," it is proposed to strike out "courts" and insert "court."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM MULLALLY.

The bill (S. 1485) for the relief of William Mullally was announced as next in order.

Mr. LODGE. That bill is adversely reported, and I suggest that it be indefinitely postponed.

The PRESIDING OFFICER. Does the Senator from Massachusetts object to the present consideration of the bill?

Mr. LODGE. No; I do not object.

Mr. SANDERS. The Senator from Ohio [Mr. POMERENE] asked that this bill go to the calendar, and I see that he is now in the Chamber. The bill is accompanied by an adverse report, and, unless the Senator from Ohio objects, I think it should be indefinitely postponed.

Mr. POMERENE. Mr. President, I ask that the bill be passed over.

The PRESIDING OFFICER. On objection of the Senator from Ohio, the bill goes over.

NATIONAL INSTITUTE OF ARTS AND LETTERS.

The bill (S. 4355) incorporating the National Institute of Arts and Letters was considered as in Committee of the Whole.

Mr. ROOT. The bill has been read, Mr. President.

The PRESIDING OFFICER. The bill has been read. The Secretary will state the amendments.

The bill was reported from the Committee on the Judiciary with amendments.

The first amendment was, in section 1, page 1, line 11, after the name "Bliss," to strike out the name "Carmen" and insert "Carman"; in the same line, after the word "of," to insert "Massachusetts"; on page 2, line 11, before the name "Virginia," to insert "West"; in the same line, after the name "Virginia," to strike out "Henry B. Fuller, of Illinois"; in line 24, after the word "of" where it occurs the second time, to strike out "Connecticut" and insert "New York"; on page 3, line 8, before the name "Clair," to strike out "Saint" and to insert "St."; on page 4, line 1, before the word "of," to strike out "Seaton" and insert "Seton"; in line 4, after the name "Thomas," to strike out "Russel" and insert "Russell"; in line 9, before the name "Dyke," to strike out "Van" and insert "van"; on page 6, line 4, after the word "of," to strike out "Kentucky" and insert "Ohio"; in line 21, after the word "of" where it occurs the second time, to strike out "California" and insert "Ohio"; in line 24, after the word "of" where it occurs the first time, to insert "Connecticut"; on page 7, line 5, after the name "Pennsylvania," to strike out "their associates"; and in the same line, before the word "successors," to insert "their," so as to make the section read:

That Brooks Adams, of Massachusetts; Charles Francis Adams, of Massachusetts; Henry Adams, of the District of Columbia; George Ade, of Indiana; Henry M. Alden, of New Jersey; Richard Aldrich, of New York; James Lane Allen, of New York; Simeon E. Baldwin, of Connecticut; Ario Bates, of Massachusetts; Robert Bridges, of New York; W. C. Brownell, of New York; John Burroughs, of New York; Richard Burton, of Minnesota; George W. Cable, of Massachusetts; Bliss Carman, of Massachusetts; Madison J. Cawein, of Kentucky; Robert William Chambers, of New York; Edward Channing, of Massachusetts; John Vance Cheney, of California; Winston Churchill, of New Hampshire; James B. Connolly, of Massachusetts; Royal Cortissoz, of New York; Wilbur Lucius Cross, of Connecticut; Samuel McChord Crothers, of Massachusetts; Charles de Kay, of New York; Finley P. Dunne, of New York; Maurice F. Egan, of the District of Columbia; Chester Bailey Fernald, of California; Henry T. Finck, of New York; John Huston Finley, of New York; Worthington C. Ford, of Massachusetts; John Fox, jr., of West Virginia; Horace Howard Furness, of Pennsylvania; Horace Howard Furness, jr., of Pennsylvania; Hamlin Garland, of Illinois; Basil L. Gildersleeve, of Maryland; William Gillette, of Connecticut; Lawrence Gilman, of New York; George A. Gordon, of Massachusetts; Robert Grant, of Massachusetts; Ferris Greenslet, of Massachusetts; W. E. Griffis, of New York; A. T. Hadley, of Connecticut; Arthur Sherburne Hardy, of Connecticut; George McLean Harper, of New Jersey; Oliver Herford, of New York; Robert Herrick, of Illinois; Ripley Hitchcock, of New York; M. A. De Wolfe Howe, of Massachusetts; W. D. Howells, of New York; Archer M. Huntington, of New York; Henry James, of Massachusetts; Owen Johnson, of New York; R. U. Johnson, of New York; George Kennan, of New York; Nelson Lloyd, of New York; Henry Cabot Lodge, of Massachusetts; John Luther Long, of Pennsylvania; T. R. Lounsbury, of Connecticut; Robert Morss Lovett, of Illinois; Abbott Lawrence Lowell, of Massachusetts; Charles F. Lummis, of California; H. W. Mabie, of New Jersey; Percy Mackaye, of New Hampshire; A. T. Mahan, of New York; Edwin Markham, of New York; Edward S. Martin, of New York; Brander Matthews, of New York; St. Clair McKelway, of New York; John Bach McMaster, of Pennsylvania; Joaquin Miller, of California; John A. Mitchell, of New York; Langdon E. Mitchell, of Pennsylvania; Paul Elmer More, of New York; Harrison S. Morris, of Pennsylvania; John Torrey Morse, jr., of Massachusetts; John Muir, of California; Meredith Nicholson, of Indiana; Thomas Nelson Page, of the District of Columbia; Will Payne, of Illinois; William Morton Payne, of Illinois; Harry Thurston Peck, of New York; Bliss Perry, of Massachusetts; Thomas Sergeant Perry, of Massachusetts; William Lyon Phelps, of Connecticut; A. S. Pier, of Massachusetts; James Ford Rhodes, of Massachusetts; James Whitcomb Riley, of Indiana; Charles G. D. Roberts, of New York; Edward A. Robinson, of New York; Theodore Roosevelt, of New York; Josiah Royce, of Massachusetts; Felix E. Schelling, of Pennsylvania; Montgomery Schuyler, of New York; Clinton Scollard, of New York; Henry D. Sedgwick, of New York; Ernest Thompson Seton, of Connecticut; Frank Dempster Sherman, of New York; Paul Shorey, of Illinois; William M. Sloane, of New York; F. Hopkinson Smith, of New York; Thomas Russell Sullivan, of Massachusetts; Booth Tarkington, of Indiana; Abbott Handerson Thayer, of New Hampshire; William R. Thayer, of Massachusetts; Augustus Thomas, of New York; Frank L. Tooker, of New York; Ridgely Torrence, of New York; William P. Trent, of New York; Henry van Dyke, of New Jersey; John C. Van Dyke, of New Jersey; Barrett Wendell, of Massachusetts; Andrew F. West, of New Jersey; Andrew Dickson White, of New York; William Allen White, of Kansas; Charles G. Whiting, of Massachusetts; Jesse Lynch Williams, of New Jersey; Harry Leon Wilson, of Indiana; Woodrow Wilson, of New Jersey; Owen Wister, of Pennsylvania; George E. Woodberry, of Massachusetts; Herbert Adams, of New Hampshire; John W. Alexander, of New York; George F. Babb, of New York; Hugo Ballin, of New York; George Gray Barnard, of New York; Paul W. Bartlett, of New York; J. Carroll Beckwith, of New York; Frank W. Benson, of Massachusetts; Karl Bitter, of New Jersey; Edwin H. Blashfield, of New York; Richard E. Brooks, of New York; Glenn Brown, of the District of Columbia; George De Forest Brush, of New York; William Gedney Bunce, of Connecticut; Daniel Hudson Burnham, of Illinois; Francis D. Millet, of New York; H. Siddons Mowbray, of Connecticut; Leonard Ochtman, of Connecticut; Maxfield Parrish, of New Hampshire; Robert S. Peabody, of Massachusetts; Charles Sprague Pearce, of Massachusetts; Joseph Pennell, of Pennsylvania; Charles A. Platt, of New Hampshire; George B. Post, of New York; Edward Clark Potter, of Massachusetts; Bela L. Pratt, of Massachusetts; A. Phimister Proctor, of New York; Edward W. Redfield, of Pennsylvania; Robert Reid, of New York; F. G. R. Roth, of New York; F. W. Ruckstuhl, of New York; Albert P. Ryder, of New York; John S. Sargent, of Massachusetts; W. E. Schofield, of Pennsylvania; H. M. Shrady, of New York; Edward Simmons, of New York; William T. Smedley, of New York; Lorado Taft, of Illinois; Edmund C. Tarbell, of Massachusetts; Abbott H. Thayer, of New York; E. C. Tarbell, of Massachusetts; D. W. Tryon, of New York; Elihu Vedder, of Massachusetts; Lionel Walden, of Connecticut; Henry Oliver Walker, of New Jersey; Horatio Walker, of Canada; Whitney Warren, of New York; Adolph A. Weinman, of New York; J. Alden Weir, of New York; Irving R. Wiles, of New York; Emil Carlsen, of New York; William M. Chase, of New York; Timothy Cole, of New York; Walter Cook, of New York; Kenyon Cox, of New York; Frederic Crowninshield, of New York; William T. Dannat, of New York; Frank Miles Day, of Pennsylvania; Joseph De Camp, of Massachusetts; Charles Melville Dewey, of New York; Thomas W. Dewing, of New York; Frederick Dielman, of New York; John M. Donaldson, of Michigan; Paul Dougherty, of New York; Frank Duveneck, of Ohio; Ben Foster, of New York; Daniel C. French, of New York; Walter Gay, of Massachusetts; Charles Dana Gibson, of New York; Cass Gilbert, of New York; Charles Grafly, of Pennsylvania; Jules Guérin, of New York; H. J. Hardenburgh, of New Jersey; Alexander Harrison, of Pennsylvania; Birge Harrison, of South Carolina; Childe Hassam, of New York; Thomas Hastings, of New York; Robert Henri, of New York; John Galen Howard, of California; William Henry Howe, of New York; Samuel Isham, of New York; Francis C. Jones, of New York; H. Bolton Jones, of New York; W. Sergeant Kendall, of New York; Bancel La Farge, of New York; Will H. Low, of New York; Frederick Macmonnies, of New York; Carl Marr, of Wisconsin; Walter McEwen, of Illinois; Hermon A. MacNeil, of New York; William Rutherford Mead, of New York; Carl Melchers, of New York; Willard L. Metcalf, of New York; H. K. Hadley, of New York; Victor Herbert, of New York; Edgar Stillman Kelley, of Ohio; Charles M. Loeffler, of Massachusetts; Horatio W. Parker, of Connecticut; Harry Rowe Shelley, of New York; David S. Smith, of Connecticut; F. Van der Stucken, of Ohio; Arthur Whiting, of New York; Arthur Bird, of Massachusetts; Howard Brockway, of Maryland; G. W. Chadwick, of Massachusetts; F. S. Converse, of Massachusetts; Walter Damrosch, of New York; Reginald De Koven, of New York; Arthur Foote, of Massachusetts; W. W. Gilchrist, of Pennsylvania; and their successors duly chosen, are hereby incorporated, constituted, and declared to be a body corporate of the District of Columbia, by the name of the National Institute of Arts and Letters.

The amendment was agreed to.

The next amendment was, on page 7, after line 8, to insert:

SEC. 2. That the purposes of this corporation are, and shall be, the furtherance of the interests of literature and the fine arts.

The amendment was agreed to.

The next amendment was, in section 2 (3), line 14, before the word "members," to strike out "ordinary" and insert "regular"; in line 15, after the word "its," to strike out "own organization, including its constitution"; in line 18, before the word "domestic," to strike out "and"; in line 19, after the word "domestic," to insert "or honorary associate"; in the same line, after the word "division," to insert "of such members"; and, in line 21, after the word "institution," to strike out "and to report the same to Congress," so as to make the section read:

SEC. 3. That the National Institute of Arts and Letters shall consist of not more than 250 regular members, and the said corporation hereby constituted shall have power to make its by-laws and rules and regulations; to fill all vacancies created by death, resignation, or otherwise; to provide for the election of foreign, domestic, or honorary associate members, the division of such members into classes, and all other matters needful or usual in such institution.

The amendment was agreed to.

The next amendment was, in section 3 (4), page 7, line 24, after the word "designated," to insert "and shall make an annual report to the Congress, to be filed with the Librarian of Congress," so as to make the section read:

SEC. 4. That the National Institute of Arts and Letters shall hold an annual meeting at such place in the United States as may be designated, and shall make an annual report to the Congress, to be filed with the Librarian of Congress.

The amendment was agreed to.

The next amendment was, in section 4 (5), page 8, line 5, after the word "receive," to insert "devises"; in the same line, after the word "donations," to insert "of real or personal property"; in line 6, after the word "and," to insert "to"; and, in the same line, after the word "trust," to strike out "to be applied by the said institute in aid of investigations in art and literature and according to the will of the said donors" and insert "and to invest and reinvest the same for the furtherance of the interests of literature and the fine arts," so as to make the section read:

SEC. 5. That the National Institute of Arts and Letters be, and the same is hereby, authorized and empowered to receive devises, bequests, and donations of real or personal property, and to hold the same in trust, and to invest and reinvest the same for the furtherance of the interests of literature and the fine arts.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL ACADEMY OF ARTS AND LETTERS.

The bill (S. 4356) incorporating the National Academy of Arts and Letters was considered as in Committee of the Whole.

The PRESIDING OFFICER. This bill was read in full on August 12 of last year. The amendment will be stated.

The bill was reported from the Committee on the Judiciary with an amendment, in section 5, page 3, line 20, after the word "receive," to insert "devises," so as to make the section read:

SEC. 5. That the American Academy of Arts and Letters be, and the same is hereby, authorized and empowered to receive devises, bequests, and donations of real or personal property and to hold the same in trust, and to invest and reinvest the same for the purpose of furthering the interests of literature and the fine arts.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

IMMIGRATION OF ALIENS.

Mr. LODGE. I submit a conference report on the immigration bill.

The PRESIDING OFFICER. The Senator from Massachusetts submits a privileged report, which will be read.

The Secretary read as follows:

The committee of conference on the disagreeing votes of the two Houses to the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States" having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows,

Strike out all of said amendment and insert in lieu thereof the following:

"An act to regulate the immigration of aliens to and the residence of aliens in the United States.

"*Be it enacted, etc.*, That the word 'alien' wherever used in this act shall include any person not a native born or naturalized citizen of the United States, but this definition shall not be held to include Indians not taxed or citizens of the islands under the jurisdiction of the United States. That the term 'United States' as used in the title as well as in the various sections of this act shall be construed to mean the United States and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. That the term 'seaman' as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign part or place.

"That this act shall be enforced in the Philippine Islands by officers of the General Government thereof designated by appropriate legislation of said Government.

"SEC. 2. That there shall be levied, collected, and paid a tax of $5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port of customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who shall enter the United States after an uninterrupted residence of at least one year, immediately preceding such entrance, in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, nor on account of otherwise admissible residents of any possession of the United States, nor on account of aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, by agreement with transportation lines, as provided in section 23 of this act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: *Provided further*, That said tax, when levied upon aliens entering the Philippine Islands, shall be paid into the treasury of said islands, to be expended for the benefit of such islands: *Provided further*, That in the cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall upon application be refunded to the alien: *Provided further*, That the provisions of this section shall not apply to aliens arriving in Guam or Hawaii; but if any such alien, not having become a citizen of the United States, shall later arrive at any port or place of the United States on the North American Continent the provisions of this section shall apply.

"SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had one or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have committed a felony or other crime or misdemeanor involving moral turpitude; citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port the Secretary of Commerce and Labor shall have consented to their reapplying for admission; persons whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway may be admitted in the discretion of the Secretary of Commerce and Labor; all children under 16 years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe; persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

"That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

"All aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips, of uniform size, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plainly legible type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this act relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Commerce and Labor to be reached after a full hearing and an investigation into the facts of the case: *Provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants: *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign government to its citizens or subjects to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone: *Provided further*, That nothing in this act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of a concession or privilege for any fair or exposition authorized by act of Congress, from bringing into the United States, under contract, such alien mechanics, artisans, agents, or other employees, natives of his country, as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may prescribe both as to the admission and return of such persons: *Provided further*, That nothing in this act shall be construed to apply to accredited officials of foreign governments nor to their suites, families, or guests: *Provided further*, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

"SEC. 4. That the importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import, into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall in every such case be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than 10 years and by a fine of not more than $5,000. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or in any district in which a violation of any of the foregoing provisions of this section occur. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this act which relate to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to or to enter the United States shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than two years. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against a wife or husband.

"SEC. 5. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to induce, assist, encourage, or solicit the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the provisions of section 3 of this act, and for every violation of any of the provisions of this section the person, partnership, company, or corporation violating the same shall forfeit and pay for every such offense the sum of $1,000, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such aliens thus offered or promised employment as aforesaid, as debts of like amount are now recovered in the courts of the United States; or for every violation of the provisions hereof the person violating the same may be prosecuted in a criminal action for a misdemeanor, and on conviction thereof shall be punished by a fine of $1,000, or by imprisonment for a term of not less than six months nor more than two years; and under either the civil or the criminal procedure mentioned separate suits or prosecutions may be brought for each alien thus offered or promised employment as aforesaid.

"SEC. 6. That it shall be unlawful and be deemed a violation of section 5 of this act to induce, assist, encourage, or solicit any alien to come into the United States by promise of employment through advertisements printed, published, or distributed in any foreign country, whether such promise is true or false, and either the civil or the criminal penalty imposed by said section shall be applicable to such a case: *Provided*, That States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States may advertise, and by written or oral communication with prospective alien settlers make known, the inducements they offer for immigration thereto, respectively.

"SEC. 7. That it shall be unlawful for any person, association, society, company, partnership, corporation, or others engaged in the business of transporting aliens to the United States, including owners, masters, officers, and agents of vessels, directly or indirectly, by writing, printing, or oral representation, to solicit, invite, or encourage any alien to come into the United States, and anyone violating any provision hereof shall be subject to either the civil or the criminal prosecution prescribed by section 5 of this act; or if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a violation by an owner, master, officer, or agent of a vessel, such owner, master, officer, or agent shall pay to the collector of customs of the customs district in which the port of arrival is located or in which any vessel of the line may be found the sum of $100 for each and every such violation; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while the fine imposed remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit with the collector of customs of a sum sufficient to cover such fine: *Provided further*, That whenever it shall be shown to the satisfaction of the Secretary of Commerce and Labor that the provisions of this section are persistently violated by or on behalf of any transportation company, it shall be the duty of said Secretary to deny to such company the privilege of landing alien immigrant passengers of any or all classes at United States ports for such a period as in his judgment may be necessary to insure an observance of such provisions: *Provided further*, That this section shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements, confined strictly to stating the sailings of their vessels and terms and facilities of transportation therein.

"SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, or shall conceal or harbor, or attempt to conceal or harbor, or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment for each and every alien so landed or brought in or attempted to be landed or brought in.

"SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel, to bring to the United States any alien afflicted with idiocy, insanity, imbecility, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200 for each and every violation of the provisions of this section. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental or physical defect of a nature which may affect his ability to earn a living, as contemplated in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25 for each and every violation of this provision. It shall also be unlawful for any such person to bring to any port of the United States any alien who is unable to read or who can not become eligible, under existing law, to become a citizen of the United States by naturalization, as provided in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens from a foreign port such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $100 for each and every violation of this provision. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, or while the fine remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 10. That it shall be the mandatory and unqualified duty of every person, including owners, officers, and agents of vessels or transportation lines, other than those lines which may enter into a contract as provided in section 23 of this act, bringing an alien to any seaport or land border port of the United States to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers, and the failure of any such owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than $100 nor more than $1,000 or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Commerce and Labor it is impracticable or inconvenient to prosecute the owner, master, officer, or agent of any such vessel, a pecuniary penalty of $1,000 shall be a lien upon the vessel whose owner, master, officer, or agent violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United States court.

"SEC. 11. That whenever he may deem such action necessary the Secretary of Commerce and Labor may, at the expense of the appropriation for the enforcement of this act, detail immigrant inspectors and matrons of the United States Immigration Service for duty on vessels carrying immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. On such voyages said inspectors and matrons shall remain in that part of the vessel where immigrant passengers are carried. It shall be the duty of such inspectors and matrons to observe such passengers during the voyage, and report to the immigration authorities in charge at the port of landing any information of value in determining the admissibility of such passengers under the laws regulating immigration of aliens into the United States. It shall further be the duty of such inspectors and matrons to observe violations of the provisions of such laws and the violation of such provisions of the "passenger act" of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and report the same to the proper United States officials at ports of landing. Whenever the Secretary of Commerce and Labor so directs, a

surgeon of the United States Public Health Service, detailed to the Immigration Service, not lower in rank than a passed assistant surgeon, shall be received and carried on any vessel transporting immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. Such surgeon shall be permitted to investigate and examine the condition of all immigrant and emigrant passengers in relation to any provisions of the laws regulating the immigration of aliens into the United States and such provisions of the "passenger act" of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and shall immediately report any violation of said laws to the master or commanding officer of the vessel, and shall also report said violations to the Secretary of Commerce and Labor within 24 hours after the arrival of the vessel at the port of entry in the United States. Such surgeon shall accompany the master or captain of the vessel in his visits to the sanitary officers of the ports of call during the voyage, and, should contagious or infectious diseases prevail at any port where passengers are received, he shall request all reasonable precautionary measures for the health of persons on board. Such surgeon on arrival at ports of the United States shall also, if requested by the examining board, furnish any information he may possess in regard to immigrants arriving on the vessel to which he has been detailed. While on duty such surgeons shall wear the prescribed uniform of their service and shall be provided with first-class accommodations on such vessel at the expense of the appropriation for the enforcement of this act. For every violation of this section any person, including any transportation company, owning or operating the vessel in which such violation occurs shall pay to the collector of customs of the customs district in which the next United States port of arrival is located the sum of $1,000 for each and every day during which such violation continues, the term 'violation' to include the refusal of any person having authority so to do to permit any such immigrant inspector, matron, or surgeon to be received on board such vessel, as provided in this section, and also the refusal of the master or commanding officer of any such vessel to permit the inspections and visits of any such surgeon, as provided in this section, and no vessel shall be granted clearance papers pending the determination of the question of the liability of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of all such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 12. That upon the arrival of any alien by water at any point within the United States on the North American Continent from a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or at any port of the said insular possessions from any foreign port, from a port in the United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners, or consignees of the steamer, sailing, or other vessel having said alien on board to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, contain full and accurate information as to each alien as follows: Full name, age, and sex; whether married or single; calling or occupation, personal description (including height, complexion, color of hair and eyes, and marks of identification); whether able to read; nationality; country of birth; race; country of last permanent residence; name and address of the nearest relative in the country from which the alien came; seaport for landing in the United States; final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; by whom passage was paid; whether going to join a relative or friend, and if so, what relative or friend, and his or her name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane or supported by charity; whether a polygamist; whether an anarchist; whether a person who believes in or advocates the overthrow by force or violence of the Government of the United States or of all forms of law, or who disbelieves in or is opposed to organized government, or who advocates the assassination of public officials, or is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States; the alien's condition of health, mental and physical; whether deformed or crippled, and if so, for how long and from what cause; and such master or commanding officer, owners, or consignees shall also furnish information in relation to the sex, age, class of travel, and the foreign port of embarkation of arriving passengers who are United States citizens. That it shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or from any port of the said insular possessions to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with the immigration officials before departure a list which shall contain full and accurate information in relation to the following matters regarding all alien passengers, and all citizens of the United States or insular possessions of the United States departing with the stated intent to reside permanently in a foreign country, taken on board: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States or insular possessions thereof; if a citizen of the United States or of the insular possessions thereof, whether native born or naturalized; intended future permanent residence; and time and port of last arrival in the United States, or insular possessions thereof; and such master or commanding officer shall also furnish information in relation to the sex, age, class of travel, and port of debarkation of the United States citizens departing who do not intend to reside permanently in a foreign country, and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each person of the classes specified taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall be punishable as provided in section 14 of this act: *Provided*, That in the case of vessels making regular trips to ports of the United States the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further*, That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen, whether native born or naturalized.

"SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, the names of those coming from the same locality to be assembled, so far as practicable, and no one list or manifest shall contain more than 30 names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, and so forth, is contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is of any of the classes excluded from admission into the United States by section 3 of this act, and that also according to the best of his knowledge and belief, the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars

relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessels, and the manifests shall be verified by such surgeon before a United States consular officer.

"SEC. 14. That it shall be unlawful for the master or commanding officer of any vessel bringing aliens into or carrying aliens out of the United States to refuse or fail to deliver to the immigration officials the accurate and full manifests or statements or information regarding all aliens on board or taken on board such vessel required by this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a refusal or failure, or that the lists delivered are not accurate and full, such master or commanding officer shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each alien concerning whom such accurate and full manifest or statement or information is not furnished, or concerning whom the manifest or statement or information is not prepared and sworn to as prescribed by this act. No vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine.

"SEC. 15. That upon the arrival at a port of the United States of any vessel bringing aliens it shall be the duty of the proper immigration officials to go or to send competent assistants to the vessel and there inspect all such aliens, or said immigration officials may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this act bind the said transportation lines, masters, agents, owners, or consignees: *Provided*, That where removal is made to premises owned or controlled by the United States, said transportation lines, masters, agents, owners, or consignees, and each of them shall, so long as detention there lasts, be relieved of responsibility for the safekeeping of such aliens. Whenever a temporary removal of aliens is made the transportation lines which brought them and the masters, owners, agents, and consignees of the vessel upon which they arrive shall pay all expenses of such removal and all expenses arising during subsequent detention, pending decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, such expenses to include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel in the event of deportation, excepting only where they arise under the terms of any of the provisos of section 18 thereof. Any refusal or failure to comply with the provisions hereof to be punished in the manner specified in section 18 of this act.

"SEC. 16. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine, and who shall certify, for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service, upon such terms as may be prescribed by the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental defect shall be detailed for duty or employed at all large ports of entry, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defect is suspected, and the services of interpreters shall be provided for such examination. That the inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this act, shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and, where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered, under the provisions of this act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section 125 of the act approved March 4, 1909, entitled 'An act to codify, revise, and amend the penal laws of the United States.' Any commissioner of immigration or inspector in charge shall also have power to require the attendance and testimony of witnesses before said inspectors and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States, and to that end may invoke the aid of any court of the United States; and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpœna issued by any commissioner of immigration or inspector in charge or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents if demanded, and testify; and any failure to obey such order of the court shall be punished by the court as a contempt thereof. That any person, including employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not less than six months nor more than two years, or by a fine of not less than $200 nor more than $2,000; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall on conviction thereof be punished by imprisonment for not less than 1 nor more than 10 years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Commerce and Labor is permitted by this act, the alien shall be so informed and shall have the right to be represented by counsel or other advisor on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation.

"SEC. 17. That boards of special inquiry shall be appointed by the Commissioner of Immigration or inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, shall from time to time designate as qualified to serve on such boards. When in the opinion of the Secretary of Commerce and Labor the maintenance of a permanent board of special inquiry for service at any sea or land border port is not warranted, regularly constituted boards may be detailed from other stations for temporary service at such port, or, if that be impracticable, the Secretary of Commerce and Labor shall authorize the creation of boards of special inquiry by the immigration officials in charge at such ports, and shall determine what Government officials or other persons shall be eligible for service on such boards. Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. All hearings before such boards shall be separate and apart from the public. Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Commerce and Labor, and the taking of such appeal shall operate

to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision, which shall be rendered solely upon the evidence adduced before the board of special inquiry. In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of a board of special inquiry if adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Commerce and Labor: *Provided*, That the decision of a board of special inquiry, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens affected with tuberculosis in any form or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section 3 of this act.

"SEC. 18. That all aliens brought to this country in violation of law shall, if practicable, be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came on the vessels bringing them. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien; or to take any security from him for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act, unless prior to reembarkation the Secretary of Commerce and Labor has consented that such alien shall reapply for admission, as required by section 3 hereof; and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the customs district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of this section; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any alien found to have come in violation of any provision of this act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act, or such alien may be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required as a witness and for deportation. No alien certified, as provided in section 16 of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless with the express permission of the Secretary of Commerce and Labor: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

"SEC. 19. That any alien, at any time within three years after entry, who shall enter the United States in violation of law; any alien who within three years after entry becomes a public charge from causes existing prior to the landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within three years after the entry of the alien to the United States; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists, protects, or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution, or other immoral purposes in any of the ways hereinbefore specified, shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section 4 hereof; any alien, at any time within three years after entry, who shall enter the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, shall, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and deported: *Provided*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence, make a recommendation to the Secretary of Commerce and Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States. In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty now existing, the decision of the Secretary of Commerce and Labor shall be final.

"SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Commerce and Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If effected at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such

vessels or transportation line by which such aliens respectively came, or, if that is not practicable, at the expense of the appropriation for the enforcement of this act. If such deportation is effected later than five years after the entry of the alien, or, if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Commerce and Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section 18 of this act: *Provided*, That when in the opinion of the Secretary of Commerce and Labor the mental or physical condition of such alien is such as to require personal care and attendance, he may employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in like manner. Pending the final disposal of the case of any alien so taken into custody he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

"SEC. 21. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis in any form or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Commerce and Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof, holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. The admission of such alien shall be a consideration for the giving of such bond or undertaking. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, district, county, town, or municipality in which such alien becomes a public charge.

"SEC. 22. That wherever an alien shall have taken up his permanent residence in this country, and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife or minor children to join him, if said wife or any of said children shall be found to be affected with any contagious disorder, such wife or children shall be held, under such regulations as the Secretary of Commerce and Labor shall prescribe, until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable and the husband or father or other responsible person is willing to bear the expense of the treatment, they may be accorded treatment in hospital until cured and then be admitted, or if it shall be determined that they can be permitted to land without danger to other persons, they may, if otherwise admissible, thereupon be admitted.

"SEC. 23. That the Commissioner General of Immigration shall perform all his duties under the direction of the Secretary of Commerce and Labor. Under such direction he shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder; he shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid, and to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed; he shall prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico, so as not to unnecessarily delay, impede, or annoy persons in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose; it shall be the duty of the Commissioner General of Immigration to detail officers of the Immigration Service from time to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges. He may, with the approval of the Secretary of Commerce and Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this act, detail immigration officers, and also surgeons of the United States Public Health Service employed under this act for service in foreign countries. The duties of commissioners of immigration and other immigration officials in charge of districts, ports, or stations shall be of an administrative character, to be prescribed in detail by regulations prepared under the direction or with the approval of the Secretary of Commerce and Labor: *Provided*, That for the purpose of making effective the provisions of this section relating to the protection of aliens from fraud and loss, and also the provisions of section 30 of this act, relating to the distribution of aliens, the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors.

"SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and their compensation fixed and raised or decreased from time to time by the Secretary of Commerce and Labor, upon the recommendation of the Commissioner General of Immigration and in accordance with the provisions of the civil-service act of January 16, 1883: *Provided*, That said Secretary, in the enforcement of that portion of this act which excludes contract laborers, may employ, without reference to the provisions of the said civil-service act or to the various acts relative to the compilation of the official register, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw annually from the appropriation for the enforcement of this act $50,000, or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Commerce and Labor certifies that an itemized account would not be for the best interests of the Government: *Provided further*, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation act approved August 18, 1894, or the official status of such commissioners heretofore appointed.

"SEC. 25. That the district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act. That it shall be the duty of the United States district attorney of the proper district to prosecute every such writ when brought by the United States under this act. Such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with such violation may be found. That no suit or proceeding for a violation of the provisions of this act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

"SEC. 26. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station shall be disposed of after public competition, subject to such conditions and limitations as the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, may prescribe, and all receipts accruing from the disposal of such exclusive privileges shall be paid into the Treasury of the United States. No intoxicating liquors shall be sold at any such immigrant station.

"SEC. 27. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of

such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

"SEC. 28. That any person who knowingly aids or assists any anarchist or any person who believes in or advocates the overthrow by force or violence of the Government of the United States, or who disbelieves in or is opposed to organized government, or all forms of law, or who advocates the assassination of public officials, or who is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such anarchist or person aforesaid to enter therein shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine or not more than $5,000 or by imprisonment for not more than five years, or both.

"SEC. 29. That the President of the United States is authorized, in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral, and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign Governments in their own territories to prevent the evasion of the laws of the United States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who, under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

"SEC. 30. That there shall be maintained a division of information in the Bureau of Immigration and Naturalization; and the Secretary of Commerce and Labor shall provide such clerical and other assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens at the immigrant stations of the United States and to such other persons as may desire the same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, have access to aliens who have been admitted to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner General of Immigration, who, with the approval of the Secretary of Commerce and Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

"SEC. 31. That any person, including the owner, agent, consignee, or master of any vessel arriving in the United States from any foreign port or place, who shall knowingly sign on the ship's articles, or bring to the United States as one of the crew of such vessel, any alien, with intent to permit such alien to land in the United States in violation of the laws and treaties of the United States regulating the immigration of aliens, or who shall falsely and knowingly represent to the immigration authorities at the port of arrival that any such alien is a bona fide member of the crew, shall be liable to a penalty not exceeding $5,000, for which sum the said vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 32. That no alien excluded from admission into the United States by any law or treaty of the United States regulating the immigration of aliens, and employed on board any vessel arriving in the United States from any foreign port or place, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to regulations prescribed by the Secretary of Commerce and Labor providing for the ultimate removal or deportation of such alien from the United States, and the negligent failure of the owner, agent, consignee, or master of such vessel to detain on board any such alien after notice in writing by the immigration officer in charge at the port of arrival, and to deport such alien, if required by such immigration officer or by the Secretary of Commerce and Labor, shall render such owner, agent, consignee, or master liable to a penalty not exceeding $1,000, for which sum the said vessel shall be liable, and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 33. That it shall be unlawful and be deemed a violation of the preceding section to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens: *Provided*, That in case any such alien intends to reship on board any other vessel bound to any foreign port or place he shall be allowed to land for the purpose of so reshipping, and may be paid off, discharged, and permitted to remove his effects, anything in such laws or treaties or in this act to the contrary notwithstanding, provided due notice of such proposed action first be given to the principal immigration officer in charge at the port of arrival.

"SEC. 34. That any alien seaman who shall desert his vessel in a port of the United States or who shall land therein contrary to the provisions of this act shall be deemed to be unlawfully in the United States and shall, at any time within three years thereafter, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section 20 of this act.

"SEC. 35. That it shall be unlawful for any vessel carrying passengers between a port of the United States and a port of a foreign country, upon arrival in the United States, to have on board employed thereon any alien afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, if it appears to the satisfaction of the Secretary of Commerce and Labor, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel and that the existence of such affliction might have been detected by means of a competent medical examination at such time; and for every such alien so afflicted on board any such vessel at the time of arrival the owner, agent, consignee, or master thereof shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and while it remains unpaid: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine: *Provided further*, That such fine may, in the discretion of the Secretary of Commerce and Labor, be mitigated or remitted.

"SEC. 36. That upon arrival of any vessel in the United States from any foreign port or place it shall be the duty of the owner, agent, consignee, or master thereof to deliver to the principal immigration officer in charge of the port of arrival lists containing the names of all aliens employed on such vessel, stating the positions they respectively hold in the ship's company, when and where they were respectively shipped or engaged, and specifying those to be paid off and discharged in the port of arrival; or lists containing so much of such information as the Secretary of Commerce and Labor shall by regulation prescribe; and after the arrival of any such vessel it shall be the duty of such owner, agent, consignee, or master to report to such immigration officer, in writing, as soon as discovered, all cases in which any such alien has deserted the vessel, giving a description of such alien, together with any information likely to lead to his apprehension; and before the departure of any such vessel it shall be the duty of such owner, agent, consignee, or master to deliver to such immigration officer a further list containing the names of all alien employees who were not employed thereon at the time of the arrival, but who will leave port thereon at the time of her departure, and also the names of those, if any, who have been paid off and discharged, and of those, if any, who have deserted or landed or been duly admitted; and in case of the failure of such owner, agent, consignee, or master so to deliver either of the said lists of such aliens arriving and departing, respectively, or so to report such

cases of desertion or landing, such owner, agent, consignee, or master shall, if required by the Secretary of Commerce and Labor, pay to the collector of customs of the customs district in which the port of arrival is located the sum of $10 for each alien concerning whom correct lists are not delivered or a true report is not made, as above required; and no such vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, and, in the event such fine is imposed, while it remains unpaid; nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon deposit of a sum sufficient to cover such fine.

"SEC. 37. The word 'person' as used in this act shall be construed to import both the plural and the singular, as the case may be, and shall include corporations, companies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any director, officer, agent, or employee of any corporation, company, or association acting within the scope of his employment or office shall in every case be deemed to be the act, omission, or failure of such corporation, company, or association, as well as that of the person acting for or in behalf of such corporation, company, or association.

"SEC. 38. That this act, except as otherwise provided in section 3, shall take effect and be enforced from and after July 1, 1913. The act of March 26, 1910, amending the act of February 20, 1907, to regulate the immigration of aliens into the United States; the act of February 20, 1907, to regulate the immigration of aliens into the United States, except section 34 thereof; the act of March 3, 1903, to regulate the immigration of aliens into the United States, except section 34 thereof; and all other acts and parts of acts inconsistent with this act are hereby repealed on and after the taking effect of this act: *Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, nor to repeal, alter, or amend section 6, chapter 453, third session Fifty-eighth Congress, approved February 6, 1905, or the act approved August 2, 1882, entitled 'An act to regulate the carriage of passengers by sea,' and amendments thereto: *Provided*, That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act, except as mentioned in the last proviso of section 19 hereof; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the laws or parts of laws repealed or amended by this act are hereby continued in force and effect."

H. C. LODGE,
WM. P. DILLINGHAM,
Managers on the part of the Senate.

JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.

Mr. LODGE. Mr. President, as several Senators interested in the bill are absent, and the Senate is so thin, I desire to give notice that I shall call up the conference report for consideration on Monday, immediately after the routine morning business.

Mr. GALLINGER. Mr. President, this is a bill of great public interest and concern, and I will ask the Senator in a word to state the salient changes proposed to be made in the existing law.

Mr. LODGE. I am very happy to comply with the suggestion of the Senator from New Hampshire. The Senate disagreed to the entire House amendment. The House struck out the whole bill which passed the Senate and inserted an illiteracy test of their own. The House illiteracy test consisted of reading alone, while the Senate test provided both reading and writing. I read from the statement of the action of the conference committee:

The Senate having disagreed to the entire House amendment, which in its turn had stricken out the entire Senate bill, the whole subject of immigration came before the conference committee.

The bill as it passed the House contained no features except the illiteracy test. The Senate bill contemplated many changes in the law and an illiteracy test substantially similar to that proposed in the House, the principal difference being that the Senate included "writing" in its test and differed somewhat from the House as to the admissibility of illiterate relatives of qualified immigrants. On all substantial matters of difference between the Senate and the House touching the illiteracy test the Senate receded.

We accepted the House illiteracy test, which was based on reading alone. In other respects, as to the exceptions and the methods of enforcing the test, the Senate provision and the House provision were the same.

The principal changes in existing law proposed by the Senate to which the managers on the part of the House agreed are as follows:

First. An increase of the head tax from $4 to $5 per alien.

The Senate, it will be remembered, increased the head tax from $4 to $5, and the House accepted that proposed change in existing law.

Second. The exclusion of aliens not eligible for naturalization.

I will say that the conferees also agreed to strike out all the provisions in the bill relating to the Chinese, so as to leave the subject of Chinese immigration under the law exactly as it exists now, with no change. The repealing clauses and all relating to that subject were stricken out. The conferees decided that it was better to leave the Chinese-exclusion law and the situation of Chinese in the United States precisely as they are to-day.

Third. Making it permissible for the Secretary of Commerce and Labor to decide beforehand as to the necessity of importing such skilled contract labor as is now admissible under the existing contract-labor law.

Fourth. Providing more severe penalties for transportation lines which violate the law against advertising for immigrants and which bring to the United States aliens who are ineligible to enter.

Senators will understand that I am reading now the provisions of the Senate bill which have been agreed to by the House.

Fifth. Providing for matrons, inspectors, and surgeons on immigrant ships at the discretion of the Secretary of Commerce and Labor.

Sixth. Providing machinery for compelling the attendance and testimony of witnesses before the immigration authorities when required.

Seventh. Providing for the deportation of aliens who become criminals within three years subsequent to entry.

Eighth. Providing for interior immigrant stations.

Ninth. Providing against the illegal entry of seamen and stowaways.

Tenth. Permitting aliens to be represented by counsel in the case of appeals from the decisions of boards of special inquiry.

Eleventh. Providing experts in insanity at large ports of entry.

Twelfth. A definition of the meaning of the word "alien" where it appears in the bill.

Thirteenth. A provision was added in conference requiring the production of penal certificates in certain cases for the purpose of facilitating the execution of that part of the Senate bill and of the present law which relates to the exclusion of criminals.

I have touched on all the salient points, I think, but, in a general way, it may be said that the House took, with very few modifications, and those chiefly in details, the Senate revision of the existing law as it passed the Senate, and the Senate accepted the House illiteracy test, which is confined to reading alone. I believe the bill to be an extremely good one, especially in its administrative features.

Mr. SIMMONS. Mr. President, I did not understand the Senator's explanation as to the provision of the bill with reference to——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from North Carolina?

Mr. LODGE. Certainly; I yield.

Mr. SIMMONS. I did not understand the Senator's statement with reference to the provision as to contract labor.

Mr. LODGE. The law now provides, and has for many years provided, that in a case where skilled labor was required in a new industry, for instance, and could not be found in the United States, it could be imported and could remain in the country, if approved by the Secretary of Commerce and Labor. It is not a case that occurs very often. Now and then some new industry is started and mechanics capable of doing the work are not to be found in our country, but have to be brought from abroad in order to teach others. In such cases it is very hard to bring men over here and have the question of their right to enter the United States decided subsequent to their coming. The provision as found in the conference report simply allows the Secretary of Commerce and Labor to decide before the men are imported whether the case is one which comes within the law. The change was urged by the Department of Commerce and Labor, was embodied in the Senate bill, passed the Senate in that form, and was agreed to by the House.

Mr. SIMMONS. Is the decision of the Secretary of the Department of Commerce and Labor to be made before such persons embark on the other side?

Mr. LODGE. Yes. A person desiring to import skilled labor lays the case before the Secretary of Commerce and Labor for his decision. I believe this provision will be better both for the men and for the enforcement of the law.

Mr. CHAMBERLAIN. May I interrupt the Senator?

Mr. LODGE. Certainly.

Mr. CHAMBERLAIN. I understand the Senator to say that the bill is so framed as to leave the present laws with reference to Chinese exclusion intact?

Mr. LODGE. Precisely.

Mr. CHAMBERLAIN. Does it have any effect at all upon the question of Japanese immigration? Is there anything contained in the measure with reference to that?

Mr. LODGE. Well, the clause in the bill which passed the Senate, providing that no alien who was not eligible for naturalization should be admitted, has been retained in the bill. As the Senator is well aware, the old naturalization law, which has been on the statute books for many years, excludes from entry into the United States anyone who does not belong either to the white or to the black race. Therefore any Asiatic would be excluded under the bill as it now stands unless provision is made otherwise by treaty or by agreement. It is just as it passed the Senate.

Mr. SMOOT. The bill, of course, applies to all immigrants, but does it apply to all aliens?

Mr. LODGE. It applies to all aliens.

Mr. SMOOT. But suppose a person has resided in this country 5 or 10 years, and has not taken out his naturalization papers, and returning to his former home, comes to the United States again. Is he subject to the provisions of this measure?

Mr. LODGE. He comes in just like any other alien.

Mr. SMOOT. But suppose he can not read and has heretofore lived here 10 years. He can not go home if he ever intends to come back to the United States?

Mr. LODGE. I think that is probable. I think that is the case to-day.

Mr. GALLINGER. If the Senator will permit me, I will ask whether or not the bill does not provide that the reading and writing shall be in any language.

Mr. LODGE. Any language.

Mr. GALLINGER. That covers that.

Mr. LODGE. Any language or any dialect. It is to read in any language or dialect, but does not include writing.

Mr. GALLINGER. Not writing.

Mr. LODGE. Not writing.

Mr. GALLINGER. I understand there has been a somewhat remarkable decision in one of the Western States, upon which I will not now elaborate, to the effect that a law providing for a reading qualification can only be applied to the English language. I think we ought to be careful in our legislation to make it broad enough to cover any language.

Mr. LODGE. I will explain to the Senator how that confusion in regard to the "English language" arose: When there was put into the bill the clause excluding all persons not eligible for naturalization, the attention of the committee of the Senate was called to the fact that the naturalization act required that every person who applied for naturalization should be able to sign his name to his application and should be able to speak English. The point was made that if we adopted language excluding persons not eligible for naturalization, it might be interpreted to mean persons who could not write and who were unable to speak in English, or read in English. I do not think it was legitimately open to that interpretation, but for greater precaution we put in a clause that inability to read English or to write should not be ground of exclusion.

In conference we framed the exclusion on the ground of noneligibility to naturalization in such a way that it removed all possible question as to the qualification for naturalization being applied to the admission of the immigrant. The only thing applied to the immigrant is that if he does not belong to the white race or to the black race he can not come in, unless otherwise provided by treaty or agreement.

That was the origin of the confusion about the reading test being in English. The reading test is not in English. It is in the broadest possible language—to read in any language or dialect, including Hebrew and Yiddish. It was made as broad as possible and even went so far as to say specifically "including Hebrew or Yiddish," because the point was made by some of those who were anxious about it that Hebrew and Yiddish might not be construed strictly as either an existing language or dialect. I think they were entirely covered by the clause, but we put it in by excess of caution. That is the substance of the literacy test. The exceptions are exactly the same as when the bill passed the Senate.

I understood the Senator from Missouri to say he thought it desirable that the bill should go over on account of the absence of the Senator from New York [Mr. O'GORMAN].

Mr. SIMMONS. I understand the Senator from Massachusetts to say that, with the exception of the change of the literacy test resulting from the elimination of the word "write," the remainder of the Senate amendment was substantially adopted.

Mr. LODGE. Substantially; precisely the same; in fact, a large part of the Senate provision and House provision were in identical language.

Mr. STONE. I suggest to the Senator from Massachusetts that the report be printed in the RECORD, and that its further consideration go over until Monday.

Mr. LODGE. That is the request I made—that it go over and be printed in the RECORD. The report is really the bill. The report, of course, is privileged, and I gave notice that I would call it up immediately after the morning business on Monday.

The PRESIDING OFFICER. The Secretary will state the next bill in order on the calendar.

Mr. POINDEXTER. Before we leave this subject, I should like to ask the Senator from Massachusetts whether this bill includes any outlying territory of the United States; whether it is applicable, say, to the Hawaiian Islands or to Porto Rico?

Mr. LODGE. In what respect; on the reading test?

Mr. POINDEXTER. On all tests.

Mr. LODGE. Of course, the old law has applied to those islands hitherto, and the only question that has arisen is in regard to the reading test being applied to Hawaii, to which great objection was made, and I think with justice. Owing to an accident—it was nothing else—Hawaii was omitted as an exception to the reading test. I do not want to take the time of the Senate, but it is necessary to explain the point for a moment.

They are very anxious to replace Japanese labor and Chinese labor with European labor, and are making every effort in that direction. The European labor they are getting is chiefly Portuguese, and the percentage of illiteracy among the Portuguese happens to be higher than among any other immigrants. Therefore the imposition in Hawaii of the literacy test as framed in the bill they think would work a great hardship to them. It was the intention of the Senate committee to make an exception in that respect for the islands of Hawaii, but by an omission, for which I suppose I am more responsible than anybody else, we took the amendment of the Senator from North Carolina in the place of our illiteracy amendment, and in accepting his we forgot to add the exception of Hawaii, which was in our bill.

Mr. ROOT. It was done on the floor.

Mr. LODGE. It was done on the floor, and we forgot to add the Hawaiian exception. We expected it to be put in in the House. It was not put in in the House, and though the conferees, I think, were unanimous in desiring to put it into the bill, they had no power to do it, because neither House had inserted it. I think it is an error that ought to be corrected.

I do not know whether that is the point the Senator from Washington desired me to explain.

Mr. POINDEXTER. It is exactly the point I had in mind, and I am very much obliged to the Senator for explaining it. I understand the Senator from Massachusetts to state that the law is to be amended by this bill so as to exclude all persons who are not qualified to become citizens of the United States.

Mr. LODGE. Not able to become eligible for naturalization.

Mr. POINDEXTER. Is that the language of the bill?

Mr. LODGE. That is the language of the bill.

Mr. POINDEXTER. Does that provision apply to Hawaii and Porto Rico?

Mr. LODGE. Yes; to everything under our jurisdiction.

Mr. POINDEXTER. And that is an amendment to the existing law, as I understand.

Mr. LODGE. That is a new provision, changing existing law, which passed the Senate. It was in the Senate bill.

Mr. POINDEXTER. And it is reported by the conferees, I understand?

Mr. LODGE. Yes. The House conferees agreed to it just as it passed the Senate.

Mr. President, I understand consent was given that this report go over and be printed in the RECORD, together with the statement I sent to the desk.

The PRESIDING OFFICER. Consent was given.

Mr. GRONNA subsequently said: May I ask what was done with the conference report? My attention was diverted for a moment.

The PRESIDING OFFICER. The conference report was ordered to be printed in the RECORD, and notice given that it would be called up on Monday next.

CREEK INDIANS.

The bill (S. 2344) to pay the balance due the loyal Creek Indians on the award made them by the Senate on February 16, 1903, was announced as the next business in order on the calendar.

Mr. CURTIS. Let the bill go over.

The PRESIDING OFFICER. There being objection, the bill will go over.

M'CLELLAN PARK.

The bill (S. 2845) to acquire certain land in Washington Heights for a public park to be known as McClellan Park was announced as next in order.

Mr. SMOOT. Let the bill go over.

Mr. SUTHERLAND. I hope no objection will be made to considering this bill. It has been read, and it went over on the objection of the Senator from New Hampshire [Mr. GALLINGER]. I understand he does not press his objection at this time. I think it is a very necessary bill and ought to be passed.

Mr. SMOOT. If I understand the bill correctly, it proposes to create a park out of a little piece of ground up on Connecticut Avenue.

Mr. SUTHERLAND. Yes.

Mr. SMOOT. Or Columbia Road, I should say.

Mr. SUTHERLAND. I think it is on Columbia Road.

Mr. GALLINGER. It is on Columbia Road.

Mr. SMOOT. On Columbia Road. I have heard a good many Senators and others criticize it, and for that reason I objected to it. I should like to look into it myself before consenting to its passage.

Mr. GALLINGER. Before objection is made, and lest the bill at some time should be called up and passed in its present form, I should like to submit two or three amendments. They are not very material, but yet necessary.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. GALLINGER. In the committee amendment, on page 3, after the word "commissioners," in line 12, I move to insert the words "of the District of Columbia."

The amendment was agreed to.

Mr. GALLINGER. In line 1, page 4, where it is provided that the Government shall pay this entire amount of $180,000 and that one-half of the sum shall be reimbursed by the District of Columbia in four equal annual installments, after the word "installments" I move to amend by adding "with interest at the rate of 3 per cent per annum."

Mr. SMOOT. Had we not better pay it all at once?

Mr. GALLINGER. The government of the District of Columbia is paying one-half. It is the usual form. We give them time to pay their one-half back. They have not any money.

The amendment was agreed to.

Mr. GALLINGER. I call the attention of the Senator from Utah to one further proposed amendment. The sum named in this bill is exactly the sum that the owner of this property is willing to take; and there is a provision commencing in line 9, on page 4, that—

If said commissioners shall be unable to purchase said land at a price not exceeding $180,000, then they shall proceed to acquire said land by condemnation.

After the word "dollars," in line 11, I move to insert "or if said commissioners shall deem the price to be excessive"; so that they can go to condemnation if they, in their judgment, think the price is excessive.

Mr. SUTHERLAND. There is no objection to that.

Mr. BRISTOW. I do not think the Government ought to be paying $180,000——

Mr. GALLINGER. I will ask whether the amendment has been agreed to, if the Senator will permit me.

The PRESIDING OFFICER. It has not. It is pending. The question is on agreeing to the amendment.

Mr. BRISTOW. I am perfectly willing to have the bill amended, but after that I want to object to the consideration of the bill.

The PRESIDINIG OFFICER. Without objection, the amendment is agreed to.

Mr. BRISTOW. As I understand, this tract of land is about two blocks from the Zoological Park, and I can not see why we should be spending money for parks there. If we want to spend money for parks, we ought to put them in other parts of the city, where they are not adjacent to other parks.

The PRESIDING OFFICER. Does the Senator from Kansas object to the present consideration of the bill?

Mr. BRISTOW. I do.

The PRESIDING OFFICER. Being objected to, the bill goes over.

BILLS, ETC., PASSED OVER.

The motion by Mr. POINDEXTER that the Senate Committee on Interstate Commerce be discharged from the further consideration of Senate bill 3297, to abolish the Commerce Court, etc., and that said bill be placed upon the calendar, under Rule VIII, for consideration by the Senate, was announced as next in order.

Mr. SMOOT. Let the motion go over.

The PRESIDING OFFICER. It will go over.

The bill (S. 7030) to provide for a permanent supply of coal for the use of the United States Navy and other governmental purposes, to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes, was announced as next in order.

Mr. SMOOT. I ask that that go over.

The PRESIDING OFFICER. It goes over.

The bill (S. 6896) to reopen and extend certain letters patent granted to Richard B. Painton, to insert certain claims in said letters patent dated May 9, 1899, was announced as next in order.

Mr. SMOOT. I ask that the bill go over.

The PRESIDING OFFICER. The bill will go over, on objection by the Senator from Utah.

Mr. GALLINGER subsequently said: I was unavoidably out of the Chamber a few moments ago. I will ask what became of Senate bill 6896.

Mr. SMOOT. It went over.

Mr. GALLINGER. That is right. It ought to go over.

The PRESIDING OFFICER. Senate bill 6896 went over on objection.

Mr. GALLINGER. It ought to have gone over. That is proper.

Mr. SMOOT. I ask that Senate bill 6896 be placed under Rule IX.

The PRESIDING OFFICER. The Senator from Utah asks unanimous consent that the bill go over under Rule IX.

Mr. BRANDEGEE. The Senator who reported the bill is not on the floor.

Mr. SMOOT. If there is any objection, I will withhold the request until the Senator comes in. I did not observe that the Senator who reported it is absent.

The PRESIDING OFFICER. The Senator from Utah withdraws the request.

The bill (S. 2518) to provide for raising the volunteer forces of the United States in time of actual or threatened war was announced as next in order.

Mr. SMOOT. Has the bill been read, Mr. President?

The PRESIDING OFFICER. It has not been read.

Mr. CHAMBERLAIN. Mr. President, this is a measure of a good deal of importance, and as the chairman of the Committee on Military Affairs is not here for the moment, I think the bill ought to go over until he may be present.

The PRESIDING OFFICER. Does the Senator from Oregon object to its present consideration?

Mr. CHAMBERLAIN. I do.

The PRESIDING OFFICER. On the objection of the Senator from Oregon the bill goes over.

The bill (S. 6172) to regulate the method of directing the work of Government employees, was announced as next in order.

Mr. SMOOT. Let the bill go over.

The PRESIDING OFFICER. The bill goes over. The hour of 2 o'clock having arrived, it becomes the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. WORKS. I ask that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. The Senator from California requests that the unfinished business be temporarily laid aside. In the absence of objection, it will be so ordered.

BUREAU OF MINES.

The bill (H. R. 17260) to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910, was considered as in Committee of the Whole.

The bill was reported from the Committee on Mines and Mining with amendments.

The first amendment was, on page 2, line 13, after the word "the," where it occurs the first time, to strike out "direction" and insert "approval"; in line 18, after the word "and," to insert "conserving resources through"; in line 22, before the word "peat," to strike out "the"; in the same line, after the word "and," where it occurs the second time, to insert "on behalf of the Government to investigate the"; and in line 25, after the word "efficient," to insert "mining, preparation, treatment, and," so as to read:

SEC. 2. That it shall be the province and duty of the Bureau of Mines, subject to the approval of the Secretary of the Interior, to conduct inquiries and scientific and technologic investigations concerning mining, and the preparation, treatment, and utilization of mineral substances with a view to improving health conditions, and increasing safety, efficiency, economic development, and conserving resources through the prevention of waste, in the mining, quarrying, metallurgical, and other mineral industries; to inquire into the economic conditions affecting these industries; to investigate explosives and peat; and on behalf of the Government to investigate the mineral fuels and unfinished mineral products belonging to, or for the use of, the United States, with a view to their most efficient mining, preparation, treatment and use; and to disseminate information concerning these subjects in such manner as will best carry out the purposes of this act.

The amendment was agreed to.

The next amendment was, on page 3, after line 17, to strike out:

SEC. 4. That nothing in this act shall be construed as authorizing the Bureau of Mines or any employee of said bureau to undertake any investigation or operation in behalf of any private party, except for the health and safety of persons employed in the mining, quarrying, metallurgical, or other mineral industries and with the approval of the Secretary of the Interior; nor shall the director or any member of said bureau have any personal or private interest in any mine or the products of any mine under investigation.

And in lieu thereof to insert the following:

SEC. 4. In conducting inquiries and investigations authorized by this act neither the director nor any member of the Bureau of Mines shall have any personal or private interest in any mine or the products of any mine under investigation, or shall accept employment from any private party for services in the examination of any mine or private mineral property, or issue any report as to the valuation or the management of any mine or other private mineral property.

The amendment was agreed to.

The next amendment was, on page 4, line 16, after the word "investigations," to insert "of explosives," so as to read:

SEC. 5. That for tests or investigations of explosives authorized by the Secretary of the Interior under the provisions of this act, other than those performed for the Government of the United States or State governments within the United States, a reasonable fee covering the necessary expenses shall be charged, according to a schedule prepared by the Director of the Bureau of Mines and approved by the Secretary of the Interior, who shall prescribe rules and regulations under which such tests and investigations may be made. All moneys received from such sources shall be paid into the Treasury to the credit of miscellaneous receipts.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

INTERSTATE SHIPMENT OF LIQUORS.

The bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases was announced as next in order.

Mr. SMOOT. That is a special order, Mr. President.

The PRESIDING OFFICER. The bill goes over, being a special order.

SANTIAM NATIONAL FOREST.

The bill (S. 7237) to reserve certain lands and to incorporate the same and make them a part of the Santiam National Forest was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment, on page 1, line 11, after the word "Oregon," to strike out "be, and the same are hereby, reserved and withdrawn from entry and made a part of and included in the Santiam National Forest" and insert "in the event of final decision vacating, annulling, or setting aside the outstanding patents heretofore issued therefor, shall be, and are hereby, reserved and withdrawn from all disposition and included within the Santiam National Forest," so as to make the bill read:

Be it enacted, etc., That the following-described lands, to wit, the southeast quarter of section 24, township 14 south, range 2 east; all of section 14, the north half of section 20, the northwest quarter of section 22, the west half of section 24, the northwest quarter of section 28, the northeast quarter of section 31, all of section 34, and all of section 35, township 14 south, range 3 east; all in Linn County, Oreg., in the event of final decision vacating, annulling, or setting aside the outstanding patents heretofore issued therefor, shall be, and are hereby, reserved and withdrawn from all disposition and included within the Santiam National Forest.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. GRONNA. I should like to have some explanation from a Senator who is interested in the bill as to why this legislation is necessary.

Mr. CHAMBERLAIN. The land proposed to be withdrawn embraces about 3,000 acres, I think. Patents to it have already issued to a large lumber concern, and the United States has instituted a suit to cancel the patents. In the event that the suit is won by the Government of the United States it was desired to have these lands included within the reserve so that they might not be taken up by speculators. If, however, the suit is decided in behalf of the defendants, the bill will be inoperative and will not affect the lands at all.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (H. R. 21524) for the relief of Frederick H. Ferris was announced as next in order.

Mr. CLARKE of Arkansas. Is there a report accompanying that bill?

Mr. SMOOT. There is a report.

Mr. CLARKE of Arkansas. It seems to me that the bill was reported adversely at one time by the Committee on Military Affairs, but I may be mistaken about it. Let it go over.

The PRESIDING OFFICER. The bill goes over on the objection of the Senator from Arkansas.

The bill (S. 6812) to amend section 3 of an act entitled "An act to provide for the allotment of land in severalty," etc., approved February 28, 1891, was announced as next in order.

Mr. CLARKE of Arkansas. I object to that bill.

The PRESIDING OFFICER. Objection is made, and the bill goes over.

The next business on the calendar was the resolution (S. Res. 362) for an investigation into the expenditures of the Forest Service and the appointment of a committee for the purpose.

Mr. GALLINGER. Let that go over, Mr. President.

The PRESIDING OFFICER. The resolution goes over on the request of the Senator from New Hampshire.

The bill (H. R. 22913) to create a Department of Labor was announced as next in order.

Mr. SMOOT. Let that go over, Mr. President.

The PRESIDING OFFICER. The bill goes over on the request of the Senator from Utah.

The bill (S. 7089) to remove the charge of desertion against Charlie Meyers was announced as next in order.

Mr. ROOT. I think that bill had better go over.

The PRESIDING OFFICER. The bill goes over on the objection of the Senator from New York.

The bill (S. 2058) for the relief of William Wentworth was announced as next in order.

Mr. GALLINGER. Let that bill go over likewise, Mr. President.

The PRESIDING OFFICER. The bill goes over on the request of the Senator from New Hampshire.

INSPECTION AND GRADING OF GRAIN.

The bill (S. 223) to provide for the inspection and grading of grain entering into interstate commerce, and to secure uniformity in standards and classification of grain, and for other purposes, was announced as next in order.

Mr. NELSON. Let that bill go over.

Mr. CRAWFORD. Will the Senator permit me to say that it of course would be entirely futile to ask the Senate to dispose of the bill under Rule VIII, but, as I understand it, the Senate passed a similar bill once. The Senator from North Dakota [Mr. MCCUMBER] is very much interested in the measure and he wanted me to submit the matter to the Senate whether it was possible to get a unanimous-consent agreement to take up the bill at some day in the near future. I simply am putting out that feeler to see whether it can possibly be done.

The PRESIDING OFFICER. Does the Senator from Minnesota object to the present consideration of the bill?

Mr. NELSON. I object to its present consideration.

The PRESIDING OFFICER. The bill goes over on the objection of the Senator from Minnesota.

INTERSTATE COMMERCE COMMISSION.

The bill (S. 6100) appropriating $100,000 for the use of the Interstate Commerce Commission in addition to the sum or sums already appropriated for their use was announced as next in order.

Mr. GALLINGER. Let that go over.

The PRESIDING OFFICER. The bill goes over on the objection of the Senator from New Hampshire.

LIMIT OF VISITORIAL POWERS.

The bill (H. R. 24153) to amend and reenact section 5241 of the Revised Statutes of the United States was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill goes over on the objection of the Senator from Utah.

Mr. WILLIAMS. Do I understand that the consideration of the bill was objected to?

The PRESIDING OFFICER. It was, by the Senator from Utah.

Mr. WILLIAMS. I hope the Senator who made the objection will withdraw it. The Pujo investigating committee in the House can not proceed another step until this legislation is enacted. By the morning papers and the papers of the day before the proceedings of the committee are within the information of all Senators. The present law reads as follows:

No association shall be subject to any visitorial powers other than such as are authorized by this title, or are vested in the courts of justice.

When the Pujo investigating committee began to examine witnesses for the purpose of arriving at the information which the House of Representatives desired, they found this statute

lying athwart their pathway. It is subject to some doubt as to construction, it is true, but many of the witnesses have refused to answer questions and permit to be examined certain evidence within their possession because of this statute.

The House passed a bill, and in the Senate Committee on Finance certain members of that committee proposed as a substitute for the House bill the following; and if Senators will follow me they will note that down to the word "justice" it is a repetition of the existing law. It proposes to amend the act so that it will read:

SEC. 5241. No national banking association shall be subject to any visitorial powers other than such as are authorized by this title, or are vested in the courts of justice.

Then begins the new language, and I call the attention of Senators to it:

Or such as shall be necessary to secure information by any committee appointed by Congress or either House thereof, within the limits of the authority conferred by Congress or either House on said committee.

The bill was adversely reported from the Finance Committee. The views of the minority are signed by Senators MCCUMBER, LA FOLLETTE, SIMMONS, WILLIAMS, and JOHNSON.

I think it is a right serious thing, Mr. President, for a Senator or for the Senate to take the position of blocking an investigation by the House of Representatives. I think it is more serious of course for one Senator to do it than for the entire Senate. I am satisfied that if this bill could come before the Senate for a vote it would be passed. Ordinary comity between the two Houses would demand it, if nothing else. Besides that, ordinary justice demands it, because the House ought to have the opportunity, the Senate ought to have the opportunity, both Houses ought to have it, of investigating the affairs of its own creature.

The national banks are the creatures of the National Government; they are the creatures of the law passed by us; and to say that we shall permit to stand upon the statute book a provision to prevent the Congress of the United States, the law-making authority of the people, from getting that information which, in the opinion of Congress or either House of Congress is necessary for the public welfare, is a position I take it which nobody ought to stand upon.

I do not know whether under the present arrangement it would be in order to move to take up the measure or not. I will make the inquiry.

The PRESIDING OFFICER. The Chair thinks it would not be in order, as the Senate is operating now under a unanimous-consent agreement to go to the Calendar to consider only unobjected bills.

Mr. WILLIAMS. I asked because I was not present when the unanimous-consent agreement was adopted, but I judged from the manner in which we have been proceeding that it had been adopted in that form.

I appeal to the Senator who made the objection to withdraw it, and at least permit the Senate to consider this matter, and not have it appear to the country that the Senate is thwarting an investigation by the House of Representatives, an investigation with the very highest purpose in view and of the highest importance to the people of the United States.

Mr. SMOOT. Mr. President, I have no desire whatever to interfere with the investigation on the part of the House of any matter, but this bill was referred to the Finance Committee of the Senate, and a majority of that committee voted upon it adversely. It was reported by the chairman adversely, and the chairman is not in the city to-day. It would be very unjust to him and to the committee, I think, to have the bill acted upon to-day, when there are very few Senators in the Chamber.

Mr. President, I shall certainly insist upon my objection to the consideration of the bill.

Mr. WILLIAMS. I hope the Senator will pardon me for an interruption merely to this extent: While it is true that the bill was acted upon adversely in the committee, it is also true that the committee sent it here to be placed on the calendar for the consideration of the Senate.

Mr. SMOOT. The chairman of the committee is not here. The bill proposes to change the existing law in a most radical way. I think the question would lead to a great deal of discussion, which is impossible at this time and under the present order.

The PRESIDING OFFICER. Under the objection of the Senator from Utah, the bill goes over.

Mr. WILLIAMS. I must rest satisfied with having called the attention of the country to it.

ANNIVERSARY OF THE TREATY OF GHENT.

The bill (S. 4256) to approve of the celebration of the one hundredth anniversary of the treaty of Ghent was considered as in Committee of the Whole.

The bill was reported from the Committee on Foreign Relations with an amendment, to strike out all after the enacting clause and insert:

That the President is hereby authorized to appoint a commission of seven members, to be known as the Peace Centennial Commission. It shall be the duty of the commission to confer with such other commissions or committees as may be constituted for similar purposes in other English-speaking countries, and to report to the Congress a plan for the appropriate celebration of the one hundredth anniversary of the treaty of Ghent. The commissioners shall serve without compensation. For the expenses of the commission, including salary of secretary, clerical service, traveling and office expenses, and printing plans, the sum of $100,000 is hereby appropriated from any moneys in the Treasury not otherwise appropriated, and to be immediately available.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CAMPAIGN CONTRIBUTIONS.

The bill (S. 3315) to prohibit corporations from making contributions in connection with political elections and to limit the amount of said contributions by individuals or persons was announced as next in order.

Mr. JONES. The chairman of the Committee on Privileges and Elections [Mr. DILLINGHAM] is not present, and the senior Senator from Texas [Mr. CULBERSON], who is interested in the bill, is also absent. So I ask that it may go over.

The PRESIDING OFFICER. The bill goes over under the objection of the Senator from Washington.

TRADE RESTRAINTS AND MONOPOLIES.

The bill (S. 3345) to amend the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies" was announced as next in order.

Mr. SMOOT. From what committee was the bill reported? The Committee on Interstate Commerce?

Mr. GALLINGER. The committee was discharged and the bill placed on the calendar.

Mr. SMOOT. I see that the committee was discharged. The bill had better go over.

The PRESIDING OFFICER. The bill goes over on the objection of the Senator from Utah.

NATIONAL MILITARY PARKS.

The bill (S. 6616) to provide for the protection of national military parks was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, in section 7, page 4, line 2, after the word "before," to strike out "any judge of any district or circuit court of the United States of the district in which such park is situated, or before any United States commission thereof" and insert "the nearest United States commissioner," so as to make the section read:

SEC. 7. That the park commissioners, superintendent, officers, or guardians of such park, or any of them, are authorized to arrest forthwith any person engaged, or who may have been engaged, in committing any misdemeanor named in this act, and shall bring such persons before the nearest United States commissioner, who, for the purpose of this act, shall have and exercise civil and criminal jurisdiction which is conferred upon justices of the peace by this act, the common law, and by the statute of the State in which such national military park is situated and such misdemeanor has been committed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FIRST LIEUT. SYDNEY SMITH.

The bill (S. 7288) to authorize the transfer of First Lieut. Sydney Smith from the retired to the active list of the Army was announced as next in order.

Mr. POMERENE. On behalf of the Senator from West Virginia [Mr. CHILTON] I ask that the bill go over.

The PRESIDING OFFICER. The bill goes over.

SALE OF BURNT TIMBER ON THE PUBLIC DOMAIN.

The bill (H. R. 24266) to authorize the sale of burnt timber on the public domain was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment, in section 1, page 1, line 6, after the name "United States," to insert "outside the boundaries of national forests," so as to make the section read:

That the Secretary of the Interior is hereby authorized, under such rules as he may prescribe, to sell and dispose of to the highest bidder at public auction, or through sealed bids, the timber on any lands of the United States outside the boundaries of national forests, including those embraced in unperfected claims under any of the public land laws, also upon the ceded Indian lands, that may have been killed or seriously and permanently damaged by forest fires prior to the passage of this act, the proceeds of all such sales to be covered into the Treasury of the United States: *Provided*, That the damaged timber upon any lands embraced in an existing claim shall be disposed of only upon the application or with the written consent of such claimant, and the money received from the sale of damaged timber on any such lands shall be kept in a special fund to await the final determination of such claim.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

STANDARD OIL AND AMERICAN TOBACCO COS.

The resolution (S. Res. 375) discharging the Committee on the Judiciary from further consideration of the concurrent resolution (S. Con. Res. 4) instructing the Attorney General of the United States to prosecute the Standard Oil Co. and the American Tobacco Co. was announced as next in order.

Mr. SMOOT. Let that go over, Mr. President.

The PRESIDING OFFICER. The resolution goes over.

DOMMICK TAHENY AND JOHN W. MORTIMER.

The bill (S. 4309) for the relief of Dommick Taheny and John W. Mortimer was considered as in Committee of the Whole.

The bill was reported from the Committee on Post Offices and Post Roads with an amendment, on page 1, line 6, after the words "sum of," to strike out "$5,000" and to insert "$4,801.42," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Dommick Taheny and John W. Mortimer the sum of $4,801.42, in full payment and satisfaction of their claim against the United States for loss sustained on account of the cancellation of contract for the erection and lease of quarters for the Frankford station of the post office in Philadelphia, Pa.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ROBERT N. CAMPBELL.

The bill (S. 6877) to reinstate Robert N. Campbell as a first lieutenant in the Coast Artillery Corps, United States Army, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with amendments.

The first amendment was, in section 1, page 1, line 6, after the words "First Lieutenant," to strike out the name "John G. Hotz" and insert "Robert O. Edwards," so as to make the section read:

That the President of the United States be, and he is hereby, authorized to appoint Robert N. Campbell a first lieutenant in the Coast Artillery Corps, United States Army, to take rank next after First Lieut. Robert O. Edwards, Coast Artillery Corps, the said Robert N. Campbell having served for a period of 8 years and 6 months, from June, 1902, to December, 1910.

The amendment was agreed to.

The next amendment was, in section 2, page 2, after the word "appointment," to strike out "and he shall be additional to the number of officers prescribed by law for the grade of first lieutenant in the Coast Artillery Corps and to any grade to which he may hereafter be promoted, and that for the purpose of computing his pay his longevity shall be considered the same as if he had never been out of the service," so as to make the section read:

SEC. 2. That the said Robert N. Campbell shall receive no pay or emolument except from the date of his appointment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

COUNTRY PARKS AND COMMUNITY CENTERS.

The bill (S. 6105) for the creating of country parks and community centers, and referring especially to one created in the State of Montana, in the Fort Shaw unit of the Sun River reclamation project, was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment to strike out all after the enacting clause and to insert:

That the Secretary of the Interior be, and he is hereby, authorized to withdraw from other disposition and reserve for country parks, public playgrounds, and community centers for the use of the residents upon the lands such tracts as he may deem advisable in each reclamation project or the several units of such reclamation projects undertaken under the act of June 17, 1902, known as the reclamation act.

SEC. 2. That every such tract of land so set apart shall be supplied with water from the Government irrigation system, the cost thereof to be charged to the remaining lands of the project as a part of the construction charge of such project, and shall be maintained and used in perpetuity by the people upon said reclaimed lands for a pleasure park, public playground, and community center.

SEC. 3. That for the purpose of carrying out and effecting the objects of this act the Secretary of the Interior is authorized to enter into a contract with the organization formed by the owners of the lands irrigated within said project or project unit pursuant to section 6 of the act of June 17, 1902, stipulating and providing that the organization will maintain and use such of the lands so reserved for the purposes prescribed in this act as such organization may desire, and that upon failure to so maintain and use such lands, or in the event that same shall be permitted to be used or occupied for other purposes than those stipulated in this act, the control of the lands shall revert to the United States, and same shall be thereafter disposed of in accordance with the public-land laws applicable thereto.

SEC. 4. That any of such lands not contracted for in accordance with the provisions of section 3 of this act within 10 years from the time water is available for the same, or sooner, if the Secretary of the Interior may deem it desirable, shall be disposed of in accordance with the public-land laws applicable thereto, and the proceeds from the sale of a water right for the same shall be turned over to the organization representing the owners of the lands within such project.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize the reservation of public lands for country parks and community centers within reclamation projects, and for other purposes."

HOURS OF LABOR ON PUBLIC WORKS.

The bill (H. R. 18787) relating to the limitation of the hours of daily services of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia, was announced as next in order.

Mr. NELSON. My impression is that the Senator from Arkansas [Mr. CLARKE] has some amendments which he wants to offer to that bill. I therefore ask that it go over.

The PRESIDING OFFICER. The bill goes over, on the objection of the Senator from Minnesota.

OVERDUE PERSONAL TAXES IN THE DISTRICT.

The bill (S. 7430) providing for the cancellation of certain overdue personal taxes in the District of Columbia was considered as in Committee of the Whole. It proposes that section 6 of "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes," approved July 1, 1902, be amended by adding thereto the following paragraph:

PAR. 20. The assessor of the District of Columbia is hereby authorized, under the direction of the commissioners, to cancel all personal taxes, in the month of July of each year, standing on his books, which are over five years old and which the collector of taxes and the corporation counsel report to be uncollectible.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUNISHMENT OF MURDER IN THE DISTRICT.

The bill (S. 7162) to amend section 801 of the Code of Law for the District of Columbia was considered as in Committee of the Whole.

The bill was reported from the Committee on the District of Columbia with an amendment, on page 1, after line 9, to strike out:

SEC. 801. The punishment of murder in the first degree shall be death by hanging. The punishment of murder in the second degree shall be imprisonment for life, or for not less than 20 years. In all cases where the accused is found guilty of the crime of murder in the first degree the jury may qualify their verdict by adding thereto "without capital punishment," and whenever the jury shall return a verdict qualified as aforesaid the person convicted shall be sentenced to imprisonment for life.

And in lieu thereof to insert:

SEC. 801. The punishment of murder in the first degree shall be death by electrocution. The punishment of death must, in every case, be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of such current must be continued until such convict is dead. The punishment of murder in the second degree shall be imprisonment for life or for not less than 20 years. In all cases where the accused is found guilty of the crime of murder in the first degree the jury may qualify their verdict by adding thereto "without capital punishment," and whenever the jury shall return a verdict as aforesaid the person convicted shall be sentenced to imprisonment for life.

So as to make the bill read:

Be it enacted, etc., That section 801 of an act entitled "An act to establish a Code of Law for the District of Columbia," approved March 3, 1901, as amended by the acts approved January 31 and June 30, 1902, and subsequent acts to and including March 4, 1911, be, and the same is hereby, amended to read as follows:

SEC. 801. The punishment of murder in the first degree shall be death by electrocution. The punishment of death must, in every case,

be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of such current must be continued until such convict is dead. The punishment of murder in the second degree shall be imprisonment for life or for not less than 20 years. In all cases where the accused is found guilty of the crime of murder in the first degree the jury may qualify their verdict by adding thereto "without capital punishment," and whenever the jury shall return a verdict as aforesaid the person convicted shall be sentenced to imprisonment for life.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PENSIONS OF SURVIVING SOLDIERS OF INDIAN WARS.

The bill (H. R. 14053) to increase the pensions of surviving soldiers of Indian wars in certain cases was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, on page 1, line 9, before the word "dollars," to strike out "thirty" and to insert "twelve," so as to make the bill read:

Be it enacted, etc., That from and after the passage of this act the rate of pension to surviving soldiers of the various Indian wars who are now on the pension roll or who may hereafter be placed thereon under the acts of July 27, 1892, June 27, 1902, and May 30, 1908, shall be $12 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

LANDS OF FORMER FORT NIOBRARA MILITARY RESERVATION, ETC.

The bill (H. R. 25764) to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JUDICIAL PROCEDURE IN UNITED STATES COURTS.

The bill (H. R. 16461) to regulate judicial procedure of the courts of the United States was announced as next in order.

Mr. CATRON. Let that go over, Mr. President.

The PRESIDING OFFICER. The bill goes over.

AGRICULTURAL EXTENSION DEPARTMENTS.

The bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and acts supplementary thereto, was announced as next in order.

Mr. SMOOT. Mr. President, the Senator from Georgia [Mr. SMITH] has given notice that he will call this bill up on next Monday. I therefore ask that it go over.

The PRESIDING OFFICER. The bill goes over.

Mr. McCUMBER. Before the bill goes over, I ask to offer an amendment to it, which I send to the desk. I ask that the amendment, without reading, may be printed and lie on the table.

The PRESIDING OFFICER. That order will be made in the absence of objection.

ACQUISITION OF DEPOSITS OF BORAX, ETC.

The bill (H. R. 4002) defining the manner in which deposits of borax, borate of lime, borate of soda, and borate material may be acquired was considered as in Committee of the Whole.

The bill had been reported from the Committee on Mines and Mining with an amendment to strike out all after the enacting clause and to insert:

That all public lands within the United States containing valuable deposits of borax, borate of lime, borate of soda, or borate material shall be subject to location, entry, and patent under the placer mining laws of the United States, and no location hereafter made, whether by an individual, association of individuals, or by a corporation, shall exceed 20 acres in area. Patents heretofore issued for lands containing such deposits, whether as patents for lodes or patents for placer, are hereby confirmed, if otherwise regular and valid, notwithstanding the formation or mode of occurrence of the deposits. Placer patents heretofore issued and hereafter issued for lands containing such deposits shall vest in and convey to the patentee or patentees therein named, his or their successors or assigns, the title to all lands containing such deposits within the exterior boundaries of the land described in such patents: *Provided*, That where lands containing such deposits have heretofore been located under the laws providing for the entry of mineral lode claims, such locations may be perfected and patents issued under the laws applicable to lode claims: *And provided further*, That no conflicting rights, contests, or litigation as between locators under the placer laws and the mineral lode laws on locations heretofore made of lands containing such deposits shall be affected by the provisions of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CAPT. FRANK E. EVANS.

The bill (S. 7169) to transfer Capt. Frank E. Evans from the retired to the active list of the Marine Corps was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PERKINS. I ask that the report in that case be printed in the RECORD.

The PRESIDING OFFICER. In the absence of objection, it will be so ordered.

The report referred to, which was submitted by Mr. WITMORE on December 18, 1912, is as follows:

The Committee on Naval Affairs, to whom was referred the bill (S. 7169) to transfer Capt. Frank E. Evans from the retired to the active list of the Marine Corps, have had the same under consideration and report it back without amendment.

This officer was placed on the retired list of the Marine Corps after a total service, including Volunteer Army service in the Spanish War, of eight years and three months. Since that time he has led an active life and last year was accepted for life insurance by one of the conservative companies as a perfect risk. He has also been advised on expert authority that his cause of disability, heart disease, no longer exists to the point where it unfits him for the demands of active service. A similar case, that of Capt. Harold S. Jackson, United States Army, passed the Senate at the last session and in addition restored Capt. Jackson to the next higher grade in the number which he would have reached had he not been retired. Capt. Robert M. Gilson, United States Marine Corps, was restored by Congress to the active list, in his original number, following his resignation. Capt. Gilson's length of service at the time was approximately half as long as that of Capt. Evans, his separation from the active list approximately the same, and his resignation was voluntary, while the retirement of Capt. Evans was not desired by that officer. Other cases in which officers of the Navy have been restored to the active list by Congress were those of Leonard M. Cox, Corps of Civil Engineers, on March 4, 1907; Commander K. McAlpine on June 25, 1910; Capt. S. M. Ackley on April 18, 1904.

Capt. Evans is now drawing pay as a retired officer but performing no duty. If restored to the active list, the Marine Corps would have the services of a trained officer at a comparatively small increase of pay. It is not considered likely, moreover, that he would reach a higher grade only to be again retired for disability, as the regulations of the Navy now require monthly tests of the officers on the active list. There is now pending in Congress a bill to increase the number of officers in the Marine Corps by appointments from the Naval Academy and from civil life. The passage of this bill would give the Marine Corps the services of an officer of more than eight years' total service as an enlisted man and officer at sea, in the Tropics, at the headquarters of the Marine Corps, on special duty in connection with the training of officers and enlisted men, and recruiting duty.

NATIONAL CARTAGE & WAREHOUSE CO., OF NEW YORK CITY.

The bill (H. R. 24137) to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty was considered as in Committee of the Whole. It directs the Secretary of the Treasury to refund to the National Cartage & Warehouse Co., of New York City, N. Y., $95.40 collected on two cases of majolica ware in excess of the actual duty thereon.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CIGARS FURNISHED EMPLOYEES BY MANUFACTURERS.

The bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909, was announced as next in order.

Mr. SMOOT. Mr. President, I see there is no report accompanying that bill. I therefore ask that it go over, because I desire to obtain some information concerning it.

Mr. BRYAN. If the Senator from Utah will withhold his objection for just a moment, I think I can explain to him the situation which this bill is designed to relieve.

Mr. SMOOT. I did not hear the Senator.

Mr. BRYAN. I say I think I can explain to the Senator from Utah the position taken by the Commissioner of Internal Revenue in reference to this bill.

The PRESIDING OFFICER. Does the Senator from Utah withhold his objection?

Mr. SMOOT. Mr. President, I know what the object of the bill is, but I do not know what position the Commissioner of Internal Revenue takes regarding it nor do I know what effect the passage of the bill will have upon the collection of revenue hereafter from the manufacturers of cigars. It may be perfectly feasible, it may be all right; but I ask the Senator to allow the bill to go over to-day, and I promise him that I will look the matter up before the calendar is again considered.

Mr. BRYAN. Before the bill goes over I should like to say a few words, if the Senator from Utah will withhold his objection. In September, 1911, a question was raised by the Commissioner of Internal Revenue as to whether or not the internal-revenue tax should be imposed on the small amounts of cigar

tobacco used by the employees of factories, the Commissioner of Internal Revenue at that time taking the position that he would enforce the tax. Subsequently to that, in March of this year, the Secretary of the Treasury, in commenting upon this bill and similar bills, made this statement:

No objection, however, would be offered to the bills submitted amended so as to read that: "On and after the passage of this act no manufacturer of cigars shall be taxed for cigars consumed on the factory premises by the cigar makers employed in the actual fabrication or production of cigars, and the manufacturers themselves"—

And so forth.

The bill has been amended so as to meet that view. The only change from existing law is now found in the second proviso of the bill, which permits employees to use for their own consumption 21 cigars a week, or an average of 3 cigars a day. It seems to me the Secretary himself has practically said in his letter of March 11, 1912, that he has no objection to it.

Now, the contest, prior to October, 1911, by the cigar manufacturers, was that for the whole time no Secretary of the Treasury or Commissioner of Internal Revenue had undertaken to enforce a tax on cigars used by employees. The Commissioner of Internal Revenue at that time, Mr. Cabell, took the position that they ought to be taxed, and a friendly suit was brought, which, so far as I know, has not yet been determined.

This bill was introduced to avoid the payment of the internal-revenue tax in case it should be held that they could, under existing law, be forced to pay this tax, inasmuch as it was not anything out of which the manufacturers would reap any benefit and was something which in the nature of things they had to yield to to satisfy their employees. As I have said, the proposition seems not to have met with any objection on the part of the Secretary of the Treasury, as I gather from his letter as it appears in the House report upon this bill. In view of that statement and in view of the fact that the bill has been reported by the Ways and Means Committee of the House and by the Finance Committee of the Senate, if the Senator from Utah could allow this bill, which has remained upon the calendar for some considerable time, to be acted upon now, I do not feel that either the Secretary of the Treasury or any one else would have the right to complain of it.

Mr. SMOOT. I appreciate the position of the Senator, but for reasons already stated I shall have to object to the consideration of the bill.

The PRESIDING OFFICER. Under objection the bill goes over.

VALIDATION OF CERTAIN HOMESTEAD ENTRIES.

The bill (S. 7568) to validate certain homestead entries was considered as in Committee of the Whole. It provides that all pending homestead entries made in good faith prior to September 1, 1911, under the provisions of the enlarged homestead laws, by persons who before making such enlarged homestead entry had acquired title to land under the homestead laws and therefore were not qualified to make an enlarged homestead entry, shall be validated, if in all other respects regular, in all cases where the original homestead entry was for less than 160 acres of land.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LANDS IN TIMBER LAKE AND DUPREE, S. DAK.

The bill (H. R. 45) affecting the town sites of Timber Lake and Dupree, in South Dakota, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

VEHICLES IN THE DISTRICT OF COLUMBIA.

The bill (S. 6919) to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia was considered as in Committee of the Whole.

The bill had been reported from the Committee on the District of Columbia with amendments, on page 1, line 6, after the word "Any," to strike out "chauffeur or other"; in line 10, after the word "building," to strike out "or place"; and on page 2, line 3, after the word "shall," to strike out "suffer imprisonment for not less than 1 nor more than 10 years" and insert "be punished by a fine not exceeding $1,000 or imprisonment not exceeding five years, or both such fine and imprisonment," so as to make the bill read:

Be it enacted, etc., That the Code of Law for the District of Columbia be amended by adding to subchapter 2 of chapter 19 the following section:

SEC. 826b. Unauthorized use of vehicles.—Any person who, without the consent of the owner, shall take, use, operate, or remove, or cause to be taken, used, operated, or removed from a garage, stable, or other building, or from any place or locality on a public or private highway, park, parkway, street, lot, field, inclosure, or space, an automobile or motor vehicle, and operate or drive, or cause the same to be operated or driven, for his own profit, use, or purpose, shall be punished by a fine not exceeding $1,000 or imprisonment not exceeding five years, or both such fine and imprisonment.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

EXTENSION OF CERTAIN HIGHWAYS.

The bill (S. 7509) to authorize the extension of Twenty-fifth Street SE. and White Place, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PHOSPHATE AND OIL LANDS IN IDAHO.

The bill (S. 7638) to provide for State selections on phosphate and oil lands was considered as in Committee of the Whole.

Mr. BRISTOW. It seems to me that this is rather an unusual bill, Mr. President.

Mr. SMOOT. No. Such a bill has been passed heretofore for every State in the West.

Mr. BRISTOW. It has?

Mr. SMOOT. It applies to lands that have been withdrawn for oil or phosphate, and under the law of withdrawal people can not homestead these lands. This gives a homesteader a right to homestead those lands, reserving to the Government the phosphate or oil there may be under them.

The bill had been reported from the Committee on Public Lands with amendments.

The first amendment was, in section 1, on page 1, line 6, after the word "shall," to insert "if otherwise available under existing laws," so as to make the section read:

That from and after the passage of this act unreserved public lands of the United States in the State of Idaho which have been withdrawn or classified as phosphate or oil lands or are valuable for phosphates or oil shall, if otherwise available under existing laws, be subject to selection by the State of Idaho under indemnity and other land grants made to it by Congress, whenever such selections shall be made with a view of obtaining or passing title, with a reservation to the United States of the phosphates and oil in such lands and of the right to prospect for, mine, and remove the same.

The amendment was agreed to.

The next amendment was, on page 2, to strike out section 3 and insert in lieu thereof the following:

SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this act, the State shall, upon approval of the selection by the Secretary of the Interior, be entitled to have the lands certified to it, with a reservation to the United States of all the phosphates and oil in the land so certified, together with the right in the United States, or persons authorized by them, to prospect for, mine, and remove the same; but before any person shall be entitled to enter upon the lands certified for the purpose of prospecting, mining, or removing phosphates or oil therefrom he shall furnish, subject to approval by the Secretary of the Interior, a bond or undertaking as security for the payment of all damages to the crops and improvements on said lands by reason of such prospecting for and removal of phosphates or oil. The reserved phosphate and oil deposits in approved selections under this act shall not be subject to exploration or entry other than by the United States, except as hereinafter authorized by Congress.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PENSIONS AND INCREASE OF PENSIONS.

The bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, was considered as in Committee of the Whole. The bill had been reported from the Committee on Pensions with amendments.

The first amendment was, on page 2, after line 16, to strike out:

The name of Narcisse Menard, helpless and dependent son of John Menard, who served under the name of John Milner, late of Company I, One hundred and twenty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 4, line 13, after the word "Tennessee," to strike out "Mounted," and in the same line, after the word "Volunteer," to insert "Mounted," so as to make the clause read:

The name of John Howell, late of Company H, Second Regiment Tennessee Volunteer Mounted Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 5, after line 2, to strike out:

The name of Julia A. Ferber, former widow of Richard Kershaw, late of Companies K and G, Sixteenth Regiment Wisconsin Volunteer Infantry, and Company F, Fourth Regiment United States Veteran Infantry, and pay her a pension at the rate of $20 per month.

The amendment was agreed to.

The next amendment was, on page 7, line 19, before the name "Brandau," to strike out the initial "A." and insert "C.," and in line 20, after the name "Gustavus," to strike out the initial "A." and insert "R.," so as to make the clause read:

The name of Charlotte C. Brandau, widow of Gustavus R. Brandau, surgeon Eleventh Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 7, after line 22, to strike out:

The name of Sarah J. Kelley, widow of Curtis Kelley, late of Company C, Eleventh Regiment New Jersey Infantry, and the Fifty-seventh Company, Second Battalion Veteran Reserve Corps, and pay her a pension at the rate of $20 per month.

The amendment was agreed to.

The next amendment was, on page 9, line 3, before the word "widow," to insert "former," so as to make the clause read:

The name of Frances A. Ginther, former widow of Sidney Ginther, late of Company D, Eighty-eighth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 10, after line 12, to strike out:

The name of Phoebe Cosgriff, widow of James Cosgriff, late of Company A, Twelfth Regiment Missouri Volunteer Cavalry, and of Detachment Veteran Reserve Corps, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 10, line 22, after the word "Regiment," to insert "United States Reserve Corps"; and in line 23, after the word "Infantry," to strike out "and United States Reserve Corps," so as to make the clause read:

The name of Conrad Oppermann, late of Company I, First Regiment United States Reserve Corps, Missouri Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 11, line 2, before the word "late," to strike out the name "Johnston" and insert "Johnson," so as to make the clause read:

The name of Emily S. Hewett, former widow of Cyrus P. Johnson, late of Company C, Sixth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 11, after line 8, to strike out:

The name of John Jeffery, late of Company B, Twenty-fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 12, after line 12, to strike out:

The name of Sue B. Merrill, widow of Sherman M. Merrill, chaplain, One hundred and seventy-seventh Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 13, line 19, before the words "per month," to strike out "$36" and insert "$24," so as to make the clause read:

The name of David W. Weston, late of Company G, Second Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 14, line 13, after the word "Company," to strike out the letter "D" and insert "B," so as to make the clause read:

The name of George Dupborn, late of Company B, Sixty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 15, line 5, before the word "Cavalry," to strike out "Militia" and insert "Volunteer," so as to make the clause read:

The name of Isaac D. Combs, late of Company D, Sixth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 17, after line 4, to strike out:

The name of James F. Conway, late of Company K, Thirteenth Regiment New York State Militia Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, at the top of page 18, to strike out:

The name of Dorcas Cuppy, former widow of William Quigg, late of Company F, Fifth Regiment Pennsylvania Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 19, after line 9, to strike out:

The name of Anna Bishop, former widow of James D. Ross, late of Company I, Eighty-third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 19, line 19, before the word "Volunteer," to strike out "Mounted," and in the same line, after the word "Volunteer," to insert "Mounted," so as to make the clause read:

The name of Drury Craig, late of Company H, Third Regiment North Carolina Volunteer Mounted Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 20, line 12, after the word "receiving," to insert *"Provided*, That in the event of the death of Edward Faulder, helpless and dependent child of said Cyrenus Faulder, the additional pension herein granted shall cease and determine," so as to make the clause read:

The name of Mary E. Faulder, widow of Cyrenus Faulder, late of Company C, Seventy-first Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Edward Faulder, helpless and dependent child of said Cyrenus Faulder, the additional pension herein granted shall cease and determine.

The amendment was agreed to.

The next amendment was, on page 23, line 2, before the word "Volunteer," to strike out "Mounted," and in the same line, after the word "Volunteer," to insert "Mounted," so as to make the clause read:

The name of John H. Slatton, late of Company K, Fourth Regiment Kentucky Volunteer Mounted Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 23, line 18, after the word "late," to strike out "of" and insert "first lieutenant and adjutant," so as to make the clause read:

The name of Ella Scott, widow of Joseph P. Scott, late first lieutenant and adjutant Second Regiment Wisconsin Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 24, after line 16, to strike out:

The name of Margaret Berg, widow of Frank J. Berg, late of Company D, Ninth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 27, after line 12, to strike out:

The name of Margaret Scanlon, widow of John Scanlon, late of Company H, First Regiment United States Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 31, line 23, before the words "per month," to strike out "$24" and insert "$12," and in the same line, after the word "month," to strike out "in lieu of that he is now receiving," so as to make the clause read:

The name of John W. Morse, late of Company G, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 32, line 12, after the word "Volunteer," to strike out "Infantry" and insert "Cavalry," so as to make the clause read:

The name of Daniel H. Rankin, late of Company C, Thirteenth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

The bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors was considered as in Committee of the Whole. It proposes to pension the following persons at the rates per month stated:

Ellen B. Kittredge, widow of Perry Kittredge, late hospital steward, Third Regiment New Hampshire Volunteer Infantry, $20.

Thomas W. Dickey, late scout, United States Army, $12.

Mary E. McDermott, widow of John E. McDermott, late captain Company G, One hundred and eighth Regiment Illinois Volunteer Infantry, $20.

Henry Frink, late of Company I, Eighteenth Regiment Connecticut Volunteer Infantry, $30.

Christian C. Bradymeyer, late of Company E, Seventieth Regiment Indiana Volunteer Infantry, $36.

George M. Pierce, late of Company I, Second Regiment New York Volunteer Cavalry, $30.

Joseph C. Trickey, late of Company B, First Regiment Maine Volunteer Heavy Artillery, $30.

James M. Kinnaman, late of Company G, Twelfth Regiment Indiana Volunteer Infantry, $30.

Addie Roof, widow of Daniel P. Roof, late of Twenty-first Battery, Indiana Volunteer Light Artillery, $12.

Leeman Underhill, late of Company D, First Regiment Wisconsin Volunteer Heavy Artillery, $40.

Charles W. Morgan, late of Company E, Tenth Regiment West Virginia Volunteer Infantry, $30.

Alphonso L. Stasy, late of Company G, Twenty-first Regiment Massachusetts Volunteer Infantry, $50.

Jeramiah Lushbongh, late of Company I, One hundred and fourteenth Regiment Illinois Volunteer Infantry, $30.

James B. Sales, late of Company C, Eighty-eighth Regiment Ohio Volunteer Infantry, $24.

Mary E. Rikard, widow of James M. Rikard, late of Company B, First Regiment Alabama Volunteer Cavalry, and Company A, One hundred and forty-fifth Regiment Illinois Volunteer Infantry, $24: *Provided*, That in the event of the death of Minnie V. Rikard, helpless and dependent child of said James M. Rikard, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Mary E. Rikard the name of the said Minnie V. Rikard shall be placed on the pension roll at $12, from and after the date of death of said Mary E. Rikard.

Margaret H. Benjamin, widow of Edson A. Benjamin, late of the U. S. S. *Ohio*, United States Navy, $20.

Benjamin F. Ferris, late of Company K, Fifty-eighth Regiment Pennsylvania Volunteer Infantry, $50.

Hiram Ferrier, late of Company G, Sixty-seventh Regiment Pennsylvania Volunteer Infantry, $50.

Henry B. Leach, late of Company I, Sixty-sixth Regiment Indiana Volunteer Infantry, $36.

John Bell, late of Company I, Twelfth Regiment Wisconsin Volunteer Infantry, $24.

Elizabeth Lile, widow of Lewis Lile, late of Company C, Tenth Regiment Kansas Volunteer Infantry, $20.

George M. Conner, late of Companies F and M, First Regiment Vermont Volunteer Cavalry, $30.

Lola B. Hendershott and Louise Hendershott, helpless and dependent children of Henry B. Hendershott, late captain, Second Regiment United States Artillery, and major, United States Army, retired, and pay each of said children a pension of $12.

Daniel H. Grove, late of Company H, Sixty-fourth Regiment Illinois Volunteer Infantry, $30.

Charlotte R. Coe, widow of Edward D. Coe, late second lieutenant Company B, First Regiment Alabama Volunteer Cavalry, $20.

Caroline M. Packard, widow of William H. Packard, late of Company G, First Regiment, and Company E, Eleventh Regiment Rhode Island Volunteer Infantry, $20.

Benjamin C. Smith, late of Company A, One hundred and fifth Regiment Pennsylvania Volunteer Infantry, $36.

George R. Griffith, late second lieutenant Company B, Two hundred and eleventh Regiment Pennsylvania Volunteer Infantry, $24.

Rolly Wright, late of Battery A, First Regiment West Virginia Volunteer Light Artillery, $30.

Charles J. Higgins, late of Company C, First Regiment Maine Volunteer Cavalry, and Eighty-first Company, Second Battalion, Veteran Reserve Corps, $30.

Joseph Letzkus, late of Company G, First Regiment West Virginia Volunteer Infantry, $30.

Israel H. Phillips, late of Company C, Ninety-seventh Regiment Illinois Volunteer Infantry, $30.

John E. Woodward, late captain Company F, Eighteenth Regiment Connecticut Volunteer Infantry, $40.

Josephine A. Davis, former widow of James H. Sackett, late of Company K, Ninth Regiment Minnesota Volunteer Infantry, $12.

Osmer C. Coleman, late of Company D, One hundred and eightieth Regiment Ohio Volunteer Infantry, $24.

Hugh McLaughlin, late of Company F, Seventh Regiment Minnesota Volunteer Infantry, $30.

Joseph Striker, late of Company E, Eighty-third Regiment Indiana Volunteer Infantry, $30.

Mary Glancey, widow of James Glancey, late of Company D, Ninth Regiment Connecticut Volunteer Infantry, $20.

Joby A. Howland, late of Company F, Fifty-first Regiment Indiana Volunteer Infantry, $24.

Andrew King, late of Company A, Sixth Regiment West Virginia Volunteer Infantry, $30.

Mary S. Hull, widow of John P. Hull, late of Company C, Seventeenth Regiment Illinois Volunteer Cavalry, $20.

Sarah E. Haskins, widow of John A. Haskins, late of Company D, First Regiment Connecticut Volunteer Heavy Artillery, $20.

Ira Walde, late of Company I, Sixth Regiment Iowa Volunteer Cavalry, $30.

Ellis C. Howe, late of Company D, Fifty-third Regiment Pennsylvania Volunteer Infantry, $40.

Thomas M. Dixon and Joanna L. Dixon, helpless and dependent children of Barton S. Dixon, late captain Company F, Eighth Regiment Kentucky Volunteer Infantry, $12.

Solomon Wilburn, late of Company H, Thirty-second Regiment Kentucky Volunteer Infantry, $24.

William O. Sutherland, late of Company A, Eighth Regiment Michigan Volunteer Infantry, and Company B, Battalion United States Engineers, $30.

Annie H. Ross, widow of D. Laning Ross, late of U. S. S. *Peri*, United States Navy, $12.

John Dixon, late of Company A, Fiftieth Regiment Indiana Volunteer Infantry, $30.

Arnold Bloom, late of Company K, Forty-second Regiment Pennsylvania Volunteer Infantry, $30.

John D. Perkins, late of Company B, Second Regiment, and Company F, Twenty-ninth Regiment, Maine Volunteer Infantry, $50.

William Harrison, late of Company H, Twenty-sixth Regiment Indiana Volunteer Infantry, $30.

Sarah E. Johnson, widow of Absalom Y. Johnson, late lieutenant colonel Twenty-eighth Regiment Kentucky Volunteer Infantry, and colonel Seventh Regiment Veteran Reserve Corps, $20.

Willis Dobson, late of Company B, Fiftieth Regiment, and Company A, Fifty-second Regiment, Indiana Volunteer Infantry, $30.

Zachariah T. Fortner, late of Company G, Fifty-third Regiment Kentucky Volunteer Infantry, $30.

Jesse A. Moore, late of Company H, Sixth Regiment Illinois Volunteer Cavalry, $30.

James Moynahan, late second lieutenant Company B, and first lieutenant Company D, Twenty-seventh Regiment Michigan Volunteer Infantry, $36.

Dustin Berrow, late of Company F, First Regiment United States Volunteer Sharpshooters, and Company G, Fourth Regiment Vermont Volunteer Infantry, $36.

Sarah J. Viall, widow of Horace T. Viall, jr., late of Company B, Second Regiment Rhode Island Volunteer Infantry, $20.

James Luther Justice, late of Company L, Twentieth Regiment New York Volunteer Cavalry, $30.

Mary A. Crocker, widow of George A. Crocker, late captain Company A, Sixth Regiment New York Volunteer Cavalry, $20.

Winfield S. McGowan, late of Company B, Eighth Regiment New Jersey Volunteer Infantry, $30.

Martha J. Stephenson, widow of Ferdinand D. Stephenson, late captain Company B, Forty-eighth Regiment, and colonel One hundred and fifty-second Regiment, Illinois Volunteer Infantry, $30.

George E. Smith, late of Company B, First Regiment Rhode Island Volunteer Light Artillery, $24.

Roscoe B. Smith, late of Company I, Fifteenth Regiment Maine Volunteer Infantry, $24.

Mate Fulkerson, widow of Alexander C. Fulkerson, late of Company A, Seventy-sixth Regiment Pennsylvania Volunteer Infantry, $12.

Fred D. Bryan, late of Company C, Thirtieth Regiment Michigan Volunteer Infantry, $24.

Ada M. Wade, widow of Charles O. Wade, late of Company I, Seventh Regiment Michigan Volunteer Infantry, and Companies I and L, Second Regiment Missouri Volunteer Cavalry, $12.

Charlotte M. Snowball, widow of Edwin R. Snowball, late of Company C, Second Regiment California Volunteer Infantry, $24: *Provided*, That in the event of the death of Franklin M. Snowball, helpless and dependent child of said Edwin R. Snowball, the additional pension herein granted shall cease and determine.

Albert White, late of Company H, Seventeenth Regiment United States Infantry, $36.

William W. Lane, late of Company B, Thirty-fourth Regiment Iowa Volunteer Infantry, $50.

Lydia M. Jacobs, widow of William H. Jacobs, late of Company G, Thirty-ninth Regiment Massachusetts Volunteer Infantry, $12.

Albert Burgess, late of Company C, Seventeenth Regiment Illinois Volunteer Cavalry, $30.

Rosa L. Couch, widow of Simon A. Couch, late first lieutenant Company D, Thirteenth Regiment Wisconsin Volunteer Infantry, $20.

John Cook, alias Joseph Moore, late of Company C, Sixth Regiment New Hampshire Volunteer Infantry, $36.

Amanda Barrett, former widow of Austin M. Kay, late of Company B, Ninth Regiment New Hampshire Volunteer Infantry, and Ninety-first Company, Second Battalion Veteran Reserve Corps, $12.

Alvah S. Howes, late of Company H, Sixtieth Regiment New York Volunteer Infantry, $50.

George C. Rider, late of Company G, Forty-fourth Regiment New York Volunteer Infantry, and Company G, Eighteenth Regiment New York Volunteer Cavalry, $40.

Charles C. Littlefield, late of Company D, Forty-sixth Regiment Massachusetts Militia Infantry, $30.

Martha Dye, widow of John H. Dye, late of Company H, Fourteenth Regiment, and Company M, Eighth Regiment Missouri State Militia Cavalry, $20.

Carrie Hitchcock, widow of James W. Hitchcock, late captain Company K, Thirty-seventh Regiment Wisconsin Volunteer Infantry, $20.

Sarah McLaury, widow of George S. McLaury, late of Company I, One hundred forty-fourth Regiment New York Volunteer Infantry, $12.

William H. Frederick, late of Company F, First Regiment Ohio Volunteer Light Artillery, $24.

Joseph D. Her, late of Company K, One hundred and thirty-first Regiment Ohio Volunteer Infantry, $50.

Rodney S. Vaughan, late of Company A, Sixteenth Regiment New York Volunteer Cavalry, and Company C, Ninety-first Regiment New York Volunteer Infantry, $30.

Isaac A. Sharp, late of Company G, Eighth Regiment Indiana Volunteer Infantry, $24.

Turner S. Bailey, late of Company A, Third Regiment Iowa Volunteer Infantry, $50.

Alphens K. Rodgers, late of Company B, One hundred and forty-second Regiment Indiana Volunteer Infantry, $30.

Christina Higgins, widow of Asa T. Higgins, late of Company B, Twenty-fourth Regiment Massachusetts Volunteer Infantry, $20.

Josiah B. Hall, late of Company B, Fifty-seventh Regiment Massachusetts Volunteer Infantry, $50.

Ellen Tyson, former widow of Almon B. Gardner, late of Company B, Forty-sixth Regiment Wisconsin Volunteer Infantry, $12.

William Hoover, late of Company G, Fifth Regiment Minnesota Volunteer Infantry, $30.

Abby E. Carpenter, widow of Charles A. Carpenter, late first lieutenant Company H, Twenty-ninth Regiment Massachusetts Volunteer Infantry, $20.

Sarah Gross, widow of Henry S. Gross, late assistant surgeon, Twenty-sixth Regiment Pennsylvania Volunteer Infantry, $20.

Nelson Taylor, late of Company K, One hundred and second Regiment Illinois Volunteer Infantry, $30.

Carrie Crockett, widow of Hugh T. Crockett, late of Company A, Forty-sixth Regiment Indiana Volunteer Infantry, $20.

Lucy H. Collins, widow of Oscar Collins, late of Company L, Third Regiment Ohio Volunteer Cavalry, $20.

Royal H. Stevens, late of Company A, First Regiment Michigan Volunteer Infantry, and first lieutenant Company B, First Regiment Michigan Veteran Volunteer Infantry, $30.

Araminta G. Sargent, widow of George G. Sargent, late of Company C, Seventy-fourth Regiment Ohio Volunteer Infantry, $20.

Sidney P. Jones, late of Company B, Twelfth Regiment Indiana Volunteer Cavalry, $30.

Ann T. Smith, widow of William W. Smith, late captain Company G, Twenty-fourth Regiment Iowa Volunteer Infantry, $20.

Ellen E. Clark, widow of John Clark, late of Company I, Twenty-first Regiment Iowa Volunteer Infantry, and former widow of Joseph Kirk, late of Company B, One hundredth Regiment Pennsylvania Volunteer Infantry, $12.

Sarah B. Paden, widow of Thomas F. Paden, late of Company A, Third Regiment Pennsylvania Volunteer Heavy Artillery, $20.

Edmund P. Banning, late second lieutenant of Marines, U. S. S. *Powhatan*, United States Navy, $36.

Winchester E. Moore, late acting third assistant engineer, United States Navy, $24.

Mary P. Pierce, widow of Edwin S. Pierce, late lieutenant colonel, Third Regiment Michigan Volunteer Infantry, $24.

John B. Ladeau, late of Company D, First Regiment Vermont Volunteer Heavy Artillery, $50.

Christopher P. Brown, late of Company D, Second Regiment Vermont Volunteer Infantry, $50.

Allen Price, late of Company F, Tenth Regiment Tennessee Volunteer Infantry, $24.

Delphine R. Burritt, widow of Loren Burritt, late major, Eighth Regiment United States Colored Volunteer Infantry, $35.

Mr. McCUMBER. On page 20, in line 19, I move to strike out the word "him" and insert in lieu thereof the word "her." I have information, which has been filed since this item was considered, justifying me in asking that in line 20, page 20, the sum "$35" should be stricken out and "$40" inserted in lieu thereof; and in the same line the word "he" should be stricken out and the word "she" substituted.

The PRESIDING OFFICER. The amendments will be stated.

The SECRETARY. On page 20, line 19, it is proposed to strike out "him" and insert "her"; in line 20 to strike out "$35" and insert "$40"; and in the same line to strike out "he" and insert "she," so as to read:

The name of Delphine R. Burritt, widow of Loren Burritt, late major, Eighth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $40 per month in lieu of that she is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, was considered as in Committee of the Whole. It proposes to pension the following persons at the rates per month stated:

Caroline M. Anthony, late nurse, Medical Department, United States Volunteers, War with Spain, $12.

Arthur F. Shepherd, late of Company H, First Regiment Nebraska Volunteer Infantry, War with Spain, $12.

Walter L. Donahue, late of Company I, Thirty-third Regiment Michigan Volunteer Infantry, War with Spain, $12.

Calvin R. Lockhart, late of Company G, Twenty-third Regiment United States Infantry, $16.

Albert J. Wallace, late of Company E, Tenth Regiment United States Infantry, War with Spain, $12.

Thomas M. F. Delaney, late of Company G, Fourth Regiment Wisconsin Volunteer Infantry, War with Spain, $24.

Joseph Hurd, late of Company G, First Regiment Maine Volunteer Infantry, War with Spain, $12.

John D. Sullivan, late of Company F, Third Regiment United States Volunteer Engineers, War with Spain, $46.

Mary E. Maher, widow of John A. Maher, late of Company D, First Regiment District of Columbia Volunteer Infantry, War with Spain, $12 per month and $2 per month additional on account of each of the minor children of the said John A. Maher until they reach the age of 16 years.

George W. James, late of Company E, Fourth Regiment United States Volunteer Infantry, War with Spain, $12.

George G. Thirlby, late of Company M, Thirty-fourth Regiment Michigan Volunteer Infantry, War with Spain, $24.

Lansing B. Nichols, late of Company C, First Regiment South Dakota Volunteer Infantry, War with Spain, $20.

Jacob Korby, late of Company C, Thirty-sixth Regiment United States Volunteer Infantry, War with Spain, $10.

John J. Ledford, late of Company F, Fouth Regiment Missouri Volunteer Infantry, War with Spain, $24.

Deborah H. Riggs, widow of Ashley C. Riggs, late of Capt. James M. Morgan's company, Iowa Mounted Volunteers, War with Mexico, $12.

Elmer E. Rose, late of Companies I and H, Twenty-third Regiment United States Infantry, War with Spain, $12.

Cyrenius Mulkey, late of Capt. Bailey's Company A, Second Regiment Oregon Mounted Volunteers, $16.

Patrick J. Whelan, late of Company E, First Regiment Connecticut Volunteer Infantry, War with Spain, $17.

John F. Burton, late of Company B, Fifth Regiment Missouri Volunteer Infantry, War with Spain, $16.

Ephraim W. Baughman, late of Capt. Nathan Olney's Company B, Oregon Volunteers, Oregon and Washington Territory Indian War, $16.

James J. Blevans, late of Company B, Second Regiment Oregon Mounted Volunteers, Oregon and Washington Territory Indian war, $16.

Henry H. Woodward, late of Capt. Chapman's Company I, Second Regiment Oregon Mounted Volunteers, Rogue River Indian war, $16.

Bertie L. Wade, late of Company L, Twenty-second Regiment United States Infantry, $30.

Charlotte R. Wynne, widow of James W. Wynne, late of Capt. Blackmore's company, First Regiment Tennessee Volunteer Infantry, War with Mexico, $20.

Otto Weber, late of Company B, Sixteenth Regiment United States Infantry, War with Spain, $16.

Carl W. Carlson, late of Company B, Third Regiment United States Volunteer Cavalry, War with Spain, $20.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSHUA H. HUTCHINSON.

The bill (H. R. 25515) for the relief of Joshua H. Hutchinson was considered as in Committee of the Whole. It authorizes the Secretary of the Interior to issue a patent to Joshua H. Hutchinson for the land embraced in his homestead entry, serial No. 02245, Susanville, Cal., for the east half of the southwest quarter and the west half of the southeast quarter of section 33, township 43 north, range 17 east, Mount Diablo meridian, upon submission of proof of residence upon and improvement and cultivation of the land as required by the homestead laws.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HEIRS OF ANNA M. TORESON.

The bill (H. R. 22437) for the relief of the heirs of Anna M. Toreson, deceased, was considered as in Committee of the Whole. It directs the Secretary of the Interior to restore to public entry a certain parcel of land in Modoc County, Susanville land district, State of California, and to issue therefor to the heirs of Anna M. Toreson, deceased, a patent.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

TOWN SITES ON HARBORS, ETC.

The bill (S. 7294) to amend sections 2380 and 2381, Revised Statutes of the United States, was considered as in Committee of the Whole. It proposes to amend the sections referred to so as to read as follows:

SEC. 2380. The President is authorized to reserve from the public lands, whether surveyed or unsurveyed, town sites on the shores of harbors, at the junction of rivers, important portages, or any natural or prospective centers of population; also lands having a particular value for subdivision into villa sites at places suitable for resort by persons seeking pleasure, recreation, or health.

SEC. 2381. When, in the opinion of the President, the public interests require it, it shall be the duty of the Secretary of the Interior to cause any of such reservations or part thereof to be surveyed into urban, suburban, or villa lots of suitable size, and to fix by appraisement of disinterested persons their cash value, and to offer the same for sale at public outcry to the highest bidder, and thence afterwards the unsold lots to be held subject to sale at private entry according to such regulations as the Secretary of the Interior may prescribe; but no lot shall be disposed of at public sale or private entry for less than the appraised value thereof; and all such sales shall be conducted by the register and receiver of the land office in the district in which the reservations may be situated, in accordance with the instructions of the Commissioner of the General Land Office.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FORT BIDWELL (CAL.) PEOPLE'S CHURCH ASSOCIATION.

The bill (H. R. 25878) granting certain lands for a cemetery to the Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PETACA LAND GRANT, NEW MEXICO.

The bill (S. 7985) to relinquish the claim of the United States against the grantees, their legal representatives, and assigns, for timber cut on Petaca land grant, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL AERODYNAMICAL LABORATORY.

The bill (S. 8053) to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory and prescribing the duties of said commission, and providing for the expenses thereof, was announced as next in order.

Mr. SMOOT. The Senator reporting this bill is not present. No doubt many Senators would like to ask the Senator questions in relation to the policy outlined in the bill. I therefore ask that it may go over.

The PRESIDING OFFICER. The bill goes over.

Mr. GALLINGER subsequently said: I was called from the Chamber when some bills were acted on. I wish to inquire what became of the bill (S. 8053) to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and so forth?

The PRESIDING OFFICER. The bill went over under objection.

Mr. GALLINGER. I trust that the objection will be withdrawn. This is a very simple matter. The President has appointed a commission corresponding to commissions that almost every other country in the world has in existence, and it is only to be continued until the 4th day of March next. It is simply an appropriation of $5,000, and I hope that the objection will be withdrawn.

Mr. SMOOT. I notice that the commission has already been appointed, and I also call to mind that there was an appropriation made in the appropriation act of $5,000 for this particular purpose. I therefore withdraw my objection.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WATER SUPPLY OF COLORADO SPRINGS, ETC.

The bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., was announced as next in order.

Mr. SMOOT. Personally I have no objection to this bill, but I know there are Senators who wish to be present when it is considered, and, as there are very few here now, I ask that it go over.

The PRESIDING OFFICER. The bill goes over.

OIL LANDS IN WYOMING.

The bill (S. 7746) to provide for agricultural entry of oil lands was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with amendments, on page 2, line 14, after the word "made," to insert "but shall receive the limited patent provided for in this act," and, on page 3, after line 2, to strike out: "Sec. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which entry is made and of this act the entryman shall be entitled to a patent to the land entered by him, which patent shall contain a reservation to the United States of all the oil and gas in the lands so patented, together with the right to prospect for, mine, and remove the same upon rendering compensation to the patentee for all damages that may be caused by prospecting for and removing such oil or gas. The reserved oil and gas deposits in such lands shall be disposed of only as shall be hereafter expressly directed by law," and insert: "Sec. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which entry, selection, or location is made, and of this act, the applicant shall be entitled to a patent or certification to the lands entered or selected, with a reservation to the United States of all the oil or gas in the lands so patented or certified, together with the right, in the United States or persons authorized by it, to prospect for, mine, and remove the same; but before any person shall be entitled to enter upon the lands patented or certified for the purpose of prospecting, mining, or removing oil or gas therefrom, he shall furnish, subject to approval by the Secretary of the Interior, a bond or undertaking as security for the payment of all damages to the crops and improvements on said lands by reason of such prospecting for and removal of oil or gas. The reserved oil and gas deposits in lands patented or certified under this act shall not be subject to exploration or entry, other than by the United States, except as hereinafter authorized by Congress," so as to make the bill read:

Be it enacted, etc., That from and after the passage of this act unreserved public lands of the United States in the State of Wyoming, which have been withdrawn or classified as oil lands, or are valuable for oil, shall be subject to appropriate entry under the homestead laws by actual settlers only, the desert-land law, to selection by the State

of Wyoming under grants made by Congress and under section 4 of the act approved August 18, 1894, known as the Carey Act, and to withdrawal under the act approved June 17, 1902, known as the reclamation act, and to disposition in the discretion of the Secretary of the Interior under the law providing for the sale of isolated or disconnected tracts of public lands, whenever such entry, selection, or withdrawal shall be made with a view of obtaining or passing title, with a reservation to the United States of the oil and gas in such lands and of the right to prospect for, mine, and remove the same. But no desert entry made under the provisions of this act shall contain more than 160 acres: *Provided*, That those who have initiated nonmineral entries, selections, or locations in good faith, prior to the passage of this act, on lands withdrawn or classified as oil lands, may perfect the same under the provisions of the laws under which said entries were made, but shall receive the limited patent provided for in this act.

SEC. 2. That any person desiring to make entry under the homestead laws or the desert-land law, and the State of Wyoming desiring to make selection under section 4 of the act of August 18, 1894, known as the Carey Act, or under grants made by Congress, and the Secretary of the Interior in withdrawing under the reclamation act lands classified as oil lands, or valuable for oil, with a view of securing or passing title to the same in accordance with the provisions of said acts, shall state in the application for entry, selection, or notice of withdrawal that the same is made in accordance with and subject to the provisions and reservations of this act.

SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws, etc.

The amendments were agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CERTAIN LANDS IN NEVADA.

The bill (S. 4294) to authorize the inclosure of certain lands in the State of Nevada containing dangerous quagmires was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDING OFFICER. The bill goes over.

IMMIGRANT STATIONS.

The bill (H. R. 21220) to extend the power of the Commissioner of Immigration, subject to the approval of the Secretary of Commerce and Labor, was considered as in Committee of the Whole.

The bill was reported from the Committee on Immigration with amendments, on page 1, line 3, after the word "That," to insert "for the purpose of making effective"; on page 2, line 1, after the word "seven," to strike out "shall be, and the same is hereby, extended to the supervision of the transportation of aliens to their respective places of destination in the interior of the United States, and of their safe conduct upon arrival at such places, and the Secretary of Commerce and Labor may establish stations for the purpose of such supervision within the limits of the amount that may be appropriated for that purpose and subject to the terms and conditions of the act making such appropriations" and insert "the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors"; in line 20, after the words "nineteen hundred and," to strike out "thirteen" and insert "fourteen"; and at the top of page 3, to strike out "Sec. 3. That for succeeding years estimates of the appropriations necessary for the service hereby established shall be included in the estimates for the Immigration Service annually submitted to Congress," so as to make the bill read:

Be it enacted, etc., That for the purpose of making effective the power of establishing rules and regulations for protecting the United States and aliens migrating thereto from fraud and loss, conferred upon the Commissioner General of Immigration, subject to the direction and with the approval of the Secretary of Commerce and Labor, by section 22 of an act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907, the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors: *Provided*, That nothing in this act shall be construed as authorizing the Commissioner General of Immigration to pay the cost of transportation of any arriving alien.

SEC. 2. That for the establishment and maintenance of such a station in the city of Chicago for the fiscal year ending June 30, 1914, there is hereby authorized, from moneys in the Treasury not otherwise appropriated, the sum of $75,000, which shall be expended in such manner consistent with the purpose hereof as the Secretary of Commerce and Labor may direct.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

NEW JERSEY AND NEW YORK HARBOR LINE COMMISSION.

The joint resolution (H. J. Res. 210) authorizing the President to appoint a member of the New Jersey and New York Joint Harbor Line Commission, was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. LODGE. I move to strike out the preamble.

Mr. SMOOT. Let it be stricken out.

The PRESIDING OFFICER. Without objection, the preamble will be stricken out.

THEODORE N. GATES.

The bill (H. R. 3769) for the relief of Theodore N. Gates was considered as in Committee of the Whole. It provides that in the administration of the pension laws Theodore N. Gates, late of Company K, Twenty-fifth Regiment Massachusetts Volunteer Infantry, shall be held and considered to have been honorably discharged from the military service of the United States as a member of said company and regiment on the 29th day of September, 1863, but no pension shall accrue prior to the passage of this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COOPER RIVER (S. C.) BRIDGE, ETC.

The bill (S. 7792) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C., was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RESTORATION OF LANDS TO PUBLIC DOMAIN.

The bill (S. 5859) to amend section 3 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1902, and for other purposes," approved March 3, 1901 (31 Stat. L., 1133), was considered as in Committee of the Whole. It proposes to amend section 3 of the act of Congress approved March 3, 1901 (31 Stat. L., 1133), so as to read:

That section 4 of the act of August 18, 1894, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes, be, and the same is hereby, amended so that the 10-year period within which any State shall cause the lands applied for under said act to be irrigated and reclaimed, as provided in said section, as amended by the act of June 11, 1896, shall begin to run from the date of approval by the Secretary of the Interior of the State's application for the segregation of such lands; and if actual construction of reclamation works is not begun within three years after the segregation of the lands or within such further period not exceeding two additional years as shall be allowed by the Secretary of the Interior in his discretion, the said Secretary of the Interior may restore such lands to the public domain; and if the whole or any portion of the lands so segregated shall not be so irrigated and reclaimed within 10 years after the date of such segregation or within such further period as the Secretary of the Interior may, in his discretion, upon good cause shown, allow, not exceeding five additional years, the Secretary of the Interior may restore such lands or such part thereof to the public domain.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LANDS IN IMPERIAL COUNTY, CAL.

The bill (S. 6506) authorizing the State of California to select public lands in lieu of certain lands granted to it in Imperial County, Cal., was considered as in Committee of the Whole. It provides that the State of California, or its grantees, may, with the approval of the Secretary of the Interior, reconvey to the United States any of the lands heretofore granted to that State in the townships authorized to be resurveyed by the act of July 1, 1902 (32 Stat. L., p. 728), and select in lieu thereof an equal amount of vacant, unappropriated, surveyed, unreserved, nonmineral public lands within the State. But any application to select land under this act must be presented within three years from the date of its passage.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SIMON NAGER.

The bill (H. R. 18425) to remove the charge of desertion from the military record of Simon Nager was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and to insert:

That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Simon Nager, who was a member of Company A, First Regiment United States Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as of said organization on the 1st day of May, 1864: *Provided*, That no pension or other emolument shall accrue or become payable prior to the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act for the relief of Simon Nager."

GASOLINE MOTORS FOR LIFEBOATS.

The bill (H. R. 22001) to amend section 4472 of the Revised Statutes of the United States, relating to the carrying of dangerous articles on passenger steamers, was considered as in Committee of the Whole. It proposes to further amend section 4472 of the Revised Statutes of the United States, as amended by the act of March 3, 1905, and by the act of May 28, 1906, by substituting a colon for the period at the end of said section as amended and adding thereto the following proviso: "*Provided further*, That nothing in the foregoing or following sections of this act shall prohibit the use, by steam vessels carrying passengers for hire, of lifeboats equipped with gasoline motors, and tanks containing gasoline for the operation of said motor-driven lifeboats: *Provided, however*, That no gasoline shall be carried other than that in the tanks of the lifeboats: *Provided further*, That the use of such lifeboats equipped with gasoline motors shall be under such regulations as shall be prescribed by the board of supervising inspectors with the approval of the Secretary of Commerce and Labor."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CONDEMNED CANNON FOR ARMY AND NAVY UNION.

The joint resolution (H. J. Res. 239) authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America, was considered as in Committee of the Whole. It authorizes the Secretary of War to deliver to the order of Charles H. Baxter, first vice president of the Army and Navy Union, United States of America, one dismounted bronze cannon used in the Civil War, to be used by the Army and Navy Union for the purpose of furnishing official badges of the order; but no expense shall be caused to the United States through the delivery of the condemned cannon.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CONTRACTORS FOR BUILDING OF BATTLESHIP INDIANA.

Mr. CRAWFORD. Having closed the calendar under Rule VIII, I move that the Senate now take up the bill (S. 4840) to carry into effect the judgment of the Court of Claims in favor of the contractors for building the U. S. battleship *Indiana*, that the report made by the Committee on Claims adversely be adopted, and the bill be indefinitely postponed.

Mr. SMOOT. Evidently there is not a quorum here.

Mr. CRAWFORD. We will have one, then. I suggest the absence of a quorum. I am not going to be played with on this bill. I will say to the Senator from Utah.

Mr. SMOOT. If the Senator will just wait a minute——

Mr. CRAWFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from South Dakota suggests the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	du Pont	Myers	Root
Bourne	Gallinger	Nelson	Sanders
Brandegee	Gardner	Oliver	Shively
Bristow	Lodge	Page	Simmons
Catron	McCumber	Perkins	Smoot
Chilton	Martin, Va.	Perky	
Clapp	Martine, N. J	Pomerene	

The PRESIDING OFFICER. Twenty-six Senators have answered to their names. There is not a quorum present.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to; and (at 3 o'clock and 58 minutes p. m.) the Senate adjourned until Monday, January 20, 1913, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January 18, 1913.*

The House met at 12 o'clock noon.

Rev. Earle Wilfley, pastor of the Vermont Avenue Christian Church, Washington, D. C., offered the following prayer:

Almighty and most merciful God, in whose hands are all things, we bow in Thy presence this morning, weak and needy, and ask Thee to supply all our needs. We pray Thee that Thou wilt direct us in thought and deed and help us to do this day some worthy thing. And to Thee shall be all the praise. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 8092. An act granting to the Emigration Canon Railroad Co., a corporation of the State of Utah, permission, in so far as the United States is concerned, to occupy for a right of way for its railroad track a certain piece of land now included in the Mount Olivet Cemetery, Salt Lake County, Utah;

S. 7639. An act to provide for the erection of a public building in the city of Bay City, in the State of Texas;

S. 3859. An act for the relief of Jacob M. Cooper;

S. 5861. An act to enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof;

S. 5378. An act releasing the claim of the United States Government to that portion of land, being a fractional block, bounded on the north and east by Bayou Cadet, on the west by Cevallos Street, and on the south by Intendencia Street, in the old city of Pensacola;

S. 5379. An act granting certain lands of the diminished Colville Indian Reservation in the State of Washington to the Washington Historical Society;

S. 7785. An act confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes; and

S. 5377. An act releasing the claim of the United States Government to lot No. 306, in the old city of Pensacola.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 22010. An act to amend the license law approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire.

The message also announced that the Senate had passed with amendment bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 8619. An act to amend an act entitled "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," approved May 7, 1906.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 8092. An act granting to the Emigration Canon Railroad Co., a corporation of the State of Utah, permission, in so far as the United States is concerned, to occupy for a right of way for its railroad track a certain piece of land now included in the Mount Olivet Cemetery, Salt Lake County, Utah; to the Committee on the Public Lands.

S. 7639. An act to provide for the erection of a public building in the city of Bay City, in the State of Texas; to the Committee on Public Buildings and Grounds.

S. 3859. An act for the relief of Jacob M. Cooper; to the Committee on Military Affairs.

S. 5861. An act to enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof; to the Committee on the District of Columbia.

S. 5378. An act releasing the claim of the United States Government to that portion of land, being a fractional block, bounded on the north and east by Bayou Cadet, on the west by

Cevallos Street, and on the south by Intendencia Street, in the old city of Pensacola; to the Committee on the Public Lands.

S. 5379. An act granting certain lands of the diminished Colville Indian Reservation, in the State of Washington, to the Washington Historical Society; to the Committee on Indian Affairs.

S. 7785. An act confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes; to the Committee on the Public Lands.

S. 5377. An act releasing the claim of the United States Government to lot No. 306 in the old city of Pensacola; to the Committee on the Public Lands.

THE LATE GEORGE H. UTTER, REPRESENTATIVE FROM RHODE ISLAND.

Mr. O'SHAUNESSY. Mr. Speaker, I ask unanimous consent for the consideration of the order which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the order.

The Clerk read as follows:

Mr. O'SHAUNESSY introduced the following order:

"*Ordered*, That Sunday, the 9th day of February, 1913, be set apart for addresses on the life, character, and public services of Hon. GEORGE H. UTTER, late a Representative from the State of Rhode Island."

The SPEAKER. Is there objection to the present consideration of this order? [After a pause.] The Chair hears none. The question is on agreeing to the order.

The order was agreed to.

ARMY APPROPRIATION BILL.

Mr. HAY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 27941, the Army appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 27941, the Army appropriation bill, with Mr. SAUNDERS in the chair.

The CHAIRMAN. The Committee of the Whole House on the state of the Union is in session for the further consideration of the bill H. R. 27941. The Clerk will read.

The Clerk read as follows:

For three months' additional pay to enlisted men reenlisting within the period of three months from date of discharge from first enlistment, $200,000.

Mr. ESCH. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin [Mr. ESCH] moves to strike out the last word.

Mr. ESCH. I notice that about this same sum was carried in the last appropriation bill. In the appropriation bill for 1911 the amount was $247,000. I wish to inquire whether that indicates a less number of reenlistments, notwithstanding this inducement of three months' extra pay.

Mr. HAY. I suppose it does. This is the sum asked for by the War Department.

Mr. ESCH. The hearings give no explanation of the item?

Mr. HAY. No. We did not inquire whether more men were reenlisting than had been doing so before.

Mr. ESCH. The department considers it a wise policy to continue this bonus for reenlistment?

Mr. HAY. I think so. It is part of the law that increased the pay of enlisted men—the act of May, 1908—and it has to be provided for.

Mr. ESCH. I understand the law makes it compulsory?

Mr. HAY. Yes.

Mr. ESCH. I was wondering as to the general effect of the law.

Mr. HAY. I understand from the officers that they regard it as important as serving to induce men to reenlist.

Mr. ESCH. Mr. Chairman, I withdraw the pro forma amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For six months' additional pay to beneficiaries of officers and enlisted men who die while in active service from wounds or disease not the result of their own misconduct, $60,000.

Mr. COX. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the committee in charge of this bill what class of relatives are next of kin; in other words, to whom is this paid—to the wives and mothers and fathers, or does it go down the line to brothers and sisters?

Mr. HAY. I will say to the gentleman that the law provides that the officer or soldier shall designate to whom this shall be paid.

Mr. COX. When he enlists?

Mr. HAY. Yes; when he enlists, and it is paid accordingly. I take it that it is paid either to the wife, mother, father, sister, or brother.

Mr. COX. To no one any further removed than those degrees of kindship?

Mr. HAY. I think not. The soldier is allowed to designate the person.

Mr. COX. What is the law to which the gentleman refers? I had an inquiry from one of my constituents about that recently.

Mr. HAY. It was passed on an appropriation bill several years ago.

Mr. COX. It is permanent law, is it?

Mr. HAY. Yes.

Mr. SLAYDEN. If the gentleman will look in the compilation of military laws, which he can get in three minutes, he can find it by reference to the index.

Mr. COX. I withdraw the pro forma amendment.

The Clerk read as follows:

For Porto Rico Regiment of Infantry, composed of two battalions of four companies each:
Pay of officers, $65,100.
For additional pay for length of service, $9,860.05.
Pay of enlisted men, $134,052.
Additional pay for length of service, $30,220.12.

Mr. ANTHONY. Mr. Chairman, I move to strike out the last word. I want to make a suggestion in regard to this item which covers the appropriation for the Porto Rico Regiment of Infantry, and to mention some legislation which, while it should not be considered at this time, will soon be necessary for this regiment, and something of the kind may soon be recommended to us by the War Department.

I recently had the pleasure of spending two weeks in the island of Porto Rico, and one of the things that struck me most favorably was the fact that we have down there a regiment of native Porto Ricans, organized into the military service of the United States, which is equal in point of appearance and evident soldierly qualities to any Infantry regiment I have ever seen in the United States service.

The work of bringing this regiment to its present state of efficiency has been done by American officers who were sent down there shortly after the Spanish War with the rank of captain. They have done their work faithfully and well, but these officers are unfortunately situated. Under the present law they can never hope to secure further advancement or promotion in the United States Army, although they are doing work similar to that which the other officers of similar rank and of no greater ability in the other regiments of the Army are doing.

The remedy that I propose is that the Porto Rico Regiment of Infantry shall be known as the Thirty-first Regiment of United States Infantry; that its regular complement of officers shall be placed upon the lineal list of the officers of the United States Army, the same as other officers of the Army; and that they shall have the same advantages of promotion and advancement. It would be only the fair and just thing to do, or at least the officers of the Porto Rico Regiment should have the opportunity of promotion to be field officers of their regiment instead of detailing field officers from other regiments, as is now the case.

When this regiment was organized we thought it was to be a temporary affair. We thought we were going to use it for a few years only, but Porto Rico is American territory. It will always be a part of the United States, and therefore the Porto Rico Regiment of Infantry should be known no longer as the Porto Rico Regiment, but as the Thirty-first Regiment of Infantry of the United States Army. The regiment should not be considered as local militia, but should in every respect be incorporated in our regular military establishment.

Mr. MANN. Why is the appropriation for this regiment less than the current law? What is the occasion for reducing it?

Mr. ANTHONY. I did not notice that there was any reduction.

Mr. MANN. There is a slight reduction in the pay of officers and a reduction of nearly $5,000 in the pay of enlisted men.

Mr. HAY. I will state to the gentleman that the reduction in the pay of officers is only $600, and the committee appropriated what was estimated for by the department.

Mr. MANN. I am not criticizing the committee in any way. I am just asking for information.

Mr. HAY. I understand that.

Mr. MANN. The pay of officers is reduced $600, and the appropriation for enlisted men is reduced $4,908.

Mr. HAY. I can only state that it was computed upon the number of officers, with their rank, and the number of enlisted men whom they expect to have during the fiscal year 1914.

Mr. MANN. I apprehended that was true, and I wondered whether there was any reduction in the rank of the officers, or any proposed reduction in the number of men, in view of the statements of the gentleman from Kansas [Mr. ANTHONY].

Mr. HAY. To be frank with the gentleman, I do not know why the department made the estimate.

Mr. MANN. The gentleman's explanation is entirely satisfactory under the circumstances.

Mr. ANTHONY. Mr. Chairman, I want to say one word.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. ANTHONY. I ask for two minutes more.

The CHAIRMAN. The gentleman asks unanimous consent for two minutes more. Is there objection?

There was no objection.

Mr. ANTHONY. I want to say one word more in regard to the native officers of this regiment. They are a particularly fine body of men. There are 16 or 17 of them, I think. Every one of them is a graduate either of a college in the United States or a college in Spain or South America.

They are an unusually well-equipped lot of men, and there is every reason why we should admit them into the United States Army fully and let them take their places in the lineal list of officers. They will rank up fully with American officers of a similar rank in the Army, and I hope at no distant day the legislation I suggest will be adopted.

Mr. MANN. Will the gentleman yield?

Mr. ANTHONY. Certainly.

Mr. MANN. Are these officers now Porto Rico men?

Mr. ANTHONY. The captains of the eight companies are American officers sent there in 1899. The lieutenants are native Porto Ricans. The field officers, lieutenant colonels, and two majors are from our regular service detailed there.

Mr. MANN. Do these lieutenants have any opportunity of promotion?

Mr. ANTHONY. Absolutely none, except to be first lieutenants. They have no chance to become captains even.

Mr. MANN. If they were covered into the regular service they would have no chance of appointment.

Mr. ANTHONY. Yes; then this regiment would become fully a part of the Regular Army.

Mr. SLAYDEN. Mr. Chairman, it happens that within the last two or three days I have received a letter which is now lying on my desk from a former Commissioner of Porto Rico, Tulio Larrinaga, in which he protests against this suggestion of my friend from Kansas, for whose judgment in military matters I have a profound respect. It shows that a different opinion exists in the islands among the Porto Ricans themselves. Since I have been on my feet I learn that the gentleman does not propose to submit an amendment, but I suggest to the gentleman that legislation of this kind should be deferred until the other side of the question can be heard. The Porto Ricans, according to former Commissioner Larrinaga, want to maintain the regiment as it is, preserve its identity as a Porto Rican regiment.

Mr. ANTHONY. To give them the opportunity for promotion is only doing an act of simple justice to these eight captains who went down there 12 years ago and who have been in the same rank ever since.

Mr. SLAYDEN. Are they commissioned officers of the Regular Army?

Mr. ANTHONY. They were mostly appointed from the Volunteer Army during the War with Spain.

Mr. SLAYDEN. It would be increasing the number of officers in the Army?

Mr. ANTHONY. No; the Porto Rican regiment is now really a part of the Army.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

The Clerk read as follows:

PHILIPPINE SCOUTS.

For pay of officers: For 52 captains, $124,800.

Mr. DIES. Mr. Chairman, I move to strike out the last word. I do not want to trespass on the House with an academic discussion even for five minutes, but I just want to make an observation. The standing Army of the United States in 1872, a few years after the close of the Civil War, was about 25,000, including officers and enlisted men. So recently as Cleveland's last administration, in 1894, the standing Army was less than 25,000 men. I believe the chairman of the committee stated a few days ago that the standing Army at the present time is about 90,000. I know, Mr. Chairman, of no reason either in the history of the world or the history of this country that our standing Army should have increased, unless it was the acquisition of the Philippine Islands.

It has been the policy and the genius of this Republic from the age of its foundation to maintain a very small standing Army. The only excuse for a standing Army in the first periods of the Republic was to afford a guard for the frontiers against Indian marauders. But for the ownership of the Philippine Islands there is practically no excuse at this hour why this Government should maintain a large standing Army.

On the north we are bounded by Canada, a peaceful people similar to ours and much weaker in strength than we. On the other side, to the south, we are bounded by Mexico, a helpless Republic, that never could jeopardize the liberty of this country. On the east we are bounded by the Atlantic and on the west by the Pacific.

So that this people, if God ever gave a country to a race of any kind of people to protect their liberty without a standing Army, and without the burden of great taxes to maintain them, this is the spot and these are the people to enjoy that great blessing.

Of course, it is idle to say that we maintain an Army against European invasion. I see, Mr. Chairman, the philosophy of a large standing German army, I see the philosophy of a great standing army in France, where a day's journey can bring them at each other's throats. But in this Republic, separated by high seas, separated by those natural and impassable barriers that make us immune against encroachment of foreign lands, there is absolutely no excuse for 100,000 soldiers in this Republic to be supported by the taxes of the people.

The gentleman from Virginia [Mr. HAY] the other day said he was proud of our Army. So am I. Wherever an American army, whether in foreign war or in civil contest, has been marshaled upon a field of battle it has given a glorious account of American manhood and American valor. But I do not want an army for which we have no use at all. Armies are either for defensive purposes or offensive purposes.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. DIES. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. DIES. Certainly, Mr. Chairman, there can be no excuse for a standing army for defensive purposes. Surely this magnificent Republic, with all its wealth, with all of its patriotic millions of people, is safe against encroachment from foreign lands where armies must be assembled by passage over the seas. Then, unless it is sought to build up a standing army for offensive purposes, these hundreds of millions of the people's money might as well be left in the people's pockets. Every great writer who has discussed the probability of the success of this Republic, whether it has been the first writers along that line or more recent ones, has based a prophecy that this Republic, based upon the theory of the consent of the governed, should exist and succeed because of its isolated location. The fall of the republics of ancient times is traceable to the fact that their situation required great armies and armaments, and that the Man on Horseback came, as a result, to destroy the liberties of the people.

God has placed us upon this great, rich continent, separate and secure from the broils and wars of Europe. Mr. Chairman, with all due respect and reverence to and for that great Admiral who secured the victory of Manila Bay, I think he did the saddest day's work ever done for this Republic when he gave us possession of a territory which our public men say we can not turn loose. [Applause.] We have all the land that we need. We have this beautiful spot segregated from the world, and under the providence of God and the Constitution of this Republic we might work out our destiny, based upon the theory of the consent of the governed; but instead of that, short-sighted politics, short-sighted statesmen, men who either do not know or do not care about the lessons of history, are constantly embroiling this Nation in an attempted acquisition and acquisition of territory that is not contiguous to this Republic. It means a standing Army. The Army of practically 100,000 to-day will grow. In a few years it has grown from 25,000 to 90,000. In a few years more it will be 125,000 or 150,000, to be supported by the people who need no offensive operations and whose geographical situation makes them secure and makes it unnecessary for defensive operations.

Mr. Chairman, I wish that the old genius of this Republic would return. I wish that its spirit would hover over the destiny of this Nation, that we might return to the old simple days of a Republic for the people and that we might get rid of this modern appendage of democracy, namely, colonial possessions. [Applause.]

Mr. CANNON. Mr. Speaker, I move the pro forma amendment. Under present conditions I apprehend the pending Army appropriation bill has been well made, and I do not rise for the purpose of criticizing it. I am not in harmony with the re-

marks of the gentleman from Texas [Mr. DIES], who has just taken his seat, although I have a very sincere respect for him personally. I am not in harmony with the position taken by the Democratic Party in its platform and in speeches made in the House touching a proper policy for the great Republic. I am not in harmony with the outgivings of the President elect touching the Philippine Islands. I am not in harmony with the outgivings of your great leader, William Jennings Bryan, who is more responsible for the Philippines and our ownership of them than any man, living or dead, because it was the "peerless leader" who came to Washington and by his influence furnished the Democratic votes in the Senate that ratified the treaty of Paris by which we obtained the Philippines.

Mr. GARRETT. Mr. Chairman, will the gentleman yield?

Mr. CANNON. One moment. I can not yield during a five-minute speech. If I had a little more time, if desired, I would very cheerfully yield to a question.

Then we had the issue of imperialism when Mr. Bryan was a candidate in 1900. Mr. Chairman, we have the Philippines, and the position of the Democratic Party, including Mr. Bryan, and of the President elect, in my judgment will lead to the loss of tens of thousands of men belonging to the Army and Navy, and to hundreds of millions of treasure.

Oh, gentlemen, we have got the Philippines, and the American people, when they come to consider the question, are not going to forsake their duty to the Philippines. As I said once before, you can no more get rid of them, in my opinion, than Hercules could get rid of the shirt of Nessus, and you will find that public sentiment will not let you forsake them. However much in the future it will cost the country in treasure and blood to perform our duty toward those islands, in the fullness of time I think our possession of the Philippines will be worth all they may cost, although we may all be dead before the problem is solved. You may ask, Are we going to keep the Philippines and oppress them? No; but whenever the people of that great archipelago, with different languages and different religions and no religion, become competent for self-government, by that time they will not want to sever their relations with this great Republic. We have now a Regular Army of 80,000, or possibly a little more, and, with the great expenditure for fortifications, with the Monroe doctrine to maintain, with the Panama Canal to protect and defend, with almost 100,000,000 people, I would not have an Army less in number than it is now, and I would increase the Army from time to time as necessity and prudence may require.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GARRETT. Mr. Chairman, I ask unanimous consent that the gentleman's time may be extended for five minutes.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the time of the gentleman may be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. CANNON. I am quite in harmony with those who advocate a liberal policy touching the expenditures in connection with the militia, and I stand ready to vote, when given an opportunity, for larger appropriations that we may have young men of this and the oncoming generations enlisted in the service of the United States—in the meantime remaining in civil life—ready as trained soldiers to enter the active service when the national defense might require.

Mr. Chairman, if we had had at the time of the War with Spain 100,000 well-trained men in the Regular Army, it would not have been necessary for us to have called upon the citizen soldiery, which volunteered in great numbers, for that contest. It takes a volunteer citizen soldier on the average at least six months to become well trained for efficient service. In the meantime disease and death incapacitate and destroy greater numbers than six months of active service in actual warfare after they are trained. If there had been 100,000 young men in the United States ready for active service, already organized, subject to call, the loss of life and expense would have been very small in comparison with the actual expense and loss, saying nothing of the expense to result in the coming 50 years.

Mr. Chairman, we have our responsibility down on the borderland on the south, with Mexico and the South American Republics. God knows we do not want them to enlarge our boundary in that direction. My friend from Texas [Mr. DIES] does not want Mexico. Nay, nay, but, gentleman, we have got to abandon the Monroe doctrine; we have got to play a happy-go-lucky game and take all things for granted or we have got to realize the obligation that the present and future brings to us. Therefore I am entirely in sympathy with the effort to provide an adequate Navy. I have voted for battleships, and I stand ready to vote for the men and munitions to supply the Navy, and I stand ready——

Mr. GARNER. Will the gentleman yield?

Mr. CANNON. In a moment. I stand ready to vote for more supplies, powder, and mobile artillery, because we may have ever so many men ready and willing to serve the Republic, but unless we are prepared with material as well as men we are powerless and liable to be knocked out before we can get a good start. Now I will yield to the gentleman from Texas.

Mr. GARNER. The gentleman is soon to leave this Chamber, and I believe it is well known that a certain element of the people of this country have great respect for his views, and I would like for him to take the time to define his version of the Monroe doctrine at this time that it may go into the RECORD. There are various opinions as to what the Monroe doctrine means, and I would like to know what the gentleman's version is.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BUCHANAN. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CANNON. The Monroe doctrine is pretty well defined. Under that doctrine it is our duty to see that no Old World nations shall establish governments, as I understand, upon this continent. We had a fair illustration of it when in the great stress of the Civil War a combination was made in Europe to place Maximilian upon the throne of Mexico. A protest was made against that action, but our hands were full with that great internecine contest. When it ceased, however, the Confederate soldier and Union soldier stood ready, backed by the sentiment of all parts of this country, to throw Maximilian into the sea. [Applause.] A portion of our troops went down toward the border; but the old leader, Juarez, was able to do that job himself without any soldier of the United States placing foot upon the soil of Mexico.

Our domestic relations have kept me so busy in my almost 40 years of service in this House that it is difficult for me to be accurate in an offhand talk of five minutes in matters affecting our foreign relations. Questions affecting the Monroe doctrine will be worked out from the standpoint of self-protection in the performance of our duty upon this continent, in South America and North America, and in the islands of the Caribbean, but not for conquest or the acquirement of territory.

Now, the gentleman has said that I am soon to retire from this House. That is true, and there is no personal regret in my heart at going. True, I did not ask for the leave of absence [laughter], but I feel a little different about it now than I did 22 years ago, when I was granted a leave of absence for two years for which I did not ask. I have gotten to be a pretty old man, but I feel as well as I ever did in my life. [Loud applause.] I am going home to Danville and remain with the people who have honored me with 19 indorsements, covering a period of almost 40 years, and if perchance I should never appear in public life again during the remainder of my life, I am going to perform as one man, as one voter, my duties as one of the sovereigns of the United States [applause] in advocating those policies that I believe will tend to secure the well-being of our country. The great citizenship of the Republic, both Democrats and Republicans, at heart believe in a representative democracy under the Constitution of the United States, and will maintain the same, and these are the only reliable party organizations in the country. [Applause.]

I do not fear for the perpetuity of the Republic. In the past we have made mistakes that involved great penalties, but we have paid the penalty; and in the future we will make mistakes and will pay the penalty.

I am a partisan Republican because I believe in the economic policies of that party; but I trust I am also a patriotic American citizen, as I grant that you all are.

By a constitutional majority you have been clothed with and will soon assume complete power, and that involves full responsibility. You have been successful as critics, but you must now take up the burden of construction and maintenance. If under your policies and administration the country prospers, then you will deserve to continue in power. I desire that you shall succeed, but I can not hope that you will, for hope consists of a combination of desire and expectation. If your policies fail to enable the people to maintain their present condition, then at the next opportunity they will repudiate you. The proof of the pudding is the eating of it, and I, in common with all the people, await results.

The CHAIRMAN. The Clerk will read:

The Clerk read as follows:

All the money hereinbefore appropriated for pay of the Army and miscellaneous, except the appropriation for mileage of officers, dental surgeons, contract surgeons, veterinarians, pay clerks, and expert accountant Inspector General's Department, when authorized by law,

shall be disbursed and accounted for by officers of the Quartermaster Corps as pay of the Army, and for that purpose shall constitute one fund: *Provided*, That hereafter section 3620, Revised Statutes, as amended by the act of Congress approved February 27, 1877, shall not be construed as precluding Army paymasters from drawing checks in favor of the person or institution designated by indorsement made on his monthly pay account by any officer of the Army if the pay account has been deposited for payment on maturity in conformity with such regulations as the Secretary of War may prescribe: *Provided further*, That payment by the United States of a check on the indorsement of the indorsee specified on the pay account shall be a full acquittance for the amount due on the pay account.

Mr. COX. Mr. Chairman, I reserve a point of order on that paragraph.

The CHAIRMAN. The gentleman from Indiana [Mr. COX] reserves a point of order.

Mr. HAY. The paragraph is subject to a point of order if the gentleman desires to make it.

Mr. COX. I want to reserve the point of order only on a portion of the paragraph, Mr. Chairman, and if I can get some information, possibly not on that. That part of the paragraph beginning on line 2, "except the appropriation for mileage of officers, dental surgeons, contract surgeons, veterinarians, pay clerks, and expert accountant Inspector General's Department, when authorized by law." That is the proposition that I reserve a point of order on.

Mr. HAY. I do not think that part of it is subject to a point of order. What is the information that the gentleman desires?

Mr. COX. Why is that language put in this bill?

Mr. HAY. It is put in the bill because they do not want the appropriation for mileage to be included as one fund together with the other funds appropriated for the payment of the Army.

Mr. COX. How has that been disbursed heretofore?

Mr. HAY. As one fund.

Mr. COX. Has it not been disbursed on vouchers heretofore?

Mr. HAY. Oh, yes.

Mr. COX. Does this language prevent the disbursement of this fund by vouchers?

Mr. HAY. No, sir. I will say to the gentleman that this language has been in the bill for a long time.

Mr. COX. I beg the gentleman's pardon. It was not in the bill last year.

Mr. MANN. Oh, yes; it was in the last bill. The words used were Pay Department, and that is now consolidated with the Quartermaster's Corps.

Mr. HAY. The gentleman will find, on reference to that paragraph, that the provision reads:

All the money hereinbefore appropriated for pay of the Army and miscellaneous, except the appropriation for mileage of officers, dental surgeons, contract surgeons, veterinarians, pay clerks, and expert accountant Inspector General's Department, when authorized by law, shall be disbursed and accounted for by officers of the Quartermaster Corps as pay of the Army, and for that purpose shall constitute one fund.

Mr. COX. I find, Mr. Chairman, that the language was in the preceding bill. I did not read page 10. I am not versed as to whether that changes existing legislation or not. Does it?

Mr. HAY. No; it does not.

Mr. COX. It changes no existing legislation?

Mr. HAY. No; it does not change any law whatever.

Mr. COX. None whatever?

Mr. HAY. None whatever.

Mr. COX. How long has that been carried in the appropriation?

Mr. HAY. To my certain knowledge it has been carried for 16 years. I do not know whether it was carried before I became a Member of this House, but since I have been a Member that has been carried in the law.

Mr. MANN. I will ask the gentleman from Virginia, Is not this really a matter of bookkeeping?

Mr. HAY. Certainly.

Mr. MANN. Without this a separate account would have to be kept of all these different items in the bill?

Mr. HAY. Undoubtedly.

Mr. COX. Are they required now to keep the mileage separate?

Mr. MANN. It is kept separate by this provision.

Mr. COX. And without this provision in the bill the mileage would not be kept separate from the other items?

Mr. MANN. Without this provision in the bill all these matters would have to be kept under separate accounts.

Mr. COX. I am not making a point of order against any paragraph except that portion of it.

Mr. MANN. The gentleman will notice that that excepts mileage.

Mr. COX. That attracted my attention to it. Why is that?

Mr. HAY. In order to give Congress the opportunity of knowing how much is disbursed for mileage, and to whom it is disbursed, so that we can keep tab on it and, if possible, reduce it.

Mr. COX. With all due deference to the gentleman's committee, it has not reduced it very much. It was $500,000 last year and it is $550,000 this year. But that is neither here nor there. Without this language in the bill would Congress be in possession of any data showing how that mileage was disbursed?

Mr. HAY. Oh, yes; because they disburse every item that is disbursed upon a voucher; not only the mileage, but every other item.

Mr. COX. But why is this exception made?

Mr. MANN. This particular item does not include mileage.

Mr. HAY. The exception is made so that no more than $550,000 can be disbursed for mileage.

Mr. COX. Then if it were not for this exception here, would it be in the power of the War Department to disburse more than $550,000 for mileage?

Mr. HAY. Yes. That is the reason why it is put in there, so that they shall not exceed that amount for mileage.

Mr. COX. In other words, the language to which I have called attention amounts to a limitation upon the appropriation. No more than $550,000 can be allowed for mileage.

Mr. HAY. That is true.

Mr. COX. I withdraw my point of order on that particular part of the paragraph.

Mr. MANN. Reserving the point of order, may I ask the chairman, as long as he desires to make permanent law of the provision about the payment of checks, where I suppose the officers direct payment to be made to their beneficiaries, just what is that practice?

Mr. HAY. The practice has been for these officers to designate their wives, or people dependent upon them, as the beneficiaries of their checks, and to allow them to deposit those checks in the bank.

Mr. MANN. Without this provision in the law would the check have to be made payable to the officer?

Mr. HAY. Yes; the comptroller has so ruled, and has put a stop to the practice which has been in vogue, and it works a very great hardship, especially on officers in the Philippines.

Mr. MANN. I withdraw the point of order.

Mr. HAY. Now, Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 17, line 3, after the word "surgeons," insert the words "acting dental surgeons."

Mr. MANN. Why not insert "acting" before the words "dental surgeons"?

Mr. HAY. That will do. I ask that the amendment be so changed as to insert the word "acting," in line 3, before the word "dental."

The CHAIRMAN. The Clerk will report the amendment as now proposed by the gentleman from Virginia.

The Clerk read as follows:

Page 17, line 3, before the word "dental," insert the word "acting."

So that it will read:

Acting dental surgeons.

Mr. HELM. Mr. Chairman, I move to strike out the last word. I notice in this paragraph of the bill that dental surgeons, contract surgeons, and veterinarians are excepted.

Mr. HAY. May I ask what the gentleman means by their being excepted?

Mr. HELM. The language in the bill is:

That all money heretofore appropriated for pay of the Army and miscellaneous, except appropriations for mileage, dental surgeons, contract surgeons, and veterinarians.

Mr. HAY. It does not except those particular people. It excepts the appropriation for mileage.

Mr. HELM. Mileage for them, or pay of officers.

Mr. HAY. It excepts the appropriation for mileage for the officers, and all people in the Army who get mileage.

Mr. HELM. Let us see if I understand the gentleman. Does this exception apply to the compensation of these dental surgeons and contract surgeons and veterinarians, or to the mileage?

Mr. HAY. Not at all. They get their mileage, but the exception is that the fund which is appropriated for mileage must be disbursed as one fund, and not included with the other funds which are provided for the pay of the Army.

Mr. HELM. The mileage of these contract surgeons and veterinarians.

Mr. HAY. It is paid to them just as it is paid to officers.

Mr. HELM. The exception applies to the mileage of these men, and not to their compensation.

Mr. HAY. That is correct. Now, the gentleman from Kentucky [Mr. HELM] seemed to be under the impression the other day that the pay of the officers of the Army is larger than the pay of the enlisted men. I have had the items computed, and I find that the pay of the officers is $17,569,345 and the pay of the enlisted men is $28,148,466. Then there are other items in the bill, such as pay clerks, superintendent of the Nurse Corps, nurses, and so forth, which amount to $1,185,910, making the pay of the Army in all $46,903,721.

Mr. HELM. If I understand the gentleman, he now states that the compensation is something over $17,000,000?

Mr. HAY. Yes.

Mr. HELM. That includes what class of officers?

Mr. HAY. That includes commissioned officers.

Mr. HELM. What is the compensation of the commissioned and noncommissioned officers, of all ranks, grades, and classes?

Mr. HAY. The noncommissioned officer is an enlisted man, and it would be impossible for me to get the information which the gentleman wants without having the War Department file a statement showing how much each noncommissioned officer receives. The noncommissioned officers are first sergeants, quartermaster sergeants, sergeants, and corporals. There are so many to each company and so many to each regiment.

Mr. HELM. The gentleman understands the statement I have made in response to him was that the compensation of all the officers, including both commissioned and noncommissioned, in the last year's bill, which it is stated this bill follows, was substantially about $40,000,000. Is the gentleman in a position to say that the compensation of the commissioned and noncommissioned officers as carried in this bill does not amount to approximately $40,000,000?

Mr. HAY. I am.

Mr. HELM. What is the approximate amount?

Mr. HAY. I am prepared to say, from what I know of the number of enlisted men other than noncommissioned officers, that their pay would be in the neighborhood of $10,000,000. I mean the privates.

Mr. HELM. And you have a total of $46,000,000?

Mr. HAY. Yes.

Mr. HELM. If the privates get $10,000,000 of the $46,000,000, then $36,000,000 goes to the class of men I have referred to.

Mr. HAY. You take off $1,185,000 for the pay clerks, and so forth.

Mr. HELM. Is the gentleman including in his estimate the length of service?

Mr. HAY. Every item in these pay items of the bill.

Mr. HELM. The gentleman's statement is that about $35,000,000 of this appropriation carried in this bill goes to the commissioned and noncommissioned officers?

Mr. HAY. I think it might be approximately that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, I think it is not possible from the bill to tell what the pay of the noncommissioned officers is, because the noncommissioned officers and privates are all carried in the same item, which is only two lines of the bill, outside of the longevity pay in the Regular Army.

Mr. HAY. The Engineer Corps, Signal Corps, and the Ordnance Corps are separate.

Mr. MANN. Those are carried separately. The total pay carried is a little less than $17,000,000 for regular pay and a little over $2,000,000 for longevity pay.

Mr. HELM. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. HELM. Do I understand the gentleman to state that that $17,000,000 includes compensation for the privates and noncommissioned officers?

Mr. MANN. That is what I understand; there is no other place in the bill for them.

Mr. HELM. I think the gentleman is mistaken.

Mr. HAY. No; the gentleman from Illinois is correct, but there are a good many enlisted men in the Signal Corps and in——

Mr. MANN. There are special departments of the Army where you make provision for enlisted men separate from the noncommissioned officers.

Mr. HELM. The point I am trying to get at is the $17,000,000 does not include the entire compensation of the enlisted men, the privates and noncommissioned officers?

Mr. MANN. It includes the pay of the men in the regiments, including the noncommissioned officers, in the Infantry, Cavalry, and Artillery. That is the Army as I call it. It does not include the Engineer Corps, the Signal Corps, the Quartermaster Corps, or the subsidiary branches.

Mr. HELM. That does not conflict with my statement at all.

Mr. MANN. I am not seeking to make conflicting statements. I say there is no way of telling from the appropriation bill or the law the amount of the noncommissioned officers' pay.

Mr. KENDALL. Does not the $17,000,000 include much more than the pay of enlisted men and the noncommissioned officers?

Mr. MANN. I do not know of anything else it could include.

Mr. HAY. That is the flat pay; it does not include clothing or subsistence.

Mr. MANN. Mr. Chairman, in that connection it is interesting, possibly, to state the amount that is paid by the foreign governments on account of officers and men, which I do not intend to do very completely. Great Britain has commissioned officers in the regular army to the number of nearly 10,000; in the territorial army something over 9,000; in the Indian army something over 3,000; to which are paid a little over $25,000,000, including all allowances, commutations, and so forth, and to the retired officers something over $9,000,000. I do not understand whether the gentleman from Virginia, in stating the amount of the pay of commissioned officers, included in that the allowances for commutation.

Mr. HAY. I did not include anything but commutation of quarters.

Mr. MANN. The German Army has over 25,000 commissioned officers, to whom are paid a little over $18,000,000. The Austrian Army has nearly 23,000 commissioned officers, to whom are paid $18,000,000. The French has twenty-eight thousand and some odd commissioned officers. The infantry officers receive $9,300,000, the cavalry officers $2,600,000, and the artillery officers $3,000,000. I do not think it is necessary or instructive, possibly, to detain the committee with a lot of other information which I have been endeavoring to secure upon this subject.

Mr. COX. I would suggest that the gentleman put it in the RECORD.

Mr. MANN. No. I may have other uses for it, where it will be more convenient to get at than if it were in the RECORD.

Mr. HELM. The English Army has a total of how many officers all told?

Mr. MANN. A little over 22,000.

Mr. HELM. Commissioned officers?

Mr. MANN. Yes.

Mr. HELM. What compensation do they receive?

Mr. MANN. The regular pay, including allowances, is $25,000,000.

Mr. HELM. How many officers are there in the United States Army?

Mr. MANN. I could not answer.

Mr. HELM. Are there not about 5,000?

Mr. MANN. I think in that neighborhood.

Mr. HELM. They receive about 75 per cent as much as the entire British officers receive. Is not that true?

Mr. MANN. I am not under cross-examination. The gentleman can give figures as well as I.

Mr. HELM. I was trying to let the gentleman do the figuring. He has the figures in his hand.

Mr. MANN. Oh, I beg the gentleman's pardon. I have not.

Mr. HELM. The gentleman has a statement from which he was reading.

Mr. MANN. I beg the gentleman's pardon. I have some information about other matters, but not about the matter to which the gentleman just alluded. The gentleman extracted that information or received it from the gentleman from Virginia, and not from me.

Mr. HELM. I do not think the gentleman from Virginia had anything to say about the British Army.

Mr. MANN. No; but I have given the gentleman information in reference to the British Army.

Mr. ANTHONY. Mr. Chairman, a second lieutenant in the continental European armies gets about $30 a month. A second lieutenant in the United States Army gets $150 a month. Is it the purpose of the gentleman from Kentucky to intimate that a second lieutenant in the United States Army ought to receive less money than he now gets, or what is the purpose of these comparisons? Does the gentleman feel that the American Army officer is overpaid?

Mr. HELM. Here is the whole purpose of it: It is to let the country understand how much an unorganized, inefficient Army of about 80,000 men is costing the people of the United States. That is my purpose.

Mr. ANTHONY. The gentleman does not propose to reduce the pay of the commissioned officer of the Army to $30 a month, the same rate of pay received by the same grade in the European armies?

Mr. HELM. No. If I did make any such proposition as that of course it would not go through this body or the other body, and if it did go through, it would be vetoed. But I do believe something can be accomplished by calling attention to the fact

that we are paying about $100,000,000 annually for something that is not an army.

Mr. MANN. Mr. Chairman, if the gentleman will pardon me one word more in that connection, I will say that some time ago it occurred to me that it might be instructive and possibly beneficial if we could obtain information showing the cost of the American Army for maintenance, including the cost for officers and men, and the cost of armies in foreign countries. I find it is not a very easy matter to obtain that information, although one would think it might easily be obtained. I have received some data from the Secretary of War in response to a request which I submitted to him, and some data from the Secretary of the Navy in response to a request which I submitted to him. I have also received some information from Mr. Griffin, in the Library, who is supposed to be able to find out anything in the world that is known and published in books. I have not secured all the information yet, and do not know that I ever shall be able to, but I think it would be beneficial to us all to know what the cost of our military operations is and what is the cost of the military operations of foreign countries, so far at least as maintenance is concerned.

Mr. KAHN. Mr. Chairman, if the gentleman from Illinois [Mr. MANN] will permit me for a moment, I will state that the cost for subsistence in this country is probably much larger than it is in any other country in the world. During the Boxer troubles in China, when troops were brought in from all the nations, the officers of the armies of Continental Europe purchased from the commissaries of the American Army supplies that we were giving to our private soldiers.

That is, they purchased for themselves some supplies that we were giving to our private soldiers; so that it would seem to me the officers in the armies of Europe do not receive from their respective Governments the quality of supplies or the quantity of supplies that we issue to our private soldiers in this country.

Mr. MANN. I doubt whether the proof of what was purchased in the Boxer trouble is proof of what might take place under ordinary conditions, and I see no reason why the supplies furnished to our Regular Army should cost a great deal more here than in foreign countries, considering the fact we ship those same supplies from America to the foreign countries to a considerable extent—not quite so much now as we used to do—and we produce them here at home, whereas very few foreign countries do produce them at home.

Mr. KAHN. I spoke of the quality and variety of the ration more than the cost.

Mr. MANN. I apprehend, after all, the American in the Army does not eat any more than the Frenchman or the German or the Englishman; he may possibly get a little better provender, but I doubt that.

Mr. KAHN. He probably gets more meat than in other armies.

Mr. MANN. And, I expect, more meat than is good for him.

Mr. KAHN. And he gets more articles of subsistence than they do.

Mr. MANN. Well, I am not criticizing the maintenance of the American Army—far from it—but I wanted to get the figures.

Mr. KAHN. The figures I had were 23.8 cents per man; I think that is the ration for the private soldier.

Mr. MANN. Which does not seem excessive.

Mr. KAHN. It has been increased from 21 cents to 23 cents by reason of the increased cost of some of the various articles that enter into the ration. That has brought about the deficiency in the item of subsistence for the Army; the cost of the ration has increased.

Mr. HOBSON. In the Navy the ration runs, I think, to 30 cents, or possibly more.

Mr. HAY. Mr. Chairman, I move that all debate on this amendment and paragraph and all amendments thereto be closed in—did the gentleman from Wyoming want to say anything?

Mr. MONDELL. I should like to have five minutes.

Mr. HAY. In five minutes.

Mr. ANTHONY. I should like to say a word.

Mr. HAY. In 10 minutes.

The question was taken, and the motion was agreed to.

Mr. MONDELL. Mr. Chairman, quite recently I read a very interesting article, I regret now I did not read it with more care, on this Army pay and supply question, comparing the American Army pay and supplies with the pay and supplies of foreign armies. In a way it was very startling, and I regret I do not recall the exact figures, but it made clear the fact that the enlisted man—the drafted man, for they are such—of continental armies receives a mere pittance, a very few cents per day, and that the officers, compared with the officers of our Army, are paid a very insignificant sum. I saw a little squib the other day relating to the pay of the men who have been so gallantly carrying the Turkish fortifications in the Balkans recently, giving the very extraordinary titles and the small pay that those men receive. My recollection is that a colonel in the Bulgarian Army receives about what a first lieutenant receives in our Army. Now, in the matter of supplies and rations, the gentleman from Illinois [Mr. MANN] and the gentleman from California [Mr. KAHN] are both to a certain extent correct. Our ration costs more per man, because we do give the men more. We give the men more pounds per day food and we give them a much greater variety and a much better quality of food than the enlisted men of continental armies receive. The amount of meat which the American soldier has allotted to him, as I recollect, is more than twice the amount allotted to any soldier of any European army per day, but we all understand, those who have some knowledge of military affairs, and I do not claim to have much, that our Army ration is such that by carefully husbanding it the men are able to purchase many articles outside of the regular ration, and they do enjoy constantly, at least when not in the field, a very much wider range of ration and a very much greater variety of food than the ration itself produces, and that is secured by a saving on the ration and the commutation of the saving in other articles.

The enlisted man of the United States Army is as well fed as any man in the world need be, and fed on the best of food and furnished entirely sufficient quantities of it. It is true, as the gentleman from Illinois says, that, per pound of the articles furnished, the cost is often actually less in the United States than the same articles cost European armies.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. ANTHONY. Mr. Chairman, I would like to make an observation in reference to the statement made by the gentleman from Kentucky [Mr. HELM], in which he declared there was room for large economy in the maintenance of our Army. Now, I agree with the gentleman from Kentucky [Mr. HELM]. There is room for economy in Army expenditures, but the place for it is not in a reduction of the ration of the soldier or in the pay of the soldier or of the officer, but the place for it is to pursue a policy of stationing our mobile Army in places where the men can be subsisted at the most economical cost to the Government, where the animals of the Cavalry and Artillery can be fed with grain and forage where it can be obtained at the very least cost to the Government. And I make the statement here now, that the way our Army is scattered over this country, that at fully two-thirds of the posts in this country the cost of a ration is substantially higher than in other parts of the country; that we have Cavalry in parts of the country where forage costs twice as much as in other parts of the country. I believe several millions of dollars could be saved in distributing our Army properly over this country.

Mr. HOBSON. If the gentleman will yield, could not the restationing also be arranged so as to increase the efficiency as well as to reduce the cost? That is, let there be more concentration, and therefore efficiency in larger degree.

Mr. ANTHONY. Concentration in larger degree, but where subsistence, grain, and forage can be had at less cost.

Mr. MONDELL. Will that be in Kansas?

Mr. ANTHONY. That will be in the great Middle West, ranging from the Lakes to the Gulf of Mexico and from the valley of the Mississippi west to the Rocky Mountains.

Mr. HELM. I understood you to say that the Army ought to be concentrated where it could be subsisted the cheapest?

Mr. ANTHONY. That is correct.

Mr. HELM. I want to take issue in part with the gentleman and say that the Army ought to be stationed where it can be brought into action in concert with the Navy and with the Coast Artillery.

Mr. ANTHONY. If the gentleman will permit, I will make a statement along those lines.

Mr. HELM. Our Army ought to be located along our ocean coasts and our frontiers of Canada and Mexico.

Mr. ANTHONY. I do not agree with the gentleman at all. Now, Mr. Chairman, I have a high opinion personally of our Secretary of War, but I have a very poor opinion of the ideas he has lately advanced, that our Army ought to be stationed in this country purely along "tactical" and "strategic" lines, as he calls it. I think that is all bosh, if I can use that expression when used in connection with the manner in which the mobile army should be garrisoned in the United States in times of peace.

That idea might have been all right a hundred years ago when there was a necessity, for instance, of maintaining an

army on the Canadian or Atlantic border in order to resist invasion, but I say the policy we should pursue now to secure the best results is to station our Army and subsist it where it can be done the cheapest as well as concentrated for tactical and maneuver purposes. To-day our troops can be taken in 24 to 48 hours from one part of this country to another—from its geographical center to any coast or border in two or three days at most. The Army ought to be permanently stationed where it will cost the taxpayers of the country the least amount of money.

Another proposition that the War Department has advanced, and which I think is going to cost the people of this country an unnecessarily large amount of money, is their evident intention to take 12,000 of our troops and place them in garrison in Hawaii and to send 9,000 troops to Panama. It is going to cost one-third more to take care of those soldiers in those countries than it is in the United States, and as regards the real military necessity of stationing 9,000 troops on the Panama Canal I believe there is none. We could place 9,000 troops there one month ahead of any enemy that could possibly menace the canal, and a permanent police force is all that is really needed. I want to see Congress sit down on these tremendous contemplated expenditures for these unnecessary foreign garrisons.

Mr. HOBSON. Before our Naval Committee, Col. Goethals stated this morning that 25,000 men was the minimum that would be required to hold the Panama Canal and protect the locks of the canal against an enemy that had control of the sea. I wonder if that has military backing in his opinion.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ANTHONY. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. All time has expired on the paragraph.

Mr. ANTHONY. I ask for unanimous consent for sufficient time to answer the gentleman's question.

The CHAIRMAN. Without objection, the gentleman's request will be granted.

There was no objection.

Mr. ANTHONY. I want to say that I agree that Col. Goethals is undoubtedly correct; that 25,000 men would be needed in time of war to protect the canal, but only in time of war. But I insist that we could send 25,000 men to Panama three weeks in advance of the time any public enemy could send a force there. There is no military necessity, in my opinion, of stationing them there now in permanent garrison. In these days of rapid transportation troops can be sent from our southern coast to Panama in less than three days.

Mr. HOBSON. I want the gentleman to understand the colonel's statement. The colonel's statement was that it would require behind the line of our fortifications 25,000 men to protect the locks; and he said, furthermore, that he did not expect and could not expect to receive any reenforcement after a war came.

Mr. ANTHONY. Does the gentleman mean that the American Navy would be of no avail to protect our line of communication with the Canal Zone?

Mr. HOBSON. In order to receive reenforcements you must be in control of the sea, and you can not be in control of it under those circumstances.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Encampment and maneuvers, Organized Militia: For paying the expenses of the Organized Militia of any State, Territory, or of the District of Columbia which may be authorized by the Secretary of War to participate in such encampments as may be established for the field instruction of the troops of the Regular Army, as provided by sections 15 and 21 of the act of January 21, 1903, entitled "An act to promote the efficiency of the militia, and for other purposes," to be immediately available and to remain available until the end of the fiscal year 1915, $350,000.

Mr. MANN. Mr. Chairman, I desire to strike out the last word. I desire to trespass on the patience of the House for a moment, only to continue the discussion of the provision before referred to.

It is very difficult to be sure that you are getting accurate figures about these costs, either at home or abroad, as I have often discovered. I certainly have no desire to express anything but thankfulness to the officials who have furnished me with the information that I have received, and I hope that none of them will consider that I am criticizing them in any way. This may be correct. I find by a statement from the War Department that in France the infantry officers receive $9,300,000, that the men receive $2,800,000; that the officers in the cavalry service of France receive $2,600,000, and the men receive $544,000; that in the artillery service the officers receive $3,000,000, and the men receive $1,000,000.

That may be correct; I do not know. If so, they have a very different system of providing for the men from what we have, and certainly they do not pay the men very much.

From the same statement I find that they compute the German Army at 587,000 men and the French Army at 564,000, which is practically the same. They compute subsistence and clothing for the German Army at $45,000,000, and subsistence and clothing for the French Army at $18,000,000, counting subsistence alone in the French Army at $8,000,000, which of course seems very small for an army of 564,000 men. But I find further, upon comparing the figures furnished to me by the War Department concerning the German Army with the figures furnished by the Library of Congress concerning the same army in the same time, that the subsistence and clothing in the German Army cost approximately $45,000,000, according to the statement of the War Department, and $55,000,000, according to the statement of the librarian.

Now, of course, $10,000,000 is not very much, although it happens to be more than they report the entire cost of the subsistence of the French Army to amount to. I suppose it may be very difficult to obtain these figures, but certainly you need to get them from several different quarters before you are sure you are right.

Mr. HELM. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. HELM. Have you any statement there showing the cost per enlisted man for the German and French Armies?

Mr. MANN. I do not have it figured out that way at all.

Mr. COX. Mr. Chairman, has the gentleman the figures there, showing the total cost of the French Army and the German Army? If he has, I wish he would put them in.

Mr. MANN. The total cost of the German Army here, in the statement—I do not know how much it includes—is about $200,000,000.

Mr. HELM. How many men?

Mr. MANN. Five hundred and eighty-seven thousand, and the total cost of the French Army, numbering 565,000, is given, approximately, at $165,000,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN (Mr. MURRAY). The gentleman from Wyoming moves to strike out the last word.

Mr. MONDELL. Mr. Chairman, I was very much interested in the statement made a moment ago by the gentleman from Alabama [Mr. HOBSON], to the effect that Col. Goethals had stated this morning before the committee of which he is a member that it would require 25,000 men properly to protect the Panama Canal if it is to be fortified. I am glad to have such high military authority for an estimate so far in excess of what was claimed to be the excessive estimate I made in the House last year in a speech opposing the fortification of the Panama Canal. At that time it was stated that approximately 12,000 men would be sufficient to protect the canal against an ordinary expeditionary force, though, of course, neither 12,000 nor 25,000 men could protect the canal against a long-continued movement by a great power having command of the sea.

This is a startling statement. Twenty-five thousand men in the Tropics on the canal will cost at least $25,000,000. So, if we are to fortify the Panama Canal we must look forward to increasing this bill by at least $25,000,000, in addition to increases in other bills. For what? In the attempt to do what in case the matter is ever brought to the touch we can not accomplish.

All of this military expenditure is opposed to what we anticipated when we began the building of the canal. In the first years of its construction we carried on the building of the canal without a thought in the mind of anyone other than that it should be a great highway of commerce devoted to the welfare of mankind, to intercommunication, and forever dedicated to peace. We have a treaty proposing that. All the world stands ready to join with us in dedicating this great waterway to peace. Its fortification can serve no useful purpose. It is not in any sense an outer line of defense. If fortified it is the heel of Achilles, where any foreign foe would first strike and smite us.

Only a policy of nonfortification, of the maintenance of neutrality by international agreement, can make the canal useful to us in time of war as well as in time of peace; for it matters not how many men maintain or how many guns we mount, the moment war is declared with any great power the canal is sealed effectually to our Navy, our commerce, and the commerce of the world.

Gentlemen have been talking about the great cost of the Army and have been suggesting that it is too large and unnecessarily expensive. Such gentlemen, and all who desire that our influence shall be an influence for peace and not for war, for development and not for conquest, will within a short time have a chance to cast their votes on the question whether we are going on with the work just recently started, of building fortifications at Panama which will eventually cost us $50,000,000 to $100,000,000 and $20,000,000 to $35,000,000 annually to maintain, or whether we shall dedicate that great waterway to our continual use without cost for defense and to perpetual peace. [Applause.]

Mr. HELM. Mr. Chairman, I move to strike out the last two words. I think it would be just as wise to leave the Panama Canal unfortified and expect to retain possession and control of it as it would be to put a coop of chickens in a negro settlement over night without lock on the coop and expect to find chickens in that coop the next morning. [Applause.]

My object in rising is to answer a statement of the gentleman from Kansas [Mr. ANTHONY]. He made the statement that the Army should be housed in the places where it could be most cheaply done. I take issue, in part, with the gentleman, and say, as I have said before, that the purpose of an Army is for fighting, and it is to be effective when needed. In my humble opinion the Army should be quartered where it can be the most effectively used if its use becomes necessary.

We have three forces for defense—the Navy, the Coast Artillery, and the mobile Army. In my humble opinion the mobile Army should be quartered along the Atlantic and Pacific coasts and adjacent to the Canadian and Mexican borders, so that, if the occasion ever arises, these three forces can sustain each other in any attack that is made or any effort to land an alien army on our coast. For instance, Atlanta might be selected as a suitable place in which to quarter a large portion of our Army. It is suitable in that it is close to the Atlantic coast and also close to the Gulf of Mexico, and is located in a section of country where supplies of all kinds are to be obtained with reasonable cheapness. It occurs to me that instead of placing the mobile Army in the central portion of the Mississippi Valley it would be better to place it where it can be used effectively in conjunction with the Navy and the Coast Artillery. Further, if the time comes when you want to have maneuvers, when the mobile Army, the Coast Artillery, and the Navy can be maneuvered in concert, the cost of assembling these forces will be minimized. I hope this plan will be adopted. I have tried, to the best of my ability, to show the importance of concentrating the troops in larger numbers in fewer quarters. If it can ever be effected it appears to me that the War Department would do well not to consider altogether the cheapness of the proposition, but the effectiveness of it, and I believe that when this is done those who are familiar with military propositions will take the view I have stated.

The Clerk read as follows:

To meet the expenses incident to holding an International Rifle Shooting Competition at Camp Perry, Ohio, in cooperation with the Perry Victory Centennial Celebration to be held in September, 1913. In connection therewith, the Secretary of War is hereby authorized to loan to the management of the tournament such new United States magazine rifles, caliber .30, model 1903, as may be necessary to carry out the regulations of the International Union, and to detail officers and men to conduct the tournament, such detailed officers not to be affected by the Army appropriation act approved August 24, 1912, $25,000: *Provided*, That the rifles and equipment of the visiting riflemen be admitted under bond and that the ammunition and personal effects of such riflemen be admitted to the United States without the imposition of duty.

Mr. COX. Mr. Chairman, I make a point of order on that paragraph.

Mr. HAY. It is subject to a point of order, of course. Does the gentleman make it?

Mr. COX. I make it.

Mr. HAY. I hope the gentleman will not make the point of order. I will state to the gentleman that we have heretofore ourselves accepted invitations of other countries to these international shooting matches. They have extended to us their courtesy and their entertainment, and I think it would be very poor policy on our part to refuse to do the same thing. It is particularly important to cultivate cordial relations with South American Republics. We went to the Argentine last year; we sent a team there composed partly of the Regular Army and the Marine Corps, and I hope the gentleman, under the circumstances, will not insist on his point of order.

Mr. MANN. Will the gentleman yield for a question?

Mr. COX. Certainly.

Mr. MANN. Of course, this international rifle-shoot competition will not be held unless this appropriation goes in?

Mr. HAY. I do not think it will.

Mr. MANN. There will be no authority for inviting anybody here?

Mr. HAY. I will say that the State Department has already issued invitations.

Mr. MANN. Upon what authority?

Mr. HAY. I do not know; but I understand that the State Department had issued invitations to these countries to come and compete in this match. I do not know that they had any authority to do it.

Mr. MANN. We passed some legislation in reference to a centennial celebration, and it may be included in that; but I do not recollect of any such authority.

Mr. HAY. I do not know upon what authority it was issued, but as a matter of fact we have accepted similar invitations from other countries and have been entertained, our expenses paid while there, and it seems to me that this country is large enough and ought to have enough courtesy to return what we have received from other people.

Mr. MANN. I have no objection as far as I am concerned to holding the international rifle shooting competition. I would like to ask whether they have been held as a side show to the main tent?

Mr. HAY. I do not quite understand what the gentleman means.

Mr. MANN. There is to be celebration of a one hundredth anniversary, and I believe that the United States and Canada and other countries are to fall upon each other's necks and say how pleased they are that we have had 100 years of peace. That is the main tent. Now, this is the side show in connection with it. All I ask is whether we are to have this rifle competition as a side show to some other main celebration.

Mr. WILLIS. Will the gentleman yield to me?

The CHAIRMAN. The gentleman from Indiana has the floor.

Mr. HAY. But, Mr. Chairman, there is no question about the paragraph being subject to a point of order if the gentleman from Indiana insists on his point of order. If he does, there is no use in discussing it further.

Mr. COX. I want to get some information.

Mr. WILLIS. Mr. Chairman, I want to say that I think the characterization that the gentleman from Illinois has placed on this proposition is hardly fair. It is not intended as "a side show to the main tent" or anything of the kind. As a matter of fact, probably the finest target range in the United States is located at Camp Perry, Ohio.

Mr. COX. Is that in the gentleman's district?

Mr. WILLIS. No; it is not; but that does not make any difference; it is in the State of Ohio and is a national affair. The fact is that the target range at Camp Perry has been used for a number of years for these meetings. Riflemen come from all over the country to that range, and the fact that there is an appropriation here does not indicate that it is intended to boost the centennial celebration, about which I know very little. This is carrying out the usual policy that has obtained. Anyone interested in the work of the riflemen knows that.

Mr. COX. Do I understand the gentleman to say that the range has been maintained for a great many years?

Mr. WILLIS. I do not know how many years, but I should say 8 or 10 years.

Mr. COX. Has it been maintained by Federal aid or is it a State range?

Mr. WILLIS. I do not know what part the Federal Government has had in it, but I do know that the State of Ohio has expended a vast sum of money on the range. Gentlemen may be familiar with the geography of that country. It is quite flat and an ideal place for a target range, and without doubt the target range at Camp Perry is one of the finest in the world. It seems to me that the gentleman ought not to insist on his point of order, because it would absolutely break up and interfere with our relations with other countries in this matter of target practice, as the chairman of the committee has stated. We have been entertained by these other nations. I know that personally, and it now is our turn to entertain.

Mr. COX. How many times have we been entertained in the last 10 years?

Mr. WILLIS. I do not know how many times, but a number of times. The chairman of the committee said that last year our team went somewhere in South America.

Mr. COX. Can the gentleman tell us anything about that trip to Buenos Aires in South America last year?

Mr. WILLIS. I know nothing about that, except that we had a team that went there and was entertained and made a good record. That has occurred at least a half dozen times and it is our turn now. It seems to me it will be extremely discourteous and undesirable for this Nation to say, now that we have been entertained, that it is our turn but that we will not appropriate anything for a similar purpose.

Mr. COX. Is this the first time that the United States has ever tendered an invitation of this kind to come here?

Mr. WILLIS. I am not able to answer that. Probably some member of the committee can do so.

Mr. HAY. It is the first time.

Mr. SLAYDEN. Mr. Chairman, I want to say to the gentleman, with his permission, that the statement was made to me by those in authority that our people were very hospitably entertained, and an appropriation of twice as much as we now propose was made by some one of the countries—which one I have forgotten—for the purpose of entertaining foreign visitors at the International rifle contest.

Mr. HAY. In France.

Mr. SLAYDEN. The chairman suggests that it was France. I do not know, but twice as much money was appropriated by that Government which did entertain us as we are asking now. Also, the statement was made to me by one of the officers that in Sweden our people were very hospitably entertained and taken care of. There is no doubt that the item must go out if the gentleman makes the point of order. It is only a question of whether as a matter of policy we ought to reciprocate the courtesy that we have received.

Mr. COX. Can the gentleman point out any benefit at all that this Government would now or in the future receive if this item remains in the bill except the mere matter of courtesy?

Mr. SLAYDEN. Well, from acts of courtesy sometimes flow very practical advantages in the way of administering government and maintaining peaceful relations. Our commerce can only go on with satisfaction during periods of peace, and all of those things contribute to the good of the country in that way. You can not trace the effect of this policy as you can some characters of work in which men engage. If you go out to fell a tree, you can see with each blow of the axe something accomplished. On the other hand, spiritual movements, matters of sentiment, and the development of cordial relations between nations may be fostered and developed by a line of courtesy and work that is impossible to trace in that way. I believe, personally, it is a good thing to do, besides the advantages to come from the contest itself.

Mr. COX. Will the gentleman explain what is meant by "management of the tournament." What does that mean?

Mr. HAY. The tournament will be managed by the officers of the Regular Army.

Mr. SLAYDEN. We have our own riflemen engaged every year in contests of this nature.

Mr. COX. What additional cost will there be to the Government of the United States if this tournament is held, besides the $25,000 intended to be appropriated?

Mr. SLAYDEN. I think the men and officers who go there and engage in the shoot, I mean the militiamen, get the pay of officers and men in the Army while they are actually in camp and engaged in the contest.

Mr. HAY. I would state to the gentleman that that comes out of a permanent annual appropriation.

Mr. SLAYDEN. But the gentleman is asking how much it was.

Mr. HAY. That would not be affected by this. Whether you made this appropriation or not, they would still go there just the same.

Mr. COX. Would it cost the Government anything to hold this tournament in addition to this $25,000?

Mr. HAY. It would cost the Government the transportation of the officers and men. I do not think there are very many of them.

Mr. COX. How many?

Mr. SLAYDEN. There are a few from the State of Texas.

Mr. HAY. The gentleman is talking about officers and men of the Regular Army. I do not know what the size of a team is.

Mr. COX. Would it be safe to estimate that it would cost the Government an additional $25,000?

Mr. HAY. I think it might; yes.

Mr. HELM. Will the gentleman yield?

Mr. HAY. I will.

Mr. HELM. I notice the first appropriation in this bill says:

Contingencies in the Army: For all contingencies in the Army not otherwise provided for, and embracing all branches of the military service, including the office of the Chief of Staff, to be expended under the immediate orders of the Secretary of War, $25,000.

What is that $25,000 to be used for unless it is to be used for just such a purpose as this?

Mr. HAY. Well, I will state to the gentleman it is used as follows, if the gentleman would like to have the items of this particular item.

Mr. HELM. I did not catch the gentleman's statement.

Mr. HAY. I will state to the gentleman it is not used for any such purpose as this. It is used for laundering towels, for one dozen typewriter ribbons, for one stamp and three typewriter ribbons, and for various things of that sort. It is not used for any military purpose.

Mr. MANN. They make an annual report.

Mr. HAY. They make an annual report, which I hold in my hand for the last fiscal year.

Mr. HELM. What I was trying to get at is, would not a portion of this fund be available for this purpose?

Mr. HAY. It is for contingencies of the War Department, and they buy, for instance, photographic supplies, transportation of one person from Charleston, W. Va., to Washington, and so forth; law books, and so forth. It is not used for any purpose of this sort, and never has been and could not be.

Mr. HELM. This further question: Is there any fund available in the State Department which can be used for this purpose?

Mr. HAY. Not that I know of.

Mr. COX. Mr. Chairman, I shall have to insist upon the point of order.

Mr. WILLIS. Mr. Chairman——

Mr. HAY. If the gentleman is going to make the point of order——

The CHAIRMAN (Mr. SAUNDERS). The point of order is sustained.

Mr. HAY. I do not make it.

Mr. COX. I make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

SUBSISTENCE OF THE ARMY.

Purchase of subsistence supplies: For issue, as rations to troops, civil employees when entitled thereto, hospital matrons, nurses, applicants for enlistment while held under observation, general prisoners of war (including Indians held by the Army as prisoners, but for whose subsistence appropriation is not otherwise made), Indians employed with the Army, as guides and scouts, and military convicts at posts; for the subsistence of the masters, officers, crews, and employees of the vessels of the Army transport service; hot coffee for troops traveling when supplied with cooked or travel rations; meals for recruiting parties, and applicants for enlistment while under observation; for sales to officers and enlisted men of the Army: *Provided*, That the sum of $12,000 is authorized to be expended for supplying meals or furnishing commutation of rations to enlisted men of the Regular Army and the Organized Militia who may be competitors in the national rifle match: *And provided further*, That no competitor shall be entitled to commutation of rations in excess of $1.50 per day, and when meals are furnished no greater expense than that sum per man per day for the period the contest is in progress shall be incurred. For payments: Of commutation of rations to the cadets at the United States Military Academy in lieu of the regular established ration, at the rate of 30 cents per ration; of the regular allowances of commutation in lieu of rations to enlisted men on furlough, enlisted men, and male and female nurses when stationed at places where rations in kind can not be economically issued, and when traveling on detached duty where it is impracticable to carry rations of any kind, enlisted men selected to contest for places or prizes in departments and Army rifle competitions while traveling to and from places of contest, male and female nurses on leaves of absence, applicants for enlistment, and military convicts while traveling under orders; of commutation of rations in lieu of the regular established ration for members of the Nurse Corps (female) while on duty in hospital, at 40 cents per ration, and for enlisted men, applicants for enlistment while held under observation, and military convicts sick therein, at the rate of 30 cents per ration (except that at the general hospital at Fort Bayard, N. Mex., 50 cents per ration, and at other general hospitals 40 cents per ration are authorized for enlisted patients therein) to be paid to the surgeon in charge; advertising; for providing prizes to be established by the Secretary of War for enlisted men of the Army who graduate from the Army schools for bakers and cooks, the total amount of such prizes at the various schools not to exceed $800 per annum; for other necessary expenses incident to the purchase, testing, care, preservation, issue, sale, and accounting for subsistence supplies for the Army; for extraordinary expense of subsistence of West Point cadets while attending inaugural ceremony, to be immediately available; in all $9,098,517.

Mr. FOSTER. Mr. Chairman, I reserve a point of order on this item.

Mr. HAY. To what part of the paragraph?

Mr. FOSTER. To that portion of the paragraph providing for extraordinary expense of subsistence of West Point cadets while attending the inauguration.

Mr. HAY. Well, if the gentleman wants to make that point of order, I have no objection.

Mr. FOSTER. I make the point of order on that.

The CHAIRMAN. Does the gentleman desire to be heard on the point of order?

Mr. HAY. I do not care to be heard on it, Mr. Chairman, except to say it has been the custom for many years in an inaugural year to provide for the subsistence of these cadets who take part in the inauguration ceremonies. I will say that the Corps of Cadets at West Point could not come here unless this is included.

Mr. FOSTER. Mr. Chairman, I do not believe for the necessary inaugural ceremonies to be held in the city of Washington the 4th day of next March that it is necessary to put the expense in this bill for the purpose of bringing cadets from West Point to Washington. We have in the last two or three days had some words from the man who is to be inaugurated on the 4th day of March that he desires some return to Democratic

simplicity in the inaugural ceremonies to be held at that time, and I do not believe that it is the desire of Gov. Wilson that his inauguration should be held in such a manner as to cause great expense to the people of this country or an unnecessary military display, and, so far as this provision of the bill is concerned, I do not believe that it is of any value to the American people. I do not believe that it adds anything more to the success of the incoming administration that we should have a great display in the city of Washington at that particular time.

Mr. SLAYDEN. Is the gentleman against the ball?

Mr. FOSTER. I am against the ball, and I believe Mr. Wilson very wisely acted in saying he did not desire it. [Applause.] I believe that this aping of royal flunkyism in the city of Washington should stop, and we should go ahead and have a simple inaugural and then go about doing the work that our party believes should be done.

Mr. GILLETT. Is not the ball the only self-supporting feature of the whole inauguration?

Mr. FOSTER. Well, I judge that the ball is held for the purpose of giving some people an opportunity of displaying the clothes that they may wear, and another reason is that it helps the city of Washington that desires at this particular time to make what money the citizens can out of the people who come here.

Mr. MANN. Is the ball for the purpose of selling tickets to limocents from abroad?

Mr. FOSTER. To skin those who come here to attend the inauguration, and to that end the people of Washington advertise it very largely, because they make money and it is a profit that they rake in to themselves.

Mr. SLAYDEN. I am afraid the gentleman's dancing days are over.

Mr. FOSTER. That is true. But I understand there is not much dancing at an inauguration, but that it is principally an opportunity to show themselves and walk around in a parade—a sort of a "peacock alley" place.

Mr. HAY. Mr. Chairman, this has nothing to do with the inaugural ball. It is an entirely different proposition. I want to say to my friend from Illinois [Mr. FOSTER] I am as much in favor of simplicity in the inauguration as anybody else, but the gentleman must remember that the inauguration of a President is not only for the President who is inaugurated. Thousands of people come here from all parts of this country for the purpose of seeing the inauguration. It is the only time when they have an opportunity of seeing the cadets from West Point and from the Naval Academy in a parade and to see how they perform, and if any troops—and a large number of them are to be in this parade—it seems to me that it is most proper that the cadets from these two institutions, West Point and Annapolis, should come here, not only that the people of the country may see how they are learning their duties as soldiers and sailors, but to impress upon the cadets themselves the importance of the event in which they are taking part and to in part teach them the duties of patriotism. And I hope my friend from Illinois [Mr. FOSTER] will not break all precedents by insisting on this point of order. I think it probably is subject to a point of order.

Mr. MANN. Does not this item properly belong in the Military Academy bill if it goes in any bill?

Mr. HAY. I do not think it would be any more in order on the Military Academy bill than on this bill.

Mr. MANN. It probably would not be more in order, but would it not be more beneficial if so enacted? This bill will not become the law until about five minutes before the ceremony begins.

Mr. HAY. I hope the gentleman's prophecy is not correct.

Mr. MANN. And the Military Academy bill will.

Mr. HAY. I do not see anything that will cause this bill to be delayed until such time.

Mr. MANN. There is nothing yet, but there will be before it passes.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER], I understand, makes a point of order.

Mr. FOSTER. I want to reserve it for a moment.

Mr. CARLIN. I think the gentleman's criticism of the people of Washington is not only unjust but unfair. It is not a fact that the inaugural ceremonies are a matter of profit to the people of this city. On the contrary, it is a great burden and expense in the requirement of extension of hospitality to almost every citizen of the city and the vicinity. They have always been glad to do it, but it never has been a source of profit, but always one of expense.

Mr. FOSTER. Mr. Chairman, I might go ahead and say to the gentleman, and I think I could, that living here only close to the city of Washington he has not come up against the hotel prices.

Mr. CARLIN. The hotel prices are a very small feature of the cost.

Mr. FOSTER. I will say that the city of Washington is glad to have the display, and I do not think it is adding anything to the patriotism of the country to have this additional expense at that particular time, and I therefore make the point of order.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

Mr. HAY. I understand the point of order, Mr. Chairman, goes to these words:

For extraordinary expense of subsistence of West Point cadets while attending inaugural ceremony, to be immediately available?

The CHAIRMAN. That is so understood. The Chair sustains the point of order.

Mr. FOSTER. There is one particular matter I want to call the attention of the chairman to, that is different than last year, and that is the pay for Indians.

Mr. HAY. Does the gentleman mean the words "without pay"?

Mr. FOSTER. The words "without pay" are left out this year.

Mr. HAY. The chief of the Quartermaster Corps informed the committee they had not any Indians employed who were without pay. As a matter of fact, we do pay them.

Mr. FOSTER. So we are not starting on a new way of doing this?

Mr. HAY. No.

Mr. KAHN. Mr. Chairman, I move to strike out the last word. A few minutes ago an inquiry was made in regard to the cost of the ration of the American soldier. The chief of the Quartermaster Corps appeared before the Committee on Military Affairs and presented a statement of items that go to make up the ration of the soldiers of our country. There are some 25 items included in that ration.

The cost per man is 23.8 cents per day, and I ask unanimous consent to insert in the RECORD a full statement on the item of cost of the ration for the American soldier.

The CHAIRMAN. Without objection, the statement indicated will be inserted in the RECORD.

Mr. PRINCE. Mr. Chairman, I suggest to my colleague that he also state that while these rations are good and sufficient, the Government in addition furnishes excellent soldier cooks to put them into shape.

Mr. KAHN. I am glad the gentleman from Illinois has made that suggestion. A few years ago the War Department organized a school for cooking. It was found that frequently the rations furnished to the soldiers were spoiled in their preparation. Upon the request of the War Department an item was inserted in the Army appropriation bill to enable the department to establish cookery schools. I believe there are two or three of these schools in existence at present, and the officers of the department have testified that this departure has added materially to the welfare of the soldier.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. KAHN. Certainly.

Mr. MANN. How many cooks do they have to a company who are paid outside of the enlisted men?

Mr. HAY. The cooks are enlisted men.

Mr. KAHN. None; they are all enlisted men.

Mr. MANN. So that the Government does not furnish cooks apart from the men who are doing their own cooking?

Mr. KAHN. No; it does not.

Mr. MANN. One might have gotten that impression from the statement of my colleague, the gentleman from Illinois [Mr. PRINCE].

Mr. KAHN. Enlisted men detailed to do the cooking are furnished from the cookery schools.

Mr. MANN. The men are not furnished cooks outside of the Army?

Mr. KAHN. No. The cookery schools are recruited from the ranks, and the schools have proved to be of material advantage to the soldier.

Mr. HAY. Mr. Chairman, I simply wish to state that the Chief Quartermaster in the hearings stated that the price that that is based on is 24.9 cents per ration.

Mr. KAHN. He also gave to the committee, on page 90 of the hearings, a statement showing just exactly what each ration costs.

Mr. KENDALL. A ration is an allowance of food for one day, is it not?

Mr. KAHN. It is.

The CHAIRMAN. The gentleman from California [Mr. KAHN] has asked unanimous consent to have inserted in the Record the matter indicated by him. Is there objection?

There was no objection.

Following is the tabular statement referred to:

Statement showing the cost of the components of the garrison ration per 100 rations and per 1 ration.

Number of rations.	Articles.	Unit.	In bulk.	Price.	Cost per 100 rations.	Cost per 1 ration.
				Cents.		
70	Beef, fresh	Pound	8⅞	9.734	$8.51725	$0.08517
30	Bacon, issue	do	22½	14.915	3.35587	.03356
100	Flour, issue	do	112½	2.685	2.40412	.02404
100	Baking powder	No. 1 can	1	12.068	.12068	.00121
50	Beans	Pound	⅞	5.162	.38715	.00387
50	Rice	do	5	5.376	.26880	.00269
70	Potatoes, fresh	do	8⅞	2.127	1.85608	.01856
20	Onions, fresh	do	25	2.313	.57825	.00578
10	Tomatoes, canned	Small can	6½	11.008	.66055	.00662
30	Prunes	Pound	2⅞	7.343	.17021	.00170
70	Jam	No. 2 can	7½	20.12	.51098	.00511
10	Apples, evaporated	Pound	⅞	8.054	.06442	.00644
10	Peaches, evaporated	do	⅞	8.184	.06547	.00655
100	Coffee, R. and G.	do	1	22.176	1.55232	.01552
100	Sugar	do	20	5.324	1.06480	.01065
100	Milk, evaporated	Family can	4½	5.93	.24708	.00247
50	Vinegar	Gallon	½	15.004	.03753	.00038
50	Pickles, cucumber	do	½	26.585	.06982	.00065
100	Salt	Pound	4	.62	.00248	.00022
100	Pepper, black	No. 1 can	1	5.3	.05300	.00051
100	Cinnamon	do	⅞	5.862	.02051	.00021
100	Lard	Pound	4	12.522	.50088	.00501
100	Butter	do	3½	28.376	.88625	.00887
100	Sirup	Gallon	1	31.122	.31122	.00311
100	Flavoring extract, lemon.	2-ounce bottle	⅞	9.363	.09354	.00096
	Total				23.81198	.23804

Statement showing cost of the components of the garrison ration.

Component.	Cost.
	Cents.
Beef, fresh	7.610
Bacon, issue	3.227
Flour, issue	2.094
Baking powder	.112
Beans	.317
Rice	.222
Potatoes, fresh	1.643
Onions, fresh	.674
Tomatoes, canned	.578
Prunes	.260
Jam	.506
Apples, evaporated	.09
Peaches, evaporated	.084
Coffee, R. and G.	1.434
Sugar	1.088
Milk, evaporated	.2
Vinegar	.030
Pickles, cucumber	.073
Salt	.025
Pepper, black	.049
Cinnamon	.032
Lard	.448
Butter	.799
Sirup	.328
Flavoring extract, lemon	.066
Total	22.617

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Regular supplies, Quartermaster Corps: Regular supplies of the Quartermaster Corps, including their care and protection, consisting of stoves and heating apparatus required for heating offices, hospitals, barracks and quarters, and recruiting stations, and United States military prison; also ranges, stoves, coffee roasters, and appliances for cooking and serving food at posts, in the field, and when traveling, and repair and maintenance of such heating and cooking appliances; authorized issues of candles and matches; for furnishing heat and light for the authorized allowance of quarters for officers and enlisted men, for contract surgeons and contract dental surgeons when stationed at and occupying public quarters at military posts, for officers of the National Guard attending service and garrison schools, and for recruits, guards, hospitals, storehouses, offices, the buildings erected at private cost in the operation of the act approved May 31, 1902; for sale to officers, and including also fuel and engine supplies required in the operation of modern batteries at established posts; for post bakeries, including bake ovens and apparatus pertaining thereto, and the repair thereof; for ice machines and their maintenance where required for the health and comfort of the troops and for cold storage; ice for issue to organizations of enlisted men and offices at such places as the Secretary of War may determine, and for preservation of stores; for the construction, operation, and maintenance of laundries at military posts in the United States and its island possessions; for the authorized issues of laundry materials for use of general prisoners confined at military posts without pay or allowances, and for applicants for enlistment while held under observation; authorized issues of soap; for hire of employees; for the necessary furniture, textbooks, paper, and equipment for the post schools and libraries; commercial newspapers, market reports, etc.; for the tableware and mess furniture for kitchens and mess halls, each and all for the enlisted men, including recruits; of forage, salt and vinegar for the horses, mules, oxen, and other draft and riding animals of the Quartermaster Corps at the several posts and stations and with the armies in the field, and for the horses of the several regiments of Cavalry, the batteries of Artillery, and such companies of Infantry and Scouts as may be mounted; for remounts and for the authorized number of officers' horses, including bedding for the animals; for seeds and implements required for the raising of forage at remount depots, and for labor and expenses incident thereto; for straw for soldiers' bedding, stationery, typewriters and exchange of same, including blank books and blank forms for the Quartermaster Corps, certificates for discharged soldiers, and for printing department orders and reports, and for printing and binding: *Provided*, That no part of the appropriations for the Quartermaster Corps shall be expended on printing unless the same shall be done at the Government Printing Office, or by contract after due notice and competition, except in such cases as the emergency will not admit of the giving notice of competition, and in cases where it is impracticable to have the necessary printing done by contract the same may be done, with the approval of the Secretary of War, by the purchase of material and hire of the necessary labor for the purpose. For the fiscal year ending June 30, 1914, whenever the ice machines, steam laundries, and electric plants shall not come in competition with private enterprise for sale to the public, and in the opinion of the Secretary of War it becomes necessary to the economical use and administration of such ice machines, steam laundries, and electric plants as have been or may hereafter be established in pursuance of law, surplus ice may be disposed of, laundry work may be done for other branches of the Government, and surplus electric light and power may be sold on such terms and in accordance with such regulations as may be prescribed by the Secretary of War: *Provided*, That the funds received from such sales and in payment for such laundry work shall be used to defray the cost of operation of said ice, laundry, and electric plants; and the sales and expenditures herein provided for shall be accounted for in accordance with the methods prescribed by law; and any sums remaining, after such cost of maintenance and operation have been defrayed, shall be deposited in the Treasury to the credit of the appropriation from which the cost of operation of such plant is paid, $7,634,553.

Mr. WILLIS. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Ohio [Mr. WILLIS] moves to strike out the last word.

Mr. WILLIS. I do that in order to get some information from members of the committee about an item that seems to me to be very unusual and peculiar. On page 22, line 25, there is an item that seems peculiar to me. It reads there—

of forage, salt and vinegar for the horses, mules, oxen, and other draft and riding animals.

Now, I know something about horses and a little about mules, and a little, too, about oxen; but this is the first time it ever occurred to me that vinegar was a proper article of diet for them. And it can not be claimed that the vinegar referred to in this paragraph is to be used as medicine for the animals, because in line 10, page 26, distinct provision is made in a separate item for "purchase of medicines for horses and mules."

Mr. KAHN. Mr. Chairman, the vinegar, I find, is used for cleaning the troughs from which the horses eat, to keep them sweet and clean. The amount of vinegar required is exceedingly small. I believe that one-tenth of 1 gill per day is used for each animal in the service. The quantity of salt used for each animal per day is about eight-tenths of an ounce.

Mr. HAY. Mr. Chairman, on page 21, line 24, I move to strike out the word "contract" at the end of the line and insert the word "active."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Virginia [Mr. HAY].

The Clerk read as follows:

Amend, page 21, line 24, by striking out the word "contract" at the end of the line and inserting in lieu thereof the word "active."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HAY. Now, Mr. Chairman, on page 23, beginning on line 12, I move to strike out the words "and for printing and binding."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 23, lines 12 and 13, strike out the words "and for printing and binding."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WEBB. Mr. Chairman, I send forward an amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from North Carolina [Mr. WEBB].

The Clerk read as follows:

Page 24, line 17, after the figures "$7,634,553," insert: "*Provided*, That no part of this or any other appropriation shall be expended in payment for heat and light for quarters of officers who receive commutation of quarters."

Mr. WEBB. Mr. Chairman, I just want to call the attention of the House to the fact that the expenses of commutation of quarters is growing very rapidly. In 1906 the amount allowed was $303,000. This bill carries $500,000. I am making no objection to that provision, for it is law and can not be changed in this bill. The objection I have to this proposition, or, rather, to the ruling of the Treasury Department in regard to it, is that without warrant of law we are now paying $285,000 a year to something like 950 Army officers who are detached from troops, and Congress has never authorized that $285,000 payment as an allowance or commutation for heat and light.

The act of 1907 came as near allowing heat and light commutation as you can find in any of these statutes, and that was passed upon by the Auditor of the Treasury Department in these words:

The authorized allowance of quarters for officers and enlisted men is the allowance of quarters actually assigned to them in accordance with law and regulations. The light and heat to be paid for by the United States is strictly limited by law to that which is actually necessary for the authorized allowance of quarters for officers and enlisted men. Where there is no allowance of quarters, as authorized by law and regulations, there can be no payment for heat and light.

I am therefore of the opinion, and so decide, that there can be no legal payment by the United States for the heat and light actually necessary and actually used for the authorized allowance of quarters for officers and enlisted men unless the quarters have been assigned to them as provided by law and regulations, and that there can be no such payment for heat and light for quarters occupied by officers who have been paid or are entitled to be paid commutation of quarters for the same period.

I contend, Mr. Chairman and gentlemen, that the proper interpretation of the act of 1907 bears out that construction of the Auditor of the Treasury Department. But Mr. Comptroller Mitchell was called upon and, I imagine, importuned by officers who received this tremendous extra allowance for heat and light, he overruled the Auditor of the Treasury Department, and now it is for this House to say whether or not by law we shall allow these Army officers not only commutation for quarters but, in addition, $19 a month extra for heat and light for a captain, and not only allowing a colonel $12 a month for each room up to seven rooms, $84 a month, and in addition to that $36 for heat and light. I say Congress never intended it, and we ought not to do it.

Something was said as to what is the yearly pay of these captains and other officers. I imagine the House would be glad to know it. I have a tabulated statement, which I can make very plain, if Members desire to hear it.

I do not want the officers of the Army underpaid, and I do not think they ought to be overpaid; but if they are to be overpaid it ought to be done by the act of this body, and not by a ruling of the Treasury Department.

Mr. MANN. Will the gentleman yield for a question?

Mr. WEBB. Certainly.

Mr. MANN. The gentleman is familiar with the fact, I take it, that this appropriation has for years carried this provision:

For furnishing heat and light for the authorized allowance for quarters for officers.

Mr. WEBB. Yes; that is the point I made. The "authorized allowance" is for the allowance to officers who maintain their quarters in Government Army posts, where they have been assigned to duty. For instance, over here at Fort Myer they get their heat and light under the law as long as they stay there, but there is no allowance by law when these officers are detached from their troops and sent to Washington, San Francisco, and other places. There is no authorization by law except for quarters. It is not intended that they shall get heat and light in addition, and that gave rise to this opinion from which I have just read.

Mr. MANN. If that opinion is based on this paragraph, I should say clearly that the auditor was wrong.

Mr. WEBB. If you are going to authorize it, I think you ought to do it directly and not by indirection, and not allow the Comptroller of the Treasury Department to say what ought to be expended, when this Congress is the body that should determine.

Mr. MANN. Quarters means so much room or so much commutation.

Mr. WEBB. That is for quarters.

Mr. MANN. Yes. This provision, which has been carried for years in the appropriation bill, is for furnishing heat and light for the authorized allowance for quarters.

Mr. WEBB. Not for years, because 1907 was the first time this question arose, and it was turned down by the Auditor for the Treasury Department.

Mr. MANN. It has been carried for years.

Mr. WEBB. True; but it always applied to Government quarters where men were attached to their troops, not where they were detailed to duty away from their troops, as they are in Washington and other parts of the United States.

Mr. BURKE of South Dakota. Will the gentleman yield for a question?

Mr. MANN. Certainly.

Mr. BURKE of South Dakota. I want to call the attention of the gentleman from Illinois to the part of the provision which reads as follows:

For quarters of officers when stationed at and occupying public quarters at military posts.

The point the gentleman from North Carolina, I take it, is trying to make is that, even if there is an authorization of law upon which you can base an appropriation, there is no language in the bill that will justify an expenditure of any part of the appropriation except for fuel and light where the quarters are at a military post.

Mr. WEBB. That is my understanding exactly.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. BURKE of South Dakota. I ask unanimous consent that the gentleman from North Carolina have five minutes more.

The CHAIRMAN. The gentleman from South Dakota asks unanimous consent that the gentleman from North Carolina may have five minutes more. Is there objection?

There was no objection.

Mr. WEBB. Mr. Chairman, a captain can come to Washington and rent one or two rooms and draw commutation of quarters and for heat and light for 4 rooms for the entire year: $219 for a captain for heat and light and $576 for rooms. I think Congress either ought to cut that out or put it into law in plain language.

Mr. TILSON. Will the gentleman yield?

Mr. WEBB. I will.

Mr. TILSON. The gentleman does not have an idea that an officer can get a room at the Army and Navy Club for $12?

Mr. WEBB. I suppose not, but the practice, I understand, is for two officers to occupy one suite of rooms. That is frequently done. There are 192 of them in this city, and they draw commutation for heat and light aggregating $60,000 per year in Washington. I do not think Congress ever intended they should have that.

Mr. TILSON. How many officers do that?

Mr. WEBB. I do not know, but I can give the gentleman many instances of it. You have an officer detailed from Fort Myer, for instance, to San Francisco. He is detailed to take quarters on the *Logan*. He takes up his quarters, which are provided for him by the Government, with heat and light, splendid quarters, but he has a nominal attachment in San Francisco and draws his commutation for quarters, heat, and light, although he may never have seen a light in a room in San Francisco. When that matter came before the War Department the auditor turned it down. In order to circumvent that ruling, an additional order was made by The Adjutant General to this effect:

In consequence of the adverse decision of the Comptroller of the Treasury on a claim for the allowances of heat and light in the case of an officer detailed as transport quartermaster on a particular transport with station at San Francisco, on the ground that his station and duty were on board the transport, where heat and light were furnished by the United States, it will be necessary hereafter, in ordering officers to similar duty, to detail them in the transport service and to direct them to report to the proper superintendent in that service at the home port, for duty accordingly, without specifying their duty or the vessel on which it is to be performed.

So now, to circumvent that ruling of the comptroller, they are sent to report for duty at San Francisco and immediately ordered on the transport, and draw commutation of quarters and heat and light besides. I submit that in all good conscience that ought not to be allowed to go all the year around, drawing commutation for something he never uses and never had any use for, when such quarters and light and heat are furnished him free on the transport.

Now, Mr. Chairman, as I said a moment ago, I do not think an Army officer ought to be underpaid, neither do I think he ought to be overpaid. Let me give you an illustration of what a captain drawing commutation of quarters receives.

After serving 10 years in the Army, he gets $2,880 salary; four rooms, at $12 a month, $576; heat and light commutation, $213; total, $3,669.92. Besides, if he buys a horse the Government gives him $150 a year, and in addition to that, if he has two, they give him $200. In addition he gets forage, $140 a year. If he has two it is $280. His stabling, the Government pays for that—$170 for one horse or $340 for two horses, which he is entitled to.

A captain detailed for duty here in Washington—and I do not know what they have to do—draws $4,120.92, including stabling and forage.

A colonel gets $5,000 a year salary straight. Seven rooms, $12, $1,008; commutation heat and light—which the Government never intended he should have—$315.20; total, $6,323.20. He is paid $140 if he has bought a horse and $280 if he has two. One hundred and seventy dollars it cost for feeding him and

$340 for stabling the two horses, a total of $6,843.29 which the Government pays for the services of a colonel.

Mr. HELM. Will the gentleman yield?

Mr. WEBB. Certainly.

Mr. HELM. Does the officer have to buy his own bridle and saddle?

Mr. WEBB. I can not tell. I found so much that was furnished free that I became weary in going over what they did get.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HELM. Mr. Chairman, I ask unanimous consent that his time be extended.

Mr. WEBB. Mr. Chairman, I am about through, and I want to say only one or two words more. I would like to have two minutes.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to proceed for two minutes. Is there objection?

There was no objection.

Mr. WEBB. Mr. Chairman, for some reason or other I say this detail business is growing. It is fat pickings. We have 4,704 officers in the United States, and nearly one-fourth of them are on detail duty, where they get commutation of quarters and heat and light. In other words, we pay out on account of this heat and light in the United States for these detail officers about $285,000, and I am informed that it would shock the House to know what tremendous amounts for heat and light officers detached or attachés of the United States in foreign countries, and especially in Madrid, Spain, draw. I am trying now to get that information, and I shall give it to the House a little later if I can.

Mr. HELM. Does the gentleman know that these officers of the Army have their medical attention furnished free?

Mr. WEBB. Yes; they have a medical doctor and a horse doctor.

Mr. HELM. Do they also have a dentist?

Mr. WEBB. I see dental surgeons are provided for. I imagine they do. They also get all of the food they eat, if they want to, at Government prices, and therefore I think the officers are well paid, and that they ought not to have this extra commutation on account of heat and light.

Mr. GARNER. Mr. Chairman, how do they get this compensation unless it is authorized by law?

Mr. WEBB. If the gentleman had been on the floor when I began, I think he would have understood.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

Mr. GARNER. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. WEBB. Mr. Chairman, I would state that Congress never intended that this heat and light commutation should be allowed to detached officers who draw commutations for quarters, but the Comptroller of the Treasury overruled the decision of the Auditor of the Treasury and held it was an incident to quarters commutation and therefore they are given both quarters and heat and light commutation.

Mr. HELM. Do these officers of the Army have a place to store their baggage?

Mr. WEBB. Yes; and if an officer moves the Government pays the freight on his goods and baggage. Not only does the Government pay the freight, but it pays for crating his household goods.

Mr. HELM. Do they get storage charges free?

Mr. WEBB. I imagine they would get such a little thing as that free. They get so much else.

Mr. HAY. Mr. Chairman, I hope that the committee will not adopt the amendment offered by the gentleman from North Carolina. I want to point out why these officers on detached service receive this commutation for heat and light. Every officer of the Army when he is stationed at a military post where quarters are furnished him also receives from the Government heat and light. He receives also forage for his horses and medical attention. He receives everything that the Government has an implied contract with him to furnish when he goes into the Army. When the officer is ordered away from the military post, where he is furnished all of these things free of charge, and is ordered to take station in a city where the Government has no quarters for him, it has been the custom to give him a commutation of quarters, about which the gentleman does not complain, as I understand.

Mr. WEBB. I want to say that I do not complain, because it is useless to complain. I could not change that in an appropriation bill by amendment, because such amendment would be subject to a point of order. It might be too high or too low, but I am not taking issue with the chairman on that.

Mr. HAY. That is what I say. It is regarded as just that these officers who are brought here upon orders should receive commutation for heat and light. They do not come here because they want to come, but they are ordered here. They have to come whether they want to come or not. They come here from a post where all of these things are furnished them, and because they are ordered here and have to obey orders is that a reason why there should be taken from them what they are already receiving, and that they should be compelled to pay out of their own pockets for expenses which they must incur by obeying orders? That is the philosophy of this allowance for heat and light and for commutation of quarters.

Mr. ROBERTS of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HAY. Yes.

Mr. ROBERTS of Massachusetts. To take away from the officer detached from his post that which he has at the post would be to penalize him for performing his duty away from the post.

Mr. HAY. Of course. And I may say to the gentleman from North Carolina that every custom is more or less abused, but I do want to say this: That these Army officers as a class are as clean and honest a set of men as I have ever been brought in contact with. [Applause.]

If some of them have abused this privilege it is no reason why all of them should be punished. Now, if there is a colonel or a captain who is living in Washington in one room and drawing commutation of quarters for four rooms or six rooms, that is no reason why another captain who has to bring his family here and who may be living in five or six rooms should be punished because this other man is abusing the privilege which is given him.

Mr. WEBB. My understanding is that Congress when it authorized $12 per room per month, four rooms to a captain, seven rooms to a colonel, and eight to a brigadier general and so on up, intended that that amount of commutation should be for quarters and heat and light. The gentleman probably knows that you can rent apartments in most any apartment house in this city for $12 a month per room where they furnish the heat and a great many of them the light.

Mr. HAY. No; I do not know any apartment house where you can rent for $12——

Mr. WEBB. I meant per room, with heat and sometimes light furnished.

Mr. HAY. I do not know where you can get rooms in an apartment house for $12.

Mr. WEBB. I can tell the gentleman a great many.

Mr. HAY. Of course there are some places where rooms can be rented for $12 a month, but neither the gentleman nor I would probably care to live there.

Mr. WEBB. Oh, yes; in good apartment houses.

Mr. HAY. Well, I do not know where they are. I say the philosophy and the reason for this allowance of heat and light is based upon the fact that when they are stationed at military posts they receive it and when they are ordered away and detached away from their posts there is no reason why they should be penalized and made to pay what they would not have to pay if they stayed at the military post, and a great majority of them would prefer to do it. When they are ordered to a large city like this on detached service they are put to a great deal of expense which they do not have to incur when stationed at the military post, and there is no justice in my opinion in taking away from them this allowance.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. HAY. I ask for two minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. HAY. And the statement of the gentleman from North Carolina that when this commutation was allowed that that included heat and light I think is erroneous. My recollection is that the officer was allowed $3 for a cord of wood; that is the way this heat proposition first began; he was allowed so much wood, at $3 a cord, to heat his quarters, and from that grew the present arrangement by which his heat is allowed. I agree with the gentleman from North Carolina that this practice of the transport officers being allowed heat and light, when they do not get them, is altogether wrong and ought to be taken away, and I will be very glad to unite with the gentleman in trying to do it, and if he will put an amendment to this bill or offer an amendment to the bill providing that no part of this appropriation shall be paid to that class of officers I shall as cheerfully advocate it and be in favor of it, but I do not think——

Mr. ANTHONY. Will the gentleman permit an interruption?

Mr. HAY. Certainly.

Mr. ANTHONY. Can not the allowance of commutation of quarters of heat and light to that officer detached for transport duty be justified? Now, it occurs to me that that is temporary duty to which that officer is assigned, for instance, as the quartermaster of a transport. He has a family and he is assigned to duty on that transport, and if you compel him to pay for rent and quarters for his wife and family while he is doing special duty for the Government, I think he is entitled to quarters for his family as much as if he stays with his regiment.

Mr. HAY. Well, I had not looked at it in that light.

Mr. ANTHONY. That just occurred to me and I believe that will be found to be the case and you will be imposing a hardship on such an officer.

Mr. HAY. I was thinking about the officer who did not have a family and who was living on the transport.

Mr. WEBB. I call the gentleman's attention that the act of 1907 was, "provided hereafter the heat and light actually necessary for authorized allowance of officers, and so forth."

Mr. HAY. If the gentleman will put those words in his amendment I will agree to it.

Mr. WEBB. That is the law now so far as it affects officers assigned to quarters with their troops.

Mr. HAY. As I understand it the commutation has been upon the number of rooms, heat and light, that is allowed to each officer according to his rank, and I think they have endeavored not to give the officer more than he is entitled to or give him some emolument that he ought not to have, and they have endeavored in a proper and just way to ascertain just what that allowance ought to be and what is actually necessary for them to have in order to have it. I hope the amendment of the gentleman from North Carolina will not prevail.

Mr. BURKE of South Dakota. I would like to have the attention of the chairman of the committee [Mr. HAY]. As I followed the gentleman from North Carolina [Mr. WEBB], I take it that he is not criticizing so much that this money is expended—while I do not think it meets with his best judgment—but he questions that it is being expended for purposes which Congress did not intend. And I want to say that there is no committee of this House in whose judgment I have greater confidence or that I am willing to follow more readily and willingly, than the Committee on Military Affairs, and that I am not criticizing in any way the work of the committee. But I do want to call their attention to what I believe is language in this bill that is limited and yet expenditures are being made under it that are not authorized by the bill. I would call the gentleman's attention to the bottom of page 13, where he provides for commutation of quarters to commissioned officers. Then, I would call his attention to page 21, after the semicolon on line 22, where it says:

For furnishing heat and light for the authorized allowance of quarters for officers and enlisted men, for contract surgeons, and contract dental surgeons when stationed at and occupying public quarters at military posts.

I say to the gentleman that if he were a disbursing officer of the Government he would not undertake to expend a dollar for the commutation of fuel and light in the face of the limitation that is placed upon this appropriation. And, as the gentleman from North Carolina [Mr. WEBB] stated, the Treasury Department turned down an account for commutation of fuel and light because it was not authorized, and I think that when the Auditor for the War Department made that decision he placed upon the law the interpretation that it not only bears, but that Congress intended, and that the comptroller was wrong in his decision holding otherwise.

I want to ask the gentleman from Virginia [Mr. HAY], the chairman of the committee, a question. I want to ask the gentleman from Virginia that, assuming that it is authorized by law that there may be commutation of allowances for fuel and light, if he believes that this language would permit of the expenditure of any part of the appropriation for commutation of fuel and light?

Mr. HAY. No; I do not think so. I understand that it is disbursed under the act of 1907.

Mr. BURKE of South Dakota. There may be an act of 1907 which justifies an appropriation being made, but I do not think there is; but unless we directly authorize the appropriation, no disbursing officer would be safe in expending any part of it. This appropriation says that it is for furnishing heat and light where officers are stationed at and occupy public quarters at military posts; that does not authorize expending any part of it for commutation of fuel and light.

Mr. HAY. I will state to the gentleman that this money which is disbursed to officials for heat and light when they are stationed away from military posts is not disbursed under the language to which he has just called attention.

Mr. BURKE of South Dakota. Will the gentleman point out the language?

Mr. HAY. It is disbursed by virtue of the act of 1907, which has this provision in it:

Provided, That hereafter the heat and light actually necessary for the authorized allowance of quarters for officers and enlisted men shall be furnished at the expense of the United States under such regulations as the Secretary of War may prescribe.

Mr. BURKE of South Dakota. I think that the interpretation of that act is that it only intends to pay the actual cost of the fuel and light at a military post.

Mr. HAY. No; not at all; because this is a permanent law. The words and language to which the gentleman has referred are carried in the bill every year.

Mr. BURKE of South Dakota. Certainly. I would like to ask the gentleman so that he can catch my point. If the gentleman wants to make this appropriation available for the commutation of fuel and light, why does he not say so in the bill?

The CHAIRMAN. The time of the gentleman from South Dakota [Mr. BURKE] has expired.

Mr. BURKE of South Dakota. Mr. Chairman, I ask unanimous consent for two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BURKE of South Dakota. Then I ask him why not include the words "and for commutation of fuel and light"? I am like the gentleman from North Carolina [Mr. WEBB]; if this is going to be done, let us authorize it.

Mr. HAY. It is already authorized in existing law; and under the act of 1907, as I say, the Chief of the Quartermaster Corps now has the right, out of this appropriation for regular supplies, to furnish the heat and light actually necessary under the authorized allowance of quarters for officers and enlisted men.

Mr. BURKE of South Dakota. I would like to ask the gentleman if he believes it is good administration to make appropriations to be expended in accordance with the regulations of the head of a department?

Mr. HAY. I do not think so as a general proposition, but in a matter of this sort it was impossible for Congress to say exactly how it should be fixed.

Mr. BURKE of South Dakota. Well, I will say to the gentleman that Congress did fix it, so far as commutation of quarters were concerned, by designating the number of rooms according to the rank of the officer, and it would be just as easy for Congress to say the same thing in regard to the commutation of fuel and light.

Mr. HAY. I think not, because light, for instance, costs more in one city than it does in another, and fuel costs more in one city than in another, and it is impossible to do it.

Mr. BURKE of South Dakota. Is not that true of rent also?

Mr. HAY. That is also true of rent, but the rent is fixed in amount to $12 a room.

Mr. BURKE of South Dakota. The rent is higher in one part of the country than in another.

Mr. HAY. That is true; but we figure it at $12 per room.

Mr. BURKE of South Dakota. You do not have to go outside of the city of Washington to find that out. Unless the gentleman from Virginia [Mr. HAY] will consent to an amendment, I shall vote for the amendment offered by the gentleman from North Carolina [Mr. WEBB].

Mr. MANN. Mr. Chairman, I would like to make a little contribution on this subject. I had this matter called to my attention through the activities of the Public Health and Marine-Hospital Service, or Members of Congress in their behalf, seeking to obtain an increase in the pay and commutation for quarters and allowance for heat and light. Last year one of the ablest committees of this House——

Mr. MADDEN. Which one?

Mr. MANN. The Committee on Interstate and Foreign Commerce—unanimously reported a certain bill into the House, which has passed recently, I believe, unanimously, in relation to the Public Health Service, and included this language concerning the officers of the Public Health Service:

And shall receive commutation for necessary fuel and light for the same—

That is, the room—

at rates to be fixed by the Secretary of the Treasury.

The same proposition had been presented before the committee when I was the chairman of it, and I had declined to favor any proposition which provided a commutation for heat and light for officers in the Public Health Service. The bill that was passed last year was passed leaving that out. The officers of the Public Health Service insisted—no; I will not say "insisted," because they were very gentlemanly and courteous about it—they thought, at least, that they were entitled to the same allowances which were made for the Army and Navy and the Revenue-Cutter Service.

As an original proposition I would not be in favor of giving light and heat to Army officers, but the naval officers receive it, and at the present time the revenue-cutter officers receive it. Possibly they would lose it if this amendment went in, because my recollection is that they receive the same allowances as are made to officers of the same importance in the Army and in the Navy. I think they have it so worded in the Revenue-Cutter Service law that the revenue-cutter officers get the benefit of any increases or allowances that are made either to the Army or to the Navy. That is in accordance with a bill that passed this House. Many gentleman voted for it at the time. I did not.

Now, these officers receive this light and heat. It is a part of their compensation. Possibly there was originally no good reason for granting it. They were given light and heat in kind when they were given quarters in kind. If they occupied actual quarters the Government furnished the light and heat. It seemed perfectly reasonable in the first place that if an officer was to be given quarters in a Government building free, and could not obtain those quarters, then he ought to receive some compensation in lieu thereof. Possibly the same would be true with respect to light and heat.

The gentleman from South Dakota [Mr. BURKE] suggested to the gentleman from Virginia [Mr. HAY] that Congress ought to fix it. My distinguished friend from Virginia replied, "Oh, but light and heat differ in price and cost in different cities." And yet it makes no difference whether they do or not, they all get the same. Light may cost more in San Francisco than it does in Washington, although I doubt it. If there is anything that has practically the same cost, light and heat and rent of rooms vary widely. But we fixed that by act of Congress. Light and heat, which we could easily fix, we do not fix by act of Congress, but leave it to regulation. The regulation is not excessive, probably. The amount is in the neighborhood of $3 a month for all of this service.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from North Carolina [Mr. WEBB], which the Clerk will report.

The Clerk read as follows:

Page 24, line 17, after the figures "$7,634,553," insert: "*Provided*, That no part of this or any other appropriation shall be expended in payment for heat and light for quarters of officers who receive commutation of quarters."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chairman announced that the "ayes" seemed to have it.

Mr. HAY. A division, Mr. Chairman.

The committee divided; and there were—ayes 24, noes 16.

Accordingly the amendment was agreed to.

Mr. SMITH of Texas. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 24, line 17, by striking out the figures "$7,634,553" and inserting in lieu thereof the figures "$7,647,353," and add the following: "*Provided*, That of the sum herein appropriated $12,800 may be used to provide necessary heating apparatus in any buildings which may be constructed in connection with Fort Bliss, Tex."

Mr. HAY. I reserve a point of order on that amendment.

Mr. SMITH of Texas. Mr. Chairman, when the paragraph in this bill is reached relating to barracks and quarters, I intend to offer another amendment providing for the construction of additional barracks and quarters at Fort Bliss, Tex., and this amendment providing for heating apparatus for buildings at that place is intended to provide heating apparatus for the buildings which will be provided in that amendment. So the question of constructing additional barracks and quarters at Fort Bliss, Tex., is involved in this amendment.

Mr. FOSTER. May I interrupt the gentleman? I should like to inquire if Fort Bliss is one of the forts that it is proposed to abandon when the consolidation is made, or whether it is proposed to keep it up?

Mr. SMITH of Texas. It is a post that is proposed to be made permanent and kept up.

For the information of the House I send to the Clerk's desk two letters from the War Department bearing upon this question and ask that they be read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

WAR DEPARTMENT,
Washington, January 6, 1913.

Hon. JAMES HAY,
Chairman Committee on Military Affairs, House of Representatives.

SIR: I return herewith bill H. R. 21281, authorizing the Secretary of War to enlarge Fort Bliss, Tex., into a regimental post, referred to this department for information and remark by your indorsement, and received on the 3d instant.

The accommodations now at Fort Bliss are for a battalion of Infantry, but other troops are stationed there, for the time at least, and a comparatively small sum of money is now being expended in the erection of temporary shelter for a part of these additional troops. In the plans of the War Department, in which considerable progress has been made, although a final conclusion with reference to the whole country has not been reached, it is contemplated that a regiment of Cavalry shall be stationed at Fort Bliss, as being a railroad center and probable future center of population for the region along the Mexican border between San Antonio and the Pacific coast. The plan, therefore, calls for the enlargement of the post to the extent contemplated in the bill, and since the necessary garrison is now without permanent shelter, there is no project of construction in the United States proper which is now more pressing than this one.

The principal present concern of this department, however, as regards the construction of additional accommodations for troops is for the housing of the necessary garrisons for our foreign possessions, including the Panama Canal Zone, which are now without the number of troops which prudent forethought requires. The department has therefore not included an estimate for the enlargement of Fort Bliss among those which it has sent to Congress of the appropriations for the coming fiscal year, but it has been the intention to submit such an estimate after the appropriations shall have been secured, as contemplated, for the foreign possessions.

Very respectfully,

HENRY L. STIMSON,
Secretary of War.

(Supplemental estimates for construction work at Fort Bliss, Tex.)

JANUARY 15, 1913.

The honorable the SECRETARY OF THE TREASURY.

SIR: 1. Herewith is forwarded for transmission to Congress supplemental estimates under appropriations—

Barracks and quarters, in the sum of	$306,180
Regular supplies	25,600
Water and sewers, military posts	20,620
Total	352,400

required by the War Department for the fiscal year 1914 for the construction of the necessary barracks, officers' quarters, and other buildings, including heating, lighting, and water and sewers, required at Fort Bliss, Tex., for the accommodation of one regiment of Cavalry.

2. The submission of these estimates at the present time is made necessary in order to provide for two additional squadrons of Cavalry now in camp and temporary shelter at that post.

3. The conditions existing at Fort Bliss in the matter of quarters and necessary shelter is fully set forth in the accompanying memorandum of the Chief of the Quartermaster Corps, United States Army, which is made a part of this estimate.

4. The estimates were not included in the regular estimates for the fiscal year 1914, for the reason that the establishment of a regimental post at Fort Bliss had not at that time been definitely determined upon by the department.

Respectfully,

H. L. STIMSON,
Secretary of War.

This recommendation is not intended to supplant or modify the stress laid upon the paramount importance of completing the posts in Hawaii and Panama.

H. L. STIMSON.

Mr. SMITH of Texas. Mr. Chairman, I have a more detailed statement of the estimates by the War Department, which I will insert in the RECORD as a part of my remarks.

The statement is as follows:

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF THE QUARTERMASTER CORPS,
Washington, January 15, 1913.

1. In view of the fact that it has been decided to station a regiment of Cavalry at Fort Bliss, Tex., the following supplemental estimates are submitted for the construction of the necessary shelter for the troops at that post.

2. The following statement, relative to the status of barracks and quarters and the necessary buildings at Fort Bliss, is submitted in connection therewith:

The following buildings are now at this post:

(A) PERMANENT STRUCTURES.

4 barracks, 78 men each.
6 double noncommissioned officers quarters.
14 single officers' quarters, line.
1 commanding officer's quarters.
1 quartermaster stable, 50 animals.
1 six-set bachelor officers' quarters.
1 fire-apparatus house.
1 guardhouse.
1 powder magazine.
1 hospital.
1 mess hall, 425 men.
1 post exchange and gymnasium.
1 bowling-alley building.
1 power house and heating plant.
1 hospital steward's quarters.
2 blacksmith and wheelwright shops.
1 coal shed.

1 forage shed.
1 hay storehouse.
1 ordnance storehouse.
1 quartermaster storehouse.
1 subsistence storehouse.
1 wagon shed.
1 ice plant.

(B) TEMPORARY STRUCTURES BUILT FROM FUNDS OF FISCAL YEAR 1913.

9 temporary stables	$12,138.20
8 temporary troop barracks	15,200.00
Temporary shelter for wagon masters, teamsters, etc	476.00
Addition to veterinary hospital	4,000.00
Temporary shelter for animals, First Battalion, Eighteenth Infantry	256.48
Bathhouses and closets for Second Squadron, Second Cavalry	1,100.00
Plumbing in same	1,934.00
Walling up houses and kitchens and constructing temporary kitchens and dining rooms, flooring of tents, etc	4,315.00
Sewer in rear of officers' quarters (permanent)	8,300.00
Total	47,719.68

The annual apportionment from fiscal year 1913, for barracks and quarters, was $5,000. The total apportionment was $6,865.

(C) TEMPORARY STRUCTURES BUILT FROM FUNDS OF FISCAL YEAR 1912.

4 Cavalry stables.
1 veterinary hospital.

RECAPITULATION.

12 barracks.
13 Cavalry stables.
15 sets officers' quarters, single.
1 six-officer set.
1 mess hall.
1 quartermaster stable.

And the miscellaneous buildings mentioned above.

All of the permanent structures are in good condition and are satisfactory for their purposes. This office has no information as to what the temporary structures are.

There is an amount of $48,000, "Barracks and quarters," for this post in the 1914 estimate. This will provide 8 sets of officers' quarters, making accommodations for 29 officers.

It will be seen that, with the exception of officers' quarters, a regiment of Cavalry can be cared for at Fort Bliss, but that many of the structures are temporary. In order to provide permanent buildings the following will be necessary, assuming that the mess hall will accommodate the regiment in two shifts:

8 troops barracks, with lavatories	$101,260
1 band barracks, with mess and lavatory	6,640
13 stables	63,500
4 double stable, guard, and shop buildings	14,800
1 guardhouse	20,000
2 hay sheds	9,000
1 ordnance storehouse	3,000
15 single officers' quarters	74,700
4 double noncommissioned officers' quarters	13,280
"Water and sewers" for water and sewer systems	20,620
"Regular supplies" for heating and lighting	25,600
Total	352,400

This estimate contemplates the use of wood frames and metal laths and cement plaster by the cement gun process for all except the guardhouse and ordnance storehouse, which will be of concrete, and the hay sheds, which will be of galvanized iron.

In addition to the above buildings, provided the construction work referred to is carried out, it will be necessary to construct at a later date an addition to the hospital at that post. This is not included in the supplemental estimates submitted in view of the fact that such construction work will have to be done from the appropriation "Construction and repair of hospitals," and the addition is not absolutely necessary at the present time.

(Signed) J. B. ALESHIRE,
Chief, Quartermaster Corps.

Mr. SMITH of Texas. Mr. Chairman, I regret very much that these estimates were not sent in for the consideration of the committee before the bill was reported to the House, because I am convinced that from the facts that could have been laid before the committee they would not have hesitated a moment to provide for this work. I do not understand the reason of the War Department, as stated in one of the letters which I have had read to the committee, for withholding these estimates until appropriations have been secured for the construction of barracks and quarters in our foreign possessions. It does seem to me that the proper and fair way to have presented this matter would have been to submit all of the estimates and lay all the facts before the committee, and have had the committee decide which of these projects was of the most pressing necessity.

Mr. MONDELL. Will the gentleman yield?

Mr. SMITH of Texas. Yes.

Mr. MONDELL. Is Fort Bliss, Tex., one of the points of concentration, or in the vicinity of one of the points of proposed concentration, of which we have heard so much of late?

Mr. SMITH of Texas. I am not posted in regard to that. This post is some six or seven hundred miles from Fort Sam Houston, and the War Department states that it is necessary to maintain a regiment of Cavalry there for an indefinite length of time in the future. I want to state to the gentleman that there is a large body of Cavalry now there which has been there, I believe, for almost two years, patrolling the border. The War Department has decided that it is necessary to keep them there indefinitely.

Fort Bliss is a small post with accommodations for a battalion of Infantry. A large part of the troops stationed there now are living in tents, practically outdoors. I was there a few weeks ago and saw them. During the severe weather that we have had recently, when the thermometer there was 4 below zero, our officers and men down there were living practically outdoors, and that condition will continue to exist unless an appropriation is made and these barracks and quarters are constructed.

Mr. MANN. Are not these troops there temporarily on account of conditions in Mexico?

Mr. SMITH of Texas. They are there on account of conditions in Mexico. The War Department has determined that it will be necessary to keep them there in the future.

Mr. MANN. The War Department can not determine as to the future. Now, is it the gentleman's contention that where the Army is used in field operations for emergency purposes the Government should construct permanent barracks in every place of that kind?

Mr. SMITH of Texas. No, I do not contend that; and I am as far from advocating an appropriation for a post of that kind as any man in the House. This is a post that they have decided to make permanent in the future and keep a full regiment of Cavalry there. I believe myself it is going to be necessary to do it for years to come and maybe always.

Mr. MANN. Suppose Congress should do what the House attempted to do last year, throw the Cavalry on the waste heap; then it could not be kept there. We may determine that we have too many regiments of Cavalry.

Mr. SMITH of Texas. I say that as long as we keep these troops down there we ought to give them shelter. I believe in sheltering our Army wherever it is, and especially situated as these troops are, in the most active service of the Government, and has been for some time past and will be for some time in the future. We can not expect officers and men to live out of doors on the border. I submit that this amendment ought to be adopted, and barracks and quarters ought to be provided for.

Mr. HAY. Mr. Chairman, I sympathize with my friend from Texas in his desire to have this appropriaton made, and if it were only this small increase of appropriation for this item, I do not know that I would object to it or raise a point of order. But other amendments are to follow, as he states himself, which would make the entire amount to be appropriated in this bill $185,000. The Committee on Military Affairs has had no opportunity to investigate the matter. It is brought up here without our having had that opportunity, and under these circumsances I feel compelled to make the point of order.

The CHAIRMAN. The amendment proposes to give authority which we have not at present. It does not effect a reduction, and the point of order is sustained. The Clerk will read.

The Clerk read as follows:

Incidental expenses, Quartermaster Corps: Postage; cost of telegrams on official business received and sent by officers of the Army; extra pay to soldiers employed on extra duty, under the direction of the Quartermaster Corps, in the erection of barracks, quarters, and storehouses, in the construction of roads and other constant labor for periods of not less than 10 days, and as clerks for post quartermasters at military post, and for prison overseers at posts designated by the War Department for the confinement of general prisoners, and for the United States military prison guard; of extra-duty pay at rates to be fixed by the Secretary of War for mess stewards and cooks at recruit depots, who are to be graduates of the schools for bakers and cooks, and instructor cooks at the schools for bakers and cooks; for expenses of expresses to and from frontier posts and armies in the field, of escorts to officers or agents and to trains where military escorts can not be furnished; authorized office furniture; authorized issues of towels; hire of laborers in the Quartermaster Corps, including the care of officers' mounts when the same are furnished by the Government, and the hire of interpreters, spies, or guides for the Army; compensation of clerks and other employees to the officers of the Quartermaster Corps, and clerks, foremen, watchmen, and organist for the United States military prison, and incidental expenses of recruiting; for the apprehension, securing, and delivering of deserters, including escaped military prisoners, and the expenses incident to their pursuit, and no greater sum than $30 for each deserter or escaped military prisoner shall, in the discretion of the Secretary of War, be paid to any civil officer or citizen for such services and expenses; for a donation of $5 to each dishonorably discharged prisoner upon his release from confinement, under court-martial sentence, involving dishonorable discharges; for the following expenditures required for the several regiments of Cavalry, the batteries of Field Artillery, and such companies of Infantry and Scouts as may be mounted, the authorized number of officers' horses and for the trains, to wit: Hire of veterinary surgeons, purchase of medicines for horses and mules, picket ropes, blacksmith's tools and materials, horseshoes and blacksmith's tools for the Cavalry service, and for the shoeing of horses and mules; chests and issue outfits; and such additional expenditures as are necessary and authorized by law in the movements and operations of the Army, and at military posts, and not expressly assigned to any other department, $1,960,000.

Mr. MANN. Mr. Chairman, I reserve a point of order. I would like to ask the gentleman as to page 25, line 8, what is the extra-duty pay for mess stewards and cooks and instructor cooks?

Mr. HAY. Really, I can not tell the gentleman. I do not know what the extra-duty pay is that has been fixed. The usual extra-duty pay for enlisted men is sometimes 50 cents and sometimes 35 cents a day. I think the cooks are paid more than that for extra duty.

Mr. MANN. Why is it necessary to insert the authority to the Secretary of War to fix this extra-duty pay?

Mr. HAY. I think that provision of the law was in the former bill under the head of "Subsistence in the Army."

Mr. TILSON. Mr. Chairman, with the permission of the gentleman, I believe I can give the information asked for by the gentleman from Illinois as to the extra-duty pay of cooks. On page 185 of the hearings it is given in general order 142, as follows:

General Orders, No. 142. WAR DEPARTMENT, *Washington, October 21, 1911.*

Paragraph 333, Army Regulations, is amended to read as follows:

"In case the mess stewards and cooks at recruit depots are graduates of the schools for bakers and cooks, extra-duty pay will be paid them by the Subsistence Department at the following rates, approved by the Secretary of War: To mess stewards, $1 a day, and to cooks, 50 cents a day, and they will receive no further extra compensation."

Mr. MANN. I see that it was carried last year under the head of "Subsistence." Now, may I ask the gentleman, referring to lines 12 and 13, for the payment of escorts to officers or agents: Heretofore that provision has been carried as to the payment of escorts to paymasters and other disbursing officers, where I can readily see there was a reason for having an escort to protect him. What object is there in allowing this authority to the department when some gentleman gets in the Army sometimes as an officer who is very fond of his regimentals, and orders out a lot of people to escort him to some place? Why should we pay for that?

Now, I will not say that it will occur, but we just had demonstrated that under a provision of the law which probably no one contemplated at the time the provision was inserted they allowed commutation of light and heat. If you put this provision in the law allowing for the payment of an escort for any officer of the Army, and that officer has the power to order out an escort to take him to any place, I do not know whether any of us would be able to resist the temptation.

Mr. KAHN. If the gentleman will allow me, the chief of the Quartermaster Corps, when he appeared before the committee, explained that there was no allowance made for this particular item from the last bill. The item was carried in the appropriation, but the department did not set aside any funds for that purpose. This is simply asked for to be carried in case the need should arise for it.

Mr. MANN. What need can arise for the payment of an escort for an officer of the Army who is not in any manner a disbursing officer?

Mr. HAY. Mr. Chairman, I notice in the last bill that this language was used:

Of escorts to paymasters and other disbursing officers, and to trains where military escorts can not be furnished.

I am willing to amend the language in this bill by making it read:

Of escorts to officers and agents of the Quartermaster Corps.

The pay officers are now in that corps.

Mr. MANN. Very well. I withdraw the point of order.

Mr. HAY. Mr. Chairman, I move to amend, on page 25, line 13, by inserting after the word "agents" the words "of the Quartermaster Corps."

The Clerk read as follows:

Amend, page 25, line 13, after the word "agents," by inserting "of the Quartermaster Corps."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Horses for Cavalry, Artillery, Engineers, etc.: For the purchase of horses of ages, sex, and size as may be prescribed by the Secretary of War, for remounts, for officers entitled to public mounts, for the Cavalry, Artillery, Signal Corps, and Engineers, the United States Military Academy, service schools, and staff colleges, and for the Indian scouts, and for such Infantry and members of the Hospital Corps in field campaigns as may be required to be mounted, and the expenses incident thereto, and for the hire of employees: *Provided*, That the number of horses purchased under this appropriation, added to the number now on hand, shall be limited to the actual needs of the mounted service, including reasonable provisions for remounts, and, unless otherwise ordered by the Secretary of War, no part of this appropriation shall be paid out for horses not purchased by contract after competition duly invited by the Quartermaster Corps and an inspection under the direction and authority of the Secretary of War. When practicable, horses shall be purchased in open market at all military posts or stations, when needed, at a maximum price to be fixed by the Secretary of War: *Provided further*, That no part of this appropriation shall be expended for the purchase of any horses below the standard set by Army Regulations for Cavalry and Artillery horses, except when purchased as remounts or for instruction of cadets at the United States Military Academy, $225,240.

Mr. CULLOP. Mr. Chairman, I desire to ask the chairman of the committee a question in regard to the purchase of horses. Two years ago, as I remember it, when the military bill was under consideration, there was a clause inserted that the Army should undertake to raise horses for its use.

Mr. HAY. There never was any such clause as that. The gentleman does not mean to breed horses?

Mr. CULLOP. As I understood it at that time they were to make the experiment. Was that experiment made?

Mr. HAY. No. There never has been any provision in the Army bill for breeding horses by the Government.

Mr. CULLOP. Was there not a provision for buying young horses?

Mr. HAY. Yes. There was a provision some time back for remount stations, where young horses are broken and trained for the use of the Army.

Mr. CULLOP. As I remember it, there was quite a debate in the House on that question at the time the Army appropriation bill was under consideration.

Mr. HAY. Yes; and that has proved to be a very excellent experiment, and a larger proportion of horses are now bought when young and broken at these remount stations, of which there are three in the country, and then furnished to the Army.

Mr. CULLOP. What I want to inquire is, are they kept in reserve while they are breaking them and raising them?

Mr. HAY. They do not raise them. They are kept at the remount stations until broken and made ready for use.

Mr. CULLOP. At what age do they purchase them?

Mr. HAY. From 2 to 3 years old.

Mr. CULLOP. How long after purchase before they can be used by the service?

Mr. HAY. If a horse is 3 years old, he can be used in about a year.

Mr. CULLOP. So that plan has been adopted and is working out well?

Mr. HAY. Yes.

Mr. WEBB. Mr. Chairman, may I ask the chairman of the committee a question?

Mr. HAY. Certainly.

Mr. WEBB. Mr. Chairman, I understand that the Government buys the young horses at the age of 2 or 3 years and later on sells them to the officers.

Mr. HAY. No; I do not think they do. I think the officer has to buy his own horses.

Mr. WEBB. But he buys them from the remount stations.

Mr. HAY. I think not.

Mr. WEBB. My information is that the Government buys these young horses and keeps them until they are developed into good horses, and then the officer buys them; that the Army regulation provides that he shall pay for them the average price, so that a horse that is worth $240 on the market is sold to the officer for $146.

Mr. HAY. I do not so understand. I understand that these horses from the remount stations are furnished to the Army for the Cavalry and Field Artillery, and they are not sold to the officer or to anybody else. They are Government property used by the Government.

Mr. WEBB. I think the chairman of the committee will find that the Army officers have the privilege of buying these horses which were once ponies.

Mr. HAY. They never were ponies. They were young horses.

Mr. WEBB. Not ponies, but young horses, but they are permitted by the War Department to buy them at the average price, and consequently a horse that would sell for $250 on the market is bought for $146. My idea is that the officer ought to pay the Government the price of the horse and the cost of maintaining him for two or three years, at least.

Mr. HAY. I will say to the gentleman that I will ascertain whether that practice is in vogue, and if that is true I agree with the gentleman that the officer ought to pay as much as anybody else.

Mr. CULLOP. Mr. Chairman, I would like to ask the chairman of the committee another question with reference to the purchase of horses. Is that done after advertising, or is it done by going out to auction sales.

Mr. HAY. I think horses are purchased in the open market, and an officer is sent out to buy them.

Mr. CULLOP. Advertisements are made and circulated in the locality that at a certain time horses will be purchased there for the use of the Government?

Mr. HAY. Yes; and the officer buys the horses.

Mr. CULLOP. And they are put in competition with other horses owned by persons who have them for sale.

Mr. HAY. Anybody who has a horse to sell can take his horse and have it examined.

Mr. KAHN. The language of the section shows the horses are purchased in the open market.

Mr. SLAYDEN. Mr. Chairman——

The CHAIRMAN. Has the gentleman from North Carolina concluded?

Mr. WEBB. Mr. Chairman, the first provision in the beginning of this section is for the purchase of horses of the ages, sex, and size, and so forth, United States Military Academy. Do I understand that is to buy polo ponies for use at the Military Academy?

Mr. HAY. The polo ponies are found in the last part of the section, where it is provided:

That no part of this appropriation shall be expended for the purchase of any horses below the standard set by Army regulations for Cavalry and Artillery horses, except when purchased as remounts or for instruction of cadets at the United States Military Academy.

Mr. WEBB. The gentleman understands by that language that you can only purchase polo ponies for the Military Academy?

Mr. HAY. Yes.

Mr. WEBB. I understand if they purchase them for the Military Academy those polo ponies can be ordered down to Washington to participate in polo games here.

Mr. HAY. Undoubtedly the President or the Secretary of War could order everything at the Military Academy down here if they wanted to—cadets, horses, and all.

Mr. WEBB. Would the chairman object to a provision that the ponies should be——

Mr. HAY. Confined to the Military Academy?

Mr. WEBB. Confined to West Point.

Mr. HAY. I have no objection to that.

Mr. WEBB. I will offer that sort of an amendment. Now, I want to call attention to another thing. I have just read line 15, page 27, where it says that no horses below the standard set by Army regulations shall be purchased, and so forth. Now, there are no Army regulations with respect to the purchase of these horses except in 1901. There have been other regulations, but not on this point, and I will suggest to the chairman that if he wants to bring this down to give force to the law he ought to refer to the regulations of 1901, because those are the last.

Mr. HAY. I would not like to do it now without having time to examine it. I have no objection to the gentleman's amendment in regard to the use of polo ponies at West Point.

Mr. WEBB. Mr. Chairman, I offer this amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of line 18, page 27, add the following proviso:

"*Provided*, That no part of this appropriation shall be expended for polo ponies except for West Point Military Academy, and such ponies shall not be used at any other place."

Mr. WEBB. Mr. Chairman, I understand the chairman of the committee accepts that?

Mr. HAY. I do; yes.

Mr. MANN. Mr. Chairman, I make a point of order against the amendment. The amendment is not a limitation only. The amendment specifically provides legislation as to the use of polo ponies purchased for West Point. The amendment provides that those ponies shall not be used at any other place. That is legislation and not a limitation.

Mr. WEBB. Mr. Chairman, it seems to me this is an express limitation on an appropriation which provides if they are used at any other place that no part of this appropriation is to be paid for that use. Now, I understand that if they purchase these polo ponies for West Point they can be ordered down to Washington or any other point in the United States. I understand if proper orders are issued by the War Department men can be detailed, express on the horses paid, provender provided, and so forth.

Now, I want to limit the use of these ponies to West Point. Within the Holman rule this amendment would come, because it does reduce the expense to the Government.

Mr. MANN. This is not an amendment under the Holman rule. This purports to be a limitation on the appropriation.

Mr. WEBB. That is exactly what I thought it was, Mr. Chairman, and I wanted to make it a limitation on the appropriation. My idea is that no part of this appropriation shall be spent for ponies to be used anywhere except at West Point if bought for West Point, and that they shall be used there. That is a limitation on the appropriation.

Mr. HELM. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. HELM. Is this polo a game?

Mr. WEBB. Yes.

Mr. HELM. And the United States Government is furnishing ponies to these boys?

Mr. WEBB. Yes.

Mr. HELM. Are they furnishing football outfits to them?

Mr. WEBB. I know they charge you to see the games.

Mr. HELM. Does the United States Government furnish baseball outfits for the baseball team?

Mr. WEBB. That is taken care of, I understand, by the athletic association.

The CHAIRMAN (Mr. SAUNDERS). The Chair just came in and would like to know who has the floor.

Mr. MANN. I have the floor. I make the point of order. Now, the amendment purports to be a limitation on the appropriation, and is to a certain extent, that provides that no portion of the money shall be expended, as I understand it, for the purchase of polo ponies except for West Point, and then provides that those ponies shall not be used anywhere else. That part of the amendment is not limitation. It is legislation. We have the right to provide that no portion of the money shall be used for a certain purpose, but we have not the right to provide that no portion of the money shall be used except for something which shall be used in a specific manner, because that is legislation.

Mr. WEBB. I think it is a limitation on this appropriation, because it means that this money shall be expended only for polo ponies to be used only at West Point, and if they are used anywhere else this appropriation does not pay for them. It is a limitation on the appropriation, and I think is proper and germane. I want to state to the present occupant of the chair that the chairman of the Committee on Military Affairs agreed to the amendment.

The CHAIRMAN. The Chair would like to ask in respect to the law: Is there present authority for the purchase of polo ponies?

Mr. HAY. Well, there is present authority for the purchase of polo ponies for use at the Military Academy at West Point.

The CHAIRMAN. At the Military Academy?

Mr. HAY. Yes, sir; and they are used there and have been used there for some time.

The CHAIRMAN. And there is no authority for using them elsewhere?

Mr. HAY. No. The bill especially provides they shall not be bought at all for use elsewhere.

The CHAIRMAN. Let me see that.

Mr. HAY. I will read the Chair the proviso.

Mr. MANN. It is already in the bill.

Mr. HAY. It says:

Provided further, That no part of this appropriation shall be expended for the purchase of any horses below the standard set by Army regulations for Cavalry and Artillery horses, except when purchased as remounts or for instruction of cadets at the United States Military Academy.

And under that they have been purchasing polo ponies, which they have used at West Point for the instruction of cadets.

The CHAIRMAN. The Chair can not see the exact difference between the effect of the amendment and the bill itself.

Mr. WEBB. The amendment confines the use of the ponies to West Point and prohibits the War Department or any other department from ordering a dozen or half a dozen polo ponies down to Washington to take part in these games.

The CHAIRMAN. Is there any authority under the law for them to be ordered elsewhere than at West Point?

Mr. WEBB. Only under the all-embracing power of the War Department, so far as I know. It has been done, I understand. They are ordered here from Georgia, and all parts of the United States, with a detail of men to take charge of them. If we are going to authorize the use of polo ponies being transported from one part of the United States to another for these games, we ought to confine their use to what Congress intends—the training of boys at West Point.

Mr. BURKE of South Dakota. I would like to call the gentleman's attention to the decision of the comptroller on this particular question of paying the expenses in connection with the polo games. It was held by the comptroller:

The War Department is intrusted with the control of the Army and what in its judgment will promote efficiency.

It was held by the comptroller, overruling the Treasury Department, that the War Department is intrusted with the control of the Army and what in its judgment will promote its efficiency, and therefore the comptroller sustained the expenditure of money that clearly, I think, was contrary to the intention of the law.

The CHAIRMAN. The effect of this amendment very clearly would be to reduce the expenditure of the amount covered by the operation of the present law.

Mr. WEBB. That is the point I made, Mr. Chairman.

Mr. MANN. Mr. Chairman, I am not very much of a sport [laughter]——

Mr. SHERLEY. But a good deal of a sportsman.

Mr. MANN. I have never played polo, and I dare say most of the gentlemen who are opposed to this provision would be afraid to play polo, as I would be. But I know of no sport and no practice which so well fits a man in the cavalry service of an army to be free from what would be called muscular fear as playing polo, and there is nothing in the world so valuable to a man in the Army or in the Navy in time of battle as to be free from muscular fear.

Nearly every man, as everyone knows, when he first gets under fire is scared for fear he will run away, if he has strength enough in his legs to run at all. The playing of polo gives to these men that practice and precision which make the brain and the muscles work correspondingly with perfect accord, and at the same time frees them from the fear of personal injury which everyone naturally has. You throw a ball or a brickbat at any man in this Chamber, although it may not start to come within 5 feet of him, and he will dodge. What is that? That is muscular fear. A man may know that he will not be struck, and yet he dodges. Let any Member of this House anywhere walk under a low doorway and he will bow his head as he goes under, although if he watches he would know that he could pass under without striking his head. That is muscular fear.

If there be any one thing which will render a man capable in battle, it is to free himself from muscular fear. These men who play polo—I confess I have watched them at times with great interest—learn to lose that fear, because no man can play polo for any length of time with success against others playing it who does not lose the fear of being hurt. A man can not ride his pony just as fast as the pony can run right into another pony without losing the sense of fear.

Playing "shinny" among boys was very much the same thing. No boy who ever played shinny in his day did not profit by it. I would have every boy in the land play shinny. If I had my way I would let the Army officers play polo. The cost is very little; the profit is great, indeed. [Applause.]

Mr. WEBB. Mr. Chairman, I have listened with much interest to this dissertation on "muscular fear" from the gentleman from Illinois [Mr. MANN]. I did not know before just what it was that made a man dodge or duck when he went under a low door. [Laughter.] If there is any way to enable a man to go into battle without dodging I would be glad to support such a method. But for the life of me I can not see and understand what a polo game has to do with going into battle and dodging bullets. I suppose the gentleman from Illinois has seen that game played from time to time. I have no objection to playing it, but my objection is against the Government of the United States transporting a detachment of men from West Point with a certain number of ponies and paying the freight to Washington and having a polo game and charging a dollar a head admission to see the game.

Mr. SHERLEY. Does the objection of the gentleman extend to the charging of a dollar or to the playing of the game? [Laughter.]

Mr. WEBB. My objection is to the entire proposition. I do not think the gentleman from Illinois will contend that the Government of the United States ought to send about 12 officers to Washington from Fort Oglethorpe in Georgia with a lot of horses to play a polo game. They can learn lessons against muscular fear in Georgia just as well as they can on the Mall in Washington.

Mr. MANN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Illinois?

Mr. WEBB. Yes.

Mr. MANN. I do not know whether the gentleman was present when we passed the appropriation for defraying the expenses of rifle contests, but does the gentleman see any more reason for transporting a number of men to Fort Oglethorpe in Georgia for the purpose of engaging in a rifle contest, when these men can shoot just as far and just as straight at Fort Oglethorpe as they can at any other place in the country?

Mr. WEBB. I do not think there is any parallel between the two, because they do not play polo in battle, and they do shoot.

Mr. MANN. They run horses in battle.

Mr. WEBB. But they do not have polo sticks in their hands.

Mr. MANN. They do the same thing with a sword that they do with a polo stick.

Mr. WEBB. Polo is nothing but a game, and they spend an immense amount of money simply to gratify their desire for pleasure. The chairman of the Committee on Military Affairs thinks this amendment ought to be adopted.

Mr. HAY. No; I did not say that. I said I would accept the amendment.

Mr. WEBB. Then I misunderstood the gentleman. I supposed that meant the same thing.

Mr. SHERLEY. Does the gentleman know how much money has been expended for this purpose.

Mr. WEBB. No.

Mr. SHERLEY. Then why state that it is an immense sum of money?

Mr. WEBB. I can give the gentleman an idea by reading to him the history of one shipment:

The following-named officers and enlisted men were ordered to proceed to Washington, D. C., so as to arrive not later than July 10, 1912, to enable them to participate in a polo tournament, beginning about July 19, 1912:

Capt. George T. Langhorne, Eleventh Cavalry.
First Lieut. Eben Swift, Jr., Eleventh Cavalry.
Second Lieut. Clark P. Chandler, Eleventh Cavalry.
Second Lieut. Richard H. Kimball, Eleventh Cavalry.
Second Lieut. Chester P. Mills, Eleventh Cavalry.
Pvt. Brevard L. Culp, Troop C, Eleventh Cavalry.
Pvt. Attilio Concioni, Troop K, Eleventh Cavalry.
Pvt. William Parker, Troop I, Eleventh Cavalry.
Pvt. Russell Monaghan, Troop K, Eleventh Cavalry.

The authorized horses were ordered to be shipped from this station to Washington, D. C.

Second Lieut. Richard H. Kimball was placed in charge of the enlisted attendants.

Mr. SHERLEY. Is the gentleman reading from the order?

Mr. WEBB. Such an order was issued. Now, what I want to do is to stop the shipping of polo ponies from West Point to Washington with which to play polo. I think the House ought to agree to it. The boys can play polo up there. They can play it at every post, but there is no use in sending them from all parts of the United States to play on the Mall in Washington. [Applause.]

Mr. BURKE of South Dakota. Mr. Chairman, I have an amendment to offer at the proper place in the bill, limiting the payment of any expenses in connection with polo tournaments, horse-race events, and other similar exhibitions; I had not expected that the matter would be debated at this time upon the amendment which the gentleman from North Carolina [Mr. WEBB] has offered, which simply limits the purchase of polo ponies for use at any particular place except the Military Academy at West Point.

This matter was first brought to my attention last summer when there was a polo tournament here in this city. Everyone who was here, I think, will recall that that exhibition continued for a number of days in Potomac Park, and whoever was conducting it was assuming the right to charge $1 at a certain place in the park to anyone who desired to stop in the road and look at the game. I believe one person was arrested because he refused to pay a dollar, and the matter in that way got into the newspapers. It was stated that the charge was to get money to pay the expenses of the tournament, and that put me upon inquiry, and I made some investigation of the matter and found that the expenses, or at least some part of the expenses, were being paid out of the Treasury of the United States. I have not yet been able to ascertain how much was collected by this charge of $1, or how it was expended. I certainly know that it did not go into the Treasury, and was not expended as Government funds ordinarily are.

Mr. Chairman, when one of the deficiency bills was pending in the last session I inquired of gentlemen on the Military Committee, and they stated that there was no appropriation available for the paying of the expenses of polo tournaments, race-track events, and so forth, because they had attempted, as I understood it, and I think very wisely, to limit appropriations so that the money could not be so expended.

Upon looking the matter up I find that back in 1910, when the military appropriation bill was pending in the House, this very question was discussed. I think the gentleman from Illinois [Mr. MADDEN] took part in it, as well as some other gentlemen, and it certainly was expressly understood that no money could be expended for the purchase of polo ponies, polo tournaments, rack-track events, and so forth.

Mr. MANN. I think the gentleman is hardly correct about that. I took part in that discussion and insisted that they had the right.

Mr. BURKE of South Dakota. I have here the CONGRESSIONAL RECORD, containing the verbatim report of what transpired at that time. My understanding is, if I can read the English language, that this had reference to the same item as the one now under discussion.

Mr. MADDEN. Mr. Chairman, I reserve a point of order on the last proviso for the purpose of getting an explanation.

Mr. HULL of Iowa. I do not believe it is subject to a point of order, but I am glad to give the gentleman the reasons for the committee putting it in. There has been a proposition in the last few years to supply polo ponies for the different camps. The proposition was to cut down the regular standard horses, five to a troop of Cavalry, and have five polo ponies. The committee did not believe that the Congress of the United States should give a sum to buy polo ponies from unless it was a direct appropriation, so that they would know what they were doing.

Mr. MADDEN. Is it the idea of the officers to buy polo ponies at the expense of the Federal Treasury in order that they may have the instrumentalities to play the game?

Mr. HULL of Iowa. We were afraid they might get at it, and so we have fixed it so they can not.

Mr. MADDEN. And have they been doing that?

Mr. HULL of Iowa. I think they bought a few undersized horses.

Then the gentleman from Illinois withdrew his pro forma amendment. On this floor I asked some gentleman on the Military Affairs Committee if there was money being expended for the purpose of paying expenses of the polo tournaments and horse-track events and the gentleman from Texas [Mr. SLAYDEN]. I remember distinctly, said that the understanding was that there was no money being expended for that purpose that was appropriated for in the military appropriation bill.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

Mr. BURKE of South Dakota. I ask unanimous consent for three minutes more.

The CHAIRMAN. The gentleman from South Dakota asks that his time be extended three minutes. Is there objection?

There was no objection.

Mr. BURKE of South Dakota. I then wrote a letter to the Secretary of the Treasury in which I asked specifically to be informed whether or not there was any money being expended for this purpose, and in passing I want to call attention to a circumstance that, notwithstanding my letter was written on July 29, I did not receive a reply until I wrote the second letter, on the 13th of August, and then I did not get any reply until August 23. I am unable to state why such a length of time was required to furnish this information. I suspect that my letter was probably transmitted to the War Department to get some information there as to whether or not the letter should be answered; but that, however, is only a suspicion. I know it took a month to get the answer.

The letter is as follows:

TREASURY DEPARTMENT,
Washington, August 23, 1912.

Hon. CHARLES H. BURKE, M. C.,
House of Representatives, Washington, D. C.

SIR: Your letter of the 13th instant has been received, making reference to your letter of July 29, 1912, in which you request certain information relative to expenses in the War Department in connection with the purchase of polo ponies and moneys expended for polo contests.

In reply you are informed that there are on file in the office of the Auditor for the War Department vouchers paid by disbursing officers of the Army on account of expenses in connection with the attendance of officers, enlisted men, and civilians upon polo tournaments, race-track events, and horse shows, and which were paid from the appropriations "Regular supplies, Quartermaster's Department"; "Incidental expenses, Quartermaster's Department"; "Transportation of the Army and its supplies"; "Barracks and quarters"; "Subsistence of the Army"; and "Mileage to officers."

By direction of the Secretary.

Respectfully,
R. O. BAILEY,
Assistant Secretary.

I say, Mr. Chairman, it is not a question, as suggested by the gentleman from Illinois, as to the merits of the proposition. I say that Congress has intended and endeavored to so limit the appropriation that the money could not be expended for this purpose, and I maintain that if Congress desires to change its policy it ought to provide specifically for the payment for such exhibition.

Mr. SHERLEY. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. SHERLEY. Has the gentleman any information to show whether the payment was for any purpose other than the bringing of horses and men here—anything to show a payment in connection with the expenses of the tournament itself?

Mr. BURKE of South Dakota. I have not looked the matter up sufficiently to answer the gentleman's question. I do know that money has been expended for transporting horses and men from one part of the country to Washington and other places, and that the horses as a rule are transported by express at considerable expense.

Mr. SHERLEY. That seems to be understood. I was trying to find out, inasmuch as the gentleman went into the matter, whether he had any detailed information as to what the expense was, either the amount or for what purpose.

Mr. BURKE of South Dakota. Of course, the gentleman from Kentucky knows, and he would not favor the expenditure of any sum of money by any department of the Government being collected from the people who might be attracted by the particular show or exhibition and then let them expend the money without any accounting.

Mr. SHERLEY. Of course not; and I suspect that nothing of the kind happened. I suspect this is what happened: That whatever money was collected for witnessing the game—and the wisdom of collecting it I am not now discussing—was used simply in the payment of expenses in connection with the tournament, which was a volunteer affair, and the gentleman will find that probably the only money that the Government has expended has been in bringing the men and horses here.

Mr. BURKE of South Dakota. I will say that I do know that there were park policemen and men in the uniform of United States soldiers who were patrolling the roadway in front of where the game was being played and holding up people and requesting and requiring them to either move on or to pay $1 to remain.

Mr. MADDEN. And not only requesting them to move on, but they arrested a man.

Mr. MANN. Does the gentleman state that of his own knowledge?

Mr. BURKE of South Dakota. Yes; and one man was arrested.

Mr. MADDEN. I can testify to the fact that they did insist upon people moving along the driveway, and I saw officers making people move on or pay the price that was to be charged. In one case, I recollect, when I went there myself they said that unless a certain charge was paid people could not witness the polo games from the point of vantage that was designated by the officers as being the best place from which to view it.

Mr. HAY. Mr. Chairman, I would like to ask the gentleman from South Dakota if he will not publish in the RECORD the communication that he received from the Treasury Department.

Mr. BURKE of South Dakota. Mr. Chairman, I will say to the gentleman that I referred to it while we were discussing the bill in general debate, and with the consent of the House I shall incorporate in my remarks the letter from the Assistant Secretary of the Treasury, on debate of August 23, 1912.

Mr. HAY. That will show what was spent.

Mr. BURKE of South Dakota. And I will say to the gentleman, furthermore, that at the proper point in the bill I will submit an amendment, for the consideration of the committee, which limits the expenditures.

Mr. MANN. Mr. Chairman, whether the law authorized the purchase of polo ponies heretofore I will not undertake to argue at this time. Last year the Army appropriation bill contained a provision subject to a point of order which anyone in the House could have made, directing the removal or suspension of regulations for the purchase of horses under size. I think that was after the polo games had been played here. Possibly gentlemen in the House were not here.

Mr. HAY. Mr. Chairman, I will state that that applied to the case of Maj. Carson, who was quartermaster.

Mr. MANN. It would also apply to the purchase of polo ponies which were under size.

Mr. HAY. That was the only instance where they were bought.

Mr. MANN. I do not know anything about that.

Mr. HAY. That was what was stated, that Maj. Carson at West Point had bought these polo ponies.

Mr. MANN. That is neither here nor there. Mr. Chairman, I had never seen a game of polo until last year. I had read many times about the polo games of the British Army, and long ago had concluded that the playing of polo by the British officers was one of the reasons they had so much courage in time of battle. Last year when the polo tournament was here I went every afternoon, I think, to see the polo games. I found that in a small portion of the road in front of where the polo games were played they had set aside a section for people who might wish to remain there during the afternoon with their carriages or automobiles, and that for the privilege of remaining there they charged $1. I paid that, being in an automobile which I borrowed for part of the time, and I found that so far as seeing the polo games was concerned one could see them just as well from this side of the park area where the polo games were played where there was no charge, where anyone could and many people did go, as from the other side, on a portion of which they made a charge.

Mr. MADDEN. They made a charge on both sides.

Mr. MANN. I say they did not make a charge on both sides.

Mr. MADDEN. To which side does the gentleman refer? To the river side?

Mr. MANN. I said the other side.

Mr. MADDEN. Is that the river side?

Mr. MANN. Everybody knows where the polo game was played.

Mr. MADDEN. I know they charged on the side away from the river.

Mr. MANN. I was at the other side away from the river several afternoons with an automobile, and there was no charge.

Mr. MADDEN. The gentleman might have had more influence than those who had charges made against them.

Mr. MANN. No one else was being charged there. The gentleman is mistaken.

Mr. BURKE of South Dakota. Mr. Chairman, I went down there on one occasion and stopped on the side away from the river, and a demand was made for a charge upon that side, I will say to the gentleman.

Mr. MANN. I am sorry the gentleman did not pay it. Every afternoon I went to those polo games after the adjournment of the House. It seemed to me a fascinating sport. I believe it is the best training that ever was given to men on horseback, and I did not pay the charge when I did not desire to go to the particular place. You could see the games just as well without paying the charge as you could by paying the charge. I suppose people were not expected to remain all afternoon, blocking up the roadway, except in a particular place. The officers of the Army were not attending to the matter. It was not an officer of the Army who collected the dollar from me.

Mr. MADDEN. Was it a soldier?

Mr. MANN. It was not a soldier who collected it from me.

Mr. COOPER. Mr. Chairman, will the gentleman yield for a question?

Mr. MANN. I will for a question.

Mr. COOPER. Who took the money, and who kept the money that was collected down there?

Mr. MANN. I do not know. I was told by a very courteous gentleman the first day I went there, in reference to the place for which they desired to make a charge, that the money was used to pay the expense of handling the tournaments, fixing the ground, and things of that sort. It seems to me perfectly proper, so far as that was concerned. No sightseer was prevented from seeing those grounds. I do not believe any gentleman would object if he was asked to pay a dollar for putting his automobile in a particular place to stay the afternoon to the exclusion of other people who might go when, if he did not desire that particular place, there were plenty of places where he could go where he could see the play.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. BURKE of South Dakota. I would like to ask the gentleman if he would be in favor of permitting the Marine Band to make a charge of 25 cents or a dollar for the privilege of standing on the east steps of the Capitol when that band was playing?

Mr. MANN. I would not; the gentleman need not finish the question.

Mr. BURKE of South Dakota. Then I would like to ask the gentleman if they went down in Potomac Park and some person stopped in an automobile——

Mr. MANN. I would not. I have questioned even having the Army going to Chicago and holding a military drill there on the lake front, for which the people were charged admission and which all of those people from Chicago have been advocating.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HAY. Mr. Chairman, I move that all debate on this amendment, paragraph, and amendments thereto, be now closed.

Mr. MADDEN. Mr. Chairman, I would like to have about five minutes.

Mr. HELM. Mr. Chairman, I would like to have about five minutes.

Mr. MONDELL. And I would like to have five minutes.

Mr. HAY. We must get through and gentlemen are talking here to-day on subjects generally that do not pertain to the bill. I must insist on my motion.

The CHAIRMAN. The question is on the motion of the gentleman from Virginia that all debate on this paragraph and amendments thereto shall cease.

The question was taken, and the motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina.

The question was taken; and the Chairman announced the "ayes" seemed to have it.

Upon a division (demanded by Mr. MANN) there were—ayes 30, noes 24.

Mr. MANN. Mr. Chairman, I make the point of order there is no quorum present.

The CHAIRMAN. The Chair will count—obviously the point of order is well taken.

Mr. HAY. Mr. Chairman, I ask that the Chair count.

The CHAIRMAN. The Chair has sufficiently counted.

Mr. HAY. Other gentlemen have come into the Chamber.

Mr. MANN. Well, I withdraw the point of order as long as the Chair is still counting. We will have a separate vote on it in the House.

The CHAIRMAN. On this amendment the ayes are 30 and the noes are 24.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk began the reading.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. Debate is exhausted.

Mr. MONDELL. Mr. Chairman, I did not understand that debate was closed on the pargaraph—only on the amendment.

The CHAIRMAN. On the paragraph and all amendments thereto.

Mr. GARNER. Debate has been closed on the paragraph and all amendments thereto and the Clerk had started the reading of the bill.

The CHAIRMAN. The Clerk is now reading another paragraph.

Mr. MONDELL. Thank you.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Military post exchange: For continuing the construction, equipment, and maintenance of suitable buildings at military posts and stations for the conduct of the post exchange, school, library, reading, lunch, amusement rooms, and gymnasium, including repairs to buildings erected at private cost in the operation of the act approved May 31, 1902, to be expended in the discretion and under the direction of the Secretary of War, $40,000.

Mr. SLAYDEN. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend by adding, after the "$40,000," in line 6, page 29, the following: "*Provided*, That not to exceed $13,000 of this sum, to be immediately available, may be used for the payment of existing indebtedness on the chapel building at Fort Sam Houston, Tex., which was incurred subsequent to March 3, 1911, for putting this chapel in condition for temporary use for recreation purposes by enlisted men of the maneuver division then encamped at Fort Sam Houston, Tex."

Mr. FOSTER and Mr. MANN. Mr. Chairman, I reserve a point of order.

Mr. SLAYDEN. Mr. Chairman, I will say that when the maneuver camp was ordered at Fort Sam Houston in March, 1911, the building that embraced the chapel, the library, and, I believe, the post exchange work also was not completed.

That chapel had been erected very largely at the expense of the people of San Antonio, who had undertaken to give $25,000 toward its construction and, indeed, had expected to complete it for that sum of money, but the chaplain, who was better known for enthusiasm than for business acumen, developed the design and spent so much money on it that they actually contributed about $40,000 in cash and material. It was not quite completed, and debts of about $5,000 were created. Congress appropriated $5,000 to pay these debts, and that sum did pay all the debts that had been incurred prior to March 4, 1911, except about $50, and in order to get the matter cleared up the people to whom that money was due surrendered that much of their claim, but the money appropriated was only applicable to debts incurred prior to March 4, 1911. Subsequent to that time a further debt was created by order of the governmental authorities to put the building in condition for the enlisted men who use it, and the man who furnished the material and did the work has never been paid a cent. The Government owes him $1,230. There is no increase of appropriation asked. The Secretary of War and the Quartermaster General recommend that the amendment go into the bill.

Mr. MANN. Has the claim been audited, or do they claim they had no authority?

Mr. SLAYDEN. They have no authority.

Mr. MANN. Was it presented for audit?

Mr. SLAYDEN. Yes.

Mr. MANN. What did the auditor say about it?

Mr. SLAYDEN. I do not know whether it was presented here. I only know it has not been paid; that the quartermaster at Fort Sam Houston and the chaplain, who now has charge of the chapel and post exchange, have repeatedly written to me requesting that authority be secured to pay the debt.

Mr. MANN. When a man has a contract for Government work he presents his bill.

Mr. SLAYDEN. This man was authorized and directed to do this work; he did the work, furnished the material, and presented his bill, but payment was not made.

Mr. MANN. And who turned him down?

Mr. SLAYDEN. The military authorities here.

Mr. MANN. The bills go to the auditor for decision.

Mr. SLAYDEN. I know, Mr. Chairman, that they asked for authority to pay it.

Mr. MANN. Well, what I wanted to get at was the reason that they declined to pay it, because there was lack of authority, or some other reason?

Mr. SLAYDEN. For lack of appropriation and authority.

Mr. MANN. The gentleman does not know why because he does not know who determined against it?

Mr. SLAYDEN. The Quartermaster General. The quartermaster at Fort Sam Houston declined to pay it, and the Quartermaster General here approved his declination to pay it, and the man who furnished the material and did the work has never been given a penny.

Now, here is a report giving all the facts leading up to the incurring of this debt, and gives all the transaction, and the language that the Quartermaster General recommends and which is approved by the Secretary of War has been incorporated in the amendment I offer, namely, that that sum, not more than $1,300, shall be used for the payment of this debt. My recollection is the debt is precisely $1,230.

Mr. MANN. Does the gentleman think it wise to include a claim bill in an appropriation bill?

Mr. SLAYDEN. Mr. Chairman, I do not think this is properly a claim. This man in San Antonio was called on by military authorities to furnish the material and do the work. I think the gentleman from Connecticut, who was stationed down there during that maneuver camp for awhile, may have some familiarity with the facts.

Mr. MANN. He was called upon by whom? By an Army officer? Who decides the work should not be paid for?

Mr. SLAYDEN. It was decided in the War Department, in the Quartermaster General's office.

Mr. MANN. It seems to me we ought to have information in regard to that. The gentleman does not seem to have it. Here is a man ordered to do some work by contract, and otherwise, by an Army officer. If the Army officer is decided not to have authority to do this, we ought to know why.

Mr. SLAYDEN. I thought for a long time the creditor had been paid. It was called to my attention after Congress adjourned.

Mr. MANN. The gentleman has had plenty of time to find out.

Mr. SLAYDEN. It was not again brought to my attention until I received the letter from the chaplain, who has charge of it, saying he had never been paid for the material or the work done, and asked me to have authority inserted in this bill for the payment. I took it up with Gen. Aleshire, who recommended that it be done in this way, but, unfortunately, it was not incorporated in the Book of Estimates.

Mr. HAY. Mr. Chairman, I will state to the gentleman that from information I have here, after paying what was due for this work performed by Mr. Dielman, who seems to be the man who performed the work, there was left an indebtedness of $1,231.20, which was done between the dates of March 11 and April 7, 1911, or during the fiscal year 1911.

In accordance with the opinion of the Judge Advocate General of the Army, dated December 19, 1911, the additional $5,000 appropriated by Congress could not be expended for the purpose of paying the indebtedness of $1,231.20 unless the total amount—$5,000—would also defray the necessary expenses for completing the chapel. It seems the source of the trouble was the fact that the work was done in a different fiscal year from the year that the matter was appropriated for.

Mr. MANN. Was not the trouble the fact that Congress provided $5,000, and thereupon, in order to have things look a little bit more beautiful down there, they expended something over $6,000?

Mr. SLAYDEN. No, Mr. Chairman; the gentleman is wrong about that.

Mr. MANN. I am asking the question.

Mr. SLAYDEN. Five thousand dollars was appropriated for the specific purpose of paying a debt previously incurred.

Mr. MANN. The exposition given by the chairman of the committee, which I understand is the official statement, is different.

Mr. SLAYDEN. I have not read that document, but Mr. Dielman was paid for work that he did prior to March 4, 1911.

Mr. MANN. Mr. Chairman, I am not usually such a soft mark, but in this case I will withdraw the point of order.

Mr. SLAYDEN. I want to congratulate the gentleman on the fact that he is not bursting with generosity even now. It is simply the payment of an honest debt.

Mr. SISSON. The gentleman from Illinois [Mr. MANN] withdrew his point of order, Mr. Chairman. I do not know how many other gentlemen made the point of order, but I want to renew the point of order. This is either a deficiency or a claim, and unless there has been some proof adduced or some hearings had on the matter——

Mr. SLAYDEN. What does the gentleman say about the hearings?

Mr. SISSON. I say, Mr. Chairman, that unless there is some evidence about the propriety of the claim——

Mr. SLAYDEN. If the gentleman will permit me, there is exact evidence of the propriety of this item. It was for material furnished and work done which met with the O. K. of the quartermaster at the time. It was not paid because of the confusion growing out of the fact that there had been debt incurred prior to March 3, and because of this debt created subsequent to that date which should have been paid as incident to the completion of the chapel which was provided for.

Mr. SISSON. That may be true; but what right has an Army officer to incur debt without authority of Congress?

Mr. SLAYDEN. I do not know what right he has, but I do know that this citizen was requested to do this work, and he did it.

Mr. SISSON. By whom and by what authority was it done?

Mr. SLAYDEN. By military authority. Between fifteen and sixteen thousand troops had been assembled at Fort Sam Houston. They needed this building. It had not been completed.

Mr. SISSON. I am not questioning that, but I want to know whether those people who incurred that obligation were authorized to do it by a law or act of Congress.

Mr. SLAYDEN. Their position, Mr. Chairman, is that they had not authority to pay it out of any appropriation that they had, and we want to give them the authority now to pay it.

Mr. SISSON. Mr. Chairman, I make the point of order, because if this is a claim it ought to go to the Committee on Claims, and if it is a deficiency it ought to go to the Committee on Appropriations.

Mr. SLAYDEN. Mr. Chairman, in an emergency like this was supposed to be, when the Army of the United States is assembled at a particular place to meet possible foreign danger, and a citizen is called upon to furnish materials and supplies for the Army by the high military authorities having charge of the camp, it is particularly hard to compel that citizen to do without pay for material furnished and the work done for an indefinite period because the general or other officer who directed it had no specific authority to issue the order and to put him in the attitude of pressing a claim against this Government, which the gentleman knows may result either in a denial of payment or in a delay of such a nature as to work a great hardship on the man. This is no claim in the ordinary sense of the word as it is used when you speak of claims made against the Government. This is a bill for work done and material furnished on specific direction of certain military officers, and so recently done that the correctness of it is not disputed by anybody, and these military authorities have urged its payment.

Mr. SISSON. Mr. Chairman, I may state, in reply to that, that there is a method by which all these matters that are unpaid may be properly provided for under the rules of the House, and all deficiencies should be taken care of there.

Mr. HAY. I would like to call the attention of my friend to the fact that under the Army appropriation act of 1911, $10,000 was appropriated for the completion of the chapel building at Fort Sam Houston, Tex. Subsequently in a deficiency act approved July 21, 1911, Congress provided that the amount authorized to be expended for the completion of the chapel, by the act making appropriations for the support of the Army, was made available upon the payment of any existing indebtedness on said building not in excess of $5,000.

It seems that this work, for which this amendment provides, was done out of the $10,000, but the Judge Advocate General of the Army held that an additional $5,000 appropriation by Congress could not be expended for the purpose of paying the indebtedness, because the expenditure was made between March 11 and April 7, 1911. As a matter of fact, the money was provided, but because of the time when it was expended, under a decision of the Judge Advocate General, although it was appropriated, it could not be paid over.

Mr. SISSON. I presume the chairman of the committee will admit that this claim can be paid legally if it is now a deficiency.

Mr. HAY. No; I do not admit that at all.

Mr. SISSON. If it is not a deficiency, then it is a claim.

Mr. SLAYDEN. Will the gentleman from Virginia permit me to make this explanation of the decision? The chapel building has not been completed. It was estimated in February, 1911, that the debts were about $5,000. It was also estimated by the quartermaster general in charge of the department at Fort Sam Houston that it would take about $10,000 to complete the chapel building and pay the debt, $5,000 of that sum to be used in the payment of debts incurred prior to March 4, 1911. This would have been a part of the cost of the completion of the chapel building, but according to estimates submitted by build-

ers and contractors with whom the authorities conferred, it was found that after the payment of the $5,000 debt the remaining $5,000, which would have gone to the payment of this claim, a part of the work of completion and to the completion of the chapel, was inadequate, and therefore they let it lapse and go back into the Treasury.

Mr. SISSON. I understand from the statement that that is true, but if the estimates had been made properly, this party expending this money could not have exceeded the amount appropriated for that purpose.

Mr. SLAYDEN. He did not exceed it.

Mr. SISSON. But it seems that the people of the city who were interested in the proposition very laudably raised——

Mr. SLAYDEN. Let me correct the gentleman. He did not exceed it. He took an order to do certain work, and did it, and his bill was $1,230, a reasonable and proper sum.

Mr. SISSON. Originally this was a proposition which was undertaken not by the Government, but by the people of your city.

Mr. SLAYDEN. Yes; and they had given $45,000.

Mr. SISSON. I understand that from the gentleman's statement.

Mr. SLAYDEN. The gentleman's statement is correct, permit me to say.

Mr. SISSON. I have no doubt of that, absolutely none in the world. I am not questioning it. I am taking it as being absolutely true; but all that the gentleman states about it does not prevent this either being a claim that ought to be proven against the Government or else a deficiency, and for that reason I make the point of order.

Mr. SLAYDEN. It is proven to the satisfaction of the War Department.

Mr. SISSON. They have nothing to prove it by.

Mr. HAY. I understood the gentleman to make the point of order.

Mr. SISSON. Yes.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BARTHOLDT. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Missouri offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 29, line 6, strike out "$40,000" and in lieu thereof insert the following: "$35,000: *Provided*, That post commanders, in their discretion, may permit soft drinks, including beers and light native wines containing not to exceed 4 per cent of alcohol, to be sold at the post exchanges during the hours set apart for the recreation of the enlisted men, the sale to be conducted exclusively by civilian employees and under such further rules and regulations as the post commanders may prescribe."

Mr. HAY. Mr. Chairman, I make the point of order on that amendment.

Mr. BARTHOLDT. I hope the gentleman will reserve it.

Mr. HAY. I will reserve the point of order.

Mr. RODDENBERY. I make the point of order on the amendment.

The CHAIRMAN. The point of order is made to the amendment.

Mr. BARTHOLDT. I should like to be heard on the point of order.

The CHAIRMAN. The gentleman from Missouri will be recognized on the point of order.

Mr. HAY. The gentleman understands that the gentleman from Georgia made the point of order.

Mr. BARTHOLDT. Yes; I understand that.

Mr. Chairman, in my judgment this amendment is not subject to a point of order, for the reason that it complies strictly with the Holman rule, or is within that rule. The reduction proposed is not a hypocritical one offered merely for the purpose of securing a change of existing law, but it is a real reduction within the Holman rule which says, in effect, that changes of law may be based upon reductions of the amounts of money covered by the bill.

Before the legislation of February 2, 1901, when by an amendment to the Army reorganization bill the privilege of our soldiers to drink a glass of beer at their club, commonly called the canteen, was taken away from them, there were no appropriations for the canteens at Army posts. I believe by the adoption of this amendment not only $5,000 can be saved to the Government, but the whole $40,000 which Congress is asked to appropriate for that purpose can be saved. In accordance with all arguments we have heard here during the last three or four days, especially on the amendment offered by the gentleman from Kansas [Mr. MURDOCK] on the liquor advertisements, which arguments, as gentlemen will remember, were sustained by the Chair, this amendment is now in order. I submit, Mr. Chairman, that it being an honest reduction, the point of order should be overruled by the Chair.

It was a sad day, Mr. Chairman, for the American Army when by the legislation enacted in February——

Mr. HAY. Mr. Chairman, I make the point of order that the gentleman from Missouri must confine his remarks to the point of order.

The CHAIRMAN. The point of order is well taken, and the gentleman must confine himself to the point of order.

Mr. MANN. I hope the gentleman from Virginia will not do that.

Mr. HAY. The gentleman from Missouri is not speaking to the point of order.

Mr. MANN. Very well, I make the point of order that no quorum is present.

The CHAIRMAN. The gentleman from Illinois makes the point of order that no quorum is present. The Chair will count. [After counting.] Sixty-seven Members present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken, S. C.	Draper	Konig	Pepper
Almy	Driscoll, D. A.	Kopp	Peters
Akin, N. Y.	Dyer	Lafean	Pickett
Ames	Ellerbe	Lamb	Porter
Andrus	Estopinal	Langham	Pou
Ansberry	Evans	Lawrence	Pray
Anthony	Farr	Lee, Pa.	Pujo
Austin	Fields	Legare	Randell, Tex.
Ayres	Fitzgerald	Levy	Ransdell, La.
Bates	Flood, Va.	Lewis	Rauch
Bathrick	Focht	Lindbergh	Reyburn
Berger	Fornes	Lindsay	Richardson
Blackmon	Fuller	Linthicum	Riordan
Bradley	Gardner, Mass.	Littlepage	Rucker, Colo.
Broussard	Gardner, N. J.	Littleton	Rucker, Mo.
Brown	George	Longworth	Scully
Browning	Gillett	Loud	Sells
Burgess	Glass	McCall	Shackleford
Burke, Pa.	Goeke	McCoy	Sherley
Burleson	Goldfogle	McCreary	Simmons
Calder	Gould	McKellar	Slemp
Callaway	Greene, Vt.	McKenzie	Smith, J. M. C.
Carlin	Gregg, Pa.	McKinley	Smith, Cal.
Carter	Gregg, Tex.	Maher	Smith, N. Y.
Conry	Griest	Martin, Colo.	Speer
Cooper	Hardwick	Matthews	Stack
Copley	Harris	Merritt	Stephens, Nebr.
Covington	Harrison, N. Y.	Moon, Pa.	Sulloway
Crago	Hart	Moore, Pa.	Switzer
Cravens	Haugen	Moore, Tex.	Talbott, Md.
Crumpacker	Hawley	Morgan, La.	Taylor, Ala.
Curley	Heald	Morse	Taylor, Colo.
Currier	Henry, Conn.	Mott	Taylor, Ohio
Curry	Hensley	Murdock	Turnbull
Dalzell	Higgins	Needham	Underwood
Danforth	Hill	Nelson	Vare
Davidson	Hobson	Oldfield	Vreeland
De Forest	Howard	Olmsted	Whitacre
Dent	Howland	O'Shaunessy	Wilder
Denver	Hughes, W. Va.	Padgett	Wilson, N. Y.
Difenderfer	James	Palmer	Wood, N. J.
Dixon, Ind.	Johnson, Ky.	Parran	Woods, Iowa
Donohoe	Kindred	Patten, N. Y.	Young, Mich.
Doremus	Kinkaid, Nebr.	Payne	

The committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having under consideration the Army appropriation bill had found itself without a quorum; that he had directed the roll to be called and 208 Members had answered to their names, and he presented herewith a list of the absentees.

The SPEAKER. A quorum being present, the committee will resume its session.

The CHAIRMAN. The gentleman from Missouri is recognized on the point of order.

Mr. BARTHOLDT. Mr. Chairman, if the Chair will indulge me still further, I will confine myself to the point of order, and should like to read from an argument made by the present occupant of the chair on the Murdock amendment, as follows:

It has been said in argument, in connection with the pending parliamentary proposition, that the Holman rule must be construed strictly. I deny that absolutely. It has been ruled that this rule is one of beneficence, and on that account should be liberally construed, in order that its essential purpose may be carried out and retrenchments effected.

Then the gentleman from Virginia [Mr. SAUNDERS] went on to argue that the Murdock amendment was in order. This seems to be a case on all fours with the Murdock amendment. In that case it was a plain change of existing law, only with this difference, that in the Murdock amendment the reduction of expenditures was merely guesswork, while with regard to my amendment the reduction of expenditures is a necessary incident and a sequence to the legislation. As will be well remembered by all those present, the Murdock amendment was ruled in order by the gentleman from Tennessee [Mr. GARRETT], the then Chairman of the Committee, and ruled out of order

by the Speaker of the House only on a technicality, not because it changed existing law but for the reason that two amendments were proposed at one and the same time. That technicality has been avoided in my case, and I think my amendment is strictly in order from that point of view. I submit that the point of order does not lie.

Mr. HAY. Mr. Chairman, the amendment of the gentleman from Missouri proposes to change existing law, which law is contained in the Army organization act of February 2, 1901, and which law prohibits the use of any alcoholic beverage or beer in any Army post or reservation. In order to change that law he proposes to cut down the appropriation to $35,000, and he hangs his proposed change of law upon that. Of course his motion to cut down the appropriation $5,000 is divisible from his motion to change the existing law, and his motion to cut down the appropriation is in order without regard to the Holman rule. The Holman rule never was intended to be used for the purpose of changing existing law by offering an amendment to cut down an appropriation and hanging onto it something which in itself does not cut down the appropriation. The gentleman says that if his amendment is adopted this change of law will save something. He has not indicated how it would save, and nobody can see how it would save. I know I am very well assured it would save nothing. Therefore, in accordance with the ruling which was made by the Chair a few days ago when two other amendments of similar character were offered, I have no doubt that the Chair will rule that this amendment is out of order.

Mr. BARTHOLDT. Mr. Chairman, will the gentleman yield?

Mr. HAY. Yes; for a question.

Mr. BARTHOLDT. Mr. Chairman, I think it could well be shown, if we have the time to do so, that this legislation, besides having some other purposes in view, is merely intended to save expenditures, for this reason: That before the legislation of 1901——

Mr. HAY. Mr. Chairman, I yielded to the gentleman for a question.

Mr. BARTHOLDT. Mr. Chairman, I thought the gentleman had finished his remarks. I would like to ask the floor in my own behalf when he is through.

Mr. HAY. I am through now.

Mr. BARTHOLDT. Mr. Chairman, I would like to be indulged for a moment longer.

The CHAIRMAN. The gentleman from Missouri is recognized.

Mr. BARTHOLDT. Mr. Chairman, I stated that before the legislation of 1901, to which the gentleman from Virginia [Mr. HAY] has referred, there was no appropriation for Army post exchanges at all, as I remember, and appropriations became necessary only because the canteen was abolished. If you adopt my amendment it will save money to the Government. It is offered for the purpose of going back to the old system, which did not require an appropriation from Congress for the maintenance of these post exchanges, and consequently the reduction proposed in my amendment and the legislation attached to it belong together. They are not divisible. I would not think of proposing one and not proposing the other. It is offered in good faith, for the purpose of retrenchment and of saving expense to the Government, outside of the other purposes suggested in the amendment.

The CHAIRMAN. The Chair is prepared to rule. The gentleman from Missouri quoted an extract from an argument made by the present occupant of the chair a few days since, in connection with the Murdock amendment. It is the opinion of the present occupant of the chair as stated in that argument that the Holman rule should be construed liberally, but if the gentleman will go a little further into the argument that I made on that occasion, he will find that in supporting the Murdock amendment the gentleman from Virginia submitted this contention to the Chair, that the legislation attached to the reduction in the appropriation, effected the reduction. The gentleman from Missouri will also find in two or three later rulings made by the present occupant of the chair that he maintained the proposition that you can not make a reduction in a total, and convert that reduction into a peg on which to hang unrelated legislation. The legislation must efficiently cause a reduction in order to be in order. Now take this amendment upon which a ruling is sought. First there is a reduction in the total, and then follows legislation to the following effect:

Provided, That post commanders, in their discretion, may permit soft drinks, including beers and light native wines containing not to exceed 4 per cent alcohol, to be sold at the post exchanges during hours set apart for the recreation of the enlisted men, the sale to be conducted exclusively by civilian employees and under such further rules and regulations as the post commanders may prescribe.

It is difficult for the Chair to see how this legislation will necessarily effect any reduction in the total appropriation. The gentleman from Missouri [Mr. BARTHOLDT] stated that he offered the amendment in all sincerity. The Chair does not question this for a moment, but the moral or beneficent effect of the legislation proposed, whatever it may be, is not a question for the Chair to decide. On the point of order the Chair is concerned to determine the economic operation of the legislation proposed. Looking to this legislation, the Chair is not satisfied that it will effect a reduction of expenditures. On this ruling the Chair is in strict conformity with the principles which he has undertaken to lay down in several expositions of the Holman rule. Following these rulings the Chair sustains the point of order.

Mr. BARTHOLDT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 29, line 6, strike out "$40,000" and in lieu thereof insert the following: "$59,000: *Provided*, That the Secretary of War shall cause an investigation to be made into the effect of the prohibition of the sale of beers and light wines at the post exchanges, such investigation to be conducted by a commission consisting of the Chief of Staff, the chief of the Quartermaster Corps, and the Surgeon General of the United States Army; the commission to report its findings and recomendations to the Secretary of War and by him transmitted to Congress on or before December 10, 1913."

Mr. HAY. Mr. Chairman, I make the point of order on the amendment.

Mr. BARTHOLDT. Mr. Chairman, will the gentleman withhold his point of order for a few moments?

Mr. HAY. I will reserve the point of order.

Mr. RODDENBERY. Mr. Chairman, I make the point of order on the amendment.

The CHAIRMAN. The point of order is renewed.

Mr. BARTHOLDT. Mr. Chairman, I do not desire to discuss the point of order beyond saying that I believe this to be in order. This does not change existing law. It merely provides for an investigation and reduces expenditures, and it will be for the purpose of causing a further retrenchment in the expenses for post exchanges, and for these reasons I think the amendment is in order.

Mr. HAY. It does not change existing law, but creates a commission and makes law.

The CHAIRMAN. The amendment furnishes authority not now afforded by law and does not reduce expenditures. This being so, and in conformity with principles already announced, the point of order is sustained.

The Clerk read as follows:

Transportation of the Army and its supplies: For transportation of the Army and its supplies, including transportation of the troops when moving either by land or water and of their baggage, including the cost of packing and crating; for transportation of recruits and recruiting parties; of applicants for enlistment between recruiting stations and recruiting depots; for travel allowance to enlisted men on discharge; of persons on their discharge from the United States military prison to their homes (or elsewhere, as they may elect), provided the cost in each case shall not be greater than to the place of last enlistment; of supplies furnished to the militia for the permanent equipment thereof; of the necessary agents and other employees; of clothing and equipage and other quartermaster stores from Army depots or places of purchase or delivery to the several posts and Army depots and from those depots to the troops in the field; of horse equipment; of ordnance and ordnance stores, and small arms from the foundries and armories to the arsenals, fortifications, frontier posts, and Army depots; for payment of wharfage tolls and ferriage; for transportation of funds of the Army; for the hire of employees; for the payment of Army transportation lawfully due such land-grant railroads as have not received aid in Government bonds (to be adjusted in accordance with the decisions of the Supreme Court in cases decided under such land-grant acts), but in no case shall more than 50 per cent of full amount of service be paid: *Provided*, That such compensation shall be computed upon the basis of the tariff or lower special rates for like transportation performed for the public at large and shall be accepted as in full for all demands for such service: *Provided further*, That in expending the money appropriated by this act a railroad company which has not received aid in bonds of the United States, and which obtained a grant of public land to aid in the construction of its railroad on condition that such railroad should be a post route and military road, subject to the use of the United States for postal, military, naval, and other Government services, and also subject to such regulations as Congress may impose restricting the charge for such Government transportation, having claims against the United States for transportation of troops and munitions of war and military supplies and property over such aided railroads, shall be paid out of the moneys appropriated by the foregoing provision only on the basis of such rate for the transportation of such troops and munitions of war and military supplies and property as the Secretary of War shall deem just and reasonable under the foregoing provision, such rate not to exceed 50 per cent of the compensation for such Government transportation as shall at that time be charged to and paid by private parties to any such company for like and similar transportation; and the amount so fixed to be paid shall be accepted as in full for all demands for such service; for the purchase and hire of draft and pack animals in such numbers as are actually required for the service, including reasonable provision for replacing unserviceable animals; for the purchase, hire, operation, maintenance, and repair of such harness, wagons, carts, drays, and other vehicles as are required for the transportation of troops and supplies, and for official, military, and garrison purposes; for drayage

and cartage at the several depots; for the hire of teamsters and other employees; for the purchase and repair of ships, boats, and other vessels required for the transportation of troops and supplies and for official, military, and garrison purposes; for expenses of sailing public transports and other vessels on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific Oceans, $10,555,555.

Mr. WILLIS. Mr. Chairman, I desire to submit an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 31, lines 20 and 21, after the word "vessels," strike out the words "on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific Oceans."

Mr. HAY. Mr. Chairman, I make a point of order on that.

Mr. WILLIS. Mr. Chairman, I do not think it is subject to a point of order, but I am willing for the Chair to pass on that now.

Mr. MANN. The gentleman makes the point of order on that?

Mr. HAY. Of course I make the point of order on that, otherwise the appropriation would not mean anything.

Mr. WILLIS. Will the gentleman withhold his point of order?

Mr. HAY. I will reserve the point of order; yes.

Mr. WILLIS. Mr. Chairman, I introduced this amendment simply to call attention to what seems to me to be a peculiar statement of the law. I assume this is a provision in former appropriation bills, though I did not get an opportunity to look it up. Here it says:

For expenses of sailing public transports and other vessels on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific Oceans.

Now, then, suppose it is desirable to sail transports on the Panama Canal. That is not a river; it is not the Gulf of Mexico; it is not the Atlantic Ocean or the Pacific Ocean. Or, say, the Suez Canal——

Mr. ROBERTS of Massachusetts. Or the Indian Ocean or the Mediterranean Sea.

Mr. WILLIS. Or the Indian Ocean or the Mediterranean Sea or the Red Sea.

Mr. BURKE of South Dakota. Or the Black Sea.

Mr. WILLIS. Or the Black Sea, or any of those suggested here. None of those comes under the head stated in this paragraph. Now, as a matter of fact, if this should be left in the appropriation bill as it stands here, might not the auditing officer, the Comptroller of the Treasury, or whoever it is, have the question raised there and lead to embarrassment and confusion?

Because obviously sailing a vessel on the Caribbean Sea or on the Indian Ocean, or any of these places, does not come within the provisions of the law, and what is the use of enumerating these navigable waters as the only places for sailing public transports and other vessels? The enumeration of certain navigable waters excludes others by implication. If this amendment is adopted it simply strikes out the language which is in the bill and which I have read.

Mr. HAY. I will say to the gentleman this language has been in the bill, according to my recollection, ever since we have acquired the Philippine Islands and inaugurated the system of transportation. The transports ply on the Atlantic Ocean, on the Gulf of Mexico, and on the Pacific Ocean, and on various rivers in the Philippine Islands and elsewhere. I do not know of any other place where they could very well go.

Mr. WILLIS. What does the gentleman say now as to my suggestion of the Indian Ocean?

Mr. HAY. I will say to the gentleman that as this language has been in the law, and has been the law for a long time, I think, unless the gentleman has a very good reason for it, we had better let it remain as it is. No harm has come from it.

Mr. WILLIS. That is the very point—harm may come from it. It is clearly within the provisions of the law.

Mr. HAY. I do not think so. I do not think any possible injury could come to the Government.

Mr. WILLIS. If that point should be made by the auditing officer, does the gentleman think the expenses of sailing a transport through the Mediterranean Sea or the Suez Canal or the Red Sea or the Indian Ocean would be covered by this language?

Mr. HAY. They do go through the Indian Ocean and through the Suez Canal.

Mr. WILLIS. But does the gentleman think the language here covers that, if the point would ever be raised?

Mr. HAY. They sail over the Indian Ocean to get to the Pacific Ocean.

Mr. MANN. It is a part of the Indian Ocean, or it was when I went to school.

Mr. WILLIS. The gentleman from Illinois studied a very ancient geography. What does he say about the Panama Canal? That is not a part of the Atlantic Ocean.

Mr. MANN. I could give the gentleman a very much better instance than he has cited, and that is the Caribbean Sea.

Mr. WILLIS. I cited that.

Mr. MANN. What is the gentleman seeking to accomplish? It is always fair to be perfectly frank.

Mr. WILLIS. Certainly. It occurred to me that the point might be raised by the comptroller. I have no interest in the form of language at all, aside from that.

Mr. HAY. I will ask the gentleman not to insist on the amendment.

Mr. WILLIS. All right. I will withdraw the amendment.

Mr. BURKE of South Dakota. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from South Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 31, after line 21, add the following:

"*Provided*, That no part of this or any other appropriation carried herein shall be used for the payment of expenses of holding, going to, attendance on, and returning from, polo tournaments, horse shows, Olympic games, or race track, by officers, enlisted men, horses, or equipments belonging to the United States, except at the United States Military Academy."

Mr. HAY. Mr. Chairman, I reserve a point of order on that.

Mr. BURKE of South Dakota. Mr. Chairman, the matter was quite fully discussed when the amendment was offered by the gentleman from North Carolina [Mr. WEAM] against the purchase of polo ponies. I do not wish to take up the time of this committee in discussing the matter unless the chairman of the committee resists the adoption of the amendment.

Mr. HAY. I understood the other amendment was adopted.

Mr. BURKE of South Dakota. The other amendment was adopted, and I want to say, because that was mentioned——

Mr. HAY. I do not believe it is subject to a point of order, Mr. Chairman.

Mr. BURKE of South Dakota. Will the gentleman accept the amendment? I do not care to take up the time of the committee at this hour of the evening.

Mr. MANN. May I hear the amendment reported?

Mr. BURKE of South Dakota. It is a limitation on the appropriation.

Mr. MANN. I ask to have the amendment reported.

The amendment was again read.

Mr. MANN. Mr. Chairman, I am surprised that my friend from South Dakota [Mr. BURKE] has not offered an amendment to provide that Army officers shall be kept on feather beds all the time and not be permitted to go out of their feather-bed buildings for fear they might be hurt. [Laughter.] I may be mistaken. I never have been in favor of a large Army, but I have always been in favor of making efficient the Army that we have.

Here is a proposition to prevent the drilling of Cavalry officers in the way they need to be drilled for service in time of battle. You might as well say they shall not have saber exercises. Why not provide that cavalrymen shall not ride horses? Why does the gentleman stop there? Why not provide that these Cavalry officers shall superintend their Cavalry regiments on foot, for fear they may be hurt?

Mr. ADAIR. Why not limit them to Army hobbyhorses?

Mr. MANN. The gentleman need not cite the Army hobbyhorses. They have them now. That is what they ride now. Because some man over here was asked, or disrespectfully asked, to contribute a dollar and was too mean to give it up, we have had an excitement about polo games ever since.

Mr. BURKE of South Dakota. Mr. Chairman, I had not intended to debate the amendment, as it was discussed very fully when the former amendment was adopted.

The basis of my action in offering this amendment, as I fully explained when the other amendment was discussed, is that I found upon inquiry of the gentlemen composing the Committee on Military Affairs of this House—a number of the members of that committee, including the chairman—that they had undertaken to prohibit expenditures from the appropriations that were being made to pay the expenses of polo tournaments and other similar exhibitions, and supposed they had. It was only after I ascertained by a letter from the Secretary of the Treasury that has been read here, and which was incorporated in my remarks earlier in the afternoon, that I discovered that they were expending money to pay the expenses of such exhibitions out of these funds.

I have here a newspaper clipping from the Washington Herald of November 16, 1912, that I happened to read about the time I arrived in Washington at the beginning of this session, and I will send to the Clerk's desk to have it read. I may say that I believe that that is an item involving expenses which are paid from the appropriations made in this bill.

The CHAIRMAN. Without objection, the Clerk will read.

The Clerk read as follows:

DEPART FOR HORSE SHOW—FORT MYER OFFICERS LEAVE FOR NEW YORK WITH THEIR MOUNTS.

Capt. L. R. Lindsey, with his famous horse Experiment, and Lieut. W. H. Shepherd, with Marshal Ney, left Fort Myer yesterday over the Pennsylvania Railroad for New York, where they will take part in the annual horse show which opens there Saturday.

Trumpeter James T. Purcell, of Battery D, and Pvt. Johnson, of Troop A, went along to look out for the horses. The Fort Myer men expect to win high honors with their mounts.

Mr. BURKE of South Dakota. Mr. Chairman, the only question is whether or not we are going to authorize expenditures for such purposes; and if we are I say we ought to say so in so many words. As I have already stated from the best information I could get from the men who are well informed on the subject it appears that we had limited the appropriation so that such expenses could not be paid from them, and since the department had found a way by which they can pay such expenses from these appropriations I am asking to put on the appropriation bill a limitation which will prohibit it in the future.

Mr. FOSTER. Mr. Chairman will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. BURKE of South Dakota. I do.

Mr. FOSTER. Does the gentleman know that the United States Government is also putting horses in races on different race tracks?

Mr. BURKE of South Dakota. I just sent to the desk and had read a newspaper clipping concerning a horse show.

Mr. FOSTER. I mean regular races.

Mr. MADDEN. Are there any pools being made on them?

Mr. FOSTER. Yes; that is a fact. Pools are being made on them.

Mr. KAHN. May I ask where United States horses are being entered in races?

Mr. FOSTER. In New York they were entered last year.

Mr. COX. Did they win any money?

Mr. FOSTER. I understand they did.

Mr. COX. Who kept it?

Mr. FOSTER. I do not know.

Mr. MANN. Would it be improper to enter them at a county fair? Would it be improper?

Mr. FOSTER. I do not know.

Mr. MANN. This would prohibit it.

Mr. MADDEN. Mr. Chairman, I think it is proper to place a limitation upon the expenditure of money carried in this bill. There is not any reason on earth why the United States Treasury should be called upon to pay for the amusements of those who are occupying positions as officers of the Army. Polo games and horse shows and all that should be left to people who are willing to pay their own money for that sort of amusement.

Why should an Army officer be privileged to draw money out of the Federal Treasury for doing something that every other citizen of the United States is called upon to pay for himself? There is no necessity for taking the cavalrymen off the horses in order to prevent men who are in the Army from playing polo at the expense of the Government Treasury.

Polo has nothing whatever to do with soldiery. Cavalry service is quite another thing. It has been said that men are better qualified for service in the Army because of their activities in polo games. I doubt that. When they are in these polo games their minds are taken away from the work for which they are employed. They run from one end of this country to the other at the expense of the Government, and in addition to having all their expenses paid they insult the people who pay taxes, because forsooth those people drive along a public driveway, built at the expense of the public, and want to stop to look at the game, they compel them to pay a dollar, or whatever the price is, if they wish to stand at a particular place. It is no evidence of niggardliness because a man refuses to pay a charge which there is no authority to levy. I take it that if a man wants to go to a game of baseball or football or polo, performed by private individuals, he is willing to pay; but if the Government of the United States builds parks, surrounds the parks with beautiful shrubbery and trees, builds beautiful boulevards for the purpose of giving the people an opportunity to drive for pleasure, those parks and boulevards are not to be controlled by soldiers who are assigned to duty to prevent the citizens from enjoying the privileges of the boulevards. It is an outrage. It is an insult that the Army should be permitted, through any officer or private, to say to any citizen "You shall not stay on a public street in a public park, unless you pay whatever charge we see fit to impose." They charged a fee on both sides of the park, on the river side and on the side across from the river. They ought not to be permitted to charge on either side, and I hope this amendment will prevail, and that in the future no dollar of the public money will be expended for the purpose of transporting officers and polo ponies from one section of the Nation to another for the edification of the officers of the Army. [Applause.]

Mr. KAHN. Mr. Chairman, it seems to me that the gentleman who introduced this amendment has mistaken his remedy. What he ought to do is to offer an amendment providing that no charge of $1 or any other amount shall be levied upon any citizen for the privilege of looking upon a game of polo which is being conducted by officers or soldiers of the Army.

Mr. CULLOP. Mr. Chairman——

The CHAIRMAN. Does the gentleman from California yield to the gentleman from Indiana?

Mr. KAHN. Yes.

Mr. CULLOP. I understand the gentleman is a member of the Committee on Military Affairs?

Mr. KAHN. I am.

Mr. CULLOP. Is it not an abuse of the appropriation to use any part of it for the transporting of horses or men to engage in a horse race at Baltimore?

Mr. KAHN. I never heard until this afternoon that money was being diverted for that purpose. I personally do not believe that it can be done under the law.

Mr. CULLOP. I understand from the statement of the gentleman from Illinois [Mr. FOSTER] that it was done last year.

Mr. KAHN. I understood so from the gentleman; but it is the first time I ever heard of it.

Mr. CULLOP. It ought not to require an amendment to purge that abuse, because no part of the appropriation was ever made for any such purpose as that, even if it has been diverted to that use.

Mr. KAHN. I am inclined to agree with the gentleman from Indiana on that. I believe that that money can not lawfully be diverted for that purpose.

Mr. CULLOP. And there is no authority of law for the use of the appropriation for such transportation.

Mr. KAHN. I know of no authority of law. I know that instruction in riding is given in the Army. Many of our constituents who come to Washington have heard of the wonderful riding exhibitions by the soldiers at Fort Myer on Fridays. It is a thrilling drill, and we are frequently importuned to secure tickets for our visiting constituents. They enthuse over the skill of the soldiers in horsemanship. The gentleman who offered this amendment would probably like to stop that riding drill at Fort Myer. To my mind, it aids enlistments. It creates an interest in the Army.

Then, too, the matter of procuring suitable horses for the service has been a serious question with Army officers. They have had a great deal of difficulty in getting proper mounts. In order to obviate that we established a remount station some two or three years ago. It is a good thing for those who raise horses throughout this country to see Army officers ride their animals; besides its educational effect there is no doubt but that the farmer or the citizen who witnesses a demonstration of that sort is frequently led to try to produce the kind of horses that are required by the Army. It is in the interest of the service that these men be permitted to perform at these various fairs.

Mr. MADDEN. Will the gentleman yield?

Mr. KAHN. Certainly.

Mr. MADDEN. How many farmers attend the horse show at Madison Square Garden, New York?

Mr. KAHN. A great many farmers, I have no doubt. They are naturally interested in good stock.

Mr. MADDEN. How many farmers attend the polo game on the grounds down here?

Mr. KAHN. I dare say many farmers from Virginia and Maryland, who reside in the vicinity of Washington, come here and pay the dollar for the privilege of looking at the game.

Mr. SLAYDEN. Mr. Chairman, this discussion has taken a wide range. I want to direct the attention of Members to the part of the bill that has provoked it all and that suggested the amendment:

Provided further, That no part of this appropriation shall be expended for the purchase of any horses below the standard set by Army Regulations for Cavalry and Artillery horses, except when purchased as remounts or for instruction of cadets at the United States Military Academy.

Of course, this purchase of undersized horses—polo ponies—is made to train them in horsemanship.

Mr. KAHN. But the amendment that is proposed is entirely different from that.

Mr. SLAYDEN. I know of no authority in law, and I have been surprised here at hearing it stated that certain things have been done—I know of no authority in law for ordering

officers and enlisted men, at the expense of the mileage appropriation, to leave Washington to engage in games. Whether it is proper for them to do that I am not undertaking to discuss.

Mr. KAHN. I know of no authority.

Mr. SLAYDEN. I was surprised to know that it had been done.

Mr. MANN. Mr. Chairman, I want to say that in Chicago for several years they have held—I do not know what they call it—some kind of a show on the Lake front, at which they have had a portion of the Cavalry and a part of the Infantry of the Army. They charged an admission for reserved seats. I understood some years ago, although I never made application in reference to the matter, that they claimed to have authority to transport these troops—I suppose from Fort Sheridan, which is only a few miles from Chicago. Perhaps they do not pay the expenses of transportation, but whether they do or not would make no difference.

Mr. SLAYDEN. A mere order by an officer who had no authority of law would be sufficient for them.

Mr. MANN. I am not saying there is authority; I do not know who pays the expense. No one else has a right to contribute to the Government for the transportation of troops.

Mr. SLAYDEN. The officers and enlisted men might get leave for that purpose.

Mr. MANN. They do not get leave; they send the men there, and send men who do not want to go.

Mr. KAHN. They are probably detailed.

Mr. MANN. They are detailed by order of the Government, and I think it has been a good thing for the Army and probably has been a good thing for the hundreds and thousands of people who have seen them.

Mr. HAY. That is a different proposition from the one proposed by the gentleman from South Dakota.

Mr. MANN. In what respect? They are ordered to a tournament where there is an admission charged.

Mr. HAY. The proposition of the gentleman from South Dakota is against the payment of the expenses for transportation of polo ponies. The proposition the gentleman is talking about, the exhibition on the shore front of the lake at Chicago, is where troops are ordered by competent authority to go to a certain place.

Mr. MANN. I did not understand the amendment of the gentleman from South Dakota was confined to the transportation of polo ponies.

Mr. HAY. And horses taking part in races, Olympic events, and so forth. I do not know exactly what the gentleman means by "Olympic events."

Mr. MANN. That is what I was talking about; wherever there is Cavalry riding there is racing, and where they have drills they are Olympic events.

Mr. HAY. I have known cases where troops of Cavalry participated, where they have been sent to different fairs, and I have requested it to be done in my district, and it has been done.

Mr. MANN. I think it would be barred by this amendment.

Mr. HAY. If it was, I should be opposed to the amendment, because I believe it is a matter of education of the people to see the soldiers and see them ride.

Mr. KAHN. I think it is a matter of education.

Mr. HAY. It aids enlistments.

Mr. MANN. That is the reason I agree with the gentleman and the reason that I am opposed to the amendment.

Mr. BURKE of South Dakota. The gentleman from Virginia went to the desk and examined the amendment, and I think he discovered that it does not go to the extent that the gentleman from Illinois has stated.

Mr. HAY. I do not so understand.

Mr. BURKE of South Dakota. It is limited entirely to certain events that are enumerated. The gentleman from Texas [Mr. SLAYDEN] states that in his judgment there is no authority of law for paying these expenses, if they are paying them, and so has the gentleman from California [Mr. KAHN], and they are both members of the committee. Is not that sufficient ground to justify placing a limitation on the appropriation?

Mr. COX. If there is no authority in law for it, how do these items get past the Comptroller of the Treasury?

Mr. BURKE of South Dakota. I can explain that in about two minutes' time, if I may be yielded that much.

Mr. GARNER. Mr. Chairman, is there not another remedy for this illegal expenditure of money? If the Committee on Military Affairs would go into the question of the necessary amount and cut down the appropriation for this work sufficiently, so that they would not have money enough to go into polo games, would not that remedy the matter?

Mr. HAY. Mr. Chairman, I will say to the gentleman that every particle of this appropriation is itemized and allotted by the Chief of the Quartermaster Corps, and that there is no allotment of this appropriation for polo games or anything of that sort. The only thing that could be paid out of this item—transportation—would be for transporting the horses from one place to another: and then, of course, the Secretary of War has the power to order the horses to be transported, and I do not know any law which we could properly enact which would prevent him from transporting the horses of the Army.

Mr. COX. Mr. Chairman, I will ask the gentleman from South Dakota to tell us how these claims get past the Comptroller of the Treasury?

Mr. BURKE of South Dakota. Certain expenses were incurred in connection with some races at Pimlico race track, Arlington, Md., and when the voucher reached the Treasury Department it was disallowed.

Mr. COX. By whom?

Mr. BURKE of South Dakota. By the Auditor for the War Department, who is an official of the Treasury Department. He decided it could not be paid, because it was not authorized by law, and I think when he did that he followed the intention of Congress when it made the appropriation. The matter went to the Comptroller of the Treasury.

Mr. COX. Was there an appeal taken from his decision?

Mr. BURKE of South Dakota. Yes; and here is the substance of the comptroller's decision:

> The War Department is intrusted with the control of the Army and what, in its judgment, will promote its efficiency. The Secretary of War represents the President and exercises his power on the subjects confided to his department. If the War Department in the exercise of its jurisdiction and control of the Army is of the opinion that polo tournaments among the officers and enlisted men tend to promote the efficiency of the Army, and accordingly orders the officers and men to participate in such tournaments, which involve expenditures for transportation of officers and men and horses to attend such tournaments, I do not think the accounting officers can revise the judgment of the War Department in such matters or that they are authorized to disallow them the reasonable cost of such transportation.

So the decision of the comptroller is based entirely upon the authority that he says the Secretary of War possesses, and enables the expenditure of money that Congress did not intend to authorize.

Mr. MADDEN. Does he define what a game of polo is?

Mr. BURKE of South Dakota. My position is, and I am willing to accept the judgment of the Committee on Military Affairs on the matter, that if this is a proper subject for which to appropriate money, then appropriate for that purpose.

Mr. COX. As I gather from the reading of the decision of the comptroller, he really winds up by deciding a state of facts not stated in the first part of the decision. Did not that case arise on the proposition of certain horses being sent to a race track?

Mr. BURKE of South Dakota. I think so.

Mr. COX. And then finally he decides the question on a polo game.

Mr. BURKE of South Dakota. No; the particular item in this case was a voucher for a race-track event, but he goes on very fully and discusses polo tournaments and gives the Century Dictionary definition of what polo is and of what hockey is, and so forth. It is quite interesting, I will say to the gentleman, and it shows clearly how the comptroller found a way to pay the expenses, but I do not think his decision is correct.

Mr. MANN. In accordance with the law.

Mr. HAY. Mr. Chairman, I think this matter has been discussed sufficiently, and I hope to have a vote on the amendment now.

The question was taken; and the Chairman announced the "noes" seemed to have it.

On a division (demanded by Mr. BURKE of South Dakota) there were—ayes 14, noes 23.

Mr. MADDEN. Mr. Chairman, I make the point of order there is no quorum present.

Mr. HAY. Mr. Chairman, I move the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 27941, the Army appropriation bill, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire.

The SPEAKER announced his signature to enrolled joint resolution and bill of the following titles:

S. J. Res. 150. Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate; and

S. 7637. An act to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.

DESIGNATION OF SPEAKER PRO TEMPORE FOR TO-MORROW.

The SPEAKER. The Chair will appoint the gentleman from Indiana, Mr. CLINE, to preside at the session of the House to-morrow.

ADJOURNMENT.

Mr. HAY. Mr. Chairman, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 3 minutes p. m.) the House adjourned to meet to-morrow, Sunday, January 19, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Navy, transmitting a statement of expenses incurred from June 30 to December 1, 1912, by officers and employees of the Navy Department in attending conventions of societies or associations (H. Doc. No. 1284); to the Committee on Expenditures in the Navy Department and ordered to be printed.

2. A letter from the Acting Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting estimate of appropriation for barracks and quarters at Fort Bliss, Tex. (H. Doc. No. 1285); to the Committee on Military Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. RUSSELL, from the Committee on Invalid Pensions, to which was referred the bill (H. R. 28093) to amend the general pension act of May 11, 1912, reported the same without amendment, accompanied by a report (No. 1346), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 27960) granting a pension to William Costello, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. COPLEY: A bill (H. R. 28233) for the purchase of a site at Woodstock, Ill., for the purpose of erecting a public building thereon; to the Committee on Public Buildings and Grounds.

By Mr. CLINE: A bill (H. R. 28234) to place on the retired list of the Army the names of the surviving officers who were mustered out under the provisions of the act of Congress approved July 15, 1870; to the Committee on Military Affairs.

Also, a bill (H. R. 28235) to amend a portion of the act of July 1, 1908, volume 30, Statutes at Large, page 614, relating to the exclusive jurisdiction, control, and custody of courthouses, customhouses, post offices, etc., under the exclusive jurisdiction of the Secretary of the Treasury; to the Committee on Public Buildings and Grounds.

By Mr. HUMPHREY of Washington: A bill (H. R. 28236) to prevent ships in combines and conferences from passing through the Panama Canal; to the Committee on Interstate and Foreign Commerce.

By Mr. PICKETT: A bill (H. R. 28237) to authorize the construction of a bridge across the Mississippi River at or near Dubuque, Iowa, and to establish it as a post road; to the Committee on Interstate and Foreign Commerce.

By Mr. RICHARDSON: A bill (H. R. 28238) authorizing the Secretary of War to donate to the city of Sheffield, in the State of Alabama, a bronze cannon and carriage; to the Committee on Military Affairs.

By Mr. CALDER: A bill (H. R. 28239) providing that one competent officer of the United States Navy, who shall be nominated by the Secretary of the Navy for the approval of the President, with two other competent persons appointed by the President, shall constitute a commission to be known as the Labrador Current and Gulf Stream Commission, defining its powers and duties, and making an appropriation for its expenses; to the Committee on Naval Affairs.

By Mr. HINDS: A bill (H. R. 28240) to amend the act authorizing the construction of a public building at Biddeford, Me.; to the Committee on Public Buildings and Grounds.

By Mr. TUTTLE: Resolution (H. Res. 778) directing the Committee on the Post Office and Post Roads to institute and carry forward an investigation into the letting of contracts, etc.; to the Committee on Rules.

By Mr. HARDWICK: Resolution (H. Res. 779) requesting from the President of the United States information concerning the exemption of American importers of manila hemp from payment of the export tax thereon; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON: A bill (H. R. 28241) granting a pension to Elmo M. Kellar; to the Committee on Pensions.

By Mr. AYRES: A bill (H. R. 28242) granting a pension to Ellen Louise Tripp; to the Committee on Pensions.

By Mr. BATHRICK: A bill (H. R. 28243) granting a pension to Clarence J. Hoskins; to the Committee on Pensions.

By Mr. BELL of Georgia: A bill (H. R. 28244) granting a pension to Mariena E. Wehunt; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 28245) for the relief of Gethsemane Baptist Church; to the Committee on War Claims.

By Mr. CRAVENS: A bill (H. R. 28246) for the relief of the estate of Samuel N. Pryor; to the Committee on War Claims.

By Mr. DAVIDSON: A bill (H. R. 28247) granting a pension to Hans Hanson; to the committee on Invalid Pensions.

Also, a bill (H. R. 28248) granting an increase of pension to Ludwig W. Kaempf; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28249) granting an increase of pension to Newton Peters; to the Committee on Invalid Pensions.

By Mr. FERGUSSON: A bill (H. R. 28250) granting an increase of pension to Juan Andres Aragon; to the Committee on Pensions.

Also, a bill (H. R. 28251) granting an increase of pension to Petra Archuleta de Vigil; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28252) granting a pension to Charles M. Hines; to the Committee on Pensions.

By Mr. FERRIS: A bill (H. R. 28253) granting an increase of pension of Joshua P. Neeley; to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 28254) granting a pension to John J. Seithel; to the Committee on Pensions.

By Mr. HARTMAN: A bill (H. R. 28255) granting an increase of pension to Lucinda Hainley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28256) granting an increase of pension to Margaret L. Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28257) granting an increase of pension to Peter Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28258) granting an increase of pension to Lydia Barclay; to the Committee on Invalid Pensions.

By Mr. HAMILTON of Michigan: A bill (H. R. 28259) for the relief of Park B. Chase; to the Committee on Naval Affairs.

By Mr. HAMLIN: A bill (H. R. 28260) for the relief of J. H. Alexander; to the Committee on War Claims.

By Mr. HAYDEN: A bill (H. R. 28261) for the relief of G. O. Nolan; to the Committee on Claims.

By Mr. JOHNSON of Kentucky: A bill (H. R. 28262) for the relief of George W. Stout; to the Committee on Claims.

Also, a bill (H. R. 28263) granting an increase of pension to John T. Stasel; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 28264) for the relief of Cyrus H. Abbott and others; to the Committee on War Claims.

By Mr. LEE of Georgia: A bill (H. R. 28265) for relief of the trustees of Pea Vine Academy, Catoosa County, Ga.; to the Committee on War Claims.

Also, a bill (H. R. 28266) for relief of the trustees of Pea Vine Church, Catoosa County, Ga.; to the Committee on War Claims.

By Mr. LLOYD: A bill (H. R. 28267) granting an increase of pension to John M. Davis; to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 28268) granting a pension to Vincent S. Drain; to the Committee on Pensions.

By Mr. NEELEY: A bill (H. R. 28269) granting a pension to Parmelia R. Parris; to the Committee on Pensions.

By Mr. RANSDELL of Louisiana: A bill (H. R. 28270) for the relief of James M. Morgan; to the Committee on War Claims.

By Mr. REILLY: A bill (H. R. 28271) granting an increase of pension to Margaret Carmody; to the Committee on Invalid Pensions.

By Mr. ROBERTS of Nevada: A bill (H. R. 28272) granting a pension to Jasper Jennings; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 28273) granting a pension to Sampson Johnson; to the Committee on Invalid Pensions.

By Mr. TOWNER: A bill (H. R. 28274) granting a pension to Mary Bullard; to the Committee on Invalid Pensions.

By Mr. ELLERBE: A joint resolution (H. J. Res. 386) exempting Capt. Frank Parker, United States Army, from a provision of the act entitled "An act making appropriation for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes"; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Papers relative to contest case of Fulton v. Morgan; to the Committee on Elections No. 2.

By Mr. ALLEN: Petition of officers of the Historical and Philosophical Society of Ohio, favoring the passage of legislation for the erection of a national archives building at Washington, D. C.; to the Committee on Public Buildings and Grounds.

By Mr. ANDERSON: Papers to accompany bill granting a pension to Elmo M. Kellar; to the Committee on Pensions.

By Mr. ANSBERRY: Petition of Thomas J. Littlejohn and others, of Middletown, Ohio, favoring the passage of the Lafean pension bill; to the Committee on Invalid Pensions.

Also, petition of the Eastern Talking Machine Dealers' Association, protesting against the passage of section 2 of the Oldfield patent bill, prohibiting fixing of prices by manufacturers of patent goods; to the Committee on Patents.

Also, petition of the National Society for the Promotion of Industrial Education, New York, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. BYRNS of Tennessee: Papers to accompany bill for the relief of Gethsemane Baptist Church; to the Committee on War Claims.

By Mr. CARY: Petition of the Milwaukee Chamber of Commerce, favoring the passage of legislation granting a Federal charter to the Chamber of Commerce of the United States; to the Committee on the Judiciary.

Also, petition of the Milwaukee Chamber of Commerce, favoring the passage of House bill 3010, for regulation of telephone and telegraph messages; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Association of Employing Lithographers, protesting against the reduction of tariff on lithography; to the Committee on Ways and Means.

By Mr. CRAVENS: Papers to accompany bill for the relief of the estate of Samuel M. Pryor; to the Committee on War Claims.

By Mr. ESCH: Petition of the Chamber of Commerce of Milwaukee, favoring the passage of House bill 3010, for regulation of telephone and telegraph messages; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Chamber of Commerce of Milwaukee, Wis., favoring the passage of the pending legislation granting a Federal charter to the Chamber of Commerce of the United States; to the Committee on the Judiciary.

By Mr. FULLER: Petition of the Illinois Chapter of the American Institute of Architects, relative to the erecting of a fitting memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Wallace Gillespie, Franklin, Ohio, favoring the passage of House bill 13339 to increase the pensions of the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. HINDS: Petition of employees in paper mills in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, New York, Pennsylvania, District of Columbia, Virginia, West Virginia, Ohio, Indiana, Michigan, Minnesota, Iowa, Wisconsin, Oregon, and Washington, praying that section 2 of the reciprocity act be repealed; to the Committee on Ways and Means.

By Mr. LINDSAY: Petition of the New York Leather Belting Co., New York, favoring the passage of House bill 27567 reducing the rate of first-class letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of Employees' Aid Society, of the Eberhard Faber Pencil Co., Greenport, Brooklyn, protesting against the passage of any legislation making downward revision of tariff on lead pencils and leads; to the Committee on Ways and Means.

By Mr. MARTIN of South Dakota: Petition of business men of Dallas, Burke, and Gregory, S. Dak., favoring the passage of legislation compelling the firms that sell direct to the consumer by mail to pay their portion of funds for the development of the local community, county, and State; to the Committee on Interstate and Foreign Commerce.

Also, petition of Frank Smith, Sturgis, S. Dak., relative to special act granting a pension to Daniel J. Newell; to the Committee on Invalid Pensions.

By Mr. NEELEY: Petition of citizens of Kansas, favoring the passage of House bill 25040, making an eight-hour limit for the telegrapher; to the Committee on Interstate and Foreign Commerce.

By Mr. PLUMLEY: Petition of the First Congregational Church and the Methodist Episcopal Church of St. Johnsbury Center, Vt., favoring the passage of the Kenyon "red-light" injunction bill to clean up Washington during the inauguration; to the Committee on the District of Columbia.

Also, petition of the First Congregational Church and the Methodist Episcopal Church of St. Johnsbury Center, Vt., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. RAKER: Petition of the Illinois Chapter of the American Institute of Architects, relative to the erection of a fitting memorial to the memory of Abraham Lincoln; to the Committee on the Library.

By Mr. REILLY: Petition of the Village Improvement Association, Milford, Conn., favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the Eastern Talking Machine Dealers' Association, New York, N. Y., protesting against the passage of section 2 of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the German-American Peace Society, protesting against the passage of House bill 8141, putting the soldiers and officers of the State militia on the national pay roll; to the Committee on Military Affairs.

By Mr. SMITH of New York: Petition of the Methodist Men's Club of East Aurora, N. Y., favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. STEPHENS of California: Petition of the Russell Borate Mining Co., Ventura, Cal., protesting against any reduction of the tariff on borate; to the Committee on Ways and Means.

By Mr. TAGGART: Memorial of the Uncle Sam Oil Co., relating to its business transactions with the Standard Oil Co. and the Post Office and Interior Departments; to the Committee on Interstate and Foreign Commerce.

By Mr. THAYER: Petition of citizens of Worcester, Mass., favoring the passage of the Kenyon "red-light" injunction bill to clean up Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. TILSON: Petition of the Village Improvement Association (Inc.), Milford, Conn., favoring the passage of the McLean bill for Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. TUTTLE: Petition of the Eastern Talking Machine Dealers' Association of New York, protesting against the passage of section 2 of the Oldfield patent bill preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the National Society for the Promotion of Industrial Education, favoring the passage of the Page bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Board of Trade of the city of Newark, N. J., favoring the passage of legislation for the establishment of a Federal court at Newark, N. J.; to the Committee on the Judiciary.

Also, petition of employees of the Railway Mail Service, second division, protesting against the recent orders of the Post Office Department requiring the cancellation of the photographic commissions, upon which their transportation to and from duty depends; to the Committee on the Post Office and Post Roads.

By Mr. WILLIS: Papers to accompany bill (H. R. 27526) granting a pension to Emma B. Showalter; to the Committee on Invalid Pensions.

HOUSE OF REPRESENTATIVES.

SUNDAY, *January 19, 1913.*

The House met at 12 o'clock noon, and was called to order by Mr. CLINE as Speaker pro tempore.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Eternal and everliving God, our heavenly Father, out of the deeps we cry unto Thee, "Our refuge and our strength, a very present help in trouble." We thank Thee for all the disclosures Thou has made of Thyself, which enables us to interpret the meaning of life and its far-reaching purposes; especially for that light which broke in splendor upon the world in the resurrection of the Christ, demonstrating the immortality of the soul and the unbroken continuity of life. We realize the fitness of this service in memory of one who served with distinction upon the floor of this House and left behind him an enviable record as a statesman, a Christian gentleman, a warm-hearted friend, a faithful husband, a loving father. Help us to cherish with his dear ones his memory, to copy his virtues, and leave behind us a record worthy of emulation; looking forward with bright anticipations to one of the Father's many mansions where all the longings, hopes, and aspirations of our souls shall find their full fruition, in Jesus Christ our Lord. Amen.

The Clerk began the reading of the Journal of Saturday, January 18, 1913.

Mr. PLUMLEY. Mr. Speaker, I ask unanimous consent that the reading of the Journal be dispensed with.

The SPEAKER pro tempore. The gentleman from Vermont asks unanimous consent that the reading of the Journal be dispensed with. If there be no objection that request will be granted, and the Journal will be considered as approved.

There was no objection.

THE LATE REPRESENTATIVE FOSTER, OF VERMONT.

The SPEAKER pro tempore. The Chair lays before the House the order for to-day.

The Clerk read as follows:

On motion of Mr. PLUMLEY, by unanimous consent.

Ordered, That Sunday, January 19, 1913, at 12 o'clock m., be set apart for addresses upon the life, character, and public services of Hon. DAVID J. FOSTER, late a Representative from the State of Vermont.

Mr. GREENE of Vermont. Mr. Speaker, I offer the resolution which I send to the Clerk's desk.

The SPEAKER pro tempore. The gentleman from Vermont offers a resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 780.

Resolved, That in pursuance of the special order heretofore adopted, the House proceed to pay tribute to the memory of the Hon. DAVID JOHNSON FOSTER, late a Representative in Congress from the State of Vermont.

Resolved, That as a further mark of respect to the memory of the deceased, and in recognition of his distinguished career and his great service to his country as a Representative in Congress, the House, at the conclusion of the memorial proceedings of this day, shall stand adjourned.

Resolved, That the Clerk of the House communicate these resolutions to the Senate.

Resolved, That the Clerk of the House be, and he is hereby, instructed to send a copy of these resolutions to the family of the deceased.

The resolution was agreed to.

Mr. GREENE of Vermont. Mr. Speaker, I need not suggest to you the peculiarly delicate situation of one who, now attempting to do justice to the splendid merits of his predecessor, is himself just beginning to learn to live up to the record in Congress that his predecessor left.

It is now nearly 13 years since the Hon. DAVID J. FOSTER was chosen by his district to represent Vermont in Congress. I knew him some time before this honor came to him. And I knew him with something of intimacy during all the years since. I felt it was my duty as a citizen and it was my pride as a friend to lend my voice and my vote to support his biennial return to this Chamber. And I was never disappointed in the return of public service that he made for citizens and friends alike.

While at home in Vermont I knew pretty closely the character of Mr. FOSTER; had been associated with him time and again in important affairs that tended to bring out the best there is in a man. Yet it remained for my brief experience here to emphasize to me even more directly the opinion that other men had of him, too. I myself have been welcomed here by scores of men that sit in this Chamber merely out of grateful and affectionate recollection of my predecessor. I have been told that I was welcome in his name, and I appreciate the depth of feeling that has stirred them to this saying. He was one of the men of rugged character that grow out of the New England hills. He made himself all that he was, and he was all that the best of his friends and admirers could expect.

It does not become me to say too much on this occasion, because if I were to undertake to tell what I believe the people of Vermont and his associates in this Chamber thought of Mr. FOSTER and the great and good work he had accomplished or helped to accomplish for the good of the people at large I should simply reiterate the eulogies that are to be heard to-day.

I desire simply to say, as the present Representative of Mr. FOSTER's district and as his personal friend, that Vermont was proud to feel that he was here to protect her interests and to help safeguard the interests of the Nation, and that his security in the confidence and affection of the people whose servant he was could not be broken.

There is so much that I might say of Mr. FOSTER, so much that I do so eagerly desire to say of him and his good works, that I am halted now, not by disinclination, but by the embarrassment of one that fears he may not under these peculiar circumstances be understood.

I may only hope that Vermont and that the country may always have here in this Congress men of such high purpose and splendid ability as DAVID J. FOSTER, and that the ideals we all are striving for may find supporters in the kind of men that my predecessor most nobly represented.

Mr. MARTIN of South Dakota. Mr. Speaker, in the stress of legislative business it had not come to my notice until last evening that these memorial exercises were set down for to-day. Under ordinary circumstances I would let an occasion of this sort pass, perhaps, but I have not felt that I would be willing to allow the memorial exercises of DAVID J. FOSTER to pass in this House of Representatives without adding my heartfelt, although halting, tribute to his memory.

It is not in any sense underestimating the warm attachment that I have for my colleagues from many States to say that, partly from circumstances and partly from the strong and winning personality of Mr. FOSTER, I formed for him a friendship more intimate than for any other Member of this body.

We came into Congress at the same time, he from the far East and I from the West. We met first at the grave of the lamented William McKinley, during the funeral services at Canton, Ohio. I was then impressed with Mr. FOSTER's strong personality, his striking and attractive appearance, his warm and cordial greeting to his fellows. The new Republican membership of the Fifty-seventh Congress formed what I have not known to be formed at any other time in the history of the House, a club or association of new Members of that Congress, known as the Tantalus Club, for the purpose of more prompt acquaintance of new Members among themselves, and of making the beginning of the legislative life of the new Members of greater service and of more ready application to the great problems of the time. Mr. FOSTER, if not the originator, certainly was the mover and the controlling spirit of that organization. We lived for some years in the same apartment house and I had the opportunity of seeing him often in his home—that sanctuary and environment where a good man appears at his best and where the meanness and selfishness of the bad man is disclosed and known. There was nothing yellow in the life of DAVID J. FOSTER. He was the solicitous and helpful parent, the courteous and affectionate husband, and the superb and gentlemanly neighbor and host.

With great rapidity Mr. FOSTER rose from the position of a new Member to become the chairman of our Committee on Foreign Affairs, one of the most responsible, dignified, and important positions in the House and, indeed, in the legislative and administrative life of the country; a position on the wise and intelligent administration of which our peace and standing among the nations in considerable part depends.

Statecraft came naturally to Mr. FOSTER. Statesmanship was his inheritance, his constant study, and his ample accomplishment. He belonged to that long line of great New Englanders, who for now several generations have come down from the schoolhouse discipline of those rugged hills to take a prominent part in leadership in the industrial, legislative, and professional life of the Nation.

So long as the Republic shall rear men of the type of DAVID J. FOSTER to shape her legislation and to interpret and administer her laws, the future of our country will be in safe hands, and we may look forward with confidence to the fulfillment of her glorious destiny.

Mr. HAWLEY. Mr. Speaker, the most important factor in modern life is the unearned increment that those who have preceded us on this stage of affairs have contributed to the general welfare and prosperity of the world, and which has added to the joys and happiness and comfort of those who shall succeed them for their advancement and upbuilding. In making an estimate of that distinguished man, Hon. DAVID J. FOSTER,

of Vermont, whose memorial services claim our attention this afternoon, I wish to speak briefly on this point.

The material things—the building of great cities, the construction of vast systems of transportation, the conquest of the wilderness and the plain by those who have preceded us—have multiplied our comforts and our opportunities. The story of what the past has done for us of the present is a long story. There is hardly a century that has not contributed things which, if they were taken away from us, would be most sincerely missed and would be felt as a great loss to us as a people and as individuals. The political principles that we enjoy were not of this century, nor the past century, nor the century before that, but they have come down to us through tens of centuries. The educational advantages that have made the American people a great people were not altogether originated within the confines of our territory. The religious sentiments which we profess, which have strengthened our moral fiber and made us a great people, come down the ages from far across the seas, and especially from that place where, on the Galilean hills, walked the divine and immortal Nazarene.

But among all the things the past has given us its material contributions to our welfare are the least of the things we prize. If our cities were razed, our transportation systems destroyed, our farms returned to the wilderness, within a hundred years we would have replaced them all; but if there were taken from us the teaching of the centuries of earth's great and good men, the record of their lives, the sum total of their achievements, a thousand or many thousands of years would not suffice to replace that great loss.

The thing I am endeavoring to say is that the greatest contribution ever made by any country or by our own country, by any generation or by this generation, is the characters of the men and women who have lived for the good of mankind. Every strong man is a leader in his place and time. Every man who can think clearly and see clearly is a leader, and upon the sufficiency of his knowledge, the soundness of his judgment, and the purity of his intentions depends the quality and strength of his leadership.

There was a man down in the land of Egypt who was a stranger there, sold as a slave into that country, who, by reason of three things alone, rose to control the country, to its benefit and good; first, that his sense of personal honor was more to him than life; second, that he was untiring in his industry in the acquisition of information concerning the things in which he was concerned; and, third, that he had a judgment as sound and as perfect as that of any man who ever lived. That man was Joseph, a stranger in a strange land, but he controlled that country for that country's good, because he was worthy of its utmost confidence.

I could multiply such instances. It is to such a class of men that the man in whose honor we are assembled to-day belonged. He was a leader by reason of the adequacy of his knowledge concerning the things with which he dealt, by the soundness and clearness of his discernment and judgment, and because we had implicit confidence in him. Everything he spoke of, everything he touched, everything he said was illuminated with the light of that high personal honor that appeals to the hearts of men. What he said we believed. What he desired we thought for the good of the country. Those things he advocated we considered to be essential for the welfare of the people of the United States.

Mr. FOSTER was a distinguished Member of this body when I had the privilege of joining it. There were certain qualities about him that attracted me to him at the beginning, and I learned sincerely to love him, and with the rest of my associates to follow his lead in those matters in which he was our appointed leader. I do not regret one act I took under his advice, one vote I cast following his judgment, or one thing I ever heard him say on the floor of this House.

I remember when David J. Livingstone came back from Africa, worn with his long service to a benighted people. He was to receive from one of the greatest universities of England, in company with Alfred (Lord) Tennyson, a distinguished honor. When the university had been assembled and the authorities had taken these two men to the place of honor, and Alfred (Lord) Tennyson was called to the front of the stage to receive his distinction, he was met with somewhat of jeers by the assembled undergraduates, who made just a little sport of some of his pretensions, saying:

If you're waking, call me early, Alfred, dear.

When Livingstone was announced for the honor, a man whose whole life had been devoted to the service of mankind without hope of reward or expectation of remuneration or honor, but simply for the opportunity of doing his duty as a man, that entire university rose and with uncovered heads, an honor rarely given, stood in solemn and reverent silence while he received his distinction.

The greatest thing that mortal times afford is spotless reputation, and in these modern days, in the midst of the fierce light that beats around a distinguished place upon the floor of this House, it is gratifying to know that a man can close his labors among the universal plaudits of his fellows and can have it said country-wide and world-wide that his sense of personal honor was such that it gilded everything he touched. Such a life, Mr. Speaker, must have been well spent. DAVID J. FOSTER was one of the men who in the future will be looked back to as those who have preserved for us the purity of our public life, has left a glorious record of an efficient service, and one who has proved that a man's private life may so adorn his public station that all will join in granting him the honor dear to every true man's heart—of loving and universal recollection.

Mr. NYE. Mr. Speaker, slowly, but I believe surely, humanity is learning that goodness is not only compatible with greatness, but that goodness is greatness, and that there is no greatness without it. I have been deeply impressed with the beautiful train of thought so eloquently expressed by the last speaker, and I think it is a theme upon which we may properly comment on occasions of this character. We are the heirs of all the rich and wondrous past, and when I say "rich and wondrous past" I do not mean the riches which are temporal and which moth and rust corrupt, but I mean that enduring wealth of character to which we pay our respects to-day. Every martyr to truth, every hero, every philosopher, every poet, every artist, every musician of all the past ages comes to us to-day and lays his treasure of wealth at our feet.

If an intimate personal acquaintance with the deceased were essential to take part on this occasion, I should be almost wholly disqualified to speak; but there are people we meet in this world whom we feel we have always known. There is a soul fraternity which the outer world does not know. We catch the inspiration of the character and the atmosphere of the life intuitively. It is not scholastic or learned, but we read human character as we read a face. We feel, and no power can convince us to the contrary, that this man is genuine or the other man is largely spectacular and counterfeit. During four years as a colleague of this distinguished son of Vermont I always felt that I was in the presence of an upright, noble man, not only with the clear mind and the studious qualities which enabled him to understand his subject, but one whose life was animated and illumined by conscience and by enduring integrity. I believed in him intuitively. I knew that if he made a mistake it was a mistake of judgment and not of motive. In the eloquent invocation here to-day he was referred to as a Christian man.

I believe with Carlyle that men are essentially what they are religiously and nothing else—not their church, that may be an accident; not their profession, for we see good men and bad men in every church and profession; but that which men take to heart, that in which they are rooted in life, that attitude of heart toward God and their fellowmen—this determines the man, and without it he is a sham. And in this sense—and I know nothing about his history in that regard—he was in character, I know, profoundly and constitutionally religious, which simply means honesty, integrity, and reverence and love. I do not know that I can say more of him personally. I was not associated with him on committees. I saw him often here in the House. I had occasion during my four or five years' acquaintance with him to work with him in some of the measures in which he was personally and deeply interested, and I always felt a sense of confidence and reliance not alone upon his judgment but upon that which is greater, his integrity.

Mr. Speaker, it so chances that in a brief experience of six years in this Chamber this is the first time I have attempted to utter a word upon occasions of this character. I try only to speak in simple, unstudied words that spring from the heart in kindly memory of one I esteemed and loved.

I thought to-day, when I was coming up the hill to this Capitol, of the vast procession of illustrious men who for more than a century and a quarter have come and gone, men who for a day stood high in ability and character, but I could not help but reflect after all how transitory are all things human. The things which are seen are temporal, but the things which are not seen—that is, by the physical senses—are the eternal. That character which this man expressed lives on to enrich the future as the worthy men of the past enrich to-day.

How fleeting and how unsubstantial is human fame! How wealth turns to ashes in our hands and how the prizes we struggle for are but the toys of an hour! All must pass away. Childishly ambitious to-day to write our names upon the shore

of time's restless sea, to-morrow's waves will sweep away both writer and inscription. But that which is enduring, that which calls us here to-day to pay our tribute of love to this man, that which is born, I believe, of God and partakes of immortality, that which the Great Teacher of Galilee taught and demonstrated to humanity, that for which He toiled and suffered on earth can not and will not pass away.

These shall resist the empire of decay,
When time is o'er and worlds have passed away.
Cold in the dust the perished heart may lie,
But that which warmed it once can never die.

Mr. WEEKS. Mr. Speaker, New England is so limited in area and her interests in the several States are so similar that her Representatives have as close association in most cases as they would if they came from the same State. That condition at least marked my acquaintance with and friendship for Mr. FOSTER. He was one of those who in my first days in Congress took an interest in me and the things I was trying to do; advised and criticized and praised when the occasion offered, in short assumed the position of a real friend, and it is as such that I like to think of and shall always remember him. I soon learned that he was well equipped for the public service. He was a good lawyer, which, despite the frequent criticism that there are too many lawyers in legislative bodies, is a desirable qualification, which should always be considered and obtained, other conditions being equal; and this qualification was supplemented by a judicial temperament which enabled him to give suitable weight to the opinions of others and to incorporate them in his final conclusions. Added to these characteristics, he was industrious; no man can be entirely satisfactory to his constituents, whatever may be his other qualities, unless he has industry; and, finally, he was intensely interested in his work. Having all of these qualities, coupled with excellent native ability, it was but natural that his tenure of office should have seemed to be secure, especially as he came from a State which has been particularly loyal to faithful and deserving sons who have represented her in Congress. Indeed, there are few places in our public service more permanent than a Senatorship or Representative from Vermont. For two decades vacancies in the office of Senator from that State have only come as a result of death or resignation. It is not my purpose to speak in detail of Mr. FOSTER'S public service, except a word about his last activities. One of his characteristics was that he did not seem to have malice or continued resentment in his makeup; this led him to speak of men only when he could speak well of them, and he had a gracious courtesy, both qualities which especially adapted him for the delicate work of the Committee on Foreign Affairs, of which he was long a member, and for one Congress its chairman. During this service he not only performed his work in Congress with great credit, but was also commissioned to represent our Government to two foreign countries—Mexico and Italy—as a member of commissions appointed for special purposes, and we may well believe that in this work he displayed those qualities "which transmutes aliens into trusting friends and gives its owner passport around the world."

Last March I went to Panama knowing that he was not well, but was assured that his trouble was only temporary, and expecting to find him entirely recovered on my return, and was correspondingly shocked to find that he had passed on to his reward.

I shall not forget DAVID J. FOSTER, the able legislator, the loyal Republican, the upright citizen, the true friend, and I greatly regret that these words so inadequately express my sincere sorrow at his untimely death and the deep sense of personal loss which I feel.

Mr. KAHN. Mr. Speaker, the mortality record of the present Congress has been exceptionally large. I believe 16 Members of this House have answered the final summons since the Sixty-second Congress was convened in extraordinary session. To-day we meet in solemn conclave to pay a tribute of respect to one of these, our late colleague the Hon. DAVID JOHNSON FOSTER, of Vermont. He had a large experience in public life. For many years honors were heaped upon him by his friends and neighbors in his native State. His rise from one public station to another was almost meteoric. No man who failed to possess the unqualified confidence of his constituency could have attained the honors that were bestowed upon him. Successively prosecuting attorney, State senator, commissioner of State taxes, chairman of the State board of railroad commissioners from 1886 to 1900; and in the latter year he was elected to the National House of Representatives. Here his splendid ability soon found recognition. His courteous manner, his knowledge of affairs, his industry, his absolute fairness at all times, and especially upon every momentous public question, gained for him the esteem and confidence of all his colleagues, regardless of political affiliation. As chairman of the Committee on Foreign Affairs he was called upon to take an active part in the settlement of grave questions of international relationship. He performed the duties that devolved upon him fearlessly, earnestly, honestly, patriotically.

And in the very prime of life, in the very vigor of manhood, he was suddenly stricken by the Grim Reaper. The news of his death was a severe shock to all those who had learned to know and esteem him. In his death they felt they had lost a sincere friend. They knew his State and the Nation had lost an able and faithful Representative, his family an affectionate and devoted husband and father. Peace to his ashes.

Mr. PLUMLEY. Mr. Speaker, DAVID JOHNSON FOSTER, son of Jacob Prentiss Foster and Matilda Cahoon Foster, was born in Barnet, Caledonia County, Vt., June 27, 1857, and died 8.30 p. m., Thursday, March 21, 1912, at his residence in Washington.

He was a slender youth of delicate health, having neither ability nor liking for the rough sports of his young comrades, but from early boyhood he was an omnivorous reader, and found his glad employment among his books, a pastime which he indulged late into the night. He obtained his early education in a district school of 24 weeks each year; during the remainder of the year he aided his father upon the farm, and while school was in progress his mornings and evenings were similarly employed. Meanwhile he seized every available means to store up useful knowledge. Fortunately for the lad, the father was a great lover of good literature, and surrounded himself, to the extent of his financial ability, with the means for indulging his tastes, and to these the boy had access.

While his comrades played ball and games of that character, he sat at home an eager student. He entered St. Johnsbury Academy in the fall of 1872, graduated in 1876, entered Dartmouth that fall, and graduated in 1880. While attending the academy he worked for his board, received such aid as the father, mother, and other members of the family could give him, and supplemented their aid by teaching school. During his college life he taught school in the winter, gained scholarships by studious application, tutored students in the lower classes, won money prizes in elocution, and trained his associates in prize speaking. It was while teaching at Chelsea, Vt., that he made the acquaintance of his future wife, Mabel M. Allen, of that town.

From college he went immediately to Burlington, Vt., to read law, was admitted to the Chittenden County court in 1883, began the practice of law at once in the city of Burlington, and was married during the year. He was elected prosecuting attorney for the county of Chittenden for two terms, 1886 to 1890; in 1890 to 1894 he was one of the State senators from that county; was State tax commissioner by appointment of the governor for four years, 1894 to 1898; chairman of the railroad commissioners of the State of Vermont, by appointment of the governor, from 1898 to 1900, and in the spring of 1900 was nominated to the Fifty-seventh Congress and elected that fall. His first committee assignments were those of Foreign Affairs, Claims, and Expenditures in the State Department. He held similar committee positions in the Fifty-eighth Congress, also the Committee on Labor. He retained a position on the Committee on Foreign Affairs throughout his congressional career. He was made chairman of the Committee on Expenditures in the Department of Commerce and Labor in the Fifty-ninth Congress, which position he held until, following the death of the chairman of the Committee on Foreign Affairs, James Brock Perkins, during the Sixty-first Congress, he was appointed by the Speaker to the chairmanship thus made vacant, when he resigned his position upon the Committee on Commerce and Labor. In the Sixty-second Congress, there being a Democratic majority in the House, he was given the position of the ranking member of the minority in the Committee on Foreign Affairs.

In September, 1910, by the appointment of the President, he headed the delegation which represented this country at the Centennial of Mexican Independence, and during his service as chairman of the Committee on Foreign Affairs he was made chairman by President Taft of the delegation from the United States to the General Assembly of the International Institute of Agriculture at Rome. During the winter of 1910–11 he gave a banquet in honor of the Secretary of State, which was a most brilliant and successful affair.

On the 16th of January, 1907, he delivered a speech in the House of Representatives on the treaty power of the Government, which was regarded by his colleagues as a most able and successful effort, of large value in the discussion of the questions then pending, and important in the House and

throughout the United States. In the course of this speech he spoke of the intense State pride which had characterized the American people from the very Declaration of Independence, saying:

It was written of old "that one star differeth from another star in glory," and it certainly was never truer than it is to-day that the stars that on the blue firmament of the flag represent the several States of the Union differ one from another in glory. You who come here from the State of New York insist that the star which represents your Empire State shines with a glory that is all its own; and we who come from the little State that lies nestled among the Green Mountains insist that the star which represents our State has a glory that is peculiarly its own; and so you who come from Virginia and Pennsylvania and Texas and Illinois and California and all the other States insist the star which on the flag represents your State has its own peculiar glory. And so to-day, as ever before, the citizens of each of the 45 States are proud of their State. They rejoice in her achievements in peace and war. They guard with zealous care her ancient rights and privileges. They resent with just indignation any reflection upon her fair fame. They rejoice in the part vouchsafed to them in maintaining her honor and prestige; and, best of all, they see in all this nothing incompatible with their absolute and unswerving loyalty and devotion to the Republic.

He concluded his speech with the eloquent passage which follows:

From the days of Benjamin Franklin, our first and still our greatest diplomat, the American people have insisted that our foreign relations should be grounded in the highest morality and justice. Our foreign relations have become one of the most important functions of the Government. Our own growth and expansion during the last hundred years, and the contraction of the world through the extinction of distance, have brought the nations of the earth to our door and have taken us to their door. Hundreds of thousands of Americans are constantly in foreign lands. They are there for business, for pleasure. In addition to the tourists who come to our country from other lands we have a million immigrants per year. These people leave kindred and friends at home and form new friendships here. Hundreds of thousands of them return each year, leaving kindred and friends here. Our vast foreign commerce brings us into contact with the other nations of the earth, for the products of our field and our factory go to nearly every harbor in the world. And so it comes to pass in these days of modern development and modern enterprise and modern invention and modern unification that no nation lives unto itself alone. Our diplomacy has assumed new proportions. And in all her foreign relations the great Republic, standing for equality of opportunity, must continue to shape her conduct by the principles of the highest morality and justice.

On Friday, February 25, 1910, he replied in the House to the gentleman from North Carolina [Mr. KITCHIN] upon the subject of Mr. FOSTER's insurgency in connection with others. During the course of his remarks he said:

It is an axiomatic fact that in popular government, wherever situated, the majority must rule. It is the fundamental principle of popular government that the minority must submit to the rule of the majority so long as it remains the majority. So I, as an American citizen, am bound to yield peacefully to the will of the majority so long as that majority remains. But while this is true, it is also true that it is my right and privilege as an American citizen and my duty as an American citizen if I believe that the majority is wrong and that I am right, to use my best endeavors to see that the minority of to-day becomes the majority of to-morrow.

So it is with parties. Political parties are necessary in this country. We are governed by political parties. And in order to secure party solidarity and therefore party efficiency it is equally necessary that the majority should rule within the party; that the minority yield peacefully to the will of the majority so long as it remains the majority. But while this is true it is equally true that I, as a member of my party and still an American citizen, have the right and privilege and the duty, if I believe that I am right and the majority of my party is wrong, to use my best endeavors to see to it that my minority within my party to-day becomes the majority of to-morrow. It is this that gives vitality and virility to parties and preserves them from stagnation. Old ocean itself would stagnate into rottenness but for the ceaseless action of the remorseless waves and tides.

I resent the implication that a Republican who shows the least inclination toward independence is an insurgent. Lincoln expressed the true doctrine of republicanism in the phrase: "In essentials, unity; in nonessentials, liberty; in all things, charity." I stand for party unity as to all essentials, and I insist that I shall not be called opprobrious names when I stand for individual freedom as to nonessentials.

Mr. FOSTER addressed the House on the occasion of memorial services on the death of Hon. Redfield Proctor, late United States Senator from Vermont, and as illustrative of his finished style of oratory I quote a portion of his closing remarks on that occasion:

He was a typical son of his native State. The jocular remark made years ago, that Vermont was a good State to emigrate from, contained a great truth. That is a good home for the young man to go out from whose choicest decorations are the simple but enduring virtues of human life. Whether that home be a costly mansion, stored with the rarest productions of art and the handiwork of man, or a humble cottage furnishing scant protection against the winter blasts, the recollection of its faith and love and devotion will go with him farther and abide with him longer and be of infinitely more service to him than aught else he can take with him. And that is a good State to go out from whose cardinal principles are the simple but profound truths of human life and human relationship, and whose citizens see in their State the ancient torch of celestial fire handed down from generation to generation and by them to be passed on unimpaired to the generation yet to come. From its earliest history Vermont has been the cradle of human freedom. The sturdy pioneers who went thither in search of homes fell under the most potent spell of nature.

The wild freedom of the forest, the rugged strength of the hills, the beauty of the valleys, and the fierce struggle with savagery developed within them that stern love of liberty, that resolute independence, and that profound respect for government and all the instrumentalities of human progress which have characterized the true sons of Vermont in all succeeding time. And he was one of those true sons. He loved her hills and valleys. He cherished her history, her traditions, her institutions, her achievements. He was jealous of her good name and fair fame, and throughout his long life his heart beat true to her every interest. He honored the State as the State honored him, and no higher tribute can be paid to his memory than the simple truth, that the State is better by reason of his life, his character, his career.

June 27, 1857; March 21, 1912. Birth—death. Between those two events a genuine and striking life history may be written. It will be the truth, but it shall read like a romance. It is elementary in that it deals with the triumph of resolute will, untiring zeal, and inflexible purpose over poverty, obscurity, and countless formidable obstacles. It tells of his ceaseless efforts to advance, while it reveals, if closely scanned, the willing and loving sacrifice and service of a devoted family that they might promote the aspirations of a beloved son and brother.

Between these two dates there is the history of one whose life was much more than usually successful in what it brought to him and much more than commonly valuable in what it did for his fellows and his country, and yet a few wholly inadequate paragraphs must contain all that can be said here. How greatly the heart feels, how little the tongue can express!

As the years of his life ran on he climbed with willing feet the more rugged steeps and from those exalted plains breathed a purer air and had a broader, clearer vision. He loved his country and his State with a depth and quality of affection that permitted no rival, while it marked the limits, set the bounds, and laid out the course of his political affiliations and activities.

More and more as the days ripened into years and the years sped on he was developing a statesmanlike grasp of all national problems. Conscious of a high purpose throughout and with a developing confidence in his ability to rightly comprehend and settle the great questions of state, the natural hesitancy of the novice had disappeared and there was a promptness in conclusion, a readiness of action, a steadfastness of position which gave him prominence in party councils and a place of honor among his colleagues.

He was a loyal friend. He counted nothing as too great a hardship if in the end it served and pleased a friend. And his friends were not few. The warm hand of constancy and regard went out alike to the humble and the exalted, the rich and the poor. Born and bred in a home of limited means, among neighbors of like circumstances, he was destitute of ostentatious pride or affectation, and knowing the genuine worth of these sons and daughters of toil was glad always to render them generous service and to knit them closely to his great warm heart. He had a passion for service to his fellow men and delighted most when he could yield most of his time and talent in advancing their interests in promoting their welfare.

He was ready always to serve another regardless of the personal labor and sacrifice which the service involved; he even sought the opportunity to befriend others, especially such as were new to their position and embarrassed by the wealth of their ignorance in the performance of their duties. He was discreet and tactful, and, while vigorously defending his positions, spoke and acted in such a manner and in such language as not to offend but rather to win his opponent, if not to his view at least to a full appreciation of his worth and worthiness as an antagonist. He won all by his manly and courteous bearing, and when death came it was to a man who, true to his convictions as any knight of old, had not an enemy. On the day following his decease, when his draped desk announced at the morning hour the sad tidings to his associates in Congress, all hearts were sad, and many eyes were moist with mished but gathering tears as they looked upon his vacant seat. No man ever passed out in death from the Hall of this House with fewer enemies or more sincere and mourning friends.

He was not a frequent speaker in this Hall, but when he spoke he commanded the attention of his colleagues to an unusual degree. He spoke only when he deemed speech more potent than silence. From the beginning to the end of his congressional career he was a hard working, painstaking, honorable, and efficient Representative of his district, with augmenting confidence in his resourcefulness and capacity on the part of his colleagues and increasing faith in his character and worth on the part of his constituents.

His ability as an orator on great occasions upon matters of world-wide bearing and importance, of grave character and deep significance, had only begun to be generally appreciated; and yet he had spoken in most of our cities of the first class to large, admiring, and appreciative audiences with a demonstrated power to touch these great themes before vast assemblies with the potent hand of a master.

From his appointment as chairman of the Committee on Foreign Affairs to the end of his life he was easily in the very front rank of the membership of the House, possessing the respect and enjoying the regard of all his colleagues, irrespective of party, to an unusual, even to a remarkable degree; and when with inexpressible shock and sadness the knowledge came to them that his earthly career had closed, the depth, breadth, and warmth of the affection with which he was enshrined in their hearts was revealed to them in its completeness.

He had not reached but he was steadily approaching the zenith of his career as a statesman. His life had been, and without question it would have continued to be, one of constant growth in character, in gathering resources, in mental strength and acumen, in increasing faith in his own powers coupled with a steadily growing conviction on the part of the citizens of his native State that in him they had one in high place worthy of unlimited trust and confidence.

His was a manly spirit—virile, pervasive, indomitable. It was manifest in his early boyhood when, struggling against adverse conditions, he broke through his repressive environments and by his own well-directed efforts acquired a liberal education, the goal of his early ambition. It has been manifest since on many noteworthy occasions when battling against strong contending and opposing influences he has risen above them or has overcome them, has illuminated despair with the bright beam of hope, and out of seeming defeat has plucked unquestioned victory.

His was a noble soul, lofty, inflexible, and inspired. He dared to attempt great things, to rise that he might seize great opportunities, and measured by things accomplished there are few of his compeers who show larger or better results. Grand, indeed, was the course which lay before him. It was no easy task to set limitations to his increasing power, honor, and usefulness. It was in the effulgence of a risen sun that his manly, noble life went out, and we who were his comrades and his friends are left to mourn his untimely death.

By the few to whom he gave access to his innermost being, where they could catch the faintest throbs of his warm, true heart, there was abiding faith and fervent love. They who knew him best loved him most. These are the mourners who find no surcease. His memory reigns eternal in their breasts. His widow and his daughters, his aged mother, and his near kin—deep and sad is their bereavement. The chords of human sympathy yield plaintive and tender music when touched by the hand of affliction, and God in infinite love will be their "shield and buckler."

Mr. Speaker, I ask unanimous consent that all Members who desire be granted leave to print remarks in the RECORD for 20 legislative days.

There was no objection, and it was so ordered.

ADJOURNMENT.

And then, in accordance with the resolution heretofore adopted, the House (at 1 o'clock and 10 minutes p. m.) adjourned until to-morrow, Monday, January 20, 1913, at 12 o'clock noon.

SENATE.

MONDAY, *January 20, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. GALLINGER took the chair as President pro tempore under the order of the Senate of December 16, 1912.

ROBERT J. GAMBLE, a Senator from the State of South Dakota, appeared in his seat to-day.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. OLIVER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificates of ascertainment of electors for President and Vice President appointed in the States of Colorado, Mississippi, Nebraska, and Wyoming at the elections held in those States November 5, 1912, which were ordered to be filed.

CROW INDIANS OF MONTANA.

The PRESIDENT pro tempore laid before the Senate a communication from the Attorney General, acknowledging the resolution of the Senate of January 17, 1913, with reference to an investigation of the affairs of the Crow Indians, Montana, which was referred to the Committee on Indian Affairs and ordered to be printed.

SENATOR FROM COLORADO.

Mr. GUGGENHEIM. Mr. President, I present the credentials of Hon. CHARLES S. THOMAS, of Colorado, Senator elect, which I send to the desk to be read.

The PRESIDENT pro tempore. The credentials will be read.

The credentials of CHARLES SPALDING THOMAS, chosen by the Legislature of the State of Colorado a Senator from that State for the unexpired portion of the term ending March 3, 1915, occasioned by the death of Hon. Charles J. Hughes, jr., January 11, 1911, were read and ordered to be filed.

Mr. GUGGENHEIM. The Senator elect is now in the Chamber and ready to take the oath of office.

The PRESIDENT pro tempore. The Senator elect will present himself at the desk for that purpose.

Mr. THOMAS was escorted to the Vice President's desk by Mr. GUGGENHEIM, and the oath prescribed by law having been administered to him he took his seat in the Senate.

SENATOR FROM MICHIGAN.

Mr. TOWNSEND presented the credentials of WILLIAM ALDEN SMITH, chosen by the Legislature of the State of Michigan a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a concurrent resolution adopted by the Legislature of Oklahoma, which was ordered to lie on the table and to be printed in the RECORD, as follows:

House concurrent resolution 1, memorializing the Congress of the United States to pass the measure now pending in the Senate known as the Kenyon-Sheppard bill.

Whereas the people of the State of Oklahoma believe in the due observance of all laws; and

Whereas there is now on the statutes of the State a law forbidding the sale or transportation of intoxicating liquor in the State of Oklahoma; and

Whereas the Federal law now protects the people in one half of the State from having intoxicating liquor brought into their midst, but does not so protect the other half of the State; and

Whereas the interstate common carriers are bringing into our State every day large quantities of intoxicating liquors to be sold in open violation of our State laws, and to the great injury of the people of the State; and

Whereas there is now pending in the Congress of the United States a measure known as the Kenyon-Sheppard bill, which has for its purpose the prevention of interstate shipments of liquors into States where the laws of the State forbid the sale of same: Therefore be it

Resolved by the House of Representatives of the State of Oklahoma (the Senate concurring), That the Congress of the United States be, and the same is hereby, earnestly memorialized and requested to pass the Kenyon-Sheppard bill at the earliest date possible, and without amendment; be it further

Resolved, That a copy of these resolutions, properly certified, be forwarded at once to the Speaker of the House of Representatives and to the President of the Senate.

Passed by unanimous vote of the house of representatives, January 9, 1913.

J. H. MAXEY,
Speaker of the House of Representatives.
E. T. SORRELL,
Acting President of the Senate.

I hereby certify that this is a true and correct copy of the above and foregoing resolution.

GUS POOL, *Chief Clerk.*

Mr. OLIVER. In behalf of my colleague [Mr. PENROSE], who is unavoidably absent, I send to the desk a telegram from Hon. Mayer Sulzberger, one of the judges of the court of common pleas of Philadelphia County, Pa., with reference to the pending immigration bill, which I ask to have read and printed in the RECORD.

There being no objection, the telegram was read and ordered to lie on the table and to be printed in the RECORD, as follows:

PHILADELPHIA, PA., *January 19, 1913.*

Hon. BOIES PENROSE,
United States Senate, Washington, D. C.:

Conference immigration bill contains provision for character certificate, which by reason of the cruelty of Russian officials will practically bar out all Russian Jews. Louis Marshall, my successor as president of the American Jewish committee, has telegraphed you to-day. Please note his reasons and do what you can to avert calamity.

MAYER SULZBERGER.

Mr. OLIVER. I present a telegram in the nature of a memorial from Louis Marshall, president of the American Jewish committee, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the telegram was ordered to lie on the table and be printed in the RECORD, as follows:

NEW YORK, *January 19, 1913.*

GEORGE T. OLIVER,
United States Senate, Washington, D. C.:

Conference immigration bill, in section 3, contains provision not previously considered, excluding subjects of countries issuing character cer-

ticate failing to produce such certificate to immigration officials. This will exclude majority Jews coming from Russia and Roumania owing to practical legal difficulties attending procurement of certificates, the compliance with elaborate conditions imposed, their military regulations, and the large expense involved. How could victims of Kishineff or thousands constantly expelled from their homes by police or those suspected of being political offenders expect to secure such a certificate? Such reversal of our attitude toward the persecuted can not be intended. Bill should be amended to preclude cruel consequences inevitably resulting from present phraseology.

LOUIS MARSHALL,
President American Jewish Committee.

Mr. SUTHERLAND presented telegrams in the nature of petitions from the Symes Grocery Co., of Salt Lake City; of L. G. Webber, of Salt Lake City; and Willard Hansen, dairy and food commissioner of Salt Lake City, all in the State of Utah, praying for the enactment of legislation to prevent the transportation of adulterated or misbranded goods, which were referred to the Committee on Manufactures.

He also presented a telegram in the nature of a petition from E. G. Peterson, director of extension division of the Utah Agriculture College, of Logan, Utah, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was ordered to lie on the table.

Mr. BROWN. I present a telegram from the State superintendent of education in Nebraska, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the telegram was ordered to lie on the table and to be printed in the RECORD, as follows:

LINCOLN, NEBR., *January 16, 1913.*

Senator NORRIS BROWN,
Washington, D. C.:

Trust you will give Page bill your hearty support. Every educator in Nebraska will appreciate your active, earnest interest in same.

JAMES DELZELL, *State Superintendent.*

Mr. BRISTOW presented petitions of the Christian Endeavor Society of the United Brethren Church of Russell; of the congregation of the Methodist Episcopal Church of Medicine Lodge; and of sundry citizens of Meade County, Baldwin City, Hoisington, and Gas, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. HITCHCOCK presented a petition of sundry citizens of Laurel, Nebr., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a memorial of 105 Italian residents and American citizens of Omaha, Nebr., remonstrating against the adoption of the so-called literacy test amendment to the immigration bill, which was ordered to lie on the table.

He also presented a petition of 20 citizens of West Point, Nebr., praying that an investigation be made into the action of the Interior Department in declining to approve a lease granted to the Uncle Sam Oil Co. by the Osage national council, which was referred to the Committee on Public Lands.

He also presented a memorial of sundry citizens of Grand Island, Nebr., remonstrating against the parole of Federal life prisoners, which was ordered to lie on the table.

Mr. BRANDEGEE presented a petition of members of the Business Men's Association of Milford, Conn., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. PERKINS presented resolutions adopted by the Chamber of Mines and Oil, of Los Angeles, Cal., remonstrating against any reduction in the duty on borax, which were referred to the Committee on Finance.

He also presented resolutions adopted by General George A. Custer Council, No. 22, Junior Order United American Mechanics, of California, remonstrating against the adoption of any amendments to the law providing tolls for the Panama Canal, which were referred to the Committee on Interoceanic Canals.

Mr. MARTINE of New Jersey presented a telegram in the nature of a memorial from Louis Marshall, president of the American Jewish committee, of New York, remonstrating against the adoption of section 3 of the immigration bill now pending between the two Houses of Congress, which was ordered to lie on the table.

CONNECTICUT RIVER DAM.

Mr. BURTON, from the Committee on Commerce, to which was referred the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut, reported it without amendment and submitted a report (No. 1131) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BRANDEGEE:

A bill (S. 8189) repealing a provision of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes," approved August 24, 1912; to the Committee on Commerce.

By Mr. JONES:

A bill (S. 8190) authorizing settlers on unsurveyed lands to make final proof under laws existing at the time of settlement; to the Committee on Public Lands.

By Mr. SHIVELY:

A bill (S. 8191) granting an increase of pension to Charles W. Allen (with accompanying papers);

A bill (S. 8192) granting an increase of pension to Samuel Waggoner;

A bill (S. 8193) granting an increase of pension to James E. Bacon; and

A bill (S. 8194) granting an increase of pension to John F. Yarnell; to the Committee on Pensions.

Mr. SMITH of Arizona. I introduce a bill to be referred to the Committee on Foreign Relations. It is in the matter of the injuries sustained by American citizens in El Paso, Tex., and Douglas, Ariz. The matter came from the Committee on Foreign Relations, and, though it is in the form of a claim, I think that committee has proper jurisdiction.

The bill (S. 8195) granting relief to certain American citizens in El Paso, Tex., and Duglas, Ariz., was read twice by its title and referred to the Committee on Foreign Relations.

By Mr. SMITH of Arizona:

A bill (S. 8196) authorizing homestead entrymen who are officers of water users' associations to reside off their entries during their terms as such officers; to the Committee on Public Lands.

By Mr. JOHNSTON of Alabama:

A bill (S. 8197) for the relief of Jacob Jones (with accompanying papers); to the Committee on Claims.

By Mr. HITCHCOCK:

A bill (S. 8198) to correct the military record of Nathaniel Monroe; to the Committee on Military Affairs.

A bill (S. 8199) granting a pension to Martha E. Tracy; to the Committee on Pensions.

By Mr. JACKSON:

A bill (S. 8200) to authorize the investigation and survey of swamp and other wet lands in the State of Maryland, to devise plans and systems for the reclamation of such lands, to authorize the Secretary of Agriculture to undertake such reclamation projects and to cooperate with the State drainage commissioners, and to appropriate money to carry out the provisions of the bill; to the Committee on Public Lands.

By Mr. NELSON:

A bill (S. 8201) granting an increase of pension to Della H. Austin (with accompanying papers); to the Committee on Pensions.

By Mr. LA FOLLETTE:

A bill (S. 8202) to establish a legislative drafting bureau and to establish a legislative reference division of the Library of Congress; to the Committee on the Library.

By Mr. BURNHAM:

A bill (S. 8203) granting an increase of pension to Wendell P. Hood; to the Committee on Pensions.

By Mr. CHILTON (for Mr. WATSON):

A bill (S. 8204) to authorize the Buckhannon & Northern Railroad Co. to construct and operate a bridge across the Monongahela River in the State of West Virginia; to the Committee on Commerce.

A bill (S. 8205) granting an increase of pension to William Martin (with accompanying papers);

A bill (S. 8206) granting an increase of pension to Lucy Gamble (with accompanying papers);

A bill (S. 8207) granting a pension to Emma F. Davis (with accompanying papers);

A bill (S. 8208) granting an increase of pension to Elizabeth Croft (with accompanying papers);

A bill (S. 8209) granting an increase of pension to George W. Parsons (with accompanying papers);

A bill (S. 8210) granting an increase of pension to Joseph G. Ross; and

A bill (S. 8211) granting a pension to George Sorrell; to the Committee on Pensions.

ALCOHOL FOR TESTING CITRUS FRUITS.

Mr. WORKS. I introduce a joint resolution extending the privilege of the proviso of section 2 of the act of June 7, 1906,

to persons using alcohol for testing citrus fruits, and I ask for its present consideration.

The joint resolution (S. J. Res. 155) extending the privilege of the proviso of section 2 of the act of June 7, 1906, to persons using alcohol for testing citrus fruits was read the first time by its title and the second time at length, as follows:

Resolved, etc., That in addition to manufacturers employing processes in which the alcohol used free of tax under the provisions of the act of June 7, 1906 (34 Stat., 215), is expressed or evaporated from the articles manufactured, persons using such alcohol for testing citrus fruits shall be permitted to recover such alcohol and to have such alcohol restored to a condition suitable solely for reuse in testing citrus fruits under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe.

The PRESIDENT pro tempore. The Senator from California asks unanimous consent for the present consideration of the joint resolution. Is there objection?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. JONES submitted an amendment proposing to appropriate $40,000 for repairs to the fisheries steamer *Albatross*, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to confirm titles of Deborah A. Griffin and Mary J. Griffin to certain lands situated in Okanogan County, Wash., etc., intended to be proposed by him to the Indian appropriation bill, which was ordered to be printed and, with the accompanying paper, referred to the Committee on Indian Affairs.

Mr. NELSON submitted an amendment proposing to appropriate $116,000 for improving the Mississippi River between Winnibigoshish and Pokegama Reservoirs and the Leech River from its mouth to Leech Lake Dam, Minn., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. GUGGENHEIM submitted an amendment proposing to appropriate $3,500 each for the salaries of 15 division superintendents and $2,500 each for the salaries of 4 assistant superintendents, Railway Mail Service, etc., intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

COOPER RIVER (S. C.) BRIDGE, ETC.

Mr. TILLMAN. I move to reconsider the votes by which the bill (S. 7792) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C., was ordered to a third reading and passed.

The motion to reconsider was agreed to.

Mr. TILLMAN. I ask that the bill be placed on the calendar.

The PRESIDENT pro tempore. It will go to the calendar.

MEMORIAL ADDRESSES ON THE LATE REPRESENTATIVE UTTER.

Mr. WETMORE. I desire to give notice that on Saturday, February 22, 1913, I will ask the Senate to consider resolutions commemorative of the life, character, and public services of Hon. GEORGE H. UTTER, late Member of the House of Representatives from the State of Rhode Island.

EXTENSION DEPARTMENTS IN AGRICULTURAL COLLEGES.

Mr. BRYAN. The junior Senator from Georgia [Mr. SMITH] gave notice that he would call up this morning House bill 22871, to establish extension departments in connection with agricultural colleges, and so forth. The Senator from Georgia is slightly indisposed and unable to be here. He asked me to extend the request for him and make it apply for Friday morning, January 24, instead of to-day.

WASHED MONEY (S. DOC. NO. 1020).

Mr. MARTINE of New Jersey. I have an article taken from the Plate Printer on the subject of "Washed money." I ask that it be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so ordered.

IMMIGRATION OF ALIENS.

Mr. LODGE. I call up the conference report on the immigration bill.

The PRESIDENT pro tempore. The Chair lays the conference report before the Senate.

The Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

Mr. LODGE. Mr. President, I desire to say a word in regard to the clause referred to in the telegram presented by the Senator from Pennsylvania [Mr. OLIVER] to-day. We have all, I suppose, received telegrams in regard to that clause. I have received one from Mr. Marshall, of New York, a very able lawyer, as we all know. I think it important to say something in regard to it, because it is evidently entirely misconceived.

The clause in question is the following, under the excluded classes:

Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

The theory expressed in the telegram of Mr. Marshall to me and of the other telegrams of similar character is that the effect of that would be to prevent the immigration of Hebrews from Russia. On that particular point, of Russia, let me say that no such certificate exists in Russia. With a view of the better prevention of the entry of criminals into the United States we have been endeavoring to get from other governments, under existing law, some form of penal certificate in order to show that a man has been convicted of a crime. Application was made to Russia, I am informed, and Russia replied that any such system was impracticable for her, and declined absolutely to do anything of the sort.

The certificates referred to there, so far as I have been able to learn and so far as the State Department has been able to learn, exist only in Italy. They are not certificates of citizenship such as those with which we are familiar in France, which exist also in Germany and possibly in Russia and in other countries, which are mere certificates of citizenship, containing in France, at least, an extract from the register of birth. Those certificates are held by all French citizens, and have no effect or relation whatever to immigration. This is a certificate showing that a man has been sentenced for an offense or has not been sentenced for an offense, and, as I say, it exists solely in Italy.

The only purpose of this clause, which was recommended by the department, was for the better exclusion of criminals. It is really an addition to clauses now existing in the law to exclude criminals. If it could possibly have such an effect as is suggested in these telegrams, I think I am at liberty to say that not only none of the conferees but neither of the committees would have agreed to it for a moment; but it has and can have no such effect.

It so happens, as I have already said, that in Russia, when we asked for certificates of that character simply as a matter of information, they informed us explicitly that they had no such certificates; that it would be impracticable to use them, and that they could not think of doing it. The provision will have no effect on the question of immigration whatever; it is not intended in any degree to restrict or exclude anyone except criminals.

Mr. STONE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Missouri?

Mr. LODGE. Certainly.

Mr. STONE. Before adverting directly to the statement of the Senator from Massachusetts that this provision of the bill, if enacted, would not affect emigrants from Russia, because, as he thinks and as he has been informed by the State Department, there is no law or regulation in Russia that would require any such certificate as is provided for in the bill——

Mr. LODGE. I should say, to be exact, that the Department of Commerce and Labor, through the State Department, made these inquiries of Russia some time ago without reference to this section.

Mr. STONE. Before I go further than that, I should like to ask the Senator from Massachusetts if this particular clause in the report of the conference committee was inserted by the conference committee?

Mr. LODGE. It was.

Mr. STONE. I should like to know whether that clause, or anything of that nature, of which this might be considered an amendment or modification, appeared in either the House or the Senate bill?

Mr. LODGE. That clause was inserted in conference on the request of the department. The conferees considered very carefully whether it would come under any rule relating to exclu-

sions from conference reports, and came to the conclusion that this was not open to that objection. The House, as I need not say here, is extremely strict on this point. On August 14, 1911, the present Speaker of the House made a ruling in regard to a point of order of a similar character, in which he said:

The particular matter at bar seems to have been differentiated into two classes by previous Speakers: One, where the dispute between the two Houses is simply a dispute about rates or about amounts, and the other where one House strikes out everything after the enacting clause and substitutes an entirely new bill.

In this case it is just reversed. The House struck out everything after the enacting clause and inserted a new bill.

Last Saturday there did not seem to be any precedents to fit the point under consideration. This time, fortunately for the Chair at least, four great Speakers of this House have ruled on the proposition involved—Mr. Speaker Colfax, who was subsequently Vice President; Mr. Speaker Carlisle, subsequently Senator and Secretary of the Treasury; Mr. Speaker Henderson; and Mr. Speaker CANNON.

* * * * * * *

All four of these Speakers, three Republicans and one Democrat, have passed on this question, and they have all ruled that where everything after the enacting clause is stricken out and a new bill substituted it gives the conferees very wide discretion, extending even to the substitution of an entirely new bill. The Chair will have three of these decisions read, and will have the decision of Mr. Speaker CANNON, just read by the gentleman from New York [Mr. FITZGERALD], incorporated into this opinion, because the question ought to be definitely settled during the life of this Congress at least.

Mr. CANNON'S ruling was in regard to the passport clause inserted in the Immigration bill of 1907. He then said that that was in order because the whole subject of immigration was open to the conference. The present Speaker of the House has adopted those opinions from those four Speakers, the previous Speakers—Mr. Colfax, Mr. Carlisle, Mr. Henderson, and Mr. CANNON—and he makes the fifth, holding that where the entire subject is before the conference it is open to the conferees to substitute, if they so desire, an entirely new bill.

This conference committee, I desire to say, has been extremely careful. After full consideration it came to the conclusion that this particular clause relating to the subject of immigration, and especially to the exclusion of criminals, was distinctly in order under the rulings of the Speakers to whom I have referred.

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from North Carolina?

Mr. LODGE. I do.

Mr. SIMMONS. I should like to request the Senator from Massachusetts, if he has it before him, to read the amendment made by the conferees upon this particular subject.

Mr. LODGE. It is in the exclusion list, and reads:

Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

Mr. MARTINE of New Jersey. Mr. President, will the Senator from Massachusetts yield for a moment?

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from New Jersey?

Mr. LODGE. Certainly.

Mr. MARTINE of New Jersey. The Senator from Massachusetts refers to telegrams relative to this matter. I presume those are the same as the telegram I have received signed by Mr. Lewis Marshall, president of the American Jewish committee.

Mr. LODGE. Yes; that is the one.

Mr. MARTINE of New Jersey. It would seem to me that this telegram was prompted to him even after the conference committee's report, and I would ask that the telegram be read for the edification of the Senate.

Mr. LODGE. A precisely similar telegram has already been read and gone into the RECORD.

Mr. MARTINE of New Jersey. I was not aware of that, and I withdraw the request.

Mr. LODGE. It was offered by the Senator from Pennsylvania [Mr. OLIVER].

Mr. MARTINE of New Jersey. Then I send the telegram which I hold in my hand to the desk.

Mr. STONE. Will the Senator from Massachusetts yield to me?

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Missouri?

Mr. LODGE. Certainly.

Mr. STONE. I find, on page 436 of the Manual, a rule laid down, which I suppose is the governing law in proceedings of this character in this body. Clause 29, on page 436, is as follows:

Conferees may not include in their report matters not committed to them by either House.

Mr. LODGE. That undoubtedly is the case as a general statement of law; but in this instance the House struck out the entire bill, and the Speakers whom I have quoted have held that when the entire bill was stricken out by one House and another bill substituted, then the whole subject was before the conferees. The only point on which there is even a doubt—and Mr. Speaker Colfax holds back on that point and leaves it open—is when in the two bills there is a clause in precisely the same language which both Houses have agreed to. Speaker Colfax expressed a doubt whether such a clause could be touched; but beyond that all the Speakers have ruled with the greatest breadth that where the entire bill was stricken out the whole subject was before the conference, and that where anything that fairly relates to the conference—of course, I am excluding amounts of money or rates of duty—that where anything relating to the subject came before the conferees connected with other portions of the bill, it was in order for the conferees to act upon it, and it was not to be considered new matter.

Mr. STONE. Has the Senator any ruling made by a presiding officer of this body on that point?

Mr. LODGE. Mr. President, the Senator is familiar with the procedure here and is aware, of course, that our procedure on new matter in conference reports has been very different from the practice in the other body. In the House, if a point of order of new matter or a point that the conferees have gone beyond their power is made and sustained, that sends the bill back to conference without any action by the body at all. It is like a point of order made on their own bill. That has never been the practice here. If the Senate felt that there was a clause that ought not to have been put in the bill they have sent the bill back to conference with implied instructions to the conferees that they should make the necessary change. Our practice on the question of new matter reported by conferees has been extremely loose.

Mr. STONE. Mr. President, as I understand the facts in this case, they are substantially as the Senator has stated them. The Senate passed a bill; the House struck out all after the enacting clause of that bill and inserted another bill. In the main, the chief provisions of the two measures were the same, though there were some differences.

Mr. LODGE. Oh, no. If the Senator will excuse me, the only provision that was the same in principle was the sole provision put in by the House—the illiteracy test. Everything else, including the administrative provisions, was stricken out by the House.

Mr. STONE. I know they were stricken out——

Mr. LODGE. They substituted nothing but the illiteracy test in their own form.

Mr. STONE. I so understand; but the bill, then, to which the House agreed after the enacting clause contained in the main provisions similar to those which were embodied in the Senate bill.

Mr. LODGE. It contained nothing but the illiteracy test—not a single sentence beyond the illiteracy test.

Mr. STONE. However that may be, the question submitted——

Mr. LODGE. The whole Senate bill was before the conferees as well as, of course, the illiteracy test, the substitute by the House; that is, the whole subject was before the conferees.

Mr. STONE. The question before the conferees was as to the differences growing out of the two bills.

Mr. LODGE. Yes; the whole subject was before them.

Mr. STONE. The differences between the two bills. Those were the issues. The conferees insert very important independent provisions on their own motion. It seems to me that is in conflict with the rules that govern this body; and I intend to make a point of order and have it ruled upon.

Mr. LODGE. That is a question to be decided by the Senate.

Mr. STONE. I know it is—to be decided by the Senate, but before——

Mr. LODGE. We do not follow the House practice.

Mr. STONE. But before that is done I wish to call the Senator's attention and the attention of the Senate to something which, I think, will show that the Senator from Massachusetts is in error about there being no laws and regulations in Russia that would compel a citizen of that country to present certificates such as are provided for in this bill.

Mr. LODGE. They have certificates of citizenship, but I do not think they have certificates of this character.

Mr. STONE. I hold in my hand a statement of the Russian regulations for emigrants. It was prepared and circulated by the Russian-American Steamship Line, a line plying between the ports of Russia and the United States, and bringing a great many emigrants to this country. I assume that that corporation would not likely be mistaken as to what the laws and regulations are in Russia. It would not be likely to issue

and publish a document, for general circulation that would be calculated to retard immigration when they were seeking as great a number of passengers as possible.

I am going to ask the Secretary to read this excerpt from the publication to which I have referred, and I wish to invite the attention of the Senator from Massachusetts and the Senator from Vermont to its language, and see what they think of it.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

RUSSIAN REGULATIONS FOR EMIGRANTS.

Every Russian subject, in order to be able to leave his country, must have a passport issued by the governor of his State. Every person, in order to be able to secure such a frontier passport, must have his legal papers on which he is allowed to live in Russia in good order—that is, such papers should not expire just about the time he desires to emigrate. The following are the different legal papers recognized and on which a Russian subject can secure his frontier passport:

State passport.
Legal ordinary passport (Mesczansky passport).
Local ordinary passport (Wolostnoi passport).

A Russian in possession of any one of these passports must have the names of all the members of his family desiring to emigrate entered on same, should the members of his family not be in possession of their own passport.

Wives and minor children, in case they desire to travel alone, although in possession of their own passport or their names are entered on their husbands' or parents' passport, must secure a certificate from their husband or parents agreeing to their journey, which must be certified by a notary public and by the police department. In villages these papers are signed by the local head of such village (Starosta).

Wives and minor children whose husbands and parents have emigrated to the United States or Canada and desire to have their families join them can obtain a frontier passport, if they are in possession of a power of attorney from their husband or parents, allowing them to leave Russia. This power of attorney must be made out in duplicate, the husband or parent must sign same, have his signature attested by a notary public, and afterwards legalized by a Russian consul. One of these copies remains on file with the consul and the other is returned to the sender to be sent to his wife and children in Russia. This power of attorney is recognized in Russia, even if the husband or father has left that country unlawfully.

* * * * * * *

No male Russian subject, if he is 18 years of age, can leave his country unless besides being in possession of his passport he has documentary proof that he has presented himself for military service and has been refused for some reason or other. If such subject is 21 years of age, he must have documentary proof that he has served the army or that his name has been added to the reserve list, if these facts are not already mentioned in his passport.

In addition to being in possession of any one of these papers, a Russian subject must also present a certificate from the police department of the city where he resides, that there is no objection against such passenger leaving his home. In villages such certificates are issued by the village authorities and are obtained without any difficulty, if the person applying for same has no criminal or civil judgment against him, or if a fine has not been imposed upon him. A Russian in possession of these papers can then apply for a frontier passport to the governor of his State.

Mr. LODGE. Mr. President, I have said that I have read those passport regulations of Russia. This clause in the bill under consideration would not exclude anybody who failed to have a passport as required by those Russian provisions or failed to have evidence of military service. No one would be excluded on that ground under this clause. It relates to a particular kind of a certificate, affecting solely the question of whether the immigrant has been convicted of crime; and those certificates are not issued by the Russian Government at all. All the clauses that have been read in that paper relate to the getting of passports. A man does not have to have a passport to come into this country and there is nothing in this clause which makes it a positive requisite.

Mr. STONE. But, Mr. President, this regulation does provide that before a man can secure a passport he must present a certificate to the Russian authorities from the police department of the city where he resides, saying that there is no objection to his emigration.

Mr. LODGE. That is perfectly true; I understand that. But that is preliminary to getting a passport; and if a man comes here from Russia without a passport that does not exclude him.

Mr. STONE. Here is a provision requiring him to get a certificate.

Mr. LODGE. But it does not require a passport. It is a particular kind of certificate—a certificate of freedom from criminal conviction.

Mr. O'GORMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from New York?

Mr. LODGE. Certainly.

Mr. O'GORMAN. Will not the adoption of this law encourage Russia or any other foreign country to alter its domestic law so as to provide for the issuance of certificates of character, knowing that the withholding of such a certificate will cause this country to refuse admission to one of its subjects?

Mr. LODGE. I do not think so, Mr. President, because, as I have already stated, we endeavored, as I am informed through the Department of Commerce and Labor, to get some arrangement with Russia as well as with other countries for the issuance of penal certificates—certificates of character—and Russia absolutely declined to enter into such an arrangement, saying it was totally impracticable.

Mr. O'GORMAN. I should like to ask the Senator whether this clause does not make it possible for every foreign power to limit and restrict emigration on its borders? In other words, will it not make it possible for Russia and other foreign powers to defeat our policy as to expatriation?

Mr. LODGE. I do not think it is possible, Mr. President. I do not see how it could be tortured into anything of that kind.

Mr. O'GORMAN. All Russia has to do is to pass a law prohibiting its subjects from leaving the country without securing a certificate of character, in which event, if this law were to be adopted, we would nullify the principle of expatriation, for which this country has stood against the world.

Mr. LODGE. I am entirely in agreement with the Senator about the principle of expatriation. As I said when I began, if I thought this clause would have any such effect as is depicted in these telegrams, not one of the conferees nor any Member of either House, I think, would have agreed to it. But I totally disagree with the Senator in the idea that it can be twisted into anything of the sort. This is a particular kind of certificate.

Mr. O'GORMAN. Yes.

Mr. LODGE. Of course, if an immigrant has a penal certificate, the chances are he will not offer it. But the issuance of a penal certificate, with access to the records, which we should have through our consular officers, would enable us to know when criminals come.

Mr. O'GORMAN. While it confers that benefit, it puts it within the power of every foreign nation to restrict, if not to prohibit, its subjects leaving that country to come to the United States.

Mr. LODGE. I do not see that it does, because it is a particular kind of certificate. There is only one country that now issues them. They have been required in the case of Italian immigrants for some time. I do not mean to say they have been required as a matter of regulation. They have been asked for; they have been used. They have never led to the exclusion of anyone nor to any remonstrance that I am aware of.

Mr. O'GORMAN. As I understand the Senator from Massachusetts, this proposal did not originate with anyone of the conferees, either in the Senate or in the House. The Members of the Senate and of the House have given diligent thought and study to this subject for many months. It does seem to me that a gratuitous suggestion, coming from the head of one of our departments, that dealing with immigration should not find a lodgment in this law, when it affects the spirit of our country, and more particularly the right of expatriation, for which this country stood alone 100 years ago.

Mr. DILLINGHAM. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Vermont?

Mr. LODGE. I yield to the Senator from Vermont.

Mr. DILLINGHAM. In reply to the Senator from New York, I should like to say that one of the greatest problems that was presented to the Immigration Commission for solution was the question of how best to exclude the criminal classes from this country. The members of the commission studied that question very thoroughly, and after the completion of their work they called the attention of the President of the United States—both the President now in office and the one who preceded him—to the possibility, under the law authorizing the appointment of the commission, of securing agreements with different European governments under which regulations might be made for the exclusion of the criminal classes. That scheme has not worked out.

The commission then took up the question of reaching that evil by legislation. I think we were all united in the opinion that if the different nations of Europe were in the habit of keeping these records and issuing these individual certificates the requirement that they should be presented on admission to this country would furnish a very good means of reaching that evil. When this bill was framed that matter was overlooked, and it came up in conference. It there appeared that only Italy issues these certificates at this time. For that reason the conferees, believing that they had authority to introduce that clause into the bill at this stage of the proceedings, and their attention being called to it by the department, thought it best to do so.

The point that I wanted to make, in answer to the Senator from New York, was that this was a question which was very carefully considered by the commission. The question was a

difficult one. There is no doubt about that. They thought that the requirement of such certificates on the part of those coming from countries granting such certificates would be an admirable means for keeping out the criminal classes.

I do not know that I need say anything further by way of explanation of the reason why the conferees adopted that provision.

Mr. STONE. Mr. President, if the Senator from Vermont will permit me to ask him a question for information, for what purpose are these certificates of character issued?

Mr. DILLINGHAM. It is simply to show the criminal record of the alien, I understand. In Italy the individual can receive such a certificate and bring it with him. The Government issues it and he brings it with him when he comes here.

Mr. STONE. Then there is no agreement between this country and Italy that would give any official character to the certificate, so far as concerns our law or the administration of it?

Mr. DILLINGHAM. Not at all. It is received as a matter of evidence of the fact that the man's record is clear so far as criminal prosecutions are concerned.

Mr. LODGE. That is all it does.

Mr. STONE. Is a passport necessary in Italy, so that without it an Italian can not go aboard a ship for foreign travel or for emigration?

Mr. DILLINGHAM. They do not issue passports, I understand.

Mr. STONE. They issue a certificate, then, which in a measure takes the place of a passport?

Mr. DILLINGHAM. No; there is no certificate issued which is recognized by this Government.

Mr. STONE. That is to say, it gives the consent of that Government for the emigrant to embark?

Mr. DILLINGHAM. I know of nothing of that kind. Does the Senator from Massachusetts?

Mr. LODGE. No; I know nothing of it.

Mr. DILLINGHAM. I know of nothing whatever of that kind.

Mr. STONE. I understand that is the case under the regulations in Russia.

Mr. LODGE. That is a passport.

Mr. STONE. I know it is a passport; but a Russian can not get a passport until he presents his certificate.

Mr. LODGE. Under this clause, nobody could possibly be excluded because he did not have a passport as required by the Russian law.

I only want to say this in connection with the point of order: The Senator from Vermont called my attention to it, and I had not had time to look it up. The point of order that is made by the Senator from Missouri was made by Mr. SARATH in the House. He read the same extract from Jefferson's Manual the Senator from Missouri has read. Then this occurred:

The SPEAKER. The Chair overrules the point of order.

It was overruled in the House on the ground to which I have already alluded, which was set forth with elaboration by the Speaker on the 14th of August, 1911. I think his ruling was sound.

I will ask to have the decision of the Speaker of August 14, 1911, printed in the RECORD; also the record in regard to the point of order which was made on the 17th of January, 1913.

Mr. President, I do not think, under the best practice, there can be any doubt as to the point of order.

Mr. O'GORMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from New York?

Mr. LODGE. Certainly; I yield.

Mr. O'GORMAN. Would it not offend the rules of the Senate not only to introduce in this discussion, but to make part of the record, something that transpired in the House?

Mr. LODGE. I think not. I think rulings of previous Speakers may legitimately come in as part of the record.

Mr. O'GORMAN. The Senator is alluding not only to the ruling of the Speaker, but to the attitude assumed by a Member of the House on the question.

Mr. LODGE. It always has been the practice to quote the rulings of Speakers on points of parliamentary law. I do not think that infringes the very wise practice of not referring to debates in the House. This is a point of parliamentary law affecting the procedure of both Houses, and I think it properly comes in.

The matter referred to is as follows:

[CONGRESSIONAL RECORD, Aug. 14, 1911.]

The SPEAKER. The particular matter at bar seems to have been differentiated into two classes by previous Speakers: One, where the dispute between the two Houses is simply a dispute about rates or about amounts, and the other where one House strikes out everything after the enacting clause and substitutes an entirely new bill.

The Chair has no doubt whatever that at least one contention of the gentleman from Illinois [Mr. MANN] is correct. That is, that if it is a mere squabble about amounts or rates, the conferees can not go above the higher amount or rate named in one of the two bills or lower than the lower rate named in one of the two bills. But that is not this case. In this case the Senate struck out everything after the enacting clause and substituted a new bill. Last Saturday there did not seem to be any precedents to fit the point under consideration. This time, fortunately for the Chair at least, four great Speakers of this House have ruled on the proposition involved—Mr. Speaker Colfax, who was subsequently Vice President; Mr. Speaker Carlisle, subsequently Senator and Secretary of the Treasury; Mr. Speaker Henderson, and Mr. Speaker CANNON. The Chair does not know anything about the parliamentary clerks to Mr. Speaker Colfax and Mr. Speaker Carlisle, but the Chair is fully persuaded that every Member of this House who has served in prior Congresses will agree that Mr. Speaker Henderson and Mr. Speaker CANNON had the advantage of being advised by one of the most skillful parliamentarians in this country, the present Member from Maine [Mr. HINDS]. [Applause.]

All four of these Speakers, three Republicans and one Democrat, have passed on this question, and they have all ruled that where everything after the enacting clause is stricken out and a new bill substituted it gives the conferees very wide discretion, extending even to the substitution of an entirely new bill. The Chair will have three of these decisions read, and will have the decision of Mr. Speaker CANNON, just read by the gentleman from New York [Mr. FITZGERALD], incorporated into this opinion, because the question ought to be definitely settled during the life of this Congress at least. The Chair will first have the decision of Mr. Speaker Colfax read, and the Clerk will announce the volume and section of Hinds' Precedents.

The Clerk read as follows:

Hinds' Precedents, volume 5, section 6421:

"Where one House strikes out all of the bill of the other after the enacting clause and inserts a new text, and the differences over this substitute are referred to conference, the managers have a wide discretion in incorporating germane matters, and may even report a new bill on the subject. On March 3, 1865, Mr. Robert C. Schenck, of Ohio, from the committee of conference on the disagreeing votes of the two Houses on the bill H. R. 51, entitled 'An act to establish a bureau of freedman's affairs,' reported that the Senate had receded from their amendment, which was a substitute, and the committee had agreed upon, as a substitute, a new bill, entitled 'An act to establish a bureau for the relief of freedmen and refugees.'

"As soon as the report had been read, Mr. William S. Holman, of Indiana, made the point that the report did not come within the scope of the conference committee. It did not report the proceedings of the Senate or an agreement by the committee on an amendment to the Senate's amendment to the House bill, but it reported an entire substitute for both the original bill and the substitute adopted by the Senate, and it established a department unprovided for by either of the other bills."

The Speaker, Mr. Colfax, said:

"The Chair understands that the Senate adopted a substitute for the House bill. If the two Houses had agreed upon any particular language or any part of a section, the committee of conference could not change that; but the Senate having stricken out the bill of the House and inserted another one, the committee of conference have the right to strike out that and report a substitute in its stead. Two separate bills have been referred to the committee, and they can take either one of them or a new bill entirely, or a bill embracing parts of either. They have a right to report any bill that is germane to the bills referred to them."

On an appeal the Chair was sustained—yeas 89, nays 35.

The SPEAKER. The Clerk will now read the ruling of Mr. Speaker Carlisle.

The Clerk read as follows:

Section 6422 of Hinds' Precedents, volume 5:

"6422. On August 3, 1886, the House had under consideration the report of the committee of conference on the river and harbor bill.

"Mr. William M. Springer, of Illinois, made the point of order that the conferees had included matter in their report.

"The Speaker, Mr. Carlisle, ruled:

"The House passed a bill to provide for the improvement of rivers and harbors and making an appropriation for that purpose. That bill was sent to the Senate, where it was amended by striking out all after the enacting clause and inserting a different proposition in some respects, but a proposition having the same object in view. When that came back to the House it was treated, and properly so, as one single amendment and not as a series of amendments as was contended for by some gentlemen on the floor at the time.

"It was nonconcurred in by the House and a conference was appointed upon the disagreeing votes of the two Houses. That conference committee having met, reports back the Senate amendment as a single amendment with various amendments, and recommends that it be concurred in with the other amendments which the committee has incorporated in its report. The question, therefore, is not whether the provisions to which the gentleman from Illinois alludes are germane to the original bill as it passed the House, but whether they are germane to the Senate amendment which the House had under consideration and which was referred to the committee of conference. If germane to that amendment, the point of order can not be sustained on the ground claimed by the gentleman from Illinois. The Chair thinks they are germane to the Senate amendment, for, though different from the provisions contained in the Senate amendment, they relate to the same subject, and therefore the Chair overrules the point of order."

The SPEAKER. The Clerk will read the decision by Mr. Speaker Henderson.

The Clerk read as follows:

Section 6423, volume 5, Hinds' Precedents:

"6423. On February 25, 1901, Mr. GILBERT N. HAUGEN, of Iowa, presented the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. 2799) to carry into effect the stipulations of article 7 of the treaty between the United States and Spain, concluded on the 10th day of December, 1898.

"The conferees recommended that the House recede from its amendment, which was in the nature of a substitute, striking out all after the enacting clause and inserting a new text; and they further recommended that the House agree to the Senate text with certain specified amendments.

"Mr. OSCAR W. UNDERWOOD, of Alabama, made a point of order that the conferees had exceeded their authority and incorporated in their report matters not in difference between the two Houses. The House text had substituted reference to the Court of Claims instead of to the commission proposed by the Senate text. The conferees not only recommended the adoption of the Senate text, but had enlarged the provisions of it, making the number of commissioners five instead of three, although, he asserted, there was no issue between the two Houses on this point, and also materially changing the Senate text in those portions relating to the right of appeal.

"After debate the Speaker, Mr. Henderson, held:

"The current of authorities in regard to the action of the conferees is that they must be held strictly to the consideration of such matters as are in issue beween the two Houses. That is the general governing principle, and a most valuable one and a necessary one. In this case, however, the Chair sees no difficulty. As stated by the gentleman from Pennsylvania [Mr. Mahon], the Senate presents a proposition for a commission; the House turns that down, so to speak, and adopts an amendment, by way of substitute, providing that these Spanish claims shall be referred for determination to the Court of Claims. In other words, the Senate contends for a commission, the House for the Court of Claims. The method of treating these Spanish claims is thus put in issue. The House, when it sent over to the Senate its amendment by way of substitute, said: 'We will not entertain your method; we have a better one; we offer you a substitute whereby these matters shall be referred to the Court of Claims instead of a commission.' That puts in issue every question bearing upon this controversy between the two Houses. The able remarks of the gentleman from Alabama [Mr. UNDERWOOD] have not suggested a single question that is not brought in issue between the two Houses in the present position of this question. The conferees have not gone beyond the matters in issue. On this point the Chair will ask the Clerk to read from the Parliamentary Precedents of the House of Representatives, section 1420, a decision made by Speaker Colfax.

"The section having been read, the Speaker concluded:

"The House will readily see that the precedent just read bears strongly on this question, although in the present case the conferees have not gone so far as they did in that case. There is nothing here that is not germane to the main issue. In reference to no matter in controversy between the two Houses have the conferees attempted to trench upon or change a single expression that the two Houses have agreed upon. The Senate sends to this House a bill for which the House presents a substitute, and the report of the conferees seeks only to treat of matters in issue. The Chair feels clear that he is justified in overruling the point of order. The question is on agreeing to the report."

The SPEAKER. The Clerk will now read the decision by Mr. Speaker CANNON.

The Clerk read as follows:

Section 6424, volume 5, Hinds' Precedents:

"6424. Where the disagreement is as to an amendment in the nature of a substitute for the entire text of a bill, the managers have the whole subject before them and may exercise a broad discretion as to details.

"A point of order against a conference report should be made or reserved after the report is read and before the reading of the statement.

"On February 18, 1907, Mr. William S. Bennet, of New York, submitted the report of the managers of the conference on the bill (S. 4403) entitled 'An act to amend an act entitled "An act to regulate the immigration of aliens into the United States," approved March 3, 1903.'

"Before the report was read Mr. JOHN L. BURNETT, of Alabama, proposed to reserve a point of order.

"The Speaker said:

"The Chair will state to the gentleman from Alabama, who desired to reserve points of order, that it is the impression of the Chair that the point of order, if any is made, is in time after the report is read; but if the gentleman desires, out of abundant caution, he may reserve at this time points of order. * * * All points of order are reserved. The proper time to reserve points of order, as the Chair is informed, on conference reports is after the conference report is read and before the statement is read."

The report having been read, a point of order was made by Mr. BURNETT, who insisted that the managers had exceeded their authority in inserting the following provisions:

"*Provided further*, That whenever the President shall be satisfied that passports issued by any foreign government to its citizens to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holders to come to the continental territory of the United States, to the detriment of labor conditions therein, the President may refuse to permit such citizens of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone."

And in another portion of the report the following:

"SEC. 42. It shall not be lawful for the master of a steamship or other vessel wherein immigrant passengers, or passengers other than cabin passengers, have been taken at any port or place in a foreign country or dominion (ports and places in foreign territory contiguous to the United States excepted) to bring such vessel and passengers to any port or place in the United States unless the compartments, spaces, and accommodations hereinafter mentioned have been provided, allotted, maintained, and used for and by such passengers during the entire voyage; that is to say, in a steamship the compartments or spaces unobstructed by cargo, stores, or goods, shall be of sufficient dimensions to allow for each and every passenger carried or brought therein 18 clear superficial feet of deck allotted to his or her use, if the compartment or space is located on the main deck or on the first deck next below the main deck of the vessel, and 20 clear superficial feet of deck allotted to his or her use for each passenger carried or brought therein if the compartment or space is located on the second deck below the main deck of the vessel: *Provided*, That if the height between the lower passenger deck and the deck immediately above it is less than 7 feet," etc. (continuing in detail).

After debate, the Speaker [Mr. CANNON] held:

"The Senate during the last session passed an act entitled 'An act to amend an act entitled "An act to regulate the immigration of aliens into the United States,"' etc.

"This Senate bill was broad in its provisions and substantially amended the immigration laws then in force. It was very general in its nature, as will be found upon examination. The bill came to the House. The House struck out all of the Senate bill after the enacting clause, by way of amendment, and passed a substitute therefor. So that the House entirely disagreed with every line, with every paragraph, with every section of the Senate bill—everything except the enacting clause—and proposed a substitute therefor, and this substitute, on examination, is found to be a complete codification and amendment of existing immigration laws and, incidentally, the labor laws connected therewith, especially those dealing with contract labor, and with many other questions to which it is not necessary to refer. And in the final clause of the House substitute there is the provision:

"'That the act of March 3, 1903, being an act to regulate the immigration of aliens into the United States, except section 34 thereof, and the act of March 22, 1904, being an act to extend the exemption from head tax to citizens of Newfoundland entering the United States, and all acts and parts of acts inconsistent with this act are hereby repealed: *Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons,' etc.

"So that not only does the House by its substitute amendment codify and amend all the laws touching immigration, but incidentally changes those relating to labor, especially contract labor. The House substitute is found to be abounding in section after section with the prohibition of contract labor in connection with immigration, and with various other provisions of a similar nature.

"The House substitute, by way of amendment, went to the Senate. The Senate disagreed to every line, paragraph, and section of the House provision; and with that disagreement to the Senate provision, and with the House provision in effect a disagreement to the original Senate bill, the whole matter went to conference. That is, by this action there was committed to conference the whole subject of immigration, and, as connected therewith, the prohibition of immigration by way of contract labor in the fullest sense of the words. * * * The Chair has not had time to hunt up all the provisions of the immigration laws of the country, but the repealing clause, with the exception as proposed by the House and the disagreement of the Senate, sent this whole matter, in the opinion of the Chair, to the conferees.

"Now, then, there is but one provision that is seriously contended for in the point of order that is made, and that is to be found on page 2 of the House conference report, No. 6907, and is as follows:

"'That whenever the President shall be satisfied that passports issued by any foreign government to its citizens to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holders to come to the continental territory of the United States to the detriment of labor conditions therein, the President may refuse to permit such citizens of the country issuing such passports to enter the continental territory of the United States, from such other country or from such insular possessions or from the Canal Zone.'

"Now, then, one of the principal efforts in legislation heretofore have been to exclude labor that is brought in under contract or is promoted, so to speak; and the very reason of that legislation has been and is unfavorably. Three sections of the House substitute deal expressly with that question. It is not like unto the precedent cited by the gentleman from Mississippi, which was made by the ruling of Mr. Speaker Henderson. The only thing there was a disagreement between the House and the Senate as to certain specified claims, and between the Senate and House as to certain other specified claims. The conferees in that case, taking in the whole sea or ocean of claims, from the birth of Christ to the supposed death of the man with hoofs and horns, picked out a number of claims that the House or Senate never had heard of or dealt with and put them in the conference report, and Mr. Speaker Henderson properly sustained the point of order to the conference report. The Chair has no difficulty nor any hesitation in holding that this is germane first; and, second, that it comes within the scope of the disagreement between the House and Senate as affects immigration on the one hand and the interest of labor on the other, and therefore overrules the point of order."

Mr. BURNETT having appealed, the appeal was laid on the table on motion of Mr. SERENO E. PAYNE, of New York, by a vote of yeas 198, nays 104."

The SPEAKER. It will be observed from one of these decisions that in days gone by the gentleman from Alabama [Mr. UNDERWOOD] had the other end of this question than the one he has to-day [laughter], and that he was overruled. In view of this long line of decisions by illustrious Speakers, the Chair overrules the point of order of the gentleman from Illinois [Mr. MANN]. [Applause on the Democratic side.]

[CONGRESSIONAL RECORD, Jan. 17, 1913.]

Mr. SARATH. Mr. Speaker, I reserve all points of order.

Mr. MANN. Mr. Speaker, I make the point of order that the report can not be considered in the House until the original papers are before the House, and that the original papers are not in the possession of the House. I understand the original Senate bill is in the possession of the Clerk. The House adopted an amendment striking out all after the enacting clause, so it is claimed.

The SPEAKER. The Speaker wishes that the gentleman would go over that again. The House will be in order.

Mr. MANN. The House, I believe, agreed to an amendment striking out all after the enacting clause. Under the rules and the laws and the practice that amendment is sent by resolution from the House to the Senate. I have the form of the resolution in my hand, and the form of the resolution is in the possession of the Clerk. It has to be certified to or attested by the Clerk. That has not been done, and the papers that are before the Speaker, I have no doubt the original papers, properly attested by the Clerk, are in the possession of the Senate. I make the point of order that, in the absence of the original papers, the House can not consider the conference report.

The SPEAKER. How did the Senate ever get possession of it, then?

Mr. MANN. I suppose the Senate has possession of the original papers. I do not know what the Senate has done about it.

The SPEAKER. The original Senate bill is here, properly attested by "Charles G. Bennett, Secretary," and "H. M. Rose, Assistant Secretary."

Mr. MANN. The Senate bill is properly attested, as I understand it.

The SPEAKER. The House part, that is attached to the original Senate bill, does not seem to have been attested by the House Clerk. If we can get hold of him we can have him sign it nunc pro tunc.

Mr. MANN. By unanimous consent I suppose he could do that.

The SPEAKER. Why would it take unanimous consent? The Speaker has never investigated it, but he thinks he would have the same power in that kind of a case that a nisi prius judge has. The Chair is not certain about that, however.

Mr. MANN. I take it that we are entitled to the original papers.

The SPEAKER. Unquestionably.

Mr. MANN. We must proceed on what is officially before the House. The House did have this bill up for consideration and did agree to an amendment. We have not official information at this time as to what that amendment consists of, in the absence of the original papers, and if we adopt the practice of considering a bill without the original papers and without the attestation of the Clerk, no one knows what might be presented as the original papers.

Mr. GARDNER of Massachusetts. Mr. Speaker, I raise the point of order that the gentleman's point of order comes too late. The House has proceeded to consider such papers as it had before it.

The SPEAKER. The Chair thinks that that point of order is not well taken. This document, purporting to be the conference report, has been read. That is all the proceeding that has been taken on this matter except the parliamentary skirmish that took place earlier in the day. The Chair does not think that the gentleman's point of order comes too late.

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MOORE of Pennsylvania. I desire to know whether it is now in order to raise the question of consideration.

The SPEAKER. It is not in order to raise the question of consideration until this other matter is determined. The Chair does not have any doubt about the right of the Speaker to order the Clerk to sign that document.

Mr. MANN. Mr. Speaker, the question is whether the original papers are the ones that were presented to the Senate. Is the Speaker prepared to say that the resolution which was sent to the Senate, not attested, is not merely a copy of the papers that we want—is not merely a copy of the papers we are entitled to?

The SPEAKER. Here is the situation: We have a certified copy of the Senate bill. Then we have the conference report sent over by the Senate, with this House amendment, striking out all after the enacting clause, and enacting a new law, so far as the House could make a law, and the Clerk failed to sign it. But the fact that the Senate bill has come back here attached to the House amendment seems to the Chair to be reasonable proof that the document that purports to be the report from the House that is included in this bundle of papers is the same document that the Clerk sent over to the Senate.

Mr. MANN. Well, that might be a guess. How can the Chair know that? It is presumed that the officers of the House properly perform their duties, in which case they sent to the Senate an attested copy of the House amendment.

The SPEAKER. Now comes the Clerk of the House and attests it. [Laughter.]

Mr. MANN. Without examining it?

The SPEAKER. The Chair will have him examine it.

Mr. SABATH. Mr. Speaker, it is rather late in the day for him to sign it.

The SPEAKER. The gentleman from Illinois [Mr. MANN] is a lawyer——

Mr. MANN. Used to be——

The SPEAKER. And has seen a hundred times, if not more, orders entered nunc pro tunc in a nisi prius court without objection from anybody. If there was any doubt about this being the correct paper, of course we would not tolerate it for a second.

Mr. MANN. Mr. Speaker, I do not know but that I would rule the same way the Speaker has ruled if I were in the chair.

The SPEAKER. That is what the Chair thinks himself. [Laughter.]

Mr. MANN. I make a further point of order. The matter is before the House, and perhaps some other Members desire to make a point of order. But the conferees have included matters in the conference report which were not in disagreement.

The SPEAKER. The gentleman will suspend a moment. The gentleman from Pennsylvania [Mr. MOORE] a while ago asked the Chair if the time had come to raise the question of consideration.

Mr. MOORE of Pennsylvania. I want to raise that question when the time comes.

Mr. MANN. I do not think that question can be raised until there has been a disposition of the point of order.

Mr. MOORE of Pennsylvania. I think I addressed the Chair in the interim between the determination of one point of order and the other.

The SPEAKER. The Chair thinks that if the House is not going to consider the bill there is no use arguing points of order about it.

Mr. MANN. If the question is raised, I think it is probably beyond a point of order, but I do not care.

The SPEAKER. The Chair will hear the gentleman on his point of order as soon as this question is determined. The question is, Will the House now consider this conference report on the immigration bill?

Mr. SHERLEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SHERLEY. Does the consideration of this motion preclude the making of other motions, such as to lay on the table, or should they be made now?

The SPEAKER. Oh, no; they can be made afterwards.

Mr. HAMILL. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. HAMILL. For the purpose of making a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HAMILL. Is it in order now, before the determination of this motion, to present a motion for the postponement of the consideration of this conference report?

The SPEAKER. That will come afterwards. The question is, Will the House consider this conference report at this time?

The question being taken, the Speaker announced that the ayes appeared to have it.

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from North Carolina?

Mr. LODGE. Certainly.

Mr. SIMMONS. I thought the Senator from Massachusetts had concluded.

Mr. LODGE. No; I had not. I have just a few more words to say.

Mr. SIMMONS. If the Senator will permit me, I can say right now what I desire to say.

Mr. LODGE. Certainly.

Mr. SIMMONS. The proposed provision for penal certificates follows immediately after the clause with reference to exclusion on account of crime?

Mr. LODGE. Yes; it is in connection with that.

Mr. SIMMONS. The clause immediately preceding is:

Persons who have committed a felony or other crime or misdemeanor involving moral turpitude.

Then follows the clause that is in controversy. I imagine that everybody is anxious for this country to exclude the criminal classes of Europe. I imagine that one of the most difficult things immigrant officers have to deal with is the matter of determining who are subject to this provision and who are not.

The Senator from New York suggests that if this amendment inserted by the conferees is allowed to stand, the countries of Europe might pass laws requiring these penal certificates and thereby exclude the classes that otherwise might be admitted to this country. I should like to ask the Senator if he does not think it would help this country to exclude the criminal classes if all the countries of Europe were to adopt laws providing for penal certificates, so that we might have the finding of those countries that this and that man was a criminal without having to search the records ourselves in order to get the information which it is so difficult to secure?

Mr. O'GORMAN. Mr. President, may I say a word?

Mr. LODGE. Mr. President, in reply to the Senator from North Carolina. I will say that I think it would be of very great assistance.

I yield to the Senator from New York.

Mr. O'GORMAN. I am afraid the Senator from North Carolina misconceives the view I entertain with respect to the harmful tendencies of this provision. If this provision be adopted, it will be within the power of every foreign nation to make a rule or enact a law requiring every person, before leaving the country, to procure a certificate of good character, and then they may be indifferent about furnishing the certificate; so that the harm will not reach the criminal alluded to by the Senator from North Carolina. As to the criminal, we are in perfect accord; but it may be the means by which honest, worthy men, eager to come to the United States, may be prevented from landing here, because they may be denied a certificate to which in justice they would be entitled, but which may be withheld from them so long as it suits the purposes of the nation in question, so long as it is anxious to restrict, discourage, or prohibit its subjects from coming to the United States.

Mr. JOHNSTON of Alabama. Mr. President, will the Senator yield to me for a moment?

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Alabama?

Mr. LODGE. Certainly.

Mr. JOHNSTON of Alabama. I wish to suggest to the Senator from New York that if we found any foreign nation adopting any such plan as that, to prohibit the emigration of industrious and worthy citizens, we could very easily repeal this clause.

Mr. LODGE. Perfectly easily.

Mr. O'GORMAN. I do not know how easily it could be done.

Mr. JOHNSTON of Alabama. We have all stood against any clause of that kind which affected honest, upright citizens.

Mr. LODGE. Mr. President, what the Senator from Alabama says is perfectly true, of course. Nobody would for a moment favor such a clause if it could be twisted into the uses which the Senator from New York thinks possible. If anything of that sort occurred it would be a matter of great ease to change it.

I will say just one word more. Italy has issued these certificates. We have used them, of course, as a matter of evidence. It has not had the effect of checking emigration from Italy at all. It has been a protection to the innocent immigrant, because there he had complete proof at once that he had no criminal record, whereas it is a very easy thing for some enemy, perhaps somebody on board ship he has a quarrel with, to make a suggestion that he has a criminal record, and then he is held up for days that the matter may be looked into. My own belief is that it protects the innocent instead of injuring them. But if any such result flowed from this, it is within our power to stop it in a moment. There would not be the slightest difficulty about that.

I desire to call the attention of the Senate to the fact that this is but one small clause, easily disposed of if put to bad uses, in a great bill such as occupied the attention of Congress, through the Immigration Commission and through both its committees, for years. It contains new provisions of the very greatest importance to the better administration of our criminal laws.

I am not speaking now of the illiteracy test, which has been the point in contest. For instance, we have some 15,000 aliens excluded under our laws who come back here as seamen on ships, shipping just for the voyage, getting in those ships and passing into this country, perhaps diseased, perhaps with criminal records, without any examination at all. For the first time we have made provision for meeting that very serious difficulty.

The whole administration of the Immigration Service has been greatly improved by this bill. An immense amount of work has been put upon it. The bill passed the Senate carrying all these provisions, except the one we are now discussing, with only 9 votes against it. It passed the House by a vote of over 3 to 1. This is the Senate bill substantially as it was before us. I described the slight changes in the illiteracy test, and those the Senate conferees receded from and made it only reading instead of both reading and writing, as it passed here.

The rest of the bill is substantially the bill as it passed the Senate by that great vote. In the same way the House passed it by overwhelming majorities. The conferees have been at work on it for many days. It has been a bill which involved the greatest possible care and study. I have no doubt there are mistakes in it; in a bill of such magnitude there are certain to be mistakes; but I believe it is as nearly perfect as the department, the Immigration Commission, the immigrant officials, and the two Houses of Congress through their committee can make it, and I am extremely anxious that the report should be agreed to.

If I did not firmly believe there was misapprehension in regard to this clause and the fears suggested by the Senator from New York were wholly unfounded, I should feel exactly as he does, but I am certain that if by any possibility, which I consider to be out of the question, there should be any attempt to use that clause for the purposes the Senator from New York suggests, no Member of Congress would tolerate it for a moment, and the clause would be stricken from the law as rapidly as the forms of legislation could be complied with. But I think it would be a great misfortune not to pass this bill now and send it to the President.

Mr. O'GORMAN. I should like to ask the Senator from Massachusetts one further question. Is it not a fact that in Russia, perhaps in Germany and in some other European countries, a native who leaves the country in violation of the rules respecting the military organizations and the necessity of enlisting is regarded as a criminal?

Mr. LODGE. They are not regarded as criminals by us, and this would not affect that.

Mr. O'GORMAN. I am speaking now of those foreign countries. To be specific: Is it not the case with Germany to-day that a subject of that country who leaves without performing his military service is a criminal in the eyes of the German nation? It is true also in Russia and in other European countries. Would not such men be denied by those countries a certificate of good character no matter how virtuous their lives may have been and however deserving they are of taking a place in this country as citizens?

Mr. LODGE. The fact that he avoided military service would not become a crime until he reached here and if it was a crime for him to leave without having performed his military service.

Mr. O'GORMAN. I do not agree with the Senator with respect to that provision.

Mr. LODGE. Because if he stayed there he would not be a criminal.

Mr. O'GORMAN. If he stated that he intended to leave the country at a certain time, the certificate would be withheld, because in the view of the local authority he was seeking to evade military duty.

Mr. LODGE. I do not see how it could possibly be effective, because it would not be incurred until after he had come to this country.

Mr. O'GORMAN. I can see how it would occur before.

Mr. STONE. How would he get the certificate?

Mr. LODGE. They have the certificate now in Germany; that is, they have certificates of citizenship.

Mr. O'GORMAN. The Senator says he might escape and it would not be known until he came to this country, but would he come here with a good character certificate, such as is contemplated by this provision?

Mr. LODGE. Of course he would.

Mr. O'GORMAN. He would get it?

Mr. LODGE. Certainly he would have his character certificate. A man can get this certificate without intending to emigrate at all. It is not a prerequisite. It is issued to all citizens of Italy alike, as I understand it.

But, Mr. President, there is no danger. This is connected with the immediately preceding clause, which defines the persons excluded for crime who have committed a felony or other crime or misdemeanor involving moral turpitude. You could not abandon that definition in deciding whether the man was a criminal.

Mr. O'GORMAN. I can not agree with the Senator from Massachusetts. There is no personal relation or connection between the two propositions. They are absolutely separate and distinct, because the force of one is not affected by the other provision. We have a naked, bald proposition that no citizen or subject of a foreign country shall be permitted to land in the United States unless he is able to produce to the immigrant officials a certificate of good character, if such certificates are issued in the foreign country. While at the present time, perhaps, there are only two countries, Italy and Russia, issuing such certificates——

Mr. LODGE. Russia issues no such certificate.

Mr. O'GORMAN. The equivalent of such a certificate.

Mr. LODGE. No.

Mr. O'GORMAN. It is so stated.

Mr. LODGE. Those are the conditions of getting a passport. This is a certificate, not a passport.

Mr. O'GORMAN. But apart from the circumstance as to whether Russia to-day issues such a certificate as suggested, in my judgment the adoption of this law will be an encouragement to every foreign power to immediately provide for the issuance of a certificate of character, knowing that the United States would not receive anyone not possessing such a certificate.

Mr. LODGE. I can only say that I do not think that interpretation could be put upon it; in the second place, I do not think there is the slightest practical danger of it because other countries have already refused; and, finally, if such a state of things should arise, it is within our power to end it within 48 hours.

Mr. GRONNA. Mr. President, as a member of the Immigration Committee I would hesitate to discuss any of the provisions of the bill as it passed the Senate, because the chairman of this committee has shown the utmost courtesy to me, and I believe to the entire membership of the committee. I am, however, very much opposed to the new matter that has been inserted in the bill.

It may be true, as has been stated, that there is only one, although I believe there are two countries that issue penal certificates, namely, Italy and Asiatic Turkey. But be that as it may, Mr. President, I believe that this is a very unwise provision. Anyone familiar with the conditions in northern Europe to-day knows that in all of the north European countries they are, as a rule, very much opposed to the emigration of their young men from those countries.

Take Germany, for instance. Will anyone suppose that we would get the splendid citizenship from that country if this provision is left in the bill? Within six months it will bar out every male German and Scandinavian of the age for military service, as Germany, which does not desire the emigration of its young men, will be glad to take advantage of this provision. As to Italy, it puts it in the power of the mayors of the cities of Italy to issue certificates to their least desirable, and the bill provides no way of authenticating these certificates. But, above these considerations, the bill puts into the hands of European nations the right to say which of their citizens or subjects shall come to us. We have heretofore maintained our right to say whom we shall admit or exclude, but this proposal is to abdicate that right. It will keep out the Jews from Russia, Armenia, and Austria and the Armenian and other Christians from Turkey. If it had been in force in 1848, it would have kept out Germans like Carl Schurz, who fled after the German revolutions, and it is an outrageous provision to be thought of by a free country. Incidentally it nullifies, at the option of foreign countries, every favorable proviso in the immigration law.

The new provision I find is on page 3 of the conference report. I will read the first two lines on page 2:

That the following classes of aliens shall be excluded from admission into the United States.

Then it goes on to name different classes to be excluded, which I will omit, but the language inserted as a new matter reads as follows:

Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

It is perfectly evident, Mr. President, that unless the immigrants have those certificates they will not be admitted to this country. It is obvious that in any of the foreign countries where they are opposed to the emigration of their young men regulations will be made requiring these certificates, and these certificates they will not be able to obtain.

So, Mr. President, I believe that we should ask to have this report referred to the committee of conference. I do not care to argue the point of order made against it, but we know that it is new matter; that it is matter which was neither in the House bill nor in the Senate bill.

It has been said that we must restrict immigration in order to give labor a better and a fairer show.

Mr. LA FOLLETTE. Mr. President, will the Senator yield to me?

Mr. GRONNA. I will be glad to yield.

Mr. LA FOLLETTE. I believe, Mr. President, that this is a matter of sufficient importance to have it discussed in the presence of a quorum if it can be, and as a quorum will have to pass upon it ultimately, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Wisconsin suggests the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	du Pont	McCumber	Smith, Ariz.
Bankhead	Fletcher	McLean	Smoot
Bourne	Foster	Martin, Va.	Stephenson
Bradley	Gallinger	Martine, N. J.	Stone
Brandegee	Gardner	Myers	Sutherland
Bristow	Gore	O'Gorman	Swanson
Brown	Gronna	Oliver	Thomas
Bryan	Heikkell	Paynter	Thornton
Burton	Jackson	Percy	Tillman
Catron	Johnson, Me.	Perkins	Townsend
Chilton	Johnston, Ala.	Perky	Wetmore
Clapp	Jones	Poindexter	Williams
Clarke, Ark.	Kern	Pomerene	Works
Crawford	La Follette	Sanders	
Cummins	Lippitt	Shively	
Dillingham	Lodge	Simmons	

Mr. STONE. I desire to make the announcement that my colleague [Mr. REED] is unavoidably absent from the city.

Mr. KERN. I wish to announce the unavoidable absence of the junior Senator from South Carolina [Mr. SMITH] on account of illness in his family.

The PRESIDENT pro tempore. Sixty-one Senators have answered to their names. A quorum of the Senate is present. The Senator from North Dakota will proceed.

Mr. GRONNA. Mr. President, as I said, I am very much opposed to the provision that has been inserted in the conference report, because I believe that it is an unwise provision; that it is wholly unnecessary so far as this country is concerned; that it is a dangerous precedent to establish; and that it is an admission of weakness by us as a great Nation to say that we are incapable of providing whom we shall admit or whom we want to exclude as immigrants to this country.

It is claimed by some that we must not oppose this bill or any provision of it because it has been asked by labor organizations to have these provisions inserted. No one will go further to protect labor than I; but labor organizations, sir, have no more right to ask the American Congress to enact into law provisions that will be detrimental to the country at large than have any other class of our people. We who come from the West, who desire immigration, who are interested in seeing that progress is made, and that our new country is developed, feel that we have a right to be heard on this question. No one is more anxious than I to exclude every alien, I care not from what country he may come, who will not make a good law-abiding citizen when he comes to this country.

There is another provision which I want to touch upon briefly, and that is the increase in the head tax. I believe that tax was increased on the floor of the Senate. If I remember correctly, the bill as it was reported from the committee provided for a $4 head tax.

Mr. LODGE. It was increased on the floor of the Senate. Five dollars was the provision in the bill as it passed the Senate.

Mr. GRONNA. Yes. I thank the Senator.

Mr. President, what is the necessity of increasing this head tax, when in the year 1911 there was a surplus in this fund of more than a million dollars? Upon whom will this burden bear the heaviest? Will it fall upon those who come here seeking labor and then return to their native lands, or will it fall upon those who come here with their families seeking homes? We all know that those who come from the northern part of Europe are those who come with large families. This head tax must be paid by them; and it is upon that class of people that the burden will fall.

So far as the people from northern Europe are concerned, it matters but little what kind of illiteracy test you apply. Nearly all of those who come from Ireland, from Scotland, from England, from the Scandinavian countries, and from Germany can read and write. Statistics show that. I am not complaining, however, of the provision in this bill so far as the illiteracy test is concerned, because the old provisions of the law remain in the bill. The writing test is not applied as the Senate bill provided when it passed this Chamber.

I said a moment ago, and I say again, Mr. President, that subjects coming from such countries as Germany and the Scandinavian countries would be barred in a few months from coming into this country. None of those countries desire that their young men shall emigrate from their shores; they wish to keep them home, and there are laws on the statute books of those countries making it a crime when an emigrant leaves his country to escape military service. How, then, would it be possible for such men to get their certificate of good character or good conduct? So I believe, Mr. President, that this is of such great importance that the bill should be recommitted to the conference committee and that we should insist that this language shall be taken out of it.

I have just received a telegram from New York from a gentleman whom I know very well, and I wish to have his telegram read and incorporated in my remarks.

The PRESIDENT pro tempore. Without objection, that order will be made. The Secretary will read the telegram.

The Secretary read as follows:

NEW YORK, *January 20, 1913.*

Hon. A. J. GRONNA,
Washington, D. C.:

Society of Friends of Russian Freedom protests against character-certificate provision in immigration conference bill as encouragement to oppression and reversal of our traditional policy of welcoming liberty-loving immigrants.

HERBERT PARSONS, *President.*

Mr. GRONNA. Mr. President, I have also received another telegram, which I shall not ask to have printed, because a similar one has formerly been ordered printed in the RECORD, but I have asked that the telegram just read be printed because it is signed by an influential, honorable ex-Member of the other House.

There are other provisions in the bill to which I might call attention, but I shall not take up any more time of the Senate. I believe, however, that this country has been benefited by its liberal policies and its liberal immigration laws. I care not what restrictions are made to keep out the criminal class; we are all equally patriotic in seeing that none but good, honest, law-abiding men shall come to our shores and become citizens of this great country; but we also have the right, so long as the condition exists that we need more people, to have proper legislation on this subject. Nothing can benefit the western country more, Mr. President, than the immigration of good, honest, law-abiding citizens to this country. The men engaged in the industries of our country are entitled to some consideration, and I ask you who will take the places of some of the men who are working in the ditch? It is just as important to the success and the welfare of our people to have those come here as it is to have men who are engaged in the professions and the trades. Very few of the native born are willing to take their places.

So, Mr. President, I sincerely hope that the distinguished chairman of the Committee on Immigration will not insist that this conference report shall be adopted before it has again been considered by the conference committee.

Mr. SHIVELY. I ask the attention of the Senator from Massachusetts for a moment. What does the Senator understand is meant by the penal certificate?

Mr. LODGE. The penal certificate, as I understand, under the practice in vogue in Italy, is a certificate showing whether or not a man has been convicted of crime.

Mr. SHIVELY. And under this bill the immigrant is required to produce that certificate, if he has it?

Mr. LODGE. Yes.

Mr. SHIVELY. And if he produces it does that fact admit him?

Mr. LODGE. No. The object is to secure knowledge as to those who are criminals.

Mr. SHIVELY. Section 3 begins:

That the following classes of aliens——

Mr. LODGE. If he produces a penal certificate, unless he can show he was not convicted of a crime involving moral turpitude, it would exclude him.

Mr. SHIVELY. As I understand, he would fall within the class to be excluded. Section 3 provides:

That the following classes of aliens shall be excluded from admission into the United States.

And, then, after a series of descriptions of classes to be excluded, the following language is used:

Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

Mr. LODGE. That is a certificate of character showing that he never has been convicted for a penal offense.

Mr. SHIVELY. Then, he must produce either a penal certificate or a certificate of good character before he can be admitted?

Mr. LODGE. That is simply a different denomination of the certificate. It is really a certificate to the effect simply that

he has never committed a crime. The two classes of certificates are really descriptions of the same thing.

Mr. SHIVELY. Does the Senator mean that they refer to the same document? Do penal certificates and certificates of character mean the same thing?

Mr. LODGE. They are practically the same certificate. One is called "a penal certificate," and that excludes the immigrant if it shows that he has been convicted of a crime. The other shows no crime, of course, but is simply a certificate of character. If it shows a crime, it is a penal certificate.

Mr. SHIVELY. Does the Senator mean to say that the provision I have quoted would not require every person who applies for admission to produce a certificate of this kind?

Mr. LODGE. No; only when the immigrant comes from a country where they issue certificates of character. For instance, Italy issues them, and has done so for some time. Russia was asked if she would not issue certificates of that character, and declined. She said it was entirely impracticable.

Mr. SHIVELY. I recall the alleged incident that Oliver Cromwell and John Hampden were at one time on the point of embarking for the New World.

Mr. LODGE. They were suspected of that intention.

Mr. SHIVELY. Yes; and it is claimed that they were detained and restrained from taking their departure by the British Government. If the British had in force to-day provisions of law for the issue of the certificates referred to in and contemplated by the language of these lines of the conference report, and were Cromwell and Hampden living to-day, neither could be admitted to this country under the proposed procedure without producing such certificate, could he?

Mr. LODGE. No, Mr. President, all citizens of Italy have these certificates of good character, as I understand, just as they have certificates of citizenship, and whether they are going to migrate or not makes no difference. It is not a prerequisite of migration. If a man is going to migrate he does not have to procure such a certificate; he has it anyway; he does not have to give notice.

Mr. SHIVELY. How does the certificate of character become associated with or merged in the penal certificate?

Mr. LODGE. Of course, if a man holding a certificate of character is tried and convicted of an offense, then the entry that he has been convicted of a crime is made on his certificate, and it is returned to him with that entry; but he has that certificate; everybody there has one, without regard to migration.

Mr. SHIVELY. The Senator says this rule of issue of certificates is at present in force only in Italy?

Mr. LODGE. That is true of Italy to-day, but it has no effect at all on Italian immigration.

Mr. SHIVELY. It is a rule easily capable of adoption in every European country. Whether the rule be made with or without reference to immigration, the certificate issued by a foreign Government becomes determining whether the immigrant shall be admitted to the United States. The applicant must be provided with the certificate from a foreign Government. Such requirement is directly in the teeth of our well-settled and long-cherished doctrine on the right of expatriation.

Mr. LODGE. He would have the certificate in any event. It is only a question of whether we require it.

Mr. SHIVELY. Oh, yes; he would have the certificate in any event if his Government required him to have it, but it is only——

Mr. LODGE. He would not have to go and ask for it.

Mr. SHIVELY. But it is only in the event that the lines in this conference report that I have quoted become law that the certificate issued by a foreign Government would carry any significance so far as admission of its bearer to the United States is concerned.

Mr. LODGE. Yes; it would have no value to him as an innocent man—none whatever.

Mr. LA FOLLETTE. Mr. President, the last remark of the Senator from Massachusetts is indicative of the wrong basis upon which this discussion has proceeded. It has proceeded upon the assumption that this provision was intended to apply only to criminals—those seeking admission to this country as immigrants who have been convicted of crime.

Mr. LODGE. That is its intent.

Mr. LA FOLLETTE. If that is its intent, it is so worded as to go entirely beyond the purpose of those who framed it. It can have but one effect. Observe the language of the provision. After enumerating several classes of aliens to be prohibited, in the exclusion of which all will agree, the conferees add the following:

Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the officials such a certificate.

That clause provides not only for penal certificates, but it also provides for certificates of character. Make that the law and no citizen or subject of any country can expatriate himself excepting with the consent of his Government.

Mr. ROOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from New York.

Mr. LA FOLLETTE. Certainly.

Mr. ROOT. I would not go so far as the Senator from Wisconsin and say that it can have but one effect. I think there is a legitimate effect—that is, to require persons coming here from countries that give penal certificates to produce the certificates, so that the immigration officers may have that very easy evidence regarding their character.

I have no doubt that that was the intention of the provision, and that it would have that effect. But I think it ought to be guarded so that it will not also produce the other effect that the Senator from Wisconsin suggests.

Mr. LA FOLLETTE. I am very glad to hear the Senator from New York make that declaration, because if all that was required and all that was intended by this clause was what the Senator from New York now says it should provide, it should be limited to penal certificates.

Mr. President, I want to turn aside just for a moment to comment on the wide latitude given to conferees, of which this is one of the most striking examples, in the way of engrafting onto legislation new matter which neither House of Congress has ever considered. Sir, the rules and the precedents of this body and the body at the other end of the Capitol have been so framed as to put legislation in the hands of a very few men. I venture to hope, Mr. President, that the day is near at hand when both branches of Congress will be made more democratic and more responsive to the public will.

Here is a provision inserted in this bill which never had a moment's consideration in the Senate nor in the House of Representatives—a provision of the widest sweep and the most important effect, if it is to be enacted into law, upon the future of this country and the class of immigrants that are to be admitted to citizenship.

Why, sir, under the provisions of the clause which is now under discussion Carl Schurz would have been excluded from this country; also the great body of German refugees and emigrants from northern Europe who were resisting the encroachments of tyranny in the Old World. That period seemed to be one of the cycles in the life of liberty of the human race. In Germany, in France, in Austria-Hungary, in Poland, all over Europe, empire was crowding liberty back to the wall.

Carl Schurz broke jail and came to this country with some of his associates. Thank the Lord for it! He came up into Wisconsin. The thousands of liberty-loving Germans and emigrants from northern Europe that came into the State in which I had my birth laid at that time the foundations for the thoroughly democratic population which has gone leagues ahead of all the other Commonwealths of this country in bringing government back to the people.

Mr. LODGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Massachusetts?

Mr. LA FOLLETTE. Oh, in just a moment, if the Senator will permit. I suppose the Senator rises to call my attention to the fact that this bill provides that people convicted of political crimes are not excluded. Am I right?

Mr. LODGE. Yes.

Mr. LA FOLLETTE. That is what I anticipated. But Carl Schurz had not been convicted of a political crime. And this conference report would admit to this country only those who have been actually convicted of political crime, but not those who have been persecuted for their political opinions; not those who love liberty and who have preached the doctrine of a republican form of government in Russia and in other countries of the Old World—and there are thousands and thousands of them doing it to-day. They can not have the shield of protection of this bill as you propose it unless they have been put upon their trial and convicted of a political crime.

If they have been under police surveillance and police espionage, watched and dogged at every step and turn, and finally, in despair of enlarging the liberties of the people of their own country, they desire to seek a home for themselves and their families in America, they would have small chance indeed of procuring a certificate of good character, without which they would be excluded from this country under this provision.

How can a subject of Russia get a certificate of good character in the Russian Empire? You can not leave that empire to come to America without a passport. You can not get a passport without its being signed by the governor of the province in which

you live. You can not get the signature of the governor of the province in which you live without its first being certified by the police authorities that you are a suitable person, according to Russian police standards, to receive that passport. It may be that you have not been convicted of any political crime. It may be that you have simply published some pamphlet advocating larger freedom for the people of Russia. If you have done that you fall under police surveillance, and you can not hope to get the certificate of the police which will enable you to apply for the passport of the governor of the province in which you live. Therefore you can not get a passport at all. Without a passport you can not get a certificate under the proposed law, of course.

Mr. LODGE. It does not seem to me that that follows.

Mr. LA FOLLETTE. Why, Mr. President, here is a nation that will not permit its subjects to leave the country without a passport.

Mr. LODGE. But the Senator is aware, of course, that thousands come from Russia without passports.

Mr. LA FOLLETTE. Ah! But does the Senator suppose they come with the approval of Russia? No.

Mr. LODGE. Certainly not.

Mr. LA FOLLETTE. No; no. They come surreptitiously across the border; and if they come in that way, does the Senator suppose they are going to be able under this new provision of law to apply for and get a certificate of good character from the Government?

Mr. LODGE. Of course not. Russia does not issue those certificates.

Mr. LA FOLLETTE. No; but the day after this bill becomes a statute Russia can adopt a provision that will make it applicable to every single subject that leaves her borders.

Here is a most ingenious device engrafted upon this bill by the conferees—not intentionally, I am bound to say, but inadvertently, I have to say—to promote and aid the system that prevails in Russia to-day, to restrain from coming to this country those of her subjects who may wish to come over here and preach larger liberty for Russia.

It was suggested in the debate on this paragraph in the House that any one of the governments would be glad to get rid of these disturbing subjects and to give them these certificates to come to this country. Not so. We would get, under this provision, those whom they could easily and would willingly spare. But the virile, sturdy, aggressive, progressive subjects of every country, who make the foundation stock of our best civilization when mixed with the blood of New England and every other State, we would not get. They would be retained in Germany to serve in the army; they would be kept in Russia, where they would be under their strict police system. Why? Because they fear them in America more than they do in Russia.

Mr. President, I do not mean to speak discourteously of the conferees, but think of the proposition of turning over to another country the determination of what class of immigrants shall be received in the United States! If they be not diseased, we may receive the weaklings of a foreign country. But the sturdy, virile type which makes up the German Army and the French Army and the armies of the other countries of Europe that require military service would be denied admission here because, unless the country wants to part with them and gives them certificates, they can not be admitted. The Secretary of Commerce and Labor has no discretion in the matter. No officer of this Government can exercise any discretion. The certificate of a foreign country disposes of the whole matter.

Mr. President, I remember that when this conference report was under discussion in another place in the Capitol the criticism which I am making was met in this way: It was said that Russia would be very glad to get rid of the people who were making political disturbances over there. Russia knows better than did the gentleman who made that argument. Russia knows that one free tongue in New York is more harmful to Russian despotism than 10,000 shackled subjects in Siberia. No! Russia does not want—and I am constrained to believe that that is the reason why some other people do not want—these people who are seeking freedom for mankind admitted to the United States.

Mr. President, they are not only a menace to Russia, they are a menace to plutocracy in America. There are some gentlemen in various places in our social order who are defending plutocracy and guarding every encroachment upon its sacred preserve.

The PRESIDENT pro tempore. The Senator from Wisconsin will suspend for a moment. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. WORKS. I ask that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from California asks that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. Mr. President, any person who has been active in founding a republican form of government in Russia such as we enjoy could only come to this country by leaving Russia surreptitiously. There is not any question about that at all. They can not get a passport, and they can not get a certificate of good character.

Of course, if it is your purpose to exclude those people from coming here—that is, people who are opposed to the Russian system but who do believe in the system of government we have in the United States, and who would like to see that system of government adopted in Russia—if you want to exclude the subjects of Russia who so believe when disheartened in the fight for Russian freedom they seek an asylum in this country, and if you wish to deny them that asylum, stand for this provision that the conferees have put into this immigration bill without a moment's consideration from either branch of Congress.

I started with my opening word upon this subject to say something in criticism of that practice by conference committees. We have seen it many times.

A conference report has to be accepted or rejected in toto. You have to swallow the whole conference report or you have to defeat all the good things in the conference report in order to get some one bad thing taken out.

I tell you, Mr. President, that is a vicious practice in legislation, and to the Senators who are to have some power in molding the rules under which laws shall be framed in future, let me appeal to you to give your attention to reforming this abuse.

Let me recall something to your minds. In May, 1908, I stood on this floor for 19 hours protesting against the passage of a bill. I did not do that as an exhibition of my physical endurance. I believed that that bill was a bad bill, but the methods employed to pass that bill I believed to be vicious, and I was willing to go to the very limit of risk in order to emphasize to the country the iniquity of that proceeding.

It was an emergency currency bill—the so-called Vreeland-Aldrich currency bill. It had been proposed in the Senate. It had been put upon its passage in the Senate. When it was proposed in the Senate it contained a provision that railroad bonds should be made the basis of the issuance of emergency currency. Since 1903 there had been pending an appeal to Congress from the Interstate Commerce Commission to value the physical properties of railroads of the country in order to determine how much the railroad securities represent actual investment and how much they represent water—a fraud upon the American public.

Without any determination on the part of the Government, pursuant to the recommendations of the Interstate Commerce Commission as to the real, true value, the real investment in the railroads in this country in the Aldrich-Vreeland bill, it was proposed through this side door to work into the foundation, as it were, the financial system of this country, as a basis for circulation, railroad bonds, regardless of the value that was back of them. I was opposed to that, Mr. President, and gave notice that I should attack it. Twenty minutes before I took the floor to make my argument against the railroad-bond provision in the emergency currency bill Senator Aldrich, the leader on the Republican side, withdrew the proposition making railroad bonds one of the securities upon which emergency currency could issue. Why? Because he well knew that he could not stand for a moment the attack that would be made, based upon the historic and economic development of the railroads of the country and the known facts as to fictitious capitalization. So 20 minuts before I was to begin an argument he rose and withdrew that provision. Then what happened? I took the floor. I made my argument notwithstanding the withdrawal. I predicted that that proposition withdrawn would be found in the conference report before that legislation was over.

Now, what happened? The bill passed the Senate. It was finally thrown into conference. Shortly thereafter we were told that the conferees could not agree, and that no legislation upon that subject would be enacted. Finally, just at the close of the session, when it was impossible to secure serious consideration for any measure, Congress and the country were suddenly informed that the conferees had agreed, and the Aldrich-Vreeland bill, in the form of a conference report, was thrust upon the House and the Senate.

And in that conference report, Mr. President, just as I had predicted, the railroad-bond provision had a secure place.

Do you understand, Senators? The railroad-bond provision was back in the bill, not in the original form, for under the bill as it came from the Committee on Finance there were some restrictions as to the bonds which might be accepted as a basis for emergency currency circulation. But as the provision appeared in the conference report any sort of railroad bonds could be accepted as security.

Mr. President, that is a bad method, a vicious method of legislating, and we should make an end of it at once and for all time.

Now, take this conference report. It is an exemplification of the abuse. I do not mean to reflect on the Senators who were on the conference. They have done what other Senators have done. The rules and the practice sanctions it. I think the Senator from Massachusetts is absolutely right. He is within the precedents and within the decisions of the House of Representatives, and I am not assailing the conferees. But I am assailing this system. It is not the way to legislate, Senators. It does not reflect the will of the people in legislation, and that is what our kind of a government ought to mean.

Now, Mr. President, I beg pardon of the Senate for having digressed at such length. I did not intend to do so. I just want to call attention to another provision in this conference report that I am sure escaped the attention of the Senator from Massachusetts. As to that portion of the conference report which I have discussed I am led to believe that the Senator from Massachusetts regarded this certificate provision as applying only to convicts.

Mr. LODGE. I certainly did not suppose it was open or susceptible to the interpretation which has been put upon it by Senators or I never would have agreed to it, and no other member of the conference would have agreed to it.

Mr. LA FOLLETTE. I am bound to believe that; but I submit when you read the language it is evident that my contention is right. Of course, we all know how conference reports are adopted. It may be that it was adopted at the end of a long conference, that had exhausted the members of that conference committee.

Mr. LODGE. I will say, if the Senator will permit me to interrupt him, the history of that particular clause is that it was not adopted in that way. It was a suggestion from the department and was very strongly urged by the department.

Mr. LA FOLLETTE. I remember now, since the Senator from Massachusetts says so, that it is in the recommendations of the——

Mr. LODGE. It is in the draft of the bill sent up to the Senate by the Commissioner General of Immigration.

Mr. LA FOLLETTE. That leads me to wonder why it did not find its place in one or the other of the bills, in view of the fact that it had the indorsement of this official.

Mr. LODGE. I mean the draft of the bill of the Department of Commerce and Labor.

Mr. LA FOLLETTE. I would not undertake to say that. It was not in the bill reported to the Senate and passed by the Senate.

Mr. LODGE. No; it was not.

Mr. LA FOLLETTE. Now, there is another matter that I want to call the attention of the conferees to. I have gathered here, Mr. President, a mass of cases, not suppositions, not speculations, but concrete cases which come within the provisions of this proposed law that would be excluded if it were to become a statute of the United States. I do not want, unless there is a disposition to press this matter, to take the time to read these particular cases. I will, if there is a disposition to do so; otherwise, I ask, Mr. President, to incorporate them in what I have to say.

In Russia a "certificate of good character" is required from every applicant for a foreign passport, and under the Russian law no one may leave the Empire without such a passport.

It is therefore clear that the Russian Government does issue "certificates of good character" to prospective emigrants. There are numerous other cases where the Russian law requires the production of a "certificate of good character."

Such certificates are issued by the police and may be denied in its discretion. The substance of the certificate is that the bearer has not been convicted of any crime. Under the antiquated Russian law such certificate could be denied to many persons innocent of any offense involving moral turpitude.

Section 1171 of the Russian Penal Code reads as follows:

Jews convicted of engaging in any mercantile pursuit except that which is allowed to them in specific cases provided by law, outside the pale assigned to them for permanent settlement, shall be sentenced to confiscation of their merchandise and immediate deportation.

There are a series of decisions of the supreme court of the Empire (the cassation departments of the governing senate) which illustrate the character of the offenses coming within the purview of this section.

In re Mandelstamm, which was No. 731 of the decisions rendered in 1874, it was held that a Jewish artisan is allowed to sell only the products of his own manufacture, but not the products of other factories than his own.

In re Goorvich (1877, No. 20) it was held that a Jewish baker may sell bread, but not flour.

In re Kroopkin (1877, No. 12) it was held that a Jewish butcher may sell meat from cattle slaughtered by him according to the Jewish rites only to his coreligionists, but not to gentiles.

The Jews in Russia are restricted in choice of domicile to urban settlements of a few provinces, and are debarred from the rest of the Empire. There are, however, special exemptions in favor of a few privileged classes of Jewish citizens. Among these are graduates of dental colleges.

Recently 200 Jewish merchants residing in Moscow, which is a forbidden city to Jews, were indicted for procuring illegally dentists' diplomas, which enabled them to live in Moscow and engage in business. The penalty for their offense ranges, under section 294 of the penal code, from imprisonment in a penitentiary for not less than two and one-half years to banishment to Siberia for life.

If these men, to whom all doors of opportunity to earn an honest living are shut in Russia, should attempt to enter this country they will be shut out, if this bill becomes a law, on the ground that they could not furnish a certificate of good character from the Russian police.

They were all men of means, and were making an honest living as business men. Yet the Russian law says that an ordinary Jewish citizen must not do business in Moscow. He may secure that privilege by renouncing the faith of his fathers and joining some Christian denomination, a form of religious persecution which is abhorrent to the spirit of our institutions.

Another class of offenders against the Russian law that would be debarred by the pending bill are young men who emigrate in order to evade compulsory service in the Russian army. Every young man of the age of 20 must report for two years of active service in the army. His labor may help support his parents and younger brothers and sisters, but he must give two years of his life to the Czar. Most people in Russia do it reluctantly. The Jewish recruit is as a rule transported for service to those Provinces where people of his race are ordinarily not permitted to reside. As soon as his term of service expires, he is ordered to leave the place and return to the place of his legal residence. Can he wax patriotic in the defense of a country from which he himself is excluded as a citizen?

Shall we who have no compulsory enlistments condemn him if he seeks to escape service in the army of a country which he leaves for good in order to become a citizen of the United States?

Still, such a man could not secure a certificate of good moral character from the Russian police.

The other day the cable news carried an item characteristic of Russian conditions. A detachment of 130 Cossacks, serving on the Austrian frontier, crossed over the boundary line to Austria, lay down their arms, and declared that they had left Russia for good. The Cossacks, it must be understood, are a special force used chiefly to suppress revolutionary outbreaks of the people. These 130 Cossacks got tired of such duties and resolved to leave the country rather than to shoot down their countrymen who are fighting for liberty. Should any of these Cossacks come to this country, we shall ask them to produce certificates of good character from the Russian police, and upon their failure to do so we shall send them back to Russia.

We have retrograded in our attitude toward political refugees. The act of August 3, 1882, which for the first time debarred foreign convicts, excepted "those convicted of political offenses." The act of March 3, 1891, made the exemption bill stronger by the insertion of the following proviso:

Provided, That nothing in this act shall be construed to apply to or exclude persons convicted of a political offense, notwithstanding said political offense may be designated as a "felony, crime, infamous crime, or misdemeanor involving moral turpitude" by the laws of the lands whence he came, or by the court convicting.

The provision was in agreement with the best authorities on international law, which recognize that most political offenses are "admixt crimes," which would be considered common crimes if it were not for the political motive of the offender.

The reason for the exemption in favor of political refugees is the general recognition of the fact that men and women who fight tyranny in the country of their birth may prove very useful and peace-loving citizens in their adopted country. We have erected monuments in this city to two Polish political offenders, Kosciuszsco and Pulaski.

I have referred to the German refugees who came to this country after the revolution of 1848 to escape capital punishment in their own country; some of them fought in our Civil

War. One of these revolutionists, Carl Schurz, sat in the Cabinet of a President, an honored leader of the Republican Party. The son of another of these revolutionists, Charles Nagel, is a member of the Cabinet of President Taft, and, by the irony of fate, under the provisions of this conference report, should it become a law, would be compelled to enforce the law barring immigrants guilty of political offenses which do not differ from those committed by the German revolutionists of 1848.

The bill as reported by the conference committee qualifies political offenses by adding the words "purely political," and further as "not involving moral turpitude."

Opinions may differ as to when an act is just simply political or "purely political," also whether or not it involves "moral turpitude." Arson, murder, when committed by an individual from personal motives are crimes involving moral turpitude. Yet when a revolution is on these same acts are generally looked upon as acts of heroism, and free nations erect monuments to their fighters for liberty who committed them.

Within the last few years the Russian Government made demands upon the United States for the extradition of its former subjects on the ground that they were guilty of common crimes, such as murder, arson, and assaults upon officials. In every case the League for the Defense of Political Refugees was able to prove to our officials by documentary evidence that the act complained of was of a political nature. But if this provision becomes law, a Secretary of Commerce and Labor who happens to regard such an act as involving moral turpitude will have the power to shut out such a revolutionist from this country on the ground that he can not produce a certificate of good moral character from his Government.

It appears from the case of the English newspaper man, Mylius, who is just now awaiting deportation under a decision of the Secretary of Commerce and Labor, that our law in effect denies an asylum to persons convicted of political offenses. The facts in this case deserve the closest attention of the Senate.

Mylius was convicted of "seditious libel" for accusing the King of England of bigamy. It appears from the record of the case that the English court regarded the offense as one of a political character. In fact, Mylius was tried not for libel, but for defamation of character. In a prosecution for libel truth is a complete defense. In a prosecution for defamation the defendant is not permitted to prove the truth of his accusations. Mylius offered evidence to prove the truth of his publication, but his evidence was not admitted.

There is a similar distinction in the New York Penal Code. A person may be prosecuted for defamation of character of a private citizen even though his accusations may be true. But there is a very important exception to this rule: If the complainant holds a public office and the accusation is made with a public purpose, truth is a complete defense. It is evident that a King holds a public office, and the allegation of Mylius that the object of his publication was to arouse the public sentiment against the institution of monarchy was very material. Certainly there was no personal malice in his act, for he is too far removed from the King to nurture any personal spite against him. If there ever was a "purely political offense," this was one of them. The Secretary of Commerce and Labor holds the political motive of the publication is insufficient to make it "a purely political offense" and that it "involves moral turpitude." And back to England Mylius must go. Under this interpretation the Declaration of Independence, which charged King George III that "he has plundered our seas, ravaged our coasts, burnt out towns, and destroyed the lives of our people," was libel involving moral turpitude. It is clear that the bill gives no adequate protection to political refugees.

Now, permit me to call the attention of the Senator from Massachusetts to one provision which I believe has wholly escaped the attention of the conferees. In the paragraph——

Mr. LODGE. From what section does the Senator read?

Mr. LA FOLLETTE. It is in section 3, in the paragraph beginning "All aliens." Has the Senator a copy of the conference report before him?

Mr. LODGE. I have that section before me.

Mr. LA FOLLETTE. It is section 3.

Mr. LODGE. Yes; I have section 3.

Mr. LA FOLLETTE. Now, just run along to the third paragraph beginning "All aliens over 16 years." Has the Senator found that?

Mr. LODGE. The illiteracy test?

Mr. LA FOLLETTE. Yes. Now, then:

All aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish—

That is, they are excluded—

Provided, That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age—

That was "50 years of age" in the Senate bill. The age limit is raised for some reason.

Mr. LODGE. That is the House bill.

Mr. LA FOLLETTE. The provision continues:

his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter.

There is an omission right at that point. After the word "grandmother," there is omitted "of children over 18 years of age," which appeared in the Senate bill.

Mr. LODGE. The House insisted on their language at that point, and the argument they made was that this would admit the daughter at any age.

Mr. LA FOLLETTE. No; it admits the daughter if she is widowed.

Mr. LODGE. Oh, no; if unmarried or widowed. It admits the daughter at any age.

Mr. LA FOLLETTE. Yes; that is right.

Mr. LODGE. It admits sons under 16.

Mr. LA FOLLETTE. Yes.

Mr. LODGE. The House took the ground that a son over 16 could learn to read and write in order to be able to get in. They made that distinction, and insisted on it.

Mr. LA FOLLETTE. No son over that age; no boy.

Mr. LODGE. No son.

Mr. LA FOLLETTE. No boy over that age can be admitted to this country unless he can read and write although both his father and his mother and all the rest of the family are here. I can not believe that it ministers to the good of this country or to the betterment of social conditions to separate the father and the mother from their 16-year-old boy.

Mr. LODGE. I do not think that the cases that would arise would be very serious or very numerous.

Mr. LA FOLLETTE. Well, but if that rule——

Mr. LODGE. I see the Senator's point. If the matter should be reopened in conference, of course we would bring that point up.

Mr. LA FOLLETTE. It is not a question of how many are hurt, but whether any of those who in good faith cast their lot with us are made to suffer needlessly. The family is separated only temporarily—long enough for the father to come to this country to earn the money with which to bring over the wife and their boys and girls. The Senate of the United States ought not to stand for a provision that would deny the right, when the father and mother and daughters are here, to bring over the boys of 16, 17, 18, and 19, even though they might not meet the literacy test, when the father and mother have been admitted before that test went into effect. What a hardship to that family, and what a cruel wrong to those young boys, who will later, in all probability, come to this country and become a part of our political and social life, but who in the meantime have been deprived of the parents' guidance and of all the precious home ties. It can not make for good citizenship or be an advantage to this country.

There is a provision later on, at the end of that section, which reads:

Provided further, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

But a man must be five years in this country before he can become a citizen of the United States, and many good men within my own knowledge have been in this country much longer than that without becoming citizens. They have moved from one State to another in order to find employment or to secure better advantages for themselves and their families. These changes in residence sometimes make it difficult to secure the necessary two witnesses, so that under the provisions of this conference report many minor boys might be excluded whose parents are already here. It is wrong.

Now, Mr. President, I have taken more time than I intended, as I purposed only very briefly to point out the obvious wrongs that might result if the bill was not amended. I hope that there will be no opposition to sending it back to conference. Here is a great measure, of vital importance to the country. It can not be too well considered. I know that we need legislation upon this subject. Because of the large number of people of foreign birth that we have in Wisconsin, I have watched the progress of this kind of legislation since I was old enough to understand.

It has seemed to me the purpose of our legislation generally should be not so much the limitation as the improvement of immigration, the uplifting of the people who come here to

become a part of our citizenship. With that, Mr. President, I am most thoroughly and completely in sympathy.

But there is going on in many countries of Europe a struggle for larger freedom, with which the American people are in sympathy, and we should not write into a measure of this kind any provision that would militate against the great movement for a truer democracy that is sweeping over the world.

Mr. LA FOLLETTE subsequently said: I ask leave, in connection with my remarks, to print many telegrams which I have received, one of them from a former member of the Russian Douma, now living in Massachusetts, in which he makes a most touching and pathetic appeal for the dropping out of the provision which has been the subject of principal discussion here to-day, which I hope the Senators will find time to read.

The PRESIDENT pro tempore. Without objection, the order will be made.

The telegrams referred to are as follows:

DORCHESTER, MASS., *January 20, 1913.*

Senator LA FOLLETTE,
Washington, D. C.:

In behalf of my friends and political refugees from Russia I most emphatically protest against the clause of the pending immigration bill requiring from political refugees a certificate of character from their home Government. This will bar all political refugees coming from Russia, where they are denied all political and civil rights merely on account of their republican views inimical to the autocratic government of the Czar. I wish to emphasize the fact that even the members of the Duma who belong to opposition parties are prosecuted for their political beliefs and are forced to emigrate. Furthermore, I wish to state that political refugees never leave their countries upon their free will. They keep their places among their native people in their native country as long as they possibly can, fighting for freedom of their own nation. A successful revolution in any country means more happiness and more contentment among the bulk of the people. Bad home government makes for large immigration. Democratic governments are apt to keep their people home. It is my firm conviction that the great Republic of the United States should not help to thwart the government for freedom in Russia in trying to punish once more those who are being punished severely enough by the Czar's Government, which forces them unwillingly to choose banishment from their beloved country.

JOHN OSHOL,
Ex-Member of the Second Duma of Russia.

—

CHICAGO, ILL., *January 20, 1913.*

Senator ROBERT LA FOLLETTE,
Washington, D. C.:

Urge defeat conference bill requiring immigrant bringing certificate of character. Reversal of American policy.

GRACE ABBOTT,
Director Immigrants' Protective League.

—

NEW YORK, *January 20, 1913.*

Hon. R. M. LA FOLLETTE,
The Senate, Washington, D. C.:

Many thanks for telegraphing, giving me certificate provision in immigration conference report. Earnestly hope that provision will not be adopted. It would operate to deprive us of finest immigrants from oppressed people.

HERBERT PARSONS,
President Society Friends of Russian Freedom.

—

NEW YORK, *January 19, 1913.*

Hon. ROBERT M. LA FOLLETTE,
United States Senate, Washington, D. C.:

Political Refugees' Defense League, New York, respectfully requests that you oppose provision in immigration bill demanding immigrant furnish certificates good character from Government issuing same. This means Russia only, who refuses such certificates to revolutionists, democrats, liberals, and all only suspected of opposition. Officials exact bribes from all not suspected for issuance certificates. Thousands honest immigrants unable to secure certificates for these and other reasons not within their control will be excluded, for Government will be tool of Russia.

POLITICAL REFUGEES' DEFENSE LEAGUE, NEW YORK,
M. OPPENHEIMER, *Chairman.*
DR. PAUL S. KAPLAN, *Treasurer.*
SIMON O. POLLOCK, *Attorney.*

—

NEW YORK, *January 19, 1913.*

Senator LA FOLLETTE,
Senate, Washington, D. C.:

We protest vigorously against clause said to be included in immigration bill in conference committee which would demand from immigrants good character certificates from their government. Some of the best citizens America has had would have been excluded under such ruling. Please use your influence in Senate against this.

LILLIAN D. WALD,
Head Worker Henry Street Settlement.

—

CHICAGO, ILL., *January 20, 1913.*

ROBERT LA FOLLETTE,
United States Senate, Washington, D. C.:

Members of Immigrants' Protective League protest against proposed requirement of character test as unreasonable, oppressive, un-American, designed to strengthen the hand of oppressive government.

S. P. BRECKENRIDGE,
Secretary Immigrants' Protective League.

NEW YORK, *January 19, 1913.*

ROBERT M. LA FOLLETTE,
United States Senate, Washington, D. C.:

Conference immigration bill, in section 3, contains provisions not previously considered, excluding subjects of countries issuing character certificate failing to produce such certificate to immigration officials. This will exclude majority Jews coming from Russia and Roumania, owing to practical legal difficulties attending procurement of certificates, the compliance with elaborate conditions imposed, their military regulations, and the large expense involved. How could victims of Kishineff or the thousands constantly expelled from their homes by police or those suspected of being political offenders expect to secure such a certificates? Such reversal of our attitude toward the persecuted can not be intended. Bill should be amended to preclude cruel consequences inevitably resulting from present phraseology.

LOUIS MARSHALL,
President American Jewish Committee.

—

DORCHESTER, MASS., *January 20, 1913.*

Senator LA FOLLETTE,
Washington, D. C.:

In behalf of the Boston Political Defense League, we emphatically protest against the pending immigration bill, particularly against the clause requiring from immigrants a certificate of character from their Government. This would be tantamount to absolute exclusion of political refugees from Russia, whose Government stamps as crime any political view differing from those of autocracy and tyranny, and whose courts and officials regard any immigrant leaving the country without the consent of the Czar's Government as criminal and outlaw, whose property may be confiscated. It is our firm belief and hope that the Republic of the United States will not become a party to the oppressive policy of the autocratic Government of the Czar.

For the Boston Political Refugees Defense League,

Mr. M. J. KONIKOW, *Secretary.*

—

CHICAGO, ILL., *January 20, 1913.*

Hon. ROBERT M. LA FOLLETTE,
1864 Wyoming Avenue, Washington, D. C.:

Bohemian American National Council appeals to you to lead the fight against the vicious conference immigration bill; un-American, useless; only helps for European Government to oppress.

E. S. VRAY, *President.*

—

CHICAGO, ILL., *January 20, 1913.*

Hon. ROBERT M. LA FOLLETTE,
1864 Wyoming Avenue, Washington, D. C.:

Section 3 of the conference immigration bill contains provision for certificate of character that would be complete reversal of the United States attitude toward those of other nations persecuted for political opinion. If this provision were enacted into law it would exclude the majority of Jews coming from Russia and Roumania, owing to legal difficulties in securing certificates. I hope that you will use your influence to have bill amended to preclude cruel consequence inevitably resulting from present phraseology.

ALEX. A. MCCORMACK,
President of the Board of Commissioners of Cook County.

—

CHICAGO, ILL., *January 20, 1913.*

Hon. ROBERT M. LA FOLLETTE,
1864 Wyoming Avenue, Washington, D. C.:

We have just learned that conference immigration bill, section 3, requires immigrants to produce certificates of character from their home Governments. Should this bill become a law, it would bar political refugees from entering this country, as no Government would give certificates of good character to political agitators who endeavor to secure laws for the betterment of their conditions, while it might readily give such certificates to criminals and other undesirables, in order to be rid of them. This country has always been the asylum of political refugees, and we, on behalf of 70,000 members of the Polish Catholic Union of America, who are citizens of this country, protest against this bill as being unjust and un-American; and we respectfully appeal to you to use your influence to defeat this measure.

STANISHLAUS ADAMKIEWICZ,
President Polish Catholic Union of America.
N. S. BUDZBAN, *Secretary.*

Mr. ROOT. Mr. President, as I was not a member of the committee which reported this bill or of the conference committee, I did not read the terms of the conference report until the report was printed in Saturday's RECORD. I am, however, somewhat familiar with the history of the long struggle of the United States to establish and maintain the American doctrine of expatriation, and I feel deeply interested in having nothing embodied in our legislation which may tend to strike down that doctrine or which may tend to put it in the power of any other country to limit the operation of the doctrine that every man in this world is entitled to change the country of his residence.

I think, upon reading this clause, that it probably would open the door to make it possible that the right of immigration from foreign countries to the United States might be limited or prevented by the action or refusal to act of the country from which the immigrant seeks to come. For that reason I hope that the Senators in charge of the bill will ask to have it sent back to conference, in order that the following words may be stricken out:

Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

I am in favor of the bill, Mr. President. I think it contains many provisions of very great value, and I would regret exceedingly to have its passage prevented.

Let me make one further suggestion. I think I can appreciate, probably better than most Senators, the reasons which perhaps led to the inclusion of this clause, because it is in my own State and in my own city that the evil resulting from the immigration of criminals has been most deeply felt. It has been a very great evil; it is so now. It is making collections, groups of the most desperate criminals in our American cities, and especially in my own city of New York; and I feel sure that the recommendation for the insertion of this clause by the department was with the sincere desire to make it possible for the immigration officers to keep out the Black Hand and the Camorra, which are so injurious to the maintenance of order and the enforcement of law in the city of New York. I feel sure that the clause was inserted with a good intention. I do not want, however, to let this occasion pass without expressing my belief that this clause was framed by officers who were thinking about keeping out Italian criminals and were not thinking about Russia at all; but because, as so frequently happens, a clause put in with one idea in mind may produce unexpected results in other directions, I think the clause ought to go out.

Mr. President, I think this is a very good illustration of the value and importance of discussion of having for measures of legislation the scrutiny of many, and an opportunity for discussion upon every provision. That opportunity having been given, I hope the evident sense of the Senate on this subject may receive effect on the part of the conferees.

Mr. LODGE. Mr. President, the Senator from Wisconsin [Mr. LA FOLLETTE] and the Senator from New York [Mr. O'GORMAN] have both recognized that the intent of the conferees was not to usurp power or put in any language which they did not thing was proper. I think, as a mere question of parliamentary procedure and precedent, we had a right to put in the provision under the very sweeping decisions to which I have referred. However, that is not the question; the question is whether it ought to be there at all.

I hesitate very much to disagree on questions of interpretation of law with either Senator from New York; but I find, Mr. President, that an interpretation of which I did not think it susceptible is given to that clause, not merely by Senators who are opposed to the bill, but by Senators who are as strongly in favor of the bill as I am. If the provision is open to the interpretation which has been given to it here in debate, to which both Senators from New York, the Senator from Wisconsin, and others think it is open, I feel, Mr. President, reluctant as I am to cause any delay in the adoption of this report, that it ought to be sent back to conference. I therefore move that the Senate disagree to the report of the conference committee, and request a further conference with the House, the conferees on the part of the Senate to be appointed by the Chair.

Mr. LAPPITT. Mr. President, before that motion is put, if the bill is going back to conference, I hope the conferees will not overlook the other point which was brought up by the Senator from Wisconsin [Mr. LA FOLLETTE] and which, it seems to me, is very worthy of consideration. I refer to the point which he made in regard to limiting the age at which children may be brought into this country by their parents and under which only the sons under 16 years of age can be brought into this country, unless they can pass the literacy test. I have had recently one or two very sad and deplorable cases brought to my attention, where parents who are in this country have attempted to bring in their children.

One case in particular occurs to me, of a young girl, perhaps 10 or 11 years old, who under the operation of the present law, if in the charity of the Secretary of Commerce and Labor it had not been interpreted very liberally, would have been sent back to Europe under conditions which seemed to me almost equivalent to murder. She would have been landed upon the docks there with absolutely nobody to take care of her, with no relatives, and with no means of support.

In addition to that, as suggested by the Senator, such a provision would have a tendency to break up families and leave boys of 16 years of age to become waifs in the great cities of Europe or to be brought up under conditions that would almost surely make for criminality, or something of that character. I hope that if it is possible that part of the bill will also receive the attention of the conferees.

Mr. LODGE. I assure the Senator that the matters to which the Senator from Wisconsin has called attention will receive the consideration of the conferees.

Mr. LA FOLLETTE. Mr. President, I think if the conferees would restore the language of the Senate bill at that point it would cure what I conceive to be the defect there.

Mr. LODGE. Yes; by restoring the Senate provision.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

Mr. LODGE. Mr. President, I moved to disagree to the report. Of course the other motion takes precedence if anyone makes it, but I made the motion to disagree.

Mr. STONE. Mr. President, I made a point of order against the provision which has been discussed most extensively here; but I am not going to press the point of order now, in view of the attitude of the Senator from Massachusetts. I desire to say, however, that it seems to me, notwithstanding the decisions of several Speakers of the House of Representatives, for whom I have great respect, that the better and safer practice is the one laid down in the Manual. I think it is an unwise and dangerous practice to confer power upon conference committees to introduce into legislation important provisions like the one now before us without giving to the Senate or to the House any opportunity to discuss them.

The Senator from New York [Mr. ROOT] well remarked that this is a fine illustration of the necessity of having matters of this kind brought before the body of the Senate—the Senate itself—for discussion and elaboration. True, various Speakers of the House of Representatives have held otherwise, or seemingly so at least; but I do not know whether there are any precedents of the Senate—I have not had time to have them looked up—embodying rulings upon like questions.

Mr. LODGE. Mr. President, if the Senator will allow me at that point, there was a question involving this principle decided both by the Senate and the House in the case where the conference committee put what was known as the "Japanese passport clause" into the immigration bill of 1907. It was absolutely new matter; but it was held under the general rule, which I have cited, that the whole subject was before the committee, and both the Senate and the House ruled it in order.

Mr. STONE. All I care now to say is that if this provision is brought back in any objectionable form—I am not sure, in any form—as an entirely new clause in the bill, I shall ask the judgment of the Senate as to whether the practice which the Senator from Massachusetts says is established in the House shall prevail in the Senate. The Senate, of course, can adopt its own rules——

Mr. LODGE. Oh, absolutely.

Mr. STONE. And its own practices.

Mr. LODGE. The Senator can search this bill from beginning to end and he will not find anything in it that was not in one bill or in the other——

Mr. STONE. Well, we have found one very important provision that was not in either bill.

Mr. LODGE. Except this provision; and of that the conferees were perfectly aware.

Mr. STONE. Now, Mr. President, I am going to ask that the part of an article I have marked, appearing in to-day's New York Times, prepared by Mr. Herbert Friedenwald, with relation to this particular clause, may be inserted in the RECORD without reading. I now withdraw the point of order.

The PRESIDENT pro tempore. The Senator from Missouri withdraws his point of order. The matter which he desires printed in the RECORD will be ordered printed, in the absence of objection.

The matter referred to is as follows:

Statement, signed by Herbert Friedenwald, secretary of the American Jewish committee:

"The conference committee on the immigration bill which has for more than a year been under consideration in Congress, reported what is practically a new measure late on Thursday. On the following day the House of Representatives adopted the bill as reframed by the Senate and the Senate will probably act on it on Monday.

"It has just been discovered that the bill thus reported contains a clause which will exclude the majority of all Jews coming to this country from Russia and Roumania, and practically all immigrants who are suspected of being political offenders, and a large number of immigrants of all religious denominations from continental Europe. This provision adds a new class of aliens to those who are to be excluded from the United States, namely, 'citizens or subjects of any country that issues penal certificates or certificates of character, who do not produce to the immigration officer such a certificate.'

"The Russian laws regulating the issuance of such certificates are minute and onerous in their provisions. First of all, the possession of a Russian passport is required. This calls for the signatures and counter signatures of police and Government officials and of notaries. If the intending immigrant is a male 18 years of age, he must also present documentary proof that he has presented himself for military service and has been refused; if more than 21 years of age, that he has served in the army or is among the reserves. He must procure a police certificate that there is no objection to his leaving his home; that no fine has been imposed upon him; and that there is no civil judgment against him. If any member of the applicant's family is under disabilities his application is rejected.

"The legal fee to be paid for the passport is $9. The exactions of the police officials frequently amount to much larger sums, and it is conceivable that under the 'system' it will be easier for a real criminal to purchase the necessary certificate of character than it would be for a poor and honest man to obtain it.

"When one considers the exactions to which the Russian Jew is constantly subjected, his harsh and oppressive treatment by police officials,

the fact that he is driven from pillar to post, and is frequently excluded from his home and stripped of his belongings on the pretext that he has overstepped the pale of settlement, it becomes at once apparent that for the average man compliance with the proposed amendment will be a practical impossibility. How could the victims of Kishineff or the thousands who are suspected of political offenses expect to secure such a certificate?

"In Roumania Jews are regarded neither as citizens nor as subjects. They are declared by statute to be 'aliens.' In their case compliance with the act is literally impossible.

"It is thus evident that this objectionable clause must have crept into the bill of the conference committee through inadvertence or without due appreciation of its consequences. It certainly can not have been intended to reverse our historic policy of affording an asylum within our hospitable gates to the persecuted and to those supposed to be political offenders.

"Congress has had no opportunity to give the slightest consideration to this important change in the law. It was never even suggested during the protracted consideration that has been given to the bill, and we are now confronted with the grave peril of having this un-American clause thus hastily injected into our legislation without the realization of its consequences.

"By means of it foreign Governments will be able to regulate immigration into the United States by arbitrarily granting or withholding certificates of character. This feature of the immigration bill, superadded to the literacy test, in itself a sufficient objection, should determine its fate."

Mr. SIMMONS. Mr. President, I desire to detain the Senate only a moment. I want to express my sympathy with the views set forth by the Senator from Wisconsin [Mr. LA FOLLETTE] in regard to the powers of conference committees and the manner in which the two Houses are handicapped under the present rules in dealing with conference reports. I am glad the Senator from Wisconsin brought that matter up, and I am glad we have had this discussion with regard to the rules governing conference reports. I think there ought to be a liberalization of these rules. I believe that the House and the Senate ought to have the right to adopt the report of a conference committee with amendments, and that these amendments should go back to the conference committee for further consideration. I do not suggest that as the best method of reaching and remedying this difficulty, but I do wish to say, Mr. President, that I have felt repeatedly since I have been a Member of this body the necessity of some liberalization of the rules under which the Houses act with reference to conference reports.

Now, one word, Mr. President, in reference to the provision as to penal and character certificates incorporated by the conference committee. I think that if there is anything emphasized under our immigration laws it is the purpose on the part of the people of this country to exclude so far as practicable from admission to our shores the criminal classes of Europe. I am heartily in sympathy with any provision which will accomplish that purpose. I believe that a part of the provision proposed by the conferees does contribute to that end. I believe that that part which refers to penal certificates would be most valuable in accomplishing our fundamental purpose in excluding European criminals.

I think, however, the committee has presented the provision in a form that is rather too drastic, too mandatory, too binding upon our immigration officers, and as this bill, probably by manimous consent, is to be allowed to go back to the conference committee, I suggest that that provision might be retained not as a mandatory provision, but allowing such certificates to be considered as prima facie evidence of the criminality and the nonadmissibility of the alien.

The great difficulty, Mr. President, in administering the provision of our laws against the admission of criminal aliens is in ascertaining the facts bearing upon the record of the immigrant. If we can secure some official evidence under the laws of the country from which he proposes to emigrate showing that he is or is not entitled to admission, I think it would be a matter of wise precaution to take advantage of that law. I do think, however, that the provision in the conference report is entirely too drastic.

Now, so far as the character of the second certificates provided for in the report are concerned, I am very glad the Senator from Massachusetts feels the force of the argument which has been made with reference to them. I do not think the mischief apprehended by some Senator would follow the adoption of this provision, but it would open the door to possible abuses, which would intrench upon the traditional policy of this Government with reference to expatriation. Feeling that way about it, I went over to the Senator from Massachusetts shortly after the discussion upon this report began this morning and suggested to him that possibly under the circumstances it would be well to let the report go back to the conference committee in order that this subject might have further consideration.

Mr. LA FOLLETTE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Carolina yield to the Senator from Wisconsin?

Mr. SIMMONS. Yes.

Mr. LA FOLLETTE. Before the Senator takes his seat I wish to call his attention to another provision in this conference report, which enlarges the powers of the Secretary of Commerce and Labor with respect to the importation of contract labor. I think the provision may have escaped the attention of Senators on the other side.

Mr. SIMMONS. That matter was under discussion here on Saturday, when the Senator, I apprehend, was not present.

Mr. LA FOLLETTE. This conference report was not up at that time.

Mr. SIMMONS. Yes; I think the conference report was up then.

Mr. LA FOLLETTE. I think the conference report has been called up to-day.

Mr. SIMMONS. Yes; but it was called up informally on Saturday and went over until to-day. I ask the Senator from Massachusetts if I am not right about that? I interrogated the Senator from Massachusetts on Saturday with reference to the provision as to contract labor.

Mr. LA FOLLETTE. May I say to the Senator——

Mr. LODGE. If the Senator will allow me, the provision to which the Senator refers was in the Senate bill.

Mr. LA FOLLETTE. I understand that.

Mr. LODGE. It has been reproduced here; but I think it makes no enlargement at all.

Mr. LA FOLLETTE. But oftentimes, Mr. President, bills which pass the Senate contain provisions not well understood by all Senators, and I desire simply to call the attention of the Senator, while he is on his feet, to one provision in this conference report. On page 4, as printed in pamphlet form, at the bottom of the page, the Senator will find this:

Provided further, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country.

That is the existing law.

Mr. SIMMONS. Yes; so I understand.

Mr. LA FOLLETTE. The existing law is enlarged by the conference report to this extent—and I submit this for the consideration of Senators on that side and on this side:

And the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation and such determination by the Secretary of Commerce and Labor, to be reached after a full hearing and an investigation into the facts of the case.

This is new matter and modifies the existing law. It gives the Secretary of Commerce and Labor the right to say when skilled employees shall be imported into this country under a contract to labor in this country. He conducts the hearing. "After a full hearing," it is true, but he determines what constitutes a full hearing, and he conducts that hearing upon the application of any individual who is interested in having that contract labor imported into this country.

Mr. DILLINGHAM. Mr. President——

The PRESIDENT pro tempore. Does the Senator yield to the Senator from Vermont?

Mr. LA FOLLETTE. Certainly.

Mr. DILLINGHAM. I should like to say, in explanation of that provision, that it was in the bill as adopted by the Senate.

Mr. LA FOLLETTE. I am aware of that.

Mr. DILLINGHAM. There are a great many cases in the development of our industries in this country like one I have in mind that happened in Connecticut, where American citizens proposed to establish a manufactory of lace. They went abroad and purchased machinery for that purpose, the machinery being made under European patents and not procurable in this country. They brought it over here and established their mills, and then it became necessary to bring in foreign labor that was acquainted with that machinery in order to operate it.

There was no such skilled labor in this country as was required to operate that machinery. Under the present law all they could do was to go and make a contract to bring them over, which would be in violation of the law unless it was afterwards ratified by the American authorities. They had to bring them to Ellis Island, and then when objection was made to their coming in as contract laborers under the law they made their appeal to the Secretary of Commerce and Labor, and then he had to hear the question of whether skilled labor was necessary under the existing law and whether for that reason they ought to be admitted. It put these people to the expense, and to the risk as well, of bringing them over, with a possibility that they might be rejected if the decision was adverse.

Mr. LA FOLLETTE. If the Senator will permit me, I should like to inquire right at that point why it would not have been well for the manufacturers seeking to bring in these foreign skilled laborers to have applied for permission to do so before going abroad?

Mr. DILLINGHAM. Because the law gave the Secretary no authority; and this is to give the Secretary the authority to let them come and present their case in advance.

Mr. LA FOLLETTE. That is perfectly true; but the law provided that they should have a hearing.

Mr. DILLINGHAM. But they could not have a hearing until after the persons had been imported, had been held up at Ellis Island, and the question was certified up.

Mr. LA FOLLETTE. It is not proposed here to give them a hearing in advance.

Mr. DILLINGHAM. Yes, it is.

Mr. LODGE. That is the point.

Mr. DILLINGHAM. That is the very point of the amendment and the only object of it.

Mr. LODGE. That is the object of it and that is all there is to it.

Mr. LA FOLLETTE. I want to say this, Mr. President, if the Senator has concluded: I do not believe it should be left to the Secretary of Commerce and Labor to have the final word on that subject without some provision for an appeal, and I want to suggest to the Senator from Massachusetts that the conferees could well incorporate in this connection a provision for an appeal on the part of any dissatisfied party.

We know perfectly well—and we may as well look this matter squarely in the face—that the manufacturers of this country desire to bring skilled labor and other labor into this country from abroad whenever they can, because they can get it cheaper there than they can here. That is the whole basis for our protective system and for our claim of the necessity of a protective tariff. I am in favor of their bringing in that labor if it can not be found in this country. I am not in favor of their bringing it in if it can be found in this country. I do not believe we should give to any single official the final word as to whether they shall have that authority or not. I would not leave the matter in any doubt.

I was going to say to the Senator from Massachusetts, in conclusion, that it is a very easy matter to add to that paragraph, and I would suggest adding that the decision of the Secretary of Commerce and Labor shall be subject to appeal.

Mr. LODGE. I think it is now, as a matter of fact; but it will do no harm to put it in.

Mr. LA FOLLETTE. There will not be any doubt about it if it is specified.

Mr. LODGE. Not the slightest. I am much in favor of such a course.

Mr. DILLINGHAM. I should like to say, in connection with the remarks of the Senator from Wisconsin, that there is no branch of the present immigration law which is enforced with greater strictness than the contract-labor provision. The department is exceedingly careful to see that the law is observed. The execution of the law in some instances seems to be rather drastic, and yet it is nothing to be criticized. I say that because I know the Senator desires to have it so executed; and I can assure him now that that class of immigration gets no sympathy from the department.

Mr. LA FOLLETTE. But I am sure the Senator from Vermont will agree with me that no matter of such tremendous importance should be left to the discretion of any individual. It may be well administered to-day, and it may be ill administered to-morrow.

Mr. SIMMONS. Mr. President, I think I have the floor.

The PRESIDENT pro tempore. The Senator from North Carolina had the floor.

Mr. LA FOLLETTE. I beg the Senator's pardon.

Mr. SIMMONS. Mr. President, I had about concluded what I had to say with reference to the resubmission of this report to the conferees. The Senator from Wisconsin, when he addressed the Senate on this question a little while ago, referred to the contract-labor provision. I stated then that this conference report had been up on Saturday. I think I was correct in that statement. I remember asking the Senator from Massachusetts for an explanation of that provision of the conference report. I distinctly recall asking for an explanation. I had examined it, and it was not quite satisfactory to me. I had somewhat the same objections that the Senator from Wisconsin has expressed.

Mr. LA FOLLETTE. Mr. President, I think perhaps I was in error in saying to the Senator from North Carolina that the conference report was not before the Senate on Saturday, although perhaps not technically in error. I believe it was not called up until this morning. The Senator from North Carolina may have interrogated the Senator from Massachusetts about it upon its coming into the Senate.

Mr. SIMMONS. The matter was somewhat discussed here on Saturday, and went over by unanimous consent.

Mr. LA FOLLETTE. Perhaps it was.

Mr. SIMMONS. After the Senator from Massachusetts had made the statement on Saturday, it appeared to be the situation, so far as contract labor is concerned. We would, under this provision in the report, admit contract labor under certain conditions. Those conditions raised an issue of fact. Upon the determination of that fact the immigrant was to be admitted or he was to be denied admission, and, of course, somebody had to be vested with the authority to decide that question of fact. The only debatable question is whether the decision so rendered should be final.

There would be great force in what the Senator from Wisconsin suggests if there were no right of appeal from the decision of that officer. But my understanding is that under the present law there exists the right of appeal from the finding upon that question. That right, I understood, is provided in the existing law. I desire to inquire of the Senator from Massachusetts whether I am right about that.

Mr. LODGE. I explained that fully on Saturday.

Mr. SIMMONS. I did not understand the Senator from Massachusetts. There was some confusion at the time. There is the right to appeal, as I understand.

Mr. LODGE. There is the right to appeal. I misunderstood the Senator.

Mr. SIMMONS. I said I would have the same objections which the Senator from Wisconsin has urged unless I thought there was a right of appeal.

Mr. LODGE. The decision of the Secretary can not be final if it is in violation of law. The matter goes into court whenever that question is raised.

Mr. LA FOLLETTE. I just wanted to suggest to the Senator from North Carolina that if the conferees made it specific there could be no doubt about it.

Mr. SIMMONS. But, Mr. President, if the Senator will permit me, I think that right is outside of the immigration bill. It is provided in other law, and therefore need not be repeated in the present one.

Mr. LA FOLLETTE. No harm can come from its repetition.

Mr. SIMMONS. I do not think any harm can come, but I think there is no necessity for duplicating the law.

Mr. WORKS. Mr. President, I think we ought not to pass over the suggestion made by the Senator from Massachusetts and accept it as correct that there is a right of appeal in cases of this kind. The Supreme Court of the United States has held directly the contrary in some cases.

Mr. LODGE. I spoke carelessly when I said "the right of appeal." I meant that the Secretary's decision does not estop suit being brought for violation of the law.

Mr. WORKS. Oh, certainly not; but the Supreme Court has directly held that the decision of the Secretary of Commerce and Labor is conclusive upon that question.

Mr. LODGE. I was not aware of that. If that is the case, it shows the necessity of providing an appeal.

Mr. WORKS. I think the Senator will find that to be so.

Mr. STONE. Mr. President, before this report goes back, if it does, to the conference committee, I should like very briefly to call the attention of the Senator from Massachusetts, who I suppose will be a member of the conference committee on the part of the Senate——

Mr. LODGE. Yes; I am chairman of the committee.

Mr. STONE. I should like to call his attention to one or two other provisions of this bill which seem to me to be objectionable, and which, if it goes to conference again, might receive consideration from the conferees.

There appears to me to be an inconsistency between one of the clauses of section 3 and one of the clauses of section 9 in the particular I shall state.

On page 4 of the report, as part of section 3, is the provision that all aliens over 16 years of age, and so forth, capable of reading may be admitted.

Mr. LODGE. Yes; the illiteracy test.

Mr. STONE. Then follows this proviso:

> That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not.

Of course, that plainly permits one living here—a naturalized citizen, for example—to send for the particular relatives named.

Mr. LODGE. It is not limited to naturalized citizens. It applies to any admitted alien.

Mr. STONE. I was using that simply as an illustration.

Section 9 provides that it shall be unlawful for any person, including any transportation company, and so on, to bring in people of certain descriptions—those having certain diseases, idiots, and so forth—without being subjected to an examination in advance, and without the master of the vessel, or one of the two officers immediately under him, making a statement on the manifest that the passengers have been legally admitted and that they are not subject to any of the objections particularly set forth in section 3. The particular clause to which I want to call the attention of the Senator is at the bottom of page 7:

> It shall also be unlawful for any such person—

That is, any transportation company—

> to bring to any port of the United States any alien who is unable to read or who can not become eligible under existing law.

And a penalty of $100 is prescribed if the officer does not comply with that provision of the bill.

I put this question to the Senator to think of it: Suppose a person who is here sends for his wife, mother, or father; how does the master of the vessel know, when the man or woman comes aboard, that he or she sustains that relationship? There must be some method of proof of it or else the master will not take the word of the individual and assume the risk of the imposition of the penalty.

Mr. LODGE. I see the force of the Senator's suggestion, that it might lead to a refusal on the part of the master. The exceptions ought to be expressed in the section.

Mr. STONE. Yes. I think it is sufficient to call the Senator's attention to it.

Mr. LODGE. I am obliged to the Senator for calling attention to it.

Mr. STONE. I do not know whether the Senator from Massachusetts or the conference committee will agree with me, but instead of the clause in section 3, at the top of page 3 of this report, which reads—

> Persons who have committed a felony or other crime or misdemeanor involving moral turpitude—

it seems to me it would be better to employ the language of the present law, which, as I understand, is that any person who has been convicted of or admits having committed a felony, crime, or other misdemeanor shall be excluded.

Mr. LODGE. The language here is the language of the Senate bill. It was very carefully considered. It is based on the recommendation of the Immigration Commission. We had a specific case brought to our attention at Messina, where a man had committed murder and escaped to this country, and under that law he could not be turned back.

Mr. DILLINGHAM. And yet the consul at that place knew the facts.

Mr. LODGE. The consul knew the facts and informed our Government; but we were unable to do anything about it, because he never had been convicted.

Mr. STONE. The language here is:

> Persons who have committed a felony or other crime or misdemeanor involving moral turpitude.

Who is to judge whether or not he has committed such an offense? How are we to know?

Mr. LODGE. That is a question of evidence, to be passed on by the Immigration Board, of course, as they pass on all these questions.

Mr. STONE. If some foreign official, acting for his Government, telegraphed to his consul in New York that A. B., an immigrant passenger on a certain ship, had committed a crime in his country, and asked that he be deported——

Mr. LODGE. Of course he could ask for extradition if he chose.

Mr. STONE. The offense might be extraditable, or it might not be.

Mr. LODGE. All felonies are extraditable.

Mr. STONE. Suppose he charges that he has committed a crime. Will the immigrant be tried here by the inspector, or will he be tried by a court, and will he not have the benefit of witnesses. He may never have had a trial or a hearing in his native country.

Mr. LODGE. All that is necessary for the immigration officials is to have it proved that he has committed a crime. Then they could exclude him. That is all.

Mr. STONE. Then is he to be tried here, before an administrative officer, with his witnesses in Europe?

Mr. LODGE. Certainly. He can appeal from the decision. That is done now. Cases of exclusion are constantly appealed.

Mr. STONE. Of course he can appeal from it, but I am talking about the difficulties that would confront a man, charged by some one in that indefinite way with having committed an offense, in proving that he had not committed it.

Mr. LODGE. Of course, the board will have to be satisfied by the evidence that he has committed the offense or he has confessed it.

Mr. STONE. But the present law is that if he has been convicted of committing an offense, or admits it, he shall not be permitted to land.

Mr. LODGE. This is enlarged, and was intentionally enlarged, in the bill that passed the Senate.

Mr. STONE. It seems to me that it places in the hands of foreign Governments a large power to retard the landing of people here upon a mere charge by a foreign Government that the person has committed an offense.

Mr. LODGE. We must have evidence of it, of course.

Mr. STONE. I do not see how it would be furnished if the man had not had a hearing or a trial.

Mr. LODGE. He could be extradited if they wished.

Mr. STONE. I simply desire to call attention to it at this time.

Mr. LODGE. Certainly.

The PRESIDENT pro tempore. The question is on the motion made by the Senator from Massachusetts [Mr. LODGE] that the conference report be disagreed to.

The motion was agreed to.

Mr. LODGE. I now move that the Senate insist on its disagreement to the amendment of the House, and ask a further conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the President pro tempore appointed Mr. LODGE, Mr. DILLINGHAM, and Mr. PERCY the conferees on the part of the Senate.

EIGHT-HOUR LAW.

Mr. SHIVELY. Mr. President, I ask unanimous consent of the Senate to call up House bill 18787 for present consideration.

The PRESIDENT pro tempore. The Senator from Indiana asks unanimous consent for the present consideration of the bill, which will be read for the information of the Senate.

The Secretary read the bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia, and there being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Education and Labor with amendments.

The first amendment was, on page 2, line 8, after the word "dredging," to strike out "snagging"; in line 11, after the word "shall," to strike out "terminate within nine hours from beginning of workday" and insert "be continuous, except for customary intervals for meals or rest"; in line 19, after the word "dredging," to strike out "snagging"; and in line 24, after the word "dredging," to strike out "snagging," so as to read:

> That sections 1, 2, and 3 of an act entitled "An act relating to the limitation of the hours of daily service of laborers and mechanics employed upon the public works of the United States and of the District of Columbia" be amended to read as follows:
>
> "SEC. 1. That the service and employment of all laborers and mechanics who are now, or may hereafter be, employed by the Government of the United States or the District of Columbia, or by any contractor or subcontractor, upon a public work of the United States or of the District of Columbia, and of all persons who are now, or may hereafter be, employed by the Government of the United States or the District of Columbia, or any contractor or subcontractor, to perform services similar to those of laborers and mechanics in connection with dredging or rock excavation in any river or harbor of the United States or of the District of Columbia, is hereby limited and restricted to eight hours in any one calendar day, which eight hours shall be continuous except for customary intervals for meals or rest; and it shall be unlawful for any officer of the United States Government or of the District of Columbia, or any such contractor or subcontractor whose duty it shall be to employ, direct, or control the services of such laborers or mechanics or of such persons employed to perform services similar to those of laborers and mechanics in connection with dredging or rock excavation in any river or harbor of the United States or of the District of Columbia, to require or permit any such laborer or mechanic or any such person employed to perform services similar to those of laborers and mechanics in connection with dredging or rock excavation in any river or harbor of the United States or of the District of Columbia, to work more than eight hours in any calendar day, except in case of extraordinary emergency.

The amendment was agreed to.

The next amendment was, on page 3, line 5, after the word "persons," to strike out "performing directory, supervisory, or clerical duties, nor to masters, pilots, or mates," and insert "while not directly operating dredging or rock excavating machinery or tools," so as to read:

> *Provided*, That nothing in this act shall apply or be construed to apply to persons while not directly operating dredging or rock excavating machinery or tools.

Mr. CLARKE of Arkansas. Mr. President, I move to amend the committee amendment by adding the words which I send to the desk. I will say in explanation of my action in offering the amendment that it is an exact copy of the exception contained in the eight-hour law, which was approved June 19,

1912. I thought that possibly some provision of this bill might operate to supersede that exception, and as it was thoroughly understood by the Senate that it would constitute an exception, I want to preserve that right by incorporating that feature now. I have presented it to the Senator from Indiana, who has charge of the bill, and if he has any objection he will indicate it.

The PRESIDENT pro tempore. The amendment to the amendment proposed by the Senator from Arkansas will be read.

The SECRETARY. On page 3, line 7, after the amendment of the committee and before the period, add the following:

Nor to persons engaged in the construction or repair of levees or revetments necessary for protection against floods or overflow on the navigable rivers of the United States.

Mr. SHIVELY. Mr. President, the language of the proposed amendment to the amendment is substantially the same as that creating an exception in the eight-hour bill enacted last year. That exception was at the time of its adoption the subject of some discussion in the Senate. The exception here created is not as broad, however, as in that case. I have not had time in which to fully forecast in my own mind its scope and effect, but it seems to apply to dredge workers on certain work a rule applied under the existing eight-hour law to all the workers on Government work under the same circumstances. In any event while I do not give to the amendment to the amendment an unqualified indorsement, I still do not feel that any consequence attaching to it is such as to justify me in delaying expeditious action on the bill.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment of the Committee on Education and Labor was, on page 3, line 17, after the word "dredging," to strike out "snagging," so as to read:

VIOLATION OF ACT BY OFFICER OR CONTRACTOR PUNISHABLE.

SEC. 2. That any officer or agent of the Government of the United States or of the District of Columbia, or any contractor or subcontractor whose duty it shall be to employ, direct, or control any laborer or mechanic employed upon a public work of the United States or of the District of Columbia, or any person employed to perform services similar to those of laborers and mechanics in connection with dredging or rock excavation in any river or harbor of the United States or of the District of Columbia, who shall intentionally violate any provision of this act, shall be deemed guilty of a misdemeanor, and for each and every such offense shall, upon conviction, be punished by a fine not to exceed $1,000, or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court having jurisdiction thereof.

The amendment was agreed to.

The next amendment was, on page 4, line 8, after the word "dredging," to strike out "snagging"; and, in line 11, after the word "act," to insert "or may be entered into under the provisions of appropriation acts approved prior to the passage of this act," so as to read:

EXISTING CONTRACTS NOT AFFECTED BY ACT.

SEC. 3. That the provisions of this act shall not be so construed as to in any manner apply to or affect contractors or subcontractors, or to limit the hours of daily service of laborers or mechanics engaged upon a public work of the United States or of the District of Columbia, or persons employed to perform services similar to those of laborers and mechanics in connection with dredging or rock excavation in any river or harbor of the United States or of the District of Columbia, for which contracts have been entered into prior to the passing of this act or may be entered into under the provisions of appropriation acts approved prior to the passage of this act.

The amendment was agreed to.

The next amendment was, on page 4, after line 13, to insert a new section, as follows:

SEC. 4. That this act shall become effective and be in force on and after January 1, 1913.

Mr. SHIVELY. On page 4, line 15, I move to amend the amendment by striking out "January" and inserting "March," so as to read:

That this act shall become effective and be in force on and after March 1, 1913.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. SHIVELY. On page 2, line 11, there is evidently a typographical error. After the word "in" the word "and" should be "any." I move to strike out "and" and insert "any."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

PROTECTION OF INTERSTATE SHIPMENTS.

Mr. SMOOT obtained the floor.

Mr. CUMMINS. Will the Senator from Utah yield for a moment? I desire to submit a report from the Committee on the Judiciary.

Mr. SMOOT. I yield for that purpose.

Mr. CUMMINS. I am directed by the Committee on the Judiciary, to which was referred the bill (H. R. 16450) to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same, to report it favorably with an amendment (S. Rept. 1132).

I ask unanimous consent for the present consideration of the bill. It is quite important, and I believe there will be no opposition whatever to it.

Mr. SMOOT. I yield for that purpose.

The PRESIDENT pro tempore. The Senator from Iowa asks for the present consideration of the bill just reported. The bill will be read for the information of the Senate.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. WILLIAMS. Mr. President, reserving the right to object to the present consideration of the bill, I wish to ask the Senator from Iowa a question. I understand the reason for this bill to be that it is difficult, in many cases impossible, to prove the venue.

Mr. CUMMINS. That is the only reason for it.

Mr. WILLIAMS. I understand that is the only reason for it. Then, I should not object to the present consideration of the bill if it were so amended as to provide that in cases where the prosecution had been instituted, and there had been a failure to prove a venue, this should become the law; but in its present shape, it seems to me, it is obnoxious to objection, because, I think, it provides later on in the bill that nothing shall operate to prevent the exercise of the jurisdiction of the State in criminal cases of this sort, and that where one has been convicted before the State court he shall not be convicted before the Federal court. Yet, notwithstanding that, the practical operation of the bill would be this: The carriers interested in the execution of the law would invariably bring their prosecutions in the Federal court for two reasons—first, because it would be more convenient to them; and, secondly, because they have the idea at any rate that conviction would more certainly follow.

I will not object to the bill if the Senator will agree to amend it, and let the bill take effect only in cases where there has been a failure to prove the venue; but, in its present shape, I would object to its consideration at this time.

Mr. CUMMINS. I do not feel that I have any authority to agree to the amendment proposed by the Senator from Mississippi. There is an amendment reported by the committee, namely, that where there is a judgment of conviction, or a judgment of acquittal, if the prosecution be in the Federal court that is a bar.

Mr. WILLIAMS. I understand that it applies to either jurisdiction.

Mr. CUMMINS. If it is in the State court it is a bar in the Federal court.

Mr. WILLIAMS. I understand that.

Mr. CUMMINS. But I do not feel that I could for the committee agree to an amendment which would make the prosecution in the Federal court conditioned upon the failure of the prosecution in the State court. The Senator from Mississippi may remember that this is a House bill.

Mr. WILLIAMS. Yes; but, Mr. President, if the Senator from Iowa will excuse me a moment, I do not want to make the prosecution in the Federal court conditional upon the failure of prosecution in the State court, or vice versa. What I want is that the condition upon which the Federal court shall take jurisdiction shall be the impossibility or difficulty of proving the venue; in other words, that there shall be an affidavit made to that effect as a foundation of the jurisdiction of the Federal court.

Mr. CUMMINS. An affidavit by whom?

Mr. WILLIAMS. By whoever is prosecuting the case.

Mr. CUMMINS. The district attorney oftener than otherwise is the prosecutor, of course.

Mr. WILLIAMS. I understand that.

Mr. CUMMINS. And he might not be able to make an affidavit of that character.

Mr. WILLIAMS. But the carrier would be able to find somebody to make the affidavit. There would be no trouble about making the affidavit and about that becoming a part of the indictment.

Mr. CUMMINS. Of course, if we have the bill up for consideration the Senator from Mississippi can very easily move

that amendment. I do not know that I would oppose it at all, but I do not feel like agreeing for the committee to the amendment.

Mr. WILLIAMS. This is a request for unanimous consent. It seems to me that the danger is so palpable and obvious that if the bill becomes a law it will take the jurisdiction of all offenses of this sort practically out of the State courts into the Federal courts, to the detriment, where a man is really innocent, of the arrested person, forcing him to go to a distant forum instead of one near home; and it will become so evident in the interest of the real prosecutors, the carriers, the express companies, to throw all these cases into the Federal court that it will substantially do away with the jurisdiction of the State courts upon questions of this sort.

So I am not willing to grant unanimous consent for the present consideration of the bill until the committee has at least had an opportunity to consider that point and see if they can not amend the bill to meet the objection. I object to its present consideration.

Mr. CLARKE of Arkansas. Mr. President, I hope the Senator from Mississippi will withdraw the objection until I can say just a few words.

Mr. WILLIAMS. I withhold the objection.

Mr. CLARKE of Arkansas. The objection indicated by the Senator, if it is an objection, is a minor one. The fundamental objection to the bill is that it disregards one of the specific provisions of the Constitution of the United States. If there is a principle in our system of government which is fundamental, it is that the venue of a prosecution shall be established before a trial can take place. The system of dragging persons to distant points and to try them there for offenses went out of existence when the Constitution of the United States was adopted. The mere difficulty of proving the venue does not dispense with the necessity of doing it. It may be that the uncertainty was one of the possible means of escape that was contemplated when this system of government was established. It is no reason for dispensing with the necessary and fundamental principle of proving venue that it is difficult to prove it. There are a number of cases where that result has worked out. It would be better that the defendant should go free than that that fundamental principle of American citizenship should be violated.

I am not prepared to admit that because violence is practiced or crimes committed against property that is in transit in interstate commerce it shall constitute an offense against the National Government. It may be that in these times when that particular feature of our Constitution is growing all the time something has been said heretofore by courts or done by Congress that would make that a necessary extension of a doctrine already established and recognized. It is a close question, with the doubt in my mind against it; but I have no sort of doubt about the proposition that the mere uncertainty of the particular place where a certain crime is committed can not be made to dispense with the sixth amendment of the Constitution of the United States, which says:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district—

Not only the State but the district—

wherein the crime shall have been committed, which district shall have been previously ascertained by law.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from Iowa?

Mr. CLARKE of Arkansas. I do.

Mr. CUMMINS. Of course, the bill does not relieve the Government from the necessity of proving the venue of the crime.

Mr. CLARKE of Arkansas. It must prove it to be within the jurisdiction.

Mr. CUMMINS. The only difference is that when a case is prosecuted in the Federal court the crime must be proved to have been committed in the district, I assume, in which the prosecution is brought forward, whereas in the other case it generally must be proven to have occurred in the county in which the crime was committed.

Mr. CLARKE of Arkansas. You can not prove that it occurred in a district without proving that it occurred in some county. It is no more difficult to prove that it occurred in a county than to prove that it occurred in a district, because the district is made up of counties.

Mr. CUMMINS. It is a little more difficult, because the county is smaller than the district.

Mr. CLARKE of Arkansas. The particular locus of the crime will be established in either event. But in addition to that very essential feature, I think the Senator from Iowa could enlighten some of us at least if he would give us the benefit of an explanation by him as to why he thinks that the simple fact that an interstate train has been burglarized—for it is burglary in Arkansas to break into a freight car that has been sealed—constitutes an offense against the National Government.

Mr. CUMMINS. I did not introduce the bill.

Mr. CLARKE of Arkansas. I do not know anyone who is better able to sustain that position, if it is capable of being sustained, notwithstanding the Senator did not introduce the bill.

Mr. CUMMINS. I reported the bill at the command of the Judiciary Committee.

Mr. CLARKE of Arkansas. The committee owes it to the Senate to be able to demonstrate the legality or validity of the bills it presents. If the Senator is not able to do it, I do not know anyone on this floor who can do it.

Mr. CUMMINS. I have no real doubt about its validity if it passes. Of course, if it is passed it is passed by virtue of our power to regulate commerce among the States, because we have the right to protect and defend commodities in interstate commerce. The Senator from Arkansas is altogether too well versed in the judicial literature of that subject to need any further suggestion of mine.

Now, as to the necessity for such a bill, all that I can say is that it was represented and proven to us that there had been recently more than one miscarriage of justice because it had been found to be impossible to establish in the State courts the venue of the crime charged, and it was believed that this would enable prosecutions to be more effective. There is one case brought to our attention where a baggageman committed larceny upon a trunk coming up, I think, possibly from Jacksonville, through South Carolina, North Carolina, and Virginia, to Washington. He stole a large amount of jewelry from the trunk. It was found upon his person in the District of Columbia. He was prosecuted in the District of Columbia, and he was acquitted because he did not commit the larceny here and because there is no statute in the District of Columbia making it a crime to be found in the possession of stolen property. That is an instance of the inadequacy of the present law.

Mr. CLARKE of Arkansas. That is a defect in the legislation of the District. That does not tend to support the constitutional principle that the mere circumstance of property being transported in interstate commerce is immune, or rather so completely subjects it to the national authority that any interference with it constitutes an offense against the National Government. That matter can be carried a long way. If that were true, no one would dare to assault, except under pain of prosecution in a Federal court, an employee upon a railroad train hauling interstate freight; two passengers could not engage in a broil without subjecting themselves to prosecution in the Federal court. Felony or larceny or any other offense committed on a train engaged in interstate commerce would immediately cease to become a violation of the law of the particular State in which the transaction took place. That would become a national offense. The logic of the thing leads it beyond the doctrine for which the Senator is contending.

Now, I would suppose that when the Judiciary Committee proposed a measure that so radically interferes with the existing condition of affairs that committee would be able to sustain its position by some tangible reference to existing authority, and would not leave it to be assumed that it is because of the provision of the Constitution of the United States, which gives Congress the power to regulate commerce between the States, was a cure-all and a cover-all that embraces everything anybody chooses to say was within its jurisdiction.

As I caught the reading of the bill, the prosecution was not confined to any particular district. It seemed to be a kind of blanket proposition that if an interstate train was robbed from the time it started out anywhere along the route it would give jurisdiction to deal with the offender if they could find him anywhere.

The Senator from Iowa admits now that the territorial scope has been limited by the provision of the Constitution which I have just read, which brought it down as one of the districts in which the United States court served in the several States, and it would be necessary to establish the venue before the prosecution could take place. That, of course, limits the scope of the bill very much from what those who were so ardently interested in it deemed to be the case.

I think myself this is so radical a measure I believe the Senator from Iowa would be justified in taking a little time to prepare himself and see what has become of similar efforts to extend the national jurisdiction, if any such have ever been made, and see if the adjudicated cases would in the slightest degree justify this attempted extension of national authority.

I am not one of the cranks who think that the National Government has no powers. I think it ought to have ample power to carry out every duty imposed upon it. I am not a

strict constructionist on any line any further than the rationale of the situation requires. When I make the suggestions I do it is not at all out of any special jealousy of the jurisdiction of the State courts. I express a preference in many respects for the measure and character of justice administered in the Federal courts. But what I have to say about it is prompted entirely by considerations from that view of it.

Mr. CUMMINS. Mr. President, I shall not enter upon any argument in regard to the bill now. I have no great interest in the bill. I presented it to the Senate because I was commanded to do so by the Judiciary Committee. I believed it was good legislation and I believe it is constitutional. But, at any rate, it would be idle to discuss the bill at this time inasmuch as it is not to be considered at this time. If hereafter it shall come before the Senate, I will be very glad to respond to some of the suggestions which have been made by the Senator from Arkansas.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. WILLIAMS. I object.

The PRESIDENT pro tempore. The Senator from Mississippi objects, and the bill goes to the calendar.

PUBLIC BUILDINGS IN THE STATE OF WASHINGTON.

Mr. POINDEXTER. From the Committee on Public Buildings and Grounds I report back favorably, with an amendment, the bill (S. 4545) to provide for the erection of a public building in the city of Ellensburg, in the State of Washington, and I also report back with amendments the bill (S. 4547) to provide a site and to erect a public building at Aberdeen, Wash.

Mr. JONES. I ask unanimous consent that the two bills just reported may be put on their passage.

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Washington?

Mr. SMOOT. I do. I suppose it will not take any time.

The PRESIDENT pro tempore. The Senator from Washington asks for the present consideration of the bill (S. 4545) to provide for the erection of a public building in the city of Ellensburg, in the State of Washington. Is there objection?

There being no objection, the Senate as in Committe of the Whole proceeded to consider the bill.

The amendment of the committee was, in line 12, before the word "thousand," to strike out "two hundred" and insert "eighty-five," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be erected upon the site already acquired in the city of Ellensburg, Wash., a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, for the use and accommodation of the United States post office in the said city of Ellensburg, Wash., the cost of said building, including said vaults, heating and ventilating apparatus, elevators, and approaches, complete, not to exceed the sum of $85,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. JONES. I ask the Senate to proceed to the consideration of Senate bill 4547.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 4547) to provide a site and erect a public building at Aberdeen, Wash., reported from the Committee on Public Buildings and Grounds with amendments.

The amendments were, on page 1, line 4, to strike out "purchase or acquire by condemnation of a site for and"; in line 5, after the word "erected," to strike out "thereon" and insert "upon the site already acquired"; in line 11, before the word "building," to strike out the words "site and"; and, in line 12, before the word "thousand," to strike out "fifty" and insert "twenty," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be erected upon the site already acquired a suitable and commodious building for the use and accommodation of the post office and other offices of the Government at Aberdeen, Wash.

The plans, specifications, and full estimates for said building shall be previously made and approved according to law, and shall not exceed, for the building complete, the sum of $120,000: *Provided*, That the site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of not less than 80 feet, including streets and alleys; and no money appropriated for the purpose shall be available until a valid title to the site for said building shall be vested in the United States.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. JONES. I suggest that the title be amended by striking out the reference to a site. The site has already been purchased.

The title was amended so as to read: "A bill to provide for the erection of a public building at Aberdeen, in the State of Washington."

PROPOSED EXECUTIVE SESSION.

Mr. SMOOT. I move that the Senate proceed to the consideration of executive business.

Mr. MARTIN of Virginia. Mr. President, it is very evident that there is no quorum present. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Virginia suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Dixon	Lippitt	Simmons
Bankhead	du Pont	McCumber	Smith, Ariz.
Bourne	Fletcher	Martin, Va.	Smith, Md.
Bradley	Foster	Martine, N. J.	Smoot
Bristow	Gallinger	Nelson	Stephenson
Brown	Gamble	O'Gorman	Stone
Bryan	Gardner	Oliver	Sutherland
Burton	Gore	Page	Swanson
Chilton	Gronna	Paynter	Thomas
Clapp	Guggenheim	Percy	Thornton
Clarke, Ark.	Heikkell	Perkins	Townsend
Crawford	Hitchcock	Perky	Wetmore
Culberson	Johnston, Ala.	Poindexter	Williams
Cullom	Jones	Pomerene	Works
Cummins	Kern	Sanders	
Curtis	La Follette	Shively	

The PRESIDENT pro tempore. Sixty-two Senators have answered to their names. A quorum of the Senate is present. The question is on the motion made by the Senator from Utah [Mr. SMOOT] that the Senate proceed to the consideration of executive business. [Putting the question.] By the sound the "ayes" appear to have it.

Mr. CLARKE of Arkansas. Mr. President, I call for the yeas and nays. I think we are entitled to have a yea-and-nay vote on the question.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. FOSTER (when his name was called). I have a general pair with the junior Senator from Wyoming [Mr. WARREN], and I think upon this question I will observe that pair.

Mr. LIPPITT (when his name was called). I transfer my pair with the senior Senator from Tennessee [Mr. LEA] to the Senator from New Mexico [Mr. FALL] and will vote. I vote "yea."

Mr. LODGE (when his name was called). I have a general pair with the junior Senator from Georgia [Mr. SMITH] and therefore withhold my vote.

Mr. MYERS (when his name was called). I have a general pair with the Senator from Connecticut [Mr. MCLEAN] and therefore withhold my vote.

Mr. OLIVER (when his name was called). I have a general pair with the junior Senator from Oregon [Mr. CHAMBERLAIN]. I transfer that pair to the junior Senator from New Hampshire [Mr. BURNHAM] and will vote. I vote "yea."

Mr. SIMMONS (when Mr. OVERMAN's name was called). I wish to say that my colleague [Mr. OVERMAN] is absent on account of sickness.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM], and I therefore decline to vote.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN], who is detained from the Senate by illness. I transfer that pair to the junior Senator from Nevada [Mr. MASSEY] and will vote. I vote "yea."

Mr. STONE (when Mr. REED's name was called). I desire to state that my colleague [Mr. REED] has been called from the Senate by imperative business.

Mr. SIMMONS (when his name was called). I wish to ask if the junior Senator from Minnesota [Mr. CLAPP] has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. SIMMONS. I have a pair with that Senator and therefore withhold my vote.

Mr. STONE (when his name was called). I have a general pair with the Senator from Wyoming [Mr. CLARK]. He not being present, I withhold my vote.

The roll call was concluded.

Mr. LODGE. I transfer my pair with the junior Senator from Georgia [Mr. SMITH] to the Senator from New Mexico [Mr. CATRON] and will vote. I vote "yea."

While I am on my feet I announce by request that my colleague, the Senator from Massachusetts [Mr. CRANE] is paired with the Senator from Maine [Mr. GARDNER]; that the Senator from New Jersey [Mr. BRIGGS] is paired with the Senator from West Virginia [Mr. WATSON]; that the Senator from Kansas [Mr. CURTIS] is paired with the Senator from Oklahoma [Mr. OWEN]; that the Senator from Delaware [Mr. RICHARDSON] is paired with the Senator from South Carolina [Mr. SMITH]; and that the Senator from Connecticut [Mr. BRANDEGEE] is paired with the Senator from Georgia [Mr. BACON].

Mr. SIMMONS. I transfer my pair with the junior Senator from Minnesota [Mr. CLAPP] to the Senator from Maine [Mr. JOHNSON] and will vote. I vote "nay."

Mr. WILLIAMS (after having voted in the negative). I have just been informed of the absence of the senior Senator from Pennsylvania [Mr. PENROSE]. I have a general pair with that Senator, and I therefore desire to withdraw my vote.

Mr. MYERS. I transfer my pair with the Senator from Connecticut [Mr. MCLEAN] to the Senator from Nevada [Mr. NEWLANDS] and vote. I vote "nay."

The result was announced—yeas 26, nays 30, as follows:

YEAS—26.

Bradley	Gallinger	McCumber	Stephenson
Brown	Gronna	Nelson	Sutherland
Burton	Jackson	Oliver	Townsend
Cullom	Jones	Page	Wetmore
Cummins	La Follette	Perkins	Works
Dillingham	Lippitt	Sanders	
du Pont	Lodge	Smoot	

NAYS—30.

Ashurst	Fletcher	Myers	Smith, Ariz.
Bankhead	Gore	O'Gorman	Smith, Md.
Bourne	Heikkell	Percy	Swanson
Bristow	Hitchcock	Perky	Thomas
Bryan	Johnston, Ala.	Poindexter	Thornton
Chilton	Kern	Pomerene	Tillman
Clarke, Ark.	Martin, Va.	Shively	
Culberson	Martine, N. J.	Simmons	

NOT VOTING—39.

Bacon	Crawford	Kenyon	Richardson
Borah	Curtis	Lea	Root
Brandegee	Dixon	McLean	Smith, Ga.
Briggs	Fall	Massey	Smith, Mich.
Burnham	Foster	Newlands	Smith, S. C.
Catron	Gamble	Overman	Stone
Chamberlain	Gardner	Owen	Warren
Clapp	Guggenheim	Paynter	Watson
Clark, Wyo.	Johnson, Me.	Penrose	Williams
Crane	Johnston, Tex.	Reed	

So the Senate refused to proceed to the consideration of executive business.

Mr. SMOOT. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 15 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, January 21, 1913, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

MONDAY, *January 20, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Help us, O God, our heavenly Father, to take up the work of the week with joy and gladness, praise and gratitude; putting our minds and hearts into each task, great or small, that we may accomplish something for ourselves, for those we love, and our fellow men that will redound to the glory and honor of Thy holy name. Amen.

The Journal of the proceedings of yesterday was read and approved.

UNANIMOUS CONSENT CALENDAR.

The SPEAKER. The Clerk will call the first bill on the Unanimous Consent Calendar.

HOMESTEAD ALLOTMENTS OF CHOCTAW AND CHICKASAW INDIANS.

The first business on the Calendar for Unanimous Consent was the bill (H. R. 25507) to authorize certain changes in homestead allotments of the Choctaw and Chickasaw Indians in Oklahoma.

The bill was read in full.

The SPEAKER. Is there objection?

Mr. MANN. I reserve the right to object.

Mr. BURKE of South Dakota. I would like to know what bill is up. Is it a bill from the Committee on Indian Affairs?

Mr. MANN. A bill to authorize certain changes in Indian allotments.

Mr. BURKE of South Dakota. I see the gentleman from Oklahoma [Mr. FERRIS] is present.

Mr. FERRIS. Mr. Speaker, if the gentleman from Illinois [Mr. MANN] will consent, this is a bill of my colleague Mr. CARTER, who is ill in bed. I do not know anything about it, and I do not know if he were here he could explain away the objections of the gentleman from Illinois; but I ask that the bill remain on the calendar, without prejudice, on account of Mr. CARTER being absent.

The SPEAKER. The gentleman from Oklahoma [Mr. FERRIS] asks unanimous consent that this bill be passed without prejudice. Is there objection?

There was no objection.

ENLARGED HOMESTEADS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 22351) to amend an act entitled "An act to provide for an enlarged homestead."

The Clerk proceeded with the reading of the bill.

Mr. MANN. Mr. Speaker, is the Clerk reading the original bill or the committee amendment, may I ask?

The SPEAKER. The Clerk is reading the original bill.

Mr. MANN. I ask unanimous consent that the Clerk report the substitute instead of the original bill. It is merely a matter of saving time.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the Clerk read the substitute in lieu of the original bill. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the substitute.

The Clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That sections 3 and 4 of the act entitled 'An act to provide for an enlarged homestead,' approved February 19, 1909, and of an act entitled 'An act to provide for an enlarged homestead,' approved June 17, 1910, be, and the same are hereby, amended to read as follows:

"'SEC. 3. That any homestead entryman of lands of the character herein described, upon which entry final proof has not been made, shall have the right to enter public lands, subject to the provisions of this act, contiguous to his former entry, which shall not, together with the original entry, exceed 320 acres.

"'SEC. 4. That at the time of making final proofs, as provided in section 2291 of the Revised Statutes, the entryman under this act shall, in addition to the proofs and affidavits required under said section, prove by two credible witnesses that at least one-sixteenth of the area embraced in such entry was continuously cultivated for agricultural crops other than native grasses beginning with the second year of the entry, and that at least one-eighth of the area embraced in the entry was so continuously cultivated beginning with the third year of the entry: *Provided*, That any qualified person who has heretofore made or hereafter makes additional entry under the provisions of section 3 of this act may be allowed to perfect title to his original entry by showing compliance with the provisions of section 2291 of the Revised Statutes respecting such original entry, and thereafter in making proof upon his additional entry shall be credited with residence maintained upon his original entry from the date of such original entry, but the cultivation required upon entries made under this act must be shown respecting such additional entry, which cultivation, while it may be made upon either the original or additional entry, or upon both entries, must be cultivation in addition to that relied upon and used in making proof upon the original entry; or, if he elects, his original and additional entries may be considered as one, with full credit for residence upon and improvements made under his original entry, in which event the amount of cultivation herein required shall apply to the total area of the combined entry, and proof may be made upon such combined entry whenever it can be shown that the cultivation required by this section has been performed; and to this end the time within which proof must be made upon such combined entry is hereby extended to seven years from the date of original entry: *Provided further*, That nothing herein contained shall be so construed as to require residence upon the combined entry in excess of the period of residence, as required by section 2291 of the Revised Statutes.'"

During the reading,

Mr. BURKE of South Dakota. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURKE of South Dakota. I would like to ask if it has not been the custom in submitting request for unanimous consent to first read the title of the bill? I can not see the necessity for reading a bill, especially a bill of some length, if there is going to be an objection.

The SPEAKER. There is no rule about that, but the Chair thinks the better practice is to read the bill, so that Members will be informed as to what it is. The title might convey no information at all. The Clerk will proceed with the reading.

The Clerk resumed and completed the reading of the substitute.

Mr. MANN. Mr. Speaker——

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I wish the gentleman would state just what this bill accomplishes.

Mr. TAYLOR of Colorado. Mr. Speaker, prior to the enactment of the enlarged-homestead law of February 19, 1909 (35 Stat., 639), many homestead entrymen had made a filing upon 160 acres of land within the territory that was afterwards designated as dry-farming land, subject to entry under the

enlarged 320-acre homestead law. Section 3 of that law as above set forth expressly authorizes any homestead entryman of land of the character therein described, who had not made final proof, to take 160 acres, or such an additional amount necessary, where there was contiguous vacant land, in order that he might have the benefits of the 320-acre homestead law, providing he made the requisite cultivation and complied with the law as to residence. In other words, that section of the law was intended to put the homestead entryman who had already located on the same basis as those who were thereafter permitted to locate, providing there was vacant adjoining or contiguous land which the original entryman could take. It was never intended that he should reside 10 years or any longer period on the land than the 320-acre entryman was required to do to secure title.

This bill is simply intended to carry out the object of section 3, and the purpose of Congress in enacting the enlarged homestead law and to correct the hardships which the adverse ruling referred to has inflicted upon a great many homestead entrymen. In fact, it is quite positively asserted by large numbers of the homestead entrymen that they never would have taken the additional 160 acres if they had had any intimation at that time that the Interior Department would ever require them to make a full additional period of residence upon their claims after the taking of such additional entry before they were permitted to prove up and obtain title to their additional entries.

This bill does not relieve them from making the necessary cultivation and improvements, nor from making the full residence, as required of all homestead entrymen; but it does relieve them from any additional residence requirements. The measure is looked upon as eminently fair and just, and the committee therefore recommends its adoption.

It may be suggested that unless the bill is passed in the very near future that those entrymen can not get the benefit of it, but will be compelled to submit to the inconveniences and hardships of the unjust additional residence before they can be permitted to obtain title to their land. The committee therefore deems it especially appropriate that Congress should act upon this measure as expeditiously as possible.

Mr. McGUIRE of Oklahoma. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Colorado yield?

Mr. TAYLOR of Colorado. Yes.

Mr. McGUIRE of Oklahoma. I understand that under one law the homesteader holds 160 acres of land to which he may obtain title, and under another and subsequent law a homesteader takes 320 acres of land to which he may obtain title. There is that discrimination at present in the law?

Mr. TAYLOR of Colorado. Yes, sir.

Mr. McGUIRE of Oklahoma. And it is only sought here to modify the law so as to give the former entryman and the subsequent entryman an equal show under the law, or to make the law apply to each the same? Is that the only difference?

Mr. TAYLOR of Colorado. That is the only difference; and it applies only in the sections designated as dry or arid land by the Secretary of the Interior; only in portions of the country where dry farming 320-acre homesteads is applicable. That is all there is to the bill. The Secretary of the Interior states that in his judgment it is only fair and just to the original entryman, and approves of the measure.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. TAYLOR of Colorado, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The SPEAKER. The Clerk will call the next one.

EXCHANGE OF SCHOOL LANDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25738) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to make exchange of lands with the several States for those portions of the lands granted in aid of common schools, whether surveyed or unsurveyed, which lie within the exterior limits of any Indian, military, national forest, or other reservation, the said exchange to be made in the manner and form and subject to the limitations and conditions of sections 2275 and 2276 of the Revised Statutes, as amended by act of February 28, 1891 (26 Stat., p. 796), and any such exchange, whether heretofore or hereafter approved, shall restore full title in the United States to the base land without formal conveyance thereof by the State: *Provided*, That upon completion of the exchange the lands relinquished, reconveyed, or assigned as base lands shall immediately become a part of the reservation within which they are situate, and in case the same shall be found within the exterior limits of more than one reservation they shall become a part of that reservation which was first established: *Provided further*, That this act shall not be construed to authorize the approval of selections embracing lands withdrawn as mineral under the act of June 25, 1910, entitled "An act to authorize the President of the United States to make withdrawals of public lands in certain cases" (36 U. S. Stat. L., pp. 847-848), until such lands have been found to be nonmineral and for that reason restored, but nothing herein contained shall prevent a limited approval, when the lands are within only a coal withdrawal, excluding from the approval coal deposits.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, does the gentleman from California [Mr. RAKER] desire to pass this over again or not?

Mr. RAKER. I would like the House to take up the bill and act upon it, if possible. I will say to the gentleman from Illinois, and I trust that he will not see his way clear to object.

Mr. MANN. I am afraid I do.

Mr. RAKER. I will state to the gentleman that the Senate bill, of which this is a counterpart, word for word, except the last paragraph, which provides that the act shall not apply to the State of Idaho, should be passed over. There is a Senate amendment put onto this bill, stating that it shall not apply to the State of Idaho at the instance of the late Senator Heyburn. Otherwise the Committee on Public Lands of the Senate, after fully considering the matter, unanimously passed it, and it passed the Senate. Now, the House Committee on Public Lands again took up this bill and recommended that the Senate bill be called up and for the House bill to be laid aside, and that the Senate bill be passed.

Mr. MANN. The Senate bill was on the calendar?

Mr. RAKER. That was before the Senate bill was referred to the committee. Two weeks ago, when the matter came up, the Speaker then referred the Senate bill to the Committee on Public Lands, since which time they have not had a meeting. But I am satisfied, if this bill passes, the Senate will see fit to pass the House bill, although it has already passed the Senate bill. Of course, as to the details of the matter, I am satisfied that the gentleman from Illinois is quite familiar with them.

Mr. MANN. More or less.

Mr. RAKER. Well, both more or less. I feel that it is a just bill, one that our people demand, and one that will actually bring good results.

Mr. BURKE of South Dakota. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from California yield?

Mr. RAKER. Yes; I yield.

Mr. BURKE of South Dakota. I would like to ask the gentleman wherein and in what respect this bill, if it becomes a law, will change existing law, so far as concerns the right of a State to select lands in lieu of section 16 and section 36 within an Indian reservation?

Mr. RAKER. It will not change it in any way except that it will make it clear and it will obviate a decision of the Federal judge for the southern district of California relative to land in place. As to Indian reservations, it will make no change at all. The Department of the Interior have been holding that they could make the exchange and that the law was sufficient. Now, the district court of southern California held that a school section in place, surveyed, could not be exchanged. That decision stands and has been acted upon by our courts in California and many others, and it makes a conflict, whereas if this bill becomes a law it will permit the department immediately to take up the matter and make a full and thorough investigation of these school sections on the lands in the reserve and approve or disapprove them, as the case may be. In regard to California, the House last year put on an appropriation bill $28,000 for the purpose of investigating the lands in that State that were in these reserves, to determine whether or not they were mineral or nonmineral. That work has been practically all done. It is up now to the department to go over each case separately—that is, the lists that have been presented by the State of California—to determine whether or not any of them should be approved. With this bill enacted, the moment they approve them the question of title is eliminated and the parties obtain their title, and the Government of the United States will then have the land exchange complete, with its title free from all complications.

Mr. BURKE of South Dakota. If we reenact existing law for exchanging lands in lieu of those in Indian reservations, I do not see that it will change the matter, so far as your court decision is concerned, if the court has held that the exchange can not be made.

Mr. RAKER. There is a question of interpretation there, and this act would provide that these lands in place are subject to exchange, and it will leave no question outstanding. In other words, it puts it in shape so that the matter can be fully disposed of.

Mr. ADAIR. Why is the State of Idaho excepted from this legislation?

Mr. RAKER. Senator Heyburn was one of the members of the Senate Committee on Public Lands. He made a brief statement in regard to the matter, and said he did not desire the department to have anything to do with the lands in Idaho, and therefore in order to obviate any question as to Idaho, the committee placed upon the bill a provision excluding the lands in that State.

Mr. ADAIR. If this legislation is good for California, why would it not be good for Idaho?

Mr. RAKER. It is, and the Committee on the Public Lands took it up, and there seemed to be no question about it from any section. Gentlemen on the committee who had had wide experience in these matters could see no detrimental effect, but, on the contrary, only a beneficial effect from the passage of this legislation. In other words, if the gentleman will examine the report of the Department of the Interior he will see that the Commissioner of the General Land Office, the Secretary of the Interior, the Assistant Secretary, and the attorney for the Department of the Interior have gone fully into this matter.

Mr. ADAIR. Does not the gentleman believe that the State of Idaho should be included, notwithstanding the fact that Senator Heyburn objected to it?

Mr. RAKER. If I had my personal way about it, knowing all the facts, I should say yes.

Mr. ADAIR. Do you not believe we should make it include Idaho, and that the House should pass it in that way?

Mr. RAKER. I do; yes.

Mr. ADAIR. In other words, there does not seem to be any just reason why any State should be discriminated against, or any State left out of this legislation.

Mr. RAKER. None at all.

Mr. ADAIR. If it is good for one State, it is good for any other.

Mr. RAKER. I think so.

Mr. ADAIR. If it is fair and just legislation, it should apply to all States alike.

Mr. RAKER. The Senator made no special objections.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object——

The SPEAKER. The gentleman from Illinois did reserve the right to object.

Mr. MANN. I should like to suggest to the gentleman that if a similar Senate bill is pending before the Committee on the Public Lands it would be a work of supererogation to pass this bill and send it to the Senate.

Mr. RAKER. Mr. Speaker, I do not want to appear overanxious or tenacious about these matters, but the matter has been up many times and has been gone over in all its phases before the Committee on the Public Lands at least four times. I began last fall to take it up personally with the authorities in California, and with such a general feeling on the part of the authorities of the State and the Land Department in relation to this matter it seemed as though the House ought to take up the bill and consider it and then pass the bill, or take any other course in relation to it. I think the bill as it stands fully and thoroughly covers the matter and that the parties are entitled to have it enacted into legislation. I trust the gentleman from Illinois will see his way clear not to object.

Mr. MANN. I examined the first bills on the subject in the House and at first I thought that they were bad bills. I know the gentleman from California maintains quite a different view. But if the bill is to be acted upon in the House at all naturally it would be the Senate bill which is now reposing in the hands of the Committee on the Public Lands.

Mr. RAKER. Mr. Speaker, while I am not a bit desirous of having any bill contain my name, it is a question of legislation and, out of deference to the gentleman from Illinois, who has the right to object, I would ask that this bill be passed for this call, so that we may take up the Senate bill if it is acted on by the Committee on the Public Lands the coming week.

The SPEAKER. The gentleman from California asks unanimous consent that this bill be passed without prejudice. Is there objection?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 2051. An act to promote the efficiency of the Life-Saving Service;

S. 4002. An act defining the manner in which deposits of borax, borate of lime, borate of soda, and borate material may be acquired;

S. 4256. An act to approve of the celebration of the one hundredth anniversary of the treaty of Ghent;

S. 4309. An act for the relief of Dominick Taheny and John W. Mortimer;

S. 4355. An act incorporating the National Institute of Arts and Letters;

S. 4356. An act incorporating the American Academy of Arts and Letters;

S. 4958. An act to accept the cession by the State of Washington of exclusive jurisdiction over the lands embraced within the Mount Rainier National Park, and for other purposes;

S. 5137. An act for the relief of Alice V. Houghton;

S. 5859. An act to amend section 3 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1902, and for other purposes," approved March 3, 1901 (31 Stat. L., p. 1133);

S. 6105. An act to authorize the reservation of public lands for country parks and community centers within reclamation projects, and for other purposes;

S. 6506. An act authorizing the State of California to select public lands in lieu of certain lands granted to it in Imperial County, Cal.;

S. 6616. An act to provide for the protection of national military parks;

S. 6744. An act to provide for the erection of a Federal building in Las Vegas, N. Mex.;

S. 6877. An act to reinstate Robert N. Campbell as a first lieutenant in the Coast Artillery Corps, United States Army;

S. 6919. An act to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia;

S. 7162. An act to amend section 801 of the Code of Law for the District of Columbia;

S. 7169. An act to transfer Capt. Frank E. Evans from the retired to the active list of the Marine Corps;

S. 7237. An act to reserve certain lands and to incorporate the same and make them part of the Santiam National Forest;

S. 7294. An act to amend sections 2380 and 2381 of the Revised Statutes of the United States;

S. 7385. An act to relinquish the claim of the United States against the grantees, their legal representatives, and assigns for timber cut on Petaca land grant;

S. 7430. An act providing for the cancellation of certain overdue personal taxes in the District of Columbia;

S. 7509. An act to authorize the extension of Twenty-fifth Street SE. and of White Place;

S. 7568. An act to validate certain homestead entries;

S. 7638. An act to provide for State selections on phosphate and oil lands;

S. 7746. An act to provide for agricultural entry of oil lands;

S. 8034. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 8035. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; and

S. 8053. An act to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 45. An act affecting the town sites of Timber Lake and Dupree in South Dakota;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 22437. An act for the relief of the heirs of Anna M. Toreson, deceased;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States relating to the carrying of dangerous articles on passenger steamers;

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty;

H. R. 25515. An act for the relief of Joshua H. Hutchinson;

H. R. 23764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry;

H. R. 25878. An act granting certain lands for a cemetery to the Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes;

H. J. Res. 239. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America; and

H. R. 14925. An act to amend "An act to parole United States prisoners, and for other purposes," approved June 25, 1910.

The message also announced that the Senate had passed with amendments bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 14653. An act to increase the pensions of surviving soldiers of Indian wars in certain cases;

H. R. 17260. An act to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910;

H. R. 18425. An act to remove the charge of desertion from the military record of Simon Nager;

H. R. 21220. An act to extend the power of the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor;

H. R. 24266. An act to authorize the sale of burnt timber on the public domain;

H. R. 27002. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; and

H. J. Res. 210. Joint resolution authorizing the President to appoint a member of the New Jersey and New York Joint Harbor Line Commission.

SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 8053. An act to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof; to the Committee on Appropriations.

S. 7385. An act to relinquish the claim of the United States against the grantees, their legal representatives and assigns, for timber cut on Petaca land grant; to the Committee on the Judiciary.

S. 7294. An act to amend sections 2380 and 2381, Revised Statutes of the United States; to the Committee on the Public Lands.

S. 7169. An act to transfer Capt. Frank E. Evans from the retired to the active list of the Marine Corps; to the Committee on Naval Affairs.

S. 6105. An act to authorize the reservation of public lands for country parks and community centers within reclamation projects, and for other purposes; to the Committee on the Public Lands.

S. 5859. An act to amend section 3 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1902, and for other purposes," approved March 3, 1901 (31st Stat. L., p. 1133); to the Committee on the Public Lands.

S. 4958. An act to accept the cession by the State of Washington of exclusive jurisdiction over the lands embraced within the Mount Rainier National Park; to the Committee on the Public Lands.

S. 4256. An act to approve of the celebration of the one hundredth anniversary of the treaty of Ghent; to the Committee on Foreign Affairs.

S. 6616. An act to provide for the protection of national military parks; to the Committee on Military Affairs.

S. 7237. An act to reserve certain lands and to incorporate the same and make them a part of the Santiam National Forest; to the Committee on the Public Lands.

S. 8035. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; to the Committee on Pensions.

S. 8034. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; to the Committee on Invalid Pensions.

S. 7746. An act to provide for agricultural entry of oil lands; to the Committee on the Public Lands.

S. 7638. An act to provide for State selections on phosphate and oil lands; to the Committee on the Public Lands.

S. 7568. An act to validate certain homestead entries; to the Committee on the Public Lands.

S. 7509. An act to authorize the extension of Twenty-fifth Street SE. and of White Place; to the Committee on the District of Columbia.

S. 7430. An act providing for the cancellation of certain overdue personal taxes in the District of Columbia; to the Committee on the District of Columbia.

S. 7162. An act to amend section 801 of the Code of Law for the District of Columbia; to the Committee on the District of Columbia.

S. 6919. An act to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia; to the Committee on the District of Columbia.

S. 6877. An act to reinstate Robert N. Campbell as a first lieutenant in the Coast Artillery Corps, United States Army; to the Committee on Military Affairs.

S. 6744. An act to provide for the erection of a Federal building in Las Vegas, N. Mex.; to the Committee on Public Buildings and Grounds.

S. 6506. An act authorizing the State of California to select public lands in lieu of certain lands granted to it in Imperial County, Cal.; to the Committee on the Public Lands.

S. 4355. An act incorporating the National Institute of Arts and Letters; to the Committee on the Judiciary.

S. 4356. An act incorporating the American Academy of Arts and Letters; to the Committee on the Judiciary.

S. 5137. An act for the relief of Alice V. Houghton; to the Committee on Claims.

S. 4309. An act for the relief of Dominick Taheny and John W. Mortimer; to the Committee on Claims.

S. 4002. An act defining the manner in which deposits of borax, borate of lime, borate of soda, and borate material may be acquired; to the Committee on Mines and Mining.

S. 2051. An act to promote the efficiency of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

TREATMENT OF JUVENILE AND FIRST OFFENDERS.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 21594) to appoint a commission to consider and report upon the general subject of the treatment of juvenile and first offenders, together with the best system of detention of Federal prisoners.

The Clerk read the bill as follows:

Be it enacted, etc., That the President is authorized to appoint three commissioners, one of whom may be nominated by the Attorney General, who shall consider and report upon the general subject of the treatment of juvenile and first offenders, and in connection with the investigation the commissioners, under the direction of the Attorney General, may inquire into the conditions of jails and places of detention throughout the United States in which offenders against Federal statutes are confined, either before or after sentence, and then shall report to Congress at its next session its recommendations with respect to the best system of dealing with juvenile and first offenders and the best system of the detention of Federal prisoners while waiting trial and such other recommendations upon the subject as may seem to them expedient. For the expense of the commission there is hereby appropriated the sum of $20,000, or so much thereof as may be necessary.

With the following amendment recommended by the committee:

Page 1, lines 4 and 5, strike out the words "one of whom may be nominated by the Attorney General."

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I would like to have a statement from the gentleman in charge of the bill as to what may be accomplished by it.

Mr. HOUSTON. Mr. Speaker, I think the object of this bill appears very plainly on the face of it. It is in response to a general demand all over the country for some method of treatment of juvenile offenders. A large number of charitable organizations and humane societies have manifested great interest in this subject as to the treatment of this class of offenders and looking into the matter of improving the handling of juvenile offenders. It is admitted that there is no system for treating these offenders that has been satisfactory and sufficient and that there is great need for an improvement in any method so far adopted or suggested.

For that reason, under the limitation of $20,000, the committee thought it right and appropriate to have a commission of three appointed to investigate the entire subject, also to include in the investigation the best method of detention of Federal prisoners awaiting trial. I say that the expenditure of this amount of money, $20,000, would be justified and, it is believed, would furnish the information to Congress that would

be very valuable for providing a method for the treatment of these young offenders.

Mr. MANN. Mr. Speaker, we have an International Prison Congress which has had a number of meetings both in this country and abroad for the purpose of studying and devising the manner of treatment of offenders, and now does the gentleman believe that the appointment of three gentlemen to report at the next session of Congress on the subject of the treatment of juvenile offenders would enlighten us much?

Mr. HOUSTON. In reply to that, I will say that the very congress referred to by the gentleman has discussed this subject and asked or suggested that Congress should legislate on the subject. They have not pointed out or designed a method or plan, but have appealed to the Attorney General of the United States, and the Attorney General, as the hearings in the case show, states that this bill is a very proper one, and he favors the appointment of a commission, recognizing the fact that it is better for Congress to investigate before a measure is proposed. The suggestion comes from him as well as the international congress referred to by the gentleman from Illinois.

Mr. MANN. The bill also provides that the commission shall investigate the conditions of the jail and places of detention throughout the United States in which offenders against Federal statutes are confined either before or after sentence. Does not that practically provide for an investigation of State penitentiaries, of county jails, and of many municipal places of confinement? Is it the intention to have three commissioner appointed by the President make a report as to these jails throughout the country, and if so, what purpose is there in that?

Mr. HOUSTON. The limitation on the appropriation providing for the commission would limit the amount of work they could do. As a matter of course, they could not investigate all the jails, but they could make many investigations in different sections of the country of the different conditions from which we could get some idea, and it is thought by the Attorney General a sufficient amount of information to formulate legislation that is much needed and that is called for by the humane organizations throughout the country. The spirit of the age is to devise a more humane system and one that will reform rather than demoralize the youth of the country that fall into this class. The comment has been made that the mode of treating juvenile offenders now in practice in this country makes more criminals than all our reformatory institutions reform.

Mr. MANN. But the gentleman will remember that while the bill carries an appropriation of $20,000, when that is exhausted it would be in order in the House to make an additional appropriation, because there is no limitation in this bill, except that the commission shall report at the next session of Congress. Whether that would be at the special session that we are about to hold, I do not know, but I am quite certain that the commission would not be able to report at that time.

Mr. HOUSTON. Mr. Speaker, I would suggest that the necessity requiring the commission to report at the next session of Congress necessarily limits the amount of work to be done, and furthermore in the case of a somewhat similar commission it filed a report, and experience showed that it did not take a great length of time, and that some very valuable help was the result of that.

Under leave to print, I append herewith the following:

[House Report No. 919, Sixty-second Congress, second session.]

TREATMENT OF JUVENILE AND FIRST OFFENDERS.

Mr. HOUSTON, from the Committee on the Judiciary, submitted the following report to accompany H. R. 21594:

The Committee on the Judiciary, having had under consideration House bill 21594, report the same back with the following amendment, and recommend that the bill as amended do pass.

Page 1, lines 4 and 5, strike out the words "one of whom may be nominated by the Attorney General."

The Hon. George W. Wickersham, Attorney General of the United States, appeared by invitation of the committee and was requested to give the purpose and scope of this bill and also such reasons as appeared to furnish a necessity for the enactment of this measure. He informed the committee that the bill grew out of suggestions made at the meeting of the International Prison Association last fall, and suggestions made in a letter from Paul U. Kellogg, one of the active participants in the Associated Charities in New York, to Senator Root, which had been transmitted to the Attorney General with a view that it should be taken up by the Department of Justice.

In this letter appears the following paragraph:

"There were several things which the visit to this country of the international leaders in prison reform brought out clearly: First, that to the minds of the great prison men of Europe our county jails are breeding places of crime, and ought to be wiped out. Second, that our plan of iron-bar interior cells, even with more than one person in a cell, is a moral and sanitary anachronism. For two generations prison architects have been copying the cell scheme which was built into Auburn, but of which such men as Maj. Rogers, of the English prison system; J. S. Gibbons, of the Irish prison board; Dr. Vambery, of Hungary, and others were unsparing in their private comment. Third, that our system of handling minor offenders in the petty courts and jails probably produces more criminals than our world-famous reformatories reform. Fourth, that the prison industries in the different States present a wide range of good and evil, calling for a thorough overhauling of the whole question."

It is claimed further that—

"We have no criminal statistics worth anything, either to reveal our errors and mistakes or to prove the excellencies of our reformatory institutions."

The Attorney General insists that great difficulty arises constantly in the treatment of juvenile offenders and calls attention to the fact that there are two Federal institutions to which juvenile offenders can be sent; that for boys is the National Training School for Boys, and the maximum age there is 16 years. There is an institution in the District for colored girls; there is no place for white girls. In the case of juvenile offenders over 16 years of age we are dependent wholly on State institutions. He further states that—

"At the present time I believe there is only one institution to which we can now send Federal prisoners over 16 years of age and under 21"—

That is, within the reform-school age—

"and that is the Elmira Reformatory, for the reason that in almost all of the States they have adopted the indeterminate sentence plan and they will not receive a Federal prisoner who is not subjected to the complete discipline of the State, which does not involve dealing on the indeterminate sentence basis; and, of course, I have no power under the law to subject a Federal prisoner to an indeterminate sentence by State authority."

He also states that many complaints are made as to the condition of jails to which Federal prisoners have to be sent, who are awaiting trial and can not give bail.

The Attorney General calls attention to the fact that in 1908 an act was passed by Congress (35 Stat., 3631) authorizing the President to appoint three commissioners to investigate the condition of the jails of the District of Columbia and, in connection with this investigation, other similar institutions of the United States and report to the President; also, to make such recommendations as seemed to them expedient. As a result of this investigation a report was transmitted to Congress (Doc. 648, 60th Cong., 2d sess.), after which Congress enacted the Federal parole law, applying to persons who are sentenced to the penitentiary for more than one year; a probation law for the District of Columbia; a law for the establishment of the workhouse, which has been erected at Occoquan, and which the Attorney General regards as a model institution of its kind.

The committee regards the subject of this inquiry sufficiently important to authorize the expenditure within the limits proposed in this measure. It is believed that the treatment of juvenile offenders and short-term prisoners should call for careful investigation with the purpose in view of improving, by legislation, the conditions now existing.

The care of juvenile offenders is entitled to the most serious consideration in order that reformation may be effected rather than demoralization by the conditions surrounding their custody.

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D. C., June 18, 1912.

The committee this day met, Hon. HENRY D. CLAYTON (chairman) presiding.

Hon. George W. Wickersham, Attorney General of the United States, appeared by invitation of the committee and was heard on H. R. 21594, which is as follows:

"[H. R. 21594, Sixty-second Congress, second session.]

"A bill to appoint a commission to consider and report upon the general subject of the treatment of juvenile and first offenders, together with the best system of detention of Federal prisoners.

"*Be it enacted, etc.*, That the President is authorized to appoint three commissioners, one of whom may be nominated by the Attorney General, who shall consider and report upon the general subject of the treatment of juvenile and first offenders, and in connection with the investigation the commissioners, under the direction of the Attorney General, may inquire into the conditions of jails and places of detention throughout the United States in which offenders against Federal statutes are confined, either before or after sentence, and then shall report to Congress at its next session its recommendations with respect to the best system of dealing with juvenile and first offenders, and the best system of the detention of Federal prisoners while waiting trial, and such other recommendations upon the subject as may seem to them expedient. For the expense of the commission there is hereby appropriated the sum of $20,000, or so much thereof as may be necessary."

The CHAIRMAN. Mr. Attorney General, the committee has invited you to come and give the purpose and scope of H. R. 21594 and the reason for its enactment, and any views that you may think proper in respect thereto. We will be glad to hear you.

STATEMENT OF THE HON. GEORGE W. WICKERSHAM, ATTORNEY GENERAL OF THE UNITED STATES.

The ATTORNEY GENERAL. Mr. Chairman and gentlemen, this bill grew out of a suggestion made to me at the time of the meeting of the International Prison Association here a year ago last fall. At that time I received a letter from Paul U. Kellogg, who is one of the most active people in the Associated Charities in New York, who wrote to me that he had sent a suggestion to Senator ROOT which, at the suggestion of Senator ROOT, he transmitted to me, the Senator thinking that that had better be taken up through the Department of Justice than in any other way.

In his letter to Senator ROOT he said [reading]:

"There were several things which the visit to this country of the international leaders in prison reform brought out clearly: First, that to the minds of the great prison men of Europe our county jails are breeding places of crime and ought to be wiped out; second, that our plan of iron-bar interior cells, even with more than one person in a cell, is a moral and sanitary anachronism. For two generations prison architects have been copying the cell scheme which was built into Auburn, but of which such men as Maj. Rogers, of the English prison system; J. S. Gibbons, of the Irish prison board; Dr. Vambery, of Hungary, and others were unsparing in their private comment; third, that our system of handling minor offenders in the petty courts and jails probably produces more criminals than our world-famous reformatories reform; fourth, that the prison industries in the different States present a wide range of good and evil, calling for a thorough overhauling of the whole question.

"And finally, to quote Sir Evelyn Ruggles-Brise, the head of the British prison commission, we have no criminal statistics worth anything either to reveal our errors and mistakes or to prove the excellencies of our reformatory institutions.

"These delegates came to this country anticipating great things. They were not altogether disappointed, and stated that American theory and practice, notably the probation system, indeterminate sentences, and the reformatory methods, would influence legislation and procedure in every country of Europe. At the same time their presence here afforded a means for stock taking on the part of Americans, and it strikes me that the congress which met in Washington at the invitation of this Government might be made the occasion for pressing forward for a nation-wide reformation in this field. Mr. Taft's repeated expressions with respect to the law's delays makes me think that he would be responsive to a program of constructive reform in this complementary field. The American member of the International Prison Commission is, as you will remember, in Dr. Barrow's case, officially responsible to the Department of State. Would it be possible, through that department or through the Attorney General's office, to institute such a commission of inquiry as could make a general presentation of the whole situation? I have in mind something as thorough as the United States Industrial Commission of 1900 or the recent poor-law commission in England, which has presented a remarkable report to Parliament within the last two years.

"It may be that a congressional commission would be more effective. The matter is one of which you, as a former Cabinet member and a present Member of the Senate, are in an especially favorable position to judge."

That being transmitted to me, of course I could not see at once that there was much involved in the suggestion which was hardly within the practical cognizance of the Federal Government; but there was also a great deal that was a proper subject of Federal consideration.

A great difficulty arises constantly in the treatment of juvenile offenders. There are two Federal institutions to which juvenile offenders can be sent—that for boys is the National Training School for Boys and the maximum age there is 17 years. There is an institution for colored girls only—that is the Girls' Reform School in the District of Columbia, which has a maximum capacity of about 100. There is no place for white girls. Therefore, in the case of all juvenile offenders over 17 we are dependent wholly on State institutions. At the present time I believe there is only one institution to which we can now send Federal prisoners over 17 years of age and under 21 (that is, within the reform-school age) and that is the Elmira Reformatory, for the reason that in almost all of the States they have adopted the indeterminate sentence plan, and they will not receive a Federal prisoner who is not subjected to the complete discipline of the State which does not involve dealing on the indeterminate-sentence basis, and, of course, I have no power under the law to subject a Federal prisoner to an indeterminate sentence by State authority.

We have also constant complaints with respect to the conditions of the jails to which Federal prisoners have to be sent who are detained awaiting trial and who can not get bail. The condition of many of these jails is worthy of the Middle Ages rather than of modern times. My attention was called to this by Mr. Kellogg; I determined to see what had been done by Congress along this line. I found that in 1908 the act of May 26 was passed (35 Stats., 203) which authorized the President to appoint three commissioners to investigate the condition of the jail of the District of Columbia, the workhouse, and other buildings adjacent to the jail, and in connection with the investigation to visit and investigate similar institutions of the United States, and to report to the President on the conditions of the buildings so as to secure suitable facilities, and also to make such other recommendations on the subject as may seem to them expedient.

Now, that commission studied the conditions, practically, of adult offenders, both in the District of Columbia and elsewhere, and made a report which was transmitted to Congress on January 20, 1909, which is printed as Document No. 648, Sixtieth Congress, second session, as a result of which Congress has enacted the Federal parole law, applying to persons who are sentenced to the penitentiary for more than one year; a probation law for the District of Columbia; a law for the establishment of the District workhouse, which has been erected at Occoquan, Va., and which is a model institution of its kind—one that I think everyone interested in prisoners, and especially short term offenders, ought to visit; and it provided for a reformatory, the progress of which has been checked owing to the objections that were raised to it being established within a few miles of Mount Vernon.

It seems to me that a similar inquiry should take in that class of persons, which is not a very large but is still sufficiently numerous to be taken cognizance of by Congress—I speak of juvenile and first offenders—and also to investigate the conditions under which offenders against the Federal law are detained in jails and prisons, held awaiting trial. I should also say that as a result of the investigation referred to and of the legislation that Congress subsequently enacted a year or two later, the jail of the District of Columbia, instead of being a disgrace to civilization as it was two years ago, has become a decent, sanitary, and respectable place. The control of the jail has been turned over to the Commissioners of the District as a result of legislation which was recommended both by the commissioners and by the Department of Justice; and to complete the work which the Federal Government has begun on this great subject I have drafted and ventured to recommend the passage of this bill, which will deal with the subject of juvenile or first offenders and the place of detention of Federal prisoners awaiting trial and under short sentences.

That, Mr. Chairman and gentlemen, is the outline of the plan. In this connection I might say that perhaps one of the most useful things that could be considered by a commission appointed under such a bill as this would be the extension of the indeterminate sentence to Federal prisoners, and particularly to juvenile and first offenders. It seems to be the consensus of opinion of all the most advanced of modern penologists that that is the best way to deal with first offenders. The system has been adopted in a great many of the States, and the Federal Government ought not to be laggard in the careful consideration of this matter.

The CHAIRMAN. Then you think this is proper and necessary as a part of the general scheme for the reform, or a movement that is world-wide to-day?

The ATTORNEY GENERAL. Absolutely.

The CHAIRMAN. Humanity seems to demand it?

The ATTORNEY GENERAL. Yes, sir. I attended the International Prison Congress, which was held here a year ago last fall, and I also attended the last meeting of the American Prison Association at Omaha, and on both of those occasions this subject of the treatment of juvenile offenders, and the subject of the indeterminate sentence, were among those that were pressed most earnestly.

Mr. WEBB. Is it your idea that this commission will have to actually visit the jails of the country?

The ATTORNEY GENERAL. Well, they can not visit them all. They will do as this last commission did; that is, visit some of them. Of course, we have a great deal of information in the Department of Justice and we can suggest typical institutions which they can visit. They could not, of course, visit them all.

Mr. WEBB. How long do you think it would take them to complete the work?

The ATTORNEY GENERAL. Well, this commission appointed under the act of May 26, 1908, reported to the President on January 11, 1909; that is, they were about six months in doing their work.

Mr. WEBB. Do you think it could be done for $40,000.

The ATTORNEY GENERAL. Yes; I think it could be done for less.

My attention has been called, Mr. Chairman, to the language of the bill as drafted, which provides that the President is authorized to appoint three commissioners, one of whom may be nominated by the Attorney General, etc. I may say that in drafting the bill in that language I merely adopted the language employed by Congress in the act of May 26, 1908, authorizing the appointment of the commission investigating the workhouse and reformatory system, but I am entirely willing that the committee shall make such modifications of that as it sees fit. I have no personal desire to appoint one of the commissioners; I only followed that language as a precedent which had been set.

Mr. RUCKER. May I ask a question?

The ATTORNEY GENERAL. Certainly.

Mr. RUCKER. What do you mean, exactly, by "indeterminate sentence"?

The ATTORNEY GENERAL. The indeterminate sentence is a sentence of imprisonment for not less than a certain time, or not more than a certain time, with the right of probation and parole. They can discharge the prisoner at any time between those dates, upon such terms as they may see fit to impose.

Mr. RUCKER. You mean the court fixes the punishment at not less than 1 year nor more than 10 years, for instance?

The ATTORNEY GENERAL. Yes, sir. Sometimes, in grave cases, it is for "not less than," so that it may be for life.

Mr. RUCKER. Now, I am familiar with the practice in many of our States, many of our statutes run that way. Some of them say "not less than" a certain time or "not more than" a certain time, but they generally fix some time between those terms, say three years, don't they?

The ATTORNEY GENERAL. Yes, sir.

The CHAIRMAN. The object being to work a reform in the criminal himself.

The ATTORNEY GENERAL. That is it, exactly.

The CHAIRMAN. The inducement is held out to him: "If you don't behave yourself, then you will get the maximum of your sentence," say 10 years?

The ATTORNEY GENERAL. Yes, sir.

The CHAIRMAN. "But if you give evidence of your real determination to become a good citizen——"

The ATTORNEY GENERAL. Yes.

The CHAIRMAN. "You may get off with a shorter sentence, as a parole board may determine?"

The ATTORNEY GENERAL. Yes, sir.

Mr. RUCKER. In some States the law provides that for good behavior the executive may pardon.

The ATTORNEY GENERAL. You get it under the Federal parole law. If a prisoner has served not less than one-third of the sentence, he is eligible to parole, and if the board recommends his parole and that recommendation is approved by the Attorney General, he may be paroled under such terms as may be fixed by the Attorney General, but he is subject to be taken back at any time if he violates his parole.

Mr. RUCKER. Well, I have not been a graduate in law, but I thought it was that if he conducts himself properly he is eligible for a parole.

The ATTORNEY GENERAL. Well, that is the theory, and it is peculiarly so in the case of juvenile offenders. Take a boy who has committed a crime. The probability is that his crime was committed in a spirit of youthful bravado or was the result of bad home surroundings; the possibility is that if he is taken away from his bad surroundings and placed in a good position he may be made into a law-abiding citizen.

Mr. RUCKER. My recollection is that the late Gov. Taylor immediately issued a pardon for every minor under 16 years of age until the State established a reform school, but he would not send them to the penitentiary.

The CHAIRMAN. I want to say that this Federal parole law has done good, and it will do much more good. Some years ago we enacted a parole law in my State—Alabama—and I think there has been no wiser enactment in the history of the State.

The ATTORNEY GENERAL. I think we have, Mr. Chairman—I know I was speaking accurately three or four months ago, and I do not think it has been changed since—we have but one instance of a Federal prisoner violating his parole since that law was put into operation. Our universal experience is that prisoners, when liberated upon parole, obey their paroles, and the theory is that during that period they will get restored into a normal position in the community; then they go out of the path of lawbreakers into the path of law keepers.

Mr. RUCKER. I used to think it was putting it into the power of the judiciary to discriminate, show favoritism, but in the course of a great many years I have come in contact with a great many of the criminals, and I think it is a very wise law.

The ATTORNEY GENERAL. I think the very large preponderance of opinion among the judges of to-day is in favor of that theory.

Mr. RUCKER. Down in my State a man was paroled about three years ago. I am convinced now that it was one of the best things that could be done, because that man was one of the most violent men before and he is now a very good citizen, one of the best men in his town.

The ATTORNEY GENERAL. The House of Representatives has passed at this session a bill which I very earnestly recommended, applying the parole law to life prisoners.

The CHAIRMAN. That is a bill introduced by Representative HOWARD, of Georgia?

The ATTORNEY GENERAL. Yes, sir; he introduced it at my request. I think that embodies the view of the most able penologists of to-day.

Mr. GRAHAM. Is it the experience of European countries that they effect reforms of practiced criminals?

The ATTORNEY GENERAL. Well, there is a good deal of difference of opinion as to this, but I think there is a class of criminals who are always beyond reform.

Mr. GRAHAM. The nature of the crime has a great deal to do with it?

The ATTORNEY GENERAL. Yes.

Mr. GRAHAM. A man who gets into prison for a crime of violence might never commit another?

The ATTORNEY GENERAL. Yes.

Mr. GRAHAM. But the man who is a professional thief that would not follow, of course?

The ATTORNEY GENERAL. Yes; but criminologists say that while you may cure for a while, you may palliate, there is a residuum that you can not cure. They are devoting more and more time to juvenile offenders and to first offenders. The theory is that if you can take him away from his bad environment you can save him. Personally my interest is far keener in these first offenders than in any others. I recollect a very distinguished specialist in children's diseases whom I met in New York. On one occasion I asked him what led him to that specialty. He said, "Oh, I got so tired of patching up old human hulks that I took up this specialty, where the saving of children may mean the saving of human souls for the Nation."

The CHAIRMAN. Very much obliged to you.

The ATTORNEY GENERAL. Much obliged to you for giving me this hearing.

WESTBORO, MASS., *June 19, 1912.*

CHAIRMAN OF THE COMMITTEE ON THE JUDICIARY,
House of Representatives, Washington, D. C.

DEAR SIR: At a meeting of the National Conference on the Education of Backward, Truant, Delinquent, and Dependent Children that was held in Cleveland, Ohio, on Monday, June 10, the following resolution was passed:

Resolved by the National Conference on the Education of Backward, Truant, Delinquent, and Dependent Children, That we respectfully recommend to the favorable attention of the Committee on the Judiciary of the United States House of Representatives the bill to provide a commission to investigate and propose reforms in the system of jails throughout the United States in which Federal prisoners may be confined.

Respectfully, yours, ELMER L. COFFEEN,
Secretary and Treasurer.

JUVENILE PROTECTIVE ASSOCIATION,
Chicago, November 18, 1912.

The Hon. HENRY D. CLAYTON,
Chairman Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR SIR: The Juvenile Protective Association of Chicago is very much interested in the number of young boys—many of them first offenders—held in the county jail and police stations of Chicago awaiting trial.

In an investigation just concluded our association found that last year 3,328 boys between the ages of 17 and 21 were confined in the county jail, and that 599 of these boys were first offenders. While the conditions in the county jail are fairly good, no vocational training is given, nor is any employment provided for the boys. They get very little exercise; they are not kept busy, and the result is that they very quickly deteriorate. The police stations of Chicago, where large numbers of young men and women are held awaiting their preliminary hearings, are in a very terrible condition, and young people held there are in danger of not only moral but physical deterioration through the insanitary surroundings.

I understand that House bill 21594, to appoint a commission to consider and report upon the general subject of the treatment of juvenile and first offenders, has been favorably reported on by the Committee on the Judiciary, but has not yet been called up in the House. Our association feels that the passage of this bill is of the utmost importance, and we therefore respectfully urge you to use your best endeavors to bring this about. We feel sure that an investigation which shall inquire into the conditions in jails and places of detention throughout the United States will result in lasting good, and in recommendations by the Government for better methods in dealing with the young and for improved places of detention while awaiting trial.

Sincerely, yours,

MRS. JOSEPH TILTON BOWEN, *President.*

WOMAN'S CITY CLUB OF CHICAGO,
December 3, 1912.

Hon. HENRY D. CLAYTON,
House of Representatives, Washington, D. C.

DEAR SIR: At a meeting of the board of directors of the Woman's City Club of Chicago held yesterday, December 2, it was unanimously voted that you be urged to use your influence in support of bill H. R. 21594, which will come before the House of Representatives some time this month.

The Woman's City Club believes the provisions of the bill, that the Federal Government make an appropriation sufficient for the investigation of police stations and jails where first offenders are held awaiting trial, to be wise and just and in accordance with the policy of conserving what is good in the youth of our land.

We respectfully solicit your earnest interest in the passage of this bill.

Very truly, yours, CAROLINE S. P. WILD,
Secretary.

CHICAGO POLITICAL EQUALITY LEAGUE,
December 11, 1912.

Hon. HENRY D. CLAYTON,
House of Representatives, Washington, D. C.

DEAR SIR: The Chicago Political Equality League emphatically urges the passage of House bill 21594 and put themselves on record as indorsing this bill as a step toward protecting boys from the association of hardened criminals.

We hope you will use every influence to further this bill.

Yours, respectfully,

THE CHICAGO POLITICAL EQUALITY LEAGUE,
Per MRS. A. H. SCHWEIZER,
Corresponding Secretary.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I shall not object, although I think the appointment of these commissioners on matters of this sort is not the proper way of getting information in preparation for legislation.

Mr. SISSON. Mr. Speaker, I shall object.

The SPEAKER. The gentleman from Mississippi objects, and the bill is stricken from the calendar.

COAL MINING COMPANIES, OKLAHOMA.

The next business on the Calendar for Unanimous Consent was the bill (S. 3843) granting to the coal mining companies in the State of Oklahoma the right to acquire additional acreage adjoining their mine leases, and for other purposes.

The Clerk proceeded to read the bill.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent that the bill S. 3843, now before the House, be passed over without prejudice, for the reason that the gentleman from Oklahoma [Mr. CARTER] is sick.

The SPEAKER. The gentleman from Texas asks unanimous consent to pass this bill over without prejudice, on the ground of the sickness of the gentleman from Oklahoma [Mr. CARTER]. Is there objection?

There was no objection.

INTERSTATE TRANSPORTATION OF IMMATURE CALVES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24927) to regulate the interstate transportation of immature calves.

The Clerk read the bill, as follows:

Be it enacted, etc., That no person, firm, or corporation shall ship or deliver for shipment, nor shall any common carrier nor the receiver, trustee, or lessee thereof, receive for transportation or transport from one State or Territory or the District of Columbia into or through another State or Territory or the District of Columbia any live calf not accompanied by its mother unless the same is six weeks old or over: *Provided*, That the Secretary of Agriculture may make rules and regulations permitting, in cases of emergency only, the shipment in interstate commerce of live calves less than six weeks old; and the Secretary of Agriculture may also permit, under such restrictions as he may deem proper, one shipment in interstate commerce of live calves less than six weeks old and over three weeks old when the entire time consumed in such interstate shipment to final destination, including time of loading and unloading, does not exceed 12 hours.

SEC. 2. That any person, firm, or corporation, or any common carrier or the receiver, trustee, or lessee thereof, who shall violate any of the provisions of this act shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a fine of not less than $20 nor more than $50 for each calf offered for shipment, shipped, or received for transportation or transported in violation of any of the provisions of this act.

The SPEAKER. Is there objection?

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, I reserve the right to object if the gentleman from Michigan wishes to use a little time.

Mr. HAMILTON of Michigan. Mr. Speaker, it is very kind of the gentleman from New York [Mr. MICHAEL E. DRISCOLL] to reserve his objection. I only wish that he might continue his kindness by not objecting to the consideration of the bill after he has heard a statement that I desire to make.

This bill was reported by the Committee on Interstate and Foreign Commerce. It has the support of the Department of Agriculture and the support of every humane society in the United States, because its purpose is to stop a traffic which is cruel to animals, dangerous to public health, and disgusting in its revelation of cheap and nasty cupidity.

Mr. GARNER. Mr. Speaker, let me suggest to the gentleman that he address his remarks to the gentleman from New York [Mr. MICHAEL E. DRISCOLL], who seems to have some doubt as to the wisdom of this legislation.

Mr. HAMILTON of Michigan. Mr. Speaker, the gentleman from New York is listening, and possibly I may be able to induce him not to object. My attention was first attracted to this cruel and disgusting practice by a shipper of stock living in my own State. He told me it was the custom of stock shippers to take little calves from their mothers before they had learned to eat or drink, put them in these slat cars, expose them to all kinds of temperature, keep them three or four days on the road without nourishment—a process of slow starvation—and if they survive, then kill them for human food. I thereupon started an inquiry through the Bureau of Animal Industry, which resulted in this bill.

Gentlemen may want to know to what extent this cruel business is carried on. Dr. Francis H. Rowley, of Boston, who in appearing before the Committee on Interstate and Foreign Commerce represented all of the humane societies of the United States, testified that on May 2 and May 3, 1910, 790 calves arrived at Brighton, a suburb of Boston, and out of these 790 calves 183 arrived dead—starved to death. Their stomachs were examined by experienced veterinarians, and were found to be as dry as a powder horn. Those that were still alive were killed for human food. He further testified that in six days on which an account was kept 1,690 of these calves were shipped to the Boston market, and in one week 6,056, and that numbers of these poor little calves were starved to death or trampled to death by larger cattle with which they were shipped.

Mr. MURRAY. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON of Michigan. Certainly.

Mr. MURRAY. May I inquire of the gentleman from Michigan whether or not an attempt was made to regulate this matter in Massachusetts?

Mr. HAMILTON of Michigan. Yes.

Mr. MURRAY. Through the activities of Dr. Rowley and the humane societies, and that regulation could not be had, and they were forced to come to this Congress for this legislation.

Mr. HAMILTON of Michigan. That is true. We have meat-inspection laws, and, so far as possible, the Federal inspectors protect the public from this nefarious traffic; but the testimony is that in Massachusetts they have accommodating State officials who are not exacting as to State inspection.

Why do men go into this business, Mr. Speaker? The testimony is that there are men who hang around dairy farms and positively know when a cow is about to have a calf. They buy the calf when it is a day old or a week old or two weeks old, and they buy it as cheaply as they can, and the owners of these calves are willing to sell when the calf is young, because they want to sell the milk the calf would require. They tie its legs, they put it in a wagon, and they carry it off to the railroad station, and when they have accumulated enough of these poor little unfortunate calves they start them off for Boston or Buffalo or some other market.

Why do these dairymen sell these very young calves? It was frankly admitted by some of the dairymen who came before the Committee on Interstate and Foreign Commerce that it does not pay to teach a calf to drink and that the milk a calf would drink is more valuable than the calf, and so they are willing to connive at this cruel traffic. But if this suffering does not appeal to men, then I appeal to them on the ground that the public health is involved and on the ground that their own health is involved.

What do these shippers of calves make out of this business? Why, they buy a calf from one of these dairy farms for a dollar and a half. They sell the sweetbreads for 50 cents out of one of these calves; they sell the liver for 60 cents; they sell the stomach for 15 cents; they sell the hide for a dollar or a dollar and a half; and they sell the carcass for from $3 to $6. What do they do with the carcass?

Mr. GARNER. Will the gentleman yield?

Mr. HAMILTON of Michigan. In just a moment; I want to emphasize this. What do they do with the carcass? They bone it off, so the witnesses testified, and make canned chicken out of it. Do you gentlemen like canned chicken?

Mr. BUTLER. Not canned chicken?

Mr. FOSTER. Is not that a violation of the pure-food law?

Mr. HAMILTON of Michigan. They do it.

Mr. GARNER. The gentleman must remember that is under a Republican administration. We propose to enforce the law, and there will be no danger of that kind when the Democrats get in.

Mr. HAMILTON of Michigan. This is a calf question; it is not a political question at all. [Laughter and applause.] Mr. Speaker, they make sausage out of this meat.

Mr. GARNER. Pig sausage?

Mr. SISSON. Hog sausage?

Mr. HAMILTON of Michigan. Yes; I suppose so.

Mr. FOSTER. Country sausage?

Mr. HAMLIN. Did not the evidence show that they canned a good deal of this stuff and it was sold as canned chicken?

Mr. HAMILTON of Michigan. Yes; I stated that at the outset. That is one of the important facts developed.

Mr. GARNER. Is not that in violation of the law?

Mr. HAMILTON of Michigan. Yes. They are violating the law not only in this respect, but in other respects.

Mr. GARNER. Why have not they been prosecuted and made to obey the law?

Mr. HAMILTON of Michigan. I will tell the gentleman as I go along; there are several phases I want to develop.

Mr. MURRAY. Will the gentleman yield?

Mr. HAMILTON of Michigan. Yes.

Mr. MURRAY. May I inquire whether it is a fact that attempts were made to reach these people under the interstate-commerce law by the forces that the gentleman has mentioned in Massachusetts and it was found that this legislation was needed to reach the violators?

Mr. HAMILTON of Michigan. It is true. Now I will depart a little from the order in which I desired to present this to the House, and say that they have in the State of New York a law which prevents, or is supposed to prevent, the shipment of calves under 4 weeks old unless they are accompanied by their mothers and are for breeding purposes. Now, what do they do? They collect these calves around these dairy farms, and they put three or four old cows that have not given milk for a generation [laughter] with the little calves, and they arrive at their destination with the cows' teats lacerated, because the little chaps have been tugging at those dry sources of theoretical supply. [Laughter.]

Mr. HAY. Why does not the gentleman go on and try to pass the bill?

Mr. HAMILTON of Michigan. There is a gentleman talking about objecting to it.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker——

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, I do not want to object, but I want to say a word before we get through

The SPEAKER. What is the point of the gentleman from Illinois [Mr. FOSTER]?

Mr. FOSTER. I want the gentleman to proceed with the explanation of his bill.

Mr. GARNER. Mr. Speaker, I do not want to call for the regular order. I want to give each gentleman an opportunity to explain his bill, so that any other Member in the House may intelligently know whether he wants to object; but I doubt the advisability of taking up the entire unanimous-consent day by a long speech on a bill that we know is going to be objected to in the end.

The SPEAKER. The gentleman has the right at any time to demand the regular order. The gentleman from Michigan [Mr. HAMILTON] may proceed.

Mr. BURKE of South Dakota. I will ask the gentleman from Michigan [Mr. HAMILTON] if he will submit to an inquiry?

Mr. HAMILTON of Michigan. Yes. I want to say before replying that I promise not to continue much longer.

Mr. BURKE of South Dakota. If we pass this bill, how would it affect the condition that there is still in the State of New York; that is, assuming that these calves are shipped within the State?

Mr. HAMILTON of Michigan. This bill prohibits the shipment of calves in interstate commerce under 6 weeks old. And I may say—and I say it looking at my friend from New York [Mr. MICHAEL E. DRISCOLL]—that every witness who appeared before the committee admitted that the traffic was cruel, and admitted that it was dangerous to health, and the only objection finally that any of them made was that the age limit should be reduced to 4 weeks.

Mr. MICHAEL E. DRISCOLL. Will the gentleman yield to a question there?

Mr. HAMILTON of Michigan. Yes; in a moment. The difficulty about reducing the age to 4 weeks is—and I have considered it carefully, because I am anxious to get this bill on the statute books, and have conferred with the Agricultural Department in relation to it—the difficulty about reducing the age limit to 4 weeks is that if you do that these men will put calves into these cars that are much under 4 weeks. If you put the age limit at 6 weeks you may get a good many 4-weeks-old calves, but you will not be so likely to get calves a day old. The testimony is that calves are started out for Boston and other markets when they can scarcely stand on their legs and are not 24 hours old.

Now, I yield to the gentleman from New York [Mr. MICHAEL E. DRISCOLL].

Mr. MICHAEL E. DRISCOLL. The gentleman has substantially answered one of the questions. Is it not true that all the references to the cruelty practiced on these calves applied to calves that were very young—from a day to a week old?

Mr. HAMILTON of Michigan. I can scarcely answer the gentleman as his question implies he would like to have me answer him.

Mr. MICHAEL E. DRISCOLL. Answer according to the truth, whether I like it or not.

Mr. HAMILTON of Michigan. All right. The testimony is that they ship calves that are incapable of taking nourishment. I have the testimony here, but I have not the time to read it——

Mr. MICHAEL E. DRISCOLL. You ought to know the laws on that subject.

Mr. HAMILTON of Michigan. The State law is being evaded. I have a letter of no later date than December 26 last, from an inspector of the Bureau of Animal Industry, setting forth that the custom still prevails of shipping these young calves, and it is not alone the calves that are very young that suffer en route. Few, if any, of these calves have been taught to eat or drink. It is probable, of course——

Mr. MICHAEL E. DRISCOLL. Is there any reference in the whole record to a calf over 2 weeks old?

Mr. HAMILTON of Michigan. Why, the testimony is that the dairymen of New York—and I can cite the gentleman to the exact page—say they do not think it is worth while to teach calves to drink.

Mr. MICHAEL E. DRISCOLL. That does not answer the question.

Mr. HAMILTON of Michigan. They say the milk is worth more than the calf. If the milk is worth more than the calf, then the testimony is that they get rid of the calf.

Mr. MICHAEL E. DRISCOLL. The testimony is if they keep a calf six weeks it would not pay, but if they keep it four weeks it would pay.

Mr. SISSON. In answer to the gentleman from South Dakota [Mr. BURKE], I believe reference was made to intrastate shipments. Your bill would not affect those shipments, would it?

Mr. HAMILTON of Michigan. It would not.

Mr. SISSON. And could not do that under the Constitution, could it?

Mr. HAMILTON of Michigan. No; and, further than that, let me say this in relation to cattle in the Southwest: When I first drew the bill, or when it was first drawn for me, in part, in the Bureau of Animal Industry, it was not known that sometimes it becomes necessary in the plains country, in case the pasture grows short and in case the grass is destroyed by fire, or otherwise, to move the cattle over a State line, and so a provision was incorporated in the bill subsequently to permit emergency removals.

Mr. GOLDFOGLE. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON of Michigan. Yes.

Mr. GOLDFOGLE. Is it not a fact——

Mr. BURKE of Pennsylvania. Mr. Speaker, will the gentleman yield?

The SPEAKER. To whom does the gentleman yield?

Mr. HAMILTON of Michigan. To the gentleman from New York [Mr. GOLDFOGLE].

The SPEAKER. The gentleman yields to the gentleman from New York.

Mr. GOLDFOGLE. Is it not a fact that the statute of the State of New York fixes the age limit at four weeks?

Mr. HAMILTON of Michigan. I have so stated.

Mr. GOLDFOGLE. And in the State of Pennsylvania I believe that is about the same limit?

Mr. HAMILTON of Michigan. I understand so.

Mr. GOLDFOGLE. In how many States of the Union does the law make a greater limit than four weeks?

Mr. HAMILTON of Michigan. I do not know the laws of all the States, but my judgment is that in most of the States there is no limit whatever. I doubt if there is a limit in the Western States at all.

Mr. GOLDFOGLE. Now, in the State of New York it is possible under the statutes of that State to ship calves four weeks old from Buffalo all the way down to Montauk Point, is it not?

Mr. HAMILTON of Michigan. In the State of New York?

Mr. GOLDFOGLE. Yes; in the State of New York.

Mr. HAMILTON of Michigan. How far is it from Buffalo down to Montauk Point?

Mr. GOLDFOGLE. It is less than 500 miles.

Mr. HAMILTON of Michigan. How long do they keep them in transit?

Mr. GOLDFOGLE. That I do not know exactly.

Mr. HAMILTON of Michigan. The time in transit is important, as the gentleman from New York will recognize, and the testimony is that they keep them all the way from two days to six days under the existing conditions. There should be some time limit, and there should be an age limit. They tried in Massachusetts to fix a limit according to weight.

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, the gentleman has had 20 minutes, and I want to talk 5 minutes.

Mr. HAMILTON of Michigan. I would not have talked so long, Mr. Speaker, if I had not been interrupted.

I want to state one other thing, and I want the Members of the House to hear me. Dr. Eliot, former president of Harvard, discussing this abhorrent traffic, says that when an animal is subjected to suffering, such as these calves are subjected to, it sets up toxic processes and make the meat dangerous to human health.

In addition to this, the testimony of experts in the Bureau of Animal Industry is to the effect that the meat of these calves is water-soaked; that it is dropsical; that it is the best kind of a medium for the deposit of germs of disease; that it enables the formation of ptomaine poisons and bacterial toxins; and the doctors who have testified have made statements to the effect that there are many cases of death by reason of eating this poisoned, dropsical, disgusting food.

Mr. MANN. Mr. Speaker, does the gentleman yield for a question?

Mr. HAMILTON of Michigan. Yes.

Mr. MANN. I understood the gentleman to quote Dr. Eliot, former president of Harvard University?

Mr. HAMILTON of Michigan. Yes.

Mr. MANN. He qualifies, no doubt, as an expert on immature calves because he was former president of Harvard University? [Laughter.]

Mr. HAMILTON of Michigan. The gentleman seeks to be facetious.

Mr. MANN. I am very serious about it.

Mr. HAMILTON of Michigan. No; the gentleman is not serious. I stated that Dr. Eliot said this because I thought that the opinion of a man like Dr. Eliot, who carefully weighs his words, might have weight. That is why I quoted him.

Mr. GARNER. Mr. Speaker, I ask unanimous consent that the gentleman from Michigan may have permission to extend his remarks in the RECORD.

Mr. HAMILTON of Michigan. I do not care to do so, except that I would like to have unanimous consent to print my report from the Committee on Interstate and Foreign Commerce.

The SPEAKER. The gentleman from Texas [Mr. GARNER] asks unanimous consent that the gentleman from Michigan [Mr. HAMILTON] have the privilege of extending his remarks in the RECORD. Is there objection?

There was no objection.

Mr. HAMILTON of Michigan. By permission of the House, I will print as part of my remarks the report of the Committee on Interstate and Foreign Commerce accompanying this bill.

The report is as follows:

[House Report No. 837, Sixty-second Congress, second session.]

INTERSTATE TRANSPORTATION OF IMMATURE CALVES.

Mr. HAMILTON of Michigan, from the Committee on Interstate and Foreign Commerce, submitted the following report, to accompany H. R. 24927:

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 24927) to regulate the interstate transportation of immature calves, having considered the same, report thereon with a recommendation that it pass.

This bill is designed to prevent a cruel, disgusting, and dangerous traffic—cruel to animals, dangerous to human health, and disgusting in its revelation of cheap and nasty cupidity in perpetrating upon unsuspecting consumers food unfit for human consumption.

Dr. Francis H. Rowley, of Boston, who appeared before the Committee on Interstate and Foreign Commerce, as he said, "in behalf of all the humane societies in the United States, that are a unit in their indorsement of this bill and their hope that the bill may become a law;" and also "in behalf of the one society in the United States that has put up the hardest fight for the past two years that has been put up by any organization in this country to prevent the horrible abuses connected with the shipment of immature calves," said:

"This meat (of immature calves) is boned off and made up into sausages and sold to the poor. (Hearings, p. 7.) There are men—and I want you to understand, gentlemen, everything I say to you here to-day I can substantiate by facts and figures secured by our agents, and for which we are willing to take our oath—there are men in New York State and in Maine, New Hampshire, and Vermont, knowing the dates when the cows are to calf, and they are there the days the calves are dropped.

"In many instances the calves are taken that day. Their legs are tied together, and in many cases they are thrown under the boot of a wagon.

"They get a carload and then ship them.

"The farmer gets from a dollar to a dollar and a half for this little calf.

"Now, you know that the Holstein and other breeds will weigh, the day of birth, 50, 60, or 70 pounds dressed, and quite frequently 80 pounds the day when born.

"That is a pretty good calf, especially when you blow it up with compressed air.

"If they can get this calf through to market, then they get, say, a dollar or a dollar and a half for the hide.

"If they can get some inspector to pass it, 60 cents for the liver, 50 cents for the sweetbreads, and from three to six dollars for the carcass.

"First, a little return to the farmer of 80 cents or a dollar for the calf, and then one, five, or six dollars to the butcher." (Hearings, p. 9.)

Continuing, Dr. Rowley said:

"On May 2 and 3, 1910, there arrived at Brighton 790 calves in carloads in those two days, of which 183 were dead; dead from starvation; dead from utter exhaustion. We had one of the best veterinarians in Boston examine the stomachs, and the inside of the stomach was as dry as the palm of your hand; they had simply starved to death." (Statement Dr. Rowley, Hearings, p. 10.)

Further on he says:

"These are simply samples of reports handed me by our agents. I just brought a few of the most notable. Here is another: In six days 1,630 calves were brought over from the State of New York.

"Here is a record of one week of 6,056 calves shipped to the New England Dressed Meat & Wool Co. Three hundred of the calves were thrown out by the Federal inspectors as unfit for food.

"That Massachusetts is not the only State that has suffered from this is evidenced by a letter I have from the secretary of the Humane Society of Detroit, Mich. He says that:

"'The practice of taking young calves from their mothers in warm stables, driving them several miles through frost and snow, allowing them to stand shivering in the snow for half a day before loading them on the train, is a very cruel practice. Many of these calves are thus exposed in shipping from 30 to 90 hours. Outside of the matter of cruelty, such meat is unquestionably unfit for food.'

"Then there is also a similar statement from the president of the Connecticut Humane Society. As we began to make it unprofitable to these butchers, they began to turn them into Connecticut, and this is what the president of their humane society writes. He says:

"'On April 25 a carload of about 120 calves was received. They were thin, eyes sunken, and apparently a number of them were dead. On being taken from the car, some revived. These calves were shipped without crates. We had an examination made of two dead calves, and

nothing was found in their stomachs. Out of the entire number it is believed that 75 per cent were bobs.'

"Now, you say, why can not this be stopped by State legislation? The attorney general of New York says:

"'I find no authority in this provision of law or elsewhere that would justify the commissioner of agriculture to seize shipments of calves destined to a point without the State, under the conditions mentioned in your letter. The above section is intended to prohibit the offering or exposing for sale in the market of calves under 4 weeks of age or when they are not in healthy condition. The shipping therein referred to must be construed as meaning shipping for the purpose of killing within the State and can not refer to the shipping of calves without the State, as the legislature has no authority to prohibit such shipments.'

"These calves were shipped according to the laws of New York State to 'John Smith,' a little butcher in Connecticut, Rhode Island, or Massachusetts, as a 'dairyman.'

"Mr. DRISCOLL. Does not this law require that they be shipped in crates or accompanied by their mothers?

"Dr. ROWLEY. They are shipped there in crates, or are supposed to go with their mothers if not crated. The attorney general of New York can not stop it, because they go out to our State in conformity with the law. We can not do anything in Massachusetts except to cooperate with the Federal inspectors and such local inspectors as we can scare into destroying these calves and not allow them to get on the market as food. In many cases we have driven many of these butchers out of this business.

"Last Sunday a man came through from New York State following one of these carloads of calves. There is an attempt to evade the law by claiming that they are shipping the dams with these calves, because if they ship the dam with the calf they are complying with the law, even if they are only 1 or 2 days old. They take along old, worn-out, dried-up milch cows that are to be made into bologna sausage. They put them into the car with 60 or 70 calves. Capt. Walsh was with us—they unloaded 99 calves and 4 old cows. When these cows come out of the car with the calves they will walk away, with no more thought of the calf than you have of the child walking in the streets of New Orleans now. I have found the tents of these cows raw from the continual suckling of the calves put in with them." (Hearings, p. 13.)

Mr. Benedict, superintendent Stevens-Swan Humane Society, of Utica, N. Y., says:

"The skins are worth $1.15 and the stomach is worth 15 cents, making $1.30." (Hearings, p. 6.)

Mr. Benedict followed a shipment of calves from New Berlin, N. Y., to Brighton, Mass.

He says:

"Fifty-seven bob calves, none claimed to be over 1 week of age, were brought for shipment at New Berlin and 10 of them were so exceedingly youthful and weak that they were not placed in the car, and they simply placed 47 in the car."

One of the calves brought for shipment was so young that it could hardly stand, and the man who brought it stated that it had "only come last night."

The car started from New Berlin at 11.15 in the morning, and it is fair to assume that these calves had been separated from their mothers up to the time of starting—from two to five hours.

The car stopped at Leonardsville, and 17 more "bob-veal" calves were loaded, and at Bridgewater 15 more were brought in a wagon.

A bob-veal calf is defined to be a calf from 1 day to 1 week old.

The car left Bridgewater at 1.30 p. m.

"It was placed in the yard at Utica at 6.50 p. m., and remained there until 1.11 the morning of the 26th, when it was conveyed by a New York Central engine to the New York Central tracks."

The car left Utica at 4.30 that morning and arrived at New Albany at 5.31.

Inasmuch as the shipment was being watched by humane officers, a pretense was made of trying to feed these 78 calves in an hour and a half—between the arrival and departure of the car.

"They had two quart dippers and two funnels and pieces of hose attached to the ends of the funnels, so that if any calves could not eat from the pail and the dipper they would raise up their heads and put the rubber hose in their mouths and pour some of the mixture down their throats."

The pails and dippers were perfectly new, and it was apparent that they were going through the cruel farce of pretending to feed these calves—all of them too young to take other nourishment than milk from their mothers—because they were being watched.

It was claimed that the stuff in the pails was composed of milk and water. There were in all 9 pails of this stuff for 78 calves.

Mr. Benedict's testimony was corroborated in detail by Mr. Murray, field secretary of the American Humane Association. (Hearings, p. 32.)

The car left by way of the Boston & Albany Railroad for Brighton yard, a stockyard near Boston, and arrived there at 8.47 p. m. Sunday night, March 31.

At 9.55 that night the calves were unloaded at J. J. Kelly & Co.'s abattoir to be killed, having been more than 58 hours en route without nourishment, unless the pretense of feeding them at West Albany be called nourishment.

Twelve of them were so weak that they could not stand, and had been trampled upon. They were still alive and were carried to wagons, which transported them and the rest of the carload to a merciful death.

These calves, according to the testimony, arrived in better condition than calves ordinarily arrive because the shipment was being watched and because, at the outset, 11 calves were rejected as being no more than a day old.

These shipments are constantly occurring, and the attorney general of the State of New York held, on request for construction of the New York law entitled "Shipping, slaughtering, and selling veal for food," that there is "no authority in the provision of the law or elsewhere that could justify the commissioner of agriculture seizing shipments of calves destined to a point outside the State."

"The shipment there referred to must be construed as meaning shipping for the purpose of killing within the State, and can not refer to the shipping of calves without the State, as the legislature has no authority to prohibit such shipments."

Mr. Jefferson Butler, president of the Michigan Humane Association, of Detroit, Mich., in the course of his testimony, said:

"Now, this last winter some organization that was perfected there took up the question and went down and they found two carloads of young calves frozen to death on the Pere Marquette Railroad—the cows got through all right—and they asked the reason from experts, and they said it was simply because they were not in a fit condition. They were not old enough to stand that severe weather. I saw a shipment of young calves billed from Kalamazoo to East Buffalo. They were put in one end of a car, and they were not able to lie down; there was simply room to stand up, and when I was there it was 9° above zero. We followed that shipment, as best we could, and they were over three days getting from Kalamazoo to East Buffalo. We followed another shipment, and they were six days in that kind of weather, going through in these slat cars where it was only about 12 or 13 above zero." (Hearings, p. 82.)

It is unnecessary to multiply instances in this report.

The traffic is not local.

Dr. A. D. Melvin, Chief of the Bureau of Animal Industry, of the Department of Agriculture, states in a memorandum, supplementing what he said before the committee, that "the shipment for slaughter of very young calves in interstate commerce has grown into a practice. The reports of department agents and officials of State sanitary live-stock boards, and of the State and National live-stock humane associations, show that shippers of live stock take young calves, not yet weaned and therefore incapable of taking any other kind of nourishment than milk, separate them from their mothers, and ship them to distant points in interstate commerce. At the time of slaughter these young animals have often been separated from their mothers for three or four days, or more."

In his memorandum, Dr. Melvin refers to reports of department agents, some of which are as follows:

"The opinion of Mr. Frank Burke, of Niles, Mich., a well-informed stockman, who expresses the hope that something will be done to put a stop to the cruelty practiced in the shipment of young calves in interstate commerce, is typical of the position of a great many other shippers.

"Another well-informed shipper cites a not uncommon case, in referring to a shipment of calves 3 weeks old from southwestern Michigan to Buffalo. These calves could take no food except from their mothers, and were separated from the cows and sent on the journey, which took 48 hours or longer. They reached their destination nearly dead. The following quotation from a letter from Dr. Francis H. Rowley, president of the American Humane Education Society, to the Assistant Secretary of Agriculture, describes the cruelties incident to the shipment of very young calves:

"'The difficulty is that these many thousands of young calves which have been shipped into Massachusetts in crates from New York State, where they can only be shipped to be used for dairy purposes, are shipped here to some of our most disreputable butchers and consigned to them as dairy companies. It seems to me that this shipping of them under false pretenses must be a flagrant violation of interstate regulations at least. They are brought from New York State into Massachusetts under an absolutely false pretense, shipped, for example, to the Tom Keenan Dairy Co., when Tom Keenan is as innocent of any purpose connected with them, except to slaughter them, as possible.'

"The following quotations from reports of inspectors of the department regarding the shipment of very young calves are also pertinent in this connection:

"Under date of January 3, 1911, Dr. B. P. Wende, inspector in charge, Buffalo, N. Y., says:

"'Such animals are not given any more consideration with respect to feed, water, and rest than other animals, and have often been confined in cars without feed, water, and rest from 38 to 45 hours when unloaded at these yards.'

"Dr. James S. Kelly, inspector in charge, Cleveland, Ohio, under date of April 4, 1911, writes as follows:

"'On yesterday, April 3, there were several mixed shipments of live stock at the Cleveland Union Stockyards from points in Michigan. Among these shipments were a number of very young veal calves. The Cleveland city inspectors tagged out some 40 or 50 which apparently ranged in age from 8 to 14 days, and which were too young to slaughter under the city code. Not being able to slaughter these calves in Cleveland, they were bunched together with others, by Bower & Bower, live-stock commission men, for shipment to Armour & Co., Pittsburgh, Pa.'

"In this connection it should be stated that the establishment at Pittsburgh to which the calves were shipped was not under inspection by the Department of Agriculture."

Here is a letter which Dr. Melvin read to the committee:

"This is a letter written by our inspectors at Worcester, Mass. It is addressed to me.

"'For your information I wish to advise you that N. Y. C. car No. 26297, containing approximately 140 calves, 5 cows, and a bull, shipped March 23, 1912, from New York, consigned to J. Malone, Providence, R. I., in care of New York Central and B. & R. R., 28-hour limitation, was reported as fed and watered at Albany March 25 at 2 p. m., and arrived at Worcester at 11.30 a. m., March 26, and was transferred to N. Y., N. H. & H. yards at 12.30 p. m. on March 26. There was from March 23, 1912, to March 26, noon, and it was unloaded and fed and watered at 1.30 p. m. At the time of unloading we found 17 calves in one cow bin. Many calves were in a semiexhausted condition and, in my judgment, many calves were not over 10 days old, and the cows were in a very good condition and were nearly exhausted from being nursed by so many calves. The stock was unloaded in the N. Y., N. H. & H. yards and fed, and the dead ones removed. Ten cans, containing 85 quarts of milk, was given to the calves, some of which were too young to drink. The calves were reloaded at 6.30 p. m. at Providence, the remaining four cows and the bull were loaded into a separate car and shipped also.'

"I could have brought up a large number of letters similar to that; but I do not think it is necessary. There is a very great cruelty that ought to be abated in some way. If the States will not do it, the Federal Government ought to do it. That is about all the testimony that I care to give."

Dr. Melvin mentions many other instances, and closes his memorandum with this recommendation:

"From consideration of the whole subject it is apparent that the enactment of a statute prohibiting the shipment of immature calves in interstate commerce is needed in order to prevent the excessive cruelty which is now being practiced. The department is unable to recommend prosecution unless the stock are confined in transit beyond 28 hours without water, feed, or rest, or unless an attempt is made to slaughter immature calves at any packing establishment where Federal inspection is maintained. While both these statutes in respect to immature calves are being enforced rigidly by the department, it is clear that additional legislation is needed in order to prevent the cruelty which is still being practiced."

As bearing upon time in transit, Dr. Melvin testified (hearings, p. 18):

"This applies to the time that they are in transit. There is possibly half a day to a day before the calves are loaded, and that much time elapses, perhaps, after they are unloaded, so that even when you get

the 28-hour proposition, that can be extended to 36 on the written request of the shipper. Then add this additional time before loading and after loading to that 36 hours and you have got two or three days where the animals are absolutely without anything to eat. They want to eat and can not eat, because they haven't learned how to eat, and that pretense that they go through of feeding them is a mere farce."

THE PUBLIC HEALTH.

As to the danger to the public health from the eating of the meat of these calves, we quote Dr. Rowley, as follows:

"I have here a letter from Dr. Butler, of the Suffolk District Medical Society. This is the leading medical society of Boston. He says:

"'Our committee believes that the weight of evidence is in favor of an age limit for the sale of veal, and not a weight limit, as we favor legislation along these lines.'

"To defeat the law, some of the butchers want to make it a weight limit of the calf and not an age limit.

"Dr. A. T. Cabot, of Boston, writes me:

"'I am quite willing, in view of the authorities that you cite, to express my conviction that "bob veal" is unsuited for human food.'

"Dr. Herbert Clapp is certainly one of the leading physicians of Boston, and he says:

"'During the years of my practice I have seen quite a number of cases of sickness produced by eating veal from immature calves, and some of them were very severe. I think there should be very stringent laws against slaughtering for food calves during the first few weeks of life (no matter what they weigh), not only because their flesh may be poisonous, but also because to most people who know anything about it the very idea is repulsive.'

"Dr. Eliot, the former president of Harvard College, when he heard of our contention, wrote me:

"'The bill introduced into the Massachusetts Legislature to allow the sale of any calf that will weigh 40 pounds dressed gives no security against the abominable cruelty of taking a newborn calf away from its mother, depriving it of all food, shipping it on long railroad journeys in crowded cars exposed to any extremes of heat or cold, and selling it for human food in this starved and agonized condition. Independently of the question of the wholesomeness of such meat, I think a civilized community has a right to prevent any buying and selling for a money profit which involves such cruelty. Moreover, I can not but think that consumers ought to be protected against all chance of eating the meat of any animal which has been in torment for many hours before the moment of killing. Man is by no means the only animal in which suffering and terror set up toxic processes. The fact that thorough cooking may destroy the germs or poisons in a raw food does not invalidate the instinctive and reasonable objection to food which was noxious when raw. We all vastly prefer as food milk, meats, cereals, vegetables, and fruits which are pure and sound, and always have been, to the same materials in which impurity and rottenness have been artificially corrected or rendered imperceptible; and this preference is wise.'

"Mr. ESCH. Do the medical authorities find that the eating of 'bob' veal leads to ptomain poisoning?

"Dr. ROWLEY. Yes; the sickness that results could be so called. May I quote to you a paragraph or two from the Department of Agriculture, which has been sending to me articles on this very question. This is on the health condition—on the quality of this food as food or unfit for eating:

"'"Bob veal," or the flesh of immature calves, is objectionable on esthetic grounds and prohibitive from a hygienic standpoint. It is repulsive in appearance, owing to the water-soaked condition of the flesh and fat. This condition is due partly to the abundance of water, producing a dropsical condition of the connective tissue constituents, and partly to the presence of certain metabolic products in the tissues which are produced in the fetus as the result of tissue changes or metabolism, and which are cleared away and carried off some time after birth, owing to the purgative properties of the colostrum in the milk of the mother.

"'Besides reducing its nutritive value, the presence of the greatest amount of water acts also as a good media or fertile soil for germs, and not only lessens the keeping quality of such meat but actually enables the formation of ptomaine poisons, bacterial toxins, tox-albumins, and toxic substances which the unsuspecting purchaser of such meat can not detect. As a consequence of eating such flesh profuse and sometimes fatal diarrhea may develop in the consumer, as has been shown in literature. Meat-poisoning bacilli find a ready media for luxuriant growth in "bob-veal" carcasses even at low temperature.'

"Now, at the time I published this in a Boston paper a Boston physician came into my office and said:

"'Last night a patient of mine died. I am perfectly convinced, from eating "bob veal." She ate very heartily, and at 10 o'clock she became very ill, and she died before morning.'

"There are a number of other quotations here to the same effect. I have also a translation from a distinguished German authority, in which bears out the same statement—that the flesh of these prematurely born calves comes under the head of 'spoiled foods' and is not to be eaten."

The following statement bears upon the methods by which this meat enters into human consumption:

"The following are two instances which I quote from a report given me by the New York State department of agriculture: On March 29, 1911, 90 carcasses of calves and 5 barrels of parts of calves, head, liver, etc., were seized. This consignment was made by one George May. Also, April 8, 1911, the department seized 15 boxes and 4 barrels containing boned-out meat of immature calves. These boxes weighed 50 pounds apiece. The consignment was made by T. Morey, Middleville, N. Y.

"The absolute truthfulness of the following I can not vouch for, but a friend of mine asked a large dairyman how he got rid of his newborn calves. The answer was: 'Why, there is a chicken-canning factory not far from my farm.' I can vouch for the statement that many small boxes have been seen by our agents carried away from places where it has been known these little calves were slaughtered. While we had no right to open the boxes, we were morally certain they contained the carcasses of these little calves boned out." (Hearings, p. 87.)

It appears that the meat of these calves is "blown up with compressed air" to deceive the public.

The hide is sold for a dollar or a dollar and a half.

The liver is sold for about 60 cents.

The sweetbreads for about 50 cents.

The stomach for about 15 cents.

And that when the meat is not sold openly as fit for food it is "boned out" and sold for sausage and canned chicken.

TRAFFIC CRUEL AND MEAT UNFIT FOR FOOD.

The issue upon this bill is not as to the cruelty of the traffic.

All the witnesses who appeared before the committee agreed that the traffic is cruel.

The issue is not as to the unwholesomeness of the meat and its danger to the public health.

All the witnesses who appeared before the committee admit that the meat is dangerous to health, and all admit that the traffic is disgusting.

Mr. Boshart, who appeared against the bill, said:

"I am not here to argue anything about the immature—this so-called immature bob veal.

"Mr. HAMILTON. You do not defend that?

"Mr. BOSHART. I won't defend that in any way. I am here to defend an honest industry that not only exists in New York State but in every State surrounding it. I know this traffic has gone on, and I am not here to defend it. I am against it.

"Mr. HAMILTON. I am glad to hear you say that.

"Mr. BOSHART. They are virtually helpless in the State of Massachusetts to stop the transportation of these immature calves. I will tell you just what it is:

"Mr. DRISCOLL. What is that?

"Mr. BOSHART. I do not know much about these conditions, but the bill is all right if it will stop it. I should stop it, and if you people here in Washington deem it proper that this system should be stopped you will stop it, and you will stop it with the four weeks' limitation carried on the statute books." (Hearings, pp. 44–45.)

Mr. Vary, who appeared against the bill, said:

"Now, so far as I know, none of the men who are here with me stand for shipping immature veal. We are against it, but we do believe veals are mature and fit for food and that they are at the same time better veals at 4 weeks of age than they are at 6." (Hearings, p. 46.)

"Mr. HAMILTON. Isn't it customary in certain parts of your State, as well as other States—this practice isn't confined to one State—to let the cow have the calf primarily for the production of milk, the object being to get rid of the calf as soon as possible?

"Mr. VARY. The sooner you can get rid of the calf under those circumstances the more profit there is in it.

"Mr. HAMILTON. Isn't it true that in many parts of the country they sell the calf very soon because the calf is in the way, and what they want the cow for is to have a supply of milk?

"Mr. VARY. That is, in different sections some do that.

"Mr. HAMILTON. Isn't it from that very very custom that this cruel custom of shipping immature calves arises?

"Mr. VARY. I am not defending that custom at all. That may be. We are against the shipment of immature calves. We are always against it. I speak for the New York State Grange, and also for the department of agriculture in our State. We are against that, and favorable to any reasonable proposition that tends to do away with it. All we ask is that you fix the age limit at 4 weeks instead of 6, and we will be perfectly satisfied." (Hearings, p. 48.)

Senator COBB, of New York, who appeared against the bill, declared against the traffic.

"Mr. HAMILTON. As bearing upon your reply to Mr. Martin, I hold in my hand a letter from Hon. James Wilson, Secretary of Agriculture, and I would like to have you state whether you agree with his conclusion.

"Mr. COBB. I have heard that read. I am just as much against it as you are.

"Mr. HAMILTON. I understood you to say that you were able to take care of the cruelty end of it, if I quote you correctly? You agree with that, then?

"Mr. COBB. There is no one who would do more to prevent abuses than we would.

"Mr. GORDE. I would be glad if Mr. Hamilton would read the whole letter.

"Mr. COBB. I do not want to rest here and have it understood for a minute that we feel that the Secretary is in favor of permitting cruelty in shipments, or anything of the kind. He wants to do everything he can to stop it, the same as we do.

"Mr. SIMS. It is a cruelty to the people who eat these calves more than the cruelty to the animals. I do not want to eat the immature things. If they are sold people will buy them and eat them. The public health is what I am considering more than anything else." (Hearings, p. 59.)

Mr. GEROW, of Washingtonville, N. J., who appeared against the bill, said:

"Mr. GEROW. Of course I think that I voice the sentiment of the farmers, and I think that New York State has been foremost in advocating a pure-food law and doing everything they can to held the consumer in that way. I think that is the past record of the New York organization of farmers. We want to sell no goods that are objectionable.

"Mr. HAMLIN. I got that impression from the testimony before this committee, that a great many calves shipped to New York and Boston were not taught to eat, did not know how, and they came into Boston or New York in a starved condition, absolutely unfit for food.

"Mr. HAMILTON. And several of them died.

"Mr. DRISCOLL. They were very young calves.

"Mr. GEROW. They were bob veals, were they not?

"Mr. HAMLIN. I presume they were.

"Mr. GEROW. We are not asking to ship bob veals.

"Mr. HAMILTON. I understand you are not in favor of that?

"Mr. GEROW. We do not like it."

Mr. J. G. Curtis, Union Stock Yards, New York, who runs a dairy farm and is also engaged in the live-stock commission business, testified as follows:

"Mr. HAMILTON. You do not bother to teach the calves to drink? I suppose on your farm there are produced—about how many calves will there be produced by the 1st of June?

"Mr. CURTIS. Forty or fifty.

"Mr. HAMILTON. Forty or fifty calves. It would be quite a job to teach them to drink.

"Mr. CURTIS. We do not attempt it.

"Mr. HAMILTON. So, after all, it comes to a commercial proposition; you dispose of those calves as soon as you can. They are not taugh to drink?"

Mr. Saunders, a live-stock commission merchant, of Jersey City, N. J., who appeared against the bill, testified as follows:

"Mr. SAUNDERS. Some claim 2 weeks old. You can get a calf 2 weeks old heavier than one 3 weeks old.

"Mr. HAMILTON. Are you prepared to argue that a calf a week old, if it should be shipped from some point in Michigan to Cleveland, being

obviously unable to take any nourishment, and should be held in Cleveland without any nourishment, and finally shipped down to Armour & Co., at Pittsburgh, Pa., and there slaughtered—are you prepared to say that the flesh of that calf is fit for human consumption? Even if you are unwilling to take into consideration the suffering of these poor animals, are you willing to say it is fit for human consumption?

"Mr. SAUNDERS. I am willing to say it is not.

"Mr. HAMILTON. Are you willing to say it is not cruel? You would say it was cruel to the calf, would you not?

"Mr. SAUNDERS. Yes; certainly, to a week-old calf.

"Mr. HAMILTON. To a 2-weeks-old calf?

"Mr. SAUNDERS. It would be cruel; you know what I mean. It is cruel to load any of these cattle in a car. It is cruel the minute you take these cattle away from their homes, for that matter, whether they are 2 weeks old, 2 years old, or 4 years old. It is cruel the moment you take any of these cattle or sheep and put them in the car, and I am not trying to make you people believe it is not cruel to crowd these cattle in the cars; but I do tell you gentlemen the improvements in this business the last two years have been so great that one not in the business would not believe it."

It is clear from the testimony that if 24 hours in transit were permitted, the entire time between the separation of the calf from its mother and its slaughter would be not less than 50 hours, and would probably be nearer 36 hours, because of the time consumed in getting the calf from the farm to the place of loading and the time consumed at destination after unloading and before slaughter.

After the testimony upon the bill as originally introduced had been heard, the first section was changed by adding at the end of the section these words:

"*Provided*, That the Secretary of Agriculture may make rules and regulations permitting, in cases of emergency only, the shipment in interstate commerce of live calves less than 6 weeks old; and the Secretary of Agriculture may also permit, under such restrictions as he may deem proper, one shipment in interstate commerce of live calves less than 6 weeks old, and over 3 weeks old when the entire time consumed in such interstate shipment to final destination, including time of loading and unloading, does not exceed 12 hours."

After making this change, the bill was ordered by the committee to be reported favorably.

Mr. McCONNELL, secretary of the Tri-State Live Stock Association, which covers northern Indiana and Ohio and southern Michigan, testified as follows (hearings, p. 76):

"Mr. McCONNELL. Our calves there are usually held about five weeks. I personally and our shippers there will not buy anything unless it is first-class veal; in fact, not 1 veal out of 50 I ship but sells at the top of the market. Most of the farmers in Hillsdale market and through there prefer to make a calf prime before they let it go, and that takes four or five weeks; they do not like to hold them over five weeks; but they hold them from four to five weeks and make the calf weight 150 to 180 pounds in that time, where they have grade mothers; that is home weight; a Jersey cow will not do it.

"Mr. HAMILTON. Then, if this bill prescribed that calves should not be shipped under 4 weeks old, it would conform to your views, would it not?

"Mr. McCONNELL. It would; yes, sir.

"Mr. HAMILTON. What would you say about five weeks?

"Mr. McCONNELL. It would not be so much of a hardship with us, although here is a question to decide. Gentlemen, I confess I think a calf 3 to 3½ weeks old, 3 weeks old more particularly, could be distinguished quite readily; after they got up much beyond 3 weeks, I think it would be hard for anybody to tell their age up to a certain point."

The issue is not as to the cruelty of the traffic or as to its danger to health. It is admitted by everybody that the traffic is cruel and that the meat is unwholesome, but it is claimed that the age limit should be 4 weeks instead of 6 weeks, and that the time of transit should be at least 24 hours.

The case is summed up in a letter of Dr. W. O. Stillman, president of the American Humane Association, printed on pages 87 and 88 of the hearings, as follows:

THE AMERICAN HUMANE ASSOCIATION,
Albany, N. Y., April 24, 1912.

Hon. EDWARD L. HAMILTON,
Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. HAMILTON: I understand that a hearing was given before the House Committee on Interstate and Foreign Commerce on April 10, 1912, in regard to the "bob-veal" bill, H. R. 17222. I am also informed that representatives of dairy farmers from New York, Indiana, and Michigan appeared against the bill.

The contentions of those appearing against the bill, it is said, were—

First. That a 6-weeks age limit would be unreasonable, and that 4 weeks would be sufficient.

Second. That the practice of shipping immature calves is a local matter and confined largely to New York State and Massachusetts, and that the conditions complained of should be cared for in each State and regulated only by local laws.

Third. That immature calves do not suffer greatly in being shipped to market and that there is a very small loss from either injury or death.

In reply to these claims this association respectfully submits—

First. That where the 4-weeks age limit holds large numbers of calves are shipped much under that age and anywhere from 1 to 2 weeks old, or even younger. The constant tendency seems to be, according to the experience of our anticruelty societies, to evade the 4-weeks limit and send the calves to market as soon as possible, for obvious reasons.

From our experience with the 4-weeks limit we are convinced that a 6-weeks limit is positively required and would practically result in large numbers of calves being shipped at considerably under the 6-weeks limit, making the age in actual practice much nearer 4 weeks than 6. In other words, it is desirable to have the limit at least 6 weeks in order to prevent the shipment of calves much under 4 weeks of age.

We claim that a 6-weeks limit is not unreasonable, as the shipment of younger calves is much more likely to be injurious for human consumption, and, furthermore, that it is constantly found in practice that it is the younger calves which are apt to die during transit from starvation and weakness. We submit that this is only reasonable and self-evident.

Second. In regard to the second point we submit that the shipment of immature calves is not a local matter, confined to any one section, but that it is an abuse which exists everywhere that dairy farming is practiced, as a natural result of the desire to sell the cows' milk as promptly as possible for the increased profit which accrues. Many States have failed to pass laws satisfactorily regulating the shipment and sale of bob veal, and if they did have such laws they would not reach the interstate-shipment abuses. The contention that such cruelty should be controlled under State laws does not work out satisfactorily, even where the State laws are considered efficient.

For instance, under the New York agricultural law, chapter 1, section 106, entitled "Shipping, slaughtering, and selling veal for food," calves under the age of 4 weeks "can not be shipped or killed for food even when they are accompanied by their dams to the point of destination." There is, therefore, an absolute prohibition to the sale of bob veal. An energetic attempt having been made to invoke this law to prevent an interstate shipment of bob veal, the case was submitted to the attorney general of New York, whose opinion was, in part, as follows: "I find no authority in this provision of the law or elsewhere that would justify the commissioner of agriculture seizing shipments of calves destined to a point outside the State. * * * The shipment there referred to must be construed as meaning shipping for the purpose of killing within the State, and can not refer to the shipping of calves without the State, as the legislature has no authority to prohibit such shipments."

If the allegation is true that this is only a local abuse, peculiar to New York and Massachusetts, why should farmers be present from Indiana and Michigan in opposition to this bill, and why should the American Humane Association receive complaints from many remote sections of the United States concerning such abuses?

Third. In regard to the allegation that the shipment of immature calves to market is not associated with any great suffering on their part, I must say that an experience of nearly 20 years in enforcing anticruelty laws, of which about 7 have been connected with the American Humane Association, goes to show that such shipments are attended with frightful cruelty. I note that the evidence brought out during the farmers' hearing in opposition to the bill showed that calves, in interstate shipments, sometimes went as long as 40 hours without food or water. Is this not sufficient evidence that young and unweaned calves should be absolutely excluded from interstate shipment for market, and that the calves should be allowed to reach an age when they are stronger and have more resisting power? The constant tendency has seemed to be, on the part of shippers of veal, to try to crowd under the age limit just as far as possible without detection and punishment, although in some instances, particularly in the West, much older calves are frequently shipped.

In conclusion, the American Humane Association would respectfully urge that the shipment of unweaned calves and those under 6 weeks of age must necessarily be fraught with great cruelty and suffering, and that the use of the flesh of such calves for human consumption carries with it serious danger; that this abuse is found in every State where extensive dairy farming is carried on, and that it will spread with the development of the country; that in order to supply the enormous amount of veal consumed in large cities, amounting, it is claimed, to 215,000 calves per year in New York City alone, that such calves must necessarily come from long distances, and therefore be subject to interstate traffic regulation, if regulated at all; that there are no Federal laws at present which may be invoked to prevent this cruel and dangerous traffic; and that with Congress lies the power and the responsibility to relieve the condition which has become at once dangerous and intolerable.

Earnestly soliciting your support of this bill, I am,

Very truly, yours,

W. O. STILLMAN, *President.*

Mr. MICHAEL E. DRISCOLL. Mr. Speaker and gentlemen. I wrote the views of the minority on this bill, and if you will give me your attention for about five minutes I will tell you why we were opposed to it.

In the first place, it was not necessary for the gentleman from Michigan [Mr. HAMILTON] to harrow your feelings or turn your stomachs on the "bob veal" part of this proposition, because it does not apply; because all the evidence before the committee applied to very young calves, a day old or less than a week old; and we agree with the gentlemen that a law should be enacted to prevent the transportation of that class of calves.

Mr. HAMILTON of Michigan. Will the gentleman yield?

Mr. MICHAEL E. DRISCOLL. I prefer not to yield at this time.

Mr. HAMILTON of Michigan. The gentleman has made a broad statement.

Mr. MICHAEL E. DRISCOLL. If you will allow me to talk five minutes first, then I will yield.

Mr. HAMILTON of Michigan. The gentleman is mistaken in his statement, that is all.

Mr. MICHAEL E. DRISCOLL. Why do we object to this bill? We said to these gentlemen before the committee, and I have said time and again to the gentleman from Michigan, that if he would consent to an amendment making it four weeks instead of six weeks the farmers of New York, the grazing people of New York, would all be with him for the enactment of this law.

Mr. HAMILTON of Michigan. I am willing the gentleman should offer his amendment reducing the time to four weeks and let the House determine.

Mr. MICHAEL E. DRISCOLL. Here is the situation with reference to the State of New York: The Vermont law provides that calves 4 weeks old are fit for veal. The law of Massachusetts makes the same provision. The law of Connecticut has the same provision, that calves 4 weeks old or older are fit for food. The law of New Jersey makes the limit three weeks. The United States Department of Agriculture puts its stamp of approval on veal of calves 3 weeks old or over.

Mr. HAMILTON of Michigan. Where?

Mr. MICHAEL E. DRISCOLL. It allows that veal to go into interstate commerce.

Mr. HAMILTON of Michigan. Where?

Mr. MICHAEL E. DRISCOLL. I object to these interruptions for the moment.

The SPEAKER. The gentleman from Michigan will not interrupt the gentleman from New York without his consent.

Mr. MICHAEL E. DRISCOLL. As I say, the limit in New York is four weeks. Now, what is the result? The New York Central Railroad tracks run easterly and westerly through the State of New York from Albany to Buffalo and down to the city of New York east of the Hudson without crossing any other State line. Therefore the farmers of New York who ship their calves to New York City by the New York Central road can send them there at 4 weeks of age, but the man from the western or southern part of the State who wants to send his calves to New York by the West Shore, the Delaware, Lackawanna & Western, the Erie, or the Pennsylvania, all of which cross State lines into either New Jersey or Pennsylvania, and therefore shipments over those lines go into interstate commerce, can not ship them under 6 weeks of age.

The man east of the Hudson or between Buffalo and Albany can ship his calves into New York City at 4 weeks of age. The man who ships them by the West Shore road can not ship them under 6 weeks. Is that fair to the farmers of New York? Is it fair that the man from one section may send his calves to New York City at 4 weeks while the man from another section can not send them at less than 6 weeks? We say it is not uniform, we say it is not fair, we say that the 4-weeks' law accomplishes just what the humane society wants. Dr. Rowley, of Boston, and Mr. Coleman, and the others all said that if the calves were 4 weeks of age there would be no complaint, because a calf which is well fed on sweet milk until it is 4 weeks of age becomes prime veal, whereas if they try to feed it sweet milk until it is 6 weeks old it is more expensive. The value of the milk it drinks is greater than the value of the flesh it puts on in those intervening two weeks. Therefore it does not pay to feed a calf all the sweet milk it will drink until it is 6 weeks old, as compared with feeding it until it is 4 weeks old and then butchering it. It is the best veal and it is the most profitable way to dispose of the calves. These humanitarians said that if calves were four weeks old before they were shipped there would be no complaint. They said that so far as they knew a calf 6 weeks of age would suffer as much as a calf 4 weeks of age. Therefore, in order to satisfy these people on this technicality, you want to change the law and make it different from the laws of all the States of the Union and put a part of New York State under one law and a part under another law with two weeks' difference in the age limit. The representatives of the humane society said that if the law providing that a calf should be 4 weeks old were enforced, they would be satisfied, but because they thought it might not be strictly enforced they wanted to make it 6 weeks in order to have two weeks' leeway.

I stand here demanding equality for all the farmers of New York. I stand here opposed to a law which will let the New York Central ship calves to New York City at the age of 4 weeks, when the West Shore, the Erie, the Pennsylvania, and other roads can not ship calves to New York at less than 6 weeks of age.

The SPEAKER. Is there objection?

Mr. BURKE of Pennsylvania. I understand the gentleman from Michigan is willing to have the bill amended.

Mr. MICHAEL E. DRISCOLL. If the gentleman will consent to a change from 6 weeks to 4 weeks we will not oppose the passage of the bill.

Mr. HAMILTON of Michigan. Will the gentleman permit an answer?

Mr. MICHAEL E. DRISCOLL. The gentleman can answer that yes or no.

Mr. HAMILTON of Michigan. But I am not prepared to permit the gentleman from New York to direct how I shall answer.

Mr. BURKE of Pennsylvania. If the gentleman is not willing to have the bill amended, I object.

Mr. MICHAEL E. DRISCOLL. I object.

The SPEAKER. The gentleman from New York and the gentleman from Pennsylvania object, and the bill will be stricken from the calendar.

Mr. MICHAEL E. DRISCOLL. I will print as a part of my remarks the views of the minority.

The views of the minority are as follows:

VIEWS OF THE MINORITY.

The undersigned members of the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 24927) to regulate the interstate transportation of immature calves, which bill has been reported favorably, beg leave to submit herewith our views in opposition to the enactment of said bill into law in its present form.

The report raises and accentuates an issue which does not exist between the majority and minority members of the committee, or between the humane societies and the agricultural organizations. We wish to make it clear at the outset that we favor the bill if the age limit of "6 weeks" is changed to "4 weeks," and we hope that those who read the report and the minority's views will constantly bear this in mind.

The report says:

"This bill is designed to prevent cruel, disgusting, and dangerous traffic—cruel to animals, dangerous to human health, and disgusting in its revelation of cheap and nasty cupidity in perpetrating upon unsuspecting consumers food unfit for human consumption."

About half of the report is given to prove that very young calves have been shipped in interstate commerce in a cruel manner. That is principally made up of extracts from the hearings, some direct statements and some hearsay, but all tending to show that very young calves have been subjected to cruel treatment in transportation. All this could as well have been omitted from the report; for, while we do not know whether or not these statements are true, we do not deny them, and are ready to join hands with the majority in preventing such practices in the future.

Practically all the balance of the report is given to proof that "bob veal" is unwholesome and unfit for food. Again we agree with the majority, and all the men who appeared at the hearings in opposition to this bill in its present form agreed with the humane societies that the veal of immature calves should not be sold for food. The majority report quotes from the evidence of Mr. Boshart, Mr. Vary, Senator Cobb, Mr. Gerow, Mr. Curtis, Mr. Saunders, and Mr. McConnell, all of whom appeared in opposition to the 6 weeks limit in this bill, and all of whom condemned the practice of selling for food the meat of immature calves, and all of whom stated that calves well fed on sweet milk to the age of 4 weeks make prime veal, which brings the highest price in the market because it is the best veal.

There was no real contention on the facts between those who advocated and those who opposed this bill in its present form. Both groups of men—those who represented the humane societies and those who represented the agricultural organizations—asserted that very young calves should not be permitted to enter interstate commerce or any other commerce. Both asserted that the meat of such calves is unfit for food, and both agreed that the practice should be stopped, to avoid unnecessary suffering of calves and to protect the public from unwholesome and dangerous "bob veal."

In view of this agreement and mutual desire to accomplish the same end, all of the report except the Stillman letter is entirely immaterial so far as the real issue here is concerned, unless the intention is to harrow the feelings and turn the stomachs of those who read it, prejudice their minds, and unfit them to give the bill and the proposed amendment fair and impartial consideration.

What is the difference between the humane societies and the practical dairymen on the question of this proposed legislation? It is two weeks in the age of calves. The humane societies say that calves should be 6 weeks old before they are admitted to interstate commerce, and the dairymen say that calves 4 weeks old or older should be admitted to such commerce. Which view is the reasonable and practicable one and the one which should be enacted into law? Read the report and the hearings so far as they bear on the question of cruelty, and you will find that practically all the cases cited and all the evidence refer to very young calves, from 1 day to 1 week old. One or two references are made to calves from 1 to 2 weeks old, but not one case is cited of cruelty to a calf 3 weeks old or older. Then read the report and the hearings and you will not find one word or suggestion that the meat products of well-fed calves 4 weeks old are not palatable and wholesome food.

No point was made in the hearings that calves 4 weeks of age suffer more in transportation than do calves 6 weeks of age. In the transportation of live animals of any kind suffering can not be avoided. When a calf is taken from its dam both suffer. When a calf of any age is taken from the farm, put into a jolting wagon, thence into a jolting freight car and transported many miles, it suffers pain and privation. Every animal that is slaughtered suffers pain and death; and yet butchers are not held to be guilty of cruelty to animals. According to the law of creation and existence the weaker animals furnish food for the stronger ones, and all the lower animals, directly or indirectly, contribute toward the comfort, enjoyment, convenience, and support of man.

The primary definition of "cruel," according to the dictionaries, is:

"Disposed to hurt or to take pleasure in the hurt of others; inhuman, unfeeling, hard-hearted; void of pity or feeling for others; savage."

And the primary definition of "cruelty" is:

"A cruel disposition or temper; a disposition to take pleasure in inflicting pain or hurt on others, or in looking at the pain of others."

If the humane societies are opposed to inflicting pain and suffering on animals, then, to be consistent, they should not only preach but also practice strict vegetarianism.

We submit, therefore, that the bill, with the proposed amendment changing "6 weeks" to "4 weeks," will accomplish all that the humane societies demand to protect very young calves from unnecessary suffering and to protect the public from the consumption of unwholesome veal.

Most of the evidence before the committee was directed against the practice of shipping very young calves from the State of New York to the State of Massachusetts, where they were butchered and the content sold for food. A few references were made to this practice in other parts of the country, but the real grievance was based upon the interstate commerce in those calves between New York and Massachusetts.

Dr. Francis H. Rowley, of Boston, who had charge of the bill in behalf of the humane societies, admitted that if such a law as is here proposed by the agricultural organizations of the country were enforced it would accomplish all that he demanded or expected in the protection of very young calves from cruel treatment and in the protection of the public from "bob veal." He said (hearings, p. 12):

"We have a law in Massachusetts that I think would control it if we could enforce it. We have two statutes on our books. One says, 'No calf shall be sold for food under 4 weeks of age,' and we have another that says that 'if a calf when dressed will weigh 40 pounds, with 2 pounds allowed for shrinkage overnight'—that is, 38 pounds—'it may pass inspection.'"

It is manifest that, if those provisions of the Massachusetts law could be enforced, Dr. Rowley would not come to Congress for Federal legislation; that he has applied to Congress for this legislation because he admits that Massachusetts is unable to enforce its law.

When pressed for an explanation why he came to Congress instead of protecting the calves and the people of Massachusetts by State legislation, he said (p. 12 of the hearings):

"I am sorry to answer that Massachusetts is not up to New York State. For two years, in the public press and in every possible way,

I have tried to force upon the Boston Board of Health and the State board of health the necessity for action, and it can not be done at the present time. Massachusetts is behind, sadly behind, in its legislation in this matter."

Again he said (p. 12 of the hearings):

"The local inspectors in our 400 little slaughterhouses will act on the 28-pound law—when the calf is dressed—and if you try to enforce it on the 4-weeks law they fall back on the statute which says 'if it weighs 28 pounds,' and the local inspector can be induced to put his stamp on it. If we could only stir up the State of Massachusetts to realize this situation, we could do a great deal."

As bearing on our contention that this bill was conceived and drafted, not to stop the sale of calves 4 weeks old, which make prime veal, but to stop the transportation of very young calves under a week old, which would suffer greatly and which are not wholesome food, and to show what was in the mind of Mr. HAMILTON of Michigan, who introduced the bill, conducted the hearings before the committee, and wrote the report, we refer to the hearings, pages 43 and 44.

After the first witness for the agricultural societies of New York, Mr. BOSHART, had stated that he was against the sale of very young calves and was in favor of the strict enforcement of the New York law, which provides that calves under "4 weeks" of age shall not be slaughtered and sold for food, the following colloquy occurred:

"Mr. DRISCOLL. Now, Mr. HAMILTON, can't we agree on four weeks, and not take any more time here? I do not think that anybody will ask for a higher age limit really on the merits. Can't we agree here on four weeks and not consume any more time in this matter?

"Mr. HAMILTON. I want to ask this gentleman a few questions, but perhaps it isn't important to do that.

"Mr. DRISCOLL. A man who is as fair as he is, and wants to do what is fair—

"Mr. BOSHART. We are here to protect an honest and legitimate industry.

"Mr. HAMILTON. The primary purpose of this bill was to prevent, I will say (and I think every member of the committee who has heard the testimony understands it), the cruel and inhuman practice which has grown up of taking calves less than 1 week old, as shown by the testimony, and often as young as a day, and shipping them to Boston, for illustration—that is generally the objective point. Many of them die en route, and some of them arrive at their destination with their stomachs as dry as a powder-horn. The Federal inspection, as this gentleman has said, is recognized to be good and adequate, but the local inspection of Massachusetts is understood to be defective. These calves are consigned under the law of New York for, I have forgotten the term, for agricultural purposes, for farming purposes to Richard Roe or John Doe.

"Mr. DRISCOLL. For breeding purposes?

"Mr. HAMILTON. For breeding purposes; but, as a matter of fact, John Doe, or Richard Roe, is a butcher, and the calves pass inspection, and the livers are sold for about 60 cents and the sweetbreads for something like that, and the hides for something, and the carcasses are then boned and sold for chicken. The testimony is that the meat is unfit for human consumption, and it has produced ptomaine poison, it is said, in some instances. This abuse is not trivial, but runs up into the hundreds of thousands. That is what this bill was introduced to reach."

This statement of Mr. Hamilton clearly indicates what he had in mind when he introduced the bill, and we submit that the bill as modified by changing "6 weeks" to "4 weeks" would accomplish all that he and the advocates of the bill expected or intended to accomplish by it.

The only statement in the hearings that squints toward an argument in favor of the "6 weeks" limit is contained in a letter from W. O. Stillman, president of the American Humane Association, to Mr. Hamilton, dated April 24, 1912, after the close of the hearings before the committee. In considering his letter due allowance must be given to the fact that it is not verified and he was not subjected to cross-examination. It says (pp. 87 and 88):

"That where the 4 weeks age limit holds large numbers of calves are shipped much under that age and anywhere from 1 to 2 weeks old, or even younger. The constant tendency seems to be, according to the experience of our anticruelty societies, to evade the 4 weeks limit and send the calves to market as soon as possible for obvious reasons.

"From our experience with the 4 weeks limit we are convinced that a 6 weeks limit is positively required and would practically result in large numbers of calves being shipped at considerably under the 6 weeks limit, making the age in actual practice much nearer 4 weeks than 6. In other words, it is desirable to have the limit at least 6 weeks, in order to prevent the shipment of calves much under 4 weeks of age."

Mr. Stillman admits that if a law making the age limit "4 weeks" were enforced, it would be satisfactory to the humane societies and accomplish what they want. He urges a "6 weeks" limit in order to have 2 weeks leeway on the theory that the law will be violated and that a "6 weeks" limit loosely enforced will not accomplish any more or even as much as a law with a "4 weeks" limit strictly enforced. We doubt if that is a sound principle on which to base legislation. A provision should not be placed in the statutes unless there is a public sentiment back of it which will insist on its enforcement and approve severe penalties for its violation. We submit that his letter is really an indorsement of our contention for a "4 weeks" limit, severe penalties, and rigid enforcement.

We now submit the reasons why this bill should be amended by changing "6 weeks" to "4 weeks," as urged by the agricultural and dairy associations.

It would tend toward uniformity of law, which always tends toward obedience to the law and uniformity in practice under it.

New York State has a statute which provides that calves under the age of "4 weeks" shall not be slaughtered and sold for food. Massachusetts, Vermont, and Connecticut have statutes to the same effect. New Jersey has a law providing that calves under the age of 3 weeks shall not be slaughtered and sold for food. The Federal regulation provides that the veal of calves of 3 weeks of age or older is fit for food, and puts the stamp of the Federal Government on such product and permits it to go into interstate commerce.

A Federal statute providing that calves under the age of "4 weeks" shall not be admitted to interstate commerce would conform to the laws of the States where the practice of shipping in interstate commerce immature calves has mostly prevailed, according to the hearings, and could be more effectively administered and enforced because of its harmony with the laws which now exist in those States.

Greater New York and the surrounding cities and towns are the great consuming center of the East, and should be given fair consideration in the enactment of all food laws, particularly those which affect the surrounding States. Since none of the States in that part of the country requires that a calf shall be over 4 weeks of age when it may be slaughtered and sold for food, a Federal statute prohibiting a calf under 6 weeks of age from interstate commerce would be very difficult of administration and enforcement because of its conflict with the State laws; and if it were enforced its effect would be to raise the price of food, which is now very high.

This bill with the "6-weeks" limit would be unfair to New York City consumers, and would discriminate unfairly between the farmers in different sections of the State. To illustrate: All farmers in the eastern and northeastern parts of the State could ship their calves to New York City at the age of "4 weeks," because they would go by way of the New York Central and not enter interstate commerce; while all farmers in the southern and southwestern parts of the State could not ship their calves to New York under 6 weeks of age, because they would enter that city by way of the West Shore, Delaware, Lackawanna & Western, the Erie, or Pennsylvania Railroad, and would of necessity pass through Pennsylvania or New Jersey, or both, and would therefore constitute interstate commerce. The Hudson River would be the dividing line. One the east side of that river the law would permit farmers to send calves 4 weeks of age to New York City for food. On the west side of that river they could not send calves of less than 6 weeks of age to New York. Such a law would be manifestly so unfair and unreasonable that the average man might feel justified in violating it. It would not only be unfair, but useless and unnecessary either to protect very young calves from cruelty or to protect the public from unwholesome veal. In that event Mr. Stillman's assumption would perhaps be realized, that the 2-weeks part of the Federal law would become dead and inactive and the "4-weeks" law of New York and all the surrounding States would be respected and enforced.

Representatives of humane societies and societies for the prevention of cruelty to animals may be suspicious because in a multitude of transactions they have discovered some violations of law. Yet we believe that the great majority of men are honest and disposed to obey the law, especially when that law is fair and reasonable and not discriminatory.

It appeared in the hearings, without contradiction, that a farmer would make more money by feeding a calf well on sweet milk till the age of 4 weeks than he would if required to keep it until the age of 6 weeks. Indeed, it was stated that he would lose money on it if required to keep it till 6 weeks of age; that it would consume as much milk during the two weeks from 4 to 6 as during the first four weeks, and that it would not increase in weight accordingly. Further, that it would be apt to lose in quality and selling price. That it would require 40 pounds of milk a day to properly nourish it from the age of 4 to 6 weeks, and that if it did not get all it could drink the veal would become stringy and not as palatable or desirable as if so well fed to the age of 4 weeks and then slaughtered. It was also strongly urged before the committee that if farmers were not permitted to sell their calves for food until 6 weeks of age it would raise the cost of food.

In conclusion we submit that this bill with the amendment proposed by the farmers' associations will, if enacted into law and strictly enforced, accomplish all that the humane societies demand, and it will fully protect the public from dangerous and unwholesome "bob veal." We therefore recommend that the bill as reported should not pass, but that it should be amended by changing the limit of "6 weeks" to "4 weeks," and as so amended be enacted into law.

WILLIAM RICHARDSON.
WILLIAM R. SMITH.
WILLIAM M. CALDER.
M. E. DRISCOLL.

STATEMENT OF HON. H. M. GOLDFOGLE.

Believing that if the limit were fixed at 4 weeks, as it is in the New York statute, and the law strictly and properly enforced, the purposes the framers of the bill have in view would be met, I concur in the recommendation to amend the bill by making the limit 4 weeks.

H. M. GOLDFOGLE.

STATEMENT OF HON. A. J. SABATH.

I am in favor of the principle underlying this bill, as I have always favored, and favor now, humane treatment for our dumb animals. I regret the inhuman treatment that is being accorded to young calves 1 and 2 weeks old during transportation; but I am of the opinion that to prohibit the transportation of calves under 6 weeks old is unreasonable. That, I believe, would preclude the possibility of calves being transported in interstate commerce at all, as no farmer will keep a calf for 6 weeks with profit, unless, of course, he does so for raising purposes. Four weeks would seem to be the proper limitation. With 6 weeks as the earliest period after birth upon which calves could be permitted to be transported in interstate commerce, it would be cheaper for the farmer to kill when a calf was only a few days old and thereby preventing the large centers from securing any veal and also which would also tend to further increase the already high price of meats.

The city of Chicago being the largest center of the meat industry, and one of the largest consumers, would necessarily suffer more than any other city in the Union, for the reason that 90 per cent of the calves that are shipped to that city come from other States, and these shipments would therefore be affected by this act.

A. J. SABATH.

STANDARD BARREL FOR FRUITS AND VEGETABLES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23113) to fix the standard barrel for fruits and vegetables.

The Clerk read the title to the bill.

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent that this bill be passed without prejudice.

The SPEAKER. The gentleman from Ohio asks unanimous consent that this bill be passed over without prejudice. Is there objection?

There was no objection.

AMENDMENT OF MEAT-INSPECTION LAW.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26329) to amend proviso in meat-inspection

law concerning products prepared according to directions of foreign purchasers.

The Clerk read the bill, as follows:

A bill (H. R. 26329) to amend proviso in meat-inspection law concerning products prepared according to directions of foreign purchasers.

Be it enacted, etc., That the proviso in the act entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907," approved June 30, 1906, which reads as follows: "*Provided*, That, subject to the rules and regulations of the Secretary of Agriculture, the provisions hereof in regard to preservatives shall not apply to meat-food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact manufactured, sold, or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of all the other provisions of this act," be, and the same is hereby, amended by inserting after the word "preservatives" the words "and coloring matter," so that said proviso as amended shall read as follows: "*Provided*, That, subject to the rules and regulations of the Secretary of Agriculture, the provisions hereof in regard to preservatives and coloring matter shall not apply to meat-food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of all the other provisions of this act."

The SPEAKER. Is there objection?

Mr. FOWLER. Mr. Speaker, reserving the right to object, I desire to ask the author of the bill if it is not a fact that in coloring oleomargarine a chemical is used?

Mr. MANN. This bill, if passed, would permit a mineral chemical to be used in coloring oleomargarine where it was so ordered by the foreign purchaser, but it could not be used in oleomargarine manufactured and sold in the United States and could not be used if forbidden by the country to which it was exported.

Mr. FOWLER. Can the gentleman give any reason why the United States refused to permit a chemical to be used in the coloring of butter or oleomargarine in this country?

Mr. MANN. I understand the department holds that the use of chemical dyes is deleterious to health.

Mr. FOWLER. In the gentleman's opinion, is the dye deleterious to health which will be necessary to color the oleomargarine provided for in this bill?

Mr. MANN. I do not think that it is.

Mr. FOWLER. The gentleman does not agree, then, with the pure-food authorities of this country?

Mr. MANN. Well, there is a wide difference of opinion; some chemical dyes are supposed to be deleterious to health and some are not. When we passed the pure-food law we made special provisions giving authority to use coloring matters which were not deleterious to health, and in some cases they allowed chemical dyes to be used in food.

Mr. FOWLER. I understand in talking with Members interested in this bill that a reddish color is desired to be produced in oleomargarine sold to some islanders.

Mr. MANN. That is correct.

Mr. FOWLER. What chemical could be used to produce a reddish color that would not be deleterious to health?

Mr. MANN. They have a reddish chemical dye which it is claimed by many people is not deleterious to health; and, as a matter of fact, in some of the Lesser Antilles, such as Barbados, they used to purchase from the United States a reddish-colored butter and oleomargarine. That continued, I believe, until about a year ago, when the department made a ruling that they could not use that chemical dye for the coloring of such substances. Since that time we have lost that trade, but they still use the articles purchased in Europe.

Mr. FOWLER. Does not the gentleman think it would be better for the United States to lose the trade which this bill seeks to secure than to authorize the use of chemicals which are deleterious to health?

Mr. MANN. Mr. Speaker, when we passed the pure-food law I suppose that no matter was more thoroughly discussed than was this. We inserted this proviso in the pure-food law:

Provided, That no article shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country and prepared or packed according to specifications or directions of the foreign purchaser when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped.

As a matter of fact, there were various meat articles then being prepared by the use of a preservative which the English purchasers insisted upon and which the English law recognized as proper. It was not intended to permit those articles to be used in the United States, there being a difference of opinion between the scientists of this country and the scientists of England. So we put in a provision that so long as the articles used were not contrary to the laws of the country to which they were shipped and were ordered to be inserted by the purchaser, that that might be done. It leaves it to that country to determine, and the provision in the pending bill would be in the same way. There is a difference of opinion in reference to these things. Besides that, while all preservatives, in my judgment, are in a way deleterious to health, yet in some cases it is far better to preserve food than it is to let it spoil and take the chance of eating it when it is partly spoiled. The use of red coloring matter, chemical dyes, in the Tropics, where they desire red coloring matter, is probably less deleterious to health than the use of putrid butter.

Mr. SLAYDEN. Mr. Speaker, will the gentleman yield?

Mr. MANN. Certainly.

Mr. SLAYDEN. Mr. Speaker, as I understand it, these products are sent from Europe now and are colored with this aniline coloring matter, to meet the demand of the trade in the West Indies.

Mr. MANN. They are.

Mr. SLAYDEN. Does the gentleman know whether there has been any ill effect from the use of those dyes?

Mr. MANN. Oh, they have been using this chemically dyed butter and oleomargarine for years down there. I saw them using it when I was there. I do not know whether it is injurious to them or not. They have not as much vitality as some people in the United States.

Mr. SLAYDEN. Perhaps they are still wrestling with the hookworm.

Mr. MANN. Possibly so. There is no complaint there with reference to that, and without the use of the chemical dyes they can not obtain what they want, so they claim. At any rate, they buy that same product from Europe instead of from the United States.

Mr. SLAYDEN. Mr. Speaker, remembering the yeomen service that the gentleman from Illinois [Mr. MANN] rendered in getting passed that very desirable piece of legislation known as the pure-food law, more properly a truthful labor law, I am almost ready to follow the gentleman blindly in matters of this kind.

Mr. MANN. I never have proposed anything to this body that I thought would put bad food or improperly labeled food upon anyone.

Mr. SLAYDEN. I am quite certain of that.

The SPEAKER. Is there objection?

Mr. FOWLER. Mr. Speaker, still reserving the right to object, I desire to ask the gentleman if he is willing to commit America to a commercial policy which would be detrimental to the health of the people who buy our products?

Mr. MANN. I would not be, I will say to the gentleman very frankly.

Mr. FOWLER. Then, if this aniline dye, or whatever is used for coloring this butter, is deleterious to health, does the gentleman believe it is wise for us to pass such a bill in order to gain the trade of a few negroes in a few of the islands?

Mr. MANN. I do not believe it is deleterious to health. I do not think anyone claims as a matter of fact that it is deleterious to health.

Mr. CARY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Wisconsin makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and one Members present; not a quorum.

Mr. GARNER. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Carter	Focht	Howland
Aiken, S. C.	Claypool	Fornes	Hughes, Ga.
Akin, N. Y.	Conry	Fuller	Hull
Ames	Cooper	Garrett	Humphreys, Miss.
Andrus	Cravens	George	Johnson, Ky.
Ansberry	Crumpacker	Gillett	Kahn
Austin	Curley	Goeke	Kent
Ayres	Curry	Gregg, Pa.	Kitchin
Barchfeld	Dalzell	Gregg, Tex.	Lafean
Bartholdt	Davis, W. Va.	Griest	Lafferty
Bartlett	Denver	Hamill	Langham
Bates	Diffenderfer	Hamilton, W. Va.	Langley
Bathrick	Dixon, Ind.	Hardwick	Legare
Berger	Dwight	Harris	Lever
Boehne	Dyer	Hart	Lewis
Brown	Ellerbe	Hartman	Lindsay
Calder	Fairchild	Heald	Littleton
Campbell	Farr	Heflin	Lloyd
Cantrill	Fields	Hill	Longworth
Carlin	Flood, Va.	Hinds	Loud

McCall	Pujo	Smith, J. M. C.	Underwood
McCoy	Randell, Tex.	Smith, Cal.	Vare
McCreary	Reyburn	Smith, N. Y.	Volstead
McKellar	Richardson	Speer	Vreeland
McMorran	Riordan	Stack	Warburton
Maher	Roberts, Mass.	Steenerson	Webb
Martin, Colo.	Rothermel	Stephens, Nebr.	Whitacre
Matthews	Rucker, Mo.	Sulloway	White
Merritt	Sabath	Taggart	Wilson, Ill.
Moon, Pa.	Saunders	Talbott, Md.	Wilson, N. Y.
Needham	Scully	Talcott, N. Y.	Wood, N. J.
Oldfield	Sells	Taylor, Colo.	Woods, Iowa
Olmsted	Sherley	Taylor, Ohio	Young, Mich.
Palmer	Simmons	Thistlewood	
Parran	Slemp	Townsend	
Patten, N. Y.	Small	Turnbull	

The SPEAKER. On this call 242 Members, a quorum, have answered to their names.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with further proceedings under the call.

The question was taken, and the motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors. Is there objection to the consideration of this bill?

Mr. FOWLER. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois objects, and the bill is stricken from the calendar, and the Clerk will call the next bill.

INTERSTATE TRANSPORTATION OF IMMATURE CALVES.

Mr. ADAMSON. Mr. Speaker, before we get too far away from the dead-calf question I want to make a request. I desire permission to extend my remarks on the subject, in order to show that if the people up there can not protect themselves against these dead calves we ought to make beef cheaper——

The SPEAKER. The question is not debatable. The gentleman from Georgia asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. ADAMSON. Then I will put it in; I will say it anyhow [laughter]—by prohibiting the slaughter, shipment, and sale in interstate commerce of calves before they are large enough to make beef. It will not do to say the people of Boston and New York ought to have more sense than to eat dead calves, for everybody knows that all Boston people are highbrows and have more culture and literary attainments than anybody else since Adam, while it is equally notorious that the people of New York have more financial sense and know more about fiscal legerdemain and practice it more than anybody since Shylock.

Neither is it proper to say they ought to have better taste. Taste is not debatable, therefore I will not say that they ought to have better taste than to eat dead calves; but if any of them had been here to-day to hear the revolting details of that traffic as stated by the eloquent and able gentleman from Michigan [Mr. HAMILTON], which caused me to cancel my order for lunch, they certainly would have been moved by some sort of qualms of conscience, stomach, or brain to abstain from eating veals, sweetbreads, and liver forever. The liver of any sort of an animal is the scavenger of the system, and, of course, introduces that much poison into the stomach which receives the liver. Veal is not fit to eat, and it is a waste to kill the calf before it has an opportunity to grow into palatable beef.

If babies were treated as cupidity permits the dairyman and townfolk to treat calves there would not be enough people on earth to elect one Congressman. It would be more deplorable than the slaughter of the first born in Egypt, or the wholesale order of Herod for the destruction of all children. Too parsimonious to sustain the calf until he can eat grass and other food, the people who keep milch cows give the calves over to the butcher more for the sake of getting rid of the calf than for the price they receive for him. I shall go to work to study out a plan which will enable us by amendment of the interstate-commerce law to prevent animals of the cattle kind from being slaughtered, shipped, and sold in interstate commerce until they are large enough to make palatable beef. There is no doubt on earth that that will reduce the price of beef, and I ask some of my philanthropic friends from Boston, who are always talking about humanitarianism and trying to improve the practices and morals of other people, why they do not establish a foundling asylum for calves and save from death the innocents discarded by their owners and doomed to destruction before they have an opportunity to grow into usefulness? And right here I will suggest that any man would find it profitable if, having a few acres of land in the vicinity of any town where there are many cows, he would collect up the calves and keep them for a year or two until they are fit for beef. On this subject I ask the reading of the following abstracts from a current newspaper, which contains some wise suggestions and wholesome statements of facts:

IN THE ARGENTINE YOU CAN NOT KILL A COW LESS THAN 7 YEARS OLD. IT'S AGAINST THE LAW—WE SHOULD HAVE SOME SUCH LAW IN AMERICA—STOP THE KILLING OF YOUNG CALVES, WE SHALL BE SHORT OF MEAT VERY SOON.

(Copyright, 1912, by the New York Evening Journal Publishing Co.)

Mr. M. J. Sulzberger, vice president of the big packing concern that bears his name, sat philosophizing in his solid mahogany office in Chicago.

"When my father first went into the business," said he, "you could buy a steer for about the price that you pay now for a hog.

"People complain about the cost of meat. They don't complain any more than the packers complain, and not as much.

"It would surprise the public—and it would be absolutely true—if the statement were made that there is no profit in the beef business. There is an actual loss on every steer slaughtered so far as the beef goes. If it were not for the by-products and the extreme economies of the packing business it would be a business entirely impossible."

Every day the problem becomes more difficult. It is rather startling to say that you once could buy a steer for the price that you pay now for a hog. But figures are remorseless. With ranch lands vanishing, farms cut up, population increasing, it is not as ridiculous as it sounds to say that unless something is done we shall some day have the hog that costs the price of the steer, followed by the chicken that costs the former price of a hog.

Of course, the necessary thing will be done. For human intelligence always meets emergencies as they arise. But it is time for human intelligence to get to work, think over the beef problem, realize that we can no longer export a pound of beef to England—except the few head that are sent over alive to be killed on the other side. It is time to realize that the Argentine is to supply the beef of the world, and that this country, which once proudly talked of itself as the Nation feeding all nations, is getting rapidly to a condition where it won't be able to feed itself.

Mr. Sulzberger, in describing the great development of beef production in the Argentine and other South American countries, mentioned casually the fact that in the Argentine the killing of a cow under 7 years of age is forbidden. The idea is to compel development of the beef industry by forbidding the slaughter of cows that produce the calves and the beef.

Long ago this newspaper suggested that a law might be passed here preventing the constant wasteful slaughter of young calves.

Out of a thousand beef cattle born in the United States, except on the big ranches, only a very small number are actually brought to maturity.

And, worst of all, in the big dairies the calf is killed as soon as it is born. The mother never sees it. And the carcass, unfit for food, is thrown away.

That is a criminal waste. And with all due respect for the vested rights of property and the proud privilege of knocking calves on the head, the Government should interest itself in the matter.

Naturally the milk supply is important. The dairyman, looking at the matter from a cash standpoint, is hardly to be blamed, under modern conditions of competition, when he knocks his young calves on the head the hour they are born or when he makes up his mind that it is cheaper to "burn a cow up," as the expression goes, and kill her at the end of two years of maximum milk production.

The Government and the people, taking a broader view, realizing that the price of beef can not rise forever, understanding what it means when the people pay for a hog what they used to pay for a steer, should make provision for a continued supply of beef, as the German Government, for instance, in its wonderfully wise forestry makes provision for continued supplies of lumber.

The young calves should be protected. A premium should be put upon the raising of calves or a punishment upon their destruction.

We might borrow an idea from the Argentine, that insists upon keeping cows alive until they should have had a reasonable number of years in which to make good the havoc wrought by the slaughterhouses.

There will, of course, be wise men to tell you that supply and demand rule all these things, but intelligence could rule.

When five children out of seven died of preventable disease, they used to say that it was the will of God. But it wasn't.

It was the stupidity and the brutality of man. Clean streets, decent plumbing, boards of education, vaccination, scientific institutions have protected the lives of children and lengthened the lives of human beings.

The Government might in one way or another protect the lives of calves and let them stretch out into beef for the benefit of the race.

The great problem to-day is feeding. Science might supply to the calf after a few weeks inexpensive substitutes for the mother's milk—one that would supply bone and a good quality of beef.

At all events, it ought to be somebody's business to think about it. With pork selling at $3.15 a hundred pounds and good beef entirely beyond the reach of poor people and with tens of thousands of calves being knocked on the head annually—every one of them unfit for food, for veal is not fit to eat—it is time to think about the beef supply.

Here is a chance for those whose favorite topic is conservation of national resources.

When you see a little newborn calf staggering on its thin, weak legs in the field, you see in front of you the possibility of 1,400 pounds of good meat. But the calf is killed, and in place of 1,400 pounds of good meat two years from now you have a few pounds of bad veal, not fit to eat.

Wise gentlemen at Washington in and out of the Department of Agriculture, please think about this.

BRIDGE ACROSS NORTH RIVER.

The next business on the Calendar for Unanimous Consent was the bill (S. 4978) to supplement and amend the act entitled "An act to incorporate the North River Bridge Co. and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road," approved July 11, 1890.

Mr. GOLDFOGLE. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from New York rise?

Mr. MANN. Mr. Speaker, reserving the right to object——

Mr. GOLDFOGLE. I ask to have the bill passed over without prejudice.

The SPEAKER. The gentleman from New York asks leave to pass this bill over without prejudice, and the gentleman from Illinois [Mr. MANN] reserves the right to object. Is there any objection to the request of the gentleman from New York [Mr. GOLDFOGLE] to pass this bill over without prejudice?

Mr. GOLDFOGLE. Mr. Speaker, I received a telegram advising me that the mayor of the city and the board of estimates and apportionment have under consideration, in the way of hearings or in some other way, the proposition embodied in this bill, and therefore I ask that until this matter is disposed of this bill be passed over.

The SPEAKER. Is there objection to passing this bill over without prejudice? [After a pause.] The Chair hears none.

BRIDGE ACROSS THE HUDSON RIVER.

The next business on the Calendar for Unanimous Consent was the bill (S. 5659) to supplement and amend an act entitled "An act to authorize the New York and New Jersey bridge companies to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey," approved June 7, 1894.

Mr. FOSTER. Mr. Speaker, I ask unanimous consent that the bill be passed without prejudice.

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, I make the same request.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the next bill.

AIDS TO NAVIGATION.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 27789) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of Commerce and Labor is hereby authorized to establish, provide, or improve the following aids to navigation and other works in the Lighthouse Service, under the Department of Commerce and Labor, in accordance with the respective limits of cost hereinafter respectively set forth, which shall in no case be exceeded.

To construct and equip a lighthouse tender for general service at cost not exceeding $250,000.

FIRST LIGHTHOUSE DISTRICT.

To establish a light at or near Dog Island, entrance to St. Croix River, Me., at a cost not exceeding $5,500.

To construct and equip a light vessel to be placed near Mohegan Island, off the entrance to Penobscot Bay, Me., at a cost not to exceed $125,000.

THIRD LIGHTHOUSE DISTRICT.

Improvements at Great Salt Pond Light Station, R. I., including moving the fog signal and building a keeper's dwelling, at a cost not to exceed $25,000.

Improvement of the offices and laboratory at the general lighthouse depot, Tompkinsville, Staten Island, N. Y., at a cost not exceeding $21,000.

Completion of the reestablishment of Passaic Light and Fog-Signal Station, Newark Bay, N. J., including authority to build on a new site, if necessary, at a cost not to exceed $45,000.

FIFTH LIGHTHOUSE DISTRICT.

Aids to navigation in Cambridge Harbor, Md., at a cost not to exceed $4,000.

SIXTH LIGHTHOUSE DISTRICT.

Purchase of a site and construction of a wharf and buildings, and purchase of the necessary equipment, so far as funds may permit, for a depot for the sixth lighthouse district, at a cost not to exceed $125,000.

EIGHTH LIGHTHOUSE DISTRICT.

Aids to navigation in Atchafalaya Entrance Channel, La., at a cost not to exceed $50,000.

To construct and equip light vessels for South Pass and Southwest Pass Entrances to the Mississippi River, La., at a cost not to exceed $250,000.

Improvements of the aids to navigation and establishment of new aids on the Mississippi River below New Orleans, La., at a cost not to exceed $50,000.

NINTH LIGHTHOUSE DISTRICT.

Light station on Navassa Island, in the West Indies, at a cost not to exceed $125,000, of which authorization not exceeding $500 shall be applied to securing and placing in some appropriate place on the lighthouse or the base thereof a durable and ornamental tablet, on which shall be made suitable memorial mention of the researches and contributions of Commander Matthew Fontaine Maury, United States Navy, to the science and cause of navigation.

Purchase for lighthouse purposes of approximately one-half acre of land in the vicinity of the lighthouse reservation at Port Ferro Light Station, Porto Rico, for the purpose of constructing a watershed and cistern, and the appropriation "General expenses, Lighthouse Service," for the fiscal year in which the purchase is effected, is hereby made available for the purchase of said site.

TENTH LIGHTHOUSE DISTRICT.

Rearrangement, rebuilding, and improvement of the aids to navigation at Ashtabula Harbor, Ohio, at a cost not to exceed $45,000.

Removal, reconstruction, and improvement of the fog-signal station at Cleveland, Ohio, at a cost not to exceed $17,600.

Light and fog-signal station and improvement of aids to navigation at Lorain Harbor, Ohio, at a cost not to exceed $35,000.

Establishment of aids to navigation at Huron Harbor, Ohio, at a cost not exceeding $4,500.

ELEVENTH LIGHTHOUSE DISTRICT.

Additional aids to navigation at Ashland, Wis., at a cost not to exceed $25,000.

A pierhead light and lighted buoy at Oconto Harbor, Wis., at a cost not to exceed $5,000.

Improvements at Detroit Lighthouse Depot, Michigan, at a cost not to exceed $15,000.

TWELFTH LIGHTHOUSE DISTRICT.

Establishment of aids to navigation in the harbor of Manistique, Mich., at a cost not to exceed $20,000.

Improvement of the fog signal at Manistee Pierhead Range, Michigan, at a cost not to exceed $9,000.

Improvement of the fog signal at Poverty Island, Mich., at a cost not to exceed $9,000.

SIXTEENTH LIGHTHOUSE DISTRICT.

Light and fog signal at or near Cape St. Elias, Alaska, at a cost not to exceed $115,000.

SEVENTEENTH LIGHTHOUSE DISTRICT.

Aids to navigation and improvements of existing aids in Puget Sound and adjacent waters, Washington, at a cost not to exceed $30,000.

Improvement of Warrior Rock Light Station, Columbia River, Oreg., including the purchase of additional land, at a cost not to exceed $2,000.

For the construction and equipment of a light vessel to mark Orford Reef, Oreg., $125,000.

EIGHTEENTH LIGHTHOUSE DISTRICT.

Improvements at Point Pinos Light Station, Cal., at a cost not to exceed $30,000.

To authorize the completion of the unfinished portion of the Government road from Rollerville to the Point Arena Lighthouse, Mendocino County, Cal., at a cost not to exceed $3,000.

For establishing a light and fog-signal station on or near North Farallon Island, Cal., $100,000.

Light and fog-signal station at or near Point Vincente, Cal., at a cost not to exceed $75,000.

NINETEENTH LIGHTHOUSE DISTRICT.

Aids to navigation in Pearl Harbor, Hawaii, at a cost not to exceed $80,000.

Improvements of light station at Kauhola Point, Hawaii, at a cost not to exceed $15,000.

Hereafter the purchase of necessary additional land for light stations and depots is authorized under rules prescribed by the Secretary of Commerce and Labor: *Provided*, That no single acquisition of such additional land shall cost in excess of $500.

Hereafter supplies and equipment for special works of the Lighthouse Service may be furnished from general stock and the appropriation "General expenses, Lighthouse Service," reimbursed therefor from the respective appropriations for special works.

Hereafter when any condemned supplies, materials, equipment, or land can not be profitably used in the work of the Lighthouse Service the same shall be appraised and sold, either by sealed proposals for the purchase of the same or by public auction after advertisement of the sale for such time as in the judgment of the Secretary of Commerce and Labor the public interests require, the proceeds of such sales, after the payment therefrom of the expenses of making the sales, to be deposited and covered into the Treasury as miscellaneous receipts as now provided for by law in like cases.

Hereafter the salaries of lighthouse inspectors, including one inspector for the general service, and excepting the inspector of the third lighthouse district, shall not exceed $3,000 each, or an average of $2,700 each.

The following committee amendment was read:

Amend, page 2, by inserting, after line 7, the following as a separate paragraph:

"To erect a carpenter shop at the general lighthouse depot, Tompkinsville, Staten Island, N. Y., at a cost not exceeding $23,000."

The SPEAKER. Is there objection?

Mr. FOSTER, Mr. MOORE of Pennsylvania, and Mr. MANN reserved the right to object.

Mr. MOORE of Pennsylvania. Mr. Speaker, I would like to ask the gentleman from Maryland [Mr. COVINGTON], who is in charge of the bill, as to the reason for bringing in a bill authorizing large appropriations to be considered on the Unanimous Consent Calendar? Is not it unusual?

Mr. COVINGTON. I will say to the gentleman from Pennsylvania [Mr. MOORE] that it is unusual to bring in a bill authorizing appropriations of large sums of public money and place that bill upon the Calendar for Unanimous Consent. But it will be recalled by all of the Members of this House that at the last session of Congress the general lighthouse bill was reported from the Committee on Interstate and Foreign Commerce and placed upon the calendar, carrying about the usual number of authorizations for urgently needed public works in the Lighthouse Service, and that the stress of that session and the peculiar situation existing between the Senate and the House caused that bill to be stripped down to the point where it was denominated as "an emergency lighthouse bill," carrying only three or four hundred thousand dollars in authorization for the most immediate and urgent needs. At that time it was generally understood that in lieu of that bill there would be introduced, considered, and reported for passage at this session of Congress a lighthouse bill carrying authorization for

all such works as are really needed for the proper maintenance of the Lighthouse Service. When this bill was reported to the House after full hearings in the committee it was found that the situation of the call of committees on Calendar Wednesday is such that there is practically no possibility for the Committee on Interstate and Foreign Commerce to be reached in that call during the present Congress. Having regard, therefore, for the fact that there had been no general lighthouse bill in the last Congress, and that all of the works reported in this bill are needed for the proper maintenance of the Lighthouse Service, the committee thought it was proper that this rather unusual course should be pursued and the bill placed on the Calendar for Unanimous Consent.

Mr. MOORE of Pennsylvania. Does the gentleman put it entirely on the ground of the urgency of the work provided for?

Mr. COVINGTON. The gentleman puts it on the ground of urgency and necessity for the passage of a lighthouse bill.

Mr. MOORE of Pennsylvania. There has been a great deal of damage along the Atlantic coast during the winter as the result of very heavy storms. I observe some matters that have been before the Interstate and Foreign Commerce Committee are not incorporated in this bill, but that very large appropriations are made to certain other sections of the country, where perhaps the same emergency may not have arisen. We had great floods on the Mississippi River last year, about which we heard a great deal, and very heavy appropriations have been made for the purposes of navigation and for reconstruction of levees along the banks of that river, and I notice this bill carries over $200,000 for aids to navigation along the lower Mississippi. I wanted to know if this bill is so urgent, or these aids to navigation are so urgent, that it is advisable to put a bill of this character where we may not have an opportunity to amend it—on the Unanimous-Consent Calendar?

Mr. COVINGTON. I will state to the gentleman that in framing this bill the committee had before it the Commissioner of Lighthouses, and in order to determine which were the more urgent projects, it considered them all, and in the end took less than half of the items that are embodied in the report of 1912 as necessary by the Commissioner of Lighthouses himself. I do not now recall any particular items along the Atlantic seaboard that the commissioner urged as of immediate necessity that were not included.

Mr. STEVENS of Minnesota. Mr. Speaker, may I ask the gentleman a question right there?

The SPEAKER. Does the gentleman yield?

Mr. COVINGTON. Yes; I yield to the gentleman from Minnesota.

Mr. STEVENS of Minnesota. Did not the subcommittee also take into consideration every bill and every project submitted by any Member of this House and consider each one of them in preparing this bill?

Mr. COVINGTON. I will state to the gentleman from Minnesota, who was with me as a member of the subcommittee, that it is a fact that the subcommittee took into consideration every bill introduced by a Member of Congress and every Senate bill which had been passed and had come to the House of Representatives and been referred to the Committee on Interstate and Foreign Commerce in addition to the recommendations of the Commissioner of Lighthouses; and in formulating that bill I may say it was made up with due regard for what were considered the more urgent projects, having in view not merely the commissioner's report, but the bills introduced by Members and the bills that had been passed by the Senate. The hearings were, in fact, quite exhaustive, and the bill was afterwards considered thoroughly in the full committee.

Mr. MOORE of Pennsylvania. May I ask the gentleman about the Atchafalaya Channel, which comes in the eighth lighthouse district? Is that an approach to the Passes of the Mississippi?

Mr. COVINGTON. That is not. I will say to the gentleman, an approach to the Passes of the Mississippi River. The "Chaffellaya" River, as I believe they call it—and I was not aware of that peculiar and remarkable pronunciation myself until I was told of it by Members of the Louisiana delegation—is a river to the westward of the Mississippi River, and it carries a somewhat large and important commerce. That river has been improved at a considerable expense, and the lights therefore are in line with the channel and river and harbor improvements made thereto in recent years.

Mr. MOORE of Pennsylvania. In the report accompanying the bill, if the gentleman will allow me, reference is made to "the completion of the channel now being dredged in the Atchafalaya to the 20-foot contour in the Gulf of Mexico."

Mr. COVINGTON. That is true. The channel from the Atchafalaya to the 20-foot contour in the Gulf of Mexico has been completed. This is a direct channel in the Atchafalaya River. That has no connection with the Mississippi River, and it leads into a portion of Louisiana that has a large and important commerce.

Now, it is stated in the report of the Commissioner of Lighthouses that that channel is important enough to warrant Congress in including it in an urgent list of places where additional aids to navigation ought to be constructed.

Mr. MOORE of Pennsylvania. I wanted to ask the gentleman whether the committee was influenced by the amount of commerce that is transported upon this Atchafalaya entrance channel?

Mr. COVINGTON. I will state to the gentleman that the committee did not attempt to draw exact comparisons of commerce in providing the projects in the present bill, nor did it attempt to have the Commissioner of Lighthouses arrive at what were the comparative volumes of commerce on waterways to be benefited by additional navigation aids.

Mr. MONDELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ADAMSON. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Maryland yield?

Mr. COVINGTON. I do.

The SPEAKER. The gentleman from Georgia [Mr. ADAMSON] is recognized.

Mr. ADAMSON. I would like to ask the gentleman from Maryland, in charge of the bill, if it is not entirely competent for the House, in the consideration of the bill, in the event the House grants unanimous consent to consider it, to amend it on the motion of any Member by striking out any project that it deems improper or by inserting any other that it wishes to insert?

Mr. COVINGTON. I understand, if it comes up without objection and is to be considered in the House, that as a matter of right under the rules it would be open to amendment under the five-minute rule. I would not have placed it on the Calendar for Unanimous Consent if such were not the case.

Mr. ADAMSON. That is what I wanted to bring out.

The SPEAKER. Does the gentleman from Wyoming [Mr. MONDELL] still wish to propound his parliamentary inquiry?

Mr. MONDELL. Yes. Mr. Speaker, my inquiry is as to what order we are proceeding under?

Mr. MOORE of Pennsylvania. Under unanimous consent.

The SPEAKER. The gentleman from Maryland [Mr. COVINGTON] is trying to get unanimous consent.

Mr. MONDELL. This discussion is quite interesting if we are going into the merits of the bill, but it is rather apparent that there is such a wide diversity of opinion as regards the merits that a great deal of time is being consumed before we know whether or not there is to be an objection.

Mr. MOORE of Pennsylvania. That is the point. Here is an appropriation bill, brought in on the Unanimous Consent Calendar, and we are supposed to pass it without consideration, unless a gentleman arises and offends the rest of the Members of the House by proposing to take up a little time to discuss it.

The SPEAKER. This is a proposal to get unanimous consent to consider the bill. If unanimous consent is given the bill will come under the general rule.

Mr. MOORE of Pennsylvania. I do not want to object to the consideration of the bill, Mr. Speaker. If the bill is to be considered section by section, I am satisfied. But I do want to ask the gentleman from Maryland [Mr. COVINGTON] one more question before we proceed, if the gentleman will permit.

Mr. COVINGTON. Yes.

Mr. MOORE of Pennsylvania. I want to ask the gentleman from Maryland whether it has been the policy of the committee he represents, in considering these authorizations, to take up the question of commerce and obtain a statement as to whether commerce in the vicinity warrants the expenditure contemplated by the Government?

Mr. COVINGTON. I will state to the gentleman that I sent to the clerk of the Committee on Rivers and Harbors and asked him to take from the various reports of the Chief of Engineers for channel improvement as best he could the statement relative to the amount of commerce on the various waterways for which we have provided aids to navigation. That was the only practical method, it has occurred to me, that we could take to arrive at the question of the amount or volume of commerce on rivers and other waters where aids to navigation are either to be improved or newly established. The Committee on Interstate and Foreign Commerce was satisfied that the

water commerce at all places covered by the present bill is of such volume as to make the proposed projects a real necessity.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, may I ask the gentleman whether the salaries of the lighthouse inspectors are now $2,400 a year, outside of the one in the third district?

Mr. COVINGTON. They are.

Mr. MANN. This proposes to increase the average to $2,700.

Mr. COVINGTON. That is about the purpose of the new legislation in the final paragraph of this bill. I think that the gentleman from Illinois ought to understand—and by reason of his long and unusually capable service as chairman of the Committee on Interstate and Foreign Commerce he probably does understand—that the duties of the various inspectors of lighthouse districts of the United States vary both in the volume of work that they have to perform and in the quality of service that the inspectors must give. In the present situation they get $2,400 a year each, without regard to whether they are in a relatively unimportant district in the less traversed waters of the country or in a metropolitan district having great and important aids to navigation. That seemed to the committee to be a sufficient reason why there should be some latitude in the Commissioner of Lighthouses in the Department of Commerce and Labor in apportioning the salaries of the inspectors.

The gentleman knows full well that some years ago—I think while he was a member of the committee—it was necessary to give to the inspector of lighthouses for the New York district a salary of $3,000 because his services were of such a character that a competent man could not be obtained for less money. The present item only pushes that principle a little further. Some districts are of such a character that a $2,400 man may adequately perform the service. There are other districts where a $2,400 man is not the kind of man who can properly perform the work.

Mr. MANN. Mr. Speaker, the third lighthouse district is the general depot for lighthouses of the United States. That is the reason why that salary was made higher. The man there has a great deal more work and responsibility than simply the inspection service.

Mr. COVINGTON. That is true.

Mr. MANN. In the reorganization law we authorize a rearrangement of the districts. Now, where are the districts in which we are to pay salaries of $2,400 as compared with the $3,000 salary in another district? Is it the New England district, or the New York district, or the Pennsylvania and Maryland district, or the Carolina district? Is it the Florida district, or the Gulf district, or either one of the Pacific coast districts? Where would you make this discrimination, so as to pay $3,000 and yet make only an average of $2,700? It seems to me quite certain that if you pay one of these superintendents $3,000 in the end you will have to pay all the others $3,000. Perhaps that is proper. I doubt whether it is proper to put the lighthouse superintendent under the pressure of having one inspector of one district seeking to have his salary raised at the expense of the inspector of another district.

Mr. COVINGTON. I can only say to the gentleman in reply that that is a pressure to which the commissioner of lighthouses himself seemed to be willing to be subjected, for he stated that the districts did have that disparity of service in them which made it possible and proper that there should be an unequal apportionment of salaries. I can give you a concrete instance. I do not propose to discuss those districts where the service is not of an important character, but the gentleman well knows that in the great lighthouse district at Baltimore, which takes in the entire area of the Chesapeake Bay and the Virginia capes, and the hundreds of lights and other aids to navigation, from the mouth of the Susquehanna River down to the Atlantic Ocean, there are several times the amount of work to perform that there are in several other districts of the United States.

Mr. MANN. The gentleman speaks of one district where probably he has greater knowledge than he has of other districts. On the contrary, I should say that the Lake Michigan district, with which I have had close connection, is of much more importance than the Maryland district. Every gentleman will say that about the district which he knows the most about. Will the gentleman permit me to ask him another question?

Mr. COVINGTON. First let me say that when the gentleman says that every Member will say that about the district he knows the most about the gentleman is speaking in regard to the district in which he lives, and I speak of the district in which I do not live.

Mr. MANN. Oh, yes; the gentleman lives in the Maryland district.

The SPEAKER. Is there objection?

Mr. MANN. I object.

The SPEAKER. The gentleman from Illinois objects, and the bill is stricken from the calendar.

WESTERN AVENUE NW., DISTRICT OF COLUMBIA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16319) to extend and widen Western Avenue NW., in the District of Columbia.

The Clerk read the bill, as follows:

Be it enacted, etc., That under and in accordance with the provisions of subchapter 1 of chapter 15 of the Code of Law for the District of Columbia, the Commissioners of the District of Columbia be, and they are hereby, authorized and directed to institute in the Supreme Court of the District of Columbia a proceeding in rem to condemn the land that may be necessary for the extension of Western Avenue NW. from its present terminus at Beech Street northeastward along the northwestern boundary line of the District of Columbia, with a uniform width of 120 feet, to Rock Creek Park: *Provided, however*, That the entire amount found to be due and awarded by the jury in said proceedings as damages for and in respect of the land to be condemned for said extension, plus the costs and expenses of the proceedings hereunder, shall be assessed by the jury as benefits.

SEC. 2. That there is hereby appropriated, out of the revenues of the District of Columbia, an amount sufficient to pay the necessary costs and expenses of the condemnation proceedings herein provided for and for the payment of the amounts awarded by the jury as damages, to be repaid to the District of Columbia from the assessments for benefits and covered into the Treasury to the credit of the revenues of the District of Columbia.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The bill is on the Union Calendar.

Mr. MANN. I ask unanimous consent that the bill be considered in the House as in Committee of the Whole?

The SPEAKER. The gentleman from Illinois asks unanimous consent that this bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The Clerk again read the bill.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

FIFTH-THIRD NATIONAL BANK OF CINCINNATI, OHIO.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26279) granting the Fifth-Third National Bank of Cincinnati, Ohio, the right to use original charter No. 20.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Comptroller of the Currency be, and he is hereby, authorized and directed to issue to the Fifth-Third National Bank, of Cincinnati, Ohio, charter No. 20 in lieu of their present charter No. 2738, said charter No. 20 being the original charter number of the Third National Bank, of Cincinnati, Ohio, which bank was merged and consolidated with the Fifth National Bank, of Cincinnati, Ohio, in the year 1908, under the name of the Fifth-Third National Bank, of Cincinnati, Ohio, said consolidated bank having succeeded to all the assets, good will, rights, privileges, and emoluments of the said Third National Bank, of Cincinnati, Ohio.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. ALLEN. Mr. Speaker, unless some Member desires me to make a further explanation other than what the report shows, I do not care to say anything. I ask for its passage.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. ALLEN, a motion to reconsider the vote whereby the bill was passed was laid on the table.

BRIDGE ACROSS ROCK RIVER, ILL.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 27157) granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois.

The Clerk read the bill, as follows:

Be it enacted, etc., That the time for the construction, maintenance, and operation of a bridge and approaches thereto across the Rock River at a point suitable to the interests of navigation at or near Colona Ferry, in the State of Illinois, by the counties of Henry and Rock Island, in the State of Illinois, in accordance with the provisions of the act entitled "An act to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois," approved August 19, 1911, is hereby extended to one year from the date of the passage of this act.

SEC. 2. That the construction, maintenance, and operation of the bridge and approaches thereto therein authorized by the aforesaid act shall be in all respects in accordance with and subject to the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 3. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection to the consideration of the bill?

There was no objection.

Mr. MANN. Mr. Speaker, I think the bill needs to be amended, and I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amend, page 1, by striking out all of line 3, after the second word "the," and lines 4, 5, 6, 7, and line 8 up to and including the word "of," and insert in lieu thereof the words "commencement of the bridge authorized," so that it will read: "that the time for the commencement of the bridge authorized by the act entitled," etc.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. COVINGTON, a motion to reconsider ~~the vote~~ whereby the bill was passed was laid on the table.

PURCHASE OF MOTOR BOAT FOR CUSTOMS SERVICE.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26549) to provide for the construction or purchase of motor boat for customs service.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to construct or purchase one gasoline motor boat for service in the Corpus Christi collector's district at a cost not to exceed the sum of $6,000.

With the following amendment recommended by the committee:

In line 5, page 1, strike out the words "Corpus Christi collector's district" and insert in lieu thereof the words "customs collection district of Corpus Christi, Tex."

And add at the end of the bill the following proviso:

"*Provided*, That the Secretary of the Treasury may use this boat elsewhere than at Corpus Christi, as the exigencies of the service may require."

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. COVINGTON, a motion to reconsider the vote by which the bill was passed was laid on the table.

LIEN FOR TAXES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25780) to amend section 3186 of the Revised Statutes of the United States.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 3186 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 3186. If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount shall be a lien in favor of the United States from the time it was due until paid, with the interest, penalties, and costs that may accrue in addition thereto upon all property and rights to property belonging to such person: *Provided, however*, That such lien shall not be valid as against any mortgagee, purchaser, or judgment creditor until notice of such lien shall be filed by the collector in the office of the registrar or recorder of deeds of the county or counties or parish or parishes in the State of Louisiana within which the property subject to such lien is situated: *Provided further*, That the provision herein relating to the filing of notice shall be applicable whenever, and only whenever, the laws of the State wherein the property is situated shall authorize the filing of such notice in the office of the registrar or recorder of deeds as provided herein."

The SPEAKER. Is there objection?

Mr. CULLOP. Mr. Speaker, reserving the right to object, I would like to ask the author of the bill to explain the purposes of this change or amendment to existing law.

Mr. STERLING. Mr. Speaker, the purpose of the bill is to amend section 3186 of the Revised Statutes. That section relates to liens for delinquent taxes, and in order that the House may know just what is sought to be done in the matter I will read section 3186:

SEC. 3186. If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount shall be a lien in favor of the United States from the time when the assessment list was received by the collector, except when otherwise provided, until paid, with the interest, penalties, and costs that may accrue in addition thereto upon all property and rights to property belonging to such person.

Under that provision of the statute, whenever any internal revenue in the way of whisky tax or tobacco tax or corporation tax becomes due, it becomes a lien on all the property of the delinquent, wherever it may be situated in the United States, and there is no provision in the law for the protection of innocent purchasers or mortgagees or judgment creditors without notice.

Mr. CULLOP. Mr. Chairman, I would like to ask the gentleman from Illinois a further question. One of the differences between the existing law and this amendment, as I understand it, is that the existing law makes a tax assessment a lien from the date of the assessment, and this makes it a lien from the date of demand for its collection?

Mr. STERLING. No; the gentleman is not exactly correct about that. But I want to say this: When this bill was prepared the law was copied from the statute of 1874. That statute provides that it shall be a lien from the time it was due, and continuing until it is paid. I have an amendment to offer here in reference to that. A little later the Forty-fifth Congress amended the statute of 1874 by providing that the lien should begin from the time the assessment list was filed with the collector until it was paid. After the bill was introduced I discovered that mistake in quoting the statute. That is, the old statute was quoted instead of the statute now in force, and I have an amendment here correcting that, leaving the language in that regard just the same as it is in the present statute, substituting for the three words in the ninth line, "it was due," the words now in the statute, as follows: "when the assessment list was received by the collector, except when otherwise provided." I shall offer that amendment and ask that it be adopted.

I will say in regard to the purpose of the bill, it simply provides that notice may be given to purchasers or mortgagees of property on which there is any possibility of a lien of this kind by requiring the collector to file notice of the lien in the office of the recorder of deeds or the registrar of deeds in any county in the United States in which the delinquent happened to have property.

Mr. CULLOP. Mr. Speaker, will the gentleman permit another question there?

Mr. STERLING. Yes.

Mr. CULLOP. Is that a requirement to be fulfilled when the tax is levied or only when it becomes delinquent?

Mr. STERLING. When it becomes a lien, and that is the time when the assessment list is placed in the hands of the revenue collector. Then it will be his duty, if he desires to preserve the lien as against innocent purchasers or mortgagees without notice, to file this notice in the office of the recorder of deeds.

Mr. CULLOP. That is, where a mortgage is given between the time of the assessment list accruing and the delinquency, in order to get ahead of the mortgage creditor, the lien must be filed by the collector in the county in which the land is situated.

Mr. STERLING. That is the idea, and I will say further that it becomes applicable only when the States adopt legislation providing for the filing of these notices. It is left entirely with the States as to whether or not they will undertake to protect their citizens who in good faith purchase property in a way that they can purchase it without taking the chance of liens of this character.

Mr. CULLOP. Does the gentleman mean that if no legislation is passed in States requiring notice of existing tax lien to be filed that this law will not be applicable?

Mr. STERLING. I would not say that the States ought to adopt legislation requiring notice to be filed, but rather permitting it to be filed in the records of the county where the property is situated. Without such legislation a notice of that kind, I think, would be of no avail. Let me suggest to the gentleman this: That provision is identical with the provision in the United States statute which allows the judgment of the Federal court to be indexed or recorded in the several counties. That only takes effect when the States adopt legislation providing for it, and this provision is identical with that.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. STERLING. Mr. Speaker, I offer the amendment which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend, by striking out the words "it was due," in the ninth line, page 1, of the bill, and insert in lieu thereof the following: "When the assessment list was received by the collector, except when otherwise provided."

The question was taken, and the amendment was agreed to.

Mr. STERLING. Now, Mr. Speaker, it is suggested that in lines 3 and 4, page 2 of the bill, that a comma should be inserted after the word "counties" in the third line, and after the word "Louisiana" in the fourth line, which I think is proper, and I ask that that amendment be made to the bill.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 2, line 3, insert after the word "counties" a comma, and in line 4, after the word "Louisiana," insert a comma.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. STERLING, a motion to reconsider the vote by which the bill was passed was laid on the table.

STATE SELECTION OF PHOSPHATE AND OIL LANDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26812) to provide for State selection of phosphate and oil lands.

The Clerk read as follows:

Be it enacted, etc., That from and after the passage of this act unreserved public lands of the United States in the State of Idaho which have been withdrawn or classified as phosphate or oil lands, or are valuable for phosphates or oil, shall be subject to selection by the State of Idaho under indemnity and other land grants made to it by Congress whenever such selections shall be made with a view of obtaining or passing title, with a reservation to the United States of the phosphates and oil in such lands, and of the right to prospect for, mine, and remove the same.

SEC. 2. That the State of Idaho, when applying to select lands classified as phosphate or oil lands, or valuable for phosphates or oil, with a view to securing or passing title to the same in accordance with the provisions of the indemnity and other granting acts, shall state in the application for selection that same is made in accordance with and subject to the provisions and reservations of this act.

SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this act the State shall be entitled to a patent to the lands selected by it, which patent shall contain a reservation to the United States of all the phosphates and oil in the land so patented, together with the right to prospect for, mine, and remove the same upon rendering compensation to the patentee for all damages that may be caused by prospecting for and removing such phosphates or oil. The reserved phosphate and oil deposits in such lands shall be disposed of only as shall be hereafter expressly directed by law.

The SPEAKER. The Clerk will report the amendments.

The Clerk read as follows:

Amend, page 1, line 6, after the word "shall," by inserting "if otherwise available under existing law."

Amend, page 2, by striking out all of section 3 and inserting in lieu thereof a section reading as follows:

"SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this act, the State shall, upon approval of the selection by the Secretary of the Interior, be entitled to have the lands certified to it, with a reservation to the United States of all the phosphates and oil in the land so certified, together with the right in the United States, or persons authorized by them, to prospect for, mine, and remove the same; but before any person shall be entitled to enter upon the lands certified for the purpose of prospecting, mining, or removing phosphates or oil therefrom he shall furnish, subject to approval by the Secretary of the Interior, a bond or undertaking as security for the payment of all damages to the crops and improvements on said lands by reason of such prospecting for and removal of phosphates or oil. The reserved phosphate and oil deposits in approved selections under this act shall not be subject to exploration or entry other than by the United States, except as hereinafter authorized by Congress."

Mr. FOSTER. Mr. Speaker, reserving the right to object, I take it that this permission to settle on the oil and phosphate lands does not permit any exploration to be made except by the United States Government.

Mr. FRENCH. That is all, except under laws that may hereafter be passed by the Congress.

Mr. FOSTER. Is it the gentleman's idea that, while we provide for damages to the person owning the surface of the land in case an exploration is made, there ought not to be such an exploration on public lands?

Mr. FRENCH. That point is covered by an amendment which I propose to offer and which has been submitted to the department and meets with the department's approval.

Mr. MANN. What was the gentleman's question?

Mr. FOSTER. That this permits no exploration except that done by the Government of the United States.

Mr. MANN. The bill so provides.

Mr. FOSTER. Yes. Then I want to know, when we provide for damages to be paid to the owner of the surface land, that in case anyone prospected there we should limit it to the United States Government.

Mr. FRENCH. That is a matter that can be taken up later on if Congress wants so to provide, and the difference between this bill and the law that it follows to some extent is that the existing law provides for the acquisition of certain coal lands, while there is no general law providing for the disposition of such lands as these, and it is with that in view that the language is a little bit different here from that provided in the bill authorizing the selection to be made of coal lands.

Mr. FOSTER. I will say to the gentleman in prospecting, for instance, for oil it does not injure the farm very much in doing that work, and I do not see the necessity of providing in a bill of this kind, if you safeguard the owner of the surface, that you should confine it to the United States Government.

Mr. MONDELL. Will the gentleman yield? The gentleman understands that the bill authorizes the State of Idaho to select the surface of certain lands?

Mr. FOSTER. Yes.

Mr. MONDELL. Of course, in passing that limited title to the State it is essential that all the rights of the United States or any of its grantees ought to be fully reserved in the patent issued to the State, and it is for the purpose of preserving those rights of entry and those rights of allowing others to enter that these provisions are contained in the bill. Of course, at the end of the bill there is a provision to the effect that until Congress shall act upon these particular lands there shall be no right granted to any individual to go upon them. But when Congress does act, then the State will have its limited act with all necessary reservations under which the Federal Government can act.

Mr. FOSTER. As I understand, the United States Government has now proposed to permit the State of Idaho to take the surface of these lands; reserving the phosphate and oil that may be under the surface. It is proposed here that no one shall have the right to prospect except the United States Government itself.

Mr. MANN. At present.

Mr. FOSTER. At present; yes; unless other laws are passed. Now, then, if we should provide that the owner of the surface has ample bond for any damage that may occur to him on account of prospecting for oil—and I will say that it does not hurt the land very much to prospect for oil—why should we limit it?

Mr. MANN. They are not permitted to prospect anywhere on these lands that are reserved at present, and will not be until Congress legislates. This simply maintains the status quo.

Mr. FOSTER. As to all public lands.

Mr. MANN. As to all the lands that will be withdrawn because of these deposits, from entry.

Mr. FOSTER. I understand that.

Mr. LENROOT. As the bill now stands, the United States itself can not prospect without paying something.

Mr. FOSTER. Certainly. I understand that. The United States under the bill would have to give bond to prospect.

Mr. MANN. The gentleman has an amendment which I understand he is to offer in order to make it complete, if that does make it complete, in reference to prospecting hereafter when the Government does allow it, so that if the State makes a selection now and patents the land, it patents it with the conditions that hereafter if Congress allows prospecting it may add "and damages paid for."

Mr. FOSTER. Does not my colleague think this is a little different state of affairs than that in which the Government owns all the surface and all beneath the surface? Here is a case where you are giving away the surface of the land and the Government is retaining all the oil and phosphate that may be under that surface. And does not the gentleman think it a little different case than where the Government has retained both the surface and what is beneath it?

Mr. MANN. The Government has withdrawn this land from entry on the ground that it is oil and phosphate land. Now no one can take it or do anything with it. We have passed a law in reference to coal on some other lands, and permit people to take the land up for agricultural purposes without having the right to the deposits under the land. This extends to the State of Idaho that privilege as to these oil and phosphate lands. There is no reason why you should take those deposits out on the same terms that control the deposits on other lands where the Government retains both above and underneath. The Government does not desire to give the right to take the surface in order to have somebody get hold of the deposits until further legislation is had.

Mr. FRENCH. And the Government desires to protect itself in the future in different grants it may make by laws under which mining or exploration for phosphate or oil may be carried on, and reserves to itself the complete authority to determine under what terms mining and exploration may be conducted.

Mr. Speaker, I desire to have several amendments that I propose to offer read at this time.

The Clerk read as follows:

First. Amend, page 3, line 1, by striking out "them" and inserting "it."

Second. Amend, page 3, line 3, by striking out the comma after the word "prospecting," together with the words "mining, or removing," and insert in lieu thereof the word "for."

Third. Amend, page 3, line 4, by striking out the word "therefrom."

Fourth. Amend, page 3, line 8, by striking out the words "and removal of."

Fifth. Amend, page 3, line 8, by inserting the following sentences after the sentence ending with the word "oil": "Any person who has acquired from the United States the oil or phosphate deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the oil or phosphate therefrom and mine and remove the oil or phosphate upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided*, That nothing herein contained shall be held to deny or abridge the right of the State of Idaho to present and have prompt consideration of applications to select lands, which have

been classified as oil or phosphate lands, with a view to disproving such classification and securing a certificate without reservation."

Sixth. Amend, line 8, page 3, by inserting before the word "The" as a part of the sentence to which the word belongs the following words: "*And provided further*, That."

The SPEAKER. Is there objection?

Mr. FOSTER. Just a moment, Mr. Speaker.

Mr. MURRAY. Mr. Speaker, does the gentleman yield?

Mr. FOSTER. I just wanted to say to the gentleman from Idaho that, from listening to the reading of his amendments, it appears that the State of Idaho would have the right to determine whether or not there was any oil or phosphate underneath this land.

Mr. FRENCH. Oh, no. As the gentleman may probably be aware, all of this land is now under a blanket reservation. It has not been sufficiently explored to enable anybody to know whether or not it contains oil or phosphate. If it should be developed that some of the land does not contain oil or phosphate, the Government does not care to include it within the area to which the phosphate law may apply. The provision to which the gentleman refers seeks to give the State the privilege of making that representation to the Government if it can do so.

Mr. FOSTER. Do I understand from the gentleman from Idaho that he or anybody can tell without exploration whether there is oil or phosphate underneath this land?

Mr. FRENCH. Oh, no. The final determination rests with the Federal Government, not with the State of Idaho. We only have the privilege, under the amendments read, of making application to remove these restrictions, and if it is shown to the satisfaction of the Government that there is no oil or phosphate there, the Government may eliminate those parts from the reservation. It can eliminate that part which does not contain oil or phosphate from the withdrawal.

Mr. MURRAY. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Idaho yield to the gentleman from Massachusetts?

Mr. FRENCH. Yes.

Mr. MURRAY. Mr. Speaker, I rise, as a member of the committee having this matter in charge, simply to say that these amendments which the gentleman from Idaho presents are designed to meet the objections that were made when the bill was before the House a couple of weeks ago. Some of us believe that these amendments cure such defects as may have been in the bill heretofore, and that they meet objections such as those made by the gentleman from Illinois [Mr. FOSTER] and the gentleman from Wisconsin [Mr. LENROOT] and the gentleman from Wyoming [Mr. MONDELL] and others, who at that time made objection. I believe that in its amended form the bill will meet those objections and ought to pass.

Mr. FERRIS. Mr. Speaker, in addition to what has been suggested by the gentleman from Massachusetts [Mr. MURRAY], I want to say that the committee in the first instance reported the bill precisely as the Secretary of the Interior recommended, putting in each and every amendment that he suggested. Objection was made on the floor two weeks ago owing to the fact that the legislation was not uniform with the other surface land legislation that had been enacted before. We now have the additional amendment that the Secretary wants in order to make the legislation uniform, and each one is offered so that in any event the bill is fully satisfactory to the Secretary and the department which has given it attention. It has been presented to the Secretary twice.

Mr. FOSTER. This complies with recent acts in reference to surface land and the reservation of oil and coal?

Mr. FERRIS. Precisely. The gentleman will remember that we had quite an extended debate a couple of years ago—in 1910, I think it was—on surface and coal land legislation.

Mr. FOSTER. Yes.

Mr. FERRIS. It was thought that we ought to make it uniform. It was carried back to the Secretary to enable him to examine it, in order to reach that uniformity, and these amendments that have been read at the desk were suggested in order to meet each one of those objections.

Mr. LENROOT. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. FRENCH. Yes.

Mr. LENROOT. There is just one question that I have any doubt about. I want to ask the gentleman from Idaho if he thinks the United States should be compelled to furnish an indemnity bond to a private individual? That is required under the bill as it stands now.

Mr. FRENCH. I imagine that that provision is in the bill in order that the Government of the United States might be fully authorized to impose such a provision upon a private individual, should legislation along that line be deemed advisable later on.

Mr. LENROOT. Very true; but if the bill passes in the present form the Government of the United States could not enter upon that land without furnishing such a bond.

Mr. MANN. What makes the gentleman from Wisconsin think that?

Mr. LENROOT. Line 2, page 3, contains the clause, "Before any person shall enter upon the land," and so forth.

Mr. MANN. Does the gentleman think that includes the Government?

Mr. LENROOT. It says, "Before any person shall enter upon the land a bond must be furnished." My suggestion would be to change it so that it would read, "Before any person not employed by or acting for the Government of the United States shall enter upon the land a bond must be furnished."

Mr. MONDELL. Does the gentleman think that the United States, in making this grant to the State of Idaho, should reserve to itself the right to send its agents there to acquire all the surface it may need for its operations, to do all that may be necessary, without paying anything?

Mr. LENROOT. This only applies to the prospecting. I would not raise to actual occupation the objection that I now raise to prospecting.

Mr. MONDELL. Without further examination, I must say that my thought has been that so far as the prospecting was concerned it would not apply.

Mr. LENROOT. It ought not to, and yet clearly the bill reads in that way.

Mr. FRENCH. The Government must necessarily reserve to itself the right to determine the phosphate or oil character of the lands. Suppose the State should apply to have parts of it eliminated, I think the Government ought to have the right to send its agents to make such an examination. If there is any question about it, I would be very glad to have those words included.

Mr. MONDELL. I make this suggestion to the gentleman: My thought is that originally this would not apply to the Government. There is a question as to the character of the land in the first instance. The Government, claiming the mineral, would have the right to do any such prospecting as was necessary to determine whether the mineral was there or not.

Mr. LENROOT. Of course, up to that point there could be no possible damages, because there would be no private entering.

Mr. MONDELL. Yes; as to the private entering——

Mr. LENROOT. That is after the Government has made the determination that the gentleman speaks of.

Mr. MONDELL. If that were true, the worst that could happen would be that the Secretary of the Interior would file with himself a formal bond.

Mr. LENROOT. That would raise the question whether there is any authorization for him to furnish such a bond.

Mr. FRENCH. I should be glad to see incorporated the words that the gentleman proposes.

Mr. LENROOT. There could not have been any intention on the part of the committee that this should apply to the Government.

Mr. FRENCH. I do not think so.

Mr. GREEN of Iowa. Possibly the gentleman from Wisconsin has overlooked the final clause in the act, which provides that—

The reserved phosphate and oil deposits in approved selections under this act shall not be subject to exploration or entry, other than by the United States, except as hereinafter authorized by Congress.

Mr. LENROOT. That is not at all inconsistent with the idea of the United States furnishing a bond. If the United States furnishes a bond, it can explore as much as it pleases.

Mr. GREEN of Iowa. I will say to the gentleman that it hardly seems to me that the word "person" could possibly apply to the Government of the United States. It is true that when a person goes on the land, in one sense it would apply to any individual; but in the legal sense it means the person for whom the entry is being made, and if it is made by some person for the United States, it is the United States entering upon the land and not the person himself.

Mr. LENROOT. I think possibly that might be, but it is certainly not without doubt; and if that is so, there ought not to be the slightest objection to changing the language.

Mr. FRENCH. I have no objection to that.

Mr. FERRIS. I rather think if the gentleman had before him the fifth amendment suggested by the Interior Department in its last draft this objection would not lie. The fifth amendment proposed by the Secretary reads like this:

Amend, page 3, line 8, by inserting the following sentences after the sentence ending with the word "oil."

"Any person who has acquired from the United States the oil or phosphate deposits in any such land, or the right to mine and remove the same, may reenter and occupy"—

And so forth.

Mr. LENROOT. That certainly removes any question as far as operation is concerned, but the part of the bill I am now directing my attention to relates to prospecting only, and this amendment does not. It relates to operation. I have no objection to the operaing part.

Mr. FERRIS. The gentleman's idea was that the one relating to prospecting should be the same as the one relating to operation?

Mr. LENROOT. Yes.

Mr. FRENCH. I think the language the gentleman proposes is what we have tried to incorporate in the bill, and I should be very glad to agree to the amendment.

Mr. FERRIS. I do not see any objection to it, as it certainly was not intended to exclude the Federal Government.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. FRENCH. Mr. Speaker, I ask that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Idaho asks unanimous consent to consider this bill in the House as in Committee of the Whole. Is there objection?

There was no objection.

The Clerk, reading the bill for amendment, read as follows:

That from and after the passage of this act unreserved public lands of the United States in the State of Idaho which have been withdrawn or classified as phosphate or oil lands, or are valuable for phosphates or oil, shall be subject to selection by the State of Idaho under indemnity and other land grants made to it by Congress whenever such selections shall be made with a view of obtaining or passing title, with a reservation to the United States of the phosphates and oil in such lands, and of the right to prospect for, mine, and remove the same.

With the following amendment recommended by the committee:

In line 6, page 1, after the word "shall," insert the words "if otherwise available under existing law."

The amendment was agreed to.

The Clerk read as follows:

SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this act, the State shall be entitled to a patent to the lands selected by it, which patent shall contain a reservation to the United States of all the phosphates and oil in the land so patented, together with the right to prospect for, mine, and remove the same upon rendering compensation to the patentee for all damages that may be caused by prospecting for and removing such phosphates or oil. The reserved phosphate and oil deposits in such lands shall be disposed of only as shall be hereafter expressly directed by law.

With the following amendment recommended by the committee:

Strike out all of section 3 and insert the following:

"SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this act, the State shall, upon approval of the selection by the Secretary of the Interior, be entitled to have the lands certified to it, with a reservation to the United States of all the phosphates and oil in the land so certified, together with the right in the United States, or persons authorized by them, to prospect for, mine, and remove the same; but before any person shall be entitled to enter upon the lands certified for the purpose of prospecting, mining, or removing phosphates or oil therefrom he shall furnish, subject to approval by the Secretary of the Interior, a bond or undertaking as security for the payment of all damages to the crops and improvements on said lands by reason of such prospecting for and removal of phosphates or oil. The reserved phosphate and oil deposits in approved selections under this act shall not be subject to exploration or entry, other than by the United States, except as hereinafter authorized by Congress."

Mr. MONDELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MONDELL. The committee has offered an amendment to strike out section 3 and insert a new section. The amendments that the gentleman from Idaho proposes to offer are amendments to the amendment of the committee?

Mr. FRENCH. That is correct; and I offer the first amendment now.

The Clerk read as follows:

Amend the amendment by striking out, on page 3, in line 1, the word "them" and insert in lieu thereof the word "it."

The amendment to the amendment was agreed to.

Mr. LENROOT. Now, Mr. Speaker, I offer my amendment.

The SPEAKER. Is the amendment of the gentleman from Wisconsin an amendment to the amendment?

Mr. LENROOT. It is.

The SPEAKER. The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Amend, page 3, line 2, by inserting after the word "person" the following: "not employed by or acting for the United States."

Mr. MANN. Mr. Speaker, I would like to ask the gentleman if it would not be better to make it "not representing the United States." In other words, if a man employed by the United States took up an entry himself, you would not have it refer to him. You might use the words "not acting for the United States."

Mr. LENROOT. Mr. Speaker, I ask to modify the amendment by inserting after the word "person" the words "not acting for the United States."

The SPEAKER. The Clerk will report the amendment as modified.

The Clerk read as follows:

Amend the amendment by inserting after the word "person," in line 2, page 3, the words "not acting for the United States."

The amendment to the amendment was agreed to.

Mr. FRENCH. Mr. Speaker, I have several amendments, which I have sent to the desk.

Mr. LENROOT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LENROOT. I would like to know the status of my amendment now.

The SPEAKER. The status is this: That the committee offered an amendment or a substitute to section 3, and the amendment of the gentleman from Wisconsin was an amendment to that amendment.

Mr. LENROOT. I ask to have the Clerk report the amendment as agreed to.

The Clerk read as follows:

Amend, page 3, line 2, by inserting after the word "person" the following: "Not acting for the United States."

Mr. LENROOT. And the record shows that that was the amendment adopted?

The SPEAKER. It does.

Mr. FRENCH. Now, Mr. Speaker, I offer the following amendments to section 3.

The Clerk read as follows:

Amend, page 3, line 3, by striking out the comma after the word "prospecting," together with the words "mining or removing," and insert in lieu thereof the word "for."

The amendment to the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amend, page 3, line 4, by striking out the word "therefrom."

The amendment to the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amend, page 3, line 8, by striking out the words "and removal of."

The amendment to the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amend, page 3, line 8, by inserting the following sentences after the sentence ending with the word "oil":

"Any person who has acquired from the United States the oil or phosphate deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the oil or phosphate therefrom and mine and remove the oil or phosphate upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided*, That nothing herein contained shall be held to deny or abridge the right of the State of Idaho to present and have prompt consideration of applications to select lands, which have been classified as oil or phosphate lands, with a view to disproving such classification and securing a certificate without reservation."

The SPEAKER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The Clerk read as follows:

Amend, line 8, page 3, by inserting before the word "the," as a part of the sentence to which the word belongs, the following words: "*And provided further*, That."

The SPEAKER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The SPEAKER. The question now is on agreeing to the amendment in the nature of a substitute as amended.

The question was taken, and the amendment in the nature of a substitute was agreed to.

The SPEAKER. The question now is on the engrossment of the third reading of the bill as amended.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

Mr. FRENCH. Mr. Speaker, I ask unanimous consent that the title be amended by striking out the word "State" and inserting, after the word "selection," the words "by the State of Idaho."

The SPEAKER. Without objection, the title will be amended in accordance with the statement of the gentleman from Idaho.

There was no objection.

On motion of Mr. FRENCH, a motion to reconsider the vote by which the bill was passed was laid on the table.

AGRICULTURE APPROPRIATION BILL.

By unanimous consent, Mr. LAMB, chairman of the Committee on Agriculture, at the direction of that committee, reported the bill (H. R. 28283) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914, which was referred to the Committee of the Whole House on the state of the Union and, with the accompanying report (No. 1348), ordered printed.

Mr. MANN. Mr. Speaker, I reserve all points of order on the bill.

The SPEAKER. The gentleman from Illinois reserves all points of order.

LEAVES OF ABSENCE.

By unanimous consent, leave of absence was granted to—

Mr. McCOY, for three days, on account of important business.

Mr. J. M. C. SMITH, for one week, on account of important business.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The SPEAKER. If there be no objection, this being unanimous-consent day, the Chair will lay before the House the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, with Senate amendments thereto.

There was no objection.

Mr. JOHNSON of South Carolina. Mr. Speaker, I ask unanimous consent to take the bill from the Speaker's table, disagree to the Senate amendments, and ask for a conference.

Mr. MANN. Mr. Speaker, I hope the gentleman will not prefer that request at this time, but will prefer a request to have the bill printed with the Senate amendments thereto.

Mr. JOHNSON of South Carolina. Very well. Mr. Speaker, I ask unanimous consent that the bill be printed with the Senate amendments properly numbered, and I shall make the other request later.

The SPEAKER. The gentleman from South Carolina asks unanimous consent to have the bill printed with the Senate amendments thereto properly numbered. Is there objection?

There was no objection, and it was so ordered.

HOMESTEADERS ON COEUR D'ALENE RESERVATION.

The next business on the Calendar for Unanimous Consent was H. J. Res. 326, providing for extending provisions of the act authorizing extension of payments to homesteaders on the Coeur d'Alene Indian Reservation, Idaho.

The Clerk read the resolution, as follows:

Resolved, etc., That the provisions of an act of Congress approved April 15, 1912, authorizing the extension of time within which to make payments of certain moneys by homestead entrymen upon the Coeur d'Alene Indian Reservation, in the State of Idaho, be extended and held to apply to payments that became due prior to the passage of the act under the same conditions that apply to payments becoming due subsequent to the passage of the law.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I will ask how many entrymen would be affected by this proposition?

Mr. FRENCH. Mr. Speaker, the department reports about 95, and 96, I think, is the accurate figure.

Mr. MANN. Are these people still on the land, or where are they? Have they lost their rights?

Mr. FRENCH. Of course they have lost their rights unless this resolution be passed, and I would say that these entrymen forfeited their rights prior to the passage of the act. I assume a large number of them are living upon their lands, because the demand has been made or the request has been taken up with me that the legislation be extended. I am also advised that the department has not taken adverse action in the way of canceling the entry in any case.

Mr. MANN. Nobody else has made application?

Mr. FRENCH. I would say with respect to that, that in the original bill we have this language:

That nothing herein contained shall affect any valid adverse claim initiated prior to the passage of this act.

The question has been raised whether or not the resolution is broad enough to prevent a conflict on that score, and this amendment has been suggested, "that nothing herein contained shall affect any valid adverse claim initiated prior to the passage of this resolution." That amendment I propose to offer at the proper time, because I desire, of course, to head off any difficulty in that regard.

Mr. BURKE of South Dakota. Mr. Speaker, may I ask the gentleman for what reason that provision was not put in when the bill was considered by the committee? I was not present.

Mr. FRENCH. The provision is in the act itself, and as I drafted the resolution I did not think it necessary to restate it in the resolution, and apparently the department did not think it necessary, and the matter was not raised in the committee, and I assume no member of the committee thought it was necessary, but I see there is that possibility.

Mr. BURKE of South Dakota. One further question. These acts that are passed granting extensions of time, I supposed always extended the time as to any entry subject to the provisions which the gentleman now proposes, and how does it happen there were 96 who did not come under the provisions of the act passed at the last session?

Mr. FRENCH. Because they had forfeited their entries prior to the passage of the law.

Mr. BURKE of South Dakota. Well, did not the law provide——

Mr. FRENCH. No; the law did not reach back and take care of the 96.

Mr. BURKE of South Dakota. This is one time when the gentleman from Idaho was not as careful of his constituents as he usually is.

Mr. FRENCH. I overlooked a point that time.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. This resolution is on the Union Calendar.

Mr. FRENCH. Mr. Speaker, I ask unanimous consent that the joint resolution be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. FRENCH. Mr. Speaker, I have this amendment to offer, which I send to the Clerk's desk.

The SPEAKER. To which section?

Mr. FRENCH. There is only one section.

The SPEAKER. The Clerk will report the joint resolution.

The Clerk read as follows:

Resolved, etc., That the provisions of an act of Congress approved April 15, 1912, authorizing the extension of time within which to make payments of certain moneys by homestead entrymen upon the Coeur d'Alene Indian Reservation, in the State of Idaho, be extended and held to apply to payments that became due prior to the passage of the act under the same conditions that apply to payments becoming due subsequent to the passage of the law.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Add at the end of line 10 the following: "That nothing herein contained shall affect any valid adverse claim initiated prior to the passage of this resolution."

The question was taken, and the amendment was agreed to.

The joint resolution as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. FRENCH, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

DONATION OF OLD GOVERNMENT DOCUMENTS TO THE OLD NEWBURY HISTORICAL SOCIETY.

The next business on the Calendar for Unanimous Consent was H. J. Res. 369, authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.

The Clerk read as follows:

Resolved, etc., That the Secretary of the Treasury is hereby authorized to give to the Old Newbury Historical Society, of Newburyport, Mass., any or all documents in the customhouse building at Newburyport, Mass., which are of no further value to the United States Government.

The SPEAKER pro tempore (Mr. FERRIS). Is there objection? [After a pause.] The Chair hears none. This resolution is on the Union Calendar.

Mr. SLAYDEN. Mr. Speaker, this resolution being on the Union Calendar I ask unanimous consent that it be considered in the House as in Committee of the Whole.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. SLAYDEN. Mr. Speaker, the resolution simply proposes to give the historical society of that town some old documents which would be destroyed otherwise. There can be no possible objection to it.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. SLAYDEN, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Curtiss, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, had further insisted upon its disagreement to the amendment of the House of Representatives, had asked a further conference with the House, and had appointed Mr. LODGE, Mr. DILLINGHAM, and Mr. PERCY as the conferees on the part of the Senate.

REPEALING CERTAIN PROVISIONS OF THE INDIAN APPROPRIATION ACT OF JUNE 30, 1907.

The next business on the Calendar for Unanimous Consent was the bill (S. 3952) for the purpose of repealing so much of an act making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indians located in Kansas City, Kans., providing for the sale of a tract of land located in Kansas City, Kans., reserved for a public burial ground under a treaty made and concluded with the Wyandotte Tribe of Indians on the 31st day of January, 1855, said section of said act relating to the sale of said land be, and the same is hereby, repealed.

The Clerk read as follows:

Be it enacted, etc., That so much of an act making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1907, approved June 21, 1906, providing for the sale of a tract of land located in Kansas City, Kans., reserved for a public burial ground under a treaty made and concluded with the Wyandotte Tribe of Indians on the 31st day of January, 1855 (said section of said act relating to the sale of said land), be, and the same is hereby, repealed.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object to whoever has this bill in charge, I would suggest that they examine the law which it is proposed to repeal, because I am quite confident that no one on earth, much less in heaven, can tell from this bill and an examination of the original law what is intended to be repealed.

Mr. JACKSON. Mr. Speaker, I will state to the gentleman that the understanding of the committee was that the provision originally was contained in an annual appropriation bill. That seems to be the understanding of the persons who drew the bill.

Mr. MANN. The bill was not drawn here and probably not drawn by anybody who is a Member of the other body, and the bill is very much like the title. The title itself repeals the law. Of course, it is not a proper title, and the bill is drawn just as loosely. I examined the original act, and I defy, in my judgment, anyone to state what is repealed by this bill if it becomes a law.

Mr. JACKSON. The gentleman will see the committee recommends a change of the title. Of course the gentleman understands what is intended.

Mr. MANN. I see the title is amended. The committee examined the title and probably did not examine the law which is proposed to be repealed. I think the gentleman ought to ask to pass this bill over and put in proper shape whatever is intended to be done.

Mr. TAGGART. Will the gentleman yield?

Mr. MANN. Yes.

Mr. TAGGART. I suggest that the amendment to the title, as suggested by the Committee on Indian Affairs, might possibly clear up any doubt as to what was intended to be repealed. The suggestion of the amendment is to the title——

Mr. MANN. I have read the suggestion.

Mr. TAGGART. It reads:

An act repealing the provision of the Indian appropriation act for the fiscal year ending June 30, 1907, authorizing the sale of a tract of land reserved for a burial ground for the Wyandotte Tribe of Indians, in Kansas City, Kans.

It means that portion of the appropriation bill.

Mr. MANN. I have read the report and the original act. The original act contained a lot of matters relating to the sale of property which I am sure it is not the desire of the gentleman to repeal. I do not think anyone can tell what is repealed by this provision.

Mr. FERRIS. Will the gentleman yield?

Mr. MANN. I will.

Mr. FERRIS. This matter has been hawked around in courts for a great many years, and I rather think this is a solution of a very troublesome proposition, so far as Congress, the department, and everybody connected with it are concerned. I want to ask the gentleman if he would not let us go into the committee——

Mr. MANN. It would be a very easy matter to insert by way of amendment, which could be prepared, the language that should be repealed. There is no language inserted here. So much of an act providing for a tract of land is repealed. Now, there were a great many provisions in the original act providing for the sale of this land which I think it is not intended to repeal, and some of them, I think, ought not to be repealed. Will the gentleman pass it over and prepare an amendment covering the language which it is proposed to repeal, so that he can show what you want to repeal?

Mr. TAGGART. Mr. Speaker, I ask unanimous consent to pass the bill over without prejudice.

The SPEAKER. The gentleman from Kansas asks unanimous consent to pass the bill over without prejudice. Is there objection?

There was no objection.

NEW DIVISION OF WESTERN JUDICIAL DISTRICT OF TEXAS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24194) "to create a new division of the western judicial district of Texas, and to provide for terms of court at Pecos, Tex., and for a clerk for said court, and for other purposes."

The Clerk read the bill, as follows:

Be it enacted, etc., That the counties of Reeves, Ward, Martin, Reagan, Winkler, Ector, Gaines, Andrews, Upton, Midland, Loving, Jeff Davis, and Crane shall constitute a division of the western judicial district of Texas.

SEC. 2. That terms of the district court of the United States for the said western district of Texas shall be held twice in each year at the city of Pecos, in Reeves County, and that, until otherwise provided by law, the judge of said court shall fix the times at which said court shall be held at Pecos, of which he shall make application and give due notices.

Also the following committee amendment was read:

Page 2, line 3, after the word "notice," insert:

"*Provided, however*, That suitable rooms and accommodations shall be furnished for the holding of said court and for the use of the officers of said court at Pecos, free of expense to the Government of the United States."

The SPEAKER. Is there objection?

Mr. MONDELL. I reserve the right to object. I would like to know how large this district is, and how large the area is which it is proposed to include in this subdistrict.

Mr. SMITH of Texas. You mean the whole judicial district?

Mr. MONDELL. What is the area of this subdivision?

Mr. SMITH of Texas. It comprises 13 counties, the smallest of which are 30 miles square, and some of them are larger, returnable to this division of the court mentioned in this bill.

Mr. MONDELL. And within which there is now no provision for holding court?

Mr. SMITH of Texas. No court.

Mr. MONDELL. How large a population is there, approximately?

Mr. SMITH of Texas. About 25,000. There is no court within 200 miles of this proposed site.

Mr. MONDELL. No court within 200 miles?

Mr. SMITH of Texas. No, sir.

The SPEAKER. Is there objection?

Mr. FOSTER. Reserving the right to object, I would like to ask the gentleman if there is no public building at this place now.

Mr. SMITH of Texas. There is no public building there now.

Mr. FOSTER. How large a city is Pecos?

Mr. SMITH of Texas. It is a city of about 2,000 people.

Mr. FOSTER. I suppose this means that in the course of a little time a public building will be asked for there?

Mr. SMITH of Texas. I suppose in the course of events it may be so, but there is nothing pending to that effect at the present time. The gentleman will note that the Committee on the Judiciary requires that quarters be furnished for this court without expense to the Government.

Mr. FOSTER. I understand; but that does not provide any definite time?

Mr. SMITH of Texas. No.

Mr. FOSTER. The gentleman would not be willing to put in an amendment to furnish quarters for a definite length of time?

Mr. SMITH of Texas. I think not. I do not think this provision should be put in. It was already in the bill, but rather than raise a row about it I thought we would let it go through.

Mr. FOSTER. Is it usual to put on bills of this kind, establishing a court, a provision that there shall be suitable offices or quarters for holding the court when it is established?

Mr. SMITH of Texas. I was told by some member of the committee that was so, but I know of some bills which passed without that provision.

Mr. GARNER. And I might suggest to the gentleman from Illinois [Mr. FOSTER] that in a case like this such a provision ought not to be carried in the bill. It will be a hardship on these people to furnish these quarters. This court is being established because it is a hardship for them now to be without one and be compelled to travel from 200 to 500 miles to attend Federal court. And now, because they ought to be relieved of this burden, and because it is a rural population, it is a hardship to establish quarters for the purpose of holding a court, and Congress ought not to demand such an unreasonable proposition.

Mr. FOSTER. I may say that the gentleman from Texas [Mr. GARNER] may be right on that proposition. If it is neces-

sary to establish a court, the Government ought to furnish the necessary accommodations. But I notice there is a provision here that suitable rooms and accommodations shall be furnished free of charge to the Government, and I want to know how long it will last?

The reason the gentleman from Texas accepted that is because his people are suffering by reason of the fact that they have to travel so far to attend a Federal court, and he is willing to go to this extra expense in order to relieve the situation.

Mr. MANN. What expense is there in allowing a Federal court to use a building?

Mr. SMITH of Texas. I am making no objection.

Mr. MANN. That has been inserted in these bills for many years.

Mr. FOSTER. I am not going to object. The only thing I was driving at is that possibly in 10 years from now they will not want to hold this court without a public building——

Mr. MANN. In less than 10 years from now they will erect a public building there.

Mr. FOSTER. The gentleman did not wait until I had finished my sentence. I was saying that before that time they would be asking a public building, and one of the reasons will be that they are holding United States court there.

Mr. MANN. Why, certainly; that is one of the ways of getting a public building.

Mr. FOSTER. Yes.

Mr. MANN. That is a legitimate way.

Mr. FOSTER. I guess it is legitimate; yes. I am not complaining of that.

Mr. SMITH of Texas. I suppose the gentleman does not want to pledge here that he will never ask for a public building.

Mr. FOSTER. No; I would not ask the gentleman to do such a thing as that. The only thing in my mind was, if the accommodations are to be furnished in that particular locality, whether or not there should be a definite time fixed in which they should be furnished. It should not be held out as an excuse for urging the necessity of an appropriation.

Mr. MANN. It is just the other way. I will say to my colleague. They are required to furnish these quarters.

Mr. FOSTER. But there is no definite time set.

Mr. MANN. As long as the court remains there.

Mr. FOSTER. Under this provision I do not understand they would have to furnish it next year.

Mr. MANN. Oh, certainly. They have to furnish these quarters free as long as the court is maintained there, until the Government provides a Government building.

Mr. SMITH of Texas. It would be a question for the Government to determine hereafter.

Mr. FOSTER. I understand; but there is no provision saying that "so long as the court is held at that place," and so forth.

Mr. SMITH of Texas. That is what it means.

Mr. MANN. That is the construction of the language. It has been inserted in the bills all these recent years, partly to keep out the claims for public buildings.

Mr. FOSTER. I will ask my colleague, with all his experience in this House, whether that has succeeded in keeping out appropriations for public buildings? Has it not been more often a claim for a public building?

Mr. MANN. This provision does not make a claim for a public building.

The SPEAKER. The regular order is demanded. Is there objection? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Texas [Mr. SMITH] asks unanimous consent to consider this bill in the House as in Committee of the Whole. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the bill for amendment.

The Clerk again read the bill, as follows:

Be it enacted, etc., That the counties of Reeves, Ward, Martin, Reagan, Winkler, Ector, Gaines, Andrews, Upton, Midland, Loving, Jeff Davis, and Crane shall constitute a division of the western judicial district of Texas.

SEC. 2. That terms of the district court of the United States for the said western district of Texas shall be held twice in each year at the city of Pecos, in Reeves County, and that, until otherwise provided by law, the judge of said court shall fix the times at which said court shall be held at Pecos, of which he shall make application and give due notice.

With a committee amendment:

Amend by adding, after the word "notice," in line 3, page 2, the following:

"*Provided, however*, That suitable rooms and accommodations shall be furnished for the holding of said court and for the use of the officers of said court at Pecos, free of expense to the Government of the United States."

The SPEAKER. The question is on agreeing to the amendment.

Mr. MANN. Mr. Speaker, may I ask the gentleman a question?

Mr. SMITH of Texas. Certainly.

Mr. MANN. On page 2, line 2, just what is meant by the statement, "of which he shall make application and give due notice"? What does the language mean there—"make application"?

Mr. SMITH of Texas. I am glad the gentleman called attention to that. I think that should be "proclamation."

Mr. MANN. "Make proclamation and give due notice?"

Mr. SMITH of Texas. Yes.

Mr. Speaker, I ask that that amendment be made; that the word "application" be stricken out and the word "proclamation" be inserted.

The SPEAKER. Is that an amendment to the amendment?

Mr. MANN. No.

Mr. SMITH of Texas. That is an amendment to the original bill.

The SPEAKER. The vote will be taken first on the committee amendment. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER. The Clerk will now read the other amendment.

The Clerk read as follows:

On page 2, line 2, strike out the word "application" and insert in lieu thereof the word "proclamation."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the amended bill.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "To create a new division in the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes."

On motion of Mr. SMITH of Texas, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The SPEAKER. This ends the Unanimous Consent Calendar. When the House adjourned——

Mr. GARNER. Mr. Speaker, does this complete the Unanimous Consent Calendar?

The SPEAKER. It does. There were two or three more bills on the calendar, but they have not been on long enough.

Mr. GARNER. Mr. Speaker, the next bill on the calendar was placed there on the 15th of January.

Mr. MANN. It was not reported into the House until the 16th.

Mr. GARNER. Is it exclusive of the day it is placed on the calendar?

The SPEAKER. You can not count both the day it was put on and to-day.

THE ROCKEFELLER FOUNDATION.

The SPEAKER. When the House adjourned two weeks ago to-day the unfinished business was the bill (H. R. 21532) to incorporate the Rockefeller Foundation. A motion had been made to suspend the rules and pass the bill, a second had been ordered, and the debate had been had. The House voted on it, and the gentleman from Illinois [Mr. MANN] raised the point of no quorum, whereupon the House adjourned. So the question now is on suspending the rules and passing that bill.

Mr. PETERS. Mr. Speaker, before putting that motion, I ask unanimous consent to offer at this time an amendment to the bill.

The SPEAKER. The gentleman from Massachusetts [Mr. PETERS] asks unanimous consent to offer at this time an amendment. Is there objection to the request of the gentleman from Massachusetts [Mr. PETERS]?

Mr. MANN. I take it that the gentleman is asking unanimous consent to modify his motion to suspend the rules, so that it will include this amendment. It could not be acted upon in any other way.

Mr. PETERS. That is my request.

The SPEAKER. The gentleman is technically correct. The gentleman asks unanimous consent to modify his motion by including the amendment.

Mr. MANN. Let the amendment be reported.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Insert, page 8, after line 21, as a separate section:

"SEC. 14. That said corporation shall not have power to buy, sell, rent, lease, own, hold, or maintain any real estate or any interest in any real estate for the purpose of deriving profit therefrom except as herein otherwise expressly provided: *Provided*, That said corporation shall have power to loan its funds upon real estate securities and to acquire such real estate in collection of debts due to it: *Provided further*, That said corporation shall have power to receive donations, grants, gifts, and devices of real estate and interests in real estate: *And provided further*, That any real estate or any interest in any real estate that shall be acquired or received by said corporation in compliance with the provisions of this act shall within four years after the same is so acquired or received be sold, and in the event it shall not be so sold said real estate or interest in real estate shall escheat to the State or Territory in which it is situated."

The SPEAKER. The gentleman from Massachusetts [Mr. PETERS] asks unanimous consent at this stage of the proceedings to modify the bill in the manner which has been read. Is there objection?

[Mr. SHACKLEFORD addressed the House. See Appendix.]

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. SHERLEY. Mr. Speaker, reserving the right to object, it occurs to me that it is hardly fair to ask to suspend the rules on a particular bill and then permit an individual amendment. I should like the chance to amend this bill in a good many particulars. I want to be frank and say that I am opposed to a national incorporation anyway. I think we ought not to give special charters; but particularly I would like to see an amendment prohibiting exemption from taxation. I know no reason why this fund should be exempt from taxation. What we are asked now is to enable an individual to amend the bill without giving the rest of us a chance to do so. If the gentleman is willing to throw his bill open to amendment and let the House have a chance at it, that is another proposition.

The SPEAKER. That can not be done under a motion to suspend the rules.

Mr. PETERS. It is impossible to throw the bill open to amendment at this stage of the proceedings under the procedure of the House. If the gentleman from Kentucky has any specific amendment which he wishes to suggest, I would be glad to consider it.

Mr. SHERLEY. I will make it specific. I would like an amendment which would prevent the exemption from taxation from Federal or other taxes.

Mr. PETERS. By whom?

Mr. SHERLEY. I would have this fund subject to taxation just as the fund of a private individual would be subject to taxation.

Mr. CANNON. This is taxable in all the States.

Mr. SHERLEY. Not where church property would be exempt, according to the statement of the gentleman a few moments ago.

The SPEAKER. The Chair will inquire for his own information, has the gentleman from Kentucky any amendment?

Mr. SHERLEY. No. Supposing under the suspension of the rules that there would be no opportunity to amend, I could not be expected to have.

The SPEAKER. There can not be any amendment except by unanimous consent.

Mr. SHERLEY. I understand that there can not.

Mr. SAUNDERS. Mr. Speaker, I suggest that the bill itself per se does not operate to relieve this property from taxation. It is taxable by the State, and it is only exempt in the District of Columbia and the Territories. It is taxable in all the States pursuant to the laws of the States.

Mr. MANN. Why not strike out section 11 entirely?

Mr. SHERLEY. Mr. Speaker, I suggest striking out section 11. The gentleman wanted a specific amendment, and I propose that one.

Mr. PETERS. I will accept it and will include it in my motion.

Mr. SHERLEY. The gentleman appreciates that I am still opposed to his bill.

The SPEAKER. Will the gentleman from Kentucky state what it is he wants.

Mr. SHERLEY. To strike out section 11.

The SPEAKER. Is there objection?

Mr. DIES. I object.

The SPEAKER. The gentleman from Texas objects, and the question is on suspending the rules and passing the bill.

The question was taken; and the Speaker announced that the ayes seemed to have it.

Mr. SHACKLEFORD demanded a division.

Mr. FOWLER. Mr. Speaker, I suggest the absence of a quorum.

The SPEAKER. The gentleman from Illinois raises the point of no quorum. The Chair will count.

Mr. FOWLER. Mr. Speaker, I withdraw the point of no quorum.

Mr. DIES. I renew the point of no quorum.

Mr. MANN. I make the point of order that no quorum is present, as that is the easiest way to get the yeas and nays.

The SPEAKER. The gentleman from Texas and the gentleman from Illinois make the point that no quorum is present, and the Chair will count. [After counting.] One hundred and five gentlemen present, not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees.

Mr. SHERLEY. Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. PETERS) there were 49 ayes and 48 noes.

Mr. CANNON. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. This question is being taken on the motion to adjourn. All those in favor will answer "aye" and those opposed will answer "no," and the Clerk will call the roll.

The question was taken; and there were—yeas 36, nays 179, answered "present" 9, not voting 159, as follows:

YEAS—36.

Adamson	Daugherty	Johnson, S. C.	Sheppard
Bell, Ga.	Dies	Korbly	Sherley
Booher	Garner	Linthicum	Sisson
Byrnes, S. C.	Garrett	Macon	Stephens, Miss.
Callaway	Gudger	Mays	Taylor, Colo.
Candler	Harrison, Miss.	Moon, Tenn.	Tribble
Cline	Hensley	Moss, Ind.	Willis
Collier	Houston	Raker	Wilson, Pa.
Cullop	Humphreys, Miss.	Roddenbery	Witherspoon

NAYS—179.

Adair	Esch	Jackson	Pickett
Aiken, S. C.	Estopinal	Jacoway	Plumley
Ainey	Evans	James	Post
Alexander	Faison	Jones	Powers
Allen	Fergusson	Kendall	Redfield
Anderson	Ferris	Kennedy	Rees
Ashbrook	Finley	Kinkaid, Nebr.	Reilly
Barnhart	Fitzgerald	Kinkead, N. J.	Roberts, Mass.
Bates	Floyd, Ark.	Knowland	Roberts, Nev.
Beall, Tex.	Foss	Konop	Rothermel
Blackmon	Foster	Kopp	Rouse
Borland	Fowler	Lafferty	Rubey
Broussard	Francis	La Follette	Russell
Buchanan	French	Lawrence	Saunders
Bulkley	Fuller	Lee, Ga.	Scott
Burke, Pa.	Gallagher	Lee, Pa.	Sharp
Burke, S. Dak.	Gardner, Mass.	Lenroot	Sherwood
Burnett	Gillett	Lever	Sims
Byrns, Tenn.	Godwin, N. C.	Levy	Slayden
Cannon	Goldfogle	Lindbergh	Sloan
Cary	Good	Lobeck	Small
Clark, Fla.	Goodwin, Ark.	Loud	Smith, Saml. W.
Claypool	Gould	McDermott	Smith, Tex.
Clayton	Gray	McGillicuddy	Stanley
Cooper	Green, Iowa	McKenzie	Stedman
Cox	Greene, Mass.	McKinley	Steenerson
Crago	Gregg, Tex.	McKinney	Sterling
Cravens	Guernsey	McLaughlin	Stevens, Minn.
Currier	Hamilton, Mich.	Madden	Stone
Dalzell	Hamilton, W. Va.	Maguire, Nebr.	Sweet
Danforth	Hardy	Martin, S. Dak.	Switzer
Davis, Minn.	Harrison, N. Y.	Mondell	Talcott, N. Y.
Davis, W. Va.	Hay	Moore, Pa.	Taylor, Ala.
De Forest	Hayden	Morgan, La.	Thayer
Dent	Heflin	Morgan, Okla.	Thomas
Dickinson	Helgesen	Mott	Tilson
Dodds	Helm	Murdock	Towner
Donohoe	Henry, Conn.	Murray	Underhill
Doremus	Henry, Tex.	Neeley	Warburton
Doughton	Higgins	Nelson	Watkins
Draper	Hobson	Norris	White
Driscoll, D. A.	Holland	Nye	Wilder
Driscoll, M. E.	Hughes, Ga.	Padgett	Young, Kans.
Dupré	Hughes, W. Va.	Page	Young, Tex.
Edwards	Humphrey, Wash.	Peters	

ANSWERED "PRESENT"—9.

Boehne	McGuire, Okla.	Mann	Sparkman
Browning	McMorran	Morrison	Talbott, Md.
Butler			

NOT VOTING—159.

Akin, N. Y.	Brown	Curry	Focht
Ames	Burgess	Davenport	Fordney
Andrus	Burke, Wis.	Davidson	Fornes
Ansberry	Burleson	Denver	Gardner, N. J.
Anthony	Calder	Dickson, Miss.	George
Austin	Campbell	Difenderfer	Gill
Ayres	Cantrill	Dixon, Ind.	Glass
Barchfeld	Carlin	Dwight	Gocke
Bartholdt	Carter	Dyer	Graham
Bartlett	Conry	Ellerbe	Greene, Vt.
Bathrick	Copley	Fairchild	Gregg, Pa.
Berger	Covington	Farr	Griest
Bradley	Crumpacker	Fields	Hamill
Brantley	Curley	Flood, Va.	Hamlin

Hammond	Lewis	Payne	Smith, N. Y.
Hardwick	Lindsay	Pepper	Speer
Harris	Littlepage	Porter	Stack
Hart	Littleton	Pou	Stephens, Cal.
Hartman	Lloyd	Pray	Stephens, Nebr.
Hangen	Longworth	Prince	Stephens, Tex.
Hawley	McCall	Prouty	Sulloway
Hayes	McCoy	Pujo	Taggart
Heald	McCreary	Ralney	Taylor, Ohio
Hill	McKellar	Randell, Tex.	Thistlewood
Hinds	Maher	Ransdell, La.	Townsend
Howard	Martin, Colo.	Rauch	Turnbull
Howell	Matthews	Reyburn	Tuttle
Howland	Merritt	Richardson	Underwood
Hull	Miller	Riordan	Vare
Johnson, Ky.	Moon, Pa.	Rodenberg	Volstead
Kahn	Moore, Tex.	Rucker, Colo.	Vreeland
Kent	Morse, Wis.	Rucker, Mo.	Webb
Kindred	Needham	Sabath	Weeks
Kitchin	Oldfield	Scully	Whitacre
Konig	Olmsted	Sells	Wilson, Ill.
Lafean	O'Shaunessy	Shackleford	Wilson, N. Y.
Lamb	Palmer	Simmons	Wood, N. J.
Langham	Parran	Slemp	Woods, Iowa
Langley	Patten, N. Y.	Smith, J. M. C.	Young, Mich.
Legare	Patton, Pa.	Smith, Cal.	

So the motion to adjourn was rejected.

The Clerk announced the following pairs:

For the session:

Mr. BARTLETT with Mr. BUTLER.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. LITTLETON with Mr. DWIGHT.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. FORNES with Mr. BRADLEY.

Mr. RIORDAN with Mr. ANDRUS.

Mr. PALMER with Mr. HILL.

Until further notice:

Mr. RAINEY with Mr. MCCALL.

Mr. PUJO with Mr. MCMORRAN.

Mr. CONRY with Mr. LANGHAM.

Mr. UNDERWOOD with Mr. MANN.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. SCULLY with Mr. BROWNING.

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. FIELDS with Mr. LANGLEY.

Mr. HULL with Mr. NEEDHAM.

Mr. HENSLEY with Mr. KOPP.

Mr. KITCHIN with Mr. FORDNEY.

Mr. ANSBERRY with Mr. BARTHOLDT.

Mr. AYRES with Mr. CALDER.

Mr. BATHRICK with Mr. AMES.

Mr. BRANTLEY with Mr. ANTHONY.

Mr. BROWN with Mr. AUSTIN.

Mr. BURGESS with Mr. BARCHFELD.

Mr. BURLESON with Mr. COPLEY.

Mr. CANTRILL with Mr. DYER.

Mr. CARLIN with Mr. FARR.

Mr. COVINGTON with Mr. FOCHT.

Mr. CURLEY with Mr. GARDNER of New Jersey.

Mr. DAVENPORT with Mr. CURRY.

Mr. DENVER with Mr. GREENE of Vermont.

Mr. DIFENDERFER with Mr. GRIEST.

Mr. DIXON of Indiana with Mr. CRUMPACKER.

Mr. EDWARDS with Mr. HARTMAN.

Mr. ELLERBE with Mr. HAUGEN.

Mr. FLOOD of Virginia with Mr. HAWLEY.

Mr. GEORGE with Mr. HAYES.

Mr. GLASS with Mr. HEALD.

Mr. GOEKE with Mr. HINDS.

Mr. GRAHAM with Mr. HOWLAND.

Mr. HAMILL with Mr. KAHN.

Mr. HAMLIN with Mr. LAFEAN.

Mr. HARDWICK with Mr. CAMPBELL.

Mr. HAMMOND with Mr. HOWELL.

Mr. HART with Mr. MCCREARY.

Mr. HOWARD with Mr. MATTHEWS.

Mr. JOHNSON of Kentucky with Mr. MILLER.

Mr. KINDRED with Mr. MERRITT.

Mr. KONIG with Mr. MOON of Pennsylvania.

Mr. LAMB with Mr. OLMSTED.

Mr. LEWIS with Mr. PATTON of Pennsylvania.

Mr. LITTLEPAGE with Mr. PORTER.

Mr. LLOYD with Mr. PAYNE.

Mr. MCCOY with Mr. PRAY.

Mr. MCKELLAR with Mr. PRINCE.

Mr. MAHER with Mr. PROUTY.

Mr. OLDFIELD with Mr. REYBURN.

Mr. O'SHAUNESSY with Mr. RODENBERG.

Mr. PATTEN of New York with Mr. SELLS.

Mr. PEPPER with Mr. SIMMONS.

Mr. POU with Mr. SLEMP.

Mr. RAUCH with Mr. J. M. C. SMITH.

Mr. RICHARDSON with Mr. SMITH of California.

Mr. RUCKER of Missouri with Mr. SPEER.

Mr. RUCKER of Colorado with Mr. STEPHENS of California.

Mr. SMITH of New York with Mr. THISTLEWOOD.

Mr. SABATH with Mr. TAYLOR of Ohio.

Mr. STEPHENS of Texas with Mr. VOLSTEAD.

Mr. STEPHENS of Nebraska with Mr. VARE.

Mr. TAGGART with Mr. VREELAND.

Mr. TOWNSEND with Mr. WEEKS.

Mr. TURNBULL with Mr. WILSON of Illinois.

Mr. TUTTLE with Mr. WOODS of Iowa.

Mr. WEBB with Mr. SULLOWAY.

Mr. WILSON of New York with Mr. WOOD of New Jersey.

Mr. RANDELL of Texas with Mr. YOUNG of Michigan.

Until February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Mr. BUTLER. Mr. Speaker, I would inquire if the gentleman from Georgia, Mr. BARTLETT, voted. I have a general pair with him.

The SPEAKER. The gentleman from Georgia did not vote.

Mr. BUTLER. Then I will withdraw my vote of "nay" and answer "present."

The name of Mr. BUTLER was called, and he answered "Present."

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD. I voted "nay." I desire to withdraw my vote and be recorded "present."

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

A quorum being present, the doors were opened.

The SPEAKER. The question is on the motion of the gentleman from Massachusetts to suspend the rules and pass the bill.

Mr. SHACKLEFORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 155, nays 65, answered "present" 4, not voting 159, as follows:

YEAS—155.

Adair	Esch	Kent	Pickett
Aiken, S. C.	Estopinal	Kinkaid, Nebr.	Plumley
Ainey	Evans	Kinkead, N. J.	Post
Alexander	Faison	Kopp	Pou
Allen	Fitzgerald	Korbly	Powers
Ashbrook	Floyd, Ark.	Lafferty	Redfield
Barnhart	Foss	La Follette	Rees
Bates	Foster	Lawrence	Reilly
Bochne	French	Lee, Ga.	Roberts, Mass.
Brantley	Fuller	Lenroot	Roberts, Nev.
Broussard	Gallagher	Lever	Rothermel
Buchanan	Gardner, Mass.	Levy	Rouse
Bulkley	Gillett	Linthicum	Russell
Burke, Pa.	Godwin, N. C.	Littlepage	Saunders
Burke, S. Dak.	Good	Lobeck	Scott
Burleson	Gould	Loud	Sherwood
Burnett	Green, Iowa	McCall	Sims
Byrns, Tenn.	Greene, Mass.	McCoy	Slayden
Cannon	Greene, Vt.	McDermott	Sloan
Cantrill	Gregg, Pa.	McGillicuddy	Small
Cary	Gregg, Tex.	McKenzie	Smith, Saml. W.
Clayton	Gudger	McKinley	Steenerson
Covington	Guernsey	McKinney	Sterling
Cox	Hamilton, Mich.	McLaughlin	Stevens, Minn.
Crago	Hamilton, W. Va.	Madden	Stone
Currier	Hardy	Mann	Sweet
Dalzell	Hay	Martin, S. Dak.	Switzer
Danforth	Heflin	Moore, Pa.	Talcott, N. Y.
Davis, Minn.	Helgesen	Morgan, La.	Taylor, Ala.
Davis, W. Va.	Helm	Morse, Wis.	Taylor, Colo.
De Forest	Higgins	Mott	Thayer
Dent	Hobson	Murray	Thomas
Dodds	Holland	Norris	Tilson
Doremus	Houston	Nye	Towner
Doughton	Hughes, Ga.	O'Shaunessy	Underhill
Draper	Hughes, W. Va.	Padgett	Weeks
Driscoll, M. E.	Humphrey, Wash.	Page	White
Dupré	James	Patton, Pa.	Wilder
Ellerbe	Kennedy	Peters	

NAYS—65.

Adamson	Dies	Kendall	Roddenbery
Anderson	Donohoe	Konop	Ruby
Beall, Tex.	Edwards	Lee, Pa.	Sheppard
Blackmon	Fergusson	Lindbergh	Sherley
Booher	Fowler	Lloyd	Sisson
Borland	Francis	Macon	Smith, Tex.
Burgess	Garner	Maguire, Nebr.	Stephens, Miss.
Byrnes, S. C.	Garrett	Mays	Tribble
Callaway	Goodwin, Ark.	Moon, Tenn.	Warburton
Clark, Fla.	Gray	Morgan, Okla.	Willis
Claypool	Harrison, Miss.	Morrison	Wilson, Pa.
Cline	Hayden	Moss, Ind.	Witherspoon
Cooper	Henry, Tex.	Murdock	Young, Kans.
Cullop	Hensley	Neeley	Young, Tex.
Daugherty	Humphreys, Miss.	Nelson	
Dickinson	Jackson	Porter	
Dickson, Miss.	Jacoway	Raker	

ANSWERED "PRESENT"—4.

Browning	Butler	McMorran	Sparkman

NOT VOTING—159.

Akin, N. Y.	Finley	Lafean	Rucker, Colo.
Ames	Flood, Va.	Lamb	Rucker, Mo.
Andrus	Focht	Langham	Sabath
Ansberry	Forduey	Langley	Scully
Anthony	Fornes	Legare	Sells
Austin	Gardner, N. J.	Lewis	Shackleford
Ayres	George	Lindsay	Sharp
Barchfeld	Gill	Littleton	Simmons
Bartholdt	Glass	Longworth	Slemp
Bartlett	Goeke	McCreary	Smith, J. M. C.
Bathrick	Goldfogle	McGuire, Okla.	Smith, Cal.
Bell, Ga.	Graham	McKellar	Smith, N. Y.
Berger	Griest	Maher	Speer
Bradley	Hamill	Martin, Colo.	Stack
Brown	Hamlin	Matthews	Stanley
Burke, Wis.	Hammond	Merritt	Stedman
Calder	Hardwick	Miller	Stephens, Cal.
Campbell	Harris	Mondell	Stephens, Nebr.
Candler	Harrison, N. Y.	Moon, Pa.	Stephens, Tex.
Carlin	Hart	Moore, Tex.	Sulloway
Carter	Hartman	Needham	Taggart
Collier	Haugen	Oldfield	Talbott, Md.
Conry	Hawley	Olmsted	Taylor, Ohio
Copley	Hayes	Palmer	Thistlewood
Cravens	Heald	Parran	Townsend
Crumpacker	Henry, Conn.	Patten, N. Y.	Turnbull
Curley	Hill	Payne	Tuttle
Curry	Hinds	Pepper	Underwood
Davenport	Howard	Pray	Vare
Davidson	Howell	Prince	Volstead
Denver	Howland	Prouty	Vreeland
Difenderfer	Hull	Pujo	Watkins
Dixon, Ind.	Johnson, Ky.	Ralney	Webb
Driscoll, D. A.	Johnson, S. C.	Randell, Tex.	Whitacre
Dwight	Jones	Ransdell, La.	Wilson, Ill.
Dyer	Kahn	Rauch	Wilson, N. Y.
Fairchild	Kindred	Reyburn	Wood, N. J.
Farr	Kitchin	Richardson	Woods, Iowa
Ferris	Knowland	Riordan	Young, Mich.
Fields	Konig	Rodenberg	

So, two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

The Clerk announced the following additional pairs:

Until further notice:

Mr. CANDLER with Mr. DYER.

Mr. COLLIER with Mr. HAUGEN.

Mr. FERRIS with Mr. HENRY of Connecticut.

Mr. FINLEY with Mr. KNOWLAND.

Mr. GOLDFOGLE with Mr. MCKENZIE.

Mr. DENVER with Mr. MONDELL.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. STANLEY with Mr. ANTHONY.

Mr. JOHNSON of South Carolina with Mr. PRAY.

Mr. RAINEY with Mr. RODENBERG.

Mr. UNDERWOOD with Mr. OLMSTED.

Mr. LEWIS with Mr. SLEMP.

Mr. SHARP with Mr. HARTMAN.

Mr. STEDMAN with Mr. MCCREARY.

Mr. WATKINS with Mr. WILSON of Illinois.

Mr. BUTLER. Mr. Speaker, may I withdraw my vote? I voted "aye," but, being paired, I feel obliged to withdraw that vote and answer "present."

The name of Mr. BUTLER was called, and he answered "Present."

The result of the vote was announced as above recorded.

Mr. PETERS. Mr. Speaker, I move that the motion to reconsider the vote by which the bill was passed be laid on the table.

The SPEAKER. That motion is unnecessary and out of order.

Mr. HOBSON. Mr. Speaker——

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from New York moves that the House do now adjourn.

Mr. RUSSELL. Mr. Speaker, before that I would like to ask unanimous consent to call up a bill and agree to a Senate amendment.

Mr. CLARK of Florida. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CLARK of Florida. The gentleman from Alabama addressed the Chair and was recognized. Now, can the gentleman from New York take the gentleman off his feet by a motion?

The SPEAKER. The gentleman from New York can do a thing which is equivalent to that. The gentleman from Alabama had a right to make his motion, but the gentleman from New York had a right to make a preferential motion to adjourn, so the Chair shortened it a little——

Mr. HOBSON. I will make my motion, Mr. Speaker——

Mr. FITZGERALD. Mr. Speaker, I move to adjourn.

Mr. HOBSON. I have the floor, Mr. Speaker.

The SPEAKER. The Chair will recognize the gentleman——

Mr. FITZGERALD. But I object to any consent being given to make any motion.

Mr. GARNER. Mr. Speaker——

The SPEAKER. But the gentleman from Alabama was trying to make a motion before the gentleman from New York got up.

Mr. FITZGERALD. I have already made the motion to adjourn, which is a preferential motion.

Mr. HOBSON. Mr. Speaker, I move to suspend the rules and take up for consideration the bill H. R. 1309——

The SPEAKER. The gentleman from New York moves to adjourn.

Mr. RUSSELL. Mr. Speaker, before that I would like to ask unanimous consent to agree to a Senate amendment on a bill.

Mr. FITZGERALD. I withhold my motion for that purpose, and for that purpose only.

Mr. RODDENBERY. Mr. Speaker, reserving the right to object——

The SPEAKER. The Chair thinks if the gentleman from New York [Mr. FITZGERALD] makes a motion to adjourn and withdraws it, the gentleman from Alabama [Mr. HOBSON] has the floor.

Mr. FITZGERALD. I said I would withhold it for that purpose and no other.

The SPEAKER. The gentleman withholds it for that purpose. Now, what does the gentleman from Missouri [Mr. RUSSELL] want?

Mr. RUSSELL. I want to ask unanimous consent to call up the House bill and agree to the Senate amendment.

Mr. RODDENBERY. I reserve the right to object. [Cries of "Regular order!"] I object.

Mr. HOBSON. Mr. Speaker, I have the floor.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] made a preferential motion.

Mr. HOBSON. How does he know it has the highest preference?

The SPEAKER. The Chair knows it, even if the gentleman from New York [Mr. FITZGERALD] does not. [Laughter.] A motion to adjourn is the highest motion that can be made in the House.

Mr. HOBSON. But it can not interrupt a sentence that is being spoken.

The SPEAKER. The gentleman had finished his sentence. He had moved to suspend the rules, and the gentleman from New York made a motion to adjourn.

Mr. HOBSON. And pass this bill. That is all I desire to see in the RECORD, Mr. Speaker.

Mr. FITZGERALD. I have no desire to stand in the way of the gentleman doing that.

Mr. HOBSON. I move that the House suspend the rules and pass the bill H. R. 1309.

The SPEAKER. That is the motion the gentleman made a short time ago, and the Chair recognized him for that purpose, and then the Chair recognized the gentleman from New York to move to adjourn.

ADJOURNMENT.

The SPEAKER. The question is on the motion of the gentleman from New York that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 10 minutes p. m.) the House adjourned until Tuesday, January 21, 1913, at 12 o'clock m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Wyoming at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

2. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Colorado at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

3. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Nebraska at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

4. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed

in the State of Mississippi at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

5. A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Chief Clerk of the Treasury Department submitting an urgent deficiency estimate of appropriation for 12 clerks for the general supply committee (H. Doc. No. 1286); to the Committee on Appropriations and ordered to be printed.

6. A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of War submitting a deficiency estimate of appropriation for the National Home for Disabled Volunteer Soldiers (H. Doc. No. 1287); to the Committee on Appropriations and ordered to be printed.

7. A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of War submitting an estimate of deficiency appropriation for pay of the Army (H. Doc. No. 1288); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. BURKE of Wisconsin, from the Committee on Invalid Pensions, to which was referred sundry bills, reported in lieu thereof the bill (H. R. 28282) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain widows and dependent children of soldiers and sailors of said war, accompanied by a report (No. 1347), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BROWN: A bill (H. R. 28275) to amend section 113 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. BROWNING: A bill (H. R. 28276) amending section 1 of the act of May 11, 1912, relating to pension of Civil War soldiers and sailors; to the Committee on Invalid Pensions.

By Mr. HARRISON of New York: A bill (H. R. 28277) to impose a tax upon the production, manufacture, sale, and distribution of certain drugs, and providing for registration with the collectors of internal revenue of dealers in or producers of certain drugs; to the Committee on Ways and Means.

By Mr. GOULD: A bill (H. R. 28278) authorizing the Secretary of War to furnish to the Hannah Weston Chapter, Daughters of the American Revolution Society, of Machias, in the State of Maine, three condemned bronze or brass cannon or field pieces, with their carriages and with suitable outfit of cannon balls; to the Committee on Military Affairs.

By Mr. TOWNER: A bill (H. R. 28279) providing for a monument to commemorate the services and sacrifices of the women of the country at the time of the American Revolution; to the Committee on Public Buildings and Grounds.

By Mr. LINTHICUM: A bill (H. R. 28280) to authorize the use as a site for the United States immigration station and grounds at the port of Baltimore of a piece of land acquired by the United States about the year 1836 as part of an addition to Fort McHenry, in the State of Maryland, and which is now under the control of the War Department, and authorizing the Secretary of the Treasury to acquire an outlet therefrom to the city streets and to contract and arrange for necessary railroad facilities; to the Committee on Military Affairs.

By Mr. VREELAND: A bill (H. R. 28281) authorizing the erection of a public building at Salamanca, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. LAMB: A bill (H. R. 28283) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914; to the Committee of the Whole House on the state of the Union.

By Mr. AINEY: A bill (H. R. 28284) for the purchase of a site and erection of a public building thereon at Sayre, Bradford County, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. KORBLY: A bill (H. R. 28285) to amend section 5192 of the Revised Statutes of the United States; to the Committee on Banking and Currency.

By Mr. BULKLEY: A bill (H. R. 28286) to amend sections 4931 and 4934 of the Revised Statutes of the United States; to the Committee on Patents.

Also, a bill (H. R. 28287) to amend section 4934 of the Revised Statutes of the United States; to the Committee on Patents.

By Mr. DICKSON of Mississippi: A bill (H. R. 28288) authorizing the purchase of certain lands in Louisiana and Mississippi; to the Committee on Rivers and Harbors.

By Mr. LAFFERTY: A bill (H. R. 28289) to amend an act entitled "An act to amend sections 2291 and 2297 of the Revised Statutes of the United States relating to homesteads," approved June 6, 1912; to the Committee on the Public Lands.

By Mr. WILLIS: Resolution (H. Res. 781) for printing additional copies of Bulletin No. 85, Bureau of Soils; to the Committee on Printing.

By Mr. BATES: Joint resolution (H. J. Res. 387) to discontinue publication of the CONGRESSIONAL RECORD; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Wisconsin: A bill (H. R. 28282) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; to the Committee of the Whole House.

By Mr. BARCHFELD: A bill (H. R. 28290) granting an increase of pension to Thomas H. McIlvaine; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 28291) for the relief of the heirs of William A. Griffin, deceased; to the Committee on War Claims.

By Mr. CANNON: A bill (H. R. 28292) granting a pension to Barbara Ann Long; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28293) granting a pension to Ida Pasteur, alias Ida Pastor; to the Committee on Invalid Pensions.

By Mr. CURRIER: A bill (H. R. 28294) granting an increase of pension to Allen P. Gilson; to the Committee on Invalid Pensions.

By Mr. DAVIS of Minnesota: A bill (H. R. 28295) granting an increase of pension to Gertrude Meyer; to the Committee on Invalid Pensions.

By Mr. DE FOREST: A bill (H. R. 28296) granting an increase of pension to Ira N. Haney; to the Committee on Pensions.

By Mr. FERGUSSON: A bill (H. R. 28297) granting an increase of pension to Juan de la Luz Gallegos; to the Committee on Pensions.

By Mr. FIELDS: A bill (H. R. 28298) granting a pension to Mary Bradley; to the Committee on Invalid Pensions.

By Mr. GOULD: A bill (H. R. 28299) granting an increase of pension to Stephen M. Shaw; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28300) to correct the military record of Augustus Ronco; to the Committee on Military Affairs.

By Mr. HINDS: A bill (H. R. 28301) granting a pension to Isaac E. Foss; to the Committee on Pensions.

Also, a bill (H. R. 28302) granting a pension to Elizabeth L. Williams; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28303) granting a pension to Mary J. Gooding; to the Committee on Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 28304) granting a pension to John Galloway; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28305) granting a pension to William J. Smith; to the Committee on Pensions.

Also, a bill (H. R. 28306) granting a pension to J. P. McClintock; to the Committee on Pensions.

Also, a bill (H. R. 28307) granting a pension to Absolem Maynard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28308) granting a pension to John Muck Maynard; to the Committee on Invalid Pensions.

By Mr. KENT: A bill (H. R. 28309) granting a pension to Edward Coffee; to the Committee on Invalid Pensions.

By Mr. LAFEAN: A bill (H. R. 28310) granting an increase of pension to William Axe; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 28311) for the relief of Jarrett C. Coffey; to the Committee on War Claims.

Also, a bill (H. R. 28312) for the relief of the heirs of Ebenezer Park; to the Committee on War Claims.

Also, a bill (H. R. 28313) granting a pension to Ross D. Caudill; to the Committee on Pensions.

Also, a bill (H. R. 28314) granting a pension to William Little; to the Committee on Pensions.

Also, a bill (H. R. 28315) granting a pension to Henry Fields; to the Committee on Pensions.

Also, a bill (H. R. 28316) granting a pension to James H. Gilley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28317) granting a pension to William Cunagim; to the Committee on Pensions.

Also, a bill (H. R. 28318) granting a pension to Susan Webb; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28319) granting an increase of pension to Alexander Childers; to the Committee on Invalid Pensions.

By Mr. LENROOT: A bill (H. R. 28320) granting an increase of pension to Gustav A. Haas; to the Committee on Pensions.

By Mr. NEELEY: A bill (H. R. 28321) granting a pension to Otto Haner; to the Committee on Invalid Pensions.

By Mr. PICKETT: A bill (H. R. 28322) granting a pension to Joseph B. Thompson; to the Committee on Invalid Pensions.

By Mr. SMITH of New York: A bill (H. R. 28323) granting an increase of pension to Orion P. Howe; to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 28324) for the relief of Harvey W. Lane; to the Committee on War Claims.

By Mr. STEPHENS of Texas: A bill (H. R. 28325) for the relief of the estate of E. R. Gaines, deceased; to the Committee on War Claims.

By Mr. WHITACRE: A bill (H. R. 28326) to authorize the Secretary of the Interior to issue a deed to the persons hereinafter named for part of a lot in the District of Columbia; to the Committee on the District of Columbia.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BARCHFELD: Papers to accompany bill to increase the pension of Thomas H. McIlvaine; to the Committee on Invalid Pensions.

By Mr. BATES: Petition of the Erie Board of Trade, favoring the passage of Senate bill 7503, for a reduction of postage on first-class mail; to the Committee on the Post Office and Post Roads.

By Mr. BROWNING: Petition of James Milton Conover, Carlisle, Pa., favoring the passage of legislation for the founding of the proposed university of the United States at Washington, D. C.; to the Committee on Education.

By Mr. BURKE of Wisconsin: Papers to accompany bill (H. R. 28093) granting an increase of pension to Frederick Strasburg; to the Committee on Invalid Pensions.

Also, petition of the Wisconsin State Board of Forestry, favoring the renewal of the appropriation as provided for in the Weeks law for the protection of the forest and timberlands in northern Wisconsin from forest fires; to the Committee on Agriculture.

By Mr. CALDER: Petition of Illinois Chapter, American Institute of Architects, protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. CARY: Petition of the Wisconsin Talking Machine Co., of Milwaukee; Eastern Talking Machine Dealers' Association, of New York; Peter F. Piasecki, of Milwaukee; and Nordberg Manufacturing Co., protesting against the passage of the Oldfield patent law, prohibiting the fixing of prices by manufacturers of patent goods; to the Committee on Patents.

Also, petition of W. F. White, protesting against the reduction of tariff on Japanese matting; to the Committee on Ways and Means.

Also, petition of the Milwaukee-Florida Orange Co., protesting against the reduction of tariff on fruits; to the Committee on Ways and Means.

Also, petition of the State Board of Forestry of Wisconsin, favoring the renewal of the appropriation, as provided for in the Weeks law, for the protection of the forest and timberlands in northern Wisconsin; to the Committee on Agriculture.

Also, petition of the South Side Woman's Club, of Milwaukee, Wis., favoring the passage of House bill 25685, for the labeling and tagging of all fabrics and articles for sale which enter into the interstate commerce; to the Committee on Interstate and Foreign Commerce.

Also, petition of Illinois Chapter, American Institute of Architects, Chicago, Ill., protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petitions of the Mahr & Lange Drug Co. and Julius Andrae & Sons Co., Milwaukee, Wis., favoring the passage of House bill 27567, for a 1-cent postage rate on first-class mail; to the Committee on the Post Office and Post Roads.

Also, petition of Local Union No. 75, Journeymen Plumbers' Union, favoring the passage of the old-age pension bill (H. R. 13144); to the Committee on Pensions.

By Mr. DRAPER: Petition of Illinois Chapter, American Institute of Architects, Chicago, Ill., protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. ESCH: Petition of the Wisconsin State Board of Forestry, favoring the renewal of the appropriation as provided by the Weeks law for the protection of the forest and timberlands of northern Wisconsin against fires; to the Committee on Agriculture.

Also, petition of Illinois Chapter, American Institute of Architects, protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. FULLER: Petition of H. W. Taylor and L. D. Trabert, protesting against the reduction of the tariff on citrus fruits; to the Committee on Ways and Means.

Also, petition of William Riley, favoring the passage of House bill 1339, to increase the pension of those who lost an arm or leg in the Civil War; to the Committee on Invalid Pensions.

By Mr. GOLDFOGLE: Petition of the Mural Painters, New York, N. Y., and the Architectural League of New York, favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Illinois Chapter, American Institute of Architects, Chicago, Ill., protesting against the adoption of the design as approved by the National Commission of Fine Arts, for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Reliance Ball-Bearing Door Hanger Co., of New York; Earl & Wilson, of New York; New York Leather Belting Co., of New York; and American Laundry Machinery Co., of Rochester, N. Y., favoring the passage of the bill (H. R. 27567) for 1-cent letter postage rate; to the Committee on the Post Office and Post Roads.

By Mr. HAMILTON of Michigan: Petition of citizens of Newburg Township, Mich., favoring the passing of the Kenyon-Sheppard liquor bill, prohibiting the shipping of liquor in dry territory; to the Committee on the Judiciary.

By Mr. HIGGINS: Petition of the Milford (Conn.) Business Men's Association, favoring the passage of legislation for Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. HINDS: Papers to accompany bill granting an increase of pension to Elizabeth L. Williams; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting a pension to Isaac E. Foss; to the Committee on Pensions.

Also, papers to accompany bill granting a pension to Mary J. Gooding; to the Committee on Pensions.

By Mr. KINDRED: Petition of the Architectural League of New York and the Murial Painters of New York, favoring the passage of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Illinois Chapter, American Institute of Architects, Chicago, Ill., protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. LEVY: Petition of Illinois Chapter, American Institute of Architects, Chicago, Ill., protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. LINDSAY: Petition of the Mural Painters of New York and the Architectural League of New York, favoring the adoption of the Mall site for the memorial, as proposed, to Abraham Lincoln; to the Committee on the Library.

Also, petition of Illinois Chapter, American Institute of Architects, Chicago, Ill., protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Osa Parshall, Howell, Mich., favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of Rev. T. M. C. Birmingham, of Beatrice, Nebr., relative to the passage of a private bill granting him an increase of pension; to the Committee on Invalid Pensions.

Also, petition of the American Laundry Machinery Co., Rochester, N. Y., favoring the passage of House bill 27567, for 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of Myron C. Skinner, Yorkville, Ill., favoring the passage of House bill 1339, granting an increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of a German-American mass meeting, New York, protesting against the passage of House bill 8141, placing the State militia on the national pay roll; to the Committee on Military Affairs.

By Mr. LINTHICUM: Petition of the Enterprise Farmers' Club and other citizens of Montgomery County, Md., favoring the passage of legislation for the adoption of the great national highway from Washington, D. C., to Gettysburg, Pa., for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. McCALL: Petition of John W. Ayres, of Somerville, Mass., favoring a subsidy for the establishment of fast mail steamers between Boston and Fishguard; to the Committee on the Post Office and Post Roads.

By Mr. NEELEY: Petition of certain citizens of Meade County, Kans., favoring the passage of the Kenyon-Sheppard bill, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. BAKER: Petition of citizens of California, favoring the passage of legislation for the establishment of a national redwood park in Humboldt County, Cal.; to the Committee on Agriculture.

Also, petition of the Chamber of Mines and Oils, protesting against any reduction in the tariff on borax and borate products; to the Committee on Ways and Means.

By Mr. SCULLY: Petition of Illinois Chapter, American Institute of Architects, protesting against the adoption of the design as adopted by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the National Society for the Promotion of Industrial Education, New York, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Board of Trade of Newark, N. J., favoring the passage of legislation for the establishment of a term of Federal court in Newark, N. J.; to the Committee on the Judiciary.

By Mr. UNDERHILL: Petition of a German-American mass meeting, New York, protesting against the passage of House bill 8141, to place the State militia on the national pay roll; to the Committee on Military Affairs.

By Mr. WILLIS: Petition of S. M. Overfield and 2 other citizens of Woodstock, Ohio, and of Kite & Tomlin and 13 other citizens of St. Paris, Ohio, favoring the passage of legislation compelling concerns selling direct to the consumer by mail to contribute their portion of the funds for the development of the local community, county, etc.; to the Committee on Interstate and Foreign Commerce.

SENATE.

TUESDAY, *January 21, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CULLOM and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the final ascertainment of electors for President and Vice President appointed in the State of Tennessee at the election held in that State on November 5, 1912, which was ordered to be filed.

IRRIGATION IN WESTERN KANSAS AND OKLAHOMA (S. DOC. NO. 1021).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a report of an investigation of the feasibility and economy of irrigation from reservoirs in western Kansas and Oklahoma, which, with the accompanying papers and illustrations, was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

The message also announced that the House further insists upon its amendment to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, disagreed to by the Senate; agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. BURNETT, Mr. SABATH, and Mr. GARDNER of Massachusetts managers at the conference on the part of the House.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 17260) to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. FOSTER, Mr. WILSON of Pennsylvania, and Mr. HOWELL managers at the conference on the part of the House.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H. R. 16319. An act to extend and widen Western Avenue NW., in the District of Columbia;

H. R. 21532. An act to incorporate the Rockefeller Foundation;

H. R. 22351. An act to amend an act entitled "An act to provide for an enlarged homestead";

H. R. 24194. An act to create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes;

H. R. 25780. An act to amend section 3186 of the Revised Statutes of the United States;

H. R. 26279. An act granting the Fifth-Third National Bank, of Cincinnati, Ohio, the right to use original charter No. 20;

H. R. 26549. An act to provide for the construction or purchase of motor boat for customs service;

H. R. 26812. An act to provide for selection by the State of Idaho of phosphate and oil lands;

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois;

H. J. Res. 326. Joint resolution providing for extending provisions of the act authorizing extension of payments to homesteaders on the Coeur d'Alene Indian Reservation, Idaho; and

H. J. Res. 369. Joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.

The message further announced that the House had passed resolutions commemorative of the life, character, and public services of Hon. DAVID JOHNSON FOSTER, late a Representative from the State of Vermont.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the President pro tempore:

S. 7637. An act to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.;

H. R. 45. An act affecting the town sites of Timber Lake and Dupree, in South Dakota;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 14925. An act to amend an act to parole United States prisoners, and for other purposes, approved June 25, 1910;

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire;

H. R. 22437. An act for the relief of the heirs of Anna M. Torreson, deceased;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States relating to the carrying of dangerous articles on passenger steamers;

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty;

H. R. 25515. An act for the relief of Joshua H. Hutchinson;

H. R. 25764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry;

H. R. 25878. An act granting certain lands for a cemetery to the Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes;

H. J. Res. 239. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America; and

S. J. Res. 150. Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented the petition of A. W. Lawson, of New York City, praying that an appropriation be made for the organization of an aerial fleet for the American Navy, which was referred to the Committee on Naval Affairs.

Mr. WETMORE presented a memorial of the congregation of the Seventh-day Adventist Church of Westerly, R. I., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. TOWNSEND presented memorials of the congregations of the Seventh-day Adventist Churches of Mason, Owosso, and Coldwater, all in the State of Michigan, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. BRISTOW presented a petition of sundry citizens of Meade, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. GARDNER presented a petition of Local Grange, Patrons of Husbandry, of Wayne, Me., praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

He also presented a memorial of members of the Pierian Club of Presque Isle, Me., remonstrating against the transfer of the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a memorial of Local Branch, German-American Alliance, of Lisbon Falls, Me., and a memorial of the German-American Alliance of Maine, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. MYERS. I present resolutions adopted at a meeting of the railroad brotherhood's joint legislative board of Montana, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the resolutions were ordered to lie on the table and to be printed in the RECORD, as follows:

RAILROAD BROTHERHOOD JOINT LEGISLATIVE BOARD OF MONTANA,
Helena, January 4, 1913.

Hon. HENRY L. MYERS,
United States Senate, Washington, D. C.

DEAR SENATOR: At a meeting of the railroad brotherhoods' joint legislative board, consisting of delegates from all divisions and lodges of the Order of Railway Conductors, Brotherhood of Railroad Trainmen, Brotherhood of Locomotive Engineers, and Brotherhood of Locomotive Firemen and Enginemen the following resolution was passed:

Resolved, That this joint board indorse the resolution presented to the United States Senate by United States Senator HENRY L. MYERS, of Montana, in behalf of the Brotherhood of Locomotive Engineers, against Senate bill 5582 and House bill 20487, workingmen's compensation law, under date of April 10, 1912, and printed in the CONGRESSIONAL RECORD of May 6, 1912; and be it further

Resolved, That we are opposed to any substitute legislation that may interfere with our present liability laws.

Respectfully submitted.

JAMES O'RILEY, *Chairman.*
J. H. HALL, *Acting Secretary.*

Mr. MYERS. I present a memorial signed by citizens of Missoula, Mont., remonstrating against the parole of Federal life prisoners as provided in House bill 14925. I ask that the memorial lie on the table and be printed in the RECORD.

There being no objection, the memorial was ordered to lie on the table and to be printed in the RECORD, as follows:

To the honorable Senate and House of Representatives in Congress assembled:

The undersigned citizens of Missoula, Mont., respectfully remonstrate against the parole of Federal life prisoners as provided in H. R. 14925, as follows, to wit: "That every prisoner who has been or may hereafter be convicted of any offense against the United States and is confined in execution of the judgment of such conviction in any United States penitentiary or prison for a definite term or terms of over one year, or for the term of his natural life, whose record of conduct shows that he has observed the rules of such institution, and who, if sentenced for a definite term, has served one-third of the total of such term or terms for which he was sentenced, or, if sentenced for the term of his natural life, has served not less than 15 years, may be released on parole as hereafter provided."

F. S. LUSK, *Banker, Missoula, Mont.*
E. A. NEWTON, *Banker, Missoula, Mont.*
F. H. ELMORE, *Banker, Missoula, Mont.*

Mr. OLIVER presented a petition of the Men's Brotherhood of the Baptist Church of Montrose, Pa., and a petition of the congregation of the Bridgewater Baptist Church, of Montrose, Pa., praying for the passage of the so-called Kenyon-Sheppard interstate liquor law, which were ordered to lie on the table.

Mr. PERKINS presented a memorial of the Chamber of Commerce of San Francisco, Cal., remonstrating against the adoption of certain amendments to the law relating to bills of lading, which was referred to the Committee on Commerce.

Mr. BRANDEGEE presented a petition of the executive board of the Audubon Society of Connecticut, praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. SHIVELY presented memorials of A. H. Keck, Merritt C. Beale, Charles B. Eddy, M. C. Price, Rev. Frank K. Dougherty, and 139 other citizens of South Bend, Ind., remonstrating against the repeal of the law providing for the closing of post offices on Sunday, which were referred to the Committee on Post Offices and Post Roads.

He also presented memorials of the congregations of the Seventh-day Adventist Churches of Boggstown and Fort Wayne, in the State of Indiana, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. FLETCHER presented a memorial of the Scott Bros. Co., of Arcadia, Fla., remonstrating against a reduction of the duty on citrus fruits, which was referred to the Committee on Finance.

Mr. GRONNA presented a memorial of sundry citizens of Fargo, N. Dak., remonstrating against a reduction of the duty on harness and saddles, which was referred to the Committee on Finance.

Mr. PENROSE presented a memorial of the Board of Trade of Philadelphia, Pa., remonstrating against the enactment of legislation to abolish involuntary servitude imposed upon seamen in the merchant marine of the United States while in foreign ports, etc., which was referred to the Committee on Commerce.

Mr. JOHNSON of Maine presented telegrams in the nature of petitions from S. L. Merriman, principal of the Aroostook State Normal School; of Albert F. Richardson, of the State Normal Schools, of Castine; of Mrs. Stanley Plummer, president of the Maine Federation of Women's Clubs; of D. J. Callahan, superintendent of schools of Lewiston; of F. G. Wadsworth, president of the Maine Superintendents' Association; of Charles N. Perkins, of Waterville; of Payson Smith, State superintendent of public schools, of Augusta; of H. H. Randall, superintendent of schools, of Auburn; of W. G. Mallett, of Farmington; of W. L. Powers, principal of the Normal School of Machias; and of Androscoggin Grange, No. 8, Patrons of Husbandry, of Greene, all in the State of Maine, praying for the passage of the so-called Page vocational education bill, which were ordered to lie on the table.

Mr. GALLINGER presented a petition of the congregation of the First Universalist Church of Dover, N. H., and a petition of the congregation of the Evangelical Congregational Church of Charlestown, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate-liquor bill, which were ordered to lie on the table.

He also presented a petition of members of the Woman's Club of Berlin, N. H., praying that an appropriation be made for the erection of a Federal building in that city, which was referred to the Committee on Public Buildings and Grounds.

OLD NEWBURY HISTORICAL SOCIETY OF MASSACHUSETTS.

Mr. LODGE, from the Committee on Finance, to which was referred the joint resolution (S. J. Res. 154) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., reported it without amendment.

THE MESA VERDE.

Mr. CURTIS. From the Committee on Indian Affairs I desire to make a favorable report, and because of the importance of the case I ask unanimous consent for the immediate consideration of the bill. I report back favorably from that committee, without amendment, the bill (S. 5678) to ratify an agreement with the Weeminuchi (or Wiminuche), and hereafter referred to as the Wiminuche Band of Southern Ute Indians in Colorado, for the relinquishment to the United States of their rights to occupancy of the tract of land known as the Mesa Verde; and I submit a report (No. 1133) thereon.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. CURTIS. I ask that the letters of the Secretary of the Interior recommending the passage of the bill be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, February 21, 1912.

Hon. ROBERT J. GAMBLE,
Chairman Committee on Indian Affairs, United States Senate.

SIR: In the Indian appropriation act approved March 3, 1905 (32 Stat. L., 998), it is provided:

"That the Secretary of the Interior be, and he is hereby, directed to negotiate with the Weeminuche Ute Tribe of Indians for the relinquishment of their right of occupancy to the United States to the tract of land known as the Mesa Verde, a part of the reservation of said tribe, situate in the county of Montezuma, in the State of Colorado, the said tract to include and cover the ruins and prehistoric remains situate therein. And the Secretary of the Interior shall report to the next session of Congress the terms and conditions upon which the said tribe of Indians will relinquish to the United States their right of occupancy to said tract of land."

By departmental letter of March 18, 1905, Joseph O. Smith, United States Indian agent in charge of the Southern Ute Agency, Colo., was designated to conduct negotiations with the Indians. Agent Smith held a council with the Weeminuche Band of Southern Ute Indians in the fall of 1905, but the Indians, through their chiefs, refused to enter into any agreement for the cession of that part of their reservation known as the Mesa Verde.

This question was taken up with the Indians in council in June and August, 1904, by William M. Peterson, superintendent in charge of the Fort Lewis School, Colorado, but the Indians were still obdurate and refused to consider an agreement to relinquish any of their reservation.

This question was presented further to them by Supt. U. L. Clardy, in charge of the Navajo Springs Reservation, in the summer of 1910, at which time, as is shown by the records, the matter was thoroughly gone into with the Indians, who absolutely refused to come to any terms.

Under departmental instructions of April 20, 1911, this question was again taken up with the Indians by F. H. Abbott, Assistant Commissioner of Indian Affairs, and James McLaughlin, United States Indian Inspector.

These officers arrived at the Navajo Springs Indian Agency, Colo., on May 4, 1911, and on the following day held a council with the Indians and carefully explained to them what was wanted. The Indians were reluctant to entertain any proposition to relinquish their lands, and it was suggested to them that a committee of their leading men be appointed to accompany Mr. Abbott and Inspector McLaughlin to Mesa Verde, that these officers might point out to them the land wanted and that offered in exchange. These officers, accompanied by the Indian committee, visited the Mesa Verde National Park, as created by the act approved June 29, 1906 (34 Stats., 616), and ascertained that the park did not contain important prehistoric ruins, these being situated within the Southern Ute Reservation in township 34 north, range 15 west, adjoining the national park, the area embracing the ruins being about 5½ miles in length, extending south into the Indian reservation about 3½ miles from its northern boundary line.

After the committee of the tribal council had made its report to the council, negotiations with the Indians were resumed and an agreement reached whereby they agreed to accept in exchange for the land in the reservation containing historic ruins two certain tracts of land bordering on their reservation, one of which is within the present Mesa Verde National Park, containing approximately 7,840 acres, and the other situated in what is known as the Ute Mountain district, containing approximately 19,520 acres, a total of 27,360.

It is pointed out by Messrs. Abbott and McLaughlin that while the agreement provides for giving the Indians from the public domain about 2 acres for 1 relinquished, yet they call attention to the fact that the Ute Mountain tract is of little value, being rough and mountainous and largely devoid of vegetation, and say that its proximity, however, to the Navajo Springs superintendency, adjacent to the present habitations of the Indians, and upon which their stock now range, influenced them largely in assenting to the exchange as concluded.

Reports show that the total number of male adult members of the Weeminuche Band of Southern Ute Indians on the rolls of the Navajo Springs Agency is about 108; and a certificate of the superintendent in charge of these Indians, dated Navajo Springs, Colo., May 10, 1911, shows that the 65 names attached to the agreement constitute a majority of the adult members of the band and practically all the male adults residing on the reservation.

In order that the territory wanted in exchange by the Indians may be available for them if the agreement should be ratified, the following-described lands were temporarily withdrawn from all forms of settlement, entry, sale, or other disposition, subject to any valid existing rights of any persons, to wit:

The W. ½ of sec. 4, sec. 5, fractional NW. ¼ of sec. 9, fractional sec. 8, T. 34 N., R. 16 W.; sec. 32 and W. ½ of sec. 33, T. 35 N., R. 16 W.; secs. 5 and 6 and fractional secs. 7 and 8, T. 34 N., R. 17 W.; secs. 1, 2, 3, 4, and 5 and fractional secs. 8, 9, 10, 11, and 12, T. 34 N., R. 18 W.; secs. 19, 20, 29, 30, 31, and 32, T. 35 N., R. 17 W.; and secs. 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36, T. 35 N., R. 18 W., of the New Mexico principal meridian; all of which lands are situate north of the northern boundary line of the Southern Ute Indian Reservation and in Montezuma County, Colo.

In the discussions had with the Indians, both at the council proceedings and on the grounds themselves, when the committee appointed by the council in conjunction with Inspector McLaughlin and Assistant Commissioner Abbott visited the scenes of the prehistoric ruins, it was understood that "the Balcony House," one of the most important ruins, was to be included in the lands which the Indians agreed to surrender. The Indians themselves understood this and so expressed themselves to the representatives of the Government in the council assembled. A subsequent survey, however, made under the direction of the Geological Survey, discloses that "the Balcony House" is situated just below the south line of the proposed addition to the park, as defined in the agreement.

It becomes necessary, therefore, in order to take in these ruins, which the Indians understood were included in the description given in their agreement, to slightly modify the description as given by extending the southern boundary 30 chains farther south. The additional area included thereby in the addition to the park embraces approximately 1,320 acres, for which it is proposed to surrender to the Indians as an addition to their reservation all of secs. 26 and 27 and the SE. ¼ of sec. 28, T. 35 N., R. 16 W., New Mexico principal meridian, now a part of the Mesa Verde National Park, but in which no ruins of importance exist, 1,440 acres.

After the agreement hereinbefore mentioned was entered into with the Indians and filed with the department, Ralph W. Berry, assistant topographer, and R. B. Marshall, chief geographer, both of the Geological Survey, who during the summer of 1911 had made an inspection of the topographic survey in the park vicinity, suggested that the western, northern, and eastern boundary lines of the park be changed as indicated on the map inclosed and shown by the draft of bill, and Mr. Marshall, in letter of January 23, 1912, copy herewith, gives the reasons why, in his judgment, these changes should be made, and recommends that the boundary lines be amended accordingly.

If these changes in said boundary lines are made, secs. 36, 25, 26, 27, and the SE. ¼ sec. 28, T. 35 N., R. 16 W.; also the SE. ¼ sec. 6, SE ¼ sec. 9, and the NE. ¼ sec. 16, T. 35 N., R. 14 W., will be eliminated, and the W. ½ sec. 6 and the NW. ¼ of fractional sec. 7 (unsurveyed), T. 34 N., R. 16 W., "north of the Ute boundary," which it was originally intended to give the Indians in the exchange, will remain a part of the park.

And lands described as follows, not within the park, will be included therein:

Sec. 19, W. ½ sec. 20, the NE. ¼ sec. 20, the S. ½ sec. 14, T. 35 N., R. 15 W., the NW. ¼ sec. 7, the N. ½ sec. 5, the NE. ¼ sec. 22, T. 35 N., R. 14 W., and all land east of the eastern boundary of the park, from a point on the east bank of the Mancos River directly east of the northeast corner of the NW. ¼ sec. 26, T. 35 N., R. 14 W., south along the east bank of said river to a point where said river intersects the northern boundary of the Southern Ute Indian Reservation.

Originally it was intended that the SE. ¼ of sec. 28, secs. 25, 26, 27, and 36, T. 35 N., R. 16 W., should be retained in the park, but on the recommendation of Mr. Marshall the west line was changed, as indicated on the map and in the draft of bill, and it is now proposed to give these lands to the Indians in addition to those covered by the agreement; also sec. 36, T. 35 N., R. 18 W. This is a school section, as is also sec. 36, T. 35 N., R. 16 W., but the records of the General Land Office show that the State has selected other lands in lieu of them.

Provision has also been made in the draft of bill for extinguishing the jurisdiction of the department over prehistoric ruins within what is known as the Five Mile Strip on lands adjacent to the eastern, western, and northern boundaries of the park.

The inclosed map shows the boundary of the Mesa Verde National Park as originally established, the proposed new boundary, the northern boundary of the Southern Ute Indian Reservation, the boundary of the tract proposed to be relinquished by the Indians, together with the enlargement thereof necessary to include the "Balcony House" and the lands within the Mesa Verde National Park and on the public domain which it is proposed to give the Indians in exchange.

In the agreement the lands proposed to be ceded to the Government by the Indians and part of the lands to be given the Indians by the Government in exchange are incorrectly described, as the agreement recites that they are in township 34½ north. The proper description of these lands is township 34 north, with the correct range, and "south of the Ute boundary," or north thereof, as the case may be, and in the body of the proposed act this description has been followed so far as said township is concerned.

By the agreement, as modified, 14,520 acres within the reservation, containing important ruins, will be acquired by the United States, for which the Indians will receive in exchange 30,240 acres. The department is satisfied that the Indians thoroughly understand the conditions, and they have expressed a willingness, practically unanimous, to surrender the lands wanted on the terms set forth in their agreement.

Accordingly a bill has been prepared and is transmitted herewith, accepting and ratifying the agreement of May 10, 1911, as modified, in order to take in certain lands containing important ruins, which the Indians understood they were giving up and which they agreed to surrender.

A copy of the joint report of Inspector McLaughlin and Assistant Commissioner Abbott is inclosed herewith for your information.

The department would be pleased to see the suggested legislation given favorable consideration by your committee and the Congress.

Very respectfully,

SAMUEL ADAMS, *Acting Secretary.*

DEPARTMENT OF THE INTERIOR,
Washington, July 19, 1912.

MY DEAR SENATOR: My attention has been directed to the bill (S. 5678) pending before your committee in connection with the Mesa Verde National Park, upon which it is desirable to secure action at this session of Congress if practicable. It appears that the present limits of the Mesa Verde Park do not include some of the more important ruins and points of interest, and that negotiations have been had with the Indians to provide for an exchange of lands by which the park can be appropriately extended. It is desirable that the transaction should be perfected as promptly as practicable, and for this purpose the passage of the pending bill is necessary.

Yours, very truly,

WALTER L. FISHER, *Secretary.*

Hon. ROBERT J. GAMBLE,
Chairman Committee on Indian Affairs,
United States Senate.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WETMORE:

A bill (S. 8212) granting a pension to Eric Edin (with accompanying papers); to the Committee on Pensions.

By Mr. OLIVER:

A bill (S. 8213) granting an increase of pension to Stephen B. Johnson (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Maryland:

A bill (S. 8214) to provide for the permanent marking of the spot within the walls of Fort McHenry where the flagstaff was

planted at the Battle of North Point; to the Committee on Military Affairs.

By Mr. KERN:

A bill (S. 8215) granting an increase of pension to William H. Simption (with accompanying papers); and

A bill (S. 8216) granting an increase of pension to Aaron B. Waggoner (with accompanying papers); to the Committee on Pensions.

By Mr. MARTIN of Virginia:

A bill (S. 8217) authorizing the extension of Seventeenth, Evarts, and Bryant Streets NE., in the District of Columbia; to the Committee on the District of Columbia.

By Mr. GARDNER:

A bill (S. 8218) granting a pension to Emily L. Dow (with accompanying papers);

A bill (S. 8219) granting an increase of pension to Oliver O. Steele (with accompanying papers);

A bill (S. 8220) granting an increase of pension to Charles Burns; and

A bill (S. 8221) granting an increase of pension to Peter Prock (with accompanying papers); to the Committee on Pensions.

By Mr. SWANSON:

A bill (S. 8222) for the relief of Edward William Bailey; to the Committee on Claims.

By Mr. PENROSE:

A bill (S. 8223) granting an increase of pension to Eugene Lenhart; and

A bill (S. 8224) granting a pension to Ida E. Carter; to the Committee on Pensions.

A bill (S. 8225) granting an honorable discharge to James Kennedy (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 8226) granting a pension to Kate G. Caton (with accompanying papers); to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 8227) for the relief of Charlotte J. Pile, Eastmond P. Green, and Essie C. Gaudell, owners of lots Nos. 53, 54, and 55, in square No. 753, Washington, D. C., with regard to assessment and payment of damages on account of change of grade due to construction of the Union Station in said District (with accompanying papers); to the Committee on the District of Columbia.

By Mr. BROWN:

A bill (S. 8228) granting a pension to Ida M. Smith; to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 8229) granting a pension to Melissa J. Chandler (with accompanying papers); to the Committee on Pensions.

By Mr. POMERENE:

A bill (S. 8230) for the relief of Loren W. Greene; to the Committee on Naval Affairs.

By Mr. STEPHENSON:

A bill (S. 8231) granting an increase of pension to James Jameson (with accompanying paper); to the Committee on Pensions.

REGENT OF SMITHSONIAN INSTITUTION.

Mr. CULLOM. I introduce a joint resolution and ask unanimous consent that it be put on its passage.

The joint resolution (S. J. Res. 156) to appoint George Gray a member of the Board of Regents of the Smithsonian Institution was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That the vacancy in the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, shall be filled by the reappointment of George Gray, a citizen of Delaware.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE INAUGURAL CEREMONIES.

Mr. OVERMAN. I introduce the following joint resolution and ask unanimous consent for its present consideration.

The joint resolution (S. J. Res. 157) to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913, was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That to enable the Secretary of the Senate and Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States March 4, 1913, in accordance with such program as may be adopted by the joint committee of the Senate and House of Representatives, appointed under a concurrent resolution of the two Houses, including the pay for extra police for three days, at $3 per day, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $25,000, or so much thereof as may be necessary, the same to be immediately available.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. GRONNA submitted an amendment providing for a fair to be held at Fort Totten, N. Dak., and proposing to appropriate $1,000, to be expended under the direction and supervision of the superintendent of the Fort Totten Indian School, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JONES submitted an amendment proposing to appropriate $1,800,000, to be expended by the Reclamation Service for the purpose of constructing storage reservoirs to impound flood waters of the Yakima River, on the Yakima Indian Reservation, State of Washington, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. MYERS submitted an amendment providing that in all cases where Indians have taken or may hereafter take homesteads or have been or may hereafter be allotted lands upon the public domain, they and their respective families and descendants shall not thereby forfeit their rights to the lands and funds of the tribe to which they belong, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. GUGGENHEIM submitted an amendment proposing to settle and adjust the rights under existing treaties and laws of the White River Utes and Southern Utes and other bands of Ute Indians known as the Confederated band of Ute Indians of Colorado, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JOHNSON of Maine submitted an amendment proposing to appropriate $10,000 for completing the improvement of Bass Harbor Bar, Me., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. DU PONT submitted an amendment proposing that whenever any officer, who has been retired for disability, is found by an examining board, to be appointed by the Secretary of War, to be physically and mentally qualified for active service, the President may, in his discretion, reinstate such officer upon the active list as an extra officer, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. CULBERSON submitted an amendment providing for the improvement of the Houston Ship Channel, Tex., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $217,693.39) to reimburse the State of Texas in full payment of all claims on account of expenses incurred by that State prior to February 9, 1861, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

WITHDRAWAL OF PAPERS—MARTHA E. PATTERSON.

On motion of Mr. TOWNSEND, it was

Ordered, That the papers accompanying the bill (S. 7868) granting a pension to Martha E. Patterson, Sixty-second Congress, third session, be withdrawn from the files of the Senate, no adverse report having been made thereon.

COUNTING OF THE ELECTORAL VOTE.

Mr. DILLINGHAM. I offer the following concurrent resolution, for the immediate consideration of which I ask unanimous consent.

The concurrent resolution (S. Con. Res. 35) was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring). That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 12th day of February, 1913, at 1 o'clock in the afternoon, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate

pro tempore shall be their presiding officer; that two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate pro tempore, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate pro tempore, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

EMPLOYMENT OF STENOGRAPHERS.

Mr. MARTIN of Virginia submitted the following resolution (S. Res. 437), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay for two stenographers to Senators who are not chairmen of committees, at $1,200 each per annum, from January 21 and January 29, 1913, respectively, to be paid from the contingent fund of the Senate until the expiration of the present Congress.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. The Senate document room report that they have but one copy left of House bill 19115, the omnibus claims bill, and that there are frequent demands for it by parties interested. I ask that an order be made for printing 200 additional copies to supply the demand.

There being no objection, the order was agreed to, and it was reduced to writing, as follows:

Ordered, That 200 additional copies of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, be printed for the use of the Senate document room.

Mr. NEWLANDS. Mr. President, the other day I entered a motion to reconsider the vote by which the omnibus claims bill was passed. I should be glad to have that motion considered now and to have the Senate consider the amendment which I have to offer to the bill.

Mr. CRAWFORD. Mr. President, I have no objection to that course. On the part of the committee I practically agreed to it, with the understanding that it was not to open the door for a rediscussion of the bill and new amendments, but simply to give the Senator from Nevada an opportunity to be heard regarding a class of cases he wished to have incorporated in the bill. I raise no objection and agree that that may be done.

Mr. LODGE. I should like to call the attention of the Senator from Nevada to the fact that the Senator from New York [Mr. ROOT] gave notice, which has appeared on the calendar for some days, that he would desire to address the Senate to-day at the close of the routine morning business.

Mr. NEWLANDS. Then I will bring up the matter after the Senator from New York has concluded his remarks. I ask that the order of reconsideration be entered.

The PRESIDENT pro tempore. It has been entered.

EIGHT-HOUR LAW.

Mr. McCUMBER. Yesterday there was passed by the Senate the bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia. There were very few in the Senate at the time the bill was passed. I desire to make a motion at this time to reconsider the vote by which the bill was passed and to allow that motion to remain until at least after the Senator from New York has completed his remarks or until the Senator reporting the bill is present in the Senate. So I ask that the bill may be held in abeyance until I can call up the motion and have it acted upon at a future time.

The PRESIDENT pro tempore. The motion for reconsideration will be entered.

ANNUAL REPORT OF THE PHILIPPINE COMMISSION (H. DOC. NO. 1293).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, ordered to be printed, and, with the accompanying paper, referred to the Committee on the Philippines:

To the Senate and House of Representatives:

I transmit herewith, for the information of the Congress, the Thirteenth Annual Report of the Philippine Commission for the fiscal year ended June 30, 1912, together with the reports of the Governor General and the secretaries of the four executive departments of the Philippine government for the same period.

WM. H. TAFT.

THE WHITE HOUSE, *January 21, 1913.*

INDIANS OCCUPYING RAILROAD LANDS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 5674) for the relief of Indians occupying railroad lands.

Mr. CURTIS. I move that the Senate disagree to the amendments of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. GAMBLE, Mr. CURTIS, and Mr. ASHURST conferees on the part of the Senate.

BUREAU OF MINES.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 17260) to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. POINDEXTER. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. POINDEXTER, Mr. SUTHERLAND, and Mr. TILLMAN conferees on the part of the Senate.

HOUSE BILLS REFERRED.

The following bills and joint resolution were severally read twice by their titles and referred to the Committee on Public Lands:

H. R. 22351. An act to amend an act entitled "An act to provide for an enlarged homestead";

H. R. 25780. An act to amend section 3186 of the Revised Statutes of the United States;

H. R. 26812. An act to provide for selection by the State of Idaho of phosphate and oil lands; and

H. J. Res. 326. Joint resolution providing for extending provisions of the act authorizing extension of payments to homesteaders on the Coeur d'Alene Indian Reservation, Idaho.

The following bills were severally read twice by their titles and referred to the Committee on the Judiciary:

H. R. 21532. An act to incorporate the Rockefeller Foundation; and

H. R. 24194. An act to create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes.

The following bills were severally read twice by their titles and referred to the Committee on Commerce:

H. R. 26549. An act to provide for the construction or purchase of motor boats for customs service; and

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois.

H. R. 16319. An act to extend and widen Western Avenue NW., in the District of Columbia, was read twice by its title and referred to the Committee on the District of Columbia.

H. R. 26279. An act granting the Fifth-Third National Bank, of Cincinnati, Ohio, the right to use original charter No. 20, was read twice by its title and referred to the Committee on Finance.

PANAMA CANAL TOLLS.

Mr. ROOT. Mr. President, in the late days of last summer, after nearly nine months of continuous session, Congress enacted, in the bill to provide for the administration of the Panama Canal, a provision making a discrimination between the tolls to be charged upon foreign vessels and the tolls to be charged upon American vessels engaged in coastwise trade. We all must realize, as we look back, that when that provision was adopted the Members of both Houses were much exhausted; our minds were not working with their full vigor; we were weary physically and mentally. Such discussion as there was was to empty seats. In neither House of Congress, during the period that this provision was under discussion, could there be found more than a scant dozen or two of Members. The provision has been the cause of great regret to a multitude of our fellow citizens, whose good opinion we all desire and whose leadership of opinion in the country makes their approval of the

course of our Congress an important element in maintaining that confidence in government which is so essential to its success. The provision has caused a painful impression throughout the world that the United States has departed from its often-announced rule of equality of opportunity in the use of the Panama Canal, and is seeking a special advantage for itself in what is believed to be a violation of the obligations of a treaty. Mr. President, that opinion of the civilized world is something which we may not lightly disregard. "A decent respect to the opinions of mankind" was one of the motives stated for the people of these colonies in the great Declaration of American Independence.

The effect of the provision has thus been doubly unfortunate, and I ask the Senate to listen to me while I endeavor to state the situation in which we find ourselves; to state the case which is made against the action that we have taken, in order that I may present to the Senate the question whether we should not either submit to an impartial tribunal the question whether we are right; so that if we are right, we may be vindicated in the eyes of all the world, or whether we should not, by a repeal of the provision, retire from the position which we have taken.

In the year 1850, Mr. President, there were two great powers in possession of the North American Continent to the north of the Rio Grande. The United States had but just come to its full stature. By the Webster-Ashburton treaty of 1842 our northeastern boundary had been settled, leaving to Great Britain that tremendous stretch of seacoast including Nova Scotia, New Brunswick, Newfoundland, Labrador, and the shores of the Gulf of St. Lawrence, now forming the Province of Quebec. In 1846 the Oregon boundary had been settled, assuring to the United States a title to that vast region which now constitutes the States of Washington, Oregon, and Idaho. In 1848 the treaty of Guadalupe-Hidalgo had given to us that great empire wrested from Mexico as a result of the Mexican War, which now spreads along the coast of the Pacific as the State of California and the great region between California and Texas.

Inspired by the manifest requirements of this new empire, the United States turned its attention to the possibility of realizing the dream of centuries and connecting its two coasts—its old coast upon the Atlantic and its new coast upon the Pacific—by a ship canal through the Isthmus; but when it turned its attention in that direction it found the other empire holding the place of advantage. Great Britain had also her coast upon the Atlantic and her coast upon the Pacific, to be joined by a canal. Further than that, Great Britain was a Caribbean power. She had Bermuda and the Bahamas; she had Jamaica and Trinidad; she had the Windward Islands and the Leeward Islands; she had British Guiana and British Honduras; she had, moreover, a protectorate over the Mosquito coast, a great stretch of territory upon the eastern shore of Central America which included the river San Juan and the valley and harbor of San Juan de Nicaragua, or Greytown. All men's minds then were concentrated upon the Nicaragua Canal route, as they were until after the treaty of 1901 was made.

And thus when the United States turned its attention toward joining these two coasts by a canal through the Isthmus it found Great Britain in possession of the eastern end of the route which men generally believed would be the most available route for the canal. Accordingly, the United States sought a treaty with Great Britain by which Great Britain should renounce the advantage which she had and admit the United States to equal participation with her in the control and the protection of a canal across the Isthmus. From that came the Clayton-Bulwer treaty.

Let me repeat that this treaty was sought not by England but by the United States. Mr. Clayton, who was Secretary of State at the time, sent our minister to France, Mr. Rives, to London for the purpose of urging upon Lord Palmerston the making of the treaty. The treaty was made by Great Britain as a concession to the urgent demands of the United States.

I should have said, in speaking about the urgency with which the United States sought the Clayton-Bulwer treaty, that there were two treaties made with Nicaragua, one by Mr. Hels and one by Mr. Squier, both representatives of the United States. Each gave, so far as Nicaragua could, great powers to the United States in regard to the construction of a canal, but they were made without authorization from the United States, and they were not approved by the Government of the United States and were never sent to the Senate. Mr. Clayton, however, held those treaties in abeyance as a means of inducing Great Britain to enter into the Clayton-Bulwer treaty. He held them practically as a whip over the British negotiators, and having accomplished the purpose they were thrown into the waste basket.

By that treaty Great Britain agreed with the United States that neither Government should "ever obtain or maintain for itself any exclusive control over the ship canal"; that neither would "make use of any protection" which either afforded to a canal "or any alliance which either" might have "with any State or people for the purpose of erecting or maintaining any fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same," and that neither would "take advantage of any intimacy, or use any alliance, connection, or influence that either" might "possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other."

You will observe, Mr. President, that under these provisions the United States gave up nothing that it then had. Its obligations were entirely looking to the future; and Great Britain gave up its rights under the protectorate over the Mosquito coast, gave up its rights to what was supposed to be the eastern terminus of the canal. And, let me say without recurring to it again, under this treaty, after much discussion which ensued as to the meaning of its terms, Great Britain did surrender her rights to the Mosquito coast, so that the position of the United States and Great Britain became a position of absolute equality. Under this treaty also both parties agreed that each should "enter into treaty stipulations with such of the Central American States as they" might "deem advisable for the purpose"—I now quote the words of the treaty—"for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same."

That declaration, Mr. President, is the cornerstone of the rights of the United States upon the Isthmus of Panama, rights having their origin in a solemn declaration that there should be constructed and maintained a ship canal "between the two oceans for the benefit of mankind, on equal terms to all."

In the eighth article of that treaty the parties agreed:

> The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the Isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

There, Mr. President, is the explicit agreement for equality of treatment to the citizens of the United States and to the citizens of Great Britain in any canal, wherever it may be constructed, across the Isthmus. That was the fundamental principle embodied in the treaty of 1850. And we are not without an authoritative construction as to the scope and requirements of an agreement of that description, because we have another treaty with Great Britain—a treaty which formed one of the great landmarks in the diplomatic history of the world, and one of the great steps in the progress of civilization—the treaty of Washington of 1871, under which the Alabama claims were submitted to arbitration. Under that treaty there were provisions for the use of the American canals along the waterway of the Great Lakes, and the Canadian canals along the same line of communication, upon equal terms to the citizens of the two countries.

Some years after the treaty, Canada undertook to do something quite similar to what we have undertaken to do in this law about the Panama Canal. It provided that while nominally a toll of 20 cents a ton should be charged upon the merchandise both of Canada and of the United States there should be a rebate of 18 cents for all merchandise which went to Montreal or beyond, leaving a toll of but 2 cents a ton for that merchandise. The United States objected; and I beg your indulgence while I read from the message of President Cleveland upon that subject, sent to the Congress August 23, 1888. He says:

> By article 27 of the treaty of 1871 provision was made to secure to the citizens of the United States the use of the Welland, St.

Lawrence, and other canals in the Dominion of Canada on terms of equality with the inhabitants of the Dominion, and to also secure to the subjects of Great Britain the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States.

The equality with the inhabitants of the Dominion which we were promised in the use of the canals of Canada did not secure to us freedom from tolls in their navigation, but we had a right to expect that we, being Americans and interested in American commerce, would be no more burdened in regard to the same than Canadians engaged in their own trade; and the whole spirit of the concession made was, or should have been, that merchandise and property transported to an American market through these canals should not be enhanced in its cost by tolls many times higher than such as were carried to an adjoining Canadian market. All our citizens, producers and consumers as well as vessel owners, were to enjoy the equality promised.

And yet evidence has for some time been before the Congress, furnished by the Secretary of the Treasury, showing that while the tolls charged in the first instance are the same to all, such vessels and cargoes as are destined to certain Canadian ports—

Their coastwise trade—

are allowed a refund of nearly the entire tolls, while those bound for American ports are not allowed any such advantage.

To promise equality and then in practice make it conditional upon our vessels doing Canadian business instead of their own, is to fulfill a promise with the shadow of performance.

Upon the representations of the United States embodying that view, Canada retired from the position which she had taken, rescinded the provision for differential tolls, and put American trade going to American markets on the same basis of tolls as Canadian trade going to Canadian markets. She did not base her action upon any idea that there was no competition between trade to American ports and trade to Canadian ports, but she recognized the law of equality in good faith and honor; and to this day that law is being accorded to us and by each great Nation to the other.

I have said, Mr. President, that the Clayton-Bulwer treaty was sought by us. In seeking it we declared to Great Britain what it was that we sought. I ask the Senate to listen to the declaration that we made to induce Great Britain to enter into that treaty—to listen to it because it is the declaration by which we are in honor bound as truly as if it were signed and sealed.

Here I will read from the report made to the Senate on the 5th day of April, 1900, by Senator Cushman K. Davis, then chairman of the Committee on Foreign Relations. So you will perceive that this is no new matter to the Senate of the United States and that I am not proceeding upon my own authority in thinking it worthy of your attention.

Mr. Rives was instructed to say and did say to Lord Palmerston, in urging upon him the making of the Clayton-Bulwer treaty, this:

The United States sought no exclusive privilege or preferential right of any kind in regard to the proposed communication, and their sincere wish, if it should be found practicable, was to see it dedicated to the common use of all nations on the most liberal terms and a footing of perfect equality for all.

That the United States would not, if they could, obtain any exclusive right or privilege in a great highway which naturally belonged to all mankind.

That, sir, was the spirit of the Clayton-Bulwer convention. That was what the United States asked Great Britain to agree upon. That self-denying declaration underlaid and permeated and found expression in the terms of the Clayton-Bulwer convention. And upon that representation Great Britain in that convention relinquished her coign of vantage which she herself had for the benefit of her great North American empire for the control of the canal across the Isthmus.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Iowa?

Mr. ROOT. I do, but——

Mr. CUMMINS. I will ask the Senator from New York whether he prefers that there shall be no interruptions? If he does, I shall not ask any question.

Mr. ROOT. Mr. President, I should prefer it, because what I have to say involves establishing the relation between a considerable number of acts and instruments, and interruptions naturally would destroy the continuity of my statement.

Mr. CUMMINS. The question I was about to ask was purely a historic one.

Mr. ROOT. I shall be very glad to answer the Senator.

Mr. CUMMINS. The Senator has stated that at the time of the Clayton-Bulwer treaty we were excluded from the Mosquito coast by the protectorate exercised by Great Britain over that coast. My question is this: Had we not at that time a treaty with New Granada that gave us equal or greater rights upon the Isthmus of Panama than were claimed even by Great Britain over the Mosquito coast?

Mr. ROOT. Mr. President, we had the treaty of 1846 with New Granada, under which we undertook to protect any railway or canal across the Isthmus. But that did not apply to the Nicaragua route, which was then supposed to be the most available route for a canal.

Mr. CUMMINS. I quite agree with the Senator about that. I only wanted it to appear in the course of the argument that we were then under no disability so far as concerned building a canal across the Isthmus of Panama.

Mr. ROOT. We were under a disability so far as concerned building a canal by the Nicaragua route, which was regarded as the available route until the discussion in the Senate after 1901, in which Senator Spooner and Senator Hanna practically changed the judgment of the Senate with regard to what was the proper route to take. And in the treaty of 1850, so anxious were we to secure freedom from the claims of Great Britain to the eastern end of the Nicaragua route that, as I have read, we agreed that the same contract should apply not merely to the Nicaragua route but to the whole of the Isthmus. So that from that time on the whole Isthmus was impressed by the same obligations which were impressed upon the Nicaragua route, and whatever rights we had under our treaty of 1846 with New Grenada we were thenceforth bound to exercise with due regard and subordination to the provisions of the Clayton-Bulwer treaty.

Mr. President, after the lapse of some 30 years, during the early part of which we were strenuously insisting upon the observance by Great Britain of her obligations under the Clayton-Bulwer treaty and during the latter part of which we were beginning to be restive under our obligations by reason of that treaty, we undertook to secure a modification of it from Great Britain. In the course of that undertaking there was much discussion and some difference of opinion as to the continued obligations of the treaty. But I think that was finally put at rest by the decision of Secretary Olney in the memorandum upon the subject made by him in the year 1896. In that memorandum he said:

Under these circumstances, upon every principle which governs the relation to each other, either of nations or of individuals, the United States is completely estopped from denying that the treaty is in full force and vigor.

If changed conditions now make stipulations, which were once deemed advantageous, either inapplicable or injurious, the true remedy is not in ingenious attempts to deny the existence of the treaty or to explain away its provisions, but in a direct and straightforward application to Great Britain for a reconsideration of the whole matter.

We did apply to Great Britain for a reconsideration of the whole matter, and the result of the application was the Hay-Pauncefote treaty. That treaty came before the Senate in two forms: First, in the form of an instrument signed on the 5th of February, 1900, which was amended by the Senate; and, second, in the form of an instrument signed on the 18th of November, 1901, which continued the greater part of the provisions of the earlier instrument, but somewhat modified or varied the amendments which had been made by the Senate to that earlier instrument.

It is really but one process by which the paper sent to the Senate in February, 1900, passed through a course of amendment; first, at the hands of the Senate, and then at the hands of the negotiators between Great Britain and the United States, with the subsequent approval of the Senate. In both the first form and the last of this treaty the preamble provides for preserving the provisions of article 8 of the Clayton-Bulwer treaty. Both forms provide for the construction of the canal under the auspices of the United States alone instead of its construction under the auspices of both countries.

Both forms of that treaty provide that the canal might be—

constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares—

that being substituted for the provisions of the Clayton-Bulwer treaty under which both countries were to be patrons of the enterprise.

Under both forms it was further provided that—

Subject to the provisions of the present convention, the said Government—

The United States—

shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

That provision, however, for the exclusive patronage of the United States was subject to the initial provision that the modification or change from the Clayton-Bulwer treaty was to be for the construction of such canal under the auspices of the Government of the United States, without impairing the general principle of neutralization established in article 8 of that convention.

Then the treaty as it was finally agreed to provides that the United States "adopt, as the basis of such neutralization of such ship canal," the following rules, substantially as embodied in the convention "of Constantinople, signed the 29th of October, 1888," for the free navigation of the Suez Maritime Canal; that is to say:

First. The canal shall be free and open * * * to the vessels of commerce and of war of all nations "observing these rules on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect to the conditions or charges of traffic, or otherwise." Such conditions and charges of traffic shall be just and equitable.

Then follow rules relating to blockade and vessels of war, the embarkation and disembarkation of troops, and the extension of the provisions to the waters adjacent to the canal.

Now, Mr. President, that rule must, of course, be read in connection with the provision for the preservation of the principle of neutralization established in article 8 of the Clayton-Bulwer convention.

Let me take your minds back again to article 8 of the Clayton-Bulwer convention, consistently with which we are bound to construe the rule established by the Hay-Pauncefote convention. The principle of neutralization provided for by the eighth article is neutralization upon terms of absolute equality both between the United States and Great Britain and between the United States and all other powers.

It is always understood—

Says the eighth article—

by the United States and Great Britain that the parties contracting or owning the same—

That is, the canal—

shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable, and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

Now, we are not at liberty to put any construction upon the Hay-Pauncefote treaty which violates that controlling declaration of absolute equality between the citizens and subjects of Great Britain and the United States.

Mr. President, when the Hay-Pauncefote convention was ratified by the Senate it was in full view of this controlling principle, in accordance with which their act must be construed, for Senator Davis, in his report from the Committee on Foreign Relations, to which I have already referred——

Mr. McCUMBER. On the treaty in its first form.

Mr. ROOT. Yes; the report on the treaty in its first form. Mr. Davis said, after referring to the Suez convention of 1888:

The United States can not take an attitude of opposition to the principles of the great act of October 22, 1888, without discrediting the official declarations of our Government for 50 years on the neutrality of an Isthmian canal and its equal use by all nations without discrimination.

To set up the selfish motive of gain by establishing a monopoly of a highway that must derive its income from the patronage of all maritime countries would be unworthy of the United States if we owned the country through which the canal is to be built.

But the location of the canal belongs to other governments, from whom we must obtain any right to construct a canal on their territory, and it is not unreasonable, if the question was new and was not involved in a subsisting treaty with Great Britain, that she should question the right of even Nicaragua and Costa Rica to grant to our ships of commerce and of war extraordinary privileges of transit through the canal.

I shall revert to that principle declared by Senator Davis. I continue the quotation:

It is not reasonable to suppose that Nicaragua and Costa Rica would grant to the United States the exclusive control of a canal through those States on terms less generous to the other maritime nations than those prescribed in the great act of October 22, 1888, or if we could compel them to give us such advantages over other nations it would not be creditable to our country to accept them.

That our Government or our people will furnish the money to build the canal presents the single question whether it is profitable to do so. If the canal, as property, is worth more than its cost, we are not called on to divide the profits with other nations. If it is worth less and we are compelled by national necessities to build the canal, we have no right to call on other nations to make up the loss to us. In any view, it is a venture that we will enter upon if it is to our interest, and if it is otherwise we will withdraw from its further consideration.

The Suez Canal makes no discrimination in its tolls in favor of its stockholders, and, taking its profits or the half of them as our basis of calculation, we will never find it necessary to differentiate our rates of toll in favor of our own people in order to secure a very great profit on the investment.

Mr. President, in view of that declaration of principle, in the face of that declaration the United States can not afford to take a position at variance with the rule of universal equality established in the Suez Canal convention—equality as to every stockholder and all nonstockholders, equality as to every nation whether in possession or out of possession. In the face of that declaration the United States can not afford to take any other position than upon the rule of universal equality of the Suez Canal convention, and upon the further declaration that the country owning the territory through which this canal was to be built would not and ought not to give any special advantage or preference to the United States as compared with all the other nations of the earth. In view of that report the Senate rejected the amendment which was offered by Senator Bard, of California, providing for preference to the coastwise trade of the United States. This is the amendment which was proposed:

The United States reserves the right in the regulation and management of the canal to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade.

I say, the Senate rejected that amendment upon this report, which declared the rule of universal equality without any preference or discrimination in favor of the United States as being the meaning of the treaty and the necessary meaning of the treaty.

There was still more before the Senate, there was still more before the country to fix the meaning of the treaty. I have read the representations that were made, the solemn declarations made by the United States to Great Britain establishing the rule of absolute equality without discrimination in favor of the United States or its citizens to induce Great Britain to enter into the Clayton-Bulwer treaty.

Now, let me read the declaration made to Great Britain to induce her to modify the Clayton-Bulwer treaty and give up her right to joint control of the canal and put in our hands the sole power to construct it or patronize it or control it.

Mr. Blaine said in his instructions to Mr. Lowell on June 24, 1881, directing Mr. Lowell to propose to Great Britain the modification of the Clayton-Bulwer treaty.

I read his words:

The United States recognizes a proper guarantee of neutrality as essential to the construction and successful operation of any highway across the Isthmus of Panama, and in the last generation every step was taken by this Government that is deemed requisite in the premises. The necessity was foreseen and abundantly provided for long in advance of any possible call for the actual exercise of power. * * * *Nor, in time of peace, does the United States seek to have any exclusive privileges accorded to American ships in respect to precedence or tolls through an interoceanic canal any more than it has sought like privileges for American goods in transit over the Panama Railway, under the exclusive control of an American corporation.* The extent of the privileges of American citizens and ships is measurable under the treaty of 1846 by those of Colombian citizens and ships. *It would be our earnest desire and expectation to see the world's peaceful commerce enjoy the same fuet, liberal, and rational treatment.*

Secretary Cass had already said to Great Britain in 1857:

The United States, as I have before had occasion to assure your Lordship, *demand no exclusive privileges in these passages*, but will always exert their influence *to secure their free and unrestricted benefits, both in peace and war, to the commerce of the world.*

Mr. President, it was upon that declaration, upon that self-denying declaration, upon that solemn assurance, that the United States sought not and would not have any preference for its own citizens over the subjects and citizens of other countries that Great Britain abandoned her rights under the Clayton-Bulwer treaty and entered into the Hay-Pauncefote treaty, with the clause continuing the principles of clause 8, which embodied these same declarations, and the clause establishing the rule of equality taken from the Suez Canal convention. We are not at liberty to give any other construction to the Hay-Pauncefote treaty than the construction which is consistent with that declaration.

Mr. President, these declarations, made specifically and directly to secure the making of these treaties, do not stand alone. For a longer period than the oldest Senator has lived the United States has been from time to time making open and public declarations of her disinterestedness, her altruism, her purposes for the benefit of mankind, her freedom from desire or willingness to secure special and peculiar advantage in respect of transit across the Isthmus. In 1826 Mr. Clay, then Secretary of State in the Cabinet of John Quincy Adams, said, in his instructions to the delegates to the Panama Congress of that year:

If a canal across the Isthmus be opened "so as to admit of the passage of sea vessels from ocean to ocean, the benefit of it ought not to be exclusively appropriated to any one nation, but should be extended to all parts of the globe upon the payment of a just compensation for reasonable tolls."

Mr. Cleveland, in his annual message of 1885, said:

The lapse of years has abundantly confirmed the wisdom and foresight of those earlier administrations which, long before the conditions of maritime intercourse were changed and enlarged by the progress of the age, proclaimed the vital need of interoceanic transit across the American Isthmus and consecrated it in advance to the common use of mankind by their positive declarations and through the formal obligations of treaties. Toward such realization the efforts of my administration will be applied, ever bearing in mind the principles on which it must rest and which were declared in no uncertain tones by Mr. Cass, who, while Secretary of State in 1858, announced that "What the United States want in Central America next to the happiness of its people is the security and neutrality of the interoceanic routes which lead through it."

By public declarations, by the solemn asseverations of our treaties with Colombia in 1846, with Great Britain in 1850, our

treaties with Nicaragua, our treaty with Great Britain in 1901, our treaty with Panama in 1903, we have presented to the world the most unequivocal guaranty of disinterested action for the common benefit of mankind and not for our selfish advantage.

In the message which was sent to Congress by President Roosevelt on the 4th of January, 1904, explaining the course of this Government regarding the revolution in Panama and the making of the treaty by which we acquired all the title that we have upon the Isthmus, President Roosevelt said:

> If ever a Government could be said to have received a mandate from civilization to effect an object the accomplishment of which was demanded in the interest of mankind, the United States holds that position with regard to the interoceanic canal.

Mr. President, there has been much discussion for many years among authorities upon international law as to whether artificial canals for the convenience of commerce did not partake of the character of natural passageways to such a degree that, by the rules of international law, equality must be observed in the treatment of mankind by the nation which has possession and control. Many very high authorities have asserted that that rule applies to the Panama Canal even without a treaty. We base our title upon the right of mankind in the Isthmus, treaty or no treaty. We have long asserted, beginning with Secretary Cass, that the nations of Central America had no right to debar the world from its right of passage across the Isthmus. Upon that view, in the words which I have quoted from President Roosevelt's message to Congress, we base the justice of our entire action upon the Isthmus which resulted in our having the Canal Zone. We could not have taken it for our selfish interest; we could not have taken it for the purpose of securing an advantage to the people of the United States over the other peoples of the world; it was only because civilization had its rights to passage across the Isthmus and because we made ourselves the mandatory of civilization to assert those rights that we are entitled to be there at all. On the principles which underlie our action and upon all the declarations that we have made for more than half a century, as well as upon the express and positive stipulations of our treaties, we are forbidden to say we have taken the custody of the Canal Zone to give ourselves any right of preference over the other civilized nations of the world beyond those rights which go to the owner of a canal to have the tolls that are charged for passage.

Well, Mr. President, asserting that we were acting for the common benefit of mankind, willing to accept no preferential right of our own, just as we asserted it to secure the Clayton-Bulwer treaty, just as we asserted it to secure the Hay-Pauncefote treaty, when we had recognized the Republic of Panama, we made a treaty with her on the 18th of November, 1903. I ask your attention now to the provisions of that treaty. In that treaty both Panama and the United States recognize the fact that the United States was acting, not for its own special and selfish interest, but in the interest of mankind.

The suggestion has been made that we are relieved from the obligations of our treaties with Great Britain because the Canal Zone is our territory. It is said that, because it has become ours, we are entitled to build the canal on our own territory and do what we please with it. Nothing can be further from the fact. It is not our territory, except in trust. Article 2 of the treaty with Panama provides:

> The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal—
>
> And for no other purpose—
>
> of the width of 10 miles extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed.
>
> * * * * * * *
>
> The Republic of Panama further grants to the United States in perpetuity the use, occupation, and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said enterprise.

Article 3 provides:

> The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in article 2 of this agreement—

From which I have just read—

> and within the limits of all auxiliary lands and waters mentioned and described in said article 2 which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

Article 5 provides:

> The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance, and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

I now read from article 18:

> The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by section 1 of article 3 of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

So, Mr. President, far from our being relieved of the obligations of the treaty with Great Britain by reason of the title that we have obtained to the Canal Zone, we have taken that title impressed with a solemn trust. We have taken it for no purpose except the construction and maintenance of a canal in accordance with all the stipulations of our treaty with Great Britain. We can not be false to those stipulations without adding to the breach of contract a breach of the trust which we have assumed, according to our own declarations, for the benefit of mankind as the mandatory of civilization.

In anticipation of the plainly-to-be-foreseen contingency of our having to acquire some kind of title in order to construct the canal, the Hay-Pauncefote treaty provided expressly in article 4:

> It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

So you will see that the treaty with Great Britain expressly provides that its obligations shall continue, no matter what title we get to the Canal Zone; and the treaty by which we get the title expressly impresses upon it as a trust the obligations of the treaty with Great Britain. How idle it is to say that because the Canal Zone is ours we can do with it what we please.

There is another suggestion made regarding the obligations of this treaty, and that is that matters relating to the coasting trade are matters of special domestic concern, and that nobody else has any right to say anything about them. We did not think so when we were dealing with the Canadian canals. But that may not be conclusive as to rights under this treaty. But examine it for a moment.

It is rather poverty of language than a genius for definition which leads us to call a voyage from New York to San Francisco, passing along countries thousands of miles away from our territory, "coasting trade," or to call a voyage from New York to Manila, on the other side of the world, "coasting trade." When we use the term "coasting trade" what we really mean is that under our navigation laws a voyage which begins and ends at an American port has certain privileges and immunities and rights, and it is necessarily in that sense that the term is used in this statute. It must be construed in accordance with our statutes.

Sir, I do not for a moment dispute that ordinary coasting trade is a special kind of trade that is entitled to be treated differently from trade to or from distant foreign points. It is ordinarily neighborhood trade, from port to port, by which the people of a country carry on their intercommunication, often by small vessels, poor vessels, carrying cargoes of slight value. It would be quite impracticable to impose upon trade of that kind the same kind of burdens which great ocean-going steamers, trading to the farthest parts of the earth, can well bear. We make that distinction. Indeed, Great Britain herself makes it, although Great Britain admits all the world to her coasting trade. But it is by quite a different basis of classification—that is, the statutory basis—that we call a voyage from the eastern coast of the United States to the Orient a coasting voyage, because it begins and ends in an American port.

This is a special, peculiar kind of trade which passes through the Panama Canal. You may call it "coasting trade," but it is unlike any other coasting trade. It is special and peculiar to itself.

Grant that we are entitled to fix a different rate of tolls for that class of trade from that which would be fixed for other classes of trade. Ah, yes; but Great Britain has her coasting trade through the canal under the same definition, and Mexico has her coasting trade, and Germany has her coasting trade, and Colombia has her coasting trade, in the same sense that we have. You are not at liberty to discriminate in fixing tolls between a voyage from Portland, Me., to Portland, Oreg., by an American ship, and a voyage from Halifax to Victoria in a British ship, or a voyage from Vera Cruz to Acapulco in a Mexican ship, because when you do so you discriminate, not between coasting trade and other trade, but between American ships and British ships, Mexican ships, or Colombian ships. That is a violation of the rule of equality which we have solemnly adopted, and asserted and reasserted, and to which we are bound by every consideration of honor and good faith. Whatever this treaty means, it means for that kind of trade as well as for any other kind of trade.

The suggestion has been made, also, that we should not consider that the provision in this treaty about equality as to tolls really means what it says, because it is not to be supposed that

the United States would give up the right to defend itself, to protect its own territory, to land its own troops, and to send through the canal as it pleases its own ships of war. That is disposed of by the considerations which were presented to the Senate in the Davis report, to which I have already referred, in regard to the Suez convention.

The Suez convention, from which these rules of the Hay-Pauncefote treaty were taken almost—though not quite—textually, contained other provisions which reserved to Turkey and to Egypt, as sovereigns of the territory through which the canal passed—Egypt as the sovereign and Turkey as the suzerain over Egypt—all of the rights that pertained to sovereigns for the protection of their own territory. As when the Hay-Pauncefote treaty was made neither party to the treaty had any title to the region which would be traversed by the canal, no such clauses could be introduced. But, as was pointed out, the rules which were taken from the Suez Canal for the control of the canal management would necessarily be subject to these rights of sovereignty which were still to be secured from the countries owning the territory. That is recognized by the British Government in the note which has been sent to us and has been laid before the Senate, or is in the possession of the Senate, from the British foreign office.

In Sir Edward Grey's note of November 14, 1912, he says what I am about to read. This is an explicit disclaimer of any contention that the provisions of the Hay-Pauncefote treaty exclude us from the same rights of protection of territory which Nicaragua or Colombia or Panama would have had as sovereigns, and which we succeed to, pro tanto, by virtue of the Panama Canal treaty:

Sir Edward Grey says:

> I notice that in the course of the debate in the Senate on the Panama Canal bill the argument was used by one of the speakers that the third, fourth, and fifth rules embodied in article 3 of the treaty show that the words "all nations" can not include the United States, because, if the United States were at war, it is impossible to believe that it could be intended to be debarred by the treaty from using its own territory for revictualling its warships or landing troops.
>
> The same point may strike others who read nothing but the text of the Hay-Pauncefote treaty itself, and I think it is therefore worth while that I should briefly show that this argument is not well founded.

I read this not as an argument but because it is a formal, official disclaimer which is binding.

Sir Edward Grey proceeds:

> The Hay-Pauncefote treaty of 1901 aimed at carrying out the principle of the neutralization of the Panama Canal by subjecting it to the same régime as the Suez Canal. Rules 3, 4, and 5 of article 3 of the treaty are taken almost textually from articles 4, 5, and 6 of the Suez Canal Convention of 1888. At the date of the signature of the Hay-Pauncefote treaty the territory on which the Isthmian Canal was to be constructed did not belong to the United States, consequently there was no need to insert in the draft treaty provisions corresponding to those in articles 10 and 13 of the Suez Canal Convention, which preserve the sovereign rights of Turkey and of Egypt, and stipulate that articles 4 and 5 shall not affect the right of Turkey, as the local sovereign, and of Egypt, within the measure of her autonomy, to take such measures as may be necessary for securing the defense of Egypt and the maintenance of public order, and, in the case of Turkey, the defense of her possessions on the Red Sea.
>
> Now that the United States has become the practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection.

Mr. President, Great Britain has asserted the construction of the Hay-Pauncefote treaty of 1901, the arguments for which I have been stating to the Senate. I realize, sir, that I may be wrong. I have often been wrong. I realize that the gentlemen who have taken a different view regarding the meaning of this treaty may be right. I do not think so. But their ability and fairness of mind would make it idle for me not to entertain the possibility that they are right and I am wrong. Yet, Mr. President, the question whether they are right and I am wrong depends upon the interpretation of the treaty. It depends upon the interpretation of the treaty in the light of all the declarations that have been made by the parties to it, in the light of the nature of the subject matter with which it deals.

Gentlemen say the question of imposing tolls or not imposing tolls upon our coastwise commerce is a matter of our concern. Ah! we have made a treaty about it. If the interpretation of the treaty is as England claims, then it is not a matter of our concern; it is a matter of treaty rights and duties. But, sir, it is not a question as to our rights to remit tolls to our commerce. It is a question whether we can impose tolls upon British commerce when we have remitted them from our own. That is the question. Nobody disputes our right to allow our own ships to go through the canal without paying tolls. What is disputed is our right to charge tolls against other ships when we do not charge them against our own. That is, pure and simple, a question of international right and duty, and depends upon the interpretation of the treaty.

Sir, we have another treaty, made between the United States and Great Britain on the 4th of April, 1908, in which the two nations have agreed as follows:

> Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two contracting parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the 29th of July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting States, and do not concern the interests of third parties.

Of course, the question of the rate of tolls on the Panama Canal does not affect any nation's vital interests. It does not affect the independence or the honor of either of these contracting States. We have a difference relating to the interpretation of this treaty, and that is all there is to it. We are bound, by this treaty of arbitration, not to stand with arrogant assertion upon our own Government's opinion as to the interpretation of the treaty, not to require that Great Britain shall suffer what she deems injustice by violation of the treaty, or else go to war. We are bound to say, "We keep the faith of our treaty of arbitration, and we will submit the question as to what this treaty means to an impartial tribunal of arbitration."

Mr. President, if we stand in the position of arrogant refusal to submit the questions arising upon the interpretation of this treaty to arbitration, we shall not only violate our solemn obligation, but we shall be false to all the principles that we have asserted to the world, and that we have urged upon mankind. We have been the apostle of arbitration. We have been urging it upon the other civilized nations. Presidents, Secretaries of State, ambassadors, and ministers—aye, Congresses, the Senate and the House, all branches of our Government have committed the United States to the principle of arbitration irrevocably, unequivocally, and we have urged it in season and out of season on the rest of mankind.

Sir, I can not detain the Senate by more than beginning upon the expressions that have come from our Government upon this subject, but I will ask your indulgence while I call your attention to a few selected from the others.

On the 9th of June, 1874, the Senate Committee on Foreign Relations reported and the Senate adopted this resolution:

> *Resolved*, That the United States having at heart the cause of peace everywhere, and hoping to help its permanent establishment between nations, hereby recommend the adoption of arbitration as a great and practical method for the determination of international difference, to be maintained sincerely and in good faith, so that war may cease to be regarded as a proper form of trial between nations.

On the 17th of June, 1874, the Committee on Foreign Affairs of the House adopted this resolution:

> Whereas war is at all times destructive of the material interests of a people, demoralizing in its tendencies, and at variance with an enlightened public sentiment; and whereas *differences between nations should in the interests of humanity and fraternity be adjusted, if possible, by international arbitration:* Therefore,
>
> *Resolved*, That the people of the United States being devoted to the policy of peace with all mankind, enjoining its blessings and hoping for its permanence and its universal adoption, hereby through their representatives in Congress recommend such arbitration as a rational substitute for war; and they further recommend to the treaty-making power of the Government to provide, if practicable, that hereafter in treaties made between the United States and foreign powers war shall not be declared by either of the contracting parties against the other until efforts shall have been made to adjust all alleged cause of difference by impartial arbitration.

On the same 17th of June, 1874, the Senate adopted this resolution:

> *Resolved, etc.*, That the President of the United States is hereby authorized and requested to negotiate with all civilized powers who may be willing to enter into such negotiations for the establishment of an international system whereby matters in dispute between different Governments agreeing thereto may be adjusted by arbitration, and, if possible, without recourse to war.

On the 14th of June, 1888, and again on the 14th of February, 1890, the Senate and the House adopted a concurrent resolution in the words which I now read:

> *Resolved by the Senate (the House of Representatives concurring)*, That the President be, and is hereby, requested to invite, from time to time, as fit occasions may arise, negotiations with any Government with which the United States has, or may have, diplomatic relations, to the end that any differences or disputes arising between the two Governments which can not be adjusted by diplomatic agency may be referred to arbitration and be peaceably adjusted by such means.

This was concurred in by the House on the 3d of April, 1890.

Mr. President, in pursuance of those declarations by both Houses of Congress the Presidents and the Secretaries of State and the diplomatic agents of the United States, doing their bounden duty, have been urging arbitration upon the people of the world. Our representatives in The Hague conference of 1899, and in The Hague conference of 1907, and in the Pan American conference in Washington, and in the Pan American conference in Mexico, and in the Pan American conference in Rio de Janeiro were instructed to urge and did urge and pledge

the United States in the most unequivocal and urgent terms to support the principle of arbitration upon all questions capable of being submitted to a tribunal for a decision.

Under those instructions Mr. Hay addressed the people of the entire civilized world with the request to come into treaties of arbitration with the United States. Here was his letter. After quoting from the resolutions and from expressions by the President he said:

Moved by these views, the President has charged me to instruct you to ascertain whether the Government to which you are accredited, which he has reason to believe is equally desirous of advancing the principle of international arbitration, is willing to conclude with the Government of the United States an arbitration treaty of like tenor to the arrangement concluded between France and Great Britain on October 14, 1903.

That was the origin of this treaty. The treaties made by Mr. Hay were not satisfactory to the Senate because of the question about the participation of the Senate in the make-up of the special agreement of submission. Mr. Hay's successor modified that on conference with the Committee on Foreign Relations of the Senate, and secured the assent of the other countries of the world to the treaty with that modification. We have made 25 of these treaties of arbitration, covering the greater part of the world, under the direction of the Senate of the United States and the House of Representatives of the United States and in accordance with the traditional policy of the United States, holding up to the world the principle of peaceful arbitration.

One of these treaties is here, and under it Great Britain is demanding that the question as to what the true interpretation of our treaty about the canal is shall be submitted to decision and not be made the subject of war or of submission to what she deems injustice to avoid war.

In response to the last resolution which I have read, the concurrent resolution passed by the Senate and the House requesting the President to enter into the negotiations which resulted in these treaties of arbitration, the British House of Commons passed a resolution accepting the overture. On the 16th of July, 1893, the House of Commons adopted this resolution:

Resolved, That this house has learnt with satisfaction that both Houses of the United States Congress have, by resolution, requested the President to invite from time to time, as fit occasions may arise, negotiations with any government with which the United States have or may have diplomatic relations, to the end that any differences or disputes arising between the two governments which can not be adjusted by diplomatic agency may be referred to arbitration and peacably adjusted by such means, and that this house, cordially sympathizing with the purpose in view, expresses the hope that Her Majesty's Government will lend their ready cooperation to the Government of the United States upon the basis of the foregoing resolution.

Her Majesty's Government did, and thence came this treaty.

Mr. President, what revolting hypocrisy we convict ourselves of, if after all this, the first time there comes up a question in which we have an interest, the first time there comes up a question of difference about the meaning of a treaty as to which we fear we may be beaten in an arbitration, we refuse to keep our agreement? Where will be our self-respect if we do that? Where will be that respect to which a great nation is entitled from the other nations of the earth?

I have read from what Congress has said.

Let me read something from President Grant's annual message of December 4, 1871. He is commenting upon the arbitration provisions of the treaty of 1871, in which Great Britain submitted to arbitration our claims against her, known as the Alabama claims, in which Great Britain submitted those claims where she stood possibly to lose but not possibly to gain anything, and submitted them against the most earnest and violent protest of many of her own citizens. Gen. Grant said:

The year has been an eventful one in witnessing two great nations speaking one language and having one lineage, settling by peaceful arbitration disputes of long standing and liable at any time to bring those nations into costly and bloody conflict. An example has been set which, if successful in its final issue, may be followed by other civilized nations and finally be the means of returning to productive industry millions of men now maintained to settle the disputes of nations by the bayonet and by broadside.

Under the authority of these resolutions our delegates in the first Pan American conference at Washington secured the adoption of this resolution April 18, 1890:

ARTICLE 1. The Republics of North, Central, and South America hereby adopt arbitration as a principle of American international law for the settlement of the differences, disputes, or controversies that may arise between two or more of them.

And this:

The International American Conference resolves that this conference, having recommended arbitration for the settlement of disputes among the Republics of America, begs leave to express the wish that controversies between them and the nations of Europe may be settled in the same friendly manner.

It is further recommended that the Government of each nation herein represented communicate this wish to all friendly powers.

Upon that Mr. Blaine, that most vigorous and virile American, in his address as the presiding officer of that first Pan American conference in Washington said:

If, in this closing hour, the conference had but one deed to celebrate we should dare call the world's attention to the deliberate, candident, solemn dedication of two great continents to peace and to the prosperity which has peace for its foundation. We hold up this new Magna Charta, which abolishes war and substitutes arbitration between the American Republics, as the first and great fruit of the International American Conference. That noblest of Americans, the aged poet and philanthropist, Whittier, is the first to send his salutation and his benediction, declaring, "If in the spirit of peace the American conference agrees upon a rule of arbitration which shall make war in this hemisphere well-nigh impossible, its sessions will prove one of the most important events in the history of the world."

President Arthur in his annual message of December 4, 1882, said, in discussing the proposition for a Pan American conference:

I am unwilling to dismiss this subject without assuring you of my support of any measure the wisdom of Congress may devise for the promotion of peace on this continent and throughout the world, and I trust the time is nigh when, with the universal assent of civilized peoples, all international differences shall be determined without resort to arms by the benignant processes of arbitration.

President Harrison in his message of December 3, 1889, said concerning the Pan American conference:

But while the commercial results which it is hoped will follow this conference are worthy of pursuit and of the great interests they have excited, it is believed that the crowning benefit will be found in the better securities which may be devised for the maintenance of peace among all American nations and the settlement of all contentions by methods that a Christian civilization can approve.

President Cleveland, in his message of December 4, 1893, said, concerning the resolution of the British Parliament of July 16, 1893, which I have already read, and commenting on the concurrent resolution of February 14 and April 18, 1890:

It affords me signal pleasure to lay this parliamentary resolution before the Congress and to express my sincere gratification that the sentiment of two great kindred nations is thus authoritatively manifested in favor of the rational and peaceable settlement of international quarrels by honorable resort to arbitration.

President McKinley, in his message of December 6, 1897, said:

International arbitration can not be omitted from the list of subjects claiming our consideration. Events have only served to strengthen the general views on this question expressed in my inaugural address. The best sentiment of the civilized world is moving toward the settlement of differences between nations without resorting to the horrors of war. Treaties embodying these humane principles on broad lines without in any way imperiling our interests or our honor shall have my constant encouragement.

President Roosevelt, in his message of December 3, 1905, said:

I earnestly hope that the conference—

The second Hague conference—

may be able to devise some way to make arbitration between nations the customary way of settling international disputes in all save a few classes of cases, which should themselves be sharply defined and rigidly limited as the present governmental and social development of the world will permit. If possible, there should be a general arbitration treaty negotiated among all nations represented at the conference.

Oh, Mr. President, are we Pharisees? Have we been insincere and false? Have we been pretending in all these long years of resolution and declaration and proposal and urgency for arbitration? Are we ready now to admit that our country, that its Congresses and its Presidents, have all been guilty of false pretense, of humbug, of talking to the galleries, of fine words to secure applause, and that the instant we have an interest we are ready to falsify every declaration, every promise, and every principle? But we must do that if we arrogantly insist that we alone will determine upon the interpretation of this treaty and will refuse to abide by the agreement of our treaty of arbitration.

Mr. President, what is all this for? Is the game worth the candle? Is it worth while to put ourselves in a position and to remain in a position to maintain which we may be driven to repudiate our principles, our professions, and our agreements for the purpose of conferring a money benefit—not very great, not very important, but a money benefit—at the expense of the Treasury of the United States, upon the most highly and absolutely protected special industry in the United States? Is it worth while? We refuse to help our foreign shipping, which is in competition with the lower wages and the lower standard of living of foreign countries, and we are proposing to do this for a part of our coastwise shipping which has now by law the absolute protection of a statutory monopoly and which needs no help.

Mr. President, there is but one alternative consistent with self-respect. We must arbitrate the interpretation of this treaty or we must retire from the position we have taken.

O Senators, consider for a moment what it is that we are doing. We all love our country; we are all proud of its history; we are all full of hope and courage for its future; we love its good name; we desire for it that power among the nations

of the earth which will enable it to accomplish still greater things for civilization than it has accomplished in its noble past. Shall we make ourselves in the minds of the world like unto the man who in his own community is marked as astute and cunning to get out of his obligations? Shall we make ourselves like unto the man who is known to be false to his agreements; false to his pledged word? Shall we have it understood the whole world over that "you must look out for the United States or she will get the advantage of you"; that we are clever and cunning to get the better of the other party to an agreement, and that at the end——

Mr. BRANDEGEE. "Slippery" would be a better word.

Mr. ROOT. Yes; I thank the Senator for the suggestion—"slippery." Shall we in our generation add to those claims to honor and respect that our fathers have established for our country good cause that we shall be considered slippery?

It is worth while, Mr. President, to be a citizen of a great country, but size alone is not enough to make a country great. A country must be great in its ideals; it must be great-hearted; it must be noble; it must despise and reject all smallness and meanness; it must be faithful to its word; it must keep the faith of treaties; it must be faithful to its mission of civilization in order that it shall be truly great. It is because we believe that of our country that we are proud, aye, that the alien with the first step of his foot upon our soil is proud to be a part of this great democracy.

Let us put aside the idea of small, petty advantage; let us treat this situation and these obligations in our relation to this canal in that large way which befits a great nation.

Mr. President, how sad it would be if we were to dim the splendor of that great achievement by drawing across it the mark of petty selfishness; if we were to diminish and reduce for generations to come the power and influence of this free Republic for the uplifting and the progress of mankind by destroying the respect of mankind for us! How sad it would be if you and I, Senators, were to make ourselves responsible for destroying that bright and inspiring ideal which has enabled free America to lead the world in progress toward liberty and justice!

During the delivery of Mr. Root's speech,

The PRESIDING OFFICER (Mr. LIPPITT in the chair). The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. CUMMINS. I ask unanimous consent that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the unfinished business will be temporarily laid aside. The Senator from New York will proceed.

After the conclusion of Mr. Root's speech,

Mr. NEWLANDS. Mr. President, I give notice that to-morrow at the close of the morning business, if the convenience of the Senate will permit, I shall speak upon the question discussed to-day by the Senator from New York [Mr. Root]—the Panama Canal tolls. Assuming even more than the Senator from New York has contended for, namely, that the United States holds the canal in trust for civilization; that the canal is to be regarded as a great international public utility through which the Government of the United States as its administrator is bound to render the same service to all for the same price, I shall endeavor to show that no unjust burthen has been placed upon foreign nations, but that, on the contrary, the United States is bearing and will continue for many years to bear an enormous burthen, the larger portion of which, in justice and in right, it could impose upon the shipping of foreign nations, whose tonnage will for many years constitute at least nine-tenths of the total tonnage of the canal. I refer to the interest charge upon its enormous investment of $400,000,000 in the Panama Canal, which for many years it will be unable to collect.

I shall endeavor to show that there is no necessity for arbitration upon this question; that all that is necessary can be accomplished by adding a few lines to the statute which we have already enacted, providing that the charges from which our domestic ships shall be freed shall not be imposed as an additional charge upon foreign or international shipping, but shall be credited on our interest charge against the Panama investment; that those few lines will demonstrate to the world that the United States intends to administer the canal with justice to all nations and without imposing an unfair burthen upon any, and at the same time to maintain its traditional domestic policy of an untrammeled and unburthened traffic upon its domestic waterways. I shall contend that the Panama Canal is not only an international public utility, but a domestic waterway, and as such, so far as our domestic policies are concerned, is to be administered like any other waterway of the country upon which public moneys have been expended—as a free and untrammeled channel of transportation, trade, and commerce between the various sections of our country.

Mr. BRANDEGEE. Mr. President, I assume the Senator from Nevada means his remarks to follow those for which notice already stands on the calendar after the routine morning business to-morrow.

Mr. NEWLANDS. What notice is that?

Mr. BRANDEGEE. My colleague [Mr. MCLEAN] has given notice that immediately upon the conclusion of the routine morning business to-morrow he will ask the Senate to take up another matter.

Mr. NEWLANDS. Of course that will have precedence.

OLD NEWBURY HISTORICAL SOCIETY, MASSACHUSETTS.

The PRESIDENT pro tempore laid before the Senate the joint resolution (H. J. Res. 369) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., which was read the first time by its title.

Mr. LODGE. The Committee on Finance has favorably reported a joint resolution identical with that joint resolution, and I now ask for the present consideration of the House joint resolution. It is only 5 lines, and will not take long.

Mr. CULBERSON. Let the title of the joint resolution be again read.

The PRESIDENT pro tempore. The joint resolution will be read in full before the request for its consideration is put.

The Secretary read the joint resolution (H. J. Res. 369) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., the second time at length, as follows:

Resolved, etc., That the Secretary of the Treasury is hereby authorized to give to the Old Newbury Historical Society, of Newburyport, Mass., any or all documents in the customhouse building at Newburyport, Mass., which are of no further value to the United States Government.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. LODGE. I move that the joint resolution (S. J. Res. 154) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., reported by me this morning from the Committee on Finance, be postponed indefinitely.

The motion was agreed to.

M'CLELLAN PARK.

Mr. MARTINE of New Jersey. I ask unanimous consent for the present consideration of the bill (S. 2845) to acquire certain land in Washington Heights for a public park to be known as McClellan Park.

The PRESIDENT pro tempore. The bill has heretofore been read. Is there objection to its present consideration?

Mr. BRISTOW. Mr. President, I objected to that bill the other day. I did so very largely because I believe when we are establishing public parks they ought to be established where they are most needed. The site of the proposed park is within a couple of blocks of the Zoological Park, and I thought if we were expending money for park purposes we ought to spend it in the congested part of the city where there are no parks.

Mr. MARTINE of New Jersey. Mr. President, this matter was before the Committee on Public Buildings and Grounds, and it was there referred to a special committee. The committee investigated the question and were thoroughly convinced that the situation as it is now was certainly not in existence at the time the original idea and plan of public parks was inaugurated. This plat comprises about 2 acres. It is surrounded with streets and in itself to-day is a park so far as requiring the expenditure of a dollar to put it in shape is concerned. There is a very handsome house on the plat that might be used for a public rest. This plat is surrounded with apartment buildings from 7 to 12 stories high and is about 1 mile from the other end of Rock Creek Park. It was the opinion of the committee that the public need and demand at that point warranted the purchase of this plat. I do not at the moment recall the exact figure involved, but it is something over $100,000.

The PRESIDENT pro tempore. If the Chair may be allowed to make the suggestion, the amount is $180,000.

Mr. MARTINE of New Jersey. $180,000.

Mr. NEWLANDS. I should like to ask if any objection has been interposed to the consideration of this bill? If not, I will have to object.

Mr. WILLIAMS. I should like to propound a parliamentary inquiry. Are we sounding the calendar under the unanimous-consent rule?

The PRESIDENT pro tempore. The Senator from New Jersey has asked unanimous consent for the present consideration of the bill named by him.

Mr. WILLIAMS. Yes; but are we sounding the calendar?

The PRESIDENT pro tempore. No; not at all.

Mr. WILLIAMS. This bill comes up irregularly, then?

The PRESIDENT pro tempore. It does.

Mr. WILLIAMS. Very well.

The PRESIDENT pro tempore. Is there objection to the consideration of the bill?

Mr. NEWLANDS. I object to the present consideration of the bill, as I desire to bring up the motion I made to reconsider the votes by which the omnibus claims bill was ordered to a third reading, read the third time, and passed.

The PRESIDENT pro tempore. Objection is made.

OMNIBUS CLAIMS BILL.

Mr. NEWLANDS obtained the floor.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. The Senator from Nevada has been recognized.

Mr. CRAWFORD. I ask the Senator to yield to me.

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from South Dakota?

Mr. NEWLANDS. Yes.

Mr. CRAWFORD. Mr. President, the omnibus claims bill passed the Senate the other day while the Senator from Nevada was absent. He had given notice of his intention to offer an amendment, but on account of his absence he did not have that opportunity, so that he gave notice of a motion to reconsider. The bill, if the votes are reconsidered, will be before the Senate for that purpose only, and not with any idea of going into a general discussion or of submitting amendments.

Mr. NEWLANDS. Mr. President, I was absent when the omnibus claims bill was finally disposed of the other day. At that time I had pending an amendment providing for the payment of some 80 claims for extra pay of mechanics and laborers on public buildings in some 25 different States, including Alabama, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Texas, Virginia, and Wisconsin—claims aggregating from $500 to $7,000 and totaling about $92,000.

These claims are asserted under the findings of the Court of Claims, which acted upon a bill referred to that court by Congress for consideration, providing for the payment of claims for extra pay. The claims were founded upon the act of August 1, 1892, known as the eight-hour law. Prior to that time the eight-hour law had existed for some period, but it was declared by the courts to be not mandatory, and the result was that a new law was passed on August 1, 1892, from which I quote:

SECTION 1. That the service and employment of all laborers and mechanics who are now or may hereafter be employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia, is hereby limited and restricted to eight hours in any one calendar day, and it shall be unlawful for any officer of the United States Government or of the District of Columbia, or any such contractor or subcontractor whose duty it shall be to employ, direct, or control the services of such laborers or mechanics, to require or permit any such laborer or mechanic to work more than eight hours in any calendar day, except in case of extraordinary emergency.

It will be observed that not only was an eight-hour day fixed, but it was made unlawful for any officer of the United States Government to permit work in excess of eight hours. The record shows that with reference to a certain class of laborers, namely, engineers, firemen, mechanics, and laborers, the Treasury Department fixed the compensation by the year, and presumably they fixed that compensation with reference to the requirements of the law as to an eight-hour day. Notwithstanding that fact, all of the men whose claims are now presented were compelled to work in excess of eight hours. That fact is found by the Court of Claims; the fact of compensation is found by the Court of Claims; the number of extra hours is found by the Court of Claims; and the compensation to which these men are entitled for the extra work is also ascertained. The Court of Claims, in presenting these findings of fact, found in reference to all of them practically what they found regarding the claim of one Glanzmann, a resident of the State of Nevada, and from which I will read a quotation:

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

The chairman of the Committee on Claims insists that, in fixing this compensation, they took into consideration the number of hours in excess of the legal requirement which these laborers might be compelled to labor. I take exception to that statement. The finding of the Court of Claims is simply that the compensation was fixed without regard to the number of hours; and the presumption is that in fixing the compensation they fixed it with a view to the requirements of the law, that no man should be required to work more than eight hours a day. This is proved by the fact that numerous laborers of the same class—common laborers, firemen, engineers, and so forth—were employed for differing hours. Some of them were only compelled to work according to the legal requirement of eight hours, and yet they received the same pay for their class as did the men who were called by their superior officers to work for 12 hours. It is clear, therefore, that the men who fixed this compensation did not take into consideration any extra time, but simply fixed the compensation according to the character of the employment, assuming that the men would only be called upon to work the legal number of hours, for we can not assume that these officials deliberately proposed to break the law, when that very law made it unlawful for them to permit any employment beyond the eight hours.

This contention is verified by the affidavits presented by Mr. W. W. Ludlow and Mr. Fred Casady, who, as I understand, were Treasury officials, charged with the duty of determining the compensation to be paid to these various classes of laborers. These affidavits were made only a few weeks ago, and they were made in view of the statement presented by the chairman of the Committee on Claims that in fixing compensation they had taken into consideration the extra number of hours that the men would be called upon to serve. These men all denied this, and their affidavits are presented in Senate Document No. 985 of the present session.

I read from the statement of W. W. Ludlow, dated December 17, 1912, and sworn to before a notary public:

W. W. Ludlow on oath deposes and says that he is the W. W. Ludlow who testified—

I presume in the Court of Claims—

in connection with the employment and fixing of the compensation of certain engineers, firemen, and laborers in the custodian service; that when he testified that the salary of such employees was fixed "at what the work was worth" without regard to the number of hours they might be required to labor, he meant that he fixed such salary at what the character of the employment was worth; for example, engineers at a certain compensation, firemen at a certain compensation, laborers at a certain compensation. Deponent further deposes and says that in fixing said salary he did not know how many hours the employee might be required to work, and only fixed the salary with a view to the character of the work which the employee would be called upon to perform.

Depositions are made by Mr. Fred Casady and Mr. Robert Tobin to the same effect; and the truth of their statements is proved by the fact that the men who work only 8 hours a day in these various classes of employment receive the same annual compensation as the men who work 12 hours a day.

Mr. President, I do not wish to take the time of the Senate in the discussion of this matter. It is perfectly clear that the intention of Congress from the start has been to enforce the eight-hour law regarding laborers employed on the public buildings, and that after the courts had declared that the provision of law covering that question was not mandatory Congress changed the law and made it mandatory, and made it unlawful for any official of the Government to exact work beyond the eight hours. We have the fact, ascertained by the Court of Claims, that these men did work beyond the eight hours, and the fact that, judged by the compensation for the eight hours, the extra time was worth so much, aggregating in all $92,000.

I wish to say that there is no danger of a large amount of claims being precipitated upon Congress under this law, for of late years the officials of the departments have been careful to enforce the law as to an eight-hour day, and where they have called upon employees to give service beyond the eight hours the various departments, by rules and regulations, have provided for compensation for the extra time. So we find, as a matter of fact, that, with the exception of these claims which arose early under the law, and which were presented to the

Court of Claims, it has now become the settled custom and practice of the departments to pay these amounts for extra time without contest. All this is shown in Senate Document No. 985.

In this statement it appears that Congress has already paid claims of this nature. In the House of Representatives a claim of this nature was pending some time in 1899. As I have already stated, it is not found that many claims of this nature have been presented to Congress since the act of August 1, 1892, owing to the fact that the requirements of that law have been very generally complied with by Government officers, and therefore the instances of claims prosecuted in Congress are few. Most of them are present here, but at least one claim has been settled by an act of Congress.

Joint resolution 307 was presented at the third session of the Fifty-fifth Congress. When this measure was called up in the House of Representatives on February 11, 1899, the following debate ensued:

Mr. DOCKERY. I thought there was an eight-hour law upon the statute books preventing the working of laborers, mechanics, and artisans over eight hours. I shall not object to this bill, because laborers should be paid for any excess of time over eight hours.

Mr. HOPKINS. Well, Mr. Speaker, how are we to construe the remarks of the gentleman from Missouri? Is he in favor or against the joint resolution?

Mr. DOCKERY. "The gentleman from Missouri" stated very clearly that he was in favor of paying any laborer for any excess of time he may have worked over eight hours. As I understand the joint resolution, it proposes to accomplish that result. My query, however, was how they could have been worked over eight hours under existing law.

Mr. HOPKINS. This bill proposes to pay them for the excess of time and 50 per cent in addition to that allowed by law. * * *

That was a very apt inquiry on the part of Mr. Dockery, for, as I have already shown, the law explicitly makes it unlawful for any official to exact more than eight hours' work from any laborer.

This measure thereupon passed the House and later passed the Senate without debate, becoming a law on February 25, 1899. (30 Stat. L., 1389.)

When these claims aggregating nearly $92,000, were turned over to the Court of Claims to ascertain the facts the contemporaneous debate shows clearly that it was the intention of Congress to see to it that this law was enforced, and that wherever it was not enforced the equitable claim of the laborer for the extra time should be paid. We find Senator CULLOM, in discussing the very resolution under which these claims were considered by the Court of Claims, on September 27, 1890, speaking as follows:

All that I have to say is that it does seem to me that this law, which has been so long upon the statute books, ought to be enforced, and if it is not enforced, certainly the men who are called upon to work more hours than a legal day's work ought to have some way for securing the pay for their extra labor.

Senator DAWES, of Massachusetts, in the same debate, said:

* * * these laborers and mechanics, with as just a claim upon the Government as the bonds of the United States * * *.

Senator Stewart, of Nevada, said:

I agree with the Senator from Massachusetts that we ought to turn these accounts over to the accounting officers and settle them speedily and without delay. It is one of those obligations that the Government should execute at once, without question.

Senator Spooner, of Wisconsin, in the same debate, said:

It is my conviction, Mr. President, that in every case where one of these men was compelled by the officers of the Government as a condition of having employment and of being able to support his family to work one hour or one-half hour over the eight-hour day which Congress had declared for, and which President Grant had sought to enforce, he ought to be paid for that overtime.

Not to do so seems to me to put the Government of the United States in an attitude of allowing its executive officers to violate in essence and in spirit the law which Congress had enacted upon the ground of public policy and which public sentiment has approved, and attempting to rich from these men hours of unrequited toil.

I am perfectly willing to take the responsibility of adjudicating the question of liability, sending these men to the Court of Claims for that tribunal only to ascertain and declare how many hours in each case these men worked beyond the lawful day. I shall vote with great pleasure for the substitute which I understand the Senator from New Hampshire will offer to this bill, which is the same bill as it passed this body at a previous session. In doing so, I only vote for the payment of debts honestly due and too long left unpaid.

Representative Caruth, of Kentucky, said:

Here is a proposition embodied in this bill to allow these men who have performed labor for the Government beyond what would have been their day's labor under the law to receive just compensation for their extra work. * * * I say that if there is to be any sanctity in the statutes of the United States, if the laws we put upon the statute books are to amount to anything, then these men are entitled to the relief they seek.

Representative Gest, of New Jersey, said, referring to a resolution passed by the House of Representatives May 9, 1878, after the decision in the Martin case:

It indicates the sense of the House of Representatives on this subject; that these men should be paid for the time that they had worked above and beyond eight hours a day.

Representative Thomas M. Bayne, of Pennsylvania, said:

The Supreme Court of the United States in a case coming before it has held that the departments of the Government have the right to employ men for 8 hours and pay them for 8 hours; and when it employs men for 10 hours it has the right to pay them an additional sum for their services. That is common sense, common honesty, fair dealing; anything short of that is not.

Representative William D. Kelley, of Pennsylvania, said:

Until that statute is repealed every workingman who is forced by the Government to work 10 hours for a day's wages is defrauded of his legal rights.

The executive policy under the act of 1892 has been to pay these claims in the current administration of the departments, without forcing the claimants to go to Congress or to the courts.

In the Navy Department the regulations passed in 1893 provide:

The following rules shall be observed in estimating the pay of laborers, workmen, and mechanics for work performed in excess of eight hours per day.

Then they go on to say what the extra compensation shall be. All these matters are adjusted in the ordinary course of administration.

So far as I am concerned, Mr. President, I originally represented simply the claim of John Glanzmann, a laborer and custodian in the United States customhouse and post-office building at Carson City, Nev., whose salary as such laborer was fixed at $720 a year, the compensation given for similar work to all men employed by the National Government under the eight-hour law. Yet he was compelled for a long period of time, as a matter of economy to the Government, to work 12 hours a day. His claim does not amount to a large sum. But I found upon pressing it that there were other claims in the same category that ought to be adjusted. So I presented an amendment covering all of these claims and aggregating $92,000.

I do hope the chairman of the committee will not further contest these claims—certainly not upon the intangible ground upon which he stood at the last hearing of this matter.

The PRESIDENT pro tempore. Does the Senator from Nevada move to reconsider the vote whereby the bill was passed? That question has not been stated.

Mr. NEWLANDS. I had an impression that it was done this morning.

The PRESIDENT pro tempore. It has not been done.

Mr. NEWLANDS. Then I will ask that the question be put.

The PRESIDENT pro tempore. The Senator from Nevada moves to reconsider the votes by which the so-called omnibus claims bill was ordered to a third reading, read the third time, and passed.

Th motion to reconsider was agreed to.

The PRESIDENT pro tempore. The bill is before the Senate.

Mr. CRAWFORD. The Senator from Nevada offers his amendment at this stage?

Mr. NEWLANDS. I do.

The PRESIDENT pro tempore. The Senator from Nevada offers an amendment, which will be read by the Secretary.

The SECRETARY. It is proposed to add to the bill the following:

CLAIMS OF LABORERS AND MECHANICS IN PUBLIC BUILDINGS FOR EXTRA TIME.

Alabama: Joseph A. Decatur, Mobile, $2,644.50.

Arkansas: Peter Jarrett, Texarkana, $1,462.35; Perry McCarthy, Texarkana, $65.97.

California: John D. Cash, Stockton, $91.31; Joseph A. Workings, Stockton, $165.

Connecticut: William F. Burns, Hartford, $932.25; Fred H. Collins, Hartford, $300.65; Archie E. Galpin, Bridgeport, $109.50; James H. Garrison, Bridgeport, $218.81; William G. Govan, Hartford, $1,576; Joseph M. Mohr, Hartford, $1,088.50; Edmund R. Wadhams, Torrington, $391.16.

Florida: Forrest Crockett, Jacksonville, $230.06; Nelson F. English, Key West, $124.50; John W. Graham, Jacksonville, $168.85; Catherine Lewis, widow of Albert A. Lewis, Key West, $735; James M. Taylor, Key West, $2,300.50; Dennie Kelly, Key West, $918.

Georgia: Moses Mollette, Brunswick, $628.03.

Illinois: Lemuel Gay, Quincy, $763.75; Silas S. Myers, Joliet, $391.79; John O'Neill, Peoria, $1,181.25; Emmett W. Smith, Aurora, $2,093.58.

Indiana: Timothy C. Harrington, Lafayette, $684.66.

Iowa: John Brown, Des Moines, $1,427.28; Joseph O. Drennan, Des Moines, $3,382.25; John Jordan, Des Moines, $159.37; Edward B. Murphy, Des Moines, $187.87; William Halloran, Des Moines, $1,218.

Kansas: William M. Terrill, Topeka, $600.16.

Maine: David B. Hannegan, Portland, $1,405; James E. Rogers, Bangor, $1,105.83; Llewellyn K. Webber, Bangor, $1,802.91.

Massachusetts: Wilson R. Scribner, Lynn, $1,900.45.

Michigan: Harry E. Drake, Jackson, $2,294.40; Willis E. Stimson, Kalamazoo, $2,522.50.

Missouri: Erbin F. Higgins, Sedalia, $772.08.

Nebraska: Wilson Byerly, Norfolk, $205.50; Jacob Renner, Lincoln, $2,514; John J. Rodgers, Blair, $992.79.

Nevada: John Glanzmann, Carson City, $3,296.

New Hampshire: Henry C. Mace, Concord, $461.45.

New Jersey: Silas A. Bryant, Newark, $590.06; George Jacobus, Newark, $1,596.75; William G. Jell, Newark, $1,418; Fergus McCarthy, Newark, $458.75; Conrad Wagner, Newark, $295.31; Andrew J. Meade, Hoboken, $1,147.18.

New York: Daniel P. Culhane, Rochester, $2,078.75; Joseph C. Leddy, Utica, $191.25; Ezra T. Marney, Ogdensburg, $1,956.66; George Miller, Utica, $767.06; Stephen A. Smith, Utica, $259.50; Abraham Epstein, Ogdensburg, $1,242.50; Robert Tobin, Troy, $2,131.56.

Ohio: John Brodie, Columbus, $659.20; Leslie E. Drake, Toledo, $848.75; Stephen A. Ingles, Portsmouth, $596.25; Rudolph L. Johns, Cleveland, $532.25; Theodore Kipp, Dayton, $540; William L. Krautman, Columbus, $969.77; Joseph Kuehne, Cleveland, $2,496.56; Charles H. McCann, Columbus, $213.78; Thomas Murnane, Columbus, $122.17; Ignac Rosinski, Cleveland, $807.18; David Scurry, Columbus, $533.40; Fred Sinclair, Columbus, $388.25; Joseph Sledz, Cleveland, $720.99; Alonzo Thirkill, Dayton, $775.31.

Pennsylvania: James Dowling, Altoona, $382.50; Adam Hoke, Harrisburg, $1,151.62; William T. Jordan, York, $583.50; William H. Witta, York, $2,145.

South Carolina: James Butler, Columbia, $1,041.06; John Pinckney, Columbia, $871.92; Louis Pryor, Columbia, $4,310.66.

Texas: Frank Brodideker, Galveston, $1,056.62; Sandy Hester, Galveston, $2,273.53; George King, Austin, $351.18; Thomas Thompson, Waco, $1,163.53; Ambrose B. Williams, Beaumont, $736.59; Sidney B. Williams, Beaumont, $596.76.

Virginia: Charles B. Carter, Richmond, $219.80; William H. Parker, Norfolk, $1,147.87; William G. Singleton, Richmond, $2,059.56; Alfred Strange, Lynchburg, $647.29.

Wisconsin: Olaf Swanson, Ashland, $2,601.99.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Nevada [Mr. NEWLANDS].

Mr. CRAWFORD. Mr. President, the rules under which the Committee on Claims proceeded in making up the omnibus claims bill confined the items which were to go into the bill to those which had been referred to the Court of Claims and in regard to which the Court of Claims had made specific findings in favor of the claims. These are not the claims of laborers engaged on public works, serving contractors or subcontractors, and they do not come within the provisions of the eight-hour-day law.

Mr. NEWLANDS. May I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Nevada?

Mr. CRAWFORD. I do.

Mr. NEWLANDS. I do not understand that statement on the part of the Senator.

Mr. CRAWFORD. The statute, known as the eight-hour-day law, found in volume 2 of the Supplement to the Revised Statutes of the United States, at page 62, fixing the limit of service per day at eight hours, applies to laborers and mechanics—

who are now, or may hereafter be, employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia.

Mr. NEWLANDS. Does the Senator insist that it applies only to laborers who are engaged upon public works?

Mr. CRAWFORD. If the Senator will permit me to finish my statement he will see just exactly what I mean.

The class of employees included in the proposed amendment is not a class of laborers employed by contractors and subcontractors in the construction of public works or upon public works. These men are engineers, custodians, and janitors employed in the public buildings of the United States—in postoffice buildings and buildings of that sort.

The Court of Claims, in making its report upon each one of these claims, made this specific finding, which excluded them from consideration in making up the bill under the rule adopted by the Committee on Claims in framing the omnibus claims bill. On each one there is the following finding. The court finds that—

In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States, the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

That is the clear, specific finding of the Court of Claims in each case.

I am not going to discuss with the Senator from Nevada the question whether or not that finding is a just one, or as to whether this group of claims, presented in another way and for consideration at another time, might not have some merit. I do not care to express an opinion upon that subject now. I am not out of sympathy with this class of men, nor with the claim for an eight-hour-day law. But after the committee has worked for months along certain specific lines and within certain specific rules in determining what items should be placed in the bill and reported favorably it would not be fair to others who may have just claims against the Government, at the last moment, here in the Senate, to depart from the rules adopted in making up the bill and open the door to a large class of claims, with this finding from the Court of Claims standing here as it does to prohibit their going into the bill unless we violate the rules which we followed in framing it.

It is upon that ground, so as to be consistent and fair and just to other claimants whose claims, because they did not fall within the rules that governed us here, shall not be discriminated against, that we can not consent to this amendment and must insist, in fairness to others, that it be rejected.

For instance, the Senator from Oregon [Mr. CHAMBERLAIN], who is most earnestly interested in a claim, came to me only the other day about the claim. Knowing the Senator's earnestness in its behalf, and the courtesy which he always extends to others, I would have been glad to have given it consideration. But it was not suggested nor presented when we were making up the bill, nor even considered. It would be unfair to the claim of the Senator from Oregon now to reconsider the bill simply for the purpose of allowing the claims which the Senator from Nevada has presented and not to include his. If we included his, some one else might bring forward for the first time some claim that had possible merit in it, which never had been considered by the committee, and which did not come within the rules under which the committee was acting, and there would be a contention that that ought to be included. So there would be no line circumscribing the items going into the bill.

Those considerations, together with this finding from the Court of Claims, impel me to resist the amendment offered at this time by the Senator from Nevada.

Mr. NEWLANDS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Nevada suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Lodge	Root
Bankhead	Dillingham	McCumber	Sanders
Bourne	Fletcher	Martin, Va.	Shively
Bradley	Foster	Martine, N. J.	Simmons
Brandegee	Gallinger	Myers	Smith, Ariz.
Bristow	Gamble	Newlands	Smith, Md.
Bryan	Gardner	O'Gorman	Smith, Mich.
Burnham	Guggenheim	Oliver	Smoot
Burton	Heiskell	Overman	Swanson
Catron	Hitchcock	Paynter	Thomas
Chamberlain	Johnson, Me.	Penrose	Thornton
Chilton	Johnston, Ala.	Percy	Townsend
Clark, Wyo.	Johnston, Tex.	Perkins	
Clarke, Ark.	Kern	Perky	
Crawford	La Follette	Pomerene	

Mr. KERN. I desire to announce again the unavoidable absence of the Senator from South Carolina [Mr. SMITH] on account of illness in his family.

The PRESIDENT pro tempore. On the call of the roll 57 Senators have answered to their names. A quorum of the Senate is present. The question is on the amendment submitted by the Senator from Nevada [Mr. NEWLANDS].

Mr. NEWLANDS. Mr. President, I will simply state to the Senate that we are about to take a vote upon these claims for extra pay for mechanics and laborers employed on public buildings under a law which required only eight hours' work and which made it absolutely unlawful for the officials of the Government to employ any man in excess of eight hours. We have here the findings of the Court of Claims that these 87 men, living in 25 States of the Union, as stated in this document, worked overtime, and their extra compensation would amount to about $92,000. A similar claim was passed some years ago by Congress. No such claim, to my knowledge, has been denied.

All that the chairman of the committee can say is that the finding of the Court of Claims determines that the officials of the Treasury Department in fixing the salaries did not take into consideration the number of hours. That is true; because they assumed, and they had the right to assume, that the number of hours would be the legal number of hours—eight hours a day—and that no official of the Government would commit a misdemeanor by requiring of an employee time in excess of eight hours. So, of course, the compensation was fixed without regard to the number of hours upon the assumption that the number of hours during which these men would be employed would comply with the legal requirements.

Mr. President, we have been legislating for years upon the labor question. Congress has determined that the Government of the United States shall be a model employer. It passed an eight-hour law with reference to mechanics and laborers engaged in the public service and prescribed that the limit of

their work should be eight hours. The courts determined that to be simply discretionary, and then Congress passed another act making it mandatory—making it unlawful for any official to employ a man in excess of eight hours.

Here are these men, our constituents in the various States, called upon in defiance of law to work often as many as 12 hours a day when the law requires only 8, rendering their claims to the Government, which have been favorably ascertained by the Court of Claims, and we are told that the Committee on Claims has selected a certain batch of claims which it thinks it can pass through the processes of accommodation or compromise between sections and classes and between the two Houses that have prevailed with reference to this matter.

I insist upon it that if it is a just claim it ought to be recognized by the Congress of the United States. It is the claim of a laboring man who has rendered an employer service under the command of his superior in defiance of law, and it presents equitable consideration to the Government for settlement, the Government itself having received in the case of many of these men four hours more work every day than they were called upon by the law to render.

Mr. PAYNTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Kentucky?

Mr. NEWLANDS. Certainly.

Mr. PAYNTER. I just entered the Chamber a few moments ago, and I have not heard the discussion. Has the Court of Claims adjudicated this sum to be due these laborers?

Mr. NEWLANDS. I will give as a sample the case of John Glanzman, who is a laborer and watchman at a public building in Nevada. The Court of Claims finds that while employed as a watchman and laborer at a salary of $720 a year, presumed to be fixed with reference to eight hours a day, the officials at the Treasury Department—

In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States, the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

The chairman of the committee seems to assume that when a court says that they fixed this compensation without regard to the number of hours, it is equivalent to a finding that they fixed the labor with regard to the number of hours; that the compensation was therefore fixed for a 9, 10, or 12 hour day instead of an 8-hour day, and that hence the $720 allowed this man is ample compensation. The court finds that they fixed that compensation without considering at all the number of hours, and it is simply with reference to the character of the location that the law fixed the number of hours at 8 hours a day, not 12 hours a day.

Mr. PAYNTER. Mr. President——

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Does the Senator from Nevada yield to the Senator from Kentucky?

Mr. NEWLANDS. Certainly. I wish to say to the Senator that that is a sample of these claims.

Mr. PAYNTER. I wish to ask an additional question. Has the court ascertained the number of hours that they worked in excess of eight hours a day?

Mr. NEWLANDS. In each case the number of extra hours and the value.

Mr. PAYNTER. Has the court made any statement as to how it was that these employees worked more hours than they were required to do by law?

Mr. NEWLANDS. No; the court makes no statement about that. It simply finds the facts as to the employment, the character of the employment, the actual number of hours of overtime, and what that overtime was worth judged by the compensation which they received.

Mr. PAYNTER. The question in my mind is whether the service was voluntarily rendered by the parties.

Mr. NEWLANDS. The Senator will hardly claim that a laborer who responds to the demand of an official to work 12 hours when the law requires 8——

Mr. PAYNTER. I did not pretend to make any claim about it. I simply wish to be informed as to the facts.

Mr. NEWLANDS. Now, Mr. President, I should like to have a vote upon the amendment.

Mr. KERN. Mr. President, I should like to ask the Senator from Nevada a question. I observe from the papers I have here in all the cases where they set out the proceedings that one attorney appeared for all of them. I wish to inquire whether some attorney has scoured the United States to hunt up these claims and whether he or they will get a very large part of this appropriation.

That is my first question. My second is this: I see that from my own State there is only one claim, and I imagine under this law, if the attorneys had used the proper diligence, they might have found a very large number of cases.

Mr. CRAWFORD. Mr. President, it is impossible for us to hear what the Senator from Indiana says.

The PRESIDING OFFICER. The Senate will please observe order.

Mr. KERN. My question is whether the adoption of the amendment will not open the door to a large flood of similar claims, amounting to millions of dollars.

Mr. NEWLANDS. I will state regarding that that I represent simply a constituent of mine in Nevada, an honest, hard-working man named John Glanzman, universally respected there, who worked 12 hours a day as a watchman and laborer when the law required him to work only 8 hours a day, and that his pay was $720 a year. He comes in with this claim aggregating $3,296. He wrote me in regard to this matter and gave me the name of his attorney. I sent word to his attorney asking him to familiarize me with the facts in the case. The attorney seemed to me to be a very reputable and respectable man, who is practicing law here as any other man would, and who was presenting what he regarded as just claims against the Government. I found that there were other claims in the same category with that of my client, and I thought it would be better to get the united support of the Senators from the various States whose constituents were similarly affected with a view to getting action by this body, for I know how powerful the Committee on Claims is and how likely the body is always to accept its advice and to reject any claim which it does not favor, or, at all events, to postpone its consideration until the future. Hence, I want as much supporting power as possible in this matter. Having looked into all the findings, I had them grouped and I looked over them carefully; and having been satisfied with the justness of these claims, I presented them in one amendment.

I wish to say that this attorney has never been obtrusive in any way; that he has never been lobbying; that he has never been pushing. I sent for him to ascertain the facts, and the facts are presented in the statement which he got up at my request.

Now, with reference to a flood of claims, I wish to say there is no probability of a flood of claims, for the reason that of late years the departments have recognized their obligation under the law to pay for this overtime, and under regulations they are now paying for overtime without compelling the employees to resort to Congress or to the Court of Claims wherever they work more than eight hours a day. That is a matter of common occurrence in the departments, and I think I am safe in saying that all the claims extant are now covered by these judgments. That is my impression, at least.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from North Carolina?

Mr. NEWLANDS. Certainly.

Mr. SIMMONS. I understood the Senator to say that now the departments are paying for overtime under the law of Congress. The question I wish to ask the Senator is whether in making the calculation as to what is due to these claimants the Court of Claims recognized the principle laid down by the law of Congress under which he says the departments are now paying for overtime, and whether it is based upon that principle adopted by Congress.

Mr. NEWLANDS. I assume they did. The Court of Claims ascertained the facts. The Court of Claims do not render judgments against the United States. They ascertain the facts, and those facts I have read. Those facts cover, first, the character of the employment; second, the rules which are followed in fixing the compensation of employees.

Mr. SIMMONS. When was that judgment rendered?

Mr. NEWLANDS. December 20, 1909.

Mr. SIMMONS. Has Congress fixed a scale of wages where employees work overtime since that date?

Mr. NEWLANDS. My understanding is that in all these employments of laborers, etc., the compensation is fixed by certain officials in the Treasury Department.

Mr. SIMMONS. That is under an act of Congress?

Mr. NEWLANDS. I presume it is under an act of Congress.

Mr. SIMMONS. And that act prescribes the basis of the calculation.

Mr. NEWLANDS. I do not know whether it prescribes the basis or not. At all events it fixed the compensation, and the

officials whose duty it was to fix the compensation say that they fixed it without considering the number of hours.

Mr. SIMMONS. The question I wish to ask is whether they fixed it under any rule of law or whether they fixed it upon some theory of just compensation evolved by themselves.

Mr. HITCHCOCK. I can answer the question asked by the Senator from North Carolina by reading finding No. 3 in the case quoted:

III. The number of hours worked by claimant in excess of 8 hours a day during the period from August 1, 1892, as set forth in Finding I, is 13,184; and his services for said hours, computed upon the basis of the salary he was receiving during said period, namely, $720 per annum, would amount to $3,296.

So the additional pay is allowed pro rata to the salary he received.

Mr. NEWLANDS. Mr. Casady, one of the officials of the Treasury Department, charged with the duty of fixing the compensation, says:

In fixing the compensation of these employees no consideration was given to the fact that they might or might not be required to work more than eight hours per day.

Employees, such as the claimants, whose duties required them to work more than eight hours per day at the public buildings where they were employed, do not receive any greater compensation than similar employees performing work at other public buildings who were not required to work more than eight hours per day.

Seven hundred and twenty dollars was fixed as the compensation, for instance, of a watchman and laborer. In the case of a man who labored in the building during the day and also acted as watchman his compensation was fixed, regardless of the number of hours. The record is that in some public buildings men worked 8 hours a day and got $720, and in others they were called on to work 12 hours a day and received only $720.

The PRESIDENT pro tempore. The question is on the amendment submitted by the Senator from Nevada.

Mr. CRAWFORD. Mr. President, I do not want the statement of the Senator from Nevada to go entirely without challenge, and some Senators have come in since I was on my feet before.

I desire again to disclaim absolutely and sweepingly any disposition to deprive any laborer anywhere of his right to benefit under any provision of law for an eight-hour day. I simply want to say that the Committee on Claims, as I said a while ago, had to fix a boundary line somewhere in determining what items would be placed in this particular bill, and it decided to confine the items to claims which had express decisions in their favor coming from the Court of Claims.

The claims which the Senator from Nevada is advocating do not have such a decision in their favor from the Court of Claims. I will again read the finding of that court which runs through every one of these cases. The court finds that:

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth, without regard to the number of hours they might be required to labor.

As I said a while ago, without making an issue or going into a discussion of these particular claims, the Committee on Claims, under the rules which they adopted for guidance as to what should be put into the omnibus claims bill, had to reject these claims from that bill to be fair to other claims which were excluded by its rules, because these claims did not come within their rules.

As I said, if we open up this bill now, the Senator from Oregon [Mr. CHAMBERLAIN], who has been so considerate and fair with reference to his claim, has just as much right to insist that we send his claim to the committee and travel over the whole question with reference to the Oregon claim and have it up for discussion here as the Senator from Nevada has a right to have this whole question reviewed for this class of claims.

If we concede it to the Senator from Oregon any other Senator might think there was some claim that was not within the rules governing the committee which should be considered, and the whole question would come up for review, and the procedure on which it was necessary for the committee to follow in deciding what should go into the omnibus claims bill would be completely broken down and we would be simply at chaos. It is hardly——

Mr. NEWLANDS. May I ask the Senator a question?

Mr. CRAWFORD. In just a moment, when I finish the sentence. The Senator is hardly fair to this committee in making the inference that it has made up this bill simply by balancing one claim against another for the purpose of passing it. I care very little about the question of the mere passage of the bill. The committee has done faithful and diligent work in attempting at least to scrutinize very closely the character of every claim in the bill. I think we have excluded more items that were questionable than has ever been done before in an omnibus claims bill. Our work has been along that line particularly rather than trying with a dragnet to pull claims in concerning which there might be some doubt.

Mr. PAYNTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Kentucky?

Mr. CRAWFORD. Certainly.

Mr. PAYNTER. I did not rise for the purpose of criticizing the conduct just described by the Senator from South Dakota. I am almost tempted to do so, however, by reason of the fact that so many very just claims were excluded by the committee from the bill.

Mr. CRAWFORD. I will say to the Senator that they go to conference, and if the Senator feels that they have been put out unjustly they have to be dealt with in conference.

Mr. PAYNTER. I wish to call the Senator's attention to this fact for the purpose of inquiring as to whether my view is correct or not. If I understood the finding which the Senator read a moment ago to the Senate, it was to the effect that the compensation was fixed for these watchmen and laborers regardless of the hours which they might be employed. Is that correct?

Mr. CRAWFORD. I simply read the finding which said it was fixed at what the service was worth.

Mr. PAYNTER. If that is the case, then it would look like those who fixed the salary fixed it at a less amount than was fixed by the law under which eight hours had been established as a day's work.

Mr. CRAWFORD. I think that is a fair inference.

Mr. PAYNTER. That is a fair inference to be drawn from the finding. I understood the Senator to state that there had been no finding in favor of these claims by the Court of Claims.

Mr. CRAWFORD. The only finding is the one which I read.

Mr. PAYNTER. Except the one which the Senator read.

Mr. CRAWFORD. Yes; except that they did ascertain from their time-keeping records how many hours these men worked. That is true; but the finding as to the merits of their claim and the conclusion of the Court of Claims was the one which I read, where they said they took into consideration the environment, the cost of living, the conditions surrounding them, and fixed the yearly compensation at what the service was worth.

Mr. NEWLANDS. But the Senator construes that as fixing the compensation at what the work was worth with regard to the number of hours instead of, as the Court of Claims says, without regard to the number of hours.

Mr. CRAWFORD. No; the Senator construed it and the committee construed it simply to this extent, that it did not bring these claims within the group and class of claims we were putting in the omnibus claims bill, because we were putting in that bill only those claims where the findings of the Court of Claims were clear and unequivocal in their favor, and with this finding we could not put this group of claims in that class.

Mr. NEWLANDS. I can not understand how a finding can be clearer than this one, when they fix the compensation and then say, "We did not take into consideration at all the number of hours." The assumption is, of course, that the number of hours would be the legal number of hours.

Mr. CRAWFORD. Mr. President, the mere fact that we, under these rules, did not embrace these claims in the bill, finding it necessary to follow some rule, does not mean, as I said, foreclosing these people or erecting a bar or entering judgment against them. Whatever merit they have, I think, it would be fairly well to group them together in one bill and present it here and let it be considered on its merits. But I repeat that in a great bill embracing claims—and they are stacked up before the committee by the hundreds and by the thousands—it is necessary in framing the bill to fix some boundary line and some rule, and after you have once established it to follow it, or there will be just reason of complaint on the part of different Senators. If you break it down and discriminate in favor of one Senator and show a disposition to be partial here and partial there, your troubles would certainly be abundant. We have tried to honestly and fairly adhere to the rules which were adopted by the committee.

Mr. HITCHCOCK. I should like to ask the chairman of the committee whether it is not a fact that the findings of the court, as far as the facts are concerned, are clear and unqualified?

Mr. CRAWFORD. That is true.

Mr. HITCHCOCK. First, that the men did work so many hours overtime?

Mr. CRAWFORD. That is true.

Mr. HITCHCOCK. Second, that the rate of pay was so much; and, third, that at that rate of pay they would be entitled to so much money if the eight-hour law was to be respected?

Mr. CRAWFORD. That is all true.

Mr. HITCHCOCK. Now, if those findings of fact are clear, does not the chairman of the committee think these claims presented by laborers should have been entitled to come within the boundary which he laid out for the bill?

Mr. CRAWFORD. Well, it is too late to go back and go all over that ground again. I do not think so, for this reason: Suppose the compensation was $10,000 a year. Let us make an extravagant assumption. If that salary of $10,000 a year had been prorated per hour, they worked so many hours, and they would be entitled, if the time was limited to eight hours a day, to so much more than they received. You can not cut that loose from the conclusion of the Court of Claims, where the Court of Claims says that in fixing that yearly salary they fixed it at what this labor was worth, and if they fixed it at $1,600 a year, they fixed it because in the opinion of the Treasury officials the services of that janitor were worth $1,600. Although he might work 8 hours one day and 9 hours the next day, and under some emergency 10 hours the next day, when they gave $1,600 for the year they gave him what that service was worth. There is that finding to which we considered we should give some weight.

Mr. HITCHCOCK. I should like to continue my question. If the Court of Claims made these findings of fact, I ask the chairman of the committee was there anything else for the committee to do, or is there anything else for Congress to do, but to say whether the eight-hour law shall be applied to those facts? If that be true, why should that not be done now, rather than keep these laboring men waiting 15 or 20 years to secure the payment of their claims?

Mr. CRAWFORD. I think there was something else to do.

Mr. HITCHCOCK. Nothing but the application of the law.

Mr. CRAWFORD. There was the duty of giving consideration to its conclusion that in fixing the yearly salary they fixed it at what the service was worth; and if these men have received what that service is worth, if that finding by the Court of Claims is true in fact, then wherein does the Government do these men any injustice?

Mr. NEWLANDS. Did they not fix this compensation at what it was worth at eight hours a day?

Mr. CRAWFORD. They do not say anything of the sort, but they do say that they fixed it for what the service was worth, without regard to the number of hours.

Mr. HITCHCOCK. Will the chairman contend——

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Nebraska?

Mr. CRAWFORD. Yes.

The PRESIDENT pro tempore. Senators will kindly address the Chair and get permission to interrupt.

Mr. HITCHCOCK. Mr. President——

The PRESIDENT pro tempore. The Senator from Nebraska.

Mr. HITCHCOCK. Will the chairman of the committee contend that these administrative officers of the department had any right to fix the amount which should be paid to these men for a year's work, without regard to the hours of daily labor, after Congress had prescribed the hours that they should work each day?

Mr. CRAWFORD. The Senator there opens up another question, which shows——

Mr. HITCHCOCK. Is not that the only question in the case?

Mr. CRAWFORD. Oh, no; the Senator opens up another question, which shows how unfair it is to the committee at this late day to bring in this amendment, when the rules followed by the committee do not permit it, because the language of the eight-hour statute applies to men engaged upon public works; and a post-office building in which a man is acting as a janitor or custodian is certainly a different class of work, and, in contemplation of the language used, there is a question of whether that statute applies to the janitor or to the engineer or the custodian in such a building.

Mr. HITCHCOCK. Let me ask the Senator this question——

Mr. CRAWFORD. What about the custodian of a public building?

Mr. HITCHCOCK. Let me ask the chairman this question right there. Is it not a fact that universally the eight-hour law applies not only to public works but to all work done by a contractor for the Government and to these very custodians and watchmen?

Mr. CRAWFORD. I think that is true.

Mr. HITCHCOCK. Well, if that is the fact and that was the intention of Congress, why are the claims of these men not upon a just basis?

Mr. CRAWFORD. I have tried to explain.

Mr. HITCHCOCK. The chairman complains that this is called to the attention of the committee at this late hour. I want to call his attention to the fact that the hour is still later for these men who have been waiting a good many years to ascertain whether Congress meant what the law said it should mean.

Mr. CRAWFORD. I understand the situation very well; but I say to the Senator, if this finding is true and correct, that their compensation was fixed at what the service was worth. It was not fixed by the hour; it was not fixed by the month; but it was fixed by the year.

Mr. HITCHCOCK. But I will say to the Senator again——

Mr. CRAWFORD. And it was fixed at what the service was worth. Then, if that contention is correct as to every farmer in the United States who has employed a plowboy or has employed a man to work by the year, at $400 or $600 a year, it would be equally just to go back and review that contract and to say that, in the contemplation of law, it was only intended that that plowboy or that man working in the field should be engaged for eight hours a day, and ask the farmer to go back and compute the number of hours the boy milking the cows late at night and getting up at 4 o'clock in the morning, going into the field and working 14 and even 15 hours a day, as I know many and many of them do—you would have in principle just as much right to go back and make that farmer review the service of that employee, to clip off the service at the end of eight hours, and apportion that $400 a year to it, and then give the employee a judgment for the difference.

There are two sides to this question. The Senator drives me to it, and I do it with the utmost liberality, kindness, and fairness toward these janitors and these engineers, but I say the committee was justified, and it was consistent, after establishing these rules, in adhering to them and keeping this group of claims upon which this finding was made for consideration strictly upon their merits instead of putting them into this bill, and that is as far as we go in the matter.

Mr. HITCHCOCK. Mr. President, I am amazed that the Senator from South Dakota should attempt to compare or to give as a parallel case the farmer employing a man by the year or the month without any limitation by law as to the number of hours that he can contract with his man to work——

Mr. CRAWFORD. I am discussing——

Mr. HITCHCOCK. Let me finish.

Mr. CRAWFORD. Very well.

Mr. HITCHCOCK. And the case of a Government employee, who is supposed to be acting under the direction of Congress, after Congress has directed that the men employed shall work only eight hours, and when, as a matter of fact, the employee of the Government has no power to make a contract, but has a right to depend upon the acts of Congress made for his protection.

Mr. CRAWFORD. Will the Senator permit me to say he is now discussing a law that was passed after this service was rendered?

Mr. HITCHCOCK. I am not discussing a law that was passed afterwards. I am discussing a law that was passed previously. It has been necessary, however, since 1892 to pass a number of supplemental acts in order to enforce and emphasize the will of Congress and to compel these administrative officials to obey it. That is the only reason subsequent laws were passed.

Mr. CRAWFORD. The Senator can not make any issue with me as to the justice and soundness of the eight-hour-day law, but I reiterate that in principle, in morals, and from the standpoint of the personal right of the individual, the janitor in a public building is not any better than the plowboy; the engineer in the basement of a Government post-office building is not any better than the boy who gets up at 4 o'clock in the morning on the farm and works until 10 o'clock at night—not a bit. I am speaking as a matter of principle and of moral right.

Mr. CLARKE of Arkansas. May I ask the Senator from South Dakota a question?

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Arkansas?

Mr. CRAWFORD. Certainly.

Mr. CLARKE of Arkansas. Does it appear that these claims have been assigned or is there an affirmative showing that they are still in the ownership of the persons who rendered this so-called service?

Mr. CRAWFORD. We know nothing about that, if the Senator please.

Mr. CLARKE of Arkansas. Does the Senator know what part of this money would go to the claim agents, who probably worked up these claims, in the event this item should be included?

Mr. CRAWFORD. I will say that a number of these claims have been worked up by attorneys. I am going to discuss one in a few moments, if we ever get through with this matter, the case of the Cramp Shipbuilding Co., and I should like to get through with this so as take that up. I have a few things to say to the Senate about it.

Mr. CLARKE of Arkansas. If the Senator is not prepared to answer at this time the question I submitted to him, I will ask permission to ask him again at a little later stage of the discussion.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Nevada [Mr. NEWLANDS].

Mr. HITCHCOCK. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. GARDNER (when his name was called). I am paired for the day with the Senator from Massachusetts [Mr. CRANE] and therefore withhold my vote.

Mr. TOWNSEND (when the name of Mr. JONES was called). The senior Senator from Washington [Mr. JONES] is unavoidably detained from the Senate on official business.

Mr. KERN (when his name was called). I have a general pair with the Senator from Kentucky [Mr. BRADLEY]. Not knowing how he would vote if he were present, I withhold my vote.

Mr. LIPPITT (when his name was called). I transfer my pair with the senior Senator from Tennessee [Mr. LEA] to the junior Senator from Maryland [Mr. JACKSON] and will vote. I vote "nay."

Mr. LODGE (when his name was called). I have a general pair with the junior Senator from Georgia [Mr. SMITH]. I do not know how that Senator would vote if present, and I therefore withhold my vote.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM] and therefore withhold my vote.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. Not knowing how he would vote on this question if present, I withhold my vote.

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. I do not know how he would vote if present, and I therefore withhold my vote.

Mr. STONE (when his name was called). I have a general pair with the Senator from Wyoming [Mr. CLARK]. I do not know how he would vote if present, and so I withhold my vote.

The roll call was concluded.

Mr. CURTIS. I desire to announce that I have a pair with the Senator from Oklahoma [Mr. OWEN], and I therefore withhold my vote.

Mr. DU PONT. I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is not in the Chamber I withhold my vote.

Mr. MYERS. I have a general pair with the Senator from Connecticut [Mr. MCLEAN]. I transfer that pair to the junior Senator from Florida [Mr. BRYAN] and will vote. I vote "yea."

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN] and therefore withholds his vote.

The result was announced—yeas 19, nays 28, as follows:

YEAS—19.

Ashurst	Fletcher	Martine, N. J.	Shively
Bankhead	Gore	Myers	Smith, Ariz.
Burton	Hitchcock	Newlands	Smith, Md.
Chamberlain	Johnson, Me.	Perky	Works
Chilton	La Follette	Pomerene	

NAYS—28.

Bourne	Dillingham	Martin, Va.	Smoot
Bristow	Gamble	Nelson	Sutherland
Brown	Gronna	Oliver	Swanson
Burnham	Heiskell	Page	Thornton
Clarke, Ark.	Johnston, Ala.	Poindexter	Tillman
Crawford	Lippitt	Root	Townsend
Cullom	McCumber	Sanders	Wetmore

NOT VOTING—48.

Baco	Briggs	Clark, Wyo.	Curtis
Borah	Bryan	Crane	Dixon
Bradley	Catron	Culberson	du Pont
Brandegee	Clapp	Cummins	Fall
Foster	Kern	Paynter	Smith, Mich.
Gallinger	Lea	Penrose	Smith, S. C.
Gardner	Lodge	Percy	Stephenson
Guggenheim	McLean	Perkins	Stone
Jackson	Massey	Reed	Thomas
Johnston, Tex.	O'Gorman	Richardson	Warren
Jones	Overman	Simmons	Watson
Kenyon	Owen	Smith, Ga.	Williams

The PRESIDENT pro tempore. Less than a quorum has voted.

Mr. CRAWFORD. I ask for a call of the absentees.

The PRESIDENT pro tempore. The roll will be called under the rule.

The Secretary called the roll, and the following Senators answered to their names:

Bankhead	Dillingham	Lippitt	Poindexter
Bourne	du Pont	Lodge	Pomerene
Brandegee	Foster	McCumber	Sanders
Bristow	Gallinger	Martin, Va.	Simmons
Brown	Gardner	Martine, N. J.	Smith, Md.
Burnham	Gore	Myers	Smoot
Burton	Gronna	Nelson	Sutherland
Chamberlain	Heiskell	Newlands	Swanson
Chilton	Hitchcock	Oliver	Thomas
Clarke, Ark.	Johnson, Me.	Page	Thornton
Crawford	Johnston, Ala.	Paynter	Townsend
Cullom	Johnston, Tex.	Perkins	Wetmore
Cummins	La Follette	Perky	Works

The PRESIDENT pro tempore. Fifty-two Senators have answered to their names. A quorum of the Senate is present. The question is on the amendment submitted by the Senator from Nevada [Mr. NEWLANDS], upon which the Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. In his absence from the Chamber I withhold my vote.

Mr. FOSTER (when his name was called). I have a general pair with the junior Senator from Wyoming [Mr. CLARK], who is absent. I therefore withhold my vote.

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN]; but he transfers that pair to the junior Senator from Nevada [Mr. MASSEY], and will vote "yea."

Mr. GARDNER (when his name was called). I again announce my pair with the Senator from Massachusetts [Mr. CRANE].

Mr. KERN (when his name was called). I again announce my general pair with the Senator from Kentucky [Mr. BRADLEY]. Not knowing how he would vote if he were present, I withhold my vote.

Mr. TOWNSEND (when Mr. JONES's name was called). I again desire to announce the necessary absence on business of the Senate of the Senator from Washington [Mr. JONES].

Mr. LIPPITT (when his name was called). I again announce the transfer of my pair with the senior Senator from Tennessee [Mr. LEA] to the junior Senator from Maryland [Mr. JACKSON] and will vote. I vote "nay."

Mr. LODGE (when his name was called). I have a general pair with the junior Senator from Georgia [Mr. SMITH]. I transfer that pair to the senior Senator from New Mexico [Mr. CATRON] and will vote. I vote "yea."

Mr. MYERS (when his name was called). I have a general pair with the Senator from Connecticut [Mr. MCLEAN]. I transfer that pair to the junior Senator from Florida [Mr. BRYAN] and will vote. I vote "yea."

Mr. PAYNTER (when his name was called). I again announce my pair with the senior Senator from Colorado [Mr. GUGGENHEIM]. In his absence I withhold my vote.

Mr. PERKINS (when his name was called). I again announce my general pair with the junior Senator from North Carolina [Mr. OVERMAN].

The roll call was concluded.

Mr. DILLINGHAM. I have a general pair with the Senator from South Carolina [Mr. TILLMAN]; but I am advised that on the previous roll call he voted as I did, and, therefore, I feel at liberty to vote, and will allow my vote in the negative to stand.

Mr. SIMMONS. I desire again to announce my pair with the Senator from Minnesota [Mr. CLAPP].

The result was announced—yeas 20, nays 29, as follows:

YEAS—20.

Ashurst	Gallinger	Martine, N. J.	Pomerene
Bankhead	Hitchcock	Myers	Shively
Brown	Johnson, Me.	Newlands	Smith, Ariz.
Burton	La Follette	Percy	Smith, Md.
Chamberlain	Lodge	Perky	Works

NAYS—29.

Bourne	Burnham	Cullom	Gamble
Brandegee	Clarke, Ark.	Cummins	Gore
Bristow	Crawford	Curtis	Gronna

Heiskell	Martin, Va.	Sanders	Townsend
Johnston, Ala.	Nelson	Smoot	Wetmore
Johnston, Tex.	Oliver	Sutherland	
Lippitt	Page	Swanson	
McCumber	Poindexter	Thornton	

NOT VOTING—46.

Bacon	Dixon	McLean	Smith, Ga.
Borah	du Pont	Massey	Smith, Mich.
Bradley	Fall	O'Gorman	Smith, S. C.
Briggs	Fletcher	Overman	Stephenson
Bryan	Foster	Owen	Stone
Catron	Gardner	Paynter	Thomas
Chilton	Guggenheim	Penrose	Tillman
Clapp	Jackson	Perkins	Warren
Clark, Wyo.	Jones	Reed	Watson
Crane	Kenyon	Richardson	Williams
Culberson	Kern	Root	
Dillingham	Lea	Simmons	

So Mr. NEWLAND's amendment was rejected.

The bill was ordered to a third reading, read the third time, and passed.

Mr. CRAWFORD. Mr. President, the omnibus claims bill, just passed, has been amended so radically that there is not the slightest doubt that the House will reject the amendments and ask for a conference. To save time—and I understand it is not without precedent—I move that the Senate request a conference with the House of Representatives upon its amendments, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. CRAWFORD, Mr. TOWNSEND, and Mr. BRYAN the conferees on the part of the Senate.

CONSTRUCTORS OF THE BATTLESHIP "INDIANA."

Mr. CRAWFORD. Mr. President, I move that the Senate proceed to the consideration of the bill (S. 4840) to carry into effect the judgment of the Court of Claims in favor of the contractors for building the U. S. battleship *Indiana*, with a view to its indefinite postponement. It is accompanied by an adverse report from the Committee on Claims.

The motion was agreed to.

The PRESIDENT pro tempore. The question is upon the indefinite postponement of the bill.

Mr. CRAWFORD. Mr. President, on that question I desire to be heard.

Mr. SMOOT. Mr. President——

Mr. CRAWFORD. Does the Senator from Utah desire to submit a statement?

Mr. SMOOT. Yes; I desire to submit a statement.

Mr. CRAWFORD. I yield to the Senator for that purpose.

Mr. SMOOT. Mr. President, in 1908 a bill identical with this passed the Senate, upon a favorable report from the Committee on Claims. At that time it was referred to me as a subcommittee, and I made a favorable report. When the report was made at this session of Congress I was not at the meeting that authorized the report, and I claim no courtesy because of that fact. I received a letter from a party in New York asking me if I had changed my views upon this particular bill, and among other things asking me if not to let him know. He inclosed a copy of the report that I made on February 17, 1908.

I wish to say to the Senate that at that time I went into the claim very thoroughly, as I thought. I had the contract before me. I secured all the information that I could from the Court of Claims. I submitted a favorable report on the bill. The bill under consideration is a claim by the builders of the battleship *Indiana*, by which they are seeking reimbursement of the expenses to which they were put for the care, maintenance, preservation, insurance, and wharfage during a delay or two years after the expiration of the contract period, brought about by the failure of the United States to furnish them with the armor "in the time and in the order necessary to carry on the work properly." This has been agreed to not only by the department and the Secretary of the Navy, but the Senators will find in the report that I made a statement from each and every one of the parties that had anything to do with the contract and building of the battleship *Indiana*.

The Court of Claims, after a protracted trial, found that the necessary and reasonable cost during this delay, which they found was solely and entirely due to the fault of the United States, amounted to $177,823.55; but on account of a release given on May 10, 1894, at the time of an advance payment by which the builders agreed to waive so much of the claim as accrued prior to that date, the court allowed only the expenses incurred after that date, for a period of one year, six months, and nine days, and gave judgment for the sum of $135,560. In the report you will see these findings set out in detail.

The case was appealed to the Supreme Court, and that court reversed the judgment upon the sole ground that a final receipt and release given May 19, 1896, upon the payment to the builders of the balance of the contract price, viz, $41,132.80, was intended by the parties to be a final settlement of the present claim, which the Court of Claims found amounted to $177,823.55 additional. The equities were not considered by the Supreme Court, as fully appears in the correspondence between Mr. Justice Brewer, who delivered the opinion, and one of the counsel for the company. Of course I included a copy of that letter in my report.

The builders now ask that Congress, upon equitable grounds, shall reimburse them for these expenses, and they file in support of their petition the affidavits of the ex-Secretary of the Navy, Gen. Tracy; his assistants, Admiral Hichborn, Chief of the Bureau of Construction, and ex-Naval Constructor Nixon, who designed the vessel, being all the Government officers that had any part in the preparation of the contract; of ex-Secretary Herbert, who took the receipt, and Mr. Charles H. Cramp, president of the company, who signed both contract and receipt, each and all unanimously declaring in specific terms that it was never the intent of either of the parties to the contract by the giving or accepting of the receipt to in any way waive, bar, or settle the claim now presented.

This evidence was not before the Supreme Court, and the facts now presented differ in this material respect from the case as presented to that court. The delays in furnishing the armor were caused by the praiseworthy desire of Secretary Tracy to obtain for these new vessels of war the most invulnerable armor that it was possible to procure. At that time the subject of armor plate was in its infancy, and new processes of its manufacture were being devised and presented to the department for adoption. A series of exhaustive tests and experiments were made, which consumed most of the contract period, and it was not until February, 1893, that the Secretary finally adopted the nickel-steel harveyized armor, and that surpassed all armor in any of the navies of the world. These delays had a similar effect upon the builders of the *Oregon*, *Maine*, *Terror*, and *Texas*, and these were the only vessels that were delayed from this cause aside from the *Indiana* and *Massachusetts*, built by the Cramp Co. The Richmond Locomotive Works, builders of the machinery for the *Texas*, and N. F. Palmer & Co. (the Quintard Iron Works), builders of the machinery of the *Maine*, have both been reimbursed by special acts of Congress on the recommendation of Secretaries Herbert, Morton, and Moody—notwithstanding they signed precisely the same final receipts and releases.

The Pneumatic Gun Carriage Co., builders of the *Terror*, recovered judgment in the Court of Claims, notwithstanding they signed the identical form of final receipt and release, that court holding, as it did in the *Indiana* case, that it did not relate to this class of claims, and Attorney General Griggs acquiesced in that decision and declined to appeal the case, and that company was paid.

I do not want to take the time of the Senate to go into all of the details, but I simply wanted to tell the Senate why I made the favorable report upon this claim. It was not on account of any lack of endeavor on the part of the Cramp people to finish the *Indiana* on time that the loss to the company occurred, as the Secretary of the Navy states, not only by letter, but by a statement made under oath. All parties concerned recommend that this claim be paid, because it was no fault of the company that a loss occurred.

I will take it for granted that there is not a Senator who knows my record upon the Claims Committee who does not know that I am not in favor of paying claims against the Government unless I find that there is some good reason for doing so. I am not going to go into any lengthy discussion of this matter. The committee reported adversely upon the claim, and I simply make this statement now to place myself right, having been asked as to whether or not I had changed my views upon this particular claim.

I do not think there is any necessity for my saying any more. The builders of all the other vessels that were built under the same conditions and that were held up for the same identical reasons have been reimbursed. If the Senate of the United States does not desire to reimburse this company for the same kind of loss that all of the other companies sustained and have been paid for, I have not another word to say in relation to the matter.

Mr. CRAWFORD. Mr. President, in view of the rather peculiar situation of this claim, I am glad the Senator made his statement. I also wish to make a statement, because I want it to be a matter of record. It is not very long.

The Committee on Claims made an adverse report on this bill for the relief of William Cramp & Sons on March 28, 1912. Under the regular procedure it would have been indefinitely

postponed at once. At the time the adverse report was presented, however, an amendment had been proposed by the Senator from Pennsylvania and referred to the Committee on Claims, by which he sought to amend what is known as the omnibus claims bill—which at that time was being considered by the same committee—by inserting this claim in that bill. For that reason I asked that this bill go on the calendar, so that the proposed amendment and the bill might be considered together in connection with the adverse report when the omnibus claims bill came before the Senate.

The committee having reported the bill adversely, declined to accept the proposed amendment, of course. During all the time we were considering the omnibus claims bill here this amendment was not presented by the Senator from Pennsylvania, nor by any other Senator. The Senator who proposed it told me that he did not intend to press it.

After the omnibus claims bill had passed the Senate, I assumed, as a matter of course, that this bill, upon my suggestion and upon the adverse report, would be indefinitely postponed. This adverse report has been here for 10 months. No minority views have been presented. An amendment proposing the same relief has been abandoned; and it is difficult to understand why at this late date there should be a disposition to depart from the usual practice of indefinite postponement in such cases.

The Senator from Utah the other day asked that the bill be placed under Rule IX, which would indicate that he preferred to have it die there rather than to have the Senate act in the usual way by indefinitely postponing it upon the adverse report. In fact, sir, I have discovered several attempts to get that adverse report out of the way in some manner other than the usual one, of either taking issue with it by presenting minority views or having the bill indefinitely postponed upon it.

Very soon after the adverse report was filed a gentleman who was actively engaged in lobbying for the bill came into my committee room and asked the clerk of the committee to show him the records and minutes kept of the proceedings, so that he might, if possible, make the claim that a quorum of the committee was not present when the report was ordered. He did this in my absence and without so much as asking my leave. It looked like impudence and effrontery to me for a lobbyist to go to a committee room and in the absence of the chairman attempt to secure evidence upon which to impeach the committee's report.

Failing in that, I next discovered that this same gentleman was attempting to canvass the individual members of the committee and to secure their signatures to a written request that this adverse report be withdrawn. I am glad to say that he did not get very far with that; but it was a most extraordinary proceeding.

It seems to me there is a manifest desire to deal with this adverse report in some unusual way instead of following the regular procedure. Under the circumstances, I think it is my duty to lay before the Senate briefly the facts disclosed in the report.

The William Cramp & Sons Ship and Engine Building Co. entered into a written contract with the Government on November 10, 1890, in which it undertook, for the sum of $3,020,000, at its own risk and expense, to construct a coast-line battleship, afterwards known as the *Indiana*. Certain portions of the armor were to be furnished by the Government and delivered at the Cramp shipyards in the order and at the times required to carry on the work properly. The vessel was to be completed within three years from the date of the contract, and heavy penalties were provided in case of delays beyond this period for which the shipbuilding company was to blame. On the other hand, it was clearly provided when the delay was caused by the fault of the Government that the builder should be relieved of penalties and entitled to a corresponding extension of the period prescribed for the completion of the vessel. The contract was carefully balanced in this as in all other particulars. The expenses incurred in the preparations for trial tests and of the preliminary trial tests of the vessel were to be borne by the shipbuilder, but the expense of the final trial before acceptance, if successful, was to be paid by the Government. Payment was to be made by the Government in 30 equal installments as the work progressed, with a reservation of 10 per cent from each installment. The last three installments and the reservations, except the sum of $60,000, were to be made after the preliminary trial test if approved. The $60,000 was not to be paid until the final trial and acceptance of the vessel, and then only upon the execution by the shipbuilder of a full and complete release of all claims of any kind or description under or by virtue of the contract.

The contract is clear and unequivocal throughout. There is no ambiguity or uncertainty in it. There is nothing in it calling for oral interpretation or explanation. It speaks plainly. It is an all-sufficient witness as to its meaning, and parol testimony to vary or explain its clear meaning would not be admitted in any court in the absence of any charge of fraud, duress, or mistake.

Because the Government was unable to furnish the armor when needed the completion of the vessel was delayed about two years. This delay caused the parties on May 10, 1894, to execute a written memorandum modifying the original contract in one respect only, but providing that in all other respects it should remain unchanged and unaffected in its legal effect. The agreement of modification was to this effect:

It was agreed that the payment of the last three installments of the contract price and the reservations of 10 per cent in previous payments should not be withheld until after the preliminary trial and conditional acceptance of the vessel, but that the Government would pay the contractor at once these installments and reservations, retaining only a sufficient sum to cover the special reserve of $60,000, the cost of all unfinished work, all deductions likely to be made on account of deficiencies in speed, and other contingencies that might arise. In such event the building company was to give the Government a bond with approved security for indemnity against loss or injury by reason of the payment. The shipbuilding company, in consideration of these advance payments, released the Government from every claim for loss or damage occasioned by its failure to furnish armor as contemplated in the original agreement.

The ship was finally completed and accepted on the 18th of May, 1896, at which time the Government paid the Cramp Shipbuilding Co. the reserved balance of the $60,000, and received from that company a release forever discharging and releasing the United States of and from "all and all manner of debts, dues, sums, and sums of money, accounts, reckonings, claims, and demands whatsoever, in law or in equity, for or by reason of or on account of the construction of said vessel under the contract aforesaid."

This release was signed and sealed by Charles H. Cramp, president of the company, and delivered to the Department of the Navy. There was nothing unconscionable in this contract. It is not claimed that, notwithstanding the delay, the Cramp Shipbuilding Co. did not make a good profit in the performance of it. It is not claimed that it was deceived by any misrepresentations into making it. No action to re-form the contract or be relieved from its terms because of fraud, mistake, or duress was ever begun in any court of equity. No proceeding of that kind was ever hinted at or suggested. At the time of final acceptance of the vessel and payment of the balance due the Cramp Shipbuilding Co. executed this full and sweeping release, without asserting or suggesting that it had sustained damages. It received the money, executed the release, and delivered over the vessel to the Government without making any such claim. These things were done under and within the clear provisions of the contract itself.

But after a whole year and a quarter had passed this company began a suit against the Government in the Court of Claims.

It was not referred there by Congress. They began an original suit there in which the company asked judgment for the sum of $480,231.

To show the character of this claim, I wish to call the attention of the Senate to some of the items specified in the petition which it filed:

It says its business was so large that in order to obtain more room for materials for the vessels under construction, of which the *Indiana* was one, it purchased additional ground at a cost of $121,756.03 and erected thereon shops in which to handle material at an additional cost of $3,000, and it wants to be reimbursed the sums it thus paid out for enlarging its own plant. It apportioned and charged up to this vessel a proportionate share of the value of the use of its yard, its tools, and machinery, the cost of superintendence, and the general upkeep of its yard for the period of two years, for which it asked $72,000. It asked $48,000 more for the care and protection of the vessel for two years; $23,360 more for wharfage, which is the amount a merchant vessel of the same tonnage would have had to pay in the port of Philadelphia while stopping there on a commercial voyage; it asked to be reimbursed over $5,000 for tug service not incurred in construction of the vessel but expended for its own benefit and convenience independently of the construction of this vessel; it wanted pay for dredging the basin occupied by the vessel and repayment of the insurance it had paid on the vessel for the period of two years immediately preceding the acceptance by the Government. It took the contract to build this vessel at its own risk and responsibility.

The Court of Claims found in its favor, by what seemed to me a very strange sort of computation, for $135,560, and entered judgment against the Government for that amount from which an appeal was taken to the Supreme Court of the United States, which reversed the judgment on the merits and remanded the case with instructions to enter a judgment on the findings for the Government.

Mr. Justice Brewer delivered the opinion of the court, which was unanimous, and the court says, among other things:

To rightly understand the scope of this release we must consider the conditions of the contract and especially the clause in it which calls for a release. The contract was a large one, the price to be paid for the work and material being over $3,000,000, and the contract was evidently designed to cover all contingencies. Provision was made for changes in the specifications, for penalties on account of delays of the contractor, deductions in price on certain conditions, approval of the work by the Secretary of the Navy, forfeiture of the contract, with authority to the Secretary to complete the vessel. The last paragraph contains the stipulations as to the amounts and times of payment with authority for increase of the gross amount upon certain conditions. The sixth clause of this paragraph makes special provision for the last payment, to be made—

The court quotes there the contract—

"when all the conditions, covenants, and provisions of said contract shall have been performed and fulfilled by and on the part of the party of the first part" and "on the execution of a final release to the United States in such form as shall be approved by the Secretary of the Navy, of all claims of any kind or description under or by virtue of said contract." Evidently the parties contemplated and specially provided by this stipulation that the whole matter of the contract should be ended at the time of the final release and the last payment. That which was to be released was "all claims of any kind or description under or by virtue of said contract." Manifestly included within this was every claim arising not merely from a change in the specifications, but also growing out of the delay caused by the Government. The language is not alone "claims under," but "claims by virtue" of the contract—"claims of any kind or description." All the claims for which allowances were made in the judgment of the Court of Claims come within one or the other of these clauses. It may be that, strictly speaking, they were not claims under the contract, but they were clearly claims by virtue of the contract. Without it no such claims could have arisen. Now, it having been provided in advance that the contract should be closed up by the execution of a release of this kind it can not be that the company, when it signed the release, understood that some different kind of release was contemplated. It must have understood that it was the release required by the contract—a release intended to be of all claims of any kind or description under or by virtue of the contract, and that the form of words which the Secretary had approved was used to express that purpose. With that release stipulated for in the contract the company signed the instrument of May 18, 1896, which in terms purported to "remise, release, and forever discharge the United States of and from all manner of debts, dues, sum and sums of money, accounts, reckonings, claims, and demands whatsoever in law or in equity, for or by reason of or on account of the construction of said vessel under the contract aforesaid." Now, whatever limitation may be placed upon the words "for" or "on account of" the construction of the provision for the release of all claims and demands whatsoever, "by reason of the construction of the vessel under the contract aforesaid," is a recognition of the contract, and includes claims which arise by reason of the construction of the vessel under it. "By reason of" may well be considered as equivalent to "by virtue of." It is only by reason of the performance of the contract in the construction of the vessel that these claims arise. But for the contract and the construction of the vessel under it there would be no such claims. No payment of moneys not due is necessary to sustain this release. It is under seal, and the contract is itself full consideration. As of significance it must be borne in mind that the release referred specifically to the provisions in the sixth paragraph of the nineteenth clause of the contract which provided for the character of the release. Indeed, the general language of the release itself and the number of words of description in it show that it was the intent of the Secretary of the Navy to have a final closing of all matters arising under or by virtue of the contract. Stipulations of this kind are not to be shorn of their efficiency by any narrow, technical, and close construction. The general language "all and all manner of debts," etc., indicates an intent to make an ending of every matter arising under or by virtue of the contract. If parties intend to leave some things open and unsettled their intent so to do should be made manifest. Here was a contract involving $3,000,000, and after the work was done, the vessel delivered and accepted and this release entered, claims are presented amounting to over $500,000. Surely the parties never intended to leave such a bulk of unsettled matters. As bearing upon this matter, it may be noticed that while the release was signed and the contract between the building company and the Government closed on May 18, 1896, this action was not brought until August 10, 1897, nearly a year and a quarter thereafter.

We are of opinion that the parties by the release of May 18, 1896, which was executed in performance of the requirements of the original contract, settled all disputes between the parties as to the claims sued upon.

The judgment of the Court of Claims is reversed and the case remanded with instructions to enter a judgment on the findings for the defendant.

Now, Mr. President, this powerful claimant voluntarily chose the forum in which to have the merits of its claim adjudicated. It brought the suit which terminated in this adverse decision by the highest judicial tribunal in the land. That court construed the contract and held that the claim could not be sustained under the law of the land. Ex parte affidavits made by Admiral Hichborn, Charles H. Cramp, and Lewis Nixon, who at the time of the building of the vessel was an employee of the Cramp Shipbuilding Co., and an affidavit of ex-Secretary Herbert have been obtained since the Supreme Court rendered the final decision in the case to support a contention that the contract meant something different, or that the parties to it had a different intention in agreeing to it than its clear and unequivocal language shows, and that it was not intended to mean what it plainly says and what the Supreme Court says it means. But these affidavits are utterly worthless so far as they are intended to vary the plain terms of this long since executed contract by parole. Every lawyer knows that. The claim amounts to nothing more than a bounty or donation, and why should Congress give it to these claimants? What private suitor who had failed upon the merits to obtain a judgment would ask the successful defendant to make him a present of the amount in controversy?

This shipbuilding company has enjoyed a special privilege under the navigation laws of this country for years.

Mr. President, the present occupant of the chair will remember this incident. A few months ago an American citizen, who had purchased a foreign-built ship, appeared before the Senate Committee on Commerce in behalf of a bill which would admit this vessel to American registry. He was to expend a substantial sum of money in American shipyards in rebuilding and repairing this secondhand vessel. Nevertheless, a representative of this powerful shipbuilding company appeared and protested against the registry of this foreign-built vessel. I say it has enjoyed, and does now enjoy, a special privilege which makes the cost of building vessels in American shipyards 100 per cent higher than the same vessels would cost in foreign shipyards—a privilege which has made it impossible to build and maintain American vessels in over-seas trade. On top of this special privilege it asks for this gratuity, for it is nothing more than a donation.

Why should it receive such a favor? It is said that at other times, in connection with the construction of other vessels, this company and other shipbuilders have received donations of this kind. If that be true, there was never a better time than now to stop the bad practice. If instead of being a great and powerful shipbuilding company this claimant was a poor and obscure citizen, his claim would not be considered for a moment.

I call to mind many really pathetic cases of humble claimants who have had claims pending before Congress for years, in which there is no legal basis for the claims, but where there is much in the situation of the parties and the circumstances surrounding them to call forth the deepest sympathy and touch any heart that is human. I have in my mind now a helpless woman of culture and refinement, whose husband, while serving his country abroad as a consul, met with serious losses occasioned by the fluctuation and depreciation of the rupees in which his salary was paid; a splendid man who, in entertaining visiting Americans who came to Bombay, used funds which he had received as fees and perquisites—according to a custom which had previously prevailed—but for which he was required to account. To save his bondsmen from loss he returned to the United States and sold all the property he had in the world, including his homestead. He died penniless and of a broken heart. The widow, who survived him, presented a claim for the amount he had lost through the depreciation of the money paid to him as a salary. She has told her pathetic story over and over again to members of the committee and other Senators—session after session, year after year, for many years. She is now an old woman whose bodily and mental health is fading away under the long strain, the disappointment, the long-deferred hope, and sickness of heart. Her sweet face and thin figure haunt the corridors of the Senate Office Building year after year. I would be glad to see her receive something, even though it be a bounty or donation, but she has never been able to get a majority of the committee to authorize a favorable report of her claim. We shall miss her one of these days, when, with a broken heart, she shall have gone to join her broken-hearted husband in the grave.

Ah, Mr. President, shall we pass the cries of a poor woman like this unheeded and yet give ear to a demand like this of the Cramp Shipbuilding Co., because it is great and powerful and can secure the services of lawyers and lobbyists and recommendations from men of high station and influence? Shall we refuse to give to a beautiful, sweet-faced, broken-hearted woman a pittance of $5,000 and then grant to this great company a bounty or donation of $135,000? I do not believe the Senate will do such a thing as that.

The Committee on Claims was not in favor of doing it, and made this report.

I insist on the indefinite postponement of this bill.

Special privilege leads to just such unjust discriminations as this, and I say to you that the American people are determined to abolish special privilege. This is a good place to begin.

I ask for a vote on the motion to indefinitely postpone the bill.

Mr. SMOOT. Mr. President, just a word. I agree with the Senator that the contract was specific, and I so stated in the opening. It was found by the Court of Claims that it was specific, and the bill does not provide for any of the items mentioned by the Senator, with the exception of those that were found to be due the company by the Court of Claims.

Mr. CRAWFORD. They are all set forth in the findings of the Court of Claims and in the record, and they are taken from the petition which the claimant had filed.

Mr. SMOOT. I said the bill does not include any item, with the exception of those items that the Court of Claims found was due the company.

Mr. CRAWFORD. Will the Senator permit me there to make just a comment in three words?

Mr. SMOOT. Certainly.

Mr. CRAWFORD. The title of this bill contains a falsehood. The title of the bill purports to give effect to the judgment of the Court of Claims in favor of the contractors for building the United States battleship *Indiana*, when at the time the bill was introduced there were no such findings in its favor, because they had been reversed by the decision of the Supreme Court of the United States, and until we went in and found that decision of the Supreme Court reversing those findings the Senate might have been led, from the title of the bill, into a belief that it was resting upon the valid findings and judgment of the Court of Claims.

Mr. SMOOT. I simply want to state again that the bill provides for one hundred and thirty-five thousand and some odd dollars, and that was the amount the Court of Claims found due the Cramp Co., and the items are stated in detail by the Court of Claims in the findings.

I admit, as I stated before, that the Supreme Court of the United States reversed the judgment of the Court of Claims. I did, however, refer to a letter from Justice Brewer, who wrote the opinion, in relation to what the reasons of the Supreme Court were in reversing the decision.

Mr. CRAWFORD. Will the Senator permit me?

Mr. SMOOT. Certainly.

Mr. CRAWFORD. The letter from Mr. Justice Brewer was drawn out by soliciting him in a letter written to him by the attorney of record in the Cramp ship case, who was disappointed over his loss of the decision in the Supreme Court.

Mr. SMOOT. I do not know what drew it out. I can not say. But I say this copy of the letter is in the report, and I made my report upon the bill based upon all the information that I could receive from the Navy Department officials.

I wish to say to the Senator that it makes no difference to me who the person is or what company it is that tries to collect a claim from the Government of the United States, they all stand upon the same footing, whether it is a small claim or whether it is a large claim. If it is a just claim it should be paid, and if it is an unjust claim it ought not to be paid.

Mr. President, without taking the time of the Senate further, I ask that, in connection with what I have just stated, the report submitted by me in 1908 be printed as a part of my remarks. That report gives a complete history of this case from the standpoint of the Navy Department officials. As I have already said, this company is only asking the same treatment the Government has already accorded to other concerns which found themselves in exactly the same condition. They were all paid by the Government, with the exception of Cramp & Sons.

The PRESIDING OFFICER (Mr. NELSON in the chair). Without objection, the report referred to will be printed in the RECORD.

The report referred to is as follows:

Mr. SMOOT, from the Committee on Claims, submitted the following report, to accompany S. 3126:

The Committee on Claims, to whom was referred Senate bill 3126, have had the same under consideration and beg leave to submit the following report:

This is a claim by the builders of the battleship *Indiana* seeking reimbursement of the expenses they were put to for the care, maintenance, preservation, insurance, and wharfage during a delay of two years after the expiration of the contract period, brought about by the failure of the United States to furnish them with the armor "in the time and in the order necessary to carry on the work properly," as it had covenanted and agreed to do. The Court of Claims, after a protracted trial, found that the necessary and reasonable costs during this delay, which they found was solely and entirely due to the fault of the United States, amounted to $177,823.55, but on account of a release given on May 10, 1894, at the time of an advance payment, by which the builders agreed to waive so much of the claim as accrued prior to that date, the court allowed only the expenses incurred after that date for a period of one year six months and nine days, and gave judgment for the sum of $135,560. (See findings of Court of Claims accompanying this report marked "Exhibit A.") The case was appealed to the Supreme Court, and that court reversed the judgment upon the sole ground that a final receipt and release given May 19, 1896, upon the payment to the builders of the balance of the contract price, viz, $41,132.80, was intended by the parties to be a final settlement of the present claim, which the Court of Claims found amounted to $177,823.55 additional. The equities were not considered by that court, as fully appears in the correspondence between Mr. Justice Brewer, who delivered the opinion, and one of the counsel for the company, accompanying this report, marked "Exhibit B."

The builders now ask that Congress, upon equitable grounds, shall reimburse them for these expenses, and they file in support of their petition the affidavits of ex-Secretary of the Navy, Gen. Tracy; his assistants, Admiral Hichborn, Chief of the Bureau of Construction, and ex-Naval Constructor Nixon, who designed the vessel, being all the Government officers that had any part in the preparation of the contract; of ex-Secretary Herbert, who took the receipt, and Mr. Charles H. Cramp, president of the company, who signed both contract and receipt, each and all unanimously declaring in specific terms that it was never the intent of either of the parties to the contract, by the giving or accepting of the receipt, to in any way waive, bar, or settle the claim now presented. (See Exhibits C, D, E, F, and G herewith.)

This evidence was not before the Supreme Court, and the facts now presented differ in this material respect from the case as presented to that court. The delays in furnishing the armor were caused by the praiseworthy desire of Secretary Tracy to obtain for these new vessels of war the most invulnerable armor that it was possible to procure. At that time the subject of armor plate was in its infancy and new processes of its manufacture were being devised and presented to the department for adoption. A series of exhaustive tests and experiments were made, which consumed most of the contract period, and it was not until February, 1893, that the Secretary finally adopted the nickel-steel harveyized armor, and that surpassed all armor in any of the navies of the world. These delays had a similar effect upon the builders of the *Oregon*, *Maine*, *Terrar*, and *Texas*, and these were the only vessels that were delayed from this cause aside from the *Indiana* and *Massachusetts*, built by the Cramp Co. The Richmond Locomotive Works, builders of the machinery for the *Texas*, and N. F. Palmer & Co. (the Quincy Iron Works), builders of the machinery of the *Maine*, have both been reimbursed by special acts of Congress on the recommendation of Secretaries Herbert, Morton, and Moody—notwithstanding they signed precisely the same final receipts and releases. (See Richmond case, 30 Stat., 1431; Palmer case, 33 Stat., 1397.)

The Pneumatic Gun Carriage Co., builders of the *Terror*, recovered judgment in the Court of Claims, notwithstanding they signed the identical form of final receipt and release, that court holding, as it did in the *Indiana* case, that it did not relate to this class of claims, and Attorney General Griggs acquiesced in that decision and declined to appeal the case, and that company was paid. (36 C. C. Rep., p. 71.) The Union Iron Works, by a supplemental contract relieved the United States of its obligation to take the vessel without armor, as Article III of the contract provided, and in lieu thereof accepted a contract with Secretary Tracy by which the United States was to pay these expenses monthly as the delays occurred, and that company was so paid. (See affidavit ex-Secretary Tracy, Exhibit C.) The Cramp Co. relied upon the obligation of the United States to take the vessel without armor, under Article III, and the Secretary concurred in this view of the obligation of the United States and went so far as to detail officers to supervise the erection of temporary facilities to take the vessel to sea and weight it down to its normal draft, which was done at an additional expense to the builders of $17,000 (see twelfth findings, Court of Claims, Exhibit A), but on May 1, 1894, he arbitrarily refused to permit a trial trip to be made because, in his judgment, the interests of the United States would be best subserved by delaying the trial trip until the vessel was fully completed, with all the armor on.

It is shown by the affidavits of Admiral Hichborn (Exhibit D) and Secretary Tracy (Exhibit C) that the United States had no navy yard at which these vessels could be taken care of. It may be that the claimant at the time did not approve of the fine dream of the Delaware River to its destruction, but the United States then owed the company upward of $500,000 for work already performed and unpaid for, and the United States had already paid $2,300,000 on account of its construction, and to save this amount of Government property from destruction the company yielded to the request of the Secretary and cared for, preserved, and maintained the vessel at their yard for an additional one year, six months, and nine days, at an expense of $135,560, as found by the Court of Claims. Your committee can not believe that the company should now be punished for the performance of this most praiseworthy and patriotic action, nor should the technical receipt be held to prevail over the conspicuous equities of the case. It may be true that a contractor should be careful in the wording of papers that he signs, but if through want of care or inadvertence the receipt does not express the real intent of the parties to it, it would be extremely unfair, if not positively dishonest, for one of the parties to try to enforce it against the other contrary to the intent of both.

Your committee therefore report back Senate bill 3126 favorably and recommend that it do pass.

EXHIBIT A.

FINDINGS OF FACT BY THE COURT OF CLAIMS.

[Court of Claims. No. 20858. (Decided January 29, 1906.) The William Cramp & Sons Ship & Engine Building Co. v. The United States.]

This case having been heard by the Court of Claims, the court, upon the evidence, makes the following

FINDINGS OF FACT.

I. The claimant herein is a corporation incorporated under the laws of the State of Pennsylvania, and carries on the business of ship and engine building, with its yards and plant and works located in the city of Philadelphia, in said State.

II. On November 19, 1890, the claimant entered into a contract with the United States, through their Secretary of the Navy, whereby, in consideration of the sum of $3,063,000, to be paid as provided in said contract, it agreed to construct and complete within three years from said date as in said contract provided, a seagoing, coastline battleship, designated as No. 1, and subsequently named the *Indiana*, all in accordance with the specifications attached to and made a part of said contract, which contract, marked "Exhibit W. C. & S. No. 1," is annexed to and made a part of the petition herein.

III. Immediately after the making of said contract the claimant arranged and systematized a working program for the construction of said vessel by organizing its working force so as to cooperate with each

other in harmony on coordinate work, and to secure economy in the construction of the vessel within the contract time and to escape the penalties imposed thereby for delays. The claimant would have completed the vessel within the contract period if it had not been for the failure of the United States to furnish materials within the time and in the order to properly carry on the work, which by the terms of the contract they had agreed to furnish.

By reason of the failure of the defendants to furnish the materials, which by the third clause of the contract they had agreed to furnish, within the time and in the order as aforesaid, the completion of the vessel was delayed for two years beyond the contract period.

The armor to be furnished in accordance with said clause of the contract was obtained by the defendants from other contractors, who, without any fault on the part of the claimant, failed to complete the manufacture thereof in time for the defendants to deliver the same to the claimant as they had agreed to do.

The various kinds of armor, including the necessary bolts, nuts, etc., were delivered as follows:

Diagonal armor, beginning June 6, 1892, and ending July 3, 1892.
Casemate armor, beginning March 16, 1893, and ending May 1, 1893.
Conning tower tube, May 1, 1893.
Barbette armor, beginning July 10, 1893, and ending September 23, 1893.
Sponson armor, beginning December 2, 1893, and ending March 24, 1894.
Ammunition tubes, beginning April 24, 1894, and ending May 22, 1894.
Eight-inch turret, beginning September 22, 1894, and ending December 7, 1894.
Conning tower shield and covers, complete, October 5, 1894.
Side armor, beginning August 13, 1894, and ending August 6, 1895.
Thirteen-inch turrets, beginning May 16, 1895, and ending September 5, 1895.

IV. On December 4, 1895, and after the completion and delivery of the vessel at the time hereinafter stated, the Secretary of the Navy decided that the cause of delay for the period of two years in the completion of the vessel was due to the failure of the United States to furnish the claimant the materials contracted to be furnished by them within the time and in the order to properly carry on the work; and for that reason the time within which to complete the vessel, and thereby release the claimant from the penalties provided for in the nineteenth paragraph of the contract, was on said date extended by the Secretary of Navy a corresponding length of time, to wit, to November 19, 1895, on which latter date the vessel so contracted for was completed and delivered.

V. On May 10, 1894, before the Secretary of the Navy had finally decided the cause of delay, as aforesaid, and before there had been a preliminary or conditional acceptance of the vessel, owing to the failure of the defendants to furnish, in the order required, the material which they had agreed to furnish, the contract was modified, which modification is made a part of the petition herein and marked "Exhibit W. C. & S. No. 2," by the terms of which modification the defendants agreed to pay the claimant a portion of the reservations of installments, which under the original contract were not payable, as therein set forth, until after a preliminary or conditional acceptance of the vessel; and $224,830, being the amount of the reservations of the first 23 out of the 27 installments earned by the claimant, were paid on or about June 20, 1894. The claimant, as provided in the modification aforesaid, furnished security against any loss to the defendants on account of such payment, but no demand for any refund was ever made upon it. In consideration of the payment aforesaid, the claimant, as recited in said modification, released the defendants "from all and every claim for loss or damage hitherto sustained by reason of any failure on the part of the" defendants to comply with its contract, "or on account of any delay hitherto occasioned" by them.

To the modification of the contract and the release as aforesaid the claimant at the time did not appear to have made objection or protest.

VI. On May 18, 1896, after the completion and delivery of the vessel, in accordance with the sixth paragraph of the nineteenth clause of the contract, the balance of the money due thereunder, but withheld in accordance therewith until the final acceptance of the vessel, was paid to the claimant and said sum was accepted and a release and receipt was executed therefor by it in the terms following:

"Whereas by the eleventh clause of the contract dated November 19, 1890, by and between the William Cramp & Sons Ship & Engine Building Co., a corporation created under the laws of the State of Pennsylvania, and doing business at Philadelphia, in said State, represented by the president of said company, party of the first part, and the United States, represented by the Secretary of the Navy, party of the second part, for the construction of a seagoing coast-line battleship of about 10,000 tons displacement, which, for the purpose of said contract is designated and known as 'coast-line battleship No. 1,' it is agreed that a special reserve of $60,000 shall be held until the vessel shall have been finally tried; provided that such final trial shall take place within five months from and after the date of the preliminary or the conditional acceptance of the vessel; and

"Whereas by the sixth paragraph of the nineteenth clause of said contract it is further provided that when all the conditions, covenants, and provisions of said contract shall have been performed and fulfilled by and on the part of the party of the first part, said party of the first part shall be entitled, within 10 days after the filing and acceptance of its claim, to receive the said special reserve or so much thereof as it may be entitled to on the execution of a final release to the United States in such form as shall be approved by the Secretary of the Navy of all claims of any kind or description under or by virtue of said contract; and

"Whereas the final trial of said vessel was completed on the 11th day of April, 1896; and

"Whereas all the conditions, covenants, and provisions of said contract have been performed and fulfilled by and on the part of the party of the first part:

"Now, therefore, in consideration of the premises, the sum of $41,132.86, the balance of the aforesaid special reserve ($60,000), to which the party of the first part is entitled, being to me in hand paid by the United States, represented by the Secretary of the Navy, the receipt whereof is hereby acknowledged, the William Cramp & Sons Ship & Engine Building Co., represented by me, Charles H. Cramp, president of said corporation, does hereby for itself and its successors and assigns, and its legal representatives, remise, release, and forever discharge the United States and said from all and all manner of debts, dues, sums and sums of money, accounts, reckonings, claims, and demands whatsoever, in law or in equity, for or by reason of, or on account of, the construction of said vessel under the contract aforesaid.

"In witness whereof I have hereunto set my hand and affixed the seal of the William Cramp & Sons Ship & Engine Building Co. this 18th day of May, A. D. 1896.

"[SEAL.] "CHAS. H. CRAMP, *President.*

"Attest:

"JOHN DOUGHERTY, *Secretary.*"

to the giving of which release and receipt the claimant does not appear at the time to have objected or protested.

VII. Before and during the period of delay, as aforesaid, the claimant's business was so large that in order to obtain more room for materials for the vessels under construction at the claimant's yard, of which the *Indiana* was one, it purchased additional ground at a cost of $121,756.05, and erected thereon temporary shops, in which to handle and rehandle material, at an additional cost of $3,000. It is not shown that the purchase of said real estate was necessary to the construction of the *Indiana*, or that any portion of the outlay therefor was attributable to the vessel during the period of delay.

VIII. After the expiration of the contract period and during the two years that the vessel was delayed in completion, as hereinbefore found, the reasonable value for the use of the claimant's yard, machinery, and for superintendence in the construction of the vessel, including the general upkeep of the yard chargeable to the *Indiana*, was $3,000 per month, or $72,000 for the two years' delay.

The proportion of said expenses chargeable to the *Indiana* from May 10, 1894, the date of the release set forth in finding VI, being for one year six months and nine days, was $54,887.67.

IX. For the proper care and protection of the vessel during the two years' delay, including expense of cleaning the bottom, furnishing material and painting, temporary awnings and tents over caps left for the introduction of turrets, additional scaling to remove rust before painting, electric lighting, keeping up steam to prevent freezing of valves, wetting down decks, going over machinery, and keeping vessel free from snow, dust, ice, and débris, the reasonable cost was $48,000.

The proportion of said expenses for the period from May 10, 1894, being for one year six months and nine days, was $36,591.78.

X. The customary rate of wharfage of merchant vessels at the port of Philadelphia during the time the *Indiana* was being constructed was 1 cent per net registered ton, and upon that basis, if allowed, the wharfage on the *Indiana*, with a net tonnage which we find was 3,203.58, during said two years' delay was $32 a day, or $23,360.

The proportion of expense during the period from May 10, 1894, being for one year six months and nine days, was $17,808, inclusive of the dredging of the basin or bed in which to accommodate the vessel.

The claimant also incurred an expense of $5,783 for tug service in removal of the vessel from time to time. Such expense is not shown to have been necessary to the construction of the vessel during the period of delay. It appears to have been for the benefit and convenience of the claimant.

XI. During the two years' delay the claimant was required to and did keep the vessel insured for the benefit and protection of the United States, and the reasonable cost thereof aggregated during said period the sum of $34,468.55.

The proportionate expense for the period from May 10, 1894, being one year six months and nine days, was $26,272.55.

XII. March 23, 1894, the claimant notified the Secretary of the Navy that the vessel, other than the fitting of the armor, had reached a stage of completion ready for an official trial and proposed to offer said vessel therefor between May 1 and 10 following.

Seven other vessels built by the claimant for the United States had been permitted to go on trial trips before their completion. The *Indiana* was the first battleship constructed, and before the armor was completed thereon the claimant proposed an official trial.

March 9, 1894, the Secretary of the Navy addressed to the claimant the following letter:

WASHINGTON, *March 9, 1894.*

GENTLEMEN: In view of the fact that the trial of the *Indiana* will take place at an early date, and as you are probably now making preparation therefor, your attention is invited to the tenth clause of the contract for the construction of that vessel, which provides that the expenses of a successful trial of the vessel shall be borne by the Government.

With a view to an expeditious settlement of the bill for the trial expenses of the vessel after the trial shall have taken place, the department has to-day directed Chief Engineer J. W. Thomson and Naval Constructor J. F. Hanscom, United States Navy, to inform themselves as to what expenses you incur in preparing the vessel for trial, on the trial, and in furnishing the supplies of all kinds to be used, in order that they may be able to report to the department after such examination, if any, as they may be required to make of your bill as to whether the items included therein are properly chargeable to the Government, and as to whether the prices charged therefor are proper and reasonable.

The department requests that you will confer with the above-named officers in regard to the expenses necessary to be incurred in the trial of the *Indiana* and afford them such information as will enable them to fully comply with the department's instructions, as above stated.

Very respectfully,

H. A. HERBERT,
Secretary of the Navy.

The WILLIAM CRAMP & SONS
SHIP & ENGINE BUILDING CO.,
Philadelphia, Pa.

The expense so incurred was verified by such officers and no objection was found to the amount thereof. But in the meantime the Secretary of the Navy was in doubt as to whether the vessel was ready for such official trial, and to ascertain that fact did, on April 12, 1894, appoint a board, consisting of three naval officers, to inquire into the matter.

The board made such inquiry, and on April 18, 1894, reported to the Secretary that the hull of the vessel was about eighty-four one-hundredths completed, and that but one-half of the armor had been fitted in place. The board unanimously reported that the vessel was not then and would not be by May 1, 1894, ready for the official trial trip in accordance with the tenth article of the contract, and that such trial should not, in the interest of the Government, take place until the vessel was fully completed and ready for delivery.

Upon that report the Secretary acted, refusing to give his approval to the proposed trial, and the same was not made.

If the claimant is entitled to recover the expense so incurred in the preparation for the preliminary trial of the vessel, the amount as verified by the officers of the Navy and which we find reasonable was $17,514.94.

XIII. The items of cost and expense set forth in the several findings herein, both upon the basis of two years' delay and of one year six months and nine days' delay, are as follows:

Finding.	Item.	Two years.	One year 6 months and 9 days.
VIII	Superintendence and upkeep of yard	$72,000.00	$54,887.67
IX	Protection of vessel, cleaning, painting, etc.	48,000.00	36,591.78
X	Wharfage of vessel	23,300.00	17,808.00
XI	Insurance on vessel	34,463.55	26,272.55
		177,833.55	135,560.00

CONCLUSION OF LAW.

Upon the foregoing findings of fact the court decides as a conclusion of law that the claimant is entitled to recover against the United States the loss and damage sustained by it during the delay of one year six months and nine days, as set forth in Finding XIII, the sum of $135,560.

EXHIBIT B.

LETTER OF MR. JUSTICE BREWER, SUPREME COURT.

SUPREME COURT OF THE UNITED STATES,
Washington, D. C., December 17, 1907.

MY DEAR MR. FAY: *Do* not think I have neglected the matter to which you called my attention a few nights since. I spoke first to some of the brethren individually and finally I brought the matter up before the court in conference. The brethren without dissent advised me not to write the letter you suggest. There is nothing in the opinion which ignores the equity upon which you rely and of course nothing to intimate that Congress can not if it sees fit grant all the relief desired.

The brethren thought it would be unwise to intimate that Congress might or ought to act in the matter, and prefer to leave it for the action of that body, based upon such showing of the facts as can be made. It is not to be supposed, of course, that Congress will not be willing to do what is right in the premises.

I return herewith the inclosures in your letter, thinking that you may have use for them in your further efforts.

Very truly, yours,

DAVID J. BREWER.

Hon. JOHN C. FAY,
Glover Building, 14th F Street.

EXHIBIT C.

AFFIDAVIT OF HON. BENJAMIN F. TRACY, EX-SECRETARY OF THE NAVY.

STATE OF NEW YORK,
County of New York, Borough of Manhattan, ss:

Benjamin F. Tracy, being duly sworn, says:

That he was Secretary for the Department of the Navy of the United States during the administration of the late President Harrison.

That as such Secretary, under the provisions of the act of Congress approved June 30, 1890, for the building of battleships for the Navy, he, on or about the 29th day of November, 1890, entered into three contracts for the building of battleships designated as Nos. 1, 2, and 3; said battleships were to be built similar according to the same plans and specifications and were identical in all respects. Contracts for battleships Nos. 1 and 2, subsequently named the *Indiana* and the *Massachusetts*, were made with the William Cramp & Sons Ship & Engine Building Co., of Philadelphia, Pa. A contract in identical form for battleship No. 3, afterwards named the *Oregon*, was made with the Union Iron Works, of San Francisco, Cal. By provisions in those three contracts the United States was to furnish all the heavy armor and each vessel was to be completed within three years from the date of contract, under onerous penalties against contractor for delay, the United States agreeing to furnish the armor and their accessories within the "time and in order to carry on the work properly." Each contract provided for the accepting of the vessel by the United States without armor in case its building was delayed by the default of the United States in furnishing armor, and each contract provided in similar terms for a final receipt of all claims of any kind or description under or by virtue of the contract.

Before and at the time of making these contracts "all-steel" armor had been the standard in the Navy, it being considered the best then known, but in 1889 his attention had been directed to nickel steel and the so-called Harvey process, and early in 1890 he had begun an investigation as to their respective merits which had proceeded so far as to have resulted in a comparative test between the compound steel, the all steel, and the nickel steel at Annapolis, September 18–22, 1890, as set forth in his annual report of 1890, and in consequence Congress had appropriated $1,000,000 for the purchase of nickel metal; but deponent was unwilling to determine definitely upon the character of armor to be applied to the new battleships without further tests, experiments, and investigation both as to nickel steel and the Harvey process, and to leave the department free to continue these investigations when he came to make the contracts of November 19, 1890, for the *Indiana*, *Massachusetts*, and *Oregon*, the proviso of Article III, binding the Government to accept the vessels without armor, if the United States was unable to supply it in the time and in the order to carry on the work properly, was inserted so as not to impose upon the builders the necessary expense of the care of the vessels during the time required for the Government experiments calculated to obtain the very best armor.

After these contracts were let he proceeded with further tests of both nickel steel and the harveyized nickel steel and the various other kinds of armor, which continued up to July 30, 1892, as set forth in detail in his annual reports of 1890, 1891, and 1892, before he reached the conclusion to adopt the harveyized nickel-steel armor, and, accordingly, in February, 1893, made contracts for the production of this character of armor. During all this time the coordinate work on these vessels had been progressing satisfactorily to the department, and it became evident that this decision would result in a very considerable delay in their completion, and that the necessary cost of their care, maintenance, preservation, insurance, and extra dockage and wharfage during this period of delay would amount to a large sum, and the United States having no proper facilities at its navy yards to take over these vessels in their unfinished condition and care for and complete them, all of which being brought to his attention by the builders of the *Oregon*, he entered into the supplemental contract attached hereto with that company, by which these several expenses were to be currently ascertained and paid by the United States, and he is informed and believes they were so paid. That a similar supplementary contract would have been made by him with the Cramp Co. for the *Indiana* and *Massachusetts* if it had been brought to his attention.

That the sixth clause of Article XIX of the contract was an old form that had been in use in Navy contracts for many years, and, while it was very properly applicable when the builder furnished all the material and labor for the construction of a vessel, was not, standing alone, very appropriate for a contract where part of the material was to be furnished by the United States; but it was never intended by him to impose upon the builder the loss, expense, or damage that accrued to it by reason of the failure of the United States to perform its part of the contract. He can confidently state that at the time of making these contracts that, by providing for this final receipt and release, it was not the purpose, intent, or design of either party to the contract that it should extend to or cover damages which the contractor might sustain by reason of the failure of the Government to perform the contract on its part, nor is he aware that the department in any case has so construed a similar final release or receipt.

BENJAMIN F. TRACY.

Subscribed and sworn to before me this 31st day of October, A. D. 1907.

[SEAL.] CHAS. A. CONLON,
Notary Public, New York County.

EXHIBIT D.

AFFIDAVIT OF ADMIRAL PHILIP HICHBORN, UNITED STATES NAVY, RETIRED, LATE CHIEF OF THE BUREAU OF CONSTRUCTION AND REPAIR.

DISTRICT OF COLUMBIA, *ss:*

Philip Hichborn, of the city of Washington, being duly sworn, says:

That he is on the retired list of the United States Navy, having been retired while chief constructor, after a service in its construction corps of more than 30 years.

That he was intimately connected with the building of the so-called "New Navy" from its inception to the time of his retirement from active service, as member of the Naval Advisory Board, Assistant to Chief, and afterwards Chief of the Bureau of Construction and Repair.

That during the preparation of the contracts for the *Indiana*, *Massachusetts*, and *Oregon* he was, either personally or through his assistants, in constant communication with the Secretary and the Judge Advocate General as to their terms, but more particularly as to technical parts of it, although the whole contract was referred to him for examination and report and was carefully examined and considered before it was finally signed.

That he distinctly recalls the fact that Article III, providing for a trial trip without armor, was fully discussed, and its purpose to avoid entailing the costs and expenses arising from delays in the delivery of armor upon the contractors was well understood by all parties connected with the contract, and some additional language was inserted at Mr. Cramp's suggestion to render the understanding clearer.

The sixth clause of Article XIX was an old form in use for many years in the Navy Department, and at no time during the preparation of the contract did he ever hear any of the officers of the department who had any hand in the preparation of the contract suggest that it might be so construed as to require release of any damages that might accrue to the contractors from any breach of the contract on the part of the United States as a condition to final payment; he certainly did not so understand it, nor does he believe that if such a construction of that clause had been avowed by the department, it would have been able to have secured a contract from any responsible shipbuilding concern in this country.

That after the armor had been so long delayed and the contract time had expired, and the time within which the armor could be secured was indefinite and uncertain, the company, under the special direction of officers of the Navy, charged with that duty by direction of the Secretary of the Navy, proceeded to install temporary work and weight down the *Indiana* for a trial trip without armor, under the provisions of the third article of the contract, and expended some $17,000 in such work, took her on a contractors' trial trip, and tendered her for official trial.

That deponent thought that such a trial in her unfinished condition would be of great service in developing the vessel and exhibiting any weak places or errors in design, and was strongly in favor of submitting her to trial irrespective of the provisions in the contract so to do, but the United States was not then equipped to take charge of the vessel and care for her during the subsequent delay which it was then well known was certain to continue for a very considerable length of time, and the Secretary, for reasons satisfactory to himself, through other agencies than the Bureau of Construction and Repair, declined to permit her to make a trial trip until finally completed.

Deponent further says that after the completion and acceptance of the vessel he was called upon to make up the final account, and in so doing he made no allowances for damages for delay, nor was the matter at all considered or embraced in the final account, for the reason that it had long been held in the department that the department had no authority or jurisdiction to entertain, audit, or consider such claims, nor was any appropriation available for their payment; that all claims of such character that had been or afterwards were during his term of office considered or audited by the department had been under special legislation giving the department jurisdiction in certain specified cases.

That he personally, by direction of the Secretary, examined the claim of the *Indiana*, and made a report to the Senate committee in the Fifty-fourth Congress, and from his examination he is able to say that the allowance by the Court of Claims is, in his judgment, fair and reasonable, and leaving out the item that he was unwilling to pass on for lack of evidence, and which was allowed by the court, an analysis of the award of the court shows it to be less than the report made by him as Chief of the Bureau of Construction and Repair.

PHILIP HICHBORN.

Sworn and subscribed to before me this 5th day of November, A. D. 1907.

[SEAL.] GEORGE J. JOHNSTON,
Notary Public, District of Columbia.

EXHIBIT E.

AFFIDAVIT OF EX-NAVAL CONSTRUCTOR LEWIS NIXON.

STATE OF NEW YORK, *Borough of Manhattan:*

Lewis Nixon, of Tompkinsville, Staten Island, State of New York, being duly sworn, says that he is by occupation a shipbuilder; that he graduated at the United States Naval Academy at Annapolis, and the Royal Academy at Greenwich, England, and served in the United States Navy as an assistant naval constructor to about January 1, 1891; that in 1890 he was ordered to the Bureau of Construction and Repair in Washington, and was assigned to the duty of designing and preparing

the plans and specifications of the coast-defense battleships provided for under the act of June 30, 1890, which designs were adopted, and the *Indiana*, *Massachusetts*, and *Oregon* were built thereunder; that in the formulation of the contracts for these vessels he was in constant and almost daily consultation with both Secretary Tracy and Judge Advocate General Remy; that he was deeply interested in the successful building of these battleships, both from a professional as well as a patriotic standpoint, and took great care and aimed to insert such stringent provisions as were calculated to stimulate the builders to great energy in speedily constructing the vessels, but not so harsh and unjust that might deter a shipbuilder from undertaking a contract, and with this end in view, at his suggestion, the obligation of the United States to furnish the armor at the time and in the order to carry on the work properly and the provision that, in default of so doing, the vessel was to be accepted without armor, were inserted, and to free this clause from any ambiguity the words "and to continue with reasonable diligence" were afterwards added in manuscript in the printed contract at the suggestion of Mr. C. H. Cramp before he signed the formal contract.

If this provision of the contract had been lived up to by the United States, no part of the claim or damage sued for in the Court of Claims ever would or could have arisen in behalf of the Cramp Co. for the expense of the care, preservation, and maintenance of the vessels which did accrue by reason of the delay in furnishing the armor would have been borne by the United States, as the contract intended to provide that it should be; that from his personal connection with the preparation of the contract and his intercourse and consultation with the Secretary and The Judge Advocate General he can confidently state that it never was the intention of the United States, as represented by its officers, as parties to the contract, that the provision for a final release, embodying in it as a condition precedent to the payment of the balance of the contract price, to require the release of or cover any claim for damage arising out of the breach of contract by the United States or exempt the United States from the cost and expense of the care, preservation, and maintenance of either of these vessels during the period of enforced delay occasioned by the inability of the United States to fulfill its part of its contract.

That shortly after the making of the contract, the Cramp Co. tendered to him the position of superintendent of their yard to supervise the building of these vessels, and, in his anxiety to see his designs successfully carried out, he resigned from the Navy, accepted the offer and built two of these vessels, the *Indiana* and *Massachusetts*. That when the delays began to accrue he pushed the coordinate work so that the vessels should have a preliminary trial trip, and with the sanction of the Secretary of the Navy and under the supervision of two naval officers specially directed by the Secretary to supervise the temporary work necessary to take the vessel to sea, performed all such necessary work on the *Indiana* and weighed her down to her normal draft, at an expense of $17,000, took her to sea on her contractors' trial trip and tendered for official trial, ready in all respects to make such trip without her armor; but the Secretary of the Navy declined to allow her to make a trial trip unless fully completed, utterly ignoring the provisions of article 3. That during all the time of the delays he had frequent consultations and conferences with the officers of the Construction Bureau and the Secretary, and while it was frankly conceded by all of them that very serious expenses were being necessarily incurred by reason thereof, it never was intimated that, by any construction of the contract, such expense was to be borne by or claim for them was to be waived by the contractor.

LEWIS NIXON.

Sworn and subscribed before me this 30th day of October, A. D. 1907.

[SEAL.] LAURA E. SMITH,
Notary Public, Kings County.

(Certificate filed in New York county.)

EXHIBIT F.

STATEMENT OF HON. H. A. HERBERT, EX-SECRETARY OF THE NAVY.

WASHINGTON, D. C., *December 16, 1907.*

DEAR SIR: At the request of Messrs. Hunton & Cregry, I am condensing in a letter to you a statement made more at length in the correspondence between them and myself, which is to be filed with the committee.

Under the contract for the construction of the *Indiana* and all other armored ships the Government was to furnish and deliver at times and places as needed all heavy armor. When I became Secretary of the Navy the Government was far behind with its deliveries of armor for the *Indiana*, partly by reason of delays on the part of the armor contractors and partly because of experiments with a new process of harveyizing, which had been begun under Secretary Tracy and which were continued under me, thus causing further delay.

The Cramp Co., builders of the *Indiana*, in August, 1893, earnestly protested against further delay, asked to be furnished with nickel steel armor, as previously decided upon. On August 25, 1893, I, as Secretary, replied:

"The department thinks it for the best interests of the service that this armor should be harveyized, even if it should occasion some delay in the completion of the vessel, as you state."

I was deciding solely what was to the interests of the Government. The question of compensation to the contractors for losses that might result to them from enforced delays was not before me, nor had I as an executive officer any jurisdiction over that matter. But whenever I had occasion subsequently to consider this matter, my every act and deed showed that in my opinion the Government was responsible to the builders for all losses caused by its failure to comply with its contracts to deliver armor when required to do so under its contracts.

When, on May 10, 1894, I advanced to the Cramp Co. a considerable sum of money already earned but not then payable, I exacted from the company a release of the United States "from all and every claim for loss and damage hitherto sustained by reason of any failure" on their part or "on account of any delay hitherto occasioned by" their action.

The panic of 1893–94 was then on. The company was in urgent need of the money, and I thought the release of their claim for damages on account of the Government's delay was a valuable consideration for the advance payment of this money.

As late as February 27, 1895, as Secretary I stated in a letter to the Naval Committee that I saw no objection to the passage of a bill which had been referred to me for the relief of the builders of the *Texas*, whose claim was exactly similar to that of the Cramp Co. in the matter of the *Indiana*.

Again, after this bill for the *Texas* was passed, Assistant Secretary McAdoo, December 20, 1895, reported that, "in the opinion of the department," the contractors were "justly and equitably entitled to $80,049.35."

Again, December 8, 1896, responding to an inquiry from Congress as to whether the claims of the builders of the *Indiana* and other vessels for damages incurred in like cases should be decided by Congress or the Court of Claims, as Secretary I stated that, "in my judgment, the interests of justice demand" that these cases should be referred to the Court of Claims, giving as my reason that the court could consider with more deliberation and care than the committees of Congress could.

Again, Chief Constructor Hichborn, then under me, February 9, 1897, recommended the payment of items on account of the losses of the *Indiana* of $97,214.85, and this without considering, as he said, another large amount which he thought the committee was more competent than he to investigate.

Thus, without a break, every act of the department touching this matter, when I presided over it, showed that, in its opinion, the builders had a just claim for the losses resulting to them from delays caused by the Government in furnishing armor according to its contracts.

The Supreme Court, however, decided in the *Indiana* case that by the final release stipulated for in the building contract and given when the last payments were made, all claims for damages by the builders were released, although the Court of Claims had held otherwise.

That my view of this release was that taken by the Court of Claims and not that taken by the Supreme Court is clear from the following consideration:

In my letter transmitting the Cramp cases to Congress (see H. R. 816, 55th Cong., 2d sess.) I called special attention to the release of *Indiana* and to a similar release in the case of the *Massachusetts*. This I did because I thought it my duty to see that Congress, before taking any action, should have before it any written release that might have been given.

Per contra.—On December 8, 1896, when I expressed the opinion that the "interests of justice demanded" that these Cramp cases and others should be sent to the Court of Claims, the final release which the Supreme Court afterwards construed in the case of the *Indiana* had already been given, to wit, May 18, 1896.

If, in my opinion, at that time the Cramp Co. had released all claim for damages in writing by its receipt for the final payment, it would have been clearly my duty to call the attention of Congress to that fact. But this was not done, for the reason that it was not my opinion that the company had by its receipt for the last regular payments released the Government from the claim for damages which I was recommending should be sent to the Court of Claims.

Very respectfully,

H. A. HERBERT.

Hon. C. W. FULTON,
Chairman Committee on Claims, United States Senate.

EXHIBIT G.

AFFIDAVIT OF MR. CHARLES H. CRAMP, EX-PRESIDENT THE WILLIAM CRAMP & SONS SHIP AND ENGINE BUILDING CO.

STATE OF PENNSYLVANIA:

Charles H. Cramp, being duly affirmed, says: That he was the president of the William Cramp & Sons Ship and Engine Building Co. during the period that company was building the battleships and cruisers for the new Navy of the United States, including the battleships *Indiana*, *Massachusetts*, and *Iowa*, and the cruisers *New York*, *Brooklyn*, and *Columbia*, all of which vessels were seriously delayed during their construction by reason of the failure of the United States to fulfill the obligations on its part assumed under the terms of the contract.

That at the time, in November, 1890, when the terms of the contract for the building of battleship No. 1, afterwards called the *Indiana*, were under consideration, he had frequent consultations with the chief constructor and his chief assistant and Secretary Tracy, and while the company agreed to submit to penalties for delay caused by it in the construction of the vessel, the United States agreed to take the vessel off the hands of the contractor in an unfinished condition in case the delays were caused by the United States. If these latter terms had been carried out there would have been no cost to the company for the care and preservation, insurance, wharfage, and similar items during the enforced delay brought about by the delay in furnishing the armor on the part of any officer of the Government in all the negotiations or during the contract period that the contract price included or was intended to include the expense of the maintenance, care, preservation, or other expenses made necessary by the delay after the contract term expired. The price fixed in the contract included nothing but the work provided for under the plans and specifications. There was never any understanding, agreement, or pretense on the part of either party to the contract that the final receipt covered or intended to cover anything except the construction of the vessel under the contract, and it was given and accepted with the full knowledge and understanding both of the Secretary of the Navy and the company that it was not intended to be any bar to the recovery by the company of the expenses of care, wharfage, insurance, etc., of the vessel during the time of the delay.

At the moment, May, 1896, when the receipt was signed there was pending in Congress a petition of the company for the passage of a law conferring on the Secretary of the Navy authority to audit and pay this identical claim. This was well known to the Secretary, and he had before that time recommended similar legislation in a similar case.

At the time of signing the receipt the Secretary conceded that the Government's delay had caused the company great loss, and that they had a valid claim for reimbursement, but held that he was without jurisdiction to pass upon it and without funds to liquidate it.

Enlightened by these surrounding facts and circumstances, it is not possible to construe the words of the receipt "for, or by reason of, or on account of the construction of the vessel under the contract" to embrace the claim for the care and preservation of the vessel, which was no part of the construction of the vessel and which did not arise by virtue of any provision in the contract or specifications. Neither party intended that it should, and the contemporaneous acts of both parties emphasized it.

The Secretary of the Navy had treated a partial release of this claim as a valid and valuable consideration for the payment of what he claimed to be an advance of money not yet due under the contract, and the company had presented it and were pressing it before Congress with the knowledge and acquiescence of the Secretary.

In May, 1894, the Secretary refused an official trial trip and declined to accept the vessel in an unfinished condition and refused to make further payments till a trial trip was had. The company had, under the eye of specially detailed officers, expended $17,000 for temporary work so the vessel could be taken to sea and had made a con-

tractor's trial trip. The company was then in dire need of money. It was carrying more than a million and a quarter of dollars in loans at abnormal rates of interest, with a weekly pay roll of upward of $10,000 a day and upward of 5,000 employees, which represented fully 20,000 persons dependent upon the continuation of work in the company's yard.

It was the time of financial panic, and to have thrown these men out of employment would have been a calamity to the city and State. To avert so disastrous a calamity, against his earnest remonstrance he was coerced into signing the special release of May 10, 1894, in order to receive, not an advance payment, for the money was then long overdue, but to save the company from threatened bankruptcy and the city and State from a disastrous calamity. Personal violence to him or imprisonment itself would not have been more potent in obtaining the release than were the circumstances that surrounded him at the time.

CHAS. H. CRAMP.

Affirmed and subscribed to before me at Devon, Pa., this 10th day of August, A. D. 1907.

[SEAL.] ISAAC ABBOTT, *Notary Public.*

(My commission expires February 29, 1909.)

The PRESIDING OFFICER. The question is, Shall the bill be indefinitely postponed?

The bill was indefinitely postponed.

ACADEMY AND INSTITUTE OF ARTS AND LETTERS.

Mr. LODGE. I ask that an order be made to recall from the House of Representatives two bills passed on Saturday last, because I find one bill precisely similar is here from the House. The Senator from New York [Mr. ROOT] has asked me to request the order. I ask that the bill (S. 4355) incorporating the National Institute of Arts and Letters and the bill (S. 4356) incorporating the National Academy of Arts and Letters be recalled from the House.

The PRESIDING OFFICER. Without objection, that order will be made.

Mr. KERN. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, January 22, 1913, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January 21, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Condon, D. D., offered the following prayer:

Blessed be the name of the Lord our God, whose mercy is from everlasting to everlasting.

That God which ever lives and loves;
One God, one law, one element,
And one far-off divine event,
To which the whole creation moves.

Impart unto us of Thy grace sufficient unto the needs of this day, and help us by faith and confidence, by courage and fortitude, by the rectitude of our behavior, to hasten the coming of Thy kingdom upon the earth, that righteousness, peace, and good will may reign in every heart, through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I move that the House further insist upon its amendment to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, and agree to a further conference.

The SPEAKER. The Clerk will read the title of the bill.

The Clerk read as follows:

S. 3175. An act to regulate the immigration of aliens to and the residence of aliens in the United States.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] moves that the House further insist upon its amendment to the Senate bill and agree to a further conference asked for by the Senate.

The motion was agreed to.

The SPEAKER announced the following conferees on the part of the House: Mr. BURNETT, Mr. SABATH, and Mr. GARDNER of Massachusetts.

BUREAU OF MINES.

Mr. FOSTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table House bill 17260, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

H. R. 17260. An act to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910.

Mr. FITZGERALD. What is this?

Mr. FOSTER. This is the Bureau of Mines bill.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] moves to disagree to the Senate amendments and ask for a conference.

The motion was agreed to.

The SPEAKER announced the following conferees on the part of the House: Mr. FOSTER, Mr. WILSON of Pennsylvania, and Mr. HOWELL.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 27062 for the purpose of agreeing to the Senate amendments.

The SPEAKER. The Chair lays before the House the bill H. R. 27062, with Senate amendments. The Clerk will read the title.

The Clerk read the title of the bill, as follows:

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and to certain widows and dependent children of soldiers and sailors of said war.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent that the House concur in the Senate amendments.

The SPEAKER. The gentleman asks unanimous consent that the House concur in the Senate amendments. The Clerk will report the amendments.

The Senate amendments were read.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Senate amendments were concurred in.

CHARLES CURTIS AND WIFE.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of a privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 782 (H. Rept. 1352).

Resolved, That the Clerk of the House is hereby authorized to pay, out of the contingent fund of the House, the sum of $211.50 to William S. Riley, for the funeral expenses of Charles Curtis, late an employee of the House, and of his wife, whose death occurred within three days after that of her husband, in lieu of the allowance usually made of funeral expenses not exceeding $250.

Mr. LLOYD. Mr. Speaker, in this case the employee died during the holiday recess, leaving a widow, but in three days his widow died. Under the rule she would have been entitled to an amount equal to his salary for six months and the expenses of his funeral not exceeding $250. He left no children, and this resolution provides for payment to the undertaker of the expenses of the funerals, both of Mr. Curtis and of his wife, the total of which does not equal the $250 which is ordinarily allowed for the funeral expenses of an employee.

The resolution was agreed to.

LILLIE M. REESCH.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of another privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Missouri offers a resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 744 (H. Rept. 1354).

Resolved, That there shall be paid, out of the contingent fund of the House, the sum of $600 to Lillie M. Reesch, for extra services rendered in connection with the sending out of blanks, receiving, filing, and compiling expense statements filed by the Members of Congress in accordance with H. R. 2958, "An act to amend an act entitled 'An act providing for publicity of contributions made for the purpose of influencing elections at which Representatives in Congress are elected,' and extending the same to candidates for nomination and election to the offices of Representative and Senator in the Congress of the United States and limiting the amount of campaign expenses."

Mr. MANN. What is this?

Mr. LLOYD. Mr. Speaker, this resolution provides for pay to a clerk in the office of the Clerk of the House for sending out the notices with reference to the statements required of the campaign expenses of Members and for compiling the statements after they were sent in. There is no provision of law for anyone to do this work, excepting that these statements are required to be sent to the Clerk. A vast amount of work has been done in connection with these statements, giving notice to Members, and filing and compiling the statements after their receipt by the Clerk. This resolution provides compensation to the lady who did it.

Mr. MANN. How much?

Mr. LLOYD. Six hundred dollars.

The resolution was agreed to.

C. L. GILBERT.

Mr. LLOYD. Mr. Speaker, I present the following privileged resolution.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 754 (H. Rept. 1355).

Resolved, That there shall be paid out of the contingent fund of the House the sum of $167.50 to C. L. Gilbert, session clerk of the Committee on Expenditures in the Department of Commerce and Labor, for one month and two weeks' services rendered said committee during the interval between the second and third session of the Sixty-second Congress.

Mr. LLOYD. Mr. Speaker, this resolution provides for pay to the clerk of the Committee on Expenditures in the Department of Commerce and Labor for one month and two weeks' services rendered during the vacation. This clerk came here and actually rendered the service. He is not the private secretary of any Member, so that the passage of this resolution is necessary in order to provide the usual compensation of $125 a month.

Mr. MANN. This committee has a session clerk?

Mr. LLOYD. Yes.

Mr. MANN. When was this service rendered?

Mr. LLOYD. In September and October.

Mr. MANN. What was the occasion of his coming here at that time, when he ought to have been engaged in the campaign? [Laughter.]

Mr. LLOYD. I do not know why he came, but he came here and performed the services. I move to amend the resolution by changing the figure 6 to 8.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend, line 2, by striking out the figure 6 and inserting the figure 8.

The amendment was agreed to.

The resolution as amended was agreed to.

POSTAL CLERKS AND THE PARCEL POST.

Mr. KENDALL. Mr. Speaker, I ask unanimous consent to address the House for one minute for the purpose of presenting a letter from Carl C. Van Dyke, president of the tenth division of the Railway Mail Association with reference to the parcel post.

Mr. MANN. What is the letter about?

Mr. KENDALL. About the parcel post and the necessity for increased help in the service.

The SPEAKER. The gentleman from Iowa asks unanimous consent to print in the RECORD the letter referred to. Is there objection?

There was no objection.

The letter is as follows:

WASHINGTON, *January 16, 1913.*

Hon. NATHAN E. KENDALL,
House of Representatives, Washington, D. C.

MY DEAR SIR: I desire to call your attention to a talk and to the newspaper clippings which were caused to be read in the House last Saturday afternoon by Congressman COX, of Indiana.

I represent the railway postal clerks of the tenth division, and because of the fact that I have been elected and reelected to this office by a referendum vote of our men regardless of the department's and Mr. Schardt's opposition, I am led to believe that I represent the views and will of these clerks.

As to the newspaper clippings which were caused to be read, I have this to say: I have never caused to be published any statement wherein it was presumed that it was the desire or intention of the clerks to strike, and in furtherance of this contention I wish to quote from the hearings before the Committee on Reform in the Civil Service on H. R. 5970, Sixty-second Congress, second session:

"Mr. DIESS. You do not take the position that it is unlawful for a Government clerk to resign or strike?

"Mr. VAN DYKE. I do; and if they should resign in a body or send in their resignation en bloc that it is more or less of a conspiracy; but we do not take the stand that we want to organize to strike, but to stop such a thing, and, further, to have our grievances rectified by taking them through to Congress if necessary."

I am led to believe that this talk of strike on the part of postal employees which has been given publicity during the last two years originated with the department officials for the purpose of crushing such organizations of postal employees which they could not dominate and silence.

Since handing in my resignation to the Post Office Department I have done all in my power to help this class of employees of whom so little was known. I have appeared before committees of both the House and the Senate in their behalf, and am pleased to state that they are very grateful to Congress for the beneficial legislation passed last session.

The interview which I gave in the two cases quoted by Mr. COX was in reply to my opinion of the inauguration of parcel post, and was in substance as follows:

"It seems that the department, as far as the Railway Mail Service is concerned, has made little or no preparation to handle additional mail, which, in my opinion, if the parcel-post proposition is to be made a success, must be done and done quickly, inasmuch as additional car space and more men will be needed to get this mail through on time. The mail service was in bad shape a year ago because of the economy policy of the department, and I am afraid that it will again be in bad shape unless men and space are allowed for the increase in volume which is to be expected because of parcel post. It is needless to state that unless these parcels are sent through without delay the parcel post will become somewhat of a failure instead of the great success it should be.

"Quite naturally, we will enter a protest if extra duty is assigned to the Railway Postal Service, inasmuch as there are thousands of men who are now averaging more than eight hours a day 313 days in a year and who receive no extra compensation for extra duty and are probably about the only men in Government service who receive no annual vacation. These same men have just finished doing extra duty because of the holiday rush, and I doubt very much if it is the desire of either Congress or the public to overwork them, and I shall certainly take means to let both Congress and the public know if extra-duty schedules are prepared."

The foregoing is, as I stated, the substance of my interview with the newspaper men in regard to parcel post.

Since coming to Washington I have been notified that extra-duty schedules have already started on Chicago and Minneapolis railway post office and Pembina and St. Paul railway post office.

I sincerely hope that, in justice to myself and railway mail clerks whom I have the honor to represent, you will give this letter the same publicity as Mr. COX gave the one from Mr. Schardt, stating that the men were willing to do extra duty.

Respectfully, yours,

CARL C. VAN DYKE,
President Tenth Division Railway Mail Association.

ARMY APPROPRIATION BILL.

Mr. HAY. I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Army appropriation bill—H. R. 27941.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. SAUNDERS in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the Army appropriation bill. The Clerk will report the amendment that was pending when the committee rose.

The Clerk read as follows:

Page 31, after line 21, add the following:

"*Provided*, That no part of this or any other appropriation carried herein shall be used for the payment of expenses of holding, going to, attendance on, and returning from polo tournaments, horse shows, Olympic games, or race track, by officers, enlisted men, horses, or equipments belonging to the United States, except at the United States Military Academy."

Mr. HAY. Mr. Chairman, I move that all debate on this amendment be now closed unless somebody wants to make some further remarks.

Mr. BURKE of South Dakota. I do not object to the debate being closed, so far as this amendment is concerned. The House was dividing, I believe, when the committee rose.

Mr. HAY. If the Chair is going to put the question, I have no objection.

The CHAIRMAN. The question is on the amendment.

The question was taken; and on a division (demanded by Mr. FOSTER) there were—ayes 15, noes 47.

So the amendment was rejected.

Mr. HAY. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend, page 29, line 15, by striking out the words "to their home (or elsewhere as they may elect)" and insert the words, "or from any place in which they have been held under a sentence of dishonorable discharge and confinement for more than six months, or from the Government Hospital for the Insane after transfer thereto from such prison or place to their home (or elsewhere as they may elect)."

Mr. HAY. Mr. Chairman, the reason for the amendment is that I am informed that the law in effect only applies to prisoners discharged from the United States military prison at Fort Leavenworth and the prison at Alcatraz, Cal.

There are other places for confinement of prisoners than those, and one-third of the prisoners are confined elsewhere than at military prisons.

Mr. MANN. Where are these prisoners to be sent, under the gentleman's amendment?

Mr. HAY. Nowhere, but when discharged they are to be transported to their home as they may elect at the expense of the Government, as other military prisoners are.

Mr. MANN. I thought the gentleman's amendment as reported struck out the words "or elsewhere, as they may elect."

Mr. HAY. It does; but the amendment as offered retains in the law the same words.

Mr. MANN. Then those words still remain in the gentleman's amendment?

Mr. HAY. They do. I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken, and the amendment was agreed to.

Mr. HAY. Now, Mr. Chairman, I move that all debate on this paragraph and amendments thereto close in 10 minutes.

Mr. BURKE of South Dakota. Mr. Chairman, I want to say to the gentleman from Virginia that I have an amendment that I propose to offer which I do not care to debate. If that amendment is voted down, then I have another amendment that I would like to debate about 5 minutes. With that understanding, I have no objection.

Mr. HAY. Very well, Mr. Chairman, I withdraw the motion.

Mr. BURKE of South Dakota. Mr. Chairman, I now offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 33, after line 21, add the following: "*Provided*, That no part of this or any other appropriation carried herein shall be used for the payment of expenses of holding, going to, attendance on, and returning from any polo tournaments except at the United States Military Academy."

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota.

The question was taken; and on a division (demanded by Mr. KAHN) there were 27 ayes and 37 noes.

So the amendment was rejected.

Mr. BURKE of South Dakota. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amend, page 30, line 1, after the word "ferriage," insert "transportation of officers, enlisted men, and horses for attendance on polo tournaments, horse shows, Olympic games, and race-track events."

Mr. HAY. Mr. Chairman, I make the point of order on that amendment.

Mr. BURKE of South Dakota. Mr. Chairman, I would like the gentleman to state what his point of order is.

Mr. HAY. Mr. Chairman, it is a change of existing law.

Mr. BURKE of South Dakota. I thought the gentleman had been maintaining that under the law expenditures for this purpose might be made.

Mr. HAY. But this is a change in existing law. This is not a limitation on the appropriation.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman reserve his point of order for a moment?

Mr. HAY. I will reserve the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I have been prompted to offer the amendments that have been voted down because during the last session of Congress on the floor of the House when one of the deficiency appropriation bills was pending I inquired of some of the members of the Committee on Military Affairs as to whether or not there was any authority of law for paying out of any appropriation made in the Army appropriation bill moneys to cover the expenses connected with polo tournaments, and I was informed by several members of that committee that there was no law authorizing any such expenditure. It has been stated since this bill has been before the committee and on Saturday last by no less than three members of the Committee on Military Affairs that in their opinion there is no law that will justify paying the expenses of polo tournaments, race-track events, Olympic games, and other similar exhibitions.

It seems that there was a voucher that reached the Treasury Department to pay certain expenses in connection with a polo tournament. The Auditor for the War Department, who is an officer of the Treasury Department, interpreted the law just as the members of the Committee on Military Affairs interpreted, and said:

I am of opinion and so decide that the regular appropriations for the support of the Army are not available for the payment of any expenses in connection with polo tournaments or polo matches, either for the transportation of polo ponies and equipments or for the transportation of officers and enlisted men or for the subsistence of enlisted men while attending such tournaments.

That was the decision of the Auditor for the War Department upon this question. The Comptroller of the Treasury in deciding this case, which was taken to him on appeal, held that the expenditure was authorized, and in doing so said:

The War Department is intrusted with the control of the Army and what, in its judgment, will promote its efficiency. The Secretary of War represents the President and exercises his power on the subjects confided to his department. If the War Department in the exercise of its jurisdiction and control of the Army is of the opinion that polo tournaments among the officers and enlisted men tend to promote the efficiency of the Army, and accordingly orders the officers and men to participate in such tournaments, which involve expenditures for transportation of officers and men and horses to attend such tournaments, I do not think the accounting officers can revise the judgment of the War Department in such matters or that they are authorized to disallow them the reasonable cost of such transportation.

Mr. Chairman, this committee, by rejecting the amendments which I have offered, has gone on record in favor of expenditures being made for this purpose. The Comptroller of the Treasury may change at any time, and the next comptroller may hold differently from the last comptroller. As long as we are now going to commit and have committed this House to the policy of making these expenditures for this purpose, let us put it in the law so that there can be no question about it.

Mr. HAY. Mr. Chairman, if the gentleman will permit me, I will withdraw the point of order and state that I have no objection to his amendment.

Mr. MANN. Mr. Chairman, I make the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I do not care to discuss the point of order. We have a decision of the comptroller that moneys may be expended for this purpose, as I have just read. It seems to me that if this is something that is considered necessary in connection with the efficiency of the Army it is quite within the power of this House and this committee to specifically appropriate for it, just as the language in the bill appropriates for many other purposes. It is upon the theory that it is a necessary part of the military organization, including maneuvers and other matters connected therewith.

Mr. MANN. Mr. Chairman, if the gentleman desires to proceed I will reserve the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I do not care to discuss the matter further, since the chairman of the committee is willing to accept the amendment.

Mr. PRINCE. Mr. Chairman, the gentleman's amendment, if adopted by the House, will be in line with the decision of the Auditor for the War Department?

Mr. BURKE of South Dakota. No; my amendment, if adopted, will be directly opposite from the decision of the Auditor of the War Department, but will be in line with the decision of the comptroller, who reversed the decision of the auditor.

Mr. PRINCE. So as to make it lawful for doing this work.

Mr. SLAYDEN. Will the gentleman permit a question?

Mr. BURKE of South Dakota. Certainly.

Mr. SLAYDEN. I could not hear the amendment when read. Am I to understand from the gentleman's statement just now that the gentleman proposes to make lawful what the gentleman thought was unlawful heretofore and what has been done?

Mr. BURKE of South Dakota. Yes; and I propose to do it, because I do not think we ought to leave this matter, now we have gone on record, to the decision of the comptroller because another comptroller may make another decision. Another comptroller might hold the same as the Auditor for the War Department.

Mr. SLAYDEN. But the gentleman switched from an inclination to save money now to a frank effort to increase an expenditure.

Mr. BURKE of South Dakota. No; it is in line with good administration of the Government, in my judgment. We have gone on record as favoring such expenditures, and therefore let us authorize it so it will not require a decision of some officer of the Treasury to determine what Congress intended.

Mr. KAHN. Mr. Chairman, since this matter was up last, I took occasion to call at the War Department to find out just how far the department was going in the way of shipping horses to race tracks and to Olympic games, and how far the department was going in the matter of getting up polo tournaments. I found that the matter of horsemanship is one of absorbing interest in the Army. Up to a few years ago the officers of the United States Army were woefully deficient in horsemanship as compared with the horsemanship of officers of other countries. They had poor mounts and the horses which were provided by the officers made no showing. Thereupon one of the societies interested in the breeding of good horses gave to the United States Government a number of well-bred horses for use of the officers. These horses are the ones that are being transported from one place to another, to various track events, so called. The races are not the ordinary races that occur at certain race tracks day after day. They are generally gentlemen's events, and the officers of the United States participate in them as gentlemen riders. Instead of riding for large purses they ride for trophies and sometimes a small purse is made up in addition, but it is not in any sense such a race as takes place on the ordinary race tracks of the country. It seems that last summer there was a race at the Benning track in the District. It was held after Congress adjourned. It was in the interest of good horsemanship. I believe they rode 15 miles in one race, which wound up with a steeplechase at the end. Every officer who went within that inclosure to see those officers ride in the races paid his admission fee. The general public, to a certain extent, went there and paid an admission fee, and it was that admission fee that paid the entire expenses of the tournament, or rather paid a portion of the expense, and the Army officers interested in the improvement of horsemanship in the military service went into their own pockets and paid the rest of it.

I find that in the polo tournament that was the subject of so much discussion on this floor last Friday or Saturday the officers went into their own pockets to pay the necessary expenses, but they suggested that where the citizens who came in automobiles and desired to see this game and who parked their automobiles along the road should be approached with a view of having them contribute a dollar toward the expense. The payment of the dollar was to be purely optional.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. KAHN. Certainly.

Mr. BURKE of South Dakota. I would like to ask the gentleman if while he was getting information he ascertained how much money was collected in the aggregate from the people?

Mr. KAHN. No; but I understand there was not enough to pay the expenses, and the officers paid out of their own pockets a good deal of the share of the expenses.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAKER. Mr. Chairman, in this same connection, to show the disposition of the people of California toward these tournaments, I desire to say there is to be a western polo championship at Coronado, San Diego County, Cal., and to show that these people will not only pay the expenses of the officers, horses, and attendants while attending this tournament, except the mere transportation of the officers and horses, I desire to have the following telegram read.

The CHAIRMAN. The Clerk will read the telegram.

The Clerk read as follows:

SAN DIEGO, CAL., *January 20, 1913.*

JOHN E. RAKER,
Member of Congress, Washington, D. C.:

Coronado Country Club has been in correspondence with the War Department for past two years to allow military teams to enter in western polo championship; also compete for a new regimental polo trophy at Coronado, Cal., furnished by club. War Department strongly in favor of doing so on grounds of improved horsemanship, citing foreign countries, including United States, sending teams to compete for honors in horsemanship in Europe. War Department believes such tournaments incite greater individual effort to skill and horsemanship, and therefore of great benefit to the service, and will gladly consider matter if Senators and Representatives will indorse the undertaking. The Coronado Country Club will entertain three teams during tournament, covering hotel bills for accommodations and board for attendants and free feed and stabling for horses during tournament if War Department will find transportation. I earnestly solicit your support. Everything that helps anywhere in California helps the State. This is the best proposition of the kind ever offered the Government.

D. C. COLLIER.

Mr. RAKER. Mr. Chairman, this telegram voices the sentiment of the House, simply shows what benefit will be had to the Army in the improvement of horses, and by the House voting that they will encourage this it will be an indication to the War Department to furnish these horses and send their men to San Diego, Cal., for the purpose of participating in this splendid tournament.

Mr. MANN. Mr. Chairman, I make the point of order.

The CHAIRMAN. The effect of this amendment will be to authorize payment for transportation of officers, enlisted men, and horses for attendance upon polo tournaments, horse shows, Olympic games, and race-track events. Of course, this language is broad enough to authorize payment of expenses not only in connection with the particular type of races referred to by the gentleman from California [Mr. KAHN], but with every variety of race-track events. It is not contended, nor have I been referred to any law from which it can be reasonably inferred, that any authority exists to pay for the transportation of these officers, men, and horses to race-track events generally. Without going into the other features of the amendment, this statement is sufficient to show that the amendment affords authority not now afforded by law, and the point of order is sustained.

The Clerk read as follows:

Roads, walks, wharves, and drainage: For the construction and repairs by the Quartermaster Corps of roads, walks, and wharves; for the pay of employees; for the disposal of drainage; for dredging channels and for care and improvement of grounds at military posts and stations, $642,597.

Mr. ROBERTS of Massachusetts. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 32, end of line 2, insert:

"*Provided*, That no part of this appropriation shall be available until the Secretary of War shall pay to the town of Winthrop, Mass., one-half of the cost, not to exceed the sum of $1,500, of a sidewalk and edge stones on the side of Revere Street in said town of Winthrop, upon which abuts the Fort Banks Military Reservation."

Mr. FOSTER. Mr. Chairman, I make a point of order against that.

Mr. ROBERTS of Massachusetts. Will the gentleman reserve the point of order?

Mr. FOSTER. I reserve it.

Mr. ROBERTS of Massachusetts. Mr. Chairman, I hope to be able to convince the gentleman from Illinois that this is not really the right place to raise his point of order. I concede that the amendment is subject to the point of order, but under the conditions surrounding this case I hope he will not insist upon his rights. The town of Winthrop, in Massachusetts, is one of the unfortunate communities which has been selected by the Government of the United States in which to establish seacoast batteries for coast defense. The people of the town of Winthrop did not seek the location of these works in their midst, and would be very glad indeed if they never had been placed there or if the Government would see fit to abandon them and get out of the town.

Now, in the town, on one of the main highways—Revere Street—there has been placed the Fort Banks Reservation. There are about 1,500 feet abutting on that street. On that street are located the officers' quarters, the hospital, and the gymnasium connected with the fort. The town desires to improve the street, not only that part of it in front of the military reservation, but the entire length of it. It is a main highway leading from the center of the town to what is called Winthrop Heights. The town desires a decent street after the work is done. They propose to place sidewalks on the easterly side and resurface the street proper, and they wish a sidewalk the entire length on the westerly side on which abuts the military reservation. The sidewalk, if constructed, will be of advantage to the reservation, in that the officers and others using the fort will have a convenient walk upon which they can proceed in going to and from their quarters. The entire cost of the sidewalk and edge stone for the distance along the military reservation will not exceed $3,000. The matter has been brought to the attention of the Quartermaster General, and he is ready to pay one-half of that expense if he can have the authorization from Congress.

Mr. SHERLEY. Will the gentleman yield?

Mr. ROBERTS of Massachusetts. Certainly.

Mr. SHERLEY. The fortification which the gentleman says the people of the town object to is part of the defenses of Boston, is it not?

Mr. ROBERTS of Massachusetts. Yes.

Mr. SHERLEY. Does the gentleman recall the attitude of that section of the country during the Spanish-American War touching seacoast defense?

Mr. ROBERTS of Massachusetts. Oh, I recall it very well indeed, but the fact is that the town of Winthrop is no part of Boston. It is a separate community, and this burden of a military reservation, from which the town derives no benefit whatever, has been placed upon them against their will and desire. The case is not like that of a public building located in a community. In those cases the people of the community come down here personally, write letters, or importune their Members to secure a public building for their town.

Mr. SHERLEY. If the gentleman will permit, what I wanted really to find out was whether any part of the State of Massachusetts was desirous of having the defenses for the protection of Boston removed.

Mr. ROBERTS of Massachusetts. The people of Winthrop would like to have those particular forts located in some other locality. I presume the question might be called a selfish one. They would like to have the defense, but they would like to have it located in some other fellow's town.

The point I make is this: Here is a small town of ten or twelve thousand population. It happens to be so located geographically that the War Department conceived the project of locating in it a fort. The fort is a serious detriment to the town, not only because it takes a certain amount of taxable property out of the town valuation, but also because it stands there as a dog in the manger, as it were, stopping any town development, because the War Department, unless specifically authorized, has no power to spend any of that money.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROBERTS of Massachusetts. I want to say one word further in a minute of time, Mr. Chairman.

The CHAIRMAN. The gentleman asks for one minute more. Is there objection to the gentleman's request?

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts is recognized for one minute more.

Mr. ROBERTS of Massachusetts. Mr. Chairman, the chairman of the Committee on Military Affairs, to whom I submitted the amendment, is agreeable to this going on the bill, and I hope the gentleman from Illinois [Mr. FOSTER] will not, under these circumstances, raise a point of order. I concede, under the circumstances, a point of order would be sustained.

Mr. MURRAY. Mr. Chairman, may I ask my colleague from Massachusetts [Mr. ROBERTS] a question?

Mr. HAY. I insist, Mr. Chairman, on having the point of order either made or not made. We must hurry on with this bill.

The CHAIRMAN. That rests with the gentleman from Illinois [Mr. FOSTER] to reserve the point of order.

Mr. HAY. I understand that, Mr. Chairman.

The CHAIRMAN. Anybody can make the point of order.

Mr. HAY. I understand that; but the debate on the point of order proceeds under unanimous consent.

The CHAIRMAN. Yes; to this extent, that in order to cut it off somebody must make the point of order.

Mr. HAY. I will yield two minutes to the gentleman from Massachusetts [Mr. MURRAY].

Mr. MURRAY. Mr. Chairman, the town of Winthrop is in the district I now represent, but it has been taken out of the district from which I have been elected to the Sixty-third Congress, so that my interest in the matter is not at all political. It is based entirely on what I believe to be the justice of the situation.

I can not hope to add anything to the lucid explanation that has been given by the gentleman in whose district this town has been placed by the redistricting of the Massachusetts Legislature. I simply wish to join with him in an earnest request to the gentleman from Illinois [Mr. FOSTER] to withhold his point of order, because I am sure if he were made to appreciate the situation and circumstances that exist there, which my colleague, Mr. ROBERTS, and I know to exist, he would not put a point of order in the way, but would assist us in getting this matter straightened out by means of the proposed amendment. I hope the gentleman from Illinois will not insist upon his point of order.

Mr. FOSTER. Mr. Chairman, I realize that the gentleman from Massachusetts [Mr. ROBERTS] has offered an amendment which is important to the city of Winthrop, in his locality, but I suggest that there are hundreds of other cases all over the United States that are just as meritorious, and if you enter upon the policy of making this improvement, which the Government has never done, I do not think that we ought to do it in this way unless we also take care of other cases, and I therefore make the point of order.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

Water and sewers at military posts: For procuring and introducing water to buildings and premises at such military posts and stations as from their situation require it to be brought from a distance; for the installation and extension of plumbing within buildings where the same is not specifically provided for in other appropriations; for the purchase and repairs of fire apparatus, including fire-alarm systems; for the disposal of sewage, and expenses incident thereto, including the authorized issue of toilet paper; for repairs to water and sewer systems and plumbing within buildings; and for hire of employees, $1,519,290.

Mr. HAY. Mr. Chairman, I offer an amendment, to come in as a new paragraph immediately after the paragraph that has just been read.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Virginia [Mr. HAY].

The Clerk read as follows:

On page 32, after line 13, insert, as a new paragraph, the following: "Construction and maintenance of military and post roads, bridges, and trails, Alaska: For the construction, repair, and maintenance of military and post roads, bridges, and trails in the District of Alaska, to be expended under the direction of the board of road commissioners described in section 2 of an act entitled 'An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the District of Alaska, and for other purposes,' approved January 27, 1905, as amended by the act approved May 14, 1906, and to be expended conformably to the provisions of said act as amended, $100,000."

Mr. HAY. Mr. Chairman, by some inadvertence that paragraph was not included in the bill.

Mr. MANN. I suggest that where the term "District of Alaska" first appears it should be changed to "Territory of Alaska." Where it appears the second time it should be "Territory of Alaska" instead of "District of Alaska."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois.

The Clerk read as follows:

In the fourth line of the amendment, change the word "District" to "Territory."

The CHAIRMAN. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FITZGERALD having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bills and joint resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. 4547. An act to provide for the erection of a public building at Aberdeen, Wash.;

S. 4545. An act to provide for the erection of a public building in the city of Ellensburg, in the State of Washington; and

S. J. Res. 155. Joint resolution extending the privilege of the proviso of section 2 of the act of June 7, 1906, to persons using alcohol for testing citrus fruits.

ARMY APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Barracks and quarters, Philippine Islands: Continuing the work of providing for the proper shelter and protection of officers and enlisted men of the Army of the United States lawfully on duty in the Philippine Islands, including repairs and payment of rents, the acquisition of title to building sites, and such additions to existing military reservations as may be necessary, and including also shelter for the animals and supplies, and all other buildings necessary for post administration purposes, $500,000: *Provided*, That no part of said sum shall be expended for the construction of quarters for officers of the Army the total cost of which, including the heating and plumbing apparatus, wiring and fixtures, shall exceed in the case of quarters of a general officer the sum of $8,000; of a colonel or officer above the rank of captain, $6,000; and of an officer of and below the rank of captain, $4,000.

Mr. HELM. I move to strike out the paragraph.

Mr. Chairman, I observe that this appropriation is part of a $6,000,000 scheme to erect concrete barracks and quarters in the Philippine Islands; also for stables for the Cavalry stationed in those islands.

The Democratic Party in convention has three times gone on record as opposed to imperialism and a colonial exploitation in the Philippine Islands or elsewhere. I believe that at the extra session soon to be called the Democrats will present and pass a bill declaring for the independence of the Philippine Islands, and it occurs to me that it is unwise at this time to expend further sums of money upon an enterprise of this character. This appropriation is for $500,000. If it is to result in the very near future that our Government is to strike tents and pull away from the Philippine Islands and turn that archipelago over to the people of the islands, it occurs to me that this is an additional unnecessary charge upon our Treasury.

According to Senate Document 416, Fifty-seventh Congress, first session, the Philippine Islands for the fiscal years 1898 to 1902 cost this Government over $170,000,000.

I also find that the Chief of Staff reports, in the hearings before the Committee on Expenditures in the War Department, that since the treaty of Paris was adopted to July 1, 1911, that portion of the United States Army that we were compelled to have in the Philippine Islands cost this Government $167,486,403 more than it would have cost to have kept the same number of soldiers in the United States.

Mr. SHERWOOD. You are not counting the pensions paid to the dependent relatives of soldiers who lost their lives in the Philippine Islands, $5,000,000 more.

Mr. HELM. I think the gentleman's statement is reasonably correct. I do not believe these two sums of money which I have mentioned cover one-tenth of the cost entailed upon our Government by reason of our possession and control of those islands.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. HELM. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to address the House for five minutes more. Is there objection?

There was no objection.

Mr. HELM. In response to a resolution introduced by the gentleman from Ohio, Mr. Cox, asking the President of the United States to inform Congress as to the total cost to the United States of the occupation of the Philippine Islands, after referring to the two items which I have mentioned, the President, in his response to that resolution, says:

The total amount thus expended can not be determined with any degree of accuracy.

Mr. SHERWOOD. The Anti-Imperialistic League of Boston has estimated the cost of the Philippines to the Government of the United States to be over $1,000,000,000 up to a year ago.

Mr. MANN. Does anybody think that the estimate of the Anti-Imperialistic League is any better than the estimate of the officials of the Government who have reported to Congress on the subject?

Mr. HELM. The trouble about the report that we got from the President of the United States is that he says it is impossible to estimate the actual cost that these islands have entailed upon our Treasury. And if there is anybody who ought to be in a position to know, it is the President of the United States, because he has been governor of those islands. He was Secretary of War, and he is in a position to obtain more information than any other one officer in the United States. He virtually says that proposition is absolutely beyond his grasp,

and that there is no way of estimating what the islands are costing this Government.

Now, I submit, that government has its business features. The Government of the United States is a business proposition, and if we are engaged in conducting a kind of side show, which it is impossible to tell the cost of to us, it seems to me it is about time that we were getting rid of this side show.

There is no doubt that the next House and the next Senate will be Democratic. The next President of the United States will be a Democrat.

Mr. MANN. By title.

Mr. HELM. You will find that he will be a good performer as a Democrat, and furthermore you will find that he is standing squarely upon the Baltimore platform, which declares for the independence of the Philippine Islands.

Mr. HAMILTON of Michigan. It is not where he is standing, but which way he is moving that is important.

Mr. HELM. He is moving away from those islands. [Applause on the Democratic side.]

Mr. MANN. That is what Cleveland did as to the Hawaiian Islands.

Mr. HELM. With this program confronting us, it has occurred to me that it is an unwise proposition for this House now to appropriate this sum of money for that purpose. There will be abundance of time at the extra session of Congress. If the bill declaring the independence of the islands does not become a law in this Congress, then this appropriation can be made at the extra session. It seems to me to be the wise thing and the proper thing not to make any further appropriations of good American money to be expended in the Philippine Islands.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

Mr. HAY. I do not know what policy is to be pursued hereafter with regard to the Philippine Islands. I do not suppose that anybody knows just what policy is going to be pursued. At all events, the bill which has been considered does not propose to abandon these islands until 1921, which is seven years from now.

This proposition is not for the benefit of the Philippine Islands. It is for the benefit of the soldiers of the United States, and, in my judgment, no matter what policy may be hereafter pursued by this Government in regard to these islands, it is our duty, so long as we retain them, and so long as we have troops there, to furnish them proper shelter and proper care. [Applause.]

Mr. HELM. We have had troops in the Philippine Islands how long?

Mr. HAY. We have had troops there since 1898.

Mr. HELM. Have they not been properly quartered and sheltered and cared for since that date?

Mr. HAY. They have been quartered and sheltered in a certain way, but not in a proper way. The evidence is that some of the quarters that they have been occupying are now made of grass, branches of trees, and lumber from the United States which has been destroyed by the insects peculiar to those islands, and it is absolutely necessary for their comfort and proper shelter that some of this money shall be expended in providing permanent shelter for them which will not be destroyed by typhoons and insects.

Mr. HELM. Does the gentleman think it is a wise thing to spend $5,000,000 in view of the position that the Democratic Party has taken concerning these islands?

Mr. HAY. I know of no scheme to spend $5,000,000.

Mr. HELM. Is not this a part of a scheme to expend $5,000,000 in the Philippines?

Mr. HAY. I do not know what scheme the present administration has. I do not think that any scheme of the present administration will be the scheme of the next administration, either as to the building of posts in the Philippine Islands or in this country. If the gentleman was as familiar as I am with the changing opinions of the Secretary of War and the Chief of Staff now, he would know that nobody on earth could tell what the next Secretary of War or the next Chief of Staff would do about these matters.

Mr. HELM. The gentleman is aware that in the hearings had on this present bill, on page 399, it is stated that this appropriation is a part of the scheme there set forth to appropriate $5,000,000 for the purpose I have stated.

Mr. HAY. I am aware that the present administration of the War Department proposes to spend a certain amount of money in the Philippines, but the point I am getting at now is that this $500,000 is and ought to be spent specifically as stated by the Chief of the Quartermaster Corps, for the building of shelter for the troops and animals and for the repair of barracks which they already have there.

Mr. HELM. I do not understand that the troops are without shelter.

Mr. HAY. Not all of them, but some of them are very inadequately sheltered.

Mr. HELM. Can the gentleman inform me how much has been expended in the construction of barracks and quarters for the soldiers in the Philippine Islands?

Mr. HAY. I can not, for I have not the figures before me; but I want to call the attention of the committee to the Chief Quartermaster's statement in the hearings where he says:

Mr. SLAYDEN. How are those troops sheltered now?

Gen. ALESHIRE. At Fort Kiethley, for instance, they are using nipa, which is a native palm or grass, for the construction of shelter. They use the branches of trees, etc., and they are trying to build permanent concrete structures. Of course, there has been a great deal of money spent over there for buildings, the same as has been done in this country, to provide accommodations and shelter at temporary posts. These Army posts were necessary once, but are no longer needed. They have also constructed buildings from lumber from this country which have been blown away by typhoons. In fact, these frame buildings do not stand a typhoon much better than the native shacks.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. HAY. I ask for five minutes more.

The CHAIRMAN. The gentleman from Virginia asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. HAY. Now, Mr. Chairman, whatever may be the policy which is to be pursued with regard to these islands, whatever may take place in the future, I for one, who am in a measure charged with the responsibility for the appropriations for the Army of the United States, do not propose to assume the responsibility of refusing a reasonable, right, and proper appropriation for the shelter and accommodation of the Army. [Applause.]

Mr. HELM. Will the gentleman yield?

Mr. HAY. For a question.

Mr. HELM. I notice that in the proviso of this appropriation it is stated that the quarters of a general officer shall not exceed a cost of $8,000, a colonel or officer above the rank of captain, $6,000, and an officer of and below the rank of captain, $4,000. Is it not a fact that the present policy of the War Department, instead of constructing barracks and quarters for the soldiers, is giving them commutation of quarters and permitting the officers to secure their own quarters instead of constructing such quarters, as they have at Fort Myer and elsewhere?

Mr. HAY. I know of no such policy. I think the policy of the department is, and always has been, to construct the quarters at military posts, and only to construct quarters for the accommodation of officers who may be stationed at these posts.

Mr. HELM. Mr. Chairman, is it not a fact that the present policy of the War Department is to quarter the troops close to the large cities, where they can secure quarters instead of constructing buildings or houses to quarter the men; and if that is the policy, how do they square that policy with the policy of expending these sums of money in the Philippine Islands for the construction of quarters, or a policy that they condemn?

Mr. HAY. Mr. Chairman, I do not understand that that is the policy of the War Department. The proviso in this bill is a limitation on the appropriation for the purpose of keeping down the cost of these quarters for officers.

Mr. HELM. They have the same thing here, do they not?

Mr. HAY. No.

Mr. HELM. Does not the colonel and the general and the captain, and so forth——

Mr. HAY. As I understand, they spend as much as $12,000 for quarters for a general officer and $10,000 for those officers above the rank of captain and $6,000 for officers of the rank of captain.

Mr. HELM. And the cost of construction is represented as being more over there in the Philippines than it is here.

Mr. HAY. Of course it is more expensive to construct quarters there than it is here. They have to transport the material there. They are now constructing buildings of concrete, which are permanent, and to be less expensive than to put up quarters from timber, which is liable to be destroyed on account of the climate of those islands.

Mr. SHERWOOD. Mr. Chairman, I will ask the gentleman from Virginia what is the number of soldiers now in the Philippine Islands?

Mr. HAY. I think there are now in the Philippine Islands about 13,000 soldiers.

Mr. SHERWOOD. What is the necessity for so many soldiers, when Spain kept only about 1,200 soldiers on the islands?

Mr. HAY. I could not tell the gentleman the necessity for keeping that number of soldiers there, unless it be that the islands are scattered. It is a large archipelago, and the inhabitants are scattered all over it. The troops have to be stationed in various places there, and to preserve order it is necessary to have these troops.

Mr. SHERWOOD. The presumption is that the people of those islands are still disloyal to the United States Government?

Mr. HAY. I would not say to the gentleman what the presumption is.

Mr. SHERWOOD. Otherwise there would be no necessity for such an Army there.

Mr. HAY. I do not know whether they are disloyal or not.

Mr. KAHN. Mr. Chairman, if the gentleman will permit, I believe the department has ordered home four regiments of Infantry and two of Cavalry, so that the number of troops in the islands is materially decreased.

Mr. HAY. But they have filled up the regiments they have kept there to their full strength.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. JONES. Mr. Chairman, I make the request that I may be permitted to address the House for 30 minutes. This is the first time during this session of Congress that I have taken up, or asked to take up, one moment of the time of the House, and I hope that the request will not be opposed.

Mr. HAY. Mr. Chairman, I do not want to cut off the gentleman from discussing the future policy of the Government with regard to the Philippine Islands, but if the gentleman makes a speech of 30 minutes some one else will want to make a speech of 30 minutes. If the committee is, then I am willing to hear the gentleman for 30 minutes, provided that will be the end of the discussion.

Mr. SHERLEY. Mr. Chairman, I desire to say to the gentleman that I do not want to let go unchallenged certain statements as to what is to happen in the future relative to the Philippines, when I do not agree with those statements at all, and I should feel that the other side of any discussion should have an equal opportunity to present its views.

Mr. JONES. Mr. Chairman, I wish to say to my friend from Kentucky, who seems to be afraid that I wish to enter upon a discussion of the whole Philippine question, that I understand quite well that he does not agree with me in my position as to the Philippines, but that such is not my purpose. I propose to confine my remarks, in the main, to the subject now being discussed, but I also wish to comment briefly upon a speech which the President of the United States is reported to have made before the Ohio Society in New York City on Saturday night last. I do not propose to go into the question of the capacity or fitness of the Filipino people for self-government; I do not propose to discuss that subject at this time; but, Mr. Chairman, the President is alleged to have said—and that bears upon this very point——

Mr. HAY. Mr. Chairman, I ask unanimous consent that this discussion may proceed for 40 minutes, 20 minutes to be consumed by the gentleman from Virginia and 20 minutes on the other side.

Mr. MANN. Mr. Chairman, well, that it is very liberal; has the gentleman eliminated this side of the House?

Mr. HAY. I said on the other side; I have no objection; I will yield time to the gentleman.

Mr. MANN. That is not the way the gentleman put it. Now, I suggest to the gentleman from Virginia that when this bill is passed there will be general debate on the river and harbor bill which is pending, there will be general debate on the fortifications bill which is pending, and it is hardly fair when the House, is considering an appropriation bill under the five-minute rule, to inject another subject entirely in the way of general debate——

Mr. JONES. Mr. Chairman, I do not propose to inject another subject. I will state to the gentleman frankly that the President of the United States is reported to have said that the expenses of our military operations in the Philippine Islands, to use his own words, were practically nil, meaning thereby, I suppose, nothing. This bill carries something less than $2,000,000 to pay Philippine scouts in the Philippine Islands and to build shelter for our troops there, and as bearing upon this question I wish to show the House, if I can, by facts and figures, that President Taft is very much misinformed if he thinks our expenditures for military purposes in the Philippines have been practically nothing. Now, that statement has gone all over the country, and I feel that the sooner it can be answered the better it will be for a correct understanding of this subject, and I hope my friend from Illinois will not object to my now undertaking to do so. The facts should be known.

Mr. MANN. The gentleman will recall the resolution which passed the House asking the President, as soon as possible, to ascertain and let us know what the expenses were caused by the Philippine Islands.

Mr. JONES. Does the gentleman know what the President's reply to that was—that the problem was insoluble?

Mr. MANN. I do; he replied what everybody ought to have known, what he ought to have replied—that nobody could tell. If the gentleman wants to introduce this subject into the House and spend a day or two discussing it, and if gentlemen on that side of the House think the appropriation bills are far enough along so we can spend a lot of time discussing a subject that is not going to be brought before the House at this session, why, I am quite willing to do it; but if the gentleman is going to enter upon that subject, either on this bill or subsequent bills, we will demand time on this side of the House.

Mr. JONES. I certainly shall be glad for the gentleman to have it.

The CHAIRMAN. The request of the gentleman from Virginia was that 20 minutes be occupied by the gentleman from Virginia [Mr. JONES] and 20 minutes be occupied by some one opposing the views presented by the gentleman from Virginia.

Mr. MANN. I understood that was the request, Mr. Chairman; but this opens up a subject that will have to be discussed on the next bill under general debate in all probability.

Mr. JONES. Will the gentleman permit me to address one remark to him? The gentleman said this debate could take place on the river and harbor bill. I understand the Committee on Rivers and Harbors do not intend to permit any general discussion upon their bill, and this bill can easily be finished before the end of to-day. It does seem to me that, in view of the importance of this subject and in view of the recent statement which the President is credited with having made in the city of New York, which has gone all over the country, I should be permitted a few moments in which to give to the House the real facts of the case——

Mr. HELM. Mr. Chairman, I can not conceive of a more opportune time or occasion for a discussion of this Philippine proposition than this present moment. The last time this bill was up before the House we spent about three or four hours discussing polo ponies; but when you meet a vital, important proposition for discussion under the five-minute rule, then time suddenly becomes so precious and so valuable that we must hurry on post haste to some other matter.

Mr. PRINCE. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. HELM. In just a moment. It has been my observation that whenever we have general debate discussion goes far afield, and then it is stated that the time to discuss propositions of this kind is under the five-minute rule; and when we get under the five-minute rule, then we must go back to general debate. It does seem to me that this is a pertinent question and that now is the time for its best discussion, when the Members can best comprehend it and understand the proposition better than any other time, and therefore I move that the gentleman from Virginia [Mr. JONES] have 30 minutes and some gentleman in opposition to the proposition have 30 minutes.

Mr. MANN. Mr. Chairman, it is now 20 minutes of 2 o'clock. We have read one page of this bill to-day. There are 10 or 12 more pages to be read. If gentlemen on that side of the House think they can afford to take up the time in discussing extraneous matter, I am not going to object. I do not want to hear gentlemen afterwards complain that this side of the House is delaying appropriation bills, because the chances are that if this matter gets into the debate the appropriation bills will not all become laws at this session of Congress.

Mr. COX. We would not do that.

Mr. MANN. You would not do that? That is what we will hear the last month of the session.

Mr. JONES. If the gentleman will yield time to me on the river and harbor bill, I will withdraw my request.

Mr. SHERLEY. I have no objection to yielding it to the gentleman on the fortification bill.

Mr. JONES. I would like to ask the gentleman from Kentucky [Mr. SHERLEY] when the fortification bill will be before the House?

Mr. SHERLEY. I hope to bring it before the House immediately following the river and harbor bill, if not immediately preceding.

Mr. JONES. Will it be during this week?

Mr. SHERLEY. I think it will, unquestionably.

Mr. JONES. Some of my friends here think I ought to insist on being given time now. As I can not get this consent, however, except by unanimous consent, and as opposition has developed, if the gentleman will promise me an hour on the fortification bill I will reluctantly withdraw my request, although I feel, Mr. Chairman, that this matter ought to be discussed at this time.

Mr. SHERLEY. I do not desire either that the gentleman ought to press or withdraw his request; but I am perfectly willing, being in charge of the fortification bill, to grant him an hour's time, although I am opposed to his views.

Mr. JONES. The gentleman can not know that he is opposed to my views, because he has not heard them.

The CHAIRMAN. Does the gentleman from Virginia [Mr. JONES] withdraw his request?

Mr. JONES. With that understanding I withdraw the request.

Mr. KAHN. Mr. Chairman, there is an amendment pending.

Mr. HAY. The amendment was the one offered by the gentleman from Kentucky, to strike out the paragraph.

Mr. GARRETT. Will the gentleman from Virginia [Mr. HAY] permit me a question right there?

Mr. HAY. Surely.

Mr. GARRETT. In lines 16 and 17, page 32, I find this:

Officers and enlisted men of the Army of the United States lawfully on duty.

I was just wondering as a matter of curiosity what that word "lawfully" means in that connection.

Mr. HAY. I presume it means officers or enlisted men who are ordered by the President of the United States on duty in the Philippine Islands. In other words, it means what it says.

Mr. GARRETT. It seems rather a strange expression.

Mr. HAY. It always has been in the bill.

Mr. GARRETT. I thought perhaps it might have some technical meaning, I will say to the gentleman.

Mr. HAY. My recollection is that the history of this item in the bill is that when it was first offered a point of order was made and an amendment was very skillfully drawn by the gentleman from Illinois [Mr. CANNON], who was then chairman of the Committee on Appropriations.

Mr. MANN. That is correct. That is the way the word got in there.

Mr. HAY. It has a technical meaning that makes it in order.

Mr. GARRETT. As a matter of information, inasmuch as I would like to learn these things, I would be glad to have the gentleman inform me what the technical meaning is.

Mr. MANN. If the gentleman will pardon me, there was an item in this bill, or some other bill, to which an amendment was offered, against which a point of order was made and sustained on the ground, I think, that we had no authority to construct these quarters in the Philippine Islands, but if they were lawfully there we did have the authority. Thereupon the item was drawn accordingly.

Mr. HAY. I remember it very well.

Mr. GARRETT. The constitutional and legal questions which were raised at that time brought about the use of this word?

Mr. MANN. Undoubtedly.

Mr. GARRETT. And the preservation of it in the bill retains the doubt?

Mr. MANN. I have no doubt myself. It was not a doubt of our right to have the troops in the Philippine Islands, but our right to construct barracks. That was all.

Mr. GARRETT. And it has been carried in the bill since that time because of the still unsettled policy of this Government with respect to the Philippine Islands?

Mr. MANN. It has been carried in the bill because it is the custom to copy the current law into a bill. There is no special reason for changing it.

Mr. GARRETT. That is the opinion of the gentleman from Illinois [Mr. MANN] about it. I was wondering what the gentleman from Virginia would say about that.

Mr. HAY. My opinion is it has been carried in the bill every year because it was put there in the first place.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. HELM].

The question was taken, and the amendment was rejected.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. SHERLEY having taken the chair as Speaker pro tempore, a message in writing from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles.

On January 7, 1913:

H. R. 10169. An act to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge.

On January 8, 1913:

H. R. 1064S. An act amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes, and to protect the same."

On January 21, 1913:

H. R. 20339. An act for the relief of Joseph W. McCall.

ARMY APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

MEDICAL DEPARTMENT.

Medical and Hospital Department: For the purchase of medical and hospital supplies, including ambulance and disinfectants, and the exchange of typewriting machines, for military posts, camps, hospitals, hospital ships, and transports; for expenses of medical supply depots; for medical care and treatment not otherwise provided for, including care and subsistence in private hospitals of officers, enlisted men, and civilian employees of the Army, of applicants for enlistment, and of prisoners of war and other persons in military custody or confinement, when entitled thereto by law, regulation, or contract: *Provided*, That this shall not apply to officers and enlisted men who are treated in private hospitals or by civilian physicians while on furlough; for the proper care and treatment of epidemic and contagious diseases in the Army or at military posts or stations, including measures to prevent the spread thereof, and the payment of reasonable damages not otherwise provided for, for bedding and clothing injured or destroyed in such prevention; for the pay of male and female nurses, not including the Nurse Corps (female), and of cooks and other civilians employed for the proper care of sick officers and soldiers, under such regulations fixing their number, qualifications, assignment, pay, and allowances as shall have been or shall be prescribed by the Secretary of War; for the pay of civilian physicians employed to examine physically applicants for enlistment and enlisted men, and to render other professional services from time to time under proper authority; for the pay of other employees of the Medical Department; for the payment of express companies and local transfers employed directly by the Medical Department for the transportation of medical and hospital supplies, including bidders' samples and water for analysis; for supplies for use in teaching the art of cooking to the Hospital Corps; for the supply of the Army and Navy Hospital at Hot Springs, Ark.; for advertising, laundry, and all other necessary miscellaneous expenses of the Medical Department, $750,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the chairman of the committee if the War Department builds ships or transports, or whether it has adopted the practice of purchase?

Mr. HAY. I can say to the gentleman that the department is not now engaged in building any transports or ships. The department does have ships and boats constructed.

Mr. MOORE of Pennsylvania. But nowhere in this bill is an appropriation made for the construction of a ship or a transport?

Mr. HAY. No; there is not.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ORDNANCE DEPARTMENT.

Ordnance service: For the current expenses of the Ordnance Department, in connection with purchasing, receiving, storing, and issuing ordnance and ordnance stores, comprising police and office duties, rents, tolls, fuel, light, water, and advertising, stationery, typewriters and adding machines, including their exchange, and office furniture, tools, and instruments of service; for incidental expenses of the ordnance service and those attending practical trials and tests of ordnance, small arms, and other ordnance stores; for publications for libraries of the Ordnance Department, including the Ordnance Office; subscriptions to periodicals which may be paid for in advance, and payment for mechanical labor in the office of the Chief of Ordnance, $300,000.

Mr. SHERLEY. Mr. Chairman, I will ask the gentleman whether this item carries any sum for ammunition of any sort, or does that follow subsequently?

Mr. HAY. It does not. The item that comes immediately afterwards carries ammunition.

The CHAIRMAN (Mr. DENT). The Clerk will read.

The Clerk read as follows:

Ordnance stores—Ammunition: Manufacture and purchase of ammunition and materials therefor for small arms for reserve supply; ammunition for burials at the National Soldiers' Home in Washington, D. C.; ammunition for firing the morning and evening gun at military posts prescribed by General Orders, No. 70, Headquarters of the Army, dated July 23, 1867, and at National Home for Disabled Volunteer Soldiers and its several branches, including National Soldiers' Home in Washington, D. C., and soldiers' and sailors' State homes, $200,000.

Mr. SHERLEY. Mr. Chairman, I offer the following amendment at the end of the paragraph.

The CHAIRMAN. The gentleman from Kentucky [Mr. SHERLEY] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 41, at the end of line 21, insert the following: "*Provided*, That no part of this sum shall be expended in the purchase of ordnance powder at a price in excess of 53 cents or for small-arms powder in excess of 65 cents per pound."

Mr. MANN. Where does that come in?

Mr. SHERLEY. At the end of the paragraph, at the end of line 21.

Mr. Chairman, the subcommittee on fortifications of the Committee on Appropriations undertook a rather elaborate investigation into the cost of powder. It had before it not only the officers of the Army and Navy who have been engaged in the manufacture of powder, but it also had before it a representative of the Du Pont people and a Mr. Waddell, who had been a manufacturer of powder and was a severe critic of the policy of the Government touching the purchase of powder and the price paid for it.

As a result of this very elaborate hearing the committee came to the conclusion that we were paying a price for powder that is unwarranted, and that the price proposed in the amendment that I have offered represents a fair price to the manufacturer, having in view all of the proper factors touching the cost of making the powder and the hazardous nature of the business.

There will be found in the report of the committee certain tables published from the hearings, which show that the cost to the Government of manufacturing powder at the Army arsenal is 40.43 cents; that at the Du Pont works, basing the cost there on the cost at the Government works and adding thereto such other items as should be properly credited to a private concern and which should not be charged as against a Government concern, the cost of powder was 50.15, and that included an item of 5½ cents a pound as representing interest at 5 per cent on $5,500,000 invested by the Du Pont people.

Now, we did not believe that it was proper in arriving at a sale price to first consider interest on the entire capital invested and then subsequently figure a profit on the cost price arrived at. So, eliminating the 5½ cents per pound from the cost, it will be observed that the cost to the Du Pont people, according to this table, is 44.06 cents. Twenty per cent profit on that would bring the cost of powder to a fraction over 53 cents per pound.

I am now speaking of ordnance powder. Now, the figures submitted by the Navy as to the cost of manufacturing powder at the Navy arsenal and the cost upon their basis to the Du Pont people gave 48.95 cents a pound. Also carrying into the computation 5½ cents as interest upon the investment of $5,500,000 and subtracting that from the figures you get 43.6 cents—very close to the figures of the Army; and, figuring 20 per cent on that, you get as a selling cost something under 53 cents.

Now, it will be observed that in arriving at this cost to the Du Pont people, we have taken into consideration what may be called the factory cost, then depreciation of the plant, insurance, rejections, freight, pensions, stock bonuses, selling expenses, experimentation, administration, and all of the items that could by any argument properly be considered; and having considered those, you have presented to you the proposition of an ordinary manufacturing concern. We think that that being so, 20 per cent profit upon the cost price is certainly a fair sale price.

Mr. MADDEN. Does the depreciation charge include losses by explosions?

Mr. SHERLEY. We figured depreciation separately from loss by fire direct, but I mentioned that as showing that we have gone to the extreme in allowing for any proper charge due to the hazardous character of the business. Having allowed that, you have presented the case of an ordinary business. Twenty per cent profit upon the cost price ought, in our judgment, to satisfy any going concern. We have presented this as our judgment, as the result of a very elaborate investigation.

As to small-arms powder, while we did not go into that in detail, because the bill that we were dealing with does not deal with small-arms powder, but only with ordnance powder, the testimony is that it costs about 10 cents per pound more for small-arms powder than it does to make ordnance powder. In arriving at the figure of 65 cents a pound I have figured 11 cents as an addition to the cost to the manufacturer, and then upon that have added 20 per cent profit, which brought me to approximately 65 cents as representing a proper cost for small-arms powder.

Mr. MADDEN. How much saving would that indicate?

Mr. SHERLEY. We are now paying 60 cents for ordnance powder and heretofore have paid as high as 75 cents, I think, for small-arms powder.

Mr. HAY. As high as 80 cents.

Mr. SHERLEY. Seventy-five and eighty cents. I understand a limitation of 71 cents for small-arms powder was placed upon one of the bills, and that contracts have not yet been made under that bill, but I have no reason to doubt—and I am prepared to say to this committee that after a very careful examination I believe the price suggested in the proposed amendment is a fair price to the Du Pont people, who are the only manufacturers of this powder for the Government, and that it is a reasonable price for the Government to pay for their powder. They are entitled to a reasonable price. Beyond that they ought not to receive any additional profit. I ask the adoption of the amendment.

Mr. HEALD. May I ask the gentleman a question?

Mr. SHERLEY. Certainly.

Mr. HEALD. I have gone over the hearings which were had upon this subject, and I think the statement made by the gentleman from Kentucky is a fair résumé of these hearings, and that, as he has stated it to the House, he has handled it in a very fair and impartial manner. There is one matter, however, that appeals to me from a different point of view than his, and that is as to the profit to which a private corporation is entitled in the manufacture of smokeless powder. Of course the 20 per cent profit on the manufacturing cost is a different proposition from a return upon invested capital. I want to ask the gentleman if he thinks that 5½ per cent upon the invested capital necessary for the manufacture of smokeless powder is a sufficient profit for a hazardous enterprise of this kind, particularly as an investment return as large as that can be secured with greater safety in other lines of business?

Mr. SHERLEY. My answer to the gentleman is this: In the first instance, I doubt very much whether the Du Pont people are entitled to be credited with a capital investment of five and one-half million dollars. I am not questioning that that may be a book account—that the books may actually show an investment of that amount. But when you consider the amount that is always and properly allowed for depreciation, and when you consider other items, and what we now know to be the cost of creating a plant that would have an output of the capacity of the Du Pont plant, I should think that was an extravagant allowance. That is my first answer. The second answer is that the Du Pont people are not engaged entirely in making powder for the United States, but they are now manufacturing and selling the same kind of powder to other governments, and therefore it is not to be assumed in this computation that you must figure all of their profits upon the sales that they make to the Federal Government. Having in mind these conditions, I think what the committee has recommended is fair. And its recommendation is not an allowance of 5½ per cent on investment, but of 20 per cent on cost of making the powder. I have not worked out and have not the data to determine what per cent on investment is made by the Du Ponts, because I do not know just what their output will be or what they will sell at to others than the Government.

Mr. HEALD. May I ask the gentleman another question?

Mr. SHERLEY. Certainly.

Mr. HEALD. In the manufacture of smokeless powder it has, as the gentleman well knows, heretofore been the practice for the powder company to maintain partially in idleness all the time one of the three plants which they use in its manufacture; the policy of the department being, according to their well-expressed views, to retain in active service the three plants, while, as a matter of fact, only one plant out of the three is actually used at a time, thus requiring on the part of the powder company an investment much larger than would ordinarily be the case. Has the committee taken that into consideration?

Mr. SHERLEY. We did; and it may be that the policy of having idle plants will be discontinued by the Du Pont people. The gentleman will appreciate that it is impossible to undertake to determine with mathematical nicety all the questions such as the gentleman puts. We had no opportunity to examine the figures of the Du Pont people. They declined—and I am not criticizing them for the declination—they declined to submit cost figures. I believe I could demonstrate to this House by a number of reasons why the factory cost of the Government should not be the factory cost of the Du Pont people, and that their factory cost should be less; that there are certain economies that they ought to have over the Government. Yet that is a matter of inference, but we accepted the factory cost to the Government as their cost, and then as to all of the items we added as being properly creditable to the Du Pont people and not chargeable to the Government we take the figures of the Du Pont people as furnished by Col. Buckner a year ago. The best I can say is that the committee diligently inquired, and I think the hearings will show that the diligence was not without reward, to find actual facts, approaching the subject without prejudice, without a desire to do harm to anybody, and the committee united in the view that the prices suggested are reasonable prices.

As justification of the action taken by the committee, the following tables, touching the cost of manufacturing powder at the Picatinny Arsenal and at the Du Pont Works submitted

by Gen. Crozier, and the tables submitted by Admiral Twining of the cost of the manufacture of powder at Indianhead and at the Du Pont Works, found on pages 282 and 301, respectively, of the hearings, are submitted:

TABLE SUBMITTED BY GEN. CROZIER.

Cost of powder at Army factory compared with cost at the Du Pont Works, conditions of operation being similar, i. e., each occupied fully at one shift.

Item.	Picatinny Arsenal, annual output 1,000,000 pounds.	Du Pont Works, annual output 5,000,000 pounds.	Remarks.
Factory cost [1]	$0.3300	$0.3300	Assumed same.
Depreciation:			
Machinery, at 10 per cent	.0202	.476	Taking company's statement of total investment and assuming it divided in buildings, machinery, and materials with same rate of depreciation as for United States.
Factory buildings, at 5 per cent.	.0020		
Other buildings, at 2 per cent.	.0040		
Fire losses	.0070	.0070	
Rejections	.0060	.0060	
Transportation service	.0020	.0020	
Total manufacturing cost.	.3712	.3926	
Selling expenses		.0062	Company's statement for theirs.
Administration	.0126	.0254	Do.
Taxes		.0011	Do.
Experimental work		.0054	Do.
Interest, 3 per cent Government, 5 per cent Du Pont.	.0205	.055	Total investment taken.
Freight		.006	
Stock bonuses		.0015	Company's statement.
Pensions, etc		.0083	Do.
Total cost	.4043	.5015	

[1] The following items are included under factory cost:
(a) All material used in the manufacture of powder.
(b) All labor, direct and indirect.
(c) Manufacture and repair of powder boxes.
(d) Current repairs and improvements to buildings.
(e) Current repairs and improvements to machinery.
(f) Cost of chemical tests.
(g) Cost of clerical labor.

TABLES SUBMITTED BY ADMIRAL TWINING.

Cost of powder manufactured at Indianhead, calculated on a basis suitable for comparison with commercial costs.

Invoice price		$0.30511
Overhead charges, not paid from the same appropriation		.08025
Interest		.02210
Total cost to the Government		.40746

The following items taken from the testimony of Col. E. G. Buckner, of the Du Pont Co., before the House Committee on Naval Affairs Feb. 16, 1912. This company being the only one manufacturing powder, it is necessary to take data given by them for this purpose.

Items of cost to a private corporation but not to the Government.

Stock bonuses		$0.00150
Selling expense		.00620
Idle mills		.00730
Taxes		.00110
Total cost of production at private works		.42356

In the statement next following is given an estimate of the cost of powder to a private manufacturer, estimating the same production cost as at Indianhead and adding thereto overhead charges as furnished by Col. E. G. Buckner at the hearing above referred to:

Statement of cost of smokeless powder at a private plant, using Indianhead invoice price for 1912 ($0.30511) and overhead charges obtained from statement of Col. E. G. Buckner, representing the Du Pont Powder Co., before the Committee on Naval Affairs, Feb. 16, 1912.

Invoice price from Indianhead		$0.30511
Interest at 5 per cent	$0.0550	
Depreciation of plants	.03323	
Insurance	.0070	
Rejected powders	.0060	
Powder boxes	.0100	
Freight	.0060	
Tug service	.0020	
		.11923
Pensions and personal liability	.0083	
Stock bonuses	.0015	
Selling expense	.0062	
Administration	.0254	
Experimental	.0054	
Idle mills	.0073	
Taxes	.0011	
		.05520
Estimated interest on stock in suspension, at 5 per cent		.47954
		.01000
Total		.48954

Mr. HEALD. Mr. Chairman, in addition to the questions which I have asked the gentleman from Kentucky and the answers, which have covered the points very thoroughly, I want to say that, in my opinion, the relations between the Government and the powder company in the past have been such that imposed upon them an excessive investment, and that condition exists to-day. The powder company, by the requirements of the departments, is maintaining three plants to obtain the output of only one. Getting away from the necessities of that condition would, of course, create a different condition as to the price of the finished material.

The investigation that Congress and the committee has made into the cost of powder has been very thorough and very complete in the last four sessions of Congress, and I could only wish that the expenditures of the Army and the Navy, aggregating $250,000,000, only 1 per cent of which is expended in ammunition, might meet with the same thorough investigation and examination of prices that has been given to the manufacture of powder. To-day the manufacturers of smokeless powder are meeting that competition which comes from continued probing and examination at the hands of Congress and the exact knowledge which is in the hands of the officers of the War and Navy Departments. And this, I believe, is more effective than competing manufacturers.

This examination, probing, and criticism, however, has been almost entirely confined to the 1 per cent spent for powder, while the 99 per cent spent for guns, battleships, colliers, and other equipment is accepted as a matter of fact, none of which is valuable without the best powder and plenty of it.

Our apparent object might be criticized as being more of a desire to secure a cheap powder than the best powder and enough powder.

Mr. HAY. Mr. Chairman, through the courtesy of the gentleman from Kentucky the Committee on Military Affairs had, after it had completed this bill, an opportunity to see the hearings had on this question as to the price of powder, and we think that the amendment of the gentleman from Kentucky is fair and just, and I hope it will be agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky.

The question was taken, and the amendment was agreed to.

Mr. SHERLEY. Mr. Chairman, in order to avoid a repetition of this same amendment as to each item covering moneys for ammunition, I ask unanimous consent that the amendment just adopted be modified so as to read:

Provided, That no part of any sum in this act appropriated shall be expended in the purchase of ordnance powder at a price in excess of 53 cents or for small-arms powder in excess of 65 cents per pound.

The reason is simply to prevent a constant repetition of the amendment.

Mr. MANN. What is the proposition?

Mr. SHERLEY. By unanimous consent to amend the amendment just agreed to by providing that no part of any moneys appropriated shall be expended for powder, and so forth, instead of having it relate simply to the particular fund in that paragraph.

Mr. MANN. It only comes in two paragraphs, does it not?

Mr. SHERLEY. No; there are several others, I will say to the gentleman.

Mr. GOOD. There are four paragraphs.

Mr. MANN. There are only four paragraphs in the present law that have a limitation.

Mr. HAY. Yes; but there is a paragraph, on page 44, for storing reserve ammunition for field artillery.

Mr. SHERLEY. It occurred to me that instead of having four provisos we would have one to cover the entire matter.

Mr. MANN. How much do we now pay for ordnance ammunition?

Mr. SHERLEY. We pay for ordnance ammunition now 60 cents. I ask unanimous consent to have the amendment just adopted modified as I have indicated.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that the amendment just adopted be modified in the manner indicated by him, which the Clerk will report.

The Clerk read as follows:

Page 41, at the end of line 21, insert the following:

"*Provided*, That no part of any sum in this act appropriated shall be expended in the purchase of ordnance powder at a price in excess of 53 cents, or for small-arms powder at a price in excess of 65 cents per pound."

Mr. MANN. Ought not that to read 53 cents a pound?

Mr. SHERLEY. I think it might be clear to add, after the words "53 cents," the words "per pound," and I will ask unanimous consent that those words be added.

The CHAIRMAN. Without objection, it will be so ordered. Is there objection to the request of the gentleman from Kentucky that the matter now in the bill be modified by the addition of the language just read at the desk?

Mr. BUCHANAN. Mr. Chairman, I would like to ask what is the need of purchasing powder at 53 cents a pound when the Government can manufacture it at about 30 cents a pound? I

would like to have some gentleman state to me any reason why we should buy powder at all when the Government is now prepared to manufacture its own powder, but is operating its equipments only about one-quarter of the time, which naturally makes the powder cost more than if the factories were operated all the time.

Mr. SHERLEY. Mr. Chairman, I will answer the gentleman, first, that you can not make powder for 30 cents, and secondly, that if you run the full capacity of Indianhead and Picatinny you would not be able to make all of the powder that the Government would otherwise buy.

Mr. BUTLER. Or need?

Mr. SHERLEY. Or need.

Mr. BUCHANAN. My information is different from that. We are now equipped to make all of the powder that we use at the present time.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky? [After a pause.] The Chair hears none, and it is so ordered.

Mr. GOOD. Mr. Chairman, I offer the following amendment which I send to the desk and ask to have read, to follow the amendment just adopted.

The Clerk read as follows:

Page 41, to follow the amendment just adopted, add the words: "The appropriations herein made for ammunition, when expended for manufacture of powder at the powder factory at the Picatinny Arsenal at Dover, N. J., shall be so expended only on the basis of and toward the operation of said powder factory to not less than one-half of the full capacity thereof during the calendar year."

Mr. MANN. Mr. Chairman, I reserve the point of order on that.

Mr. HAY. Mr. Chairman, I make the point of order.

The CHAIRMAN. Does the gentleman from Iowa wish to be heard on the point of order?

Mr. GOOD. Mr. Chairman, the point of order was reserved.

The CHAIRMAN. It was made by the gentleman from Virginia.

Mr. GOOD. Mr. Chairman, this is clearly a limitation. However, if, in the opinion of the Chair, it should appear that that is not clearly a limitation, I have an amendment under which it would be a little more difficult to operate, but which in exact terms is a limitation. This amendment provides that the money that is expended here for powder, in the manufacture of powder at the Government arsenal, shall be expended only upon the basis of keeping the powder plant in operation at one-half of its maximum capacity. Part of this appropriation that is expended for powder will be expended for the purchase of powder. A part of it will be expended for the manufacture of powder. In the testimony before the Committee on Appropriations having to do with fortifications it appears that last year we purchased about 1,000,000 pounds of powder and that we manufactured in the neighborhood of 450 pounds of powder. This provides that, as far as the manufacture is concerned, any money that is appropriated or expended in the manufacture of powder at the Government arsenal shall be expended on the basis of maintaining that plant in operation at one-half of its maximum capacity.

It is clearly a limitation in my opinion and is not subject to a point of order.

Mr. MANN. Will the gentleman permit me to ask him a question?

Mr. GOOD. Certainly.

Mr. MANN. This may not be on the subject of the point of order. Are these factories capable of being run 24 hours a day?

Mr. GOOD. The factory at Indian Head is now run at its maximum capacity of three shifts, 24 hours per day, 8 hours per shift. The factory at Picatinny Arsenal, Dover, is now run at one-sixth of its capacity.

Mr. MANN. That is not what I asked. Is it capable of being run 24 hours a day? I take it it must be if the other is.

Mr. GOOD. It is; and it was the intention, I understand, of Gen. Crozier to increase the output.

Mr. MANN. Now, how are you going to arrange where you have three shifts and require it to be run at 50 per cent of its capacity? Will that be one shift and a half?

Mr. GOOD. The amendment was drawn so that the matter of detail could be left to the Chief of Ordnance, and at times the Chief of Ordnance could run three shifts a day if he so desired, if he found it was in the line of economy to do so, or he could run one shift at a time or two shifts at a time.

Mr. MANN. How can he under this amendment?

Mr. GOOD. This provides that for the calendar year the plant shall be run at one-half of its maximum capacity, not at one-half of its capacity, for every day in the year, when it comes to determining the amount of production for the year. The difference between the cost of manufacturing powder at the Army plant and Navy plant last year was a difference of several cents per pound. The appropriation cost or first cost at the naval plant was only 30½ cents per pound; at the Army plant it was 33 cents a pound; and Gen. Crozier said the difference in cost largely lay in the fact he did not operate the Army plant at anything like the full capacity, but at only one-sixth its full capacity.

Mr. MANN. Well, I do not see how you are going to run the factory for a half a day or go on the theory that you will keep two shifts and operate them part of the time. That is not fair to the men.

Mr. GOOD. The amendment which I have offered does not provide that they shall run two shifts or one shift or three shifts, but it is left so that the production for the whole year shall equal one-half of the maximum capacity of that plant.

Mr. MANN. It provides that the production for the whole year shall equal one and a half shifts a day.

Mr. GOOD. I beg the gentleman's pardon.

Mr. MANN. Three shifts is the maximum capacity of the factory for a year?

Mr. GOOD. Yes.

Mr. MANN. The gentleman's amendment provides for 50 per cent of that maximum capacity; that is equivalent to one and a half shifts per day for a year.

Mr. GOOD. Yes; but it does not——

Mr. MANN. If you are going to run two shifts, run two; if you are going to run one shift, run one; but do not make a proposition which seems to me to provide for a shift and a half. It is neither fair to the Government nor to the men.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. GOOD. I yield to the gentleman; I have the floor.

Mr. FITZGERALD. At present the factory at Picatinny Arsenal runs one shift a day, and yet it is only turning out one-sixth of its capacity. Now, one shift is one-third, yet it is only running at one-sixth of its capacity, so that the mathematics of this thing is very peculiar.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GOOD. I ask for two minutes additional.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. GOOD. I only want to say to the gentleman from Illinois that this matter was thoroughly considered by the Subcommittee on Appropriations, and we felt we would be hampering the Ordnance Department by providing the number of shifts that were to be run. Matters of detail of that kind were not considered, but looking at the matter in a broader way we took cognizance of the maximum capacity of the plant only, leaving it to the judgment of the Chief of Ordnance as to how many shifts he would work.

Mr. BUCHANAN. Will the gentleman yield?

Mr. GOOD. I will.

Mr. BUCHANAN. I would like to ask the gentleman if there is any stage in the manufacture of powder where it is of great advantage to operate three shifts a day or continuously?

Mr. GOOD. I think that is true.

Mr. BUCHANAN. Has the gentleman any information as to whether that is the fact or not?

Mr. GOOD. Gen. Crozier gave it as his opinion that the reason that it has cost more to manufacture smokeless powder in the Army arsenal than in the Navy was the fact largely that they were running practically at their full capacity in the Navy factory while the Army factory only ran at one-sixth of its capacity.

Mr. BUCHANAN. My information is that powder could be manufactured cheaper where they are running at full capacity of the mill.

Mr. GOOD. I will say, Mr. Chairman, this amendment that I have offered is in the exact language of a provision in the fortification bill, and while I have an amendment that I like a little better than this, yet this was the amendment that was agreed upon, and it reaches the proposition. I have offered it here, and believe it is not subject to a point of order.

Mr. HAY. It is clearly subject to a point of order, because it is directing something to be done affirmatively, and according to the gentleman's own statement it would cost more under this amendment than it costs now. He says the arsenal is now run only at one-sixth of its capacity. This provides it should be run at one-half of the full capacity. I do not think it is in order on this bill anyway, for the reason that the Appropriations Committee deals directly with this arsenal, and the Committee on Military Affairs makes no appropriation for it. It is clearly subject to a point of order.

Mr. GOOD. Will the gentleman yield?

Mr. HAY. I will.

Mr. GOOD. The item to which this is offered is for the manufacture as well as the purchase of ammunition. The same thing might be true of the amendment that was offered limiting the price. Nothing was said with regard to powder when it came——

Mr. HAY. I said nothing about the powder, but the running of the arsenal, which the gentleman's amendment proposes to do.

Mr. GOOD. The manufacture of powder is at the arsenal.

The CHAIRMAN. The clear effect of this amendment is to provide that this particular arsenal shall be run on a basis of not less than one-half time as a minimum requirement. There is more affirmative authority than limitation in this amendment. The Chair sustains the point of order.

Mr. GOOD. Mr. Chairman, I offer the following amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Iowa offers an amendment, which the Clerk will report.

The Clerk read as follows:

Add to the amendment the following:

"*Provided*, That in expenditures of this appropriation, or any part thereof, for powder, no powder shall at any time be purchased unless the powder factory at the Picatinny Arsenal, at Dover, N. J., shall be operated on a basis of not less than one-half of its full capacity during each calendar year."

Mr. HAY. Mr. Chairman, I make a point of order on the amendment.

The CHAIRMAN. Does the gentleman from Iowa [Mr. GOOD] desire to be heard on the point of order?

Mr. HAY. I think it is subject to the same point of order as the previous amendment.

Mr. GOOD. If any limitation can be placed on this appropriation at all in regard to powder, it is included in the amendment which I send to the Clerk's desk. That is clearly a limitation that not a penny of this appropriation can be expended unless there is the happening of that contingency.

The CHAIRMAN. The Chair thinks this may be fairly held as a mere limitation.

Mr. HAY. I call for a vote on the amendment.

The question was taken, and the Chair announced that the Chair was in doubt.

The committee divided; and there were—ayes 17, noes 31.

Mr. BUCHANAN. Mr. Chairman, I raise the point of no quorum. I do not intend that this Powder Trust shall get in its work of this nature, if I can avoid it.

The CHAIRMAN. Evidently there is no quorum. The Clerk will call the roll.

Mr. BUCHANAN. Mr. Chairman, may I ask if the vote is on the question of this amendment.

The CHAIRMAN. The vote is now simply on the ascertainment of the number of Members present, and not on the amendment.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Adair	Fornes	Legare	Rodenberg
Akin, N. Y.	Francis	Lindsay	Rucker, Mo.
Ames	George	Linthicum	Sabath
Andrus	Gill	Littleton	Scully
Ansberry	Gillett	Longworth	Sells
Austin	Gocke	Loud	Shackleford
Ayres	Graham	McCall	Simmons
Bartholdt	Greene, Vt.	McCoy	Slemp
Bates	Gregg, Pa.	McCreary	Smith, J. M. C.
Bathrick	Griest	McKellar	Smith, Cal.
Berger	Guernsey	McLaughlin	Speer
Broussard	Hammond	Maher	Stack
Brown	Hardwick	Martin, Colo.	Stanley
Burke, Pa.	Harris	Martin, S. Dak.	Steenerson
Calder	Harrison, N. Y.	Matthews	Stephens, Nebr.
Carter	Hart	Merritt	Stevens, Minn.
Clark, Fla.	Hartman	Moore, Tex.	Sulloway
Conry	Hayes	Needham	Taggart
Copley	Henry, Tex.	Nelson	Taylor, Colo.
Covington	Hill	Oldfield	Thistlewood
Crago	Hinds	Palmer	Townsend
Cravens	Howard	Patten, N. Y.	Tuttle
Dalzell	Hughes, W. Va.	Payne	Underwood
Daugherty	Hull	Peters	Volstead
Davis, Minn.	Humphrey, Wash.	Pray	Vreeland
Dickson, Miss.	James	Prouty	Warburton
Dixon, Ind.	Johnson, Ky.	Pujo	Weeks
Esch	Kitchin	Rainey	Whitacre
Estopinal	Konop	Randell, Tex.	Wilder
Farr	Lafean	Redfield	Wilson, Ill.
Fields	Lamb	Reyburn	Wilson, N. Y.
Finley	Langham	Richardson	Wood, N. J.
Focht	Langley	Riordan	Woods, Iowa
Fordney	Lee, Ga.	Roberts, Mass.	

The committee rose; and Mr. SISSON having assumed the chair as Speaker pro tempore, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having found itself without a quorum, he had directed the roll to be called, whereupon 250 Members, a quorum, had answered to their names, and he reported the list of absentees.

The SPEAKER pro tempore. The gentleman from Virginia [Mr. SAUNDERS], Chairman of the Committee of the Whole House on the state of the Union, reports that that committee, having found itself without a quorum, he had directed the roll to be called, whereupon 250 Members, a quorum, answered to their names, and he reports the names of the absentees. The Clerk will note the names of the absentees in the RECORD. The committee will resume its sitting.

The committee resumed its sitting, with Mr. SAUNDERS in the chair.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Iowa [Mr. GOOD].

Mr. GOOD. Mr. Chairman, I ask unanimous consent to address the committee for two minutes.

The CHAIRMAN. The gentleman from Iowa [Mr. GOOD] asks unanimous consent to address the committee for two minutes. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Iowa is recognized for two minutes.

Mr. GOOD. Mr. Chairman, the amendment which has just been reported applies as properly, or perhaps more properly, to the fortification bill, wherein appropriations are made for the Picatinny Arsenal. I did not know at the time I offered the amendment that there was not a complete understanding by Members on the other side of the House to the effect that this amendment would be accepted by the committee. I was under the impression that there was such an understanding and that it would be accepted, and my impression was that the gentleman from Kentucky [Mr. SHERLEY] had overlooked offering the amendment.

I am more concerned with regard to the adoption of the proposition of the Government manufacturing the larger part of its powder than I am that this particular amendment to this particular bill shall prevail. The provision contained in the fortification bill is the same as I have offered in this amendment with regard to the amount of powder that the Government shall manufacture, and inasmuch as that bill has been unanimously reported to the House and this item has not been thoroughly discussed, I desire to ask unanimous consent to withdraw my amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. GOOD] asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Automatic rifles: For the purchase, manufacture, and test of automatic rifles, including their sights and equipments, to be available until the close of the fiscal year ending June 30, 1915, $150,000.

Mr. HAY. Mr. Chairman, I move to strike out that paragraph.

The amendment was agreed to.

The Clerk read as follows:

Ammunition for field artillery for Organized Militia: For procuring reserve ammunition for field artillery for the Organized Militia of the several States, Territories, and the District of Columbia, $500,000.

Mr. HAY. Mr. Chairman, I offer the following amendment to take the place of the last item just read.

The CHAIRMAN. The gentleman will send the amendment to the desk.

The Clerk read as follows:

Page 44, strike out all of lines 3, 4, 5, and 6, which read as follows: "Ammunition for field artillery for Organized Militia: For procuring reserve ammunition for field artillery for the Organized Militia of the several States, Territories, and the District of Columbia, $500,000," and insert in lieu thereof the following: "Ammunition for field artillery for Organized Militia: For procuring reserve ammunition for field artillery for the Organized Militia of the several States, Territories, and the District of Columbia, $500,000; the funds to be immediately available and to remain available until the end of the fiscal year ending June 30, 1915."

Mr. MANN. I reserve a point of order upon the amendment.

Mr. HAY. I will state to the gentleman that the Acting Chief of Ordnance sent that amendment to me, with the explanation that in order to assemble the various materials for the manufacture of this ammunition it was necessary to have this appropriation available as soon as possible, in order to begin the manufacture at the beginning of the fiscal year.

Mr. MANN. What is the object in having it available until the end of the fiscal year 1915?

Mr. HAY. For the same reason.

Mr. MANN. That is not made in another powder factory, is it?

Mr. HAY. As I understand it, the cases in which this ammunition is included can be manufactured more cheaply outside, but they can not be assembled within the fiscal year. The ammunition is not the same as that for small arms. It is an

ammunition that takes time to manufacture, and in order to assemble the parts of it it is important that contracts should run from one year to another.

Mr. MANN. Is that done as to ammunition in any other case?

Mr. HAY. Not in this bill. I do not know how it is in the fortification bill. This is the only ammunition in this bill for Field Artillery or for any other kind of Artillery. As I understand it, the Ordnance Department finds it necessary to continue the manufacture from year to year and to run from one year to another, and it will be much cheaper and better to do it in that way.

Mr. MANN. What I want to get at, if possible, is whether it is proposed to differentiate this from other appropriations for ammunition.

Mr. HAY. Only this kind of ammunition. As I say, there is no other ammunition appropriated for in this bill for Artillery except this. All the other ammunition carried in this bill is for small arms.

Mr. MANN. I withdraw the point of order, Mr. Chairman.

The CHAIRMAN. The point of order is withdrawn. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HAY. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The gentleman from Virginia will send the amendment to the desk.

The Clerk read as follows:

Insert as a new paragraph at the end of the bill the following:

"The sum of $13,913.25, a part of the sum of $200,000 appropriated by the act of March 3, 1909, for automatic rifles and set aside by the Ordnance Department for payment of royalties, is hereby made available for the payment of such royalties on automatic rifles completed during the fiscal year 1912: *Provided*, That hereafter appropriations made by the Ordnance Department shall be available for the payment of royalties on royalty contracts made during the availability of such appropriaton."

Mr. MANN. I reserve the point of order.

The CHAIRMAN. The point of order is reserved.

Mr. HAY. I will state to the gentleman that this is an estimate sent down by the Secretary of War to the Secretary of the Treasury to meet a decision of the Comptroller of the Treasury that all royalties must be paid from appropriations available at the time of completion of the article on which the royalty is due. I propose to amend that amendment by striking out the proviso that provides that "hereafter all royalties," and so forth, so that it will only apply to that one particular case.

Mr. MANN. Mr. Chairman, I withdraw the point of order.

Mr. HAY. Mr. Chairman, I move to amend the amendment by striking out the proviso.

The CHAIRMAN. Without objection, that modification will be made.

There was no objection.

The amendment as modified was agreed to.

Mr. HAY. Mr. Chairman, I ask unanimous consent that where in the bill in the various amounts there are two ciphers after the period they may be stricken out, as I understand it causes confusion and some trouble about having the bill enrolled.

Mr. MANN. The gentleman means that where there are two ciphers in the place of cents that they go out of the bill?

Mr. HAY. Yes.

Mr. MANN. I think that is a wise thing to do.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the minor correction to which he refers shall be made. Is there objection?

There was no objection.

Mr. MOON of Tennessee. Mr. Chairman, I offer the following, which I send to the Clerk's desk, as an independent section to follow the end of the bill.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert as a new section at the end of the bill the following:

"The Secretary of War, in his discretion, may loan or grant the temporary use of tents and other camp equipage belonging to the United States to any organization of the Grand Army of the Republic and to the Confederate Veterans: *Provided*, That no cost or expense shall accrue to the United States on account of said loan or temporary use of said tents, equipage," etc.

Mr. MANN. Reserving a point of order, may I ask the gentleman, Does this have in contemplation the meeting at Gettysburg?

Mr. MOON of Tennessee. It has in contemplation the meeting of the Confederate Veterans and the Grand Army of the Republic and the Army of the Cumberland at Chickamauga primarily, but it is drawn so as to give the use of the tents and equipage at Gettysburg or anywhere else.

Mr. MANN. If the gentleman will confine it to Chickamauga, I have no objection; but my recollection is that we appropriated money last year for the meeting at Gettysburg providing for this same thing. Under the gentleman's amendment that money could not be expended.

Mr. MOON of Tennessee. This does not call for the expenditure of any money.

Mr. MANN. No; but we have appropriated money for the purpose of furnishing these things both to the Union and the Confederate soldiers at the meeting at Gettysburg. The gentleman's amendment provides for the use of these articles without any expense to the Government, and that would forbid the expenditure of money which we have appropriated for that purpose.

Mr. MOON of Tennessee. I did not know about anything of that sort and have no disposition to do anything of that kind. In order to avoid that trouble I will ask to modify my amendment by making it apply only to Chattanooga and Chickamauga Park during the year 1913.

Mr. MANN. That is for the one occasion?

Mr. MOON of Tennessee. Yes.

Mr. KENDALL. Will the gentleman yield?

Mr. MOON of Tennessee. I will.

Mr. KENDALL. Would not the terms of this amendment require both the Grand Army and the Confederate Veterans to apply?

Mr. MOON of Tennessee. I think not; but if the gentleman thinks so the word "and" may be stricken out and the word "or" put in its place.

Mr. MANN. That would not do, for then only one could get it.

Mr. KENDALL. That is not the purpose of the gentleman from Tennessee. He wants to make them available to both the Grand Army and the Confederate Veterans. By using the word "and" it might be interpreted that only one could get it.

Mr. MOON of Tennessee. I do not think so, because it does not say jointly, and I do not think it would be so construed.

The CHAIRMAN. The Clerk will report the amendment changed by the gentleman from Tennessee.

The Clerk read as follows:

The Secretary of War, in his discretion, may loan or grant for temporary use at Chattanooga and at Chickamauga and Chattanooga Park for the year 1913, tents and other equipage belonging to the United States, etc.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee as modified.

The amendment was agreed to.

Mr. HAY. Mr. Chairman, I move that the committee do now rise and report the bill with amendments to the House, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914, and had directed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. HAY. Mr. Speaker, I demand the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER. Is there a separate vote demanded on any amendment?

Mr. LEVY. Mr. Speaker, I demand a separate vote on the amendment which was adopted at the end of line 17, page 24, after the figures "$7,634,553," which reads as follows:

Provided, That no part of this or any other appropriation shall be expended in payment for heat and light for quarters of officers who receive commutation of quarters.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the other amendments will be voted on in gross.

The question is on agreeing to the amendments, except that upon which a separate vote is demanded.

The question was taken, and the amendments were agreed to.

The SPEAKER. The question now is on the amendment which the Clerk has reported and on which the gentleman from New York demands a separate vote.

The question was taken; and on a division (demanded by Mr. LEVY) there were—ayes 49, nays 63.

Mr. WEBB. Mr. Speaker, I demand the yeas and nays.

Mr. RODDENBERY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Georgia makes the point of order that there is no quorum present. Evidently there is no quorum present. The Doorkeeper will close the

doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. The question is on the amendment, on which the gentleman from New York demands the separate vote.

The question was taken; and there were—yeas 84, nays 142, answered "present" 10, not voting 147, as follows:

YEAS—84.

Aiken, S. C.	Dickson, Miss.	Kendall	Ruley
Anderson	Dies	Konop	Saunders
Barnhart	Difenderfer	Kopp	Scott
Beall, Tex.	Doughton	Lever	Sheppard
Boehne	Faison	Lindbergh	Sherwood
Booher	Floyd, Ark.	Lloyd	Sims
Buchanan	Foster	McLaughlin	Sisson
Burke, S. Dak.	Garner	Macon	Stedman
Burke, Wis.	Garrett	Maguire, Nebr.	Stephens, Miss.
Byrnes, S. C.	Good	Martin, S. Dak.	Stephens, Tex.
Byrns, Tenn.	Goodwin, Ark.	Mays	Stone
Callaway	Gray	Mondell	Thomas
Candler	Green, Iowa	Morse, Wis.	Tribble
Claypool	Gregg, Tex.	Moss, Ind.	Vare
Cline	Gudger	Murdock	Volstead
Cox	Hardy	Neeley	Warburton
Danforth	Helm	Norris	Webb
Daugherty	Hensley	Nye	Wilson, Pa.
Davenport	Jackson	Page	Witherspoon.
Denver	Jacoway	Rauch	Young, Kans.
Dickinson	Jones	Roddenbery	Young, Tex.

NAYS—142.

Adamson	Driscoll, M. E.	Howell	Powers
Ainey	Dupré	Hughes, Ga.	Pray
Alexander	Dyer	Humphrey, Wash.	Prince
Allen	Edwards	Humphreys, Miss.	Raker
Ayres	Esch	Kindred	Ransdell, La.
Barchfeld	Estopinal	Kinkaid, Nebr.	Rees
Bartlett	Evans	Kinkead, N. J.	Reilly
Bell, Ga.	Fairchild	Knowland	Roberts, Nev.
Blackmon	Ferguson	Konig	Rothermel
Borland	Ferris	Korbly	Rouse
Bradley	Fitzgerald	Lafferty	Rucker, Colo.
Brown	Flood, Va.	La Follette	Russell
Bulkley	Foss	Lawrence	Sharp
Burgess	Fowler	Lee, Pa.	Sherley
Burleson	French	Lenroot	Simmons
Butler	Fuller	Levy	Sloan
Campbell	Gallagher	Lobeck	Small
Cannon	Gardner, N. J.	Loud	Smith, Saml. W.
Cantrill	Gill	McDermott	Sparkman
Carlin	Godwin, N. C.	McGillicuddy	Stanley
Cary	Greene, Mass.	McKenzie	Steenerson
Cooper	Greene, Vt.	McKinney	Stephens, Cal.
Crumpacker	Guernsey	Madden	Sterling
Curley	Hamill	Miller	Stevens, Minn.
Currier	Hamilton, Mich.	Moon, Tenn.	Taggart
Curry	Hamlin	Moore, Pa.	Talcott, N. Y.
Davidson	Hartman	Morgan, La.	Taylor, Ala.
Davis, Minn.	Hay	Morgan, Okla.	Taylor, Ohio
Davis, W. Va.	Hayden	Morrison	Thistlewood
De Forest	Helgesen	Mott	Tilson
Dent	Henry, Conn.	Olmsted	Towner
Dodds	Henry, Tex.	O'Shaunessy	Watkins
Donohoe	Higgins	Padgett	Willis
Doremus	Hinds	Patton, Pa.	Young, Mich.
Draper	Holland	Porter	
Driscoll, D. A.	Howard	Post	

ANSWERED "PRESENT"—10.

Browning	McCall	Mann	Talbott, Md.
Dwight	McGuire, Okla.	Murray	
Langley	McMorran	Parran	

NOT VOTING—147.

Adair	Gardner, Mass.	Langham	Riordan
Akin, N. Y.	George	Lee, Ga.	Roberts, Mass.
Ames	Gillett	Legare	Rodenberg
Andrus	Glass	Lewis	Rucker, Mo.
Ansberry	Goeke	Lindsay	Sabath
Anthony	Goldfogle	Linthicum	Scully
Ashbrook	Gould	Littlepage	Sells
Austin	Graham	Littleton	Shackleford
Bartholdt	Gregg, Pa.	Longworth	Slayden
Bates	Griest	McCoy	Slemp
Bathrick	Hamilton, W. Va.	McCreary	Smith, J. M. C.
Berger	Hammond	McKellar	Smith, Cal.
Brantley	Hardwick	McKinley	Smith, N. Y.
Broussard	Harris	Maher	Smith, Tex.
Burke, Pa.	Harrison, Miss.	Martin, Colo.	Speer
Burnett	Harrison, N. Y.	Matthews	Stack
Calder	Hart	Merritt	Stephens, Nebr.
Carter	Haugen	Moon, Pa.	Sulloway
Clark, Fla.	Hawley	Moore, Tex.	Sweet
Clayton	Hayes	Needham	Switzer
Collier	Heald	Nelson	Taylor, Colo.
Conry	Heflin	Oldfield	Thayer
Copley	Hill	Palmer	Townsend
Covington	Hobson	Patten, N. Y.	Turnbull
Crago	Houston	Payne	Tuttle
Cravens	Howland	Pepper	Underhill
Cullop	Hughes, W. Va.	Peters	Underwood
Dalzell	Hull	Pickett	Vreeland
Dixon, Ind.	James	Plumley	Weeks
Ellerbe	Johnson, Ky.	Pou	Whitacre
Farr	Johnson, S. C.	Prouty	White
Fields	Kahn	Pujo	Wilder
Finley	Kennedy	Rainey	Wilson, Ill.
Focht	Kent	Randell, Tex.	Wilson, N. Y.
Fordney	Kitchin	Redfield	Wood, N. J.
Fornes	Lafean	Reyburn	Woods, Iowa
Francis	Lamb	Richardson	

So the amendment was rejected.

The Clerk announced the following pairs:

Ending February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Until further notice:

Mr. MURRAY with Mr. HARRIS.

Mr. RAINEY with Mr. MCCALL.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. KITCHIN with Mr. FORDNEY.

Mr. HOBSON with Mr. AUSTIN.

Mr. FORNES with Mr. WILDER.

Mr. PUJO with Mr. MCMORRAN.

Mr. CONRY with Mr. LANGHAM.

Mr. UNDERWOOD with Mr. MANN.

Mr. SCULLY with Mr. BROWNING.

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. FIELDS with Mr. LANGLEY.

Mr. HULL with Mr. NEEDHAM.

Mr. ADAIR with Mr. BARTHOLDT.

Mr. ANSBERRY with Mr. BATES.

Mr. ASHBROOK with Mr. BURKE of Pennsylvania.

Mr. BATHRICK with Mr. AMES.

Mr. BURNETT with Mr. CALDER.

Mr. BROUSSARD with Mr. COPLEY.

Mr. CLARK of Florida with Mr. CRAGO.

Mr. CLAYTON with Mr. FOCHT.

Mr. COLLIER with Mr. WOODS of Iowa.

Mr. COVINGTON with Mr. FARR.

Mr. CULLOP with Mr. GILLETT.

Mr. DIXON of Indiana with Mr. DALZELL.

Mr. FINLEY with Mr. SULLOWAY.

Mr. GEORGE with Mr. SMITH of California.

Mr. GLASS with Mr. SLEMP.

Mr. GOLDFOGLE with Mr. GRIEST.

Mr. GRAHAM with Mr. HAUGEN.

Mr. HAMMOND with Mr. HAWLEY.

Mr. HARDWICK with Mr. MCCREARY.

Mr. HARRISON of Mississippi with Mr. MCKINLEY.

Mr. HEFLIN with Mr. MATTHEWS.

Mr. HOUSTON with Mr. MERRITT.

Mr. JAMES with Mr. MOON of Pennsylvania.

Mr. JOHNSON of Kentucky with Mr. NELSON.

Mr. LEE of Georgia with Mr. PICKETT.

Mr. LEWIS with Mr. PLUMLEY.

Mr. LINTHICUM with Mr. PROUTY.

Mr. MCCOY with Mr. ROBERTS of Massachusetts.

Mr. OLDFIELD with Mr. REYBURN.

Mr. PATTEN of New York with Mr. RODENBERG.

Mr. PEPPER with Mr. SPEER.

Mr. PETERS with Mr. SWITZER.

Mr. POU with Mr. VREELAND.

Mr. SABATH with Mr. WILSON of Illinois.

Mr. RUCKER of Missouri with Mr. WEEKS.

Mr. SLAYDEN with Mr. WOOD of New Jersey.

Mr. SMITH of New York with Mr. HAYES.

Mr. SMITH of Texas with Mr. HEALD.

Mr. STEPHENS of Nebraska with Mr. HUGHES of West Virginia.

Mr. TAYLOR of Colorado with Mr. KAHN.

Mr. TOWNSEND with Mr. KENNEDY.

Mr. TUTTLE with Mr. LAFEAN.

Mr. UNDERHILL with Mr. SELLS.

Mr. BRANTLEY with Mr. ANTHONY.

Mr. WHITE with Mr. J. M. C. SMITH.

For the session:

Mr. PALMER with Mr. HILL.

Mr. LITTLETON with Mr. DWIGHT.

Mr. RIORDAN with Mr. ANDRUS.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. MCCALL. Mr. Speaker, I voted "no," but I am paired with Mr. RAINEY, so I would like to change my vote and answer "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. MCCALL was called and he answered "Present."

Mr. MURRAY. Mr. Speaker, is Mr. HARRIS, of Massachusetts, recorded?

The SPEAKER. He is not recorded.

Mr. MURRAY. I desire to change my vote and answer "present."

The SPEAKER. How did the gentleman vote?

Mr. MURRAY. I voted "no."

The SPEAKER. Call the gentleman's name.

The name of Mr. MURRAY was called, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present, the Doorkeeper will open the doors, and the question is on the engrossment and third reading of the amended bill.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HAY, a motion to reconsider the vote by which the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, Mr. FERGUSSON was granted leave of absence for two days, on account of important business.

REPORT OF THE PHILIPPINE COMMISSION, 1912 (H. DOC. NO. 1293).

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with the accompanying papers, ordered printed, and referred to the Committee on Insular Affairs.

The Clerk read as follows:

To the Senate and House of Representatives:

I transmit herewith, for the information of the Congress, the Thirteenth Annual Report of the Philippine Commission for the fiscal year ended June 30, 1912, together with the reports of the governor general and the secretaries of the four executive departments of the Philippine Government for the same period.

WM. H. TAFT.

THE WHITE HOUSE, *January 21, 1913.*

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 26680, for the purpose of disagreeing to the Senate amendments and asking for a conference.

The SPEAKER. The Chair lays before the House the bill H. R. 26680. The Clerk will report it by title.

The Clerk read as follows:

A bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The SPEAKER. The gentleman from South Carolina moves to disagree to all the Senate amendments and asks for a conference.

Mr. MANN. Mr. Speaker, I desire to have a separate vote on amendments Nos. 31 and 68.

The SPEAKER. The gentleman from Illinois asks for a separate vote on amendment No. 31 and amendment No. 68. The Clerk will report amendment No. 31.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield for a moment?

The Clerk read as follows:

Amendment 31, Page 15, line 4, strike out "$2,500" and insert "$3,000."

The SPEAKER. For what purpose does the gentleman from Illinois [Mr. FOSTER] rise?

Mr. FOSTER. I want to ask the gentleman from Illinois if he did not want to include the three items—31, 32, and 33?

Mr. MANN. Well, I think if the House would express its opinion on one, that would be a guide to the conferees.

The SPEAKER. The Clerk will report the amendment again, there was so much uproar in the House.

The amendment was again reported.

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT. Mr. Speaker, is this a proposition for unanimous consent? Is this a proceeding by unanimous consent, or how is it?

The SPEAKER. Ordinarily this would have to go to the committee, but the gentleman from South Carolina asked unanimous consent to consider it in the House.

Mr. BARTLETT. Is it to disagree to all the amendments?

The SPEAKER. The gentleman asked to disagree to all the amendments, but the gentleman from Illinois [Mr. MANN] asked for a separate vote on two.

Mr. BARTLETT. That is done by unanimous consent, too?

The SPEAKER. The whole thing is done by unanimous consent. Is there objection?

Mr. MARTIN of South Dakota. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MARTIN of South Dakota. Was the request of the gentleman from South Carolina for unanimous consent put to the House?

The SPEAKER. It never was.

Mr. RODDENBERY. Mr. Speaker, I reserve the right to object for the purpose of making an inquiry. Is the amendment just reported the amendment where, in conference, an increase of salary has been allowed to certain employees on the House side that was not considered in the House?

Mr. MANN. The amendment on which I asked for a separate vote was one of the amendments inserted by the Senate for employees. I asked for a separate vote on one of these amendments, for an additional employee to the Committee on the Judiciary, as a guide to the conferees, thinking that one vote would be sufficient.

The SPEAKER. Is there objection to considering this motion in the House as in the Committee of the Whole?

Mr. RODDENBERY. Mr. Speaker, if I can proceed somewhat further I can announce whether I object or do not object. I would like to inquire as to the items in order that the Members may understand what is involved in expressing themselves for or against the request of the gentleman from Illinois [Mr. MANN], who makes it. I would like to know if that is on an amendment on this bill put in by the Senate, increasing the salary of a certain clerk to one of the committees of the House, namely, the Judiciary Committee?

Mr. MANN. That is correct.

Mr. RODDENBERY. And the gentleman is now desiring to get an expression of the House before it goes to conference on that amendment?

Mr. MANN. That is correct.

Mr. RODDENBERY. The House never having expressed itself upon that point?

Mr. MANN. That is right.

Mr. GARNER. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. GARNER. If unanimous consent is given as requested by the gentleman from South Carolina [Mr. JOHNSON], will it be subject to discussion on this separate vote suggested by the gentleman from Illinois [Mr. MANN]?

Mr. MANN. It will, unless the House orders the previous question.

Mr. RODDENBERY. Mr. Speaker, that is the difficulty. I have no disposition to interfere with an expression of the House, but to call up an amendment coming from the Senate and have the House express itself on it when it has never been considered or discussed in the House, it seems to me a rather dangerous procedure.

Mr. MANN. If the gentleman from Georgia [Mr. RODDENBERY] will permit. We are about having a separate vote on that now. If it goes to conference without it the House may never have an opportunity to express its opinion on it. That is the reason I ask a separate vote.

Mr. RODDENBERY. I will ask the gentleman if no objection is filed and if the gentleman from South Carolina [Mr. JOHNSON] or another gentleman moves the previous question, where we will stand?

Mr. MANN. If the House orders the previous question, of course it would be decided without debate, but I take it that that course will not be pursued.

Mr. FOWLER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FOWLER. If there should be an objection to the consideration of the motion by the gentleman from South Carolina, would this bill not be subject to a point of order, and be required to be sent to the Committee of the Whole House on the state of the Union?

The SPEAKER. It would go to the Committee on Appropriations.

Mr. FITZGERALD. I think the gentleman misunderstands. This amendment would not be subject to a point of order in the present condition if in the Committee of the Whole House on the state of the Union. The only thing that can be done is to vote on the amendments that they be considered in the House or in the committee. This is the more expeditious way of ascertaining the sentiment of the House in regard to these matters.

The SPEAKER. The Chair will state to the gentleman from Illinois [Mr. FOWLER] that if the motion of the gentleman from South Carolina [Mr. JOHNSON] prevails, this will be open for debate and discussion, the same as any other proposition, unless some gentleman moves the previous question.

Mr. FOWLER. If unanimous consent should not be granted then, under Rule XX, would not this bill be referred to the committee and reported back with these amendments to be considered in the Committee of the Whole House on the state of the Union?

The SPEAKER. If objection is made to the request of the gentleman from South Carolina for unanimous consent to consider this in the Committee of the Whole House on the state of the Union, then it goes, in the first instance, to the Committee on Appropriations, and then, when it gets back to the House,

inasmuch as it involves the appropriation of money, it would have to be considered in the Committee of the Whole House on the state of the Union unless somebody gets permission to consider it in the House as in the Committee of the Whole.

Mr. FOWLER. Mr. Speaker, I do not desire to object, but I give notice that when the Senate adopts something like 200 or 300 amendments hereafter I shall object, unless there is an opportunity given for a consideration of those amendments.

The SPEAKER. Is there objection?

Mr. SISSON. Mr. Speaker, I do not know just exactly how this matter got in, or why the Senate should assume authority over House employees. This matter ought to have been considered in the Committee on Appropriations originally. Now, I would like to know from the chairman of the committee who has this bill in charge how much it would delay the passage of this bill to let it go back to the Committee on Appropriations?

Mr. JOHNSON of South Carolina. I can not answer that question, Mr. Speaker. I think this House is fairly full now, and it can vote on this proposition now as well as it can after bringing the bill back from the Committee on Appropriations.

Mr. SISSON. And the gentleman's proposition is to disagree to all the Senate amendments except this one?

Mr. JOHNSON of South Carolina. I asked to disagree to all the Senate amendments. The gentleman from Illinois [Mr. MANN] wants a separate vote on this particular amendment as an instruction to the House conferees not to agree to it, whatever else they may do.

Mr. SISSON. I have no objection to that course.

The SPEAKER. Is there objection. [After a pause.] The Chair hears none.

Mr. FOWLER. Mr. Speaker, I object to the consideration of the bill, and ask that it be referred to the Committee on Appropriations.

Mr. FITZGERALD. Mr. Speaker, will the gentleman withhold his objection? It may be that the gentleman believes that after the bill is reported from the Committee on Appropriations and these items are taken up in the Committee of the Whole House on the state of the Union these increases are subject to a point of order.

Mr. RODDENBERY. Mr. Speaker, I object.

The SPEAKER. The gentleman from Georgia [Mr. RODDENBERY] has settled this controversy by objecting.

Mr. RODDENBERY. Having found out the attitude of the gentleman from New York [Mr. FITZGERALD] on this particular question, Mr. Speaker, I object.

Mr. FITZGERALD. Mr. Speaker, I think the gentleman misunderstands what I am saying.

Mr. RODDENBERY. I do not fully understand what the gentleman has been saying, except that I understand that the gentleman wants the motion submitted, and because this had been put on in the Senate without reference to the House I object.

Mr. FITZGERALD. If the gentleman will withhold his objection until I make a statement, I shall be glad.

The SPEAKER. Does the gentleman withhold his objection?

Mr. RODDENBERY. Yes; I withhold the objection.

Mr. EDWARDS. Mr. Speaker, I object.

The SPEAKER. The gentleman from Georgia [Mr. EDWARDS] objects, and the bill is referred to the Committee on Appropriations.

RIVER AND HARBOR BILL.

Mr. SPARKMAN rose.

The SPEAKER. The gentleman from Florida [Mr. SPARKMAN] is recognized.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes; and, pending that, I ask unanimous consent that general debate be limited to an hour and a half, one half to be controlled by myself and the other half by the gentleman from Massachusetts [Mr. LAWRENCE].

The SPEAKER. The gentleman from Florida [Mr. SPARKMAN] moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 28180, the river and harbor bill; and, pending that, he asks unanimous consent that general debate be limited to an hour and a half. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the motion of the gentleman from Florida.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 28180, the river and harbor bill, with Mr. MOON of Tennessee in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the river and harbor bill, of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

Mr. SPARKMAN. Mr. Chairman, I ask that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Florida [Mr. SPARKMAN] asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

[Mr. SPARKMAN addressed the committee. See Appendix.]

Mr. SPARKMAN. Now, Mr. Chairman, I should like to ask if I have any time left; and if so, how much?

The CHAIRMAN. The gentleman has eight minutes left.

Mr. SPARKMAN. Mr. Chairman, I yield those eight minutes to the gentleman from Ohio [Mr. SHARP].

Mr. SHARP. Mr. Chairman, may I ask the gentleman who is at the head of the minority how much of his time I may have? If I should have only eight minutes or a shorter time now, I would rather defer my remarks until later on.

Mr. LAWRENCE. I will state to the gentleman that I do not propose to occupy any time myself in general debate, but I am going to yield just a moment to the gentleman from California [Mr. KNOWLAND], and then I had planned to yield all the balance of my time to the gentleman from Ohio [Mr. SHARP], which would give the gentleman from Ohio practically three-quarters of an hour out of my time.

Mr. SHARP. If the gentleman from California wishes to follow at this time, I will yield to him.

Mr. LAWRENCE. Then, Mr. Chairman, I will now yield to the gentleman from California [Mr. KNOWLAND] five minutes.

The CHAIRMAN. The gentleman from California [Mr. KNOWLAND] is recognized for five minutes.

Mr. KNOWLAND. Mr. Chairman, I rise simply to ask unanimous consent to place in the RECORD articles by two British authorities, dealing with the controverted sections of the Panama Canal bill; articles taken from the Law Magazine and Review, a quarterly review on jurisprudence, published in London.

The CHAIRMAN. The gentleman from California [Mr. KNOWLAND] asks unanimous consent to place in the RECORD certain articles named by him. Is there objection to his request?

There was no objection.

[The articles referred to are printed in the Appendix.]

Mr. KNOWLAND. Mr. Chairman, I yield back the balance of my time to the gentleman from Massachusetts [Mr. LAWRENCE].

Mr. SHARP. Mr. Chairman, I yield one minute to the gentleman from Missouri [Mr. BOOHER].

The CHAIRMAN. The gentleman from Missouri [Mr. BOOHER] is recognized for one minute.

Mr. BOOHER. Mr. Chairman, I want to ask permission to print in the RECORD an article written by Hon. BENJAMIN G. HUMPHREYS, my colleague from Mississippi, entitled "A glance at the richest valley in the world," published in the National Waterways Magazine.

The CHAIRMAN. The gentleman from Missouri [Mr. BOOHER] asks unanimous consent to print in the RECORD the article named by him. Is there objection?

There was no objection.

Following is the article referred to:

A GLANCE AT THE RICHEST VALLEY IN THE WORLD.

[By BENJAMIN G. HUMPHREYS, M. C.]

[Overflowing abundance and overwhelming disaster, prosperity and poverty, life and death, tragedy and humor are strangely mingled in this brief article. The problem is both local and national, and it is one for which a solution must be found, if it be not already known. Congressman HUMPHREYS presents a limited panorama of the Mississippi Valley. He is an entertaining writer and a speaker of great force. What he says is well worth attention. He has represented the third Mississippi district since 1903.—Editor.]

Rollins, the great historian, says that it is glory enough for Philip of Macedon that he be known in history as the "father of Alexander the Great." In like spirit, may not the Mississippi River claim recognition among the rivers of the earth when it can point to the Ohio and Missouri as its tributaries?

Consider one of these—the Ohio, for instance. There are only a few rivers on this earth which actually float a tonnage as

large as the Ohio River, and fewer still which serve the commercial needs of so rich and prosperous a valley.

The commission appointed a few years ago to investigate the reservoirs on the tributaries above Pittsburgh, known as the Pittsburgh Flood Commission, stated rather casually in their report that the flood of 1907 destroyed property in the Ohio River Valley alone which they estimated at $100,000,000. Think of a single valley, a valley on one of our tributary streams, where one flood destroys $100,000,000 in property values, with really no serious or permanent interference with the industrial development or the commercial activities of the people.

When the Iron Chancellor demanded as the price of peace at the end of the Franco-Prussian War that France should pay a war indemnity of a billion dollars all the world stood aghast at what was believed to be the deathblow to that great nation. To-day a spring flood on the Ohio River lays one-tenth that sum as tribute upon the people of this single valley, and not a wheel stops turning nor a furnace fire dies. There were only a limited number of our people outside that valley who knew at the time what this flood was up to, and they forgot about it as soon as the headline artist turned his attention to another theme.

We are spending, or about to spend, some $60,000,000 to secure a 9-foot depth all the way from Pittsburgh to Cairo in order that the millions of tons of raw material and manufactures originating in this valley may find reasonable transportation facilities to the markets. The tonnage which originates on the Ohio River is so great that an exact statement of its total is sure to challenge belief. The tonnage created in the Pittsburgh district alone exceeds the sum originating at any other three places in the world combined.

It will require $60,000,000 to complete the improvement of the Ohio River from Pittsburgh to Cairo, a distance of a thousand miles. The Manchester Ship Canal in England, which cost $75,000,000, is only 35 miles long, and its annual commerce is less than 3,000,000 tons. The Clyde was only 15 inches deep, but at the cost of $70,000,000 it was deepened so as to admit ships from the sea, and Glasgow became the second port of Europe.

Pittsburgh alone originates more tonnage than Manchester and Glasgow combined, and the improvement of the Ohio River will help not only Pittsburgh, but will give a thousand miles of navigation through one of the world's busiest valleys. Last year the tonnage of the Ohio River was about 11,000,000, about five times greater than the tonnage of the Manchester Canal.

A few years ago I saw one boat come out of the Ohio, when the rains had given sufficient depth for temporary navigation, towing 58,000 tons of coal. It would have required 50 locomotives pulling 1,900 cars, to have hauled that load.

No wonder the people of that valley are impatient for the great work of improving this river to be pushed with all possible speed to completion.

MR. HILL AND HIS CLOCK.

Mr. J. J. Hill, the great railroad magnate, and withal a most interesting and farseeing statesman, declared some years ago that the "clock had struck" for the upper Mississippi, by which term we designate that reach of the river above the mouth of the Missouri. Congress refused to accept this diagnosis—or maybe I should say prognosis. At any rate we had not heard the clock strike, and as so many interests were to be affected thereby we demanded strict proof.

To take issue with Mr. Hill on the efficiency of any transportation facility requires some assurance, and so Congress set about to investigate the question critically before adopting the more ambitious project then pending for the improvement of the river. Fortunately the proof seemed to be ample and convincing, and the upper Mississippi is now under improvement for a 6-foot channel.

How was Congress led to this conclusion? Was it proof of politics? Was it to build up commerce or build up fences? Permit me to say this by way of preamble, or prelude, or prologue, as you prefer:

I have served on the Committee on Rivers and Harbors for 10 years, under Republican and Democratic rule, and I have never seen that committee include any river or harbor project in their bill as a matter of political favoritism or expediency or as the result of legislative logrolling. Every project must be approved and recommended by the Board of Engineers of the United States Army before the committee will pass it. The committee must be satisfied that the project is worth the outlay. There is but one way to persuade their will in such matters, and that is to convince their judgment. And now, having tossed this bouquet to my colleagues of this really great committee, let me proceed.

Some years ago I heard the distinguished gentleman from Minnesota, ex-Gov. Lind, on the floor of the House, ask his colleague, Mr. DAVIS, "Where will your farmer neighbors and mine land when 'Pillsbury's Best' has ceased to stand for what it now stands for?" And it was agreed that whatever might seriously impair the world market for "Pillsbury's Best" would work disaster to the wheat farmers of Minnesota. All of which is preliminary to the suggestion that this Pillsbury must evidently be a man of some consequence, as we all, in fact, know him to have been. In testifying before the special committee which was considering the Mississippi River Mr. Pillsbury said this—and a good many others said the same thing and many other things in addition, but for a "short story" this must suffice:

"We consider the presence of the Mississippi River and the fact that it is kept in a navigable condition the great regulator of railroad rates; that the benefits should not be measured by the tonnage as much as by the possibilities of sending the freight by water.

"The amount of flour shipped out of Minneapolis is something enormous—13,000,000 barrels. A great deal of this would go by the Mississippi River unless the railroads maintained the cheapest rate known in the country almost.

"Mr. NELSON. And the Mississippi being there keeps the rates down?

"Mr. PILLSBURY. The fact of the Mississippi being there prevents them from making any combination to maintain excessive rates. The necessity is not so much the amount carried by the steamers as the amount that can be carried."

Railroad rates from the Atlantic seaboard to the Dakotas and the extreme Northwest are made on combinations through St. Paul; that is, the rate to St. Paul plus the rate thence west. The rate to and from St. Paul, however, is materially lowered by reason of the competition by water routes from Duluth through the Lakes. And so it is that the Lakes from Duluth east to the ocean and the river from St. Paul south to the Gulf regulate railroad rates to cities and shippers many hundred miles from either.

HOW THE DEVIL SHOWED MISSOURI.

No river in the world has such a tributary as the Missouri. Winding for 2,400 miles through the greatest granary in the world, draining some dozen States where corn and wheat, hog and hominy enough are produced to fatten the rest of us, it is in many respects the most useful and neglected river of the continent. Sargent Prentiss, the great Whig orator, once declared in a burst of partisanship that when the Almighty created the Mississippi River and the Democratic Party He devoted them both to the service of the devil, and he admitted, facetiously, "that both had kept the faith."

However some of us may resent this thrust at the Democratic Party, the truth is that the Missouri River, which is in fact the Mississippi, has been permitted to so disport itself as to justify no complaint from the Prince of Darkness. It has literally wandered about over the face of the earth like the scriptural lion, seeking whom it might devour.

If you look at the map you will see how the Mississippi has brought down acres and acres of soil, which by successive deposits has gradually encroached upon the sea until many miles of now beautiful farms are stretched along its lower reaches. Engineers tell us that the amount of sediment borne by the Mississippi at its mouth is exactly equal to the amount carried by the Missouri at its mouth, and this is just another way of saying that all the rich plantations along the river below New Orleans and all those vast swamps of cypress and jungle were caved into the Missouri River in the years gone by and transported to the sea.

What this toll has cost the farmers of Iowa and Nebraska and their neighbors can not be measured, but it has been tremendous. Mr. S. Waters Fox, a civil engineer, who for 25 years was employed by the Government on the Missouri River work, places it at 10,420 acres annually in the 807 miles from its mouth to Sioux City.

Still it is argued that this isn't any of Uncle Sam's business at last. But it is. Listen to this: There is but one way to improve the Missouri for navigation—only one way. All of the engineers are agreed on that. Revet the banks, and so prevent further caving. What will this cost? Twenty millions from the mouth to Kansas City. Is the game worth the candle?

HOW MUCH IS $15,000,000,000?

This is a great valley, this Mississippi Valley. There is nothing like it upon the earth. It equals in area the combined areas of Austria, Germany, Holland, France, Italy, Portugal, Spain, Norway, and Great Britain. The annual value of its manufactures had in 1910 reached the enormous total of seven and a half billion dollars.

Too much to comprehend. We can not take in just what that means. Let us speak in different terms. What is seven and a half billion dollars? It would equal the total appropriations for the War and Navy Departments from 1861 to 1865 plus the appropriations for these departments in 1898 and 1899, the period of the Spanish War, plus the appropriations which have been made for all the rivers and all the harbors from the beginning of the Government to date, plus the cost of the Panama Canal, and even then we would have a balance remaining large enough to pay off the national debt. This is what seven and a half billion dollars amounts to.

But in addition to this, this valley produces 85 per cent of the corn raised in the United States, 75 per cent of the wheat, 70 per cent of the live stock, 70 per cent of the cotton, 70 per cent of the iron ore, 70 per cent of the petroleum, 50 per cent of the copper, 50 per cent of the lumber, 50 per cent of the coal, and has 70 per cent of the farm areas and farm values of this country. The total value of all the products of this valley is $15,000,000,000 annually.

Every pound of this $15,000,000,000 worth of products is affected by the transportation facilities at hand. There are 150,000 miles of railroads in this valley which are trying to transport these products and bring into the valley whatever is needed from the rest of the world in exchange. Can they do it? No; they can not; but suppose they could, suppose they do.

Mr. H. G. Wilson, for many years an official in the freight traffic department of the Kansas City, Fort Scott & Memphis Railroad, is recognized as one of our most efficient authorities on the subject of transportation rates. In an address before the Rivers and Harbors Committee of Congress two years ago he stated that railroad rates from the territory known as "seaboard territory" (lying east of Pittsburgh and Buffalo) to points as far west as Galena, Kans., and Denver, Colo., were all affected by the water transportation of the Mississippi River, and that 5,000,000 tons of traffic across Missouri points into the Southwest were materially lowered by the potential competition furnished by the physical presence of the Missouri River.

After a good deal of cross-questioning on all related subjects, the late Senator Frye, then chairman of the Commerce Committee, brought Mr. Wilson directly to the point:

"The CHAIRMAN. Well, now, what about the Missouri River? How is that going to help you out? What do you want done about that?

"Mr. WILSON. As far as the commercial situation is concerned, a transportation line operated on the Missouri River, a waterway carrier being effective, having sufficient capacity to carry—and, in fact, carrying—a sufficient quantity of tonnage to make that tonnage noticeable to the rail carriers, will exert an influence on the rail lines, forcing them to meet the competition so established, which will result in a lowering of the freight rates, not only to and from Kansas City and the other southwestern Missouri River points but to and from all of the trade territories in the Southwest—Kansas, Oklahoma, Texas, Denver (Colo.), New Mexico, Arizona, and Nebraska. All of this territory, all of these States, will be benefited by a reduction in the freight rates."

I believe he answered the question.

THE FATHER OF WATERS AND THE PASSOVER.

From Cairo south the Mississippi traverses the most fertile valley in the world. I use the word "traverses" advisedly. Mr. Webster says traverse means "to cross, to pass over," and that is what this big river does. Last spring it "passed over" some 14,000 square miles of the most productive lands in the world. At one time during this passover the Secretary of War was furnishing food and shelter to 161,000 of our citizens who had been made homeless and helpless by the flood. How many millions of property values were lost and destroyed nobody knows, and nobody ever will know.

But the loss can not be measured that way. There were many lives lost, many homes destroyed, many hopes turned to despair. If it were not for its marvelously productive soil, which renders its recuperative powers therefore beyond compare, this valley would be abandoned to the wilderness and its denizens. But it is blessed with a gentle climate; the rains fall in season and the sunshine warms into fruitage its abundant crops of corn and cane and whitens its fields of cotton into waving beauty.

There are 26,000 square miles of these lowlands, which, expressed in different terms, means an area larger than Maryland, Delaware, Connecticut, Rhode Island, and Massachusetts combined. All of the lower Mississippi is not lowland, subject to overflow, not by any means. There are broad acres of upland and towns and cities, too, high above such danger. Memphis, Vicksburg, Natchez, Baton Rouge are far beyond the reach of the floods; but in this I speak only of the lowlands.

It would be a foolish thing to provide 9 feet in the Ohio and 6 feet in the upper Mississippi and 12 feet in the Missouri unless we are to secure and maintain a navigable depth in the Mississippi below their confluence. The present adopted project is for 9 feet over the bars, but there are many who are insisting upon "14 feet through the valley." There is but one way to get either. Secure the banks against erosion and confine the waters at all seasons to the channel.

When Gen. Suter, now retired, was a lieutenant colonel in the Engineer Corps of the Army he was set to work on this great problem, and after long and diligent study and experiment he reported as far back as 1890 that the river could not be improved without levees. I quote the record:

"Senator GIBSON. You stated a moment ago, in reply to a question by the chairman, that if you were improving the Mississippi River, even if it were running through a wilderness, if the country through which it ran were not peopled, you would still build levees on the banks?

"Lieut. Col. SUTER. Yes, sir.

"Senator GIBSON. Why do you hold that opinion?

"Lieut. Col. SUTER. Because I consider that the improvement of the stream for navigable purposes without it is impossible."

But it does not run through a wilderness. The riparian owners of the lower valley have been busy conjuring up different systems of taxation whereby money enough could be taken from their fields to build these levees high enough and strong enough to prevent further disaster from recurring overflows. In this way they have raised and put into these levees some sixty-odd million dollars since the close of the Civil War, which left the old levee system totally destroyed. But all through the upper valley there has been a most rapidly advancing civilization. The peoples of all the world have been attracted there, and the barren prairies and the trackless forests have both been subdued by the energies of man and brought under productive cultivation.

Under the stimulus of scientific study and intelligent experiment the drainage of vast areas has been undertaken. The bends have been cut off in the natural channels, main canals have been dug, the farms undertiled, and now when the rain falls instead of lagging superfluous in innumerable slashes and undrained swamps serving as natural reservoirs, it rushes into the tributaries and down the great river, bringing destruction to the farmers of the lower valley. The greatest of all floods, for instance, was the one just passed, 1912. Mr. Moore, Chief of the Weather Bureau at Washington, says that this flood was caused by "six rainstorms in the upper valley, which fell between March 10 and April 2, a period of three weeks."

These floods, thus precipitated upon the lower valley, wash away the banks, tumble the levees into the river, and verify all that Prentiss said about the river.

Col. Leach, of the Engineer Corps of the Army, said before the Senate committee:

"I may say generally with regard to the history of the levee system that over three-fourths, probably, of the entire sum of money expended by the States in the last 10 or 15 years in the construction of levees would have been saved if the United States had prevented the banks from caving."

Of course the planter in the lower valley does not wish to see the farmer in the upper valley injured by the surplus water which can be carried off by drainage, nor does the farmer in the upper valley at all relish the idea of destroying his brother farther down the river by turning this surplus water upon him too precipitately. What they both most earnestly desire is that out of the common Treasury of all the people the Congress shall appropriate money enough to so improve the river, which is the Nation's drainage ditch, that this surplus water may pass out to sea between permanent leveed banks.

To complete the levee system so as to bring it up to the grade and section believed to be strong enough to do this will require about $35,000,000. There are just about 35,000,000 people in the whole valley, and they would be very willing to contribute their per capita, 35 cents annually for the next three years, and that would settle it.

There are 15,000 miles of tributaries of this great stream, but I have touched only on those which are most prominent now in the public mind, leaving 10,000 miles of the Arkansas, the Red, the Yazoo, the White, and others of less tonnage and national concern.

I fear I have already overstepped the reasonable limitations of a short story. For this I must plead as excuse a lack of time to bring this article to a shorter measure.

Senator Morgan, of Alabama, was once asked how long he could speak on a certain subject. "If I had time to thoroughly digest the subject and prepare my address, I think I could talk for three days," he replied.

"But if you had no such time for preparation how long could you speak?

"Oh, indefinitely."

Mr. SHARP. Mr. Chairman, I yield one minute of my time to the gentleman from Georgia [Mr. TRIBBLE].

Mr. TRIBBLE. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by inserting an address delivered by Miss Mildred Lewis Rutherford, historian general of the United Daughters of the Confederacy, entitled "History relating to the War between the States."

The CHAIRMAN. The gentleman from Georgia [Mr. TRIBBLE] ask unanimous consent to print in the RECORD the article mentioned by him. Is there objection?

There was no objection.

[The address referred to is printed in the Appendix.]

Mr. SHARP. Mr. Chairman, I wish first to express my appreciation of the courtesy which has been so generously extended to me by both the gentlemen representing the majority and minority of this committee in yielding so much of the time to me. Although taking up one-half of the whole time allotted for general debate may seem as though it was an unwarranted consumption of the time of the House considering the need of expedition; yet if the grant of time that has been given to me is unfortunate in a personal sense, still the subject on which I wish to speak is worthy, not only of the most considerate attention of Members, but of many hours of the time of this House. Indeed this is one of the most important of all the appropriation bills, as the chairman of the committee has taken occasion to say, involving each year one of the largest items of our public expense.

I listened with much interest to the manly apology—I will put it in that way, although perhaps it does not deserve that name and was not so intended—of the worthy gentleman who is the chairman of this committee [Mr. SPARKMAN]. I can assure him that in so far as the precedent for the action of his committee, or the motives governing that action in reporting out the bill, comprehensive and large as it is, are concerned, no apology is needed. But if I may be permitted to read between the lines of his comments upon the features of this bill, I would say, rather, that the reason which prompted that apology, if I may again use that expression, comes from the fact that there is a generally recognized impression among the people at large that for some reason or other these appropriations are altogether too large for the benefits received, and that the few are getting special favors who ought to reimburse the Government therefor. And it is upon that phase of this subject that I wish to address my remarks this afternoon.

Of all subjects concerning which Congress has to deal in a legislative way, it seems to me that there is none more important than that of taxation and all that it involves. The very word itself means a contribution from the people, and as such a burden on them. Too often it also means, in a correlative sense, the development of an extravagance and a wastefulness of their money. Perhaps no better example could be given of a bill which, especially as it is regarded among the large class of our people who are not directly benefited thereby, comes in for more criticism at its annual appearance upon this floor than the rivers and harbors bill, which, together with its companion, the public-buildings bill, are supposed to be typical of "pork-barrel" legislation.

While what I shall say will have to do necessarily with several phases of the rivers and harbors legislation, yet I shall direct my remarks in the main to its consideration as it involves not only the element of taxation, but the maintenance of a special privilege more in the negative sense from exemption of a just imposition of a tollage system than from any positive action, which, it seems to me, has come to be indefensible. If there has been one complaint emphasized above another, which has been continuously voiced by public sentiment during the past few years, it has been that which has been directed against the so-called special-privilege legislation. It is obvious that such advantages may come from exempting from a just proportionate share of the burden of taxation quite as well as from the positive act granting such privileges to the few as against the many.

At different times, finding the urgent necessity of raising revenue to meet the constantly increasing burden of taxation upon our people, this method and that method have been resorted to in order to raise the revenues to equal these gigantic sums necessary to pay the bills of our billion-dollar Congresses. We have had excise bills, we have had personal income-tax bills amending the Constitution therefor, we have had corporation-tax bills, and we have had for many years that which like the poor we have always with us, the high tariff rates rendered absolutely necessary because of the exigencies presented in running the Government if we would keep our credit good.

We are all familiar with some of the definitions of taxation. I am not going into an abstruse consideration of these definitions as they concern political economy, but if I may take the time, I do want to quote briefly from the words of Mr. Justice Miller in the case of Loan Association v. Topeka, reported in Twentieth Wallace, page 655. Speaking of this power of taxation, he says:

> Of all the powers conferred upon the Government that of taxation is most liable to abuse. Given a purpose or object for which taxation may be lawfully used and the extent of its exercise is in its very nature unlimited. * * * The power to tax is therefore the strongest, the most pervading of all the powers of government, reaching directly or indirectly to all classes of the people. It was said by Chief Justice Marshall, in the case of McCullough v. the State of Maryland, that the power to tax is the power to destroy. * * * This power can as readily be employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there is any implied limitation of the uses for which the power may be exercised.
>
> To lay with one hand the power of the Government on the property of the citizen and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation; it is a decree under legislative forms.

That is the definition of the power of taxation by a former learned judge of the Supreme Court of the United States.

We are familiar with the four maxims laid down by Adam Smith, the noted political economist of England, and it is a coincidence that in the year of the declaration of our national independence, away back in 1776, he gave expression in his Wealth of Nations to these rules governing this power of taxation. The first is the one that is most fundamentally important, and of all the others is most commonly violated:

> The subjects of every state ought to contribute to the support of the government as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state. In the observation or neglect of this maxim consists what is called the equality or inequality of taxation.

Thus wrote Adam Smith nearly a century and a half ago.

That shall be the text of the remarks which I wish to make this afternoon, and it concerns a method of taxation, if I may call it such, which, while a radical innovation in this country as applied to our river and harbor legislation, is quite common in other commercial countries, especially in Europe.

I refer in so many words to the advisability now, if not even the necessity, if we are to keep on with the widespread Government improvements of our rivers and harbors, of taxing the special beneficiaries of these indulgences from the Government according to the measure in which they receive them. There is no more patent reform needed and no more legitimate source of revenue than the levying of what may be called tonnage tolls upon what have been objects of our governmental paternalism since the very creation of the Government. I refer to the shipping interests which have been favored by our Government to an extent unparalleled by any other nation. Let me in other words epitomize my remarks in this single sentence—I would require those who are using our great national waterways for transportation purposes to pay into the Public Treasury a fair amount for the valuable privileges the Government is extending to them every year by the expenditure of many millions of dollars in the improvement of navigation.

Mr. MURRAY. Will the gentleman from Ohio yield?

Mr. SHARP. My time is very brief.

Mr. MURRAY. I do not care to interrupt the gentleman unless he wishes, but I had a question that occurred to me on occasions when similar suggestions have been made, that under such an arrangement would not the burden of this right be borne ultimately by the shippers and then by the consumers of the country, and that more than likely the consumers would be required to pay a greater proportion of the cost than they are now compelled to pay through Government taxation?

Mr. SHARP. I wish to say in answer to the suggestion of the gentleman from Massachusetts that I intend to come to that before I finish my remarks, and if I do not I ask the gentleman to interrupt me that I may answer him specifically.

Mr. MURRAY. I asked the gentleman that as a question and not as stating my opinion.

Mr. SHARP. The distinguished gentleman from Tennessee [Mr. HULL], who was justly given the credit by the chairman of the Committee on Ways and Means, Mr. UNDERWOOD, at the last session, for being the author of the excise bill, called attention in his able discourse to the system by which personal property so largely escaped taxation in this country. He took occasion at that time to quote from the special tax commission appointed under the laws of the State of New York within the last six years. If there is anything that is enlightening upon this subject, it is certainly the conclusion of the statement made by the chairman of that commission, who was a former United States Senator, if I am not mistaken. He said that they had discovered that although there was only something like $800,000,000 of personal property upon the tax duplicate in the great State of New York, yet they had found, as a matter of

fact, that there was actually an excess of 30 times that amount of personal property in that State; in other words, less than 3½ per cent of the personal property was taxed at all, and I presume that no considerable amount of that $25,000,000,000 had anything to do with franchises and intangible rights and privileges that many times, as we all know, approximate the real value of the taxable property itself. It is indeed, Mr. Chairman, one of these privileges, analogous in character, that our Government is extending every year to those who are the special beneficiaries under present-day river and harbor legislation.

To the merest tyro in the knowledge as to the manner in which taxes are levied a man's home and his visible personal property, tangible and real in their nature, are the first objects to be taxed. But it is the intangible, the unseen, mere rights or privileges, which go untaxed, that are often of really the most value and from which the greatest revenues are derived. Such property, if I may use that expression, of this intangible character very commonly comes from grants, either to individuals or to corporations, at almost no cost whatever. In many cases, in their exercise and use, preempted as they are by first possession of those holding such grants, they become exclusive monopolies, and it remains only in theory and not at all in possible practice that such rights and privileges are common and equally open to others.

Justice Bradley, in the case of the Transportation Co. against Parkersburg, in the One hundred and seventh United States, referring to a case brought up from West Virginia, used this language, which I think is exceedingly appropriate as outlining the authority which the United States Government possesses not only upon our navigable waters but to what extent it has been exercised:

> In the exercise of this authority over navigable waters Congress has, from the commencement of the Government, erected lighthouses, breakwaters, and piers, not only on the seacoast but in the navigable rivers of the country, and has improved the navigation of rivers by dredging and cleaning them and making new channels and jetties and adopting every other means of making them more capable of meeting the growing and extending demands of commerce. It has extended its supervision in an especial manner to the Ohio River. Amongst other things, it has overcome the obstacle presented by the falls at Louisville by the construction of an expensive canal. It has created ports of delivery along the river, of which the city of Parkersburg itself is one, and others are at Pittsburgh, Wheeling, Cincinnati, Louisville, Madison, Jeffersonville, New Albany, Evansville, Paducah, and Cairo. It has regulated the bridges which have been thrown across the river by authority of the States. It authorized the Wheeling Bridge to stand after this court had declared it to be a nuisance, requiring the officers of all vessels to regulate their pipes and chimneys so as not to interfere with the bridge, thus extending its common protection to commerce by land and commerce by water. It required the Newport and Cincinnati Bridge to be moved or placed at a greater height above the water, after having been constructed in accordance with the laws of the States and of the United States.

But if the learned judge who rendered this decision, more than 35 years ago, should inspect the bill before us and see to what extent we were now extending our Government paternalism, I wonder if he would not, along with many of us, ask the question, For whom are these special benefits created, and for what return? There is not a Member on the floor who has courage enough or, shall I not better say, who is imprudent enough to stand in his place and propose that a subsidy or some special benefit be given by the Government of the United States to any railroad in this country. Surely what the governments of foreign countries—and that whether the improvements are made by private enterprises or by the Government—long ago inaugurated in imposing reasonable tolls for such privileges ought not to be unjust when applied in this country, where dollars to their dimes are annually expended. Even automobilists are taxed in order that they may contribute to the better improvement of our highways, while in our reclamation and irrigation projects no one would think for a moment that the Government ought not to be reimbursed by those who are especially benefited by such improvements.

But what are we doing for these great water highways? While no one would think of extending that aid to the railroads, yet for the steamships which ply upon our Great Lakes and upon our larger rivers we virtually, though figuratively speaking, give to them the right of way—in fact, do the grading, lay the ties, and furnish the rails for them; nay, more, we erect beacons and danger signals for their guidance. And we do not ask a single dollar in return. Is this just?

Mr. MURRAY. Mr. Chairman, will the gentleman yield?

Mr. SHARP. Mr. Chairman, I will ask not to be interrupted just now. It is because the people have come to understand that certain privileges of this kind are unfairly given, though they do not perhaps know just how, that they believe that the greatly increasing concentration of wealth in the hands not alone of our transportation companies, but in many other lines of activity, has been due to this practice, and they look upon any further legislation in their interests with suspicion. I may say, as amplifying the suggestion of the gentleman from Pennsylvania [Mr. MOORE], when he asked if there had been hearings upon this bill, it would not be a bad practice, as I look at it, if hereafter in all of these bills appropriating, as the chairman of the committee has said, for many, many different items, aggregating several hundred, if there was—especially in the absence of the printing of these hearings—appended to the bill with each appropriation a statement, not necessarily involving more than three or four lines in length, that would show not only what the present appropriation of money is, but what has been the total up to date and what tonnage is carried upon those particular waters. Then this membership of 391—370 of whom are not members of that committee and are not in touch with the work, thus having no special knowledge of the facts presented—would have some basis on which to rest their judgment when they come to vote. This is only a suggestion. It is intended in no way as a reflection upon the judgment or good intent of this committee, for the personnel of which, collectively as well as individually, I have the highest regard.

I speak from a decided conviction on this subject as coming from a personal observation of many years. Recently, within the past few months, I have had these views somewhat accentuated, and I have been more than ever confirmed in the belief that I am right in my contention that those who are specially benefited ought to contribute to the Government in making these great appropriations to the extent at least of the cost of maintenance. Recently I had occasion to appear before the Board of Engineers upon a matter calling for a survey of a river entering a harbor located in my district. The answer of that board was about what I expected. I was not disappointed in their reply, nor in the position they took. It was entirely consistent, in so far as the answer itself went, when the board said it would be very glad to make this recommendation of an extension of the Government work back of the harbor line, if possible, but that precedents had been set which commit the Government to making improvements only to the shore line. The board frankly expressed the opinion that the Government was unable financially to make any improvements involving so great an expenditure. They believed such work ought to be placed upon the shoulders of the community in which the project was located. Now, I would as soon take the judgment of that board as to the necessity for and value of our river and harbor improvements as I would the opinions of any other set of experts in the United States, because they have had to consider many phases of legislation involving a great variety of projects. When, however, they took the position that the community or city located at the mouth of that river ought to itself make these improvements, this thought came to my mind very strongly. If the Government of the United States, by the authority given to Congress under the Constitution to develop and regulate commerce, can not afford to do this, why should a community be asked to do it? Possibly I may indulge in some sophistry in asking this question. The answer probably would be because the community obtains certain special benefits which would be derived from the improvement of the harbor. While the logic of this answer seems sound, is there any good reason why it should not be carried to its legitimate conclusion and place upon the carriers, for whose more expeditious and economical operations these improvements are made, a just proportion of their cost? A little more than three years ago the rivers and harbors bill contained a provision as follows:

> The Secretary of War is authorized to appoint a board of engineers to examine those harbors on the Great Lakes and elsewhere in which the whole or a part of the harbor is improved at local expense, which board shall make recommendations with a view to determining whether the improvements so made by local authorities should be undertaken or maintained by the General Government and to establishing uniform rules in making harbor improvements.

In accordance with such authority the Secretary, appointed a board of officers of the Corps of Engineers, which board, after visiting many harbors, not only on the Great Lakes but several upon the Atlantic seacoast, made a most interesting report containing several recommendations covering the questions involved. One of these recommendations reads as follows:

> 2. That no work of construction or maintenance be undertaken by the Government at any harbor constructed by and operated in the interest of a corporation or private person, and adapted to the promotion of such interest only.

The recommendation further declares against the General Government undertaking to maintain improvements where they have been carried on at local expense. In reviewing the report, however, the Board of Engineers for Rivers and Harbors qualified the conclusions above referred to to the extent that there might be such conditions where improvements already made by local interests might be further improved or maintained by the General Government.

The most interesting part of that report consists in the differentiation of the classes of harbor or river projects as concerns

the disposition of the freight or tonnage business respectively carried on. With much justice it was maintained that where a large proportion of such tonnage was merely in transitu—that is, was not to be stopped at the harbor of entrance for fabrication into finished products, but was to be carried on to distant points—the duty of the local community to improve such harbor was at least not so clearly established. In such cases, to use the language of the report, "they could properly be provided and maintained at the national expense." But with an equal degree of justice it was pointed out that the case would be entirely different where practically all of the tonnage was to be manufactured into finished products in the city where the harbor was located. The benefits of such manufacturing industries to the communities are fully discussed, not only as they have to do directly with the growth of population of the community, but also as the increased value of real estate is affected. Again, let me quote from the report mentioned as bearing upon these last-named conditions:

In the ordinary improvements made in cities, such as the paving of streets, the laying of sewers, or the opening of parks, the property immediately benefited is made to pay a part at least of the cost of the improvement, and the city can in time recoup itself for the rest by the increased taxes that will follow from the added value of the property. In the improvement of a harbor the United States can not do this, for these things are out of reach of the General Government and can only be dealt with locally.

It follows, therefore, that in the case of harbors or parts of harbors devoted to the class of commerce destined for local consumption or distribution, or for local manufacture or milling in transit, there is a special local interest, advantage, and profit in excess of the general interest and value. There is a gain in which the general public does not and can not share, and there are sources of revenue resulting from such harbor development that are accessible to the local government, but are beyond the reach of the General Government. Therefore in the improvement and maintenance of harbors or parts of harbors where the commerce is of this character there ought to be a division of cost between the local and the General Governments in a proportion that should bear the same relation that the local and special profit and value of the commerce bears to the general profit and value.

While of no particular interest to the present discussion, it seems to me there is still some application in the fact that the city of Lorain, whose interest I was pleased to represent, although having a population of somewhat under 30,000 according to the last census, has in years past bonded itself to the extent of more than $500,000 to improve the river entering into that harbor, and yet more than 80 per cent of the tonnage of the harbor, which is one of the most important on Lake Erie, found no lodgment there, but was carried out over the railroads for general distribution to distant points. Clearly the character of that commerce comes within the exception made by the board of engineers under which the harbor "could properly be provided and maintained at the national expense." Into that harbor arrive and depart the largest steamers on the Lakes, rivaling in size those that sail on the ocean, and which, during the past season alone, carried into and out of that port more than six and a half millions of tons of freight in less than eight months of navigation. How many tons of freight do you think those great lake steamers carry? I have seen them time after time leave harbors up at the north end of Lake Superior having in their holds a tonnage that 4 freight trains with 50 cars to a single train, each a half mile long, could not carry. The report of the National Waterways Commission, to which I will refer later on, states that as far as the Great Lakes are concerned this tonnage can be brought down from a fifth to a sixth of what it can be carried for by rail.

This great economic saving in the cost of transportation has not been accomplished in a day nor at the expense of any ordinary sum of money. In so far as the traffic on the Great Lakes is concerned, the volume was comparatively light until 1885. From that time down to the present the percentage carried has increased from something more than 3,000,000 to approximately 60,000,000 tons. These figures are confined to the business going through St. Marys Canal alone; they do not include a considerable traffic which did not go through the canal. While the discovery of large beds of iron ore at the head of the Lakes had much to do with this increase of business, yet it could not have been possibly accomplished without the use of many millions of dollars expended by the Government in improving navigation. These aids have taken the form of construction of additional locks at the Soo Canal, the widening of channels, dredging of rivers, and deepening of harbors. The extent of such improvements may be illustrated in the fact that during the past seven years upward of $35,000,000 have been expended in this kind of work alone. One of these improvements, the Nebish Canal, extending something like a mile in length and involving the removal of many thousands of tons of solid rock, cost upward of $4,500,000. Many other projects less ambitious in character have been constructed by the Government.

We are all familiar with the methods of getting under way these projects involving the improvements to navigation. Sometimes the movement is started by those directly engaged in the transportation business, thus being the special beneficiaries of such legislation, sometimes by the communities in which the expenditures are to be made, and very frequently by the joint efforts of both. The ultimate object presumably—and it is entirely proper that it should be so—is the securing of better transportation facilities which follow from the ability to carry freight with greater expedition and in larger volume at a material reduction in cost.

Assuming that the survey for such project has been authorized and it is found to be a meritorious proposition, the improvement as recommended is commenced. In due time, its duration depending largely upon the character of the improvement and the expedition with which it is prosecuted, the work is completed at an expense to the Government running all the way from a few thousand dollars to many millions. It needs no uncommon discernment to see to whom the benefits, in a large measure, of the Government's aid go. Why, they go to those who are carrying on commerce in the transportation business, just the same as the railroad companies are carrying on theirs. There is no difference in its character except that one cargo is carried by water and the other is carried by land. That is the only difference.

And the railroad companies, be it said to the credit of their shrewdness, in more than one instance upon the Great Lakes, as you will find, and upon our larger rivers, seeing that for some reason or other the Government is so much kinder to the fellow who carries a cargo by water, have themselves done a little business of their own in that line, and have taken to the water. They, too, own some big boats. I do not quote the figures from official sources, but I am surely warranted in saying that whereas 20 years ago there were 90 per cent of the vessels upon the northern lakes of less than 3,500 tons capacity, to-day 80 per cent of this tonnage is carried in boats from 500 to 600 feet in length, bearing cargoes of from 8,000 to 12,000 tons. As a natural sequence of this evolution in the development of transportation, the inevitable result followed—the small boats have been driven off from the Lakes. While this may be considered as merely an incident in the inexorable law of commercial and industrial progress, yet such advantages have been made no less truly possible by our Government's beneficence.

Would I oppose Government aid to our navigable waterways? Not at all. On the contrary, where the development of a project can be predicated upon a reasonable belief that a legitimate competition in the carrying of freight can be secured and to such an extent as will justify the expenditure, I think it properly affords an object for governmental aid. Neither have I any criticism to offer of those, big and little, who have been fortunate enough to receive such aid under the present system of river and harbor legislation. It would indeed be unfair, in pointing out the extravagance or lack of merit of some of these propositions, to lose sight of the fact that through them in very many instances, especially where deep-waterway projects have been involved, the benefit to commerce has been very great. Undoubtedly in the past, before transportation by railroad became so general, such cooperation was absolutely necessary to facilitate the carrying of freight at any reasonable cost. But with the enormous development of our country in population and resources transportation problems have greatly changed in their character. To-day for every ton of freight carried by water there are more than 12 tons carried by rail. While admitting that the alternative choice of shipping by water has had a most salutary effect in affording competition with the charges made by railroad companies, yet it is undeniable that in many instances such competition is out of the question, no matter to what extent artificial aid may be given to navigation in its development.

I am not at all so sure, gentlemen, and I feel a little diffidence in putting up my own views against the riper experience, born of long knowledge, of the members of this committee, when I say that I am not at all sure that there are not many items in the present bill of unimportant waterways and harbors that never ought to be encouraged by a single dollar.

In considering such projects, Mr. Chairman, may I not draw an analogy with the plant which can not stand alone but must find its strength in the latticework upon which it grows, and the higher it grows the tighter it clings to its friendly support? That is often the attitude of the paternalistic objects of governmental aid. Two years ago, by authority of law, a commission was appointed called the National Waterways Commission. Senator BURTON, for many years the able chairman of the Rivers and Harbors Committee, headed this commission. It made a most elaborate and instructive report. That report covers almost every conceivable condition that would be desirable to know as it affects European waterways as well as those of this country.

While in poring through the commission's report I did not find any specific recommendations for establishing tolls in this country—for, as I stated in the outset of my remarks, such a system would be a radical innovation in our practice—yet it nowhere, so far as I am able to discover, contains any criticism of the efficiency or justice of the tollage plan as applied to European waterways. Its findings and recommendations are certainly interesting, as they have to do with what I may properly term a reformation in our own practice of making appropriations for navigable waterways.

Nearly every page contains facts as to foreign waterways on which they impose tolls and the satisfactory operation of such a system. This tollage question, as you know, has been emphasized more recently upon this floor in the matter involving the maintenance of the Panama Canal. We know what has been done as to the Suez Canal. That canal cost nearly one-third as much as the Panama Canal, something like $125,000,000, but that great work has not only been self-sustaining almost since the day it was completed, over 40 years ago, but it has yielded millions of dollars of revenue for the stockholders of the concern, and, if I am correctly informed, the company has a provision in its franchise that whenever the earnings exceed a certain amount the tollage will be automatically decreased. I believe that to be a fact. President Taft has seen fit to impose a toll for the Panama Canal somewhat less than that of the Suez Canal, not upon the freight carried but upon the net tonnage of the vessel itself.

Let me now apply the principle of the payment of tolls or tonnage tax to the traffic upon our own domestic navigable waters. During the past few years there has been in excess of 130,000,000 tons of freight annually carried upon our navigable waters, about one-half of which is handled at the harbors on the Great Lakes. Would it be unjust to impose upon these shippers handling this immense tonnage such a duty as would at least maintain and repair all such Government-aided improvements? I believe the imposition of a moderate duty ranging from 5 cents to 10 cents per ton—less than the average rate imposed in other countries—placed upon the net tonnage capacity of the vessels would fully meet these demands. Such a toll so levied should yield a net annual revenue exceeding $8,000,000. Under such a manifestly fair plan of raising revenue, and which I hope in due time to see authorized by Congress, the maintenance items in this bill totaling, as the chairman of the committee points out in his fair-minded report, $2,222,650, could not only be readily taken care of, but the balance expended in making additional improvements where warranted. Indeed, aside from the inherent justice of the proposition to require a fair return from those who reap these special benefits, I believe such legislation would be in the interest of a better development of our waterways.

I referred a moment ago to the plan recently decided upon in reference to the imposition of tolls for the use of the Panama Canal. To those of my colleagues who have not had an opportunity of reading the report of Emery R. Johnson, special commissioner of Panama Canal traffic and tolls, I would recommend its early perusal. I can not speak in terms too high in its praise. Not only is the information therein contained of great value, but it is most logically and systematically presented.

As bearing upon the contention which I am making, I can not do better than to quote from one who has given an exhaustive study to the subject of levying tolls in return for special privileges under our navigation laws. Under the subhead of "Principles and considerations that should control in fixing tolls" the author says:

The canal will cost the United States Government $375,000,000, much of which has been or will be secured by borrowing funds. The interest and principal of this debt must be paid either from funds secured by general taxes or from the revenues derived from canal tolls. It seems wise and prudent that the United States should adhere to sound business principles in the operation of the canal and in levying tolls. Public expenditures are increasing rapidly. Funds are required in increasing amount for the promotion of the public health, for irrigation and reclamation, and for maintaining the military power and naval prestige of the United States. Large expenditures upon rivers and harbors are urgently needed. Taxes must inevitably increase. The demands upon the United States are certain to be much greater in the future than they have been in the past, and it does not seem wise for the Federal Government to construct and maintain at the expense of the general budget such a costly public work as the Panama Canal. Those who derive immediate benefit from the use of the Panama Canal may properly return to the Government a portion of the profit secured from using the canal, provided this policy can be followed out without burdening commerce.

In summarizing his conclusions, the author, Mr. Johnson, further says:

The United States should adhere to business principles in the management of the Panama Canal. The Government needs to guard its revenues carefully. Present demands on the general budget are heavy and are certain to be larger. Taxes must necessarily increase. Those who directly benefit from using the canal, rather than the general taxpayers, ought to pay the expenses of operating and carrying the Panama Canal commercially.

If there is any difference of principle involved or reason therefor concerning the levying of tolls as to the subject matter just quoted, as it applies to the navigation of our domestic waters, I fail to see it. If it is urged that the Panama Canal is a much greater proposition because it has cost so great a sum of money, my answer is that the aggregate of appropriations for river and harbor improvements in this country is still much in excess of that amount, great as it is.

If it is still further urged that the volume of business to be carried on at the Panama Canal is much larger, I am again sustained in my argument by pointing to the fact that the traffic upon our Great Lakes alone each year amounts to three times the tonnage that is estimated to go through the Panama Canal 10 years hence, while upon all of our navigable waters it is six times as great. Are you aware of the fact that within the past five years, including the amount of the present bill—$40,872,958—there has been a total sum appropriated by the Rivers and Harbors Committee exceeding $175,000,000, and that, with a single exception, the appropriation each year has greatly exceeded that of the preceding one? Indeed, the right and propriety of levying such tolls has been sustained time and again by our State and Supreme Courts. When the ordinance of 1787 was set up in the early cases as a defense against the imposition of such tolls the decisions of the courts uniformly considered its provisions as referring to navigation in its natural state. Upon this point, in the case of Huse v. Glover (119 U. S. Repts., 543), Justice Fields succinctly says:

The provision of the clause that the navigable streams should be highways without any tax, impost, or duty has reference to their navigation in their natural state. It did not contemplate that such navigation might not be improved by artificial means, by the removal of obstructions, or by the making of dams for deepening the waters, or by turning into the rivers waters from other streams to increase their depth. For outlays caused by such work the State may exact reasonable tolls. * * *

By the terms "tax, impost, and duty" mentioned in the ordinance is meant a charge for the use of the Government, not compensation for improvements.

The same view was taken some years later by the learned Justice Campbell, of the Supreme Court of Michigan, in the case of Manistee River Improvement Co. v. Sands (53 Mich. Rep., 596), in which he says:

The idea that tolls for the actual use of passage over land or water highways can be treated as taxes and as invasions of private property does not appear to us tenable. They are not levied on property or on persons as their share of any public burden laid on the people, but they are a fixed compensation in lieu of a quantam valet for the use of that which has value and which is actually used to advantage. * * *

While decisions of similar import could be quoted from many other cases in our highest courts, I would like to refer to a rather curious and, I think, little known provision of an old-time instrument of historical interest, which, while specifically directing that duties shall be levied upon navigation improved by Government aid to pay the cost thereof, also sought to narrow the power to appropriate money for any internal improvement for commercial development whatever. Let me quote a section of the constitution of the Confederate States of America adopted in 1861. In enumerating the powers of the general government, I find this language:

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes; but neither this nor any other clause contained in the constitution shall ever be construed to delegate the power to congress to appropriate money for any internal improvement intended to facilitate commerce except for the purpose of furnishing lights, beacons, and buoys, and other aids to navigation upon the coasts, and the improvement of harbors and the removing of obstructions in river navigation, in all which cases such duties shall be laid on the navigation facilitated thereby, as may be necessary to pay the costs and expenses thereof.

How impotent, indeed, would be the efforts of those of my colleagues under such a constitution in behalf of so many of their favorite projects. Indeed, the laudable plans now contemplated in the further improvement of the Mississippi River with its great tributaries, the Missouri and Ohio, even for sanitation purposes and the better security from inundations, let alone for purposes of navigation, might be seriously endangered or at least much retarded by such drastic restrictions of such a constitutional provision. Fortunately I believe there is no sentiment or feeling on the part of Congress against granting appropriations for such purposes. But the reasoning of the framers of that old Confederate instrument, in so far as levying reasonable duties or tolls upon navigation facilities by Government appropriations, to my mind is still sound.

While, Mr. Chairman, the remainder of the time allotted me is short, I am reminded of the question raised by the gentleman from Massachusetts [Mr. MURRAY] as to whether ultimately the consumer would not have to pay this additional toll or

tonnage charge so levied. I do not know that I can answer the gentleman in a better way than to quote from a most excellent treatise by Prof. Harold G. Moulton, instructor in political economy in the University of Chicago, which is devoted to a consideration of many of the problems now under discussion. Upon the particular point which the gentleman raises, Prof. Moulton says:

Freight rates have now become so small in proportion to the value of the commodities of traffic that in most cases nothing short of a tremendous cheapening of transportation would be reflected in the prices of the articles, and rate reductions now usually accrue almost wholly to the benefit of middlemen.

Quoting from McPherson, on railroad freight rates, the author says:

The transportation charge on the material entering into a pair of shoes made in a St. Louis factory averages 1½ cents. The transportation charge required to place that pair of shoes in the hands of the consumer in any part of the United States averages between 2 cents and 3 cents. This makes a total charge of approximately 4 cents.

Suppose our waterways should effect even a 50 per cent reduction of freight rates, we should have a saving of only 2 cents on a pair of shoes. It is hardly probable that such a saving would cause the shoes to retail at 2 cents less than formerly. The saving would be absorbed by the shipper and middlemen, and the consumer would be benefited not at all. But this charge, even as small as it is, applies to half of the entire freight charge on a single pair of shoes. Surely it would not be seriously contended that the buyer of such pair of shoes would be required to pay his proportionate share of a toll charge of 5 cents on a whole ton of such footwear.

In considering the more bulky kind of freight, which after all constitutes a very great proportion of the tonnage carried upon our navigable waters, for it is of that class of freight in which I take it that the greatest economy is effected, the author quoted says:

Even with the more bulky class of freight the cost is not greatly different. The railways which carry coal to Chicago were recently permitted to make a freight raise of 7 cents a ton on coal. The result was a 25-cent increase in the price of coal, 18 cents of which represents the increased profits of middlemen. Is it reasonable to believe that under reversed conditions a reduction of 7 cents a ton in the railway charge on coal would lead the coal dealers to lower their price 25 cents a ton, or indeed at all?

He adds the sage conclusion, which is coming to be quite generally recognized, that "this is fast coming to be the age of monopolized retail trade." If I remember correctly, Commissioner Johnson, in his canal report referred to, takes substantially the same view of this question. As a matter of fact, however, too well known to be controverted, especially as the statement applies to navigation on the Great Lakes, a very large proportion of the tonnage carried is owned by the vessel owners themselves. In such cases they often own the mines, the products of these mines, the boats which carry them, and the mills which convert them into finished products.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHARP. I would like to have one minute more.

Mr. SPARKMAN. Mr. Chairman, I yield two minutes more to the gentleman.

The CHAIRMAN. The gentleman from Ohio [Mr. SHARP] is recognized for two minutes more.

Mr. SHARP. It would be an interesting digression for me, if I had the time and you had the patience, to consider the merits of these different phases of the subject as they relate to advantages accruing from lower rates. I thank you very much for your patience in remaining here so late in the day and hearing me talk. But the main point I wish to fix upon your minds, Members of this House—because I know I speak in the interest of equal taxation and justice—is that those who get these special benefits ought to pay their just proportion of the burden, which, under our present system, is wholly placed upon the shoulders of the American people.

Mr. RANSDELL of Louisiana. May I ask the gentleman just one question?

Mr. SHARP. Just one question.

Mr. RANSDELL of Louisiana. The gentleman says that there have been something over $100,000,000 expended on the Great Lakes. I should like to ask him if there is not now passing through the Detroit River a commerce approximating 70,000,000 to 75,000,000 tons annually, carried at an actual cost to the American people of about eight-tenths of 1 mill per ton per mile as compared with an average railroad cost of about 7½ mills per ton per mile? And I should like to ask the gentleman, if you compute this enormous commerce, approximating 70,000,000 tons carried at this very cheap rate, benefiting thereby the whole American people—for they all get the benefit of cheap coal and cheap iron ore—if you compute that commerce at the average rail rate, would not the American people have had to pay about $300,000,000 annually for transportation in excess of what they now pay?

Mr. SHARP. May I have time to answer that question, Mr. Chairman?

Mr. SPARKMAN. I will yield to the gentleman one minute more.

Mr. SHARP. I am very glad that the distinguished gentleman from Louisiana [Mr. RANSDELL], who is the chairman of an organization favoring this legislation, and knows very much about the subject, has asked me that question. I think if there is any sophistry that can be plainly seen and easily uncovered, it is that which is so thinly veiled in his statement as it relates to the cost.

The cost to whom? When you figure the cost to a railroad, you figure the cost of the construction, the cost of the operation and everything combined; but when you figure the cost of the transportation upon these Great Lakes and rivers of our country, do you ever stop to figure the cost that the Government has paid, and not the vessel owners themselves? If you consider the cost to the Government of the United States—that which the people, if you please, have paid for the benefit of these transportation companies in improving our navigable waters—then there would be a different story to tell. But even then is there anything unjust in asking the fellow who shipped the goods to pay it, and not the people at large?

But does not the gentleman's question in itself furnish a sufficient reason for the justice of requiring a fair return for the advantages which he states? Surely, if the improvement of navigation upon the Great Lakes, which is largely due to governmental aid, has enabled the shipping interests to so successfully prosecute their business by means of much lower freight rates, is it unjust to ask from them some return therefor? And is not the gentleman aware of the fact that in many instances the very ability of the larger shippers to carry at such reduced rates has greatly enhanced the value of their holdings in the mines, forests, and other properties from which these products are transported?

The CHAIRMAN. The time of the gentleman has expired.

Mr. RANSDELL of Louisiana. I should like to ask the gentleman some more questions.

Mr. SHARP. I should be only too glad to answer them.

Mr. SPARKMAN. I yield the balance of my time to the gentleman from North Carolina [Mr. SMALL].

The CHAIRMAN. The gentleman from North Carolina [Mr. SMALL] is recognized for four minutes.

[Mr. SMALL addressed the committee. See Appendix.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FOSTER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Curtiss, one of its clerks, announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 35.

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 12th day of February, 1913, at 1 o'clock in the afternoon, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate pro tempore shall be their presiding officer; that two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate pro tempore, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate pro tempore, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

RIVER AND HARBOR APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN. The time for general debate has expired, and the Clerk will read the bill for amendment.

The Clerk proceeded with the reading of the bill and read as follows:

Be it enacted, etc., That the following sums of money be, and are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to be immediately available, and to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers, for the construction, completion, repair, and preservation of the public works hereinafter named.

Mr. MOORE of Pennsylvania. Mr. Chairman, I make the point of order that there is no quorum present.

Mr. SMALL. Will the gentleman withhold his point, as I may not be able to be here on Thursday?

Mr. MOORE of Pennsylvania. I will reserve the point of order for the present.

Mr. SMALL. I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. SPARKMAN. Mr. Chairman, I ask leave to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida? [After a pause.] The Chair hears none.

Mr. SMALL. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to address the committee for five minutes. Is there objection?

There was no objection.

[Mr. SMALL addressed the committee. See Appendix.]

Mr. SHARP. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The Clerk read as follows:

Improving harbor at Boston, Mass.: For maintenance, $25,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I wish the chairman of the committee would tell whether Chelsea Creek, for which the appropriation was made last year, is wholly within the port of Boston?

Mr. SPARKMAN. I am under the impression that it is.

Mr. MOORE of Pennsylvania. It bisects the city?

Mr. SPARKMAN. Yes; it runs into the city some distance.

Mr. MOORE of Pennsylvania. Wholly within the city limits?

Mr. SPARKMAN. Yes.

The Clerk read as follows:

Improving Providence River and Harbor, R. I.: Completing improvement in accordance with the report submitted in House Document No. 949, Sixtieth Congress, first session, $164,800.

Mr. MOORE of Pennsylvania. Mr. Chairman, may I inquire of the chairman whether the city of Providence or the State of Rhode Island make any contribution toward this improvement?

Mr. SPARKMAN. I am under the impression there is none being made at this time. I do not think any ever has been made by the city or any local authorities there. That is my recollection of it.

Mr. MOORE of Pennsylvania. I was under the impression that Rhode Island did make a contribution.

Mr. SPARKMAN. Not to this project, but on another project on the other side of the channel.

The Clerk read as follows:

Improving Connecticut River, Conn.: For maintenance of improvement below Hartford, $15,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, may I ask the gentleman from Florida what has become of the appropriation for improving the Connecticut River above Hartford?

Mr. SPARKMAN. I do not recall. Probably the gentleman from Massachusetts [Mr. LAWRENCE] can answer the question, as he is quite familiar with the project.

Mr. LAWRENCE. As I understand, none of the appropriation carried in the last bill for the Connecticut River above Hartford, amounting to $25,000, has been used. I assume this is the reason: There is now pending in Congress a favorable report from the War Department upon a project for the development of power and navigation at Windsor Locks, which is some distance above Hartford. If the corporation which is seeking the right to build a dam and develop power at that point is given the right, it has been recommended that something in the neighborhood of about $1,000,000 be expended by the National Government, which would give very excellent navigation all the way from Hartford up to Holyoke, and while this is pending I assume the War Department will not expend the $25,000 which was appropriated in 1912.

Mr. MOORE of Pennsylvania. Then it is held up pending the adjustment of the water-power question?

Mr. LAWRENCE. Pending the action of Congress on that water-power question.

Mr. MOORE of Pennsylvania. The Connecticut is an interstate river?

Mr. LAWRENCE. Yes.

Mr. MOORE of Pennsylvania. It runs through Connecticut and Massachusetts?

Mr. LAWRENCE. Yes.

Mr. MOORE of Pennsylvania. And taps Holyoke and Springfield and other manufacturing towns?

Mr. LAWRENCE. Yes. The river has been for many years navigable up as far as Hartford. Above Hartford are the important cities of Springfield and Holyoke, and for some years there has been an effort made to make the river navigable up as far as Holyoke. The engineers have made unfavorable reports because of the great expense involved, and it is to get around the great expense that the proposition is now being considered to have a large part of such expense borne by private parties.

Mr. MOORE of Pennsylvania. Is not that about $2,000,000?

Mr. LAWRENCE. The original estimate was that it would cost the Government $6,000,000 to provide suitable navigation from Hartford to Holyoke. If private parties go to the expense of the construction of a dam and lock, the Government will be called upon to expend less than a million dollars.

The Clerk read as follows:

Improving Jamaica Bay, N. Y.: Continuing improvement in accordance with the report submitted in House Document No. 1488, Sixtieth Congress, second session, $300,000, from which amount the Secretary of War may reimburse the city of New York each month for the dredging and the disposition of dredged material of the preceding month at the actual unit price per cubic yard, place measurement: *Provided*, That such cost shall not exceed 8 cents per cubic yard.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman explain if the city of New York contributes to the expense of this project?

Mr. SPARKMAN. It contributes in this way: It agrees to do a part of that work at a very small unit price. It is a large project, to cost the Government seven or eight millions of dollars. The city is to do certain dredging, for which the Government is to pay up to 8 cents per cubic yard. Besides, the city is to do other work, the cost of which is variously estimated from thirteen to seventy millions of dollars.

Mr. MOORE of Pennsylvania. Probably no State in the Union has done so much for the improvement of waterways as the State of New York. The question sometimes arises in the discussion of this bill as to whether there is any intent on the part of States or municipalities to help. I desire to know whether in this particular instance an obligation has been laid upon New York State or city to contribute to the expense of this improvement, which, of course, is general.

Mr. SPARKMAN. Well, the obligation is upon the city. I consider there is a very considerable contribution made by the city of New York.

Mr. MOORE of Pennsylvania. In his general statement a little while ago the chairman of the committee [Mr. SPARKMAN] referred to the contribution that the States along the Mississippi have made toward the construction of levee work. He indicated that the Government has spent about $26,000,000, if I remember the figures. He also stated that the States had contributed about twice as much, and that Louisiana has been very strong in its contributions. The question sometimes arises as to whether these large centers and great commercial centers—and that is the purpose of my question to the gentleman—get the treatment they ought to get in the distribution of the public money, and whether an unequal obligation is not laid upon them to contribute of their own funds to bring about national improvements.

The Clerk read as follows:

Improving Staten Island Sound, N. Y. and N. J., in accordance with the report submitted in House Document No. 1124, Sixty-second Congress, third session, $500,000; for maintenance of improvement of Arthur Kill and the waters connecting Raritan Bay with New York Harbor, including channel north of Shooters Island, $30,000; in all, $530,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, in his opening address the chairman of the Rivers and Harbors Committee stated that the volume of tonnage there amounted to 30,000,000 tons, I think.

Mr. SPARKMAN. Yes.

Mr. MOORE of Pennsylvania. Is it not a fact, now that improvements have actually begun upon this very important stream, which in 16 miles carries this vast tonnage, that for years and years only about $5,000 was required for maintenance?

Mr. SPARKMAN. I do not recall the amount, but the item for maintenance there has been quite small. I can not remember just at the moment the amount.

Mr. MOORE of Pennsylvania. The total appropriations for permanent improvements probably in the aggregate would not exceed $100,000, all told.

Mr. SPARKMAN. I can give the exact figures. The total appropriations to date are $1,207,500.

Mr. MOORE of Pennsylvania. On a stream producing 30,000,000 tons per annum.

The Clerk read as follows:

Improving Woodbury Creek, N. J., in accordance with the report submitted in House Document No. 635, Sixty-second Congress, second session, and subject to the conditions set forth in said document, $8,000.

Mr. MOORE of Pennsylvania. Is the gentleman ready to quit? I desire to offer an amendment at this point, but if I may have the privilege of offering it later, I will be very glad to do so.

Mr. LAWRENCE. Mr. Chairman, I ask unanimous consent that this paragraph be passed over without prejudice.

Mr. MOORE of Pennsylvania. I want to offer a new paragraph here.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. MOORE of Pennsylvania. I desire to offer an entirely new paragraph.

Mr. MANN. I suggest to the gentleman from Florida that he ask unanimous consent to pass pages 10 and 11.

Mr. LAWRENCE. Mr. Chairman, I ask unanimous consent that we pass over line 23, on page 9, to and including line 25, on page 11, without prejudice.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

Improving inland waterway between Rehoboth Bay and Delaware Bay, Del.: Continuing improvement in accordance with the reports submitted in House Document No. 823, Sixtieth Congress, first session, and in Rivers and Harbors Committee Document No. 51, Sixty-first Congress, third session, $41,725.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent that I may have leave later on to offer an amendment at that point?

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent that this paragraph be passed without prejudice, to be returned to later.

Mr. MOORE of Pennsylvania. I desire to offer an entirely new paragraph.

Mr. SPARKMAN. Well, the gentleman will have that opportunity.

The CHAIRMAN. The gentleman asks unanimous consent that this item be passed without prejudice. Is there objection?

Mr. MANN. That is, to offer an amendment following line 13, page 12.

Mr. MOORE of Pennsylvania. That is my request.

Mr. SPARKMAN. The committee will have no objection.

The CHAIRMAN. Without objection, it is so ordered. [After a pause.] The Chair hears no objection.

The Clerk read as follows:

Improving Susquehanna River above and below Havre de Grace, Md.: Completing improvement, $51,230.

Mr. MOORE of Pennsylvania. Mr. Chairman, this paragraph proposes to improve the Susquehanna River above and below Havre de Grace. The river is quite rocky above that point. I want to know how far it is contemplated to carry the improvement, because it may involve an important question of transportation.

Mr. SPARKMAN. It is only a very few miles. I forget the exact distance above Havre de Grace.

Mr. MOORE of Pennsylvania. Can the gentleman tell me whether any survey has been made recently of the Susquehanna River above Havre de Grace?

Mr. SPARKMAN. Yes; under an authorization in the bill of 1911.

Mr. MOORE of Pennsylvania. I want to say to the gentleman that I think the committee ought to be informed that the Susquehanna River is an interstate river and traverses the coal sections of Pennsylvania. If opened up for navigation it would have much to do in reducing the cost of living in carrying coal. I wanted to know if this paragraph would carry the improvements so far above Havre de Grace that it would reach the coal fields?

Mr. SPARKMAN. I do not think it would go that far, but it is a very imposing stream, and no doubt will receive just treatment.

The Clerk read as follows:

Improving inland waterway from Norfolk, Va., to Beaufort Inlet, N. C.: Continuing improvement in accordance with the report submitted in House Document No. 391, Sixty-second Congress, second session, $800,000: *Provided*, That no part of this amount shall be expended until the canal and appurtenant property belonging to the Chesapeake and Albemarle Canal Co. shall have been acquired by the United States by purchase in accordance with the agreement entered into between the Secretary of War and said company under date of February 17, 1912.

Mr. MANN. Mr. Chairman, I reserve a point of order on that paragraph. I want to ask whether there is any authority of law now for the Secretary of War to make an agreement for the purchase of this canal?

Mr. SPARKMAN. Oh, yes; there is ample authority for that, and the Secretary of War has gone ahead and entered into a contract, the terms of which have not yet been carried out.

Mr. MANN. What I wanted to inquire was whether the agreement entered into was some tentative agreement, or whether it was entered into under authority of some act of Congress?

Mr. SPARKMAN. There was authority contained in the act of Congress adopting the project.

Mr. MANN. I withdraw the point of order.

Mr. FOSTER. Mr. Chairman, I move to strike out the paragraph. I understand that the former river and harbor appropriation bill provided for the buying of this Chesapeake & Albemarle Canal and that up to this time the Government has never received title to this property. I do not know whether the Government will ever get title to it or not. But in a former bill $100,000 was appropriated, if I remember correctly, for the improvement of this canal when acquired by the Government. Now, we have have appropriated already $500,000 for acquiring the canal.

Mr. MANN. Will the gentleman yield?

Mr. FOSTER. Yes.

Mr. MANN. I understood the gentleman was going to make a motion to strike out the paragraph. Why not ask unanimous consent to pass it over?

Mr. FOSTER. Well, I am willing to do that. I ask unanimous consent that it be passed.

Mr. SMALL. Mr. Chairman, I think this might be disposed of now.

Mr. FOSTER. I do not think, Mr. Chairman, we could dispose of it without a hundred Members here, because, to my mind, it is an important thing, and I will not let it pass without that number being here.

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent that this item be passed over without prejudice.

The CHAIRMAN. The gentleman from Florida asks unanimous consent that the item be passed over without prejudice. Is there objection?

There was no objection.

Mr. SMALL. If it is passed over, when does it recur? We do not have to complete the bill before we recur to it?

The CHAIRMAN. I think that is in the option of the committee.

Mr. SMALL. I would like to have some understanding about that for personal reasons.

Mr. MANN. If the gentleman has any reason for it, let it be understood, and have it taken up the first thing when the House goes into committee again on this bill.

Mr. SPARKMAN. I should have no objection.

Mr. FOSTER. I have no objection. I should like for these two other paragraphs to go along with that.

Mr. MANN. Which paragraphs?

Mr. FOSTER. The two items following, on lines 21, 22, 23, and 24.

Mr. MANN. They will be taken up when the House again goes into Committee of the Whole on this bill.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] asks unanimous consent to pass over the three sections just read, to be taken up when the House again goes into Committee of the Whole. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Improving Swift Creek, N. C.: For maintenance, $500.

Mr. HELM. Mr. Chairman, in listening to the reading of the bill I have heard quite a number of creeks mentioned—several in New Jersey and one or two in North Carolina. I would like to have some information about them. Do we appropriate money to lock and dam creeks? I presume we do. It seems we are going into the improvement of creeks generally in this appropriation bill. In my section of the country a creek is not a very large stream, never navigable.

Mr. SPARKMAN. A creek?

Mr. HELM. What I am trying to get at is the size of these creeks—for instance, Fishing Creek, in North Carolina. I think such a creek was mentioned. I would like to ask the chairman of the committee something about the size of these streams.

Mr. MANN. Suppose the gentleman asks that question on Thursday.

Mr. SPARKMAN. I will be glad to answer the gentleman right now. These creeks rise to the dignity of rivers. Certainly they are very important streams, and each one of them carries a large commerce, or at least many of them. For instance, here is Coopers Creek, which carries over 264,000 tons

of commerce annually. Mantua Creek carries 170,440 tons; Raccoon Creek, 58,107 tons.

Mr. HELM. Raccoon Creek. Where does that stream rise?

Mr. SPARKMAN. That is one of the rivers up in New Jersey.

Mr. HELM. I thought the gentleman said it was a creek.

Mr. SPARKMAN. I was saying they all rise to the dignity of rivers.

Mr. HELM. I would like to ask the chairman, What is the size of the boats that ply these creeks?

Mr. SPARKMAN. Most of them carry good-sized boats; not ocean-going vessels, of course, but vessels drawing 5, 6, 7, 8, 9, or 10 feet, some of them.

Mr. MANN. Canoes, anyhow. [Laughter.]

Mr. HELM. What does the gentleman from Florida mean by his statement? Does he refer to the length of the boats?

Mr. SPARKMAN. Draft.

Mr. ADAMSON. Mr. Chairman, will the gentleman yield?

Mr. SPARKMAN. Yes; with pleasure.

Mr. ADAMSON. Mr. Chairman, if the two gentlemen will yield to me a minute, I think I can cite another precedent which the Committee on Rivers and Harbors wisely follows, to show that the word "creek" is not a provincialism, and that they do not follow provincialisms in selecting terms for use in their bill. My recollection is that when I was a boy and went to Sunday school I read about St. Paul and party being shipwrecked and having trouble many days and nights, but "they discovered a certain creek with a shore, into the which they were minded to thrust in the ship." [Laughter.]

Mr. SPARKMAN. I am obliged to the gentleman for reminding me of that scriptural reference. I should be glad to have these creeks called rivers. The fact is they all rise to the importance of rivers, as the gentleman from Kentucky will see by a reference to the statements of the commerce they carry.

Mr. HELM. Will the gentleman tell me what is the total amount of money carried by this bill?

Mr. SPARKMAN. Oh, about $40,800,000.

Mr. HELM. Could not some of that money be saved if you cut out some of these creek projects?

Mr. SPARKMAN. Oh, yes. You would save money, of course.

Mr. HELM. How much money in this bill is appropriated for the improvement of creeks?

Mr. SPARKMAN. A very small sum, relatively.

Mr. HELM. How much?

Mr. SPARKMAN. I should say about $100,000. Certainly less than $150,000.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I should be glad to furnish that information if the gentleman from Florida will permit me.

Mr. SPARKMAN. I will be glad to have the gentleman do so.

Mr. HUMPHREYS of Mississippi. The appropriations carried for creeks that the gentleman complains of, out of a total of $40,000,000, amount to approximately $130,000. The tonnage carried on these creeks is about 7,000,000 tons; more than half as much as is carried on the Ohio River, for instance.

Mr. HELM. Does the gentleman mean to say there is more than half as much tonnage carried on these creeks as there is on the Ohio River?

Mr. HUMPHREYS of Mississippi. Yes; more than half as much tonnage is carried on these creeks as is carried on the Ohio River, and there is appropriated for all the creeks about $130,000, whereas the project of the Ohio River, in which the gentleman from Kentucky is deeply interested, contemplates an ultimate expenditure of more than $60,000,000.

Mr. HELM. I do not think this gentleman is particularly interested in the Ohio River.

Mr. HUMPHREYS of Mississippi. It is one of the great rivers of the world, and I assume that the gentleman is deeply interested in it.

And the value of the tonnage carried on these creeks is approximately $225,000,000 a year.

Mr. GALLAGHER. In other words, they are navigable rivers.

Mr. HUMPHREYS of Mississippi. In other words, the tonnage carried on these creeks will, I think, be equal to half as much as the American tonnage carried through the Panama Canal for the first several years after its completion. That canal cost about $400,000,000, and the appropriations carried for creeks in this bill amount to about $130,000.

Mr. HELM. Of course, I may be misled in my general idea of what a creek is, but it seems to me that any commerce that is moving on streams of this size must be largely of an individual or private nature.

Mr. HUMPHREYS of Mississippi. It is the same kind of tonnage that moves on all other streams. Take Newtown Creek, for instance. It carries a tonnage almost as great as the Mississippi River.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, it is now nearly half past 6 o'clock. There are very few Members present, and I make the point of no quorum.

Mr. SPARKMAN. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

ASSISTANT CLERK, COMMITTEE ON APPROPRIATIONS.

Mr. FITZGERALD. Mr. Speaker, on behalf of the Committee on Appropriations I ask unanimous consent for the present consideration of a resolution which I send to the Clerk's desk.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent for the present consideration of a resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 783.

Resolved, That the Committee on Appropriations be authorized to employ an additional assistant clerk at $1,800 per annum.

The SPEAKER. Is there objection to the present consideration of this resolution?

Mr. GARRETT. Mr. Speaker, reserving the right to object, does the gentleman from New York desire to make any statement?

Mr. FITZGERALD. Mr. Speaker, there has been no increase in the clerical force of the Committee on Appropriations in 30 years. During that time the aggregate session appropriations have increased from $355,000,000 for 1884 to $1,019,000,000 for 1913, and the volume of the sundry civil bill, as represented in printed pages, is more than two-thirds as large as all of the annual bills at that time, and the sum it appropriates has increased from $23,679,000 to $142,265,000 for 1912, or much more than one-third of all the appropriations then.

The annual Book of Estimates has increased from a volume of 316 pages to one of 936 pages for the fiscal year 1914.

The House has recognized the augmented labors of the committee during that period by increasing its membership from 15 to 17, and finally to 21, and its office rooms from 2 to 4.

It was not until 1890 that the committee had stenographic reports made of hearings conducted in the preparation of appropriation bills, and at that time they made in all 368 printed pages. During the first session of this Congress they make five large volumes containing 4,675 printed pages.

These hearings have to be edited, duplicated, and irrelevant matter eliminated, headings inserted, proofs corrected, and indexes made. They are available to all, and used by many Members of the House and Senate and by all departments of the Government.

The work of the committee is necessarily continuous throughout the year, and without reference to whether Congress is in session or not, the vacation period being availed of for the preparation of tentative or subcommittee forms of the bills and putting records in permanent shape for reference and preservation.

The entire membership of the House, almost without exception, have to do with the work of the Committee on Appropriations, and an adequate and efficient clerical staff is quite indispensable in giving to the individual Members information concerning matters immediately affecting their constituencies or in reference to the public service, over which the committee have jurisdiction. This relation, too, of the committee to the whole membership of the House and the public generally extends into the vacation periods and is represented by no inconsiderable amount of correspondence and response to personal inquiries.

In 1883, aside from the Appropriation and Ways and Means Committees, only 10 committees of the House had annual clerks; now 36 of them are so provided, and in some cases—Interstate and Foreign Commerce, Invalid Pensions, and War Claims—they have three annual clerks each.

The work of the committee is in such condition that as a temporary relief it has been compelled to ask the Doorkeeper to detail one of his pages to assist the present force. So desperate is the need for additional help that the committee at a meeting directed me to submit this resolution to the House. We have six appropriation bills, and we are the center of information not

only for the House but for nearly every department of the Government.

Mr. GARRETT. Mr. Speaker, I understand the gentleman from New York to say that this is a unanimous request of the committee.

Mr. FITZGERALD. The unanimous request.

Mr. GARRETT. It is permanent in character.

Mr. FITZGERALD. It is to be permanent. The clerk of the Committee on Appropriations has been with that committee 33 years. The assistant clerk has been there 8 years. One of the present reporters of debates in the House graduated from that committee. The clerk of the Committee on Appropriations in the Senate was an assistant clerk of this committee. It is necessary that these men be trained in the work, so that they may become familiar with all the details of the vast appropriations of the Government, and they go on from Congress to Congress regardless of the political complexion of the House.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection.

The resolution was agreed to.

On motion of Mr. FITZGERALD, a motion to reconsider the vote whereby the resolution was agreed to was laid on the table.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles, when the Speaker signed the same:

H. R. 25878. An act granting certain lands for a cemetery to the Fort Bidwell People's Church Association of the town of Fort Bidwell, State of California, and for other purposes;

H. R. 14925. An act to amend an act to parole United States prisoners, and for other purposes, approved June 25, 1910;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States, relating to the carrying of dangerous articles on passenger steamers;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty;

H. R. 45. An act affecting the town sites of Timber Lake and Dupree in South Dakota;

H. R. 25764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry;

H. R. 22437. An act for the relief of the heirs of Anna M. Torreson, deceased;

H. R. 25515. An act for the relief of Joshua H. Hutchinson; and

H. J. Res. 239. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America.

HOUSE BILL WITH SENATE AMENDMENTS.

Under clause 2 of Rule XXIV, House bill (H. R. 14053) to increase the pensions of surviving soldiers of Indian wars in certain cases, with Senate amendment, was referred to the Committee on Pensions.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 4747. An act to provide for the erection of a public building at Aberdeen, Wash.; to the Committee on Public Buildings and Grounds.

S. 4545. An act to provide for the erection of a public building in the city of Ellensburg, in the State of Washington; to the Committee on Public Buildings and Grounds.

S. J. Res. 155. Joint resolution extending the privilege of the proviso of section 2 of the act of June 7, 1906, to persons using alcohol for testing citrus fruits; to the Committee on Ways and Means.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of vehicles for hire;

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States relating to the carrying of dangerous articles on passenger steamers;

H. R. 14925. An act to amend an act to parole United States prisoners, and for other purposes, approved June 25, 1910;

H. R. 25878. An act granting certain lands for a cemetery to Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes;

H. R. 25764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry;

H. R. 25515. An act for the relief of Joshua H. Hutchinson;

H. R. 22437. An act for the relief of the heirs of Anna M. Torreson, deceased;

H. R. 45. An act affecting the townsites of Timber Lake and Dupree in South Dakota; and

H. J. Res. 239. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America.

WITHDRAWAL OF PAPERS.

Mr. BOOHER, by unanimous consent, was given leave to withdraw from the files of the House, without leaving copies, papers in the case of Daniel O'Connor (H. R. 27398), Sixtieth Congress, no adverse report having been made thereon.

ADJOURNMENT.

And then, on motion of Mr. SPARKMAN (at 6 o'clock and 30 minutes p. m.), the House adjourned until to-morrow, Wednesday, January 22, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Mermentau River, La. (H. Doc. No. 1290); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of special board of engineers on examination and survey on system of impounding reservoirs at the headwaters of the Allegheny, Monongahela, and Ohio Rivers and their tributaries (H. Doc. No. 1289); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of War, transmitting, pursuant to section 230, Revised Statutes, abstracts of proposals received during the fiscal year ended June 30, 1912, for material and labor in connection with works under the Engineer Department (H. Doc. No. 1294); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Acting Secretary of the Treasury, transmitting copy of a communication from the Secretary of Agriculture submitting deficiency estimate of appropriations for the Department of Agriculture (H. Doc. No. 1291); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Tennessee at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

6. A letter from the Secretary of the Treasury, submitting supplemental estimates for appropriations for public buildings under control of the Treasury Department for the year 1913 (H. Doc. No. 1292); to the Committee on Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named as follows:

Mr. SHEPPARD, from the Committee on Public Buildings and Grounds, to which was referred the joint resolution (H. J. Res. 380) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc., reported the same with amendment, accompanied by a report (No. 1349), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HOUSTON, from the Committee on the Census, to which was referred the bill (H. R. 27996) to amend an act approved August 23, 1912, entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes," reported the same with amendment, accompanied by a report (No. 1350), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CULLOP, from the Committee on Industrial Arts and Expositions, to which was referred the bill (H. R. 27876) to provide for the participation of the United States in the Panama-Pacific International Exposition, reported the same with amendment, accompanied by a report (No. 1358), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. NORRIS, from the Committee on the Judiciary, to which was referred the bill (S. 8000) providing for publicity in taking evidence under act of July 2, 1890, reported the same without amendment, accompanied by a report (No. 1356), which said bill and report were referred to the House Calendar.

Mr. MARTIN of South Dakota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27879) providing authority for the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota, reported the same without amendment, accompanied by a report (No. 1363), which said bill and report were referred to the House Calendar.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27986) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, reported the same with amendment, accompanied by a report (No. 1361), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 27987) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, reported the same with amendment, accompanied by a report (No. 1362), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 27944) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, reported the same with amendment, accompanied by a report (No. 1359), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 27988) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, reported the same with amendment, accompanied by a report (No. 1360), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill (H. R. 3967) granting an increase of pension to John R. Fugill, reported the same without amendment, accompanied by a report (No. 1355), which said bill and report were referred to the Private Calendar.

Mr. REDFIELD, from the Committee on Invalid Pensions, to which was referred the bill (H. R. 27806) granting a pension to Mary MacArthur, reported the same with amendment, accompanied by a report (No. 1357), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HOLLAND: A bill (H. R. 28327) authorizing the extension of Seventeenth, Evarts, and Bryant Streets NE., in the District of Columbia; to the Committee on the District of Columbia.

By Mr. FRANCIS: A bill (H. R. 28328) to authorize the donation of certain unused and obsolete guns now at Chickamauga Park, Ga., to the J. S. McCready Post, Grand Army of the Republic, of Cadiz, Ohio; to the Committee on Military Affairs.

By Mr. LAFFERTY: A bill (H. R. 28329) giving settlers on unsurveyed public lands who have made their entries of record since June 6, 1912, the option of acquiring title under sections 2291 and 2297 of the Revised Statutes of the United States as they existed prior to the passage of the act of June 6, 1912; to the Committee on the Public Lands.

Also, a bill (H. R. 28330) to extend additional time to bona fide homestead entrymen to complete residences and cultivation of their lands; to the Committee on the Public Lands.

By Mr. FRENCH: A bill (H. R. 28331) extending to the members of Capt. Henson's Company A, Stone County (Mo.) Militia, the provisions of the pension acts granting pensions to the soldiers and sailors of the War of the Rebellion; to the Committee on Invalid Pensions.

By Mr. HOBSON: A bill (H. R. 28332) to promote the efficiency of the Marine Band; to the Committee on Naval Affairs.

By Mr. RUCKER of Missouri: A bill (H. R. 28333) to increase the limit of cost of the United States post-office building at Chillicothe, Mo., heretofore authorized by Congress and to provide for the construction of a building suitable for post office, United States courts, and other governmental offices; to the Committee on Public Buildings and Grounds.

By Mr. ANTHONY: A bill (H. R. 28334) to authorize the exchange of certain properties between the insular government of Porto Rico and the War Department; to the Committee on Insular Affairs.

By Mr. MACON: A bill (H. R. 28335) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. DICKSON of Mississippi: A bill (H. R. 28336) authorizing the purchase of certain lands in Louisiana and Mississippi; to the Committee on Rivers and Harbors.

By Mr. GREGG of Texas: A bill (H. R. 28337) to provide for reconstructing the appraisers' stores for a courthouse, for acquiring and reconstructing property for an appraisers' store, and for rearranging the third story of the post office and custom-house at Galveston, Tex.; to the Committee on Public Buildings and Grounds.

By Mr. NEEDHAM: Joint resolution (H. J. Res. 388) extending the privilege of the proviso of section 2 of the act of June 7, 1906, to persons using alcohol for testing citrus fruits; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AINEY: A bill (H. R. 28338) granting an increase of pension to Mary Quinlan; to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 28339) granting an increase of pension to William H. Gump; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 28340) granting an increase of pension to John P. Murphy; to the Committee on Pensions.

By Mr. CARLIN: A bill (H. R. 28341) for the relief of Albert O. Tucker; to the Committee on War Claims.

Also, a bill (H. R. 28342) granting an increase of pension to Mary C. Scrivener; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28343) for the relief of Emma E. Frauner, George W. Seaton, Hiram K. Seaton, Howard Seaton, Mary Seaton, Blanche Seaton, George W. Taylor, Edward Taylor, and Catharine Pomeroy; to the Committee on War Claims.

By Mr. FERGUSSON: A bill (H. R. 28344) granting an increase of pension to Jesse Hubbert; to the Committee on Pensions.

By Mr. HAMMOND: A bill (H. R. 28345) granting a pension to Elizabeth McClarg; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 28346) to amend and correct the military record of Rodney Woodman; to the Committee on Military Affairs.

By Mr. LAFFERTY: A bill (H. R. 28347) granting an increase of pension to Edward D. Hamilton; to the Committee on Invalid Pensions.

By Mr. LENROOT: A bill (H. R. 28348) granting a pension to Mary MacArthur; to the Committee on Invalid Pensions.

By Mr. MARTIN of South Dakota: A bill (H. R. 28349) granting an increase of pension to George W. Brown; to the Committee on Invalid Pensions.

By Mr. PORTER: A bill (H. R. 28350) granting a pension to Catherine Mann; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 28351) to remove the charge of desertion from the record of James A. Cordell; to the Committee on Military Affairs.

By Mr. WHITACRE: A bill (H. R. 28352) granting a pension to Robert D. Patterson; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 28353) granting a pension to Peter C. Deardorff; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of farmers and others of Montgomery County, Md., favoring the passage of legislation for the building of the Lincoln boulevard from Washington to Gettysburg; to the Committee on the Library.

By Mr. ALLEN: Resolutions of the Boot and Shoe Workers' Union, Local No. 222, Cincinnati, Ohio, with reference to the prosecution by officials of the Department of Justice of the editors of the Appeal to Reason; to the Committee on Expenditures in the Department of Justice.

Also, resolution of the Illinois Chapter of the American Institute of Architects, approving site for the Lincoln memorial, but disapproving type of memorial; to the Committee on the Library.

By Mr. AINEY: Petition of the Bridgewater Baptist Church, Montrose, Pa., favoring the passage of the Kenyon "red light" injunction bill, to clean up Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the Bridgewater Baptist Church and the Men's Brotherhood of the Baptist Church of Montrose, Pa., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. ANSBERRY: Petition of the Ohio State legislative committee of the Railway Conductors of America, Columbus, Ohio, protesting against the passage of the Brantley bill (S. 5382), known as the Federal accident-compensation act; to the Committee on the Judiciary.

Also, petition of Illinois Chapter American Institute of Architects, Chicago, Ill., approving site proposed for the memorial to be erected to Abraham Lincoln at Potomac Park, Washington, D. C., but opposing the design as approved by the National Commission of Fine Arts; to the Committee on the Library.

By Mr. BURKE of Wisconsin: Papers to accompany bill (H. R. 27998) granting an increase of pension to Elvin A. Estey; to the Committee on Invalid Pensions.

By Mr. CARY: Petition of the Jewett & Sherman Co., Milwaukee, Wis., protesting against any change in the present tariff on spices; to the Committee on Ways and Means.

By Mr. ESCH: Petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of proposed legislation to transfer the national forests to the States within which they lie; to the Committee on Agriculture.

By Mr. FITZGERALD: Petition of the German-American Peace Society, New York, protesting against the passage of House bill 8141, placing the State militia on the national pay roll; to the Committee on Military Affairs.

Also, petition of Illinois Chapter of the American Institute of Architects, approving site proposed for the memorial to be erected to Abraham Lincoln at Potomac Park on the river at Washington, D. C.; to the Committee on the Library.

Also, petition of board of directors of the National Business League of America, favoring the passage of legislation favoring the purchase of embassy sites and buildings by the United States of America in the foreign commercial centers of the world; to the Committee on Foreign Affairs.

By Mr. FORNES: Petition of the New York Leather Belting Co., New York; R. E. Dietz Co., New York; the American Laundry Machinery Co., Rochester, N. Y.; Louis Schulman, New York; Wood & Selick, New York; the Reliance Ball-Bearing Door Hanger Co., New York; Oliver Bros. Purchasing Co., New York; Hogan & Son, New York; and the Rogers, Peet Co., New York, all in the State of New York, favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. FOSS: Petition of citizens of Chicago, Ill., favoring the passage of the Kenyon-Sheppard bill prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. FULLER: Petition of the Moran & Hastings Manufacturing Co., Chicago, Ill., in favor of House bill 27567, for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of Myron C. Skinner and others, favoring passage of House bill 1339, to increase pensions of those who lost an arm or a leg in the Civil War; to the Committee on Invalid Pensions.

By Mr. HINDS: Papers to accompany bill correcting the military record of Rodney Woodman; to the Committee on Military Affairs.

By Mr. LINDSAY: Petition of the Brooklyn and New York Chapters, American Institute of Architects, New York, favoring the passage of legislation for the adoption of the Mall as a proper site for the memorial to Abraham Lincoln; also favoring the proposed design; to the Committee on the Library.

By Mr. PARRAN: Papers to accompany bill (H. R. 28009) for the relief of Joseph Sedlack; to the Committee on Naval Affairs.

By Mr. POST: Petition of Orville Wright and others, of Dayton, Ohio, protesting against the passage of House bill 23417, relating to compulsory patent licenses; to the Committee on Patents.

Also, petition of H. A. Toulman and others, of Dayton, Ohio, favoring the passage of House bill 26277, for the establishment of a United States patent court of appeals; to the Committee on the Judiciary.

By Mr. REILLY: Petition of the Southington (Conn.) Board of Trade, favoring the passage of legislation for the establishment of a tariff commission to collect information pertaining to tariff to aid Congress in tariff legislation; to the Committee on the Judiciary.

Also, petition of the Audubon Society of Bridgeport, Conn., and the Milford Business Men's Association, Milford, Conn., favoring the passage of the McLean bill for granting Federal protection for all migratory birds; to the Committee on Agriculture.

By Mr. TILSON: Petition of the executive board of the Audubon Society of the State of Connecticut, Bridgeport, Conn., and the Milford Business Men's Association, Milford, Conn., favoring the passage of the McLean bill for the protection of all migratory birds by the Federal Government; to the Committee on Agriculture.

By Mr. WILSON of New York: Petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of House bill 23417, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

SENATE.

WEDNESDAY, *January 22, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

SEWERAGE AND DRAINAGE SYSTEMS, HOT SPRINGS, ARK. (H. DOC. NO. 1298).

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the existing sanitary and storm-water sewerage and drainage systems in the city of Hot Springs, Ark., together with plans and estimates for extension, which, with the accompanying papers and illustrations, was referred to the Committee on Appropriations and ordered to be printed.

YAKIMA INDIAN RESERVATION, WASH. (H. DOC. NO. 1299).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the conditions existing on the Yakima Indian Reservation, Wash., which, with the accompanying paper and illustrations, was referred to the Committee on Indian Affairs and ordered to be printed.

FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact and conclusions filed by the court in the following causes:

Ellas S. Dennis, jr., son and sole heir of Ellas S. Dennis, deceased, v. United States (S. Doc. No. 1034);

Joseph Hayes v. United States (S. Doc. No. 1033);

John A. Hobson, executor of Edward H. Hobson, deceased, v. United States (S. Doc. No. 1032);

Charles J. Hovey, administrator of Alvin P. Hovey, deceased, v. United States (S. Doc. No. 1031);

Byron R. Pierce v. United States (S. Doc. No. 1030);

Ella S. Marsh, Francis C. Sherman, Eaton G. Sherman (children), Martha Miller, Louis S. Aldrich, and Eleanor A. Radonavitz (grandchildren), sole heirs of Francis T. Sherman, deceased, v. United States (S. Doc. No. 1029);

Simon Lyon, administrator of Adolph von Steinwehr, deceased, v. United States (S. Doc. No. 1028);

Charles V. McAdams, administrator of George D. Wagner, deceased, v. United States (S. Doc. No. 1027);

Charles C. Walcutt, Sherman Walcutt, and John M. Walcutt, children and sole heirs of Charles C. Walcutt, deceased, v. United States (S. Doc. No. 1026);

Cyrus Bussey v. United States (S. Doc. No. 1025); and

Robert P. Bradley, executor of Luther P. Bradley, v. United States (S. Doc. No. 1024).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 14053) to increase the pensions of surviving soldiers of Indian wars in certain cases, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey managers at the conference on the part of the House.

The message also announced that the House had passed the following order, in which it requested the concurrence of the Senate:

Ordered, That a message be sent to the Senate, notifying that body that an error has been made in the engrossment of the bill H. R. 26874, entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914," approved January 9, 1913, as sent from this House to the Senate, which error consists in incorporating in said engrossed bill a section thereof, on page 24, lines 7 to 15, inclusive, as follows:

"The sum of $300,000 to be expended in the discretion of the Secretary of the Interior, under rules and regulations to be prescribed by him, in aid of the common schools in the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations in Oklahoma, during the fiscal year ending June 30, 1914: *Provided*, That this appropriation shall not be subject to the limitation in section 1 of this act limiting the expenditure of money to educate children of less than one-fourth Indian blood."

Said section having been stricken from the original bill by this House previous to the passage of the bill; and that the Senate be requested to permit the Clerk to correct said error.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented resolutions adopted by the Woman's Christian Temperance Union of the District of Columbia, favoring the enactment of legislation authorizing the closing of all bar rooms and saloons in Washington on March 4 next, and also to permanently abolish the "red-light" district, which were referred to the Committee on the District of Columbia.

Mr. ASHURST presented resolutions adopted by the conservation department of the General Federation of Woman's Clubs, of Phoenix, Ariz., remonstrating against transferring the control of the national forests to the several States, which were referred to the Committee on Forest Reservations and the Protection of Game.

Mr. McLEAN presented a memorial to the State Grange, Patrons of Husbandry, of Connecticut, remonstrating against the repeal of the oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

Mr. PERKINS presented a petition of members of the Shakespeare Club of Pasadena, Cal., and a petition of members of the Audubon Society of Los Angeles, Cal., praying for the enactment of legislation for the protection of migratory birds, which were ordered to lie on the table.

Mr. LODGE presented a petition of sundry citizens of Everett, Mass., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. WETMORE presented a memorial of the congregation of the Seventh-day Adventist Church of Slocum, R. I., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. JOHNSON of Maine presented petitions of the State Grange, of Local Grange of Winthrop, and of Local Grange No. 452, of Hartland, Patrons of Husbandry, all in the State of Maine, praying for the passage of the so-called Page vocational education bill, which were ordered to lie on the table.

He also presented a memorial of the congregation of the Seventh-day Adventist Church of Cornville, Me., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. ROOT presented a petition of citizens of Binghamton, N. Y., praying for the passage of the so-called Kenyon "red light" injunction bill, which was ordered to lie on the table.

Mr. GALLINGER presented a memorial of the congregation of the Seventh-day Adventist Church of Keene, N. H., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. SMOOT, from the Committee on Public Lands, to which was referred the bill (H. R. 25780) to amend section 3186 of the Revised Statutes of the United States, asked to be discharged from its further consideration and that it be referred to the Committee on the Judiciary, which was agreed to.

Mr. MYERS, from the Committee on Public Lands, to which was referred the bill (S. 3130) to authorize the Secretary of the Interior to permit the Conrad-Stanford Co. to use certain lands, reported it with an amendment and submitted a report (No. 1134) thereon.

EMPLOYMENT OF STENOGRAPHERS.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution No. 437, submitted by Mr. MARTIN of Virginia on the 21st instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay for two stenographers to Senators who are not chairmen of committees, at $1,200 each per annum, from January 11 and January 20, 1913, respectively, to be paid from the contingent fund of the Senate until the expiration of the present Congress.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 8232) authorizing the State Department to deliver to J. F. Reynolds Landis a gift from the Government of Italy; to the Committee on Foreign Relations.

By Mr. JONES:

A bill (S. 8233) authorizing the Secretary of War to relieve the Washington-Oregon Corporation, as far as he may deem advisable in the public interests, from certain conditions in an act entitled "An act granting to the Washington-Oregon Corporation a right for an electric railroad, and for telephone, telegraph, and electric transmission lines, across the Vancouver Military Reservation in the State of Washington," approved August 9, 1912 (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 8234) granting an increase of pension to Estelle H. Wholley (with accompanying papers); to the Committee on Pensions.

By Mr. SUTHERLAND:

A bill (S. 8235) in relation to forfeited bail bonds and recognizances; to the Committee on the Judiciary.

By Mr. DILLINGHAM:

A bill (S. 8236) granting a pension to Rosa E. Pennell (with accompanying papers); to the Committee on Pensions.

By Mr. GAMBLE:

A bill (S. 8237) granting an increase of pension to Ferdinand O. Tennison (with accompanying papers);

A bill (S. 8238) granting an increase of pension to Michael McDonald (with accompanying papers);

A bill (S. 8239) granting an increase of pension to Thomas Moody (with accompanying papers); and

A bill (S. 8240) granting an increase of pension to Charles Belknap (with accompanying papers); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8241) granting an increase of pension to Mary B. Stockbridge (with accompanying papers); to the Committee on Pensions.

By Mr. STEPHENSON:

A bill (S. 8242) granting an increase of pension to Johanna R. Busch (with accompanying papers); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 8243) granting an increase of pension to Lavina G. Clark (with accompanying paper); to the Committee on Pensions.

By Mr. TILLMAN:

A bill (S. 8244) authorizing the Secretary of the Treasury to give to the city of Charleston the "Old Exchange" Building (with accompanying papers); to the Committee on Public Buildings and Grounds.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. ASHURST submitted an amendment authorizing the Postmaster General to investigate all claims of postmasters for the loss of money-order funds, postal funds, postal-savings funds, postal-savings stamps, and other stamp paper relating to the Postal Savings System, etc., intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

Mr. JOHNSON of Maine submitted an amendment proposing to appropriate $16,000 for improving Carvers Harbor, Vinalhaven, Me., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. SUTHERLAND submitted an amendment providing that hereafter no part of an appropriation shall be available for the

payment of the salary of the head of any executive department, bureau, or independent establishment, who, in making reductions in any force employed under the civil service or in any of the executive departments, shall discharge, drop, or reduce in rank, class, position, salary, or compensation any honorably discharged soldier, sailor, or marine whose record is rated good, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

VENTILATION OF SENATE CHAMBER.

Mr. TILLMAN. I submit a resolution, and ask unanimous consent for its present consideration.

The resolution (S. Res. 438) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the special committee authorized by Senate resolution 432 be instructed to consider the propriety of securing purer air in the Senate Chamber by submitting a rule of the Senate forbidding smoking in the Chamber at any time by anybody.

Mr. TILLMAN. I ask that the resolution be referred to the special committee when appointed.

The PRESIDENT pro tempore. That order will be made.

IMMIGRATION OF ALIENS.

Mr. LODGE. I ask, for the convenience of the Senate, that the immigration bill as agreed upon by the conferees may be printed, so that it may be ready for the use of the Senate when the conference report comes from the House.

The PRESIDENT pro tempore. Without objection, that order will be made.

Mr. LODGE. It can not be taken up until the conference report has been received from the House.

WOMAN SUFFRAGE.

Mr. OVERMAN. Several documents in the document room are out of print, and I ask that they be printed as a Senate document. They are in regard to woman suffrage.

Mr. SMOOT. I will simply ask whether those are the documents the Senator brought to my attention yesterday?

Mr. OVERMAN. They are the documents the Senator put his O. K. on.

There being no objection, the order was agreed to, and it was reduced to writing, as follows:

Ordered, That Senate Report No. 686, and part 2 of said report (47th Cong., 1st sess.); Senate Report No. 399, and part 2 of said report (48th Cong., 1st sess.); House of Representatives Report No. 1330 (48th Cong., 1st sess.); Senate Report No. 1143, and views of minority (52d Cong., 2d sess.); and "Hearings before a joint committee of the Committee on the Judiciary and the Committee on Woman Suffrage of the Senate on woman suffrage," be printed as a Senate document.

PANAMA RAILROAD CO. (S. DOC. NO. 1022).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying paper, referred to the Committee on Interoceanic Canals and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith, for the information of Congress, the Sixty-third Annual Report of the Board of Directors of the Panama Railroad Co. for the fiscal year ending June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *January 22, 1913.*

INTERNATIONAL CONGRESS ON SCHOOL HYGIENE (S. DOC. NO. 1023).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

On the 19th of August last Congress passed the following resolution:

Resolved, etc., That the President of the United States is hereby requested to direct the Secretary of State to issue invitations to foreign Governments to participate in the Fourth International Congress on School Hygiene, to be held in Buffalo, N. Y., August 25 to 30, 1913: *Provided*, That no appropriation shall be granted at any time hereafter in connection with said congress.

At the time the resolution was passed there were three gentlemen in Buffalo whose means and whose interest in the Congress were such that the people of Buffalo had every reason to believe that the expense of the congress would be contributed by these, their citizens. Since that time the three citizens have died, and there is no written obligation on the part of their estates to meet the necessary expenses.

I recommend the appropriation of $30,000 (to which the citizens of Buffalo will have to add a substantial sum) as a contribution of the Government to the fund necessary to make the reception of the congress accord with what we regard as American hospitality.

Personally I am very much opposed to any invitation of this sort at the instance of the Government in which the Government does not assume all the expenses of entertainment. Other countries much less able than the United States never extend an invitation of this sort without having proper preparation for the reception of the guests of the nation.

In the peculiar circumstances of the present resolution I urgently recommend the appropriation of the sum mentioned to enable the obligation of the invitation to be properly met. The proviso in the resolution was an unfortunate one, in my judgment, but, whether it was so or not, under the circumstances it offers no reason for Congress not to take the proper course.

WM. H. TAFT.

THE WHITE HOUSE, *January 22, 1913.*

PROTECTION OF BIRDS.

The PRESIDENT pro tempore. The morning business is closed.

Mr. McLEAN. Mr. President. I shall detain the Senate for a moment only. I gave notice last week that I would this morning call the attention of the Senate to S. 6497, a bill to protect migratory game and insectivorous birds in the United States, with the hope of securing the consent of the Senate to a vote upon the bill in the near future. I think perhaps I ought to say that at the time the bill was reported in April last I was advised by the friends of the measure not to press for a vote during the first part of the Sixty-second Congress. It seemed to me to be good advice then, and I hope I shall not have occasion to change that opinion. But under the circumstances, Mr. President, inasmuch as the method of conducting the business of the Senate has reached that stage of refinement where it is utterly impossible to secure affirmative legislation without the consent of every Member of the body, there is nothing for me to do but appeal to the Senate to consent to a vote upon this bill.

I have not burdened the Senate with this matter, but since the bill was reported I have received telegrams, day letters, night letters, and petitions in great numbers from all portions of the United States urging me to press the bill to a vote, and I will now ask the Secretary to read two communications, one of which is from Mr. Spear, of Texas.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

2015 BRYAN STREET, *Dallas, Tex.*

United States Senator McLEAN,
Washington, D. C.

DEAR SENATOR: I am glad to notice that you are urging a bill for the protection of migratory birds. The slaughter of robins during extreme cold weather when driven to this country for feed and shelter is beyond computation. Men, void of principle, go to the robins' roosts at night and, by blinding the poor birds with a bright light, the birds are thrashed down by hundreds. I have talked with men who have seen sacks full of dead birds. I have seen large numbers that were trapped as I have noted.

Last winter boys shot 20 to 30 each day for a long period of cold weather. People of the Middle and New England States may conclude that the robins have gone elsewhere when it is noticed that they are not building nests as of yore or that so few have been noticed. The cause of it is that they have been slaughtered in the South during the winter.

Senator CULBERSON is a humane man and no doubt would agree with the writer if his attention were called to the gradual extermination of robins, ducks, and all other migratory birds. You can be told here that we have a law making the killing of robins an act punishable by a fine of $5. This law is not enforced. There are many good people throughout all Southern States that would be delighted to have the Government, through the Agricultural Department or any other department, take measures to more fully protect migratory birds.

With best wishes, I remain,

Yours, most respectfully, THOS. S. SPEAR.

Mr. McLEAN. I now ask to have this telegram read, which I received a few days ago.

The PRESIDENT pro tempore. Without objection, the telegram will be read.

The Secretary read the telegram, as follows:

CHICAGO, ILL., *January 16, 1913.*

Hon. GEORGE P. McLEAN,
United States Senate, Washington, D. C.:

You can't possibly comprehend how widespread and deep is the sentiment generally in favor of your bill for the protection of migratory birds. Your appeal for an early and favorable vote on this matter should have the earnest support of all the Members of the United States Senate who would serve their country by saving for it one of our most valuable and interesting natural resources, now being rapidly destroyed. No measure now pending before Congress is more far-reaching in its importance or is more greatly needed. We strongly urge its passage.

GLEN BUCK.
For John Burroughs and Ernest Thompson Seton.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Kansas will propound the inquiry.

Mr. CURTIS. In view of the statement made by the Senator from Connecticut that the only way to get up the bill is by

unanimous consent, I desire to ask the Chair if it would not be properly within the rules for the Senator from Connecticut to move during the morning hour to proceed to the consideration of the bill.

The PRESIDENT pro tempore. It would be in order.

Mr. McLEAN. I thank the Senator from Kansas. I intended to make that or a kindred motion, but I want, first, to call the attention of the Senate to the fact that I have here expressions from two extremes. The letter which was read was written by a practicable, civilized farmer, and, I think, represents the class of appeals that I have received pretty generally from the Southern States. The telegram, as you will note, was received from John Burroughs and Ernest Thompson Seton, who represent the very highest authority we have upon this subject, and it seems to me that it is an authority to which we should lend a willing ear before it is too late.

If there is objection to the consideration of this measure today, I desire to propose a unanimous-consent agreement. I do not know that there will be opposition to its consideration, and I will ask the consent of the Senate to take up the bill now.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent to proceed to the consideration of the bill which he has indicated. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 6497) to protect migratory game and insectivorous birds in the United States.

The PRESIDENT pro tempore. The bill has been heretofore read in full. It is before the Senate as in Committee of the Whole and open to amendment. If no amendment be proposed the bill will be reported to the Senate.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PANAMA CANAL TOLLS.

Mr. O'GORMAN. Mr. President, I desire to address a few observations to the Senate with respect to the bill to repeal certain features of the Panama Canal act which was passed at the last session of Congress.

Mr. GARDNER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Maine?

Mr. O'GORMAN. I do.

Mr. GARDNER. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Maine suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	Lodge	Shively
Bourne	Cullom	McCumber	Simmons
Bradley	Dillingham	Martin, Va.	Smith, Ariz.
Brandegee	Fletcher	Martine, N. J.	Smoot
Bristow	Gallinger	Myers	Stephenson
Brown	Gardner	Newlands	Sutherland
Bryan	Gronna	O'Gorman	Swanson
Burnham	Guggenheim	Oliver	Thomas
Burton	Heiskell	Overman	Thornton
Catron	Hitchcock	Page	Tillman
Chamberlain	Johnston, Ala.	Penrose	Townsend
Chilton	Johnston, Tex.	Percy	Wetmore
Clark, Wyo.	Jones	Perkins	
Clarke, Ark.	Kern	Pomerene	
Crawford	Lippitt	Root	

Mr. THORNTON. I desire to announce the absence of my colleague [Mr. FOSTER] on account of illness in his family. I ask that this announcement stand for the day.

Mr. KERN. I again announce, for the day, the unavoidable absence of the junior Senator from South Carolina [Mr. SMITH] on account of illness in his family.

The PRESIDENT pro tempore. On the call of the roll 57 Senators have answered to their names. A quorum of the Senate is present. The Senator from New York will proceed.

Mr. O'GORMAN. Mr. President, as I understand the bill which is being discussed, it provides for the repeal of a clause in the Panama Canal law exempting coastwise vessels from the payment of tolls, or, in the alternative, recommends that the disputed question of interpretation and construction of the Hay-Pauncefote treaty be referred to arbitration. I am unalterably opposed to both propositions.

It has been stated that the legislation enacted at the last session was ill-advised and hasty and without proper consideration. I am sure when that statement was made to the Senate the Senators who heard the declaration were surprised, because it is within the knowledge of every Member of the body that the bill enacted at the last session for the regulation of the Panama Canal received the consideration of the Interoceanic Canal Committee for many months and was the subject of discussion on the floor of the Senate from time to time for perhaps four or five weeks. Many Senators participated in the discussion; and after very thoughtful consideration of the merits of the bill, with the same objections then urged that we have heard in the last day or two, the Senate adopted the existing law by a vote of 45 in its favor against 15 in opposition.

The great remedy which was sought to be accomplished by that law receives very little attention and was scarcely alluded to by those who opposed its passage. It was sought by the proper use of the Panama Canal to place a wholesome restraint upon the transcontinental railroads in the imposition of their charges. It is common knowledge that for many years the transcontinental railroads looked with disfavor upon the building of a Panama Canal, because those interested in the railroads knew that with the opening of the Panama Canal cheap transportation by water would require the railroads to reduce their rates and would deprive them of the monopoly which they sought to obtain.

There was a time when the Southern Pacific Railroad was found in competition with the Pacific Mail Steamship Co. There was a wholesome competition which worked for the benefit of the people of the country. That competition was destroyed as soon as the Southern Pacific Railroad was able to secure 51 per cent of the stock of the Pacific Mail. Rates were then placed so high as in some instances to be prohibitive; and it appeared from the lips of many witnesses, many citizens from different parts of the country who testified before our committee, that the best results to the people from the use of the Panama Canal could be secured only by prohibiting the use of the canal by railroad-controlled boats. The proposal to enact this legislation encountered opposition at every step, and I remember during some remarks I had the honor of making in this body on the 17th of July last that I called attention to what was really within the knowledge of every Member—that no railroad corporation in this country ever secured the control of a competing water line without destroying competition. I called attention to the fact that every foot of rail east of the city of New York, that every foot of rail through New England, was controlled by one railroad system; that every boat on the Sound engaged in water transportation between New York and New England was controlled by the same corporation; and that that corporation, perfecting its monopoly, had sought, and had almost acquired, control of every foot of trolley-line service through that important section of the United States.

I called attention to the circumstance that the city of Bridgeport, one of the great cities of New England, a great manufacturing center, did not own a single foot of its own water front; that it was owned by the New Haven Railroad; that no independent boat could get a landing in Bridgeport; that the boats of the New Haven road had the business of Bridgeport by water and the railroad had its business by land; that every pound of freight going in and out of that great city was subject to such rates and charges as one corporation saw fit to impose upon the people, and that, contrary to the practice that has prevailed at different times in other parts of the country, the cost of transportation by water on the New Haven Railroad boats was as large as the charge in most instances by rail, although every student of transportation knows that it is less expensive to transport goods by water than by rail.

After making those statements, three of my distinguished colleagues from New England took occasion to say that I was in error in supposing that the New Haven system had any monopoly, and asserted that the people were well satisfied with the service and conduct of the New Haven Railroad. But within two months after that declaration all the people of New England were up in arms against the aggressions of that road. The governor of Rhode Island, the governor of Massachusetts, and the legislatures of most of the New England States were loud in their condemnation of the conduct of the New Haven system, and urged that the municipalities or the States should take over the control of the railroads as their only relief from burdens that were too heavy to bear.

You rarely hear in the discussion of the Panama Canal bill any reference to its railroad features. I concede that the provisions which seek to exclude railroads from the use of the waterways of the country are drastic, but I insist that they are necessary if the people of the country are to be saved from the domination of great monopolies.

We provided in the bill that our coastwise ships should be permitted to use the canal free. We were induced to this course by two considerations: First, to encourage our coastwise shipping, and, second and more important, to secure the cheapest possible transportation by water. Cheap water transportation will compel the competing transcontinental railroads to maintain reasonable rates. The main purpose of the legis-

lation was to reduce the cost of domestic transportation. This clearly presents a question of domestic policy, having no relation to international obligations.

Of course, we hear it said "You have violated the treaty with Great Britain," and we are told from time to time that we must maintain our reputation for national integrity with the countries of the world. But we have not violated the treaty by exempting our coastwise vessels. England, under a similar act passed in 1815 guaranteeing equality to the ships of the United States in the harbors of Great Britain, has for 98 years discriminated in favor of her local shipping. We have some people in this country who are more English than the English themselves in the consideration of our treaty relations.

We are told that possibly a painful impression will be made. I am sure that a painful impression will be made abroad if we surrender one of the most essential attributes of sovereignty. We can never permit a foreign power to intrude upon us its views affecting our domestic policy. If we yield once, further encroachments will be made upon our integrity as a Nation.

The Law Magazine and Review, of London, in its issue of November last has two instructive and illuminating articles on the controverted interpretation or construction of the treaty, both written by Englishmen who are good lawyers, one of whom concludes his consideration of the question as follows:

Much again has been said, with little approach to accuracy, by those who demand investigation, regarding the supposed obligation on the part of the United States to refer, as a matter of abstract opinion, the issue of the validity of the decision of the Legislature of the United States, and the construction of the international documents which such decision may affect, to any international tribunal of arbitration, whether one constituted ad hoc or one existing as a matter of international recognition in the shape of what is shortly known as The Hague Tribunal. The latter court, gradually advancing though it may be to international acceptance, can not yet be said to have reached the point of supplanting the traditional right and efficacy of national courts to deal with questions of international treaty construction. When the United States is directed with newspaper unanimity, but with scant courtesy, to refer the abstract question of the capacity of its Legislature to act in accord with treaty obligations, one has only to consider the probable attitude of Great Britain if a similar statute of its Parliament was on similar grounds called into question. Firstly, Great Britain could point out that, if the perfection of impartiality is demanded, it would be difficult to constitute an international tribunal, the members of which would not be drawn from States interested in the commercial neutrality of the Panama Canal. Secondly, it could point out that its own courts were fully qualified, according to the acknowledged doctrine of international usage, to pass upon any issue involving the application of the law of nations. And thirdly, it could rest upon the immemorial practice by virtue of which an act of its legislature has not been treated as subject to the juridical review of constituted foreign opinion. It would be a courageous jurist who would aver that the Supreme Court of the United States, the ultimate arbiter of the very Constitution of its country, is ill equipped. It would be a courageous statesman who would suggest that that court could not be trusted to hold the balance fairly, for the purpose of enforcing, or at any rate of declaring, the claims of all conflicting interests.

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It would appear that recourse to context and preamble would enable the United States, having regard to the "general sense and spirit," to succeed. There is no contractual understanding by any States outside the United States on the one hand, and Great Britain on the other. There is no provision analogous to that contained in the Clayton-Bulwer treaty providing for the adherence to the convention of any third State. The whole of the advantages are to be enjoyed by any State for the time being accepting the conditions of working, without any obligation on the part of any State to remain bound to such conditions further than during periods which may be of intermittent uses. Even between the actual contracting parties, Great Britain and the United States, there are no collateral or reciprocal obligations by way of consideration explicitly undertaken. Any State for the time being using the canal, and so assenting to be bound by the conditions, can, by bounty to its own vessels or in any other way not amounting to a breach of international obligations, differentiate in favor of its own vessels and against those of any other State, including the United States.

To sum up, it is reasonably arguable—

(a) That the United States can support its action on the precise words of the material articles of the treaty, that its case is strengthened by reference to the preamble and context, and that its case is difficult to challenge on grounds of general justice;

This is not the declaration of an American; it is the declaration of a subject of Great Britain—

(b) That there is no international obligation to submit the construction of its legislative act to any process of arbitration; and

(c) That any aggrieved party has an appropriate, an impartial, and a competent tribunal in the Supreme Court of the United States.

That article is written by Edward S. Cox-Sinclair.

Mr. BRADLEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Kentucky?

Mr. O'GORMAN. I do.

Mr. BRADLEY. Will the Senator please read that third proposition? I did not catch it exactly.

Mr. O'GORMAN. The third proposition is this:

That any aggrieved party has an appropriate, an impartial, and a competent tribunal in the Supreme Court of the United States.

Mr. TOWNSEND. Does the Senator agree with him on that?

Mr. O'GORMAN. I have no comment to make at this time with reference to the third point. I am only quoting the English attitude. We have been taught to believe that they look with disfavor upon our legislation. I am demonstrating that they do not.

I now read from the same volume an article by Mr. C. A. Hereshoff Bartlett. I quote:

The provision of the treaty referred to means that there shall be no discrimination by the United States against any one foreign nation, or its citizens or subjects, in favor of any other foreign nation, or its citizens or subjects, in respect of the conditions of or charges for traffic or otherwise. "On terms of entire equality" refers to the equality extended to all nations other than the United States; that is to say, it is prohibitive of the United States favoring one foreign nation as against another. Its purpose was to provide that vessels of commerce of all nations foreign to the United States should enjoy the same equality among themselves; but this is quite another thing from saying that vessels of commerce of foreign nations shall enjoy the same equality as the vessels of commerce of the United States, and that the Federal Government can not, without infringing the terms of the treaty, extend the free use of the canal even to its own vessels engaged in the coastwise trade. What else does the expression "there shall be no discrimination against any such nation" mean? It means that no attempt should be made by the Federal Government to promote the interests of one foreign power to the detriment or exclusion of another; that all foreign nations should stand together equal and alike in the use of the canal.

"On terms of entire equality" was intended to prevent the United States discriminating in favor of one foreign nation against another foreign nation. The Federal Government was laying down its own rules, not for the regulation of its own ships of war and of commerce, but for the ships of war and of commerce of the stranger beyond its ports, and it unhesitatingly declared that the canal that might be built under its auspices should be free and open to them on terms of entire equality. No advantage should be obtained by one foreign nation over another foreign nation; there should be no favoritism, no special benefit or privilege extended to one that should not be open alike to all foreign nations. This is what the provision means and nothing more. It would require the interpolation of terms not contained in the treaty itself to sustain any other construction.

There is no invidious discrimination against any one foreign nation under the Panama Canal act. All foreign nations engaged in the same commerce—over-seas trade—are treated alike; are subject to the same restrictions and are entitled to the same privileges under similar conditions. On general principles treaties as well as legislation discriminating against some and favoring others are objectionable; but treaties and legislation which in carrying out a public purpose are limited in their application—if within the sphere of their operation they affect alike all persons or objects similarly situated—are not unjust discrimination.

Specific regulations of one kind of commerce which may be necessary for its protection can never be the just ground of complaint because like regulations are not imposed upon commerce of a different kind. The discriminations which are open to objection are those where persons engaged in the same commerce and plying their trade under the same conditions enjoy different privileges. It is only then that the discrimination can be said to impair that equal right which all can claim to whom it is accorded by law.

There is no evasion of the rule of equality where all foreign vessels are subjected to the same duties and liability under similar circumstances.

The treaty could never have been intended to prevent the Federal Government from arranging and regulating its domestic or coastwise commerce and in the use and enjoyment of its own property as it saw fit.

No such restriction could have been in view in adopting "as the basis of neutralization" a rule that the canal should be free and open to the vessels of commerce and of war of all nations on terms of entire equality. It would be absurd for the United States to solemnly declare that its own vessels of war might openly and freely navigate its own landlocked waterways and enjoy the privileges that belong to the Nation as a sovereign power in the use of its own territory. The use of the words "vessels of war" shows plainly that the word "vessels" as used referred only and exclusively to those of all nations other than those of the United States, and that the word "nations" was restricted to foreign nations; that is to say, nations foreign to the United States. What the opponents of the canal act seek to accomplish is to add to this phrase after the word "equality" the words "with its own," so that it would read "on terms of entire equality with its own." But that is precisely what was not contemplated and what was never within the minds of the contracting parties. The United States was not adopting a rule for the use of its own canal—its own enterprise and work achieved at the cost of its own national treasure—but was simply laying down a rule for the equal treatment alike of all foreign vessels in a ship canal that might be built beyond its territory, but under its supervision and direction. That is to say, it was not laying down rules to regulate its own conduct in the beneficial use and enjoyment of its own property, or abandoning what one day might belong to the Nation just as much as Porto Rico or the Philippines. No such relinquishment by the Federal Government was ever within the contemplation of those who negotiated the treaty.

It is inconceivable that the United States, when it agreed in the treaty that the canal should be free and open to the vessels of commerce of all nations, intended to recognize or to feel itself bound to recognize on terms of entire equality foreign vessels of commerce with those of its own engaged in domestic or coastwise trade, or to so restrict its sovereign authority over its own commerce that it could not consistently with the treaty abolish tolls on its own shipping that might be entirely foreign to the conceptions of the American people and inconsistent with their commercial interests.

The Hay-Pauncefote treaty not only referred to vessels of foreign nations engaged in foreign trade, but it excluded those engaged in the coastwise trade. The contracting parties did not have these in mind in framing the treaty. The disputed provision refers to perfect equality, and therefore must necessarily include only those vessels capable of falling within this term; and the only vessels of commerce that were then, are now, or ever have been treated on the same terms of equality under the usage of nations are vessels of commerce engaged in foreign trade. Vessels of commerce following the coastwise trade have never

been placed on an equality with those engaged in commerce with foreign nations, nor could they be without violating national laws or the inherent right of a nation to control its domestic shipping. There is a well-defined distinction between vessels engaged in foreign commerce and the local coastwise vessel sailing under its own nation's flag between home ports. Coastwise vessels ply their trade under different conditions from those engaged in foreign commerce. They form a separate and distinct class; they are governed by different laws; they are subjected in their own ports to lesser duties and charges or to none at all; and they are jealously protected by their own government which, invariably by one means or another, discriminates in their favor.

Congress has always adhered to the policy of restricting domestic commerce—that is, vessels trading from one port in the United States to another port in the United States—to American vessels owned and navigated by American citizens. There is nothing special and peculiar in this legislation. It is in harmony with the policy not only of the United States, but of every sea-bound nation, to encourage and protect under special privileges its domestic maritime trade. The same system has been observed by the treaty-making power of the Government, which has frequently given emphasis to the doctrine by express reservations in treaties.

The terms "vessels of a nation," or even "vessels," as used in treaties, have received among commercial countries their own interpretation by long-continued custom and acquiescence, and are universally accepted as not embracing vessels other than those plying between one foreign country and another, so that in the negotiation of treaties the high contracting parties have never had in contemplation coastwise vessels in laying down rules for equality of treatment of the vessels of their respective countries.

In addition to the 3 treaties above mentioned, 28 other treaties of commerce and navigation were concluded between the United States and foreign countries between the years 1815 and 1887, which expressly excepted their respective coastwise trade.

England has always carried out the same policy as that of the United States with reference to her coastwise vessels, either by safeguarding her home trade diplomatically in express exemptions in treaties or by subjecting her coastwise vessels to other and different dues and charges from vessels engaged in foreign-over-seas trade, thus practically discriminating in favor of her own domestic marine.

In principle the two things are the same, the result being that the stranger coming from over the seas, in spite of all the pretense of uniformity, mutuality, and equality of treatment, has to pay larger and heavier port dues than the British coastwise vessel, and this is the practice at British ports to-day, as it has always been, even in spite of the most formal treaty stipulations to the contrary. While to-day England's coastwise trade is open to ships of other nations, yet this was not always so, for at one time it was provided by law that no goods or passengers should be carried coastward from one port of the United Kingdom to another except in British ships, the same act defining what the coastwise trade was, and as late as in 1870 it was provided by act of Parliament that no goods or passengers should be carried by water from one port of Canada to another except in British ships. The whole history of English diplomacy has been uniform with that of the United States and other commercial countries, either in specifically exempting coastwise trade from its conventions and treaties, or by doing so in establishing different and other duties and charges for her coastwise marine than those imposed at the same port on vessels engaged in the over-seas trade.

It may be argued that these treaty provisions specifically exempting coastwise vessels are evidence that Great Britain and the United States in omitting them in their treaties thereby recognized that the treaties between those countries included both foreign and coastwise vessels, but such an argument is without merit, because the fact exists to-day, as it has for generations, that England herself discriminates in favor of her own vessels engaged in the coasting trade. The treaty of 1815 provides:

"That no higher or other duties or charges shall be imposed * * * in the ports of any of His Britannic Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels."

If England's interpretation of the Hay-Pauncefote treaty holds good, then how does she justify, under the language just quoted of the treaty of 1815, her discrimination in tonnage duties in favor of her coasting vessels? And yet this is precisely what she has always done and is doing to-day. No explanation or recrimination can alter the fact that Great Britain has always adhered tenaciously, like other seagirt nations, to the policy of favoring coastwise vessels, and that wherever Britannia rules they form a class separate and distinct from vessels employed in foreign trade, and that they have always been excepted from the term "vessels" as used in all international agreements. So true is this that it would seem unnecessary to go into details, although abundant proof is at hand.

Take, for instance, the port of Bristol. Every vessel entering from or departing for the east coast of the United States of America, including ports of the United States of America in the Gulf of Mexico, pays 1s. 1d. per registered ton, while every vessel entering or departing for the Channel Islands, Ireland, the Isle of Man, or any part of Great Britain, not including Barry, Penarth, Cardiff, Newport, and other ports to the eastward of the Holmes, pays only 5d. per registered ton.

From a comparison of the foregoing port charges it appears that an American vessel of 5,000 tons on entering or departing from the port of Bristol from or for the east coast of America pays tonnage dues at the rate of 28 cents per ton, or 56 cents for entering and departing, while vessels entering or departing for the Channel Islands, the Isle of Man, or any part of Great Britain, with a few exceptions, pay only 10 cents a ton, or 20 cents for both entering and departing. At these rates an American vessel of 5,000 tons arriving from over seas is compelled to pay at the port of Bristol on entering or departing $90 tonnage dues, or on entering and departing $180, while if no other or higher duties or charges were imposed than those payable in the same ports on British vessels according to the treaty of 1815, then such American vessel would only have to pay $50 on entering or departing, or $100 on entering and departing, making a difference in the first instance of $40 and in the second of $80. This may not be discrimination according to English views, but it looks exceedingly like it from an American standpoint.

The rates and dues exacted at the port of Liverpool (Mersey docks and harbor board) afford some startling illustrations of this discrimination. Dock tonnage rates on vessels are imposed according to the class of voyage, that is to say, the vessel's destination. Those coming within class 6, which includes all ports on the east coast of North America, pay 1s. 4d. per ton, while those under class 2, between the Mull of Galloway and Duncans Bay Head, including the Orkney Isles and all the islands on the western coast of Scotland, and between St. Davids Head and the Lands End, including the Scilly Island and the east coast of Ireland from Cape Clear to Malling Head, pay 4½d. per ton, and those included in class 3, covering all parts of the east and southern coasts of Great Britain between Duncans Bay Head and the Lands End, including the islands of Shetland and all parts of the west coast of Ireland from Cape Clear to Malling Head, including the islands on that coast, pay 6d per ton.

Harbor rates on vessels bear out the same discrimination. Those under class 2 pay five-eighths of a penny per ton; those under class 3 pay three-fourths of a penny per ton; while vessels under class 6, embracing the trans-Atlantic trade, have to pay 1½d. per ton, or exactly double. There are also differential dock tonnage rates on vessels in which the same discrimination is carried out as they provide for one-half of the rates specified under classes 2, 3, and 6.

Wharf rates on vessels are as follows: Under class 2, 1½d. per ton; under class 3, 1½d. per ton; and under class 6, 4d. per ton. This is a clear preference in favor of domestic coasting vessels as against vessels engaged in foreign or over-seas trade of 2½d. per ton.

These figures of the port of Liverpool furnish additional examples of the same rigid discrimination in favor of England's coasting vessels. American vessels coming across seas, for entering and leaving port pay harbor rates of 33 cents a ton, while some coasters pay only 9 cents a ton, or 27 cents per ton less than the American vessel.

Tonnage dues at the port of London are as follows: (1) For every vessel trading coastwise or entering inward or clearing outward from or to any place north of latitude 48° 30′ N., and between longitude 12° W. and 65° E. of Greenwich, for every voyage both in and out, 1d. per ton. (2) For every vessel entering inward or clearing outward beyond those limits, 1½d. per ton. (3) For vessels under 100 tons which do not pass beyond the seaward limit of the port, a halfpenny per ton. (4) Coastwise vessels not exceeding 45 tons, vessels bringing corn coastwise, fishing smacks, and lobster and oyster boats are exempt from dues.

This discrimination of 1 cent a ton for entering and clearing port in favor of coastwise vessels and against trans-Atlantic vessels may on first impression seem trifling; but when on calculation it is found that on a vessel of 5,000 tons this additional 1 cent per ton on entering and leaving port amounts to $50, it is evident that all sense of equality between ocean-going vessels and those employed in the home trade only is completely discarded.

If England for a moment believed that the words "British vessels" or "vessels of the United States" as used in the treaty of 1815 included or was ever intended to include coasting vessels, she would not have established and enforced differential rates at her various ports in favor of coasting vessels, for that would then be a flagrant violation of the rights secured to vessels of the United States under the treaty. Not only this, but such an interpretation on the part of England would afford the United States to justly demand that vessels of the United States pay the same dues and charges at British ports as are exacted from British vessels engaged in the coastwise trade, instead of those largely increased and heavier dues and charges that American vessels have to pay.

But, in addition to this, Great Britain, by assent and ratification under circumstances similar to those that have arisen under the Panama Canal act, is not in a position to now insist on an interpretation of the equality clause of the Hay-Pauncefote treaty different from that in accordance with the established interpretation she herself has put upon the treaty of 1815 and of like clauses in other treaties.

The second article of the treaty of 1815 is as follows:

"No higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States, nor in the ports of any of His Britannic Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels."

This treaty was to be obligatory for four years from its ratification; but it was extended for 10 years by the convention of October 20, 1818, and indefinitely extended by the convention of August 6, 1827, so that it is a subsisting treaty to-day.

It will be seen that the provision above quoted from the treaty of 1815 is as broad and comprehensive as the equality clause contained in the Hay-Pauncefote treaty and that it embraces all vessels of either country without exception or distinction as to whether they may be engaged in over-seas commerce or the coastwise trade. If, therefore, the expressions "British vessels" and "vessels of the United States" do not embrace vessels employed in the coastwise trade as England has herself interpreted the words for nearly a century, it is incomprehensible that she should now pretend in an outburst of indignation that the words "vessels of commerce of all nations" contained in the Hay-Pauncefote treaty does refer to and include those very vessels that she has always excluded under the terms "British vessels" and "vessels of the United States."

It is an interesting fact not generally known that the provision of the treaty of 1815, to which reference has been made, has been judicially interpreted by the courts of the United States in a litigation ending in a judgment rendered by the Supreme Court of the United States in 1904, which declared that a British vessel engaged in foreign commerce was not entitled under the treaty of 1815 to the exemption from paying pilotage accorded by law to American vessels engaged in the coasting trade. (Olsen v. Smith, 195 U. S.)

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Not only has this interpretation of the treaty of 1815 been adopted and carried into practice by Great Britain for nearly a century, thus giving it the same validity as though a clause excepting coastwise trade had been therein inserted, but England's continued silence and acquiescence and failure to object to a like interpretation by the Supreme Court of the United States in the case cited is in itself an implied ratification and adoption thereof and is equivalent in its consequences to an express declaration of approval.

If, therefore, the words "British vessels" and "vessels of the United States," as used in the treaty of 1815, do not include vessels engaged in the coasting trade, as I feel has been sufficiently demonstrated, it is difficult to understand how the words "vessels of commerce of all nations," as used in the Hay-Pauncefote treaty does include them.

Mr. President, these articles confirm the views presented by Senators when this subject was under discussion last session. They are the views of President Taft and his distinguished Sec-

retary of State, Mr. Knox, and afford ample authority for the conclusion reached by the Senate last August. It has been stated that during the progress of the negotiations preceding the adoption of the Hay-Pauncefote treaty Senator Bard proposed, in substance, the adoption of a declaration that the provisions under discussion were not intended to affect the vessels of the United States. It is said that was voted down at the time, and that therefore it is a concession that no vessels of the United States should be exempted from the provisions of the Hay-Pauncefote treaty. But I ask whether it is not more probable that the reason the suggested provision was voted down was that many of the lawyers in this body deemed it wholly unnecessary; that the treaty as it was originally proposed conferred that right upon the United States, and needed no modification in that regard?

We are reminded that we have been the apostles of the peace movement; that we would be untrue to our traditions if we did not permit this question to be disposed of by an arbitration court. In some quarters it is forgotten that a year ago, after long discussion, the Senate refused to enter into a treaty with any foreign power by which every controversy was to be settled by arbitration. We have numerous arbitration treaties now, but every treaty excludes from submission to arbitration three classes of questions—those affecting our national honor, our vital interests, and the rights of third parties. And we have solemnly refused to go further in support of arbitration policies.

The question confronting us is, Shall we permit foreign governments to dictate to the United States respecting our domestic policies? If our right to pursue a domestic policy be challenged by a foreign power, our national integrity is impeached if we yield to such an influence.

Senators, I can conceive of no question more vitally affecting our national honor and integrity than a question such as is proposed to us now—that a domestic policy inaugurated by the Congress of the United States for the benefit of the American people must first secure the approval of a foreign nation.

As suggested in one of the articles to which I have invited your attention, can you imagine what would happen if our positions were reversed and if we presumed to dictate to a foreign power what its domestic policy should be, and if when the foreign power refused to yield to our dictation we should say, "Well, this is a proper case for an international tribunal"?

As President Cleveland said on an historic occasion, "There is no calamity which a great nation can invite which equals that which follows a supine submission to wrong and injustice and the consequent loss of national self-respect and honor, beneath which are shielded and defended a people's safety and greatness."

It must not be forgotten that you can never have an international tribunal where the representatives of a foreign power are in sympathy with the Monroe doctrine. Foreign powers tolerate the Monroe doctrine, but they do not recognize it as international law.

If Great Britain had expended almost half a billion dollars in a public enterprise affecting the people of that country, what would be her answer if the United States undertook to impose undue restraint upon Great Britain's use of her own property? Nor should the circumstance be overlooked that in this legislation the very thing of which complaint is made is something which Great Britain concededly can do. Yet she would refuse the like privilege to us, notwithstanding the fact that we built the canal and that the people of the United States contributed over $400,000,000 for that purpose.

England and every European country for years have been subsidizing their vessels going through the Suez Canal. It is fair to suppose that England and other European powers will continue to subsidize their vessels going through the Panama Canal in their struggle for the commerce of the world. While there is nothing in the treaty which would prevent England or France or Germany or Spain subsidizing their vessels, Great Britain would impose certain restraints upon us. That, at least, was the attitude of the British Government in the first message which was received in June or July of last year. I understand the British Government has receded somewhat from the position it then took; that in a measure it now recognizes our right to subsidize our vessels and to remit the tolls, but insists that we must collect them in the first instance; and because we refuse to do that, the suggestion is made that England is discriminated against and that we must have an arbitration.

There is no principle better established than that the law never requires the performance of an idle ceremony, because an idle ceremony is a useless and unsubstantial performance. Yet under one view advanced by Great Britain she would insist that we must collect the toll as our vessel passes through, even though we immediately return it.

Of course, the claim was made at first, in the general discussion last July or August, that we could not under any circumstances return any part of the toll, but I believe that Great Britain herself has receded from that position.

I do not intend, Mr. President, in view of the time I devoted to a discussion of this question on a former occasion, to delay the Senate further than to insist that we have passed a wholesome law, a law that will confer lasting benefits upon the people of the United States, and that we would indeed create a painful impression abroad if this mighty Nation should surrender the control of its domestic policies at the suggestion of a foreign power. That we never can do and maintain unimpaired the prestige and the honor and the glory of the Republic.

BURDEN OF MAINTENANCE OF CANAL HEAVILY AGAINST THE UNITED STATES.

Mr. NEWLANDS. Mr. President, after over half a century of diplomatic negotiation, of engineering investigation, and of financial negotiation, the Panama Canal is approaching completion, and within a year will be open to the ships of the world. It is estimated that of the tonnage passing through that canal about nine-tenths will be international tonnage, and one-tenth will be domestic tonnage in the coastwise trade. Therefore the immediate benefit of this enormous enterprise, involving an expenditure upon the part of the United States of $400,000,000, will be enjoyed by foreign countries to the extent of nine-tenths and by the United States to the extent of one-tenth.

In the passage of the act relating to the operation and maintenance of this canal Congress, pursuing its traditional policy of maintaining an untrammeled, an unburdened, and an unfettered domestic waterway transportation, and regarding the Panama Canal, in addition to its international use, as a great domestic waterway connecting the waterway systems of the two coasts and enabling free communication by water between them, declared that no tolls should be levied upon ships passing through the canal engaged in the coastwise trade of the United States.

SOURCE OF ENGLAND'S PROTEST.

England, under the inspiration of Canada—that inspiration doubtless quickened by the action of the Transcontinental Canadian Railroad, whose action in turn was quickened by that of American transcontinental railroads—protests against this declaration that no tolls shall be levied upon ships in the coastwise trade as a violation of the rule of equality fixed by solemn treaty between England and the United States.

The Senator from New York [Mr. ROOT] has contended that this provision is such a violation of the treaty that we are under obligation either to strip the exemption from our statute or to submit the entire matter to international arbitration.

Mr. President, I shall not enter into any contention as to the character of the occupation of the United States on the Isthmus of Panama as to whether it is there as a sovereign in the ownership and control of a strip of territory 50 miles long and 10 miles wide, with all the powers of sovereignty, or whether the United States is simply there as a trustee for mankind, a trustee for civilization, vested with the occupation and control of this strip, and charged with its administration and under such rules as would attach to any trustee holding a public trust.

I am willing for the purpose of argument to admit that the Panama Canal is to be regarded as a great international public utility, bound by the rule which prevails with regard to every public utility in our domestic concerns to render the same service to all at the same price, and that price a reasonable price. But whilst I am prepared to admit this, I shall contend that it is to be regarded also as a domestic waterway, connecting our two coasts, dovetailed with our entire river and waterway system upon two coasts, and thus constituting a connecting link and part of the great waterway system of the United States.

Assuming that this canal in our international relations is to be regarded as an international public utility which the United States is to administer, I shall contend that it is entitled in justice and right to declare that no tolls shall be levied upon its domestic ships, provided that exemption does not increase the burden of foreign ships engaged in international trade.

NO DISCRIMINATION AGAINST FOREIGN SHIPPING.

Mr. President, what are the facts regarding the construction of this canal and its operation? We first have to maintain its operation. That is to be done by the United States as a trustee of civilization. We have then to maintain the canal. We have then to protect the canal apart entirely separate from our sovereign powers. The protection of that canal is essential to civilization itself, and any expense, however great, which we are subjected to in the fortification and protection of that canal is a charge against the commerce of the world and not simply against the United States as a sovereign.

Then, in addition to that, as a public utility we are entitled not only to a return of the cost of operation, of maintenance, and of protection, but to a fair interest upon an enormous investment of $400,000,000, a return which should equal at least 5 per cent and which could without exaction be increased to 7 or 8 per cent, for we have the example of the Suez Canal in the interest which it exacts from the commerce of the world, an interest amounting, I believe, to about 10 per cent upon the amount of the investment.

Assuming, then, Mr. President, that we have the right to exact 5 per cent upon $400,000,000, the commerce of the world, including our domestic commerce, is subjected to a charge in favor of the United States of $20,000,000 for interest alone annually. Add this to the cost of operation, maintenance, and protection, aggregating $10,000,000 annually, and you have a claim of the United States as the administrator of this trust against the commerce of the world amounting to $30,000,000 annually.

Now, how much of that $30,000,000 do we propose under the Panama Canal act to impose upon the commerce of the world? We have provided that the tolls shall not exceed $1.25 per ton, and we have provided for lower rates upon ships in ballast. The assumption is that there will be some 10,000,000 tons annually passing through that canal, at an average of about $1 a ton, or $10,000,000 annually. So the United States, having a just charge against the commerce of the world of $30,000,000 annually, will for a long period of time be able, under this Panama Canal act, to collect only $10,000,000.

Now, how is that apportioned, and how is it distributed among the nations of the world? Assuming that we must treat them all without discrimination, fairly and impartially, we find that, according to the statistics of the tonnage, only one-tenth will be American tonnage and that nine-tenths will be foreign tonnage. So, having a charge against the commerce of the world of $30,000,000, and our proportionate part of that being only one-tenth, or $3,000,000, the proportion chargeable to the rest of the world should be nine-tenths, or $27,000,000; and having that charge against the international commerce of the world, we let it off for $10,000,000. Yet it is claimed that the United States as a Nation is discriminating against the other nations of the world.

But it is said this condition will not last always, that this proportion will not always continue to exist, that the proportion of American tonnage will increase, and that the foreign tonnage will also increase. We hope it will increase, and we propose to do all we can to stimulate that increase. But at the time the canal act was passed this was the condition of things: We were providing for tolls which would impose upon international tonnage, amounting to nine-tenths of the entire tonnage of the canal, only one-third of our legitimate charge for operation, maintenance, protection, and interest.

REASONS FOR FREEING COASTWISE TRAFFIC FROM TOLLS.

Mr. President, why was it that we declared in the act that no tolls should be levied upon ships engaged in our coastwise trade? We did it, first, because we had imposed upon international tonnage very much less than a fair proportionate charge of our cost of operation, maintenance, and interest, and therefore, in justice to domestic commerce, we could exempt American ships. We did it, further, in pursuance of the traditional policy of the United States, which demanded, so far as our domestic waterways are concerned, that our rivers should be improved, our lakes developed, our canals constructed at the expense of the National Treasury, and without imposing a dollar of burden upon the commerce of the country.

Was it to be expected that the United States, having pursued this traditional policy for over a century, should, when it was assuming the position of a benefactor to the commerce of the world, abandon it and substitute for an unfettered and unburdened domestic commerce a fettered and a burdened commerce?

Now, Mr. President, what is the occasion of this difficulty? What has been the difficulty all the way through with reference to the Panama Canal? Our difficulty has always been the opposition of the transcontinental railway carriers of the country, determined, first, to prevent interoceanic communication and then to paralyze it by the burdens imposed upon it. It was for this reason that for years they prevented and delayed the inauguration of the canal enterprise and that, later on, as its completion approached, they sought to induce us to permit ships owned by transcontinental railroads to traverse the canal, knowing very well from past experience that through their ownership of ships subsidized by the profits from the rail traffic they could paralyze water transportation. Then, having failed in that, they were eager to have us impose a burden upon the domestic transportation between the two coasts in the shape of tolls, such burdens as all the other waterway transportation of the country is entirely free from.

Having failed to influence and control our legislation, they then sought their brother carrier to the north in Canada, a transcontinetnal railway running from ocean to ocean and interested with the transcontinental railroads of the United States in monopolizing transportation between the two oceans and in paralyzing the canal. They sought to make that railroad the instrumentality of foreign interference, and through it they appealed to its sovereign country—Great Britain—to protest against this action as a discrimination against foreign commerce in violation of the terms of the Hay-Pauncefote treaty.

Mr. President, I think I have demonstrated that as between nations no disproportionate cost of the maintenance, operation, and interest charge of the Panama Canal has by the act been imposed upon the foreign shipping, but, on the contrary, having the right to impose upon it $27,000,000 annually we imposed upon it only $10,000,000 annually, and that we have an interest charge against the enterprise of $20,000,000 annually, which for years will remain unpaid.

FOREIGN NATIONS CAN NOT OBJECT TO THIS EXEMPTION.

Will it be contended for a moment that having that charge upon this enterprise we can not relieve domestic ships of their tolls and credit those tolls upon the interest due to the enterprise? And if we credit the tolls which are remitted to the interest upon the enterprise do we not to that extent relieve the burdens of foreign international commerce?

All that foreign nations have the right to insist upon is not that we should allow them to control our domestic policy, but that in carrying out the domestic policy which involves levying no tolls upon domestic ships we should see to it that the tolls remitted are not imposed as an additional charge upon the ships of foreign nations. That is all the right which they have either in morals or under treaty obligations.

It is true that when we passed the act we did not expressly provide, in declaring that no tolls should be levied upon American ships, that those tolls should be entered as a credit upon the interest charge of the Nation against the enterprise, but doubtless Congress had it in mind. Throughout the debate you will find the thought running current that the United States was being put to an enormous annual operating and interest expense in this enterprise, chargeable against the world and from which the world was to be largely relieved, and therefore we had a right, so far as the unpaid portion of the interest expense was concerned, to offset the tolls chargeable against domestic tonnage and to enter them as a credit upon our books against the interest charge.

Now, what is the principle of a public utility, assuming that that principle is to control here?

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from North Carolina?

Mr. NEWLANDS. Certainly.

Mr. SIMMONS. Do I understand the Senator from Nevada to be taking the position that in fixing rates upon the canal we should estimate the amount of probable commerce and fix a rate that would yield to the United States a given interest upon its investment? Does the Senator think that that would be the proper standard?

Mr. NEWLANDS. I think we have a right to demand that, Mr. President. I think we have a right to demand the application of a principle that applies to every public utility, and that is that the administrator of a public utility should receive not only the expenses of operation, maintenance, and protection, but a fair interest charge upon the investment.

Mr. SIMMONS. Can not the Senator see that that same condition might impose a rate that would paralyze the commerce of the country, so far as the use of this waterway is concerned?

Mr. NEWLANDS. That might be the effect if you fixed the rate so high that commerce would not pay it.

Mr. O'GORMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from New York?

Mr. NEWLANDS. Certainly.

Mr. O'GORMAN. There is no danger of paralyzing the activities of the canal by the mere circumstance that a rate is fixed based upon the cost of construction and cost of maintenance; but it is well to bear in mind that the Panama Canal will always be in competition with the Suez Canal, and, irrespective of the question as to what amount might compensate the United States, the United States must always fix a charge which will permit the Panama Canal to compete with the Suez Canal for a large part of the business that may well flow through the Panama Canal.

Mr. SIMMONS. That being so, if the Senator from Nevada will permit me, might that very condition not make it impossible for us to fix a rate based upon a given income from the commerce through that canal?

Mr. O'GORMAN. In my judgment it would be impossible to fix a rate upon that basis, and the rate already indicated by the President was fixed with reference to the rate now charged in the Suez Canal. In passing, I might say, from such knowledge as I have acquired through the Interoceanic Canal Committee hearings and conferences, that there will not come a time in this generation when the United States will receive from the shipping of the world 2 per cent on the money it has expended in the construction and maintenance of that canal.

Mr. NEWLANDS. And therefore has a greater right——

Mr. SIMMONS. Will the Senator yield to me further?

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from North Carolina?

Mr. NEWLANDS. After I close my sentence. It has a much greater right to relieve its domestic ships of these tolls provided they are credited upon the interest charge of the Nation. I prefer, if the Senator from North Carolina will permit me, not to yield further, as I wish to close my remarks.

Mr. SIMMONS. Very well.

PROPOSED AMENDMENT OF THE ACT.

Mr. NEWLANDS. Mr. President, I wish to say, in explanation of what I have already said in reply to these interruptions, that the United States has the undoubted right to charge against the commerce of the world the operation, maintenance, and interest charges, aggregating $30,000,000. Whether it can collect that amount from the present commerce is another question. That involves the exercise of discretion by the United States as to the toll which will yield the largest revenue, but it is fair to assume that in time, even at existing tolls, the tonnage of the Panama Canal will advance from its now anticipated tonnage of about 10,000,000 tons annually to 30,000,000. Then existing tolls will furnish a revenue sufficient to pay for operation, maintenance, and interest charges at the rate of 5 per cent, and then, and then only, will the nations of the world have the right to insist that when we have secured a fair rate of interest upon our investment further increases in the tonnage of the canal shall tend toward a reduction in rates rather than an increase in income, applying the ordinary rules controlling public utilities to this matter; but until that point is reached they will have no right to contend that the present tolls are unreasonble or oppressive. If in making these computations we credit the tolls chargeable against American ships to the interest charge of the United States, in the end the commerce of the world is unburthened by the fact that we have refused to levy these tolls upon American ships, but, on the contrary, have credited those tolls as a part payment of the interest with which the enterprise is chargeable.

It would be very simple to arrange this. If it is necessary to give an assurance to the world that we intend to act fairly and justly, as I contend we have acted fairly and justly, all that we have to do is to provide in this very statute by amendment that there shall be a Panama Canal fund dedicated to the payment of the expenses of operation, maintenance, and the interest charges of the United States; that into that fund all tolls collected from foreign ships shall go; and that there shall be credited in that fund against the interest charge of the Nation the tolls properly assignable to American ships in order to do equal and exact justice to the entire world.

RELATION OF THE CANAL TO OUR DOMESTIC WATERWAYS.

Mr. President, the maintenance of our domestic waterway system is of the highest importance. We have expended over $600,000,000 in the development of the rivers of our country, and as yet we have not navigable rivers. We have met in this work always the opposition of the railway carriers, who have been content that we should expend public moneys upon these rivers, provided they are spent in such a way as not to promote navigation. We have been expending these moneys without a proper system, without regarding each river as a unit with all its tributaries and sources, and controlling and regulating the flow of that river from source to mouth as an instrumentality of transportation, holding back the floods, preventing them from pursuing a destructive course below, and putting them to a beneficent use above, by spreading the flood waters over the arid plains, by storing them artificially for the development of water power, and by constructing by-passes in such a way as that when the floods come below they can be distributed and take their way to the Gulf or to the ocean without destroying vast areas of cultivable land within their reach. This policy, which would regard the river from source to mouth as a unit, which would secure several beneficial uses of the waters of the river, instead of simply one beneficial use in navigation, and which would make the river itself, with its connections in coordination with the railways, with transfer facilities and sites, and proper legislation, an effective instrumentality of commerce—this policy we will have to pursue. It is the great problem of the future; it involves every river in the country. No stream tributary to a navigable river can be regarded as inconsequential under this plan. If we will only pursue this system, we shall have, in addition to the splendid development of our railway carriers, a development of domestic waterway carriers, and we shall have them both coordinated with ocean carriers that will carry our commerce to the remotest ends of the world. It is this magnificent system that Germany has pursued, equally and cooperatively developing river transportation railway transportation, and ocean transportation, that is rapidly making her the mistress of the commerce of the world. Shall we discourage that policy, the policy which means an unfettered, unburdened domestic waterway transportation? Shall we, simply because the Canadian transcontinental railway has united with the American transcontinental railways to secure foreign intervention in order to secure them a monopoly of the transportation of the country and in order to enable them to paralyze the Panama Canal as an instrumentality of commerce, shall we meekly yield to this demand—this demand not based upon justice or equity—that we should abandon our traditional domestic policy of a free and unfettered domestic commerce? Will we not discharge every obligation to the nations of the world and will we not further increase their obligations to us by declaring that all the tolls remitted to domestic ships shall be credited upon the interest charge of the United States against the nations of the world for the construction and conduct of this gigantic enterprise?

WE HAVE SHOWN A JUST AND GENEROUS SPIRIT.

Mr. President, I contend that the whole history of this transaction furnishes convincing proof, not of the desire of this Nation to oppressively burthen international tonnage passing through the canal, but of a just and generous spirit—a spirit which recognizes our obligations as an international trustee without contention for domestic advantage. No unjust burthen has been placed by its action upon foreign nations. On the contrary, our Nation is to-day bearing, and will for many years continue to bear, a disproportionate part of the burthen of this great international enterprise. Having only one-tenth of the tonnage carried through the canal, it will for a long time bear at least two-thirds of the charges for operation, maintenance, and interest, and against this charge it will receive only a paltry credit of the tolls which it might, if it saw fit, impose upon domestic ships engaged in the coastwise trade, but which, in pursuance of a traditional policy of unrestricted domestic waterways, it proposes to remit. Such remittance imposes no inequality or injustice upon foreign nations. Such nations can easily pay into the canal fund the tolls imposed upon their ships, if they see fit, and those tolls will be righteously adjusted whether they be paid by the ships themselves or by the nations whose flags they bear.

The credit of the tolls of domestic ships upon the interest charge of the United States against the world is the payment of such tolls, and to hold the contrary is to indulge in a refinement of reasoning unworthy of a logician.

ARBITRATION OF AMERICAN QUESTION BY EUROPEAN TRIBUNALS.

There is no necessity for arbitration. If the purpose of the United States is not clear from the reading of the statute and the records of contemporaneous history are necessary to interpret it, let us amend the statute, not by striking out the provision declaring that no tolls shall be levied upon ships engaged in the coastwise trade of the United States, but by adding thereto the simple statement that an account of the tonnage of such ships shall be kept and that the tolls assignable to such tonnage shall be credited upon the interest charges of the United States against the enterprise. If, after this has been done, England still persists in her contention for arbitration, which I do not anticipate, an agitation may arise for the termination of all such treaties, for Americans are beginning to realize that the problems which are to come up for determination under them are not the problems of Europe, of Asia, or of Africa, but the purely domestic problems of the American Continent, which are to be determined in large degree by European juries.

Confident of the justice of our position, let us adhere to our time-honored policy of an unburthened domestic commerce, at the same time seeing to it that an accurate account be kept of our domestic tonnage through the canal and that a proportionate charge on this account be credited upon our interest charge against the canal enterprise. Thus, no disproportionate charge will be made against international tonnage and the

burthens of the canal will be fairly distributed among the nations using it.

Mr. MARTINE of New Jersey. Mr. President, my former vote on the question of tolls on the Panama Canal was the result of my conscientious and deliberate judgment. Notwithstanding the splendid argument of the senior Senator from New York [Mr. ROOT], I am frank to say that I am still unconvinced of any wrong or injustice in my position.

Mr. President, I feel that the Senator from New York was most unfortunate in that part of his remarks where he referred, at least by innuendo, to those who opposed his proposition as "playing to the galleries." No, Mr. President; higher motives prompted my vote on this question. I yield to no man in love and admiration for the lofty sentiments expressed by the Senator from New York. This, however, is not a question of the peace of the world nor of the honor of the American Nation, but it is a question of right and justice to the American people.

The Senator from New York asks, "Are we Pharisees?" No; we are not Pharisees nor hypocrites, but a brave and honorable people demanding our rights. It seems to me that it comes with ill grace for Great Britain even to suggest bad faith on our part, when her whole history has been that of greed and avarice in dealing with the nations of the earth. Read, Mr. President, the story of Great Britain's occupancy of India and of Egypt, and you find it is one long story of commercialism for England, right or wrong.

The Senator calls for arbitration. History tells us that Great Britain's policy has been to arbitrate only with nations stronger than herself. How well I recall a few years ago when that Spartan band, the Boers, in their heroic contest for liberty, prayed and pleaded for arbitration. Humanity the world over joined in that plea; but the ear of Great Britain was deaf to all supplications. Shall we arbitrate this question of our right to regulate the canal we have built and paid for? No; never.

Mr. President, the whole question, I feel, is summed up in this editorial from the London Times of recent date:

> If this bill becomes a law it will prove a little short of disastrous to British shipowners. With their best brains and energy devoted to their work, the United States will now proceed to turn out vessels on a wholesale scale, and, aided by their freedom from Panama Canal tolls, there is little to prevent them from entering with success all those trades in which British shipowners are now the principal carriers.

As I said heretofore when this question was before this body for consideration, I now repeat that I favor free tolls for American craft, both ocean and coastwise, and desire that the tolls for all other vessels of the world be only sufficient to maintain the physical condition of the canal, and that the cost and interest thereon shall be America's contribution to the world. I believe that such a policy on the part of this Government with reference to the Panama Canal would rehabilitate our merchant marine, and that in a few years we would command the carrying trade of this hemisphere.

Mr. President, I stand by my former vote on this question, and will vote "no" on the proposition to rescind our former action.

The PRESIDENT pro tempore. The calendar under Rule VIII is in order.

Mr. SIMMONS. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from North Carolina suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names.

Ashurst	Clarke, Ark.	Johnston, Ala.	Percy
Bankhead	Crawford	Johnston, Tex.	Perkins
Bourne	Cullom	Jones	Pomerene
Bradley	Cummins	Kern	Root
Brandegee	Curtis	La Follette	Simmons
Bristow	Dillingham	Lippitt	Smoot
Brown	du Pont	Lodge	Stephenson
Bryan	Fletcher	McLean	Stone
Burnham	Gallinger	Martin, Va.	Sutherland
Catron	Gamble	Myers	Swanson
Chamberlain	Gardner	Oliver	Thomas
Chilton	Gronna	Overman	Thornton
Clapp	Hitchcock	Page	Works
Clark, Wyo.	Johnson, Me.	Paynter	

The PRESIDENT pro tempore. On the call of the roll 55 Senators have answered to their names. A quorum is present.

EXECUTIVE SESSION.

Mr. SMOOT. I move that the Senate proceed to the consideration of executive business.

The PRESIDENT pro tempore. The Senator from Utah moves that the Senate proceed to the consideration of executive business. [Putting the question.] By the sound the "ayes" appear to have it.

Mr. CLARKE of Arkansas. I ask for a division.

The Senate proceeded to divide.

Mr. CLARKE of Arkansas. Mr. President, I call for the yeas and nays. That will be more satisfactory.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. LIPPITT (when his name was called). I transfer my pair with the Senator from Tennessee [Mr. LEA] to the Senator from New Mexico [Mr. FALL] and will vote. I vote "yea."

Mr. PENROSE (when his name was called). I will transfer my pair with the junior Senator from Mississippi [Mr. WILLIAMS] to the junior Senator from Nevada [Mr. MASSEY] and will vote. I vote "yea."

The roll call was concluded.

Mr. LODGE (after having voted in the affirmative). I will ask whether the junior Senator from Georgia [Mr. SMITH] has voted?

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. LODGE. I have a pair with that Senator, but I will transfer it to the Senator from Maryland [Mr. JACKSON], and let my vote stand.

While I am on my feet I will announce, by request, that my colleague the Senator from Massachusetts [Mr. CRANE] is paired with the Senator from Maine [Mr. GARDNER]; that the Senator from Kansas [Mr. CURTIS] is paired with the Senator from Oklahoma [Mr. OWEN]; that the Senator from Delaware [Mr. RICHARDSON] is paired with the Senator from South Carolina [Mr. SMITH]; that the Senator from Michigan [Mr. SMITH] is paired with the Senator from Missouri [Mr. REED]; and that the Senator from Wyoming [Mr. WARREN] is paired with the Senator from Louisiana [Mr. FOSTER].

Mr. CHILTON. I desire to announce that my colleague [Mr. WATSON] is paired with the Senator from New Jersey [Mr. BRIGGS].

The result was announced—yeas 36, nays 27, as follows:

YEAS—36.

Bourne	Clark, Wyo.	La Follette	Perkins
Bradley	Cullom	Lippitt	Root
Brandegee	Cummins	Lodge	Sanders
Bristow	Dillingham	McCumber	Smoot
Burnham	du Pont	McLean	Stephenson
Burton	Gallinger	Nelson	Sutherland
Catron	Gamble	Oliver	Townsend
Chamberlain	Gronna	Page	Wetmore
Clapp	Jones	Penrose	Works

NAYS—27.

Ashurst	Heiskell	Myers	Smith, Ariz.
Bankhead	Johnson, Me.	O'Gorman	Stone
Bryan	Johnston, Ala.	Overman	Swanson
Chilton	Johnston, Tex.	Paynter	Thomas
Clarke, Ark.	Kern	Percy	Thornton
Fletcher	Martin, Va.	Shively	Tillman
Gore	Martine, N. J.	Simmons	

NOT VOTING—32.

Bacon	Dixon	Lea	Richardson
Borah	Fall	Massey	Smith, Ga.
Briggs	Foster	Newlands	Smith, Md.
Brown	Gardner	Owen	Smith, Mich.
Crane	Guggenheim	Perky	Smith, S. C.
Crawford	Hitchcock	Poindexter	Warren
Culberson	Jackson	Pomerene	Watson
Curtis	Kenyon	Reed	Williams

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After 52 minutes spent in executive session the doors were reopened, and (at 2 o'clock and 45 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 23, 1913, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate January 22, 1913.

COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

Cuno H. Rudolph, of the District of Columbia, to be a Commissioner of the District of Columbia for a term of three years. (Reappointment.)

James F. Oyster, of the District of Columbia, to be a Commissioner of the District of Columbia for a term of three years, vice John A. Johnston.

UNITED STATES ATTORNEY.

William E. Lee, of Idaho, to be United States attorney, district of Idaho, vice Curg H. Lingenfelter, whose term has expired.

PROMOTIONS IN THE PUBLIC HEALTH SERVICE.

Passed Asst. Surg. John S. Boggess to be surgeon in the Public Health Service, United States, to rank as such from December 3, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Donald H. Currie to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Gustave M. Corput to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Mervin W. Glover to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Edward Francis to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Joseph Goldberger to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Matthew K. Gwyn to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. William A. Korn to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Bolivar J. Lloyd to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. John D. Long to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. George W. McCoy to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Allan J. McLaughlin to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Dunlop Moore, to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Claude C. Pierce to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Carl Ramus to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Joseph W. Scheresche wsky to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Frederick E. Trotter to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Charles W. Vogel to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Benjamin S. Warren to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Clarence W. Wille to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Louis P. H. Bahrenburg to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

PROMOTIONS IN THE ARMY.

CAVALRY ARM.

First Lieut. Charles C. Winnia, Fifth Cavalry, to be captain from January 16, 1913, vice Capt. Timothy M. Coughlan, First Cavalry, detailed in the Quartermaster Corps on that date.

Second Lieut. Joseph C. King, Tenth Cavalry, to be first lieutenant from January 16, 1913, vice First Lieut. Charles C. Winnia, Fifth Cavalry, promoted.

APPOINTMENTS IN THE NAVY.

Morris B. Miller, a citizen of Pennsylvania, to be an assistant surgeon in the Medical Reserve Corps of the Navy from the 14th day of January, 1913, in accordance with a provision contained in an act of Congress approved August 22, 1912.

Julian H. Maynard, a citizen of Maryland, to be an assistant paymaster in the Navy from the 18th day of January, 1913, to fill a vacancy.

PROMOTION IN THE NAVY.

Asst. Civil Engineer Norman M. Smith to be a civil engineer in the Navy from the 3d day of December, 1912, to fill a vacancy.

POSTMASTERS.

INDIANA.

Thomas W. Basinger to be postmaster at Petersburg, Ind., in place of Commodore D. Honchin, deceased.

IOWA.

William M. Boylan to be postmaster at Hubbard, Iowa, in place of William M. Boylan. Incumbent's commission expires March 1, 1913.

MAINE.

Albert Greenlaw to be postmaster at Eastport, Me., in place of Albert Greenlaw. Incumbent's commission expired January 11, 1913.

MICHIGAN.

Hugh W. Parker to be postmaster at Bancroft, Mich., in place of Hugh W. Parker. Incumbent's commission expires February 9, 1913.

Charles H. Stevens to be postmaster at Perry, Mich., in place of Charles H. Stevens. Incumbent's commission expires February 9, 1913.

MINNESOTA.

Mary J. Dillingham to be postmaster at Granite Falls, Minn., in place of Mary J Dillingham. Incumbent's commission expires February 9, 1913.

Charles A. Lee to be postmaster at Morris, Minn., in place of Charles A. Lee. Incumbent's commission expired January 12, 1913.

Gustaf E. Lundberg to be postmaster at Murdock, Minn. Office became presidential January 1, 1913.

Peter O. Roe to be postmaster at Sacred Heart, Minn., in place of Peter O. Roe. Incumbent's commission expires February 9, 1913.

William H Smith to be postmaster at Cambridge, Minn., in place of William H. Smith. Incumbent's commission expired January 12, 1913.

MISSISSIPPI.

David A. Adams to be postmaster at Iuka, Miss., in place of David A. Adams. Incumbent's commission expires February 11, 1913.

James N. Atkinson to be postmaster at Summit, Miss., in place of James N. Atkinson. Incumbent's commission expires January 29, 1913.

Edward F. Brennan to be postmaster at Brookhaven, Miss., in place of Edward F. Brennan. Incumbent's commission expires January 29, 1913.

Mary E. Brigham to be postmaster at Tunica, Miss., in place of William J. Brigham. Incumbent's commission expires March 1, 1913.

William W. Cain to be postmaster at West, Miss. Office became presidential January 1, 1913.

Edward M. Carr to be postmaster at Oakland, Miss. Office became presidential January 1, 1913.

David G. Dunlap to be postmaster at Sardis, Miss., in place of David G. Dunlap. Incumbent's commission expires January 26, 1913.

Fannie Hillerman to be postmaster at Kosciusko, Miss., in place of Fannie Hillerman. Incumbent's commission expires February 11, 1913.

Rosa Mayers to be postmaster at Shelby, Miss., in place of Rosa Mayers. Incumbent's commission expired January 11, 1913.

Sam E. Rees to be postmaster at Purvis, Miss., in place of Benjamin A. Weems. Incumbent's commission expired April 28, 1912.

MISSOURI.

Zach P. Cancer to be postmaster at Senath, Mo., in place of Zack P. Cancer. Incumbent's commission expires January 26, 1913.

John N. McDavitt to be postmaster at Rockville, Mo. Office became presidential October 1, 1912.

Thomas Meyer to be postmaster at Forest City, Mo. Office became presidential January 1, 1913.

Cord P. Michaelis to be postmaster at Cole Camp, Mo., in place of Cord P. Michaelis. Incumbent's commission expires January 22, 1913.

Henry J. Schofield to be postmaster at Norwood, Mo. Office became presidential January 1, 1913.

Ben B. Thurmond to be postmaster at Auxvasse, Mo. Office became presidential January 1, 1913.

James A. Williams to be postmaster at Crane, Mo. Office became presidential January 1, 1913.

NEBRASKA.

Wilfred C. Dorsey to be postmaster at Louisville, Nebr., in place of Wilfred C. Dorsey. Incumbent's commission expires January 25, 1913.

NEW YORK.

Albert H. Clark to be postmaster at Silver Springs, N. Y., in place of Albert H. Clark. Incumbent's commission expires February 9, 1913.

John F. Heim to be postmaster at Lancaster, N. Y., in place of John F. Heim. Incumbent's commission expired December 16, 1912.

David L. Jamieson to be postmaster at New York Mills, N. Y., in place of David L. Jamieson. Incumbent's commission expired January 11, 1913.

NORTH CAROLINA.

Thomas P. Newnam to be postmaster at Madison, N. C., in place of Thomas P. Newnam. Incumbent's commission expired May 26, 1912.

NORTH DAKOTA.

Ruby Bickford to be postmaster at Bowbells, N. Dak., in place of Thomas B. Hurly. Incumbent's commission expires March 1, 1913.

PENNSYLVANIA.

Abraham F. Berkey to be postmaster at Windber, Pa., in place of Abraham F. Berkey. Incumbent's commission expired January 11, 1913.

Edward M. Frye to be postmaster at Monessen, Pa., in place of Edward M. Frye. Incumbent's commission expires February 11, 1913.

James R. McCoy to be postmaster at Lewistown, Pa., in place of William F. Eckbert, jr., resigned.

John J. Riddle to be postmaster at Bala, Pa., in place of John J. Riddle. Incumbent's commission expires February 9, 1913.

Frank J. Roethline to be postmaster at Northampton, Pa., in place of Frank J. Roethline. Incumbent's commission expires February 9, 1913.

VERMONT.

Arthur F. Stone to be postmaster at St. Johnsbury, Vt., in place of Arthur F. Stone. Incumbent's commission expired January 5, 1913.

VIRGINIA.

Warner J. Kenderdine to be postmaster at Radford, Va., in place of Warner J. Kenderdine. Incumbent's commission expires March 2, 1913.

Thomas G. Peachy to be postmaster at Williamsburg, Va., in place of Thomas G. Peachy. Incumbent's commission expires February 9, 1913.

Richard B. Wilson to be postmaster at Crewe, Va., in place of Richard B. Wilson. Incumbent's commission expires March 2, 1913.

WEST VIRGINIA.

William R. Brown to be postmaster at West Union, W. Va., in place of William R. Brown. Incumbent's commission expires February 18, 1913.

Lynn Kirtland to be postmaster at Sistersville, W. Va., in place of Lynn Kirtland. Incumbent's commission expired January 12, 1913.

CONFIRMATION.

Executive nomination confirmed by the Senate January 22, 1913.

PROMOTION IN THE ARMY.

CAVALRY ARM.

Lieut. Col. Edwin P. Brewer, to be colonel.

INJUNCTION OF SECRECY REMOVED.

The injunction of secrecy was removed from the International Radiotelegraphic Convention (Executive A, 62d, 3d).

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 22, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Lord God, our King and our Father, from whom cometh life and all its attendant blessings, cleanse our hearts from guile; pour down upon us Thy spiritual gifts that we may control our passions and direct our thoughts in conformity to our highest conceptions of right and truth and justice, touching all the complicated problems of life, that we may quit ourselves as God-fearing men, now and always, in the spirit of the Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

PENSIONS OF SURVIVORS OF INDIAN WARS.

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent to discharge the Committee on Pensions from further consideration of the bill (H. R. 14053) to increase the pensions of surviving soldiers of Indian wars in certain cases, disagree to the Senate amendments thereto, and ask for a conference.

The SPEAKER. The gentleman from Alabama asks unanimous consent to discharge the Committee on Pensions from further consideration of the bill H. R. 14053, disagree to the Senate amendments thereto, and ask for a conference. Is there objection?

There was no objection.

The Chair appointed the following conferees: Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey.

LOAN COMPANIES IN THE DISTRICT OF COLUMBIA.

Mr. DYER. Mr. Speaker, I desire to call up the conference report on the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Is it in order to call up this conference report on Calendar Wednesday except by unanimous consent?

The SPEAKER. The Chair thinks it is not.

Mr. MANN. Mr. Speaker, I hope the gentleman will not make his request at this time.

Mr. DYER. Very well, Mr. Speaker, but I give notice that I will call it up to-morrow morning.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bill and joint resolutions of the following titles, in which the concurrence of the House of Representatives was requested:

S. 5678. An act to ratify an agreement with the Weeminuchi (or Wiminuche), and hereafter referred to as the Wiminuche Band of Southern Ute Indians in Colorado, for the relinquishment to the United States of their rights to occupancy of the tract of land known as the Mesa Verde;

S. J. Res. 156. Joint resolution to appoint George Gray a member of the Board of Regents of the Smithsonian Institution; and

S. J. Res. 157. Joint resolution to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913.

The message also announced that the Senate had passed the following resolution:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 4355) incorporating the National Institute of Arts and Letters and the bill (S. 4356) incorporating the American Academy of Arts and Letters.

The message also announced that the Senate had insisted on its amendment to the bill (H. R. 17260) to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910, had agreed to the conference asked by the House, and had appointed Mr. POINDEXTER, Mr. SUTHERLAND, and Mr. TILLMAN as the conferees on the part of the Senate.

The message also announced that the Senate had passed without amendment joint resolution of the following title:

H. J. Res. 309. Joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.

The message also announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 19115. An act making appropriation for payment of certain claims in accordance with findings of the Court of Claims reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, asked a conference with the House of Representatives on said bill and amendments, and had appointed Mr. CRAWFORD, Mr. TOWNSEND, and Mr. BRYAN as the conferees on the part of the Senate.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 5074) for the relief of Indians occupying railroad lands, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. GAMBLE, Mr. CURTIS, and Mr. ASHURST as the conferees on the part of the Senate.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5678. An act to ratify an agreement with the Weeminuche (or Wiminuche) and hereafter referred to as the Wiminuche Band of Southern Ute Indians in Colorado for the relinquishment to the United States of their rights to occupancy of the tract of land known as the Mesa Verde; to the Committee on Indian Affairs.

S. J. Res. 156. Joint resolution to appoint George Gray a member of the Board of Regents of the Smithsonian Institution; to the Committee on the Library.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, before the House proceeds with the regular order of business to-day I wish to state that we have discovered a mistake in the enrollment of the Indian appropriation bill, and I ask unanimous consent to have read from the Clerk's desk an order, and to have the same adopted.

The SPEAKER. The gentleman from Texas asks unanimous consent for the present consideration of the order which the Clerk will report.

The Clerk read as follows:

Ordered, That a message be sent to the Senate notifying that body that an error has been made in the engrossment of the bill H. R. 26874, entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914," approved January 9, 1913, as sent from this House to the Senate, which error consists in incorporating in said engrossed bill a section thereof on page 24, lines 7 to 15, inclusive, as follows:

"The sum of $300,000 to be expended in the discretion of the Secretary of the Interior, under rules and regulations to be prescribed by him, in aid of the common schools in the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations in Oklahoma during the fiscal year ending June 30, 1914: *Provided*, That this appropriation shall not be subject to the limitation in section 1 of this act limiting the expenditure of money to educate children of less than one-fourth Indian blood."

Said section having been stricken from the original bill by this House previous to the passage of the bill; and that the Senate be requested to permit the Clerk to correct said error.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I suggest to the gentleman that where the word "section" occurs in the order just read it should read "paragraph."

Mr. STEPHENS of Texas. Mr. Speaker, I think that is correct.

The SPEAKER. Without objection, the change will be made. There was no objection.

Mr. MANN. Mr. Speaker, do I understand that the gentleman from Texas asks unanimous consent to adopt the order?

The SPEAKER. The gentleman asks unanimous consent for its present consideration.

Mr. STEPHENS of Texas. Yes; and then I shall ask that the order be adopted.

The SPEAKER. Is there objection to the present consideration of the order? [After a pause.] The Chair hears none. Is there objection to adopting the order?

Mr. MANN. Mr. Speaker, I think the statement ought to be made to the House, so that it may go into the RECORD, that that error is in no way whatever the fault of the engrossing clerk.

Mr. STEPHENS of Texas. That is correct, Mr. Speaker.

The SPEAKER. Is there objection to adopting the order?

Mr. MURRAY. Mr. Speaker, reserving the right to object, may I inquire how the error happened to be made?

Mr. STEPHENS of Texas. A point of order was made by the gentleman from Illinois to this paragraph. That point of order was sustained by the Chair. In some way, I do not know how, notwithstanding that, the paragraph crept into the bill, and we find it now in the bill as it went to the Senate. We desire to correct that error.

The SPEAKER. Is there objection to making this order? [After a pause.] The Chair hears none, and it is so ordered. The unfinished business is the Lincoln Memorial report.

Mr. SLAYDEN. Mr. Speaker, I think the Chair is mistaken in that.

The SPEAKER. The Chair is mistaken about that; it is the bill (H. R. 18505) to incorporate the American Academy of Arts and Letters.

Mr. SLAYDEN. Mr. Speaker, I have been directed by the Committee on the Library to ask the withdrawal from present consideration of the bill H. R. 18505.

The SPEAKER. The gentleman from Texas asks unanimous consent——

Mr. SLAYDEN. No, Mr. Speaker.

The SPEAKER. Well, what does the gentleman ask, then?

Mr. SLAYDEN. I am directed to withdraw it, and I will, with the permission of the Chair, read from Hinds' Precedents as to the authority for doing so.

The SPEAKER. There is no question about the gentleman having the right to withdraw it.

Mr. SLAYDEN. I thought there was a question. No; I made no request for unanimous consent, Mr. Speaker.

The SPEAKER. The gentleman withdraws the bill, and the call is on the Committee on Arid Lands, and the unfinished business is——

Mr. TAYLOR of Colorado. Mr. Speaker——

Mr. CANNON. Mr. Speaker, that is by unanimous consent this bill was to be considered now. The call is not on the Committee on Arid Lands, as I understand it. That is the unfinished business by unanimous consent to come up after other unfinished business was disposed of which precedes it.

The SPEAKER. The situation as the Chair remembers it is this: After the House had begun the consideration of that bill the gentleman from Colorado [Mr. RUCKER] arose and asked that that committee be passed over without prejudice.

Mr. MANN. That the bill under consideration be passed over for one week.

The SPEAKER. That the bill under consideration be passed until this Wednesday in the absence of the other gentleman from Colorado [Mr. TAYLOR], who had been detained by illness. Then the following parliamentary dialogue took place:

Mr. RUCKER of Colorado. My request is, if the gentleman from Illinois will permit, that this bill go over without prejudice and be called up on next Wednesday, just as it is called up to-day, as unfinished business.

The SPEAKER. The Chair would hold that if the request is granted, if the House starts on another bill to-day and it is not finished, that the latter bill would have the right of way.

Mr. MARTIN of South Dakota. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MARTIN of South Dakota. In the instance the Chair now states, is it correct that, on the disposition of that business, although it might take all of to-day and take both matters over to the following Wednesday, this matter would lose its place?

The SPEAKER. Of course, it is purely arbitrary. But in the judgment of the Chair this bill would follow whatever was unfinished.

That is, it would give the Committee on the Library the right to go on and finish that bill and then when that was finished this irrigation bill would come up.

Is there objection to the request of the gentleman from Colorado [Mr. RUCKER]? [After a pause.] The Chair hears none. The Clerk will call the committees.

Evidently under that arrangement the gentleman from Colorado has the right of way with that bill. The bill is on the Union Calendar, and the House will automatically resolve itself into the Committee of the Whole House on the state of the Union, and the gentleman from Illinois [Mr. FOSTER] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 23669, with Mr. FOSTER in the chair.

RECLAMATION TOWN-SITE FUNDS.

The CHAIRMAN. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 23669) providing for the disposition of town sites in connection with reclamation projects, and for other purposes.

Mr. TAYLOR of Colorado. Mr. Chairman, this bill has reference to the establishment of town sites upon the various Government reclamation projects throughout the Western States. There are some 32 reclamation projects at the present time, and there are something like 30 town sites reserved and designated by the Government of the United States as towns for municipalities upon those various reclamation projects. This bill provides for the aiding in the construction and building up of those various towns. It has been a matter that has been thrashed out by the Department of the Interior, through the Reclamation Service, and by the citizens of the Western States for several years.

This measure is not in all respects, probably, an ideal measure, but, nevertheless, it is as near perfect as the Committee on Irrigation, the Department of the Interior, and the people affected could agree upon. Some gentlemen, members of the committee, have objections to it both as to its principle and as to its form, as I understand, but I may say that the majority of the committee, after considering the matter very exhaustively, have determined that this is the best that they can agree upon at the present time, and that if the Congress sees fit to enact this measure it will very greatly accelerate the building up of these municipalities and making them a credit to the reclamation project as well as a benefit to the inhabitants and to the surrounding country. I realize that the matter has been exhaustively considered in the debate on the 8th, in which I did not participate, not having been present, and possibly many of you are thoroughly familiar with it. I am not going into an exhaustive discussion of the measure at this time, but will reserve the balance of my time, and probably take up some further consideration of it later on, or yield to other members of the committee and others who desire to discuss it.

Mr. CULLOP. Mr. Chairman, I would like to ask the gentleman from Colorado [Mr. TAYLOR] a question. On page 3, commencing with line 17, I would like to have the gentleman's opinion of that provision, which is as follows:

That in no case shall the operation and maintenance of such building and works by or under the authority of the Secretary of the Interior be continued for a longer period than two years after the organization of a municipal corporation or school district as aforesaid.

Does not the gentleman think that it would be wise to place the provision in the bill as to when the municipal organization should be made? As the bill now stands the matter might be continued for an indefinite period, and during this indefinite period the Government would be conducting the municipality of that town, or school, or whatever the organization might be. Would not that be an inducement to defer organization and leave the responsibility with the National Government to conduct it? Under this provision it has ample power to do so, and it would therefore be a very strong inducement to the people of that locality or municipality not to perfect an organization, so they can take upon themselves the responsibility of government, or shift it from the National Government to the locality. And in that respect, is not this a very dangerous measure and is it not entering upon an untried and a very dangerous and questionable policy?

Mr. TAYLOR of Colorado. Mr. Chairman, in the first place, the Government of the United States would only be expending one-half of the money that these people themselves have paid into the fund for this purpose, and it seems to me inconceivable that the inhabitants of a town would want to remain unorganized indefinitely merely for the sake of having the Government of the United States expend one-half of the proceeds of the sales of lots.

In reality I apprehend that one-half might be exhausted, and unless there was a continuation of the sales of lots it would seem to me that it would be impracticable. I do not see how that could follow. It is one of the traits of the American people to want to govern themselves, and I have never heard of a municipality or an organization of people that wanted indefinitely to be governed by Federal agents, but, sooner or later, they want to organize and elect their own mayor and boards of trustees, and their own organization, have their own municipal government, and the only reason that these buildings and works and everything should be turned over at once upon the organization was because the Government might be in process of constructing a system of sewers, or of electric light plants, or something of that kind, and it would be impracticable to just stop the work in the middle of the construction and turn it over. I want to say generally, Mr. Chairman——

Mr. CULLOP. That is exactly the vice of the bill.

Mr. TAYLOR of Colorado. I want to say that this measure, while I do not consider it personally, is nevertheless deemed by those who have had practical observation and experience on the ground to be the nearest workable of anything that they can devise. I may say that this measure has been prepared in this form by people who have had personal observation of these projects and by the Secretary of the Interior and the Reclamation Service, and it would seem to me that their judgment and their experience and their knowledge ought to be considered of some weight in the Congress of the United States.

Mr. CULLOP. Yes; but the taxpayers of such a locality might find that it would be very much to their financial benefit if the National Government would operate their town, government, or school district government instead of themselves, and I want to call the gentleman's attention now to section 3 upon that subject, which is as follows:

That all income received from the operation of any such buildings or works, while they are under control of the Secretary of the Interior, shall be paid into and become a part of the reclamation town-site fund.

Now, by that provision the Secretary of the Interior is given the right to operate the municipal government two or three thousand miles away; and might not such an arrangement be made by citizens of these towns as that they would find it to their financial benefit, in the management of their municipal affairs, to have the Secretary of the Interior, two or three thousand miles away, manage and control their domestic municipal affairs? That seems to me to be clearly a vice in this measure, and one that might lead to very great abuses. In other words, it is the Government entering on a policy of building towns away off from the seat of government, away off from the management. It is to be done at a long distance, and anyone, I think, will concede that that is a very inconvenient process of building up cities and towns. It is proposed thus to operate waterworks, schools, sewerage, and other things necessary to the building up of a modern city.

Now, it may leave it in the hands of men so far distant from the seat of government as that they would lend themselves to imposing these abuses upon the people of such localities. It seems to me that the measure as it now stands, if passed, would become the subject of very great abuses, and burdens could be imposed, and this character of government could be continued for an indefinite period upon the people who are entitled to local self-government. It is long-range government, and it is a dangerous policy.

Mr. MONDELL. Mr. Chairman, will the gentleman from Colorado [Mr. TAYLOR] yield to me?

The CHAIRMAN. Does the gentleman from Colorado yield to the gentleman from Wyoming?

Mr. TAYLOR of Colorado. Yes; I yield to the gentleman from Wyoming.

Mr. MONDELL. I am inclined to think that the gentleman from Indiana [Mr. CULLOP], not being entirely familiar with the situation—and of course it is impossible that he should be familiar with it—does not clearly understand what is proposed. The Government now takes absolutely raw land which otherwise would be homesteaded, land for which the Government would get nothing—the homesteader would acquire it—and makes a town site of that land; and, as matters now stand, the sums received from the sale of the town lots go as a credit to the reclamation project, and whatever sum is received decreases by that amount the charge against the farmers on the project. No part of these funds remains in the Treasury of the United States now.

Now, this has developed, that the distribution of that fund among the people on a great project is no great relief to them, and the people living in the town are left, under past policy, without source of income with which to improve the town, for the Government sells only a few lots at a time, leaving the major portion of the town site untaxed and untaxable. You have, then, this situation: One hundred and sixty or three hundred and twenty acres in a town site not taxable. Perhaps 10 acres of that tract are sold and taxable. Consequently the sources of income for the improvement of the town is very limited. The town is raw prairie land. Streets are needed; sidewalks, curbing, bridges, and schoolhouses are needed—all of the things necessary to start a town site on the road to growth and development.

Now, as to the receipts heretofore accrued: They run from $5,000 to $20,000 in the different town sites. The Secretary of the Interior is to make the improvements. As to the receipts that will hereafter accrue if the community is organized into a municipality—and all these communities are—when the sales take place half of the proceeds would be placed in the hands of the municipality, to be expended by it for municipal improvements.

The fact is that the half of the receipts of the sale of town lots that the people of the town receive for the improvement of the town will not, in the majority of cases, exceed what the community would receive in the way of taxes if these were ordinary privately owned town sites, because in that case the entire town site would be subject to taxation. The people would do as people ordinarily do in cases of that kind—assess

the unsold lots at a pretty high rate and secure from the unsold lots as well as from those that are sold sufficient sums to care for the community—to provide schools, a town hall, and graded streets, and to make those other improvements that are imperatively necessary.

Now it has been suggested that this is taking money out of the Treasury. That is not so at all. These funds go into the fund for the benefit of the project as it is, and this in no way changes the policy as to the sale of the lots. It leaves the whole matter with the Secretary of the Interior. The only change made is to give the town community itself half of the sums received from the sale of the lots. It is an ideal arrangement. It is the arrangement that we would all say was ideal, if it could be generally practiced in town sites.

Mr. TALCOTT of New York. Will the gentleman yield for a moment?

Mr. MONDELL. Yes.

Mr. TALCOTT of New York. Is there any provision in the law for the return to the reclamation fund of any part of the cost of these improvements?

Mr. MONDELL. No. The gentleman understands that a reclamation project is built out of the general reclamation fund.

Mr. TALCOTT of New York. Yes; but the entryman under the reclamation project buys under an appraisal which takes into consideration the expenses of the reclamation project.

Mr. MONDELL. Yes. In other words, the entryman on a reclamation project pays nothing for the land. The Government receives nothing whatever for the land.

Mr. TALCOTT of New York. But he pays all the charges before he gets a patent.

Mr. MONDELL. If the gentleman will allow me a moment, I will show him that the same thing follows in this case. The entryman pays nothing for the land. The Government receives nothing for any of the land in any reclamation project in any case. The entryman simply pays for the cost of reclamation. So does the town site, because one of the charges assessed against the town-site in the sale of the land is the water-right charge for the tract, so that the tract pays the water-right charge per acre, just as if a farmer had taken it, and the net proceeds of the sale of lots are the proceeds over and above the charges against the land, which are the same in this case as they are in the case of a farm. So that, so far as the Government is concerned, it receives just as much from these town-site tracts and no more than it receives for the other land, to wit, the cost of reclamation.

Mr. CULLOP. Will the gentleman permit a question there?

Mr. MONDELL. Yes.

Mr. CULLOP. I understood the gentleman to say that no money was received by the Government from the sale of these lots. Is that correct?

Mr. MONDELL. Oh, no; I did not say that. The inquiry was if, instead of these lands being embraced within a town site, they had been homesteaded like the lands around them, would the Government receive anything for the lands? Not at all; not a cent. The Government gives the land free to the homesteader. The homesteader pays simply the cost of reclamation, and following that theory the Government has never expected to receive anything from these town sites except the cost of the reclamation of the town sites—the same amount per acre that is paid for the land all around the town site—because the water furnished is the same and the cost is the same.

Mr. CULLOP. Does not the Government put up these lots and sell them?

Mr. MONDELL. When the Government builds a reclamation project it makes an estimate of what the project will cost. It makes no estimate of the land at all, but an estimate of what the project will cost. If a project costs $1,000,000, the price per acre that the settler pays is a sum which, divided among all the acres, will bring in that $1,000,000.

Mr. CULLOP. The very first section of this bill provides:

> That one-half the net proceeds heretofore or hereafter received from the sale of town lots in reclamation town sites are hereby reserved, set aside, and appropriated as a special fund in the Treasury, to be known as the reclamation town-site fund, to be used in the construction, maintenance, and operation of schoolhouses, water, light, and sewer systems, and other school and municipal improvements in the towns where lots have been or shall be sold as aforesaid in proportion to the amounts received from each of the said towns, respectively.

Now, does not the Government sell these lots?

Mr. MONDELL. Yes.

Mr. CULLOP. It derives money from the sale of them, does it not?

Mr. MONDELL. It derives no money from the sale of them that goes into the Treasury.

Mr. CULLOP. Then, why is this language in this bill, that one-half of the amount received from the sale of these lots shall be set aside in the Treasury for these improvements?

Mr. MONDELL. Under the present law, as I tried to explain a moment ago, the proceeds from the sale of these lots go into the reclamation fund as a credit to the project. For illustration, the Shoshone project in my State contains 100,000 acres, in round numbers, and there is one town site on it.

If that town site should ultimately bring $100,000, the settlers would pay the cost of that great project—over 30 miles in length—less $100,000. In other words, the theory of the law is that the Government is not to make money on these town sites, but the people whose settlements and improvements make the town shall have the benefit of it, and all we do by this statute is to divide the fund between the people of the project generally, many of whom live so far away from the given town that they do not contribute anything to its growth and development, and the people of the town. In doing that, of course, it is necessary to provide as a matter of bookkeeping for a fund. That is simply a designation.

Mr. SMITH of Texas. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. SMITH of Texas. The gentleman talks about the right of the people who buy the town site to have half of the money they paid contributed back to them. I will ask the gentleman if when the people buy the lots they do not get the worth of their money in the value of the lots? Does it not come down to the proposition of the Government investing the money back for speculative purposes on the enhanced value of the lots?

Mr. MONDELL. Not at all. In the first place, the Government never has a penny of investment in the town. It never has any money in it. Gentlemen will remember that such towns are largely a school center for the entire surrounding country; that the people in the surrounding country can not be taxed for at least seven or eight years while these lands are held as homesteads, and the responsibility devolves largely upon the town to furnish school facilities for the people around and about.

Referring again to the little town of Powell, they have a central school organization and send wagons out and bring the scholars in from the surrounding country. Surely it is not fair to ask a community to do all that and not give them any of the increment of the values they themselves have largely created.

The sums are not great; they are small; they are coming in slowly, and together with the taxes raised in the ordinary way, they will enable the town to provide the things necessary for its growth and development.

It has been suggested that the Government ought to adopt a different policy in regard to town sites, in this, that instead of selling a few lots in the town, the Government ought in the first instance to advertise for sale and sell to the highest bidder, for whatever price they could get, all of the town sites. Whether that would be wise or not, that situation is not affected by this bill in any way, because we do not in any way seek to modify the law giving to the Secretary of the Interior full control of the sale of lots. Personally I do not think that would be wise, because it would result that when all of a town site is all open for sale the entire tract would bring but a song, and the result would be a town of considerable area with no fixed center about which to begin development, and in that case the increase of values would go to speculators and the people of the town would secure no benefits.

I think the plan now followed by the Secretary, which plan is in nowise affected one way or the other by this bill, is a wise one, to wit, to select a proper place on town site for the building up of a business center and surrounding it with a residence section, selling only such area of lots for which there is a real demand, and by reason of this sale of restricted area securing very good prices. In the town of Newell they sold small lots, 50 by 150 feet, I think, for something like $2,000. Those lots brought those prices because they were Government town sites, with a restricted area for sale, and selling the restricted area, it held the town compactly, and then, as there is real demand, additional lots are offered as they are needed and as they will bring fair prices. I am sure the gentleman from Indiana [Mr. CULLOP] will not disagree with me in the proposition that if we can secure a condition whereby the people who create values shall themselves have the benefit of those values, we should do it, and not give the values made by the people of the community to some speculators who may buy lots to hold them for future sales.

Mr. CALLAWAY. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. I am speaking in the time of the gentleman from Colorado [Mr. TAYLOR].

Mr. CALLAWAY. It has been suggested by the gentleman that the Secretary of the Interior should select the proper place for the center of the town, and then put 2 per cent of the lots on the market, although he is located here in Washington some thousand of miles away from the town.

Mr. MONDELL. The gentleman knows that on these reclamation projects——

Mr. CALLAWAY. It occurs to me——

Mr. MONDELL. Oh, I wish the gentleman would permit me to finish.

Mr. CALLAWAY. I understand what these reclamation projects are.

Mr. MONDELL. They have a great enterprise. They have upon them, first, a project engineer, who is an educated man, a man of standing, a man who can command and does command a high salary, and would command a very much larger one if he were in private practice. Then there is the project manager, also a man of standing and reputation, and the other employees, and they are all on these projects. They are men of standing and reputation and judgment. Some one must decide the matter, and I am rather inclined to think that with the knowledge of where the canals are to be built, where the roads are to be built, where the centers of population are to be, they are as good judges as we can get of where the center of the town ought to be, provided, of course, that the Government is to do the job at all.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. RAKER. Is not one of the complaints by gentlemen appearing before the committee on this bill that the town site of Newell is laid out so poorly as to location and elevation that all of the surrounding towns, even 5 miles away, are prospering because the land is in private ownership, and the town of Newell, because of its location, can not prosper? That is the testimony of gentlemen appearing before the Committee on Irrigation.

Mr. MONDELL. Very true; and why? Because Congress has refused to be as enlightened as the private owners of town sites are on the one hand, and on the other hand Congress has refused to give the people themselves the opportunities they have to tax the private owners of the private town sites. The gentleman, coming as he does from a new and growing country, and living many years in that growing country, as I have, knows that ordinarily the taxes that the owners of speculative town sites have to pay are a plenty. I do not say that they have always been as wise as Solomon in deciding how many lots should be sold at a time, and in the case of the town site in my own State, the people have thought they were not selling rapidly enough; but the general policy is a sound one, and that is to open only such area as is needed, by so doing securing quite a considerable sum from the sale, providing that when we secure those sums we give them to the people who really make those values—the settlers and the men in the towns.

Mr. RAKER. Will the gentleman yield there?

Mr. MONDELL. If the gentleman from Colorado [Mr. TAYLOR], the best-natured man in the world, will give me the time.

Mr. RAKER. Is it not a fact that under the condition now existing and always will exist under a new project that the farmer the gentleman speaks of, who is building up that country, will not buy a town lot, because he can not live in the town if he wants to do so? He must remain and reside upon his farm and improve that farm, so therefore the town lots revert and go to those who are dealing in speculation, to those who are running stores and hotels. That is just to show that the farmer does not assist in building up the town lots, as far as he is concerned.

Mr. MONDELL. Of course what the gentleman says is partly true; but I do not see what application it has to the case in hand.

Mr. RAKER. Simply to show that the gentleman said the settler was the man who is getting the benefits from these town lots and——

Mr. MONDELL. Well, if there is anything in the gentleman's statement at all that contains an argument, it is an argument in favor of this bill. His suggestion that the farmer does not buy town lots, and therefore the farmer is not helping to build up the town—following logically to a conclusion the gentleman's premises, the farmer should not have all the benefit which he now has, but we should divide the benefit between the man who purchases the lot and lives in the town and builds the schoolhouses and builds the city halls and improves the streets—divide that with the farmer. I think it is a well-nigh ideal arrangement.

Mr. LEWIS. Will the gentleman yield for a question?

Mr. MONDELL. I will.

Mr. LEWIS. In the minority report it is stated that the proceeds from the sale of these lots under the present law go for the purpose of irrigation. Is that correct?

Mr. MONDELL. Well, in a way that is correct; but the minority might have been—I will not say more frank, but a little more lucid.

Mr. FRENCH. Each project is a unit.

Mr. RAKER. Not at all.

Mr. MONDELL. If the gentlemen will permit, the reclamation town-site law recognizes the town site as an asset to the project. I will refer again, if I may, to the project in my State, which is over 35 miles in length. There were several towns in the vicinity of the project, but in the center of it one reclamation town site was considered necessary. Now, the law provides that money received from the sale of town lots shall go into the reclamation fund. To use an illustration I have used often, if an entire project costs a million dollars to the settlers who had to pay for it, as they do, and the town site brought $100,000 out of the land, then the amount they must ultimately pay would be $900,000. The Government does not receive the return; the return goes to the farmer, as it ought to do. Now, we are simply proposing to make it a credit to the farmer and the town people, and the increased value will help both.

Mr. LEWIS. Will the gentleman yield further?

Mr. MONDELL. I will be glad to do so if the gentleman from Colorado will yield more time.

Mr. TAYLOR of Colorado. I will say I have promised a number of gentlemen time, and we will take this up under the five-minute rule.

Mr. LEWIS. I want to ask the gentleman if he can tell us any better purpose to which the Government might apply the money from the proceeds of these lots than to irrigation and improve the farming in this country?

Mr. MONDELL. I can not think of any better purpose than the purpose contemplated by the original law as amended by this bill.

Mr. LEWIS. But the gentleman desires to divert it to schoolhouses and sewers and light plants and other projects.

Mr. MONDELL. I am sure the gentleman from Maryland, the fairest of men, would not say that the Government should take a piece of valueless land, which it is willing to give to the homesteader for nothing, and make a town site of it and sell a few lots at a time, secure a large amount of money for it, and have that go into the Treasury. Congress never contemplated that and never ought to.

Mr. RAKER. Will the gentleman yield right there?

Mr. MONDELL. In just a moment. It followed that policy, and it gave the returns to the farmers as a credit overlooking—and if I had the time I would explain that that was not an oversight; that the original town-site bill contained just such a provision as this, except there were a lot of other matters in connection with it—overlooking the fact that these towns were raw and unimproved; that there is no taxable property within them except the personal property of the people and a small number of lots sold that can be assessed.

The balance the Government retains untaxable, and therefore there is no source of income for the development of the town. If the town belonged to a private individual, that private individual could be taxed during the running of the years until he sold his lots; and those taxes, you may depend upon it, would be high, and through that source an income would be received. We propose the better plan of giving to the people the benefit of those values which they create.

Mr. CANDLER. Why is not the real estate subject to taxation?

Mr. MONDELL. It is Government land, and no Government land is subject to taxation.

Mr. CANDLER. Is there no private ownership?

Mr. MONDELL. The Government only sells a small part of the town site at a time, leaving the balance during the years the town is developing entirely free from taxation.

MESSAGES FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. WILSON of Pennsylvania having taken the chair as Speaker pro tempore, sundry messages in writing from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries.

RECLAMATION TOWN-SITE FUNDS.

The committee resumed its session.

Mr. TAYLOR of Colorado. Mr. Chairman, I yield to the gentleman from Arizona [Mr. HAYDEN].

Mr. HAYDEN. Mr. Chairman, we have been discussing this bill for about three days, and it seems to me we have devoted a great deal of time to a very minor matter. According to the figures furnished by the Reclamation Service, there has been received up to December 31, 1911, a total of $219,793 from the sale of town lots in 10 different reclamation town sites. This bill proposes to set aside one-half of the money received from the sale of these lots and one-half of the money received at all future sales into a town-site fund for improvements in the various reclamation town sites. If this bill passes, about $110,000 will be divided among 10 towns giving, on the average, about $11,000 to each town for such improvements as street grading, waterworks, or schoolhouses.

There was contained in the reclamation fund, according to the tenth annual report of the director, on June 30, 1910, $65,525,446, and he made an estimate that there would be $71,590,572 in the fund on December 31, 1912. So that compared with the total amount of the reclamation fund this town-site money is a very small matter. Now, if the reclamation fund increases in the next 10 years as it has in the last 10, there will probably be twice the present amount, or $140,000,000, on hand, and if new town sites are created in the same ratio there will be about $250,000 in the town-site fund.

Mr. RAKER. Will the gentleman yield right there?

Mr. HAYDEN. Certainly.

Mr. RAKER. Does the gentleman claim that there is $60,000,000 available now in the reclamation fund?

Mr. HAYDEN. The receipts from the sale of public lands, which create the reclamation fund, amounted to $65,525,446.88 on the 30th day of June, 1910.

Mr. RAKER. How much has been expended of that amount? Has not there been in the neighborhood of $55,000,000 expended?

Mr. HAYDEN. About $60,000,000.

Mr. RAKER. And it leaves only a few millions in that fund now?

Mr. HAYDEN. I understand, but I am considering the whole fund.

Mr. RAKER. If they are handling so much money, why do they want to take a part of it and build up a beautiful town on paper, instead of letting the people build up their own town, as they ought to?

Mr. HAYDEN. The argument has been made in the course of this debate that this bill will establish a new system and a bad precedent if we provide funds for the improvement of town sites. I want to read from a bill that passed this House less than two weeks ago, namely, "An act to provide for the opening of the Standing Rock Indian Reservation in North and South Dakota." I shall read from this act, and I shall say, further, that every act passed by this House in the last five or six years providing for the opening of an Indian reservation contains practically the same language:

> The Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe, and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any one town site, and patents shall be issued to the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes. The purchase price of all town lots sold in town sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct.

Listen to this language:

> He shall cause not more than 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses and other public buildings, or in improvements within the town sites wherein such lots are located.

This bill was passed not more than two weeks ago. Almost the same language is contained in the act opening the Yakima Indian Reservation in the State of Washington, which passed on May 6, 1910. Another act opening the Pine Ridge Reservation in South Dakota, passed on May 27, 1910, contains the same language. The bill opening the Rosebud Indian Reservation in South Dakota, and the acts providing for the settlement of the Fort Berthold and the Cheyenne Reservations all contain the same provisions. I could cite you half a dozen other instances showing that it is not a new thing to set aside a part of the proceeds derived from the sale of lots in town sites for public purposes.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

Mr. HAYDEN. I should like to have three minutes more.

Mr. TAYLOR of Colorado. Mr. Chairman, I yield to the gentleman three minutes more.

The CHAIRMAN. The gentleman from Arizona is recognized for three minutes more.

Mr. HAYDEN. The Reclamation Service is under the control of the Secretary of the Interior just as is the Indian service. There has been no complaint about the improvements made under the direction of the Secretary of the Interior in town sites when the Indian reservations are opened, and there will be no cause for complaint if this bill passes. The theory is that the money spent for improvements will cause a higher price to be paid for the lots when sold at auction, so that this advance of 20 per cent results in a net profit to the Indians. In the case of the reclamation town sites you would not be authorizing anything but what the department had been accustomed to do in connection with the Indian service.

Mr. CALLAWAY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Arizona yield to the gentleman from Texas?

Mr. HAYDEN. Certainly.

Mr. CALLAWAY. Is it not a fact that it is not the buildings that make these lands valuable, but the farming country that is developed in the neighborhood, that gives the town trade, which makes the land valuable? Here you propose to take value from the people who imparted the value to the town lots—the farmers and the people under the reclamation project as a whole, people who are creating something instead of being merely traders; you are taking value away from them and from the fund that belongs to them and putting it into a municipality to beautify the town for the benefit of the people who have settled there, not for the purpose of helping the project, but for the purpose of filling their own pockets.

Mr. HAYDEN. Let me answer the gentleman by asking him a question. Would he not pay more for a lot in a town site where the streets were graded and a domestic water supply had been provided or an electric light plant installed and schoolhouses built? Would he not pay more for a lot in that town than in a town where none of these improvements existed?

Mr. CALLAWAY. I would pay for the lot in the town in proportion as trade came to the town, and in proportion as I could use it for the purposes for which I was moving to the town; and then when I got in there I would pay my pro rata share for building the streets that I wanted to walk on or for building the town hall that I wanted to sit in unless, as the merchants do, I could get somebody else to pay it. If I could saddle it on the farmers, I would be doing as the merchants do; I would make the surrounding farmers build my schoolhouses and lodge houses and town halls. That is what you are trying to do in this bill—trying to saddle the burden of the town on the community outside.

Mr. HAYDEN. If I believed that the passage of this act would place any burden on the farmers of the community, I would not support it.

Mr. CALLAWAY. It takes one-half of the value of these lands from the people on the project, does it not?

Mr. HAYDEN. It adds to the value of the lots that are improved and yet remain to be sold.

Mr. CALLAWAY. The lots are of no value to the people out in the country. The thing that should be attended to is the payment of the debt that is saddled upon them for this project.

The CHAIRMAN. The time of the gentleman from Arizona has again expired.

Mr. HAYDEN. May I have one more minute?

Mr. TAYLOR of Colorado. Mr. Chairman, I yield to the gentleman one more minute.

The CHAIRMAN. The gentleman from Arizona is recognized for one minute more.

Mr. HAYDEN. If I believed that this bill would saddle one cent's worth of burden on the farmers of the community, I would not vote for its passage. But I do believe that a greater sum will be derived from the sale of the balance of the lots than will be diverted from the reclamation fund. Much more money can be obtained for lots that are improved than for lots that are not improved, and this ultimate increase in the price of the lots will redound to the benefit of the farmer.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield to the gentleman from Texas?

Mr. HAYDEN. Certainly.

Mr. SMITH of Texas. Would not that depend on the condition existing at any particular place? You would not lay that down as a general rule? The gentleman will not contend that you can build up a town in that way under any sort of conditions?

Mr. HAYDEN. Oh, that is true. Even speculators have lost money on town lots.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAYLOR of Colorado. Mr. Chairman, I yield two minutes to the gentleman from Idaho [Mr. FRENCH].

The CHAIRMAN. The gentleman from Idaho [Mr. FRENCH] is recognized for two minutes.

Mr. FRENCH. Mr. Chairman, we are quite removed from the question that was asked by the gentleman from Indiana [Mr. CULLOP], which I wanted to answer, with respect to the possibility of the Secretary of the Interior continuing the management of schools and other municipal institutions for a longer period than would be altogether desirable, providing that the present bill shall be passed. I will say, however, in reply to the gentleman's objection, that the natural pride of the communities in interest is so great that it is impossible to conceive of a condition of that kind obtaining. My judgment is that all of those communities would make haste to perfect their municipal organizations of various kinds. If not, I would suggest that a very simple amendment would cure that provision of the bill. It can be worked out in language something like this: After the word "aforesaid," in section 2, line 21, where it provides for the responsibility of the Federal Government in maintaining the improvements for a period of time, insert this language: "Nor in any event for a longer period than three years." That language will further tend to make each community organize itself into a municipal corporation for town purposes, or into a school district for the handling of school matters.

Mr. TAYLOR of Colorado. Mr. Chairman, I reserve the balance of my time.

Mr. CULLOP. Mr. Chairman, the proposition advanced by the gentleman from Idaho [Mr. FRENCH] is a timely one and is applicable here. It also concedes the vice which we have contended is contained in this bill.

If the bill is left to stand in its present form it will enable scheming individuals in the development of these town sites to exploit the people. It will do more. It will be an inducement to prevent the organization of municipal governments for these town sites after they have been established, and will leave it under the control of the Government to multiply officeholders and to furnish berths for office-seeking individuals.

Mr. FRENCH. Does the gentleman think the amendment I have proposed will meet that situation?

Mr. CULLOP. I think it will tend to meet it, and I think that such an amendment is absolutely necessary. I would gladly vote for such an amendment.

Mr. TAYLOR of Colorado. Will the gentleman yield a moment?

Mr. CULLOP. Yes.

Mr. TAYLOR of Colorado. So far as I am advised, representing the committee I will say that we have not the slightest objection to that amendment. We do not feel that the objection made by the gentleman from Indiana is well founded, but nevertheless we are willing to put in a clause obviating what he fears. We do not think it would ever occur, but we have no objection to the amendment.

Mr. SMITH of Texas. Will the gentleman yield?

Mr. CULLOP. With pleasure.

Mr. SMITH of Texas. Suppose such an amendment as is suggested by the gentleman from Idaho should be adopted. Suppose these municipal improvements of various kinds should be made on one of these town sites before any municipal corporation is organized and the Government should undertake to operate them. Suppose the town did not develop to the degree anticipated and that the revenues derived from the operation of these various works is not sufficient to pay the cost of maintenance and operation. I believe the gentleman will agree with me that in that case the people on the town site would have no disposition to assume the burden of operating these municipal improvements which are not self-sustaining, and so would have no inducement to organize a municipal corporation.

Mr. CULLOP. That is exactly the point I am making.

Mr. SMITH of Texas. And, furthermore, if the Government should be required to give up the operation of these works at a definite date, I think a case can be imagined where the people would not organize into a municipality, and if the Government was prevented from operating these improvements beyond a certain date, there would be nobody to operate them, and they would simply fall into disuse.

Mr. CULLOP. I think the suggestion of the gentleman from Texas is a good one. I wanted to call attention at the time I was interrupted to a matter bearing directly upon that point. As this bill now reads, it would be an inducement to prolong the completion of the public works herein provided for. Not only that, but it would have a tendency to induce the people managing these affairs for the Federal Government to let them out gradually—a sewerage system, after the light plant was completed; a schoolhouse, after the lighting plant and the sewerage system; and so on, for an indefinite period. All that time the municipal government, of whatever character it might be, would be under the management of the Secretary of the Interior at long range, three or four thousand miles away, and subject to the worst kind of abuses. It strikes me that the effect of this bill will be to hand over to individuals a ready-made town. The people there would not build it up, but if the provisions of this bill should be adopted the National Government would build a town for the inhabitants. Now, the reclamation fund was never provided for any such purpose. It was provided for the sole purpose of reclaiming the land for agricultural purposes and increase the productivity of the soil, aiding the farmers of our country, encouraging the people to engage in that important industry, and we should not divert that purpose.

Mr. RAKER. Will the gentleman yield there for a question?

Mr. CULLOP. With pleasure.

Mr. RAKER. In order to get the gentleman's idea of the policy, I want to make a statement and then ask a question. It was shown from the gentlemen appearing before the Committee on Irrigation of Arid Lands that close to the town of Newell is the town of Nisland, a privately owned town, and another town a short distance away by the name of Fruitdale. Newell has over 500 inhabitants, and they claim it is doing nothing. It is a Government town. Nisland and Fruitdale have less than 300 inhabitants, and it is shown that these people have assessable property amounting to $500,000; they have a system of waterworks, good electric lights, and all the facilities, because the people can tax the land. Now, if the Government in the town that they have worked for has made a failure, is it right to put into their hands a further control to handle all the money, when it is shown that there are privately owned towns nearby which are prosperous? Here is a Government town to-day that has made a failure, and is it not going to continue to make a failure if you start out with the idea of the Government building up the municipality?

Mr. CULLOP. It is forcing the building of a town, and that you can not do. Towns must be built up to meet conditions, and you can not force them unless they have those conditions. That has been the history of all boom towns. You can not force the upbuilding of any town which has not the conditions surrounding it to support a town of the size which it is attempted to force on the public. To make the modern improvements alone will not bring population; it is an inducement, that is true.

Mr. BUCHANAN. Will the gentleman yield?

Mr. CULLOP. Certainly.

Mr. BUCHANAN. The gentleman does not think that a public official would undertake to build a town where it was not desired by the people in that locality, does he? I would like to ask if the gentleman does not think that people would be safer in the hands of a Government official who was located at long distance in looking after the best interests of the people than they would be in the hands of real-estate speculators and contractors at a short distance? I believe I would select the Government official at a long distance.

Mr. CULLOP. I would not want to select either. I would want to select the sound judgment of the people in the town who are interested in its welfare and leave the responsibility with them. I would not want the National Government to attempt to build a town for somebody out in a far western State, put upon them improvements that when they come into possession of their property the taxes required to support them would exhaust the value of the property in a very short time.

Now, an inducement of this kind of legislation would be to the contractor to work around and manipulate affairs so as to get contracts and put in an expensive sewer system, an expensive lighting system, an expensive water plant, and expensive school buildings far beyond the requirements of the public in these localities, and would burden it with such expense of maintenance that the people would never feel like organizing and taking it out of the hands of the Government. It would do more to retard the upbuilding of the country than it would to promote it, in my judgment.

Now, such things are not only possible, but they are highly probable; they have occurred and they may occur again. So that the bill as it now stands is open to aggravated abuses, and these abuses are possible and probable both when we come to look at the situation as it really exists.

Now, this is the reclamation fund—and a fund created solely for that purpose—and if diverted from that use to the purpose of building up towns in localities perhaps long before the people

are ready for them is a diversion of its purpose. That is my objection to the bill. The amendment proposed by the gentleman from Idaho, if the bill is to pass, would be a very timely one; but I do not think this bill as it now stands ought to pass. I believe it would prove more injurious than beneficial.

Mr. RAKER. Will the gentleman yield?

Mr. CULLOP. I will.

Mr. RAKER. I watched carefully the proposed amendment of the gentleman from Idaho, and is it not a fact that it makes a limit of three years, and the Government would just get started and about half through its work when you cut off the entire completion of it, and the very limitation would be another condition that would show that it could not be carried out?

Mr. FRENCH. Would the gentleman increase the limitation?

Mr. RAKER. No; I think the private individuals ought to build up the town to suit themselves.

Mr. CULLOP. That is my idea, that the people ought to do this instead of the National Government, and then it will be done as the public requires and demands, but in this way you are building up in advance of the public requirements. That would be the result of this legislation if it should pass. Now if the gentleman from Texas desires time I will yield to him.

Mr. SMITH of Texas. Not just now.

Mr. CULLOP. Then I will yield 10 minutes to the gentleman from California [Mr. RAKER].

Mr. RAKER. Mr. Chairman, in addition to what I have said on this matter this morning, I desire to call the attention of the committee to a further fact which is worthy of consideration. In one of these towns of 160 acres a small piece of the land is sold or laid off, some 4 per cent of it, in the center. The balance of the land is to be sold after the Government builds its jails, its roads, its schoolhouses, its town hall, and all other things, which may be put off in entirely another part of these 640 acres, leaving out those who have been the first purchasers. Their ideas might change as the administration might change.

The main feature of this matter, and one of the things that seems to be more vital than anything else, is that which, to my mind, appears from the hearings in this case. I want to read just a little bit. I read from page 16 of part 1. Mr. MARTIN of South Dakota, speaking before the committee, said:

> I am very familiar with these conditions, because right where I live, on this Government town-site tract, the people—because it is a Government town site—can not assess taxes, whereas these other towns right on the railroad and a little nearer market than Newell, although much smaller, are in position to proceed and make their municipal improvements, whereas Newell has so small a per cent of property there that they are not able to turn a wheel.

Now, if you want to build up these towns, if you want to improve them the same as the country that surrounds them is improved—that is, the farming district—comply with the reclamation act and the acts amendatory thereof, and appraise all of the lots in this town site after having platted it, laid off your location for your jail and your public assembly building, and your schoolhouse——

Mr. BUCHANAN. Oh, they do not need any jails out there.

Mr. RAKER. Just give them one for good measure—and all of the streets and byways, and it can then be opened up for bids of those who desire to buy this property, and just as fast as the town is in condition to improve, these lots will be for sale from time to time, and they will enhance in value, and the entire town will be in private ownership. They will then be in a position to assess the land and improve it, and no man will be in a position to hold any quantity of it, because he will be in such a hopeless minority that those living in the town will assess it sufficiently high to induce him to sell off part of it or improve the balance. They will then be able to use the money to improve the town and build up these necessary public improvements as they ought to be built up.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Certainly.

Mr. BUCHANAN. I know the gentleman is well informed in regard to these matters out West, but is it not a fact that the system that has been in vogue has been that real estate speculators got hold of these town sites and put up buildings and improved the town for the purpose of selling the property at a high price?

Mr. RAKER. It is not only true as to Illinois, but it is true of the West. Wherever you go, men are bound to speculate in real estate.

Mr. BUCHANAN. That being the case, the gentleman seems to feel that a public official is going to place a town site where the people in that locality do not want it. I can not conceive of such an idea. He could not succeed in doing it. He must respond to the will of the people in regard to these matters, and it seems to me the people's interest ought to be better off in the hands of a public official than in the hands of real estate speculators.

Mr. RAKER. There are no real estate speculators in it.

Mr. BUCHANAN. I have never seen a town yet where there were not.

Mr. RAKER. Then, the gentleman must place himself in a position to say that no man shall be able to advance the town in which he lives. In other words, after a man goes into one of the western towns, or in the gentleman's town, if he improves the street in front of his place, or fixes up his back alley, if he plants trees, and builds a house and sells it to some one that wants it, at a reasonable price, he is a speculator, according to the gentleman, and the gentleman would prefer that kind of improvement——

Mr. BUCHANAN. I would prefer it; yes.

Mr. RAKER. I am in favor of building up these towns.

Mr. BUCHANAN. I have done those things myself and I know it is the easiest money ever made, but I would stop it.

Mr. RAKER. It can not be possible that the Government is going to take over the policy of building up all your towns, large, small, and intermediate. Is it possible that this great Government is to go out into my State and lay off in one of those desert valleys 160 acres of land and build up a town?

Mr. BUCHANAN. I would say to the gentleman, on the contrary, instead of obstructing the progress of the West I would have the Government do this for the protection of the people's interest, so that the West might progress without the obstruction of real estate sharks and speculators.

Mr. RAKER. Well, that does not apply to the West, so far as building up farm communities where the towns are concerned. It may apply to Chicago and it may apply to the additions there, but it does not apply to the West if we give these men a free hand—the farmers and those who come there from other States and those who desire to become a part and parcel of that community and that town. They are not land sharks; they are not speculators. The farmers are going there to build up the country. Those who live in the towns are merchants, blacksmiths, teachers, and what not. They want to buy a piece of land to live on and build up a home, and because some man sells to them they are not land sharks. But you want to put the Government in a position of doing business, not on the ground but 3,800 miles distant; not that the people need them, but you lay out plans and specifications for an imaginary town, with an imaginary beautiful school house, with its plans and specifications, with its marble front and walks and cement driveways to and from it, with its jail in the same condition, whereas a log jail will do for many years and it will have a deterrent effect upon those who try to break the law instead of a fanciful stone structure with beautiful statuary surrounding it.

The same way with all the other buildings, and you would want to put upon the corners of each street a monument to some individual who may be a part of that country in future years. The people in those western towns do not build them up that way. They build them up as the necessities demand, just as the testimony is before the committee upon this same matter. I will read a portion of it:

> The entire land is private land and subject to taxation, whereas here 96 per cent of the land is Government town site. The Government, however, had three towns established under the Belle Fourche project—one Newell; Nisland, a private town, and the other Fruitdale, a private town. Newell has more people than both of the others, attracted to it because it was a Government town site and because of these representations, but the people in the other town sites proceeded to get everything they wanted. They have got their waterworks in Fruitdale, although I do not suppose there are over 100 people living in the town.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAKER. I would like to have five minutes additional.

Mr. CULLOP. I yield five minutes to the gentleman.

Mr. RAKER (reading)—

> But in this town site of Newell we have not any water at all; no means to raise funds for waterworks; they draw it a mile and a half.

Think of that. That is the town site laid out by those who are laying it out in the interest of those who are going to live in the vicinity of this project. They have to haul their water for drinking and washing purposes miles and miles in barrels and leave it standing out in the open, and then they want us to take the money from the reclamation fund and give it for the purpose of building beautiful buildings in these towns, whereas in a little town 4 miles from it, with 100 inhabitants, they have electricity, water supply, good streets, and good school buildings. Now the gentleman says further:

> Mr. MARTIN of South Dakota. In a word, an investor looking over those three towns would take this view. He would say, "Here is to be a Government town; they will have every advantage over these other two towns." And the representations in the literature as to what was to be done for the purchasers of lots in the town undoubtedly has had influence to bring these 500 people to this Government town, and put improvements of a half million of dollars on it, as between the other two competing towns. There can not be over 500 people in both of the two other towns, but they have these facilities and conveniences of living, good water, and have put in other improvements, bonding their towns for considerable, whereas the Government town-site people appear to be helpless to do anything or to rely upon the Government to help them.

There, right side by side, is shown what can be done if the Government adopts that policy of selling town lots in these reclamation town sites at public auction after they are appraised. Nobody can be injured and the Government gets the best price, and then you are in a position of improving your towns as they ought to be. The policy of the bill is what strikes me. The idea at this day, at this time, with only a few towns involved, for the Government to start into the policy of building up municipalities seems to me beyond the power and function of the Government.

Those acts referred to by my distinguished colleague from Arizona relate to Indian towns.

The CHAIRMAN. The time of the gentleman from California [Mr. RAKER] has expired.

Mr. CULLOP. I yield to the gentleman one minute more.

Mr. RAKER. Now, are you going to compare the building up of these western towns with the handling of town sites and those interested in towns? The Government handles and takes care of the Indians, their money, and their property. Now it is attempting to take care of the people in the West. They do not want it in that way. Furthermore, whatever money has been in any instance allowed, you will find, has been handled and turned over, whatever small per cent it was, to the Government authorities of those towns. And if gentlemen would just call to mind their own local homes, when they were boys, and the building up of their towns, they will remember that burning questions always occurred as to what should be the first improvement, whether it should be the schoolhouse, whether it should be the town hall, whether it should be waterworks, or whether it should be an electric-light system, or some other necessary improvement. But under this bill, under the policy that is intended to be enacted into law by this Congress, these questions are entirely taken from the local authorities; some individual goes into a community or into a town, and for that community fixes their policies contrary to their wishes and their desires.

The CHAIRMAN. The time of the gentleman from California [Mr. RAKER] has expired.

Mr. CULLOP. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Indiana [Mr. CULLOP] has 30 minutes remaining.

Mr. MARTIN of South Dakota. Mr. Chairman, I desire to ask the gentleman from Indiana if he wishes to conclude the balance of his time? I wish to make some concluding remarks in regard to the bill, but wish to make them after the other arguments are all in.

Mr. CULLOP. If the matter stops here now, I do not expect to use it, but the debate may make it such that I will desire to use it.

Mr. TAYLOR of Colorado. I have no further request for time, Mr. Chairman.

Mr. MARTIN of South Dakota. It being my bill, I would like to have the concluding argument, in order to answer the arguments which have been made, and if the gentleman has any desire to use his time, I wish he would do so.

Mr. CULLOP. I have no desire, I will say to the gentleman from South Dakota [Mr. MARTIN], to use any more of it.

Mr. MARTIN of South Dakota. Mr. Chairman, with the indulgence of the committee, I will take a few minutes in making some reference to the arguments pro and con which have been made as to this bill. The debate has continued over so long a period and has been made in such a fragmentary manner that it perhaps has not been satisfactory to Members of the House who are not, from force of circumstances, acquainted with the facts involved. And I would remind Members in that condition that I think, as is usual, doubt can probably be very easily resolved in behalf of the committee which reports this bill favorably.

A committee of 15 considered this matter and had hearings before it, covering some two or three different periods, and a majority of the committee reports in favor of the bill. Indeed, the minority report is signed by only 2 members of the committee of 15, namely, the distinguished chairman and the gentleman from California [Mr. RAKER], whose positions, I am entirely satisfied, are taken with the utmost sincerity. I believe, however, a closer contact with the conditions which make this legislation necessary and cause it to be recommended by the department and by Members who come from these localities would remove the objections in the minds of any who have felt disposed to question the wisdom of the legislation. It is suggested that it is the adoption of a new policy. It is not a new policy. As the gentleman from Arizona [Mr. HAYDEN] has said, the Government has not at any time sought to obtain profit to itself from lands within located town sites, and there is precedent for this legislation in effect in bills we have passed from time to time as to town sites created in Indian reservations when the lands about them are open for settlement.

And as we have been reminded by the remarks of the gentleman from Arizona [Mr. HAYDEN], the Congress has with great uniformity provided that a portion of the proceeds of the lots sold on these Government town sites made from Indian reservations should be used for public utilities, upon the same general plan and system as here proposed. And, indeed, the general town-site law that has been in the statutes of the Government of the United States for many, many years, under which many towns of the West have obtained their titles, was administered by the Government purely and simply for the benefit of the inhabitants of the towns themselves. Lots that were in actual occupancy in such town sites under the general town-site law were set aside to the persons occupying them without any payment for the lot except a proper proportion of the expenses of administration leading to the passage of titles. As to all remaining areas, the general town-site law gives the land to the municipality, and the proceeds are generally used for the benefit of the school fund as such lots are disposed of.

When we started out with the reclamation town-site act the provisions apparently were not given careful consideration as to their effect. We started out contrary to all our precedents in such matters and set aside the entire proceeds from the sale of lots under the reclamation town-site projects for the benefit of the reclamation fund.

This bill simply proposes to give one-half of the proceeds of the sale of the town sites in these reclamation projects for the benefit of public utilities, such as waterworks, streets, lights, and other necessary utilities for the benefit of the town, and when this law is passed, if it becomes a law, it will still place the occupants of Government town sites upon reclamation projects at a disadvantage to the extent of the other one-half as compared with our general town-site law.

I think it is an equitable proposition. The argument that is made against it is based upon unnecessary fear of the working out of this proposed legislation. The gentleman from Texas [Mr. SMITH], the distinguished chairman of the committee, says that it is creating a system of paternalism, to be administered by a bureau chief or a Secretary here in Washington. Well, the charge of paternalism can be made against many of the necessary legislative steps for the proper progress and development of the country, but there is less paternalism in this proposed amendment to the town-site law than there is in the entire reclamation act.

What are the facts there? This whole subject of reclaiming the arid lands of the United States is a piece of paternalism, if we are to measure it by those standards. The Government proceeds and builds these great reclamation projects and puts the Government money into them, amounting to millions of dollars. The Government does the whole service without any compensation to the Government, and simply charges to the settlers under the project the cost of the works when completed. And the Government not only constructs the works, but it absolutely manages them for a period of not less than five years in the interest of the people under the project.

It is paternalism, it is true, if we are captious and insistent upon that idea with respect to legislation; but it has been the means of developing the arid lands of the West in a way that they could not have been developed otherwise. Those works require the interposition of the Nation. The Nation is very much interested in the development of those vast areas of rich land that are naturally without water unless it is brought in artificially; and the progress of the community, the building up of new communities and cities and towns, forming new circles of civilization, is the justification for the Government taking part in these great enterprises.

As to the management of the irrigation projects themselves, the Interior Department absolutely conducts those projects in all of their particulars for the first five years after they are constructed, and only when one-half of the cost is paid for does the management pass to the settlers under the form of water users' associations.

Now, there is much less paternalism in this proposition regarding reclamation town sites. The Secretary of the Interior, having this machinery all about him in the construction of the project generally, is authorized to make the necessary improvements in the town for the public utilities, using only one-half of the money that the town-site occupants themselves put into the Treasury for their lands.

Mr. LINTHICUM. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from South Dakota yield to the gentleman from Maryland?

Mr. MARTIN of South Dakota. I do.

Mr. LINTHICUM. Would not the passage of this bill have the effect of making this land sell for so much more that the Government would not lose anything?

Mr. MARTIN of South Dakota. That is absolutely true. The Government in any event would not get any of this fund. It goes into the reclamation fund for the benefit of the settlers. But the gentleman is right. The Government must take the initial steps for the improvement of these town undoubtedly, and a much higher price would be paid for the land if the improvements are made.

Mr. LINTHICUM. Would it not be improved much better than under the old régime?

Mr. MARTIN of South Dakota. Yes. That is the idea of the Department of the Interior. They claim that they can construct these initial improvements much more economically and under a much better system than is likely to be done in the haphazard way that would apply if the department does not itself start these initial improvements. I think the gentleman's suggestion is right.

And so far as some of these towns are concerned town lots are sold at such a figure as to be very advantageous to the project. For instance, in the town of Newell the land brought $2,000 an acre. Otherwise it would not have brought anything to the reclamation project at all, because it would have been taken by homesteaders under the reclamation act. A small part of the Newell town site was sold to occupants at the rate of $2,000 an acre, and it was upon the expectation that these improvements would be made under the direction of the Interior Department. Under the policy that has been adopted of selling only a small part of the town site at first, this is the only way that these improvements can be made at all. The town site I have referred to has 640 acres in it. Gentlemen differ as to whether the Government ought to throw the whole 640 acres onto the market at once and place it in the hands of speculators away in advance of the time it is needed for occupancy, or whether the Government ought to do what the Interior Department is doing—sell simply the portion needed for occupancy and give the town-site fund the benefit of the appreciation of the other lots as they are needed when the town grows. Whatever may be said by way of fundamental argument on one side or the other, there is no doubt in my mind that the policy of the department of selling only that which is needed for actual improvement from time to time will bring a great deal more out of the future sale of lots than if the whole thing were thrown upon the market at one time. Inevitably the areas not needed for use would fall into the hands of speculators, and the man who came along and wanted a lot would be up against a speculative market, and the speculator would get the profit instead of the farmer. Some one or more gentlemen here, assuming to be solicitous for the farmers, say this bill would operate against the farmers. In no sense. The interest of the community is a common interest.

The farmer is advantaged by having a good town in the center of such a project, where he can obtain his supplies at a minimum of inconvenience, and if he gets one-half the proceeds of the sale of town lots to help reduce the cost of the waterworks that bring to him his water supply, he is evidently favored over any other occupant of public lands. This matter has been up for months since the first hearing. I live out in the general neighborhood of one of these great projects. Other Members from the West live near other projects, and I have heard no suggestion from any farmer or any settler of any objection to this sort of a plan. The equity and justice of it seem to be comprehended by all, and if this were in any sense likely to operate to the disadvantage of settlers and farmers in these communities, do you suppose Members would not have heard of it? Do you suppose the farmers would have been silent all these weeks and months? The objections raised by gentlemen are purely imaginary. The farmer is getting the best of this in any view of the case, and he knows it.

Mr. LOBECK. How far apart are these towns located on the reclamation project?

Mr. MARTIN of South Dakota. Do you mean how far apart are the Government towns?

Mr. LOBECK. Yes.

Mr. MARTIN of South Dakota. As a rule, there is only one Government town on each project. Taking the case of the Belle Fourche project in South Dakota, Newell is the Government town site, located in about the center of the project, which embraces something like 100,000 acres. It is on the railroad. There are other towns, which are not Government towns, located either in the project or right on the edge of it. That affords me an opportunity to illustrate the difference in the condition of the people in the Government towns and the other towns. As is customary, and as would have been the case here if these lands were in private ownership, the other towns are built upon lands owned by private individuals. If the area of the town is a mile square, which it generally is, or about that, of course all of the land within that mile square is subject to taxation.

Consequently these towns simply proceed to issue bonds to build their public utilities, and the whole square mile within the corporate limits is subject to taxation for the payment of the interest and principal of the bonds. In that way these towns can proceed to make the necessary municipal improvements. But when you come to the Government town, only 4 per cent of the 640 acres is sold, and the balance is held by the Government and not subject to taxation. The result is that whatever they have in the way of schools or any other general advantage has to be done by private subscription. I have here a telegram from the people of that town showing that the assessed taxation is less than $600. Now, if the entire town site was passed over to the municipality or private ownership, it would be all subject to taxation; but under the policy of the Interior Department—a wise policy—they are not selling the surplus lands around, but keep them to give the appreciation in value to the reclamation fund and the inhabitants of the town.

Mr. LOBECK. Will the gentleman yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. LOBECK. That would be for the great benefit of the people generally.

Mr. MARTIN of South Dakota. There is no conflict between the settlers and the inhabitants of the town; they are all interested in the preservation of the town-site land, because that is for the general benefit.

Mr. LOBECK. And the improvements would be better.

Mr. MARTIN of South Dakota. Absolutely; and this town of Newell with the disadvantages, with the inability to proceed and make municipal improvements, nevertheless, being a Government town site, is outstripping the other towns in a business way, but is perfectly helpless in the way of public utilities.

Mr. LOBECK. They have to issue bonds that get into the hands of somebody that forecloses, and then they have the burden to bear. In this way the Government is behind it, and the people who live in the towns are not stuck for final payment.

Mr. MARTIN of South Dakota. I think the policy of the Interior Department is a wise one, and I only took the floor in concluding upon our side of this proposition with the desire that no Member might be opposed to this legislation by reason of lack of knowledge of the facts and the real questions involved.

Now, Mr. Chairman, I yield 15 minutes to the gentleman from Maryland [Mr. LINTHICUM].

Mr. LINTHICUM. Mr. Chairman, I do not desire to take up 15 minutes of the time of the House on this bill, but I do feel favorable to the bill, because I believe all such improvements redound not only to the benefit of the town itself but to the entire community. I do not believe this bill would cost the Government of the United States one cent, because I believe the balance of the lots will sell for more than sufficient to make up the difference for the half allowed for improvements; that they would make up in this way enough to pay for all the public improvements and leave the reclamation fund no poorer.

I have had considerable experience in the development of property, and I know that improved streets and other improvements are always an asset to the town, because when you have improved streets you have a better class of development and a better town, and you develop a community worthy of these improvements. I believe if we pass this bill and this money is expended in streets and public buildings that it will make a far better town and net the Government a whole lot more money.

I do not take much stock in the question of paternalism. I found at the last session, when the army worm invaded the South, we made a large appropriation to go down and destroy the army worm or discover how they might be destroyed and what might be done to prevent them. I remember on my father's place, before the Government undertook the appropriation of money for these things, the tomato worm was a terrible thing and a formidable pest. We did not come to the Government at that time, but we got a lot of turkeys and put them into the tomato patches and destroyed the worm. But I believe the policy of the Government to-day to take care of its people and make possible a high order of development is a proper policy. I believe if this bill passes and the money is used in the construction of streets and the building of schoolhouses, a water

system, and a light system, we will build a town as it should be and a credit to the State. When towns start they start in a small way. We do not know how much they will develop, but we know if they start right they are going to develop right, and build into large and creditable towns to benefit the whole country. The assessments will be larger, the tax receipts will be larger, and the Government will be benefited, the State will be benefited, and I for one would like to see the bill pass. [Applause.]

Mr. MARTIN of South Dakota. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I make the point of order that no quorum is present.

The CHAIRMAN (Mr. WITHERSPOON). The gentleman from Texas makes the point of order that no quorum is present. The Chair will count. [After counting.] Seventy-eight Members are present—not a quorum—and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Fordney	Legare	Richardson
Akin, N. Y.	Fornes	Lindsay	Riordan
Alexander	Fuller	Littlepage	Rucker, Mo.
Ames	George	Littleton	Sabath
Andrus	Gillett	Lloyd	Scully
Ansberry	Goeke	Longworth	Sells
Anthony	Goldfogle	McCall	Shackleford
Barnhart	Good	McCoy	Sheppard
Berger	Gould	McCreary	Slemp
Burgess	Gregg, Pa.	McGillicuddy	Small
Burke, Pa.	Gregg, Tex.	McGuire, Okla.	Smith, J. M. C.
Burke, Wis.	Hamill	McKellar	Smith, Saml. W
Campbell	Hammond	McMorran	Smith, Cal.
Cantrill	Hardwick	Maher	Smith, N. Y.
Carlin	Hardy	Martin, Colo.	Sparkman
Carter	Harris	Matthews	Speer
Cline	Harrison, N. Y.	Merritt	Stack
Conry	Hart	Moore, Pa.	Stanley
Copley	Hayes	Morrison	Stephens, Nebr.
Crago	Heflin	Needham	Stephens, Miss.
Cravens	Hill	Neeley	Sulloway
Curry	Howell	Nelson	Taylor, Ala.
Daugherty	Hughes, Ga.	Oldfield	Taylor, Ohio
Davis, Minn.	Hughes, W. Va.	Palmer	Thayer
Davis, W. Va.	Hull	Patten, N. Y.	Tilson
Dixon, Ind.	James	Pepper	Underwood
Doremus	Johnson, Ky.	Peters	Volstead
Ellerbe	Johnson, S. C.	Post	Vreeland
Estopinal	Kahn	Pou	Weeks
Fairchild	Kinkead, N. J.	Prouty	Whitacre
Farr	Kitchin	Pujo	Wilder
Fergusson	Knowland	Rainey	Wilson, Ill.
Fields	Konig	Randell, Tex.	Wilson, N. Y.
Floyd, Ark.	Lafferty	Redfield	Woods, Iowa
Focht	Langham	Reyburn	

The committee rose; and Mr. FITZGERALD having assumed the chair as Speaker pro tempore, Mr. FOSTER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee finding itself without a quorum, he had directed the roll to be called, that 244 members answered to their names, a quorum, and he reported the names of the absentees.

The committee resumed its session.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read.

Mr. SMITH of Texas (interrupting the reading). Mr. Chairman, if I am in order at this time, I move to amend by striking out the enacting clause of the bill.

The CHAIRMAN. The Chair will state to the gentleman from Texas that amendment is not in order until after the first section of the bill has been read.

The Clerk read as follows:

Be it enacted, etc., That one-half the net proceeds heretofore received from the sale of town lots in towns within or in the vicinity of reclamation projects, sold under the provisions of the acts of April 16, 1906, and June 27, 1906 (34 Stat. L., 116, 619), and acts amendatory thereof and supplementary thereto, and one-half the net proceeds hereafter received from such sales shall be, and the same are hereby reserved, set aside, and appropriated as a special fund in the Treasury, to be known as the reclamation town-site fund, to be used in the construction, maintenance, and operation of schoolhouses, water and sewer systems, and other municipal improvements in the towns where lots have been or shall be sold as aforesaid. And the aforesaid one-half of the net proceeds heretofore received from such sales shall be forthwith transferred from the reclamation fund to the reclamation town-site fund hereby created.

Mr. SMITH of Texas. Mr. Chairman, I move to amend by striking out the enacting clause of the bill.

The Clerk read as follows:

Amend by striking out the enacting clause.

Mr. SMITH of Texas. Mr. Chairman, when this bill was pending before the House on a former day of this session, I discussed it at some length. I do not know that I can say much more now than I said at that time. I believe that if the bill is properly understood by the membership of the House the amendment which I have offered will be adopted, so convinced am I that the bill ought not to pass. The bill provides that when the Government lays out a town site in connection with a reclamation project, surveys and subdivides it, and sells the lots, it shall take one-half of the proceeds of the sale of the lots and donate those proceeds back to the purchasers of the town lots by constructing municipal improvements in the town, without any contribution whatsoever from the purchasers of the lots or the settlers of the town.

Under this bill the purchasers who buy lots receive the full benefit of their purchase. In other words, they have got value received by getting the lots, as the lots are worth the money. This bill provides that one-half of the money shall be returned in the way of municipal improvement, the money which under the present law is credited to the benefit of the farmers who improve the land under the reclamation project.

The bill is broad enough to cover all sorts of municipal improvements—schoolhouses, water, light, sewers, streets, sidewalks, and street cars if necessary—and it is without any limitation on the power of the Secretary of the Interior to do that except by the amount of money that may be available for the purpose. Not only that, but it provides that after these various works are constructed that the Secretary of the Interior shall maintain and operate them; that they may be constructed before there is any municipal government organized, and it provides that the Government shall operate and maintain them until the municipality is organized, and not longer than two years thereafter; and I submit in cases where the burden of doing this is heavy that the people, if left to their own choice, as is done under this bill, will never see fit to organize a municipal government, and therefore the Government of the United States will have to operate them for an indefinite time. But gentlemen say that if these works are constructed by the Government the Government will be out nothing; that it will enhance the lots which may be unsold belonging to the Government. Gentlemen, that is the merest sort of speculation. It may or it may not enhance the value of the remaining lots, and this is a proposition here to put the Government in the same attitude as the town lots and the town-site boosters of the country, to speculate upon the advance in value of the town sites. Now, Mr. Chairman, it seems to me that this is a new departure. It proposes to establish a new policy for this Government; and I want to ask gentlemen here why it is that these towns are not permitted and required to grow up in response to the business done as other towns are required to grow up? I take the position that the town with sufficient business and wealth and progress will construct its own municipal improvements——

Mr. LINTHICUM. Will the gentleman yield?

Mr. SMITH of Texas (continuing). And if it has not the population and wealth and business to authorize the construction of municipal improvements, then they ought not to be made. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. LINTHICUM. Mr. Chairman, I ask unanimous consent that the gentleman from Texas be allowed five minutes. I desire to ask him a question.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland that the time of the gentleman from Texas be extended for five minutes? [After a pause.] The Chair hears no objection.

Mr. LINTHICUM. I would like to ask the gentleman how these people are to get the public improvements in a township like that of Newell, for instance, where only 4 per cent of the lands are to be sold and the balance are still owned by the Government and not subject to taxation?

Mr. SMITH of Texas. I will say to the gentleman if there is any demand there by the growth of the town that these lots should be sold, there will be purchasers for them just as there are everywhere else, and if there is not such a demand then there is no reason to construct these improvements.

Mr. LINTHICUM. Does not the gentleman believe, though, by the construction of these improvements that the town will grow faster and be a better town than it would be without these improvements?

Mr. SMITH of Texas. I do not. I believe the towns are built up by the business that is furnished by the surrounding country and not by the construction of useless municipal improvements, and that is illustrated all over this country.

Mr. TALCOTT of New York. I would like to ask the gentleman from Texas if it is not a fact that out of these 32 township sites the larger number are not occupied at all?

Mr. SMITH of Texas. I think that is the fact.

Mr. TALCOTT of New York. Only 10 of them?

Mr. SMITH of Texas. That is the fact, and yet this bill proposes to authorize the Government to construct municipal improvements in every one of them where the Government is receiving any money.

Mr. TAYLOR of Colorado. Mr. Chairman, it seems to me it is a violent assumption to assume that the Government of the United States is going to uselessly expend the money of the people in the construction of municipal improvements. It seems to me that we can trust the Reclamation Service to only build such improvements upon these town sites as are needed by the people, and when the money to construct these improvements is paid by the people themselves, drawn by the Government out of the inhabitants of this land and put in the reclamation fund, it seems to me there can be no more legitimate expenditure of that money than to devote it to municipal improvements in the way of streets, sewers, and other necessary improvements for the upbuilding of those towns. The very reason that there are 30 town sites and 31 reclamation projects throughout this country and there are only very few towns that are to-day amounting to anything is because there is no money with which to build those towns. And it further seems to me that when the Reclamation Service of the United States had gone over this matter exhaustively, and where every one of us gentlemen from those States affected are here agreeing to this bill, and when the Irrigation Committee reports this bill out with only two dissenting members, it would seem to me that when there is no voice of protest from any one State in the Union that has one of these town sites affected by this bill, that we ought to pay some attention to the wishes, the welfare, and the judgment of the Interior Department and the people who are affected directly by this legislation.

We feel that the House ought, as a matter of justice to the upbuilding of these municipalities in the West, to consider our welfare and our wishes. We thrashed this out for three hours the other day and for three hours to-day, and it would seem this motion now to strike out the enacting clause ought certainly to be voted down in the interests of the development of these 32 irrigation projects throughout the West. Nobody appears here showing that there is any objection from anybody who knows anything personally about this legislation. The opposition is theoretical and speculative. The gentleman from Indiana [Mr. CULLOP] says they might never incorporate. We are perfectly willing to make them incorporate or not get the benefit of this act. That objection does not apply. As a matter of fact, the American people will incorporate whenever they get an opportunity. I feel that the objections that have been thus far made are speculative, visionary, and theoretical, and do not come from the people who have the personal knowledge of and the personal welfare of the inhabitants at stake. Therefore I hope that this motion will be voted down.

Mr. RAKER. Mr. Chairman, I move to strike out the last two words.

I wish to call the committee's attention really to the proposition that there are 30 town sites in these 32 projects. Up to date there are only 2 in the State of Idaho; in Montana, 6 towns; South Dakota, 1; Wyoming, 1; and in all the other western public-land States there is not a town site on which there has been an acre of land sold or a lot or a plat of the town made to-day. And as far as the western land States are concerned, there are only these four States, and when you read the record here you will find they are not demanded. It is a speculative idea that these town sites will be a benefit to the community, when you find there are within 4 miles of this town of Newell two prosperous towns, with electric-light and water systems, and in the town of Newell, a Government project up on the hill, they are without water, except where they draw it. It is a question of whether this Government ought to enter into the policy of building up town sites in advance of inhabitants. Ought they to go out there and build town halls, town eating places, waterworks, electric-light systems, and all other improvements, without any inhabitants in the town or in the surrounding country getting the benefit? That is the question involved here and not the question that those individuals will build it up. In every place in the West where you find the town lots under private ownership, so that they may be taxed, you will find the towns are prospering, electric-light and power plants and all other necessary buildings are being built, and just as fast as the demand of that community may warrant.

I want to call your attention to section 2 of the bill.

Mr. LOBECK. What is the mortgage on these prosperous towns?

Mr. RAKER. It will be a mortgage indebtedness if you take the fund from the reclamation project that should be used to irrigate these arid lands for the purpose of building up an ideal, imaginary town, that the people can not afford to assume and pay the price that will be assessed.

In regard to the bill, section 2 says:

That the Secretary of the Interior may, in his discretion, from time to time, expend, or cause to be expended, from said reclamation townsite fund, for the construction, maintenance, and operation of schoolhouses—

He may operate schoolhouses, employ teachers, and run the business of schools in these towns—

water, light, and sewer systems, and other school and municipal improvements in each of such town sites—

Every conceivable municipal improvement could be built and maintained. And I want to call your attention further to this fact:

The buildings and works so constructed may, in the discretion of the Secretary of the Interior, be operated and maintained by him or under his authority, and the expense thereof paid from the reclamation townsite fund, pending the organization of a municipal corporation or school district qualified to operate and maintain the same, and upon the organization of such municipal corporation or school district the Secretary of the Interior may transfer to such corporation or school district the said buildings or work.

In other words, under this bill the Secretary of the Interior, notwithstanding the organization of the municipal corporation, may continue forever, in his discretion, not only to build but to operate and run schoolhouses, city jails, city waterworks——

Mr. MONDELL. Will the gentleman yield for a question?

Mr. RAKER. He may maintain city electric-lighting privileges——

The CHAIRMAN. The time of the gentleman from California [Mr. RAKER] has expired.

Mr. RAKER. Mr. Chairman, I ask unanimous consent for one more minute.

The CHAIRMAN. The gentleman from California asks unanimous consent for one minute more. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. Assuming that there is any foundation for the gentleman's recent criticism of the bill, will the gentleman vote for the bill if the amendment offered by him to meet that objection is carried?

Mr. RAKER. Well, I will answer the question of the gentleman from Wyoming. The fundamental principle——

Mr. MONDELL. The gentleman is against the bill——

Mr. RAKER (continuing). Is such that the Government ought not to go into the business not only of building, but of operating municipalities where there is not a sufficient number of people in the surrounding country to build it up and maintain it as it ought to be built up and maintained. [Applause.]

Mr. MONDELL. Then the gentleman's objections are not those that he voices, but other objections?

Mr. RAKER. My objection applies to the bill all through. I have mentioned only a few of my objections to things that appear in this bill. Why should the National Congress enter upon the policy of building and operating municipalities?

The CHAIRMAN. The time of the gentleman has expired.

Mr. LINTHICUM. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. That is not in order. The last two words have been stricken out.

Mr. LINTHICUM. Then I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. LINTHICUM. Mr. Chairman, I hope the amendment will not prevail. I can see no objection to the bill whatever.

The gentleman from California [Mr. RAKER] lays great stress on the fact that the Secretary of the Interior may expend money for all manner of things. The Secretary can not expend more than one-half of what is received from the lots that are sold, and, judging from what the Secretary says, he does not think there will be many lots sold, so that there will not be much money to spend. But, in any event, he can not expend more than one-half of what he receives from the lots that are sold.

The gentleman from California speaks of a town within 4 miles which has electric lights and water, and so forth, but the gentleman does not tell us what the mortgage indebtedness is upon that town 4 miles away. The fact is that in the town of Newell only 4 per cent of the lots can be sold, and therefore a public bond issue can not be made, because you can not tax the other 96 per cent of those lots to secure the bond issue, because they belong to the National Government and are not taxable.

Mr. RAKER. Mr. Chairman, will the gentleman yield right there?

The CHAIRMAN. Does the gentleman yield?

Mr. LINTHICUM. Yes; certainly.

Mr. RAKER. Is it not a sufficient answer, if the statement of the gentleman from Maryland is correct, that only 4 per cent can be sold—is it not conclusive evidence that the Government ought not to go into the building up of that town away out there and sell only 4 per cent of 40 acres?

Mr. LINTHICUM. I think it is incumbent upon the Government to develop as fine a town there as can be developed. I think it is the duty of the Government to go in and help those

people in this way. It is not only an economic question, but also a practical business question, because I know, and every man who has dealt in real estate knows, that when you improve property by a good system of streets and a good lighting system and good schoolhouses you are doubling the value of the land you are offering for sale.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Maryland yield to the gentleman from Texas?

Mr. LINTHICUM. Yes.

Mr. SMITH of Texas. Does not the gentleman think it would be more equitable for the advocates of this bill to come in here and propose that the Government shall contribute its share of the taxes within this municipality for these purposes? The gentleman says that these unsold town lots can not be taxed, and yet he and those who believe with him are coming here and asking that the Government shall devote the whole amount for these improvements.

Mr. LINTHICUM. The fact is that the Government does not pay taxes nor collect land taxes, and therefore that could not be put into effect.

Mr. SMITH of Texas. An act of Congress can be passed to that effect.

Mr. LINTHICUM. Will the gentleman support such a bill if the Government can do that and agrees to do it?

Mr. SMITH of Texas. I will support a bill providing that the Government shall contribute a proportional part for these improvements.

Mr. LINTHICUM. Then, the gentleman talks about paternalism and talks about the Government contributing money to do this thing, when these people only ask for half of the money that the people themselves pay for the lots. What is the difference between paying money from the Treasury to do this work and taking the money from the lots that are sold and doing the work with that? There is not an old city in this country that has not suffered and is not suffering to-day from the fact, and that has not expended millions of dollars to rectify the fact, that the town was not begun aright.

Mr. EDWARDS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. BORLAND. Mr. Chairman, I ask that the gentleman from Maryland have five minutes more.

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] asks unanimous consent that the gentleman from Maryland [Mr. LINTHICUM] proceed for five minutes more. Is there objection?

Mr. CANNON. Mr. Chairman, I shall not object; but at the end of that five minutes I will demand the regular order.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LINTHICUM. Mr. Chairman, as I only have five minutes, I must decline further interruptions. As I say, there is not a large city in this country that is not suffering to-day from the fact that it was not begun aright; that it was not laid out by engineers and public improvements provided for. Take my own city of Baltimore. We are expending $20,000,000, and it may run to $30,000,000, in the construction of sewers. Why? Because we are compelled to tear up splendid improved streets to put down that sewerage system. If we had started out properly we would not be expending these millions to-day.

Mr. RAKER. Will the gentleman yield for a question?

Mr. LINTHICUM. Yes.

Mr. RAKER. Is it not a fact that the testimony before the committee shows that in none of these places have the department laid out a town site? They have selected 10 or 12 acres without any regard to the laying out of the rest of the town site with any regard to roads, streets, sewers, public parks, or otherwise.

Mr. MARTIN of South Dakota. Will the gentleman permit me?

Mr. LINTHICUM. Certainly.

Mr. MARTIN of South Dakota. It is certainly a very loose statement of the evidence to say that the department has laid out these towns without any system. Quite the reverse is true. They have sold only a part of the lots, but the part that they have sold has due reference to the entire town site which the engineers have selected. Being entirely familiar with the testimony, I take the liberty of answering the gentleman's statement.

Mr. MONDELL. Will the gentleman yield?

Mr. LINTHICUM. I will yield if the House will extend my time, but I have only a very little more time.

Mr. CANNON. At the end of the five minutes I shall demand the regular order.

Mr. LINTHICUM. Then I can not yield.

The CHAIRMAN. The gentleman declines to yield.

Mr. LINTHICUM. I was saying that if this town is started properly, and if the Government is allowed to expend half its receipts from the sale of these lots in the improvement of the town, then we will have a town worth while. If, however, you leave it to the building of houses alongside of roads, you can not issue bonds for improvements, because you can not secure the bonds that you might issue, for the reason that the Government owns all the property, and you are going to have a town that is not worth while. Now I will yield to the gentleman from Georgia [Mr. EDWARDS].

Mr. EDWARDS. The proposition in this bill is to donate one-half of the amount that the land sells for for the purpose of improving the town. Would it not be better for the Government in the first place just to give the people half the lots, donating each alternate lot, and say, "Now, you go ahead and make these improvements and relieve the Government from further responsibility"?

Mr. LINTHICUM. That might work well if you owned all the property, but the fact is that the Government still has 96 per cent of it, which you can not tax. Therefore you can not issue any bonds to construct these public improvements. That is something which must be done by the city. No individual is going to improve the property in front of his few lots when the next individual will not improve his. You can not build a lighting system unless you have the whole town back of you with a fund, secured by bonds or otherwise. You must have it done by a bond issue, and in this case you can not have it done in that way because the Government owns the property and pays no taxes. Therefore you must do it in this way, by taking a part of the proceeds derived from the sale of lots.

Mr. MONDELL. Will the gentleman yield for a question?

Mr. LINTHICUM. Certainly.

Mr. MONDELL. The gentleman from Texas [Mr. SMITH] asked the gentleman from Maryland a question a moment ago which indicates that he still harbors the idea that the Government is asked to make some contribution toward the building of these town-site improvements. Is it not a fact that the Government makes no contribution whatever, but simply uses 50 per cent of the proceeds of the sale of lots?

Mr. LINTHICUM. The bill provides that they shall use 50 per cent of the proceeds of the sales of these lots, and you can not expend more than that one-half of those proceeds.

Mr. MONDELL. But the gentleman from Texas [Mr. SMITH] continues to refer to that as a contribution by the Government. The Government contributes nothing.

Mr. LINTHICUM. I think the Government will benefit by this system, because when it is an assured fact that the property is going to be improved by the construction of these schoolhouses and these lighting and sewerage systems I think the lots will sell for more than double what they now sell for, and not only does the Government not pay anything, but the reclamation fund will not be lessened.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LINTHICUM. I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Maryland asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. BOEHNE. Mr. Chairman——

Mr. CANNON. I demand the regular order.

The CHAIRMAN. The gentleman from Illinois demands the regular order, which is the amendment of the gentleman from Texas [Mr. SMITH].

The question was taken; and on a division (demanded by Mr. SMITH of Texas) there were 52 ayes and 72 noes.

Mr. SMITH of Texas. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. SMITH of Texas and Mr. TAYLOR of Colorado.

The committee again divided; and the tellers reported that there were 47 ayes and 75 noes.

So the amendment was rejected.

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Page 1, line 3, after the word "heretofore," insert the words "or hereafter."

The amendment was agreed to.

The Clerk read as follows:

Page 1, strike out all of line 4 after the word "in"; strike out lines 5, 6, 7, 8, and on page 2 lines 1, 2, 3, and line 4 to and including the word "same"; and in line 4 insert "reclamation town sites."

The amendment was agreed to.

The Clerk read as follows:

Page 2, line 8, insert after the word "water" the word "light" and a comma.

The amendment was agreed to.

The Clerk read as follows:

Page 2, line 8, insert after the word "other" the words "school and."

The amendment was agreed to.

The Clerk read as follows:

Page 2, line 10, insert after the word "aforesaid" the words "in proportion to the amounts received from each of the said towns, respectively."

The amendment was agreed to.

Mr. FERRIS. Mr. Chairman, is this paragraph, section 1, open to amendment?

The CHAIRMAN. It is.

Mr. FERRIS. I would like to ask the gentleman in charge of the bill a question. What is the theory on which the 50 per cent of the total town-site sales is given to the local community for public improvement purposes? Is not this a much larger sum than we have given before to any local community out of the proceeds of any sale of Indian lands, let alone taking from the reclamation fund?

Mr. TAYLOR of Colorado. I may say that the Reclamation Service, the people under the various reclamation projects, have been considering this matter for several years, and they have come to a mutual agreement that that is a fair proportion of the proceeds. There is no objection to that amount made by either the farmers, the homesteaders under the project, or the inhabitants of the town, or the Reclamation Service. It is a compromise arbitrary amount.

Mr. FERRIS. Does not this reduce the total amount of the reclamation fund just the amount that you expend in these local communities?

Mr. TAYLOR of Colorado. It reduces that amount of money being spent on further construction, or something of that kind, but it is deemed that it is more important that this small amount should be expended toward the municipal improvements than otherwise. The attention of the House was called to that fact by the gentleman from Arizona [Mr. HAYDEN], that out of $60,000,000 that has been received from the reclamation fund there is only $200,000 received from the sale of town sites, so that this is to that extent a comparatively small sum. But let me say to the gentleman that in reality it increases the receipts that go to the development of these projects.

Mr. FERRIS. Mr. Chairman, I think that this bill ought undoubtedly to be amended or defeated altogether, for two well-defined reasons. In the first place, in the sale of the Indian town sites on Indian lands the largest per cent I ever heard of being given to the local community was 20 per cent—that is, in dealing with Indian lands. I think the reclamation fund is even a more sacred fund than that. Each of the several States has contributed to the reclamation fund and undoubtedly have an interest in the total fund. Until the act of 1910 was passed, which partially swept that away, each State had its individual direct interest in the amount contributed.

Now, it seems to me that, while this may not be a heavy drain on the fund, I am advised by somebody—I think the gentleman from Arizona—that it was $110,000, and a half would only be about $50,000. But if we begin to carve out of the fund that ought to be sacred the amount of $50,000 to-day and $50,000 to-morrow, in the last analysis that fund will be dissipated and destroyed.

Mr. SMITH of Texas. Has the gentleman offered an amendment?

Mr. FERRIS. I will do so at the proper time. It occurs to me that every man in this House ought to at least try to follow the spirit of that law. The spirit of the reclamation act undoubtedly was that every cent expended for this purpose should be brought back to this fund, and if we begin to divert it here and divert it there it will not be very long until there will be no reclamation fund, and we can all then point to the errors that we have made.

Mr. Chairman, has a motion been voted on to strike out the enacting clause?

The CHAIRMAN. Yes; it has.

Mr. FERRIS. Mr. Chairman, I move to strike out "one-half" and insert in lieu thereof "5 per cent."

I would say, in this connection, that I would strike it all out if I could, but I take it that that would not be in order.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma.

The Clerk read as follows:

Amend, page 2, line 12, by striking out the words "one-half" and inserting in lieu thereof the words "5 per cent."

Mr. MANN. Mr. Chairman, I move to amend the amendment by inserting 30 per cent.

Mr. FERRIS. Mr. Chairman, would not the gentleman make it 20 per cent, so that it would at least be uniform with the Indian legislation upon the subject? The largest amount that has ever been given of these proceeds has been 20 per cent.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the amendment by substituting for "5 per cent" "30 per cent."

Mr. MANN. Mr. Chairman, it seems to me that one-half, 50 per cent, is rather a large amount to take for these improvements. On the other hand, I am inclined to think that 20 per cent, as provided in the Indian bills, is not quite enough in these reclamation projects. I do not care to discuss the matter at any length. It occurs to me that somewhere below 50 per cent and above 20 per cent would be right, and I have suggested 30 per cent, which comes near to being one-third. Whether that amount prevails or not, I propose to offer another amendment to strike out "maintenance and operation," so that the bill will provide only for the construction of these improvements.

Mr. MONDELL. Mr. Chairman, there have been some very remarkable developments in the discussion of this bill. First, the chairman of the committee in opposition to it, in writing his report, stated that the funds proposed to be used for the improvement of the town sites were to come out of the Treasury of the United States. He has discovered his error during the debate.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. I will not.

Mr. SMITH of Texas. I do not want the gentleman to misstate my position.

Mr. MONDELL. I yield to the gentleman.

Mr. SMITH of Texas. Where does this money go when the town lots are sold and the proceeds are received?

Mr. MONDELL. When the town lots are sold, as the gentleman knows, under the present law the proceeds go into the reclamation fund to the credit of the project. Not a penny of it ever becomes Government money, not a penny of it goes into the Treasury of the United States to remain there.

Mr. SMITH of Texas. Where is the reclamation fund that it goes into? Is it not in the Treasury of the United States? The gentleman can not dispute that.

Mr. MONDELL. Oh, I suppose if these moneys were paid in silver dollars as a physical fact they might be put into the Treasury of the United States; and if that is what the gentleman is basing his argument upon let the House understand it, that while this money never belonged to the Government, and never could belong to the Government, yet, because of the physical fact that some silver dollars might be placed in the Treasury, the gentleman from Texas asks you to vote against the bill. If that is all there is to the gentleman's argument it does not count for much.

Mr. PADGETT. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. I can not yield at this moment. That error has been disposed of. Now comes the gentleman from Oklahoma [Mr. FERRIS], who has been unfortunate in not being here during the discussion, and he plunges headlong into the same error, out of which we have finally pulled the gentleman from Texas. He does not want the reclamation fund dissipated. He wants to save it to build some reclamation projects in Oklahoma, and not having heard the debate, not knowing the facts or understanding the law, he imagines that we are proposing now to take some moneys out of the reclamation funds.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. FERRIS. The gentleman recites the fact that we are expecting to have some of the fund expended in Oklahoma. I call his attention to the fact that we have contributed six and one-half million dollars to the fund and have had nothing, so it would not be absurd if we did hope to get something after a while.

Mr. MONDELL. Not at all; the gentleman will have just as much in Oklahoma, and there will be just as much in the reclamation fund without regard to whether this bill passes or not, because the moneys received from the sale of town lots are a credit to the people of the community, and all there is in this bill is the proposition whether you shall give it to all the people in the community in the towns and country or shall you give to the people of the country alone the benefit. That is all there is in the legislation.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. FERRIS. Mr. Chairman—— [Cries of "Regular order!"] I wish to oppose the amendment of the gentleman from Wyoming.

Mr. MANN. Agree to it.

Mr. FERRIS. Not at all. I do not intend to agree at any time, now or in the future, to vote for any provision in any law in this House anywhere that will take any part of the reclamation fund out and divert it for any other purpose. Now, we did not issue $20,000,000 of bonds a year or two ago for the purpose of letting Tom, Dick, and Harry build bridges and schoolhouses and build waterworks and local plants for local communities, so that the money would never come back into this fund——

Mr. MANN. Will the gentleman yield for a question?

Mr. FERRIS. I will.

Mr. MANN. In the Indian bills which we have passed, which come from the gentleman's committee, which proposed to use 20 per cent of the sale of town lots where towns are laid out in the Indian reservations, for local improvements, does the gentleman consider that is robbing the Indians of that much, or that it comes back in the increased sale of the lots?

Mr. FERRIS. The gentleman's question is entirely pertinent, and the committee has considered precisely that phase of it to which the gentleman referred, and the theory of the committee has been this, that by giving 20 per cent to the local community it would encourage the people to bid a larger amount for the lots, so that in the last analysis perhaps the Indians would not lose anything, but let me call attention to the difference in this case. These town lots have already been sold——

Mr. MARTIN of South Dakota. Oh, no; a very small proportion.

Mr. FERRIS. What per cent?

Mr. MARTIN of South Dakota. Not over 2 per cent of the lots have been sold under the entire project.

Mr. FERRIS. They have already been appraised, have they not?

Mr. MARTIN of South Dakota. A very limited appraisement so far.

Mr. FERRIS. They are almost all appraised or the prices fixed. This appraisement, of course, was made not knowing of any such provision, hence in the face of this legislation it would be an unwise appraisement and really would not represent the value of the lots.

Mr. MARTIN of South Dakota. Only in 10 towns out of 30 have lots been sold at all.

Mr. FERRIS. May I inquire of the gentleman how many will be sold by competitive bid and how many will be sold at a fixed price?

Mr. MARTIN of South Dakota. They are all sold upon the condition that they must bring as much as the appraisement. They are all sold upon competitive bid, and the minimum must be the appraised value. They can not be sold for less.

Mr. FERRIS. I am asking purely as a matter of information. Is it or is it not the fact that these town sites on a reclamation project are sold to the highest bidder as we do anything else?

Mr. MARTIN of South Dakota. Yes.

Mr. FERRIS. And that is true in every case?

Mr. MARTIN of South Dakota. Absolutely.

Mr. MANN. I will say to the gentleman that statement was made here and not contradicted before. The lots that were sold were sold by competitive bids. That was the statement made here the other day that that was the policy of the department.

Mr. FERRIS. Does not the gentleman think, so far as the lots that have already been sold, the theory of getting the bidders to bid more by reason of local improvements that are being constructed would be inoperative so far as those lots that are sold are concerned?

Mr. MANN. If the gentleman had happened to have heard the remarks I made on this subject the other day——

Mr. FERRIS. I regret no little I did not hear them——

Mr. MANN (continuing). I called attention to that very thing.

Mr. MARTIN of South Dakota. Will the gentleman permit me?

Mr. FERRIS. I have only a moment's time—go ahead.

Mr. MARTIN of South Dakota. The gentleman unfortunately was not here when the debate was on. As to the town of Newell the sales were made under representations that the money would be used for betterments, and the lands brought something like $2,000 an acre under those circumstances.

Mr. FERRIS. Who had the right to make those representations?

Mr. MARTIN of South Dakota. They did that through some authorization——

The CHAIRMAN. The time of the gentleman has expired.

Mr. FERRIS. If I can proceed for five minutes more—I did not get the use of any of this time.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FERRIS. I again repeat that I am opposed to the use of one penny of this money for any local purpose at any time or at any place, but if any amendment should be adopted at all—which, in my judgment, would be wrong—it ought not to exceed 20 per cent. There is no theory by which you can take more than that, and the theory is quite a poor one to take 20 per cent of it. I again repeat that the act of 1892, the reclamation act, was express in its terms that every cent of that money should be paid back to the Federal Government to build other reclamation projects. It is a revolving fund and no one ought to consent to let one cent of it get entirely away.

Let me call your attention to the inequality of such a proceeding as this. We will suppose Wyoming has four million to her credit and Oklahoma has six and one-half million dollars; even these large amounts will not irrigate scarcely any per cent at all of the lands to be irrigated in these States. What is the result? We irrigate for Mr. A to-day. Why? Because on the theory that on to-morrow he will pay back every penny, and we will irrigate for B to-morrow, and we will irrigate for him on the theory that he will pay back this fund, and we can irrigate for C. But if you begin to allow this fund to be used for public improvements—for schoolhouses, jails, paved streets, and to dig sanitary sewers—in a short time you will have a few people who have had their lands irrigated and you will have millions of acres of homesteaders' lands that can have no irrigation and who can raise nothing without irrigation. This will be a condition that no one will cherish, that all will be sorry for.

Mr. PADGETT. And what about the repayment of the bonds that are issued?

Mr. FERRIS. And the Federal Government will necessarily hold the sack on the $20,000,000 that is issued. I hope the amendment of the gentleman from Illinois [Mr. MANN] will be voted down.

Mr. MONDELL. Mr. Chairman, the gentleman from Oklahoma [Mr. FERRIS] is basing his opposition to this legislation entirely on a misunderstanding of fact. He is opposed to it because he fancies in some way the passage of this legislation will decrease or shorten the amount of the reclamation fund, when, as a matter of fact, it can have no such effect. The funds from the proceeds of these town lots now go to the project as a credit, and all that is proposed in this bill is to give a part of the credit to the people who live in the towns and a part to the people in the country. It does not shorten the reclamation fund one penny.

The gentleman from Oklahoma endeavors to draw an analogy between these towns and the Indian towns. In that case the Indian is the proprietor. He owns the land. The money is his. We take from him by main force 20 per cent of it and use it for the improvement of the town.

In the case before us these moneys are the property of the people of the community, and the question simply is whether we shall divide it equally in the community or unequally, as at present, and there can be no parallel drawn between these town sites and the town sites on Indian reservations. If it is proper to take from the Indian proprietor, without giving him any direct return, 20 per cent of that which is his, on the theory that you may increase the value of the balance, it is certainly proper that these funds which belong to all the people, their credit on the project, shall be equitably distributed—one-half to those living in the towns, who must support largely the schools for the entire surrounding territory, and one-half to the farmer in the surrounding region.

Mr. FERRIS. How can the gentleman advocate a theory that will not use the same discretion and the same judgment and the same economy for the Federal Government that is used for the Indian?

Mr. MONDELL. Again the gentleman falls into the slough that we are trying to pull him out of. The Federal Government has not any interest in these moneys. No part of them now belong to the Federal Government. It is a credit to the people in the project.

Mr. GARNER. Why on earth do you have to come to Congress to get permission to do this?

Mr. MONDELL. Again, another Texas gentleman falls into a pit-hole of error.

Mr. GARNER. From what I can understand from the gentleman from Wyoming, he is in that pit and he can not see anything else but that everybody else is in the same pit.

Mr. MONDELL. We have the gentleman's colleague [Mr. SMITH of Texas] now opposing the bill on diametrically different grounds from those on which he started to oppose it. We have gotten that far along, and we will have the same from the other gentleman from Texas [Mr. GARNER] if he will give us time. It is a good thing to know about the facts in a case before arguing.

Mr. SMITH of Texas. You say that this money arising from the sale of town lots belongs to the people of the community?

Mr. MONDELL. It goes to the project owners as a credit; yes.

Mr. SMITH of Texas. Every dollar of it goes back to the Federal Government, and the Federal Government is the ultimate owner of it.

Mr. MONDELL. Oh, yes; the gentleman now rings on us——

Mr. SMITH of Texas. And the gentleman proposes to divert it to a purpose where it will stay and never come back to the Government.

Mr. MONDELL. The gentleman rings on us the physical fact that the Government does have the dollars, and that the dollars as a physical fact might go into the United States Treasury. But as a legal fact, as a real proposition, no part of it now belongs to the Federal Government. It is the property of the people of the locality, and the only question before the House is how you will divide it among the people of the locality.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. FERRIS. If the gentleman is right in his theory——

Mr. MONDELL. It is no theory; it is a fact. The gentleman from Texas [Mr. SMITH] admitted it this morning, after denying it the other evening.

Mr. SMITH of Texas. I did not admit any such thing.

Mr. FERRIS. The gentleman from Wyoming has asserted here, with all the force that he has, that the Federal Government has no interest in this fund at all. I ask the gentleman why the Federal Government has no interest in this, when in 1910 it was necessary to issue $20,000,000 in bonds to take up the various blunders of the Reclamation Service?

Mr. MONDELL. I do not see what the point of the gentleman's statement is.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. How does the Government get their bonds?

Mr. MANN. Mr. Chairman, I ask for a vote.

Mr. RAKER. Mr. Chairman, I would like to be heard a moment or two on this.

Mr. MANN. I will withdraw my request, Mr. Chairman.

Mr. RAKER. I believe that the committee ought to have the facts on which to base an argument. In other words, the gentleman from Wyoming [Mr. MONDELL], in speaking now upon the facts, ought to have some premises upon which to act. Now, the argument of the gentleman from Wyoming is not based upon the facts or upon the law as they actually exist. I want to read to the committee the law governing the disposition of the funds in these town sites. It says the funds are converted into the reclamation fund. The reclamation fund is all the money that is obtained from the sale of public lands. The bond issue of $20,000,000 and the payment of the money that is obtained from the settlers for their lands, and the water rights when they pay it back to the Government, all goes in under the reclamation fund. The gentleman from Wyoming says——

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. RAKER. In a moment. The gentleman from Wyoming says that the proceeds from the sale of these town lots do not go into the reclamation fund. That is not the fact. That is not the law. It is not practiced that way. It could not be practiced that way, because it is in direct contravention of the statute. I want to read it to you. In the act approved April 16, 1910 (34 Stat., 116), occurs this provision:

Reclamation funds may be used to defray the necessary expenses of appraisement and sale, and the proceeds of such sale shall be covered into the reclamation fund.

In the act approved June 27, 1906 (34 Stat. L., 519), there is this provision:

And the proceeds of all sales of town sites shall be covered into the reclamation fund.

Now, turning to the report of the committee as to the money, we find from their own report that $219,793.55 from the sale of town lots has been conveyed into the reclamation fund. That money is in the general reclamation fund to-day, and the purpose of this bill to-day is to reach into this sacred fund and draw out over $110,000 and divert it from the purpose of reclaiming the arid lands and putting it into local town sites for city jails and for other improvements and other purposes. [Applause.] I want to say to the Members of this House that the very object and purpose of the Congress and the people in maintaining this reclamation act is to see to it that the money that goes into this trust fund shall be used for the maintenance of the Reclamation Service and shall be kept a sacred fund to be expended for those purposes and all matters incident thereto and the works and improvements and repairs occasioned thereby and that as the money comes back it shall be again used for those purposes. The argument of the gentleman from Wyoming is based upon wrong premises and upon a wrong theory, and therefore his argument of necessity must fall.

Mr. MANN. I ask for a vote, Mr. Chairman.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was rejected.

Mr. FERRIS. The question now recurs on my amendment.

The CHAIRMAN. The question now recurs on the amendment of the gentleman from Oklahoma.

Mr. MARTIN of South Dakota. Mr. Chairman, let the amendment be reported again.

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

Amend, page 2, line 12, by striking out the words "one half" and inserting in lieu thereof "5 per cent."

Mr. MARTIN of South Dakota. Mr. Chairman, it is perfectly evident that this amendment of the gentleman from Oklahoma—who I am sorry has not had the benefit of the entire argument in this case, but has jumped into it with the vehemence, the enthusiasm, and the energy with which he devotes himself to all public questions—is simply an effort to kill the bill. The gentleman from Oklahoma is a distinguished member of the Committee on Indian Affairs. Therefore the gentleman knows that as to Indian town sites, although the Indian has no interest in the sale of the lots further than to get good prices for them, and where the Government is the trustee of a sacred trust, to wit, the Indian funds, it has been the habit of Congress, on the recommendation of the Committee on Indian Affairs, to devote 20 per cent of the proceeds of the sale of town lots on Indian town sites to general improvements and betterments. That is taking money from the Indians to improve the town under the idea that eventually it will come back in higher prices for the lots, and I think that idea is justified. But the position of the gentleman from Oklahoma in seeking to defeat this bill is inconsistent. This is proposed to be done for the benefit of all parties interested, the farmers in the neighborhood of the town, and the people in the town who buy the lots.

These gentlemen who are opposing this bill have become very much interested and have rushed loudly to the defense of this fund because they say it is taking something from the farmers on the outside of these towns. They seem to forget entirely that if this town site was not there, and if this land was not laid out into town lots, no money would come into the reclamation fund either locally or generally. Any homesteader could take his share of the 640 acres as a homestead and nothing whatever would come into the reclamation fund.

Mr. RAKER. Could not the same argument be made in a case where you expend a large sum of money to develop a water power that is worth millions of dollars?

Mr. MARTIN of South Dakota. The cases are not parallel at all. Here is a case of land which could be taken as a homestead, which is reserved for the building of a town, but whatever the settlers get out of it is that much clear gain. There is no parallel between the two cases at all. Certainly this amendment to reduce this appropriation from 50 per cent to 5 per cent is only an effort to kill the bill. The friends of the measure, who defeated the motion to strike out the enacting clause, should for the same reason sustain the bill and defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

The question being taken, on a division (demanded by Mr. FERRIS) there were—ayes 39, noes 62.

Mr. FERRIS. Tellers, Mr. Chairman.

Tellers were ordered, and the Chairman appointed Mr. FERRIS and Mr. TAYLOR of Colorado.

The committee again divided; and the tellers reported—ayes 40, noes 63.

Accordingly the amendment of Mr. FERRIS was rejected.

Mr. FERRIS. Mr. Chairman, I move to strike out "one-half" and insert "20 per cent"; and I want to be heard just a moment on that amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 2, line 12, by striking out "one-half" and inserting "20 per cent."

Mr. MANN. Make it 25 per cent.

Mr. LOBECK. I wish to offer an amendment to the amendment.

The CHAIRMAN. The gentleman from Oklahoma [Mr. FERRIS] has the floor.

Mr. FERRIS. Mr. Chairman, it has been suggested—and the proposition undoubtedly has some friends here—that this ought to be 25 per cent instead of 20 per cent. Now, at first blush it looks as though there is not much difference between 25 per cent and 20 per cent, and it may seem to some gentlemen that we ought to make it 25 per cent. There is, however, a well-defined reason why we should not make it 25 per cent, and the difference is greater than the mere difference in percentage. The facts are these: In the State of Oklahoma, the State of South Dakota, and in other States where there are Indian tribes Indian town sites have been opened, and there is a provision in each bill that 20 per cent of the net proceeds from the sale of town lots shall be used for local improvements. The theory of this sort of legislation has always been that it would induce bidders to bid more for the lots, and I think that has proved to be true.

But if you make this 25 per cent it would be a breach of the rule and a raising of the limit, so to speak, until the next bill that comes in from the Indian Committee will in all probability be 25 per cent instead of 20 per cent. I want to say that I have supported amendments in this House in the past to have 20 per cent of the net proceeds taken from the Indian fund for town-site improvement purposes. That has worked pretty well.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. FERRIS. Yes.

Mr. MARTIN of South Dakota. Will the gentleman explain why, if he is in favor of 20 per cent taken from the Indian fund for town-site purposes, he sought in his previous amendment to reduce it to 5 per cent?

Mr. FERRIS. I thought I answered that before, but I am very glad to answer it again. I do not think a penny should be taken from the reclamation fund. I believe 20 per cent is a lack of wisdom and 50 per cent is a lack of a great deal more wisdom, but as there has been an amendment voted down to strike out the enacting clause and the amendment providing for 5 per cent has been voted down, 20 per cent seems to be the best we can get. I think probably 25 per cent would be agreed to, but it cuts deeper than it appears to on the surface, because there will be an effort to raise it in Indian town sites to 25 per cent, and that ought not to be done.

Mr. MANN. Mr. Chairman, this bill provides "that one-half the net proceeds heretofore or hereafter received from the sale of town sites shall be used in the construction, maintenance, and operation," and so forth, of these municipal functions. I had expected to offer an amendment to reduce the percentage and to strike out the word "heretofore" and to cut off the maintenance and operation, so that the bill would only provide that the percentage which would be carried in the bill received from the sale of town sites hereafter sold, which would probably bring a larger price, because of the fact that it could be used for the construction of these improvements for municipal purposes.

Mr. FERRIS. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. FERRIS. I wondered if the gentleman in his amendment to strike out the word "heretofore," which undoubtedly ought to be done, would agree to have the words inserted "or hereafter sold at competitive bids at public auction," so there would be no chance of letting them go in and appraise the land and divest it of the feature of competition?

Mr. MANN. I think that would be a proper proposition. Of course, I do not know whether such a proposition as I have suggested will prevail in the House, but if that should be done, or something like it, it seems to me we could afford to make the amount 25 per cent. It is true that heretofore the Indian bills that have passed have carried 20 per cent. It is also true after experience in the sale of Indian town sites, it has been stated to the House by gentlemen on both sides acquainted with the facts, that the lots, in fact, were usually sold for more than enough to make up the amount deducted, or at least the amount that was deducted. I think we can afford to pay 25 per cent of the proceeds of the sale of the lots hereafter. To test the sense of the House I move to amend the amendment offered by the gentleman from Oklahoma by making it read, in place of "one-half," "25 per cent of."

The Clerk read as follows:

Amend the amendment by substituting for 20 per cent the words "25 per cent of."

The CHAIRMAN. The question is on the amendment to the amendment.

The question was taken; and on a division (demanded by Mr. MANN) there were 39 ayes and 25 noes.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question recurs on the amendment of the gentleman from Oklahoma as amended by the gentleman from Illinois.

The amendment as amended was agreed to.

Mr. MANN. Now, Mr. Chairman, I move to amend, page 1, line 3, by striking out the word "heretofore."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 1, line 3, by striking out the words "heretofore or."

Mr. MARTIN of South Dakota. Mr. Chairman, I am opposed to the amendment offered by the gentleman from Illinois. So far as the particular town site of Newell is concerned, the Members of the House who did me the honor to hear the remarks I made know the facts involved. The department started out at the beginning with the idea that the original law gave them authority to use all of the fund that would come from the sale of the town lots for the betterment of the town. They later discovered that it was not a correct interpretation of the law; but as to the sale of the town lots in Newell, they were sold on the representation not of an arbitrary amount of 20 or 25 per cent, but that the whole was to be used in the betterment of the town.

I have in my hand here one of the circulars or booklets compiled under the direction of the Reclamation Service, which contains a statement to this effect, and it would amount to nothing less than obtaining money under false pretenses if that money, or a liberal portion of it, is not used in that way. I read from page 9 of this booklet:

A new town, for which a section has been reserved, is to be built by the Government in the center of the irrigated district. The Government will conduct the sale of lots, and with the proceeds streets will be laid out, a sewage system constructed, and every possible measure taken to improve and beautify the city.

That literature went over the United States. It brought people from various States. I know an instance where a man sold out his business in the State of Indiana and came there, relying upon the representations in this circular.

Mr. MADDEN. Why did not the Government authorities use the money as they advertised they would use it?

Mr. MARTIN of South Dakota. They discovered, before they got further along, that it would require a strained, if not an incorrect, interpretation of the town-site law to do it. There is no time to go into a discussion of that mistake now; but that was a mistake on their part.

Mr. WILLIS. Mr. Chairman, what is the document from which the gentleman is reading, and who issued it? Did the Government have anything to do with it?

Mr. MARTIN of South Dakota. Yes. On the front of the booklet is the following:

BELLE FOURCHE IRRIGATION PROJECT, SOUTH DAKOTA.

Information compiled by the United States Reclamation Service, October 1, 1909.

On the back of it it says:

Further information may be obtained by addressing any of the following:

"Project Engineer, United States Reclamation Service, Bellefourche, S. Dak.

"Statistician, United States Reclamation Service, Washington, D. C.

"Information bureau, United States Reclamation Service, 777 Federal Building, Chicago."

Mr. WILLIS. The gentleman states, then, that that was issued with the knowledge, consent, and approval of the Government of the United States?

Mr. MANN. Oh, I am sure the gentleman will decline to state that.

Mr. MARTIN of South Dakota. The Reclamation Service has sought to relieve themselves, not from the responsibility of its issuance, for it evidently was issued, but responsibility for all of its statements. But, as far as the public is concerned, it is a statement that went out, and land right there on the prairie that any homesteader could have taken but for this reservation sold for $41,000 for less than 10 acres upon those assurances.

Mr. MADDEN. Was anybody ever called to account by any Government official for circulating these false statements as to what disposition would be made of the funds?

Mr. MARTIN of South Dakota. It has never been repudiated. They have expressed regret that it got into that shape.

Mr. BURKE of South Dakota. How much of this town site has actually been sold?

Mr. MARTIN of South Dakota. Out of the 640 acres in all 4 per cent has been sold, and that brought the $41,000. The balance of it, or 96 per cent, remains still to be sold.

Mr. SMITH of Texas. Mr. Chairman, I want to state to the gentleman that the Reclamation Service wholly repudiates that circular. They say they are not responsible for it, but it was circulated by some railroad company, and they absolutely repudiate any responsibility for it whatever.

Mr. MARTIN of South Dakota. Mr. Chairman, we went into this on general debate, when we had unlimited time, and I read a great deal on the subject from the testimony and otherwise. A succinct and fair statement would be this: The attitude of the Reclamation Service is that they permitted an agent of the service to prepare this literature; that probably their attention was not called specifically to this statement, separate from others, until it was in fact public, but they did know of its publication very soon after it was issued.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent that the time of the gentleman may be extended for one minute?

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FERRIS. Does the gentleman think the Federal Government ought to be bound by circulars or advertisements placed in newspapers by railroads and boomers?

Mr. MARTIN of South Dakota. It is not placed in newspapers by boomers or others.

Mr. FERRIS. What is the document?

Mr. MARTIN of South Dakota. It is a reclamation document.

Mr. FERRIS. The chairman of the committee says that a department came to his committee and repudiated the document.

Mr. MARTIN of South Dakota. Mr. Chairman, I will ask for four minutes more in which to complete my statement.

Mr. CANNON. Will the gentleman yield for a question?

Mr. MARTIN of South Dakota. Certainly.

Mr. CANNON. Is it true, however, that these 10 acres were sold for the $40,000, and that there has been nothing sold since that time, and that the money goes into the fund?

Mr. MARTIN of South Dakota. Absolutely true.

Mr. CANNON. Well, it seems to me that settles it.

Mr. FERRIS. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

Mr. MARTIN of South Dakota. Mr. Chairman, I ask for four minutes more in order that we may have a correct understanding of this subject.

The CHAIRMAN. The gentleman from South Dakota asks unanimous consent to proceed for four minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. Mr. Chairman, then I ask unanimous consent that all debate on this amendment may close in six minutes.

Mr. LEWIS. I object.

Mr. FERRIS. Mr. Chairman, I do not know what the gentleman reads from or what he has in his hand, but whatever the facts may be or whatever representations were made to them, they did it in the face of the reclamation act, which reads as follows on page 15 of the act:

And the proceeds of all sales of town sites shall be covered into the reclamation fund.

Now, whatever the gentleman may read from or whatever may have been represented to the settlers through the newspapers, you can not bind the Federal Government by it.

Mr. MARTIN of South Dakota. If the gentleman will read the whole act, he will see that in the act of 1906 there was certain implied authority given to the Secretary of the Interior as to reclamation improvements. It is very vague and there is no time to debate that here, but this is the fact: A field representative of the Reclamation Service, with the knowledge of the service, prepared this booklet.

I do not know what the fact was, whether or not the chief of the service here in Washington saw the booklet before it was prepared or not, but that it was prepared under the knowledge and direction of authority there can be no doubt. It was later discovered that that was an unfortunate statement, but the mischief had been done and this literature had gone out to the country. I have a telegram from the Newell Commercial Club of date of January 14, 1913, in which they say this:

Booklet relative to Belle Fourche project was distributed here entirely by Reclamation Service and not by railroad. Distributed all over the country by thousands by Reclamation Service.

Mr. MANN. Will the gentleman yield for a question?

Mr. MARTIN of South Dakota. Certainly.

Mr. MANN. Does the gentleman think even if there be a particular case where there is a hardship that is the reason for providing by a law that will cover 32 projects, a permanent law——

Mr. MARTIN of South Dakota. The gentleman will notice that of the thirty-two-odd towns but a very small proportion have been sold. Two towns in Idaho brought $135,000; six towns in Montana only $23,000; the single town of Newell, S. Dak., project, brought $41,103, and the Wyoming project only $17,000. Now, probably 98 per cent of all those lands remain to be sold, and by doing justice to those we are not in any way harming anybody. In my State a prominent citizen of the State capital of Pierre is under prosecution by the Federal authorities and is now facing a judgment and decree and a sentence to the Government penitentiary, based upon the charge of selling lots by representing through literature that a street railway ran across some suburban lots, an addition, when it was not there. He was prosecuted and convicted of making those false representations, and he is facing a penitentiary punishment to-day. Here is an instance of a Government project in which it must make its representation good or the citizens of my State and your State have given up their money under false pretenses.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that all debate on this amendment shall close in 10 minutes.

Mr. LEWIS. I want time.

Mr. MANN. The gentleman from Maryland [Mr. LEWIS] to have five minutes, and the gentleman from Wyoming to have five minutes.

Mr. FERRIS. Mr. Chairman, I think the gentleman had better not do that. I want to make some remarks myself.

Mr. MANN. We have spent two Wednesdays on this bill.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that all debate on this amendment shall close in 10 minutes.

Mr. FERRIS. I think I shall have to object to that.

Mr. MANN. I move that the debate on the pending amendment be closed in 10 minutes. How much time does the gentleman from Oklahoma want?

Mr. FERRIS. I do not know how much I may want.

Mr. MANN. Two minutes will do, will it not? I am not asking any time. Mr. Chairman, I ask unanimous consent that debate on the amendment close in 11 minutes, 5 minutes to be given to the gentleman from Maryland [Mr. LEWIS], 3 minutes to the gentleman from Oklahoma [Mr. FERRIS], and 3 minutes to the gentleman from Wyoming [Mr. MONDELL]. I will do without any time myself.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the debate on the pending amendment close in 11 minutes, 5 minutes of the time to be given to the gentleman from Maryland [Mr. LEWIS], 3 minutes to the gentleman from Wyoming [Mr. MONDELL], and 3 minutes to the gentleman from Oklahoma [Mr. FERRIS]. Is there objection? [After a pause.] The Chair hears none.

Mr. LEWIS. Mr. Chairman, I can not speak on this subject with authority. I merely rise to suggest the state of facts presented to the House, if I understand that state of facts.

The first fact is that these public lands belong to the whole people of this country, and their benefits and advantages should be distributed as far as practicable to the whole people of the country. Taking the disposition of these lands up with that end in view, I understand irrigation legislation has been passed under the terms of which Congress first supplies the capital for the irrigation project and then fixes upon the lands that are profited by irrigation a system of liens to the extent of the benefits that accrue. In determining that disposition of the public lands Congress was doubtless influenced by the fact that agriculture is the mainstay of the Nation, and that any policy that would improve the agriculture of the Nation would result in a profit to all. Accordingly I am advised that when town lots are sold, town values themselves being results of irrigation values and the irrigation policy, the law provides that the product of the sale of town lots shall be applied to the reduction of this lien indebtedness of the irrigation farmer. That is, to the extent the project is successful in creating land values which the Government sells, those values shall be applied to lightening the burdens of the farmer in reducing his liens and thus further promoting the spirit and success of agriculture in the country. That may be called a subsidy to farming and to improve farming, but it is a subsidy that perhaps the majority of the people of the country would sustain at any time.

Now, it is proposed, however, that the subsidy given to the irrigation farmer shall be half taken away from the farmer and handed over to the real-estate owner of the town. Now, I want to say in this presence if there is one citizen, if there is one proprietary interest under the sun that should be the last

to be subsidized by the Government it is the landowner in a town or city. What is he now? He is an idler upon the face of the earth. His land he leaves vacant—a garden of dirt and weeds—while his industrious fellow citizens build a town around him and make his land valuable. This measure proposes to further subsidize an owner like that. It proposes to subsidize him in the measure it may reduce his burden of supporting the schools of his town, paying for the sewers of his town and those other common municipal conveniences in the way of public utilities. I do not think this country would sustain as a public policy the taking away of half of the aid now granted to this irrigation farmer and handing it over to the speculator in town values in any part of the Republic, and it is in order to have this statement of facts before the House, if it be a correct statement of facts—and I think it is—that I have made in this brief address. [Applause.]

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] is recognized for three minutes.

Mr. MONDELL. Mr. Chairman, how unfortunate it is that the opponents of this measure can not agree as to the facts. The gentleman from Texas [Mr. SMITH] and the gentleman from California [Mr. RAKER] still insist that these are not credits to the reclamation project, although they can find out their error by inquiring at the reclamation office. The gentleman from Maryland [Mr. LEWIS], however, who always goes to the foundation of things in a way, has learned the truth, and he is opposing it for an entirely different reason than that given by the gentleman from Texas and the gentleman from California, and based upon an entirely different statement of facts.

The gentleman from Maryland [Mr. LEWIS] is correct as to facts. He says, however, that none of the benefits should go to the people in the towns. We believe that what is proposed in this bill would be fair, equitable, and just, because the people of the town furnish much of the school facilities for the people of the surrounding region, and they are as much entitled to some of the benefits of the increase of values as the farmers, some of whom live 30 to 40 miles away, and who have little to do with increasing the values in the town.

The sum has been reduced by an amendment to 25 per cent. It is now proposed still further to reduce it by having the bill apply only to future receipts. Why, in the case of the town site of Newell the town lots were sold with the understanding that all the money was to be used, and while that representation was not made to the same extent or in the same way in my State, yet there was a general understanding when the people bought these lots at a high price out there on the raw, bald prairie that they were to get back some of the high prices they were paying for the improvement of the town; and if they shall have no aid now until more town lots shall have been sold, the Lord only knows when they are to receive any benefits, because the lots have been sold quite recently up to the present necessities of the town, and possibly up to the necessities of the town for two or three or four years to come, and now those people who paid high prices, with the understanding that a part of the money was to be used for the improvement of the town, would be robbed of the benefits to which they are entitled and of which they will be deprived for years to come.

Mr. FERRIS. Mr. Chairman, I rise to advocate the adoption of the amendment by the gentleman from Illinois [Mr. MANN], which, in effect, keeps this bill from applying to town-lot sales that have already been made, where the money has already been covered into the Treasury.

If the gentleman's amendment is not adopted, they will not only receive 25 per cent on what they sell in the future but also on what has been sold in the past, so that I think the amendment of the gentleman from Illinois is fair and should be adopted.

The only reason why this legislation was ever adopted for the Indian tribes was to stimulate bidding. In the town where I live they sold an addition to the town where 20 per cent went to the people for improvements and the auctioneer, in auctioning off the lots, would say, "Eighty dollars for the Indian and $20 for the people of Lawton; $4 for the Indians and $1 for the people of Lawton." In that way they really did some good and made the lots bring a larger sum than they would otherwise have brought. But if the amendment of the gentleman from Illinois is not adopted, there will be no way of stimulating bids and getting a larger price for the land and it will be, in a way, the taking out of the Treasury and out of the reclamation fund moneys that have already been placed there. I think the gentleman from Maryland [Mr. LEWIS] suggests that it will be taking money from the farmer that we agreed to leave with him, and I believe that is true also. I did not, however, deal with that phase of it?

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the Chairman announced that the ayes seemed to have it.

Mr. MARTIN of South Dakota. A division, Mr. Chairman.

Mr. MONDELL. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 49, noes 24.

So the amendment was agreed to.

Mr. LOBECK. Mr. Chairman, I understand that the amendment offered to make this amount 25 per cent instead of one-half applies on page 2, line 12.

The CHAIRMAN. The gentleman is correct.

Mr. LOBECK. An amendment should also be made in line 3 of page 1, so as to make it read "25 per cent of" instead of "one-half." I move that the words "25 per cent of" be inserted in line 3, page 1, in lieu of the words "one-half."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Nebraska [Mr. LOBECK].

The Clerk read as follows:

On page 1, line 3, strike out the words "one-half" and insert in lieu thereof the words "25 per cent of."

Mr. LOBECK. Mr. Chairman, I move the adoption of the amendment.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Nebraska.

The amendment was agreed to.

Mr. FERRIS. Mr. Chairman, I move to amend line 4, after the word "lots," by inserting the words "sold at public auction."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

The Clerk read as follows:

Amend, page 1, line 4, by inserting after the word "lots" the words "sold at public auction."

Mr. FERRIS. Mr. Chairman, I think the necessity for that amendment will be apparent to all from the debate that we have just had on the subject. If these lots are to be sold by appraisement, there can be no reason on earth why the local citizens should have part of the funds derived from the sale; but if they are to be sold at public auction, then a part of the funds will go to the local community, and it will stimulate the bidding. I hope the amendment may be adopted.

Mr. MONDELL. Does the gentleman understand that under the provisions of the present law these town lots are all appraised and then sold at public auction, provided they bring more than the appraised price? If they do not bring more than the appraised price, they are not sold at all. Now, if the gentleman's amendment has any effect at all it will provide for the sale of the lots, even if they do not bring more than $1 apiece.

Mr. FERRIS. Not at all. This would not repeal the present law.

Mr. MONDELL. If it did not, what purpose will it serve?

Mr. FERRIS. It is not compulsory that any of the lots shall be sold.

Mr. MONDELL. That is exactly the effect of the gentleman's amendment as to lots that are ordered, although I do not think he meant that.

Mr. FERRIS. I do not think it has that effect at all. On the contrary, the department has the power to offer the lots in the same way that it is now necessary to offer them. The fact that there is an appraisement merely limits the minimum price at which the land can be sold, and it is up to the department to get all they can for the lots. If a lot does not bring the appraised price, it is turned back and held by the Federal Government. No harm is done. If the lots bring the appraisement or more, they are sold, and the local community gets 25 per cent of the amount received. There can not be anything in the argument of the gentleman. This provision repeals nothing. It only makes that portion of the law apply where the lots are sold at public auction, and it ought not to apply elsewhere.

Mr. MONDELL. Mr. Chairman, the present town-site law as carried out by the department provides for the sale of these lots at public auction at an appraised minimum price. The result is that unless the lots bring a fair price they are not sold at all.

Mr. FERRIS. That is true.

Mr. MONDELL. The effect of the gentleman's amendment would be to have the lots sold at any price that they would bring, because he does not provide in his amendment for a minimum price.

Mr. FERRIS. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. FERRIS. You can not sell them now unless you get the appraised price, can you?

Mr. MONDELL. No; but under the gentleman's amendment they will be sold at whatever price is offered, because the gen-

tleman provides for their sale at auction without any other limitation.

Mr. FERRIS. Not at all.

Mr. MONDELL. The necessary interpretation of that is that they shall be sold at auction. If they are offered, they must be sold at any old price.

Mr. FERRIS. The gentleman is entirely in error. From my practical experience all over my State in the last 20 years, during a part of which time it was a Territory, I can say that they have sold lots at public auction after they have been appraised, and if a lot did not bring the appraisement it was turned back and retained by the Government; but if it brought the appraisement or more, then the lot was sold; and they almost always bring more than the appraisement.

Mr. MONDELL. If that is the gentleman's theory——

Mr. FERRIS. That is the fact.

Mr. MONDELL. If that is the gentleman's theory in regard to his amendment, then it is absolutely unnecessary, because that is what is done under the town-site law now. It is not amended in this particular by this act. The town lots are appraised and sold at auction at what they will bring above the appraised price, and if they do not bring more than the appraised price they are not sold at all, whereas under the gentleman's amendment any lot offered would have to be sold at whatever price it would bring.

Mr. FERRIS. Not at all.

Mr. MONDELL. This is simply an effort to give speculators a chance to buy lots at whatever they may bring, and if the Secretary of the Interior should be unwise enough to offer all of these town sites at one time speculators would come in and buy up a whole town site for a mere song.

Mr. FERRIS. I do not want to be contentious, but does the gentleman think my amendment repeals that appraisement law?

Mr. MONDELL. If it does not repeal it, then it is without any force or effect and is senseless.

Mr. FERRIS. Oh, not at all. The gentleman is in error worse than I ever knew him to be before.

Mr. MONDELL. The amendment has no force, and therefore there is no rhyme or reason in it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

The amendment was agreed to.

Mr. MARTIN of South Dakota. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from South Dakota.

The Clerk read as follows:

Amend, after line 15, page 2, by inserting the following proviso: "*Provided*, That one-half of the proceeds received from sales heretofore made of lots in the Newell town site in South Dakota shall be reserved, set aside, and appropriated as a portion of the reclamation town-site fund of the said town."

Mr. FERRIS. Mr. Chairman, I make the point of order that that identical proposition has been voted on; that it was involved in the same town-site proposition along with others.

The CHAIRMAN. The Chair is inclined to think that the amendment is in order and will overrule the point of order.

Mr. MARTIN of South Dakota. Mr. Chairman, as I have already reminded the committee, I know nothing of other town-site sales, but justice can not be done to the people who have been induced to purchase town-site lots and made purchases without an amendment of this kind, and in this case only half justice will be done. I will read again the representations upon which these town-site lots were sold, or, rather, misrepresentations:

The Government will conduct the sale of lots and with the proceeds streets will be laid out, a sewage system constructed, and other means usually taken to improve and beautify the city.

It is not represented that a portion of the proceeds will be taken, but all the proceeds. I may say that when this idea of using the town-site fund for the betterment and improvement was first broached it was for a time considered that all the proceeds of the sales should be used for the betterment and improvement of the town. It seems to me that in general legislation, these facts being before Congress, it will save the necessity of special bills being brought in to incorporate that proviso in this bill.

Mr. SMITH of Texas. Will the gentleman yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. SMITH of Texas. The gentleman says that it was supposed that the Reclamation Service had the power to make these improvements some time ago. Will the gentleman refer me to any law from which any such inference could be drawn?

Mr. MARTIN of South Dakota. I think it was a strained interpretation, but if the gentleman will look at one of the sections in the original law of 1906 he will find where it authorizes the Secretary of the Interior to take certain steps toward a water system for the town.

Mr. SMITH of Texas. The sale of water rights?

Mr. MARTIN of South Dakota. No; to provide water rights for the town and, I suppose, get remuneration; but, as I say, the interpretation was not justified, as I have said many times. It seems to me that we ought at least to do half justice to these people who have paid fabulous prices for their lots on the representation that the whole of this fund was to go to the improvement of the municipality, and who were induced not only to purchase, but to put the rest of their little accumulations into the stores and buildings to improve and make the town. We would be doing scant justice if we made good the representations to the extent of dividing the money already received for that purpose. It is no justice to these people who gave their money and paid such high prices to tell them if any more lots are sold 25 per cent will be used for the betterment and improvement of the city.

Mr. GARRETT. Will the gentleman yield?

Mr. MARTIN of South Dakota. Yes.

Mr. GARRETT. Who made these representations to which the gentleman alludes?

Mr. MARTIN of South Dakota. Mr. Chairman, this is getting to be a good deal like the puzzle of "How old is Ann?" Every time a new gentleman comes into the Chamber we have to go all over the story again. I know that the gentleman from Tennessee has been otherwise engaged in important public business. The representations were prepared under the authority of the Reclamation Service, by a field representative in its employ, and at a salary, in the city of Chicago. The expense of printing these circulars was paid by the railroad company, although there is nothing on the document to show that the railroad company was interested in it. The distribution was under the direction of the Reclamation Service.

Mr. GARRETT. I have understood it was made in some such way, but has not the Reclamation Service denied any responsibility for it?

Mr. MARTIN of South Dakota. No; they have denied nothing that I have stated. "The Reclamation Service" is a broad statement. If the gentleman means the Director of the service personally, his statement is that he was not aware that all of the statements were put in there, and that probably is true, but that the man was authorized to prepare the literature as an agent of the department no one disputes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota.

The question was taken; and on a division (demanded by Mr. MARTIN of South Dakota) there were 30 ayes and 47 noes.

So the amendment was rejected.

Mr. LOBECK. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, line 12, page 2, by striking out the word "heretofore" and inserting in lieu thereof the word "hereafter."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska.

Mr. MANN. Mr. Chairman, a short time ago there was an amendment adopted to line 12, on page 2. I am under the impression that that entire paragraph ought to be stricken out of the bill. I would ask the gentleman from South Dakota [Mr. MARTIN] to give me his attention. Ought not the last sentence of the first section of the bill, beginning with the word "and," in line 11, on page 2, to be stricken out? It relates only to proceeds heretofore received. Does not the other part of the bill provide that proceeds hereafter received shall go into the reclamation town-site fund?

Mr. MARTIN of South Dakota. Mr. Chairman, the previous part of this section provides that.

Mr. MANN. That is what I thought. The gentleman from Nebraska [Mr. LOBECK] has now offered an amendment to strike out "heretofore," in line 12, page 2, and insert "hereafter." That paragraph, as I understand it, only related to funds heretofore received.

Mr. MARTIN of South Dakota. That is right.

Mr. MANN. And it is not necessary to change it. The whole paragraph ought to go out.

Mr. BURKE of South Dakota. Was there an amendment adopted to line 3, on page 1, of the bill?

Mr. MANN. There was.

Mr. BURKE of South Dakota. Then the gentleman is correct.

Mr. MANN. Mr. Chairman, I hope the gentleman from Nebraska will withdraw his amendment and move to strike out that whole sentence.

Mr. LOBECK. Mr. Chairman, I ask unanimous consent to withdraw my amendment and offer the amendment suggested by the gentleman from Illinois.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment now offered by the gentleman from Nebraska.

The Clerk read as follows:

Page 2, beginning with line 12 and running to the end of the paragraph, strike out the following:

"And the aforesaid one-half of the net proceeds heretofore received from such sales shall be forthwith transferred from the reclamation fund to the reclamation town-site fund, hereby created."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, the committee amendment, in line 3, page 1, was agreed to before the word "heretofore" was stricken out. I ask unanimous consent to change that amendment so as to leave out of it the word "or."

The CHAIRMAN. The Chair will state to the gentleman from Illinois that the amendment included the word "or."

Mr. MANN. The amendment, as a matter of fact, did not include it. It would not have been in order to include it.

The CHAIRMAN. The Clerk informs the Chair that that is the case.

Mr. MANN. The words "or hereafter" were inserted. Has the Clerk got the word "or" in or out?

The CHAIRMAN. The word "or" is out.

Mr. MANN. Mr. Chairman, I move to amend, in line 7, page 2, by striking out the words "maintenance and operation."

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Illinois.

The Clerk read as follows:

Page 2, line 7, strike out the words "maintenance and operation."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 2. That the Secretary of the Interior may, in his discretion, from time to time, expend, or cause to be expended, from said reclamation town-site fund, for the construction, maintenance, and operation of schoolhouses, water, and sewer systems, and other municipal improvements in each of such town sites a sum not greater than one-half the net proceeds theretofore received from such sales of lots therein plus one-half the estimated net proceeds to be thereafter received from such sales. The buildings and works so constructed may, in the discretion of the Secretary of the Interior, be operated and maintained by him or under his authority, and the expense thereof paid from the reclamation town-site fund, pending the organization of a municipal corporation or corporations qualified to operate and maintain the same, and upon the organization of such municipal corporation or corporations the Secretary of the Interior may transfer to such corporation or corporations the said buildings or works, or both, as the case may be, and the lands or easements necessary to their use, and thereafter said Secretary shall be free of all duty or responsibility with respect thereto: *Provided*, That whenever the said buildings, works, lands, easements, or any part thereof, shall cease to be used by such corporation or corporations exclusively for the purposes for which they were respectively transferred, the ownership and control thereof shall revert to the United States: *And provided further*, That in no case shall the operation and maintenance of such buildings and works by or under the authority of the Secretary of the Interior be continued for a longer period than five years after the construction thereof.

The following committee amendments were severally reported by the Clerk and severally agreed to:

Page 2, line 20, insert the word "light" at the beginning of the line, and after the word "other" insert the words "school and."

Page 2, lines 23 and 24, strike out the words "plus one-half the estimated net proceeds to be thereafter received from such sales."

Page 3, line 4, strike out the word "corporations" and insert the words "school district."

Page 3, line 6, strike out the word "corporations" and insert the words "school district."

Page 3, line 8, strike out the word "corporations" and insert the words "school district."

Page 3, in lines 12, 13, 14, 15, 16, and 17, strike out "That whenever the said buildings, works, lands, easements, or any part thereof, shall cease to be used by such corporation or corporations exclusively for the purposes for which they were respectively transferred, the ownership and control thereof shall revert to the United States: *And provided further*."

Page 3, line 20, strike out the word "five" and insert the word "two," and strike out the words "construction thereof" and insert the words "organization of a municipal corporation or school district as aforesaid."

Mr. FERRIS. Mr. Chairman, I move to strike out, in line 19, page 2, the words "maintenance and operation." I do that for the purpose of saying that the whole paragraph ought to be stricken out and the whole bill ought to be referred to the committee from whence it came. Section 2 goes on the theory of the granting to a corporation or corporations for school districts, and the whole paragraph relates to maintenance and operation, which has been stricken out in the first section of the bill.

Mr. MANN. The gentleman is not quite correct.

Mr. FERRIS. Almost. I may not be quite correct, but in five or six distinct places the section refers to maintenance and operation.

Mr. MANN. The gentleman and I can at least understand each other. The gentleman proposes to strike out "maintenance and operation" there. I think it ought to go out, but that is the only authority contained in the bill for the construction of plants. Then, if the gentleman will move to strike out all of the section after the word "the," in line 24, it will cover what he has in his mind. It is very easy to cover it.

Mr. FERRIS. The suggestion of the gentleman is, beginning with the word "the," in line 24, to strike out the remaining paragraph, and then in line 19 to strike out the words "maintenance and operation."

Mr. MANN. And in line 22, change one-half to 25 per cent.

Mr. FERRIS. What condition will the paragraph be in then?

Mr. MANN. That will authorize the Secretary to construct these municipal improvements.

Mr. FERRIS. Does not he have that power granted him by the first paragraph?

Mr. MANN. No; the first section provides for reserving the fund, 25 per cent, and covering into the town-site reclamation fund.

Mr. FERRIS. But I call the gentleman's attention to the language in line 6, which reads like this: "To be used in the construction," and so forth.

Mr. MANN. True; but this will authorize him to construct in his discretion these municipal improvements, which I think is necessary to have in the bill.

Mr. GARNER. Will the gentleman yield?

Mr. MANN. The gentleman from Oklahoma has the floor.

Mr. GARNER. Will the gentleman yield?

Mr. FERRIS. I will.

Mr. GARNER. It is evident from the discussion here that the gentleman from Oklahoma [Mr. FERRIS], the gentleman from Texas [Mr. SMITH], or the gentleman from Illinois [Mr. MANN] are somewhat in doubt as to what this bill does or what it does not do.

Mr. MANN. Oh, the gentleman from Texas [Mr. GARNER] has not been here——

Mr. GARNER. I have been here long enough to find out these gentlemen do not understand each other.

Mr. MANN. I think we understand each other pretty well.

Mr. GARNER. Well, the gentleman from Oklahoma did not seem to understand the gentleman from Illinois.

Mr. MANN. I think the gentleman did entirely.

Mr. GARNER. It occurred to me we had not started very far on this bill so far and it is very nearly 5 o'clock, and if the gentleman had a week until next Wednesday to go over the bill, if we should recommit the bill to the committee and get some intelligent legislation in here, we might be able to get through on next Wednesday.

Mr. FERRIS. Mr. Chairman, undoubtedly the section has to be changed in many respects if not almost entirely stricken out, but I think the gentleman from Illinois [Mr. MANN] has digested the thing to the extent that we can by making two or three amendments correct it. I move to amend line 19——

The CHAIRMAN. Does the gentleman withdraw his first amendment?

Mr. FERRIS. No; I want to modify the amendment.

The CHAIRMAN. The gentleman asks unanimous consent to modify his amendment. Is there objection? [After a pause.] The Chair hears none.

Mr. FERRIS. Mr. Chairman, I move, in line 19, page 2, to strike out the words "maintenance and operation," so it will conform to paragraph 1.

Mr. RAKER. Before passing that, lines 16 to 24 provide for funds heretofore obtained, and we had disposed of that part of the bill. Did the gentleman notice that?

Mr. FERRIS. No; there is no "heretofore."

Mr. RAKER. Theretofore.

Mr. FERRIS. There is no "theretofore" there.

Mr. RAKER. Yes; in line 22.

Mr. FERRIS. I am going to move to strike out that.

The question was taken, and the amendment was agreed to.

Mr. FERRIS. Now I move to amend, in line 22, page 2, by striking out the word "one-half" and inserting in lieu thereof "25 per cent of."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 22, strike out the word "one-half" and insert in lieu thereof "25 per cent of."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FERRIS. Now, Mr. Chairman, I move to strike out the word "theretofore," in line 22, page 2, and insert in lieu thereof the word "thereafter."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 22, line 2, strike out the word "theretofore" and insert in lieu thereof the word "thereafter."

Mr. MARTIN of South Dakota. I think the gentleman ought to consider that a moment before offering it to the committee. The words are in there so that the Secretary shall not anticipate funds and expend them before they are in the Treasury.

Mr. MANN. It does relate to the expenditure. He receives 25 per cent of the money before he makes the expenditure.

Mr. FERRIS. Does the gentleman think if he does not make that change it does not modify——

Mr. MANN. It relates to that time.

Mr. FERRIS. They may be correct about that, and I withdraw the amendment.

Now, I move to strike out, beginning with the word "the," in line 24, page 2, the rest of the section.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 24, beginning with the word "the," strike out the remainder of the section.

Mr. MARTIN of South Dakota. I would like to ask the gentleman if he has considered that and its effects sufficiently to satisfy himself, if not the gentleman from Illinois [Mr. MANN], that it is not a good thing? If we can get this bill in shape to satisfy the gentleman from Oklahoma [Mr. FERRIS] and the gentleman from Illinois [Mr. MANN], that will be all there is of it. But the gentleman will notice the section so far as we have gone has provided only for the construction of these municipal improvements. Does not the gentleman think that some provision of what should be done after construction should be in there?

Mr. FERRIS. It is the intention to turn them over to the local community as soon as constructed.

Mr. MARTIN of South Dakota. So far as the maintenance is concerned, I agree with the gentleman. But here it provides that the improvements shall be turned over to the corporation. Now, the gentleman is leaving nothing in the way of provision as to what shall be done with these improvements after they are constructed.

Mr. FERRIS. They become a part of the municipality and become municipal improvements. If the gentleman thinks that an amendment is necessary reciting that the department shall formally turn them over to the municipality, I would not think there would be any objection to that, but certainly after we have amended paragraph 1 as we have amended it we should not go on in section 2 and provide for maintenance.

Mr. MARTIN of South Dakota. I quite agree with you. You have already stricken that out.

Mr. FERRIS. Does not the gentleman think that the balance of the paragraph, beginning with the word "the" on line 24 and extending over on to page 3, all relates to maintenance and operation?

Mr. MARTIN of South Dakota. Oh, not at all.

Mr. MANN. If the gentleman will pardon me, I was going to suggest, when this amendment was agreed to, that the gentleman should offer as an amendment following the sentence that is left in the bill the following:

And the Secretary of the Interior may transfer to the municipal corporation or school district the said buildings or works, or both, as the case may be, and the lands or easements necessary to their use, and thereafter said Secretary shall be free of all duty or responsibility with respect thereto.

Mr. FERRIS. That accomplishes it, I think.

Mr. MANN. It makes it simpler to strike all out and reinsert that proposition.

Mr. BOEHNE. Mr. Chairman, I make the point of no quorum.

Mr. MANN. I hope the gentleman will not do that.

Mr. FERRIS. If the gentleman is going to do it, I move that the committee do now rise.

The CHAIRMAN. The Chair will count.

Mr. GARRETT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARRETT. The gentleman from Oklahoma [Mr. FERRIS] moved that the committee rise. That is a privileged motion, and the Chair is not obliged to count.

Mr. FERRIS. Mr. Chairman, I move that the committee do now rise. It is now 5 o'clock, and the bill has some important features to it that may require consideration.

The CHAIRMAN. The Chair thought the gentleman from Oklahoma [Mr. FERRIS] withdrew his motion when the Chair proposed to count. The gentleman from Oklahoma now moves that the committee rise. The question is on agreeing to that motion.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. FERRIS. A division, Mr. Chairman.

Mr. SMITH of Texas. I ask for a division.

The committee divided; and there were—ayes 41, noes 53.

Mr. BOEHNE. I make the point of no quorum. Mr. Chairman.

Mr. MANN. I ask for tellers, Mr. Chairman, on the motion to rise.

Tellers were ordered, and the Chairman appointed Mr. FERRIS and Mr. MANN.

The committee again divided; and the tellers reported—ayes 30, noes 62.

So the committee refused to rise.

Mr. FERRIS. Mr. Chairman, I make the point of no quorum.

The CHAIRMAN. The gentleman from Oklahoma [Mr. FERRIS] makes the point of no quorum. The Chair will count. [After counting.] There are 101 Members present, a quorum of the committee. The question is on agreeing to the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

Mr. CULLOP. Mr. Chairman, I ask to have the amendment again reported.

The CHAIRMAN. Without objection, the amendment will again be reported.

There was no objection.

The Clerk again reported the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

The amendment was agreed to.

Mr. MANN. Mr Chairman, I move to insert, after the word "therein," in line 23, page 2, the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. MANN].

The Clerk read as follows:

On page 2, line 23, after the word "therein," insert the following: "And the Secretary of the Interior may transfer to the municipal corporation or school district the said buildings or works, or both, as the case may be, and the lands or easements necessary to their use, and thereafter said Secretary shall be free of all duty or responsibility with respect thereto."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

Mr. RAKER. Mr. Chairman, I would like to have the gentleman from Illinois explain what he means by that transfer. Transfer of what?

Mr. MANN. These improvements that have been made—school buildings and electric-light plant, or whatever it is.

Mr. RAKER. I know; but the title is already in the school district under the original reclamation act.

Mr. MANN. The title of the building is not in the school district.

Mr. RAKER. I know; but if the building is built on land that belongs to the municipality for that purpose, undoubtedly it belongs to the municipality. I am asking for information. Where does the Secretary get the right to transfer? What is he transferring?

Mr. MANN. He transfers the improvements. He obtains control of the improvements, at least, while he is making them, and when he is through he transfers them. He must have the authority of law to do it. This gives him the authority.

Mr. FOWLER. Does the word "transfer," as used in that amendment, mean the same as "turn over"? [Laughter.]

Mr. MANN. Whatever is necessary.

Mr. FOWLER. I ask in good faith. Does it mean the same as "turn over"?

Mr. MANN. I take the language that I offered from the bill itself. I suppose it covers turning over and also, if necessary, the issuance of the patent. I do not know whether that is necessary or not. That is the custom. This is authority that is necessary for the Secretary to have.

Mr. SMITH of Texas. Mr. Chairman, I want to call the gentleman's attention to the fact that the first section refers to town sites and not municipal corporations, and the second section adopted says nothing about corporations, but only about town sites. I did not understand from the gentleman's amendment that he provides for transferring to any other than the municipal corporation.

Mr. MANN. Or school districts.

Mr. SMITH of Texas. Or school districts. Now, suppose there is no organization when these works are completed. No transfer can be made.

Mr. MANN. It can not be transferred until there is one, but meanwhile under the bill as amended it does not operate, so there will be one, I apprehend, immediately.

Mr. SMITH of Texas. There may not be.

Mr. MANN. If there is not, nobody is hurt.

Mr. RAKER. I ask to have that amendment reported again, for information.

The CHAIRMAN. If there be no objection, the Clerk will again report the amendment.

The amendment was again read.

Mr. RAKER. Now, I call the attention of the committee to the fact that if there is anything in virtue of the reclamation act and the town-site law, the title is to be transferred before any municipal work is had upon these places at all. In other words, a piece of land is set apart for school purposes, and before the Secretary does any work that land is transferred to the municipality. Otherwise the Secretary of the Interior is directing a building for a municipality upon the public domain.

Mr. MANN. Will the gentleman permit?

Mr. RAKER. I yield.

Mr. MANN. The gentleman does not claim that when the town site is laid out there is any municipality? What he intended to say, I take it, was that certain tracts of ground are reserved for municipal purposes.

Mr. RAKER. Yes; that is correct.

Mr. MANN. There is no municipality.

Mr. RAKER. That is true.

Mr. MANN. There is no patent issued to them.

Mr. RAKER. That is true.

Mr. MANN. The Government goes ahead and constructs a building. Certainly there must be some authority given to the Secretary of the Interior to turn that over to the municipality whenever it is organized.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. RAKER. I yield to the gentleman from South Dakota.

Mr. MARTIN of South Dakota. If the gentleman from Illinois had incorporated in his amendment a little more of the language that is already contained in the section, his proposed amendment would have been more clear. He refers to a municipal corporation, but he omits the preceding reference to the corporation which is in lines 3 and 4, on page 3—

The organization of a municipal corporation or school district qualified to operate and maintain the same.

If the gentleman had included those words, his meaning would have been more clear.

Mr. RAKER. I want to call the attention of the gentleman to the fact that if under the town-site bill the Secretary should set aside a tract of land for school purposes and make a patent for it or issue a deed, which is the same as a patent, or for public parks and other necessary tracts for these various purposes, that being done in advance of the organization of the municipality, you must remember that the Secretary is spending the people's money there upon Government land before the municipality has determined what particular tract they want. It seems to me that this ought to be specified in the first instance before you permit the building to be made by the Secretary or the improvement to be done, not knowing that it will ever go to the municipality.

Mr. MARTIN of South Dakota. There is no embarrassment whatever in that.

Mr. MONDELL. If the gentleman has read the town-site law recently, he recalls that the Secretary now makes reservations for public purposes.

Mr. RAKER. Yes.

Mr. MONDELL. He would undoubtedly erect these buildings on the reservation so made. If the legislation is passed, the committee having stricken out of the bill the provisions for the transfer, provisions like those contained in the gentleman's amendment are essential.

Mr. RAKER. Why, no; I have read the act, and read it again to-day. The Secretary is directed to reserve these plats of ground for the purpose named, and convey to the proper authorities the necessary title to be held in trust for these town purposes. That is done before any agreement is made whatever.

Mr. MARTIN of South Dakota. I suggest that the amendment of the gentleman from Illinois to transfer covers the whole subject. If there is a legal and equitable title, that goes. If, on the other hand, there is only a building and improvements, that is transferred.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. RAKER. Mr. Chairman, I ask for two minutes more, that we may get this matter straightened out.

Mr. SMITH of Texas. Mr. Chairman, I offer the following amendment to the amendment offered by the gentleman from Illinois.

The CHAIRMAN. Is this amendment to be added to the amendment offered by the gentleman from Illinois?

Mr. SMITH of Texas. It is added as a proviso.

The CHAIRMAN. The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Add to the amendment the following:

"*Provided*, That the Secretary of the Interior shall not be authorized to construct any such improvement upon any town site until after the municipal corporation is organized thereon."

Mr. RAKER. Mr. Chairman, I would like to ask the Chair whether or not an amendment to that is in order?

The CHAIRMAN. It is not.

Mr. SMITH of Texas. Mr. Chairman, I offer this amendment because I do not think the Secretary of the Interior ought to be authorized to construct improvements upon these town sites until there is a reasonable number of people in the town, and until they have shown their good faith toward building up the town by organizing a municipal corporation qualified to take charge of the improvement when constructed. I think that unless an amendment of this sort is adopted we may find ourselves in the condition that these improvements will be made in some instances and the town site may prove a failure, and after the work is done the people in the town will not be sufficiently interested to organize a municipal government and take over the property after the Government has constructed it.

Mr. MANN. Mr. Chairman, the proof of the pudding is in the eating. They will not have any money to spend on town sites in the way of public improvements unless enough people buy the lots at sufficiently high prices to raise the money. If these people contribute 100 per cent in the purchase of the lots, or if they raise any sort of a sum at all, it seems to me that they show interest enough to have the schoolhouse built at once and the sidewalks constructed, and that is about all you can do at the best. They ought not to have to wait for a year, but should be entitled to have it done at once, "Johnny on the spot"; that is what will make the lots sell for that much more.

Mr. GARNER. Mr. Chairman, this is one of the most important of the many amendments offered in this bill, and I do not think it ought to be voted upon without a quorum of the committee being present, and I make the point of order that no quorum is present.

Mr. CANNON. Mr. Chairman, I make the point that that is dilatory.

Mr. GARNER. Well, we have had several amendments and considerable business transacted since the ascertainment of a quorum.

Mr. MANN. This is not the only bill that can be filibustered on, I will say to the assistant whip.

Mr. GARNER. I am not filibustering. I think it is full time that we took out. I have heard the gentleman from Illinois say that many times at this hour in the day.

Mr. MANN. Not at this time in the session. Last night we ran for more than an hour, until 6 o'clock and after, with no quorum, but we will not do it to-morrow night if the point of order is insisted on now. What is sauce for the goose is sauce for the gander.

Mr. GARNER. Well, Mr. Chairman, if the gentlemen want to go on with the bill, I will withdraw the point of order.

The CHAIRMAN. The gentleman from Texas withdraws his point of no quorum.

Mr. RAKER. Mr. Chairman, I offer as a substitute for the amendment of the gentleman from Illinois the following.

The CHAIRMAN. The substitute is not in order until the amendment is perfected. The gentleman can have his substitute read for information.

The Clerk read as follows:

Add as a substitute the following:

"*And provided further*, That the municipality must first have determined that the particular improvement is desired."

Mr. MANN. I make the point of order that that is not in order.

Mr. RAKER. This is a substitute for the amendment offered by the gentleman from Illinois and the amendment to it by the gentleman from Texas.

Mr. MANN. The gentleman can offer it after the amendment is perfected.

The CHAIRMAN. The Chair thinks that is not a substitute. The question is on the amendment offered by the gentleman from Texas to the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment to the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Illinois.

The amendment was agreed to.

Mr. RAKER. Mr. Chairman, I offer the following amendment to the amendment.

Mr. CANNON. But there is no amendment pending.

Mr. BAKER. Then, Mr. Chairman, I offer this as an amendment to the bill to follow the amendment just adopted offered by the gentleman from Illinois.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from California.

The Clerk read as follows:

Add to the amendment just adopted the following:
"*And provided further*, That the municipality must first have determined the particular improvement desired."

Mr. BAKER. Mr. Chairman, just a word. The purpose of the amendment is this: The municipality knows what it desires before the Secretary of the Interior makes these improvements, and the amendment provides that the municipality shall say through its organization what particular thing it most desires to have done. It speaks for those people in that community, representing them. Before the Secretary of the Interior or any other officer goes in there and makes any particular improvement the municipality, by its vote and through its officers, should say which particular improvement shall be made first. I think the amendment should be adopted. It is a matter of economy and of control.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California.

The question was taken, and the amendment was rejected.

Mr. FERRIS. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Add at the end of the paragraph the following:
"*Provided*, That whenever the lands, improvements, or any part thereof cease to be used for the purposes for which they were granted the same shall revert to the United States."

Mr. MARTIN of South Dakota. Mr. Chairman, I make the point of order against that that the committee has already, in striking out lines 12 to 16, inclusive, on page 3, passed upon that same proposition.

Mr. FERRIS. Not at all, Mr. Chairman. The whole paragraph was stricken out, and it has been amended and modified in three or four particulars since then, and this amendment is undoubtedly necessary.

The CHAIRMAN. The Chair thinks this amendment simply provides that this property shall revert to the United States in case it ceases to be used for the purpose for which it is intended, and the Chair overrules the point of order.

Mr. FERRIS. Mr. Chairman, this simply provides that in the event any of these improvements constructed by part public money shall cease to be used for the purposes granted they shall revert to the Federal Government.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma.

The question was taken; and on a division (demanded by Mr. FERRIS) there were—ayes 42, nays 3.

So the amendment was agreed to.

The Clerk read as follows:

SEC. 3. That all income received from the operation of any such buildings or works shall be paid into and become a part of the reclamation town-site fund.

Mr. MANN. Mr. Chairman, I move to strike out the section.

The CHAIRMAN. The question is on the amendment of the gentleman from Illinois to strike out the section.

The amendment was agreed to.

The Clerk read as follows:

SEC. 4. That the Secretary of the Interior may, in his discretion, from time to time, transfer from the reclamation town-site fund to the reclamation fund any and all moneys in excess of the amount estimated by him to be necessary for the construction, operation, and maintenance under this act of the buildings and works hereby authorized.

With a committee amendment as follows:

Strike out the entire section.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The Clerk read as follows:

Insert as a new section the following:
"SEC. 4. That all sums hereafter received into the reclamation town-site fund from towns having a municipal organization and an organized school district shall at the beginning of the fiscal year following the receipt of such sums be divided, one-fourth to the school district and three-fourths to the municipality, and paid to the proper officers of the said school district and municipality, respectively, to be expended for school and municipal purposes; and sums heretofore received from the sale of town lots and covered into the reclamation town-site fund by the terms of this act and sums hereafter accruing from towns having no municipal or school-district organization and not expended by the Secretary of the Interior as provided by section 2 of this act shall upon the organization of municipalities and school districts be divided in the same proportion and paid to the school districts and municipalities, respectively, to be expended for school and municipal purposes."

Mr. FERRIS. Mr. Chairman, does not the gentleman in charge of the bill think in lieu of the language that appears in lines 11 and 12, where it specifically provides that one-fourth shall go to the school district and three-fourths to the municipality, that it would be better to leave a little discretion in the Secretary of the Interior so that he might not have trouble with the handling of the fund? I would say to him in other legislation of a similar character, where it relates to the Indian funds, we have almost uniformly left it to the Secretary, and he in turn has counseled and worked with the local communities, and I think that ought to be.

Mr. MARTIN of South Dakota. That is as to the subject of the apportionment of the division?

Mr. FERRIS. Yes.

Mr. MARTIN of South Dakota. I will say to the gentleman, as he appeals to me upon it, that provision giving a definite proportion of this fund for school purposes was not championed by me. I will be entirely satisfied without it, but others have felt an interest in it, and thought a definite proportion of this fund ought to be set aside for school purposes. Personally, I am not contentious about it.

Mr. FERRIS. Suppose this situation should occur. Evidently the gentleman is thinking along the same line I am. Suppose a municipality should, of its own initiative and from its own funds, construct sewers, storm and sanitary, as the case may be, and construct improvements as they might need them from the small funds for school purposes. It is easy to see what would happen. It is easy to see it would be perplexing. I move, Mr. Chairman, in lines 11 and 12, to strike out the words "one-fourth to the school district and three-fourths to the municipality" and insert in lieu thereof the words "and apportioned within the discretion of the Secretary of the Interior."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 11, strike out the words "one-fourth to the school district and three-fourths to the municipality" and insert——

Mr. MANN. I think the gentleman ought to make it read "to be apportioned to the school district and to the municipality, in the discretion of the Secretary of the Interior."

Mr. FERRIS. Well, I have no objection to that. I ask that the amendment be modified as suggested by the gentleman from Illinois.

Mr. MANN. Strike out the word "divided" and make it read, after the word "divided," "apportioned to the school district and to the municipality, in the discretion of the Secretary of the Interior."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 4, line 11, strike out the words "one-fourth to the school district and three-fourths to the municipality" and insert "and apportioned to the school district and to the municipality, in the discretion of the Secretary of the Interior."

Mr. MANN. Also strike out the word "divided."

The question was taken, and the amendments were agreed to.

Mr. FERRIS. Now, Mr. Chairman, I am not sure I am right about this, but I think some of it ought to go out, and for the purpose of getting it before the House I move to strike out, beginning with the word "and," line 14, all the rest of the paragraph.

Mr. MANN. Down to and including the word "act," in line 16.

Mr. FERRIS. What effect will that have?

Mr. MANN. It instructs in reference to sums heretofore received.

Mr. FERRIS. I move to strike out, beginning in line 14, with the word "and," all following, down to and including the word "act," in line 16.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 4, line 14, strike out the following: "And sums heretofore received from town lots and covered into the reclamation town-site fund by the terms of this act."

The question was taken, and the amendment was agreed to.

Mr. MARTIN of South Dakota. Mr. Chairman, in order to make the section harmonious, I move to strike out, in lines 20 and 21, the words "divided in the same proportion" and insert "apportioned in the discretion of the Secretary of the Interior as hereinbefore provided."

The CHAIRMAN. The Clerk will report the amendment.

Mr. MARTIN of South Dakota. Mr. Chairman, I am inclined to think a suggestion made to me by the gentleman from Illinois is in the interest of clearness and I will modify my motion by striking out the words "divided in the same proportion," in lines 20 and 21, page 4, and inserting "apportioned in the same manner."

The CHAIRMAN. The Clerk will report the amendment of the gentleman from South Dakota as modified.

The Clerk read as follows:

Page 4, lines 20 and 21, strike out the words "divided in the same proportion" and insert the words "apportioned in the same manner."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 4. That all sums hereafter received into the reclamation town-site fund from towns having a municipal organization and an organized school district shall at the beginning of the fiscal year following the receipt of such sums be divided one-fourth to the school district and three-fourths to the municipality and paid to the proper officers of the said school district and municipality, respectively, to be expended for school and municipal purposes; and sums heretofore received from the sale of town lots and covered into the reclamation town-site fund by the terms of this act and sums hereafter accruing from towns having no municipal or school district organization and not expended by the Secretary of the Interior as provided by section 2 of this act shall upon the organization of municipalities and school districts be divided in the same proportion and paid to the school districts and municipalities, respectively, to be expended for school and municipal purposes.

Mr. MANN. In the new section 4 the committee amendment was amended, but it has not yet been agreed to.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 5. That the Secretary of the Interior is further authorized to reserve from entry such lands within or near such town sites as he may deem necessary for cemetery purposes, and to make appropriate regulations for the supervision and sale of lots in such cemetery at an appraised value, through the Reclamation Service, until such time as a municipal corporation or corporations shall be created capable of operating and maintaining such cemetery, and thereupon a legal title for the lands so reserved and then unsold shall be transferred to the municipal corporation or corporations for cemetery purposes, and the proceeds of the sales of cemetery lots by the municipal corporation or corporations shall be used for cemetery improvements. The proceeds of sales of cemetery lots by the United States shall be paid into and become a part of the reclamation town-site fund, and the cost of the improvement, maintenance, and operation of such cemeteries may be paid from said fund in the discretion of the Secretary of the Interior: *Provided*, That whenever the lands or any part thereof so transferred shall be used for any other than cemetery purposes the ownership and control thereof shall revert to the United States.

Also, the following committee amendment was read:

Page 5, line 12, after the word "States," insert the words: "Prior to the transfer to the municipalities, respectively."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken and the amendment was agreed to.

The CHAIRMAN. The Clerk will also report the other committee amendment.

The Clerk read as follows:

After the word "Interior," line 17, page 5, strike out:
"*Provided*, That whenever the lands or any part thereof so transferred shall be used for any other than cemetery purposes the ownership and control thereof shall revert to the United States."

The CHAIRMAN. The question is on agreeing to the committee amendment.

Mr. FERRIS. Why is it necessary to strike out that proviso? That is merely a reversionary clause.

Mr. MARTIN of South Dakota. It is pretty hard to revert the cemetery to the Government if used for a chapel or school site.

Mr. FERRIS. If it was to be used, the bodies would be removed. But I do not care anything about it.

The Clerk read as follows:

SEC. 6. That the survey, subdivision, and sales of lots in the cemeteries prior to transfer to municipal corporations and the survey, subdivision, and sale of lots in reclamation town sites heretofore and hereafter established under the acts aforesaid shall be conducted by the Secretary of the Interior through the Reclamation Service, and patents for the lots shall be issued in the usual manner through the General Land Office.

Also, the following committee amendment was read:

Page 5, line 22, after the word "cemeteries," strike out the words "and town sites" and insert:
"Prior to transfer to municipal corporations and the survey, subdivision, and sale of lots in reclamation town sites."

Mr. FERRIS. This paragraph goes ahead and provides how the town sites shall be sold.

Mr. MANN. This is a cemetery. It refers to cemetery lots, and I hope it will be many years before the gentleman from Oklahoma occupies one.

Mr. FERRIS. Thank you.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. TAYLOR of Colorado. Mr. Chairman, I move that the committee do now rise and report the bill to the House with amendments with the recommendation that the amendments be agreed to, and that the bill as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. FOSTER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 23069) providing for the disposition of town sites in connection with reclamation projects, and for other purposes, and had directed him to report the same to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. FERRIS. Mr. Speaker, I demand a separate vote on the amendment agreed to on page 1, line 3, wherein "25 per cent" was adopted in lieu of "5 per cent."

Mr. CANNON. Mr. Speaker——

The SPEAKER. The gentleman from Illinois is recognized.

Mr. CANNON. Pending that, I move the previous question upon the bill and amendments to final passage.

The SPEAKER. The gentleman from Illinois moves the previous question on the bill and amendments thereto to final passage. The question is on agreeing to the motion.

The question was taken; and the Speaker announced that the "ayes" seemed to have it.

Mr. FERRIS. Division, Mr. Speaker.

The House divided; and there were—ayes 66, noes 15.

So the previous question was ordered.

The SPEAKER. Is a separate vote demanded on any of the amendments?

Mr. FERRIS. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FERRIS. Mr. Speaker, the bill as reported from the committee contained a provision authorizing 50 per cent of the town-site fund to be used for local improvements. The committee adopted a provision making it 25 per cent. Another amendment was voted down to the effect that it should be 5 per cent. Is there a way to get a vote to determine whether the House elects to have 5 per cent of those funds used or 25 per cent used?

The SPEAKER. There is not.

Mr. FERRIS. Then I withdraw my request for a separate vote.

Mr. GARNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARNER. As the previous question has been ordered, and a separate vote is demanded on each amendment adopted by the committee, when will the vote be taken on each amendment?

The SPEAKER. Next Wednesday morning.

Mr. GARNER. Then I shall ask for a separate vote.

Mr. CANNON. I think we can arrange it all right to-night.

Mr. GARNER. I will say to the gentleman from Illinois [Mr. CANNON] that we can not pass the bill to-night, because there are a number of us on this side who propose to have a yea-and-nay vote on this bill to its final passage. Now, unless we are going to call a quorum here for the purpose of taking a yea-and-nay vote, it would be perfectly frivolous for us to undertake to pass the bill to-night. But I think this: The previous question has been ordered; we could adjourn now and take up the bill next Wednesday.

Mr. MANN. Let us first agree to the amendments and then take it up next Wednesday.

Mr. GARNER. I will say to the gentleman from Illinois [Mr. MANN] that I understand his anxiety and the anxiety of the other gentleman from Illinois [Mr. CANNON] with reference to this particular bill being gotten out of the way. I speak for myself. I am not in accord with that movement, and there are a number of others over here who are in the same attitude, and I think it is perfectly legitimate to ask, at least for the present, that all the rights of Members with respect to this bill may be preserved from the parliamentary standpoint in order that we may take advantage of it to fight a bill that is to come up later.

Mr. MANN. I do not blame the gentleman.

The SPEAKER. Of course, all this colloquy is proceeding by unanimous consent.

Mr. MANN. I think it will serve a useful purpose to spend all day next Wednesday in voting on this bill.

The SPEAKER. The gentleman from Texas [Mr. GARNER] demands a separate vote on each amendment, and the Clerk will report the first one.

Mr. CANNON. It may be necessary to get a quorum.

Mr. GARNER. If the gentleman from Illinois thinks it is necessary to get a quorum, he may make a point of order for that purpose.

Mr. MANN. I demand the regular order, Mr. Speaker.

The SPEAKER. The regular order is to vote on amendment No. 1, which the Clerk will report. But before that is done, the Chair would like to ask unanimous consent to——

Mr. MANN. Well, I will not give unanimous consent. I ask for the regular order.

The SPEAKER. The regular order is to vote on amendment No. 1, which the Clerk will report.

The Clerk read as follows:

On page 1, line 3, strike out "one-half" and insert the words "25 per cent of."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. GARNER. Mr. Speaker, to make a long story short, I make the point that there is no quorum present.

Mr. MANN. I thought we would force the gentleman to it.

The SPEAKER. The Speaker would like the gentleman from Texas [Mr. GARNER] to reserve that point of order until the Speaker can submit——

Mr. MANN. I shall demand the regular order. Mr. Speaker, and shall do so as long as the gentleman from Texas [Mr. GARNER] insists on his point of order.

Mr. GARNER. Mr. Speaker, I will withdraw my point of order for the present.

The SPEAKER. The gentleman from Texas [Mr. GARNER] reserves for the present his point of order that there is no quorum present.

Mr. MANN. Then I call for the regular order.

The SPEAKER. The regular order is demanded.

Mr. MANN. I call for the declaration of the result.

The SPEAKER. The declaration of the result was that the amendment is carried.

Mr. MANN. Then the next amendment will be the thing that is in order to be taken up.

The SPEAKER. The Chair understands that as well as the gentleman from Illinois. The Clerk will report amendment No. 2.

The Clerk read as follows:

On page 1, line 3, strike out the words "heretofore or."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken; and the Speaker announced that the "ayes" seemed to have it.

Mr. GARNER. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Texas makes the point of order that there is no quorum present, and the Chair will count. [After counting.] One hundred and fourteen gentlemen are present—not a quorum.

Mr. FOSTER. Mr. Speaker, I move a call of the House.

The SPEAKER. There is an automatic call of the House. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

Mr. SISSON. Mr. Speaker, I make the motion that the House do now adjourn.

The SPEAKER. The gentleman from Mississippi moves that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. SISSON) there were 56 ayes and 58 noes.

Mr. SISSON. Mr. Speaker, I demand tellers.

Mr. CANNON. We may as well have the yeas and nays, Mr. Speaker.

Mr. MANN. I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The question is on the motion of the gentleman from Mississippi that the House do now adjourn.

The question was taken; and there were—yeas 96, nays 88, answered "present" 9, not voting 190, as follows:

YEAS—96.

Adair	Cline	Francis	Konop
Aiken, S. C.	Collier	Garner	Korbly
Alexander	Cravens	Garrett	Lafean
Allen	Callop	Gill	Lamb
Barnhart	Davenport	Godwin, N. C.	Lee, Ga.
Bathrick	Dent	Goodwin, Ark.	Lee, Pa.
Bell, Ga.	Denver	Gregg, Tex.	Lewis
Blackmon	Dickinson	Hamlin	Linthicum
Boehne	Dickson, Miss.	Harrison, Miss.	Lloyd
Borland	Dies	Hay	Macon
Brown	Difenderfer	Hayden	Maguire, Nebr.
Buchanan	Dixon, Ind.	Helm	Mays
Byrnes, S. C.	Donohoe	Hensley	Moon, Tenn.
Byrns, Tenn.	Doughton	Jacoway	Moss, Ind.
Callaway	Driscoll, D. A.	James	Neeley
Candler	Edwards	Jones	O'Shaunessy
Cantrill	Ferris	Kinkead, N. J.	Page
Clapp	Fowler	Konig	Post
Raker	Russell	Taggart	Underwood
Ransdell, La.	Sherwood	Talcott, N. Y.	Whitacre
Ranch	Sisson	Thayer	White
Reilly	Smith, Tex.	Thomas	Wilson, Pa.
Roddenbery	Stedman	Tribble	Witherspoon
Rubey	Stephens, Miss.	Underhill	Young, Tex.

NAYS—88.

Ainey	Finley	Kent	Porter
Anderson	Fitzgerald	Kinkaid, Nebr.	Pray
Austin	Foster	Kopp	Rees
Berger	French	Lafferty	Roberts, Mass.
Bradley	Gallagher	La Follette	Roberts, Nev.
Bulkley	Gardner, Mass.	Lenroot	Rodenberg
Burke, S. Dak.	Gardner, N. J.	Lindbergh	Scott
Calder	Gray	Lobeck	Slayden
Campbell	Greene, Mass.	McKenzie	Sloan
Cannon	Griest	McKinney	Steenerson
Cary	Hamill	McLaughlin	Stephens, Cal.
Cooper	Hamilton, Mich.	Madden	Stone
Cox	Hamilton, W. Va.	Mann	Sweet
Currier	Haugen	Martin, S. Dak.	Switzer
Dalzell	Hawley	Miller	Taylor, Colo.
Danforth	Higgins	Mondell	Towner
Dodds	Howell	Moore, Pa.	Tuttle
Dwight	Howland	Morgan, Okla.	Vare
Dyer	Humphreys, Miss.	Murdock	Volstead
Esch	Jackson	Murray	Warburton
Evans	Kendall	Pickett	Willis
Faison	Kennedy	Plumley	Young, Mich.

ANSWERED "PRESENT"—9.

Andrus	Hull	Rainey	Talbott, Md.
Browning	Longworth	Stephens, Tex.	Watkins
Butler			

NOT VOTING—190.

Adamson	Focht	Lawrence	Reyburn
Akin, N. Y.	Fordney	Legare	Richardson
Ames	Forbes	Lever	Riordan
Ansberry	Fess	Levy	Rothermel
Anthony	Fuller	Lindsay	Rouse
Ashbrook	George	Littlepage	Rucker, Colo.
Ayres	Gillett	Littleton	Rucker, Mo.
Barchfeld	Glass	Loud	Sabath
Bartholdt	Goeke	McCall	Saunders
Bartlett	Goldfogle	McCoy	Scully
Bates	Good	McCreary	Sells
Beall, Tex.	Gould	McDermott	Shackleford
Booher	Graham	McGillicuddy	Sharp
Brantley	Green, Iowa	McGuire, Okla.	Sheppard
Broussard	Greene, Vt.	McKellar	Sherley
Burgess	Gregg, Pa.	McKinley	Simmons
Burke, Pa.	Guldger	McMorran	Sims
Burke, Wis.	Guernsey	Maher	Slemp
Burleson	Hammond	Martin, Colo.	Small
Burnett	Hardwick	Matthews	Smith, J. M. C.
Carlin	Hardy	Merritt	Smith, Saml. W.
Carter	Harris	Moon, Pa.	Smith, Cal.
Clark, Fla.	Harrison, N. Y.	Moore, Tex.	Smith, N. Y.
Clayton	Hart	Morgan, La.	Sparkman
Conry	Hartman	Morrison	Speer
Copley	Hayes	Morse, Wis.	Stack
Covington	Heald	Mott	Stanley
Crago	Hedin	Needham	Stephens, Nebr.
Crumpacker	Helgesen	Nelson	Sterling
Curley	Henry, Conn.	Norris	Stevens, Minn.
Curry	Henry, Tex.	Nye	Sulloway
Daugherty	Hill	Oldfield	Taylor, Ala.
Davidson	Hinds	Olmsted	Taylor, Ohio
Davis, Minn.	Hobson	Padgett	Thistlewood
Davis, W. Va.	Holland	Palmer	Tilson
De Forest	Houston	Parran	Townsend
Decrenus	Howard	Patten, N. Y.	Turnbull
Draper	Hughes, Ga.	Patton, Pa.	Vreeland
Driscoll, M. E.	Hughes, W. Va.	Payne	Webb
Dupré	Humphrey, Wash.	Pepper	Weeks
Elliott	Johnson, Ky.	Peters	Wilder
Estopinal	Johnson, S. C.	Pou	Wilson, Ill.
Fairchild	Kahn	Powers	Wilson, N. Y.
Farr	Kindred	Prince	Wood, N. J.
Ferguson	Kitchin	Prouty	Woods, Iowa
Fields	Knowland	Pujo	Young, Kans.
Flood, Va.	Langham	Randell, Tex.	
Floyd, Ark.	Langley	Redfield	

So the motion to adjourn was agreed to.

The following pairs were announced:

For the session:

Mr. PALMER with Mr. HILL.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. BARTLETT with Mr. BUTLER.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. BIORDAN with Mr. ANDRUS.

Until further notice:

Mr. FIELDS with Mr. LANGLEY.

Mr. BURGESS with Mr. MICHAEL E. DRISCOLL.

Mr. HULL with Mr. NEEDHAM.

Mr. PUJO with Mr. MCMORRAN.

Mr. CONRY with Mr. LANGHAM.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. GEORGE with Mr. SMITH of California.

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. SCULLY with Mr. BROWNING.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. GOULD with Mr. HINDS.

Mr. RAINEY with Mr. MCCALL.

Mr. KITCHIN with Mr. FORDNEY.

Mr. STEPHENS of Texas with Mr. AMES.

Mr. ANSBERRY with Mr. ANTHONY.

Mr. ASHBROOK with Mr. BARCHFELD.

Mr. BEALL of Texas with Mr. BARTHOLDT.

Mr. BOOHER with Mr. BURKE of Pennsylvania.

Mr. BRANTLEY with Mr. COPLEY.

Mr. BROUSSARD with Mr. CRAGO.

Mr. TURNBULL with Mr. CURRY.

Mr. BURLESON with Mr. CRUMPACKER.

Mr. BURNETT with Mr. DE FOREST.

Mr. CARLIN with Mr. DRAPER.

Mr. CLARK of Florida with Mr. FARR.

Mr. CLAYTON with Mr. FOCHT.

Mr. COVINGTON with Mr. FOSS.

Mr. CURLEY with Mr. FULLER.

Mr. DAVIS of West Virginia with Mr. GILLETT.

Mr. DOREMUS with Mr. GOOD.

Mr. DUPRÉ with Mr. GREENE of Vermont.

Mr. ESTOPINAL with Mr. GREEN of Iowa.

Mr. FERGUSSON with Mr. GUERNSEY.

Mr. FLOOD of Virginia with Mr. HARRIS.

Mr. FLOYD of Arkansas with Mr. HARTMAN.

Mr. FORNES with Mr. HAYES.

Mr. GLASS with Mr. HEALD.

Mr. GOLDFOGLE with Mr. HELGESEN.

Mr. GRAHAM with Mr. HENRY of Connecticut.

Mr. GUDGER with Mr. HUGHES of West Virginia.

Mr. HAMMOND with Mr. HUMPHREY of Washington.

Mr. HARDWICK with Mr. KAHN.

Mr. HARDY with Mr. KNOWLAND.

Mr. HEFLIN with Mr. LAWRENCE.

Mr. HENRY of Texas with Mr. LOUD.

Mr. HOLLAND with Mr. MCCREARY.

Mr. HUGHES of Georgia with Mr. MCKINLEY.

Mr. HOWARD with Mr. BATES.

Mr. JOHNSON of Kentucky with Mr. MATTHEWS.

Mr. JOHNSON of South Carolina with Mr. MERRITT.

Mr. KINDRED with Mr. MOTT.

Mr. LEVER with Mr. NELSON.

Mr. LITTLETON with Mr. NORRIS.

Mr. MCCOY with Mr. NYE.

Mr. MCDERMOTT with Mr. REYBURN.

Mr. MCGILLICUDDY with Mr. OLMSTED.

Mr. MORGAN of Louisiana with Mr. PATTON of Pennsylvania.

Mr. MORRISON with Mr. PROUTY.

Mr. OLDFIELD with Mr. SELLS.

Mr. PADGETT with Mr. SIMMONS.

Mr. PEPPER with Mr. SLEMP.

Mr. PETERS with Mr. J. M. C. SMITH.

Mr. POU with Mr. SAMUEL W. SMITH.

Mr. ROTHERMEL with Mr. POWERS.

Mr. ROUSE with Mr. SPEER.

Mr. RUCKER of Missouri with Mr. STERLING.

Mr. SABATH with Mr. SULLOWAY.

Mr. SAUNDERS with Mr. TAYLOR of Ohio.

Mr. SHARP with Mr. TILSON.

Mr. SHEPPARD with Mr. WEEKS.

Mr. SHERLEY with Mr. VREELAND.

Mr. SMALL with Mr. WILDER.

Mr. STANLEY with Mr. WILSON of Illinois.

Mr. WEBB with Mr. WOOD of New Jersey.

Mr. LEVY with Mr. YOUNG of Kansas.

Mr. GOEKE with Mr. WOODS of Iowa.

Mr. RICHARDSON with Mr. THISTLEWOOD (either to be released when the other would vote the same way).

For the balance of this day:

Mr. SIMS with Mr. DAVIS of Minnesota.

Until February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Mr. BROWNING. Mr. Speaker, I voted "no." I have a general pair with Mr. SCULLY, and I wish to withdraw my vote and answer "present."

Mr. TALBOTT of Maryland. Mr. Speaker, I would like to inquire if my colleague, Mr. PARRAN, voted?

The SPEAKER. He did not.

Mr. TALBOTT of Maryland. I wish to withdraw my vote of "aye" and answer "present."

Mr. RAINEY. Mr. Speaker, did the gentleman from Massachusetts, Mr. MCCALL, vote?

The SPEAKER. He did not.

Mr. RAINEY. I wish to withdraw my vote of "aye" and answer "present."

ADJOURNMENT.

The result of the vote was then announced as above recorded.

Accordingly the House (at 6 o'clock and 26 minutes p. m.) adjourned until to-morrow, Thursday, January 23, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Ashtabula Harbor, Ohio (H. Doc. No. 1295); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Shrewsbury River, N. J. (H. Doc. No. 1296); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Horse Shoe Lake, Miss. (H. Doc. No. 1297); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

4. A letter from the Secretary of the Interior, transmitting reports of the geographer in charge of the Rocky Mountain division of the United States Geological Survey and the consulting engineer on preliminary survey of the sewer system of Hot Springs, Ark. (H. Doc. No. 1298); to the Committee on Appropriations and ordered to be printed with illustrations.

5. A letter from the Secretary of the Interior, transmitting a joint report of the supervising engineer of the Reclamation Service and superintendent and supervising irrigation engineer of the Indian service on the condition of the Yakima Indian Reservation (H. Doc. No. 1299); to the Committee on Indian Affairs and ordered to be printed with illustrations.

6. A letter from the Acting Secretary of the Treasury, submitting a statement of traveling expenses incurred by officers and employees of the Treasury Department in connection with meetings and conventions of societies and associations from June 30 until December 1, 1912 (H. Doc. No. 1300); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. GARDNER of Massachusetts, from the Committee on the Library, to which was referred the bill (S. 745) providing for the erection of a statue to Thomas Jefferson at Washington, D. C., reported the same with amendment, accompanied by a report (No. 1366), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House as follows:

Mr. RICHARDSON, from the Committee on Pensions, to which was referred the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, reported the same with amendment, accompanied by a report (No. 1364), which said bill and report were referred to the Private Calendar.

Mr. RUSSELL, from the Committee on Invalid Pensions, to which was referred the bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, reported the same with amendment, accompanied by a report (No. 1365), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. GOLDFOGLE: A bill (H. R. 28354) to promote the interstate and foreign commerce of the United States, and provide for the relocation of the pierhead line in the Hudson River between pier 1 and West Thirtieth Street, in the Borough of

Manhattan, in the city of New York; to the Committee on Interstate and Foreign Commerce.

By Mr. HINDS: A bill (H. R. 28355) to acquire at Portland, Me., an immigrant station; to the Committee on Immigration and Naturalization.

By Mr. MOON of Tennessee: A bill (H. R. 28356) providing that the United States in certain cases shall aid States and local authorities in the construction and maintenance of post roads; to the Committee on the Post Office and Post Roads.

By Mr. HOBSON: A bill (H. R. 28357) to provide for the erection of a public building at Jasper, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. LEGARE: A bill (H. R. 28358) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C.; to the Committee on Interstate and Foreign Commerce.

By Mr. McMORRAN: A bill (H. R. 28359) to provide for the purchase of a site and the erection of a public building thereon at Bad Axe, in the State of Michigan; to the Committee on Public Buildings and Grounds.

By Mr. GOEKE: Resolution (H. Res. 784) authorizing the printing of 3,000 copies of Senate Document No. 987, Sixty-second Congress, third session; to the Committee on Printing.

By Mr. SLAYDEN: Resolution (H. Res. 785) to print 100,000 copies of an article entitled "Antityphoid vaccination in the Army and in civil life," by Maj. F. F. Russell, Medical Corps, United States Army; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANTHONY: A bill (H. R. 28360) granting an increase of pension to Georgiana Packard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28361) to place John Kiernan on the retired list of the United States Army; to the Committee on Military Affairs.

By Mr. AYRES: A bill (H. R. 28362) granting a pension to Ellen Louise Tripp; to the Committee on Pensions.

By Mr. BROWN: A bill (H. R. 28363) granting a pension to John B. Page; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 28364) for the relief of Oscar Frommel & Bro.; to the Committee on Claims.

By Mr. EDWARDS: A bill (H. R. 28365) granting a pension to W. J. Massey; to the Committee on Pensions.

Also, a bill (H. R. 28366) for the relief of the heirs of Asbury Hodges, deceased; to the Committee on War Claims.

Also, a bill (H. R. 28367) for the relief of the heirs of Samuel Way, deceased; to the Committee on War Claims.

By Mr. LEGARE: A bill (H. R. 28368) authorizing the Secretary of the Treasury to give to the city of Charleston the "Old Exchange" Building; to the Committee on Public Buildings and Grounds.

By Mr. LITTLEPAGE: A bill (H. R. 28369) granting an increase of pension to George G. Young; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28370) granting an increase of pension to Rebecca Wriston; to the Committee on Invalid Pensions.

By Mr. OLMSTED: A bill (H. R. 28371) granting an increase of pension to Alexander H. Mitchell; to the Committee on Invalid Pensions.

By Mr. RODENBERG: A bill (H. R. 28372) granting a pension to Phoebe Cosgriff; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 28373) granting an increase of pension to Benjamin F. Jay; to the Committee on Invalid Pensions.

By Mr. YOUNG of Kansas: A bill (H. R. 28374) granting an increase of pension to Daniel Baughman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28375) granting an increase of pension to John Maddy; to the Committee on Invalid Pensions.

By Mr. DICKINSON: A bill (H. R. 28376) granting an increase of pension to Daniel Palmer; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. CALDER: Petition of Mrs. C. K. Buckley, of Brooklyn, N. Y., favoring the passage of House bill 19115, making an appropriation for payment of certain claims in accordance with findings of the Court of Claims; to the Committee on War Claims.

Also, petition of the New York Leather Belting Co. and Hogan & Son, of New York City, favoring the passage of House bill 27567, for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of E. S. Cragin, of Brooklyn, N. Y., protesting against the passage of section 2 of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Peerless Laundry Co., of Cumberland, Md., favoring the passage of House bill 25685, for the labeling and tagging of all fabrics intended for sale which enter into interstate commerce; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Architectural League of New York, N. Y., favoring the adoption of the Mall site as approved by the National Commission of Fine Arts as a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. CARY: Petition of the United States Live Stock Sanitary Association, favoring the passage of legislation for the increase of the Federal appropriation for tick eradication; to the Committee on Agriculture.

Also, petition of the National Committee for the Celebration of the One Hundredth Anniversary of Peace among the English-speaking Peoples, favoring the passage of legislation to create a commission to represent the United States Government in the celebration of the Ghent treaty; to the Committee on Agriculture.

Also, petition of the German-American Peace Society of New York, protesting against the passage of House bill 8141, for placing the State militia on the national pay roll; to the Committee on Military Affairs.

Also, petition of the Milwaukee Reliance Boiler Works, favoring passage of House bill 27567, for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. DICKINSON: Papers to accompany bill (H. R. 27594) granting an increase of pension to Samuel J. Boyer; to the Committee on Invalid Pensions.

Also, papers to accompany bill (H. R. 27456) for the relief of James M. Mock; to the Committee on Military Affairs.

Also, papers to accompany bill (H. R. 22021) granting a pension to Martha J. Collier; to the Committee on Invalid Pensions.

By Mr. DRAPER: Petition of the American Group of the Société des Architects Diplômes par le Gouvernement Français, New York, favoring the adoption of the Mall site and design as approved by the National Commission of Fine Arts as a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. DYER: Petition of W. S. Eames, Theron E. Catlin, and Thomas K. Niedringhaus, St. Louis, Mo., favoring the adoption of the Mall site and the design as approved by the National Commission of Fine Arts for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Rev. M. D. Krupotic, Kansas City, Kans., favoring the plan of dealing with immigrants as proposed by Mr. DYER in his speech on the immigration bill; to the Committee on Immigration and Naturalization.

Also, petition of the manager of the southwestern branch of Corliss, Coon & Co., St. Louis, Mo., protesting against the reduction of tariff on collars and cuffs; to the Committee on Ways and Means.

Also, petition of the Roth Homeyer Coffee Co. and the Eddy & Eddy Manufacturing Co., St. Louis, Mo., protesting against the passage of legislation placing a duty on spices of any kind; to the Committee on Ways and Means.

By Mr. ESCH: Petition of the United States Live Stock Sanitary Association, Chicago, Ill., favoring the passage of legislation to increase the Federal appropriation for the eradication of the tick; to the Committee on Agriculture.

By Mr. HAYES: Petition of Charles D. Blaney, Saratoga, Cal., protesting against the passage of the Oldfield patent bill for the regulation of patents; to the Committee on Patents.

Also, petition of the Humboldt County Dairy Association, Ferndale, Cal., favoring the passage of the Haugen bill preventing the sale of butter substitutes colored in the imitation of butter; to the Committee on Agriculture.

Also, petition of the Southern California Wholesale Grocers' Association, protesting against the passage of legislation for the reduction in tariff on sugar; to the Committee on Ways and Means.

Also, petition of E. Myron Wolf, San Francisco, Cal., favoring passage of House bill 27419, for reimbursement of the Virginia Military Institute for damages sustained during the Civil War; to the Committee on War Claims.

By Mr. HENRY of Connecticut: Petition of the Connecticut State Grange, protesting against the repeal of the present oleomargarine law; to the Committee on Agriculture.

By Mr. KENNEDY: Petition of the employees of the S. R. & I. C. McConnell Co., of Burlington, Iowa, wholesale saddlery manufacturers, protesting against the passage of House bills 27569 and 27576, for reduction of tariff relating to the saddlery business; to the Committee on Ways and Means.

By Mr. LEVY: Petitions of the New York Leather Belting Co., New York; Schoverling, Daly & Gales, New York; American Laundry Machinery Co., Rochester, N. Y.; R. E. Dietz Co., New York City; Crockery Board of Trade of New York, New York City; Wood & Selleck, New York City; Reliance Ball-Bearing Door Hanger Co., New York City, favoring passage of House bill 27567, for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of Judson G. Wall, New York, favoring the passage of Senate bill 3, for Federal aid for the promotion of vocational education; to the Committee on Agriculture.

Also, petition of the Navy League of the United States, Washington, D. C., favoring the passage of House bill 1309, for appointing a council of national defense; to the Committee on Naval Affairs.

By Mr. LINDSAY. Petition of C. H. Caldwell and the American Group of the Société des Architects Diplômes par le Gouvernement Français, New York, favoring the adoption of the site and design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Duchess Manufacturing Co., Poughkeepsie, N. Y., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of John W. Davis, Birdsboro, Pa.; C. M. Perrigs, Dryden, N. J.; and George Shango, Wesley, Pa., favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. REILLY: Petition of the Connecticut State Grange, New London, Conn., protesting against any change in the present oleomargarine law; to the Committee on Agriculture.

By Mr. SCULLY: Petition of the general executive committee of the Railway Business Men's Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Industrial Exposition of the Industries of Union County, Elizabeth, N. J., favoring the passage of Senate bill 3, for Federal aid for industrial education; to the Committee on Agriculture.

By Mr. SIMS: Petition of the women of Sandy Springs, Md., favoring the adoption of the proposed boulevard from Washington to Gettysburg as a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. WILLIS: Papers to accompany bill (H. R. 26453) granting an increase of pension to Helen G. Davis; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: Petition of the German-American Peace Society, New York, protesting against the passage of House bill 8141, for placing the State militia on the national pay roll; to the Committee on Military Affairs.

Also, petition of the Eberhard-Faber Pencil Co. Employees' Aid Society, Greenpoint, Brooklyn, protesting against the reduction of tariff on lead pencils and leads; to the Committee on Ways and Means.

Also, petition of Illinois Chapter, American Institute of Architects, favoring the Mall site as approved by the National Commission of Fine Arts, but protesting against the proposed design for the memorial to Abraham Lincoln; to the Committee on the Library.

SENATE.

THURSDAY, *January 23, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

INDIAN APPROPRIATION BILL.

The PRESIDENT pro tempore (Mr. GALLINGER). The Chair lays before the Senate a communication from the House of Representatives, which will be read.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES,
January 22, 1913.

Ordered, That a message be sent to the Senate, notifying that body that an error has been made in the engrossment of the bill H. R. 26874, entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914," approved January 9, 1913, as sent from this House to the Senate, which error consists in incorporating in said engrossed bill a section thereof, on page 24, lines 7 to 15, inclusive, as follows:

"The sum of $300,000 to be expended in the discretion of the Secretary of the Interior, under rules and regulations to be prescribed by him, in aid of the common schools in the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations in Oklahoma, during the fiscal year ending June 30, 1914: *Provided*, That this appropriation shall not be subject to the limitation in section 1 of this act limiting the expenditure of money to educate children of less than one-fourth Indian blood."

Said section having been stricken from the original bill by this House previous to the passage of the bill; and that the Senate be requested to permit the Clerk to correct said error.

The PRESIDENT pro tempore. The usual procedure in such cases has been the passage of a concurrent resolution instructing the Clerk to make changes of this kind. In view of the fact that this matter comes in an unusual form, the Chair will take the liberty of referring it to the Committee on Indian Affairs for their consideration.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a memorial adopted by the Eistophos Science Club, of Washington, D. C., remonstrating against transferring the control of the natural resources of the country to the several States, which was referred to the Committee on Conservation of National Resources.

Mr. PENROSE presented a petition of Washington Camp, No. 568, Patriotic Order Sons of America, of Ansiomink, Pa., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. BRANDEGEE presented a memorial of the State Grange, Patrons of Husbandry, of Connecticut, remonstrating against the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the State Board of Agriculture of Connecticut, praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

Mr. JONES presented resolutions adopted by members of the Commercial Club, of Hoquiam, Wash., favoring the extension of the north jetty of Grays Harbor, in that State, which were referred to the Committee on Commerce.

Mr. McLEAN presented a petition of sundry citizens of New Haven, Conn., praying the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. TOWNSEND presented petitions of the congregations of the Seventh-day Adventist Churches of Cedar Lake, Bauer, Petoskey, and Memphis, all in the State of Michigan, remonstrating against compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. BURTON presented a petition of Local Branch, Boy Scouts of America, of Ada, Ohio, praying for the enactment of legislation for the protection of migratory birds, which was ordered to lie on the table.

Mr. PAGE presented a petition of the congregation of the Methodist Episcopal Church of St. Johnsbury Center, Vt., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. ROOT presented petitions of sundry citizens of Bainbridge, N. Y., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. LIPPITT. I present a memorial from members of the Society of St. Volodymyr, of Woonsocket, R. I., remonstrating against the adoption of the illiteracy test clause in the pending immigration bill. I ask that the memorial lie on the table and be printed in the RECORD.

There being no objection, the memorial was ordered to lie on the table and to be printed in the RECORD, as follows:

(Saporozska Slcz of St. Volodymyr, Woonsocket, R. I. Incorporated May 3, 1911.)

WOONSOCKET, R. I., *January 20, 1913.*

To the Senate of the United States:

GENTLEMEN: It has been a painful surprise to us to see the House pass the Burnett bill, providing for a literary test. This test, as is well known, does not aim at selection but merely at the cutting of numbers. It is a move against present immigration which we very earnestly regret. It is a departure from our traditions and the principle that has guided us in the past, through the means of which our country stands preeminent as the land of equal opportunity. It overlooks also the need of the country for a continuous fresh supply of labor. We can only hope now that the Senate will not join the House in its decision, but will come to a better understanding as to the wishes of the majority of the American people and the best interests of the country.

REPORTS OF COMMITTEES.

Mr. OLIVER, from the Committee on Claims, to which was referred the bill (H. R. 8861) for the relief of the legal representatives of Samuel Schiffer, reported it without amendment and submitted a report (No. 1137) thereon.

Mr. JONES, from the Committee on Military Affairs, to which was referred the bill (S. 2492) to place William F. Greeley on the retired list of the Army, reported adversely (S. Rept. 1138) thereon and the bill was postponed indefinitely.

Mr. BURTON, from the Committee on Commerce, to which was referred the bill (H. R. 26549) to provide for the construction or purchase of motor boat for customs service, reported it without amendment and submitted a report (No. 1139) thereon.

Mr. BRADLEY, from the Committee on Post Offices and Post Roads, to which was referred the bill (S. 7488) for the relief of George L. Thomas, reported it without amendment and submitted a report (No. 1140) thereon.

Mr. DU PONT, from the Committee on Military Affairs, to which was referred a memorial submitted by Mr. TOWNSEND (for Mr. SMITH of Michigan) on the 10th instant, remonstrating against the passage of the so-called Swanson bill for the relief of certain Confederate officers, asked to be discharged from its further consideration and that it be referred to the Committee on Claims, which was agreed to.

PUBLIC BUILDING AT GREENVILLE, ALA.

Mr. CULBERSON. From the Committee on Public Buildings and Grounds I report back favorably, with amendments, the bill (S. 7522) for the erection of a public building at the city of Greenville, Ala., and I call the attention of the Senator from Alabama [Mr. JOHNSTON] to it.

Mr. JOHNSTON of Alabama. I ask unanimous consent for the present consideration of the bill just reported by the Senator from Texas.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendments were, on page 1, line 4, after the words "directed to," to strike out "contract for the erection and completion" and insert the words "acquire by condemnation or otherwise a suitable site and to cause to be erected thereon"; on the same page, line 9, before the word "building," to insert the words "site and"; and, in lines 10, 11, and 12, to strike out the words "which said sum is hereby appropriated for said building out of any money in the Treasury not otherwise appropriated," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire by condemnation or otherwise a suitable site and to cause to be erected thereon in the city of Greenville, Ala., a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, complete, for the use and accommodation of the United States post office and other Government offices, the cost of said site and building not to exceed the sum of $75,000.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the purchase of a site and the erection of a public building at the city of Greenville, Ala."

FIFTH REGIMENT MARYLAND NATIONAL GUARD.

Mr. SMITH of Maryland. From the Committee on the District of Columbia I report favorably, with an amendment, the joint resolution (S. J. Res. 153) granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia, and I submit a report (No. 1135) thereon. I ask unanimous consent for the present consideration of the joint resolution.

The amendment was, in line 8, after the date "March fourth" to insert "nineteen hundred and thirteen," so as to make the joint resolution read:

Resolved, etc., That the marshal of the District of Columbia be, and he is hereby, authorized to permit the Fifth Regiment Maryland National Guard to occupy and use the corridors of the courthouse of the District of Columbia from 6 o'clock in the evening of March 3 to 7 o'clock in the evening of March 4, 1913, upon such terms and conditions as the marshal of the District of Columbia shall impose upon the colonel of the Fifth Regiment Maryland National Guard.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

LOAN OF TENTS.

Mr. JOHNSTON of Alabama. From the Committee on Military Affairs I report back favorably with an amendment the joint resolution (S. J. Res. 143) authorizing the Secretary of War to loan certain tents for use at the meeting of the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine to be held at Dallas, Tex., in May, 1913, and I submit a report (No. 1136) thereon.

Mr. CULBERSON. I ask for the present consideration of the joint resolution.

Mr. CLARKE of Arkansas. I am not going to object to its present consideration, but I am going to ask if there is any precedent for such action. I thought we carried the business pretty far when we began to lend tents for veterans' reunions.

Mr. JOHNSTON of Alabama. I wish to say that there are a number of precedents.

Mr. CULBERSON. There are a number of precedents.

Mr. JOHNSTON of Alabama. The committee have reported an amendment to the joint resolution providing that in future there shall be no loan of tents except to the Grand Army of the Republic and the Confederate Veterans' Association unless in a case of grave emergency.

Mr. CLARKE of Arkansas. Leave out the grave emergency business and it is all right, because every emergency will be a grave one when they want to get something out of the Government. I have no objection to loaning tents to veterans of the late war, but I am going to oppose any movement to commit the Government to contributing to every meeting that may be held.

I have not any prejudice against these particular people. The fact of the business is, I am a member of that organization. I am not going to object to the consideration of the joint resolution, but when it comes up for consideration I should like to hear what is to be said in its favor.

The PRESIDENT pro tempore. The joint resolution will first be read.

The Secretary read the joint resolution, as follows:

Resolved, etc., That the Secretary of War be, and he is hereby, authorized to loan, at his discretion, to the executive committee of Hella Temple of the Ancient Arabic Order of the Nobles of the Mystic Shrine, at Dallas, Tex., having in charge the arrangements for the meeting of the imperial council of said order, to be held in Dallas, Tex., in May, 1913, such tents, with necessary flies, poles, ridges, and pins for each, as may be required at said meeting: *Provided*, That no expense shall be caused the United States Government by the delivery and return of such property, the same to be delivered to said executive committee of Hella Temple at such time prior to the date of such meeting as may be agreed upon by the Secretary of War and Mike H. Thomas, chairman of said executive committee: *Provided further*, That the Secretary of War shall, before delivering such property, take from said Mike H. Thomas a good and sufficient bond for the safe return of said property in good order and condition, the whole transaction to be without expense to the Government of the United States.

Mr. SANDERS. I merely wish to say for the information of the senior Senator from Arkansas that the emergency clause was put in the joint resolution for the purpose of taking care of people in times of flood along the Mississippi River, in the State of Arkansas and other States.

Mr. CLARKE of Arkansas. That bears no analogy to this. This is an appeal to the charitable instincts of Congress. It is an appeal by well-to-do people who want to have a frolic.

I think the business of supplying rations and tents on the Mississippi River has been overworked. It ought to be stopped or it ought to be investigated and its effect limited to actual necessities that could not otherwise be provided against. There is no possible analogy between that case and this one. The business of issuing tents and rations during the prevalence of overflows on the Mississippi River has become an absolute abuse. It ought to be looked into more closely than it is, and wherever it is necessary it ought to be limited to cases of necessity.

It is not a fact that that is a poverty-stricken land. It is an exceedingly prosperous one under normal conditions, and the people are generally able to withstand somewhat the effects of a single overflow, unless it is one of the unprecedented overflows like that which happened during the last season. Even in that case there were demands made here which Senators from that section of the country refused to communicate to Congress.

I have grown somewhat tired of it, and when the subject comes up again for consideration I take it for granted that some of us will have sufficient independence to ask even that that matter be scrutinized with a view of limiting it to actual necessities, and not make it an investment for people who can capitalize an outcry when calamities come upon them. The whole business has been abused. This thing is a farce. There is no reason why every particular organization that wants to have an outing or a display should come to the Congress of the

United States and demand that a part of the expense of it should be borne by the public.

If we purchase immunity from similar requests in the future by passing this particular joint resolution, it is a very good investment for us to make, but I would leave out the qualification that it should only be approved in the case of extraordinary necessity. I forget the language indicated by the Senator from Alabama, but there will always be an extraordinary emergency whenever they want to get into the Treasury. Leaving out that qualification—and I ask the Secretary to read the qualification so that I may move to strike it out—so far as I am concerned, I am willing to vote for this particular joint resolution, with the understanding that we have done something, at least, to disclose the displeasure of Congress at such utterly foolish expenditures of public moneys.

The PRESIDENT pro tempore. The Chair will suggest to the Senator that the proviso is an amendment proposed by the committee; it is not in the original joint resolution.

Mr. CLARKE of Arkansas. I want to amend the amendment when we reach that point.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. The Committee on Military Affairs propose to amend the joint resolution by adding, on page 2, line 9, after the words "United States" and before the period, the following proviso:

Provided further, That hereafter no loan of tents shall be made except to the Grand Army of the Republic and the Confederate Veterans' Association or when some grave and serious emergency exists.

Mr. CLARKE of Arkansas. I move to strike out the words "or when some grave and serious emergency exists."

The PRESIDENT pro tempore. The Chair will first——

Mr. CULBERSON. Mr. President——

The PRESIDENT pro tempore. The Chair will first inquire if there is objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Arkansas [Mr. CLARKE] to the amendment reported by the committee. The Senator from Texas.

Mr. CULBERSON. Mr. President, I want to say a word in reference to this joint resolution. The statement that this will be an expense to the United States is a mistake. The United States are protected by a bond to be approved by the Secretary of War against all damage to the tents which may be loaned. The Government is held harmless against the expenditure of any money at all by this bond.

So far as the precedents are concerned, there are a number of them outside of the Confederate veterans and the Grand Army of the Republic, some of which I will note:

Joint resolution of May 14, 1908, authorizing the loan of tents to the Benevolent and Protective Order of Elks for their national convention at Dallas, Tex.

Joint resolution of June 25, 1910, authorizing loan of tents to the Elks for their national convention at Detroit, Mich.

Joint resolution of June 25, 1910, authorizing loan of tents to the Appalachian Exposition at Knoxville, Tenn.

Joint resolution of January 27, 1909, authorizing loan of tents to the inaugural committee, Washington, D. C.

Joint resolution of February 17, 1909, authorizing loan of tents to the International American Gymnastic Union, for their celebration at Cincinnati, Ohio.

These precedents show that there have been numberless cases in which the tents of the United States have been loaned to civic associations, such as the Shrine, which is covered by the joint resolution now under consideration. Therefore, I say, in the first place, it is not unprecedented, and, in the next place, it will cost the Government of the United States comparatively nothing, if indeed anything at all. I hope the joint resolution will pass.

Mr. CLARKE of Arkansas. Mr. President, I was not aware that the abuse had proceeded to the extent that seems to be indicated by the list of instances read by the Senator from Texas. I thought it was merely in its infancy. It seems to be an old offender. That formidable array of instances collected by the Senator from Texas seems to have impressed the committee only in one way, and that was that the business ought to be stopped, and that in order to stop it it is only willing that it might be exercised one more time. I am going to accept the judgment of the committee on that; but I want to eliminate the clause that seems to be a standing invitation to bring subsequent applications within a certain saving clause. I am perfectly willing to permit this joint resolution to go through at this time, but my reason for doing so is not the merit of the application, but because it affords an opportunity to permit Congress to express itself in opposition to the entire business. I think, therefore, that we ought to make an express, unconditional notification to all such organizations that we have done with that business; and we shall do that when we strike out that saving clause and permit the joint resolution to go through as a mere permission to this particular organization. That is my position about it.

Mr. SUTHERLAND. Let the committee amendment be again reported.

The PRESIDENT pro tempore. The amendment will be again read.

The SECRETARY. The committee proposes to add to the joint resolution the following proviso:

Provided further, That hereafter no loan of tents shall be made except to the Grand Army of the Republic and the Confederate Veterans' Association, or when some grave and serious emergency exists.

Mr. SUTHERLAND. Mr. President, I do not object to the consideration of the joint resolution at this time, but I intend to vote against it. The proposed amendment, in the form of a proviso, is itself a confession that the joint resolution is absolutely wrong, as I think it is. We are here in a representative capacity; we have a right to be generous with our own property, to give it away if we please, and let other people use it if we please; but we have no business to be generous with the property of the United States. The loaning of these tents for this purpose is bound to be of expense to the Government. The wear and tear upon them nobody can foresee. They are subject to damage by the elements, by becoming wet and dirty; and nobody can tell how much damage, that can not be estimated and can not be recovered under this bond, will be caused to the Government of the United States. I think it has been a thoroughly bad practice in the past, and if we are going to stop it at all we ought to stop it now.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Arkansas [Mr. CLARKE] to the amendment of the committee, which will be stated.

The SECRETARY. It is proposed to strike out from the proviso the words "or when some grave and serious emergency exists."

Mr. BRANDEGEE. Mr. President, I want to ask the Senator from Arkansas, who proposed the amendment to the amendment, why is it necessary to foreclose ourselves against loaning tents if there should really be a grave and serious emergency?

Mr. CLARKE of Arkansas. We can not foreclose ourselves from doing anything that a subsequent Congress might see proper to do on this particular question.

Mr. BRANDEGEE. Well, then, what is the use of the amendment at all?

Mr. CLARKE of Arkansas. As the language now is, it is a standing intimation that if they make their claim loud enough and wide enough it will come within some exception. My purpose is to utilize this occasion as a notification to all similar organizations that we have done with this business.

Mr. BRANDEGEE. I am in sympathy with the Senator in that respect, and I am not sure that I shall vote for the joint resolution anyway; but if we are to loan tents to the two organizations mentioned in the amendment it seems to me that there is no reason for saying we would not, if a grave emergency should arise, loan tents, for instance, to the Red Cross or some institution that was engaged in alleviating distress.

Mr. CLARKE of Arkansas. Mr. President, the Senator quite misapprehends my purpose if he thinks I intend to incorporate into the joint resolution affirmative language to the effect that we will not hereafter do this. I want to consider each application on its own merits, without being bound in advance to treat it in any particular way. I think that each application should be considered on its own merits. That certainly ought to apply to a case of emergency and distress. I am not seeking to put into this joint resolution a statement that hereafter we never will do anything of the kind, but I want to exclude from it an intimation that "we will do it if you can make your clamor loud enough."

Mr. BRANDEGEE. I think the debate which has taken place is sufficient notice for the future without the amendment.

Mr. CLARKE of Arkansas. I think it would be better to have it in specific terms.

Mr. CULBERSON. Mr. President, in answer to the suggestion of the Senator from Utah [Mr. SUTHERLAND], I want to invite his attention to the second proviso of the joint resolution:

Provided, further, That the Secretary of War shall, before delivering such property, take from said Mike H. Thomas a good and sufficient bond for the safe return of said property in good order and condition.

Showing that the bond covers even the wear and tear of the tents.

Mr. JOHNSTON of Alabama. Mr. President, I desire to say that the committee adopted the amendment for the purpose of giving notice at this time to all organizations that hereafter the intention of the Senate is not to grant the loan of tents except to the Grand Army of the Republic and the Confederate Veterans' Association, in order to cut off, so far as we can, requests that we may hereafter have.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Arkansas [Mr. CLARKE] to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, and read the third time.

Mr. BRANDEGEE. Let us have a yea-and-nay vote on the passage of the joint resolution.

The PRESIDENT pro tempore. The question is, Shall the joint resolution pass?

Mr. ROOT. I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. RICHARDSON (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH], and therefore withhold my vote.

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. I will transfer that pair to the Senator from Virginia [Mr. MARTIN] and vote. I vote "yea."

Mr. KERN (when the name of Mr. SMITH of South Carolina was called). I make the announcement for the day that the junior Senator from South Carolina [Mr. SMITH] is detained from the Senate on account of illness in his family.

The roll call was concluded.

Mr. LODGE. I notice that the junior Senator from Georgia [Mr. SMITH], with whom I have a pair, did not vote. I transfer that pair to the Senator from New Mexico [Mr. FALL], and will allow my vote in the negative to stand.

Mr. LIPPITT. I transfer my pair with the senior Senator from Tennessee [Mr. LEA] to the junior Senator from Nevada [Mr. MASSEY] and will vote. I vote "nay."

Mr. SHIVELY. I desire to announce that both the senior Senator from Georgia [Mr. BACON] and the junior Senator from Georgia [Mr. SMITH] are absent on account of illness.

Mr. THORNTON. I wish to announce the necessary absence from the Chamber of my colleague [Mr. FOSTER] on account of illness in his family.

Mr. SWANSON. I desire to announce that my colleague [Mr. MARTIN of Virginia] is unavoidably detained from the Senate. I make that announcement for the day.

Mr. CHILTON. I desire to make the announcement as to my colleague [Mr. WATSON] that he is unavoidably absent and is paired with the Senator from New Jersey [Mr. BRIGGS].

Mr. STONE. I desire to announce that my colleague [Mr. REED] is unavoidably absent. I make this announcemnt for the day.

Mr. JOHNSON of Maine. I wish to announce that my colleague [Mr. GARDNER] is necessarily detained from the Chamber upon important public business.

The result was announced—yeas 45, nays 22—as follows:

YEAS—45.

Ashurst	Fletcher	Newlands	Smoot
Bankhead	Gallinger	O'German	Stephenson
Bourne	Gronna	Overman	Stone
Bradley	Hitchcock	Paynter	Swanson
Brown	Jackson	Percy	Thomas
Bryan	Johnson, Me.	Perkins	Thornton
Catron	Johnston, Ala.	Pomerene	Tillman
Chilton	Jones	Shively	Townsend
Clark, Wyo.	Kern	Simmons	Williams
Clarke, Ark.	McLean	Smith, Ariz.	
Culberson	Martine, N. J.	Smith, Md.	
du Pont	Myers	Smith, Mich.	

NAYS—22.

Brandegee	Cummins	La Follette	Poindexter
Briggs	Dillingham	Lippitt	Root
Burnham	Dixon	Lodge	Sanders
Burton	Gamble	Nelson	Sutherland
Crawford	Guggenheim	Oliver	
Cullom	Heyburn	Page	

NOT VOTING—28.

Bacon	Fall	McCumber	Richardson
Borah	Foster	Martin, Va.	Smith, Ga.
Briggs	Gardner	Massey	Smith, S. C.
Chamberlain	Gore	Owen	Warren
Clapp	Johnston, Tex.	Penrose	Watson
Crane	Kenyon	Perky	Wetmore
Curtis	Lea	Reed	Works

So the joint resolution was passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PENROSE:

A bill (S. 8245) granting an annuity of $100 to officers and enlisted men of the United States Army, Navy, and Marine Corps who have been awarded medals of honor for gallantry in active and other soldier-like qualities under acts of Congress, and authorizing the President of the United States to make rules and regulations for carrying the act into effect; to the Committee on Military Affairs.

By Mr. JONES:

A bill (S. 8246) forbidding the use of spurious currency, and for other purposes; to the Committee on Finance.

By Mr. CLARK of Wyoming:

A bill (S. 8247) authorizing the Northern Arapahoe Tribe of Indians residing on the Wind River Reservation in Wyoming to submit claims to the Court of Claims; to the Committee on Indian Affairs.

By Mr. NELSON:

A bill (S. 8248) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

A bill (S. 8249) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

A bill (S. 8250) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.; and

A bill (S. 8251) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.; to the Committee on Commerce.

By Mr. TILLMAN:

A bill (S. 8252) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C.; to the Committee on Commerce.

By Mr. BURTON:

A bill (S. 8253) granting a pension to Ellen C. Beam (with accompanying paper); to the Committee on Pensions.

By Mr. GUGGENHEIM:

A bill (S. 8254) granting a pension to Henry C. Doll; and

A bill (S. 8255) granting an increase of pension to Daniel Cressman (with accompanying papers); to the Committee on Pensions.

A bill (S. 8256) for the relief of Amos Abbott; to the Committee on Military Affairs.

By Mr. O'GORMAN:

A bill (S. 8257) granting a pension to Judson P. Adams (with accompanying paper); to the Committee on Pensions.

By Mr. CURTIS:

A bill (S. 8258) granting an increase of pension to John W. Shults; to the Committee on Pensions.

By Mr. McCUMBER:

A bill (S. 8259) to provide for the retirement and longevity pay for certain medical officers of the Army; to the Committee on Military Affairs.

By Mr. BOURNE:

A bill (S. 8260) granting an increase of pension to Horace M. Patton (with accompanying papers); to the Committee on Pensions.

RETIREMENT OF CIVIL SERVICE EMPLOYEES.

Mr. PENROSE submitted an amendment intended to be proposed by him to the bill (S. 7887) to provide for the retirement of employees in the civil service, which was referred to the Committee on Civil Service and Retrenchment and ordered to be printed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. LODGE submitted an amendment proposing to appropriate $85,500 for improving the harbor at Plymouth, Mass., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $200,000 for continuing the work upon the substructure of the breakwater at Sandy Bay Harbor of Refuge, Mass., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. CULBERSON submitted an amendment proposing to increase the appropriation for regular supplies, Quartermaster Corps, from $7,634,553 to $7,660,153, and appropriating therefrom $25,600 to provide a necessary heating apparatus in any building which may be constructed in connection with Fort Bliss, Tex., etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

He also submitted an amendment proposing to increase the appropriation for water and sewers at military posts from $1,519,290 to $1,539,910, and appropriating therefrom $20,620 to be used to provide the necessary water and sewer systems in any building which may be constructed in connection with Fort Bliss, Tex., etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

He also submitted an amendment proposing to increase the appropriation for barracks and quarters from $1,847,500 to $2,133,680, and appropriating therefrom $354,180 to be used to construct officers' quarters, barracks, stables, sheds, and other necessary buildings at Fort Bliss, Tex., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. GORE submitted an amendment proposing to appropriate $300,000 in aid of the common schools in the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations in Oklahoma during the fiscal year ending June 30, 1914, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $3,000 to reimburse the estate of George W. Dant for losses and expenses incurred growing out of the Ford's Theater disaster, June 9, 1893, etc., intended to be proposed by him to the general deficiency appropriation bill, which was ordered to be printed and, with the accompanying papers, referred to the Committee on Appropriations.

He also submitted an amendment proposing to appropriate $200,000 for cooperation with any State or group of States in the protection from fire of the forested watersheds of navigable streams under the provisions of section 2 of the act of March 1, 1911, etc., intended to be proposed by him to the Agriculture appropriation bill, which was ordered to be printed and, with the accompanying papers, referred to the Committee on Agriculture and Forestry.

CAROLINE O. BALLARD.

Mr. PENROSE submitted the following resolution (S. Res. 439), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay, out of the contingent fund of the Senate, to Caroline O. Ballard, widow of William S. Ballard, late a messenger of the Senate, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

IMPEACHMENT OF ROBERT W. ARCHBALD.

Mr. CLARK of Wyoming. I submit a concurrent resolution, which I ask may be read and referred to the Committee on Printing.

The concurrent resolution (S. Con. Res. 36) was read and referred to the Committee on Printing, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound 10,000 copies of the proceedings in the Senate of the United States, and in the House of Representatives, and before the Judiciary Committee thereof, in the matter of the impeachment of Robert W. Archbald, additional circuit judge of the United States for the third judicial circuit, and designated a judge of the Commerce Court, of which 4,000 shall be for the use of the Senate and 6,000 for the use of the House of Representatives.

INCREASE OF PENSIONS.

Mr. POINDEXTER. I ask the Chair to lay before the Senate the action of the House of Representatives on House bill 14053.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendment of the Senate to the bill (H. R. 14053) to increase the pension of surviving soldiers of the Indan wars in certain cases, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. POINDEXTER. I move that the Senate insist upon its amendments and agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. McCUMBER, Mr. POINDEXTER, and Mr. GORE conferees on the part of the Senate.

COOPER RIVER (S. C.) BRIDGE, ETC.

Mr. TILLMAN. A few days ago, at my request, the vote by which the bill (S. 7792) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C., was passed was reconsidered, and it is now on the calendar. I wish to have the bill recommitted to the Committee on Commerce.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the bill is recommitted to the Committee on Commerce.

HOUSE BILL REFERRED.

H. R. 27941. An act making appropriations for the support of the Army for the fiscal year ending June 30, 1914, was read twice by its title and referred to the Committee on Military Affairs.

MEMORIAL ADDRESSES ON THE LATE SENATOR ISIDOR RAYNER.

Mr. SMITH of Maryland. I desire to give notice that on Saturday, February 15, 1913, I will ask that the business of the Senate may be suspended in order that fitting tribute may be paid to the memory of my late colleague, Hon. ISIDOR RAYNER.

Mr. CUMMINS. I desire to suggest to the Senator from Maryland that the 15th day of February has been designated for the exercises commemorative of the life and public services of the late Vice President, Mr. SHERMAN.

Mr. SMITH of Maryland. I presume both exercises could be held on that day.

Mr. ROOT. I am afraid they would be inconsistent, Mr. President.

Mr. CUMMINS. The resolution has not yet been adopted, but it is in the hands of the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. SMITH of Maryland. Then, I will ask that the 22d of February be set apart for the purpose I have indicated, after the usual Washington's Birthday exercises.

Mr. SMOOT. I will call the Senator's attention to the fact that the Senator from Rhode Island [Mr. WETMORE] has already given notice for memorial exercises on February 22. That date will be perfectly satisfactory, however, because there is only one memorial service set for that day.

Mr. SMITH of Maryland. Then, I will ask that the date fixed in my notice be changed to the 22d.

The PRESIDENT pro tempore. In the absence of objection, that order will be made.

THE CALENDAR.

The PRESIDENT pro tempore. Is there further morning business? If not, the morning business is closed.

Mr. SMOOT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of bills on the calendar under Rule VIII to which there is no objection.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Utah? The Chair hears none. The Secretary will state the first bill on the calendar.

The bill (S. 2493) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri was announced as next in order.

Mr. SMOOT. I ask that the bill go over. Mr. President.

The PRESIDENT pro tempore. The bill will go over, under objection.

The bill (S. 1505) for the relief of certain officers on the retired list of the United States Navy was announced as next in order.

Mr. BRISTOW. Let that go over, Mr. President.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 2151) to authorize the Secretary of the Treasury to use at his discretion surplus moneys in the Treasury in the purchase or redemption of the outstanding interest-bearing obligations of the United States was announced as next in order.

Mr. SMOOT. Mr. President, the Senator from Georgia [Mr. SMITH] desires to be here when that bill is under consideration. He is not now present. I ask that the bill go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 256) affecting the sale and disposal of public or Indian lands in town sites, and for other purposes, was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 3) to cooperate with the States in encouraging instruction in agriculture, the trades and industries, and home economics in secondary schools; in maintaining instruction in these vocational subjects in State normal schools; in maintaining extension departments in State colleges of agriculture and mechanic arts; and to appropriate money and regulate its expenditure, was announced as next in order.

Mr. PAGE. I ask that the bill may go over.

The PRESIDENT pro tempore. The bill will be passed over.

FORESTRY INSTRUCTION.

The bill (S. 5076) to promote instruction in forestry in States and Territories which contain national forests was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment, in section 2, page 2, line 16, after the word "instruction," to strike out "offered to forest rangers" and insert "in forestry offered," so as to make the section read:

SEC. 2. That when any State or Territory which contains national forests shall provide instruction in forestry at the State university or other educational institution maintained by the State or Territory, which, in the judgment of the Secretary of Agriculture, is adapted to the training of forest rangers employed or to be employed in the protection and administration of the national forests, the Secretary of the Treasury shall pay to the State or Territory for the benefit of such institution, designated by the Secretary of Agriculture, from the moneys made available by this act, to be expended during the fiscal year for which said allotment is made, such sum as in the judgment of the Secretary of Agriculture will adequately assist the State or Territory in the instruction in forestry offered at such institution: *Provided*, That only one institution may receive benefits under this act in any State or Territory during any one fiscal year, and the amount paid to any State or Territory during any one fiscal year shall not exceed $7,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 2234) to provide for a primary nominating election in the District of Columbia, at which the qualified electors of the said District shall have the opportunity to vote for their first and second choice among those aspiring to be candidates of their respective political parties for President and Vice President of the United States, to elect their party delegates to their national conventions, and to elect their national committeemen, was announced as next in order.

Mr. SUTHERLAND. That is a bill which will lead to a good deal of discussion. I think we had better let it go over until we have more time to consider it.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 5728) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Osage Nation of Indians against the United States was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. The bill will go over under objection.

The bill (S. 3316) to repeal an act entitled "An act to promote reciprocal trade relations with the Dominion of Canada, and for other purposes," approved July 26, 1911, was announced as next in order.

Mr. POINDEXTER. Let that go over.

The PRESIDENT pro tempore. The bill will go over.

Mr. CULBERSON. Mr. President, how is the calendar being called? It is under Rule VIII?

The PRESIDENT pro tempore. Under Rule VIII—for the consideration of unobjected cases.

Mr. CULBERSON. So that a motion to take up and consider a bill would be in order?

The PRESIDENT pro tempore. It would not be in order.

Mr. CULBERSON. Then we are not proceeding strictly under Rule VIII?

The PRESIDENT pro tempore. The Senator from Utah [Mr. SMOOT] asked unanimous consent to proceed to the calendar for the consideration of unobjected cases.

Mr. CULBERSON. That is not strictly under Rule VIII, then?

The PRESIDENT pro tempore. Not strictly.

Mr. CULBERSON. What I wanted to know particularly was whether a motion would be in order to take up and consider a bill on the calendar, notwithstanding the objection.

The PRESIDENT pro tempore. The Chair will suggest that it would not be, inasmuch as unanimous consent was given to proceed to the consideration of unobjected cases. The Chair was in error in stating that the procedure was strictly under Rule VIII.

PINE RIDGE INDIAN RESERVATION LANDS.

The bill (S. 111) to authorize the sale and disposition of the surplus and unallotted lands in Washabaugh County, in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriation to carry the same into effect, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Indian Affairs with amendments.

The first amendment was, in section 1, page 2, line 7, after the word "River," to strike out "and including all islands therein," so as to read:

That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Pine Ridge Indian Reservation, in the State of South Dakota, lying and being in Washabaugh County and described as follows, to wit: Commencing at a point on the eastern boundary line of the Pine Ridge Indian Reservation, in the State of South Dakota, where the same intersects the boundary line between townships 39 and 40; thence west on said last-named boundary line to a point where the same intersects the fifth guide meridian; thence north on the fifth guide meridian to a point where the same intersects the main channel of the White River; thence in an easterly direction down and along the center of the main channel of the White River to a point where the same crosses the eastern boundary line of the Pine Ridge Indian Reservation; thence south on the eastern boundary line of the said Pine Ridge Indian Reservation to the point of beginning, except such portions thereof as have been or may be hereafter allotted to Indians or otherwise reserved, and except lands classified as timberlands, etc.

The amendment was agreed to.

The next amendment was, in section 3, page 4, line 9, after the words "United States," to strike out ""; and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any town site, and patents shall be issued by the Secretary of the Interior for the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes, upon receiving satisfactory evidence that said towns have been duly incorporated"; in line 20, after the word "direct," to strike out ", and he shall cause not more than 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in aiding the construction of schoolhouses or other public buildings or in improvements within the town sites in which such lots are located"; and, on page 5, line 2, after the word "aforesaid," to strike out ", less the amount set aside to aid in the construction of schoolhouses or other public buildings or improvements," so as to make the section read:

SEC. 3. That before any of the land is disposed of, as hereinafter provided, and before the State of South Dakota shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of sections 16 or 36, or any portions thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe, in accordance with section 2381 of the Revised Statutes of the United States. The purchase price of all town lots sold in town sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct. The net proceeds derived from the sale of such lots and lands within the town sites as aforesaid shall be credited to the Indians as hereinafter provided.

The amendment was agreed to.

The next amendment was, in section 7, page 8, line 9, after the word "Indians," to strike out "shall be at all times subject to appropriation by Congress for their education, support, and civilization" and insert "may be expended for their benefit or distributed per capita, in the discretion of the Secretary of the Interior," so as to make the section read:

SEC. 7. That from the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, there shall be deposited in the Treasury of the United States, to the credit of the Indians belonging and having tribal rights on the said reservation, the sums to which the said tribe may be entitled, which shall draw interest at 5 per cent per annum; that the moneys derived from the sale of said lands and deposited in the Treasury of the United States to the credit of the said Indians may be expended for their benefit or distributed per capita, in the discretion of the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, in section 8, page 8, line 18, after the word "dollars," to strike out "and 50 cents," so as to make the section read:

SEC. 8. That sections 16 and 36 of the land in each township within the tract described in section 1 of this act shall not be subject to entry, but shall be reserved for the use of the common schools, and paid for by the United States at $2 per acre, and the same are hereby granted to the State of South Dakota for such purpose, and in case any of said sections, or parts thereof, are lost to said State by reason of allotments thereof to any Indian or Indians, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section 1 of this act, to locate other lands not otherwise appropriated, which shall be paid for by the United States as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement.

The amendment was agreed to.

The next amendment was, in section 9, page 9, line 6, before the word "thousand," to strike out "one hundred and twenty-five" and insert "seventy-six"; in line 9, after the word "act," to insert "and the amount found to be due said Indians shall be deposited to their credit in the Treasury of the United States and subject to expenditure for their benefit as provided in section 7 hereof"; in line 13, before the word "thousand," to strike out "thirty-five" and insert "ten"; and in line 20, after the word "herein," to strike out "or from any money in the Treasury belonging to said Indian tribe," so as to make the section read:

SEC. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of not more than $76,000,

or so much thereof as may be necessary, to pay for the lands granted to the State of South Dakota as provided in section 8 of this act, and the amount found to be due said Indians shall be deposited to their credit in the Treasury of the United States and subject to expenditure for their benefit as provided in section 7 hereof. And there is hereby appropriated the further sum of $10,000, or so much thereof as may be necessary, for the purpose of making the appraisement, classification, and allotment provided for herein: *Provided*, That the latter appropriation, or any further appropriation hereafter made for the purpose of carrying out the provisions of this act, shall be reimbursed to the United States from the proceeds from the sale of the lands described herein.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 5186) to incorporate the Brotherhood of North American Indians was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 461) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Ponca Tribe of Indians against the United States was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. It will go over.

Order of Business No. 506, being the bill (S. 5917) relating to procedure in United States courts was announced as next in order.

Mr. CLARKE of Arkansas. I wish to object to that bill and I wish to include in the objection Order of Business 942, the bill (H. R. 16461) to regulate judicial procedure of the courts of the United States, which is practically a copy of this bill. I think it will be in accordance with the spirit of the rule to be able to object to both at the same time.

Mr. SMOOT. The Senator can object to Order of Business 942 when we reach it.

Mr. CLARKE of Arkansas. It is on the same subject and I thought probably there would be no objection to having both bills included in the same order.

Mr. SMOOT. There will be no objection, I think.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 118) granting an increase of pension to Harriet Pierson Porter was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 1) to establish a department of health, and for other purposes, was announced as next in order.

Mr. SMOOT. Let the same course be taken with this bill.

The PRESIDENT pro tempore. It will go over.

The bill (S. 5169) authorizing the Ponca Tribe of Indians to intervene in the suit of the Omaha Indians in the Court of Claims, and for other purposes, was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 5463) to establish a bureau of national parks, and for other purposes, was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 2371) to amend section 3224 of the United States Compiled Statutes so as to prevent the restraining of the assessment or collection of any tax, State, county, municipal, district, or Federal, was announced as next in order.

Mr. BRADLEY. Let that go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 5455) to establish a system of wireless telegraphy in the Philippine Islands was announced as next in order.

Mr. BRISTOW. Let the bill go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 5955) for the relief of certain retired officers of the Navy and Marine Corps was announced as next in order.

Mr. BRISTOW. Let the bill go over, Mr. President.

The PRESIDENT pro tempore. It will go over.

The bill (H. R. 1332) regulating Indian allotments disposed of by will was announced as next in order.

Mr. SMOOT. The Senator who reported the bill is not present. Let it go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 5863) for the retirement of employees in the civil service, and for other purposes, was announced as next in order.

Mr. LODGE. I think the bill had better go over. The Senator reporting the bill is not here, and it will take some debate.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 4654) to regulate contracts for the future delivery of cotton was announced as next in order.

Mr. LODGE. Let that bill go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 6109) for the protection and increase of State game resources was announced as next in order.

Mr. SHIVELY. Let the bill go over, Mr. President.

The PRESIDENT pro tempore. It will go over.

The joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States was announced as next in order.

Mr. LODGE. Let the joint resolution go over.

The PRESIDENT pro tempore. It will go over.

NAVAL MILITIA.

The bill (S. 4584) to promote the efficiency of the Naval Militia, and for other purposes, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PERKINS. I ask that the report of the committee be printed in the RECORD.

The report was ordered to be printed in the RECORD, as follows:

[Senate Report No. 781, Sixty-second Congress, second session.]

EFFICIENCY OF THE NAVAL MILITIA.

Mr. THORNTON, from the Committee on Naval Affairs, submitted the following report, to accompany S. 4584:

The Committee on Naval Affairs, to whom was referred the bill (S. 4584) to promote the efficiency of the Naval Militia, and for other purposes, having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the Navy Department, as will appear by the following communication:

NAVY DEPARTMENT,
Washington, January 19, 1912.

MY DEAR SENATOR: Referring to letter of the 17th instant from the Senate Committee on Naval Affairs, inclosing a bill (S. 4584) to promote the efficiency of the Naval Militia, and for other purposes, and requesting the opinion of the Navy Department thereon for the information of the committee:

The bill (S. 4584) is the same as S. 10379, which was introduced during the third session of the Sixty-first Congress, and favorably reported, but not passed. This bill was agreed upon as mutually satisfactory to the Navy Department and to the Naval Militia.

The strength and efficiency of the Naval Militia organizations will be materially improved by the passage of the Naval Militia bill now before Congress. The Navy Department has carefully considered the question of the organization and training of the Naval Militia, and strongly recommends the passage of this bill.

Faithfully, yours, G. v. L. MEYER.

The CHAIRMAN COMMITTEE ON NAVAL AFFAIRS,
United States Senate.

PERSONNEL OF THE NAVY.

The bill (S. 5069) to promote the efficiency of the enlisted personnel of the United States Navy was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. The bill will go over.

BOTANICAL LABORATORY AT DENVER, COLO.

The bill (S. 93) for the establishment of a botanical laboratory at Denver, Colo., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

That the Secretary of Agriculture is hereby directed to establish and maintain at or near the city of Denver and State of Colorado an institution for botanical and agricultural research.

SEC. 2. That the purpose of said institution shall be to promote the investigation of the flora of the arid region of the United States lying between the ninety-eighth meridian of longitude west from Greenwich and the crest of the Sierra Nevada and Cascade Mountain Ranges, to provide for the study and investigation of plant diseases in said region, and to investigate and by experimental plant breeding to determine the possibility of acclimatizing valuable agricultural plant species to the aridity of the plains, valleys, and plateaus, and to the low temperature of high mountains in said arid part of the United States. It is expressly directed that in its experimental and other investigations said institution shall represent and be in touch with the entire arid region heretofore designated and described.

SEC. 3. That the Secretary of Agriculture is directed to provide suitable buildings in said city of Denver and State of Colorado for the use of said institution, either by purchase of a site and erection of the necessary buildings or by leasing the same, and to equip and furnish said buildings with all the instruments and other apparatus which may be needed in carrying on the work and achieving the purpose of said institution.

SEC. 4. That the said institution for botanical and agricultural research shall be placed in charge of a director, who shall be a botanist of experience and ability, to be appointed by the Secretary of Agriculture. It shall be the duty of said director to outline the investigations to be carried on by said institution in accordance with the provisions of this act and to supervise and direct the work of whatever assistant botanists and employees the Secretary of Agriculture may assign to duty in connection with said institution. It is hereby made the duty of the Secretary of Agriculture to assign to said institution what-

ver number of assistant botanists may be requisite to give force and effect to the purposes of this act.

SEC. 5. That it shall be the duty of the directors of all agricultural experiment stations maintained exclusively by the Federal Government within the area or region defined in the first section of this act to report to and cooperate with the director of said institution for botanical and agricultural research in respect of all matters pertaining to or designed to promote the adaptation of valuable agricultural plant species to the arid climate of the region named or to the low temperature of high mountains. For the purpose of determining the possibility of acclimatizing said valuable agricultural plant species to aridity or to low temperature it shall be the duty of the director of said institution for botanical and agricultural research to establish and maintain, in localities where agricultural experiment stations are not otherwise maintained, whatever experiment stations in his judgment may be requisite to an adequate and speedy solution of said problem: *Provided*, That no such experiment station shall be established except with the approval of the Secretary of Agriculture.

SEC. 6. That, subject to the approval of the Secretary of Agriculture, the director of said institution for botanical and agricultural research shall make proper and needful rules and regulations consistent with the purpose and provisions of this act for the government of said institution and for carrying on its work.

SEC. 7. That so far as may be practicable and desirable it shall be the duty of the director of said institution for botanical and agricultural research to establish cooperative and mutually helpful relations between said institution and State or other institutions engaged in botanical or agricultural research within the region designated in the first section of this act: *Provided*, That whatever action of this kind may be taken shall be consistent with the provisions and purposes of this act and subject to the approval of the Secretary of Agriculture.

SEC. 8. That for the purpose of establishing said institution for botanical and agricultural research and to provide for its maintenance during the first fiscal year after the passage of this act the sum of $50,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. GRONNA. I ask that the report of the committee on the bill may be read.

Mr. SMOOT. I merely wish to ask the Senator reporting the bill whether this same work is not being done by the Carnegie Institute?

Mr. GRONNA. I am not able to say whether it is being done elsewhere, but it is not being done in that particular locality.

Mr. SMOOT. I understand there is a laboratory at Tucson, Ariz., doing this same work.

Mr. GRONNA. I hope, Mr. President, the Senator from Utah will allow the report to be read. I think it will give him the information he desires.

The PRESIDENT pro tempore. The report will be read as requested.

The Secretary read the report submitted by Mr. GRONNA May 28, 1912, as follows:

The Committee on Agriculture and Forestry, having had under consideration Senate bill 93 (and S. 5163 as a substitute for the former) for the establishment and maintenance at or near the city of Denver, Colo., of an institution for botanical and agricultural research, report the same favorably with amendments and as amended recommend that the bill do pass.

In the arid regions within the United States there are, it is estimated, upward of 400,000 square miles, or 250,000,000 acres, of land which at present produce no crops, but which receive enough rainfall to sustain some forms of plant life. From experiments conducted by private individuals there seems reason to believe that with systematic work cereals and other agricultural plants growing in our more humid regions can be acclimatized and that these hitherto unproductive sections of our country can be made to produce agricultural crops. The work contemplated is one which it does not appear that the Agricultural Department is doing at present, and one which will not be done either by private individuals or by agricultural colleges or other institutions of learning. It will not be done by private effort because there will be little, if any, direct pecuniary reward even for successful efforts and because it is a work which must be pursued systematically for a period of years if any results are to be obtained. Institutions of scientific learning would at most experiment with only a very few species, and that more with the idea of discovering the manner in which changes in plant structure and growth may be brought about than with the idea of developing plants which can be cultivated in these dry regions and increase the country's food supply. The proposed institution can also be made a central station, where the work of the other experiment stations in the arid regions can be coordinated and tested, which it appears to the committee would be highly desirable, as this work is obviously impossible in an office located in the city of Washington. The cost will be trifling compared with the value which, it appears to the committee, such a work systematically planned and carried out will have.

The Agricultural Department is at present sending experts to the different countries to discover new plants which may be transplanted to our own country and thus increase our agricultural production, and we believe that the results fully justify our expenditures for this purpose. It appears to the committee that there is even more reason for endeavoring to adapt to the conditions in our arid regions both such agricultural plants as grow in the more humid sections of this country and also such plants as may be brought here from other countries.

In reply to the objection of the Assistant Secretary of Agriculture, the committee would say that while some parts of the work proposed may perhaps be considered as purely scientific work, such results as may be achieved will be of great importance to agriculture in the arid regions, and it is a work that no other agency than the Government can be expected to undertake and prosecute on an adequate scale. So far as the coordination of this work with the other work of the department is concerned, we believe that the measure in its present form allows the Secretary all latitude necessary to effect such coordination, and that no disorganization need result from the establishment of this institution.

The committee believe that an appropriation of $75,000 will be sufficient for the first year and accordingly recommended that the appropriation carried be reduced to this amount.

Mr. SMOOT. Mr. President, I notice in the report read that the Assistant Secretary of Agriculture has made certain objections to the bill. The report does not contain the letter of the Assistant Secretary of Agriculture or the substance of it. I should like to ask the Senator if he remembers what the substance of the objection was?

Mr. GRONNA. Mr. President, it is true that the Assistant Secretary of Agriculture in his letter to the committee did not favor this particular bill, but I believe that it was more because proper attention had not been given to this great subject than for any other reason. I do not want to state to the Senate that the Secretary of Agriculture favors the bill, but it seems to me the bill itself is of such great merit and of such value, not to any particular locality, but to the country at large, that it should be enacted into law.

Mr. SMOOT. I should exceedingly dislike to object to any legislation that would in any way benefit the arid West, but I will ask the Senator if I can secure a copy of the letter of the Assistant Secretary of Agriculture in the committee room?

Mr. GRONNA. Mr. President, the letter written to the committee by the Assistant Secretary of Agriculture is filed in the room of the Committee on Agriculture and Forestry.

Mr. SMOOT. Then I will ask that the bill go over for to-day, and I shall look at the letter in the meantime.

Mr. GRONNA. Very well.

The PRESIDENT pro tempore. The bill goes over. The next bill on the calendar will be stated.

WILLIAM MULLALLY.

The bill (S. 1485) for the relief of William Mullally was announced as next in order.

The PRESIDENT pro tempore. The bill has been reported adversely, and the question is upon its indefinite postponement.

The bill was postponed indefinitely.

BILLS, ETC., PASSED OVER.

The bill (S. 2344) to pay the balance due the loyal Creek Indians on the award made them by the Senate on February 16, 1903, was announced as next in order.

Mr. CLARKE of Arkansas. I object to that bill.

The PRESIDENT pro tempore. The bill goes over.

The bill (S. 2845) to acquire certain land in Washington Heights for a public park, to be known as McClellan Park, was announced as next in order.

Mr. SMOOT. Let that bill go over, Mr. President.

The PRESIDENT pro tempore. The bill goes over.

The next business on the calendar was a motion submitted by Mr. POINDEXTER June 7, 1912, that the Senate Committee on Interstate Commerce be discharged from the further consideration of S. 3297, to abolish the Commerce Court, etc., and that said bill be placed upon the calendar under Rule VIII for consideration by the Senate.

Mr. LODGE. Let that go over, Mr. President.

The PRESIDENT pro tempore. The motion goes over.

The bill (S. 7030) to provide for a permanent supply of coal for the use of the United States Navy and other governmental purposes; to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes, was announced as next in order.

Mr. SMOOT. Let that bill go over, Mr. President.

The PRESIDENT pro tempore. The bill goes over.

The bill (S. 6896) to reopen and extend certain letters patent granted to Richard B. Painton; to insert certain claims in said letters patent dated May 9, 1899, was announced as next in order.

Mr. SMOOT. Let that bill go over, Mr. President.

The PRESIDENT pro tempore. The bill goes over.

Mr. SMOOT. I should like to give notice that the next time we take up the calendar I shall ask that that bill go over under Rule IX.

The bill (S. 2518) to provide for raising the volunteer forces of the United States in time of actual and threatened war was announced as next in order.

Mr. CLARKE of Arkansas. Mr. President, I object to the present consideration of that bill.

The PRESIDENT pro tempore. The bill goes over.

The bill (S. 6172) to regulate the method of directing the work of Government employees was announced as next in order.

Mr. SMOOT. In the absence of the Senator reporting the bill, I ask that it go over.

The PRESIDENT pro tempore. The bill goes over.

The bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases was announced as next in order.

Mr. LODGE. That bill goes over, being a special order.

The PRESIDENT pro tempore. The bill goes over.

The bill (H. R. 21524) for the relief of Frederick H. Ferris was announced as next in order.

Mr. CLARKE of Arkansas. Mr. President, let that bill go over until the chairman of the Committee on Military Affairs can be present.

The PRESIDENT pro tempore. The bill goes over.

The bill (S. 6812) to amend section 3 of an act entitled "An act to provide for the allotment of land in severalty," etc., approved February 28, 1891, was announced as next in order.

Mr. SMITH of Arizona. Let that bill go over, Mr. President.

The PRESIDENT pro tempore. The bill goes over.

The resolution (S. Res. 362) for an investigation into the expenditures of the Forest Service and the appointment of a committee for that purpose was announced as next in order.

Mr. SMOOT. Let the resolution go over.

The PRESIDENT pro tempore. The resolution will go over.

The bill (H. R. 22913) to create a Department of Labor was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

CHARLES MEYERS.

The bill (S. 7089) to remove the charge of desertion against Charles Meyers was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment to strike out all after the enacting clause and insert:

That in the administration of the pension laws Charles Meyers, who was a bugler of Company F, Ninth Regiment Wisconsin Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 19th day of February, 1863: *Provided*, That no pension shall accrue prior to the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Charles Meyers."

WILLIAM WENTWORTH.

The bill (S. 2058) for the relief of William Wentworth was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment to strike out all after the enacting clause and insert:

That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, William Wentworth, who was a private of Company E, Fourteenth Regiment Maine Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 3d day of April, 1864: *Provided*, That no pension shall accrue prior to the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

INSPECTION AND GRADING OF GRAIN.

The bill (S. 223) to provide for the inspection and grading of grain entering into interstate commerce, and to secure uniformity in standards and classification of grain, and for other purposes, was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

INTERSTATE COMMERCE COMMISSION.

The bill (S. 6100) appropriating $100,000 for the use of the Interstate Commerce Commission, in addition to the sum or sums already appropriated for their use, was considered as in Committee of the Whole. It proposes to appropriate $100,000 for the use of the Interstate Commerce Commission in compiling a uniform classification of freight applicable to interstate traffic throughout the United States, the amount to be drawn on vouchers signed by the chairman and secretary of the Interstate Commerce Commission, in such sums and at such times as the commission may deem advisable.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LIMIT OF VISITORIAL POWERS.

The bill (H. R. 24153) to amend and reenact section 5241 of the Revised Statutes of the United States was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

CONTRIBUTIONS OF CORPORATIONS IN POLITICAL CAMPAIGNS.

The bill (S. 3315) to prohibit corporations from making contributions in connection with political elections and to limit the amount of such contributions by individuals or persons was considered as in Committee of the Whole.

The bill was reported from the Committee on Privileges and Elections with an amendment to strike out all after the enacting clause and insert:

That an act entitled "An act to prohibit corporations from making money contributions in connection with political elections," approved January 26, 1907, is amended so as to read as follows:

"SECTION 1. That it shall be unlawful for any national bank or other corporation organized by authority of a law of the United States to contribute any money or other thing of value in connection with any convention, primary, or other election for the nomination or election of any person to any political office. It shall also be unlawful for any corporation whatever to contribute any money or other thing of value in connection with the nomination of electors for President and Vice President or the nomination of President and Vice President, Senator, or Representative in Congress, or in connection with the election of any of said officers. Every corporation which shall make any contribution in violation of this section shall be subject to a fine not to exceed $5,000, and every officer, director, or agent who shall consent to any contribution by the corporation in violation of the provisions of this section shall, upon conviction therof, be punished by a fine not to exceed $1,000, or by imprisonment for a term of not more than one year, or by both such fine and imprisonment, in the discretion of the court.

"SEC. 2. That it shall be unlawful for any individual or person to contribute money or other thing of value exceeding in value $5,000 in connection with the nomination of electors for President and Vice President or the nomination of President and Vice President, Senator, or Representative in Congress, or in connection with the election of any of said officers: *Provided*, That this section shall not apply to individuals or persons who at such convention, primary, or election are candidates for President, Vice President, Representative, or Senator. Every individual or person who shall make any contribution in violation of the provisions of this section shall, upon conviction thereof, be punished by a fine not to exceed $10,000, or by imprisonment for a term not more than two years, or by both such fine and imprisonment, in the discretion of the court.

"SEC. 3. That all laws or parts of laws in conflict herewith are hereby repealed."

The PRESIDENT pro tempore. The amendment heretofore offered by the Senator from Iowa [Mr. KENYON] to the amendment reported by the committee will be stated.

The SECRETARY. On page 4, section 1, line 4, after the word "by," it is proposed to strike out "a fine not to exceed $1,000, or by," and in line 6, after the word "year," to strike out "or by both such fine and imprisonment, in the discretion of the court," so as to make the section read:

SECTION 1. That it shall be unlawful for any national bank or other corporation organized by authority of a law of the United States to contribute any money or other thing of value in connection with any convention, primary, or other election for the nomination or election of any person to any political office. It shall also be unlawful for any corporation whatever to contribute any money or other thing of value in connection with the nomination of electors for President and Vice President or the nomination of President and Vice President, Senator, or Representative in Congress, or in connection with the election of any of said officers. Every corporation which shall make any contribution in violation of this section shall be subject to a fine not to exceed $5,000, and every officer, director, or agent who shall consent to any contribution by the corporation in violation of the provisions of this section shall, upon conviction thereof, be punished by imprisonment for a term of not more than one year.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 3345) to amend the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," was announced as next in order.

Mr. SMOOT. I ask that the bill go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 7288) to authorize the transfer of First Lieut. Sydney Smith from retired to the active list of the Army was announced as next in order.

Mr. SMOOT. Mr. President, there is no report on that bill, and I ask that it go over.

The PRESIDENT pro tempore. The bill will go over.

The resolution (S. Res. 375) discharging the Committee on the Judiciary from further consideration of the concurrent resolution (S. Con. Res. 4) instructing the Attorney General of the United States to prosecute the Standard Oil Co. and the American Tobacco Co. was announced as next in order.

Mr. SUTHERLAND. Let that go over.

The PRESIDENT pro tempore. The resolution will go over.

The bill (H. R. 18787) relating to the limitation of the hours of daily services of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or

improving a river or harbor of the United States and of the District of Columbia was announced as next in order.

Mr. SMOOT. Mr. President, I ask that that bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

The bill (H. R. 16461) to regulate judicial procedure of the courts of the United States was announced as next in order.

Mr. CATRON. I ask that that bill go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and acts supplementary thereto, was announced as next in order.

Mr. SMOOT. Notice has been given that that bill would be considered to-morrow. I ask that it go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909, was announced as next in order.

Mr. SMOOT. Let that go over, Mr. President.

The PRESIDENT pro tempore. The bill will go over.

WATER SUPPLY, COLORADO SPRINGS AND MANITOU, COLO.

The bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., was announced as next in order.

Mr. PENROSE. Mr. Chairman, I have no desire to oppose this bill permanently, but some of my constituents in eastern Pennsylvania destre to make a little further investigation of the matter. Therefore I ask the Senator from Colorado if he will consent to let it go over for a few days, until we take up the calendar next time.

Mr. GUGGENHEIM. Mr. President, this is a very meritorious bill. It has passed the House, and has been fully considered by the Senate Committee on Public Lands. For that reason I sincerely trust the Senator will not delay the matter too long. It will come up automatically in the next few days.

Mr. PENROSE. I hope the Senator will not bring it up in my absence, at any rate. I am going away this afternoon for a day.

Mr. GUGGENHEIM. Very well.

The PRESIDENT pro tempore. The bill will be passed over.

CIGARS FURNISHED EMPLOYEES BY MANUFACTURERS.

Mr. FLETCHER. May I inquire of the Senator from Pennsylvania why we should not consider House bill 25741? I am speaking now in reference to the bill that has just been passed over.

Mr. SMOOT. I will say to the Senator that I objected to the consideration of that bill to-day, for the reason that I have asked for certain information from the department, which I expected to get this morning. Just as soon as I receive it I will tell the Senator.

The PRESIDENT pro tempore. The bill has gone over under objection.

Mr. FLETCHER. There is a report of the House committee on the subject.

Mr. PENROSE. Mr. President, I did not hear what the Senator from Utah stated about what is known as the smokers' bill.

Mr. SMOOT. I stated that I had asked for certain information which I desired, and which I expected to receive to-day. It did not come to-day, and I therefore ask that the bill go over until the next call of the calendar.

Mr. PENROSE. Very well. It is a House bill, and there will be ample time to act on it.

QUAGMIRE LANDS IN NEVADA.

The bill (S. 4994) to authorize the inclosure of certain lands in the State of Nevada containing dangerous quagmires was announced as next in order.

Mr. NELSON. Mr. President, let that bill go over. There is some opposition to it.

The PRESIDENT pro tempore. The bill will go over.

PUBLIC BUILDING AT LANCASTER, KY.

The bill (S. 184) for the erection of a public building at Lancaster, Ky., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, in line 10, after the word "of," to strike out "seventy-five" and insert "fifty," and in line 11, after the word "dollars," to strike out "which sum is hereby appropriated out of any money in the Treasury not otherwise appropriated," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be erected a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, other necessary appurtenances for the use and accommodation of the United States as a post office and other government purposes on the site already purchased at Lancaster, Ky., the cost of said building not to exceed the sum of $50,000.

Mr. BRADLEY. I will ask that the Secretary again read the amendment as to the amount.

The SECRETARY. In line 10, before the word "thousand," it is proposed to strike out "seventy-five" and insert "fifty."

Mr. BRADLEY. It should be to strike out "seventy" and insert "fifty-five." It is a misstatement.

The PRESIDENT pro tempore. The amount in the bill is $75,000.

Mr. BRADLEY. The appropriation should be $55,000.

Mr. SUTHERLAND. Mr. President, the Senator from Kentucky is right. The print of the bill is not in accordance with the report. If Senators will turn to the report, they will see that that is the case.

The PRESIDENT pro tempore. The amount stated in the bill is $75,000, and the amendment proposes to strike out that amount and insert $50,000.

Mr. SUTHERLAND. The bill should have been reported for $55,000. I understand it is reported for $50,000.

The PRESIDENT pro tempore. Does the Senator move that amendment to the amendment reported by the committee?

Mr. SUTHERLAND. Yes; I move to amend the amendment in that way. That is the estimate of the Treasury Department.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT MIDDLESBORO, KY.

The bill (S. 4524) to increase the appropriation of $60,000 for the purchase of a site and the erection of a building for the use and accommodation of a post office at Middlesboro, Ky., to $125,000 was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment to strike out all after the enacting clause and insert:

That the limit of cost for the purchase of a site and the erection of a public building at Middlesboro, Ky., be, and the same is hereby, increased from $60,000 to $85,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to increase the limit of cost for the purchase of a site and the erection of a public building at Middlesboro, Ky."

PUBLIC BUILDING AT RIDGWAY, PA.

The bill (S. 7502) for the erection of a public building at Ridgway, Pa., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, in line 11, before the word "thousand," to strike out "seventy-five" and insert "eighty," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to have erected upon the site now owned by the United States Government a suitable building for the accommodation of the post office and other Government offices at the town of Ridgway, Pa.

The plans, specifications, and full estimates of said building shall be previously made and approved according to law and shall not exceed, for the building complete, the sum of $80,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT RHINELANDER, WIS.

The bill (S. 7298) for the purchase of a site and the erection thereon of a public building at Rhinelander, Wis., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 2, line 1, before the word "thousand," to strike out "sixty-five" and insert "ninety-one," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site or acquire it by condemnation or otherwise, in the city of Rhinelander, Wis., and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, for the use and accommodation of the post office and other offices of the Government,

the cost of said site and building, including said vaults, heating and ventilating apparatus, and approaches, not to exceed $91,000. The said building shall be unexposed to danger from fire by an open space of at least 30 feet on all sides, including streets and alleys.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT MINERAL POINT, WIS.

The bill (S. 7297) for the purchase of a site and the erection thereon of a public building at Mineral Point, Wis., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 2, line 1, before the word "thousand," to strike out "sixty-five" and insert "sixty," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site, or acquire it by condemnation or otherwise, in the city of Mineral Point, Wis., and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, for the use and accommodation of the post office and other offices of the Government, the cost of said site and building, including said vaults, heating and ventilating apparatus, and approaches, not to exceed $60,000. The said building shall be unexposed to danger from fire by an open space of at least 30 feet on all sides, including streets and alleys.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MISSOURI RIVER BRIDGE, NORTH DAKOTA.

The bill (S. 7855) to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River, in section 36, township 154 north, range 79 west, in the State of North Dakota, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PENSIONS AND INCREASE OF PENSIONS.

The bill (S. 8178) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, was considered as in Committee of the Whole. It proposes to pension the following-named persons at the rates designated:

Michael Liebhart, late of Company H, Twenty-sixth Regiment Illinois Volunteer Infantry, $24 per month in lieu of that he is now receiving.

William M. Copeland, late of Company D, Seventeenth Regiment Kansas Volunteer Infantry, $20 per month in lieu of that he is now receiving.

E. Belle Platt, widow of Abraham S. Platt, late colonel of the Thirteenth and Thirty-fourth Regiments Ohio Volunteer Infantry, and brigadier general, United States Volunteers, $12 per month.

Charles Stewart, late of U. S. S. *Morse*, United States Navy, $24 per month in lieu of that he is now receiving.

Robert R. Whiteman, late of Company D, Sixth Regiment West Virginia Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Joseph Lasier, jr., late of Company A, Sixtieth Regiment New York Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Stephen Rice, late of Company A, Second Regiment North Carolina Volunteer Mounted Infantry, $20 per month in lieu of that he is now receiving.

Isaac Henninger, late of Company B, Eleventh Regiment Pennsylvania Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Ira Lyle, late of Company K, Thirteenth Regiment Pennsylvania Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Edgar W. Lauck, late of Company C, Fifteenth Regiment West Virginia Volunteer Infantry, $30 per month in lieu of that he is now receiving.

George Alexander, late of Company G, First Regiment Michigan Volunteer Cavalry, $40 per month in lieu of that he is now receiving.

Frank Lallame, late of Company D, Seventy-sixth Regiment Illinois Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Carrie Kellogg, widow of Luman M. Kellogg, late of Company B, Fifty-third Regiment Wisconsin Volunteer Infantry, $12 per month.

Jerome McWethy, late of Company G, Second Regiment Michigan Volunteer Cavalry, $40 per month in lieu of that he is now receiving.

Mary J. Irwin, widow of George K. Irwin, late of Company E, Third Regiment Pennsylvania Volunteer Heavy Artillery, $20 per month in lieu of that she is now receiving.

Monroe J. Potts, late captain Company G, Thirty-first Regiment Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Henry D. Jayne, late of Company E, Thirteenth Regiment New York Volunteer Heavy Artillery, $30 per month in lieu of that he is now receiving.

Samuel R. Vose, late of Company B, Sixth Regiment, and Company D, First Regiment, Michigan Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

Jacob Lingenfelter, late of Company B, Two hundred and sixth Regiment Pennsylvania Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Henry B. Spencer, late first lieutenant and adjutant, One hundred and forty-fourth Regiment Indiana Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Hiram Rhodes, late of Company H, Nineteenth Regiment Illinois Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Ozro M. Hale, late of Company E, Tenth Regiment Michigan Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Dennis McCarty, 2d, late of Company F, Fifteenth Regiment Maine Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Jesse Nott, late of Company G, Fifteenth Regiment Missouri Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

Susan E. Miller, widow of Samuel J. Miller, late of Company G, First Regiment Connecticut Volunteer Heavy Artillery, $20 per month in lieu of that she is now receiving.

Daniel Tracy, late of Company A, Seventy-seventh Regiment Ohio Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Joseph A. Funk, late of Company D, One hundred and thirty-seventh Regiment Illinois Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Andrew W. Stevens, late captain Company K, One hundred and forty-second Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

John Mallet, late of Company F, One hundred and twenty-ninth Regiment Ohio Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Francis Kramer, late of Company F, One hundred and sixteenth Regiment Pennsylvania Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Martin Ressler, late of Company G, One hundred and sixteenth Regiment New York Volunteer Infantry, $30 per month in lieu of that he is now receiving.

John Scherff, late of Company C, Forty-sixth Regiment Wisconsin Volunteer Infantry, $24 per month in lieu of that he is now receiving.

John Gordon, late of Company E, Fifth Regiment Massachusetts Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

Jackson Truit, late of Company D, Sixty-second Regiment United States Colored Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Joseph Antram, late musician, band, Fifty-ninth Regiment Ohio Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Martha Ann Harvey, widow of George Harvey, late captain Company I, Thirty-first Regiment Indiana Volunteer Infantry, $30 per month in lieu of that she is now receiving.

John Chenoweth, late of Company B, Twenty-first Regiment Missouri Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Joshua Eckman, late of Company K, Eleventh Regiment Pennsylvania Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Charles T. Howard, late of U. S. S. *Ohio*, *Massasoit*, and *North Carolina*, United States Navy, $24 per month in lieu of that he is now receiving.

Frederick Buckmaster, late of Company C, Fourteenth Regiment Iowa Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Euma C. Palmer, widow of Luzerne A. Palmer, late of Company C, Fifth Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Henrietta P. Cowgill, widow of Thomas J. Cowgill, late of Company C, Forty-seventh Regiment Indiana Volunteer Infantry, $12 per month.

Ellen S. Kirkham, widow of Calvin C. Kirkham, late of U. S. S. North Carolina and Satellite, United States Navy, $20 per month in lieu of that she is now receiving.

Cornelia M. Hale, widow of Nathan Hale, late of Company K, Seventeenth Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

James J. Hasson, late of Company E, Ninetieth Regiment, and Company A, Eleventh Regiment, Pennsylvania Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Clement F. S. Almes, late of Company D, Eighty-second Regiment New York Volunteer Infantry, and Company C, Seventh Regiment New Hampshire Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Franklin W. Chapman, late of Company B, Thirty-fourth Regiment Illinois Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Elizabeth A. Fisher, widow of John K. Fisher, late captain Company G, Sixteenth Regiment Pennsylvania Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

James Smith, late of Company A, Ninth Regiment West Virginia Volunteer Infantry, and Company B, First Regiment West Virginia Veteran Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Reuben Cooley, late of Company D, First Regiment Kentucky Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

John T. Craddock, late of Company A, Thirtieth Regiment Kentucky Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Edward Brown, late of Company I, Thirtieth Regiment Kentucky Volunteer Infantry, $30 per month in lieu of that he is now receiving.

William T. Hutton, late of Company G, Thirtieth Regiment Kentucky Volunteer Infantry, $30 per month in lieu of that he is now receiving.

James Hawkins, late of Company B, Third Regiment Tennessee Volunteer Mounted Infantry, $24 per month in lieu of that he is now receiving.

John S. Edwards, late of Company I, Twenty-seventh Regiment Wisconsin Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Samuel C. Planck, late of Company E, One hundred and twenty-ninth Regiment Ohio Volunteer Infantry, and Company H, Thirteenth Regiment Michigan Volunteer Infantry, $30 per month in lieu of that he is now receiving.

David F. Eutsler, late of Company A, Eleventh Regiment Iowa Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Jasper Fleener, late of Company C, Twelfth Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Job S. Sims, late of Company E, Seventy-ninth Regiment Ohio Volunteer Infantry, $36 per month in lieu of that he is now receiving.

John J. Jameson, late of Company D, Second Regiment United States Volunteer Sharpshooters, $30 per month in lieu of that he is now receiving.

Charles T. Knight, late of Company G, Twenty-sixth Regiment Maine Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Cyrus N. Lyons, late of Company B, Twenty-first Regiment, and unassigned, Thirty-fourth Regiment, Iowa Volunteer Infantry, $30 per month in lieu of that he is now receiving.

George W. Jones, late of Company C, One hundred and forty-eighth Regiment Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Joseph Troyer, late of Company M, Tenth Regiment Indiana Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Josephine M. Perry, widow of Andrew J. Perry, late of Company A, Third Regiment Rhode Island Volunteer Heavy Artillery, and Company D, Eleventh Regiment Rhode Island Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Oscar B. Vibert, late of Company A, Seventh Regiment Connecticut Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Albert T. Wharton, late of Company F, Fourteenth Regiment Maine Volunteer Infantry, $30 per month in lieu of that he is now receiving.

David L. Dence, late of Company D, Fifteenth Regiment, and Company I, Second Regiment, New Jersey Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Mary A. Bingaman, widow of Joseph A. Bingaman, late second lieutenant Company D, Sixteenth Regiment Missouri Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

Nettie W. Sisson, helpless and dependent daughter of Henry T. Sisson, late colonel Fifth Regiment Rhode Island Volunteer Heavy Artillery, $12 per month.

Emily J. Chambers, former widow of George W. Buffington, late of Company A, Eighth Regiment Iowa Volunteer Infantry, and widow of Thomas J. Chambers, late of Company E, First Regiment Washington Territory Mounted Volunteers, Oregon and Washington Territory Indian War, $12 per month.

Sarah Tout, widow of William H. Tout, late of Company A, Thirty-fourth Regiment Iowa Volunteer Infantry, $12 per month.

Susan J. Littlefield, former widow of Isaac W. Watson, late of Company H, Seventeenth Regiment United States Infantry, $12 per month.

Clinton E. Olmstead, late of Company K, Thirty-ninth Regiment Illinois Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Daniel H. Strout, late of U. S. S. *Sabine*, *Potomac*, and *Kanawha*, United States Navy, $24 per month in lieu of that he is now receiving.

John Miller, late of Company C, One hundred and fiftieth Regiment Indiana Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Julius A. Record, late of Company C, Twenty-third Regiment Maine Volunteer Infantry, $24 per month in lieu of that he is now receiving.

William L. Ham, late of Company B, Ninth Regiment Maine Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Lucretia B. Crockett, widow of Benjamin B. Crockett, late of Company I, Sixteenth Regiment Maine Volunteer Infantry, and former widow of William W. Salisbury, late of Companies H and I, Sixteenth Regiment Wisconsin Volunteer Infantry, $12 per month.

George W. Barrett, late of Company D, Forty-ninth Regiment Wisconsin Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Olive Stull, widow of Jacob H. Stull, late first lieutenant Company D, One hundred and fourth Regiment New York Volunteer Infantry, $20 per month in lieu of that she is now receiving.

John W. Culver, late of U. S. S. *General Sherman*, United States Navy, $24 per month in lieu of that he is now receiving.

Gustaf Swanson, late of Company B, Third Regiment Minnesota Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Sophronia Dixon, widow of Henry C. Dixon, late second lieutenant Company H, Second Regiment Rhode Island Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Eben S. Welch, late of Company G, Twelfth Regiment New Hampshire Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Thomas C. Aldrich, late of band, Sixty-fifth Regiment Ohio Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Emily S. Reader, widow of Charles E. Reader, late of Troop L, Sixth Regiment United States Cavalry, and Company K, One hundred and ninety-fifth Regiment Ohio Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Clara A. Long, widow of Charles A. Long, late of Company G, One hundred and thirty-ninth Regiment Indiana Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Maria L. Mann, widow of Henry P. Mann, late of Company D, Fifth Regiment Missouri State Militia Cavalry, and Company L, Second Regiment Ohio Volunteer Infantry, War with Mexico, $20 per month in lieu of that she is now receiving.

Mary J. Hubbard, widow of James H. Hubbard, late first lieutenant Company C, Thirty-second Regiment Wisconsin Volunteer Infantry, $25 per month in lieu of that she is now receiving.

George W. Sumpter, late of Company K, One hundred and fifteenth Regiment Illinois Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Lurinda P. Barnes, widow of Milton H. Barnes, late of Company K, First Regiment New York Volunteer Light Artillery, $20 per month in lieu of that she is now receiving, and $2 per month additional on account of the minor child of the said Milton H. Barnes until she reaches the age of 16 years.

Electa Marsh, helpless and dependent child of Giles Marsh, late of Company G, Seventeenth Regiment Iowa Volunteer Infantry, $12 per month.

Edward A. Mace, late of Company L, First Regiment Maine Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Mary J. Van Orden, former widow of Reuben M. Knofsker, late of Company B, Twenty-first Regiment Wisconsin Volunteer Infantry, and widow of James W. Van Orden, late of Company C, Twenty-first Regiment Wisconsin Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Susan M. Wyatt, widow of Otis C. Wyatt, late captain Company B, First Regiment New Hampshire Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

Luke Cassidy, late second lieutenant Company D, Thirty-fifth Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Lewis F. Branson, late of Company M, Tenth Regiment, and Company C, Second Regiment, Missouri Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

The name of Amanda E. Glenn, widow of James C. Glenn, late of Company I, Eighth Regiment Missouri State Militia Cavalry, $20 per month in lieu of that she is now receiving.

Solomon Kessinger, late of Company F, Twenty-fourth Regiment, and Company C, Twenty-first Regiment, Missouri Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Peter Binkley, late of Company B, Eleventh Regiment Pennsylvania Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

Edmond Melton, late of Company C, Sixteenth Regiment Missouri Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Eli W. Pierce, late of Company G, Sixth Regiment Missouri Volunteer Cavalry, and Company B, Second Regiment Missouri Volunteer Light Artillery, $36 per month in lieu of that he is now receiving.

Melissa A. McGowan, widow of Alexander McGowan, late of Company I, First Regiment Wisconsin Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

Hannah Peavey, widow of Daniel Peavey, late of Company A, Seventh Regiment New Hampshire Volunteer Infantry, $20 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

IMPROVED ORDNANCE PROCESSES, ETC.

The bill (H. R. 20193) authorizing the Secretary of the Navy to pay a cash reward for suggestions submitted by civilian employees of the Navy Department for improvement or economy in manufacturing processes or plant, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Naval Affairs with amendments, on page 1, line 7, after the word "plant," to insert "or ordnance material"; on page 2, line 2, before the word "which," to strike out "Navy Department" and insert "said establishments"; and on line 13, after the word "appropriation," to strike out "'Pay, miscellaneous,'" and insert "'Ordnance and ordnance stores,'" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Navy is hereby authorized to offer periodically at such of the establishments of the Ordnance Department as he may select a cash reward for the suggestion, or series of suggestions, for an improvement or economy in manufacturing processes or plant or ordnance material, submitted within the period by one or more of the civilian employees of the said establishments which shall be deemed the most valuable of those submitted and adopted for use: *Provided*, That to obtain this reward the winning suggestion must be one that will clearly effect a material economy in production or increase efficiency or enhance the quality of the product in comparison with its cost, and in the opinion of the Secretary shall be so worthy as to entitle the employee making the same to receive the reward; *Provided further*, That the sums awarded to employees in accordance with this act shall be paid them in addition to their usual compensation and shall be paid out of the appropriation "Ordnance and ordnance stores": *Provided further*, That the total amount paid under the provisions of this section shall not exceed $1,000 for any one month: *And provided further*, That no employee shall be paid a reward under this act until he has properly executed an agreement to the effect that the use by the United States of the suggestion, or series of suggestions, made by him shall not form the basis of a further claim of any nature upon the United States by him, his heirs, or assigns.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "An act authorizing the Secretary of the Navy to pay a cash reward for suggestions submitted by civilian employees of ordnance establishments under the Navy Department for improvement or economy in manufacturing processes or plant."

HARRY S. WADE.

The bill (H. R. 15181) for the relief of Harry S. Wade was announced as next in order.

Mr. SMOOT. Let that go over, Mr. President.

The PRESIDENT pro tempore. The bill will go over.

CONNECTICUT RIVER DAM.

The bill (S. 8023) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut, was announced as next in order.

Mr. NELSON. Mr. President, owing to the absence of the Senator from Alabama [Mr. BANKHEAD], who is opposed to this bill, I ask that it may go over.

Mr. BURTON. I should like to have the bill read.

Mr. NELSON. I object to that, because it might be called up at a later time and the point made that it had been already read, and that would put us off our guard.

Mr. BURTON. I give notice that on Saturday morning next, after the transaction of the routine morning business, I shall call up this bill and ask for its consideration.

The PRESIDENT pro tempore. The bill will go over, under objection.

Mr. SIMMONS. I should like to suggest to the Senator from Ohio that the Senator from Alabama, from the committee, is preparing a minority report on the bill. I presume he will have it ready before Saturday.

Mr. BURTON. The minority report has been filed to-day. The Senator from Alabama is, I believe, aware of my intention to seek to call it up on Saturday. The minority report was filed this morning.

THE PRESIDENTIAL TERM.

The PRESIDENT pro tempore. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. CUMMINS. I ask unanimous consent that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Iowa asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and it is so ordered.

PROTECTION OF INTERSTATE SHIPMENTS.

The bill (H. R. 16450) to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same, was announced as next in order.

Mr. CLARKE of Arkansas. As it is my intention to object to the present consideration of that bill, in this connection I will ask the Senator from Iowa if it would not suit him to have the bill go to the calendar under Rule IX. It is perfectly evident that the bill is not going to pass here until it has been debated, and by putting it on that calendar we might thereby relieve ourselves of the necessity of constantly watching the calendar.

Mr. CUMMINS. I would prefer that that should not be done, but I will agree that I will not have it brought forward until I have notified the Senator from Arkansas.

Mr. CLARKE of Arkansas. May I also ask the Senator to agree to a continuing objection until such time as we can take it up by some kind of agreement or consent, or at least that he notify some of us who are known not to be in sympathy with the measure?

Mr. CUMMINS. I will consult members of the Judiciary Committee, and the next time the calendar is called I will either say yes or no to that.

Mr. CLARKE of Arkansas. I suggest that the Senator have it set down for some day certain, so that all may take notice. I only want to know when it will be considered. I am quite sure the Senator would not take any advantage of any of us if we are not here.

Mr. CUMMINS. I will see that the bill is not called up for consideration at a time when the Senator from Arkansas is absent.

Mr. CLARKE of Arkansas. That is more than I was prepared to ask. I am very much obliged to the Senator from Iowa.

The PRESIDENT pro tempore. The bill goes over, on objection.

RIGHT OF WAY IN YELLOWSTONE NATIONAL PARK.

The bill (S. 3130) to authorize the Secretary of the Interior to permit the Conrad-Stanford Co. to use certain lands was announced as next in order.

Mr. SMOOT. Let the bill go over.

The PRESIDENT pro tempore. It will go over.

Mr. MYERS. I will say to the Senator from Utah that I should like very much to get the bill up and have it considered on its merits. Of course, I can see that possibly there may be some opposition to it, and I should like, if there be any, to have it thrashed out and have the bill take its chance of passage.

Mr. SMOOT. I call the Senator's attention to a fact he must know, that there are a number of members of the Committee on Public Lands who desire to make a statement upon this particular bill. They are not present in the Chamber at this time, and I know the Senator will not insist upon the consideration of the bill under those circumstances.

Mr. MYERS. Oh, no; certainly not.

Mr. SMOOT. It was for that reason that I objected to its consideration now.

I wish to say to the Senator that I am perfectly willing, as far as I am personally concerned, to state my objection to the bill in the Senate and place myself on record, and then let the Senate vote upon it; and I believe that is the sentiment of all the Senators on the committee who were opposed to the bill. But I know there are two Senators on the committee, who have expressed themselves as I have now done, who are not in the Chamber, and therefore I do not believe that the Senator will ask for the consideration of the bill to-day.

Mr. MYERS. That is agreeable.

I would ask unanimous consent, then, that the bill be made a special order for next Monday, immediately after the close of the morning business. That would give notice to all interested. Would there be any objection to that?

Mr. SMOOT. I really do not believe unanimous consent ought to be asked in the absence of those Senators. I believe the Senator will make just as much headway by letting the Senators have a chance to make their statement and then vote upon the bill. The Senator knows that there is no disposition on the part of any members of the committee to hold up the bill. Everyone expressed himself in committee to that effect. I do not believe the Senator will have any trouble whatever in getting a vote upon the bill.

Mr. MYERS. I want them all to have an opportunity to be heard upon it. I will not ask unanimous consent, then, as that might not be proper under the circumstances, but I will simply give notice that next Monday, at the conclusion of the morning business, I shall call up this bill and ask for its consideration. I do not ask for unanimous consent, but I merely give notice now that I shall at that time call it up and ask to have it considered.

The PRESIDENT pro tempore. The bill goes over under objection.

Mr. LODGE. That concludes the calendar?

The PRESIDENT pro tempore. It concludes the calendar.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to; and (at 2 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Friday, January 24, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January 23, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, touch the dominant chords of our hearts with Thy skillful hand that they may respond to the music of Thy love and good will, that we may make for peace and happiness to all with whom we come in contact as we pass along the King's highway, and at its end receive Thine approving smile. And songs of praises we will ever give to Thee in the spirit of the Master. Amen.

APPROVAL OF THE JOURNAL.

The SPEAKER. The Clerk will read the Journal.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Illinois makes the point of order that there is no quorum present. Evidently there is no quorum present.

Mr. ASHBROOK. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken, S. C.	George	Lafean	Randell, Tex.
Ames	Gill	Lamb	Redfield
Ansberry	Gillett	Langham	Reyburn
Barchfeld	Glass	Legare	Richardson
Berger	Goeke	Lewis	Rodenberg
Brantley	Goldfogle	Lindsay	Rucker, Colo.
Broussard	Graham	Littleton	Sabath
Burke, Pa.	Gudger	Longworth	Sells
Burnett	Guernsey	Loud	Sheppard
Carlin	Hamill	McGuire, Okla.	Slemp
Carter	Hammond	McKellar	Sloan
Conry	Hardwick	McKinley	Smith, J. M. C.
Copley	Harris	McMorran	Smith, Cal.
Covington	Harrison, N. Y.	Maher	Smith, N. Y.
Crago	Hayes	Martin, Colo.	Speer
Daugherty	Heald	Matthews	Stack
Davis, Minn.	Helgesen	Moon, Pa.	Stephens, Nebr.
De Forest	Henry, Tex.	Needham	Sulloway
Dickson, Miss.	Hill	Oldfield	Thistlewood
Dixon, Ind.	Howard	O'Shaunessy	Tilson
Driscoll, M. E.	Howell	Palmer	Underwood
Dupré	Hughes, W. Va.	Parran	Vreeland
Ellerbe	Hull	Patten, N. Y.	Weeks
Estopinal	Jackson	Payne	Whitacre
Fairchild	James	Pepper	Wilson, Ill.
Fields	Kent	Peters	Wilson, N. Y.
Focht	Kindred	Prouty	Woods, Iowa.
Fordney	Kitchin	Pujo	
Fornes	Konig	Rainey	

The SPEAKER. Two hundred and sixty-nine Members have answered to their names—a quorum.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with further proceedings under the call.

Mr. JOHNSON of Kentucky. Mr. Speaker, I move to dispense with further proceedings under the call.

The SPEAKER. The question is on the motion of the gentleman from Kentucky, to dispense with further proceedings under the call.

Mr. MANN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Gentlemen in the aisles will take their seats and the Sergeant at Arms will keep these aisles clear during this filibuster. [Applause.] The Clerk will call the roll.

The question was taken; and there were—yeas 256, nays 3, answered "present" 4, not voting 120, as follows:

YEAS—256.

Adair	Davenport	Hardy	Maguire, Nebr.
Adamson	Davidson	Harrison, Miss.	Martin, S. Dak.
Ainey	Davis, W. Va.	Hart	Mays
Akin, N. Y.	Dent	Hartman	Miller
Alexander	Denver	Haugen	Mondell
Allen	Dickinson	Hawley	Moon, Tenn.
Anderson	Dickson, Miss.	Hay	Moore, Pa.
Andrus	Dies	Hayden	Moore, Tex.
Anthony	Difenderfer	Heflin	Morgan, La.
Ashbrook	Dodds	Helm	Morgan, Okla.
Austin	Donohoe	Henry, Conn.	Morrison
Ayres	Doremus	Hensley	Moss, Ind.
Barchfeld	Doughton	Higgins	Mott
Barnhart	Draper	Hinds	Murdock
Bartholdt	Driscoll, D. A.	Hobson	Neeley
Bartlett	Dyer	Holland	Norris
Bates	Ellerbe	Houston	Nye
Bathrick	Esch	Howell	Olmsted
Beall, Tex.	Evans	Howland	Padgett
Bell, Ga.	Fairchild	Hughes, Ga.	Page
Blackmon	Faison	Humphrey, Wash.	Parran
Boehne	Farr	Humphreys, Miss.	Patton, Pa.
Booher	Ferguson	Jacoway	Pepper
Borland	Ferris	Johnson, Ky.	Pickett
Brown	Finley	Johnson, S. C.	Plumley
Browning	Fitzgerald	Jones	Porter
Buchanan	Flood, Va.	Kendall	Post
Bulkley	Floyd, Ark.	Kennedy	Pou
Burgess	Foss	Kinkaid, Nebr.	Powers
Burke, S. Dak.	Foster	Kinkead, N. J.	Pray
Burke, Wis.	Fowler	Knowland	Prince
Burleson	Francis	Kopp	Raker
Butler	French	Korbly	Ransdell, La.
Byrnes, S. C.	Fuller	Lafferty	Rauch
Byrns, Tenn.	Gallagher	Langley	Rees
Calder	Gardner, Mass.	Lawrence	Reilly
Callaway	Garner	Lee, Ga.	Riordan
Campbell	Garrett	Lee, Pa.	Roberts, Mass.
Candler	Gill	Lenroot	Roberts, Nev.
Cannon	Godwin, N. C.	Lever	Roddenbery
Cantrill	Good	Levy	Rothermel
Cary	Goodwin, Ark.	Linthicum	Rouse
Clark, Fla.	Gould	Littlepage	Rubey
Claypool	Graham	Lloyd	Rucker, Colo.
Clayton	Gray	Lobeck	Rucker, Mo.
Cline	Greene, Mass.	McCoy	Russell
Collier	Greene, Vt.	McCreary	Saunders
Cooper	Gregg, Pa.	McDermott	Scott
Cox	Gregg, Tex.	McGillicuddy	Scully
Cravens	Griest	McKenzie	Sharp
Cullop	Hamill	McKinney	Sherley
Curley	Hamilton, Mich.	McLaughlin	Sherwood
Currier	Hamilton, W. Va.	Macon	Simmons
Curry	Hamlin	Madden	Sims

Sisson	Stephens, Miss.	Taylor, Ohio	Watkins
Sloan	Stephens, Tex.	Thayer	White
Small	Sterling	Thomas	Wilder
Smith, Saml. W.	Stone	Townsend	Willis
Smith, N. Y.	Sweet	Tribble	Wilson, Pa.
Smith, Tex.	Switzer	Turnbull	Witherspoon
Sparkman	Taggart	Tuttle	Wood, N. J.
Stanley	Talbott, Md.	Underhill	Young, Kans.
Stedman	Talcott, N. Y.	Vare	Young, Mich.
Steenerson	Taylor, Ala.	Volstead	Young, Tex.

NAYS—3.

Dalzell	La Follette	Stevens, Minn.

ANSWERED "PRESENT"—4.

Dwight	McCall	Mann	Murray

NOT VOTING—120.

Aiken, S. C.	George	Langham	Redfield
Ames	Gillett	Legare	Reyburn
Ansberry	Glass	Lewis	Richardson
Berger	Goeke	Lindbergh	Rodenberg
Bradley	Goldfogle	Lindsay	Sabath
Brantley	Green, Iowa	Littleton	Sells
Broussard	Gudger	Longworth	Shackleford
Burke, Pa.	Guernsey	Loud	Sheppard
Burnett	Hammond	McGuire, Okla.	Slayden
Carlin	Hardwick	McKellar	Slemp
Carter	Harris	McKinley	Smith, J. M. C.
Conry	Harrison, N. Y.	McMorran	Smith, Cal.
Copley	Hayes	Maher	Speer
Covington	Heald	Martin, Colo.	Stack
Crago	Helgesen	Matthews	Stephens, Cal.
Crumpacker	Henry, Tex.	Merritt	Stephens, Nebr.
Danforth	Hill	Moon, Pa.	Sulloway
Daugherty	Howard	Morse, Wis.	Taylor, Colo.
Davis, Minn.	Hughes, W. Va.	Needham	Thistlewood
De Forest	Hull	Nelson	Tilson
Dixon, Ind.	Jackson	Oldfield	Towner
Driscoll, M. E.	James	O'Shaunessy	Underwood
Dupré	Kahn	Palmer	Vreeland
Edwards	Kent	Patten, N. Y.	Warburton
Estopinal	Kindred	Payne	Webb
Fields	Kitchin	Peters	Weeks
Focht	Konig	Prouty	Whitacre
Fordney	Konop	Pujo	Wilson, Ill.
Fornes	Lafean	Rainey	Wilson, N. Y.
Gardner, N. J.	Lamb	Randell, Tex.	Woods, Iowa

So the motion was agreed to.

The Clerk announced the following pairs:

Ending February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Until further notice:

Mr. KITCHIN with Mr. FORDNEY.

Mr. RAINEY with Mr. MCCALL.

Mr. GOULD with Mr. HINDS.

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. GEORGE with Mr. SMITH of California.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. CONRY with Mr. LANGHAM.

Mr. PUJO with Mr. MCMORRAN.

Mr. HULL with Mr. NEEDHAM.

Mr. FIELDS with Mr. LANGLEY.

Mr. EDWARDS with Mr. DE FOREST.

Mr. ANSBERRY with Mr. BURKE of Pennsylvania.

Mr. AIKEN of South Carolina with Mr. DAVIS of Minnesota.

Mr. BRANTLEY with Mr. AMES.

Mr. BROUSSARD with Mr. COPLEY.

Mr. BURNETT with Mr. CRUMPACKER.

Mr. CARLIN with Mr. DANFORTH.

Mr. COVINGTON with Mr. MICHAEL E. DRISCOLL.

Mr. DUPRÉ with Mr. GARDNER of New Jersey.

Mr. ESTOPINAL with Mr. GILLETT.

Mr. GLASS with Mr. SLEMP.

Mr. GOEKE with Mr. GREEN of Iowa.

Mr. GOLDFOGLE with Mr. GUERNSEY.

Mr. GUDGER with Mr. HAYES.

Mr. HAMILL with Mr. CRAGO.

Mr. HARDWICK with Mr. SULLOWAY.

Mr. MURRAY with Mr. HARRIS.

Mr. HENRY with Mr. HUGHES of West Virginia.

Mr. HOWARD with Mr. HELGESEN.

Mr. JAMES with Mr. MCKINLEY.

Mr. KINDRED with Mr. JACKSON.

Mr. KONIG with Mr. LAFEAN.

Mr. KONOP with Mr. LOUD.

Mr. LAMB with Mr. MATTHEWS.

Mr. LEWIS with Mr. KAHN.

Mr. MCKELLAR with Mr. MERRITT.

Mr. MAHER with Mr. MOON of Pennsylvania.

Mr. MARTIN of Colorado with Mr. NELSON.

Mr. OLDFIELD with Mr. PROUTY.

Mr. O'SHAUNESSY with Mr. REYBURN.

Mr. PATTEN of New York with Mr. RODENBERG.

Mr. RANDELL of Texas with Mr. J. M. C. SMITH.

Mr. REDFIELD with Mr. SPEER.

Mr. SABATH with Mr. SELLS.

Mr. SLAYDEN with Mr. TILSON.

Mr. SHEPPARD with Mr. STEPHENS of California.

Mr. STEPHENS of Nebraska with Mr. TOWNER.

Mr. TAYLOR of Colorado with Mr. VREELAND.

Mr. WEBB with Mr. WEEKS.

Mr. WILSON of New York with Mr. WARBURTON.

Mr. WHITACRE with Mr. WILSON of Illinois.

Mr. STACK with Mr. WOODS of Iowa.

Mr. RICHARDSON with Mr. THISTLEWOOD.

For the session:

Mr. PALMER with Mr. HILL.

Mr. LITTLETON with Mr. DWIGHT.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. FORNES with Mr. BRADLEY.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. UNDERWOOD with Mr. MANN.

Mr. MCCALL. Mr. Speaker, I voted "aye," but I am paired with Mr. RAINEY, and I would like to change my vote and answer "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. MCCALL was called, and he answered "Present."

Mr. MURRAY. Mr. Speaker, I would like to inquire whether or not my colleague from Massachusetts, Mr. HARRIS, is recorded.

The SPEAKER. The gentleman is not recorded.

Mr. MURRAY. May I change my vote from "aye" to "present"?

The SPEAKER. Call the gentleman's name.

The name of Mr. MURRAY was called, and he answered "Present."

Mr. MANN. Mr. Speaker, I voted "aye." I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote and be recorded as "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. The Doorkeeper will open the doors, and the Clerk will read the Journal.

Mr. GARDNER of Massachusetts. Mr. Speaker, I desire to present a conference report.

Mr. FITZGERALD. I make a point of order against that.

The SPEAKER. The Journal has not been read.

Mr. GARDNER of Massachusetts. I maintain it is in order before the Journal has been read.

The SPEAKER. The Chair maintains that it is not. The Clerk will read the Journal.

Mr. GARDNER of Massachusetts. Will the Speaker listen to a rule of the House?

The SPEAKER. Of course he will.

Mr. GARDNER of Massachusetts. This is Rule XXVIII:

The presentation of reports of committees of conference shall always be in order, except when the Journal is being read, while the roll is being called, or the House is dividing on any proposition.

Mr. SHERLEY. Mr. Speaker, I call the Chair's attention to the fact that the Journal was just being read. [Cries of "No!"]

The SPEAKER. The Chair will read the first section of Rule I, as follows:

The Speaker shall take the chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting, immediately call the Members to order, and on the appearance of a quorum cause the Journal of the proceedings of the last day's sitting to be read, having previously examined and approved the same.

The Clerk will read the Journal. [Applause.]

The Clerk proceeded with the reading of the Journal.

During the reading,

Mr. MANN. Mr. Speaker, I demand the reading of the Journal in full.

The SPEAKER. Of course, if the gentleman demands it, the Journal will be read in full, and the Clerk will proceed.

The Clerk proceeded with the reading of the Journal.

During the reading,

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent to dispense with the further reading of the Journal.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent to dispense with the further reading of the Journal. Is there objection?

Mr. MANN. I object.

The SPEAKER. The gentleman from Illinois [Mr. MANN] objects. The Clerk will proceed with the reading of the Journal.

The Clerk proceeded with the reading of the Journal.

During the reading.

Mr. MANN. Mr. Speaker, I call attention to the fact that the Clerk omitted to read that part of the Journal which relates to the introduction of bills and petitions.

The SPEAKER. The Chair did not understand the first part of the gentleman's statement.

Mr. MANN. The Clerk did not read that part of the Journal which relates to the introduction of petitions, and I think not that part which relates to the introduction of bills.

The SPEAKER. The Clerk just reached it.

Mr. MANN. He did not read it.

The SPEAKER. He could not read it all at once. The Clerk will proceed with the reading of the Journal.

The Clerk proceeded with and completed the reading of the Journal.

Mr. FITZGERALD. Mr. Speaker, I move that the Journal be approved.

Mr. MANN. I offer a preferential motion, Mr. Speaker.

The SPEAKER. The gentleman will suspend a moment. What was the motion of the gentleman from New York [Mr. FITZGERALD]?

Mr. FITZGERALD. I move that the Journal be approved, and on that motion I demand the previous question.

Mr. MANN. I make a preferential motion to amend the Journal where it provides for the reference of executive communications.

Mr. FITZGERALD. I make a point of order that the motion to amend is not in order pending the demand for the previous question on the approval of the Journal.

Mr. MANN. Mr. Speaker, I have a preferential motion.

The SPEAKER. The question at issue is whether the motion is preferential at this stage of the proceedings.

Mr. MANN. That is the question at issue. I find a ruling on that subject, Mr. Speaker.

The SPEAKER. If the gentleman will suspend a moment, the Chair will state to the House that the gentleman from New York [Mr. FITZGERALD] makes a motion to approve the Journal, and upon that he moves the previous question.

Mr. MANN. The motion I offer I claim to be a preferential one.

The SPEAKER. The Chair will hear the gentleman on his point of order and on the point made by the gentleman from New York that his motion is not now in order.

Mr. MANN. In volume 4 of Hinds' Precedents, section 2760——

Mr. FITZGERALD. What page?

Mr. MANN. Section 2760, page 16, of volume 4 of Hinds' Precedents, is this ruling, with the heading of "A motion to amend the Journal takes precedence of a motion to approve it":

On May 30, 1882, Mr. Speaker Kelfer held that a motion to amend the Journal took precedence of a motion to approve it.

I think it is perfectly apparent, Mr. Speaker——

The SPEAKER. The Chair will ask the gentleman from Illinois [Mr. MANN] if, when the previous question is moved, he still thinks he has the right to make a motion to amend?

Mr. MANN. This is the situation: The gentleman from New York [Mr. FITZGERALD] and myself rose both at the same time; both addressed the Speaker at the same time.

The SPEAKER. That is true.

Mr. MANN. The gentleman from New York offered a motion, which is in order. I offered a motion, which is preferential.

The SPEAKER. The gentleman from New York offered two motions at one time.

Mr. MANN. If my motion be preferential, the motion offered by the gentleman from New York can not cut it out.

Mr. FITZGERALD. Mr. Speaker, I have an authority for my contention right here. If the gentleman will turn to page 23 of the Manual and Digest, he will find that—

The motion to amend the Journal takes precedence of the motion to approve it (IV, 2760); but the motion to amend may not be admitted after the previous question is demanded on a motion to approve (IV, 2770).

I was recognized by the Chair, and made a motion to approve the Journal and demanded the previous question. Having demanded the previous question the gentleman's motion to amend is not in order unless the previous question be voted down.

In section 2770, volume 4, Hinds' Precedents, is the following:

A motion to amend the Journal may not be admitted after the previous question is demanded on a motion to approve.

The SPEAKER. The Chair will not bother the gentleman from New York [Mr. FITZGERALD] for any more light. The contention of the gentleman from Illinois [Mr. MANN], for whose parliamentary knowledge the Chair has a great deal of respect, would, if sustained, absolutely nullify the previous question, and the previous question is intended to put an end to things.

Mr. FITZGERALD. Mr. Speaker, I ask to put in the RECORD, so that there will be no misunderstanding, the decision of Mr. Speaker Reed on June 21, 1897, when he overruled a similar point of order and said:

The Chair desires to call the attention of the House to a statement made at the last session in regard to the amendment of the Journal. According to the RECORD, the Chair stated that a motion to approve the Journal takes precedence of a motion to amend it. Of course, that statement was made simply with reference to the case which was in hand, and, to be accurate for general purposes, there ought to be added, "if that motion is first made."

I desire to say, concerning the citation made by the gentleman from Illinois of the decision made by Mr. Speaker Keifer, that this matter does not arise in the same way. So far as I have been able to examine the RECORD hurriedly, it does not show that the motion to approve was made and the previous question demanded upon it. But this decision of Mr Speaker Reed is exactly in point.

The SPEAKER. If the gentleman from Illinois [Mr. MANN] desires to be heard further on his point of order, the Chair will hear him, although the Chair has already indicated his opinion about it.

Mr. MANN. I do not desire to detain the Chair, but if there are two motions and either one of them is offered, and one is preferential to the other, the preferential motion can not be cut out by a demand for the previous question, if the motion is preferential to the one that is offered.

The SPEAKER. In the ordinary procedure if the order of the three motions had come right the gentleman's point would be well taken. But the order of the procedure did not come so as to fit his case. The Chair recognized the gentleman from New York [Mr. FITZGERALD], and had a perfect right to do it; and the gentleman from New York made two motions before he sat down, one following right after the other, and the last one was to move the previous question on his first motion. The previous question is of the highest order, and the Chair has no doubt in his own mind but that to maintain the contention of the gentleman from Illinois [Mr. MANN] would practically obliterate and annul the force of the motion for the previous question; and the Chair so rules.

Mr. MANN. Then I move, Mr. Speaker, to lay on the table the motion of the gentleman from New York, which under the rules is a preferential motion to the previous question.

Mr. FITZGERALD. Mr. Speaker, that carries the Journal with it.

Mr. MANN. Very well; I know what it carries.

Mr. FITZGERALD. I make the point of order that the motion is dilatory.

The SPEAKER. The Chair would rather entertain it than rule that it is dilatory. Those in favor of tabling the motion of the gentleman from New York will answer "aye," those opposed "no."

The question being taken, the Speaker announced that the "noes" appeared to have it.

Mr. MANN. I demand the yeas and nays, Mr. Speaker.

The yeas and nays were ordered.

The question was taken; and there were—yeas 2, nays 257, answered "present" 10, not voting 114, as follows:

YEAS—2.

Alney	Barchfeld

NAYS—257.

Adair	Butler	Difenderfer	Gill
Adamson	Byrnes, S. C.	Dodds	Gillett
Aiken, S. C.	Byrns, Tenn.	Donohoe	Godwin, N. C.
Allen	Calder	Doughton	Good
Anderson	Callaway	Draper	Goodwin, Ark.
Andrus	Campbell	Driscoll, D. A.	Gould
Anthony	Candler	Driscoll, M. E.	Graham
Ashbrook	Cannon	Dupré	Gray
Austin	Cantrill	Dyer	Green, Iowa
Ayres	Carlin	Edwards	Greene, Mass.
Barnhart	Cary	Ellerbe	Greene, Vt.
Bartholdt	Clark, Fla.	Esch	Gregg, Pa.
Bartlett	Claypool	Falson	Gregg, Tex.
Bates	Clayton	Farr	Griest
Bathrick	Cline	Fergusson	Gudger
Beall, Tex.	Collier	Ferris	Guernsey
Bell, Ga.	Cooper	Finley	Hamill
Berger	Cox	Fitzgerald	Hamilton, Mich.
Blackmon	Crumpacker	Flood, Va.	Hamilton, W. Va.
Boehne	Cullop	Floyd, Ark.	Hamlin
Booher	Curley	Foss	Harrison, Miss.
Borland	Currier	Foster	Hart
Broussard	Dalzell	Fowler	Haugen
Brown	Davenport	Francis	Hawley
Browning	Davidson	French	Hay
Buchanan	Davis, W. Va.	Fuller	Hayden
Bulkley	De Forest	Gallagher	Heald
Burgess	Dent	Gardner, Mass.	Heflin
Burke, Pa.	Denver	Gardner, N. J.	Helgesen
Burke, S. Dak.	Dickinson	Garner	Helm
Burke, Wis.	Dies	Garrett	Henry, Conn.

Hensley	McGillicuddy	Porter	Stanley
Higgins	McKenzie	Post	Stedman
Hinds	McKinney	Pou	Stephens, Cal.
Holland	McLaughlin	Powers	Stephens, Miss.
Houston	Macon	Pray	Sterling
Howell	Madden	Prince	Stevens, Minn.
Howland	Maguire, Nebr.	Raker	Stone
Hughes, Ga.	Martin, S. Dak.	Ransdell, La.	Switzer
Humphrey, Wash.	Mays	Rees	Talcott, N. Y.
Jacoway	Merritt	Reilly	Taylor, Ala.
Johnson, S. C.	Miller	Roberts, Mass.	Taylor, Ohio
Kendall	Moon, Pa.	Roberts, Nev.	Thomas
Kennedy	Moon, Tenn.	Roddenbery	Towner
Kinkaid, Nebr.	Moore, Pa.	Rothermel	Townsend
Kinkead, N. J.	Moore, Tex.	Rouse	Tribble
Knowland	Morgan, La.	Rubey	Turnbull
Konop	Morgan, Okla.	Rucker, Colo.	Tuttle
Korbly	Morrison	Rucker, Mo.	Underhill
La Follette	Morse, Wis.	Russell	Vare
Lamb	Moss, Ind.	Saunders	Volstead
Langley	Mott	Scott	Watkins
Lawrence	Murdock	Scully	Webb
Lee, Ga.	Neeley	Shackleford	Whitacre
Lee, Pa.	Nelson	Sherley	White
Lever	Norris	Sherwood	Wilder
Levy	Nye	Simmons	Willis
Lindbergh	Olmsted	Sims	Wilson, Pa.
Linthicum	Padgett	Slayden	Witherspoon
Lloyd	Page	Sloan	Young, Kans.
Lobeck	Patton, Pa.	Small	Young, Mich.
Loud	Payne	Smith, Saml. W.	Young, Tex.
McCoy	Pepper	Smith, N. Y.	
McCreary	Pickett	Smith, Tex.	
McDermott	Plumley	Sparkman	

ANSWERED "PRESENT"—10.

Fairchild	Mann	Rainey	Riordan
McCall	Murray	Rauch	Stephens, Tex.
McGuire, Okla.	Parran		

NOT VOTING—114.

Akin, N. Y.	Glass	Langham	Sells
Alexander	Goeke	Legare	Sharp
Ames	Goldfogle	Lenroot	Sheppard
Ansberry	Hammond	Lewis	Sisson
Bradley	Hardwick	Lindsay	Slemp
Brantley	Hardy	Littlepage	Smith, J. M. C.
Burleson	Harris	Littleton	Smith, Cal.
Burnett	Harrison, N. Y.	Longworth	Speer
Carter	Hartman	McKellar	Stack
Conry	Hayes	McKinley	Steenerson
Copley	Henry, Tex.	McMorran	Stephens, Nebr.
Covington	Hill	Maher	Sulloway
Crago	Hobson	Martin, Colo.	Sweet
Cravens	Howard	Matthews	Taggart
Curry	Hughes, W. Va.	Mondell	Talbott, Md.
Danforth	Hull	Needham	Taylor, Colo.
Daugherty	Humphreys, Miss.	Oldfield	Thayer
Davis, Minn.	Jackson	O'Shaunessy	Thistlewood
Dickson, Miss.	James	Palmer	Tilson
Dixon, Ind.	Johnson, Ky.	Patten, N. Y.	Underwood
Doremus	Jones	Peters	Vreeland
Dwight	Kahn	Prouty	Warburton
Estopinal	Kent	Pujo	Weeks
Evans	Kindred	Randell, Tex.	Wilson, Ill.
Fields	Kitchin	Redfield	Wilson, N. Y.
Focht	Konig	Reyburn	Wood, N. J.
Fordney	Kopp	Richardson	Woods, Iowa
Fornes	Lafean	Rodenberg	
George	Lafferty	Sabath	

So the motion to lay on the table was rejected.

The Clerk announced the following additional pairs:

Until further notice:

Mr. AIKEN of South Carolina with Mr. COPLEY.

Mr. ALEXANDER with Mr. DANFORTH.

Mr. BURLESON with Mr. DAVIS of Minnesota.

Mr. COVINGTON with Mr. HAYES.

Mr. DOREMUS with Mr. CURRY.

Mr. ESTOPINAL with Mr. HARTMAN.

Mr. EVANS with Mr. KOPP.

Mr. GOLDFOGLE with Mr. LAFFERTY.

Mr. HARDY with Mr. TILSON.

Mr. HOWARD with Mr. WILSON of Illinois.

Mr. HUMPHREYS of Mississippi with Mr. MONDELL.

Mr. MAHER with Mr. WOODS of Iowa.

Mr. HARRISON of New York with Mr. WEEKS.

Mr. SHARP with Mr. STEENERSON.

Mr. SISSON with Mr. MERRITT.

Mr. MANN. Mr. Speaker, I voted "no"; but because of my pair with the gentleman from Alabama, Mr. UNDERWOOD, I desire to change my vote and answer "present."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on ordering the previous question.

The question being taken, the Speaker announced that the "ayes" appeared to have it.

Mr. MANN. I ask for the yeas and nays.

The question being taken on ordering the yeas and nays, the Speaker, after counting, announced 45 Members voting in favor of ordering the yeas and nays, not a sufficient number.

Mr. MANN. I ask for the other side, Mr. Speaker.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that the roll call having just disclosed 268 Members present, in order to have the yeas and nays it is necessary to have one-fifth of that number, and the other side can not be counted, because that is only for the purpose of determining the number present, which has just been shown by the roll call.

The SPEAKER. That is the presumption, but the gentleman from Illinois has the right to demand the other side to demonstrate the physical fact.

Mr. MANN. Forty-five is more than one-fifth of a quorum, anyhow.

The SPEAKER. The Constitution of the United States provides that the yeas and nays on any question shall, at the desire of one-fifth of those present, be entered on the Journal, and the Chair will preserve all the rights of the gentleman. Those opposed to ordering the yeas and nays will rise and stand until counted. [After counting.] One hundred and four Members have risen in opposition to the demand for the yeas and nays and 45 in favor of ordering the yeas and nays. A sufficient number have demanded the yeas and nays, and the Clerk will call the roll.

The question was taken; and there were—yeas 140, nays 84, answered "present" 10, not voting 149, as follows:

YEAS—140.

Adair	Difenderfer	Helm	Pou
Aiken, S. C.	Dodds	Hensley	Raker
Allen	Donohoe	Hobson	Ransdell, La.
Ashbrook	Doremus	Holland	Rauch
Barnhart	Doughton	Houston	Reilly
Bathrick	Draper	Hughes, Ga.	Riordan
Bell, Ga.	Driscoll, D. A.	Humphreys, Miss.	Roddenbery
Blackmon	Edwards	Jacoway	Rothermel
Boehne	Ellerbe	James	Rouse
Booher	Estopinal	Johnson, S. C.	Rubey
Borland	Falson	Jones	Rucker, Colo.
Brantley	Ferris	Kinkead, N. J.	Rucker, Mo.
Buchanan	Fitzgerald	Konig	Russell
Bulkley	Flood, Va.	Konop	Sherwood
Burgess	Floyd, Ark.	Korbly	Sims
Burke, Wis.	Foster	Lee, Ga.	Slayden
Byrnes, S. C.	Fowler	Lee, Pa.	Smith, Tex.
Byrns, Tenn.	Francis	Lever	Sparkman
Callaway	Gallagher	Linthicum	Stanley
Cantrill	Gardner, Mass.	Littlepage	Stedman
Carlin	Garner	Lobeck	Stephens, Miss.
Cary	Gill	McCoy	Stephens, Tex.
Clark, Fla.	Godwin, N. C.	McDermott	Stone
Claypool	Goodwin, Ark.	McGillicuddy	Sweet
Clayton	Gould	Macon	Taggart
Collier	Gray	Maguire, Nebr.	Thomas
Cox	Gregg, Pa.	Mays	Tribble
Cullop	Gregg, Tex.	Moon, Tenn.	Turnbull
Curley	Hamill	Moore, Tex.	Watkins
Davenport	Hamilton, W. Va.	Morgan, La.	Webb
Dent	Humlin	Moss, Ind.	Whitacre
Denver	Harrison, Miss.	Neeley	White
Dickinson	Hay	Padgett	Wilson, Pa.
Dickson, Miss.	Hayden	Page	Witherspoon
Dies	Heflin	Pepper	Young, Tex.

NAYS—84.

Alney	Gardner, N. J.	McCreary	Pray
Anthony	Gillett	McKenzie	Prince
Austin	Good	McKinney	Rees
Barchfeld	Green, Iowa	McLaughlin	Roberts, Mass.
Bartholdt	Greene, Mass.	Madden	Roberts, Nev.
Bates	Griest	Martin, S. Dak.	Scott
Burke, Pa.	Hamilton, Mich.	Miller	Simmons
Burke, S. Dak.	Haugen	Mondell	Sloan
Cannon	Heald	Moore, Pa.	Smith, Saml. W.
Cooper	Helgesen	Morgan, Okla.	Steenerson
Crumpacker	Henry, Conn.	Morse, Wis.	Stephens, Cal.
Currier	Higgins	Murdock	Sterling
Danforth	Howell	Nelson	Switzer
Davidson	Jackson	Norris	Taylor, Ohio
De Forest	Kendall	Nye	Towner
Driscoll, M. E.	Kennedy	Olmsted	Vare
Dyer	Kinkaid, Nebr.	Patton, Pa.	Volstead
Esch	La Follette	Payne	Wilder
Farr	Lawrence	Plumley	Willis
French	Lindbergh	Porter	Young, Kans.
Fuller	Loud	Powers	Young, Mich.

ANSWERED "PRESENT"—10.

Adamson	Dwight	McGuire, Okla.	Murray
Akin, N. Y.	Langley	Mann	Parran
Browning	McCall		

NOT VOTING—149.

Alexander	Calder	Dixon, Ind.	Goldfogle
Ames	Campbell	Dupré	Graham
Anderson	Candler	Evans	Greene, Vt.
Andrus	Carter	Fairchild	Gudger
Ansberry	Cline	Fergusson	Guernsey
Ayres	Conry	Fields	Hammond
Bartlett	Copley	Finley	Hardwick
Beall, Tex.	Covington	Focht	Hardy
Berger	Crago	Fordney	Harris
Bradley	Cravens	Fornes	Harrison, N. Y.
Broussard	Curry	Foss	Hart
Brown	Dalzell	Garrett	Hartman
Burleson	Daugherty	George	Hawley
Burnett	Davis, Minn.	Glass	Hayes
Butler	Davis, W. Va.	Goeke	Henry, Tex.

Hill	Littleton	Rainey	Stevens, Minn.
Hinds	Lloyd	Randell, Tex.	Sulloway
Howard	Longworth	Redfield	Talbott, Md.
Howland	McKellar	Reyburn	Talcott, N. Y.
Hughes, W. Va.	McKinley	Richardson	Taylor, Ala.
Hull	McMorran	Rodenberg	Taylor, Colo.
Humphrey, Wash.	Maher	Sabath	Thayer
Johnson, Ky.	Martin, Colo.	Saunders	Thistlewood
Kahn	Matthews	Scully	Tilson
Kent	Merritt	Sells	Townsend
Kindred	Moon, Pa.	Shackleford	Tuttle
Kitchin	Morrison	Sharp	Underhill
Knowland	Mott	Sheppard	Underwood
Kopp	Needham	Sherley	Vreeland
Lafean	Oldfield	Sisson	Warburton
Lafferty	O'Shaunessy	Slemp	Weeks
Lamb	Palmer	Small	Wilson, Ill.
Langham	Patten, N. Y.	Smith, J. M. C.	Wilson, N. Y.
Legare	Peters	Smith, Cal.	Wood, N. J.
Lenroot	Pickett	Smith, N. Y.	Woods, Iowa
Levy	Post	Speer	
Lewis	Prouty	Stack	
Lindsay	Pujo	Stephens, Nebr.	

So the previous question was ordered.

The following additional pairs were announced.

For the session:

Mr. BARTLETT with Mr. BUTLER.

Mr. RIORDAN with Mr. ANDRUS.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. SCULLY with Mr. BROWNING.

Until further notice:

Mr. AYRES with Mr. COPLEY.

Mr. BEALL of Texas with Mr. AMES.

Mr. TOWNSEND with Mr. CALDER.

Mr. BROWN with Mr. CAMPBELL.

Mr. CANDLER with Mr. DALZELL.

Mr. TUTTLE with Mr. KOPP.

Mr. BURNETT with Mr. HARTMAN.

Mr. DAVIS of West Virginia with Mr. FOSS.

Mr. UNDERHILL with Mr. CURRY.

Mr. FINLEY with Mr. GREENE of Vermont.

Mr. FERGUSSON with Mr. GUERNSEY.

Mr. GARRETT with Mr. HINDS.

Mr. GRAHAM with Mr. HAWLEY.

Mr. GUDGER with Mr. HOWLAND.

Mr. JOHNSON of Kentucky with Mr. HUMPHREY of Washington.

Mr. LEVY with Mr. MOTT.

Mr. LLOYD with Mr. MCKINLEY.

Mr. SHERLEY with Mr. KNOWLAND.

Mr. SMALL with Mr. PICKETT.

Mr. TALCOTT of New York with Mr. WOODS of Iowa.

Mr. POST with Mr. LAFEAN.

Mr. MANN. Mr. Speaker, may I inquire if the gentleman from Alabama, Mr. UNDERWOOD, voted?

The SPEAKER. He is not recorded.

Mr. MANN. I voted "no," and I desire to withdraw that vote and be recorded as "present."

Mr. BROWNING. Mr. Speaker, may I inquire if the gentleman from New Jersey, Mr. SCULLY, voted?

The SPEAKER. He is not recorded.

Mr. BROWNING. I desire to withdraw my vote of "no" and answer "present."

The result of the vote was then announced as above recorded.

Mr. MANN. Mr. Speaker, I believe I am entitled to 20 minutes.

The SPEAKER. The gentleman from Illinois is recognized for 20 minutes.

Mr. FITZGERALD. Mr. Speaker, am I not entitled to 20 minutes?

The SPEAKER. The gentleman from New York is entitled to 20 minutes, and entitled to open and close if he chooses.

Mr. MANN. Mr. Speaker, I would be very glad to have the gentleman from New York open the debate.

The SPEAKER. The gentleman from Illinois is recognized for 20 minutes.

Mr. MANN. I understood the Chair to say that the gentleman from New York had the right to open.

The SPEAKER. The Chair was announcing the right of anybody to 40 minutes' debate, and the gentleman from New York took his seat and signified that he did not want to open the debate.

Mr. MANN. Mr. Speaker, yesterday the House adopted an order offered by the gentleman from Texas [Mr. STEPHENS] for the purpose of correcting a mistake made by one of the enrolling clerks, or somebody at the desk, asking the Senate to permit the Clerk of the House to correct an error in the Indian appropriation bill. When the order was presented this colloquy took place:

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I suggest to the gentleman that where the word "section" occurs in the order just read it should read "paragraph."

Mr. STEPHENS of Texas. Mr. Speaker, I think that is correct.

The SPEAKER. Without objection, the change will be made.

There was no objection.

Now, ordinarily one would suppose that with that colloquy and order taking place that where the word "section" appeared erroneously, as it did in the order presented, that that was stricken out and the word "paragraph" inserted, and yet the Journal which the gentleman from New York proposes to approve, without an opportunity to amend, does not make that correction in the order. I do not wonder that when the House can not rely upon the clerks at the desk to properly perform the duties devolving upon them, either through error, which I do not criticize them for especially, the gentleman desires to approve the Journal without an opportunity to amend it. I had proposed this morning to have the Journal corrected in accordance with the facts. The facts were that the House agreed to this order with the word "paragraph" in it in two places instead of the word "section."

But the Journal shows, as it stands, that that change was not made. What reliance have we in the House upon agreements and amendments that are agreed to in the House when they are not made? And now gentlemen propose to approve the Journal without a chance to amend it to conform to the facts in the case. I am surprised that the gentleman from New York [Mr. FITZGERALD] or any other gentleman in the House should desire to approve the Journal without a chance to amend it, when the Journal is not correct and does not state what took place in the House. The House adopted one order under the Speaker's ruling and the Journal shows a different order, and yet the minority are refused an opportunity to correct it because the House has ordered the previous question, and no amendments can be offered to the Journal.

Mr. Speaker, in the Fifty-eighth Congress the House passed a provision in one of the appropriation bills which was offered by the then Democratic leader, Mr. Richardson, of Tennessee. It reads like this:

Provided further, That hereafter no part of the appropriations made for printing and binding shall be used for any illustration, engraving, or photograph in any document or report ordered printed by Congress unless the order to print expressly authorizes the same.

Under the rules of the House in the Sixty-first Congress, as had been the rule for a number of years, there was a rule providing that all documents referred to committees, or otherwise disposed of, shall be printed unless otherwise specially ordered. That was a rule adopted following the passage of the public printing act of 1895, providing that the executive and public documents presented to the House should be printed. Then came along the Richardson amendment providing that no illustration shall be printed unless expressly ordered. Yet in the Journal of to-day there appears this statement:

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Ashtabula Harbor, Ohio (H. Doc. No. 1295); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

Clause 2 of Rule XXIV simply provides for the reference of this document. It does not authorize the Speaker or anyone else to order it printed; much less does it authorize the Speaker to order it printed with illustrations. I am not criticizing the Speaker in this connection, I wish the House to understand. When the Richardson amendment was first adopted, there was a quandary presented to the House as to how it would get around it. At the time the Richardson amendment was presented, forbidding the printing of illustrations, I called the attention of the House to the fact that it was either so much waste paper or else it would delay the House on many occasions, because the House could not determine by order offered in the House in regard to the printing of illustrations in all of the executive documents which were presented to the House.

Mr. CLARK of Florida rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. CLARK of Florida. Mr. Speaker, I desire to ask the gentleman from Illinois a question.

The SPEAKER. Does the gentleman from Illinois yield?

Mr. MANN. Mr. Speaker, I yield for a question.

Mr. CLARK of Florida. Does not the gentleman from Illinois think that it would be very much to the edification of the American people if the proceedings of the House of this day should be published with illustrations?

Mr. MANN. I hope they will be [applause on the Republican side], because up to this time this side of the House has been conducting a filibuster in order to teach a lesson to the other side of the House and to the gentleman from Texas [Mr. GARNER] on the other side of the House, who gave notice that he and others upon that side proposed to filibuster to prevent the

Lincoln Memorial bill coming before the House; and I firmly believe that the country will sustain us in what we are doing. And if it be necessary, as I hope it will not be, to continue the filibuster in order to have the Lincoln Memorial bill presented to the House in regular order, then we will filibuster until the cows come home. [Applause on the Republican side.] The gentleman from Florida may not have been a participant in that filibuster. I do not know, but I take it that he voted yesterday to adjourn, and I do not criticize him for that.

However, Mr. Speaker, the Sixty-first Congress and the other preceding Congresses having in the rules a provision for the printing of executive documents without providing for illustrations, this Congress, when it revised the rules, left out the order of printing, and this statement is made in the Manual:

The old rule on the subject of printing was abolished by the Sixty-second Congress, as the printing statute covered the subject.

The fact is that the printing statute does not cover the subject, and there is not a line in the public printing statute which authorizes the printing of these executive documents which are presented to the House, except certain annual reports and certain other documents which are specified and which are not included in the ones to which I have called attention. The fact is that the old rule providing for the printing was adopted in 1895 for the express purpose of meeting the public printing act of 1895, to which reference is here made.

Now, it may be desirable by the approval of the Journal for the House now to declare that the illegal practice heretofore adopted shall be made legal in the practice of the House and adopt the Journal containing this provision. I think if I had been the Speaker or parliamentary clerk I should have done just what the present Speaker or the parliamentary clerk have done—ordered this document printed with illustrations; but the mistake was when they adopted the rule they did not provide for it. Now we will be asked by a vote on the approval of the Journal to condone the practice, and, so far as the practice of the House is concerned, to validate what has been done and what will be done in the future.

I reserve the balance of my time. [Applause on the Republican side.]

The SPEAKER. The question is on the motion to approve the Journal.

The question was taken; and the Speaker announced the "ayes" seemed to have it.

Mr. MANN. I demand the yeas and nays, Mr. Speaker.

The SPEAKER. The gentleman from Illinois demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 149, nays 81, answered "present" 9, not voting 144, as follows:

YEAS—149.

Adair	Dickson, Miss.	Helm	Ransdell, La.
Aiken, S. C.	Dies	Hensley	Reilly
Allen	Difenderfer	Holland	Roddenbery
Ashbrook	Donohoe	Houston	Rothermel
Barnhart	Doremus	Hughes, Ga.	Rouse
Bartlett	Doughton	Humphreys, Miss.	Rubey
Beall, Tex.	Driscoll, D. A.	Jacoway	Rucker, Colo.
Bell, Ga.	Dupré	James	Russell
Blackmon	Edwards	Johnson, S. C.	Saunders
Boehne	Ellerbe	Jones	Scully
Booher	Estopinal	Kinkead, N. J.	Sharp
Borland	Evans	Konig	Sherley
Brantley	Faison	Konop	Sherwood
Buchanan	Fergusson	Lee, Ga.	Small
Bulkley	Ferris	Lee, Pa.	Smith, Tex.
Burgess	Finley	Lever	Sparkman
Burke, Wis.	Fitzgerald	Linthicum	Stedman
Burleson	Flood, Va.	Littlepage	Stephens, Miss.
Byrnes, S. C.	Floyd, Ark.	Lloyd	Stephens, Tex.
Byrns, Tenn.	Foster	Lobeck	Stone
Callaway	Fowler	McCoy	Sweet
Candler	Gallagher	McDermott	Taggart
Cantrill	Garner	McGillicuddy	Talcott, N. Y.
Carlin	Garrett	Macon	Taylor, Colo.
Cary	Godwin, N. C.	Maguire, Nebr.	Thomas
Clark, Fla.	Goodwin, Ark.	Mann	Townsend
Claypool	Gould	Mays	Tribble
Clayton	Graham	Moon, Tenn.	Tuttle
Cline	Gray	Morrison	Underhill
Collier	Gregg, Pa.	Moss, Ind.	Watkins
Cox	Hamill	Neeley	Webb
Cullop	Hamilton, W. Va.	Norris	Whitacre
Curley	Hamlin	Padgett	Wilson, Pa.
Davenport	Harrison, Miss.	Page	Witherspoon
Davis, W. Va.	Hart	Pepper	Young, Tex.
Dent	Hay	Peters	
Denver	Hayden	Pou	
Dickinson	Heflin	Raker	

NAYS—81.

Ainey	Cannon	Dodds	French
Akin, N. Y.	Cooper	Draper	Fuller
Barchfeld	Crumpacker	Driscoll, M. E.	Gardner, Mass.
Bartholdt	Currier	Dyer	Gardner, N. J.
Bates	Danforth	Esch	Gillett
Browning	Davidson	Farr	Good
Campbell	De Forest	Foss	Green, Iowa
Greene, Mass.	La Follette	Murdock	Smith, Saml. W.
Hamilton, Mich.	Lawrence	Nelson	Steenerson
Haugen	Lindbergh	Olmsted	Stephens, Cal.
Hawley	Loud	Patton, Pa.	Sterling
Henry, Conn.	McCreary	Pickett	Switzer
Higgins	McKenzie	Powers	Taylor, Ohio
Hinds	McKinney	Pray	Volstead
Howland	McLaughlin	Prince	Wilder
Jackson	Madden	Rees	Willis
Kahn	Mondell	Roberts, Mass.	Young, Kans.
Kendall	Moore, Pa.	Roberts, Nev.	Young, Mich.
Kennedy	Morgan, La.	Scott	
Kinkaid, Nebr.	Morgan, Okla.	Simmons	
Lafferty	Morse, Wis.	Sloan	

ANSWERED "PRESENT"—9.

Adamson	Langley	Murray	Payne
Anthony	McGuire, Okla.	Parran	Thistlewood
Dwight			

NOT VOTING—144.

Alexander	Glass	Lenroot	Riordan
Ames	Goeke	Levy	Rodenberg
Anderson	Goldfogle	Lewis	Rucker, Mo.
Andrus	Greene, Vt.	Lindsay	Sabath
Ansberry	Gregg, Tex.	Littleton	Sells
Austin	Griest	Longworth	Shackleford
Ayres	Gudger	McCall	Sheppard
Bathrick	Guernsey	McKellar	Sims
Berger	Hammond	McKinley	Sisson
Bradley	Hardwick	McMorran	Slayden
Broussard	Hardy	Maher	Slemp
Brown	Harris	Martin, Colo.	Smith, J. M. C.
Burke, Pa.	Harrison, N. Y.	Martin, S. Dak.	Smith, Cal.
Burke, S. Dak.	Hartman	Matthews	Smith, N. Y.
Burnett	Hayes	Merritt	Speer
Butler	Heald	Miller	Stack
Calder	Helgesen	Moon, Pa.	Stanley
Carter	Henry, Tex.	Moore, Tex.	Stephens, Nebr.
Conry	Hill	Mott	Stevens, Minn.
Copley	Hobson	Needham	Sulloway
Covington	Howard	Nye	Talbott, Md.
Crago	Howell	Oldfield	Taylor, Ala.
Cravens	Hughes, W. Va.	O'Shaunessy	Thayer
Curry	Hull	Palmer	Tilson
Dalzell	Humphrey, Wash.	Patten, N. Y.	Towner
Daugherty	Johnson, Ky.	Plumley	Turnbull
Davis, Minn.	Kent	Porter	Underwood
Dixon, Ind.	Kindred	Post	Vare
Fairchild	Kitchin	Prouty	Vreeland
Fields	Knowland	Pujo	Warburton
Focht	Kopp	Rainey	Weeks
Fordney	Korbly	Randell, Tex.	White
Fornes	Lafean	Rauch	Wilson, Ill.
Francis	Lamb	Redfield	Wilson, N. Y.
George	Langham	Reyburn	Wood, N. J.
Gill	Legare	Richardson	Woods, Iowa

So the Journal was approved.

The Clerk announced the following additional pairs:

Until further notice:

Mr. HARRISON of New York with Mr. PAYNE.

Mr. UNDERWOOD with Mr. MCKINLEY.

Mr. SLAYDEN with Mr. ANTHONY.

Mr. BATHRICK with Mr. AUSTIN.

Mr. BROWN with Mr. BUTLER.

Mr. FRANCIS with Mr. BURKE of Pennsylvania.

Mr. GREGG of Texas with Mr. BURKE of South Dakota.

Mr. GUDGER with Mr. DALZELL.

Mr. SIMS with Mr. GREENE of Vermont.

Mr. LEWIS with Mr. GRIEST.

Mr. KORBLY with Mr. GUERNSEY.

Mr. LAMB with Mr. HEALD.

Mr. MAHER with Mr. HELGESEN.

Mr. POST with Mr. KNOWLAND.

Mr. RAUCH with Mr. MARTIN of South Dakota.

Mr. SLAYDEN with Mr. MILLER.

Mr. SMITH of New York with Mr. MOON of Pennsylvania.

Mr. STANLEY with Mr. NYE.

Mr. TAYLOR of Alabama with Mr. PLUMLEY.

Mr. THAYER with Mr. WEEKS.

Mr. WHITE with Mr. WOODS of Iowa.

Mr. STACK with Mr. VARE.

Mr. LINDSAY with Mr. WOOD of New Jersey.

Mr. THISTLEWOOD. Mr. Speaker, I find I have a general pair with Mr. RICHARDSON, of Alabama. If he was present he would undoubtedly vote "aye." I voted "no," and I desire to withdraw that vote and answer "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. THISTLEWOOD was called, and he answered "Present."

Mr. MANN. Mr. Speaker, how am I recorded?

The SPEAKER. The gentleman is recorded as "present."

Mr. MANN. Mr. Speaker, I desire to vote.

The SPEAKER. Call the gentleman's name.

The name of Mr. MANN was called, and he voted "aye."

The result of the vote was announced as above recorded.

Mr. MANN. I move to reconsider the vote by which the Journal was approved.

Mr. DYER. Mr. Speaker——

Mr. GARDNER of Massachusetts. Mr. Speaker——

Mr. HEFLIN. Mr. Speaker, I move to reconsider the vote by which the Journal was approved.

The SPEAKER. The Chair did not understand the motion of the gentleman from Illinois.

Mr. MANN. I move to reconsider the vote by which the Journal was approved.

Mr. HAY. Mr. Speaker, I make the point of order that that motion is dilatory.

Mr. MANN. Mr. Speaker, I wish to be heard on that. Rule XVIII provides:

When a motion has been made and carried or lost it shall be in order for any member of the majority, on the same or succeeding day, to move for the reconsideration thereof, and such motion shall take precedence of all other questions except the consideration of a conference report or a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House—

And so forth. It is a right under the rule that can not be held to be dilatory.

Mr. FITZGERALD. It has been held time and again by the gentleman from Illinois [Mr. MANN] himself that a motion to reconsider may be dilatory. Whenever it is apparent that the purpose of any motion or any action is to unnecessarily retard business or to prevent the House from transacting business, the Speaker has uniformly held that the action is dilatory. The decision that the rule applies to the motion to reconsider is to be found in section 5735, volume 5, of Hinds' Precedents, a ruling made by the distinguished gentleman from Illinois [Mr. CANNON].

The SPEAKER. Does the gentleman from Illinois [Mr. MANN] desire to be heard?

Mr. MANN. I do.

Mr. GARDNER of Massachusetts. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Massachusetts rise?

Mr. GARDNER of Massachusetts. To present a motion of higher privilege than a motion to reconsider, under the rules.

Mr. FITZGERALD. Mr. Speaker, I make a point of order that pending this point of order the gentleman can not do so.

Mr. GARDNER of Massachusetts. I was on my feet trying to get recognition when the gentleman was recognized.

The SPEAKER. The power of recognition is lodged in the Chair. All of these rules have to be taken together and considered together, and the intention of all of them is to expedite business instead of retarding it. [Applause.]

So the Chair recognized the gentleman from Illinois [Mr. MANN] to argue this for a reasonable length of time.

Mr. MANN. Very briefly, Mr. Speaker. It is perfectly patent, I think, if the Speaker should now hold my motion to reconsider out of order, the Speaker could not hold it out of order to-morrow.

The SPEAKER. Could not hold what out of order to-morrow?

Mr. MANN. A motion to reconsider out of order to-morrow. The rule is that any member of the majority on the same or succeeding day may move for the reconsideration of the vote. Now, when they say that a motion to reconsider is dilatory, I would state that a motion to reconsider is made on almost every proposition. It is one of the rights to enter the motion immediately or enter it next day under this rule. I do not see how the Speaker can hold that such motion is dilatory when it is in order at any time to-day or at any time to-morrow. Others matters could take precedence of it after it is made, unquestionably, under the rules, but the right to enter a motion to reconsider always has been held a privilege in which the Members had a right to be protected. Take a bill that passes the House, will the Speaker hold that if a motion is made to reconsider that that motion is dilatory? Any Member of the House may make a motion next day, and the delay of a motion may hold up the sending of the bill to the other body.

Mr. FITZGERALD. Mr. Speaker, I call the gentleman's attention to the fact that it is not only possible, but it has been done. Mr. Watson, Speaker pro tempore in 1898, when the gentleman from Illinois [Mr. MANN] was a Member of the House, declined to entertain a motion of Mr. Bailey to reconsider a vote on the ground that the gentleman was making it as a dilatory motion

It is patent to everyone in the House that since 12 o'clock noon to-day a filibuster has been going on. Whenever that becomes apparent, a motion, even though it might serve some useful purpose——

Mr. HELM. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Kentucky rise?

Mr. HELM. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HELM. Has it not been over five minutes since the gentleman from Illinois [Mr. MANN], in response to a question by the gentleman from Florida [Mr. CLARK], said that he was conducting a filibuster and intended to conduct it until the cows came home?

Mr. MANN. No; I did not so declare.

The SPEAKER. There is no use to argue it. The motion is dilatory. [Applause on the Democratic side.]

Mr. MANN. I think it ought to be settled by the House. I appeal from the decision of the Chair.

Mr. FITZGERALD. I make the point of order that the motion to appeal is dilatory.

Mr. MANN. It has taken three hours of the House in which to approve the Journal.

Mr. GARDNER of Massachusetts. Mr. Speaker——

The SPEAKER. The gentleman from Massachusetts.

Mr. GARDNER of Massachusetts. I invite the attention of the Speaker to the rule of this House that a conference report can be presented at any time a Member thinks fit.

Mr. SHERLEY. Mr. Speaker, I make the point of order that that is not in order now.

The SPEAKER. That is not the purpose for which the Chair recognized the gentleman.

Mr. GARDNER of Massachusetts. The gentleman, under the rules of this House, presents a conference report on the part of the managers of the House on the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, and I give notice in behalf of the gentleman from Alabama [Mr. BURNETT], who is indisposed to-day, that he will call it up to-morrow morning on the approval of the Journal.

Mr. FITZGERALD. I hope that will be earlier than to-day. [Laughter.]

QUESTION OF PERSONAL PRIVILEGE.

Mr. CLARK of Florida rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. CLARK of Florida. I rise to a question of personal privilege. [Laughter.]

The SPEAKER. The House will be in order. Questions of personal privilege are very serious questions.

Mr. CLARK of Florida. I send to the Clerk's desk, Mr. Speaker, a copy of the Washington Herald of date January 10, 1913, and desire to have the Clerk read the article indicated.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

REPRESENTATIVE CLARK NOW A MEMBER OF THE ANANIAS CLUB—HIS STATEMENTS MADE ON THE FLOOR OF THE HOUSE REFUTED BY THE ASSOCIATION UNDER WHOSE AUSPICES HE SPOKE AND SOME OF HIS HEARERS—HERALD'S REPORT OF SPEECH CORRECT.

Representative FRANK CLARK'S futile attempt on the floor of the House to avoid responsibility for statements he made at a mass meeting of the East Washington Democratic Association Monday night, as reported by the Washington Herald, was thwarted last night through a resolution adopted by the East Washington Democratic Association, which practically places Representative CLARK in the Ananias Club.

The East Washington Democratic Association itself adopted a resolution at its meeting last night placing itself on record as declaring the Washington Herald's report to be correct. Additionally, four citizens who heard the speech also declared the Washington Herald's report to be correct.

The following excerpts from the CONGRESSIONAL RECORD of the proceedings of the House for January 8 will show the action of Representative CLARK:

"QUESTION OF PERSONAL PRIVILEGE.

"Mr. CLARK of Florida. Mr. Speaker, I rise to a question of personal privilege and ask that the Clerk will read the article in the Washington Herald of yesterday around which the blue pencil has been marked.

"The SPEAKER. Without objection, the Clerk will read.

"The Clerk read as follows:

"'There are Senators and Representatives occupying seats in Congress to-day who have allied themselves with real estate sharks in this city to fleece the Government of hundreds of thousands of dollars by seeking to sell to it large areas of land in out-of-the-way places for public park purposes, some of which are in ravines so deep that the Capitol could be set in them and you could not see the Indian which surmounts its dome.'

"This was the statement made last night by Representative FRANK CLARK of Florida in a speech at the mass meeting of the East Washington Democratic Association in Donohue's Hall, 314 Pennsylvania Avenue SE.

CHARGE AGAINST HERALD.

"Mr. CLARK of Florida: Mr. Speaker, if this publication referred only to me and reflected only upon me, I think I would not ask the time of the House to mention it. But it puts me in the attitude as a Member of this House of arraigning not only Members of this body but also Members of another branch of the legislative department of this Government and of charging them with the gravest of crimes.

"I desire to state, Mr. Speaker, that not one word of truth is contained in that statement. I desire to say that not a single Washington newspaper was represented at that meeting, save the Washington Star, and the reporter of that paper gave about as accurate an account of the meeting as is usually given by reporters of newspapers. * * *

"What I did say, Mr. Speaker, was this, and I say it now, and the CONGRESSIONAL RECORD supports every word of it: I did say that the District of Columbia has practically no government; that it has three commissioners, appointed by the President, not responsible in any sense to the people of the District. And I say that the real estate sharks, according to my observation, after eight years of service in this city, were controlling the destinies of this city. I did say that frequently in bills there comes before this House propositions to buy waste places in out-of-the-way locations for park purposes, and I instanced one case wherein I said there was a proposition by a real estate concern to unload upon the Government for a fabulous price a large tract of land having gullies in it so deep that I believe the Capitol could be planted in the bottom of the gulf and that the head of the Indian that surmounts the dome of this Capitol could not be seen above it."

The Washington Herald, not having the privilege of the floor of the House to reply to Mr. CLARK, requested some of the gentlemen present at the Monday night meeting to state their opinion as to the bulk of the charges made by the gentleman from Florida. The following speaks for itself.

William McMahon, of 620 C Street NE., made the following statement yesterday:

"I was present at the mass meeting held by the East Washington Democratic Association in Donohoe's Hall, 314 Pennsylvania Avenue SE., Monday night, January 6, 1913, heard the speech delivered by Representative FRANK CLARK of Florida, and state that the report of his speech as printed in the Washington Herald on the following morning was correct."

F. H. Arendes, of 610 G Street SE., made the same statement.

A. Weaver, of 1412 Eleventh Street NW., made the same statement.

William S. Riley, of 209 Second Street SE., made the same statement.

In addition to this, the following resolution was adopted by the East Washington Democratic Association at its meeting last night:

"*Be it resolved*, That the East Washington Democratic Association hereby place itself upon record as declaring that the report of speech delivered by Representative FRANK CLARK of Florida at a mass meeting of the East Washington Democratic Association, in Donohoe's Hall, Monday night, January 6, 1913, as printed in the Washington Herald January 7, 1913, was correct.

"WILLIAM S. RILEY, *President*.
"PATRICK KENNEDY, *Secretary*.

"JANUARY 9, 1913."

HERALD WAS REPRESENTED.

Similarly erroneous was Representative CLARK'S statement that the Washington Herald was not represented at the meeting. A reporter for the Washington Herald attended the meeting, as citizens there will testify.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that this does not involve a question of personal privilege.

Mr. CLARK of Florida. I hope the gentleman will not do that.

Mr. FITZGERALD. I have no objection to the gentleman's getting time.

Mr. CLARK of Florida. I hope the gentleman will not make a point of order, because it does involve my character.

Mr. FITZGERALD. How much time does the gentleman desire?

Mr. CLARK of Florida. Twenty minutes.

Mr. FITZGERALD. I ask, Mr. Speaker, that the gentleman be allowed five minutes.

Mr. CLARK of Florida. I will not take five minutes. If I can not get more than that, I do not want it.

Mr. FITZGERALD. I ask unanimous consent, Mr. Speaker, that the gentleman from Florida be given five minutes.

Mr. CLARK of Florida. Mr. Speaker, I do not want five minutes, and I want the Speaker to say whether or not this article involves my character as a Representative in this body.

Mr. FITZGERALD. Mr. Speaker, it is a controversy between the gentleman and a local newspaper as to what he said at some place. We must get the legislative bill into conference. The river and harbor bill is under consideration, and there are a number of appropriation bills that must be disposed of and which must be given some opportunity to be considered.

The SPEAKER. Does the gentleman from New York make the point of order that the question is not privileged?

Mr. FITZGERALD. Yes; it does not affect the gentleman's character.

Mr. CLARK of Florida. Mr. Speaker, I ask unanimous consent to be allowed 20 minutes in which to address this House.

The SPEAKER. The gentleman from Florida asks unanimous consent to address the House for 20 minutes. Is there objection?

Mr. FITZGERALD. I object to 20 minutes. Ten minutes may be sufficient. Will not the gentleman take 10 minutes?

Mr. CLARK of Florida. I would prefer, first, that the Speaker rule on the question of privilege.

The SPEAKER. This Speaker has been very liberal about letting in questions of privilege where a Member of the House claims that he has been lied about. The Chair does not think, upon a consultation of the decisions about it, that the truth or untruth of these newspaper charges constitutes a question of personal privilege if they are not made about the gentleman from Florida in his representative capacity; and that is the rule—that the charge must be made against him in his representative capacity.

Mr. CLARK of Florida. If the Speaker will permit me just a moment, that article refers to statements made by me on this floor in my representative capacity.

The SPEAKER. If so, it does affect the gentleman's character in his representative capacity.

Mr. FITZGERALD. Mr. Speaker, misrepresentations of a gentleman's speech on the floor do not raise questions of personal privilege. That has repeatedly been held.

The SPEAKER. The gentleman will point out the particular passages where he claims his privilege has been invaded.

Mr. CLARK of Florida. This article, Mr. Speaker, undertakes to report what I said upon the floor of this House on the 8th day of January last as a Member of this House, and, commenting upon the statements which I made in my place as a Member, they use this language:

The Washington Herald, not having the privilege of the floor of the House to reply to Mr. CLARK, requested some of the gentlemen present at the Monday night meeting to state their opinion as to the bulk of the charges made by the gentleman from Florida.

And then they quote a number of people, controverting what I said upon this floor.

The SPEAKER. But that is all outside the House. In order to make a thing a question of privilege it must be about the Member in his representative capacity.

Mr. CLARK of Florida. Mr. Speaker, does it not affect a Member in his representative capacity to charge that he is a fit member of the Ananias Club—that he is a liar?

The SPEAKER. Not if the whole transaction is outside of the House, or if it is simply a criticism on a speech delivered in the House.

Mr. CLARK of Florida. Growing out of what the Member has said here?

Mr. RUCKER of Colorado. Mr. Speaker, will you allow me one word?

The SPEAKER. The gentleman from Colorado.

Mr. RUCKER of Colorado. There might be some question about whether this was an item of news, but the first line of this paper says:

Representative CLARK now a member of the Ananias Club.

The SPEAKER. That all took place outside of the House.

Mr. RUCKER of Colorado. It says:

Representative CLARK now a member of the Ananias Club.

That may not be news to the majority of this House, but at the same time it is published as news to the public. [Laughter.]

The SPEAKER. Of course, it is exceedingly unpleasant for any man to be slandered or lied about or misrepresented; but the rule is that the criticism, slander, or whatever it is alleged to be, must be about the Member in his representative capacity.

Mr. CLARK of Florida. Then, Mr. Speaker, I ask unanimous consent of this House that it give me 15 minutes to reply to this statement.

The SPEAKER. The gentleman asks 15 minutes to reply to this statement. Is there objection?

Mr. FITZGERALD. I will object unless the gentleman limits it to 10 minutes. We have already wasted 5 minutes.

Mr. CLARK of Florida. You have wasted it. I have not.

Mr. FITZGERALD. I shall object to 15 minutes.

The SPEAKER. The gentleman from New York objects.

Mr. FITZGERALD. Does the gentleman want to request 10 minutes?

Mr. CLARK of Florida. No; but if some other gentleman requests that I be given 10 minutes I will use the time.

Mr. FITZGERALD. I ask unanimous consent that the gentleman be given 10 minutes to make a statement.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent that the gentleman from Florida [Mr. CLARK] have 10 minutes in which to address the House. Is there objection?

There was no objection.

Mr. CLARK of Florida. Mr. Speaker, I ask unanimous consent to have printed in the RECORD an affidavit made by Capt. W. M. Potter, a captain in the Union Army, who was present at that meeting and heard that speech. He gives the lie to every statement in that article.

The SPEAKER. The gentleman asks leave to print this document as a part of his remarks. Is there objection?

There was no objection.

The affidavit referred to is as follows:

WASHINGTON, D. C., *January 10, 1913*.

The following statement is made under oath relative to the controversy between the Washington Herald and the Hon. FRANK CLARK, Representative from the second district of Florida.

At a meeting of the East Washington Democratic Club, held at the East Washington Hall, No. 314 Pennsylvania Avenue SE., Monday evening, January 6, 1913, which meeting was addressed by Mr. CLARK of Florida, after the meeting had adjourned, a young man representing himself as a reporter for the Herald asked me for a statement as to what had transpired at the meeting, telling me that he was engaged at the Capitol and that he could not be present at the club at an earlier hour.

I presented the reporter with some resolutions that were unanimously adopted relative to the police force and the street lights in east Washington, and told him that if the Herald could not publish the resolutions in full not to publish them at all. This reporter asked me who the speakers were who spoke at the meeting. I told him Mr. Price, of Alabama, Mr. CLARK, of Florida, and myself. He wanted to know what Mr. CLARK said, and I gave him a correct account of what Mr. CLARK had said; and I did not tell him that Mr. CLARK said in his speech, "There are Senators and Representatives occupying seats in Congress to-day who have allied themselves with real estate sharks in this city to fleece

the Government of hundreds of thousands of dollars by seeking to sell to it large areas of land in out-of-the-way places for public-park purposes. * * *" I quoted Mr. CLARK to the reporter as having spoken of land deals in the past and not as to any such transaction now pending in Congress.

There was not, to my knowledge, any reporter present at the meeting except Mr. Brooke, of the Star, and the Herald reporter was not present during the meeting and received his matter for publication from me after the meeting had adjourned.

I make this statement without any solicitation upon the part of Mr. CLARK or any other person, but for the purpose of having justice done to all parties. Two Herald reporters called to see me, and I told them to correct their statement of January 7, 1913, to conform with the facts.

Respectfully. W. M. POTTER.

Sworn to before me this January 10, 1913.

[SEAL.] CHARLES M. EMMONS,
Notary Public, District of Columbia.

Mr. CLARK of Florida. Mr. Speaker, I desire to have printed in the RECORD a statement by Mr. Kyle B. Price, who was present and heard every word of that speech and who gives the lie to every statement in the Washington Herald.

The SPEAKER. The gentleman asks unanimous consent to have this document printed in his remarks. Is there objection?

There was no objection.

The document referred to is as follows:

HOUSE OF REPRESENTATIVES,
January 20, 1913.

Hon. FRANK CLARK,
House of Representatives.

DEAR MR. CLARK: I desire to make a statement relative to the articles published in the Washington Herald of January 7 and 10 containing alleged quotations of remarks made by you at the mass meeting on January 6 at 314 Pennsylvania Avenue SE.

As you know, I was present and addressed the meeting. I sat within 3 feet of you through your address. You did not make the statement published under quotations in the Herald of January 7. I called your attention to the article before the statements were made by you on the floor of the House. The Herald reporter approached me on the 8th and I told him that you did not make the statement, and as he was not present when any of the addresses were delivered he should not have published a hearsay statement of so much importance.

The reporter did not attend the meeting, but came in after it was over.

KYLE B. PRICE.

Mr. CLARK of Florida. I desire to have printed in the RECORD a statement signed by Dr. Charles M. Emmons, who presided at the meeting at which I spoke, and by Mr. W. E. Ryan, Mr. Martin J. Madden, Mr. Joseph Reardon, Mr. Thomas Hanlon, and Mr. Robert F. Bradbury, who give the lie to every statement contained in the Washington Herald.

The SPEAKER. The gentleman asks unanimous consent to have that document printed in his remarks. Is there objection?

There was no objection.

The document is as follows:

HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, D. C., January 20, 1913.

Hon. FRANK CLARK,
House of Representatives, Washington, D. C.

DEAR SIR: Noticing that the Washington Herald of January 7, 1913, purporting to give an account of a mass meeting held at Donohoe's Hall, 314 Pennsylvania Avenue SE., on the night of the 6th of January, 1913, at which meeting you delivered an address, and that the Herald in quoting, or attempting to quote, your remarks on that occasion used this language: "There are Senators and Representatives occupying seats in Congress today who have allied themselves with real-estate sharks in this city to fleece the Government of hundreds of thousands of dollars by seeking to sell to it large areas of land in out-of-the-way places for public park purposes, some of which are in ravines so deep that the Capitol could be set in them and you could not see the Indian which surmounts its dome"; also being aware of the fact that on the 8th day of January, 1913, on the floor of the House of Representatives, you denied making any such statement as is attributed to you by the Herald, we take this method of saying that each and every one of us whose name is signed to this communication was present at the meeting of January 6, 1913, and heard every word uttered by you on that occasion. We do not hesitate to say that there is not one word of truth contained in the report so printed in the Washington Herald of January 7, 1913, and that nothing you said on that occasion could be distorted into any such statement as that with which you are charged.

We desire to say further that the Washington Herald did not have at that meeting any reporter or other representative at the reporters' table or at any part of the hall to our knowledge; in fact, it was publicly stated by more than one speaker on that occasion that not a single newspaper of the city of Washington was represented at the meeting save the Washington Star, which was represented by Mr. Brooks.

We desire to say further that we were amazed to see published in the Washington Herald of January 10, 1913, a resolution alleged to have been passed by the East Washington Democratic Association, wherein it is alleged that the report of your speech as published in the Herald of January 7, 1913, was correct. We are informed that only 10 or 11 persons were present at that meeting.

Regardless of how many persons were present at said meeting, and regardless of what influences were brought to bear to impel them to act, the fact remains that the publication of the report of your speech in the Washington Herald of January 7, 1913, was absolutely and unqualifiedly untrue.

CHARLES M. EMMONS, M. D.,
Presided at the Meeting.
W. E. RYAN, *666 G Street NE.*
MARTIN J. MADDEN,
413 Second Street NE.
JOSEPH REARDON,
THOMAS HANLON,
508 East Capitol Street.
ROBERT F. BRADBURY,
2235 Pennsylvania Avenue SE.

Mr. CLARK of Florida. I desire also to have printed in the RECORD a letter from Dr. Charles M. Emmons, the presiding officer of that meeting, who gives the lie to every statement contained in the Washington Herald.

The SPEAKER. The gentleman asks unanimous consent to have printed in the RECORD the document referred to. Is there objection?

There was no objection.

The letter is as follows:

WASHINGTON, D. C., *January 22, 1913.*

Hon. FRANK CLARK,
House of Representatives, Washington, D. C.

DEAR SIR: I desire to say that I was surprised to see you reported so incorrectly in the Washington Herald of January 7, 1913. I presided at the meeting as chairman of the evening and sat within 3 feet of you when you made your speech, and you did not make any statement that reflected in any way upon any Member of the present Congress.

I invited any reporters present to take seats at the table provided, and Mr. Brooks, of the Star, was the only newspaper reporter to respond. I know of my own knowledge that no representative of the Herald was present at our meeting during the time the speeches were made.

Respectfully, CHAS. M. EMMONS, M. D.

Mr. CLARK of Florida. I want to say now, Mr. Speaker, that it is extremely unpleasant to me to again refer to this controversy; that this man Kennedy, who signs that resolution as secretary, was not present at the meeting at which I spoke. He is not secretary of the association, and knew absolutely nothing of what occurred.

I desire to say further that this man Riley, who has signed as president of the association, was present; that three or four nights ago, in company with three other gentlemen, I visited Riley, and Riley admitted to me that the statements of that resolution were absolutely and unqualifiedly lies; and that he begged those present not to pass the resolution; that they stated that the reason for it was that this reporter of the Washington Herald, whose name I do not know, whom I never saw, and do not know anything about, came to them and begged them to have a meeting, because he said that the owners or managers of the Washington Herald had said to him that his position was dependent on his establishing something to sustain the report which he had made of that meeting. And in order to save his job they passed this resolution; that there were about 10 men present.

Riley agreed to furnish me a written statement, that I could file with the other statements; he is an undertaker on Second Street SE.; I have visited his place and talked with him personally and over the telephone. Finally over the telephone Riley said in substance, "I am a citizen of Washington, and I can not afford to enter into any controversy with a newspaper in this city, because I have got to make my living here," and therefore he could not tell the truth.

Mr. Speaker, I want to say that the proprietors or managers of the Washington Herald who forced this young man or old man, whatever he may be, to resort to this method to procure an indorsement of a lie are just as much liars as the reporter who wrote the article, and he is the most infamous liar that I have ever come in contact with.

Now, Mr. Speaker, I am taking no advantage of my privilege here. I said in my first speech, and I say it now, that I am responsible everywhere, at any time, and on all occasions for denouncing this man and these people as a lot of consummate liars, and I would be delighted if they would send any of their cowardly and lying gang to see me. That is all I care to say, sir. [Applause.]

Mr. JOHNSON of South Carolina rose.

The SPEAKER. The gentleman from South Carolina.

Mr. MANN. Mr. Speaker, I ask for the regular order.

The SPEAKER. Will the gentleman withhold for a moment?

INTERNATIONAL CONGRESS ON SCHOOL HYGIENE (S. DOC. NO. 1023).

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with accompanying papers, ordered to be printed and referred to the Committee on Appropriations.

To the Senate and House of Representatives:

On the 19th of August last Congress passed the following resolution:

Resolved, etc., That the President of the United States is hereby requested to direct the Secretary of State to issue invitations to foreign Governments to participate in the Fourth International Congress on School Hygiene, to be held in Buffalo, N. Y., August 25 to 30, 1913: *Provided*, That no appropriation shall be granted at any time hereafter in connection with said congress.

At the time the resolution was passed there were three gentlemen in Buffalo whose means and whose interest in the congress were such that the people of Buffalo had every reason to believe that the expense of the congress would be contributed by these, their citizens. Since that time the three citizens have died,

and there is no written obligation on the part of their estates to meet the necessary expenses.

I recommend the appropriation of $30,000 (to which the citizens of Buffalo will have to add a substantial sum) as a contribution of the Government to the fund necessary to make the reception of the congress accord with what we regard as American hospitality.

Personally I am very much opposed to any invitation of this sort at the instance of the Government in which the Government does not assume all the expenses of entertainment. Other countries much less able than the United States never extend an invitation of this sort without having proper preparation for the reception of the guests of the nation.

In the peculiar circumstances of the present resolution I urgently recommend the appropriation of the sum mentioned to enable the obligation of the invitation to be properly met. The proviso in the resolution was an unfortunate one, in my judgment, but, whether it was so or not, under the circumstances it offers no reason for Congress not to take the proper course.

WM. H. TAFT.

THE WHITE HOUSE, *January 22, 1913.*

PANAMA RAILROAD (S. DOC. NO. 1022).

The SPEAKER also laid before the House the following message from the President of the United States, which was read:

To the Senate and House of Representatives:

I transmit herewith, for the information of Congress, the Sixty-third annual report of the board of directors of the Panama Railroad Co. for the fiscal year ending June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *January 22, 1913.*

The SPEAKER. Ordered printed and referred to the Committee on Appropriations.

Mr. CANNON. That requires unanimous consent. I believe. I have no objection to it, but I want an understanding about it.

The SPEAKER. How does it require unanimous consent?

Mr. CANNON. Because there is nothing I know of that will dispose of it except a motion, in the absence of unanimous consent.

The SPEAKER. The Chair thinks it has been the universal practice for the Speaker to refer it.

Mr. CANNON. My understanding is that it has been the practice of the Speaker to refer it; but when you get the general annual message it goes to the Committee of the Whole House on the state of the Union by the action of the House. My understanding is that a single objection would bring it to the House to dispose of.

The SPEAKER. The rule is that the message of the President shall be referred to the proper committee without debate. That comes as near being automatic as you can have it.

Mr. CANNON. To what committee?

The SPEAKER. To the appropriate committee. The Chair passes on that in the first instance.

Mr. CANNON. I hope the Chair will examine that question before he makes a ruling as a precedent.

Mr. FITZGERALD. Mr. Speaker, the invariable practice has been for the Speaker to refer the message, and if any gentleman believes the Speaker erroneously refers it it is held to be a privileged motion.

Mr. CANNON. That applies to bills only.

Mr. MANN. A privileged motion at the time.

Mr. CANNON. At the time; that is right. Mr. Speaker, I do not desire to interpose an objection.

The SPEAKER. It has been the universal practice for the Speaker to refer the message, and the gentleman himself must have so decided it a hundred times.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. If the demand for the regular order should be made—and this is a request for information in the best of faith—and a conference report or some highly privileged matter did not intervene, would the business coming before the House be the unfinished business coming over from yesterday, the bill H. R. 23369, on which the previous question was ordered?

The SPEAKER. This particular question has never been passed upon. The truth is that the matter of Calendar Wednesday has never been construed except under the administration of my immediate predecessor, Mr. CANNON, and by the present occupant of the chair. Both the gentleman from Illinois [Mr. CANNON], when Speaker of the House, and the present occupant of the chair held that when business was unfinished on Calendar Wednesday it went over until the next Calendar Wednesday as unfinished business, and the present occupant of the chair has held, and the ruling has been universally acquiesced in, that on account of the peculiar phraseology of the rule establishing Calendar Wednesday business that was not finished on Tuesday went over until Thursday. But no case like this has heretofore arisen. This is a case where the previous question has been ordered on the bill under consideration on Wednesday. There is no precedent on this particular rule, but there are precedents, and plenty of them, where the same case has arisen with respect to pension matters on Fridays and with reference to matters coming up on Mondays. The rulings seem to have made a differentiation between a bill that was not finished where the previous question was not ordered and a bill that had not been finished but where the previous question had been ordered, and as to unfinished business on Fridays and Mondays where the previous question had been ordered on a bill the ruling has been that it came up as unfinished business on the following legislative day. The Chair is unable to differentiate in his own mind between what ought to happen with respect to the Friday business and what ought to happen about the Calendar Wednesday business where exactly the same circumstances prevail.

Mr. MANN. If the Chair does not desire to rule, I wish to prefer a request for unanimous consent.

The SPEAKER. No; the Chair may as well rule now and be through with it. The Chair holds that where the previous question has been ordered on a bill under consideration on Calendar Wednesday which is unfinished it is the unfinished business on Thursday. As this is the first ruling ever made upon this question, if any gentleman desires to test it, he has the right of appeal.

AMERICAN ACADEMY OF ARTS AND LETTERS.

The SPEAKER laid before the House the following communication:

IN THE SENATE OF THE UNITED STATES,
January 21, 1913.

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bills (S. 4355) incorporating the National Institute of Arts and Letters and (S. 4356) incorporating the American Academy of Arts and Letters.

Attest:

CHARLES G. BENNETT, *Secretary.*

The SPEAKER. Without objection, the request will be granted.

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 6497. An act to protect migratory game and insectivorous birds in the United States.

The message also announced that the Senate had insisted upon its amendment to the bill (H. R. 14053) to increase the pensions of surviving soldiers of Indian wars in certain cases, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. McCUMBER, Mr. POINDEXTER, and Mr. GORE as the conferees on the part of the Senate.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 6497. An act to protect migratory game and insectivorous birds in the United States; to the Committee on Agriculture.

LOAN COMPANIES IN DISTRICT OF COLUMBIA.

Mr. DYER. Mr. Speaker, I call up the conference report on the bill (H. R. 8768) known generally as the District of Columbia loan-shark bill.

The SPEAKER. The gentleman from Missouri calls up a conference report, which the Clerk will read.

The Clerk read as follows:

CONFERENCE REPORT (NO. 1290).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 3, 6, 7, 8, 9, 10, 11, and 12.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, and 5, and agree to the same.

That the Senate recede from its amendment to the title of the bill.

BEN JOHNSON,
J. A. M. ADAIR,
L. C. DYER,
Managers on the part of the House.

CHARLES CURTIS,
WM. P. DILLINGHAM,
T. H. PAYNTER,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8768) to regulate the business of loaning money on security of any kind, by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia, submit the following written statement in explanation of the effect of the action agreed upon and recommended as to each of the said amendments in the accompanying conference report:

On amendment No. 1: Strikes out the modification, proposed by the Senate, so as to permit individuals to loan their own money at a rate of interest not to exceed 10 per cent per annum, and without being required to obtain a license for engaging in such business.

On amendment No. 2: Inserts the provision, proposed by the Senate, with reference to requiring bonds to be renewed and refiled annually in October of each year.

On amendment No. 3: Strikes out the modification, proposed by the Senate, for the publication of the annual report in at least one newspaper of general circulation in the District of Columbia.

On amendment No. 4: Inserts the provision, proposed by the Senate, as follows:

No such loan greater than $200 shall be made to any one person: *Provided*, That any person contracting, directly or indirectly, for or receiving a greater rate of interest than that fixed in this act, shall forfeit all interest so contracted for or received; and in addition thereto shall forfeit to the borrower a sum of money, to be deducted from the amount due for principal, equal to one-fourth of the principal sum: *And provided further*, That any person in the employ of the Government who shall loan money in violation of the provisions of this act shall forfeit his office or position, and be removed from the same.

On amendment No. 5: Agrees to the provision, proposed by the Senate, striking out section 7 of the House bill and inserting in lieu thereof a new section to be known as section 7. The only effect of this is to provide for a minimum as well as a maximum punishment for violation of the act and does not provide any greater punishment for the second or subsequent violation of the act.

On amendment No. 6: Strikes out the provision, proposed by the Senate, excepting from the act section 6, which section provides that no attorneys' or agents' fees shall be charged or collected in foreclosure of any loan exceeding 10 per cent of the amount found due in such foreclosure proceedings.

On amendment No. 7: Strikes out the provision, proposed by the Senate, that pawnbrokers shall not be included within the provisions of this act.

On amendment No. 8: Strikes out the provision, proposed by the Senate, that section 9 of said bill be stricken out, said section providing that it shall be unlawful to incorporate any provision for liquidated or other damages as a penalty for any default or forfeiture thereunder.

On amendment No. 9: Strikes out the provision, proposed by the Senate, that section 10 be stricken out, said section providing that nothing contained in this act shall be held to apply to the legitimate business of national banks, licensed bankers, trust companies, savings banks, building and loan associations, or real estate brokers, as defined in the act of Congress of July 1, 1902.

On amendments Nos. 10, 11, and 12: Strikes out the provision, proposed by the Senate, for the renumbering of sections 11, 12, and 13.

BEN JOHNSON,
J. A. M. ADAIR,
L. C. DYER,
Managers on the part of the House.

Mr. DYER. Mr. Speaker, the conference report upon this bill, H. R. 8768, leaves it in substantially the same form in which it passed the House. The only changes that are included in this conference report are substantially as follows: First, that the bond given by these companies shall be refiled annually in October of each year; second, that no greater sum than $200 shall be loaned to any one person, and providing further that any person in the employ of the Government who shall loan money in violation of the provisions of this act shall forfeit his office or position; and, third, it changes the punishment provided by the House by simply making a provision for minimum punishment as well as the maximum, and leaves the punishment about as it was. The report of the conferees, with the above unimportant exceptions, therefore leaves the bill practically as it passed this House.

The SPEAKER. The question is on agreeing to the conference report.

Mr. MANN. Mr. Speaker, will the gentleman yield me one minute?

Mr. DYER. I yield the gentleman from Illinois one minute.

Mr. MANN. Mr. Speaker, I do not especially desire to oppose the conference report, though I am absolutely satisfied that no one can afford to loan small amounts of money at a rate of 1 per cent a month and pay the expense of preparing and filing the papers. It will be only a short time before Congress is asked to make further legislation in order to permit some poor man to borrow five or ten dollars when he has to have it.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

AMERICAN HOSPITAL OF PARIS.

Mr. CLAYTON. Mr. Speaker, I call up the conference report on the bill (S. 6380) to incorporate the American Hospital of Paris, and move the adoption of the report. It is printed in the RECORD of January 21, and I would like to have the statement read in lieu of the report.

The SPEAKER. The gentleman from Alabama asks unanimous consent to have the statement read in lieu of the report. Is there objection? [After a pause.] The Chair hears none, and the Clerk will read.

The conference report is as follows:

CONFERENCE REPORT (NO. 1351).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6380) to incorporate the American Hospital of Paris, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House, and agree to the same.

HENRY D. CLAYTON,
JOHN W. DAVIS,
JOHN A. STERLING,
Managers on the part of the House.

J. H. GALLINGER,
CHARLES CURTIS,
THOMAS S. MARTIN,
Managers on the part of the Senate.

The Clerk read the statement as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments to the bill (S. 6380) to incorporate the American Hospital of Paris, submit the following detailed statement in explanation of the effect of the action agreed upon and recommended in the conference report, namely:

1. It was agreed that the Senate recede from its opposition to the House amendment in the following words:

Provided, That the total value of the property owned at any one time by the said corporation shall not exceed $2,000,000.

And that the Senate agree to this amendment. (Page 2, line 7.)

2. It was agreed that the Senate recede from its opposition to the House amendment in the following words:

SEC. 9. That this charter shall continue for the term of 50 years; *Provided*, That at no time shall said corporation hold real estate except for the necessary use of officers and hospital purposes of said hospital.

And that the Senate agree to the same.

Page 5, strike out lines 3 and 4 and insert the above.

HENRY D. CLAYTON,
JOHN W. DAVIS,
JOHN A. STERLING,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, by direction of the Committee on Appropriations I report back the bill H. R. 26680, with Senate amendments, and I ask unanimous consent to consider the bill in the House as in Committee of the Whole House on the state of the Union, to disagree to all the Senate amendments, and ask for a conference. (H. Rept. 1379.)

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

Mr. MANN. Mr. Speaker, do I understand the gentleman asks unanimous consent for the immediate consideration of the Senate amendments in the House as in Committee of the Whole House on the state of the Union?

The SPEAKER. Yes; the gentleman asked unanimous consent——

Mr. MANN. I shall ask for a separate vote at the proper time on two amendments.

The SPEAKER. The gentleman from South Carolina asks unanimous consent for the immediate consideration of these amendments in the House as in Committee of the Whole House on the state of the Union. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. Mr. Speaker, I ask for a separate vote on amendments numbered 31 and 68.

Mr. JOHNSON of South Carolina. Mr. Speaker, I ask unanimous consent to disagree to all the Senate amendments except Nos. 31 and 68.

The SPEAKER. The gentleman from South Carolina asks unanimous consent to disagree to all the Senate amendments except Nos. 31 and 68. Is there objection? [After a pause.] The Chair hears none. The gentleman from Illinois [Mr. MANN] demands a separate vote on amendments numbered 31 and 68, and the Clerk will report amendment numbered 31.

The Clerk read as follows:

Amendment No. 31: Page 15 of the bill, line 4, strike out "$2,500" and insert "$3,000."

Mr. JOHNSON of South Carolina. Now, Mr. Speaker, I move to disagree to Senate amendment numbered 31.

Mr. MANN. Mr. Speaker——

Mr. JOHNSON of South Carolina. Does the gentleman want any time?

Mr. MANN. I think there ought to be some little discussion of this. I only want a moment or so as far as I am concerned.

Mr. FITZGERALD. I would suggest to the gentleman from Illinois that he take some time from the gentleman from South Carolina.

Mr. MANN. It may be I would not want any time if other gentlemen are going to discuss it.

The SPEAKER. Each gentleman who desires to speak is entitled to five minutes, and the gentleman will proceed.

Mr. MANN. Mr. Speaker, I suppose other gentlemen will discuss the amendment. This amendment is one of three Senate amendments increasing the compensation of the clerk, the assistant clerk, and the janitor of the Committee on the Judiciary of the House. This particular amendment is the one which relates to the Clerk.

The clerk now receives $2,500 per annum, and that was the amount carried in the bill as it passed the House. The Senate by amendment has increased or proposes to increase the amount to $3,000. As it seems to me whatever is done with these employees of the Judiciary Committee is likely to be done sooner or later with the employees of the other large committees of the House, it seems to me desirable to have a vote in the House on this subject and not leave it either to the Senate to determine what should be the compensation of House employees or to leave it to go into a final conference report, or even to leave it so that the conferees on the part of the House might be subject to the natural pressure of friends of the clerk who desire the salary increased. If it shall become the intention of the House to increase the salaries of all of these clerks of major committees, I have no complaint to make about it. I am not sure but this salary ought to be increased, but I am quite sure that the Members of the House ought to determine the matter in the House by a vote here.

The SPEAKER. The question is on the motion of the gentleman from South Carolina to disagree to Senate amendment 31.

The question was taken, and the Speaker announced the ayes seemed to have it.

On a division (demanded by Mr. MANN) there were—ayes 133, noes none.

So the motion to disagree was agreed to.

The SPEAKER. The Clerk will report amendment No. 68.

The Clerk read as follows:

Amendment No. 68: On and after October 1, 1913, the whole number of collection districts for the collection of internal revenue and the whole number of collectors of internal revenue shall not exceed 63.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House disagree to the Senate amendment.

Mr. MANN. Mr. Speaker, last year, I think it was, the House in passing one of the appropriation bills cut down the number of internal-revenue collection districts by three. Is not that correct?

Mr. KAHN. Four.

Mr. MANN. Well, whatever the number is; we have often heard in the House how impossible it was to reduce a salary or dispense with a job. I do not know just how it happened that without a terrible contest it has been possible for Congress to agree on the reduction of the number of collection districts from 67 to 63. I think it might be well that they be reduced 50 per cent more. But, however, it was last year. As soon as the reduction is again in force, up comes again the same old war cry against dispensing with a job. The Senate has now proposed an amendment in this bill to restore the number of these collection districts to what it was before the spasm of economy struck Congress. I expect to have, at least, a standing vote on this subject in order to ascertain whether we have the same feeling after election as to reducing economy as we had before.

Mr. JOHNSON of South Carolina. The members of the committee representing the Committee on Appropriations in the House of Representatives in the last session of Congress endeavored to reduce the number of collection districts. We have not changed our position. The bill went to another legislative body, and there the number was increased. I know of no reason why we should not stand by what we did at the last session of Congress.

Mr. RAKER. Will the gentleman yield there?

The SPEAKER. Will the gentleman from South Carolina yield to the gentleman from California?

Mr. JOHNSON of South Carolina. Yes, sir.

Mr. RAKER. In the recommendation of the committee or action of the committee was there any special place named or picked out where these districts should be abandoned or consolidated?

Mr. JOHNSON of South Carolina. No; because the internal-revenue districts are arranged by the executive department of the Government. We simply provided the whole number of districts should not exceed 63. The President, in the exercise of his discretion, discontinued certain internal-revenue districts.

Mr. RAKER. Does the gentleman have the information as to the four that have been discontinued?

Mr. JOHNSON of South Carolina. One was discontinued in Texas, one in Pennsylvania, one in South Carolina, and one, I think, in California. [Laughter.] But the one in South Carolina did not affect me.

Mr. RAKER. Personally, of course, it does not affect me, but it affects the State of California, and that is sufficient to make me interested in this matter; but I want to call the gentleman's attention to the fact—and the House, I think, will consider it—that there was a provision in the bill reducing the number from 67 to 63 last year, but somebody, somewhere, or somehow, went into the most populous and most necessary district in the State of California, the one containing the capital of that State, where it is absolutely necessary there should be a revenue office and a collector, and the office was abandoned and consolidated and sent 100 miles from Sacramento, taking it right out of that great Sacramento and San Joaquin Valley, where they need it.

Mr. FITZGERALD. They did not expect California to get much sympathy from this administration, did they?

Mr. RAKER. It is a question of business and not a question of politics with me.

Mr. FITZGERALD. It is the gentleman's misfortune. [Cries of "Vote!" "Vote!"]

Mr. RAKER. Mr. Speaker, in regard to this matter it seems to me that it is an unwise provision to reduce these collectors, leaving it absolutely undetermined where the cut shall be applied, and to go into a populous district where much work is being done, as in the district of Sacramento in the State of California, a district which is populous and growing all the time, and where a large internal-revenue business is transacted, and remove the office. This order came as a thunderclap from a clear sky, to the effect that on a certain day the revenue office

at Sacramento should be abolished and all the business and books would be transferred to San Francisco, when, as a matter of fact, the Chamber of Commerce at Sacramento, and those interested at Redding, and those at Red Bluff, and at Vina, one of the largest territories in the West, being an internal-revenue district, knew there was too much work for the collector and his assistants in San Francisco at the time of the abandonment of the office at Sacramento and its transfer to San Francisco.

When the Government intends to provide the necessary equipment, including men to do the business, the necessary office force ought to go into the place that needs the work and needs the men, to the end that those who are paying the revenue to the Government, those from whom the Government is receiving revenue and with whom it is doing business should be accommodated, and that particular collection district ought not to be abandoned; one that is doing a good business and is much needed should not be abolished.

Now some of the Members of the House might think this is in my district. It is not. That does not make any difference. The State of California and the people of that district are entitled to consideration. On a question of economy, I stand for economy as well as any man on earth, but when you talk about depriving the citizens of a community of the necessary means by which they do their business, it is not economy. Efficiency is economy; if it costs to have efficiency, expenditure is not wasteful when needed if it give efficiency and service to the public. If you spend a thousand dollars and get back a thousand dollars' worth, that is economy, if it is needed. If you appropriate $100,000 and get only $50 worth back in service, that is waste or graft, if you please, and not economy. While I am a Member on this side of the aisle I shall contend that the necessary money should be supplied wherever that money is needed to advance the conditions of this country, and improve it as it ought to be improved, and keep it virile as this Nation ought to be kept, and that wherever there are places where the citizens of this country require offices and officers necessary for them to do their business, we ought to provide them with those necessary assistants and not cut them out of that consideration that they ought to have.

While I do not know anything about the other three, I can say to this House from personal examination and from discussing it with numbers of men, not only those living in town, but also those out in the country, who have the material put in bond and who deal with this particular revenue office, that they say it will practically, in some instances, injure their business and drive it away from their localities. The testimony in the hearing before the Committee on Appropriations shows that these officers should be restored. The following is what occurred in the hearing:

REDUCTION OF INTERNAL-REVENUE DISTRICTS.

[See also p. 62.]

Mr. JOHNSON. Mr. Cabell, the last legislative bill reduced the number of internal-revenue districts to 63. Have you been embarrassed by that reduction?

Mr. CABELL. Very greatly.

Mr. JOHNSON. I was hoping we could effect a still further reduction.

Mr. CABELL. Practically no saving has resulted from it, and a great inconvenience to the taxpayer has resulted, and also the requirement of a strong-arm policy on the part of the Government. If the Government were willing to stand the criticism and cause the taxpayer as much more inconvenience in cost as the money they collect, they could collect everything from Washington. You could just say: "You must come here. We do not care for your inconvenience or the cost to you." The collector's offices are established primarily for the convenience of the taxpayer and secondarily for closer supervision of the work. Now, there is no question but that the abolition of those offices has cost the taxpayers many times what is the normal saving to the Government. It requires the taxpayers to take long trips to see about their plans for distilleries and breweries and the settlement of technical questions, where they have to personally confer with the collector, and incidentally we lose closer supervision of the service, and there is no question in my mind that the Government has lost by it and that the taxpayers have also greatly lost by it.

Mr. JOHNSON. Mr. Cabell, on page 112 is a table that is furnished under the requirements of the law by a statistician in your bureau, or in whatever bureau of the Treasury Department has to furnish it, which neglects to give us the totals.

Mr. CABELL. The totals of the appropriations or the totals of expenditures?

Mr. JOHNSON. It gives the salaries and then the total salaries of the collectors and the total traveling expenses, but does not show what the balances are.

Mr. CABELL. For 1912 the total appropriation was $2,150,000. The total expenditures were $2,105,472.27. There was a balance of $44,527.73. The reason for that balance is that you have such criminal penalties for running over your allowance in even any one month that nobody is going to take any chances on that. For this year you gave us $2,100,000. We must leave a certain amount of that unallotted to put a buffer between the expenditures and going to jail, and you have got to leave about $50,000 for that. You see we have 63 districts and some 2,000 men paid from this appropriation, and we can not possibly estimate in advance what their traveling expenses, etc., are going to be. We can not possibly estimate in advance how many breweries are going to put in pipe lines, where the law requires us to assign an officer, and for the first time in the history of the Internal Revenue Bureau we have appropriated down below the $10,000 reserve, and both our chief of the Accounts Division and the deputy commissioner in charge of this work have made me give an assurance that I will go to jail and not them. It is probably presumptuous in me, but I take the liberty of repeating what I have said before: You can not draw the line on appropriations for collecting money like you can on appropriations for spending money. In appropriations for spending money every dollar not appropriated is a dollar saved, but when you are collecting money the failure to spend a dollar may lose you $500.

Mr. GILLETT. What do you mean by that?

Mr. CABELL. Suppose you do not send a deputy to canvass a certain territory. Suppose you do not send a man to put a distillery under surveillance, where one can steal $500 a day, and suppose, in order to cut expenses, the collector directs a deputy, in making his monthly trip, that he need not canvass one county because it costs him $15 for livery, and suppose you lose $2,000 from that county in that period. I do not think any person could be familiar with the facts and not know that we lose at least 1 to 2 per cent of the tax a year, one-half of which is collectible if we had the men to go after it. One per cent of the internal-revenue tax is three million two hundred and twenty some thousand dollars.

Mr. GILLETT. You think you do now lose that much? How do you calculate that you lose 2 per cent?

Mr. CABELL. Just on the general principle of how close we canvass, and just figuring on where we put additional men into the field the returns that come from it. So that if you put more men in the field on the same ratio you would get more revenue.

Mr. GILLETT. They evade a certain amount of the tax.

Mr. CABELL. They evade and overlook it. Some of them unconsciously make returns that are in their own favor. Of course, we are a little suspicious of all returns of that kind. In the corporation-tax work alone, for instance, as a result of 15 of our agents examining less than one-third of the country, they have actually turned into the Treasury in two years a million and a half dollars. Now, two-thirds of the country is not touched and three years is the extreme limit in which you can correct any of those returns. I am satisfied there is a million and a half or two million dollars of corporation tax that has not been collected and never will be collected unless the force of agents on this work is increased.

Mr. GILLETT. But if you had had sufficient force you could have collected it?

Mr. CABELL. If we had 20 men more we could have turned in over a million dollars additional.

Mr. GILLETT. So our failure to appropriate enough has cost probably——

Mr. CABELL (interposing). The failure to spend $100,000 has undoubtedly cost from a million and a half to two million dollars in cash. There is no question about that.

[See also p. 59.]

Mr. JOHNSON. Mr. Cabell, I would like to ask you one other question about the reduction in the districts. They were reduced from 67 to 63. You think we can not reduce any more. What process was adopted in the reduction of the four?

Mr. CABELL. That was done by the President at the White House, and I could not tell you.

Mr. JOHNSON. It was done by Executive order?

Mr. CABELL. Yes, sir.

The CHAIRMAN. The time of the gentleman has expired.

Mr. OLMSTED. Mr. Speaker, the bill which was passed last year reducing the number of revenue-collection districts by four was put into operation, and I assume that the Executive in determining which districts should be abolished chose those where the least inconvenience would result to the public and the least detriment to the public service.

Two of the districts consolidated were in the State of Pennsylvania. I can only say that if in the other consolidations there resulted the same inconvenience to the public and the same detriment to the public service the four districts ought to be restored. In abolishing the four districts Republican officeholders went out of office. It is equally true, as we all know, that if these districts are restored Democratic officers will be appointed. But notwithstanding that fact, judging from the experience of the Pennsylvania district that was abolished, I am heartily in favor of restoring the four revenue-collection districts.

Mr. FARR. Mr. Speaker, one of the districts affected by the reduction a year ago in the number of internal-revenue districts is that which I have the honor to represent. The headquarters were in Scranton. In Lackawanna and Luzerne Counties alone there are more than 600,000 people. The revenues of that district, the twelfth district of Pennsylvania, which was merged into the ninth district very unexpectedly, and to the great disappointment and chagrin of the people, increased $818,000 in the five years from June, 1906, to June, 1911. The revenues will continue to increase at a rapid rate in the future.

There were 30 districts or more in the United States with smaller revenues than my district, the twelfth district of Pennsylvania. I want to say to this House that it was against the interest of the public service to abolish any one of these districts, and that originally the thought was not to disturb one of these 4 districts. The President issued an order abolishing 4 other districts. That order was rescinded within a few hours, and 4 other districts than those intended to be abolished were stricken out, one of which was the twelfth Pennsylvania. Now I want to repeat what the gentleman from Pennsylvania my colleague [Mr. OLMSTED] said. We realize as Republican that we are going to lose the patronage of that office, but nevertheless we want that office restored. The question of patronage is immaterial, but it is material for northeastern Pennsylvania, with our great interests, to have this district reestablished.

In this connection let me quote from the statement of Mr. Royal E. Cabell, Commissioner of Internal Revenue of the United States, to the subcommittee in charge of the legislative, judicial, and executive appropriation bill:

Mr. JOHNSON. Mr. Cabell, the last legislative bill reduced the number of internal-revenue districts to 63. Have you been embarrassed by that reduction?

Mr. CABELL. Very greatly. Practically no saving has resulted from it, and a great inconvenience to the taxpayers has resulted, and also the requirement of a strong-arm policy on the part of the Government. * * * The collectors' offices are established primarily for the convenience of the taxpayer and secondarily for closer supervision of the work. Now, there is no question but that the abolition of those offices has cost the taxpayers many times what is the normal saving to the Government. It requires the taxpayers to take long trips to see about their plans for distilleries and breweries, and the settlement of technical questions where they have to personally confer with the collector, and incidentally we lose closer supervision of the service, and there is no question in my mind that the Government has lost by it and that the taxpayers have also greatly lost by it.

These statements of Commissioner Cabell apply with particular force to the former twelfth Pennsylvania district, a great and rapidly growing district, comprising the great anthracite producing counties of Lackawanna, Luzerne, and 18 other counties, with a total population, according to the last census, of 1,381,897 persons. The nominal saving of not more than $7,000 a year, caused by the merging of that district in the ninth Pennsylvania, will be small compared with the additional cost to the taxpayers by inconvenience and the actual loss to the Government through lack of the close supervision so essential to best results. Considerable of this nominal saving will be used with additional expense necessary to assemble from the greater distances the field forces, as is customary several times a year, for suggestions and discussion in the interest of the service. I repeat without hesitancy that the abolishment of the twelfth Pennsylvania district has resulted in a detriment to the service, a loss to the Government in revenues, and a great and costly inconvenience to the taxpayers.

The following statement of the twelfth revenue district of Pennsylvania, as per report for fiscal year ending June 30, 1911, will indicate the importance of this district.

Rectifiers	26
Retail liquor dealers	5,364
Wholesale liquor dealers	90
Brewers	40
Retail dealers, malt liquors	147
Wholesale dealers, malt liquors	406
Retail dealers in oleomargarine	226
Wholesale dealers in oleomargarine	8
	6,308
Cigar factories	245
Total	6,553

Statement of receipts from each kind of business.

Spirits	$228,306.22
Tobacco	518,478.37
Beer	1,521,101.18
Oleomargarine	2,030.17
Special excise tax on corporations	241,869.72
Penalties	4,101.90
Total collections for twelfth district	2,515,887.56
Expense of conducting business, 1.58 per cent.	
Collections June 30, 1911	2,515,887.56
Collections June 30, 1906	1,696,908.19
Gain	818,979.37

Scranton, where the headquarters for the twelfth district was located, is the immediate center of one of the most densely populated areas on the continent, with the exception of the suburbs of a very few of the greatest cities.

According to a Census Office bulletin issued March 7, 1912, its "metropolitan" population (i. e., within 10 miles) was 314,538. This exceeds the similar populations of such cities as Louisville, Fall River, Lowell, Rochester, Seattle, Indianapolis, New Haven, Worcester, Columbus, Denver, Portland (Oreg.), Birmingham, Atlanta, Omaha, Syracuse, Toledo, Memphis, Richmond, Bridgeport, Dayton, Nashville, Grand Rapids, or Spokane.

These figures (314,538) do not include the important city of Wilkes-Barre, 18 miles south of Scranton, or its enormous suburban population, which would be affected almost equally with Scranton by the removal of the internal-revenue office from this city.

More than 700,000 people reside within 25 miles of Scranton, and a radius of 40 miles would embrace a population probably in excess of 1,000,000.

Scranton and the Lackawanna Valley is one of the richest regions on the globe in the per capita value of its output, and this territory of marvelous growth in population and wealth is justly entitled to all of the conveniences and benefits which the Government can provide.

I contend, Mr. Speaker, that it was an injustice to this great and growing territory to deprive it of the convenience of this revenue district and that it should be restored at the earliest opportunity for the good of the service and the accommodation of taxpayers.

Mr. FITZGERALD. In view of what the gentleman has said, perhaps it will be interesting to have some facts about this situation. Those in charge of this service gave information to Congress that four districts could be abolished. Congress provided that the number of internal-revenue districts should be reduced by four. When it became necessary to reduce the number, four districts were abolished, none of them being of those mentioned as unnecessary when the matter was presented to Congress. It may or may not be somewhat significant that the districts abolished were in California, Texas, South Carolina, and Pennsylvania. Gentlemen who will study the election returns may find the reason for the abolishment of these districts, especially when they read the hearings before the committee with reference to the districts that were then believed by those in charge of the service to be unnecessary.

Mr. RAKER. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. RAKER. Now, having found that out, and having the opportunity to correct it, and knowing the necessity for it, ought we not, for the efficiency of proper governmental service, to restore a place like that.

Mr. FITZGERALD. If that were a fact, I would say yes, and I hope that when the 4th of March comes the gentleman will be able to show those in charge of the administration what the facts are, and that he will be able to have the reasons control the establishment or discontinuance of these districts that Congress expected would control when it enacted the legislation.

Mr. RAKER. There is over half a million dollars of business done there. Does not that make it plain that it is necessary for the proper conduct of the public service?

Mr. FITZGERALD. If it be necessary for the conduct of the public service, and the executive department between this time and the next session of Congress will not readjust matters there as they should be for the proper transaction of the public business, I do not believe Congress will have any justification to refuse to create or provide an additional district to take care of that situation, even though some others may exist that are not necessary.

Mr. MANN. Will the gentleman yield for a question?

Mr. FITZGERALD. Yes.

Mr. MANN. Considering the amount of agitation and discussion which has been had with reference to this subject of the abolishing of four internal-revnue districts, I should like to ask the gentleman whether he expects any better results will be attained in the abolishment of a large number of customhouses in accordance with the proposition which he skillfully put through last year?

Mr. FITZGERALD. If the same policy be followed and the same reasons be adopted for abolishing customs districts as it is apparent were followed and adopted in abolishing the internal-revenue districts, I shall not hesitate to ask the Congress to repeal the law authorizing the reorganization of the customs service. Congress expects an administration to carry out laws in the interest of the public service and not in the interest of partisan politics. [Applause.] If that is to control, I do not think there will be any doubt about what will happen.

Mr. BUCHANAN. I should like to ask the chairman of this committee if his attention has been called any further to the question of the piecework that is provided for in this bill? The question was raised by my colleague [Mr. MANN] during the consideration of this bill as to piecework in the office of the Auditor for the Post Office Department. I wish to say to the chairman—who, I believe, was fair about all of these things—that since the time I made the inquiry I have received information which satisfies me that there is a condition there under that piecework system which he himself would not permit to exist if he understood it. The employees there, instead of being satisfied, and their wages being increased, as reported by the head of the department, are being worked long hours for a small wage and under a condition that is impairing their health. If it is not too late, it seems to me this matter ought to be corrected. I ask the gentleman, if it is possible to take this matter up yet, that he give this question a little attention before the conference committee on this bill.

Mr. CANNON. Mr. Speaker, I move to strike out the last word. I have here the official report—the latest I could get—which is for the fiscal year 1911, expiring on the 30th of June, 1912. There seems to be three California districts, one of which

has been consolidated out. The San Francisco district collected almost $7,000,000 in round numbers. Just a little way from San Francisco—I was going to say a stone's throw, but it is farther than that—is Sacramento. There was collected in that district $713,171.69. Down in Los Angeles, the other district, the collections amounted to $948,810.24. I have not had time to examine as to Texas or as to the districts that were consolidated.

Mr. FITZGERALD. Will the gentleman yield?

Mr. CANNON. Certainly.

Mr. FITZGERALD. Will the gentleman read the figures in the two Iowa districts? They are right there in the report, and have not been consolidated.

Mr. CANNON. Oh, it may be that further consolidations are needed.

Mr. KENDALL. Will the gentleman yield?

Mr. CANNON. Yes.

Mr. KENDALL. There is no doubt whatever but that the two revenue districts in Iowa ought to be consolidated.

Mr. FITZGERALD. That is what Congress had in mind, but they have not been consolidated.

Mr. CANNON. The statement of the gentleman from Iowa is honest. There is the district of Peoria, Ill., where they collect forty or fifty million dollars. The Chicago district is a very large one. Now, I just give the facts. How far is it from San Francisco to Sacramento?

Mr. KAHN. Ninety-one miles.

Mr. CANNON. It may be that that district ought to have been consolidated. I have thought for many years that perhaps other districts ought to be consolidated, and while I am talking about it, the law went into effect giving the President power to consolidate customs districts. He has full power. I believe there has not as yet been a report. Rather than to restore these districts, in my judgment, it seems to me that legislation might be in order to force other consolidations. [Applause.]

Mr. JOHNSON of South Carolina. Mr. Speaker, I am very anxious to take a vote, but in view of the question propounded by the gentleman from Illinois [Mr. BUCHANAN] I feel like I ought to make a statement. When this bill was under consideration in the House I was asked if there had been any complaint about piecework. I stated that no complaint had been made to the committee. After the bill passed the House and went to the Senate I saw something in one of the Washington papers to the effect that some people in the Auditor's office for the Post Office Department were dissatisfied.

On the following Sunday after that statement was made I spent several hours in the Auditor's office for the Post Office Department. I examined the pay roll of those who were engaged in piecework. I found that out of 183 people who were employed on piecework, 17 of them are making less money than they made before. All the others are making more, some as high as 95 per cent more than they made when they were on a salary. I asked if it was true that these people were working long hours and under unfavorable conditions. I was assured that no persons doing piecework were allowed to go on before 9 o'clock in the morning or to continue after half past 4 in the afternoon. Mr. Speaker, I ask for a vote.

Mr. MOORE of Pennsylvania. Will the gentleman yield for one question?

Mr. JOHNSON of South Carolina. Yes.

Mr. MOORE of Pennsylvania. I have been unable to learn from a hurried inspection of the report whether it carries the provision with reference to soldiers who are required to make efficiency ratings in establishments other than executive departments.

Mr. JOHNSON of South Carolina. There is such an amendment to the bill.

Mr. MOORE of Pennsylvania. The bill carries that amendment?

Mr. JOHNSON of South Carolina. The bill carries that amendment, and it has been disagreed to.

Mr. MOORE of Pennsylvania. I ask unanimous consent to print in the RECORD as a part of my remarks a letter from Gen. John C. Black on that subject.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to print the letter he refers to. Is there objection?

There was no objection.

The letter is as follows:

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C., January 22, 1913.

Hon. J. HAMPTON MOORE,
House of Representatives.

SIR: Referring further to your letter of December 21, 1912, stating that you have been requested by one of your constituents to inquire as to the interpretation of that portion of the recent amendment of the legislative act pertaining to Civil War veterans, especially as to the departments to which it applies, I have the honor to invite your attention to page 1618 of the CONGRESSIONAL RECORD of January 16, 1913, the amendment offered by Senator SUTHERLAND to the legislative bill to add to the certainty and clearness of the law. He said that he had added, after the word "department," the words "or independent establishments," because there are some establishments that are not under the executive departments. He said also that the original law did not include the word "hereafter"; and he had also added, after the word "rank," the word "class," and after the word "salary" the words "or compensation," so as to embrace the whole subject matter. With these changes he had put in the limitation that it should apply only to soldiers, sailors, and marines who had seen active service in the Civil War, the Spanish-American War, or the Philippine insurrection.

I quote from a recent letter written by me, as follows:

"Section 4 of the legislative act approved August 23, 1912, is as follows:

"'The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency rating for the classified service in the several executive departments in the District of Columbia based upon records kept in each department and independent establishment with such frequency as to make them as nearly as possible records of fact. Such system shall provide a minimum rating of efficiency which must be attained by an employee before he may be promoted; it shall also provide a rating below which no employee may fall without being demoted; it shall further provide for a rating below which no employee may fall without being dismissed for inefficiency. All promotions, demotions, or dismissals shall be governed by provisions of the civil-service rules. Copies of all records of efficiency shall be furnished by the departments and independent establishments to the Civil Service Commission for record in accordance with the provisions of this section: *Provided*, That in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary.'

"Manifestly it was the intention of Congress that efficiency ratings should be based upon the records of the individual employees, kept in each executive department and each independent establishment, and that the employees should have the right to have their efficiency ratings established on such records so kept and not upon others or by combining any others.

"It is manifest that the Congress intended to extend the benefits of its laws to each and every one of the properly enrolled employees of the Government, and all of this in regard to the promotion, demotion, or dismissal contemplated by the statute.

"After all this was done, some wise and kind man, having reference to the weakening hold on the public of the veteran soldiers, had added, and the committee reported, that in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary. I wish he had included 'independent establishments.'

"Inasmuch as this statute established an exception to the general rule, and under our system of interpretations such exceptions are construed strictissimi, it does not appear to me that the soldiers in the independent offices are included within the precise exception named in the statute. If the Congress intended otherwise and inadvertently omitted that statement, remedial legislation is easy; but the fashion of amending statutes by the will or notion of any administrative officer or his conception of what is good is so far-reaching and dangerous that it never ought to be indulged in. I am of opinion that the helping words of the statute do not refer to the honorably discharged soldiers in the Government Printing Office."

Very truly, yours, JOHN C. BLACK.

The SPEAKER. The pro forma amendment of the gentleman from Illinois is withdrawn, and the question is on disagreeing to Senate amendment 68.

The question was taken; and on a division (demanded by Mr. MANN) there were 124 ayes and 11 noes.

So the motion was agreed to.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House ask for a conference and appoint conferees.

The motion was agreed to.

The SPEAKER appointed as conferees on the part of the House Mr. JOHNSON of South Carolina, Mr. BURLESON, and Mr. GILLETT.

THE LATE SENATOR HEYBURN.

Mr. FRENCH. Mr. Speaker, I ask unanimous consent for the present consideration of the order which I send to the desk and ask to have read.

The Clerk read as follows:

Ordered, That Sunday, the 23d day of February, 1913, be set apart for addresses on the life, character, and public services of Hon. WELDON BRINTON HEYBURN, late a Senator from the State of Idaho.

The SPEAKER. The question is on agreeing to the order.

The order was agreed to.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. DOREMUS, for 10 days, on account of important business.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 28180) making appropriations for construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. If the motion of the gentleman from Florida should prevail and the House should resolve itself into the

Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill, would that interfere with the House bill that is now the unfinished business being the unfinished business to-morrow morning? I refer to the reclamation town-site bill, which, with the previous question operating, would naturally come before the House as the unfinished business to-day. If the House should adopt this motion and no point of order be made or no call for the regular order demanded and go on with the consideration of the river and harbor bill this afternoon, would that displace the other bill as the unfinished business whenever that order is reached?

The SPEAKER. It would not.

Mr. MANN. If the Chair so holds, I shall not call for the regular order.

The SPEAKER. The question is on the motion of the gentleman from Florida that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor bill, with Mr. MOON of Tennessee in the chair.

Mr. SPARKMAN. Mr. Chairman, just before the committee rose on Tuesday an order was made passing over temporarily certain items at the request of the gentleman from Illinois [Mr. FOSTER], with the understanding that we would return to them when the House next resolved itself into the Committee of the Whole House on the state of the Union for the consideration of this bill. Those items appear on page 14 of the bill.

The CHAIRMAN. Without objection, the committee will return to them.

Mr. MOORE of Pennsylvania. Mr. Chairman, why not go back to the beginning? We started to pass these items on page 10 of the bill.

Mr. SPARKMAN. I would have no objection to that.

Mr. MANN. There was a special order that the items in which the gentleman from North Carolina [Mr. SMALL] was interested should come up first, as a matter of personal accommodation.

Mr. MOORE of Pennsylvania. Very well.

Mr. SPARKMAN. Mr. Chairman, the question is pending on the motion of the gentleman from Illinois [Mr. FOSTER] to strike out the paragraph on page 14, from lines 9 to 20, inclusive.

The CHAIRMAN. The Clerk will report the paragraph.

The Clerk read as follows:

Improving inland waterway from Norfolk, Va., to Beaufort Inlet, N. C.: Continuing improvement in accordance with the report submitted in House Document No. 391, Sixty-second Congress, second session, $800,000: *Provided*, That no part of this amount shall be expended until the canal and appurtenant property belonging to the Chesapeake & Albemarle Canal Co. shall have been acquired by the United States by purchase in accordance with the agreement entered into between the Secretary of War and said company under date of February 17, 1912.

Mr. FOSTER. Mr. Chairman, I desire to say a word with reference to this paragraph, beginning on line 9, page 14. On Tuesday I moved that this paragraph be stricken out of the bill. If it is necessary, I will renew that motion at this time. This provides for $800,000 for the improvement of this inland waterway which the Government has authorized to be purchased for the amount of $500,000. In the river and harbor act of 1910 there was an authorization for surveying and estimating with reference to this canal. As the Members here no doubt know, there were two canals, and it was proposed to buy whichever one, in the judgment of the engineers, was the cheapest and best to purchase. After some deliberation it was decided to buy what is known as the Chesapeake and Albemarle Canal. Such an amendment was put on the bill in the Senate. In the river and harbor act of 1912 the appropriation for the purchase of this canal was made and the authorization for its purchase was contained in that bill.

Since that time I understand the Government has been endeavoring to secure a title to this property, but some difficulties have arisen with reference to the title, and that these people up to the present time have been unable to give the Government or to insure to the Government a proper title to this property. For instance, one difficulty was they claimed that a lot of land that was owned along the route of this canal should not be deeded to the Government, and other matters came up so that it has been delayed until to-day the Government does not have title to this property. Now, in the appropriation bill of 1912 there was an appropriation for the improvement of this property to the extent of $100,000. And to-day we are asked to appropriate in this bill $800,000 for improving, and each time in the bill providing that it shall not be paid until, of course, the title to the property is secured. This bill carries something like $40,000,000. I do not know whether the sundry civil bill will carry anything for maintenance of rivers and harbors or not, but I judge it would be in the neighborhood of what it was in the last bill—about $12,000,000—so that the total amount for the new project and maintenance of river and harbor work amounts to more than $50,000,000. I do not object to proper appropriations for rivers and harbors of the country. I believe that it is proper and right that the Government should take whatever care is necessary and appropriate whatever money is necessary for the improvement of rivers and harbors and for the maintenance of the work that has already been completed and to go ahead with the construction that is necessary, but I do believe that here is an item of $800,000 that should be taken out of this bill and the river and harbor work of the country would not be hindered in the least, and all I ask in striking out this paragraph is that we might save $800,000 which is unnecessary to appropriate at this time and wait until a future time if it does become necessary.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOSTER. I ask for five minutes additional.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the gentleman one question if he will yield.

Mr. FOSTER. Certainly.

Mr. MOORE of Pennsylvania. Would the gentleman make the same argument with reference to other projects in this bill he makes against this one particular project along the Atlantic seaboard?

Mr. FOSTER. Well, I will say to the gentleman this, that I am not making promises of what I propose to do until I see what may be done in this.

Mr. MOORE of Pennsylvania. Does the gentleman object to a provision of this kind in projects of national importance in other sections of the country?

Mr. FOSTER. I want to say to the gentleman from Pennsylvania that if there is a meritorious project anywhere I am not objecting to it, and I am not taking it because it is sectional. I would be unfit to represent my constituency in this House should I stand upon this floor and advocate a thing on account of it being sectional.

Mr. MOORE of Pennsylvania. I give the gentleman full credit for that, and I am sure the country does; but if the gentleman knew there was in the country an increase in population and the necessity for a project of this kind would be stand and knock it out of this bill while he permitted other paragraphs to go in not equally meritorious?

Mr. FOSTER. I do not care to answer that question at this time, because I think it is irrelevant to this proposition. I will say to the gentleman from Pennsylvania, I believe every proposition should stand by itself. The great difficulty with projects of this kind and all others that are contained in bills of a similar nature is that I tickle you and you tickle me. [Applause.]

Mr. MOORE of Pennsylvania. That would be the best policy if we are to deal fairly with all sections according to commercial necessity. I can point the gentleman to a great many paragraphs in this bill to which he might object.

Mr. FOSTER. I hope the gentleman with that patriotism that I believe he possesses, when he finds items in this bill that in his judgment are not meritorious and are as unnecessary as this one is, I believe, this year, ought to move to strike them out of the bill, and not because any other section of the country may come here and——

Mr. MOORE of Pennsylvania. Would not the gentleman listen to some argument with regard to statistics and the commercial necessity with regard to life and property involved in this very item?

Mr. FOSTER. Let me say to my friend from Pennsylvania that we have not yet a title to this property—that the Government has no title. I do not know but it may be contended that we are soon to have title, and it may be possible we will get the title. I do not know, nor does the gentleman from Pennsylvania know, that we will have a title to this property in the next 12 months.

Mr. MOORE of Pennsylvania. Surely that being left to the engineers ought to satisfy the gentleman.

Mr. FOSTER. What is the use of this bill carrying large appropriations that are unnecessary and can not be used?

Mr. KOPP. Will the gentleman yield?

Mr. FOSTER. Yes.

Mr. KOPP. The Chesapeake & Albemarle Canal Co. now owns the part which it is wished to improve by this appropriation? Is it operated commercially by this company?

Mr. FOSTER. I suppose it is. The Government does not have any interest in it at all. The gentleman from Florida [Mr. SPARKMAN], the chairman of the committee, day before yesterday, I think, said that the engineers had entered into contracts for the improvement of this canal before we owned one penny of interest in it.

Mr. KOPP. But at the present time it is being operated by this toll company?

Mr. FOSTER. Controlled by the company.

Mr. KOPP. How much tonnage, if the gentleman is advised, went through this canal last year?

Mr. FOSTER. I think it is claimed that something like 600,000 or 700,000 tons. I think the income from tolls amounted to possibly $31,000, or something like that. Possibly it was a little more.

Mr. KOPP. That is about as much as three or four trains would haul, is it not?

Mr. FOSTER. About the same.

Mr. HELM. Will the gentleman yield?

Mr. FOSTER. Yes, sir.

Mr. HELM. Is this a new proposition or the continuation of an old proposition?

Mr. FOSTER. It is a new proposition.

Mr. HELM. Is there any emergency for it?

Mr. FOSTER. None at all.

Mr. SMALL. I beg pardon——

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOSTER] has again expired.

Mr. SMALL. Mr. Chairman, I ask unanimous consent that the time of the gentleman may be extended for five minutes.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that the time of the gentleman from Illinois may be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. Mr. Chairman, reserving the right to object, I hope that the extension of the time of the gentleman from Illinois [Mr. FOSTER] will not prevent others discussing this item. I should not want the chairman of the committee and those interested to suggest at the close of the remarks of the gentleman from Illinois [Mr. FOSTER] that a good deal of time had been consumed, and hear an insistence on their part that they should close debate.

Mr. FOSTER. Let me state, Mr. Chairman, that I do not desire to occupy any time unnecessarily.

Mr. MONDELL. I am anxious that the gentleman should have additional time, but I should like to have a little time on the subject in connection with the discussion a little later.

Mr. SMALL. I ask that the gentleman yield to me in order that I may correct an erroneous statement. This was in the river and harbor act of 1912, and it is a continuation of the project.

Mr. FOSTER. The gentleman from Kentucky [Mr. HELM] asked if this was a work in progress. I answered it was not a work in progress, and that there has been no work done on this canal whatever. My statement in that connection was, and I think that the gentleman from North Carolina [Mr. SMALL] will bear me out as being correct, that that committee, as stated by me, authorized $500,000 according to the appropriation act of 1912, but from that time to this we have been unable to get a title to this property, so that no work could be done on this project.

Mr. KOPP. Will the gentleman permit me to ask the gentleman from South Carolina [Mr. SMALL] a question? He says this is a continuing project. How much money has already been spent up to date on this project?

Mr. SMALL. Up to this time there has not been anything spent. A little later I will address the committee a moment and can satisfy the gentleman, I think.

Mr. KOPP. It is true that there has not been a cent spent?

Mr. SMALL. I think that is true.

Mr. FOSTER. I think this item can well afford to go out of the bill at this time. It is true that there are large appropriations pressing on Congress during this session, and I am willing the River and Harbor Committee should be given latitude in what is necessary to keep up this great work; but I do believe, when an item of this kind is placed in a bill, that it is proper and right that it should be stricken out and that we should at least save this $800,000 until a future time when it is necessary to make it and when we can make this appropriation. I do not believe it is the proper time now to go ahead and appropriate an extra $800,000 and tie it up for this project, when we will then have $1,400,000 tied up in it, and not a dollar can be spent until the title of this property is made satisfactory to the Government.

Mr. BYRNS of Tennessee. How much is the entire project to cost?

Mr. FOSTER. Something over $4,000,000. I do not remember the exact amount, but it is something between $4,000,000 and $5,000,000.

Mr. FARR. Mr. Chairman, I ask unanimous consent to extend and revise my remarks on the conference report on the legislative bill.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. SMALL. Mr. Chairman, I will ask the attention of the committee for a short time with reference to the motion that has been made by the gentleman from Illinois [Mr. FOSTER] to strike out this paragraph. This paragraph contains an appropriation of $800,000 additional toward the further improvement and construction of an inland waterway from Norfolk, Va., to Beaufort Inlet, N. C. I do not understand that the gentleman from Illinois [Mr. FOSTER] attempts to controvert the importance of this project, but for fear some gentlemen may be misled I would like to make a brief statement.

There is no more important project than this in the entire river and harbor bill, and I would be willing, if time were given me, to stand before an impartial tribunal anywhere and satisfy them upon that point. However, let me make just a few brief statements as to its importance. There have been three surveys upon this waterway—one authorized in 1902; another one in 1905, I believe; and another one in 1909. Every one of these reports by the engineers, by the Board of Engineers for Rivers and Harbors, known as the "board of review," and by the Chief of Engineers has been entirely and unreservedly favorable to this project. In the report of the engineers in 1904, which is contained in House Document No. 563, at the second session of the Fifty-eighth Congress, they make this statement in regard to the importance of the waterway: They say that the total commerce to be affected by the construction of this waterway will be about 1,100,000 tons annually, valued at $55,000,000. That is on page 33 of the report. They state also that the annual saving in through freight on this commerce will be not less than $600,000, and that the annual saving on local traffic originating in North Carolina will be not less than $200,000.

To-day there are two private canals leading southwardly from Norfolk to Albemarle Sound. The engineer's reports show that there was carried through these two private canals last year, inadequate as they were, a commerce of 700,000 tons, all of which paid tolls amounting to $103,000—an unjust tribute upon the traffic which originates in that section.

Mr. KOPP. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Wisconsin?

Mr. SMALL. Yes; I yield to the gentleman.

Mr. KOPP. I would like to ask the gentleman how deep are these canals?

Mr. SMALL. They are nominally about 9 feet deep, but actually they are not quite that. They are about 8½ feet deep.

Mr. KOPP. How deep is it proposed that they be made under Government ownership?

Mr. SMALL. They are to be improved to a depth of 12 feet.

Mr. KOPP. What is to become of the other canal that the Government is not purchasing?

Mr. SMALL. I will state to the gentleman that that has been an embarrassing subject before the committee and those who in the interest of the public desire a free waterway. The other canal will have no legal redress. It will depend upon the generosity of Congress.

Mr. MADDEN. Mr. Chairman, will the gentleman from North Carolina yield to me?

Mr. KOPP. Just one moment. Then in reality it is contemplated, is it not, by those in charge of this project, to ask Congress in all fairness to make a donation to this other company after the first project goes through?

Mr. SMALL. I will say that I have no such purpose, and I do not believe such a purpose exists on the part of any single member of the Committee on Rivers and Harbors.

Mr. KOPP. The gentleman does not think it will be fair to take one single line and give another line no compensation?

Mr. SMALL. Well, if the gentleman assumes the championship of the other canal, he is at liberty to do so.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SMALL. Mr. Chairman, I ask unanimous consent to proceed for 10 minutes more.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. SMALL. Now I shall be glad to yield to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. I wish to ask the gentleman from North Carolina whether the Committee on Rivers and Harbors has any information in its possession as to when it is probable that the Government of the United States will get the title to the canal?

Mr. SMALL. If the gentleman will pardon me, I will come to that in just a few minutes.

Now, Mr. Chairman, there is in this last report—the report of the survey that was authorized in 1909—a most illuminating statement as to the commercial importance of this waterway. I will not take the time to read it. It is in House Document 391, Sixty-second Congress, second session, and I call particular attention to page 131.

Mr. HELM. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Kentucky?

Mr. SMALL. I will yield to the gentleman, but I will ask him to be brief.

Mr. HELM. A moment ago the gentleman spoke of the estimated tonnage that will pass through this canal and the value thereof that now moves through a private canal, as I understand. What proportion of the tonnage moving through this private canal now in existence is to be diverted into the channel to be created under this appropriation?

Mr. SMALL. Of course it will all seek the free waterway, and there will be still more.

Mr. HELM. So that your estimates, both as to tonnage and the value and importance of this commerce, is based upon that portion of it that now goes through this private canal.

Mr. SMALL. As a basis simply.

Mr. HELM. That is a portion of it.

Mr. SMALL. That is a portion of it. It will be very greatly increased.

Now, Mr. Chairman, I shall not take up any longer time as to the commercial importance of this, but I wish to say something about the physical characteristics of this waterway. It is 200 miles long, from Norfolk to Beaufort. The engineers divide it into three sections, the first section from Norfolk to Albemarle Sound, a distance of 68 miles. Between Norfolk and Albemarle Sound are these two private canals, one of which, the Chesapeake & Albemarle Canal, has been recommended by the engineers as a part of the route, and which they estimate to be worth $500,000 to the United States. That is only a portion of the waterway.

The second division is from Albemarle Sound to Rose Bay, on Pamlico Sound, a distance of 80 miles, and the third division, from Rose Bay to Beaufort Inlet, is a distance of 51 miles.

So gentlemen of the committee will see that when we are discussing the purchase of this Chesapeake & Albemarle Canal we are discussing a small portion of the total length of this waterway. It simply happens that that is a part of one division. So that this $800,000 may be expended wisely and properly upon other divisions of the waterway even if there should be any delay in the purchase of this private canal. The total cost of the waterway in divisions is estimated as follows:

The first division, from Norfolk to Albemarle Sound, $2,733,-300, in which is included the cost of this Chesapeake & Albemarle Canal at $500,000.

Albemarle Sound to Pamlico Sound, a distance of 80.5 miles, $2,216,780.

Brant Shoal cut, a short cut across Pamlico Sound, $54,000.

Pamlico Sound to Beaufort Inlet, via Adams Creek Canal, a distance of 51.6 miles, estimated cost $397,500.

The Adams Creek Canal at the southern end has already been constructed by previous appropriations of Congress at a projected depth of 10 feet, so that it is now only necessary to deepen that to 12 feet in order to correspond with the remainder of the waterway.

The total cost is $5,401,580, as estimated by the engineers.

In the last river and harbor act, approved July 25 last, there was an appropriation of $500,000 for the purchase of this Chesapeake & Albemarle Canal in accordance with a contract which had theretofore been entered into between the Secretary of War and the owners of that canal for its purchase, which contract set forth the width of the right of way and the other particulars necessary in order to make it a satisfactory contract.

It is a fact that the purchase of that canal has not yet been consummated, much to my disappointment and very greatly to the disappointment of the commercial interests that desire this to be made a free waterway in order to relieve them from the burden and the tribute which is laid upon their traffic.

The facts are that when this matter was taken up by the War Department they placed the purchase primarily in the hands of Col. E. E. Winslow, the district engineer at Norfolk, Va. He first required the canal company to make a survey of the right of way and then to place concrete monuments along the right of way indicating the boundaries. This Chesapeake & Albemarle Canal is in two cuts—one known as the Virginia cut, in the State of Virginia, the other known as the North Carolina cut, in the State of North Carolina, the two having an aggregate land cut of 14.1 miles. After the canal company made the survey and placed the concrete monuments, which, as you can imagine, required some time, the engineer sent out field parties to resurvey and check up the other survey and to prepare proper descriptions.

Only within the past few weeks has the engineer office resurveyed it, checked up and adjusted some apparent discrepancies. I have letters here from Col. Winslow, one dated January 15, saying that the discrepancies in the description of the North Carolina cut have been adjusted and that he and the canal company have agreed upon a description, and one dated January 20, stating that the same result has been reached as to the Virginia cut.

The matter of investigating the title was undertaken by the Department of Justice, that for the North Carolina cut was placed in the hands of the United States district attorney for the eastern district of North Carolina, and the Virginia cut in the hands of the United States attorney for the eastern district of Virginia. As to the North Carolina cut the district attorney has reported favorably on the title, and the only thing remaining to do is to carry out some instructions and obtain affidavits which the Department of Justice requires as to long-continued adverse possession by the canal company. The district attorney for Virginia, Mr. D. Lawrence Groner, in a letter dated Norfolk, January 3, says:

> In reply to your recent letter in regard to the present status of the examination of the title to the property of the Chesapeake & Albemarle Canal, which it is proposed to convey to the Government, I be, to advise you that while I have not yet completed the examination and will not be able to do so until the present survey which is now in process is completed and a complete description of the property to be surveyed is given me, I have gone far enough to satisfy myself that there will be no legal obstacles to the conveyance of the property to the Government.

He says later on that he expects to make a final report before the expiration of January.

Now, Mr. Chairman, on yesterday I called at the Department of Justice and asked them if they would not furnish a statement as to the present status of the investigation of the title and as to when it would be completed. I will not take the time to read the entire letter of more than two pages, as it is simply a recital of the things that have been done, but the last paragraph states:

> In view of the matters and things hereinbefore referred to, if the report of the investigation which the United States attorney for the eastern district of Virginia has been directed to make shall be received before the expiration of January and the same shall disclose no legal obstacles to the conveyance of the company's property to the Government, the department sees no reason why the transfer may not be consummated by February 15 next.

Now, I have just read a letter from the district attorney, Mr. Groner, for the eastern district of Virginia, saying that he would have the report in by the expiration of January, and that there would be no obstacle.

Mr. FOSTER. Will the gentleman yield?

Mr. SMALL. I have only a few moments.

Mr. FOSTER. According to that letter, does the gentleman think that it means that they are going to get a title very soon? He seems to make lots of reservations.

Mr. SMALL. I know that the gentleman will accept what I say in good faith.

Mr. FOSTER. Certainly.

Mr. SMALL. I have kept close observation of the preliminary steps preparatory to securing this title. I have not the slightest doubt, in view of the present status, that by the 15th of February the deed will be executed. I state that in the utmost good faith.

Mr. FOSTER. That is the gentleman's opinion; he could not gather it from that letter.

Mr. SMALL. I gather it from the letter and the information that is in my possession.

Mr. FOSTER. I would not take the letter to mean that.

Mr. SMALL. I know the gentleman has confidence in my good faith.

Mr. FOSTER. I certainly have.

Mr. SMALL. May I present another view showing the necessity for this appropriation in this bill? The appropriations

contained in this bill are intended to suffice until the 30th of June, 1914. If this appropriation is not made, and the title is acquired by February 15 or by April 1, the engineers will be able to do nothing toward the further construction of this waterway until after the next river and harbor act shall be passed in the summer of 1914.

Now, just one statement further. This waterway, gentlemen of the committee, is the only outlet for water-borne interstate trade for eastern North Carolina. We have 1,600 miles of navigable rivers there, and we have 2,500 square miles of sound. We are pent up. Give us a free outlet; we are deserving of it. I ask the committee to decline the motion and refuse to strike out the appropriation.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I will not occupy but a minute. I want to reply to the question of the gentleman from Wisconsin [Mr. KOPP]. He asked the gentleman from Illinois what the commerce borne by this canal would be and he was told about 600,000 tons. He remarked that that meant two or three train loads. I suggest that the gentleman has gotten his figures wrong. To haul 600,000 tons annually would require two trains a day through every day in the year, each train consisting of 30 cars and each car carrying 30 tons, a commerce which I submit is not inconsiderable in amount.

Mr. FOSTER. That may be the size of the trains in Mississippi, but I do not think it is the size of trains in Illinois or Wisconsin.

Mr. HUMPHREYS of Mississippi. Yes; 30 freight cars of 60,000 pounds each—a pretty good average train.

Mr. FOSTER. Oh, no; we pull 50 and 60 cars in Illinois.

Mr. HUMPHREYS of Mississippi. Very well; say 60 cars, and, with all due respect to the gentleman from Illinois, I do not believe that freight trains in Illinois or anywhere else average 60 loaded box cars of 60,000 pounds to the car. However, 60 cars to the train would be one train a day throughout the year.

Mr. McKENZIE. Mr. Chairman, will the gentleman yield?

Mr. HUMPHREYS of Mississippi. Yes.

Mr. McKENZIE. Mr. Chairman, the gentleman is undoubtedly familiar with this. I want to ask what were the articles of commerce that made the building of these two canals profitable at the time they were constructed? For what purpose were these canals constructed?

Mr. HUMPHREYS of Mississippi. These canals were constructed to bear a commerce which is very general, all sorts of merchandise. I think the gentleman from North Carolina [Mr. SMALL] could give the gentleman the details of that.

Mr. SMALL. Mr. Chairman, the Chesapeake & Albemarle Canal was begun in 1856 and completed a few years later. It has been in continuous operation since that time. At the time the canal was constructed the larger amount of traffic through it was lumber and naval stores and agricultural products northward and merchandise southward. Naval stores are not now produced in eastern North Carolina. Much[illegible]r is still manufactured in North Carolina, and [illegible] movements, so that the canal will accommodate a c[illegible]nt [illegible] steamers, large quantities of m[illegible]rchandise from [illegible] North [illegible] be carried. Coal has always be[illegible]ied throu[illegible]

Mr. McKENZIE. [illegible] they not originally constructed for the purpose of ha[illegible]g the timber in those sections?

Mr. SMALL. [illegible] largely.

Mr. McKENZIE. Has the timber been cut off since these canals were constructed?

Mr. SMALL. Of course very much timber has been removed, but there are still large quantities of standing timber in eastern North Carolina, and it is a large industry.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. McKENZIE. Mr. Chairman, I ask unanimous consent to ask one or two more questions of the gentleman from North Carolina. I desire to proceed for two minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for two minutes. Is there objection?

There was no objection.

Mr. McKENZIE. Are there any coal fields adjacent to these canals?

Mr. SMALL. No; there is no coal in eastern North Carolina, but at Norfolk there are two large coal terminals. The terminals I particularly refer to are those of the Norfolk & Western Railway and of the Virginian Railway, and also of the Chesapeake & Ohio at Newport News. Coal is sent by water southward from Norfolk through those canals to a certain extent now, and with the improvement it is anticipated there will be a very large amount of coal sent to southern ports south of the southern terminus of this waterway at Beaufort Inlet. I will say that this waterway avoids the two most dangerous points on the Atlantic coast—Cape Hatteras and Cape Lookout.

Mr. McKENZIE. Are not those points—Norfolk and Beaufort Inlet—deep-water harbors?

Mr. SMALL. Norfolk is a deep-water harbor. Beaufort Inlet is not so deep, but still it has about 20 feet.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman permit me to read one brief paragraph that answers the gentleman's inquiry?

Mr. SMALL. The gentleman will have to get the consent of the gentleman from Illinois.

Mr. McKENZIE. As soon as I ask one other question. Could not the commerce from Norfolk and the other terminus of this proposed canal be carried now on the deep water of the Atlantic Ocean?

Mr. SMALL. Mr. Chairman, I am glad the gentleman asked that question. I can answer it briefly.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. SMALL. Mr. Chairman, I ask unanimous consent to proceed for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SMALL. Mr. Chairman, answering the question of the gentleman, on the North Carolina coast is Cape Hatteras, with Diamond Shoals, jutting out into the ocean 20 miles, the most dangerous point in the world. South of that is Cape Lookout. The reports of the engineers show in detail the number of lives lost and the millions of dollars sacrificed by wrecks at these points. The cheapest form of movement by water is by barge. Coastwise navigation by barges around Cape Hatteras is prohibited. The casualties are too numerous, and maximum insurance rates are prohibitory.

The only form of coastwise navigation between southern and northern ports is in very large and expensive steamers, and it so happens there is a community of interest or ownership, so that practically all the steamships between north Atlantic and south Atlantic ports are controlled by the railroads and do not offer real competitive rates.

Mr. MOORE of Pennsylvania. Mr. Chairman, I desire to speak——

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I think the Chair recognized me awhile ago, and I sat down in order to allow the gentleman from Illinois to submit a question to the gentleman from North Carolina.

The CHAIRMAN. The gentleman from Wyoming yielded to two other gentlemen since then.

Mr. MONDELL. The gentleman requested unanimous consent to ask some questions, and I did not desire to object to them. Of course, if I lose my right to speak by reason of not objecting to unanimous consent, I am content.

The CHAIRMAN. The Chair will recognize the gentleman from Wyoming next.

Mr. MOORE of Pennsylvania. Mr. [illegible], answering the question put by the gentleman from [illegible] Mr. McKENZIE] to the gentleman f[illegible]m North Carolin[illegible] [illegible]ALL], I wish to read one of many [illegible]ters that were se[illegible] the United States engineers while this project was under discussion. Mr. J. B. Blades, president of the J. B. Blades Lumber Co., of Newbern, N. C., which is an inland port at the lower end of the projected canal, among other things, says:

We are shipping from the various mills here that we are interested in from fifteen to twenty million feet of lumber per year. Nine-tenths of this goes through the Delaware & Chesapeake Canal. The rate on this lumber to Philadelphia from our mills is $2.75 per thousand, and by rail it is about $5.25, so you see that with the present water facilities the saving to us is very great. Now, if the waterways were made sea-level canals, free of tolls—

That is what we ask in this instance—

we would not only save the amount of the toll, which is about $45,000, but we would be able to ship in larger barges, and by this means save at least 50 cents per thousand, or $75,000. This does not take into account the mills that we are interested in at Elizabeth City, with an output of about 12,000,000 feet of lumber per year, which is all shipped almost wholly by rail, but with the improved and free waterways would move largely by water, and the amount of business done by us is only a small part of the whole amount.

Here is what I want the committee to hear:

We can not afford to use the part of the canal that is now completed to Beaufort, because this puts us in the ocean south of Cape Hatteras, a very dangerous coast.

And you gentlemen from the West and South do not seem to understand the perils of Cape Hatteras.

Mr. MADDEN. Who states that, you or the man who is writing the letter?

Mr. MOORE of Pennsylvania. I do. The writer goes on:

Besides our lumber carriers are made for inland waters and would not stand the waves of the ocean. This makes a wonderful saving in transportation, because the barges being built for barge traffic—

Do you understand we are building barges constantly for these inside waterways and what they are worth to shippers and the shipping interests of the community?—

do not need to be built too expensively to stand the work, and it is safe to use them almost twice as long as if they were trading in the ocean.

Now, the storms along the Atlantic coast during the last three months have been such as to attract the attention of the country. There has been wreckage all along the coast and loss of life. Do you gentlemen understand what that means to the shippers of the East? Do you understand that it is your property that is also involved; that the cargoes that come in along this eastern coast are intended for the West, the South, and the Northwest? Do you know we have built up a great barge industry along the east coast, and that with the standardization of these waterways the East can meet the problems of transportation as you are trying to do it in the Middle West?

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, I am glad the gentleman from Pennsylvania [Mr. MOORE] spoke before I did, because he has so illuminated the question. I want to congratulate the gentleman from Illinois [Mr. FOSTER] for having called up this important matter. I can not share the optimism that he seems to feel that he will in any way, no matter how eloquent he may be or what array of facts he may garner, modify this bill. This bill is undoubtedly built to stand. It has a foundation sufficiently and widely planted in congressional districts that nothing so entirely unimportant as facts will in any way affect the character of the bill when it shall finally be passed upon by the House.

The gentleman from North Carolina [Mr. SMALL] has a monument in this item—a monument to his energy and his influence with the committee. Here is a canal owned by private parties doing business at a low rate of toll. It is proposed to buy it. We have appropriated half a million for that purpose. In addition to that we have appropriated $100,000 to use for the building of a dredge for the purpose of dredging out the canal after we shall have acquired it. We have neither acquired the canal nor built the dredge. And from all that we have been told and from what we have learned to-day there is no probability of our immediately acquiring the title to the canal, and we have heard nothing of any prospective early construction of the dredge.

Mr. SMALL. Is the gentleman aware that the engineers, in their report of investigation, state that the rates of toll are very high on this canal—abnormally high—and that in its present condition it is unfitted to meet the demands of commerce [illegible]?

Mr. MONDELL. Well, there are railways in the country in [illegible] I live upon which it is said that the rates are rather high. [illegible] are some of them that do not have roadbeds up to highest [illegible]dard, and we should be very much pleased out there if [illegible] Congress would be so kind and considerate and generous [illegible] purchase those lines of railway, reconstruct them, double- [illegible] them, and put upon them the latest equipment, and carry [illegible] freight over them entirely without charge. That is the [illegible]inating argument made by the gentleman from Pennsyl- [illegible] [Mr. MOORE] on the subject now before us. People are [illegible]ing timber down there in great quantities. They are trans- [illegible]ing it through these canals in competition with others and [illegible]lling their timber, and no doubt making considerable profit. But if we shall buy this canal, enlarge it at an expenditure of several million dollars of the people's money, and open it to the use of these patriotic citizens free of all charge, one firm will make $75,000 per annum. And the gentleman from Pennsylvania [Mr. MOORE] has lived down on the Delaware so long that he actually considers that an absolutely convincing argument. If by the spending of Government money you can save money to an individual or make his business more profitable, forsooth, that settles it. The argument is ended, and the appropriation must be made.

Now, let us assume as a matter of argument that it may be wise and proper to take the money of all the people for the purpose of purchasing a privately owned canal along the Atlantic coast and enlarging it with taxes raised in Ohio, Wyoming, Illinois, California, and elsewhere, and arranging it entirely satisfactory to the people who use it, not for the commerce of the people of the United States, but wholly and entirely for local trade——

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MOORE of Pennsylvania. I just want to ask the gentleman if he holds to that doctrine in regard to the waterway projects throughout the country?

Mr. MONDELL. I do not quite understand the gentleman.

Mr. MOORE of Pennsylvania. The gentleman says we are spending the public money for the purpose of improving one waterway along the east coast. Will he hold to that same doctrine with regard to the 25,000 miles of waterways that are being improved now at Federal expense? Will he hold it in regard to reclamation projects, irrigation projects, and the land project that we passed through the House yesterday? Will he hold generally to that doctrine—that there is a disposition of the public money for some one's benefit?

Mr. MONDELL. I am glad the gentleman suggested something we did yesterday. Here is a proposition to take eight-tenths of a million of dollars of the people's money, raised by taxation, and to spend it for improving something we do not own, which improvement, if it were made, would be for the benefit of the local community, and the gentleman is surprised and astounded beyond measure. Yesterday we had before the House a proposition not to take any public money, a proposition that did not have anything to do with a penny of money that belonged to the people of the United States, but proposed simply as to whether we should take some funds which people pay for raw lots out in a wind-blown town on the Plains, and allow the use of a part of the high price for these lots, having no value in themselves, to be used for the improvement of the town.

The House agonized all day long, all day long, and you would have imagined that there was danger of our tearing the foundations from under this Capitol, tipping over the Washington Monument, and undermining the Constitution, because, forsooth, it was suggested that the people might have their own money, contributed by themselves, for which they receive no value, in the hands of the Government, and the only value of which consisted in the value which they themselves made; because it was suggested that they might have a part of that for making the community fit to live in; and we spent the entire day, and we have a prospect of spending another day, in discussing that highly important question.

Yet we have here eight-tenths of a million dollars of the people's money proposed to be expended for the purpose—putting it in its best light—of providing purely local transportation where there is already local transportation, and I presume at a reasonably fair rate for water-borne commerce. The rate by this canal, as the letter read by the gentleman from Pennsylvania [Mr. MOORE] said, is half the railway rate; and whenever they cut the railway rate in two they are making, I presume, a fairly reasonable rate.

Mr. MOORE of Pennsylvania. When will we get that rate?

Mr. HELM. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from Kentucky?

Mr. MONDELL. I can not yield, Mr. Chairman. I am sorry I can not. The gentleman from Pennsylvania would remove all charges; he would give these people absolutely free waterways for their local commerce, and that is only a part of it. It is proposed to appropriate $800,000 for doing that in advance of the possibility of its undertaking, because we do not own the canal and we do not know that we ever shall own the canal.

The CHAIRMAN. The time of the gentleman has again expired. [Cries of "Vote!" "Vote!"]

Mr. SPARKMAN. Mr. Chairman, I hope that this amendment will not prevail. In my judgment, the reasons given for striking out the paragraph are not sound. It has been shown here that, so far as can be ascertained now, and I may say so far as it could be ascertained by the Committee on Rivers and Harbors when this bill was being prepared, the title to this canal will be acquired within a very few weeks. In fact, the testimony before our committee was to the effect that it would not be later, at the furthest, than some time in April. That was the maximum limit fixed by the same department officials who were also of the opinion that it would be a much shorter period of time. Now comes the gentleman from North Carolina [Mr. SMALL], and reads from letters received from the Department of Justice—the department having in charge that particular work—stating that it will have the title ready in the next two or three weeks, or by the 15th of next month.

Mr. FOSTER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Florida yield to the gentleman from Illinois?

Mr. SPARKMAN. Certainly.

Mr. FOSTER. The gentleman does not mean to say that the department in this letter says it is going to have that title in 15 days?

Mr. SPARKMAN. Oh, no. The statement contained in that letter was that the title would, in the opinion of the writer, be settled in the department by the middle of next month, which is a little more, of course, than 15 days.

Mr. FOSTER. Does the gentleman remember hearing that passage read where they talk about a contingency, if certain things are all right, and say in that contingency they will have it? They do not say they are going to have it.

Mr. SMALL. Mr. Chairman, will the gentleman from Illinois pardon me and let me state what the fact is?

Mr. FOSTER. I will ask the gentleman to read the letter.

Mr. SMALL. Unfortunately the reporter has it. He borrowed the letter from me a few moments ago.

Mr. SPARKMAN. Mr. Chairman, that is unnecessary, for, aside from what the Department of Justice says in regard to the date, the engineers did say when they were before us, and the Department of Justice corroborated the statement, that it would not take longer than a date early in April to acquire this title. Then the engineers told us that, that being true, they will not only need the $600,000 that we appropriated in the last bill, but they will also need the $800,000 which this bill undertakes to provide.

Now, I want to say that our committee is controlled, and must be controlled very largely, by the opinion of the engineers on many subjects, and that is one of the subjects upon which we follow somewhat closely their advice. I do not say we follow them blindly in anything; but inasmuch as we must take the opinion of somebody in the matter of the amount of money needed within a given time for a piece of work, we usually take that of the engineers, who not only have knowledge on the subject but have the spending of the money. When we began the preparation of this bill we found several just such items as that, some on the Atlantic, some on the Gulf, some on the Pacific coast, projects adopted upon certain conditions, which conditions had not been complied with; and the committee at once said: "We can not appropriate unless those requirements have been met or will be within a reasonable time."

We had the engineers before us, who told us: "In this particular case we will have the conditions complied with in a certain length of time; in this other case they will be complied with within a certain other length of time," and so on. In all those cases where they said they would have the conditions complied with within a reasonable time we allowed the appropriation, just as we propose to do in this case.

And in no case was an appropriation made where it appeared that the conditions attached would not be complied with in time to make such appropriation available so that the same might be expended by the 30th of June, 1914.

I ask for a vote, Mr. Chairman.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois to strike out all of the paragraph on page 14, beginning with line 9 and ending with line 20.

The question being taken, the motion to strike out was rejected.

The Clerk read as follows:

Improving harbor at Beaufort, N. C.: For maintenance, $5,000.

Mr. FOSTER. Mr. Chairman, I move to strike out this paragraph, and I want simply to say that this bill is probably watertight and that nothing in it can be touched—that every item in it is holy. It is a bill of $40,000,000, and we are expected to vote upon every item in it and give our approval to it. Yet those items are so sacred that we must not question any of them. In view of that fact, I do not desire to take up the time of the committee at this time, and, as far as I am concerned, I desire to withdraw my amendment. [Applause.]

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. In my desire to be informed with regard to this legislation, as I endeavor to be informed with regard to all legislation that comes before the House, I sought the hearings as a source of information, but I sought, alas, in vain. I assumed that there were hearings. I assumed that some things were said and some arguments made in defense of the items of this bill. I assume there are some things that might be said in defense of some of the items. However that may be, the fact is that no line and no word of what occurred has been allowed to reach the printed page, and he who desires information with regard to this measure must go burrowing about and making inquiries in regard to it from the members of the committee; and the members of the committee all being honorable gentlemen, bound by that freemasonry which doth so blind gentlemen who report bills like this, it has been very difficult for me to secure any information whatever in regard to the bill.

Mr. SPARKMAN. Will the gentleman yield for a short statement in connection with what he is saying?

Mr. MONDELL. I prefer to conclude my remarks.

Mr. SPARKMAN. I am sure the gentleman will pardon me when I say that the reports of the engineers are full and complete upon every item in this bill.

Mr. MONDELL. I am aware of that, and I shall call attention to some of them later.

Mr. Chairman, not being able to find any record of the hearings, I turned to the voluminous report of the committee, full as it is of illuminating information, all contained on two printed pages. Appropriations amounting to $40,000,000 are fully explained in less than 4,000 words.

A MEMBER. Five hundred words.

Mr. MONDELL. Rather more than 500 words, but no part of the report having relation to any particular item in the bill. Yet without any information, without any source of information, except as we go to the reports of the engineers, we are asked to pass this bill. In going to the reports of the engineers it is difficult to find particular items, and it is especially embarrassing when that interesting documents reports against an item in the bill.

Mr. HOBSON. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. HOBSON. Has the gentleman estimated the number of words in the report of the engineers and how long it would take the average Member of Congress to read it through if he undertook to?

Mr. MONDELL. I have not; but I am aware of the fact that some of the words in the report of the engineers would be very weighty with the ordinary Member. They do not seem to have had any influence whatever on the members of the committee, for while the report of the engineers may be decidedly adverse to the project and set forth many reasons why it should not be undertaken, the committee proceeds to appropriate just the same.

Mr. YOUNG of Michigan. Mr. Chairman, will the gentleman permit an interruption?

Mr. MONDELL. Yes.

Mr. YOUNG of Michigan. The gentleman is entirely mistaken. There is not a single project in this bill, nor has there been a single project in any river and harbor bill for many years, that has not had the approval of the Chief Engineer of the Army and the board of review.

Mr. MONDELL. I will be glad to present a case on a page or two to the contrary.

Mr. YOUNG of Michigan. The gentleman may find something that was put on in the Senate, but he can not find anything that was reported by the Committee on Rivers and Harbors to the House.

Mr. EDWARDS. Mr. Chairman, I would like to have the gentleman point out any paragraph in the bill that has not the approval of the Board of Engineers.

Mr. MONDELL. I will do so.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. RANSDELL of Louisiana. Mr. Chairman, the gentleman from Wyoming says that we have had no hearings and that there is not anything on which to base our bill, nothing from which Members of the House can get information. The gentleman will surely find more than 5,000 words in the book that I hold in my hand, volume 1 of the Report of the Chief of Engineers, and there are three volumes of this report. These reports describe in detail every matter that was acted upon by us. I hold in my hand the report upon one of the items in this bill, the Tennessee River. I ask the gentleman from Wyoming to look at this report of 192 pages on the Tennessee River. I ask him to look at the reports on every project on which we acted, and if he will examine them as we have examined them he will have to work pretty hard for several months. [Applause.]

There are thousands of pages of these reports, which the members of the Rivers and Harbors Committee have been forced to wade through before taking action on this bill, and in every one of the items we have had the assistance of the Engineer Corps. Why, there is no species of legislation more carefully guarded than this. What is the process? Let me state it very briefly. No project can be taken up until first a survey has

been ordered by act of Congress. The survey is then made by a local United States engineer officer—generally a captain or an officer of higher rank—who reports it to the Board of Engineers for Rivers and Harbors. This board examines the report with great care, and in many instances makes an independent examination of its own in addition to the local examination and report. It sometimes sends a special board of three or four engineers to the locality to look over and report upon the project. Then it gives hearings to all citizens who are interested. Having examined the question in the closest way, the board makes a report upon it, which goes to the Chief of Engineers of the Army. He examines the whole matter again, and if not satisfied with it he does as he did within the past six months in a Louisiana project, sends it back in order that he may get additional information, which it took the local engineer six months to secure and bring before the chief, who then sends his report to Congress. All these reports on each project—that of the local engineer, the Board of Engineers, and the chief—are then published as a public document, which frequently contains several hundred pages, with elaborate maps and the most detailed information on every point. And yet the gentleman from Wyoming would have the House believe that this committee has brought in a $40,000,000 bill without knowing what it is doing. Mr. Chairman, I think I have shown that he did not know what he was talking about when he made that statement. [Applause.]

Mr. MADDEN. Mr. Chairman, I think there is no money better spent than that spent for the improvement of the rivers and harbors of this country. [Applause.] The purpose of the expenditure is to facilitate the movement of the produce of the country so as to give the people the best possible prices. There is no committee of the House more painstaking in its work than the Committee on Rivers and Harbors. This committee is untiring in its efforts to produce the best possible results. They have the cooperation of the Engineer Corps and all of the technical information that can be furnished by those men trained for the work. I happen to know that no project is taken on by this committee except such projects as receive the approval of the Board of Engineers. The greatest care is taken to ascertain the value of the commerce on every project proposed to be entered upon. Whether freight is carried on the waterway or not, the fact remains that the mere development of the waterway insures a lower freight rate. These men serving on this great committee work night and day. They are doing a patriotic work. There is absolutely no logrolling in this committee, and no man on the committee has influence to get that which he ought not to have in the bill. I am surprised that the gentleman from the mountain regions of Wyoming [Mr. MONDELL] should undertake to criticize the work of this great committee, and to say that they act without information or judgment in what they report to this House. This bill does contain recommendations for the appropriation of $40,000,000, and it could well contain recommendations for the appropriation of double that amount without overstepping the lines of propriety. They have been conservative in their recommendations, and perhaps because of their conservatism they have rejected projects which in a large measure would be justified. But that they have recommended any project without merit I do not believe, and for one Member of this House I am willing to follow the judgment of the men who have served and are serving on this great Committee on Rivers and Harbors.

Mr. MOORE of Pennsylvania. Mr. Chairman, in some respects I agree with the two gentlemen who have just spoken, the gentleman from Louisiana [Mr. RANSDELL] and the gentleman from Illinois [Mr. MADDEN]. But I think the gentleman from Wyoming [Mr. MONDELL] is extremely reprehensible in some of his references. [Laughter.] I have been looking through the reports of the engineers and I have found abundant testimony of the activities of this committee. I make no reflection on any member of this committee. They have all been active in the interest of their constituencies. Most of them deserve medals at the hands of their constituents. I will not say that one of these rivers to which I refer is not very far distant from the territory of the gentleman from Wyoming [Mr. MONDELL], but, without mentioning any names, I commend to his consideration one river 500 miles long, for which, since 1874, we have been endeavoring to get a depth of 4 feet—and this to some extent represents the very great urgency of this $40,000,000 bill, which does not take into consideration commerce along certain sections of the country where business is teeming and waiting an opportunity for development. Now, this particular project under which work has continued from 1874 contemplated "the removal of snags, and logs, and wrecks, and leaning timber obstructing navigation"—all to obtain a depth of 4 feet, on which $614,000 was spent in one of the initial stages. As we follow the report a little bit we find, in view of the fact that certain locks and dams were authorized, apparently for the purpose of creating water in the river, there has been expended altogether on this stream to date $2,040,000. Following up the inquiry and the reading of these reports, which is intensely interesting, the gentleman will find that the commerce upon this river and its tributaries—a river 500 miles long in which we are endeavoring for the benefit of commerce and navigation to get a mean low depth of 4 feet——

Mr. EDWARDS. Mr. Chairman, will the gentleman state what river that is?

Mr. MOORE of Pennsylvania. I will not mention it, because there are several of the same kind and I do not want to reflect upon the gentleman from Wyoming.

Mr. EDWARDS. Will the gentleman tell me from what page of the report he is reading?

Mr. MOORE of Pennsylvania. I will if the gentleman insists upon it. But let me finish this interesting tale of the manner in which we develop some rivers and do not develop others. The commerce on this stream and all its tributaries consists principally of the shipment of cotton, cotton seed, lumber, staves, saw logs, and miscellaneous articles, and during the last 22 years—more than two decades—the entire business has amounted to 57,000 tons. Why, Mr. Chairman, little Raccoon Creek, about which the gentleman from Kentucky [Mr. HELM] inquired day before yesterday, does more business in one year than this 500-mile 4-foot stream does in 22 years. Yet the gentleman from Wyoming [Mr. MONDELL] has the effrontery to come into this House and say we are asking too much when we seek an appropriation of $800,000 for a canal and waterway adjacent to territory which contributes 50,000,000 tons of commerce annually to the Nation.

The CHAIRMAN. The pro forma amendment, without objection, will be withdrawn, and the Clerk will read.

The Clerk read as follows:

Improving Beaufort Inlet, N. C.: For maintenance, $10,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I was in hopes that the gentlemen in charge of the bill, some of them, would answer some of the arguments I made. On the contrary, they set up a straw man and then they proceeded to belabor it. I did not say, I never have said, that the committee did not have data which they considered a sufficient basis for their appropriations, and yet the gentlemen one after another have risen here and assailed me because they said I said something I did not say. What I did say was they did not even give a gaping and expectant world, much less the Congress, any information whatever as to the arguments made by or before them on which arguments they based the items in the bill. They may have had any amount of information; they have given absolutely none; and then the gentleman from Pennsylvania [Mr. MOORE] proposes to put me entirely out of business by suggesting because unwise appropriations have been made on the upper Missouri River, never at my request——

Mr. MOORE of Pennsylvania. I did not mention the upper Missouri.

Mr. MONDELL (continuing). That therefore equally unwise appropriations ought to be made on Raccoon Creek. If gentlemen would like to know, I never have believed, and I do not believe now, that the money of the people ought to be spent on the upper Missouri River. I think it is a clear waste of public funds. It does not have the poor, miserable excuse that the improvement of some of the way-back creeks have, that if you improve them the farmers in the localities may be able to transport their potatoes a little more cheaply to some region, or along the line of the argument of the gentleman from Pennsylvania that some rich lumber company may be able to have their profits increased at the expense of the Government. I did not have the time to mention, in referring to the purchase of this canal, that if the timber which was along the line of the canal when it was built, and the transportation of which, or the expected transportation of which, led to the building of the canal, was still there the Government would not be asked to buy it, and probably could not purchase it, but these people having spent a large amount of money for the building of the canal and transporting the lumber and having cleared the country of the lumber, and there being no longer any considerable amount of tonnage, now seek to unload upon the unsuspecting Congress and the river and harbor bill this, to them, comparatively worthless property. It is a very beautiful scheme, and it is defended vehemently by the gentleman from Pennsylvania by the suggestion that we may reduce the rates of transportation by so doing, and he expects that that will also be final and convincing——

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I make the point of order that there is no quorum present.

Mr. SPARKMAN. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

COMMITTEE TO ATTEND FUNERAL EXERCISES OF MR. WEDEMEYER, OF MICHIGAN.

The SPEAKER laid before the House the names of the committee to attend the funeral exercises on Mr. WEDEMEYER, of Michigan.

The Clerk read as follows:

Mr. DOREMUS, Mr. J. M. C. SMITH, Mr. HAMILTON of Michigan, Mr. SWEET, Mr. SAMUEL W. SMITH, Mr. McMORRAN, Mr. FORDNEY, Mr. McLAUGHLIN, Mr. LOUD, Mr. DODDS, Mr. KENDALL, Mr. WILLIS, Mr. FOSTER, Mr. HAMMOND, and Mr. SHARP.

EXTENSION OF REMARKS.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD in relation to the consolidation of the Sacramento revenue district.

The SPEAKER. Is there objection. [After a pause.] The Chair hears none.

GRANT OF CERTAIN PERMITS, MARCH 4, 1913.

Mr. GARRETT. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution 380.

The SPEAKER. The gentleman from Tennessee asks unanimous consent to consider the resolution named. Of course everybody understands the rule is against it, but it is a matter of public business, and the Chair is disposed to recognize him, unless somebody objects to unanimous consent. The Clerk will report the resolution.

The Clerk read as follows:

House joint resolution (H. J. Res. 380) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc.

Resolved, etc., That the Secretary of the Interior is hereby authorized and directed to grant a permit to the committee on inaugural ceremonies for the use of the Pension Building in the city of Washington, except such rooms therein as are used and occupied for the payment of pensions, on the occasion of the inauguration of the President elect on the 4th day of March, 1913, subject to such restrictions and regulations and limitations as to space as the said Secretary may prescribe in respect of the period and manner of such use, including all necessary safeguards against fire and for the extinguishing of fire.

SEC. 2. That the Secretary of War is hereby authorized to grant permits, under such restrictions as he may deem necessary, to the committee on inaugural ceremonies for the use of any reservations or other public spaces in the city of Washington on the occasion of the inauguration of the President elect on the 4th day of March, 1913, which, in his opinion, will inflict no serious or permanent injuries upon such reservations or public spaces or statuary thereon; and the Commissioners of the District of Columbia may designate for such and other purposes on the occasion aforesaid such streets, avenues, and sidewalks in said city of Washington as they may deem proper and necessary: *Provided, however*, That all stands or platforms that may be erected on the public spaces aforesaid shall be under the supervision of the said inaugural committee and in accordance with the plans and designs to be approved by the Engineer Commissioner of the District of Columbia, the officer in charge of public buildings and grounds, and the Superintendent of the United States Capitol Building and Grounds: *And provided further*, That the reservations or public spaces occupied by the stands or other structures shall be restored to their original condition before such occupation, and that the inaugural committee shall indemnify the War Department for any damage to structures of any kind whatsoever upon such reservations or spaces.

SEC. 3. That the Commissioners of the District of Columbia are hereby authorized to permit the committee on illumination of the inaugural committee for the inaugural ceremonies, March, 1913, to stretch suitable overhead conductors, with sufficient supports wherever necessary, and in the nearest practicable connection with the present supply of light, for the purpose of effecting the said illumination: *Provided*, That if it shall be necessary to erect wires for illuminating purposes over any park or reservation in the District of Columbia, the work of erection and removal of said wires shall be under the supervision of the official in charge of said park or reservation: *Provided further*, That the said conductors shall not be used for the conveying of electrical currents after March 8, 1913, and shall, with their supports, be fully and entirely removed from the streets and avenues of the said city of Washington on or before March 15, 1913: *And provided further*, That the stretching and removing of the said wires shall be under the supervision of the Commissioners of the District of Columbia, who shall see that the provisions of this resolution are enforced; that all needful precautions are taken for the protection of the public; and that the pavement of any street, avenue, or alley disturbed is replaced in as good condition as before entering upon the work herein authorized: *And provided further*, That no expense or damage on account of or due to the stretching, operation, or removing of the said temporary overhead conductors shall be incurred by the United States or the District of Columbia.

SEC. 4. That $23,000, or so much thereof as may be necessary, payable from any money in the Treasury not otherwise appropriated and from the revenues of the District of Columbia in equal parts, is hereby appropriated to enable the Commissioners of the District of Columbia to maintain public order and protect life and property in said District from the 28th of February to the 10th of March, 1913, both inclusive. Said commissioners are hereby authorized and directed to make all reasonable regulations necessary to secure such preservation of public order and protection of life and property and fixing fares by public conveyance, and to make special regulations respecting the standing, movements, and operating of vehicles of whatever character or kind during said period. Such regulations shall be in force one week prior to said inauguration, during said inauguration, and one week subsequent thereto, and shall be published in one or more of the daily newspapers published in the District of Columbia; and no penalty prescribed for the violation of any of such regulations shall be enforced until five days after such publication. Any person violating any of such regulations shall be liable for each such offense to a fine not to exceed $100, in the police court of said District, and in default of payment thereof to imprisonment in the workhouse of said District for not longer than 60 days. And the sum of $2,000, or so much thereof as may be necessary, is hereby likewise appropriated, to be expended by the Commissioners of the District of Columbia, for the construction, maintenance, and expenses incident to the operation of temporary public comfort stations and information booths during the period aforesaid.

SEC. 5. That the Secretary of War and the Secretary of the Navy be, and they are hereby, authorized to loan to the committee on inaugural ceremonies such ensigns, flags, etc., belonging to the Government of the United States (except battle flags) that are not now in use and may be suitable and proper for decoration and may, in their judgment, be spared without detriment to the public service, such flags to be used in connection with said ceremonies by said committee under such regulations and restrictions as may be prescribed by the said Secretaries, or either of them, in decorating the fronts of public buildings and other places on the line of march between the Capitol and the Executive Mansion and the interior of the reception hall: *Provided*, That the loan of the said ensigns, flags, signal numbers, etc., to said chairman shall not take place prior to the 24th day of February, and they shall be returned to him by the 10th day of March, 1913: *Provided further*, That the said committee shall indemnify the said departments, or either of them, for any loss or damage to such flags not necessarily incident to such use. That the Secretary of War is hereby authorized to loan to the inaugural committee, for the purpose of caring for the sick, injured, and infirm on the occasion of the inauguration of the President of the United States, March 4, 1913, such hospital tents and camp appliances and other necessaries, hospital furniture, and utensils of all descriptions, ambulances, horses, drivers, stretchers, and Red Cross flags and poles belonging to the Government of the United States as in his judgment may be spared and are not in use by the Government at the time of the inauguration: *And provided further*, That the inaugural committee shall indemnify the War Department for any loss or damage to such hospital tents and appliances as aforesaid not necessarily incident to such use: *And provided further*, That the said inaugural committee shall give bond, with security satisfactory to the Secretary of War, to do the same.

SEC. 6. That the Commissioners of the District of Columbia be, and they are hereby, authorized to permit the Western Union Telegraph Co. and the Postal Telegraph Co. to extend overhead wires into the Pension Building, and to such points along the line of parade as shall be deemed by the chief marshal convenient for use in connection with the parade and other inaugural purposes, the said wires to be taken down within 10 days after the conclusion of the ceremonies on the 4th day of March, 1913.

Also the following committee amendments were reported:

Page 1, strike out all of lines 3, 4, 5, and 6, and all of lines 1, 2, 3, 4, 5, 6, and 7, on page 2.

The SPEAKER. Is there objection to the present consideration of the resolution?

Mr. CANNON. What is it that is stricken out?

Mr. MANN. The section providing for the use of the Pension Building. The amendments which have been read are not all of the amendments. They might as well all be acted on at once, probably.

The SPEAKER. We have not received unanimous consent for consideration of the resolution.

Mr. MANN. It might be easier to get the consent after all the amendments are read.

The SPEAKER. The Clerk will report the balance of the amendments.

The Clerk read as follows:

Line 12 page 2, after the word "Washington," insert the words "under their control."

In the same section, page 2, line 14, strike out the words "which, in his opinion, will inflict no serious or permanent injuries," and insert: "*Provided*, That in his opinion no serious or permanent injury shall be thereby inflicted."

Page 2, line 21, after the word "Washington," insert "under their control."

Page 3, line 6, after the word "be," insert the word "promptly."

Page 3, line 9, strike out the words "to structures."

Page 3, line 10, after the word "spaces," insert "by reason of such use."

Page 3, line 19, after the word "illuminating," insert the words "or other."

Page 4, line 15, strike out section 4.

Page 5, line 21, strike out the numeral "5" after "SEC." and insert the numeral "3."

Page 6, line 12, strike out the words "to him."

Page 7, lines 11 and 12, strike ont the words "into the Pension Building."

Mr. MURRAY. Mr. Speaker, reserving the right to object——

Mr. NORRIS. Mr. Speaker, reserving the right to object, I would like to make some inquiry in regard to this.

The SPEAKER. The gentleman from Massachusetts [Mr. MURRAY] reserves the right to object.

Mr. MURRAY. Reserving the right to object, I would like to ask the gentleman from Tennessee [Mr. GARRETT] if there is any urgency for the present consideration of this matter?

Mr. GARRETT. Mr. Speaker, I should like to make this statement. This is a resolution reported from the Committee on Public Buildings and Grounds, of which committee I am not a member. Upon yesterday the gentleman from Texas [Mr. SHEPPARD], the chairman of that committee, after making some inquiries with regard to unanimous consent, went to the gentleman from Texas [Mr. HENRY], chairman of the Committee on Rules, and suggested to him that perhaps a special rule ought to be had for the consideration of this measure. The gentleman from Texas [Mr. HENRY] was compelled to leave the city, and for some reason the resolution was referred to me, being a member of the Committee on Rules. I might say that the gentleman from Georgia [Mr. HARDWICK], who outranks me on that committee, was also absent, as well as the gentleman from Kentucky [Mr. STANLEY]. Another reason the resolution was presented to me was the further one that it seems I was appointed a member of this Joint Inaugural Committee. I suggested to the gentleman that it seemed to be a matter concerning which there ought to be unanimous consent, and that there ought to be an endeavor to obtain that consent before appealing to the Committee on Rules for a special rule for its consideration. And so in that way the matter was left in my hands.

I do not know about the details of the resolution, I will say. This morning I called on the gentleman from Texas [Mr. SHEPPARD], and he informed me it was impossible for him to be here. I then called on the gentleman from Alabama [Mr. BURNETT], who is next in rank as a member of the committee, and he is ill and unable to be here, and in just the last few moments I reached the gentleman from Florida [Mr. CLARK], who is here and is able to explain the details of the resolution. Now, as far as the emergencies detailed in the bill are concerned, I understand it is desired to commence the erection of these stands provided for and the arrangements for the lighting. The bill carries no appropriation.

I yield to the gentleman from Florida [Mr. CLARK].

Mr. CLARK of Florida. Mr. Speaker, I desire to say that the chairman of the inaugural committee represented to the Committee on Public Buildings and Grounds that there was urgent necessity for the passage of this resolution, in order that they might arrange their plans in accordance with the will of Congress. We have cut out of the resolution the use of the Pension Building, and we have cut out of it the appropriation of some $23,000, as that belonged to the Appropriations Committee, and have made some minor changes in order to make it conform to the general plan of this ceremony. I can not see, Mr. Speaker, that there should be any earthly objection to the immediate consideration and passage of the resolution.

The SPEAKER. Is there objection?

Mr. NORRIS. Mr. Speaker, I would like to ask the gentlemen in charge of this resolution why it is that it has been brought in at this late hour, when there are practically no Members of the House here, when they had all day to bring this in, at a time when we had a large attendance here?

Mr. CLARK of Florida. The gentleman has been here, and he certainly knows that we have not had time or opportunity heretofore.

Mr. NORRIS. I will call the gentleman's attention to the fact that he himself spent more time on what he tried to make us believe was a question of special privilege than would have been needed for the consideration of this resolution at a time when there was an immense crowd here. We also had a large crowd here when the river and harbor bill was under consideration.

Now, I would like to say that I have no disposition to interfere with or obstruct any legitimate arrangement that may be made for the inaugural ceremony, but it does not seem right to me that the gentlemen having this in charge should wait until half-past 6 o'clock, after we have been in Committee of the Whole on this appropriation bill, when it was generally understood that an adjournment was going to take place immediately afterwards, and to bring this resolution in now.

Mr. MANN. Mr. Speaker, if the gentleman will yield——

Mr. NORRIS. Yes; I will yield to the gentleman.

Mr. MANN. This resolution was reported in on the 21st, two days ago. I got the resolution when it was reported in, and the suggestion was made that it might be called up yesterday or the day before, maybe yesterday, when it was proposed to ask unanimous consent. I thought it ought to go over further than that time.

Now, as to the resolution, my understanding is that there is no controversy over agreeing to the committee amendments. One of them strikes out the use of the Pension Building, and another one strikes out an appropriation that does not apply to this resolution.

The resolution gives certain authorizations that are necessary. For instance, it authorizes the Superintendent of Public Buildings and Grounds to permit the use of public spaces by the inaugural committee. Though it is not expressly stated, that means permission will be given for the use of the public spaces for the erection of platforms and things of that sort. Then the resolution gives the District Commissioners the same authority to permit the use of public spaces under their control for the erection of platforms and for the connection of electrical conductors to make the illumination. It also permits the use of flags which are not in use in the hands of the Army and Navy by the inaugural committee, and permits the telegraph companies to extend their wires where they may be needed along the line of the inaugural march.

All of these changes are to be made without expense to the Government, and some of the persons or authorities who are to do these things are under bonds, and all of the spaces are to be restored without any damage or injury, they taking the responsibility. It is the usual resolution that has been passed in Congress for a great many years, and I did not myself suppose there could be any objection to it.

Mr. NORRIS. Mr. Speaker, I have no objection to anything that the gentleman has enumerated. I would not object even to appropriating money to pay some of these expenses. That is not the point. It is the method of adopting it that I object to. We have not done it in this way before. Even if we have done the same thing, there has been no snap judgment taken before.

Mr. MANN. It has been done by unanimous consent.

Mr. NORRIS. We then had to consider the question as to whether the Pension Building should be used.

Mr. FITZGERALD. There is no request for that here.

Mr. NORRIS. The resolution has not been printed and has not been reported.

Mr. MANN. Oh, yes; it has.

Mr. NORRIS. What committee reported it?

Mr. CLARK of Florida. The Committee on Public Buildings and Grounds.

Mr. FITZGERALD. I want to say, Mr. Speaker, that the Senate passed another resolution which carries an appropriation and gives the District Commissioners authority to make certain regulations. The appropriation is to enable them to obtain additional police protection. Those provisions were embodied in this resolution, and the Committee on Public Buildings and Grounds have stricken them out. A resolution separate from this has been pending in the Committee on Appropriations, and that committee has been in conference with the District Commissioners and expects to-morrow to report it, because information has been brought to the committee that it is necessary to have prompt action taken on the matter.

Mr. NORRIS. I understand that prompt action is necessary.

Mr. FITZGERALD. What I wanted to say was this: These resolutions were scrutinized not only by one committee, that on Public Buildings and Grounds, but also by the Committee on Appropriations and by members of the District Committee, who are all more or less interested in the matter.

Mr. NORRIS. I have no doubt of that. The gentleman from New York [Mr. FITZGERALD] and the gentleman from Illinois [Mr. MANN] recognize that by just such means as this—getting something through against which there might be no possible objection—a precedent will be set which will be used to get through other things that are objectionable.

Mr. FITZGERALD. I do not know about that. This House is pretty critical.

Mr. MANN. There are three resolutions, if the gentleman will pardon me, that will probably have to be passed; one a general resolution in relation to the electoral count in the House, and one in reference to the subject matter of this resolution, and one in reference to making a slight appropriation and authorizing the District Commissioners to make certain regulations which will not probably involve any particular controversy.

I am frank to say to the gentleman, as I said to the other gentleman, that I should not object to the present consideration of any of these resolutions.

Mr. NORRIS. I would not, either, at any reasonable time.

Mr. MANN. I think no one has any objection to any of them, and I think they do not involve any controversy. Of course, if they did, that would be another matter.

Mr. NORRIS. I will say to the gentleman from Tennessee [Mr. GARRETT] that if no one else objects I will not enter any objection to this, but I wanted to call attention to the fact that it did not seem to me it was the right way to do it.

Mr. GARRETT. I will say to the gentleman from Nebraska that I am in sympathy with his idea that matters of legislation ought not to come up under unanimous consent as a general

proposition, except under a rule which has been fixed for it; but I think the gentleman from Nebraska realizes that this is a peculiar and unusual situation.

Mr. CANNON. But the gentleman has withdrawn his objection and we are all hungry. Why not pass the joint resolution?

Mr. MURRAY. Mr. Speaker, I withdraw my reservation of the right to object.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

There was no objection.

The SPEAKER. If there be no objection, the Chair will put all these committee amendments at once.

There was no objection.

The committee amendments were agreed to.

Mr. MANN. Mr. Speaker, there is an error in the print on page 6, line 10. The word "chairman" should be "committee." It is evidently an error in the print.

The SPEAKER. If there be no objection that correction will be made.

There was no objection.

The joint resolution as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

Mr. CLARK of Florida. Mr. Speaker, I move to reconsider the vote by which the bill was passed, and I move to lay the motion to reconsider on the table.

Mr. MANN. I hope that will not be considered a dilatory motion.

On motion of Mr. CLARK of Florida, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

HOUR OF MEETING TO-MORROW.

Mr. SPARKMAN. Mr. Speaker, I ask unanimous consent that when the House adjourn to-day it adjourn to meet to-morrow at 11 o'clock a. m.

The SPEAKER. The gentleman from Florida asks unanimous consent that when the House adjourns to-day it adjourn to meet to-morrow at 11 o'clock a. m. Is there objection?

There was no objection.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution and bill of the following titles, when the Speaker signed the same:

H. J. Res. 369. House joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.; and

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

ADJOURNMENT.

Mr. SPARKMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 40 minutes p. m.) the House adjourned until to-morrow, Friday, January 24, 1913, at 11 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. BAKER, from the Committee on the Public Lands, to which was referred the bill (S. 5068) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes, reported the same without amendment, accompanied by a report (No. 1367), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 26943) to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal., reported the same with amendment, accompanied by a report (No. 1368), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DENT, from the Committee on the Public Lands, to which was referred the bill (S. 3225) providing when patents shall issue to the purchaser or heirs of certain lands in the State of Oregon, reported the same without amendment, accompanied by a report (No. 1369), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. ANTHONY, from the Committee on Military Affairs, to which was referred the bill (H. R. 21178) to reinstate Frank Ellsworth McCorkle as a cadet at United States Military Academy, reported the same without amendment, accompanied by a report (No. 1370), which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Military Affairs, to which was referred the bill (S. 6176) for the relief of Gibbs Lykes, reported the same without amendment, accompanied by a report (No. 1377), which said bill and report were referred to the Private Calendar.

Mr. CANTRILL, from the Committee on Claims, to which was referred the bill (S. 5137) for the relief of Alice V. Houghton, reported the same with amendment, accompanied by a report (No. 1372), which said bill and report were referred to the Private Calendar.

Mr. LEVY, from the Committee on Claims, to which was referred the bill (S. 2311) for the relief of Bellevadorah Steele, reported the same without amendment, accompanied by a report (No. 1374), which said bill and report were referred to the Private Calendar.

Mr. POU, from the Committee on Claims, to which was referred the bill (H. R. 16895) for the relief of William H. Watt, reported the same without amendment, accompanied by a report (No. 1375), which said bill and report were referred to the Private Calendar.

Mr. HEALD, from the Committee on Claims, to which was referred the bill (S. 7427) for the relief of Edgar Allen, jr., reported the same without amendment, accompanied by a report (No. 1376), which said bill and report were referred to the Private Calendar.

Mr. RUCKER of Colorado, from the Committee on Pensions, to which was referred sundry bills, reported in lieu thereof the bill (H. R. 28379) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, accompanied by a report (No. 1371), which said bill and report were referred to the Private Calendar.

Mr. HEALD, from the Committee on Claims, to which was referred the bill (H. R. 15141) for the relief of Marion B. Patterson, reported the same with amendment, accompanied by a report (No. 1373), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MOORE of Pennsylvania: A bill (H. R. 28377) to provide for the construction of a lighthouse and fog-signal station in the vicinity of Goose Island Flats, Delaware River, N. J.; to the Committee on Interstate and Foreign Commerce.

By Mr. MONDELL: A bill (H. R. 28378) authorizing the Northern Arapahoe Tribe of Indians to submit claims to the Court of Claims; to the Committee on Indian Affairs.

By Mr. BYRNS of Tennessee: A bill (H. R. 28380) to amend an act entitled "An act to protect trade and commerce against unlawful restraints and monopolies"; to the Committee on the Judiciary.

By Mr. BARCHFELD: A bill (H. R. 28381) to provide for the retirement and longevity pay for certain medical officers of the Army; to the Committee on Military Affairs.

By Mr. BROUSSARD: Resolution (H. Res. 786) to investigate the activities of Frank C. Lowry and the Federal Sugar Refining Co.; to the Committee on Rules.

By Mr. MACON: Resolution (H. Res. 787), authorizing the payment of a certain sum of money to Gussie A. Swords; to the Committee on Accounts.

By Mr. HUMPHREYS of Mississippi: Resolution (H. Res. 788) providing for printing certain House documents; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. RUCKER of Colorado: A bill (H. R. 28379) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; to the Committee of the Whole House.

By Mr. BATHRICK: A bill (H. R. 28382) to amend the muster roll of Company B, Ninth Regiment Pennsylvania Volunteers, so as to include the name of William C. Armstrong thereon; to the Committee on Military Affairs.

By Mr. BROWN: A bill (H. R. 28383) granting a pension to M. M. Sayers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28384) granting an increase of pension to C. C. Stemple; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 28385) granting an increase of pension to Margarett A. Bennett; to the Committee on Pensions.

By Mr. CALDER: A bill (H. R. 28386) granting an increase of pension to Annis Jackson; to the Committee on Invalid Pensions.

By Mr. GUERNSEY: A bill (H. R. 28387) granting an increase of pension to Andrew J. Twombly; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 28388) granting a pension to Jane Johnson; to the Committee on Invalid Pensions.

By Mr. HOLLAND: A bill (H. R. 28389) for the relief of the heirs or estate of Samuel Tucker, deceased; to the Committee on War Claims.

By Mr. HOUSTON: A bill (H. R. 28390) authorizing the Secretary of War to award the congressional medal of honor to Arnold Delffs, late private Company H, Fifth Tennessee Volunteer Cavalry, United States Army; to the Committee on Military Affairs.

By Mr. JOHNSON of Kentucky: A bill (H. R. 28391) for the relief of the heirs of James B. Farris; to the Committee on War Claims.

Also, a bill (H. R. 28392) for the relief of the heirs of William B. Dodd, deceased; to the Committee on Claims.

By Mr. LAWRENCE: A bill (H. R. 28393) granting an increase of pension to Sarah J. Winters; to the Committee on Invalid Pensions.

By Mr. LINTHICUM: A bill (H. R. 28394) for the relief of the heirs of James and Eliza M. Lewis; to the Committee on War Claims.

By Mr. MACON: A bill (H. R. 28395) granting an increase of pension to Samuel Lehman; to the Committee on Invalid Pensions.

By Mr. MOORE of Pennsylvania: A bill (H. R. 28396) granting an increase of pension to Edgar Duffield; to the Committee on Invalid Pensions.

By Mr. MORRISON: A bill (H. R. 28397) granting an increase of pension to Samuel Dale; to the Committee on Invalid Pensions.

By Mr. NEEDHAM: A bill (H. R. 28398) granting an increase of pension to George A. Clipper; to the Committee on Invalid Pensions.

By Mr. PETERS: A bill (H. R. 28399) granting a pension to Thomas F. Moore; to the Committee on Pensions.

By Mr. ROTHERMEL: A bill (H. R. 28400) granting an increase of pension to George W. Rank; to the Committee on Invalid Pensions.

By Mr. SHERLEY: A bill (H. R. 28401) for the relief of the Louisville Trust Co., administrator of the estate of Emily Oldham, deceased; to the Committee on War Claims.

By Mr. SPARKMAN: A bill (H. R. 28402) granting an increase of pension to Kizzie Gill; to the Committee on Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 28403) granting an increase of pension to John N. Waters; to the Committee on Invalid Pensions.

By Mr. WARBURTON: A bill (H. R. 28404) for the relief of Lewis F. Jones, Frank Jenkins, and Lorenzo L. Broyles; to the Committee on the Public Lands.

By Mr. WILDER: A bill (H. R. 28405) granting an increase of pension to Elijah I. Thompson; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BATHRICK: Petition of growers of ginseng, of Doylestown, Ohio, and Mr. A. H. Hinman, favoring an appropriation of $5,000 to investigate certain diseases peculiar to ginseng; to the Committee on Agriculture.

By Mr. BROWN: Papers to accompany bill granting a pension to Marshall M. Sayre; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: Papers to accompany bill granting an increase of pension to Margaret A. Bennett; to the Committee on Pensions.

By Mr. CAMPBELL: Petition of the Methodist Episcopal Church of Mound Valley, Kans., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. CALDER: Petition of C. H. Van Doren, New York, N. Y., favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of New York Chapter of the American Institute of Architects, favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of mural painters of New York City, favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Edward C. Schiffmacher, New York, N. Y., favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Brooklyn Chapter of the American Institute of Architects, favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of C. H. Caldwell, New York, N. Y., favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. CARY: Petition of the Garage Equipment Manufacturing Co., Milwaukee, Wis., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. DONOHOE: Petition of the Philadelphia Board of Trade, Philadelphia, Pa., favoring the passage of Senate bill 7503, for 1-cent postage rate; to the Committee on the Post Office and Post Roads.

By Mr. DYER: Petition of the Brecht Co., W. B. Rose Supply & Construction Co., Mr. Sterling E. Edmunds, and Mr. Nathaniel T. Lane, of St. Louis, favoring passage of House bill 25685, which provides for the labeling and tagging of all fabrics and articles of clothing intended for sale which enter into interstate and foreign commerce; to the Committee on Interstate and Foreign Commerce.

Also, papers to accompany bill (H. R. 22056) relative to claim of Clayborn M. Perkins; to the Committee on Claims.

Also, petition of F. E. Kettner, relative to standing by the Uncle Sam Oil Co., for the protection of its stockholders and the right of the people; to the Committee on the Judiciary.

Also, memorial of the Philadelphia Peace Society Association of Friends, favoring the striking out of the clause in the Panama Canal act granting free toll to all vessels engaged in coastwise trade of the United States; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Central Trades and Labor Union of St. Louis and vicinity, relative to facsimile letters signed by L. L. Kensinger, indicating that arrangements for the transportation of the defendants in the Indianapolis dynamite case had been made 40 days before the jury's verdict had been reached; to the Committee on the Judiciary.

Also, petition of Otto Eich Engineering Department, Koerber Brenner Music Co., Rudolph Wurlietzer Co., Bollman Bros. Piano Co., and Mr. W. L. Meyers, of St. Louis, protesting against section 2 of the Oldfield patent bill, for the preventing of the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the National City Neat Lubricating Oil Co., of St. Louis, and the Benoist Aircraft Co., favoring the passage of a certain section of the naval appropriation bill which provides for a sum of $15,000 for an aeronautic laboratory; to the Committee on Naval Affairs.

Also, petition of Corliss, Coon & Co., St. Louis, Mo., protesting against the reduction of the tariff on cuffs and collars; to the Committee on Ways and Means.

Also, petition of Fred Evertz & Sons, St. Louis, and the First National Bank of Kansas City, Mo., favoring passage of House

bill 27567, for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. FULLER: Petition of John W. Davis and others, favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. HUMPHREYS of Mississippi: Papers to accompany a resolution providing for the printing of certain House documents; to the Committee on Printing.

By Mr. KNOWLAND: Petition of Gen. George A. Custer Council, No. 22, Junior Order United American Mechanics, Oakland, Cal., upholding the position of the United States in the canal controversy; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Bay Cities Church Extension Society of San Francisco, Cal., favoring legislation for an increase in the number of chaplains in the United States Army; to the Committee on Military Affairs.

By Mr. LEE of Pennsylvania: Petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of legislation to transfer the national forests to the States within which they lie; to the Committee on Agriculture.

By Mr. LINDSAY: Petition of C. H. Blackall, of Boston, Mass., favoring the adoption of the Mall site and the design as approved by the National Commission of Fine Arts as a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. MOTT: Petition of mural painters of New York, the Architectural League of New York, and the Illinois Chapter, American Institute of Architects, favoring the adoption of the Mall site as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. REYBURN: Petition of the Art Club of Philadelphia, Pa., favoring the adoption of the site and design as approved by the National Commission of Fine Arts for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Association of Eastern Foresters, protesting against the passage of legislation transferring the national forests to the States within which they lie; to the Committee on Agriculture.

By Mr. ROBERTS of Massachusetts: Petition of citizens of Everett, Mass., favoring the passage of the Kenyon-Sheppard interstate liquor bill for the prevention of shipping liquor into dry territories; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Michigan: Petition of citizens of Walled Lake, Mich., favoring the passage of Senate bill 4043, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of citizens of Walled Lake, Mich., favoring the passage of the Jones-Works bill for limiting the number of saloons in the city of Washington; to the Committee on the District of Columbia.

By Mr. TILSON: Petition of the Connecticut State Grange, protesting against any change in the present tax on oleomargarine; to the Committee on Agriculture.

By Mr. VARE: Petition of Olva B. Johnston, president Baldwin Locomotive Works; the Philadelphia Electric Manufacturing Co., and 212 other firms and individuals of the city of Philadelphia, Pa., favoring the passage of legislation for the building of the 1,700-foot dry dock at the Philadelphia Navy Yard; to the Committee on Naval Affairs.

By Mr. WILLIS: Petition of Raymond Robbins and 30 other members of the Boy Scouts of America, of Ada, Ohio, favoring the passage of the McLean bill for Federal protection of all migratory birds; to the Committee on Agriculture.

SENATE.

FRIDAY, *January 24, 1913.*

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the following prayer:

Almighty God, our heavenly Father, Thou art our exceeding great reward. Thou knowest the way we take and art acquainted with all our ways. Without Thee we could not live; without Thee we dare not die. There is none on earth that we desire beside Thee, and whom have we in heaven but Thee? Thou art able to deliver us from every fear and to present us before the throne of Thy presence without fault and in exceeding joy. Look with tenderness, we pray Thee, upon the Member of this Senate whose heart has been saddened by death. Uphold him by Thy spirit and comfort him with Thy presence. In the name of Him who abolished death and brought life and immortality to light hear our prayer. Amen.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. CULLOM and by unanimous consent, the further reading was dispensed with and the Journal was approved.

GEORGETOWN BARGE, DOCK, ELEVATOR & RAILWAY CO. (H. DOC. NO. 1303).

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate the annual report of the Georgetown Barge, Dock, Elevator & Railway Co. for the calendar year 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, asked for a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHNSON of South Carolina, Mr. BURLESON, and Mr. GILLETT managers at the conference on the part of the House.

The message also announced that the House had returned to the Senate, in compliance with its request, the bill (S. 4355) incorporating the National Institute of Arts and Letters.

The message further returned to the Senate, in compliance with its request, the bill (S. 4356) incorporating the American Academy of Arts and Letters.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6380) to incorporate the American Hospital of Paris.

The message also announced that the House had passed a joint resolution (H. J. Res. 380) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc., in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the President pro tempore:

H. R. 8768. An act to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia;

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; and

H. J. Res. 369. Joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.

SENATOR FROM MONTANA.

Mr. DIXON. Mr. President, I have the honor to present the credentials of Hon. THOMAS J. WALSH, elected a Senator of the United States from the State of Montana for the term beginning March 4, 1913.

The PRESIDENT pro tempore. The credentials will be read.

The credentials of THOMAS J. WALSH, chosen by the Legislature of the State of Montana a Senator from that State for the term beginning March 4, 1913, were read and ordered to be filed.

SENATOR FROM NORTH CAROLINA.

Mr. OVERMAN presented the credentials of FURNIFOLD M. SIMMONS, chosen by the Legislature of the State of North Carolina a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. BRISTOW presented a memorial of sundry citizens of Hutchinson, Kans., remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which was ordered to lie on the table.

Mr. CULLOM presented a petition of the Trades and Labor Council of Danville, Ill., praying for the enactment of legislation to limit the effect of the regulation of interstate commerce between the States in goods, wares, and merchandise wholly or in part manufactured by convict labor or in any prison or reformatory, which was referred to the Committee on the Judiciary.

He also presented a petition of members of Rebecca Parke Chapter, Daughters of the American Revolution, of Galesburg, Ill., praying for the enactment of legislation to prohibit the desecration of the American flag, which was referred to the Committee on the Judiciary.

He also presented petitions of the Woman's Christian Temperance Union of Will County, the congregations of the Congregational Church of Wyoming, the Methodist Episcopal Church of Bone Gap, and of sundry citizens of Bone Gap and Harrisburg, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. DIXON presented the memorial of G. W. Miles, of Miles City, Mont., remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which was ordered to lie on the table.

Mr. JONES presented resolutions adopted by the grand jury of the northern division of the western district of Washington, with reference to the circulation of spurious bank notes, which were referred to the Committee on Finance, to accompany the bill (S. 8246) forbidding the use of spurious currency, and for other purposes.

He also presented a resolution adopted by the city council of Everett, Wash., accompanied by a report of the city engineer, with reference to the Lilis S. 2622 and H. R. 11175, relating to the water supply for that city, which was referred to the Committee on Public Lands and to accompany the bill (S. 2622) to authorize the city of Everett, Wash., to purchase certain lands for the securing, establishment, maintenance, and protection of a source of water supply for said city.

He also presented a telegram in the nature of a memorial from the transportation bureau of the Chamber of Commerce of Seattle, Wash., remonstrating against the so-called Nelson bill to amend an act entitled "An act relating to navigation of vessels, bills of lading, and to certain obligations, duties, and rights in connection with the carriage of property," approved February 13, 1893, which was referred to the Committee on Commerce.

Mr. GALLINGER presented a petition of the Men's League of the Central Congregational Church, of Derry, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

THE PRESIDENTIAL TERM.

Mr. WORKS. I have here some short editorials bearing upon the question of one term for the President of the United States. They have been furnished me by the Business League of America, an organization that is made up largely of business men throughout the country. I ask that the editorials may be printed in the RECORD.

There being no objection, the matter referred to was ordered to lie on the table and to be printed in the RECORD, as follows:

OPINIONS OF THE PRESS, 1904.

[From the Tradesman, Chattanooga, Tenn.]

The executive committee of the National Business League, whose general offices are in Chicago, has taken the initiative in a movement to lengthen the presidential term from four years to six years, making the Chief Executive ineligible for reelection, the principal reasons for the proposed amendment to the Constitution being stated as follows:

1. Presidential campaigns are too frequent, are enormously expensive to business interests, and keep the country in a state of turmoil and uncertainty most of the time, to the great disadvantage of both labor and capital.

2. Presidential years show increase of business failures, decrease of exports, bank clearings, stock sales, and commercial transactions generally.

3. Presidential campaigns indefinitely prevent the beginning and check the growth of industrial enterprises.

4. The President during his first term, naturally being anxious to succeed himself, is kept busy considering the demands of politicians and planning for a second term; meanwhile important legislation for the general good waits.

With reference to this movement we have no hesitancy in expressing the opinion that the frequent presidential elections are great factors in disarranging the business of the country, and any reasonable extension of the term of office for which the President shall serve would naturally tend to curtail the nuisance complained of. It occurs to us that just now is an opportune time to foist this movement, from the fact that a change in the length of term would not work injury to the incumbent and could not be made effective, probably, before the beginning of the term four years from this time. We can not see any possible danger in making the term six years, for in this country it is well-nigh impossible for an unworthy man to successfully aspire to the presidency, and should a corrupt aspirant by any means find his way to the high seat the laws of the land are adequate for the protection of the people from any acts that would be infamous. Under the present method of electing every four years the business of the country is nervous and unsettled for almost one-quarter of the time, and it would be to the interest of the country to effect a reformation.

[From the Tribune, Galveston, Tex.]

At different times during the past 20 years there have been put forth efforts more or less earnest looking toward an amendment to our National Constitution making the presidential term of office six or seven years and prohibiting a second term. Of late the subject has been revived, fathered by the National Business League, of Chicago, and indorsed by leading business men of that city, as well as by commercial concerns and influential firms in diversified lines of trade in many States north, east, west, and south. The grounds upon which the change is sought are purely commercial, beginning and ending with the known fact that for a season before and after national elections trade is more or less disturbed and necessarily the entire country feels the depressing effects of such disturbance, and the oftener the elections the more frequent the periods of hesitating capital and unemployed labor. Reference is made to the years 1872, 1884, 1890, and 1900, when a larger number of business houses were forced to the wall than during the years preceding or following, with no other reason for the increase in failures than the fact that the presidential election caused commercial disturbances. Here in the South, where business is probably conducted along more conservative lines, the full stress of this periodical disturbance is not so forcibly experienced as in the northern business centers, but it is felt and we are not slow to recognize that whatever affects the stability of commerce is a menace to the social life, the homo circle, and when that is threatened the foundation of our national prosperity is attacked. Whether a lengthening of the presidential term of office and the elimination of a possible renomination will remove these disturbing elements, it were not well to be hasty in asserting, but that they appear to have a potency in this connection should be sufficient to warrant a study of the matter in all its ramifications, and then, should judgment dictate a course of remedy, it should be sought with a boldness that, while it respects the customs and traditions of our forefathers, is too patriotic to cling to a youthful garb outgrown by the man. That there is promise in the proposed change, that it contains a cure for evils political as well as commercial, is easy to discern, and the correction of error is part of the duty of every American citizen.

[From the Index-Appeal, Petersburg, Va.]

Judge Parker's declared purpose not to be a candidate for reelection to the Presidency at the expiration of his term, in the event he should be elected next November, has stimulated interest in the subject of a constitutional amendment extending the presidential term and making the incumbent ineligible to reelection, or, at least, to succeed himself. If Judge Parker's declaration did not inspire, we have not a doubt that it hastened the action of the National Business League in the movement which it has initiated to amend the Constitution of the United States by making the presidential term six years instead of four and the Chief Executive ineligible to reelection. To test the pulse of public opinion on this subject, the league sent out a circular letter to a great number of distinguished men and organizations in various parts of the country, and of the hundreds of replies not more than 1 per cent are unfavorable or indifferent to the movement. The principal reasons given in the letter for the proposed change are:

1. Presidential campaigns are too frequent, are enormously expensive to business interests, and keep the country in a state of turmoil and uncertainty most of the time, to the great disadvantage of both labor and capital.

2. Presidential years show increase of business failures, decrease of exports, bank clearings, stock sales, and commercial transactions generally.

3. Presidential campaigns indefinitely prevent the beginning and check the growth of industrial enterprises.

4. The President during his first term, naturally being anxious to succeed himself, is kept busy considering the demands of politicians and planning for a second term; meanwhile important legislation for the general good waits.

If there ever was any good reason for a four-year presidential term, the country has long since outgrown it. The necessity for a change, such as the National Business League advocates and Judge Parker favors, was felt and acknowledged more than 50 years ago, but the stirring events then pending and soon precipitated in the Civil War diverted public attention from it and so delayed action in the matter. This change was one of the few made by the Confederate States in the adaptation of the Federal constitution to the Confederate States government, and the change is one which, we are fully persuaded, would meet with practically the unanimous approval of the people. The four reasons given by the National Business League are cogent and unanswerable. The fact that the first term of an incumbent of the presidential office is largely taken up with intrigues for the renomination of the President by his party is a national scandal, which tends to bring the theory of republican government into ridicule and contempt when contrasted with its practice.

[From the Herald, Manitowoc, Wis.]

The movement to amend Article II of the United States Constitution so as to lengthen the presidential term to six years and to make the Chief Executive ineligible for reelection is very generally favored by business men and commercial organizations throughout the country. This is evident from the character of the responses received by the National Business League, which recently sent out inquiries touching this matter.

The coming of a presidential campaign is generally attended by considerable business disturbances and is invariably viewed with no little apprehension by the commercial interests of the country. This was strikingly evident during each of the last two national campaigns, when there was a prospect of sweeping changes in those policies that are of vital concern to the commercial and financial interests of the country. But even when, as now, there is little prospect of a sudden change in the policies affecting the business world, the coming of a presidential campaign is viewed with apprehension by commercial organizations, because of the many serious losses incident to the disturbance occasioned by a political struggle.

While true patriotism, good citizenship, and pure government are infinitely more important than business considerations, the arguments advanced by the business world in favor of lengthening the interim between presidential campaigns are worthy of the hearty support of every citizen in the country; and it seems that the proposed change is finding increasing favor with the people in every State of the Union. But as the change contemplates the ineligibility of the President for reelection it would seem to be better to make the presidential term eight years instead of six years. This would make the

presidential term as long as that now permitted by the unwritten law of the country.

The three years' effort of the present Chief Executive in shaping public policies so as to bring about his renomination and reelection and Judge Parker's declaration of his purpose never to be a candidate again in case of his election have served to emphasize the importance of the amendment to the Federal Constitution advocated by the National Business League.

A six-year or an eight-year presidential term would mean a great saving to the country and promote stability of our governmental policies, which is one of the things desired by business men and commercial organizations. Of course, as stated above, an eight-year term would be much preferable to a six-year one.

The arguments in support of the desired amendment pertain directly to the question of good government and only incidentally to the business advantages that would result from such a change. If the one-term principle were made a part of the supreme law of the land, the powerful temptation to use Federal patronage as an instrument for selfish purposes would at least be removed. This would enable the President "to discharge his duty with an eye single to his country's good" as he might understand that good. It would make him independent of party bosses and self-seeking wire pullers. It would make him independent of Wall Street and its plutocratic ramifications.

[From the News, Macon, Ga.]

The proposal of the National Business League to extend the President's term to six years has created much discussion lately. The opinions of the majority seem to favor the extension with the proviso of "no second term." The National League, in connection with the recommendation that the amendment to the Constitution providing for this extension be adopted, advances some sound reasons why it would be profitable and practical which, according to the Chicago Evening Post, are these: The presidential campaigns now are too frequent, enormously expensive to business interests, and sure creators of turmoil and uncertainty "to the great disadvantage of capital and labor." They "indefinitely prevent the beginning and check the growth of industrial enterprises," and presidential years show a decidedly bad effect on commercial transactions generally.

Such arguments as the foregoing must appeal with peculiar force to the business interests everywhere, but the fourth reason given by the league should have the thoughtful consideration of every citizen: "The President during his first term, naturally being anxious to succeed himself, is kept busy considering the demands of politicians and planning for a second term; meanwhile important legislation for the general good waits."

Commenting on this, Judge Tuley says that such a constitutional amendment "will mean the overthrow of the 'boss' and 'machine' government of the people now existing." Deprived of patronage, the "boss" and the "machine" must cease to exist. Then, in the words of Judge Tuley, "the people will again govern themselves."

Of the hundreds of replies received by the league not more than 1 per cent are unfavorable or indifferent to the movement. It is a plan certain to be indorsed by every business interest in the country. Add to this the desirableness of a return to genuine self-government through freeing the President from the dictation of the political "boss" and the political "machine," and we easily may foresee hearty popular commendation of the initiative taken by the National Business League.

The practical politician may oppose the movement, because he is the only one to be hurt by its success. But let it once be clearly understood, says the Post, that the people and the business interests desire the amendment, that the welfare of the Nation demands it, there will be few States in the Union that will hesitate to give Congress the necessary authority to act finally once the question is submitted to them.

[From the Bulletin, Auburn, N. Y.]

The question of changing the tenure of office of the President of the United States—one that has been as thoroughly discussed without result as any that has come before the people in decades—bids fair now to be effectively settled through the effort principally of the National Business League, of Chicago, backed by the Chicago Evening Post. The Post prints several pages of replies from merchants, bankers, manufacturers, commercial bodies, boards of trade, etc., in answer to a proposal made by the National League regarding a six-year, single-tenure term for the President. These letters show that the efforts of the league are systematic and well organized; but they show with equal force that the business interests of the country are taking up the matter with an earnestness that promises ultimate success.

Prominent among the New York State business men who heartily indorse the proposal of the league is George H. Nye, president of the Nye & Wait Carpet Co. and also of the Cayuga County National Bank, of this city. Mr. Nye says: "The movement inaugurated by the league toward lengthening the presidential term to a period of six years has my hearty approval. I am also in favor of making the Chief Executive ineligible to succeed himself without an interregnum, or, in other words, to prohibit two consecutive terms. It might be wise in case of a second term under such a law to have an age limit, and to provide for the possibility of the Vice President being elevated to the office through the death of the President."

The Post points out that there are many strong arguments in favor of the proposition and very few against it. Here and there a politician objects to lengthening the presidential term, and especially to making an incumbent of the high office ineligible for reelection, but the reasons given are to the Post among the most convincing arguments offered in support of the change—they show so plainly the manifest evils of the present system.

The National Business League is not unmindful of the difficulties that lie in the way of securing any amendment to the National Constitution, but it realizes the vast power and influence that must be wielded by the united business interests of this preeminently commercial Nation. It does not follow, the league holds, that because the only amendments made to the Constitution since its adoption were a result of war that nothing but war can secure an amendment. Great changes have taken place in this country and in the world since the latest additions were made to the fundamental law of the United States, not the least of which is the growing general recognition that the advances due to peaceful agitation are more likely to be safe and permanent than those forced by the sword.

What the business interests of the United States demand they sooner or later succeed in getting. The National Business League is securing the cordial cooperation of other business organizations and of influential men throughout the country. It has announced its determination not to relax its efforts until a satisfactory conclusion is reached. In this fact rests the greatest promise of success. The presidential election seriously disturbs business; the eligibility of the President to reelection is believed by many, the league included, to have a baneful effect upon our political life.

Grover Cleveland, notwithstanding he was thrice a candidate and twice elected, in his letter of 1884, accepting the presidential nomination, said: "When we consider the patronage of this great office, the allurements of power, the temptation to retain public office once again, and, more than all, the availability a party finds in an incumbent whom a horde of officeholders with a zeal born of benefits received and fostered by the hope of favors yet to come, stands ready to aid with money and trained political service, we recognize in the eligibility of the President for reelection a most serious danger to that calm, deliberate, and intelligent action which must characterize government for the people."

In the next paragraph of his letter Mr. Cleveland favors an amendment to the Constitution, limiting the President to a single term of service.

Judge Parker has already promised that, if elected, he will serve but one term. It was the "Old Roman" Thurman who said: "You will never have any genuine reform in the civil service until you adopt the one-term principle in reference to the Presidency."

Business wishes to have these periods of disturbances further apart; the increasing number of independent citizens desire a genuine civil-service reform, cleaner politics, fewer opportunities for corruption in national amendment advocated by the National Business League, and, once united, the object of their concerted effort seems certain of attainment.

It is a very difficult, but not an impossible thing, to amend the Constitution of the United States, and in this age of unparalleled commercial and industrial activity we can fancy no more likely amendment than one intended primarily to protect and conserve our business interests.

[From the Citizen, Columbus, Ohio.]

Excuse this long editorial. It is about a very imortant matter, but if you do not want to read it, why, very well. It is about the movement to extend the term of the President of the United States to six years and to give him but a single term. It is one of the live questions of the day.

The idea of a single term for the President is as old as the Government. Many of the framers of the Constitution, as you may learn by reading their debates, were in favor of it. But the idea was beaten down and the four-year term was agreed upon as a compromise. But that did not settle the question. For a hundred and fifteen years there has been more or less agitation about it. There must be merit in the single-term proposition. If it were a fallacy it would have died long ago. It takes a mighty big issue to live a hundred and fifteen years.

Some of the greatest and best men of the Government have favored the single term for the presidential office. Among those who might be mentioned are Washington, Jefferson, Jackson, Clay, Tilden, Thurman, Cleveland, and others. Henry Clay said: "Much observation and deliberate reflection have satisfied me that too much of the time, the thought, the exertion of the incumbent are occupied during the first term in securing his reelection. The public business consequently suffers."

Lately the National Business League, with headquarters at Chicago, has been making a campaign among the business organizations and the influential men of the country to secure an amendment to the Constitution making the presidential office a six-year single tenure. The response from business sources has been vigorous and the movement is growing. It is difficult to amend the Constitution. But the business interests of the country are powerful and usually get what they go after. About the only opposition to the proposal by the league comes from the politicians. But the politicians bow to public opinion quite willingly.

Business men urge, first of all, that political campaigns come too often, that they upset business, that they keep the country in a turmoil, that the uncertainty and excitement hinders the prosperity of both capital and labor. National campaigns decrease the volume of business and increase the number of failures. The tendency in the States is toward fewer elections. A large majority of the States have adopted biennial elections and are pleased with the results. Say the business men: Why disturb business every four years? Why frighten capital by threatened changes of finance or of tariff every four years? Why jeopardize commercial interests so frequently? Why produce a partial paralysis of business activities by taking one year out of every four?

But there are other reasons and better ones why the President's term should be extended to six years and he be made ineligible for a second term. There are higher interests than business interests.

The change would work a reform in our political methods. Free the President of the ambition for a second term and you make him a better President for the whole country. He would put patriotism above party in those great crises that will come to our Presidents more and more—crises that demand calm judgment, clear conscience, and high patriotism—he will be unhampered by party expediency. As it is now, it takes about two years for a President to get the run of his duties and the other two years are spent more or less in pulling the wires for a reelection.

The late Allen G. Thurman understood this. He said: "My friends, you will never have any genuine reform in the civil service until you adopt the one-term principle in reference to the Presidency. So long as the incumbent can hope for a second term he will use his immense patronage of the Government to procure his renomination and secure his reelection." The single tenure is in the interests of genuine civil-service reform, whiter politics, fewer chances for graft and corruption. When the second term begins to buzz in the Executive bonnet the hungry politicians whet their appetites for political pie.

There are other reasons. A six-year term would serve to dignify the Presidency. At the end of six years the Executive should be satisfied to retire to private life, free from political strife, having attained the highest pinnacle of human ambition. The savings from his salary would prevent the necessity of his entering into business. He could give the country the benefit of his experience and wise advice, thus solving the question, "What shall we do with our ex-Presidents?"

REPORTS OF COMMITTEES.

Mr. SMOOT, from the Committee on Public Lands, to which was referred the bill (S. 6507) to further assure title to lands granted the several States, in place, in aid of public schools, reported it without amendment and submitted a report (No. 1141) thereon.

Mr. CHAMBERLAIN, from the Committee on Public Lands, to which was referred the bill (H. R. 8151) providing for the adjustment of the grant of lands in aid of the construction of the Corvallis and Yaquina Bay military wagon road, and of

conflicting claims to lands within the limits of said grant, reported it without amendment and submitted a report (No. 1142) thereon.

Mr. MARTIN of Virginia, from the Committee on Commerce, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 8248. A bill to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn. (Rept. No. 1143);

S. 8249. A bill to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn. (Rept. No. 1144);

S. 8251. A bill to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn. (Rept. No. 1145);

S. 8250. A bill to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn. (Rept. No. 1146); and

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois (Rept. No. 1147).

Mr. JONES, from the Committee on Public Lands, to which was referred the bill (S. 8190) authorizing settlers on unsurveyed lands to make final proof under laws existing at the time of settlement, reported it with an amendment and submitted a report (No. 1148) thereon.

Mr. CATRON, from the Committee on Military Affairs, to which was referred the bill (H. R. 20385) to reimburse Charles S. Jackson, reported it without amendment and submitted a report (No. 1150) thereon.

He also, from the same committee, to which was referred the bill (S. 7620) for the relief of Ernest C. Stahl, submitted an adverse report (No. 1149) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. SANDERS, from the Committee on Military Affairs, to which was referred the bill (S. 7422) to remove the charge of desertion from the military record of Conrad Springer, submitted an adverse report (No. 1153) thereon, which was agreed to, and the bill was postponed indefinitely.

He also, from the same committee, to which the subject was referred, submitted a report (No. 1154) accompanied by a bill (S. 8273) authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls, which was read twice by its title.

He also, from the same committee, to which were referred the following bills, reported adversely thereon, and the bills were postponed indefinitely:

S. 7486. A bill to authorize the Secretary of War to deliver to the city of Grand Forks, N. Dak., two brass or bronze condemned cannon and suitable outfit of cannon balls;

S. 7997. An act authorizing the Secretary of War to donate to the city of Lancaster, Pa., two bronze or brass fieldpieces for the use of the General William S. McCaskey Camp, United Spanish War Veterans;

S. 8051. A bill authorizing the Secretary of War, in his discretion, to deliver to the town of Washington, in the State of Mississippi, for the use of Jefferson College, one condemned cannon, with its carriage and outfit of cannon balls;

S. 8052. A bill authorizing the Secretary of War, in his discretion, to deliver to the city of Corinth, in the State of Mississippi, one condemned cannon, with its carriage and outfit of cannon balls;

S. 8079. A bill authorizing the Secretary of War, in his discretion, to deliver to the city of Grand Forks, in the State of North Dakota, one condemned cannon, with its carriage and outfit of cannon balls;

S. 8080. A bill authorizing the Secretary of War, in his discretion, to deliver to the city of Lakota, in the State of North Dakota, one condemned cannon, with its carriage and outfit of cannon balls;

S. 8088. A bill authorizing the Secretary of War, in his discretion, to deliver to the State of North Dakota, for use at the Fort Rice Memorial Park, two condemned cannon, with their carriages and outfits of cannon balls;

S. 8091. A bill authorizing the Secretary of War to make certain donations of cannon;

S. 8110. A bill authorizing the Secretary of War, in his discretion, to deliver to the city of Trinidad, Colo., two condemned bronze or brass cannon, with their carriages and a suitable outfit of cannon balls; and

S. 8111. A bill authorizing the Secretary of War, in his discretion, to deliver to the city of Rocky Ford, Colo., two condemned bronze or brass cannon, with their carriages and a suitable outfit of cannon balls.

Mr. BANKHEAD. I ask leave to submit, from the Committee on Commerce, the views of a minority on the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut. I ask that the views be printed as part 2 of Senate Report No. 1131.

The PRESIDENT pro tempore. The views of the minority will be received and printed as requested.

Mr. DU PONT, from the Committee on Military Affairs, to which was referred the joint resolution (S. J. Res. 110) for the appointment of three members of the Board of Managers of the National Home for Disabled Volunteer Soldiers, reported adversely thereon, and the joint resolution was postponed indefinitely.

CAPT. FRANK PARKER.

Mr. DU PONT. From the Committee on Military Affairs I report favorably, without amendment, the bill (S. 8183) for the relief of Capt. Frank Parker, and I submit a report (No. 1152) thereon.

Mr. TILLMAN. I ask unanimous consent for the present consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that nothing contained in the proviso under the heading "Pay of officers of the line" in the act approved August 24, 1912, entitled "An act making appropriation for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes," shall be held to apply to the service of Capt. Frank Parker, United States Army, for the period necessary for him to complete his present tour of duty at L'Ecole de Guerre, France.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS.

Mr. DU PONT. From the Committee on Military Affairs I report favorably, with an amendment, the joint resolution (H. J. Res. 226) for the appointment of three members of the Board of Managers of the National Home for Disabled Volunteer Soldiers, and I submit a report (No. 1151) thereon.

Mr. CURTIS. Mr. President, this is a very short resolution. It is merely for the appointment of members of the Board of Managers of the National Home for Disabled Volunteer Soldiers. I ask unanimous consent that the resolution be now considered. If it takes any time I will withdraw it, but I do not think it will take three minutes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. BURTON. Mr. President, it is not asked that this joint resolution be immediately considered, is it?

Mr. CURTIS. I will state that unanimous consent is asked for that purpose. It is merely to substitute the name of Mr. Warner for that of Mr. Harris.

Mr. BURTON. This is a matter that concerns an appointment in my own State. I have not heard anything of it before.

The PRESIDENT pro tempore. Is there objection to the request?

Mr. CURTIS. I withdraw the request for present consideration.

The PRESIDENT pro tempore. The joint resolution will be placed on the calendar.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 8261) to amend proviso in meat-inspection law concerning products prepared according to directions of foreign purchasers (with accompanying papers); to the Committee on Agriculture and Forestry.

By Mr. CUMMINS:

A bill (S. 8262) granting an increase of pension to Nathaniel Little (with accompanying papers); to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 8263) granting an increase of pension to Morton A. Pratt; and

A bill (S. 8264) granting a pension to Emma Conkright; to the Committee on Pensions.

By Mr. CATRON:

A bill (S. 8265) supplementary to an act entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1913," approved August 10, 1912; to the Committee on Agriculture and Forestry.

A bill (S. 8266) for the survey and establishing the boundaries of small holding claims in the State of New Mexico; to the Committee on Public Lands.

By Mr. BRADLEY:

A bill (S. 8267) granting a pension to Pleasant M. Heath (with accompanying papers); to the Committee on Pensions.

By Mr. GARDNER:

A bill (S. 8268) for the relief of Samuel N. Rich (with accompanying papers); to the Committee on Claims.

By Mr. GALLINGER:

A bill (S. 8269) for the elimination of part of Fifteenth Street NE. from the highways plan of the District of Columbia (with accompanying papers); to the Committee on the District of Columbia.

By Mr. JONES:

A bill (S. 8270) relating to coal claimants in Alaska; to the Committee on Public Lands.

By Mr. WETMORE:

A bill (S. 8271) granting a pension to Jennie McCaster (with accompanying papers); to the Committee on Pensions.

By Mr. DU PONT:

A bill (S. 8272) regulating the appointment of general courts-martial in the armies of the United States, including all persons belonging thereto and all persons now or hereafter made subject to military law; to the Committee on Military Affairs.

LINCOLN MEMORIAL.

Mr. CULLOM. I introduce a joint resolution for which I ask immediate consideration.

The joint resolution (S. J. Res. 158) approving the plan, design, and location for a Lincoln memorial, was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the plan, design, and location for a Lincoln memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, approved.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CLARK of Wyoming submitted an amendment proposing to amend the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1890, and for other purposes," by including, after the word "attorneys" where it appears in that act, the words "or by attorneys especially appointed by the Attorney General of the United States," intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. MYERS submitted an amendment proposing that an additional 25 per cent of all moneys received from the national forests during the fiscal year ending June 30, 1913, shall be available at the end thereof to be expended by the Secretary of Agriculture for the construction and maintenance of roads and trails within the national forests in the States from which such proceeds are derived, etc., intended to be proposed by him to the agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. GRONNA submitted an amendment proposing to appropriate $1,000 for examination of the land embraced in Sullys Hill Park to determine whether it contains valuable minerals, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to increase the appropriation for the suppression of the traffic in intoxicating liquors among Indians from $75,000 to $125,000, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JONES submitted an amendment relative to the promotion of officers of the Quartermaster Corps, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

He also submitted an amendment proposing to increase the appropriation for the construction and maintenance of military and post roads, bridges, and trails, Alaska, from $100,000 to $175,000, and providing not to exceed $55,000 of this amount be used for the protection of the Signal Corps building and terminal grounds of the Alaska military cable and telegraph system, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. CURTIS submitted an amendment providing for the payment of traveling and other expenses incident to the transfer of the clerks of the United States pension agencies to Washington, D. C., etc., intended to be proposed by him to the pension appropriation bill, which was referred to the Committee on Pensions and ordered to be printed.

Mr. O'GORMAN submitted an amendment proposing to appropriate $250,000 for improving the channel opposite anchor grounds, Upper Harbor, New York Harbor, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. FLETCHER submitted an amendment proposing to appropriate $101,000 for improving the channel between St. Johns River, Fla., and Cumberland Sound, Ga. and Fla., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $15,000 for protecting the shore of Anastasia Island, Fla., by groins, intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment providing for the construction of a canal from St. Johns River to Lake Beresford with a view to making a cut-off from the river to Lake Beresford, near De Land River Landing, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing a suitable ship channel to East Pass from Apalachicola River, by way of Crooked Channel, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. LODGE submitted an amendment proposing to appropriate $25,000 to meet the expenses incident to holding an international rifle shooting competition at Camp Perry, Ohio, in cooperation with the Perry Victory Centennial Celebration, to be held in September, 1913, intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $63,400 for improving Pepperells Cove, Me., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

WITHDRAWAL OF PAPERS—MARY REBECCA CARROL.

On motion of Mr. PERCY, it was

Ordered, That the papers in the case of the bill (S. 10722, 61st Cong., 2d sess.) granting an increase of pension to Mary Rebecca Carrol be withdrawn from the files of the Senate, there having been no adverse report thereon.

LAWS RELATING TO ALASKA.

Mr. SMITH of Michigan submitted the following concurrent resolution (S. Con. Res. 38), which was read and referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That there be printed —— thousand copies of the laws of the United States applicable to the Territory of Alaska, compiled by the Committee on Territories of the Senate and the Committee on Territories of the House of Representatives in compliance with Public Act No. 334, —— thousand copies of which shall be for the use of the Senate, —— thousand copies for the use of the House of Representatives, and —— copies for each of the committees on Territories of the Senate and House of Representatives.

Mr. SMITH of Michigan submitted the following resolution (S. Res. 441), which was read and referred to the Committee on Printing:

Resolved, That the laws of the United States applicable to the Territory of Alaska, compiled by the Committee on Territories of the Senate and Committee on Territories of the House of Representatives in compliance with Public Act No. 334, be printed as a Senate document.

SURVEY OF WILLAPA HARBOR.

Mr. JONES submitted the following concurrent resolution (S. Con. Res. 37), which was read and referred to the Committee on Commerce:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause a preliminary survey to be made, and a report to be made thereon to Congress, of Willapa Harbor and the bar entrance thereto.

THE NAVAL OBSERVATORY.

Mr. CUMMINS submitted the following resolution (S. Res. 440), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs is hereby authorized and directed to investigate the affairs of the Naval Observatory and its relation to the American Ephemeris and Nautical Almanac; and, further, to inquire into the wisdom and propriety of placing the management of the Naval Observatory in the hands of scientists, without regard to their connection with the Navy of the United States.

Resolved further, That the said committee be directed to make report of the matters herein referred to it as soon as practicable.

EIGHT-HOUR LAW.

The PRESIDENT pro tempore. Is there further morning business?

Mr. McCUMBER. I do not know positively whether it would come within morning business, but I asked the other day for a reconsideration of the vote upon House bill 18787, by which the eight-hour law was applied to dredging operations. I should like to bring up that matter at this time.

The PRESIDENT pro tempore. Unquestionably the Senator has a right to make the motion now.

Mr. McCUMBER. I then move to reconsider the vote by which House bill 18787 was passed by the Senate.

The PRESIDENT pro tempore. The Senator from North Dakota moves to reconsider the vote by which the bill he has indicated was passed. It will be read by title.

The SECRETARY. A bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia.

Mr. McCUMBER. I do not wish to take any time for its consideration more than is absolutely necessary, and as I have before me some prepared objections to the bill, I should like to have them read by the Secretary.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

"EIGHT HOURS FOR DREDGE WORKERS.

"Memorandum on H. R. 18787, now on the calendar of the Senate.

"There are several methods of dredging:

"a. The bucket or clam-shell method, by which the material is dug from the bottom of the channel and dumped into a barge alongside, to be subsequently dumped elsewhere.

"b. The suction method, where the dredge sucks up and discharges the excavated material through a pipe line, oftentimes several miles in length.

"c. The method where the dredged material is sucked up and pumped into bins in the hull of the dredge or into barges alongside and taken to sea and dumped.

"d. The endless-chain and bucket dredge, which is a series of buckets on an endless chain which also dumps the material either into the hull of the dredge or into a barge alongside, which subsequently dumps it elsewhere.

"In all of these cases the work of the dredge workers is necessarily intermittent, they having little or nothing to do except to change the position of the barges or the dredge as the various compartments of the same are filled or the work requires a shifting in the position of the dredge or the floating pipe line, etc.

"The loss of time due to the necessity of these changes is a very considerable matter, and it frequently occurs that the tugboat used in taking away the filled barges and replacing empties is delayed and the dredge has to suspend operations until such time as the tugboat can make the transfer. During such periods dredge workers have nothing to do and can sit around and smoke their pipes in comfort until it becomes necessary for them to handle the lines to make the barges fast in position alongside the dredge or to effect a change in the position of the dredge or the floating pipe line.

"It also frequently occurs that by reason of stress of weather dredging operations have to be suspended, but inasmuch as all dredge workers are paid by the month and are provided with quarters and with subsistence on board, this stress of weather is a direct loss to the dredge owner, as under such conditions no work can be done. The dredge worker therefore renders no service, but at the same time suffers no reduction in pay or loss of quarters or subsistence, and under existing conditions the average day's work, month in and month out, will show that the dredge worker is actually engaged in labor but a comparatively few hours out of the 24; that is to say, his average daily labor every 30 days is less than eight hours per day.

"While it is true that the bill H. R. 18787, as amended by the Senate committee, restricts to eight hours work per day those who are engaged on the dredges in the capacity of engineers, enginemen, laborers, and others who are directly connected with the handling of the machinery and tools of the dredge, yet it remains a fact that these dredge workers, by reason of the fact that they are paid by the month and provided with quarters and subsistence and live on board the dredges, which are anchored offshore and engaged in work in a channel of a river or harbor, that this character of work is substantially the same as that rendered by persons in the field engaged in agriculture, who likewise are paid by the month and provided with quarters and subsistence and who are required to labor and do labor from sunrise to sunset. Yet these favored few dredge workers are by this special act to have what virtually amounts to an increase in pay of 33⅓ per cent, which increase must be paid for out of the pockets of the people, because of the fact that it will result in large increased cost in dredging, which additional cost is therefore a burden upon the very agricultural classes who are required to work from 12 to 16 hours per day.

"There is no doubt but that the reduction of the hours from 12 to 8 will increase the cost of river and harbor improvements; it was so admitted by Gen. Bixby, the Chief of Engineers, at the hearing before the Senate committee in charge of this bill.

"Now, assuming for the sake of argument that the last river and harbor act, which became a law at this session, appropriated $40,000,000, and that subsequent acts which, it is understood, are to be passed annually for river and harbor improvements, carry a like amount, it means that something over $10,000,000 annually will be required to do the same amount of work, or about one-third of the work will have to remain unprovided for in order to keep the bill within the same limit of expenditure—all this to benefit the few at the expense of the many.

"Furthermore, this Congress has already enacted an eight-hour law, which was approved June 19, 1912, and which, like this bill, contains a provision that it shall not apply to contracts that may be entered into under existing appropriations, thus clearly showing that existing appropriations are not sufficient to enable the Government to do the work contemplated by such appropriation act if such work is to be performed under the eight-hour law thus enacted.

"It is safe to say that the law, like that which it is now aimed to enact for the benefit of the dredge workers, will also be an additional charge upon the Government of at least $10,000,000 or $20,000,000 per year, all of which is made necessary because of the unreasonable demands of organized labor, and that this $10,000,000 to $20,000,000 is to be borne largely by the agricultural population, which is to be taxed out of their earnings gleaned from the sweat of their brow in the field from sunrise to sunset, their day's work being almost double that demanded and insisted upon by these dredge workers as a full day's work; thus this special class which, as organized, is holding up the Government at the expense of other labor which is engaged in cultivating products of the soil and which constitutes a large portion of the Nation's wealth."

Mr. McCUMBER. Mr. President, I do not know how this bill got to the committee that reported it. It seems to me that the proper reference would naturally have been to the Committee on Commerce, where one would look for bills of this kind to go; but I do not know that that makes any particular difference.

I have had this little statement read. I do not know how many Senators were paying attention to it, but I think those, if there were any, who paid attention to its reading, can easily see that we are carrying this matter of fixing hours of labor to extremes. I think we will all agree that if a laborer performs eight full hours of good, honest service a day it is perhaps better for him and better for the country at large that his labor should not extend beyond that many hours; but the conditions are such in many vocations that the work must necessarily be intermittent. In this particular case, Mr. President, as shown by the statement just read, which I think is undenied, there is not an average of eight hours a day labor performed by any man in any of the service contemplated. Those men are hired by the month and not by the day. They must necessarily rest at intermittent times and probably sit and smoke; they are imprisoned upon a ship or barge, living there and boarding there. I do not think that any benefit is to be obtained for the laborers themselves by providing that they must sit around the remainder of the few hours in which they might put in a full day's work. By a "full day's work" I mean eight full hours' work a day.

Mr. President, this is not alone an injustice, it seems to me, to all the people of the country, though it must affect very ma-

terially the cost of all Government work in the improvement of our rivers and harbors. Practically 90 per cent, at least, of all the dredging would apply to river and harbor work; and I think it is shown quite conclusively here that the cost would be from a quarter to a third more on account of the enactment of this bill, and that where heretofore we have appropriated $40,000,000 for rivers and harbors we should now have to appropriate $50,000,000 to accomplish the same result.

I speak of it also, however, as an injustice to other labor. To show to what extent such legislation is influencing labor in the agricultural districts, I want to say that we in our State were unable this fall to procure labor at $4 a day, and even $5 per day was offered upon farms. In some sections of our State the crops were ruined; the winter came on and the shocks were covered with snow. Immense losses were sustained by the farmers of my State because they could not get labor. Why? Because in all other lines of industry we have enacted laws that prohibit labor for any greater length of time than eight hours in each working day. The farm day is about 16 hours in each day—all the way from 12 to 16 hours—so that kind of labor will be very much cheaper per day and the laborer will therefore remain in the city rather than go to the farm.

I speak of this simply as an injustice to the farm labor of the country. If we are going to have an eight-hour-a-day system, it ought to apply everywhere; but, Mr. President, you can see how impossible it is to apply a system of that kind in our rural districts, and how those rural districts must necessarily suffer, because the effect of such a law is to drive all labor away from the farm.

But more particularly I object to this proposed legislation, Mr. President, because it would be an injustice to the country, for it really enforces less than eight hours per day labor, and would in effect compel eight-hour pay for five and six hours of actual labor performed.

It seems to me that this matter ought to have a reconsideration and be again at least voted upon after a proper time for a hearing. It was taken up the other day, as I understand, when very few Senators were in the Chamber. It had been objected to by one of the Senators because it was understood that the Senator from Minnesota had some amendments to offer. I made no objection that day, but the next day, while I was absent, the bill was suddenly called up and passed. I make no criticism of the method that was adopted, but merely explain what might be considered lack of diligence on my own part.

Mr. SHIVELY. Mr. President, this is a House bill. On reaching this Chamber it was referred to the Committee on Education and Labor. It relates to the application of the eight-hour-day principle in a certain department of Federal employment. The subject matter of the bill naturally and logically falls within the jurisdiction of that committee, and its reference by the Chair to that committee was manifestly proper. So far from being an improper reference, the bill, without clear impropriety, could not have been referred to any other committee.

On the contention of the senior Senator from North Dakota that the bill has not had adequate consideration, I must appeal from the Senator to the facts disclosed by the record. The bill went to the committee months ago. Hearings were had before the committee. The fullest opportunity was accorded to all interests concerned to be heard on its provisions. The bill was finally reported to the Senate, and for months has been on the Senate calendar. Last week I called it up and secured unanimous consent for its present consideration. The legislative, executive, and judicial appropriation bill was then in the Senate and in process of consideration. I had assured the Senator in charge of that bill that I would not insist on consideration at that time should it become apparent that the measure would lead to extended debate. That was the situation when the Senator from Arkansas [Mr. CLARKE] stated that he wished time to examine the bill further and to prepare an amendment that he had in mind to offer to it, and appealed to me to let the bill go over for that day. On that appeal, and because of the assurance to the Senator in charge of the appropriation bill, I felt constrained to consent to allow the bill to go over until a later day.

On last Monday I again called up the bill, and received the unanimous consent of the Senate for its consideration. There was a series of amendments reported by the committee. Each of these was considered and acted on in its order. Besides the committee amendments the Senator from Arkansas [Mr. CLARKE] offered his amendment and stated its purpose; the amendment was adopted and finally the bill was passed. There was a fair attendance in the Senate; the attendance was not as thin as the words of the Senator from North Dakota might impress us that it was. The bill had received careful consideration in the committee. It received more than the average consideration in the Senate. Nothing unusual or surreptitious occurred in handling the measure, and certainly no advantage was taken of any Senator.

Much of what the Senator from North Dakota [Mr. MCCUMBER] says in regard to this bill would apply equally well as a general objection to the principle of any eight-hour law on Federal work. This bill contemplates no organic change of policy on the part of the Federal Government on the subject of the length of the work day. That policy was projected over 40 years ago. All question on the subject was supposed to be finally foreclosed by the act of 1892, which, after the enacting clause, commences with these words:

SECTION 1. That the service and employment of all laborers and mechanics who are now or may hereafter be employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia, is hereby limited and restricted to eight hours in any one calendar day.

The act is in three sections, but the lines I have quoted contain the words to which I direct the attention of the Senate. When that act became law no one dreamed that the words "laborers and mechanics" did not comprehend the dredge workers on Government work. There is certainly no language in the statute expressly excepting dredge workers from the operation of the act and none which would even remotely suggest any purpose to make them the subject of an exception. But when the case of Ellis et al. *v.* United States came on for decision by the United States Supreme Court in 1907, the court held that these dredge workers fall within the category of seamen and are subject to maritime jurisdiction, and do not fall within the description of "laborers and mechanics" under the act of 1892. This was done by regarding the work of the dredgeman in moving the dredge or scow rather than his work of excavation as the paramount function of his employment, thus giving him the character of sailor and excluding him from the benefits of the act. In a minority opinion, three of the justices sharply dissented from the view of the majority on this point and insisted that whatever the dredgeman did in the nature of seaman's work was a mere incident to his employment in the work of excavation. From 1892 to 1907 it was believed by the Federal authorities that dredge workers were covered by the language of the act. It was on this theory that the prosecutions were started which resulted in the decision of the court in 1907. The bill passed by the Senate, and on which reconsideration is now moved, supplies a manifestly unintentional omission in the act of 1892.

Mr. MCCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from North Dakota?

Mr. SHIVELY. Yes.

Mr. MCCUMBER. For information, may I ask the Senator right here if there is not a change proposed in the bill, and that is that the eight hours must be computed in continuous hours, and therefore if only six hours of work were performed—or five hours or four hours or three hours—it must be counted eight hours if it is done, say, between 2 o'clock and 4 o'clock, or between any other hours?

Mr. SHIVELY. The bill prescribes precisely the same conditions for dredge workers as to length of workday as are prescribed by the general eight-hour law for workers on other public works of the United States.

Mr. MCCUMBER. What I want to get at, if the Senator will pardon me, is whether or not dredge workers will actually work eight full hours in any one day if they are covered by this bill?

Mr. SHIVELY. This is simply a bill to extend to dredge workers the same law that now applies to other workers on Government work, and this whatever may be the incidents of that employment. If in the very nature of the employment there are, on occasions, spaces of time when they are not engaged in active physical exertion, that is one of the incidents of the occupation. For this no exception is made, and if the condition is inseparably incident to the employment no exception is practicable.

What the Senator says as to the length of hours of labor in certain other occupations is true. What he says of long hours of labor on the farm is true. I have experience in that respect. As a farm lad in certain seasons of the year I worked on the eight-hour rule—eight hours before noon and eight hours after noon. The exigencies of season and weather are peculiar to farm life. But the consideration which the Senator raises on this point again goes to the whole question of the policy of the Federal Government as to hours of employment on public work and certainly is not special to this bill. It is too late to insist with justice that dredge workers should be exceptions to that policy.

The Senator says that these dredge workers are imprisoned on the dredges, that they virtually live on the dredges, labor under peculiar conditions, and that their case should be considered with reference to these conditions. That conditions on the dredges, scows, and tugs are in certain respects quite different from conditions off of them is true. But the fact that it is a condition of this employment that the men are deprived of the associations, the comforts, the cheer, and consolations of home life hardly furnishes a good reason why they should be deprived of the security and benefits of the act of 1892.

Now, Mr. President, if it is proposed to reverse the policy entered on by the Federal Government over 40 years ago, and imitated by a large number of the States, there is room for an issue. If the wisdom of the policy is conceded, then there is no room for an issue on this bill. Every objection and consideration raised in the communication read from the Clerk's desk was thoroughly thrashed out before the committee. After patient attention to the subject, the bill was reported by the committee and passed by the Senate. While I do not seek to foreclose any Senator who desires to submit further observations to-day on this matter against an opportunity to do so, it must be understood that I shall move to lay the motion to reconsider on the table.

Mr. BURTON. Mr. President, I trust the Senator will withhold that motion until I can make a few remarks on the subject.

The PRESIDENT pro tempore. Does the Senator from Indiana withhold the motion?

Mr. SHIVELY. I withhold it; but I serve notice of my intention to make the motion.

Mr. BURTON. Mr. President, I think this bill should have further and more careful consideration in the Senate. I do not say that I intend to vote against it, nor do I agree with some of the statements made in the paper read at the desk. That statement fails to recognize the legislation recently adopted by Congress, making eight hours a day's work. We have passed some very advanced legislation in this regard. I do not agree with the estimate of the greatly increased cost of river and harbor work. While I am not sure that I heard it exactly, the statement seemed to imply that the cost of river and harbor work would be increased one-fourth or one-third by the passage of this bill, though, no doubt, it would cause a substantial increase.

I do not think any such serious result would follow. A very large share of river and harbor work is in other lines than in dredging, such as in the building of breakwaters and masonry work. But I do think this matter should be considered more fully, because of the intermittent quality of the work of these dredgers. They are oftentimes occupied only for an hour at a time, then there may be an interval of three or four hours, then another hour. So the question arises whether the eight-hour rule should be enforced as suggested in this statute. As it came from the House, it provided:

Service and employment * * * is hereby limited and restricted to eight hours in any one calendar day, which eight hours shall terminate within nine hours from beginning of workday.

From the beginning of his work to the termination of nine hours, the dredger might not have three or even two or one hour's work to do. It is changed in the Senate—though the change is not very substantial—to read as follows:

Which eight hours shall be continuous except for customary intervals for meals or rest.

Which would probably be the interpretation of the statute if it were passed in the form in which it came from the House.

As I understand, also, this bill applies to other employees, such as waiters and others on board the boats, whose work necessarily must be at certain hours of the day.

I think this bill should be considered also in connection with the measure now before the Committee on Commerce known as the seamen's bill. That bill, which passed the House of Representatives and which is advocated by the Seamen's Union, does not provide for less than 12 hours' work for an ordinary seaman. The work of the seaman is quite as severe and even more difficult than that of the ordinary employee on one of these dredges. Yet we are asked to pass a law which does not assume to limit the work of the sailor to less than 12 hours, notwithstanding he may be employed in the storm and rain and for much of the time under a constant strain.

There is another provision that was added by amendment here to the effect that this law shall not apply to work upon levees or revetments. What justice is there in making that exception? If you can require a man to work on a levee or on a revetment for 10 or 12 hours and exempt him from the operation of this measure, why should the law be enforced in these other employments?

Mr. President, I think this bill should be reconsidered, though the Senate has already enacted into law the general principle embodied in it.

Mr. SHIVELY. The question is still on the motion to reconsider. I do not propose to enter on a further general discussion of the bill. Not a single new question has been raised. Every phase of the subject presented by Senators was thrashed out before the committee. Some of the considerations raised are provided for by amendments now in the bill. Others will be found on reflection to be more fanciful than real, except as they apply against any legislation whatever on the subject of the Government workday. Enough has been said to suggest doubt of the fate of this legislation at this session should the motion to reconsider carry. I trust, when made, the motion to table will prevail.

Mr. SMOOT. I should like to ask a question of the Senator. Is this not a House bill?

Mr. SHIVELY. It is.

Mr. SMOOT. Then I do not see how it is going to be jeopardized by a reconsideration.

Mr. SHIVELY. There has been a series of amendments to the bill adopted by the Senate. These render it necessary for the bill to go back to the House. To throw the measure back into the Senate will unquestionably hazard final action on it.

Mr. SMOOT. It has not gone to conference yet, has it?

Mr. SHIVELY. It has not. On the day following its passage by the Senate the motion was entered to reconsider the vote by which it was passed. I understand that that motion is keeping it here.

Mr. SMOOT. My point was that it did not go to the House; it was recalled before the conferees met on the bill, was it not?

Mr. SHIVELY. The effect of the motion to reconsider was to keep the bill in the custody of the Senate until the motion to reconsider is disposed of. At all events, that has been the effect of the motion in this case. It is not the case of a bill recalled from the House. The bill not having gone back to the House, of course, the House has had no occasion to appoint conferees.

Mr. SMOOT. Mr. President, this is a matter of great importance. I believe in the principle involved, and perhaps would vote for the bill just as it is; but I believe it ought to be discussed, as stated by the other Senators. I do not believe the Senator ought to object to a reconsideration of it. We can reconsider it within a very few days. I do not believe there will be any objection within that time.

Mr. SHIVELY. I want to observe every obligation of courtesy, but this can not require me to consent to throw this bill back into the Senate and take the chance of its death, not from any lack of merit but from lack of time. Mr. President, I move to lay the motion to reconsider on the table.

Mr. NELSON. Mr. President, I hope the Senator will withhold that motion for a moment.

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from Minnesota?

Mr. NELSON. I merely desire to make a brief statement.

Mr. SHIVELY. Certainly. I do not want to prevent the Senator making any statement he may desire to make. I withhold the motion for that purpose.

Mr. NELSON. Mr. President, this bill relates particularly to the matter of the operation of Government dredges in connection with our river and harbor improvement work. When the bill was introduced and referred to the Committee on Education and Labor, it escaped my attention. It ought to have gone to the Committee on Commerce. That committee has the consideration of all river and harbor improvements. In that connection, that committee has the consideration of everything pertaining to shipping and navigation. The committee is now engaged in considering two very important bills relating to our merchant marine service and the shipping in connection with it.

Within the next week we will consider the river and harbor bill. As this bill goes to the merits of that question, I think it ought to be reconsidered and referred to the Committee on Commerce for consideration, where a measure of this kind can be considered more carefully than anywhere else in its connection with our river and harbor improvements.

The PRESIDENT pro tempore. The question is upon the motion made by the Senator from Indiana to lay the motion to reconsider on the table.

Mr. SHIVELY. Before the question is put, a further word in reply. If this bill belongs to the Committee on Commerce, then a bill to regulate the hours of labor at the navy yard should go to the Committee on Naval Affairs. A bill to regulate the hours of labor on public buildings should go to the Committee on Public Buildings and Grounds. The bill applies particularly to dredge workers, because this is the only class of laborers on public work that is now deprived of the benefits

of the Federal eight-hour law. The contention of various Senators as to which committee should have charge of the bill only suggests the risk to the bill in the few remaining days of this session should the motion to reconsider prevail.

Mr. BURTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from Ohio?

Mr. SHIVELY. Certainly.

Mr. BURTON. I think I may say that conclusion does not necessarily follow. The reason for the suggestion of the Senator from Minnesota is the exceptional quality of this work in the improvement of rivers and harbors—a reason which would not exist in the case of an ordinary mechanic or other person engaged on public buildings. There is certainly here an exceptional condition, which should receive further consideration from the Senate.

The PRESIDENT pro tempore. The question is upon the motion made by the Senator from Indiana to lay the motion to reconsider on the table. [Putting the question.] The noes appear to have it.

Mr. SHIVELY. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I have a general pair with the Senator from Illinois [Mr. CULLOM] and withhold my vote.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the Senator from Missouri [Mr. STONE]. In the absence of that Senator, I withhold my vote.

Mr. CURTIS (when his name was called). I am paired with the Senator from Oklahoma [Mr. OWEN] and withhold my vote.

Mr. DU PONT (when his name was called). I am paired with the senior Senator from Texas [Mr. CULBERSON]. As that Senator is not present in the Chamber, I withhold my vote.

Mr. THORNTON (when Mr. FOSTER's name was called). I announce the necessary absence from the Chamber of my colleague [Mr. FOSTER] on account of illness, and also that he is paired with the Senator from Wyoming [Mr. WARREN]. I will let this announcement stand for the day.

Mr. GARDNER (when his name was called). I have a general pair with the Senator from Massachusetts [Mr. CRANE]. In his absence, I withhold my vote.

Mr. LIPPITT (when his name was called). I transfer my pair with the senior Senator from Tennessee [Mr. LEA] to the Senator from New Mexico [Mr. FALL] and vote "nay."

Mr. RICHARDSON (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH] and withhold my vote.

Mr. CHILTON (when Mr. WATSON's name was called). I wish to announce for the day that my colleague [Mr. WATSON] is paired with the Senator from New Jersey [Mr. BRIGGS].

The roll call was concluded.

Mr. DU PONT. As already announced, I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. I will transfer that pair to the junior Senator from Nevada [Mr. MASSEY] and vote. I vote "nay."

Mr. WILLIAMS (after having voted in the affirmative). I have a general pair with the Senator from Pennsylvania [Mr. PENROSE], and therefore I desire to withdraw my vote.

Mr. BRADLEY. I am paired with the Senator from Indiana [Mr. KERN] and therefore withhold my vote.

Mr. STONE. My colleague [Mr. REED] is necessarily absent from the city on important business. I understand that he is paired with the Senator from Michigan [Mr. SMITH].

Mr. SMITH of Georgia. My colleague, the senior Senator from Georgia [Mr. BACON], is detained at home by a bereavement in his family.

Mr. MYERS. I have a general pair with the Senator from Connecticut [Mr. MCLEAN]. I transfer my pair to the Senator from Nevada [Mr. NEWLANDS], and I vote "yea."

Mr. CURTIS. I was requested to announce that the Senator from Maryland [Mr. JACKSON] is paired with the Senator from Oklahoma [Mr. GORE]; the Senator from New York [Mr. ROOT] with the Senator from Georgia [Mr. BACON]; the Senator from New Jersey [Mr. BRIGGS] with the Senator from West Virginia [Mr. WATSON]; and the Senator from Wyoming [Mr. WARREN] with the Senator from Louisiana [Mr. FOSTER].

The result was announced—yeas 31, nays 31, as follows:

YEAS—31.

Ashurst	Hitchcock	Overman	Smith, Ga.
Bryan	Johnson, Me.	Payntor	Smith, Md.
Chamberlain	Johnston, Ala.	Perky	Stone
Clapp	Johnston, Tex.	Poindexter	Swanson
Clarke, Ark.	Martin, Va.	Pomerene	Thomas
Dixon	Martine, N. J.	Shively	Thornton
Fletcher	Myers	Simmons	Tillman
Heiskell	O'Gorman	Smith, Ariz.	

NAYS—31.

Bankhead	Crawford	Jones	Perkins
Bourne	Cummins	Lippitt	Sanders
Brandegee	Dillingham	Lodge	Smoot
Bristow	du Pont	McCumber	Stephenson
Burnham	Gallinger	Nelson	Sutherland
Burton	Gamble	Oliver	Townsend
Catron	Gronna	Page	Wetmore
Clark, Wyo.	Guggenheim	Percy	

NOT VOTING—33.

Bacon	Curtis	Lea	Smith, Mich.
Borah	Fall	McLean	Smith, S. C.
Bradley	Foster	Massey	Warren
Briggs	Gardner	Newlands	Watson
Brown	Gore	Owen	Williams
Chilton	Jackson	Penrose	Works
Crane	Kenyon	Reed	
Culberson	Kern	Richardson	
Cullom	La Follette	Root	

So the Senate refused to lay the motion to reconsider on the table.

The PRESIDENT pro tempore. The question is upon the motion of the Senator from North Dakota [Mr. MCCUMBER] to reconsider the votes whereby the bill was ordered to a third reading, read the third time, and passed.

Mr. MCCUMBER. Mr. President, I suggest the want of a quorum.

The PRESIDENT pro tempore. The Senator from North Dakota suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Bankhead	Dixon	McCumber	Simmons
Bourne	du Pont	McLean	Smith, Ariz.
Bradley	Fletcher	Martin, Va.	Smith, Ga.
Brandegee	Gallinger	Martine, N. J.	Smith, Md.
Bryan	Gamble	Myers	Smoot
Burnham	Gardner	Nelson	Stephenson
Burton	Gronna	O'Gorman	Stone
Catron	Guggenheim	Oliver	Sutherland
Chamberlain	Heiskell	Overman	Swanson
Chilton	Hitchcock	Page	Thomas
Clapp	Johnson, Me.	Percy	Thornton
Clark, Wyo.	Johnston, Ala.	Perkins	Townsend
Clarke, Ark.	Johnston, Tex.	Perky	Wetmore
Cullom	Jones	Poindexter	Williams
Cummins	La Follette	Richardson	
Curtis	Lippitt	Sanders	
Dillingham	Lodge	Shively	

The PRESIDENT pro tempore. On the call of the roll 65 Senators have answered to their names. A quorum of the Senate is present. The question is on the motion made by the Senator from North Dakota [Mr. MCCUMBER] to reconsider the votes whereby the bill was ordered to a third reading, read the third time, and passed.

Mr. POINDEXTER. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. I transfer that pair to the junior Senator from Nevada [Mr. MASSEY] and vote. I vote "yea."

Mr. LIPPITT (when his name was called). I again announce the transfer of my pair with the senior Senator from Tennessee [Mr. LEA] to the Senator from New Mexico [Mr. FALL]. I vote "yea."

Mr. RICHARDSON (when his name was called). I again announce my pair with the junior Senator from South Carolina [Mr. SMITH] and withhold my vote.

Mr. WILLIAMS (when his name was called). I have a pair with the Senator from Pennsylvania [Mr. PENROSE]. I therefore withhold my vote. If he were present, I should vote "nay."

The roll call was concluded.

Mr. CHILTON (after having voted in the negative). I inadvertently voted when my name was called, not knowing that the Senator from Illinois [Mr. CULLOM] is out of the Chamber. I will transfer my pair with the Senator from Illinois [Mr. CULLOM] to the Senator from Nevada [Mr. NEWLANDS] and let my vote stand.

Mr. LODGE. I desire to announce that the Senator from New York [Mr. ROOT] is paired with the Senator from Georgia [Mr. BACON].

Mr. DILLINGHAM (after having voted in the affirmative). I should like to inquire whether the senior Senator from South Carolina [Mr. TILLMAN] has voted.

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. DILLINGHAM. Then I withdraw my vote, having a general pair with that Senator.

Mr. BRADLEY. I again announce my pair with the Senator from Indiana [Mr. KERN] and withhold my vote.

The result was announced—yeas 27, nays 37, as follows:

YEAS—27.

Bankhead	Crawford	Lippitt	Sanders
Brandegee	du Pont	McCumber	Smoot
Bristow	Gallinger	Nelson	Stephenson
Burnham	Gamble	Oliver	Sutherland
Burton	Gronna	Page	Townsend
Catron	Guggenheim	Percy	Wetmore
Clark, Wyo.	Jones	Perkins	

NAYS—37.

Ashurst	Hitchcock	O'Gorman	Smith, Md.
Bourne	Johnson, Me.	Overman	Smith, Mich.
Bryan	Johnston, Ala.	Payntor	Stone
Chamberlain	Johnston, Tex.	Perky	Swanson
Chilton	La Follette	Poindexter	Thomas
Clapp	Lodge	Pomerene	Thornton
Clarke, Ark.	McLean	Shively	Works
Dixon	Martin, Va.	Simmons	
Fletcher	Martine, N. J.	Smith, Ariz.	
Heiskell	Myers	Smith, Ga.	

NOT VOTING—31.

Bacon	Cummins	Kenyon	Richardson
Borah	Curtis	Kern	Root
Bradley	Dillingham	Lea	Smith, S. C.
Briggs	Fall	Massey	Tillman
Brown	Foster	Newlands	Warren
Crane	Gardner	Owen	Watson
Culberson	Gore	Penrose	Williams
Cullom	Jackson	Reed	

So Mr. MCCUMBER's motion to reconsider was not agreed to.

ADJOURNMENT TO MONDAY.

Mr. SMOOT. I move that when the Senate adjourns to-day, it adjourn to meet on Monday, January 27.

The motion was agreed to.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia. I move that the Senate proceed to the consideration of House bill 22871 to create extension departments in land-grant agricultural schools.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and acts supplementary thereto.

Mr. SMITH of Georgia. Mr. President, I desire to ask the Senators very briefly to hear me call attention to the differences between the bill as it comes from the House and the substitute which has been offered for it. The House bill carries an appropriation of $3,000,000 only. That appropriation is solely for the purpose of establishing extension departments at the land-grant agricultural colleges. The character of the work of those extension departments is familiar to the Senate, the work being especially to place representatives of the colleges in different parts of the States to demonstrate at the homes of the farmers the truths that have been developed during the past 25 to 50 years in the land-grant colleges and the experiment stations. The substitute which is offered by the Senator from Vermont [Mr. PAGE] proposes to appropriate $16,000,000 annually, instead of $3,000,000. It carries six distinct plans of work in addition to the extension work. What I desire to urge is that the bill of the Senator from Vermont has been assigned for consideration by unanimous consent immediately after the 30th of this month, and it ought to be allowed to come up on its merits for full consideration, rather than to be now substituted for the House bill, which is so different in its character. I wish to call the Senate's attention to the provisions of this proposed substitute that are in addition to the provisions of the House bill.

First, the proposed substitute would appropriate $3,000,000 to schools of secondary grade for instruction in agriculture, in the industries and trades, and in home economics. How many of those schools are there? Over 13,000. Suppose the States add $3,000,000 more, you would have $6,000,000 to be distributed among 13,000 schools to establish departments of agriculture, of industries and trades, and of home economics; you would have a few hundred dollars for each school, and effective work would be impossible; it would be a mere spreading abroad a few hundred dollars at each secondary school throughout the entire land. It would not be sufficient to accomplish the work desired.

The second appropriation is for $3,000,000 for schools of the secondary grade, with distinct departments in which the industries and the trades and home economics are taught. My criticism upon the appropriation is that there should be some requirement as to the amount of investment in the separate departments dedicated to instruction in the industries and the trades and home economics, or else, again, your $3,000,000 might be scattered abroad and do no good.

For practical work it takes a substantial plant to teach the industries or the trades. I think the experience of those cities which have undertaken to introduce special instruction in the industries and trades has demonstrated that a substantial plant is necessary for the conduct of the instruction. Specialists, trained with their hands to conduct the work, and with mental strength enough to teach, are required as instructors, and such men are called to places as superintendents of manufacturing plants. They command good salaries. To make effective even this second appropriation, there ought to be a requirement as to the amount of money invested in the plant and the amount of money spent at each one of the schools conducting an industrial department, lest our money simply be wasted.

There is another criticism as to these two appropriations. They are to be directed by a vocational board, which, in turn, must establish rules subject to the approval of the Secretary of the Interior. It introduces the national control into all of our secondary schools. I am not sure that many of the States are ready to submit their high schools or their schools of secondary grade to the supervision of the National Government. They are home enterprises; they are now controlled largely by home trustees; and I doubt whether many States would make an appropriation to meet an appropriation of this kind by the National Government, if by so doing control of ordinary high schools largely passed to the National Government.

The third appropriation of $3,000,000, under the proposed substitute, is for agricultural high schools. Let us see just what they are to be. They are to be in districts in each State, with not less than five counties nor more than 15 counties. Before they can receive national aid they must be established with a special plant, including quite a large tract of land. So far as I am personally concerned and my own State is concerned, I should be delighted to see this provision pass. We already have in each congressional district an agricultural high school. Each plant has cost us over a hundred thousand dollars. You can not establish a successful agricultural high school of the character contemplated in this bill for less than a hundred thousand dollars for the plant. So, if that $3,000,000 is to be utilized in each one of the States practically for each congressional district, there must be a preliminary investment of something over $100,000 to establish the plant.

As we have already gone to that expense and as we are appropriating $120,000 a year to support these 11 district agricultural schools in the State of Georgia, we are ready to take any part that can come from the National Government. We have already made our appropriation. I would be delighted to see the Senate and the House of Representatives agree to add that measure to the bill as it has passed the House, but I would hesitate to consent to its being substituted here, for the reason that I fear so many of the States have not already gone to this expense, and such hesitation could exist about passing such an appropriation that the entire bill might be stopped if we insisted upon putting that amendment on it.

The next appropriation, for about a million dollars, is for the establishment of branch experiment stations throughout the States, each one of these experiment stations to be located, in accordance with the terms of the bill, at one of the agricultural colleges.

I think that the substitute bill confuses the work of an experiment station and the work of a demonstration farm. I believe in having a demonstration farm at each district agricultural high school; but experimentation is not the proper thing for a high school. Experimentation in agriculture is the work of the trained student, of the scientist in testing out truth. Demonstration is the application of that truth before those, perhaps not scientists, to show them by its practical application that a process claimed is true. The agricultural high schools will all need demonstration farms, but not experiment stations.

That part of the appropriation, I think, might well, when we come to pass upon it, be divided in two ways—one half of the amount to be given to the agricultural high schools for demonstration work and the other half to be given to the experiment stations, which shall select places over the State wherever experimentation is required to test out unknown problems and to change from the unknown to the known and established truths.

Those are the four largest appropriations. It also gives, in round numbers, a million dollars to the colleges of agriculture to establish departments to educate teachers in these specialties, and also to the normal schools a million dollars to train specialists for the work as teachers.

It seems to me, Mr. President and Senators, that substantial modifications must be made in the substitute before we shall be ready to adopt it. What is meant by the first suggestion of $3,000,000 to go to schools of secondary grade for instruction

in agriculture, in trades and industries, and in home economics? Shall each one of these schools have instruction in all three branches? The fund is entirely inadequate to launch out on such a field of work. Instruction in agriculture is not a proper specialty to be introduced into the cities, where the children are not going to engage in agriculture. Instruction in the industries and trades probably would not be suited to some other high schools. There is no plan of division of the work.

If we are trying to reach out for additional work in the line of agriculture to instruct the children beyond the knowledge which is to be given them at the colleges and high schools, I would suggest that along with the demonstrator from the college of agriculture in the different localities of the State there should be a trained agricultural educator who could visit the schools—not the high schools, but the agricultural grammar schools, where 95 per cent of the boys who work on the farm are at school—and explain to those boys in advance what is about to be done in the demonstration field, how the ground shall be prepared, how the seed shall be selected, how the crop shall be cultivated, and spend the money training boys for agriculture by using skilled teachers, covering a considerable area of territory, who would invite the teachers and the scholars to study with them, largely through the utilization of the demonstration farm or the demonstration patches or the demonstration work that is carrying the knowledge of the colleges of agriculture and the experiment stations to the fathers and mothers throughout the various localities alongside their homes.

It might be that the first appropriation of $3,000,000, mixed, as it is, between agriculture, the industries and trades, and home economics, might be so modified as to give half of that sum exclusively to agriculture and let it be spent, not in the high schools all over the land, where the majority of the children are not concerned with agriculture, but be spent by using educational leaders in different areas of territory who will visit and organize agricultural instruction in the rural schools, for 95 per cent of the farm children are in the rural grammar schools and not in the city high schools.

Then, add to the industrial work the million and a half saved and give something like four and a half million dollars to schools that really are doing industrial work, that have a plant, and that are organized for something practical and substantial. Then the limitation should be placed upon it that no money should go to any school that has not a plant certainly worth $5,000, and I should say $10,000, and did not spend as much as $10,000 a year for industrial or trade instruction.

But, Mr. President and Senators, why should you substitute that bill for the bill that has come from the House? I understand that Senators will have an opportunity to vote for it; it will have its day in court in a few days; it will come up regularly for action immediately after the constitutional amendment is disposed of, as it is set by unanimous consent for that time. I have only called attention to its features sufficiently to indicate, if I can, that it is entirely a different measure from the measure which has come from the House. They are not substitutes for each other at all. The measure from the House is simply an appropriation to perfect the work of the Morrill Act and the Hatch Act. It is simply to complete this great work that has been going on for 50 years—first, the agricultural college 50 years ago and, then, the experiment station 25 years ago. Now, as the call is coming to both of these institutions to carry the knowledge they have gathered, to carry the truths they have proved, to the whole people engaged in agriculture, to carry them to the farmer, to the farmer's wife, and to the farmer's child, and let the 49,000,000 people who are on the farm have the benefit of this knowledge, the House of Representatives has sent us a bill which will meet the call. That is the bill that the House sent you; that is all.

That we are ready for it nobody questions. That it ought to pass the friends of the substitute concede, for it is included in not quite so perfect shape in the substitute bill. Not originating with the Senator from Vermont at all, not originating with those of us who have presented it to the Senate and the House, but originating as far back as five years ago from the necessities of the situation, from the demand for the work by the people at home. The demand has been made of the heads of the colleges of agriculture and the experiment stations; it has so pressed upon them that they have already taken steps, to the extent of the funds within their reach, to do something along the line of this work; and where it has been done its beneficial effects to the people touched have been almost beyond what could have been hoped.

That within 10 years the House bill will double the production per acre I have no question. That the application of the knowledge ready for demonstration can make an acre of land yield 75 or 100 bushels of corn where frequently to-day only 15 or 20 are raised I have seen demonstrated and I know from practical experience and from personal observation. I have seen the demonstrated truths from the college of agriculture carried to the field and put on the land, and I have seen the corn product quadrupled and more than quadrupled by the application of the knowledge which their experimentation had demonstrated to be truth. I have seen it applied to the cotton field; I have seen it applied to the oat field; I have seen it applied to the potato field. I have heard from other States of its application. Before our committee we had testimony from all over the land to the wonderful blessings which came to the men to whom these truths were carried and taught by practical demonstration.

We have the assurance of the Director of the Office of Experiment Stations experience has taught that they can not carry these truths to the men who need them simply by pamphlets; that the one great available way is to recognize that agriculture is an art as well as a science, and to go and do this work in the presence of the farmer, so as to bring to the farmer a knowledge of the benefits which they have learned can be conferred upon him.

I have no doubt that the knowledge yet to be learned through our colleges of agriculture and our experiment stations is far greater than that they have already learned. I believe it is still a great book full of unknown knowledge, to be acquired by study and experimentation and to be carried to the field to bless the human race.

My deep interest in this House measure is due to the fact that I do not discuss it without having seen it tried. We had the privilege in the State of Georgia of giving $50,000 for demonstration work to our State college of agriculture, and I have seen the good it has done. I would have the State colleges of agriculture in every State in the Union given funds sufficient to carry to the people the blessings which I am sure they could give if we furnished them the means.

The legislatures are in session. In a number of the States they meet biennially, and another session will not occur for two years. This extension work of the department must be accepted by the various States to bring its full benefit to the people of the States. This bill has been before the Senate now for more than 12 months, and I would have it passed. We have received it from the House. There are one or two small amendments that are suggested—one by the Senator from Ohio, which I am prepared to accept. He desires, at the end of section 2, to strike out the period and to add the words "and farm management work." It seems that in some of the States that is the term used, and it was thought necessary to add that phrase to cover that work. It is entirely acceptable to the friends of the measure.

Another is a suggestion from the Senator from Wyoming that the term "Territories" as well as "States" might be added, so that the beneficial effects of the measure may be felt in our Territories as well as in our States. I have no objection to that. We were considering that matter ourselves. We were not exactly sure how it could be handled, and that was why we did not undertake to put in the Territories. But I understood the Senator from Wyoming to say that he had an amendment which would cover it, and that it would carry the beneficial effects of the bill to the Hawaiian Islands. I am not seeking to limit it so as to exclude the Territories from what I consider the very great benefits of the bill. I wish to say that I appreciate the magnificent work that the Senator from Vermont has done in the study of the problem of vocational education.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER (Mr. NELSON in the chair). Does the Senator from Georgia yield to the Senator from North Carolina?

Mr. SMITH of Georgia. Certainly.

Mr. SIMMONS. On the question of amendment to the bill I have had in mind an amendment which I have not offered and which I may not offer, because in the present state of the law it may not be feasible. I have received communications from my State with reference to the subject to which I am going to call the attention of the Senator, and I wish to ask him whether, in his judgment, it would be feasible to attach such a provision to the bill to meet the situation in my State and, I presume, in some other States.

The bill provides for an appropriation for a college of agriculture and mechanic arts for the purpose of extending agricultural work and home economics. In my State we have an agricultural college, and instruction in that college is confined exclusively to males. Then, we have our State normal schools for the instruction of females. In the agricultural department, as I understand from the communications I have received, they have never taught home economics. In the normal schools for females they do teach home economics.

Does the Senator think it would be feasible so to amend the bill as to allow this fund in States situated like mine to be divided up between the agricultural college and the normal schools for women? I merely want to get the Senator's view about it. I presume the difficulty is that this is to carry out a law already in operation and that does not apply to any colleges except agricultural and mechanic colleges. Does the Senator think it would be feasible by a provision of law to make a division of this fund to meet a situation of that kind?

Mr. SMITH of Georgia. I think it would be a great mistake to undertake to divide it. In the first place, the bill requires that 75 per cent of the expenditure shall be used for practical and actual demonstration work. The home economics that will be taught will be largely in the line of dairying and work of that kind. I think it would be a mistake to scatter the fund. I think the $6,000,000 will really be as little as we could hope substantially to cover the States with, and that to undertake to separate the responsibility and transfer any of it to the normal schools would be to defeat the very plan of the bill.

The object of the bill is to carry to the farmers truths that have been and are being worked out by duly constituted organizations which may be regarded as national in their character. Though now supported perhaps not one-fourth by the contribution which comes from the National Government, their existence was the result of the inspiration they derived from the national contribution. The bill is limited in its scope, based upon the recognition of the fact that these two agencies already receiving national aid, and as much national children as State children, have a fund of knowledge and a fund of information and a store of truths that the whole people engaged in farming can not use unless some outlet is furnished to carry those truths to them. It is the entire scheme of the bill to furnish a way to take these truths to the farmer's home and let the farmer and his wife and children have and use them.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from California?

Mr. SMITH of Georgia. Certainly.

Mr. WORKS. The Senator from Georgia has spoken about the futility of expending any part of the money provided under the substitute bill in the city high schools, because it is fair to presume that the boys attending those schools will not become farmers. Does the Senator understand that the use of the money in those schools is compulsory under the bill, or is there a discretion left in the authorities to use it where it will be beneficial?

Mr. SMITH of Georgia. I think there is a discretion. But what I was endeavoring to suggest was that we ought to make a division of the subject ourselves in our plan. What I suggested was that instead of joining in the first appropriation instruction in agriculture, the industries, and the trades, and home economics, and giving $3,000,000 to those three without classification and without separation, it would be far better to make a distinct appropriation for farm instruction to reach the agricultural or rural grammar schools, where the great part of the farm children go, and to spend what we intend to spend for the farm children other than through the agricultural high school by an agricultural instructor assigned to a territory to carry his instruction into the rural grammar schools; and then to use the part that was intended for instruction in the industries and trades, by consolidating it with the second branch of the appropriation, which was $3,000,000, enlarging that appropriation, and undertaking to do that work where there was a plant, I having undertaken to press the fact upon the Senate that it required a plant and required a substantial investment to obtain substantial results from instruction in the trades and industries——

Mr. PAGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Vermont?

Mr. SMITH of Georgia. Certainly.

Mr. PAGE. The Senator from Georgia is addressing himself to Senate bill No. 3, which is now pending before the Senate. I am violating no confidence when I say that he and I have recently had a number of conferences following a suggestion that some compromise be made between the two bills. In these conferences the features of Senate bill No. 3, which he regarded as objectionable, were thoroughly discussed. I had understood that we had come to a meeting of minds with regard to the criticisms which he is now urging—that they had all been taken care of by a compromise bill which he had approved—and until this afternoon I had understood that we were in perfect accord upon the principal features of the compromise.

The objections which he has just raised on the floor to Senate bill No. 3 were raised by him in previous conversations, and have been met to the satisfaction of the Senator from Georgia, if I understand aright, in the proposed compromise measure containing the present Lever bill and the present Senate bill No. 3 with minor amendments.

He says that he feels that the $3,000,000 given by Senate bill No. 3 for agricultural, industrial, and home economics education in departments of secondary schools would be wasted because of the lack of proper safeguards standardizing the work. This objection has been met in the proposed compromise bill, which would undoubtedly go before a joint conference between the two Houses, should my motion to substitute the Page bill after the enacting clause of the Lever bill, now pending, prevail.

It has been done by confining the instruction in rural schools to agriculture and home economics, leaving the instruction in trades and industries to be given in separate and distinct departments or schools in towns and cities, $4,000,000 being annually appropriated for this purpose.

In addition, the experience and qualifications of the instructors in agriculture and home economics have been prescribed in the bill. Such instructors are required to give all of their time to the school work.

I make the above statement for the purpose of showing clearly that it is no defense of or argument against the motion to substitute the Page bill for the Lever bill to say that there are objectionable features in the Page bill. Such changes in the Page bill as meet with the approval of this Senate could be made either by action upon this floor now or by the committee of conference, as might be deemed advisable after its report had been returned to this body. It is doubtful if any measure in this new and difficult field can otherwise be brought to such perfection as to command the general approval of the Senate.

I believe that the changes which I understood to have been agreed upon with the Senator from Georgia safeguard certain things in the bill and strengthen it in the opinion of those best qualified to pass judgment upon it.

I have the highest regard for the Senator from Georgia as the most profound thinker and student upon this matter of vocational education of any Senator with whom I have ever talked, and I have great respect for his opinions and his ability. I very much regret, however, that after our conferences of the last few days he has thought it necessary to urge upon the Senate action upon a special bill for agricultural education for the adult farmer in such a way as to put in jeopardy the program for widespread vocational education petitioned for by organizations representing a very large majority of our educators, provided for in Senate bill No. 3, and which this Government should adopt and enter upon at once if it is to preserve the prosperity of its people.

Mr. SMITH of Georgia. I understand, then, the Senator desires to offer a substitute for his present substitute. I was discussing the measure as it is still before the Senate, the only substitute that is before the Senate. If the Senator from Vermont intends to present this additional substitute, I would be glad to yield and let it be read.

Mr. PAGE. I would be very glad indeed to present it. I was waiting for an opportunity to do so.

The PRESIDENT pro tempore. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. CUMMINS. Inasmuch as the time has been fixed to consider and vote upon this measure, I ask that it be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Iowa asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none.

Mr. SMITH of Georgia. Mr. President, the Senator from Vermont and I have had several conferences recently. I have had conferences both with him and the experts who have been studying these measures, and I know that the question of redrafting in some respects the present substitutes has been considered. If the Senator from Vermont contemplates presenting another substitute for the substitute he now has pending, I think probably I had better suspend and yield to the Senator from Vermont to let that be read first.

Mr. PAGE. Mr. President, I wish to yield absolutely to the wishes of the Senator from Georgia in that regard. If he wishes to finish his remarks, I would be very glad to have him do so.

But I thought I would suggest to him that he was addressing himself to another bill than the one I had supposed he and myself were in perfect accord upon.

Mr. SMITH of Georgia. I have said all I desire to say about the measure that I understand is before the Senate just at this time. I think if the Senator has determined to present another substitute it ought to be presented.

The PRESIDENT pro tempore. Does the Senator from Vermont withdraw the amendment previously offered and submit an amendment in lieu thereof?

Mr. PAGE. I do, Mr. President, with the consent of the Senate.

The PRESIDENT pro tempore. That is the Senator's privilege.

Mr. PAGE. I then ask leave to withdraw the amendment to the bill under discussion which I offered several days ago, and substitute therefor another amendment. I would prefer to explain to the Senate what the substitute means before it is read by the Secretary, if there is no objection.

Mr. SMITH of Georgia. I yield, then, to the Senator from Vermont.

The PRESIDENT pro tempore. The Senator from Vermont will proceed.

Mr. CUMMINS. Mr. President, I am interested in one thing especially stated by the Senator from Vermont. I infer from his statement that he has now a bill which he proposes to substitute for the House bill in which the Senator from Georgia concurs.

Mr. SMITH of Georgia. No; I do not mean that. I have never concurred in the proposition——

Mr. CUMMINS. I understood the Senator from Vermont to say that.

Mr. SMITH of Georgia. I have never concurred in the proposition that any substitute should come in here and stop this bill. The Senator from Vermont called on me with an expert on the subject, and I undertook to point out defects in the bill he had offered as it was then pending. I presented my criticisms, and I understood that they agreed that my criticisms were sound, and they have rewritten their bill. I have been unable to carefully examine it.

I think it is a mistake to try to perfect the vocational bill as a substitute for this House bill. I think we ought to pass the House bill as we have it and perfect the bill of the Senator from Vermont when we reach it on the 30th. But if the substitute of the Senator from Vermont is to be passed instead of the House bill, of course I am anxious to see it just as near the legislation which I think ought to be had as possible.

Mr. CUMMINS. I think I understand better now. I rather inferred from the statement of the Senator from Vermont that he has a bill here that is acceptable both to the Senator from Georgia and the Senator from Vermont and that practically it is to be presented with their joint approval, so that we might consider the controversy at an end so far as they are concerned.

Mr. PAGE. Mr. President, perhaps I ought to make a brief explanation before I go on and state what the substitute is which I propose to offer.

As will be remembered, at the discussion which we had recently in the Senate with reference to the substitution of my bill, the Senator from Georgia said that there were objections to my bill which he thought could be remedied. I thought that there was then a prospect in sight that a bill acceptable both to the Senator from Georgia and myself could be written. Having that supposition in mind, as the Senator said, I went to his home with an expert and said to the Senator, "Tell me the objections which you have to the original Senate bill No. 3." He, with a good deal of elaboration, and, as I think, ability, explained its defects. I said then to the Senator (and I hope the Senator will correct me if I make a mistake), "This bill shall be rewritten in accordance with your suggestions, and it will be submitted to you for your approval; and if when resubmitted there are further objections, I would like to have you name them."

I afterwards saw the Senator, and he said, "The bill seems to me to be very good"; and even as late as this morning I said, "Senator, if there is anything about the bill as rewritten that you think should be changed I should like to have you so state to me, because I think we can probably reach an agreement, since we are in such perfect accord in regard to the fundamentals of this measure."

The Senator, in debating the question this morning, has argued in favor of the Lever bill. The Lever bill is Senate bill No. 3 as to one feature. It is true the Lever bill appropriates $3,480,000 for college extension work, while the Page bill, or Senate bill No. 3, appropriates only $3,000,000 for this particular feature of the bill. I care nothing about that difference. I am very glad indeed to make an amendment to Senate bill No. 3 to meet exactly the Lever bill. So in the amendments submitted to the Senator from Georgia, as I stated, there were incorporated, word for word, without so much as the change of a comma, the provisions of the Lever bill for agricultural extension departments.

So far as the Lever bill is concerned, all debate in favor of that bill by the Senator from Georgia is equally an argument in favor of Senate bill No. 3.

The next provision which was debated by the Senator and myself was the branch-station feature of the bill. One million dollars are appropriated under Senate bill No. 3, known as the Page bill, for branch-station work. I want to say that of all the features of the bill, that, perhaps, has received the greatest criticism. At a meeting held here in Washington in December, 1911, at which Dean Russell, of the Wisconsin University, and Dr. Thompson, of Ohio University, were both present, their position was substantially that they did not approve of any research work at any experiment station connected with district agricultural schools. At their suggestion an amendment was then prepared that made these branch stations, so called, simply testing and breeding stations of cattle, qualities of seeds, and some minor work.

I supposed at that time that this change met the criticism of those who opposed Senate bill No. 3 because of this experiment-station feature; but I am frank to say that in the discussion and correspondence I have had during the past two years that feature of the bill has perhaps been criticized more than any other, and as all measures are somewhat the result of compromise, I cheerfully assented to the suggestion that we eliminate the $1,000,000 for the experiment stations in connection with these district agricultural schools.

The next suggestion of amendment made by the Senator from Georgia, as I remember it, was the impracticability of teaching the industries in rural schools. The Senate will remember, perhaps, that Senate bill No. 3 reads "for the teaching of agriculture, the trades and industries, and home economics in rural schools," and an appropriation of $3,000,000 was made therefor. As I have stated, in order to meet the views of the Senator from Georgia—and I think they are sound—we eliminated the industrial-school feature from the rural schools and reduced the amount appropriated for that purpose to $2,000,000, adding the million dollars taken off at that point to the appropriation made for the benefit of industrial schools in the towns and cities, because under the bill, as it will be amended, agriculture gets $3,480,000 for the college extension work, it gets $3,000,000 for the different agricultural high schools, and it gets $2,000,000 for the district agricultural schools, making $8,480,000 in all as against $4,000,000, as the bill is rewritten, for the industrial schools.

That seemed to be a fair division—$8,480,000 for agriculture and $4,000,000 for industrial schools—although, as is well known, the rural population of our country to-day is only about one-half of our total population.

I think those who favor the appropriations in Senate bill No. 3 for industrial education are content. I believe they are satisfied with $3,000,000, and that they are pleased now to think that industrial education has been taken from the rural schools, where they felt they might not get any substantial benefit from it, and that $1,000,000 has been transferred to industrial education in the city schools.

The next objection urged to this bill at our conference, and it has also been urged by the Senator from Georgia this morning——

Mr. SMOOT. May I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Utah?

Mr. PAGE. I am very happy to yield.

Mr. SMOOT. I should like to have the Senator explain as to the secondary grade or high schools. There is an appropriation of $3,000,000 for that class of schools, and it is for the purpose of teaching agriculture, industries, trades, and home economics. I understand there are about 13,000 or more such schools. Does the Senator think that that amount of money distributed among 13,000 schools for the teaching of these four subjects will be sufficient to do any particular good? And if not, why not state positively just what that will be expended for—whether it shall be for agriculture, for the industries, for the trades, or for home economics? Because, it seems to me, that with that amount of money divided up into 13,000 schools the amount will be too small and that none of them would get any particular advantage from it.

Mr. PAGE. I wish to say that I am not at all disturbed by these interruptions. I only wish that every Senator here might

interrupt and that we might have a full discussion of this measure, so that all Senators would understand its provisions.

I do not know how many schools will avail themselves of the provisions of this bill. It is not believed that many will do so except in localities where there are consolidated rural schools, so called, and in the larger villages; and there will not, in the judgment of educators, be anything like the number named by the Senator from Utah. All that I can say in regard to the bill is that I have submitted it to the educators of every State. During the last two years I have written to every governor, every board of education, and to every superintendent of public instruction. I have asked them all to suggest amendments to the bill, and, Mr. President, there has been, with scarcely an exception, an approval of the measure. I can say positively that 35 States, and I can give them by name if any Senator desires, have taken the bill under discussion and carefully analyzed it and said it was good.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from South Dakota?

Mr. PAGE. Certainly.

Mr. CRAWFORD. The bill as I understand it purposes that for every dollar paid by the Federal Government, before it can be made available in any State that State must appropriate and provide an equal amount, so that the Federal appropriation represents only one-half the amount which will be used.

Mr. PAGE. The Senator is mistaken. The bill provides that for every dollar appropriated from the Federal Treasury two dollars shall be added.

Mr. CRAWFORD. So much the better.

Mr. PAGE. I wish to say in this connection that educators say that the way this bill will work out will be this: The Federal Government, for instance, will give $500 for a school, the State will add to it another $500, making $1,000, and then the local community will add another thousand dollars, making $2,000 for every $500 from the Federal Treasury. Indeed, it is said by Dr. Thompson, of the Ohio State University, who has been before our Committee on Agriculture and Forestry, that the amount expended by the State of Ohio for agricultural colleges exceeded by forty times the amount that they drew from the Federal Treasury under the Morrill Act; and I think one of the educators who appeared before our committee from Rhode Island said that in his opinion, on the average, every State of the Union would pay thirteen or fourteen times as much as is contributed by the Federal Treasury.

This bill is not designed to place upon the Federal Government the chief burden of conducting our schools. It is designed to go ahead and blaze the trail, to stimulate and encourage the States to take up this vocational work, and it is designed that they shall bear the greater portion of the burden.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield further to the Senator from Utah?

Mr. PAGE. With pleasure.

Mr. SMOOT. In order to get an understanding as to just what the Senator meant by his statement in answer to what I said before, I should like to ask him this question: Suppose there are 100 high schools, or secondary schools as they are called in the bill, in a State and there are only 25 of those schools that desire to avail themselves of this appropriation, will the State receive only an amount pro rata to the number that apply, or will the State receive the full amount pro rata to the high schools in the State?

Mr. PAGE. The State will receive its pro rata, which will be based upon the number of people of Utah, for instance, engaged in agricultural pursuits. Let me say in this connection, that this matter is so adjusted that the State itself can say what constitutes a rural school under this bill. If they wish to say to a rural community, "You must raise $2,000 before you can have the benefit of the Federal appropriation," they can do so. The language of the bill as amended—and I want to say that this amendment was made in accordance with a suggestion by the Senator from Georgia, and is a most excellent one—is this:

Provided further, That the meaning of the words "rural high school" as used in the act shall be determined for each of the States and the District of Columbia by the board of vocational education for each State and the District of Columbia, etc.

Mr. SMOOT. That is just what I was coming to. I wanted to know whether that idea has been incorporated in the amended substitute of the Senator——

Mr. PAGE. It has.

Mr. SMOOT. Because it was not in the original bill. I was going to lead up to that question by asking my former one and then follow it with just what the Senator has spoken of.

Mr. PAGE. I wish to say that in all the suggestions I have received from Senators on this floor or from others none have been more valuable than those suggested by the Senator from Georgia. This is one of his suggestions, and I think it is a most excellent one.

Now, let me proceed, if the Senator from Georgia will permit me, to refer to him in this personal way, and I trust I am giving him no offense. He suggested the danger or liability of having schools established which would waste or fritter away the money we appropriate, and he said, "Before we give any of these industrial schools any money, I want to know that a substantial sum shall be expended by that school."

To meet the Senator's views, the following provision was written:

And provided that no such separate industrial or home economics school shall receive the benefits of this act which does not expend more than $5,000 annually for maintenance.

The State of New Jersey has this law. Any town or city desiring to avail itself of State aid for industrial education may draw from the State treasury as much as they expend up to $5,000. In other words, under the New Jersey law a $5,000 school must in reality be a $10,000 school, the city raising $5,000 and the State contributing $5,000.

If this plan is adopted with reference to Federal aid, it is hoped that where the Federal Government contributes, for example, $2,500 the State will contribute another $2,500 and the local community will raise $5,000, in this way providing for a $10,000 school.

Another provision of the original bill was this, that in order to avail themselves of the appropriation for the industrial schools in cities a new building must be built and equipped. The Senator from Georgia said, "In my State they have a good many buildings that are ready to take in this work, and it would be wrong to compel cities that already have suitable buildings to build separate buildings. The bill has therefore been so amended that these industrial schools may be conducted either in a separate building or in a separate division of an existing building.

Mr. McCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from North Dakota?

Mr. PAGE. Certainly.

Mr. McCUMBER. I have been desiring to ask the Senator a question on this point for some time, and as he has just reached it I can with propriety ask it now.

Mr. PAGE. I am very happy to be interrupted by the Senator.

Mr. McCUMBER. I want to know what provision there is in the Lever bill or in the amendment which is proposed to the Lever bill for determining what shall be deemed an agricultural college. What board or faculty or who is to determine that question?

Mr. PAGE. Agricultural colleges in both the Lever and Page bills are those colleges which have been established under what is known as the Morrill Land Grant Act.

Mr. McCUMBER. The point is that in a number of cities we have agricultural colleges that for the most part have a curriculum that will correspond with that of the State university. Some of the branches taught are practically the same as in high schools, and there are some in which the larger proportion of the studies are those pertaining to ordinary branches rather than to agricultural subjects. There ought to be some person empowered to determine what may be properly called agricultural education, and that ought to be made clear and definite in the bill.

I am making the suggestion because I offered an amendment which proposed to provide that no portion of the fund should be paid out by any State until the Secretary of Agriculture of the United States and the governor of the State should jointly certify that they were giving an education in conformity with the spirit of the law.

Mr. PAGE. I am very glad to have the Senator bring up that point. In a conference with the Senator from South Dakota only yesterday he said, "I am fearful that sufficient care has not been taken to safeguard this great fund." I read to him the provisions of section 24 and sections following, and after I had finished reading them he said, "The bill is splendidly safeguarded, and I am thoroughly in accord with what has been done, because it provides what shall be done if any State does not carry out the spirit and purpose of this act."

The bill is safeguarded in the most careful way, and I would be glad to read the particular provisions or the whole of the bill, if the Senator would like—indeed, I think the bill ought to be read after we have concluded our discussion. Is that an answer to the Senator's question?

Mr. McCUMBER. I have proposed a simple amendment, which, it seemed to me, would make that clear:

Provided, That no State shall pay out any part of the appropriation provided in this act to any agricultural college until the governor of said State and the Secretary of Agriculture of the United States shall jointly approve the courses or departments of study that are being or are proposed to be offered in said college or colleges.

Mr. CRAWFORD. Mr. President——

Mr. SMITH of Georgia. If the Senator will allow me——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from South Dakota?

Mr. McCUMBER. I yield.

Mr. CRAWFORD. I simply wanted to suggest to the Senator from North Dakota that I was preparing an amendment when the Senator from Vermont and I had the conversation to which he refers; but after reading those provisions of the bill which seek to safeguard this fund I abandoned the idea of doing it. It seems to me, if the Senator will permit me, that it would be better to have the substitute, which is now being perfected, printed, so that it may be carefully and critically examined before undertaking to suggest such an amendment to it, because upon the examination of the printed copy of this new draft the Senator might feel, as I did, that the point was already covered.

Mr. McCUMBER. Probably the Senator would have no objection to reading that particular portion that is designed to effectuate the same purposes I have mentioned.

Mr. CRAWFORD. I think it runs through a couple of sections.

Mr. PAGE. Let me suggest, in answer——

Mr. McCUMBER. I do not like the idea, I may say, of some department that is not connected directly in the first instance in determining what the course of an agricultural college shall be to determine afterwards whether the money should have been paid out. That ought to be established before the money is paid out in the first instance, and it ought to be established in such a way that any college will know when it is receiving this money that it is receiving it lawfully, and that no question can possibly arise in the future as to its being entitled to its proportionate share of that fund.

Mr. PAGE. Will the Senator allow me to read the section?

Mr. McCUMBER. I should be very glad to have it read.

Mr. PAGE. Let me say, in this connection, that there has been no change in any of the last 10 or 15 sections of the original bill. Such changes as have been made have been made in the earlier portions of the bill to make it conform to the views of the Senator from Georgia [Mr. SMITH]. There have been no changes made, except two or three unimportant ones suggested by the Senator from South Dakota [Mr. CRAWFORD] last evening, and I will mention one of them now. Section 28 reads:

SEC. 28. That whenever it shall appear to the Secretary of the Interior, from the annual statement of receipts and expenditures of the custodian for vocational education of any State or the District of Columbia—

The Senator from South Dakota asked that I insert at that point the words "or otherwise," because if the Secretary of the Interior gets the information from any source he may regard it—

that a portion of the preceding annual disbursement made to such State or the District of Columbia from the rural-school fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, or the teachers' training fund remains unexpended, a sum equal to such portion or amount shall be deducted by him from the next succeeding annual disbursement from such fund to such State or the District of Columbia—

In other words, that fund if paid out for any other purpose than the purposes of this act can not be regarded as a part of their disbursements. It is for the Secretary of the Interior to say what has been properly disbursed, and if not properly disbursed a similar amount will be withheld from the next year's appropriation.

Mr. McCUMBER. Yes; but the Senator himself undoubtedly observes the weakness of that proposition; at least that it does not answer the suggestion I made, in that when it shall appear, after a college has been run for one year or more, that certain funds have not been used, then action may be had. The point that I want to establish is that some proper authority shall determine, in the first instance, whether the course of that particular college is such as to entitle it to the fund, and when that has been established there can be no question but that the college would be entitled to it and would receive it.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from South Dakota?

Mr. McCUMBER. Yes.

Mr. CRAWFORD. Does the Senator think, taking this whole bill, that it is drawn so that there would be any possibility that the fund would be paid over to an institution that was conducted for the purpose of educating dentists in a State or pharmacists in a State? The whole purpose of this bill is for institutions and branches of such institutions as are conducting this particular type of education. How is it possible to give the money to something else?

Mr. McCUMBER. The Senator knows as well as I do that there is not an agricultural college in the United States that does not teach something besides agriculture.

Mr. CRAWFORD. Certainly.

Mr. McCUMBER. They necessarily are compelled to do so, and should be compelled, of course, to give a course in chemistry, in biology, and in a great many other branches, such as geography, grammar, English, and the other simple branches.

Mr. CRAWFORD. I think the terms of the bill are very plain as to that.

Mr. McCUMBER. I want some authority to determine, in the first instance, definitely whether such a college is really an agricultural college, primarily designed, I might say, for an agricultural college, or whether agriculture is simply one of the branches that is being taught there; and, if it is but one of them, whether it is taught to such an extent that it becomes the important one.

Mr. CUMMINS. Mr. President, I think the Senator from North Dakota has possibly overlooked the fact that there is no appropriation made here for any State agricultural college except for its agricultural extension work. There is no appropriation that any agricultural college can use for its general purposes.

Mr. PAGE. None at all.

Mr. CUMMINS. I think section 18 is the section which really guards the matter. I mean section 18 in the print originally supplied by the Senator from Vermont. I know nothing about the manuscript that he now has before him. Section 18 of that print provides:

That no State shall be entitled to any part or all of its allotment for extension department work until its legislative authority shall, by law, provide for the establishment of an extension department or division in the State college of agriculture and the mechanic arts as herein provided, and shall have provided as an appropriation for that work an amount at least equal to the amount annually allotted to the State for such extension work under this act.

It therefore not only requires the action of the State executive, but requires the action of the State legislature in establishing an extension department in connection with the agricultural college before any part of this money can be drawn; and then it is drawn only for agricultural extension work; it can not be drawn for any of the general purposes of the college.

Take our own agricultural college. Its curriculum is almost as comprehensive as that of the State university. Of course, it requires a vast fund to support it annually, and I take it for granted that the Senator from Vermont has not intended that any part of this contribution shall be used by that college for any other purposes than agricultural extension work.

Mr. PAGE. It certainly could not, as I understand the measure.

Mr. CUMMINS. And it does seem to me, so far as the agricultural colleges are concerned, that the expenditure of the fund is fully provided for. Of course, there are a great many expenditures here for a great variety of schools, but none of them, save the one which I have read, pass under the control or management of the agricultural college. They go through other channels.

Mr. PAGE. Mr. President, it will, perhaps, be observed that this discussion is relative to the administrative features of the measure. I want to assure every Senator that the business end of this proposition has been provided for, I think, with painstaking care. I think the Senator from North Dakota will find it absolutely safe. But, be that as it may, of course no Senator here will object to any amendment that seeks to safeguard the measure in any way. I shall be very glad indeed to have amendments suggested. The whole of this bill, as it has been rewritten, has been submitted to the Senator from Georgia [Mr. SMITH], and I understand he approves of its features. If he does not, I should like him to point out wherein he dissents.

Mr. SMITH of Georgia. If I may interrupt the Senator. I wish to say that I have not been able to examine the bill carefully. I have said to the Senator that, so far as I got with the reading, the bill seemed to me to be upon the proper lines; but I was entirely unable to give it the time and the thought that was necessary to really master it. It impressed me very favorably, so far as I went, but I was not able to reach a conclusion.

Mr. PAGE. I want to thank the Senator from Georgia for that suggestion, and I want to assure him that not only has the bill been drawn with a scrupulous regard to the conversation which he and I had relative to it, but I will say that if I should find that in any particular I had failed to catch the

spirit of his suggestions, which I regard as very good indeed, I should, with great pleasure, modify the bill.

Mr. CUMMINS. Mr. President, it seems to me that, under this rather extraordinary situation, there is nothing to do but to have this new bill printed, so that Senators may examine it. I am not yet able to discover what change is made in section 3. Does the Senator from Vermont still propose to expend part of the appropriation provided in that section for the teaching of agriculture in secondary schools or high schools of the respective States?

Mr. PAGE. The Senator refers to section 3?

Mr. CUMMINS. In section 3 it is proposed to give $3,000,000 to the teaching of agriculture and instruction in the industries and trades and home economics in the secondary schools; that is, the high schools of the various States. Has any change been made in that regard?

Mr. PAGE. There has been. As I explained before the Senator from Iowa entered the Chamber, the Senator from Georgia objected that instruction in trades and industries could not be properly combined with instruction in agriculture in what we call the rural schools, and that——

Mr. CUMMINS. Those are not rural schools; on the contrary, they are practically all city schools. In our State, at least, we do not have any high schools save in the towns of reasonable size.

Mr. PAGE. The construction of the words "rural schools" has, under the amendment offered by me, been left to the discretion or decision of the board of vocational education, but it is supposed that the rural school is a school in the open country or in villages.

Mr. CUMMINS. Section 3, Mr. President, does not refer to those schools. It provides:

That for the maintenance of instruction in agriculture, the trades and industries, and home economics in departments or divisions of schools of secondary grade, other than the separate industrial or home economics school.

Those are not the rural schools, the schools in the country; those are semicolleges or high schools in the cities or towns. I have not been able to gather just what change, if any, has been made in the appropriation for such schools. The Senator from Georgia says, and he says with absolute truth, that generally these schools are not attended by those whose especial interest is in agricultural training. They are more commonly than otherwise, at any rate, attended by pupils who live in the cities or towns. I merely wanted to know what had been done with that section, in view of the conference which the Senator from Vermont had with the Senator from Georgia.

Mr. PAGE. Mr. President, as I understand, the appropriations originally in the Page bill, or Senate bill No. 3, separated the rural schools from the urban schools. The cities, as has been suggested by the Senator from Georgia, do not want agriculture taught in the city schools, and it is his judgment—and I think it is mine, too—that the States that have high schools in agricultural districts do not, as a rule, want to teach the industries in those schools. The suggestion was made, therefore, that we drop the words "trades and industries" from the second line of section 3 as it appears in the Page bill.

Mr. CUMMINS. Then we would have this situation, that in the secondary schools there would be taught agriculture——

Mr. PAGE. And home economics.

Mr. CUMMINS. And home economics. The pupils in such schools in my State are vastly more interested in the trades and industries than they are in agriculture. I would rather have agriculture taught in the common schools; that is, the grade schools—what the Senator from Georgia calls the grammar schools, I suppose. I would be very sorry to see that part of the bill which relates to instruction in trades and industries stricken from the appropriation in aid of the secondary schools.

Mr. PAGE. Mr. President, I have probably taken up that matter with 500 different persons, and the general view is that, except in towns or cities of 2,500 or more population, it is not wise to seek to do much more in regard to instruction in trades and industries than would be necessary to assist the farmer in taking care of his own machinery, wagons, and so forth, on the farm; but instruction in home economics should be provided. That I confess was conceded to the Senator from Georgia without reluctance on my part, in view of the criticisms that have been made. It may be that in the State of Iowa they have towns of less than 2,500 population that would want to have industries taught in the schools; but the general trend of thought, so far as I have been able to get it, is that in the smaller towns they will want agriculture taught. In North Dakota, for instance, the schools will scarcely teach anything but agriculture, while in the schools of Massachusetts they will want generally to teach the industries. So we have divided it and said that in the larger towns they may have instruction in industries and home economics and in the smaller towns in agriculture and home economics.

Mr. CUMMINS. But, Mr. President, the Senator from Vermont misunderstands the situation, at least in my part of the country. Section 4, to which he referred just a moment ago, though not by number, gives aid only when distinct schools have been established for instruction in the trades and industries and home economics.

Mr. PAGE. If the Senator will allow me, that has been changed, so that there need not be distinct schools. That was changed as a result of the conference with the Senator from Georgia. Aid may now be given to any of the high schools having a suitable room in which to teach industries.

Mr. CUMMINS. Very well. I suggest to the Senator from Vermont that we can not get very far until we know what his bill is to be. I am very deeply interested in the general subject, and, therefore, I suggest both to the Senator from Vermont and the Senator from Georgia that the matter ought to go over until we can know what has finally been determined upon by the Senator from Vermont.

Mr. PAGE. Mr. President, I have with me only one copy of this measure, and I wish to refer to that during the discussion here. It is my purpose, when we close the discussion to-night, to ask that the redrafted bill be printed and laid upon the desks of Senators. Of course, it will be impossible to act upon it in any other manner; but during this discussion I have felt called upon to answer the criticisms of the Senator from Georgia in the way I have. I want now to provoke as much discussion as I can on this measure. It is a great big measure. The great political parties have indorsed it; the President-elect has indorsed it specifically; the present President has indorsed it; others have indorsed it, including, I may say, the candidate of the Progressive Party. It is, as I have said, a great big measure.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from South Dakota?

Mr. PAGE. Certainly.

Mr. CRAWFORD. So that we may look ahead a little and see what the issue is going to be here, I should like to know, if the Senator from Georgia has no objection to informing me, whether or not in any event he will oppose the incorporation into what is known as the Lever bill of any of the provisions of the vocational educational bill?

I make that inquiry because, Mr. President, as coming from an agricultural State, a State which has no industrial problems, no large cities, no congested centers, and which has very seldom, if ever, in its history had a labor difficulty of any sort within its borders, I am necessarily in most hearty accord with the purposes of the Lever bill and all provisions for agricultural extension work; yet, as a nation-wide problem, there is no feature connected with the whole subject in which I have a more profoundly active and deep sympathy than with the provisions for vocational education. I think that is the biggest question, the most far-reaching question, and that it presses upon us as one of the most necessary of any of the subjects with which we can deal. I should like to know, therefore, whether the Senator from Georgia, even though he may approve in an academical way a bill providing for vocational education, will oppose its being attached to the Lever bill. I make the inquiry so that we may have some idea whether we can reach an agreement on that question.

Mr. SMITH of Georgia. Mr. President, I thought I had made myself perfectly clear upon that subject. I said that it seemed to me to be right that the vocational bill should come up in an orderly manner after the disposition of the constitutional amendment, and be tested out upon its own merits; that I favored vocational education and favored Government aid to vocational education, and would be glad to support a bill when I understood it sufficiently and thought it properly perfected, providing for Government aid to vocational education along industrial lines and trade lines; but that I did not see any reason for attaching measures of that kind to the House bill. The House bill is an entirely different proposition. The House bill is the mere completion of what the Government is now doing. It is involving the Government in no new enterprise; it is simply saying, "We have been preparing for the people this information for these 50 and 25 years, and now we are going to carry it to them." It is itself a species of vocational education; it is a species of vocational education that would reach one-half of the American people.

I would prefer, as that bill has come to us from the House, that it should stand on its own merits and be passed on its own merits. It seems to me vocational education along the

lines of the trades and industries might well stand upon its own merits and the measure be perfected and passed.

We have had the vocational bill with us in the Senate for 12 months and are just beginning to find out what is in it; and on Monday we are going to have a new bill from the Senator from Vermont with reference to it. How can we expect, having taken 12 months upon it here, to send it over as a substitute for or to ingraft it upon the House bill, and expect the House in 30 days to become satisfied with it? How can we hope for such a thing? The so-called Page bill has been on our calendar since February. I do not want to see the House measure jeopardized; I wish to see that much legislation, at any rate, passed at this session. I am not perfectly clear yet as to just what kind of a vocational bill I will vote for. I have been studying the question; I have been giving what time I could to it, and I expect to keep on studying it; but when we pass it we should pass a proper measure; we should be sure we are doing some good and not simply wasting money. I do not think any of us have any doubt about the wisdom of the House bill. To pass that bill is an easier thing to do, because we already have the necessary agents to put it into operation; we have the instrumentalities, and it would be a mere completion of what we are already doing; but in vocational work along the lines of the trades and industries we are going out into a brand-new field; we are going into new territory, and we should first know that we are going right. I would rather have the House bill passed. Then let the vocational bill come up on its merits on the 30th of January and let us see if we can not at this session, so far as we are concerned, at least, complete it also.

Mr. PAGE. Mr. President, may I interrupt the Senator?

Mr. SMITH of Georgia. Certainly.

The PRESIDENT pro tempore. The Senator from Vermont is entitled to the floor.

Mr. PAGE. Does not the Senator understand fully that to pass the Lever bill at this time is to postpone indefinitely or, without question, until January, 1914, the great, broad measure involving vocational education?

Mr. SMITH of Georgia. I have no doubt it will be postponed. I think it is postponed anyway. I think it is utterly unreasonable to expect to send a measure of this kind to the House 30 days before the close of the session, and expect them to become satisfied with it and act on it at this session. I do not believe they will do so. We have had it before us for 12 months, and at the end of that time we find the bill reported by the Committee on Agriculture and Forestry withdrawn by the Senator from Vermont, and a new bill, twice as long and very different, substituted for it. That is the result of his thought and his study during the present year. Then we find, to-day, that as the result of further study and further criticism he is about to present us a new bill, and we must let the matter go over until Monday in order to have it printed and read.

If we in the Senate have found such occasion for change with reference to the measure; if we in the Senate in 12 months' time have abandoned the bill that came from the Committee on Agriculture and Forestry and have substituted another, and then have substituted another for that, and even to-day are finding it necessary to substitute a new bill, how can we expect the Members of the House, when we send this new line of work over to them, to be satisfied in regard to it in 30 days? I think it is utterly impossible for us to perfect a vocational bill as applied to the trades and industries that we can hope the House will accept and pass at this session. We have one measure dealing with agricultural extension work perfected and I wish to see it passed.

Mr. PAGE. Mr. President, the last bill before the one which I have to-day presented was a good measure. I am very glad, indeed, to have the Senator call attention to the fact that measure after measure has been presented here, because every measure that has come here has come as the result of study and labor in the effort to perfect this measure.

Mr. SMITH of Georgia. Will the Senator allow me to ask him a question? Which one of the Page bills?

Mr. PAGE. I will answer any question that is asked in candor. It was the bill I then presented. I have asked that it be allowed to be reported, that it might have a chance for consideration. I understand, however, that that is not likely to be done.

This bill is one that, in my judgment, the Senate ought to pass. The only way it can be passed is to add it to or make it a part of the Lever bill and get it into conference, and when it gets into conference we will then have an opportunity to bring it before the House. In no other way can it be brought there. If we pass it here and take it over to the House it will be referred to the Committee on Agriculture, and there, in my judgment, it will remain.

Let me repeat that the only way we can reach what it is desired to reach is by amending the so-called Lever bill as I have proposed to amend it and let it go into conference, and then I believe there will be action upon it. I have no doubt about it in my own mind. But, at any rate, I hope the Senate will pass this amendment, because it is actually germane.

It has been said that the amendment is foreign in its features to the Lever bill. Senators, the Lever bill proposes to send out experts from the agricultural colleges to the different counties of the country to instruct the adult farmer on the farm—not the boy and the girl—in agricultural extension work. The Page bill provides that there shall be a farmer, a man who has had the equivalent of two years in an agricultural college, who shall take the boy into the school during the winter months and teach him from the books, who shall devote his whole time to farming, and who, when the spring months come, shall go out on the farm and instruct the boy on the farm. In that way he is linked up with the man sent from the agricultural colleges to do the county work. The boy is instructed at the same time that the farmer is instructed. The two bills are not inconsistent. They should go forward together.

I hope the Senate will put this matter in such shape that the House will consider it at this session, because it is a great, big measure and ought not to go over until 1914.

Let me ask, Mr. President, that the amended bill—I do not know but that I might properly call it the Smith-Page bill—be printed and laid before the Senate for its consideration on Monday.

Mr. SMITH of Georgia. I must insist that the Senator retain the entire responsibility for the bill.

Mr. PAGE. I wanted to give the Senator the credit for some excellent amendments in the measure.

Mr. SMITH of Georgia. I am complimented to be associated with the Senator, because I know he has done splendid, hard work. But I want to be able to read the bill before stating whether I approve it or not.

The PRESIDENT pro tempore. The substitute submitted by the Senator from Vermont will be printed.

Mr. CLARK of Wyoming. Before that is done, I should like to make a suggestion to the Senator.

I notice that in both of these bills a very important section of our agricultural country, at least, has been omitted, and that is the Territory of Hawaii. There is no section of the United States or its Territories where either of these bills will be more beneficial and effectual than in that Territory. I hope it has been an oversight, and not intentional.

Mr. SMITH of Georgia. I want to say to the Senator that it has been an oversight.

Mr. CLARK of Wyoming. I suggest to the Senator from Vermont that in the reprint the bill be so printed as to include not only the States but the Territories of the United States—Hawaii being, as I understand, the only distinct Territory that we now have.

Mr. NELSON. Mr. President, the Senator has omitted the great Territory of Alaska.

Mr. CLARK of Wyoming. Sometimes we call Alaska a Territory and sometimes we call it a District.

The PRESIDENT pro tempore. The Chair will inquire of the Senator from Vermont whether his request for printing included printing in the RECORD or simply printing in the usual form?

Mr. PAGE. Mr. President, it occurs to me that if that amendment is included in the bill it may require something more than the bare insertion of the words "and Territories." I wish that matter might be left for future consideration, and that the bill may be printed as it now appears. Personally I feel so generous in regard to any matter of vocational education that I wish it could extend over the whole world.

Mr. CLARK of Wyoming. Mr. President, I see no reason why Hawaii should not be included if the bill is to be favorably considered. There is certainly no reason why the Territory of Hawaii should be omitted from this bill any more than any State in the Union, because there are possibilities there that few States in the Union possess.

Mr. PAGE. Will the Senator please prepare his amendment and have it ready by to-morrow?

Mr. CLARK of Wyoming. Mr. President, there is nothing to which I can present an amendment. It was only a suggestion that in printing the draft which the Senator proposes to offer on Monday it be so arranged that the Territory will be included.

Mr. PAGE. I shall be glad to have the Senator prepare an amendment, and I think I will accept it if he will present it.

Mr. NEWLANDS. Mr. President, I wish to ask the Senator from Vermont whether the amendment which he proposes covers in exact terms the provisions of the Lever bill which comes to us from the House?

Mr. PAGE. Mr. President, I stated at a time when the Senator was not present that we incorporated word for word, without so much as the change of a comma, the provisions of the Lever bill for agricultural extension work. The difference between the two bills is this: The Page bill, or Senate bill No. 3, appropriates $3,000,000 for extension work. The Lever bill appropriates $3,480,000. I do not object to the addition of the $480,000. So I thought it wise, to save any trouble or question, that we should adopt the Lever bill, or the Smith-Lever bill, without the change of a single comma.

Mr. NEWLANDS. Are we to understand, then, that the Lever bill covers simply agricultural work, and that the substitute offered by the Senator covers not only agricultural work, but vocational work?

Mr. PAGE. The Lever bill does not contain a single word or line in regard to industrial education. It provides for conveying knowledge from the experiment stations to the adult farmer on the farm. The Page bill, or Senate bill No. 3, provides for agricultural work in secondary schools and in district agricultural high schools.

Mr. NEWLANDS. Is the amendment which the Senator offers an amendment which covers in express terms not only the provisions of the Lever bill, but also all the provisions of the old Page bill?

Mr. PAGE. Not all of it, because it was amended at the suggestion of the Senator from Georgia, so as to exclude the $1,000,000 appropriation for branch-station work.

Mr. SMITH of Georgia. Mr. President, I desire to correct the statement of the Senator from Vermont. That was done, not at the suggestion but as a result of the criticism of the Senator from Georgia. I think perhaps that is a distinction that I should draw.

Mr. PAGE. Mr. President, I want to say that I went to the Senator's home, and I sat at his feet like Saul at the feet of Gamaliel, and I listened to the wisdom that came from his lips, and this measure was drafted exactly to meet his desires. After it was drafted I took it to him, and said: "Senator, is it all right?" He replied: "Yes; so far as I can see."

Mr. SMITH of Georgia. I think the Senator ought to modify that statement. I said, "I have not had time to study it carefully." The Senator sent me three different bills after the conference. I have not been disposed to state just what happened, but I must. He has sent me three new substitutes—one No. 1, one No. 2, and one No. 3—and each of those three is different. They are long. It would have taken me two or three days with nothing else to do to carefully study and critically master each of the bills. Each of these new bills was nearly as long as the 26-page bill he has just withdrawn. The first of the three I examined more carefully than the others, and I said to the Senator that it seemed to me that that bill was freer from criticism than either of the other two. I told him that I was more impressed with it, and that so far as I had had time to investigate it, I thought it was all right.

That is about the substance of what I said. The Senator certainly does not mean that I committed myself, or affect in any way in his action, except as he had invited criticism of the bill, and I tried to give it just as I gave it on the floor of the Senate. In the discussion we had at my house the criticism I made of the bill was very similar to the criticism I have made of it on the floor of the Senate.

Mr. PAGE. Mr. President, the Senator's argument to-day was addressed to the original bill with all its defects. I want to say that after I had presented the bill to the Senator, he said to me: "Senator, the first provision that you have suggested seems to me practically to eliminate my objections to the bill."

Mr. SMITH of Georgia. I do not think I ever said that.

Mr. PAGE. I withdraw the statement if I misunderstood the Senator. That is as I understood him.

CONNECTICUT RIVER DAM.

Mr. SMITH of Georgia obtained the floor.

Mr. BURTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Ohio?

Mr. SMITH of Georgia. I yield.

Mr. BURTON. I rose to give notice that on Monday, January 27, following the routine morning business, I would ask the Senate to take up and consider the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River, above the village of Windsor Locks, in the State of Connecticut. I understand, however, that it is desired to finish the agricultural extension bill on Monday, and at the request of the Senator from Utah and the Senator from Georgia I will change the date of the notice to Tuesday, January 28.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia. I desire to give notice that on Monday, immediately after the routine morning business, I shall ask the Senate to take up again House bill 22871, providing for agricultural extension work, and shall urge the continued consideration of the measure until we dispose of it.

Mr. POINDEXTER. Mr. President, I did not hear the request of the Senator from Georgia.

Mr. SMITH of Georgia. It was no request, but a notice that on Monday morning, immediately after the morning business, I shall ask the Senate to take up again the agricultural extension measure and continue to consider it until we dispose of it.

Mr. SMOOT. I move that the Senate adjourn.

The motion was agreed to; and (at 3 o'clock and 16 minutes p. m.) the Senate adjourned until Monday, January 27, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January 24, 1913.*

The House met at 11 a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty Father, we draw near to Thee in the spirit of prayer and devotion, that we may feel the pulsations of Thy loving heart and be reassured in our quest for a life of godliness, the surety of individual and national progress. Inspire us, we beseech Thee, with high ideals, and give us the desire and the strength as individuals and as a people to attain. For Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

IMMIGRATION.

The SPEAKER. The Chair wishes to state, before the House begins the morning business, that in regard to the conference report on the immigration bill, submitted by the gentleman from Massachusetts [Mr. GARDNER] yesterday for printing in the RECORD, everything was done by the clerks at the desk that it was their duty to do. It was published as a document, which shows conclusively that the conference report reached the Printing Office, and it was no fault of the clerical force of the House that it is not in the RECORD.

Mr. BURNETT. Mr. Speaker, right in line with that statement, would it be in order for me to ask unanimous consent to take up the conference report this morning?

The SPEAKER. Anything on earth is permissible by unanimous consent.

Mr. BURNETT. Then, Mr. Speaker, I ask unanimous consent, while we are upon that subject, to take up the conference report on the immigration bill. I can make a statement of the few changes that were made by the conferees.

Mr. GARDNER of Massachusetts. Will my colleague yield for a minute?

Mr. BURNETT. I will.

Mr. GARDNER of Massachusetts. The gentleman from Kentucky was on his feet to ask for recognition to correct the Journal.

Mr. BURNETT. I simply called it up now because we were upon that subject.

The SPEAKER. The gentleman from Alabama asks unanimous consent that after the Speaker's table is cleared the conference report on the immigration bill be taken up.

Mr. MANN. I suggest to the gentleman from Alabama that he does not make that request until later.

Mr. BURNETT. Very well; I will wait.

OMNIBUS CLAIMS BILL.

Mr. SIMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 19115) making appropriations for payment of certain claims in accordance with findings of the Court of Claims reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, disagree to the Senate amendments, and agree to the conference asked for by the Senate.

The SPEAKER. The gentleman from Tennessee asks to take from the Speaker's table the bill H. R. 19115, disagree to the Senate amendments, and agree to the conference asked for by the Senate.

Mr. MANN. Mr. Speaker, I would like to ask the gentleman if the bill has been printed with Senate amendments so that the House can have access to it?

Mr. SIMS. It has not, because the bill has remained on the Speaker's table by my request.

Mr. MANN. Then I think I will object.

Mr. SIMS. Will the gentleman withhold his objection?

Mr. MANN. Certainly.

Mr. SIMS. Mr. Speaker, I requested that this bill remain on the table in order that I might make some investigation of the Senate amendments. Mr. Speaker, I find that practically all of the House provisions of the bill were stricken out by amendment in the Senate and a great number of new items were added by amendments, and therefore the conference on the bill will require much time because there are such a great number of items to be considered. It is now getting toward the latter part of the session, and it will be practically impossible for the conferees to consider this bill unless it goes to conference immediately. That is the reason why I am hoping that the gentleman from Illinois will withhold his objection, because if it goes to the Committee on War Claims and that committee reports with recommendation to disagree to the Senate amendments and asks for a conference, it will simply go upon the Private Calendar to be called up only on the day when business on the Private Calendar can be considered under the rules, which may and probably will make it impossible for it to go to conference at the present session.

Mr. MANN. Mr. Speaker, there are a great many Senate amendments. The bill has not been printed to show what those Senate amendments are. It would be a difficult matter to ascertain what they are by an examination of the record of the proceedings in the Senate. If objected to, the bill will be referred to the Committee on War Claims and printed with the Senate amendments numbered. Then the bill will be reported back and the same request can be made after we have had an opportunity of examining the Senate amendments, and therefore I will object.

The SPEAKER. The gentleman from Illinois objects, and the bill will be referred to the Committee on War Claims.

CONTRACT FOR TRANSFERRING FOREIGN MAIL.

Mr. TUTTLE. Mr. Speaker, I ask unanimous consent that the Committee on Rules be discharged from further consideration of House resolution 778, directing the Committee on the Post Office and Post Roads to investigate certain mail contracts, and that the resolution be referred to the Committee on the Post Office and Post Roads.

The SPEAKER. The gentleman from New Jersey asks unanimous consent that the Committee on Rules be discharged from the further consideration of House resolution 778 and that the same be referred to the Committee on the Post Office and Post Roads. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, what is the resolution?

Mr. TUTTLE. Mr. Speaker, this is a resolution providing for the investigation of certain mail contracts which have been let by the Post Office Department. The Committee on Rules, I understand, is so congested with work that it may not receive consideration promptly, and as this affects certain contracts which are to go into effect on the 1st of July, it is thought that the Committee on the Post Office and Post Roads could give it the attention which it deserves at this time.

Mr. MANN. I doubt whether the Committee on Rules has as much work as the Committee on the Post Office and Post Roads. May we not have the resolution reported?

The SPEAKER. The Clerk will report the resolution.

The Clerk will read as follows:

House resolution 778.

Resolved, That the Committee on the Post Office and Post Roads be, and the same is hereby, directed to institute and carry forward an investigation into the letting of contracts for transferring the foreign mail from incoming steamships in New York Bay to the steamship and railway piers, and especially into the making of a contract between the Government of the United States through the Post Office Department and Howard Carroll, of New York, on or about the 19th day of November, 1912, for four years beginning July 1, 1913, for an annual compensation of about $17,300.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker, reserving the right to object, I would inquire of the gentleman from New Jersey if this investigation requires an appropriation or will require an appropriation?

Mr. TUTTLE. It will not. It has developed that a certain contract has been let without competition, to the amount of about $300,000, to cover an average of four years from next July.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I reserve the right to object.

Mr. GOLDFOGLE. Mr. Speaker, reserving the right to object, I want to say that I did not hear the resolution read. I would like to know who is to make the investigation.

Mr. TUTTLE. The Committee on the Post Office and Post Roads.

Mr. GOLDFOGLE. And there will be no expense attached to it?

Mr. TUTTLE. No.

Mr. GOLDFOGLE. No counsel employed?

Mr. TUTTLE. No.

Mr. GOLDFOGLE. The committee is going to make the investigation itself?

Mr. TUTTLE. Yes.

Mr. FOSTER. Mr. Speaker, while I think this resolution, of course, should go to the Committee on Rules, yet, under the circumstances, I believe it is right that the Committee on the Post Office and Post Roads should be permitted to make the investigation.

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask a question. Does not the Committee on Expenditures in the Post Office Department have the right under the rule to make the investigation at this time?

Mr. TUTTLE. I believe it has. There is a resolution which provides that it may; but that committee is conducting some extensive investigations at the present time, and we felt that attention could be more properly given to this by the Committee on the Post Office and Post Roads.

Mr. MANN. Does the gentleman from Tennessee [Mr. MOON], the chairman of the Committee on the Post Office and Post Roads, understand this proposition?

Mr. TUTTLE. He does. It was done after consultation with him.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

PENSIONS.

Mr. RICHARDSON. Mr. Speaker, I desire to call the attention of the Speaker to the bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, a pension bill, to call it up and ask that the House as a Committee of the Whole House take the bill up for consideration, as this is pension day.

The SPEAKER. The Chair will state to the gentleman what the condition of business is.

Mr. MANN. Mr. Speaker, I demand the regular order.

The SPEAKER. The unfinished business, which is the regular order, is the bill H. R. 23669, the reclamation town-site bill, on which the previous question has been ordered.

Mr. RICHARDSON. Mr. Speaker, I will state to the Chair that to-day two weeks ago the Pension Committee was absolutely cut out and had no chance to do business, and we were to be allowed to come first to-day. We are calling our cases up in regular order.

The SPEAKER. We have not yet reached the stage of the proceedings where either the gentleman from Alabama [Mr. RICHARDSON] or the gentleman from Ohio [Mr. SHERWOOD] would have the right of way. The unfinished business is to vote on the bill H. R. 23669, on which the previous question was ordered last Wednesday evening, unless it should be knocked out of joint by a conference report. The gentleman from Alabama [Mr. BURNETT].

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I ask unanimous consent that the conference report on the immigration bill may be taken up and now acted on.

Mr. RANSDELL of Louisiana. Mr. Speaker, I object.

Mr. BURNETT. Then, Mr. Speaker, I desire to give notice I will call it up in the morning the first thing after the reading of the Journal.

Mr. GOLDFOGLE. Mr. Speaker, I would ask the gentleman from Alabama, in view of the notice he has just now announced, to withhold the consideration of the conference report until Monday. I would like him to modify the notice that he has just now given. The gentleman is acquainted with the fact that some gentlemen in the House are necessarily detained from attendance here, and to-morrow being Saturday they may not arrive in town. Now, under those circumstances, I think the gentleman from Alabama ought to withhold the consideration of this conference report until Monday.

The SPEAKER. That rests entirely in the discretion of the gentleman from Alabama.

Mr. GOLDFOGLE. That is the reason I am making the request.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Without further order the conference report will be printed in to-day's proceedings in the RECORD?

The SPEAKER. The Chair has just directed the reporters to notify the Public Printer to have it printed in the RECORD in the morning. What does the gentleman from Alabama say?

Mr. BURNETT. I will not.

Mr. GOLDFOGLE. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. GOLDFOGLE. If the report is printed in to-morrow's RECORD, will not then the consideration of the conference report be necessarily postponed until Monday? I put that as a parliamentary inquiry.

The SPEAKER. It will not; no.

RECLAMATION TOWN SITES.

The SPEAKER. The Clerk will report the second amendment to the bill H. R. 23669.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the amendments may be submitted en bloc.

The SPEAKER. The gentleman from Illinois asks unanimous consent that all these amendments be submitted in gross. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands a division.

The House divided; and there were—ayes 31, noes 21.

Mr. FOSTER. Mr. Speaker, I make the point of order there is no quorum present.

Mr. MOORE of Pennsylvania. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] makes the point of order that there is no quorum present, and the gentleman from Pennsylvania [Mr. MOORE] demands the yeas and nays, and both things are accomplished at one time. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. Evidently there is no quorum present.

The question was taken; and there were—yeas 107, nays 152, answered "present" 14, not voting 110, as follows:

YEAS—107.

Alney	Farr	Konop	Pou
Allen	Foss	Kopp	Powers
Anderson	French	Lafferty	Prince
Anthony	Fuller	La Follette	Prouty
Austin	Gallagher	Langham	Rees
Bartholdt	Godwin, N. C.	Lawrence	Roberts, Mass.
Bates	Good	Lenroot	Roberts, Nev.
Buchanan	Green, Iowa	Lindbergh	Rodenberg
Burke, S. Dak.	Greene, Mass.	Linthicum	Rucker, Colo.
Burke, Wis.	Griest	Lobeck	Scott
Butler	Hamilton, Mich.	McCreary	Simmons
Calder	Hartman	McKenzie	Sloan
Campbell	Hawley	McKinney	Smith, Saml. W.
Cannon	Hayden	Madden	Stephens, Cal.
Cary	Hayes	Martin, S. Dak.	Sterling
Copley	Helgesen	Miller	Sweet
Crumpacker	Henry, Conn.	Mondell	Switzer
Curry	Higgins	Moore, Pa.	Taylor, Colo.
Dalzell	Hinds	Morgan, Okla.	Thistlewood
Davidson	Howell	Morse, Wis.	Towner
De Forest	Howland	Murdock	Volstead
Dodds	Humphrey, Wash.	Neeley	Warburton
Donohoe	Jackson	Nelson	Willis
Draper	Kennedy	Norris	Wood, N. J.
Dyer	Kent	Nye	Young, Kans.
Esch	Kinkaid, Nebr.	Patton, Pa.	Young, Mich.
Evans	Knowland	Pickett	

NAYS—152.

Adair	Collier	Fowler	James
Aiken, S. C.	Cooper	Gardner, Mass.	Johnson, S. C.
Akin, N. Y.	Cox	Garner	Jones
Alexander	Cravens	Garrett	Kendall
Ashbrook	Cullop	Gill	Kinkead, N. J.
Barnhart	Curley	Gillett	Korbly
Bartlett	Davenport	Glass	Lafean
Bathrick	Davis, W. Va.	Goldfogle	Lee, Ga.
Beall, Tex.	Dent	Goodwin, Ark.	Lee, Pa.
Bell, Ga.	Denver	Gould	Lever
Blackmon	Dicklinson	Graham	Lewis
Booher	Dickson, Miss.	Gray	Littlepage
Borland	Dies	Gregg, Pa.	Lloyd
Broussard	Difenderfer	Gregg, Tex.	McCoy
Brown	Doughton	Gudger	McDermott
Bulkley	Driscoll, D. A.	Hamill	McGillicuddy
Burgess	Dupré	Hamilton, W. Va.	Macon
Burnett	Edwards	Hamlin	Maguire, Nebr.
Byrnes, S. C.	Ellerbe	Hardy	Mays
Byrns, Tenn.	Estopinal	Harrison, Miss.	Moon, Tenn.
Callaway	Faison	Hart	Moore, Tex.
Candler	Fergusson	Heflin	Morgan, La.
Cantrill	Ferris	Helm	Morrison
Claypool	Fitzgerald	Hensley	Moss, Ind.
Clayton	Flood, Va.	Holland	Padgett
Cline	Floyd, Ark.	Houston	Page
	Foster	Jacoway	Pepper
Post	Russell	Sparkman	Tribble
Raker	Saunders	Stedman	Turnbull
Ransdell, La.	Sharp	Stephens, Miss.	Tuttle
Rauch	Sherley	Stephens, Tex.	Underhill
Redfield	Sherwood	Stone	Watkins
Reilly	Sims	Taggart	Webb
Roddenbery	Sisson	Talcott, N. Y.	Whitacre
Rothermel	Slayden	Taylor, Ala.	White
Rouse	Small	Thayer	Wilson, Pa.
Rubey	Smith, N. Y.	Thomas	Witherspoon
Rucker, Mo.	Smith, Tex.	Townsend	Young, Tex.

ANSWERED "PRESENT"—14.

Adamson	Hobson	McGuire, Okla.	Richardson
Browning	Humphreys, Miss.	Mann	Riordan
Driscoll, M. E.	Langley	Murray	
Dwight	McCall	Parran	

NOT VOTING—110.

Ames	Francis	Littleton	Sabath
Andrus	Gardner, N. J.	Longworth	Scully
Ansberry	George	Loud	Sells
Ayres	Goeke	McKellar	Shackleford
Barchfeld	Greene, Vt.	McKinley	Sheppard
Berger	Guernsey	McLaughlin	Slemp
Bradley	Hammond	McMorran	Smith, J. M. C.
Brantley	Hardwick	Maher	Smith, Cal.
Burke, Pa.	Harris	Martin, Colo.	Speer
Burleson	Harrison, N. Y.	Matthews	Stack
Carlin	Haugen	Merritt	Stanley
Carter	Hay	Moon, Pa.	Steenerson
Clark, Fla.	Heald	Mott	Stephens, Nebr.
Conry	Henry, Tex.	Needham	Stevens, Minn.
Covington	Hill	Oldfield	Sulloway
Crago	Howard	Olmsted	Talbott, Md.
Currier	Hughes, Ga.	O'Shaunessy	Taylor, Ohio
Danforth	Hughes, W. Va.	Palmer	Tilson
Daugherty	Hull	Patten, N. Y.	Underwood
Davis, Minn.	Johnson, Ky.	Payne	Vare
Dixon, Ind.	Kahn	Peters	Vreeland
Doremus	Kindred	Plumley	Weeks
Fairchild	Kitchin	Porter	Wilder
Fields	Konig	Pray	Wilson, Ill.
Finley	Lamb	Pujo	Wilson, N. Y.
Focht	Legare	Rainey	Woods, Iowa
Fordney	Levy	Randell, Tex.	
Fornes	Lindsay	Reyburn	

And so the bill was rejected.

The Clerk announced the following pairs:

For the session:

Mr. HOBSON with Mr. FAIRCHILD.

Mr. SCULLY with Mr. BROWNING.

Mr. UNDERWOOD with Mr. MANN.

Mr. FORNES with Mr. BRADLEY.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. LITTLETON with Mr. DWIGHT.

Mr. PALMER with Mr. HILL.

Mr. RIORDAN with Mr. ANDRUS.

Mr. ADAMSON with Mr. STEVENS.

Until further notice:

Mr. HARDWICK with Mr. SULLOWAY.

Mr. FIELDS with Mr. LANGLEY.

Mr. HULL with Mr. NEEDHAM.

Mr. PUJO with Mr. MCMORRAN.

Mr. GEORGE with Mr. SMITH of California.

Mr. RAINEY with Mr. MCCALL.

Mr. KITCHIN with Mr. FORDNEY.

Mr. RICHARDSON with Mr. THISTLEWOOD.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. ANSBERRY with Mr. BARCHFELD.

Mr. AYRES with Mr. BURKE of Pennsylvania.

Mr. BRANTLEY with Mr. CRAGO.

Mr. BURLESON with Mr. DANFORTH.

Mr. CARLIN with Mr. DAVIS of Minnesota.

Mr. CLARK of Florida with Mr. MICHAEL E. DRISCOLL.

Mr. CONRY with Mr. FOCHT.

Mr. COVINGTON with Mr. GARDNER of New Jersey.

Mr. FINLEY with Mr. CURRIER.

Mr. DIXON of Indiana with Mr. GREENE of Vermont.

Mr. DOREMUS with Mr. GUERNSEY.

Mr. FRANCIS with Mr. HAUGEN.

Mr. GOEKE with Mr. HEALD.

Mr. HAMMOND with Mr. HUGHES of West Virginia.

Mr. HAY with Mr. LOUD.

Mr. HENRY of Texas with Mr. MCKINLEY.

Mr. MURRAY with Mr. HARRIS.

Mr. HOWARD with Mr. MCLAUGHLIN.

Mr. HUMPHREYS of Mississippi with Mr. MATTHEWS.

Mr. JOHNSON of Kentucky with Mr. MERRITT.

Mr. HUGHES of Georgia with Mr. KAHN.

Mr. KINDRED with Mr. MOON of Pennsylvania.

Mr. KONIG with Mr. MOTT.

Mr. LAMB with Mr. OLMSTED.

Mr. MCKELLAR with Mr. PLUMLEY.

Mr. MAHER with Mr. PORTER.

Mr. OLDFIELD with Mr. PRAY.

Mr. O'SHAUNESSY with Mr. SELLS.
Mr. PETERS with Mr. J. M. C. SMITH.
Mr. SABATH with Mr. SPEER.
Mr. SHEPPARD with Mr. TAYLOR of Ohio.
Mr. STANLEY with Mr. TILSON.
Mr. STEPHENS of Nebraska with Mr. VARE.
Mr. WILSON of New York with Mr. VREELAND.
Mr. MARTIN of Colorado with Mr. WEEKS.
Mr. LINDSAY with Mr. WILDER.
Mr. STACK with Mr. WILSON of Illinois.
Mr. LEGARE with Mr. WOODS of Iowa.
Mr. RANDELL of Texas with Mr. AMES.
Until February 1:
Mr. SHACKLEFORD with Mr. LONGWORTH.

Mr. McGUIRE of Oklahoma. Mr. Speaker, I voted "yea." I am paired with my colleague from Oklahoma, Mr. CARTER, and I desire to change my vote and vote "present."

The name of Mr. McGUIRE of Oklahoma was called, and he voted "Present."

Mr. MANN. Mr. Speaker, I voted "yea." I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote and vote "present."

The name of Mr. MANN was called and he voted "Present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present, and the Doorkeeper will open the doors.

Mr. GARNER. Mr. Speaker, I ask unanimous consent to address the House for five minutes.

The SPEAKER. The gentleman from Texas asks unanimous consent to address the House for five minutes. Is there objection?

There was no objection.

FILIBUSTERING.

Mr. GARNER. Mr. Speaker, the gentleman from Illinois [Mr. MANN] saw proper to conduct a filibuster and delay the approval of the Journal for three hours and a half on yesterday. In discussing his reasons for conducting that filibuster he said that he wanted to teach this side of the House, and especially the gentleman from Texas [Mr. GARNER], how to conduct a filibuster, and in the same statement said that I had on the previous day undertaken to filibuster in this House. There is not the slightest foundation in fact, nor is there the slightest indication in the RECORD, to justify the gentleman from Illinois in that statement. As a matter of fact, the RECORD shows in the proceedings of Wednesday that the "gentleman from Texas" specifically stated to the gentleman from Illinois [Mr. MANN] that he was not conducting a filibuster. I call attention, Mr. Speaker, to the proceedings on page 1901, in which this colloquy occurred:

Mr. MANN. This is not the only bill that can be filibustered on, I will say to the assistant whip.

Mr. GARNER. I am not filibustering. I think it is full time that we took out. I have heard the gentleman from Illinois say that many times at this hour in the day.

I call attention to the fact, Mr. Speaker, that often when that clock has shown it was 10 minutes of 6 o'clock I have heard the gentleman from Illinois rise in his place and suggest to the gentlemen who were in charge of legislation on this side of the House that the committee had better rise. I have at the same time seen these gentlemen cast their eyes over the empty seats in this Hall and realize that they were helpless to keep the gentleman from Illinois from making a point of no quorum, and agree to his dictation. Moreover, I refer to the RECORD to show that I inquired of the Speaker as to what the parliamentary status of the legislation we had just voted on would be in case the previous question was ordered. On page 1903 of the RECORD this colloquy occurred:

Mr. GARNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARNER. As the previous question has been ordered, and a separate vote is demanded on each amendment adopted by the committee, when will the vote be taken on each amendment?

The SPEAKER. Next Wednesday morning.

Now, Mr. Speaker, I submit to the Speaker himself and to this House that when I asked that question I had a right to conclude that on next Wednesday morning this identical question would come up in this House for consideration. I had certainly gone to the highest authority that I know of in this House on parliamentary law, especially since he occupies the chair now—the Speaker himself—to determine what the parliamentary status of this legislation was. I have no quarrel with the Speaker for his ruling. It may be correct, but I do deem it my duty to call the attention of this House to the fact that whenever you adopt this rule that the Speaker laid down as permanent you give to the Calendar Wednesday of this House not only one day, but possibly three days in each week.

For instance, Calendar Wednesday business has taken up two hours of to-day's work. To illustrate, suppose we had called for the yeas and nays on each one of these amendments. These amendments would have taken not all of to-day only, but to-morrow, or at least 12 hours, for there are twenty and odd amendments. So, I say that I have no quarrel with the Speaker for this ruling, because it may be technically correct, but I believe I should call the attention of the House to the effect of this rule.

The SPEAKER. The time of the gentleman has expired.

Mr. GARNER. Mr. Speaker, I ask for five minutes more.

The SPEAKER. The gentleman asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. GARNER. Now, Mr. Speaker, I think that the gentleman from Illinois [Mr. MANN] did me an injustice, he did himself an injustice, and he did the membership of this House an injustice when he created the impression yesterday not only in remarks made on the floor of the House, but in remarks to his colleagues, that I was the cause of this filibuster.

Mr. Speaker, if I was the cause of bringing on a filibuster that took three hours and a half to approve the Journal, I did wrong. But I invoke the RECORD here and place in the mouth of the gentleman from Illinois the statement that he "did not blame the gentleman from Texas for making the point of no quorum and asking that the House adjourn" on Wednesday evening last. If the gentleman did not blame me, then certainly I could have done no wrong. The gentleman must blame me for some wrong or else he himself is not justified in bringing on a filibuster, because I moved that the House adjourn on Wednesday evening.

The truth of the matter is that the gentleman from Illinois has been so accustomed to dictating to this side of the House that he has got to the point where, if you cross his wishes, he will see that no business in this House is accomplished. [Applause.] The gentleman from Illinois is an efficient legislator; he is an accommodating gentleman; but in the detail of his work and in the multiplicity of it he has got to the point where he overlooks the larger things in legislation, and the result is that he is making himself ridiculous, as he did yesterday in undertaking to organize a filibuster here for no purpose. [Applause.] I think the gentleman himself made a spectacle by undertaking to give as an excuse for conducting the filibuster the fact that I on the day previous had said that I wanted the parliamentary status of this bill preserved until next Wednesday, it then being 6 o'clock in the afternoon, and asked that we adjourn.

We got a roll call to-day. That is all I asked for on Wednesday. We got it to-day, and we have defeated the bill. Did I not have the right on Wednesday at 6 o'clock to ask that this legislation remain until I could get an opportunity to record my vote, knowing that there was not a quorum here?

Mr. Speaker, I care nothing about the amendments. I never try to play in this House other than in the open, but the gentleman from Illinois appears rather to conduct his game under concealed hands.

Mr. MARTIN of South Dakota. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman has again expired.

Mr. GARNER. I must confess that the method of the gentleman from Illinois is most effective, but I prefer to play mine as I have done, and I think the American people prefer that kind. [Applause.]

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. MANN. Does the gentleman desire more time?

Mr. GARNER. No.

Mr. MANN. Mr. Speaker, I ask unanimous consent to address the House for five minutes.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent to address the House for five minutes. Is there objection?

There was no objection.

Mr. MANN. Mr. Speaker, there will be two more Calendar Wednesdays at this session of Congress besides the Wednesday which will be required to count the electoral vote. On last Calendar Wednesday a bill was pending before the House which had been agreed to by the Committee of the Whole House on the state of the Union and reported back to the House with about 20 amendments. If a separate vote were demanded on each amendment and a yea-and-nay vote were taken on each amendment, it would have consumed the entire two days on Calendar Wednesdays yet remaining at this session of Congress and would have prevented any other bill being called up

for consideration. The next bill which will be called up for consideration on Calendar Wednesday will be a bill called up by the Committee on the Library. I understand that the Lincoln memorial bill will be that bill. So that it was quite possible, if the bill that was under consideration last Wednesday went over until next Wednesday and a separate vote was had by yeas and nays on each of the amendments, that the Lincoln memorial bill could not be reached at this session of Congress. I was notified by gentlemen all over the House that that was the intention of certain gentlemen in the House. When the bill was reported from the committee back to the House, this is a portion of the proceedings:

Mr. GARNER. I will say to the gentleman from Illinois [Mr. CANNON] that we can not pass the bill to-night, because there are a number of us on this side who propose to have a yea-and-nay vote on this bill to its final passage.

I take it there is but one construction of that language, and that is a yea-and-nay vote on each of the 20 amendments. Further, the gentleman from Texas [Mr. GARNER] said:

I will say to the gentleman from Illinois [Mr. MANN] that I understand his anxiety and the anxiety of the other gentleman from Illinois [Mr. CANNON] with reference to this particular bill being gotten out of the way. I speak for myself. I am not in accord with that movement, and there are a number of others over here who are in the same attitude, and I think it is perfectly legitimate to ask, at least for the present, that all the rights of Members with respect to this bill may be preserved from the parliamentary standpoint in order that we may take advantage of it to fight a bill that is to come up later.

[Laughter on the Republican side.]

If I misunderstood the gentleman, if he did not mean that he expected to demand a roll call on each of those amendments, to consume two days, and thereby prevent the Lincoln memorial bill coming up, I am willing to apologize to the gentleman. I would not have used such language unless I had intended what it meant. I thought then that I was justified, and I think now that I was justified, in demanding all the rights of a Member on the floor, in order to demonstrate to the House that the majority side of the House can never afford to filibuster against the consideration of a proposition which ought legitimately to come before the House. [Applause.] I was willing then, as I would be willing now, to filibuster against any other measure if it was intended on the other side to filibuster in order to prevent this Government at this late hour from giving a proper expression of its love, affection, and veneration for Abraham Lincoln. [Applause.]

Mr. CANNON. Mr. Speaker, I ask unanimous consent to address the House for 10 minutes.

Mr. EDWARDS and Mr. BORLAND objected.

The SPEAKER. Objection is made.

Mr. CANNON. Who objected, Mr. Speaker? Did the gentleman from Kentucky [Mr. SHERLEY] object?

Mr. SHERLEY. I did not object, but I want to find out how long this is to proceed. We have two of the big supply bills waiting for consideration; and without desiring to be discourteous to anybody, it occurs to me that the public business is at present of the first importance.

Mr. GARNER. It is only 10 minutes. I hope no one will object.

Mr. CANNON. I only desire to know who objected.

The SPEAKER. The Chair does not know.

Mr. MANN. We are entitled to know who objected.

The SPEAKER. The gentleman from Illinois [Mr. CANNON] asks unanimous consent to address the House for 10 minutes. Is there objection?

Mr. SHERLEY. Mr. Speaker, reserving the right to object, I desire to serve notice that I will object to any similar request hereafter.

Mr. BORLAND. Mr. Speaker, I was one of those who objected, and I reserve the right now to object, simply to state that this request will be the last one that will go unobjected to, to the delay of the public business.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The gentleman from Illinois [Mr. CANNON] is recognized for 10 minutes. [Applause.]

Mr. CANNON. Mr. Speaker, I was one of the high privates in the rear rank who followed the lead of the gentleman from Illinois [Mr. MANN] in the filibuster yesterday. I have rarely resorted to filibustering during my service. I have no apology to offer. I indorse what the gentleman from Illinois [Mr. MANN] has said.

Now, I want to say just a word about the Lincoln memorial. There is a difference of opinion in the House. Some of us believe that the memorial ought to be erected in Washington. Others believe that there ought to be a highway, to be called the Lincoln highway, built from Washington to Gettysburg. I am on that commission, and as a member of it did not get my way entirely. I would have located the memorial out in the Soldiers' Home, but the Arts Commission and an almost unanimous House and Senate commission chose the other site.

I am willing that it should be discussed. I desire that it should be considered, and when it is considered I will be content with what the majority of the House may say touching the proposed legislation.

Much has been said in the newspapers. I have not gone to the newspapers. It is said that many Members are holding frequent councils, either in the Capitol or the Office Building, organizing, and that great pressure is being brought to bear throughout the country. I will not criticize that. It is the right of the American citizen to promote as best he can that which he is in favor of, whether a Member of Congress, or automobile owners, or others are behind him—many men of many minds.

Now, a word as to the Lincoln Monument. There were four great characters in that great contest for the preservation of the Union—Abraham Lincoln, Gen. Grant, Gen. Lee, and Jefferson Davis. It is all behind us. Arlington, the home of Lee, is now the burial place for Union soldiers and Confederate soldiers—a monument that will stand forever across the Potomac in the State of Virginia. Oh, Mr. Speaker, I stand here a Representative from Illinois. I had a personal acquaintance with Abraham Lincoln when I was a young man and came on to the sphere of action. I loved Abraham Lincoln personally. I loved his magnificent service in the preservation of the Union—the great, wise, strong, charitable, patriotic man. Speaking respectfully, to my mind it is the prostitution of that great man's name when you speak of using it as an argument for the promotion and construction of goods roads. [Applause.]

I am willing to assist, and have the Federal Treasury assist properly, toward their construction as post roads, or in aid of their construction. With the Washington Monument standing there, as it will stand through the ages, is there a man within the sound of my voice, is there a man in Congress, is there a man North or South, that would purchase the construction of a road from here to Gettysburg or from here to Richmond, the price thereof being the pulling down of the Washington Monument? [Applause.] Not one; not one. Talk about utility, there are certain great characters that will dwell in the history of the country. First, and barely first, Washington; second, Lincoln; third, Grant; fourth, Lee, a great man, a great general who did his duty from his patriotic standpoint; fifth, Jefferson Davis, a great man performing a great service for a proposed new republic as he saw his duty.

A hundred years from now the ordinary reader will recall this period, and there will be in the mouths of the school children the names of Washington, Lincoln, Grant, Lee, and Jefferson Davis. But you will have to search the CONGRESSIONAL RECORD and the encyclopædias to find out about the balance of us, who have been Speakers, ex-Speakers, Members of Congress in the House and Senate. Take Mr. CANNON, for instance. I have been Speaker for eight years. They will say, "It does appear that there was a man from Illinois by the name of CANNON, but I don't know much about him. There was another man by the name of Cannon in Congress from Utah, and it was said that he had seven wives." [Laughter and applause.]

And, gentlemen, I trust that the Washington Monument and the Lee home at Arlington, holding the hallowed dust of the Union and Confederate dead, in the fullness of time will be connected with the site of the proposed Lincoln Monument by a bridge across to that great burial place.

I have no quarrel with anybody, but as I pass out of this Congress I hope that a memorial will be provided for the memory of this, the second greatest man, if not the first, that ever lived upon this continent, that ever lived in the history of the race. [Applause.]

ORDER OF BUSINESS.

Mr. RICHARDSON. Mr. Speaker, I desire to call up the bill H. R. 27874, a pension bill on the Private Calendar. And I move that the House go into Committee of the Whole on the Private Calendar.

Mr. SPARKMAN rose.

The SPEAKER. For what purpose does the gentleman from Florida rise?

Mr. SPARKMAN. I move to go into Committee of the Whole House on the state of the Union for the further consideration of the river and harbor bill.

Mr. POU rose.

The SPEAKER. For what purpose does the gentleman from North Carolina rise?

Mr. POU. I rise to present a conference report on the bill H. R. 24121 for printing in the RECORD under the rule.

Mr. ROBERTS of Massachusetts rose.

The SPEAKER. For what purpose does the gentleman from Massachusetts rise?

Mr. ROBERTS of Massachusetts. Mr. Speaker, I desire to have a correction made in the RECORD and the Journal.

The SPEAKER. The gentleman from Alabama [Mr. RICHARDSON] calls up a pension bill.

Mr. MANN. Mr. Speaker, what became of the conference report submitted by the gentleman from North Carolina [Mr. POU]?

The SPEAKER. The Chair is going to state the situation, and his statement of it will answer the gentleman's question. The gentleman from Alabama calls up a pension bill, this being pension day. The gentleman from Florida [Mr. SPARKMAN] makes a preferential motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill. The gentleman from North Carolina [Mr. POU] submits for printing under the rule a conference report, and the gentleman from Massachusetts [Mr. ROBERTS] desires to correct the RECORD. The Chair will take up these matters in the following order: First, the gentleman from Massachusetts, then the gentleman from North Carolina, and then the motion of the gentleman from Florida.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolutions of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. J. Res. 158. Joint resolution approving the plan, design, and location for a Lincoln memorial; to the Committee on the Library.

S. J. Res. 143. Joint resolution authorizing the Secretary of War to loan certain tents for use at the meeting of the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine to be held at Dallas, Tex., in May, 1913; to the Committee on Military Affairs.

S. 111. An act to authorize the sale and disposition of the surplus and unallotted lands in Washabaugh County, in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriation to carry the same into effect; to the Committee on Indian Affairs.

S. 184. An act for the erection of a public building at Lancaster, Ky.; to the Committee on Public Buildings and Grounds.

S. 2058. An act for the relief of William Wentworth; to the Committee on Military Affairs.

S. 3315. An act to prohibit corporations from making contributions in connection with political elections and to limit the amount of such contributions by individuals or persons; to the Committee on Election of President, Vice President, and Representatives in Congress.

S. 4524. An act to increase the limit of cost for the purchase of a site and the erection of a public building at Middlesboro, Ky.; to the Committee on Public Buildings and Grounds.

S. 4584. An act to promote the efficiency of the Naval Militia, and for other purposes; to the Committee on Naval Affairs.

S. 5076. An act to promote instruction in forestry in States and Territories which contain national forests; to the Committee on Agriculture.

S. 6100. An act appropriating $100,000 for the use of the Interstate Commerce Commission in addition to the sum or sums already appropriated for their use; to the Committee on Appropriations.

S. 7089. An act for the relief of Charles Meyers; to the Committee on Military Affairs.

S. 7297. An act for the purchase of a site and the erection thereon of a public building at Mineral Point, Wis.; to the Committee on Public Buildings and Grounds.

S. 7298. An act for the purchase of a site and the erection thereon of a public building at Rhinelander, Wis.; to the Committee on Public Buildings and Grounds.

S. 7502. An act for the erection of a public building at Ridgway, Pa.; to the Committee on Public Buildings and Grounds.

S. 7522. An act for the purchase of a site and the erection of a public building at the city of Greenville, Ala.; to the Committee on Public Buildings and Grounds.

S. 7855. An act to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota; to the Committee on Interstate and Foreign Commerce.

S. 8178. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; to the Committee on Invalid Pensions.

S. J. Res. 153. Joint resolution granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia; to the Committee on the District of Columbia.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 8768. An act to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 18787. An act relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, and improving a river or harbor of the United States and of the District of Columbia.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. J. Res. 369. A joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.;

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain widows and dependent children of soldiers and sailors of said war; and

H. R. 8768. An act to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill.

Mr. RUSSELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RUSSELL. Mr. Speaker, this being pension day, I desire to ask if this motion to go into the Committee of the Whole should prevail——

Mr. SHERLEY. Mr. Speaker, I suggest that is not a parliamentary inquiry.

The SPEAKER. The gentleman will complete his question.

Mr. RUSSELL. If this motion to go into Committee of the Whole should prevail, will there be any other opportunity to call up and consider pension bills on the Private Calendar until the second Friday in February, which is the 14th day of February?

Mr. SHERLEY. Mr. Speaker, I suggest that is not a parliamentary inquiry.

The SPEAKER. If the motion prevails, it will dispense with private business for the day and pension bills will not be in order until the next day set for them. The question is on the motion of the gentleman from Florida, that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill.

The question was taken; and on a division (demanded by Mr. NORRIS and Mr. ADAIR) there were—ayes 80, nays 86.

Mr. EDWARDS. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Georgia demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] Thirteen members have risen, not a sufficient number, and the yeas and nays are refused.

So the motion was rejected.

PENSIONS.

Mr. RICHARDSON. Mr. Speaker, I desire again to call attention to the bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, and

I move that the House resolve into the Committee of the Whole House to consider this and other bills on the Private Calendar.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House for the consideration of bills on the Private Calendar, with Mr. SHERLEY in the chair.

Mr. RICHARDSON. Mr. Chairman, I call up the bill H. R. 27874.

The CHAIRMAN. The Clerk will report the bill.

The Clerk proceeded to read the bill.

Mr. MANN (interrupting the reading). Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. What has become of the bill S. 7160, calendar No. 275?

The CHAIRMAN. The gentleman from Alabama suggested the calling up of a case from the Committee on Pensions. The call rests with a case from the Committee on Invalid Pensions. It is within the power of the committee to determine otherwise, if it sees fit. In the absence of such determination, the Clerk will report the bill referred to by the gentleman from Illinois [Mr. MANN].

Mr. RICHARDSON. Mr. Chairman, I move to take up the bill the number of which I gave. This is the course we have always pursued.

The CHAIRMAN. The gentleman from Alabama moves to take up the bill H. R. 27874.

The question was taken, and the motion was agreed to.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

Mr. RICHARDSON. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to dispense with the first reading of the bill. Without objection, it is so ordered. [After a pause.] The Chair hears none. The Clerk will read the bill for amendment.

The Clerk read as follows:

A bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Joshua B. Hartzog, late of Battery E, First Regiment United States Artillery, and pay him a pension at the rate of $20 per month.

The name of William Bennett, late of Capt. Hart's independent company, Florida Mounted Volunteers, Florida war with Seminole Indians, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of William F. Slack, late of Company K, Nineteenth Regiment United States Infantry, and pay him a pension at the rate of $12 per month.

The name of Sarah H. David, widow of Jacob David, late of Company A (Capt. William Torry), First Regiment New York Volunteers, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William J. Allmand, late of Company I, Thirty-second Regiment Michigan Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Olaus Anderson, late of Company E, First Regiment Alabama Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

The name of Thomas F. Moore, late of Company A, First Regiment Maine Volunteer Heavy Artillery, War with Spain, and pay him a pension at the rate of $10 per month.

The name of George W. Lyons, late of Capt. N. P. Willard's company, First Regiment Florida Mounted Volunteers, Florida Seminole Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of John E. Jones, late of the Hospital Corps, United States Army, War with Spain, and pay him a pension at the rate of $15 per month.

The name of John A. Wilite, late of the steamship Hornet, United States Navy, War with Spain, and pay him a pension at the rate of $10 per month.

The name of John E. Zoucks, late of Capt. G. U. Ellis's company, Florida Volunteers, Florida Seminole Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Sarah A. Gray, widow of George W. Gray, late of Company D, First Regiment Arkansas Mounted Volunteers, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Russell F. Oliver, late of Company M, Eighth Regiment United States Infantry, and pay him a pension at the rate of $24 per month.

The name of Bishop Karshner, late of Company G, Twenty-third Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $30 per month.

The name of Michael F. Gaygan, late of Company G, Twentieth Regiment United States Infantry, and pay him a pension at the rate of $30 per month.

The name of Elizabeth Weems, widow of Joseph Weems, late of Company A, First Regiment Tennessee Volunteer Infantry, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Fannie J. Raiford, widow of Philip H. Raiford, late lieutenant colonel, Battalion Alabama Volunteers, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mary Ann Thompson, widow of William R. Thompson, late of Troop I, Third Regiment United States Dragoons, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Katherine O. Hactor, widow of John M. Hactor, late post quartermaster sergeant, United States Army, and pay her a pension at the rate of $12 per month.

The name of Robert P. Prescott, late of Capts. Jernigan and Rutland's independent company, Florida Mounted Volunteers, Florida war with Seminole Indians, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Josiah J. Sikes, late of Capt. Brady's company, First Regiment Florida Mounted Volunteers, Florida war with Seminole Indians, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Rosalia Spohr, widow of Mathias Spohr, late of Capt. Sommers's company, Louisiana Volunteers, Florida war with Seminole Indians, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Cynthia C. Pickard, widow of John S. Pickard, late of Company K, Third Regiment Tennessee Volunteer Infantry, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The foregoing bill is a substitute for the following House bills referred to the Committee on Pensions:

H. R. 4880. Joshua B. Hartzog.
H. R. 6816. William Bennett.
H. R. 16797. William F. Slack.
H. R. 22440. Sarah H. David.
H. R. 13749. William J. Allmand.
H. R. 14317. Olaus Anderson.
H. R. 14371. Thomas F. Moore.
H. R. 15438. George W. Lyons.
H. R. 16489. John E. Jones.
H. R. 16638. John A. White.
H. R. 19436. John E. Zoucks.
H. R. 19454. Sarah A. Gray.
H. R. 21600. Russell F. Oliver.
H. R. 21639. Bishop Karshner.
H. R. 23313. Michael F. Gaygan.
H. R. 24311. Elizabeth Weems.
H. R. 24474. Fannie J. Raiford.
H. R. 25367. Mary Ann Thompson.
H. R. 25415. Katherine O. Hactor.
H. R. 26095. Robert P. Prescott.
H. R. 26179. Josiah J. Sikes.
H. R. 26580. Rosalia Spohr.
H. R. 26627. Cynthia C. Pickard.

Mr. BARTLETT. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The gentleman from Georgia offers an amendment, which the Clerk will report.

Mr. RICHARDSON. The amendment will be accepted by the committee.

The Clerk read as follows:

Amend, page 3, by adding, after line 9, the following:

"The name of Charles Myer, late of Company E, First Regiment Georgia Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving."

Mr. BARTLETT. Mr. Chairman, I understand the Committee on Pensions authorizes this amendment, and all I desire to do is to put in evidence the report they made upon it at the last session of this Congress.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia? [After a pause.] The Chair hears none.

The report is as follows:

H. R. 20999. Charles Myer, of Macon, Ga., is pensioned under the general law at the rate of $6 per month on account of malarial poisoning incurred as an artificer in Company E, First Regiment Georgia Volunteer Infantry, in which he served from May 2 to November 18, 1898, during the War with Spain.

The pension was allowed December 11, 1903, commencing February 21, 1899.

A claim for increase, filed December 18, 1911, was rejected January 26, 1912, on the ground that the degree of disability shown from the pensioned cause did not warrant an increased rating; that no disability was shown from stomach trouble independent of that covered by the rate allowed for malarial poisoning, and alleged loss of sight was not accepted as a result of the pensioned disability.

In support of the claim for increase, A. Moody Burt, M. D., testified December 14, 1911, that the pensioner had been under his professional care a considerable part of the time during the past four or five years, and that—

"At first the said Myer was suffering from an obscure, obstinate, chronic intestinal indigestion; that for the past year optic neuritis has supervened and has finally developed complete blindness of both eyes, and the said Myer is totally blind, and is now totally incapacitated for any ordinary avocation of life."

The medical examination on which the adverse action was taken was made by the board of surgeons at Macon, Ga., January 3, 1912. The board reported: Age, 45 years; height, 5 feet 6½ inches; and weight, 146 pounds. They said:

"General appearance healthy; tongue clean; skin clear; heart negative; lungs negative; urine negative; conjunctiva slightly injected; pupils react slowly to light; can not discern objects; can tell light from darkness; no disease of rectum; liver, spleen, abdominal organs negative. Don't know cause of loss of vision; board not in position to make opthalmoscopic examination. No evidence of vicious habits or excessive use of intoxicants. Claimant is so disabled from blindness as to be incapacitated for performing any manual labor and is entitled to $30 a month."

In an affidavit accompanying the bill the petitioner states that he is wholly disabled by malarial poisoning and resulting total blindness; that he is without property of any kind and is solely dependent upon his pension and the charity of acquaintances.

The gentleman who introduced the bill states from his own personal knowledge that the pensioner is blind, has no property other than his pension of $6 per month, is an object of charity, and is being supported by a benevolent order and by friends.

The evidence, your committee thinks, shows an increased degree of disability from the pensioned cause and results, and they respectfully recommend the allowance of pension at the rate of $24 per month in lieu of that he is now receiving.

The question was taken, and the amendment was agreed to.

Mr. RICHARDSON. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken, and the motion was agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. ROUSE having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 20193. An act authorizing the Secretary of the Navy to pay a cash reward for suggestions submitted by civilian employees of the Navy Department for improvement or economy in manufacturing processes or plant.

The message also announced that the Senate had passed joint resolution and bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. J. Res. 158. Joint resolution approving the plan, design, and location for a Lincoln memorial;

S. 111. An act to authorize the sale and disposition of the surplus and unallotted lands in Washabaugh County, in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriations to carry the same into effect;

S. 184. An act for the erection of a public building at Lancaster, Ky.;

S. 2058. An act for the relief of William Wentworth;

S. 3315. An act to prohibit corporations from making contributions in connection with political elections and to limit the amount of such contributions by individuals or persons;

S. 4524. An act to increase the limit of cost for the purchase of a site and the erection of a public building at Middlesboro, Ky.;

S. 4584. An act to promote the efficiency of the Naval Militia, and for other purposes;

S. 5076. An act to promote instructions in forestry in States and Territories which contain national forests;

S. 6100. An act appropriating $100,000 for the use of the Interstate Commerce Commission in addition to the sum or sums already appropriated for their use;

S. 7089. An act for the relief of Charles Meyers;

S. 7297. An act for the purchase of a site and the erection thereon of a public building at Mineral Point, Wis.;

S. 7298. An act for the purchase of a site and the erection thereon of a public building at Rhinelander, Wis.;

S. 7502. An act for the erection of a public building at Ridgway, Pa.;

S. 7522. An act for the purchase of a site and the erection thereon of a public building at the city of Greenville, Ala.;

S. 7855. An act to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota;

S. 8178. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. J. Res. 143. Joint resolution authorizing the Secretary of War to loan certain tents for use at the meeting of the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine to be held at Dallas, Tex., in May, 1913; and

S. J. Res. 153. Joint resolution granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia.

PENSIONS.

The committee resumed its session.

WILLIAM P. CLARK.

The next business on the Private Calendar was the bill (S. 2666) granting an increase of pension to William P. Clark.

The Clerk read as follows:

An act (S. 2666) granting an increase of pension to William P. Clark.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William P. Clark, late second lieutenant Thirty-seventh Company Philippine Scouts, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The CHAIRMAN. The Clerk will read the bill for amendment.

The bill was read for amendment.

Mr. RICHARDSON. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken, and the motion was agreed to.

The CHAIRMAN. The Clerk will report the next bill.

The next business on the Private Calendar was the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Mr. RICHARDSON. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read the bill for amendment, as follows:

An act (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Caroline M. Anthony, late nurse Medical Department, United States Volunteers, War with Spain, and pay her a pension at the rate of $12 per month.

The name of Arthur F. Shepherd, late of Company H, First Regiment Nebraska Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Walter L. Donahue, late of Company I, Thirty-third Regiment Michigan Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Calvin R. Lockhart, late of Company G, Twenty-third Regiment United States Infantry, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Albert J. Wallace, late of Company E, Tenth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Thomas M. F. Delaney, late of Company G, Fourth Regiment Wisconsin Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph Hurd, late of Company G, First Regiment Maine Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of John D. Sullivan, late of Company F, Third Regiment United States Volunteer Engineers, War with Spain, and pay him a pension at the rate of $46 per month.

The name of Mary E. Maher, widow of John A. Maher, late of Company D, First Regiment District of Columbia Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month and $2 per month additional on account of each of the minor children of the said John A. Maher until they reach the age of 16 years.

The name of George W. James, late of Company E, Fourth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of George G. Thirlby, late of Company M, Thirty-fourth Regiment Michigan Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lansing B. Nichols, late of Company C, First Regiment South Dakota Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Jacob Korby, late of Company C, Thirty-sixth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $10 per month.

The name of John J. Ledford, late of Company F, Fourth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month.

The name of Deborah H. Riggs, widow of Ashley C. Riggs, late of Capt. James M. Morgan's company, Iowa Mounted Volunteers, War with Mexico, and pay her a pension at the rate of $12 per month.

The name of Elmer E. Rose, late of Companies I and H, Twenty-third Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Cyrenius Mulkey, late of Capt. Bailey's Company A, Second Regiment Oregon Mounted Volunteers, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Patrick J. Whelan, late of Company E, First Regiment Connecticut Volunteer Infantry, War with Spain, and pay him a pension at the rate of $17 per month in lieu of that he is now receiving.

The name of John F. Burton, late of Company B, Fifth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Ephraim W. Baughman, late of Capt. Nathan Olney's Company B, Oregon Volunteers, Oregon and Washington Territory Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of James J. Blevans, late of Company B, Second Regiment Oregon Mounted Volunteers, Oregon and Washington Territory Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Henry H. Woodward, late of Capt. Chapman's Company I, Second Regiment Oregon Mounted Volunteers, Rogue River Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Bertie L. Wade, late of Company L, Twenty-second Regiment United States Infantry, and pay him a pension at the rate of $30 per month.

The name of Charlotte R. Wynne, widow of James W. Wynne, late of Capt. Blackmore's company, First Regiment Tennessee Volunteer Infantry, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Otto Weber, late of Company B, Sixteenth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Carl W. Carlson, late of Company B, Third Regiment United States Volunteer Cavalry, War with Spain, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The foregoing bill is a substitute for the following Senate bills referred to the Committee on Pensions:

S. 1915. Caroline M. Anthony.
S. 2465. Arthur F. Shepherd.
S. 3615. Walter L. Donahue.
S. 3726. Calvin R. Lockhart.
S. 3920. Albert J. Wallace.
S. 4091. Thomas M. F. Delaney.
S. 6091. Joseph Hurd.
S. 6101. John D. Sullivan.
S. 6107. Mary E. Maher.
S. 6193. George W. James.
S. 6276. George G. Thirlby.
S. 6764. Lansing B. Nichols.
S. 6883. Jacob Korby.
S. 6898. John J. Ledford.
S. 6921. Deborah H. Riggs.
S. 6998. Elmer E. Rose.
S. 7021. Cyrenius Mulkey.
S. 7032. Patrick J. Whelan.
S. 7036. John F. Burton.
S. 7065. Ephraim W. Baughman.
S. 7135. James J. Blevans.
S. 7281. Henry H. Woodward.
S. 7305. Bertie L. Wade.
S. 7328. Charlotte R. Wynne.
S. 7368. Otto Weber.
S. 7466. Carl W. Carlson.

The following committee amendments were severally considered and severally agreed to:

On page 2, strike out lines 1, 2, and 3.
On page 2, strike out lines 15, 16, 17, and 18.
On page 3, strike out lines 22, 23, and 24.
On page 4, strike out lines 17, 18, 19, and 20.
On page 5, strike out lines 19, 20, 21, 22, 23, 24, and, on page 6, strike out lines 1 and 2.

Mr. RICHARDSON. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The gentleman from Alabama moves that the bill be laid aside with a favorable recommendation. Without objection, it is so ordered.

There was no objection.

The next business on the Private Calendar was the bill (H. R. 28379) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The CHAIRMAN. Without objection, the first reading of the bill will be dispensed with.

There was no objection.

The bill was read in full for amendment, as follows:

A bill (H. R. 28379) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Elizabeth A. Whittaker, widow of William T. Whittaker, late of Company I, Twenty-eighth Regiment United States Infantry, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of one minor child of the soldier until such child attains the age of 16 years.

The name of Cornelia A. Mobley, widow of William L. Mobley, late of Capts. Martin's and G. W. Smith's companies, Florida Volunteers, Florida Seminole Indian war, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James L. Herod, late of Company A, Second Regiment Mississippi Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of John Soucek, late of band, Fourth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of John H. Woodruff, late of Company M, Fifth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $10 per month.

The name of Peter A. Fitzpatrick, late of Troop A, Eighth Regiment United States Cavalry, and pay him a pension at the rate of $6 per month.

The name of Edward M. Yochem, late of Troop K, Eleventh Regiment United States Volunteer Cavalry, War with Spain, and pay him a pension at the rate of $15 per month in lieu of that he is now receiving.

The name of Carrie E. Gibson, widow of David Gibson, late of Company H, Fifth United States Infantry, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of one minor child of the soldier until it reaches the age of 16 years.

The name of James H. Swallum, alias James H. Shields, late of Troop H, Seventh Regiment United States Cavalry, and pay him a pension at the rate of $8 per month.

The name of Jesse Crawford, late of Company L, First Regiment United States Infantry, and pay him a pension at the rate of $15 per month.

The name of Emily Ford, widow of William Ford, late of Capt. Tracy's company, Georgia Volunteers, and Capt. Bird's company, Florida Volunteers, Florida war with Seminole Indians, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mary Lois Wriston, widow of John P. Wriston, late of Company A, Mormon Battalion, Iowa Volunteers, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Albert McMichaels, late of Troop K, First Regiment United States Cavalry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Aminda Space, dependent mother of William H. Space, late of Battery K, First Regiment United States Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Thomas Hartman, late of Company H, Third Regiment United States Infantry, and pay him a pension at the rate of $18 per month.

The name of Thomas Smith, late of Company B, First Regiment New Jersey Volunteer Infantry, War with Spain, and pay him a pension at the rate of $18 per month.

The name of Chris Sletteland, late of Company C, Third Regiment United States Infantry, and pay him a pension at the rate of $15 per month.

The name of Louisa Margaret Brown, helpless and dependent daughter of Joseph B. Brown, late colonel and surgeon, United States Army, and pay her a pension at the rate of $12 per month.

The name of Karl C. Wettstein, late of Company G, Fourth Regiment Wisconsin Volunteer Infantry, War with Spain, and pay him a pension at the rate of $10 per month.

The name of John G. Vantrump, late of Company G, Twentieth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $15 per month in lieu of that he is now receiving.

The name of Charles L. Welteroth, late of Company D, Twelfth Regiment Pennsylvania Volunteer Infantry, and Company E, Ninth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $10 per month.

The name of Ellen Wecker, widow of Charles Wecker, late of Troop D, Third Regiment United States Cavalry, and pay her a pension at the rate of $12 per month.

The name of Henry Moore, late of Troop B, Ninth Regiment United States Cavalry, and pay him a pension at the rate of $10 per month.

The name of Sarah J. Wood, widow of Buzzilla Wood, late of Capt. Stewart's company, First Regiment Florida Mounted Volunteers, Florida Seminole Indian war, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John E. Karns, late of Company B, First Regiment Colorado Volunteer Infantry, War with Spain, and pay him a pension at the rate of $6 per month.

The name of Edward M. Deegan, late of Company G, Two hundred and second Regiment New York Volunteer Infantry, War with Spain, and pay him a pension at the rate of $6 per month.

The name of Henry H. Lord, late of Hospital Corps, United States Army, and pay him a pension at the rate of $30 per month.

The bill was ordered to be laid aside with a favorable recommendation.

The foregoing bill is a substitute for the following House bills referred to the Committee on Pensions:

H. R. 4630. Elizabeth A. Whittaker.
H. R. 6266. Cornelia A. Mobley.
H. R. 11492. James. L. Herod.
H. R. 11546. John Soucek.
H. R. 12434. John H. Woodruff.
H. R. 13259. Peter A. Fitzpatrick.
H. R. 13816. Edward M. Yochem.
H. R. 14840. Carrie E. Gibson.
H. R. 15799. James H. Swallum, alias James H. Shields.
H. H. 16535. Jesse Crawford.
H. R. 18311. Emily Ford.
H. R. 19446. Mary Lois Wriston.
H. R. 19488. Albert McMichaels.
H. R. 20363. Aminda Space.
H. R. 20425. Thomas Hartman.
H. R. 20731. Thomas Smith.
H. R. 21930. Chris Sletteland.
H. R. 22631. Louisa Margaret Brown.
H. R. 23847. Karl C. Wettstein.
H. R. 24810. John G. Vantrump.
H. R. 25218. Charles L. Welteroth.
H. R. 25460. Ellen Wecker.
H. R. 25537. Henry Moore.
H. R. 26096. Sarah J. Wood.
H. R. 26287. John E. Karns.
H. R. 26505. Edward M. Deegan.
H. R. 27799. Henry H. Lord.

Mr. RICHARDSON. Mr. Chairman, I yield all the time I have left to the gentleman from Wisconsin [Mr. BURKE].

The CHAIRMAN. The gentleman from Alabama has no time to yield. If the gentleman from Wisconsin desires, he can be heard on some later bill.

Mr. RUSSELL. Mr. Chairman, I desire to call up the bill (S. 7160) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The CHAIRMAN. The Clerk will report the bill.

Mr. RUSSELL. Mr. Chairman, I move that the first reading of the bill be dispensed with.

The motion was agreed to.

The bill was read as follows for amendment:

An act (S. 7160) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Susannah Roberts, widow of Evan Roberts, late of Company E, Fourteenth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Hedge, late of Company I, Fortieth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Albert Whitehead, late of Company B, Thirty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry Ackerman, late of Company F, One hundred and fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Edward S. Clithero, late of Company D, One hundred and sixteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Almond Partridge, late of Company B, Sixty-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Gustavus A. Kindblade, late of Company G, Fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Martin Parker, late of Company H, Eleventh Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Benjamin F. Adams, alias Franklin B. Adams, late of Company H, Second Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Augustus A. Nauman, late of Company A, Thirty-first Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Mary Byrne, widow of John Byrne, late major and lieutenant colonel One hundred and fifty-fifth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of Mary C. Smith, widow of George A. Smith, late of Company B, Twenty-first Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of E. Leora Norris, widow of David H. Norris, late of Company E, Eleventh Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Augustus C. D. Wilson, late of Company A, Seventh Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alice O. Lord, widow of Frederick C. Lord, late captain Company L, Thirteenth Regiment New York Volunteer Cavalry, and Company C, Third Regiment New York Provisional Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Julius T. Morse, late of Company E, Fifth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henrietta V. Hawley, widow of Willis C. Hawley, late of Company K, Seventeenth Regiment Vermont Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Charles E. Sherman, late of Company G, Twelfth Regiment Rhode Island Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Jennie M. Smalley, widow of Edward F. Smalley, late of Company A, Sixth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Samuel N. West, late of Company G, Twenty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of James V. D. Ten Eyck, late of Company A, Thirtieth Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Nellie L. Davis, widow of Jared M. Davis, late of Company E, Fifth Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Jerome S. Pinney, late of Company G, Battalion, First Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James E. C. Sawyer, late of Company I, Fourth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $18 per month.

The name of Julius E. Henderson, late of Company B, Sixtieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William L. Baird, late second lieutenant Company L, Fourth Regiment Massachusetts Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The following amendments were read, severally considered, and agreed to:

Page 1, strike out lines 6 to 9, inclusive. (This is the case of Susannah Roberts (S. 440).)

Page 2, strike out lines 17 to 20, inclusive. (This is the case of Almond Partridge (S. 2978).)

Page 2, line 23, strike out the word "fifty" and insert in lieu thereof the word "forty." (This is the case of Gustavus A. Kindblade (S. 3786).)

Page 3, strike out lines 1 to 4, inclusive. (This is the case of Martin Parker (S. 4063).)

Page 3, strike out lines 5 to 8, inclusive. (This is the case of B. F. Adams (S. 4072).)

Page 3, line 10, strike out the word "thirty" and insert in lieu thereof the word "twenty." (This is the case of Mary Byrne, widow of John Byrne, late major and lieutenant colonel, One hundred and fifty-fifth New York Volunteer Infantry (S. 4187).)

Page 4, strike out lines 7 to 11, inclusive. (This is the case of Alice O. Lord (S. 5509).)

Page 4, line 14, strike out the word "forty" and insert in lieu thereof the word "thirty-six." (This is the case of Julius T. Morse (S. 5590).)

Page 5, line 9, strike out the word "forty" and insert in lieu thereof the word "thirty-six." (This is a bill for the relief of James V. D. Ten Eyck (S. 6660).)

Mr. RUSSELL. Mr. Chairman, I move that the bill as amended be laid aside with a favorable recommendation.

The SPEAKER. Is there objection?

There was no objection.

The foregoing bill is a substitute for the following Senate bills referred to the Committee on Invalid Pensions:

S. 449. Susannah Roberts.
S. 1531. John Hedges.
S. 1777. Albert Whitehead.
S. 2614. Henry Ackerman.
S. 2640. Julius E. Henderson.
S. 2739. Edward S. Clithero.
S. 2978. Almond Partridge.
S. 3786. Gustavus A. Kindblade.
S. 4063. Martin Parker.
S. 4082. Augustus A. Nauman.
S. 4072. Benjamin F. Adams (alias Franklin B. Adams).
S. 4187. Mary Byrne.
S. 4491. Mary C. Smith.
S. 4556. E. Leora Norris.
S. 5411. Augustus C. D. Wilson.
S. 5509. Alice O. Lord.
S. 5590. Julius T. Morse.
S. 5647. Henrietta V. Hawley.
S. 6038. Charles E. Sherman.
S. 6290. Jennie M. Smalley.
S. 6324. Samuel N. West.
S. 6660. James V. D. Ten Eyck.
S. 6947. Nellie L. Davis.
S. 6985. Jerome S. Pinney.
S. 7066. James E. C. Sawyer.
S. 6861. William L. Baird.

The next business on the Private Calendar was the bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The CHAIRMAN. Without objection, the first reading of the bill will be dispensed with.

There was no objection.

The bill was read for amendment as follows:

An act (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Ellen B. Kittredge, widow of Perry Kittredge, late hospital steward, Third Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Thomas W. Dickey, late scout, United States Army, and pay him a pension at the rate of $12 per month.

The name of Mary E. McDermott, widow of John E. McDermott, late captain Company G, One hundred and eighth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry Frink, late of Company I, Eighteenth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Christian C. Bradymeyer, late of Company E, Seventieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George M. Pierce, late of Company I, Second Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph C. Trickey, late of Company B, First Regiment Maine Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James M. Klunaman, late of Company G, Twelfth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Addie Roof, widow of Daniel P. Roof, late of Twenty-first Battery, Indiana Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of Leeman Underhill, late of Company D, First Regiment Wisconsin Volunteer Heavy Artillery, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Charles W. Morgan, late of Company E, Tenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alphonso L. Stassy, late of Company G, Twenty-first Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Jeramiah Lushbough, late of Company I, One hundred and fourteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James B. Sales, late of Company C, Eighty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary E. Rikard, widow of James M. Rikard, late of Company B, First Regiment Alabama Volunteer Cavalry, and Company A, One hundred and forty-fifth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Minnie V. Rikard, helpless and dependent child of said James M. Rikard, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Mary E. Rikard the name of the said Minnie V. Rikard shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month, from and after the date of death of said Mary E. Rikard.

The name of Margaret H. Benjamin, widow of Edson A. Benjamin, late of the U. S. S. Ohio, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Benjamin F. Ferris, late of Company K, Fifty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Hiram Fercler, late of Company G, Sixty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Henry B. Leach, late of Company I, Sixty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John Bell, late of Company I, Twelfth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Elizabeth Lile, widow of Lewis Lile, late of Company C, Tenth Regiment Kansas Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George M. Conner, late of Companies F and M, First Regiment Vermont Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The names of Lola B. Hendershott and Louise Hendershott, helpless and dependent children of Henry B. Hendershott, late captain, Second Regiment United States Artillery, and major, United States Army, retired, and pay each of said children a pension at the rate of $12 per month.

The name of Daniel H. Grove, late of Company H, Sixty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charlotte R. Coe, widow of Edward D. Coe, late second lieutenant Company B, First Regiment Alabama Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Caroline M. Packard, widow of William H. Packard, late of Company G, First Regiment, and Company E, Eleventh Regiment, Rhode Island Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Benjamin C. Smith, late of Company A, One hundred and fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George R. Griffith, late second lieutenant Company B, Two hundred and eleventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Rolly Wright, late of Battery A, First Regiment West Virginia Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles J. Higgins, late of Company C, First Regiment Maine Volunteer Cavalry, and Eighty-first Company, Second Battalion, Veteran Reserve Corps, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Joseph Letzkus, late of Company G, First Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Israel H. Phillips, late of Company C, Ninety-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John E. Woodward, late captain Company F, Eighteenth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Josephine A. Davis, former widow of James H. Sackett, late of Company K, Ninth Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Osmer C. Coleman, late of Company D, One hundred and eightieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Hugh McLaughlin, late of Company F, Seventh Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph Striker, late of Company E, Eighty-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary Glancey, widow of James Glancey, late of Company D, Ninth Regiment Connecticut Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Joby A. Howland, late of Company F, Fifty-first Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Andrew King, late of Company A, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary S. Hull, widow of John P. Hull, late of Company C, Seventeenth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah E. Haskins, widow of John A. Haskins, late of Company D, First Regiment Connecticut Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Ira Waldo, late of Company I, Sixth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Ellis C. Howe, late of Company D, Fifty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Thomas M. Dixon and Joanna L. Dixon, helpless and dependent children of Barton S. Dixon, late captain Company F, Eighth Regiment Kentucky Volunteer Infantry, and pay them each a pension at the rate of $12 per month.

The name of Solomon Wilburn, late of Company H, Thirty-second Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William O. Sutherland, late of Company A, Eighth Regiment Michigan Volunteer Infantry, and Company B, Battalion United States Engineers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Annie H. Ross, widow of D. Laning Ross, late of U. S. S. Peri, United States Navy, and pay her a pension at the rate of $12 per month.

The name of John Dixon, late of Company A, Fiftieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Arnold Bloom, late of Company K, Forty-second Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John D. Perkins, late of Company B, Second Regiment, and Company F, Twenty-ninth Regiment, Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Harrison, late of Company H, Twenty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah E. Johnson, widow of Absalom Y. Johnson, late lieutenant colonel Twenty-eighth Regiment Kentucky Volunteer Infantry, and colonel Seventh Regiment Veteran Reserve Corps, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Willis Dobson, late of Company B, Fiftieth Regiment, and Company A, Fifty-second Regiment, Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Zachariah T. Fortner, late of Company G, Fifty-third Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jesse A. Moore, late of Company H, Sixth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Moynahan, late second lieutenant Company B, and first lieutenant Company D, Twenty-seventh Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Dustin Berrow, late of Company F, First Regiment United States Volunteer Sharpshooters, and Company G, Fourth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Sarah J. Viall, widow of Horace T. Viall, jr., late of Company B, Second Regiment Rhode Island Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James Luther Justice, late of Company L, Twentieth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary A. Crocker, widow of George A. Crocker, late captain Company A, Sixth Regiment New York Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Winfield S. McGowan, late of Company B, Eighth Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Martha J. Stephenson, widow of Ferdinand D. Stephenson, late captain Company B, Forty-eighth Regiment, and colonel One hundred and fifty-second Regiment, Illinois Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of George E. Smith, late of Company B, First Regiment Rhode Island Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Roscoe B. Smith, late of Company I, Fifteenth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mate Fulkerson, widow of Alexander C. Fulkerson, late of Company A, Seventy-sixth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Fred D. Bryan, late of Company C, Thirtieth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Ada M. Wade, widow of Charles O. Wade, late of Company I, Seventh Regiment Michigan Volunteer Infantry, and Companies I and L, Second Regiment Missouri Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Charlotte M. Snowball, widow of Edwin R. Snowball, late of Company C, Second Regiment California Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Franklin M. Snowball, helpless and dependent child of said Edwin R. Snowball, the additional pension herein granted shall cease and determine.

The name of Albert White, late of Company H, Seventeenth Regiment United States Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of William W. Lane, late of Company B, Thirty-fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Lydia M. Jacobs, widow of William H. Jacobs, late of Company G, Thirty-ninth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Albert Burgess, late of Company C, Seventeenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Rosa L. Couch, widow of Simon A. Couch, late first lieutenant Company D, Thirteenth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Cook, alias Joseph Moore, late of Company C, Sixth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Amanda Barrett, former widow of Austin M. Kay, late of Company B, Ninth Regiment New Hampshire Volunteer Infantry, and Ninety-first Company, Second Battalion Veteran Reserve Corps, and pay her a pension at the rate of $12 per month.

The name of Alvah S. Howes, late of Company H, Sixtieth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of George C. Rider, late of Company G, Forty-fourth Regiment New York Volunteer Infantry, and Company G, Eighteenth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Charles C. Littlefield, late of Company D, Forty-sixth Regiment Massachusetts Militia Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Martha Dye, widow of John H. Dye, late of Company H, Fourteenth Regiment, and Company M, Eighth Regiment, Missouri State Militia Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Carrie Hitchcock, widow of James W. Hitchcock, late captain Company K, Thirty-seventh Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah McLaury, widow of George S. McLaury, late of Company I, One hundred forty-fourth Regiment, New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William H. Frederick, late of Company F, First Regiment Ohio Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph D. Iler, late of Company K, One hundred and thirty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Rodney S. Vaughan, late of Company A, Sixteenth Regiment New York Volunteer Cavalry, and Company C, Ninety-first Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Isaac A. Sharp, late of Company G, Eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Turner S. Bailey, late of Company A, Third Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Alpheus K. Rodgers, late of Company B, One hundred and forty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Christina Higgins, widow of Asa T. Higgins, late of Company B, Twenty-fourth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Josiah B. Hall, late of Company B, Fifty-seventh Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Ellen Tyson, former widow of Almon B. Gardner, late of Company B, Forty-sixth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William Hoover, late of Company G, Fifth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Abby E. Carpenter, widow of Charles A. Carpenter, late first lieutenant Company H, Twenty-ninth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah Gross, widow of Henry S. Gross, late assistant surgeon, Twenty-sixth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Nelson Taylor, late of Company K, One hundred and second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Carrie Crockett, widow of Hugh T. Crockett, late of Company A, Forty-sixth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Lucy H. Collins, widow of Oscar Collins, late of Company L, Third Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Royal H. Stevens, late of Company A, First Regiment Michigan Volunteer Infantry, and first lieutenant Company B, First Regiment Michigan Veteran Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Araminta G. Sargent, widow of George G. Sargent, late of Company C, Seventy-fourth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sidney P. Jones, late of Company B, Twelfth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ann T. Smith, widow of William W. Smith, late captain Company G, Twenty-fourth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Ellen E. Clark, widow of John Clark, late of Company I, Twenty-first Regiment Iowa Volunteer Infantry, and former widow of Joseph Kirk, late of Company B, One hundredth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Sarah H. Paden, widow of Thomas F. Paden, late of Company A, Third Regiment Pennsylvania Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Edmund P. Banning, late second lieutenant of Marines, U. S. S. Powhatan, United States Navy, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Winchester E. Moore, late acting third assistant engineer, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary P. Pierce, widow of Edwin S. Pierce, late lieutenant colonel, Third Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of John B. Ladeau, late of Company D, First Regiment Vermont Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Christopher P. Brown, late of Company D, Second Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Allen Price, late of Company F, Tenth Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Delphine R. Burritt, widow of Loren Burritt, late major, Eighth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $40 per month in lieu of that she is now receiving.

The following committee amendments were read, severally considered, and agreed to:

Page 2, strike out lines 1 to 3, inclusive. (This is the bill (S. 300) of Thomas W. Dickey.)

Page 3, strike out lines 5 to 7, inclusive. (This is a bill (S. 2379) for the relief of Addie Roof.)

Page 8, line 19, strike out "$30" and insert in lieu thereof "$24." (This is the bill (S. 5057) of Andrew King.)

Page 12, line 5, strike out "$30" and insert in lieu thereof "$24." (This is the bill (S. 6968) of James Luther Justice.)

Page 12, line 19, strike out "$30" and insert in lieu thereof "$20." (This is the bill (S. 7025) of Martha J. Stephenson.)

Page 13, strike out lines 3 to 6, inclusive. (This is the bill (S. 7084) for the relief of Mate Fulkerson.)

Page 14, strike out lines 7 to 10, inclusive. (This is the bill (S. 7173) of Lydia M. Jacobs.)

Page 14, strike out lines 19 to 22, inclusive. (This is the bill (S. 7214) of John Cook.)

Page 16, strike out lines 1 to 4, inclusive. (This is a bill (S. 7363) for the relief of Sarah McLaury.)

Page 20, line 20, strike out "$40" and insert in lieu thereof "$30." (This is the bill (S. 7805) of Delphine R. Burritt.)

Mr. RUSSELL. Mr. Chairman, I move that the bill as amended be laid aside with a favorable recommendation.

The motion was agreed to.

The foregoing bill is a substitute for the following Senate bills referred to the Committee on Invalid Pensions:

S. 33. Ellen B. Kittredge.
S. 300. Thomas W. Dickey.
S. 437. Mary E. McDermott.
S. 921. Henry Frink.
S. 1115. Christian C. Bradymeyer.
S. 1223. George M. Pierce.
S. 2106. Joseph C. Trickey.
S. 2293. James M. Kinnaman.
S. 2379. Addie Roof.
S. 2490. Leeman Underhill.
S. 2563. Charles W. Morgan.
S. 2634. Alphonso L. Stasy.
S. 2948. Jeramiah Lushbough.
S. 3178. James B. Sales.
S. 3304. Mary E. Rikard.
S. 3370. Margaret H. Benjamin.
S. 3490. Benjamin F. Ferris.
S. 3522. Hiram Ferrier.
S. 3573. Henry B. Leach.
S. 3597. John Bell.
S. 3665. Elizabeth Lile.
S. 3666. George M. Conner.
S. 3673. Lola B. Hendershott and Louise Hendershott.
S. 3748. Daniel H. Grove.
S. 3993. Charlotte R. Coe.
S. 4123. Caroline M. Packard.
S. 4255. Benjamin C. Smith.
S. 4656. George R. Griffith.
S. 4802. Rolly Wright.
S. 4819. Charles J. Higgins.
S. 4989. Joseph Letzkus.
S. 5023. Israel H. Phillips.
S. 5136. John E. Woodward.
S. 5171. Josephine A. Davis.
S. 5329. Osmer C. Coleman.
S. 5339. Hugh McLaughlin.
S. 5514. Joseph Striker.
S. 5528. Mary Glancey.
S. 5562. Joby A. Howland.
S. 5057. Andrew King.
S. 5852. Mary S. Hull.
S. 6012. Sarah E. Haskins.
S. 6169. Ira Waldo.
S. 6270. Ellis C. Howe.
S. 6452. Thomas M. Dixon and Joanna L. Dixon.
S. 6606. Solomon Wilburn.
S. 6651. William O. Sutherland.
S. 6664. Annie H. Ross.
S. 6739. John Dixon.
S. 6750. Arnold Bloom.
S. 6759. John D. Perkins.
S. 6787. William Harrison.
S. 6791. Sarah E. Johnson.
S. 6873. Willis Dobson.
S. 6878. Zachariah T. Fortner.
S. 6931. Jesse A. Moore.
S. 6938. James Moynahan.
S. 6955. Dustin Berrow.
S. 6966. Sarah J. Viall.
S. 6968. James Luther Justice.
S. 6973. Mary A. Crocker.
S. 7000. Winfield S. McGowan.
S. 7025. Martha J. Stephenson.
S. 7047. George E. Smith.
S. 7076. Roscoe B. Smith.
S. 7084. Mate Fulkerson.
S. 7100. Fred D. Bryan.
S. 7108. Ada M. Wade.
S. 7136. Charlotte M. Snowball.
S. 7137. Albert White.
S. 7164. William W. Lane.
S. 7173. Lydia M. Jacobs.
S. 7190. Albert Burgess.
S. 7200. Rosa L. Couch.
S. 7214. John Cook, alias Joseph Moore.
S. 7215. Amanda Barrett.
S. 7216. Alvah S. Howes.
S. 7219. George C. Rider.
S. 7224. Charles C. Littlefield.
S. 7276. Martha Dye.
S. 7282. Carrie Hitchcock.
S. 7363. Sarah McLaury.
S. 7376. William H. Frederick.
S. 7400. Joseph D. Iler.
S. 7510. Rodney S. Vaughan.
S. 7526. Isaac A. Sharp.
S. 7529. Turner S. Bailey.
S. 7547. Alpheus K. Rodgers.
S. 7556. Christina Higgins.
S. 7557. Josiah B. Hall.
S. 7569. Ellen Tyson.
S. 7581. William Hoover.
S. 7587. Abby E. Carpenter.
S. 7588. Sarah Gross.
S. 7595. Nelson Taylor.
S. 7596. Carrie Crockett.
S. 7615. Lucy H. Collins.
S. 7624. Royal H. Stevens.
S. 7628. Araminta G. Sargent.
S. 7661. Sidney P. Jones.
S. 7664. Ann T. Smith.
S. 7677. Ellen E. Clark.
S. 7701. Sarah H. Paden.
S. 7717. Edmund P. Banning.
S. 7719. Winchester E. Moore.
S. 7730. Mary P. Pierce.
S. 7775. John B. Ladeau.
S. 7781. Christopher P. Brown.
S. 7791. Allen Price.
S. 7805. Delphine R. Burritt.

Mr. BURKE of Wisconsin. Mr. Chairman, I call up Private Calendar 313, it being House bill 28282.

The CHAIRMAN. The Clerk will report the bill by title.

The Clerk read the title of the bill, as follows:

A bill (H. R. 28282) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

Mr. BURKE of Wisconsin. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Without objection, the first reading of the bill will be dispensed with.

There was no objection.

Mr. BURKE of Wisconsin. Before the reading of the bill, Mr. Chairman, if I may be allowed to do so, I would like to make a brief statement of its contents.

The CHAIRMAN. The gentleman from Wisconsin is recognized.

Mr. BURKE of Wisconsin. This bill, Mr. Chairman, has received most careful consideration at the hands of your Committee on Invalid Pensions. We have endeavored to present a bill that would be unobjectionable to the Members of this House, and yet that is a matter that is almost impossible to do. Still we have done our level best. Our committee since the session began in December has been somewhat crippled. There are two or three vacancies on our committee, and there have been several absentees since the last election. Our subcommittees are somewhat crippled by reason of there being sometimes only one member of a subcommittee present to work with us, and it is barely possible that under such circumstances some objectionable bills may have crept through. I have noticed that some subcommittees that have been fully represented at all times have presented bills here that were without objection, and if there are cases in this bill that are objectionable I think it is on account of there being an inefficient force on the subcommittee.

I desire to explain that in this bill there are 468 claimants, 332 being soldiers, 120 being widows, 14 being children, and 2 mothers. The bill carries a total appropriation of $148,296. This is a total increase of $48,048 per year on the part of the 332 soldiers; an increase of $14,928 per year on the part of the 120 widows, of $2,016 per year on the part of the 14 children, and of $288 on the part of the 2 mothers, thus making about $68,000 increase altogether. The average amount allowed per year under this bill is but $361 to a person. Of course, some are receiving a larger amount per year and some less.

This, in brief, is our explanation of the present bill.

We hope that it will be the last one that we shall present at this session. If it is not the last one that we shall present at this session, it will probably be the last one that we shall call up for passage.

Mr. MANN. That is, the gentleman means House bills?

Mr. BURKE of Wisconsin. Yes.

Now, Mr. Chairman, I ask unanimous consent that at this time the gentleman from Ohio [Mr. SHERWOOD] be allowed to address the House on this subject for 15 minutes.

Mr. MANN. It does not require unanimous consent.

The CHAIRMAN. The gentleman from Wisconsin [Mr. BURKE] is entitled to an hour, and the Chair understands he yields 15 minutes to the gentleman from Ohio [Mr. SHERWOOD], who is recognized for that time.

Mr. SHERWOOD. Mr. Chairman, as has already been stated by the gentleman from Wisconsin [Mr. BURKE], this is probably the last bill that will be reported from the Committee on Invalid Pensions during the life of this Congress. There may be a few bills reported for desperate cases.

This bill was prepared under a resolution that each Member who had his evidence prepared should be allowed three bills.

Now I have in my district 4,000 living soldiers. I have to-day bedridden soldiers to the number of 50, and you can see from that statement what proportion of adequate relief we have in this bill when you consider the whole body of over 500,000 surviving soldiers.

I have some statistics here, part of which have been stated by the gentleman from Wisconsin, but I think it is due the House to know how many pension bills have been introduced in this Congress. There has been introduced in this Congress 15,151 private pension bills.

Now, it is the presumption that every Member on this floor who introduces a bill thinks that bill has some merit. Of that number we reported and passed 3,090 bills. That is only 1 out of 5 introduced.

I stated on the floor of this House when the so-called dollar-a-day pension bill was under discussion that if that bill should pass the House it would largely dispense with private pensions. That was true; but, as you will remember, during the four days' consideration of that bill on this floor amendments were added to the bill which increased the aggregate between eleven and twelve million dollars. Then the bill went over to the Senate. There another and an entirely different bill was substituted. That was a pauper pension bill largely, and not a bill based upon service or upon sacrifice like the House bill.

The conferees on the part of the House and the conferees on the part of the Senate had a contest lasting over four months, in order that our conferees, representing this House, could secure a bill partly based upon service and upon sacrifice, and we had to submit to a new classification in order to get any bill at all. Under this law a soldier who is totally disabled, who was wounded in battle, if he has not reached the age of 70 years, can only get a maximum of $19 per month, whereas a soldier who is 75 years old, under this law, whether he was in the service for only 90 days, will get $21, and if he was in 2 years, $30 per month, without regard to his service or disability.

Let me illustrate why these private bills are necessary. I went into the Army at the age of 26 years, when I was at full maturity. The boys who went into the Army at 16 and 18 and who served through the war are older men than I am to-day. If I had gone into the Army at 16 or 18 years of age and had gone through the same service in that war, I would probably have been in the cemetery by this time or a physical wreck, utterly incapacitated for manual labor.

So that this law which passed in May last does not take care adequately of those who are disabled and who have not reached the age of 70 years. That is the reason why these private bills are necessary now. I have a table here showing the increases in this bill, referred to by the gentleman from Wisconsin The increases in this bill, should it become a law, will be $5,472 a month, or $65,704 a year, should all the beneficiaries live that long. That is the total increase for the 467 cases involved in this bill, but the death rate will reduce the aggregate to less than $40,000. So you will concede that the increases are very moderate and in many cases not as liberal as they should be.

Now, my friends, a good many men on this floor, and more outside, do not appreciate or understand the magnitude of this great war. Do you know that more men lost their lives in one great battle—the Battle of Gettysburg—than in the entire American Revolution and in the two years' war with Mexico and the War with Spain, all combined, covering a period of 10 years?

In the War of the American Revolution, lasting 7 years, there were 56 battles fought, or 8 battles a year. In the Civil War there were over 2,000 battles fought, and 400 battles in which more men lost their lives than in the bloodiest battle of the War of the Revolution—the Battle of the Brandywine. In the whole War of the American Revolution 1,735 men were killed in battle. In the War with Mexico, where 105,000 soldiers were recruited in 2 years, 1,049 men lost their lives. In the War with Spain, including the terrible slaughter at San Juan Hill, according to the official report, 247 men lost their lives in battle. In the Battle of Gettysburg there were 3,070 killed on the battle field or died on the battle field from wounds.

Now, you can figure up your 1,735 in the War of the American Revolution, 1,049 in the War with Mexico, and 247 in the War with Spain, and you will find that 41 more men were killed in that one Battle of Gettysburg than in all these three great wars.

Let me call your attention to another fact. There were more men killed on the Union side in that war than all the wars of England—the greatest imperial Empire and the most warlike of any nation around the world—for 350 years, including the 43 wars of conquest under Queen Victoria. I have not the statistics of the loss on the Confederate side, for they are not so available.

Now, it does not seem to me to be beyond patriotic duty to bring in a bill here for these deserving and destitute old soldiers staggering to a nearby grave and only carrying an aggregate increase of $65,000 a year.

Let me make another statement that may seem startling. Considering the size of the armies, considering the battle fatalities of these armies, the American people have provided more pensions, more benefits, more bounties to the soldiers of the American Revolution than we have up to this date for the soldiers of the Civil War. And now I will prove it.

Take Virginia—only one of the thirteen original Colonies—for illustration: In a speech made by Representative Smith, of South Carolina, in January, 1828, quoted in Thomas H. Benton's Abridgment of the Debates of Congress, is a statement of the amount of lands, the amount of bounty, and the amount of money given to the soldiers of Georgia and South Carolina by these Commonwealths for the services of their volunteer soldiers in the War of the Revolution. Congressman Smith, of South Carolina, said:

> The truth is that the officers of your Revolutionary army had been more liberally provided for than any other class of men in this or any other country. In addition to their pay during their time of actual service they were promised half pay for life after they should retire from the Army, which was commuted for five years' full pay—which was a mighty stretch for a Government at the dawn of its struggle for freedom—and were promised and received large tracts of valuable lands. Each officer, from a major general down to an ensign, had his lands, and that placed upon the most fertile spots. In addition to this, the Southern States gave their officers large tracts of the finest land in the world. Virginia gave largely and liberally in lands to her officers. South Carolina did the same. North Carolina gave to each brigadier general 12,000 acres; to a colonel 7,200; to a captain 3,500; and to Gen. Greene that State gave 25,000 acres that were said at one time to be worth $500,000. To that meritorious officer Georgia gave $22,500 in money, and South Carolina gave him $45,000 in money. These were free-will offerings after the war was ended, which those States were prompted to make to exalted merit for distinguished services, and surely they would redeem the Carolinas and Georgia from the crying sin of ingratitude.

In 1828 the Congress of the United States passed a law retiring all soldiers of the War of the Revolution and all officers on full pay for life (on the maximum pay of a captain) who served for two years in the continental line. Four years later, in 1832, the Congress of the United States passed a law retiring for life on full pay (limited to the full pay of a captain) all the minute men, all the militia, and all the militia officers who served on and off for two years. In 1833, a year later, Congress modified and liberalized that law. The second section of the act of 1832 required the reduction of all invalid and other pensions and a total relinquishment thereof before receiving its benefits; but Congress, on the 19th of February, 1833, removed this restriction; so that, since that time, the soldiers of that war received two pensions, where their service has been of sufficient duration to admit them to pensions under the act of 1832. Congress also made the law retroactive two years, to date back to 1830.

Here is something very substantial that Virginia did for her soldiers. In chapter 21 of the act of October, 1779, it is provided that—

> Officers who shall serve in the Virginia line on the continental establishment * * * to the end of the present war, and noncommissioned officers, soldiers, sailors, etc., shall * * * receive land * * * following:

	Acres.
Every colonel	5,000
Every lieutenant colonel	4,500
Every major	4,000
Every captain	3,000
Every noncommissioned officer	400
Every soldier	200

And so forth.

In the act of October, 1780, chapter 3, it was provided—

> And each recruit, and all our soldiers now in service, * * *, or who may enlist by the 1st of April next to serve during the war, and who shall serve to the end thereof, SHALL THEN RECEIVE A HEALTHY NEGRO between the ages of 10 and 30 years.

That is most startling news—more startling than Hannibal brought back from Africa.

> Or he shall receive £60 ($300) in gold or silver, at the option of the soldier, in lieu thereof, and moreover be entitled to 300 acres of land.

Here are a few cases where the United States paid Revolutionary War officers money under the half pay originally promised by Virginia:

Laban Bailey, sailing master	$2,021.50
Charles S. Bonoch, lieutenant, Navy	5,066.00
John Bailey, captain	10,548.16
Robert Andrews, chaplain	7,284.88
James Barron, commodore	32,382.50
John Bailey, Bardstown, Ky	9,480.68
Corbin Griffin, captain	10,970.10
John Cox, captain	13,715.22

And many others.

These payments were made good by the United States to redeem promises made by Virginia and were in addition to the full pay and pensions provided by Congress.

Again, officers of the Regular Army—not more than 5 per cent of whom have any chance to see any battle service—are now retired at 64 years of age on three-fourths pay for life, and those Regular officers who served in the Civil War, if for a day only, are paid the salary of one rank above their rank at retirement. They receive three-fourths pay which, after five years, ranges from $1,400 for a second lieutenant to $4,500 for a brigadier general.

And quite recently 10 per cent increase in pay was voted the officers and soldiers of the Regular Army, aggregating some $10,000,000 annually of our hard-earned tax money. And this was followed by a 10 per cent increase in pay of the officers and sailors of the Navy, aggregating $6,000,000 more per year. All this for the benefit of men always well paid, well housed, and well fed, who produce nothing, earn nothing, improve nothing, and who have suffered no hardships, compelling every wage-worker to carry a soldier upon his back in addition to the tremendous burden of onerous taxation on everything he wears, eats, or consumes.

Congress provides liberally for the Navy in time of peace. The official pamphlet entitled "The Making of a Man-of-War's Man," issued by the Navy Department, May, 1910, to induce young men to enlist in the Navy, shows that a man may enlist at 18 years of age, spend half his wages, lay up the remainder, and at the age of 48 have savings of $27,486. I quote a paragraph from this official pamphlet:

FINANCIAL BENEFITS OF A LIFE IN THE NAVY.

Regarding financial benefits we will suppose, for example, that a man enlisting at the age of 18, reaches the rank of petty officer by the end of his first enlistment (four years more). Any man can do this if he is willing to work. If he saves half his pay during 30 years, from the age of 18 to 48, and he invests it in the Navy Savings Bank at 4 per cent interest and reenlists immediately on the expiration of each enlistment those 30 years, at the end of that time he will have in cash $27,486, and may retire on three-fourths of his pay, which will be about $105 a month, or $1,260 a year. Thus he will have $27,476 in cash, which he can invest at 4½ per cent, which will bring him in over $1,236 a year. Add this to his retirement pay and you will readily see that he would have $2,496 per year income from the early age of 48 for the balance of his life.

And yet we have great metropolitan journals and magazines claiming to be in a moral and patriotic uplift who utter no word of protest against the six hundred millions a year spent on militarism. But when it is proposed to spend a few thousand dollars on the seared and sorrowed remnant of that great army of veterans of the Civil War these same journals and magazines do not hestitate to denounce the surviving veteran soldiers as grafters, seeking to bankrupt the Federal Treasury. Verily are we not, ethically speaking, on the toboggan slide?

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. KENDALL. I ask unanimous consent that the gentleman's time be extended five minutes.

Mr. BURKE of Wisconsin. I yield five minutes more to the gentleman from Ohio.

Mr. SHERWOOD. Other instances might be cited showing the vast amount of land rewarded other officers of the Revolution. I will cite only one case, which is perhaps a marked one. Lafayette was first given 11,520 acres of land; afterwards he was given a full township, 36 square miles of land, to be selected by himself, and also $200,000 in gold.

All these vast rewards were in addition to the pension and full pay given to Revolutionary officers, according to their rank, by the Congress of the United States.

Again, 40 years after the Mexican War, we pensioned every soldier who served 60 days in that war, and those who enlisted north of Texas could not reach the Army in Mexico at that time in 60 days. So these soldiers of the Mexican War were pensioned because they were soldiers who enlisted in that war and not because of actual service at the front or any disability whatever.

I invite your careful scrutiny to this bill. No soldier is pensioned without service or without disability and unless he is in destitute circumstances. It is our patriotic duty to care for these grizzled, battle-scarred veterans.

We can not call back from 70 national cemeteries our valiant dead. They are forever beyond recall. But we can do something for the living, who in that terrible four years' war offered their lives in battle to preserve the Republic. Let us see to it that the last sad remnant of that Army, now passing rapidly away, shall have their last days on earth made comfortable and free from biting want. Let us give to the fast-fading remnant of the men who stood behind the guns, who did the hardest work of war, a small token of our sense of gratitude to cheer their worn-out, weary lives. [Applause.]

The CHAIRMAN. Does the gentleman from Wisconsin [Mr. BURKE] desire to occupy any more of his time?

Mr. BURKE of Wisconsin. Not now.

Mr. RODDENBERY. Mr. Chairman, in the course of the remarks of the distinguished ex-Speaker [Mr. CANNON] this morning he made reference to the location and type of memorial that the Government should erect to Abraham Lincoln.

I do not propose now to discuss what type of memorial would be most fitting for the Government to undertake, but I venture to suggest that if the policy or plan to be adopted is that of a great national highway reaching from one point of the country to another, rather than have it from Washington to Gettysburg, it would be more appropriate to construct it from Washington to Richmond, Va.—Richmond, as the seat of that virile young government that thrived for a season and perished forever, and Washington, as the seat of that Government which has survived and will survive forever [applause]; or, rather still, discard the seat of government altogether, for there is, as the gentleman from Illinois [Mr. CANNON] stated, or should be, a higher purpose than the construction of this memorial as the occasion of emphasizing any great project. Appeasing the esthetic taste and love of appropriations is a great Washington project. It is equally true that it should be for a still higher purpose than gratifying the ambitions and desires of many to make it chiefly a factor that goes to make the Capital of the Union the most beautiful and most attractive of all the cities of the world.

I should rather go to Illinois, whence came the immortal Lincoln to assume the Presidency of the Republic in the most crucial period of its existence, and there with enduring arches begin the consecration of the memorial, letting it stretch southward across the plains, from which thousands and tens of thousands of soldiers went forth from their homes, both to the Union and to the Confederate lines, and let it reach to Mississippi, there to connect the home of Abraham Lincoln and the home of Jefferson Davis, the two Presidents of the respective Governments in this great and trying period, both of whom died martyrs for their country's good, as country's good each thought it. Either of these, it seems to me, would be more fitting than the proposition to connect Washington, with its grandeur, with Gettysburg, nigh by, with its memory and record of fratricidal strife and fraternal destruction. The only sound reason that makes the plan to construct a highway to Gettysburg of equal importance with either of the plans that I have suggested to construct it from Washington to Richmond or from Illinois to Mississippi—is that on one occasion Lincoln repaired to Gettysburg, and there, in a few words and in brief speech, gave deliverance to expression of patriotic thought that, for the time consumed in their utterance, are equaled in no age and in no language yet spoken by man. [Applause.]

Mr. Chairman, we have digressed from the purpose for which we arose to address the House. On January 10, 1913, when the preceding omnibus pension bill was under consideration, I took occasion, without knowing Capt. King, without knowing Commissioner Davenport, to read into the RECORD a letter that Capt. King, past commander in chief of the Grand Army of the Republic, had written, in which letter Capt. King called attention to the fact that the Commissioner of Pensions is now and for several years had been drawing a fair salary of $5,000 a year as such commissioner, and was at the same time, and had been for more than 20 years, drawing a pension as a disabled soldier because of disease contracted during his service in the war. Capt. King also took occasion to say that the Commissioner of Pensions saw no active battle and sustained no injury in his service; that he procured himself to be placed upon the pension roll at a time when he was an employee in connection with and in service of the Pension Bureau. Other remarks were made touching this question. On that occasion, my distinguished colleague, the gentleman from Massachusetts [Mr. CURLEY], took occasion, after I had concluded my remarks, to say:

I made it my business to telephone the Pension Commissioner, and he informed me that he endeavored on three occasions to enlist in the Union Army in his native section in New Hampshire, but was rejected because of his youthfulness. He was less than 18 years of age, and in order that he might serve his country, in order that he might assist in keeping this Union whole, he left home, a boy under 18 years of age, and worked his way westward to Wisconsin, and was finally accepted and enlisted in Wisconsin; that he served five months in the Civil War in Mississippi and in Tennessee, and that he participated in the Battle of Memphis, on August 5, 1864.

My colleague said further:

In the light of the testimony of the commissioner himself, who would not dare state an untruth as far as his record is concerned, because it could be easily discovered by an investigation of the records at the War Department, I believe it is not only unjust, but it is unwarranted, it is unfair, and it should be condemned.

I accept the statement of the gentleman from Massachusetts as correct. I mean to say by that that the gentleman from

Massachusetts undoubtedly correctly and truthfully reported what the Commissioner of Pensions had said to him over the telephone.

If what the Commissioner of Pensions said to the gentleman from Massachusetts is true, then it undoubtedly follows that the statements were unwarranted, unfair, and should be condemned. Any remarks I now make in no way bring into question either the good faith, the accuracy, or the propriety of my colleague's statement just quoted. But I assert again that I assume that, fresh from the telephone, he quoted the commissioner correctly—that is, that Commissioner Davenport told him that he undertook to enlist in his native State three times, and because he was under 18 he was too young and could not; next, that he went westward and finally enlisted and served five months in the Army; next, that in addition to that service in the Army, after it had ended he was in such a condition as to be entitled to a pension; and, further, that during that service he was engaged in the battle at Memphis on the 5th of August, 1864. Mr. Chairman, I lay down the proposition that neither statement is true. I not only lay it down, but I propose in my time here to prove it by the record and incontrovertible fact. On that occasion my friend very properly, as he thought, said:

I can very readily conceive that some joker has been indulging in the very pleasing task of writing letters.

Let me read this letter, Mr. Chairman:

25 WEST MOUNT ROYAL AVENUE,
Baltimore, Md., January 13, 1913.

Hon. JAMES M. CURLEY,
House of Representatives, Washington, D. C.

DEAR SIR: I was interested, if not amused, at your defense of Commissioner Davenport, Friday last, in the House.

Mr. Davenport informed you over the telephone that he was less than 18 years of age when he enlisted (presumably in the summer of 1864), and the "fairy" tale that he had made three attempts to do so in New Hampshire and was obliged to make his way to far Wisconsin before he succeeded.

About a year ago four ex-Union soldiers were at lunch together—Davenport and the writer were of the number. The question of age came up, and it was disclosed that all of us were born in 1845. I was the youngest of the four, being some two or three months Davenport's junior (he likes to repeat this incident). Now, Davenport claims to have enlisted in the summer of 1864; 1845 from 1864 leaves 19 plus 6 months—nearly 20 years instead of less than 18. Has Mr. Davenport told you the truth? I was born June 24, 1845, and on the 15th day of August, 1862, was mustered into the service of the United States in Company H, Sixth Regiment Maryland Volunteers; served until the close of the war (2 years 10 months); wounded three times, used crutches for nearly 12 months after the war, and had the honor of commanding my company in the Wilderness campaign. Again, Mr. Davenport told you in that telephonic conversation that he served 5 months and was in the Battle of Memphis, August 5, 1864. As my entire service was in the Army of the Potomac, in the famous Sixth Corps (Keifer's brigade), I am not very familiar with the battles fought in the Southwest. As I had never heard of the Battle of Memphis, August 5, 1864, I have looked through Strait's Alphabetical List of Battles, 1754 to 1900, and it fails to disclose any such engagement. This book is accepted as authentic in the Pension Bureau. Now, Mr. CURLEY, did Mr. Davenport tell you the truth? You can verify his statement by a call on the Adjutant General of the Army for his record and of the Battle of Memphis. If there was such a battle, it must have been disastrous to this gallant soldier, who was so anxious to "keep the Union whole," as 21 years thereafter, while holding a position in the Pension Bureau, had himself placed on the pension rolls at $16 per month for "chronic diarrhea," and under the law that wasting disease must still be present or he dropped from the rolls. Does he look it?

I have on my desk a late photograph of the Commissioner of Pensions, and he does not look it. Capt. King goes on to say:

I have served several years on the Grand Army of the Republic national pension committee, have always urged the most liberal pensions for my comrades who deserved them, but have never favored those "chocolate" soldiers who never saw the front or felt the shock of battle. We read in Holy Writ that those who went into the vineyard at the eleventh hour received the same pay, but nowhere do we read in that sacred volume that they received more than those who bore the whole heat and burden of the day.

Now, Mr. CURLEY, it was not a "joker" who wrote to Mr. RODDENBERY. I pride myself on having been a real soldier, and you are at liberty, and I court the inquiry, to call on The Adjutant General of the Army for my record, or to my dear old commander, Gen. J. Warren Keifer.

Respectfully, yours, JOHN R. KING.

Now, Mr. Chairman, my distinguished colleague said that it would be easy to obtain from the War Department the military record of the Commissioner of Pensions, and that the Commissioner of Pensions would not dare misstate it. I read:

WASHINGTON, *D. C., January 14, 1913.*

THE ADJUTANT GENERAL,
Care of War Department, Washington, D. C.

MY DEAR SIR: Please cause to be forwarded to me the military record of James L. Davenport as a private in Company B, Fortieth Wisconsin Regiment, 1864–65.

Yours, truly, S. A. RODDENBERY.

This is the reply from The Adjutant General's Office:

WASHINGTON, D. C., *January 15, 1913.*

Hon. S. A. RODDENBERY,
House of Representatives:

The records show that James L. Davenport was enrolled May 23, 1864, at Beloit, Wis., and was mustered into service June 7, 1864, as a private of Company B, Fortieth Regiment Wisconsin Infantry, to serve 100 days, and that he was mustered out with the company as a private September 20, 1864, to date September 16, 1864.

GEO. ANDREWS, *Adjutant General.*

So the record of the department shows that the distinguished Commissioner of Pensions served less than three months and a half in this great war and that his arduous sacrifices and services nowhere approximated five months. I also addressed a communication to the Surgeon General of the Army, which was referred to The Adjutant General, under the same date, as to Mr. Davenport's confinement in hospital from disease or injury. The reply is:

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
January 16, 1913.

Hon. S. A. RODDENBERY,
House of Representatives:

Inviting attention to the letter addressed to him to-day by this office, from which it will be seen that nothing has been found in the hospital records to show that the said Davenport was wounded or received any injury while in service, or that he was under treatment in hospital for any disability while a member of the regiment mentioned.

GEO. ANDREWS,
The Adjutant General.

Gentlemen, the record is speaking for itself. This is no telephone conversation. The correctness and truth of the commissioner's telephone statements are not supported by the official record. But I proceed.

Capt. King referred to Strait's Alphabetical List of Battles. So that the record may be complete, I supplement him by saying that on page 85 of that volume it shows what transpired in the nature of battles, engagements, sieges, or skirmishes at or near Memphis, and nowhere does it appear that any battle, engagement, or skirmish took place at any time during the war at Memphis on August 5 or thereabouts, so the commissioner who gave his record over the telephone fought in a battle of which nobody has a record except himself. Either Davenport is wrong or the war records are falsified. The record is speaking now, not the Commissioner of Pensions. His enlistment in the Fortieth Wisconsin Regiment—I read from Love, Wisconsin in the Rebellion, "Roster of Union Soldiers," not only recognized as an authority but accepted as such by the Pension Department, and it so appears in the volume quoted and it so appears in the records of the Pension Bureau; not only that, but it appears in the preface of Strait's Alphabetical List of Battles that the Commissioner of Pensions then accepted and now accepts it as authentic record of the battles. From this authority, "the men of the Fortieth Wisconsin were principally students of the Wisconsin colleges and seminaries and members of the several professions." That is evident from the fact that when the college term was out the latter part of May these young men, patriotic and valiant, engaged for 100 days in the war, and for perhaps longer if occasion should require. They enlisted, went forward to Tennessee, and there served, returning to their State and their colleges in ample time for the fall term. The Commissioner of Pensions seems to have abandoned his business of soldier-broker long enough then and thereafter to go to Tennessee with the college boys. The record from the official roster, on page 858 et sequentia, says that but three soldiers in the entire regiment received a wound of any kind, and that no soldier, officer or private, of Commissioner Davenport's company received an injury of any kind.

It further appears on page 1119 of the roster that the entire Fortieth Wisconsin Regiment, composed of 776 privates, mostly college boys, was mustered out in Wisconsin, where they enlisted, and that when the roll was called every soldier, every boy who went forward with the regiment, answered present except 13. The names of the 13 who did not answer present are there recorded. Every one of them is reported to have died from disease, and of the company in which the Commissioner of Pensions was a member only two are reported to have been fatally afflicted with disease of any kind, and no record in the War Department that the Commissioner made a charge upon the hospital. That is the Wisconsin regiment in which he served, and because of which service for nearly 30 years while he has served as an employee of the Pension Department he has been drawing $16 a month, when these old veterans that Gen. Sherwood was talking about were receiving $8, $10, and $12, although they fought where lives of men were swallowed up by blood and death.

Mr. LANGLEY. Will the gentleman yield for a question?

Mr. RODDENBERY. Certainly.

Mr. LANGLEY. The gentleman has stated heretofore that there are several ex-soldiers who are drawing pensions and who are receiving high salaries from the Government at the same time. Why does not he give some more of those cases instead of confining all of his remarks and criticisms to Commissioner Davenport, who happens to be a Republican official?

If he desires to be fair and impartial and to help correct what he regards as an abuse, why does he not refer to the cases of some Democratic officials as well? Why not give the cases of some others, like that of Gen. Black, for instance, who, to my knowledge, has been drawing a pension of $100 a month for nearly 30 years on the theory that he is and has been all along a physical wreck, and yet nearly all of that time he has been serving the Government in some capacity or other, and has received much more salary and pension, too, than Commissioner Davenport has? He has been a Member of Congress. He was Commissioner of Pensions for a number of years and is now president of the Civil Service Commission, and has been a member of the commission for many years. I have no objection to all this. Gen. Black was a distinguished soldier and has been a faithful public official. I am his personal friend, and am not seeking to criticize him, but why does not the gentleman refer to some of these other cases instead of continually hammering at Commissioner Davenport and talking about him getting a fat salary and drawing a pension at the same time, just as if that is a crime and he the only man who ever committed it?

Mr. RODDENBERY. I am glad the gentleman from Kentucky [Mr. LANGLEY] has again called attention to Gen. Black, and it is very appropriate in this connection; but if my friend will read the RECORD, and I am sure he usually does, he will find that my colleague [Mr. TRIBBLE] drew attention on the floor to Gen. Black's pension, and not only stated his salary, but the whole amount he has drawn in pensions and the whole amount he has drawn in his respective high public offices. The reason I call attention to Commissioner Davenport now is that I received a letter from Past Commander in Chief John R. King, giving me facts which I would not otherwise have known and which should be brought to the attention of the House. I immediately verified them and presented them to the House. Then the correctness of the statements were brought into question by Commissioner Davenport in conversation over the phone with my colleague [Mr. CURLEY], who accurately and correctly repeated on the floor what the commissioner said; that is, that he served five months; and I have proved by the War Department and the war records that he did not.

He stated that he was in the Battle of Memphis on August 5, 1864, and I have proved by the War Department records that he was not. In fact, have shown there was no such battle; that he tried to enlist and could not because he was under 18 years of age; and I have proved by the record, and now prove by his own autobiography in Who's Who in America that he was born on January 27, 1845, and that he could have entered nearly two years before he did and been clear of the age that he gave to my friend Mr. CURLEY.

I will also call attention to facts that seem appropriate when we are about to consider this commissioner's sad disappointment at not being able to break into the Army. On the first page of the bill we are now considering, on the first page of the report, and the first bill in the report, and the first item in the bill, is a paragraph authorizing a pension for a soldier who enlisted in the Union Army when he was 15 years old. Was this young American more diligent than the distinguished Commissioner of Pensions?

Mr. TRIBBLE. Did the gentleman notice the second page, where the pensioner was only 13 years of age when he enlisted?

Mr. RODDENBERY. I thank the gentleman. Yes; just 13 years of age, and, lo and behold, he comes from Wisconsin, the State in which the commissioner enlisted.

Mr. AUSTIN. May I ask the gentleman a question?

Mr. RODDENBERY. I will be glad to yield later, but let me finish just now. I turn to page 11 of the report and find that a young lad from Illinois, according to this report, enlisted in the Army at the age of 13 and rendered service on the battle field. What was the reason Commissioner Davenport could not get in at 16, 17, or 18 years of age?

In the same report, on page 15, we find young Hughey, of Ohio, who enlisted and served at the age of 14. What was the matter over in New Hampshire, that the Commissioner of Pensions could not get in after three futile efforts? Why, my God, if he had been as expeditious in getting into the war as he was in getting onto the pension roll, John C. Black and old Gen. SHERWOOD would be pigmies in battle by the side of him. [Applause.]

Turn to page 21 of the record and there you find another Ohio lad who, according to the record, was accepted and enlisted in the Army at 13 years of age. Where was the commissioner then? This young Ohio man was younger than the Commissioner of Pensions.

We find again, on page 32, out in Wisconsin, where the gentleman finally broke in to save the country, a lad who at 16 years of age enlisted and participated in the service of his country. We turn to page 54 and find that Bradley W. Hill, now 67 years old, entered the service at the age of 16. And, gentlemen, does it not astound you that this soldier enlisted in New Hampshire, where the Commissioner of Pensions made three fatal and futile efforts to enlist? So he says. I wonder what they had against him.

On page 57 of the record we find that Charles D. Jones, now 65, enlisted in the Army at 16 years of age; and, behold, this lad also was from New Hampshire. Where was the commissioner? He was over 18 years old at that time. But he contented himself by trying to explain to my friend from Massachusetts [Mr. CURLEY] how he strove in New Hampshire to get into the Army and crossed the American Continent to the State of Wisconsin in order that he might do service to save the Republic and get upon the pension roll. [Laughter.]

On page 86 we find a 16-year-old lad from Wisconsin gets upon the fighting roll. We find on page 98 another 16-year-old lad; on page 100 another 14-year-old lad. We find on page 119, also from Wisconsin, a 16-year-old lad. But Commissioner Davenport, whose record, being questioned upon the floor of the House, sends by telephone from his luxurious office in the Pension Building, where he is drawing now $5,000 a year from the people's Treasury, a demonstrated false statement in the desperate effort to exculpate himself from the charge made by his old comrade, Capt. King, saying over the phone to my colleague, "Tell the Congress I would have got there quicker but I was too young and they would not take me." Was he of sound mind and was he of fighting disposition? I can not tell you.

On page 121 another lad of 15 was able to get into the Army, and so on all through the report. On page 138 we find young Thurston at 17 years enlists and is accepted in the State of New Hampshire. He is four years younger than Davenport, but he went out to fight—not for a pension but for his country. I call your attention to it because my friend says that he knows the Commissioner of Pensions would not make a statement that was not correct, because the records would show it, and we have resorted to authentic sources and produced the records. They show what the facts are. Let Members now judge this man. What an incident, that Commissioner Davenport was the only 16 or 17 year old boy who could not enlist in New Hampshire.

Now, Mr. Chairman, I will yield to the gentleman from Tennessee [Mr. AUSTIN].

Mr. AUSTIN. I want to ask the gentleman from Georgia if Capt. King, whose name has been used here, or whose statement was used in this House to make an assault upon the worthy and efficient Commissioner of Pensions, is the same Capt. King who was pension agent in the city of Washington before the consolidation of the pension agencies?

Mr. RODDENBERY. Lately?

Mr. AUSTIN. Yes.

Mr. RODDENBERY. I do not know. Gen. SHERWOOD can tell you.

Mr. AUSTIN. Is it not a fact that his pension was granted and increased while holding the office of pension agent in this city, and that his fight on the Commissioner of Pensions grows out of the fact that the Commissioner of Pensions declined or refused to place him in the office of disbursing agent after the consolidation of the pension agencies?

Mr. RODDENBERY. So far as I know, it may be entirely true, and, again, so far as I know, it may be entirely incorrect.

Mr. AUSTIN. How long has he been pension agent—this man who now uses his position in the public service to assault his superior officer, a man of such splendid efficiency as Commissioner Davenport?

Mr. RODDENBERY. I do not know that Capt. King is now in the service. I do not know that he ever has been in the service; but I do know that according to his card he is past commander in chief of the Grand Army of the Republic of the United States. I do know that according to his card he was a member of the Sixth Missouri Volunteers; that he is past commander of the Department of Maryland; that he is District of Columbia commander of the Loyal Legion; that he is president of the Grand Army Club of Maryland. I do know that according to the records of the War Department this lad entered the war at about 17; that he stayed with it 2 years and 10 months; that he was in Gen. Keifer's brigade; that in the terrific Battle of the Wilderness, where America met America, he commanded his company; that when he came out of the war he had left flesh, blood, muscle, and bone on the field where he did battle for his country; and I know that for years he drew $10 a month in this infirm condition when the Commissioner of Pensions was drawing $16 a month, and never stumped his toe or had

the colic, so far as his military or hospital record shows. If Capt. King is not getting a liberal, fair pension, he ought to have it, and if Davenport is getting any it is a fraud on the Government. [Applause on the Democratic side.]

Mr. LANGLEY. Will the gentleman yield?

Mr. RODDENBERY. Certainly.

Mr. LANGLEY. Does the gentleman from Georgia know that Capt. King made a personal appeal to the Commissioner of Pensions, Mr. Davenport, to have his pension increased beyond what the evidence in the case warranted, and that Mr. Davenport declined to increase it, and that that is probably the beginning of the animus he has displayed in this matter, and that it was probably aggravated later on when he blamed Mr. Davenport for not getting a place he wanted?

Mr. RODDENBERY. I do not know.

Mr. LANGLEY. Well, I do. I have been so informed, and, I think, reliably.

Mr. RODDENBERY. But before I have finished I will show you that applicants and influences have appealed to Mr. Davenport for pensions contrary to law, contrary to the findings of the examiners, and that he has granted them in the face of both the law and the facts.

Mr. LANGLEY. That is a pretty serious charge, and it should be sustained or withdrawn.

Mr. RODDENBERRY. I will show it, and don't you doubt it. In further answer to my friend from Tennessee [Mr. AUSTIN] in this connection, he says Mr. Davenport is a faithful, valiant, and efficient Commissioner of Pensions. I will make direct reference to it presently.

Mr. AUSTIN. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Tennessee?

Mr. RODDENBERY. Certainly.

Mr. AUSTIN. Capt. King calls attention to the fact that the Commissioner of Pensions, while drawing a large salary, secured a pension.

Mr. RODDENBERY. Yes.

Mr. AUSTIN. Capt. King himself, while drawing a large salary as pension agent in this city, had his pension increased, and, I understand, then became displeased with the Commissioner of Pensions because he would not give him a further increase and would not recommend or appoint him disbursing clerk.

Mr. RODDENBERY. Yes; and Capt. King was entitled to his and Davenport was not, and I will prove both those statements. When Capt. King walks along the street you can see him limp, and if you will lift his trousers, you will see where braces of steel, knit around his muscles, strengthen his wounded limbs, where the bullets of the enemy tore away his bones to rot on the field of battle. Davenport is drawing a pension on the ground of chronic diarrhea that renders him permanently disabled for physical labor, and yet day after day he goes to the Pension Office, and at high functions he revels, in spite of his wasting disease, and cuts fantastic steps in "turkey-trot society." [Laughter.]

Mr. AUSTIN. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Tennessee?

Mr. RODDENBERY. In a moment. If my friend from Tennessee [Mr. AUSTIN] would call on Commissioner Davenport at the Pension Office some day about 1 or 2 o'clock, when he has returned from luncheon, I have no doubt the commissioner would recognize him; but if the gentleman from Tennessee, who habitually fashions his attire in the humble style which is characteristic of the country people, should see Davenport riding along in his limousine, with a silk plug hat on as high as a churn, and with a long-tailed coat that puts to shame the plumage of a peafowl, and with studs that sparkle like the eyes of a toad, the commissioner would know him not. [Laughter.]

Mr. AUSTIN. As I remember the gentleman from Georgia has stood on the floor and criticized Government officials for drawing large salaries and at the same time drawing and enjoying a pension. In the King case, where he was pension agent in Washington City and drawing a salary of $4,000 a year, the gentleman from Georgia says he is not only entitled to a pension but entitled to have the pension increased. I thought the gentleman from Georgia was consistent and I thought he was sincere in opposing Government officials drawing high salaries and pensions at the same time. Now he indorses that theory himself in King's case.

Mr. RODDENBERY. Mr. Chairman, there is nothing in principle, there is nothing in policy, there is nothing in any statement ever made by me on a pension policy that will justify the conclusion that a soldier who draws a pension because he has lost his arm, because he has lost a segment of his limb, caused by actual wounds or injuries sustained in the service, that on that ground he is not entitled to a pension. There is nothing to bar him from obtaining the salary, the highest in the Republic, and drawing his pension at the same time; because the pension he is drawing for the wounds received or the injuries he sustained in a measure compensates his loss, and the salary he draws from the Government is for the service rendered to the Government.

But there is a principle and policy in my utterance, which I now reassert. I announce that a soldier who draws a pension from the Government on the ground that he is suffering from disease—chronic, incurable—which physically and totally disables him from service to the Government, lives a lie when he draws his pension and at the same time does full time in the employ of the Government. A soldier draws a pension because he is totally incapacitated from incurable disease; if that be true and he at the same time draws a salary from the Government, he is getting the salary for which he can not render service, because the rendition of service and incapacity to serve are paradoxical and inexplicably contradictory. It can not be.

If it is true that the Commissioner of Pensions is drawing a pension since 1886, obtained on the ground that he contracted a chronic disease that permanently and totally and physically disables and incapacitates him for labor, and therefore he was entitled to a pension, one of two things is true, either he obtained his pension on false grounds or he is drawing a salary in the perpetration of a fraud on the Government, because the propositions are absolutely irreconcilable and incompatible. He who works for the Government and earns a salary of $5,000 can not at the same time be entitled to draw $16 a month pension on the ground of incapacity and permanent disability from wasting, chronic, and incurable disease.

Mr. BATES. Will the gentleman yield?

Mr. RODDENBERY. I will.

Mr. BATES. The gentleman believes in a pension under certain circumstances, or I so understand from his remarks?

Mr. RODDENBERY. Proceed.

Mr. BATES. Has the gentleman appeared before the Committee on Invalid Pensions, or any of its subcommittees, or attended the hearings, as a result of which they have reported this bill to the House carrying increase of pensions? In other words, I have listened to some strictures on the judgment of the Commissioner of Pensions, and I ask the gentleman how that is involved in this bill when this bill is a report of the Committee on Invalid Pensions carrying increases, and in a few instances original pensions, but all reflecting the judgment, not of the Commissioner of Pensions, but of a committee of this House, the gentleman's colleagues, sitting in their capacity as a committee to make up their reports from the testimony that is adduced before them as any other committee of this House is bound to do? Has the gentleman attended and asked to be heard on any single case that is provided for in this report or bill?

Mr. RODDENBERY. Before answering the gentleman I will say this, that if his question was inspired and was incorporated in the Bible we would have to correct the catechism which teaches the Sunday school children where the longest verse of the Scripture appears.

Mr. BATES. No; I asked the question in a spirit of fairness.

Mr. RODDENBERY. The remarks I am making have nothing to do with this bill.

Mr. BATES. Have your criticisms of Mr. Davenport anything to do with this bill?

Mr. RODDENBERY. Not a thing; I am directing these remarks at the conduct of the Commissioner of Pensions.

Mr. BATES. The gentleman is not confining his remarks to the bill under discussion, as the rules require.

Mr. RODDENBERY. My remarks deal with Commissioner Davenport drawing $5,000 a year salary for hard labor, who is at the same time drawing $16 a month pension obtained on the ground that he is not able to work at all. That is the proposition. He either is not qualified for a pension or not qualified for the office. He may be wanting in both. He can not be entitled to the two.

I want to say to the gentlemen you have now before you the war record of Mr. Davenport. Gentlemen have suggested that I am attacking Mr. Davenport. What I say is based on the writings of his comrades, on the records of the War Department, on his autobiography, on the records of the Wisconsin regiments, in one of which he served, on the authentic record of the battles of the country, on documents now pending before the House. I say to you, gentlemen, do not answer here by crying that it is a shame and an outrage for a Member to stand on the floor and assail a faithful servant. Go down yonder to the Pension Office, by telephone or otherwise, and bring to the

floor of this House the application of the commissioner for his pension, the examiner's testimony as to his abilities and disabilities, the evidence of the witnesses upon which he drew the pension, the statement of the surgeons that passed him, and let the Congress see, and, if general debate is still in progress, it will leave here full of holes faster than some of the spectators from the city of Washington left the hill down here in the early days of the war when they went forward to see it ended in a few minutes. Bring in the commissioner's record. He is getting a pension. He is not denying that. He had to get out papers to get the pension on. Bring them in here. I do not command them.

I have given you the War Department's record showing that he never participated in any fighting, and that he did not serve for five months. I have given you the Surgeon General's statement that there is no record of his illness. I give you the record of the regiment, which shows that he was not reported as sick. I have shown you that thousands of 16 and 17 year old boys got into the Army. Let sensible men say whether he could have done so if he had tried. Why was it that the commissioner, in 1864, when 19 years old, when there was more than one year of the war and six months of terrible fighting left—why is it that he went back to Wisconsin with the soldier college boys and did not stay down about Memphis, where in a few weeks afterwards there was bloody battle? The commissioner told my colleague that he tried to get in and on account of extreme youth they would not admit him, that finally he went to Wisconsin and was accepted, and that he served his country. The record shows he went where the fighting was, but when the schoolboys' vacation was over in the fall of 1864 he went back to Wisconsin with them. Why did not he enlist with some of the other depleted companies around Memphis when the siege was there, when the great batteries of the respective sides were in action, when a few weeks later a terrific and bloody fight took place? If the commissioner was too young in New Hampshire, he was not too young at Memphis and in Tennessee to be taken in.

Why, Mr. Chairman, his own statement of inability to enlist stamps him as a fraud and an imposter on the pension rolls of the country. I make the statement upon the record. I did not say that he tried to get in and that he could not. He said that. I now say that if he wanted to get in in 1864, instead of going back and being mustered out, and rushing back to New Hampshire and later on to Washington for a pension, he could have gone to the front. Thousands of men perished between September, 1864, and June, 1865. Where was the Commissioner of Pensions in his yearning desire to fight for his country then?

But I made some promises to my friends just now. Under the rules of the House there are certain committees. One of those committees is the Committee on Expenditures in the Interior Department. The rule says that committee shall inquire into the honesty, the justness, and the legality of the expenditures made in the Interior Department. The Pension Bureau is under the Interior Department. The Interior Department expends money. The pension laws of the country are statutes. They are carried into execution by appropriations. I will ask for the benefit of my friend from Kentucky [Mr. LANGLEY] and the gentleman from Tennessee [Mr. AUSTIN] that the chairman of the Committee on Expenditures in the Interior Department convene his committee, summon witnesses, and make inquiry into the Interior Department and find out whether or not one pensioner, who draws a pension on certificate No. 1088170, did not take an examination under the law of 1890, and if he was not turned down by the examining board because his case was not meritorious. Then let them ascertain if a little later he was not again on application examined and turned down for the same reason. Then inquire if again he was not examined for the same case and turned down the third time in the Pension Department and by the examiners.

If the records of the Commissioner of Pensions do show that, then let this Committee on Expenditures in the Interior Department find out if about November, 1911, when it looked as though Mr. Roosevelt was going to take the Republican nomination away from Mr. Taft, and when everyone, from Taft's first lieutenant, the Postmaster General, down to the private in the Pension Department, was trembling lest Roosevelt might grab the nomination and sweep the country and plunge them out of office—find out if about that time Mr. Roosevelt did not address to Mr. Davenport a communication and tell him to reopen that particular claim, reinvestigate it, and allow it. Then find out if it was not reopened—I could not tell you about its being reinvestigated—and see if the packet on which the pension is entered, if it is not destroyed, will not show that immediately in reply the Commissioner of Pensions wrote to Mr. Roosevelt that he would at once order it reopened and have the pensioner allowed his pension. Finally, ascertain if he did not get a back pension, including a future pension, under the act of 1890, after having been rejected three times nearly seven years before.

Then see if in fact it was not so allowed and if he did not get more than $500 back pension, and if that pension was not granted without new evidence, without new showing in any way different from what appears in the three hearings in which he was turned down. Now, gentlemen, if you want to find out whether or not Davenport is a faithful servant let your Committee on Expenditures in the Interior Department make an inquiry and ascertain. I make the statement on the floor. It will not take any appropriation nor a resolution for a special commission to make the inquiry. Under the rules you can do it now. I suggest for the benefit of my friends of the committee that they can go further. Under the law we passed last summer appropriation and provision was made that extra clerks might be obtained by the Commissioner of Pensions, appointed and paid for the purpose of expediting the auditing, approval, and payment of the pensions to the old soldiers under the Sherwood law. Now, the Constitution, if I remember it rightly, states that no person convicted of a felony or high crimes or crimes involving moral turpitude, or words to that effect, shall hereafter enjoy or receive an office of trust or emolument from the Government. There is some such provision in the Constitution.

Let the Committee on Expenditures inquire if since we passed that law an applicant has not been appointed to one of these positions; also if the appointee had not been convicted of embezzling and defrauding the Government, served his sentence, and completed it. Further, ascertain if, with the stigma of the offense and the inhibition of the Constitution upon him, the Commissioner of Pensions has not as a personal appointment placed him in office on the pay roll and in the service, and if he is not on the pay roll now, when did they fire him and why? See how the Commissioner of Pensions will show up. Gentlemen, I am not through yet. Go to the telephone and answer now. Let the Committee on Expenditures investigate it. I give you the facts sufficient to base it upon, and, gentlemen, as the days go by we shall present some others. We have called attention to this matter at this time for reasons that have been already stated. No man is further than I from casting obliquy upon a man who does not deserve it. No man has greater antipathy and less respect for that reckless creature who will make a common traffic of another's conduct and without justification hold it up to public gaze. He who does it without cause, he who dares it without justification, will justly merit the execration and scorn of his fellows and of his countrymen. But he who points out corruption or malfeasance and does it justly has, in some measure, rendered a service to decency and done something toward promoting the virtues of honesty and integrity, both in public and private position. On what the outcome, judged by these standards, will be, without fear of the result of the issue, I now take my stand. The fittest will survive.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LANGLEY. Mr. Chairman, will the gentleman from Wisconsin yield to me——

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. LANGLEY. I know that. The Chair misunderstands me. I am asking the gentleman from Wisconsin to——

Mr. BURKE of Wisconsin. I yield the gentleman a minute.

Mr. LANGLEY. The gentleman from Wisconsin [Mr. BURKE] yields to me for the purpose of making a request to extend my remarks in the RECORD by including, among other matters, a copy of a letter of an ex-commander in chief of the Grand Army of the Republic, bearing on the subject matter that the gentleman from Georgia has been discussing.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to extend his remarks in the RECORD by the inclusion of the letter which he has indicated. Is there objection?

Mr. MURRAY. Mr. Chairman, reserving the right to object, I would like to know what the letter is. I could not hear the gentleman's statement.

Mr. LANGLEY. The letter is from Ex-Commander in Chief Torrance, of the Grand Army of the Republic, addressed to Capt. King. The gentleman from Massachusetts is familiar——

Mr. MURRAY. What is it? Let us hear it. Will not the gentleman read it or have it read?

Mr. LANGLEY. I will send it to the Clerk's desk to be read in my own time.

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from Kentucky; and if so, how much time?

Mr. BURKE of Wisconsin. I yield to the gentleman from Kentucky three minutes.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to have read at the Clerk's desk the letter indicated. Is there objection? [After a pause.] The Chair hears none.

Mr. LANGLEY. Being entitled to the floor for three minutes, I could, of course, have it read in my own time without unanimous consent, but it does not matter, so I get it read. I have no prejudice whatever against Capt. King, nor have I the slightest desire to injure him in any way. On the contrary, I have been his friend for many years, and I admire his excellent military record. But the gentleman from Georgia has quoted him repeatedly and seems to rely upon him as his chief witness. Therefore, in justice to all concerned, I think this letter from one of his distinguished comrades, himself an ex-commander in chief of the Grand Army of the Republic, should go in the RECORD in connection with this debate, since it bears upon the credibility of the witness, so to speak. I therefore ask that it be read in my time.

The Clerk read as follows:

JANUARY 14, 1913.

Comrade JOHN R. KING, *Baltimore, Md.*

DEAR SIR: I have just read in the CONGRESSIONAL RECORD the debate in the House of Representatives last Friday, when the pension bill (H. R. 27475) was under consideration, and was astonished beyond measure to read your letter of the 2d instant to Mr. ROODENBERY.

Knowing, as I do, your long, intimate, and confidential relations with Commissioner Davenport and your oft-professed friendship for him and your frequent tributes to his worth and good qualities, I can not conceive of any honest or manly justification for your discreditable treatment of him, and I feel that you have forfeited the confidence and respect of every decent comrade of the Grand Army of the Republic.

Not content with besmirching your own friend to the limit, your perpetual egotism had to assert itself in contrasting your own military record with that of Comrade Davenport. I am not a special friend of Davenport, but I have always regarded him as a gentleman, and I would a thousand times prefer his record to yours, with the spirit you possess. I do not care what provocation you may have had for writing such a letter, but I will guarantee that you will soon be able to count your friends on your two thumbs.

Yours, truly,

ELI TORRANCE.

Mr. RODDENBERY. Mr. Chairman, I make the point of order on the letter that it is not in order for any person to read into the RECORD a derogatory article on an old soldier of the Union who for over two years fought for his country and left his limbs on the battlefield——

The CHAIRMAN. The point of order of the gentleman is overruled.

Mr. SIMS. Mr. Chairman, I rise for the purpose of placing in the RECORD a great number of letters and extracts from letters of eminent and well-known men, and also extracts from editorials in newspapers and magazines and other periodicals regarding the exemption of American vessels engaged in the coastwise trade of the United States from Panama Canal tolls:

[From Hon. George F. Edmunds, formerly United States Senator from Vermont.]

941 SOUTH ORANGE GROVE AVENUE,
Pasadena, Cal., January 6, 1913.

ROBERT UNDERWOOD JOHNSON, Esq.,
The Century, 33 East Seventeenth Street, New York.

DEAR MR. JOHNSON: I have received your note of inquiry upon the subject, and have no hesitation in saying that I think the so-called Panama Canal bill exempting the coastwise trade of the United States from payment of tolls in passing the canal ought to be immediately repealed: First, because I believe that both the language and spirit of the Hay-Pauncefote treaty compel us to subject our own coastwise vessels to the same tolls established for the commerce of all other nations making use of the canal. Such equality was, as everybody knows, the consideration made to Great Britain for her releasing us from the supposed obligations of the Clayton-Bulwer treaty of 1850. Although I am sure from the careful examination by the Senate Committee on Foreign Relations when the treaty made by President Arthur with the Republic of Nicaragua was under consideration that the United States was no longer bound by the stipulations of the treaty of 1850 and our engagement not to build a canal through the Isthmus had become entirely inoperative, the Hay-Pauncefote treaty was made in language so clear for universal equality that it is impossible to successfully construe it in any other way. If we have made a bad bargain we are bound by every consideration, as well of expediency as of justice, to stand by it; second, if as a matter of expediency alone we withdraw the favor proposed to our own coastwise commerce, although we might have the right to grant it, the way will be left open to deal with the subject in future in such a way as the public interest should require.

Very truly, yours,

GEO. F. EDMUNDS.

THE "COASTWISE EXEMPTION."

I. OPINIONS OF THE PRESS.

[Clarence Poe, president and editor the Progressive Farmer and Southern Farm Gazette, Birmingham, Ala.; Raleigh, N. C.; and Memphis, Tenn.]

The repeal of the coastwise exemption in the Panama bill, I think, is the best way out of a blunder that has already damaged our reputation throughout the rest of the world.

[William H. Robson, publisher the Indianapolis Trade Journal.]

I have always considered the passing of the bill exempting the coastwise trade of the United States from paying tolls as a most unnecessary and altogether shameful action.

[Clinton B. Evans, editor the Economist, Chicago.]

Irrespective of any obligation under the treaty, we should require the payment of tolls by American vessels simply out of self-respect and to show that we are not disposed to take any advantage of other nations, even if we have the power to do so.

[Editor of the Evening Herald, Norwalk, Ohio.]

While the Herald has not expressed itself editorially so far, I can say that personally I am very much in favor of the United States obeying to the letter a treaty that seems to have been made in good faith and with the eyes of our representatives wide open.

[F. Arford, editor Western Trade Journal, Chicago.]

The Western Trade Journal has from the first been opposed to the coastwise exemption in the Panama bill and is doing everything within its power to bring about the repeal of this section.

[Saginaw (Mich.) Daily News.]

We have no right to grant preferences to our shipping in the use of the canal. The obligation of good faith carried in this treaty provision is of greater international consequence to the United States than all the benefits it might possibly reap by violating it.

[Levi M. Wise, Butler (Pa.) Eagle.]

We can not afford to trifle with this matter, and we must carry out the agreement as it was understood by the parties to it. Otherwise we will suffer national disgrace.

[Richard W. Knott, editor Evening Post, Louisville, Ky.]

Trusting to a return of reason—not to the people, but to Congress, that has been misrepresenting the people.

[William Barnes, jr., editor Albany Evening Journal.]

I heartily favor the repeal by Congress of the coastwise exemption provision in the Panama Canal bill. There should not be the slightest confusion in the mind of anyone on this proposition.

[George T. Lincoln, editor Banker and Tradesman, Boston.]

I am in favor of the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States. I do not see how any Senator or Representative can vote to retain on our statute books a law which they are afraid to submit to arbitration.

[J. L. Doyle, editor New Britain Record.]

No man or company should be given the use of the canal free.

[Lafayette Young, publisher the Des Moines Capital, Des Moines, Iowa.]

I think every vessel, regardless of ownership, should pay the same rate for going through the Panama Canal. There should be no favoritism.

[The Independent, New York, N. Y.]

The act of August 24, 1912, contained the clause: "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States."

The Hay-Pauncefote treaty, ratified by the Senate December 16, 1901, contains this clause: "The canal shall be free and open to the vessels of commerce and war of all nations on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions of traffic or otherwise."

Can even a Philadelphia lawyer make these two clauses agree? No wonder Great Britain protests. We protested when Canada attempted to rebate a part of the tolls on Canadian freight through the Welland Canal, and Canada conceded the point.

[A. S. Johnston, editor and publisher the Monroe Watchman, Union, W. Va.]

I favor the repeal of this provision, primarily because it is, in its present form, a violation of the plighted faith of this country as proclaimed in the Hay-Pauncefote treaty.

[Norris G. Osborn, editor Morning Journal-Courier, New Haven, Conn.]

I think it—the Panama Canal bill—is a monstrous evasion, if not violation, of the Nation's honor. I did all in my power to defeat its passage and should welcome any movement that would promise its undoing.

[Merchant and Manufacturer, Nashville, Tenn.]

The Government must set an example to its citizens. If it breaks faith with other countries, as it unequivocally does when it gives preference to our coastwise vessels in canal rates, it tends to vitiate and weaken public standards of conduct everywhere.

The necessity for the repeal of the coastwise vessel preferential rates provision by Congress is so urgent that extensive argument favoring it is not needed.

[Maurice L. Muhleman, The Banking Law Journal, New York.]

Your circular letter on the subject of the repeal of the coastwise exemption in the Panama Canal bill was duly received.

The Banking Law Journal confines itself to subjects which do not include the matter.

The writer desires, however, to express his personal views. The clause in the bill exempting coastwise trade from tolls is not only in contravention of the Hay-Pauncefote treaty, but also in conflict with the treaty under which we obtained title to the Panama Zone.

[Utica Daily Press, Utica, N. Y.]

The United States can not afford to take the position before the world that it does not intend to observe every last letter of its agreement. A business man who does not keep his word is lightly thought of and the same is true of any government.

[Worcester Evening Post, Worcester, Mass.]

Can it be possible that this [arbitration of the canal-toll question] will be refused?

Certainly this question of subsidy to a special interest does not come within the excepted cases, and there is nothing in good faith for our Government to do except to comply with Great Britain's proposal.

[Virginian-Pilot, Norfolk, Va.]

The national honor is, of course, the most important consideration involved in connection with the proposal to repeal the provision of the Panama Canal act granting exemption from tolls to American bottoms engaged in the intercoastal trade. There are material reasons of a compelling nature why Congress should be prompt to undo the mistake committed in the enactment of the provision in question.

[Utica Herald-Dispatch and Daily Gazette.]

To exempt coastwise vessels from payment of tolls will be simply to lay so much greater a burden on other shipping and on the Nation.

Particularly, it will be to impose heavy tolls upon our foreign commerce, which can ill afford them, for the sake of remitting tolls upon coastwise commerce, which can well afford them. Seeing also that our right to result tolls on our shipping is seriously challenged by another nation under our treaty relations, it may well be asked if it is wise to raise such an issue of right for the sake of doing something which is neither necessary nor expedient.

[Every Evening, Wilmington, Del.]

It is certain the British minister has made out a good case against this country, on account of the gross violation of treaty faith involved in the discrimination of free use of the canal for vessels of the United States engaged in the coastwise trade.

We are wrong in two very important respects in violating a treaty obligation by unfair discrimination and in imposing a financial burden upon our people thereby. The sooner we retrace our steps and get back to the solid ground of fair and square dealing the better it will be.

[The Gazette-Times, Pittsburgh, Pa.]

Great Britain's formal protest against exemption of American coastwise shipping from tolls for passing through the Panama Caual is a comprehensive and temperate statement, exhaustive in its analysis. There ought to be no hesitancy or delay on the part of our Government in opening negotiations either for adjustment of differences by mutual agreement or their reference for settlement by arbitration.

[Pittsburgh Christian Advocate.]

The suggestion that the ships of the United States are exempt from that provision (of equality under the Hay-Pauncefote treaty) because we built the canal must be regarded as little short of puerile.

[Robert Adams Suffern (Suffern's Quarterly).]

I am very strongly opposed to the present bill, and hope that the objectionable matter will be repealed.

[Christian Science Monitor, Boston, Mass.]

A just interpretation of the clause must finally be reached. Nations no more than individuals may profitably stand upon technicalities when common honesty is the main question.

[The Sioux City Journal, Sioux City, Iowa.]

The remission of tolls on American coastwise traffic through the Panama Canal amounts to subsidy where subsidy is not needed, and can not be justified.

[St. Joseph Gazette, St. Joseph, Mo.]

We base opposition to free passage for American coasters upon the fact that that privilege would be a gift of $1.30 to them for every ton of freight they carried, it being a proven fact that they now pay $4 a ton for having their freight railroaded across the Isthmus.

This subject deserves considerable space and honest reasoning, because it is liable to involve us in bitter controversy and serious trouble with perhaps more nations than Great Britain.

[The Argus-Leader, Sioux Falls, S. Dak.]

No country is so great that it can afford to break its treaties, and certainly a great Republic like the United States, which has done more for the cause of arbitration than any other country in the world, can not refuse to submit a business question, involving the construction of a treaty, to arbitration.

[The Daily News, Chicago, Ill.]

The sooner Congress undertakes to revise the Panama Canal toll act and eliminate certain of its provisions, that ought never to have been incorporated in that measure, the better it will be for all concerned.

[Boston Globe, Boston, Mass.]

If the United States should offer to adopt measures providing that the Federal Treasury would regularly transfer to the canal account an amount sufficient to make up for the loss of tolls on the coastwise trade the main point in the British note would be met.

[Evening Post, Louisville, Ky.]

Keep the letter and spirit of the Hay-Pauncefote treaty; keep open the canal on equal terms to the whole world.

Then, if you will, gentlemen of the predatory callings, exact your blood money of the American consumer and producers alike.

[The Baltimore News, Baltimore, Md.]

Without regard to other features of the case, a good many people will feel less regret about the disagreement over the treaty if the result is to make us pause in a hastily arranged plan to tap the public till for the benefit of the owners of coastwise vessels.

[The Dispatch, Pittsburgh, Pa.]

The United States has therefore, in the term of a single Congress, been brought down from its high position as the leader in establishing fair and honest arbitration to the position of the one that repudiates that advanced and beneficial principle rather than let its own pet jobs be inquired into. And the grim irony of the case is heightened by the fact that it is done to support a favor to the interest which least of all needs any such favor.

The greatest offense is against the United States, since it takes from a project that can not be self-sustaining for years a part of its proper revenue to give to an interest that has no claim either of justice or need. But it is a rank discredit to the United States that in that domestic job it took the pains to advertise to the world that when the whim takes it to carry out such a job treaty compacts are simply waste paper.

[Evening Post, New York.]

The straight and manly course would be to repeal the dubious and offensive clause of the canal act. By outright and speedy repeal we should at once avoid any international difficulty and escape from a domestic blunder. If Congress refuses to give heed, then it will, indeed, be necessary to submit the dispute to arbitration.

[The Rochester Herald, Rochester, N. Y.]

An arbitration of the points in dispute is asked for, and the United States can not in decency refuse. If it does refuse this reasonable and proper demand, no future treaty we may enter into should be considered worth the paper upon which it is written. The country is too old to begin the policy of playing chuck-a-luck with the rest of the world.

[Suffern's Quarterly and Foreign Trade Journal.]

Whether the treaty prohibits us from offering free registry to American ships or not, it certainly was very unwise for this country to arouse foreign antagonism as did the action of the Government in the matter. The future will show that we made a serious diplomatic blunder, and one which did incredible injury to the commerce of the United States.

[The Post Express, Rochester, N. Y.]

Secretary Stimson recommends the repeal of the law of August last exempting from Panama Canal tolls our vessels in the coastwise trade, arguing that it is an unsound business policy which would increase the profits of a shipping monopoly. The British Government also protests against this discrimination in favor of American vessels as in derogation of the clear rights of England under the treaties of 1850 and 1891.

There is only one law of equity and just dealing, and it is the same for men and for groups of men or nations. Heretofore a lower standard of honor has prevailed in diplomacy, and it has been argued that a nation might properly do what would be shameful and dishonest in an individual. Against this theory we have fervently protested, and to fall back upon it now would be to convict ourselves of duplicity and hypocrisy.

[Boston Evening Transcript, Boston, Mass.]

The granting of free tolls to American vessels or its equivalent in rebates to the amount of such tolls would certainly be bad enough. It would make us guilty of what is known as sharp practice, and such a course with respect to solemn treaties could win for us neither the world's approval nor yet its respect. We have taken a position untenable in national honor and should promptly retrace our steps.

[The Chicago Journal, Chicago, Ill.]

The national honor of the United States is involved in Panama Canal tolls, but not in the way some ranting jingoes proclaim.

National honor depends on keeping national faith. The faith of this Nation was pledged to a canal open on equal terms to ships of all countries.

If we keep that pledge, keep it without quibbling, with cavilling, and without waiting to be nagged into doing our duty, our national honor will be secure.

The Panama Canal bill should be amended by striking out the provisions of free tolls to the coastwise shipping, or by abolishing tolls altogether. This should be done, not because England wants it done, but because it is the only fair thing to do.

[The Record-Herald, Chicago, Ill.]

The progressive, sane position is this: That the arbitration treaty should be renewed, and even improved upon, and the toll-exemption provision repealed.

[Brooklyn Eagle, Brooklyn, N. Y.]

It is better to settle out of court a case there is not the slightest chance of winning. That is one way to save something besides expense. It is one way to escape humiliation.

And the way to settle a case in or out of court is to settle it right. In this matter the right way is to repeal the exemption clause. In this matter strength is a poor substitute for honor.

[The New York World, New York.]

In spite of sophistry and bluster, there can be no doubt that if we persist in our discrimination at Panama we shall presently be compelled to meet justice, honor, and civilization at The Hague or accept the consequences of world-wide contempt and condemnation. We are powerful enough to do almost anything except to find profit in bad faith.

[The Duluth Herald, Duluth, Minn.]

This Nation has pledged its word that the canal will be opened to all nations on equal terms. In the interest of a concealed ship syndicate our pledged word has been broken by the law giving American vessels special privileges.

Perhaps we should not have made this promise. Perhaps it would be to our material advantage to break it. But we did make it, and we can not break it in honor.

[The Post-Standard, Syracuse, N. Y.]

That the advocates of the bill as it stands talk seriously of refusing to submit the treaty to the tribunal at The Hague is evidence of their doubt about the validity of their position. We do not believe that America would refuse to submit it. Such action would give the lie to all our professions of faith in the principle of international arbitration.

[H. F. Bliss, managing editor, the Janesville Gazette, Janesville, Wis.]

I am in hearty sympathy with the efforts being made to influence the repeal of the Panama Canal bill, and am at a loss to understand why Congress ever passed the measure. The honor of the Nation was entirely ignored.

[Allen Walker, publisher, the Index Co., Pittsburgh, Pa.]

We already have published editorials urging that the United States shall not repudiate her obligations in regard to the Panama Canal and that there be no violation of the Hay-Pauncefote treaty.

Personally we are unable to see how it will be possible for the Federal Government to repudiate such an agreement under the circumstances.

[John P. Bowman, editor Loudonville (Ohio) Democrat.]

We would be for repeal of any provisions which might be in conflict with the Hay-Pauncefote treaty or mitigate against arbitration.

[The Sun, New York.]

There is no duty before the Congress more urgent than the repeal of the act of August 24, 1912, so far as it specifically exempts American shipping engaged in the coastwise trade from the payment of tolls at the Panama Canal.

[The Springfield Leader, Springfield, Mo.]

The idea seems to be slowly coming about that the United States has taken the wrong position in our Panama Canal controversy with Great Britain. It is really difficult to see how we can avoid the plain obligations of the treaty now existing.

[W. W. Screws, editor the Advertiser, Montgomery, Ala.]

The Advertiser hasn't the slightest doubt that if this case were taken before The Hague the United States would lose. Unbiased judges from other countries could hardly reach any other conclusion than that in seeking to exempt its own steamers from toll duty, the United States was violating the terms of an honorable treaty. It would be seriously embarrassing to our country for this matter to be decided against us. It would be far better, far more honorable, should we acknowledge the error into which some of our national representatives had fallen.

[The Bridgeport Standard, Bridgeport, Conn.]

The shortest way out of the last-named difficulty is through the repeal by Congress of the exemption provision in the Panama Canal bill. That would take the whole business out of the way and leave the conditions clear, as they should be.

[The Christian Work and Evangelist, continuing the New York Observer.]

If our Nation can so lightly break a treaty, who can trust her with any new ones? If the United States should refuse to arbitrate the question when Great Britain demands it, it will be impossible for her ever to say anything about arbitration again.

It is greatly to be desired that the United States should let this go to The Hague, if Congress does not rescind its action.

[Newark Evening News, Newark, N. J.]

The dispute should be taken to The Hague directly—if diplomacy fails—provided, of course, that we have a good case. And if the case is as dead open and shut against us as Mr. Roosevelt and some others think, it should be abandoned without subjecting this country to the humiliation of an adverse arbitral award. Nothing can be more "galling" to right-minded patriots than to have their case thrown out of court, exposing them to the shame of the world.

[Paul E. More, editor the Nation, New York.]

The Nation has been steadily against the exemption of coastwise trade of the United States from the Panama tolls. I agree heartily with the arguments brought forward in favor of repealing the provision of the Panama Canal bill exempting our coastwise trade.

[The Dayton Journal, Dayton, Ohio.]

The protest of the British foreign office simply calls attention to the fact that the proposed exemption of American vessels contravenes the specific agreement of the United States in the Hay-Pauncefote treaty that the canal shall be open to the merchant vessels of all nations on equal terms without discrimination in the matter of tolls or terms.

Difference of opinion, if it can not be settled in conference between the diplomatic representatives of the United States and of Great Britain, should certainly be proper matter for submission to The Hague tribunal.

A refusal of such submission on our part would place us in the lamentable position of attempting to cast discredit on the integrity of motive of a tribunal we helped to create and have always stoutly advocated.

[Rollin E. Smith, editor the Commercial West, Minneapolis, Minn.]

I am most decidedly in favor of the repeal of the provision of the Panama Canal bill exempting the coastwise trade from toll.

[The Lewiston Daily Sun, Lewiston, Me.]

That theory that the United States by getting title to the canal strip absolves itself from its treaty with England is too thin. The land of brotherhood and equal rights becomes the gobbler-up of everything in sight, and the millions of people, in this country and others, who have only what they earn, robbed.

More worthy of the great, richest Nation to let the ships of all nations through without any charge.

[The Youth's Companion, Boston, Mass.]

Perhaps the most of us will think that, all things considered, the best thing to do is to keep faith with England, keep our pennies in our pockets, and let our shipowners pay their tolls themselves.

[Stuart H. Perry, publisher the Adrian Daily Telegram, Adrian, Mich.]

We can only take our choice between repealing the law voluntarily and going into The Hague court to face almost certain defeat.

[The Daily News, Burlington, Vt.]

The important obligation now under discussion is not ownership, but the solemn promise of our Nation that the canal would be operated on the same basis for all nations, which would naturally include the United States. This agreement is in the treaty, and it can not honorably be removed except by the consent of the nations which signed the treaty. Lacking that unison, the question then, in honor, must be sent to arbitration at the nations' court at The Hague.

[Decatur Herald, Decatur, Ill.]

Congress must either rescind its action on canal tolls or agree to arbitration.

This is not lack of patriotism; it is patriotism of the highest kind; the demand that this country shall take a course now that will save it from shame in years to come.

[Scientific American.]

The fact is that this whole free toll business has been engineered by powerful interests, who hope to fatten their bank accounts with the millions that rightly should go to the United States Treasury. England has protested, and rightly. The wording of the treaty that she calls to our attention is perfectly plain, and for any true American to try to interpret it differently is to invite suspicion and scorn from all civilized nations.

[The New York Times.]

The honorable way out is the repeal of the act remitting the tolls, as the Secretary [Stimson] recommends.

Sir Edward expresses the hope that a reference of the question to arbitration may be made unnecessary by some steps taken on the part of the United States to remove the objections urged against the act by the British Government. If no such steps are taken, arbitration will be inevitable, for we can not decline it without adding to the causes of reproach which we have already piled up against ourselves.

[Courier-Journal, Louisville, Ky.]

The exemption of the coastwise trade of the United State from tolls through the Panama Canal was, to begin with, flagrant and dishonest, a violation of the treaty obligations of the Nation, and, to end with, a gigantic and perpetual subsidy to a shipping trust quite as objectionable as the Sugar Trust or the Steel Trust.

[American Exporter, New York.]

Great Britain protests against proposed congressional acts freeing American vessels from tolls in the Panama Canal. However much we may want to foster American shipping, however strongly we may feel that the United States has built the canal on its own property, however great a sacrifice our expenditure on the canal may seem, however bitter our enmity against great railways, and however anxious we may be to impress our constituents with the idea that we are simon-pure American through and through, and what care we for the British lion or anyone else, yet there is no getting away from the plain and simple language of the Hay-Pauncefote treaty. No more plain, simple, and unmistakable language was ever written into a treaty solemnly signed by two nations. There is but one question before the people of the United States to-day, and that question is, Shall we or shall we not live up to our bargain—honor our signature? If we do not, we insure for ourselves the scorn and contempt of the nations of the world. That price no country can afford to pay.

[The Evening Press, Grand Rapids, Mich.]

The truth is—and this truth is more generally realized than it was a few months ago—that we were wrong when we attempted, against the plain obligations of the Hay-Pauncefote treaty, to give a subsidy to American coastwise shipping by exempting it from tolls.

Now it is our duty to keep our word. This can be done by repealing the exemption clause of the canal bill.

[The Congregationalist.]

The way is still open for Congress to repeal the clause in the Panama bill which has brought us into evil odor with all the maritime nations of the world.

[The Grand Rapids Press.]

The canal is ours and we purchased possession of it by surrendering the right to do exactly as we pleased in the matter of canal tolls. In the Hay-Pauncefote treaty, which superseded the Clayton-Bulwer guaranteeing British cooperation in building and protection, we gave a pledge to treat all nations, including ourselves, alike. This pledge was given in return for Great Britain's relinquishment of the right to help us build and boss the canal.

The time to have protested against its provisions was when it was signed, not after the lapse of years. The quibble that coastwise traffic, being a national monopoly, is not involved in our pledge is unworthy of a great nation.

[The Century Magazine.]

But there remains for us another chance—or will, if Great Britain shall a little longer pursue her friendly and forbearing course of waiting for our public opinion to assert itself. The coastwise exemption should be repealed. And, our obligations aside, why should we enter upon a policy of subsidizing our ships just at the time when apparently we are giving up the policy of subsidizing our manufactures? Are we never to get away from the inequality of privilege that has already corrupted the sources of government by the "vicious circle," creating and feeding by legislation agencies whose natural interest it thus becomes to destroy the principle of equality? Why subsidize ships any more than subsidize railways, or newspapers, or authorship? But if we must subsidize our ships, let it be done outright, in bills for that purpose, and not through the violation of the plain words of a solemn treaty.

[Troy (N. Y.) Record.]

If the United States should refuse either to modify its law or to arbitrate, it would place itself on record as unworthy of its present position of moral leadership in the world.

[Sioux City Tribune.]

England has been wronged and all Europe offended in order that the United States may pay a bonus to her shipping interests.

[Mining and Scientific Press, San Francisco.]

What is important is that we have apparently blundered into a position that we seem afraid to defend before an international court of arbitration. This is serious. If Congress is not sufficiently sure of its position to warrant going into court, by all means repeal the law. The matter itself is not important, but the good faith and good name of the country must be preserved.

[Milwaukee Times.]

The movement which is now on foot to further the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States is one which ought to receive the hearty support of both the press and the public in general.

[Epworth Herald (Methodist), Chicago.]

We got power to dig the canal only through a treaty in which we agreed to certain conditions. The other party to the treaty protests that our new toll law does not harmonize with those conditions, by which we are pledged to stand. Therefore, the other party asks that the matter be arbitrated, but it seems that we are getting ready to say, "There is nothing to arbitrate." If, when the time comes, we actually do say that, we ought to tear up all our treaties with other nations, and frankly take our national place with the countries which do not believe in any law but that "they should take who have the power, and they should keep who can."

[New York Evening Post.]

What Congress has voted not to collect the shipowners will coolly put in their pockets as a subsidy, and a vicious kind of one at that. Prof. Johnson's whole argument is well worth studying, and it should help along the movement to induce Congress to undo its blunder by repeal.

[Edmund F. Merriam, editor the Watchman, Boston.]

John Hay was an honest man. In international diplomacy he substituted frank and fair dealing for the traditional tricks of diplomats. In agreeing to the terms of the Hay-Pauncefote treaty no one can doubt that Mr. Hay meant just what he said—that the ships of all nations should use the Panama Canal on exactly the same terms. The action of Congress is a descent from the high plane of John Hay's diplomacy.

[Charles E. George, editor the Lawyer and Banker, San Francisco.]

There is nothing left for the United States in honor to do but to repeal the discriminative acts passed by a mixed Congress in favor of our own coasting ships. Not to do this, we at best force a submission of the matter to arbitration in The Hague Tribunal. An adverse decision there is certain. We regard the exemption of the coastwise trade of the United States from tolls through the Panama Canal as a political measure without color of law, in every sense flagrant and dishonest, a violation of the treaty obligations of this Nation which in the end will amount to a gigantic and perpetual subsidy to a shipping trust.

[W. C. Deming, editor Wyoming Tribune, Cheyenne.]

If it is good that individuals should avoid the appearance of evil, it is a thousandfold more important that a great nation should suffer no blot upon its honor. The exemption of American coastwise trade in the Panama Canal bill is inexcusable as a domestic policy. It is flagrantly pernicious as a violation of the spirit of our treaty with Great Britain. Let us rescind a hasty error, conceived in materialism and born in dishonor, by repealing the offensive clause or by submitting

It to arbitration in the same big broad spirit that Great Britain has met the United States in the past.

[Howard C. Rowley, managing editor California Fruit Grower, San Francisco, Cal.]

The Panama Canal bill, in so far as it provides for coastwise shipping exemption and in any other way differentiates between any one nation's vessels and those of any other, is about the most humiliating piece of work that has been done by our national authorities in recent years. Let us amend this Panama Canal act and make it an entirely international affair, and then go to work and argue out our own national problems on their own merits.

[The New York Tribune.]

It would be inappropriate, to use no stronger term, for either party to a controversy which is practically in course of adjudication, or which is about to be submitted to adjudication, to declare by legislation that its side is right and to proceed to act upon that theory. That portion of last year's canal law which pertains to the disputed point should therefore be repealed pending agreement between the two powers.

[Henry Mills Alden, editor of Harper's Magazine.]

Arbitration obviously can lead to but one result, and it involves useless delay and expense. The shortest way out of the situation in which we have placed ourselves is to repeal promptly the legislation exempting from canal tolls our coastwise shipping. This legislation, moreover, confers an unreasonable privilege upon the owners of such shipping, and is an unjust discrimination against the great body of American taxpayers.

II. OPINIONS OF COLLEGE PRESIDENTS.

[Francis Brown, president Union Theological Seminary.]

I have always been opposed to the provision of the Panama Canal bill which exempts the coastwise trade of the United States on the grounds that it violates treaty obligation.

[Elmer E. Brown, office of the chancellor, New York University, Washington Square, New York.]

I hope Congress will repeal the exemption of our coastwise trade rather than stand by a contention which, at best, hangs upon a narrow and unexpected interpretation of the terms of the treaty.

[Robert L. Kelly, president Earlham College, Richmond, Ind.]

This country entered into a solemn contract that there should be no discrimination in tolls or conditions in the management of the Panama Canal. Under the present circumstances the least humiliating thing Congress can do is to repeal the provisions of the Panama Canal bill exempting the coastwise trade of the United States.

[George Rice Hovey, president Virginia Union University, Richmond, Va.]

It gives me unusual pleasure to add my word in favor of a repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States. I believe that this provision is in contravention of the Hay-Pauncefote treaty.

[John Grier Hibben, president Princeton University, Princeton, N. J.]

Concerning the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States, I am very glad to join in efforts to bring to the attention of Congress the imperative need of the immediate repeal of this bill.

I feel that this is not merely a matter of wisdom, but also of national honor, and I am glad to have any part, however humble, in helping to forward this cause.

[William Alfred Miells, president Hanover College, Hanover, Ind.]

It has seemed to me that the "coastwise exemption" clause of the Panama Canal bill is clearly in contravention of the Hay-Pauncefote treaty, and that for this reason its enactment was a mistake and its retention impossible.

[Louis Edward Holden, president University of Wooster, Ohio.]

To my mind the exemption is a penny-wise and pound-foolish measure and not in accord with our historic and generous treatment of other nations. It is my judgment that the proper and most graceful way to answer England's just protest is to repeal the bill by a unanimous vote, if that be possible.

[W. D. Agnew, president Hedding College, Abingdon, Ill.]

The "coastwise exemption" in the Panama bill—I am most heartily in favor of the repeal of this provision.

[E. J. Goodwin, principal of the Packer Collegiate Institute, Brooklyn, N. Y.]

I am very positive in my belief that the Congress should repeal the provision of the Panama Canal bill, which exempts the coastwise trade of the United States.

[J. C. Williams, president Westminster College, Tehuacana, Tex.]

I am heartily and earnestly in favor of the repeal of the coastwise exemption bill, because we now stand in an undesirable position before the world—more undesirable by far than after we have repealed the measure.

[F. W. McNair, president Michigan College of Mines, Houghton, Mich.]

Relative to the toll provision of the Panama Canal bill, I would say that I am heartily in favor of its repeal.

[Henry S. Drinker, president Lehigh University, South Bethlehem, Pa.]

The effect of exemption in reducing or keeping down transcontinental railway rates may be gains dearly bought at the cost of the discredit which will be reflected on us if we refuse Great Britain's request for arbitration in a matter which is wholly arbitrable, and which we can not refuse to arbitrate without discredit and a clear repudiation of our previous steady and consistent advocacy of arbitration.

[A. W. Harris, president Northwestern University, Chicago, Ill.]

The United States can not afford to make any regulation or enact any law which raises justly a serious doubt in regard to the proper observance of treaty obligations. Coastwise exemption does raise such a doubt. I therefore favor its repeal.

[J. P. Greene, president William Jewell College, Liberty, Mo.]

I am in favor of repealing the bill. If it is in controvention of our treaty contract, we certainly ought to repeal it. But I think it ought to be repealed on general principles.

[Frederick D. Kershner, president Texas Christian University, Fort Worth, Tex.]

I need scarcely say that I am most heartily in favor of the proposed repeal. I fail to see why the same standards of morality which obtain among individuals should fail to obtain among nations. There ought to be but one opinion upon the subject.

[Fred W. Atkinson, president The Polytechnic Institute, Brooklyn, N. Y.]

I am glad of the opportunity afforded to place myself on record as being opposed to the provision of the Panama Canal bill exempting the coastwise trade of the United States.

[Aug. Seifert, St. Joseph's College, Rensselaer, Collegeville P. O., Ind.]

It has always been incomprehensible to me how Congress could pass the Panama Canal bill, exempting the coastwise trade from its toll provisions. I do hope that Congress will rectify its mistake and save us from further humiliation.

[Leroy Weller, president Beaver College, Beaver, Pa.]

I am in favor of the repeal of the coastwise exemption in the Panama bill. This enactment has impeached the honor of the United States in the eyes of many Europeans.

[Rev. B. W. Valentine, president Benedict College, Columbia, S. C.]

I sincerely hope for the repeal of the coastwise exemption in the Panama bill. We can not be the moral force in world affairs as a Nation if we do such things as will cause the world to believe that we are not sincere.

[Mary E. Woolley, president Mount Holyoke College, South Hadley, Mass.]

Concerning the proposed repeal of the coastwise exemption in the Panama bill, may I say that I am heartily in favor of the repeal.

[Silas Evans, president Ripon College, Ripon, Wis.]

I believe that our discrimination and tolls in favor of our coastwise vessels is a violation in letter and in spirit of the Hay-Pauncefote treaty.

I have yet to find among my friends any one cognizant with the facts who does not take this point of view.

[John M. Thomas, president Middlebury College, Middlebury, Vt.]

I am in favor of the repeal of the coastwise exemption in the Panama bill. The open canal of the Hay-Pauncefote treaty was right and the proposed discrimination is doubly wrong—wrong in principle and wrong in departure from treaty obligation.

[T. M. Hodgman, president Macalester College, St. Paul, Minn.]

I most cordially indorse the effort to secure the repeal by Congress of the prevention of the Panama Canal bill exempting the coastwise trade of the United States.

[Wm. De W. Hyde, Bowdoin College, Brunswick, Me.]

I beg to say that I am heartily in favor of the repeal by Congress of the provisions of the Panama Canal bill exempting coastwise trade of the United States.

[John Hanson Thomas Main, president Grinnell College, Grinnell, Iowa.]

I am heartily in favor of the repeal of this provision by Congress. It is my opinion that the action of Congress and of President Taft in approving that action is in contravention of our contract in the Hay-Pauncefote treaty, both in its letter and in its spirit.

[S. Avery, chancellor the University of Nebraska, Lincoln, Nebr.]

I have always regarded the provision of the Panama Canal bill exempting the coastwise trade of the United States as a very grave mistake on the part of Congress. As an American citizen with quite a large acquaintance among prominent men in Europe I feel humiliated whenever the subject is mentioned.

[Nicholas Murray Butler, president Columbia University, in the city of New York.]

In my judgment the provision of the Panama Canal act exempting the coastwise trade of the United States from canal tolls is unwise as a matter of domestic policy, as well as in flat contravention of the provisions of the Hay-Pauncefote treaty. No public act in recent years has so affected our national prestige abroad as this. The prompt repeal of this provision is the easy and honorable way out of the difficulty in which we now find ourselves. To insist upon this exemption means that we must go before the world with a bad case and be subjected to the humiliation of certain defeat before any court of arbitral justice, however constituted or of whomsoever composed.

Indeed, the trial of this issue before any one of our own national courts of high standing would, in my judgment, lead just as certainly to the defeat of the contention to which our Government is for the moment committed as would a trial before The Hague Tribunal.

[R. E. Blackwell, president Randolph-Macon College, Ashland, Va.]

I am heartily in favor of the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States. The provision seems to be in contravention of our contract in the Hay-Pauncefote treaty.

[Eugene R. Long, president Arkansas College, Batesville, Ark.]

A reputation for smart twisting may be a desirable twentieth century possession for a great Nation. But a high-toned conformity to the spirit of solemn treaty obligations and "a decent respect for the opinions of mankind" we believe to be a much more valuable possession.

[H. A. Garfield, president Williams College, Williamstown, Mass.]

The spirit of the treaty forbids that we discriminate in favor of our vessels, and any construction contrary thereto, though justified by the letter, is unconscionable.

[Robert J. Aley, president University of Maine, Orono, Me.]

Our Government should play fair. Other nations have a right to expect this, because of our attitude in international affairs in the past. Congress should do whatever is necessary to bring our laws into conformity with international agreements.

[Charles Alexander Richmond, president Union College, Schenectady, N. Y.]

Responding to your request for a brief statement with respect to the "coastwise exemption" in the Panama bill, I will say that I consider it a breach of national good faith. Such a policy, if pursued, will inevitably react to our disadvantage.

[Alexander C. Humphreys, president Stevens Institute of Technology, Hoboken, N. J.]

I am firmly of the opinion that our contract with Great Britain, as covered by the Hay-Pauncefote treaty, should not be violated. We should recede promptly from the unfortunate position we have taken.

[Robert S. Brookings, president Washington University, St. Louis.]

I am clearly of the opinion that the action taken by Congress on that portion of the Panama Canal bill exempting our coastwise trade was a mistake, and that such action should be repealed at the earliest possible date.

[E. C. Kellogg, president Walla Walla College.]

As I view the matter the action taken was a mistake, and I am in favor of a repeal.

[Samuel Hart, dean Berkeley Divinity School.]

I sincerely hope and would urge that the provision be repealed.

[William C. Daland, president Milton College, Milton, Wis.]

I believe that the repeal of the provision of the Panama Canal bill exempting the coastwise trade of the United States would enhance our reputation for fidelity and justice, and that in the end it would benefit our commerce and advance the interests of international comity and peace.

[Carl G. Doney, president West Virginia Wesleyan College, Buckhannon, W. Va.]

As a Christian and a patriot I believe the United States should carefully observe all its treaty obligations. Therefore it seems to me that we are bound in honor to make no discrimination in tolls on vessels passing through the Panama Canal.

[Edwin S. Todd, department of economics, Miami University.]

It is my own opinion, and I believe the opinion of the leading men on our faculty, that that part of the law relating to exemption of tolls for coastwise traffic is in direct contravention of the Hay-Pauncefote treaty and that it should be repealed.

[James G. K. McClure, president McCormick Theological Seminary, Chicago, Ill.]

With reference to the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States, I am obliged to say that so far as I understand the case my opinion is in favor of the repeal.

[C. A. Duniway, president the University of Wyoming, Laramie.]

I believe that a candid examination of the circumstances of the negotiation of the Hay-Pauncefote treaty, and also a reasonable interpretation of the language used in the instrument should convince a reasonable man that the existing exemption in favor of coastwise trade with the United States is contrary to our international engagements.

The best way of escape from the predicament in which we now find ourselves as a Nation seems to me to be the proposed repeal of this special exemption.

[S. E. Kerfoot, president Hamline University, St. Paul, Minn.]

My own judgment is that this matter should be submitted to arbitration.

[R. W. McGranahan, president Knoxville College, Knoxville, Tenn.]

I agree most heartily with the statement of the reasons that are set forth as to why the act should be repealed. I am exceedingly rejoiced in the effort that is being put forth to secure this repeal before it puts the United States in a position of embarrassment or in any way will throw the influence of the United States against the great fundamental principle of arbitration.

[Carleton B. Gibson, president Mechanics Institute, Rochester, N. Y.]

I am very glad to express myself as being very strongly opposed to the coastwise exemption of American vessels passing through the Panama Canal, and heartily in favor of the repeal of the recent legislation, which seems to be in conflict with the provisions of the Hay-Pauncefote treaty and in opposition to the spirit of international fraternity which seems to have been developing in recent years.

[Virginia C. Gildersleeve, dean Barnard College, Columbia University, N. Y.]

I approve most heartily of the proposed repeal of the coastwise exemption in the Panama bill.

[Hill M. Bell, Drake University, Des Moines, Iowa.]

I consider the provision of the Panama Canal bill exempting the coastwise trade of the United States the most unfortunate enactment of the present generation. I am sure that it will discount the prestige of our country in every part of the world. The only sane thing to do is to repeal that provision.

[Isaac Sharpless, president Haverford College, Haverford, Pa.]

It is impossible for me, without a more careful study of the Hay-Pauncefote treaty than I have been able to give, to form a judgment as to the violation of its provisions by the recent Panama Canal bill. It is certain, however, that it is a doubtful question, and that a good American would feel that our country was disgraced if we should refuse to submit the matter to arbitration.

[W. E. Stern, president Purdue University, Lafayette, Ind.]

My feeling about the Hay-Pauncefote treaty is that the United States must keep faith absolutely and literally with everybody, and no evasion, technical or otherwise, is to be tolerated no matter at how much disadvantage it may place us.

[A. W. Meyer, president St. Johns College, Winfield, Kans.]

I have never favored ignoring, or rather violating, the Hay-Pauncefote treaty. The moral effects of such an act on the young American or on our standing as a Nation must be disastrous.

[A. R. Taylor, president the James Millikin University, Decatur, Ill.]

I most heartily favor the repeal of the Panama exemption law. It has seemed to me from the first as breaking faith with the other nations, even though limited to the coastwise trade of the United States.

[M. L. Burton, president Smith College, Northampton, Mass.]

I believe that absolutely no consideration should stand in the way of our guarding most jealously our honor in all treaty obligations. If the exemption of coastwise trade of the United States is in contravention to the definite agreement of the Hay-Pauncefote treaty, then there is but one conclusion, and that is its repeal. If our most able statesmen and best jurists believe that the Panama bill is no violation of our treaty obligations, then certainly there is but one honorable thing to do, and that is to refer it to The Hague tribunal.

[C. A. Cockayne, president Toledo University, Toledo, Ohio.]

Since a serious difference of opinion has arisen as to whether coastwise exemption is contrary to the terms of the Hay-Pauncefote treaty, I hesitate to express judgment without a copy of the treaty before me. However, the proper course would seem to be to submit the matter for arbitration.

[R. F. Stevenson, vice president Ohio Wesleyan University, Delaware, Ohio.]

While not sure in my own mind upon all the legal processes involved, I am very much impressed with the fact that a nation tied up as ours is with the spirt of The Hague conference and its efforts at practical amelioration of the distresses of war between nations can and ought to say of itself as Phillips Brooks once said of men: "No man has a right to all his rights."

[G. Leland Green, principal Vermont State School of Agriculture, Randolph Center, Vt.]

My position concerning same is that there is no need of any discrimination in tolls. I furthermore believe that the United States should pass no bill which will throw us out of harmony with the great nations of the earth and thus injure our trade.

[R. C. H. Lenski, president pro tempore Capital University, Columbus, Ohio.]

I agree in full with your summing up of the situation and second your proposal heartily in my double capacity as president (pro tempore) of Capital University and as editor in chief of the Lutherische Kirchenzeitung, the German organ of the joint synod of Ohio and other States (Evangelical Lutheran).

[M. Woolsey Stryker, president Hamilton College.]

Loving my country, I long that she may not plunge, out of mere commercial lust, into violation of the solemn treaty with England upon the Panama tolls.

[D. H. Hill, president the North Carolina College of Agriculture and Mechanic Arts, West Raleigh, N. C.]

Nations, like individuals, live up to the best that is in them when they make contracts carefully and then live up to them scrupulously. In view of this fact, it seems to me that we ought to observe every line of the Hay-Pauncefote treaty.

[Alston Ellis, president Ohio University, Athens, Ohio.]

We, as a Nation, can not afford to violate our treaty obligations. I have always been of the opinion that legislation making discrimination in the way of tolls, in favor of our coastwise trade was in contravention of the provisions of the Hay-Pauncefote treaty.

[John B. Vanmeter, Goucher College, Baltimore, Md.]

I heartily favor the repeal by Congress of that provision of the Panama Canal bill which exempts the coastwise trade of the United States from tolls to which other shipping is subject.

[George C. Chase, president Bates College, Lewiston, Me.]

I earnestly hope, for the sake of the good name of our country, and of the maintenance of a national honor, which alone can insure it a worthy name, that our Congress will repeal, at the earliest practicable date, the provision of the Panama Canal bill exempting the coastwise trade of the United States.

[Anderson Sledd, president Southern University, Greensboro, Ala.]

I beg to say that I am firmly convinced that the coastwise exemption provision in the Panama Canal bill ought, by all means, to be repealed. Candor in dealing with a great friendly power, and national good faith in observing the plain obligations of our treaties, seem to me to demand such action.

[Thos. C. Blaisdell, president Alma College, Alma, Mich.]

From the beginning of the discussion my conclusion has been that it would be a mistake to exempt the coastwise trade of the United States from the Panama Canal toll. Our Nation can not afford to put itself into a place where it must refuse arbitration, of which it has been a foremost advocate, or face almost certain defeat if it consents to arbitration in this matter.

[Henry Louis Smith, president Washington and Lee University, Lexington, Va.]

The provision of the canal bill, exempting the coastwise trade of the United States, I have always believed to be in direct contravention of the treaty. I believe also that our refusal to submit this matter to arbitration would convict us of insincerity and be a national dishonor.

I am, therefore, most heartily in favor of the repeal by Congress of this exemption.

[John S. Nollen, president Lake Forest College, Lake Forest, Ill.]

It seems to me that the question is not at all whether we have a technical right to make the exemption provided for in the present bill. The question is not one of legal technicalities, but simply of national self-respect and international good faith. We owe it to ourselves as well as to our reputation abroad to repeal the present bill at the earliest possible moment.

[J. M. P. Metcalf, president Talladega College, Talladega, Ala.]

I am very heartily in favor of the proposed repeal, believing it to be a contravention of our contract in the Hay-Pauncefote treaty.

[Simeon H. Bing, president Rio Grande College, Rio Grande, Ohio.]

I am heartily opposed to that part of the Panama Canal bill that exempts our coastwise trade, and shall be glad to add my own opinion to that of a large and growing sentiment in this part of the Union for its repeal.

[H. C. Culberson, president The College of Emporia, Emporia, Kans.]

I heartily favor the repeal of the exemption clause in the Panama Canal bill. It certainly seems to me that the spirit if not the letter of the Hay-Pauncefote treaty compels us to avoid all discrimination between American and English vessels in the matter of canal tolls.

[Edmund C. Sanford, president Clark College, Worcester, Mass.]

I am glad of the opportunity of putting on record my earnest hope that the provision of the Panama Canal bill exempting the coastwise trade of the United States from the payment of tolls will be repealed.

[Palmer C. Ricketts, president Rensselaer Polytechnic Institute.]

I am strongly of the opinion that the provision of the Panama Canal bill exempting the owners of vessels engaged in the coastwise trade of the United States from the payment of tolls should be repealed. This provision, in my opinion, is not in accordance with the intent of the Hay-Pauncefote treaty.

[Frank K. Sanders, president Washburn College, Topeka, Kans.]

I take pleasure in expressing a protest against the passage by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States.

I can not see how as a country we can decline to arbitrate a question like this. Furthermore, it seems clear to me that such arbitration will result in a humiliating decision against the United States. I sincerely hope that Congress may be induced to repeal this objectionable provision.

[William F. Slocum, president Colorado College, Colorado Springs, Colo.]

In regard to the provision of the Panama Canal bill exempting the coastwise trade of the United States, I think with the largest possible interpretation that it is in contravention of our contract in the Hay-Pauncefote treaty, and that it has seriously injured our prestige abroad. I am sure that the best sentiment of the country is in favor of a repeal.

[Paul Shorey, The University of Chicago.]

I am opposed to the exemption of the coastwise trade of the United States from Panama Canal dues. Such action is in apparent contravention of the spirit of our contract in the Hay-Pauncefote treaty, and will be so regarded by international public opinion. It is a special privilege at the cost of taxpayers, and most of the problems with which the statesmanship of to-day is wrestling arise out of special privileges recklessly granted in the past.

[Levi T. Pennington, president Pacific College, Newberg, Oreg.]

I see no reason why American vessels, privately owned, should not pay the Government for the use of a canal provided at the expense of the whole people. I certainly do not see any excuse for the violation of our treaty.

[D. C. Reber, president Elizabethtown College, Elizabethtown, Pa.]

I am heartily in favor of such repeal as proposed. I think that the Panama Canal is of such national and cosmopolitan interest and the United States is performing such a noble and unselfish act. I trust, that it would be only fair to place all nations on an equality as we have already agreed to in a national treaty.

[Enoch A. Bryan, president the State College of Washington.]

It seems to me that as I read the treaty agreements we are, in passing the exemption bill, contravening the spirit if not the letter of the agreement.

[C. H. Stockton, rear admiral, U. S. N., retired, president the George Washington University, Washington, D. C.]

I feel ashamed of the action of Congress and of the President in this matter.

[J. A. Marquis, president Coe College, Cedar Rapids, Iowa.]

On the surface it looks as though we solemnly guaranteed not to give the ships of our own or any other country a preference. If this is true, we ought to by all means to stand by it.

[Henry Churchill King, president Oberlin College, Oberlin, Ohio.]

I am glad to say that my own belief is that the provision of the Panama Canal bill exempting the coastwise trade of the United States ought to be repealed both as unwise in itself and as setting us in a wrong light in the eyes of other nations. It seems to me to have been a serious blunder.

[Edward D. Eaton, president Beloit College, Beloit, Wis.]

It seems to me of great importance that our Congress should reconsider the provisions of the Panama Canal bill exempting the coastwise trade of the United States, in the light of the judgment of eminent students of international affairs that the bill is in violation of our contract in the Hay-Pauncefote treaty.

[H. H. Wright, dean Fisk University, Nashville, Tenn.]

It seems to me that the common people would interpret the meaning of the language of the treaty in accordance with the view expressed in paragraph No. 1, and that the action of Congress contravenes the treaty. Therefore the previous action of Congress should be repealed.

[Benjamin I. Wheeler, president University of California.]

I hope either that Congress will repeal that provision of the Panama Canal bill exempting the coastwise trade of the United Staes, or that we may submit the matter immediately to arbitration. The former is far the better course to take.

[Arthur R. Wilde, president University of Arizona.]

In my judgment, this Nation can not afford to be in its present position regarding this treaty. If we are sure the treaty does not concern coastwise trade, we ought to invite arbitration with confidence; if we are not sure of it, we should give Great Britain the benefit of the doubt.

[James Fraser, president New Windsor College, New Windsor, Md.]

I have your communication in reference to the proposed repeal of the coastwise exemption in the Panama bill, and I very heartily approve of the movement looking toward the repeal by Congress of this exemption in that bill.

[Arthur A. Hammerschlag, director Carnegie Institute of Technology, Pittsburgh, Pa.]

No immediate benefit or hardship to accrue to any interest temporarily should weigh against the duty of safeguarding our national belief in the sacredness of international treaties.

[Ernest Fox Nichols, president Dartmouth College, Hanover, N. H.]

As an American citizen who respects the moral integrity of his National Government, I favor a suitable amendment to the Panama Canal act in Congress.

[W. O. Thompson, president Ohio State University, Columbus, Ohio.]

The Hay-Pauncefote treaty should be submitted to The Hague Court for interpretation, and, if necessary, the terms of the law governing tolls should be trusted to the interpretation.

[James M. Taylor, president Vassar College, Poughkeepsie, N. Y.]

The Panama legislation was in defiance of our treaty and a dishonor to our Nation and should be repealed. Failing that, we can not refuse arbitration without discrediting our record for the advantage of a few. We are inviting the just condemnation of the world.

[Ethelbert D. Warfield, president Lafayette College, Easton, Pa.]

I favor the immediate repeal of the recent act of Congress, the scrupulous fulfillment of our pledge, and such steps as shall redeem our national honor from all reproach as a breaker of treaties.

[George C. Chase, president Bates College, Lewiston, Me.]

The honor of our Nation requires direct and unequivocal action to this end.

[Isaac Sharpless, president Haverford College, Haverford, Pa.]

It seems plain to me that we violate the letter and spirit of the Hay-Pauncefote treaty with Great Britain by exempting American coastwise shipping from Panama tolls. Hence I favor an immediate repeal of the coastwise exemption. That is a straightforward way out of the difficulty, and American character has been so high and strong in international dealings hitherto that we can afford to take the manly and clean course. All commercial considerations aside, let Congress repeal that exemption and set ourselves straight with other nations.

[W. M. Pearce, president Ogden College, Bowling Green, Ky.]

I am heartily in favor of the repal of the coastwise exemption in the bill named.

[Frank Clare English, president William and Vashti College, Aledo, Ill.]

I am in hearty concurrence with you concerning the proposed repeal of the coastwise exemption in the Panama bill. I most earnestly trust that Congress will reverse its action. If the recent action of Congress stands, it must rebound upon the heads of American citizens and upon our national honor.

[A. B. McCormick, chancellor the University of Pittsburgh.]

The United States Government must arbitrate the provision of the Panama Canal bill exempting coastwise trade of the United States, or it must change this provision so that arbitration will become unnecessary. If any reason exists whereby the United States should hestitate to submit the question to the Hague tribunal, then obviously it is the duty of Congress so to change the act as that its fairness and propriety will be uuiversally recognized.

[A. J. Burrows, president St. Louis University.]

I am certainly in favor of living up to our contracts, especially if they have been made with due deliberation and we have reaped the benefit mainly through a concession we wish now to repudiate. This is the honorable mode of acting which befits nations as well as individuals.

[William I. Hull, professor, Swarthmore College, Pa.]

In view of its past history and its present leadership in the cause of international peace and justice, it would be a national and international calamity for the United States to refuse to arbitrate the Panama Canal tolls question. Every consideration of fair play and wise policy demands that this question shall be submitted to arbitration; and if we desire to reassure the rest of the word as to our absolute sincerity in our advocacy of international justice, we should submit this question to the jurisdiction of the permanent court at The Hague and should reject any compromise short of that step, whatsoever it may be.

[E. G. Bauman, superintendent of schools, Quincy, Ill.]

In my opinion, based upon what I have read with regard to the Panama Canal situation, action should be taken against the coastwise exemption.

[Prof. J. Laurence Laughlin, department of political economy, University of Chicago.]

I regard the provision of the Panama Canal bill exempting the coastwise trade of the United States as an unjustifiable attempt to favor some particular interest at the expense of our treaty obligations and the good faith of the United States. It has been a grief to many fair-minded citizens who care for the good repute of their country. The only right and honorable course to be pursued is to repeal that special provision of the bill. I earnestly hope Congress will be led to take this point of view.

A PETITION FROM CALIFORNIA.

To His Excellency, William Howard Taft, President of the United States:

SIR: The undersigned citizens of the United States, resident in California, would respectfully petition that, since portions of the Panama Canal act seem to many persons both in the United States and in England a violation of the Hay-Pauncefote treaty, the administration seek an amicable and honorable settlement of this matter, either through diplomatic negotiation or by recommending to Congress the amendment of such parts of its recent act as may be questionable.

The matter at issue is whether our country is observing an international pledge. Even were it clear to all our people that the action of Congress is entirely consistent with our treaty, yet our Government can not with self-respect take the position that one party to a solemn covenant has the right independently to interpret that covenant. Such a position taken by a foreign power we should certainly resent.

We believe that our Government should be ready and willing, as a last resort, to submit this matter to arbitration. But our pride compels us to urge that our Nation itself hasten to correct any wrong that may have been committed rather than await the formal award of a tribunal of arbitration. It is our most earnest conviction that as a people we can better suffer some limitation of our freedom of legislation and some commercial disadvantage rather than disregard or appear to disregard a treaty negotiated in good faith and solemnly ratified.

Benj. Ide Wheeler, president of the University of California; David Starr Jordan, president of the Stanford University; Patrick William Riordan, archbishop of San Francisco; John L. Howard, president of the Western Fuel Co., of San Francisco; Warren Olney, of the San Francisco bar, formerly mayor of Oakland, Cal.; Wm. A. Thorsen, president of the West Side Lumber Co., of Tuolumne and San Francisco; Anson L. Blake, president of the Oakland Paving Co.; James K. Moffitt, cashier of the First National Bank of San Francisco; Herbert C. Moffitt, dean of the College of Medicine, University of California; Edward Robeson Taylor, dean of the Hastings College of Law, formerly mayor of San Francisco; Martin A. Meyer, rabbi Temple Emanu El, San Francisco; Charles W. Slack, of the San Francisco bar, formerly judge of the Superior Court; Horace Davis, president of the board of trustees of Stanford University, formerly Member of Congress from California; F. J. Van Loben Sels, of Oakland, Cal.; Wm. Carey Jones, head of the School of Jurisprudence, University of California; Frederick C. Woodward, professor of law, head of the Law School, Stanford University; W. T. Reid, of Belmont, Cal.; David P. Barrows, professor of political science, University of California; William Kent, Member of Congress from California.

truth, not the doctrine of hypocrisy, in our international dealings. I believe the sentiment of all those who are connected with our work is substantially in agreement with the views I have expressed.

[S. C. Mitchell, president University of South Carolina, Columbia.]

It seems plain to me that we violate the letter and spirit of the Hay-Pauncefote treaty with Great Britain by exempting American coastwise shipping from Panama tolls. Hence I favor an immediate repeal of the coastwise exemption. That is a straightforward way out of the difficulty, and American character has been so high and strong in international dealings hitherto that we can afford to take the manly and clean course. All commercial considerations aside, let Congress repeal that exemption and set ourselves straight with other nations.

[W. M. Pearce, president Ogden College, Bowling Green, Ky.]

I am heartily in favor of the repal of the coastwise exemption in the bill named.

[Frank Clare English, president William and Vashti College, Aledo, Ill.]

I am in hearty concurrence with you concerning the proposed repeal of the coastwise exemption in the Panama bill. I most earnestly trust that Congress will reverse its action. If the recent action of Congress stands, it must rebound upon the heads of American citizens and upon our national honor.

[A. B. McCormick, chancellor the University of Pittsburgh.]

The United States Government must arbitrate the provision of the Panama Canal bill exempting coastwise trade of the United States, or it must change this provision so that arbitration will become unnecessary. If any reason exists whereby the United States should hestitate to submit the question to the Hague tribunal, then obviously it is the duty of Congress so to change the act as that its fairness and propriety will be uuiversally recognized.

[A. J. Burrows, president St. Louis University.]

I am certainly in favor of living up to our contracts, especially if they have been made with due deliberation and we have reaped the benefit mainly through a concession we wish now to repudiate. This is the honorable mode of acting which befits nations as well as individuals.

[William I. Hull, professor, Swarthmore College, Pa.]

In view of its past history and its present leadership in the cause of international peace and justice, it would be a national and international calamity for the United States to refuse to arbitrate the Panama Canal tolls question. Every consideration of fair play and wise policy demands that this question shall be submitted to arbitration; and if we desire to reassure the rest of the word as to our absolute sincerity in our advocacy of international justice, we should submit this question to the jurisdiction of the permanent court at The Hague and should reject any compromise short of that step, whatsoever it may be.

[E. G. Bauman, superintendent of schools, Quincy, Ill.]

In my opinion, based upon what I have read with regard to the Panama Canal situation, action should be taken against the coastwise exemption.

[Prof. J. Laurence Laughlin, department of political economy, University of Chicago.]

I regard the provision of the Panama Canal bill exempting the coastwise trade of the United States as an unjustifiable attempt to favor some particular interest at the expense of our treaty obligations and the good faith of the United States. It has been a grief to many fair-minded citizens who care for the good repute of their country. The only right and honorable course to be pursued is to repeal that special provision of the bill. I earnestly hope Congress will be led to take this point of view.

III. OPINIONS OF CLERGYMEN AND MINISTERS.

[W. M. Anderson, D. D., minister First Presbyterian Church, Dallas, Tex.]

I think it very important that the coastwise exemption of the Panama bill be repealed.

[John Balcom Shaw, pastor Second Presbyterian Church, Chicago.]

I am strongly of the opinion that the recent action of Congress regarding the coastwise trade of the United States should be at once repealed. The honor and the good faith of our Nation are involved.

[Harry R. Miles, pastor First Congregational Church, Berkeley, Cal.]

The Panama treaty guarantees the Clayton-Bulwer treaty, which accords the same treatment to British and American ships.

The action of Congress seems to me to put in question our good faith, and I earnestly hope that Congress will reconsider and put the integrity of our treaty above consideration of commercial gain.

[A. W. Vernon, pastor Harvard Church, Brookline, Mass.]

It is exceedingly unfortunate that any question should arise in connection with the use of the canal that would seem to put no occupation of territory in the same class with the nefarious obligations of the European powers. We should lift a treaty obligation to a higher place in international codes of honor.

[Henry Kingman, pastor Claremont Congregational Church, Claremont, Cal.]

There seems no reason why a nation should not have as keen a sensitiveness to honor as an individual. For a trifling material gain—even if it were proved to be a gain—we can not afford to put ourselves in the estimation of the nations of the world in the class of those who repudiate honorable obligations. For the sake of every citizen of the United States the objectionable provision should be repealed.

[Charles E. Diehl, minister First Presbyterian Church, Clarksville, Tenn.]

Not only in the interests of the Hay-Pauncefote treaty, but in the interests of justice and right, should Congress repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States.

[Bunyan McLeod, pastor First Presbyterian Church, Harrodsburg, Ky.]

The proposed repeal of the coastwise exemption in the Panama bill is a consummation devoutly to be wished by all fair-minded Americans.

[W. H. Pennhallegon, D. D., pastor First Presbyterian Church, Decatur, Ill.]

In the interest of national honor and international peace, I am strongly in favor of the repeal by Congress of that provision of the Panama Canal bill which exempts the coastwise trade of the United States.

[Murray Hefley Howland, pastor Lafayette Avenue Presbyterian Church, Buffalo, N. Y.]

I am in hearty sympathy with the movement to repeal the coastwise exemption bill. I know from my touch with many men that there is a deep feeling of shame that for the sake of pecuniary advantage our country should stultify its position in favor of arbitration and should stoop to repudiation of its treaty obligations.

[A. B. Curry, pastor Second Presbyterian Church, Memphis, Tenn.]

I am decidedly in favor of the proposed repeal. To exempt the coastwise vessels would be simply favoring a certain class of citizens, and a comparatively small class, at the expense of the whole body of citizens.

[J. C. Molloy, D. D., pastor First Presbyterian Church, Columbia, Tenn.]

I think our Government should run the canal as a business firm would—receiving from all craft, save Government vessels, the toll due for the privilege of using it.

[Henry Stiles Bradley, pastor Piedmont Congregational Church, Worcester, Mass.]

I sincerely hope that Congress will remedy as speedily as possible the wrong it has already done in placing our country before the nations as one unfaithful to its pledges.

[Rev. John Archibald MacCallum, minister Walnut Street Presbyterian Church, Philadelphia.]

It is my very earnest hope that Congress will repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States.

[Thomas Cummins, pastor First Presbyterian Church, Henderson, Ky.]

I hasten to say that the provisions of the Panama Canal bill exempting the coastwise trade of the United States ought to be repealed. Fair play demands it. Justice demands it. The honor and good name of the country demand it. The passage of the bill was, in my judgment, the most unfair, unjust, dishonorable, and the most high-handed iniquitous thing Congress has ever done. A palpable fraud in the interest of the interests. A veiled ship-subsidy measure with so thin a veil that all the people of the United States, who are not blinded because the "interests" have blinded them, must see through the veil as they have come to see through the protective tariff veil; the high-handed fraud, the broad daylight robbery that regards neither God nor man nor justice nor honor—all for the "interests."

[Washington Gladden, pastor First Congregational Church, Columbus, Ohio.]

I most heartily agree with the protest against that coastwise exemption. I am ashamed of it. It puts this Nation in the wrong. It cripples the Nation in its advocacy of international arbitration.

[William Pierson Merrill, pastor The Brick Presbyterian Church, New York City.]

It seems to me quite clear that the exemption specified does not contravene the contract in the Hay-Pauncefote treaty. I do feel, however, that the main issue is the upholding of arbitration. I should consider it an international sin if the United States should refuse to refer such a matter to arbitration.

I also feel very strongly that our Nation can not afford to put itself in a doubtful position with regard to its honor. Far better waive assumed or real rights than appear dishonorable in the eyes of other nations. For these reasons I am inclined to favor the repeal of the coastwise exemption.

[David Beaton, pastor Congregational Church, Janesville, Wis.]

I am earnestly in favor of the repeal of the coastwise exemption in the Panama bill.

[A. M. C. Corert, pastor Forty-first Street Presbyterian Church, Chicago.]

I am glad to indicate to you my sincere opposition to the coastwise exemption clause in the Panama bill, on the ground that it seems to me to be a contravention of the Hay-Pauncefote treaty and to set us against a forward movement for amicable international relations.

[Rev. D. Clay Lilly, pastor Grace Street Presbyterian Church, Richmond, Va.]

I heartily favor the repeal of the provision of the Panama Canal bill exempting the coastwise trade of the United States. It violates the plain provision of the Hay-Pauncefote treaty.

[A. Edwin Keigwin, pastor West End Presbyterian Church, New York.]

We shall only invite dishonesty if the Panama Canal bill remains as at present.

[S. Parkes Cadman, pastor Central Congregational Church, Brooklyn, N. Y.]

It is certainly the bounden duty and obligation of the United States Government to submit to arbitration this entire matter concerning the proposed repeal of the coastwise exemption in the Panama bill. I am strongly convinced that the whole action as it now stands is unfortunate for the honor and reputation of our Government.

[Samuel Charles Black, D. D., pastor Collingwood Avenue Presbyterian Church, Toledo, Ohio.]

I sincerely hope that the provision of the Panama Canal bill exempting the coastwise trade of the United States will be repealed.

[Rev. George H. Cornelson, jr., D. D., pastor First Presbyterian Church, New Orleans, La.]

So far as I have been able to formulate an opinion in regard to the coastwise exemption in the Panama bill, I am persuaded that the wisest action that can be taken by our country would be to have Congress repeal the provision exempting the coastwise trade of the United States.

[Ernest L. Wismer, minister First Congregational Church, Bristol, Conn.]

Every self-respecting American ought to blush for shame at the sophistry offered in defense of a plain violation of a treaty. The only manly thing to do is to repeal the clause that exempts coastwise vessels from toll.

[Russell Cecil, pastor Second Presbyterian Church, Richmond, Va.]

The movement to further the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States accords with my conviction on the subject. In my judgment the position of our Government is untenable, and the sooner it is receded from the more creditable it will be to us.

[John Lewis Clark, minister the Bushwick Avenue Congregational Church, Brooklyn, N. Y.]

The coastwise exemption seems to be in direct violation of the Hay-Pauncefote treaty. One should hesitate to violate even the spirit of the treaty.

[Rockwell Harmon Potter, D. D., minister the First Church of Christ, Center Congregational, Hartford, Conn.]

I am glad to go on record as in favor of the proposed repeal of the coastwise exemption in the Panama bill.

[W. Bristow Gray, minister First Presbyterian Church, Greenville, Miss.]

Allow me to express my unqualified disapproval of the provision in the Panama Canal bill exempting the coastwise trade.

Common honesty and a square deal demands that we repeal the measure.

[Robert S. Boyd, pastor James Lees Memorial Presbyterian Church, Louisville, Ky.]

I wish to express myself as deeply in sympathy with the effort to secure the repeal of the coastwise exemption of the Panama bill by Congress.

[Charles M. Sheldon, minister at large, Central Church, Topeka, Kans.]

I am heartily in favor of repeal. As the bill stands now, it is a dishonor to our treaty.

[J. Keir G. Fraser, minister Second Presbyterian Church, Charleston, S. C.]

It is difficult for me to understand how there can be a doubt in the mind of anyone that that part of the Panama Canal bill which exempts American coastwise ships from the payment of tolls is in violation of the Hay-Pauncefote treaty. Congress ought to repeal the act, or, at least, submit to arbitration.

[Rt. Rev. L. J. Coppin, D. D., presiding bishop second Episcopal district, Philadelphia, Pa.]

After careful study of the question concerning the appeal of the coastwise exemption in the Panama bill, I am firmly of the opinion that the repeal will be wise and just, and is the way to save the United States from very unnecessary humiliation, to say the least.

[Frederick Burgess, bishop of Long Island.]

I am heartily in favor of the arbitration movement, and believe that our country will be justified in submitting this whole question to arbitration as soon as practicable.

[Harmon H. McQuilkin, pastor First Presbyterian Church, San Jose, Cal.]

In common with multitudes of my fellow countrymen, I deeply deplore the patent injustice of the coastwise exemption feature in the Panama Canal bill, and sincerely trust that our Nation may be rescued from the humiliation of its consequences by a speedy repeal of the unjust discriminative provision.

[John Scarborough, bishop of New Jersey.]

I hope the Government will keep good faith with promises made, without any reference to loss or gain. National honor must be maintained at any cost.

[Junius B. Remensnyder, D. D., LL. D., president of Commission on Practicability of the Federal Council of Churches and president of the general synod of the Lutheran Church in the United States.]

Our country stands doubly pledged by its original declaration of equal terms to all nations and, by its agreement, to submit such differences to The Hague arbitration court, not to take the decision violently in its own hands. It is an amazing fact that when our journals of highest tone, practically without exception, and our foremost citizens of character and influence in the world of religion, letters, and business voice their strongest protest against a course of such moral reaction

[Geo. W. Sandt, D. D., editor The Lutheran.]

Quote me as being in favor of the only proper ethical position which this country can take if it is to maintain its correct position and self-respect among nations. There are some things worth more than dollars, and this is one of them.

[Rev. Daniel S. Tuttle, bishop of Missouri, St. Louis.]

The Cuba page of our country's international doings is one of fair, unsoiled altruism. I should be sorry to think that the canal page should be one of studied egoism.

[Rev. Earl Cranston, resident bishop Methodist Episcopal Church, Washington, D. C.]

My sympathies are strongly with the movement for the repeal of the provision of the canal bill exempting our own ships from charges for use of the canal. Our national honor is at stake. We are in danger of reversing our record on a most important point—open and square dealing with all nations on all international questions. After paying twenty millions for islands already won in war, and returning other millions of the Chinese indemnity unasked, we can not afford to send to arbitration even, much less to persist in the violation of the plain agreement of the Hay-Pauncefote treaty.

[Rev. Walter L. Caldwell, Nashville, Tenn.]

I am glad to learn that there is a movement on foot seeking the repeal of the provision of the Panama Canal bill exempting the coastwise trade of the United States. I regard the provision as unwise and unjust. It is a species of class legislation, to which I am opposed always. This is the age of fair play, and I do not believe the people of the United States will stand for the aforesaid provision.

[Right Rev. Charles T. Olmsted, bishop of central New York, Utica.]

My first thought, when the act of exemption was adopted by Congress, was that it was only fair, because the United States had borne the expense of building the canal. But when I learned that it was contrary to the treaty, I saw at once that we could not honorably insist upon it. It would be far better to repeal the bill; but if that be not done, then of course the case should be submitted to arbitration. That we Americans, who have done so much for the cause of peace in general, should reject the principle of arbitration because it might bear heavily upon our own pockets would be intolerable.

[Rev. William Burt, bishop of the Methodist Episcopal Church, Buffalo.]

I most heartily favor the repeal of the coastwise exemption in the Panama bill. We should offer the world an example of equality for all and of a generosity that will promote peace and harmony among the nations. The present arrangement, if continued, will be a constant source of irritation. If we would command the respect and admiration of the civilized world, we must open the canal for all on equal terms.

[Bishop Benjamin Tucker Tanner, Philadelphia.]

America is too strong to ever take an advantage, howsoever well it may be authorized.

[Rev. W. Moore Scott, Savannah, Ga.]

I should very much regret to see the United States take any step in this or any other matter which would be in the least open to criticism or at all disturb the close relation between us and England. We might be within our strict legal rights in this matter, and yet courtesy, policy, and our best interests be seriously offended thereby. I trust that we shall move in this vital matter with great care and unselfishness.

[Rev. Willard Brown Thorp, San Diego, Cal.]

I am in hearty sympathy with the efforts that are being made to secure the repeal of the unfortunate action of Congress exempting the coastwise trade of the United States from Panama Canal tolls. Our standing and influence among the nations of the world would be immeasurably injured if that apparent violation of treaty obligations should be permitted to stand.

[Right Rev. Arthur C. A. Hall, bishop of Vermont, Burlington.]

I most earnestly trust that either by a repeal of the coastwise exemption in the Panama Canal bill or by a submission of the matter to arbitration Congress will free our country from the disgrace, which I fear we must otherwise accept, of dishonesty in international dealings.

[Right Rev. Frederick F. Reese, bishop of Georgia, Savannah.]

I cordially approve the effort to secure the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States from the payment of tolls: First, because I believe it to be a violation of the Hay-Pauncefote treaty; and, second, because I believe it to be an indirect form of subsidy to a special interest.

[Right Rev. Samuel Cook Edsall, D. D., bishop of Minnesota, Minneapolis.]

It is clear to my mind that Congress should repeal the provision exempting coastwise trade of the United States. Our country can not afford to be placed in the position of insisting on a matter of doubtful legality or of not submitting it to arbitration.

[Right Rev. John N. McCormick, bishop of Western Michigan, Grand Rapids.]

In regard to the repeal by Congress of the coastwise exemption in the Panama bill, I beg to say that I am in favor of such repeal and hope that it may be passed. It appears to me that this would be at once the most honorable and the most expedient course to pursue.

[Right Rev. G. Mott Williams, bishop of Marquette, Mich.]

As I understand it, America has proclaimed to the world that by completing the Panama Canal she was aiming to do the world an unselfish service. Quite independently of the Hay-Pauncefote treaty, therefore, we were estopped from a selfish use of the canal. The treaty, of course, ought to govern, and the discrimination in behalf of our coastwise shipping ought to be repealed. There is no other honest course.

[Right Rev. Thomas F. Gailor, bishop of Tennessee, Memphis.]

I sincerely hope that the exemption will be repealed, because it is in every way unworthy of us as true Americans. This exemption in favor of our own coastwise trade is an exhibition of an ungenerous and selfish spirit, which is just as vulgar in a nation as it is in an individual; it is a species of jingoism—"might makes right"—that would put a cheap, commercial stain upon our great canal enterprise, an enterprise the conduct of which ought to go down in history as a noble and splendid contribution by a great people not to their own aggrandizement, but to the closer intercourse and the friendlier relationship of all the nations of the world.

[Rev. Le Roy G. Henderson, Americus, Ga.]

Any movement that makes for the cause of true arbitration, as you point out in your letter, meets with my heartiest approval.

[Right Rev. Arthur L. Williams, bishop of Nebraska, Omaha.]

I am for world-wide competition, a free canal, and against coastwise exemption.

[Rev. I. S. McElroy, Columbus, Ga.]

If the coastwise exemption is in violation of the Hay-Pauncefote treaty beyond any reasonable doubt, then it should be repealed, for nations no less than individuals should keep faith with each other. If there be room for a reasonable doubt, then the question should be submitted for arbitration, not to The Hague, but to a board selected by the two governments interested.

[Rev. Eugene Russell Hendrix, bishop of the Methodist Episcopal Church South, Kansas City, Mo.]

I must express the hope that the Congress of the United States will so modify its action in exemption the coastwise trade of the United States from tolls in passing through the Panama Canal as to save us from humiliation in the event of an adverse decision at The Hague conference, should the matter be submitted to arbitration, which we can not refuse. The immense cost of the canal does not leave us in position to ignore the considerable revenue which our coastwise trade should pay, while our refusal to submit to arbitration the questions involved in the Hay-Pauncefote treaty puts our Nation, the special friend and advocate of arbitration, at a grave disadvantage in every way before the other nations of the earth. A treaty, "the solemn oath of a nation," can not be set aside for personal advantage save to our immense discredit as a Christian Nation.

[Right Rev. Cortlandt Whitehead, bishop of Pittsburgh.]

Any citizen of the United States who has a patriotic pride in his country and wishes to continue it must repudiate with emphasis the action of Congress in the matter of the coastwise exemption in the Panama bill. In very possible way I desire to express and emphasize the sentiment that the United States should speedily repudiate and rescind the action taken by Congress and should proclaim to the world hearty appreciation of what is due from a generous and high-minded people.

[Rev. J. H. Jones, A. M., D. D., presiding bishop Ninth Episcopal District African Methodist Episcopal Church, comprising the States of Tennessee and Alabama, Wilberforce, Ohio.]

As an American I feel keenly the desire to encourage our own steamship trade, but far above that feeling is our national honor, by which honor we are bound to live. No nation can afford to disrespect its contracts and be false to its promises. To do so is to stand discredited, dishonored as hypocrites. Above all things the Nation must be fundamentally honest and must maintain itself in righteousness. I therefore humbly and sincerely beg our Government to repeal the Panama Canal coastwise exemption bill and bring to a close the contention between our Government and Great Britain without arbitration and with honor and dignity to ourselves.

[Rev. Joseph Silverman, Temple Emanu-El, New York.]

The only logical action for all concerned to take is to submit the differences to arbitration.

[Rev. C. T. Dole, First Congregational Society, Jamaica Plain, Mass.]

I wish to be counted among those who are earnestly petitioning Congress to reverse what we all know was hasty action in passing the Panama Canal Act. This measure was never supported by any popular demand; it has put a stain of dishonor upon our conduct, touching our sister nation of Great Britain, and it threatens, unless repealed, to lay a burden of expense upon all our people in favor of a class already privileged.

[Right Rev. Chauncey B. Brewster, bishop of Connecticut, Hartford.]

The stronger the ground for the claim that the provision contravenes our solemn contract (and to me that ground seems very strong), the more imperative reason is there for repealing the provision in order to save this country from dishonor and disgrace. I count it a privilege, so far as in me lies, to further this movement, and I earnestly hope that Congress will take the action which under the circumstances is reasonable and honorable and repeal the provision referred to.

[Rev. J. W. Bachman, Chattanooga, Tenn.]

The United States is rich enough to lose, but it can not afford to break its word.

[Rev. F. T. McFaden, Richmond, Va.]

I do not see how our Government can make any discrimination in tolls or conditions in favor of the coastwise or any other trade of this country in the use of the Panama Canal. To do so, in view of all our former actions, and especially the Hay-Pauncefote treaty, would be to stultify ourselves in the estimation of all the Governments of the world.

IV. OPINIONS OF SUPERINTENDENTS OF PUBLIC SCHOOLS.

[Duncan MacKinnon, San Diego, Cal.]

If we are to retain our self-respect and national honor, Congress must repeal the provision of the Panama bill exempting the coastwise trade of the United States.

[C. W. Mickens, Adrian, Mich.]

The submission to arbitration of the proposed difficulty in question would be a proper solution.

[C. H. Young, Lebanon, Ohio.]

I am in favor of repealing the Panama Canal bill exempting coastwise trade of the United States.

[F. T. Appleby, president Lafayette College, Lafayette, Ala.]

I feel that the clause should be repealed, that our splendid standing before all the nations of the world may not in any way be weakened.

[E. O. Holland, Louisville, Ky.]

The question of "Panama tolls" was discussed at a meeting of a number of the leading business and professional men of this city on last Saturday, December 28, 1912. After a careful analysis of the Hay-Pauncefote treaty, it was the unanimous conviction of this group of men that Congress owes it to the American people to repeal the provision of the Panama Canal bill which exempts the coastwise trade of the United States.

The honor of a country should be as sacred as the honor of an individual. Therefore a contract solemnly entered into by the accredited representatives of our country should be held inviolate.

[S. D. Largent, superintendent board of education, Great Falls, Mont.]

I believe that this Nation should stand strictly for the spirit as well as the letter of every treaty entered into with any other nation.

I am not in sympathy with the coastwise exemption of tolls. I see no good reason for it, and I do not believe that it is right.

[William O. Riddell, superintendent Board of Education, Des Moines.]

It is my individual opinion that whoever uses the Panama Canal should pay toll at the same rate that every other user pays; that there should be no discrimination whatever in tolls or conditions in favor of coastwise trade or any other special interest.

[H. M. Comins, superintendent Ripon public schools, Ripon, Wis.]

I incline to the "Independent" rather than the "Outlook" view in the matter of our coastwise shipping in connection with our Panama Canal. It seems to me we can hardly refuse to arbitrate the question, and in that event the decision must be adverse to the United States.

[Francis A. Soper, superintendent department of education, Baltimore, Md.]

I am decidedly opposed to the exemption of the coastwise trade of the United States as contained in the Panama Canal bill.

[G. J. Graham, superintendent of schools, Xenia, Ohio.]

I most assuredly feel that our Government has made a very grave mistake in the Panama Canal bill, in making an exception of the coastwise trade of the United States, as it is a direct violation of the Hay-Pauncefote treaty.

[R. O. Stoops, superintendent of city schools, Joliet, Ill.]

I heartily favor the proposed repeal of the coastwise exemption in the Panama bill.

[J. N. Adee, superintendent Johnstown public schools, Johnstown, Pa.]

I sincerely believe it will be better for our Nation's future and world-wide peace for us to observe the Hay-Pauncefote treaty which treats the vessels of all countries alike in respect to tolls on the Panama Canal.

[N. Winton Palmer, superintendent public schools, Penn Yan, N. Y.]

It is my candid opinion that the provision of the so-called Panama Canal bill exempting coastwise trade of the United States should be repealed.

[Henry P. Emerson, superintendent department of public instruction, Buffalo, N. Y.]

I am in favor of the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States on the ground that it is a violation of the Hay-Pauncefote treaty.

[H. O. Sluss, superintendent of public schools, Covington, Ky.]

I have not had the time to look into the various phases of the proposed repeal of the provision of the Panama Canal bill exempting the coastwise trade of the United States. However, the objections seem to me valid.

[F. H. Beede, superintendent of schools, New Haven, Conn.]

I favor the repeal of the bill.

[J. A. C. Chandler, superintendent public schools, Richmond, Va.]

I favor a repeal of the Panama Canal bill exempting the coastwise trade of the United States on the grounds that it should not be said that the United States of America in any way violated the contract that it had made with Great Britain.

[Richard E. Clement, superintendent of public schools, Elizabeth, N. J.]

If given an opportunity I should certainly vote for the repeal of the law relative to tolls to be charged for the use of the Panama Canal, and the enactment of such law as would enable every American citizen to hold his head high and look the whole world straight in the face.

[William H. Maxwell, superintendent of schools, New York City.]

I regard the action of Congress in exempting the coastwise trade of the United States from tolls and conditions to which the ships of other nations are subjected as a violation of the treaty into which we entered with England.

I earnestly hope that Congress will repeal the obnoxious provision.

[R. E. Laramy, superintendent Phoenixville school district, Phoenixville, Pa.]

I feel personally that in this matter of exemption from tolls the moral tone of our Nation is in danger. This is of more importance than shekels.

[J. H. Van Sickle, superintendent of schools, Springfield, Mass.]

By all means the coastwise exemption in the Panama Canal bill should be repealed.

[H. P. Lewis, superintendent of public schools, Worcester, Mass.]

I have made no serious study of the subject, but I am inclined to the belief that our contract in the Hay-Pauncefote treaty requires us to place all vessels passing through the Panama Canal upon an equality.

I think that the maintenance of the national honor is of far greater importance than the securing of some financial advantage.

[J. A. Whiteford, superintendent of schools, school district of St. Joseph, Mo.]

Replying to yours in reference to repeal of coastwise exemption in Panama bill, will say that from what I know of the situation I should be pleased to learn that this clause of the bill has been set aside by Congress. Its repeal would do much toward relieving an embarrassing situation.

[S. C. Hutchinson, superintendent of schools, Montpelier, Vt.]

I regret extremely the action of Congress in exempting the coastwise trade of the United States in the Panama bill. I am correspondingly glad that a movement is on foot to bring about its repeal.

[R. F. Hight, superintendent public schools, Lafayette, Ind.]

I am in favor of the repeal of the coastwise exemption in the Panama bill.

[Jonathan Fairbanks, city superintendent of schools, Springfield, Mo.]

In response to your circular just received, I will say that in consequence of our treaty we should tax our coastwise ships passing through the canal same as foreign ships. Show no favors to any—our vessels as well as foreign.

While we built the canal, and the territory through which it passes is ours also, yet it would be well to make our ships pay the same as others. Then our relations with foreign countries would be much

strengthened or much more harmonious. I trust that the present canal bill will be repealed.

[G. A. Stuart, superintendent school department, Rockland, Me.]

I think that if we wish to be regarded as honorable in our international dealings and live up to treaty obligations we can do no less than repeal the provision mentioned.

V. OPINIONS OF OTHER PROMINENT MEN.

[A. Barton Hepburn, New York.]

I am clearly of the opinion that the recent act of Congress exempting the coastwise trade of the United States from the payment of tolls is an infringement of our treaty obligations.

[William Lyon Phelps, professor of English literature, Yale University, New Haven.]

I believe that Congress should repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States, because I think such a clause is really a contravention of our plain contract made in the Hay-Pauncefote treaty.

[E. R. L. Gould.]

Sticking to a bargain freely made characterizes an honorable man. National honor demands similar conduct from the Government.

[Oscar S. Straus.]

I would deem it advisable if the Senate could be prevailed upon to amend the Panama act by eliminating that section which frees from toll our coastwise shipping, and I think every effort should be made to bring about that result. Failing in that, I know of no valid reason why we should not, if requested by Great Britain, arbitrate that clause of the Hay-Pauncefote treaty above referred to.

[George McLean Harper, Princeton, N. J.]

I hope Congress will repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States, because it is plainly a violation of the Hay-Pauncefote treaty. No amount of word juggling can make it appear otherwise.

[Andrew F. West, Princeton University.]

The coastwise exemption provisions in the Panama Canal bill are bad from the standpoint of our national honor and also bad from the business point of view. If our coastwise trade through the canal needs special consideration in view of international competition, this should not be given in the form of lower tolls, against one well-understood pledge to the world of equal tolls, but by some form of compensating allowance made by the United States.

I hope the coastwise-exemption provision will be repealed promptly. If this can not be secured, it would be disgraceful not to submit the matter to arbitration.

[William Morton Payne, Chicago.]

I can hardly find words to express my abhorrence of the legislation which exempts any American shipping from the payment of canal tolls.

[George Burnham, jr., Philadelphia.]

For a totally unnecessary subsidy to a particular industry, granted in a moment of sentimental enthusiasm, we are going to barter away our honor and our standing among the nations.

[A. C. Stratford, president Board of Trade, Jersey City.]

The United States Government should arbitrate the matter of Panama Canal tolls. I can not see any other way honorably out of the controversy.

[David Davis, attorney at law, Cincinnati.]

I take this opportunity to protest against Congress of the United States interfering with the Hay-Pauncefote treaty, and as earnestly request that Congress repeal the exemption act.

I voice the sentiment that the people of Ohio are in favor of adhering to our solemn contract, and if there can be any difference that such difference be submitted to the highest and most useful court in the world—The Hague.

[H. C. Phillips, secretary Lake Mohonk Conference on International Arbitration, Mohonk Lake, Ulster County, N. Y.]

It certainly seems to me that the United States can not afford to refuse to arbitrate the construction of the Hay-Pauncefote treaty with reference to the recent Panama Canal act.

[A. B. Farquhar, York, Pa.]

Let the American flag be planted on Panama as a symbol of justice and righteousness in dealing with other nations, and not in the protection of partiality to petty interests at home and international shame. The word "all" in the treaty means all.

[Henry Van Dyke, Princeton, N. J.]

It is already evident that the coastwise exemption clause in the Panama Canal bill comes in a questionable shape and is likely to lead to misunderstanding with Great Britain and with other friendly nations. Why create a necessity for arbitration? The simplest way out of the impending difficulty would seem to be the repeal of the confusing clause.

[Paul Fuller, New York City.]

I see no justification for such an exemption.

[J. Bishop Putnam.]

Every American citizen with the slightest regard for the dignity of his country can have but one opinion as to the course that we should take in connection with this matter, and the thought that we could honorably refuse to arbitrate a question of this kind is humiliating.

[Charles Francis Adams.]

In regard to the proposed repeal of the "coastwise exemption" in the Panama bill, I have merely this to say: "A man's self-respect is worth something, and what is true of the individual is true of the community."

[Robert Erskine Ely, director, League for Political Education.]

The American people ought not to permit any doubt as to whether or not they propose to live up to their treaty obligations.

[William Jay Schieffelin.]

The reputation for fair dealing which our country has earned in the past will deservedly suffer unless we are true to the agreement that there shall be no discrimination in the Panama Canal tolls.

[Robert C. Ogden.]

In my judgment, there is only one honorable course for Congress to pursue concerning the provision in the Panama Canal bill exempting the coastwise trade of the United States and that is promptly to repeal it.

[Seth Low.]

If the United States and Great Britain fail to adjust their differences of opinion on the subject of Panama Canal tolls, I am very earnestly of opinion that the difference between the two countries on the interpretation of the treaty should be arbitrated.

My own personal opinion is that the game is not worth the candle, and I am sorry that this discrimination has been made.

[Alton B. Parker.]

Believing our country should faithfully fulfill, in both letter and spirit, every treaty obligation, I am necessarily heartily anxious that the provisions of the Panama Canal bill exempting the coastwise trade of the United States should be repealed.

[Daniel C. French.]

It gives me pleasure to express myself as heartily in favor of the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise traffic of the United States from payment of tolls. The United States can not afford to run the risk of an accusation of unfairness or breach of faith in regard to this point.

[Alfred E. Marling, New York.]

I hope Congress will repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States.

[Cleveland H. Dodge, New York.]

I sincerely trust that the effort to bring about the repeal may be successful.

[Charles De Kay, New York.]

Regarding repeal of the coastwise exemption in the Panama Canal bill by Congress, I hope Congress will see this matter from a higher outlook and correct what I believe to be a strategic and diplomatic mistake.

[John Burroughs, West Park, N. Y.]

I think that to fail to keep faith with Great Britain in the matter of the Panama Canal treaty or to refuse to submit the question in dispute to arbitration, would be a stigma upon our honor as a Nation.

[William Roscoe Thayer, Cambridge, Mass.]

In the Hay-Pauncefote treaty the United States solemnly agreed to do a certain thing and it is bound, like every honest man, to keep its pledge.

[Brooks Adams, Boston, Mass.]

I consider the Panama Canal bill a breach of faith and in the last degree disgraceful to the country.

[James Schouler, Intervale, N. H.]

I favor a repeal by Congress of the United States coastwise-trade exemption.

[John Luther Long.]

Concerning the national iniquity compounded in the coastwise-exemption clause of the Panama Canal bill, I am very glad to raise my voice against it.

[Edward S. Martin, New York.]

I would like to see the coastwise trade clause of the canal bill repealed.

If that can not be done, I should like to see it arbitrated.

[James Ford Rhodes, Boston, Mass.]

My first bias was favorable to the bill as passed by Congress. But a careful historical examination of the Clayton-Bulwer treaty of 1850 and of the present Hay-Pauncefote treaty, ratified by the Senate on December 16, 1901, has convinced me beyond any question that the words "free and open to the vessels of commerce * * * of all nations" mean all merchant vessels, including vessels in our coastwise trade. I think that if the bill had not been passed at the close of a long and exhausting session the undesirable coastwise provision would not have been included. The wise thing for Congress now to do is to repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States.

[Montgomery Schuyler, New Rochelle, N. Y.]

Regarding the question of the exemption from tolls provision as primarily one of national honor, it is necessary for me to say that I am warmly in sympathy with repeal. The adverse arguments seem to me properly describable as "pettifogging."

[H. D. Sedgwick, New York City.]

American good faith is wounded by the provision of the Panama Canal bill exempting our coastwise trade from tolls; that provision should be repealed.

[Robert E. Telford, Abbeville, S. C.]

My sentiments are very strongly in favor of the proposed repeal for the sake of our national honor and in justice to all concerned.

[Basil L. Gildersleeve, Baltimore, Md.]

A strict constructionist in all matters that pertain to personal and national honors, I consider any evasion of our treaty obligations a disgrace to the country.

[Andrew D. White, Cornell University, Ithaca, N. Y.]

I have steadily been and remain a supporter of the idea of submitting the Panama Canal matter to arbitration at The Hague.

[Henry U. Johnson, ex-Member of Congress, Richmond, Ind.]

The coastwise provision of the Panama Canal act should be promptly repealed by Congress. Every consideration of national honor demands that this shall be done. It is also an expedient step to take, and will prove to be a profitable one in the long run.

[John G. Milburn, New York.]

I beg to say that I feel very strongly that the provision of the Panama Canal bill exempting the coastwise trade of the United States should be repealed by Congress.

[W. D. Howells.]

As to the repeal of the coastwise exemption in the Panama bill, I have only to say that I like a nation that keeps its word, even though it loses by its good faith, just as I like a man that sweareth to his hurt and changeth not. I am not concerned so much for our shame before the world as for our shame before ourselves if we break the promise we made in the Hay-Pauncefote treaty.

[Everett P. Wheeler, New York.]

I am very clear that that clause in the bill ought to be repealed.

[George Foster Peabody.]

I beg to say that I am very heartily in sympathy with the proposition that this exemption should be repealed.

It seems to me a case where the public sentiment should be aroused to express its faith in the doctrine that "righteousness exalteth a nation."

[Frank T. Bayley, Denver, Col.]

I earnestly hope for the repeal by Congress of the coastwise exemption feature of the canal bill. I believe its retention will cost us heavily in moral prestige and national influence.

[Edward A. Reed, Holyoke, Mass.]

I am heartily in favor of the repeal of the coastwise exemption in the Panama Canal bill, simply because it is a breach of good faith.

[Selden P. Spencer, St. Louis, Mo.]

For the United States, accepting as it does the principle of international arbitration, to be reluctant to admit the application of that principle to an honest and important difference of opinion between it and Great Britain in regard to the provisions of a treaty between them (to say nothing of the express precision of the separate treaty which we have with Great Britain, by which each undertakes to submit to arbitration disputed questions arising out of treaties between the two nations) is to invite the suspicion of the civilized world as to the integrity and honesty of the United States, thus hesitant, and speaking for peace with the voice of Jacob but in action extending the fraudulent hands of Esau.

[Samuel B. Capen, Boston.]

If there is any necessity to subsidize our shipping which uses the canal, we ought to do it directly and in the open, and not jeopardize our honor and our leadership in the peace movement at the same time. I trust that before the present Congress adjourns legislation may be enacted so that there shall be no discrimination in tolls or conditions among all nations.

[A. W. Hazen, Middletown, Conn.]

I am in hearty sympathy with the movement to further the repeal of the coastwise exemption in the Panama Canal bill. It has been a matter of deep regret to me that the Nation was so dishonored by its Congress as in the passing of that section of the bill.

[Charles L. Hutchinson, Chicago.]

I sincerely hope that Congress may repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States. It was, in my opinion, a mistake ever to exempt the coastwise trade, and I hope that Congress may rectify the error before called upon to arbitrate the question.

[Charles Matteson, Providence, R. I.]

I am heartily in sympathy with the movement to obtain a recession by Congress of this exemption, believing as I do that all vessels passing through the canal should be treated alike and that all should pay tolls. If this can not be accomplished, I believe that the interpretation of the Hay-Pauncefote treaty should be referred to The Hague Tribunal.

[Fred S. Ball, Montgomery, Ala.]

In my judgment the matter in controversy should be adjusted, and it seems clear from the language of the treaty that the act of Congress is without justification.

[J. H. Moores, Lansing, Mich.]

If the agreement in the Hay-Pauncefote treaty is that "there shall be no discrimination in tolls or conditions as among all nations," then I say let our coast-line shipping be on the same footing as that of all other nations. Let us keep our contract.

[Samuel T. Dutton, American Peace Society, New York.]

The United States can well afford to subsidize its coastwise ships if necessary, but can not afford to get a reputation for sharp practice or loose dealings with other nations.

[From a letter to a citizen who requested his eminence's opinion on the Panama tolls question.]

CARDINAL'S RESIDENCE,
408 NORTH CHARLES STREET,
Baltimore, Md., January 18, 1913.

* * * * * * *

I am most anxious that in this all-important matter the honor and prestige of our country be preserved. This I feel can be reached if the matter is given serious consideration and is carefully debated in both branches of Congress. Furthermore, this would result in a just settlement of the matter without having to have recourse to arbitration, for we most certainly can not refuse arbitration once it is proposed without placing ourselves in a most humiliating position before the world, and if arbitration is accepted it would undoubtedly result in our defeat. Hence I feel that the matter should be settled in Congress.

Very sincerely, yours,

J. CARDINAL GIBBONS,
Archbishop of Baltimore.

Mr. BURKE of Wisconsin. Mr. Chairman, if there is no desire by anyone else to be heard, I move that general debate be now closed.

The CHAIRMAN. It is not in order to close the general debate, but, unless somebody desires the floor, the Clerk will read the bill.

The bill was read for amendment, as follows:

A bill (H. R. 28282) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Allan G. Knode, late of Company H, Fifty-first Regiment Pennsylvania Volunteer Infantry, and Company C, Nineteenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of David Lloyd, late of Company K, Thirty-ninth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Jesse A. Linn, late of Company K, Twelfth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John T. Chiles, late of Company H, First Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Taylor, second, late of Company E, First Regiment Arkansas Volunteer Cavalry, and Company H, Fifteenth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Milton Lee, late of Company D, Fortieth Regiment Iowa Volunteers, and Company L, Ninth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Betsey Ann Phelps, widow of Elias Phelps, late of Company E, Thirty-sixth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George Hobbs, late of Company G, Seventh Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Pressley R. Baldridge, musician, late of Fifty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John C. Martin, late of Company F, Forty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Hugh Baker, late of Company C, Fourth Regiment Wisconsin Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John A. Peterson, late of Company B, Sixty-seventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William D. Wood, late of Company K, Forty-fourth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Patrick Fitzpatrick, late of Company C, Fifty-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Stephen Vogel, late of Company G, Two hundred and fourteenth Regiment Pennsylvania Volunteer Infantry, and Company B, One hundred and seventy-ninth Regiment Pennsylvania Drafted Militia, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ezekiel Justice, late of Company F, One hundred and thirtieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Gallagher, late of Company D, Fourteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Solomon D. Kurtz, late of Company E, One hundred and sixtieth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of George Goodpastor, late of Company F, First Battalion Nevada Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ruben Driskill, helpless and dependent son of William Driskill, late of Company H, Third Regiment Missouri State Militia Cavalry, and pay him a pension at the rate of $12 per month.

The name of Lottie Menefee, widow of John Menefee, late of Company B, Thirty-third Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John T. Bates, late of Fourth Battery Wisconsin Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jacob Schumacher, late of Company I, Twenty-third Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles W. Wood, late of Company E, Thirteenth Regiment United States Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frank D. Morse, helpless and dependent child of Martin K. Morse, late of Company G, First Regiment Michigan Volunteer Light Artillery, and pay him a pension at the rate of $12 per month.

The name of Anna M. Haysmer, widow of James Haysmer, late of Company F, First Regiment Michigan Volunteer Engineers and Mechanics, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of William J. Chinn, late of Company H, Forty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Isaac B. Hughey, late of Company E, Eleventh Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Orlando A. Hays, late of Company H, Twenty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis H. Turner, late of Company H, Eighty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James H. Brown, late of Company E, Fifty-second Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lewis Quillen, late of Company I, First Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John B. Whisler, late of Company E, One hundred and thirty-fourth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Henry Wilber, late of Company B, One hundred and eighth Regiment New York Volunteer Infantry, and Company F, Eighteenth Regiment Veteran Reserve Corps, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of William Green, late of Company K, Twenty-first Regiment Iowa Volunteer Infantry, and unassigned Thirty-fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frank Kirkey, late of Company L, Sixth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of David Blubaugh, late of Company K, Forty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Andrew B. Keith, late of Company F, One hundred and twentieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of James F. Rowley, late of Company C, Eighth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John S. Bell, late of Company B, One hundred and ninety-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel McQuate, late of Company G, Twenty-first Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William G. Shute, late of Company E, Ninety-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Henderson, late of Company F, First Regiment Arkansas Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Morgan T. Williams, late of Company E, Fourteenth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Hoffman, late of Company B, Forty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Richard H. Robertson, late of Company G, Twenty-third Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Adam Lichty, late of Company C, One hundred and eighty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Anna O. Stanton, widow of Clark Stanton, late of Company A, First Regiment New York Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of John M. Hines, late of Company I, Thirty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Erwin M. Bergstresser, now Harley, late of Company G, Twenty-fifth Regiment Ohio Volunteer Infantry, and Company E, One hundred and ninety-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Josiah Gough, late of Company B, Fourth Battalion Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas J. Gustin, late of Company G, One hundred and seventy-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Frank L. Dublap, late of Company F, Eighty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Josiah Ketchum, late of Company A, Eightieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Philip Kohler, late of Company B, Two hundred and seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of David McClintock, late of Company B, Seventh Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Clayton F. White, late of United States Marine Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis Westerfield, late of Company F, Eleventh Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James H. Dorrance, late of Company F, Fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin M. Curtis, late of Company H, Forty-third Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John J. Dillon, late of Company E, Sixth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Gardiner Roberts, jr., late of Company E, Twenty-fourth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John W. Randels, late of Company G, One hundred and seventy-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles Torrey Phillips, late of Company I, Sixty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Rosaline V. Cook, widow of Thomas W. Cook, late of Company C, Seventh Battalion District of Columbia Militia Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Jacob L. Batchelder, late of Company C, Twenty-fifth Regiment Massachusetts Volunteer Infantry, and musician in Company F, Thirty-sixth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah Demree, widow of David P. Demree, late of Company C, Eighty-fourth Regiment Indiana Volunteer Infantry, and Company G, Sixteenth Veteran Reserve Corps, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Lafayette Cook, late of Company F, Ninety-first Regiment Indiana Volunteer Infantry, and Company B, One hundred and twenty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel D. Murphy, late of Company I, Third Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas J. Thorp, late of Company E, Eighty-fifth Regiment New York Volunteer Infantry, and lieutenant colonel in One hundred and thirtieth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of John Muster, late of Company H, Twenty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma Schuette, helpless and dependent daughter of Frederick Schuette, late of Company E, Second Regiment Missouri Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of Henry Vasterling, late of Company E, Second Regiment Missouri Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William V. Fish, late of Company H, Seventeenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Ebenezer Tittle, late of Company D, Third Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Thomas E. Smith, late of Company H, First Regiment Arkansas Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph D. Fulmer, late of Company A, One hundred and seventy-eighth Regiment Pennsylvania Drafted Militia Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry C. Adams, late of Company E, Second Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Nahum A. Reed, late of Company K, Seventh Regiment Massachusetts Volunteer Infantry, and Company I, Second Regiment Massachusetts Volunteer Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Eliza Holbrook, former widow of Frederick H. Boynton, late of Company F, One hundred and sixth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $17 per month.

The name of Henry Selover, late of Company G, Eighth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Marion Ridgley, late of Company E, Seventy-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Michael Normile, late of Company D, Fourth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Mansfield, late of Company K, One hundred and ninety-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas Kenney, late of Forty-fourth Company, Second Battalion, Veteran Reserve Corps, and Company I, Twenty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas Stevenson, late of Independent Battery G, Pennsylvania Volunteer Light Artillery, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Lyman A. Babcock, late of Company E, Tenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James M. Abney, late of Company C, Eleventh Regiment Missouri State Militia Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joel L. Cudworth, late of Company H, Fourteenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel W. Bressler, late of Company C, One hundred and thirty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Charles H. Webber, late of Company F, First Regiment United States Artillery, and Company I, Fourteenth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Sepin, late of Company C, Ninth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Perry S. Grindle, late landsman on U. S. S. Chillicothe, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William H. Harrison, late of Company M, Thirteenth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John S. Davidson, late of Company I, Ninety-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Kels Risner, late of Company F, Fourteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Maynard, late of Company A, Fifth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Harvey Mahannah, late of Company G, One hundred and sixteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David C. Cass, late of Company B, One hundred and twenty-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Oscar F. Maynard, late of Company F, Ninety-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Thomas Mead, late landsman, U. S. S. Canandaigua, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David J. Chinn, late of Company B, Second Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary E. Farrell, widow of Andrew Farrell, late of Company I, Seventh Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Caleb Crotzer, late of Company I, One hundred and ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Peterson, late of Company F, Seventy-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of John A. Felton, late of Company H, Twenty-second Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Maston G. Strong, late of Company G, Fifty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Bates, late of Company D, Sixth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John S. Hufford, late of Company F, Fourth Regiment Pennsylvania Reserve Volunteers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Martin Lovett, late of Company K, Forty-seventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel A. Gibson, late of Company B, Fifteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah N. Strickler, late of Company B, Sixteenth Regiment Illinois Volunteer Infantry, and in band Fiftieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Zimmerman, late of Company F, Seventy-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William J. Aylsworth, late of Company D, Twenty-seventh Regiment New York Volunteer Infantry, and Company A, Fifth Regiment New York Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Margaret E. Fickle, widow of Isaac E. Fickle, late of Company H, Ninth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Joseph Scharborough, late of Company B, First Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Osmus E. Devault, late of Company A, Eleventh Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edwin F. Miller, late of Company F, Ninety-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Edward M. Drohan, late of Company A, Eighty-fifth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Bacom, late of Company D, Twenty-eighth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Clementine Richards, widow of Charles F. Richards, late of Company F, Fourth Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Margaret J. Brophy, widow of James H. Brophy, late of Company C, Second Regiment Rhode Island Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Orange P. Babb, late of Twelfth Battery Indiana Volunteer Light Artillery, and Company E, Seventieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John T. Ferguson, late of Company F, Eighty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Martin V. B. Cross, late of Company K, Third Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Y. Lambert, late of Company G, One hundred and forty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Stephen H. Haley, late of Company I, Fiftieth Regiment Pennsylvania Volunteer Infantry, and Company H, Eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Enslow, late of Company G, Ninety-seventh Regiment Illinois Volunteer Infantry, and Company I, Thirty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David Stevens, late of Company D, Thirty-third Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lucy Ann Harper, widow of Hamilton Harper, late of Company G, Thirteenth Regiment Indiana Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of William M. Anderson, late of First Battery Kansas Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James McGrade, late of Company E, First Regiment New York Veteran Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Benjamin White, late of Company E, One hundred and thirty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of William Galligan, alias William Calligham, late of Company F, Sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John C. Lewis, late of Company E, Sixtieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Ida Newcomer, helpless child of Henry Newcomer, late of Company K, Two hundred and third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William B. Hehbach, late of Company G, One hundred and sixteenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jason Johnson, late of Company B, Fourth Regiment Vermont Volunteer Infantry, and Company D, First Regiment United States Veteran Volunteers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John N. Conely, late of Company I, First Regiment West Virginia Volunteer Infantry, and Company A, Second Regiment West Virginia Veteran Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Oliver C. Stringer, late of Company A, First Regiment West Virginia Volunteer Infantry, and Company G, Second Regiment West Virginia Veteran Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Bradley W. Hill, late of Company F, Fifth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Asa H. Patrey, late of Company E, Ninety-fifth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel F. Garrett, late of Company I, Thirty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jeptha Pierson, late of Company G, One hundredth Regiment Illinois Volunteer Infantry, and One hundred and fifty-second Company, Second Battalion Veteran Reserve Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Chauncey Cronk, late of Company B, Ninth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Albert Kinneer, late of Company F, One hundred and forty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Harrison T. Fleenor, late of Company C, Thirtieth Regiment Iowa Volunteer Infantry, and Company C, Sixth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James P. Farmer, late of Company A, Third Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles D. Jones, late of Company H, First Regiment New Hampshire Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Michael Shuppert, late of Company C, One hundred and first Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Steward P. Powers, late of Company E, One hundred and eighty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lucy C. Andes, widow of Daniel Andes, late of Company H, Seventh Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John M. Carson, late of unassigned Fifth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Calvin Musser, late of Company F, One hundred and eleventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry C. Smith, late of Company C, Twelfth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John M. Shirley, late of Company G, Thirteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Mary A. Pfister, widow of Reinhard Pfister, late of detachment of Artillery, United States Military Academy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Charles Parker, late of Company A, One hundred and fifty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Frances A. Ayers, widow of Benjamin S. Ayers, late of Company K, Twelfth Regiment Indiana Volunteer Infantry, and Company G, One hundred and forty-sixth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $17 per month.

The name of Jesse M. Silvers, late of Company L, First Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Phillipine Stelns, widow of Gustavus A. Stelns, late acting ensign, United States Navy, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Rosa Prentiss, widow of Leander P. Prentiss, late of Company E, Fifth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elizabeth Phillips, widow of William C. Phillips, late of Company E, Fortieth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Mary J. Chase, widow of Charles Chase, late of Company H, Sixth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Joseph N. Wilson, late of Company C, Sixtieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Graham, late of Company I, Fourteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Peter F. Dixon, late of Company E, Eighth Regiment Tennessee Mounted Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Georgina Jonas, widow of George B. Jonas, late of Company C, Tenth Regiment New York Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry Milton Babcock, helpless and dependent child of William J. Babcock, late of Companies E and B, Second Regiment Rhode Island Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Isabella H. Watson, widow of William N. Watson, late of Company A, Seventh Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Isaac J. Nichols, late of Company A, First Regiment Alabama Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of James W. Mayfield, late of Company I, Eleventh Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel Hilliard, late of Company C, Fifty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John H. Ruff, late of Company H, First Regiment Arkansas Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry A. Grove, late of Company B, Forty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Short, late of Company B, Third Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving:

The name of William H. Brown, late of Company E, Thirty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Jacob Row, late of Company F, Second Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Ellen G. Frame, widow of John O. Frame, late of Company F, Forty-seventh Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Washington McCartney, late of Company A, Eighth Regiment Pennsylvania Reserve Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Seiler, late of Company G, Fifty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Severyn T. Bruyn, late of Company K, One hundred and forty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Eliza Wolf, widow of Abraham Wolf, late unassigned, One hundred and forty-fourth Regiment New York Volunteer Infantry, and Company I, First Regiment New York Engineers, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James C. McClay, late of Company G, Sixth Regiment United States Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John Gray, late of Company K, Eighth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas Sheehan, late of Company L, Eleventh Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Benton, late of Company G, Nineteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Finley Branstetter, late of Company C, Thirty-ninth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Phebe J. Horton, widow of Orange O. Horton, late of Company H, Third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Joseph McKenzie, late of Company D, Fourteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of James K. Cypheri, late of Company C, One hundred and fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John L. Nebergall, late of Company B, Third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Theresia De Long, widow of Jacob De Long, late of Company I, One hundred and forty-fifth Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $12 per month.

The name of Harriett Gale, widow of Rufus Gale, late first lieutenant and commissary Eighth Regiment Indiana Volunteer Cavalry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Charles E. Burmaster, late third class musician, band First Regiment Nebraska Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Edward O. Williams, late of Company M, Second Regiment United States Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of George W. Proctor, late of Company A, First Regiment Maine Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jonas Siegrist, late of Company K, Fifty-third Regiment New York Volunteer Infantry, and Company F, One hundred and sixty-second Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John B. Barlow, late of Company E, Forty-sixth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Daniel Walter, late of Company B, Twenty-fourth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John W. Lynch, late of Company A, Thirteenth Regiment Maryland Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph Lethche, late of Company H, Ninth Regiment Missouri State Militia Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin F. Scott, late of Company G, Twelfth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Amos J. Henry, late of Company G, Tenth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Josephine Hall, widow of Merrick Hall, late of Company E, One hundred and eighty-sixth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Elizabeth H. Ball, widow of John E. Ball, late of Company E, Forty-ninth Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of William Frisbie, late of Company D, Eighth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Adaline Beaver, widow of Edward Beaver, late of Company C, One hundred and twenty-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Almeda Cosberry, widow of Dudley Cosberry, late of Company F, Twenty-seventh Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Harriet A. Glasscock, former widow of John B. Trimble, late of Company I, First Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $20 per month.

The name of John H. Civits, late of Company C, Forty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $60 per month in lieu of that he is now receiving.

The name of Laura A. Fowler, former widow of Josiah L. Wellington, late of Company D, Fifth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Malcolm Dunning, late of Company A, Second Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth Terry, former widow of Charles E. Smith, late of Company C, Twelfth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Lydia A. Norton, widow of James I. Norton, late of Company B, Twenty-eighth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Clara V. Weaver, widow of James B. Weaver, late colonel Second Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of William B. Fleming, late of Campany D, Fifteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elenor McCully, widow of James McCully, late of Company B, Fourth Regiment Pennsylvania Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William Come, late of Company K, Eleventh Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James Giddy, late of Company F, Eighth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Miller, late of Company F, Second Regiment Pennsylvania Volunteer Cavalry, and Company F, First Regiment Pennsylvania Provisional Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frances D. Cadamus, former widow of Robert Phillips, late of Company D, Ninety-third Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William McDermott, late of Company F, Fifty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Long, late of Company F, Twelfth Regiment Missouri Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Akridge, late of Company H, Thirteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma F. Berry, widow of Charles S. Berry, late of Company G, Twelfth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William Lathrop, alias William Lapher, late of Company D, Fifty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles E. Stamm, late of Company A, One hundred and thirty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Irene M. Gary, widow of David S. Gary, late of Company K, One hundred and fifth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Philo Buckley, late of Company A, One hundred and forty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel M. Baker, late of Company I, Seventh Regiment Provisional Enrolled Missouri Militia, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas P. Degman, late of Company H, Fifty-fourth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary Bruce, widow of Thomas H. Bruce, late engineer on transport, and pay her a pension at the rate of $12 per month.

The name of Morrison Hunter, late of Company G, Eleventh Regiment, and Company I, Forty-sixth Regiment, Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William W. Potter, late of Company F, Twenty-seventh Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William P. Underwood, late of Company B, Twenty-second Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary A. Odell, widow of Joseph Odell, late of Company M, Seventh Regiment West Virginia Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Daniel Caswell, late of Company E, Fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $10 per month in lieu of that he is now receiving.

The name of John McKone, late of Company H, Eighty-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Whitney C. Monson, late of Company F, Sixth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of John W. Hill, late of Company F, Sixty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Q. Thomas, late of Company D, Eighty-seventh Regiment Indiana Volunteer Infantry, and Company D, Forty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas R. Lamison, late of Company B, Two hundred and sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jacob P. Reichert, late of Company G, One hundred and ninety-third Regiment Pennsylvania Volunteer Infantry, and served in Pennsylvania Militia, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Andrew W. McCullough, late of Company E, Eleventh Regiment Pennsylvania Reserve Volunteer Infantry, and Company A,

Fifty-fourth Regiment Pennsylvania Militia Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Nelson Holcomb, late of Battery D, First Regiment Ohio Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Humphrey D. Gifford, late of Third Battery Iowa Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David Sypher, late landsman on U. S. S. Clara Dolsen and Great Western, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jacob Jones, late of Company C, Forty-fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William F. Whitmore, late of Company D, One hundred and fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles Schroder, late of Company C, One hundred and tenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Charles W. Webster, late of Company G, Forty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Usner, helpless and dependent child of Adam Usner, late of Company E, Two hundred and fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Alexander B. Henderson, late of Company E, Eighty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Poley C. Sites, late of Company H, One hundred and fifty-fourth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John P. Harris, late of Company M, Fifth Regiment Iowa Volunteer Cavalry, and Company A, Osage County Battalion Missouri Home Guards, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin Puckett, late of Company I, Fourteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Alice M. McCoy, widow of Robert J. McCoy, late of Company E, Thirty-sixth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William R. Gladman, late of Company A, Ninth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John S. Martin, late of Company H, Fifth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John B. Williams, late of Company M, Twenty-fourth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John W. Sidle, late of Company G, Ninety-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Fannie M. Campbell, widow of Henry C. Campbell, late of Company F, Seventieth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George De Garmo, late of Company E, One hundred and thirty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Jennie Riggs, widow of Allen Riggs, late of Company E, Tenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Ophelia L. Reynolds, widow of Hezekiah J. Reynolds, late of Company E, One hundred and forty-third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George H. Beckwith, late of Company H, Tenth Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Finetta L. Wood, widow of Enoch Wood, late of Company F, Seventeenth Regiment Connecticut Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Charles A. Lee, late of Company A, First Regiment Michigan Volunteer Light Artillery, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Charles Logan, late of Company D, Third Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma J. Winchell, widow of George W. Winchell, late of Company B, Ninth Regiment New York Volunteer Infantry, and Company E, Thirty-seventh Regiment New York State Militia Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John P. Reed, late acting master's mate, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Hiram W. Partlow, late of Company I, Twenty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Harriet G. Sangster, former widow of Charles M. Long, late of Company H, Forty-seventh Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John W. Williams, late of Company B, One hundred and thirty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Augustus Schoenwald, late of Company E, One hundred and Eighty-seventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William J. Sutton, late of Company A, One hundred and twenty-fourth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Elizabeth N. Brand, widow of George J. Brand, late seaman, U. S. S. Grampus and Reindeer, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Charles Alfred Brand, helpless and dependent son of said George J. Brand, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Elizabeth N. Brand, the name of said Charles Alfred Brand shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Elizabeth N. Brand.

The name of John Schroeder, late of Company B, One hundred and eighty-seventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Hervey A. Humphrey, late of Company A, Eighth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Michael Hartman, late of Company O, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Margaret A. Ramage, former widow of Josephus Miller, late of Company A, Ninety-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Lydia L. Clark, widow of Calvin W. Clark, late of Company G, Thirtieth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Franklin D. Green, late of Company F, Thirty-sixth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Lucy K. Simons, widow of Luther A. Simons, late of Company D, Second Regiment Massachusetts Volunteer Heavy Artillery, and pay her a pension at the rate of $12 per month.

The name of Daniel J. Haynes, late of Company A, Thirty-third Regiment Kentucky Volunteer Infantry, and Company F, Twenty-sixth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Irving D. Hull, late of Company E, Twenty-fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Catherine Daly, widow of John M. Daly, late of Company C, Eleventh Regiment Maine Volunteer Infantry, and Company K, Twelfth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Albert S. Bloomer, late of Company G, Fifty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $60 per month in lieu of that he is now receiving.

The name of Julia B. Russell, widow of Albirtus Russell, late of Company G, Tenth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Leonard Thorton Russell, helpless and dependent child of said Albirtus Russell, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Julia B. Russell the name of said Leonard Thorton Russell shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Julia B. Russell.

The name of Daniel H. Woodruff, late of Company D, Twenty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Alpheus Danley, late of Company A, Seventh Regiment West Virginia Volunteer Infantry, and Independent Company B, West Virginia Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James S. Strother, late of Company C, Thirty-ninth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah M. Kinley, widow of John A. Kinley, late of Company K, Eighth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Leora R. Maxon, helpless and dependent child of Jonathan H. Maxon, late of Company D, Twenty-fourth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Mary L. Merchant, widow of Silas B. Merchant, late of Company G, Forty-fourth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Catharine M. Schryver, widow of John R. Schryver, late of Company C, One hundred and twenty-eighth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John M. Culver, late second-class boy, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William A. S. Welch, late of Company G, Fifth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ellen V. N. Willson, widow of Cornelius V. N. Willson, late of Company E, Fifteenth Regiment New Jersey Volunteer Infantry, and Company C, Twenty-second Regiment Veteran Reserve Corps, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Laura F. Culbertson, widow of William M. Culbertson, late of Company L, Eighth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Sarah Ann Wamsley, widow of Lawrence Wamsley, late of Company B, One hundred and eighty-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Mary Elizabeth Wamsley, helpless and dependent child of said Lawrence Wamsley, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Sarah Ann Wamsley, the name of said Mary Elizabeth Wamsley shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Sarah Ann Wamsley.

The name of Augusta Batdorf, former widow of John C. Sanders, late of Company A, One hundred and twenty-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Lucy A. Rose, widow of Abner W. Rose, late of Company E, Third Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John H. Steele, late of Company E, Sixty-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Celestia Sprague, widow of Orrin C. Sprague, late of Company H, One hundred and forty-fourth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Katharine A. Weyant, widow of William B. Weyant, late of Companies M and A, Sixth Regiment New York Volunteer Heavy Artillery, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Maria J. Stevens, widow of Charles H. Stevens, late of Company H, One hundred and twenty-fourth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Marx, late of Company A, Fourth Regiment United States Reserve Corps, Missouri Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Asa Jenkins, late of Company D, Fifty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Franklin Bryson, late of Company I, Twenty-first Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate $30 per month in lieu of that he is now receiving.

The name of William M. McArthur, late colonel Eighth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of William V. Walker, late of Company L, Ninth Regiment, and Company L, Second Regiment, New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Stickle, late of Troop F, Fifth Regiment United States Cavalry, and Company A, Thirty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis M. Whittecar, late of Company K, Ninety-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Catharine Ann Bartelle, former widow of Alexander H. Edwards, late of Company I, Fifteenth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jacob Peffer, late of Company F, Ninth Regiment Pennsylvania Volunteer Cavalry, and Company F, Forty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Louisa I. Baldwin, widow of William H. Baldwin, alias William Dunlap, late of Company I, Ninth Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Luther B. Grover, late of Company I, Thirtieth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Youell, alias James Moses, late of Company I, Fifth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John H. Yarger, late of Company K and first lieutenant Company G, Forty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of James C. Boyd, late of Company E, Thirty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Homer Hoover, helpless and dependent child of James Hoover, late of Company G, One hundred and seventy-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Harriet P. Hale, dependent mother of Edward C. Hale, late of Company K, Ninth Regiment New Jersey Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Thomas P. Wentworth, late of Company H, Twenty-first Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Mary F. Deane, widow of Charles H. Deane, late first lieutenant and quartermaster Eighty-sixth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Almyra Vancil, widow of John Vancil, late of Company B, Second Regiment Illinois Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of Horatio D. Elliott, late of Company D, First Regiment Wisconsin Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Levi Boysel, late of Company H, Sixty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Alexander Fleming, late of Company A, One hundred and eighteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Dorothy E. Bacon, widow of Francis H. Bacon, late acting ensign, United States Navy, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Mary M. Jones, widow of Charles Jones, late of Company D, Fifty-seventh Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Simon Hoafmyre, late of Company B, Forty-ninth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Hinckley, late of Company B, Thirty-seventh Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Frank T. Sickler, late of Company C, Fifty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel C. Robertson, late of Company C, Third Regiment North Carolina Mounted Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sterrett McClellan, late of Company B, One hundred and fifty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Austin P. Walker, late of Company B, Sixty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Sylvester Cary, late of Company B, Twenty-ninth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary O'Brien, widow of Timothy O'Brien, late of Company H, Ninth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry B. Frey, late of Company G, First Regiment Pennsylvania Volunteer Cavalry, and Company G, First Regiment Pennsylvania Provisional Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma C. Weinhold, widow of William S. Weinhold, late of Company G, Ninetieth Regiment Pennsylvania Volunteer Infantry, and Company E, Fourteenth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Isaac Byers, late of Company G, One hundred and third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel Webb, late of Company E, Second Regiment Ohio Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary Bartlett Taylor, widow of Isaac Taylor, late of Company H, Third Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of Helen Archibald, widow of Frederick A. Archibald, late of Company C, One hundred and thirty-seventh Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah A. Bland, widow of Francis M. L. Bland, late of Company D, Ninety-ninth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Alvacinda Tyler, widow of Benjamin R. Tyler, late acting assistant surgeon, United States Army, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Robert Shay, late of Company E, Third Regiment Maryland Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Victoria S. Hill, widow of Adoniram J. Hill, late of Company H, Eighty-ninth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Cinderella B. McClure, widow of Robert A. McClure, late of Company F, Sixteenth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Joseph L. Bostwick, late of Company L, Ninth Regiment New York Volunteer Heavy Artillery, and Company M, Second Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Dennis P. Parker, late of Company C, Twentieth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Bateman Zoll, late of Company H, One hundred and ninety-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Walter Mason, late of Company E, Twenty-second Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Addison D. Madeira, late chaplain Fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Barton, late of Company H, First Regiment West Virginia Volunteer Cavalry, and Company A, Twenty-third Regiment Veteran Reserve Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Fred Babcock, late of Company A, Fourteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Hannah M. Brewer, widow of Benjamin Brewer, late of Company C, Sixty-ninth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Henry Bolner, late of Company B, Twenty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James E. Crane, late of Company D, Fifth Regiment Missouri State Militia Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Kate D. Linsley, widow of James H. Linsley, late of Company C, Tenth Regiment Connecticut Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Charles H. Crandall, late of Company B, Forty-second Regiment Ohio Volunteer Infantry, and Company I, Nineteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lizzie S. Williams, widow of Henry E. Williams, late of Company B, Thirty-first Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Virginia W. Reed, widow of James M. Reed, late of Company C, Forty-fifth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Daniel W. Brown, late of Company B, First Regiment Michigan Volunteer Engineers and Mechanics, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth Farley, widow of John H. Farley, late of Companies K and B, Third Regiment Rhode Island Volunteer Heavy Artillery, and pay her a pension at the rate of $12 per month.

The name of Stephen G. Lindsey, late of Company B, Eighty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Marie Soucle, former widow of Augustus Fancher, late of Companies K and A, Fourth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Jesse M. Pirkle, late of Company G, Third Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph L. Evans, late of Company K, Fourteenth Regiment Pennsylvania Volunteer Infantry, and Company D, One hundred and fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Benjamin M. Clark, late of Company I, Third Regiment United States Veteran Infantry, and Company F, Independent Regiment

Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charlotte E. Crowell, widow of James H. Crowell, late of Company D, One hundred and eighty-ninth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James N. Light, late of Company G, One hundred and fifteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of James H. Langley, late of Company M, Second Regiment Massachusetts Volunteer Heavy Artillery, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Reuben Brink, late of Company A, Ninth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Elenora B. Petty, widow of George W. Petty, late of Company L, Second Regiment New York Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George P. Smiley, late assistant surgeon Forty-second Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Annie Schott, widow of Bernard Schott, late of Company E, Fourth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $2 per month in lieu of that she is now receiving.

The name of Clara Ward, helpless and dependent child of Michael Ward, late of Company F, Forty-third Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Nancy Walton, widow of Jacob Walton, late of Company H, Seventy-seventh Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Edward H. Crandall, late of Company K, One hundred and eleventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of John P. Thurston, late of Company F, Fourth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Eli C. Lowe, late of Third Battery Kansas Light Artillery, and Company K, First Regiment Indian Home Guards Kansas Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John W. Swanson, late of Company H, Thirteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Bartholomew, late of Company H, One hundred and twenty-fourth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jennie McMurtrie, widow of Rudolph McMurtrie, late private United States Marine Corps, and of Company C, One hundred and twenty-fifth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of James B. Kellogg, late landsman on U. S. S. Ohio, Princeton, and Mohican, United States Navy, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Rachel Castell, now Robbins, widow of Hiram Castell, late of Company C, Seventh Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George M. Rood, late of Company E, Twentieth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Jane L. Gettins, widow of Edwin T. Gettins, late of Company K, Sixty-fifth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Matilda Louise Gettins, helpless and dependent child of said Edwin T. Gettins, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Jane L. Gettins the name of said Matilda Louise Gettins shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Jane L. Gettins.

The name of John H. Scott, late of Company C, Sixth Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Julia A. Kendall, widow of George H. Kendall, late of Company B, Thirty-seventh Regiment New York State Militia, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Edson A. Cook, late of Company H, Thirty-seventh Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of William Welch, late of Company M, Sixteenth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Mary E. Hughes, widow of Joseph A. Hughes, late of Company E, Twenty-ninth Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Emma Frymire, widow of Jasper Frymire, late of Company G, Eighty-seventh Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James H. Ross, late landsman, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth Willett, widow of George Willett, late of Company D, First Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Henry Cooper, late of Company C, Sixtieth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary M. Regan, widow of Patrick Regan, late of Battery L, Third Regiment United States Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Isaiah Ellwood, late of Company H, Fifteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Martha Rogers, widow of William H. Rogers, late of Company E, Sixteenth Regiment Vermont Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Frederick Sachsenheimer, late of Company K, Twenty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Caroline Selb, widow of Jacob Selb, late of Company F, Fourth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Michael Fogarty, helpless and dependent child of Patrick Fogarty, late of Company G, First Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Smith McCallister, late of Company L, Thirteenth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Horace W. Hunt, late of Twenty-first Battery Ohio Light Artillery, and Company A, Eighty-fourth Regiment Ohio Volunteer Infantry, and Company E, Ninth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Lusenah Fuller, widow of Amasa Fuller, late of Company A, Sixty-third Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Ida B. Fuller, helpless and dependent child of said Amasa Fuller, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Lusenah Fuller the name of said Ida B. Fuller shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Lusenah Fuller.

The name of Joseph W. Jerolemman, alias William Wood, late of Company A, Eighty-second Regiment, and Company E, Fifty-ninth Regiment, New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah C. Gross, widow of Reuben Gross, late of Company F, Sixth Regiment Michigan Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James M. Emmons, late of Company E, One hundred and forty-eighth Regiment, and Company H, One hundred and thirty-second Regiment, Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Frank B. Doran, late of Company I, Fifty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Sarah J. Benton, widow of James P. Benton, late of Company I, Sixty-third Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Noah M. Diehl, late of Company G, One hundred and sixty-ninth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Catharine Hayden, widow of James B. Hayden, late of Company I, Eighty-sixth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Hoyt Hayden, helpless and dependent child of said James B. Hayden, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Catharine Hayden, the name of said Hoyt Hayden shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Catharine Hayden.

The name of Carrie D. Colman, widow of John T. Colman, late of Company C, Sixty-fifth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Lewis Pugh, late of Company H, Fifth Regiment Pennsylvania Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jane Burton, widow of Ira Burton, late of Company K, Fifth Regiment West Virginia Volunteer Infantry, and Company K, First Regiment West Virginia Veteran Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Nannie Yocum, widow of Lucian S. Yocum, late of Company G, Sixteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Alice M. Ham, widow of Fielding B. Ham, late of Company D, One hundred and seventy-third Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William L. Duncan, late of Company D, Fortieth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Lawson, late of Company E, Fortieth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Woods, late of Company C, Eighty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Rebecca Johnson, widow of John Johnson, late of Company E, Thirty-ninth Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Isaac Smith, late of Company L, Fourteenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Eva Buhler, widow of John Buhler, late of Company C, Twenty-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mordecai F. Riley, late of Company E, Fiftieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Gertrude Meloy, helpless and dependent child of John Meloy, late of Company G, Eighth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of George W. Haney, late of Company I, Sixty-second Regiment Pennsylvania Volunteer Infantry, and One hundred and nineteenth Company, Second Battalion, Veteran Reserve Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James F. Hubbard, late of Company G, Fifty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth Hoon, widow of James Hoon, late of Company C, Seventy-second Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Nellie J. Hoon,

helpless and dependent child of said James Hoon, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Elizabeth Hoon the name of said Nellie J. Hoon shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Elizabeth Hoon.

The name of Newton Ridgway, late of Company K, Fifty-third Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Roxanna Starkey, dependent mother of William H. Starkey, late of Company E, Seventeenth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of George M. Thomas, late of Company D, Sixty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Edward Gifford, late of Company F, Twenty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah E. Meade, widow of Greenville Meade, late of Company F, One hundred and eighteenth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Kate S. Blodgett, widow of Morris R. Blodgett, late of Company H, One hundred and twenty-ninth Regiment New York Volunteer Infantry, and Company H, Fourth Regiment New York Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William Smith, late of Company K, Fourteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William R. Sheeler, late of Company E, One hundred and thirty-ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John McLeod, late of Company C, Forty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George Merrill, late of Company I, One hundred and forty-second Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William H. Thomas, late of Company D, Eighth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth Whitestine, widow of John A. Whitestine, late of Company F, Forty-seventh Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of James G. Hagamen, late of Company F, Thirtieth Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Johnson, helpless and dependent child of Joseph C. Johnson, late of Company C, One hundred and twenty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Wickliff Loomis, late of Company D, One hundred and seventy-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Andrew W. Cochran, late of Company I, Eighty-third Regiment Illinois Volunteer Infantry, and Company I, Sixty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of George Gray, late of Company K, Thirty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Nancy Stutesman, now Olmstead, widow of James Stutesman, late of Company H, One hundredth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Scott, late of Company L, Ninth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Margarita S. Salazar, widow of Tomas Salazar, late of Company A, Fourth Regiment New Mexico Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Elno Hattie Abells, former widow of Charles A. Sikes, late of First Independent Battery, Connecticut Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of John L. Foster, late musician, Fourteenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Araminta Ward, widow of Isaac J. Ward, late of Company I, Fourteenth Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William Malony, late of Company B, Denver City (Colorado) Home Guards, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Rachel Stewart, widow of William Stewart, late of Companies D and H, Sixty-fifth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sophia M. Davis, widow of Robert E. Davis, late of Company E, Ninth Regiment Pennsylvania Reserve Volunteer Infantry, and Company K, One hundred and ninetieth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James Russell, late of Company H, One hundred and eleventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of David Amos, late of Company D, Ninth Regiment West Virginia Volunteer Infantry, and Company B, First Regiment West Virginia Veteran Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas Cooper, late of Company D, Fourteenth Regiment West Virginia Volunteer Infantry, and pay him a pension of $30 per month in lieu of that he is now receiving.

The name of Isaac Ayres, late of Company B, Sixty-fifth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel Williamson, late of Company I, Eleventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of David R. Beavers, late of Company K, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Nellie McMillan, helpless and dependent child of Daniel McMillan, late of Company F, One hundred and fifty-fourth Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $12 per month.

The name of William Ashton, late of Company D, Fifth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James Anderson, late of Company C, One hundred and thirteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The foregoing bill is a substitute for the following House bills referred to the Committee on Invalid Pensions:

H. R. 139. Alban G. Knode.
H. R. 525. David Lloyd.
H. R. 923. Jesse A. Linn.
H. R. 953. John T. Chiles.
H. R. 1762. James Taylor (2d).
H. R. 1914. Milton Lee.
H. R. 1915. Betsey Ann Phelps.
H. R. 1922. George Hobbs.
H. R. 2011. Pressley R. Baldridge.
H. R. 2020. John C. Martin.
H. R. 2119. Hugh Baker.
H. R. 2128. John A. Peterson.
H. R. 2130. William D. Wood.
H. R. 2378. Patrick Fitzpatrick.
H. R. 2379. Stephen Vogel.
H. R. 2525. George W. Gallagher.
H. R. 2549. Ezekiel Justice.
H. R. 2626. Solomon D. Sturtz.
H. R. 2748. George Goodpastor.
H. R. 3047. Ruben Driskill.
H. R. 3270. Lottie Menefee.
H. R. 3451. John T. Bates.
H. R. 3457. Jacob Schumacher.
H. R. 3463. Charles W. Wood.
H. R. 3566. Frank D. Morse.
H. R. 3567. Anna M. Haysmer.
H. R. 3849. William J. Chinn.
H. R. 3932. Isaac B. Hughey.
H. R. 4092. Orlando A. Hays.
H. R. 4096. Francis H. Turner.
H. R. 4119. James H. Brown.
H. R. 4129. Lewis Quillen.
H. R. 4211. John B. Whisler.
H. R. 4250. Henry Wilber.
H. R. 4256. William Green.
H. R. 4352. Frank Kirkey.
H. R. 4557. David Blubaugh.
H. R. 4619. Andrew B. Keith.
H. R. 4640. James F. Rowley.
H. R. 4756. John S. Bell.
H. R. 5105. Samuel McQuate.
H. R. 5661. William G. Shute.
H. R. 5715. William Henderson.
H. R. 5807. John Hoffman.
H. R. 5813. Morgan T. Williams.
H. R. 5844. Richard H. Robertson.
H. R. 5983. Adam Lichty.
H. R. 6167. Anna O. Stanton.
H. R. 6351. Erwin M. Bergstresser, now Harley.
H. R. 6430. Josiah Gough.
H. R. 6436. Thomas Austin.
H. R. 6439. Frank L. Dunlap.
H. R. 6563. Josiah Ketchum.
H. R. 6616. Phillip Kohler.
H. R. 6682. David McClintock.
H. R. 6693. Clayton P. White.
H. R. 6835. John M. Hines.
H. R. 7198. Francis Westerfield.
H. R. 7201. James H. Dorrance.
H. R. 7363. Benjamin M. Curtis.
H. R. 7621. John J. Dillon.
H. R. 7638. Gardiner Roberts, jr.
H. R. 7682. John W. Randels.
H. R. 7748. Charles Torrey Phillips.
H. R. 8354. Rosaline V. Cook.
H. R. 8548. Jacob L. Batchelder.
H. R. 8728. Sarah Demree.
H. R. 9233. Lafayette Cook.
H. R. 9265. Daniel D. Murphy.
H. R. 9311. Thomas J. Thorp.
H. R. 9351. John Muster.
H. R. 9398. Emma Schuette.
H. R. 9685. Henry Vasterling.
H. R. 10015. William V. Fish.
H. R. 10025. Alexander Tittle.
H. R. 10133. Thomas E. Smith.
H. R. 10373. Joseph D. Fulmer.
H. R. 10637. Henry C. Adams.
H. R. 10705. Nahum A. Reed.
H. R. 10745. Eliza Holbrook.
H. R. 10767. Henry Selover.
H. R. 10799. Marion Ridgley.
H. R. 10871. Michael Normile.
H. R. 10932. James Mansfield.
H. R. 10933. Thomas Kenney.
H. R. 10975. Thomas Stevenson.
H. R. 11056. Lyman A. Babcock.
H. R. 11116. James M. Abney.
H. R. 11198. Joel L. Cudworth.
H. R. 11279. Daniel W. Bressler.
H. R. 11324. Charles H. Webber.
H. R. 11344. John Sepin.
H. R. 11407. Perry S. Grindle.
H. R. 11502. William H. Harrison.
H. R. 11504. John S. Davidson.
H. R. 11536. Kels Risner.
H. R. 11565. William Maynard.
H. R. 11844. Harvey Mahannah.
H. R. 11910. David C. Cass.
H. R. 11946. Oscar F. Maynard.
H. R. 12000. Thomas Mead.
H. R. 12067. David J. Chinn.
H. R. 12299. Mary E. Farrell.
H. R. 12348. Caleb Crotzer.
H. R. 12402. George W. Peterson.
H. R. 12556. John A. Felton.
H. R. 12574. Maston G. Strong.
H. R. 12740. William H. Bates.
H. R. 12968. John S. Hufford.
H. R. 12990. Martin Lovett.
H. R. 13033. Samuel A. Gibson.
H. R. 13189. Isaac N. Strickler.
H. R. 13266. William Zimmerman.
H. R. 13538. William J. Aylsworth.
H. R. 14164. Margaret E. Fickle.
H. R. 14196. Joseph Scharborough.
H. R. 14210. Osmus F. Devault.
H. R. 14345. Edwin F. Miller.
H. R. 14409. Edward M. Drohan.
H. R. 14447. John Bacon.
H. R. 14467. Clementine Richards.
H. R. 14469. Margaret J. Brophy.
H. R. 14529. Orman P. Babb.
H. R. 14743. John T. Ferguson.
H. R. 14798. Martin Y. B. Cross.
H. R. 14795. John Y. Lambert.
H. R. 14848. Stephen H. Haley.
H. R. 14910. George M. Enslow.
H. R. 15016. William Silck.
H. R. 15072. David Stevens.
H. R. 15092. Lucy Ann Harper.
H. R. 15090. William M. Anderson.
H. R. 15281. James McGrade.
H. R. 15390. Benjamin White.
H. R. 15412. William Galligan, alias William Calligham.
H. R. 15443. John C. Lewis.
H. R. 15510. Ida Newcomer.
H. R. 15533. William B. Heinbach.
H. R. 15640. Jason Johnson.
H. R. 15667. John N. Conely.
H. R. 15670. Oliver C. Stringer.
H. R. 15816. Bradley W. Hill.
H. R. 15936. Asa H. Patrey.
H. R. 16040. Samuel F. Garrett.
H. R. 16043. Jeptha Pierson.
H. R. 16056. Chauncey Cronk.
H. R. 16064. Albert Kinnear.
H. R. 16081. Harrison T. Elconor.
H. R. 16201. James P. Farmer.
H. R. 16267. Charles D. Jones.
H. R. 16396. Michael Shuppert.
H. R. 16404. Steward P. Powers.
H. R. 16520. Lucy C. Andres.
H. R. 16589. John M. Carson.
H. R. 16573. Calvin Musser.
H. R. 16588. Henry C. Smith.
H. R. 16597. John N. Shirley.
H. R. 16697. Mary A. Plister.
H. R. 16726. Charles Parker.
H. R. 16762. Frances A. Ayers.
H. R. 16771. Jesse M. Silvers.
H. R. 16864. Phillipine Steins.
H. R. 16975. Rosa Prentiss.
H. R. 16913. Elizabeth Phillips.
H. R. 16920. Mary J. Chase.
H. R. 17149. Joseph N. Wilson.
H. R. 17318. William Graham.
H. R. 17461. Peter F. Dixon.
H. R. 17506. Georgiana Jonas.
H. R. 17579. Henry Milton Babcock.
H. R. 17630. Isabella H. Watson.
H. R. 17650. Isaac J. Nichols.
H. R. 17655. James W. Mayfield.
H. R. 17873. Daniel Hillhard.
H. R. 17887. John H. Ruff.
H. R. 17894. Henry A. Grove.
H. R. 17980. George W. Short.
H. R. 18080. William H. Brown.
H. R. 18121. Jacob Row.
H. R. 18696. Ellen G. Frame.
H. R. 18879. Washington McCartney.
H. R. 18876. John Seiler.
H. R. 19021. Jesse J. Bruyn.
H. R. 19107. Eliza Wolf.
H. R. 19202. James C. McClay.
H. R. 19248. John Gray.
H. R. 19257. Thomas Sheehan.
H. R. 19486. William H. Fenton.
H. R. 19492. Finley Branstetter.
H. R. 19564. Phebe J. Horton.
H. R. 19680. Joseph McKenzie.
H. R. 19824. James K. Cypherf.
H. R. 19876. John L. Nebergall.
H. R. 20009. Thresia De Long.
H. R. 20121. Harriett Gale.
H. R. 20246. Charles E. Burmaster.
H. R. 20290. Edward O. Williams.
H. R. 20329. George W. Procter.
H. R. 20354. Jonas Siegrist.
H. R. 20383. John B. Barlow.
H. R. 20467. Daniel Walter.

H. R. 20780. John W. Lynch.
H. R. 20845. Joseph Lebicho.
H. R. 20940. Benjamin F. Scott.
H. R. 20960. Amos J. Henry.
H. R. 21348. Josephine Hall.
H. R. 21381. Elizabeth H. Ball.
H. R. 21558. William Frisbie.
H. R. 21691. Adaline Beaver.
H. R. 21724. Almeda Cosberry.
H. R. 21839. Harriet A. Glasscock.
H. R. 21846. John H. Civits.
H. R. 21848. Laura A. Fowler.
H. R. 21863. Malcolm Dunning.
H. R. 22121. Elizabeth Terry.
H. R. 22176. Lydia A. Norton.
H. R. 22239. Clara V. Weaver.
H. R. 22275. William B. Fleming.
H. R. 22322. Eleonr McCully.
H. R. 22385. William Come.
H. R. 22428. James Giddy.
H. R. 22449. James Miller.
H. R. 22475. Frances D. Cadamus.
H. R. 22476. William McDermott.
H. R. 22486. James A. Lore.
H. R. 22541. John Akridge.
H. R. 22549. Emma F. Berry.
H. R. 22604. William Lathrop, alias William Lapher.
H. R. 22632. Charles E. Stamm.
H. R. 22633. Irene M. Gary.
H. R. 22806. Philo Buckley.
H. R. 22886. Samuel M. Baker.
H. R. 22923. Thomas P. Degnau.
H. R. 23151. Mary Bruce.
H. R. 23269. Merison Hunter.
H. R. 23361. William W. Potter.
H. R. 23426. William P. Underwood.
H. R. 23435. Mary A. Odell.
H. R. 23456. Daniel Caswell.
H. R. 23523. John McKone.
H. R. 23566. Whitney C. Monson.
H. R. 23584. John W. Hill.
H. R. 23870. John Q. Thomas.
H. R. 23916. Thomas R. Lazalson.
H. R. 23922. Jacob B. Reichert.
H. R. 23923. Andrew W. McCullough.
H. R. 23938. Nelson Holcomb.
H. R. 23944. Humphrey D. Gifford.
H. R. 23946. David Sypher.
H. R. 24053. Jacob Jones.
H. R. 24158. William F. Whitmore.
H. R. 24164. Charles Schrober.
H. R. 24165. Charles W. Webster.
H. R. 24295. John Usner.
H. R. 24329. Alexander B. Henderson.
H. R. 24498. Poley C. Sites.
H. R. 24504. John P. Harris.
H. R. 24547. Benjamin Puckett.
H. R. 24582. Alice M. McCoy.
H. R. 24628. William R. Goodman.
H. R. 24665. John S. Martin.
H. R. 24733. John B. Williams.
H. R. 24849. John W. Stile.
H. R. 24900. Fanny M. Campbell.
H. R. 24950. George De Garmo.
H. R. 24978. Jennie Riggs.
H. R. 25042. Ophelia L. Reynolds.
H. R. 25123. George H. Beckwith.
H. R. 25205. Finetta L. Wood.
H. R. 25226. Charles A. Lee.
H. R. 25354. Charles Logan.
H. R. 25358. Emma J. Winchell.
H. R. 25382. John D. Reed.
H. R. 25434. Hiram W. Partlow.
H. R. 25491. Harriet G. Saugster.
H. R. 25521. John W. Williams.
H. R. 25530. Augustus Schoenwald.
H. R. 25565. William J. Sutton.
H. R. 25604. Elizabeth N. Brand.
H. R. 25659. John Schroeder.
H. R. 25871. Hervey A. Humphrey.
H. R. 25915. Michael Hartman.
H. R. 25921. Margaret A. Ramage.
H. R. 25932. Lydia L. Clark.
H. R. 25933. Franklin D. Cryder.
H. R. 26090. Lucy K. Simons.
H. R. 26156. Daniel J. Haynes.
H. R. 26196. Irving D. Hull.
H. R. 26241. Catherine Daly.
H. R. 26275. Albert S. Bloomer.
H. R. 26274. Julia B. Russell.
H. R. 26322. Daniel H. Woodruff.
H. R. 26347. Alpheus Danley.
H. R. 26471. James S. Strother.
H. R. 26481. Sarah M. Kinley.
H. R. 26488. Leora R. Maxon.
H. R. 26489. Mary L. Merchant.
H. R. 26504. Catharine M. Schryver.
H. R. 26517. John M. Culver.
H. R. 26519. William A. S. Welch.
H. R. 26521. Ellen V. N. Wilson.
H. R. 26522. Laura F. Culbertson.
H. R. 26526. Sarah Ann Wamsley.
H. R. 26527. Augusta Batdorf.
H. R. 26572. Lucy A. Rose.
H. R. 26576. John H. Steele.
H. R. 26579. Celestia Sprague.
H. R. 26584. Katharine A. Weyant.
H. R. 26582. Marla J. Stevens.
H. R. 26591. John Marx.
H. R. 26592. Asa Jenkins.
H. R. 26597. Franklin Bryson.
H. R. 26598. William M. McArthur.
H. R. 26624. William T. Walker.
H. R. 26626. John Stickle.
H. R. 26633. Francis M. Whittecar.
H. R. 26650. Catharine Ann Bartelle.
H. R. 26654. Jacob Peffer.
H. R. 26688. Louisa I. Baldwin.
H. R. 26690. Luther B. Grover.
H. R. 26703. James Youell, alias James Moses.
H. R. 26707. John H. Yarger.
H. R. 26719. James C. Boyd.
H. R. 26720. Homer Hoover.
H. R. 26762. Harriet P. Hale.
H. R. 26763. Thomas P. Wentworth.
H. R. 26764. Mary F. Dean.
H. R. 26767. Almyra Vanell.
H. R. 26770. Horatio D. Elliott.
H. R. 26776. Levi Boysel.
H. R. 26779. Alexander Fleming.
H. R. 26782. Dorothy E. Bacon.
H. R. 26783. Mary M. Jones.
H. R. 26784. Simon Honfmyre.
H. R. 26785. William H. Hinckley.
H. R. 26790. Frank T. Siekler.
H. R. 26796. Samuel C. Robertson.
H. R. 26803. Sterrett McClellan.
H. R. 26805. Austin P. Walker.
H. R. 26807. Sylvester Cory.
H. R. 26829. Mary O'Brien.
H. R. 26839. Henry B. Frey.
H. R. 26842. Emma C. Weinhold.
H. R. 26858. Isaac Byers.
H. R. 26862. Samuel Webb.
H. R. 26863. Mary Bartlett Taylor.
H. R. 26884. Helen Archibald.
H. R. 26920. Sarah A. Bland.
H. R. 26934. Alvaclnda Tyler.
H. R. 26935. Robert Shay.
H. R. 26951. Victoria S. S. Hill.
H. R. 26988. Cinderella B. McClure.
H. R. 26992. Joseph L. Bostwick.
H. R. 26996. Dennis P. Parker.
H. R. 26998. Bateman Zoll.
H. R. 26999. Walter Mason.
H. R. 27019. Addison D. Madeira.
H. R. 27026. William H. Barton.
H. R. 27042. Fred Babcock.
H. R. 27045. Hannah M. Brewer.
H. R. 27048. Henry Bolner.
H. R. 27053. James E. Crane.
H. R. 27061. Kate D. Linsley.
H. R. 27088. Charles H. Crandall.
H. R. 27122. Lizzie S. Williams.
H. R. 27126. Virginia W. Reed.
H. R. 27131. Daniel W. Brown.
H. R. 27165. Elizabeth Farley.
H. R. 27168. Stephen G. Lindsey.
H. R. 27182. Marie Soucle.
H. R. 27184. Jesse M. Pirkle.
H. R. 27188. Joseph L. Evans.
H. R. 27189. Benjamin M. Clark.
H. R. 27192. Charlotte E. Powell.
H. R. 27213. James N. Light.
H. R. 27220. James H. Langley.
H. R. 27221. Reuben Brink.
H. R. 27227. Eleanora B. Petty.
H. R. 27233. George F. Smiley.
H. R. 27240. Lucie Schell.
H. R. 27245. Clara Ward.
H. R. 27246. Nancy Walton.
H. R. 27247. Edward H. Crandall.
H. R. 27256. John P. Thurston.
H. R. 27269. Eli C. Lacre.
H. R. 27270. John W. Swanson.
H. R. 27274. James Bartholomew.
H. R. 27291. Jennie McMurtrie.
H. R. 27293. James B. Kellogg.
H. R. 27299. Rachel Castell, now Robbins.
H. R. 27302. George M. Rood.
H. R. 27314. Jane L. Gettins.
H. R. 27318. John H. Scott.
H. R. 27319. Julia A. Kendall.
H. R. 27329. Edson A. Cook.
H. R. 27340. William Welch.
H. R. 27349. Mary E. Hughes.
H. R. 27350. Emma Frymire.
H. R. 27368. James H. Ross.
H. R. 27385. Elizabeth Willett.
H. R. 27386. Henry Cooper.
H. R. 27393. Annie M. Regan.
H. R. 27403. Isaiah Elwood.
H. R. 27414. Martha Rogers.
H. R. 27417. Frederick Sachsenheimer.
H. R. 27423. Caroline Selb.
H. R. 27448. Michael Fogarty.
H. R. 27455. Smith McCallister.
H. R. 27479. Horace W. Hunt.
H. R. 27512. Lasenah Fuller.
H. R. 27518. Joseph W. Jeroleman, alias William Wood.
H. R. 27521. Sarah C. Gross.
H. R. 27522. James M. Emmons.
H. R. 27554. Frank B. Doran.
H. R. 27579. Sarah J. Benton.
H. R. 27582. Noah M. Diehl.
H. R. 27585. Catharine Hayden.
H. R. 27587. Carrie D. Colman.
H. R. 27589. Lewis Pugh.
H. R. 27597. Jane Burton.
H. R. 27598. Nannie Yocum.
H. R. 27599. Alice M. Ham.
H. R. 27600. William L. Duncan.
H. R. 27601. George W. Lawson.
H. R. 27602. John Woods.
H. R. 27613. Rebecca Johnson.
H. R. 27616. Isaac Smith.
H. R. 27631. Eva Buhler.
H. R. 27643. Mordecai F. Riley.
H. R. 27669. Gertrude Meloy.
H. R. 27671. George W. Haney.
H. R. 27679. James F. Hubbard.
H. R. 27680. Elizabeth Hoon.
H. R. 27682. Newton Ridgway.
H. R. 27683. Roxanna Starkey.
H. R. 27696. George M. Thomas.
H. R. 27714. Edward Gifford.
H. R. 27718. Sarah E. Meade.
H. R. 27735. Kate S. Blodgett.
H. R. 27760. William Smith.
H. R. 27763. William R. Sheeler.
H. R. 27797. John McLeod.
H. R. 27802. George Merrill.
H. R. 27805. William H. Thomas.
H. R. 27870. Elizabeth Whitestine.
H. R. 27873. James G. Hagamen.
H. R. 27915. John Johnson.
H. R. 27917. Wickliff Loomis.
H. R. 27930. Andrew W. Cochran.
H. R. 27934. George Gray.
H. R. 27935. Nancy Stutesman (now Olmstead).
H. R. 27978. John Scott.
H. R. 28003. Margarita S. Salazar.
H. R. 28014. Elno Hattie Abells.
H. R. 28029. John L. Foster.
H. R. 28119. Araminta Ward.
H. R. 28083. William Malony.
H. R. 28153. Rachel Stewart.
H. R. 28169. Sophia M. Davis.
H. R. 12083. James Russell.
H. R. 2636. David Amos.
H. R. 4339. Thomas Cooper.
H. R. 14171. Isaac Ayres.
H. R. 22317. Samuel Williamson.
H. R. 25350. David P. Beavers.
H. R. 26511. Nellie McMillan.
H. R. 27736. William Ashton.
H. R. 27808. James Anderson.

During the reading of the bill:

Mr. TRIBBLE. Mr. Chairman, I would like to make an inquiry of the gentleman from Wisconsin [Mr. BURKE], chairman of the subcommittee in charge of this bill. Where is the full report of these cases which are mentioned in the bill?

Mr. BURKE of Wisconsin. The evidence that accompanies each case can be found with the secretary of the Committee on Invalid Pensions, if that is what the gentleman means by the words "full report."

Mr. TRIBBLE. That is what I mean. How many cases are presented here to-day in this bill?

Mr. BURKE of Wisconsin. I read the number some time ago. There are 468.

Mr. TRIBBLE. Does the gentleman think that the committee has carefully investigated all of these cases?

Mr. BURKE of Wisconsin. As fully as was possible for us to do so, and as I stated before, the committee has been crippled since the December vacation, inasmuch as there are three or four vacancies on the committee, and inasmuch as several Members who received unpleasant news on election day have not been present. It is possible that some of these matters have crept through where it would otherwise have been prevented.

Mr. TRIBBLE. Now, Mr. Chairman, I have frequently called for these full reports here on cases and have never been accorded the courtesy of the production of them. The first bill that was presented to the House at this session has been returned from the Senate and a conference has been held. I make note of two or three entries in that conference report. At the time when this bill passed the House I strenuously opposed several cases included in it. Now, I note to-day the case of Phoebe Cosgriff. The Senate fully exposed her record and refused to pass her bill, as is shown by the conference report. This woman for many years, as this report will show, had been drawing a pension on the pretense that her husband was dead. She has personated herself as the wife of James Cosgriff and secured pension as his widow, claiming he died in December, 1882. This House recently increased her pension by special act. The report I hold in my hand exposes this fraud. The soldier, James Cosgriff, is living and is in the Soldiers' Home at Leavenworth, Kans.

The dates that she gave of her husband's entry, his death, and his service are false, and the man to-day, as shown by this report, is in an old soldiers' home, alive. I don't suppose the imposter wife ever saw him. He was selected from a list of soldiers supposed to be dead, for pension purpose. The report says:

It is clearly evident that claimant was never the wife or widow of this soldier and has no status on account of the service rendered by him.

As long as the people of my district keep me in this House I expect to continue protesting against pension graft. This committee is not as careful as it should be. Such claims as this should never reach this House. In that same conference report is stricken another case; and while I protested against the passage of the bill, the evidence in the case was not accessible to me then. The full report was not here, but I have the facts to-day in this report. I read from the report:

Case of Sarah J. Kelley (H. R. 14851). In this case the House report is rather meager. From a reading of the House report it would appear that this claimant is entitled to pension through the regular channels, as the Pension Bureau, and that no necessity exists for the consideration of her case by Congress. As a matter of fact, however, it is shown that the claimant has been guilty of open and notorious adulterous cohabitation since soldier's death, and that beginning in 1882, shortly after his death, she has kept houses of ill-fame for many years in New York City, in Newark, Trenton, and Atlantic City, N. J., and Scranton, Pa. It is on this account that her applications for pension at the bureau have been denied.

Mr. Chairman, the Pension Bureau had on file this woman's record, and I contend the committee investigating this pension

helpless and dependent child of said James Hoon, the additional pension herein granted shall cease and determine; *And provided further*, That in the event of the death of Elizabeth Hoon the name of said Nellie J. Hoon shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Elizabeth Hoon.

The name of Newton Ridgway, late of Company K, Fifty-third Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Roxanna Starkey, dependent mother of William H. Starkey, late of Company E, Seventeenth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of George M. Thomas, late of Company D, Sixty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Edward Gifford, late of Company F, Twenty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah E. Meade, widow of Greenville Meade, late of Company F, One hundred and eighteenth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Kate S. Blodgett, widow of Morris R. Blodgett, late of Company H, One hundred and twenty-ninth Regiment New York Volunteer Infantry, and Company H, Fourth Regiment New York Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William Smith, late of Company K, Fourteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William R. Sheeler, late of Company E, One hundred and thirty-ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John McLeod, late of Company C, Forty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George Merrill, late of Company I, One hundred and forty-second Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William H. Thomas, late of Company D, Eighth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth Whitestine, widow of John A. Whitestine, late of Company E, Forty-seventh Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of James G. Hagamen, late of Company F, Thirtieth Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Johnson, helpless and dependent child of Joseph C. Johnson, late of Company C, One hundred and twenty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Wickliff Loomis, late of Company D, One hundred and seventy-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Andrew W. Cochran, late of Company I, Eighty-third Regiment Illinois Volunteer Infantry, and Company I, Sixty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of George Gray, late of Company K, Thirty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Nancy Stutesman, now Olmstead, widow of James Stutesman, late of Company H, One hundredth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Scott, late of Company L, Ninth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Margarita S. Salazar, widow of Tomas Salazar, late of Company A, Fourth Regiment New Mexico Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Elno Hattie Abells, former widow of Charles A. Sikes, late of First Independent Battery, Connecticut Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of John L. Foster, late musician, Fourteenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Araminta Ward, widow of Isaac J. Ward, late of Company I, Fourteenth Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William Malony, late of Company B, Denver City (Colorado) Home Guards, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Rachel Stewart, widow of William Stewart, late of Companies D and H, Sixty-fifth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sophia M. Davis, widow of Robert E. Davis, late of Company E, Ninth Regiment Pennsylvania Reserve Volunteer Infantry, and Company K, One hundred and ninetieth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James Russell, late of Company H, One hundred and eleventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of David Amos, late of Company D, Ninth Regiment West Virginia Volunteer Infantry, and Company B, First Regiment West Virginia Veteran Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas Cooper, late of Company D, Fourteenth Regiment West Virginia Volunteer Infantry, and pay him a pension of $30 per month in lieu of that he is now receiving.

The name of Isaac Ayres, late of Company B, Sixty-fifth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel Williamson, late of Company I, Eleventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David R. Beavers, late of Company K, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Nellie McMillan, helpless and dependent child of Daniel McMillan, late of Company F, One hundred and fifty-fourth Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $12 per month.

The name of William Ashton, late of Company D, Fifth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James Anderson, late of Company C, One hundred and thirteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The foregoing bill is a substitute for the following House bills referred to the Committee on Invalid Pensions:

H. R. 139. Alban G. Knode.
H. R. 525. David Lloyd.
H. R. 923. Jesse A. Linn.
H. R. 955. John T. Chiles.
H. R. 1762. James Taylor (2d).
H. R. 1914. Milton Lee.
H. R. 1915. Betsey Ann Phelps.
H. R. 1922. George Hobbs.
H. R. 2011. Pressley R. Baldridge.
H. R. 2029. John C. Martin.
H. R. 2119. Hugh Baker.
H. R. 2128. John A. Peterson.
H. R. 2130. William D. Wood.
H. R. 2378. Patrick Fitzpatrick.
H. R. 2379. Stephen Vogel.
H. R. 2525. George W. Gallagher.
H. R. 2549. Ezekiel Justice.
H. R. 2626. Solomon D. Sturtz.
H. R. 2748. George Goodpastor.
H. R. 2947. Ruben Driskill.
H. R. 3270. Lottie Menefee.
H. R. 3451. John T. Bates.
H. R. 3457. Jacob Schumacher.
H. R. 3463. Charles W. Wood.
H. R. 3566. Frank D. Morse.
H. R. 3567. Anna M. Haysmer.
H. R. 3849. William J. Chinn.
H. R. 3932. Isaac B. Hughey.
H. R. 4092. Orlando A. Hays.
H. R. 4096. Francis H. Turner.
H. R. 4119. James H. Brown.
H. R. 4129. Lewis Quillen.
H. R. 4211. John B. Whisler.
H. R. 4250. Henry Wilber.
H. R. 4256. William Green.
H. R. 4352. Frank Kirkey.
H. R. 4557. David Blubaugh.
H. R. 4619. Andrew B. Keith.
H. R. 4640. James F. Rowley.
H. R. 4756. John S. Bell.
H. R. 5105. Samuel McQuate.
H. R. 5601. William G. Shute.
H. R. 5715. William Henderson.
H. R. 5807. John Hoffman.
H. R. 5813. Morgan T. Williams.
H. R. 5844. Richard H. Robertson.
H. R. 5883. Adam Lichty.
H. R. 6167. Anna O. Stanton.
H. R. 6351. Erwin M. Bergstresser, now Harley.
H. R. 6430. Josiah Gough.
H. R. 6436. Thomas J. Austin.
H. R. 6439. Frank S. Dunlap.
H. R. 6563. Josiah Ketchum.
H. R. 6616. Philip Kohler.
H. R. 6682. David McClintock.
H. R. 6693. Clayton P. White.
H. R. 6935. John M. Hines.
H. R. 7198. Francis Westerfield.
H. R. 7201. James H. Dorrance.
H. R. 7563. Benjamin M. Curtis.
H. R. 7621. John J. Dillon.
H. R. 7638. Gardiner Roberts, jr.
H. R. 7682. John W. Randels.
H. R. 7748. Charles Torrey Phillips.
H. R. 8551. Rosaline V. Cook.
H. R. 8548. Jacob L. Batchelder.
H. R. 8728. Sarah Demree.
H. R. 9233. Lafayette Cook.
H. R. 9265. Daniel D. Murphy.
H. R. 9311. Thomas J. Thorp.
H. R. 9351. John Muster.
H. R. 9398. Emma Schuette.
H. R. 9685. Henry Vasterling.
H. R. 10015. William V. Fish.
H. R. 10025. Alexander Tittle.
H. R. 10133. Thomas E. Smith.
H. R. 10373. Joseph D. Fulmer.
H. R. 10637. Henry C. Adams.
H. R. 10705. Nahum A. Reed.
H. R. 10745. Eliza Holbrook.
H. R. 10767. Henry Selover.
H. R. 10799. Marion Ridgley.
H. R. 10871. Michael Normile.
H. R. 10952. James Mansfield.
H. R. 10933. Thomas Kenney.
H. R. 10975. Thomas Stevenson.
H. R. 11056. Lyman A. Babcock.
H. R. 11116. James M. Abney.
H. R. 11198. Joel L. Cudworth.
H. R. 11279. Daniel W. Bressler.
H. R. 11324. Charles H. Webber.
H. R. 11344. John Sepin.
H. R. 11407. Perry S. Grindle.
H. R. 11502. William H. Harrison.
H. R. 11504. John S. Davidson.
H. R. 11536. Kels Risner.
H. R. 11565. William Maynard.
H. R. 11844. Harvey Mahannah.
H. R. 11916. David C. Cass.
H. R. 11946. Oscar F. Maynard.
H. R. 12000. Thomas Mead.
H. R. 12067. David J. Chinn.
H. R. 12269. Mary E. Farrell.
H. R. 12348. Caleb Crotzer.
H. R. 12402. George W. Peterson.
H. R. 12556. John A. Felton.
H. R. 12574. Maston G. Strong.
H. R. 12740. William H. Bates.
H. R. 12968. John S. Hufford.
H. R. 12990. Martin Lovett.
H. R. 13023. Samuel A. Gibson.
H. R. 13189. Isaac N. Strickler.
H. R. 13266. William Zimmerman.
H. R. 13538. William J. Aylsworth.
H. R. 14164. Margaret E. Fickle.
H. R. 14198. Joseph Scharborough.
H. R. 14210. Osmus F. Devault.
H. R. 14345. Edwin F. Miller.
H. R. 14409. Edward M. Drohan.
H. R. 14447. John Bacon.
H. R. 14467. Clementine Richards.
H. R. 14504. Margaret A. Brophy.
H. R. 14520. Orman P. Babb.
H. R. 14576. John T. Ferguson.
H. R. 14598. Martin V. B. Cross.
H. R. 14795. John Y. Lambert.
H. R. 14848. Stephen H. Haley.
H. R. 14910. George M. Enslow.
H. R. 15016. William Slick.
H. R. 15072. David Stevens.
H. R. 15092. Lucy Ann Harper.
H. R. 15099. William M. Anderson.
H. R. 15281. James McGrade.
H. R. 15390. Benjamin White.
H. R. 15412. William Galligan, alias William Calligham.
H. R. 15443. John C. Lewis.
H. R. 15510. Ida Newcomer.
H. R. 15533. William B. Heinbach.
H. R. 15610. Jason Johnson.
H. R. 15667. John N. Conely.
H. R. 15670. Oliver C. Stringer.
H. R. 15816. Bradley W. Hill.
H. R. 15936. Asa H. Patrey.
H. R. 16010. Samuel E. Garrett.
H. R. 16043. Jeptha Pierson.
H. R. 16056. Chauncey Cronk.
H. R. 16068. Albert Kinnear.
H. R. 16083. Harrison T. Fleenor.
H. R. 16201. James P. Farmer.
H. R. 16267. Charles D. Jones.
H. R. 16396. Michael Shuppert.
H. R. 16404. Steward P. Powers.
H. R. 16526. Lucy C. Andes.
H. R. 16580. John M. Carson.
H. R. 16573. Calvin Musser.
H. R. 16588. Henry C. Smith.
H. R. 16631. John N. Shirley.
H. R. 16697. Mary A. Pilster.
H. R. 16726. Charles Parker.
H. R. 16762. Frances A. Ayers.
H. R. 16771. Jesse M. Silvers.
H. R. 16864. Phillipine Steins.
H. R. 16975. Rosa Prentiss.
H. R. 16913. Elizabeth Phillips.
H. R. 16920. Mary J. Chase.
H. R. 17149. Joseph N. Wilson.
H. R. 17318. William Graham.
H. R. 17431. Peter F. Dixon.
H. R. 17506. Georgiana Jones.
H. R. 17579. Henry Milton Babcock.
H. R. 17630. Isabella H. Watson.
H. R. 17650. Isaac J. Nichols.
H. R. 17655. James W. Mayfield.
H. R. 17873. Daniel Hilliard.
H. R. 17887. John H. Ruff.
H. R. 17894. Henry A. Grove.
H. R. 17980. George W. Short.
H. R. 18080. William H. Brown.
H. R. 18121. Jacob Row.
H. R. 18264. Eben G. Frame.
H. R. 18879. Washington McCartney.
H. R. 18876. John Seller.
H. R. 19021. Severyn T. Bruyn.
H. R. 19106. Jesse Wolf.
H. R. 19202. James C. McClay.
H. R. 19248. John Gray.
H. R. 19257. Thomas Sheehan.
H. R. 19486. William H. Fenton.
H. R. 19492. Finley Brunstetter.
H. R. 19564. Phebe J. Horton.
H. R. 19680. Joseph McKenzie.
H. R. 19824. James K. Cyphert.
H. R. 19876. John L. Neisergall.
H. R. 20060. Thresia De Long.
H. R. 20121. Harriett Gale.
H. R. 20246. Charles E. Burmaster.
H. R. 20290. Edward O. Williams.
H. R. 20329. George W. Procter.
H. R. 20354. Jonas Siegrist.
H. R. 20383. John B. Barlow.
H. R. 20467. Daniel Walter.

H. R. 20780. John W. Lynch.
H. R. 20845. Joseph Lethcho.
H. R. 20940. Benjamin F. Scott.
H. R. 20960. Amos J. Henry.
H. R. 21348. Josephine Hall.
H. R. 21381. Elizabeth H. Ball.
H. R. 21558. William Frisbie.
H. R. 21691. Adaline Beaver.
H. R. 21724. Almeda Cosberry.
H. R. 21839. Harriet A. Glasscock.
H. R. 21846. John H. Civits.
H. R. 21848. Laura A. Fowler.
H. R. 21863. Malcolm Dunning.
H. R. 22121. Elizabeth Terry.
H. R. 22176. Lydia A. Norton.
H. R. 22239. Clara V. Weaver.
H. R. 22275. William B. Fleming.
H. R. 22322. Elenor McCully.
H. R. 22385. William Come.
H. R. 22428. James Giddy.
H. R. 22449. James Miller.
H. R. 22475. Frances D. Cadamus.
H. R. 22476. William McDermott.
H. R. 22485. James A. Love.
H. R. 22541. John Akridge.
H. R. 22549. Emma F. Berry.
H. R. 22604. William Lathrop, alias William Lapher.
H. R. 22632. Charles E. Stamm.
H. R. 22633. Irene M. Gary.
H. R. 22806. Philo Buckley.
H. R. 22886. Samuel M. Baker.
H. R. 22923. Thomas P. Degman.
H. R. 23134. Mary Bruce.
H. R. 23269. Morrison Hunter.
H. R. 23361. William W. Potter.
H. R. 23426. William P. Underwood.
H. R. 23435. Mary A. Odell.
H. R. 23453. Daniel Caswell.
H. R. 23523. John McKone.
H. R. 23566. Whitney C. Monson.
H. R. 23584. John W. Hill.
H. R. 23870. John Q. Thomas.
H. R. 23916. Thomas R. Lamison.
H. R. 23922. Jacob P. Reichert.
H. R. 23923. Andrew W. McCullough.
H. R. 23938. Nelson Holcomb.
H. R. 23944. Humphrey D. Gifford.
H. R. 23946. David Sypher.
H. R. 24053. Jacob Joges.
H. R. 24158. William F. Whitmore.
H. R. 24164. Charles Schober.
H. R. 24165. Charles W. Webster.
H. R. 24295. John Usner.
H. R. 24329. Alexander B. Henderson.
H. R. 24498. Perley C. Sites.
H. R. 24504. John P. Harris.
H. R. 24547. Benjamin Puckett.
H. R. 24583. Alice M. McCoy.
H. R. 24628. William R. Gladman.
H. R. 24665. John S. Martin.
H. R. 24733. John B. Williams.
H. R. 24849. John W. Sidle.
H. R. 24900. Fanny M. Campbell.
H. R. 24950. George De Garmo.
H. R. 24978. Jennie Riggs.
H. R. 25042. Ophelia L. Reynolds.
H. R. 25123. George H. Beckwith.
H. R. 25265. Elnetta L. Wood.
H. R. 25326. Charles A. Lee.
H. R. 25354. Charles Logan.
H. R. 25358. Emma J. Winchell.
H. R. 25382. John D. Reed.
H. R. 25434. Hiram W. Partlow.
H. R. 25491. Harriet G. Saugster.
H. R. 25521. John W. Williams.
H. R. 25530. Augustus Schoonwald.
H. R. 25565. William J. Sutton.
H. R. 25604. Elizabeth N. Brand.
H. R. 25659. John Schroeder.
H. R. 25871. Hervey A. Humphrey.
H. R. 25915. Michael Hartman.
H. R. 25924. Margaret A. Ramage.
H. R. 25932. Lydia L. Clark.
H. R. 25953. Franklin D. Green.
H. R. 26090. Lucy K. Simons.
H. R. 26156. Daniel J. Haynes.
H. R. 26196. Irving D. Hull.
H. R. 26241. Catherine Daly.
H. R. 26273. Albert S. Bloomer.
H. R. 26274. Julia B. Russell.
H. R. 26322. Daniel H. Woodruff.
H. R. 26347. Thomas Danley.
H. R. 26471. James S. Strother.
H. R. 26481. Sarah M. Kinley.
H. R. 26488. Leora R. Maxon.
H. R. 26489. Mary L. Merchant.
H. R. 26504. Catharine M. Schryver.
H. R. 26517. John M. Culver.
H. R. 26519. William A. S. Welch.
H. R. 26521. Ellen V. N. Wilson.
H. R. 26522. Laura F. Culbertson.
H. R. 26526. Sarah Ann Wounsley.
H. R. 26527. Augusta Batdorf.
H. R. 26572. Lucy A. Rose.
H. R. 26576. John H. Steele.
H. R. 26579. Celestia Sprague.
H. R. 26581. Katharine A. Weyant.
H. R. 26582. Marietta Stevens.
H. R. 26591. John Marx.
H. R. 26592. Asa Jenkins.
H. R. 26597. Franklin Bryson.
H. R. 26598. William M. McArthur.
H. R. 26624. William U. Walker.
H. R. 26626. John Stickle.
H. R. 26633. Francis M. Whittecar.
H. R. 26650. CatharineAnn Bartelle.
H. R. 26654. Jacob Peffer.
H. R. 26688. Louisa I. Baldwin.
H. R. 26690. Luther B. Grover.
H. R. 26703. James Youell, alias James Moses.
H. R. 26707. John H. Yarger.
H. R. 26719. James C. Boyd.
H. R. 26720. Homer Hoover.
H. R. 26762. Harriet P. Hale.
H. R. 26763. Thomas P. Wentworth.
H. R. 26764. Mary F. Dean.
H. R. 26767. Alura Vancil.
H. R. 26770. Horatio D. Elliott.
H. R. 26776. Levi Boysel.
H. R. 26779. Alexander Fleming.
H. R. 26782. Dorothy E. Bacon.
H. R. 26783. Mary M. Jones.
H. R. 26784. Simon Hoafnyre.
H. R. 26785. William H. Hinckley.
H. R. 26790. Frank T. Sickler.
H. R. 26796. Samuel C. Robertson.
H. R. 26803. Sterrett McClellan.
H. R. 26805. Austin P. Walker.
H. R. 26807. Sylvester Cary.
H. R. 26829. Mary O'Brien.
H. R. 26839. Henry B. Frey.
H. R. 26842. Emma C. Weinhold.
H. R. 26861. Byron Ayres.
H. R. 26862. Samuel Webb.
H. R. 26863. Mary Bartlett Taylor.
H. R. 26884. Helen Archibald.
H. R. 26920. Sarah A. Bland.
H. R. 26934. Alexinda Tyler.
H. R. 26935. Robert Shay.
H. R. 26951. Victoria S. Hill.
H. R. 26988. Cinderella B. McClure.
H. R. 26992. Joseph L. Bostwick.
H. R. 26996. Dennis P. Parker.
H. R. 26998. Bateman Zoll.
H. R. 26999. Walter Mason.
H. R. 27019. Addison D. Madeira.
H. R. 27026. William H. Barton.
H. R. 27042. Fred Babcock.
H. R. 27045. Hannah M. Brewer.
H. R. 27048. Henry Bolner.
H. R. 27053. James E. Crane.
H. R. 27061. Kate D. Linsley.
H. R. 27088. Charles H. Crandall.
H. R. 27122. Lizzie S. Williams.
H. R. 27126. Virginia W. Reed.
H. R. 27131. Daniel W. Brown.
H. R. 27165. Elizabeth Farley.
H. R. 27168. Stephen G. Lindsey.
H. R. 27182. Marie Sonele.
H. R. 27184. Jesse M. Pickle.
H. R. 27188. Joseph L. Evans.
H. R. 27189. Benjamin M. Clark.
H. R. 27197. Charlotte E. Crowell.
H. R. 27213. James N. Light.
H. R. 27220. James H. Langley.
H. R. 27221. Reuben Brink.
H. R. 27227. Eleanora B. Petty.
H. R. 27233. George P. Smiley.
H. R. 27240. Annie Schott.
H. R. 27245. Clara Ward.
H. R. 27246. Nancy Walton.
H. R. 27247. Edward H. Crandall.
H. R. 27256. John P. Thurston.
H. R. 27269. Eli C. Lowe.
H. R. 27270. John W. Swanson.
H. R. 27274. James Bartholomew.
H. R. 27291. Jennie McMurtrie.
H. R. 27293. James B. Kellogg.
H. R. 27299. Rachel Castell, now Robbins.
H. R. 27302. George M. Rood.
H. R. 27314. Jane L. Gettins.
H. R. 27318. John H. Scott.
H. R. 27319. Julia A. Kendall.
H. R. 27326. Edson A. Cook.
H. R. 27340. William Welch.
H. R. 27349. Mary E. Hughes.
H. R. 27350. Emma Frymire.
H. R. 27368. James H. Ross.
H. R. 27385. Elizabeth Willett.
H. R. 27386. Henry Cooper.
H. R. 27393. Annie M. Regan.
H. R. 27403. Isaiah Elwood.
H. R. 27414. Martha Rogers.
H. R. 27417. Frederick Sachsenheimer.
H. R. 27423. Caroline Selb.
H. R. 27448. Michael Fogarty.
H. R. 27455. Smith McCallister.
H. R. 27470. Horace W. Hunt.
H. R. 27512. Lusenah Fuller.
H. R. 27518. Joseph W. Jeroleman, alias William Wood.
H. R. 27521. Sarah C. Gross.
H. R. 27522. James M. Emmons.
H. R. 27554. Frank R. Doran.
H. R. 27579. Sarah J. Renton.
H. R. 27582. Noah M. Diehl.
H. R. 27585. Catharine Hayden.
H. R. 27587. Carrie D. Colman.
H. R. 27589. Lewis Pugh.
H. R. 27597. Jane Burton.
H. R. 27598. Nannie Yocum.
H. R. 27599. Alice M. Ham.
H. R. 27600. William L. Duncan.
H. R. 27601. George W. Lawson.
H. R. 27602. John Woods.
H. R. 27613. Rebecca Johnson.
H. R. 27616. Isaac Smith.
H. R. 27631. Eva Buhler.
H. R. 27643. Mordecai F. Riley.
H. R. 27669. Gertrude Meloy.
H. R. 27671. George W. Haney.
H. R. 27679. James F. Hubbard.
H. R. 27680. Elizabeth Hoon.
H. R. 27682. Newton Ridgway.
H. R. 27685. Roxanna Starkey.
H. R. 27696. George M. Thomas.
H. R. 27714. Edward Gifford.
H. R. 27718. Sarah E. Meade.
H. R. 27735. Kate S. Blodgett.
H. R. 27760. William Smith.
H. R. 27763. William R. Sheeler.
H. R. 27797. John McLeod.
H. R. 27802. George Merrill.
H. R. 27805. William H. Thomas.
H. R. 27870. Elizabeth Whitestine.
H. R. 27873. James G. Hagamen.
H. R. 27915. John Johnson.
H. R. 27917. Wickliff Loomis.
H. R. 27934. Andrew W. Cochran.
H. R. 27934. George Gray.
H. R. 27935. Nancy Stutesman (now Olmstead).
H. R. 27978. John Scott.
H. R. 28003. Margarita S. Salazar.
H. R. 28011. Elno Hattie Abells.
H. R. 28029. John L. Foster.
H. R. 28119. Araminta Ward.
H. R. 28083. William Malony.
H. R. 28153. Rachel Stewart.
H. R. 28169. Sophia M. Davis.
H. R. 12083. James Russell.
H. R. 2636. David Amos.
H. R. 4139. Thomas Cooper.
H. R. 14171. Isaac Ayres.
H. R. 22317. Samuel Williamson.
H. R. 25350. David P. Beavers.
H. R. 26511. Nellie McMillan.
H. R. 27736. William Ashton.
H. R. 27808. James Anderson.

During the reading of the bill:

Mr. TRIBBLE. Mr. Chairman. I would like to make an inquiry of the gentleman from Wisconsin [Mr. BURKE], chairman of the subcommittee in charge of this bill. Where is the full report of these cases which are mentioned in the bill?

Mr. BURKE of Wisconsin. The evidence that accompanies each case can be found with the secretary of the Committee on Invalid Pensions, if that is what the gentleman means by the words "full report."

Mr. TRIBBLE. That is what I mean. How many cases are presented here to-day in this bill?

Mr. BURKE of Wisconsin. I read the number some time ago. There are 468.

Mr. TRIBBLE. Does the gentleman think that the committee has carefully investigated all of these cases?

Mr. BURKE of Wisconsin. As fully as was possible for us to do so, and as I stated before, the committee has been crippled since the December vacation, inasmuch as there are three or four vacancies on the committee, and inasmuch as several Members who received unpleasant news on election day have not been present. It is possible that some of these matters have crept through where it would otherwise have been prevented.

Mr. TRIBBLE. Now, Mr. Chairman, I have frequently called for these full reports here on cases and have never been accorded the courtesy of the production of them. The first bill that was presented to the House at this session has been returned from the Senate and a conference has been held. I make note of two or three entries in that conference report. At the time when this bill passed the House I strenuously opposed several cases included in it. Now, I note to-day the case of Phoebe Cosgriff. The Senate fully exposed her record and refused to pass her bill, as is shown by the conference report. This woman for many years, as this report will show, had been drawing a pension on the pretense that her husband was dead. She has personated herself as the wife of James Cosgriff and secured pension as his widow, claiming he died in December, 1882. This House recently increased her pension by special act. The report I hold in my hand exposes this fraud. The soldier, James Cosgriff, is living and is in the Soldiers' Home at Leavenworth, Kans.

The dates that she gave of her husband's entry, his death, and his service are false, and the man to-day, as shown by this report, is in an old soldiers' home, alive. I don't suppose the imposter wife ever saw him. He was selected from a list of soldiers supposed to be dead, for pension purpose. The report says:

It is clearly evident that claimant was never the wife or widow of this soldier and has no status on account of the service rendered by him.

As long as the people of my district keep me in this House I expect to continue protesting against pension graft. This committee is not as careful as it should be. Such claims as this should never reach this House. In that same conference report is stricken another case; and while I protested against the passage of the bill, the evidence in the case was not accessible to me then. The full report was not here, but I have the facts to-day in this report. I read from the report:

Case of Sarah J. Kelley (H. R. 14851). In this case the House report is rather meager. From a reading of the House report it would appear that this claimant is entitled to pension through the regular channels, as the Pension Bureau, and that no necessity exists for the consideration of her case by Congress. As a matter of fact, however, it is shown that the claimant has been guilty of open and notorious adulterous cohabitation since soldier's death, and that beginning in 1882, shortly after his death, she has kept houses of ill-fame for many years in New York City, in Newark, Trenton, and Atlantic City, N. J., and Scranton, Pa. It is on this account that her applications for pension at the bureau have been denied.

Mr. Chairman, the Pension Bureau had on file this woman's record, and I contend the committee investigating this pension

should have known the facts and presented them to the House. The Pension Bureau rejected her, and this House should not put on the pension roll such characters. I do not believe that a woman who has dishonored the name of her soldier husband, as this applicant has done, should be pensioned and have more pension than those who saw service as war widows. The country will not stand for women of this class receiving more pension by special acts than pure wives of soldiers receive.

Forty-eight years have rolled over our heads since the last gun was fired at Appromattox. To-day there are 497,263 survivors of the Civil War on the pension roll. This does not include widows and children of soldiers. There are 860,294 pensioners on the roll of 1912. There were 660,000 soldiers who saw service in the Confederate Army. Think of it, Mr. Chairman, 200,000 more people drawing pensions than enlisted in that army of the South of four years' duration.

I desire to call especial attention to the fact that there are now on the pension roll 321,932 children of soldiers and widows of soldiers. Where and when will this thing end, if the children of soldiers must now be cared for? Pensions of all wars in the year 1886, two years after the Civil War, amounted to $15,857,714.88; in the year 1886, 20 years later, $67,336,159.51; in the year 1913, about $185,000,000. During last Congress this House passed 9,000 special bills increasing amounts of individual pensions and placing on pension list ineligibles. By this special pension method pensions were increased for favored ones to $30, $50, $75, and $100 per month. The present Congress has not passed one-half so many, although the three previous terms had increased them by thousands. By a hard contest the original Sherwood bill which was slated to pass this Congress was defeated. It gave $30 per month without regard to age or length of service. That bill would have increased the pension roll some $75,000,000. It has been estimated that in the year 1914 there were paid in pensions $159,000,000 or $1.73 per capita. At this per capita Georgia paid in the year 1911, $4,513,779.33. Georgia received in return pension money only $543,353.41, thereby paying an excess of $3,970,426.92. Compare Georgia's burden to Ohio's pension harvest for the year 1911. Ohio paid $8,247,110.33 and received from the fund $15,638,286.83; therefore you can see that Ohio receives for her citizens $7,391,167.50 more than she paid into the pension fund.

The CHAIRMAN (Mr. MURRAY). The time of the gentleman from Georgia [Mr. TRIBBLE] has expired.

Mr. TRIBBLE. I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to extend his remarks in the RECORD. Is there objection? There is no objection.

Mr. TRIBBLE. The Committee on Pensions has finally decided to cut down the number of special pensions, and I insert part of the resolution under leave to print. I also insert the general pension act. The special pensions passed by the thousands every term are increases over and above the general law, including deserters, bounty jumpers, and negroes who are not entitled to pension under the general law.

Resolution of committee.

Resolved, That it is the sense of this committee that hereafter, on account of the liberal provisions of the Sherwood bill passed by this Congress, we should only report favorably private bills for increases for those who are beneficiaries under the said law, or any other general law, where the evidence shows that the applicant needs the assistance of an attendant, and only in cases where it is shown that the applicant has little or no income.

ACT OF 1912.

This act grants pensions according to the length of service to persons who served 90 days or more in the military or naval service of the United States during the Civil War and were honorably discharged, who have reached certain ages, at rates as indicated in the following table:

Length of service.

Age.	90 days.	6 months.	1 year.	1½ years.	2 years.	2½ years.	3 years.
62	$13.00	$13.50	$14.00	$14.50	$15.00	$15.50	$16.00
66	15.00	15.50	16.00	16.50	17.00	18.00	19.00
70	18.00	19.00	20.00	21.50	23.00	24.00	25.00
75	21.00	22.50	24.00	27.00	30.00	30.00	30.00

It also grants pensions at the maximum rate, $30 per month, without regard to age or length of service, to persons who served in the military or naval service during the Civil War and received honorable discharges, and who were wounded in battle or in line of duty and are now unfit for manual labor by reason thereof, or who from disease or other causes incurred in line duty resulting in their disabilities are now unable to perform manual labor.

Mr. TAGGART. Mr. Chairman, I suggest the presence of an error in the bill and ask that the following amendment be inserted in the description of the soldier's service.

The CHAIRMAN. At what place does the gentleman suggest that?

Mr. TAGGART. On line 19, page 67. The service as described in the original bill is in the First Battery Kansas Light Artillery. That is as it was described in the original bill introduced, which is correct. In this bill it reads "Third Battery Kansas Light Artillery."

The CHAIRMAN. The gentleman from Kansas [Mr. TAGGART] moves to amend, at line 19, page 67, by striking out the word "Third" and substituting the word "First." The Clerk will report the amendment offered by the gentleman from Kansas.

The Clerk read as follows:

Amend, line 19, page 67, by striking out the word "Third" and substituting in lieu thereof the word "First."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BURKE of Wisconsin. Mr. Chairman, on behalf of the committee I move that, in line 15, page 69, in the name of Julia A. Kendall the initial "A" be stricken out and the initial "J" inserted.

The CHAIRMAN (Mr. SHERLEY). The Clerk will report the amendment offered by the gentleman from Wisconsin [Mr. BURKE].

The Clerk read as follows:

Amend, page 69, line 15, by striking out the initial "A" and inserting in lieu thereof the initial "J."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk resumed and completed the reading of the bill.

Mr. BURKE of Wisconsin. Mr. Chairman, I move that the bill, with amendments, be reported favorably and laid aside for the present.

The CHAIRMAN. The gentleman from Wisconsin [Mr. BURKE] moves that the bill, with the amendments, be laid aside with a favorable recommendation. The question is on agreeing to that motion.

The motion was agreed to.

JOHN R. FUGILL.

Mr. RUSSELL. Mr. Chairman, I call up the bill H. R. 3967, Private Calendar No. 314.

The Clerk read the bill, as follows:

A bill (H. R. 3967) granting an increase of pension to John R. Fugill.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John R. Fugill, late of Company E, Second Regiment New York Mounted Volunteer Riflemen, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

Mr. RUSSELL. Mr. Chairman, I move that the bill be read a second time for amendment.

The bill was read the second time.

Mr. RUSSELL. Mr. Chairman, I move that the bill be laid aside with a favorable report.

The CHAIRMAN. The gentleman from Missouri [Mr. RUSSELL] moves that the bill be laid aside with a favorable recommendation. Without objection, it will be so ordered.

There was no objection.

MARY MACARTHUR.

Mr. RUSSELL. Mr. Chairman, I call up the bill H. R. 27806, Private Calendar No. 315, granting a pension to Mary MacArthur.

The CHAIRMAN. The Clerk will report the title of the bill.

The title of the bill was read.

Mr. RUSSELL. Mr. Chairman, I move that the first reading of the bill be dispensed with.

The motion was agreed to.

The CHAIRMAN. Without objection, the bill will be read for amendment.

There was no objection.

The bill was read for amendment, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary MacArthur, widow of Arthur MacArthur, late lieutenant general, United States Army, and pay her a pension at the rate of $2,500 per year.

The following committee amendments were read and agreed to:

Amend, line 8, by striking out the figures "$2,500" and inserting the figures "$100."

Amend, line 8, by striking out the word "year" and inserting the word "month."

Mr. RUSSELL. Mr. Chairman, I will state that this bill was introduced and referred to our committee, asking for $2,500 a year. The committee reduced the amount to $100 per month,

or $1,200 a year. This was done in accordance with the action of the committee in similar cases heretofore.

The House passed a bill granting $100 a month to Gen. Bragg's widow, and Gen. MacArthur was equally as distinguished a soldier. If there is any objection to this bill, I will ask its author, the gentleman from Wisconsin [Mr. ESCH], to further explain its provisions. If there is no objection, I move that it be laid aside with a favorable recommendation.

Mr. ANTHONY. Mr. Chairman, I would like to ask the gentleman a question.

Mr. RUSSELL. Very well.

Mr. ANTHONY. Why is it that you give the widow of a lieutenant general $100 per month and decline to give the widow of a major general more than $30 a month?

Mr. RUSSELL. I do not know that that is so. I do not think it has ever been done by our committee. To what case does the gentleman refer?

Mr. ANTHONY. To the case of the widow of Gen. Wint. That bill, however, was not before your committee.

Mr. RUSSELL. This bill provides that the widow of Gen. MacArthur shall receive $100 per month. The committee has, as a general rule, recommended that amount to widows of those who were generals during the Civil War, but not to such as were made generals since the war.

I move, Mr. Chairman, that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Without objection, it will be so ordered.

There was no objection.

INJURIES TO GOVERNMENT EMPLOYEES.

Mr. POU. Mr. Chairman, I call up the bill (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property. This is a House bill with Senate amendments. I ask that the Senate amendments be reported. The bill has already passed the House.

The CHAIRMAN. The gentleman from North Carolina asks that the Senate amendments be reported. If there be no objection that will be done.

The first Senate amendment was read.

Mr. POU. I move to concur in the Senate amendment.

The motion was agreed to.

The CHAIRMAN. The Clerk will report the second amendment of the Senate.

Mr. MANN. Will not the gentleman ask unanimous consent to have all the Senate amendments reported?

Mr. POU. I ask unanimous consent that all the Senate amendments be reported, and that they all be concurred in.

The CHAIRMAN. If there be no objection they will all be reported.

The Senate amendments were read.

Mr. POU. I move that all the Senate amendments be concurred in.

The motion was agreed to.

Mr. POU. I move that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

Mr. POU. I move that the committee do now rise and report these sundry bills to the House, with the recommendation that the amendments be agreed to and that the bills do pass, and that the Senate amendments to the bill H. R. 23451 be concurred in.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SHERLEY, Chairman of the Committee of the Whole House, reported that that committee had had under consideration sundry bills on the Private Calendar, and had instructed him to report the same with various amendments, with the recommendation that the amendments be agreed to and that the bills do pass; also that the Committee of the Whole had had under consideration the bill H. R. 23451 with Senate amendments, and had instructed him to report the same back to the House with the recommendation that the Senate amendments be concurred in.

BILLS PASSED.

The SPEAKER. The Clerk will report the first bill.

The first business was the bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, reported from the Committee of the Whole with sundry amendments.

The SPEAKER. The Clerk will report the amendments.

Mr. FITZGERALD. It is not necessary to read the amendments.

Mr. MANN. It is not customary to read the amendments unless somebody demands a separate vote on some amendment.

The SPEAKER. That is true. The question is on agreeing to the amendments.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

The next business was the bill (S. 2666) granting an increase of pension to William P. Clark.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

The next business was the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, reported from the Committee of the Whole with amendments.

The amendments were agreed to.

The bill as amended was ordered to a third reading, and was accordingly read the third time, and passed.

The next business was the bill (H. R. 28279) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time, and passed.

The next business was the bill (S. 7160) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, reported from the Committee of the Whole with amendments.

The amendments were agreed to.

The bill as amended was ordered to a third reading, was accordingly read the third time, and passed.

The next business was the bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, reported from the Committee of the Whole with amendments.

The amendments were agreed to.

The bill as amended was ordered to a third reading, and was accordingly read the third time, and passed.

The next business was the bill (H. R. 28282) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, reported from the Committee of the Whole with amendments.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The next business was the bill (H. R. 3967) granting an increase of pension to John R. Fugill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The next business was the bill (H. R. 27806) granting a pension to Mary McArthur, reported from the Committee of the Whole with an amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was read the third time.

Mr. RODDENBERY. Mr. Speaker, before making a request for the reading of the engrossed bill, I ask if I can make an inquiry of the gentleman from Missouri [Mr. RUSSELL] touching the action of the committee on these matters?

The SPEAKER. By unanimous consent, the gentleman can propound the inquiry. Is there objection? [After a pause.] The Chair hears none.

Mr. RODDENBERY. The question I want to ask the gentleman at this juncture, purely for the information of the House, is as to what action the Committee on Invalid Pensions has taken indicative of the future policy of the committee in regard to these special pension bills?

Mr. RUSSELL. Mr. Speaker, I will say to the gentleman that the committee has ever since the Sherwood bill passed—realizing that it is a liberal bill—have felt that we should not amend that bill by the passing of special bills, except in cases where the applicant is shown to be so afflicted as to need an attendant, or in cases where the applicant is helpless, poor, and needy. At the last meeting of the committee we passed a resolution to that effect. With the permission of the House, I will ask to have that resolution read by the Clerk.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read as follows:

Resolved, That it is the sense of this committee that hereafter, on account of the liberal provisions of the Sherwood bill passed by this Congress, we should only report favorably private bills for increases for those who are beneficiaries under the said law, or any other general law, where the evidence shows that the applicant needs the assistance of an attendant, and only in cases where it is shown that the applicant has little or no income.

We further believe that hereafter where any bill is reported for any applicant shown to have any income, the amount of pension recommended should be reduced below what would otherwise be reasonable by the amount of such income.

And further resolved, That where an applicant has heretofore obtained a pension by special bill, a second special bill should not be passed, unless it is clearly shown by the evidence that he has grown much worse in physical condition than when the former bill was enacted.

The SPEAKER. The question is, Shall the bill pass?

The question was taken, and the bill was passed.

The next business was the bill (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duty, and other claims for damages for the loss of private property, with Senate amendments.

The SPEAKER. The question is on agreeing to the Senate amendments.

The Senate amendments were agreed to.

INAUGURAL CEREMONIES.

Mr. FITZGERALD, chairman of the Committee on Appropriations, by direction of that committee, reported Senate joint resolution 145 to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913, which was read, and with accompanying report (No. 1383) was referred to the Committee of the Whole House on the state of the Union.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that this resolution may be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The resolution is as follows:

Senate joint resolution 145.

Joint resolution (S. J. Res. 145) to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913.

Resolved, etc., That $23,000, or so much thereof as may be necessary, payable from any money in the Treasury not otherwise appropriated and from the revenues of the District of Columbia in equal parts, is hereby appropriated to enable the Commissioners of the District of Columbia to maintain public order and protect life and property in said District from the 28th of February to the 10th of March, 1913, both inclusive. Said commissioners are hereby authorized and directed to make all reasonable regulations necessary to secure such preservation of public order and protection of life and property and fixing fares by public conveyance, and to make special regulations respecting the standing, movements, and operating of vehicles of whatever character or kind during said period and fixing fares to be charged for the use of the same. Such regulations shall be in force one week prior to said inauguration, during said inauguration, and one week subsequent thereto, and shall be published in one or more of the daily newspapers published in the District of Columbia; and in such other manner as the commissioners may deem best to acquaint the public with the same; and no penalty prescribed for the violation of any of such regulations shall be enforced until five days after such publication. Any person violating any of such regulations shall be liable for each such offense to a fine not to exceed $100 in the police court of said District, and in default of payment thereof to imprisonment in the workhouse of said District for not longer than 60 days. And the sum of $2,000, or so much thereof as may be necessary, is hereby likewise appropriated, to be expended by the Commissioners of the District of Columbia, for the construction, maintenance, and expenses incident to the operation of temporary public-comfort stations and information booths during the period aforesaid.

Mr. FITZGERALD. Mr. Speaker, I give notice that it is my purpose to ask the House to consider this resolution some time to-morrow.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. HOWARD, for one week, on account of illness.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill (H. R. 28180).

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill, with Mr. MOON of Tennessee in the chair.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would ask the gentleman from Florida [Mr. SPARKMAN] if he is prepared to take up the amendments pending, or whether he would prefer to have them go over for a time. I am prepared to offer them now.

Mr. SPARKMAN. Mr. Chairman, I think we may as well go ahead with the reading of the bill for a while.

Mr. MOORE of Pennsylvania. Very well.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Improving Altamaha, Oconee, and Ocmulgee Rivers, Ga.: Continuing improvement in accordance with the report submitted in House Document No. 443, Sixty-second Congress, second session, $40,000.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman from Florida if the $40,000 carried in this item is all that has been recommended by the Board of Engineers and the Chief of Engineers for this project?

Mr. SPARKMAN. It is the entire amount recommended by the chief and by the board.

Mr. BARTLETT. I have in my hand the document to which the paragraph refers, numbered 443, of the second session of the Sixty-second Congress. Of course the gentleman from Florida is familiar with that document, and he will remember that that contained a resurvey of all these three rivers by Maj. Kingman and others engaged in the work and familiar with it, in which a recommendation was made to inaugurate a different project from that which has been carried on for some years. The gentleman remembers that document and the report of Maj. Kingman, does he not?

Mr. SPARKMAN. Yes.

Mr. BARTLETT. Mr. Chairman, the recommendation of Maj. Kingman was not approved by the Board of Engineers, and after it was reviewed by the board of review at the instance of those who were interested in the proposed change in the project, it was adversely acted upon by them and reported to the Chief of Engineers and not approved. That is true. That happened in October, 1912. Does the gentleman consider that the $40,000 is all that is necessary to maintain the three rivers in accordance with the project that has been carried for the past several years?

Mr. SPARKMAN. That would depend on how rapidly we may desire to go ahead with the work. Of course, if we propose to move more rapidly than we have been moving for some years past, it would require more money. The trouble with our committee, so far as the appropriation is concerned, is that the engineers have only recommended that amount of expenditure each year.

Mr. BARTLETT. The gentleman means the Board of Engineers and not the local engineers?

Mr. SPARKMAN. Yes; the board in its recent report went over the whole situation, coming practically to the same conclusion as in the original report, namely, that the work be prosecuted with a view to obtaining eventually 4 feet of water instead of 3. It had stated the same thing before, but seemed to be a little more definite in the last report.

Mr. BARTLETT. That is the report of Maj. Kingman?

Mr. SPARKMAN. That is the report of the board.

Mr. BARTLETT. If that is the report of the board, then this recommendation of the Chief of Engineers or the board does not carry out the suggestion made along that line by Maj. Kingman, for which this committee appropriated $40,000 to carry out the suggestions of the report as contained in these papers which I hold in my hand.

Mr. SPARKMAN. That was a project recommended upon a survey ordered by Congress itself.

Mr. BARTLETT. Yes; in 1909.

Mr. SPARKMAN. And the parties interested, Members of Congress from that State, thinking the report did not go far enough and that it might be reexamined with profit, came to the Committee on Rivers and Harbors and asked for a committee resolution requesting the reexamination of the report, which was granted, and a reexamination made with about the same result except, as I said, the recommendation is a little stronger perhaps in favor of the 4-foot project than the other was.

Mr. BARTLETT. The $40,000 would not aid in obtaining the 4-foot project.

Mr. SPARKMAN. The engineers seem to think so.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BARTLETT. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SPARKMAN. In this report of the Board of Engineers containing their recommendations, the board says—the gentleman will find it on page 3 of the report, the latter part, second paragraph: "The annual expenditure of $40,000 proposed by the board"——

Mr. BARTLETT. I have not the same report as that from which the gentleman is reading.

Mr. SPARKMAN (reading)—

As being justified is sufficient to keep these rivers clear of snags and the worse obstructions and perhaps to increase the depth some-

what over the most obstructive shoals. This will provide for light-draft navigation at a cost fairly commensurate with the commerce involved; and such navigation is all that practically could be obtained except at prohibitive expense. The board therefore adhere to its former recommendation that such an annual appropriation be made for these streams, to be expended in securing and maintaining such depth as is practicable within the proposed limit of 4 feet.

By the use of the words "within the proposed limit of 4 feet" they perhaps make the language a little bit stronger than it was before.

Mr. BARTLETT. But the present project for which money has been spent has not been for 4 feet but for 3 feet.

Mr. SPARKMAN. No; I think the gentleman is mistaken about that.

Mr. BARTLETT. No.

Mr. SPARKMAN. They go on in the report the gentleman has in his hand, the report adopted in the bill of 1912, and suggest that an expenditure of $40,000 per year be made for the maintenance of this depth of 3 feet with the ultimate purpose of obtaining a greater depth.

Mr. BARTLETT. Now I want to say to the gentleman and the committee that the action of the Board of Engineers upon this last hearing we had in October has not been accessible to me, and I have not been able to procure it in order to present what they say in reference to it. It had not been printed on Tuesday last, when I called at the office of the Chief of Engineers.

Mr. SPARKMAN. Well, I have it here, what might be called the original print of it. We have not formally printed it yet. Would the gentleman like to have it?

Mr. BARTLETT. If it is not too long to put in the RECORD—some of it at least—I would desire to have that done. I have not been able to see it for the reason it had not been printed on last Tuesday.

Mr. SPARKMAN. Well, the gentleman will find it practically the same recommendation that was made by the board and chief engineer on the project which we adopted.

Mr. BARTLETT. I want to state I applied for it several times, and last Tuesday I went to the Chief Engineer's office and read it in manuscript, but it had not then been sent to the printer and had not been printed where it was accessible so as to be used. Would the gentleman be willing to have this put in the RECORD, or certain portions of it?

Mr. SPARKMAN. It is quite lengthy.

Mr. BARTLETT. I simply want to put in the RECORD the first three pages.

Mr. SPARKMAN. I have no objection to that.

Mr. BARTLETT. Will the gentleman include that in his remarks?

Mr. SPARKMAN. Mr. Chairman, I ask that the report of the Chief of Engineers transmitting a report of the Board of Engineers for Rivers and Harbors on the Altamaha, Oconee, and Ocmulgee Rivers, Ga., being Rivers and Harbors Committee Document No. 10, be printed in the RECORD as part of my remarks at this point.

The CHAIRMAN. The gentleman from Florida asks unanimous consent to print the matter mentioned in the RECORD as part of his remarks. Is there objection? [After a pause.] The Chair hears none.

The matter referred to is as follows:

[Committee on Rivers and Harbors, House of Representatives, United States. Document No. 10, Sixty-second Congress, third session.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, December 23, 1912.

Hon. S. M. SPARKMAN,
Chairman Committee on Rivers and Harbors,
United States House of Representatives.

SIR: (1) Acknowledging receipt of letter dated July 19, 1912, from the chairman of the Committee on Rivers and Harbors of the House of Representatives, transmitting resolution of the committee, dated July 10, 1912, relative to a reconsideration of the reports on examination and survey of Altamaha, Oconee, and Ocmulgee Rivers, Ga., printed in House Document No. 443, Sixty-second Congress, second session, there are transmitted herewith copies of reports dated October 11, 1912, by Col. Dan C. Kingman, Corps of Engineers, and December 16, 1912, by the Board of Engineers for Rivers and Harbors, in response thereto.

(2) I concur in the opinion expressed by the board that a change in the previous recommendation is not warranted or advisable at the present time.

Very respectfully,
W. H. BIXBY,
Chief of Engineers, United States Army.

WAR DEPARTMENT,
BOARD OF ENGINEERS FOR RIVERS AND HARBORS,
Washington, D. C., December 16, 1912.

From: The Board of Engineers for Rivers and Harbors.
To: The Chief of Engineers, United States Army.
Subject: Altamaha, Oconee, and Ocmulgee Rivers, Ga.

1. The board has the honor to submit its report in response to the following resolution:

"*Resolved by the Committee on Rivers and Harbors of the House of Representatives*, That the Board of Engineers for Rivers and Harbors created under section 5 of the river and harbor act approved June 13, 1902, be requested to reconsider report on preliminary examination and survey of Altamaha, Oconee, and Ocmulgee Rivers, Ga., printed in House Document No. 443, Sixty-second Congress, second session."

2. To assist in determining present conditions and any changes, physical or commercial, that have taken place since the date of the report referred to in the resolution the board requested and received a report covering these matters from the district officer, which is forwarded herewith. In addition to information thus secured, a hearing was given in the office of the board October 21, 1912, which was attended by Hon. W. G. BRANTLEY, M. C., Hon. D. M. HUGHES, M. C., the district officer, and a delegation of citizens from the principal towns on the rivers. Much interest in the subject was displayed, and a recommendation was urged for a definite project of larger scope than the existing one.

3. The present project was authorized by the river and harbor act of July 25, 1912, which adopted the plan of improvement recommended by the Chief of Engineers in the House document under consideration. This project, as stated in the annual report for 1912, provides for maintenance of 3-foot depth during ordinary summer low water up to Milledgeville and Macon, and to the gradual increase of channel depths, so far as practicable, without sacrificing the maintenance work. There seems to be some misapprehension as to the method of improvement that may be followed in securing the increased depths referred to. This has been interpreted by some to require a progressive deepening at each shoal in order to secure first a slight increase of depth throughout the entire length under improvement and then successive enlargements of the depths so obtained, thus involving frequent operations and largely increased cost for providing the ultimate depth at any locality. The board understands, however, that the project imposes no such limitation, but is intended to permit the radical treatment of any shoal in one operation so as to obtain such increased depth within the 4-foot limit as may be considered practicable and most advantageous whenever funds are available in excess of what is necessary for purposes of maintenance.

4. The district officer states that a depth of 3 feet is not sufficient to enable commerce to be carried 300 or 400 miles; that a boat can not carry enough freight to pay expenses; that the work done thus far has rather tended to permit light-draft boats to act as feeders to the railroads and has not yet led to the development of a through service.

5. In years past traffic was carried on many shallow streams for long distances because there were no other means of transportation. Since the advent of railroads the tendency has been to do what the district officer cites in this case—use light-draft navigation for short distances to connect with railroads and not compete with them on long hauls. The same argument would apply with a 4-foot depth as with a 3-foot depth, only to a less degree. When a depth of 4 feet is available, the demand is for 5 or 6 feet, usually the latter, it being claimed that the increase is necessary to bring about the desired results. What is now urged has been tried elsewhere with disappointing results. No instance is known where a stream having the characteristics of these rivers has been improved by open-channel methods such as are now proposed by the district officer so as to provide a continuous 4-foot navigation, and it is not believed that such a depth would be secured with the estimated expenditure. Moreover, experience elsewhere indicates that these streams should not be expected to develop a large and important commerce on a depth of 4 feet, even if such depth were feasible within reasonable limits of cost.

6. The board fully appreciates the great resources of the section of country through which these streams flow, as was ably brought out at the hearing, and it realizes that a commodious and continuously navigable waterway would be of great value to the community.

7. It is faced, however, with certain physical data relative to slope, discharge, and character of bottom and banks that must be given consideration, and when this is done it leads to the conclusion that it is not advisable to undertake to develop within specified lines a project depth of 4 feet on these streams, as it believes the cost, even if such project were feasible, would be out of reasonable proportion to the amount of commerce that would be benefited. The annual expenditure of $40,000 proposed by the board as being justified is sufficient to keep these rivers clear of snags and the worst obstructions and perhaps to increase the depth somewhat over the most obstructive shoals. This will provide for light-draft navigation at a cost fairly commensurate with the commerce involved, and such navigation is practically all that could be obtained except at prohibitive expense. The board therefore adheres to its former recommendation that such an annual appropriation be made for these streams, to be expended in securing and maintaining such depth as is practicable within the proposed limit of 4 feet.

For the board:

WM. T. ROSSELL,
Colonel, Corps of Engineers,
Senior Member of the Board.

Mr. BARTLETT. There is one more question I would like to ask the gentleman from Florida, if he will indulge me for a moment. That is, from the funds on hand from the unexpended balance of the last appropriation and the appropriation made in this bill of $40,000 there will be then for the purposes of this maintenance——

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

Mr. BARTLETT. Mr. Chairman, I ask for two minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia? [After a pause.] The Chair hears none.

Mr. BARTLETT. There will be on hand, according to the report of the Chief of Engineers, for the maintenance of this project, $62,000. Am I correct?

Mr. SPARKMAN. I do not recall the figures, but there is a balance on hand——

Mr. BARTLETT. It was $22,377.33; and so with the present appropriation——

Mr. SPARKMAN. According to the last report there will be $102,000.

Mr. BARTLETT. That would be ample for all the present needs?

Mr. SPARKMAN. I should think so; certainly.

The CHAIRMAN. Without objection, the pro forma amendment of the gentleman from Georgia [Mr. BARTLETT] will be withdrawn, and the Clerk will read.

The Clerk read as follows:

Improving Coosa River, Georgia and Alabama: Completing construction of lock and dam at Mayos Bar, near Rome, Ga., $30,000; continuing improvement and for maintenance between Rome, Ga., and Dam No. 4, Alabama, $25,000; and completing construction of lock in Dam No. 4 and the construction of Dam No. 5, in the State of Alabama, $81,000; in all, $136,000.

Mr. MOORE of Pennsylvania. Will the gentleman from Florida [Mr. SPARKMAN] tell us whether this dam construction is for purposes of navigation or is it for purposes of water power?

Mr. SPARKMAN. It is a navigation proposition.

Mr. TAYLOR of Alabama. It has nothing to do with water power; but this improvement was made for a dam, and the report was made by the engineer before the question of water power was taken up.

The Clerk read as follows:

Improving St. Lucie Inlet, Fla., in accordance with the smaller project recommended by the Chief of Engineers in the report submitted in House Document No. 675, Sixty-second Congress, second session, $100,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. I notice there are about 25 items coming up from the State of Florida for rivers or streams which, I presume, are needing improvement. I want to ask the chairman of the committee if any of these streams are intended for purposes of drainage or to connect with the drainage system of the Everglades?

Mr. SPARKMAN. No.

Mr. MOORE of Pennsylvania. The State of Florida is taking care of the expense of the drainage system?

Mr. SPARKMAN. Yes.

Mr. MOORE of Pennsylvania. Of course, Florida is a waterways State and has a great many rivers, and I am very glad the committee has taken care of those rivers, and particularly of the inlet which we are considering at this time, but the improvement of none of these rivers contemplates any connection with the existing Florida State drainage canal system?

Mr. SPARKMAN. No.

The Clerk read as follows:

Improving St. Johns River, Fla.: Continuing improvement and for maintenance from Jacksonville to the ocean, $550,000; completing improvement and for maintenance from Jacksonville to Palatka, $19,600; completing improvement from Palatka to Lake Harney, $42,200; in all, $611,800.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. Of what depth is this project—26 feet?

Mr. SPARKMAN. The one from Jacksonville to the ocean?

Mr. MOORE of Pennsylvania. Yes.

Mr. SPARKMAN. Thirty feet.

Mr. MOORE of Pennsylvania. Is the commerce of Jacksonville increasing constantly?

Mr. SPARKMAN. It is increasing quite rapidly.

Mr. MOORE of Pennsylvania. Is it not true an inland waterway is complete now from Jacksonville via St. Augustine and all the way down to Key West, a distance of 500 miles?

Mr. SPARKMAN. Practically so; yes.

Mr. MOORE of Pennsylvania. A small boat can traverse the entire distance inland without being in danger of storms outside?

Mr. SPARKMAN. Practically so, as I understand.

Mr. MOORE of Pennsylvania. There is only one railroad traversing the east coast of Florida?

Mr. SPARKMAN. Only one.

Mr. MOORE of Pennsylvania. And all the commerce, from Tampa to Key West, is bound to go over that road?

Mr. SPARKMAN. Yes; so far as railroad transportation is concerned. Tampa is, however, on the west side of Florida, while this railroad is on the east side.

Mr. MOORE of Pennsylvania. And there is no railway competition from Jacksonville south on the east coast of Florida?

Mr. SPARKMAN. There is none south; no.

Mr. MOORE of Pennsylvania. There is a continuous inland waterway that has been recently opened up between St. Augustine and Jacksonville, thus connecting with Key West, which, if improved, might furnish a means of transporting commerce?

Mr. SPARKMAN. That is an improved waterway belonging to private parties for a part of the distance.

Mr. MOORE of Pennsylvania. With capital put in there from the outside, some of it being foreign capital?

Mr. SPARKMAN. I will say further that there is a survey pending, I believe, for the entire distance.

Mr. MOORE of Pennsylvania. Can the gentleman tell me whether the city of Jacksonville extends on both sides of the St. Johns River?

Mr. SPARKMAN. The city, I believe, is entirely on one side. There is a small town on the south or east side.

Mr. MOORE of Pennsylvania. Ferryboats run across, do they?

Mr. SPARKMAN. Yes.

Mr. MOORE of Pennsylvania. Ferryboats run across from one city to the other, do they not?

Mr. SPARKMAN. Oh, yes.

Mr. MOORE of Pennsylvania. And the two sides of the city of Jacksonville represent but one authority? There is but one municipality?

Mr. SPARKMAN. I could not say as to that. Perhaps the gentleman is correct.

Mr. MOORE of Pennsylvania. In other words, the St. Johns River does bisect the city of Jacksonville?

Mr. SPARKMAN. No; I would not say that. It may be that the municipality of Jacksonville extends its jurisdiction to the other side, but I could not say positively, as I am not familiar with the limits of the city.

Mr. MOORE of Pennsylvania. Would not the mayor have jurisdiction on the other side?

Mr. SPARKMAN. If the city limits extend there, I fancy the jurisdiction of the mayor would extend there also; but I am not sure that the city limits extend to the south side.

Mr. MOORE of Pennsylvania. I think the gentleman understands what I am after.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Improving Black Warrior, Warrior, and Tombigbee Rivers, Ala.: Completing improvement from Mobile to Sanders Shoals on the Mulberry Fork and to Nichols Shoals on the Locust Fork of Black Warrior River by the construction of locks and dams, including the 6½-foot dam at Lock No. 17, authorized by act of Congress approved August 22, 1911, $1,338,500.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the gentleman in charge of the bill whether this 6½-foot dam is to be constructed for water-power purposes?

Mr. SPARKMAN. The gentleman from Alabama [Mr. TAYLOR] may answer that.

Mr. TAYLOR of Alabama. Mr. Chairman, that improvement that is under discussion now is the one that we thrashed out so thoroughly and in which we took such a prominent and active and useful part in 1911, when we adopted the project for the 6½-foot channel. It does not now contemplate water power because it was thrown out in that act. It covers only navigation.

Mr. MOORE of Pennsylvania. The committee brings it in purely as a matter of navigation?

Mr. TAYLOR of Alabama. Yes; purely as a matter of navigation, except this, that under the act the engineers were required so to erect the dam that power would in time be furnished for future disposal if the Government saw proper to develop it in the future.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Improving harbor at Pascagoula, Miss.: For maintenance of improvement of channel at the mouths of Pascagoula and Dog Rivers, and for continuing improvements and extending said channel through Mississippi Sound and Horn Island Pass to the Gulf of Mexico in accordance with the report submitted in House Document No. 682, Sixty-second Congress, second session, and subject to the conditions set forth in said document, $110,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, a great deal of comment has been indulged in in this House from time to time about Raccoon Creek, and representatives of that section have been called upon to explain the commerce there, which they can very readily do. I would like to know something about the commerce on Dog River. Here is an appropriation of $110,000 to improve the harbor at Pascagoula, Miss., and also to fix up the mouth of the Dog River. If this is a matter of commerce and navigation, of course I have no objection to it. But I should like to know just what warrant there is for making an appropriation of $110,000 for this purpose at this time. Is it urgent, as we are told in the report, all of these paragraphs are?

Mr. HUMPHREYS of Mississippi. Mr. Chairman, Dog River is really a part of the harbor at Pascagoula. It simply marks the northern limits of it. But I yield to my colleague from Mississippi [Mr. HARRISON], who represents the Pascagoula section.

Mr. HARRISON of Mississippi. What is the gentleman's question?

Mr. MOORE of Pennsylvania. I was inquiring what there is of commerce on the Dog River, present or prospective.

Mr. HARRISON of Mississippi. Well, the commerce on the Dog River, or that part of it that together with Pascagoula River form the harbor at Pascagoula, last year was six and one-half million dollars. The commerce on the Leaf and Chickasawhay Rivers, which run into and form the Pascagoula River, was about $1,000,000 last year. On the Dog River proper, excepting that part embodied in this project, there is no commerce except in logs, but they approximate it at about a million dollars. This proposition here is a new project which the gentleman may be attacking——

Mr. MOORE of Pennsylvania. I am not attacking it. I am asking questions for information.

Mr. HARRISON of Mississippi. I am very glad to hear that. Have I given the gentleman the information he desires?

Mr. MOORE of Pennsylvania. I wanted to know about it because the appropriation is fixed at $110,000, and it is reported as being urgent. Raccoon Creek, which is the subject of critical comment, gets in this bill $13,000. The tonnage on Raccoon Creek was in excess of 58,000 last year. I wanted to know what the commerce of the Dog River was.

Mr. MANN. Mr. Chairman, may I ask the gentleman a question?

Mr. MOORE of Pennsylvania. Yes.

Mr. MANN. What would happen if Raccoon Creek and Dog River came into close proximity? [Laughter.]

Mr. MOORE of Pennsylvania. I am afraid Dog River would get the bulk of the appropriation. [Laughter.]

Mr. HARRISON of Mississippi. I want to say to the gentleman, if he will permit, that this is an urgent project. It was recommended by the Army Board of Engineers some time ago. It is to increase the depth of Pascagoula Harbor, which includes part of the Dog River, from 17 feet, its present depth, to a depth of 22 feet. The original estimate of the Army Board of Engineers for a 17-foot depth at Pascagoula Harbor was for approximately the amount that the 22-foot depth is going to cost.

In this connection I might say that the Army Board of Engineers and this Rivers and Harbors Committee have placed a condition upon this project that the people of this locality shall not only furnish public wharves at Moss Point and at Pascagoula that will cost approximately $50,000, but they are to put up $100,000 in addition thereto, notwithstanding the fact that the estimated cost of the project is only $383,000.

Mr. MOORE of Pennsylvania. Will the gentleman from Mississippi permit me to say that it is a great tribute to his ability as a Member of Congress and as a Representative of this district that he can take out of this bill $110,000 for Dog River when we can get only $13,000 for Raccoon Creek. [Laughter.]

Mr. HARRISON of Mississippi. Mr. Chairman, this $110,000 is not for Dog River, as I have stated. It is for the harbor at Pascagoula, that goes up Dog River only a part of the way. It is for the improvement of that great harbor that we hope in the course of time to rival the magnificent harbor in the gentleman's city of Philadelphia.

Mr. DAVIDSON. This is for only a part of the Dog. [Laughter.]

The Clerk read as follows:

Removing the water hyacinth, Florida, Mississippi, Louisiana, and Texas: For the removal of the water hyacinth from the navigable waters in the States of Mississippi, Louisiana, and Texas, so far as it is or may become an obstruction to navigation, $15,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I reserve a point of order on that paragraph.

Mr. YOUNG of Michigan. Will the gentleman make it?

Mr. MOORE of Pennsylvania. I will make it. I was perfectly willing to reserve it in order to have the item explained. If the chairman of the committee does not care to explain the item, I will make the point of order.

Mr. SPARKMAN. If the gentleman from Pennsylvania is going to make the point of order, I hope he will make it now.

Mr. MOORE of Pennsylvania. I think it is subject to the point of order.

The CHAIRMAN. What is the gentleman's point of order?

Mr. HARRISON of Mississippi. I hope the gentleman will reserve it.

Mr. MOORE of Pennsylvania. I shall be very glad to reserve it.

Mr. SPARKMAN. What is the point of order?

Mr. MOORE of Pennsylvania. I reserve the point, in order that the gentleman may explain the item.

Mr. SPARKMAN. This is an item that has been carried in this bill for several years—I do not remember just how long. Some years ago it was ascertained that the water hyacinth in many of the navigable rivers of Florida, Mississippi, Louisiana, and Texas had become a serious obstruction to navigation in those streams, and in one of the river and harbor bills—perhaps in that of 1902—Congress began the appropriations for the removal of this obstruction, and we have continued to carry them in the bills from that time until now. I think every bill since then has had an item for that purpose in it. I will say, further, for the benefit of the gentleman, that while great headway has been made in relieving the rivers from this pest, there is a great deal yet to be done. In fact, I do not know that we will ever see the time when the water hyacinth will disappear entirely from these southern streams. Perhaps some more effective method of destruction will be found, but at present I can see no end to the necessity for these appropriations.

Mr. MOORE of Pennsylvania. Mr. Chairman, I contend that there is no law warranting this appropriation. The gentleman states that it has grown up as a matter of custom, and has been carried in this bill for years. It can not be regarded as the continuation of a work in the course of construction, on which many rulings have been made in this House. I cite for the benefit of the Chair that paragraph of the Manual to be found in section 820. It has been held frequently by chairmen since then that by public works or objects already in progress, under the Holman rule, are meant tangible matters like buildings, roads, and so forth, and not the duties of officials in executive departments, or the continuance of a work indefinite as to completion and intangible in nature, like the gauging of streams.

I think the Chair is familiar with a variety of rulings that have confirmed this proposition.

The CHAIRMAN. What does the gentleman say as to the proposition that the general law authorizes appropriations to remove obstructions to navigation?

Mr. LAWRENCE. Mr. Chairman, I would like to ask the gentleman from Pennsylvania a question.

Mr. MOORE of Pennsylvania. I will yield.

Mr. LAWRENCE. I would like to ask the gentleman if he is opposed to this on the ground that it is legislation on an appropriation bill?

Mr. MOORE of Pennsylvania. On that ground and on the other ground that it is not a continuation of a public work.

Mr. LAWRENCE. Let me call the gentleman's attention to the fact that the rivers and harbors bill is not considered to be a general appropriation bill, and that legislation, as a matter of fact, is in order upon it. Of course, the Chair is familiar with that fact. The engineers have certified that vegetation is an obstruction to navigation, and in providing for it we are providing for the removal of obstructions to navigation, which is clearly within the jurisdiction of the committee.

Mr. BARTLETT. I call the attention of the Chair to this decision, that "the river and harbor bill is not one of the general appropriation bills and is not subject to their restrictions as to legislation."

The CHAIRMAN. The point of order is not well taken, and the Chair overrules it. The Clerk will read.

The Clerk read as follows:

Improving Bayou Teche, La.: Completing improvement and for maintenance, $40,000.

Mr. RANSDELL of Louisiana. Mr. Chairman, I offer the following committee amendment, to be introduced as an additional paragraph.

The Clerk read as follows:

On page 25, between lines 10 and 11, insert the following:

"Improving Bayou Terrebonne, La.: The proviso in the river and harbor act approved July 25, 1912, for improving Bayou Terrebonne, La., be, and the same is hereby, amended to read as follows: '*Provided*, That no expense shall be incurred by the United States for acquiring any land required for the purpose of this improvement.'"

The amendment was agreed to.

The Clerk read as follows:

Improving Brazos River, Tex.: Continuing improvement from Old Washington to Waco by the construction of locks and dams heretofore authorized and commencing the construction of two additional locks and dams, $250,000; continuing improvement and for maintenance by open-channel work from Velasco to Old Washington, $25,000; in all, $275,000.

Mr. FOSTER. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the committee if the sum appropriated for the improvement of the Brazos River is expected to be used within the next year?

Mr. SPARKMAN. Yes; that is the expectation. In fact, I think that if the engineers were asked about it they would say that they could expend more money this year.

Mr. FOSTER. Have not they got more money there now than they can take care of in the building of the dam?

Mr. SPARKMAN. No. Last June there were $237,000 on hand, but I fancy some of that has been expended since then.

Mr. BURGESS. I will say to the gentleman that this is the estimate made by the Board of Engineers of the amount that is necessary and required before the ensuing year has expired.

Mr. FOSTER. What is the $25,000 for maintenance by open-channel work?

Mr. BURGESS. That is the open-channel work carried in all river and harbor bills, removal of snags, and so forth.

Mr. FOSTER. Improving the mouth of the Brazos River?

Mr. BURGESS. That is the maintenance of the harbor.

Mr. FOSTER. How much commerce is there there now?

Mr. BURGESS. There is not much now.

Mr. FOSTER. Is there likely to be much when they get through?

Mr. BURGESS. I think so, undoubtedly.

Mr. FOSTER. How much commerce passes over it in a year?

Mr. BURGESS. Very little passes over it, for the want of the completion of the locks and dams.

Mr. EDWARDS. It is in such shape that commerce can not now pass over it.

Mr. FOSTER. Does the gentleman think it ever will?

Mr. EDWARDS. Oh, yes; there are great opportunities there.

Mr. BURGESS. Undoubtedly.

Mr. FOSTER. Is this a better proposition than Trinity River in Texas in reference to navigation?

Mr. SPARKMAN. Probably the gentleman from Texas would not like to answer that question.

Mr. FOSTER. Then I will withdraw the question. But I would say that if it was not better than Trinity River it would not amount to much and would be money thrown away.

Mr. SPARKMAN. I think the two rivers are on a par as to importance.

Mr. FOSTER. Then I would not think much of any of it.

Mr. SPARKMAN. I differ with the gentleman about that. I know there has been some criticism as to these rivers and the scheme of improvement; especially is it true with regard to Trinity River. I have never concurred in those criticisms. I have studied the situation and have been somewhat impressed with the possibilities of developing a large commerce on each stream.

I should be very much deceived if the future does not bear out that opinion of mine. Both of those rivers flow through a very fertile section of country. They extend up into the interior quite a distance. I can not see myself why, when the lock and dam system is completed——

Mr. FOSTER. Mr. Chairman, I should like to get the opinion of the gentleman from Florida whether the Brazos River, in Texas, has about the same commercial importance as the Trinity River, in Texas. I think he stated a moment ago that that was his opinion. I want to get it now, so that it will be understood that that is the case.

Mr. SPARKMAN. Is that the question?

Mr. FOSTER. Yes.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FOSTER. Mr. Chairman, I ask unanimous consent to proceed for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SPARKMAN. Does the gentleman insist upon an answer?

Mr. FOSTER. Yes; that they are of about the same commercial importance.

Mr. SPARKMAN. I think so. That is my judgment.

Mr. FOSTER. I do not believe there is anyone in the House who would seriously contend that all of the money that we have expended on the Trinity River has been of any very great practical benefit to commerce, and if that is also true of the Brazos River, then what we are expending on these two rivers is so much money thrown away.

Mr. EDWARDS. But does the gentleman take into consideration the fact that the Trinity, like the Brazos, has not yet been completed; that the improvements have not gone far enough to develop whether a commerce can be developed there?

Mr. FOSTER. I would state that the Trinity River has been under improvement for a great many years. I think it was stated at one time that we are in the process of drilling wells down there to pump water so as to make the Trinity River navigable. I do not know whether that is true or not, but I am trying to get some information about those rivers down there for which Congress is asked to appropriate money each year. If one is not of very much more importance than the other, then neither is of very great importance.

Mr. SIMS. Does the gentleman think that lack of water in a river is a detriment to its improvement?

Mr. FOSTER. Of course I do not, but there ought to be some chance for improvement.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last two words. I think I can say to the gentleman from Illinois [Mr. FOSTER], having made some investigation of this matter—and I think this will be supported by the gentleman from Florida [Mr. SPARKMAN] and the gentleman from Texas [Mr. BURGESS]—there is no commerce of any consequence upon either the Brazos or the Trinity River. Each is about 500 miles long, and the project contemplates that in certain seasons of the year there will be a possible depth of 4 feet of water.

Mr. FOSTER. May I ask the gentleman if that is at a certain season when they have more rain than at another season that they will have a channel of 4 feet?

Mr. MOORE of Pennsylvania. At certain seasons of the year they have more water than at other seasons of the year.

Mr. FOSTER. And it is during the flood season that they have a 4-foot channel?

Mr. MOORE of Pennsylvania. I think there is something in that.

Mr. SPARKMAN. Mr. Chairman, I would say to the gentleman that the project depth of the Trinity River is 6 feet.

Mr. MOORE of Pennsylvania. And of the Brazos 4?

Mr. SPARKMAN. I believe that is correct.

Mr. MOORE of Pennsylvania. Mr. Chairman, I want to repeat what I have said on one or two occasions, that I think the Member of Congress who works as assiduously for his district and for the people he represents as do some of the members of the Committee on Rivers and Harbors is entitled to very great praise on the part of those whom he represents, and I know of no man in Congress who has done so much for his people and is so much entitled to their thanks as the gentleman from Texas [Mr. BURGESS]. In the matter of the Trinity and Brazos Rivers, it does not appear that we are making these improvements, running up into millions of dollars as the projects read, solely for the purposes of navigation. It does appear that we are building locks and dams to create water as we go along. We are creating pools, as it were, and thus establishing the basis for that ultimate commerce and navigation which is expected in the course of time. The projects indicate that up to the present time those who have been employed in making improvements on these streams have been engaged very largely in digging out the logs that obstruct the boats, in cutting the branches of overhanging trees, in removing snags (and that is a very large and important part of the work), and I have no objection to it, because it helps to irrigate the country, and perhaps it is important in the way of sanitation and assists in the reclaiming of the very fertile lands that border these streams. The only point I am making is this, that if the gentleman from Texas [Mr. BURGESS] and the other members of the committee are to receive large appropriations which their constituents demand that they shall get for the purpose of removing snags and cutting down the limbs of trees that hang over the streams that interfere with the bateaux that come and go, then when the question of commerce and navigation is really under consideration they ought to give cheerful thought to the need of commerce where it exists.

Now, I am not going to oppose the paragraph. You will see this is a very large appropriation; in the instance of the Brazos it is $275,000 for the next year, a sum which will be used not only for the removal of the snags but to pay the storage of some materials that are needed for the construction of locks and dams when the time shall come for the construction of locks and dams. Of course, we have everything on the ground and are prepared to proceed with this work of construction. I am not opposing that, but I am drawing the attention of these influential gentlemen upon this highly influential committee to the fact that there are real live commercial projects in the country that are being held back and that commerce itself is being delayed, and that the railroad companies are continuing their monopoly upon transportation while these gentlemen are spending money in accordance with the wishes of their constituents upon these minor streams.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Certainly.

Mr. HUMPRHEYS of Mississippi. The Trinity River, for instance, and the Brazos both have as much commerce upon them now as the Panama Canal, have they not?

Mr. MOORE of Pennsylvania. Oh, yes; because the Panama Canal is not open.

Mr. HUMPHREYS of Mississippi. Exactly, and for the same reason these rivers are not open.

Mr. MOORE of Pennsylvania. That is true.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURGESS. Mr. Chairman, I am very much obliged to the gentleman from Pennsylvania [Mr. MOORE] for the tribute he paid me for looking after the interests of my people, but I think he overdraws the picture. The Brazos and Trinity Rivers were on the books of the Rivers and Harbors Committee when I became a member of the committee 10 years ago and I have been struggling along to bring them somewhere near completion. They are not yet anywhere near completion, and at the

rate we are going it will be 15 years before they are completed. The facts about both of those rivers are these: They both extend north from the Gulf into the heart of as good a country as the United States possesses. Thousands of bales of cotton are raised on both sides of both rivers and so are other products. The railroads traverse that country. But we are in the worst state in Texas of any State in the Union on the question of rates, and the improvement of both of these rivers will do more than anything this Congress can do to relieve that situation. Now the Trinity River before I came to Congress was on the books. There was talk made and it was believed by a great many people that there was not water enough in section 1—that is, the Dallas section—to make a canalization of the river. When I came on the committee I found a serious contention about that matter. Mr. BURTON was in doubt about it. I said, "Well, we are pursuing the policy of improving rivers generally from the mouth up, and I think that is right," but I suggested with reference to the Trinity River that we ought to make an exception of that matter as we have with the improvement of the Ohio. We have spent more on the improvement of the Ohio River 23 miles below Pittsburgh than in all the 800 other miles of that river. Why? Because there is where commerce originates; there is where commerce is to be benefited; and so with the Trinity River, reaching 500 miles through a rich territory to Dallas, a great distributing center of agricultural machinery and everything of that sort. It is the greatest distributing center of agricultural machinery in the world, I will say in passing, but the freight rates are enormous, and to develop that river down to the sea will bring an immense benefit to all this country.

Mr. BURTON finally agreed to begin to improve the Trinity River in section 1. Now we have not quite got section 1 improved, but we have got enough improved to forever shut the mouths of those who talked about "wells for water." There is water enough and to spare to canalize the river. That has been demonstrated by what work has been accomplished; and I tell you now that if we go on in this work it will be one of the best investments that the River and Harbor Committee makes. I am disposed to repel the compliment the gentleman paid me; I am disposed to say I do not believe Texas has got enough money to improve these rivers; I believe other rivers have gotten more than my rivers have. There are other rivers in the country; the Brazos is not the only river, the Trinity is not the only river, but we have to do the best we can and that is what I have tried to do.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, I think it was rather unkind for the gentleman from Illinois to compare the Brazos with the Trinity.

The Trinity River enjoys the unique distinction as the stream with regard to which the Army engineers reported that it would aid largely in making it navigable if a large number of artesian wells were sunk near the head of the stream. Now, no such report has been made as that of the noble Brazos, though it has been suggested, and there is no doubt but that there is much sound sense in the suggestion, that it would be infinitely cheaper to macadamize the Brazos than to canalize it, which is the term, I believe, used by the gentleman from Texas. He encourages us, however, to believe that we may some day be able to complete the work now contemplated on this stream, innocent as yet of any navigation whatever or of any seeming disposition on the part of the people in the locality to use it. He says, however, that it will require 15 years at the present rate of progress to canalize the Brazos, and, taking the gentleman's own figures, $4,130,000 must be spent in addition to the one or two million of dollars which we have already placed on this noble stream or sunk in its infrequent pools before we have reached a point where the Brazos might have water enough in the channels between the numerous locks to float a flatboat, provided anyone desired so to do.

Mr. EDWARDS. Will the gentleman yield for a question?

Mr. MONDELL. I will be glad to do so.

Mr. EDWARDS. The gentleman seems to be so thoroughly familiar with this stream——

Mr. MONDELL. Everybody knows about the Brazos.

Mr. EDWARDS (continuing). But I would like to know something of these artesian wells to which he has referred, that have been sunk.

Mr. MONDELL. I was told yesterday the committee always followed the report of the engineers, and I want to ask the gentleman if they have followed the report and recommendation of the engineers in that matter of artesian wells for watering the noble Trinity.

Mr. EDWARDS. We considered that, as we frequently consider the gentleman from Wyoming, as somewhat of a joke on rivers and harbors matters, and did not follow it out.

Mr. MONDELL. Of course, if the Army engineers are given to joking in regard to these matters, that explains many of the jokes perpetrated on the American people in appropriations like this, for the purpose of digging out snags, cutting down the overhanging cypress, felling the weeping willow that hangs over the bank, and making an earnest endeavor by the expenditure of large sums of money to bring the water from the numerous pools at intervals along in the streams, trickling across the dry stretches that intervene.

This is a noble work. It is worthy of a great committee. More than all, it is monumental of the energy and of the influence of the gentleman from Texas [Mr. BURGESS], a member of this committee. How unfortunate it will be for the Brazos and for the Trinity should the time ever come that those noble highways of commerce will fail to have a representative upon this committee.

Mr. EDWARDS. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from Georgia?

Mr. MONDELL. I will be glad to yield.

Mr. EDWARDS. The gentleman from Wyoming [Mr. MONDELL] recognizes that ex-Chairman BURTON, of Ohio, is an excellent authority on waterways, does he not?

Mr. MONDELL. I think so.

Mr. EDWARDS. Does the gentleman not know that this item went on the bill when Mr. BURTON was chairman of the Rivers and Harbors Committee of the House, and has been voted under Republican administrations since then?

Mr. MONDELL. I do not think it went on while Mr. BURTON was chairman, because the gentleman from Texas [Mr. BURGESS] has just informed us they began to do business on the Brazos away yonder before BURTON came here. But I do know that even so great a man——

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent that I may have five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SPARKMAN. What is before the House?

The CHAIRMAN. The gentleman from Wyoming has just received an extension of five minutes. The question before the House is the motion of the gentleman from Wyoming, to strike out the last two words.

Mr. MOORE of Pennsylvania. Will the gentleman yield to one question?

Mr. MONDELL. I will.

Mr. MOORE of Pennsylvania. He does not think the business of the Brazos and Trinity originated with Mr. BURTON without the assistance of the present Representative?

Mr. MONDELL. No one would suggest that, because that would take all the credit from the gentleman who represents the district. Mr. BURTON is an honorable man and a conscientious gentleman, but, like all that have had to do with rivers and harbors appropriations, he has felt the compelling force of the aggregations of influences in and out of Congress under which a river and harbor bill is finally put together.

Mr. BURGESS. What I said was, that the present improvement of the Trinity River was under Mr. BURTON'S administration when he was chairman of the committee.

Mr. MONDELL. Oh, the present improvement, the gentleman tells us——

Mr. BURGESS. And he agreed to it——

Mr. MONDELL (continuing). Went on while Mr. BURTON was there, and Mr. BURTON often confessed, and for the good of his soul, on the floor of this House that he did not approve all the items in the bill.

Mr. BURGESS. I never heard him confess that.

Mr. MONDELL. The Brazos and the Trinity are perhaps the most illuminating examples of how gentlemen, members of the Committee on Rivers and Harbors, may find a necessity, a compelling demand, for the expenditure of public money in the pulling of stumps, in the cutting down of overhanging trees, in the removal of dry and sun-baked sandbars, which occur along what are, in times of flood, the channels of so-called streams. Of course no one expects that up to the crack of doom there will ever be business enough go down the Trinity and the Brazos to in any way repay any portion of the moneys which have been expended on them.

But while that is true, and while that is known to be true by all who have ever investigated the matter, I am again reminded that no such trivial and inconsequential things as facts can in any way influence any item in this carefully prepared, properly proportioned, and perfectly buttressed piece of legislation. [Laughter.]

Mr. EDWARDS. Facts apply only to irrigation and pasturage propositions in Wyoming. [Laughter.]

Mr. MONDELL. No one ever suggests the impropriety of spending millions of the people's money for the purpose of keeping some gentleman's constituents employed and happy but that some one rises up and suggests that we ought not to use money secured not by taxation but by sale of lands for the purpose of building works the cost of which is returned by the people who are ultimately to purchase and own them; and if the gentlemen can not see the difference between the two propositions, I am sorry for them. [Cries of "Read!" "Read!"]

The CHAIRMAN. The time of the gentleman has expired. Without objection, the pro forma amendment will be withdrawn.

There was no objection.

[Mr. BEALL of Texas addressed the committee. See Appendix.]

Mr. MONDELL. Mr. Chairman, the gentleman from Texas [Mr. BEALL] prefaced his remarks with the statement that it was very apparent that the gentleman from Wyoming could not be expected to support appropriations for rivers and harbors.

Of course, the gentleman from Texas I do not expect will keep track of my legislative activities or keep himself informed in regard to matters I have supported. I have served here nearly eight terms. During that time I have voted for every river and harbor bill save one that has passed either on a roll call or by viva voce vote, if I was here. I have often done so, however, with much mental reservation. I have done so because I believe in legitimate river and harbor work, and not because I was enamored of every item in the bills. I shall vote for this bill, but with regret as to many items.

During the time I have been a member of this House we have appropriated $452,584,782.11 for river and harbor improvement. The good State of Texas has participated in these appropriations to the extent of $24,302,529.60. One harbor alone in that imperial Commonwealth has had from the Treasury, of the money collected from the people, over $10,000,000. I have voted for all the bills carrying these appropriations; yet the gentleman from Texas suggests that the gentleman from Wyoming can be depended upon to oppose river and harbor appropriations.

Because I do believe in river and harbor appropriations, because I am in favor of liberal river and harbor appropriations, because those people whom I have the honor to represent favor river and harbor appropriations, I shall expect to support river and harbor bills in the future as in the past; and yet every man who has served in this House who took the trouble to inquire knows that many appropriations for rivers and harbors in the past have had no justification whatever from any standpoint, that millions of dollars of the public money have been wasted; that many improvements have been undertaken where there was neither present nor prospective commerce. There has been an improvement in this regard in the past few years. It is not so long ago that the river and harbor bill smelled so strong, its stench so rose to heaven, that for a time there was a question as to whether the people of the country generally would not be inclined to disregard the demands that were made for appropriations of this character, except for the great seaports of the Nation. Then came something of a reform. Gentlemen all know when it came and how it came. A man was placed at the head of the committee who had knowledge and courage, and, so far as it was possible for him to do it, aided by his colleagues, he brought about a better condition.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent to proceed for 10 minutes.

Mr. SPARKMAN. Mr. Chairman, we must make some headway. I dislike very much to object to these extensions.

Mr. MONDELL. I trust I may have as much time as the gentleman from Texas [Mr. BEALL] had.

Mr. SPARKMAN. I should like very much to accommodate the gentleman.

Mr. MONDELL. I will say to the gentleman that I can get the time later, but I prefer to have it now.

Mr. SPARKMAN. We must get through.

The CHAIRMAN. Does the gentleman from Florida object?

Mr. SPARKMAN. I shall not object now, but I give notice at this time that I am going to try to induce the Chairman to hold each gentleman down to the subject matter when he moves to strike out the last word.

The CHAIRMAN. The gentleman from Wyoming is recognized for 10 minutes.

Mr. MONDELL. Mr. Chairman, better conditions came. Many items that had long been carried by sufferance and toleration were stricken from the bill, and many others that should have been stricken from the bill were not so stricken. I shall not say that either the Brazos or the Trinity River should have been permanently eliminated. I do not claim that detail of information for which the genial gentleman from Texas [Mr. BEALL] gives me credit, but one does not have to be well informed upon this subject to know these streams. They have been discussed so much and their extraordinary character is so widely known that one who does not know about them is ignorant indeed.

The Constitution gives the Federal Government control over rivers and harbors, and the people of the United States long since embarked upon the policy of improving our great harbors and our great rivers. I am now and always have been and always expect to be in harmony with that work. I stand ready to vote at any time all the money that may be needed for the purpose of making available to the commerce of our country and the world the great rivers and harbors of the Nation; that is a national work. I go further than that. I do not object to that policy which we have inaugurated, entered upon, and pursued—though the gentlemen who are supporting this bill largely refuse to acknowledge it—of spending the money of the people for purely local purposes, for local transportation, with a view to affording water transportation for small communities; and while I doubt constitutional authority for that, we long since adopted the policy, and far be it from me to say that we shall absolutely discontinue it.

But while we are possibly justified in doing that for the benefit of local communities, I do think that this committee ought to see to it that when such expenditures are made they are so made that there is some hope that at some time there will be sufficient commerce to in some small way repay the enormous expenditure. My opinion is—and it is my opinion only, and it is no better than the opinion of any other gentleman here—that there never will come a time when there will be commerce enough on the Brazos or the Trinity Rivers to warrant the enormous expenditure heretofore made and contemplated for the future. This is a great country. In other localities of the country there are streams the improvement of which would afford local opportunities for transportation. They are largely overlooked because, perchance, we began our improvements on these streams, and, perchance, the gentlemen who happened to represent those particular districts are active, forceful, making a specialty, a profession, if you please, of securing river and harbor improvements.

Mr. TAGGART. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. In a moment. The gentleman from Texas [Mr. BEALL] talked about the high freight rates, the monopoly under which they are suffering. Mr. Chairman, I have always given the great State of Texas credit for being, of all the Commonwealths of the Union, the one which had more completely than any other solved the problem of reducing its great railway corporations to a condition of proper service of the people at reasonable rates.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield?

Mr. MONDELL. In just a moment. Out in the country in which I live we have some streams which might be dredged to 4 feet. Why, we have streams that have 4 feet of water without any dredging, and we might ask the Federal Government to make them navigable. We are dependent on the railroads. We must protect ourselves against high rates, and yet we do not expect that the Federal Government shall furnish us with transportation from one end of our Commonwealth to the other, and least of all would we base a request or demand for such assistance on the plea that we have not the courage or the ability to control our own railway corporations.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield?

Mr. MONDELL. I will be glad to do so.

Mr. HUMPHREYS of Mississippi. The gentleman understands that the shipment of cotton referred to by the gentleman from Texas is on through bills of lading from Texas points either to European points or from Texas points to the East; does the gentleman think that the railway commission of Texas has the right to fix those rates or regulate them?

Mr. MONDELL. We have an Interstate Commerce Commission.

Mr. HUMPHREYS of Mississippi. Yes; but the gentleman criticizes the State of Texas for its failure to regulate these railroads. Does the gentleman believe, under the Constitution, that the State of Texas has the power?

Mr. MONDELL. That is only one small feature of this proposition; in fact, there is little commerce of any kind——

Mr. HUMPHREYS of Mississippi. But that is one feature of the criticism made by the gentleman from Wyoming.

Mr. MONDELL (continuing). Over the swelling bosom of the Brazos.

Mr. HUMPHREYS of Mississippi. Is that the only answer the gentleman has to my question?

Mr. MONDELL. What?

Mr. HUMPHREYS of Mississippi. The one the gentleman has just made to the question, that the State of Texas was a proper subject of the criticism aimed at it because the railroad commission of Texas failed to regulate interstate rates.

Mr. MONDELL. I have not criticized the State of Texas; I have defended the State of Texas against the gentleman who preceded me. I believe Texas and its people can and will and measurably do protect themselves in all these matters; and it amazes me greatly that the gentleman from Texas was pleading for the expenditure of Federal money to canalize streams that ought to be macadamized [laughter], on the theory that Texas can not protect herself from her railroads——

The CHAIRMAN. The time of the gentleman has expired. [Cries of "Read"!]

The Clerk read as follows:

Improving Trinity River, Tex.: Continuing improvement with a view to obtaining a depth of 6 feet between the mouth and Dallas by the construction of locks and dams heretofore authorized and commencing the construction of two additional locks and dams, $255,000; continuing improvement and for maintenance by open-channel work, $15,000; in all, $270,000.

Mr. TAYLOR of Colorado. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I have always been in favor of improving every portion of the United States. I believe that every Member of this House ought to be broad enough to legislate for the entire country and be broad minded and patriotic enough to be pleased with the development of every portion of this great country. This is the first time during the four years that I have been a Member of this House that I have said a word on the river and harbor bill. But it does seem to me, in view of the colloquy between the gentleman from Wyoming [Mr. MONDELL] and these gentlemen from Texas, that it is appropriate at this time to call the attention of the gentlemen from Texas to the fact that it does appear to us of the West that their magnanimity and patriotism hardly reaches out as broadly over this country of ours as it should. When we of the West, representing the new States struggling for development, with a representation of only about 5 per cent of the membership on the floor of this House; when we are outrageously hindered and wrongfully retarded in our development by the action of this Government in withdrawing and hermetically sealing up hundreds of millions of acres of public land that ought to be open to settlement, thereby driving hundreds of thousands of our best people to Canada for homes; when Canada is pursuing a sane and common-sense public-land policy and is tremendously prosperous; and when we of the West, who can never get a dollar or any direct benefit from all these hundreds of millions of dollars appropriated out of the Treasury for alleged rivers and harbors, come before this House, as we did this morning, and ask that we be allowed merely to use, not one dollar out of the Government Treasury, but to use some of our own money toward improving the struggling municipalities established by the Government upon several of the reclamation projects, to help people get homes out there, the gentleman from Texas [Mr. SMITH] leads the fight against us, and the other gentleman from Texas [Mr. GARNER], the deputy whip on this side, as I understand, stationed himself and others at the door and warned the Democratic Members as they came in to vote against this measure, it does seem to me that it comes with ill grace when we always loyally support your measures that you should be so exceedingly hostile and almost vicious in your opposition to our efforts to secure an absolutely honest and sorely needed development in the Western States. I feel that when we assist you gentlemen of all the coast States, but especially of the South, as loyally as we do, and when we are asking nothing from Uncle Sam but merely to be allowed temporarily to use a small part of our own money and then return it back into the Treasury after we have used it for this development purpose, it does look to me as though the public spirit of some of the Members of this House does not reach very far into the interior of the country. The patriotic spirit of national development does not seem with some of you gentlemen to reach even as far north as Mason and Dixon's line, and with others it appears never to reach beyond the Missouri River. There is no portion of this grand Republic that is nearer to us of the West than you people of the South, and especially the inhabitants of Texas. We are proud of your splendid empire State. But your actions to-day certainly warrant me in calling your attention in a friendly way to your utter lack of what we believe to be fair treatment to the people we represent on the floor of this House. [Applause.]

The Clerk read as follows:

Improving Ouachita River, Ark. and La.: Continuing improvement by the construction of Lock and Dam No. 3, $175,000; for maintenance of improvement by open-channel work up to Camden, $25,000, and from Camden to Arkadelphia, $2,500; in all, $202,500.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the chairman of the Committee on Rivers and Harbors if there has been any adverse reports on this project?

Mr. SPARKMAN. I could not state just now that there never had been any adverse reports, but certainly not on this particular project, or it it would not be in here.

The Clerk read as follows:

Improving Arkansas River, Ark.: For maintenance of improvement, including works at Pine Bluff and the operation of dredging plant, $48,000.

Mr. DAVENPORT. Mr. Chairman. I desire to offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Oklahoma offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend line 17, page 29, by adding the words "and Oklahoma," and after the word "Arkansas" and before the colon, so that the paragraph will read, "Improving the Arkansas River, Ark. and Okla."

Mr. SPARKMAN. I hope that amendment will not prevail. I am not certain that we authorized any project for that, but if there is a project for the river above there it can be taken care of under this item. I may say I believe there is a project above there. In fact, I was so informed from the office of the Chief of Engineers, as I recall, but there may be some doubt. The point I make is that it is either unnecessary, or else it ought not to be done. If there is a project covering that stretch of the river the amendment is unnecessary, because the engineers will take care of the work. In other words, they will spend a portion of this appropriation for the purpose desired by the gentleman. If there is no project for it, then it ought not to be done until there is one.

Mr. DAVENPORT. I would like to ask the gentleman what harm could result from the words being added, if he has no objections to it?

Mr. SPARKMAN. As I said a moment ago, Mr. Chairman, a great deal of harm can result from it if there is no project for it. We had this matter before the committee, and it was thought best to leave it for the present where it is.

The way to reach it, if there is any doubt, is to order a survey in the bill so as to remove all doubt.

Mr. DAVENPORT. Will the gentleman yield?

Mr. SPARKMAN. Certainly.

Mr. DAVENPORT. I will ask the gentleman from Florida if it is a fact that the Chief of Engineers in Part I of his report, on page 783, at the bottom, does not say that by the act of February 27, 1911, the project to improve the Arkansas River, as far as Fort Smith, and improve the Arkansas River to Tulsa, Okla., have not been consolidated and merged into one project?

If the gentleman had left that word "Arkansas" out, I would not have objected. As it is, the word "Arkansas" without "Oklahoma" excludes that part of the project between Fort Smith and Tulsa, Okla.

Mr. LAWRENCE. I would like to ask the gentleman from Oklahoma if the project, on which we are now at work, does not cover an extent of 461 miles, and does not extend into the State of Oklahoma? Is not that the project that is recognized in the books, on which we are at work?

Mr. DAVENPORT. The project is recognized, but your words are definitive, and——

Mr. LAWRENCE. I understand that, but going under the report of the engineers the improvement covers an extent of 461 miles and does cover a part of the river in Oklahoma.

Mr. DAVENPORT. I do not so understand there is anything of the kind in the engineer's report. He says there are 375 miles in Arkansas and 340 miles in Oklahoma, according to his report here, and there are 157 miles of the part that is in Oklahoma that are navigable.

Mr. SPARKMAN. The project we have, Mr. Chairman, seems to go up as high as navigation. The act of 1902 merged those two into one, which makes the general existing project in substance: "The improvement of the river from its mouth to the head of navigation by snagging operations, by dredging operations, and by contraction work, holding the improved channel by revetment when necessary."

Now, if the head of navigation carries it to the point to which the gentleman's amendment would carry it——

The CHAIRMAN. The time of the gentleman has expired.

Mr. DAVENPORT. I would ask the Chairman not to take out of my time the time used by the chairman of the committee.

Mr. SPARKMAN. Mr. Chairman, did the Chair state my time had expired?

The CHAIRMAN. Yes; according to the record kept by the timekeeper, the gentleman's time has expired.

Mr. DAVENPORT. Mr. Chairman, I want it to be understood that I would not have presented my amendment if the gentleman had not inserted the word "Arkansas." That is the ground upon which I rely in support of my amendment.

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent to be allowed to proceed for one minute.

The CHAIRMAN. The gentleman from Florida [Mr. SPARKMAN] asks unanimous consent to proceed for one minute. Is there objection?

There was no objection.

Mr. SPARKMAN. I want to say again that if the project extends to the head of navigation, as the engineers say it does, there is certainly no necessity for the amendment unless it is proposed to carry the work beyond that point, and in that event it ought not to be done. I understand the gentleman does not want to go beyond the project.

Mr. DAVENPORT. Mr. Chairman, if the gentleman will pardon me, I hope the committee will not insist upon a vote before I have presented the arguments which I desire to present in support of the amendment.

We claim that we are entitled to such phraseology in the drafting of this amendment as will secure the improvement of that portion of the Arkansas River in Oklahoma which needs improvement. All the reports that have been made in recent years provide for certain improvements in that part of the Arkansas River. The act of February 27, 1911, merged the two projects that have heretofore been prosecuted on the Arkansas River into one.

Now, if the gentleman from Florida [Mr. SPARKMAN], the chairman of the Committee on Rivers and Harbors, thinks that a provision properly drawn and placed in the bill will take charge of the entire work to the head of navigation, he could have accomplished that object by leaving out the word "Arkansas." But my contention is that that word in the paragraph as it now stands defines the scope of the work and limits it to the improvement of the Arkansas River within the State of Arkansas only.

I contend that by that language you confine it exclusively to that part of the Arkansas River that flows through the State of Arkansas. If I had not thought so, I would not have offered this amendment. But we believe we should have the desired improvements there, inasmuch as our country is rapidly developing along that part of the Arkansas River.

Now, in order to show what the engineers thought of it when they filed their report with the Speaker of the House on the 25th day of June, 1909, I want to read a part of their report. On page 7 of their report the engineers say:

With the projects and estimates just outlined this board practically agrees. Although some reduction might perhaps be made in the estimated cost of the slack-water improvement, it would not be a radical one, and for all practical purposes the cost given may be taken as approximately correct. In the opinion of the board the only way in which a radical and permanent improvement of the Arkansas River can be obtained is by constructing locks and dams from Muskogee to Little Rock and providing open-channel navigation from Little Rock to the mouth by means of dredging done in connection with extensive bank revetment. Such an improvement, however, is exceedingly expensive and would require many years to complete, even with liberal and continuous appropriations. For this reason, while the project is entirely feasible, in the opinion of the board it is not at this time desirable. Although recognizing that the construction of locks and dams offers the only means of obtaining permanent improvement between Muskogee and Little Rock, the board is of opinion that by means of hydraulic dredging it is feasible to obtain a considerably improved channel between these points as well as from Little Rock to the mouth, one that will prolong the period of navigation and possibly extend such period to include, generally, times of ordinary low water. This method of improvement has proved quite successful on the Mississippi and other rivers, and the physical characteristics of the Arkansas River are such as to lead the board to believe that equally favorable results may be obtained by adopting a similar method for its improvement.

Now, the board, going further, on page 8 of this report to Congress, says:

The country in the valley of the river, especially between Fort Smith and Muskogee, contains much coal and asphalt. Over 400,000 acres of coal and asphalt lands have been segregated and reserved from allotment. This coal has been practically untouched, except where the mines have easy access to a railroad. Such mines have been profitably producing a high-grade bituminous coal. Much of the land containing these deposits lies right on the bank of the river, and if water transportation were provided, the mining of the coal would undoubtedly develop into a very large industry, possibly sufficient in itself to justify the improvement. In addition to the coal there are valuable growths of timber and increasingly productive agricultural lands, which are being gradually extended as the timber is cleared. The chief agricultural product is cotton, and although most of this would undoubtedly move by rail, a great deal of it could certainly be more conveniently hauled by water. Even that moved by rail would necessarily benefit from the reduced freight rates which would result from water competition.

Now, Mr. Chairman, that is what the engineers say.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. DAVENPORT. I would like to have five minutes more, Mr. Chairman.

The CHAIRMAN. The gentleman from Oklahoma [Mr. DAVENPORT] asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. DAVIDSON. Mr. Chairman, will the gentleman advise the committee whether any work has been done in the portion of the Arkansas River in Oklahoma during the last season from the appropriation made a year ago?

Mr. DAVENPORT. I understand no work has been done. There has been very little work done for several years.

Mr. DAVIDSON. The language in the bill of last year was identical, in the title of the paragraph, with the language contained in this bill, and the substitution of the word "Oklahoma" could not possibly affect the project, it seems to me.

Mr. DAVENPORT. That may possibly be true, that the language used in this bill is identical with the language used in the last bill, but the gentleman certainly does not think the language of the present bill would permit the improvement to be extended clear to the head of navigation in Oklahoma.

Mr. DAVIDSON. I certainly do.

Mr. DAVENPORT. This is a matter of vital importance to the people of Oklahoma, as much so as any project to the people of any State in the Union; and I join hands with every man who has an honest project and who is endeavoring to reduce freight rates for the people in his section. We are paralleled for the entire distance the Arkansas River is navigable in Oklahoma by a railroad on each side of the Arkansas River, from Fort Smith to the head of navigation, at Tulsa, Okla.; and since that has been so we have had trouble in getting recommendations from the local corps of engineers for the improvement of that part of the river which runs through Oklahoma, although they have gone this far all the time, they have recommended improvements in the way of removing snags and dredging, and we are not now asking an amendment to this bill to increase the appropriation above what is now in it. We are simply asking to be placed where we can be recognized as a part of the project of improving the Arkansas River, and not be excluded, as, in my judgment, the language of the bill now does exclude us. I hope that this amendment will be adopted.

I should like to go into details as to the advantages which would accrue to the people, but I have not the time. I do urge that the bill ought to be in such language that that part of the Arkansas River in Oklahoma will get some benefit of the improvement as the engineers insist should be done, if nothing more than snagging and dredging the stream. I trust that the members of this committee on this floor will be willing to give us that benefit. The words used certainly do not diminish the right to improve that part of the Arkansas River in Arkansas, and they do make it clear that it is intended to include the entire project and improve the Arkansas River from its mouth to the head of navigation, in the State of Oklahoma.

The CHAIRMAN. The question is on the amendment of the gentleman from Oklahoma [Mr. DAVENPORT].

The question being taken, on a division (demanded by Mr. DAVENPORT), there were—ayes 27, noes 22.

Accordingly the amendment was agreed to.

Mr. MONDELL. Mr. Chairman, I move to strike out the paragraph as amended. I do this for the purpose of keeping the promise I made last evening to call attention to the fact that this bill does contain items in regard to which there are adverse reports of the Board of Engineers, or at least of the local engineers. For instance, take the Winyah Bay improvement, which was passed a short time ago. There is a very strong report against it. There is a proposition there to dredge out a thousand acres to form a basin, in order to form an anchorage and provide terminals—I suppose for some railroad—and while it may be said that the committee have not provided for that particular improvement, I have no doubt that the appropriation of $120,000 herein made will be so expended as to make this other improvement inevitable in the future, and that some engineer will later be found who will make a favorable report.

I also call attention to Fishing Creek, N. C., in regard to which there is an adverse report. I call attention to Alligator Creek, and other items if I had the time.

Mr. SPARKMAN. Mr. Chairman, I make the point of order that the gentleman from Wyoming is not discussing his amendment.

Mr. MONDELL. I could call attention to many other items in regard to which there is no favorable recommendation, at least by the men on the ground, who know the most about them.

The CHAIRMAN. The gentleman from Florida makes the point of order that the gentleman from Wyoming is not discussing his amendment.

Mr. MONDELL. Very well; I will discuss my amendment. It relates to the Arkansas River, one of the branches of which is the Ouachita. The Ouachita is a noble stream, on which we have already expended $1,800,000. Besides the dam improvement, the work done has consisted chiefly of the removal of snags, stumps, and overhanging trees.

Mr. DAVENPORT. I will inform the gentleman that the Ouachita empties into the Red River, and not into the Arkansas.

Mr. MONDELL. Then these "snags, stumps, logs, wrecks, leaning and sliding trees" go into the Red and not into the Arkansas. This money is being spent for the removal of these obstructions which I have mentioned. This is the condition of this noble stream: There is a gravel bar about 20 miles above Trinity, where there is an available depth at low water of from 15 to 40 inches. The maximum draft that can be carried at mean low water is 3½ feet to Harrisonburg, La., 1½ feet to Monroe, La., and 8 inches to Camden, Ark.

This is one of the noble highways of commerce for which we are spending large sums of the people's money. It would not be so bad if these expenditures would actually provide transportation. If I felt sure they would, without regard to their local character, I would gladly support every item in the bill, but I think a perusal of the reports on many items will prove to the satisfaction of any reasonable person that many of these streams can never be permanently improved; that it will be a never-ending work of placing in wing dams and having them washed out, pulling out snags, cutting down overhanging trees, dredging sand bars, and after the entire population of the vicinity has engaged for years in this work for the alleged improvement of commerce there will be no commerce to be carried and no opportunity to carry it, because it will be impossible to maintain conditions under which commerce could be carried successfully or profitably.

These funds are to be expended in many instances, in my opinion, on works that can never be of permanent value, and the only good purpose they serve is to distribute the Federal cash in the community and to keep some of our colleagues' constituents at work.

The CHAIRMAN. The question is on the motion of the gentleman from Wyoming to strike out the paragraph as amended.

The question was taken, and the motion was rejected.

The Clerk read as follows:

Improving mouth of Brazos River, Tex.: For maintenance, $25,000.

Mr. BYRNS of Tennessee. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee a question. I notice the bill carries no appropriation or authorization for work upon either the upper or lower Cumberland River. I want to ask if in the gentleman's opinion and in the opinion of the committee the amount of money heretofore appropriated and now subject to the use of the local engineer is considered entirely sufficient to carry on the work on Locks B, C, and D in the lower Cumberland River without delay?

Mr. SPARKMAN. Yes; that together with the amount carried in the sundry civil bill, which, I think, is $200,000.

Mr. BYRNS of Tennessee. I have observed in the report of the Chief of Engineers that while he makes no specific recommendation that additional funds will be necessary during the ensuing fiscal year, he does make a suggestion that if Congress would make a contract or authorization for the completion of these three locks and dams in their entirety, the work could probably be carried on much more economically and advantageously. Has the committee considered that phase of the suggestion made by the Chief of Engineers?

Mr. SPARKMAN. We did consider that phase of it. I have not any doubt myself but that a great many of the works could be more economically carried on and prosecuted if larger sums of money were appropriated. But, as the gentleman understands, this is a big country; we have many projects to take care of, and it would be impracticable to take care of all of them at once. In other words, the committee thought it would be impracticable to carry out the suggestions of the engineer in regard to this entire contract. The authorizations are not necessary in some instances, because we are having annual bills, and hence it is not so necessary with annual bills to provide authorizations in a river and harbor bill as when the bills only came along once in two or three years. We are now morally certain that in a year, or perhaps a little more, additional amounts will be furnished in river and harbor bills, the bills now being annual instead of triennial.

Mr. BYRNS of Tennessee. I want to say that, of course, the statement made by the gentleman from Florida must be entirely satisfactory, in so far as the necessity for any additional appropriation or authorization is concerned for the ensuing fiscal year, but I do regret that this bill does not carry either for the lower or the upper Cumberland River something by the way of authorization or appropriation.

That great river, according to a recent investigation, carries annually a commerce of more than 600,000 tons, valued at approximately $16,000,000. When you consider the amount of commerce carried, when you consider the section of the country through which it flows, when you consider the resources at the head of the river and all along the Cumberland Valley, and the fact that a portion of it is not contiguous to a railroad, I do not hesitate to say that there is not a project of river improvement in the bill that is more meritorious than the improvement of the Cumberland River. For some years my colleague, Judge HULL, has been earnestly and energetically trying to secure the restoration of the scheme of improvement for the upper Cumberland River which was in existence before he became a Member of Congress. The district which I have the honor to represent, and particularly the city of Nashville, where I live, is also directly interested in the improvement of the upper as well as the lower section of the river, and I have been rendering him all the assistance in my power.

Only recently facts have been submitted to the Board of Engineers which have caused them to come to the conclusion that an injustice has been done to the upper Cumberland River by recent reports as to the amount of commerce carried. In saying this I intend no reflection on Maj. Burgess, our local engineer. He is admittedly one of the most capable and efficient engineers in the service and is exceedingly fair, and is certainly disposed to do his duty not only by the Government but also by the people of our section, but he must depend for the facts stated in his report upon others, and in some way these mistakes have occurred and incorrect information has been furnished him without the least fault on his part.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. BYRNS of Tennessee. Mr. Chairman, I ask unanimous consent to proceed for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BYRNS of Tennessee. Mr. Chairman, on account of the facts shown by these investigations the Board of Engineers has called for detailed estimates and plans with a view to determining whether or not the upper Cumberland River shall be restored to its former plan of improvement. These facts were called for so recently that they have not been received in time for the consideration of the board and this committee, but they will be received in ample time for consideration by the committee in the preparation of its next bill, and I merely call attention to this fact for the purpose of expressing the hope to the distinguished chairman and his most capable committee that when they come to prepare their next bill they will prove liberal to the lower and upper Cumberland River, in view of the fact that this bill carries nothing for either section. [Applause.]

The Clerk read as follows:

Improving harbor at Cleveland, Ohio: For maintenance, $25,000.

Mr. FOWLER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, page 31, line 2, after the figures "$25,000," by adding the following as a separate paragraph:

"Improving Saline River, Ill., $50,000."

Mr. FOWLER. Mr. Chairman, I do not know what attention was given to the improvements of this river by the committee in its recent investigations. Last session of Congress the bill carried a provision for the purpose of making a survey thereof. During the interim between the last session and this session I tried very hard to find out what the War Department was doing with reference to making a bona fide survey of this river. I was unable to learn through the engineer that any real effort had been made for the purpose of investigating the feasibility of improving this river for the benefit of navigation.

I want to say to the committee that this river passes through one of the richest countries that ever fell from the plastic hand of nature. It is walled by the foothills of the Ozarks, hills laden with iron ore, zinc, lead, silver, and fluorspar. It taps at Equality a coal field the like of which has never before been known to man, the richest in the world. [Applause.] I dare say, Mr. Chairman, if this committee, through the engineering

force of the War Department, would take the pains to make an investigation, it would find that a few thousand dollars expended in its improvement would give Illinois an opportunity to feed the furnaces of the South with the finest coal and coke in the world.

I do not know whether there is a disposition on the part of the War Department to make that character of investigation which I sought during the last session of Congress. It is idle to talk about an investigation unless it be bona fide and for the purpose of determining the feasibility of improvement; and I say, Mr. Chairman, I am not asking for the investigation of this river for the purpose of any notoriety for my district, but for the relief of the people, who are among the most industrious and deserving of any in the world. [Applause.]

I desire to say that if this river were improved it would give a competing line with railroads, which now charge a greater rate for a short haul than they do for a long haul. It would give an opportunity to bring to the people that character of relief which is so necessary in these unjust discriminating times.

Mr. SPARKMAN. Mr. Chairman, I hope the amendment will not prevail, because there is no project for the work which is proposed in the amendment. We ordered a survey in the last river and harbor bill for that river, but no report has been as yet received by Congress. Whether it will be a favorable one I do not know.

Mr. FOWLER. Mr. Chairman, I would ask the chairman of the committee if he is willing to allow that survey to be made bona fide?

Mr. SPARKMAN. Mr. Chairman, if I understand what the gentleman means, I would say yes.

Mr. FOWLER. Is the gentleman willing, then, to allow the continuance of this survey by a provision in this bill?

Mr. SPARKMAN. Oh, no; it will be unnecessary, because in due time the survey will undoubtedly be made, if it is not already made, and we will receive the report in Congress from the engineers.

Mr. FOWLER. Well, I am not able up to this good hour to learn whether there ever was an engineer who set foot nearer the banks of that river than the city of Washington.

Mr. SPARKMAN. Well, that may be true, but I can assure the gentleman that in my opinion the engineers will make that survey expeditiously. I do not think they will unduly delay it, indeed I have no idea they will. The gentleman must remember that a large number was ordered in the last river and harbor bill——

Mr. FOWLER. That is true.

Mr. SPARKMAN. Which became a law July of last year. The engineers have not had time to make them all, in fact they have made very few up to this time, but they are constantly reporting them to this House, many of them adversely, some of them favorably. I have no doubt in a very short time the gentleman's survey will be here, whether favorably reported or unfavorably of course we can not say.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Improving harbor at Conneaut, Ohio: Continuing improvement, $200,000.

Mr. FOWLER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 31, line 4, after the figures $200,000, by adding the following as a separate paragraph: "Improving levee and harbor at Shawneetown, Ill., $15,000."

Mr. BORLAND. Mr. Chairman, I make the point of order that that does not seem to apply at that portion of the bill, but seems to apply, if at all, on page 36 of the bill. Rivers relating to Illinois are on page 36.

Mr. FOWLER. This is on page 31, that is true, but we have reached the point indicated in the bill for this amendment.

Mr. BORLAND. Page 31 relates to rivers in Ohio; rivers in Illinois are on page 36.

The CHAIRMAN. The Chair holds that to be immaterial if the amendment is in order, and the Chair thinks it is.

Mr. FOWLER. Mr. Chairman, there is a pressing necessity for this appropriation. I received a communication from the people of Shawneetown requesting that a strong and successful effort be made for the purpose of getting enough money to secure their levee against the high water that is now in that section of the country. In my opinion, Mr. Chairman, there is no more needed legislation in this country. It is one of the richest pieces of territory in the Ohio Valley. The people at that place have been almost destroyed heretofore by virtue of the breaking of the levee. At one time a few years ago the levee broke and came through the town with such force that it carried with it the business houses, the dwelling houses with the people therein, and many of them were drowned. Mr. Chairman, this is the oldest town in the State of Illinois, and it ought to be preserved. It is one of the best towns in that State. It has been the policy of Congress to appropriate money for the purpose of building and strengthening levees and repairing the same when breaches therein have been made.

Now, Mr. Chairman, there has been such a universal rain within the last 36 hours in the Ohio Valley that the Ohio River will undoubtedly receive such an impetus and force and accumulation of water that it will not only put this town in great jeopardy of loss of life and property, but some of the other towns along in my State, and I repeat, Mr. Chairman, that the people of this town are extremely anxious that this appropriation should be made. I understand from the communication that they are working there day and night, without sleep, except like soldiers sleeping on their arms, for the purpose of preserving life and property. I trust, Mr. Chairman, in the wisdom of the Members of this Congress, for the good of the people of this town, that this appropriation will be made. It will do me no good personally. I will derive no benefit from it either directly or indirectly.

The CHAIRMAN. The time of the gentleman has expired. [Cries of "Vote!"]

Mr. FOWLER. Mr. Chairman, I ask for an extension of my time for two minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that his time may be extended for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FOWLER. Mr. Chairman, during the high water of last winter there was a considerable damage done to the levee at that place which has not yet been repaired. If there is any provision anywhere in this bill for the purpose of making such repairs I have not been able to discover it, and for this reason, Mr. Chairman, I have seen fit to offer the amendment for the purpose which this amendment carries.

I trust, Mr. Chairman, and I beg all the gentlemen here, in their wisdom and in their magnanimity, to give to the people, who are in such great danger, as I have depicted, and more, this relief. My words are inadequate, my vocabulary too small, to properly describe the magnitude of the situation of danger at this place. I trust, Mr. Chairman, that the committee will support this amendment and give these people what I have asked, namely, the small sum of $15,000.

Mr. SPARKMAN. Mr. Chairman, I hope this amendment will not prevail. There is no project for it and no recommendation before the engineers for it at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The amendment was rejected.

The Clerk read as follows:

Improving harbor at Toledo, Ohio: Completing improvement, $105,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I make the point that there is no quorum present.

Mr. SPARKMAN. I will ask the gentleman from Pennsylvania if we could not go on for 15 minutes more.

Mr. MOORE of Pennsylvania. I think there will have to be discussion on this next item.

Mr. AUSTIN. I suggest that we pass over this item, and then go on.

Mr. SPARKMAN. I ask that this item be passed over, and that we return to it later.

Mr. MOORE of Pennsylvania. If the gentleman wants to pass over this item, and adjourn in 15 minutes, I will have no objection.

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent that this item be passed over.

The CHAIRMAN. The point of no quorum has been made. Is it withdrawn?

Mr. MOORE of Pennsylvania. I will withdraw it for 15 minutes.

The Clerk read as follows:

Improving harbor at Saugatuck, and Kalamazoo River, Mich.: For maintenance, $3,000.

Mr. HAMILTON of Michigan. Mr. Chairman, I offer the following amendment:

The CHAIRMAN. The gentleman from Michigan [Mr. HAMILTON] offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 31, line 22, strike out "$3,000" and insert: "$10,000, of which so much as may be necessary shall be allotted for revetment of the north bank of said river eastward from the east end of the said river connecting Lake Michigan."

Mr. HAMILTON of Michigan. Mr. Chairman, I approach this committee in the most respectful and conciliatory attitude. I have heard other gentlemen criticize this committee. I would not think of doing it. I have not a word to say about the Brazos, or the Trinity, or the Albemarle Canal, or the Ouachita, or the Arkansas, or anything else. All I am interested in just at this moment is Saugatuck, Mich. I appeared before the Committee on Rivers and Harbors, and I never was treated more courteously in my life than when I was there, and after presenting my case to the committee I went out under the impression that everybody except the chairman was for my amendment, and I thought it likely he would yield to his better impulses. But I discovered that appearances were deceptive. A good many members of the committee expressed themselves openly in favor of this improvement, and then Col. Taylor was called in, and after advising with him the committee concluded that they would postpone this improvement until after they could have a survey, which would take a year.

I have here a map, which I prepared myself, and I want to show the situation to you. This [indicating] is the Kalamazoo River. It flows northward parallel with Lake Michigan, and then doubles back upon itself and flows into Lake Michigan, or did until the construction of this cut which you see up here. That was constructed some four or five years ago. A lady by the name of Margaret Cook, who lives in Elgin, Ill.—and I hope I shall have the support of every Illinois Member for this improvement—contributed to the Government the land through which this cut is made. After the cut was constructed, it was found that by reason of the conflict between the current of the river and the waves of the lake, an erosion of the north bank of the river was caused which is washing away the land owned by Mrs. Cook and has compelled her to go to the expense of moving some of her buildings back. Not only that but it has washed part of the highway into the river. Mrs. Cook has already paid out more than $4,000 for the construction of a revetment there to protect her property, but the revetment must be extended to be effectual.

In the construction of this revetment she found it necessary to acquire an adjoining piece of ground, so that she has so far been obliged to pay out over $8,000 for the protection of that property.

Now, I am not permitted to ask this improvement primarily to protect a private owner, but I am insisting that the commerce at Saugatuck ought to be protected against the possibility of this lady's buildings being rolled into the river from time to time and having to be scooped out by the Government. [Laughter.] The highway has been carried into the river; the buildings have been almost carried into the river; and this lady has been compelled to squander large sums of money to protect her property, but I am told that I am not permitted to ask the Government to protect private owners from the effects of public improvements. I doubt that, but I have no time to discuss it now. After conference with the engineers' office, gentlemen of the committee assured me that they regarded this as a very meritorious case, but they said, "We think there ought to be a survey." Every man on the committee knows what is going on there.

The engineers' office knows what is going on. Everybody knows that this highway has been washed away and that this lady's buildings are in danger of being washed into the river, but still you want a survey and a report, which will postpone action a year. It appears that I am not permitted to ask action on account of the private interests involved here, but I am permitted to ask action on account of the public interests involved, and I ask you, gentlemen, not to insist upon a survey to find out something that you know all about now.

What is the use of it? It is like the celebrated case of the man who applied for an injunction concerning a cargo of ice, and long before the case was decided the ice melted. This whole property may be washed into the Kalamazoo River before you can get a survey and a report.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SPARKMAN. Mr. Chairman, as the gentleman from Michigan [Mr. HAMILTON] stated, he did come before our committee and presented very earnestly the proposition that he has presented here, but upon examination we found that there was no project for it; the engineers had not investigated it so as to be able to tell us what it was going to cost; and we know nothing about it except from hearsay. So, of course, the proper, the business-like thing to do was and is to have a survey and let the engineers tell us whether the work is advisable, whether it is in the interest of navigation, and what it is going to cost.

Now, we have inserted in the bill a provision for a survey, and if the bill passes and becomes a law the survey will be made in due time, and we will obtain a report upon which action may be taken, likely at the next session of Congress.

Mr. HAMILTON of Michigan. May I ask the gentleman how long that will be?

Mr. SPARKMAN. Congress will meet in December next. I should have said, perhaps, that we can act upon it at the next regular session.

Mr. HAMILTON of Michigan. The gentleman means by that that possibly nearly a year from now we might get action?

Mr. SPARKMAN. It does not take quite a year to get a report. It will not be quite a year until we shall have assembled here again in regular session, at which time I hope we will begin the preparation of another bill. But whether it is 2 months or 12 months or 14 months, Mr. Chairman, we can not afford to treat this project differently from what we treat others. We must treat them all alike.

Mr. HAMILTON of Michigan. I wish you would.

Mr. SPARKMAN. The gentleman says he wishes we would. But if the gentleman will call to my attention any case where the present committee or any other Committee on Rivers and Harbors has in recent years unjustly discriminated, I will be obliged to him. We have not done so in any case.

Mr. HAMILTON of Michigan. Mr. Chairman, I would like to have one minute in which to say a word to my friend.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. HAMILTON of Michigan. The gentleman from Florida [Mr. SPARKMAN] says there is no project. The gentleman is chairman of the Committee on Rivers and Harbors, and he knows that the project under which that cut was made calls for revetments on the banks of that river, and that work has not yet been finished.

Mr. SPARKMAN. I beg the gentleman's pardon. On the contrary, I know, as well as I can know anything from reading the reports and talking with the engineers, that there is no project whatever for this work. The only way to get one is to have the engineers pass upon it, as we have provided in this bill that they shall do. If the bill becomes a law, they will do it; and when we have that before us we will know whether we ought to make the improvement or not. I do not know what it is going to cost. The gentleman can not tell us what it is going to cost. No one else can tell us in advance of an investigation.

Mr. HAMILTON of Michigan. Mr. Chairman, just a word in answer to the gentleman. He says I can not tell how much this will cost. I can tell him how much it will cost. I have submitted the figures to the gentleman's committee, to the effect that the 400 feet of revetment which this lady has already constructed cost her $4,000. I have submitted figures to the effect that 700 feet will be needed, and that it will cost somewhere near $7,000, possibly a little less. The Corps of Engineers have informed themselves fully and have been able to tell you how much it would cost and just how many feet of revetment are needed there. The Engineer's Office knows all about it. They have had reports from the Grand Rapids corps of engineers. They are fully informed.

Mr. SPARKMAN. Mr. Chairman, only a few words more. If any engineer has stated to the River and Harbor Committee what that work would cost, I have no knowledge of it. But even if he had done so, his estimate would have been made outside of and independent of any action by Congress; and, as I said a moment ago, we are not accustomed to make such improvements or to authorize them until a report has been made by the engineers and a project recommended by them.

Mr. HAMILTON of Michigan. Why not break over your custom occasionally?

Mr. SPARKMAN. When you break over a custom like that you get on very dangerous ground.

Mr. HAMILTON of Michigan. Why not authorize improvements that are so obviously necessary?

Mr. SPARKMAN. We are importuned very often to do that very thing, to violate the rules under which we frame our river and harbor bills, but the House committee has not done it in recent years. Nor has this House done so in many years.

The CHAIRMAN. The question is on the amendment of the gentleman from Michigan [Mr. HAMILTON].

The question being taken, on a division (demanded by Mr. HAMILTON of Michigan) there were—ayes 12, noes 21.

Accordingly the amendment was rejected.

Mr. MOORE of Pennsylvania. Mr. Chairman, I renew the point of no quorum.

Mr. SPARKMAN. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

HOUR OF MEETING TO-MORROW.

Mr. SPARKMAN. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow.

The SPEAKER. The gentleman from Florida asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow. Is there objection?

Mr. MANN. Reserving the right to object, if we meet at 11 o'clock to-morrow, Saturday, will it not be practicable to adjourn by half past 5 or 6 o'clock?

Mr. SPARKMAN. I have no objection, so far as I am concerned, if we can get through with this bill, as I hope we will be able to do.

Mr. MANN. Whether we get through with the bill or not.

The SPEAKER. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. SPARKMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 30 minutes p. m.) the House adjourned until to-morrow, Saturday, January 25, 1913, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the assistant clerk of the Court of Claims, transmitting the findings of the court in the case of Emmetta Humphreys, administratrix de bonis non of John Sevier, sr., and John Sevier, jr., v. The United States (H. Doc. No. 1302); to the Committee on the Public Lands and ordered to be printed.

2. A letter from the counsel of the Georgetown Barge, Dock, Elevator & Railway Co., transmitting the annual report of said company (H. Doc. No. 1303); to the Committee on the District of Columbia and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. SLAYDEN, from the Committee on the Library, to which was referred the joint resolution (S. J. Res. 156) to appoint George Gray a member of the Board of Regents of the Smithsonian Institution, reported the same without amendment, accompanied by a report (No. 1381), which said bill and report were referred to the House Calendar.

Mr. SWEET, from the Committee on Military Affairs, to which was referred the bill (S. 1589) to authorize the exchange of conveyances between the Florida East Coast Railway Co. and the United States, reported the same without amendment, accompanied by a report (No. 1382), which said bill and report were referred to the Committtee of the Whole House on the state of the Union.

Mr. FITZGERALD, from the Committee on Appropriations, to which was referred the joint resolution (S. J. Res. 145) to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913, reported the same without amendment, accompanied by a report (No. 1383), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HINDS: A bill (H. R. 28406) to increase the limit of cost for increased quarantine facilities at the port of Portland, Me.; to the Committee on Interstate and Foreign Commerce.

By Mr. WICKERSHAM: A bill (H. R. 28407) to amend an act entitled "An act to encourage the development of coal deposits in the Territory of Alaska," approved May 28, 1908, and for other purposes; to the Committee on the Territories.

By Mr. SMITH of Texas: A bill (H. R. 28408) authorizing the payment of damages to persons for injuries inflicted by Mexican Federal or insurgent troops within the United States during the insurrection in Mexico in 1911, making appropriation therefor, and authorizing and directing the Secretary of State to proceed in conformity with diplomatic usage and international law to secure reimbursement therefor from Mexico; to the Committee on Foreign Affairs.

By Mr. STEENERSON: A bill (H. R. 28409) to empower the United States district court for the district of Minnesota to establish the status of the allottees on the White Earth Indian Reservation in said State; to the Committee on Indian Affairs.

By Mr. STANLEY: Joint resolution (H. J. Res. 389) authorizing the Secretary of War to use tents and rations for the relief of destitute persons in the district overflowed by the Ohio River and its tributaries; to the Committee on Appropriations.

By Mr. SIMMONS: Joint resolution (H. J. Res. 390) to provide for the appointment of a commission to investigate and report upon the advisability, feasibility, and cost of transportation from Panama to Alaska of parts of the plant, machinery, and equipment now in use at the Isthmus of Panama in the construction of the Isthmian Canal, and its use in Alaska in building a railroad from the coast to United States coal lands and the mining of coal and transporting same to the seaboard; to the Committee on Interstate and Foreign Commerce.

By Mr. MANN: Concurrent resolution (H. Con. Res. 68) providing for the printing of Report No. 98, Department of Agriculture; to the Committee on Printing.

By Mr. POU: Resolution (H. Res. 789) to amend section 6 of Rule XXIV, Sixty-second Congress; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CANNON: A bill (H. R. 28410) granting a pension to Eva A. Winder; to the Committee on Invalid Pensions.

By Mr. CANTRILL: A bill (H. R. 28411) for the relief of Thomas B. Lawrence; to the Committee on War Claims.

Also, a bill (H. R. 28412) for the relief of Oldham County, Ky.; to the Committee on War Claims.

By Mr. DYER: A bill (H. R. 28413) granting a pension to Josephine C. Nixon; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 28414) for the relief of heirs of Emanuel Aycock; to the Committee on War Claims.

By Mr. FIELDS: A bill (H. R. 28415) granting a pension to W. T. Mobley; to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 28416) granting a pension to John F. De Wire; to the Committee on Invalid Pensions.

By Mr. FOWLER: A bill (H. R. 28417) granting a pension to William F. McRill; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28418) granting an increase of pension to John I. Keel; to the Committee on Invalid Pensions.

By Mr. GRAHAM: A bill (H. R. 28419) granting an increase of pension to Susan H. Cole; to the Committee on Invalid Pensions.

By Mr. GREGG of Pennsylvania: A bill (H. R. 28420) to promote on the retired list of the United States Army Brig. Gen. David S. Gordon; to the Committee on Military Affairs.

By Mr. GUERNSEY: A bill (H. R. 28421) granting a pension to Elvira Fuller; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 28422) granting a pension to Charles W. James; to the Committee on Pensions.

By Mr. HINDS: A bill (H. R. 28423) granting a pension to Frederick A. Spring; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28424) granting a pension to Nora H. Williamson; to the Committee on Invalid Pensions.

By Mr. JACOWAY: A bill (H. R. 28425) granting an increase of pension to Edward S. Banister; to the Committee on Pensions.

By Mr. KORBLY: A bill (H. R. 28426) granting an increase of pension to George W. Fox; to the Committee on Invalid Pensions.

By Mr. McKINLEY: A bill (H. R. 28427) granting a pension to William E. Fidler; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 28428) granting an increase of pension to Marshall C. Conroe; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28429) granting an increase of pension to James T. Herrington; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28430) to remove the charge of desertion from the military record of Zora B. Custer; to the Committee on Military Affairs.

By Mr. REES: A bill (H. R. 28431) granting a pension to Louisa Hicklin; to the Committee on Invalid Pensions.

By Mr. SISSON: A bill (H. R. 28432) granting an increase of pension to Mary Rebecca Carroll; to the Committee on Pensions.

By Mr. SWEET: A bill (H. R. 28433) for the relief of William Finn; to the Committee on Military Affairs.

By Mr. HAMILTON of West Virginia: A bill (H. R. 28434) granting an increase of pension to Samuel N. Black; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 28435) for the relief of the legal representatives or heirs of Paul Noyes, deceased; to the Committee on War Claims.

By Mr. NEELEY: A bill (H. R. 28436) granting an increase of pension to James M. White; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BATES: Petition of the Ministerial Body of Erie, Pa., Rev. Robert Clements, president; Rev. E. M. Vickers, secretary, favoring the passage of the Kenyon "red-light" bill, Kenyon-Webb interstate liquor bill, and the Lea-Sims anti-gambling bill; to the Committee on the District of Columbia.

Also, petition of the Retail Merchants' Association, A. M. Howes, secretary; and the Business Men's Exchange, A. M. Howes, secretary, of Erie, Pa., favoring passage of the Weeks bill (H. R. 27567), providing universal 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of Edward Jones, Albert Jones, and the Maple Grove Stock Farm, Frank Jones, manager, of Centerville, Pa., favoring the passage of the Haugen oleomargarine bill, to prevent the sale of colored imitation of butter; to the Committee on Agriculture.

By Mr. CALDER: Petition of the United States Live Stock Sanitary Association, Chicago, Ill., favoring an increase of the Federal appropriation for tick eradication; to the Committee on Agriculture.

Also, petition of the International Stationery Co., New York, favoring the passage of House bill 27567, for a 1-cent postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the Eastern Talking Machine Co., New York, protesting against the passage of section 2 of the Oldfield patent bill preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. CANNON: Papers to accompany bill granting a pension to Eva A. Winter; to the Committee on Invalid Pensions.

By Mr. CANTRILL: Papers to accompany bill for the relief of Thomas B. Lawrence, Winchester, Ky.; to the Committee on War Claims.

By Mr. CARY: Petition of the National Civic Federation, New York, favoring the passage of legislation granting pension to employees of the Government incapacitated by old age; to the Committee on Pensions.

Also, petition of the Optenberg Iron Works, Sheboygan, Wis., favoring the passage of House bill 27567, for a 1-cent postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of Bernhard Stern & Co., Milwaukee, Wis., favoring the passage of Senate bill 7208, for amending the Harter Act so that the foreign shipowners can not exempt themselves from merchandise lost through carelessness; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Moisant International Aviators, New York, favoring the passage of legislation for appropriating sufficient funds for the proper equipment and maintenance of aerial vessels or for the abolishment of same in the Army and Navy; to the Committee on Military Affairs.

Also, petition of the Wisconsin Association of Outlying Waters Fishermen, Two Rivers, Wis., favoring the passage of legislation for the protection of the fish industry by having a closed season, beginning October 15 and lasting from four to six weeks; to the Committee on the Merchant Marine and Fisheries.

By Mr. CLARK of Florida: Petition of William T. Glynn and numerous other citizens of Florida, protesting against any reduction of tariff on citrus fruits; to the Committee on Ways and Means.

By Mr. DALZELL: Petition of citizens of Pittsburgh, Pa., favoring the passage of legislation for Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. DANFORTH: Petition of teachers and pupils of West Webster, N. Y., and of No. 16 School of Rochester, N. Y., favoring the passage of the McLean bill granting Federal protection to migratory birds; to the Committee on Agriculture.

Also, petition of the F. A. Smith Manufacturing Co., Rochester, N. Y., protesting against any change of tariff on thorium and gas mantles; to the Committee on Ways and Means.

By Mr. DAVIS of Minnesota: Petition of the State Butter and Cheese Association of Minnesota, favoring the passage of the Haugen bill and protesting against the passage of the Lever oleomargarine bill; to the Committee on Agriculture.

Also, petition of the Federation of Women's Clubs of Minnesota, favoring the passage of House bill 25685, providing for the tagging and labeling of all fabrics and goods to sell under interstate commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. DRAPER: Petition of the National Association of Railroad Commissioners, favoring the passage of Senate bill 6099, for a uniform freight classification and rate; to the Committee on Interstate and Foreign Commerce.

By Mr. FOCHT: Petition of citizens of McConnellsburg, Pa., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. FOSS: Petition of the First Methodist Episcopal Church, Waukegan, Ill., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. FULLER: Petition of Henry Ford, president of the Ford Motor Co., favoring the passage of Senate bill 6497, to protect migratory birds; to the Committee on Agriculture.

By Mr. GALLAGHER: Petition of the Miehle Printing Press & Manufacturing Co., Chicago, Ill., protesting against the reduction of the present tariff on printing presses; to the Committee on Ways and Means.

By Mr. GARDNER of Massachusetts: Petition of the Association of Eastern Foresters, protesting against the passage of any legislation to transfer the national forests to the control and ownership of the individual States; to the Committee on Agriculture.

By Mr. GUERNSEY: Petition of Maine State Grange, Kenduskeag, Me., favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. HINDS: Papers to accompany bill granting a pension to Frederick A. Spring; to the Committee on Invalid Pensions.

By Mr. LINDSAY: Petition of the Brainerd Manufacturing Co., East Rochester, N. Y., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the National Association of Railway Commissioners, favoring the passage of Senate bill 6099, for the establishment of a uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

Also, petition of Thomas A. Morrison, Smethport, Pa., favoring the passage of House bill 1339, granting an increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. LOBECK: Petition of the agricultural-development committee of the Nebraska Bankers' Association, favoring the passage of the Lever agriculture-extension bill for the betterment of agricultural works; to the Committee on Agriculture.

Also, petition of the North Platte Valley Water Users' Association, protesting against the canceling of homestead entries for the nonpayment of charges under reclamation projects, etc.; to the Committee on the Public Lands.

Also, petition of the Lincoln (Nebr.) Chamber of Commerce, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the System of Federation of the Harriman Lines, asking that Congress see to it that the inspection of railroad equipment is enforced; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORE of Pennsylvania: Petition of the Philadelphia (Pa.) Board of Trade, favoring the passage of Senate bill 122, known as the Newlands regulation bill; to the Committee on Rivers and Harbors.

Also, petition of the Philadelphia Board of Trade, favoring the passage of legislation making an appropriation for the erection of a new customhouse at Philadelphia; to the Committee on Public Buildings and Grounds.

By Mr. NEELEY: Petition of the Methodist Episcopal Church of Medicine Lodge, Kans., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Kansas Academy of Science, favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the New Haven Post, Grand Army of the Republic, protesting against the use of the Pension Building for an inaugural ball; to the Committee on the District of Columbia.

By Mr. REILLY: Petition of the Board of Agriculture of the State of Connecticut, favoring the passage of the Lever agriculture-extension bill for the advancement of agriculture; to the Committee on Agriculture.

Also, petition of the National Association of Railway Commissioners, favoring the passage of Senate bill 6099, for the establishment of a uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of legislation to transfer the national forests to the control and ownership of the individual States within which they lie; to the Committee on Agriculture.

By Mr. ROBERTS of Massachusetts: Petition of citizens of Somerville, Mass., favoring the passage of the McLean bill, for granting Federal protection to migratory birds; to the Committee on Agriculture.

By Mr. SCULLY: Petition of the New Jersey Chapter of the American Institute of Architects, favoring the adoption of the Mall site and design, as approved by the National Commission of Fine Arts, for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of legislation transferring the ownership of national forests to the States within which they lie; to the Committee on Agriculture.

By Mr. UNDERHILL: Petition of citizens of New York State, favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. WILSON of New York: Petition of the Brooklyn Chapter of the American Institute of Architects and the American Group of the Société des Architectes Diplômés par le Gouvernement Français, New York, favoring the adoption of the Mall site and the design, as approved by the National Commission of Fine Arts, for the memorial to Abraham Lincoln; to the Committee on the Library.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January 25, 1913.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We bless Thee, Infinite Spirit, our heavenly Father, for the precepts enunciated and exemplified in the life of Thy servants, especially for those great precepts enunciated by the Jesus of Nazareth and exemplified in His incomparable life and character, the earnest for all who strive for the mastery of self in perfected manhood which fits us for the here and the there, the now and the then. And we most fervently pray for the victory for ourselves and all men, that we may satisfy the longings of our better self and reflect Thy glory in an unblemished character. This we ask in the spirit of the Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Stuart, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 8383. An act for the relief of Capt. Frank Parker.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolution of the following title were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 8383. An act for the relief of Capt. Frank Parker; to the Committee on Military Affairs.

S. J. Res. 157. Joint resolution to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913; to the Committee on Appropriations.

NEW JERSEY-NEW YORK JOINT HARBOR LINE COMMISSION.

Mr. TOWNSEND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table House joint resolution 210, authorizing the President to appoint a member of the New York-New Jersey Joint Harbor Line Commission, with the Senate amendment thereto, and consider the same at this time.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the Senate amendment.

The Clerk read the Senate amendment.

Mr. TOWNSEND. Mr. Speaker, I move to concur in the Senate amendment.

The motion was agreed to.

SPEAKER PRO TEMPORE FOR SUNDAY, JANUARY 26, 1913.

The SPEAKER appointed Mr. FITZGERALD to preside as Speaker pro tempore at the memorial exercises to be held Sunday, January 26, 1913.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. TAGGART to attend the memorial exercises in honor of the late Representative W. W. WEDEMEYER.

CALL OF THE HOUSE.

Mr. STANLEY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. Evidently there is no quorum present.

Mr. FITZGERALD. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken, S. C.	Gardner, N. J.	Lafean	Prouty
Ames	George	Lamb	Pujo
Ansberry	Gill	Langley	Rainey
Ayres	Gillett	Legare	Randell, Tex.
Barchfeld	Glass	Levy	Redfield
Bates	Goeke	Lindsay	Reyburn
Berger	Green, Iowa	Linthicum	Rodenberg
Bradley	Greene, Mass.	Littleton	Rucker, Colo.
Brantley	Griest	Longworth	Sabath
Brown	Gudger	Loud	Scully
Browning	Guernsey	McCall	Sells
Burke, Pa.	Hamilton, Mich.	McGuire, Okla.	Sheppard
Candler	Hardwick	McKinley	Sherley
Cantrill	Harris	McLaughlin	Slemp
Carter	Harrison, Miss.	Martin, Colo.	Small
Clark, Fla.	Harrison, N. Y.	Martin, S. Dak.	Smith, J. M. C.
Cline	Hartman	Matthews	Smith, Cal.
Conry	Hayes	Merritt	Smith, N. Y.
Cooper	Heald	Moon, Pa.	Speer
Copley	Higgins	Moore, Tex.	Stack
Crago	Hill	Mott	Stephens, Nebr.
Cravens	Hinds	Murdock	Sulloway
Crumpacker	Hobson	Needham	Talbott, Md.
Cullop	Howard	Nelson	Taylor, Colo.
Curry	Howell	Oldfield	Tilson
Danforth	Hull	Olmsted	Underwood
Davis, Minn.	Humphrey, Wash.	O'Shaunessy	Vare
Davis, W. Va.	Jackson	Palmer	Vreeland
De Forest	James	Patten, N. Y.	Watkins
Dickson, Miss.	Johnson, Ky.	Patton, Pa.	Weeks
Difenderfer	Jones	Payne	Whitacre
Dixon, Ind.	Kennedy	Peters	Wilder
Doremus	Kent	Plumley	Wilson, N. Y.
Fields	Kindred	Porter	Wood, N. J.
Focht	Kitchin	Pou	Woods, Iowa
Fordney	Konig	Pray	

The SPEAKER. On this call 240 gentlemen have answered to their names, a quorum.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with further proceedings under the call.

The question was taken, and the motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors.

WITHDRAWAL OF PAPERS.

By unanimous consent, Mr. RIORDAN was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Henrietta Sherman, Fifty-eighth Congress, third session, no adverse report having been made thereon.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I desire to call up the conference report on the bill S. 3175, the immigration bill, and move the adoption of the report, and on that I demand the previous question.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that until the report is read the gentleman is a little previous.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] calls up the conference report on the immigration bill, which the Clerk will report.

The Clerk began the reading of the report.

Mr. BURNETT. Mr. Speaker, I ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. The gentleman from Alabama asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. GOLDFOGLE. Mr. Speaker, reserving the right to object, I would ask the gentleman from Alabama whether, if the

unanimous consent now asked for be given, he will, notwithstanding that, move the previous question?

Mr. MANN. Mr. Speaker, could not we, pending that, reach an agreement as to time?

Mr. BURNETT. If the previous question is adopted, there will be 20 minutes on a side, I understand.

Mr. MANN. Mr. Speaker, if the report should be read and the previous question be adopted, there would be 40 minutes' debate. I take it it will take a half an hour—I do not remember how long—to read the conference report.

The SPEAKER. It will take an hour.

Mr. MANN. Why not make an agreement to save that time and use it in debate instead of reading the report?

Mr. BURNETT. And then agree that the previous question may be considered as ordered?

Mr. MANN. By agreement——

Mr. BURNETT. Would this kind of an agreement satisfy the gentleman, that the debate on the previous question by unanimous consent instead of being confined to 40 minutes be for an hour? I would not want the 40 minutes' debate on the previous question and the hour besides.

Mr. MANN. I understand.

Mr. MOORE of Pennsylvania. Let us have an hour's debate.

Mr. BURNETT. If that agreement can be reached it will be perfectly satisfactory to us.

The SPEAKER. That will be done if anybody will ask for it and nobody objects to it.

Mr. MANN. Ask unanimous consent that the statement may be read in lieu of the report and that we have one hour's debate, and at the end of that time the previous question be considered as ordered——

Mr. BURNETT. Yes; I ask that.

Mr. MANN. The time to be equally divided.

Mr. GOLDFOGLE. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. GOLDFOGLE. For the purpose of asking a modification of the request that is submitted by the gentleman from Illinois. I would have it an hour and fifteen minutes, in which case I will not make any objection, the time to be divided between the gentleman from Alabama [Mr. BURNETT] and myself, one-half to be controlled by the gentleman from Alabama and one-half by myself.

Mr. BURNETT. That is satisfactory.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the statement be read in lieu of the report and that there shall be an hour and fifteen minutes of debate, at the end of which time the previous question shall be considered as ordered, the time to be divided equally between the gentleman from Alabama [Mr. BURNETT] and the gentleman from New York [Mr. GOLDFOGLE].

Mr. MOORE of Pennsylvania. Now, Mr. Speaker, that arrangement is entirely satisfactory to me if some agreement can be had with regard to time for this side. The peculiar situation here is that the gentlemen controlling the time are really upon the same side of the House. There are gentlemen over here who desire some time.

Mr. MANN. I take it that the gentleman from Pennsylvania will receive time from the gentleman from New York.

Mr. MOORE of Pennsylvania. How much time does the gentleman from New York expect to get out of this 1 hour and 15 minutes?

Mr. GOLDFOGLE. Half of it.

Mr. MOORE of Pennsylvania. How much time will the gentleman from New York concede to me?

Mr. GOLDFOGLE. How much time does the gentleman want?

Mr. MOORE of Pennsylvania. I think I ought to have one-half of the time the gentleman takes to himself.

Mr. MANN. For use on this side of the House?

Mr. MOORE of Pennsylvania. For use on this side of the House.

The SPEAKER. Is the gentleman from Illinois [Mr. MANN] or the gentleman from Pennsylvania [Mr. MOORE] to control the time on their side?

Mr. MOORE of Pennsylvania. The gentleman concedes 20 minutes to this side.

Mr. GOLDFOGLE. There seems to be so many on this side of the House who want to talk that I can not concede to the gentleman from Pennsylvania as much time as he wants.

Mr. MOORE of Pennsylvania. Then I shall be compelled to object.

The SPEAKER. How much time will the gentleman yield to the gentleman from Pennsylvania [Mr. MOORE], if any?

Mr. MOORE of Pennsylvania. This is a tripartite arrangement——

The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. MANN]?

Mr. MOORE of Pennsylvania. Mr. Speaker, I reserve the right to object until we get this question of time settled. If the gentleman from New York [Mr. GOLDFOGLE] is willing to concede 15 minutes of his time to this side of the House, to be controlled by me, I will not object.

Mr. SHERLEY. How much time does the gentleman want?

Mr. MOORE of Pennsylvania. I want to control 15 minutes.

Mr. SHERLEY. That is just it. There is no more reason why you should control time than some other Republicans should control time who are not in favor of it.

Mr. MANN. The gentleman is not only the ranking member of the committee but is a Member on this side of the House. I think there can be no objection to giving him 15 minutes' time.

Mr. BURNETT. We have hardly had any requests for our time, and we will give the gentleman 10 minutes of it.

The SPEAKER. Is there objection?

Mr. GOLDFOGLE. Will the gentleman from Alabama [Mr. BURNETT] yield to the gentleman from Pennsylvania [Mr. MOORE] 10 minutes of time?

Mr. BURNETT. Ten minutes of time.

Mr. GOLDFOGLE. Then I will yield 10 minutes, inasmuch as the gentleman from Alabama is willing to yield 10 minutes to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. Very well. I am satisfied.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. The Clerk will read the statement.

The conference report is as follows:

CONFERENCE REPORT (NO. 1378).

The committee of conference on the disagreeing votes of the two Houses to the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States" having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: Strike out the text inserted by the House amendment and insert in lieu thereof the following:

"That the word 'alien' wherever used in this act shall include any person not a native born or naturalized citizen of the United States, or who has not declared his intention of becoming a citizen of the United States in accordance with law; but this definition shall not be held to include Indians not taxed or citizens of the islands under the jurisdiction of the United States. That the term 'United States' as used in the title as well as in the various sections of this act shall be construed to mean the United States and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. That the term 'seaman' as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign part or place.

"That this act shall be enforced in the Philippine Islands by officers of the General Government thereof designated by appropriate legislation of said Government.

"SEC. 2. That there shall be levied, collected, and paid a tax of $5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port of customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who shall enter the United States after an uninterrupted residence of at least one year, immediately preceding such entrance, in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, nor on account of otherwise admissible residents of

any possession of the United States, nor on account of aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, by agreement with transportation lines, as provided in section 23 of this act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: *Provided further*, That said tax, when levied upon aliens entering the Philippine Islands, shall be paid into the treasury of said islands, to be expended for the benefit of such islands: *Provided further*, That in the cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall upon application be refunded to the alien: *Provided further*, That the provisions of this section shall not apply to aliens arriving in Guam or Hawaii; but if any such alien, not having become a citizen of the United States, shall later arrive at any port or place of the United States on the North American Continent the provisions of this section shall apply.

"SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had one or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port, the Secretary of Commerce and Labor shall have consented to their reapplying for admission; persons whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway may be admitted in the discretion of the Secretary of Commerce and Labor; all children under 16 years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe; persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

"That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

"All aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips, of uniform size, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plainly legible type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this act relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign Government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Commerce and Labor to be reached after a full hearing and an investigation into the facts of the case; but such determination shall not become final until a period of 30 days has elapsed. Within 3 days after such determination the Secretary of Commerce and Labor shall cause to be published a brief statement reciting the substance of the application, the facts presented at the hearing and his determination thereon, in three daily newspapers of general circulation in three of the principal cities of the United States. At any time during said period of 30 days any person dissatisfied with the ruling may appeal to the district court of the United States of the district into which the labor is sought to be brought, which court, or the judge thereof in vacation, shall have jurisdiction to try de novo such question of necessity, and the decision in such court shall be final. Such appeals shall operate as a supersedeas: *Provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants: *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign Government to its citizens or subjects to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment

of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone: *Provided further*, That nothing in this act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of a concession or privilege for any fair or exposition authorized by act of Congress, from bringing into the United States, under contract, such alien mechanics, artisans, agents, or other employees, natives of his country, as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may prescribe both as to the admission and return of such persons: *Provided further*, That nothing in this act shall be construed to apply to accredited officials of foreign Governments nor to their suites, families, or guests: *Provided further*, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

"SEC. 4. That the importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import, into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall in every such case be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than 10 years and by a fine of not more than $5,000. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or in any district in which a violation of any of the foregoing provisions of this section occur. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this act which relate to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to or to enter the United States shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than two years. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against a wife or husband.

"SEC. 5. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to induce, assist, encourage, or solicit the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the provisions of section 3 of this act, and for every violation of any of the provisions of this section the person, partnership, company, or corporation violating the same shall forfeit and pay for every such offense the sum of $1,000, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such aliens thus offered or promised employment as aforesaid, as debts of like amount are now recovered in the courts of the United States; or for every violation of the provisions hereof the person violating the same may be prosecuted in a criminal action for a misdemeanor, and on conviction thereof shall be punished by a fine of $1,000, or by imprisonment for a term of not less than six months nor more than two years; and under either the civil or the criminal procedure mentioned separate suits or prosecutions may be brought for each alien thus offered or promised employment as aforesaid.

"SEC. 6. That it shall be unlawful and be deemed a violation of section 5 of this act to induce, assist, encourage, or solicit any alien to come into the United States by promise of employment through advertisements printed, published, or distributed in any foreign country, whether such promise is true or false, and either the civil or the criminal penalty imposed by said section shall be applicable to such a case: *Provided*, That States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States may advertise, and by written or oral communication with prospective alien settlers make known, the inducements they offer for immigration thereof, respectively.

"SEC. 7. That it shall be unlawful for any person, association, society, company, partnership, corporation, or others engaged in the business of transporting aliens to the United States, including owners, masters, officers, and agents of vessels, directly or indirectly, by writing, printing, or oral representation, to solicit, invite, or encourage any alien to come into the United States, and anyone violating any provision hereof shall be subject to either the civil or the criminal prosecution prescribed by section 5 of this act; or if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any owner, master, officer, or agent of a vessel has brought or caused to be brought to a port of the United States any alien so solicited, invited, or encouraged to come by such owner, master, officer, or agent, such owner, master, officer, or agent shall pay to the collector of customs of the customs district in which the port of arrival is located or in which any vessel of the line may be found the sum of $400 for each and every such violation; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while the fine imposed remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit with the collector of customs of a sum sufficient to cover such fine: *Provided further*, That whenever it shall be shown to the satisfaction of the Secretary of Commerce and Labor that the provisions of this section are persistently violated by or on behalf of any transportation company, it shall be the duty of said Secretary to deny to such company the privilege of landing alien immigrant passengers of any or all classes at United States ports for such a period as in his judgment may be necessary to insure an observance of such provisions: *Provided further*, That this section shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements, confined strictly to stating the sailings of their vessels and terms and facilities of transportation therein.

"SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, or shall conceal or harbor, or attempt to conceal or harbor, or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment for each and every alien so landed or brought in or attempted to be landed or brought in.

"SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel, to bring to the United States any alien afflicted with idiocy, insanity, imbecility, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200 for each and every violation of the provisions of this section. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental or physical defect of a nature which may affect his ability to earn a living, as contemplated in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25 for each and every violation of this provision. It shall also be unlawful for any such person to bring to any port of the United States any alien who is excluded by the provisions of section 3 of this act because unable to read or who can not become eligible, under existing law, to become a citizen of the United States by naturalization, as provided in section 3 of this act, and if it shall appear to the satisfaction of the Sec-

retary of Commerce and Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens from a foreign port such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $100 for each and every violation of this provision. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, or while the fine remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 10. That it shall be the mandatory and unqualified duty of every person, including owners, officers, and agents of vessels or transportation lines, other than those lines which may enter into a contract as provided in section 23 of this act, bringing an alien to any seaport or land border port of the United States, to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers and the failure of any such owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than $100 nor more than $1,000 or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Commerce and Labor it is impracticable or inconvenient to prosecute the owner, master, officer, or agent of any such vessel, a pecuniary penalty of $1,000 shall be a lien upon the vessel whose owner, master, officer, or agent violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United State court.

"SEC. 11. That whenever he may deem such action necessary the Secretary of Commerce and Labor may, at the expense of the appropriation for the enforcement of this act, detail immigrant inspectors and matrons of the United States Immigration Service for duty on vessels carrying immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. On such voyages said inspectors and matrons shall remain in that part of the vessel where immigrant passengers are carried. It shall be the duty of such inspectors and matrons to observe such passengers during the voyage, and report to the immigration authorities in charge at the port of landing any information of value in determining the admissibility of such passengers under the laws regulating immigration of aliens into the United States. It shall further be the duty of such inspectors and matrons to observe violations of the provisions of such laws and the violation of such provisions of the 'passenger act' of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and report the same to the proper United States officials at ports of landing. Whenever the Secretary of Commerce and Labor so directs, a surgeon of the United States Public Health Service, detailed to the Immigration Service, not lower in rank than a passed assistant surgeon, shall be received and carried on any vessel transporting immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. Such surgeon shall be permitted to investigate and examine the condition of all immigrant and emigrant passengers in relation to any provisions of the laws regulating the immigration of aliens into the United States and such provisions of the 'passenger act' of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and shall immediately report any violation of said laws to the master or commanding officer of the vessel, and shall also report said violations to the Secretary of Commerce and Labor within 24 hours after the arrival of the vessel at the port of entry in the United States. Such surgeon shall accompany the master or captain of the vessel in his visits to the sanitary officers of the ports of call during the voyage, and, should contagious or infectious diseases prevail at any port where passengers are received, he shall request all reasonable precautionary measures for the health of persons on board. Such surgeon on arrival at ports of the United States shall also, if requested by the examining board, furnish any information he may possess in regard to immigrants arriving on the vessel to which he has been detailed. While on duty such surgeons shall wear the prescribed uniform of their service and shall be provided with first-class accommodations on such vessel at the expense of the appropriation for the enforcement of this act. For every violation of this section any person, including any transportation company, owning or operating the vessel in which such violation occurs shall pay to the collector of customs of the customs district in which the next United States port of arrival is located the sum of $1,000 for each and every day during which such violation continues, the term 'violation' to include the refusal of any person having authority so to do to permit any such immigrant inspector, matron, or surgeon to be received on board such vessel, as provided in this section, and also the refusal of the master or commanding officer of any such vessel to permit the inspections and visits of any such surgeon, as provided in this section, and no vessel shall be granted clearance papers pending the determination of the question of the liability of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of all such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 12. That upon the arrival of any alien by water at any point within the United States on the North American Continent from a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or at any port of the said insular possessions from any foreign port, from a port in the United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners, or consignees of the steamer, sailing, or other vessel having said alien on board to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, contain full and accurate information as to each alien as follows: Full name, age, and sex; whether married or single; calling or occupation, personal description (including height, complexion, color of hair and eyes, and marks of identification); whether able to read; nationality; country of birth; race; country of last permanent residence; name and address of the nearest relative in the country from which the alien came; seaport for landing in the United States; final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; by whom passage was paid; whether going to join a relative or friend, and if so, what relative or friend, and his or her name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane or supported by charity; whether a polygamist; whether an anarchist; whether a person who believes in or advocates the overthrow by force or violence of the Government of the United States or of all forms of law, or who disbelieves in or is opposed to organized government, or who advocates the assassination of public officials, or is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States; the alien's condition of health, mental and physical; whether deformed or crippled, and if so, for how long and from what cause; and such master or commanding officer, owners, or consignees shall also furnish information in relation to the sex, age, class of travel, and the foreign port of embrakation of arriving passengers who are United States citizens. That it shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or from any port of the said insular possession to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with the immigration officials before departure a list which shall contain full and accurate information in relation to the following matters regarding all alien passengers, and all citizens of the United States or insular possessions of the United States departing with the stated intent to reside permanently in a foreign country, taken on board: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States or insular possessions thereof; if a citizen of the United States or of the insular possessions thereof, whether native born or naturalized; intended future permanent residence; and time and port of last arrival in the United States, or insular possessions thereof; and such master or commanding officer shall also furnish information in relation to the sex, age, class of travel, and port of debarkation of the United States citizens departing who do not intend to reside permanently in a foreign

country; and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each person of the classes specified taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall be punishable as provided in section 14 of this act: *Provided*, That in the case of vessels making regular trips to ports of the United States the Commissioner General of Immigration, with the approval of the Secretary of Commerce and labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further*, That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen, whether native born or naturalized.

"SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, the names of those coming from the same locality to be assembled so far as practicable, and no one list or manifest shall contain more than 30 names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, etc., is contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is of any of the classes excluded from admission into the United States by section 3 of this act, and that also according to the best of his knowledge and belief, the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessels, and the manifests shall be verified by such surgeon before a United States consular officer.

"SEC. 14. That it shall be unlawful for the master or commanding officer of any vessel bringing aliens into or carrying aliens out of the United States to refuse or fail to deliver to the immigration officials the accurate and full manifests or statements or information regarding all aliens on board or taken on board such vessel required by this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a refusal or failure, or that the lists delivered are not accurate and full, such master or commanding officer shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each alien concerning whom such accurate and full manifest or statement or information is not furnished, or concerning whom the manifest or statement or information is not prepared and sworn to as prescribed by this act. No vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine.

"SEC. 15. That upon the arrival at a port of the United States of any vessel bringing aliens it shall be the duty of the proper immigration officials to go or to send competent assistants to the vessel and there inspect all such aliens, or said immigration officials may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this act, bind the said transportation lines, masters, agents, owners, or consignees: *Provided*, That where removal is made to premises owned or controlled by the United States, said transportation lines, masters, agents, owners, or consignees, and each of them, shall, so long as detention there lasts, be relieved of responsibility for the safe-keeping of such aliens. Whenever a temporary removal of aliens is made the transportation lines which brought them and the masters, owners, agents, and consignees of the vessel upon which they arrive shall pay all expenses of such removal and all expenses arising during subsequent detention pending decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, such expenses to include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel in the event of deportation, excepting only where they arise under the terms of any of the provisos of section 18 thereof; any refusal or failure to comply with the provisions hereof to be punished in the manner specified in section 18 of this act.

"SEC. 16. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine, and who shall certify, for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service, upon such terms as may be prescribed by the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental defect shall be detailed for duty or employed at all large ports of entry, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defect is suspected, and the services of interpreters shall be provided for such examination. That the inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this act, shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and, where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered, under the provisions of this act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section 125 of the act approved March 4, 1909, entitled 'An act to codify, revise, and amend the penal laws of the United States.' Any commissioner of immigration or inspector in charge shall also have power to require the attendance and testimony of witnesses before said inspectors and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States, and to that end may invoke the aid of any court of the United States; and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpœna issued by any commissioner of immigration or inspector in charge or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents if demanded, and testify; and any failure to obey such order of the court shall be punished by the court as a contempt thereof. That any person, includ-

ing employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not less than six months nor more than two years, or by a fine of not less than $200 nor more than $2,000; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall on conviction thereof be punished by imprisonment for not less than 1 nor more than 10 years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Commerce and Labor is permitted by this act, the alien shall be so informed and shall have the right to be represented by counsel or other advisor on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation.

"SEC. 17. That boards of special inquiry shall be appointed by the commissioner of immigration or inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, shall from time to time designate as qualified to serve on such boards. When in the opinion of the Secretary of Commerce and Labor the maintenance of a permanent board of special inquiry for service at any sea or land border port is not warranted, regularly constituted boards may be detailed from other stations for temporary service at such port, or, if that be impracticable, the Secretary of Commerce and Labor shall authorize the creation of boards of special inquiry by the immigration officials in charge at such ports, and shall determine what Government officials or other persons shall be eligible for service on such boards. Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. All hearings before such boards shall be separate and apart from the public. Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Commerce and Labor, and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision, which shall be rendered solely upon the evidence adduced before the board of special inquiry. In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of a board of special inquiry if adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Commerce and Labor: *Provided*, That the decision of a board of special inquiry, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens affected with tuberculosis in any form or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section 3 of this act.

"SEC. 18. That all aliens brought to this country in violation of law shall, if practicable, be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came on the vessels bringing them. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien; or to take any security from him for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act, unless prior to reembarkation the Secretary of Commerce and Labor has consented that such alien shall reapply for admission, as required by section 3 hereof; and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the customs district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of this section; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any alien found to have come in violation of any provision of this act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act, or such alien may be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required as a witness and for deportation. No alien certified, as provided in section 16 of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless with the express permission of the Secretary of Commerce and Labor: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

"SEC. 19. That any alien, at any time within three years after entry, who shall enter the United States in violation of law; any alien who within three years after entry becomes a public charge from causes existing prior to the landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within three years after the entry of the alien to the United States; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists, protects, or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section 4 hereof; any alien, at any time within three years after entry, who shall enter the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, shall, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and deported: *Provided*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence, make a recommendation to the Secretary of Commerce and Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States. In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty now existing, the decision of the Secretary of Commerce and Labor shall be final.

"SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Commerce and Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If effected at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such vessels or transportation line by which such aliens respectively came, or, if that is not practicable, at the expense of the appropriation for the enforcement of this act. If such deportation is effected later than five years after the entry of the alien, or if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Commerce and Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section 18 of this act: *Provided*, That when in the opinion of the Secretary of Commerce and Labor the mental or physical condition of such alien is such as to require personal care and attendance, he may employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in like manner. Pending the final disposal of the case of any alien so taken into custody he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

"SEC. 21. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis in any form or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Commerce and Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof, holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. The admission of such alien shall be a consideration for the giving of such bond or undertaking. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, District, county, town, or municipality in which such alien becomes a public charge.

"SEC. 22. That wherever an alien shall have taken up his permanent residence in this country, and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife or minor children to join him, if said wife or any of said children shall be found to be affected with any contagious disorder, such wife or children shall be held, under such regulations as the Secretary of Commerce and Labor shall prescribe, until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable and the husband or father or other responsible person is willing to bear the expense of the treatment, they may be accorded treatment in hospital until cured and then be admitted, or if it shall be determined that they can be permitted to land without danger to other persons, they may, if otherwise admissible, thereupon be admitted.

"SEC. 23. That the Commissioner General of Immigration shall perform all his duties under the direction of the Secretary of Commerce and Labor. Under such direction he shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder; he shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid, and to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed; he shall prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico, so as not to unnecessarily delay, impede, or annoy persons in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose; it shall be the duty of the Commissioner General of Immigration to detail officers of the Immigration Service from time to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges. He may, with the approval of the Secretary of Commerce and Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this act, detail immigration officers, and also surgeons of the United States Public Health Service employed under this act for service in foreign countries. The duties of commissioners of immigration and other immigration officials in charge of districts, ports, or stations shall be of an administrative character, to be prescribed in detail by regulations prepared under the direction or with the approval of the Secretary of Commerce and Labor: *Provided*, That for the purpose of making effective the provisions of this section relating to the protection of aliens from fraud and loss, and also the provisions of section 30 of this act, relating to the distribution of aliens, the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors.

"SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and

their compensation fixed and raised or decreased from time to time by the Secretary of Commerce and Labor, upon the recommendation of the Commissioner General of Immigration and in accordance with the provisions of the civil-service act of January 16, 1883: *Provided*, That said Secretary, in the enforcement of that portion of this act which excludes contract laborers, may employ, without reference to the provisions of the said civil-service act, or to the various acts relative to the compilation of the official register, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw annually from the appropriation for the enforcement of this act $50,000, or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Commerce and Labor certifies that an itemized account would not be for the best interests of the Government: *Provided further*, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation act approved August 18, 1894, or the official status of such commissioners heretofore appointed.

"SEC. 25. That the district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act. That it shall be the duty of the United States district attorney of the proper district to prosecute every such writ when brought by the United States under this act. Such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with such violation may be found. That no suit or proceeding for a violation of the provisions of this act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

"SEC. 26. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station, shall be disposed of after public competition, subject to such conditions and limitations as the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, may prescribe, and all receipts accruing from the disposal of such exclusive privileges shall be paid into the Treasury of the United States. No intoxicating liquors shall be sold at any such immigrant station.

"SEC. 27. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

"SEC. 28. That any person who knowingly aids or assists any anarchist or any person who believes in or advocates the overthrow by force or violence of the Government of the United States, or who disbelieves in or is opposed to organized government, or all forms of law, or who advocates the assassination of public officials, or who is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such anarchist or person aforesaid to enter therein shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.

"SEC. 29. That the President of the United States is authorized, in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral, and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign Governments in their own territories to prevent the evasion of the laws of the United States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who, under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

"SEC. 30. That there shall be maintained a division of information in the Bureau of Immigration and Naturalization; and the Secretary of Commerce and Labor shall provide such clerical and other assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens at the immigrant stations of the United States and to such other persons as may desire the same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, have access to aliens who have been admitted to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner General of Immigration, who, with the approval of the Secretary of Commerce and Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

"SEC. 31. That any person, including the owner, agent, consignee, or master of any vessel arriving in the United States from any foreign port or place, who shall knowingly sign on the ship's articles, or bring to the United States as one of the crew of such vessel, any alien, with intent to permit such alien to land in the United States in violation of the laws and treaties of the United States regulating the immigration of aliens, or who shall falsely and knowingly represent to the immigration authorities at the port of arrival that any such alien is a bona fide member of the crew, shall be liable to a penalty not exceeding $5,000, for which sum the said vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 32. That no alien excluded from admission into the United States by any law or treaty of the United States regulating the immigration of aliens, and employed on board any vessel arriving in the United States from any foreign port or place, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to regulations prescribed by the Secretary of Commerce and Labor providing for the ultimate removal or deportation of such alien from the United States, and the negligent failure of the owner, agent, consignee, or master of such vessel to detain on board any such alien after notice in writing by the immigration officer in charge at the port of arrival, and to deport such alien, if required by such immigration officer or by the Secretary of Commerce and Labor, shall render such owner, agent, consignee, or master liable to a penalty not exceeding $1,000, for which sum the said vessel shall be liable, and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 33. That it shall be unlawful and be deemed a violation of the preceding section to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens: *Provided*, That in case any such alien intends to reship on board any other vessel bound to any foreign port or place he shall be allowed to land for the purpose of so reshipping, and may be paid off, discharged, and permitted to remove his effects, anything in such laws or treaties or in this act to the contrary notwithstanding, provided due notice of such proposed action first be given to the principal immigration officer in charge at the port of arrival.

"SEC. 34. That any alien seaman who shall desert his vessel in a port of the United States or who shall land therein contrary to the provisions of this act shall be deemed to be unlawfully in the United States and shall, at any time within three years thereafter, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section 20 of this act.

"SEC. 35. That it shall be unlawful for any vessel carrying passengers between a port of the United States and a port of a foreign country, upon arrival in the United States, to have on board employed thereon any alien afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, if it appears to the satisfaction of the Secretary of Commerce and Labor, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel and that the existence of such affliction might have been detected by means of a competent medical examination at such time; and for every such alien so afflicted on board any such vessel at the time of arrival the owner, agent, consignee, or master thereof shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and while it remains unpaid: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine: *Provided further*, That such fine may, in the discretion of the Secretary of Commerce and Labor, be mitigated or remitted.

"SEC. 36. That upon arrival of any vessel in the United States from any foreign port or place it shall be the duty of the owner, agent, consignee, or master thereof to deliver to the principal immigration officer in charge of the port of arrival lists containing the names of all aliens employed on such vessel, stating the positions they respectively hold in the ship's company, when and where they were respectively shipped or engaged, and specifying those to be paid off and discharged in the port of arrival; or lists containing so much of such information as the Secretary of Commerce and Labor shall by regulation prescribe; and after the arrival of any such vessel it shall be the duty of such owner, agent, consignee, or master to report to such immigration officer, in writing, as soon as discovered, all cases in which any such alien has deserted the vessel, giving a description of such alien, together with any information likely to lead to his apprehension; and before the departure of any such vessel it shall be the duty of such owner, agent, consignee, or master to deliver to such immigration officer a further list containing the names of all alien employees who were not employed thereon at the time of the arrival, but who will leave port thereon at the time of her departure, and also the names of those, if any, who have been paid off and discharged, and of those, if any, who have deserted or landed or been duly admitted; and in case of the failure of such owner, agent, consignee, or master so to deliver either of the said lists of such aliens arriving and departing, respectively, or so to report such cases of desertion, or landing, such owner, agent, consignee, or master shall, if required by the Secretary of Commerce and Labor, pay to the collector of customs of the customs district in which the port of arrival is located the sum of $10 for each alien concerning whom correct lists are not delivered or a true report is not made as above required; and no such vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and, in the event such fine is imposed, while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon deposit of a sum sufficient to cover such fine.

"SEC. 37. The word 'person' as used in this act shall be construed to import both the plural and the singular, as the case may be, and shall include corporations, companies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any director, officer, agent, or employee of any corporation, company, or association acting within the scope of his employment or office shall in every case be deemed to be the act, omission, or failure of such corporation, company, or association, as well as that of the person acting for or in behalf of such corporation, company, or association.

"SEC. 38. That this act, except as otherwise provided in section 3, shall take effect and be enforced from and after July 1, 1913. The act of March 26, 1910, amending the act of February 20, 1907, to regulate the immigration of aliens into the United States; the act of February 20, 1907, to regulate the immigration of aliens into the United States, except section 34 thereof; the act of March 3, 1903, to regulate the immigration of aliens into the United States, except section 34 thereof; and all other acts and parts of acts inconsistent with this act are hereby repealed on and after the taking effect of this act: *Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, nor to repeal, alter, or amend section 6, chapter 453, third session Fifty-eighth Congress, approved February 6, 1905, or the act approved August 2, 1882, entitled 'An act to regulate the carriage of passengers by sea,' and amendments thereto: *Provided*, That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act, except as mentioned in the last proviso of section 19 hereof; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the laws or parts of laws repealed or amended by this act are hereby continued in force and effect."

JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.

H. C. LODGE,
WM. P. DILLINGHAM,
LE ROY PERCY,
Managers on the part of the Senate.

The Clerk read the statement, as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the Senate bill (S. 3175) regulating the immigration of aliens, submit the following detailed statement in explanation of the effect agreed upon and recommended in the conference report:

The Senate having disagreed to the entire House amendment, which in its turn had stricken out the entire Senate bill, the whole subject of immigration came before the conference committee.

The bill as it passed the House contained no features except the illiteracy test. The Senate bill contemplated many changes in the law and an illiteracy test substantially similar to that proposed in the House, the principal difference being that the Senate included "writing" in its test and differed somewhat from the House as to the admissibility of illiterate relatives of qualified immigrants. On all substantial matters of difference between the Senate and the House touching the illiteracy test the Senate receded.

The changes made in conference since the last conference report was accepted by the House on January 17 are as follows:

First. In section 1 the definition of the word "alien" has been somewhat changed by exempting from its scope persons who have declared their intention of becoming citizens of the United States.

Second. The clause relating to penal certificates and certificates of character has been stricken from the bill. This clause was formerly in section 3.

Third. In section 3 an appeal is provided from the decisions of the Secretary of Commerce and Labor touching the necessity of importing skilled contract labor.

Fourth. In section 7 a mistake has been corrected with regard to the penalty imposed for soliciting immigration.

Fifth. In section 9 the reading is slightly changed so as to make it clear that certain excepted illiterates may lawfully be brought to the United States.

The principal changes in existing law proposed by the Senate and agreed to by the managers on the part of the House, as set forth in the conference report of January 16, 1913, and retained in this conference report, are as follows:

First. An increase of the head tax from $4 to $5 per alien.

Second. The exclusion of aliens not eligible for naturalization.

Third. Making it permissible for the Secretary of Commerce and Labor to decide beforehand as to the necessity of importing such skilled contract labor as is now admissible under the existing contract-labor law.

Fourth. Providing more severe penalties for transportation lines which violate the law against advertising for immigrants and which bring to the United States aliens who are ineligible to enter.

Fifth. Providing for matrons, inspectors, and surgeons on immigrant ships at the discretion of the Secretary of Commerce and Labor.

Sixth. Providing machinery for compelling the attendance and testimony of witnesses before the immigration authorities when required.

Seventh. Providing for the deportation of aliens who become criminals within three years subsequent to entry.

Eighth. Providing for interior immigrant stations.

Ninth. Providing against the illegal entry of seamen and stowaways.

Tenth. Permitting aliens to be represented by counsel in the case of appeals from the decisions of boards of special inquiry.

Eleventh. Providing experts in insanity at large ports of entry.

Twelfth. A definition of the meaning of the word "alien" where it appears in the bill.

JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.

Mr. BURNETT. Mr. Speaker——

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] is recognized for 37½ minutes, and out of that he yields to the gentleman from Pennsylvania [Mr. MOORE] 10 minutes.

[Mr. BURNETT addressed the House. See Appendix.]

Mr. DIES. Mr. Speaker, I am exceedingly gratified that this bill is to pass the House and will shortly pass the body at the other end of the Capitol and become a law of this Nation.

Opponents of this bill have never attempted to argue or contend that the 250,000 immigrants to be excluded by the provisions of this bill are capable of self-government. They could not have taken that position without having been driven from it upon the floor of the House. They shield their opposition to this bill behind the statement that they want more labor in this country to develop its natural resources. My friend from New York, Mr. GOLDFOGLE, who is one of those occupying that position, was asked if the importation of large numbers of cheap laborers from the poorly paid labor district of the south and east of Europe would not depress the labor market of the United States. He unfolded a new doctrine of political economy before the House by saying that the importation of cheap laborers into this labor market would not reduce the price of labor here.

Mr. GOLDFOGLE. I said nothing of the kind. That is altogether a misstatement.

The SPEAKER. The gentleman from New York must not interrupt the gentleman from Texas without his consent.

Mr. DIES. My friend from New York, Mr. GOLDFOGLE, in the discussion heretofore seemed to feel that I was not properly in sympathy with his constituents. I assure the gentleman that there is no constituency in this country for whose misfortunes my heart goes out in more tender commiseration. I believe I am a better friend of the constituents of the gentleman from New York, who represents the East Side of that crowded city, than he is himself. I would close the ports to the ignorant, illiterate masses who come to dump themselves into his district, an unlettered, struggling, pitiable people who are already oppressed sufficiently.

Mr. Speaker, there is another phase of this question. We talk about wanting to be relieved from the high cost of living. This illiterate quarter of a million people who come from the south and east of Europe do not go to the farms to till the untilled acres, to build homes, and grow food with which to feed the people. They go into the crowded cities, like the East Side of New York, and while I admit that they do not demand very much in the shape of food from the markets, still what little they get to live on adds to the high cost of living in this country.

Moreover, if that question were not involved, I should still be in favor of this bill, because I am not one of those who believe that all the resources and opportunities of this country should be developed in a decade, a half century, or a century. I would leave some railroads to be built, some mines to be worked, some natural resources of this country to be developed by your children and your children's children in the generations yet unborn. I think no more cruel thing could be done by the American people in their mad race to make money than to develop all of the resources of this country in this age and generation, and leave this country as barren of opportunities as are the countries in the south and east of Europe from which these people come. [Applause.]

Mr. BURNETT. Mr. Speaker, I will ask the gentleman from New York [Mr. GOLDFOGLE] to use some of his time now.

The SPEAKER. The gentleman from New York [Mr. GOLDFOGLE] has 37½ minutes minus 10 minutes.

Mr. GOLDFOGLE. I yield to the gentleman from Massachusetts [Mr. MURRAY].

Mr. MURRAY. Mr. Speaker, I interrupted the remarks of the gentleman from Alabama [Mr. BURNETT], not because I desired to intrude upon him at all but simply because I wanted to satisfy myself by questions properly directed to him with regard to his point of view concerning the pending legislation.

He magnified the fact that he had accepted the point of view of the Secretary of Commerce and Labor with regard to certain features of the pending conference report.

And when I asked him whether the Secretary of Commerce and Labor had communicated any views, officially or unofficially, in regard to the main proposition contained in his conference report, he evaded the question with the skill he usually shows when he does not desire to meet squarely a question propounded to him.

Mr. Speaker, I shall continue to vote against this conference report because the main proposition in it is the adoption or rejection of the illiteracy test of immigrants coming to this country. I do not believe now, I never have believed, and I do not think I shall ever believe in any kind of test that requires a person coming into this country shall show an inspector of immigration that he is able to read. I think it is a false test; I think it is un-American; I think it is undemocratic; and because of this main proposition contained in the report, skillfully concealed by the recodification of the laws and the reenactment of certain provisions of existing law about which there is no difference of opinion between Members of this Congress, I believe the illiteracy test is the main proposition, and therefore I shall withhold my assent to this conference report.

Now, in the second paragraph of the statement of the managers on the part of the House you will find the keynote to my opposition:

> The Senate having disagreed to the entire House amendment, which in its turn had stricken out the entire Senate bill, the whole subject of immigration came before the conference committee.

There is the fact, Mr. Speaker, frankly admitted in the second paragraph in the statement of the managers on the part of the House. The whole subject of immigration was opened up and these men, three on the part of the House and three on the part of another legislative Chamber, these six men sat down and revised and codified the entire immigration laws of this Nation.

The SPEAKER. The time of the gentleman from Massachusetts has expired.

Mr. BURNETT. Mr. Speaker, I yield one-half minute to the gentleman from Ohio [Mr. WILLIS].

Mr. WILLIS. Mr. Speaker, I am a member of a committee which must necessarily leave here before the vote can be had on this bill. I simply want to say that if it were possible for me to be here when the roll is called I should vote to concur in this conference report, as I have voted for the bill at every stage. I believe, Mr. Speaker, the time is at hand when it is absolutely necessary, if we would maintain the high standard of citizenship in this Republic, that there should be some further restrictions on immigration, and I believe that this bill provides for such restrictions in accordance with the report of the Immigration Commission.

Mr. MOORE of Pennsylvania. Mr. Speaker, I yield one minute to the gentleman from Illinois [Mr. CANNON].

Mr. CANNON. Mr. Speaker, the agitation against immigration has existed for long over a generation. From 1854 to 1860 the hurricane of protests against immigration from Ireland and somewhat from Germany might be compared then with the gentle breeze of protest against immigration now. [Applause.] I can not, of course, in a minute discuss this question. I am but little over a century old from the other side when some of my forbears came to this country with accommodations inferior to steerage accommodations now, but I am ready to welcome any man that is willing to live in the sweat of his face, of the Caucasian race, who comes here to cast his lot with us. I had rather have one man of that kind who can not read or write, ready to work, than a whole hundred men who can read and write who will not work. [Applause.] I shall vote against this conference report. [Applause.]

Mr. MOORE of Pennsylvania. I yield three minutes to the gentleman from California [Mr. KAHN].

Mr. KAHN. Mr. Speaker, my objection to the bill is to the illiteracy test. Let us see how that will work out in the Territory of Hawaii. There the working population in the sugar plantations is composed of Chinese and Japanese almost exclusively. The Japanese laborers outnumber all others there by many thousands. Within recent years the Hawaiian planters have gone to Europe to induce white labor to come to those islands. They brought many shiploads of Spaniards and Portuguese and paid them one-third more in salary than they were paying the Japanese and Chinese. They are largely illiterates who can not read or write. They work in the cane fields. The educated white men are not willing to do that kind of work.

Yet this bill will prevent the Hawaiian planters from building up a Caucasian civilization in these islands and will compel them to continue Japanese labor in the sugar fields.

I apprehend that there is not a Member on the floor who desires to orientalize these islands, and yet under the terms of this bill Caucasian labor will be excluded and planters will be compelled again to resort to the local cheap labor of Japan.

There is another provision of the bill which excludes all those immigrants who can not become citizens under our naturalization laws. That provision will affect all Asiatics, so that the sugar producers of Hawaii will not be able to bring Caucasians from Europe or orientals from Asia to work their plantations. It is a remarkable condition of affairs. And yet this bill creates that very condition.

Mr. Speaker, it is a strange fact that the most insistent advocates of this measure come from those sections of the Union where there is the most illiteracy and the least immigration. In that section of the Union from which I come we need hundreds of miles of electric railroads to bring the products of our orchards and vineyards to the seaboard. The educated native American will not do the rough, hard work of digging trenches, ballasting roadways, and laying rails. The men who do that class of work are, for the most part, illiterates. Our experience has been that they are frugal and hard-working Greeks and Italians. These immigrants readily embrace the opportunity to educate themselves, and their children become progressive, cultured, patriotic American citizens. I believe that the adoption of an illiteracy test will not keep out undesirable immigrants, but it will keep out thousands of "hewers of wood and drawers of water" whose labor would add materially to the prosperity of our country.

Mr. GOLDFOGLE. Mr. Speaker, I yield one-half minute to the gentleman from Missouri [Mr. DYER].

Mr. DYER. Mr. Speaker, I send to the Clerk's desk a letter from the archbishop of St. Louis, and ask to have it read in my time.

[During the reading of the letter the time of the gentleman from Missouri expired, and he was granted sufficient time to have the reading of the letter completed.]

The Clerk read as follows:

ARCHBISHOP'S HOUSE.
St. Louis, January 15, 1913.

Congressman L. C. DYER,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: * * * I am quite opposed to the literacy test; it is not the people who do not read that compose the criminal class—they do not furnish murderers for our Presidents, anarchists for our cities, nor Socialists for our universities. Furthermore, in Missouri our poor but honest immigrant farmer is gradually building up a decent country life, a practically new life and better life in our western country. I am surprised that any western Representatives would be in favor of this test.

The real test for the immigrant should be character, and character can exist without the accident of literary knowledge. The man who will live decently, and who has a working knowledge of the Ten Commandments and the Golden Rule, who is physically and mentally sound, is an acquisition really worth having. The man who knows how to read but is not mentally honest is, in his coming, a menace rather than a blessing. * * *

I remain, with excellent good wishes,
Sincerely, yours,

JOHN J. GLENNON,
Archbishop of St. Louis.

Mr. DYER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by the inclusion of the telegram which I send to the desk.

The SPEAKER. Is there objection?

There was no objection.

The telegram is as follows:

ST. LOUIS, MO., *January 24, 1913.*

Hon. L. C. DYER,
House of Representatives, Washington, D. C.:

Southwestern Railroad and farmers are much interested that immigration bill shall contain exception as to illiterate Mexican laborers. This class of laborers is largely employed in the track work for railroads and furnishes cheap labor, especially for cotton growers. They are capable men, and their exclusion would seriously handicap these interests. Please give this matter consideration, and if consistent, act in favor of said exception.

LEE W. HAGERMAN.

Mr. MOORE of Pennsylvania. Mr. Speaker, I yield five minutes to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Speaker, it is to be hoped that Members of the House will not deceive themselves with regard to the character of this bill. This is not the House bill, nor is it anything like it. Our own committee, headed by the gentleman from Alabama, as able and honorable a Member as sits in this House, after a most careful and exhaustive consideration, which extended over a year, decided to report a modest bill, with only the literacy test as a change in our immigration laws. That bill passed this House and was sent to the Senate. Instead of a single provision upon a single subject, we have returned to us an elaborate code of 38 sections, 58 pages in length, which, in my judgment, contains many objectionable features. It is said we must give up the well-considered judgment of the committee and of the House or there will be no legislation. I am opposed to submitting to that sort of coercion, and I think it would be vastly better that no legislation should be enacted than that the present substitute bill should become a law.

Indeed, Mr. Speaker, our present law is sufficient for our present needs. Vigorously enforced it will be amply protective under existing conditions. Under our present laws we exclude all idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous or had two or more attacks of insanity, paupers and persons likely to become a public charge, professional beggars, persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease, persons mentally or physically defective, persons convicted of or who admit committing a crime, polygamists, anarchists, prostitutes or those coming for the purpose of prostitution or any other immoral purpose, procurers, contract laborers, those previously deported within one year, those whose passage is paid for by another for gain or as wages, all children of 16 years unaccompanied by one or both of their parents. This list does not embrace all of the excluded classes, but it gives a fair idea of our present law. Our exclusionary list was not made up by theorists. It is the result of more than a century of experience. It is intended to keep from our shores the undesirable classes, and does so fairly well. Administration improvement and a stricter enforcement of the law is possible and should be secured. But it may well be doubted if it will be wise or safe to go much farther. Indeed, it is frankly admitted by some of the advocates of the present measure that we have gone as far as we can to sift and select the desirable and to protect ourselves from the undesirable immigrant. The present bill is not so much to protect immigration as to restrict. It is intended not to better its character but to stop it as far as possible.

A NATION OF IMMIGRANTS.

We are a nation of immigrants. Our forebears were all foreigners. In our earlier years colonizing companies induced a large immigration. In spite of the discomforts, the dangers, and the sufferings of those early voyages; in spite of shipwreck, smallpox, scurvy, and ship fever, between 1607 and 1660 about 80,000 persons were landed in America. During the century following immigrants came not only from the British Isles but from France, Spain, Holland, Germany, and Switzerland. And when our westward migration began America became a melting pot of races. The earlier colonists settled in communities—the Dutch in New York, the Germans and Quakers in Pennsylvania, the Puritans in Massachusetts—but when their sons and daughters moved west across the Alleghenies into the great valley of the Mississippi these races were commingled, their racial characteristics were soon lost, and the American citizen was created.

Methinks—

Said Tocqueville—

> I see the destiny of America embodied in the first Puritan who landed on these shores, just as the human race was represented by the first man.

But proud as we are of the influence of Puritan characteristics—his religious independence, his indomitable courage, his unconquerable energy—in our national type, it can not now be claimed that the Puritan was an exemplar of American citizenship. It was by a fusion of the characteristics of all these immigrants that the American type was created. In this laboratory of American democracy American liberty was evolved, American ideals were formed, and American types created.

OUR IMMIGRATION HISTORY.

Up to 1810 the annual immigration was about 6,000. It fell to almost nothing on account of our war with England, but as soon as peace was restored it increased in 1817 to 20,000. In 1840 it was 84,000. It rose rapidly, until in 1854 it amounted to 427,000. Then, under the influence of business depression and the threatened Civil War, it fell in 1861 to 91,000. In 1873 it had again risen to nearly half a million. Business depression again checked it until under better conditions it rose in 1882 to more than three-quarters of a million. In 1893 and the years following it decreased, but since 1897 it has materially increased. The variation from year to year is considerable, but the average immigration as compared with population has been singularly uniform. In 1860 foreigners amounted to 15 per cent of our population; in 1870, 14.4 per cent; 1880, 13.3 per cent; 1890, 14.8 per cent; 1900, 13.6 per cent; 1910, about 15 per cent.

As an argument for restriction it is argued that the older immigration was of a high character and therefore advantageous, while the newer immigration is of a lower grade and should be repressed.

A short excursion into our history may be useful in determining the truth of this assertion and the value of this argument.

Prof. Commons estimated that one-half of all the immigrants of the colonial period landed as indentured servants. To pay for their passage money, which was exorbitant, they were sold, usually at auction, after their arrival into servitude. The shipowners derived enormous profit from this traffic in human flesh, while the suffering of the immigrants was terrible. On an average, adult men and women had to serve from 3 to 6 years, and children from 10 to 15 years. In case no buyers came to the ships the passengers were sold to agents, who chained them together and peddled them through the towns and villages. As late as 1819 there was a sale of immigrants in Philadelphia.

In the same year the annual report of the Society for the Prevention of Pauperism in the City of New York spoke thus of the immigrant of that day:

They are frequently found destitute in our streets; they seek employment at our doors; they are found in our almshouses and in our hospitals; they are found in our * * * State prisons; and we lament to say they are too often led by want and by habit to form a phalanx of plunder and depredations.

In 1845 the delegates to the Native American National Convention published an address in which they discussed the immigration of that day as "of an ignorant and immoral character. The almshouses of Europe are emptied upon our coasts."

The rise of the Know-Nothing Party, whose principal article of faith was opposition to foreigners, constitutes an interesting chapter in our history. In 1856 it held a national convention which adopted a platform containing the following plank:

Americans must rule America, and to this end native-born citizens should be selected for all State, Federal, and municipal offices of the Government employment in preference to all others.

It nominated Millard Fillmore for President. Nearly 1,000,000 votes were cast for him, and one State—Maryland—gave him its electoral vote. But the party was short lived. As Horace Greeley predicted, it lasted through one campaign only.

Benjamin Franklin opposed the coming of the Germans to Pennsylvania. Referring to them he said:

Those who come hither are generally the most stupid of their own nation, and as ignorance is often attended with great credulity when knavery would mislead it, it is almost impossible to remove any prejudice they may entertain.

As early as 1789, for the avowed purpose of discouraging immigration, the period of naturalization was extended from 5 to 14 years. During the same session of Congress the odious alien and sedition laws were passed, which conferred upon the President the power to exclude at his will any foreigner found upon American territory. Our only consolation in contemplating this dishonorable chapter of our history lies in the fact that as soon as the sober judgment and sense of justice of the people could find expression these laws were repealed.

It will be seen from this review that the same objections that are being urged against our immigration to-day have been urged throughout our history. The past immigrant is always a good immigrant and the present immigrant is always a bad immigrant, no matter where he may come from. The same objections that are now being made against the Italians, the Greeks, and the Jews were made in former years against the Irish, the Swedes, and the Germans. As those objections were unfounded it is not a violent presumption that these are. It is certainly true that the average immigrant who comes here is among the most enterprising, thrifty, and courageous of the community from which he came, instead of being the "most stupid" as Franklin asserted. It requires energy, prudence, and foresight to conduct the inquiries, to arrange passage, to accumulate the necessary means, and to find a way across the Atlantic. The accomplishment of this no inconsiderable endeavor is in itself an earnest of those characteristics which make for useful citizenship.

UNFOUNDED PREJUDICE.

Strange indeed it is what prejudice may do in blinding men's minds to all the lessons of the past. We must keep out the Jews, the Greeks, and the Italians, say these objectors. And yet if you take from the past the contributions these people have made to civilization, you would blot out Christianity, you would blot out literature, art, poetry, eloquence, science, philosophy, government, and law. Nevertheless it is urged that it is dangerous to allow these people to come to our shores. I was told but the other day by the principal of one of the high schools that his honor students of foreign extraction outnumber those of the native born proportionately more than two to one.

The best orator in one of our State universities last year was a Jew. The most promising pupil in one of our largest art schools is an Italian. The leading students in one of our best technical schools are two Greeks. An acute foreigner, giving his observation of American traits, says:

It is in fact astonishing to look at the classes in the New York schools down on the east side where there is not a child of American parentage, and yet not one who will admit he is an Italian, Russian, or Armenian. All these small people declare themselves passionately to be "American," with American patriotism and American pride.

It may not be an unhappy circumstance that we are thus able to infuse some of this passionate American patriotism into our national life which seems to have grown cold and captiously critical of everything American.

It may not be an idle thought that Providence in leading the Nation gave us first the sturdy energy, the practical industry, and the deliberate determination of the people from Great Britain, Germany, Norway, and Sweden; and that now it is adding to perfect the commingling of racial characteristics the poetry, the artistic temperament, and the passionate devotion of the southern countries.

From the first we have pursued a liberal policy, and we can not but believe it has given us a better and a higher type of manhood and womanhood. It has brought to us a greater national strength, a more rapid progress, a fuller development, a larger liberty, and a more perfect democracy. There is nothing in our experience during all the years of our history that would warrant the conclusion that it would have been better for us in the past, or that it would be better for us in the future, to adopt a restrictive policy.

IMMIGRATION AND CRIME.

It is argued in this debate that immigration ought to be checked because it increases crime and lawlessness. It is strange how persistent is the delusion that foreigners are naturally and inherently lawless and criminal. The charge has been made throughout our history whenever the antiforeign spirit was stirred that immigration was the mother of crime. As a matter of fact, there has never been any reliable evidence to show that the foreigner was any more lawless than the native born.

In truth the big criminals, the men who have stolen millions, have not been foreigners. The organized plunderers who have brought disgrace upon our Nation and our age have not been foreigners. The bankers and trustees and guardians who have stolen the property of widows and orphans have not been foreigners. The sharper, the swindler, the "gold-brick" crook, and the "blue-sky" fraud, the gambler, the pickpocket, the bank and train robber—these have not been foreigners.

It should be remembered that the periods of the largest immigration show the least proportion of crime, and the periods when immigration is least are the periods showing the greatest percentage of crime. According to a census report published in 1904, foreign-born persons between 15 and 19 years of age committed to prisons were nearly 1 per cent less in proportion than native born. Of the total number of white males 21 years of age and upward 26 per cent were foreign born and 74 per cent were native born; but the proportion of foreign-born major offenders was but 21.7 per cent, while the native whites was 78.3 per cent. In New York State, which has the largest foreign population, the native born were 61.7 per cent and the foreign born were 38.3 per cent; but of those in prison 68 per cent were native born and only 32 per cent were foreign born. The native white population of the country increased from 71.8 per cent in 1890 to 76.3 per cent in 1904. During the same period the percentage of foreign criminals decreased from 28.3 per cent to 23.7 per cent.

These statistics are sufficient to show that the charge that the foreigner is inherently bad and criminal is untrue, and what is of great significance, that our foreign population is not becoming more lawless as the years go on, but, on the contrary, less so. These statistics also show that the immigrant who is now coming is not a dangerous and criminal type. The immigrant of to-day is not a beggar or a tramp. He is a worker. He is industrious and willing to work and to work hard; and he does so as soon as he comes and as long as he stays. That type of man is rarely a criminal.

THE LABOR PROBLEM.

It is argued that immigration reduces wages and the demand for labor. This also is an old objection. The same argument was made when we had but 5,000,000 population. It was repeated when we had 25,000,000, and again when we had 50,000,000; and now when we approach 100,000,000 it is again urged. But the demand for labor was never so great as now and never before were wages so high. Notwithstanding the "floods" of foreigners and the "hordes" of immigrants that our friends say have been coming to drive out our home labor and reduce wages, every American laborer is holding his job and many are striking for more wages. It is a significant fact that the demand for labor has been greatest and the wages

highest when immigration has been largest. This does not prove that immigration increases wages, but it does prove that the fears of those who believe that labor is in danger from immigration are groundless. Under our present laws the laborer comes when he is needed and there is a job for him, and he goes when he is not needed. The immigrant when he first comes does the hard, undesirable, although absolutely necessary, work. He digs the ditches; he cleans the streets; he does the lowest grade of manual labor. After a few years he is promoted to an easier job and better wages and the newer immigrant takes his place. It is manifest that if you shut out the immigrant you shut out this supply for the lower grades of labor. Somebody must do this work at the bottom of the scale. It is good work, it is honorable work, but it is not the most desired nor the best paid. But it must be done by somebody. We have a great and growing country. We shall continue to dig ditches, to canalize rivers, to tunnel our mountains, to grade our railroads, to clean streets, to build bridges, to fell forests, and to clear and cultivate our lands.

We have but begun to develop our resources. We have as yet but scratched the surface of our soil. We have under contemplation great works where more labor than can now be supplied will be needed. The demand for this rough labor exceeds the supply. Railroads can not find men enough to make contemplated improvements and extensions. Public works of great importance and magnitude have to be deferred on account of lack of labor. It is said that 200,000 farm hands could be immediately placed. One hundred thousand domestic servants could find work in New York City alone. We are entering upon great river improvements, and the "good roads" work will require a new supply of laborers. There is no danger the labor market will be oversupplied.

The Canadian Parliament appropriates over $1,000,000 yearly to encourage immigration. Canada pays a premium of $5 for every laborer who will come. She sends agents to distribute literature to every European nation. She grants money to the Salvation Army to induce recruits to come over. She aids poor and homeless children to come to her shores. Australia is doing everything in her power to encourage immigration. Argentina is doing the same. These countries are our competitors in the production of food products in the markets of the world. Is what is a good policy for them bad for us?

But it is suggested that our population is already large. It is true that our numbers are large, but so is our area and so is our productive capacity. Large as are our numbers our population is but 31 to the square mile. In Germany it is over 300. In Belgium it is over 600. As has been shown in this debate, if the United States was as thickly populated as Belgium we would support a population of 2,342,000,000 people. We could move all the population of the United States into the State of Texas, and then Texas would not be so densely populated as Belgium to-day.

It is a remarkable fact that this bill allows the entrance freely of the nonproducing classes—lawyers, doctors, preachers, teachers—those whom we do not need, because these professions are already overcrowded, and it keeps out the producing classes, whose labor and productive energy the Nation needs most. Our policy in the past has been that any good, strong, honest man who was willing to come here, earn an honest living, and make a home was welcome. That policy has approved itself in our success as a Nation, in our growth and development, and in the character of our citizenship. It will not be wise to abandon this policy now.

Since what date has numbers in our population ceased to be considered an advantage and a thing to be desired? What State or city or town is endeavoring to discourage increase in its population? Are any of the gentlemen who deplore the condition of an overcrowded Nation willing to apply exclusionary laws to their own State or city? Are they willing to say their city is so overcrowded that further increase is not desired? It is the proudest boast of an American citizen that his city grows. His happiest hour is when he recites by decades its percentage of increase, and can thus show that it stands high among the cities of the Nation. It would be a most singular anomaly if it could be made to appear that that which was good for a State or city was bad for a nation.

THE LITERACY TEST.

It is proposed in this bill to exclude anyone who desires to come to this country unless he or she can stand a literacy test. No one has attempted to justify this as a test of character. It is supported merely because it is desired to make our exclusionary laws as drastic as possible, and the application of this test will decrease the number of immigrants. All of us favor the strongest laws and the strictest enforcement against the entrance to our ports of the criminal, the vicious, the immoral, and the diseased. But these laws we have already. The literacy test will not keep out the undesirable and admit the desirable immigrant. It will exclude the unfortunate who have lived in countries where education was the privilege of the few and not the right of the many. But it will not keep out the Mafia, the Camorra, the Black Hander, the anarchist, the nihilist, the dynamiter—for all these can read. From the unfortunate, poor man who with difficulty secures money enough to pay his passage, who loves liberty enough to come, who has energy enough to break away from home ties, who brings here but two strong arms, an open mind, and an honest heart—from such as these this country has nothing to fear, even if he can not read.

When a bill providing a literacy test passed a preceding Congress, President Cleveland vetoed it on the ground that such a test was not a true, a fair, or a just test of character or citizenship. And he was justified in so doing. The uneducated European who comes here is so from lack of opportunity, rather than from inclination. The free school for everybody is not there prevalent. By the application of this test it is his misfortune and not his fault we will punish. Want of education is deplorable, but it is not criminal. It involves no moral turpitude. It is a misfortune and not a crime. We have all known honorable men, and virtuous, lovable women, faithful wives, and devoted mothers, who would have been classed as "undesirable citizens" under the application of this law. A Senator said during the debate on this bill that under its provisions his own mother would have been excluded. The mother of Abraham Lincoln would have been barred.

This act can not be defended on the ground of patriotism. It opposes our whole past history, which opened the doors of liberty to those who fled from oppression and tyranny. It can not be defended on the ground of humanity, for it shuts the door of opportunity and of hope to the unfortunate and the poor. To the unfortunate, our brothers in blood, it says: "Smug and secure in this land of promise and comfort, I am determined to keep it all for myself. It is true there is plenty of room for you, indeed there is actual need for you, but I am afraid you may get something I may want. Back, then, to the land from whence you and I both came. Your mistake is that you did not start soon enough."

Lowell in his Commemoration Ode wrote of our country:

She that lifts up the manhood of the poor,
She of the open soul and open door,
With room about her hearth for all mankind.

It is well he penned those patriotic lines before this act was passed. For if it shall become a law we can no longer boast the "open soul and open door."

When our country was in danger, when it was calling for volunteers to save its very existence, it did not suggest a literacy test for enlistment. It welcomed every helping hand and every loyal heart to save the Nation. Our foreign-born population vied with the native born in service and sacrifice. Indeed, it has been shown that the proportion of foreigners in the ranks was much greater than their proportion of our population.

One of the distinguished advocates of this bill said he favored it because it would check immigration. He admits we are a nation of immigrants and that immigration has greatly stimulated our growth and been the cause of our greatness. But he says that now there is an attempt to abolish constitutions and let the "momentary will of the people" prevail, and under these circumstances he thinks it necessary to restrict immigration. This belief and fear implies both lack of capacity and want of inclination on the part of the immigrant to learn and love American institutions. Against that belief and fear I am pleased to put the opinion of James Bryce, who in his American Commonwealth, speaking of the younger foreigners who have learned English, imbibed the sentiments, and assimilated the ideas of the country, says:

They are more American than the American in their desire to put on the character of their new country.

It is not the foreigner who is attacking our institutions and proposing to abolish constitutions. It is our native born. And when the struggle to save American liberty and constitutional government shall come, the foreigner will be found foremost in defending that which he sacrificed so much to secure.

It has always been our proud boast that we have here established a free land, in which there has always been a welcome for every man struggling for liberty, for religious freedom, for a chance in life, for a home, for education for his children, for an opportunity to carve out for himself a career of dignity as an American citizen. To take the step now contemplated is to belie all this, is to shatter these ideals, is to destroy this hope. For we are most truly American when we are most generous to others, when we are most considerate of the unfortunate, when

we most earnestly strive to make our country foremost in the cause of justice, of humanity, and of righteousness.

Mr. BURNETT. Mr. Speaker, I yield two minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Speaker, when the previous conference report was before this House I objected to certain provisions in it relating to certificates of character. Those provisions have been eliminated, and I shall now vote to agree to the conference report, although if it were open for amendment I would like to see some amendments made respecting immigrants charged with crime.

But I rise, Mr. Speaker, for the purpose chiefly of making this observation: Last week when this conference report was before the House, containing this provision with respect to certificates of character—a provision that was so un-American, so vicious, so indefensible, that in another body not one voice was raised to champion it when it was rejected by that body—it was agreed to here by a vote of 149 to 70, and out of those 149 votes, Mr. Speaker, 102 were Democrats.

The Democratic majority in this House has therefore made a record here that they must face in the future of favoring legislation compelling immigrants coming to this country to produce certificates of character whenever the country from which they come issues such certificates. In other words, the Democrats in this House have taken the position that in addition to the excluded classes named in the bill foreign Governments should have the right to determine who else should be excluded. Putting it another way, they declare that no Russian Hebrew shall be admitted to our shores if Russia objects, and no citizen or subject of any other country, fleeing to us from religious or political persecution, shall be admitted here if that other country objects.

Mr. Speaker, it is a matter of sincere congratulation that this vicious provision has been eliminated, but if this Democratic House had had its way it still would have been in the bill, and the country must thank the Republican Senate alone for its elimination.

From a partisan standpoint I might rejoice over this situation in which the Democratic majority in this House have placed themselves, but I am much more interested in securing legislation that is wise and just than I am in securing party advantage, and I am calling attention to this matter now in this way solely in the hope that in the future our Democratic friends will not be so ready to follow leadership blindly without regard to the merits of the questions involved. If they shall fail to heed this lesson in the future, then they can be sure that this will not be the only instance of their making a record of which they should be thoroughly ashamed.

Mr. BURNETT. Mr. Speaker, I yield one minute to the gentleman from Massachusetts [Mr. GARDNER].

Mr. GARDNER of Massachusetts. Mr. Speaker, I wish to take my share of the responsibility with those 142 Democrats. I had as much part as anyone in putting that provision into the conference report. I still believe that it was wise. But discretion is the better part of valor, Mr. Speaker, and I joined in the glad throng which ran away.

Mr. GOLDFOGLE. Mr. Speaker, I yield four minutes to the gentleman from Massachusetts [Mr. CURLEY].

Mr. CURLEY. Mr. Speaker, there has been but about three full minutes of discussion of the points that should be discussed in the consideration of a measure so vital in its bearing on the country's future, and the three minutes were devoted by the chairman of the committee the last time the bill was before the House to the consideration of the economic aspects of this important legislation. The question of restricted immigration is in no sense a new question. As far back as May 9, 1753, Benjamin Franklin, in a letter to a friend, protested against the large number of Germans coming here, in the following terms:

> Those who come hither are generally the most stupid of their own nation, and as ignorance is often attended with great credulity, when knavery would mislead it * * * it is almost impossible to remove any prejudice they may entertain * * *. Not being used to liberty, they know not how to make modest use of it * * *. I remember when they modestly declined intermeddling with our elections; but now they come in droves and carry all before them, except in one or two counties.
>
> Few of their children know English. They import only books from Germany, and of the six printing houses in the Province two are entirely German, two half German, half English, and but two are entirely English.
>
> They have one German newspaper and one half German. Advertisements intended to be general are now printed in Dutch and English. The signs in our streets (Philadelphia) have inscriptions in both languages, and some places only in German. They begin, of late, to make all their bonds and other legal instruments in their own language, which (though I think it ought not to be) are allowed in our courts, where the German business so increases that there is continued need of interpreters, and I suppose in a few years they will be necessary in the assembly, to tell one half of our legislators what the other half says. In short, unless the stream of importation could be turned from this to other Colonies, as you very judiciously propose, they will soon outnumber us; that all the advantages we will have will, in my opinion, be not able to preserve our language, and even our Government will become precarious.

And for more than 115 years the agitation has gone on to put restrictive immigration upon the statute books, but the good sense and manhood and Americanism of the Representatives of the American people in Congress have always been such as to prevent the adoption of restrictive legislation of this character. What is the condition that confronts us to-day? The men of the House have been bombarded with petitions favoring restriction, stating that the foreigners are going to overrun the country. What is the actual fact?

In the last fiscal year the net gain in population by immigration was only 400,000 and the year before that only 500,000. In the calendar year just closed about 500,000 aliens went back home. In 1908, it will be remembered, the outflow was actually larger than the inflow, and we lost population by the homeward movement of immigrants.

In five years our net gain has been about two and a half millions; so that the average annual increase of population by immigration has amounted to about one-half of 1 per cent—by no means an alarmingly large admixture of aliens. Immigration from 1840 to 1850 and from 1850 to 1860 and from 1880 to 1890 amounted to more than 10 per cent of the total population at the beginning of each period. Relatively it was twice as great as the immigration of the last five years.

The gentleman from Texas [Mr. DIES] has stated during debate that the Greeks and the South Italians are unassimilable, incapable of conforming to customs in a free republic, and so forth.

I want to quote from Daniel Webster, who in 1823, speaking in favor of recognizing the independence of Greece in the old House of Representatives, now Statuary Hall, said:

> An occasion which calls the attention to a spot so distinguished, so connected with interesting recollections as Greece may naturally create something of warmth and enthusiasm. In a grave political discussion, however, it is necessary that those feelings should be chastised. I shall endeavor properly to repress them, although it is impossible that they should be altogether extinguished. We must, indeed, fly beyond the civilized world; we must pass the dominion of law and the boundaries of knowledge; we must more especially withdraw ourselves from this place and the scenes and objects which here surround us if we would separate ourselves entirely from the influence of all those memorials of herself which ancient Greece has transmitted for the admiration and the benefit of mankind. This free form of government, this popular assembly, the common council held for the common good—where have we contemplated its earliest models? This practice of free debate and public discussion, the contest of mind with mind, and that popular eloquence which, if it were now here, on a subject like this would move the stones of the Capitol—whose was the language in which all these were first exhibited? Even the edifice in which we assemble, these proportioned columns, this ornamented architecture, all remind us that Greece has existed and that we, like the rest of mankind, are greatly her debtors.
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> [Applause.]

Now they say we should increase the head tax. And I am reminded of the story of an Irish orator, who was a candidate for Congress, addressing a majority of his countrymen in New York, and he said at that time—some 20 years ago: "They want to make our head tax $25. My friends, could you picture a man leaving the old country if he had $25." [Laughter.]

The complaint has been frequently heard during the debate upon this bill that the class of emigrants coming from southern Europe has been largely responsible for the falling off of emigration from western Europe, yet no statistics have been presented by which this contention might be sustained.

On the contrary, many nations are spending large sums of money to encourage what we seek to destroy. A bonus of £1 is paid to the booking agent on each ticket to Canada sold to a British subject who is engaged in the occupation of farmer, farm laborer, gardener, stableman, carter, railway surface man, navvy, or miner, and who signifies his intention to follow farming or railway construction work in Canada.

Not content with the work of regular immigration agents, Canada has been sending agricultural delegates to Great Britain. The Salvation Army is also utilized as an agency to promote emigration to Canada, and grants of money are made to the army for that purpose. Canada annually receives a considerable number of English immigrants, who have been sent by private or State aid from the mother country.

Canada also encourages the immigration of poor and homeless British children to her borders. This immigration is chiefly recruited from the orphan or industrial homes of the British Isles.

An increase in the head tax is proposed in this bill which, while it does not entail a great hardship, is so entirely at variance with methods now in vogue in other countries as to be worthy of serious thought.

The Australian Government furnishes land to settlers at a nominal price, payable in small installments. Moreover, in all

the States except Tasmania allowances are made to settlers for improving their holdings. By way of further inducements, the States pay the passage, wholly or in part, of immigrants from the United Kingdom whose purpose it is to settle on the land or to engage in farming or other work of a similar nature. Assistance is also offered to domestic servants and other persons who can satisfy the Australian agent in London that they would make desirable settlers in Australia. The policy of assisting immigration has been pursued by the several States of Australia for a greater part of the time since their settlement. According to official information 653,698 State-aided immigrants have been admitted to the Australian States.

That all these efforts should have diverted from the United States a part of the British emigration was inevitable, irrespective of any causes originating in the United States. The rise of land values in the United States and the agricultural opportunities of the Canadian Northwest have during the past decade resulted in an emigration of American farmers to Canada.

UNEMPLOYMENT.

Members have laid great stress upon the unsupported assertion that immigration has restricted opportunities for employment and has been a contributing factor in the establishment of a low wage scale.

Wages are higher in most industries and workday hours are shorter than ever known in the history of this country, and the majority of men in the labor organizations are either immigrants or the children of immigrants.

Unemployment and immigration are the effects of economic forces working in opposite directions; that which produces business expansion reduces unemployment and attracts immigration; that which produces business depression increases unemployment and reduces immigration.

Yet it may be said that while immigration is not a contributory cause of unemployment, restriction of immigration would nevertheless reduce unemployment. An answer to this argument is furnished by the example of Australia, where immigration does not keep up with emigration, and yet unemployment is an ever-present problem, precisely as in the United States. Australia is a new country, with abundant natural resources. Its area is as great as that of the United States—exclusive of Alaska—while its population at the census of 1906 was a million short of the United States figures for 1890. The Australian statistics of unemployment essentially differ from ours. The Twelfth Census counted all breadwinners who were idle at any time during the 12 months preceding the date of enumeration. The statistics of the New York bureau of labor comprise all wage earners who were unemployed during the first or the third quarter of the year.

The Australian statistics, on the other hand, give the number unemployed on the date of enumeration. A comparison of the Australian ratio of unemployment with the New York ratio must therefore be favorable to Australia and unfavorable to New York. Still the comparison is highly instructive. The Australian ratio in 1901 varied from 3.96 per cent for South Australia to 6.73 per cent for New South Wales. In the State of New York the total amount of unemployment for the three summer months—July, August, and September—fluctuated during the years 1897–1907 between 1.9 per cent and 6.5 per cent. It thus appears that Australia, with an excess of emigration over immigration, is suffering from unemployment at least as much as the State of New York, which is teeming with immigrants.

We are told that the tendency of emigrants to herd in the cities creates a condition worthy of grave apprehension and constitutes in itself a menace, yet the American farmer finds it impossible to keep his own children on the farm.

Labor-saving inventions have so reduced farm labor as to make it unnecessary to employ large numbers of men, except at planting and harvesting seasons, and in consequence employment for a longer period than six months annually is almost unheard of.

The hours of labor on the farms are longer than even in the mills of the United States Steel Co., the prevailing custom being to work from sunrise to sunset, and while it may be argued that this is true only of harvesting and planting time, it is equally true that this is the only season when additional help is required.

Long hours, small pay, and irregular employment are what the immigrant can expect on a farm. His preference for other employment seems to call for no explanation by special racial characteristics; it is merely another illustration of the rule that immigration follows the demand for labor.

> In the settlement of agricultural districts a point is reached beyond which any considerable growth of agricultural population is possible only if there is a change to more intensive forms of agriculture. * * * If there is no such change, the further growth of population must consist in the development of urban or nonagricultural communities.

This point has been reached in the United States. The public domain has practically all passed into private occupation. Land values during the past decade have climbed to unheard-of heights. At the same time western Canada offers to settlers vast areas of public land practically free.

It seems that for some time to come the Canadian Northwest will furnish the same opportunities for extensive agriculture as the Western States did a generation ago. Western farmers find it profitable to dispose of their land in the United States and to take up public land in western Canada. The emigration of American farmers to Canada has reached considerable proportions. In the United States a market for agricultural labor may grow up in the future with the eventual spread of intensive agriculture. But this is a problem for the American farmer to solve. The immigrant should not be burdened with the mission to reform the methods of American agriculture.

At no time in the history of the Republic has prosperity been greater in our agricultural communities than during the last two decades, yet a perusal of statistics discloses the fact that in certain agricultural States there has been a marked falling off in population.

Decrease of the population of rural territory, 1900–1910.

State.	Number.	Per cent.
Illinois	111,963	7.0
Indiana	132,266	9.5
Iowa	152,673	12.1
Kansas	4,919	.5
Michigan	9,946	.8
Missouri	133,489	8.0
Ohio	93,055	5.3
Wisconsin	8,201	.7

Even where the rural population of a State has increased since 1900 the maps given in the census bulletins show a few agricultural counties with a declining population.

This depopulation of rural territory is due to emigration of native Americans of native stock. The figures for 1910 are not as yet available; the census of 1900 recorded in Kansas a loss of 2.8 per cent of the native population of native parentage in settlements of less than 2,500 inhabitants, and in Nebraska a loss of 1.3 per cent of the same element. In New England, New York, and New Jersey the loss was still greater; the maximum was reached in Connecticut, viz. 16.7 per cent.

This bill makes provisions for the entry of the nonproducing class, preachers, teachers, and so forth, and aims to restrict admission of the producing class, despite the fact that the true source of national wealth and prosperity results from the work of those who toil with their hands and brains rather than brains alone.

The population of the continental United States increased between 1890 and 1910 from 63,000,000 to 92,000,000, i. e., 46 per cent. During the same period the production of coal in the United States more than trebled, the increase being from 140,000,000 to 448,000,000 long tons. As the exports of coal from the United States are insignificant these figures indicate that to-day three times as much coal is consumed in this country as 20 years ago. Coal is the foundation of modern industry. The increased consumption of coal indicates that the consumption of steam has increased threefold, i. e., that the whole American industry has grown in proportion. The production of steel, another basic article of modern industry, increased during the 20-year period, 1889–1909, sevenfold, from 3,400,000 to 24,000,000 long tons. The production of copper more than quadrupled, viz., from 101,000 to 488,000 tons. The number of ton-miles of freight carried over American railways nearly trebled from 1890 to 1909, the increase being from seventy-seven billions to two hundred and nineteen billions.

The total amount of bank clearings in the United States likewise nearly trebled in the 20-year period between 1890 and 1910, having grown from $58,000,000,000 to $169,000,000,000. The increase in the amount of bank clearings may be accepted as a fair index of the aggregate industrial expansion. Thus, while the economic activities of the people of the United States have trebled during the last 20 years, population has increased by less than one-half.

The introduction of labor-saving machinery has lessened the potential demand for new laborers, yet the pace of industrial development has been faster than the progress, i. e., exactly 100 per cent. The average number of wage earners employed in manufactures increased between 1889 and 1909 from 4,200,000 to 6,600,000, i. e., 57 per cent.

The unbiased testimony of figures shows that the demand for labor within the last 20 years has outrun the growth of population, both through natural increase and through immigration. The investigators of the Immigration Commission sought to ascertain from employers of labor the "reason for employing immigrants," and were told that "they found it necessary either to employ immigrant labor or delay industrial advancement." A number of specific instances are quoted in the commission's reports. In the Birmingham iron and steel district, Alabama, where the number of immigrants is insignificant, "the largest employers of labor state that under normal conditions, at the present stage of the industrial development of the district, the ordinary labor supply which may be relied upon continuously affords about 50 per cent of the total necessary to operate all plants and mines at their full capacity."

In the centers of immigration, on the other hand, the clothing manufacturers likewise claim "that the industry has developed faster than the number of clothing workers has increased." With the revival of business after the depression of 1908, they found it almost "impossible to keep their pay rolls full."

I have here petitions representing the united protest of Irish, Germans, Hebrews, Poles, Italians, Lithuanians, Hungarians, Bohemians, Greeks, Finns, Slavs, and other citizens, representing nearly 500,000 signatures, which I shall present to his excellency, the President, Hon. William Howard Taft. His courageous stand for justice and true American ideals will in my opinion result in a veto of this iniquitous measure, which the good though recently dormant sense of Congress should uphold.

The SPEAKER. The time of the gentleman has expired.

Mr. CURLEY. Mr. Speaker, I ask leave to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Massachusetts asks leave to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. BURNETT. Mr. Speaker, may I ask how much time we have used?

The SPEAKER. The gentleman from Pennsylvania [Mr. MOORE] has used 9 minutes, the gentleman from New York [Mr. GOLDFOGLE] 8½ minutes, and the gentleman from Alabama [Mr. BURNETT] has used 15 minutes and has 12½ minutes left.

Mr. GOLDFOGLE. Is the gentleman from Pennsylvania [Mr. MOORE] about to use some of his time?

Mr. MOORE of Pennsylvania. I yield five minutes to the gentleman from Missouri [Mr. BARTHOLDT].

The SPEAKER. The gentleman from Missouri [Mr. BARTHOLDT] is recognized for five minutes.

Mr. BARTHOLDT. Mr. Speaker, I am glad that the voice of true Americanism has at last been heard in this House. It has been voiced by that eminent statesman who has been Speaker of this House for four successive terms, and whose leadership on most questions I have had the honor to follow for 20 years. He has just demonstrated by the words he has spoken that he is worthy of leadership even on the question of immigration. [Applause.]

I want to bring out one fact, Mr. Speaker, that has not been stated in this debate, and that is that those districts which receive little or no immigration are voting almost solidly to exclude it, while, upon the other hand, all the districts of the country which receive immigrants are voting almost solidly to continue to receive them. If immigration were an evil would it not, I ask you, find expression in this House on the part of Representatives in the districts which receive immigrants? The great trouble with those who are proposing restrictive measures is that this question is really so little understood. You forget, my friends, that an immigrant is not only a producer but also a consumer, and it was that fact which caused another great Speaker of this House—Thomas B. Reed—to say that every immigrant practically brings his job with him. Whatever vocation he may have, he has a job for those in other vocations, and consequently he practically solves the problem himself, if immigration were still a problem. I claim, however, that it is not. If we get 800,000 immigrants a year do you not know, according to the figures published by the Department of Commerce and Labor, that 400,000 return every year, and that of the 400,000 remaining about 200,000 are women and children, so that practically there is an annual addition of only 200,000 to the population of this country, and that is about the addition that even the most densely populated countries of the earth, such as Germany and England, receive from the outside. Here we have a country with only 25 people to the square mile, while Germany has 386 and Belgium 576.

Talk about stopping immigration at a time when all the industries of the country are crying out for labor! I say that there is no economic reason for this bill, and I can not discover any motives, except unworthy ones, behind this kind of legislation. I congratulate my friends, the managers of this bill, however, for having seen the error of their ways. When I offered an amendment providing that immigrants should be required to read any language, they insisted it must be the language of some country. They voted my amendment down, but in conference they saw that the amendment was justified. They also voted down my motion to strike out the so-called certificate provision of the bill, but now they present their report with that provision eliminated. If more time were given us, Mr. Speaker, we could probably convince them that the whole bill should be stricken out because its spirit is un-American and vicious and because it is a great blunder from an economic as well as from a moral standpoint.

The SPEAKER. The time of the gentleman from Missouri [Mr. BARTHOLDT] has expired.

Mr. BARTHOLDT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. BURNETT. Mr. Speaker, will the gentleman from New York [Mr. GOLDFOGLE] use some of his time?

Mr. GOLDFOGLE. I prefer that the gentleman from Alabama use his time.

Mr. BURNETT. We have used more than our share.

Mr. GOLDFOGLE. Then I will yield to the gentleman from Illinois [Mr. GALLAGHER].

Mr. GALLAGHER. Mr. Speaker, I simply want to protest with all the force I possess against the passage of this measure. "America for Americans" is an old and familiar cry. I have heard it ever since I have been able to listen to anything going on about me. I was born in New England, and I know the intention of the measure now before the House and the people back of it. It is not to shut out a few unfortunate people who have been deprived of an opportunity to learn to read in the country from which they come. It is simply an entering wedge to bring forth other legislation that has for its object the shutting out of immigrants altogether. And the gentleman from Massachusetts [Mr. GARDNER] told the truth when he said it was only a question of time, in his opinion, until legislation to wholly restrict immigration ought to be brought forward. The fact is that this is a step in that direction. The argument in favor of this bill does not come from people who know anything about immigrants. It comes from people who have no immigration to their districts whatever.

This is a fact, and the further fact is that a lobby representing so-called patriotic organizations has been maintained here in Washington for several years working in every direction that they knew how to bring about restrictive legislation, and this bill is a result of it. I know that the liberty-loving people of America are not in favor of this kind of legislation. I know that the thoroughgoing American interested in the progress and prosperity of our Nation is not in sympathy with any such a movement, and I feel certain that when the motives back of this legislation are fully known by the American people there will be a protest against it from one end of the country to the other.

I represent a district the population of which is made up mostly of immigrants and the children of immigrants. They are industrious, prosperous, law-abiding citizens. They come here to make this country their home, and they are just as much interested in the general welfare of our country as any other class of our citizens. I regret that we are departing from the principles of our forefathers, who proclaimed this to be the land of liberty and freedom, where the oppressed of all nations could find a home. I am sure if the men advocating the passage of this bill lived among these people as I have lived nearly all of my life, knowing them as I do, knowing the efforts they have made to better their conditions, to become upright and honorable citizens, I feel certain they would not be active in advocating the passage of such restrictive legislation. Because men are deprived of an opportunity to gain an education in the country from which they come is it a reason they should be denied admittance here? Will it be contended because a man can not read he will not make a good citizen?

If the object is to shut out undesirable citizens, let us pass legislation that will restrict such immigration. The cunning and crafty schemers will be admitted, but the poor, honest, upright immigrant, because he is unable to read, will be deprived of admittance. Do you wonder, then, that I am opposed to the passage of this bill? I hope and trust it will be defeated. It is un-American; it is undemocratic. It is against those principles that have made this Nation what it is. Has America ceased to be the land of hope, the land of asylum for the unfortunate and oppressed who are seeking liberty and freedom?

If so, pass this bill, and the hour will come when you gentlemen who vote for this measure will be hurled from power with a greater force than that which speeds the waters over the falls of Niagara. [Applause.]

Mr. BURNETT. Mr. Speaker, I yield seven minutes to the gentleman from Kentucky [Mr. POWERS].

Mr. POWERS. Mr. Speaker, it has been said by one of America's most distinguished sons, ex-President Theodore Roosevelt, that next to the conservation of our natural resources immigration was our most important national problem. In the minds of many immigration is even more important than conservation, because it goes a long way in settling the kind of people who make up the population of this country now and in the future; and the kind of people there are in a country inevitably determines the kind of citizenship, the kind of government, and the kind of civilization the country has; and the kind of citizenship determines the liberty, the sort of happiness, and the measure of progress which prevail in it. The importance, therefore, of the subject of immigration to this country can readily be appreciated by every thoughtful American. A little history of immigration legislation may not be amiss.

From the first settlement of this country at St. Augustine, Fla., in 1565 down to 1875—more than 300 years—immigrants came here as a matter of course, so far as Federal legislation was concerned. Congress was forbidden by the Constitution of the United States to interfere, prior to 1808, with any State's right to admit all the immigrants it saw fit, except Congress might impose a tax or duty not to exceed $10 on each person admitted. Practically up to 1835 the only legislation enacted by the Federal Government, and practically all that was proposed, was the law of 1819, regulating steerage passengers at sea and making provision for recording statistics relative to immigrants to this country. None was kept before this. Profs. Jenks and Lauck, in their book, the Problem of Immigration, say, on page 41:

> In earlier days neither the Federal Government nor State governments had passed any laws to protect the United States against the immigration of undesirable persons of whatsoever kind. Even the energetic action of those promoting the so-called "Native American," or "Know Nothing," movement from 1835 to 1860 resulted in no protective legislation. In 1866 a joint resolution [of Congress] condemned the action of Switzerland and other nations pardoning persons convicted of murder or other infamous crimes on condition that they would emigrate to the United States.

So up to this time all that was done to prevent even murderers from coming to this country was just to pass a resolution condemning such things; but that did not prevent them from coming.

From 1835 to 1860 the subject of immigration to this country was much discussed, and there sprang up what was known as the "Native American" and "Know-Nothing" movements, largely basing their opposition to immigrants to this country who embraced the Catholic faith. These movements soon assumed the form of a political organization known in history as the American Republican Party, and later the Know-Nothing Party. As a result of these organizations—organizations in the main later affiliating with the new political movement—the United States Senate in 1836 passed a resolution directing the Secretary of State to collect information respecting the immigration of foreign paupers and criminals to the United States.

The House of Representatives in 1838 agreed to a resolution instructing the Judiciary Committee of the House to consider the propriety of passing a law prohibiting the importation of vagabonds and paupers into this country, as well as to consider the expediency of making our loose naturalization laws more stringent. This resolution was referred to a committee of seven members, and their favorable report was the first congressional report ever made concerning any phase of the immigration question. A bill was introduced in Congress, upon the recommendation of the majority report of the committee, which provided that any master of a vessel who took on board an alien passenger who was an idiot, lunatic, maniac, or one afflicted with an incurable disease, or one convicted of an infamous crime, with the intention of transporting such person to the United States should, upon conviction, be fined $1,000 or be imprisoned from one to three years. This bill was not even considered by Congress, and then for some 10 years following little attempt was made to secure immigration legislation; but the great increase in immigration to this country from Europe from 1848 to 1850 put new life and fears in the breasts of those fighting immigration, and it is recorded that in 1855 both the governors and legislatures of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, California, and Kentucky were "Know-Nothings." The slogan of the "Know-Nothing" Party was that Americans must rule America, and their greatest strength was in the Thirty-fourth Congress, from 1854 to 1856, when they claimed 43 Representatives and 5 Senators. Ten years later, however, in the Thirty-eighth Congress, from 1864 to 1866, there was not a "Know-Nothing" Representative in the House, and the "Know-Nothing" Party disappeared without having accomplished anything against immigration. The truth is that in 1864 Congress passed a law to encourage immigration, especially the importation of contract labor. This law was repealed, however, in 1868, leaving on the statute books the act of 1819, amended slightly by the acts of 1847 and 1848, providing improved conditions in the steerage of immigration ships. The law of 1864 stands out as the only attempt on the part of the National Government to promote immigration. New York in 1824 passed a law requiring all masters of vessels arriving at the port of entry to make a written report giving the name, age, and last residence of every person on board during the voyage, and whether any of the passengers had gone on board any other vessel, with a view of proceeding to New York.

Another section of the law gave the mayor of New York City the power to require bond of every master of a vessel to indemnify the mayor and the overseer of the poor from any expense incurred for passengers brought in and not reported. This law was held to be constitutional by the Supreme Court of the United States, and in 1829 the State of New York passed another law, which provided that the master of every vessel arriving from a foreign port should pay to the health commissioner $1.50 for every cabin passenger, $1 for every steerage passenger, mate, sailor, or marine, and 25 cents for every person on a coasting vessel.

In 1837 Massachusetts passed a law requiring the owner of a vessel to pay $2 for each alien passenger brought to her ports and to give bond that certain immigrants should not become a public charge. Both the New York and the Massachusetts statutes were later held in part to be unconstitutional. California and Louisiana passed statutes looking to the limitation of immigration, which were held to be unconstitutional. In California the question of Chinese immigration became so acute that recourse was had to the Federal Government, which resulted in the Burlingame treaty, which was proclaimed on July 28, 1868, and which was the first treaty to deal with Chinese immigration to the United States. The attitude of the United States in this treaty toward Chinese immigration was not popular in the Pacific Coast States, and they continued their agitation for further restriction of Chinese immigrants, which resulted in the Congress of the United States passing the act of March 3, 1875, aimed at immigrants from China, Japan, and other oriental countries. This law prohibited the importation of convicts, women for immoral purposes, coolie labor, and Chinese and Japanese subjects without their free and voluntary consent, and fixed heavy penalties for a violation of the provisions of the statute. Later other treaties and Chinese and Japanese exclusion acts forbade the immigration of Chinese and Japanese to this country, as well as Korean laborers, skilled or unskilled. And that is the way the matter stands to-day. So the bill now before the House is not intended to exclude Chinese, Japanese, or Korean laborers, skilled or unskilled, as that is already provided for.

From the unsatisfactory attempt of State legislation on the immigration question it became apparent that the subject was too big for State control, and in a very unusual decision of the Supreme Court of the United States on March 20, 1876, that court decreed:

> We are of the opinion that this whole subject [of immigration] has been confided to Congress by the Constitution; that Congress can more appropriately and with more acceptance exercise it than any other body known to our laws, State or national; that by providing a system of laws in these matters applicable to all parts and to all vessels a serious question which has long been a matter of contest and complaint may be effectually and satisfactorily settled.

This decision virtually put the subject of immigration under Federal control, and on July 6, 1876, following the decision of the Supreme Court in March of that year, Senator Conkling and Representative Cox of New York introduced bills in Congress for the national regulation of immigration. No legislation, however, of this sort was put on the statute books until August 3, 1882. This law provided, among other things, that a head tax of 50 cents each be levied on all aliens entering the ports of the United States to defray expenses of regulating immigration and caring for needy immigrants after landing; that lunatics, idiots, convicts (except for political offenses), and persons likely to become public charges should not be permitted to land, and that the Secretary of the Treasury be charged with executing the provisions of the act, and that he be empowered to enter into contracts with such States officers as the governor of any State might designate to take charge of the local affairs of immigration within such State.

On February 26, 1885, the first act of Congress was approved, forbidding the importation of contract labor to the United

States. This law was defective in that no arrangement was made for its general execution, no inspection of the alien was provided for, nor deportation of the contract laborer, if found so to be. This act, however, was amended by an act of February 23, 1887, which gave the Secretary of the Treasury authority to deport within one year from landing any alien who had come to this country contrary to the provisions of the contract-labor act.

In 1889 a standing Committee on Immigration was established in the Senate of the United States and a select Committee on Immigration and Naturalization was established in the House.

In 1890 these committees were authorized to make a joint investigation of the immigration question, and especially to look into the various State laws on the subject. These committees, in making their report, suggested that while no very radical changes in the immigration laws were at that time advisable, still they found that throughout the country there existed a strong sentiment for a stricter enforcement of these laws.

The fact is that in the year 1890 one or more political parties in 23 different States demanded additional regulation of immigration. Responsive to this demand for stricter immigration laws and regulations the Congress of the United States passed, and it was approved on March 3, 1891, an additional immigration act amendatory of previous acts. This act added to the list of aliens heretofore excluded those "suffering from a loathsome or contagious disease," "polygamists," and those "whose ticket or passage is paid for with the money of another or who is assisted by others to come," except, however, that any person living in the United States could pay the way of a relative or friend, provided, of course, that the relative or friend did not belong to some of the excluded classes. This act strengthened further the existing contract-labor law by prohibiting the encouragement of immigration by promises of employment through advertisements published in any foreign country, and steamship companies were forbidden under penalty to solicit or encourage immigration.

The law of 1891 also created the office of Superintendent of Immigration, and instead of some State officer, by appointment of the governor, having charge of the execution of the immigration laws in that State, as provided for in the act of 1882, the whole question of immigration for the first time was completely under Federal control.

This act also provided that the commanding officer of every vessel carrying aliens to our shores should furnish to the proper immigration officials the name, nationality, last residence, and destination of all immigrants on board; that medical examination of immigrants at United States ports should be made by surgeons of the United States Marine-Hospital Service, and within one year after arrival any immigrant might be returned who had come to this country in violation of law, and that, too, at the expense of the transportation company that brought him. It was not until 1907, however, that steamship companies were required to keep a record of outgoing passengers.

For the first time inspection of immigrants on the Mexican and Canadian borders was established. While this was the most stringent immigration act passed by Congress up to this time still the subject of immigration continued to be much discussed, and a strong movement for further restriction developed, owing largely to the industrial depression from 1890 to 1896. Investigations more or less extensive were conducted by joint committees of Congress and also by the Industrial Commission. In 1894 an act was passed raising the head tax from 50 cents to $1, but President Cleveland vetoed another bill passed by both branches of Congress providing for a literacy test.

Based upon the report of the Industrial Commission made to Congress February 20, 1902, a bill was introduced in the House providing for a complete codification and rearrangement of all immigration acts from March 3, 1875, to the act of 1894. An amendment was offered to this bill and passed by the House by a vote of 86 to 7 providing that all persons over 15 years of age who were unable to read the English language or some other language should be excluded, making an exception in favor of wives, parents, grandparents, and children under 18 years of age. The bill so amended passed the House May 27, 1902. When it reached the Senate it eliminated the educational test, raised the head tax from $1 to $2, and made it unlawful for any person to assist in the entry or naturalization of alien anarchists. The House agreed to these amendments, and the bill was approved by the President March 3, 1903.

It was not until February 20, 1907, that any other immigration act of much import was passed by Congress, although by an act of February 14, 1903, the Department of Commerce and Labor was established and the Commissioner General of Immigration was placed under that department, his official position being that of a head of a bureau. On June 29, 1906, the Bureau of Immigration was changed to the Bureau of Immigration and Naturalization; a uniform rule for the naturalization of aliens was provided for, and the administration of the new naturalization law was charged to this bureau.

A little history of the immigration act of February 20, 1907, the latest now on the statute books (with a small amendment of March 26, 1910), and the one sought to be amended by the bill we are now considering, may not be amiss:

A bill introduced by Senator DILLINGHAM, of Vermont, was favorably reported by the Senate committee on March 29, 1906. This bill sought to amend the immigration act of 1903 by increasing the head tax from $2 to $5. Imbeciles, feeble-minded persons, children under 17 years of age unaccompanied, and persons "who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of such a nature which may affect the ability of such alien to earn a living," were added to the excluded classes. The section of existing law excluding prostitutes was amended by adding: "Women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose."

A division of information was created in the Bureau of Immigration and Naturalization, and steamship companies were for the first time required to furnish to the proper immigration officials lists of outgoing passengers. In the Senate the bill was amended by the insertion of a literacy test very similar to the one this House is now considering and which I will later quote, and the Senate bill as amended by the literacy test passed the Senate May 23, 1906. When the bill reached the House it was referred to the Committee on Immigration and Naturalization, and they amended it by substituting one of their own in many respects similar to it, including the literacy test. In the conference between the House and Senate conferees the head tax was made $4 and the other amendments were agreed to except the literacy test was eliminated, and a commission composed of nine members was authorized to make a complete investigation of the immigration question and report its findings to Congress. The bill as amended became a law February 20, 1907. Composing this commission, which I have referred to, were to be three Members of the House appointed by the Speaker, three Members of the Senate appointed by the President of the Senate, and the other members of the commission to be appointed by the President of the United States. This commission, after an extensive investigation both in this country and in Europe, costing $1,000,000 and covering a period of four years, made a voluminous report, embracing 42 volumes of printed matter, covering all phases of the immigration question. This commission, after a most thorough investigation of the immigration question, found certain facts to exist and made some specific recommendations to Congress.

In the first place, the commission found that there were too many immigrants coming to this country; that there is now an oversupply of unskilled labor in the basic industries of the United States; that restrictive legislation ought to be passed by Congress; and that the literacy test was the best single method of accomplishing the desired end. Let me quote the exact words of the commission:

The investigations of the commission show an oversupply of unskilled labor in basic industries to an extent which indicates an oversupply of unskilled labor in industries of the country as a whole, a condition which demands legislation restricting the further admission of such unskilled labor. It is desirable in making the reduction that a sufficient number be debarred to produce a marked effect upon the present supply of unskilled labor.

Even the Hon. William S. Bennet, the only dissenting member from any of the findings of the commission, concurred in this in his minority report. He said:

A slowing down of the present rate of the immigration of unskilled labor is justified by the report.

And after enumerating more than a half dozen ways by which this reduction could be brought about the commission added:

A majority of the commission—eight out of the nine—favor the reading-and-writing test as the most feasible single method of restricting undesirable immigration.

And this is not a partisan political report for political purposes. It is a report by men of both parties after a most careful and painstaking investigation. The fact is that the question of immigration is not a political one.

I have briefly reviewed the legislation on this question, and before taking up and beginning to discuss the merits of the bill now pending before this House I want to adduce some proof to show that the question is nonpolitical and that restrictive legislation has been demanded in the national platforms of the two dominant political parties in this country. Away back in

1896, more than an eighth of a century ago, when the evils of immigration were not so great and not so well known as now, the Republican Party, in its national platform of that year, not only demanded a restriction of immigration but specifically indorsed the reading-and-writing test as a means to accomplish that end. The plank in the platform to which I refer is as follows:

For the protection of the quality of our American citizenship and of the wages of our workingmen against the fatal competition of low-priced labor, we demand that the immigration laws be thoroughly enforced and so extended as to exclude from entrance to the United States those who can neither read nor write.

This is one of the planks in the platform upon which the beloved McKinley was elected, and in his inaugural address he specifically indorsed the immigration plank and recommended an educational test to alien immigrants, to the end that American citizenship be protected and American institutions preserved.

In the Republican national platform of 1900 we find this language:

In the further interests of American workmen we favor a more effective restriction of the immigration of cheap labor from foreign lands—

And so forth.

In his first message to Congress, in 1901, ex-President Roosevelt indorsed unequivocally the restriction of immigration and an educational test. He used this pointed language:

The second object of a proper immigration law ought to be to secure a careful, and not merely perfunctory, educational test—some intelligent capacity to appreciate American institutions and act sanely as American citizens.

The Republican national platform this year—1912—the latest expression of the party on the subject, reads as follows:

We pledge the Republican Party to the enactment of appropriate laws to give relief from the constantly growing evil of induced or undesirable immigration, which is inimical to the progress and welfare of the people of the United States.

That the Republican Party stands for a restriction of immigration there is no room to doubt.

The Democratic Party, too, has put itself on record in regard to this great question. In its national platform of 1896 it uses this language:

We hold that the most efficient way of protecting American labor is to prevent the importation of foreign pauper labor to compete with it in the home market.

In its national platform of 1900 the Democratic Party, while inserting no plank upon the general subject of immigration, indorsed the Chinese exclusion law and recommended its application to the same classes of all Asiatic races.

The Democratic national platform of 1904 contained no plank upon the general subject of immigration, but did specially oppose the admission of Asiatic immigrants, in this language:

We are opposed to the admission of Asiatic immigrants who can not be amalgamated with our population.

The Democratic national platform of this year—1912—indorses more stringent immigration laws.

This is the latest expression of the Democratic Party on this important subject of immigration. Not only have the two dominant political parties in this country repeatedly expressed themselves in their national platforms in favor of restricting immigration, but the Republican platform of 1896 and the Republican President elected upon the Republican platform of 1900 have in express terms favored the literacy test; such a literacy test, in substance, that we are now considering, which is the crux of the bill before us, although it contains many other salutary provisions. And what is that literacy test and what are the terms of the bill now before us? Before the adjournment of the second session of the Sixty-second Congress the Senate of the United States passed, on April 19, 1912, an immigration bill known as the Dillingham bill, which covered many phases of the immigration question. That bill was sent over to the House on April 20, 1912, and referred to the Committee on Immigration and Naturalization. For reasons which will appear later the House committee amended the Senate bill by striking out all of it except the enacting clause and substituted and passed the Burnett literacy bill. The matter went to conference the second time, and a majority of the second conferees, both on the part of the House and the Senate, agreed upon a report which was made to the House on yesterday eliminating the penal certificate, or certificate of character, test as embodied in the first report.

In the statement accompanying the report to the House is found this language:

The Senate having disagreed to the entire House amendment, which in its turn had stricken out the entire Senate bill, the whole subject of immigration came before the conference committee.

The conference committee has rearranged and recodified the entire immigration laws, all of which are now before the House for consideration. Other than adding the literacy test as contained, in substance, in the Burnett bill, which lately passed the House, the other most important amendments are as follows:

First. The head tax per alien immigrant has been increased from $4 to $5.

Second. The exclusion of aliens not eligible for naturalization.

Third. The deportation of aliens who become criminals within three years subsequent to entry.

Fourth. Providing for interior immigrant stations.

Fifth. Providing against the illegal entry of seamen and stowaways.

Sixth. Providing more severe penalties for transportation lines which violate the law against advertising for immigrants and which bring to the United States aliens who are ineligible to enter.

The literacy-test provision is the most important change proposed in the law, most of the others being administrative changes. For the purpose of getting clearly before the House just the class of aliens who will be excluded from admission into the United States if the conference report becomes a law, I will quote section 3 of the report, amendatory of previous acts, which now embraces all the classes intended to be excluded:

SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had one or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port, the Secretary of Commerce and Labor shall have consented to their reapplying for admission; persons whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway may be admitted in the discretion of the Secretary of Commerce and Labor; all children under 16 years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe; persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them, or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

All aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: *Provided*, That any admissible alien or alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips, of uniform size, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plainly legible type in the various languages and dialects of immigrants. Each alien may designate the particular lan-

guage or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this act relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Commerce and Labor to be reached after a full hearing and an investigation into the facts of the case, but such determination shall not become final until a period of 30 days has elapsed. Within three days after such determination the Secretary of Commerce and Labor shall cause to be published a brief statement reciting the substance of the application, the facts presented at the hearing, and his determination thereon, in three daily newspapers of general circulation in three of the principal cities of the United States. At any time during said period of 30 days any person dissatisfied with the ruling may appeal to the district court of the United States of the district into which the labor is sought to be brought, which court or the judge thereof in vacation shall have jurisdiction to try de novo such question of necessity, and the decision in such court shall be final. Such appeal shall operate as a supersedeas: *Provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants: *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign government to its citizens or subjects to go to any country other than the United States, or to any insular possession of the United States or to the Canal Zone, are being used for the purpose of enabling the holder to come to the continental territory of the United States, to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone: *Provided further*, That nothing in this act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of a concession or privilege for any fair or exposition authorized by act of Congress, from bringing into the United States, under contract, such alien mechanics, artisans, agents, or other employees, natives of his country, as may be necessary for installing or conducting his exhibit, or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may prescribe both as to the admission and return of such persons: *Provided further*, That nothing in this act shall be construed to apply to accredited officials of foreign governments nor to their suites, families, or guests: *Provided further*, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

Nor shall it apply to persons of the following status or occupations:

Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

It will be noted that this bill adds to the classes heretofore excluded—

Aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish.

Provision is made, however, that any alien legally, or hereafter legally, admitted to the United States may send for his father or mother, grandfather or grandmother, wife or daughter, whether they can read or write or not. "Vagrants" and "stowaways" are added to the excluded lists. So are those "who disbelieve in or are opposed to organized government"; also "persons who are members of or affiliate with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals, or officers generally, of the Government of the United States or of any other organized Government because of his or their official character."

Also contract laborers who have been "assisted" or "encouraged" to migrate to this country by offers or promises of employment, "whether such offers or promises are true or false"; also "persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country"; also "persons who have been deported under any of the provisions of this act and who may again seek admission within one year from the date of such deportation," unless the Secretary of Commerce and Labor gives his consent thereto. The act of February 20, 1907, applied only to contract laborers who had been deported.

Also "persons who can not become eligible under existing law to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports or by treaties, conventions, or agreements that may hereafter be entered into."

It will be seen that this proposed new measure adds quite materially to the excluded classes of aliens under the provisions of the act of February 20, 1907. As to the justice of the most of them, however, there is not much room for argument or contention. Most of the opposition argument on the floor of this House has raged around the literacy test.

And since the literacy test is the one most objected to, and since it is conceded to be more efficacious in restricting immigration to this country than all the other new provisions put together, I will address myself first to its consideration—or, rather, to a resumption of its consideration—together with the general subject of restriction of immigration.

This literacy test, for the purpose of preventing objectionable foreigners from coming to this country, is not a new proposition, as I have already observed. Not only have political parties in their national platforms especially declared for it, but Congress itself has several times unequivocally indorsed it.

The House, in the Fifty-fourth Congress, passed such a measure by the decisive vote of 195 to 20, while the Senate passed it by a vote of 52 to 10.

That literacy test bill would have become a law but for the veto of President Cleveland.

In the Fifty-fifth Congress an immigration bill again passed the Senate, which carried a literacy test provision, by a vote of 45 to 28.

In the Fifty-seventh Congress an illiteracy test amendment to an immigration bill passed the House by the sweeping majority of 87 to 7.

The fact is that at no time in the history of the country has a literacy test provision in any immigration bill ever been defeated by either House of Congress. Upon the contrary, such a provision has invariably been passed by decisive majorities when the question was submitted to a vote.

And the various votes by both Houses of Congress on this subject is but a reflection of public opinion on the question.

Not all the newspapers, periodicals, and magazines of the country favor this legislation, but I think I am safe in saying that the bulk of the press do favor it. At any rate, a majority of the people favor it.

Resolutions, petitions, and memorials have poured in upon Congress expressing their views and making known the wishes of large and representative bodies of our citizenship on this momentous and far-reaching question.

The legislatures of the great States of Ohio, Pennsylvania, Tennessee, Vermont, and others have specifically indorsed the literacy test, while twenty and odd others have memorialized Congress to pass more stringent immigration laws.

The various farmers' organizations throughout the length and breadth of the land, the great labor organizations all over the country, the patriotic societies, powerful bodies representing charity, commerce, and the like have upon divers occasions passed resolutions memorializing Congress to enact a law embodying an educational test and more stringent immigration laws.

There are a greater number of the people of the United States engaged in agriculture than in any other calling. At the last National Farmers' Congress they passed the following resolution:

Whereas the Congressional Immigration Commission's report of 40 volumes has just been published, and recommends the very measures which this organization has been advocating in its resolutions for years to judiciously restrict undesirable immigration:

Resolved, That we enthusiastically approve the commission's legislative recommendations that the head tax be increased, the illiteracy test be enacted, that foreign steamships be fined for bringing undesirables, and that other judicious measures be adopted, which are hereby urged upon the Congress of the United States.

The Farmers' Educational and Cooperative Union has a membership of over three million. This is possibly the most powerful in point of members and influence of any of the farmers' organizations in this country. This organization has been much interested in restrictive immigration laws and has frequently indorsed the literacy test.

The American Federation of Labor, the largest labor organization in this country, has for years at its annual gatherings

been passing resolutions and petitioning Congress to pass more strict immigration laws, and it has specifically indorsed the educational test—in substance the test we are now considering.

The grand International Brotherhood of Locomotive Engineers, the Junior Order of United American Mechanics, the Knights of Labor, and other organizations have repeatedly passed resolutions specifically indorsing the literacy test and memorializing Congress to make it a law.

In 1909 the American Federation of Labor at its annual gathering passed the following resolution:

Whereas the illiteracy test is the most practical means of restricting the present stimulated influx of cheap labor, whose competition is so ruinous to the workers already here, whether white or foreign born:

Resolved by the American Federation of Labor in twenty-ninth annual convention assembled, That we demand the enactment of the illiteracy test, an increased head tax, and the abolition of the distribution bureau.

Samuel Gompers is the president of this organization. He appeared before the House Committee on Immigration and Naturalization on February 29, 1912, and among other things declared that the American Federation of Labor had advocated the literacy test for years and years; that the Immigration Commission had but emphasized the foresight of their organization in taking such position; that most of the immigration to this country is not of its own free will and accord, but that it is "stimulated" by "the captains of industry" and by the "allurements of the shipping companies"; that the "captains of industry" wanted "low-priced, docile labor" and the shipping companies wanted transportation—wanted business; that something "must be done to further limit immigration"; that the great horde of "docile illiterate" immigrants coming yearly to our shores, especially those willing to work for most any wage, was largely responsible for many of the untoward conditions and serious problems now confronting the American wage earner; that "in the iron and steel industry"—that is, in the making of iron and steel—the percentage now of foreign workers is about 75 per cent; that "they work 7 days in the week, 12 hours a day, and 365 days in the year," and that "the percentage of foreign-born workers in the woolen trade is 85 per cent"; that they displaced the American laborer, reduced the American wage, and lowered the standard of American life; that a large percentage of them when employed would for years "suffer indignities and privations and then in sheer desperation, disregarding all rules of order and precedence in the orderly conduct of relations between employers and employees, rush out on a strike."

I have quoted at length the views of Mr. Gompers on immigration, because he is the president of the most effective and powerful labor organization in this country, and is known and regarded as one of the truest and most able champions of labor in the Western Hemisphere, if not in the entire world. Mr. Gompers knows, as few men know, what this tremendous and never-ceasing flow of alien immigrants means to the American wage earner, both native and foreign born.

John Mitchell, formerly head of the mine workers in the United States, and at present one of the vice presidents of the American Federation of Labor, and widely known for his breadth and depth of thought on labor and social problems, said:

The American workingman recognizes the necessity of reasonable restriction upon the admission of future immigrants. He fails to see the consistency of a legislative protective policy which does not at the same time it protects industries give equal protection to American labor.

That is sound argument; that is good Republicanism.

And what are the reasons for this widespread interest in favor of stricter immigration laws? Why has the American Congress from 1819 to 1907, as I have pointed out, been adding one restriction after another to the continued stream of immigrants flocking to our shores? Why have the framers of the Burnett and Dillingham bills, the conference report we are now considering, added very materially to the excluded classes of aliens as provided for in the act of February 20, 1907? It is because the people of this great country have slowly but surely been waking up to the imminent dangers to themselves and their institutions lurking in the ever-increasing tide of undesirable immigrants drifting to our shores.

Even under the operation of what was called "the stringent immigration act" of February 20, 1907, there have reached the United States every year since its enactment in the neighborhood of 1,000,000 alien immigrants, from 30 to 40 per cent of whom can neither read nor write.

Mr. Speaker, the gentleman from Massachusetts [Mr. CURLEY] said that this was largely an economic question. I am glad to be able to agree with the gentleman in part on that proposition. It is largely an economic, social, and moral question. The truth is that immigrants have been flocking to the American shores, as I have said, at the rate of about 1,000,000 a year, and now in the great basic industries of the country foreign labor is largely employed. In the iron and steel industry of the United States there is now employed 75 per cent of foreign-born laborers. In the woolen industry of this country there is employed 75 per cent of foreign-born laborers. In the oil refineries of this country 75 per cent of the wage earners are of the immigrant class. In the slaughtering and meat-packing business of the United States 75 per cent of the wage earners are of foreign birth. In the furniture factories, in the leather tanneries, in the woolen and worsted trades, in the bituminous coal mines, and in railroad and construction work 75 per cent of the men now employed in those industries in the United States are not merely of foreign descent, but actually born abroad, and in a large part of these industries there is now less than 10 per cent of native Americans employed.

Mr. BARTHOLDT. Mr. Speaker, will the gentleman yield for a question?

Mr. POWERS. I yield.

Mr. BARTHOLDT. Are not the facts that the gentleman cites really an argument against this bill? Do they not show that these men are earning their bread in the sweat of their brows and by honest employment?

Mr. TOWNER. And adding to the wealth of the country?

Mr. POWERS. An argument against this bill? They show conclusively that native Americans have been crowded out of employment by the immigrants from foreign shores; that native Americans have not been able to compete with the wages and standard of living that is brought in here from abroad and practiced by the immigrants, especially from southern and eastern Europe, who work at a low wage and live largely—many of them—on bologna sausages, bread, and macaroni, as is stated by Profs. Jenks and Lauck, high authorities on this question. The American standard of living and of wages have been lowered to such an extent that an American can not compete with that sort of business.

If it is all right and proper for alien immigrants to crowd our native American wage earners and laborers out of employment by low wages and low standards of living, it would be equally all right and proper for them to crowd all other Americans out of their places, and let this country be turned over to foreigners to own, rule, and control.

With all due respect for the opinion of the able Member from Missouri, I can not concur in that character of logic. As has been suggested, the industrial phase of the immigration question is one of far-reaching importance. It is indisputably true that in many of the basic industries in this country the native-born American wage earners have been driven out of employment by the illiterate, non-English-speaking immigrants from southern and eastern Europe, while the American standard of living has received a staggering blow at their hands.

The Commissioner General of Immigration in his annual report for 1911 said:

A large proportion of the southern and eastern European immigration of the past 25 years has entered the manufacturing and mining industries of the Eastern and Middle States, mostly in the capacity of unskilled laborers. There is no basic industry in which they are not largely represented, and in many cases they compose more than 50 per cent of the total number of persons employed in such industries.

Profs. Jenks and Lauck, who were appointed by the President on the Immigration Commission and who have given much study to this question, and who boiled down the substance of the commissions report and investigations in their splendid volume entitled "The Immigration Problem," said on page 135:

In most of the principal branches of the industries the native American and immigrant employees from Great Britain have, to a large extent, especially in the unskilled occupations, been displaced by recent immigrants from southern and eastern Europe and the Orient.

On page 136, same book:

It was found that only one-fifth of the total number of wage earners in 38 of the principal branches of industry were native white Americans, while three-fifths were of foreign birth. Almost one-half of all the wage earners were from southern and eastern European countries.

On page 137, same book, they say:

More than three-fourths of the iron and steel workers, employees of oil refineries, slaughtering and meat-packing establishments, furniture factories, leather tanneries and finish establishments, and woolen and worsted goods and cotton-mill operatives, together with two-fifths of the glass workers, one-third of the silk-mill operatives, and glove factory employees—

were of foreign birth.

On page 140, same book:

The reason for the employment of recent immigrant wage earners in the United States was primarily the inability of the manufacturers and mine operators to secure such labor at the same wages.

On the same page:

It may be said in general that the recent immigrant wage earners from the south and east of Europe are found on the lowest level of the industrial scale.

On page 167, same book:

Disregarding geographical lines, it may be said in general that foreign-born wage earners constitute slightly more than three-fourths of the entire number of persons engaged in railway and other construction work. Native white Americans and native negroes each make up about one-tenth of the working forces.

On page 168:

In all sections of the country the south Italians form the highest proportion of laborers employed on railroad construction work.

On page 270, same book:

The great mass of foreign-born workmen remain in the ranks of unskilled laborers.

Mr. John A. Fitch, in his book "The Steel Workers," says that at the Carnegie Steel Co. plants, where there are employed 23,337 men, only 5,705 were native-born white Americans, the remainder being foreigners, of whom over 14,000 were unnaturalized, and about 8,000 of whom could not speak English.

In the great cities of New York, Chicago, Baltimore, Philadelphia, and Rochester there is manufactured about 70 per cent of the total product of men's ready-made clothing in the United States. More than 50 per cent of the workers engaged in this industry in these cities are women. Less than 10 per cent of them are native-born Americans, and 75 per cent of them can not speak English. The average weekly wage of these workers is $3.72.

Seventy-five per cent of the wage earners employed in the basic industries of this country are either foreigners or foreign born. Profs. Jenks and Lauck, in their book "The Immigration Problem," on page 283, say:

A number of cities show a very high percentage of pupils with foreign-born fathers. In New York City 71.5 per cent have foreign-born fathers; in Chicago 67.3 per cent; in Boston 63.5 per cent.

This shows to what extent foreign immigrants have taken possession of our large cities.

Lawrence, Mass., is the center for the manufacture of woolens and worsteds. It has a population of 85,000. More than 73,000 of its inhabitants are foreigners and less than 12,000 are Americans. There are employed in the manufacture of woolens and worsteds in this city about 30,000 workers, 92 per cent of whom are foreign born. They live in segregated colonies, separate and apart from our people. Fifty per cent of them not only can not read English but can neither read nor write in any other language.

In an article written not long ago by the Secretary of the United States Immigration Commission and published in the North American Review is found this language:

The term American wage earner is rapidly becoming a misnomer. Almost three-fourths of the employees of the principal branches of manufacturing and mining in the United States at the present time are of foreign birth.

This does not include those born in this country, but of foreign parentage. The secretary of the commission continues:

Only about one-fifth of the total number of wage earners were born in this country. * * * Among bituminous coal and iron mine workers less than one-tenth are native Americans. The fact of great import in connection with the situation is that about one-half of the industrial workers of foreign birth are southern and eastern Europeans and Asiatics, principally representatives of the north and south Italians, Poles, Greeks, Slovenians, etc. There is no manufacturing city or town or any mining community of any importance in the Middle West, New England, and the Middle States which has not a foreign section made up of industrial workers from southern and eastern Europe. * * * There has been a distinct segregation of the immigrant and the native American population, and there is little contact or association beyond that rendered necessary by business or working relations.

This statement on the part of the secretary of the Immigration Commission is merely corroborative of the data and facts gathered on this subject from a good many sources.

Mr. BARTHOLDT. Mr. Speaker, will the gentleman yield for a further question?

The SPEAKER. Does the gentleman yield?

Mr. POWERS. I yield.

Mr. BARTHOLDT. Does the gentleman know of any native Americans who are out of employment? If he does, I wish he would send them to St. Louis, where employment will be found for all of them. [Applause.]

Mr. POWERS. In answer to the question of the distinguished Member from Missouri [Mr. BARTHOLDT], I will say that the act of February 20, 1907, created an Immigration Commission to study this question from every conceivable standpoint, and after having devoted four years to extensive investigation, both in this country and in Europe, at an expenditure of $1,000,000 that commission came to the unanimous conclusion that there was an oversupply of unskilled labor in this country. [Applause.] Even the Hon. William S. Bennet, the only member of the commission who handed down a dissenting opinion at all, agreed with the majority that there was an oversupply of unskilled labor in this country, and it is indeed a very cheap labor and goes largely to our industrial centers.

Profs. Jenks and Lauck, in their book, page 26, speaking of the immigrants coming to this country, say:

They find that our supply of free agricultural land is practically taken up, that there is a strong demand for their labor, especially in our mining and manufacturing centers, at wages much higher than any that they have known in their own country, although they may be low when compared with the American standard.

On page 169, same book, they say:

A study of more than 5,000 wage earners in all sections of the country showed that the average daily earnings of native white Americans were $2.43 and of immigrants $1.68.

Respecting the cost of living the same authors, on page 174 of their book, say:

The cost of living is about $10 per man for the Croatians for a month and the same for the Slovaks, and from $5 to $7 for the Italians. The Italians live mainly upon bread and macaroni and bologna sausage, which accounts for the extremely low cost of their maintenance.

Speaking of the amount of money brought into this country by the south and east European immigrant per person and his necessity to take employment at low wage in this country these same authors, on page 183 of their book, say:

During the past eight years the average amount per person among these immigrants has been about one-third as much as among immigrants from northern and western Europe. Consequently, finding it absolutely imperative to engage in work at once, they have not been in a position to take exception to wages or working conditions, but must obtain employment on the terms offered or suffer from actual want.

On page 195 of the same book is found the following:

The low standards of the southern and eastern European, his ready acceptance of a low wage and existing working conditions, his lack of permanent interest in the occupation and community in which he has been employed, his attitude toward labor organizations, his slow progress toward assimilation, and his willingness seemingly to accept indefinitely without protest certain wages and conditions of employment have rendered it extremely difficult for the older classes of employees to secure improvements in conditions or advancement in wages since the arrival in considerable numbers of southern and eastern European wage earners.

America is being filled up with people from other countries in such numbers and in late years of immigrants of such a character that it is impossible to assimilate them, and America is gradually but surely being foreignized.

It will be remembered that there were no statistics kept of alien immigrants to this country until 1819. From that year down to now the increase has been tremendous and the character of the immigrants has undergone a marked change. Let us first look into the number and then the character of the immigrants that have been coming to this country.

From 1820 to 1830 there arrived on our shores 143,439 immigrants; from 1830 to 1840, 599,125; from 1840 to 1850, 1,713,351; from 1850 to 1860, 2,589,214; from 1860 to 1870, 2,314,824; from 1870 to 1880, 2,812,191; from 1880 to 1890, 5,246,613; from 1890 to 1900, 3,844,420; from 1900 to 1910, 8,795,386, while in 1911 there arrived in that one year 878,587. A glance at these figures will show the tremendous increase in immigration to this country. The first decade that has any record of immigrants coming to this country, the decade from 1820 to 1830, shows that there were only 143,439 immigrants admitted to the United States, while during the last decade, the decade from 1900 to 1910, there were 8,795,386, more than five times as many, although from 1820 to 1830 there was no Federal law on the statute books really seeking to restrict immigration and no law on the statute books really attempting to regulate it or any part of it, except the act of 1819, which regulated in a way the steerage passengers at sea.

From 1900 to 1910, when nearly 9,000,000 alien immigrants were admitted to this country, there were on the statute books pretty stringent immigration laws, as is shown by an examination of the immigration acts of March 3, 1891, and February 20, 1907, the one now sought to be amended. The passage of the literacy test bill will curtail annually by some 200,000 the influx of immigrants to our shores. The Immigration Commission in a unanimous report—those in favor of the literacy test and those opposed to it—declared that there were too many immigrants coming to this country, and that their number ought to be materially curtailed. The question is, How should it be done?

As I said in a speech a few days ago, the immigration to this country naturally divides itself into two great groups: Those coming before the year 1880 and those coming after that time. Up to 1880 the bulk of the immigrants to this country came from western and northwestern Europe, from such countries as Great Britain, Germany, Norway, and Sweden. Since 1880 the character of the white immigrants to this country changed so

rapidly that in 1907 71.3 per cent of such immigrants came from southern and southeastern Europe and western Asia.

Profs. Jenks and Lauck, in their book, on page 128, say:

The members of the old immigration, generally speaking, came much more generally in families, with the evident purpose of making America their permanent home, than do the members of the new immigration.

And on page 272 of the same book is found this statement:

Of the total number of industrial workers studied by the Immigration Commission who had a residence of five years to nine years [in the United States], only 6.2 per cent were fully naturalized, as compared with a degree of citizenship of 56.9 per cent of those with a period of residence from 10 years or over.

They go on to say that only 30.1 per cent of the southern Italians have either been naturalized or have taken out first papers looking to that end.

The bulk of the old immigration was similar in instincts and civilization to our own, and readily assimilated with it, and at once became a splendid type of American citizenship. Profs. Jenks and Lauck, speaking of the characteristics of the recent immigrants, say, on page 170 of their book:

Fifty-five per cent of the immigrant wage earners were married, but more than three-fourths of these had left their wives and families in their native countries.

On the same page they say:

As regards the small extent to which the southern and eastern Europeans exhibit any tendency toward progress and assimilation, it was found that practically all of the recent immigrants, except the north and south Italians, and one and one-tenth of these, were fully naturalized. Moreover, only about one-third of the southern and eastern European wage earners could speak English.

On page 197 of their book is found this statement:

Owing to the rapid expansion in industry which has taken place during the past 30 years and the constantly increasing employment of southern and eastern Europeans, it has been impossible to assimilate newcomers, politically or socially, or to educate them to American standards of compensation, efficiency, or conditions of employment.

On page 265, same book, they say:

The coming in of people who will not be assimilated creates discord and makes separate classes or castes in a community.

The chief motive in coming to America of the old immigrant class was to escape religious or political persecution and to found for themselves a permanent home here. The bulk of the immigrants coming to this country after the year 1880, and known as the "new immigrants," have not sought homes here, have not assimilated readily if at all with our people and things American, but the tendency has been to settle in colonies in the industrial centers of our country, separate and apart from American citizens, and to continue to speak their own language or dialect and virtually to establish while here foreign customs and conditions and even foreign cities here on American soil.

Profs. Jenks and Lauck in their book (p. 67) say:

The widespread existence of immigrant industrial communities or colonies in the United States at the present time may be realized when it is stated that in the territory east of the Mississippi and north of the Ohio and Potomac Rivers there is no town or city of industrial importance, with the exception of the lead and zinc mining localities of Missouri, which does not have its immigrant colony or section composed of Slavs, Magyars, North and South Italians, or members of other races of recent immigration from southern and eastern Europe. In the South and Southwest, because of the large areas devoted almost exclusively to agriculture, the immigrant community is less frequently met with than in the Middle West or East. In the bituminous coal-mining territories of West Virginia, Virginia, Alabama, Arkansas, and Oklahoma immigrant colonies in large numbers have been developed in the same way as those in the coal-mining regions of Pennsylvania.

The new immigrants to this country have not fled from their country to seek safety in ours from religious or political persecution. That has not been their motive in coming here. Their reasons for coming have been largely economic. They have sought to take advantage of the high-priced wage in this country—to make a competence and then to return to their former homes. Profs. Jenks and Lauck in their book (p. 12) say:

The money wages in southern Europe, from which more than 80 per cent of our present immigrants are coming, are indeed very low as compared with those in the United States—often not over one-third as much. Moreover, the assertion often made that, owing to lower prices in Europe, the low wages will furnish practically as good living conditions as those in the United States is a mistaken one. The standard is far below that of the United States. They come to this country with the intention of making some money and then returning to their homes. This is shown by the fact that they send back to their mother country each year from $300,000,000 to $400,000,000 in money earned here, and by the further fact that 40 per cent of those who do come here do return to their own country after a little sojourn with us.

The old immigrants, in the main, come here for the purpose of making America their home, and but a small per cent of them return.

For the purpose of showing that the class of immigrants coming to this country have undergone a marked change; that they are not what they used to be; that before the year 1880—yes, beginning with the year 1869—there was less than 1 per cent of the new immigration coming here and at that time nearly 75 per cent of the old. I want to submit this table:

Comparison of certain national groups.

	Per cent of immigrants from Austria-Hungary, Italy, and Russia in total immigration.[1]	Per cent of immigrants from United Kingdom, France, Germany, and Scandinavia in total immigration.
1869	0.9	73.8
1880	8.5	64.5
1890	34.0	57.7
1891	39.6	52.1
1892	44.8	53.9
1893	42.7	48.2
1894	42.6	47.9
1895	39.8	52.9
1896	53.9	38.5
1897	53.0	37.6
1898	57.9	33.3
1899	64.4	27.8
1900	66.7	25.3
1901	68.6	22.5
1902	70.6	20.3
1903	66.8	22.4
1904	63.4	25.0
1905	66.4	21.2
1906	68.5	18.3
1907	71.3	17.1

[1] Includes Poland to 1898.

It will be noted that in 1869 the immigrants from Italy, Poland, Russia, and Austro-Hungary—whence come the new immigration—were about one hundred times less than the number from the United Kingdom, Germany, France, and Scandinavia—from whence have come the old immigration; in 1880 it was only about ten times less; in 1894 it was about equal to it; and in 1907 it was four times greater; and at the present time the proportion is still much larger. The old immigration has been supplanted by the new. The old immigration came to stay, and a large proportion of it sought homes on the farm. A large per cent of the new immigration comes to return, and to settle while here in colonies in the industrial centers of the country. Only about 15 per cent of it goes to the farms.

The Immigration Commission in its report says:

The old and the new immigration differ in many essentials. The former was, from the beginning, largely a movement of settlers who came from the most enlightened sections of Europe for the purpose of making for themselves homes in the New World. * * * Many of them entered agricultural pursuits. They mingled freely with native Americans and were quickly assimilated. On the other hand, the new immigration has been largely a movement of unskilled laboring men who have come in large part temporarily from the less enlightened and advanced countries of Europe in response to the call for industrial workers in the Eastern and Middle Western States. They have almost entirely avoided agricultural pursuits, and in cities and industrial communities have congregated together in sections apart from native Americans and the older immigration. The new immigration as a class is far less intelligent than the old, more than one-third of all those over 14 years of age being illiterate when admitted. * * * They are actuated in coming by different ideals from the old immigration, for it came to be a part of the country, while the new, in a large measure, comes with the intention of profiting in a peculiar way by the superior advantages of the New World and then returning to the old country. The old immigration movement in recent years has rapidly declined, both numerically and relatively, and under present conditions there are no indications that it will materially increase. The new immigration movement is very large, and there are few, if any, indications of its natural abatement.

The fact is that statistics show that in more than 30 of our largest cities the foreign population is larger than the native born. Take New York City, for example: Its foreign population, including those born abroad and those born here but of foreign parentage, is 3,757,856, while the native-born Americans of native parents number only 1,012,027, including the negroes. Chicago has 1,693,988 of foreign parentage and birth, while it has less than half a million of native-born Americans, including the negroes. Milwaukee, another one of our large cities, has 293,986 foreign born and native born of foreign parentage, while it has less than 80,000 native-born Americans. And so the story goes. In a number of Atlantic seaboard cities it is even larger.

The literacy-test bill we are now considering will not cure all the evils of immigration, but it will cure a part of them. It will materially lessen the number of immigrants coming to this country, and it will lessen the illiteracy. It is generally agreed that there are too many immigrants coming to this country, but the opponents of the illiteracy test maintain that that is not the way to cure the evil. They point out that it will not shut

out the idiots, anarchists, criminals, professional beggars, prostitutes, black handers, or forgers; that it will not exclude the educated criminal. Nobody contends that it will. The bill was not framed primarily for that purpose. The present law excludes all these classes of undesirables, or is intended to do so, and the argument that a literacy test will not exclude them is beside the mark. Such argument, if not intended to deceive the public, is at least calculated to. But while the literacy test does not have as its primary object the exclusion of such people, yet in its practical operation it will exclude 21 per cent of our foreign-born criminals, 18 per cent of our foreign-born insane, and 30 per cent of our foreign-born paupers.

The argument is further made that the literacy test would exclude the honest, though illiterate, laboring man—the very man we need—and would admit the educated thief and scoundrel, the very men we do not need. That character of argument is unfair. Nobody contends that a dishonest educated man is a better citizen than an honest uneducated man. No law can be framed that would not in some instances work a hardship. In dealing with matters like immigration we deal with large classes of people; and the question with the literacy-test part of this bill is whether an education fits or unfits men for American citizenship.

Few men, I take it, would care to affirm that it would be better for our country if the millions of immigrants that arrive yearly upon our shores were uneducated rather than educated people. If it be true that ignorance adds to the true conception and ideals of American citizenship, and is a valuable asset for any people to possess, we had better abolish our public schools and tear down our institutions of learning. They are maintained at great cost.

For the scholastic year ending June 30, 1910, we expended on the 25,000,000 students in our public schools $426,250,434, to say nothing of what was expended on the 125,000 students who attended our colleges and universities. If to fit our own American boys and girls for proper and efficient American citizenship we expend annually on them in tuition alone some $500,000,000, have not we a right to demand that immigrants coming to this country who are over 16 years of age shall at least be able to read some language or dialect? The consensus of opinion in America is that the American fathers and mothers who have not educated their sons and daughters who are over 16 years of age, at least to the point of being able to read in some language, have fallen far short of their duty in fitting their children for wholesome and efficient American citizenship, to say nothing of citizenship in some foreign land, about whose Government and institutions they know nothing, and whose language they can not speak. The American citizen who can not even read or write, but who has been reared in America, surrounded by Americans, and who has observed the workings of its Government, caught the spirit of its institutions, imbibed its lofty ideals, and inherited its progress, is infinitely better prepared for wholesome American citizenship than any illiterate foreigner could be; and yet America feels that young Americans must be educated not merely to read, but must be really educated to properly prepare them for the great struggle for existence and to fit them and train them for wholesome American citizenship. What does the alien immigrant who can not read know of America or the duties and responsibilities of American citizenship? What can he know?

Profs. Jenks and Lauck, in their book, page 32, say:

At the time they are admitted into the United States as immigrants, judging from conditions in Europe, the percentage of illiteracy among the races composing the new immigration is much greater than that among the old, the difference being that of 35.6 per cent to 2.7 per cent, as shown by the following tables.

In the tables referred to, among other things, they show that 54.2 per cent of the south Italian immigrants over 14 years of age can neither read nor write.

Ours is a representative Government. Every citizen is a sovereign, and as such is called upon by his vote and otherwise to intelligently maintain that sovereignty, to uphold the ideals and institutions of the country of which he is a part. How can he maintain them when he knows nothing of them? How can he maintain them when he does not read, even in his own language; has never caught the spirit of our civilization, but upon the other hand crowds with others in colonies that do not know a word of English and are far removed from the better influences of our national life?

Profs. Jenks and Lauck, in their book, page 290, say:

Inability to speak English, as a matter of fact, is the greatest obstacle to the proper distribution of the recent immigration population. It causes segregation of the immigration races in industrial towns and large cities and prevents proper contact with American life and institutions.

How can an immigrant be fit for citizenship in a country like ours, where the people rule, when he knows nothing of the duties and responsibilities of that citizenship, and where his whole training and environment from youth up have incapacitated him from properly exercising or duly appreciating them? How can he be expected to appreciate, prize, or value freedom and liberty when he knows nothing of either, and especially when the form of government from which he comes is so radically different from our own? How can we expect to assimilate him and make him a part of us when the native Americans and the old immigrants shun and avoid him and feel disgraced to be caught in his company? How could we, if we would, take him up and make him a part and parcel of American life and character when the bulk of the new immigration that reaches our shores isolate themselves when here, introduces debased standards of living and ideals of life, stays but a short time in one place and then returns—40 per cent of them—to the land of their birth and the bosom of their families whom, when coming here, they left behind?

The reason why but a small percentage of the old immigration, as compared to 40 per cent of the new, returned to their old haunts was the difference in motive that prompted their coming from that which prompted the coming of the new. The old immigration, as I have said, sought homes in America, the new immigration seek jobs; the old expected to remain, the new expect to return. The old immigration in the main represented a sturdy, intelligent, lofty-minded, and high-spirited citizenship, who would not tamely submit to political and religious persecution and other forms of tyranny as practiced in the countries of their home, and therefore fled here and cast their lives and fortunes with us. Only 2.7 per cent of them were illiterate, as compared with 40 per cent of the new. The new immigration in coming to America is actuated by no such ideals, inspired by no such motives as those which inspired the old. They do not come to America even on their own initiative or on their own accord. Their coming here is stimulated, inspired, induced. The great steamship companies, the great railway companies, the large employers of labor find profit in the business.

Thousands of immigration agents are employed by these large concerns and industries and operate in the countries of southern and eastern Europe and the western part of Asia, and are largely instrumental in corralling a large part of the immigrants who come to our shores, and that, too, in violation of both the spirit and the letter of the law. Profs. Jenks and Lauck in their admirable work, "The Problem of Immigration," say:

A good authority stated that two of the leading steamship lines had 5,000 or 6,000 ticket agents in Galicia alone, and that there is "a great hunt" for immigrants, and that the work is very successful there.

The Immigration Commission in its report and speaking of the causes of immigration to the United States uses this language:

A large number of immigrants are induced to come by quasi labor agents in this country, who combine the business of supplying laborers to large employers and contractors with the so-called immigrant banking business and the selling of steamship tickets. * * * Another important agency in promoting immigration from Europe to the United States is the many thousands of steamship ticket agents and subagents operating in the immigrant furnishing districts of southern and eastern Europe. Under the terms of the United States immigration law, as well as the laws of most European countries, the promotion of immigration is forbidden, but nevertheless the steamship agent propaganda flourishes everywhere.

The Commissioner General of Immigration in his annual report of June 30, 1911, uses this language:

Much of the immigration which we now receive is artificial, in that it is induced or stimulated and encouraged by persons and corporations whose principal interest is to increase the steerage passenger business of their lines, to introduce into the United States an overabundant and therefore cheap supply of common labor, or to exploit the poor, ignorant immigrant to their own advantage by loaning him money at usurious rates.

The new immigration, much of it, is induced to come to this country. During the fiscal year 1911, 850,000 immigrants reached our shores, while only 16,000 were deported. There are too many coming here. The Immigration Commission has said so.

Mr. BARTHOLDT. Mr. Speaker, will the gentleman again yield?

Mr. POWERS. I yield.

Mr. BARTHOLDT. I venture to say that there is not 1 Member out of 100 in this House who has read the report of that commission, and I venture to say, further, that this legislation that is pending is not in any way justified by the findings of that commission and by the facts elicited by that investigation.

Mr. POWERS. I did not yield for a speech. I am not responsible for the Members reading or failing to read that report. The facts are as I have stated them to be.

If the distinguished Member himself has read the report of the Immigration Commission, he would know that the commission used this language in making its report:

The commission as a whole recommends restriction as demanded by economic, moral, and social considerations. * * * A majority of the commission favor the reading and writing test as the most feasible single method of restricting undesirable immigration. * * * The investigations of the commission show an oversupply of unskilled labor in basic industries to an extent which indicates an oversupply of unskilled labor in the industries of the country as a whole, and therefore demand legislation which will at the present time restrict the further admission of such unskilled labor. * * * The commission also recommended a "material increase in the head tax."

So the gentleman from Missouri [Mr. BARTHOLDT] is mistaken in the facts when he says that the legislation now under consideration is not "in any way justified by the findings of that commission." It is not only justified by it but is specifically recommended by it. The Immigration Commission recommends an increase in the head tax. The bill now before us increases it from $4 to $5. The commission recommends restriction as demanded by economic, moral, and social considerations, and specifically indorses the reading and writing test. The bone of contention, the reading test, is embodied in the bill now before us. This and the other new restrictions I have pointed out in my remarks will lessen the number of immigrants coming to this country, and all in accord with the findings and recommendations of the Immigration Commission and not in opposition to it, as the gentleman from Missouri would have us believe.

I have no bitterness in my heart toward the peoples of other lands and countries.

I am not opposed to the right sort of immigrants coming to this country. In fact, we welcome them to our shores. Human nature is pretty much the same the world over among all races and nationalities. There is not a land or country in the civilized world—no race or nationality—that the sun sees that can not proudly boast of the brilliancy and accomplishments of at least some of its own distinguished fellow citizens.

I hope the American people will never fail to recognize merit wherever it may be found, nor neglect to pay due homage to the greatness and deeds of achievement of the races and peoples of other lands and countries.

America is under a debt of gratitude to and has not failed to show her appreciation of the desirable immigrants who have sought refuge and homes on her friendly coasts. Our history is full of instances of both. I will cite but a few. Carl Schurz, the "political offender" in Germany, escaped from that country and came to the United States as an alien immigrant. His merits were soon made manifest and were duly appreciated and recognized. He was elected to the United States Senate from Missouri, made a major general in Union Army during the Civil War, and was Secretary of the Interior in the Cabinet of President Hayes, and he deserved them all and more.

D. B. Henderson was an immigrant from Scotland. This country was not slow to appreciate his worth. He was made a general in the Union Army during the Civil War, was later sent to Congress for several terms, and became one of the ablest Speakers that has ever presided over the deliberations of this House.

Andrew Carnegie was an immigrant to this country. He borrowed the money to come on, but he does not have to borrow the money now to go back on.

William Kelly, a Kentuckian, by the way, discovered in 1851, I believe, an improved process of making steel. Andrew Carnegie purchased that process and through his foresight and industry has amassed his millions.

William Marconi, the young Italian, now less than 40 years of age, the inventor of wireless telegraphy, has added a boon and blessing to mankind by that remarkable achievement and discovery. The world is his debtor. He is an Italian. To such as these the United States opens wide her hospitable doors. The intelligent, the industrious, the thrifty, whether in high stations or in low, of all lands and countries, who are seeking homes here and who are assimilable with our people, have received, at least in the past, a welcome to our shores. That is the position of our country now. The literacy test excludes only those who can not read. The ability to read does not make out of a bad man a good man. He is good or bad, regardless of that fact. His failure to be able to read does not make out of an honest man a dishonest man nor vice versa. Men are either honest or dishonest, regardless of that fact. Some of the truest and best men I have ever known could neither read nor write. The failure to be able to read and write is no impeachment of a man's integrity, but it is a great handicap to him in the race of life.

The alien immigrants who seek our shores and who are thus handicapped are but poorly prepared to add to the intelligence or real greatness of our Nation or improve the standard of its citizenship. At tremendous cost we try to educate our own people to fitly prepare them for enlightened and wholesome American citizenship. Why not, then, require alien immigrants who seek American citizenship for the purpose of partaking of its blessings to at least possess education enough to read in some language or dialect, so that in time, if they desire to do it, they can acquire some knowledge of our freedom and form of government, appreciate to some extent our free institutions, and exercise to some good advantage the glorious responsibilities of the citizenship they seek?

Mr. GOLDFOGLE. Mr. Speaker, I now yield two minutes to the gentleman from New Jersey [Mr. HAMILL].

The SPEAKER. The gentleman from New Jersey [Mr. HAMILL] is recognized for two minutes.

Mr. HAMILL. Mr. Speaker, we witness again in these days a clamor, of which we may well doubt the sincerity, about the supposed evils of immigration. We have heard the same protest go up at different times in our history. We know its meaning, and we are thoroughly familiar with the motives of those who are making it. It proceeds from a class of our citizenship that seems unable to comprehend and, at any rate, is reluctant to be guided by the true spirit that underlies the Government we live under.

Keep out immigration, cry they, and preserve America for Americans. The slogan is catchy, but it is insincere. Those using it can not give proper reasons to justify its enforcement, and when we consider the subject it refers to we find that there are no valid reasons why it should be enforced.

Hitherto it has been our unbroken policy to encourage to this continent the influx of sturdy and industrious foreigners. From the beginning of our national existence the stream of immigration has been steady and uninterrupted. The downtrodden of all lands, however oppressed, whether politically, religiously, or industrially, were taught to reverence our flag as the symbol of a people ardently attached to the doctrine that all men are created equal, and who would, because of this belief, give the industrious immigrant the opportunity to reap the rewards to which good character and patient toil would entitle him. So he came here hopefully and confidently became naturalized and cast his lot among us. He became the fulcrum of the lever of American enterprise and genius, which built up the country across the continent from the Atlantic to the Pacific. He lifted the lusty young Nation to a high and commanding plane of wealth and power. But, of course, he was of the "old immigration," and the advocates of this bill hasten to tell us that with this class of foreigners they have no objection. It is extremely fortunate for them that they feel this way about the matter, because the descendants of this "old immigration" have multiplied very rapidly, and in many places are politically strong enough to resent any aspersions on their hard-working forefathers by cutting short the official careers of such Members of Congress as might be guilty of making them. But nevertheless these old immigrants had their struggles. They were opposed everywhere by the prejudiced and unreasoning, a class who, if living to-day, would, I am satisfied, be numbered, in spite of disproving experience, among the advocates of this proposed literacy test. As an instance of what they had to bear with, just listen to this liberal and discriminating observation that emanated in this broad land of enlightenment in 1835. A pamphlet issued in that year by "An American," Mr. I. F. B. Morse, in drawing a comparison between what was then the previous immigration and that of the day the writer lived in, contained this statement:

Then we were few, feeble, and scattered. Now we are numerous, strong, and concentrated. Then our accessions of immigration were real accessions of strength from the ranks of the learned and the good, from enlightened mechanic and artisan and intelligent husbandman. Now, immigration is the accession of weakness, from the ignorant and vicious, or the priest-ridden slaves of Ireland and Germany, or the outcast tenants of the poorhouses and prisons of Europe.

But immigration still continued to grow, and very luckily for the country.

The Civil War broke out, and the patriotism of the foreign-born citizen was put to the supreme test. The test, however, was not literacy but loyalty. The recruiting officers carried no slips containing 40 words. The only requirement was whether he would fight for "liberty and union," and how well he proved his devotion to this doctrine needs no eulogy from me, although I may take occasion to remark that his achievements during the conflict effectually silenced the carping of his critics. The immigrant of to-day would, if put to the same trial, prove equally worthy as his predecessor.

Abraham Lincoln realized the need and the value of immigration. His message to Congress of December 6, 1864, contained this recommendation:

I regard our immigrants as one of the principal replenishing streams which are appointed by Providence to repair the ravages of internal war and its waste of national strength and health. All that is necessary is to secure the flow of that stream in its present fullness, and to that end the Government must in every way make it manifest that it neither needs nor designs to impose involuntary military service upon those who come from other lands to cast their lot in our country.

As a result of this friendly and wisely foreseeing policy the period which has elapsed since the close of the Civil War has been specially characterized by immigration, and this period has also been the most glorious in our economic history. It has been notable for gigantic strides and progress in all the arts and industries. It has at the same time been distinguished for high wages and national prosperity. Immigrant industry constructed our railroads, opened our mines, leveled our forests, toiled in our mills and factories, in our shops and on our farms, and kept the furnaces of production burning and the wheels of industry turning.

The gentleman from Texas [Mr. DIES], when confronted with this indeniable record, graciously admitted the truth of it, but said we ought to leave some of these railroads and mines to be developed by our descendants. It is fortunate for the gentleman, so far as his convenience is concerned, that those who lived before him did not adopt his sagacious view of waiting until the railroads would be built by the then native labor, for if they had I am afraid the gentleman in coming to this Capitol to discharge his duties as a Representative would be compelled to travel from Texas to Washington on horseback.

The gentleman from Kentucky [Mr. POWERS] gives us a specimen of a similar kind of logic used in advocating this bill. He regrets that about 75 per cent of the operatives engaged in the woolen business are immigrants or their descendants and that there is a great percentage of immigrant labor employed in other industries. Does it never occur to the gentleman that when these people are working they are heaping up and have heaped up a wealth cornered and monopolized, not by immigrants, but by keen and shrewd Americans of long residence in this country?

When the gentleman from Massachusetts [Mr. GARDNER] stands up and with a willingness amounting almost to flippancy gives his assent and voices his perfect satisfaction at being numbered among those who are in favor of this measure, he forgets that the mills and manufactories of Massachusetts, his own State, are a standing protest against his action and an eloquent tribute to the industry and effectiveness of immigrants and their descendants.

Now, what does this bill provide. It excludes—

All aliens over 16 years of age, physically capable of reading, who can not read the English language or some other language or dialect, including Hebrew or Yiddish.

In other words, it makes education the standard and measure of good citizenship. It would close the gates of the country to the moral and industrious immigrant who has been denied the opportunity of education at home, whose vigorous body would add value to the country's power of production, but open them wide to the idle and worthless but somewhat educated foreigner whose presence here is unnecessary and whose purpose is often to stir up agitation against the Government. On this point let me read a most pertinent editorial taken from the Jersey Journal, of New Jersey, issue of May 11, 1912. It says:

THE LITERACY TEST.

The proposed literacy test would keep out a great many immigrants, but it is doubtful if it would exclude the really undesirable aliens, the proletariat that produces social ferment in dense alien populations.

Criminals are not the illiterates, as a rule. Some education is required to write Black Hand letters, and some degree of intelligence is needed to make bombs.

Another editorial, taken from the Boston Morning Herald of June 3, 1912, comprehensively deals with the contention of the advocates of this bill, as follows:

ILLITERACY AND IMMIGRATION.

One honest, hard-working illiterate who lives clean and raises a decent family is worth a hundred of the inefficients our schools turn out annually, who can read and write, but who are too fine to work and who are utterly useless in the civilization they live in. We place too high an estimation upon mere literacy, but if we paid more attention to teaching children that morality which comprehends respect for parents and law and the necessity of earning bread by the sweat of their face, we would not be troubled so much with the envy and discontent which are the outgrowth of laziness and inefficiency.

The literacy test for the exclusion of immigrants is the sheerest humbug. Had such a law been in force since the early seventeenth century America would still be a howling wilderness. The American troubles of the twentieth century are not the fruits of illiteracy and immigration; they are made right here on the soil by those born on the soil, by the lazy, the inefficient, the envious, the unsuccessful—all the products of our public schools. Go to your prisons some time and learn how many of the inmates are illiterates. When literacy has become a synonym for sanity, honesty, industry, and physical soundness it will be time enough to make illiteracy a barrier for admission to the Republic. I would rather have an illiterate who can steer a plow, wield a sledge, roof a house, lay brick, or dig a good sewer than a dozen half-baked chaps who can write dog and read cat and who are willing to live on the labor of a father and mother. Let Congress face the question fairly, and let the Government back up the immigration authorities in enforcing the laws we have. The illiterate test is pure punk, just plain flapdoodle.

Mr. REILLY. Is the gentleman aware that over 75 per cent of the inmates of prisons in this country can read and write?

Mr. HAMILL. The gentleman is correct in his assertion. It is only another proof that literacy is not a synonym for good citizenship and that a man who is industrious will make a better citizen than a man who has a smattering of knowledge but who is not industrious or of good moral character.

But the authors of the bill want the immigrant excluded because he keeps down American wages and lowers the American standard of living. A good many of those who urge this charge never before evinced such a tender solicitude for the wages of the American workingman, and it is to be regretted they did not have time to consult the statistics on the subject from which they would with certainty learn that wages in this country are highest in those places where immigration is heaviest and lowest in localities where immigration is most sparse. It is not the honest hard-working illiterate laborer that the American workingman has reason to fear, but the prison-made products that come from the skilled hands of those who could always pass a literacy test.

But it appears that some of the immigrants after working here a certain period return to their own country and thus carry with them a portion of the country's wealth. Is not this argument directly fatal to the charge that he disturbs wages in America? The truth is that he remains here while work is plentiful and then departs when it is scarce. So, therefore, the head and front of the poor immigrant's offending consists in yielding to an admirable natural sentiment to visit the home of his fathers. Dear, dear, how dreadful! But how about our own precious self-expatriated plutocrats, who carry out millions they never earned to enable them to live in foreign lands amid more agreeable European society? How about the fortunes with which they dower their daughters to make them eligible in marriage to scions of foreign nobility—fortunes spent in discharging mortgages and repairing the estates of gentlemen who could probably pass a literacy test, but not invariably a character test? There is this difference between the two classes that go out. When the immigrant returns he carries with him and spreads the grateful story of America's grandeur and goodness to all who live beneath the flag and causes America to be cherished in the hearts of the world's millions. When the plutocrat goes abroad, if ever we hear about him, it is generally in making among his new neighbors some obsequious reference in disparagement of America as compared to the land he then lives in. No; we should not restrict immigration. We need the immigrant here. We can easily assimilate him and there is plenty of room to receive him.

The present immigration laws are more than stringent enough to keep out unworthy applicants for residence. They are a more than sufficient sifting process and will keep out all undesirables if the gatekeepers of the country properly enforce them. If, perchance, a small number of unworthy immigrants have found entrance, it was owing to the lax enforcement of the laws, the remedy for which is not restriction. It is unjust to attempt to shut off the entire stream of foreign population merely because a small and impure rivulet trickles through.

The safety of this country demands that the supply should be drawn from different sources, whereby the various nationalities are blended and a high type of physical strength combined with intellectual and moral excellence is obtained. This alone would give us an ideal American citizenship. No country ever did or ever could succeed in this policy of exclusion. This was attempted by China when, lured by the siren cry of "China for the Chinese," she raised prohibition barriers against immigration and severed all voluntary relations with the outside world. From then onward the star of her career steadily waned. A similar fate would befall us if ever, in an evil moment, we should adopt the policy insisted upon by the oriental sagacity of the advocates of this bill.

America owes to the immigrant too great a debt to be repudiated by restriction. He has been closely identified with her history in the most perilous as well as the most prosperous periods of her history. The future welfare and supremacy of this country will depend in no small part on her immigrant citizen, and to now close the avenues of the country against his entrance would be in the highest degree ungrateful and unwise. [Applause.]

Mr. GALLAGHER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

Mr. CANNON. I ask unanimous consent that all gentlemen who have spoken on this measure to-day have leave to extend their remarks in the RECORD.

The SPEAKER. The gentleman from Illinois [Mr. CANNON] asks unanimous consent that all gentlemen who have spoken on this measure or who may speak upon it to-day have leave to extend their remarks in the RECORD.

Mr. MANN. Not those who may speak.

The SPEAKER. The gentleman from Illinois [Mr. CANNON] asks unanimous consent that those who have spoken on this measure have leave to extend their remarks. Is there objection?

There was no objection.

Mr. BURNETT. I will ask the gentleman from New York [Mr. GOLDFOGLE] to use some further time. He has quite a little time left.

Mr. GOLDFOGLE. Does the gentleman from Pennsylvania desire to use any more time?

Mr. MOORE of Pennsylvania. How many more speakers has the gentleman from New York?

Mr. GOLDFOGLE. I have one.

Mr. MOORE of Pennsylvania. I yield five minutes to the gentleman from Minnesota [Mr. NYE].

The SPEAKER. The gentleman from Minnesota [Mr. NYE] is recognized for five minutes. [Applause.]

Mr. NYE. Mr. Speaker, immigration should be wisely regulated, and we do not attempt to oppose wise restrictions; but the question is so presented that it becomes of vast and mighty importance to our civilization.

Much is said about education. What is it? The gentleman from Kentucky [Mr. POWERS] seems to think that it is everything. Education is power, if it is education founded upon morality and right; but if it is top-heavy, if it is merely an education of intellect divorced from usefulness, from honesty, from virtue, it is a danger in this country. [Applause.]

I wonder what this Nation would be to-day if you should eliminate from it all the men and women who can not read and write? My judgment is you would weaken it; that there is much of virtue in the simple and unlearned of our land. Virtue is the foundation of all that is permanent in our national life. The unlearned men of the past, who could neither read nor write, have been a power in usefulness, and usefulnes is the test. We want men who come here and add to the daily virtue of this Republic by usefulness. Those are the men we want; and when the gentleman from Kentucky [Mr. POWERS] recites, as I am glad he did, the important fact that a very large proportion of our useful industries are served by people of foreign birth, he adds an argument that is unanswerable in favor of the usefulness and the virtue of the foreign population as a whole who come to this country. Learning without industry is of little profit and often an injury. Virtue is the test, and virtue springs largely from useful industry. Robert Burns, after picturing the rugged beauty and simplicity of the poor cotter's life in his native land, says:

From scenes like these, old Scotia's grandeur springs,
That makes her lov'd at home, rever'd abroad:
Princes and lords are but the breath of kings,
"An honest man's the noblest work of God;"
And certes, in fair virtue's heavenly road,
The cottage leaves the palace far behind;
What is a lordling's pomp? A cumbrous load,
Disguising oft, the wretch of human kind,
Studied in arts of hell, in wickedness refin'd!
O Scotia! my dear, my native soil!
For whom my warmest wish to heaven is sent!
Long may thy hardy sons of rustic toil
Be blest with health, and peace, and sweet content!
And O! may heaven their simple lives prevent
From luxury's contagion, weak and vile!
Then howe'er crowns and coronets be rent,
A virtuous populace may rise the while,
And stand a wall of fire around their much-lov'd isle.

Ah, the menace to this Republic is not from the poor men of the cabin and the hut who have not learned to read. The apostles in olden times could not read or write, some of them, and yet the world took notice of the fact that they had been in the presence of a great Teacher. Inspiration and power may come from education, but it is the education of the soul. [Applause.] It is the education that is inspirational; it is not the scholastic learning of this country that constitutes our greatness.

Mr. POWERS. Will the gentleman yield?

Mr. NYE. I have not the time.

The SPEAKER. The gentleman from Minnesota has a half a minute remaining.

Mr. NYE. Then I will yield to the gentleman.

Mr. POWERS. Under the illiteracy test, if it is put into the law, there would be excluded some 200,000 of alien immigrants who could not read. Does the gentleman think the position of this country would be better if those people who could not read should be admitted?

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. GOLDFOGLE. Mr. Speaker, how much time is remaining?

The SPEAKER. The gentleman from New York has 16 minutes, the gentleman from Pennsylvania 1 minute, and the gentleman from Alabama 5½ minutes.

Mr. GOLDFOGLE. I yield 1 minute more to the gentleman from Minnesota [Mr. NYE].

Mr. NYE. Mr. Speaker, the literacy test is absolutely no test at all. I do not remember exactly the question put by the gentleman from Kentucky because I did not suppose I would have time to answer it, but the educational test does not go to the question of our real citizenship. The foreigners in my county and my city, whether from Italy or Scandinavia, are the people whose children are the first to learn, and foremost many times in taking prizes in the schools. [Applause.]

The children of the poor, unfortunate men who come to this country and who have been unable to get an education are invariably foremost in our schools, I think, throughout the country. That is true of all nationalities.

Yes, to answer the gentleman's question more specifically, I really believe the country would be better for the 200,000 immigrants, notwithstanding their illiteracy. Illiteracy is not incompatible with good citizenship.

[Mr. GOLDFOGLE addressed the House. See Appendix.]

The SPEAKER. The time of the gentleman has expired.

Mr. GOLDFOGLE. Mr. Speaker, I ask leave to extend my remarks in the RECORD.

The SPEAKER. The gentleman from New York asks leave to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none. The gentleman from Pennsylvania has one minute remaining and the gentleman from Alabama five and a half minutes.

Mr. BURNETT. I yield to the gentleman from Kentucky [Mr. LANGLEY].

[Mr. LANGLEY addressed the House. See Appendix.]

Mr. BURNETT. I ask the gentleman from Pennsylvania to use his time.

Mr. MOORE of Pennsylvania. Mr. Speaker, I have one minute?

The SPEAKER. Yes.

Mr. MOORE of Pennsylvania. Mr. Speaker, in that time I want to refer to the industrial and political economy of my friend from Texas, Mr. DIES, who complained of the congestion of the East Side of New York and to commend to him the testimony of Joseph Barondess, who does not agree with Samuel Gompers upon this question, that there are no better paid garment workers in the United States now than those on the East Side of the city of New York, and in a Democratic district, who receive two or three times as much pay as they do abroad. Secondly, as to the gentleman's economy with reference to the increased cost of living in connection with immigration, the gentleman ought to know that every immigrant who comes to this country, which enjoys the greatest home market in the world, consisting of more than 90 per cent of all we produce, brings in his own skin a customer for at least 90 per cent of the products of the farm. That is all, Mr. Speaker. I ask permission to extend my remarks in the RECORD. [Applause.]

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

The communications are as follows:

PHILADELPHIA, PA., *January 23, 1913.*

Hon. J. HAMPTON MOORE,
House of Representatives, Washington, D. C.:

Pennsylvanians who still have faith in freedom and love our country for what it stands for look to you and your colleagues to continue fight against narrow immigration laws. Lack of letters is misfortune, but not crime. To turn back liberty seekers because of that misfortune is like returning victims of Russian tyranny to Siberia and the knout because of their fetter bruises and their scars.

SOLOMON SOLIS COHEN, *Chairman.*

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THE AMERICAN JEWISH COMMITTEE,
New York, January 22, 1913.

Hon. J. HAMPTON MOORE,
House of Representatives, Washington, D. C.

DEAR SIR: Permit me to draw your attention to the inclosed copy of a letter we have sent to the conferees on the immigration bill in which serious defects in the bill are pointed out. I would ask you further to consider the inconsistency between the provisions of section 3 and section 9 pointed out by Senator STONE in his argument, which may be found on page 1788 of the CONGRESSIONAL RECORD for January 20, 1913. As Senator STONE showed, the clause in section 9 prohibiting steamship

companies or their agents under penalty of $100 fine from bringing in persons who can not read practically nullifies the provision in section 3, which permits an alien to bring his grandfather and other relatives, even if they can not read. An immigrant domiciled in this country may be separated from his family because of the unwillingness of the steamship company to incur the penalty by bringing in persons who can not read. This is a hardship which plainly was not intended and may be remedied by inserting the exceptions mentioned in section 3, also in section 9.

I trust you will find it possible to use your influence with the conferees to have the amendments referred to incorporated in the bill.

Assuring you of our appreciation of the splendid fight you have made against the enactment of this unnecessary, restrictive measure, I am,

Very truly, yours,

HERBERT FRIEDENWALD, *Secretary.*

JANUARY 21, 1913.

DEAR SIR: In the debate in the Senate on the 20th instant a number of defects in the conference immigration bill were pointed out, and there are several to which I especially wish to direct your attention.

1. A provision still remaining in the conference report is as un-American as the certificate section to which the Senate unanimously objected. Its evils, however, require a little study in order to make them apparent. The provision referred to is made up of three portions of the bill, viz, in section 3, among the excluded classes are "persons who have committed a felony or other crime or misdemeanor involving moral turpitude." In section 16 the immigration officials are given the right to secure through United States courts subpœnas to compel the attendance of witnesses and the production of books and documents, while no such power is conferred upon the accused or detained alien; and in section 18 there is the clause: "In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty now existing the decision of the Secretary of Commerce and Labor shall be final." The provisions in sections 16 and 19 are new. The present law as to criminals is that those are excluded "who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude."

As will be seen at a glance, the amended law confers upon boards of special inquiry and upon immigration inspectors the right to try aliens for alleged crimes. There are no rules of evidence; there is no right of counsel; the immigration officials have the right to subpœna witnesses, but the alien has not. Many European countries try defendants in their absence, and, of course, the production of a properly authenticated judgment convicting a person might be held to be conclusive proof that he had committed the crime therein mentioned. Under the present act it would not be sufficient to deport, as the courts have held such convictions are not the character of convictions which the statute contemplates; but under the amended law such a conviction might be held to be absolute proof of the commission of the crime, which is all that would be required for deportation.

If an alien is ordered excluded or deported, he has only the right of appeal to the Secretary, and the decision of the Secretary is made final. This means that even the courts have no right to admit an alien whom the immigration inspectors have declared to have been guilty in his own country of a crime involving moral turpitude. (Lou Wah Suey *v.* Backus, 225 U. S., 460.) In other words, foreign governments, as, for instance, Russia, who hereafter desire to have returned to them their citizens or subjects in this country will not resort to extradition proceedings under treaties, where an alien has a right to go to court and where he has the right to remain in this country if he can show that he is a political refugee, but the alien will be accused of the commission of some crime. He can not plead that he is a political refugee, as the statute makes no exception but simply provides for the exclusion or deportation of persons who have committed a crime involving moral turpitude. Surely, the American public has not so soon forgotten the cases of Pouren and Rudowitz, the Lettish revolutionists, whom Russia tried to extradite only two or three years since and who were permitted to remain in this country by the order of Secretary Root, because the crimes which they undoubtedly committed were political crimes in connection with a revolution. If this statute had been in force, Russia would never have gone into extradition proceedings against them, but would have accused them of larceny or murder and proved it, and they would have gone to Russia as men who had committed those crimes in that country, and when they arrived there would have been shot as having taken part in a revolution.

Unless our Congress has lost all touch with American ideals it will not put into the hands of the secretar agents of foreign countries the right to have deported, upon proof of some minor crime in connection with revolutionary activities, those who unsuccessfully engaged in revolutions in foreign countries and thereafter fled to this country. If this had been the law in our country in 1849, Carl Schurz would have been deported to Germany and shot.

2. In the bill as it passed the Senate, page 31, section 16, lines 17 and 19, the following appears:

"On such examinations by the board of special inquiry the alien shall have the right to be represented by counsel or other adviser."

In the conference report the above clause is omitted, and in its place is inserted, page 14, lines 12–21, a clause requiring the board of special inquiry to inform the alien of his right of appeal to the Secretary of Commerce and Labor and giving him the further right to be represented by counsel or other adviser on such appeal. This last clause is practically meaningless, as the alien has always had this right. (See Immigration Rules, Nov. 15, 1911, rule 17, subdivisions 1 and 2.)

In the conference report, page 14, section 17, lines 20 and 21 of that section, is reproduced the provision of existing law that "all hearings before such boards shall be separate and apart from the public." This gives to the proceedings of the boards of special inquiry an inquisitorial and star-chamber character, which is against the spirit of our institutions. Practically the first contact, therefore, which an alien has with American institutions is with secret administrative processes which he has left his native land to avoid.

There is no reason, therefore, why an immigrant should not have the same right to be represented as is conferred upon the meanest criminal. Frequently the immigrants are so dazed when they come before boards of inquiry, being unfamiliar with the language and procedure, that they are practically speechless, some of them having come from countries like Russia and Roumania, where a public official is looked upon as a public enemy. I have heard of many cases where immigrants were possessed of considerable means, who, fearing that they would be stripped of their belongings if they admitted that they had money, have denied that they had any, and were only saved from deportation by subsequent disclosure of the fact.

Proper regulations can be adopted by the boards of inquiry which would prevent any abuses that might be feared from the presence of advisers and counsel. Nobody should be prevented from coming into this country without a proper opportunity of being represented by counsel.

I therefore suggest that the words stricken out be reinserted, and that the words in section 17 requiring all hearings before boards of inquiry to be separate and apart from the public be stricken out.

Will you not have these amendments made in conference? They are altogether in accord with the spirit of American traditions.

LOUIS MARSHALL,
President American Jewish Committee.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] is recognized for five and a quarter minutes.

Mr. BURNETT. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. FARR].

[Mr. FARR addressed the House. See Appendix.]

Mr. BURNETT. Mr. Speaker, I am glad to know this is coming to an end, and that after six years of struggle petitions, not of the 450,000 whose petition the gentleman from Massachusetts [Mr. CURLEY] referred to but the petitions of 3,000,000 of workingmen, are about to be heeded by the American Congress. Thousands and thousands of them are themselves foreigners, who came to this country for the purpose of obtaining their living by their daily toil. I am glad that after long, weary waiting years in response to the petitions of 3,000,000 farmers all over this country and of thousands of members of patriotic organizations you are about to cast the vote for which the country has so long besought you in vain. One gentleman said there had been a lobby maintained here. Who are the lobbyists, Mr. Speaker? None of them hired and paid by the steamship companies to do their work. The only ones that I know of are those who are legislative agents of those who toil and who do know something about these conditions. [Applause.] Right there I want to read from a letter that has no doubt been going into the hands of Members of Congress during this debate, signed by L. H. Hammerling, president of the American Association of Foreign Language Newspapers. He says:

If the bill becomes a law, not only will it hamper the interests referred to, but, no doubt, by reason of the limitation of labor, further increase the cost of living and give more power to the labor agitators to make trouble.

Here is what that man said. That is the kind of lobbyist. Mr. Speaker, that is being maintained all over the country, not only here, for the purpose of stirring up sentiment against this bill. That man was before our committee, and here is the statement he made as the president of the Foreign Language Newspapers Association:

As an ex-member of a union I know something about their doings, and I hope it will be taken down as I say it. The labor leaders have realized to-day that the foreign-speaking population can not be managed by them in their own way, as was done 20 years ago. We have advanced, become acquainted with American institutions, and have educated ourselves. When they could use us they were satisfied to have us come, but they have found we object to some of their methods.

That is the kind of man who has been filling the mails with base slanders of the officials of the great labor organizations of the country, the purpose of which is to ameliorate the conditions of those who earn their living by the sweat of their face.

When President Gompers was before our committee and that statement of Hammerling's was called to his attention he said:

I do not think Mr. Hammerling would have made that statement seriously in the presence of Mr. Mitchell and myself.

And then went on to state that foreigners who were members of these organizations had themselves joined in these petitions. They have prayed to you to take this cup from them in order that they may be relieved of those who come like birds of passage and beat down the price of the wages of laboring men and then, like Arabs, fold their tents and silently steal away and take everything they can with them.

Over against the petition referred to by Mr. CURLEY, of the authenticity of the signatures to which we know nothing, I present the following letter of Mr. Frank Morrison, secretary of the American Federation of Labor:

AMERICAN FEDERATION OF LABOR,
Washington, D. C., March 18, 1912.

Hon. F. M. SIMMONS,
United States Senate, Washington, D. C.

DEAR SIR: I see by the CONGRESSIONAL RECORD that you will speak before the United States Senate on the amendment offered by yourself to the immigration bill, S. 3175, and that you will deal specifically with the subject of the restriction by means of the illiteracy test.

In order that you may also know the latest action of the American Federation of Labor on the subject of immigration, I hand you herewith copy of the proceedings of the thirty-first annual convention, held at Atlanta, Ga., last November (1911), on page 66 of which you will find a statement by President Gompers on the subject of immigration, showing the Immigration Commission to have completely indorsed the attitude of the American Federation of Labor upon the general subject matter of immigration, particularly that of the requirement of an educational test. On page 287 of the same report you will find the report of the committee on president's report, reaffirming former actions of

the conventions of the American Federation of Labor, and instructing the legislative committee to continue their efforts to secure the passage of either the Gardner or the Burnett bill, or, for that matter, any other suitable measure providing for the educational test. This report was unanimously adopted by the convention.

Hoping that this may be of service, and with best wishes for your every success on this important question, I remain,

Yours, very truly,

FRANK MORRISON,
Secretary American Federation of Labor.

A resolution of the same purport was again adopted at the recent annual meeting of the representatives of the American Federation of Labor. I also present a resolution recently adopted by the National Grange, and a letter from the general counsel of the Farmers' Union containing resolutions passed a few weeks ago by the Farmers' Union of the State of Texas:

Resolution adopted by the National Grange of Patrons of Husbandry in national session, 1912.

Whereas the Senate has passed an excellent bill, S. 3175, containing the legislation recently recommended by a congressional investigating commission as necessary to exclude undesirable immigration, and the House leaders have announced that the measure will be considered "the first thing in December," and as we have recommended that the head tax be increased, the illiteracy test be enacted, the foreign steamships be fined for bringing undesirables, and that other judicious measures be adopted by the Congress of the United States: Therefore be it

Resolved by the National Grange, forty-sixth annual session, That we urge this needed legislation.

FARMERS' EDUCATIONAL AND COOPERATIVE UNION OF AMERICA,
January 25, 1913.

Hon. JOHN T. WATKINS, M. C.,
House Office Building, Washington, D. C.

CONGRESSMAN WATKINS: I am in receipt of a letter under date of the 19th instant from the State president, Mr. I. N. McCollister, of the Louisiana Division of the Farmers' Educational and Cooperative Union, pointing out that a few farmers are being hoodwinked by certain mercenary interests and selfish influences into asking for the disapproval of the immigration bill, S. 3175, unless special provision is made for the free admission of "cotton pickers" from Mexico, directing me to call the matter to your attention and the attention of the other Members of the Louisiana congressional delegation, and informing me that he had sent you a telegram in which he stated, among other things, "I hope that you will * * * urge the passage of the immigration bill."

These same interests and influences have been industriously at work in Texas with specious arguments and half-truth statements trying to invegle members of the farmers' union to write and telegraph their Congressman in opposition to the approval of the immigration conferees' report. A number of their letters and newspaper articles have been sent to me. In fact, Mr. Peter Radford, State president of the Texas division, is now in Washington attending a conference of farmers, and he says that the matter was thrashed out at a State meeting last week in Fort Worth, at which there were over 1,500 delegates, the following resolutions being unanimously adopted:

"Whereas the House and Senate have passed an immigration bill (S. 3175) containing the very legislation urged for years by the Farmers Educational and Cooperative Union of America in local, State, and national meetings, and recently recommended by a congressional immigration commission, after a four years' searching investigation: Therefore be it

"Resolved by the Texas Division of the Farmers' Educational and Cooperative Union of America in State session assembled this 14th day of January, 1913, That we urge upon the President the approval of this excellent bill, and point with pride to the fact that every one of the Congressmen from this State, except one, were in favor of the measure, a number of them taking the floor and ably arguing for its passage; and be it further

"Resolved, That the State secretary send forthwith a copy of this resolution to each one of our 16 Congressmen, each of our Senators at Washington, give a copy to the newspapers for publication, and transmit a certified copy to the President, the White House, Washington, D. C."

Thanking you for permitting this intrusion upon your busy time, I am, knowing your genuine interest in and sympathetic support of all measures looking to the betterment of farm life in particular, and the promotion of the general welfare of all the people and the country in general, instead of the service of certain special interests and selfish influences,

Very truly, yours,

J. H. PATTEN,
General Counsel Farmers' Educational and Cooperative Union of America.

I could pile up resolutions of patriotic organizations, labor brotherhoods, and others until they would fill a book.

Gentlemen, these are the ones in whose behalf I appeal to you to-day. The Hammerling clans have sung their swan songs.

The attorneys and agents of steamship companies have been for months gumshoeing through these corridors. The voice of the country comes to you in clarion notes, and if you fail to heed it they may refuse to heed your voice when you come before them again.

This is the day I long have sought,
And mourned because I found it not.

[Applause.]

Mr. Speaker, I ask for a vote.

Mr. LENROOT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

Mr. BURNETT. Mr. Speaker, I make the same request.

The SPEAKER. The gentleman from Wisconsin [Mr. LENROOT] and the gentleman from Alabama [Mr. BURNETT] ask unanimous consent to extend their remarks in the RECORD. Is there objection?

There was no objection.

Mr. MOORE of Pennsylvania. Mr. Speaker, several gentlemen have spoken since the unanimous request was made some time ago, and I ask that those gentlemen who have spoken since that time on this bill be given unanimous consent to extend their remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The question is on agreeing to the conference report.

Mr. GOLDFOGLE. Division, Mr. Speaker.

Mr. BURNETT. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 167, nays 72, answered "present" 13, not voting 131, as follows:

YEAS—167.

Adair	Dies	Howland	Patton, Pa.
Adamson	Doughton	Hughes, Ga.	Pepper
Aiken, S. C.	Draper	Hughes, W. Va.	Post
Ainey	Edwards	Humphrey, Wash.	Pou
Akin, N. Y.	Ellerbe	Humphreys, Miss.	Powers
Alexander	Evans	Jackson	Pray
Allen	Falson	Jacoway	Prince
Anderson	Farr	James	Raker
Ashbrook	Finley	Johnson, S. C.	Rauch
Austin	Flood, Va.	Jones	Rees
Bartlett	Floyd, Ark.	Kent	Roberts, Nev.
Bathrick	Fordney	Kinkaid, Nebr.	Roddenbery
Beall, Tex.	Foss	Knowland	Rothermel
Bell, Ga.	Fowler	La Follette	Rouse
Blackmon	French	Lamb	Rubey
Borland	Gardner, Mass.	Langham	Rucker, Colo.
Brantley	Garner	Langley	Rucker, Mo.
Buchanan	Gillett	Lawrence	Russell
Burke, S. Dak.	Glass	Lenroot	Saunders
Burnett	Godwin, N. C.	Lindbergh	Shackleford
Butler	Good	Littlepage	Simmons
Byrnes, S. C.	Goodwin, Ark.	Lloyd	Smith, Tex.
Byrns, Tenn.	Gray	Longworth	Sparkman
Callaway	Greene, Vt.	McKellar	Stedman
Candler	Gregg, Pa.	McKenzie	Stephens, Cal.
Cantrill	Gregg, Tex.	McKinney	Stephens, Miss.
Carlin	Gudger	Macon	Stephens, Tex.
Cary	Guernsey	Maguire, Nebr.	Sterling
Claypool	Hamilton, W. Va.	Martin, S. Dak.	Switzer
Collier	Hart	Mays	Taylor, Colo.
Copley	Haugen	Mondell	Taylor, Ohio
Cox	Hay	Moon, Tenn.	Thomas
Cravens	Hellin	Moore, Tex.	Tribble
Cullop	Helgesen	Morgan, Okla.	Turnbull
Currier	Helm	Morrison	Underhill
Dalzell	Henry, Conn.	Morse, Wis.	Watkins
Daugherty	Henry, Tex.	Moss, Ind.	White
Davenport	Hensley	Murdock	Wilson, Pa.
Davis, Minn.	Higgins	Neeley	Witherspoon
Davis, W. Va.	Hinds	Nelson	Young, Kans.
Dent	Holland	Padgett	Young, Tex.
Dickinson	Houston	Page	

NAYS—72.

Barchfeld	De Forest	Kahn	Reilly
Barnhart	Denver	Kinkead, N. J.	Roberts, Mass.
Bartholdt	Donohoe	Konop	Rodenberg
Bates	Driscoll, D. A.	Korbly	Scott
Berger	Dupré	Lee, Pa.	Sherley
Boehne	Dyer	Lobeck	Sherwood
Booher	Esch	McCoy	Sloan
Broussard	Estopinal	McCreary	Smith, N. Y.
Bulkley	Fergusson	McDermott	Stevens, Minn.
Burke, Wis.	Fitzgerald	McGillicuddy	Stone
Burleson	Fuller	Madden	Talcott, N. Y.
Cannon	Gallagher	Moore, Pa.	Thayer
Cline	Goldfogle	Morgan, La.	Towner
Cooper	Green, Iowa	Murray	Tuttle
Crumpacker	Hamill	Nye	Volstead
Curley	Hardy	O'Shaunessy	Wilder
Currry	Hawley	Pickett	Wilson, Ill.
Davidson	Howell	Ransdell, La.	Young, Mich.

PRESENT—13.

Andrus	Greene, Mass.	Palmer	Thistlewood
Burgess	Kopp	Parran	
Fairchild	Mann	Sisson	
Fornes	Norris	Steenerson	

NOT VOTING—131.

Ames	Dixon, Ind.	Hamlin	Konig
Ansberry	Dodds	Hammond	Lafean
Anthony	Doremus	Hardwick	Lafferty
Ayres	Driscoll, M. E.	Harris	Lee, Ga.
Bradley	Dwight	Harrison, Miss.	Legare
Brown	Ferris	Harrison, N. Y.	Lever
Browning	Fields	Hartman	Levy
Burke, Pa.	Focht	Hayden	Lewis
Calder	Foster	Hayes	Lindsay
Campbell	Francis	Heald	Linthicum
Carter	Gardner, N. J.	Hill	Littleton
Clark, Fla.	Garrett	Hobson	Loud
Clayton	George	Howard	McCall
Conry	Gill	Hull	McGuire, Okla.
Covington	Goeke	Johnson, Ky.	McKinley
Crago	Gould	Kendall	McLaughlin
Danforth	Graham	Kennedy	McMorran
Dickson, Miss.	Griest	Kindred	Maher
Difenderfer	Hamilton, Mich.	Kitchin	Martin, Colo.

Matthews	Pujo	Slemp	Tilson
Merritt	Ralney	Small	Townsend
Miller	Randell, Tex.	Smith, J. M. C.	Underwood
Moon, Pa.	Redfield	Smith, Saml. W.	Vare
Mott	Reyburn	Smith, Cal.	Vreeland
Needham	Richardson	Speer	Warburton
Oldfield	Riordan	Stack	Webb
Olmsted	Sabath	Stanley	Weeks
Patten, N. Y.	Scully	Stephens, Nebr.	Whitacre
Payne	Sells	Sulloway	Willis
Peters	Sharp	Sweet	Wilson, N. Y.
Plumley	Sheppard	Taggart	Wood, N. J.
Porter	Sims	Talbott, Md.	Woods, Iowa
Prouty	Slayden	Taylor, Ala.	

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. MAHER (against) with Mr. TILSON (in favor).

Mr. CONRY (against) with Mr. CAMPBELL (in favor).

Mr. FRANCIS (for) with Mr. LAFFERTY (against).

Mr. WEBB (for) with Mr. PATTEN of New York (against).

Mr. COVINGTON (for) with Mr. WILSON of New York (against).

Mr. SABATH (against) with Mr. HARRIS (for).

Mr. STACK (against) with Mr. PORTER (for).

Mr. SLAYDEN (for) with Mr. GREENE of Massachusetts (against).

Mr. SISSON (for) with Mr. KENDALL (against).

Mr. DIFENDERFER (for) with Mr. LEVY (against).

Mr. STANLEY (in favor) with Mr. CALDER (against).

Mr. HAMLIN (for) with Mr. GRAHAM (against).

Mr. TAGGART with Mr. NORRIS.

For the session:

Mr. UNDERWOOD with Mr. MANN.

Mr. SCULLY with Mr. BROWNING.

Mr. LITTLETON with Mr. DWIGHT.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. PALMER with Mr. HILL.

Mr. RIORDAN with Mr. ANDRUS.

Until further notice:

Mr. SMALL with Mr. VREELAND.

Mr. STEPHENS of Nebraska with Mr. SLEMP.

Mr. TAYLOR of Alabama with Mr. WARBURTON.

Mr. TOWNSEND with Mr. WEEKS.

Mr. LINTHICUM with Mr. OLMSTED.

Mr. OLDFIELD with Mr. PLUMLEY.

Mr. PETERS with Mr. PROUTY.

Mr. RANDELL of Texas with Mr. REYBURN.

Mr. SHARP with Mr. SELLS.

Mr. SHEPPARD with Mr. SPEER.

Mr. SIMS with Mr. VARE.

Mr. RICHARDSON with Mr. THISTLEWOOD (either to be released when the other would vote the same way).

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. HULL with Mr. NEEDHAM.

Mr. CLAYTON with Mr. WOOD of New Jersey.

Mr. HARDWICK with Mr. SULLOWAY.

Mr. GEORGE with Mr. SMITH of California.

Mr. LEGARE with Mr. WOODS of Iowa.

Mr. BURGESS with Mr. MICHAEL E. DRISCOLL.

Mr. DOREMUS with Mr. WILLIS.

Mr. HOWARD with Mr. SAMUEL W. SMITH.

Mr. PUJO with Mr. MCMORRAN.

Mr. RAINEY with Mr. MCCALL.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. WHITACRE with Mr. MCKINLEY.

Mr. BROWN with Mr. AMES.

Mr. CLARK of Florida with Mr. ANTHONY.

Mr. DICKSON of Mississippi with Mr. CRAGO.

Mr. ANSBERRY with Mr. BURKE of Pennsylvania.

Mr. AYRES with Mr. DANFORTH.

Mr. DIXON of Indiana with Mr. FOCHT.

Mr. FIELDS with Mr. DODDS.

Mr. GARRETT with Mr. HAMILTON of Michigan.

Mr. GOEKE with Mr. HARTMAN.

Mr. GOULD with Mr. HAYES.

Mr. HAMMOND with Mr. HEALD.

Mr. HARRISON of Mississippi with Mr. KENNEDY.

Mr. HAYDEN with Mr. LAFEAN.

Mr. JOHNSON of Kentucky with Mr. MCLAUGHLIN.

Mr. KINDRED with Mr. MATTHEWS.

Mr. KITCHIN with Mr. MERRITT.

Mr. LEVER with Mr. MOON of Pennsylvania.

Mr. LEWIS with Mr. MOTT.

Mr. LEE of Georgia with Mr. MILLER.

Mr. SWEET with Mr. LOUD.

Ending February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Ending Tuesday:

Mr. FOSTER with Mr. KOPP.

Mr. CLAYTON. Mr. Speaker, I would like to know how I am recorded.

The SPEAKER. The gentleman is not recorded.

Mr. CLAYTON. Mr. Speaker, I desire to know how the gentleman from New Jersey, Mr. WOOD, voted.

The SPEAKER. He did not vote.

Mr. CLAYTON. I voted "present" on the first call, but I am paired with the gentleman from New Jersey, Mr. WOOD. If he had voted, I would vote "yea," but he not having voted, I desire to vote "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. CLAYTON, and he answered "Present."

Mr. PALMER. Mr. Speaker, has the gentleman from Connecticut, Mr. HILL, voted?

The SPEAKER. He has not.

Mr. PALMER. I voted "yea" on this proposition. I am paired with the gentleman from Connecticut, Mr. HILL, and therefore I withdraw my vote and vote "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. PALMER, and he answered "Present."

Mr. GREENE of Massachusetts. Mr. Speaker, I am paired with the gentleman from Texas, Mr. SLAYDEN. I desire to withdraw my vote. I voted "nay."

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. GREENE of Massachusetts, and he answered "Present."

Mr. MANN. Are gentleman entitled to vote unless they are present?

The SPEAKER. Not unless they are paired with another gentleman and try to change their vote.

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD. I desire to withdraw my vote and vote "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. MANN, and he answered "Present."

Mr. KOPP. Mr. Speaker, I voted "yea." I have a general pair with the gentleman from Illinois, Mr. FOSTER. I wish to withdraw my vote and vote "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. KOPP, and he answered "Present."

Mr. SISSON. Mr. Speaker, I voted "aye" on the roll call, but I am paired with the gentleman from Iowa, Mr. KENDALL, and desire to change my vote and answer "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. SISSON, and he answered "Present."

Mr. STEENERSON. Mr. Speaker, how am I recorded?

The SPEAKER. In the affirmative

Mr. STEENERSON. I wish to withdraw my vote and answer "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. STEENERSON, and he answered "Present."

The result of the vote was announced as above recorded.

On motion of Mr. BURNETT, a motion to reconsider the vote whereby the conference report was adopted was laid on the table.

CITIZENS OF THE DISTRICT OF COLUMBIA SUFFRAGE LEAGUE.

Mr. O'SHAUNESSY. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. O'SHAUNESSY. I ask unanimous consent to have printed in the RECORD a memorial of the Citizens of the District of Columbia Suffrage League.

The SPEAKER. The gentleman from Rhode Island asks unanimous consent to have printed in the RECORD a memorial. Is there objection?

Mr. MANN. Reserving the right to object, I do not know what the memorial is, but a great many memorials are presented to Congress every day. If we intend to print them in full in the RECORD, we shall have a big job on our hands. Is there a special reason for printing this in the RECORD?

The SPEAKER. What is the memorial about?

Mr. O'SHAUNESSY. It is a memorial signed by a body of citizens who seek suffrage in the District of Columbia.

The SPEAKER. Is there objection?

Mr. CANNON. Mr. Speaker, I give notice that I hope in the end to object, because otherwise when memorials are sent to me and I am called to account because I can not have them printed in the RECORD I should be at a disadvantage.

Mr. MANN. Mr. Speaker, I will object, to save time.

The SPEAKER. Objection is made.

YAKIMA INDIANS—IRRIGATION OF LANDS (H. DOC. NO. 1301).

Mr. STEPHENS of Texas. Mr. Speaker, I desire to have put in the basket and printed as a House document a memorandum from the Yakima Indians relative to the irrigation of their lands.

The SPEAKER. The gentleman from Texas [Mr. STEPHENS] desires unanimous consent to print as a House document a memorandum from the Yakima Indians. Is there objection?

There was no objection.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, with Mr. MOON of Tennessee in the chair.

The CHAIRMAN. The Clerk will proceed with the reading of the bill under the five-minute rule.

The Clerk read as follows:

Improving Calumet River, Ill. and Ind.: For maintenance, $20,000: *Provided*, That the portion of the old channel of the Calumet River in sections 18 and 19, township 37 north, range 15 east, of the third principal meridian, in Cook County, Ill., which lies outside of the new channel lines established by the United States and shown on "Map of the Calumet River, Ill., from Lake Michigan to Calumet Lake, to accompany report of W. G. Ewing, United States attorney, to the Attorney General, respecting cession of right of way for improvement of said river under the act of Congress approved July 5, 1884," and which lies outside of the exterior limits of the turning basin to be established on said Calumet River in said sections, is hereby abandoned as navigable water of the United States from and after the time when the United States shall have secured title to the land necessary for the establishment of the turning basin at some point, to be approved by the Chief of Engineers, between One hundred and thirteenth Street and One hundred and seventeenth Street in the city of Chicago.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. I desire to ask whether the Calumet River is wholly within the municipality of Chicago at the place where these improvements are contemplated?

Mr. MANN. The Calumet River is not wholly within the limits of Chicago or of the State of Illinois. It rises in the State of Indiana.

Mr. MOORE of Pennsylvania. I should like to get an answer to my question whether at the point where these improvements are to be made the city of Chicago extends on both sides of the Calumet River?

Mr. MANN. Where this turning basin is to be located, which is one of five proposed turning basins, it is wholly within the limits of Chicago.

Mr. MOORE of Pennsylvania. Wholly within the limits of the city?

Mr. MANN. The turning basin is.

Mr. MOORE of Pennsylvania. May I ask what will become of that part of the channel which is to be abandoned as navigable water of the United States, after the United States has acquired certain other parts of the land for a turning basin?

Mr. MANN. Under the project adopted a number of years ago for the improvement of the Calumet River in Illinois and Indiana, it was provided that the property owners might donate property, or might be required to donate property to straighten the river. At that particular place there was a bend in the river running out some distance from a straight line. The property owners donated property for the straightening of the river 200 feet in width. The title was accepted and the channel has long since been constructed. As a part of the project it was provided in a subsequent act of Congress that five turning basins should be located on this river. The Government desires to locate a turning basin at the lower end of where this bend formerly was, and the property owners there are expected, or somebody is expected, to furnish the land necessary for that.

In the original project is was stated that the old bend of the river should be abandoned as navigable water whenever the channel was straightened. That has been done. Of course the people there are to furnish the land necessary for the turning basin. This is for that purpose.

Mr. MOORE of Pennsylvania. Then the abandoned navigable water reverts to some one. To whom does it revert? That is what I want to get at.

Mr. MANN. The property owners there claim that it has already reverted to them.

Mr. MOORE of Pennsylvania. The channel which was acquired was acquired from somebody. From whom was it acquired?

Mr. MANN. It was acquired by donation.

Mr. MOORE of Pennsylvania. Mr. Chairman, I think it is worthy of note that the gentleman from Illinois [Mr. MANN], who is somewhat lax upon other great subjects, seems to be fairly well posted on this particular matter affected by the river and harbor bill. Later on I want to make some comments on that. I think my time under the five-minute rule has expired.

The Clerk read as follows:

Improving harbor at Chicago, Ill.: Of the amount appropriated in the river and harbor act approved July 25, 1912, for improving harbor at Chicago, Ill., $100,000, or so much there of as shall be necessary, may be allotted, in the discretion of the Secretary of War, for the repair of the existing outer breakwater and for maintenance dredging in the harbor; and the said sum, if so allotted, is hereby made immediately available.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. For a great many years the city of Philadelphia has endeavored to have written into this bill a provision for the survey of Frankford Creek and the Schuylkill River, both streams within the limits of the city of Philadelphia, upon which a business, national and international in character, is done. Frankford Creek penetrates a portion of the city and reaches an arsenal of the Government. It is in a deplorable state. Time and time again we have asked that that creek be opened and developed by the Government because of its navigability and because of the national and international commerce that passes over it. But in one or two instances the Government engineers reported that while the project is worthy they can not recommend an appropriation because it is wholly within the limits of the city of Philadelphia. In the case of the Schuylkill River it does more export business in the petroleum trade than any other part of the country, with the possible exception of Galveston, which has been coming along rapidly within recent years. We formerly had an appropriation for dredging, as we ought to have had, but under the recent policies of the River and Harbor Committee or under the Board of Engineers, with the concurrence of the committee, we have been denied any support whatever for the Schuylkill River. I can produce statistics, and shall ask to put them in the RECORD, which will show the vast amount of business of all kinds that is done on that stream.

I have shown by the chairman of the committee and other distinguished Members of the House that in many other instances when streams bisect the city the Government makes appropriations. It develops in Boston where Chelsea Creek is to be improved at the expense of the Government, although it bisects the city and is within the limits of the municipality. I have shown by the gentleman from Florida that the city of Jacksonville is situated on both sides of the River St. John, and the Government makes improvement of the channel, and properly so. Now, I come to the distinguished leader on the Republican side, who out of the abundance of his knowledge says that the Calumet River, upon which he seems to be thoroughly posted, bisects the city of Chicago and is within the city limits.

Mr. MANN. Oh, no; no.

Mr. MOORE of Pennsylvania. That portion which is to be improved by the appropriation.

Mr. MANN. I beg the gentleman's pardon; there is no appropriation in this bill for the improvement of Calumet River.

Mr. MOORE of Pennsylvania. But the committee has sanctioned and authorized work to be done on the Calumet River, which is bounded by the limits of the municipality.

Mr. MANN. Not in this bill.

Mr. MOORE of Pennsylvania. Well, jurisdiction is being exercised by the committee over this stream within the limits of the city of Chicago.

Mr. MANN. Will the gentleman pardon me for a question?

Mr. MOORE of Pennsylvania. Certainly.

Mr. MANN. Here is an item in the bill, "Improving Calumet River, Ill. and Ind.: For maintenance, $20,000." That project runs into Indiana. Do I understand the gentleman maintains that where a river runs into two States, the project covering the improvement in two States, that we can not spend the money in Illinois because it is within the city limits, and because it is within the city limits of some city in Indiana we can not spend it there; that although it is an interstate stream they could not spend the money on it at all?

Mr. MOORE of Pennsylvania. I do not object to the Government spending money on any navigable stream. That is what I am advocating; but I do object to spending it within the limits of a certain municipality and then refusing a Government appropriation to certain other streams in other municipalities.

Mr. MANN. The gentleman will have to give a better illustration than the Calumet River.

Mr. DAVIDSON. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. DAVIDSON. Is Frankford Creek in Philadelphia a navigable stream?

Mr. MOORE of Pennsylvania. Yes; it has a depth of water of 9 or 10 feet and coastwise vessels go in and come out.

Mr. SPARKMAN. Mr. Chairman, the gentleman from Pennsylvania [Mr. MOORE] is quite likely correct in so far as the failure of the Government up to the present time to go inside of the corporate limits of the city of Philadelphia for the purpose of doing river and harbor work; but I want to say that there is no hard and fast rule on the subject; in fact, no rule at all. It so happens, maybe, that it has not been done in Philadelphia, and if it has not the reason no doubt is that the engineers have given no projects for work there.

As I have said, there is no rule on the subject, because there are many instances throughout the country—several that I know of—where work is being done or has been done on navigable channels extending into the limits of cities—improvements made within such limits. It is not confined to Chicago nor to Boston; it is not confined to any other city in the country. Whenever the engineers furnish a project for work inside the corporate limits of a city, the River and Harbor Committee considers such recommendation, and if found to be worthy we do not hesitate to recommend an appropriation, even though a part should be within the corporate limits of a municipality.

Mr. MOORE of Pennsylvania. Mr. Chairman, does not the Government make appropriations for the improvement of the Willamette River, which bisects the city of Portland, Oreg.?

Mr. SPARKMAN. It has been making appropriations for that river; yes.

Mr. MOORE of Pennsylvania. Mr. Chairman, I appeal to the gentleman and to the members of the Committee on Rivers and Harbors whether it is a fair proposition that in numerous instances appropriations should be made for the improvement and development of rivers that bisect cities, and then deny the same right to other cities that make application therefor.

Mr. SPARKMAN. That is not a question for our consideration here to-day. It is purely an academic question.

Mr. MOORE of Pennsylvania. But it is a very practical one.

Mr. SPARKMAN. If I were to answer the gentleman's question, I would answer it as I did a moment ago, that we can not lay down any hard and fast rule. I do not know why the engineers have not recommended a project for the rivers or creeks in the city of Philadelphia. I do happen, however, to remember this: That some years ago I think the then chairman of the Committee on Rivers and Harbors, Mr. BURTON, had some kind of an agreement, oral perhaps, with the officials in the city of Philadelphia by which it was understood that if Congress would do the work from the ocean up to the city, the city would take care of the work inside its limits.

Mr. MOORE of Pennsylvania. That was an understanding made with one mayor of the city; I remember it very well; but it grew out of the desire of Mr. BURTON to hold the appropriations for rivers and harbors in check as well as he could, and constantly the illustration of the Cuyahoga River, which bisects Cleveland, was used, and that has been the only precedent which the Board of Engineers has given, so far as I am informed.

Mr. SPARKMAN. I would say that I do not know anything about the merits of the proposition. It may not have been an equitable arrangement or it may have been; but assuming that it was unjust to the people of Philadelphia, yet the agreement does not necessarily lay down any rule for our action in the future. And I will say again, if a project is recommended to Congress for work inside the corporate limits of Philadelphia, it will receive fair consideration at the hands of the Committee on Rivers and Harbors.

Mr. MOORE of Pennsylvania. That is a fair statement from the gentleman, and I thank him. That gives us some hope.

Mr. MADDEN. Mr. Chairman, I am very sorry to see the gentleman from Pennsylvania trying to compare Frankford Creek, which is a meandering stream where the people owning the abutting property own to the middle of the stream, with the Calumet River. Frankford Creek is wholly within the city limits, it does not run into navigable waters, it is not navigable, and still the gentleman undertakes to compare it with the Calumet River!

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. MADDEN. Not now.

Mr. MOORE of Pennsylvania. The gentleman knows that the Government would not permit a bridge to be built across Frankford Creek.

Mr. MADDEN. The Calumet River is an interstate stream, 200 feet wide, having a navigable depth of 22 feet, through which the great ships of the Lakes sail, and the gentleman complains about this all because he thinks appropriations are being made within the city of Chicago. There is no appropriation for the improvement of the Calumet River within the city of Chicago in this section of the bill, none whatever. There is simply a provision to abandon the navigability of a piece of land that formerly was the stream, in which there is now no water, and which it is intended to use as a turning basin. Frankford Creek! It is wholly within the city of Philadelphia. Trying to make it navigable!

Mr. DONOHOE. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Trying to have the Government place itself in the position of having lawsuits brought against it by the owners of property who own title into the middle of the stream.

Mr. MOORE of Pennsylvania. We will absolve the Government from that at once.

Mr. MADDEN. I yield to the gentleman from Pennsylvania [Mr. DONOHOE.]

Mr. DONOHOE. Mr. Chairman, I want to call the gentleman's attention to the fact that Frankford Creek is in my district, and I would like him to speak as kindly of it as he possibly can. [Laughter.]

Mr. MADDEN. Mr. Chairman, I have a great deal of veneration for Philadelphia and all its creeks, and I hope that Frankford Creek is sleeping as peacefully as Philadelphia is. The gentleman from Pennsylvania [Mr. MOORE] seems to have overdone himself in his efforts to call attention to Frankford Creek. But if he had compared Frankford Creek with any of the smaller streams anywhere——

Mr. MOORE of Pennsylvania. I will be very glad to compare the condition of the commerce of Frankford Creek with almost any inland water you may mention.

Mr. MADDEN (continuing). But by comparing it with a great river like the Calumet, why that makes the gentleman from Pennsylvania ridiculous.

Mr. MANN. The gentleman from Pennsylvania says he desires to compare the commerce of this creek, or whatever it is, with any stream in Illinois. Why, this little Calumet River has a commerce of between 5,000,000 and 6,000,000 tons every year.

Mr. MOORE of Pennsylvania. I think I can show for one or two of the creeks—I know the Calumet River fairly well——

Mr. MANN. But the gentleman will find it very difficult to show any place in the eastern part of Pennsylvania that has the same amount of commerce.

Mr. MOORE of Pennsylvania. I said I would compare the commerce of Frankford Creek with any inland stream of Illinois.

Mr. DONOHOE. Mr. Chairman, I hope our friends over in Philadelphia will not get the impression from this debate that Frankford Creek or other waterways in that locality are being neglected by the Member from Philadelphia on the committee. I have done everything in my power to induce the Government engineers to recommend Frankford Creek for improvement, but they have failed to do so up to this time, and until they do so everyone here must know that this committee can not recommend an appropriation for that purpose. [Applause.]

Mr. MOORE of Pennsylvania. Mr. Chairman, I desire to ask the chairman of the committee [Mr. SPARKMAN] a question.

The CHAIRMAN. The Chair recognized the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment. Does the gentleman from Pennsylvania withdraw his pro forma amendment?

Mr. MOORE of Pennsylvania. I withdraw the pro forma amendment.

The Clerk read as follows:

Amend, page 36, line 7, after the word "available" by adding a new paragraph as follows:

"Improvement and repair of levee at Shawneetown, Ill., $10,000."

Mr. SPARKMAN. Mr. Chairman, I think that was a matter we passed upon here yesterday afternoon which the committee refused to adopt.

The CHAIRMAN. The amendment was $15,000.

Mr. FOWLER. Mr. Chairman, the chairman is right about the amount. Now, Mr. Chairman, and gentlemen of the River and Harbor Committee, I did my best to induce you to consent to an amendment to give relief to the people in my district at Shawneetown in the sum of $15,000. I have studied the question over and have concluded that if you will consent to give an appropriation of $10,000 that you will exemplify the old adage, "A stitch in time saves nine." If we fail to do this, I have no doubt, gentlemen, that the time will come when the great ravages of the mighty Ohio River will produce such havoc and destruction at that place that some Member of Congress from that district will come before your committee with a much

larger scheme of appropriation and you will consent then to the sum of $50,000 or $100,000, which might be saved here by a timely appropriation of $10,000.

Mr. MANN. Mr. Chairman——

Mr. FOWLER. You did this some time ago——

Mr. MANN. Will my colleague yield?

Mr. FOWLER. Yes.

Mr. MANN. I do not wish to interrupt him in the middle of a sentence, but last year, when we made the appropriation at the time of the flood, was it not understood or expressly provided we would do something for Shawneetown?

Mr. FOWLER. I so understood it at that time.

Mr. MANN. Was not that in the nature of an adoption of the project for the protection of that locality?

Mr. SPARKMAN. There was so much confusion I did not hear the gentleman.

Mr. MANN. Last year, when we made the emergency appropriation on account of the floods in the Mississippi River and extended it up more or less to the Ohio and Illinois, I know my colleague either introduced a resolution or offered an amendment——

Mr. FOWLER. It was a resolution.

Mr. MANN (continuing). In reference to Shawneetown, and it was understood when we passed that emergency appropriation a portion of it might be made available for this sort of purpose. Is not that in the nature of an adoption of the project for that purpose?

Mr. HUMPHREYS of Mississippi. No. If the gentleman will pardon me, the emergency resolution that we passed simply anticipated an appropriation that was to come in the general rivers and harbors act then pending. It provided that this money—a million and a half of dollars—should be spent for the construction and repair of levees on the Mississippi River and its tributaries. The places where it was to be spent were to be selected, of course, by the Mississippi River Commission, and allotments made by that commission in such amount as in their judgment seemed necessary. I am not advised how much the Mississippi River Commission allotted to Shawneetown. Perhaps the gentleman from Illinois [Mr. FOWLER] can state.

Mr. MADDEN. Was it not allowed to Mound City?

Mr. FOWLER. It was allowed to Mound City and, as I recollect, a portion to Cairo.

Mr. HUMPHREYS of Mississippi. There was no provision that any particular place along the river should have the allotments made, but the whole matter was to be left in the discretion of the Mississippi River Commission in such places as in their opinion were entitled to it.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that my colleague have five minutes more. We have taken up most of his time.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FOWLER. Mr. Chairman, the gentleman from Illinois [Mr. MANN] is quite right in his reference to the disposition of the resolution which I had the honor to offer about a year ago for the improvement of the levee at Shawneetown. Then, as now, there was a very high stage of water in the river, with immense danger to the life and property of the people of that town and that section. The resolution provided for the immediate appropriation of $25,000. It was considered by the House, and the gentleman from Illinois [Mr. MANN] gave his wisdom and his assistance to the adjustment of the emergency fund which had been provided for in the rivers and harbors bill, or in a special bill—I believe it was—or a special resolution. In that adjustment it was considered and agreed, as I recollect, that it should apply to the city of Shawneetown. I think that the gentleman from Illinois [Mr. MANN] is quite right in saying that that created a project. In fact, there was a project. In fact, there was a project created before that time, because the United States Congress had appropriated money for the purpose of aiding in the construction of that levee. An immense gap or break had been made in it some time before, whereby property and lives were destroyed. An appropriation of $25,000 was made by Congress for the purpose of repairing it. The danger to-day is so great that, in my opinion, the levee is likely to break at any time. A few dollars spent now will save to the Government, in my opinion, in the future many thousands of dollars. I hope and trust, Mr. Chairman, that the Committee of the Whole House on the state of the Union will assent to this proposition, because it is not much in comparison with the amount of work which may be done or which may be required to be done in the future.

I know that there is a disposition on the part of Members of this House to allow no appropriations which have not been provided for in the bill, but this seems to me to be a case of emergency. We may read in to-morrow morning's paper, or in the paper a few mornings hereafter, of an immense break in that levee requiring the expenditure of thousands of dollars to repair. But if it should stand the high water for this season, $10,000 could be used next summer for its repair and the strengthening thereof, and put it in a condition where it would be able to protect the lives and property of the people of that section of the country.

Mr. MOORE of Pennsylvania. Does the gentleman think it is a wise policy on the part of the Government to enter into the construction of broken levees for the purpose of commerce and navigation?

Mr. FOWLER. I will say to the gentleman in reply, that I am not questioning the wisdom of Congress in its past action in this respect.

Mr. MOORE of Pennsylvania. If a dam should break, does the gentleman think the Government ought to appropriate money to repair the dam?

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. MOORE of Pennsylvania. I ask unanimous consent that the gentleman may have five minutes more.

Mr. SPARKMAN. I shall have to object to that.

Mr. FOWLER. Mr. Chairman, I ask unanimous consent for an extension of three minutes of my time.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FOWLER. Mr. Chairman, I am aware of the fact that it is not good policy to run off after every idle dream for the improvement of creeks and small streams of this country, not navigable, like the one that flows through the city of the gentleman from Pennsylvania [Mr. MOORE], but when it affects a great thoroughfare like the Ohio River, then the importance is of such great value——

Mr. MOORE of Pennsylvania. That would take about all the money that the Government can afford to raise for all purposes.

Mr. FOWLER. I think one that would question the improvement of a river of that character ought to have his name written upon the scroll that I am told will be dropped down by the archangel of heaven on the great day of judgment, on which will be written the names of those who have committed crimes against mankind on earth. I trust, Mr. Chairman, that the gentlemen will give me this little appropriation, so that "a stitch in time may save nine." [Applause.]

Mr. SPARKMAN. Mr. Chairman, I would not concede that this would be a wise expenditure or a proper expenditure of public money, even if there was a project for it, or a project upon which it might be predicated. But there is really no project for this work. The fact that in an emergency last year that particular portion of the stream may have been embraced within the terms of the bill making appropriations for the Mississippi River and its tributaries would not furnish a project for any appropriation this year. The law under which that appropriation was made reads as follows:

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That was intended—whether wisely or unwisely I shall not stop now to say—to meet a particular emergency, which emergency has passed. Now, if we are to make an appropriation every time a flood is threatened, every time an individual becomes frightened in regard to rising waters, then we shall soon reach the bottom of the United States Treasury. I hope this amendment will not be adopted.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. FOWLER].

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Mr. FOWLER. Mr. Chairman, I ask for a division.

The CHAIRMAN. The vote has been announced, and it is too late for a division. The Clerk will read.

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Mr. MANN. The gentleman will have to give a better illustration than the Calumet River.

Mr. DAVIDSON. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. DAVIDSON. Is Frankford Creek in Philadelphia a navigable stream?

Mr. MOORE of Pennsylvania. Yes; it has a depth of water of 9 or 10 feet and coastwise vessels go in and come out.

Mr. SPARKMAN. Mr. Chairman, the gentleman from Pennsylvania [Mr. MOORE] is quite likely correct in so far as the failure of the Government up to the present time to go inside of the corporate limits of the city of Philadelphia for the purpose of doing river and harbor work; but I want to say that there is no hard and fast rule on the subject; in fact, no rule at all. It so happens, maybe, that it has not been done in Philadelphia, and if it has not the reason no doubt is that the engineers have given no projects for work there.

As I have said, there is no rule on the subject, because there are many instances throughout the country—several that I know of—where work is being done or has been done on navigable channels extending into the limits of cities—improvements made within such limits. It is not confined to Chicago nor to Boston; it is not confined to any other city in the country. Whenever the engineers furnish a project for work inside the corporate limits of a city, the River and Harbor Committee considers such recommendation, and if found to be worthy we do not hesitate to recommend an appropriation, even though a part should be within the corporate limits of a municipality.

Mr. MOORE of Pennsylvania. Mr. Chairman, does not the Government make appropriations for the improvement of the Willamette River, which bisects the city of Portland, Oreg.?

Mr. SPARKMAN. It has been making appropriations for that river; yes.

Mr. MOORE of Pennsylvania. Mr. Chairman, I appeal to the gentleman and to the members of the Committee on Rivers and Harbors whether it is a fair proposition that in numerous instances appropriations should be made for the improvement and development of rivers that bisect cities, and then deny the same right to other cities that make application therefor.

Mr. SPARKMAN. That is not a question for our consideration here to-day. It is purely an academic question.

Mr. MOORE of Pennsylvania. But it is a very practical one.

Mr. SPARKMAN. If I were to answer the gentleman's question, I would answer it as I did a moment ago, that we can not lay down any hard and fast rule. I do not know why the engineers have not recommended a project for the rivers or creeks in the city of Philadelphia. I do happen, however, to remember this: That some years ago I think the then chairman of the Committee on Rivers and Harbors, Mr. BURTON, had some kind of an agreement, oral perhaps, with the officials in the city of Philadelphia by which it was understood that if Congress would do the work from the ocean up to the city, the city would take care of the work inside its limits.

Mr. MOORE of Pennsylvania. That was an understanding made with one mayor of the city; I remember it very well; but it grew out of the desire of Mr. BURTON to hold the appropriations for rivers and harbors in check as well as he could, and constantly the illustration of the Cuyahoga River, which bisects Cleveland, was used, and that has been the only precedent which the Board of Engineers has given, so far as I am informed.

Mr. SPARKMAN. I would say that I do not know anything about the merits of the proposition. It may not have been an equitable arrangement or it may have been; but assuming that it was unjust to the people of Philadelphia, yet the agreement does not necessarily lay down any rule for our action in the future. And I will say again, if a project is recommended to Congress for work inside the corporate limits of Philadelphia, it will receive fair consideration at the hands of the Committee on Rivers and Harbors.

Mr. MOORE of Pennsylvania. That is a fair statement from the gentleman, and I thank him. That gives us some hope.

Mr. MADDEN. Mr. Chairman, I am very sorry to see the gentleman from Pennsylvania trying to compare Frankford Creek, which is a meandering stream where the people owning the abutting property own to the middle of the stream, with the Calumet River. Frankford Creek is wholly within the city limits, it does not run into navigable waters, it is not navigable, and still the gentleman undertakes to compare it with the Calumet River!

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. MADDEN. Not now.

Mr. MOORE of Pennsylvania. The gentleman knows that the Government would not permit a bridge to be built across Frankford Creek.

Mr. MADDEN. The Calumet River is an interstate stream, 200 feet wide, having a navigable depth of 22 feet, through which the great ships of the Lakes sail, and the gentleman complains about this all because he thinks appropriations are being made within the city of Chicago. There is no appropriation for the improvement of the Calumet River within the city of Chicago in this section of the bill, none whatever. There is simply a provision to abandon the navigability of a piece of land that formerly was the stream, in which there is now no water, and which it is intended to use as a turning basin. Frankford Creek! It is wholly within the city of Philadelphia. Trying to make it navigable!

Mr. DONOHOE. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Trying to have the Government place itself in the position of having lawsuits brought against it by the owners of property who own title into the middle of the stream.

Mr. MOORE of Pennsylvania. We will absolve the Government from that at once.

Mr. MADDEN. I yield to the gentleman from Pennsylvania [Mr. DONOHOE.]

Mr. DONOHOE. Mr. Chairman, I want to call the gentleman's attention to the fact that Frankford Creek is in my district, and I would like him to speak as kindly of it as he possibly can. [Laughter.]

Mr. MADDEN. Mr. Chairman, I have a great deal of veneration for Philadelphia and all its creeks, and I hope that Frankford Creek is sleeping as peacefully as Philadelphia is. The gentleman from Pennsylvania [Mr. MOORE] seems to have overdone himself in his efforts to call attention to Frankford Creek. But if he had compared Frankford Creek with any of the smaller streams anywhere——

Mr. MOORE of Pennsylvania. I will be very glad to compare the condition of the commerce of Frankford Creek with almost any inland water you may mention.

Mr. MADDEN (continuing). But by comparing it with a great river like the Calumet, why that makes the gentleman from Pennsylvania ridiculous.

Mr. MANN. The gentleman from Pennsylvania says he desires to compare the commerce of this creek, or whatever it is, with any stream in Illinois. Why, this little Calumet River has a commerce of between 5,000,000 and 6,000,000 tons every year.

Mr. MOORE of Pennsylvania. I think I can show for one or two of the creeks—I know the Calumet River fairly well——

Mr. MANN. But the gentleman will find it very difficult to show any place in the eastern part of Pennsylvania that has the same amount of commerce.

Mr. MOORE of Pennsylvania. I said I would compare the commerce of Frankford Creek with any inland stream of Illinois.

Mr. DONOHOE. Mr. Chairman, I hope our friends over in Philadelphia will not get the impression from this debate that Frankford Creek or other waterways in that locality are being neglected by the Member from Philadelphia on the committee. I have done everything in my power to induce the Government engineers to recommend Frankford Creek for improvement, but they have failed to do so up to this time, and until they do so everyone here must know that this committee can not recommend an appropriation for that purpose. [Applause.]

Mr. MOORE of Pennsylvania. Mr. Chairman, I desire to ask the chairman of the committee [Mr. SPARKMAN] a question.

The CHAIRMAN. The Chair recognized the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment. Does the gentleman from Pennsylvania withdraw his pro forma amendment?

Mr. MOORE of Pennsylvania. I withdraw the pro forma amendment.

The Clerk read as follows:

Amend, page 36, line 7, after the word "available" by adding a new paragraph as follows:

"Improvement and repair of levee at Shawneetown, Ill., $10,000."

Mr. SPARKMAN. Mr. Chairman, I think that was a matter we passed upon here yesterday afternoon which the committee refused to adopt.

The CHAIRMAN. The amendment was $15,000.

Mr. FOWLER. Mr. Chairman, the chairman is right about the amount. Now, Mr. Chairman, and gentlemen of the River and Harbor Committee, I did my best to induce you to consent to an amendment to give relief to the people in my district at Shawneetown in the sum of $15,000. I have studied the question over and have concluded that if you will consent to give an appropriation of $10,000 that you will exemplify the old adage, "A stitch in time saves nine." If we fail to do this, I have no doubt, gentlemen, that the time will come when the great ravages of the mighty Ohio River will produce such havoc and destruction at that place that some Member of Congress from that district will come before your committee with a much

larger scheme of appropriation and you will consent then to the sum of $50,000 or $100,000, which might be saved here by a timely appropriation of $10,000.

Mr. MANN. Mr. Chairman——

Mr. FOWLER. You did this some time ago——

Mr. MANN. Will my colleague yield?

Mr. FOWLER. Yes.

Mr. MANN. I do not wish to interrupt him in the middle of a sentence, but last year, when we made the appropriation at the time of the flood, was it not understood or expressly provided we would do something for Shawneetown?

Mr. FOWLER. I so understood it at that time.

Mr. MANN. Was not that in the nature of an adoption of the project for the protection of that locality?

Mr. SPARKMAN. There was so much confusion I did not hear the gentleman.

Mr. MANN. Last year, when we made the emergency appropriation on account of the floods in the Mississippi River and extended it up more or less to the Ohio and Illinois, I know my colleague either introduced a resolution or offered an amendment——

Mr. FOWLER. It was a resolution.

Mr. MANN (continuing). In reference to Shawneetown, and it was understood when we passed that emergency appropriation a portion of it might be made available for this sort of purpose. Is not that in the nature of an adoption of the project for that purpose?

Mr. HUMPHREYS of Mississippi. No. If the gentleman will pardon me, the emergency resolution that we passed simply anticipated an appropriation that was to come in the general rivers and harbors act then pending. It provided that this money—a million and a half of dollars—should be spent for the construction and repair of levees on the Mississippi River and its tributaries. The places where it was to be spent were to be selected, of course, by the Mississippi River Commission, and allotments made by that commission in such amount as in their judgment seemed necessary. I am not advised how much the Mississippi River Commission allotted to Shawneetown. Perhaps the gentleman from Illinois [Mr. FOWLER] can state.

Mr. MADDEN. Was it not allowed to Mound City?

Mr. FOWLER. It was allowed to Mound City and, as I recollect, a portion to Cairo.

Mr. HUMPHREYS of Mississippi. There was no provision that any particular place along the river should have the allotments made, but the whole matter was to be left in the discretion of the Mississippi River Commission in such places as in their opinion were entitled to it.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that my colleague have five minutes more. We have taken up most of his time.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FOWLER. Mr. Chairman, the gentleman from Illinois [Mr. MANN] is quite right in his reference to the disposition of the resolution which I had the honor to offer about a year ago for the improvement of the levee at Shawneetown. Then, as now, there was a very high stage of water in the river, with immense danger to the life and property of the people of that town and that section. The resolution provided for the immediate appropriation of $25,000. It was considered by the House, and the gentleman from Illinois [Mr. MANN] gave his wisdom and his assistance to the adjustment of the emergency fund which had been provided for in the rivers and harbors bill, or in a special bill—I believe it was—or a special resolution. In that adjustment it was considered and agreed, as I recollect, that it should apply to the city of Shawneetown. I think that the gentleman from Illinois [Mr. MANN] is quite right in saying that that created a project. In fact, there was a project. In fact, there was a project created before that time, because the United States Congress had appropriated money for the purpose of aiding in the construction of that levee. An immense gap or break had been made in it some time before, whereby property and lives were destroyed. An appropriation of $25,000 was made by Congress for the purpose of repairing it. The danger to-day is so great that, in my opinion, the levee is likely to break at any time. A few dollars spent now will save to the Government, in my opinion, in the future many thousands of dollars. I hope and trust, Mr. Chairman, that the Committee of the Whole House on the state of the Union will assent to this proposition, because it is not much in comparison with the amount of work which may be done or which may be required to be done in the future.

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Mr. MOORE of Pennsylvania. If a dam should break, does the gentleman think the Government ought to appropriate money to repair the dam?

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. MOORE of Pennsylvania. I ask unanimous consent that the gentleman may have five minutes more.

Mr. SPARKMAN. I shall have to object to that.

Mr. FOWLER. Mr. Chairman, I ask unanimous consent for an extension of three minutes of my time.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FOWLER. Mr. Chairman, I am aware of the fact that it is not good policy to run off after every idle dream for the improvement of creeks and small streams of this country, not navigable, like the one that flows through the city of the gentleman from Pennsylvania [Mr. MOORE], but when it affects a great thoroughfare like the Ohio River, then the importance is of such great value——

Mr. MOORE of Pennsylvania. That would take about all the money that the Government can afford to raise for all purposes.

Mr. FOWLER. I think one that would question the improvement of a river of that character ought to have his name written upon the scroll that I am told will be dropped down by the archangel of heaven on the great day of judgment, on which will be written the names of those who have committed crimes against mankind on earth. I trust, Mr. Chairman, that the gentlemen will give me this little appropriation, so that "a stitch in time may save nine." [Applause.]

Mr. SPARKMAN. Mr. Chairman, I would not concede that this would be a wise expenditure or a proper expenditure of public money, even if there was a project for it, or a project upon which it might be predicated. But there is really no project for this work. The fact that in an emergency last year that particular portion of the stream may have been embraced within the terms of the bill making appropriations for the Mississippi River and its tributaries would not furnish a project for any appropriation this year. The law under which that appropriation was made reads as follows:

That the sum of $300,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War in accordance with the plans and specifications and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for the purpose of maintaining and protecting against the impending flood the levees on the Mississippi River and tributaries thereto.

That was intended—whether wisely or unwisely I shall not stop now to say—to meet a particular emergency, which emergency has passed. Now, if we are to make an appropriation every time a flood is threatened, every time an individual becomes frightened in regard to rising waters, then we shall soon reach the bottom of the United States Treasury. I hope this amendment will not be adopted.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The amendment was rejected.

Mr. FOWLER. Mr. Chairman, I ask for a division.

The CHAIRMAN. The vote has been announced, and it is too late for a division. The Clerk will read.

The Clerk read as follows:

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able and necessary dredge boats and other devices and appliances and in the maintenance and operation of the same: *Provided further*, That the watercourses connected with said river and the harbors upon it, now under the control of the Mississippi River Commission and under improvement, may, in the discretion of said commission, upon approval by the Chief of Engineers, receive allotments for improvements now under way or hereafter to be undertaken, to be paid for from the amount herein appropriated.

Mr. MOORE of Pennsylvania. Mr. Chairman, I make a point of order against this paragraph. This is a very important item, involving questions similar to those raised by the gentleman from Illinois [Mr. FOWLER] a moment ago.

The CHAIRMAN. Against the entire paragraph?

Mr. MOORE of Pennsylvania. The entire paragraph.

The CHAIRMAN. Beginning on line 14, page 36?

Mr. MOORE of Pennsylvania. Page 36, beginning on line 12, and ending with line 14, page 37.

I make this point of order, Mr. Chairman, in order that there may be a ruling on the question. I shall not discuss the merits of the proposition except in one or two instances as I go along.

The rules provide that "existing law may be repeated verbatim in an appropriation bill (Hinds, IV, 3814 and 3815), but the slightest change of the text causes it to be ruled out." I think the point is entirely different from the point raised yesterday. Here is a positive change of existing law.

The basis for the appropriation was the act of July 25, 1912, in which, among other things, it was provided that there should be an appropriation of $6,000,000, similar to the appropriation made here, for a purpose which shall be considered extraordinary work. Now what was the purpose of the appropriation? It was to be considered extraordinary work, due to an emergency that prevailed at that time, which Congress intended to relieve.

Now the bill that come before us changes that law, removes the emergency entirely, and writes into the law an appropriation of the enormous sum of $6,000,000 for a permanent and fixed purpose. My contention, Mr. Chairman, is that you can not write into a bill of this kind an appropriation involving a tremendous sum of money for a permanent improvement when the original provision of law was that the appropriation was made and was to be considered as for an extraordinary emergency work.

What are the facts? That in 1912 there were floods upon the Mississippi River, and the newspapers reported great loss of property and inundation of vast acreages, involving plantations upon which there were cotton and other products, and we read occasionally that lives had been lost, although there is very little specific information as to that. There is nothing obtainable in the hearings before the River and Harbor Committee indicating that there was any loss of life, and we have very little, except through the newspapers, as to the loss of property. But the War Department, in the annual report of the Secretary of War, throws some upon the subject of the floods upon the Mississippi River for which this emergency appropriation was made.

In the annual report for 1912 the Secretary of War gives us this first authentic information concerning these floods in the Mississippi for which this Congress last year spent about one-fourth of the entire appropriations made for commerce and navigation throughout all of the States of the Union. The Secretary of War reports:

In the latter part of March and early April of 1912 most disastrous floods occurred in the Mississippi River and its tributaries, the flooded area covering 15,000 square miles, or a tract larger than the combined area of the States of Maryland and Delaware or of Vermont and New Hampshire. Appropriations amounting to about $1,240,000 were made by Congress—

I do not know just where those figures come from. The appropriation for emergency work was $6,000,000, but he says—

Appropriations amounting to about $1,240,000 were made by Congress for the purpose of providing tents, rations, and other necessities and services to alleviate the distress of sufferers in the flooded district. The work of distributing this relief was organized and carried out by the Quartermaster's and Subsistence Departments of the Army, under the general direction of Maj. J. B. Normoyle, of the Quartermaster's Department. The department was assisted in the work of relief by naval, revenue, and militia officers, by the Red Cross, and by local citizens' committees. The work was handled so quietly and efficiently that it has not attracted the public attention which it deserves. But it was directly instrumental in preventing a very large amount of suffering in what has proved to be one of the worst floods in the history of the Mississippi River. For a considerable period of time 185,000 persons were furnished daily rations, 20,000 persons were furnished shelter, and 50,000 head of live stock were provided with forage. I believe that the work was accomplished with an unusually small amount of wastage.

I call attention to the fact that this is not for the purpose of commerce and navigation, as contemplated by the river and harbor appropriation bill.

Mr. HUMPHREYS of Mississippi. The particular appropriation to which the gentleman refers there was not contained in any bill reported by the river and harbor committee, but was appropriated for by the Committee on Appropriations for the specific purpose there mentioned.

Mr. MOORE of Pennsylvania. Then this $1,240,000——

Mr. HUMPHREYS of Mississippi. That is not included in the $6,000,000 at all. It is an entirely different matter.

Mr. MOORE of Pennsylvania. This $1,240,000 is in addition to the $6,000,000, and in addition to the $2,500,000 additional that was granted last year for work upon the Mississippi River.

Mr. HUMPHREYS of Mississippi. No; the bill last year carried $6,000,000 for the Mississippi River.

Mr. MOORE of Pennsylvania. Plus two and one-half million dollars.

Mr. HUMPHREYS of Mississippi. No; it carried three and one-half million plus two and one-half million.

Mr. MOORE of Pennsylvania. For Mississippi River work—I beg the gentleman's pardon.

Mr. HUMPHREYS of Mississippi. I suppose the gentleman is talking about the Mississippi River from the Head of Passes to Cape Girardeau.

Mr. MOORE of Pennsylvania. Yes.

Mr. HUMPHREYS of Mississippi. That was $6,000,000, and this particular appropriation of $1,240,000, to which the gentleman is now referring, was made by the Appropriations Committee not for the purposes of navigation at all but for the purpose of caring for about 150,000 people, who were rendered homeless and shelterless and who were without food or raiment. It had nothing whatever to do with the amount carried in this particular item or in the similar item which was carried in the last bill.

Mr. MOORE of Pennsylvania. This was in addition to the $6,000,000 that was specifically appropriated for this emergency work. Then, leaving out the smaller appropriations, that would make $6,000,000 plus $1,240,000, which would make $7,240,000 appropriated for emergency work.

Mr. DAVIDSON. Why does the gentleman persist in using the word "emergency" all the time, when, as a matter of fact, this appropriation is a general one, just the same as previous appropriations? It was only considered as emergency work in order that it might be carried on more expeditiously under the eight-hour law.

Mr. MOORE of Pennsylvania. That is the very point I am making, that the reason we were induced to appropriate $6,000,000 last year was that it was represented to Congress that there was an emergency; and it was so written in the bill, because the gentlemen did not dare ask for $6,000,000 to build levees along the Mississippi River without having an emergency. And that emergency has now passed.

In the present bill the line "which shall be considered extraordinary emergency work" is eliminated, and now we are introducing a permanent project on the strength of a law that passed last year, which is existing law, providing that there was an emergency.

The reason for the enactment of the law, the basic law upon which this bill is based, was the representation to the House that an emergency existed in the Mississippi Valley.

Mr. SPARKMAN. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. SPARKMAN. The gentleman's objection is that we have departed from the language of the bill last year?

Mr. MOORE of Pennsylvania. That is my point.

Mr. SPARKMAN. The emergency having passed, we are justified in departing from the language. That was to meet the emergency.

Mr. MOORE of Pennsylvania. My point is that the representations made to the House upon which it appropriated $6,000,000 last year was that there was an emergency, and that this year the committee has taken language out of the bill and has undertaken to write into the law that we shall hereafter appropriate $6,000,000, or whatever amount is agreed upon hereafter for the permanent construction of levees along the Mississippi River.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. HUMPHREYS of Mississippi. Does the gentleman believe that making the appropriation of $6,000,000 would render the paragraph more subject to a point of order than it would have been if the amount carried had been $4,000,000?

Mr. MOORE of Pennsylvania. I think the fact that you have followed in this bill the exact amount—attempted to follow the exact language of the bill of last year—vitiates the paragraph in the bill this year because you have eliminated the emergency part of it.

Mr. HUMPHREYS of Mississippi. The language is the same that has been in the bill for 20 years except in amount. Sometimes it has been three million, sometimes three and a half million, sometimes four million, and sometimes six million has been carried. The rest of the language is the same, except that last year, in view of the decision of the Supreme Court, which was rendered just before the reporting of the bill, which declared that this was not emergency work, and as always before that we assumed that it was, we put in the provision last year that that should be considered emergency work.

Now we have reverted to the language that we have adopted for the past 10 or 15 years. If this paragraph is subject to a point of order, then all of the paragraphs that have appeared for the last 15 or 20 years were subject to a point of order, because they are identical in language except that we carry an appropriation of six millions, and heretofore sometimes it was two millions, sometimes three, and sometimes four.

The fact that it was put in last year making it emergency work has no bearing whatever upon the propriety of this particular legislation under the rule, because the gentleman will note that this money is being expended under the direction of the Secretary of War in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for the general improvement of the river, and so forth, "in such manner as, in their opinion, shall best improve navigation and promote the interest of commerce at all stages of the river."

The expenditure of the $6,000,000 is limited to that particular purpose, but the emergency which confronted us last year, in the opinion of the committee, had passed, and therefore this work was not taken out from the operation of the eight-hour law. That is all there is to it.

Mr. MOORE of Pennsylvania. I want to answer the gentleman, if the Chair will indulge me a moment. I am not contending against the appropriation of public money for the construction of levees, for the improvement of private property, if Congress shall determine that that is the wise thing to do. But I say to the gentleman that this $6,000,000 written into the law last year because of an emergency was never written in before.

Mr. HUMPHREYS of Mississippi. But $4,000,000 was written in before and three and a half million dollars was written in, and the language of the law—take, for instance, the bill of 1911—is identical with the language contained in this bill, except that the bill of 1911 said three millions and this says six.

Mr. MOORE of Pennsylvania. Was the emergency work mentioned in the bill of 1911?

Mr. HUMPHREYS of Mississippi. It was not, and has never been mentioned except in the bill for 1912.

Mr. MOORE of Pennsylvania. The appropriation for $6,000,000 was written in for emergency work and only because there was an emergency?

Mr. HUMPHREYS of Mississippi. If the appropriation for last year had been for $3,000,000, the words exempting it from the operation of the eight-hour law would no doubt have been put in, because it was desired by Congress that the commission might be able to repair these breaks before another flood came. I am very sorry indeed to say that although it was written in as an emergency we were not able to repair the levees. In my own district, having worked day and night in an effort to close that breach, we to-day have been notified by telegrams from that country that the flood that is now in the river has broken through this crevasse that we were not able to close, and the country is now being overflowed.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I will ask the Chair to indulge me for a moment or two. Suppose a dam should break in Pennsylvania, as one did at Johnstown in 1889, and 5,000 lives or thereabouts should be destroyed and millions of dollars of property lost, I question whether Congress would consider reconstructing that dam or whether it would consider making reparation for those lives and that property lost. I am simply saying to the gentleman, in answer to his proposition as to the Mississippi, much as I deplore the breaking of levees there, it seems to me he is putting into this river and harbor appropriation bill, intended for the promotion of commerce and navigation, a clause that has no business here. If he would take this question up as an entirely new question, eliminate the Mississippi Commission altogether from this bill, or give it a separate department, I care not which, then we would have the proposition before us in such a way that we could discuss it fairly. But here, on the pretense of an emergency last year, the gentleman comes in this year for exactly the same appropriation, when the emergency is passed, and he asks Congress to bind itself to a project that will cost $100,000,000 and postpone for a long time work on other projects.

Mr. HUMPHREYS of Mississippi. Always with these words of limitation, heretofore and now:

In such manner as in their opinion shall best improve navigation and promote the interests of commerce at all stages of the river.

Mr. MOORE of Pennsylvania. Mr. Chairman, I am not going to press this matter unduly. I base the point of order on the ground that there has been a distinct change in the text of the law in the submission of this bill. On that I rest the point.

Mr. LAWRENCE. Mr. Chairman, I want to be heard a moment upon the point of order. I think it will expedite the consideration of the bill if there is a ruling on the point of order before we discuss the merits of the question. The gentleman from Pennsylvania [Mr. MOORE] makes the point of order that this paragraph changes existing law and therefore is not in order in this bill. It is true that we can not change existing law in a general appropriation bill, but it is also true, and it has been held over and over again, that river and harbor bills are not general appropriation bills.

The CHAIRMAN. There is no question about that.

Mr. LAWRENCE. Legislation is in order in a river and harbor bill. The only question, then, is whether the Committee on Rivers and Harbors has exceeded its jurisdiction. This is a paragraph relative to the improvement of a river, and it is therefore within the jurisdiction of the committee, so even if it were new legislation, which I do not concede, it would be in order.

The CHAIRMAN. The gentleman from Pennsylvania makes the point of order against the whole paragraph which provides for the improvement of the Mississippi River from Head of Passes to the mouth of the Ohio River, and so forth, and for continuing improvement with a view to securing a permanent channel depth of 9 feet, $6,000,000, which sum shall be expended under the direction of the Secretary of War in accordance with the plans, specifications, and so forth.

The point the gentleman makes, as the Chair understands it, is that it changes existing law, and that the language of this paragraph is at variance with the general law authorizing the appropriation. That, of course, raises the question of the jurisdiction of the committee. It has been held time and again that the River and Harbor Committee is not one of the general appropriation committees, and that the restrictions as to legislation provided by the rule to which the gentleman refers do not apply to this bill. The question then left, and the only question for decision is, is the subject matter of the paragraph within the jurisdiction of the Committee on Rivers and Harbors. The Chair thinks it is, and the point of order is overruled.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I think the Chair is entirely correct in holding this paragraph is not subject to a point of order so far as the language in the paragraph itself is concerned, but I am inclined to believe that if the paragraph clearly indicated the class of work which is largely done under it, it would be held subject to a point of order, for this is a bill for the improvement of rivers and harbors in the interest of navigation, and it is not a bill for the protection of private property from inundation. Yet everyone who is at all acquainted with the facts knows that the work that is being done, and has been done on the Mississippi River, for which large portions of these appropriations are used, are for the building and repair of levees whose primary object and purpose is to protect private property from inundation.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I would like for the gentleman to quote some authority for that statement, which runs counter to the judgment and the reports of the engineers and the Mississippi River Commission—all of them.

Mr. MONDELL. No one in the country—no one I can think of—more fully understands and appreciates the truth of what I have just said than the gentleman from Mississippi.

Mr. HUMPHREYS of Mississippi. Does the gentleman quote me, then, as his authority? Am I the only authority the gentleman can quote to support that? If so, I would like to testify.

Mr. MONDELL. I think if the gentleman from Mississippi would here and now admit—which he will not do, and which he might do at some other time and some other place—that these funds are used for that purpose, I think he would be held to be a very high authority on that subject.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. MONDELL. In a moment. I think it is about time for us to begin to be honest with ourselves and fair with the country. If the expenditure contemplated was writ in plain language in the bill, the item would go out on the point of order. Now I will yield to the gentleman from Pennsylvania.

Mr. MOORE of Pennsylvania. Mr. Chairman, is the gentleman aware of the fact that bills have been introduced at this session of Congress providing for the payment of damages for riparian rights done by floods along the lower Mississippi?

Mr. MONDELL. I was not aware there had been any recent proposed legislation on the subject, but I know there have been propositions for legislation of that sort. The gentleman from Illinois [Mr. FOWLER] eloquently, forcibly, vehemently appealed to us for an appropriation admittedly for the purpose of protecting an old historic town in his district, and no member of the committee suggested that they refused to appropriate on the ground that it did not come within the purview of the bill, but because, forsooth, some engineer had not reported favorably upon it. There will be vast sums of this $6,000,000 spent on works that can have no other real object or purpose than to protect private property along the lower Mississippi. I am not here to quarrel with that policy; I am here to ask gentlemen to acknowledge it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. I ask that I may have five minutes additional, Mr. Chairman.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. I am here to ask gentlemen who live along the Mississippi to be honest and frank and fair about these things and admit that we have long entered upon the work of spending the people's money to protect the property of individuals. We have spent $121,000,000 upon the Mississippi River, not taking into consideration the sums spent on the various harbors along that river, on which many millions have been spent.

That $121,000,000 has been largely spent for the purpose of protecting private property, and yet the bills carrying these appropriations have contained no word or suggestion of this purpose for which the money was largely being spent. And gentlemen at this late day, when it is known to all the world that this is what we are doing, ask upon what information I base that statement. Levees are constructed and repaired. Many miles of them are for the purpose of protecting private property or they have no value. This is a great river, the greatest in all the earth, draining an immense basin, having great tributaries hundreds of miles in length, and the people of the States and communities bordering these streams and tributaries have for many years been draining their swamps and their lowlands, adding to these annual floods, carrying devastation to the lower river. I would be the last to say that there was not a responsibility on the part of the American people to do something for the protection of the property and the rich lands along that river from the devastating floods that flow into it from the Missouri, the Ohio, the Red, and all the great streams that flow into it. The only complaint I have is, first, that you are not fair and frank about it, that you are not honest in regard to it with yourselves and with the country, and, secondly, that, refusing to be frank and honest and fair about it, the system under which the work is being done is wasteful, and in the long run must be the most gigantic failure ever undertaken by man.

Mr. DYER. Will the gentleman yield?

Mr. MONDELL. The constant building up of levees on either side of this mighty stream and attempting to control its flood waters, which rise higher and higher and higher until they will overtop any levee you may build, though you drain the Treasury. You can not confine within a narrow channel the enormous floods that are increasing rather than decreasing as the years go by——

Mr. DYER. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield to the gentleman from Missouri?

Mr. MONDELL. In just a moment.

Mr. DYER. The gentleman's time has not expired, but I just wanted to ask a question. I want to ask what plan the gentleman would recommend to Congress to save the great overflow of this river and protect the land adjacent thereto?

Mr. MONDELL. I see many men before me who are better qualified to formulate and recommend proper plans.

The CHAIRMAN. The time of the gentleman from Wyoming [Mr. MONDELL] has again expired.

Mr. MONDELL. May I have five minutes more?

Mr. SPARKMAN. Mr. Chairman, I ask that all debate on this paragraph close in 10 minutes.

The CHAIRMAN. The gentleman from Florida asks unanimous consent that all debate on this paragraph close in 10 minutes. Is there objection? [After a pause.] The Chair hears none. Without objection, the gentleman from Wyoming [Mr. MONDELL] will proceed for five minutes.

There was no objection.

Mr. NYE. Will the gentleman give me just a second?

Mr. MONDELL. Yes.

Mr. NYE. On the subject of floods I ask unanimous consent to print a letter from a friend and a man well known in Washington, a scientific investigator, Mr. Freeman Thorp. I do not know that he has written anything before for Congress on the subject, but this correspondence is entirely germane. Without stopping to read it I ask unanimous consent to print it in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

The following is the letter referred to:

HUBERT, MINN., *January 20, 1913.*

Hon. F. M. NYE,
Washington, D. C.

DEAR SIR: I see that the House is to discuss what to do with the Mississippi River for its improvement and the control of its floods. Why not consider the subject broadly? I live near the headwaters of the Mississippi where the floods start, and I can from my own researches suggest a practical method of ultimately eliminating the danger factor from the Mississippi flood problem and at the same time solving other important problems closely allied to it. Scientific investigation, conducted along the same lines by the late Prof. W J McGee and myself for many years, shows that on all the great central plateaus of the North American Continent we are slowly but surely losing our groundwater supply because more of the precipitation runs away to the oceans than ever comes back as floating vapor, the only way it can come back. The enormous surface run-off that causes the floods, great as it is, is only two-thirds as great as what goes to the oceans by seepage and underground currents. The underground part we can have little control of except to a limited extent by artesian wells. But the direct surface run-off we can and for many reasons of vital importance ought to prevent. First, because on all the uplands of the Northwest it is all needed in the soil that it falls upon; second, because in its run-off it carries with it by soil erosion some of the best soil to swell the floods to a dangerous height with muddy water. This is a constantly increasing waste and danger, as we bring more and more of the land under cultivation by the mistaken old methods that proceeded on the assumption that good farming required surface drainage that would run the rainfall off as direct and quickly as possible. Hence the greater the floods, and as we build necessary levees to prevent flooding the lower Mississippi Valley, the channel of the River between the levees receives an annual deposit of mud at the bottom, making it necessary to raise the levees higher and higher to insure safety, and in time the lower Mississippi is going to be up in the air. When by stopping this surface run-off from all the dry upland cultivated fields, pastures, meadows, and forests, as I have been doing for years on my own land and as it is thoroughly practical to do on 400,000,000 acres in the upper watershed of the Mississippi, we can hold back a hundred times as much of what would otherwise be flood waters as can be held back by all the big reservoirs that can be practically made in that territory. All this except on forest lands can be done by present and prospective farmers by the method I have worked out without any cost to the farmer and no other cost to the Government than to show the farmer how to do it with great benefit to himself in greatly increased crop yields and in preventing soil erosion, preserving and increasing the fertility of his soil and preventing on prairie lands the waste of soil drifting, which my method does. The method in brief is for all the semiarid and dry sandy upland fields under cultivation a system of contour plowing and disking that leaves the surface of the field with horizontal parallel ridges that hold all of the precipitation exactly where it falls, preventing soil drifting and the usual run-off with its attendant soil erosion, and in practice these ridges do not interfere with cultivation and harvesting to any material extent, and it costs no more to prepare a field for a crop by this method than by the old methods, and when prepared by this new method there will be no run-off, and these ridges remain to hold all the precipitation when these fields in the rotation of crops become meadow and pasture land. With very little labor lands that are now and are to remain in permanent pasture or forest can be put in condition to hold nearly all the precipitation and thereby double the grazing capacity and forest growth. I have sandy land prepared in this way from which not one drop of water has run off in 17 years, the average precipitation being about 30 inches, and there are many million acres of just such land in Minnesota to which this method can be applied and it will hold back more water than all the many reservoirs in our State which contains nearly all the reservoirs that hold back the Mississippi River waters except the irrigation reservoirs, practically none of which are in Minnesota. I do not antagonize reservoirs wherever practical to hold back flood waters, especially in humid regions, but holding the precipitation on and in the soil of nearly half a billion acres of land in the upper Mississippi watershed is of such vastly greater importance that any plans for the improvement of this great river should take into account this practical method of lessening its floods and eliminating a deposit of mud in its channel that scientific investigation has brought to our hands.

With great respect,
Respectfully,

FREEMAN THORP.

Mr. MONDELL. Mr. Chairman, the gentleman from my native State, for I was born on the banks of the Mississippi, asked me what plan I would propose. I do not pretend to be a river expert, but this must be patent to anyone who has given attention to the subject at all, namely, first, that the floods of the Mississippi, with the draining of the lands along its border, increase rather than decrease; and, second, that there can be no system of storage reservoirs, no matter how large they may be, on the upper ranges of the river which will to any considerable extent reduce the volume of its mighty floods, particularly when various branches rise in flood at the same time; third, the building of parallel lines of levees leaving but a narrow channel can have no other effect than to confine these volumes until they rise and overtop any levees you may build.

The only way, in my opinion, to control the Mississippi River is to abandon to overflow in high flood a reasonable amount of the lowland along the stream. Build such low levees as may be helpful for navigation and protect those lowlands from ordinary rises, but not high enough to protect them from great rises. Further back from the river, at reasonable distances, build your lines of levees that will preserve the lands lying on either side of them from all the mighty floods of the stream. That means that in the intermediate territory it will not be possible to build as permanent structures as people owning those lands might desire to do. That would require that those lands should be utilized for the growth of certain classes of crops, but it would fix and make certain their values. Back of the outer lines of levees the country would be perpetually protected from inundation.

But we are not doing that. We are not attempting to do anything of the sort. We are patching here and there. We are making appropriations in times of great floods which we call "emergency appropriations," simply for the purpose of making a bad matter worse, and after we have piled up all these mighty mounds of earth and stone, and the Missouri, the upper Mississippi, the Ohio, the Red, and the Platte hurl their mighty floods into the lap of the Father of Waters. At the same time these great works, built at the expense of hundreds of millions of dollars, are as absolutely ineffectual and valueless as though they were built of straw, and lands that might be protected, and lands lying back from the river at some distance that might be made perfectly safe from this inundation, are frequently and periodically swept by these swelling floods.

I will join the Committee on Rivers and Harbors in doubling those six millions if that committee will frankly state its purpose to protect the lands along this great river and adopt a plan under which that can be effectively done.

Mr. RANSDELL of Louisiana. I have listened with a great deal of interest, Mr. Chairman, as I always do, to the very learned and eloquent discourse of the gentleman from Wyoming [Mr. MONDELL]. I fear that he has been led into some errors in regard to this measure to-day, as he undoubtedly was guilty of making some mistakes in his statements yesterday in regard to certain other projects. He tries to impress upon the House the idea that we are building levees on the Mississippi River without any warrant for the same, entirely for the purpose of protecting private property and without any reports of engineers or anyone else in favor thereof.

Now, Mr. Chairman and gentlemen of the committee, it is a fact that more than 30 years ago all works on the Mississippi River south of Cairo were placed in charge of a great commission known as the Mississippi River Commission, composed of three Army officers of the Engineer Corps, one officer from the Coast and Geodetic Survey, two of the greatest engineers that could be found in civil life, and one lawyer. The lawyer, let me say, for many years has been Judge Robert S. Taylor, of Fort Wayne, Ind., who lives many miles from the nearest part of the Mississippi River.

This great commission, created by act of law in 1879, and since then given additional authority in every river and harbor act passed since that time, has studied the various problems connected with the Mississippi River, and under authority given to it by law has expended considerable sums of money in building levees, on the theory that those levees were of material aid to commerce and were necessary to improve the navigation of the river.

Mr. MONDELL. Mr. Chairman——

Mr. RANSDELL of Louisiana. I decline to be interrupted, Mr. Chairman, as I have only five minutes. Those reports have been printed year after year along with the reports of the Chief of Engineers of the Army. Anyone can find them.

There has been some little difference of opinion, I admit, among the members of that commission, but ever since its creation a majority of its members have held, and to-day hold, that it is necessary to build levees along the banks of the lower Mississippi River in order to promote navigation, and that levees are material aids to commerce. So in that particular the gentleman is entirely wrong. The paragraph in question provides that the commission shall expend the sums at their disposal "in such manner as in their opinion shall best improve navigation and promote the interests of commerce at all stages of the river."

Could legislation be better safeguarded than that? Could a better plan be adopted than to commit the expenditure of this money to such a commission as I have described? Can higher-grade men be found anywhere in this United States, and more disinterested men?

The CHAIRMAN. The time of the gentleman has expired.

Mr. RANSDELL of Louisiana. I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. The committee has already had 10 minutes on this paragraph.

Mr. RANSDELL of Louisiana. I move to strike out the last two words of the next paragraph.

The CHAIRMAN. The gentleman moves to strike out the last two words.

Mr. DYER. Mr. Chairman, I would like to offer an amendment as a new section to this paragraph.

Mr. GARRETT. Mr. Chairman, I make the point of order that the debate was closed only on the paragraph. If the gentleman moves to strike out the last two words, that is an amendment. He is entitled to it.

The CHAIRMAN. Debate has been closed on the paragraph.

Mr. GARRETT. But not on all amendments thereto.

Mr. RANSDELL of Louisiana. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from Louisiana [Mr. RANSDELL] asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. RANSDELL of Louisiana. Now, Mr. Chairman, I shall try not to detain the House long.

Mr. MANN. Mr. Chairman, I will ask unanimous consent if the gentleman desires five minutes, but it is perfectly patent that when you close debate on a paragraph that is not subject to debate at all except in the way of amendment——

The CHAIRMAN. The gentleman proposes to proceed by unanimous consent.

Mr. RANSDELL of Louisiana. I asked unanimous consent.

Mr. MANN. Oh, I beg the gentleman's pardon.

Mr. RANSDELL of Louisiana. Gentlemen, it is a fact that considerable sums of money have been expended on this river for levees, and I assume that considerable other sums are going to be expended for levees on that river. But it presents a unique situation, different from any that exists anywhere else in this Union.

Let me remind the gentlemen of this House that the three political parties that held their conventions last summer all recognized this river as presenting an entirely different problem from those presented by any other waterway in the Republic. All of them declared that the control of floods on the Mississippi River was a national problem. The accumulated waters of 24 States flow down into that river. It is a greater burden than the local people can possibly bear, but they have struggled nobly.

Within the last 30 years the National Government has expended about $26,000,000 to aid in the construction of levees along the banks of the Mississippi for the purpose of protection against floods and for assisting navigation and commerce. The National Government would not have expended it if the commission had not thought it was going to aid commerce. At the same time the local people, whose property was frequently overflowed and whose losses were very severe, have expended more than twice that sum—have expended on these great levees over $60,000,000. My own State of Louisiana every year pays out fully a million and a half dollars for levees.

The gentleman from Wyoming [Mr. MONDELL] says that these levees do not protect the adjacent lands from floods. This is a mistake. There are occasionally great floods which these levees are inadequate to control, but in the main, gentlemen of the House, the levees do furnish protection. Between 1903 and 1912 we had no disastrous overflows. From 1897 to 1903 there were no overflows. But if we did not have the levees there would be a serious overflow every spring. It is necessary to have the levees in order to protect our lands against the freshets that come down the river every year.

The gentleman suggests a second line of levees. That is probably all right, and I will be glad to join him on it. Why did he not say what was in his mind? Why did he not tell us to impound the rainfall at the headwaters of the various streams in order to use those waters for irrigation?

I was delighted to make a speech for the gentleman's irrigation project when it was up here several years ago, and I will gladly vote any reasonable sums to irrigate the arid lands anywhere and everywhere in this Nation which belong to the public. But, Mr. Chairman and gentlemen, let me say to the Members of this House that when a gigantic problem confronts them and only one effective measure of solving it has been suggested by the greatest engineers in the world, they will naturally adopt

that means. The levee system may not be effective in all instances, but it is the best that can be done. We have been following it for 200 years with a great measure of success. The reservoir system which is advocated by some has not met general approval from the engineering world. Mr. M. O. Layton, its chief exponent, says it would cost from $500,000,000 to $1,000,000,000 for reservoirs on the Ohio and upper Mississippi alone, without considering the many other streams which form other floods down the lower Mississippi.

The CHAIRMAN. Are the pro forma amendments withdrawn?

Mr. RANSDELL of Louisiana. I withdraw the one I made.

The CHAIRMAN. The amendment of the gentleman from Tennessee [Mr. MCKELLAR] will be reported.

The Clerk read as follows:

Amend by adding after the word "appropriated" in line 13, page 37, the following: "*And provided further*, That waters wholly or partially within municipalities along said Mississippi River and on watercourses connected with it may be improved upon paying one-half of the cost thereof to said commission, the other half of the cost thereof to be paid from the amount herein appropriated."

Mr. MCKELLAR. Mr. Chairman and gentlemen of the committee, that amendment is offered on behalf of the city of Memphis, in the State of Tennessee. That city is situated at the junction of Wolf River and the Mississippi River. Nonconnah Creek is just south of the city. For all time the city of Memphis has been on a bluff high enough not to be injured by the flood waters of the Mississippi River until the building of levees on the Arkansas side. Since those levees have been built the waters have come up higher and higher each year until the floods of 1912 submerged the northern part of our city on Wolf River and all of the lower part of the city. The engineer in charge reported to the Mississippi River Commission, and it is to be found in the report, that last year there was destruction of property of the value of about eleven hundred thousand dollars in the city of Memphis by reason of these floods. It destroyed or put out of commission our gas system, it put out of commission our artesian water system in part, drove hundreds of families from their homes, and caused the greatest loss of property and injury for a time to the health of our city.

Practically no moneys have been expended for a period of more than 16 years in the Memphis Harbor, except some five or six thousand dollars perhaps, and now the object of this amendment is to get a reasonable proportion of protection for this city from the ravages of the river. We do not come here and ask you to give us entire protection, although we believe our damage is due to the building of these levees. I do not say that we are against this project, because I am heartily in favor of building levees along the Mississippi River. [Applause.]

But while we build them surely it is not the desire of any fair-minded man to permit the destruction of property in any city by reason of the building of the levees, and surely we ought to be protected in part, and that is all we ask in this matter. By this amendment it is provided that this work shall not be done until such municipality shall put up one-half of the cost of improvement of this harbor. Is not that a fair proposition? Has any other applicant in any other portion of this bill come before you with a similar proposition? I appeal to you, gentlemen. I was not here during the deliberations of the committee, I am sorry to say, and did not have the privilege of a hearing before the committee on this amendment, but I now appeal to members of the full committee to do an act of simple justice to the city of Memphis.

Mr. CALLAWAY. Will the gentleman yield?

Mr. MCKELLAR. I will.

Mr. CALLAWAY. The gentleman says the damage that was done was due to the building of levees put in by the Government on the other side.

Mr. MCKELLAR. I did.

Mr. CALLAWAY. And the gentleman thinks the Government ought to bear one-half the expense?

Mr. MCKELLAR. I do.

Mr. CALLAWAY. If the Government is liable for the damage, why should it not be liable for the whole expense?

Mr. MCKELLAR. If the gentleman will allow me——

Mr. CALLAWAY. Let me finish. If the Government is liable for the damage done, why should not the gentleman ask for protection for the whole sum?

Mr. MCKELLAR. I would be very glad to do it, but I felt that that was as much as I could get. I am asking for what I think the committee will give me.

Mr. CALLAWAY. The gentleman is not asking for justice; he is only asking for what money he can get.

Mr. MCKELLAR. I am asking that Congress will do Memphis justice in part; if they could not do it in whole, I ask it for half of it.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. MCKELLAR. I ask for five minutes more.

Mr. MANN. Reserving the right to object, Mr. Chairman, although I shall not object, the debate on the paragraph is exhausted and can only proceed by unanimous consent.

The CHAIRMAN. An amendment is pending.

Mr. MANN. If the Chairman will permit me to read the rule on the subject he will see that if debate is closed on the paragraph it is closed on all amendments.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. MANN. Paragraph 6 of Rule XXIII says:

The committee may, by the vote of a majority of the members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph, or, at its election, upon the pending amendments only (which motion shall be decided without debate); but this shall not preclude further amendment to be decided without debate.

The CHAIRMAN. The Chair thinks the gentleman from Illinois is correct.

Mr. MANN. I do not object to the gentleman's request to proceed by unanimous consent.

Mr. MCKELLAR. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I ask unanimous consent that debate on this paragraph and all amendments thereto close in 10 minutes.

The CHAIRMAN. The committee has already ordered that debate shall be closed, and the gentleman from Tennessee is only proceeding by unanimous consent.

Mr. MCKELLAR. Mr. Chairman, the gentleman from Texas [Mr. CALLAWAY] has asked why I do not ask for all of these improvements. I want to be fair with this committee. It will take a very considerable sum of money to protect the northern part of our city, which is on Wolf River, as well as on the Mississippi, from these overflows, if there is another one like that of last year. A simple dirt levee will not do the work, because there is a bayou, as we call them down there, but which are commonly known as creeks, that runs through the entire city, and some arrangement will have to be made to take care of that water. The city of Memphis is not responsible for this visitation of floods. That city had never been overflowed until the building of these levees.

Mr. CALLAWAY rose.

Mr. MCKELLAR. Mr. Chairman, I have only five minutes, and I trust the gentleman will excuse me. I stated to him the position I have taken in my appeal to the committee.

Mr. CALLAWAY. I want to ask just a simple question.

Mr. MCKELLAR. Very well, I yield for a question.

Mr. CALLAWAY. I understood the gentleman to say that he was in favor of the levee system and that the levees were the cause of the injury, and that now he wanted the Government to protect them against the injury by the levees that he was in favor of.

Mr. MCKELLAR. I will answer the gentleman's question. I am in favor of levees, absolutely, unequivocally, beyond the shadow of a doubt, but I am not in favor of building the levees on one side to protect the people on that side of the river, without giving at least a measure of protection to the people on the other side of the river. Is not that a fair proposition? Anyone who is familiar with that great river and the territory through which it flows, and anyone who is familiar with the project, knows that we have to have levees along its banks.

All that I am asking is that provision be made to protect, in part at least, the cities along that river. I appeal to you in the name of fair play. As I say, this city was up and beyond any overflow whatever, by its natural position along the banks and along those high bluffs, until the Government and the levee districts together have built up these levees on the other side, thereby raising the stage of the water until it overflowed our city. I ask you for help because of the injury that it did to our city. It can hardly be imagined, and the Mississippi River Commission has reported that about eleven hundred thousand dollars' worth of property was destroyed in the city of Memphis last year, that the gas works were put out of commission, and that the waterworks in the northern part of the city were put out of commission. Hundreds of families were driven from their homes, and every species of property destroyed. We had to haul water around the city in carts for the people until we got relief because of the backing up of the sewers into the water mains. It seems to me that this amendment ought to pass.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. All debate has been closed on this amendment. The gentleman from Mississippi asks unanimous consent to address the committee for five minutes. Is there objection?

There was no objection.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I would like to call the attention of the gentleman from Tennessee [Mr. MCKELLAR] and of the committee to the fact that the bill now contains a provision almost identical with the one that he offered, beginning on line 8, page 37, as follows:

Provided further, That the watercourses connected with said river and the harbors upon it, now under the control of the Mississippi River Commission and under improvement, may, in the discretion of said commission, upon approval by the Chief of Engineers, receive allotments for improvements now under way or hereafter to be undertaken, to be paid for from the amount herein appropriated.

The only difference in this proviso and the amendment offered by the gentleman from Tennessee is that his amendment leaves out the words "in the discretion of said commission," and makes it read, in substance, that the Mississippi River Commission may make these allotments, provided the community contributes one-half of the amount. Under the rule which has always obtained, under the interpretation put upon the statutes universally by the Chief of Engineers when the language of the statute is that they "may" make such improvements, it is interpreted to be mandatory that the work be done.

Mr. MCKELLAR. Mr. Chairman, will the gentleman yield?

Mr. HUMPHREYS of Mississippi. Yes.

Mr. MCKELLAR. If the municipality is willing to put up one-half of the funds, might it not be reasonably supposed that the commission ought to do it?

Mr. HUMPHREYS of Mississippi. I will answer that. Under the gentleman's amendment the Mississippi River Commission will be compelled to contribute half of the money whether in their judgment the work ought to be done or not. Under the law as it stands to-day, and as it will be under this bill as now written, they may contribute not only half but all of it, if they think it ought to be done.

But if the city of Memphis thinks that her waterworks or her gas plant is in danger, without any reference on earth to the interest of navigation, without reference to any interest the Federal Government may have in the matter; if the city of Memphis, under the gentleman's amendment, sees fit to put up the money necessary to protect her waterworks or gas house, they will come to the Mississippi River Commission and compel the Federal Government to come in and make an appropriation to bear half the expense. I submit, Mr. Chairman, that that is no concern whatever of Congress and that it is in a spirit of unfairness. It is an ungenerous spirit on the part of the city of Memphis that sits upon a high hill, surrounded by these deltas from which it draws its trade and its prosperity, and for the upkeep of the levees which protect them she pays not one nickel in taxes. I say, it is an ungenerous spirit for that city to ask those people who have, as Mr. RANSDELL has just told you, contributed out of their own pockets and out of their taxes $60,000,000 of money to maintain these levees, to share her municipal burdens, or to ask that the Federal Government take from those people the money that will otherwise be spent for levees, in order to help the city of Memphis, where the assessed value of taxable property exceeds the assessed value of property in all those deltas combined, in order to help that city build or protect her gas plant or her waterworks. So, I hope, Mr. Chairman, that the amendment will not prevail.

Mr. MCKELLAR. Will the gentleman yield for a question?

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken, and the Chairman announced the "noes" seemed to have it.

On a division (demanded by Mr. MCKELLAR), there were—ayes 6, noes 41.

So the amendment was rejected.

Mr. MOORE of Pennsylvania. Mr. Chairman, I desire to offer an amendment to the paragraph just read.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, line 23, page 36——

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Has that paragraph been read?

Mr. MOORE of Pennsylvania. This is an amendment to the Mississippi River paragraph.

Mr. MANN. The gentleman puts in an amendment ahead of what has been read.

Mr. LAWRENCE. Mr. Chairman, I suggest the Clerk read the next paragraph.

Mr. MOORE of Pennsylvania. Mr. Chairman, I did not want to lose my place, that is all.

Mr. MANN. We have not reached the gentleman's place yet.

Mr. DYER. Mr. Chairman, I desire to offer an amendment in the nature of a new paragraph at the end of this paragraph.

The CHAIRMAN. The committee has under consideration the amendment offered by the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. I think the amendment comes in properly here; it is an amendment to the paragraph on page 36.

Mr. EDWARDS. Mr. Chairman, I make the point of order that that paragraph has been already passed.

The CHAIRMAN. The whole paragraph is pending, the Chair understands.

Mr. DYER. Mr. Chairman, I offer an amendment as a new paragraph at the end of the paragraph just read.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment which the Clerk will report.

The Clerk read as follows:

Amend, line 23, page 36, by inserting, after the word "levees," the following: "which shall be considered extraordinary emergency work."

Mr. MOORE of Pennsylvania. Mr. Chairman, is that debatable?

The CHAIRMAN. It is not. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the amendment was rejected.

Mr. DYER. Mr. Chairman, I offer this as a new paragraph.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Missouri.

The Clerk read as follows:

After line 14, page 37, insert as a new paragraph:

"That the sum of $20,000,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended, or so much thereof as may be necessary, under the direction of the Secretary of War in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for the purpose of maintaining, raising, and protecting against the impending and possible future floods the levees on the Mississippi River, as well as the rivers tributary thereto."

[Cries of "Regular order!"]

Mr. DYER. Mr. Chairman, I submit to the Chair that this is not an amendment, but is a new paragraph.

The CHAIRMAN. The gentleman from Missouri [Mr. DYER] does not offer it as an amendment, but an independent section.

Mr. DYER. This is the substance of a bill which I introduced into the House on the 6th of last May, and it is in substance a law that will have to be enacted if Congress is to cover this situation on the Mississippi River and the floods that come from time to time. It has been stated here that appropriating money piecemeal from Congress to Congress to protect the people and property is not satisfactory. The engineers of the Government have decided that the levees can be raised to protect the property and to prevent overflows, and if that can be done, Mr. Chairman, it certainly ought to be done, and it ought to be done by the United States. The vast amount of property involved in the protection and raising of the levees to prevent overflows is of so vast importance that it must and will come in the near future. I present this to the committee for its consideration, with the hope that I may bring it to their attention and to the attention of the Committee on Rivers and Harbors in such a way that they will begin a careful and scientific investigation of this project, with the hope that in the near future we may secure a law and sufficient appropriation to raise the levees for good. [Applause.]

Mr. Chairman, the raising of the levees of the Mississippi River so as to prevent overflows affects many of the great States of this Union. Within its watershed, in whole or in great part, are the following States: Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, West Virginia, Wisconsin, and Wyoming. The Chief of Engineers of the Army stated to me that for substantially the amount carried in this amendment the levees can be raised to prevent overflows. When the levees have been raised to prevent overflows then the swamp and overflowed land can be drained and made healthy and fit for agriculture. There are 77,000,000 acres of this land, and divided into farms of 40 acres it would provide homes for 1,925,000 families. Swamp lands, when drained, are extremely fertile, requiring but little commercial fertilizer, and yield abundant crops. They are adapted to the growth of a wide range of products, and in most instances are convenient to good markets. While an income of $15 to $20 per acre in the grain-producing States of the

Middle West is considered profitable, much of the swamp lands in the East and South would, if cultivated in cabbages, onions, celery, tomatoes, and other vegetables, yield a net income of more than $100 per acre.

In addition to the immediate benefits that accrue from the increased productiveness of these lands, a greater and more lasting benefit would follow their reclamation. The taxable value of the Commonwealth would be permanently increased, the healthfulness of the community would be improved, mosquitoes and malaria would be banished, and the construction of good roads made possible. Factories, churches, and schools would open up, and instead of active young farmers from the Mississippi Valley emigrating to Canada to seek cheap lands, they would find better homes within our own borders.

The following is substantially an accurate estimate of the number of acres of swamp and overflowed lands, by States, that may be reclaimed for agriculture if the levees of the Mississippi are raised sufficiently to prevent overflows, which can and will be accomplished through the enactment of the amendment I have presented to this bill, to wit:

	Acres.
Alabama	1,479,200
Arkansas	5,911,300
California	3,420,000
Connecticut	30,000
Delaware	127,200
Florida	19,800,000
Georgia	2,700,000
Illinois	925,000
Indiana	625,000
Iowa	950,500
Kansas	359,380
Kentucky	444,600
Louisiana	10,196,605
Maryland	192,000
Maine	156,520
Massachusetts	59,500
Michigan	2,947,439
Minnesota	5,832,308
Mississippi	5,760,200
Missouri	2,439,000
Nebraska	512,100
New Hampshire	12,700
New Jersey	326,400
New York	529,100
North Carolina	2,748,160
North Dakota	200,000
Ohio	155,047
Oklahoma	31,500
Oregon	254,000
Pennsylvania	50,000
Rhode Island	8,064
South Carolina	3,122,120
South Dakota	611,480
Tennessee	639,600
Texas	2,240,000
Vermont	23,000
Virginia	800,000
Washington	20,500
West Virginia	23,900
Wisconsin	2,360,000

These lands, after they have been drained and made fit for agriculture, will be worth from $60 to $100 per acre. Taking the lowest estimate of $60 per acre, the cash value of these 77,000,000 acres of land would be $4,620,000,000. These lands as they now stand are not worth to exceed $8 per acre. You can therefore see the greatness of this project and that it is worth while for Congress to give it serious consideration.

Mr. BARTHOLDT. Mr. Chairman, I wish to reply briefly to some statements made here a little while ago by the gentleman from Louisiana [Mr. RANSDELL]. I trust my friend from Louisiana did not intend to convey the impression to the country that there is an antagonism between the friends of the levee system and the friends of another system, namely, the reservoir system, to protect the lands of the South.

Mr. RANSDELL of Louisiana. Mr. Chairman, I wish to say to the gentleman that I had no such idea at all. I was simply trying to convey the idea that the only two systems I had heard suggested were levees and reservoirs, and the cost of the reservoirs, as laid down, was $500,000,000 to $1,000,000,000, and it was impractical.

Mr. BARTHOLDT. Mr. Chairman, at ordinary times there is no question but that the levee system is sufficient to protect the lands, but when the floods of all the rivers that are tributary to the Mississippi come together, as they did last year, it is demonstrated that the levee system is not entirely sufficient to protect them. And therefore, as supplementary to the levee system——

Mr. SPARKMAN. Mr. Chairman, I make the point of order that the gentleman is not talking to the amendment. He is talking upon an entirely different subject.

Mr. BARTHOLDT. I am coming to that. My remarks will have relation to the amendment offered by the gentleman from Missouri [Mr. DYER].

I wish to make this point clear, that we do not oppose the levee system, but are heartily in favor of it, but it is only the question of a vast amount of money that perhaps prevents this country from embarking upon a new policy for more efficiently protecting the lands of the South from floods such as we had last year.

Mr. SPARKMAN. Mr. Chairman, I do not wish to appear discourteous to any gentleman, but it is very important we must get this bill through very soon, and to get it to the Senate as early as possible, and we hope to finish it this afternoon.

Mr. BARTHOLDT. These are the only five minutes I have consumed on this bill, and I thought the remarks of the gentleman from Louisiana were important enough to justify the consumption of five minutes, which I did.

Mr. MOORE of Pennsylvania. Mr. Chairman, I wish to speak against the amendment. At this point, Mr. Chairman, let us note that $30,000,000, in addition to what is already appropriated in this bill, is suggested by the amendment for the construction of levees along the Mississippi River, and it seems appropriate now to say one or two things that ought to be said with regard to the Mississippi River appropriation. I have a table of statistics here, prepared by Emory R. Johnson for the White House conference in 1907, showing just what has been spent on the rivers and harbors in this country since the first appropriation.

In that time, up to 1907, Congress had expended altogether a total of $552,000,000. I will put the accurate figures in the RECORD. On the Atlantic coast, since the year 1802, for all the great commerce of this country for more than 100 years, there was expended $141,000,000 of this total.

The statement of Prof. Johnson is as follows:

Congressional appropriations for the survey, improvement, and maintenance of harbors and waterways of the United States, by periods and divisions.

Division.	Date of earliest appropriation.	Appropriations.			
		Total.	Up to and including 1890.	1891 to 1906, inclusive.	Mar. 2, 1907.
Atlantic coast	1802	$141,162,391	$56,448,541	$73,521,326	$10,892,524
Gulf of Mexico	1826	64,292,362	21,065,470	38,027,940	5,198,952
Pacific coast	1852	34,061,782	10,248,592	21,204,844	2,608,346
Great Lakes	1823	97,791,108	37,522,937	50,980,283	9,287,888
Mississippi Valley	1819	208,484,720	84,211,783	115,457,054	8,815,883
Lake Champlain	1836	1,347,910	1,133,660	211,750	2,500
General	1824	[1] 5,802,752	3,408,903	1,743,849	650,000
Total		[2] 552,943,025	214,039,886	301,447,046	37,456,093

[1] Includes general appropriation items for removal of wrecks, examinations, surveys, and contingencies which are not capable of being segregated according to divisions.

[2] Does not include appropriations for the following: California Débris Commission, Permanent International Commission of Congresses of Navigation, International Waterway Commission, improvement of harbors and waterways in insular possessions, prevention of deposits in New York Harbor, bridge construction.

Up to and including 1890 the congressional appropriations amounted to 38.7 per cent of the total shown in this table. From 1891 to 1906, inclusive, 54.5 per cent of the total was appropriated, while the rivers and harbors act of March 2, 1907, authorized the expenditure of 6.8 per cent. The waterways of the Mississippi Valley, including the Red River (of the North), have received 37.7 per cent of all congressional appropriations for the improvement and maintenance of harbors and waterways; the harbors and streams of the Atlantic coast, 25.5 per cent; those of the Great Lakes, 17.7 per cent; the Gulf of Mexico, including the delta and passes of the Mississippi, 11.6 per cent; the Pacific coast, 6.2 per cent; and Lake Champlain, two-tenths of 1 per cent.

Mr. MANN. Mr. Chairman, will the gentleman yield to me for a question?

The CHAIRMAN. Does the gentleman from Pennsylvania yield?

Mr. MOORE of Pennsylvania. No; I regret I can not. I have not the time. The Gulf of Mexico received $64,000,000; the Pacific coast only $34,000,000; the Great Lakes $97,000,000; Lake Champlain a little over a million; miscellaneous about five millions; and Mississippi Valley $211,000,000. This out of the total of $552,000,000.

Now, since these figures were prepared and published, indicating the manner in which the money for rivers and harbors has been distributed for commerce and navigation in the country, statistics have been prepared by the National Rivers and Harbors Congress for the five years intervening between 1907 and 1912. In those five years Congress has expended, in addition to the $552,000,000 up to 1907, a total of $179,000,000.

Now, of that additional total of $179,000,000, the Pacific coast has received $19,000,000; the Atlantic seaboard, with its tremendous commerce, has received $50,000,000; and the Mississippi River, the Great Lakes, and the Gulf territory have taken $110,000,000. In this bill you have provided for the Missouri

River legislation which will take $20,000,000 before you can complete the work or before you have proven that the work can be done. In this bill you have also a project for the improvement of the Mississippi River levees that will run up to $100,000,000 more. You also have inserted a provision for the Ohio River that will spell $63,000,000 before it is accomplished.

Now, while I am on this topic I want to say that the customs receipts of this country, which are not exclusive to the Atlantic seaboard, but which are representative of the business of the entire country, amounted to $311,000,000 for the year 1912, and of that total $265,000,000 came in substantially at four ports on the Atlantic seaboard that are here begging for improvements, while the rest of the country contributed of those customs revenues only $46,000,000. The Atlantic coast gets 25 per cent of the appropriations you make for the improvement of rivers, and on the Atlantic coast are held back other important projects that would prove to be revenue producers; and yet the Mississippi Valley in five years takes, out of a total of $179,000,000, $110,000,000. Still you put in the law a provision for a $100,000,000 Mississippi improvement, and gentlemen come in here for $30,000,000 more. It does not seem to me a reasonable or fair distribution of the revenues of this country.

Mr. MADDEN. Who consumes the merchandise on which the duties are paid at the port of New York?

Mr. MOORE of Pennsylvania. The people.

Mr. MADDEN. Yes; the people of the whole country. I just wanted to elicit that information from the gentleman by that question.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Missouri [Mr. DYER].

Mr. MANN. Mr. Chairman, I do not know how much of the $265,000,000 collected at the four ports on the Atlantic seaboard is collected at Philadelphia. May I ask the gentleman from Pennsylvania how much it is?

Mr. MOORE of Pennsylvania. Twenty-one million dollars.

Mr. MANN. It was a very nice thing to say that $265,000,000 had been collected "at four ports."

Mr. Chairman, ever since I have served in this House alongside of my distinguished friend from Philadelphia I have recognized him as an exponent of the proposition that the Government ought to improve rivers and harbors. In fact, there was a time when I was led to believe that my distinguished friend from Pennsylvania was really trying to appropriate too much money for the improvement of rivers and harbors. But to-day my idol is shattered and falls to the ground.

The gentleman from Pennsylvania for the last two or three days, while this bill has been up for consideration, has done everything he could to prevent its passage, opposing various propositions that are in the bill, while assuming and assuring the House that he really was in favor of them. Think of my friend from Pennsylvania, whom we had placed upon a pedestal as being in the lead in the way of river and harbor improvement, now standing and fighting each of the items as they become a law. Why, I thought my friend from Pennsylvania was the president of half a dozen different associations designed to extract money out of the Treasury for the improvement of rivers and harbors. I have heard the gentleman time and again ask leave to extend his remarks in the RECORD for the purpose of inserting something in favor of great appropriations for rivers and harbors.

Mr. MOORE of Pennsylvania. And they have been denied.

Mr. MANN. Yet the gentleman is doing his best now to prevent the passage of this river and harbor bill in time for it to be considered at the other end of the Capitol so that it may become a law. I fear that in the future I may not be able blindly to follow my friend from Philadelphia along the lines in favor of river and harbor improvements, because I shall never know when he is going ahead and when he is backing up. [Laughter.]

The CHAIRMAN. The question is on the motion of the gentleman from Missouri [Mr. DYER].

The question being taken, the amendment was rejected.

The Clerk read as follows:

Any funds which have been, or may hereafter be, appropriated by Congress for improving the Mississippi River between the Head of Passes and the mouth of the Ohio River, and which may be allotted to levees, may be expended, under the direction of the Secretary of War, in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for levees upon any part of said river between the Head of Passes and Rock Island, Ill.

Mr. FOWLER. I reserve a point of order against this paragraph.

Mr. YOUNG of Michigan. Will not the gentleman make it?

Mr. FOWLER. I want to ask the gentleman from Florida [Mr. SPARKMAN] why there is an effort in this paragraph to place a limitation upon what future Congresses may do?

Mr. SPARKMAN. In what respect are we trying to do that?

Mr. FOWLER. This paragraph reads:

Any funds which have been or may hereafter be appropriated.

Mr. SPARKMAN. We wish to limit this appropriation and all other similar appropriations in so far as we can limit them to the purposes mentioned. Of course, I understand, and everyone else understands, that we can not limit the actions of future Congresses. Any other Congress, like this, can do as it pleases; but so far as future Congresses are concerned, we want to emphasize the fact that we do not desire to extend the jurisdiction of the Mississippi River Commission over levees beyond the point where it now reaches or permit that commission to expend money on levees except for the purposes herein contemplated.

Mr. FOWLER. Why not strike out the words "or may hereafter be"?

Mr. SPARKMAN. Because the River and Harbor Committee thought those words should be in the bill.

Mr. FOWLER. Have they been carried before?

Mr. SPARKMAN. They do no harm, and they may do some good. We think they serve a good purpose there.

The CHAIRMAN. What is the gentleman's point of order?

Mr. SPARKMAN. He has not made any point of order. He has simply reserved it.

Mr. FOWLER. I reserve the point of order, Mr. Chairman.

The CHAIRMAN. What is it?

Mr. FOWLER. I was trying to get information from the chairman of the committee, to see whether the point of order should be made or not.

The CHAIRMAN. Very well.

Mr. YOUNG of Michigan. Regular order!

Mr. FOWLER. The point of order is that the words in line 1 appear to place a limitation upon the action of future Congresses, which I do not believe this House has the right to do.

Mr. YOUNG of Michigan. Will the Chair rule?

The CHAIRMAN. The point of order is not well taken.

Mr. GARRETT. Mr. Chairman, I move to strike out the last word. This paragraph does, of course, extend the power of the Mississippi River Commission very much and takes in a considerable stretch of river which has not heretofore been under the jurisdiction of that commission.

When the Mississippi River Commission was created 30 years ago or more it was given jurisdiction from the mouth of the Ohio to the Head of Passes. This makes a very great departure. It extends its jurisdiction—and I really think there ought to be an explanation from the committee, to go into the RECORD, as to why that is done. It seems to me it would not be amiss to have a five-minute explanation, at least, of the reason for the extension of the jurisdiction of the commission.

Mr. SPARKMAN. If the gentleman had been present the other day during general debate on this bill, he would have heard as clear an explanation of that matter as I am capable of making. It was gone into quite fully then. But I will again briefly explain. There had been for some time quite a demand for the partial extension of the jurisdiction of the Mississippi River Commission from Cape Girardeau up to Rock Island, so as to place that section of the river, in the matter of levee construction, on the same footing with that below, the claim being that there was no difference between the two sections in that particular, a claim which appeared to be well founded. So after considering the matter carefully the committee concluded to meet that demand, which it thought had considerable merit, by inserting this paragraph, which has the effect of thus extending the jurisdiction of the Mississippi River Commission up to Rock Island, Ill., in so far as the construction of levees is concerned, but only in the interests of navigation, not for the purpose of protecting private property or anything of that kind, the committee considering any matter other than that of navigation foreign to the purposes of a river and harbor bill. It will be observed that the whole matter is left to the discretion of the Mississippi River Commission and the Chief of Engineers to say whether any expenditure is for the benefit of navigation.

The CHAIRMAN. The pro forma amendment is withdrawn, and the Clerk will read.

Mr. MONDELL. Mr. Chairman, I move to strike out the paragraph. Mr. Chairman, this paragraph enlarges the power of the Mississippi River Commission. The gentleman from Louisiana [Mr. RANSDELL] eulogizes that commission. I have no doubt but that they are high-minded, patriotic gentlemen, but I think if we had in our employ men who had spent as much

money as these men have spent, or as has been spent under their direction, and secured so little benefit from the expenditure we would discharge them rather than enlarge their powers.

The trouble is these gentlemen are circumscribed in their efforts, cribbed and confined in their opportunities to do the right thing by reason of the fact that the gentlemen who are in control of these matters refuse to acknowledge the truth, and that is that we are protecting, and we desire to protect, private property. The commission is proceeding on the theory—and I use the word advisedly, because the gentleman from Louisiana used it when he said the appropriations were all on the theory that they aid navigation, and if they were not on that theory they would not be made, he said. Why, certainly not. What is the theory in face of an established policy which we have been following for years against which there is no opportunity for anyone to do more than protest, as I have been trying to do. My protest is not against the real object of the expenditure, but against the smug hypocrisy which refuses to acknowledge what we are attempting to do. It is that which makes the expenditure largely futile, because the commission can not recommend the expenditures in such a way as to make them really effective. They must pretend they aid navigation.

If they could recommend expenditures for levees, leaving such channels as would carry the floods of the river, then the expenditures would be of some permanent benefit. So far as aiding navigation, we all know that last year it cost about $30 a ton in expenditure for every ton of freight that went over certain reaches of the river. We all know that after the expenditure of over a hundred millions there is much less navigation on the river than there was years ago.

Now, gentlemen, let us acknowledge what we are doing and proposing to do. Acknowledge the national responsibility for the floods of the Mississippi River, for protecting property along the stream, and let us do it in an intelligent and effective way, and in doing it improve as much as we may the navigation of that great stream. So long as we continue to try to fool ourselves and the American people that we are building levees wholly in the interest of navigation we must so build them that they will have some appearance of being in the interest of navigation and, consequently, so build them in many instances, as the gentleman from Tennessee has just pointed out, that they do harm rather than good by confining the waters of the river in too narrow a channel. Let us so build them as to give free passage for floods, and thus effectually accomplish the protection of property and at the same time improve the river navigation.

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent that all debate on the pending paragraph and amendments thereto be closed in five minutes.

The CHAIRMAN. The gentleman from Florida asks that all debate on the paragraph and amendments thereto close in five minutes. Is there objection?

There was no objection.

Mr. AUSTIN. Mr. Chairman, I want to appeal to my colleagues on this side of the House to give us an opportunity, in the interest of public business, to go forward with the consideration of this bill. [Applause.] We have 31 working days before the final adjournment of this Congress. There are 11 supply or appropriation bills. There are 4 of them that have not been reported to this House, and only 1 of the 11 has passed both Houses of Congress, and that bill has not so far received the approval of the President of the United States.

Here is a calendar with thirty-odd pages of general and private bills. More than 400 or 500 general and private bills and 11 supply bills of the Government awaiting us, and here we are killing time—making motions and objecting and wasting valuable time.

This bill is a meritorious measure. This great committee that has brought it in is deserving of commendation on both sides of this House. It is not deserving of the unjust criticisms that have been made. This bill is practically above criticism and condemnation. No appropriation committee in this House is hedged about with more safeguards in the interest of the legitimate expenditure of public moneys than the Committee on Rivers and Harbors. The chairman of it is a Member of long standing in this House, competent, worthy, and deserving the confidence of all his colleagues. The men who are associated with him in the preparation of this bill, Republicans and Democrats, have the interest of our country at heart. They have brought in for our consideration this measure which awaits our approval. Do not let us trifle away any more of the valuable time that belongs to the people of this great country. Here we have spent almost an entire afternoon on less than 3 pages of a great measure which runs into 60 pages. It is not creditable to the membership of this House. We can not change the paragraphs in this bill, for the Members are determined to sustain this committee, and I appeal to my Republican colleagues to let us proceed in an orderly and creditable manner, in the interest of the American Congress and to our own honor and credit. [Applause.]

The CHAIRMAN. The question is on the motion of the gentleman from Wyoming to strike out the paragraph.

The question was taken, and the motion was rejected.

The Clerk read as follows:

Improving Mississippi River from the mouth of the Ohio River to and including the mouth of the Missouri River: Continuing improvement and for maintenance, $1,000,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. I presume I am one of those gentlemen on this side who is subject to the strictures of my very good friend from Tennessee [Mr. AUSTIN]. I note with great concern how gentlemen sometimes get anxious toward the close of the day for the passage of an undigested bill that contains large appropriations for their benefit. [Applause on the Republican side.] I am surprised that a Democratic House should insist upon pushing through a measure carrying $40,000,000 without a fair opportunity to debate some new problems that are being injected into the legislation of the country through this measure. Surely my friend from Tennessee does not want us to pass through this bill and bind ourselves to a policy with regard to the construction and taking over of dams and the assignment of water-power rights? That is being done in this measure. Why not let us discuss it here? Surely my friend does not want to drive us incidentally into the business of building levees along great rivers without an opportunity to discuss whether or not we should embark upon so important a policy. That ought to be fairly considered as new matter in the House.

My friend from Louisiana [Mr. RANSDELL], eloquent and forceful as he always is on these waterway propositions, has referred to the fact that the great national conventions have approved this levee system.

Mr. SPARKMAN. Mr. Chairman, the gentleman asserts that this bill has provisions in it for the purpose of taking over water-power rights and all that class of things. I would like to have him point out that provision.

Mr. MOORE of Pennsylvania. Mr. Chairman, I do not care to go any further into a discussion of that than is warranted in the five minutes of time which I have.

Mr. SPARKMAN. Mr. Chairman, I want to say that I know of no such provision in the bill.

Mr. MOORE of Pennsylvania. Mr. Chairman, I want to say with reference to the gentleman from Louisiana [Mr. RANSDELL], whom I highly respect as one of the most conscientious men in this House, that if he were to tell all he knows about the planks put into the platforms of my party and his party he would probably tell us a story that could be boiled down to the brain and ingenuity of one man. I am getting a little tired of planks in platforms, whether in the Democratic or Republican Parties, for too often they mean only what one man says.

The gentleman from Wyoming [Mr. MONDELL] has discussed the Mississippi River Commission. I grant that it is made up of strong and earnest men. It was created by act of Congress, June 28, 1879. They have been in business 34 years. Their business when created in 1879, with an appropriation of $175,000, was—

To direct and complete such survey of said river between the Head of Passes, near its mouth, to its headwaters as may now be in progress, and to make such additional surveys—

And so forth.

That identical language is given in this bill as an excuse for their expenditure of over $9,000,000 this coming year. When is the work of the Mississippi River Commission to cease? They have been at it since 1879. They have been working on this river—which only five years ago, when the engineers were forced to report upon the commerce of the stream, had but 4,300,000 tons of commerce, or one-sixth of the commerce upon the 60 miles of the Delaware River alone; and yet gentlemen resist our right to speak of these things when amendments are being brought in adding $30,000,000 more to $100,000,000 contemplated to be expended by this commission. Take it out of this bill; put the Mississippi River Commission on a basis of its own. Treat that problem apart from commerce and navigation, because it does not concern it, and make it what it is. Do what the gentleman from Wyoming suggests—make this a separate service, and attend to it as it should be attended to, and let commerce and navigation have the benefit of these appropriations.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

The Clerk read as follows:

Improving Osage River, Mo.: Continuing improvement and for maintenance, $15,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the paragraph. Mr. Chairman, I do not like to talk about the Gasconade and Osage in disparagement; they are down there in Missouri, where I lived as a boy. I am kindly disposed to the people who occupy that territory in their desire to secure appropriations. I find from the report of the engineers on the Osage—it is about the same on the Gasconade—we have spent very large sums on both rivers:

The original condition was one of alternate pools and shoals, with snags and overhanging trees. The first project or plan was general in its nature—

It certainly had to be general.

The first appropriation was made in 1871, and no estimate of cost or time limit was adopted.

There has been no time limit; they have kept it up ever since.

The removal of obstructions under this plan contemplates maintenance—

Certainly we must maintain these improvements, because the people have no use for them in navigation, and otherwise they would go to destruction.

The obstructions will form anew, and while the cross and wing dams have a degree of permanency, they must receive frequent repair and extension to keep up their efficiency.

However, by the expenditure of, I think, a little less than $1,000,000 on this beautiful little stream, the Osage, they have accomplished this result:

The result of the expenditure has been to increase the depth over the shoals, remove obstructions, and keep open navigation—

Not that there is any to keep open. [Laughter.]

The least depth at low water over shoals is 1½ to 2 feet, while in the pools the depth ranges from 5 to 15 feet.

There are some beautiful swimming holes down on the Osage [laughter and applause] and the Gasconade, and long may they be a delight to boyhood, as they were to me and my companions in my early days down there in Missouri. While these improvements can be of no special aid to commerce, I hope they will not destroy the swimming holes. Mr. Chairman, I withdraw my amendment. [Laughter and applause.]

The Clerk read as follows:

Improving harbor at Coos Bay, Oreg.: For maintenance of the completed channels in Coos Bay and equipping and operating the bar dredge heretofore authorized, $80,000.

Mr. SPARKMAN. Mr. Chairman, I desire to offer a committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 40, at the end of line 21, insert the following:

"And the Secretary of War is authorized and directed to use any additional money that may be placed at his disposal by the board of Coos Bay or by any other organization or individuals for the improvement of the inner harbor of Coos Bay, and the said Secretary is also authorized, in his discretion, to use any Government plant available in connection therewith at such times as it may not be needed and employed on other work authorized by Congress."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 2. That for examinations, surveys, and contingencies for rivers and harbors, for which there may be no special appropriation, the sum of $250,000 is hereby appropriated: *Provided*, That no preliminary examination, survey, project, or estimate for new works other than those designated in this or some prior act or joint resolution shall be made: *Provided further*, That after the regular or formal reports made as required by law on any examination, survey, project, or work under way or proposed are submitted no supplemental or additional report or estimate shall be made unless ordered by a concurrent resolution of Congress: *And provided further*, That the Government shall not be deemed to have entered upon any project for the improvement of any waterway or harbor mentioned in this act until funds for the commencement of the proposed work shall have been actually appropriated by law.

Mr. WATKINS. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 44, section 2, line 17, after the word "appropriated," add the following: "of which sum $40,000, or so much thereof as may be necessary, is to be used to protect the caving banks of Red River at Coushatta, La."

Mr. WATKINS. Mr. Chairman, I would like at least an opportunity of explaining the situation which prevails there before the vote is taken. The situation is the same as it was or is at Pine Bluff, Ark., for which there is an appropriation on page 29 in the amount of $48,000, part of which is to protect the caving banks at Pine Bluff. The town of Coushatta is situated on the Red River, La. The banks have been caving there and are liable at any time in the night to go into the river. A surveyor went there, Capt. Smith, some time ago, and his report is in, and I suppose the committee has had access to it, because I filed a bill here (H. R. 27204) in which I asked that Coushatta be protected from the caving banks. Capt. Smith was to be at Coushatta at some time, but the citizens did not know at what time he was to come. He was sent there by the War Department—by the Chief of Engineers. He got there in the night, the train being late—about 2 o'clock in the morning. When he got to Coushatta he was not met by anyone and did not know where the hotel was, so he states he spent the time from the time he arrived there at 2 o'clock in the morning on the store galleries waiting to see some one to tell him where the hotel was. He was to leave early in the morning. He met the mayor of the town, and he went and looked at the caving banks, and his report, on a casual examination and opinion, was that the town will not be destroyed by this caving bank; but if it should be, that it will not be in the interest of navigation to remedy the trouble.

The situation there is identical with that at Pine Bluff. It may be, and in all possibility is, a fact that navigation will not be seriously injured, or, at least, not be destroyed by the caving in of these banks at Coushatta. But since Capt. Smith's report was made a large part of the town has gone into the river. Several houses have caved into the river. The district attorney's residence, one of the handsomest in the town, has had to be removed recently, as well as the Baptist Church. The House of the superintendent of education and the mayor's house will have to be moved soon. The people are watching the river, and the Army engineer is making a report that it is not in the interests of navigation and commerce that relief be had. There is a brick store on the bank of the river which it appears will cave in in a short time if this relief is not granted. It is supposed that in the neighborhood of $20,000 to $40,000 is needed to protect the situation.

Mr. HUMPHREYS of Mississippi. He asked that $40,000 be diverted——

Mr. WATKINS. Or so much thereof as may be necessary.

Mr. HUMPHREYS of Mississippi. Has the gentleman any information at all as to what will be necessary?

Mr. WATKINS. The engineer's report stated that it would take 20 cents a foot, and he was not certain as to the exact distance up and down the river, but that at the utmost it would not take more than $40,000, and probably that $20,000 would afford relief.

Mr. CALLAWAY. Will the gentleman yield?

Mr. WATKINS. I will.

Mr. CALLAWAY. I understand the engineer's report on that is that it would not help commerce and navigation at all, but simply protect the property, and that the rule of the Committee on Rivers and Harbors is that no business will be considered except that which protects commerce and navigation?

Mr. WATKINS. But there was the same condition at Pine Bluff.

Mr. CALLAWAY. That was prior to the time this great committee had this salutary rule that we should not spend money except for commerce and navigation.

Mr. WATKINS. All of us joined, and were glad to join, last spring in voting to contribute millions of dollars to protect the sufferers from overflow of the levees on the Mississippi River.

Mr. CALLAWAY. But that is the only time this great committee has ever violated this salutary rule, is it not?

Mr. WATKINS. I think not; no.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. WATKINS] has expired.

Mr. CALLAWAY. Mr. Chairman, I move to strike out the paragraph. I want to find out about this thing. Is not that the only time this great committee ever departed from this salutary rule?

Mr. WATKINS. I think not. My impression is that in the State of Louisiana, the city of Alexandria, the same proposition was favorably acted on and relief was granted.

Mr. CALLAWAY. Your opinion is that they never have regarded the rule at all except when it suited the interested parties backing the bills?

Mr. WATKINS. I say as a general rule it is a safe one. But there are exceptions. Here we find a whole town tumbling into the river, and people are at the mercy of the engineers, because they decide that under the technicalities it would not affect commerce and navigation. The banks at Coushatta are caving in, and when those banks are caved in the river will be diverted and the navigation will be very seriously injured, if not destroyed, at that point.

Mr. CALLAWAY. Was not the objection the committee made in considering the motion of the gentleman from Tennessee that

it did not affect commerce and navigation? Were you in here when the committee turned down the amendment offered by the gentleman from Tennessee [Mr. MCKELLAR] saying that private property there was being injured by the levee? He needed help to protect this private property, the electric-light plant, and so forth.

Mr. WATKINS. I was here at the time and heard the argument, and was present during the vote; but the committee voted that proposition down. As to why they did I am not prepared to say.

Mr. CALLAWAY. You do not think the reason given by the gentleman from Mississippi [Mr. HUMPHREYS] was the real reason for the committee's action at all?

Mr. WATKINS. I am not responsible for the reason that each member of the committee had for voting. Personally, I did not vote on it at all.

Mr. CALLAWAY. The thing I am trying to get at is the rule on which this committee acts in shoveling out this forty millions of public money. I would like to find some man to give a rule by which they appropriate it. The members of this committee have been told that their pretensions were hypocritical, and they sit as silent as the tomb and make no reply, but the grim determination on their faces shows they intend passing this bill just as it comes from the committee. They have adjusted the balances. Each has got his share in the bill.

Mr. SPARKMAN. The gentleman from Louisiana [Mr. WATKINS] gives two good reasons why his amendment should not be adopted. In the first place he admits there is no project for it.

Mr. CALLAWAY. What does the gentleman call a "project"?

Mr. SPARKMAN. "A project" is a plan for an improvement with estimates furnished by the engineers, so as to advise Congress just what the proposition is likely to cost, with a recommendation at least by the Chief of Engineers that the work be undertaken. That is to say——

Mr. CALLAWAY. Does the gentleman mean to say——

Mr. SPARKMAN. If the gentleman wants an answer, he should let me finish the sentence. If he does not want an answer, all right.

Mr. CALLAWAY. Let me proceed slowly, so that I can digest it. Does the gentleman mean to say that he has an engineer located at each point, who makes a report showing what it will cost the Government to complete each project?

Mr. SPARKMAN. That is what I mean to say.

Mr. CALLAWAY. Does the gentleman mean to say he has got that all in this little committee report—all the information he proposes to give to the House in justification of the expenditure of $40,000,000?

Mr. SPARKMAN. My eyes are not good enough at this distance to enable me to identify what the gentleman holds in his hand, but if it is the report of the Committee on Rivers and Harbors, of course it does not contain all of those things. The gentleman would find most of them, however, in a volume of this size, a volume such as I am now exhibiting, but of course not all of them.

Mr. CALLAWAY. The House has not got that. The House is not in possession of the reasons why the committee is acting in this way, advising the House to spend $40,000,000.

Mr. SPARKMAN. If the gentleman will exercise the power which his commission as a Representative in Congress gives him, and will go out to the document room yonder, he can procure this document, and then, if he is industrious enough, as I presume he is, and patriotic enough, as I assume he is, he will read and digest all those things, and in that way he may become possessed of the desired information.

The CHAIRMAN. The time of the gentleman from Texas [Mr. CALLAWAY] has expired. The question is on the amendment to the amendment.

Mr. FOWLER. Mr. Chairman, I move to amend the amendment by adding——

The CHAIRMAN. A proposition to amend the amendment has already been made.

Mr. FOWLER. By adding the following:

And the falling banks of the Wabash River at Maunie, Ill.

The CHAIRMAN. There is an amendment to the amendment already pending. The gentleman from Illinois [Mr. FOWLER] offers an amendment in the third degree, which is not in order. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. CALLAWAY] to the amendment of the gentleman from Louisiana [Mr. WATKINS].

Mr. FOWLER. Mr. Chairman——

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas to the amendment offered by the gentleman from Louisiana. That amendment to the amendment is to strike out the paragraph.

Mr. FOWLER. Mr. Chairman, there was no point of order made against my amendment to the amendment by any gentleman on the floor of this House.

The CHAIRMAN. The Chair is aware of that, but that is the rule of the House. An amendment in the third degree can not be entertained. The Chair is simply enforcing the rule.

Mr. FOWLER. Is it true, Mr. Chairman, that this amendment can not be offered to the amendment which is pending?

The CHAIRMAN. There is already an amendment pending to the original proposition, and there is an amendment to that pending. That is all that can be entertained by the House at once.

Mr. FOWLER. I did not understand, Mr. Chairman, that there was an amendment to the amendment pending——

The CHAIRMAN. The gentleman from Illinois is mistaken——

Mr. FOWLER (continuing). Which was a pro forma amendment to strike out the last word.

The CHAIRMAN. That was not the amendment.

Mr. FOWLER. And that was withdrawn.

The CHAIRMAN. No; the amendment was to strike out the paragraph, and that was not withdrawn. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. CALLAWAY] to the amendment of the gentleman from Louisiana [Mr. WATKINS].

The question was taken, and the amendment to the amendment was rejected.

Mr. FOWLER. Now, Mr. Chairman, I renew my amendment to the amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The Clerk read as follows:

Add to the amendment the following: "And the falling banks of the Wabash at Maunie, Ill."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman, I desire to be heard on the amendment.

The CHAIRMAN. The gentleman will be heard if he desires.

Mr. FOWLER. Mr. Chairman, the falling of the banks or the caving of the banks at Maunie, Ill., has been going on for a number of years to such an extent that they are filling up the channel of that river, which is one of the greatest rivers in the Mississippi River system. A few thousand dollars could be well expended there, the same as in the case of the gentleman who offered the original amendment, as I understand, and it would relieve the situation and thereby give a better chance for navigation.

I believe, Mr. Chairman, that this committee is made up of a number of the wisest men in this Congress. [Applause.] I have great respect for the opinion of that committee and of each member thereof, and I believe that they have sought to give justice to every proposition which has come before them. But I believe that there are propositions which are not provided for in this bill which are just as meritorious as some of those which have been provided for. I understand that the river provided for in the original amendment as well as the river whose navigation I have offered to protect by my amendment to his amendment is of such high importance that it demands the attention of Congress, in order that navigation may be properly protected. I trust that my amendment to the amendment may carry and that the original amendment as amended may then carry.

The CHAIRMAN. The question is on the amendment to the amendment proposed by the gentleman from Illinois [Mr. FOWLER].

The amendment to the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Louisiana [Mr. WATKINS].

The amendment was rejected.

The Clerk read as follows:

The Secretary of War is hereby authorized and directed to cause preliminary examinations and surveys to be made at the following-named localities, and a sufficient sum to pay the cost thereof may be allotted from the amount provided in this section.

Mr. CALLAWAY. Mr. Chairman, I move to strike out the last word, for the purpose of asking the chairman of the committee with reference to these reports of the Army engineers, which he has told me I can look to for information. Is that where the chairman gets his information on which he bases these bills, and is that where the committee get their information on which they pass these bills appropriating millions and millions of the people's money?

Mr. SPARKMAN. I am glad to answer that question and to say that we get a great deal of the information, perhaps the

most of it, through the reports of the engineers. In addition to that, when we can visit localities and talk with individuals, we obtain some information in that way. Often we have an engineer before us, either a district or a division engineer, but more frequently either the chief or one of his assistants. We glean a good deal of information from them, and also some from the hearings, from questioning persons who come before the River and Harbor Committee. Often we have hearings, and we listen very patiently to those who come before us, the desire always being to get all the information that we can possibly gain upon these important subjects.

Mr. CALLAWAY. Mr. Chairman, I wanted to know where this information came from, because I am on an investigating committee whose duty it has been to look into some of the reports of these engineers and the expenditures made on their reports. I went down to Phoenix, Ariz., where this House had appropriated $540,000 on the report of the engineer at the head of the Indian Bureau. I want to give the House this information, in order that they may know how much the reports of some engineers are worth. We went down there to look at the outlay of $540,000 made by this House on an irrigation project for the Pima Indians over the repeated protests of the Indians themselves and found that it was not worth a cent on earth. It was made, presumably, for the benefit of the Pima Indians, and it is not worth a cent to them, to the people of Arizona, nor to anybody in God's world. Yet this House appropriated $540,000 on the advice of W. H. Code, one of these Government engineers.

I want to call the attention of the House to another investigation that was made by the Insular Affairs Committee with reference to an outlay on a road 10 miles long, based on a report of Army engineers, in the Philippine Islands. That road ran from Manila up to Bagio. Some said it was 10 miles long and some said it was 12. These Army engineers estimated it would cost $75,000. It did cost $3,000,000, stayed there four and one-half years, was washed away, and Gen. Edwards, before the committee, said it was not worth rebuilding. After this experience with Army engineers' reports and reclamation engineers' reports and Indian Bureau engineers' reports, and seeing how absolutely worthless they are, I have got no kind of confidence in these engineers' reports; and I have no confidence in the bills brought into this House by committees based on such reports. They ought to be kicked out through the ceiling.

I have found another thing, Mr. Chairman, that when we call these people before the committee to find out what they base their estimates on we have to corkscrew everything out of them as we would a criminal on the stand testifying in his own behalf. So far as I am concerned, I will never vote to appropriate a dollar unless the men who bring in the bills here can give to this House some definite and accurate information on which to base the appropriation. We know that this river and harbor proposition is a hoax and an extravagant waste of the people's money.

Mr. EDWARDS. Will the gentleman yield?

Mr. CALLAWAY. Yes.

Mr. EDWARDS. What particular project does the gentleman want information about?

Mr. CALLAWAY. I do not want information about any particular project. We have had a whole lot of gush about the Mississippi River and levees built on each side to improve navigation and to benefit commerce, and there is not a 10-year old schoolboy in the country that does not know that it is all rot.

Mr. EDWARDS. Referring to the gentleman's inquiry about matters in the report, I have three volumes of the engineers' report——

Mr. CALLAWAY. If the gentleman had a hundred volumes, and they were engineers' reports, they would not be worth a cent to me, with my experience with engineers' reports.

The CHAIRMAN. The time of the gentleman from Texas has expired.

The Clerk read as follows:

Boston Harbor, Mass., with a view to securing increased width and depth of channel from Mystic River to President Roads.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to inquire of the chairman of the committee what this item contemplates.

Mr. LAWRENCE. Mr. Chairman, perhaps I can answer the gentleman. We are just completing in Boston Harbor a 35-foot channel from the Charlestown Navy Yard to President Roads and then to the sea. At the suggestion of the engineers a survey was included in the last bill looking for an increased depth from the roads to the outer harbor, because in a severe storm, when the 35-foot channel is complete, they will not actually have the use of the entire 35 feet. The survey was ordered and no report was made, but it has been suggested that it would be well to have the report also from President Roads to the navy yard.

Mr. MOORE of Pennsylvania. What is the depth?

Mr. LAWRENCE. There is no stipulation as to the depth, but it is left to the engineers.

Mr. MOORE of Pennsylvania. New York has 40 feet, Baltimore has 35 feet, and it has been reported that Boston is moving to obtain a 40-foot channel, and I wanted to know if this survey was in contemplation of that?

Mr. LAWRENCE. We hope to get a favorable report on a project for 40 feet, but we do not limit the engineers to that, but give them discretion to report on any additional depth they see fit.

Mr. MOORE of Pennsylvania. Boston, then, wants more than 35 feet?

Mr. LAWRENCE. Boston does; yes.

The Clerk read as follows:

Connecticut River from Hartford, Conn., to Holyoke, Mass.

Mr. GILLETT. Mr. Chairman, I trust this provision for a survey of the Connecticut River between Hartford and Holyoke will be approved by the House. Members will doubtless be surprised to find that another survey is desired, for I doubt if there is any similar length of river in the United States on which so much money has been expended for surveys, and yet there has been so far hardly any appropriation for the improvement of navigation, and I did not suppose that any further survey would ever be necessary. The previous surveys have all originated with the Congressman, but the need of this survey was brought to my attention by the engineers of the War Department. They said that the outlook seemed favorable for legislation this winter which would finally insure the long-awaited navigation by the charter of a power company which would build the dam and the lock, and that in connection with the plans of that company, and to adapt the Government dredging thereto, some supplementary investigation was necessary, and it is to supply that and bring the Government plans into conformity with this new enterprise that this survey is necessary.

I hope it will be adopted by the House and that the expectation of the War Department will be realized, and that this Congress will enact the bill now pending which will open to navigation this river.

The Clerk read as follows:

New York Harbor, N. Y., with a view to securing additional width in Bay Ridge and Red Hook Channels.

Mr. SPARKMAN. Mr. Chairman, I offer the following committee amendment.

The Clerk read as follows:

On page 46, between lines 16 and 17, insert the following:
"Plattsburg Harbor and vicinity on Lake Champlain: For the deep-water connections with suitable terminals that are to be established at Plattsburg, N. Y., in connection with the New York State Barge Canal."

The amendment was agreed to.

The Clerk read as follows:

Broadkill River, Del.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to insert, on page 46, after line 24, the words "Frankford Creek, Pa."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 46, after line 24, insert "Frankford Creek, Pa."

Mr. MOORE of Pennsylvania. Mr. Chairman, I submit that that should go in for a survey, because it is a creek that does an international business. The engineers have found on several occasions that it was worthy of improvement, but have held that inasmuch as it is within the municipality of Philadelphia the city should pay for the improvement.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. HUMPHREYS of Mississippi. When was the last survey?

Mr. MOORE of Pennsylvania. In 1911.

Mr. HUMPHREYS of Mississippi. So the survey was ordered in 1911 and a report has been made.

Mr. MOORE of Pennsylvania. It has been made to the effect that commercially it was worthy and commendable, but owing to the fact that it was within the limits of the municipality it ought not to be included in a Federal bill.

Mr. HUMPHREYS of Mississippi. Have the conditions changed any since then?

Mr. MOORE of Pennsylvania. To this extent: An effort was made by the War Department to obtain an appropriation of $15,000 in the last sundry civil bill in order to make the improvement with a view to reaching the Frankford Arsenal, which employs a great many hands and from which the Government makes shipments of a large amount of goods.

Mr. HUMPHREYS of Mississippi. The conditions are the same as they were a year ago. Congress ordered a survey a year ago, and the engineers made an investigation and made their report. What further could the engineers do if a survey was ordered in this bill?

Mr. MOORE of Pennsylvania. Mr. Chairman, I say to the gentleman very frankly that the engineers did what precedent evidently required them to do, but in bringing the matter up before the House a little while ago I learned from the chairman of the Committee on Rivers and Harbors that if this matter were brought up again it would have fair consideration. I think there is no question about the merits. It is simply a question whether, in view of the fact that you admit surveys of other streams that bisect cities, you will now admit Frankford Creek and the Schuylkill River on the same ground.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, the gentleman must admit that that is a matter for Congress to pass upon with the light that is now before us. There is no occasion to send this back to the engineers and put the Government to the expense of having the engineers make an investigation which they have just made in order to report to Congress the facts they have already reported to Congress. If Congress wants to put the creek on the bill with an appropriation, Congress is in a position to do that now. We have all of the information that the engineers can give us, and I submit to the gentleman it is an utterly useless waste of money, and the gentleman has made some remarks upon the waste of the public moneys.

Mr. MOORE of Pennsylvania. I have not said anything about the waste of public moneys. Somebody else used those words.

Mr. HUMPHREYS of Mississippi. I submit it would be an utter waste of the public funds to call for a survey when we have just had one, and I submit to the gentleman that the thing to do is to ask Congress to appropriate for this creek and not ask for an additional survey. We have all the information necessary, and all we have to do now is to put the matter on the bill for appropriation.

Mr. MOORE of Pennsylvania. Mr. Chairman, I urge the passage of the amendment, which is entirely meritorious.

Mr. HUMPHREYS of Mississippi. I want to make this statement: That if we do this we will be discriminating in favor of this creek.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. MOORE of Pennsylvania) there were—ayes 3, noes 31.

So the amendment was rejected.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 46, after line 24, insert:
"The Schuylkill River, Pa."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. MOORE of Pennsylvania) there were—ayes 1, noes 21.

So the amendment was rejected.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 47, line 2, after the word "Delaware," add:
"With a view to removing shoals by dredging."

Mr. MOORE of Pennsylvania. Mr. Chairman, I should like the committee to carefully consider this amendment. I understand the Delaware River question fairly well, and believe the amendment the best thing possible for the interests which I in part represent. The Delaware River has been impeded from time to time, and the admission is just made here on this floor that Boston, a city one-third the size in population of Philadelphia, is now advancing to the 40-foot-channel stage, which New York already has. The Delaware River is being held down to the present depth of 30 feet, with a limited appropriation in this bill for 35 feet, which may continue for 10 years.

Mr. MURRAY. Mr. Chairman, will the gentleman yield?

Mr. MOORE of Pennsylvania. I can not yield now. It is all a part of an unfortunate system of postponement for the Delaware River; whether suggested by large interests or railroad competition, which sometimes is referred to by the Representatives of "the real people" upon this floor, I do not know; but five or six years ago there was injected into this bill a provision for a harbor of refuge at Cold Spring Inlet, N. J., 14 miles around from the Delaware Breakwater, and after a debate, which was in some respects sensational, Congress voted to build this harbor of refuge 14 miles away in spite of the great Delaware Bay, which is a natural harbor of refuge for vessels in distress at sea. Gentlemen on this committee in eloquent periods had the vessels turned out of the Delaware Breakwater by ice, all in defense of a proposition that a million and a quarter of dollars be expended around the corner to make a pinhole in the ocean.

Your Cold Spring Inlet has been built. It has retarded the progress of the Delaware River for five years. You spent a million and a quarter in the sands. Now, I want to know what you are going to do with the construction of the breakwater and the institution of a survey which means another expenditure of perhaps a million dollars to connect up the existing breakwater and ice breaks with the land and increase the shoals in that harbor of refuge.

Mr. HUMPHREYS of Mississippi. Will the gentleman state what particular item he is speaking to?

Mr. MOORE of Pennsylvania. I am speaking of the Cold Spring Inlet.

Mr. HUMPHREYS of Mississippi. At Cape May?

Mr. MOORE of Pennsylvania. Yes. It may be of some interest to construction companies and of some interest to railroads more than it is to navigation on the Atlantic seaboard. It is one instance of real waste about which we may comment, if you please.

Mr. HUMPHREYS of Mississippi. The gentleman was in Congress at the time.

Mr. MOORE of Pennsylvania. I was, and opposed to Cold Spring Inlet.

Mr. HUMPHREYS of Mississippi. Has the gentleman concluded?

Mr. MOORE of Pennsylvania. Not yet. I have offered an amendment here which proposes to be of service to the Delaware River. It is that inasmuch as shoals have grown up in the harbor of refuge at the Delaware Breakwater and around the breakwater you shall survey for an estimated cost of dredging out the shoals. If you do that I am satisfied, but I have before me a petition which was circulated in the district I represent where the large shipping interests are, where pilots and masters of vessels are, and it is so skillfully drawn that it looks as if some expert had prepared it in the interest of construction companies. It asks people to sign for a project connecting the northern end of the existing breakwater with the Delaware shore by joining up the ice piers and the construction of additional breakwaters.

To do a thing like that now would simply mean another holdup on channel appropriations; it would mean that some construction company would take your money and do a useless thing. If you pass my amendment, you will do something that the shipping interests would really like to have done. They want the breakwater harbor dredged.

Mr. BURGESS. Will the gentleman state his amendment again? I did not understand it.

Mr. MOORE of Pennsylvania. My amendment is that this survey shall be limited to an estimate for the removal of shoals by dredging.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, a few years ago a proposition was brought into this House for the improvement of Cold Spring Inlet, Cape May. Innuendoes, insinuations such as we have just heard, were put forth then by certain gentlemen who love to exploit themselves and their honesty in the newspapers [applause], and it was charged that a job was being put up by the Committee on Rivers and Harbors in the improvement proposed at Cape May. A number of gentlemen had much to say in the public press at the time. When the bill came before the House, in order that no gentleman might be able to say the next morning in the headlines that it was slipped through Congress, the chairman of the Committee on Rivers and Harbors himself, when that item was reached, rose and addressed the Chair and announced to all the House, including the distinguished gentleman from Pennsylvania, that "We have now reached the item which has been so severely criticized in the papers, and if any gentleman on the floor now wishes to strike that item from the bill let him arise in his place and make the motion and we are ready to debate it."

Mr. Chairman, it was then up to all gentleman who believed the slander that had been circulated about the Rivers and Harbors Committee to speak or forever after hold their peace, but when that proposition was offered on the floor the gentleman from Pennsylvania failed to rise and meet that challenge. I was on the subcommittee that reported the Cape May proposition to the full committee. I was on the committee that reported it to the House. I was on this floor ready then to debate it with any gentleman who chose to strike it from the bill, but nobody made such an offer. If it was a job, it was the duty of every Member who so believed to stand in his place and make the motion. The gentleman from Pennsylvania says he was here at the time. Where was he upon that occasion?

Where, where was Roderick then?
One blast upon his bugle horn
Were worth a thousand men.

But he failed to toot his horn. [Laughter and applause.]

[Mr. MURRAY addressed the committee. See Appendix.]

Mr. MOORE of Pennsylvania. Mr. Chairman, the gentleman from Massachusetts has barked up the wrong tree. I made no reflection upon his city whatever. I stated what is the fact, that we had three times the population in Philadelphia that they have in Boston. No one has heralded more than I have the virtues of that great city; no one has preached more the municipal liberality of Boston in regard to this $9,000,000 appropriation for the improvement of its own harbor than I have, and no one here has preached more the deplorable condition of Boston and New England in regard to transportation, in view of the fact that the Boston Chamber of Commerce, the most acute body of commercial men in this country, admits that it pays $70,000,000 per annum to get $30,000,000 worth of coal.

Mr. MURRAY. Why do you protest against the 40-foot channel?

Mr. MOORE of Pennsylvania. I say that if Boston gets a 40-foot channel and Philadelphia is held to 30, that Philadelphia ought to get a move on.

Mr. MURRAY. It ought to get some commerce before it tries to do that.

Mr. MOORE of Pennsylvania. It is not second to Boston in that respect. The gentleman entirely understands me. As to the gentleman from Mississippi——

Mr. BOEHNE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from Indiana [Mr. BOEHNE] makes a parliamentary inquiry. The gentleman will state it.

Mr. BOEHNE. Are we discussing the river and harbor bill or are we discussing a fuss between Boston and Philadelphia? I think it about time that we were getting down to business.

Mr. MURRAY. I was trying to discuss the amendment of the gentleman from Pennsylvania.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent that I may have three minutes in which to reply to the gentleman from Mississippi [Mr. HUMPHREYS]. I would like to have five minutes.

The CHAIRMAN. The gentleman's time has not yet expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I respectfully submit to my distinguished friend from Mississippi [Mr. HUMPHREYS] that what he states about my being in Congress when the Cold Spring Inlet improvement was authorized is true. I was here, a brand-new man, coming down from the country, as it were, and meeting the great representatives of the Committee on Rivers and Harbors for the first time. I had gone to the members of that committee and submitted my complaint to them. I had indicated to at least some of the leaders that the Cold Spring Inlet proposition was not good, and did not have the real sympathy of the shipping interests of the city of Philadelphia, and that it was in opposition to the Delaware River proposition.

I remember the occasion when that committee brought in its bill just as well as if it were yesterday, so firmly is that theatrical scene impressed upon my memory. The galleries were full to the utmost tier, and the Members of the House were all present, keenly interested in the 500 separate items contained in the bill for every one of the 47 States of the Union. Every man was insistent that the bill should go through, with no opportunity for discussion. The philosophic and eloquent chairman of that committee, one of the most powerful and forceful men who ever sat in this House, rose, and after the gentleman from Illinois [Mr. MADDEN] had told of the building lots to be sold at Cold Spring Inlet dramatically inquired, "Is there any man on that side [indicating] or is there any man on this side [indicating] who is opposed to it?" And I, a young and innocent and diffident Member from bucolic Philadelphia [laughter], did not have the courage or the self-possession to rise up and object. But as time went on apace and I learned to know intimately and to love these distinguished members of the Committee on Rivers and Harbors I have taken occasion to interrupt my friends at times, even though it might test the temper of some. And even in this instance have risen in my place to make some slight objections to their bill. [Applause.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania [Mr. MOORE].

The question was taken; and the Chairman announced that the "noes" seemed to have it.

Mr. MOORE of Pennsylvania. A division, Mr. Chairman.

The committee divided; and there were—ayes 2, noes 24.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

Mr. DONOHOE. Mr. Chairman, while we are on the subject I feel it would be well for me to say a word or two as to the Delaware Breakwater proposition, for which we have asked a survey. I would state to the members of the committee that I have received petitions from various public bodies urging the adoption of the project which was approved by the engineers several years ago.

Inasmuch as the recommendation of the engineers was of some years' standing, the committee deemed it advisable to have a new survey, and this is the cause, or, rather, the direct occasion, for the tempest to which we have just listened.

The fact of the matter is, Mr. Chairman, that my distinguished colleague from Philadelphia [Mr. MOORE] was for several years regarded in that great city as the chief exponent of waterway matters. Since I have come here there has been a division of responsibility on that subject, with the result that quite a large number of the people of our city look to me to do some little things. [Laughter.] Some are so unkind as to say of my distinguished colleague that he is a little jealous. I should not think so at all. He is too big a man to be jealous. He would not claim credit for anything that he does not do himself. I am sure of that. And in that connection I will ask the Clerk to read this particular news item about which my colleague from Philadelphia, I believe, knows something.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MOORE WINS FIGHT FOR NEW WATERWAY—NORFOLK-BEAUFORT LINK APPROPRIATION IS INCLUDED IN RIVERS AND HARBORS BILL.

[Special to the Inquirer.]

WASHINGTON, D. C., *January 23, 1913.*

The rivers and harbors bill was again up for discussion in the House to-day, and at the instance of Representative J. HAMPTON MOORE, of Philadelphia, the Philadelphia items which were temporarily laid aside on Tuesday were again postponed in order that the Norfolk-Beaufort link of the inland waterway might be taken up. After a lively fight, headed by Congressman SMALL, of North Carolina, backed up by Mr. MOORE, the item remained in the bill. It was objected to by Mr. FOSTER, of Illinois, and others, which brought on a lively discussion, in which Mr. MOORE took an active part in the interest of eastern waterways.

Mr. MOORE instanced one of many western rivers which he said was 500 miles long and for which appropriations of over $2,000,000 had been obtained since 1874. "The commerce on this stream," said Mr. MOORE, "for 22 years was 57,000 tons."

"And yet you are objecting to an $800,000 appropriation for a waterway on the eastern coast involving the tremendous overflow of congested cities while asking for and obtaining appropriations of $2,000,000 on one of the many streams of this kind. In this bill are contained items amounting to more than $8,500,000 for the Mississippi River."

It is expected that the Delaware River item will be reached tomorrow, the House adjourning at 6 o'clock, when Mr. MOORE made a point of no quorum.

Mr. DONOHOE. Mr. Chairman, the fight that my colleague [Mr. MOORE] won the other day in this House was really won in the committee more than a year ago by the gentleman from North Carolina [Mr. SMALL] and the other members of that committee. [Laughter.] This bill provides a liberal appropriation for the canal project in question, and my friend has had sufficient experience here to know that there was no danger of it being knocked out by an amendment.

Mr. DIES. The gentleman does not mean to leave the impression that the gentleman from Philadelphia [Mr. MOORE] is guilty of having palmed off this misrepresentation on the country?

Mr. DONOHOE. I ask the gentleman to deny it if he did not do it.

Mr. MOORE of Pennsylvania. If the gentleman would like to know whether I wrote those headlines I would say "no."

Mr. DONOHOE. The article?

Mr. MOORE of Pennsylvania. No; the gentleman is entirely mistaken. I did not write the article. Will the gentleman consent to my having a moment or two after he has concluded his remarks?

Mr. DONOHOE. I surely will if I can have a little more time.

Mr. MOORE of Pennsylvania. I do not control the time.

Mr. DONOHOE. Now, Mr. Chairman, my good friend has not denied that he is the author of that article.

Mr. MOORE of Pennsylvania. I beg the gentleman's pardon I have denied it in toto.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. DONOHOE] has expired.

Mr. DONOHOE. I ask for additional time.

Mr. MOORE of Pennsylvania. I ask that the gentleman have five minutes in which to explain this painful situation. [Laughter.]

Mr. MANN. Reserving the right to object, I should like to ask how much more time will be wanted on both sides. We had an understanding that we would not run until half past 6.

Mr. MOORE of Pennsylvania. I will gladly divide my time with my friend.

Mr. SPARKMAN. Mr. Chairman, I am loath to object to this discussion or any discussion between these gentlemen, but we must make headway, and I would suggest to both of these gentlemen that when we return to the Delaware item later, where the appropriation is made, then each of them can have an opportunity.

Mr. MOORE of Pennsylvania. If the gentleman from Florida will permit the gentleman from Philadelphia to go on now, he will save time on the Philadelphia item. I do not want to discuss it very long, but I really would like a little time now.

Mr. SPARKMAN. All right, go ahead.

Mr. MANN. Can we not have an understanding about the length of time to be spent on this item, and then that the committee shall rise?

The CHAIRMAN. Unanimous consent has been asked that the gentleman from Pennsylvania [Mr. DONOHOE] be allowed to proceed for five minutes.

Mr. MANN. Reserving the right to object, I should like to see if we can not fix a limit to this.

Mr. DONOHOE. I should like five minutes.

Mr. MANN. How much time does the gentleman from Pennsylvania [Mr. MOORE] desire?

Mr. MOORE of Pennsylvania. I should like eight minutes.

Mr. DONOHOE. Then I should have eight minutes. [Laughter.]

Mr. MANN. I ask unanimous consent that the gentleman from Pennsylvania on my left [Mr. DONOHOE] and the gentleman from Pennsylvania on my right [Mr. MOORE] each have five minutes.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the two gentlemen from Pennsylvania have five minutes each. Is there objection?

There was no objection.

Mr. DONOHOE. Mr. Chairman, my good friend and colleague [Mr. MOORE of Pennsylvania] has made repeated attempts of late to show that the appropriation provided in this bill for the improvement of the Delaware River is inadequate, and that he has discovered a "joker" in the bill, inasmuch as the period covered by these appropriations is unusually long. I want to ask the chairman of the Rivers and Harbors Committee a few questions in that connection: First, are the appropriations in this bill to cover a longer period than was covered by the appropriations in the bill of 1911?

Mr. SPARKMAN. The estimates of the engineers, which were followed here, were intended to cover and do cover a period of about 16 months.

Mr. DONOHOE. And that was so in the bill of 1911?

Mr. SPARKMAN. Yes; in 1911 that was so.

Mr. DONOHOE. Is the sum covered in this bill for the improvement and maintenance of the Delaware 35-foot project the full amount asked by the engineer?

Mr. SPARKMAN. The entire amount; yes.

Mr. DONOHOE. It would be inaccurate for anyone to say that the sum was inadequate, then, since the Government engineers say it is all that can profitably be expended until June 30, 1914?

Mr. SPARKMAN. The engineers do not say it is inadequate, and our committee were of the opinion that it is adequate.

Mr. DONOHOE. Has any river and harbor bill in the last 10 or 12 years carried as large an amount for this purpose?

Mr. SPARKMAN. This is the largest appropriation for this purpose that I know anything about.

Mr. DONOHOE. I send to the Clerk's desk an editorial from one of the great Philadelphia papers commenting upon my work here. That editorial results from statements furnished to the several Philadelphia newspapers by my kind friend [Mr. MOORE of Pennsylvania].

The Clerk read as follows:

[From the Philadelphia Inquirer.]

AND WHERE IS MICHAEL DONOHOE?

So it seems that Philadelphia has been badly treated in the matter of appropriations for the Delaware River. The House Committee on Appropriations can find money in plenty for every other project that anybody may see fit to mention. The Mississippi River, with no commerce to speak of, can come in for tremendous sums. Mud flats can claim their "pork." But the great Delaware River, with its already big commerce—the Delaware River which needs only fair treatment to enable it to increase tremendously its payments to the United States Treasury through customs duties—is slighted.

An appropriation of $1,700,000 looked fairly well on paper, but when Representative MOORE drew the confession of the committee that $400,000 was to go for maintenance and that the remainder would be stretched over 16 months instead of over 12, it was found that the appropriation for the year available for practical work had been reduced to a beggarly $1,000,000.

At that rate of progress we should be digging the channel 10 years from now, whereas we ought to have the 35 feet in half that time.

It is a serious disappointment that the Democratic committee has given us. And where, it might be asked, is the Hon. MICHAEL DONOHOE in hiding? For surely this gallant statesman of the Democratic faith, chosen from a Philadelphia district because of his supposedly vast influence with his fellow Democrats, can not be "on the job."

Mr. DONOHOE. Now, Mr. Chairman, that is a very illuminating editorial from a great daily which circulates among a million and a half of people. It is the result of inaccurate information furnished the newspapers by a Member of this House, that the Delaware River was getting a smaller appropriation than it ought to get, and various other statements that are not true. I am glad to be able to convince the Members present—and I trust it will reach Philadelphia in the course of time—that the Delaware River is being well taken care of this year; that in this Congress, in this Democratic House, the appropriations for the improvement of that worthy project will amount to $3,750,000 before March 4, whereas the total sum appropriated for the six years before I was elected to Congress amounted to only $3,900,000. In other words, this Democratic House has given almost as much in two years as the Republican Houses gave for that improvement at Philadelphia in six years. [Applause on the Democratic side.]

But the serious part of it all is this: Members may smile and pretend to be good fellows, but cold statements reach a multitude at home, and I consider it manifestly unjust for any Member of this House to lower himself to the point of giving misstatements to the press that will reflect upon the work of any other Member. [Applause on the Democratic side.]

The only extension of these remarks that I desire to make at this time is to quote the words uttered by two distinguished Republican Members while the bill was under consideration on last Saturday. Mr. MANN, the worthy leader of the minority, said:

Mr. Chairman, ever since I have served in this House alongside of my distinguished friend from Philadelphia I have recognized him as an exponent of the proposition that the Government ought to improve rivers and harbors. In fact, there was a time when I was led to believe that my distinguished friend from Pennsylvania was really trying to appropriate too much money for the improvement of rivers and harbors. But to-day my idol is shattered and falls to the ground.

The gentleman from Pennsylvania for the last two or three days, while this bill has been up for consideration, has done everything he could to prevent its passage, opposing various propositions that are in the bill, while assuming and assuring the House that he really was in favor of them. Think of my friend from Pennsylvania, whom we had placed upon a pedestal as being in the lead in the way of river and harbor improvement, now standing and fighting each of the items as they become a law. Why, I thought my friend from Pennsylvania was the president of half a dozen different associations designed to extract money out of the Treasury for the improvement of rivers and harbors. I have heard the gentleman time and again ask leave to extend his remarks in the RECORD for the purpose of inserting something in favor of great appropriations for rivers and harbors.

Mr. MOORE of Pennsylvania. And they have been denied.

Mr. MANN. Yet the gentleman is doing his best now to prevent the passage of this river and harbor bill in time for it to be considered at the other end of the Capitol so that it may become a law. I fear that in the future I may not be able blindly to follow my friend from Philadelphia along the lines in favor of river and harbor improvements, because I shall never know when he is going ahead and when he is backing up. [Laughter.]

Mr. AUSTIN, one of the ablest and most painstaking Members on his side of the House, said:

Mr. AUSTIN. Mr. Chairman, I want to appeal to my colleagues on this side of the House to give us an opportunity, in the interest of public business, to go forward with the consideration of this bill. [Applause.] We have 31 working days before the final adjournment of this Congress. There are 11 supply or appropriation bills. There are 4 of them that have not been reported to this House, and only 1 of the 11 has passed both Houses of Congress, and that bill has not so far received the approval of the President of the United States.

Here is a calendar with thirty-odd pages of general and private bills. More than 400 or 500 general and private bills and 11 supply bills of the Government awaiting us, and here we are killing time—making motions and objecting and wasting valuable time.

This bill is a meritorious measure. This great committee that has brought it in is deserving of commendation on both sides of this House. It is not deserving of the unjust criticisms that have been made. This bill is practically above criticism and condemnation. No appropriation committee in this House is hedged about with more safeguards in the interest of the legitimate expenditure of public moneys than the Committee on Rivers and Harbors. The chairman of it is a Member of long standing in this House, competent, worthy, and deserving the confidence of all his colleagues. The men who are associated with him in the preparation of this bill, Republicans and Democrats, have the interest of our country at heart. They have brought in for our consideration this measure which awaits our approval. Do not let us trifle away any more of the valuable time that belongs to the people of this great country. Here we have spent almost an entire afternoon on less than 3 pages of a great measure which runs into 60 pages. It is not creditable to the membership of this House. We can not change the paragraphs in this bill, for the Members are determined to sustain this committee, and I appeal to my Republican colleagues to let us proceed in an orderly and creditable manner, in the interest of the American Congress and to our own honor and credit. [Applause.]

Mr. MOORE of Pennsylvania. Mr. Chairman and gentlemen, I must bear up under the hallucinations of my friend, who seems to lie awake nights thinking of things to send the newspapers. I have been accustomed to this since he has arrived in the House, and I observe that when correspondents are outside he is busy going and coming. I do not think I have a monopoly of the business of getting my name in the newspaper, as I shall submit. Indeed, I have given points to the gentleman from the fifth district, which he has not been slow to accept. The gentleman is busy, as I observe, and is encouraging others to help him in the good work he undertakes to do. I hold in my hand a letter which I would like to have the Clerk read. It is addressed to one of my constituents, but how it got into my district I do not know.

The Clerk read as follows:

JANUARY 2, 1913.

——— ———, *Philadelphia, Pa.*

GENTLEMEN: Having been so decidedly successful in my recent election to represent the fifth district of Pennsylvania in the Sixty-third session of Congress of the United States, and having been so exceptionally successful at the last session in securing the largest appropriation ever known for the betterment of the Delaware River from Philadelphia to the ocean, it has been determined that I still further endeavor to have an appropriation for the improvement of the present incomplete harbor of refuge at the Delaware Breakwater, and some of my constituents have had prepared a petition, copy herewith inclosed, and you are requested to sign said petition and secure additional signatures, sending same to me at Washington.

Without reference to political conditions, it will be my great pleasure to seek the aid and influence of the powerful Rivers and Harbors Committee, of which I am a member, for this much-needed improvement at Delaware Bay.

Requesting your early cooperation, I remain,

Very truly, yours,

MICH'L DONOHOE.

Mr. MOORE of Pennsylvania. You see, Mr. Chairman, that the gentleman has observed that he has received numerous petitions from citizens desiring him to do certain things, and now I give you an insight into the manner in which the petitions are collected. It will be a useful pointer to those who want to be extremely popular in their districts.

Mr. DONOHOE. Will the gentleman yield?

Mr. MOORE of Pennsylvania. I will if the gentleman will get me more time. Now, Mr. Chairman, in the matter of press notices, I notice that a press agency is working in Washington and sending to newspapers in Philadelphia information in relation to the matter of the Delaware River. I have occasionally read that the gentleman got an appropriation of $1,300,000 last year, when, as a matter of fact, the committee left him with $500,000 until I aided him to get $1,000,000; after which I went to the Senate and secured $300,000 more. But the gentleman is dealing with millions—two millions he now claims—although your bill cuts down the total for the next fiscal year to one million, when the engineers recommended two millions and a half. But the Democratic millions are still being reported to Philadelphia, as the following inspired article sent out by the gentleman's friends, will show:

The Clerk read as follows:

DEPARTMENT OF WHARVES AND DOCKS, PHILADELPHIA—$2,000,000 TO PUSH PORT DEVELOPMENT—CONGRESS WILL DO ITS SHARE IF STATE DOES LIKEWISE—CONFIDENCE IN PRESENT ADMINISTRATION OF PHILADELPHIA PORT LED TO RECOMMENDATION FOR RECORD APPROPRIATION.

PHILADELPHIA, PA.

With a recommendation of $2,000,000, the largest sum ever appropriated by the National Government to the Delaware River channel, Congress has placed its stamp of approval upon the projected greater port of Philadelphia, and within four years, it is estimated, the 35-foot channel will be complete, providing ample depth for the largest vessels built.

* * * * * * *

Describing the attitude of Congress toward the port of Philadelphia and explaining the Rivers and Harbors Committee's reasons for indorsing the full sum requested by the Government engineers for channel work, Congressman MICHAEL DONOHOE, member of the committee, and, with Representative LEE, of Pottsville, indefatigable worker for the river and port, said:

"GOVERNMENT WILL COOPERATE.

"It is becoming the settled policy of Congress that money for the improvement of waterways shall be appropriated only where those waterways lead to ample terminal facilities, controlled not by private interests but by the municipality or State, for the benefit of all the people. By ample terminal facilities, I mean not merely a sufficient number of public wharves and docks, but also sufficient railroad connections."

As the legislature will hardly ignore conditions which have been the Federal Government's incentive for a $2,000,000 appropriation, although the Federal Government's interest is only general, while that of the State is local and particular, Director Norris feels that the appropriations from the State will be forthcoming and also that he will not be refused the legislation by which he hopes ultimately to place the port of Philadelphia under public administration.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE of Pennsylvania asked for and received unanimous consent to extend his remarks in the RECORD.

Mr. DONOHOE, by unanimous consent, was given leave to extend remarks in the RECORD.

Mr. SPARKMAN. Mr. Chairman, do I understand the gentleman to say that there is only $1,000,000 appropriated in this bill?

Mr. MOORE of Pennsylvania. If the gentleman cares to discuss that now, I will take it up; but I thought we would take it up when we get back to the Delaware item. I want to help the gentleman to get through with his bill.

Mr. MANN. I hope the gentleman will now move to rise and ask that the House meet at 11 o'clock Monday morning.

Mr. SPARKMAN. Mr. Chairman, I would like to go on for a little while yet.

Mr. GARNER. Why, Mr. Chairman, it is not yet 6 o'clock. Why should the gentleman want to rise now?

Mr. MANN. Mr. Chairman, if the gentleman from Texas wants to be facetious, well and good. If he wants to ascertain the reason, I will tell him.

Mr. GARNER. Oh, I do not want to inquire into the reasons.

Mr. MANN. The gentleman from Illinois is not seeking to filibuster. If the gentleman from Texas wants him to, he will.

Mr. GARNER. Oh, I am not desirous about the conduct of the gentleman from Illinois, and I was simply asking why it was that at this late day in the session, when we must meet at 11 o'clock in the morning, it is necessary to rise before 6 o'clock. I think that is a legitimate question, and if the gentleman from Illinois thinks that is a facetious question or a question calculated to bring on a filibuster, of course he can construe it as he may wish.

Mr. FITZGERALD. I have a resolution that I should be glad to pass to-night if we can rise.

The CHAIRMAN. Does the Chair understand the gentleman from Illinois to make a motion?

Mr. MANN. Mr. Chairman, I did not make any motion. If the gentleman does not desire to pay any attention to my suggestion, he does not need to.

Mr. DYER. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD upon this bill.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SPARKMAN. Mr. Chairman, I do not wish to unnecessarily prolong the session to-day, but I would like to finish the reading of the bill if we can.

Mr. MANN. Then we will not meet at 11 o'clock Monday morning, and the gentleman may as well understand that now as at any other time.

Mr. MURRAY. Mr. Chairman, it is clear that the gentleman from Illinois [Mr. MANN] desires to have the committee rise at this time. I believe that it is better to rise now than to take three and one-half hours to approve the Journal on next Monday. Therefore I suggest the absence of a quorum.

The CHAIRMAN. The gentleman from Massachusetts makes the point of no quorum. The Chair will count. [After counting.] Seventy-nine Members are present, not a quorum.

Mr. SPARKMAN. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 28180, the river and harbor appropriation bill, and had come to no resolution thereon.

COMMITTEE ON MILEAGE.

Mr. PALMER. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution that I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

House resolution 794.

Resolved, That the following assignment of room in the House Office Building be, and the same is hereby, made:

To the Committee on Mileage, the room on the second floor of the House Office Building, No. 292, heretofore assigned to the special committee on the investigation of the United States Steel Corporation for its use until its report shall be made to the House.

Mr. MANN. Is that the room that the gentleman from Pennsylvania [Mr. LAFEAN] formerly had?

Mr. PALMER. I think he had it once. This room 292 was used by the committee on the investigation of the Steel Trust, to be used by them until they should make their report to the House. That report has now been made. Since that time the room has been used by the Committee on Expenditures in the Post Office Department. That committee is now about through or will be in a day or so. The purpose of this resolution is to give the room to the Committee on Mileage, which has never had a committee room.

Mr. MANN. It is not quite fair to say that.

Mr. PALMER. That is, since I have been here.

Mr. MANN. It has always had a committee room, but it was given just the same room that a Member was given.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the resolution.

The resolution was agreed to.

PROTECTION OF LIFE AND PROPERTY, ETC., PRESIDENTIAL INAUGURAL CEREMONIES, 1913.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of Senate joint resolution 145.

The SPEAKER. The Clerk will report the Senate joint resolution.

The Clerk read as follows:

Senate joint resolution (S. J. Res. 145) to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913.

Resolved, etc., That $23,000, or so much thereof as may be necessary, payable from any money in the Treasury not otherwise appropriated and from the revenues of the District of Columbia in equal parts, is hereby appropriated to enable the Commissioners of the District of Columbia to maintain public order and protect life and property in said District from the 28th of February to the 10th of March, 1913, both inclusive. Said commissioners are hereby authorized and directed to make all reasonable regulations necessary to secure such preservation of public order and protection of life and property and fixing fares by public conveyance, and to make special regulations respecting the standing, movements, and operating of vehicles of whatever character or kind during said period and fixing fares to be charged for the use of the same. Such regulations shall be in force one week prior to said inauguration, during said inauguration, and one week subsequent thereto, and shall be published in one or more of the daily newspapers published in the District of Columbia and in such other manner as the commissioners may deem best to acquaint the public with the same; and no penalty prescribed for the violation of any of such regulations shall be enforced until five days after such publication. Any person violating any of such regulations shall be liable for each such offense to a fine not to exceed $100 in the police court of said District, and in default of payment thereof to imprisonment in the workhouse of said District for not longer than 60 days. And the sum of $2,000, or so much thereof as may be necessary, is hereby likewise appropriated, to be expended by the Commissioners of the District of Columbia, for the construction, maintenance, and expenses incident to the operation of temporary public-comfort stations and information booths during the period aforesaid.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, how much will we have to pay for cab hire during the inaugural time?

Mr. FITZGERALD. I hope the gentleman will find it convenient to walk: I will say to him I am not familiar——

Mr. MANN. Well, when the gentleman attempted to walk it was not convenient at all.

Mr. FITZGERALD. I am not familiar with the regulations made by the commissioners, but this gives the usual authority given to regulate cab hire, and so forth.

Mr. MANN. I thought probably the gentleman could tell us in advance so we could get it by small doses.

Mr. FITZGERALD. Perhaps the gentleman from Illinois will help me out by permitting me to ride in his limousine.

Mr. MANN. I will when I have one.

Mr. FITZGERALD. Mr. Speaker, this is a resolution based on the usual lines. The committee had the superintendent of police before it and inquired with some care into the purpose for which the $23,000 and the $2,000 were to be used, and the explanation was entirely satisfactory to every member of the committee. We believe that the money is properly expended and expended for a very necessary and beneficial purpose.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. FITZGERALD, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

ADJOURNMENT.

Mr. SPARKMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 5 o'clock and 51 minutes p. m.) the House adjourned to meet at noon to-morrow, Sunday, January 26, 1913, at 12 o'clock.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, to which was referred the joint resolution (S. J. Res. 153) granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia, reported the same without amendment, accompanied by a report (No. 1389), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 7162) to amend section 801 of the Code of Law for the District of Columbia, reported the same without amendment, accompanied by a report (No. 1390), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 7508) to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia, reported the same without amendment, accompanied by a report (No. 1391), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 1072) to amend section 895 of the Code of Law for the District of Columbia, reported the same without amendment, accompanied by a report (No. 1392), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 6919) to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia, reported the same without amendment, accompanied by a report (No. 1393), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 2600) to authorize the Commissioners of the District of Columbia to prevent the exhibition of obscene, lewd, or vulgar pictures in public places of amusement in the District of Columbia, reported the same without amendment, accompanied by a report (No. 1394), which said bill and report were referred to the House Calendar.

Mr. EVANS, from the Committee on the Library, to which was referred the joint resolution (S. J. Res. 158) approving the plan, design, and location for a Lincoln memorial, reported the same without amendment, accompanied by a report (No. 1396), which said bill and report were referred to the House Calendar.

Mr. VOLSTEAD, from the Committee on the Public Lands, to which was referred the bill (S. 7448) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries, reported the same without amendment, accompanied by a report (No. 1397), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HUGHES of Georgia, from the Committee on Military Affairs, to which was referred the bill (H. R. 24953) to authorize the appointment of John W. Hyatt to the grade of second lieutenant in the Army, reported the same with amendment, accompanied by a report (No. 1384), which said bill and report were referred to the Private Calendar.

Mr. SIMS, from the Committee on War Claims, to which was referred the bill (H. R. 19115) making appropriations for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and Tucker Acts, with Senate amendments, reported the same (No. 1385), which said bill and report were referred to the Private Calendar.

Mr. LEE of Georgia, from the Committee on War Claims, to which was referred the bill H. R. 20403, reported in lieu thereof a resolution (H. Res. 791) referring to the Court of Claims the papers in the case of Milton S. Cabell, accompanied by a report (No. 1386), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 25999, reported in lieu thereof a resolution (H. Res. 792) referring to the Court of Claims the papers in the case of heirs of Lindley Abel, deceased, accompanied by a report (No. 1387), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 27844, reported in lieu thereof a resolution (H. Res. 793) referring to the Court of Claims the papers in the case of

E. De Atley & Co., accompanied by a report (No. 1388), which said resolution and report were referred to the Private Calendar.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, to which was referred the bill (H. R. 23939) to legalize titles in the District of Columbia to certain citizens, reported the same without amendment, accompanied by a report (No. 1395), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 15581) granting an increase of pension to Christopher S. Alvord, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. EVANS: A bill (H. R. 28437) to prevent the contamination of the water of Lake Michigan; to the Committee on the Judiciary.

By Mr. CLARK of Florida: A bill (H. R. 28438) to provide for the erection of a public building at Lake City, Fla.; to the Committee on Public Buildings and Grounds.

By Mr. EVANS: Resolution (H. Res. 790) calling on Secretary of War for information; to the Committee on Military Affairs.

By Mr. LEE of Georgia: Resolution (H. Res. 791) referring the bill (H. R. 20403) for the relief of Milton S. Cabell to the Court of Claims; to the Committee of the Whole House.

Also, resolution (H. Res. 792) referring the bill (H. R. 25999) for the relief of the heirs of Lindley Abel, deceased, to the Court of Claims; to the Committee of the Whole House.

Also, resolution (H. Res. 793) referring the bill (H. R. 27844) for the relief of E. De Atley & Co. to the Court of Claims; to the Committee of the Whole House.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AUSTIN: A bill (H. R. 28439) granting a pension to Nancy E. Devault; to the Committee on Invalid Pensions.

By Mr. BATHRICK: A bill (H. R. 28440) granting a pension to Sarah Ann Reynolds; to the Committee on Invalid Pensions.

By Mr. BUTLER: A bill (H. R. 28441) granting an increase of pension to William T. Smith; to the Committee on Invalid Pensions.

By Mr. CANTRILL: A bill (H. R. 28442) granting an increase of pension to Hugh Clements; to the Committee on Pensions.

By Mr. HAMLIN: A bill (H. R. 28443) granting a pension to Austin Watson; to the Committee on Invalid Pensions.

By Mr. HELM: A bill (H. R. 28444) for the relief of William R. Ballard; to the Committee on War Claims.

By Mr. HINDS: A bill (H. R. 28445) granting a pension to Andrew F. Sanborn; to the Committee on Invalid Pensions.

By Mr. MORRISON: A bill (H. R. 28446) granting an increase of pension to Daniel Spangler; to the Committee on Invalid Pensions.

By Mr. PORTER: A bill (H. R. 28447) granting a pension to Gertrude M. Collin and minor child; to the Committee on Pensions.

By Mr. POST: A bill (H. R. 28448) granting an increase of pension to J. R. Stroup; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28449) granting an increase of pension to William C. Smith; to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 28450) granting an increase of pension to Lucinda Kennedy; to the Committee on Invalid Pensions.

By Mr. WHITE: A bill (H. R. 28451) granting a pension to Caroline Bast; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the Italian-American Bank and the Italian-Swiss Colony, San Francisco, Cal., and 123 local societies of the Italian-American Alliance of America in and around Philadelphia, Pa., all protesting against the passage of the Burnett immigration bill for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. ASHBROOK: Petition of Nashville Grange, No. 1851, Lakeville, Ohio, protesting against the reduction of the present tax of 10 cents per pound on colored oleomargarine; to the Committee on Agriculture.

By Mr. CALDER: Petition of the Tide-Water Building Co., New York City; Charles M. Higgins & Co., Brooklyn, N. Y.; and C. H. Blackall, Boston, Mass., favoring adoption of the Mall site and design, as approved by the National Commission of Fine Arts, for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the German-American Peace Society, New York, protesting against the passage of House bill 8141, placing the State militia on the national pay roll; to the Committee on Military Affairs.

Also, petition of the Ford Motor Co., Detroit, Mich., favoring the passage of the McLean bill giving Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the American Talking Machine Co., Brooklyn, N. Y., protesting against the passage of section 2 of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Earl & Wilson Co., New York, favoring the passage of the Weeks bill (H. R. 27567) for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. CARY: Petition of the Ford Motor Co., Detroit, favoring passage of legislation for the Federal protection of migratory game birds; to the Committee on Agriculture.

Also, petition of captains and masters of the smaller class of vessels of the Great Lakes, protesting against the passage of the Hardy-Wilson bills relating to the employment of a greater number of men as seamen on all vessels; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Chicago Peace Society, Chicago, Ill., relative to the exemption of American coastwise vessels from Panama Canal tolls, asking an international arbitration on the question if it can not be settled otherwise; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Milwaukee Corrugating Co., Milwaukee, Wis., favoring passage of the Weeks bill (H. R. 27567) for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. DALZELL: Petition of the Philadelphia Bourse, Philadelphia, Pa., favoring passage of the Weeks bill (H. R. 27567) for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens of Pittsburgh, favoring the passage of legislation for Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of sundry citizens of Wilkinsburg, Pa., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. DYER: Petition of the National Drainage Congress, St. Louis, Mo., asking that certain changes be made in the river and harbor bill for the improvement of the Mississippi River and tributaries; to the Committee on Rivers and Harbors.

Also, papers to accompany bill (H. R. 28703) granting a pension to John G. Hunt; to the Committee on Invalid Pensions.

Also, papers to accompany bill (H. R. 28413) granting a pension to Josephine C. Nixon; to the Committee on Invalid Pensions.

Also, petition of J. C. Sartalle, St. Louis, Mo., favoring the passage of House bill 19115, for the payment of claims for longevity pay and allowances on account of services of officers in the Regular Army; to the Committee on War Claims.

Also, petition of the Wesco Supply Co., the Lungstras Dyeing & Cleaning Co., and the Broderick & Bascom Rope Co., of St. Louis, Mo., favoring the passage of the Weeks bill (H. R. 27567) providing for 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of John A. Stewart, New York, favoring the passage of legislation creating a commission to represent the United States Government in the celebration of the Ghent treaty; to the Committee on Foreign Affairs.

Also, petition of the Ford Motor Co., Detroit, Mich., and George F. Tatum, St. Louis, Mo., favoring the passage of the McLean bill for Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the National Association of Railway Commissioners, favoring the passage of the bill (S. 6099) establishing a uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

By Mr. FORNES: Petitions of the Waterbury Felt Co., Skaneateles Falls, N. Y.; the Brainerd Manufacturing Co., East Rochester, N. Y.; R. F. Lang, New York; and the Dutchess

Manufacturing Co., Poughkeepsie, N. Y., favoring passage of the Weeks bill (H. R. 27567) for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petitions of the American Group of the Société des Architectes Diplômés par le Gouvernement Français, New York; mural painters, New York; C. H. Caldwell, New York; and John F. Carew, favoring adoption of the Mall site and design as approved by the National Commission of Fine Arts for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Consolidated Dental Manufacturing Co., New York, favoring the passage of legislation for the control of the sale of poisons adn to regulate the practice of pharmacy in the District of Columbia; to the Committee on the District of Columbia.

Also, petition of the National Association of Railway Commissioners, favoring passage of Senate bill 6099, for the establishment of a general or uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Brighton Heights Reformed Church Men's Club, Staten Island, favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. FULLER: Petition of John Burroughs, favoring the passage of legislation for Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of W. J. Shafer, Mount Ephraim, Ohio, favoring the passage of House bill 1339, granting an increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. HINDS: Papers to accompany bill granting a pension to Andrew F. Sanborn; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: Petition of the Philadelphia Bourse, favoring passage of Senate bill 7503, for 1-cent letter postage rate; to the Committee on the Post Office and Post Roads.

By Mr. LINDSAY: Petition of the Waterbury Felt Co., Skaneateles Falls, N. Y., favoring passage of the Weeks bill (H. R. 27567) for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of James T. Batiurst, Philadelphia, and W. J. Shafer, Mount Ephraim, Ohio, favoring passage of House bill 1339, granting an increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of the Ford Motor Co., Detroit, Mich., and John Burroughs, New York City, favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. MOORE of Pennsylvania: Petition of the board of directors of the Philadelphia Bourse, favoring the passage of Senate bill 7803, for a 1-cent parcel-post rate; to the Committee on the Post Office and Post Roads.

By Mr. O'SHAUNESSY: Petition of the District of Columbia Suffrage League, favoring the passage of legislation granting the residents of the District of Columbia the right of voting; to the Committee on the District of Columbia.

By Mr. PICKETT: Petition of Jacob Krapff and 26 other citizens of Dyersville, Iowa, protesting against the passage of the Lever oleomargarine bill for reducing the tax on oleomargarine; to the Committee on Agriculture.

By Mr. POWERS: Petition of the watch force of the National Museum, together with letter and statement from the secretary and assistant secretary of the National Museum, favoring an increase in salaries of the watchmen of the National Museum; to the Committee on Appropriations.

By Mr. SPEER: Petition of sundry citizens of the twenty-eighth congressional district of Pennsylvania, favoring passage of legislation to validate leases between Uncle Sam Oil Co. and the Osage National Council; to the Committee on Indian Affairs.

Also, petition of the First Presbyterian Church of Oil City, Pa., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the First Presbyterian Church of Oil City, Pa., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

CONGRESSIONAL RECORD:

CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

SIXTY-SECOND CONGRESS, THIRD SESSION.

VOLUME XLIX.

WASHINGTON:
1913.

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VOLUME XLIX, PART III.

CONGRESSIONAL RECORD,

SIXTY-SECOND CONGRESS, THIRD SESSION.

HOUSE OF REPRESENTATIVES.

SUNDAY, *January 26, 1913.*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore, Mr. FITZGERALD.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, we realize that there are problems of life which have not been solved by reason or the subtle methods of logic.

But we bless Thee for those qualities of soul—faith, hope, and love—which solve all doubt, all fear in an infinite Father who has never failed his children. We are here to-day because Thou hast taken from us a servant of the people.

Warm in his friendships, strong in his convictions, earnest in his endeavors to fulfill the obligations of life in his home, his State, and Nation.

There are nettles everywhere,
But smooth green grasses are more common still;
The blue of heaven is larger than the cloud.

Strengthen our faith, quicken our hopes, glorify our love, that we, with his dear ones, may go forward without fear to the larger life which waits on Thy children, where all questions will be solved, doubts dissipated, and harmony prevail in every heart. For Thine is the kingdom and the power and the glory forever. Amen.

The SPEAKER pro tempore. The Clerk will cause the Journal of the proceedings of yesterday to be read.

Mr. MERRITT. Mr. Speaker, I ask unanimous consent that the reading of the Journal be dispensed with.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent to dispense with the reading of the Journal. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. Without objection, the Journal will stand approved. [After a pause.] The Chair hears no objection. The Clerk will read the special order for to-day.

The Clerk read as follows:

Ordered, That Sunday, January 26, 1913, at 12 o'clock m., be set apart for addresses upon the life, character, and public services of Hon. GEORGE R. MALBY, late a Representative from the State of New York.

Mr. MERRITT. Mr. Speaker, I offer the following resolutions.

The SPEAKER pro tempore. The Clerk will report the resolutions.

The Clerk read as follows:

House resolution 795.

Resolved, That the business of the House be now suspended, that opportunity may be given for tributes to the memory of Hon. GEORGE R. MALBY, late a Member of this House from the State of New York.

Resolved, That as a special mark of respect to the memory of the deceased and in recognition of his distinguished public career the House, at the conclusion of these exercises, shall stand adjourned.

Resolved, That the Clerk communicate these resolutions to the Senate.

Resolved, That the Clerk send a copy of these resolutions to the family of the deceased.

The question was taken, and the resolutions were unanimously agreed to.

Mr. TAYLOR of Ohio. Mr. Speaker, it is not my purpose to deliver a studied eulogy on our lamented colleague, but rather to pay a heartfelt tribute to one who was my very dear, very close, friend. My acquaintance with Mr. MALBY did not extend over a long period of years. In fact, I had no personal acquaintance with him until his arrival in Washington at the opening of the Sixtieth Congress. I knew him by reputation and was proud when he chose to number me among his friends. Our acquaintance at once ripened into a genuine and lasting friendship and affection, which continued without a cloud until his sudden and untimely departure last July.

I can not say, and I will not say
That he is dead—he is just away.
With a cheery smile and wave of the hand,
He has wandered into an unknown land,
And left us dreaming how very fair
It needs must be since he lingers there.

Surely these lines of James Whitcomb Riley must have been written especially for dear Uncle George. There is no living person but remembers him in the best of health and spirits. He left Washington early in July with kindly wishes and goodbyes for everyone and went to New York. He greeted all that he met there jovially and pleasantly, said that he was tired of the long drawn-out session and warm weather, and was so very glad that he was going home. He knew that he would be all right when he once more reached his own town of Ogdensburg and breathed the invigorating air of his native country, his beautiful land of the St. Lawrence River. No man ever lived that was more appreciative, more full of sentiment in regard to his own people, his wife, his lads, as he called them, and his well-beloved home.

Mr. MALBY was a real American, of Scotch descent, and justly proud of his lineage. Many are the reminiscences and interesting tales that he has related to me about his people and the early days of his life. He had a wonderful sense of humor and a way of expressing things with a chuckle all his own. It was my great privilege to have been his traveling companion in the early days of our friendship, and, as such, his continued courtesy and kindliness made our association a more than happy one. I shared his stateroom all the way to Panama and back on one occasion and enjoyed every minute of it. His friendship to me is one of the brightest spots in my life, and I can not in words express how greatly I miss him now. "The heart can feel what the lips can not utter." While he was several years my senior and had accomplished much, he was never too busy or too much occupied with his own affairs to pause willingly and cheerfully and listen to my minor trials and tribulations and help me all he could.

I wish to acknowledge my deep sense of gratitude and obligation to him for the always wise counsel and advice he affectionately imparted. He was a man of sterling qualities and noble impulses, made innumerable friends and always kept them. He was as true as steel. He had no devious ways, he was straight from the shoulder, always steadfast and sincere, clear and forceful, brusque sometimes to almost sternness, but underlying all was one of the sweetest, most affectionate natures God ever gave to man.

Just to exchange morning greetings with him always helped me out a lot—sort of seemed to make the whole world brighter, to sweeten things and make them more endurable. He was most unostentatious, never aspiring to the limelight of display of any kind. When he spoke in the House it was always because he was either for or against a measure, not for oratorical effect. He was no grandstand player. He was direct and resolute. All who came in contact with him were at once impressed with his earnest manner, his unflinching honesty, and fearless defense of what he considered right. When he believed in a principle, he believed in it absolutely. He never compromised. His good Presbyterian faith and conscience always pointed the way, and when he once espoused a cause he never deserted it. When once convinced that a thing was right, he stood firm as adamant. His party faith was a part of his creed. He was a most unusual man, and it required an intimate knowledge of him to really appreciate him. His friendship and fidelity made me love him; to have been so closely allied with him these few short years, I count a priceless heritage.

He now sleeps quietly beneath the sod of his native State, still living in the hearts and minds of all who knew him. Their respect and confidence and love were his during his entire career. They revere him in death, and can say with truth, "Here lies a man who loved his fellows." The mysteries of God are unfathomable. The untimely cutting down of this man so dear to us is hard to reconcile. His loss seems unpayable, irreparable. Let consolation be our antidote for grief. He is home, while we are still upon our stumbling journey, and though his voice is forever stilled and no more in this life will we feel his presence, somewhere he will wait for us, some day we will join him.

O Lord of Light, steep thus our souls in Thee,
That when the daylight trembles into shade,
And falls Thy silence of mortality,
And all is done, we shall not be afraid,
But pass from light to light, from earth's dull gleam,
Into Thy very heart and heaven of our dream. —Gildey.

Mr. MERRITT. Mr. Speaker, it is with a great deal of hesitation that I undertake to present to this House something of the career and services of the late GEORGE R. MALBY, my predecessor in this body. Mr. MALBY was born in the town of Canton, St. Lawrence County, N. Y., September 16, 1857, and passed away in the city of New York on the 5th of July, 1912, being at that time 55 years of age. His career in this House and the services which he rendered here were a part only of a long life of public service. It was the expansion and the flower, perhaps, of the labors which he had performed in his own State as a representative in the legislature of that State of a part of the congressional district which he here represented. He was educated at St. Lawrence University; he studied law and practiced that profession in the city of Ogdensburg, and in 1890 he entered the Legislature of the State of New York as an assemblyman, succeeding the Hon. N. M. Curtis, who was for many years a distinguished Member of this body. During the few years in which he was a member of the lower house of our

State legislature he occupied the various positions of leader of his party, chairman of important committees, and speaker of that body. After five years of service in the assembly of the State he was elected to the State senate, and continuously represented his senatorial district there until he was chosen a Representative in Congress for the twenty-sixth district of New York. During the years in which Mr. MALBY was a member of the State legislature the State of New York went through a condition of transition in its business affairs. It grew from small to great things. He was identified with the labors of the bodies of which he was a member for 16 years, and in a great part was responsible for the policies there inaugurated and for the carrying out of those policies. He was responsible for the institution of the great college of agriculture at Cornell in so far as it grew to what it now is—a great institution of learning. It was by reason of his deep interest in the subject, having been born a farmer's boy, that he had said to me and had said to others that when the time came, if he had the power to do something for the farming interests which would be far-reaching, which would help to elevate and lift and enlarge the scope, interest, power, and value of the industry of agriculture, that he should do it; and in the course of his legislative career the opportunity came, and, perhaps almost by himself, he succeeded in establishing on a firm foundation that greatest institution of its sort in America or in the world.

During those years, Mr. Speaker, the State of New York, in its financial development, was substituting a system of indirect for direct taxation, and during those years Mr. MALBY gave his time unsparingly and with great effect to assisting and developing that system in our State. It was appreciated by the people, it was appreciated by the legislature, and he grew before he left the senate of our State to be the predominant personage in that body, the one man, I think, in the whole legislature in his last term, who was consulted on every important topic and without whose advice nothing serious was undertaken. That was a preparation for service to his district, to his State, and to the people of the United States which qualified him beyond any man we ever sent from our locality, and I believe fairly beyond any man whom the State of New York has sent to the Congress of the United States in many years.

You are familiar with his position in this House. We have believed that he had made extraordinary progress in influence and power in the comparatively few years that he had been a Member of the House of Representatives. He had the confidence, I believe, of the leaders of this House on both sides. He had the respect, he had the affection of every man who knew him. His death was a tremendous shock to the community from which I come. No public man in my time has passed away and left behind such deep regret, so much of sadness, so much of a feeling of personal loss, as was felt when we heard that Mr. MALBY had passed away. He was the friend of all his people; he was consulted in a thousand ways. Not only was his position at the bar a distinguished one, but in the long years of public service he had rendered to thousands of people personal service, personal kindness, acts of thoughtfulness and consideration, acts rendered without a thought of a reward, of a return of favor, acts which came from his great heart and great brain, and splendid character and disposition, which had endeared him to our people as no other man has ever been endeared, so far as the records of our country go. And when I say "our country," I mean that northern section of the State of New York, which, to those who have been born and brought up there, is the dearest spot on earth.

It is very hard to be reconciled to such bereavements, particularly when they have a personal touch and come close to one. Numbers of men have associated with Mr. MALBY, not only in this body, but in the other bodies to which he had at times belonged, and have had the same feeling toward him that I am trying to express here—confidence, respect, and love.

Death comes to all. It is the most natural thing in the world. It is the thing easiest to understand in a way. We grieve, we must grieve, we ought to grieve, but we must bear our bereavements, our disappointments, and our griefs, as Christian men. I believe that if Mr. MALBY had been spared, all the service and experience which he had gone through as a public servant would have proven but the beginning, the foundation of more distinguished work and of greater usefulness. I know that he appreciated the opportunities of office from that standpoint, which is a good, sound, American standpoint. It was the opportunity to serve and not to receive the idle honor of the place.

As the gentleman who preceded me has said, he never made a speech for oratorical effect, he never thought anything of personal advantage. According to his lights, according to his conscience and his judgment, he always did what he regarded as his full duty as a public servant. It will be many years before such a man will represent our people, combining, as he did, the qualities of statesman, public man, good citizen, and loyal friend.

He will not be forgotten among those who have known him as we knew him. Thousands will possess the same feeling as was expressed by Burns in his "Ode to Glencairn":

> The bridegroom may forget the bride
> Was made his wedded wife yestreen;
> The monarch may forget the crown
> That on his head an hour has been;
> The mother may forget the bairn
> That smiles sae sweetly on her knee;
> But I'll remember thee, Glencairn,
> And a' that thou hast done for me!

[Mr. MERRITT at this point assumed the chair as Speaker pro tempore.]

Mr. TALCOTT of New York. Mr. Speaker, the death of Mr. MALBY was so sudden and unexpected that it was a great shock to each one of us. It was one of the many instances that have occurred during this Congress to remind us of the uncertain tenure of human life.

Mr. MALBY had a distinguished career in the Legislature of New York before he came to Washington as a Representative in Congress. I first met him at Albany when he was the leader of his party in the Senate of the State of New York, and it is not overstating the fact to say that few men at that time possessed a greater influence than he in the public affairs of the State.

I did not have the privilege of intimate personal acquaintance with him, but I know the value of his service here and the efficient work which he performed so ably and so well as a Member of this body.

He was true to the people whom he represented; he was loyal to their interests; he was uncompromising in his convictions of public duty. The death of a man of such wide experience, strength of mind, and decision of character can not but be a positive and serious loss to his district, to his State, and to the membership of this House.

Mr. FAIRCHILD. Mr. Speaker, I have been deeply impressed with what I have listened to here to-day at this special session of the Members of the House of Representatives, called for the purpose of doing honor to the memory of our late brother, Congressman GEORGE R. MALBY. I have hesitated to take part in these services, not because I do not believe in the custom which is responsible for this gathering, not because I am not desirous of paying tribute to Congressman MALBY's worth as a man, as a friend, as a citizen, and as a public servant, but because I feel utterly incapable of portraying him as I really knew him, and because I realize that I lack the power of expression to correctly let the public see, as I should like to have it see, the finer, nobler, grander qualities that made such a deep impress upon me. It is one thing to know a man and to recognize his splendid attributes, but it is another thing to have the ability that shall make others see as you yourself have seen. Just as we admire in a beautiful picture the genius of the artist and yet are powerless to reproduce the painting, so sometimes in a friend we may see noble qualities, qualities that attract and make everlasting impress, qualities that arouse great admiration and deep regard, and yet be unable to portray those qualities to our own satisfaction. It is because I feel that I can not do Congressman MALBY justice that I must be content to say that, while there are others here to-day who knew him far better than I, others who had greater opportunity to measure his public usefulness, I do not believe he had in all the world a friend—and this is a strong statement, because I know the standard of his friendships—who placed a higher estimate upon his value to the country that he was serving so earnestly, so ably, and so faithfully, or who held him in kindlier regard.

New York has sent to the Congress of the United States many men of great note. It has sent men who have achieved reputations which will last as long as fame shall last, but among all its list of distinguished men it will be hard to find any who by reason of natural fitness, of patriotic motive, and of real unassuming ability are better entitled to a wreath of commendation than the Hon. GEORGE R. MALBY.

Congressman MALBY and I came to Congress at the same time. I had known him before coming here because of his long service at Albany, but I had seen but little of him. We located in the same hotel in Washington, and as I gradually became better acquainted with him I began to recognize his ability, his earnestness, his fairness, and his kindly, generous nature, a nature slow to think ill and tempered always with a mantle of charity broad enough for all humanity. At the Chicago convention, where we were fellow delegates, I saw him frequently. I congratulated him upon his apparent recovery from a long illness in Washington, and looked forward with great pleasure to seeing him here again this winter. But it was willed otherwise. The Grim Reaper beckoned our friend in the very height of his usefulness, and he went away, and when he went sorrow came not only to his wife and to all his family, but to all who knew his bigness of soul and heart and mind.

New York mourns the loss of a citizen who honored her in State and national life. Congressman MALBY's memory will be cherished not only by all friends and associates at the National Capital, but by all who knew him, and particularly by the people of his home city and home county, whom he loved better than all the world beside.

> Abou Ben Adhem (may his tribe increase!)
> Awoke one night from a deep dream of peace,
> And saw, within the moonlight in his room,
> Making it rich, and like a lily in bloom,
> An angel writing in a book of gold:
> Exceeding peace had made Ben Adhem bold,
> And to the Presence in the room he said,
> "What writest thou?" The vision raised its head,
> And with a look made of all sweet accord,
> Answered, "The names of those who love the Lord."
> "And is mine one?" said Abou. "Nay, not so,"
> Replied the angel. Abou spake more low,
> But cheerily still, and said, "I pray thee, then,
> Write me as one that loves his fellow men."
> The angel wrote and vanished. The next night
> It came again with a great awakening light,
> And showed the names whom love of God had blessed,
> And lo! Ben Adhem's name led all the rest.

[Mr. FITZGERALD addressed the House. See Appendix.]

[Mr. FITZGERALD at this point resumed the chair as Speaker pro tempore.]

Mr. MERRITT. Mr. Speaker, a number of gentlemen desired to participate in the proceedings of to-day who are unavoidably absent. I therefore ask unanimous consent that all gentlemen so desiring may have leave to extend their remarks in the RECORD as part of the proceedings of this day.

The SPEAKER pro tempore. The gentleman from New York [Mr. MERRITT] asks unanimous consent that gentlemen unavoidably absent to-day may have leave to extend in the RECORD their remarks as part of this day's proceedings. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. MERRITT. Mr. Speaker, I desire to ask unanimous consent to include in the RECORD the proceedings of public memorial services held at Ogdensburg, N. Y., July 8, 1912, the day before Mr. MALBY's funeral.

The SPEAKER pro tempore. The gentleman from New York [Mr. MERRITT] asks unanimous consent to print as part of the proceedings of this day the addresses and proceedings of memorial services in the city of Ogdensburg at the time of the death of Mr. MALBY. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

The proceedings are as follows:

[Public memorial services held at Ogdensburg, N. Y., July 8, 1912.]

"Hon. GEORGE E. VAN KENNEN, mayor of the city of Ogdensburg. Will the house please come to order. We have assembled here to-night to mourn the loss of one of our most distinguished citizens. I have been asked to preside upon this sad occasion.

"I assume that many speeches of eulogy will be made here to-night. I suppose that none of us knew how great a man Congressman MALBY was except those who saw him sitting among men whose names were household words in the land. I therefore move that the Chair appoint a committee of three to draft suitable resolutions of memorial.

"Motion seconded. Carried.

"Mr. VAN KENNEN. I will appoint upon that committee Mr. R. E. Waterman, Dr. Fred Van Dusen, and Dr. W. B. Hanbidge. I suggest that these gentlemen retire and consider the memorial that may be offered to this meeting later.

"Ladies and gentlemen, while we are waiting for the report of this committee we have thought it proper to have a few remarks made by our citizens with reference to the death of Senator MALBY, and I shall now take the liberty of calling upon Mr. Thomas Spratt to say a few words concerning him.

"Mr. SPRATT. Mr. Chairman, ladies and gentlemen, the death of Mr. MALBY was a great shock, not only to this community but to the people of northern New York. To people generally, Mr. MALBY was enjoying his usual good health. We knew of the fact that he was attending to his duties in Congress, and that during the Republican convention, which was held at Chicago, he took a very important part in the councils of his party, and certainly it was like a bolt from a clear sky when it was announced in the various homes of the people here in Ogdensburg that he had passed to the unknown.

"Mr. MALBY as a young man came up on the farm; from the farm to the school, from the school to the university, from the university to the practice of the law. In fact, Mr. MALBY was a typical, ambitious young American. He practiced law for some years, and while living in Ogdensburg, attending to the duties of that profession, he became well acquainted with all of us, and that acquaintance became intimate in many instances, and to the bar of Ogdensburg he was always reckoned upon as one of the men that you could rely upon when it was necessary to make any extraordinary exertion. But it seemed as though fate had in store something other than the practice of the legal profession for Mr. MALBY, because after the late lamented Gen. Curtis decided to resign and ceased to be a candidate for the office of member of assembly, upon the meeting of the heads of the Republican Party of this district, although Mr. MALBY was not anxious for the position himself, he became, with the consent and at the request of his friends, a candidate for that office, and a very peculiar thing happened at that time. As I understand it, as I said before, Mr. MALBY, at that time was not anxious for this nomination. But the fact was that the men who represented another portion of the district urged his candidacy, and the advice was followed and Mr. MALBY was nominated. The responsibility of that nomination was laid upon the heads of the political leaders of the Republican Party at this end of the district, and the result was that a very excellent man at the other end of the district thought he had been wronged and that the people of Ogdensburg were rather inconsiderate, and many of us thought that when the courthouse was destroyed at Canton and an effort was made to bring it here by a number of our citizens we were unsuccessful by reason of a little resentment that was carried along, but the truth was that Mr. MALBY was in no way to blame for any misunderstanding, and the nomination was really brought about by men outside of the city of Ogdensburg. However, Mr. MALBY entered into the assembly; he remained there several years; he became the highest officer in that body; he was probably the strongest man there, and his nature, his mind, and his character is stamped upon the laws which were passed during the time that he was a member of that body, both as an ordinary member and as a leader of the house and as its speaker.

"I feel a great pleasure in knowing that, in the early days of Mr. MALBY's progress in the legislature, our Democratic friends had a great deal to do with giving him position. I remember very distinctly when Mr. Sheehan, who was the Democratic leader, had made up his committee and our friends thought that Mr. MALBY ought to be put on the committee on ways and means, Mr. Sheehan said: 'I will be very glad to help you, but the truth is that I have made up my committee, and I do not see how I can give so important a position to so young a member.' But, with the aid of our friends of the more southern portion of the State, he reversed his position, and Mr. MALBY was placed upon that important committee, and it gave him a great opportunity to impress the people on that committee with the extent of the ability which he had, and we were all very much pleased, and especially that it was one of the things that the Democrats in northern New York had performed.

"From the assembly he went to the senate. It is really unnecessary for me to recite what he accomplished there. He began at once to hold positions there on the most important committees. He was really the dominant figure in the great senate of the State of New York while he remained in that body, and after he was promoted to be a Member of Congress from this congressional district he took rank with the ablest men of the Nation. There was this about Mr. MALBY, perhaps you have never thought about it. He was a wonderful man in becoming acquainted and mingling with the great men wherever he was called. He seemed to understand that it was absolutely necessary, in order to make progress, to get with the body of men who would stand up and be able to express their ideas and always have ideas. So we find him in the assembly, senate, and Congress. The result was that Mr. MALBY, under Speaker CANNON, received recognition that no other new Member ever received in the House of Representatives. The good work he did there was appreciated by the Democrats, and at the time of his death no man stood higher in the House of Representatives than GEORGE R. MALBY.

"Now, gentlemen, it is very easy to say this man has done that, or the other man has done something else, but it is a very important thing, a wonderful thing, to find a man that is not only able to perform the acts that come to him, but who

can go out among men who are seeking to rise to the front or to positions of various kinds and to so control and manage affairs that his party will not be separated or disintegrated, but that it will follow the leader. Now, GEORGE R. MALBY had that faculty to a great extent, which ability he showed in the halls of Congress. He had great ability in keeping his party together, in organizing his friends, in maintaining his party organization, and so he was not only a great legislator but he was a great statesman in the highest sense of the word.

"What is the value of such a life, or, rather, what is the loss to that community when such a man dies? You might say as to the value, he was elected as a member of assembly, and he performed well the duties of his office. He was made senator, and he never was found wanting. He was elevated to the halls of Congress, and he found his place among men. He was a valuable man in that way. On the other hand, you might say that 55 years ago there were a great many thousand people in northern New York—a great many thousand residing here in this congressional district. Let your mind run back for 50 years, those of you who are old enough, and scan the men who have lived and who have died and who are living now, and see how many George R. Malbys there are in northern New York now, and when you find how many there are you can tell somewhat of the greatness of this man and what this community has suffered by his death.

"I know there are other people who wish to speak of Mr. MALBY, but I wish to call your attention to another side of Mr. MALBY, and that was his kind-heartedness. He lived opposite to me for many years. I knew how much he loved his children and his neighbor's children. There was nothing in the world that pleased Mr. MALBY as much as to get the children of the neighborhood together, especially on the Fourth of July, when he would surround himself with his own children and my children and Mr. Hannan's children, and the thing that he most enjoyed was to come under my window with the children and fire off those giant firecrackers and then hear how the fathers of the children took it. And I tell you the man who can bring children to him and to whom children will go has a great and a good heart.

"Mr. MALBY was more than fortunate in his marriage. In the earlier days of his life it was a great benefit to him that he had, in Mrs. Malby, a true helpmate. She was a woman who was thoroughly devoted to her own household duties. She never allowed Mr. MALBY to be worried by small matters of one kind and another when he came home from his legislative duties, and she loved her husband beyond anything I can describe, and he certainly was a kind and loving husband. There was no wish of her's that he did not grant if it were possible. He was a kind and loving father, a beautiful husband, a man to whom we can all look up and say GEORGE R. MALBY was a truly representative man of northern New York.

"But he is gone, and what can we do for him? We can simply show by gathering together to-night our appreciation of his greatness and goodness. We can gather together to-morrow and close our places of business and be there present with his family and lay his body to rest on the shores of the Oswegatchie River which he loved so well.

"I wish to say that in the loss of Mr. MALBY the State of New York has lost an able citizen, his district has lost a good Representative, and the city has lost one of the best citizens it has ever produced and certainly the vacancy which is caused by his death will long remain unfilled.

"Mr. VAN KENNEN. I would like to call upon Hon. John M. Kellogg with reference to the man whose career has been closed.

"Hon. JOHN M. KELLOGG. Mr. Chairman, ladies, and gentlemen, Congressman MALBY was my dearest lifelong friend. It seems impossible that I can say anything here and it seems impossible for me to remain silent. Speaking of the man, it seems that he and I came to this town about the same time. I was a practicing lawyer, he was a boy beginning his studies. We found ourselves in the office of Stillman Foote, I a practicing lawyer, he my law student. Our relations were close and confidential. We stood shoulder to shoulder for a period of 20 years. If an assault was made upon one, there were always two to answer the call. He was faithful and firm in his friendship, unswerving in his loyalty. When I became supreme court judge my relations, as an active friend in politics with him ceased, but my interest in his career continued, our friendship remained and I think the various successes that have come to him in life furnished to me just as much satisfaction as they did to him.

"I speak of these things, first, because I can not help it; second, because it seems to me that I always knew the man and understood the man better than anybody else, aside from his own family, and I want to be on record as saying that that friendship has had an important bearing upon my life. His success in life did not arise from accident. It was from the inherent characteristics of the man himself. He was a great big man. A man absolutely self-reliant; honest to himself and friends; he acted upon his own judgment, and when he made up his mind that a thing ought to be done he did it. He had the courage of his convictions. A faithful, reliant man; honest in all the relations of life; loyal to his constituents and his friends. With the great big mind and the fact that when he was serving the public he believed that the public business was his business, he familiarized himself with the business of the State and the Nation as a business man familiarizes himself with the details of his own business. These qualities—the greatness of his mind, the perseverance and push of the man, and the good nature and general goodness—made him what he was. It seems to me that GEORGE R. MALBY stands as one of the greatest men that northern New York has known in our day.

"Mr. VAN KENNEN. I take the liberty of calling on Maj. William H. Daniels to say a few words with reference to the man who has brought nothing but honor to the section in which he lived.

"Maj. WILLIAM H. DANIELS. Mr. Chairman, ladies, and gentlemen, I would much appreciate not having been called upon to-night after having listened to the two speeches that have been made. Knowing GEORGE R. MALBY as I knew him, he is entitled to all the praise that has been spoken in his behalf. I wish I could find words to tell of the strong friendship that existed between GEORGE R. MALBY and myself. I wish that I could find words to really express the deep feeling that I have over his loss. Mr. Chairman, you know and many others know that for a long number of years I was closely allied with Mr. MALBY in many ways, and I became well acquainted with him, and a strong friendship was formed between us, and it seemed that as year after year went by that friendship grew stronger and stronger.

"I do not feel like saying very much here to-night; I can not. Mr. Spratt spoke so nicely that while I feel we have met with a severe loss my thoughts go over to that other house where that dear wife and mother is sitting with her head bowed in grief surrounded by her two children, for we know that their loss is irreparable and our hearts go out to them. There are many things I would like to say, but I can not. It is hard to speak at all. GEORGE R. MALBY and I were warm friends, friends for years, and as I look back I see the many pleasant hours that I have spent with him and I realize now that he has gone. It strikes deeply into my heart and I think I may say that outside of his family I doubt if there is another person in the city to-night to whom his death has brought a keener sorrow than it has to me.

"But I wish to read a telegram that I received from Bishop Conroy just previous to my coming here.

"WATERTOWN, N. Y., *July 8, 1912.*

"Maj. W. H. DANIELS, *Ogdensburg, N. Y.*:

"Permit me to share, by telegram, in the public expression of honor to our late lamented Congressman. GEORGE MALBY was a big man in Ogdensburg, a bigger man in Albany, and bigger still in Washington; the abler his company and the broader his sphere, the more did his personal ability and broadness become manifest. His friend and fellow citizen, I regret him as a private and a public loss and I lay upon his bier the tribute of my esteem, gratitude, and sorrow. To his bereaved family I tender my sincerest sympathy.

"J. H. CONROY."

"Mr. VAN KENNEN. I will call upon Mr. Fred J. Gray.

"Mr. FRED J. GRAY. Mr. Chairman, ladies, and gentlemen, the duty we are called upon to perform seems to be sad, yet it is entirely proper and fitting that we step aside and pay a slight tribute of our love and respect for that beloved member of this community, that distinguished neighbor, that honored citizen. There can be no eulogy pronounced commensurate with the ability, energy, and devotion that he gave to his public services, with that great heart overflowing with kindness and love to all, with that charity which so characterized his life.

"It was my good fortune to study law in his office, to be his student. It was there I first learned of Senator MALBY. He made the most humble who came into his presence his equal. He was never conscious of his position in life. He was a natural leader of men, not by imperious command but by that kindness, that quality of his nature which attracted men to him, and they followed him without leading.

"As it has been said, he started in life in an humble position—from the farm to the humble schoolmaster. By tireless energy and devotion to duty he continued until he became a member of the bar, and he soon rose in the estimation of the people and the legal fraternity until he was considered one of the leaders of the bar of northern New York. His wise counsel and sound judgment brought to him a large clientage, but later and very soon a wider field opened before him, and it has been said here,

he was called to the Legislature of the State of New York, and by the same tireless energy and devotion to duty he won his way from place to place until he held almost every important position in the legislature of this great Empire State. Not an important statute, during the long years of his service in the legislature, was placed on our books, hardly an important measure passed the legislature that did not receive his approval. He was soon recognized in the legislature as one of the foremost and strongest minds, and was there given place. His counsel and advice were sought by men from all over the Empire State, and he became one of the strongest and ablest men in his party and in the State of New York. But soon again the field of opportunity widened, and notwithstanding the deep regret that he had in leaving the associations, leaving the ties which bound him to the State of New York, leaving the many friendships and the place where he had worked so long and known so well, yet when this position was offered him and he accepted a place in the Congress of the United States, the same tireless energy, the same devotion to duty, that same ability with which he had risen step by step through the Legislature of the State of New York, carried him upward and ever onward in the Halls of Congress, until he was known as, it has been said here to-night, one of the ablest and strongest legislators in the Legislature of our country.

"But that was not the greatest thing that Senator MALBY possessed. Not fame, honor, position, place, title, but kind words, kind and noble deeds survive. We who knew him best loved him most. He was happy when he was doing some person a kind act, and most unhappy when he was unable, by the influence of his position or otherwise, to grant the favor requested. That great heart went out in kindness and love to all. Sad, extremely sad his death; untimely, extremely untimely. At noonday, in the meridian of life, with full power directing every energy in the discharge of his public duties, radiant with hope and ambition, he entered the dawn of the eternal morning.

"The stricken and bereaved family have lost a devoted husband, a kind and loving father; this community a useful, valiant friend; this State a most able and honored son; this Nation a most wise and valiant counselor; and when we tenderly and lovingly lay him away and bid him our last farewell, we can not but exclaim—

"The stately ships go on
To their haven under the hill,
But, oh, for the touch of a vanished hand
And the sound of a voice that is still.

"Mr. VAN KENNEN. We have here present to-night Hon. E. C. Stewart, of Ithaca, who knew Senator MALBY a great number of years and who was attracted to him by his genial personality and who has come this distance to unite with us in paying tribute to his memory.

"Hon. E. C. STEWART. Mr. Mayor, ladies, and gentlemen, I am meeting with you to-night to express my deep sorrow at the loss which we have met. During my legislative experience, covering a period of 11 years, Senator MALBY was my dearest friend and my closest adviser. I think few of us here to-night appreciate the loss which has come upon us. Much of his work for the State is yet to develop. We of the southern tier, or southern portion of the State, appreciate particularly the great act which he performed in the interest of agriculture in establishing the State College of Agriculture. We know that, had it not been for his efforts, that great act never would have become a law. My first visit to your city was as the guest of Senator MALBY at the time the location for your State armory was selected. That, friends, is a period of nearly 20 years ago. I have in the meantime been his guest in your beautiful city.

"It is needless for me to try to express to you how much I shall miss him and how I enjoyed his friendship.

"Words fail me, friends, upon this occasion to fully express myself.

"Mr. VAN KENNEN. I desire to call upon Mr. M. R. Sackett to say a word with reference to Senator MALBY.

"Mr. M. R. SACKETT. Mr. Chairman, ladies, and gentlemen, I would be very glad to lay a wreath of equal beauty with those already placed upon the bier of our dead friend.

"I recall, as it were yesterday, the first time I ever saw GEORGE R. MALBY. Some of you remember, along in the later eighties, when the district convention of the first district of this county was always held in Gouverneur, that there was a sharp judicial controversy in this county. In this convention there was a difference of opinion between the leaders from Ogdensburg and Gouverneur. By the way, I think there always was a difference of opinion between the leaders of these two communities. Hon. George M. Gleason, whom you all remember, who have been at all familiar with political affairs for the last 25 years, led one part of that convention and this young stripling from Ogdensburg led the other. I was there as an interested spectator. I had never seen the young man before to my knowledge. I was particularly struck with his presence, with his manner of putting the question, with his debate with Mr. Gleason touching the various points in the controversy.

"Not many years after that I was present in Gouverneur in the old Grand Army Hall when this same young man asked this district for the nomination to the legislature. He defeated two townsmen of Gouverneur, Hon. Daniel Rich, who had the town of Fowler, I think, and Hon. Newton Aldrich. I remember very distinctly that I was exceedingly glad on that occasion of the defeat of my townsmen, and as Judge Kellogg has well said, it turned out a magnificent thing for the first district of St. Lawrence and for the entire section of northern New York, and when I heard of the death of our distinguished friend it seemed as if everything had gone to pieces pretty much.

"During these 25 years which have gone I came to know Mr. MALBY in the many phases of his character, public and private. He became known to me. I think he trusted me. I think he valued my friendship. I certainly valued his, and there is no one that I know of in the world outside of my immediate family whom I can say was a better friend to me than was he. Dead at 55. His work all done. We were about the same age. Our tastes were alike in many respects. Dead at 55, and you say untimely. You say, what a short life. True it was short as we measure things; but when you think of the nonagenarians who have died, who have breathed and breathed and breathed, and then think of their lives, I tell you GEORGE R. MALBY, measured by that standard, has lived. It is not given to every man, it is only given to one now and then, to put himself into the innermost love of a people, of a community, and make them all mourners when he departs.

"I wonder if you have thought, Mr. President, ladies, and gentlemen, of the wreck and ruin in the lives of our noted men in the past 25 years. I recall in Gouverneur George H. Gleason, Newton M. Aldrich, Dr. McFalls; over in Potsdam there was that man whom you would think would live forever, Senator Erwin, John McIntyre, Judge Tappan; over in Canton the scholarly Russell, John Keeler, D. M. Robertson; here in your own city Charles A. Kellogg, Newton M. Curtis, and now, GEORGE R. MALBY. Truly, friends, there have been giants in St. Lawrence County. I have read about Silas Wright, Preston King, and Calvin T. Hurlbut. I knew A. X. Parker exceedingly well; I knew Judge Russell; I knew exceedingly well Mr. Littauer. These have all been Members of Congress representing this district, but I tell you I believe when we go far enough away from this day so that the perspective of history will tell the truth, GEORGE R. MALBY will stand out the peer of everyone.

"The other day, and it was only the other day, I came over the river to see him. I went up to his office over there, went into the back door, into the back room, shut the door and stayed there an hour and we talked and talked and talked, as friends will talk, and he told me a number of things, and he seemed so well and he looked so well and he looked so hearty and so healthy and so strong, and I remarked all of these things. Just the other day the news came that he was dead. On his way home to see us all. To see his home, and his wife, and his children. Died there in that hot hotel in that great city, all alone. And it seems so pitiful and so horrible and so sorrowful. That strong man with so many friends over all the State and Nation, and not one there to bring a cup of water or to hold his hand or to wipe away the death dew as he met the Destroyer. Alone! Alone!

"GEORGE R. MALBY was endowed with courage, and you who knew him, and I, can well believe that in that room there was no fear, no terror, except perchance that mere physical fear and terror which may come, but that great heart knew no terror. The lesson of this life has been told in fitting words. It ought to be an inspiration, particularly to the young men of St. Lawrence County. Typical American boy; born poor; born in the fresh air which is good; rising above obstacles, winning friends and honors. A marvelous career. A marvelous life. The country is richer for it. Youth is better, manhood is better, citizenship is better because GEORGE R. MALBY lived and worked. We sorrow, and have a right to sorrow. Great lessons remain and it is for us to learn the lessons which have been pointed out to us by wiser heads than mine; lessons which we must not throw away. American life is speeded up so high, we work so fast, we hurry, and the machinery of a physical frame that ought to run for years is speeded-up until it breaks, so with our friend.

"Mr. VAN KENNEN. I take the liberty of calling upon Hon. E. A. MERRITT, Jr., of Potsdam, who has known Congressman MALBY for many years and has known how loyal he has always been to the cause he advocated.

"Hon. E. A. MERRITT, Jr. Mr. Chairman, ladies, and gentlemen, it is with a great deal of hesitation that I undertake to say anything. We are here, I take it, as the friends of Mr. MALBY. No more severe shock can come to this community or to this county than his unexpected departure. I can give no reason for it, no explanation. We must bear our loss with such fortitude as we can, with such fortitude as GEORGE MALBY would have borne a similar shock.

"I have known him in his public capacity and in his private life for many years. I owe him many kindnesses. I loved him. What can one say on such an occasion as this? All men fear death as children fear the dark, and yet it is the commonest thing in life, the commonest thing that we see, much less mysterious to me or my thought than life itself; explained in a thousand ways, a mystery; well, perhaps a mystery, because we know not what follows, but certainly simple in itself.

"For many years I have associated with Senator MALBY in public affairs. We were, I think, able to work together in the interest of our county and of this great country here that we call the north country. Much of such success as I have been able to attain has been due to his assistance. I have helped, as far as I could, in doing the things that he thought worth while. I believe that this is not a time to adequately at all discuss his public career or his services to this county. It is too near the hour of his departure. It requires some reflection and thought to arrange and marshal the facts. No man has ever lived in our community more typical of the ambitions, the labors, and the successes of the men who came from our community, a community which has changed but little since the first settlers came into this country and opened up the farms and settled them. Our people are now much the same as were their grandsires. There is some mixed blood in St. Lawrence County. Scotch and Irish and English and New Englander have made this county what it is; and of this mixture of blood and effort and service, I think Mr. MALBY was the highest type and represented in his life all the phases that go to make up the citizenship of the North. His labors here will be appreciated more and more.

"The friends whom he has loved will cherish his memory with greater tenderness and regard from year to year. Although he passed away at an early age as compared with some men who have lived to the utmost span, he had, as has been said, accomplished much. My own feeling has always been one not only of personal affection but of a very high regard for his stauchness and courage. While it is a shock to think that when he passed he was alone, I do not believe that he was afraid. As men grow and live and suffer and succeed, he had no reason to be afraid. I know he never feared the face of any man, and I do not think he need fear anything else in heaven or on earth.

"Mr. VAN KENNEN. I venture to call upon Rev. A. M. Wight to say a word in reference to our esteemed friend, whose death has been such a distinct loss to the Nation, the State, and particularly to this north country.

"Rev. A. M. WIGHT. Mr. Chairman, ladies, and gentlemen, it is not for me to speak of the man who calls together this audience here to-night as one who knew him in the halls of the legislature or of Congress or even in the legal profession, for I knew him not in any one of these particulars; but from my deep heart I wish to lay a tribute with the others that we have listened to to-night to him as a man. For 15 years, going in and out and up and down our streets, I do not believe there was hardly one man in that walk and in the relationship, day by day, that so deeply impressed me as did that man. And I was thinking, while listening to these words of the men who had known him in the struggle of the political arena and knows him so intimately in the citizenship of our city, of those words of Ralph Waldo Emerson—

"What you are speaks so loud, I can not hear what you say.

"There was a day, one year ago this month, that never will go out of my memory. Coming from my home on the west side to the center of the city, and about crossing Ford Street where it intersects with State Street, I heard my name called, and I turned and it was the voice of Senator MALBY. He said, 'Are you busy for a moment this morning?' I said I was not particularly. He said, 'Let us take a little walk,' and we took a little walk. We sat a little while on the veranda on this other corner, and there for a little while heart spoke to heart of the things that appertain to the other life. The honorable speaker that preceded me and others have intimated that GEORGE R. MALBY was not afraid to die. I know he was not, for he referred so tenderly to that scene when another gathering like this paid tribute to Gen. Curtis, and it was my privilege at that time, in the Presbyterian Church, to carry God's message of comfort to the sorrowing ones in prayer, and that man remembered the words of that prayer. And that is one thing I leave here to-night—the tribute to the man who was honest in his convictions and loyal to his principles. And I was reading this afternoon in Holy Writ of another gathering like unto this, and one said 'We shall miss him, for his seat will be vacant.' GEORGE R. MALBY's seat at Washington and in other gatherings here in our city will be vacant in the days to come. But it is for us to be thankful that we did know him and that God let him live. And truly to-night the earth is poorer and Heaven is richer, the one in losing and the other in receiving GEORGE R. MALBY.

"Mr. VAN KENNEN. Before calling for the report of the memorial committee I should like to ask if there is anyone else who would like to say a word in honor of our departed friend. I take the liberty of calling upon Col. Archie E. Baxter, of Elmira.

"Col. ARCHIE E. BAXTER. It has been truly said that nothing dies but that something mourns. When the humble, obscure citizen falls by the way, the household grieves; but when a man who has grown up in your midst from obscurity until he stood in the blazing limelight of publicity and known to all the world falls by the way the whole State mourns as the State of New York is buried in grief and is mourning bitterly for the death of GEORGE R. MALBY to-night.

"When I heard, unexpectedly, of the great loss that had fallen upon this community, it seemed as if death had entered my own home; that I heard the rustle of the dark wings and the cold waft of the shadow of death in my own household. I knew and loved him well.

"I chanced to be in New York when it was decided that he was not to be returned as speaker of the assembly. It was at the time a crushing disappointment. He said to me, 'Politics is an ungrateful business; I shall give it up.' I said, 'George, no; there is too much in you to be crushed by such a disappointment as this. There are great things ahead of you, but press forward manfully.' And there were great things ahead of him—Senator, Congressman, adviser of governors and Senators in the United States Senate, Congressmen. Presidents even took counsel from him. He was, perhaps, as has been well said, the ablest man among the many able sons that that grand old county of St. Lawrence has ever given birth to.

"I shall not, at this late hour, trespass upon your attention, and, as my friend the speaker has well said, this is not the time or the hour to enter into any lengthy eulogies of the life and of the services of GEORGE R. MALBY. That time will come later. But in the meantime we can all fittingly join with minds and hearts in paying some faint tribute to one we all loved so well, and to-morrow, when we tenderly lay him away amongst the evergreens and flowers, it will rise up in every heart to say, 'Farewell, farewell, oh, friend! May you rest in peace.'

"Mr. VAN KENNEN. I take the liberty of calling upon the memorial committee to report.

"Mr. WATERMAN. Mr. Chairman and friends, I fell this occasion most deeply; and if in reading this memorial which your committee has prepared I should hesitate and falter, I hope that you will forgive me. I shall do the best I can.

"The people of the city of Ogdensburg, gathered together by common impulse to commemorate the life and deeds of a brave and faithful public servant, who for more than a generation truly represented them in the councils of State and Nation, thereby reflecting great credit upon himself and those whose interests he held in sacred trust, desiring to perpetuate their action, do render this

"TRIBUTE.

"A great man has departed from among us; great in intellect; great in heart; great in all things that make for better conditions in the world; a lawyer and lawmaker of commanding ability; a statesman of rapidly increasing power and influence. In the pride of a splendid manhood, with a future looming large in the foreground, and a political horizon commensurate with his genius, GEORGE R. MALBY surrendered his life to his duty on the conceded threshold of greater achievement. Born in the home town of Silas Wright, educated within sight of the grave of that illustrious patriot, he early conceived those lofty ideals which molded his after life and conduct. Most men are ambitious. This man was no exception to the rule. Many seek to gratify their ambitions at the expense of others. This man never did. He scorned to rise upon the shoulders of other men. Rather would he put his own shoulder at the service of some one less fortunate. His was one of those big, generous natures that love peace and order and harmony. But he could strike and strike hard in what he believed to be a righteous cause; and when he was aroused he moved with a dynamic directness and precision that crushed opposition. And he was independent in thought and action. He made this plain at the beginning of his public career at Albany, and later in the halls

of Congress at Washington it was abundantly demonstrated. There never was any indecision about him or any doubt about where he stood in matters of public concern. GEORGE R. MALBY was born great. Whenever he appeared one knew intuitively that this was no ordinary man. His presence commanded immediate and respectful attention, and brought to mind the lines of Sir Walter Scott:

"When as the Palmer came in hall,
Nor lord, nor knight, was there more tall,
Or had a stateller step withal,
Or looked more high or keen.

"Always serene, self-poised in victory and defeat alike, with unfaltering step he moved steadily onward and upward in the service of his people, knowing no distinction save only that of right and wrong. With him it was justice on the one side and injustice on the other. The line was sharply drawn. There was no middle ground of expediency or compromise. And he was modest. No man in public life used the first personal pronoun less frequently. It was his strong, forceful individuality, never self-assertive, that brought him to the fore in every enterprise in which he was engaged.

"The outside world knew him as the lawyer and statesman and respected and honored him as such. We, who are here assembled, knew him as a friend and neighbor, and we loved him. He is gone. We shall never again clasp his hand or look into his kind and sympathetic face. But such men do not die. They vanish in the concrete form, and that is all. One of his distinguished predecessors in the councils of the Nation, the late William H. Seward, was fond of repeating the following lines of unknown origin:

"There is no death; the stars go down
To rise upon some fairer shore,
And bright in heaven's jeweled crown
They shine forevermore.

"There is no death; an angel form
Walks o'er the earth with silent tread.
He bears our best-loved things away,
And then we call them dead.

"Born into that undying life,
They leave us but to come again;
In all, in everything, the same,
Except in grief and pain.

"And ever near us, though unseen,
The dear immortal spirits tread,
For all the boundless universe is life;
There are no dead.

"So shall we think of him in loving remembrance, not as dead, but as living and breathing in his works, and in the shining example of faith and courage which he has left us, a rich heritage for all the years to come.

"Mr. VAN KENNEN. Having heard the memorial resolutions, there being no objection thereto, I declare the same adopted.

"What is the further pleasure of the meeting?

"Mr. SPRATT. I move that the meeting adjourn.

"Maj. DANIELS. Second the motion.

"Mr. VAN KENNEN. It is moved and seconded that we adjourn. Carried."

The SPEAKER pro tempore. In accordance with the resolution previously adopted the Chair declares the House adjourned until 12 o'clock to-morrow morning.

Accordingly (at 12 o'clock and 47 minutes p. m.) the House adjourned to meet to-morrow, Monday, January 27, 1913, at 12 o'clock noon.

SENATE.

MONDAY, *January 27, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

FRANK O. BRIGGS, a Senator from the State of New Jersey, appeared in his seat to-day.

The Secretary proceeded to read the Journal of the proceedings of Friday last, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

HOMESTEAD ENTRYMEN IN NORTH IDAHO (S. DOC. NO. 1037).

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a statement showing by what authority of law and reason of facts there is inserted in patents issued to certain homestead entrymen in north Idaho a clause making the patents and the title of the entrymen subject to the application and rights of the Washington Water Power Co., which, with the accompanying paper, was referred to the Committee on Public Lands and ordered to be printed.

DISEASES AMONG INDIANS (S. DOC. NO. 1038).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a report prepared by the United States Public Health Service in accordance with the act approved August 24, 1912, of the investigations into the prevalence of contagious and infectious diseases among the Indians of the United States, which, with the accompanying paper and illustrations, was referred to the Committee on Indian Affairs and ordered to be printed.

DISPOSITION OF USELESS PAPERS.

The PRESIDENT pro tempore. The Chair lays before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, schedules of papers, books, and so forth, in the Interior Department not needed in the transaction of public business and of no historical or permanent value. The communication and accompanying papers will be referred to the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments. The Chair appoints as the committee on the part of the Senate the Senator from Arkansas, Mr. CLARKE, and the Senator from New Hampshire, Mr. BURNHAM. The Secretary will notify the House of Representatives of the appointment of the Committee on the part of the Senate.

HOUSE JOINT RESOLUTION REFERRED.

H. J. Res. 380. Joint resolution authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President-elect on March 4, 1913, etc., was read twice by its title and referred to the Committee on Public Buildings and Grounds.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bill and joint resolution:

S. 2666. An act granting an increase of pension to William P. Clark; and

S. J. Res. 145. Joint resolution to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property.

The message further announced that the House had passed the following bills, each with amendments, in which it requested the concurrence of the Senate:

S. 7160. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 8034. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 8035. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 3967. An act granting an increase of pension to John R. Fugill;

H. R. 27806. An act granting a pension to Mary MacArthur;

H. R. 27874. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 28282. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; and

H. R. 28379. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the President pro tempore:

S. 2666. An act granting an increase of pension to William P. Clark;

S. 6380. An act to incorporate the American Hospital of Paris;

H. R. 23451. An act to pay certain employees of the Government for injuries received while in the discharge of their duties;

S. J. Res. 145. Joint resolution to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913; and

H. J. Res. 210. Joint resolution authorizing the President to appoint a member of the New Jersey and New York Joint Harbor Line Commission.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a memorial of the Union of American Hebrew Congregations held at Cincinnati, Ohio, remonstrating against the adoption of the so-called illiteracy-test amendment to the immigration bill, which was ordered to lie on the table.

Mr. NELSON presented memorials of the congregations of the Seventh-day Adventist Churches of Stillwater, Litchfield, Foldahl, Hutchinson, Pipestone, Mankato, and Alexandria, all in the State of Minnesota, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented a petition of the Minneapolis Drug Co. of Minnesota, praying for the repeal of the duty on sponges, which was referred to the Committee on Finance.

He also presented resolutions adopted by Local Branch No. 28, National Association of Letter Carriers, of St. Paul, Minn., favoring the enactment of legislation providing compensation to Federal employees injured in the line of duty, which were referred to the Committee on the Judiciary.

Mr. BRISTOW presented a memorial of sundry citizens of Salina, Kans., remonstrating against the parole of Federal life prisoners, which was ordered to lie on the table.

He also presented a memorial of Local Union No. 459, Farmers' Educational and Cooperative Union, of Caldwell, Kans., remonstrating against the passage of the so-called agricultural extension bill, which was ordered to lie on the table.

He also presented a memorial of sundry citizens of Ransom, Kans., remonstrating against the enactment of legislation authorizing the Government of the United States to issue bonds for the loan of money to the farmers of the country, which was referred to the Committee on Agriculture and Forestry.

He also presented memorials of the congregations of the Seventh-day Adventist Churches of Great Bend and Pleasanton, in the State of Kansas, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented a petition of the Woman's Christian Temperance Union of Baldwin City, Kans., and a petition of sundry citizens of Mound Valley, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of sundry citizens of Lawrence, Kans., praying that an investigation be made into the refusal of the Department of the Interior to permit the leasing of Osage Indian lands to the Uncle Sam Oil Co., etc., which was referred to the Committee on Public Lands.

Mr. SUTHERLAND presented a resolution adopted by the German-American Historical Society of Philadelphia, Pa., favoring an appropriation for the erection of a national archives building in the city of Washington, D. C., which was referred to the Committee on Public Buildings and Grounds.

He also presented a memorial of the congregation of the Seventh-day Adventist Church of Provo, Utah, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. GARDNER presented a petition of Local Grange, Patrons of Husbandry, of Hartland, Me., and a petition of Mystic Tie Grange, Patrons of Husbandry, of Kenduskeag, Me., praying for the passage of the so-called Page vocational education bill, which were ordered to lie on the table.

Mr. RICHARDSON presented a petition of the congregation of the First Baptist Church of Dover, Del., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. HITCHCOCK presented memorials of the congregations of the Seventh-day Adventist Churches of Bridgeport, Crawford, Sartoria, Bartley, and Holbrook, all in the State of Nebraska, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. PENROSE presented a resolution adopted by the board of directors of the Philadelphia Bourse, of Pennsylvania, and a resolution adopted by the Board of Trade of Philadelphia, Pa., praying for a reduction to 1 cent of the rate of postage on first-class mail matter, which were referred to the Committee on Post Offices and Post Roads.

He also presented a resolution adopted by members of the Board of Trade of Philadelphia, Pa., favoring an appropriation for the erection of a customhouse building at that port, etc., which was referred to the Committee on Public Buildings and Grounds.

Mr. SHIVELY presented memorials of the congregations of the Seventh-day Adventist Churches of Peru, Unionville, Pleasant View, and Kennard, all in the State of Indiana, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented memorials of W. H. Mack, B. E. Kirkpatrick, Dr. T. W. Powell, and 56 other citizens of South Bend, Ind., remonstrating against the repeal of the law providing for the closing of post offices on Sunday, which were referred to the Committee on Post Offices and Post Roads.

Mr. McLEAN presented a petition of the State board of agriculture of Connecticut, praying for the passage of the so-called agricultural extension bill, which was ordered to lie on the table.

Mr. CRANE presented a petition of sundry citizens of Ashburnham, Mass., praying for the passage of the so-called Kenyon "red light" injunction bill, which was ordered to lie on the table.

Mr. BROWN presented a petition of sundry citizens of Minden, Nebr., praying for the passage of the so-called Kenyon "red light" injunction bill, which was ordered to lie on the table.

He also presented petitions of the Central Labor Union of Lincoln, Nebr.; of the Central Labor Union of Elkhart, Ind.; of the Boot and Shoe Workers' Union of Therrin, Ill.; and of the Boot and Shoe Workers' Association of Brockton, Mass., praying for the enactment of legislation to limit the effect of the regulation of interstate commerce between the States in goods, wares, and merchandise wholly or in part manufactured by convict labor or in any prison or reformatory, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Laurel, Nebr., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. ROOT presented a petition of M. D. Russell Camp, No. 2, United Spanish War Veterans, of Troy, N. Y., praying for the enactment of legislation granting pensions to widows and minor children of Spanish War veterans, which was referred to the Committee on Pensions.

He also presented memorials of sundry members of the Seventh-day Adventist Churches of Adams Center, Lincklaen Center, Albany, Oneida, Elmira, Schenectady, West Pierpont, Jeddo, Ogdensburg, Watertown, Olean, Vienna, Rome, Lockport, Ellicottville, and Buffalo, all in the State of New York, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. POINDEXTER presented resolutions adopted by members of the Benevolent and Protective Order of Elks of Bremerton, Wash., favoring an appropriation for the purchase of Mount Vernon by the Government, which were referred to the Committee on the Library.

Mr. GALLINGER presented the petition of Rev. Henry G. Ives, of Proctor Academy, Andover, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. SUTHERLAND, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 7772) to authorize the condemnation of land for a park at the intersection of Twenty-sixth Street, Twenty-seventh Street, and Q Street NW., and a highway from said park along the boundary of Oak Hill Cemetery and across the north part of square 1284 to Twenty-ninth and R Streets, reported it with an amendment and submitted a report (No. 1157) thereon.

Mr. MARTIN of Virginia, from the Committee on Commerce, to which was referred the bill (S. 8182) granting to the Inter-City Bridge Co., its successors and assigns, the right to construct, acquire, maintain, and operate a railway bridge across the Mississippi River, reported it without amendment and submitted a report (No. 1158) thereon.

Mr. McCUMBER, from the Committee on Pensions, submitted a report (No. 1155), accompanied by a bill (S. 8274) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, the bill being a substitute for the following Senate bills heretofore referred to that committee:

S. 43. William Q. Mahan.
S. 646. Elmer Howe.
S. 657. Annie George.

S. 716. Flavius J. Jordan.
S. 929. Ellen E. Payne.
S. 1017. Sarah A. Perkins.
S. 1034. John Murphy.
S. 1906. John M. Guthrie.
S. 2368. Fannie L. Graham.
S. 2431. Reuben Bronson.
S. 2523. Mary E. Briggs.
S. 2686. Susannah Elmore.
S. 2984. John Dodgion.
S. 3230. Wiley C. Hunter.
S. 3430. James A. Swaney.
S. 3450. Aldano Neal.
S. 3521. Samuel Elliott.
S. 3537. William Cook.
S. 3544. Henry E. Hayes.
S. 3670. Samuel M. Skelton.
S. 3671. Elijah H. Spencer.
S. 3724. James H. Cowan.
S. 3731. William H. Chapman.
S. 3735. Warner P. Price.
S. 3744. Jacob Bowser.
S. 3785. Henry Basemann.
S. 3789. Elmer Joseph.
S. 3790. Lorenzo Birch.
S. 3919. Daniel Van Syckel.
S. 3976. Frederick H. Williams.
S. 3982. Titus Rexroad (now known as Titus S. Rector).
S. 4122. Martha A. Johnson.
S. 4177. John Moulton.
S. 4199. James B. Davis.
S. 4532. Sarah F. Elwell.
S. 4921. Lyman B. Gillett.
S. 4971. Sarah J. Wilson.
S. 5000. Oliver Jones.
S. 5103. Abel Grovenor.
S. 5236. Henry Harris.
S. 5264. Byron M. Standish.
S. 5281. Jane Starrett.
S. 5531. William H. Warren.
S. 5634. George W. Sills.
S. 5795. James R. C. Fiak.
S. 5822. Arthur F. McNally.
S. 5940. Walter Niles.
S. 6005. Amos R. Sutton.
S. 6032. John H. Howlett.
S. 6106. George W. Youngs.
S. 6116. Frankie E. Bedell.
S. 6206. Joseph Cole.
S. 6211. Jonas Skinner.
S. 6280. William Monks.
S. 6291. Inger A. Steensrud.
S. 6345. Reuhard Habig.
S. 6430. Marion O. Brown.
S. 6474. John E. Watkins.
S. 6552. Samuel Green.
S. 6638. George H. Batchelder.
S. 6702. George H. Torrence.
S. 6769. Levi H. Hahn.
S. 6788. Joseph Johnson.
S. 6790. Arbell Skaggs.
S. 6825. Clara H. Scott.
S. 6836. Charles W. Ash.
S. 6844. William H. Clouser.
S. 6846. Thomas S. Underwood.
S. 6900. Charlotte Lewis McMahon.
S. 7075. George W. Thompson.
S. 7092. Frederick D. Skinner.
S. 7103. Catherine Benson.
S. 7113. William Putnam.
S. 7177. Ezekiel R. Thomas.
S. 7212. Lucius E. Fletcher.
S. 7231. Samuel E. Merriam.
S. 7233. William J. Heal.
S. 7234. Andrew E. Clark.
S. 7235. Isaac A. Conant.
S. 7314. Thomas McKenna.
S. 7345. Ophella A. Comstock.
S. 7359. Mary J. Weeks.
S. 7386. Luriette S. Case.
S. 7417. Adaline Minnett.
S. 7477. John G. K. Ayers.
S. 7541. Anna M. Johnson.
S. 7555. Thomas B. Foutty.
S. 7575. Moses Rowell.
S. 7616. Huldah Nesbitt.
S. 7645. Charles S. Penley.
S. 7646. David H. Gray.
S. 7682. John Snyder.
S. 7710. Mary M. Croft.
S. 7712. Riley Hawley.
S. 7823. Mary E. Workman.
S. 7857. Hellen L. Chatfield.
S. 7900. John Sanderson.
S. 7922. Caroline J. McBratney.
S. 7949. John C. Vennum.
S. 7964. John Painter.
S. 7965. Lefford Mathews.
S. 7981. Francis W. Crumpton.
S. 7986. John Wells.
S. 7995. Charles Herbstreith.
S. 8018. Joseph Girdler.
S. 8049. Harvey T. Smith.
S. 8063. Francis M. Bishop (alias Marion F. Bishop)
S. 8069. Richard T. Blaikie.
S. 8078. Marcellus B. Kent.
S. 8095. George W. Seymour.
S. 8119. Lucinda M. Fuller.
S. 8146. John Emanuel Smith.
S. 8149. Catherine Soper.

Mr. McCUMBER, from the Committee on Pensions, submitted a report (No. 1156), accompanied by a bill (S. 8275), granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, the bill being a substitute for the following Senate bills heretofore referred to that committee:

S. 199. John W. Slaughter.
S. 443. Warren Hilliard.
S. 824. Louisa A. Thatcher.
S. 1360. George Holledere.
S. 1706. Charles W. Camp.
S. 2213. George R. Smith.
S. 3669. Edward Seaton.
S. 3720. Florida Kennerly.
S. 3845. Charles M. Baughman.
S. 3943. Elizabeth S. Lewerenz.
S. 5751. Minnie Wadsworth Wood.
S. 5778. Francis Redmond.
S. 6015. Charles E. Harris.
S. 6236. Annie V. Smith.
S. 6969. Barbara B. Haws.
S. 7016. Martha A. Hughes.
S. 7088. Charles L. Stevens.
S. 7097. Emily W. Tilley.
S. 7228. James McMahon.
S. 7320. Israel Wood.
S. 7347. George W. Thurman.
S. 7436. Andrew G. Aiken.
S. 7458. James P. Bartlett.
S. 7579. Mary F. Read.
S. 7739. William Cornell.
S. 7756. Michael Hoffman.
S. 7808. Orman F. Hibbard.
S. 7860. Emma Myers.
S. 7930. Frederick M. Douglass.
S. 7950. Sara S. Dowdy.
S. 8015. Green Hines.
S. 8074. Esther B. Shultz.

Mr. CUMMINS, from the Committee on the Judiciary, to which was referred the bill (H. R. 25002) to amend section 73 and section 76 of the act of August 27, 1894, reported it with amendment and submitted a report (No. 1159) thereon.

Mr. LODGE. From the Committee on Finance, I report the bill (H. R. 12813) to refund duties collected on lace-making and other machines and parts or accessories thereof imported subsequently to August 5, 1909, and prior to January 1, 1911, without amendment, and I submit a report (No. 1160) thereon. I ask that the report of the House committee be printed as the Senate report to accompany the bill.

The PRESIDENT pro tempore. Without objection, it is so ordered.

INAUGURAL CEREMONIES.

Mr. SUTHERLAND. From the Committee on Public Buildings and Grounds, I report back favorably without amendment the joint resolution (H. J. Res. 380) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President-elect on March 4, 1913, and so forth, and I ask for its immediate consideration.

I was authorized by the Committee on Public Buildings and Grounds to report this House joint resolution with an amendment providing that one of the spaces in the city of Washington, namely, that opposite the south front of the Treasury Building, should be set apart for the use of the Woman Suffrage Association upon the occasion of their pageant on the 3d day of March. But I was further instructed by the committee that if satisfactory arrangements were made in the meantime with the Secretary of War and the inaugural committee by which the ladies could have the use of this space, then I was to withhold that amendment. Those satisfactory arrangements have been made, and I am in receipt of letters, both from the War Department and from the chairman of the inaugural committee, to that effect. Therefore, in accordance with the instructions of the committee, I report the joint resolution without amendment.

The PRESIDENT pro tempore. The Senator from Utah asks for the present consideration of the joint resolution.

Mr. BRISTOW. Let us have it read. I have not the slightest idea what is in it.

The PRESIDENT pro tempore. The joint resolution will be read for the information of the Senate.

The Secretary read the joint resolution; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PANAMA CANAL TRAFFIC AND TOLLS.

Mr. SMOOT. From the Committee on Printing I report favorably, with amendments, Senate concurrent resolution 33, providing for the printing, binding, and distribution of 6,000 copies of the Report upon Panama Canal Traffic and Tolls, prepared by Emory R. Johnson, special commissioner, and I ask for its present consideration.

The amendments were, in line 3, before the word "thousand," to strike out "six" and insert "four," and in line 11, after the words "House of Representatives," to strike out "and 3,000 shall be delivered to the superintendent of the House document room for distribution" and insert "and 1,000 for the use of the Committee on Interoceanic Canals of the Senate," so as to make the concurrent resolution read:

Resolved by the Senate (the House of Representatives concurring), That there shall be printed and bound in cloth, with accompanying maps, 4,000 copies of the Report upon Panama Canal Traffic and Tolls, prepared for the President by Emory R. Johnson, special commissioner on traffic and tolls; that the copies here ordered shall be printed from plates recently prepared for the Isthmian Canal Commission and now in the possession of the Government Printing Office; and that of the copies printed 1,000 shall be for the use of the Senate, 2,000 for the use of the House of Representatives, and 1,000 for the use of the Committee on Interoceanic Canals of the Senate.

The amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

STATUE OF THOMAS JEFFERSON.

Mr. SWANSON, from the Committee on Industrial Expositions, to which was referred Senate resolution 407, providing for the appointment of a committee of Senators to attend and represent the Senate at the unveiling and dedication of a memorial statue to Thomas Jefferson at St. Louis, Mo., on April 30, 1913, in commemoration of the acquisition of the Louisiana Territory, reported it without amendment, and it was considered by unanimous consent, and agreed to, as follows:

Whereas the president of the Louisiana Purchase Exposition Co. has informed the Senate that with the approval of Congress, as expressed by an act of March 4, 1909, the Louisiana Purchase Exposition has erected upon the site of the World's Fair in the city of St. Louis a memorial to Thomas Jefferson at a cost of $450,000, in commemoration of the acquisition of the Louisiana Territory; and

Whereas this statue of Mr. Jefferson is to be unveiled and dedicated on the one hundred and tenth anniversary of the signing of the Louisiana Purchase treaty, the 30th of April, 1913; and

Whereas the trustees in charge of this great memorial have, through the president of the exposition company, requested the presence of a committee of the United States Senate to participate in the dedicatory services on the day named: Therefore be it

Resolved, That a committee of Senators, to be composed of Mr. ROOT of New York, chairman of the Committee on Industrial Expositions; Mr. BACON of Georgia, and Mr. GALLINGER of New Hampshire, the Presidents pro tempore of the Senate; Mr. MARTIN of Virginia; Mr. CUMMINS of Iowa; Mr. REED of Missouri; Mr. NELSON of Minnesota; and Mr. STONE of Missouri, be appointed to attend and represent the Senate in the unveiling and dedication of said memorial.

CAROLINE O. BALLARD.

Mr. BRIGGS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution No. 439, to pay to Caroline O. Ballard a sum equal to six months' pay of her late husband, William S. Ballard, a Senate messenger, submitted by Mr. PENROSE on the 23d instant, reported it without amendment.

CONTRIBUTIONS FOR CAMPAIGN PURPOSES.

Mr. BRIGGS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution No. 418, amending Senate resolution No. 79, agreed to August 26, 1912, submitted by Mr. CLAPP on the 6th instant, reported it without amendment.

FUNERAL EXPENSES OF THE LATE SENATOR JEFF DAVIS.

Mr. BRIGGS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution No. 425, authorizing the Secretary of the Senate to pay the actual expenses incurred by the committee attending the funeral of the late Senator JEFF DAVIS, submitted by Mr. BRISTOW on the 7th instant, reported it without amendment.

MEMORIAL SERVICES FOR THE LATE VICE PRESIDENT.

Mr. BRIGGS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution No. 435, setting apart a day for appropriate exercises in commemoration of the life, character, and public services of the late Vice President, submitted by Mr. CUMMINS on the 15th instant, reported it without amendment.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

Mr. McCUMBER. On behalf of the senior Senator from Kansas [Mr. CURTIS], who is necessarily absent from the Senate, I introduce two bills, which I ask may be read twice by their titles and referred to the Committee on Pensions.

By Mr. McCUMBER (for Mr. CURTIS):

A bill (S. 8276) granting a pension to Emily C. Thompson; and

A bill (S. 8277) granting a pension to Mrs. John S. Brannan; to the Committee on Pensions.

By Mr. MARTINE of New Jersey:

A bill (S. 8278) to provide for the construction of a lighthouse and fog-signal station in the vicinity of Goose Island Flats, Delaware River, N. J.; to the Committee on Commerce.

By Mr. WORKS:

A bill (S. 8279) to amend an act approved October 1, 1890, entitled "An act to set apart certain tracts of land in the State of California as forest reservations"; to the Committee on Public Lands.

By Mr. PENROSE:

A bill (S. 8280) for the relief of Louisa Weaver; to the Committee on Claims.

A bill (S. 8281) granting an increase of pension to John R. Jones (with accompanying papers); and

A bill (S. 8282) granting a pension to Mary A. Heck (with accompanying papers); to the Committee on Pensions.

By Mr. NELSON (for Mr. CLARK of Wyoming):

A bill (S. 8283) to promote and encourage the construction of wagon roads over the public lands of the United States; to the Committee on Public Lands.

A bill (S. 8284) granting an increase of pension to Mary R. Kendall (with accompanying paper); to the Committee on Pensions.

By Mr. GARDNER:

A bill (S. 8285) for the relief of Effie M. Rowse (with accompanying papers); to the Committee on Claims.

By Mr. CRANE:

A bill (S. 8286) for the relief of Charles A. McHugh; to the Committee on Claims.

By Mr. McLEAN:

A bill (S. 8287) granting an increase of pension to James T. Mather (with accompanying papers);

A bill (S. 8288) granting an increase of pension to Eliza A. Foulkes (with accompanying papers); and

A bill (S. 8289) granting an increase of pension to Ralph Kent, jr. (with accompanying papers); to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 8290) for the erection of a public building at Washington, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. POINDEXTER:

A bill (S. 8291) granting an increase of pension to Bernhardt R. Britton; and

A bill (S. 8292) granting an increase of pension to Margaret Kuster; to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. BRANDEGEE submitted an amendment proposing to appropriate $80,000 for improving the harbor at New Haven, Conn., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. MARTINE of New Jersey submitted an amendment providing for the further improvement of the Hudson (North) River channel of New York Harbor, intended to be proposed by him to the river and harbor appropriation bill, which was ordered to be printed and, with the accompanying paper, referred to the Committee on Commerce.

He also submitted an amendment relative to the compensation of letter carriers in the City and Rural Delivery Services and clerks in the first and second class post offices who are injured while performing their duties, etc., intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

Mr. CLARKE of Arkansas submitted an amendment providing for the revetment and improvement of the right bank of the Mississippi River near North Helena, Ark., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $30,000 for completing the work now being done in protecting the north bank of Arkansas River in front of the Crawford County levee, south of Van Buren, and so forth, intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. GRONNA submitted an amendment proposing to appropriate $10,000 for the establishment of a national game preserve, to be known as the North Dakota National Game Preserve, upon the land embraced within the boundaries of the Sully's Hill National Park, N. Dak., and so forth, intended to be proposed by him to the agriculture appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. SHIVELY submitted an amendment proposing to change the location and straighten the course of the channel of the Grand Calumet River through the lands of the Gary Land Co. and the Indiana Steel Co., and so forth, intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. OWEN submitted an amendment proposing to appropriate $25,000 for payment of salaries of employees and other expenses of advertisement and sale in connection with the disposition of the unallotted lands and other tribal property belonging to the Five Civilized Tribes, and so forth, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment authorizing the Secretary of the Interior to make a per capita payment of such amounts as he may deem advisable to the enrolled members of the Five Civilized Tribes entitled under existing laws to share in the funds of those tribes, and so forth, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to expend $10,000 out of any funds in the Treasury belonging to the Choctaw Tribe of Indians of Oklahoma, for the use and benefit of the Old Goodland Indian Industrial School near Hugo, Okla., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment providing for the expenses incident to and in connection with the collection of rents of unallotted lands and tribal buildings, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. CRANE submitted an amendment proposing to appropriate $1,500 to pay to the town of Winthrop, Mass., being one-half of the cost of a sidewalk and edgestones to be constructed on that portion of Revere Street abutting the Fort Banks Military Reservation, intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

CANCELLATION OF HOMESTEAD ENTRIES.

Mr. PERKY. I submit a resolution and ask unanimous consent for its present consideration.

The Secretary read the resolution (S. Res. 442), as follows:

Resolved, That the Secretary of the Interior be directed to advise the Senate whether or not the department contemplates the cancellation of any homestead entries upon any of the United States reclamation projects in Idaho because of the failure of entrymen to make payment covering the operation and maintenance charges, and if so, the names of the entrymen and a description of the location of their entries.

Mr. SMOOT. I should like to ask the Senator from Idaho if he has received any intimation that such a move was to be made on the part of the Secretary of the Interior?

Mr. PERKY. I have received information in regard to the matter from very reliable sources and from associations whose membership is directly interested in the subject.

Mr. SMOOT. I should like to have the resolution again read, as I did not hear the first part of it.

The PRESIDENT pro tempore. The resolution will be again read.

The Secretary again read the resolution.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

The resolution was considered by unanimous consent and agreed to.

ERNEST C. STAHL.

Mr. CATRON. I move to reconsider the vote by which the bill (S. 7620) for the relief of Ernest C. Stahl was indefinitely postponed.

The motion to reconsider was agreed to.

Mr. CATRON. I move that the bill be recommitted to the Committee on Military Affairs.

The motion was agreed to.

NATIONAL INSTITUTE OF ARTS AND LETTERS.

Mr. ROOT. A few days ago the Senator from Massachusetts [Mr. LODGE] asked that an order be entered to recall from the House the bill (S. 4355) incorporating the National Institute of Arts and Letters, and the bill (S. 4356) incorporating the National Academy of Arts and Letters. I move that the votes by which the bill (S. 4355) incorporating the National Institute of Arts and Letters was passed be reconsidered, and that the bill be postponed indefinitely.

The motion was agreed to.

Mr. ROOT. From the Committee on the Judiciary, I report favorably without amendment the bill (H. R. 18841) incorporating the National Institute of Arts and Letters. The bill is identical with the Senate bill which has just been postponed indefinitely, and I ask unanimous consent for its present consideration.

Mr. SMITH of Georgia. Mr. President, unless it is absolutely necessary that the matter be disposed of immediately, I should like to see what the bill is before we act upon it.

Mr. LODGE. The request is simply to substitute the House bill for the Senate bill which has passed the Senate. The bills are identical. The Senate bill was recalled from the other House on my motion to permit the substitution to be made.

Mr. SMITH of Georgia. Very well.

Mr. SHIVELY. I ask that the bill be read, and I understand the Senator from New York to say that the bill is identical with the one which passed the Senate and that the only purpose of this movement is to expedite its final passage.

Mr. ROOT. Precisely.

Mr. SHIVELY. Very well.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. LODGE. Mr. President, in the absence of the Senator from New York, I made the request that the bill (S. 4355) incorporating the National Institute of Arts and Letters and the bill (S. 4356) incorporating the National Academy of Arts and Letters be recalled from the House. I ask that the order recalling Senate bill 4356 be vacated.

The PRESIDENT pro tempore. In the absence of objection that order will be made.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WETMORE. I move that the Senate insist on its amendments and accede to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. WARREN, Mr. WETMORE, and Mr. FOSTER the conferees on the part of the Senate.

AMERICAN HOSPITAL OF PARIS.

Mr. MARTIN of Virginia submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6380) to incorporate the American Hospital of Paris, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House, and agree to the same.

J. H. GALLINGER,
CHARLES CURTIS,
THOMAS S. MARTIN,
Managers on the part of the Senate.

HENRY D. CLAYTON,
JOHN W. DAVIS,
JOHN A. STERLING,
Managers on the part of the House.

The report was agreed to.

IMMIGRATION OF ALIENS.

Mr. LODGE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses to the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States" having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

Strike out the text inserted by the House amendment and insert in lieu thereof the following:

"That the word 'alien' wherever used in this act shall include any person not a native born or naturalized citizen of the United States, or who has not declared his intention of becoming a citizen of the United States in accordance with law; but this definition shall not be held to include Indians not taxed or citizens of the islands under the jurisdiction of the United States. That the term 'United States' as used in the title as well as in the various sections of this act shall be construed to mean the United States and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. That the term 'seaman' as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign port or place.

"That this act shall be enforced in the Philippine Islands by officers of the General Government thereof designated by appropriate legislation of said Government.

"SEC. 2. That there shall be levied, collected, and paid a tax of $5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who shall enter the United States after an uninterrupted residence of at least one year, immediately preceding such entrance, in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, nor on account of otherwise admissible residents of any possession of the United States, nor on account of aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, by agreement with transportation lines, as provided in section 23 of this act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: *Provided further*, That said tax, when levied upon aliens entering the Philippine Islands, shall be paid into the treasury of said islands, to be expended for the benefit of such islands: *Provided further*, That in the cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall upon application be refunded to the alien: *Provided further*, That the provisions of this section shall not apply to aliens arriving in Guam or Hawaii; but if any such alien, not having become a citizen of the United States, shall later arrive at any port or place of the United States on the North American Continent the provisions of this section shall apply.

"SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had one or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally of the Government of the United States or of any other organized government, because of his or their official character; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port the Secretary of Commerce and Labor shall have consented to their reapplying for admission; persons whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway may be admitted in the discretion of the Secretary of Commerce and Labor; all children under 16 years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe; persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchant, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or

occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

"That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

"All aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips, of uniform size, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plainly legible type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this act relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign Government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Commerce and Labor to be reached after a full hearing and an investigation into the facts of the case; but such determination shall not become final until a period of 30 days has elapsed. Within three days after such determination the Secretary of Commerce and Labor shall cause to be published a brief statement reciting the substance of the application, the facts presented at the hearing and his determination thereon, in three daily newspapers of general circulation in three of the principal cities of the United States. At any time during said period of 30 days any person dissatisfied with the ruling may appeal to the district court of the United States of the district into which the labor is sought to be brought, which court or the judge thereof in vacation shall have jurisdiction to try de novo such question of necessity, and the decision in such court shall be final. Such appeal shall operate as a supersedeas: *Provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants: *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign Government to its citizens or subjects to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone: *Provided further*, That nothing in this act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of a concession or privilege for any fair or exposition authorized by act of Congress, from bringing into the United States, under contract, such alien mechanics, artisans, agents, or other employees, natives of his country, as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may prescribe both as to the admission and return of such persons: *Provided further*, That nothing in this act shall be construed to apply to accredited officials of foreign Governments nor to their suites, families, or guests: *Provided further*, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

"SEC. 4. That the importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import, into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall in every such case be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than 10 years and by a fine of not more than $5,000. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or in any district in which a violation of any of the foregoing provisions of this section occur. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this act which relate to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to or to enter the United States shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than two years. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against a wife or husband.

"SEC. 5. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to induce, assist, encourage, or solicit the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the provisions of section 3 of this act, and for every violation of any of the provisions of this section the person, partnership, company, or corporation violating the same shall forfeit and pay for every such offense the sum of $1,000, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such aliens thus offered or promised employment as aforesaid, as debts of like amount are now recovered in the courts of the United States; or for every violation of the provisions hereof the person violating the same may be prosecuted in a criminal action for a misdemeanor, and on conviction thereof shall be punished by a fine of $1,000, or by imprisonment for a term of not less than six months nor more than two years; and under either the civil or the criminal procedure mentioned separate suits or prosecutions may be brought for each alien thus offered or promised employment as aforesaid.

"SEC. 6. That it shall be unlawful and be deemed a violation of section 5 of this act to induce, assist, encourage, or solicit any alien to come into the United States by promise of employment through advertisements printed, published, or distributed in any foreign country, whether such promise is true or false, and either the civil or the criminal penalty imposed by said section shall be applicable to such a case: *Provided*, That States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States may advertise, and by written or oral communication with prospective alien settlers make known, the inducements they offer for immigration thereof, respectively.

"SEC. 7. That it shall be unlawful for any person, association, society, company, partnership, corporation, or others engaged in the business of transporting aliens to the United States, including owners, masters, officers, and agents of vessels, directly or indirectly, by writing, printing, or oral representation, to solicit, invite, or encourage any alien to come into the United States, and anyone violating any provision hereof shall be subject to either the civil or the criminal prose-

cution prescribed by section 5 of this act; or if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any owner, master, officer, or agent of a vessel has brought or caused to be brought to a port of the United States any alien so solicited, invited, or encouraged to come by such owner, master, officer, or agent, such owner, master, officer, or agent shall pay to the collector of customs of the customs district in which the port of arrival is located or in which any vessel of the line may be found the sum of $400 for each and every such violation; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while the fine imposed remains unpaid; nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit with the collector of customs of a sum sufficient to cover such fine: *Provided further*, That whenever it shall be shown to the satisfaction of the Secretary of Commerce and Labor that the provisions of this section are persistently violated by or on behalf of any transportation company, it shall be the duty of said Secretary to deny to such company the privilege of landing alien immigrant passengers of any or all classes at United States ports for such a period as in his judgment may be necessary to insure an observance of such provisions: *Provided further*, That this section shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements confined strictly to stating the sailings of their vessels and terms and facilities of transportation therein.

"SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, or shall conceal or harbor, or attempt to conceal or harbor, or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment for each and every alien so landed or brought in or attempted to be landed or brought in.

"SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel, to bring to the United States any alien afflicted with idiocy, insanity, imbecility, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200 for each and every violation of the provisions of this section. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental or physical defect of a nature which may affect his ability to earn a living, as contemplated in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25 for each and every violation of this provision. It shall also be unlawful for any such person to bring to any port of the United States any alien who is excluded by the provisions of section 3 of this act because unable to read or who can not become eligible, under existing law, to become a citizen of the United States by naturalization, as provided in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens from a foreign port such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $100 for each and every violation of this provision. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, or while the fine remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 10. That it shall be the mandatory and unqualified duty of every person, including owners, officers, and agents of vessels or transportation lines, other than those lines which may enter into a contract as provided in section 23 of this act, bringing an alien to any seaport or land border port of the United States to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers, and the failure of any such owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than one hundred nor more than one thousand dollars or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Commerce and Labor it is impracticable or inconvenient to prosecute the owner, master, officer, or agent of any such vessel, a pecuniary penalty of $1,000 shall be a lien upon the vessel whose owner, master, officer, or agent violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United States court.

"SEC. 11. That whenever he may deem such action necessary the Secretary of Commerce and Labor may, at the expense of the appropriation for the enforcement of this act, detail immigrant inspectors and matrons of the United States Immigration Service for duty on vessels carrying immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. On such voyages said inspectors and matrons shall remain in that part of the vessel where immigrant passengers are carried. It shall be the duty of such inspectors and matrons to observe such passengers during the voyage, and report to the immigration authorities in charge at the port of landing any information of value in determining the admissibility of such passengers under the laws regulating immigration of aliens into the United States. It shall further be the duty of such inspectors and matrons to observe violations of the provisions of such laws and the violation of such provisions of the "passenger act" of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and report the same to the proper United States officials at ports of landing. Whenever the Secretary of Commerce and Labor so directs, a surgeon of the United States Public Health Service, detailed to the Immigration Service, not lower in rank than a passed assistant surgeon, shall be received and carried on any vessel transporting immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. Such surgeons shall be permitted to investigate and examine the condition of all immigrant and emigrant passengers in relation to any provisions of the laws regulating the immigration of aliens into the United States and such provisions of the "passenger act" of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and shall immediately report any violation of said laws to the master or commanding officer of the vessel, and shall also report said violations to the Secretary of Commerce and Labor within 24 hours after the arrival of the vessel at the port of entry in the United States. Such surgeon shall accompany the master or captain of the vessel in his visits to the sanitary officers of the ports of call during the voyage, and, should contagious or infectious diseases prevail at any port where passengers are received, he shall request all reasonable precautionary measures for the health of persons on board. Such surgeon on arrival at ports of the United States shall also, if requested by the examining board, furnish any information he may possess in regard to immigrants arriving on the vessel to which he has been detailed. While on duty such surgeons shall wear the prescribed uniform of their service and shall be provided with first-class accommodations on such vessel at the expense of the appropriation for the enforcement of this act. For every violation of this section any person, including any transportation company, owning or operating the vessel in which such violation occurs shall pay to the collector of customs of the customs district in which the next United States port of arrival is located the sum of $1,000 for each and every day during which such violation continues, the term "violation" to include the refusal of any person having authority so to do to permit any such immigrant inspector, matron, or surgeon to be received on board such vessel, as provided in this section, and also the refusal of the master or commanding officer of any such vessel to permit the inspections

and visits of any such surgeon, as provided in this section, and no vessel shall be granted clearance papers pending the determination of the question of the liability of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of all such questions upon the deposit of a sum sufficient to cover such fines and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 12. That upon the arrival of any alien by water at any point within the United States on the North American Continent from a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or at any port of the said insular possessions from any foreign port, from a port in the United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners, or consignees of the steamer, sailing, or other vessel having said alien on board to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, contain full and accurate information as to each alien as follows: Full name, age, and sex; whether married or single; calling or occupation; personal description (including height, complexion, color of hair and eyes, and marks of identification); whether able to read; nationality; country of birth; race; country of last permanent residence; name and address of the nearest relative in the country from which the alien came; seaport for landing in the United States; final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; by whom passage was paid; whether going to join a relative or friend, and if so, what relative or friend, and his or her name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane or supported by charity; whether a polygamist; whether an anarchist; whether a person who believes in or advocates the overthrow by force or violence of the Government of the United States or of all forms of law, or who disbelieves in or is opposed to organized government, or who advocates the assassination of public officials, or is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States; the alien's condition of health, mental and physical; whether deformed or crippled, and if so, for how long and from what cause; and such master or commanding officer, owners, or consignees shall also furnish information in relation to the sex, age, class of travel, and the foreign port of embarkation of arriving passengers who are United States citizens. That it shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or from any port of the said insular possession to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with the immigration officials before departure a list which shall contain full and accurate information in relation to the following matters regarding all alien passengers, and all citizens of the United States or insular possessions of the United States departing with the stated intent to reside permanently in a foreign country, taken on board: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States or insular possessions thereof; if a citizen of the United States or of the insular possessions thereof, whether native born or naturalized; intended future permanent residence; and time and port of last arrival in the United States or insular possessions thereof; and such master or commanding officer shall also furnish information in relation to the sex, age, class of travel, and port of debarkation of the United States citizens departing who do not intend to reside permanently in a foreign country, and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each person of the classes specified taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall be punishable as provided in section 14 of this act: *Provided*, That in the case of vessels making regular trips to ports of the United States the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further*, That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen, whether native born or naturalized.

"SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, the names of those coming from the same locality to be assembled so far as practicable, and no one list or manifest shall contain more than 30 names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, etc., is contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is of any of the classes excluded from admission into the United States by section 3 of this act, and that also according to the best of his knowledge and belief, the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessels, and the manifests shall be verified by such surgeon before a United States consular officer.

"SEC. 14. That it shall be unlawful for the master or commanding officer of any vessel bringing aliens into or carrying aliens out of the United States to refuse or fail to deliver to the immigration officials the accurate and full manifests or statements or information regarding all aliens on board or taken on board such vessel required by this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a refusal or failure, or that the lists delivered are not accurate and full, such master or commanding officer shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each alien concerning whom such accurate and full manifest or statement or information is not furnished, or concerning whom the manifest or statement or information is not prepared and sworn to as prescribed by this act. No vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine.

"SEC. 15. That upon the arrival at a port of the United States of any vessel bringing aliens it shall be the duty of the proper immigration officials to go or to send competent assistants to the vessel and there inspect all such aliens, or said immigration officials may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of

this act bind the said transportation lines, masters, agents, owners, or consignees: *Provided*, That where removal is made to premises owned or controlled by the United States, said transportation lines, masters, agents, owners, or consignees, and each of them shall, so long as detention there lasts, be relieved of responsibility for the safekeeping of such aliens. Whenever a temporary removal of aliens is made the transportation lines which brought them and the masters, owners, agents, and consignees of the vessel upon which they arrive shall pay all expenses of such removal and all expenses arising during subsequent detention, pending decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, such expenses to include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel in the event of deportation, excepting only where they arise under the terms of any of the provisos of section 18 thereof. Any refusal or failure to comply with the provisions hereof to be punished in the manner specified in section 18 of this act.

"SEC. 16. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service, who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine, and who shall certify, for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service, upon such terms as may be prescribed by the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental defect shall be detailed for duty or employed at all large ports of entry, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defect is suspected, and the services of interpreters shall be provided for such examination. That the inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this act, shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and, where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered, under the provisions of this act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section 125 of the act approved March 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States." Any commissioner of immigration or inspector in charge shall also have power to require the attendance and testimony of witnesses before said inspectors and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States, and to that end may invoke the aid of any court of the United States; and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpœna issued by any commissioner of immigration or inspector in charge, or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents if demanded, and testify; and any failure to obey such order of the court shall be punished by the court as a contempt thereof. That any person, including employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not less than six months nor more than two years, or by a fine of not less than two hundred nor more than two thousand dollars; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall on conviction thereof be punished by imprisonment for not less than 1 nor more than 10 years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Commerce and Labor is permitted by this act, the alien shall be so informed and shall have the right to be represented by counsel or other advisor on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation.

"SEC. 17. That boards of special inquiry shall be appointed by the commissioner of immigration or inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, shall from time to time designate as qualified to serve on such boards. When in the opinion of the Secretary of Commerce and Labor the maintenance of a permanent board of special inquiry for service at any sea or land border port is not warranted, regularly constituted boards may be detailed from other stations for temporary service at such port, or, if that be impracticable, the Secretary of Commerce and Labor shall authorize the creation of boards of special inquiry by the immigration officials in charge at such ports, and shall determine what Government officials or other persons shall be eligible for service on such boards. Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. All hearings before such boards shall be separate and apart from the public. Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Commerce and Labor, and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision, which shall be rendered solely upon the evidence adduced before the board of special inquiry. In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of a board of special inquiry if adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Commerce and Labor: *Provided*, That the decision of a board of special inquiry, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens affected with tuberculosis in any form or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section 3 of this act.

"SEC. 18. That all aliens brought to this country in violation of law shall, if practicable, be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came, on the vessels bringing them. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien; or to take any security from him for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act, unless

prior to reembarkation the Secretary of Commerce and Labor has consented that such alien shall reapply for admission, as required by section 3 hereof; and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the customs district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of this section; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any alien found to have come in violation of any provision of this act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act, or such alien may be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required as a witness and for deportation. No alien certified, as provided in section 16 of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless with the express permission of the Secretary of Commerce and Labor: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

"SEC. 19. That any alien, at any time within three years after entry, who shall enter the United States in violation of law; any alien who within three years after entry becomes a public charge from causes existing prior to the landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within three years after the entry of the alien to the United States; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists, protects, or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified, shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section 4 hereof; any alien, at any time within three years after entry, who shall enter the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, shall, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and deported: *Provided*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence, make a recommendation to the Secretary of Commerce and Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States. In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty now existing, the decision of the Secretary of Commerce and Labor shall be final.

"SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Commerce and Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If effected at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such vessels or transportation line by which such aliens respectively came, or, if that is not practicable, at the expense of the appropriation for the enforcement of this act. If such deportation is effected later than five years after the entry of the alien, or, if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Commerce and Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section 18 of this act: *Provided*, That when in the opinion of the Secretary of Commerce and Labor the mental or physical condition of such alien is such as to require personal care and attendance, he may employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in like manner. Pending the final disposal of the case of any alien so taken into custody he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

"SEC. 21. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis in any form or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Commerce and Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof, holding the United States and all States, Territories, counties, towns, municipalities, and districts

thereof harmless against such alien becoming a public charge. The admission of such alien shall be a consideration for the giving of such bond or undertaking. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, district, county, town, or municipality in which such alien becomes a public charge.

"SEC. 22. That wherever an alien shall have taken up his permanent residence in this country, and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife or minor children to join him, if said wife or any of said children shall be found to be affected with any contagious disorder, such wife or children shall be held, under such regulations as the Secretary of Commerce and Labor shall prescribe, until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without any danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable and the husband or father or other responsible person is willing to bear the expense of the treatment, they may be accorded treatment in hospital until cured and then be admitted, or if it shall be determined that they can be permitted to land without danger to other persons, they may, if otherwise admissible, thereupon be admitted.

"SEC. 23. That the Commissioner General of Immigration shall perform all his duties under the direction of the Secretary of Commerce and Labor. Under such direction he shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder; he shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid, and to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed; he shall prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico, so as not to unnecessarily delay, impede, or annoy persons in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose; it shall be the duty of the Commissioner General of Immigration to detail officers of the Immigration Service from time to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges. He may, with the approval of the Secretary of Commerce and Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this act, detail immigration officers, and also surgeons of the United States Public Health Service employed under this act for service in foreign countries. The duties of commissioners of immigration and other immigration officials in charge of districts, ports, or stations shall be of an administrative character, to be prescribed in detail by regulations prepared under the direction or with the approval of the Secretary of Commerce and Labor: *Provided*, That for the purpose of making effective the provisions of this section relating to the protection of aliens from fraud and loss, and also the provisions of section 30 of this act, relating to the distribution of aliens, the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors.

"SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and their compensation fixed and raised or decreased from time to time by the Secretary of Commerce and Labor, upon the recommendation of the Commissioner General of Immigration and in accordance with the provisions of the civil-service act of January 16, 1883: *Provided*, That said Secretary, in the enforcement of that portion of this act which excludes contract laborers, may employ, without reference to the provisions of the said civil-service act, or to the various acts relative to the compilation of the official register, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw annually from the appropriation for the enforcement of this act $50,000, or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Commerce and Labor certifies that an itemized account would not be for the best interests of the Government: *Provided further*, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation act approved August 18, 1894, or the official status of such commissioners heretofore appointed.

"SEC. 25. That the district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act. That it shall be the duty of the United States district attorney of the proper district to prosecute every such writ when brought by the United States under this act. Such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with such violation may be found. That no suit or proceeding for a violation of the provisions of this act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

"SEC. 26. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station, shall be disposed of after public competition, subject to such conditions and limitations as the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, may prescribe, and all receipts accruing from the disposal of such exclusive privileges shall be paid into the Treasury of the United States. No intoxicating liquors shall be sold at any such immigrant station.

"SEC. 27. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

"SEC. 28. That any person who knowingly aids or assists any anarchist or any person who believes in or advocates the overthrow by force or violence of the Government of the United States, or who disbelieves in or is opposed to organized government, or all forms of law, or who advocates the assassination of public officials, or who is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such anarchist or person aforesaid to enter therein shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.

"SEC. 29. That the President of the United States is authorized, in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral, and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign Governments in their own territories to prevent the evasion of the laws of the United States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who,

under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

"SEC. 30. That there shall be maintained a division of information in the Bureau of Immigration and Naturalization; and the Secretary of Commerce and Labor shall provide such clerical and other assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens at the immigrant stations of the United States and to such other persons as may desire the same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, have access to aliens who have been admitted to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner General of Immigration, who, with the approval of the Secretary of Commerce and Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

"SEC. 31. That any person, including the owner, agent, consignee, or master of any vessel arriving in the United States from any foreign port or place, who shall knowingly sign on the ship's articles, or bring to the United States as one of the crew of such vessel, any alien, with intent to permit such alien to land in the United States in violation of the laws and treaties of the United States regulating the immigration of aliens, or who shall falsely and knowingly represent to the immigration authorities at the port of arrival that any such alien is a bona fide member of the crew, shall be liable to a penalty not exceeding $5,000, for which sum the said vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 32. That no alien excluded from admission into the United States by any law or treaty of the United States regulating the immigration of aliens, and employed on board any vessel arriving in the United States from any foreign port or place, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to regulations prescribed by the Secretary of Commerce and Labor providing for the ultimate removal or deportation of such alien from the United States, and the negligent failure of the owner, agent, consignee, or master of such vessel to detain on board any such alien after notice in writing by the immigration officer in charge at the port of arrival, and to deport such alien, if required by such immigration officer or by the Secretary of Commerce and Labor, shall render such owner, agent, consignee, or master liable to a penalty not exceeding $1,000, for which sum the said vessel shall be liable, and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 33. That it shall be unlawful and be deemed a violation of the preceding section to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens; *Provided*, That in case any such alien intends to reship on board any other vessel bound to any foreign port or place he shall be allowed to land for the purpose of so reshipping, and may be paid off, discharged, and permitted to remove his effects, anything in such laws or treaties or in this act to the contrary notwithstanding, provided due notice of such proposed action first be given to the principal immigration officer in charge at the port of arrival.

"SEC. 34. That any alien seaman who shall desert his vessel in a port of the United States or who shall land therein contrary to the provisions of this act shall be deemed to be unlawfully in the United States, and shall, at any time within three years thereafter, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section 20 of this act.

"SEC. 35. That it shall be unlawful for any vessel carrying passengers between a port of the United States and a port of a foreign country, upon arrival in the United States, to have on board employed thereon any alien afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, if it appears to the satisfaction of the Secretary of Commerce and Labor, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel and that the existence of such affliction might have been detected by means of a competent medical examination at such time; and for every such alien so afflicted on board any such vessel at the time of arrival the owner, agent, consignee, or master thereof shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and while it remains unpaid: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine: *Provided further*, That such fine may, in the discretion of the Secretary of Commerce and Labor, be mitigated or remitted.

"SEC. 36. That upon arrival of any vessel in the United States from any foreign port or place it shall be the duty of the owner, agent, consignee, or master thereof to deliver to the principal immigration officer in charge of the port of arrival lists containing the names of all aliens employed on such vessel, stating the positions they respectively hold in the ship's company, when and where they were respectively shipped or engaged, and specifying those to be paid off and discharged in the port of arrival; or lists containing so much of such information as the Secretary of Commerce and Labor shall by regulation prescribe; and after the arrival of any such vessel it shall be the duty of such owner, agent, consignee, or master to report to such immigration officer, in writing, as soon as discovered, all cases in which any such alien has deserted the vessel, giving a description of such alien, together with any information likely to lead to his apprehension; and before the departure of any such vessel it shall be the duty of such owner, agent, consignee, or master to deliver to such immigration officer a further list containing the names of all alien employees who were not employed thereon at the time of the arrival, but who will leave port thereon at the time of her departure, and also the names of those, if any, who have been paid off and discharged, and of those, if any, who have deserted or landed or been duly admitted; and in case of the failure of such owner, agent, consignee, or master so to deliver either of the said lists of such aliens arriving and departing, respectively, or so to report such cases of desertion, or landing, such owner, agent, consignee, or master shall, if required by the Secretary of Commerce and Labor, pay to the collector of customs of the customs district in which the port of arrival is located the sum of $10 for each alien concerning whom correct lists are not delivered or a true report is not made as above required; and no such vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and, in the event such fine is imposed, while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon deposit of a sum sufficient to cover such fine.

"SEC. 37. The word 'person' as used in this act shall be construed to import both the plural and the singular, as the case may be, and shall include corporations, companies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any director, officer, agent, or employee of any corporation, company, or association acting within the scope of his employment or office shall in every case be deemed to be the act, omission, or failure of such corporation, company, or association, as well as that of the person acting for or in behalf of such corporation, company, or association.

"SEC. 38. That this act, except as otherwise provided in section 3, shall take effect and be enforced from and after July 1, 1913. The act of March 26, 1910, amending the act of February 20, 1907, to regulate the immigration of aliens into the United States; the act of February 20, 1907, to regulate the immigration of aliens into the United States, except section 34 thereof; the act of March 3, 1903, to regulate the immigration of aliens into the United States, except section 34 thereof; and all other acts and parts of acts inconsistent with this act are hereby

repealed on and after the taking effect of this act: *Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, nor to repeal, alter, or amend section 6, chapter 453, third session, Fifty-eighth Congress, approved February 6, 1905, or the act approved August 2, 1882, entitled 'An act to regulate the carriage of passengers by sea,' and amendments thereto: *Provided*, That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act, except as mentioned in the last proviso of section 19 hereof; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the laws or parts of laws repealed or amended by this act are hereby continued in force and effect."

H. C. LODGE,
WM. P. DILLINGHAM,
LE ROY PERCY,
Managers on the part of the Senate.

JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.

Mr. LODGE. Mr. President, I regret very much to say that after the conference report had been agreed to in the other House it was found that a change which had been made in one of the Senate provisions had been put in the wrong place. The conference committee desired to mitigate or relax, if they could, the law in regard to aliens who had taken out their first papers declaring their intention to become citizens of the United States. In doing that a provision was placed at the beginning of the bill, where it would have the effect, as was found on examination, of nullifying the deportation clause in case of the white-slave traffic and also in cases of disease or crime. It therefore becomes absolutely necessary to transpose the clause to the proper place. It is with regret that I do so, Mr. President, but the error is such that it is absolutely necessary to take back the conference report, so that the error may be corrected. I therefore move that the Senate further insist on its disagreement to the amendment and ask for a further conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. LODGE, Mr. DILLINGHAM, and Mr. PERCY conferees on the part of the Senate.

PENSIONS AND INCREASE OF PENSIONS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 7160) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

Mr. McCUMBER. I move that the Senate disagree to the amendments of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. McCUMBER, Mr. BURNHAM, and Mr. GORE conferees on the part of the Senate.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

Mr. McCUMBER. I move that the Senate disagree to the amendments of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. McCUMBER, Mr. BURNHAM, and Mr. GORE conferees on the part of the Senate.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors.

Mr. McCUMBER. I move that the Senate disagree to the amendments of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. McCUMBER, Mr. BURNHAM, and Mr. GORE conferees on the part of the Senate.

HOUSE BILLS REFERRED.

The following House bills were severally read twice by their titles and referred to the Committee on Pensions:

H. R. 3967. An act granting an increase of pension to John R. Fugill;

H. R. 27806. An act granting a pension to Mary MacArthur;

H. R. 27874. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 28282. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; and

H. R. 28379. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

DONATION OF CONDEMNED CANNON.

Mr. SMITH of Georgia obtained the floor.

Mr. SANDERS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Tennessee?

Mr. SANDERS. It is for a matter which I think will cause no debate.

Mr. SMITH of Georgia. I yield.

Mr. SANDERS. I ask unanimous consent for the present consideration of the bill (S. 8273) authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. CATRON. I move to amend the bill by inserting——

The PRESIDENT pro tempore. The Chair will first ask is there objection to the present consideration of the bill?

Mr. McCUMBER. I object. I desire to have the bill go over until to-morrow for an amendment.

Mr. SANDERS. Mr. President, I might state for the information of Senators that this is a kind of omnibus bill, covering various other bills on this subject that have been introduced, and I shall therefore feel at liberty to accept any amendment which may be suggested by the Senator from North Dakota, if he wishes to offer one on a similar line.

Mr. McCUMBER. I think there was a bill on the subject introduced last summer. I will ask the Senator if he will not allow the bill to go over until to-morrow, so that I can look into it and see what amendment I desire to offer.

The PRESIDENT pro tempore. The bill goes over on the objection of the Senator from North Dakota.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia. I move that the Senate proceed to the consideration of House bill 22871, known as the agricultural extension department bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto.

The PRESIDENT pro tempore. The pending question is on agreeing to the amendment in the nature of a substitute offered by the Senator from Vermont [Mr. PAGE].

Mr. SMITH of Georgia. Mr. President, I desire to offer two amendments to the original bill. I send them to the desk and ask that they be read.

The PRESIDENT pro tempore. The first amendment offered by the Senator from Georgia will be stated.

The SECRETARY. At the end of section 2, page 2, line 10, it is proposed to insert "and the farm management and farm practice work of the Bureau of Plant Industry of the Department of Agriculture."

Mr. SMITH of Georgia. I desire to state, Mr. President, that that is the amendment perfected by the Senator from Ohio. Representatives of the department who presented it to him have added a few more words to it. It is in the language submitted by them, with the signatures of the gentlemen who had it under consideration.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDENT pro tempore. The second amendment proposed by the Senator from Georgia will be stated.

The SECRETARY. At the end of section 8 it is proposed to insert the following:

The provisions of this act are hereby extended to the Territories, namely, to Hawaii, Alaska, and Porto Rico: *Provided, however*, That no distribution of funds shall be made to the agricultural colleges of such Territories until the Secretary of Agriculture shall determine that such colleges are prepared to avail themselves of the same.

Mr. SMITH of Georgia. I wish simply to say, Mr. President, that that amendment was also prepared in deference to the request of the Senator from Wyoming [Mr. CLARK] and other Senators.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. HITCHCOCK. Mr. President, I should like to inquire of the Senator whether the amendment refers to Porto Rico as a Territory?

Mr. SMITH of Georgia. Yes; Porto Rico is referred to as a Territory.

Mr. HITCHCOCK. I think that is not technically correct.

Mr. SMITH of Georgia. I know that; and for that reason, while referring to them as Territories, the amendment names the three, because just exactly what they are I do not know.

Mr. HITCHCOCK. I shall object to that, because I think it is rather deplorable to incorporate into the law a designation of this sort which is incorrect. Hawaii is a Territory, and I suppose Alaska is or is to become one; but I suggest that, in place of using the term "Territory" in connection with Porto Rico, we insert the words "and the District of Porto Rico" or "Porto Rico," so as to make a distinction.

Mr. SMITH of Georgia. Would the Senator also say "the District of Alaska"?

Mr. HITCHCOCK. I think the language is not so objectionable with regard to Alaska.

Mr. SMOOT. Mr. President, I was informed by the Senator from Minnesota [Mr. NELSON] that the Supreme Court had decided in a certain case before the court not very long ago that Alaska is a Territory.

Mr. SMITH of Georgia. We might avoid trouble by simply retaining the three names without designating them as Territories or otherwise.

Mr. HITCHCOCK. I think that would be desirable.

Mr. CUMMINS. Mr. President, I am not opposed to the amendment at all, but I rise to make a parliamentary inquiry. As I understand, the pending question is upon the amendment proposed by the Senator from Vermont [Mr. PAGE]. Is it in order now to amend the original proposition until the substitute is perfected?

The PRESIDENT pro tempore. The Chair is clearly of the opinion that it is in order to first perfect the original bill and then the substitute will be presented.

Mr. CUMMINS. I think the Chair is right. I wish to suggest to the Senator from Vermont that he make the same modifications in his substitute that have been made in the original bill, so that it will be taken care of in either event.

The PRESIDENT pro tempore. The Senator from Georgia modifies his amendment. The amendment as modified will be read.

The SECRETARY. At the end of section 8 it is proposed to add the following:

The provisions of this act are hereby extended to Hawaii, Alaska, and Porto Rico: *Provided, however*, That no distribution of funds shall be made to the agricultural colleges of Hawaii, Alaska, and Porto Rico until the Secretary of Agriculture shall determine that such colleges are prepared to avail themselves of the same.

The PRESIDENT pro tempore. The question is on agreeing to the amendment as modified.

The amendment as modified was agreed to.

The PRESIDENT pro tempore. The question is now upon the amendment in the nature of a substitute.

Mr. McCUMBER. Mr. President, for the purpose of perfecting the bill I offer an amendment to come in on page 3, line 20. I ask that the amendment be read.

The PRESIDENT pro tempore. The amendment proposed by the Senator from North Dakota will be read.

The SECRETARY. On page 3, line 20, after the word "Treasury," it is proposed to insert the following:

Provided further, That no State shall pay out any part of the appropriation provided in this act to any agricultural college until the governor of said State and the Secretary of Agriculture of the United States shall jointly approve the questions or departments of study that are being or are proposed to be offered in said college or colleges.

Mr. McCUMBER. Mr. President, I made an inquiry about the necessity for this amendment when last we had the matter before us. The inquiry was assumed to be answered by reading sections of the bill, but I do not think there is anything in the bill which renders unnecessary the proposition contained in this amendment. Section 7, on page 6 of the original bill of the Senator from Vermont [Mr. PAGE], provides:

SEC. 7. That for the support in each State college of agriculture and the mechanic arts of an extension department or division the sum of $640,000 annually, beginning with the fiscal year ending June 30, 1913, of which annual appropriation $10,000 shall be allotted to each of the 48 States for the benefit of such extension departments.

The object of this amendment is to insure that this appropriation of $640,000 annually shall be given to those colleges which the governor of the State and the Secretary of Agriculture jointly shall hold are colleges whose principal purpose is instruction in agriculture, and that this is the prime purpose of the colleges. We have agricultural colleges in our States that we are unable to differentiate from any other college, except that they give some little instruction in agriculture. The course ought to be such that we would be able to differentiate the agricultural college from the ordinary State university or college. Certainly no harm can come from requiring that this sum shall be paid only when the course taught in agriculture shall be such as shall be approved by the governor of the State and by the Secretary of Agriculture.

Mr. CUMMINS. Mr. President, I ask for the reading of the amendment.

The PRESIDENT pro tempore. The proposed amendment will be again read.

The Secretary again read the proposed amendment.

Mr. SMITH of Georgia. Mr. President, I hope the amendment will not pass. Our agricultural colleges have been organized for years. The large majority of them are doing splendid work. The report of the Secretary of Agriculture shows that they receive from the States and from other sources several times as much as they receive from the National Government. At this late day, to make the departure that is proposed, that the Secretary of Agriculture shall have the right to fix the courses of study in the State colleges of agriculture, I think would be a great mistake.

I wish I could feel sure that the Government would permanently have in the office of Secretary of Agriculture a man who is the equal of the average president of the State colleges of agriculture. I do not believe there is a stronger body of men engaged in public service, certainly not in educational service, than the presidents and faculties of our colleges of agriculture. This amendment subjects their entire course of study to the approval of the Secretary of Agriculture——

Mr. TILLMAN. Whoever he may be.

Mr. SMITH of Georgia. Whoever he may be—good or bad. I think it would be a great mistake.

Mr. McCUMBER. Mr. President, I think the Senator did not listen carefully to the reading of the amendment or he would realize that he is in error in the statement that this matter is to be determined exclusively by the Secretary of Agriculture.

Mr. SMITH of Georgia. It says "the governor of said State and the Secretary of Agriculture."

Mr. McCUMBER. It is to be determined by the governor of the State and the Secretary of Agriculture.

Mr. SMITH of Georgia. But suppose they disagree? Then it has not been approved by both.

Mr. McCUMBER. I can not imagine that the Secretary of Agriculture, whose sole function is to look after the agricultural interests of the country, would disagree with the governor of the State, unless that disagreement were based upon the belief that the agricultural course was insufficient, and that in reality the funds were being used for other purposes.

The only object of this amendment is that we may know definitely what is the scope and purpose of the appropriation—that it is for agricultural purposes, and that it should be limited to agricultural purposes. The States are now appropriating enough for their State universities for general education; and if we are to appropriate the millions of dollars that are provided in this bill for agricultural purposes, there ought to be some authority to determine whether or not an institution is complying with what Congress itself intends shall be complied with in the matter of the extension of this agricultural work.

Mr. SMITH of Georgia. I understand perfectly the object of the amendment, and I sympathize, in part, with it. I am thoroughly in favor of making these agricultural colleges genuine agriculture colleges. So far as my own State is concerned,

there could be no possible embarrassment from the adoption of this measure in its practical operation, because I am glad to say that our agriculture college is distinctively an agricultural college and is subject to none of the criticisms that were evidently in the minds of those who drew the original amendment which the Senator from North Dakota presented on Friday. But I do not believe a Secretary of Agriculture ought to be given the power of passing on the courses of study in all the agricultural colleges of the United States.

Mr. McCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from North Dakota?

Mr. SMITH of Georgia. I do.

Mr. McCUMBER. May I ask the Senator who should have the power of determining that question?

Mr. SMITH of Georgia. I think the authorities of the State can properly determine it. I can not doubt but that there is an influence in the States for agricultural education that can be trusted. There are many whose opinions I would rather have than that of the average man who might be Secretary of Agriculture. I would rather have the opinion of the president of the Wisconsin College of Agriculture or the president of the Iowa College of Agriculture or the president of the Illinois College of Agriculture, or half a dozen more whom I might mention, than the opinions of the men I am sure would fill the office of Secretary of Agriculture. I do not think we could ask at this late time——

Mr. McCUMBER. If the Senator will allow me——

Mr. SMITH of Georgia. Let me finish my sentence, and then I will yield.

Mr. McCUMBER. Certainly.

Mr. SMITH of Georgia. At the end of 50 years of operation of our agricultural colleges, I do not think we should now undertake to remove from the present authorities their power to handle this matter.

Now, I will answer the Senator's question.

Mr. McCUMBER. There is considerable complaint in several of our States—there is complaint in my own State from some quarters—that the agricultural college is duplicating, to some extent, the work of the State university. I do not know to what extent that is true, because I do not know the curriculum of the agricultural college. But I do believe that we should have some means of knowing the extent and the scope of agricultural education in those colleges which will be benefited by the appropriations provided. We should know what their work should be limited to. We should have that clearly defined. We should, if possible, see that those colleges shall be more and more definitely agricultural in their character, and especially that they shall not be unduly duplicating, as is now the case in some of the States, the work of the State universities.

Mr. SMITH of Georgia. I thought the Senator was asking me a question.

Mr. McCUMBER. Let me just finish my sentence.

Mr. SMITH of Georgia. The Senator asked me to yield for a question. I think I have the floor.

Mr. McCUMBER. I do not wish to have the money expended for duplicated work.

The PRESIDENT pro tempore. The Senator from Georgia has the floor, and Senators desiring to interrupt him will please get permission through the Chair.

Mr. SMITH of Georgia. I wanted the Senator to finish his question and let me answer it. I will answer now, Mr. President, not his question, but his statement.

I want to say that I cordially sympathize with the desire to prevent these colleges of agriculture from duplicating in any sense the classical work of the universities. That trouble has existed in a number of places. I am glad to say that in my own State we have completely relieved our institution of the trouble. It is rather a local question than a national question.

So far as the present appropriation goes we have included provisions that will guard the appropriation from misuse. The amendment offered by the Senator from North Dakota goes not simply to this appropriation, but to the entire course of study of these agricultural colleges. It goes to the original act providing for them and the amendments thereto through which the work of the college proper is governed.

Personally, I think the laws have not been as completely enforced as they might be in that regard. I think the reports now required to be made to the Secretary of the Interior might perhaps be enlarged without giving to any particular part of the Government the exclusive privilege of passing upon the courses of study.

So far as this appropriation is concerned the bill provides that the Secretary of Agriculture shall not certify to the Treasury the extension work appropriation unless he has examined the reports made by those managing the work to the governor of the State and sent to the Secretary of Agriculture by the governor of the State, and unless, as a result of those reports, the Secretary of Agriculture finds that the college is in good faith carrying out the purposes of this appropriation and doing the actual work which it contemplates. Otherwise the Secretary of Agriculture will not certify that particular State to the Treasury for its check. The Secretary of the Treasury will not pay the money to the State until the Secretary of Agriculture gives his certificate that the work is being done by the college as this bill requires. In case the Secretary of Agriculture shall find that the college is not doing the work required by this bill, then he shall report the fact to Congress, and unless Congress disagrees with his view and directs payment the payment will not be made.

So, if the Senator from North Dakota will observe the provisions of the bill so far as this fund is concerned, he will see that we have sought to guard the proposition fully; and I think we have guarded it, because this money must be spent in the way directed by the bill or else the Secretary of Agriculture will not give his certificate for the next year's appropriation, and the appropriation can not be had unless Congress overrules the Secretary of Agriculture.

So far as the actual study that is being done in the colleges, this bill does not touch it. It concerns the work of the experiment stations and the scientific investigations of the colleges. I do not believe the majority of the States would be willing to see the courses of study at their colleges of agriculture subject simply to the views and the approval of the Secretary of Agriculture.

I have tried to draft an amendment that might meet the requirements of the Senator and yet not be objectionable; but I am not sure that it would, and I am not really satisfied with it myself.

Mr. CUMMINS. Mr. President, I join the Senator from Georgia in the hope that this amendment will not be adopted. It would be most disastrous in my own State.

In Iowa we have a State university and a distinct agricultural college. The college is properly described as a college of agriculture and the mechanic arts. The course of study there includes instruction not only in agriculture but in engineering, in home economics, and in all branches that naturally are allied with engineering and with domestic economy.

We are now engaged in a very earnest dispute with regard to the courses of study that should obtain in the agricultural college. That dispute must finally be determined by the general assembly of our State. There is no other tribunal. Speaking in part for my own State, I would be entirely unwilling to allow the governor of the State and the Secretary of Agriculture to determine whether our college should teach engineering or whether it should teach domestic economy.

I assume that no one will question, in a general way, the merit of the Iowa College of Agriculture. I think I may say without vanity that among agricultural colleges it holds a very enviable position in the country. I have no fear that any Secretary of Agriculture, or any governor, either, would ever seriously interfere with the course in agriculture. But to submit to a Secretary of Agriculture the determination of the question whether we shall teach in that college other things that are directly within the act which founded the college, or be compelled to abandon these courses of instruction at the command of either the Secretary of Agriculture or the governor, or both, would, I think, be entirely intolerable to our people, who ultimately will settle that controversy as it ought to be settled.

If this amendment were limited to the merit of the course in agriculture; that is, to determine whether or not the school really taught agriculture in a way that entitled it to recognition, that would be quite a different matter. But to submit our whole college of agriculture and mechanic arts to an officer in Washington would not meet with the approval of our people, and the result would be that we would receive no part of this additional contribution.

I therefore hope very much that the amendment will not be adopted.

Mr. McCUMBER and Mr. WILLIAMS addressed the Chair.

Mr. McCUMBER. I wish to answer the objection——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Mississippi who has addressed the Chair?

Mr. WILLIAMS. I rose to obtain recognition in my own right. I thought I had risen first.

Mr. McCUMBER. I merely wish to briefly answer the objection made by the Senator from Georgia first, and then that made by the Senator from Iowa.

The bill now provides, as stated by the Senator from Georgia, that the Secretary of Agriculture must give a certificate of approval before the appropriation can be used for the next

ensuing year. If the Secretary of Agriculture may give that certificate as to the continuance of an appropriation, what earthly objection could be made to the Secretary of Agriculture passing in the first instance upon what the course shall be, as to whether the appropriation shall be made?

Mr. SMITH of Georgia. This has nothing——

Mr. McCUMBER. Just a moment.

Mr. SMITH of Georgia. I thought the Senator had finished his question.

Mr. McCUMBER. It seems to me the bill is faulty if it makes an appropriation for this year in aid of the colleges, and provides that if in the ensuing year the Secretary of Agriculture finds that the appropriation has not been properly used, then the Secretary may make a certificate that the institution is not conforming to what was intended by the act and the appropriation that went with it. For my part I can not see that the action of the Secretary of Agriculture would be any more dangerous in the first instance than it would be in the second instance. If there is any justification whatever for the Secretary of Agriculture passing upon the question whether there should be a continuance of an appropriation there certainly must be equal justification for an amendment that he should pass in the first instance on whether the course is such that it should receive the appropriation.

Now, Mr. President, the Senator evidently does not understand the amendment as I do. The principal question in this case is whether the money which is appropriated shall be used exclusively for agricultural purposes. I do not believe that under this amendment anyone could construe it as intending to grant authority to the Secretary of Agriculture to discontinue or to refuse to authorize the appropriation in case civil engineering is also taught in the same institution, but what it is intended to accomplish is that the money appropriated shall not be used in such a way that it may go into the coffers of the institution to pay out instructors in teaching civil engineering or domestic economy or anything else, but that every cent of it shall be expended absolutely and unconditionally for agricultural purposes.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Iowa?

Mr. McCUMBER. I yield, Mr. President.

Mr. CUMMINS. Is not the Senator from North Dakota of the opinion that the appropriation must be spent for agricultural education or demonstration? Could any part of it, under the terms of the bill as now presented, be paid out for courses of engineering or domestic economy; I mean as far as this part is concerned?

Mr. McCUMBER. I think section 7, that I read, does not leave it sufficiently clear that it shall be all expended for agricultural purposes, and that is why I offered this amendment. I would have no objection to inserting after the words "jointly approved" the word "agricultural," so as to read "jointly approve the agricultural courses, or departments, of study that are being, or are proposed to be, offered in said college or colleges."

Mr. CUMMINS. If the Senator from North Dakota will limit it to the approval of the agricultural courses taught in the college and entirely exclude any supervision over the general work of the college my objection would disappear.

Mr. McCUMBER. I will ask leave to amend the amendment by inserting, after the words "approve the," the word "agricultural," so as to read:

> Shall jointly approve the agricultural courses or departments of study that are being, or are proposed—

And so forth.

The PRESIDENT pro tempore. The Senator from North Dakota modifies his amendment. The modification will be stated.

The Secretary read as follows:

> *Provided further*, That no State shall pay out any part of the appropriation provided in this act to any agricultural college until the governor of said State and the Secretary of Agriculture of the United States shall jointly approve the agricultural courses or departments of study that are being, or are proposed to be, offered in said college or colleges.

Mr. CUMMINS. That contains the whole difficulty. The Senator does not strike out "departments of study" proposed to be pursued in the college.

Mr. McCUMBER. That means agricultural courses or agricultural departments. The word "agricultural" applies to both.

Mr. CUMMINS. Will the Senator strike out "or departments of study," and leave it simply refer to agricultural courses?

Mr. McCUMBER. So that there will be no question, I will also consent to strike out "or departments of study," as I do not know that those words add anything or detract anything.

The PRESIDENT pro tempore. The Secretary will read the language as now modified.

The SECRETARY. After the word "courses" strike out the comma and the words "or departments of study," so that it will read:

> *Provided further*, That no State shall pay out any part of the appropriation provided in this act to any agricultural college until the governor of said State and the Secretary of Agriculture of the United States shall jointly approve the agricultural courses that are being, or are proposed to be, offered in said college or colleges.

Mr. WILLIAMS. Mr. President, there seems to be a sort of vague impression that a man with two arms and two legs who happens to hold a position as a State official is in some way less competent to attend to the public business than a man who holds a like position as a Federal official. It seems to be taken for granted that State officials will not attend to their duties in a competent way or will not attend to them with good faith. Undoubtedly the State officials are just as good judges and are just as capable of acting bona fide in connection with the application of an appropriation like this as the Secretary of Agriculture.

This question has opened up for consideration, at any rate—and it would do the country good to consider it—a great defect in our educational system. The defect is not to be corrected by going further into the line in which we have already gone, but, if possible, by correcting some of the things that we have done. There has been too much Federal control of these institutions already. There has been too much limitation upon the rights of the State.

The truth is, Mr. President, that agriculture and the studies of all the different branches interlock themselves inextricably with the whole educational system. The truth is the appropriations ought to have been made to establish agricultural schools in the State universities, and that where there is no State university in a privately endowed university selected by the legislature of the State to act as a State university for the time being. It is abhorrent to my mind that you should send a farmer out into the world with no knowledge of anything except his specific business. If you are going to have a separate institution for agriculture and the mechanic arts, you must teach the people who go there English; you ought to teach them geography and physical, descriptive geography; you ought to teach them history. It is abhorrent to my mind that you should take it for granted that the farmer of all men should be sent ignorantly to the plow. There is no business in the world which requires more encyclopedic information than that of an up-to-date farmer.

I said a moment ago that the colleges interlock. Here is a State university that is teaching chemistry, for example. It is just grading off to teach agricultural chemistry. The State university is teaching zoology and botany. You are merely grading off when you go further and teach entomology, which is absolutely necessary to agriculture, and when you teach soil analysis, which is a chemical art in this way, and when you teach agrostology, which gives you a more peculiar and detailed knowledge of special plants that are to be raised in agriculture. So necessarily these two institutions must duplicate one another's work, and you can not help it.

The difficulty took place when you made them separate institutions. They ought to have originally been one institution. A great State university teaching civil engineering as one branch, mining engineering as a branch, electrical engineering as a branch, agriculture in all its phases is one of the greatest schools, the study of peculiar specialized branches applicable to each interlocking with the general branches that form the foundation for their use.

Nobody can understand agricultural chemistry without having gone through a course of general chemistry. Nobody can do a thing with entomology or the diseases of plants without having gone through a general course of information concerning plants themselves, botany generally. So what the Senator is seeking is something he can not obtain without repealing a course which has gone too far now to be repealed.

In my own State, I am sorry to say, instead of having one great university with an agricultural college which was interlocked with all the various cognate studies that must go to make an up-to-date farmer, a separate agricultural and mechanical college finds it necessary to teach common mathematics, of course, and history, and English. Mathematics is taught up to a tolerably high grade, not as high as it is carried at a State university or at a polytechnic institute, of course not as high as they carry it at Annapolis or West Point, but pretty high. The consequence is that we have two sets of professors receiving duplication of pay and doing the same work in two separate parts of the State.

It grew out of the insane sectional jealousies of parts of a State. People said north Iowa has a university—I just say this because I know nothing about what part of Iowa has it—

but the north part of the State has a university and let us give the south part of the State the agricultural and mechanical college. So they proceed to do it, much to the detriment of the State, much to the detriment of agriculture, and much to the detriment of mankind's progress generally and the diffusion of information which is so necessary to its progress under a free government.

It is perfectly abhorrent to my mind to have the Federal Government go down to either the State university or the A. and M. College of Mississippi and attempt to dictate to the local authorities there as to what course of study they should pursue. Of course, unless they do devote the money to agricultural purposes the Secretary of the Treasury can, under this bill, refuse to give his certificate and they can not get the money. That is the string, as it seems to me, that the Federal Government ought to have upon the application of the money.

The present Secretary of Agriculture has been a blessing to America. He has been the greatest Secretary of Agriculture we have ever had and the only great one, by the way, that we have had under any administration. He has tried his best to confine himself to his work and uplift the agricultural system of the country. But, as far as my own State is concerned, I doubt if even he is as competent to judge as to what shall be taught to the farmer lads in the State of Mississippi in order to equip them for farming as they are down there. He might be more competent to judge as to what would be proper to be taught them in Iowa, because he would know just how far the common schools and graded schools and other things had diffused various branches of information amongst them.

But in order to make an agricultural college or an agricultural school in a university of much benefit you must have a very low grade of entrance examination, and that necessitates the teaching of a great many things that are somewhat remotely auxiliary to agriculture. But they are all auxiliary and they ought not to be interfered with.

I hope the amendment will not be adopted.

Mr. SMITH of Georgia. The Senator from North Dakota offered an amendment to the bill providing that no college should receive the appropriation for the extension department in which demonstration work is to be done alongside the home of the farmer unless the course of study taught at the college has first met the approval of the governor of the State and the Secretary of Agriculture.

This bill has nothing to do with the course of study taught in the college. It is expressly for work in the interest of those who do not attend the college. It is expressly for the purpose of taking the scientific information, the established truths, from the experiment station and the college and placing them in the most practical form at the home of the farmer. What has the course of study at the college, prescribed for the students at the college, to do with taking the truths that have been demonstrated at the experiment station and the college and carrying those truths into the country to the home of the farmer?

The Senator says that the bill provides that the Secretary may withhold a certificate and thereby stop the next year's appropriation in case the money for the year previous has not been spent according to the requirements of the act, and he seemed to think he had found a happy thought when he suggested that if the Secretary can stop it for the next year why not prescribe the condition before the first money is spent? The bill prescribed the way in which the money shall be spent which the bill appropriates. It gives the details of the use as far as it could be prescribed in advance. The bill says that 75 per cent of the money must be spent in actual demonstration work on the farm; that not over 5 per cent of it shall be spent for specialization, for publication, for literature, and that the other 20 per cent may be spent in such detailed way as may be deemed advisable. Now, what would the fact that the Secretary has to pass upon the course of study in the agricultural college have to do with this work? Nothing at all.

The amendment offered by the Senator would not in any sense affect or touch the first year's work to which he refers. The Senator's amendment goes entirely to something else. The Senator's amendment reaches back into the colleges, entirely disconnected with the demonstration work, and seeks to put the hand of the Secretary of Agriculture on our State colleges of agriculture all over the United States and force them to adopt a course of study subject to the approval of the Secretary of Agriculture. I am opposed to it. I do not think the Secretary of Agriculture knows as well as the board of trustees of the State College of Iowa what kind of college they ought to have, or the board of trustees of Wisconsin, or the board of trustees of Missouri, or the board of trustees of Georgia, and I do not think the governors of States, as a rule, have known as well how to handle State colleges of agriculture as the trustees of the State colleges of agriculture. I am willing for neither the Secretary of Agriculture nor the governor to have the right to limit the course of study to what meets his approval.

The amendment proposed by the Senator does not reach this appropriation at all for its purposes. It uses this appropriation to reach somewhere else, to reach back into the course of study in the college and to hold up this appropriation which has nothing to do with the course of study in the college and to enable the Secretary of Agriculture to control the course of study in the college.

I think we are doing well with these colleges. If the Senator's own State is not doing as well, his power and influence should right the wrong and correct what is being done in North Dakota and not seek at this late day to put up any authority in Washington City to interfere with the splendid work that is being done, and not at this late day to give even the governor of a State the right to interfere with the courses of study of our agricultural colleges.

Mr. McCUMBER. Mr. President, there are practically two bills in one before the Senate, and any amendment that is proposed will have to be proposed in anticipation of that kind of a completed bill which, as has been suggested, was framed by the Senator from Vermont [Mr. PAGE] and the Senator from Georgia [Mr. SMITH]. I can not get around section 7 of the proposed amendment. The Senator from Georgia says that the bill does not propose to pay anything to colleges; that it is, if I understand him——

Mr. SMITH of Georgia. I did not say that. The Senator from North Dakota misunderstood me.

Mr. McCUMBER. That it is not proposed for the support of a college, but that it is proposed for certain extension work, and for that exclusively. Granting what he says, let us read the first part of section 7, which provides:

> That for the support in each State college of agriculture and the mechanic arts of an extension department or division—

It is for the support of an agricultural college in the extension department that this money is to be paid to the Agricultural Department. I do not know what that extension means. One college may have one kind of an idea of what such an extension is and another college may have an entirely distinct and different understanding of the character of work this extension service may be; but the money is to be paid "for the support in each State college of agriculture and of the mechanic arts of an extension department or division."

I certainly can see nothing that should frighten the Senator in a provision that the money so expended should absolutely be expended for the extension work, and that it should not be paid over to any college generally to swell its funds, and then allow that college alone determine to what extent it will go into the matter of extending the agricultural service. There ought to be some authority that would pass upon that subject, and the Senator's own bill provides for an authority that shall determine, in the second instance, whether the college has conformed to the requirements of law; but he seems to be bitterly opposed to the same head of a department—the Agricultural Department of the United States—having anything to do with whether the course of study in extension work is such as is contemplated in the bill.

Mr. LA FOLLETTE. Mr. President, I only want to say a word upon this amendment. We have in the State of Wisconsin in connection with our State university one of the great agricultural colleges of the world. I think the adoption of this amendment would be tantamount to denying that agricultural college any participation in this fund. Without meaning to disparage any person, I say for the record that there never has been a governor of the State of Wisconsin, and I say that there never has been a Secretary of Agriculture, who was qualified or competent to fill the position of dean of the agricultural college of Wisconsin, and I sincerely hope that the determination of the courses of study in the agricultural colleges of this land will not be turned over to the Secretaries of Agriculture who may hereafter be named.

Mr. McCUMBER. If the Senator will insist on construing the amendment as it is now amended, which relates only to the courses in agriculture, as having an effect that would prevent the other courses being given in the same college, then, of course, there is no use of arguing that question. I am afraid, however, that the Senator did not pay attention to the amendment as it has been amended, which applies only to the agricultural line of study. The amendment provides:

> *Provided*, That no State shall pay out any part of the appropriation provided in this act to any agricultural college until the governor of said State and the Secretary of Agriculture of the United States shall jointly approve the courses or departments of study that are being, or are proposed to be, offered in said college or colleges.

That has nothing to do with any other courses, and the fact——

Mr. LA FOLLETTE. I understand that.

Mr. McCUMBER. The fact that other courses are being taught will not prevent the college from receiving its proper proportion of this appropriation.

Mr. LA FOLLETTE. I understand the amendment perfectly, and I have no qualification to make of what I have said.

The PRESIDENT pro tempore. The question is on the amendment submitted by the Senator from North Dakota [Mr. McCUMBER].

The amendment was rejected.

The PRESIDENT pro tempore. The question now is upon the amendment in the nature of a substitute proposed by the Senator from Vermont [Mr. PAGE].

Mr. SMITH of Georgia. Mr. President, has that amendment really been presented? As printed it is stated that it is an amendment intended to be proposed.

The PRESIDENT pro tempore. The Chair is of the opinion that the Senator from Vermont has not formally presented the amendment. The Chair would inquire if the Senator submits it now?

Mr. GRONNA. Mr. President, before we take up the substitute of the Senator from Vermont, I should like to ask the Senator from Georgia a question in regard to the provision of his bill on page 4, beginning with line 18, which reads as follows:

> *And provided further*, That in each State which shall assent to the provisions of this act there shall be expended each year for field instruction and demonstration not less than 75 per cent of all moneys available under the provisions of this act.

I should like to inquire of the Senator, because I know he has given it a great deal of study, if that is not placing too strict a limitation on what shall be done with a large percentage of this money which it is proposed to appropriate?

Mr. SMITH of Georgia. It is perhaps a little larger than I myself would have suggested, but I believe it is true that the practical demonstration work is the great work that will be accomplished by this bill.

Mr. GRONNA. Mr. President, the Senator does not understand me. What I should like to know is what is meant by "demonstration work." The bill says "field demonstration." I have no objection to the taking of 75 per cent of the appropriation for demonstration in agriculture, but I should certainly object—and I want to make it strong enough, so that the Senator will understand me—and I shall certainly have to vote against the bill if this limitation is placed so that this money can be used for nothing but field demonstration.

Mr. SMITH of Georgia. I do not so understand it. It is for field instruction and demonstration.

Mr. GRONNA. I ask the Senator from Georgia if he would be willing to strike out the word "field" and after the word "demonstrations" to add the two words "in agriculture," so as to make it read:

> That in each State which shall assent to the provisions of this act there shall be expended each year for instruction and demonstrations in agriculture not less than 75 per cent, etc.

Mr. SMITH of Georgia. The entire appropriation is for instruction in agriculture. If we eliminate the word "field," and simply leave the word "instruction," it would take away any limitation at all in the bill as to the amount of demonstration work that is to be done. I understand that the object of that provision—it was a House amendment; it was not in the original bill—was to prevent the danger of the expenditure of any of this money at the college by requiring that the money be spent either in field instruction; that is to say, instruction on the field where the work was being illustrated by what was being done, or by demonstrations where the work was being demonstrated in reference to stock or cattle or dairying or actual farm work. Field instruction and demonstration require 75 per cent of the fund to be actually spent in practice in the illustration of scientific truths and in the presence of the farmers.

Mr. GRONNA. What I fear, Mr. President, is that this money can be used for no other purpose than field instruction. It may be that it would be unfortunate to strike out the word "field"; and I will ask the Senator if he would have any objection to inserting the two words "in agriculture" after the word "demonstrations"?

Mr. SMITH of Georgia. So as to read "field instruction and demonstrations in agriculture"?

Mr. GRONNA. Yes.

Mr. SMITH of Georgia. Not at all.

Mr. GRONNA. I offer that amendment.

Mr. SMITH of Georgia. I should like to ask the Senator whether he has any doubt about the fact that "demonstrations in agriculture" would cover dairying?

Mr. GRONNA. In my opinion, that language would cover dairying.

Mr. SMITH of Georgia. That is a matter which I would prefer to have passed upon by Senators who are familiar with dairying. Would the Senator have it read "demonstrations in agriculture," or "demonstrations in farm work"? Which would the Senator prefer?

Mr. GRONNA. I would prefer "in agriculture."

Mr. SMITH of Georgia. Very well. I accept that amendment.

Mr. President—after the word "demonstrations," in line 20, page 4, to add "in agriculture."

The PRESIDENT pro tempore. The amendment will be reported.

The SECRETARY. On page 4, section 4, line 20, after the word "demonstrations," it is proposed to insert the words "in agriculture."

The amendment was agreed to.

Mr. PAGE. Mr. President, in accordance with notice given on the 24th instant, I will offer an amendment.

I offer as a substitute for the bill now before the Senate, House bill 22871, the amendment which has been printed and placed upon the desk of each Senator. If I may be allowed to do so at this time, however, I should like to perfect my proposed amendment by adopting the amendments which have been adopted this morning to the original Lever bill, House bill No. 22871. Those amendments are as follows:

On page 2, section 2, line 22, after the words "demonstration work," to add the words:

> And the farm management and farm-practice work of the Bureau of Plant Industry of the Department of Agriculture.

That, I will state, is an amendment that has been agreed to this morning to the so-called Lever bill.

On page 4, section 4, line 19, after the word "demonstrations"——

Mr. SMITH of Georgia. Mr. President, I should like to make a suggestion to the Senator from Vermont. As he has embodied in his substitute the exact bill as it came from the House, would it not be better to let that bill stand and offer his bill, beginning with section 10, as an amendment to the House bill? Then the Senate can consider the various lines of work in his amendment. It may adopt a number of them or it may adopt none of them, but those that it adopts it will simply add to the House bill; and the House bill will then go into conference, if any of them are adopted, with certain amendments setting out certain specific plans for additional work.

Is it necessary for the Senator to offer this now as a substitute, in view of the fact that he embodies as the first nine sections exactly the bill that came from the House? Would it not be easier just to offer the additional sections as amendments to the House bill?

Mr. PAGE. It seems to me, Mr. President, that from a parliamentary standpoint the proper way at this time is to move to strike out all after the enacting clause and insert. Later on, if it is thought best to amend the bill in the way suggested by the Senator from Georgia, that may be done.

Mr. SMITH of Georgia. This is, therefore, an amendment proposing to strike out and reinsert exactly the same language. It is a motion to strike out nine sections and reinsert the nine sections.

Mr. PAGE. It is a motion to substitute a new bill from beginning to end, I confess, Senator. If there is a parliamentary objection, I shall, of course, yield to that.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Iowa?

Mr. PAGE. I do.

Mr. CUMMINS. I am very much interested in this measure, and I hope the Senator from Vermont will accept the suggestion of the Senator from Georgia. It will greatly simplify the whole proceeding. The issue is very plain. The Senator from Georgia has proposed, or the House has proposed, an additional contribution to agricultural education. The Senator from Vermont has not only proposed that contribution to agricultural education, but a contribution to vocational training or education.

I think it would simplify matters very much if the Senator from Vermont would allow the bill presented by the Senator from Georgia to stand, inasmuch as he does not propose to change it, and simply offer as an amendment that part of his bill which deals with the vocational education and additional appropriations for agricultural education. I believe we would get along with it a little faster if that were done.

Mr. PAGE. Mr. President, I am very anxious to adopt whatever is the best and most proper course here. My suggestion on the 24th instant was that I would offer the amendment which has been placed upon the desks of Senators this morning. But I recognize the fact that the Senator from Iowa is a warm friend of the whole measure, and I am rather inclined to accept his wishes and his views, if the Chair informs me that that is the proper parliamentary procedure.

Having given notice that I would introduce this amendment as a whole, I will ask, as a matter of parliamentary procedure, whether I may properly omit at this time from my proposed amendment the first nine sections, which really are identical with House bill No. 22871, and move to amend the House bill by adding to it all of that portion of the proposed amendment which follows section 9?

The PRESIDENT pro tempore. That is the Senator's privilege. The Senator has not formally submitted his proposed amendment, and he can modify it in any way he chooses.

Mr. PAGE. Very well. Then I move, as an amendment to House bill No. 22871, now under discussion, the addition of all that portion of the amendment which I propose to submit, and which has been printed, after section 9, commencing with the words "Vocational Schools," on page 7.

Mr. SMITH of Georgia. Mr. President, I suggest that the Secretary read the proposed amendment. It has never been read.

The PRESIDENT pro tempore. The amendment, as now offered, will be read.

The SECRETARY. Add to the bill the following additional sections:

VOCATIONAL SCHOOLS.

SEC. 10. That for the salaries of special instructors in agriculture and in home economics, giving training in these subjects to boys and girls over 12 years of age in rural high schools, the sum of $2,000,000 shall be, and hereby is, annually appropriated out of any money in the Treasury not otherwise appropriated, beginning with the fiscal year ending June 30, 1916, such sum to be allotted annually to the States and the District of Columbia in proportion to the number of persons engaged in agricultural pursuits as shown by the Federal census next preceding the year for which such allotment is made. The moneys appropriated under this section shall be known as the rural-school fund: *Provided*, That the meaning of the words rural high schools as used in this act shall be determined (for each of the States and the District of Columbia) by the board for vocational education for each State and the District of Columbia; and that such instructors in agriculture shall have had actual experience in farming and such practical and technical preparation in agriculture as would be evidenced either by graduation from or not less than two years' attendance upon a college of agriculture or its equivalent; that such instructors in home economics shall have had actual experience in home making, and such practical and technical preparation in home economics as would be evidenced by not less than two years' special training in the subject or its equivalent; and that such special instructors in agriculture shall be required to give all their time, in connection with the school, solely to instruction in the theory and practice of agriculture, and to the direction and supervision of the work of pupils on the school or the home farm.

SEC. 11. That for the maintenance of instruction in the trades and industries and home economics in separate industrial or home economics schools giving vocational preparation of less than college grade, for trades in the trades and industries or in the home through all-day, part-time, continuation, or evening classes designed to meet the vocational needs of persons over 14 years of age, the sum of $4,000,000 annually, beginning with the year ending June 30, 1916, such sum to be allotted annually to the States and the District of Columbia in proportion to their population engaged in trades and transportation and in manufacturing and mechanical pursuits, as shown by the Federal census next preceding the year for which such allotment is made. The moneys appropriated under this section shall be known as the industrial-school fund: *Provided further*, That such a separate industrial or home economics school shall mean either a school having a separate plant and equipment and separate organization of teachers and courses of study under a distinctive management, or a separate and distinct vocational department or division, whose controlling purpose is to fit for useful employment, carried on in a regular school building under a separate head or director, together with a separate organization of pupils, studies, and teachers; that the part-time and continuation classes benefited by this act shall be those for persons engaged in or experienced in industrial or home-making vocations; that the evening classes benefited by this act shall be those for persons above 16 years of age employed during the day in the respective vocations for which they are given instruction; and that no such separate industrial or home economics school shall receive the benefit of this act which does not spend more than $5,000 annually for maintenance.

SEC. 12. That for the maintenance of instruction in agriculture and home economics in agricultural high schools, as hereinafter provided, the sum of $3,000,000 annually, beginning with the fiscal year ending June 30, 1916, such sum to be allotted annually to the States in proportion to the number of persons engaged in agricultural pursuits, as shown by the Federal census next preceding the year for which such allotment is made; and for each State with less than 100,000 people engaged in agriculture, according to such Federal census, the additional sum of $5,000 for the fiscal year ending June 30, 1916, and annually thereafter. The moneys appropriated under this section shall be known as the agricultural high-school fund.

SEC. 13. That for the preparation of teachers to give instruction in or closely related to agriculture, the trades and industries, and home economics in departments or divisions of education in the State colleges of agriculture and the mechanic arts of the respective States, the sum of $040,000 for the fiscal year ending June 30, 1913, and annually thereafter; of which annual appropriation $20,000 shall be allotted for the use and benefit of said departments or divisions in land-grant colleges in each of the 16 States which maintain separate land-grant colleges for persons of the colored race, $16,000 of which shall be for the education of persons of the white race, and $10,000 for the education of persons of the colored race; and $10,000 shall be annually allotted for the use and benefit of said departments or divisions of education in each of these States which do not maintain separate land-grant colleges for persons of the colored race. The moneys appropriated under this section shall be known as the college teachers' training fund.

SEC. 14. That for the preparation of teachers to give instruction in or closely related to agriculture, the trades and industries, and home economics in State normal schools and in State universities and in other schools furnishing special training for teachers, the sum of $1,000,000 annually, beginning with the fiscal year ending June 30, 1913, to be allotted annually to the States and the District of Columbia in proportion to their population as shown by the Federal census next preceding the year for which such allotment is made; and, for such instruction as in this section is provided, in each State with less than 300,000 inhabitants the additional sum of $3,000 for the fiscal year ending June 30, 1913, and annually thereafter. The moneys appropriated under this section shall be known as the teachers' training fund.

SEC. 15. That the sum of $40,000 annually, beginning with the fiscal year ending June 30, 1913, to be expended under the direction of the Secretary of the Interior in paying the necessary expenses of administering the provisions of this act relating to the rural-school fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, and the teachers' training fund; the sum of $15,000 annually, beginning with the fiscal year ending June 30, 1913, to be expended by the Secretary of Agriculture in paying the necessary expenses of giving advice and assistance, as herein provided, to the Secretary of the Interior in the administration of the provisions of this act relating to all schools giving training in agriculture and home economics and to the preparation of teachers in these vocations; the sum of $15,000 annually, beginning with the fiscal year ending June 30, 1913, to be expended under the direction of the Secretary of Commerce and Labor in paying the necessary expenses of giving advice and assistance, as herein provided, to the Secretary of the Interior in the administration of the provisions of this act relating to instruction in the trades and industries and to the preparation of teachers for these vocations. The moneys appropriated under this section shall be known as the administration fund.

SEC. 16. That the Secretary of the Interior is hereby charged with the duty, and to him is hereby given all necessary power, to administer the provisions of this act relating to the rural-school fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, and the teachers' training fund, to secure advice and assistance from the Secretary of Agriculture and the Secretary of Commerce and Labor in carrying out the provisions of this act, in the making of investigations concerning education in the industries, home economics, and agriculture, and in the making of reports thereon; to cooperate with the State boards of vocational education herein provided for the respective States and the District of Columbia in developing the work of schools and in the training of teachers benefited by this act; and to give to such boards for vocational education such advice and assistance as will best enable them to carry out the provisions of this act.

SEC. 17. That the Secretary of Agriculture is hereby charged with the duty, and to him is hereby given all necessary power, to aid the Secretary of the Interior by giving advice and assistance to him in carrying out the provisions of this act relating to instruction in agriculture and home economics, and to make investigations in relation to agriculture and home economics and such reports thereon as may be necessary in discharging this responsibility.

SEC. 18. That the Secretary of Commerce and Labor is hereby charged with the duty, and to him is hereby given all necessary power, to aid the Secretary of the Interior by giving advice and assistance to him in carrying out the provisions of this act relating to instruction in the trades and industries and to the preparation of teachers for these vocations, and to make investigations relating to education and research in the trades and industries and issuing reports thereon.

SEC. 19. That in order to secure the benefits of the rural-school fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, or the teachers' training fund any State shall, through the legislative authority thereof, accept the provisions of this act relating to such fund and shall appoint the State treasurer custodian, to be known as custodian for vocational education, for all moneys received by such State from such fund, and shall provide for the proper custody, administration, and disbursement of such moneys, as herein provided; and the District of Columbia shall, through the commissioners thereof, accept the provisions of this act relating to such fund, and shall appoint a custodian of all the moneys received by the District of Columbia under this act, to be known as custodian for vocational education, and shall provide for the proper custody, administration, and disbursement of such moneys. Any State or the District of Columbia may accept the benefit of any one or more of such funds and may defer the acceptance of the benefit of any one or more of such funds, and shall be required to meet only the conditions imposed in relation to those funds the benefit of which it has accepted.

SEC. 20. That no State or the District of Columbia shall be entitled to the benefit of the rural-school fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, or the teachers' training fund until the legislative authority thereof shall, by law, have created or designated a board of control, to be known as the board for vocational education, consisting of not less than three members, and having all necessary power to cooperate with the Secretary of the Interior in the administration of the provisions of this act relating to such fund; and such a board for vocational education for any State or the District of Columbia may consist of the board of education or other body having charge of the administration of public education therein.

SEC. 21. That no State shall be entitled to the benefit of the agricultural high-school fund until it has, through the legislative authority thereof or through its board for vocational education, divided the State into districts, providing in each district for one agricultural high school; and in any State where separate agricultural high schools are provided for the negro race the legislative authority of such State may divide the entire State into districts, providing in each district for one such school for the white race, and may divide the entire State into other and different districts for the negro race, which need not be coterminous with those for the white race; but no such agricultural high school shall receive the benefit of this act which does not expend annually more than $10,000; but the total number of such agricultural high schools in any State shall not be less than 1 for each 15 counties nor more than 1 for each 5 counties or fraction of five counties. Any such agricultural high school shall be open to admission without tuition charges and upon the same conditions to all persons otherwise

qualified as herein provided residing in the district in which such school is located; but such school may be supported and controlled by the State, or by the district in which it is located, or by a portion thereof.

SEC. 22. That in order to secure the benefit of the rural-school fund, the agricultural-school fund, the college teachers' training fund, or the teachers' training fund, the board for vocational education for each State and the District of Columbia shall adopt, with the approval of the Secretary of the Interior, and place in operation a general administrative scheme or plan, with such modifications as may be made from time to time, for the proper distribution of moneys to schools and colleges as herein provided; for the inspection and approval of such schools and colleges under the provisions of this act; and for the formulation and application in such inspection and approval of standards and requirements in vocational education as to types of schools, location, course of study, qualifications of teachers, methods of instruction, conditions of admission, and employment of pupils. In order that such a plan may be adapted to the needs of the State or the District of Columbia in which it is to become operative, the Secretary of the Interior shall, in passing upon it and its modifications from time to time, take into consideration the social, economic, industrial, educational, and administrative conditions, and all other relevant circumstances in such a State or the District of Columbia. It shall be the duty of such board for vocational education for any State or the District of Columbia to make annually to the Secretary of the Interior a full and detailed report of its administration of the provisions of this act relating to all such schools and colleges as herein provided, and to make such additional statements and reports as may be required by the Secretary of the Interior in the discharge of his responsibility under this act.

SEC. 23. That any school or college receiving funds under this act in any State or the District of Columbia shall, in order to receive the benefits of this act, conform to the requirements of the board for vocational education of such State or the District of Columbia; shall cooperate with such board in the development of the work of such school or college as herein provided; shall make to the board for vocational education of such a State or the District of Columbia a full and detailed report of its operations in the administration of the funds received by it under this act, including a detailed statement of receipts and expenditures from all sources for this purpose; and shall make such additional statements and reports as may be required by such board for vocational education in the discharge of its responsibility for such school under this act.

SEC. 24. That in order that any State or the District of Columbia may receive the benefit of the rural-school fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, or the teachers' training fund under this act it shall be the duty of the custodian for vocational education of such State or the District of Columbia, as herein provided, to make annually to the board for vocational education of such State or the District of Columbia a full and detailed report of his administration of the moneys received by him from such fund, as herein provided, and to make from time to time such additional statements and reports relating to moneys received by him from the rural-school fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, or the teachers' training fund as may be required by such board for vocational education.

SEC. 25. That the Secretary of the Interior shall annually, upon the basis of the annual reports and recommendations made by the board for vocational education for any State or the District of Columbia, together with such of his responsibility, ascertain whether such State or the District of Columbia is using moneys received by it out of the rural-school fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, or the teachers' training fund, in accordance with the spirit and terms of this act. On or before the 1st day of July in each year after this act becomes operative he shall certify to the Secretary of the Treasury as to each State or the District of Columbia whether it has complied with the provisions of this act and is entitled to receive its share of such fund, as herein provided for such State or the District of Columbia, and the amounts from such fund which each State or the District of Columbia is entitled to receive. Upon the certification of the Secretary of the Interior, as herein provided, the Secretary of the Treasury shall pay quarterly in advance to the custodian for vocational education of such State or the District of Columbia the moneys to which it is entitled for such schools under this act. Upon the requisition of the board for vocational education of such State or the District of Columbia such custodian shall pay to the governing board of any school or college or other authority legally qualified to receive moneys for such school or college the sum which it is entitled to receive under the provisions of this act.

SEC. 26. That the rural-school fund shall be used only for distinctive studies in or closely relating to agriculture and home economics; the industrial-school fund shall be used only for distinctive studies in or closely relating to the trades and industries and home economics; the agricultural-school fund shall be used only for distinctive studies in or closely relating to agriculture and home economics; the college teachers' training fund shall be used only by departments or divisions of education in these colleges and only in the preparation of teachers to give practical or technical instruction fitting for useful service in agriculture, the trades and industries, or the home; the teachers' training fund shall be used only for distinctive studies which are given in separate units organized as departments or divisions of State normal schools, universities, or other training schools under a properly qualified head, and which are designed to prepare teachers to give practical or technical instruction fitting for useful service in agriculture, the trades and industries, or home economics.

SEC. 27. That if any portion of the moneys received by the custodian for vocational education of any State or the District of Columbia under this act, for any given purpose mentioned in this act, shall, by any action or contingency, be diminished, lost, or misapplied, it shall be replaced by such State or the District of Columbia, and until it is so replaced no subsequent appropriation for such purpose shall be paid to such State; no portion of any moneys appropriated under this act for the benefit of the States or the District of Columbia shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings or equipment, or to the purchase or rental of lands; and no portion of such moneys shall be expended other than in institutions supported and controlled by the public.

SEC. 28. That whenever it shall appear to the Secretary of the Interior, from the annual statement of receipts and expenditures of the custodian for vocational education of any State or the District of Columbia or otherwise, that a portion of the preceding annual disbursement made to such State or the District of Columbia from the rural-school fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, or the teachers' training fund remains unexpended, a sum equal to such portion or amount shall be deducted by him from the next succeeding annual disbursement from such fund to such State or the District of Columbia.

SEC. 29. That each State and the District of Columbia shall receive for the respective purposes herein provided only such portion of the full amount of any fund to which such State or the District of Columbia would otherwise be entitled as in the judgment of the Secretary of the Interior, in the discharge of his responsibility under this act, it has made ample preparations to use to advantage. And all such moneys as would otherwise be allotted to the respective States and the District of Columbia, but as are not so allotted by the Secretary of the Interior, shall remain in the Treasury.

SEC. 30. That the Secretary of the Interior may withhold a certificate from any State or the District of Columbia for the whole or any part of its annual allotment of money out of any fund to which he decides it not to be entitled under the provisions of this act. If the Secretary of the Interior, as herein provided, shall withhold a certificate from any State or the District of Columbia for the whole or any part of its allotment, the facts and reasons therefor shall be reported to the President, in order that the State or the District of Columbia may, if it shall so desire, appeal to Congress from the determination of the Secretary of the Interior. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury.

SEC. 31. That the moneys received by any State or the District of Columbia for any given purpose under the provisions of this act shall be used only for such purpose and shall be distributed among the institutions entitled to the benefit of such moneys in proportion to the amount which each expends out of other income derived from general or from local public funds for the same purpose during the same period; or such money shall be distributed on some other basis and according to some other plan previously adopted by the board for vocational education or by legislative authority for such State or the District of Columbia with the approval of the Secretary of the Interior; but there shall in no case be disbursed under the terms of this act to any school or college out of moneys derived from the rural-school department fund, the industrial-school fund, the agricultural-school fund, the college teachers' training fund, or the teachers' training fund, as provided by this act, more money than 50 per cent of the amount which is supplied and expended during the same period for the same purpose for which such fund is to be expended out of either State and local or State or local public moneys.

SEC. 32. That all States, Territories, and the District of Columbia accepting the benefit of any fund under this act shall provide other moneys with which to pay the cost of providing the necessary lands and buildings, and to pay the entire cost of all construction, supplementary to the practical and technical instruction provided for in this act, necessary in order to complete well-rounded courses of training, the main purposes of which are to give vocational as well as general preparation for agriculture, the trades and industries, and home making, or to prepare teachers for these vocations, suited to the needs of the respective sections and communities of the United States.

SEC. 33. That the Secretary of the Interior shall make an annual report to Congress on his administration of the rural-school department fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, and the teachers' training fund, under the provisions of this act, and on the work of the boards for vocational education of each State and the District of Columbia in their administration of the moneys received from such funds under the provisions of this act; and he shall make one or more reports to Congress, not later than June 30, 1915, concerning the organization of vocational education as provided for in this act.

SEC. 34. That Congress may at any time alter, amend, or repeal any or all the provisions of this act.

SEC. 35. That this act shall take effect immediately on its passage.

During the reading of the amendment.

The PRESIDENT pro tempore. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. SMOOT. I ask unanimous consent that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Utah asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and it is so ordered. The reading will proceed.

Mr. SMITH of Georgia. Mr. President, it might be well, as we read the amendment section by section, if any amendments are desired to be made to the paragraphs themselves, to consider them. I do not know what the Senator from Vermont would prefer. It just occurred to me that it would be well to adopt that course. Perhaps, though, the Senate ought to hear all of it, and then go back and take up the sections.

The PRESIDENT pro tempore. The Chair thinks it desirable that the amendment should be read in the first place.

After the conclusion of the reading of the amendment,

Mr. SMITH of Georgia. I suppose the Senator from Vermont will discuss the bill before we proceed to act upon it in detail. There are a number of suggested amendments that I want to make when we reach that stage of treating the subject.

Mr. PAGE. Mr. President, I have previously discussed this bill somewhat at length. I presume the views of every Senator touching the bill are pretty well formed, and I do not care to take very much time, except as I may be asked concerning any point about the bill upon which any Senator desires information.

I will state my purpose in moving the amendment to the Lever bill, so called, H. R. 22871: For many months I have been trying to get action upon the original Senate bill No. 3. That action, as the junior Senator from Georgia well understands, has been postponed and objected to from time to time until he believes—and I do not know but that I agree with

him in that belief—that to pass now the original bill, Senate bill No. 3, and send it to the House would probably mean that it would go into the Committee on Agriculture of that body, and that it would there die the death which comes to so many bills which we send over to the House toward the close of a session.

The bill which comes to us from the House and is under discussion at this time gives Federal aid to the adult farmer on the farm. There is no contention that it affords the slightest aid to industrial education or any education of any kind to the boys. If we are at this session of Congress to grant Federal aid to industrial education, it must be done by substituting Senate bill No. 3 for the House bill. In other words, Senators who are in favor of extending industrial education to the boy as provided by Senate bill No. 3 must vote for the amendment which I have offered, for it is probable that in no other way can we reach this legislation at this session. If the amendment which I have offered substituting the Page bill for the Lever bill is adopted, then the matter goes into conference, and out of that conference, it is believed, some bill carrying with it a measure of Federal aid to industrial education will result.

The claim has been made here that practically all the agricultural colleges of the country are against the so-called Page bill, Senate bill No. 3, and in the report of the Senator from Georgia on what is known as the Lever-Smith bill a large number of letters were printed from college men throughout the country, and notably college men connected with the colleges established under the so-called Morrill Act, to show their approval of the Lever bill.

I wish to say to the Senate that those letters of approval were quite largely written because of the belief that we could not at this session reach action on Senate bill No. 3, but that we might perhaps secure some legislation under what is known as the Lever bill.

I want to read some letters showing the real situation as to this matter. Here, for instance, is a letter from Connecticut. In the report of the Senator from Georgia on the Smith-Lever bill he quotes as follows:

President Connecticut Agricultural College: "My personal opinion is that carrying of the latest scientific knowledge to the working farmer is one of the most important duties of the land-grant colleges. I sincerely hope that this bill will have favorable consideration by the present session of Congress."

I have a letter bearing date December 28, 1912—months and months after the above was written—in which the president of the Connecticut Agricultural College, Charles L. Beach, uses this language:

I am informed that the Lever extension bill and the Page vocational bill are scheduled for consideration in the Senate. I have urged our Connecticut Senators, FRANK B. BRANDEGEE and GEORGE P. MCLEAN, to use their influence in securing favorable action on the Lever bill for the reason that I believed that this was the only measure which could be passed the present session.

Senator MCLEAN writes me, however, that the Page vocational bill can be passed in the Senate.

Personally, I am in favor of the broader bill, as I believe the time is ripe to make a beginning in vocational education. I am writing Senators BRANDEGEE and MCLEAN to this effect.

Mr. HITCHCOCK. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Nebraska?

Mr. PAGE. I do.

Mr. HITCHCOCK. As we are likely to come to a vote upon the bill this afternoon and as the author of the substitute is now upon the floor, I venture to suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Nebraska suggests the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Bankhead	Crawford	Johnston, Tex.	Sanders
Bourne	Culberson	Kern	Shively
Bradley	Cullom	La Follette	Simmons
Brandegee	Cummins	McCumber	Smith, Ariz.
Briggs	Dillingham	McLean	Smith, Ga.
Bristow	Dixon	Martine, N. J.	Smoot
Brown	du Pont	Myers	Stephenson
Bryan	Fletcher	Newlands	Sutherland
Burnham	Gallinger	O'Gorman	Swanson
Burton	Gamble	Overman	Thornton
Catron	Gardner	Page	Tillman
Chamberlain	Gronna	Percy	Wetmore
Chilton	Heiskell	Perkins	Williams
Clapp	Hitchcock	Perky	
Clark, Wyo.	Johnson, Me.	Richardson	
Clarke, Ark.	Johnston, Ala.	Root	

Mr. THORNTON. I wish to announce the necessary absence of my colleague [Mr. FOSTER] on account of sickness in his family. I ask that this announcement may stand for the day.

Mr. SMITH of Arizona. I wish to announce the necessary absence of my colleague [Mr. ASHURST]. I desire to let this announcement stand for the day.

Mr. KERN. I desire to announce the unavoidable absence of the Senator from South Carolina [Mr. SMITH].

Mr. SMITH of Georgia. I wish to state that the senior Senator from Georgia [Mr. BACON] is detained at his home by a bereavement in his family.

Mr. SMOOT. I desire to announce that the Senator from Michigan [Mr. SMITH], the Senator from Washington [Mr. JONES], the Senator from Iowa [Mr. KENYON], the Senator from Ohio [Mr. POMERENE], the Senator from Arizona [Mr. ASHURST], and the Senator from Michigan [Mr. TOWNSEND] are at the present time in Michigan attending the funeral of the late Congressman WEDEMEYER.

Mr. SANDERS. I wish to announce the unavoidable absence of my colleague [Mr. LEA].

The PRESIDENT pro tempore. On the call of the roll 61 Senators have answered to their names. A quorum of the Senate is present.

Mr. PAGE. Mr. President, I was referring to the fact that in the report which accompanied the Lever bill it was made to appear that the educators of this country were opposed to the Page bill and in favor of the Lever bill. I have had the letters which appeared in the report on the Lever bill placed side by side with those which I have personally received, and in many cases the fact appears that their opposition, if they have opposition, to the Page bill was because they feared it could not pass and they wanted the Lever bill to pass rather than have no legislation.

I do not propose to take up the time of the Senate by reading these letters, but I think I will read one more as a sample of the many I have received showing these college presidents have been induced to favor the Lever bill under the impression that it would be impossible to pass any other bill at this session. J. J. Vernon, the dean of the College of Agriculture of Florida, is one of those said to favor the Lever bill. I want to ask Senators to carefully listen while I read his letter to me stating why he had indorsed the Lever bill:

HON. CARROLL S. PAGE:

Replying to your communication of the 16th ultimo, which came to this office during my absence on extension work for boys' and girls' clubs, I wish to say that I consider the Page bill the best educational bill which has ever been prepared and presented for congressional action. It is a bill comprehensive and practical, and will meet the southern needs. I am satisfied that the leading educators of the whole country are in favor of the Page bill, but it seems to be largely a question of getting a bill through carrying such a large appropriation at the present session of Congress.

I want you to know that I am entirely with you for the Page bill at any time it can be passed, but I am sure that you and your forces will, if it becomes necessary, transfer your support to the best measure that is most likely to be enacted into law.

I consider the secondary educational part the most important feature of the Page bill. It would reach the greatest number of young men and young women at the age when most could be done, and therefore I consider all the other parts of the bill of lesser importance. If there is anything I can do to assist you, please command me.

J. J. VERNON.

Note that Dean Vernon thinks the Lever bill of secondary importance and that the most important part is that which pertains to the secondary-education features of the Page bill.

I have a letter from the dean of the school of commerce, accounts, and finance, of New York University, Joseph French Johnson, in which he says:

NEW YORK UNIVERSITY SCHOOL OF COMMERCE, ACCOUNTS, AND FINANCE.
New York City, January 3, 1913.

Hon. CARROLL S. PAGE,
The Senate, Washington, D. C.

MY DEAR SENATOR PAGE: I have examined very carefully the provisions of Senate bill 3, for the encouragement of vocational education among the States, and shall consider it a national calamity if this bill or something very much like it does not become a law.

My own education was of the old-fashioned kind. When I left college I was able to do nothing except teach school. As I was qualified to teach only languages and literature, and not well fitted even for that work, the profession of teaching did not appeal to me. I broke into newspaper work at a few dollars a week, and after four years' apprenticeship became the financial editor of a Chicago daily. I then had occasion to discover that few bankers and business men had been specially trained for their vocations and that many of them in consequence were making costly blunders. I resolved that if ever I became teacher again I would devote myself to working out a scheme of education for business men. The call came in 1893, and since then I have been engaged in vocational education.

You are entirely right in your contention that vocational education will have a cultural effect. My own view is that culture is a by-product of education. It should not be the thing aimed at. Young people are not interested in it, and we old folks can't define it. Most of our children don't want to go to school because they can't see any possible connection between school and life.

The measure for which you are fighting, if it becomes a law, will do much more than furnish several thousand young people an opportunity to fit themselves for useful careers. It will give the American people

an object lesson in real education and will set them to wondering why they are spending so many million dollars on a public-school system that is wasting a tremendous amount of their children's time and energy.

So I am heartily in favor of the bill for which you are sponsor, and I congratulate you on having made a very luminous and convincing presentation of its merits.

Very truly, yours,

JOS. FRENCH JOHNSON.

I do not know how Mr. Gompers may be regarded personally by Senators here, but if there is any man authorized to speak for that great labor organization, the American Federation of Labor, it is Samuel Gompers. He has written a letter of considerable length in support of the vocational education features of the Page bill, and, with the consent of the Senate, I will ask that it be printed without reading. I want to shorten debate as much as possible.

The PRESIDENT pro tempore. Without objection, it will be so ordered.

The letter referred to is as follows:

AMERICAN FEDERATION OF LABOR,
Washington, D. C., January 24, 1913.

Hon. CARROLL S. PAGE,
United States Senate, Washington, D. C.

SIR: In connection with pending legislation on industrial education, I beg to hand you herewith the report which the executive council of the American Federation of Labor submitted to the last annual convention, held at Rochester, N. Y., November 11–25, 1912, the report of the committee on education, to which this matter was referred, and the action of the convention thereon.

These matters are submitted to you for your information as to the declaration of the last annual convention of the American Federation of Labor on this subject and for your serious consideration in connection with pending legislation.

Very respectfully, yours,

SAML. GOMPERS,
President American Federation of Labor.

(Report of the executive council of the American Federation of Labor on industrial education, submitted to the Rochester convention of the American Federation of Labor, November 11–25, 1912.)

INDUSTRIAL EDUCATION.

In December, 1911, a conference was called by Senator PAGE, of Vermont, to give technical consideration to his bill, S. 3, which provided for vocational education and trade training. Reference to this bill has been made by us in our previous reports. Prominent educators, agriculturalists, and representative employers, together with the legislative committee of the American Federation of Labor, considered proposed amendments to the bill and the best methods to pursue in order to secure favorable action. Senator PAGE reintroduced his bill with the suggested changes. Most of these were embodied in the technical features and in the agricultural extension sections of the bill. They were not applicable to the interests of urban labor represented by the American Federation of Labor. The result was that when the amended bill was considered by the Senate Committee on Agriculture, Senator PAGE was ordered to report it favorably to the Senate. This was done on February 26, 1912.

The Senate considered the bill on June 14, July 24, August 10, 18, and 22. It still holds its place upon the Senate calendar, and, in accordance with a tacit agreement among the Senators, will be given further consideration in the third session of the Sixty-second Congress. It is the opinion of some enthusiastic supporters of the measure that it will be passed. Its enactment will depend upon the nature of the support given by those who have been urging its passage. This industrial education bill has been handicapped to some extent by the persistency with which several Congressmen, particularly some from the Southern States, have been urging the passage of that section of the bill relating to agricultural colleges and experiment stations, without regard to the other provisions of the bill dealing with industrial and vocational education and training.

The bill H. R. 22871, by Representative LEVER, of South Carolina, was introduced by him on April 4. It is limited to agricultural educational extension work exclusively. It was referred to the House Committee on Agriculture.

Representative WILLIAM B. WILSON, of Pennsylvania, had previously reintroduced his bill (new number H. R. 21490), which had been changed to conform to its companion bill, S. 3, by Senator PAGE. Mr. WILSON'S bill was also referred to the House Committee on Agriculture. A tentative understanding was reached between the chairman of the House committee, Mr. LAMB, and Mr. WILSON that no action should be taken on the Lever bill until after an opportunity had been afforded Mr. WILSON and the friends of his bill to be heard by the House committee. In accordance with this understanding, Mr. WILSON arranged with the chairman for hearings on his bill, to commence on April 25. He invited those desiring to be heard to come prepared to make their statements before the committee on that date. He took charge of the hearings, which continued for four days. The legislative committee of the American Federation of Labor, appearing in cooperation with other advocates, urged that the Wilson vocational trade-training bill be favorably reported. The Lever bill was reported favorably by the committee on April 13, passed by the House on August 23, and referred to the Senate Committee on Agriculture August 24.

At our meeting in January, after the industrial education bill had been given some consideration, we directed Secretary Morrison to request the members of the special committee on industrial education to meet concurrently with our next meeting, May 9. The Page bill was discussed by several members of the committee at that meeting.

A digest of the special report of the United States Commissioner of Labor on industrial education was discussed by us. The American Federation of Labor committee on industrial education recommended to us that Mr. Charles H. Winslow be requested and authorized to prepare a final report for the committee, this report to be submitted to this convention as directed by the Atlanta convention. We complied with that request, and Mr. Winslow performed this service.

At the following meeting of the executive council we had before us the report of Mr. Winslow as accepted by the American Federation of Labor special committee on industrial education. It was discussed, and it was decided that inasmuch as the document was of such great public value, was such a magnificent contribution to the literature upon the questions of industrial education, vocational training, household economics, and civics, that it should be made a public document by authority of Congress. Senator PAGE readily obtained the consent of the United States Senate to have it printed as a Senate document. It has been so printed, and is known as Senate document 936, Sixty-second Congress, second session. Several thousand copies of this document have already been distributed, and a sufficient number are at the convention so that each delegate may have a copy. The members of affiliated organizations should request their respective United States Senators to send them copies for educational institutions and for the labor unions.

(Report of committee on education and action of convention thereon.)

INDUSTRIAL EDUCATION.

The committee has considered that portion of the executive council's report under the caption "Industrial education," and desires to express its appreciation of the splendid work of both the special and the general committees on that question. The work and the report of the general committee on education includes a study of every scheme of vocational education in the United States and presents in detail in the briefest possible manner the work done in the schools investigated. The report, which is printed in pamphlet form and contains 114 pages, will be distributed to the delegates to this convention, and we urge that each delegate read carefully this very valuable handbook on this matter which is so extremely important to our members.

The original action taken concerning vocational education was in accordance with a resolution adopted by the Denver convention of 1908. A special committee on industrial education was appointed to investigate and report on the subject matter to the Toronto convention. In compliance with the resolution, the committee made a preliminary report, but later, by authority of the Toronto convention, the life of the committee was extended so that it might further pursue its studies in the light of a searching investigation, which was being carried on by the United States Bureau of Labor.

The investigation and report made by the United States Bureau of Labor, undertaken at the request of the American Federation of Labor's committee on industrial education, is believed to be the most comprehensive inquiry ever made on the subject in the United States.

Text of the resolution creating the special committee on industrial education is as follows:

"The president, in conjunction with the executive council of the American Federation of Labor, be, and is hereby, authorized to appoint a special committee of at least 15, to be composed of the majority of trade-union members of this convention, who will serve without compensation and incur no expenses other than the necessary and legitimate expenditure within the judgment of the president and the executive council, to investigate the methods and means of industrial education in this country and abroad, and to report its findings, conclusions, and recommendations to the next annual meeting of the American Federation of Labor."

The final make-up of the committee follows:

John Mitchell, chairman, Frank Duffy, secretary, Samuel Gompers, Frank Morrison, James Duncan, D. A. Hayes, William D. Huber, Joseph F. Valentine, John R. Alpine, H. B. Perham, Mrs. Raymond Robins, Miss Agnes Nestor, Dr. Charles P. Neill, Hon. W. B. Wilson, Rev. Charles Stelzle, Charles H. Winslow, Edward Hirsch, John Golden, James Wilson, James O'Connell, John B. Lennon, Hugh Frayne, James Roach, Stuart Reid.

SCOPE OF THE RESOLUTION.

From the terms of the resolution under which the committee was constituted it is evident that what was desired was:

1. A thorough investigation of the needs of industrial education.
2. A statement of the extent to which the needs are now met by existing institutions.
3. As the result of such investigations, some definite suggestions for the promotion of industrial education in such manner as might best serve the interests of the whole people.

POINT OF VIEW AND RECOMMENDATIONS OF THE COMMITTEE.

The committee entered upon its duties without fixed notions as to the form industrial education should take throughout the country, and in consequence, its inquiries and studies have made the most profound impression upon its members.

Keeping in mind the scope of the resolution, as well as the complexity of the situation, the committee addressed themselves to the following questions in an effort to bring out practical suggestions toward the solution of the problem:

1. Should trade, vocational, technical, and industrial schools be established as a part of the public-school system?
2. Should private industrial educational institutions be tolerated?
3. Under what conditions and terms should industrial schools, either public or private, be countenanced and supported?
4. Under what conditions should the semiprivate or semipublic industrial schools, namely, the so-called cooperative industrial schools, be approved or disapproved?
5. Should they be free or supported by the city, county, or State in which they are located?
6. Should they be under the control or partial control of the National Government?
7. Should their instructors be practical men from the ranks of trade occupations, or should they be men who know nothing of the trade itself except its theoretical side?
8. What should be taught under the head of "industrial education"; the cultural side, the professional side, the practical side, or all combined?
9. To what extent, if any, should labor headquarters, labor temples, and labor halls be used to furnish industrial education?
10. To what extent should "prevocational courses" be encouraged?
11. What disposition shall be made of the product of industrial schools?

POINT OF VIEW.

After an extensive as well as intensive study of the entire subject, covering a period of more than three years, examining the many experiments now in vogue, ascertaining through first-hand information the purposes and merits of the several type of school now prevailing, the committee is prepared to offer the following as a partial solution of the above questions.

In regard to 1: Should trade, vocation, technical, and industrial schools be established as a part of the public-school system?

We believe that technical and industrial education of the workers in trades and industry, being a public necessity, should not be a private

but a public function, conducted by the public, the expense involved at public cost and as part of the public-school system. In order to keep such schools in close touch with the trades and industries there should be local advisory boards, including representatives of the industries, the employers, and organized labor.

In regard to 2: Should private industrial educational institutions be tolerated?

Organized labor's position regarding the injustice of narrow and prescribed training in selected trades by both private and public instructions, and the flooding of the labor market with half-trained mechanics for the purpose of exploitation, is perfectly tenable, and the well-founded belief in the viciousness of such practices and the consequent condemnation is well-nigh unassailable.

In regard to 3: Under what conditions and terms should industrial schools, either public or private, be countenanced and supported?

We believe in private initiative, coupled with active cooperation between the school authorities and the trade-unions, or private undertakings which are manifestly for the educational advancement of trade-union members.

In regard to 4: Under what conditions should the semiprivate or the semipublic industrial schools, namely, the so-called cooperative industrial schools, be approved or disapproved?

The problem is divided into two parts, as follows:

(a) Public control of cooperative schools, as follows:

(b) Private control of cooperative schools.

As to (a) the cooperative-school plan is an attempt to combine training in the processes and practices of trades, in manufacturing or other establishments, with general instruction in a school which includes theory plus academic studies that bear directly on the trade work. The details of such systems vary, but the most popular is the half-time plan.

In the last analysis industrial education will be measured by intensely practical men of the industrial world on the basis of skill and intelligence as developed by undertakings to fit the youth of the country for wage-earning occupations. In order to meet this test successfully apprentices must be trained under real conditions in productive industry, thereby making the cooperative-school plan a necessary feature of our public-school system.

The public schools should teach the theory of the trade, while the actual practice and processes should be taught in the shop. This method permits of continuous development of capacity and relieves the manufacturer of the expense of the theoretical instruction, and provides a means of weeding out boys who are not adapted to particular trades.

By this method the boy, the employer, and the community are benefited. The obligation to provide industrial education of a theoretical nature, therefore, should rest entirely with the public schools.

As to (b) private control of cooperative schools:

The committee reaffirms its position in condemning any system of public instruction privately controlled, or any scheme of private selection of pupils, and calls attention to the introduction of a plan which is being put into operation in several localities and fostered by manufacturers' associations.

This cooperative scheme is a limited plan for industrial education, carried on between the high school, which engages a teacher for the purpose, one satisfactory to the manufacturers, and a group of the latter who indenture such boys as they desire to have. The idea is, of course, to give a thorough training. But—

(a) The manufacturer is not obliged to take any boys or to keep any boy.

On the other hand the high school is obliged to educate all duly qualified boys, to give them all that the city provides.

Therefore those who study in such a cooperative course do so on sufferance.

In regard to 5: Should they (the schools) be free, supported by the city, county, or State in which they are located?

The committee reaffirms its advocacy of free schools, free text books, the raising of the compulsory school age, and a close scrutiny of courses and methods of instruction.

In regard to 6: Should they (the schools) be under the control or partial control of the National Government?

Results vast in importance and magnitude have come from the action in Congress in 1862 in giving land grants to each State to be used for State colleges of agriculture and mechanic arts. This appropriation of lands, followed by direct appropriation of moneys in 1890 and 1907, provides these colleges with a fund averaging about $65,000 per State, or a total of over $3,000,000 annually. While the funds so appropriated were for a long time used largely for general studies, the subjects of mechanic arts, agriculture, and home economics were finally developed, so that they now compete on nearly equal terms with the literary and scientific courses.

Since most of this fund is in demand to train engineers, technical agriculturists, and teachers in the mechanic, agriculture, and home economics subjects, comparatively little is available to give school training to those who wish to become experienced workmen, farmers, or home makers.

There is a movement at present, in which labor is taking a prominent part, to still further develop education to which these colleges were dedicated. Since only one college in a State can do little more for our greatly enlarged population than to provide courses of study for those who are to become technicians, and can not give equal opportunity in liberal and practical education to all of the industrial classes, this new movement is crystallizing around a plan for including the secondary public schools under the scope of additional similar grants, thus increasing and giving direction to a complete national scheme of education in which labor should receive recognition and its just share of attention.

In regard to 7: Should their instructors be practical men from the ranks of trade occupations, or should they be men who know nothing of the trade itself except its theoretical side?

The committee believes that experience in European countries has shown that academically trained teachers have been dismal failures. Notwithstanding this experience, many so-called trade or vocational schools in the United States have in the recent past attempted experiments with academically trained teachers with very unsatisfactory or disastrous results.

The teachers of trade and manual vocations must keep up with modern shop practices and processes in establishments which are doing regular productive work; otherwise they will fall far behind and be teachers of obsolete methods and processes. Successful teachers must be men of practical experience, with more than a text-book acquaintance with the industrial world.

A good trade teacher needs at least a fair general education, with specialized knowledge of such arts or sciences as may be related to the trade he is to teach; a practical knowledge of the trades such as is usually gained only by working at them under the ordinary shop conditions and in addition an understanding of the general principles of teaching, that he may be able to impart his knowledge to others. The combination is not a common one. To be a skilled trade worker presupposes years of training and experience in the shop, and men possessing this have usually begun work by 16, with only a grammar-school education at most. Even if they have added to this by night study they have had no experience in teaching and find much difficulty in imparting their own knowledge to learners. The trained teachers, on the other hand, while thoroughly familiar with the theory and underlying principles of the trades, usually lack concrete and practical experience with industrial processes. As a general rule, therefore, the school has to choose between the skilled worker not trained as a teacher and the professionally trained teacher who knows the theory of the trades but has little, if any, practical experience.

In regard to 8: What should be taught under the head of "industrial education"; the cultural side, the professional side, the practical side, or all combined?

The committee believes that the course of instruction in a school giving industrial education should include English, mathematics, mechanics, physical trades, elementary mechanics, and drawing; the shop instruction for particular trades and for each trade represented; drawing, mathematics, mechanics, physical and biological science applicable to the trade, the history of that trade, and a sound system of economics, including and emphasizing the philosophy of collective bargaining. This, it is believed, will serve to prepare the pupil for more advanced subjects and, in addition, disclose his capacity for a specific vocation.

In regard to 9: To what extent, if any, should labor headquarters, labor temples, and labor halls be used to further industrial education?

The committee is convinced that there are conspicuous activities throughout the country known as "educational hours" at central labor-union meetings which might well be exemplified to advance and organize a propaganda for industrial education. Such meetings might also be turned into an educational "forum" in the interest or advocacy of membership by trade-unionists on both State and municipal educational boards and committees.

In regard to 10: To what extent should "prevocational courses" be encouraged?

For more than a decade the introduction of properly balanced courses in trade training and the enrichment of these courses have embarrassed the advocates of industrial education not a little; in fact, attempts to scientifically analyze processes and practices of the trades have met with resentment on the part of superintendents, supervisors, and foremen of large industrial establishments. The reason for this resentment is that those usually seeking such information are manual-training school teachers, unfortunately the greater number of whom are women. Moreover, it is conceded that such teachers have very little sympathy with trades, as such, but look upon manual and trade instruction as a way out of the difficulty of educating the subnormal pupil. Hence, the objection of those interested in trades or trade education to thrusting upon industry the dull boy.

On the other hand, even public trade school instructors in some instances have turned a deaf ear to what they call impertinent inquiries as to methods of procedure. Such instructors usually consider the proper kind of equipment, processes, and practices necessary for the training of apprentices "their stock in trade." However, insistent demand that rule-of-thumb methods be abolished has resulted in genuine attempts to teach the trades scientifically, systematically, and sympathetically.

As a result of this new era in the advancement of scientifically arranged courses with the necessary equipment, it seems eminently proper at this time to point out the overwhelming desire on the part of the advocates of manual-training schools to establish within such schools and elsewhere "prevocational courses" for pupils between the ages of 12 and 14.

While we welcome practical courses for those who are to later enter upon specialized vocational and industrial courses, we maintain that "prevocational courses" should be taught by tutors with practical knowledge of the vocations toward which the pupils are to be pointed; in other words, we can not too strongly condemn any attempt to thrust upon school systems courses of instruction which presume to try out the adaptability of the pupils for particular vocations and which are taught by women teachers with absolutely no practical knowledge of the metal, woodworking, and such other trades for which instruction may be offered.

If "prevocational courses" are to be offered in publicly administered schools in an effort to establish a scheme of vocational guidance, then we insist that such courses be given by men tutors, who not only have a practical knowledge of the particular trades, but, in addition, teaching experience coupled with an insight into the adaptability and inclination of the pupils for such vocations. (Same to apply to trades and vocations in which women are exclusively employed.)

Finally, we favor and advocate increasing the number of men teachers in industrial schools, as well as "prevocational schools," to the end that all practical instruction in trades be given by properly trained teachers, who have had in addition to their teaching experience at least four years' practical experience at particular trades.

In regard to 11: What disposition shall be made of the product of industrial schools?

A most serious and troublesome question arises concerning the disposition of the product of industrial schools. If the teaching of any trade in its entirety is to turn out journeymen, near journeymen, or all-round workmen, then there must necessarily be a product which will have a commercial value. If it is not, the work has not been carried on as it would be under real commercial conditions and the training therefore is imperfect.

If the product of these schools is to be put upon the market in any way, there is likely to be much opposition from manufacturers, contractors, and organized labor. Since it will inevitably come into competition with the product of regular establishments, it has been pointed out that if the students were regular apprentices in industrial establishments, they would be working as much in competition with apprentices and journeymen in other establishments as if they were doing the same kind of work and producing the same kind of articles in the schools. This meets the objection only partially from the standpoint of labor and not at all from that of the employer. In both cases the objection is to what may be called subsidized competition; competition which is not hampered by the necessity of making its product pay for its own cost of production. The difficulty does not, of course, arise in apprenticeship schools in which a manufacturer trains his own employees, but in philanthropic and public industrial schools it presents a serious problem, for which as yet no satisfactory solution has been found.

As previously stated in this report, the committee believes that instruction should be given for its educational value, or, in other words, it should be "construction for instruction rather than instruction for construction."

An agreement between school authorities and contractors who are erecting public buildings, whereby pupils of schools given instruction in building trades, shall be permitted during a part of the time to make practical application of their training, on buildings in course of erection, the pupils to receive credit for such work as part of their course, has been suggested as a feasible and unobjectionable plan. Similarly the work under the various city departments has been suggested to provide practice for pupils in many other trades.

This in no way is a new experiment, as practical application of the same is being made in foreign countries with considerable success.

A minor difficulty in connection with a product having a commercial value is the temptation to increase output by keeping the student longer at one machine or operation than is absolutely necessary for practical educational purposes; in other words, there may be a tendency, for the sake of revenue, to follow the example of the shop and specialize instead of giving well-rounded training. This, however, is a matter of school administration, but, nevertheless, of great concern and can be easily guarded against if the right attitude is shown by school administrators.

RECOMMENDATIONS.

The committee after due consideration of the importance of the several systems of schools now in operation throughout the country, recommend the following specific types of schools for the advancement of the prospective apprentice to the trades, as well as for those who have already entered the trades:

1. Supplemental technical education: Supplemental technical education for those already in the trades. The demand for such instruction is measured by the necessity for training in particular trades and industries, and the chief aim of such instruction should be to present those principles of arts and sciences which bear upon the trades either directly or indirectly. Such schools are commonly known as "continuation schools," whether their sessions are held in the day, evening, or on the part-time plan.

2. Industrial education: The establishment of schools in connection with the public-school systems, at which pupils between the ages of 14 and 16 may be taught the principles of trades, not necessarily in separate buildings but in schools adapted to this particular education by competent trade-trained teachers.

3. Trade-union schools: The committee recomends the continuance of progressive development in supplemental trade education as inaugurated by trade-unions, such as the supplemental trade courses established by the International Typographical Union; School for Carpenters and Bricklayers, Chicago, Ill.; International Printing Pressmen's Technical School, at Rogersville, Tenn., and the School for Carriage, Wagon and Automobile Workers, of New York City. The establishment of the Printing Pressmen's Technical Trade School, following the example set by the International Typographical Union, marks another epoch in the introduction of trade education by trade-unions.

That the typographical union and the printing pressmen should be the first trades-unions to establish such schools was a foregone conclusion, for in proportion as occupation makes claim on the intellect of the workers greater educational opportunities become necessary.

Those trades which call for the greatest intellectual or technical skill on the part of the worker afford the most available opportunities for educational activity.

It is not because the personnel in the printing trades is better, but rather because these occupations are becoming increasingly more technical and individual in their character.

The committee further recommends that all trade-unions which have not adopted a scheme of technical education give the matter the consideration it so richly deserves; and they further believe that the undertakings of the above unions call for the most enthusiastic admiration and are entitled to the most cordial and loyal support.

4. We recommend that if in the course of time schools under public administration with a broad and liberal course in instruction (with an advisory committee composed of employers as well as trade-unionists) shall demonstrate practical efficiency in training workers for the highly skilled trades, we favor the recognition of that portion of time spent in the schools which, after an examination by the union at interest of the practical and theoretical ability of the apprentice, can be considered comparable to actual training in particular trades as a substitute for a period of the apprentice's time spent entirely in the industry.

FEDERAL AID.

In addition to the above recommendations and in compliance with the action of the St. Louis convention regarding Federal aid for vocational education, this committee urges a greater interest in the education of the 25,000,000 children of school age in the United States, 50 per cent of whom leave school by the end of the sixth grade at approximately 14 years of age.

Not only are we confronted by this state of affairs, but of the 50 per cent who remain in school only 1 child in 3 finishes the eighth grade, only 1 in 5 enters the high school, and only 1 in 30 finishes the high-school courses. Some idea of the extent of this vast problem can be gleaned when it is realized that the cost of maintenance of the common schools of the country is $500,000,000 a year. In addition to this sum there has been expended for the equipment in these school plants $1,000,000,000, and the benefits of this enormous expenditure are enjoyed by only 50 per cent of the children of school age.

The vocational education bill, known as Senate 3, introduced by Senator PAGE, of Vermont (a similar bill having been introduced in the House of Representatives by Congressman WILSON) is one of several introduced in Congress to advance the cause of vocational education throughout the States by a liberal Federal grant for agriculture, the trades and industries, as well as home economics. The passage of this bill has been hindered somewhat by the activities of certain Senators who are opposed to its provisions but in favor of another bill much narrower in scope and relating only to colleges and experiment stations, while the Page bill includes all such provisions and in addition creates a plan for Federal grants to secondary public schools, thus giving direction to a complete scheme of education in which all the children of the Nation should receive a just and equitable share of attention.

Much time and attention has already been given to this bill by the president of the American Federation of Labor, as well as by the legislative committee, and considerable hope has been expressed for its ultimate success. It still holds its place on the Senate calendar and is to be considered early in the third session of the Sixty-second Congress, which meets in December of this year. Every effort should be made to secure such legislation guaranteeing high Federal standards with the widest possible latitude within the States for adaptation to the specific needs of the various communities.

Respectfully submitted.

Joseph F. Valentine, chairman, John H. Walker, secretary, James J. Freel, D. A. Carey, Ben Commons, Paul Scharrenberg, James L. Gernon, Phil H. Mueller, Agnes Nestor, John F. Pierce, John D. Crane, Thomas Wright, Fred W. Sulton, Edwin W. Weeks, W. T. Brown, committee on education.

A motion was made and seconded that the report of the committee be concurred in.

Delegate Lynch (J. M.): As an encouragement to the unions that may have under consideration following the example set by the International Typographical Union, I may state that we now have 3,500 students of our craft. I think there are very few colleges that have as large a student body, and as a result those printers who have taken it have benefited by it; a great many of them have been able to secure a scale of wages in excess of the prices running from $7 to $15 a week. So we are getting practical results through the education we are conducting through an educational commission made up entirely of printers and located in Chicago. I make this as a statement of facts, not theory.

Treasurer Lennon, in discussing the question, said in part: I want to say just a few words on this question because of my contact with educators, and because of the knowledge of the situation that they believe, at least, confronts them. They are not intentionally antagonistic in the main to our movement.

Many of them, as a matter of course, do not understand. The idea of vocational or trade education is becoming very general among the educators of this country. The first question they ask is, "Where are we to get the teachers that you trade-unionists advocate shall be used?" Now, my friends, that is not a question that can be answered offhand; it is a question we must help the educators and school boards to solve. We can not stop the trend in the direction of this kind of education in the schools; but we can, if we cooperate with the educators, have it come our way. There will be some mistakes made, as a matter of course, but we can afford to overlook them and correct them.

I know of members of our organizations who have been furnished with the reports of the special committee and have never taken the trouble to read them. How can they intelligently meet the question with the educators of their various communities? In the various States this question is going to the country schools, not only to the city schools, but the little schools at the crossroads. They are proposing to teach domestic science and a moderate knowledge of the carpenters' trade and the blacksmiths' trade. Now, if we will cooperate with the educators we will see that this is done in a way that is beneficial and not detrimental to these trades.

I desire to impress upon the trades-unionists here, and through the men here those at home, the necessity of giving careful examination to what the special committee has done during the last three or four years. It is great work and it is entitled to consideration, because it is more important, as it has to do with the welfare of our children and grandchildren, than possibly any other matter that has been or will be considered by this convention.

Delegate Frey, in discussing the question, said, in part, "This question of industrial education is such an important one to us as trades-unionists, and has never yet received that careful study it deserves, that I feel warranted in taking up a few moments of the convention's time to express a thought or two in connection with the subject. Every one of us is familiar with the fact that the trend of modern industry is to specialize, and that that specialization instead of making expert mechanics tends to develop a man in a single, narrow channel where he is only made familiar with a small part of the work required to finish the product of the industry in which he is engaged. The result is that there may be a decreasing amount of mechanical skill and general knowledge of the trade developing in our country. I think we are warranted in saying at least that there is no increase in the degree of mechanical skill among the boys who are now learning the trade in the various industries."

Some educators have noticed this tendency, and a large number of employers have also noticed the same tendency, and they have endeavored to establish schools where boys will be taught a specialty in the trade, where they will be prepared on two or three months' or a year's training to take the place of mechanics and make it more difficult for us to win strikes or to maintain our organizations. I think we might as well face the fact that the present system of education, so far as training a boy or girl to be self-supporting in the industries, is faulty and that we require a revolution in some of the methods. I believe our movement is the one that must set that revolution on foot and make the change that is absolutely essential. We take the boy and girl now with a little smattering of knowledge from the schoolroom and throw them into the industries; we separate them in one day from the schoolroom and place them in the factory. Some of our good friends have suggested that the boy and girl, after working all day in the factory or mill, might go to a night school to get some added knowledge they require to make them more proficient to earn a livelihood in their industries. In one country the question, while not solved, at least is solving itself. They have the continuation schools, and, instead of taking the young man and woman out of a school and throwing them into the industry for all time, they say there shall be a graduation of that school period. They take the young person and for the first six months or the first year of their employment in factory or mill force the employer to allow that individual during work hours to go to school to secure an education that will allow him to better hold his own in the industry in which he is engaged.

I believe what we need to-day is to adopt some emphatic declaration in favor of a continuation-school system that will say to the employer, "You can not take the child from the common school or even from the high school and force him to work the regular working hours of your establishment. That chold must go to a continuation school, where he will be taught the theory and taught something of the practice of the industry he is engaged in."

There is one danger we have in the industrial form of education we have in this country to-day, and that is that it is subsidized very largely by those who are antagonistic to our movement; and, while carried on by private parties, they hope to put it in the mildest form, where it will work out to their benefit without conferring the kind of education we think is necessary for wageworkers. I think we should

commit ourselves definitely in favor of a vocational education that will be entirely under the charge of the public-school system, where our children will be able after leaving schools to have an opportunity to learn something about the theory of industry in which they are engaged and where, gradually tapering off for three or four years, they will have an opportunity to be educated in the public schools and prepare themselves for the vocation they will follow in this life.

Delegate Simpson, in discussing the question, said in part: The previous speaker referred to continuation schools. I think the organized workers interested in the work of the American Federation of Labor should also be acquainted with the methods that are being adopted in other countries along this practical line. Little has been said about a system of continuation schools that will meet with the approval of organized labor. There are two systems of continuation schools in Germany. In Berlin there is a system of continuation schools which permits of the boys going to this school up to 7 o'clock at night, the employers being compelled to send the apprentices to those schools up to that hour. In Munich the law is somewhat better and, I think, would meet more with the approval of organized labor. If a boy works from 8 o'clock in the morning till 5 o'clock at night he is compelled to attend school during those hours, and the employer is compelled to pay the boy's wages during those hours. I contend that between the two systems the latter is far preferable in the interest of organized labor and should be supported if there is going to be an establishment of the continuation schools.

I think the suggestion of the previous speaker is an excellent one, because you will find, if you go through the schools of the United States, both the eastern and western parts, that the continuation school as instituted in Germany has not been developed in this country to any great extent, and it should be the duty of the employer to pay the apprentice after he has gone into the factory and is a producer and an important factor in that industry. The employer should pay him during the time he is in school, because it is to the benefit of the employer that the boy shall be made a more efficient worker by going to those schools.

Delegate Simpson discussed at length the question of technical education and described the evolution of the skilled trades where formerly work was done by hand and is now being done by machinery.

The motion to adopt the report of the committee was carried.

Mr. PAGE. The Southern Commercial Congress has taken pains to place itself on record as in favor of the Page bill. That is one of the great organizations of this country so far as the uplift of the South is concerned; and, without reading it, I will simply say that the letter indorses the Page bill, and ask that it be printed.

The PRESIDENT pro tempore. Without objection, that order will be made.

The letter referred to is as follows:

THE SOUTHERN COMMERCIAL CONGRESS,
Washington, D. C., December 14, 1912.

Senator CARROLL S. PAGE, *Capitol, City.*

MY DEAR SENATOR: I have before me a letter of December 11 from Mr. H. H. Gross, president of the National Soil Fertility League, of Chicago, Ill., addressed to yourself and other Senators. Mr. Gross says:

"We are in accord—with the Page bill—except upon two points—one is expediency and the other relates to a feature of the bill."

In the matter of expediency Mr. Gross says:

"The main sections deal with youth, schools, and education."

"The other branch of the bill deals with extension work, teaching the adult farmer behind the plow. This feature is necessary to complete and make effective what was contemplated when the land-grant colleges were established a half century ago. This follows precedent, and completes a plan to which the Federal Government has been committed for 50 years."

This quotation very clearly shows the narrowness of the National Soil Fertility League in urging the Lever-Smith bill and opposing the Page bill. Will that measure complete and make effective what was contemplated when the land-grant colleges were established half a century ago? Does it complete the idea of vocational education to simply provide extension teaching and demonstration farming to "adult farmers behind the plow"?

Mr. Gross clearly implies that it is not necessary to complete the land-grant act of 1862 to provide extension work, such as night schools and continuation schools for adult workmen in the trades and industries. He practically says that the land-grant act is completed by taking care of the adult farmer, even though nothing is done for the adult farmer's wife, nor for the wife of the adult worker in the trades and industries. Mr. Gross further assumes that the farm boy who is to be the producer of cheaper foods, the farm home maker who is to manage the work of raising strong farm youth, the workers in the trades and industries who are to economically produce and transport our foreign and domestic manufactured products, the home makers in the trades and industries who are to have charge of raising the children of the people who work in the shop, in the transportation company, in merchandising, and in other nonagricultural lines. It is fortunate for the Senate and for the country thus to have set forth at this opportune time the narrow views of Mr. Gross and his confrères, some of whom are in our State agricultural colleges and in our State engineering colleges.

This astonishing letter further says:

"The vocational education branch of the bill breaks new ground and inaugurates a new system of education. If the bill were divided on the natural line of cleavage the legislation required would be more simple and administration less complex. It would strengthen the bill. We think this should be done."

When the land-grant act of 1862 was passed there had been no definite separation between high school and collegiate courses. The founders of the bill, as shown by their discussions on the floors of Congress, had no intention of making a "line of cleavage" which would cause practically all the funds of agricultural colleges to be used in what are now collegiate courses, with a four-year high-school course separating them from the common schools of the open country and the elementary schools of the cities and towns.

The State agricultural and mechanical colleges have made "the line of cleavage" by confining their work to the preparation of technicians, thus forgetting the farm boy and girl who are to return to the farm and the boy and girl in the city who are not to attend college; that 90 per cent who are to do the productive work and the home making of our country. This unnatural cleavage made by our State colleges of agriculture and mechanic arts shows how thoroughly these colleges have failed to interest themselves in classes which the land-grant act of 1862 was intended to reach.

To show the unfortunate attitude of the colleges and universities, attention is called to the use they have made of the Nelson fund, provided by Congress in the Nelson amendment passed in 1907. The Nelson amendment gives to each State college $25,000 a year from the Federal Treasury, and Congress indicated the purpose for which this money was to be used in the following language:

"That State colleges may use a portion of this money for providing courses for the special preparation of instructors for teaching the elements of agriculture and the mechanic arts."

No one has questioned the fact that Congress intended this fund of $1,200,000 annually, of which $4,000,000 has been already spent, to be used by the agricultural and mechanical colleges to meet the everywhere crying need for teachers prepared to teach agriculture, the trades and industries, and home economics.

Commissioner of Education Claxton, a year ago in a public hearing held under the auspices of the Southern Commercial Congress, said that these colleges are using very little of this money in the preparation of instructors for teaching the elements of agriculture and the mechanic arts in the lower schools. It is a fair estimate to say that they are using far below 20 per cent of this money for that purpose, and this in spite of the fact that in many States consolidated rural schools are crying for teachers of agriculture and home economics and find it necessary to utilize teachers from the small denominational schools and from normal schools who have no adequate preparation in either agriculture or home economics. In other words, these colleges are at once neglecting their greatest opportunity and practically disregarding the clearly expressed wish of Congress, the hand that feeds them.

Even a worse condition exists in relation to the mechanical colleges of these State colleges and universities than in the case of the agricultural colleges. Almost none of them have even discussed the matter of preparing teachers under the Nelson amendment for trade schools. And comparatively few of these great institutions, liberally financed by public funds from the Federal and States Treasuries, have done anything at preparing teachers in home economics for the schools either of city or country. This "line of cleavage" between the farm boy and the technician has been carried so far as to be so ridiculous that it is pitiful.

It is admitted that the Lever-Smith bill would provide legislation more simple. Some of the administrators of agricultural-college funds are not hunting for complex language that will say "shall" instead of "may" in appropriations from Congress. They would like to continue the "line of cleavage" which would prepare only college graduates, comparatively few of whom enter the ranks of the producing classes. Nothing could more clearly state the fact that the State colleges of agriculture and the mechanic arts are not leading in taking the new science and technique of agriculture, the trades and industries, and home economics down to the people through our otherwise wonderfully developed secondary school system than their use of the Nelson fund. They are campus colleges. They are not State colleges. They are colleges to prepare the aristocratic few. The Nelson fund was designed to make of them colleges to prepare vocational teachers for the secondary schools and thus provide technical instruction to all classes and make successful all the people, as well as the few who attend college.

It is disingenuous for Mr. Gross to say that separation would strengthen the bill, forgetting the farmer's wife, the laboring man, the laboring man's wife, the boy who is to work in the trades and industries, and the girl who is to be the wife of the man who works in the trades and industries.

There has been strong feeling on the part of the leaders of the several tens of millions of people who favor the Page bill, that Mr. Gross and a relatively small number of his supporters throughout are using the Lever-Smith bill to destroy the Page bill. The terms of Mr. Gross's letter, when widely published, will confirm that belief.

THE IMPRACTICAL FEATURE.

Mr. Gross says:

"The one main reason why we can not support the Page bill is that provision calling for district agricultural high schools of secondary grade with branch experiment stations."

Mr. Gross here shows a thoroughly disclosed his ignorance concerning the appropriation for agricultural high schools in the Page bill that ridicule rather than argument would be the normal way of replying to his letter.

He says, truly:

"Such schools will necessarily be from 40 to 75 miles apart." He says, also: "Not over 5 per cent of the farm youth could attend these and live at home." He also says: "The safety of the individual requires home life and influences between the ages of 13 and 17 years. To attend such schools the vast majority would have to be provided for in dormitories on the school premises. The colonization of several hundred boys and girls of that age would involve a moral hazard few parents would assume. * * * To us the objection is insuperable and would present an anomaly to the State and Federal Government building a school that really would serve but a township. Again, the attendance of these schools would involve an expense that many farmers would not meet. Many of the youth are required night and morning to do the chores and help maintain the farm activities. If the money contemplated (and the amount should be increased tenfold) were used to aid in the consolidation of the rural schools into the township unit, it would be of priceless benefit to the country boy and girl, and give them real help in gaining an education that they desire and ought to have, and which the State and Government should undertake to furnish."

In the first place, the Page bill recognizes that we are to have consolidated rural schools. It recognizes the fact that the 2,500 successful experiments with no failures in consolidating six or eight one-room schools into four to seven room schools may be taken as absolute evidence, from a business point of view, that our one-room schools are to be generally consolidated. This means that all farm pupils will be given agriculture and home economics along with their general school studies from the ages of 13 to 16 years. If it means anything, it means that the State colleges of agriculture and supplementary schools throughout, including State normal schools and State agricultural high schools, will finally be led to prepare a sufficient number of teachers to place at least one teacher of agriculture and one teacher of home economics in each consolidated rural school. This will require between forty and fifty thousand teachers of agriculture and as many teachers of home economics.

The Page bill does not contemplate that the 10 more or less agricultural high schools in each State will do the work of the consolidated rural school but will be a step higher, and will, for the most part,

confine themselves to the last two years of high-school work. These schools will take the graduates of the consolidated rural school at about the end of the tenth school year, which is the middle of the high-school course, and will, under a faculty of technical teachers in agriculture and home economics and of general teachers in the ordinary high-school subjects, give a course which will further fit them for the management of farms and farm homes, and will further train large numbers to become teachers of agriculture and home economics, and other subjects in the consolidated and other rural schools; and that the highly educational and inspirational courses of the best equipped of these schools do prepare country life leaders to return to their home communities has been proven in a dozen States.

Three or four hundred agricultural high schools distributed throughout the country will also standardize the agricultural and home economics instruction in rural and town schools. Without such standardizing influence, agriculture in our secondary school system will always be at ragged ends. With such standardization and leadership, country life education can be the most efficient and the most inspirational part of our public educational system.

Agricultural colleges have generally placed their entrance at the close of the high-school course, but in most States they have done almost nothing to make the agricultural high school practical for those who can not attend the college. Therefore the agricultural colleges are reaching in a vital way only a small part of 1 per cent of the men and women who become managers of farms and farm homes.

The consolidated rural and village schools, which are local, will care for all pupils of 13 to 17 years of age; the proposed agricultural high schools, which are not local, but are practically in each congressional district, will take some of those pupils through the next step in their education when they are 17 to 20 years of age, thus rounding out both their high-school course and their vocational training to manage the farm and the farm home.

Illustrating the absurdity of Mr. Gross's statements is the fact that already the agricultural high schools of Minnesota have established a minimum age limit of 17 years.

The quotation from Assistant State Superintendent Phillips, of Minnesota, quoted in Mr. Gross's letter, could not have applied to the original agricultural high school at St. Anthony Park, to the agricultural high school at Morris, or to the agricultural high school at Crookston, Minn., because the ages given by Mr. Gross do not apply to those schools. Minnesota has this year established 50 consolidated rural schools, and is rapidly placing agriculture in the village and town schools, but it has no notion of doing away with its three agricultural high schools with their twelve to fifteen hundred students for the last half of the high-school course. Minnesota's plan is to have one teacher of agriculture and one teacher of home economics in every rural school, either in a consolidated rural school in the open country or in a village or city school to which the farm youth of the surrounding country are hauled at public expense. Mr. Gross's quotation does not fit into the Minnesota conditions and can hardly have been used for his purpose with the knowledge and consent of Mr. Phillips.

Agricultural high schools such as that at St. Anthony Park, Minn., with its nearly 1,000 students, have young farm people from 17 to 25 years of age, who prove to be more earnest, more moral, than the average students in the universities and colleges of this country, and the blow struck by the National Soil Fertility League at coeducation in State agricultural high schools will naturally be resented by the schools of the entire country.

Mr. Gross says that an agricultural high school would serve but a township. Each of the agricultural high schools of Alabama, Georgia, Oklahoma, Kansas, Minnesota, and other States serves a congressional district or larger area. Their students come not from local homes, but are more thoroughly distributed throughout all the counties of the State than are the students of the State colleges and universities which get their students largely from the cities, while the agricultural high schools get their students from the rural schools. In failing to differentiate between the consolidated rural school and the agricultural high school, Mr. Gross places himself in the position of such dense ignorance that his advice regarding separating the bill becomes impotent and he places his supporters in a most unenviable light.

The Page bill contemplates the expenditure of $3,000,000 by the Federal Government and $5,000,000 by the State governments for agricultural high schools. Mr. Gross says this should be increased tenfold to accommodate all the consolidated rural schools. This is equivalent to requesting that Congress appropriate $30,000,000 and require the States to appropriate an equal amount, devoting $60,000,000 to vocational education for farm boys and girls in their home rural-school districts. This would provide $1,500 for each 40,000 consolidated and village rural schools for the teaching of agriculture and home economics. Senator PAGE nor any of his associates have thought of suggesting anything so radical. The Page bill proposes to bring the work of the agricultural and mechanical colleges down nearer to the people who manage our farms, our farm homes, and who work in the trades and industries and manage the homes of our industrial workers by producing local leaders and teachers for the rural schools and county demonstration farm workers. It leaves the financing of the local schools to the States and communities. Mr. Gross has shown that the Page bill is really a conservative measure.

The Lever-Smith bill, on the other hand, fails to recognize that already the Federal Government and the States have farm-efficiency men in more than one-third of the counties of the United States. Nearly all counties in the Southern States, under the leadership of Dr. Knapp, are thus supplied in part with Federal, in part with State, and in part with private and local funds. The Federal Government, the State governments, and private and local organizations are rapidly extending this work into the Northern States. Both the Page bill and the Lever bill propose to extend this work to all counties and to systematize and standardize it; but to say that this minor matter, which is largely working itself out, completes the land-grant act of 1862 is, in the face of the above-stated facts, absurd, to say the least.

The Page bill, by providing some hundreds of agricultural high schools in the country by providing some hundreds of trade schools in the large centers of population, by providing vocational courses of study in the general run of secondary or high schools of the country, by providing for college extension, and then by providing that in the State colleges of agriculture and State normal schools teachers shall be trained for these lines of work, proposes a system which really does supplement and look to thoroughly completing the purpose of the land-grant act of 1862.

That the proposed branch experiment stations are needed is shown by the fact that the United States Department of Agriculture and the State experiment stations are establishing branch stations of this kind in many States. Under the Page bill these branch stations would be systematically placed beside the agricultural high schools, where, besides serving as investigational farms, they would have an immediate educational value to the students as well as a general educational value to the farmers of the agricultural regions in which these schools are placed.

The Page bill has been wrought out by men best acquainted with vocational education in this country. The Gross letter shows that his propaganda for the Lever-Smith bill is in the hands of men who do not know concerning agricultural high schools, trade schools, agriculture, trades and industries, and home economics in the public schools, and who do not know or appreciate the need of preparing teachers for these schools and for extension work.

Very sincerely, yours,

CLARENCE J. OWENS,
Managing Director Southern Commercial Congress.

Mr. PAGE. Mr. President, something has been said here about the right of the Federal Government to enter upon the secondary educational work of the country. I received a very interesting communication recently on the constitutional features of this bill. The communication is from an attorney who was formerly Assistant Secretary of the Navy, Hon. Frank Warren Hackett. I will only read one paragraph, and will ask that the entire article may be printed, if there is no objection.

The paragraph referred to is as follows:

The grand object of this bill, as we have seen, is to render aid in furnishing vocational education to the American boy and girl. Here a question of the power of Congress involves something more than an examination into what has heretofore been done by Federal authority to help along the cause of education in general. An underlying purpose is to check the growing evil that is threatening the well-being of the body politic. There is, and for some time has been, disquietude in the field of labor. No longer is it prudent to allow a great majority of the boys and girls of the land to grow up without early training in the art of earning a livelihood. Something better must be furnished than an ordinary school training. It is the part of wisdom to heed helmes the warning, and diligently to seek and apply the remedy.

He treats the matter from the standpoint of constitutional rights, and I ask that his article may be inserted in full in the RECORD.

The PRESIDENT pro tempore. Without objection, that order will be made.

The matter referred to is as follows:

IS THE PAGE VOCATIONAL EDUCATION BILL CONSTITUTIONAL?

The Page bill now pending in the Senate proposes to appropriate nearly $15,000,000 annually, beginning in 1916, in order to cooperate with the States in encouraging instruction in agriculture, the trades and industries, and home economics in secondary schools; in maintaining instruction in these vocational subjects in State normal schools; and in maintaining extension departments in State colleges of agriculture and the mechanic arts. It has been carefully drawn, after consultation with our leading educators. The plan it embodies appears eminently practical. It is sensible and businesslike. The bill has earnest supporters in every part of the country.

A leading purpose is to encourage a State to appropriate a reasonable sum of money for teaching boys how to succeed in industrial pursuits, and to instruct the girl likewise for such occupation as may be suited to her as well as to educate her in what is styled "home economics." A sum is offered to the State, according to the amount that the local community shall have raised for the purpose. The State will appropriate an amount equal to the Federal appropriation, and the local community is expected to contribute as much as the State and Federal appropriation combined. This method is a judicious one, and the expenditure of the fund is well safeguarded.

The moving cause of this most important enterprise is found in the conditions that confront the great majority of our American boys just as they are leaving the public school. What they have been taught there, however valuable for some purposes, has not had the direct effect of fitting them to earn a living. Many of these boys, losing a chance to become useful citizens, fall in obtaining regular employment, while some of them, sad to say, degenerate into the criminal class.

Says an observer interested in the welfare of young men: "Our reformatories and jails are still filled with mere boys." The period is that where the boy's nature is impressionable; his aspirations are awakened, and he deserves to have a fair opportunity presented where he can follow his bent. What he has been compelled to apply himself to at school has not been much to his liking. He looks around him, and he feels that he does not have a chance to make a man of himself. Not a little of the unrest existing to-day among workingmen is to be traced to a conviction on the part of a father that somehow his children are not getting fair treatment. While not a subject for recruitnation, it is a source of danger that every good citizen must stop and think about. What a recent writer says is unhappily true: "Too many boys are being turned loose in the world to live in a makeshift way."

This deplorable state of things, which has been going on from bad to worse, brings a duty home to the legislator. In all seriousness, it must be admitted that action should be taken, and that speedily, to meet and correct this growing evil. It is not too much to say that, aggravated as it is by the character of the immigration of recent years, the situation constitutes a menace to the peace and safety of the State. It is not simply a check to prosperity, it is a peril to our institutions.

What can be done to help these boys that will make of them good citizens and thereby conserve law and order? The Page bill endeavors to answer this question.

While this inquiry presses upon our attention, we find ourselves face to face with another factor in our national life hardly less disturbing. The country has come to realize the truth that much of our soil has been overworked, its fertility exhausted, and that we must work hard to restore to it, if we can, it former productivity. Already the Department of Agriculture has done praiseworthy work in the direction of enabling the farmer to raise heavier crops. To the Morrill Act of 1862 and to the Hatch Act of 1887 is due the gratitude of the entire country for fine and efficient service rendered by the agricultural college. Much remains to be accomplished in order to bring home to the tiller of the soil a knowledge of scientific farming. It is here that the Page bill seeks to benefit the people in every part of the country. Experimental farms are projected where practical work will be done by the students

with a result that the adult farmer will profit by what has been demonstrated, after research and experiment, in some instances not far from his home. When we reflect that in 1907 Germany, as compared with the United States, in less than one-half the area, harvested nearly double the bushels of wheat, oats, barley, rye, and potatoes, we need not be told that it would be folly in us not to bestow our best thought upon the problems of our future food supply.

The Page bill would improve our farming, and by making it more profitable would attract our boys by interesting them in the science of crop raising, thus checking the tendency to desert the healthful surroundings of rural life in order to crowd into the cities. Farm life would have a new meaning. The legislation in view would rescue land from wasteful treatment and bring it under the influence of men eager to cultivate it by the best methods, because they are widening their knowledge of how to make their possessions more and more productive.

Enough has been said to indicate that this measure contemplates the attainment of objects of vital interest and of almost incalculable value to every community in the land. The thought naturally occurs, Is an appropriation of money for such purposes as these within the power of Congress? Is the Page bill constitutional?

Were this question the first of its kind, the reply that most lawyers would make offhand, it is likely, would offer no contradiction to the views expressed by President Buchanan in his message of February 24, 1859, vetoing a bill for giving public lands to the States to establish agricultural colleges: "I presume the general proposition is undeniable that Congress does not possess the power to appropriate money in the Treasury raised by taxes on the people of the United States for the purpose of educating the people of the respective States."

Yet three years later Abraham Lincoln signed the bill and it became a law, bearing the honored name of "the Morrill Act." One ground upon which its constitutionality was vested was that Congress had power to dispose of the public lands. In January, 1887, when a bill to establish agricultural experiment stations was under debate in the Senate, an amendment was adopted adding after the words "money in the Treasury" the further words "proceeding from the sales of public lands," although the Senator in charge of the bill remarked in accepting the amendment that he thought it unnecessary. During the debate Senator VEST said: "We have established a Bureau of Agriculture. It is very questionable whether the power to do that exists or not. Some of the best lawyers in the United States doubted it when established and doubt it to-day, but it was done and that bureau is now in existence." Senator BUTLER expressed a like doubt, but added: "It has been acquiesced in so long as to have become an acknowledged and accomplished fact."

The Department of Agriculture, it must be admitted, exists under no express grant of power to Congress, but only because that body, in obedience to public sentiment, found a power to create and maintain it in the "general-welfare" clause of the Constitution. The Bureau of Education, worth to the country many times over what it has cost, can refer its existence to the same clause. So of other forms of expenditure by Congress that have responded to public needs in contributing to the general welfare.

This section of the Constitution (Art. I, sec. 8) begins as follows:

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises to pay the debts and provide for the common defense and general welfare of the United States * * *."

In the earlier days it was generally understood that these words "provide for * * * the general welfare" would not support an appropriation of money to carry out a purpose other than is to be discerned in the language of the enumerated powers conferred upon Congress. A strict constructionist may hold to this doctrine at the present time. But the growth of the country, the change in its needs, and the imperative demand for the means to carry into effect what it is the obvious duty of the National Government to accomplish sustains Congress in appropriating money, for the benefit of the entire people, for objects not embraced within the language of the enumerated powers. Where the Nation requires action to be taken for its safety or its welfare, in a sense that everyone must experience the advantage of the protection and help afforded, Congress has demonstrated that it has felt itself justified in voting an appropriation therefor.

The furtherance of agriculture, the preservation of forests, the conduct of mining are some of the purposes which have induced Congress to take upon itself the responsibility of appropriating money under the "general-welfare" clause. This action has been followed apparently by no successful attempt to set aside the law for lack of constitutional power, and it may be inferred that the people are willing to trust Congress and the President that the limits of a wise discretion are not transgressed.

So far as the bill under consideration, therefore, proposes that money be appropriated for teaching the elements of agriculture, it is apprehended that no serious objection will be advanced on the score of a lack of power in Congress under the Constitution to vote money for such a purpose. The policy of making annual appropriations of this character has now become firmly fixed, and a further discussion here of constitutional power in regard to it would be merely academic.

The grand object of this bill, as we have seen, is to render aid in furnishing vocational education to the American boy and girl. Here a question of the power of Congress involves something more than an examination into what has heretofore been done by Federal authority to help along the cause of education in general. An underlying purpose is to check a growing evil that is threatening the well-being of the body politic. There is and for some time has been disquietude in the field of labor. No longer is it prudent to allow a great majority of the boys and girls of the land to grow up without early training in the art of earning a livelihood. Something better must be furnished than an ordinary school training. It is the part of wisdom to heed betimes the warning and diligently to seek and apply the remedy.

Well it has been said in an editorial upon the subject of this bill:

"Battleships and standing armies are not the only means of protection for a nation. Danger from a foreign foe is a remote possibility. Danger from ignorance, inefficiency, and poverty is an ever-present peril."

A like thought is conveyed in the following extract from Senator PAGE's speech in advocacy of his bill:

"National defense is just as effectually provided for in promoting good citizenship as in building battleships. An illiterate, uneducated citizen, disloyal and anarchistic, as he oftentimes is, is a greater menace to our safety than the combined battleships of Great Britain, France, and Germany."

These expressions, uttered in all sincerity, points the way unwittingly to the real power that exists in Congress to put this proposed enactment upon the statute books. One need not resort to the "general-welfare" clause, though the measure is entitled to the protection and encouragement which these words afford. Its constitutionality may securely be vested on another ground, and that is the power conferred upon Congress to provide for "the common defense."

These words, "the common defense," are found in the preamble of the Constitution. They occur also in the Articles of Confederation. Our forefathers had them ever in mind. They but expressed that instinct of self-preservation which governs every organized society. Of course they are entitled to be liberally construed. The framers of the Constitution doubtless had chiefly in view the dangers to be apprehended from a foreign enemy, but they employed the term in no restrictive sense. Domestic enemies are not omitted from the reckoning. Congress, as we would naturally expect, is authorized to resort to every measure that in its judgment is needful and proper to insure the safety of a common country.

There is no call for argument. It surely will not be denied that the people, through their Congress, can seasonably guard against dangers that threaten the fabric of Government. If the peace and happiness of the country demand that a larger and a better opportunity of education be given to the boy or the girl before going out into the world, Congress will not hesitate from any lack of power to provide for the "common defense" of our institutions by hastening forward this salutary legislation.

Another consideration is not altogether without merit, and that is the attitude of the several States themselves toward this proposed extension of aid. So fair and so strong is the inducement we may with reason assume that every State in the Union will join in the work of putting into successful operation this admirably conceived plan for strengthening and elevating the American people. As State after State falls into line, what in the sequel will have become of any fancied objections that State rights have been invaded or that Congress, in holding out a helping hand to the State, had entered a field which the Constitution had not authorized it to occupy?

FRANK WARREN HACKETT.

JULY 26, 1912.

Mr. PAGE. Mr. President, I presume that before this discussion is concluded there may be a good many interrogatories which I may be called upon to answer. I simply wish to say that, having discussed this matter at considerable length on a previous occasion, I am now inclined to let other Senators continue the discussion, although I should be very glad to answer any question or correct any wrong impression regarding the bill.

Mr. ROOT. Mr. President, I have a brief letter from a very distinguished educator in regard to this bill which states better than I myself can state some questions I should like to have answered. I will ask to have the letter read from the desk.

The PRESIDENT pro tempore. The letter will be read as requested.

The Secretary read the letter, as follows:

THE CARNEGIE FOUNDATION FOR
THE ADVANCEMENT OF TEACHING,
OFFICE OF THE PRESIDENT,
New York, January 26, 1913.

Hon. ELIHU ROOT,
United States Senate, Washington, D. C.

MY DEAR SENATOR ROOT: I venture to call your attention to what seems to me very serious objections to the Page bill now before the Senate, which contemplates a large appropriation by Congress for the support of vocational education in the secondary schools of the various States.

This bill seems to me unwise both from the standpoint of public policy and from that of education.

Here for the first time Congress undertakes to appropriate money for secondary schools. If Congress is to enter upon this policy it should be only after a fair discussion of the whole question. It is difficult to see where Congress is to stop if it is to begin the practice of appropriation to local State agencies. There is no enterprise of the local or State government which may not with equal justice ask for a grant from the National Treasury. One does not need to be a State rights man in the party sense to appreciate that this is a most far-reaching change in our fundamental policy and one to be entered upon only after thorough understanding of what it means. Elementary schools, mining schools, hospitals, schools for defectives, or any charitable or educational agency are within the scope of such legislation. All sorts of paternalistic possibilities are here included.

Educationally the measure seems to me of very doubtful wisdom. It provides for a system of education without adequate educational supervision. In order to secure some sort of educational control vocational schools are brought by this bill under the jurisdiction of the Secretary of the Interior, and elaborate requirements for expenditure and courses of study and even of personnel are included. No such centralization of educational power has ever before been attempted. Secondary education would practically be directed by the Secretary of the Interior. It is possible that the Secretary of the Interior would exercise this authority wisely; it may be that he would direct the secondary schools of the various States better than the States themselves; but it is certainly open to question whether the natural, systematic development of their own school systems by the various States is not a wiser thing. In order to secure an appropriation from the General Government the States are here asked not only to accept a very large degree of direction in the matter of secondary and vocational education but the plan of education proposed has little or no relation to the present State school systems, and seems more likely to produce educational confusion than educational order. The experience of the Morrill Act shows that money expended without educational planning may be made to do harm as well as good. The effort in this bill to compel the States accepting the money to do wisely in its expenditure goes to the other extreme, but it contains no greater assurance of wise educational oversight than did the Morrill bill, after which it is patterned. The questions involved both in public policy and in education seem too important to be settled in the hurry of a short session.

I am,
Very sincerely, yours,
HENRY S. PRITCHETT.

Mr. PAGE. Mr. President, I am well aware that a few States—notably Massachusetts and New York—have taken the attitude of Dr. Pritchett in his letter written to the senior Senator from New York. The strong objection, it seems to me, of Dr. Pritchett is that contained in the following words:

It provides for a system of education without adequate educational supervision. In order to secure some sort of educational control vocational schools are brought by this bill under the jurisdiction of the Secretary of the Interior, and elaborate requirements of expenditure and courses of study and even of personnel are included. No such centralization of educational power has ever before been attempted. Secondary education would practically be directed by the Secretary of the Interior. It is possible that the Secretary of the Interior would exercise this authority wisely; it may be that he would direct the secondary schools of the various States better than the States themselves, but it is certainly open to question whether the natural systematic development of their own school systems by the various States is not a wiser thing.

From the first I have realized that this was a most serious objection to the Page bill as originally drawn, and I addressed myself to the task of so revising the original bill as to eliminate as far as possible this objection.

One of the leading friends of the Page bill is a Representative in Congress from the city of New York, Hon. WILLIAM C. REDFIELD. He is, as is well known, the president of the National Society for the Promotion of Industrial Education. We were early in conference as to these objectionable features of the Page bill, but we were both anxious to construct the best possible measure, and, after repeated conferences, we reached what we thought was a fair solution of this problem; and he brought back word from New York that the rewritten bill as it now appears in the amendment which I have offered to the Lever bill was generally satisfactory to the educators of his State.

The valuable aid of Dr. Snedden, head of the educational system of Massachusetts, was secured in the effort to so rewrite the Page bill as to eliminate the objection of Dr. Pritchett and others who felt as he did. The result, was, let me repeat, that after a good deal of painstaking labor the Page bill was so reconstructed as to these objectionable features as to secure the warm approval of both New York and Massachusetts. Dr. Snedden was so delighted with the rewritten bill that he sent me a telegram, in which he said:

I hope the bill as now drawn may pass without the change of a single line.

Mr. President, I would like to call the attention of the Senator from New York to a statement made by the chief magistrate of the New York municipal court, Judge William McAdoo, in his annual report. He says:

There is growing up in this city a menacing army of boys and young men who are the most troublesome element the authorities have to deal with. From the ranks of these lawless, reckless rowdies, who are organized in bands or bound up with chums or pals, come most of the crop of burglars, truck thieves, holdup men, and other criminals and dangerous characters.

Another New York City judge, Judge Merritt W. Pinckney, of the New York juvenile court, says that apparent neglect and incompetence are responsible for most of the delinquency which brought to his court three-fifths of the 12,000 children who have passed through it during his incumbency of that office.

Prof. George Walter Fiske, in his series of lectures on "Boy life and self-government," makes the following significant statement:

Our reformatories and jails are still filled with mere boys. The maximal age for malicious mischief is only 14; for petty larceny and assault, 15; for crimes against property, 16; while the maximum curve for fornication is at 17. Early and middle adolescence is still the great crime period. The shirking of the average home largely accounts for this boy waste, but the ethical failure of the public school is, to a degree, responsible also.

Mr. President, by the college extension features of Senate bill No. 3, which are exactly the same as the provisions of the Lever bill, we are appropriating $3,480,000 for the benefit of the adult farmer on the farm. In my judgment, the time has arrived when we should reach down and take the hands of the neglected boys who, in far too large numbers, are being turned adrift, and are to-day—to use the language of Judge McAdoo—"developing into a crop of burglars, truck thieves, holdup men, and other criminals and dangerous characters."

Mr. President, out of our unparalleled prosperity and our great wealth we must do something for the sons of our laboring men. That New York, the great Empire State, has lamentably failed in this particular is shown by the statements of Judges McAdoo and Pinckney, and I presume other States are equally guilty of wrong in this particular.

If the States will not act in the matter, we must do so, because without some change for the better in this regard we can not have good citizenship.

I believe that the boys now growing up must have a different kind of education from that which they are now receiving, or we are going to produce in the next generation a race of anarchists; and if the States themselves will not do this work, it seems to me that we ought to go ahead and blaze the trail, pointing the way whereby it may be done, not by a single State, but under one great plan of cooperation between the several States and the Federal Government.

I know that away back in 1856 the constitutional question was raised. JAMES BUCHANAN vetoed the first Morrill agricultural college bill, but the Congress of 1862 again passed that bill, and to-day, in speaking of Abraham Lincoln, we often say that his first and greatest act was the liberating of 4,000,000 slaves, and second to it only, was his signing of the Morrill agricultural college act. No one to-day would think of repealing that law. But, more than this, in 1887, we passed the Hatch Act; a little later the Adams Act; in 1907 we passed what is known as the Nelson amendment; and from time to time we have established repeated precedents for granting Federal aid to education.

I am not a lawyer and do not care to discuss constitutional questions. I only know that something must be done or, in my judgment, we are going to raise up, in the next decade, a race of very undesirable citizens.

Mr. SMOOT. Mr. President, I have in my hand the amendment offered January 24, 1913, as a substitute for the so-called Lever bill. I notice that section 16 reads as follows:

SEC. 16. That the Secretary of the Interior is hereby charged with the duty, and to him is hereby given all necessary power, to administer the provisions of this act relating to the rural-school fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, and the teachers' training fund, to secure advice and assistance from the Secretary of Agriculture and the Secretary of Commerce and Labor in carrying out the provisions of this act, in the making of investigations concerning education in the industries, home economics, and agriculture, and in the making of reports thereon; to cooperate with the State boards of vocational education herein provided for the respective States and the District of Columbia in developing the work of schools and in the training of teachers benefited by this act; and to give to such boards for vocational education such advice and assistance as will best enable them to carry out the provisions of this act.

I also notice in section 22 a statement almost similar, but I believe going a little further, for it provides:

SEC. 22. That in order to secure the benefit of the rural-school fund, the agricultural-school fund, the college teachers' training fund, or the teachers' training fund, the board for vocational education for each State and the District of Columbia shall adopt, with the approval of the Secretary of the Interior, and place in operation a general administrative scheme or plan, with such modifications as may be made from time to time, for the proper distribution of moneys to schools and colleges as herein provided; for the inspection and approval of such schools and colleges under the provisions of this act.

Do I understand, under this bill, that the Secretary of the Interior, through the advice and the assistance of the Secretary of Agriculture and the Secretary of Commerce and Labor, is given the power to administer the provisions of the act relating to the distribution of the appropriations and to prescribe the instruction which may be given in a State which participates in the fund? Is that what it means?

Mr. PAGE. Mr. President, if the Senator will read the bill through he will find that it has been changed from the form of the original bill for the express purpose of meeting the ideas which he now advances; in other words, it provides that the suggestions of the Secretary of the Interior shall not be mandatory. On the contrary, the board for vocational education shall formulate the plans for the school work under the provisions of this bill.

Mr. CRAWFORD. That is a State board.

Mr. PAGE. Yes; the State board for vocational education. I do not know, Mr. President, that I can answer the Senator from Utah any better than by saying that for a year a fight has been on to protect the autonomy of the States. It has come from various quarters, notably from New York and from Massachusetts. One of the commissioners of education from Massachusetts came here to Washington and stayed two weeks to assist in getting this bill into such shape that it would meet the views of those States which insisted that the autonomy of the States should not be materially disturbed. At the same time it was conceded that there should be thrown around these appropriations some measure of Federal supervision.

Mr. SMOOT. But, Mr. President, as I read section 16 it is not in the alternative. It is a direct power to them to cooperate with State boards for vocational education, and so forth.

Mr. PAGE. Will the Senator let me read a part of section 19?

Mr. SMOOT. Section 16 refers to all of the different school funds, and, it seems to me, is the section that would cover the point I am trying to reach, and that is this: If I read that section aright, it gives to the Secretary of the Interior power to administer the provisions of the act and virtually to control the expenditure of the money.

Mr. PAGE. Does the Senator understand that one section can be picked out and not read in connection with all the other sections of the measure?

Mr. SMOOT. I do not so understand, and I should be very glad to have the Senator read the section to which he refers.

Mr. PAGE. I should like to call attention to section 19:

SEC. 19. In order to secure the benefit of the secondary school department fund, the industrial or home economics school fund, the district agricultural school fund, the college teachers' training fund, or the normal teachers' training fund, the board for vocational education for each State and the District of Columbia shall adopt, with the approval of the Secretary of the Interior, and place in operation a general administrative scheme or plan, with such modifications as may be made from time to time, for the proper distribution of moneys to schools of secondary grade and to colleges and normal schools as herein provided; for the inspection and approval of such schools and colleges under the provisions of this act.

Note that the board for vocational education adopts and places in operation the general administrative scheme or plan. The Secretary of the Interior can only approve the plan adopted by the State board for vocational education.

It is true that the Secretary of the Interior has a supervisory power, but it would be entirely contrary to the spirit of this bill for him to exercise other than a supervisory power.

Mr. SMOOT. Mr. President, from what print of the amendment was the Senator reading? The one I have is different from the one he read.

Mr. PAGE. I read from the original bill. There has been no change in the text of the last 15 sections of the bill, although the sections are renumbered. It is number 16 in the amendment. I do not know from what section the Senator was reading.

Mr. SMOOT. Section 16 of the amended amendment was what I was reading from.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from South Dakota?

Mr. SMOOT. Certainly.

Mr. CRAWFORD. I simply wish to suggest that the provisions to which the Senator refers are those which touch these officials, the Secretary of the Interior and the Secretary of Agriculture; but nowhere in the bill, as I read it, is there imposed upon these officials the duty of controlling the distribution of any of these expenditures. The language used here relates to the provisions in the act with which they have to do.

Mr. SMOOT. Mr. President, I take it the wording of section 16, if the Senator will bear with me, refers particularly to a power that is conferred upon the Secretary of the Interior, for it states——

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Iowa?

Mr. SMOOT. Just a moment, and then I will gladly yield. Section 16 provides:

That the Secretary of the Interior is hereby charged with the duty, and to him is hereby given all necessary power, to administer the provisions of this act relating to the rural-school fund—

And all the other funds. It seems to me that that is wide power given him.

Mr. CRAWFORD. Does the Senator object to having that power in the Secretary of the Interior to administer this act so far as its relation to the Federal Government is concerned?

Mr. SMOOT. No; but it goes further than that, Mr. President, as I have already called attention to, and as I was about to proceed to elaborate; but I yield to the Senator from Iowa, as I said I would.

Mr. CUMMINS. Mr. President, if the Senator from Utah is of the opinion that this bill authorizes the Secretary of the Interior to distribute the fund among the teachers of the schools in each and every State, he has greatly, I think, misread it. The Secretary of the Interior administers it, in so far as it is necessary for him to determine whether the States shall have the money. If he determines that the particular State is entitled to the money, then it is paid over to the authorities of the State, to be distributed, I assume, in the ordinary way as a school fund. In the amendment that is now before us, as the Senator will see if he will turn to section 22, it becomes perfectly clear:

That in order to secure the benefit of the rural-school fund, the agricultural-school fund, the college teachers' training fund, or the teachers' training fund, the board of vocational education—

And that board must be organized in each State before it is entitled to any part of the appropriation—

shall adopt, with the approval of the Secretary of the Interior, and place in operation a general administrative scheme or plan, with such modifications as may be made from time to time, for the proper distribution of moneys to schools and colleges as herein provided.

Mr. SMOOT. Now go on.

Mr. CUMMINS. That is the administrative feature of this bill, as far as these schools and colleges are concerned.

Mr. SMOOT. I do not disagree with the Senator as far as that is concerned; but I will ask the Senator to proceed and read from that point on—from the word "provided," in line 9, page 17

Mr. CUMMINS. The language is:

For the inspection and approval of such schools and colleges under the provisions of this act, and for the formulation and application in such inspection and approval of standards and requirements in vocational education as to types of schools, location, course of study, etc., qualifications of teachers, etc.

Undoubtedly, under the bill, each State, through its vocational board, must present a plan for the distribution of the money so far as vocational training is concerned, and that plan must be approved by the Secretary of the Interior. That is the general idea of the bill. But there, I think, the power and responsibility of the Secretary of the Interior end.

Mr. SMOOT. It seems to me that it specifically states that the Secretary of the Interior will have the power to pass upon the question of the types of schools, the location of the schools, the course of study, the qualifications of the teachers, the methods of instruction, the conditions of admission, and the employment of pupils.

Mr. CUMMINS. Undoubtedly. That is the purpose of this bill.

Mr. SMOOT. I rather think that is a dangerous power to give to the Secretary of the Interior.

Mr. CUMMINS. But the vocational board must make this plan and present it to the Secretary of the Interior, and if he approves it the State gets the money. If he disapproves it, the State does not get the money.

Mr. PAGE. The Senator from Utah has failed to read the whole bill. I will read it.

Mr. SMOOT. Before the Senator reads further, I should like to ask him whether or not he agrees with the statement just made by the Senator from Iowa.

Mr. PAGE. My attention was called away by my clerk and I did not hear the statement.

Mr. SMOOT. I will make the statement again. Does the Senator agree that under section 22 the Secretary of the Interior has the power to pass upon the qualifications of the teachers, the methods of instruction, the conditions of admission, and the employment of pupils?

Mr. CUMMINS. I hope the Senator from Utah does not put that as though it were a proposition to which I agree. It is the plan that is submitted to the Secretary of the Interior—not the detail of the qualifications of the teachers or the employment of pupils.

Mr. SMOOT. It seems to me, Mr. President, that if the Secretary of the Interior has the power to reject the plan that must be approved before the money will be given to the State for this particular purpose, he has it in his power to say whether or not the State shall have any of the appropriation.

Mr. PAGE. That matter was taken up in our committee with a great deal of care; it was thrashed out very thoroughly; and we finally thought that we had put up the bars safely by this section.

Mr. SMOOT. What section is it?

Mr. PAGE. Section 30. I will read it:

If the Secretary of the Interior or the Secretary of Agriculture, as herein provided, shall withhold a certificate from any State or the District of Columbia for the whole or any part of its allotment, the facts and reasons therefor shall be reported to the President, in order that the State or the District of Columbia may, if it shall so desire, appeal to Congress from the determination of the Secretary of the Interior or the Secretary of Agriculture. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury.

That seemed to satisfy those who made objections to the bill substantially such as have been made by the Senator from Utah. I think it is a pretty good safeguard.

Mr. CUMMINS. I think the Senator from Vermont misunderstands the Senator from Utah. The Senator from Utah is objecting because the bars have been put up too effectually—not because they have not been put up sufficiently.

Mr. CRAWFORD. Mr. President, I should like to ask the Senator from Utah if he means that this bill should leave to the discretion of the State authorities the use they should make of this fund, so that while they were receiving it for the purpose of providing some method of vocational education they might divert it to a use entirely different, and there should be no supervisory control left in the Secretary of the Interior or the Secretary of Agriculture to prevent the misuse of the fund?

Mr. SMOOT. No, Mr. President; that is not my position at all.

Mr. CRAWFORD. This language provides for the submission to the Secretary of a plan which must receive his approval before the money is turned over to the State authorities.

Mr. SMOOT. Yes; but it is not the plan that would be adopted by the president of the agricultural college, or the board of the agricultural college, or the board of the State. They say how the plan shall be formulated. It must conform to certain requirements before it will be approved by the Secretary of the Interior.

Mr. PAGE. That is it.

Mr. SMOOT. It seems to me that that puts a power into their hands that is hardly justifiable. I think the Secretary of the Interior ought to have power to see that the money is expended for that particular purpose. But to extend that power to cover the form in which it shall be expended, as provided in section 22 of the proposed amendment, I think is going too far.

Mr. PAGE. I should like to read another section that was introduced here for the express purpose of preventing the Secretary of the Interior from making an arbitrary decision which is in conflict with the views of the State authorities.

Section 31 of the amendment reads:

That the moneys received by any State or the District of Columbia for any given purpose under the provisions of this act shall be used only for such purpose and shall be distributed among the institutions entitled to the benefit of such moneys in proportion to the amount which each expends out of other income derived from general or from local public funds for the same purpose during the same period.

Here is the modification:

Or such money shall be distributed on some other basis and according to some other plan previously adopted by the board for vocational education or by legislative authority for such State or the District of Columbia with the approval of the Secretary of the Interior.

Mr. SMOOT. Why does not the Senator rest his whole amendment upon that provision rather than to have section 19 put in here, as it is, virtually in conflict with that?

Mr. PAGE. I think the two provisions will have to be taken together. We do not want to remove from the Federal Government some power of supervision. The States may bring forward any plan or scheme they see fit. It is true that the Federal Government, through the Secretary of the Interior, must supervise. But if the Secretary of the Interior withholds the money, the amendment gives Congress the final power to give it back, and it provides, beyond that, in about the strongest terms it can, that it shall be expended under the provisions of this act or under some other provision to be formulated by the board of vocational education. In fact, Mr. President, we have gone a little further than I thought we ought to go in trying to establish State autonomy. But that was the view of Massachusetts and of New York and of some of the other States, and I did not believe it would work out with any harm, so I consented to give the States this almost unlimited power to arrange the matter according to their own wishes.

Mr. CRAWFORD. Mr. President, I do not wish to detain the Senate for any length of time, but I want to make a few brief observations in regard to the Page amendment.

If any of the Senators here ever acted as a member of a local board of education and witnessed the graduating classes each year in the high schools and even in the grammar schools, whether in agricultural States or in States with great cities and congested population, he must have been impressed by the fact that only a small portion, indeed, of the children that flock to our public schools graduate from the high schools or the grammar schools, and that only an infinitesimal portion of them ever enter a college of higher education. He must have been impressed by the fact that often two-thirds and sometimes three-fourths of the graduating classes in the high schools are girls, and that the great army of boys from the families of moderate circumstance and from the homes of the poor leave these schools before they reach the age of 14 years. They are compelled to leave these schools by the demand that they go forth and seek employment to win bread for their families. It is even so in the villages in the agricultural States, and it is lamentably true in the great congested centers and the factory districts of this country. More and more, Mr. President, are we looking squarely into the face the question, "How are these people of the future to earn a living? How can we add to their efficiency and make them more capable of self-support and more useful citizens?"

We have not hesitated here in maintaining the great Agricultural Department to appropriate money from the United States Treasury to send men out into the fields in Georgia, in Mississippi, and elsewhere, and have them play the part of local educators, to tell men how to treat the soil and how to plant the seed and how to supervise the growth of products. We have not stopped because we feared we were extending Federal authority too far and extending Federal functions beyond the limits of the Constitution of the United States. We have not hesitated in taking steps to protect the health of our people, to pass pure-food laws and meat-inspection laws. We have been legislating for years indirectly to help great industries through protective tariffs and one thing and another, and here we face a question of humanity.

Not long ago I rode through one of the manufacturing districts. A gentleman and I were looking out of the train window down one of the streets, and he pointed to a row of "company houses," as he called them, on each side of the street as far as you could see. He said: "These people live in houses owned by the barons who own the manufacturing plants and pay rent to them and they are protected by law, and in the case of these families many a time the boys who grow up there feel that a few inches above their heads is a steel ceiling above which they can not rise."

These schools are to reach into fields like that and increase the efficiency of the coming race, and I believe in them with all my heart.

Every dollar appropriated here requires another dollar to meet it in the State and another dollar in the municipality. The inspiration to this great work will come from this law. We establish and support, through our States, great universities for higher education, schools for the law, medicine, and all that sort of thing, and help a very few of our people. We ought to do that. But here we are laying the foundation for reaching the boy who has before him the stern struggle of life. We are making him more fit.

Mr. SMITH of Georgia. Will the Senator allow me to ask him a question?

Mr. CRAWFORD. Certainly.

Mr. SMITH of Georgia. I understood the Senator to say that the bill required that for each dollar the National Government gave the State should give a dollar and the municipality a dollar.

Mr. CRAWFORD. That was the statement of the author of the measure here on Friday.

Mr. SMITH of Georgia. I do not see that anywhere in the amendment.

Mr. PAGE. If I may be allowed to explain, the bill provides that for every dollar furnished by the Federal Government two dollars more shall be contributed by the State and local authorities.

Mr. CRAWFORD. Very well. That is the same thing in effect.

Mr. SMITH of Georgia. Will the Senator call my attention to the place where that is found?

Mr. PAGE. Yes; in just a moment.

Mr. CRAWFORD. Mr. President, I rose only to make a few general observations about this bill. It does not affect the people of my State very much. As I said the other day, we have no great cities. We come directly in contact with the benefits of the agricultural extension system. We are an agricultural community. We know what the experiment stations are doing in our midst. We know what the experiments with drought-resisting plants are doing in parts of our State that are sometimes afflicted by drought. We know how directly we benefit from all that, and, of course, we welcome the provisions of what is known here as the Lever bill. But I think we should take a broader view of the situation than that which affects us in our localities. When we consider the conditions prevailing in the United States generally, in its great cities, in its congested centers, and the stern problems of life that the children who are growing up to-day must face from this time on, I believe the provisions of this bill are reaching out in the right direction, and I am in favor of it.

Mr. PAGE. Mr. President, answering the Senator from Georgia, I would refer to section 31, the latter part of which reads as follows:

But there shall in no case be disbursed under the terms of this act to any school or college, out of moneys derived from the secondary school department fund, the industrial or home economics school fund, the district agricultural school fund, the college teachers' training fund, or the normal teachers' training fund, as provided in this act, more money than 50 per cent of the amount which is supplied and expended during the same period for the same purpose, for which such fund is to be expended, out of either State and local or State or local public moneys.

In other words, the Federal Government pays 50 per cent and the State and local authorities 100 per cent, making 2 for 1.

Mr. McCUMBER. Mr. President, there is a theoretical and a practical side to the provisions of this bill. I suppose if I deal with the practical side of it I shall subject myself to the charge of pessimism. I am willing, however, to chance that charge if I may bring to the attention of the country at large, and especially to the farming population, some provisions of this bill to the end that they shall not be deceived in regard to what it means for them.

I represent a farming section—one purely agricultural. I know the needs of that section. I know what kind of a bill will benefit it. I have seen resolutions and bills pass the Senate and the House designed to make farm life more genteel and pleasing, with the intent that some benefit would be derived by the farming community from them. But there is just one thing in the world that will take the people from the congested cities to the farm, and that is to make farming more profitable. There is the foundation, and there necessarily must be the foundation, of any legislation that is to affect our farming industry—make farming profitable.

Population will always drift to the field of greatest remuneration. That is a law which no character of legislation can possibly change; and the only way we can by legislation effect the drift of population from one section of the country to another is to make it more profitable for the people of one section of the country to go to another section of the country.

The one thing that makes farming unprofitable to-day more than any other one thing is the cost of farm labor, and the reason for the cost of the farm labor lies in the scarcity of farm help due to the greater remuneration in the great cities, and the lesser hours of labor in all lines of employment.

I appreciate the theoretical side of this bill, namely, that we are attempting to overcome the lack of labor to operate our farms as they should be operated by teaching intensified agriculture, so that a given amount of labor expended by the farmer and his family upon the farm, where he can not secure labor outside, may be more profitable to him, and to that extent that portion of the bill which relates purely to agricultural extension and agricultural education may operate to the benefit of the farmers of the country. But by an amendment which has come into the bill since it was originally introduced we have abandoned the original policy. Instead of educating the owner of a business to make that business more profitable by seeking to introduce methods that will economize in labor and expense, we go outside of that, in section 10 of the amendment, and provide for the industrial education of the laborer employed in such business. We do not do this for the farmer.

There is not a single line in this bill that educates a boy to become a farm laborer. This bill, by section 10, is designed to furnish and increase the supply of skilled labor for work in the cities, but nowhere do we seek to increase the supply of farm laborers. There is that which educates the owner of the land so to economize or so to intensify his farming operations as possibly to make them more profitable.

We want to get the boys away from the cities and back on the farms. We want the boys, of whom the Senator from Vermont has been speaking, those who grow in ways of idleness, and who become criminals, to abandon their evil associates in the cities and to get out onto the farms where temptations are few indeed and the surroundings morally healthful.

Will we be able to accomplish this under this bill? I can hardly believe that we are adopting the proper method in carrying this bill beyond the question of instruction in agriculture at the present time. We are not extending it to instruction in agricultural labor. And if we do not extend it to instruction in agricultural labor, why should we extend it to education in other kinds of labor?

I could see some consistency in the two portions of the bill if section 10, for instance, provided that education should be given for the purpose of economizing in the operation of mines or economizing in the operation of factories, so that a given amount of labor in the mine or in the factory would produce a greater result. Then you would have two sections of the same bill which reached toward the same purpose. But I believe you could properly take section 10 as an independent measure and entitle it "A bill to induce the boys on the farm to enter into the cities and obtain a vocational education."

We already teach that vocational education of the character provided in this bill in every city of any importance in the land and in every little town. Take the case of a boy on the farm; let us look at the practical side of this matter as it affects him. He knows that he has to labor from 12 to 16 hours a day on the farm. He knows that his remuneration for that 16 hours a day is never, on the average, a dollar a day. He knows that. There is not a farmer in the country, if he were compelled to pay the wages that are paid in the cities for a given number of hours of energy upon the farm, that would not go into bankruptcy in less than six months.

Now, you invite the farm boy, by reason of the greater remuneration and the lesser number of hours in the city, to abandon the farm and go into the nearest little town and there obtain a vocational education to become a carpenter, a bricklayer, a blacksmith, or any other skilled laborer. It will certainly benefit him under present conditions to leave the farm, and I believe under section 10 we are expending the general funds of the country to draw the young man from the farm rather than to induce the people of the overcrowded cities to migrate to the farm. I am speaking now from the farmer side of the question, from the practical side of it. While we may get some benefit from this intensified farming, which is, of course, the real purpose of this bill, I doubt if that will not be overcome by the excessive prices of farm labor brought about by taking the boys from the farm and leading them to the cities and teaching them city vocations.

I wish, Mr. President, not only to bring to the attention of the Senator who asks us to go into this new field of producing labor the importance of entering other fields, but so that the country at large when reading the record of this debate will at least know that there has been one Senator who represents a farming community who believes that there may be as much injury resulting from section 10 to the farming interests as there will be benefits derived under the other portions of the bill.

Mr. PAGE. Mr. President, I wish to say to the Senator from North Dakota that the National Grange, which is perhaps the strongest farmers' organization in the Northern States, has given this bill extended and very careful consideration and have unanimously passed resolutions indorsing it. The National Farmers' Congress, which is very strong in the South, have taken it up not in a perfunctory way but with a great deal of painstaking care, and having decided that this bill is what they want, they have indorsed it. I do not know of a single national farmers' organization in this country that has not put its stamp of approval on the bill except possibly the Dry Farming Congress. The executive secretary of that body has written me that he is for the Page bill, and I understand from another source that the organization has indorsed the Lever bill.

Mr. McCUMBER. Mr. President, I have no doubt but that any farm organization feeling that they would get a benefit from some provision of the bill would pass a resolution in favor of it without considering very much possibly what the effect might be of some other provision of the bill. Their minds would be centered only upon the question of the benefits to be derived under a certain section. I should like to have some farm organization, however, answer the proposition I have made here, that the practical operation of section 10 would be to draw the farm boy from his home and send him to the nearest town and learn some vocation.

Mr. HITCHCOCK. Mr. President——

Mr. PAGE. Just a word, if the Senator from Nebraska will allow me. In the Senator's State and in the great Northwest the bankers' association have taken this matter under advisement and have discussed it at length. They have sent me a report of their meetings devoted to this particular feature. I do not know what the bankers of the East wish, but I know that the bankers of North Dakota, of Minnesota, and that section of the country have devoted to the Page bill at least one-third of its annual report, and they are assuming to speak for the best economic interests of the great Northwest.

Mr. McCUMBER. May I ask the Senator, because he has read it, what the banking or agricultural organizations have said specifically as to the operation of section 10 of the bill? Have they said anything?

Mr. PAGE. I interrupted the Senator from Nebraska and will not longer trespass upon his time now. I shall perhaps answer the Senator from North Dakota later.

Mr. HITCHCOCK. Mr. President, I rose to express the hope that the Senate will accept the amendment offered by the Senator from Vermont to the House bill. I favor the House bill. I have some doubt whether the amendment offered by the Senator from Vermont has been well digested, but I believe that such changes as are necessary to perfect his amendment can be well worked out by the conference committee, to which the bill will probably ultimately go.

I do not agree fully with what my friend the Senator from North Dakota [Mr. McCUMBER] has said as to the effects of this amendment upon the rural population. The great fact that we are compelled to confront is that over the course of recent years there has been an enormous increase in the relative population that lives in our cities. At the present time something in the neighborhood of one-half of all the population of the United States live in what we call the large towns or cities, which constitute the urban population. We may deplore this. We may wish that the proportion were not so large. We may wish that more boys would stay upon the farm. We may differ as to the reasons which tend to increase the population in our cities. But whatever the reason and however we argue, the great fact is that half the population of the United States have selected that mode of life. This being the fact, it seems to me that when we come to legislate and provide national aid to encourage the States to help in making useful citizens we should bear in mind not only those who are on the farms, but those who, for one reason or another, are within the cities.

I agree fully with what the Senator from South Dakota [Mr. CRAWFORD] said, that the education which we are giving in our public schools is not well calculated at the present time either to hold the boys in the schools or to make of those who attend the schools useful citizens. Those who graduate in our public schools have theoretical knowledge, no doubt; they have education of a certain sort; but they are not receiving that

education which fits them to be useful and valuable members of society. This fact is appreciated in most of the States, and many of these city educators appreciate it to some extent, but in spite of all that appreciation the various States and the various cities go on with their education largely of a theoretical nature. Congress has the power by appropriating a certain sum of money to be used under certain conditions to modify to some extent this education in our public schools. I believe this bill affords that opportunity.

The Senator from North Dakota [Mr. McCUMBER] has said that the effect of section 10 of the amendment will be to draw the boys from the farms to the schools in the city in order that they may get an education which will fit them better to fight the battle of life and fit them better to enjoy the opportunities of success in life. I doubt whether that is so, but if it is true it is a concession to the excellence of this bill. To my mind those who leave city life and go into country life are those who have learned to do something with their hands as a rule.

You find that carpenters will go into country life at certain periods and try their chances upon farms, because they have learned to do something with their hands. So with bricklayers—and the Senator has referred to bricklayers. I believe that by cultivating a knowledge of manual work, by teaching some useful employment, by teaching the city-bred boy to use his hands and his body in some useful work, you are more apt to lay the foundation for ultimately inducing him to go on a farm where all that training will ultimately be of some benefit.

So, Mr. President, whatever the cause may be which has led to the congestion of the population in our great cities, I believe we should recognize the fact that it exists, and in passing a measure to encourage useful training and to make valuable citizens we should take the city as well as the country into account, and help all the thousands and tens of thousands of boys and girls who are now getting a smattering of an education, theoretical knowledge, to acquire something that will be useful to them in future life.

This refers not to the cities only but, as I understand the character of the Senator's bill, it provides for teaching in household economics, which is of particular value to women. If this country is in need of any particular thing it is a knowledge of household economics, and it should be encouraged among the women of the land, among whom it has lately fallen into very serious desuetude.

Before taking my seat, Mr. President, however, I wish to call the attention of the Senator from Vermont to what seems to be an omission in several of the sections here. I think if he will turn to section 11 he will find that he has failed to make provision for the appropriation of the money which he mentions there, and the same is true of section 12 and also of sections 13, 14, and 15. I suppose it is due to the fact that he hastily drew this substitute. I would therefore suggest to him, if he will take the memorandum, that on page 9, line 6, after the word "sixteen," he insert the words "is hereby appropriated," and again, on page 10, line 11, after the word "sixteen," to insert the words "is hereby annually appropriated."

Mr. LODGE. If I may say a word——

The PRESIDENT pro tempore. Does the Senator from Nebraska yield to the Senator from Massachusetts?

Mr. HITCHCOCK. I do.

Mr. LODGE. I think that matter of appropriation would have to be made in the annual bill. If the law establishes the service, whatever it may be, and fixes the amount, the appropriations from year to year would have to be made in the regular bill. We could not make an annual appropriation in this bill in the nature of a fixed charge. Of course, the appropriation bills would have to carry the appropriations, because it is necessary that they should carry everything that is needful to enforce existing law.

Mr. HITCHCOCK. That occurred to me, but I notice that in section 10 the author of the bill makes the appropriation annually thereafter, and in the sections I have referred to it is omitted.

Mr. LODGE. I think that is perhaps unusual. The bill authorizes the appropriation just as a bill fixes a salary. It does not appropriate; it fixes the salary of an office; and then the annual appropriation bill, being required by statute, makes the appropriation year after year for that purpose.

Mr. SMOOT. Mr. President——

Mr. HITCHCOCK. If the Senator will permit me, I will read the language of section 12 as an illustration to show that something is lacking to indicate plainly that Congress intends to have this as an annual appropriation hereafter. It reads as follows:

> That for the maintenance of instruction in agriculture and home economics in agricultural high schools, as hereinafter provided, the sum of $3,000,000 annually, beginning with the fiscal year ending June 30, 1916, such sum to be allotted annually to the States in proportion to the number of persons engaged in agricultural pursuits—

And so on.

There is no statement as to what is to be done annually.

Mr. SMOOT. This is an allotment and not the appropriation. If you make the appropriation direct and make it apply for this year and the year hereafter, then at any time when any change is made the law itself would have to be amended, whereas if you make the allotment now for this year——

Mr. HITCHCOCK. I realize there would have to be an appropriation annually from time to time, as is always the case, I understand, with fixed annual appropriations.

Mr. SMOOT. That is, providing it simply says "annually," but if it says "hereafter," then it is a fixed amount, and the only way it could be changed would be by changing the law itself.

Mr. CLARK of Wyoming. If the Senator from Utah will read the section carefully he will find that there is not an appropriation or allotment or anything else. There is an entire absence of anything affirmative.

Mr. HITCHCOCK. There is evidently the omission of some words to indicate what is to be done. I propose to cure it by inserting the words "annually appropriated." The sentence is incomplete; it is not finished.

Mr. THORNTON. Mr. President, I have for nearly a year past told the junior Senator from Vermont, the author of the pending amendment, that I would vote for it, and if I had the opportunity to vote for it as a separate proposition I would still do so. I have always told him, however, that my own State would not be able to receive any benefit from the measure, because of her inability to comply with the conditions that were attached to the grant from the General Government. Yet I told him that would not prevent me from voting for a bill which I recognized would bring a large measure of benefit to large sections of the country, because under those circumstances the fact that it brought no benefit to my immediate State or my section would not justify me, in my opinion, in voting against it.

But the proposition now before us is this: If I vote for the Page bill as a substitute for the Smith bill I assist in eliminating from further consideration entirely the Smith bill, which, while it is not of such general scope in its application, yet will bring material benefit to every State in the Union.

Mr. HITCHCOCK. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Louisiana yield to the Senator from Nebraska?

Mr. THORNTON. Certainly.

Mr. HITCHCOCK. I think, perhaps, the Senator is under a misapprehension as to the present status. The Senator from Vermont is not offering his bill as a substitute for the Smith-Lever bill, but is accepting the Smith-Lever bill as it has been perfected, and is merely proposing to add certain sections to it to incorporate his views and provide for industrial education. So the Smith-Lever bill will remain a part of the bill, if it is adopted with this amendment.

Mr. THORNTON. Mr. President, I will give the answer to that. I have taken pains to investigate, through inquiries among Members of the House, as to what would be the chances of the Page bill passing the House if it was passed by the Senate, and I am justified in assuming that there would not only be the gravest doubt about the passage of the bill, but that the probability would be against it. That would apply to the very case that is now submitted by the Senator from Nebraska, because there are so many of the provisions of the Page bill which added to the Smith bill would be objectionable to the House that I most seriously doubt its passage there. As between the proposition of voting for a bill which has already passed the House and will become a law if it passes the Senate and voting for a bill which, if it passes the Senate, will not, in my opinion, pass the House, I could not hesitate. For these reasons I am obliged to vote against the substitute.

Mr. CUMMINS. Mr. President, I beg to remind the Senator from Louisiana who has just spoken that there is another way in which this can be accomplished. I am as much interested in the House bill as he can possibly be, but I am likewise interested in some of the features of the Page bill, so called.

Now, if we attach a part or all of the Page bill to the House bill as an amendment, or amendments, then the subject is in conference, and we will get at the least the House bill. We may get, I hope will get, a part or all of the so-called Page bill.

I hope, therefore, that no Senator will vote against the amendment proposed by the Senator from Vermont for the reason that he fears that if it should be adopted it will not receive the concurrence of the House, because we can not in any event lose the House bill.

I believe it commands a very large majority in the Senate, and we have a right to assume that it will continue to have a majority in the House. Therefore we ought not to decide this matter upon any such proposition.

The real truth is we ought to come back to the issue stated by the Senator from North Dakota. A Senator who does not believe in vocational training ought to vote against the amendment proposed by the Senator from Vermont. One who does believe in vocational education ought to vote for the proposal of the Senator from Vermont, or at least help to so adjust that proposal that it will be workable, if it is not already so.

I for one believe in vocational education. I do not believe in the policy that would pour out money from the Treasury of the United States for the benefit of the farmer and leave the worker in the cities without aid. I think the Senator from North Dakota has possibly analyzed it with a good deal of accuracy. I suppose it is true that if we were in this country to pursue a policy which would make the lives of those who work in the cities or towns at the trades as miserable and as hopeless as possible, there would be a greater tendency and a greater temptation for them to return or, if not to return, to go to the country and enter agricultural pursuits.

But I do not believe that this country can be carried on upon any such policy of education. It does not make any difference what effect it has upon the wages of agricultural labor, it is our duty—and I am not now speaking particularly about the duty of the Federal Government, but I am speaking of the duty of members of society—it is our duty to make as happy and as comfortable and as efficient the workers in trades as we try to make the workers who pursue agriculture as a means of livelihood.

Indeed, the problem of the city is vastly more serious than the problem of the country. If neither the State nor the General Government ever extended one particle of aid to those who live in the country—I mean aid in training, aid in education, aid in formulating character—there would still be no menace from those who live in the country. The very conditions which surround them protect society against the excesses which are so often observed in the crowded populations. If we could do but one thing, it would be our first duty to help to train the boys who, above all other boys, need training.

There is not much danger from the country boy. He will never go far wrong. There is danger from the city boy and the town boy. I need not describe the influences which affect the life of the one and the life of the other. Therefore I have always thought that we ought in our school system to give our first concern to the culture, the training, the education of the boy who through his life as a man would probably be surrounded by many temptations, by many difficulties.

I am for vocational education. I regard it as of the highest necessity for the future, if we would guard ourselves against the dangers which are now so apparent. Upon this point all careful observers are in agreement that we ought to give these boys, and these girls, too, because it is not limited to boys, every opportunity to become upright, self-respecting, self-supporting, efficient members of society.

I am speaking in behalf of a people largely engaged in agriculture, because in my State that is the dominant industry. I would feel a sense of humiliation if we were now to enlarge our appropriation or contribution for agriculture and not make a beginning, at least, in this even greater work of training our young men and our young women in the trades and industries.

I know that there are some objections to this bill in its present form. They are not, however, serious. If we do not in the very first instance succeed in getting a perfect bill, there will be abundant opportunity in the future to correct any inadequacies that may now creep into it.

I earnestly hope that, having now the opportunity, we will join the States in the efforts they are making for vocational training. The contribution is not great, it is true, but it points the right policy. It indicates that the General Government intends to do something that is adequate and enduring in this grave problem before us, and I think it would be a profound mistake if we did not now add to this contribution to the agricultural interests of the country—and no one supports that contribution with more heartiness than I—a contribution for beginning this other work. I mean beginning it on the part of the Government of the United States, because it has already been begun in every intelligent and patriotic community in the country. Let us go hand in hand with these two great branches of education and carry them on together.

I realize when it is said in the letter from a distinguished educator of New York that we might as well do a great many other things as to do this the force of the suggestion. I do not know when I will be willing to stop making contributions to worthy purposes; I hope I will never be able to stop if the contributions will promote the object sought to be accomplished. My friend Pritchett is wrong about this bill. He is a very learned man; he is one of the best men in the United States, and is profoundly interested in education. Of course you all know him as one of the advisers and administrators of Mr. Carnegie's benevolence, charity, and philanthropy; but he is wrong about this bill. He seems to assume that the Government of the United States is to enter the secondary schools of the several States and readjust them, participating in their conduct and management. It is a mistake. There is nothing in this bill that proposes anything of that kind. The utmost that it proposes is that a board of vocational education shall prepare a plan for the expenditure of money for this particular purpose, and that that plan shall be submitted to the Secretary of the Interior, and, if approved by him, then the money passes into the treasury of the State, to be paid out under the regulations of the vocational board. I think if Mr. Pritchett did not overlook these provisions of the bill he at least did not fully realize their force.

Before I conclude, Mr. President—and I had but a word to say about it—I intend to offer an amendment to the amendment. Senators will note a print of the Page bill which was presented on the 17th of January that has been changed, as explained by the Senator from Vermont [Mr. PAGE] after a consultation with or a conference with the Senator from Georgia [Mr. SMITH]. The Senator from Vermont, as he told the Senate the other day, accepted certain changes, and among them he rewrote section 3 of the print of January 17, and it has become section 10 of the print of January 24.

I do not like the substitute as well as I like the original. My chief objection to it is that it strikes out the appropriation for the trades and industries in the secondary schools and limits the help to agricultural and domestic economy. In my State the secondary schools are filled with pupils who have more interest in the trades and industries than they have in agriculture. They are all in cities or towns, and it would be vastly better for the State I in part represent if this aid were given to the trades and industries in the secondary schools as well as to agriculture.

Again, I do not exactly understand the name used in the new print. What is a "rural high school"?

Mr. SMITH of Georgia. Mr. President, I should like to say to the Senator from Iowa that I disclaim any responsibility for that name or for the details of that paragraph. I do not think it reaches at all what I had in view.

Mr. CUMMINS. I did not mean to have it inferred from anything that I have said that the Senator from Georgia is responsible for it.

Mr. SMITH of Georgia. I merely want to express my agreement with the Senator.

Mr. CUMMINS. I only know that the Senator from Vermont said the other day that the Senator from Georgia had made certain suggestions to him with regard to this particular phase of the matter, but I did not understand that the Senator from Georgia had rewritten the section.

Mr. SMITH of Georgia. No.

Mr. CUMMINS. Then I ask the Senator from Vermont what is meant by "rural high school"?

Mr. SMITH of Georgia. My suggestion would be that you strike out the word "high" and let it read "rural schools."

Mr. CUMMINS. I myself prefer, Mr. President, the language of the section as it was, namely, "secondary school," and I offer section 3 of the print of January 17 for section 10 of the print of January 24; that is to say, I move to strike out section 10 of the amendment proposed by the Senator from Vermont and to substitute in lieu of the part stricken out section 3 in the print of January 17.

The PRESIDING OFFICER (Mr. CLARK of Wyoming in the chair). The Senator from Iowa proposes an amendment to the amendment which will be stated.

The SECRETARY. On page 7 it is proposed to strike out from line 17 down to and including line 22, on page 8, and to insert:

> That for the maintenance of instruction in agriculture, the trades and industries, and home economics in departments or divisions of schools of secondary grade, other than the separate industrial or home economics schools and the separate district agricultural high schools for which provision is hereinafter made, the sum of $3,000,000 annually, beginning with the fiscal year ending June 30, 1916, such sum to be allotted annually to the States and the District of Columbia in proportion to their population as shown by the Federal census next preceding the year for which such allotment is made. The moneys appropriated under this section shall be known as the secondary school department fund.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Iowa [Mr. CUMMINS] to the amendment of the Senator from Vermont [Mr. PAGE].

Mr. SMITH of Georgia. Mr. President, I do not think the amendment offered by the Senator from Iowa [Mr. CUMMINS] is sound. My objection to it is that I do not think it is possible to do any good with an appropriation of this character used in the way section 3 provides. It proposes to appropriate $3,000,000, $3,000,000 more to be appropriated by the States, making $6,000,000, to be used in our secondary schools throughout the entire country for the purpose of giving instruction in three things—agriculture, the industries and trades, and home economics. There are over 13,000 schools of the secondary grade, and to undertake to distribute $6,000,000, or even $12,000,000, to 13,000 and more schools for the purpose of giving instruction in agriculture, instruction in the industries and trades, and instruction in home economics is to provide for the distribution of your fund so thinly that nothing can be done with it. You can not put this instruction into the ordinary high school; you can not mix agriculture and the industries and trades in all these high schools; you can not introduce the industries and the trades into high schools by the use of a thousand dollars to the school, and you would not have that much if you had $12,000,000. If you had $13,000,000, you would only have, I believe, a thousand dollars to the school.

My observations as well as my advice is that to do industrial and trades work you must have a distinct plant, and you must equip it with experts—experts both in the hand and in the head. I suggested to the Senator from Vermont that his section 3 would be simply a waste of money; I objected to it because I believed it was an impracticable appropriation, one from which nothing could come, and that it would be far better to put the whole of it into his next section and make our appropriation apply to schools that have distinctive departments, plants, equipment, and officers, to really do something in the line of instruction in the industries and trades.

Mr. President, while I am on my feet, I wish to add that I am going to vote against the proposed amendment of the Senator from Vermont because I do not think it is well digested. I am in favor of vocational education; I am intensely in favor of special training upon the line of the trades and industries; I believe thoroughly in instruction in home economics, and I sincerely believe in agricultural training; but I do not believe that the amendment offered by the Senator from Vermont has been yet worked out. One great trouble with it when we undertake to involve the National Government in this class of work, is the question of how far the National Government is to simply turn the money over to the States and let it alone, and how far the National Government is to follow the money and undertake to interfere with the secondary school and the plans of education in detail in the States.

I am opposed to this amendment as it is now drawn, because it retains too much power in the National Government with reference to secondary schools. I am utterly opposed to the Commissioner of Education interfering in any way with our high schools in Georgia or our rural schools. There might be a man in that position—there have been men in that position—that I would not mind interfering. Take old Dr. Harris, who was the great Commissioner of Education of 20 years ago. If I had a guaranty that such a man as he would always be the Commissioner of Education, I would not object; but only last year we had brought to our attention the fact that the Commissioner of Education had undertaken to grade, through some one of his employees, the colleges of the United States, and to say just what each amounted to. He did it in such an absurd and utterly inaccurate manner that it was almost ludicrous. I would not want any national money to come to Georgia for our secondary schools if the plan of their management and the rules of their conduct were subject to his supervision and direction. We would rather do it for ourselves.

I believe that problem can be worked out. There is too much power left nominally in the Secretary of the Interior, but, in reality in the Commissioner of Education, to satisfy me with this measure as it stands. I believe that if we would let the House bill pass and take up the bill of the Senator from Vermont when it is reached on January 30, and proceed with the consideration of it, we would accomplish better results. It is a great piece of legislation; it is a new line of work; and even if we do not get through with it at this session we will have made progress. I think if we could have a commission composed of men from different parts of the country work on it for us, and make suggestions, that before the end of 12 months we could work out the problem.

The Senator from Vermont has invited me to make suggestions, and I have made them; but I could not to-day draft a bill for which I myself would be willing to vote. I do not as yet sufficiently understand the matter as it bears upon all parts of the country to know just what shape the bill ought to assume.

I am for vocational education. I hope to see a plan worked out by which the National Government will contribute toward vocational education and help inspire additional work both for the boy in the vocational school and for the grown artisan, after the plan pursued in Germany, especially in Berlin, where their part-day schools advance the standard of skill of their full-grown artisans; but I can not vote for this amendment as it stands. I am going to vote against it.

Mr. LODGE. I send to the desk an amendment, which, at the appropriate time, I intend to offer to the so-called Lever bill, and I ask that it be printed and lie on the table.

The PRESIDENT pro tempore. That order will be made.

Mr. McCUMBER. Mr. President, I would say nothing further on this bill did I not consider that the remarks of the Senator from Iowa [Mr. CUMMINS] have rather placed words in my mouth, or a construction on my words, which is entirely inconsistent with my own intendment or with my words themselves. The Senator assumed, though I can scarcely understand the basis of that assumption, that if I raised a question concerning a bill introduced primarily for the purpose of assisting the rural communities of the country in agricultural education but providing more benefit to and bestowing more attention upon urban education, I therefore must be opposed to vocational education.

Mr. President, I think I can safely make a suggestion as to this bill without being accused of opposing vocational education. I do not oppose it in any way. I think it one of the advanced steps which should be taken in education in our great cities, but, Mr. President, we must look at this bill under present conditions, and we must and should understand just exactly what its effect may be.

The great trouble in the cities now is that they are oversupplied with labor. That is the complaint on the part of the labor unions, it is the complaint on the part of the cities, that there is not work enough for the labor in the great cities. On the contrary, the rural districts are not supplied with a sufficient amount of labor, and yet we have a provision here that exaggerates rather than mitigates the evil of the lack of labor in the rural districts and an oversupply of labor in the urban districts.

This bill, Mr. President, goes much further in urban education than it does in rural education. There is, as I have said, not a sentence in the bill that provides for the education of farm labor. All of the appropriations which are to be used in the urban districts are for the purpose of teaching people to earn a livelihood; in other words, it is to instruct the boys in education along vocational lines. In every city in the country we now have those facilities. I do not think there is a boy in the city of Washington who can not obtain a vocational education if he desires to obtain it. That is not true as regards agricultural labor in the country. I can appreciate the fact why it is difficult that it could be made true that you could teach a boy the vocation of a farm laborer. In the city of New York, and in every other city in the Union, I believe, there are sufficient schools to accommodate those who desire to learn any vocation. The objection that I find to this bill is that we are giving more attention to the urban than we are to the rural districts in the line of education.

Mr. President, I intend to vote for the Page amendment. I intend to vote for it with the hope that when the bill goes to conference we can probably find some way of so amending it that even better provision can be made for the interests of the rural population without any injustice to the urban population; but I certainly shall not retract any words which I have uttered that will put the farming population in possession of the truth in reference to this bill. It does not mean, because I prefer to make this bill purely an agricultural one, that I am necessarily opposed to vocational education, nor does it mean, because I assert that the farm laborer can not under present conditions receive as much for his service as do those who labor in the city, that I must therefore be in favor of starving those in the city into a condition in which they must go to the farm. I think we can reach a proper result without injustice to any class of labor.

Mr. SMOOT. Mr. President, the Senator from Nebraska has called attention to the fact that in certain sections of the bill certain sums of money were provided but were not appropriated. I believe the mistake happened in this way: I find that section 2 of the original bill, S. 3, provides as follows:

> That the several sums as herein provided in section 3 to section 10, inclusive, be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated—

And so forth.

In the substitute almost the exact words of other sections have been used, but section 2 has been omitted. I call the attention of the Senator from Vermont to the fact that section 2 should be included in his substitute if he wishes to use the language that he uses in sections 10, 11, 12, and a few others.

Mr. PAGE. Mr. President, the Senator from Nebraska has very kindly aided me in this matter, so that it will take only a moment to change the phraseology satisfactorily. The Senator is right. In drawing the new bill to make it harmonious with the Lever bill section 2 was omitted.

I move that on page 9, line 6, after the word "sixteen," the words "is hereby appropriated" be inserted.

The amendment to the amendment was agreed to.

Mr. PAGE. On page 10, line 11, after the word "sixteen," I move to insert the words "is hereby annually appropriated."

The amendment to the amendment was agreed to.

Mr. SMOOT. Why not say "is hereby appropriated," so as to use the same language in all of the sections? I suggest using in one section whatever language is used in the other, viz. "is hereby appropriated."

Mr. PAGE. I think the Senator will find that that is right as it is now. The Senator from Nebraska has very carefully gone over it. The language is slightly different. I should like to use the words "is hereby annually appropriated."

In section 13, page 11, line 2, after the word "thereafter," I move to insert the words "is hereby appropriated."

The amendment to the amendment was agreed to.

Mr. PAGE. On the same page, in section 14, after "1913," line 21, I move to insert the words "is hereby annually appropriated."

The amendment to the amendment was agreed to.

Mr. PAGE. In the same section, on page 12, at the end of line 2, after the amount "$3,000," I move to insert the words "shall be allotted."

The amendment to the amendment was agreed to.

Mr. PAGE. In section 15, line 8, page 12, after "1913," I move to insert the words "is hereby annually appropriated."

The amendment to the amendment was agreed to.

Mr. PAGE. On the same page, line 14, after the word "annually," I move to insert the words "is hereby appropriated."

The amendment to the amendment was agreed to.

Mr. PAGE. In line 23, on the same page, after "1913," I move to insert the words "is hereby appropriated."

The amendment to the amendment was agreed to.

Mr. PAGE. That, I believe, makes the appropriation part of the bill entirely correct.

Mr. BRANDEGEE. Is there not another place on page 12, or did the Senator state that?

The PRESIDENT pro tempore. The Senator has the right to modify his amendment without the Senate voting on these amendments. The Chair understands that is a pending amendment. The Senator from Vermont, however, has modified his amendment as indicated. The question is upon the amendment submitted by the Senator from Iowa to the amendment of the Senator from Vermont, which will be stated.

The SECRETARY. In the proposed amendment it is proposed to strike out section 10 and insert the following as section 10:

That for the maintenance of instruction in agriculture, the trades and industries, and home economics in departments or divisions of schools of secondary grade other than the separate industrial or home economics schools and the separate district agricultural high schools for which provision is hereinafter made, the sum of $3,000,000 annually, beginning with the fiscal year ending June 30, 1916, such sum to be allotted annually to the States and the District of Columbia in proportion to their population as shown by the Federal census next preceding the year for which such allotment is made. The moneys appropriated under this section shall be known as the secondary school department fund.

Mr. CUMMINS. Mr. President, I do not intend to delay the Senate by arguing the matter further, except to say that I understand the provision is very inadequate; but it is no more inadequate than the one for which it is to be substituted. In fact, it is more adequate because it appropriates $3,000,000, whereas the one which I seek to strike out appropriates but $2,000,000.

But the Senator from Georgia is very much mistaken about one thing. That is that this admits the General Government to the management or control of the secondary schools of the State. I think he overlooks the fact that before any money can be paid out to the States under this section a plan must be formulated by the vocational board, or the board of vocational education, and must be submitted to the Secretary of the Interior and approved by him.

Unless the board can present a plan by which this money will accomplish the purpose in view, of course there would be no money paid out under it. If it were shown that the $1,000 for each school or $2,000 for each school could not be expended so as substantially and materially to aid in the work of the school, of course the Secretary of the Interior would not approve the plan, and that State would not receive any part of this appropriation.

Broadly speaking, I do not believe you can make a more effective regulation than to give it into the hands of the vocational board. If we have a plan prepared by that board and approved by the Secretary of the Interior, I think we can assume that while the aid would be inadequate it would not be useless.

I do not see any difference on that score, however, between what I have proposed as a substitute for section 10 and section 10 itself, save that instead of calling these "secondary schools," as they are ordinarily called, they are called "rural high schools." I think that is a misnomer, because some of them would be rural and some of them would not be. Take the high school in my own city, a city of 100,000 people; would it be called a rural high school.

Mr. SMITH of Georgia. Not at all. The modification, as I understand, was this, if the Senator will permit me: A million dollars of the amount appropriated here was transferred to the next section, so as to give $4,000,000 for industrial vocational education in schools that had approved plans and that were really prepared to do substantial work in the industries and trades. Then the industries and trades were omitted from section 3; and the two millions left were to be used for farm and domestic or home economics work.

Mr. CUMMINS. I think I understand that; but there is no definition of "rural high school," so far as I know.

Mr. SMITH of Georgia. Where the author got the idea of a rural high school I do not know. In discussing the matter with me, he contemplated having a leader in agricultural work who would take a section of territory and visit the rural schools and teach the teachers and teach the children, especially in agricultural lines, covering a territory of rural schools.

Mr. CUMMINS. I do not depreciate the value of that kind of work; but the next section does not take in any high school that may have a department for the trades and industries. They must be, as I quote now—

In separate industrial or home economics schools.

No matter how well equipped a high school might be to carry on the vocational education, it would not be able to receive any aid under the following section—formerly section 4, now section 11—because it would not be a separate economics or industrial school.

I have nothing further to say about the amendment I have offered to the amendment.

The PRESIDENT pro tempore. The question is upon the amendment of the Senator from Iowa to the amendment of the Senator from Vermont.

The amendment to the amendment was agreed to.

Mr. CLARK of Wyoming. Mr. President, I move to insert, on page 1, line 6, after the word "State," the words "and Territory."

The PRESIDENT pro tempore. The Chair will suggest to the Senator from Wyoming that that portion of the amendment has been abandoned. Doubtless his amendment would apply to the House bill.

Mr. CLARK of Wyoming. I am reading from the amendment proposed by the Senator from Vermont to-day—from the print of January 24.

Mr. PAGE. That has been changed.

Mr. CLARK of Wyoming. Then I will change my motion and move that the Secretary be instructed to insert in the bill at the proper place the words "and Territory" in connection with the word "State," the intention being to secure for the Territories the benefit of the bill.

The PRESIDENT pro tempore. The proposed amendment to the amendment will be stated.

The SECRETARY. On page 1, line 6, after the word "State," it is proposed to insert "and Territory."

Mr. SMITH of Georgia. Was the Senator on the floor this morning when an amendment was adopted extending it to Hawaii, Alaska, and Porto Rico and providing that, before any money should be paid to either, the Secretary of Agriculture should determine that their colleges were ready to proceed with the work?

Mr. CLARK of Wyoming. No; I was not here, Mr. President. I regret that I was not here.

Mr. SMITH of Georgia. That amendment was adopted this morning as a part of the main bill.

Mr. CLARK of Wyoming. Then I will not urge the amendment that I have proposed, although I may present it later to the bill if the bill should not pass to-night. I have an indistinct recollection that Hawaii even now comes under the provisions of the old act; and if it comes under the provisions of the old act it ought not to have more restrictions placed upon it than are placed upon like States and Territories in the bill. But I will withdraw my amendment to the amendment for the present.

Mr. BRANDEGEE. Mr. President, in view of what has been said by the Senator from Georgia as to the adoption of an amendment this morning—I was not on the floor at that time, and I may not be when the bill is perfected—I should like at this point to suggest that there are several other places in the bill that I think ought to be looked at.

For instance, on page 5, the amendment provides that money shall be paid out of the Treasury of the United States—

to the treasurer or other officer of the State duly authorized by the laws of the State to receive the same.

I think perhaps that language would not cover the District of Alaska. They may not have what is known as a State treasurer there.

Similar language appears on page 14, in line 22, where it provides that the States—

shall, through the legislative authority thereof, accept the provisions of this act relating to such fund, and shall appoint the State treasurer custodian.

I think these expressions, perhaps, ought to be modified if the amendment has been adopted.

Mr. SMITH of Georgia. I hardly think that is true. I think a general provision extending the provisions of the bill to Hawaii, Alaska, and Porto Rico would carry with it such a construction as would make the necessary modification of the particular language theretofore used with reference to the States. But that is a matter which can be investigated in detail a little later on.

Mr. BRANDEGEE. That is the only purpose I had in saying what I did. I do not know whether the district of Alaska has any such official as would compare with the treasurer of a State of the Union. My object is simply to draw attention to that point.

Mr. SMITH of Georgia. Under the terms of the bill it would be some one duly authorized by the Legislature of Alaska to receive it.

Mr. BRANDEGEE. The bill itself provides in one place that the State shall designate the State treasurer or some other officer to receive this money.

Mr. SMITH of Georgia. Yes; the duly constituted authorities of the State.

Mr. BRANDEGEE. Then, on the other page that I alluded to it is provided that the State treasurer shall be the custodian. All my interest in it is to have the terms of the bill in harmony, so that it will be workable.

While I am on my feet I should like to make another suggestion to the Senator from Vermont. On page 19, in section 25, the amendment provides:

That the Secretary of the Interior shall annually * * * ascertain whether such State or the District of Columbia is using moneys received by it out of the rural-school fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, or the teachers' training fund in accordance with the spirit and terms of this act.

The terms of the act are perfectly visible, but the spirit of it may not be. I move to strike out the words "spirit and," so that the law may be administered according to its terms.

Mr. PAGE. I accept that amendment.

The amendment to the amendment was agreed to.

The PRESIDENT pro tempore. The Senate will receive a message from the House of Representatives.

Mr. SMITH of Georgia. Mr. President, I should like to give notice that on Wednesday morning, at the close of the morning business, I shall ask the Senate to resume the consideration of House bill 22871.

DEATH OF REPRESENTATIVE SYLVESTER C. SMITH.

A message from the House of Representatives, by J. C. South, its Chief Clerk, communicated to the Senate the intelligence of the death of Hon. SYLVESTER C. SMITH, late a Representative from the State of California, and transmitted resolutions of the House thereon.

Mr. PERKINS. I ask the Chair to lay before the Senate the resolutions just received from the House of Representatives.

The PRESIDENT pro tempore. The Chair lays before the Senate resolutions of the House of Representatives, which will be read.

The Secretary read the resolutions, as follows:

IN THE HOUSE OF REPRESENTATIVES,
January 27, 1913.

Resolved, That the House has heard with profound sorrow of the death of Hon. SYLVESTER CLARK SMITH, a Representative from the State of California.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy to the family of the deceased.

Resolved, That as a further mark of respect this House do now adjourn.

Mr. PERKINS. Mr. President, I offer the resolutions I send to the desk, for which I ask present consideration.

The PRESIDENT pro tempore. The resolutions submitted by the Senator from California will be read.

The Secretary read the resolutions (S. Res. 443), as follows:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. SYLVESTER C. SMITH, late a Representative from the State of California.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the late Representative SYLVESTER C. SMITH the Senate do now adjourn.

The PRESIDENT pro tempore. The question is on agreeing to the resolutions.

The resolutions were unanimously agreed to; and (at 4 o'clock and 51 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, January 28, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

MONDAY, *January 27, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father in heaven, draw near to us as we draw near to Thee and fill our minds with clear perceptions, noble desires, pure convictions, and the courage to live them, that we may be one with Thee in the furtherance of every good, and thus be strengthened by imparting strength, wise by imparting wisdom, pure by imparting purity as we journey through life's rugged way, and so glorify Thee in a faithful service to our fellow men.

Once more in the dispensation of Thy providence death has entered our family and taken from us a faithful servant. Comfort us and his bereaved family by the blessed hope of the life eternal; in Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

DISTRICT DAY.

The SPEAKER. This is District day, and the gentleman from Kentucky [Mr. JOHNSON] is recognized.

GERMAN ORPHAN ASYLUM ASSOCIATION.

Mr. JOHNSON of Kentucky. Mr. Speaker, I call up the bill S. 7508.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 7508) to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia."

Be it enacted, etc., That the act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia," approved on the 6th day of February, 1904, be, and the same is hereby, amended by adding to and making a part of section 1 of the said act the following:

"And the said German Orphan Asylum Association of the District of Columbia may hereafter fix, limit, and determine the number of directors to constitute its board of directors by any constitution or constitutions which may hereafter be adopted by the said association, and the number of its said directors may be decreased or increased as provided by any constitution or constitutions, or any amendment or amendments thereto, which the said association may lawfully adopt."

Mr. EDWARDS. Mr. Speaker, I make the point of no quorum, and move a call of the House.

The SPEAKER. The Chair will count.

Mr. EDWARDS (during the counting). Mr. Speaker, I withdraw the point temporarily.

The SPEAKER. The gentleman from Georgia [Mr. EDWARDS] withdraws the point temporarily.

Mr. MANN. I should like to ask the gentleman from Kentucky [Mr. JOHNSON] a question. If this bill should pass, giving to this corporation the authority to increase or decrease this board of directors as it pleased in the future, would that be practically in conformity with the general law in reference to corporations?

Mr. JOHNSON of Kentucky. I may say, Mr. Speaker, that I have no more information on that subject, and perhaps not so much, as the gentleman from Illinois [Mr. MANN] himself.

Mr. MANN. I do not remember. I will say to the gentleman.

Mr. JOHNSON of Kentucky. I do not remember either; but the committee was simply endeavoring to do what those in charge of the German Orphan Asylum desired, and we did not believe that there was any question as to their motives.

Mr. KAHN. I think they have a charter from the Congress.

Mr. MANN. As I understand from the report and the statements, they wish to increase the number of their board of directors. But suppose hereafter they should wish to decrease it to one; would that same power exist in reference to an ordinary corporation?

Mr. JOHNSON of Kentucky. I am sure I do not know. I did not go into it with such detail as that, having absolute confidence in the management.

Mr. MANN. The management in the course of time might change.

Mr. JOHNSON of Kentucky. I do not think it would change for the bad in this matter.

Mr. KAHN. I do not think that they would decrease it to one.

Mr. MANN. I think under this law they could increase it to a hundred or decrease it to one.

Mr. KAHN. The purpose is to give them additional power to that which they have.

Mr. MANN. This gives them the power to increase or decrease hereafter as they choose.

Mr. JOHNSON of Kentucky. Some of the managers of the asylum said the law was absolutely necessary in order to enable them to carry on their business.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was read a third time and passed.

FIFTH REGIMENT MARYLAND NATIONAL GUARD.

Mr. JOHNSON of Kentucky. Mr. Speaker, I now call up Senate joint resolution 153.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Joint resolution (S. J. Res. 153) granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia.

Resolved, etc., That the marshal of the District of Columbia be, and he is hereby, authorized to permit the Fifth Regiment Maryland National Guard to occupy and use the corridors of the courthouse of the District of Columbia, from 6 o'clock in the evening of March 3 to 7 o'clock in the evening of March 4, 1913, upon such terms and conditions as the marshal of the District of Columbia shall impose upon the colonel of the Fifth Regiment Maryland National Guard.

The SPEAKER. The question is on the third reading of the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

CAPITAL PUNISHMENT BY ELECTROCUTION.

Mr. JOHNSON of Kentucky. Mr. Speaker, I desire to call up Senate bill 7162.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

An act (S. 7162) to amend section 801 of the Code of Law for the District of Columbia.

Be it enacted, etc., That section 801 of an act entitled "An act to establish a Code of Law for the District of Columbia," approved March 3, 1901, as amended by the acts approved January 31 and June 30, 1902, and subsequent acts to and including March 4, 1911, be, and the same is hereby, amended to read as follows:

"SEC. 801. The punishment of murder in the first degree shall be death by electrocution. The punishment of death must, in every case, be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of such current must be continued until such convict is dead. The punishment of murder in the second degree shall be imprisonment for life or for not less than 20 years. In all cases where the accused is found guilty of the crime of murder in the first degree the jury may qualify their verdict by adding thereto "without capital punishment," and whenever a jury shall return a verdict as aforesaid the person convicted shall be sentenced to imprisonment for life."

Mr. MANN. Mr. Speaker, is the gentleman from Kentucky [Mr. JOHNSON] sure as to what effect the passage of this bill would have upon the persons now under sentence of death in the District?

Mr. JOHNSON of Kentucky. I will say to the gentleman from Illinois that I do not regard that as a question of importance. It is my opinion, however, that those who are now under sentence of death in the District of Columbia must be executed under the laws which were in existence at the time of the conviction and passage of sentence. We had practically the same subject in Kentucky two or three years ago, and my recollection is that that was determined to be the law there when we changed the method of capital punishment from hanging to electrocution.

Mr. MANN. My recollection is—and I am not certain how far it is correct—that there is a general law providing that where a law is repealed and changed it shall not affect a prosecution then being carried on. How far it would affect a case where sentence had been imposed I do not know. Here, for example, is a sentence, sentencing a man to be hanged until he is dead. Now, if you take away the power to hang that man, he probably goes free. There is now no way of punishing him.

Mr. JOHNSON of Kentucky. I will say to the gentleman from Illinois that I understand the bill was prepared by the United States district attorney for the District of Columbia, and I will further say that I myself in committee voted against the bill. This bill comes in with a report from the majority of the committee. I am in favor of inflicting the most ignominious kind of death possible upon a man guilty of deliberate murder. I believe that hanging is a more ignominious death than the other form, and for that reason I was against this bill. But I am here supporting it in accordance with the majority vote of the committee.

Mr. MANN. I presume that the district attorney in drafting the bill gave consideration to its effect upon sentences now in existence, although there is nothing in the letter of the commissioners upon that subject, as there should be.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

UNLAWFUL DEPOSITS IN THE POTOMAC RIVER.

Mr. JOHNSON of Kentucky. Mr. Speaker, I desire to call up Senate bill 1072.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

An act (S. 1072) to amend section 895 of the Code of Law for the District of Columbia.

Be it enacted, etc., That section 895 of the Code of Law for the District of Columbia, making harbor regulations, is hereby amended by adding thereto the following:

"SEC. 895 a. That it shall be unlawful for any owner or occupant of any wharf or dock, any master or captain of any vessel, or any person or persons to cast, throw, drop, or deposit any stone, gravel, sand, ballast, dirt, oyster shells, or ashes in the water in any part of the Potomac River or its tributaries in the District of Columbia, or on the shores of said river below high-water mark, unless for the purpose of making a wharf, after permission has been obtained from the Commissioners of the District of Columbia for that purpose, which wharf shall be sufficiently inclosed and secured so as to prevent injury to navigation.

"That it shall be unlawful for any owner or occupant of any wharf or dock, any captain or master of any vessel, or any other person or persons to cast, throw, deposit, or drop in any dock or in the waters of the Potomac River or its tributaries in the District of Columbia any dead fish, fish offal, dead animals of any kind, condemned oysters in the shell, watermelons, cantaloupes, vegetables, fruits, shavings, hay, straw, ice, snow, filth, or trash of any kind whatsoever.

"That nothing in this act contained shall be construed to interfere with the work of improvement in or along the said river and harbor under the supervision of the United States Government.

"That any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not exceeding $100, or by imprisonment not exceeding six months, or both, in the discretion of the court."

Mr. JOHNSON of Kentucky. Mr. Speaker, on page 2, line 11, I move to strike out the words "ice, snow" and to insert in lieu thereof the word "or," and also to strike out the words "or trash." That means sweepings.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 2, line 11, by striking out the words "ice, snow" and inserting in lieu thereof the word "or," and also striking out the words "or trash."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANN. Mr. Speaker, the idea of this bill is to prevent the depositing of stone, gravel, sand, and so forth, in the Potomac River within the District of Columbia, unless for the purpose of making a wharf after permission has been obtained from the Commissioners of the District of Columbia.

Supposing somebody wants to build a wharf down at Alexandria, does he have to obtain the consent of the Commissioners of the District of Columbia?

Mr. JOHNSON of Kentucky. I think the gentleman will find the jurisdiction accurately described in line 11, on page 1.

Mr. MANN. No. It reads:

In the water in any part of the Potomac River or its tributaries in the District of Columbia, or on the shores of said river below high-water mark.

The words "or on the shores of said river below high-water mark" do not seem to be limited to the District of Columbia.

Mr. JOHNSON of Kentucky. The gentleman from Illinois has often criticized bills that come from the Municipal Building, and he is pretty nearly always right.

Mr. MANN. I am not criticizing it.

Mr. JOHNSON of Kentucky. I think I agree with the gentleman that this might have been more accurately drawn, but I think nobody will hesitate to give it the meaning that it applies to the District of Columbia alone.

Mr. LOBECK. Why did you strike out the word "trash"?

Mr. JOHNSON of Kentucky. If they sweep the deck of a boat on the river, must they carry the sweepings ashore? We thought that was too small a matter to deal with, and so we concluded to strike it out.

Mr. LOBECK. All right.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill as amended was ordered to a third reading, and was accordingly read the third time and passed.

UNAUTHORIZED USE OF VEHICLES.

Mr. JOHNSON of Kentucky. Mr. Speaker, I desire to call up the bill (S. 6919) to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia.

The bill was read, as follows:

Be it enacted, etc., That the Code of Law for the District of Columbia be amended by adding to subchapter 2 of chapter 19 the following section:

"SEC. 826b. Unauthorized use of vehicles.—Any person who, without the consent of the owner, shall take, use, operate, or remove, or cause to be taken, used, operated, or removed from a garage, stable, or other building, or from any place or locality on a public or private highway, park, parkway, street, lot, field, inclosure, or space, an automobile or motor vehicle, and operate or drive, or cause the same to be operated or driven for his own profit, use, or purpose, shall be punished by a fine not exceeding $1,000 or imprisonment not exceeding five years, or both such fine and imprisonment."

The bill was ordered to a third reading, and was accordingly read the third time and passed.

OBSCENE OR VULGAR PICTURES.

Mr. JOHNSON of Kentucky. Mr. Speaker, I call up the bill (S. 2600) to authorize the Commissioners of the District of Columbia to prevent the exhibition of obscene, lewd, indecent, or vulgar pictures in public places of amusement in the District of Columbia.

The bill was read, as follows:

Be it enacted, etc., That the Commissioners of the District of Columbia, in addition to the police powers now vested in them, be, and they are hereby, empowered and directed to prevent the exhibition of obscene, lewd, indecent, or vulgar pictures in any theater, moving-picture show, or other public place of amusement in the District of Columbia, and to make all needful and necessary regulations for such purpose.

SEC. 2. That no picture film or picture intended for exhibition in any such theater, show, or other public place of amusement shall be exhibited without previous submission to the said commissioners for investigation and approval, and be approved, found, and determined by said commissioners, after opportunity to be heard, not to be obscene, lewd, indecent, or vulgar. Every violation of this act or of any regulation made under the authority hereof shall be punished by a fine not exceeding $40, on prosecution by information in the police court of the District of Columbia, filed in the name of said District of Columbia by the corporation counsel or any of his assistants.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

CATHERINE MARONEY.

Mr. JOHNSON of Kentucky. Mr. Speaker, I desire to call up from the Private Calendar the bill (H. R. 23939) to legalize titles in the District of Columbia to certain citizens.

The SPEAKER. This bill is on the Private Calendar. The House will have to go into Committee of the Whole.

Mr. JOHNSON of Kentucky. I ask unanimous consent to consider it in the House as in Committee of the Whole.

Mr. MANN. May we have the bill read first to see what it is?

The SPEAKER. The Clerk will report the bill.

The bill was read as follows:

Be it enacted, etc., That Catherine Maroney, a citizen of the United States and a resident of the city of Leadville, in the State of Colorado, be, and she hereby is, authorized to acquire, hold, and dispose of any and all real estate lying in the District of Columbia, as heir at law of Mary Shugrue, a citizen of the United States and late of the District of Columbia, notwithstanding the alienage of the common ancestor of said Mary Shugrue and Edward D. Brown, son of said Catherine Maroney by her first husband, through whom the said Catherine Maroney traces her right to acquire the said real estate, and that all forfeitures incurred by reason of any act of Congress or law in force in the District of Columbia in respect of said real estate are hereby remitted; and further, that the United States hereby quitclaim and release in favor of said Catherine Maroney, her heirs and assigns, any and all title which they, the said United States, have in or to any real estate in the city of Washington and District of Columbia of which the said Mary Shugrue died seized and possessed.

The SPEAKER. Is there objection to considering this bill in the House as in Committee of the Whole?

There was no objection.

Mr. BORLAND. Mr. Speaker, I move to strike out the last word. I should like to have some explanation of the necessity for this legislation.

Mr. RUCKER of Colorado. Mr. Speaker, if the gentleman from Kentucky [Mr. JOHNSON] will permit me, I will say in answer to the gentleman from Missouri [Mr. BORLAND] that Mrs. Maroney, whom the bill is designed to benefit, owns, or thinks she owns, a small piece of land with a building upon it here in Washington. She has sought to dispose of it a number of times, asking the guaranty companies to pass upon the title, but by reason of certain confiscatory acts providing that title held by aliens should not pass, they would not certify this title to be perfect and it was deemed necessary to introduce this bill to relieve her of the embarrassment in the sale of this property. The Supreme Court of the United States passed upon a similar case, but left it in some doubt, and the Commissioners of the District, in writing upon this subject, disclose the fact that there is yet some doubt as to whether the acts of Congress heretofore enacted upon the subject of these titles, accompanied and fortified as they are by the decision of the Supreme Court of the United States, are effective. The bill can do no possible harm, and in this particular case it will enable the owner to sell it.

Mr. BUCHANAN. What does the property consist of?

Mr. RUCKER of Colorado. It is a small piece of real estate in the District of Columbia. I have not the description so that I can answer the gentleman's question. It is a piece of property that she fell heir to.

Mr. BORLAND. Mr. Speaker, this is a form of legislation that would not be permitted in any State in the Union that I know of. It would be forbidden by the constitution of almost every State in the Union. It is not permissible to validate private title by legislative act in this way. If the Congress of the United States has passed an act forbidding title by descent through aliens it does not seem to me that it is proper by private act to change that in individual cases. If that act is unjust, it ought to be repealed. If there is any other way to arrive at justice in this case, Congress ought not to be required to sit here and pass private acts. We have no information before us as to the extent of the interest of the United States in this property. The bill says that whatever interest the United States has shall be quitclaimed by this act and released in favor of said Catherine Maroney. I take it from that that the United States must have some interest necessary to be quitclaimed.

Mr. RUCKER of Colorado. That does not follow at all. The commissioners have found that this act on the face of it is to confirm the title to this claimant. It is not taking anything from the United States. It is to enable the owner to pass the property that has been in the possession and in the control and in the use of this party and beneficiaries and their ancestors for two generations. It is no use to make a bugbear of a matter of this sort. The gentleman knows very well that the United States has no title to this property, that if it had it would have been discovered. Many acts have been passed, and it is conceived by the legal adviser of the District of Columbia that there is no doubt about the title being in this woman at the present time, but he does not, nor does the Supreme Court of the United States, pass on this identical question.

Mr. BORLAND. Mr. Speaker, notwithstanding the gentleman's objection, the report contains a letter from the Commissioners of the District in which they say:

The commissioners, however, are advised by their legal officer that there is a very great doubt of the necessity for the legislation in view of the Statutes of 11 and 12 of William III, chapter 6, as construed by the Supreme Court of the United States in McCreery's Lessee v. Comerville (9 Wheat., 354); the act of Congress of March 2, 1897 (29 Stat. L., 619), made applicable to this District by an act of February 23, 1905 (33 Stat. L., 733); of the act of Congress of March 3, 1857 (24 Stat., 576); of the Maryland act of 1791 (Albert's Compilation, p. 46); and sections 396 and 960 of the Code of Law for the District of Columbia, all of which relate to the holding of an inheritance of land by or through aliens.

Now, if the woman has any valid claim under the statutes of the United States and under the decision of the Supreme Courts of the United States, she would not need this legislation. If this legislation is to convey to her a title which she is not able to establish at law, it seems to me Congress ought not to pass the bill.

Mr. JOHNSON of Kentucky. Mr. Speaker, I might say that if I am correctly informed there is no necessity for the passage of this bill except to meet the requirements of one corporation in the District of Columbia that seems to stand higher in the District than all the laws and all the courts themselves—the company that guarantees titles. In my judgment, the title to this property is clear in these people, but no matter how good a title may be in the District of Columbia, unless this guarantee title company accepts the title in so far as getting a loan the title is absolutely worthless. This bill is intended to meet the exactions of that title company and not the requirements of the law. [Applause.]

Mr. BORLAND. Mr. Speaker, I think the statement of the chairman is absolutely correct. There were two title guaranty companies in this District, and some years ago they amalgamated, or came under a common management, and now there is but one title guaranty company in the District. That company issues all the certificates of title; no abstracts are examined by lawyers in the District of Columbia, but they are required to get a certificate from this company, the only one in existence.

The only way in which that can be corrected with justice to the citizens of the District of Columbia, and with justice to the committee in Congress, is to put the registration of land titles in the District of Columbia under law and let that guaranty certificate be issued by the District of Columbia itself,

and not by a private corporation that is fattening upon the condition of land titles in the District of Columbia. [Applause.]

The SPEAKER. The Clerk will read the bill for amendment.

The Clerk read the bill.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. LITTLEPAGE, for two days, on account of important business.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 28180, the river and harbor appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill, with Mr. MOON of Tennessee in the chair.

The CHAIRMAN. The Clerk will read.

Mr. MOORE of Pennsylvania. Mr. Chairman, before the Clerk proceeds, I desire to offer the following amendment at the point where we left the bill on Saturday.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Add as a new paragraph, page 47, after line 2:

"Philadelphia, Pa., to connect the Delaware River with the back channel at the navy yard, with a view of securing a width and depth sufficient to accommodate the largest naval vessel afloat."

Mr. MOORE of Pennsylvania. Mr. Chairman, the purpose of this amendment is to direct attention to the very great necessity of a connection between the Delaware River and the back channel at the Philadelphia Navy Yard. The Government of the United States has a basin back of the navy yard, which is sufficient to accommodate the entire battleship fleet. An agitation is on for a dry dock, which is to extend from the Delaware River to the back channel, a distance of 1,700 feet. There is some question whether that can be accomplished through the Committee on Naval Affairs, which I understand has not favorably reported upon the project. Whatever is done here necessarily involves dredging, and as the business of the Government is involved, and this connection between the Delaware River and the back channel is necessary in order that the vessels of the Navy may swiftly and easily move, it seems proper to introduce at this time this provision for a survey that will give us an estimate of the cost of construction of a connecting link between the Delaware River and the back channel.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. MOORE of Pennsylvania. Certainly.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, did I understand the gentleman to say that the Committee on Naval Affairs had not reported this or had refused to report this?

Mr. MOORE of Pennsylvania. I understand the Committee on Naval Affairs, which has not yet presented its report for printing, is not favorable to the project.

Mr. HUMPHREYS of Mississippi. It is clearly a naval affair.

Mr. MOORE of Pennsylvania. Not necessarily. That channel should be cut through for the benefit of commerce as well as for the Navy. The Navy essentially is to protect commerce.

Mr. HUMPHREYS of Mississippi. Oh, yes; I understand that.

Mr. MOORE of Pennsylvania. And this would be incident to the proper movement of commerce, both in time of peace and in time of war.

Mr. HUMPHREYS of Mississippi. Let me ask the gentleman another question for information. This dry dock that the gentleman speaks of, if completed, will go from the Delaware River back?

Mr. MOORE of Pennsylvania. Unquestionably.

Mr. HUMPHREYS of Mississippi. And if that were constructed, then there would be no necessity for any other channel.

Mr. MOORE of Pennsylvania. First, we must have the channel. I want to say to the gentleman that there is very little opposition to this project on the part of Members of Congress who have already been upon the ground. A short time ago the city of Philadelphia made an appropriation for the purpose of having an inspection made of this particular project, and some 57 Congressmen, Members of this House and of the other body, went from Washington to Philadelphia to look it over, and as a result there were some speeches and a good many promises in regard to what ought to be and what would be done.

Mr. TRIBBLE. Mr. Chairman, will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. TRIBBLE. Mr. Chairman, I would ask the gentleman if he did not state in the hearings before the Naval Affairs Committee that that dry deck was absolutely impracticable; that to place that dry dock there as was proposed would put it in a hole, and you could not get out on either side.

Mr. MOORE of Pennsylvania. Oh, no; the gentleman is entirely in error, and I will repeat to the gentleman the statement I did make to the Committee on Naval Affairs.

Mr. TRIBBLE. Let us have that.

Mr. MOORE of Pennsylvania. It is this: That the bill introduced to obtain a 40-foot depth for this dry dock would be building a hole in the ground that would be absolutely unnecessary, and would practically kill the meritorious part of the project. In other words, with a depth of river channel of only 30 feet, a little less than that on the inside, it would be the height of folly to dig a hole 40 feet deep when there was no necessity for it, and I said to the committee that it was my belief that some one inserted the 35-foot proposition in the Chesapeake & Delaware Canal project with a view of killing that project, and when we get back to it I want to say something about that. If the gentleman will agree with me, if he is one of those who went to Philadelphia——

Mr. TRIBBLE. I was there.

Mr. MOORE of Pennsylvania. That there was the most remarkable unanimity of sentiment upon this proposition, and everybody, especially some of the leaders of this House, were entirely favorable to granting us this little bit of consideration at the Philadelphia Navy Yard.

Mr. TRIBBLE. Now, the gentleman is asking for a channel to carry the largest boats of the Navy——

Mr. MOORE of Pennsylvania. Yes.

Mr. TRIBBLE. Is not it true the Delaware River will not convey these boats up to this point? Does the gentleman want dredging at Philadelphia——

Mr. MOORE of Pennsylvania. That positively is not true; this river is dredged to-day to 30 feet and capable of accommodating the largest naval ships built, and——

Mr. TRIBBLE. You have not a sufficient depth to carry all these vessels without dredging——

Mr. MOORE of Pennsylvania. It is to cut through from the Delaware and dig a channel to reach the storage basin, where these——

Mr. TRIBBLE. Does the gentleman approve of the dry dock which he condemns here on the floor of the House?

Mr. MOORE of Pennsylvania. I have not condemned the dry dock; I have approved of it; but I am asking the gentlemen upon that side to make good their promises and give this matter consideration.

Mr. TRIBBLE. Did not the gentleman oppose it in the Naval Committee, and did not the gentleman state to the Naval Committee——

Mr. MOORE of Pennsylvania. I did not; most assuredly I did not. Now, I would like to ask the gentlemen who promised this dry dock to give it to us now; here is the opportunity.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TRIBBLE. Mr. Chairman, I move to strike out the last word; I would like to ask the gentleman another question. Did not the gentleman use as an argument in the Naval Committee against that dry dock at Philadelphia that it is not a river of more than 28 feet of water?

Mr. MOORE of Pennsylvania. I did not use that argument.

Mr. TRIBBLE. Is not that the argument the gentleman made in the hearings before the Naval Committee?

Mr. MOORE of Pennsylvania. That argument is not in the hearings before the Committee on Naval Affairs, and if the gentleman wants to get a further answer to his question I think I can explain to him that some one asked me at what draft a vessel could get in that dry dock and I said 27 feet; but I say to the gentleman now we have got a 30-foot depth of the Delaware to Philadelphia, while the city of Baltimore has 35 feet and the city of New York has 40, and while the city of Boston is moving on from 35 to 40 feet, I am asking you gentlemen now, who are in control of Congress, with influential Representatives from Pennsylvania upon the Committee on Naval Affairs and the Committee on Rivers and Harbors, that you loosen your control and let the city of Philadelphia move on with the other cities along the Atlantic seaboard.

Mr. LEE of Pennsylvania. Will the gentleman yield?

Mr. MOORE of Pennsylvania. I will be glad to do so; this is my opportunity.

Mr. LEE of Pennsylvania. Is it the gentleman's purpose in offering this amendment to kill the dry-dock proposition?

Mr. MOORE of Pennsylvania. Not at all. I am wholly in favor of the dry dock, and if the gentleman will vote for it, as he did not vote for the survey for the Frankford Creek, as he did not vote for the survey of the Schuylkill River, as he did not vote for dredging out the shoals behind the breakwater, I will be very much obliged to him.

Mr. LEE of Pennsylvania. Is the gentleman for that dry dock or for a channel?

Mr. MOORE of Pennsylvania. I am for a dry dock, but I want the channel first, because it is necessary to dig it out before you get the dry dock.

Mr. GALLAGHER. I want to ask the gentleman a question. The gentleman speaks of the delegation——

Mr. MOORE of Pennsylvania. There were 57 Congressmen reported by the newspapers to have been there, and I did not report the fact.

Mr. GALLAGHER. Do you know whether any member of the Rivers and Harbors Committee made any promises on that occasion?

Mr. MOORE of Pennsylvania. I remember of one or two of the most distinguished gentlemen of this House being there and speaking——

Mr. GALLAGHER. I asked if there was any member of the Rivers and Harbors Committee there.

Mr. MOORE of Pennsylvania. I think they are very cautious. They have been so right along. That is my trouble.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. Division, Mr. Chairman. I would like to see how many votes we can get for this meritorious project of the dry dock at Philadelphia.

The committee proceeded to divide, and the Chair announced that the ayes were 4.

Mr. LEE of Pennsylvania. Mr. Chairman, a parliamentary inquiry. I would like to ask if the amendment is for the channel or dry dock.

The CHAIRMAN. The Clerk will again report the amendment.

The amendment was again read.

Mr. LEE of Pennsylvania. I wish to call the Chair's attention to the fact that the gentleman from Pennsylvania [Mr. MOORE] made a statement that the amendment was for a dry dock.

The CHAIRMAN. The parliamentary inquiry has been answered by the reading of the Clerk. Those opposed to the amendment will rise and stand until counted.

The vote was announced as ayes 4 and noes 33.

So the amendment was rejected.

Mr. MOORE of Pennsylvania. Mr. Chairman, I make the point that there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and seven gentlemen are present—a quorum—and the Clerk will read.

The Clerk read as follows:

Big Annemessex River, Md., with a view to providing a suitable channel from Clear Creek Point to Muddy Creek Point.

Mr. GARRETT. Mr. Chairman, I move to strike out the last word. I ask unanimous consent that the Resident Commissioner from the Philippine Islands [Mr. QUEZON] may have permission to address the House for five minutes.

The CHAIRMAN. The gentleman from Tennessee [Mr. GARRETT] asks unanimous consent that the Resident Commissioner of the Philippine Islands may have permission to address the House for five minutes. Is there objection?

There was no objection.

Mr. QUEZON. Mr. Chairman, to-day's morning papers publish a dispatch from Manila to the effect that on the 23d of January there was an engagement between the Moros on the one hand and the scouts and constabulary on the other, and in connection with this report it is stated that Aguinaldo and other Filipinos are engaged in political activities and preparing for a revolt. During the last two months, and immediately following the victory of the Democratic Party, reports of this character have been published almost daily throughout the United States, apparently with the purpose of defeating the Democratic proposition to give the Filipinos their independence, by impressing the American people with the fact that independence will be followed by a revolution in the islands.

THE TRUTH ABOUT THE MORO TROUBLE.

It is my desire to comment but little upon the engagement between the Moros and the scouts and the constabulary. Nobody need be alarmed about it. Those who are familiar with what is going on in Jolo and Mindanao will find nothing new in this case. I know of no time when there was not an occasional outbreak among the Moros, except when they were under the wise and gentle hand of Gen. Wood, as governor of Mindanao. For the last two years there has been a regular warfare between the Moros and the American troops, due to an ill-considered policy of the official in charge of the Moros; but it was then to the interest of somebody to conceal this fact from the American people and no reports were therefore given out to the press about it. The explanation of this well-planned secrecy will, perhaps, be found in the following speeches delivered at Zamboanga two years ago before ex-Secretary of War Dickinson by two scarcely educated Moros:

First. "We have only a little to say, and that is that we are happy to be under the sovereignty of the Americans. There has been some talking about that the Filipinos want to tear themselves off from Americans, and that they want to tear us away too, thus tear us away with them. If the Americans should give the Moro country over to the Filipinos they would be responsible to God for the blood that would be shed, because it would be the same thing as if you put two fighting cocks into one bag, for there would be fighting sure."

Second. "* * * The Secretary of War must look the matter in the face. We are a different race; we have a different religion; we are Mohammedans, and if we should be given over to the Filipinos how much more would they treat us badly, when they have treated even the Spanish badly who were their own mothers and their own fathers in generation? How did they treat them? Think about it. Think twice. We far prefer to be in the hands of the Americans who are father and mother to us now than to be turned over to another people."

Of course, after wide circulation was given throughout the United States of these protestations of friendship and love, and they were printed even in the CONGRESSIONAL RECORD, the warfare that followed soon afterwards between the Moros and their American "fathers and mothers" could not be given out to the press, lest the report should convey to the American people an accurate idea of the terrific manner in which a Moro shows his friendship and love. [Laughter.]

But two years have gone by. The result desired at the time has been accomplished, to wit: To show the American people that the United States was a blessing to the Moros. It is now thought that any report of disturbance in the Philippine Islands will foster the policy of retaining the islanders under American control, especially if, in connection with it, it could be said that a general revolt is being contemplated by the Filipinos, and an insignificant clash between a group of Moros and a small detachment of scouts and constabulary is promptly given to the press. This same clash, if it had happened a year ago, would not have been published, or, if it had to be published at all, would have been reported as an engagement between "police officers" and "outlaws"; now it is said to be between "American troops" and "rebels."

The whole truth about the Moro situation is this: They have never been content under their present rulers; they will be better satisfied under a Philippine government; and, at the worst, they can be governed by the Filipinos in the same way that they are governed to-day.

FALSE DISPATCHES ABOUT AGUINALDO.

But, as I said before, I do not wish to discuss at present these Moro troubles. They are not as serious to-day as they were a year ago, when nothing was said about them. What I do wish to call to the attention of the House are the malicious and absolutely false dispatches printed in the newspapers of this country about Aguinaldo and other Filipinos being engaged in revolutionary preparations.

The following is what the morning papers say on this subject, after giving an account of the Moro outbreak:

Emilio Aguinaldo, the leader of the revolt against the United States after the Spanish-American War, and who has reentered politics, is reported to be taking an active part in revolutionary propaganda. There are many rumors that the Katipunan, a Filipino secret society, is renewing its activities against the Americans. Aguinaldo has been insistent in the conferences of the native chieftains that his sole purpose in renewing his activities has been to organize them to accomplish their independence.

AGUINALDO'S POSSIBLE MOTIVE.

It is possible that Aguinaldo's real motive for his activity comes from a fear that the Jones bill, providing for Filipino independence, may not be passed, and that he is scheming to forestall control of the expected discontent of the natives.

The foregoing dispatch reads very much like the one published in the New York Sun of January 24 from its Manila correspondent, which is as follows:

(Special cable dispatch to the Sun.)

MANILA, *January 23.*

Aguinaldo, the infamous leader of the revolt against Americans in the Philippines, has reentered politics while all the time protesting against being interrupted in his farm work. He has frequent conferences with Filipino revolutionary committees of chieftains ostensibly

for the purpose of organizing the militia preparatory to the accomplishment of independence of the islands. It is believed, however, that the real motive for the activity of Aguinaldo is an outgrowth of the fear that the Jones bill providing for Philippine independence may not be passed, and he is prompted by the desire to forestall control of the anticipated discontent among Filipinos because of the nonfulfillment of the promise of politicians.

Mr. Chairman, the statements contained in these dispatches are both false and slanderous. There are no Filipino revolutionary committees, and if there were, Aguinaldo would be the last man to connect himself with them. It is true that Aguinaldo attended the monster meeting held at Manila to celebrate Democratic victory in the United States, but so did thousands of other prominent Filipinos and some Americans. Of this meeting Justice Moreland, of the supreme court, said to me:

If the American people could have witnessed this great demonstration they would give you your independence to-morrow. It was a most impressive sight to witness such a great gathering so orderly that not even one policeman was necessary to preserve order.

Justices Carson and Trent both indorsed this view.

Gen. Aguinaldo was not one of the selected speakers, but he responded very briefly to the call made upon him for a speech. He spoke scarcely a minute, and what he said was this:

I am pleased to join you in celebrating the victory of the Democratic Party, which means to us that the day of our independence is approaching; but I wish to impress upon you that you must not depend too much upon outside influences to secure that independence. You must show the world by your actions that you are capable of governing yourselves.

WHO SENT THESE DISPATCHES.

These were almost his exact words, and yet for saying them he has been shamefully abused and misrepresented by an American correspondent of a New York newspaper, who has been guilty of conduct so outrageous that he has been driven out of office. This man is now revenging himself upon my people for exposing his conduct by sending such dispatches as these to America.

AGUINALDO'S DENIAL.

I have to-day received the following cablegram from Señor Osmeña, speaker of the Philippine Assembly, which I shall publish in the RECORD in this connection. It contains the indignant denial of Gen. Aguinaldo, who, whatever his enemies may say of him, has never been investigated for and found guilty of grafting:

MANILA, *January 27, 1913.*

QUEZON, *Washington, D. C.:*

The following from Aguinaldo: "Please deny very strongly the truth of the dispatches from Manila accusing me of political agitation preparatory to a revolt. On the contrary, I am trying to help preserve union among all elements to insure public order, which is necessary to the stability of a future Filipino government, because I am confident, and the people are also confident, that the Jones bill will be passed. I say this in spite of the possible machinations of the enemies of Philippine independence, who are said to be trying to brew all sorts of disturbances and to employ all means to prevent the passing of said bill."

OSMEÑA.

THE FILIPINO PEOPLE WILL NOT REVOLT AGAINST THE UNITED STATES.

Now, Mr. Chairman, I want to say right here to the American people that the Filipinos are not preparing for revolt. They have faith in the sense of justice of the American people, and they expect to get from the generosity of the American people their freedom and independence. They will never fight the United States [applause], and much less will they fight the United States after the Democratic Party has come into power [applause], the party that is solemnly pledged to give the Philippine Islands independence. In spite of the fact that it is occasionally said that your political platforms mean nothing——

The CHAIRMAN. The time of the gentleman from the Philippine Islands has expired.

Mr. BORLAND. Mr. Chairman, I ask that the gentleman have five minutes more.

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] asks unanimous consent that the gentleman from the Philippine Islands have five minutes more. Is there objection?

There was no objection.

THE FILIPINO PEOPLE BELIEVE THE DEMOCRATIC PARTY WILL GRANT THEM INDEPENDENCE.

Mr. QUEZON. In spite of the fact, I say, that we are being told that your party platforms mean nothing, we have a different conception of the great political parties of the United States. We believe that those parties stand by what they say to their people and to our people. We can not believe that your national platforms are meaningless. We believe that they are the official and responsible statements to the American people and to the world of what the party that is coming into power is going to do. [Applause.] Is it conceivable that under these conditions, believing as we do most implicitly in the promises and pledges of the Democratic Party, that my people will take up arms against the United States? What possible reason could there be for such an unnatural and suicidal course? Can any sensible American, whether he believes the Filipinos capable of self-government or not, credit these untruthful and inspired reports? Unfortunately we have learned from the saddest of experiences what armed opposition to the power of the United States means. It has cost us hundreds of thousands of lives, drenched our fair land with blood, and destroyed millions of dollars worth of property. We have, I say again, learned from a hard experience what it means to oppose with arms the forces of America.

Mr. SHERWOOD. Mr. Chairman, if the gentleman will permit, how many lives have been lost in the Philippine Islands?

Mr. QUEZON. Well, according to a newspaper report attributed to Gen. Bell, the present commanding general of the Philippines, in the island of Luzon alone 600,000 men, women, and children were killed during the war or died as a result thereof.

Mr. DIES. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. QUEZON. Yes.

Mr. DIES. You understand, of course, that in killing your people we did it for their good? [Laughter.]

Mr. QUEZON. Mr. Chairman, I do not care to speak of these harrowing incidents except for the purpose of convincing the House, if that be necessary, that it is impossible for us to again think of such a thing as engaging in an armed conflict with American troops, even if there were some reason for revolting against the United States, because we know too well what the result would be; such being the case, how any sane person could conceive of us revolting when there is no reason to-day for so doing—and I hope that there will never be any reason for so doing, because the administration shortly to come into power in the United States is pledged to grant the Philippines independence. I hope that if the Filipinos ever go to war they will go to war in support of the United States and not against the United States. [Applause.]

And it is very easy to accomplish this. It is very easy to make every Filipino ready to die for the American flag, if you will only heed their cry and give them what they are asking for and longing for—their independence. [Applause.]

If this is done, and the time should ever come when you should have a war in the Far East, gentlemen, you will find every man, woman, and child in my country fighting for you and for your flag. [Applause.]

[Mr. QUEZON, by unanimous consent, was given leave to revise and extend his remarks in the RECORD.]

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Coan River, Va., with a view to deepening and widening the channel at and near its main entrance.

Mr. CALLAWAY. Mr. Chairman, I move to strike out the paragraph.

The CHAIRMAN. The gentleman from Texas [Mr. CALLAWAY] moves to strike out the paragraph.

Mr. CALLAWAY. Mr. Chairman, on Saturday, in discussing this bill, I referred to some examinations that I had been connected with the making of, and based a statement on that that I had no confidence in the engineers' reports after the committee cited me to these volumes of the engineers' reports for information on that subject. In that statement I made reference to some statements made before the Committee on Insular Affairs with reference to Benguet Road. This morning I got a letter from Col. McIntyre correcting some statements that I had made with reference to the Benguet Road. It was my impression that the Army engineers made the estimate on that road, estimating that it would cost $75,000 when in fact it cost over $2,000,000. They inform me that it was not an Army engineer who made that estimate and report, but that it was an ordinary civilian; that the Army engineers went ahead and carried out the work.

There is one further thing to which I wish to call the attention of the committee. On Saturday I made the statement that the road was 10 or 12 miles long. This letter from the Army engineer tells me that it is 30 miles long. I want to cite the hearings on that question. When Mr. QUEZON was testifying before the Committee on Insular Affairs he made the statement that it was 10 or 12 miles long. I read from the record of the Committee hearing, February, 1912:

Mr. HELM. How long is the road?

Mr. QUEZON. The Benguet Road is about 10 or 12 miles—the colonel will be able to tell you.

The CHAIRMAN. How far is it from Camp 1 to Baguio?

Mr. QUEZON. I think that is about 10 or 12 miles.

Mr. HELM. Is that where the $2,000,000 was spent?

Mr. QUEZON. Pretty nearly.

Mr. LITTLEPAGE. Is there any tunneling on the road?

Mr. QUEZON. No, sir.

Col. McIntyre was at that time sitting at the table, and Gen. Edwards was in the room, and they made no contrary statement. This letter states that the road was about 30 miles long.

I based my statement that it was 10 or 12 miles long on the fact that the statements which I have read were made before the Insular Affairs Committee in the presence not only of Col. McIntyre, but of Gen. Edwards.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CALLAWAY. I ask unanimous consent to proceed for five minutes.

Mr. SPARKMAN. I will not object now, but I give notice that I shall object to any further extension, because this is entirely irrelevant to this bill.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CALLAWAY. Mr. Chairman, the relevancy of this will appear before I conclude. I call attention to another report of engineers on which this House acted, expending $540,000 in Arizona on the Pima Indian Reservation, on the Gila River. The expenditure was made on a Government engineer's report in the Indian service.

Mr. HUMPHREYS of Mississippi. These appropriations were not reported through the River and Harbor Committee, were they?

Mr. CALLAWAY. No; but I am talking about engineers generally. There was an investigating committee went down to examine this project last summer. The Indian Bureau knew that; they made a report before the Indian Affairs Committee, on which they asked the Indian Affairs Committee to appropriate $20,000 for the maintenance and operation of that project. On December 2 they stated as follows before that committee:

The number of Indians on the reservation is 4,246; the land now irrigated on the reservation, 12,000 acres.

There is not an acre irrigated by these wells of which they are speaking and asking for this $20,000 to maintain and operate.

Land to be supplied with pumped water, 12,000 acres.

And the Indians under that project refused to accept that water. They told the Government before it ever started that expenditure that they would not accept it; that it would kill the land; and they never have accepted it, and this Government has no power to make them accept it. But notwithstanding the facts, notwithstanding their knowledge that this committee made this investigation last summer, they had the unbridled effrontery to ask an additional appropriation of $20,000.

Mr. HUMPHREYS of Mississippi. Who was that engineer?

Mr. CALLAWAY. This comes from the Indian Bureau and the Reclamation Service. Mr. W. H. Code was the original engineer.

Mr. HUMPHREYS of Mississippi. A United States Army engineer?

Mr. CALLAWAY. No; other kind of engineers. They all look alike to me.

Now, I was cited by this committee—and that is what I want to get down to—to the engineers' report, to which they look for information and guidance in appropriating $40,000,000 of the public money. Their bill cites this little pamphlet, containing 262 pages, and I am going to read the back of it:

A letter from the Secretary of War, transmitting a letter from the Chief of Engineers' reports of the survey of the Boston (Mass.)-Beaufort (N. C.) section of the proposed inland waterway, from Boston, Mass., to the Rio Grande River.

On this end of the project from Norfolk, Va., to Beaufort Inlet, N. C., which is about 100 miles, they say it will cost ultimately $5,400,000.

Now, Mr. Chairman, I have stated to the committee these things to show them what the estimates of the engineers working for the Government are worth when it comes to final work. The estimate on this canal from Norfolk, Va., to Beaufort Inlet, N. C., is $5,400,000. That is the initial step in this intercoastal canal, running from Boston, Mass., to the Rio Grande, the ultimate cost of which God Almighty only knows.

In this bill, Mr. Chairman, there is this provision:

Provided, That no part of this amount shall be expended until the canal and appurtenant property belonging to the Chesapeake & Albemarle Canal Co. shall have been acquired by the United States by purchase in accordance with the agreement entered into between the Secretary of War and said company under date of February 17, 1912.

That is this pamphlet here, and they now appropriate $800,000—this initial step in a waterway, the end of which no man born of woman can see. This is the point I make to this House and to the people of the United States, that a chain is no stronger than its weakest link. This proposition is as rotten, from the standard of statesmanship or profit, so far as the American people is concerned, as anything that was ever devised by the mind of man. This proposition is the substructure on which the whole bill stands, and is the standard by which it should be measured. In this bill we are asked to appropriate $800,000 as the initial step in this intercoastal waterway for this particular segment, which is only 100 miles long, and, according to the engineer's estimate, will cost to complete $5,400,000. This is a 100-mile segment of an intercoastal canal 2,500 miles long.

The Clerk read as follows:

Inland waterway from Norfolk, Va., to Beaufort Inlet, N. C., with a view to determining whether there should be any change in that part of the route from Alligator River southwardly to Neuse River from that heretofore recommended in House Document No. 391, Sixty-second Congress, second session, and heretofore adopted, and whether it would be desirable to extend the route from Alligator River to Pungo River, thence to Goose Creek, thence from the head of Goose Creek to Jones Bay, and thence to Neuse River, or whether any modification of said part of the route is desirable.

Mr. CALLAWAY. Mr. Chairman, I move to strike out the paragraph. Now, Mr. Chairman, I have been cited by the chairman of this committee to 4,000 pages of stuff that he says if I am patriotic enough and energetic enough to search through I can find the reason why this committee has brought in this bill.

I have not been able to search these 4,000 pages of stuff, but I have looked at these engineers' reports, Mr. Chairman, and I do not find that these engineers give any estimate of what the present waterways carry, or what the increased tonnage will be if there is a change as proposed in this bill, nor what the difference in freight charges for such carriage will be if the changes are made as proposed in this bill.

There is not a man that has got any business sense, from Kalamazoo to kingdom come, whose estimate of a project is worth a cent unless the estimate shows what it will be when constructed, what it will cost in construction, what the maintenance charges are to be, and what the income will be from the project when completed. That is enough to beat any project. But there is another question that ought to enter in here, and that is what particular section will this benefit—whether the whole people of the United States are to be benefited by it. There is no effort to show on the part of these engineers what any of these projects will be worth to the country at large and what the difference in tonnage carried will be. They do not even state the mileage in many instances.

Mr. Chairman, I have never thought anything better of the Republicans, I have never hoped for anything better of them, and I do not think this country at large has expected anything better of them; but we as Democrats came in here on an economy platform and the reduction of expenditures. Here is a bill that increases the expenditures for rivers and harbors almost 50 per cent. The bill carries $40,000,000. The committee in its reports says that is $14,000,000 more than last year. That does not look to me like Democratic economy. Then they come in here on the reports of the same engineers that furnished the data to the Republicans, on which they based their expenditures from year to year. This Democratic House is led by the same bunch of heads of departments and engineers under their charge that the Republicans were led by, that led them to the slaughter of 1910 and into the ignominious defeat of 1912; and if the Democratic Party follows this pork-barrel system the Republicans followed, led by the engineers who are interested in feathering their own nests and furthering their own interests, then the Democratic Party will come to the same bad end that the Republican Party came to.

Mr. DAVIDSON. Mr. Chairman, will the gentleman yield?

Mr. CALLAWAY. Yes.

Mr. DAVIDSON. Is the gentleman opposed to the item in the bill which he is discussing, namely, an inland waterway from Boston to the Rio Grande?

Mr. CALLAWAY. Mr. Chairman, I am opposed to every item in this bill except the items to keep in preservation the projects we now have. Everybody in this country but Congressmen in this House knows that the waterways have played out; that transportation has quit going by the water route; that the railways are carrying the freights. This committee had the charge flung in their faces on Saturday that every ton of freight that the Mississippi carried last year cost this Government $30.

Mr. DAVIDSON. Is the gentleman in favor, then, of discontinuing that portion of this inland waterway which extends from Sabine to the Rio Grande?

Mr. CALLAWAY. Yes. I am opposed to every segment of this intercoastal waterway.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. TRIBBLE. Mr. Chairman, I move to strike out the last word. I have before me the hearings of the Naval Committee, and I want to do the gentleman from Pennsylvania [Mr. MOORE] absolute fairness and justice. The question under discussion before the Naval Committee at the time to which I refer was the 28-foot channel, and it was not contradicted that

the Delaware River did not have over 28 feet. Here is the testimony of the gentleman from Pennsylvania [Mr. MOORE]:

The CHAIRMAN. I understood that you have a mean low water of 30 feet.

Mr. MOORE. We have a rise in the tide there of 7 feet.

It will be noticed that there is a rise in the tide there. Continuing:

Our mean low water now exists—

But he did not say how much. He takes a very mild position on that—

It is legislatively now 30 feet, and it is substantially—

Substantially. He does not assert that it is 30 feet—substantially 30 feet all the way up for 60 miles.

Here is the particular issue that came before the Naval Affairs Committee, and is up before the House here to-day. I read from the hearings the exact language of the gentleman:

There is probably not more than 20 or 25 feet of depth, and in the upper end it was shown that they did not have 30 feet, so that the cutting of a canal to 35 feet seems an absurdity——

Mr. MOORE of Pennsylvania. To what does that refer?

Mr. TRIBBLE. I am reading what the gentleman from Pennsylvania said.

Mr. MOORE of Pennsylvania. Does that refer to the Delaware River or to the back channel?

Mr. TRIBBLE. Wait until I get through.

Mr. SPARKMAN. Mr. Chairman, I insist that the gentleman confine his remarks to the pending amendment.

The CHAIRMAN. The gentleman from Florida makes the point of order that the gentleman from Georgia is not confining his remarks either to the amendment, to the amendment to the amendment, or to the paragraph. The point of order is sustained. The question is on the amendment of the gentleman from Pennsylvania, to strike out the paragraph.

Mr. HEFLIN. Mr. Chairman, I ask unanimous consent that the gentleman from Georgia [Mr. TRIBBLE] be permitted to read what he was stating to the House regarding the hearings in which the gentleman from Pennsylvania [Mr. MOORE] was involved, subject matter that has been discussed by the gentleman from Pennsylvania upon this floor.

Mr. MOORE of Pennsylvania. Mr. Chairman, reserving the right to object, the gentleman should read into the RECORD exactly what is in that statement and not take it by piecemeal, because I stand on that statement.

Mr. HEFLIN. I hope the time will be granted to my colleague.

Mr. TRIBBLE. I only want about three minutes.

The CHAIRMAN. Is there objection?

Mr. MOORE of Pennsylvania. Mr. Chairman, if the gentleman will publish the entire statement I will not object, but if he is not going to publish the entire statement, I will.

Mr. TRIBBLE. I will read every word in it—one-fourth of a page of the hearings.

The CHAIRMAN. The Chair hears no objection.

Mr. TRIBBLE (reading)—

* * * We would have a hole in the ground, which would mean that if you ever built a vessel in there drawing 35 feet it could not get out and would simply have to pass between Chesapeake Bay and Delaware Bay and stay there * * *.

That is exactly what I said here.

Mr. MOORE of Pennsylvania. That is absolutely correct.

Mr. TRIBBLE (reading)—

* * * The difficulty with the bill of Mr. LEE, which contemplates opening up the entire enterprise at once, is that if you make the depth and width of this 1,700 feet to correspond with the depth and width of the Panama Canal you will dig a hole in the ground between the Delaware River and the Schuylkill River out of which you can not get at all. It would seem to be——

Mr. DOXOHOE (interposing). Any vessel that got in should certainly be able to get out.

Mr. MOORE. That is true; but I do not understand the necessity of digging 10 feet below the river depths.

Mr. DOXOHOE. The further deepening of the Delaware River is certainly in contemplation.

Mr. MOORE. Yes, sir; we are trying to get 35 feet.

Mr. DOXOHOE. We do not know what depth we may have to go in the future; it will be limited only by the size of the ships?

Mr. MOORE. That is true.

Mr. DOXOHOE. Mr. LEE'S bill proposes to construct the dry dock corresponding with the depth of locks of the Panama Canal, which will limit the width and depth of ships in the future; and so if we build it properly now we will not have to rebuild it in the future?

Mr. MOORE. That argument would go if you could get up the Delaware River and out the Back Basin.

Mr. DOXOHOE. It would do no harm?

Mr. MOORE. No, sir; it would do no harm; but there are 60 miles of channel that do not now exceed 30 feet, and therefore you would simply be digging a 40-foot hole 1,700 feet long to connect two bodies of water not more than 30 feet deep.

Mr. DOXOHOE. That would have to be taken up in the future if we did not get it deep enough now.

* * * * * * *

Mr. BUTLER. What size vessels can go up there?

Mr. MCCREARY. The mean depth is about 29 feet.

Mr. MOORE. Any war vessel the Government has can go up there.

Mr. BUTLER. I mean can it go up there?

Mr. MOORE. Yes, sir.

The CHAIRMAN. I understood that you have at mean low water 30 feet?

Mr. MOORE. We have a rise in the tide there of 7 feet. Our mean low water now exceeds 28 feet. It is legislatively 30 feet and is substantially 30 feet all the way up the 60 miles.

Mr. GREGG. What is the length of the dry dock you have there?

Mr. MOORE. About 750 feet—to be exact, 744.6½ over all. The *Utah*, built across the river by the New York Shipbuilding Co., is one of the very largest vessels the Government has thus far built. She is one of the new *Dreadnoughts*, and she has been in the dock.

* * * * * * *

* * * The question is the construction of a new dry dock. We have a dry dock at Philadelphia about 750 feet long. It is not the biggest dry dock in the United States, but it is an excellent dry dock. It was capable of housing the dreadnought *Utah* and did it very well, but there is some difference of opinion as to the possible capacity in the matter of the entrance at the caisson for the admission of such vessels as may be constructed in the near future.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to call the attention of the Chair to the fact that the gentleman is not reading the statement in full, as the gentleman agreed to do, but he is reading page by page and skipping as he goes along. If the gentleman will consent that I have just five minutes to answer him after he is through, he can make as many extracts as he pleases.

Mr. TRIBBLE. That is all, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that he may proceed for five minutes. Is there objection?

Mr. TRIBBLE. Mr. Chairman, reserving the right to object, I shall ask for five minutes to show the gentleman's position before the Committee on Naval Affairs. He is asking for an 800-foot dry dock. He has a 750-foot dry dock there now. He seeks another 800 feet. Mr. LEE is pressing his bill for 1,700——

Mr. HUMPHREYS of Mississippi. Mr. Chairman, for the benefit of the gentleman from Georgia, I will state I am not going to object to the request of the gentleman from Pennsylvania; consent has been granted on this side. Now the gentleman from Georgia asks for five minutes on this side. I shall object then to any further discussion.

Mr. EDWARDS. Mr. Chairman, reserving the right to object, I think it is come to a time now that we should close up this bill. It has been pending for several days. I dislike to be discourteous to anyone, but I am on this committee, and we are tired of this matter, and therefore I demand the regular order, and I object.

The CHAIRMAN. The regular order is demanded. The regular order is the motion of the gentleman from Texas.

The question was taken, and the motion was rejected.

The Clerk read as follows:

Beaufort Harbor, N. C., with a view to providing a suitable turning basin and anchorage area in front of the town of Beaufort.

Mr. CALLAWAY. Mr. Chairman, I move to strike out the last paragraph. The gentleman from Wisconsin [Mr. DAVIDSON] asked me awhile ago if I was not in favor of the digging of an intercoastal canal along that southern coast of Texas.

Mr. SPARKMAN. Mr. Chairman, I make the point of order the gentleman is not discussing his amendment.

The CHAIRMAN. The point of order is well taken. The gentleman can proceed in order.

Mr. MANN. How much time does the gentleman want on this subject?

Mr. CALLAWAY. Oh, I just want a few minutes, 5 minutes or 10 minutes.

Mr. MANN. The gentleman has been——

Mr. CALLAWAY. I will yield. I desire to conform to the rules of the House; I do not want to ask any favors.

Mr. MANN. It is not a matter of favor. Let us arrange, if we can——

Mr. SPARKMAN. Mr. Chairman, unless I am mistaken, we will reach the point after a little while, when we will return to certain pages and lines passed over, and where the discussion that the gentleman is going through with now will, perhaps, be in order.

Mr. CALLAWAY. Mr. Chairman, here is the item from Norfolk, Va., to Beaufort, N. C. I was talking about an intercoastal waterway that runs to Beaufort, N. C., from Norfolk, Va. This is the initial project and part of the same system designed to run finally around to the Gulf of Mexico and the Rio Grande River, providing this Nation lives long enough and the United States Treasury holds out. I was asked by the gentleman from Wisconsin [Mr. DAVIDSON] about that part of it running along the southern coast of Texas.

If I were a pork-barrel politician, here to get my hands into the Treasury, I would favor that section along the coast of Texas and submit to the whole project, Mr. Chairman, not

because it would help the people of the State of Texas, not because the people of Texas would generally get any due return on the money expended, but because the money would be spent in Galveston, Houston, and Beaumont; because they would employ men to work who would spend the money at the saloons, grocery stores, and dry-goods establishments, and ride on the railways and the street cars, buy electric lights, and so forth. If this money was taken out of the Federal Treasury and given out in equal amounts to the individuals of Texas, Texas would be more benefited than burdened, but the whole people of the United States would not. That is the reason, if I was a pork-barrel politician, I would favor the Gulf coast section. That is the way the Republicans did. We opposed that system. We came in saying we were going to economize public expenditures, but we invited the same heads of departments to make recommendations and the same engineers to give reports, and went on doling out appropriations in the same way the Republicans had been doling them out. You ask me how much of this I am against. I see here, on the second page of this voluminous report of two pages, that the maintenance items total $2,222,650. The Democrats ought to appropriate that; evidently what we have is worth maintaining, but we ought not to expend one cent more unless it is conclusively shown to be a good business investment, such as an individual would make for himself.

Mr. HUMPHREYS of Mississippi. Does the gentleman believe that on this subject we ought to follow the Democratic platform's declarations?

Mr. CALLAWAY. Yes; I believe we ought to follow the Democratic platform's declarations honestly and wisely——

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment of the gentleman from Texas to strike out the paragraph.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Clearwater Harbor and Little Pass, Fla., with a view to securing a channel with suitable depth and width from the Gulf of Mexico to a point at or near the town of Clearwater.

Mr. SPARKMAN. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The gentleman from Florida offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 40, line 17, strike out the word "Little" and insert in lieu thereof the word "Big."

The CHAIRMAN. Does the gentleman from Florida desire to address the committee?

Mr. SPARKMAN. I do not.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Florida.

The amendment was agreed to.

Mr. CALLAWAY. If we have reached the clear water on the Gulf of Mexico, line 19, page 49, I vote to strike out the paragraph.

Mr. HUMPHREYS of Mississippi. We have reached it. Now is the time.

Mr. CALLAWAY. Mr. Chairman, what I want to call the committee's attention to is what seems to be a part of this same canal proposition.

Mr. SPARKMAN. It has nothing to do with the intercoastal waterway or any part of the intercoastal waterway.

Mr. CALLAWAY. I can not understand how a harbor would reach clear water if you would not have to go inland in order to reach clear water, and this intercoastal waterway is the only proposition in this bill that would reach clear water, I believe.

Mr. SPARKMAN. I say it kindly, but it only demonstrates the fact that the gentleman is totally unacquainted with the subject he is trying to discuss. I hope he will pardon the statement, because I say it in all kindness.

Mr. CALLAWAY. You have my pardon.

Mr. SPARKMAN. If the gentleman from Texas will take the time to read, not the 4,000 pages that he refers to there, but that smaller document that he has before him there, the title of which he called our attention to a while ago, he will find that the intercoastal waterway does not touch Clearwater Harbor at all; that starting in somewhere about Boston and going down the coast——

Mr. CALLAWAY. Mr. Chairman, I want to know if the gentleman is speaking in my time or in his.

Mr. SPARKMAN. I was trying to inform the gentleman, assuming that he wants information.

The CHAIRMAN. Does the gentleman yield?

Mr. CALLAWAY. I will state, Mr. Chairman, that I read this thing, which is the report of the Army Engineers on the intercoastal waterway project, and that is the thing that made me mad. [Laughter.] That is the thing that has made me lose confidence in the judgment of the committee. That is the thing that has made me question every item in this bill. That is the thing that has put me "on the warpath," and I propose to stay on it as long as this committee brings into the House such propositions as this and asks that the public money be expended on such unheard-of propositions.

Mr. SPARKMAN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from Florida?

Mr. CALLAWAY. Yes.

Mr. SPARKMAN. Has the gentleman read everything in that report?

Mr. CALLAWAY. Yes; I have read everything in that report. I put in Saturday night and all day Sunday, Sunday night, and Monday morning reading it.

Mr. SPARKMAN. Then, if the gentleman has read everything in that report, I can not account for his anger except on the theory that the engineers have turned down so much of the project, because they have actually reported adversely everything in it except a very few links in the chain.

Mr. CALLAWAY. They have advised a project that runs along the coast from Boston to the Rio Grande River.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. CALLAWAY. I do.

Mr. MOORE of Pennsylvania. What is the title of the document the gentleman refers to?

Mr. CALLAWAY. "Tidal Waterway from Boston, Mass., to Beaufort, S. C."

Mr. MOORE of Pennsylvania. That is it.

Mr. CALLAWAY. "Letter from the Secretary of the Treasury, transmitting a report of the Engineers on the proposed inland waterway running from Boston, Mass., to the Rio Grande River."

Mr. MOORE of Pennsylvania. That is sufficient. Will the gentleman yield further?

Mr. CALLAWAY. Yes.

Mr. MOORE of Pennsylvania. I know something about this intercoastal waterway, having gone from one end of it along the Atlantic coast to the other, and I wish to say that I wish the gentleman would differentiate the Atlantic from the Gulf project; that he will disassociate the project from Boston to Beaufort from the project that runs through the State of Florida, along the Gulf of Mexico, and into the State of Texas. That is an entirely different project.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. MOORE of Texas. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended five minutes.

The CHAIRMAN. Is there objection?

Mr. EDWARDS. I object, Mr. Chairman. We must finish this bill.

Mr. MOORE of Pennsylvania. I am sorry for the gentleman from Texas. I think he should have more time.

Mr. CALLAWAY. Never mind; I will jump on the next paragraph. [Laughter.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. CALLAWAY].

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Harbor at Tampa, Fla., with a view to securing increased depth and width in the channel from the Gulf of Mexico through Tampa and Hillsboro Bays to the head of the estuary in the city of Tampa.

Mr. CALLAWAY. Mr. Chairman, I move to strike out the paragraph.

The CHAIRMAN. The gentleman from Texas [Mr. CALLAWAY] moves to strike out the paragraph.

Mr. CALLAWAY. Now I will yield to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. Mr. Chairman, I was about to say that it is fair for the gentleman from Texas [Mr. CALLAWAY] to criticize the intercoastal waterway if he does not approve the project, but he should differentiate the project as reported on by the engineers, running from Massachusetts to Beaufort, N. C., from this project which the committee has reported. The intracoastal waterway, so called, mentioned in this report has nothing whatever to do with the project that runs across the State of Florida and into the Gulf of Mexico.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. MANN. I understood the gentleman from Texas to say that the reading of the report of the intercoastal waterway from Boston to Beaufort somewhat excited his ire. Does the gentle-

man think he will be able to read the report at all on the project from Beaufort to the Rio Grande, which the gentleman from Pennsylvania intimates is a great deal worse? [Laughter.]

Mr. MOORE of Pennsylvania. Will the gentleman yield for one statement there? Bear in mind that the engineers have reported only upon the section which is described in the report which the gentleman has in his hand. There has been no report yet on the project below Beaufort, nor in Florida, nor along the Gulf of Mexico, so far as I am informed.

Mr. CALLAWAY. In answer to the gentleman's statement I will say that I read this report, which reports on a segment of that canal which they recommend, based on the proposition that ultimately the canal is to be dug from Boston, Mass., to the Rio Grande. That is what I am talking about. That is the only way this report can be considered. You can not consider this matter in segments. It is not made by the engineers for consideration in segments. This segment is reported on by the engineers with the view ultimately of building it from Boston, Mass., to the Rio Grande, and no sensible man can consider it any other way than as a whole canal.

Now, I am wise enough to know that they are going to pick the best segments first, and when they get a segment here and a segment there and a segment yonder that are the least expensive and the most plausible for a beginning they will insist that these segments must be joined in order to make the project complete and valuable. I am wise enough to know another thing, that the people of this country are wise enough to know—that is the way you will do it. If you were wise, you would stop this thing here at its initial point—not begin it. The people of this country will hold you responsible, and they ought to do it. The people understand this pork-barrel business, and it is a matter of ridicule all over the country, except at places where the money is spent.

The money goes to the saloons, groceries, and dry goods houses from the contractors and people who do the work. They are interested in it. They do not care what becomes of the Government or how they burden the people. The question with them is to feather their own nests and further their own interests. And these engineers are the same way. Why, I have a cousin by marriage who is an engineer working in this river and harbor business, and I saw his wife last winter. They are good people. I love them. The man is smart and educated. Something came up about rivers and harbors, and his wife said she hoped I would vote for the biggest appropriation that is offered for rivers and harbors, because "that will help our job."

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. CALLAWAY. I would like two minutes more. If you will extend my time two minutes. I will give you a rest and go to lunch.

Mr. MANN. I ask unanimous consent that the gentleman have five minutes more.

There was no objection.

Mr. CALLAWAY. The remark made by that man's wife was natural and human. This House ought to know these engineers are interested not only in furthering their own interests and holding their own jobs and raising their salaries, but they are interested in getting particular friends of theirs into places all along the line. That is human and natural, and the commercial spirit has been cultivated until every man holding a job under the Government looks at the improving of it as a business; he thinks about it as a business, not from the standpoint of the welfare of the whole people or the country.

Then we base our bills on engineers' reports. This report says they did not do all that the engineers asked them to do; that the engineers reported on 170 different projects, and the committee have only taken 60 out of the 170, and that they only recommended 79 for them to look into for another year, and that was all. Where, in heaven's name, is the matter going to stop?

A statement was made on the floor of the House Saturday, which I presume is true—I have not heard a member of the Rivers and Harbors Committee deny it—that every ton of freight floated on the Mississippi River last year cost the Government $30. I will say further that I have not heard any member of the Rivers and Harbors Committee give one single reason that looked either statesmanlike, sound financially, or sensible for the passage of this bill. I have heard no Member deny what the gentleman said—that every ton of freight that went on the Mississippi River cost the people of this country $30. Is that true? That is the greatest inland waterway of the country; that is the biggest river in the whole business. He said not only that, but that the Mississippi River did not carry one-half the tonnage now that it carried 20 years ago. That shows that your work on the Mississippi River "to improve commerce and navigation" has not added to the tonnage. It shows that river and canal commerce is doomed. The railways have superseded them.

The CHAIRMAN. The time of the gentleman has expired, and the question is on the amendment offered by the gentleman from Texas.

The question was taken, and the amendment was rejected.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FINLEY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment joint resolution of the following title:

H. J. Res. 380. Joint resolution authorizing the granting of permits to the Committee on Inauguration of the President-elect on March 4, 1913, etc.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bill (S. 6380) to incorporate the American Hospital of Paris.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 26680) making appropriations for legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, disagreed to by the House of Representatives; had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon; and had appointed Mr. WARREN, Mr. WETMORE, and Mr. FOSTER as the conferees on the part of the Senate.

The message also announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 33.

Resolved by the Senate (the House of Representatives concurring), That there shall be printed and bound in cloth, with accompanying maps, 4,000 copies of the Report Upon Panama Canal Traffic and Tolls, prepared for the President by Emory R. Johnson, special commissioner on traffic and tolls; that the copies here ordered shall be printed from plates recently prepared for the Isthmian Canal Commission and now in the possession of the Government Printing Office, and that of the copies printed 1,000 shall be for the use of the Senate, 2,000 for the use of the House of Representatives, and 1,000 for the use of the Committee on Interoceanic Canals of the Senate.

RIVER AND HARBOR APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Ochlockonee and Crooked River, Fla.

Mr. SPARKMAN. Mr. Chairman, I offer the following committee amendment.

The Clerk read as follows:

On page 50, between lines 1 and 2, insert the following: "Crooked Channel, Fla."

The amendment was agreed to.

The Clerk read as follows:

Mobile Harbor and bar, Alabama, with a view to securing such additional depth and width of channel as the interests of commerce may require.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word. I want to ask the chairman of the committee a question for information. Who controls the piers or wharfage in Mobile Harbor? Are they controlled by the railroad companies or by the city of Mobile?

Mr. SPARKMAN. I am not fully advised on that subject, but I will say to the gentleman that I am under the impression that the railroad companies do not control them. They may own their own dock facilities; very likely they do. I am not advised as to that.

Mr. CULLOP. I would like to ask another question in that connection, and that is, While the Engineers are ascertaining the desirability of these improvements and the probable cost, would it not be well to ascertain also who owns the piers and wharfage of Mobile?

Mr. SPARKMAN. I will say to the gentleman that I think that a very pertinent inquiry. In the river and harbor bill of last year there was carried a provision authorizing an examination and such inquiries as will bring that information. We have not the reports in yet, but when they come in I dare say we will have full information on all those subjects.

Mr. CULLOP. Now, Mr. Chairman, while we are considering this matter and making large appropriations for improvement of harbors, I think it would be well to know whether we are appropriating and expending this money to build up the railroad properties of the country or whether we are expending it for the purpose of improving waterways belonging to all the people.

Mr. EDWARDS. Will the gentleman yield?

Mr. CULLOP. Yes.

Mr. EDWARDS. That proposition was carried in the bill of last year. The engineers, under the directions in that bill, are getting up the very data that the gentleman is now referring to.

Mr. CULLOP. I understand, Mr. Chairman, in the testimony taken in the hearings before a number of committees, very large volumes of it, that nearly the entire wharfage or piers in every great harbor in this country is monopolized as terminal facilities by the great railways of the country.

I want to ask the gentleman and Members of this House whether it is right to go into the pockets of the people and appropriate their money to build up the private property of these great corporations? It is undoubtedly a fact that in many of the harbors of this country the piers and landing places are so controlled by the great railways of the country that a ship not controlled by these companies can not land at a single pier. Does the gentleman from Florida believe that he in his official capacity is doing justice to the American taxpayer when he is going into their pockets and taking millions simply to improve the property of these great corporations who hold a monopoly in their terminal facilities along these great highways of commerce which belong to the people?

The docks at these great points of commerce should be preserved for the benefit of the public and not turned over to the control of private enterprise and then employed for the purpose or restricting commerce. This evil which I am calling attention to exists in many places as a public detriment and very injurious to the commerce of the country, and a speedy remedy should be furnished for it.

Mr. SPARKMAN. Mr. Chairman, I want to say to the gentleman that his remarks are timely and pertinent. At the same time the evil of which he complains has not gone, perhaps, to the extent he thinks it has. At all events we are taking steps to remedy it.

Mr. CULLOP. Will the gentleman permit a question?

Mr. SPARKMAN. As soon as I have finished. There is no doubt but that in some, yes, in many places in the country railroads have had control if not of the entire dock facilities, at least a large part of them. In some places they owned them, in others they controlled without owning them. But a few years ago the River and Harbor Committee began to make inquiries into the subject and we have set on foot investigations that will give us the information upon which we can legislate wisely on the subject and correct the evil.

Mr. CULLOP. Mr. Chairman, will the gentleman permit an interruption at that point?

Mr. SPARKMAN. Yes.

Mr. CULLOP. The testimony before the Committee on Interstate and Foreign Commerce in a number of instances has shown that at some of our greatest shipping points certain railroad terminals have obtained possession of the entire frontage of the waterway and simply control the landing and the handling of all the commerce at such places. I am informed that testimony of that character has recently been given—but is not yet published—before the Committee on Fisheries and Merchant Marine regarding this same harbor.

Mr. SPARKMAN. To which harbor does the gentleman refer?

Mr. CULLOP. To the one at Mobile. I am informed that testimony is not yet published, but that it has been given by witnesses who claim to have possession of the facts, and that they say that the terminal facilities of railroads practically control the piers and the wharfage in that city. I will say this, that if they do not do it in Mobile, then that city stands alone almost in that regard in this country. They have been wise and have built wisely in that respect, by obtaining possession and control of those facilities simply for the purpose dominating the commerce at such points. It has been very clearly demonstrated that in certain of our larger cities in the East these facilities are absolutely controlled by the railroad terminals.

Mr. SPARKMAN. Mr. Chairman, I want to say to the gentleman that he is largely correct, at least so far as quite a number of the harbors are concerned.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. CULLOP. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SPARKMAN. Mr. Chairman, I think this a very important question.

Mr. CULLOP. Mr. Chairman, the gentleman admits the importance of the question, and that we ought not to take the public money to improve the property of these corporations.

Mr. SPARKMAN. I fully agree with the gentleman in that.

Mr. CULLOP. There is no justification for it, he admits. Now, I will ask him if in certain harbors along the Atlantic coast where this is true any appropriations have been provided for in this bill to be expended for the improvement of them solely to advance the value of the private property of these corporations? If so, does not the gentleman believe that he ought to return to these items and have them eliminated from the bill?

Mr. SPARKMAN. Mr. Chairman, I am glad to answer that question, and I will answer it by saying that I know of no harbor for which we are making an appropriation in this bill the terminal facilities of which are entirely owned or controlled by railroads. I know of no harbor where they own any very considerable part of the terminal facilities, except at places where efforts are now being made, successful efforts, too, to correct the evil. Municipalities in many places are acquiring a sufficiency of dock facilities to control the situation. Let us take the city of Jacksonville, Fla., for instance. There railroads and private parties did gain control of nearly all the frontage on the river; but that city, seeing the need of municipally owned docks, has authorized the issue of bonds and will at great expense—nearly a million of dollars—provide sufficient dock facilities to take care of her rapidly growing commerce. Other cities are doing likewise. This is true at Philadelphia, as I understand; it is also true in New York, where they propose to spend many millions of dollars for similar purposes; and, as I said a moment ago, I know of no place for which we are making the appropriations in this bill where the wharfage property and other terminal facilities are entirely controlled by railroads. I think all harbors and rivers improved by the Government should be open to all on equal terms; and if we go ahead as we are going now the time is not far distant, I take it, when we will have reached a point where no appropriation will be made by Congress for the improvement of a river or for the development of a harbor unless ample dock and terminal facilities are provided for such harbor or river free and open to general commerce. [Applause.]

Mr. FOWLER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 50, at the end of line 6, by adding the following: "*Provided*, That the report thereon shall disclose the ownership and control of the wharves, docks, and piers in said harbor."

Mr. FOWLER. Mr. Chairman, I feel, in view of the disclosures which have been made in reference to the ownership of these conveniences in this harbor, that it would be proper and just to the American people that the report on this project should disclose the ownership of the wharves, docks, and piers of this harbor. It has been said here, with some degree of earnestness and also with some degree of authority, that the railroads have a complete control of the approaches to these docks, wharves, and piers. If that be true, Mr. Chairman, I feel that it would be unwise for the Government to make great outlays in the way of expenditures of money for the purpose of improving private property for the benefit of private corporations. I trust, Mr. Chairman, in view of the statements which have been made by members of the committee upon this question, that this amendment will carry. I see no reason why it should not carry; I see no reason why this investigation should not disclose to the American people in its report who are the owners of these approaches for the purpose of commerce, and give to us the advantages of the information concerning the ownership of railroads of such private ownership. I do not know what the committee may think of it, but I see no reason why they should not agree to such an amendment. In fact, I say, Mr. Chairman——

Mr. EDWARDS. Will the gentleman yield for a question?

Mr. FOWLER. Certainly.

Mr. EDWARDS. Does not the gentleman know that the very provision which he seeks to put in by amendment is now the law?

Mr. FOWLER. Mr. Chairman, I know, to the contrary, that if there is a syllable of information in any report made by any investigation of any of these harbors disclosing the ownership and control of these approaches I have no knowledge of it; and I say to the gentleman who propounded that question that he can not make good his statement, making it clear that there is a report or any investigation made disclosing these facts.

Mr. TAYLOR of Alabama. Will the gentleman allow me to interrupt him?

Mr. FOWLER. Yes.

Mr. TAYLOR of Alabama. The gentleman is now offering an amendment in regard to Mobile Harbor?

Mr. FOWLER. Yes.

Mr. TAYLOR of Alabama. I say to the gentleman that the last report on Mobile Harbor, which I think is No. 967, in which this harbor was reported, gives the mileage and the ownership of every particle of wharfage there is in that situation. [Applause.] Now, I want to say further to the gentleman that if he will read he will find in the last river and harbor bill, and it now becomes the general law, that the engineers are required to make report as to the ownership of wharfage in a city when further improvements are sought to be made. I simply want to give the gentleman that information along the line of his present discussion.

Mr. FOWLER. Mr. Chairman, I have no doubt whatever the distinguished gentleman from Alabama is anxious to get at the information which I seek by this amendment, but I repeat that I have never seen a report from any of these investigating engineers disclosing the information which this amendment seeks.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAYLOR of Alabama. Mr. Chairman, so far as the harbor of Mobile is concerned full information was given to this Congress three years ago when the last project was adopted extending the depth of Mobile Harbor to 27 feet, in House Document 657, Sixty-first Congress, second session. Information was given as to the wharves in that locality. Since that time within the last two or three years——

Mr. FOWLER. Will the gentleman yield for a question?

Mr. TAYLOR of Alabama. I think I will answer the gentleman's question as I proceed, but I will be glad to answer it now.

Mr. FOWLER. Does that report disclose that the railroads have any interest in wharves, piers, and docks, in the harbor of Mobile?

Mr. TAYLOR of Alabama. That report discloses that the Mobile & Ohio, Southern, Louisville & Nashville, and Mobile, Jackson & Kansas City Railroads have considerable terminal facilities in Mobile.

Mr. FOWLER. Does it disclose it has an interest in all the docks and piers of that harbor?

Mr. TAYLOR of Alabama. On the contrary, it discloses it has the interests not only of docking and wharfage, which has not yet been made into important——

Mr. FOWLER. Is it not a fact that this railroad has almost the exclusive right in that harbor to the approach of the piers, docks, and wharves?

Mr. TAYLOR of Alabama. I do not think it is almost an exclusive right. It has at the present time, I think, the largest single wharf frontage. If the gentleman will allow me to give him the information on the subject, I will be glad to do so.

Mr. FOWLER. Is there not complaint now of the crowding out of others in that harbor, and that they can not get there to discharge the duties which devolve upon them now, because of the fact of this railroad's ownership of piers and docks in that harbor?

Mr. TAYLOR of Alabama. Is that question stated as fully as you desire to put it?

Mr. FOWLER. For the present.

Mr. TAYLOR of Alabama. My answer to that is that the Turner-Hartwell Dock Co. owns a splendid dock, with the latest modern improvements upon it, and which is a very large and comprehensive one. That dock is on the wharf front in Mobile, but it happens to be along the line of the Louisville & Nashville Railroad and not along the line of the Mobile & Ohio Railroad. The latter railroad and the Louisville & Nashville Railroad do not discharge their freight at the same places in the city of Mobile, nor do they discharge their freight from the same terminal.

Mr. FOWLER. Does not this——

Mr. TAYLOR of Alabama. Let me answer it.

Mr. FOWLER. I thought you had answered it fully.

Mr. TAYLOR of Alabama. I have not. The Turner-Hartwell Dock Co. claim the Mobile & Ohio Railroad ought to absorb certain switching charges on freight that is shipped to them and directed to them on the way to Europe and elsewhere. The Mobile & Ohio Railroad Co. contend they ought not to be called upon to absorb the switching charges. That question has been before the Interstate Commerce Commission for two years or more—the question between the Turner-Hartwell Dock Co. and the Mobile & Ohio Railroad Co.

Mr. FOWLER. Does not this Mobile & Ohio Railroad Co. control that great frontage there of easy approach to that harbor?

Mr. TAYLOR of Alabama. A part of it.

Mr. FOWLER. And the greatest part to the deep channel?

Mr. TAYLOR of Alabama. I do not think it does control the greatest part.

Mr. FOWLER. I have been so informed, and that is the object of my amendment.

The CHAIRMAN. The time of the gentleman from Alabama [Mr. TAYLOR] has expired.

Mr. FOWLER. Mr. Chairman, I move an extension of his time for five minutes.

Mr. TAYLOR of Alabama. Mr. Chairman, I ask unanimous consent to proceed and clear this situation up, if I can, without interruption.

The CHAIRMAN. Is there objection to the request? [After a pause.] The Chair hears none. The gentleman from Alabama [Mr. TAYLOR] will proceed for five minutes.

Mr. TAYLOR of Alabama. The Turner-Hartwell Dock Co. is represented largely by Horace Turner, of Mobile, who is one of the most progressive men in the United States; certainly one of the most progressive men in Alabama and throughout the South. He wants—instead of what we have in Mobile now, 300-feet bottom width in our channel—a bottom width of 1,200 or 1,500 feet in our river channel. He will be greatly surprised to hear that the controversy between the Mobile & Ohio Railroad and the Turner-Hartwell Dock Co. could have impressed the mind of any man, far less a Member of Congress, with the view that he has interposed, or desires to interpose, or that there ought to be any interruption in the development and deepening of the channel at Mobile by the United States. Now, this call for another survey is pressed more vigorously by the Turner-Hartwell Dock Co., perhaps, and those who take their view of the situation, than probably any other business interests in Mobile. They are settling their controversy as well as they are able to do before the Interstate Commerce Commission. In addition to that the public of Mobile are now being very much agitated and are exceedingly interested, as am I and as is every citizen in the State of Alabama, in the development of a belt-line railroad similar to that in New Orleans. We do not know whether we can obtain it or not, but we are agitating the question now, and that is for the purpose of improving the dock facilities at the city of Mobile so as to keep pace with the growth of commerce and the development of our channel and harbor at Mobile.

I can not recollect the number of yards or the number of feet or the exact capacity of the different docks in Mobile, but I am quite safe in saying that I do not think the Mobile & Ohio Railroad owns a controlling interest in our wharf and frontage. The trouble between them, and the dispute between them, is not a question as to the amount of dockage or wharf frontage.

Mr. CRUMPACKER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. TAYLOR of Alabama. Yes; I would be very glad to.

Mr. CRUMPACKER. Section 3, containing the legislative provisions in this bill, seems to cover this whole question?

Mr. TAYLOR of Alabama. Yes.

Mr. CRUMPACKER. It requires every report to contain information respecting both public and private terminals and transport facilities, and to report especially respecting the public docks and wharves; and if there be none, on their inadequacy. The report must contain the opinion of the local engineer respecting the number and the location. It seems to me this whole question is covered by section 3 on page 53 of the bill—is covered as the gentleman from Illinois [Mr. FOWLER] would require.

Mr. TAYLOR of Alabama. Yes; I stated that, and the gentleman from Illinois stated that it was not so. He disputed the fact.

Mr. CRUMPACKER. I think it is so.

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. TAYLOR of Alabama. Yes.

Mr. FOWLER. Does that law that the gentleman refers to, and to which the gentleman from Indiana [Mr. CRUMPACKER] has just referred, require that there shall be in the report on every one of these surveys of harbors a statement of the ownership of the wharves and the piers and the docks and the control thereof?

Mr. TAYLOR of Alabama. I think so, as nearly as the English language can make it.

Mr. FOWLER. I have never seen it.

Mr. TAYLOR of Alabama. Look at it, on page 53 of this bill, the particular bill that the gentleman has before him, or, if the gentleman desires, I will read it to him. The gentleman from Indiana [Mr. CRUMPACKER] has repeated an abstract of it to him.

Mr. FOWLER. Yes; but he has not repeated what this amendment calls for, and I do not think the gentleman from Alabama can.

Mr. TAYLOR of Alabama. I will only read what is here, and this is made to cover all authorities for surveys. But I

replied to the gentleman from Illinois as to this particular point in Mobile that such report had already been done in the last survey, as required by law.

Mr. FOWLER. If this amendment should carry, it would prevent the Mobile & Ohio Railroad from controlling commerce from that port to the Panama Canal, and the gentleman knows it.

Mr. TAYLOR of Alabama. No; I do not know it. I have nothing to do with the Mobile & Ohio Railroad, but I do not believe in legislation on a river and harbor bill to control a question of interstate and foreign commerce.

The CHAIRMAN. The time of the gentleman from Alabama has expired. The question is on the adoption of the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

Mr. MOORE of Pennsylvania. Mr. Chairman, the discussion between the gentleman from Georgia [Mr. TRIBBLE] and myself was left in a rather unsatisfactory condition, and in order not to take up the time of the House I ask unanimous consent that the full statement made by me as to the navy yard before the Committee on Naval Affairs be inserted in the RECORD.

The CHAIRMAN (Mr. HEFLIN). The gentleman from Pennsylvania [Mr. MOORE] asks unanimous consent to insert in the RECORD a statement concerning the controversy he had with the gentleman from Georgia [Mr. TRIBBLE] with reference to the hearing before the Committee on Naval Affairs. Is there objection?

There was no objection.

The statement is as follows:

NEW DRY DOCK AT PHILADELPHIA NAVY YARD.

Argument of Hon. J. HAMPTON MOORE, Member of Congress, before the House Committee on Naval Affairs.

Mr. Chairman and gentlemen of the committee, there has been a custom for several years, certainly since I have been in Congress, to come before the committee and present the claims of the Philadelphia Navy Yard. This year we are in a somewhat different position as a delegation in that we have two members of what was once the minority party, now the majority party in Congress, very closely associated with this work. Mr. DONOHOE, of Philadelphia, is a Democrat. We have not had the pleasure of having a Democrat with us for several years, and Mr. LEE, a member of the Democratic Party, is a member of this committee.

Mr. DONOHOE. Is it a pleasure?

Mr. MOORE. A very great pleasure [laughter], because it drives us all forward to do the best that is in us.

I think there is no division of sentiment in regard to what we would like to have done for the Philadelphia Navy Yard.

The CHAIRMAN. We never have any politics in this committee.

Mr. MOORE. I understand that this committee is a semijudicial body and will treat us fairly without regard to our party relations. Mr. DONOHOE, of course, will speak for himself, but on behalf of Gen. Bingham, Mr. MCCREARY, Mr. MOON, Mr. REYBURN, and the other members of the delegation I desire to ask the committee to be as considerate of the Philadelphia Navy Yard as possible, more particularly since this year there has been a cut in the estimates from $160,000 to $140,000. We ask that every one of the items presented in the estimates be approved in full. They consist of the sanitation system, reserve basin, to complete, $45,000; Pier No. 5, to extend, $85,000; and water-closets, $10,000. A previous act provided an appropriation for Pier No. 5, but it was not sufficient to complete the work, and the work has not actually been begun, and the appropriation of $85,000 is now absolutely necessary in order to enable the authorities at the yard to begin the work and to give the yard the benefit of that additional pier, which is badly needed.

Mr. GREGG. Were any of those items cut below the estimates?

Mr. MOORE. The amount appropriated last year was $160,000, and the amount submitted by the department this year is $140,000. In speaking of a cut I mean it was a cut from last year's appropriation.

Mr. GREGG. I thought maybe the department had cut out something.

Mr. MOORE. The department cut out a number of things, notably the extension of streets and avenues, which are highly important in a yard of that kind, where we have a great deal of vacant territory that ought to be made available for the purposes of the yard, and the department also cut out one or two of the recommendations made by the officials at the yard. They wanted to extend their electrical and steam power system so that it might be utilized on the vessels at the docks, and so that they might be prepared for permanent improvements over the yard on ground that is not now generally improved. The authorities very properly looked forward to the improvement of the yard on a permanent basis, and having much waste land they are hoping for the opening up of the streets and for the extension of their various sources of power. This is very important in a yard of this kind, because the expense of hauling is very great, and there are times, especially in a season like this, when the streets are heavy and the wagons and drays that carry the material in the yard are stuck in the mud.

In some respects the yard is not up to date in the matter of common ordinary transportation facilities. If it were possible to increase that appropriation in any one respect, we would like to have it done. The extension of the streets, pavements, water, and electric-railroad systems are estimated by the authorities of the yard at $15,000.

Mr. TALBOTT. Was not that all taken up with Admiral Hollyday?

Mr. LEE. Yes, sir.

Mr. MOORE. That was cut out by the department. Whether you propose to go beyond the department's recommendation or not I do not know. All we can do is to urge you to do the best you can with respect to the streets extensions and the construction of a crane for one of the buildings there—building No. 10. This is important at this time for the carriage of freight and materials.

Our main plea is that nothing less than has been submitted by the department be allowed for that yard, particularly inasmuch as we observe that in some of the other yards there have been increased appropriations, notably at the city of Washington. In all fairness it must be stated that the department itself, following the lines of economy which this Congress seems to have sought to work out, and following the general tendency of the departmental administration in Washington, has cut down estimates for appropriations at other yards, so that we may not comparatively be suffering very much. But when we look at the appropriations running up to hundreds of thousands for other yards, we sometimes wonder why, in a general estimate from the department for a great yard like that at Philadelphia, we are left with a total estimated appropriation from the department of only $140,000.

Now, so much for the general conditions at the yard. A question has arisen which is regarded as highly important by certain citizens of Philadelphia, and one that properly should be presented to this committee in a general way by the delegation. In this matter there is, perhaps, a friendly rivalry, particularly so far as the newspapers of Philadelphia are concerned, and it may be that members of the delegation have entered into a friendly rivalry upon this question, but as to the ultimate object there is no difference of opinion whatever. Some of us who have been in Congress for some time feel that a question of this magnitude ought to be approached with very great caution and that this committee ought to be thoroughly fortified with opinions and estimates from the department before it proceeds to go into a matter of so much consequence. The question is the construction of a new dry dock. We have a dry dock at Philadelphia about 750 feet long. It is not the biggest dry dock in the United States, but it is an excellent dry dock. It was capable of housing the Dreadnought *Utah* and did it very well, but there is some difference of opinion as to the possible capacity in the matter of the entrance at the caisson for the admission of such vessels as may be constructed in the near future.

Mr. GREGG. When Admiral Hollyday was before the committee Mr. LEE went very fully into that matter. Have you read the hearing?

Mr. MOORE. No, sir; but I have talked with Admiral Hollyday on the subject and I have been at the yard a number of times, and have talked with officers there. The question seems to be as to the capacity at the entrance. The officers at the yard, supported very largely by public sentiment in the vicinity of the yard and in the city of Philadelphia, and by some newspaper comment, which is more or less limited, have insisted that there should be constructed there a dry dock that would extend from the Delaware River into the back channel which leads in from the Schuylkill River and completes the island, a distance of 1,700 feet. Now, ordinarily this committee would be startled, perhaps, and Congress itself would be somewhat surprised at having a suggestion made that at any yard there should be constructed a dry dock 1,700 feet long. Nobody ever heard of a dry dock 1,700 feet long. There is certainly nothing of the kind anywhere in the known world, but in this particular instance the proponents of the 1,700-foot dry dock contend that by reason of the configuration of the ground and the peculiar adaptability of the situation to the construction of a dry dock that should be continuous and reach from stream to stream, that it ought to be started in the city of Philadelphia. We agree with that and we would be very glad to have this committee take up that question and have some start made upon the proposition.

Some day you will have to have one great dry dock on the Atlantic coast and another one on the Pacific coast to provide for the very largest battleships that may be constructed, although I am one of those who want to limit the size of battleships, as I want to limit the depth of the artificial channels which cost this Government so much money and accommodate only certain great battleships and commercial vessels. But if you have to consider some day the centralization of the dry-dock facilities, naturally there is no point along the Atlantic coast where such a dry dock would be offered more advantages than at the port of Philadelphia and at the League Island Navy Yard, where you have fresh water, a desideratum not found anywhere else in the United States nor in the world, so far as navy yards are concerned.

Now, then, while the proposition may be startling at first blush, the truth is there is an island which presents a peculiar opportunity for the construction of a continuous dry dock that will lead from the Delaware River into the back channel which leads from the Schuylkill River. The distance happens to be 1,700 feet, and that accounts for the peculiar figures that are presented.

Leaving aside all the agitation and the perturbation of mind of a few of our newspaper friends who insist that something should be done, and done immediately, let us see just what the committee can do and let us present our claims as a delegation, so far as I am able to speak for the delegation.

The officials—that is, the local officials, at least—would like to have that dry dock. They believe a start should be made on the work. We will agree that all the citizens of Philadelphia would like to have it done. We contend that it would be a great advantage to the United States in general, and particularly to the Navy Department, in having such facilities in case of emergency. How are we going to present it? As a result of this agitation, Mr. DONOHOE became quite interested and active, and Mr. LEE, a member of this committee, also did us the honor to come to our city and inspect the navy yard—he has been there several times, and he has done it interestingly, as a good Congressman ought to do—and they have concluded that some big work should be started. We have not been oblivious, those of us who have been longer in the service, to the desire of many people to have this dry dock started, but we were always confronted with the peculiar proposition of the 1,700 feet and the enormous cost and the difficulties that we would face when we came before the Naval Affairs Committee of Congress.

In consequence of this agitation and after much thought upon the subject I presented a bill in the House on December 21, 1911, authorizing an appropriation for a dry dock at the Philadelphia Navy Yard. It provided for the construction at that navy yard of a dry dock "sufficient to float the largest battleship of the Navy," and appropriated $1,500,000. I was informed that a 1,700-foot dock would cost over $4,000,000, and it seemed to me that it would be almost a killing proposition to come before this committee and ask for $4,000,000.

Mr. BUTLER. What is the length of your proposed dry dock?

Mr. MOORE. I proposed to have a start and fixed the start at $1,500,000, which would be sufficient to build a dry dock at least 800 feet long—as long as any existing dry dock in the United States—and this bill, which is one paragraph provided——

The CHAIRMAN (interposing). The dry docks we have been building at about that length have been costing something over $2,000,000, if I remember.

Mr. MOORE. That makes the situation so much more difficult. I have had some experience with the building of dry docks. As receiver, I completed the dry dock at Boston and know what it cost. It cost about $600,000 more than the contractor's price.

Mr. BUTLER. Did my colleague have in his mind the construction of a dry dock reaching from the Back Basin to the Delaware River, which, I think, is about 1,800 feet?

Mr. MOORE. One thousand seven hundred feet. This bill of mine contemplated meeting the situation in this way: If we could secure an appropriation of $1,500,000 it was provided—

"That plans for said dry dock shall contemplate its extension from the Delaware River through to the Back Basin, approximately a distance of 1,700 feet, to the end"—

This is the old river and harbor language where you begin something and do not complete it right away—

"to the end that said dry dock when completed shall be capable of admitting or discharging vessels at either end thereof."

That bill itself simply begins this enterprise. You can help us by a start of $1,500,000, which will give us a dry dock, according to the estimates I have, 800 feet long, which will be on the line of the proposed 1,700-foot project and will end somewhere about halfway through, and this leaves us open to come back to this committee with a view to the extension all the way through.

Mr. BUTLER. To put the other end on?

Mr. MOORE. Yes, sir. That was the proposition I presented to the committee, and it struck me as the one most feasible in view of our financial condition and in view of this committee's attitude toward projects of this kind.

Mr. LOUD. Except for the pumping machinery, that would be equivalent to two docks?

Mr. MOORE. That would be one continuous, but it would be constructed half at a time. If Congress later on wanted to run it through, it could continue it, and this would accommodate vessels coming and going. Following the introduction of that bill——

Mr. BUTLER (interposing). Did you have in your mind that it would afford a sort of waterway, too, between the channel and the ocean?

Mr. MOORE. I am an enthusiastic waterway man, and if I did not have that in mind——

Mr. BUTLER (interposing). I have seen some comment that this would afford a means of approach to the ocean which would save or spare vessels the travel of the distance around the end of the Island.

Mr. MOORE. I can explain that.

Mr. BUTLER. I wish you would.

Mr. MOORE. I can explain what that means. The gentlemen who advanced that idea evidently hold the notion that it would save time and save the run around what we call the Horseshoe Bend in the river, which makes a curve way out toward the east. Coming up the Schuylkill through this back channel would avoid the Horseshoe Curve, which would save a mile or two.

Mr. DONOHOE. There is something else. You can work about the ships at the same time by the erection of the dry dock in the suggested bill introduced by Mr. LEE?

Mr. MOORE. I was coming to Mr. LEE'S bill, and that very point. On January 12 Mr. LEE, of this committee, introduced a bill (H. R. 17760) authorizing an appropriation for a dry dock at the Philadelphia Navy Yard.

"A dry dock extending from the Delaware River to the Back Basin, approximately a length of 1,700 feet"—

He proposes to go right through—

"of depth and width corresponding with the locks of the Panama Canal."

That is to say, we should have at least 40 feet depth in this proposed new dry dock. Of course, that would mean—I do not want to discuss the bill while I am reading it—

"Of depth and width corresponding with the locks of the Panama Canal and capable of accommodating two of the largest battleships of the Navy, there be appropriated the sum of $3,000,000: *Provided*, That said dry dock be so constructed with a middle gate or caisson that one or two vessels may be handled, as the occasion may require."

That is Mr. LEE'S bill.

The CHAIRMAN. Just at that point may I suggest that in the case of the dry dock at Pearl Harbor, which, I think, is about 850 feet long, the limit of cost is $2,700,000, and in the case of the dry dock at Puget Sound the limit of cost is $2,300,000.

Mr. MOORE. That is over 800 feet?

The CHAIRMAN. A little over 800 feet.

Mr. MOORE. That is the largest dry dock in the United States to-day.

The CHAIRMAN. Now, with a 1,700-foot dry dock, what figures or information have you that such a dry dock would not reasonably cost something like $5,000,000 instead of $4,000,000, the figures given?

Mr. MOORE. Admiral Hollyday told me that a 1,700-foot dry dock, such as is proposed, would cost in excess of $4,000,000.

The CHAIRMAN. But he did not say how much the excess would be?

Mr. MOORE. No, sir.

The CHAIRMAN. That is rather a large quantity.

Mr. MOORE. The question before you now is one as to whether there will be any recognition for this dry dock at all, which we all recommend, and second, whether you should start, as Mr. LEE proposes in his bill, to do the whole thing on the Panama Canal basis, or whether you should start in a more modest way, as I have proposed here, to establish a beginning which probably would prove the worth of the enterprise and then of continuing it if its worth is demonstrated. There is one objection to Mr. LEE'S measure that I can see, and that is the objection I had to the proposal to dig the Chesapeake and Delaware Canal, a depth of 35 feet.

There are about 13 miles of that canal, and this situation would correspond to the one at League Island; and at the other end of the canal, the lower end, there is probably not more than 20 or 25 feet of depth, and in the upper end it was shown that they did not have 30 feet, so that cutting the canal to 35 feet seemed an absurdity. But the estimated cost had to be presented to Congress. I have always had the notion that somebody did this deliberately. The report was presented to Congress recommending connecting the Chesapeake and Delaware Bays, but if it should be dug for 13 miles between the Delaware and the Chesapeake 35 feet deep we would have a hole in the ground which would mean that if you ever built a vessel in there drawing 35 feet it could not get out and would simply have to pass between Chesapeake Bay and Delaware Bay and stay there. The difficulty with the bill of Mr. LEE, which contemplates opening up the entire enterprise at once, is that if you make the depth and width of this 1,700 feet to correspond with the depth and width of the Panama Canal you will dig a hole in the ground between the Delaware River and the Schuylkill River out of which you can not get at all. It would seem to be——

Mr. DONOHOE (interposing). Any vessel that got in should certainly be able to get out?

Mr. MOORE. That is true; but I do not understand the necessity of digging 40 feet below the river depths.

Mr. DONOHOE. The further deepening of the Delaware River is certainly in contemplation?

Mr. MOORE. Yes, sir; we are trying to get 35 feet.

Mr. DONOHOE. We do not know what depth we may have to go in the future; it will be limited only by the size of the ships?

Mr. MOORE. That is true.

Mr. DONOHOE. Mr. Lee's bill proposes to construct the dry dock corresponding with the depth of locks of the Panama Canal, which will limit the width and depth of ships in the future; and so if we build it properly now we will not have to rebuild it in the future?

Mr. MOORE. That argument would go if you could get up the Delaware River and out the Back Basin.

Mr. DONOHOE. It would do not harm?

Mr. MOORE. No, sir; it would do no harm; but there are 60 miles of channel that do not now exceed 30 feet, and therefore you would simply be digging a 40-foot hole 1,700 feet long to connect two bodies of water not more than 30 feet deep.

Mr. DONOHOE. That would have to be taken up in the future if we did not get it deep enough now.

Mr. MOORE. So far as the future is concerned, judging from my experience in this House in the past, I would say that we probably will not get 40 feet in the Delaware River for some time.

Mr. DONOHOE. But we hope for it?

Mr. MOORE. We certainly do. We are now striving to get 35 feet, and it will take at least six years.

Mr. DONOHOE. That is an item that can be amended?

Mr. LEE. Certainly. If this committee will vote to adopt Mr. LEE'S bill, I shall be delighted to see it done, because it will start us at once on the business; but I would suggest to the committee that that section be amended, because it would simply be unnecessary to dig below the approaches.

Now, Mr. Chairman, having commented upon these two measures and pointed out——

The CHAIRMAN (interposing). I would like to ask you a question. What is your idea of the naval necessity for a dry dock of that size at that place?

Mr. MOORE. Mr. Chairman, it would depend entirely upon the recognition given that navy yard by the Navy Department. If the department proposes to continue it even as a reserve basin, which we are informed it does, then it would be well to be prepared with another dock in addition to the one we have, larger than the one we have, to take care of vessels that come there, because it is the best repair station we have anywhere along the coast; it is the best material field, and it is the best labor field, and it is the best protected yard, because it is 100 miles away from the ocean and it is in fresh water.

The CHAIRMAN. Do you think in time of stress many vessels would go up there if the enemy were down at the mouth?

Mr. MOORE. That is a splendid question, Mr. Chairman. I would say that it would be the best place in the United States if our intracoastal waterways were cut through to New York. They could come up the Delaware and get out of the way. That we hope some day will eventuate; but even as it is, the Chesapeake Bay being in danger and in a measure not so thoroughly well protected——

Mr. TALBOTT (interposing). The Chesapeake Bay?

Mr. MOORE. In some respects it is not so thoroughly well protected. I am as fond of it as any man, because it is one of the finest bodies of water in the country. It is not so well protected as it should be, and there is now a commission undertaking to devise ways and means to better shield it against the possibility of a foreign attack; but I take it that if there is going to be a serious invasion it will not be altogether where there is waste land, but where they can reach some of the skyscrapers and get some of the spoils of warfare, and I think they would strike a point like New York or Philadelphia very quickly, if they could. They could get into New York and into Boston, but they certainly would have difficulty in getting into Philadelphia as we are situated now.

Mr. BUTLER. On account of a point of order, how are you going to keep the dry dock in the bill?

Mr. GREGG. They are offering a separate bill.

Mr. BUTLER. I understand that.

Mr. MOORE. I will answer that question.

Mr. BUTLER. Do you request that this item be incorporated in the appropriation bill?

Mr. MOORE. Yes, sir; we hope so. As a matter of fairness to the people we ask that this project be incorporated in this bill, but I am coming to the point now raised by Mr. BUTLER. First you have Mr. LEE'S general bill, which proposes to begin at once and make the entire appropriation, or, at least, make so large an appropriation that it would probably mean the immediate completion of the work. Then you have my bill, which proposes to make a start on a more moderate basis. Now, then, if you will take Mr. LEE'S bill, with the amendments that have been suggested, I hope you will do it. If you find that you can not take Mr. LEE'S bill, and will take my bill and incorporate it in your appropriation bill, I hope you will do that, but if you find that you can not do that—that both requests are unreasonable at this time or are beyond your means at this time—then give us a start of some kind; do what you can as to that.

We have not plans and specifications sufficient to properly inform this committee in regard to this project. Now, if you can't do anything else, will you do this: Will you provide in this bill an appropriation of $100,000 to prepare plans and specifications, so that we may have something tangible to talk about when the next year's appropriation bill comes up? If you will not take Mr. LEE'S bill, and I hope you will, and if you will not take my bill, and I hope you will, then give us $100,000 to give us a start on the plans and specifications.

The CHAIRMAN. May I bring your attention to this fact: That the Government has an engineer corps under the Bureau of Yards and Docks, and that if they see fit they can submit plans and specifications without that appropriation?

Mr. MOORE. I presume they could do that.

Mr. BUTLER. We never have made a separate appropriation.

Mr. LEE. That is the business of the Government?

The CHAIRMAN. Yes, sir; if they see fit to recommend.

Mr. ROBERTS. I would like to call Mr. MOORE'S attention to the fact that he has not told us yet how he is going to word the point of order.

Mr. MOORE. That this is new legislation?

Mr. ROBERTS. Yes, sir.

Mr. MOORE. Well, I admit that there is some difficulty about it. If you feel that you can not put this item in the appropriation bill and that it would be ruled out on a point of order, then I ask that you pass a separate bill, let it come as a new matter, and I think that would be the safer thing to do. I have feared that we were asking too much at the start—I want to be very frank with the committee about it—I have feared that the committee would not take this

so seriously as some of the newspaper headlines in Philadelphia have made it; but we have felt there was nothing for us to do but to come here and ask the committee to help us out in this matter, satisfied in the last analysis if you can not give us Mr. LEE'S bill as a separate proposition, or that you can not give us my bill as a separate proposition, you will at least give us a more moderate start.

Mr. LEE. You stated that it would cost between $4,000,000 and $5,000,000 to build a dry dock similar to the one covered in the bill I have introduced?

Mr. MOORE. In excess of $4,000,000.

Mr. LEE. Does the gentleman not know that the properties at League Island would make this dry dock cost practically half what it would anywhere else in this country?

Mr. MOORE. It undoubtedly would cost less, because we would not have to acquire outside property.

Mr. LEE. Do you not know that the sand and gravel at League Island would practically cut down the cost of this dry dock one-half what it would cost any other place in America?

Mr. MOORE. Well, Mr. Lee, I do know that that would be a feature in the way of economy. It would be a saving to the Government.

Mr. LEE. I just wanted to call your attention to it.

Mr. MOORE. That should be considered; but there is no question but that it would cost in excess of $4,000,000, independent of all that.

Mr. LEE. Is it not a fact that we do paving at League Island for half what it costs at any other navy yard?

Mr. MOORE. I can not tell.

Mr. LEE. On account of the properties at the navy yard. We have sand and gravel there to make all the concrete that would be used in building a dry dock of the kind my bill covers.

Mr. MOORE. We have certain decided advantages in the matter of raw material.

Mr. LEE. The dry dock can be built for $3,000,000, and I claim that it will make it the cheapest dry dock which the Government owns. I went over this thing very carefully when I was there, and I am mechanic enough to know that we can mix all the concrete and get all the properties right there on the Island so as to make that dry dock cost practically $3,000,000 or less.

Mr. MOORE. I am very glad to hear you say so.

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Mr. BUTLER. What size vessels can go up there?

Mr. MCCREARY. The mean depth is about 29 feet.

Mr. MOORE. Any war vessel the Government has can go up there.

Mr. BUTLER. I mean, can it go up there?

Mr. MOORE. Yes, sir.

The CHAIRMAN. I understood that you have at mean low water 30 feet?

Mr. MOORE. We have a rise in the tide there of 7 feet. Our mean low water now exceeds 28 feet. It is legislatively 30 feet and is substantially 30 feet all the way up the 60 miles.

The CHAIRMAN. What is the length of the dry dock you have there?

Mr. MOORE. About 750 feet—to be exact, 744.6¼ over all. The *Utah*, built across the river by the New York Shipbuilding Co., is one on the very largest vessels the Government has thus far built. She is one of the new *Dreadnoughts*, and she has been in the dock.

Mr. LOUD. What is the width of the gate?

Mr. MOORE. At the top of the caisson it is slightly over 102 feet. It tapers off to 86 feet, or thereabouts.

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The CHAIRMAN. How large is the dock at Norfolk, since it was enlarged last year?

Mr. MOORE. That would be a little larger than ours.

Mr. BUTLER. That is not yet completed?

The CHAIRMAN. Yes, sir; it is completed.

Mr. REYBURN. I think, gentlemen, we can present a reasonable case in Philadelphia—that we can show reasonable cause why Philadelphia should be selected as the point, the most strategic and advantageous point, for placing this dry dock and having our large naval base.

Mr. BUTLER. I would like to ask you a question or two. Can you recall how many acres there are in the navy yard?

Mr. REYBURN. I can not.

Mr. LEE. About 800.

Mr. MOORE. Over 900 acres; approximately 1,000.

Mr. BUTLER. They have parade grounds, rifle range, and the Government would not have to purchase any land?

Mr. MOORE. No, sir; they have plenty of land there.

Mr. LEE. Just at this particular point I would like to call Mr. Moore's attention to a few questions I asked Admiral Hollyday when he was before this committee, with regard to the cost at the League Island Navy Yard:

"Mr. LEE. You spoke yesterday of the low cost of paving in the Philadelphia Navy Yard. Is that due to the fact that the sand and everything is right there on the ground?

"Admiral HOLLYDAY. Yes.

"Mr. LEE. Would not that same thing apply to the large dry dock if it was built in the Philadelphia Navy Yard?

"Admiral HOLLYDAY. For making the concrete it would. The concrete would be made at less cost."

Mr. MOORE. Do not misunderstand me. I agree with that thoroughly.

Mr. LEE. I want to show that the gentleman was away off when he said that the dry dock would cost four or five million dollars at Philadelphia, when I know from experts who have made a study of the ground properties that a dry dock of the size I propose could be built for $3,000,000 or less.

Mr. MOORE. I hope that is true.

Mr. LEE. On account of the properties.

Mr. MOORE. For that reason I am advocating your bill, with the limitations I suggested.

Mr. LEE. When the committee gets to Philadelphia, if they will accept the invitation which I extended before Mr. DONOHOE gave his invitation this morning, I propose to show them——

Mr. MOORE (interposing). I join in that invitation.

Mr. LEE (continuing). That the properties at League Island are just as I have stated them to be.

Mr. BUTLER. Mr. Lee, were you here when Admiral Hollyday stated that a dry dock 1,700 feet long would cost $4,000,000?

Mr. LEE. Yes, sir. And then I showed that the cost of paving at League Island was $1.52 and at any other navy yard it was $3 per yard, and it was stated that the sand and mixture for concrete at League Island were the cause of the low cost of paving at that yard.

Mr. MOORE. Do you think that will make a million dollars difference?

Mr. LEE. Yes, sir.

Mr. MOORE. I want to thank you very much for the hearing this morning, Mr. Chairman and gentlemen, and assure you that we appreciate your courtesy.

Mr. DONOHOE. I desire to associate myself with that expression of thanks on behalf of the members of the delegation.

Mr. ROBERTS. I want to call Mr. Moore's attention to the fact that the Navy Department gives the controlling depth of water from League Island to the sea at mean low water as 28 feet.

The CHAIRMAN. But they have a 7-foot tide there.

Mr. MOORE. Answering the question, I desire to say that so far as the War Department is concerned the channel is legislatively completed at 30 feet for mean low water.

Mr. HENSLEY. What do you mean by "legislatively"?

Mr. MOORE. They have reported that we have 30 feet of water, so far as all legislation and engineering is concerned, for a length of 60 miles.

There are creeks and rivers running into the main channel which add to the silt formation. It is a slushy, soft sort of material, and men who navigate the ships differ as to the actual bottom depth; but it is a fact that we have more than 28 feet at mean low water, and we have what the Army engineers and shipping men consider an actual 30-foot mean low-water depth, including this silt. At this time we are working under the new appropriation on a 35-foot channel, and that work demonstrates that here and there may be a formation of silt which raises the bottom at certain points in this 60-mile length. Vessels drawing more than 28 feet can and do push their way through it, but they also take advantage of the tides. The problem is one of dredging and maintenance, and we are now trying to meet it. I think, perhaps, some member of the committee may have in mind the going ashore some years ago of the U. S. S. *Prairie*, which had started on a mission to South America and ran aground; but she was probably 1,800 feet out of her course. We have never charged that up to the Delaware Channel, but we have, rather, charged it up to navigation.

Thereupon the committee adjourned.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Canal leading from Centennial Lake at Vicksburg, Miss., to the Mississippi River, with a view to the preservation of the channel.

Mr. McKELLAR. Mr. Chairman, I have an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Tennessee [Mr. McKELLAR].

The Clerk read as follows:

Amend, by adding the following, after line 9, page 50:

"Memphis Harbor: With a view to the preservation of the channel between President Island and the Tennessee shore and the preservation of the banks on the Tennessee side in Memphis Harbor; also for the preservation and protection of the channel and banks of the Wolf River in said harbor."

Mr. COLLIER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COLLIER. I wish to offer an amendment to come right after line 9 on page 50, which is germane to the proposition in the bill. I would like to ask whether or not the amendment which I wish to offer should come first?

Mr. McKELLAR. Mr. Chairman, I am perfectly willing that the gentleman from Mississippi may offer his amendment first, and that mine may come in just after.

The CHAIRMAN. Without objection, it will be so ordered. The gentleman from Mississippi [Mr. COLLIER] is recognized.

Mr. COLLIER. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Mississippi offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 50, line 9, by adding after the word "channel" the words "and banks."

Mr. COLLIER. Mr. Chairman and gentlemen, prior to 1903 for many years all of the commerce coming down the Yazoo River and its tributaries to Vicksburg was carried through the mouth of the Yazoo River out into the Mississippi and then up Lake Centennial to the city of Vicksburg, but there was no continuous navigation because of a shifting bar at the mouth of the Yazoo River and also because there was low water at certain stages in front of the city of Vicksburg. It was finally determined, and in the river and harbor act of 1892 the project was adopted, to divert the Yazoo River a few miles above its mouth—about 6½ miles south—into the Mississippi River for the purpose of securing continuous navigation. This project was completed in 1905 at a cost of $1,179,210.37. Uninterrupted navigation has been maintained at that point for nine years for boats of 6-feet draft at low water. The amount of commerce carried through the mouth of that canal amply justifies the expense of the project. The report of the Chief of Engineers shows that for the last seven years the amount of commerce has averaged between 220,000 and 440,000 tons, with estimated values of between $6,000,000 and $13,000,000. During the last seven years the average has been 230,000 tons and the value something over $8,000,000. The reductions in freight rates have been as follows: On cotton about 50 per cent; on cotton seed about 33⅓ per cent; on live stock about 66⅔ per cent; on flour, meal, provisions, and grain from 33⅓ to 40 per cent.

On the banks at Vicksburg Harbor there has been a great deal of caving and sliding. A number of warehouses, the com-

press, and other buildings are situated upon this bank and some of them are now in a very exposed condition. In some cases the caving extends within a few feet of the buildings.

This recent caving has been caused by the deepening of the canal, owing to the fact that the entire Yazoo River is now going between these narrow banks, and also probably in a large degree by the fact that last year during the great overflow of the Mississippi Delta an immense volume of water from the crevasses in the levees passed through that canal.

The Rivers and Harbors Committee, realizing the importance of this matter and the seriousness of this situation, have incorporated in their bill a survey with a view to the preservation of the channel. I ask that this survey be extended to the preservation of the banks. That is all I ask, that it be extended right along on the banks of the canal.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COLLIER. I ask unanimous consent for two minutes more.

The CHAIRMAN. Is there objection to the request for two minutes more?

There was no objection.

Mr. COLLIER. It can well be contended, in the interest of navigation, that the widening of the channel between the two banks in a narrow canal might, at certain seasons of the year and certain stages of the water, seriously interfere with permanent navigation.

Again, as I understand it, the purpose of this committee in considering projects is to secure navigation in order that commerce may be preserved. Harbors themselves are essential instrumentalities for commerce, and it may often occur that the preservation of a harbor means that commerce itself has been preserved.

Mr. Chairman, in this bill the committee have proposed a survey. It will not add much to the expense if the engineers extend this survey to the banks.

All I ask the House to give me is the authority of the engineers to investigate the situation and let them report or devise some means or some plan whereby a disastrous situation may be avoided.

Mr. MANN. Will the gentleman yield?

Mr. COLLIER. With pleasure.

Mr. MANN. How far does the gentleman think the Government ought to go for the preservation of the banks of a stream beyond what is necessary to preserve the channel for commerce?

Mr. COLLIER. That is far enough.

Mr. MANN. That is already covered. The item now provides "with a view to preserving the channel." Now, when you have done that, how much further does the gentleman think the Government ought to go in preserving the banks?

Mr. COLLIER. Does the gentleman from Illinois contend that the widening of a channel or the widening of the narrow banks of a canal might not essentially interfere with the navigation at low stages of water where permanent navigation is to be maintained?

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. MANN. I ask unanimous consent that the gentleman have two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MANN. This item already covers the preservation of the channel, which I assume, of course, is for commerce. Now, when that is done, does not that take care of the banks sufficiently, or does the gentleman desire the Government to wall up the banks for the benefit of private owners?

Mr. COLLIER. As I stated in the first part of my remarks, I believe that the harbor itself is one of the essential instrumentalities of commerce, and the destruction of a harbor might mean the destruction of commerce.

Mr. MANN. Does the gentleman think it the duty of the Government, where it constructs a harbor, to wall up on the outside and construct in that way docks for the use of private property?

Mr. COLLIER. No, sir; the gentleman does not think so.

Mr. MANN. Beyond the preservation of the channel, how much does the gentleman want the Government to do in the preservation of the banks? I do not see the point of the gentleman's amendment.

Mr. COLLIER. I want the Government engineers to look at the situation where the canal is widened, where the banks are caving in, a canal that brings through every year over $8,000,000 of commerce—I want them to look at it and the banks and devise some plan to relieve the situation. It may be that they can not devise any; it may be that under the rules of the engineer's office they can present no reports. I am asking for a chance for them to go there and do it.

Mr. MANN. And I am trying to help the gentleman out. As a matter of fact, under this provision will they not be required to look at the banks and everything that is connected with or affects the channel?

Mr. COLLIER. It may be that they would.

Mr. BURGESS. Mr. Chairman, I suggest that the amendment of the gentleman from Mississippi will not add anything to the authorization already in the bill. The item reads:

Canal leading from Centennial Lake at Vicksburg, Miss., to the Mississippi River, with a view to the preservation of the channel.

Now, there is often great contention before the committee about the extent of damage that is done by caving in of banks, but all that we can do is to give them a survey which covers navigation, and this does it. This amendment itself does not add anything to it. Besides that, this comes up in other cases. On page 51 there is an item, "Saugatuck Harbor, Mich., with a view of determining what additional works are necessary or desirable to maintain the channel of existing project." On the same theory that could be amended, and so on all through the bill. We have used the proper language that ought to be used in all these projects, and we are opposed to any amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi.

The question was taken; and on a division (demanded by Mr. COLLIER) there were—ayes 23, noes 37.

So the amendment was rejected.

Mr. McKELLAR. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by adding the following after line 9 on page 50: "Memphis Harbor, with a view to the preservation of the channel between President Island and the Tennessee shore, and the preservation of the banks on the Tennessee side in Memphis Harbor.

"Also for the preservation and perfection of the channel and banks of the Wolf River within said harbor."

Mr. McKELLAR. Mr. Chairman, on Saturday I offered an amendment to the bill seeking to have the Government aid in protecting the city of Memphis from flood waters which do not belong to her, but are the results of the building of levees on the river generally. In opposing this amendment my distinguished and delightful friend from Mississippi [Mr. HUMPHREYS] and a member of the committee, claimed I was simply for a private gas and water plant in Memphis and further says:

It is a spirit of unfairness, and it is an ungenerous spirit of the people of the city of Memphis, that sits on a high hill surrounded by these deltas from which it draws its trade and its prosperity, and for the upkeep of the levees which protect them she pays not one nickel in taxes. * * * In order to help the city of Memphis, where the assessed taxed value of property exceeds the assessed value of the property in all those deltas combined in order to help that city to protect her gas plant or water works.

Mr. Chairman, this is a very ungenerous and unfair statement. I am going to read from the report of the Mississippi River Commission, which shows how greatly mistaken our friend and neighbor from Mississippi is. There were 170 acres of our city overflowed in the last high waters, according to this report. In this overflowed district are situated dwellings, stores, churches, schools, railroads, street-car lines, jail, gas plant, manufacturing establishments, and a part of the city water supply plant. I further quote from the report:

The character of the pecuniary damages in this area is that due to the submergence of stores, dwellings, churches, schools, jail, etc., which was so extensive that the water reached well up into the first story of these buildings; that of the street-car lines resulting in a loss of revenue; of railroads necessitating the detour over other tracks; of the city gas plant and the discontinuance of the city gas supply; of the city pumping station; of many industrial manufacturing establishments' plants; and a part of the municipal water supply, including its contamination by surface-water sewage.

The estimate of the damages was fixed by the commission at over $1,200,000.

Mr. Chairman, I think that shows that my friend from Mississippi was entirely in error about the facts which urged me to propose that amendment. Talk about being unfair and ungenerous. I think he is unfair and ungenerous on another proposition. While I ask for aid in protecting the city of Memphis from these flood waters, over which it has no control, and for which it has no responsibility, the little city of Greenville, from which my distinguished friend comes, just below us on this river, is year by year receiving large sums from the Government for just such protection as the city of Memphis now asks. But my friend says that we pay no taxes. I want to say to him that the city of Memphis pays more direct taxes to the Government than his entire State does. From the post office in the city of Memphis alone the Federal Government receives annually a net amount of over $400,000, and from the internal revenue another large amount, making the city contribute more than half a million dollars of net income to the Government.

For the past 15 years the city of Memphis has not received any benefits for its harbor except, as I want to say to my distinguished friend from Indiana [Mr. CULLOP], who has just been discussing railroads and their relation to harbor improvements, such as were given by the Mississippi River Commission apparently for the purpose of aiding a railroad crossing there at that city. In this connection I quote as follows from the report of the Mississippi River Commission, 1908, volume 3, pages 2644 and 2645:

During the high water of 1907 the bank behind the Rock Island Railway incline began to cave very rapidly, and by the end of the high water a pocket about 875 by 200 feet had been eroded. This erosion did not extend below low water over a great portion of the pocket, and thus made the repair work very difficult, because the water was too shallow to permit satisfactory pocket mat work, and the wide flank bank exposed when the water was 6 feet on the Memphis gauge had to be paved with stone. This pocket was completely protected, and the high waters of the present season do not seem to have affected it materially.

There are a good many places along this revetment that need repair. These are practically all of them just above the low-water line, and can only be reached when the river is at a very low stage. It is proposed to repair these during the coming season if the stage of water permits.

And also:

The Rock Island Railway Co. has abandoned its incline in Wolf River and is now operating one on the main bank of the Mississippi, thus removing one of the chief reasons for dredging. No work is contemplated at this point during the coming year.

The work on either side of the river where the Rock Island Railroad Co. transfers its cars over the river seems to be the only work which has been done by the commission in the Memphis Harbor in many years. If there was any object other than aiding the railroad company in preserving its west terminus, it does not appear in this report.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. McKELLAR. Mr. Chairman, I ask that this amendment for a survey be adopted by the committee.

Mr. BURGESS. Mr. Chairman, I want to call the gentleman's attention to the fact that he is already given ample authority in the bill. If he will turn back to page 36 he will find the following provision:

Improving Mississippi River from Head of Passes to the mouth of the Ohio River, including salaries, clerical, office, traveling, and miscellaneous expenses of the Mississippi River Commission: Continuing improvement with a view to securing a permanent channel depth of 9 feet, $6,000,000, which sum shall be expended under the direction of the Secretary of War in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for the general improvement of the river, for the building of levees between the Head of Passes and Cape Girardeau, Mo., and for surveys, including the survey from the Head of Passes to the headwaters of the river, in such manner as in their opinion shall best improve navigation and promote the interests of commerce at all stages of the river.

Mr. McKELLAR. Mr. Chairman, may I ask the gentleman, Is it not a fact that that same provision has been in all these river and harbor bills for many years, and is it not a fact that no survey has been made of the Memphis Harbor during that time?

Mr. BURGESS. I do not know about that, but it is a fact that we make none in this bill. The gentleman is the first man who has offered an amendment here directly for a survey of the Mississippi River.

Mr. MANN. Mr. Chairman, will the gentleman from Texas yield for a question?

Mr. BURGESS. Yes.

Mr. MANN. Is it not also a fact that since this provision appeared in the river and harbor bills for many years there never has been a special provision for the survey of any harbor on the Mississippi between these points?

Mr. BURGESS. That is a fact. That is what I am telling the gentleman.

Mr. McKELLAR. Mr. Chairman, on line 7, page 50, is there not a provision for the canal leading from Centennial Lake at Vicksburg, Miss., to the Mississippi River, and is not that a part of the harbor?

Mr. BURGESS. Oh, no; that is a canal cut by the Government.

Mr. McKELLAR. This on the Wolf River, or a part of it?

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I will state to the gentleman that that part of the Wolf River is under the jurisdiction of the Mississippi River Commission, and all funds that have been devoted to its improvement are taken from the funds carried for the Mississippi River Commission, but that is not the case with Centennial Lake Canal.

Mr. McKELLAR. It is connected with it just as the Wolf River is connected with the Mississippi.

Mr. HUMPHREYS of Mississippi. But this canal is not within the jurisdiction of the Mississippi River Commission, for the good and sufficient reason that the law has never put it under its jurisdiction.

Mr. McKELLAR. Is there anything that put the Wolf River under the Mississippi River Commission?

Mr. HUMPHREYS of Mississippi. Yes; it is one of the waters connected with it. I will state to the gentleman that when I was young in the service here I made a very desperate effort to have the $25,000 that was called for for the Wolf River appropriated as a separate item, so that it would not come out of the Mississippi River Commission fund, but I was unsuccessful, because they said, "We will make a lump-sum appropriation for the Mississippi River, and all of you will take your chances."

Mr. McKELLAR. That is a chance I have not been able to get from the commission, and I want to get it at the hands of the House if I can.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Tennessee.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Mouth of Brazos River up to Freeport, Tex., with a view to securing a depth of 25 feet.

Mr. BURGESS. Mr. Chairman, I desire to offer a committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 50, between lines 12 and 13, by inserting the following: "Channel at Seadrift, Tex., with a view of providing a suitable connection with the Texas coast waterway."

Mr. BURGESS. Mr. Chairman, I move the adoption of the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Little Calumet River, Ill. and Ind., from the junction up to Blue Island.

Mr. SPARKMAN. Mr. Chairman, I desire to offer a committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 51, between lines 21 and 22, insert the following: "Missouri River at Kansas City, Kans.: The provision of the river and harbor act approved July 25, 1912, authorizing preliminary examination and survey of the Missouri River from the mouth of the Kansas River to a point at or near the western limit of Kansas City, Kans., is hereby amended and reenacted so as to read as follows: 'Missouri River from the mouth of the Kansas River to a point at or near where the west line of Kansas City, Kans., extended intersects the Missouri River.'"

Mr. MANN. Mr. Chairman, I notice in that amendment and in several places in the bill it provides that certain provisions are hereby amended and reenacted. We have invariably in the House stricken out the provision "and reenacted." It is contrary to the statutes, to begin with, and is not required, because when you amend a proposition to read as follows that is all that is necessary. That is the practice, and I hope the gentleman will be willing to strike out the words "and reenacted."

Mr. SPARKMAN. I have no objection to that, and will so move.

The CHAIRMAN. Without objection, the amendment will be so modified. [After a pause.] The Chair hears no objection.

The question was taken, and the amendment as modified was agreed to.

The Clerk read as follows:

Stillaguamish River, Wash.

Mr. SPARKMAN. Mr. Chairman, I offer the following committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 52, between lines 13 and 14, insert the following: "Coeur d'Alene River, Idaho."

The question was taken, and the amendment was agreed to.

Mr. HAMILL. Mr. Chairman, I ask unanimous consent to recur to an earlier part of the bill in order to present an amendment, and I thought that this was the most opportune time in which to do it before we begin on section 3.

Mr. MANN. The gentleman knows there are several pages of the bill which have been passed over which will have to be recurred to.

Mr. HAMILL. I did not know that, and I withdraw the request for unanimous consent at this time.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. McKELLAR having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, and had still further insisted upon its disagreement to

the amendment of the House, had asked a further conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. LODGE, Mr. DILLINGHAM, and Mr. PERCY as the conferees on the part of the Senate.

RIVER AND HARBOR APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

(a) The existence and establishment of both private and public terminal and transfer facilities contiguous to the navigable water proposed to be improved, and, if water terminals have been constructed, the general location, description, and use made of the same, with an opinion as to their adequacy and efficiency, whether private or public. If no public terminals have been constructed, or if they are inadequate in number, there shall be included in the report an opinion in general terms as to the necessity, number, and appropriate location of the same, and also the necessary relations of such proposed terminals to the development of commerce.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee a question. I would like to have the attention of the chairman for a moment. Does not the gentleman think, in view of this provision in the bill, that there ought to be a limitation placed upon the appropriations in this bill with reference to the expenditure in these harbors where the docks and piers are owned by private corporations and controlled, withholding it until some remedy is made admitting free use of them? If the public expends the money to improve a property, the public should have the free use of the property. Now, I have just one instance in my mind. In regard to one of the Pacific steamship companies the testimony showed about a year ago before the Committee on Interstate and Foreign Commerce that they had to pay $125,000 a year to one of the dock owners in New York for permission to land their ships, load and unload their cargoes, and that that had been going on for quite a while. Now, is it right to use the public money to improve property over which private dominion is exercised in that manner, making it an obstacle to the commerce of this country, and in view of that ought there not to be a limitation added to this bill withholding the expenditure for any improvement until there is a surrender of this private monopoly to public use? I ask the chairman of the committee for his idea upon that proposition.

Mr. SPARKMAN. I would say no. I do not think that an amendment like that or a provision like that should be inserted in this bill.

I will say to the gentleman and to the House that I have had that matter under consideration now for some little time, and, in order to get information upon which we could legislate intelligently, we inserted in the last river and harbor bill a provision which is like that which has just been read. The effort here is to reenact that provision for the purpose of making the provision general, it having applied by its terms only to the act of the last Congress. When we get all this information in, and not before, we will be in a position to legislate intelligently. Otherwise we might do a great injustice at some place if we went at it blindly. If we should insert a provision like that which the gentleman suggests, it would have to be a general provision applying to every harbor in the country, and in some of them injustice might be done. In fact, we might do injustice to all the harbors. But when we get this provision in and know just what we are doing, I for one propose to try to draft some provision, some law, which will reach the trouble that the gentleman is trying to reach or suggesting that we put something in here to reach.

Mr. CULLOP. The gentleman admits that the trouble exists?

Mr. SPARKMAN. Oh, yes; I admit that.

Mr. CULLOP. And it is a serious trouble and one contrary to sound public policy.

Now, I desire to deny the proposition that the gentleman makes, that such a limitation would withhold the appropriation for every harbor included in the bill. It would, if all of these harbors were in this combine, for it is one of the greatest trusts in this country. If they were not, that fact could be very easily shown to the War Department, and the improvement of every harbor not under that restriction would go on without interference.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CULLOP. May I have five minutes more?

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. CULLOP. Now, while that situation exists, certainly the money of the Public Treasury ought not to be taken to improve private property, and consequently a showing should be made to the War Department by such a limitation as I have suggested being incorporated in the bill, that this or that particular harbor was not thus controlled, and the improvement would go on. That showing could be made, I say, and it would not withhold a single cent of the appropriation for the harbor that was free. But where the harbor and the landing facilities, the wharfage facilities, the dockage facilities, are absolutely controlled, as they are in a number of instances in the most important points of commerce in this country, some limitation ought to be made by which they would surrender this monopoly, which is unjust to the American people.

At this time it is a barrier against commerce and a detriment to the trade of this country. There are places now that the Government is appropriating money to improve where a vessel not controlled by one of these numerous corporations can not land or load or unload a single pound of freight.

Mr. SPARKMAN. Could the gentleman state just what harbor is in his mind now?

Mr. CULLOP. I have in mind the harbor at Baltimore, and in part the harbor at Philadelphia, and in a large measure the harbor at New York; a number of them.

Mr. SPARKMAN. I think the gentleman is mistaken.

Mr. CULLOP. Oh, I have heard testimony before my committee to the effect that no vessel not controlled or operated by the Pennsylvania Railroad Co. has any place in the city of Baltimore where it could load or unload, because the Pennsylvania Railroad Co. controlled the frontage and the dockage, and therefore had possession of the trade and the commerce coming from the high seas into that port. It was within the control of that one company to dominate the use of the docks and wharves there.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. CULLOP. Yes.

Mr. MADDEN. Does the gentleman contend that dockage along public waterways ought not to be owned by private individuals?

Mr. CULLOP. They ought not to be owned and controlled so as to shut out commerce. A rental may be proper, but as long as they are owned and controlled in the interests of some single shipping line that is an absolute detriment to the commerce of the country and a hardship upon the people.

Mr. MADDEN. Suppose, for example, the gentleman owned 25 ships, and these ships were sailing into the various ports, does the gentleman contend it would not be altogether proper for him to own his own docks into which these ships could come, and that these ships owned by him should have exclusive right to come into the docks owned by him?

Mr. CULLOP. As a selfish proposition I might claim it, but as a public proposition I have no right to claim it, and I or any other person ought not to be permitted to do so.

Mr. MADDEN. Does the gentleman contend, then, that the municipalities within which the harbors exist should buy all the property used for dockage purposes?

Mr. CULLOP. Not necessarily that; but the municipality in which the docking exists ought to have municipal regulations by which there would be a free interchange of commerce, and that no one line or no one company should absolutely dominate the landing, the loading, and the unloading of the commerce that comes to that port.

Mr. MADDEN. Does the gentleman contend that if he owned a lot, and wished to build a house on that lot, that I would have the right to build a house on the lot and use it when I pleased?

Mr. CULLOP. Oh, that is a different proposition. No individual owns the streams or waterways in this country. Public policy would forbid it.

Mr. MADDEN. Nobody owns the streets.

Mr. CULLOP. No; and you could not build a house in the street. And no man has a right to build the dockages on the banks of either ocean or river to exclude the right or the free exercise of the uses of the port.

Mr. MADDEN. Then I want to say to the gentleman that if his contention were to be exercised as a fact there would be no commerce coming into any State of the Union.

Mr. CULLOP. I beg the gentleman's pardon. There would be more than double the tonnage the first year you turned them over to public use coming into the ports of this country. To-day you are turning it away from these ports by permitting this monopoly to exist, and the people are suffering on account of it.

The improvement of our rivers and harbors, I admit, is a matter of vast public importance. It affects the commerce of the entire population in the country and involves more or less the prosperity of the whole people, but around every appropriation should be strict limitations, in order that it may be expended for public benefit and not in aid of private enterprise. Unless such restrictions are employed for the protection of the public it will inure to the purpose of assisting private enterprise. The control of the dockage facilities in our larger coast points constitutes to-day an aggravated monopoly, which harasses commerce and unjustly burdens the producing and consuming public. Private enterprise owning and controlling these facilities have employed them to create and serve monopoly, and thereby restrict the commerce of our country instead of enlarging it. By it traffic on our waterways is restricted and high rates maintained, which affect injuriously every department of business and retard the development of our resources. Our natural highways should remain free and open to the public, and every attempt to monopolize them should be resented. It matters not under whatever guise it may be presented. Relieve these from the control which now dominate them and open them up to the public, that the commerce of the country may enjoy their unobstructed use, and the people have the benefit therefrom and a prosperous condition will result.

The Clerk read as follows:

SEC. 4. That all reports on examinations and surveys authorized by law shall be reviewed by the Board of Engineers for Rivers and Harbors as provided for in section 3 of the river and harbor act approved June 13, 1902, and all special reports ordered by Congress shall, in the discretion of the Chief of Engineers, be reviewed in like manner by said board; and the said board shall also, on request by resolution of the Committee on Commerce of the Senate or the Committee on Rivers and Harbors of the House of Representatives, submitted to the Chief of Engineers, examine and review the report of any examination or survey made pursuant to any act or resolution of Congress, and report thereon through the Chief of Engineers, United States Army, who shall submit his conclusions thereon as in other cases: *Provided*, That in no case shall the board, in its report thus called for by committee resolution, extend the scope of the project contemplated in the original report upon which its examination and review has been requested, or in the provision of law authorizing the original examination or survey: *Provided further*, That said board shall consist of seven members, a majority of whom shall be of rank not less than lieutenant colonel.

Mr. MOORE of Pennsylvania. Mr. Chairman——

Mr. MANN. Mr. Chairman, I reserve a point of order upon the last proviso.

Mr. MOORE of Pennsylvania. Mr. Chairman, I call attention to the fact that the word "be" is omitted before the word "submitted," on line 5, page 55.

Mr. HUMPHREYS of Mississippi. What page?

Mr. MOORE of Pennsylvania. Page 55, line 5. It reads:

And the said board shall also, on request by resolution of the Committee on Commerce of the Senate or the Committee on Rivers and Harbors of the House of Representatives, submitted—

It should read "be submitted," as the Clerk read. Is the word "be" to be in there?

Mr. SPARKMAN. I think the word "be" should be in there, but it was accidentally omitted.

Mr. MOORE of Pennsylvania. I merely submit it to the committee. I do not know whether it ought to be in there or not.

Mr. MANN. Mr. Chairman, I reserve a point of order upon the last proviso, section 4. May I ask the gentleman, as I understand the law now, this board must consist of not less than five or more than nine, leaving it to the Chief Engineer to determine how many of the members shall be on the board, and as a matter of fact the board does not vary. This provision provides seven, the majority of whom shall not be of less rank than lieutenant colonel. How many lieutenant colonels are there in the Engineer Corps?

Mr. SPARKMAN. They have nine division engineers, and I think they are of the grade of lieutenant colonels or colonels.

Mr. MANN. How many of this board now are lieutenant colonels?

Mr. SPARKMAN. I think there are only two lieutenant colonels—maybe three.

Mr. MANN. It looks to me, unless the committee is fully informed on the subject, that they are likely to be embarrassed.

Mr. BURGESS. The report of the majority of them was in the last bill.

Mr. HUMPHREYS of Mississippi. My understanding is there are six altogether on the commission, four of whom are lieutenant colonels.

Mr. MANN. Does it require the majority of them shall be lieutenant colonels?

Mr. SPARKMAN. That is what I am basing my judgment on, because the last law provides that the majority of them shall be of not less rank than lieutenant colonel.

Mr. MANN. That is the law passed at last session?

Mr. BURGESS. The law of 1912 reads:

And provided further, That the majority of said board shall be of rank not less than lieutenant colonel.

Mr. MANN. How does that work? It has not worked well so far.

Mr. SPARKMAN. In what respect has it worked badly?

Mr. MANN. If it has worked well, why do you want to change it?

Mr. BURGESS. We do not want to change it.

Mr. MANN. Oh, yes.

Mr. BURGESS. The language is just the same.

Mr. MANN. You change this feature of the law, which I assume is an evidence that it has not worked well.

Mr. SPARKMAN. No.

Mr. MANN. If it has worked well, then I shall insist on the point of order against changing it.

Mr. HUMPHREYS of Mississippi. The reason is not that it has not worked well, but that it might work ill in the future, because it might be possible to increase the board to nine on one particular project. For instance, where six were unable to agree, it might be possible to increase the number to nine, and thereby get a verdict.

Mr. MANN. On the other hand, it seems to me that there may be some project, not of great importance, which may properly be submitted to 5 members, and there might be some other project, like the intercoastal proposition or the Chicago-Gulf proposition, or something of that sort, where they would want the opinion not only of 9, but perhaps of 19.

Mr. HUMPHREYS of Mississippi. The gentleman can understand, of course, how very severe criticism could be made upon the board of engineers where a project was reported unfavorably by nine, and the board was immediately reduced in number to five, six, or seven. I know the gentleman can draw upon his imagination and see certain gentlemen arising here and claiming that the board had been stacked against a particular project.

Mr. MANN. I think I have quite a vivid imagination at times, but that goes beyond my imagination; not beyond my imagining somebody criticizing it, because during this debate I have heard gentlemen severely criticize the Engineer Corps, although I am sure that it was rather in a facetious than a serious manner, for I think no one who is familiar with that corps really criticizes their judgment or their honesty.

Mr. HUMPHREYS of Mississippi. I agree to that absolutely. Nobody familiar with the corps would criticize them.

Mr. MANN. I have some doubt about this paragraph, but I withdraw the point of order. I question the desirability of it.

The CHAIRMAN. The point of order is withdrawn. The Clerk will read.

The Clerk read as follows:

SEC. 5. That section 5 of the river and harbor act approved July 25, 1912, be, and the same is hereby, amended and reenacted so as to read as follows:

"SEC. 5. That the Secretary of War is authorized and directed to have prepared and transmitted to Congress at the earliest practicable date a compilation of preliminary examinations, surveys, and appropriations for works of river and harbor improvement similar in general form and subject matter to that which was prepared in accordance with the act of June 13, 1902, and printed in House Document No. 421, Fifty-seventh Congress, second session: *Provided*, That the report to be prepared in accordance with this provision shall be a revised edition of the report printed in the document above mentioned, extended to the end of the Sixty-second Congress."

Mr. MANN. Is not the chairman of the committee willing to move to strike out the words "and reenacted," in line 20, page 55?

Mr. SPARKMAN. Yes; I move that the words "and reenacted," in line 20, page 55, be stricken out.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 55, line 20, amend by striking out the words "and reenacted."

The amendment was agreed to.

The Clerk read as follows:

SEC. 6. That the first paragraph of section 6 of the river and harbor act approved July 25, 1912, be, and the same is hereby, amended and reenacted so as to read as follows:

"SEC. 6. That there shall be printed 3,000 copies of a revised edition of the laws of the United States relating to the improvement of rivers and harbors passed between and including August 11, 1790, and the close of the third session of the Sixty-second Congress, of which 600 copies shall be for the use of the Senate, 1,400 copies for the use of the House, and 1,000 copies for the use of the War Department. Said compilation shall be printed under the direction of the Secretary of War."

Mr. SPARKMAN. I move to strike out the words "and reenacted" in line 13, page 56.

The CHAIRMAN. The gentleman from Florida offers an amendment which the Clerk will report.

The Clerk read as follows:

On page 56, in line 13, strike out the words "and reenacted."

The amendment was agreed to.

The Clerk read as follows:

SEC. 11. That the President of the United States is hereby authorized to designate any officer of the Corps of Engineers, United States Army, whose assignment of duty relates to harbor work in, or in the neighborhood of, New York Harbor, to act as a member of the New Jersey and New York Joint Harbor Line Commission, constituted by authority of the Legislatures of the States of New Jersey and New York: *Provided*, That no expense shall be incurred by the United States by reason of such designation, except the usual and necessary travel

expenses of the officer so designated between his station and the place of meeting of the commission: *And provided further*, That the officer so designated shall perform his duties as member of the commission without interference with his regular duties, and that he shall receive no additional compensation from any source on account of his service on such commission except such reimbursement of his expenses for other travel with the commission as may be provided by the States aforesaid.

Mr. MANN. Mr. Chairman, I reserve a point of order on that section.

Mr. FOWLER. Mr. Chairman, I desire to offer an amendment.

Mr. MANN. Does my colleague's amendment relate to this section or is it a separate paragraph?

Mr. FOWLER. It is a separate paragraph.

Mr. MANN. That is what I supposed. I reserve a point of order on the section read.

Mr. Chairman, legislation is a very peculiar thing. I waited until this section had been read. No one offered to strike it out; no one offered to amend it. It contains this provision with reference to the President being authorized to designate an officer of the Engineer Corps in relation to the New York Joint Harbor Lines Commission:

That the officer so designated shall perform his duties as member of the commission without interference with his regular duties, and that he shall receive no additional compensation from any source on account of his service on such commission except such reimbursement of his expenses for other travel with the commission as may be provided by the States aforesaid.

This was about to be agreed to by unanimous consent, having passed through one of the ablest committees of this House, and was about to pass the House without any question. Only within a week this House agreed to an amendment inserted by the Senate in a House joint resolution on this same subject, giving the President the same power named in this section, and this joint resolution, which has now gone to the President for his signature, contains this language, which was also agreed to by unanimous consent:

And the officer designated may receive such compensation for his services on said commission as may be provided by the States aforesaid.

One day we pass a joint resolution authorizing the President to designate an engineer officer to serve on a joint commission and authorize him to receive additional compensation. That is passed by unanimous consent. The next day we pass the same thing and provide that he shall not receive additional compensation, and that is passed by unanimous consent.

Mr. DAVIDSON. The mistake was in passing the first one.

Mr. MANN. This matter has already passed both Houses and gone to the President for his signature, and it seems to me it would somewhat complicate matters to pass a resolution one day stating that the authorities should be given an officer who shall receive additional compensation and the next that he shall not receive any additional compensation. I make the point of order.

Mr. MONDELL. Will the gentleman yield?

Mr. MANN. Yes.

Mr. MONDELL. Does the gentleman realize that it has been pretty well demonstrated that it is impossible to change a line of this bill and that Members have got discouraged?

Mr. MANN. Well, the gentleman will see it done now.

Mr. MONDELL. By the masterly hand of the gentleman from Illinois.

Mr. HUMPHREYS of Mississippi. There is no trouble when you know how.

Mr. MANN. I am not criticizing the Committee on Rivers and Harbors, I am only calling attention to this legislation to show its peculiarities.

Mr. SPARKMAN. Mr. Chairman, there are many things that go through this House that I know nothing about. I am sorry to make the admission, but it is true. This bill was reported before the provision had passed to which the gentleman from Illinois has just referred.

Mr. MANN. On the contrary, if the gentleman will pardon me, the House joint resolution passed the House on August 19, 1912. It passed the Senate only a few days ago, and the House within a week agreed to the Senate amendment, which consisted in striking out the preamble. I will state frankly to the gentleman from Florida that I think the provision in the bill is better than the provision in the joint resolution.

Mr. SPARKMAN. Mr. Chairman, I have no objection to the provision going out.

The CHAIRMAN. The point of order is sustained.

Mr. FOWLER. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend, page 59, after line 13, by adding the following as a separate paragraph:

"Improvement of the Wabash River and Little Wabash River, Ill., $200,000, for the purpose of deepening and widening the channel of said rivers."

The CHAIRMAN. Is this a new paragraph?

Mr. FOWLER. It was intended to follow the section that has gone out, but inasmuch as it has gone out I offer it as a separate paragraph after section 10.

Mr. Chairman, I am aware of the fact that a commission some two years ago was appointed for the purpose of surveying the Wabash River and for the purpose of determining the advisability of improving it on an extensive scale. I am also aware of the fact that there was a provision in the bill during the last session of Congress for the purpose of surveying the Little Wabash River. The survey which was ordered two years ago for the Wabash has not yet been made by the engineers, and the survey on the Little Wabash ordered during the last session of Congress to a certain extent has been made. I have not been able to see it, for it has been so recent.

But, Mr. Chairman, in view of the great amount of territory which would receive the benefit from the improvements of the Wabash and the Little Wabash Rivers, I think that this sum of money ought to be appropriated for the purpose of giving relief. These great waterways drain half of two States. In fact, they run through a territory which is second to none in the world in productivity. It is one of the finest corn belts that is known to man, and some of the finest corn in the world is produced in that section of the country. Indeed, Mr. Chairman, there are ears of corn which grow in that belt 15 inches long, and will compare favorably in size to that of any other corn in the world. That being the case, Mr. Chairman, I insist that this committee ought to give some attention to the improvement of these great waterways.

I say this, Mr. Chairman, in all earnestness. I do not know whether my remarks will appeal to this committee with any degree of consistency or not. I am aware that the committee is a close corporation, and I know that it is the history of legislation during my short period in Congress that it is done by committees and not by Congress, as a rule. These committees are governed largely by the reports of heads of departments, and whatever may be done here, it must first get the brand of approval from a department before any action will be taken by the committee.

And once the report of a committee is filed, once a bill is brought in the House by a committee, an amendment offered to it upon the floor of the House for the purpose of getting meritorious relief to a worthy project is regarded as a most rebellious deed on the part of the little fellow who comes from a country district. I am aware, Mr. Chairman, of the fact that daggers for this amendment are held by the members of this committee, that they are thick in this House, ready to stab it to death as soon as it may be put to a vote. I know that the itching palm of every one of the members of this committee is not only eager to close its grasp upon the handle of the dagger, but just as soon as the amendment is put to a vote by the Chair up will rise as many daggers in the air as there are members of this committee, and at the same time the fatal, deadly blow will be struck, and what Julius Cæsar received at the hands of Cassius and his coconspirators will be nothing but flesh-wounds as compared with the bloody butchery which you have planned for this innocent but meritorious amendment. [Laughter and applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was rejected.

By unanimous consent, Mr. FOWLER was granted leave to extend his remarks in the RECORD.

Mr. HAMILL. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

Mr. MOORE of Pennsylvania. Mr. Chairman, a parliamentary inquiry. Is it proper to proceed now with amendments as offered or to revert to the matters left over?

Mr. HAMILL. Mr. Chairman, it is my intention to submit a request for unanimous consent.

The CHAIRMAN. The Chair takes it that it is in order to proceed to the consideration of any independent section.

Mr. HAMILL. Mr. Chairman, it is always in order to ask unanimous consent, and it is for unanimous consent I now ask to return to page 5, line 17 of the bill, and to present the amendment which I have sent to the desk.

The CHAIRMAN. The gentleman from New Jersey asks unanimous consent to return to the page indicated. Is there objection?

Mr. CALLAWAY. Mr. Chairman, I object, for the reason that I want to offer an amendment. I will reserve the right to object and state that I want to offer an amendment at the conclusion of the bill. If I will not lose my rights by the House going back to some other part of the bill, I shall not object, but I want to offer an amendment at the conclusion of the bill.

The CHAIRMAN. The Chair thinks now is the time to do that.

Mr. CALLAWAY. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. Does the gentleman object to the request of the gentleman from New Jersey?

Mr. CALLAWAY. For the time being. I do not want to lose any of my rights. I offer the amendment which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Amend by striking out the period after the last word of the bill, inserting a colon, and add:

"*Provided further*, That no part of the appropriations in this bill shall be used for any purpose whatsoever except for maintenance of existing projects."

Mr. CALLAWAY. Mr. Chairman, I see from this report that it will take only $2,222,650 to maintain all of the projects that we now have. The Democratic Party came in preaching economy. This Congress, if it keeps on at the rate it is going, will expend more money than any previous Congress. By adopting this amendment we can cut out over $38,000,000 on this particular bill, and that will be a proof to the people of this country that we mean what we say. It will be in accordance with genuine statesmanship; it will be a genuine economy. There has been no showing on this floor by anyone, not even a contention, that a dollar of the new expenditure provided in this bill is an investment that would be worth anything to the Nation or that could be expected to produce a return on the investment. This is not doing away with or letting go down a single project that we have, though we have wasted millions of money. We ought here and now to adopt a different policy from that we have been following under the Republican lead. We as Democrats ought to expend the public money only when there is a showing by the committee that the investment is such an investment as a reasonable man in the conduct of his own business would make and not simply a pork-barrel proposition handed out to different men in different sections of the country to get them to come in and support a raid on the Treasury which is absolutely indefensible.

Mr. ALLEN. Will the gentleman yield?

Mr. CALLAWAY. Yes.

Mr. ALLEN. Would it be the gentleman's idea it would be economical now to discontinue a project, for instance, the improvement of a river that is to be improved, say, with 20 dams, 10 of which have been built and 10 remaining, not to provide anything for the remaining construction?

Mr. CALLAWAY. It would be unless there is a showing by the committee or some member of the committee or somebody in a report or somewhere or somehow that it is a good proposition for the Government to go on and conclude. There has been no statement or showing here of a single project that we are now working on or beginning. It looks reasonable to me that we should keep what we have, protect what we have completed, and let it add as much to commerce as it will, but until there is some conclusive showing that it is right and proper and economical and a good investment to spend more money I would not go further. I would cut this pork-barrel business out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken, and the amendment was rejected.

Mr. HAMILL. Mr. Chairman, I now ask unanimous consent to take up the amendment I send to the Clerk's desk.

The CHAIRMAN. The gentleman from New Jersey asks unanimous consent to return to——

Mr. SPARKMAN. Mr. Chairman, reserving the right to object, I would like to hear some explanation of what the gentleman's amendment proposed to do.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

After line 17, on page 5, insert as a new paragraph the following:

"Improvement of the Hudson (North) River channels of the harbor of New York, N. Y., in accordance with the report submitted in House Document No. 719, Sixty-second Congress, second session, $200,000: *Provided*, That the Secretary of War may enter into a contract or contracts for such materials and work as may be necessary to complete the said project, to be paid for as appropriations may from time to time be made by law not to exceed in the aggregate $1,370,000, exclusive of the amounts herein and heretofore appropriated."

Mr. EDWARDS. Mr. Chairman, I object.

Mr. HAMILL. Will the gentleman withhold his objection until I can explain the amendment?

Mr. EDWARDS. It will be useless to do so. I will finally object.

The CHAIRMAN. Objection is made.

Mr. EDWARDS. I will reserve the right to object if the chairman [Mr. SPARKMAN] wishes it.

The CHAIRMAN. Does the gentleman reserve the right to object, or does he object now?

Mr. EDWARDS. I reserve the right to object temporarily.

Mr. HAMILL. Mr. Chairman, I do hope this amendment will carry, because it contains a very worthy legislative proposition. The improvement which my amendment contemplates is the dredging and deepening of the westerly side of the Hudson River, in front of Jersey City and of Hoboken and several municipalities north of it. In conjunction with my colleague from New Jersey [Mr. KINKEAD] I introduced a bill on this subject at the beginning of the present session.

The facts are these: This amendment contemplates an improvement by dredging from Cummunipaw to Fort Lee, a distance of about 11 miles, making available for several miles shore front suitable for the erection of docks and piers to accommodate the shipping now crying for accommodations at this port. This improvement is right opposite Manhattan and at the point where the seven great trunk lines have their terminals. Freight and the commerce of the Nation can be handled much more cheaply and readily than anywhere else in this great port—the greatest on earth—for the reason that the goods are on their way either to Europe or other ports of the world; and if it is merchandise arriving, it is on its way for distribution anywhere in the United States from cars to steamships and directly from steamships to cars.

This development will have a great tendency to wipe out this lighterage charge of 60 cents per ton on every carload of freight coming to New York, which would benefit every agriculturist and manufacturer whose products would come to or be shipped through New York.

The benefits to be derived are continent wide.

This particular area of water front, which can be made so much more valuable to all the people of the United States, has never had one dollar of Government money, except away back in 1875, when $25,000 was voted to take out a shoal in front of Jersey City.

Going back and looking over the appropriations of the rivers and harbors for the last 30 years, New York (and this is a part of New York Harbor) has never had anything like its fair share of such moneys, especially when you take into consideration its towering importance as a port.

Since the Government was established (see Doc. No. 382, 62d Cong., 2d sess.)—

New York Harbor has had	$6,979,622.14
Boston Harbor has had	10,402,087.45
Charleston Harbor has had	4,925,191.67
Savannah Harbor has had	8,443,703.28
St. Johns River, Fla., has had	4,813,003.75
Mobile Bay and Harbor has had	5,870,052.48
Galveston Harbor has had	9,416,934.72
Cleveland Harbor has had	6,659,618.31
Detroit River has had	9,700,283.05
Oakland Harbor, Cal., has had	3,476,769.60
San Pedro Harbor has had	2,784,492.20

The port of New York collects about a million dollars a day in duties, and so forth, which is more than all the other ports combined. In passengers and freight to and from other ports this holds good also, and to sum it all up it is the peerless and incomparable port of this country, and the only way to maintain it is to furnish the facilities that the great strides in shipping and business demand and must have.

I do believe that on grounds of national pride, as a matter of fact, on grounds of national interest, inasmuch as the receipts of New York Harbor are a great asset in the Treasury of the United States for the payment of the Nation's bills, this committee ought to adopt and this House ratify its action by incorporating my amendment in the bill under discussion and granting the sum of money provided in it. [Applause.]

Mr. SPARKMAN. I ask now that the committee go back to the items that have been passed.

The CHAIRMAN. Without objection, we will return to the items passed and not considered. The Clerk will report the first item, on page 9.

The Clerk read as follows:

Improving Woodbury Creek, N. J., in accordance with the report submitted in House Document No. 635, Sixty-second Congress, second session, and subject to the conditions set forth in said document, $8,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 10, line 3, by inserting: "Improving Frankford Creek, Philadelphia, $15,000."

Mr. MOORE of Pennsylvania. Mr. Chairman, the discussion on Frankford Creek the other day leads to the belief that the committee is willing to relent upon this proposition. The gentleman from Mississippi [Mr. HUMPHREYS], in discussing the matter with me on the floor on Saturday, indicated that it would be a waste of time to ask for a survey of Frankford Creek, in that it had already been surveyed and the merits of the propo-

sition were understood both by the engineers and by the committee.

Now, in view of the fact that the gentleman from Florida [Mr. SPARKMAN], chairman of the Committee on Rivers and Harbors, has indicated in answer to certain questions that there are many instances in which appropriations are made for the improvement of rivers that bisect cities, I think the time has come fairly and squarely to ask the committee to make the appropriation which the Government itself has asked, which is positively needful in this vicinity for the improvement of commerce.

Mr. MONDELL. Mr. Chairman, this bill is no more remarkable for many of the items that it contains than it is by reason of the fact that it does not contain items that it should contain. It is full of appropriations for lonesome harbors and way-back creeks, and here is a proposition having to do with the commerce of the American people as a whole, which ought to be in the bill and is not. The gentleman from New Jersey——

Mr. SPARKMAN. Mr. Chairman, the matter now being discussed by the gentleman is not before the House, and I make the point of order that he must confine himself to the amendment under consideration.

The CHAIRMAN. The gentleman from Florida [Mr. SPARKMAN] raises the point of order that the gentleman from Wyoming [Mr. MONDELL] is not confining himself to the amendment. The gentleman will proceed in order.

Mr. MONDELL. Mr. Chairman, the item which is offered by the gentleman from Pennsylvania [Mr. MOORE], like the amendment offered by the gentleman from New Jersey [Mr. HAMILL], has to do with the commerce of the American people. In the case of the New Jersey item it has been shown that 75,000,000 tons of commerce per annum pays a lighterage charge of at least 3 cents a hundred, or 60 cents a ton, because we refuse to appropriate a million or a million and a half to make it possible to unload the commerce of the country going west on the west bank rather than the east bank of the North or Hudson River. Millions of tons of freight going into the Mississippi River Valley and into the mountain States has for years paid these charges; the country in which I live every year pays a tribute to the lighterage business across this great river because, forsooth, this Congress can not expend the people's money for the people's business, but must expend it for the protection of private property along rivers, for the purpose of dredging out creeks upon which there never has been and never will be commerce, and for the purpose of improving alleged harbors that never have seen and never will see any considerable commerce.

If there has ever been an item offered to an appropriation bill of this character that ought to be adopted, it is the item offered by the gentleman from Pennsylvania [Mr. MOORE]; and the item offered by the gentleman from New Jersey [Mr. HAMILL] is quite as meritorious, if not more so.

Mr. SPARKMAN. I would like to ask the gentleman first if he has read the report on the item offered by the gentleman from Pennsylvania [Mr. MOORE].

Mr. MONDELL. I have not read all the reports on all of these items, but I do know a good deal about the item referred to by the gentleman from New Jersey [Mr. HAMILL], which the committee turned down, just as it will turn down the item offered by the gentleman from Pennsylvania [Mr. MOORE].

Mr. SPARKMAN. Has the gentleman read the report?

Mr. MONDELL. They all suffer the same treatment at the hands of the committee.

Mr. SPARKMAN. I would like to ask the gentleman if he has read the report on the item of the gentleman from New Jersey?

Mr. MONDELL. I do not know that I have read the report to which the gentleman refers.

Mr. SPARKMAN. The gentleman from New Jersey, I should say.

Mr. MONDELL. But it is quite enough for me to know——

Mr. SPARKMAN. That he offered it.

Mr. MONDELL. I do not have to read the engineers' reports in order to know that there are hundreds of millions of tons of freight unloaded on the east side of the Hudson River at the harbor of New York that ought to be unloaded on the west side, and if the chairman of this committee does not know that, there is a fundamental proposition in regard to river and harbor business that it would be well for him to become acquainted with, because everybody else knows about it. We are spending the people's money to dredge out "Way Back Creek," where there is no commerce, while refusing to spend money where it is needed for carrying the commerce of the American people.

Mr. Chairman, we are about to complete the consideration of this bill. During the debate I have made some observations in regard to some of these items. I desire that my position shall not be misunderstood. I am in favor of liberal river and harbor appropriations. I have always been of that mind, and what I have said has been for the purpose of calling attention to items which discredit this great work and render it difficult to secure appropriations for worthy objects. I am in position to be impartial in these matters. The people whom I represent are favorable to proper expenditures for these purposes, and yet we have no selfish interest in any item in the bill.

I desire to be fair and not overcritical, and yet I feel justified in saying that the committee has failed in its duty to the House and country in not printing its hearings and in not making a detailed report. The measly report of 10 pages conveys but little information, and if one wants to be informed they must search through numerous volumes of the reports of engineers, and then we would have only one side of the question and still lack the facts which can only be secured by reading the reports of the hearings. Is the committee afraid or only indifferent? Is the committee so sure of the votes secured by a system of judicious apportionment of benefits as to feel entirely independent of the views of Members?

I am in favor, as I have said, of liberal appropriations for rivers and harbors. Where there is commerce or commerce can be created I am not only favorable to improvements helpful to the general commerce of the country, but I do not object to those projects which only serve local interest if it is clear that the expenditure will in fact give facilities which will be utilized. I object to expenditures which can not and will not increase the water-borne commerce of the country or cheapen the cost of transportation to the people. That there are some items of that kind in this bill no one can deny; the only difference of opinion is as to the number of such items.

On the Mississippi we are spending vast sums on the theory, as stated by the gentleman from Louisiana, that the levees are an aid to navigation. The fact is they are of little, if any, aid, but so long as we build and maintain them on the theory they are we shall waste most of our money. I will join in a plan to make our expenditures on the Mississippi and Missouri really effective, but to do it we must first frankly acknowledge we are proposing to protect private property. My criticisms of this bill are in the hope that a system of false pretense and wasteful expenditure based on it may be abandoned for one of frankness and really helpful and useful expenditure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MOORE].

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. MOORE of Pennsylvania. A division, Mr. Chairman.

The committee divided; and there were—ayes 5, noes 58.

So the amendment was rejected.

Mr. CULLOP. Mr. Chairman, I desire to ask unanimous consent to extend my remarks by having published in the RECORD an article in the Outlook of January 25, 1913, in regard to New York Harbor.

The CHAIRMAN. Is there objection to the gentleman's request? Without objection, it will be so ordered.

There was no objection.

The article is as follows:

NEW YORK HARBOR.

Since 1767 the width of the Hudson River opposite New York City has ben narrowed nearly 50 per cent. This has all been done by successive encroachments of the pierhead line into the fairway. Every few years an agitation would spring up, and the shore would be built farther out into the river and the pierhead line advanced still farther until now the river is only 2,795 feet wide at its narrowest point, opposite Castle Point, Hoboken. This has several bad effects upon navigation.

First. It greatly increases the current at this point in the Hudson River itself and thus requires higher and more expensive power in the vessels navigating it, and it also makes navigation more difficult.

Second. Another bad effect is the crowding of traffic in the river. One hundred and twenty boats have been counted as passing this section in a single hour in the winter season when no excursion boats are running and when navigation in the upper Hudson is closed, so this probably represents a fair daily average.

Third. The obstruction caused by this narrowing of the Hudson at New York tends to reduce the ebb and flow of the tide throughout the length of the Hudson River, and, according to the engineers, is even now responsible for deterioration of navigable depth in the upper and middle Hudson.

The city of New York depends vitally upon the preservation of this great waterway. The commerce on this river, instead of decreasing, is rapidly increasing in size and number of vessels. Any material impairment of it will greatly tend to cripple the future commercial prosperity of the city.

The congestion of the water front of the city does not come from the demands of its ocean commerce, but from the demands made upon it by a species of traffic which has no business on the water front, namely, the use of the water front as distributing terminals for the New Jersey railways. These railway companies occupy, with their terminals, large sections on both sides of the river. Their tracks run down to the New Jersey shore, where their cars are put upon floats and carried across the river to the New York shore. There the bulk of the freight is broken and distributed into drays on the piers themselves and on West Street. This work of distribution is a work which does not need to be performed upon the water front; the freight thus distributed is not going abroad, but is being distributed—most of it—in New York City. If, instead of this wasteful method, these freight cars were either carried under the river by tunnels and then distributed by a marginal railway into terminal buildings for distribution into trucks, or even if they were carried across the river by floats to the terminus of such a distributing railway, 30 or 40 per cent of our Hudson River Manhattan water front would be released at once for its true function of serving as a terminus for ocean-going traffic.

The problem of the New York water front therefore is, in the first place, to restrict it as far as possible to its proper function of serving ocean traffic. It is a splendid water front, with deep water and an unsurpassed fairway, provided we do not spoil it.

There has been no difference of opinion on the part of any careful students as to the wisdom of any further narrowing of the fairway of the Hudson River. In 1857 the matter was carefully studied by a board of engineers acting for the State of New York, who set out all of the foregoing objections to any further narrowing of the river. At the time of their report the river was still 500 feet wider than it is now. This reduction has taken place under the same heedless and selfish pressure which is now being brought to narrow it still further. It was narrowed in 1871, in 1890, and again in 1897 under precisely the same cry of emergency which is being raised now. On December 9, 1908, when a similar agitation was raised, Secretary of War Root gave notice that no further encroachment on the fairway would be permitted, and that any further extensions in the length of piers must be made by digging back into the land rather than by stretching out into the river. Three later Secretaries have taken the same ground.

So far as our ocean-going traffic is concerned, the pressure for long piers has arisen thus far simply because it has been cheaper to build out into the river than to dig back into the land. People have preferred to encroach upon the fairway rather than to spend the necessary money to preserve it. We have reached a point where such an attitude is no longer possible or defensible. The city must recognize that the preservation of its primacy in commerce depends upon intelligently attacking these two features of the problem. It must insist upon a proper distribution of its local freight, and it must insist that in future piers the requisite length be attained in a way consonant with the preservation of the river, even if it requires more money to do it.

The vice of the Sulzer bill now before Congress is that, so far from intelligently grappling with these problems, it again seeks to move our pierhead line out into the river. It is a weak yielding to the interested pressure of those who desire to get long piers at the smallest expense and without reference to the insidious but gradual effect upon the city's future. Furthermore, it is an attempt to take out of the hands of the board of engineers a function which they are best suited to perform and to have it done in a much less careful way by Congress. The pierhead line is now in the hands of a board of three engineers known as the harbor line board, who have been making and are at the present time making a careful study of this very question. To pass the Sulzer bill would be to anticipate and foreclose their decision.

Some readers may ask, How does this matter concern the people of inland States and cities? Why trouble us about it? We have problems enough of our own. Let New York settle her own difficulties herself.

The answer is that foreign commerce, coastwise commerce, and transcontinental railway shipments are matters of vital national interest. New York has the most important harbor in the United States; it is the greatest commercial metropolis in the United States; it is the greatest distributing point in the United States. If it does its work inefficiently or expensively the whole country suffers.

In this article we have pointed out defects to be avoided. In a later article we shall describe some definite and scientific plans of harbor improvement.

Mr. CALLAWAY. Mr. Chairman, I want to return to page 14 and offer an amendment.

Mr. SPARKMAN. I object, Mr. Chairman.

The CHAIRMAN. Objection is made.

Mr. MANN. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Under the order for passing over, is it not in order to return to the pages we passed?

The CHAIRMAN. That is what we are doing now.

Mr. CALLAWAY. Mr. Chairman, I understood we were returning to the items that had been passed over before. We passed this item on page 14, the page where we now are.

Mr. YOUNG of Michigan. We are now on page 10.

Mr. MANN. We have passed that over.

Mr. CALLAWAY. Mr. Chairman, I ask unanimous consent to return to the item on page 14, providing for the improvement of the inland waterway from Norfolk, Va., to Beaufort Inlet, N. C.

The CHAIRMAN. A motion was made to return to items on pages previous to the paragraph on page 14, and under the order already made we will take them in the order as they come. The Clerk will report the next item that was passed over.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, let me state to the gentleman from Texas [Mr. CALLAWAY] that the particular item that he desires to return to is the item brought up the other day and discussed by the gentleman from North Carolina [Mr. SMALL]. It pertains to his district, and he discussed it very fully; and after the discussion the House adopted it. The gentleman from North Carolina has now, under press of important business, left the city, and is not here. I hope the gentleman from Texas will not insist on returning to that paragraph.

Mr. CALLAWAY. I can not. [Cries of "Read!" "Read!"]

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Improving Delaware River, Pa., N. J., and Del.: Continuing improvement and for maintenance from Allegheny Avenue, Philadelphia, to the sea, $1,750,000; for maintenance of improvement from Allegheny Avenue, Philadelphia, to Taylor Street, Trenton, $20,000; and completing improvement above Taylor Street, Trenton, in accordance with the report submitted in House Document No. 839, Sixty-first Congress, second session, and subject to the conditions recommended by the Chief of Engineers on page 2 of said document, $114,000; in all, $1,884,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment, offered by the gentleman from Pennsylvania [Mr. MOORE].

The Clerk read as follows:

On page 10, line 6, after the word "sea," strike out "$1,750,000" and insert "$2,000,000," and on line 14, strike out "$1,884,000" and insert "$2,134,000."

Mr. MOORE of Pennsylvania. Mr. Chairman, the purpose of this amendment is to induce the committee, if possible, to fix the appropriation for the 35-foot channel in the Delaware River in accordance with the recommendations of the United States Army engineers and in conformity with the plan which contemplates the completion of that channel within six years. An argument has just been made upon another item which indicates that the port of New York is asking for increased facilities; and it is a fact that has been brought out during the last three or four days in the discussion of this bill that the port of New York now has a depth of 40 feet for incoming vessels; that the port of Boston has 35 feet and is asking and will receive through this bill a survey for 40 feet for its harbor; that Boston and Baltimore already have 35 feet, and that Norfolk is substantially at a 35-foot stage.

The city of Philadelphia is 100 miles up the river and bay from the sea, 60 miles from the deep water of the bay. It is without question the greatest revenue-producing inland river of the United States. Last year at Philadelphia there was collected $21,000,000 of revenue, in a customhouse for which no appropriation has been made in the way of improvements for 70 years. We have been asking that the channel of the Delaware River be improved, and in 1910 the first appropriation was made upon a 35-foot channel project, which contemplates placing the city of Philadelphia, with its million and a half of population, upon an equality at least with the city of Baltimore and with the city of Boston. How long it will take for us to catch up to those two cities now, I know not. It will take us centuries at the present rate of appropriations to catch up to the great metropolis of New York; and so long as New York keeps deepening its harbor and the volume of business increases there, so long the monopolies in shipping will increase, because the great bottoms are now being floated upon the high seas, putting out of business the coastwise trade and the smaller craft, and concentrating everything in the way of commerce and navigation at this one port.

If you gentlemen can fairly and decently ask for appropriations for the Mississippi and for the improvement of inland ports, harbors, and waterways, you must excuse us if we become a little insistent in asking that the project you have approved be completed, so that we may at least keep in business on the great Delaware River.

When the 35-foot channel project was adopted in June, 1910, two and a half years ago, it was estimated that the total cost would be $10,920,000; that the maintenance cost would be $300,000, and that appropriations would be made with a view to completion in six years. This was conceded to be due to the great city of Philadelphia and the other cities along the Delaware, producing in 1912 customs revenues in excess of $21,000,000, and an average annual revenue of about $20,000,000 for the last 10 years, or twice in one year what is necessary to give us a good channel for all time. In 1910 we were given $1,500,000 to complete the 30-foot channel and commence work on the 35-foot project, and for 1911–12, $1,300,000 to continue the improvement up to March 4, 1913.

The work done on the 35-foot channel to the close of the fiscal year ending June 30, 1912, as reported by the engineers, is 6 per cent of the whole project. The engineers have urged appropriations "to permit a rapid prosecution of the work," and the Chief of Engineers in his estimate declares that—

For the year 1914 the appropriation should not be less than $2,500,000, of which approximately one-half should be in cash; but unless continuing-contract authorization be made, the appropriation should be not less than $2,000,000 in cash.

Of the amount estimated as a profitable expenditure in the fiscal year ending June 30, 1914, it is proposed to apply $300,000 to maintenance of the existing channel, and the balance to new work of rock removal, dredging, and dike construction.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. MOORE of Pennsylvania. I ask unanimous consent that I may have at least five minutes more.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. MOORE of Pennsylvania. Now, what has the committee reported? For the Mississippi, whose commerce amounted in 1907 to 4,300,000 tons on the whole 2,500 miles from the Lakes to the Gulf, as against 27,000,000 tons in that year upon the 60 miles of the Delaware alone—for the Mississippi, in this bill, you have appropriated $9,185,000; for the Ohio, $5,550,000; for the Missouri, $2,300,000; a total virtually of $17,000,000, which, if you add the appropriations made to the other tributaries of the Mississippi, will give that stream alone, out of the $40,000,000 you appropriated in this bill, one-half of the total appropriation made for this year.

This bill cuts the Delaware River appropriation from $2,000,000, the minimum asked by the engineers as urgent, to $1,750,000, not for one year, but for 16 months, from March 5, 1913, to June 30, 1914. On this long-term basis the annual appropriation is reduced $337,000 for the extra four months, in addition to the $40,000 that must be deducted for maintenance. Instead of the $2,000,000 recommended by the engineers, therefore, the Delaware River for the next fiscal year will receive but $1,013,000, a rate that will probably postpone the completion of the 35-foot channel for at least 10 years.

In view of the committee's fair and liberal treatment of the other inland waterways of the country, it seems to me that instead of postponing this project of the Delaware, the purpose of which is to put us upon an equality with other great ports along the Atlantic seaboard, you should let up in this instance and give this, the greatest business-getting, revenue-producing river of the United States, the $2,000,000 which was the least asked for by the Chief of Engineers in his report.

Mr. SPARKMAN. Mr. Chairman, I should be much pleased if we could see our way clear to accept the gentleman's amendment. I am convinced that the Delaware River, the portions both above and below Philadelphia, is a very important artery of commerce, and the projects for its improvement should be completed as early as practicable; but we have done in this bill all that the engineers have requested us to do at this time. We are appropriating $1,750,000, which, together with what will go in the sundry civil bill, makes the $2,000,000 that the engineers recommend. It is true that in their report they suggest, as they have suggested in other reports, that a continuous contract be provided for $500,000 more. But they say that if this can not be done we should give the amount—I am not quoting the exact language—which would make, with the $250,000 recommended for the sundry civil bill, $2,000,000. The language actually used is as follows:

For the year 1914 the appropriations should not be less than $2,500,000, of which approximately one-half should be in cash, but unless in the continuing contract authorization be made, the appropriation should be of not less than $2,000,000 in cash.

Now, then, Mr. Chairman, we appropriate in this bill $1,750,000. The engineers estimate $250,000 for the sundry civil bill, which makes up the $2,000,000 in cash.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. SPARKMAN. In a moment. So that if we should make this additional cash appropriation we would do something the engineers did not ask.

Mr. MOORE of Pennsylvania. The $250,000 was left over from last year?

Mr. BURGESS. No; that is in the sundry civil bill.

Mr. MOORE of Pennsylvania. That carries the work up to March 4.

Mr. SPARKMAN. No; that is where the gentleman is mistaken. The recommendation is made to cover the longer period of time. Nineteen hundred and fourteen can only mean one of two things. It can only mean the fiscal year ending the 30th of June or the calendar year ending the 31st of December. We are not contending that it does the latter. We take the shorter period of time and are appropriating to cover the period from the 4th of March of this year until approximately the 30th of June next year.

Mr. MOORE of Pennsylvania. The appropriation provided for in this bill begins as of March 5, 1913.

Mr. SPARKMAN. Well, no; the 4th of March, not later.

Mr. MOORE of Pennsylvania. That would aggregate $400,000 for maintenance—$300,000 for the year—and then there is another quarter.

Mr. SPARKMAN. No; not in the sense the gentleman is contending. There was a newspaper statement to that effect, I believe—and I am not criticizing the gentleman, because I know newspapers perform great service in the world, and I do not object to the gentleman getting into the newspapers as often as he can.

Mr. MOORE of Pennsylvania. The gentleman is now touching on a delicate question. If he will confine himself to the facts——

Mr. SPARKMAN. I am going to do that, but I wanted to allude to an injustice done the committee by a Philadelphia newspaper, and I do not think it was intentional——

Mr. MOORE of Pennsylvania. I want to say to the gentleman that I will not discuss matters in the House one way or the other concerning the way the gentleman from Florida or the gentleman from Georgia or any other Member gets into print. I want to know whether we are to be fairly treated in this commercial transaction when Philadelphia presents her claims based upon commercial merit.

Mr. SPARKMAN. Somebody was discussed a few days ago in this connection, and I have no objection to being discussed to-morrow, though I am not seeking newspaper notoriety.

Mr. MOORE of Pennsylvania. I know the gentleman is not.

Mr. SPARKMAN. What I call the gentleman's attention to is that I saw in the newspaper a statement that I know is an injustice to the Committee on Rivers and Harbors, because pursuing the same line of argument that the gentleman from Pennsylvania pursues, it makes almost the same statement that the gentleman made the other day about the amounts proposed in this bill for the allowance, and it asserts that $400,000 of the amount would be used for maintenance. Now, the facts are that the engineers only recommend $300,000, and not $400,000, for maintenance to cover the very period of time to which the gentleman refers.

Mr. MOORE of Pennsylvania. That would be 16 months. That is my point.

Mr. SPARKMAN. Well, it is practically that, but it is what the engineers recommend. Whether it be 24 months or 5 years, it is what the engineers recommend. We have given the full amount recommended by the engineers for maintenance and for the improvement of the river, whether it is 4 months or 12 or 16 months.

Mr. MOORE of Pennsylvania. Mr. Chairman, I accept the gentleman's statement, but I can not harmonize it with the report of the engineers on page 288, in which a maximum of $2,500,000 is asked and a minimum of $2,000,000.

Mr. SPARKMAN. Oh, that was the recommendation in case we provided a continuing contract, but we did not provide for that. True, the report says that for the year 1914 the appropriation should be not less than $2,500,000, but the engineers confuse the word "appropriation" with the word "authorization," as the next line will show—

But unless continuing contract authorization be made—

The report goes on to say—

the appropriation should not be less than $2,000,000 in cash—

Which, together with the $1,750,000 appropriated in this bill and the $250,000 to come in the sundry civil, makes the cash appropriations without any authorizations $2,000,000. At the bottom of the report in a note there is this statement:

Of the amount, $250,000 is for continuing contracts.

That is, of the amount of $2,000,000 recommended $250,000 is to go into the sundry civil bill.

Mr. Chairman, I want to say another thing for the benefit of the gentleman from Pennsylvania and of the committee, that in doing work like we are doing in the Delaware River the matter of maintenance does not amount to so much as in other streams where the work has been completed, because in many places, if not in all, the work of improving the river takes care of the maintenance.

Mr. DONOHOE. Mr. Chairman, I move to strike out the last word. As has been stated by Mr. SPARKMAN, the full amount that can be profitably used, according to the information given by the Government engineers, up until June 30, 1914, is $2,000,000. This bill carries cash of $1,750,000, and the sundry civil bill carries cash of $250,000 additional. No part of the sundry civil appropriation of $250,000 can be used before March 4 of this year. When the sundry civil bill was up last year, and it did not carry the full amount of $700,000 that I expected it to carry for the Delaware, I inquired as to the reason for cutting it to $450,000, and was informed that it was because the engineers could not use more than $450,000 before March 4, 1913. That statement was later corroborated by the engineers.

It may be inexplicable to the members of this committee why my good friend from Philadelphia, Mr. MOORE, has taken occasion to do what he has done to-day. The engineers say that we are appropriating the full amount that they can use, and everyone here knows that we can not get any more than the engineers recommend; and yet here is a motion to increase the amount for the Delaware River and another motion to put in an appropriation for the Frankford Creek, for which no recommendation has been made by the engineers. Everyone knows that we can get no appropriation until we have the approval of the engineers. The Frankford Creek, Mr. Chairman, is in my district. Every inch of it is there. When the cleverly juggled stories go to the Philadelphia newspapers they will read well at home. They will show that my distinguished colleague endeavored to get an appropriation for Frankford Creek which was evidently neglected by the Member from that district of Philadelphia who is on the inside on the committee. [Laughter.] Is there a Member in this House who would stoop to such political methods as these for the purpose of reflecting upon anyone else? I wish we could get $5,000,000 for the Delaware River. The engineers say that after this appropriation of $2,000,000 it will require $6,000,000 to complete the work of the 35-foot channel. If we appropriate $2,000,000 annually, as we are doing now, it will be completed within four years, notwithstanding the fact that the newspapers in Philadelphia have quoted the distinguished exponent of waterways, Mr. MOORE, as saying it will take 10 years to complete that job. I am very glad of this opportunity of clearing the atmosphere to that extent. My good friend does not expect to get any of these amendments through, but it will make splendid reading for the people at home. [Laughter and applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MOORE].

The question was taken; and on a division (demanded by Mr. MOORE of Pennsylvania) there were—ayes 3, noes 51.

So the amendment was rejected.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word.

Mr. SPARKMAN. Mr. Chairman, I move that the committee do now rise.

Mr. MOORE of Pennsylvania. Choked off again!

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill and joint resolutions of the following titles; when the Speaker signed the same:

H. J. Res. 210. Joint resolution authorizing the President to appoint a member of the New Jersey and New York Joint Harbor Line Commission;

H. J. Res. 380. Joint resolution authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc.; and

H. R. 23451. An act to pay certain employees of the Government for injuries received while in the discharge of their duties.

The SPEAKER announced his signature to enrolled bills and joint resolution of the following titles:

S. 6380. An act to incorporate the American Hospital of Paris;

S. 2666. An act granting an increase of pension to William P. Clark; and

S. J. Res. 145. Joint resolution to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913.

SENATE CONCURRENT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, the following Senate concurrent resolution was taken from the Speaker's table and referred to the Committee on Printing:

Senate concurrent resolution 33.

Resolved by the Senate (the House of Representatives concurring), That there shall be printed and bound in cloth, with accompanying maps, 4,000 copies of the report upon Panama Canal Traffic and Tolls, prepared for the President, by Emory R. Johnson, special commissioner on traffic and tolls; that the copies here ordered shall be printed from plates recently prepared for the Isthmian Canal Commission and now in the possession of the Government Printing Office; and that of the copies printed 1,000 shall be for the use of the Senate, 2,000 for the use of the House of Representatives, and 1,000 for the use of the Committee on Interoceanic Canals of the Senate.

SWEARING IN OF A MEMBER.

The SPEAKER. The newly elected Member from the State of Arkansas, Hon. SAM M. TAYLOR, presents himself with credentials which are regular. Unless there is objection, the Chair will swear him in.

Mr. TAYLOR appeared at the bar of the House and took the oath of office.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bill and joint resolution:

H. J. Res. 210. Joint resolution authorizing the President to appoint a member of the New Jersey and New York Joint Harbor Line Commission; and

H. R. 23451. An act to pay certain employees of the Government for injuries received while in the discharge of their duties.

HOUR OF MEETING.

Mr. SPARKMAN. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, the Senate has disagreed to the conference report on the immigration bill (S. 3175) and asks for a further conference. I move that the House insist upon its amendment and agree to a further conference.

Mr. MANN. Are the papers here?

The SPEAKER. The papers are here. The gentleman from Alabama [Mr. BURNETT] moves that the House further insist upon its amendment and agree to the conference asked for by the Senate.

The question was taken, and the motion was agreed to.

The SPEAKER. The Chair announces the following conferees.

The Clerk read as follows:

Mr. BURNETT, Mr. SABATH, and Mr. GARDNER of Massachusetts.

DEATH OF HON. S. C. SMITH.

Mr. NEEDHAM. Mr. Speaker, it is my sad duty to announce to the House the death of the Hon. SYLVESTER CLARK SMITH, a Representative from the State of California. During the lifetime of Mr. SMITH he requested in the event of his death while a Member of the House that there be no committee appointed to attend his funeral. I have therefore omitted from the resolutions which I have offered any reference to a committee. Mr. Speaker, I offer the following resolutions and move their adoption.

The SPEAKER. The Clerk will report the resolutions.

The Clerk read as follows:

House resolution 797.

Resolved, That the House has heard with profound sorrow of the death of Hon. SYLVESTER CLARK SMITH, a Representative from the State of California.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect this House do now adjourn.

The question was taken, and the resolutions were unanimously agreed to.

Thereupon (at 4 o'clock and 33 minutes p. m.) the House adjourned to meet to-morrow, Tuesday, January 28, 1913, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Acting Secretary of the Treasury, transmitting copy of a communication from the Secretary of State amending his estimate for an appropriation to investigate the opium, morphine, and other allied drug evils (H. Doc. No. 1305); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Postmaster General submitting a deficiency estimate of an appropriation required by the Post Office Department on account of the parcel post (H. Doc. No. 1306); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of State, transmitting statement of expenses incurred by officers and employees of the State Department when traveling outside of Washington on official business during the fiscal year ended June 30, 1912 (H. Doc. No. 1308); to the Committee on Expenditures in the State Department and ordered to be printed.

4. A letter from the Secretary of the Interior, transmitting a list of useless papers on file in the Interior Department requesting that they be destroyed (H. Doc. No. 1307); to the Joint Select Committee on Disposition of Useless Executive Papers and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. McGUIRE of Oklahoma, from the Committee on Indian Affairs, to which was referred the resolution (H. Res. 773) referring the bill (H. R. 27995) for the relief of Iowa Tribe of Indians in Oklahoma to the Court of Claims, reported the same without amendment, accompanied by a report (No. 1398), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. LAFFERTY: A bill (H. R. 28452) to amend an act entitled "An act to amend sections 2291 and 2297 of the Revised Statutes of the United States relating to homesteads," approved June 6, 1912; to the Committee on the Public Lands.

By Mr. MANN: A bill (H. R. 28453) to prevent obstructive and injurious deposits within the harbors and adjacent navigable waters of the city of Chicago, Ill., by dumping or otherwise, and to punish and prevent such offenses; to the Committee on Interstate and Foreign Commerce.

By Mr. LAMB: A bill (H. R. 28454) relating to renovated-butter inspection; to the Committee on Agriculture.

By Mr. BERGER: Resolution (H. Res. 796) requesting an inquiry of the clothing and garment industry of New York; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 28455) granting an increase of pension to Hamilton Wise; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 28456) for the relief of A. J. Wright; to the Committee on War Claims.

By Mr. DWIGHT: A bill (H. R. 28457) granting a pension to Johannah O'Keefe; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 28458) for the relief of the heirs of Frederick R. Wylly, deceased; to the Committee on War Claims.

By Mr. HINDS: A bill (H. R. 28459) granting a pension to George A. Loring; to the Committee on Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 28460) granting an increase of pension to C. Milstead; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 28461) granting an increase of pension to William H. Bartolet; to the Committee on Invalid Pensions.

By Mr. PORTER: A bill (H. R. 28462) granting an increase of pension to Charles W. Smith; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 28463) granting an increase of pension to John D. Traft; to the Committee on Invalid Pensions.

By Mr. ROTHERMEL: A bill (H. R. 28464) granting an increase of pension to David Good; to the Committee on Invalid Pensions.

By Mr. RUCKER of Colorado: A bill (H. R. 28465) to pay an award in favor of the heirs of John W. West, deceased; to the Committee on Indian Affairs.

By Mr. SELLS: A bill (H. R. 28466) granting an increase of pension to William T. Higgins; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the Twenty-third Council of the Union of American-Hebrew Congregations, Cincinnati, Ohio, protesting against the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also (by request), petition of the Italian-Swiss Colony, San Francisco, Cal., protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. ANSBERRY: Petition of members of the Sigma Phi Delta Club, the Informal Study Club, the Chautauqua Literary and Scientific Club, and the Zetetic Club, of Leipsic, Ohio, favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the National Association of Railway Commissioners and the Public Service Commission, of Columbus, Ohio, favoring the passage of legislation (S. 6099) for the establishment of a uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

By Mr. BYRNS of Tennessee: Papers to accompany the bill for relief of A. J. Wright, of Williamson County, Tenn.; to the Committee on War Claims.

By Mr. CALDER: Petition of citizens of the United States of America, favoring the immediate passage of legislation validating leases made to the Uncle Sam Oil Mill Co. by the Osage national council; to the Committee on the Public Lands.

By Mr. CARY: Petition of Moisant International Aviators, New York, favoring passage of a bill abolishing the Aerial Corps of the Army and Navy; to the Committee on Military Affairs.

Also, petition of the Mayer Boot & Shoe Co., Milwaukee, Wis., protesting against any reduction or change in the present tariff duties on boots and shoes; to the Committee on Ways and Means.

Also, petition of the Oshkosh Grass Matting Co., Oshkosh, Wis., favoring passage of the Weeks bill (H. R. 27567) for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of Herbert J. Piper, Milwaukee, Wis., favoring the adoption of the Mall site and design, as approved by the National Commission of Fine Arts, for the memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. DICKINSON: Papers to accompany bill (H. R. 2996) granting an increase of pension to Jessie T. Moore; to the Committee on Invalid Pensions.

By Mr. FITZGERALD: Petition of the American Group of the Société des Architectes Diplômés par le Gouvernement Français, favoring the adoption of the Mall site and design, as approved by the National Commission of Fine Arts, for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Washington Branch of the Rivers and Harbors Congress, favoring the passage of bill making an appropriation to cover the expense for analyzing the water of the Potomac River; to the Committee on Appropriations.

By Mr. FORNES: Petition of the J. F. Imbs Milling Co., St. Louis, Mo., relative to the present tariff on flour; to the Committee on Ways and Means.

By Mr. FULLER: Petition of C. P. Nelson, Chicago, Ill., favoring he pasage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the Tuthill Spring Co., Illinois, favoring the passage of bill (H. R. 27567) for the reduction of letter postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of John H. McGee, Ironton, Ohio, favoring the passage of House bill 1339, to increase the pension of those who lost an arm or leg in the Civil War; to the Committee on Invalid Pensions.

By Mr. GARRETT: Petition of members of the Ladies' Missionary Society of the Presbyterian Church, Greenfield, Tenn., favoring the passage of an antipolygamy amendment to the Constitution of the United States placing polygamy under Federal jurisdiction; to the Committee on the Judiciary.

Also, petition of teachers and pupils in biology and agriculture in the Berry School, Mount Berry, Ga., favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. GUERNSEY: Petition of the Antre Street Congregational Church, Machias, Me., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. HAMILTON of West Virginia: Papers to accompany bill for the relief of J. P. Jones; to the Committee on Claims.

By Mr. HILL: Petition of the New Haven Chamber of Commerce, New Haven, Conn, expressing their confidence in the integrity of the management of the New York, New Haven & Hartford Railway Co.; to the Committee on Rules.

Also, petition of citizens of Connecticut, protesting against the further importation of aigrettes; to the Committee on Ways and Means.

By Mr. LAFEAN: Petition of the congregation of the First Presbyterian Church, York, Pa., favoring the passage of the Kenyon "red light" injunction bill to clean up Washington, D. C.; to the Committee on the District of Columbia.

By Mr. LEVY: Petition of the Dutchess Manufacturing Co., Poughkeepsie, N. Y., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the Philadelphia Association of Friends, Philadelphia, Pa., favoring the striking out or the submitting

to national arbitration of the passage of the Panama Canal act granting free tolls to vessels engaged in coastwise trade of the United States; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Commission of Fine Arts, Washington, D. C., and the American Group of the Société des Architectes Diplômés par le Gouvernement Français, New York, favoring the adoption of the Mall site and design, as approved by the National Commission of Fine Arts, for the memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. LINDSAY: Petition of Herbert S. Gardner, of St. Louis, and Christopher P. Nelson, of Chicago, Ill., favoring the passage of the McLean bill for Federal protection of all migratory birds; to the Committee on Agriculture.

Also, petition of John H. McGee, Ironton, Ohio, favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. McKINNEY: Petition of the missionary society of the Episcopal Church of Warsaw, Ill., favoring the passage of the McLean bill granting Federal protection to migratory birds; to the Committee on Agriculture.

Also, petition of the Monday Study Club, of Rock Island, Ill., protesting against the passage of legislation transferring the ownership and control of the national forests to the States wherein they lie; to the Committee on Agriculture.

By Mr. MOTT: Papers to accompany a bill granting an increase of pension to Francis P. O'Reilly; to the Committee on Pensions.

Also, petition of the Presbyterian Church of Hannibal, N. Y., favoring the passage of the Kenyon-Sheppard bill preventing shipment of liquors into dry territory; to the Committee on the Judiciary.

By Mr. RAKER: Petition of the Chamber of Commerce of Los Angeles, Cal., favoring passage of bill for increased appropriations for adequate aid to navigation along our coast line; to the Committee on Interstate and Foreign Commerce.

By Mr. SELLS: Papers to accompany bill granting an increase of pension to William T. Higgins; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: Petitions of H. S. Gardner, St. Louis, Mo.; C. P. Nelson, Chicago, Ill.; and the American Game Protective and Propagation Association, New York, favoring the passage of the McLean bill for the Federal protection of all migratory birds; to the Committee on Agriculture.

Also, petitions of the American Laundry Machinery Co., Rochester, N. Y.; the American Manufacturing Concern, Falconer, N. Y.; Hogan & Son, New York; the New York Leather Belting Co., New York; and the Waterbury Felt Co., Skaneateles Falls, N. Y., favoring the passage of House bill 27567, for a 1-cent postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the Navy League of the United States, Washington, D. C., favoring the passage of House bill 1309, for the establishment of a council of national defense; to the Committee on Naval Affairs.

Also, petition of the National Soil Fertility League, Chicago, Ill., favoring the passage of the Smith-Lever agriculture extension bill for the improvement of the agricultural industry; to the Committee on Agriculture.

By Mr. WILSON of New York: Petition of the Chamber of Commerce of Poughkeepsie, N. Y., favoring the passage of legislation for granting a Federal charter for the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

SENATE.

TUESDAY, *January 28, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CULBERSON and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Wisconsin at the election held therein on November 5, 1912, which was ordered to be filed.

IMPRISONMENTS IN THE ARMY AND NAVY (S. DOC. NO. 1039).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 7th instant, certain information relative to the number of persons serving in the Army and Navy imprisoned during the year 1912, the terms of sentence, location and nature of places of incarceration, the nature of offenses, etc., which, on motion of Mr. WORKS, was, with the accompanying papers, referred to the Committee on Military Affairs and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. CULLOM presented a resolution adopted by members of the Monday Study Club, of Rock Island, Ill., against the transfer of the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a resolution adopted by the Board of Trade of Springfield, Mass., favoring an appropriation for the improvement of the Connecticut River from Long Island Sound to Holyoke, in that State, which was referred to the Committee on Commerce.

Mr. WORKS presented a memorial of the Humboldt Chamber of Commerce, of Eureka, Cal., remonstrating against the repeal of the oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

Mr. NELSON presented a memorial of the congregation of the Seventh-day Adventist Church of Good Thunder, Minn., and a memorial of the congregation of the Seventh-day Adventist Church of Amboy, Minn., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. TOWNSEND presented memorials of the congregations of the Seventh-day Adventist Churches of Jackson, Houghton, and Greenville, all in the State of Michigan, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. BRANDEGEE presented a petition of members of the Young People's Christian Endeavor Society of the South Congregational Church, of New Britain, Conn., praying for the passage of the so-called Kenyon red light injunction bill, which was ordered to lie on the table.

He also presented a memorial of the congregation of the Seventh-day Adventist Church of Willimantic, Conn., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. PERKINS presented a resolution adopted by the Chamber of Commerce of Corona, Cal., favoring the passage of the so-called agricultural extension bill, which was ordered to lie on the table.

He also presented a memorial of the congregation of the Seventh-day Adventist Church of Mountain View, Cal., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

He also presented a memorial of the General Federation of Women's Clubs, remonstrating against transferring the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented resolutions adopted by the Humboldt Chamber of Commerce, of Eureka, Cal., against the repeal of the oleomargarine law, which were referred to the Committee on Agriculture and Forestry.

PROOF OF SIGNATURES.

Mr. CLARK of Wyoming, from the Committee on the Judiciary, to which was referred the bill (H. R. 20102) relating to proof of signatures and handwriting, reported it with an amendment and submitted a report (No. 1162) thereon.

COURTS IN TEXAS.

Mr. CULBERSON. From the Committee on the Judiciary I report back favorably without amendment the bill (H. R. 24194) to create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes, and I submit a report (No. 1161) thereon. I ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that the counties of Reeves, Ward, Martin, Reagan, Winkler, Ector, Gaines, Andrews, Upton, Midland, Loving, Jeff Davis, and Crane shall constitute a division of the western judicial district of Texas.

Section 2 provides that terms of the district court of the United States for the western district of Texas shall be held twice in each year at the city of Pecos, in Reeves County, and that, until otherwise provided by law, the judge of that court shall fix the times at which the court shall be held at Pecos, of which he shall make proclamation and give due notice. But suitable rooms and accommodations shall be furnished for the holding of the court and for the use of the officers of the court at Pecos free of expense to the Government of the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. THOMAS:

A bill (S. 8293) authorizing the construction of a public building in the city of Durango, Colo.; and

A bill (S. 8294) to acquire a site for the erection of a public building at Montrose, Colo.; to the Committee on Public Buildings and Grounds.

By Mr. GRONNA:

A bill (S. 8295) granting an increase of pension to Charles Shattuck (with accompanying paper); to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 8296) granting a pension to Edward M. Stevens (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. BRYAN submitted an amendment providing for the survey of a channel at Mosquito Inlet, Fla., with suitable depth and width from the Atlantic Ocean to a point at or near the town of New Smyrna, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. MYERS submitted an amendment proposing to increase the appropriation for the investigation of miscellaneous insects from $30,000 to $55,000, and providing that the sum of $25,000 be used to investigate the Rocky Mountain spotted-fever tick, intended to be proposed by him to the Agriculture appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. NELSON submitted an amendment providing that appropriations for the Life-Saving Service may be used in payment of expenses that may be incurred by the Life-Saving Service by express direction of the Secretary of the Treasury in saving life and property on occasion of floods in any navigable waters of the United States, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment providing that in computing the length of service which shall entitle warrant and petty officers to longevity pay under the eighth section of the act of April 16, 1908, all service rendered under the official designation of "pilot" in the Revenue-Cutter Service shall be included, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

JAMES F. SELLERS.

Mr. PENROSE submitted the following resolution (S. Res. 444), which was read, and, with the accompanying papers, referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Sergeant at Arms of the Senate be, and he hereby is, authorized and directed to appoint James F. Sellers an additional messenger, who shall be paid at the rate of $1,200 per annum from the contingent fund of the Senate, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate, until otherwise provided for by law.

MEMORIAL SERVICES FOR THE LATE VICE PRESIDENT.

Mr. CUMMINS. I ask unanimous consent for the present consideration of Senate resolution 435, a resolution submitted by me and reported yesterday from the Committee to Audit and Control the Contingent Expenses of the Senate by the Senator from New Jersey [Mr. BRIGGS].

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That Saturday, the 15th day of February, be set apart for appropriate exercises in commemoration of the life, character, and public service of the late JAMES S. SHERMAN, Vice President of the United States and President of the Senate of the United States.

That a committee of three Senators, composed of ELIHU ROOT, JAMES A. O'GORMAN, and CHARLES CURTIS, is hereby appointed, with full power to make all arrangements and publish a suitable program for the aforesaid meeting of the Senate, and to issue the invitations hereinafter mentioned.

That invitations shall be extended to the President of the United States, the members of the Cabinet, the Chief Justice and Justices of the Supreme Court, the Speaker and Members of the House of Representatives, the judges of the Commerce Court, the judges of the Court of Customs Appeals, the judges of the courts of the District of Columbia, the officers of the Army and Navy stationed in Washington, the members of the Interstate Commerce Commission, and the members of the Civil Service Commission. That such other invitations shall be issued as to the said committee shall seem best.

All expenses incurred by the committee in the execution of this order shall be paid from the contingent fund of the Senate.

CONTRIBUTIONS FOR CAMPAIGN PURPOSES.

Mr. JONES. Yesterday the chairman of the Committee to Audit and Control the Contingent Expenses of the Senate reported Senate resolution No. 418 amending Senate resolution No. 79, agreed to August 26, 1912, and this morning the junior Senator from Minnesota [Mr. CLAPP] requested me to call it up and have it passed by the Senate. However, the junior Senator from Pennsylvania [Mr. OLIVER] is interested in the resolution and at one time objected to its passage. So I will not call it up this morning in the absence of that Senator, but I desire to state that either the junior Senator from Minnesota or myself will try to have the resolution passed by the Senate to-morrow.

IMMIGRATION OF ALIENS.

Mr. LODGE. I ask to have printed, for the convenience of the Senate, the report of the committee of conference on the immigration bill, as finally agreed upon.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MEMORIAL ADDRESSES ON THE LATE REPRESENTATIVE WEDEMEYER.

Mr. TOWNSEND. I desire to give notice that on Saturday, February 22, I shall ask the Senate to consider resolutions commemorative of the life and public services of Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, Executive clerk, announced that the President had approved and signed the following act and joint resolution:

On January 25, 1913:

S. 7637. An act to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.

On January 27, 1913:

S. J. Res. 150. Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills and joint resolution:

S. 2600. An act to authorize the Commissioners of the District of Columbia to prevent the exhibition of obscene, lewd, indecent, or vulgar pictures in public places of amusement in the District of Columbia;

S. 6919. An act to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia;

S. 7162. An act to amend section 801 of the Code of Law for the District of Columbia;

S. 7508. An act to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia"; and

S. J. Res. 153. Joint resolution granting to the Fiftieth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia.

The message also announced that the House had passed the bill (S. 1072) to amend section 895 of the Code of Law for the District of Columbia, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House further insists upon its amendment to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States; agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. BURNETT, Mr. SABATH, and Mr. GARDNER of Massachusetts managers at the conference on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 18787) relating to the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILSON of Pennsylvania, Mr. BUCHANAN, and Mr. GARDNER of New Jersey, managers at the conference on the part of the House.

The message further announced that the House had passed a bill (H. R. 23939) to legalize titles in the District of Columbia to certain citizens, in which it requested the concurrence of the Senate.

The message also announced that the House had passed resolutions commemorative of the life and public services of Hon. GEORGE R. MALBY, late a Representative from the State of New York.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 6 hours and 22 minutes spent in executive session the doors were reopened, and (at 6 o'clock and 32 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, January 29, 1913, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate January 28, 1913.

PROMOTIONS IN THE PUBLIC HEALTH SERVICE.

Passed Asst. Surg. William C. Billings to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. John W. Kerr to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Walter W. King to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Dana E. Robinson to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

RECEIVER OF PUBLIC MONEYS.

Preston A. Worthington, of Oregon, to be receiver of public moneys at Burns, Oreg., vice Frank Davey, term expired and resigned.

APPOINTMENT IN THE ARMY.

QUARTERMASTER CORPS.

Col. Carroll A. Devol, Quartermaster Corps, to be brigadier general in the Quartermaster Corps for the period of four years, beginning February 16, 1913, vice Brig. Gen. George R. Smith, Quartermaster Corps, to be retired, at his own request, from active service February 15, 1913.

APPOINTMENTS, BY TRANSFER, IN THE ARMY.

First Lieut. David H. Scott, Third Infantry, to be first lieutenant of Cavalry, with rank from March 11, 1911.

First Lieut. Robert C. Richardson, jr., Fourteenth Cavalry, to be first lieutenant of Infantry, with rank from March 11, 1911.

PROMOTIONS IN THE NAVY.

Surg. Robert M. Kennedy to be a medical inspector in the Navy from the 22d day of January, 1913, to fill a vacancy.

William C. Lyon, a citizen of Maryland, to be an assistant surgeon in the Medical Reserve Corps of the Navy from the 20th day of January, 1913, in accordance with a provision contained in an act of Congress approved August 22, 1912.

POSTMASTERS.

MINNESOTA.

Benjamin D. Underwood to be postmaster at Fergus Falls, Minn., in place of Benjamin D. Underwood. Incumbent's commission expired January 11, 1913.

OHIO.

James H. Long to be postmaster at Ashville, Ohio, in place of James H. Long. Incumbent's commission expires February 9, 1913.

Philip D. Shera to be postmaster at Oxford, Ohio, in place of Philip D. Shera. Incumbent's commission expires February 11, 1913.

WITHDRAWALS.

Executive nominations withdrawn from the Senate January 28, 1913.

POSTMASTERS.

MINNESOTA.

L. A. Levorsen to be postmaster at Fergus Falls, in the State of Minnesota.

NORTH CAROLINA.

William H. Keaton to be postmaster at Elizabeth City, in the State of North Carolina.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January 28, 1913.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We recognize Thee, O God our Father, not only as the Creator of the universe, but the upholder and sustainer of all things, and that Thy will is not only supreme but is good will. Help us, therefore, we beseech Thee, to "work out what Thou art working within us, that the hidden man of the heart may be visible in our daily life." In the spirit of Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

RATIFICATION OF SEVENTEENTH AMENDMENT.

The SPEAKER laid before the House the following communication, which was read:

STATE OF NORTH CAROLINA,
EXECUTIVE DEPARTMENT,
Raleigh, January 25, 1913.

SPEAKER OF THE HOUSE OF REPRESENTATIVES,
Washington, D. C.

DEAR SIR: I have the honor to submit herewith a certified copy of the act of the North Carolina General Assembly ratifying the seventeenth amendment to the Constitution of the United States.

Respectfully,

LOCHE CRAIG, *Governor.*

HOURS OF DAILY SERVICE OF LABORERS AND MECHANICS.

The SPEAKER laid before the House the bill (H. R. 18787) entitled "An act relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia," with Senate amendments.

The Senate amendments were read.

Mr. BUCHANAN. Mr. Speaker, I move that the Senate amendments be disagreed to and that the House ask for a conference.

The motion was agreed to.

The SPEAKER announced the following conferees: Mr. WILSON of Pennsylvania, Mr. BUCHANAN, and Mr. GARDNER of New Jersey.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 28180, the river and harbor appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill, with Mr. MOON of Tennessee in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the river and harbor bill, H. R. 28180.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for five minutes to respond to the gentleman from Pennsylvania [Mr. DONOHOE].

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MOORE] asks unanimous consent that he may address the House for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MOORE of Pennsylvania. Mr. Chairman, when the House adjourned yesterday, it adjourned with the gentleman from Pennsylvania [Mr. DONOHOE] on the floor making a violent attack upon his colleague from Philadelphia, and in the course of his remarks he referred to the various high crimes and misdemeanors that had been committed by his colleague against the newspapers of Philadelphia. The "gentleman from Pennsylvania" now addressing the House has on several occasions undertaken to say that he has no very great concern about the headlines in the Philadelphia newspapers, nor has he any very great concern about the number of articles his colleague sends from here concerning what he has done. But the "gentleman from Pennsylvania" [Mr. MOORE] is vastly interested in doing something for the State and city which he in part represents, as he is intensely interested in getting something done for the Delaware River, which will put the city of Philadelphia on a par with other great cities on the Atlantic seaboard.

In this connection he desires to say to his colleague on the other side of the House that he has no dispute with him as to the part he has played in waterways matters in the two years he has been in Congress, but rather congratulates him that on account of his intimate association with the Rockefellers and Morgans of rivers and harbors he has done his best, and I trust that he will exercise the wonderful influence he now possesses in order to accomplish greater things for his city and the river Delaware; and in that I will join with him.

But, as the facts develop, it does seem that in the secret conclaves of the river and harbor Morgans and Rockefellers with whom he associates, who tell him they will treat him fairly if he will give them what they want, he yields too readily to the blandishments which they exercise over him. It is like the story of the Merritt Bros., who are supposed to have yielded up the Mesaba Range.

In these great councils I can see my colleague cheerfully give the Mississippi Valley $9,185,000 to get a start upon the construction of levees. I can see him cheerfully voting $5,500,000 into the Ohio River and $2,000,000 and upward into the Missouri River for a $20,000,000 project, and I can hear him say to the gentleman from Texas, "For your great streams cheerfully do I give you $3,000,000."

And for these reasons it seems to me that when I offer a very simple amendment to remove shoals from behind the breakwater in Delaware Bay the gentleman ought to forget the influence of the Morgans and Rockefellers of his committee and not vote "no" to that proposition, as he did on Saturday. When I offer an innocent amendment to this bill, proposing that there shall be a survey for Frankford Creek, which is in the gentleman's district, the gentleman ought not to accept the nods of his powerful associates and vote against the interests of the city which he was sent here to promote. And when I gave him the opportunity to vote for a survey of the Schuylkill River—a survey involving no request for an appropriation or any outlay of money—the gentleman ought not to chide me, and again listen to the Rockefellers and Morgans with whom he associates, and vote "no" to a provision for the survey.

And when we come up to that more important project in which we are all interested—the Delaware River—I would wish to relieve him from being buncoed by his powerful friends the Rockefellers and Morgans of the committee, for it appears that instead of getting $2,000,000, as he believed he got, he really got only about $1,000,000 for that project.

Mr. GALLAGHER. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. MOORE of Pennsylvania. I say to him he should not have voted against the Delaware River amendment.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Pennsylvania yield to the gentleman from Illinois?

Mr. MOORE of Pennsylvania. I can not yield. This course of conduct on the part of my colleague reminds me of a story that might have been told by the amiable gentleman from Alabama [Mr. HEFLIN]. The old negro mammy is standing in the doorway of her hut, calling out to Jim, her little boy. "Come in, Jim; come in, Jim; wha' for you standin' out thar wif dat white trash, lettin' 'em eat all the 'lasses off yah bread and then call you 'nigger eat dirt wif a rusty spoon'? Come in hyar. I break yo' back wif a board." [Laughter.]

In this I can not appeal to my colleagues from the South and West perhaps, but I ask my colleague from Pennsylvania [Mr. DONOHOE] to use that powerful influence he has with these strong and influential men upon the committee to get a little more justice accorded to the great river Delaware. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask for one minute more.

Mr. EDWARDS. I object, Mr. Chairman.

Mr. DONOHOE. Mr. Chairman, I hope the gentleman will be allowed to continue.

Mr. EDWARDS. I object. We have heard enough reflections on honest men by the only honest man in the House. [Laughter.]

Mr. MOORE of Pennsylvania. The gentleman from Georgia [Mr. EDWARDS] is like the suffragettes, objecting to everything. [Laughter.]

Mr. DONOHOE. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. DONOHOE] moves to strike out the last word.

Mr. DONOHOE. Mr. Chairman, I am not unprepared to make answer to my distinguished colleague from Philadelphia [Mr. MOORE]. In fact, I have at my fingers' ends facts and figures and newspaper articles in abundance to make a statement which if it applied with equal force to any other gentleman in this House would not tend to increase his self-esteem. But in view of the state of the public business here, in view of the delay that has been occasioned by the petty trifling of the last few days, I feel that I can perform a much higher duty to the country by bearing patiently these childish attacks rather than by using the time of the House in making the reply which ordinarily the circumstances would warrant.

And I remember, too, that I—and, I presume, my friend, Mr. MOORE—kneel down every night and morning and say, "Forgive us our trespasses as we forgive those who trespass against us." I learned that prayer at the knees of my angel mother over 40 years ago, and I hope to kneel down to-night and repeat it with an humble and a contrite heart. [Applause.]

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Improving Monongahela River, Pa., by the reconstruction of Lock and Dam No. 6, in accordance with the report submitted in House Document No. 1217, Sixty-second Congress, third session, $178,200.

Mr. MOORE of Pennsylvania. Mr. Chairman, I want to ask the chairman of the committee if the Monongahela River is not bisected by the city of Pittsburgh—that is, the city of Pittsburgh stands on both sides of this river?

Mr. SPARKMAN. I believe it does. I am not quite as familiar with the city of Pittsburgh as I ought to be, but I fancy it does. If the gentleman says so, I will agree to it.

Mr. DONOHOE. Mr. Chairman, did the gentleman ask the question if the river was bisected?

Mr. MOORE of Pennsylvania. I intended to say the city was bisected by the river, but I accept the correction of the schoolmaster. [Laughter.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. GOLDFOGLE having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, announced that the Senate had disagreed to the amendments of the House of Representatives to bills of the following titles, asks a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. McCUMBER, Mr. BURNHAM, and Mr. GORE as the conferees on the part of the Senate:

S. 8035. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 7160. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 8034. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 18841. An act incorporating the National Institute of Arts and Letters; and

H. R. 24194. An act to create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes.

The message also announced that the President pro tempore had appointed Mr. CLARKE of Arkansas and Mr. BURNHAM members of the joint committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Department of the Interior.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 4356. An act incorporating the American Academy of Arts and Letters.

The message also announced that the Senate had passed the following resolutions (S. Res. 443):

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. SYLVESTER C. SMITH, late a Representative from the State of California.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the late Representative SYLVESTER C. SMITH the Senate do now adjourn.

RIVER AND HARBOR APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Improving harbor at Wilmington, Del.: For restoration and maintenance, $30,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I want to ask the chairman of the committee if the city of Wilmington does not extend on both sides of this river? An appropriation was refused for Frankford Creek because the city extended on both sides.

Mr. SPARKMAN. I beg the gentleman's pardon.

Mr. MOORE of Pennsylvania. It was voted down.

Mr. SPARKMAN. It was voted down, but not, I think, on that ground. A better reason perhaps was that there was no project for the improvement. As I stated to the gentleman the other day, if there was a project recommended by the engineers for that it would not be rejected, I fancy, solely because it was inside of the corporate limits of the city. Mr. Chairman, as I stated the other day, we do not desire to establish, nor have we established, any hard-and-fast rule for our Government in the matter of doing work in inner harbors. Each tub, so to speak, must stand on its own bottom. Whenever we reach a proposition of that kind we will give it careful consideration, considering the benefits that will likely accrue to commerce and the cost involved.

Mr. MOORE of Pennsylvania. Will the gentleman tell us how we are going to follow the rule which the gentleman now enunciates if, in one instance, like Frankford Creek, the city extends on both sides, and an appropriation and a survey are refused, and in the case of this river or creek, where the city extends on both sides, a survey is granted and a $20,000 appropriation is allowed?

Mr. SPARKMAN. I should like to say to the gentleman right here that when I voted against the amendment which the gentleman offered for a survey I based my action largely upon the fact, as I have understood, that there was an agreement some years ago—whether it was a wise or unwise agreement I am not here to say——

Mr. MOORE of Pennsylvania. That was with regard to the Schuylkill, not with regard to Frankford Creek.

Mr. SPARKMAN. Let me finish what I was saying—that there was an agreement by which the city of Philadelphia was to take care of the navigable waters inside the city while the Government improved the river from the ocean up to the city. I would like before authorizing a survey to investigate a little further and, among other things, ascertain whether there was actually such an arrangement and whether it is wise to continue it. At all events, I think the committee would like and that this House would desire more information before acting; but whenever a project is recommended by the engineers, it will no doubt be carefully considered by the Rivers and Harbors Committee. The fact that the work to be done is inside the corporate limits of the city should not be the determining factor.

Mr. MOORE of Pennsylvania. Then the committee will not object to further consideration both of Frankford Creek and Schuylkill River?

Mr. SPARKMAN. If it comes up hereafter in the proper way. We could not accept any amendment to the bill now.

Mr. DONOHOE. Mr. Chairman, I hope the impression will not go out that we object to these things. We are simply waiting for the approval of the engineers.

The Clerk read as follows:

Improving inland waterway between Rehoboth Bay and Delaware Bay, Del.: Continuing improvement in accordance with the reports submitted in House Document No. 823, Sixtieth Congress, first session, and in Rivers and Harbors Committee Document No. 51, Sixty-first Congress, third session, $41,725.

Mr. MOORE of Pennsylvania. I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 12, after line 13, insert the following:

"Connecting Chesapeake Bay and Delaware River: The Secretary of War is hereby authorized and directed to enter into negotiations for the purchase of the existing Chesapeake & Delaware Canal, in accordance with recommendations contained in House Document No. 391, Sixty-second Congress, second session, and Senate Document No. 215, Fifty-ninth Congress, second session, and to agree to purchase the same subject to appropriation by Congress; or, in event of failure to agree upon terms of purchase, to institute condemnation proceedings therefor."

Mr. MOORE of Pennsylvania. Mr. Chairman, in 1909—and I say this for the benefit of our farmer friends in this House—it cost $1.30 to transport a ton of 2,240 pounds of fertilizer from Philadelphia to North Carolina by water inland, through such dilapidated canals and inland waterways as we now have; when to send a short-weight ton of 2,000 pounds of fertilizer the same distance by rail it cost $4.80 a ton. That is a very considerable difference to the consumer, who, in this instance, is the farmer. It is one of the many illustrations that I could bring to bear if I had time. It shows the importance in a commercial sense of opening up the waterways along the Atlantic seaboard.

In 1909 I wrote the Secretary of the Navy, knowing that some torpedo boats of the Government were to be sent from Philadelphia Navy Yard to Charleston, and requested him to try the experiment of sending the boats through the inland waterways. He wrote that it was impossible to do so because of the insufficient depth of the waterways, much as he would like to use them. He sent the vessels outside. I watched the outcome. They were met by a storm off Cape Hatteras and were driven in. Some of the men were badly injured, the vessels were battered, and the Government was put to great expense.

And yet an inside waterway would have given complete and safe facilities for the transportation of these vessels.

Two years ago four barges left the city of Philadelphia carrying coal to Boston. They were beaten ashore off Cape Cod and 17 of the constituents of the gentleman from Philadelphia and mine were drowned. These vessels should never have gone to sea; they should have gone inside, where the Almighty provided waterways for them to use, if man and the Government would simply improve these waterways and give them a safe and protected course.

Now, Mr. Chairman, the amendment which I have sent to the Clerk's desk speaks for at least 1,000 representatives of the Atlantic seaboard gathered in convention at New London last September. They asked Congress to do something for the relief of the Atlantic coast. Gentlemen can spend money in the interior, but they seem to feel that there is no need along the Atlantic coast, despite the frightful storms that we endure every winter season.

Two times have favorable reports by the engineers been made upon this particular Chesapeake and Delaware project. To be sure, I have no time to argue the whole question, but the Government engineers have favorably reported twice. The matter has been brought before the River and Harbor Committee, and yet no favorable action has been had. The Chesapeake & Delaware Canal, concerning which the amendment refers, is a link 13 miles long between the Delaware River and the Chesapeake Bay. It is capable of doing the business in an environment that creates 50,000,000 tons a year. The old canal does less now than 1,000,000 tons because it is privately owned and so restricted in regard to rates that the railroads have almost complete control of the territory.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent that my time may be extended five minutes longer.

Mr. EDWARDS. Mr. Chairman, I object; let the gentleman extend his remarks in the RECORD.

Mr. MOORE of Pennsylvania. Very well, Mr. Chairman, I accept that. I make the point that no quorum is present.

Mr. MANN. I hope the gentleman from Georgia will withdraw his objection.

Mr. MOORE of Pennsylvania. I do not want him to withdraw it. He has been facetious all through the bill. He gets his provisions in, but objects to others.

The CHAIRMAN. The gentleman from Pennsylvania makes the point that no quorum is present. The Chair will count. [After counting.] Seventy-five Members present, not a quorum, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken, S. C.	Berger	Cravens	Dixon, Ind.
Ames	Bradley	Curry	Dodds
Andrus	Burke, Pa.	Danforth	Doremus
Ansberry	Burke, S. Dak.	Davidson	Dwight
Anthony	Carter	Davis, Minn.	Fairchild
Ayres	Copley	Davis, W. Va.	Floyd, Ark.
Bates	Crago	De Forest	Focht

Hardney	Konig	Nye	Slemp
George	Korbly	Oldfield	Sloan
Gill	Lafean	Olmsted	Small
Graham	Langley	O'Shaunessy	Smith, J. M. C.
Gregg, Tex.	Legare	Parran	Speer
Gricst	Lindbergh	Patten, N. Y.	Stack
Hamill	Lindsay	Patton, Pa.	Stanley
Hamilton, Mich.	Linthicum	Payne	Stephens, Nebr.
Hammond	Littlepage	Peters	Sterling
Hardwick	Littleton	Prouty	Sulloway
Harris	Lloyd	Pujo	Taylor, Ohio
Harrison, N. Y.	Longworth	Rainey	Thomas
Hartman	Loud	Randell, Tex.	Tilson
Hayden	McCall	Ransdell, La.	Townsend
Heald	McCoy	Redfield	Tuttle
Higgins	McGuire, Okla.	Reyburn	Underwood
Hill	Maher	Richardson	Vreeland
Hobson	Martin, Colo.	Riordan	Warburton
Howard	Matthews	Roberts, Nev.	Webb
Howell	Miller	Rucker, Colo.	Weeks
Howland	Moon, Pa.	Rucker, Mo.	Whitacre
Hull	Morrison	Sabath	Willis
James	Mott	Sells	Wilson, Ill.
Johnson, Ky.	Murdock	Shackleford	Wood, N. J.
Johnson, S. C.	Needham	Sharp	Woods, Iowa
Kitchin	Norris	Sheppard	

The committee rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill H. R. 28180, the river and harbor appropriation bill, had found itself without a quorum; that he had directed the roll to be called; that 248 Members had responded to their names, a quorum, and he reported to the House the names of the absentees.

The committee resumed its session.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent to proceed for five minutes upon the amendment now before the House.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to speak for five minutes on the pending amendment. Is there objection?

There was no objection.

Mr. MOORE of Pennsylvania. Mr. Chairman, before I use these five minutes, I want to make an apology to the gentleman from Georgia [Mr. EDWARDS]. A little while ago in the heat of discussion, when he objected to my having time, I believe I referred to him as a suffragette. In order that there may be no misunderstanding of this term, I desire to explain that I used that expression because the gentleman, in his anxiety to pass the bill, is always calling for votes.

Mr. Chairman, the amendment before the House contemplates the opening up of the most feasible and probably the least expensive link in what is known as the Atlantic coastal waterway. It is difficult to convince gentlemen who come from the interior as to the necessity for this project or to make them understand the situation along the Atlantic seaboard. Some of the brightest minds in this House have the notion that it is a mere biscuit throw from the solid land across some of these Atlantic coastal waterways into the ocean. That is where they show their ignorance of the real facts. These inland waterways in some instances are 100 miles from the shore, and they provide to-day for a barge traffic, and what is left of the sailing craft, a business that is enormous, and that if driven into the ocean would mean increased prices to the consumers in rates and insurance and the risk and danger of loss both to life and property. I have statistics here which have been gathered by a very able board of statisticians, headed by Prof. Emory R. Johnson, who has acquired some fame in connection with the Panama Canal, which show that during the decade from 1900 to 1909 there were over 5,700 disasters to shipping on the Atlantic seaboard. This is within the range of this proposed Atlantic coastal waterway. Not all of the losses were reported during those 10 years, but these accidents are known to have destroyed $40,500,000 worth of vessels and cargo and to have caused the loss of over 2,200 lives.

Mr. HELM. Mr. Chairman, the gentleman has stated that a number of these commercial centers that are to be reached by this intercoastal waterway are as much as 100 miles from the sea.

Mr. MOORE of Pennsylvania. Some of them.

Mr. HELM. What are those commercial centers? Will the gentleman please name them?

Mr. MOORE of Pennsylvania. Down in North Carolina there are some.

Mr. HELM. What are they?

Mr. MOORE of Pennsylvania. I was specializing when I said 100 miles. Say 50 miles. There are some in the State of New Jersey. We will put it between 50 and 100 miles.

Mr. HELM. What are the names of the places?

Mr. MOORE of Pennsylvania. In North Carolina alone there are inside waterways that total 2,500 miles.

Mr. HELM. If these places are so numerous, why can not the gentleman name some of them?

Mr. MOORE of Pennsylvania. The gentleman will pardon me, but if I could get the time I would be very glad to answer his question. This is a very important matter, and I desire to get through.

Mr. HELM. I am satisfied that it is an important matter, and that is why I am trying to get this information.

Mr. MOORE of Pennsylvania. Will the gentleman ask for more time for me if I answer his question?

Mr. HELM. Oh, yes; I will ask for the time.

Mr. MOORE of Pennsylvania. Very well; proceed. I will leave it to the honor of the gentleman to help me out.

Mr. HELM. The gentleman is leaving it to a very safe proposition. The gentleman has not yet given the names of those commercial centers that he says can be reached by this intercoastal waterway.

Mr. MOORE of Pennsylvania. I will tell the gentleman just what the whole project is.

Mr. HELM. No; I want to know the names of these commercial centers that the gentleman says are from 50 to 100 miles away from the coast.

Mr. MOORE of Pennsylvania. Wilmington, Del.; Trenton, N. J.; Wilmington, Newbern, and Edenton, N. C. I can give the gentleman many of them.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HELM. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HELM. Are there any others?

Mr. MOORE of Pennsylvania. Yes; plenty of them, all down the line—Philadelphia, Jacksonville, Savannah.

Mr. HELM. How many of them that the gentleman has named can be reached now by waterway?

Mr. MOORE of Pennsylvania. All of them can be reached from the outside—from the ocean—by vessels of certain draft.

Mr. HELM. How deep is the channel by which they may be reached?

Mr. MOORE of Pennsylvania. The channels vary in depth. I have tried to tell the House that one channel is 40 feet deep, and that monopolizes the major portion of the business. You could not get up to Trenton if——

Mr. HELM. But the depth of this channel, in connection with the intercoastal waterway to which the gentleman has referred——

Mr. MOORE of Pennsylvania. But the gentleman does not seem to understand what I am trying to make him understand, that there are 1,800 miles of territory traversed by these streams upon which trade, business, and commerce will engage. Now, does not the gentleman want some line of communication between these cities inland, and will he listen to the proposition we are considering? It is substantially 90 miles, as a bird flies, from the city of Philadelphia to Baltimore; that means between the North and South. The project I am bringing before the committee now is the Chesapeake & Delaware project; it is 90 miles, as a bird flies, from Philadelphia to Baltimore. Of course, you can reach either city through the port from the ocean; but if you want to go by water inside—and there is no available inside route such as I am suggesting, except a 9-foot canal—you have to sail out of the port of Philadelphia, down the Delaware River and bay, out into the ocean, down by Maryland and Virginia, around Cape Charles, up the Chesapeake Bay, up the Patapsco River to Baltimore, a distance of 325 miles, subject to all the expense and inconvenience of insurance and ocean-going risk, while with a barge route you can go the 90 miles through a canal only 13 miles long in as much safety as by a standardized railroad line. That is the point.

Mr. HELM. Can not an ocean-going vessel touch at every one of the commercial centers the gentleman has enumerated?

Mr. MOORE of Pennsylvania. Yes; if the channels are deep enough. But I want to say to the gentleman that that is the very point I am bringing to the attention of the committee. If you want to centralize all the business of the country in this territory of 1,800 miles from Maine to Key West in the hands of ocean-going steamers, then you vote that way. I want to open up means of communication inland, so that business can be done without it having to go exclusively to ocean carrying vessels and railway lines.

Now, Mr. Chairman, this proposition has been approved by the commission known as the Angus Commission, consisting of engineers and civilians, appointed by the President by direction of Congress. It has been approved by the United States engineers and by the Board of Review. It has been before the Rivers and Harbors Committee time after time. There seems

to be no objection to it except as to cost. The engineers have estimated that this entire project could be completed to 25 feet for $12,000,000; that it would save life and property and that it would give opportunity to take the iron hand of existing monopolistic companies off the one link of communication that is now provided between the North and the South. This matter has been approved by the representatives of States all along the line of the Atlantic coast. Men like the governor of Massachusetts, Mr. Foss, have heartily and openly approved it and insisted that it should be done for the relief of New England. Men like Gov. Mann, of Virginia, have openly and eloquently approved it and insisted that the time has come for Congress to act, and that if Congress does not act it is time for the people to get behind their Congressmen and make them act. Everything that can be said has been said in support of this project, but Congress halts, and while Congress halts, taking the money and giving it to western projects, about which I do not complain, except that it holds us back, the owners of this old canal say to those who do business through it, "The rates you pay here must equal those paid to the railroads," and thus make Congress play into the hands of the existing transportation companies. The passage of this amendment now will not take a single dollar from the Government, but it authorizes the United States engineers to negotiate for the property and to take it if they find it can be had within the cost recommended. [Cries of "Vote!"]

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I ask unanimous consent that I may proceed for five minutes.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent that he may address the committee for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I want briefly to reply, in the five minutes which I have asked, to the gentlemen who have spoken on this bill during the last three days. We made no objection to the extension of time requested by these gentlemen, although for nearly a week the Committee on Rivers and Harbors has been held up to the country as a band of conspirators, who are inspired by no better purpose than the desire to steal the money out of the Treasury of the United States, that it might be spent in our localities, as one gentleman expressed it, for the benefit of the barkeepers and the grocerymen and the local contractors.

I do not intend to reply in kind to such charges. This House knows, Mr. Chairman, the character of the men who are on the Rivers and Harbors Committee; this House knows the character of the men who have made these baseless, reckless charges; and I am willing to submit to the judgment the House has rendered so far and will render further between us. [Applause.]

I will state this matter briefly, for the benefit of these gentlemen, because they are not handicapped with any information on the subject, if they really want light, although the gentleman from Texas [Mr. CALLAWAY], when a member of the committee [Mr. EDWARDS] asked him the other day upon which item he wished information, announced cavalierly, "I wish no information on any item. The whole bill is rotten."

Now, just let me state what the Committee on Rivers and Harbors have done and how we proceed. Before any project is considered by the committee a survey is ordered by the Engineer Corps of the Army, and there is upon this earth no more patriotic corps of public officials than the Engineer Corps of the United States Army. [Applause.] There have been cited two instances to prove how corrupt our Engineer Corps is—one in the Philippines, which was not under an engineer of the Army, and one in Arizona, which was not under an engineer of the Army—but we were told "All engineers look alike to me."

Mr. Chairman, I believe if you will strike from the history of this country the record of the Engineer Corps of the United States Army, you will tear from our history some of its brightest pages. There is no higher profession than that of the engineer, not even that of a pork-barrel politician or a sand-dune statesman. George Washington was an engineer and engaged as such in the improvement of the rivers of this country. Robert E. Lee was an engineer of the Army, and Col. Goethals is an engineer of the Army. [Applause.] I call attention of the House to those names as an answer to the reckless charge that these engineers favor river and harbor improvements in order that they may hold their jobs. Who is it so ignorant that he believes the engineers of the Army are dependent for their jobs on continuing river and harbor improvements? They are graduates of West Point. They are in the Army, and hold their places for life, but instead of letting them remain idle with their commands we wisely put them in times of peace at work on those public works which will promote the commercial interests of the country and its development. [Applause.]

When these engineers report on a project—and I hope the gentlemen will listen to me—they state what the project is, how much it will take to complete it, and what the appropriation should be annually. They state what the commerce is, they state the value of it, they state the items which compose the commerce, and upon that Congress acts. But if it is a considerable sum which is involved, representatives from the commercial organizations or communities interested come before the committee and we have public hearings. All of those are published. At the beginning of this session three volumes of reports were placed to the credit of every Member of this House, so that he might examine, if he chose, any project mentioned in the bill, and get all the information desirable.

If he were not satisfied with that, he could come to the committee room and ask for the public hearing, where the merchants, the manufacturers, aye, and the farmers, have appeared before us, begging and insisting that these highways of commerce be improved for the benefit of all the people. We came to Washington in November, before the convening of this Congress. For two long months we worked upon this bill—all day, every day—in an earnest and honest effort to serve our country. There were before us projects approved by the engineers calling for appropriations amounting to $82,000,000. By dint of hard labor we were able at last to sift this down to less than $41,000,000. When that was done we reported the bill to the House. What a piece of legislative stupidity it would be, what a piece of inexcusable extravagance it would be, to copy those reports and those hearings, which have already been printed at public expense, once more in a report from the committee.

Mr. MONDELL. Will the gentleman yield?

Mr. HUMPHREYS of Mississippi. I will not, with all due respect to the gentleman. I think he has had his day in court; in fact, he has had three days in court. [Applause.]

There is not a bill that is reported to this House where every item is subjected to more relentless scrutiny than the river and harbor bill. And when gentlemen denounce this committee as a band of pirates they ought to specify. They ought not to do like the Wolfville preacher out in the far and arid West, who, we are told by Mr. Lewis, "argued and argued, but could not pint out"; and that is exactly what these gentlemen have done.

Why, my distinguished friend from Wyoming [Mr. MONDELL], who has spoken more on this bill than any member of the committee, has never moved to strike a paragraph from it, and has voted to add every item that has been offered as an amendment to it.

Mr. MONDELL. Now will the gentleman yield, Mr. Chairman?

Mr. HUMPHREYS of Mississippi. I will yield for a question.

Mr. MONDELL. I simply want to correct the gentleman. I did move to strike out several paragraphs of the bill.

Mr. HUMPHREYS of Mississippi. The gentleman moved to strike out the last word and sometimes the last two words. But he talked in generalities. He never confined himself to any project, and when the gentleman mentioned here, without giving the name, the Trinity River, the gentleman assumed he meant the upper Missouri——

Mr. MOORE of Pennsylvania. The gentleman is mistaken.

Mr. HUMPHREYS of Mississippi (continuing). And he at once proceeded to denounce the upper Missouri, but he made no motion to strike it out.

Mr. MONDELL. The gentleman misunderstands. I did refer particularly to a number of items in the bill and I did move to strike out the paragraph, but I lost because your combination was too strong.

Mr. HUMPHREYS of Mississippi. Exactly. We are charged with combinations here; we are charged with conspiring to steal the public funds. If that be true, we are unworthy of a seat in this House, and the gentleman who makes the charge and fails to submit the proof is unworthy the respect of any man in this House. [Applause.]

Now, several projects have been mentioned, among them being the Trinity River. The distinguished gentleman from Texas [Mr. BEALL] answered the criticisms made against that so thoroughly and conclusively that nobody has mentioned it since.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. SCULLY. Mr. Chairman, I ask unanimous consent that the gentleman from Mississippi be allowed to proceed for 10 minutes more.

The CHAIRMAN. All debate has been exhausted on this paragraph and amendments thereto, and only by unanimous consent can the gentleman proceed.

Mr. CANDLER. Mr. Chairman, I ask unanimous consent that the gentleman from Mississippi be permitted to proceed for 10 minutes.

The CHAIRMAN. Is there objection to the gentleman's request?

Mr. CALLAWAY. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman from Texas [Mr. CALLAWAY] reserves the right to object.

Mr. CALLAWAY. I want to reserve the right to object until I can have this understanding, that I am to have five minutes later in which to answer the gentleman.

The CHAIRMAN. That is for the committee to decide later on. Is there objection?

Mr. CALLAWAY. If the gentleman will agree, I shall not object.

Mr. CANDLER. I ask unanimous consent, Mr. Chairman, that my colleague from Mississippi [Mr. HUMPHREYS] be allowed to proceed for 10 minutes, and that the gentleman from Texas [Mr. CALLAWAY] have 5 minutes.

The CHAIRMAN. The request now is that the gentleman from Mississippi [Mr. HUMPHREYS] be permitted to proceed for 10 minutes, and then that the gentleman from Texas [Mr. CALLAWAY] proceed for 5 minutes. Is there objection to the request? [After a pause.] The Chair hears none.

Mr. HUMPHREYS of Mississippi. Now, Mr. Chairman, after these general remarks I would like to address myself to the proposition espoused by the gentleman from Pennsylvania [Mr. MOORE]. I am not one of those who believe that this is a ridiculous scheme which the gentleman is advocating. I think there is great merit in this intercoastal canal proposition. [Applause.] But the committee proceeds under limitations that are necessary. We have not discriminated against that project. We have taken on one link of it. We can not take on the whole project at once. In the bill a year ago we adopted one link. We are now appropriating for that. The link which the gentleman proposes, as I recall, would cost $12,000,000. We did not feel that in this bill we were able to take that over. We had to choose between links, and I call the attention of the gentleman from Texas [Mr. CALLAWAY] to this statement, because he has devoted his opposition principally, as I understood it, to the Albemarle and Chesapeake Canal. There is now carried on a privately owned canal between Norfolk and Beaufort 700,000 tons annually of American commerce which pays toll; and, as I stated the other day, it would require two freight trains a day, each train carrying 30 cars of 60,000 pounds capacity, all fully loaded, every day in the year to carry 700,000 tons. That commerce is being carried on a 6-foot channel. Seagoing craft can not use it. The ocean has its burying places as well as the land, and Hatteras is one of those somber spots. There have gone down on the Diamond Shoals, off Hatteras, millions on top of millions of American property, wrecked, and there have gone down hundreds on top of hundreds of American lives, sacrificed to the angry storms that play about Cape Hatteras.

This proposition enables little ships to avoid that dangerous coast; not the great Morgan steamers that ply from New York to Galveston, not the great steamships that are owned by this Shipping Trust that we hear so severely denounced, because they are large ocean-going vessels, and they are not disturbed by the storms off Hatteras; but the little independent lines—the little boats that do not draw so much water, that can not venture out to sea as the big ones do—they are the ones that will use this short passage in behind Hatteras, and thus save to our people millions of money and hundreds of lives every year when this canal is deepened to 12 feet. [Applause.] That being true, when we came to select we chose that particular project as the link that in our opinion was most necessary in this great intercoastal canal proposition running from Boston to the Rio Grande. A part of it has been constructed already by private enterprise. Would men invest their money in projects of this sort simply to furnish funds for barkeepers and grocery men? They have been built because the commerce of the country demanded it, and they are calling upon Congress now to take it over and so deepen it that the ships that now go down in wrecks may use it in safe transport for American commerce.

Mr. Chairman, the gentleman from Pennsylvania [Mr. MOORE] in every speech has charged that we are neglecting the Atlantic seacoast. Is he the only representative from the seaboard? He forgets the fact that the distinguished gentleman from Massachusetts [Mr. LAWRENCE] is a member of this committee; and there is not a more high-purposed or patriotic Representative in this House. [Applause.]

When he goes out of this House on the 4th of March, it is the judgment of every man here who knows him that this country will lose the services of one of its best and most honorable and patriotic public servants. [Applause.] He is on the Atlantic coast, and is a member of the Committee on Rivers and Harbors. Mr. SCULLY, of New Jersey, Mr. DONOHOE, of Pennsylvania, Mr. SMALL, of North Carolina, Mr. ELLERBE, of South Carolina, and Mr. EDWARDS, of Georgia, are all on this committee, and they represent the Atlantic seacoast. The gentleman from Pennsylvania [Mr. MOORE] is the only one complaining. He is the representative at large from the Atlantic seacoast.

To paraphrase a familiar rhyme:

For he is the cook of the *Nancy* brig
And the mate and the captain, too;
And the bos'un tight and the midshipmite,
In fact, he is the whole damn crew.

[Laughter.]

The Mississippi River has been criticized. I challenge any man who speaks on that subject to quote the platform of his party. I do not care whether he be Democrat, Republican, or Progressive. I challenge any man when he assails this committee for providing for the Mississippi River to incorporate in his remarks the platform of his party. And if a Democrat criticize it, I challenge him to quote what a very distinguished gentleman in this country has said on the subject, one whose democracy nobody on this side of the House will challenge, publicly at least.

Mr. MANN. At this time.

Mr. HUMPHREYS of Mississippi. Gov. Woodrow Wilson, of New Jersey. [Applause on the Democratic side.] I think that is sufficient to say, so far as the Mississippi River is concerned. If you are not going to provide for it, if the Democrats are not going to provide for it, let us serve notice now, before the 4th of March comes, that when we made that promise to the people in our platform, and when our candidate made it in his letter of acceptance, we were simply trying to bunco the people. I do not believe we were. I do not believe he was. Among the projects that have been criticized are the rivers in the State of Texas. Texas Representatives in this House have come before our committee, Mr. HENRY, Mr. HARDY, Mr. MOORE, Mr. GARNER, Mr. BEALL, Mr. BURLESON, and Mr. SHEPPARD. They have advocated these projects. The distinguished gentleman from Texas [Mr. BURGESS] is a member of our committee. I decline to believe that all these gentlemen from Texas have entered into an unholy conspiracy to plunder the Federal Treasury in order to take money back home, not for the public good but to squander it among the barkeepers, grocerymen, and contractors of their neighborhood. [Applause.] I believe they are honorable men, and no honorable man will indulge in the character of legislation that has been charged against the Rivers and Harbors Committee.

There are items in this bill, as there are items in every other bill that has ever been reported, that I did not favor; not because I thought they were unworthy, but because I thought there were others more worthy. I have sat in that committee when 40,000 of my constituents were homeless and shelterless because of the floods of the great river, when an appropriation for the Mississippi levees was the very breath to my nostrils.

I have sat in that committee when I was praying for liberal appropriations, and yet at the same time I have fought propositions in which other members of the committee were vitally interested. Never yet have I and I believe no member of that committee has ever yet traded off his vote, directly or indirectly, on one proposition to secure votes for a proposition of his own. [Applause.]

It is said that we are wasting the public funds on worthless, insignificent creeks. The trouble is not with the creeks, not with the appropriation bill; the trouble is that the gentlemen know nothing of the geography of their country. I stated a few days ago, and I state it now, that no money ever brought back better returns than the money we appropriate for the improvement of the creeks which are carried in this bill. The appropriations for all these creeks combined is about $130,000, whereas the American commerce annually borne upon them in the busy industrial life of this country amounts to the tremendous sum of $250,000,000. Seven million tons of American commerce are floated every year on these much-criticized creeks—a tonnage more than one-half as much as that carried on the Ohio river, a tonnage certainly half as much as the American tonnage which will pass through the Panama Canal for a number of years after its completion. We are not criticized for appropriating more than $60,000,000 for the Ohio. No

man who has respect for his own opinion will do that. We are not criticized for spending nearly $400,000,000 for the Panama Canal, but gentlemen become excited and in their ignorance declaim against this bill because it carries $130,000 for the creeks of this country, which float, as I said, $250,000,000 worth of the people's products every year. The inland commerce of the United States exceeds in value the international commerce of all the nations of the world combined. When enterprising gentlemen go upon the high seas and undertake to destroy this international commerce, they are held guilty of piracy, and if there are pirates in this House that crime must be laid at the door of those gentlemen who are seeking here to-day to paralyze and destroy the inland commerce of the United States which is borne upon our navigable streams. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. CALLAWAY. Mr. Chairman, I do not care anything about all this flattery of the engineers of the War Department. That is no argument in favor of this proposition which we are attacking. I assume that the engineers of the War Department are men like the people in other walks of life; that they are no better and no worse than people in every other walk of life. I assume that the engineers of the War Department are human and influenced by their interests and by their future, just as men in every walk of life are influenced, just as the members of the Committee on Rivers and Harbors are mortal, human, and influenced by their interests.

The question is not whether George Washington was an engineer or Robert E. Lee was an engineer, or whether Woodrow Wilson favors some project for the Mississippi River. This flattery and the mentioning of names is begging the issue, dodging the question, muddying the water to cut out the light. The question is whether or not this item, this initial step in an intercoastal waterway that is proposed to run from Boston, Mass., to the Rio Grande along the coast, touching the places only that already have water, should be put in this bill.

They provide $800,000 as an initial step, to be expended on a segment of that project that reaches from Norfolk, Va., to Beaufort, N. C., not that it will complete that segment of the project, but that it will be a starter on that project; that it will unite two private canals that will be a part of the project; that when they have got that which the gentleman from Mississippi says is the best segment of the route according to the engineers' report, which will cost $5,400,000 and is 100 miles in length, they will argue that we want to put in the next best segment, and this report to which they cited me lays out the segments and names the best of them as being from Norfolk to Beaufort Inlet, N. C. Then they will move along, and, being benefited by this project, they will move from one segment to the other, bringing the last one before the House as the only plausible way they can push it.

I did say that the saloonkeepers along the route would be interested in it; the grocerymen and the dry-goods merchants will be interested; the railroads will be interested in it; the electric-light men would be interested in it; the street car men, where the money will be expended, will be interested in it; and the contractors will be interested in it; and the man from Mississippi knows that is God Almighty's truth. Every man in the House knows it is the truth.

And yet they get up here and talk about Robert E. Lee and George Washington and some honorable gentlemen on the committee and try to dodge the question. I asked the gentlemen on the committee to give me some information in reference to this item, and they cited me to 4,000 pages of engineers' report, and said they hoped I was patriotic and energetic enough to read through that lot of slush.

But the bill fortunately cited this document, containing 278 pages, and I got hold of that, put in Saturday night and Sunday and Sunday night looking it through, and yesterday I came in here and said, "Here is your report; I have read it through," and on that report of the engineers I pronounce it a damnable scheme to rob the Federal Treasury and the people of this country, and that the people would, if they understood the scheme, kick the last man out of the House who dares to stand for it. [Applause.]

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent to proceed for five minutes, for the purpose of discussing the amendment proposed by the gentleman from Pennsylvania.

The CHAIRMAN. The gentleman from Florida asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. SPARKMAN. Mr. Chairman, I hope this amendment will not be favorably considered by the House. As has been stated, it has some merit and is one of the links in what will be the intercoastal waterway, of which we have heard so much, if it should ever be completed. Although the original plan as carried by the survey ordered by Congress covered the stretch between Boston and Beaufort Inlet, N. C., only two links have been recommended by the engineers. These are the ones from Norfolk to Beaufort and the Chesapeake & Delaware Canal. The latter is covered by this amendment. The former was adopted in the act of 1912. We adopted that not only on account of the fact that it was a worthy project but from the fact that it would cost less than the one we have before us now.

The gentleman from Texas [Mr. CALLAWAY] says that this is an entering wedge to the adoption of the whole system. I can not say whether it is an entering wedge or not. That would depend upon what view Congress may later take of the matter.

Mr. CALLAWAY. Will the gentleman yield?

Mr. SPARKMAN. I have only five minutes, but go ahead.

Mr. CALLAWAY. When I asked the gentleman about this project did he not cite me to this House Document 391, the intercoastal waterway?

Mr. SPARKMAN. I expect I did. If I did not, I should have done so.

Mr. CALLAWAY. And in that report is not this laid out as one of the segments of the intercoastal proposition, and the engineers' report favorable on this because it is a part of the intercoastal proposition?

Mr. SPARKMAN. I would not say that it goes that far. The engineers base their recommendation upon their view as to the advisability of doing that particular work, because in their judgment it will benefit a large commerce, both local and general. In other words, that the benefits to result will justify the expenditure.

Mr. CALLAWAY. Mr. Chairman, I want to ask the gentleman if the gentleman from North Carolina [Mr. SMALL], the other day, advocating this proposition before the House, on page 1937 of the RECORD, did not say that the present tolls, which were absolutely unbearable, upon this canal amount now only to $103,000? That is in this project now. Those tolls will be relieved, provided we expend $5,400,000.

Mr. SPARKMAN. Mr. Chairman, the canal is not all of the project. It is only a small part of that project, being only about 14 miles in length, while the entire distance covered by the project is 182 miles, and if the expenditure of that $5,000,000 will relieve the people from the payment of those burdensome tolls, I submit to this House if it is not a judicious expenditure. [Applause.] The gentleman does not seem to know anything or care anything about the people of that section, about the commercial advantages of the project; and let me say to him that if he will read those reports—I commend them to him—not only the one to which he refers, but the 4,000 pages, if there are so many, to which he has alluded so often. If he will spend, not his Sundays—I would not advise him to do that—but his weekdays and only a part of his nights in reading these reports he will acquire a better idea of the advantages accruing and that will accrue to the country from the completion of these great works than he seems to have at the present time. [Applause.]

I want to say further, that in my judgment the amendment of the gentleman from Pennsylvania [Mr. MOORE] is a proposition well worthy of consideration, one on which we can profitably spend a few moments in discussion here. But, while it has merit, I do not believe we should adopt it now. First, however, let me say to the gentleman from Texas [Mr. CALLAWAY] that the work we have been doing, the work that this Government has done during the 90 years we have been carrying on river and harbor work, has been of great benefit to the country.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SPARKMAN. I want to say to him that the navigable waterways of this country, for the improvement of which and the maintenance of which the sums recommended in this bill are to be appropriated, accommodate a commerce of 275,000,000 tons every year, to say nothing of duplications and triplications of that commerce. Counting all these, as they ought to be considered, as it emphasizes the importance of the work, the aggregate reaches five or six hundred millions of tons each year. He says he can find nothing to show what a ton of commerce costs the Government. I have seen it estimated somewhere that these expenditures are saving the people of this country at least $1 per ton for each ton of freight carried by water.

If that be true, or if even the half of it is true, then we can well afford the $700,000,000 that we have already expended upon the navigable waterways of the country, and we can well spare the $40,000,000 that this bill carries. [Applause.]

Now, a word or two more in regard to the amendment offered by the gentleman from Pennsylvania [Mr. MOORE]. While the project covered by it has more or less merit, I do not believe it should go into this bill. It may be that in the next bill, or in the next, it can be taken up and more favorable consideration given it, but we can not decide now. It may be that it would be better to wait until we have more nearly completed the canal and the waterway from Norfolk to Beaufort Inlet, N. C., before beginning the other project. When that is completed, or at least a little later, we can see what the results are likely to be, we can better judge as to the advisability of taking on the larger project. This canal already has 10 feet of water and is accumulating quite a commerce. It is true it is a toll canal, and the people ought perhaps to be relieved from the burden of these tolls. But we can not do everything at once. We can not care for all these projects now. We must stop somewhere, and so far as this part of the intercoastal system is concerned, we have drawn the line there at this time—whether wisely or unwisely, it is for this House to say.

Mr. CALLAWAY. Mr. Chairman, is it not a fact that last year this committee appropriated $500,000 for this same project, which has never been expended on it, and if this $800,000 item is cut out now, with the $500,000 item, there will be a saving of $1,300,000?

Mr. SPARKMAN. Not for this, but the other project. I do not know whether it would be saved.

Mr. CALLAWAY. It would not come out of the Treasury.

Mr. SPARKMAN. If you cut out the appropriation you will stop the work, and if you cut out the thirty-eight millions of dollars that the gentleman's amendment proposed yesterday to strike out, you will stop all of these great works and the advantages we expect that the people will derive from them.

Mr. CALLAWAY. Will the gentleman yield——

Mr. SPARKMAN. There is no greater work than that we are now doing, and if the gentleman were dependent upon the votes of a majority of the American people for a seat here he would never come to Congress by standing before this House and opposing these great works. [Applause.]

Mr. CALLAWAY. Mr. Chairman, will the gentleman yield for a further question?

Mr. SPARKMAN. Certainly.

Mr. CALLAWAY. Is it not a fact that in the attitude of the gentleman before this House the gentleman does not attempt to defend this particular project as an initial step of this great intercoastal scheme?

Mr. SPARKMAN. Oh, no; it is not a fact. On the contrary, I am defending it——

Mr. CALLAWAY. The gentleman does not stand sponsor for it, does he, notwithstanding your bill here cites this House Document No. 391, Sixty-second Congress, second session, for reasons why this project should be entered into?

Mr. SPARKMAN. Why, most assuredly. If I did not stand sponsor for it here I would not have brought in the report. [Applause.]

Mr. CALLAWAY. Did not the gentleman say to the committee—you would not deny it was an entering wedge, but you would not say that it was. [Cries of "Vote!" "Vote!"]

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania. Those in favor of the amendment will say "aye," those opposed "no." The "noes" have it and the amendment is rejected, and the Clerk will read.

Mr. MOORE of Pennsylvania. Division, Mr. Chairman. Mr. Chairman, I asked for a division in time.

The CHAIRMAN. Very well, the gentleman shall have the vote.

Mr. MANN. Mr. Chairman, I submit that the gentleman from Wyoming was on his feet addressing the Chair——

Mr. LANGLEY. He undoubtedly was.

Mr. MANN (continuing). And was entitled to be recognized.

The CHAIRMAN. All debate was exhausted on this amendment.

Mr. MANN. That depends upon whether an amendment should be offered to it or not. Debate had not been exhausted by order of the committee.

The CHAIRMAN. Under the rule debate is exhausted.

Mr. MANN. Debate is exhausted unless the gentleman desired to offer an amendment to it.

Mr. SPARKMAN. Mr. Chairman, I would like to say to the gentleman from Wyoming there is another item in this bill to which we are going to return, and he may get time on that item.

The CHAIRMAN. Does the gentleman from Wyoming offer an amendment or is his request for unanimous consent?

Mr. MONDELL. I move to strike out the last word.

Mr. MOORE of Pennsylvania. Mr. Chairman, a parliamentary inquiry. Have we passed by the amendment offered by myself in relation to the Chespeake & Delaware Canal? In the confusion it appeared that the Chair stated that that amendment was lost.

The CHAIRMAN. On the amendment that the gentleman from Pennsylvania offered a short while ago, on which there was debate, the Chair announced that that amendment was lost. By unanimous consent that order will be vacated, of course, and the gentleman from Wyoming be allowed to offer his amendment.

Mr. MOORE of Pennsylvania. That is an amendment to my amendment.

The CHAIRMAN. Yes.

Mr. MOORE of Pennsylvania. That is all right.

Mr. MONDELL. Mr. Chairman, I have aroused the ire of some gentlemen on the committee because I have criticized certain items in this bill. I have not criticized the bill as a whole. I am in favor of river and harbor improvements and river and harbor bills. Since I have been a Member of this House we have appropriated over $400,000,000 for those purposes, and I have supported all of the bills, reserving the right to object to and criticize certain items. The only difference between myself and some of the gentlemen who are interested locally in these projects is that I do not consider it necessary in caring for the interest of the commerce of the country and providing proper river and harbor improvements to place upon the bill and carry upon the bill for whatever purpose they may be carried entirely unworthy and indefensible items. I call the attention of the House to the fact that no one has attempted to squarely defend any one of the items that I have criticized or any one of the items which have been criticized by others. They have contented themselves with general abuse of those who see fit to criticize the bill and appeal to us to support the bill because, forsooth, Army engineers have recommended the items in them. If you have read the reports of the Army engineers on any of these projects you will discover that what the Committee on Rivers and Harbors construes as a favorable report in many instances is a statement that in the mind of any other person would damn the project effectually. The committee brings in a bill carrying $40,000,000. It declines, refuses, or at least does not give us the benefit of a single printed line of hearings held in connection with the consideration of these hundreds of items.

It brings in a report of two pages containing no information whatever with regard to any single item in the bill, and except for the fact that it was prodded to it, the committee would not have given a word of explanation of any one of these hundreds of items, and when criticized and prodded all we have had has been abuse, denunciation, coupled with an approval of the engineers as a class.

Now, I favor river and harbor appropriations. I stand ready to vote for them, though no dollar of the hundreds of millions appropriated can ever directly benefit any constitutent of mine. I want to save the river and harbor projects of the country from some of their alleged friends. The time will come, as it came a few years ago, if this committee does not take Congress into its confidence, if it does not give us an opportunity to know why it is doing as it is doing, when the stench of these bills will rise to heaven, until there will not be a man in the length and breadth of the land who will defend them, save and alone those who have projects in their districts, and it is in the hope that we may be saved from that condition, it is in the hope that the great projects to serve the commerce of the country may be carried on that I make my criticism to this bill. I realize that there are many items in this bill that do not appeal to the judgment of all the members of the committee, but nevertheless all committee members will support all of them. There are policies followed that do not have the hearty support of members of the committee, and yet they all feel bound to support the bill as a whole. As we are thus denied the enlightening comments of the men best qualified to criticize, it becomes necessary for some one to call attention to the indefensible character of some of these items in the hope that the bill will not further degenerate into a pork-barrel affair as to many of its items.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. May we have the amendment again read?

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

Page 12, after line 13, insert the following:

"Connecting Chesapeake Bay and Delaware River: The Secretary of War is hereby authorized and directed to enter into negotiations for the purchase of the existing Chesapeake & Delaware Canal in accordance with recommendations contained in House Document No. 391, Sixty-second Congress, second session, and Senate Document No. 215, Fifty-ninth Congress, second session, and to agree to purchase the same, subject to appropriation by Congress, or, in event of failure to agree upon terms of purchase, to institute condemnation proceedings therefor."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. MOORE of Pennsylvania. Division, Mr. Chairman.

The committee divided; and there were—ayes 7, noes 78.

So the amendment was rejected.

The Clerk read as follows:

Improving Ohio River: Continuing improvement by the construction of locks and dams with a view to securing a navigable depth of 9 feet, $1,800,000: *Provided*, That the Secretary of War may enter into a contract or contracts for such materials and work as may be necessary to prosecute the said project, to be paid for as appropriations may from time to time be made by law, not to exceed in the aggregate $3,200,000, exclusive of the amounts herein and heretofore appropriated: *Provided further*, That the balances of appropriations and authorizations heretofore made for the construction of individual locks and dams are hereby made available for work in connection with the general project adopted by the river and harbor act approved June 25, 1910, for canalization of the Ohio River with a view to securing a navigable depth of 9 feet in accordance with the report submitted in House Document No. 462, Sixtieth Congress, first session.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. Will the chairman of the Committee on Rivers and Harbors tell us what the total cost of this project is to be?

Mr. SPARKMAN. What is the question?

Mr. MOORE of Pennsylvania. I wanted to get the total cost of the Ohio River project as contemplated.

Mr. SPARKMAN. It is about $63,000,000.

Mr. MOORE of Pennsylvania. About $63,000,000 to obtain a depth of 9 feet?

Mr. SPARKMAN. Nine feet.

Mr. MOORE of Pennsylvania. For a distance of 900 miles from Pittsburgh to Cairo? That is about the extent of the project?

Mr. SPARKMAN. Yes.

Mr. MOORE of Pennsylvania. I thank you. I withdraw the pro forma amendment.

Mr. SPARKMAN. Mr. Chairman, I move that the committee do now rise——

Mr. MANN. Will the gentleman suspend for a moment?

Mr. SPARKMAN. I will.

Mr. MANN. I ask unanimous consent to address the committee for three minutes.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent to address the committee for three minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. Mr. Chairman, I do not rise for the purpose of defending the Committee on Rivers and Harbors. I think that is wholly unnecessary. There is probably no committee of this House which does as much able and valuable work in the committee room with as little show on the floor as does the Committee on Rivers and Harbors. But I rise for the purpose of calling the attention of the committee to the fact that from that committee there will be taken at the end of this Congress six of its members. The membership of the committee is great, and all of its members have high standing in the House.

One of the gentlemen now on the committee will leave the House to go to the other end of the Capitol. Five of the members of that committee retire to private life—the gentleman from South Carolina, Mr. ELLERBE; the gentleman from Massachusetts, Mr. LAWRENCE; the gentleman from Wisconsin, Mr. DAVIDSON; the gentleman from Indiana, Mr. BOEHNE; and my colleague from Illinois, Mr. RODENBERG. All of those gentlemen will leave this House with the regret of the House and every Member in it. [Applause.] They have done great service to their country while here, and I am sure that I voice the unanimous opinion of all men in public life when I wish to them happiness, prosperity, and success, wherever they may be hereafter. [Applause.]

Mr. SPARKMAN. Mr. Chairman, I move that the committee do now rise and report the bill H. R. 28180, the river and harbor appropriation bill, to the House as amended, with the recommendation that the amendments be agreed to, and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration H. R. 28180, the river and harbor appropriation bill, and had directed him to report the same to the House with certain amendments, with the recommendation that the amendments be agreed to, and that the bill as amended do pass.

Mr. SPARKMAN. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

The SPEAKER. The gentleman from Florida [Mr. SPARKMAN] moves the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them in gross. The question is on agreeing to the amendments.

The amendments were agreed to.

The SPEAKER. The question now is on the engrossment and third reading of the amended bill.

The amended bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. CALLAWAY. Mr. Speaker, I want to make a motion that the bill be recommitted with instructions.

The SPEAKER. The Clerk will report the motion and instructions.

The Clerk read as follows:

Mr. CALLAWAY moves to recommit the bill with instructions to strike out the paragraph beginning with line 9, on page 14, which reads as follows:

"Improving Inland waterway from Norfolk, Va., to Beaufort Inlet, N. C.: Continuing improvement in accordance with the report submitted in House Document No. 391, Sixty-second Congress, second session, $800,000: *Provided*, That no part of this amount shall be expended until the canal and appurtenant property belonging to the Chesapeake & Albemarle Canal Co. shall have been acquired by the United States by purchase in accordance with the agreement entered into between the Secretary of War and said company under date of February 17, 1912."

The SPEAKER. The question is on agreeing to the motion to recommit.

Mr. CALLAWAY rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. CALLAWAY. To make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CALLAWAY. I want to know how much time I have to discuss this motion.

The SPEAKER. None at all. The question is on agreeing to the motion to recommit.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. CALLAWAY. I demand the yeas and nays, Mr. Speaker.

The SPEAKER. The gentleman from Texas demands the yeas and nays. Those in favor of taking a yea-and-nay vote will rise and stand in their places until they are counted. [After counting.] Forty-five gentleman have arisen, not a sufficient number.

Mr. MACON. The other side, Mr. Speaker.

Mr. MANN. Forty-five is more than one-fifth.

The SPEAKER. The gentleman is mistaken about what that rule is.

Mr. MANN. I beg the Chair's pardon; I am not speaking of what the rule is. But in the absence of something to show the Chair that more than a quorum is present, 45 is more than one-fifth of a quorum, and 45 is more than one-fifth of those present.

The SPEAKER. The rule is "one-fifth of those present," but the practice has been ever since the present occupant of the chair has been here—and he does not know for how much longer—that when the roll has been called within a reasonable time before and has revealed a certain number present, it is assumed that that number is still here. If any gentleman is dissatisfied with that showing, he can demand the other side.

Mr. CALLAWAY. Mr. Speaker, I demand the other side.

The SPEAKER. Those opposed to taking the yeas and nays will rise and stand until they are counted. [After counting.] Eighty-seven gentlemen have risen. Forty-five is more than one-fifth, so that the yeas and nays are ordered. When the roll is called those in favor of recommitting this bill will vote "yea" and those opposed will vote "nay." The Clerk will call the roll.

Mr. CALLAWAY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CALLAWAY. I want to ask if the Speaker is not required to state what the instructions are?

The SPEAKER. Oh, no. The Clerk reported the instructions. That is his business. The Clerk will call the roll.

The question was taken; and there were—yeas 83, nays 161, answered "present" 7, not voting 132, as follows:

YEAS—83.

Aiken, S. C.	Dickson, Miss.	McKellar	Sisson
Akin, N. Y.	Difenderfer	McKenzie	Sloan
Anderson	Ferris	Macon	Steenerson
Bartlett	Finley	Maguire, Nebr.	Stephens, Miss.
Blackmon	Foster	Martin, S. Dak.	Stephens, Nebr.
Buchanan	Fowler	Mondell	Stephens, Tex.
Burke, S. Dak.	Francis	Morgan, Okla.	Stone
Burke, Wis.	Good	Morrison	Taylor, Ark.
Byrns, Tenn.	Goodwin, Ark.	Morse, Wis.	Taylor, Colo.
Callaway	Gray	Murdock	Thayer
Campbell	Green, Iowa	Neeley	Thomas
Candler	Hammond	Padgett	Towner
Cannon	Hayden	Pickett	Tribble
Carter	Heflin	Raker	Volstead
Clayton	Helgesen	Ranch	Warburton
Cox	Helm	Reilly	White
Cullop	Hensley	Roddenbery	Wilson, Ill.
Curtler	Houston	Rouse	Wilson, Pa.
Curry	Kendall	Ruhey	Witherspoon
Davenport	Kopp	Scott	Young, Kans.
Dickinson	Lindbergh	Sherwood	

NAYS—161.

Alney	Driscoll, D. A	Humphreys, Miss.	Pou
Alexander	Dyer	Jacoway	Prince
Allen	Edwards	Jones	Redfield
Ashbrook	Ellerbe	Kahn	Richardson
Austin	Esch	Kennedy	Roberts, Nev.
Barchfeld	Estopinal	Kindred	Rodenberg
Bartholdt	Fairchild	Kinkead, N. J.	Rothermel
Bates	Faison	Knowland	Russell
Butterick	Farr	Konop	Saunders
Beall, Tex.	Fergusson	La Follette	Scully
Bell, Ga.	Fields	Lamb	Sherley
Boehne	Flood, Va.	Langham	Simmons
Booher	Foss	Langley	Smith, Saml. W.
Borland	French	Lawrence	Smith, N. Y.
Broussard	Fuller	Lee, Ga.	Smith, Tex.
Browning	Gallagher	Lee, Pa.	Sperkman
Bulkley	Gardner, N. J.	Levy	Stanley
Burgess	Garner	Lloyd	Stedman
Burleson	Garrett	Lobeck	Stephens, Cal.
Butler	Gill	Loud	Sweet
Byrnes, S. C.	Gillett	McCoy	Switzer
Calder	Godwin, N. C.	McCreary	Taggart
Campbell	Goldfogle	McDermott	Talcott, N. Y.
Carlin	Greene, Mass.	McKinley	Taylor, Ala.
Cary	Greene, Vt.	McKinney	Thistlewood
Collier	Gregg, Pa.	McLaughlin	Townsend
Conry	Gudger	Madden	Turnbull
Cooper	Hamill	Mann	Tuttle
Copley	Hamilton, W. Va.	Mays	Underhill
Crumpacker	Hardy	Merritt	Underwood
Curley	Harrison, Miss.	Miller	Vare
Dalzell	Hart	Moon, Pa.	Watkins
Daugherty	Hawley	Moon, Tenn.	Weeks
Davenport	Hay	Moore, Pa.	Wilder
Davidson	Hayes	Moore, Tex.	Wilson, N. Y.
Dent	Henry, Conn.	Moss, Ind.	Wood, N. J.
Dies	Henry, Tex	O'Shaunessy	Young, Mich.
Dodds	Hinds	Page	Young, Tex.
Donohoe	Holland	Pepper	
Doughton	Hughes, Ga.	Plumley	
Draper	Humphrey, Wash.	Porter	

ANSWERED "PRESENT"—7.

Adamson	Longworth	Needham	Payne
Driscoll, M. E.	Murray	Palmer	

NOT VOTING—132.

Adair	Gardner, Mass.	Korbly	Pujo
Ames	George	Lafean	Rainey
Andrus	Glass	Lafferty	Randell, Tex.
Ansberry	Goeke	Legare	Ransdell, La.
Anthony	Gould	Lenroot	Rees
Ayres	Graham	Lever	Reyburn
Barnhart	Gregg, Tex.	Lewis	Riordan
Berger	Griest	Lindsay	Roberts, Mass.
Bradley	Guernsey	Linthicum	Rucker, Colo.
Brantley	Hamilton, Mich.	Littlepage	Rucker, Mo.
Brown	Hamlin	Littleton	Sabath
Burke, Pa.	Hardwick	McCall	Sells
Burnett	Harris	McGillicuddy	Shackleford
Clark, Fla.	Harrison, N. Y.	McGuire, Okla.	Sharp
Claypool	Hartman	McMorran	Sheppard
Cline	Haugen	Maher	Sims
Covington	Heald	Martin, Colo.	Slayden
Crago	Higgins	Matthews	Slemp
Cravens	Hill	Morgan, La.	Small
Danforth	Hobson	Mott	Smith, J. M. C.
Davis, Minn.	Howard	Nelson	Speer
Davis, W. Va.	Howell	Norris	Stack
DeForest	Howland	Nye	Sterling
Dixon, Ind.	Hughes, W. Va.	Oldfield	Stevens, Minn.
Doremus	Hull	Olmsted	Sulloway
Dupré	Jackson	Parran	Talbott, Md.
Dwight	James	Patten, N. Y.	Taylor, Ohio
Evans	Johnson, Ky.	Patton, Pa.	Tilson
Fitzgerald	Johnson, S. C.	Peters	Vreeland
Floyd, Ark.	Kent	Post	Webb
Forbt	Kinkaid, Nebr.	Powers	Whitacre
Fordney	Kitchin	Pray	Willis
Fornes	Konig	Prouty	Woods, Iowa

So the motion to recommit with instructions was rejected.

The Clerk announced the following pairs:

For the session:

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. LITTLETON with Mr. DWIGHT.

Mr. PALMER with Mr. HILL.

Mr. RIORDAN with Mr. ANDRUS.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. FORNES with Mr. BRADLEY.

Until further notice:

Mr. WHITACRE with Mr. WOODS of Iowa.

Mr. WEBB with Mr. WILLIS.

Mr. SMALL with Mr. VREELAND.

Mr. SLAYDEN with Mr. TILSON.

Mr. SIMS with Mr. TAYLOR of Ohio.

Mr. SHEPPARD with Mr. SULLOWAY.

Mr. SHARP with Mr. STERLING.

Mr. SABATH with Mr. J. M. C. SMITH.

Mr. RUCKER of Missouri with Mr. SLEMP.

Mr. RANDELL of Texas with Mr. SELLS.

Mr. POST with Mr. REYBURN.

Mr. PETERS with Mr. ROBERTS of Massachusetts.

Mr. PATTEN of New York with Mr. REES.

Mr. OLDFIELD with Mr. PROUTY.

Mr. MORGAN of Louisiana with Mr. PRAY.

Mr. MCGILLICUDDY with Mr. POWERS.

Mr. LINTHICUM with Mr. PATTON of Pennsylvania.

Mr. LEWIS with Mr. OLMSTED.

Mr. LEVER with Mr. NYE.

Mr. KORBLY with Mr. NELSON.

Mr. KONIG with Mr. MOTT.

Mr. JOHNSON of South Carolina with Mr. MATTHEWS.

Mr. JOHNSON of Kentucky with Mr. MCGUIRE of Oklahoma.

Mr. JAMES with Mr. LENROOT.

Mr. HARDWICK with Mr. LAFEAN.

Mr. HOWARD with Mr. LAFFERTY.

Mr. HAMLIN with Mr. KINKAID of Nebraska.

Mr. GREGG of Texas with Mr. JACKSON.

Mr. GRAHAM with Mr. HUGHES of West Virginia.

Mr. GOEKE with Mr. HOWLAND.

Mr. GLASS with Mr. HOWELL.

Mr. GEORGE with Mr. HIGGINS.

Mr. FLOYD of Arkansas with Mr. HAUGEN.

Mr. FITZGERALD with Mr. HEALD.

Mr. EVANS with Mr. HARTMAN.

Mr. DUPRÉ with Mr. HAMILTON of Michigan.

Mr. DAVIS of West Virginia with Mr. GUERNSEY.

Mr. COVINGTON with Mr. GRIEST.

Mr. CLINE with Mr. FOCHT.

Mr. CLARK of Florida with Mr. DE FOREST.

Mr. BURNETT with Mr. DAVIS of Minnesota.

Mr. BRANTLEY with Mr. ANTHONY.

Mr. BARNHART with Mr. AMES.

Mr. AYRES with Mr. DANFORTH.

Mr. ANSBERRY with Mr. CRAGO.

Mr. ADAIR with Mr. BURKE of Pennsylvania.

Mr. RAINEY with Mr. MCCALL.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. PUJO with Mr. MCMORRAN.

Mr. HULL with Mr. NEEDHAM.

Mr. KITCHIN with Mr. FORDNEY.

Mr. MURRAY with Mr. HARRIS.

On this vote:

Mr. HOBSON with Mr. MICHAEL E. DRISCOLL.

Until February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Mr. ADAMSON. Mr. Speaker, did the gentleman from Minnesota, Mr. STEVENS, vote?

The SPEAKER. He did not.

Mr. ADAMSON. I voted "no." I wish to withdraw that vote, because I am paired with the gentleman from Minnesota. I wish to be recorded "present."

Mr. LONGWORTH. Is the gentleman from Missouri, Mr. SHACKLEFORD, recorded as voting?

The SPEAKER. He is not.

Mr. LONGWORTH. I voted "no." I desire to change my vote to "present."

Mr. PALMER. Is the gentleman from Connecticut, Mr. HILL, recorded?

The SPEAKER. He is not recorded.

Mr. PALMER. I voted "no" on this proposition. I am paired with the gentleman from Connecticut, Mr. HILL. I desire to withdraw my vote and to be recorded "present."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. SPARKMAN, a motion to reconsider the vote whereby the bill was passed was laid on the table.

WITHDRAWAL OF PAPERS.

Mr. BYRNS of Tennessee, by unanimous consent, was granted leave to withdraw from the files of the House papers in the

case of Thomas F. Haywood, Sixty-second Congress, no adverse report having been made thereon.

FORTIFICATION APPROPRIATION BILL.

Mr. SHERLEY. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 28186—the fortification appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. RUSSELL in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 28186) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes.

Mr. SHERLEY. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to dispense with the first reading of the bill. Is there objection?

There was no objection.

Mr. SHERLEY. Mr. Chairman, at this time I do not desire to address the committee, but some days ago I said to the gentleman from Virginia [Mr. JONES] that I would be glad to see that he had an opportunity during the general debate on this bill to be heard, and I therefore suggest that the Chair recognize the gentleman from Virginia, which will entitle him to an hour.

Mr. JONES. Mr. Chairman, the newspapers of Sunday of last week report that President Taft, in the address which he delivered in New York City on the Saturday evening previous at the Ohio Society dinner, severely attacked the Philippine independence bill reported from the Committee on Insular Affairs and now upon the calendar of this House. What the President said upon this subject is reported in a dispatch to the Washington Herald, which is in these words:

After an emphatic appeal for an enlargement of the Navy, following an address upon similar lines by Representative HOBSON, the President launched forth into an attack on the Jones bill, now before Congress, providing for the freedom of the Philippines within eight years.

The President termed such a measure "suicidal and highly defective," and said that the United States should treat the Philippines just as Great Britain treats Canada and Australia—as colonies—but should not free them under any circumstances.

WOULD CREATE TROUBLE.

"Were I a political party," said the President, "I could wish the Democrats no worse fortune than the passage of the Jones bill, which I am positive, from my long acquaintance with the Philippine Islands, would result in a mess and a mess which would forever return to plague its makers. The Philippines have cost the United States to date $3,000,000 for civil expenses, and this money was appropriated to save them from starvation. The expense of maintaining troops in the islands is practically nil, and I always will be opposed to any measure looking to their freedom."

In a somewhat different account of this address, published in the Washington Post, President Taft is reported to have asked—

Is it possible that little as this Democratic administration knows about the Philippines they are going to let them go and defeat our efforts to raise and educate the Filipino people? Is it possible that it is going to do that with no foundation whatsoever and without the approval of somebody who knows the islands? I hope not.

On the 6th of December last President Taft sent a special message to Congress, in which he expressed in rather vigorous terms and at considerable length his disapprobation of this Philippine independence measure. Among other things he told us in this message that—

To confer independence upon the Filipinos now is therefore to subject the great mass of their people to the dominance of an oligarchical and probably exploiting minority.

A present declaration even of future independence—

He informed Congress—

would retard progress by the dissension and disorder it would arouse.

It has been to me a matter of no little regret, to say nothing of surprise, that President Taft, for whom I entertain personally the highest regard and the very kindest feelings, should have thought fit to severely criticize and attack in a message to Congress a measure there pending.

It is quite true that it is the constitutional duty of the President to "from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient," but this message neither conveyed information nor recommended legislation to the Congress. On the contrary, it severely denounced and vigorously opposed pending legislation. If the President shall disapprove any bill which has passed the two Houses of Congress, he is empowered by the Constitution to return it to the House in which it originated, along with his objections; but I have failed to find anywhere in that instrument warrant for the course pursued by the President in this case.

But I am not so much concerned over the method employed by the President to make public his views in respect to this measure as I am in the views themselves.

With great deference for his superior knowledge and information, I must nevertheless dissent from the unsupported opinion expressed by him that to confer independence upon the Filipinos would subject the masses "to the dominance of an oligarchical and probably exploiting minority," and I believe that his statement that "a present declaration even of future independence" would arouse disorder and retard progress is opposed to the enlightened opinion and best judgment of a vast majority of the American people.

Mr. Speaker, I not only assert, but I shall undertake to prove by incontrovertible facts, that the government which the United States has imposed upon the Filipinos, and under the dominance of which they are now forced to live, is an oligarchy of the most intolerable, despotic, and unrestricted character.

I shall attempt no reply to President Taft's alleged characterization of the pending Philippine independence bill as "suicidal and defective"; nor shall I endeavor at this time to convince the House that the Filipinos are capable of governing themselves and that it is the duty of the United States to grant them their independence. It will be time enough to discuss the merits and demerits of this measure when it comes up for consideration. I hope to have the opportunity in the near future of presenting at greater length than could now be done the reasons which impel my belief that some such measure as that which seems to have so greatly aroused the opposition of President Taft will prove a wise and just solution of the Philippine problem. In the meantime I shall avail myself of this, the first opportunity that has presented itself, to make reply to a few of the statements in which he is alleged to have indulged at the Ohio Society dinner.

The United States, he is reported to have said, should treat the Philippines just as Great Britain treats Canada and Australia, but should not free them under any circumstances. When, may I ask, did he reach this conclusion? Canada and Australia are in every essential respect, if not absolutely and completely, self-governing colonies. Each has its own elective parliament; each makes its own laws, lays its own taxes, and collects and disburses its own revenues. Great Britain exercises absolutely no control over the domestic affairs of either of these colonies. They not only control their internal affairs, but they negotiate their commercial treaties, and they lay their tariff duties, and in this and other respects are more self-governing and autonomous than any State in our American Union.

Mr. HELM. Will the gentleman yield?

Mr. JONES. Yes.

Mr. HELM. Does Great Britain reserve any veto power as to legislation passed by Australia or the Canadian Parliaments?

Mr. JONES. I am coming to that directly. It is true that they do not select their own governors general, but it is also true that not within the memory of living man has the veto power been exercised by a governor general of either colony. The people of Canada and Australia are virtually as free and independent as those of England herself.

We are indebted to Australia for the secret-ballot system in vogue in every State in our Union. I wonder, too, if President Taft knows that pure democracy prevails to such an extent in Australia that the initiative, referendum, and recall have already been adopted there. Surely he, of all men, would not like to see the recall of judges introduced in the Philippines. How is it with the Philippine Islands?

The act of Congress under which they are governed was passed more than a decade ago, and President Taft, more than any other human being, is responsible for its provisions. The governor general, vice governor, members of the Philippine Commission, and the heads of the various executive departments are all appointed by the President of the United States. The legislature since 1907 has consisted of two houses, this appointive commission, which is known as the upper house, and an elective assembly. This body legislates for the civilized, Christianized people, but the commission, under the organic act, is the sole legislative body for the non-Christian and uncivilized tribes, and exercises supreme and exclusive legislative authority over all their territory, their lives, their property, and their public revenues. Let us see what has been the practical operation—some of the actual, tangible results—of this anomalous condition of affairs. In the first place, no measure originating in the assembly can become a law unless it meets the approval of the commission, and, of course, the reverse of this proposi-

tion is also true. Realizing that disagreements would inevitably arise between the commission and the assembly, and that the annual appropriation bills for the support of the government might thus fail of passage, the organic act provides that in such event "an amount equal to the sums appropriated in the last appropriation bills for such purposes shall be deemed to be appropriated, and until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purposes aforesaid." The purpose of this law is, as has been said by another, to provide for the contingency of an honest difference of opinion between these two houses as well as for unreasonable or factious attempts on the part of either house to embarrass the government by withholding the supplies necessary for its existence.

Twice has the legislature failed to pass these supply bills. One of the causes for the disagreements which led to the deadlock between the two branches of the legislature and which resulted in these failures to pass appropriation bills was that the assembly insisted that the salaries of the members of the commission, who were also heads of executive departments, should be so reduced as to make them more nearly correspond to those received by members of the American Cabinet. But the chief cause of disagreement was the insistence of the commission upon the right which it claimed to appropriate large sums of money out of the public revenues of the insular treasury, to be expended upon what is known as the Benguet Road, without the concurrence and despite the earnest opposition of the other coordinate branch of the legislature.

The Benguet Road is a highway less than 20 miles in length, built at a cost of several millions of dollars in gold through a mountain gorge to a health resort or residential park, called Baguio, to which place, at great expense, the seat of government is transferred from Manila for several months each year, and where American officials have handsome homes, clubhouses, polo grounds, and other sources of recreation and amusement. The Filipinos have from the beginning been violently opposed to these vast and absolutely inexcusable expenditures. Not only has it cost millions to build this automobile road through rugged mountains, a highway that is used solely for purposes of recreation and pleasure, but the cost of its upkeep is perhaps not less than $100,000 a year, and in times of great freshets it has been necessary to rebuild entire sections at an enormous cost. Nothing that our Government has done in the Philippine Islands has aroused more feeling and created more resentment on the part of the helpless Filipinos of every station in life than this wanton and indefensible disregard of their wishes and interests. [Applause.] This one act of the Philippine Commission has greatly shaken, if not destroyed, the confidence of the Filipino people in the American sense of justice and fair dealing. It has removed every vestige of any sentiment which may have existed in favor of American annexation. Is it then to be wondered at that the assembly, composed as it is entirely of natives, refused to lend itself to such inexcusable and, under the conditions of poverty so common in the islands, criminally wasteful expenditures of the public moneys as I have attempted to describe?

The pretext for the commission's action was that the Benguet Road traversed a part of a non-Christian Province, and that inasmuch as the commission exercised exclusive legislative functions over non-Christian territory it was empowered to expend any amount of the public funds it might desire in the construction and maintenance of that road, and that without either the concurrence or approval of the assembly. The members of the assembly claimed, on the other hand, and with reason, that the commission was only empowered to expend the public money in non-Christian Provinces for the use and benefit of the non-Christian and uncivilized tribes residing therein, and that it was a flagrant violation of law and a perversion of public funds to use them in the construction of an enormously expensive automobile road leading to a mountain resort maintained exclusively for the benefit of themselves and other rich residents of Manila.

It was these disagreements between the commission and the assembly that resulted in the nonpassage of the annual supply bills of which I have spoken, and I believe that every liberty-loving and right-thinking American citizen, when he comes to understand their motives, will applaud Speaker Osmena and his legislative associates for the courage and patriotism which they thus twice displayed. [Applause.]

Whether or not the commission deliberately planned to bring about this unfortunate condition of affairs in order to deprive the Filipinos of any control over their revenues the result has been the same. Acting under the authority of the provision of law which I have just quoted the Governor General has ordered the appropriation of a sum equal to the total appropriations made in the previous year for the support of the Government. Having thus gotten into his hands more than $12,000,000 in 1911 and somewhat less than $14,000,000 in 1912 of the public revenues of the Filipino people the Governor General proceeded to expend these large sums according to his own will, and as in his sole judgment seemed desirable, and with an utter disregard for the purposes for which the prior legislative appropriations had been made. Is there, I ask, a Representative upon this floor who, after reading the law under which Gov. Forbes is supposed to have acted, will not denounce his actions as both arbitrary and illegal? Many an official has been impeached for less than this. Baguio and the Benguet Road were, of course, liberally provided for, new offices were created, and the salaries of existing offices increased. It is needless to say that the salaries of the heads of executive departments were not decreased. It is asserted by a former member of the commission that there were as many as 123 new offices thus created, among them a secretary to the Governor General at an annual salary of $4,500, and it is a most amazing and stupendous fact that the expenditures on account of bureaus and offices for the fiscal year ending June 30, 1912, were $9,638,369.89, as against $8,318,051.56 for the next preceding year, the excess being a mere bagatelle of $1,320,318.24 in gold. A people whose self-restraint is equal to orderly and peaceful submission to acts of tyranny and oppression such as these are surely capable of governing themselves.

It is but just to say that there were members of the commission who questioned the legality of these executive acts, and that at least one American member formally and vigorously protested against them. These protests, however, were wholly unavailing. In pursuing this arbitrary and, as I charge, absolutely illegal course the Governor General acted, at least, so far as is publicly known, without legal advice, although not himself a lawyer. He consulted neither the solicitor general nor the attorney general of the islands, and, as I am informed, these legal advisers of the Government did not agree with the Governor General in his construction of the law or approve his action. Certain it is that the ablest lawyer on the commission, the Hon. Charles B. Elliott, formerly a member of the Supreme Court of the State of Minnesota, who was recently requested to resign as a result of his emphatic disapproval of the course of Gov. Gen. Forbes, regarded the latter's action as a most flagrant disregard of both the spirit and the letter of the law, for his opinion to this effect is upon record in Manila, and was rendered long before he had any thought of resigning as a member of the commission. Whether or not the Filipinos are capable of self-government, I question the right of Gov. Gen. Forbes to longer govern them.

President Taft tells us that "a declaration even of future independence would retard progress by the dissension and disorder it would arouse." I am curious to know what results he thinks such arbitrary and illegal acts as the one to which I have just called attention are likely to produce. To my mind the fact that the Filipino people have exercised such self-control as to refrain from even the semblance of disorder under conditions so inexpressibly hard and cruelly exasperating as these constitutes the highest tribute to their self-restraint and respect for constituted authority. [Applause.]

Whenever attention is directed to acts such as these on the part of the government which we have set up in the Philippines, the reply has always been glibly made, as if that were sufficient in itself to disarm criticism and forever silence all complaint, that within the past 10 years public schools have greatly multiplied in the Philippines; that the inhabitants of the islands have made wonderful progress in the acquisition of knowledge of various kinds; that sanitary conditions have improved; and that many important public works have been inaugurated as a result of our beneficent rule. The Filipino who does not accept this reply as conclusive of the question is frequently denounced as an ingrate. Indeed, his failure to accept such reasoning as conclusive is cited as evidence of his incapacity for self-government. Nobody denies these things. Nobody denies that there has been great educational and material progress in the Philippines. I will even admit, for it is a fact, that the parcel post was in the Philippines before Congress could be convinced that it was not too expensive to be thought of for the farmers of the United States. But it must not be forgotten that every dollar of the money contributed for these purposes came out of the pockets of the Filipinos. Nor must it be forgotten that much of it, as I have shown, was needlessly and shamefully wasted, and that the benefits derived from its expenditure, even in those cases where the expenditure was proper, have rarely, if ever, been commensurate with the cost.

Mr. MURRAY. Will the gentleman yield?

Mr. JONES. Certainly.

Mr. MURRAY. What evidence has the gentleman as to the accuracy of the statements which he has just made, which have shocked me and I have no doubt shocked many Members of this House?

Mr. Chairman, perhaps I ought to say that I have no disposition to be out of harmony with the gentleman in his statement of the facts. I have been shocked to hear them and I have wondered whether or not the gentleman has any plans for verification or proof of them, which I think ought to go with all such statements.

Mr. JONES. I will say to the gentleman that I will submit, and ask to have printed in connection with my remarks, a statement made by a former member of the commission itself.

I have already stated that one member of the commission, Judge Elliott, of Minnesota, has placed upon record in Manila his protest against the construction which Gov. Forbes has placed upon the act of Congress which I have quoted. I will further state to the gentleman that he will find all the information he desires with respect to the Benguet Road if he will read the reports of the investigations of the friar lands sales.

Mr. MURRAY. Of course, Mr. Chairman, in such matters as have been referred to they can throw no possible light in regard to the alleged arbitrary and illegal conduct that has taken place with respect to these appropriations.

Mr. JONES. I may say to my friend that there is not a particle of question as to the action of the Governor General to which I have called attention, and I am sure that every word I have said on that subject will be verified by the Insular Affairs Bureau in this city. These facts are well known and are not questioned in any quarter, so far as I know. It is not denied that Gov. Forbes holds that in disbursing the public funds, if the legislature fails to pass the regular supply bills, he is not confined to the objects named in the last regularly enacted bill.

When the opportunity is afforded me I shall undertake to give this House some idea as to what extent the government we have imposed upon the Filipinos has been extravagant and wasteful. The American people have not the slightest conception of what has been going on in the Philippines. Whilst the head of every bureau—and they are almost innumerable—is provided with a costly automobile, the upkeep of which is also paid for by the Filipinos, there are hundreds of thousands of natives who can not afford shoes for their bare feet.

Mr. SHERLEY. Mr. Chairman, will the gentleman permit an inquiry?

Mr. JONES. Yes.

Mr. SHERLEY. Does that statement go beyond the question of expressing a view as to the right of the Governor General to expend the moneys? Does it go to the question of extravagance in expenditure or misappropriation of funds?

Mr. JONES. It goes to the question of both extravagance and misappropriation.

Mr. SHERLEY. I have no knowledge, and I want to find out.

Mr. JONES. It goes to both.

Mr. SAUNDERS. Mr. Chairman, will the gentleman yield?

Mr. JONES. Yes.

Mr. SAUNDERS. I would say, in the same connection, is it not best for the gentleman to print as a part of his remarks the opinion given by Judge Elliott in relation to the power of the Governor General?

Mr. JONES. I will say to the gentleman that I have in my possession a long and exhaustive legal document bearing upon this subject. I had not intended to put that in the RECORD, but I can put it in if gentlemen so desire. It is in the form of a letter from one of the commissioners to the auditor of the insular government.

Mr. MURRAY. Mr. Chairman, will the gentleman yield?

Mr. JONES. Mr. Chairman, I would prefer to have the gentleman defer his question until I have concluded what I am now saying; then I shall be glad to reply to any question he may address to me.

Mr. MURRAY. I want to have incorporated here the suggestions that I have in my mind, that the gentleman has made statements which are in the nature of very serious charges, and I think we ought to have the letter to which the gentleman refers as the basis of the presentment.

Mr. JONES. I will publish in connection with my remarks a statement given out by a former member of the commission which fully confirms my statement.

This reckless extravagance and studied disregard for the interests of the poor and defenseless Filipinos has led, as might have been expected, to a deficit, or, perhaps, it would be more accurate to say a deficit was only averted during the past fiscal year by the transference of $1,698,513.82 from the gold-standard fund to the general funds in the Treasury. Unless, therefore, great reduction in expenditures is made during the year 1913 there will be a very large deficit, for I can not believe that the commission will again invade the gold-standard fund, although, I confess, that I am prepared for anything it may do. For the commission has not in the past hesitated to lay its hands upon a, if anything, more sacred fund than this.

Mr. COOPER. Mr. Chairman, I would like to have the gentleman explain the gold-standard fund, because the gentleman sitting in front of me does not understand it.

Mr. JONES. The gold-standard fund, of course, is a fund created for the protection of the silver currency in the islands, the pesos and other fractional silver currency.

The President said in New York that "the Philippines have cost the United States to date only $3,000,000 for civil expenses, and that this money was appropriated to save them from starvation." Well do I remember that Congress donated this money to save the famishing Filipinos from starvation, but does President Taft know that a considerable part of it was expended on the Benguet automobile road, of which I have spoken? The act of Congress declared that the money should be expended "for the relief of distress in the Philippine Islands." In the estimation of the commission these starving Filipinos stood more in need of an automobile road than of the rice to purchase which the American people in their generosity gave this money.

But at the proper time and in due season those who are responsible for conditions in the Philippines will have graver charges than these to answer. I predict, for instance, that somebody will be required to explain why it was that three prominent American officials of the city of Manila were not removed from office as was recommended by the committee appointed to investigate the grafting charges preferred against them. Some of their subordinates were prosecuted and convicted; but, notwithstanding the findings and recommendations of a committee of investigation, one of whom was Solicitor General Harvey and another Gen. Bandholtz, chief of the constabulary, their superiors have escaped all punishment and two of them are still enjoying the salaries of their lucrative offices. The third has since been removed from office for usury and extortion. The head of this powerful triumvirate, the man who was kept in office by the Governor General, notwithstanding his grafting, and who was removed during the absence of the Governor General last year, was then and is now the Manila correspondent of a great American newspaper. He realizes, of course, that the Filipinos do not love him, and does anybody imagine that his American readers will ever be told through his published letters that the Filipinos are capable of self-government? And it is upon such disinterested and unprejudiced testimony as this that the American people are asked to pronounce the Filipinos incapable of self-government.

But, Mr. Speaker, I shall not pursue this particular subject any further.

I think I have said enough to convince the most doubting Thomas that there is not the least similitude between the government which we have forcibly set up in the Philippines and those enjoyed by the people of Canada and Australia.

If President Taft really thinks, as he is reported to have said, that we should treat the Philippines just as Great Britain treats Canada and Australia, why, may I ask, has he postponed until the very end of his administration to offer this gratuitous advice to his Democratic successor? Why has he not made some effort during the four years of his administration to give the Filipinos a government in some slight respect modeled after those the like of which he said they should have? It was within his power long ago to have substituted a liberal, progressive, and practically autonomous government, one at least resembling in some respects those of Canada and Australia, for the irresponsible and odious autocracy under which they are now governed.

I shall not now consume much of the time of the House in combating the President's statement that the expense of maintaining troops in the islands is practically nothing.

It will be recalled that in response to a resolution of this House asking for information upon this subject the President sent a message to Congress in July last in which he declared that aside from certain enumerated direct appropriations, the cost accruing to the United States on account of the military and naval operations in and about the archipelago and from the construction of fortifications there could not be determined with any degree of accuracy. The problem presented by the resolution, he said, was "practically insoluble." Now he is moved to say, because of his violent opposition to even a declaration by Congress of any future purpose to grant the Filipinos their independence, that this cost is practically nothing.

To me this is a most incomprehensible, a most amazing statement.

I shall not attempt to inform the House, even approximately, what our military and naval operations in the Philippines have cost the United States from the beginning of American occupation up to the present time. Ten years ago it was variously estimated at from $200,000,000 to $600,000,000. On June 19, 1902, former Secretary of War Root, in response to a Senate resolution, informed Congress that our military occupation had cost up to May 1 of that year $170,326,586.11. He gave no information as to what had been the cost of our naval operations and none with relation to the Marine Corps, but he did undertake to say with a remarkable "degree of accuracy" what had been the cost of our military occupation. Surely the present Secretary of War could, with an equal degree of accuracy, have informed the President what military occupation at least has cost the United States from May 1, 1902, up to the present time. Secretary Root's figures were based upon the assumption that if the Army had not been in the Philippines an equal number of troops, exclusive of Philippine Scouts, would have been maintained in the United States, which, to my mind, is a very violent assumption. The most casual examination of Mr. Root's report will make it apparent that he excluded from his account many large items of cost which should properly have been included. But, as I have pointed out, he did not assume to say what had been expended by the United States on account of our naval operations and those of the Marine Corps, and I venture the assertion that $600,000,000, the estimate of the late Senator Hoar, is much nearer correct than the figures furnished by the ex-Secretary of War—what the grand total really is will never be even approximately known. One reason for this is that it is not possible in numberless instances to segregate the items which are properly chargeable to military occupation of the islands from those which are not so chargeable, when these appropriations are made in lump sums for the support of the Army as a whole.

Having made these somewhat general observations, I shall now proceed to give the House some definite information in the way of figures, which if they represent, as they do, only a part of the expenditures being made in the Philippines out of the Treasury of the United States, will at least serve to show that what President Taft may regard as practically nothing is, in the estimation of most people, a very considerable sum.

We have for the past few years kept stationed in the Philippines approximately 12,000 Regular troops and 6,000 native scouts, all of whom are maintained at the cost of the United States. At this time the scouts number 5,660.

It is denied by some of our imperialistic friends that the cost of the maintenance of these 12,000 United States troops in the Philippines should be considered in estimating the expense to us of holding them. They say that the strength of the Regular Army would have been maintained at its present proportions even if the United States had not possessed the islands. I challenge their statement, but even if it were true the expense of our military establishment in the islands would still be far from inconsiderable.

The Army appropriation bill which passed this House on Tuesday last carried an item of $1,069,470.66 for the pay of the Philippine Scouts for the next fiscal year, and another item of $500,000 to be expended for permanent quarters and barracks for our troops in the islands. It will not be contended, I think, that these scouts would be needed or ever available were we to withdraw from the Philippines, and in such an event we would not be required to spend half a million dollars a year for the erection of permanent barracks and costly officers' quarters, as we have been doing for years in furtherance of elaborate plans involving an expenditure of millions of dollars. But enlisted men get 20 and officers 10 per cent additional pay when engaged in foreign service, and this Army bill carried a little item of $995,000, practically every dollar of which is paid to our troops serving in the Philippines, for service in the Canal Zone, in Panama, Hawaii, and Porto Rico is not regarded under the law as foreign service.

I state this to anticipate the objection of the gentleman from Kentucky [Mr. SHERLEY], and the only part of this $995,000 that is not paid in the Philippine Islands is a very trifling sum paid to a battalion of troops in Alaska.

Mr. SHERLEY. Mr. Chairman, I suggest to the gentleman that perhaps it would be fairer in debate to anticipate something that the gentleman from Kentucky has warranted the gentleman from Virginia in believing he was going to contend.

Mr. JONES. I beg the gentleman's pardon, if I mistook his intention.

Mr. SHERLEY. I trust the gentleman's other conclusions are based on more detailed study.

Mr. JONES. They are based on figures and facts that I do not think the gentleman from Kentucky or anybody else can successfully challenge.

Mr. HELM. Mr. Chairman, will the gentleman yield at this point?

Mr. JONES. Yes.

Mr. HELM. Is it a fact that our Government has to pay a tariff on all of the supplies that are taken to the Philippine Islands from countries other than the United States for the support of the American soldiery in the Philippine Islands?

Mr. JONES. I believe that is true.

These three items alone aggregate $2,574,470.66, a sum which can scarcely be called "practically nothing."

The fortification bill which we are now considering carries for fortifications, searchlights, repair of torpedo-repair structures, mining casemates, and so forth, all to be expended in the Philippines, $782,350. In addition to this sum it contains appropriations aggregating $720,000 to be expended in our insular possessions, the bulk of which is to be spent in the Philippines. The naval, general deficiency, and sundry civil bills, yet to be reported, will carry large items for the Philippines, as has always been the case heretofore.

What it costs to feed, clothe, house, and otherwise care for 6,000 scouts in the Philippines I can not say, but the sum far exceeds their actual pay, which I have shown to be $1,069,470.66 annually. What it costs to provide for the 12,000 Regular troops in the Philippines over and above what it would cost were they kept in continental United States I can not even guess. It is well within bounds to say, however, that the items I have mentioned will exceed in the aggregate $6,000,000. Is this a mere bagatelle?

The Trans-Pacific Fleet consists of nine Army transports, not all of which, however, are in commission at the same time. The cost of the operation and maintenance of these vessels, which are used in the transportation of troops to and from the Philippines and in transporting animals and supplies for the use of the army of occupation, is enormous. The ordinary repairs for each one of them, for each and every round trip, cost $2,500, and occasionally they require overhauling, at an expense of hundreds of thousands of dollars each.

To give some idea as to what this transport service is costing the United States, I may state that in 1908 repairs to transports and launches amounted to $606,350.20, whilst the fuel bill for that year was $632,500. In 1909 these repairs amounted to $387,212, in 1910 to $489,921, and in 1911 to $331,278. The fuel bills were even larger. Just what it costs annually to man and operate these transports I can not say, but for several years the shore expenses of the transport service, such as office and warehouse rental, wharfage charges, employees, and so forth, have averaged around $1,500,000 annually.

But in addition to the trans-Pacific service there is also an interisland transport service owned, maintained, and operated by the United States. This service costs more than $500,000 annually. Will it be said that this Army transport service would be necessary were we out of the Philippines?

I have said nothing as to the railroad transportation of troops en route to and from the Philippines, but it is several hundred thousand dollars annually. Nor have I attempted to enumerate the almost numberless other purposes and objects, incident to our occupation, for which we are annually expending large sums of money in the Philippines. Some of these are water and sewer systems, artesian wells, shelter for troops and animals, storehouse rentals, hospitals, clubhouses, military telegraph and telephone lines, a small army of civilian employees, interpreters, guides, and so forth. I have had neither the time nor the opportunity to dig all of these items out of the many different appropriation bills which have carried them, and it is needless to say that the custodians of the accounts in which they are buried have not volunteered me any assistance. The official reports show that for the year 1911 the Quartermaster's Department alone paid out on account of the Philippines more than $5,000,000, and that the annual expenditures by this department by reason of our military occupation of the islands, leaving out the years when war existed, were more than $6,000,000.

Mr. MURRAY. Mr. Chairman, in order that I may understand clearly the purpose of the gentleman in collecting together these figures, may I inquire—and the inquiry is for information—if the point he is developing is that they are so expensive that we ought to get rid of them?

Mr. JONES. My primary purpose is to show that the President of the United States, when he said in his speech before the Ohio Society in New York that they cost the United States practically nothing, was greatly mistaken. I also hope to demonstrate incidentally that the Philippine Islands are costing

the American people so much that the sooner we free ourselves of them the better it will be for the American people.

Mr. SAUNDERS. May I ask the gentleman a question?

Mr. JONES. Certainly.

Mr. SAUNDERS. Approximately, can the gentleman say what will be the aggregate of these totals which the gentleman has given us?

Mr. JONES. If the gentleman will wait, I will come to that in a few moments.

Mr. KAHN. Will the gentleman yield?

Mr. JONES. Certainly.

Mr. KAHN. In relation to the transport service, does the gentleman know the transports run to Honolulu, to Guam, to Alaska, and even down to the Isthmus of Panama?

Mr. JONES. No; I did not know that.

Mr. KAHN. That is a fact.

Mr. JONES. I beg the gentleman's pardon. I know that these Pacific transports do, Mr. Chairman, touch at Honolulu, and they do touch at ports in Japan for the purpose of coaling. I do not know that they always stop at Guam. It is considerably out of the way to touch at Guam. I know of no reason why they should do so regularly. I do know, however, they do not run to Panama. We have an Atlantic Fleet of transports, several of the ships of which are now out of commission at Newport News, in my district. These ships may be sometimes sent to Panama.

Mr. KAHN. An occasional transport goes to Panama——

Mr. JONES. I have never known of one.

Mr. KAHN. And to Guam also.

Mr. JONES. There may have been such instances, but if so, the steamers that are in commission, and which run regularly between San Francisco and Manila, are not, I think, ever so used. I think the gentleman will agree to that.

Mr. KAHN. Of course, all are taken out of commission from time to time. We have four transports that are used between Manila and San Francisco.

Mr. JONES. I will say to my friend I have very little time and that I must hurry on.

Mr. KAHN. I did not want to interfere with the gentleman.

Mr. JONES. I can not now state from memory what it costs annually to maintain at Washington the large Bureau of Insular Affairs, but I think the amount exceeds $1,000,000.

Within the last 10 years we have expended in fortifying the entrances to Manila and Subic Bays more than $11,000,000.

In the figures which I have thus submitted I have charged nothing against the 12,000 Regular troops that are stationed in the islands except their additional pay for foreign service and their transportation to and from the islands; but, in my judgment, it is manifestly proper that their whole pay, as well as the entire cost of their subsistence, should be so charged. If we have no use at home for these troops, then the Army should to that extent be reduced. But we are told by Col. Goethals that 25,000 troops will be required as a permanent garrison at the Panama Canal.

Mr. SHERLEY. Mr. Chairman, if the gentleman will permit, I would just like to say that Col. Goethals's testimony, made before the Committee on Naval Affairs and subsequently having that testimony before the Committee on Appropriations, does not warrant the newspaper statement constantly made that he thinks 25,000 men should be put there.

Mr. JONES. I will say to the gentleman that I got my information from the newspapers, but I will ask him how many troops does he think ought to be stationed in Panama?

Mr. SHERLEY. He is in accord with the policy of the department that now contemplates something over 8,000 men.

Mr. JONES. If that be true, then——

The CHAIRMAN. The time of the gentleman has expired.

Mr. JONES. Mr. Chairman, I would ask the gentleman to yield me 15 minutes more in which to conclude my remarks.

Mr. SHERLEY. If the gentleman pleases, I purposely did not take any time in my own right, so it is not mine to give, but I would be very glad to ask that the gentleman be permitted to continue for 15 minutes.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that the gentleman from Virginia have permission to continue for 15 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. JONES. I hope in the circumstances, Mr. Chairman, that no questions will be asked me until I have concluded what I wish to say. It will require all of 15 minutes.

Mr. BUCHANAN. Mr. Chairman, in regard to Col. Goethals, I heard him make the statement before the Committee on Naval Affairs, and he said it would be necessary to have 25,000 troops there, and that is what he asked for and desired.

Mr. JONES. I thank the gentleman. If, then, instead of recruiting our Army to that extent, we transfer the 12,000 troops from the Philippines to the canal, we will save at least $12,000,000 annually, since the exact cost per man for maintaining our military establishment was, last year, $913.23. Within the past five years it has ranged from that sum to $1,142 per man, and it costs much more, of course, to maintain troops in the Philippines than in the United States.

When to the cost of the Army of occupation of the Philippines there is added our expenditures on account of the Navy and the Marine Corps, which I shall not undertake to discuss, it will, in my opinion, be found that it is costing the American people to hold the Philippines not less than $40,000,000 annually. This sum exceeds the total annual value of the commerce between the Philippines and the United States.

We have expended within the past 10 years more than $1,500,000 in the construction and equipment of the naval station at Olongapo, in addition to some $1,275,000 on a floating dry dock located at that place. Large sums, too, have been expended at the Cavite naval station, and other large sums for naval hospitals, prisons, magazines, and other objects too numerous to mention.

There may be those who will question my judgment as to the sum total of these expenditures, but I venture to believe that there will be few who will agree with President Taft that they constitute "practically nothing." The chief of the Bureau of Insular Affairs, however, has actually gone upon record as saying that "even the additional cost of the support of the troops in the Philippines above the cost of support of the same number in the United States can not properly be regarded as part of the cost of the Philippines." Indeed, he would even deny that the cost of maintaining the Philippine Scouts can be considered a part of the cost of the Philippines to this country. If, therefore, these remarkable ex cathedra statements are to be accepted, the Philippines have certainly cost us nothing. But they are "affirmation pure and simple."

The only comment that I shall make upon the President's alleged statement that were he a politician he could wish the Democrats no worse fortune than the passage of the Jones bill, since its passage would result in a mess and muss which would forever return to plague its makers, is that if the Democratic Party is to be deterred from keeping the solemn pledges it has made to the American people, and upon which it was given control of every branch of the Federal Government, by the political prophecies of one whose administrative policies have been so emphatically discredited and repudiated by the voters of every State of the Union, save only those of Utah and Vermont, its defeat in 1916 will be as deservedly overwhelming as was that of the Republican Party in November last. But whilst I recognize President Taft's great ability and most cheerfully concede the purity of his motives, it must be admitted, I think, by his most ardent political followers that he has not achieved great success as a political prophet.

Mr. LONGWORTH. Will the gentleman yield?

Mr. JONES. If, when I get through, I have a moment left, I will yield to the gentleman.

Mr. Speaker, it has been made most manifest of late that the administration has been bringing to bear every possible influence, commercial, political, and ecclesiastical, in its efforts to defeat the declared purpose of the Democratic Party to give the Filipinos their independence. The country is being told that the incoming Democratic administration is too ignorant as to conditions in the Philippines even to attempt a change of the policy which the Republican Party inaugurated and has been pursuing for the past 10 years in respect to them. All those who have any personal and intimate knowledge of the Filipino people and of the real conditions existing in the islands are, we are told, unanimously of the opinion that it would be "suicidal" to recognize the independence of the Philippines.

I readily admit that there is apparently great unanimity of opinion in respect to this subject on the part of the people from whom the administration secures its information, but I absolutely deny that its sources of information are either the most dependable or the only sources.

Many of our naval and military people favor the indefinite retention of the Philippines for purely personal reasons. Naval officers argue, and with reason, that holding the islands will mean the enlargement of the Navy, and any increase in our naval establishment means more rapid promotion for the personnel. Army officers have told me that our withdrawal from the Philippines would mean a reduction of the size of the Army which would be prejudicial to them. Of course, the Americans who have gone to the islands for purposes of exploitation are opposed to their independence.

But the largest and perhaps the most influential class from which the administration derives its information is that of the American officeholders whose names are truly legion. These men are naturally in full accord with the policies of the administration to whom they owe their positions. They wish to continue to hold their jobs, and it is absurd to suppose that they will ever give public utterance to opinions not in accord with those held by the powers that be. Many of them have no sympathy for the poor Filipinos, and some, at least, despise them and take no pains to disguise the fact.

If the American public are to seriously heed testimony derived from sources such as these, we may as well abandon now and forever all hope that the Filipinos are ever to be given their independence, and that the American people are ever to be relieved of the enormous financial burdens which their retention yearly entails.

But, Mr. Speaker, we are not left in that complete ignorance as to conditions in the Philippines which the President assumes to be the case. Not all Americans who have resided in the Philippines and who are thoroughly well-informed as to conditions there, are either exploiters or officeholders, and these have never hesitated to give the true facts, although experiencing difficulty in getting them before the American public. And now that there is to be a change of administration which will remove the restraint which has heretofore been placed upon the officeholders, we may expect to receive some valuable information from that source.

The newspapers are publishing extracts from the last annual report of the Philippine Commission, given out by the War Department, a report which I have not as yet seen, which are, as was to have been expected, fully in line with the statements which have so frequently been given out by the administration and intended, of course, to create in America a sentiment averse to Philippine independence. I do not believe that this last expiring wall of this American-made, law-defying, self-interested oligarchy, which, when legislating for the Filipinos, sits behind closed doors, will accomplish the intended purpose. A governing body which has plunged the Philippines in debt, defeated the administration of justice, and violated, as I have shown, the organic act of Congress, will, when these facts are generally known, become so discredited in the eyes of the people of the United States that it will be a waste of time to make reply to their representations.

Mr. Speaker, I now ask leave to publish in the RECORD, in connection with my remarks, a resolution unanimously passed by the Philippine Assembly, praying Congress to investigate the conduct of Dean C. Worcester, a member of the commission; an interview from Judge Charles B. Elliott, of Minnesota, late a member of the Philippine Commission, recently published in a Minneapolis newspaper; a letter received by me from Mr. L. M. Southworth, a prominent member of the Manila bar and for eight years a resident of the Philippines; and a letter written by Mr. William S. Lyon, an American who has been engaged for eleven or more years in farming and other business pursuits in the Philippines. These are not prejudiced or interested witnesses. Their long and intimate acquaintance with the Filipino people entitles their testimony to great weight.

Now, Mr. Chairman, I will be glad, if I have the time left, to answer any question which the gentleman from Ohio [Mr. LONGWORTH] desires to ask me.

Mr. LONGWORTH. I wanted to ask the gentleman this question: Can the gentleman state whether it is true or not that the President elect has declared in favor of the bill introduced by the gentleman from Virginia?

Mr. JONES. I will say to my friend that he has doubtless read, just as I have, and other Members of the House, what the President elect said upon that subject in his speech at Staunton. I am not authorized to speak for the President elect, but I will say this to the gentleman: President Elect Wilson is a Democrat; he is a man of honor, and he stands squarely on the Democratic platform adopted at Baltimore, and I do not doubt for a moment but that he favors Philippine independence. [Applause on the Democratic side.]

The CHAIRMAN. The gentleman from Virginia asks unanimous consent to extend his remarks in the RECORD by inserting certain documents to which he has referred. Is there objection? [After a pause.] The Chair hears none.

The letters and papers are as follows:

JUDGE ELLIOTT'S INTERVIEW.

Judge Charles B. Elliott, Minneapolis jurist, who announced in Washington a week ago that his resignation as secretary of commerce and judge of the Philippine Islands was at the request of President Taft, and who reached Minneapolis late yesterday, talked freely at the Hampshire Arms last evening of the disagreements with Gov. Gen. W. Cameron Forbes which led to his retirement. Judge Elliott did not feel like discussing the matter when in Washington.

"I am perfectly satisfied," said Judge Elliott, to quit office upon the issues which are involved. Congress is going to investigate official matters in the Philippines, and my protest will be found on record in regard to matters which will be found subjects for severe criticism.

"In a general way conditions in the Philippines are good, and an immense amount of good is being done, but in the administration of details there is much that is outrageous. Two things are a public scandal in the islands now, and will be found when the congressional investigation is made. One is the extravagant and often improper use of public funds by direction of the Governor General and the other is his interference with the administration of justice.

CHARGES DISREGARD OF LAW.

"The only charge against me, if it can be called a charge, was that Mr. Forbes and I did not work harmoniously together. The record shows that there is no criticism of my official work, and unless it shows that I should not have resigned. Mr. Forbes's complaint was that I was an obstructionist. I confess that I have been. I have protested as far as I was able against what I felt to be illegal acts. I have fought them with some pretty drastic opinions, I admit. I have said, and still say, that it is an infernal outrage to run the government of the Philippines with so little regard for law. We are trying to teach these people how to run a government, and that sort of conduct is setting them a poor example. I opposed Gov. Gen. Forbes continually on those matters, without any personal feeling on my part. I did not know there was any on his until after my resignation had been requested.

"Gov. Gen. Forbes preceded me to the United States on our vacations last spring. He was still in this country when I left recently on my return to the islands. I had no inkling then of any complaint. He did not let me know that there was any issue between us before the President or the department. Evidently he did not care to meet me and discuss the matter before officials at Washington.

TALKED WITH PRESIDENT.

"President Taft visited Mr. Forbes at Boston just a week before I sailed. I saw the President after he had seen Forbes, and he knew nothing then of any complaint. He talked with me about when Forbes would leave and about my departure. Evidently within a few days after I sailed Mr. Forbes came to Washington and told the President that I would have to resign, as we could not get along together. In the circumstances I was wholly unprepared for the cable message I received. That is the only thing I have any personal feeling about. I should have been saved that unnecessary trip to Europe with my family and preparations for return to the Philippines, which cost me about $2,000."

With regard to his differences with the Governor General, Judge Elliott said that some of them were on trivial matters of administration, and with him never have been personal, but evidently were taken as personal by Mr. Forbes.

ALLEGES WASTE OF MONEY.

"He has been in wretched health, which I think has had much to do with it," said Judge Elliott. "He is personally a fine fellow, but he is impatient of restrictions; not being a lawyer, is impatient of the law; and being a millionaire, he seems to have a contempt for economy. He took the government three years ago with a surplus of $3,500,000, and at the end of last July had run it into a deficit of nearly $1,000,000.

"My differences with him began over such matters as this: As secretary of commerce and police I had the distribution of $1,500,000 a year for roads and bridges. It was to be spent in the discretion of the secretary. Mr. Forbes often wanted to direct the expenditure of some of this fund, and frequently where it was not needed, except to placate a deputy in the legislature from some district. In cases where I did not consider the expenditure was justified I would decline. I offered sometimes to approve an item if he would request it in writing, but that he never would do, and I declined to take the responsibility otherwise.

"Mr. Forbes attempted to get legislation through to concentrate more power in his hands. I opposed such legislation as a member of the senate, and believed I was justified.

QUARREL OVER $12,000,000.

"Our most important difference, however, arose about a year ago. The legislature refused to pass the regular appropriation bill for the support of the government. For such a contingency Congress has provided that an amount equal to the appropriation for the previous year shall then be deemed to be appropriated and paid out by the treasurer. Gov. Gen. Forbes took the ground that the sum of $12,000,000 in gold was thereby placed at his disposal, to spend according to his own judgment. He and his clerks drew up a new appropriation bill and declared it in effect, changing salaries, changing the methods of disposal, and creating 123 new positions, including a secretary to the Governor General, at $4,500 a year.

"I took a stand against this. I held that legally the old appropriations were merely renewed during the interregnum until a new bill could be passed. I asked that the question be referred to the attorney general of the islands, which was refused. I then asked that it be referred to the Attorney General of the United States. Mr. Forbes refused to do either, and proceeded without a legal opinion. The senate referred the matter to a committee of three commissioners, including Señor Arenas, secretary of finance and justice, former attorney general and the leading native lawyer, Commissioner Palma, and myself. We held unanimously that the old appropriations merely held over. Nevertheless, the Governor General continued to dispense the funds at his own discretion, and still is doing so.

"He prepared one bill in December, 1911, dating it in July, when the old appropriations expired. He was advised from Washington to cut out some of his numerous new appointees, so he prepared a new bill in March, and dated it back again to July. As a member of the senate I opposed confirming his secretary, and the senate was against it on legal grounds. In order not to reflect on the young man we asked Mr. Forbes to withdraw the appointment. He did so, but immediately appointed him again, and is still employing him, without confirmation and without warrant in law.

NOT A CANDIDATE FOR GOVERNOR GENERAL.

"That is the main issue on which we differed, though always, as I supposed, without personal feeling. I have learned since that before leaving for home last March he told friends that he was going to get my removal. I think his feeling against me was increased by the fact that there was gossip of my being a candidate for Governor General. I was never in any sense, and deplored the talk of it that frequently was current in the native papers. I found it also gossip at Washington, but it was wholly untrue.

"To being an obstructionist I plead guilty as to the things I knew to be illegal. My fight against them was supported with some pretty drastic opinions, I admit. I am satisfied with the record as it stands. There will be a congressional investigation of the administration in the Philippines, I was told in Washington, just as soon as the Democrats get in full control next spring. It will be a hostile investigation, and it will bring out some sensational matter. I have done nothing to stir up the investigation, but my protest will be found on file as to all the acts I felt to be illegal or unwarranted. Much public money has been wasted or misspent. The Governor General has interfered often in the administration of justice to favor personal or political friends."

The Filipinos fully expect independence from the coming Democratic administration, Judge Elliott says. "They have every right to expect it," he declared last evening. "The Democrats have promised it in every platform, and if they do not grant it they will break their word. If it is not granted, I fear there will be trouble in the islands."

Petition of Frank B. Sanborn, Frederick Starr, and others.

To the President, the Senate and House of Representatives of the United States in Congress assembled:

Whereas D. C. Worcester, a member of the commission appointed for the government of the Philippine Islands, and acting as secretary of the interior of said commission, has become notoriously unpopular among the natives of the islands, the final and culminating evidence of which was given by a resolution (annexed) unanimously passed by the General Assembly of the Philippine Islands as the closing act of its last session; and

Whereas the late President McKinley proclaimed that all American officials appointed during our control of the Philippine Islands should be agreeable and acceptable to the inhabitants as a condition precedent to successful administration; and

Whereas D. C. Worcester has endeavored to bring to bear repressive measures in the United States upon the press favorable to Philippine independence similar to those exerted by him upon Manila newspapers; and said Worcester has antagonized and publicly villified the friends of the Filipinos in the United States, the officers of the Anti-Imperialist League, and their counsel, and has provisionally threatened a Member of the House of Representatives in execution of his duty with a suit for libel similar to those with which he secured the imprisonment of a member of the assembly in the Philippine Islands: Therefore

Resolved, That you are respectfully requested at once to institute a special inquiry into the manner in which the said D. C. Worcester has discharged the duties of his office as commissioner in the Philippine Islands.

Frederick Starr, Frank B. Sanborn, E. H. Clement, Whitfield L. Tuck, John Ritchie, Walter C. Wright, Lincoln R. Stone, Lucius F. C. Garvin, B. C. Fox, W. H. Fox, John F. Jennings, Francis E. Woodruff, Robert E. Bisbee, A. A. Berle, W. H. H. Bryant, Gamaliel Bradford, Louis R. Ehrich, Oswald Garrison Villard, Louis H. Bonelli, jr., C. B. Willy, Prescott Smith.

Resolution declaring censurable the attitude taken by the Hon. Dean C. Worcester, secretary of the interior, in his address delivered October 10, 1910, referring the facts, with the opinion of the house, to the President of the United States.

Resolved, That the regret of the assembly be recorded for the language attributed to Hon. Dean C. Worcester, secretary of the interior of the Philippine Government, in a discourse before the Young Men's Christian Association October 10, 1910.

It is improper and censurable in a man who holds a public office and who has the confidence of the Government, and as the statements made as facts are false, slanderous, and offensive to the Philippine people, their publication is a grave violation of those instructions given by President McKinley which required that public functionaries should feel and express respect for the prejudices, beliefs, and sentiments of the Philippine people and should show to them the highest consideration. The words and the conduct of Mr. Worcester tend to sow distrust between the Americans and the Filipinos, whose aspirations and duties should not separate them but unite them in the pathway which leads to the progress and emancipation of the Philippine people. The influence of Mr. Worcester has caused injury to the feelings of the Filipinos, encouraged race hatred, and tended to frustrate the work undertaken by men of real good will to win the esteem, confidence, and respect of the Philippine people for the Americans.

It is resolved besides that this house desires that these facts should be communicated to the President of the United States, through the governor of the Philippines and the Secretary of War.

This resolution was unanimously adopted by the house without discussion.

JACKSONVILLE, FLA., *December 9, 1912.*

Hon. WILLIAM A. JONES,
Chairman Committee on Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR SIR: I am an American citizen, but have been living in the Philippine Islands for eight years, going there in September, 1904, and returning to the United States in September of the present year.

During my entire residence in the Philippines I have been engaged in the private practice of law, with the exception of two years spent in the office of the prosecuting attorney of the judicial district of Manila. While engaged in the practice of my profession my business carried me to every section of the islands and brought me in contact with the people of all classes.

During my service as prosecuting attorney of the judicial district of Manila, containing approximately 500,000 inhabitants, the duties of my position brought me into intimate relations with many of the people of the district, including all of the native lawyers, all of the native judges, and most of the native employees of the Government.

The prosecuting attorney of the Manila judicial district acts not only as a prosecutor, but also serves in the capacity of a grand jury. He determines, from an examination of the witnesses, whether or not an indictment, or, more accurately, an information or complaint shall be presented to the court. In my opinion, this official has a better opportunity to observe the general character and intelligence of the people than any other official in the islands.

In the course of my private practice and in the discharge of my official duties I have come in contact with native lawyers of the highest talent and legal attainments; physicians and surgeons, learned and skillful in their profession; merchants who employ the latest commercial methods and observe the strictest business integrity; and people in the private walks of life of the highest intellectual attainments, educated in the best universities and colleges of Europe, speaking, in many instances, as many as five foreign languages.

From my intimate knowledge of the Filipino people, gained in the manner above stated and from my social intercourse with them, I do not hesitate to say they are capable of self-government.

If granted their independence, I believe that they will maintain a government which will be not only more satisfactory to them, but one which will more nearly meet their needs and demands than the government under which they have lived for the past 14 years or any government which could be given them in the future by the United States or any other foreign power. In saying this I am not unmindful of the great improvements which have been made in these islands since American occupation, nor do I intend to underestimate the able and faithful services rendered these people by many American officials. However, I do mean to say that the United States has maintained a government in these islands too expensive and far beyond the needs and resources of these people and, at times, extravagant and wasteful.

But, regardless of all these considerations, the people of these islands never have been and never will be satisfied to be governed by the United States or any other foreign power.

They want independence. It is the one dream and aspiration of their lives. It is the only gleam of sunshine that cheers their dark fate, the result of war, pestilence, and famine.

With a strong religious sentiment underlying the lives of these people, a virtuous womanhood from whom must spring their future citizens, a high regard for law and official authority, a fair amount of general education now, and a wonderful aptness for learning, and a patriotism which is so lofty and pathetic that it should touch the heart of every unselfish American in the islands there is no reason on earth why these people should not be granted independence.

I do not believe that any American who does not like the Filipino people is qualified to speak with any degree of impartiality regarding their capacity for self-government, and I believe the fundamental mistake into which the Republican Party has led the American people during the last 14 years has been due to the circumstances that the reports of its agents have always been tinctured with the resiudum of the early hostility and a strongly acquired taste for official life in the Philippine Islands.

I am heartily in sympathy with the vital principle of your bill in that it holds out to the living among the Filipino people a reasonable hope of living to see the independence of their country. I have discussed its provisions with many intelligent Filipinos, and they were unanimous in their desire for it to become a law.

The Republican Party has always been willing to imply a promise of independence, but no Republican administration has ever been bold enough and honest enough to commit itself to the proposition that the law-making power of the Government, the final depository of the real authority, should formally commit itself to a definite promise of independence.

To substitute frankness in this matter, in lieu of temporizing and evasion, is the democracy's opportunity with regard to the Philippine Islands.

Very cordially, yours,

L. M. SOUTHWORTH.

Letter of William T. Lyon.

GARDENS OF NAGTAJAN,
Manila, P. I., November 8, 1912.

Many Democratic Congressmen and Mr. Wilson himself are bound to be influenced by the enormous volume of evidence testifying to the disqualification of the Filipino for self-government. Every high official in the Filipino service, every white civilian employee, every military officer, every newspaper printed in English, 95 per cent of the white merchants or traders, and, worse than all, every visiting statesman will treat with scorn and ridicule the slightest intimation that now, or at any other time, these people will ever be equipped for autonomous government.

This is an overwhelming array, and it is no discredit to the sanity, wisdom, or patriotism of any Congressman, Senator, or President to say, "Whp, these are the people who know; the people who live or have lived amongst them for years. They are a unit on this matter. Who am I that from a smattering of newspaper items should put my belief against such a cloud of witnesses?"

The evidence is seemingly so conclusive that the almost essential feature, its sources, are entirely overlooked. Here is the rub. Without exception this evidence is biased and prejudiced and, with the exception of the "visiting statesman," I can clearly show you how it can not be otherwise.

To first take up the case of the "visiting statesman." When Mr. Dickinson was here—Mr. Taft's first Secretary of War—it was all prearranged that he should be permitted to meet strictly two classes of people, none others. One, the very limited but thoroughly pro-American type of native who, more or less the beneficiary of American patronage, could be counted on to decry and belittle his countrymen. The other class were with equal care culled from the most ignorant and brutal of the two types that so cunning and astute a manager as Mr. Frank Carpenter could select. Throughout his itinerary, all cut and dried before his arrival, this program was adhered to. If any rank outsider who was not on the slate butted in, he was promptly ejected by the official hustler. This is the basic difficulty with which visiting statesmen or delegations have had to contend and must continue to have, for we have far too much at stake to permit an intelligent man to wander about here unchaperoned and pick up information at first-hand which might be detrimental to our ends. The more prominent the man in public life and the better known, the more impossible for him to escape our official sleuth.

I would be tempted, if I was sure of considerate reply, to urge upon President-elect Wilson the selection of some bright man who knew Spanish and was willing to acquire a bit of Tagalog to travel alone and incognito in these islands and mingle with these people for six months and without the customary accompaniments of banquets, brass bands, ovations, and orations from leading citizens. Under such conditions the visitor has less insight into the real Filipino than one who has never put foot on these islands. Under such conditions our high officials always travel. Under such conditions Mr. Taft always traveled, and he has traveled thousands of miles in this archipelago. That his ignorance is not total is due solely to a remarkable acumen and insight into character, which has counterpoised in a very small degree the vicious influence of travel under such conditions.

The other classes are more summarily disposed of. We Americans hold all the offices there are which are worth while except some of the judgeships. As long as we continue to want the salaries of those posi-

tions, so long are we going to be a unit in declaring that the Filipinos are disqualified to hold them. Nor is a change of politics going to cause any change of heart. Although a Democrat myself, I am quite well assured there will be no lack of Democrats who are patriots for revenue, who, if they succeed to these positions now filled by Republicans, will just as quickly discover the unfitness of the native to hold any good-salaried job.

There are 167 high-salaried positions of which about 150 are held by Americans. We are guilty of a lot of tommy rot about "training up the natives to holding these positions," and we have no intention of letting them progress further than to be porters or messenger boys. That a number of high-salaried Filipinos are judges is to our shame, not to our credit. We could not help it. Mr. Taft declared that the collective intelligence, probity, and legal knowledge of the American bar in Manila fell short of the best judicial standards. He had to appoint Filipinos. A single instance will illustrate the status of every American officeholder in the Philippine Islands.

Both the civil and military governments are buyers of enormous quantities of supplies. They now favor American tradesmen, a patronage which would naturally revert to Filipino dealers upon a change of governmental policy. The daily (American) newspapers are, of course, the most virulent advocates of the "uplift" rot. Given to them the boss of the government and of their commercial advertising and they could not live a week. They—newspapers and merchants—are strenuous and united in urging the ingress of American capital. Every dollar of American capital planted in their country cements by a new tie the continuity of present relations. These benighted "savages," so unfit for self-government, have the perspicacity of vision and acumen to grasp this fact and oppose it bitterly.

The newspapers use this as an argument to show that these people have not intelligence enough to grasp the fact that outside capital brings prosperity to a people, ergo, they have not sense enough to govern themselves. The military are no whit behind. They like their tour of duty. They are at less living expense, their travel back and forth is free, and their pay automatically goes up 10 per cent during their detail to the Philippines. In short, we, about all of us, have an ax to grind. Even I am not quite fit to cast the first stone. I have resided here for 11 years because I love the Tropics, and my occupations has given me opportunity to explore this great country from the Batanes to the Sulu Archipelago, and I am sometimes inclined to question if my sense of personal security would be quite as great under a native régime.

At the same time I feel I have no right whatsoever to let my selfish inclinations weigh for an instant against my country's unquestionable duty to give these people the bread (independence) and not the stone ("uplift") with which we attempt to fool them. When I said above, "my personal security," I rather meant to include my countrymen at large, upon whom reprisals might be made for having spoiled the Egyptians. As an individual, I am persona grata to my neighbors, and would feel more secure here at any time than on the streets of Boston.

Having no copyright upon your reserved powers of endurance, I will close.

Very truly, WM. S. LYON.

P. S.—As an afterthought, and which should have been embodied in my communication, I would call attention to the hollowness and insincerity of any pretense of ours that we mean to ever get out of the Philippine Islands. At this moment the Philippine Assembly is besieged on every side with an attempt to load ourselves upon them in perpetuity with a service pension bill. Not only is every official from the Governor General down lobbying for it, but even the Philippine judges, whose influence is great, are making the same fight. Realizing that their pro-American tendencies would, under native rule, relegate them to private life, they are making hay while the sun shines to get securely landed on the pension roll for life, after a State service of 12 to 15 years. Such being the insolence of Mr. Forbes's and Mr. Worcester's demands. There is enough intelligence in the assembly to realize the nature of this assault upon their pockets. They know that under no circumstances will the United States grant them autonomy except upon their solemn obligation to sacredly observe all their laws affecting citizens of the United States, and they realize the enormity of being forced to accep this life-everlasting burden.

But forced they are in danger of being. The American commissioners have now an outrageous bill of this nature to hand the assembly. The ultimatum will be, pass it or we will veto your most cherished legislation. Then publish you to the world as obstructionists incapable of self-government. Between the devil and the deep sea, and rather than be branded with so undeserved a stigma, there is a chance that they will be coerced into swallowing this bitter pill. Once give us a life grip upon all the good salaries there are, and we will give these people all the independence they ask for.

L.

Mr. KAHN. Mr. Chairman, will the gentleman from Virginia [Mr. JONES] yield for a question?

Mr. JONES. I will if I have the time.

The CHAIRMAN. The gentleman from Virginia has about four minutes remaining.

Mr. KAHN. The gentleman refers to the Filipino people. Whom does he mean by "Filipino people"?

Mr. JONES. I will say to the gentleman that when we speak generally of the Filipinos we mean all the people, Christian as well as non-Christian, civilized as well as uncivilized; but usually when I speak of the Filipinos I mean the 7,000,000 Christianized, civilized Filipinos. I exclude the Igorots and I exclude the Moros, who are reported to be fighting the United States forces in Jolo at this time. They constitute some 600,000 people. I do not speak of them as Filipinos any more than I would speak of the Indian tribes of America as "Americans" when I speak of Americans.

Mr. BATES. Mr. Chairman, may I ask the gentleman one question?

Mr. JONES. Yes.

Mr. BATES. If a foundling were left upon the gentleman's doorstep, I am sure his generous and humanitarian feelings would permit him to take it in and care for it. After having done so, should he find that on account of the increased cost of living it was becoming expensive to care for the foundling, would he throw it into the street?

Mr. JONES. My reply to the gentleman is that the Philippines were not left on the doorstep of the United States. The Filipinos had captured every Spanish post in the Philippine Islands—had captured their crack regiment, every position with the sole exception of Manila, and had we left the Filipinos alone they would have secured their independence within a few months from the time the Spanish fleet was destroyed. [Applause.]

Mr. BATES. One other question. Would they have been in as good a state of civilization as they are to-day if that had happened?

Mr. JONES. Well, I think they would. But of course that is a question that neither the gentleman nor I can answer with absolute certainty.

Mr. BATES. Would they have had American school teachers, for instance?

Mr. SAUNDERS. How far is it where they are fighting at Mindanao to the place where Aguinaldo is?

Mr. JONES. It is some 1,000 miles by water to where the fighting is going on. I wish to say that Aguinaldo, who is charged by these Manila correspondents with inciting the trouble down in Jolo, was never in Jolo in his life. He does not speak the language which is spoken there, and he would not, if he was there, understand a word that was said. Indeed, the constabulary and scouts that are reported to be engaged in fighting the Moros are Filipinos. Aguinaldo's sympathies are not likely to be with the Moros as against his own people. The troops that are endeavoring to put down the Moro revolt that Aguinaldo is falsely accused of inciting are Filipino troops.

Mr. SHERLEY. Mr. Chairman, I do not believe that a nation, any more than a man, can live by bread alone. And I do not believe that the policy of the American people touching the Philippine Islands can be determined by any summing up of a financial statement of receipts and expenditures. [Applause.]

With much of what the gentleman from Virginia [Mr. JONES] has said I am in accord, though had I had the information that he states he has touching the conduct of the Governor General of the Philippine Islands, I would have felt it my duty as a representative of the people of America to stand upon this floor and ask his impeachment. If I believed—and I neither believe nor disbelieve, because I have not the information—that the statements which he has made are accurate, touching the Governor General, then I should feel that he ought to be removed from office because of malfeasance in office.

I also am prepared to admit that we have spent vast sums in the past and are spending large sums now in connection with the Philippines; that they ever will be profitable in a dollar-and-cents way to the people of America I gravely doubt. I for one have never believed it. I also, claiming to be a Democrat, am desirous of the day when we can give to the Filipinos an independence that will mean something to them; that will be a real independence; that will carry to them real liberty of every sort and kind; but I am unwilling now to undertake to prophesy as to the future. I have never seen any wisdom in legislatively determining that a certain fact will happen upon a given date in the future, whether it does or not. My party stands committed, and properly stands committed, to the proposition that whenever the Filipino people are capable of maintaining a stable Government they should be given their independence. Upon that I stand with my party.

But I am not prepared to say that on the Fourth of July of any given year in the future that condition will have arrived; and not being able to span the future with the flimsy bridge of thought, I am unwilling to say legislatively that upon such a day, at such an hour, their independence should be given them.

This I believe to be the sacred duty of any party in power—to so conduct the affairs of the Philippine people as to cause them to make as rapid progress as is possible toward self-government. To them we owe "honor and faith and a sure intent." We have no right to, we dare not, exploit the Philippines; but I am unwilling to accept, as the voice of the Filipino people, the voice of a limited number of officeholders in the Philippine Islands, whether they be Americans or Filipinos. [Applause.] I am unwilling to accept Manila as the judgment of the Philippines.

I have not a very elaborate acquaintanceship with those islands. My personal contact with them amounted to the same as that of the gentleman who is chairman of the Committee on Insular Affairs. We both visited those islands for a limited length of time. Men get various impressions from what they see. I realize that with a very small percentage of the people of those islands able to talk to each other in any common

tongue, it is a rather difficult proposition to arrive at what the islands as a whole desire by the expression of a limited number of people in Manila or here. I know of nothing that is of such tremendous value to the Filipino people as a whole as the fact that the people of America are aiding them, through the common schools there, to come to the use of a common tongue, that there may be an exchange of ideas and of wishes among the various peoples of those islands. Few realize how widely different in habits, in customs, in feelings, the various sections of the Philippines are.

The gentleman from Virginia says that when he usually speaks of the Philippines he speaks for the Christian Filipinos, and he does not usually have in mind, in speaking of them, the Moros, those who inhabit the lower part of the archipelago. And yet they constitute no inconsiderable part in numbers, and they constitute no inconsiderable force in fighting power; and when you come to determine the peace of those islands when we shall withdraw from them, you have to consider—aye, to consider on behalf of the Christian Filipinos—what the effect may be upon the non-Christian Filipino tribes.

I hope that every charge that has been made by the gentleman from Virginia will be investigated, and I hope, if any of them are true—and I again say I express no opinion, because I have not the facts upon which to base an opinion—that every man guilty of a violation of his trust there shall be severely punished. I would spare no one, because, I say again, the very test of American civilization will come in our dealings with the Filipino people, and we dare not stoop to anything beneath the very highest ideals of the English-speaking race. But I am not prepared to agree to the proposition that in our occupancy of the Philippine Islands we have been a detriment and a hurt to the Filipino people.

I shall not here attempt a summary of what has been done or what has been left undone, but I believe that no man can make an impartial study of our actions in those islands without coming to the conclusion, when you weigh the good with the bad, that our occupancy has been beneficial. It is no slight task. I know the danger that comes from undertaking to govern another people. The idea in its abstract statement is abhorrent to my nature. And yet I realize, whether wisely or unwisely, there came from the signing of the treaty of peace with Spain certain responsibilities upon the people of America, and those responsibilities they can not shirk, and they will not shirk. [Applause.]

If in the carrying out of those obligations there have been done those things that should not have been done, let the punishment be swift and sure. Let those of us that now assume the responsibilities of government see to it that no indictment, such as that which the gentleman from Virginia has brought against the existing administration, can be brought against us; but let us not undertake to determine in advance the happening of events that only time itself can determine. Let not men, out of a false idea, and by what I believe to be not the voice of the Philippine people as a whole, determine this question.

It is because of this, that I did not want to let go unchallenged what seemed to be the conclusion of the gentleman from Virginia touching the duty of gentlemen on this side of the Chamber and touching the probable policy of the incoming administration. In what I have said I speak only for myself, as I only have the right to speak; but I believe that I also voice somewhat the thought, somewhat the belief, and somewhat the aspirations of the people of America. [Prolonged applause.]

Mr. GOOD. I yield five minutes to the gentleman from California [Mr. KAHN].

Mr. KAHN. Mr. Chairman, a moment ago the gentleman from Virginia [Mr. JONES] said that he did not refer to the Igorots when he spoke of the Filipino people. The Igorots are the wild mountain tribes that inhabit northern Luzon. The Tagalogs, many of whom clamor for independence, live in and about Manila. They fear and dread these wild pagan mountaineers even as the Spaniards feared and dreaded them during the days of Spanish occupancy. The native governor of a Province just on the border of the territory where these Igorots live—the Christian governor, if you please—made the remarkable statement that in his judgment the best thing to do with these wild Igorots is to kill them all. That was his idea of how they ought to be treated. Now, I am opposed to giving independence, or to saying when we shall give independence, to a people who have yet, evidently, to learn the true meaning of independence.

Mr. QUEZON. Will the gentleman yield?

The CHAIRMAN. Will the gentleman from California yield to the gentleman from the Philippine Islands?

Mr. KAHN. Yes; I will yield.

Mr. QUEZON. While I do not question the accuracy of the statement made by the gentleman that the governor of a Province south of the territory inhabited by the Igorots said that the best Igorot is a dead Igorot, yet I should like to ask the gentleman if he has not heard a similar expression in the United States, and I will ask him if he thinks the American people should be charged with the fact that somebody has made that statement.

Mr. KAHN. I suppose the gentleman refers to a statement attributed to an Army officer, who said that the only good Indian is a dead Indian, but the cases are not at all parallel. Here is the governor of a Province, the official charged with the execution and enforcement of the laws of that Province—the man whose duty it is, above all others, to maintain law and order. Yet he, forsooth, would kill off the people who are immediately to the north of him, who are not Christians, because he does not believe they have the right to live.

Mr. JONES. Will the gentleman allow me to ask him one question?

Mr. KAHN. Certainly.

Mr. JONES. I think what the gentleman says is perfectly true about the disposition of the Moros, that they would kill the Christian Filipinos. I think that statement is perfectly true. But how does that comport with the report from Manila published all over the country yesterday that Aguinaldo, a southern Tagalog resident of Cavite Province, has been down there inciting those people, who would kill him, to rebellion against the United States Government?

Mr. KAHN. I did not see any article in any newspaper which indicated that Aguinaldo was in the Moro country inciting those people. I did see some statement to the effect that he was inciting them, but I saw no reference anywhere to his personal presence in the Moro country. But I did not intend to discuss the Philippine question at this time.

I desire to address myself more particularly to the question of the reorganization of the Army. During the discussion a few days ago on the Army appropriation bill the gentleman from Kentucky [Mr. HELM] stated that annually on this floor a statement is made that the War Department is making an effort to reorganize the Army, and then as soon as the Army appropriation is out of the way the matter is dropped for an entire year, only to be resurrected upon the consideration of the next military supply bill. I wish to state to the House that the War Department has perfected a plan for the reorganization of the Army. Although the matter was taken up actively only about a year ago, the department is now putting that plan into actual operation in the Middle West. It has formulated a full report on the reorganization of the land forces of the United States, and I ask unanimous consent to insert that report in the RECORD.

The CHAIRMAN. The gentleman from California asks unanimous consent to extend his remarks by inserting the document referred to. Is there objection?

There was no objection.

The document referred to is as follows:

REPORT ON THE ORGANIZATION OF THE LAND FORCES OF THE UNITED STATES.

SYNOPSIS.

I. General relations between the land and naval forces.
II. Relations between the land forces at home and abroad.
  1. The detachments on foreign service.
     Philippines.
     Oahu.
     Panama.
     Guantanamo.
     Alaska.
     Porto Rico.
  2. Summary of advantages to be derived from a separate organization of the detachments on foreign service.
III. The land forces within the territorial limits of the United States.
  1. The traditional military policy of the United States.
  2. The time required to raise armies.
  3. Two classes of citizen soldiers, organized and unorganized.
  4. Relation of the Regular Army to the Nation's war power.
  5. Employment of regulars and citizen soldiers in Great Britain.
  6. The joint use of regulars and citizen soldiery.
IV. The peace administration of the regular land forces.
  1. Relations between the Coast Artillery and the mobile army.
  2. Essential differences affecting the administration of Coast Artillery and mobile forces in peace and war.
  3. The distribution of the mobile army and its relation to tactical organization and administration. The policy of segregation as outlined by the Secretary of War.
  4. A proposed organization for the peace administration of the regular land forces.
  5. The difficulty of securing a tactical organization in peace, as illustrated by the actual distribution of the troops in the present central territorial division.
  6. The present subdivision of commands in the central territorial division.
  7. A plan of tactical organization and administration adapted to the present dispersion of the mobile army.
  8. Quartering and administering the mobile troops in peace.

V. The necessity of a reserve system.
1. Maintenance of strength in war.
2. The solution of the problem.
3. Power of expansion.
4. Proposed plan for a Regular Army reserve.
5. The relation of the reserve system to foreign service.
6. Unorganized reserves.
7. Status of the reservist.
8. Special reserves.
9. Reserve officers.
10. Reserves for the citizen soldiery.
11. Prolongation of the term of service in time of emergency.
12. The relation of localization to the reserve problem and to recruitment.

VI. The tactical organization of mobile troops.
1. Infantry.
2. The Infantry brigade and the division.
3. Cavalry.
4. Field Artillery.
5. Ammunition service.
6. Components of the division and the field army.

VII. Relation of promotion to organization.

VIII. An initial tactical organization for the mobile army with a program of gradual expansion into a field army.
1. The troops available after providing for the foreign garrisons and the policy of organization proposed.
2. The proposed organization of the skeleton field army.
3. First increment of the skeleton field army.
4. Subsequent increments of the field army.
5. The number of general officers required by the tactical organization.
6. Additional officers required for duties other than regimental.

IX. Raising and organizing the national volunteer forces.
1. Limitations upon the availability of the State militia as a national force.
2. Establishment of division districts as a means for systematically raising and organizing the volunteer forces.

X. Considerations determining the strength, composition, and organization of the land forces of the United States.

XI. A council of national defense.

I.

General relations between the land and naval forces.

A general consideration of our responsibilities and our geographical position indicates that the maintenance of our policies and interests at home and abroad demand an adequate fleet and a well-organized and sufficient army. The function of the Navy is to secure and maintain the command of the sea. To accomplish this it must be free to seek and defeat the enemy. The use of any part of the fleet for local defense therefore defeats the chief object of naval power. The principal rôle of the Navy is offensive and the requirements of local defense must be met by other means. A fleet unsupported by an army is unable to secure the fruits of naval victory; a fleet defeated at sea is powerless to prevent invasion. The solution of the problem of national defense lies, therefore, in the provision of suitable land and sea forces and a due recognition of their coordinate relations.

II.

Relations between the land forces at home and abroad.

Any plan for the organization of the land forces of the United States should be based upon a recognition of the fact that these forces are and must be divided into two distinct parts:

1. The Army on service beyond the territorial limits of the United States.

2. The Army within the territorial limits of the United States.

The Army on detached service beyond the territorial limits of the United States consists of the detachments required to meet the special military problems of the Philippines, Panama, Oahu, Alaska, Guantanamo, and Porto Rico. Each of these detachments has a distinct tactical and strategic mission and is to operate within a restricted terrain. All of them depend upon over-seas communication with the home country, and all of them may therefore be isolated for considerable periods, especially in the critical first stages of war. It is obvious that under these circumstances these detachments should be prepared to meet all military emergencies until reenforcements from the United States can reasonably be expected. They must therefore be organized with the view to being self-supporting until the Navy has accomplished its primary mission of securing the command of the sea.

The Army within the territorial limits of the United States is on an entirely different basis. It may or may not be given an adequate strength in time of peace, but it is supported by all of the resources of the Nation. It may be increased at the pleasure of Congress, and it may be reenforced by considerable forces of citizen soldiery. It follows from these considerations that the military establishment of the United States in time of peace should first provide effective and sufficient garrisons for the political and strategic outposts of the United States and that the residue at home should be organized with the view to ultimate expansion into such war forces as national interests may require. The essential difference between the forces at home and the forces abroad is thus seen to be that they have different capacities with reference to expansion at the outbreak of war. The Army at home is expansible to the highest degree, while the detachments abroad are not expansible at all in the brief but critical period that marks the first stage of modern war.

1. THE DETACHMENTS ON FOREIGN SERVICE.

The minimum garrisons required for the maintenance of national interests beyond the limits of the United States are as follows:

The Philippines.—Four regiments of Infantry at maximum statutory strength (150 men per company), 2 regiments of Cavalry at maximum statutory strength (100 men per troop), 2 battalions of Field and Mountain Artillery (6 batteries), 2 companies of Engineers, 2 companies of Signal troops (one of these a field company), 24 companies of Coast Artillery, 52 companies of Philippine Scouts, 1 ambulance company, 1 field hospital, with detachments pertaining to the Ordnance Department and enlisted men of the Hospital Corps on duty with organizations.

It is the duty of this force to support the authority of the United States throughout the archipelago, and in war it must be prepared to hold the defenses of Manila Bay at all coasts until our fleet is free to operate in eastern waters. The garrison of mobile troops proposed for the Philippines comprises substantially the same enlisted strength as has been included in the garrison maintained there for the past few years. It is proposed to increase its economy and effectiveness by concentrating the bulk of this garrison in the vicinity of Manila. It is also proposed to maintain organizations permanently or for long periods in the Philippines, thus avoiding the waste of money and loss of efficiency due to frequent changes of station between the islands and the United States. Until recently entire organizations have been shifted; under the new policy the personnel will gradually be changed as enlistments expire or as the officers complete their allotted tours, but the organizations will remain where they can prepare and train for their peculiar functions in peace and war. The expense of this garrison has further been reduced by replacing 12 regiments of Infantry and Cavalry at reduced strength by 6 regiments of Infantry and Cavalry at the maximum strength authorized by law. This materially reduces the per capita cost of the Philippines garrison and permits the withdrawal of six regiments for use at home or in the other foreign garrisons.

Oahu.—The maintenance of this naval base is essential to the defense of our Pacific coast and to securing the full military value of the Panama Canal as a strategic highway between the two oceans. Pearl Harbor will be covered by seacoast fortifications, which are now nearing completion; but as the coast defenses of Pearl Harbor will be unable to prevent hostile landings on the 100 miles of coast which lie beyond the range of their guns, the security of the island and of the naval base ultimately depends upon maintaining a mobile force sufficient to defeat such hostile forces as may succeed in landing at any place on the island. Under conditions of modern warfare we can not count with certainty upon reenforcing the peace garrison of the island after a declaration of war or while war is imminent. The security of our naval base in the Pacific, therefore, demands that the garrison of Oahu must be able to hold out at all hazards until our fleet can arrive in Hawaiian waters. This may be taken as 40 days, assuming that the fleet is not employed on another mission and that the Panama Canal is open to its use.

The minimum peace garrison of Oahu is, therefore, placed as follows: Six regiments of Infantry at maximum statutory strength (150 men per company), 1 regiment of Cavalry at maximum statutory strength (100 men per troop), 3 battalions of Field Artillery (9 batteries), 1 company of Engineers, 1 field company of Signal troops, 10 companies of Coast Artillery, 1 ambulance company, 1 field hospital.

Plans are being made for the expansion of the Hawaiian National Guard and the organization of volunteers from the American population. But the foundation of the defense must rest upon trained regulars who are familiar with the complicated terrain of the island. Our naval base in the Pacific will never be attacked except by troops of the highest skill and training and the attack will be made before extemporized troops can be prepared or hardened for full military effectiveness.

Panama.—Upon its completion the Panama Canal will be our most important strategic position. By our control of this highway between the two oceans the effectiveness of our fleet and our general military power will be enormously increased. It is therefore obvious that the unquestioned security of the canal is our most important military problem. The permanent garrison must be strong enough to guard the locks and other important works and to prevent a naval attack which under modern conditions may even precede a declaration of war. We must therefore be able, even in peace, to man the seacoast guns that cover the approach to the canal, and we must have enough mobile troops to protect the rear of the forts and to defeat naval raids. A modern fleet can land a raiding party of several thousand bluejackets, and such a force landing out of range of the seacoast guns could penetrate to some vulnerable part of the canal within a few hours. The permanent garrison must therefore include a mobile force strong enough to anticipate and defeat naval raids at the beginning of hostilities and to secure the canal until reenforcements can be expected from the United States.

The minimum peace garrison necessary for the defense of the canal is as follows: Three regiments of Infantry at the maximum strength recommended in Chapter VI of this report, 1 battalion of Field Artillery (3 batteries), 1 squadron of Cavalry, 1 Signal company, 1 Engineer company, 1 ambulance company, 1 field hospital, and 18 companies of Coast Artillery.

By treaty with the Republic of Panama this garrison should be given facilities in time of peace to operate beyond the Canal Zone, in order that the troops may be properly trained for their special mission and be made familiar with the terrain over which they may be called upon to operate in defending the canal.

Guantanamo.—The policy of the United States contemplates the establishment of a naval base at Guantanamo. It is most necessary that the garrisons of Coast Artillery and mobile troops necessary for its land defense should be determined with the least possible delay.

Alaska.—The present garrison of Alaska comprises one regiment of Infantry and two companies of Signal troops. As troops can be withdrawn from Alaska only during a part of the year, this garrison can not be included among the troops available for general military purposes. The assignment of one Infantry regiment as the garrison for Alaska is not with any idea of the defense of the Territory in the event of war, but simply to furnish a police force to quell local disorders.

With the settled conditions that now obtain in the government of Alaska it is believed that the time has come to relieve the Army from this police duty and that a force of constabulary should be organized and charged with the police of the Territory. The two companies of the Signal Corps should also be withdrawn and the lines turned over to the proper civil authorities.

Porto Rico.—The garrison of this island is the Porto Rico Regiment of Infantry, comprising two battalions, or eight companies. Its enlisted men are native Porto Ricans. Its field officers are detailed from the United States Army, and its captains and lieutenants, some of whom are Porto Ricans, are specially commissioned for this regiment. This regiment might serve outside of Porto Rico under certain contingencies, but it can not be considered as available for general military purposes.

It is recommended that this regiment be completed so as to conform in organization to the Infantry regiment recommended in this report and that promotion to the grade of major be authorized for the permanent officers of the regiment.

Passing through this regiment each year are a number of trained men. It is recommended that two regiments of National Guard be organized in Porto Rico, which, with the regular regiment, would form a brigade. The detailed colonel of the regular regiment should also be given the militia rank as brigadier general and be charged, under direction of the governor, with the administration and training of the National Guard of Porto Rico and with the command of the brigade whenever it operates as such.

The following table gives a summary of the minimum forces required for the maintenance of national interest in the outlying possessions of the United States:

	Philippines.	Oahu.	Panama.	Alaska.	Porto Rico.	Total for foreign service.
Regiments of Infantry	4	6	3	1		14
Regiments of Cavalry	2	1	¼			3¼
Battalions of Field Artillery	2	3	1			[1]6
Companies of Coast Artillery	24	10	18			52
Companies of Philippine Scouts	52					52
Porto Rico Regiment of Infantry					1	1
Companies of Engineers	2	1	1			4
Field companies, Signal Corps	1	1	1			3
Other companies, Signal Corps	1			2		3
Field hospitals	1	1	1			3
Ambulance companies	1	1	1			3

[1] The equivalent of 3 regiments of Field and Mountain Artillery under the existing organization.

The following table gives the total numbers of organizations now existing in the Army of the United States, the total numbers required to meet the minimum requirements of the foreign garrisons, and the residues that will be available within the United States after providing the minimum requirements of the foreign garrisons:

	Total organizations in military establishment.	Required for foreign service.	Organizations remaining at home after providing for the foreign garrisons.
Regiments of Infantry	30	14	16
Regiments of Cavalry	15	3¼	11¾
Regiments of Field and Mountain Artillery	5	3	2
Regiments of Horse Artillery	1		1
Companies of Philippine Scouts	52	52	
Porto Rico Regiment of Infantry	1	1	
Companies of Engineers	12	4	8
Field companies, Signal Corps	5	3	2
Other companies, Signal Corps	7	3	4
Field hospitals	4	3	1
Ambulance companies	4	3	1
Coast Artillery companies	170	52	118

2. SUMMARY OF ADVANTAGES TO BE DERIVED FROM A SEPARATE ORGANIZATION OF THE DETACHMENTS ON FOREIGN SERVICE.

The following advantages will result from the organization of the foreign garrisons as distinct and separate parts of the military establishment:

1. *Simplification of the problems of training and administration.*—Until recently the organizations have been shifted back and forth between home and foreign service. There has been in consequence a constant change of function and an incomplete or imperfect adaptation of the shifting units to either function.

2. *Simplification of problems of organization.*—Under the old system, although there were distinct kinds of service and an actual separation of the Army into parts, yet the difference of function of these parts has not been recognized as the basis of organization. The Army has been treated as a homogeneous whole, with the same organization at home and abroad. Regiments that have been maintained at low strength at home on the theory of expansibility have been maintained at the same strength on foreign service, where expansion of any kind is impracticable.

3. *Greater economy.*—Keeping war strength units permanently on foreign service will reduce the per capita cost of the foreign garrisons. The reduction in cost for any given foreign garrison is due chiefly to the following causes:

(a) *Economies due to the maintenance of permanent organizations on foreign service.*—This necessarily results in reduced expenditure for transportation. With permanent regiments the transportation is limited to that required to maintain the desired strength; that is, the transportation of officers and enlisted men who return to the United States on account of disability or upon discharge, or upon the completion of the allotted time of foreign service, and the transportation of the officers and men who are sent out to fill vacancies. With shifting regiments, in addition to the above-described maintenance travel, entire organizations with all personnel and impedimenta must be transported at stated intervals.

(b) *Economies due to increased enlisted strength in existing organizations.*—This necessarily results in greatly reduced cost per effective combatant soldier. If 900 enlisted men be formed into a new regiment the pay and allowances of additional officers and high-priced noncommissioned officers must be considered. But if the same number of men be added to organizations already in existence there is no appreciable increase in overhead or administrative expenses, and it is only necessary to estimate for the pay and allowances of the privates added. In any given garrison the cost of barracks and quarters is determined largely by the number of companies. The per capita cost for housing is therefore a minimum when the enlisted strength per company is a maximum.

It is calculated that the annual cost of the proposed garrisons of the Philippines, Oahu, and Panama on the permanent war strength basis will be upward of $4,000,000 per year less than the cost of garrisons of the same strength maintained under the old system of shifting low-strength regiments. Barracks and quarters for the proposed garrisons will cost at least $6,000,000 less than barracks and quarters for the same enlisted strength organized as at present.

4. *Localization of regiments at home.*—As soon as we discontinue the transfer of organizations to and from foreign service we may localize the Army at home. This will result in further economies and in increased effectiveness. Problems of recruitment will be simplified and plans for the expansion of the home army into an effective war force will become more definite. The important problems involving the relations of the Regular Army to the citizen soldiery may be worked out on a more definite basis and will receive more intelligent attention when the functions and duties of the home army are recognized as distinct from those of the detachments abroad. While serving abroad the war preparation of officers and men will be for the defense of an important but restricted local terrain. While serving at home the war preparation of officers and men will be for general military service.

5. As problems of administration will be simplified, so will problems of executive policy and legislation. With the Army organized in distinct units, each with definite functions, it will be easier for Congress to determine the real military needs of the Nation. The complex problem of national defense will be simplified by a resolution into several distinct and separate problems, each to be met by a separate and distinct military organization.

III.

The land forces within the territorial limits of the United States.

1. THE TRADITIONAL MILITARY POLICY OF THE UNITED STATES.

The problem of military organization has two aspects, a dynamic aspect and a political aspect. The measure of military force required to meet any given emergency is purely dynamic, while the form of military institutions must be determined on political grounds, with due regard to national genius and tradition. There can be no sound solution of the problem if either of these fundamental aspects be ignored. The military pedant may fail by proposing adequate and economical forces under forms that are intolerable to the national genius, while the political pedant may propose military systems which lack nothing except the necessary element of trained and disciplined military force. The practical military statesman must recognize both of these elements of the problem. He does not propose impracticable or foreign institutions, but seeks to develop the necessary vigor and energy within the familiar institutions that have grown with the national life. But the ultimate test is dynamic. In any military system the final test is capacity to exert superior military force in time to meet any given national emergency.

It is the traditional policy of the United States that the military establishment in time of peace is to be a small Regular Army and that the ultimate war force of the Nation is to be a great army of citizen soldiers. This fundamental theory of military organization is sound economically and politically. The maintenance of armies in time of peace imposes a heavy financial burden on the Nation, and the expenditure for this purpose should be kept at a minimum consistent with effectiveness for war. But reliance upon citizen soldiers is subject to the limitation that they can not be expected to meet a trained enemy until they, too, have been trained. Our history is full of the success of the volunteer soldier after he has been trained for war, but it contains no record of the successful employment of raw levies for general military purposes.

It is therefore our most important military problem to devise means for preparing great armies of citizen soldiers to meet the emergency of modern war. The organization of the Regular Army is but a smaller phase of this problem. It is simply the peace nucleus of the greater war army, and its strength and organization should always be considered with reference to its relation to the greater war force which can not be placed in the field until war is imminent. The problem is one of expansion from a small peace force to a great war force. Its solution therefore involves the provision of a sufficient peace nucleus, the partial organization and training of citizen soldiers in peace, and provisions for prompt and orderly expansion on the outbreak of war.

But the practical solution of the problem can not be met by the promulgation of a general theory. The Army at any time and place must be strong enough to defeat any enemy that may oppose it at that time and place. We are concerned more with the time required to raise the force of trained troops than with their ultimate numbers. If we need 60,000 soldiers in a given terrain within 30 days and can only deploy 50,000 soldiers in that time and place, we are not prepared for the emergency, even if our plans provide for ten times that number at some period in the future. Whatever our military institutions may be, we must recognize the fundamental facts that victory is the reward of superior force, that modern wars are short and decisive, and that trained armies alone can defeat trained armies.

2. THE TIME REQUIRED TO RAISE ARMIES.

The time required for the training of extemporized armies depends largely on the presence or absence of trained instructors. If there be a corps of trained officers and noncommissioned officers and a tested organization of higher units with trained leaders and staff officers, the problem of training is limited to the training of the private soldier. This can be accomplished in a relatively short time, and under such conditions if arms and equipment are available a respectable army can be formed within six months. But where the leaders themselves are untrained and where officers and men must alike stumble toward efficiency without intelligent guidance, the formation of an efficient army is a question of years. Indeed, such a force can not become an army at all within the period of duration of modern war. As the American Civil War of 1861–1865 presents the singular phenomenon of two extemporized armies gradually developing while in conflict with each other, it is a most remarkable record of the evolution of such forces. In the conflicts of 1861 both officers and men were untrained for the duties demanded of them. Even the companies were imperfectly organized as units of the regiment, and the lack of cohesion was still more apparent in the higher units. Bull Run disorganized both armies. One was demoralized by defeat and the other by victory. By 1862 effective regiments, brigades, and divisions had come into being, but the conduct and leading of higher units as a rule was still imperfect. It was not until 1863 that the armies confronted each other as complete and effective military teams. But even in the early stages of the war the influence of trained and able leaders was apparent. The time required to make an effective soldier depends very largely on the organization in which the recruit is enrolled. The recruit of 1861 could not become a good private until his captain became a good captain, but the recruit of 1863 was absorbed in a team already trained, and therefore became a trained soldier in a few months of active service. But while the history of the Civil War is instructive as a record of military evolution it can not be invoked as a guide of military policy, for we can count upon it that in our career as a world power no serious competitor will ever oppose us with extemporized armies.

In view of these considerations it is obvious that the citizen soldier must have some training in peace if he is to be effective in the sudden crisis of modern war. The organization in which he is to serve must exist and function in time of peace, and in view of the limited time available for training it should be a fundamental principle of American policy that no officer should be intrusted with the leadership of American soldiers who has not prepared himself for that responsibility in time of peace. The American soldier, whether regular or volunteer, is entitled to trained leadership in war.

It will never be possible for citizen soldiers to acquire thorough military training and experience in time of peace. Their training and hardening must be completed after mobilization, but the period required for such final training will be reduced exactly in proportion to the amount of training already received in time of peace. If the total peace training of a National Guard company is equivalent to two months in the field, it will be available for duty at the front two months earlier than a company of raw men, assuming other conditions equal in each case. But in any event during the period of final training, which will vary for different companies and regiments, the Regular Army must meet the situation at the front. If our citizen soldiery is put on a proper basis as to organization and training—a basis on which it does not now rest—its regiments will soon reinforce the line. Even with their limited peace training they will soon be effective for defense, and after a short period of field practice the best-officered organizations will begin to expand the Army for general military purposes.

3. TWO CLASSES OF CITIZEN SOLDIERY, ORGANIZED AND UNORGANIZED.

The traditional army of citizen soldiery should be considered as divided into two distinct classes, as follows:

1. The organized citizen soldiery, comprising those who are enrolled in definite military organizations and are partially trained in peace. This force is now known as the National Guard, and is organized under the militia clause of the Constitution.

2. The unorganized citizen soldiery. Included in this class is the Reserve Militia, which is made up of all the able-bodied citizens liable for militia duty, but who are not enrolled as members of the National Guard.

In the past the citizens liable for military duty have served the Federal Government under three distinct conditions: First, by being enrolled into a militia regiment which had been or was to be mustered into the service of the United States; second, by being enrolled into a State volunteer regiment; third, by being enrolled into a United States volunteer regiment.

For the purpose of the present discussion the term "National Guard" will be applied to the citizen soldiery which is actually organized in time of peace, whether as a State force or a National force, and the term "Volunteers" to the additional citizen soldiery which will be organized upon the imminence of war. The defects of the National Guard system, as now organized under the militia clause of the Constitution, will be considered in Chapter IX of this report. For the present the term "National Guard" will be applied for convenience to the organized citizen soldiery without reference to its legal status.

As the trained armies of modern nations will seek a decision in the early stages of war, and as extemporized armies will rarely be fit for use within the brief duration of such a conflict, it is obvious that our military policy should aim at increasing the peace strength and efficiency of the organized citizen soldiery. Provisions should be made for the organization of such new volunteer units as may be necessary on the outbreak of war, but it should always be the goal of sound policy to form the proper units in peace so that the war contingent of raw recruits can be absorbed into trained teams already in existence. This policy must be based upon the principle that a nation's military power is to be measured not by the total number of its male citizens capable of bearing arms, but by the number of trained soldiers with which it can meet a given emergency.

4. RELATION OF THE REGULAR ARMY TO THE NATION'S WAR POWER.

From a general consideration of our institutions and the requirements of modern war, it thus appears that the Regular Army is simply the peace nucleus of the greater war army of the Nation. Its strength and organization should therefore be determined by its relation to the larger force. It must form a definite model for the organization and expansion of the great war army, and it must also be prepared to meet sudden and special emergencies which can not be met by the army of citizen soldiery. Some of the special functions of the Regular Army are indicated below:

1. The peace garrisons of the foreign possessions of the United States must be detachments of the Regular Army.

2. The peace garrisons of our fortified harbors and naval bases with a sufficient nucleus of the mobile army elements of coast defense must be regular troops, definitely organized in time of peace.

3. The peace establishment of the Regular Army must be sufficient to prevent naval raids which under modern conditions may precede a declaration of war. A successful raid of this character may determine the initiative by giving the enemy a convenient base for future operations.

4. The Regular Army must form a mobile reserve prepared to reenforce the foreign garrisons during periods of insurrection and disorder.

5. The Regular Army must be prepared to furnish expeditionary forces for minor wars or for the occupation of foreign territory where treaty rights or fundamental national policies are threatened.

6. The Regular Army must be prepared to cooperate with the Navy in the formation of joint expeditions in support of the foreign interests of the United States and for the protection of American citizens abroad.

7. At the outbreak of war regular forces should be concentrated and ready to seize opportunities for important initial successes. Such opportunities will frequently be offered before the mobilization of the army of citizen soldiers can be completed.

8. At the outbreak of war special regular detachments should be ready to seize important strategic positions before they can be occupied or adequately defended by the enemy and before the concentration of the army of citizen soldiers is complete. Initial operations of this kind, such as seizing the crossings of a river frontier or a port of embarkation, frequently determine the future conduct of war and assure an early decision. Capacity to take the initiative with an effective force is the best preventive of war.

9. By its definite organization in peace the Regular Army becomes the nucleus of the greater war army. By its peace practice, its varied experience on foreign service, and its participation in expeditions the Regular Army becomes the experimental model of the volunteer army. It solves practical problems of equipment, armament, and supply, and makes its technical experience in these matters available for the larger force which is normally absorbed in peaceful occupations. It makes our war problem one of definite and orderly expansion instead of the vastly more difficult problem of extemporization.

10. The Regular Army will furnish a school of military theory and practice and will develop officers with special equipment and training for the higher staff duties in war.

11. Through its professional schools and General Staff the Regular Army will develop the unified military doctrine and policy which must permeate the entire National Army if it is to succeed in war.

12. Through its administrative and supply departments the Regular Army in peace will prepare in advance for the equipment, transportation, and supply of the great war army of the Nation.

5. EMPLOYMENT OF REGULARS AND CITIZEN SOLDIERS IN GREAT BRITAIN.

The land forces of Great Britain have been completely reorganized as a result of the experience of the Boer War. As the English system is based on the same principle of voluntary service as our own, and as her military establishment comprises a regular army for expeditionary purposes and a home defense army of citizen soldiery, it may be interesting to observe her solution of the problem of the mutual relations of the two forces. The British Army comprises the army in India and the colonies and the army at home. The latter is divided into the expeditionary force composed of regulars, and the territorial army composed of citizen soldiers. Both forces have appropriate reserves designed to raise their peace establishments to war strength and to replace wastage at the outbreak of war.

The expeditionary force comprises 6 infantry divisions and 4 cavalry brigades. Its function is to furnish immediate reenforcement to any of the foreign garrisons, to form expeditions in the conduct of small wars, and, at the outbreak of a great war, to form the strategic striking force by means of which Great Britain will profit by her naval command of the sea. The territorial army is composed of 14 infantry divisions and 14 cavalry brigades. It is composed entirely of citizen soldiers who enlist for four years and who have about the same amount of annual training as the best of our National Guard organizations.

Each division of either force comprises about 12,000 infantry with from 54 to 70 guns, about 320 divisional cavalry, with engineers, sanitary units, and other special troops. Each cavalry brigade comprises about 1,500 sabers.

The territorial army is definitely organized in division districts, and each of these districts contains an infantry division and a cavalry brigade. The men of the expeditionary force and their reserves are subject to service at any place where it may be necessary to send them in war. The divisions of the territorial army are primarily for home defense, and can not be ordered out of the United Kingdom, though individual officers and men and particular organizations may volunteer for active service abroad. In this respect the mission of the British territorial army is more restricted than that of our citizen soldiery. The general limitation of the territorial army to home defense is possible because the United Kingdom has no land frontiers. The strategic position of the United States is different in this respect. Our citizen soldiery must be ready to expand the war army for offensive operations especially if an enemy should threaten us from either of our land frontiers.

The British territorial army is to be called out at the outbreak of war, and through the preponderance of the British fleet it is expected that the force will have time to complete its training in the interval between mobilization and actual contact with the enemy. It will be ready for defensive operations almost immediately, and it is estimated by the army authorities that it will be effective for general military purposes in about six months after mobilization. The officers of the territorial army, like the enlisted men, are citizen soldiers. Each regiment and artillery brigade, however, has a permanent routine staff, consisting of an officer and instructor sergeants detailed from the regular forces. Each division district is commanded and inspected by a general officer and staff of two officers from the regular establishment. The permanent divisional staff keeps in touch with the progress of imperial war plans and is prepared at any moment to mobilize the division and place it in its allotted position in any particular military situation. This is in the interest of decentralization. The British war office thus deals with a limited number of divisions. Each division headquarters deals with the component units of its division. To concentrate a complete field army of regulars and volunteers at any threatened point on the British coast, it would only be necessary to send one brief telegram to each of three or four division commanders. Each division commander could simply issue orders already prepared by his staff, for details of mobilization, concentration, supply, and transportation are always kept up to date by the permanent regular staff of the divisions. The advantage of such simplicity is obvious. Under our centralized system, instead of three or four units to deal with in cases of this kind, there would be a hundred or more units to deal with, a hundred or more telegrams to write, a hundred or more transportation and supply problems to solve, and all this at a time of diplomatic and political stress.

The simplicity of the British system is based on the fact that both regulars and citizen soldiers are organized in divisions in time of peace. Each division is simply a little army complete in itself, and the whole army or any given field army is simply an aggregation of divisions. The war office does not deal with all of the multitudinous units that comprise the force. An order to one division commander is an order to all of the component units of his division. Under this system the absolute minimum is left to extemporization. The citizen soldiery of Great Britain have a definite place in a machine which is as definitely organized as the regular army. With us the whole system must be extemporized. With us the Regular Army as well as the Volunteer Army is a complex of units without permanent grouping.

6. THE JOINT USE OF REGULARS AND CITIZEN SOLDIERY.

In the defense of Great Britain regular divisions and territorial divisions will be combined in field armies for joint action. Any group of two or more divisions will form a field army. This permits the two forces to cooperate fully in the national defense and yet bases the ultimate grouping of the divisions on the undoubted differences of function of the two forces. This is pointed out because a different theory of organization has been proposed in this country, based on the idea of mixing regular troops and citizen soldiery in the same divisions. It has been proposed to form divisions comprising two brigades of Regulars and one brigade of citizen soldiers or one brigade of Regulars and two brigades of citizen soldiers, with various other combinations of these two classes of troops. A slight consideration will show the fundamental defects of this system.

In the first place, regular troops may and frequently will be dispatched on special missions before the citizen soldiery is called out. If the normal division organization includes both classes of forces, every time the regular troops are detached to perform their special functions one or more of the divisions of the normal organization will be disrupted. Again, while trained volunteers will be fully effective in war, it can not be disputed that at the outbreak of war regular

troops will have more training, greater endurance, and therefore higher maneuvering velocity. But a division is a fundamental army unit. If the regulars are formed in separate divisions, we will have a small force with the endurance and velocity necessary for the sudden strategic enterprises which determine the initiative in war. These divisions can move at once and may even be put in a favorable initial position for striking a blow at the very outbreak of war. They can be quietly concentrated in many cases before diplomatic and political conditions justify the calling out the National Guard or Volunteers. But if these forces are the component parts of mixed divisions they can not move as divisions at all until the citizen-soldier contingents of the divisions are embodied; and when they do move, the velocity and endurance of the mixed divisions will be determined by the condition of their newly mobilized elements. Under such an organization it will be impossible to utilize the special qualities of the highly trained nucleus, except at the expense of disrupting the normal organization at the very outbreak of war.

It is presumed that the main reason for suggesting the placing of regiments of citizen soldiery in brigades with regular regiments or the placing of citizen soldier brigades in divisions with regular brigades is to give raw troops the example of trained troops on the march and in battle. This will undoubtedly be an advantage in special cases, but it should not be made the basis of permanent organization. It should be our policy to develop our citizen soldiers in peace, so that they will no longer be raw troops when they meet the enemy. But the acceptance of this policy will not preclude the adoption of special measures to meet special occasions where raw troops must be employed to the best advantage. Even on the defensive, where untrained troops have always shown to the best advantage, it would seem that regular troops should not be completely dispersed in the trenches, but should be used as a reserve to reinforce the main attack or to make an offensive counterstroke if an opportunity offers. Jackson's troops at New Orleans were able to hold an intrenched position with protected flanks, but he had no troops with sufficient organization or training to complete the victory by a vigorous pursuit of the defeated enemy.

We may therefore accept the following general principles as the basis of correct organization of our mobile forces:

1. The mobile elements of the Regular Army should have a divisional organization in time of peace. This requires that it be organized in tactical divisions, even if these divisions be incomplete and insufficient in number. Even a small army should be correctly organized as an army.

2. Every effort should be made to give a divisional organization to the organized citizen soldiery in time of peace. If our citizen soldiers ever go to war, they must be organized into divisions before they can be employed effectively against the enemy. In order to employ them promptly every possible detail of this organization should be settled in time of peace.

Whenever it becomes necessary to reenforce the Regular Army and the National Guard by volunteer organizations, it is important that they should be prepared for effective service in the minimum of time. This requires that they be formed by trained officers acting under prearranged plans. It is believed that this can best be accomplished by forming the new organizations as United States Volunteers under a national volunteer law like that proposed in S. 2518, known as the du Pont bill. (A copy of this bill, with a memorandum by Senator DU PONT on the history of the volunteer forces, is appended to this report as Appendix I.)

So long as our National Guard is organized under the militia clause of the Constitution it will be impracticable to provide Federal division commanders in time of peace. But under the power to organize and inspect the militia it would seem feasible to organize definite districts to encourage the formation of the necessary units, and to give each division an inspection staff, through which the war preparation can be kept up in peace.

Each division district should contain a complete division, and all of the plans for its mobilization, supply (the supply-depot system should be extended so that the matériel and equipment necessary to equip any organization to war strength would be centrally stored within the division district. Requisitions should be filled from these depots and the stores issued replaced, so that a minimum of deterioration would result. The ideal condition would be to have this additional war equipment actually in the hands of organizations, but this can not be accomplished generally with the National Guard until adequate storage facilities have been supplied), and concentration should be prepared in peace and continually corrected to date. This can only be accomplished by assigning trained officers to arrange the details of organization under the supervision of the General Staff, which is intrusted by law with plans for war. Under present conditions it would be necessary to organize the fundamental war units after mobilization. The War College can and has prepared plans for such mobilization, but in the absence of a definite policy embodied in the law there is no assurance that such plans can be carried into effect. Solid and stable arrangements for mobilization can not be based on a hypothetical policy. Until there is a legalized system our actual mobilization will depend upon political conditions at the time of the crisis. Gaps in our legislation will be filled in haste, and no human agency will be able to predict what the law will be. Our traditional theory of a small Regular Army and a great war army of citizen soldiers is not yet embodied as a definite institution. The mobilization of our citizen soldiery to-day would not result in a well-knit national army. It would be an uncoordinated army of 50 allies, with all of the inherent weaknesses of allied forces emphasized by the unusual number of the allies.

A more detailed discussion of the national citizen soldiery will be presented in Chapter IX, after a consideration of the organization and distribution of the regular forces.

IV.

The peace administration of the regular land forces.

1. RELATIONS BETWEEN THE COAST ARTILLERY AND THE MOBILE ARMY.

The land forces of the United States are divided into two distinct parts, the Coast Artillery and the mobile army. The coast fortifications are local in character and are designed to protect important seaports from direct naval attacks and naval raids, to prohibit hostile landings at particular places, to secure our naval bases in the absence of the fleet, to prohibit the use of certain harbors and waters as bases for naval operations against us, to secure safe havens for our vessels, and to release our fleet for offensive operations. The influence of coast fortifications is limited to the areas within the range of their guns, and while they must be recognized as of supreme importance, within the scope of their proper functions, it must not be supposed that they have any power to prevent invasion if we should lose command of the sea. The total length of our coast line is enormous, and the stretches covered by harbor defenses are and must remain very small compared with the unprotected intervals that lie between them. If we should lose the command of the sea, an invader would simply land in one of these intervals. It therefore follows that our ultimate defense depends upon defeating a mobile army of invasion, and this can be done only by having a mobile army prepared to operate in any possible theater of war. The complete defense of our coasts is therefore a problem of cooperation between Coast Artillery and mobile forces.

2. ESSENTIAL DIFFERENCES AFFECTING THE ADMINISTRATION OF COAST ARTILLERY AND THE MOBILE ARMY IN PEACE AND WAR.

The general relations between the coast fortresses and the mobile troops have already been indicated. Their essential difference lies in the fact that the Coast Artillery is local and will remain local both in peace and in war. The mobile forces, however, will not be confined to a definite territory. They occupy peace stations for purposes of training, but it can never be predicted in what theater of war they may be employed. The coast batteries that cover the entrance to New York Harbor will remain in their present positions in any contingencies, but the mobile forces that may be stationed in the vicinity of New York may be employed at any place within the sphere of national interest.

A correct organization of the two forces should, therefore, be based upon a recognition of these essential differences. The Coast Artillery is territorialized and may properly have a territorial organization in war and peace.

The mobile army, however, must be free to move and should not be tied by its peace administration to any particular locality. The present organization of our Army violates this principle. The same brigadier general commands mobile troops and immobile troops under a system of administration which must necessarily break down in war.

The organization of the Department of the Gulf is a typical example of this illogical arrangement. This department comprises 1 regiment of Infantry, 1 regiment of Cavalry, and 27 companies of Coast Artillery. The organization seems to be based on some idea of convenience for peace administration, but is not designed to meet any military contingency. It is unsound, because the command itself is an illogical command, it being impossible to conceive any military situation which would properly place those units under a single commander in war. It is also unsound, because it must be immediately disrupted in war and the whole machinery of administration broken up at the very time when definite organization is of supreme importance. It would, therefore, seem that a correct organization of our land forces should provide homogeneous commands for our brigadier generals in time of peace. This can be accomplished by grouping the present Coast Artillery districts into three Coast Artillery inspections and by giving a definite brigade and division organization to the mobile troops. Under this arrangement the eastern territorial region will comprise two Coast Artillery inspections and the nucleus of the first division of the mobile army, with certain extra divisional auxiliaries. The central territorial region will comprise the nucleus of the second division of the mobile army, with two or more Cavalry brigades and other extra divisional troops. The western territorial region will comprise one Coast Artillery inspection and the nucleus of the third division of the mobile army.

With the present distribution of our mobile army a strict administration by tactical units is not wholly practicable, but under the policy of concentration proposed by the Secretary of War it is expected that the mobile army will ultimately be segregated in strategic localities so that tactical units may be trained and administered as such. There must be a period of transition, however, before this ideal can be realized, but during this period of transition the organization should be based upon the idea of the military employment of the troops. Because a force is dispersed can hardly be urged as a reason for an incorrect organization. The troops must ultimately receive a tactical organization before they can fight, and the fact that they are dispersed is really an additional reason for attempting to correct their organization in time of peace.

Even where mobile troops are concentrated the commander of the territorial region must perform certain territorial functions. In addition to the command of his tactical units he will generally have problems of recruitment and supply that may be charged with the preparation of plans for the joint use of Regulars and National Guard in several possible theaters of war, but the territorial functions should be kept separated from the tactical functions. (See note in reference to supply depots. These supply depots should be under the control of the territorial commanders recommended in this report. All plans for mobilization should be so completely worked out that the equipping of a unit to war strength should simply mean the releasing of the necessary equipment from the proper depot.) This can be accomplished by a proper organization of the staff. One part of the staff should deal with the mobile tactical units in the command and should be free to move when those units are assembled for war, while the other part of the staff should deal with the territorial functions, such as the care of posts and supply, and should continue to perform those functions after the troops have gone into the field.

It is a matter of no little inconvenience that the word "division" is rendered ambiguous in our service by being applied to two entirely distinct things. In all languages the name "division" is applied to a force of all arms which is the fundamental mobile army unit. The word is used in this sense with us, and it is also applied to the territorial areas into which it has been considered convenient to divide the country for purpose of military administration. It would be in the interest of clearness to find some means of avoiding this ambiguity, and for this purpose it is recommended that "division" be restricted in the future to the tactical unit of that name; that the term "department" be applied to the present territorial "divisions," and to all other independent territorial commands, and that brigadier generals be assigned to the command of brigades of mobile troops or of Coast Artillery inspections.

3. THE DISTRIBUTION OF THE MOBILE ARMY AND ITS RELATION TO TACTICAL ORGANIZATION AND ADMINISTRATION—THE POLICY OF SEGREGATION AS OUTLINED BY THE SECRETARY OF WAR.

The complete development of a tactical organization of the mobile army must depend upon a gradual correction of its present dispersion. The policy of the War Department with reference to this important question is given in the following extracts from the letter of the Secretary of War in reply to House resolution 343, second session, Sixty-second Congress (H. Doc. No. 490):

If the mobile army is to be efficient, its distribution must meet the following requirements:

1. It must be favorable for the tactical training of the three arms combine—Infantry, Cavalry, and Field Artillery.

2. It must be favorable for the rapid concentration of the Army upon our northern or southern frontier or upon our eastern or western seaboard.

3. It must favor the best use of the Army as a model for the general military training of the National Guard.

4. It must favor the use of the Regular Army as a nucleus for the war organization of the National Guard and such volunteer forces as Congress may authorize to meet any possible military emergency.

5. The distribution must favor economical administration with the view of developing the maximum return for the money appropriated for military purposes.

6. The distribution must permit a peace organization which will also be effective in war; that is, an organization which will permit a prompt expansion in time of war by means of a system of reserves.

These requirements can best be met by correcting the present dispersion of the mobile army. The mobile army is now scattered in 40 posts. It should be segregated into detachments of all arms, each of which can be readily assembled for team training by reasonable marches of concentration. Each of the several tactical groups should be stationed in the vicinity of strategic centers where facilities are favorable for transportation, administration, and supply. The exact location of these centers should depend upon a careful study of many considerations, but they may be approximately indicated as follows:

1. Two, and possibly three, groups on the line between the St. Lawrence and Atlanta, covering the Atlantic seaboard.

2. Two, and possibly three, groups on the line between Puget Sound and Los Angeles, covering the Pacific seaboard.

3. At least two groups between the Great Lakes and the Rio Grande serving as first reserves for either seaboard and as nuclei for the development of the National Guard and volunteer forces to be organized in the interior of the continent.

The number of groups to be organized is primarily restricted by the total strength of the mobile army. No group should contain less than a brigade of Infantry, with a proper proportion of Cavalry, Field Artillery, and special troops, and at least one group should contain a full tactical division. Proper tactical training demands the combined use of the three arms, and this can be secured only by massing the troops of each group in a single post or in several posts within marching distance of a common center. Without such concentration joint training can not be secured except at heavy expense for transportation. In addition to these detachments of all arms, there should be at least two independent Cavalry brigades.

A study of the question indicates that the stationing of our present mobile army in more than eight or possibly nine such groups would be inconsistent with the demands of maximum economy and tactical efficiency.

The solution of this problem is apparently complicated by the fact that the posts now occupied by the mobile army represent a large investment which must be abandoned if an efficient plant is to be established. But while most of the posts now occupied have lost their military value, the national military reservations have acquired a great value as real estate. As a business proposition it should be possible to refund the investment and largely finance the relocation of the Army from the proceeds of the sale of the real estate which is no longer needed for military purposes. The project would be similar in many respects to the Reclamation Service as now established by Congress. In that service a fund is formed from the proceeds of the sale of certain public lands, and from this fund certain approved projects are successively executed under general rules prescribed by Congress.

It is believed that the Army can in this way be scientifically distributed at an expense little if any in excess of the proceeds of the sales of the properties to be abandoned.

Studies at the War College indicate that if the present mobile army were concentrated in eight posts its cost would be reduced by about $5,500,000 per annum. In six years this saving would pay for the new quartering of the mobile army, even if nothing could be realized from the sale of real estate no longer needed.

But in applying the principles outlined above so many practical difficulties must be encountered that the solution for any particular group of posts can not be stated dogmatically. In a region where there are now several widely scattered posts it is obvious that maximum economy and efficiency will be attained when all of the troops in the region are so concentrated that the entire command can be assembled by marching and without the expense incident to rail transportation. But the actual plans for accomplishing such concentration should rest upon a careful and separate study of each region, with the view of ascertaining the best location, in the particular region and the extent to which existing posts can be retained without prejudice to the broader economic and military interests of the Government. While there may be decided practical limitations upon efforts to perfect the distribution of the present force, much can be accomplished by recognizing sound principles in making future locations. In the gradual development of the mobile army a station now occupied by an isolated regiment may ultimately become one of a group occupied by a force of all arms. Where such a post is favorably located strategically, the tactical isolation may thus be economically corrected by the expansion of existing plant instead of by relocation.

The problem is thus seen to be one of great complexity, but the ultimate solution is clearly indicated. Whether the mobile army be increased or not, it should gradually be segregated into tactical groups, each group containing a force of all arms or a Cavalry brigade. The level of the several groups should be carefully worked out in conformity with the general policy of placing the force so that it can be promptly employed upon either seaboard or upon either the northern or the southern land frontier of the country. But the present faulty distribution can not be corrected at once. New stations must be provided before old stations can be abandoned, but future changes should always be made with the view of the gradual formation of proper tactical commands.

4. A PROPOSED ORGANIZATION FOR THE PEACE ADMINISTRATION OF THE REGULAR LAND FORCES.

The three territorial divisions under which the Army is now administered conform to the three main strategic regions referred to in the letter of the Secretary of War. Each of these territorial areas contains a proportion of mobile troops, and in each of them the forces are widely dispersed. Under the general policy of concentration these forces will ultimately be segregated into two or more centers in each strategic region, and the troops of the several centers when assembled will constitute the nucleus of a tactical division and one or more Cavalry brigades. The peace organization of the mobile army should be based on these general strategic principles.

The mobile troops in the three main geographical regions should be organized as distinct mobile commands, and in such future increases of the mobile army as Congress may authorize it should be the national policy successively to expand the nuclear divisions into complete tactical divisions. Thus in due time a complete tactical division and one or more Cavalry brigades may be provided for each of three main strategic regions, and thereafter further expansion should be with the view of dividing the central region into two such territorial regions, so that complete tactical divisions, each with proper extra divisional troops, will eventually cover the northern and southern land frontiers and the Atlantic and Pacific coasts.

Having in mind the distinct functions of the mobile forces and the seacoast fortifications, the following peace organization of the regular land forces is recommended:

EASTERN DEPARTMENT.

This department conforms to the present Eastern Division. Within this area the mobile troops will constitute the nucleus of the first tactical division, with a Cavalry brigade and certain other extra-divisional troops of the mobile army considered as an expeditionary force. The Coast Artillery within the department should be organized as two Coast Artillery inspections, as follows: 1. The North Atlantic inspection, comprising the Coast Artillery districts from Maine to the Delaware River, both inclusive. 2. The South Atlantic inspection, comprising the Coast Artillery districts from the Delaware River, exclusive, to Texas, inclusive.

CENTRAL DEPARTMENT.

This department conforms to the present Central Division. Within this area the mobile troops will constitute the nucleus of the second tactical division, with two or more Cavalry brigades and certain other extra-divisional troops of the mobile army regarded as an expeditionary force.

WESTERN DEPARTMENT.

This department conforms to the present Western Division. Within this area the mobile troops will constitute the nucleus of the third tactical division, with certain extra-divisional troops of the mobile army regarded as an expeditionary force. The Coast Artillery within the department should be organized as the Pacific inspection, comprising the Coast Artillery districts from Washington to California, both inclusive.

THE FOREIGN COMMANDS.

The Philippines Department, comprising all the troops serving within the Philippines.

The Hawaiian Department, comprising all the troops serving within the Hawaiian Islands. At present this is a department of the western division, but its special functions make it properly a separate command.

The Panama Department, comprising all the troops serving within the Canal Zone. This, too, will be a separate command in war and to tie it to a territorial command within the United States would simply produce confusion by providing a peace organization which must be disrupted in war time. It is and must remain a distinct command strategically.

The Porto Rico Regiment.—The Porto Rico Regiment is now a part of the Department of the East, but this affiliation can not continue in war. The isolation of this garrison requires the formation of a separate administration for it, but the small size of the garrison does not appear to justify the establishment of a separate department. The permanent administration of the Porto Rico garrison and its relation to the home forces is a problem that awaits further study. For the present it will probably be necessary to leave it attached to the proposed Eastern Department.

5. THE DIFFICULTY OF SECURING A TACTICAL ORGANIZATION IN PEACE, AS ILLUSTRATED BY THE ACTUAL DISTRIBUTION OF THE TROOPS IN THE PRESENT CENTRAL DIVISION.

The practical difficulties involved in providing a definite tactical organization in peace can be illustrated by considering the peace administration of the mobile forces now serving in the Central Division.

The troops in the Central Division were as follows, February 20, 1912 (this strength is subject to change, as ultimately some of these organizations will be sent to Panama or Oahu): 9 regiments of Infantry, 1 regiment of Mountain Artillery, 1 regiment Horse Artillery, 1½ regiments of Light Artillery, 6 regiments of Cavalry, 1 battalion of Engineers (1 company present, 3 companies under orders to join), 2 field companies Signal troops, 2 technical companies Signal troops, 1 field hospital, 2 ambulance companies.

It will be observed that the command comprised 1 Infantry division, substantially complete, and 2 Cavalry brigades. The tactical organization of these units would be as follows:

THE INFANTRY DIVISION.

3 brigades of Infantry, 3 regiments each.
1 brigade of Artillery, 1½ regiments Light and 1 regiment Mountain.
1 regiment of divisional Cavalry.
1 battalion of Engineers, 4 companies.
2 field companies Signal troops.
1 field hospital.
1 ambulance company.

THE FIRST CAVALRY BRIGADE.

3 regiments of Cavalry.
1 battalion of Horse Artillery.

THE SECOND CAVALRY BRIGADE.

2 regiments of Cavalry.
1 battalion of Horse Artillery.

If these forces should remain in the central territorial region they would ultimately, under the policy proposed by the Secretary of War, be concentrated in a few closely allied groups of stations, as follows: 3 Infantry brigade commands, each command comprising a full Infantry brigade and a detachment of divisional Field Artillery and Cavalry; 2 Cavalry brigade commands, each command comprising two or more regiments of Cavalry with one or more batteries of Horse Artillery.

The bulk of the divisional Artillery could be distributed among the brigade commands or could be concentrated at some place like Fort Sill, where experimental Artillery practice would be practicable. The Engineers, sanitary troops, Signal troops, and other auxiliaries would be attached to groups where most convenient.

It is obvious that with this arrangement there would be a maximum economy of administration and maximum facilities for training. It is also obvious that under such an arrangement the division and Cavalry brigades would be most promptly available for war or for expeditionary purposes. The territorial commander in his peace administration would be concerned with 6 or 7 stations instead of 22 stations, as at present. All of the troops could be concentrated for active service with a minimum of friction and all would be prepared for such service by their peace training. The Infantry division, when assembled, would assemble under the general officers who had trained the brigades in peace, and the Cavalry brigades would be definite organizations in peace and war.

But while the advantages of this organization are obvious, it can serve as little more than a goal of future policy, for under actual conditions the troops are not only dispersed but are so mixed that not

even a reenforced brigade can be assembled without splitting up the peace organization and then extemporizing a new command. The situation becomes apparent upon an examination of the actual peace organization which follows:

6. THE PRESENT SUBDIVISION OF COMMANDS IN THE CENTRAL TERRITORIAL DIVISION.

On February 20, 1912, the mobile troops of the Central Division were subdivided for command as follows:

The Department of the Lakes.—Four and one-third regiments of Infantry, one battery of Field Artillery, one squadron of Cavalry.

These troops are scattered in six posts, extending from Michigan to North Dakota.

The Department of the Missouri.—Two regiments of Infantry (each regiment lacked one battalion, which was stationed in some other department); two regiments of Cavalry; one field company, signal troops; two technical companies, signal troops.

These troops are scattered in six posts, extending from Iowa to Wyoming.

The Department of Texas.—One and one-third regiments of Infantry, one and one-third regiments of Cavalry, one regiment of Field Artillery (less one battalion), one regiment of Field Artillery (less one battery).

These troops are scattered in six posts, extending from Arkansas to New Mexico.

Brigade Post No. 1 (Fort D. A. Russell).—One regiment of Infantry; one regiment of Cavalry; one regiment of Mountain Artillery; one field company, signal troops; one field hospital; one ambulance company.

Brigade Post No. 2 (Fort Riley).—One regiment of Cavalry, one regiment of Horse Artillery.

Brigade Post No. 3 (Fort Leavenworth).—One regiment of Infantry; one squadron of Cavalry; one battalion of Engineers (one company present, the other three en route to join); one ambulance company.

Each of the above detachments is to be commanded by a brigadier general, but it will be observed that not a single detachment is the appropriate command for an officer of that rank. An Infantry brigade could be formed in the Department of the Lakes, but if it should go to the front under the department commander there would be a residue of one and one-third regiments of Infantry, one squadron of Cavalry, and one battery of Field Artillery left in the department without a department commander. To form a second Infantry brigade another department commander would leave his command, but in this case it would be necessary to disrupt two or more of the peace commands in order to find him a brigade.

Under the present policy of administration by territorial divisions all administration is concentrated in the hands of the division commander, and the department commanders have been restricted to the tactical supervision and instruction of the troops assigned to them. This is undoubtedly a step in the right direction, for the difficulties of mobilization above indicated could be greatly increased if each of the brigadier generals were absorbed, as formerly, in purely administrative duties. The assignment of tactical duties to brigadier generals is sound in principle and conforms to the practice of all well-organized armies. But, in order to secure the desired advantages, it is essential that the brigadier general be assigned an appropriate command and one that he will continue to command in peace. If he be assigned such a command he will prepare it for war and the relation between the leader and troops will be established in peace. But to give him a command that can not approximate to war conditions, one in fact that must be disrupted on mobilization, is not a step toward sound organization.

An examination of the subdivision of command in the Central Division will show that the present organization does not meet the required conditions. The Department of the Missouri comprises four battalions of Infantry and two full regiments of Cavalry. No military situation is conceivable that would continue this affiliation in war. It is not a brigade, because it is not homogeneous. A brigadier general's proper command is a brigade of his own arm. If such a brigade is together, he can command it and instruct it to great advantage. But even if it be dispersed he can at least inspect it, supervise its instruction, and prepare plans for its mobilization and concentration. The only thing definite that can be said of the command of the commander of the Department of the Missouri is that the peace-command unit will cease to exist when war comes. It is an organization without tactical stability, and it is not even a proper inspection unit for a brigadier general. A cavalry brigadier general is the proper tactical inspector and instructor of a cavalry brigade, and an infantry brigadier general is the proper tactical inspector and instructor of an infantry brigade.

7. A PLAN OF TACTICAL ORGANIZATION AND ADMINISTRATION ADAPTED TO THE PRESENT DISPERSION OF THE MOBILE ARMY.

Under the policy of concentration proposed by the Secretary of War the commands will ultimately be segregated so that they can be administered tactically, but the practical question is to find some method of administration that will preserve a logical tactical organization during the period of transition. The Infantry division and the two Cavalry brigades in the Central Division should be tactical entities, even if they are dispersed and mixed. There should be some means of forming an organization in which the several brigades can have the guidance and supervision of their appropriate commanders in time of peace. The solution seems to lie in a recognition of the fact that the territorial region actually contains three Infantry brigades, two Cavalry brigades, and one Field Artillery brigade. Here are the proper commands for inspection districts, for six brigadier generals, three of Infantry, two of Cavalry, and one of Field Artillery. It is impracticable to segregate the six brigades immediately, but it is not impracticable to make each brigadier general the inspector and tactical supervisor of a brigade of his own arm. The territorial region now comprises precisely that number of brigade commanders, but not one of these brigade commanders is identified with a logical brigade unit.

The administration of the several posts is already in the hands of the territorial commander. The brigadier generals have become tactical inspectors, but are apportioned by geographical areas, and without reference to the composition of the troops under them. It would seem that a real tactical administration could be accomplished in the following manner:

1. Let each post be considered as a detachment directly under the territorial commander. This meets all administrative requirements.

2. Let the troops of the several arms be formed into brigades with a brigadier general or colonel of the proper arm assigned as the inspector of each brigade. While the brigade remains dispersed in several posts the brigade commander inspects it, supervises its tactical instruction under the orders of the territorial commander, and prepares to lead it into the field if it is called out for expeditionary purposes. As soon as the brigade is actually assembled under the policy of concentration, the brigade commander will be stationed with it, but during the transition he will at least keep the unit formed as an organized tactical entity.

3. The number of brigades should be determined by the number of regiments and not by the number of available brigadier generals. If not enough general officers are provided, the senior colonel of the brigade should perform the function of brigade inspector.

4. The organization of the staff of the territorial command should be based on a recognition of the separateness of the territorial and tactical functions of the commander. As a territorial commander he is concerned with posts, reservations, administrations, and supply. As a tactical commander he is concerned with the constituent brigades and special units of his command. One function is territorial and fixed, the other is mobile and goes with troops.

5. In the mobile army, the assignment of regiments to brigades for purposes of tactical supervision and inspection should supersede the present territorial departments. They are no longer necessary for administrative purposes, and as inspection districts they are illogical because they do not include logical tactical commands.

6. The only necessary territorial unit is the department proposed herein as a substitute for the "territorial division." The brigade commanders are the tactical assistants of this territorial commander. If a special tactical situation develops within a territorial command, such as the recent crisis along the Mexican border, it is only necessary for the territorial commander to assign the local military problem to one of his brigadier generals. That officer will ordinarily employ all or part of his own brigade, but under such circumstances all the troops in the region will be assigned to his command and additional troops will be forwarded to him if necessary.

7. The brigade commander, in addition to inspecting and supervising the instruction of his brigade, should be responsible for its mobilization and concentration. The brigade under this plan is a continuing unit in peace and war. Under present conditions every organization above the regiment must be extemporized.

8. The proposed arrangement provides a tactical organization even under the present unsatisfactory distribution. As the distribution is corrected under the policy of the War Department, the brigade-inspection districts will become more compact and ultimately will become concentrated brigade commands.

9. The proposed arrangement provides the basis for an organization applicable alike to the Regular Army regarded as an expeditionary force and as the nucleus of the greater war army. Each brigadier general is definitely identified with a brigade of the expeditionary force, and is also available to assist the territorial commander in the solution of the broader problems connected with the development of all the military resources within the limits of the territorial command.

It is therefore recommended:

(1) That the Coast Artillery districts within the United States be formed into three Coast Artillery inspections, as outlined in this memorandum.

(2) That the territorial departments as now organized within the United States be abolished; that the term department be applied to the three large territorial commands now known as "divisions," and that the mobile troops now serving therein be organized for purposes of inspection, supervision, and mobilization into brigade inspections of Infantry, Cavalry, and Field Artillery.

(3) That there should be a brigade inspection for each tactical brigade of Infantry, Cavalry, and Field Artillery, and that to each brigade inspection there should be assigned a brigade commander or inspector of the rank of brigadier general, or of colonel if sufficient gener officers are not available.

(4) That the brigade commanders herein provided should be responsible for the tactical inspection and mobilization of their several brigades and should be available for such other duties as may be assigned to them by the commander of the territorial department.

(5) That the brigade commanders herein provided should be assigned to appropriate stations by the commander of the territorial department in which their brigades may be serving.

The application of these principles to the peace organization of the mobile army is shown in detail in Chapter VIII of this report.

8. QUARTERING AND ADMINISTERING THE MOBILE TROOPS IN PEACE.

Having properly organized the mobile troops and located the elements of brigades and divisions so that they may be periodically assembled for combined training, the next step is to simplify all details of administration and remove unnecessary distractions, so that attention may be concentrated on training. Administration becomes unduly cumbersome, and many distractions are caused at the present time on account of the fact that the troops are generally located in what may be called garrison villages, involving a most elaborate variety of buildings, parkways, roads, sewer and water systems, etc. A great deal of the energy of troops is required to care for these elaborate establishments. When our troops were scattered throughout the western country it was necessary to provide these isolated posts. Under existing conditions it is believed that the rational and economic way of disposing of our troops in time of peace is to quarter them in simple but substantial buildings in or near large towns, where all existing utilities may be made use of, and to build these quarters in such a manner that the minimum of time and attention will be required for their maintenance and upkeep. It is believed that if thus located and quartered a better class of enlisted men may be secured for Army service; that all necessary elementary instruction can be given in the barrack yard, or within a short marching distance of the barracks; and that for more advanced training the troops should be marched to places where a large amount of varied territory may be available.

V.

The necessity of a reserve system.

1. MAINTENANCE OF STRENGTH IN WAR.

An army is an expensive machine, maintained in order to support national interests in time of emergency. The economic efficiency of an army should therefore be measured by the effective fighting power which it is proposed to develop and maintain in war. It must not only be able to develop a high fighting efficiency at the outbreak of war, but it must be able to maintain that efficiency during the progress of the campaign. As soon as war begins military forces are subject to heavy losses, and unless means are definitely provided for replacing these losses the military machine will immediately deteriorate. The losses in war are not only the losses in battle, but losses due to disease and losses due to the hardship of campaign. The Prussian Guard Corps in its marches to Sedan lost 5,000 men on the march alone. It was necessary for the corps to arrive at the battle field in time, and that required a velocity of march that was more destructive than battle. It should be remembered that the soldiers in this force were trained soldiers and that the guard corps arrived and fought at Sedan in spite of its march losses. A force of soft or raw troops could not have arrived at all.

Careful training is necessary to prepare troops for war; but it must be recognized that wastage will occur, and that if a really effective force is to be maintained trained men must be supplied to replace this wastage.

It is the experience of modern warfare that any given unit loses at least 50 per cent of its strength in the first six months of war. If this loss is not replaced there is 50 per cent deterioration in the power of the unit, and if it is replaced by raw men the quality of the force as a highly trained team is destroyed.

This problem has an important economic aspect that has been ignored throughout our military history. Military forces are maintained at great expense through long periods of peace in order to meet a brief emergency in war. Sound economics, therefore, demands that the peace expenditure be justified by unquestioned war efficiency. A company of infantry with three officers should contain the maximum number of trained riflemen that three capable officers can command. This maximum appears to be about 150 men; but if the company starts in the campaign with 150 men, the natural wastage of war will immediately reduce it below that number. If the vacancies are not filled, it ceases to be an economical company, because under these conditions we have a less number of men than three trained officers should control; and, on the other hand, if the vacancies are filled by untrained men, the company ceases to be a trained team, as under these conditions the three officers can not effectively command 150 men in action.

The United States is the only nation that has no scientific means of meeting this situation. In all of our wars the companies first sent into the field have dwindled away in strength, and as these units have dwindled away new levies under untrained officers have been organized. The result has been that our wars have been long and protracted and attended by great sacrifices of blood and treasure. Each battle has generally been followed by a period of inactivity. Such an army has no power to keep up persistent military activity.

Without some solution of this problem there can be no definite military organization. The organization of divisions and other higher military units is based on the principle that the three arms should be combined in definite proportions. The infantry division is differently organized in different countries, but in all countries it consists of from 10,000 to 15,000 infantrymen, with from 4 to 6 field guns per thousand rifles, and with similar definite proportions of cavalry, engineers, signal troops, and other auxiliaries. The infantry strength is the basis of organization. In every army except our own the number of infantrymen is definite and fixed, because means of replacing losses are provided in time of peace. With us, however, the infantry strength is an absolute variable. We can only predict that the effective strength of each unit will fall after war begins. Under these conditions the division is not a continuing unit. Its components are fluid and indefinite, and there can be no stable organization under such conditions.

2. THE SOLUTION OF THE PROBLEM.

The solution of this problem is very simple, and it is a significant fact that the same solution has been adopted in all modern armies. It is only necessary to provide that a man's army service shall consist of two periods, one period with the colors and the other a period of war obligation for a limited time after leaving active service. Under these circumstances when war is declared the active army is at once sent into the field, and the former soldiers having a war obligation are assembled in depots, where they can be forwarded to the front as needed. At the same time raw recruits are enlisted and trained at the depot. As losses occur at the front, they are filled first by forwarding trained men from the depot, and if the number of these is sufficient new recruits are not forwarded until after they have had a sufficient period of training. The result is that even in a long war, which would ultimately require the services of thousands of raw recruits, it is so arranged that no man goes to the front until he is trained for active service and sufficiently hardened and disciplined to bear the stress of modern war. Under such a system the full energy of military activity can be maintained up to the limit of available recruits. Each unit works at its maximum efficiency, and the war power of the nation is developed with a minimum expenditure of life and money.

It thus appears that an army reserve is not a means of creating new forces or new units in time of war, but is a necessary means of maintaining the war strength of the peace establishment, such as it may be.

3. POWER OF EXPANSION.

But while one of the primary and necessary functions of a reserve system is to replace losses during the period required for the training of raw recruits, the principal function is to furnish the trained men necessary to pass from a peace to a war footing. If we have a reserve of trained men upon whom we can count in war, it is possible greatly to reduce the cost of the military establishment by giving it a minimum peace strength. Under our system our units are maintained in peace at considerably less than war strength, except by the absorption of untrained men. In every other modern army the economical peace strength is maintained without loss of war efficiency because trained reserves are available for a prompt expansion with trained men.

The effect of the reserve system on the cost of peace establishments can be illustrated in the following way: Let us suppose that we require a regular army of 100,000 men on the outbreak of war and that we propose to maintain this force in full effectiveness throughout the campaign. This requires that means should be provided for avoiding a deterioration of the force due to the absorption of raw recruits to replace the first losses of the campaign. It may be predicted that the losses will be 50 per cent, or 50,000 men, in the first six months, but before the expiration of six months, if we begin training recruits at once, some of the new men will be prepared to go to the front. We may, therefore, adopt a factor of safety of 25 per cent instead of 50 per cent and assume that the maintenance of 100,000 men will require an initial organized strength of 125,000 men if there be no reserves. Under conditions prevailing in the United States this force would cost probably $800 per man, or $100,000,000 per year.

But, if we had a system of reserves, the same effective war strength could be maintained at a greatly reduced cost. If the military establishment comprised 75,000 men with the colors and 50,000 men with the reserve, its cost would not exceed $65,000,000 per year, and yet its war effectiveness would be just as great as the more expensive force without the reserves.

The economic effect of a reserve system, therefore, is to reduce the per capita cost of any given army at the same time assuring maximum effectiveness in war. If we do not have reserves, we are committed to a policy of maximum cost. It has been urged that a reserve system for the Regular Army is essentially foreign to our institutions and connected in some way with compulsory military service. It is true that the nations having a system of compulsory service also have a reserve system, but it is also true that Great Britain regards her regular army reserve as an indispensable part of her system of voluntary service. Great Britain did not adopt the reserve system until after her army broke down in the Crimean War because reserves were lacking. Her highly trained, long-service army almost immediately melted away. There was no way of renewing its strength except with untrained men. She found that without reserves her army was not adapted to the requirements of war.

The provision of a regular army reserve is purely a business proposition. The economic value of the reserve does not depend in any way upon its size. It is to be hoped that we can develop a sufficient reserve, but even a small reserve will reduce the per capita cost of the Army and increase its effectiveness.

If we had had only 6,000 men, that number would have been sufficient to have raised the recent San Antonio maneuver division to war strength. If we should have enough to replace the initial losses of war, we would be assured of sufficient time to train and harden raw recruits before forwarding them to the front. If we should have enough more to give us some power of expansion, we would be able to reduce the per capita cost of our peace establishment to a minimum without loss of war efficiency.

4. PROPOSED PLAN FOR A REGULAR ARMY RESERVE.

In adopting a new policy in our Army it is important that present conditions should not be disturbed more violently than necessary. The present term of enlistment is three years, and our men are accustomed to enlisting for that period of active service. It is therefore believed that in adopting a reserve system the normal period with the colors should be taken as three years. It is also important that the enlistment contract should be definite in so far as it affects the obligations assumed by the recruit. The important thing is to take a step toward the new policy, leaving its perfection to the experience of the future.

It is therefore recommended that the enlistment contract be for six years, with the understanding that the first three years are to be served with the colors and that during the last three years the man shall be furloughed to a reserve, where he shall be subject to duty in time of war only. It should be further understood that men so furloughed should not be included in the authorized peace strength of the Army.

But while the definite agreement is to be for three years with the colors and three with the reserve the Government should have the option of modifying these periods in its discretion and upon the application of the man. The man should have the *privilege* of applying to go to the reserve *before* the expiration of three years, the granting of the privilege to be at the option of the Government. So far as the man is concerned, this is a privilege but not a right. The man should also have the *privilege* of applying to remain with the colors for *more* than three years at the discretion of the Government. This is also a privilege and not a right. The right to go to the reserve at the end of three years is absolute, but the privilege of going at any other time or of remaining longer is to be at the option of the Government. If a man of good character desires to go to the reserve at the end of one year, if he has sufficient training to be a good reservist and if recruiting conditions are favorable for replacing him by a new man it is undoubtedly to the interest of the Government to place him in the reserve.

On the other hand, if a man desires to remain longer than three years with the colors it may be to the public interest to grant his request, especially if at the time considered there is difficulty in obtaining recruits. This system will give great flexibility without sacrificing definiteness in the recruiting contract. Practically under any system the number of men that may be passed to the reserve before the expiration of the three-year period will depend upon whether their vacancies can be filled by new recruits, for the peace strength must be maintained. If only a few men desire to enlist, it will only be practicable to send a few to the reserve before their regular term. If a large number desire to enlist, it will be practicable at that time to send the maximum number to the reserve, and it will always be in the public interest to send as many to the reserve as may be done without loss of the necessary peace strength. The ideal solution would be obtained if recruiting conditions should permit the adoption of the following policy:

1. No extension of the color period, or reenlistment, except for the noncommissioned officers, who must form part of the permanent machine for training purposes, with enough selected privates to maintain the corps of noncommissioned officers.

2. Reduction of the color period for all sufficiently trained men who apply to pass to the reserve before the expiration of the contract period of three years.

The actual conditions can be met by a definite contract of three years with the colors and three years with the reserve, with discretion in the President to prescribe regulations for the reduction or extension of the contract color period in order to meet the special requirements of the several arms of the service.

The President should also have the power, when funds for the purpose have been appropriated by Congress, to order reservists to military posts or camps for target practice or other instruction for not to exceed 10 days in any one year.

5. THE RELATION OF THE RESERVE SYSTEM TO FOREIGN SERVICE.

The proposed system will also meet the special circumstances of home service or foreign service. No new or special enlistment contract will be necessary, but as the Government interest is different in the two cases there would simply be a difference in governmental policy. When a man enlists for service in the Philippines he would be held strictly to three years' color service. It would not be to the public interest in this case to pass him to the reserve before the full term of his contract has expired, and on the other hand, in this case it would be to the public interest to permit him to extend his contract to the full six years if he applied to do so. In other words, a short color service and a long reserve service is desirable at home, because the home army must have power of expansion; and long color service and a short reserve service is desirable in the foreign garrisons, because they do not have power of expansion. Either condition is met by the flexible reserve system proposed. But while, as a general rule, it would not be desirable to shorten the period of color service in the foreign garrisons, it would probably be very desirable to do so in the case of those reservists who desire to settle in the foreign possession. If a soldier in Oahu should assume the reserve status in Oahu, it would be most decidedly to the public interest to encourage him to live there and replace him by another recruit. This is true because in the event of war every former soldier residing in Oahu will positively increase our war power in that island.

6. UNORGANIZED RESERVES.

There are two aspects of the reserve problem. In order to have reserves we must have reserve material, and we must also provide some means of utilizing this material. Under present conditions the soldiers who pass into civil life are military reserves. No means are provided for utilizing them, but the fact that they exist in civil life is nevertheless a positive military asset. It is, therefore, evident that any policy which tends to reduce the total number of these men is prejudicial to our interest, whether we have an organized reserve system or not. For this reason a long enlistment period is contrary to the national military interest. An officer who has considered the enlistment question purely from the standpoint of his own company or regiment has only examined one phase, and a very minor one, of the question. So long as he approaches it from this point of view he naturally prefers a long enlistment and as many reenlistments as possible. This requires the minimum number of new recruits to train and gives him a company which requires a minimum of effort on the part of the officer. But for lack of trained men to supply wastage such a company will rapidly deteriorate in war. It is not believed that any officer who has studied the question of enlistment from the standpoint of broad national interest will advocate a long enlistment without a reserve feature.

It has been urged that it is not necessary to organize a Regular Army reserve, because discharged soldiers can be used to best advantage in the National Guard or in volunteers. But such use of them does not meet the real problem of maintaining losses in the Regular Army, and this is the true function of such men. As we maintain a Regular Army and expect to use it in war we must provide some means of keeping it at effective strength in war. We not only desire to use these men in war, but we should be able to control and predetermine the place where they are to be used. They have been trained by the Regular Army; they are accustomed to Regular Army service, and in most cases they are not attracted to the National Guard. They should be available for immediate absorption in the strategic force with which we desire to secure the initiative in war.

7. STATUS OF THE RESERVIST.

The law should give the reserve soldier a status of furlough. He should be regarded as a regular soldier, who, after a period of training, is released, except for war purposes. He should be required to report his address from time to time, and should be kept informed as to the place where he is to report upon mobilization. At the time of these stated reports he should receive a nominal pay, but the hold of the Government upon him should be based upon the furlough status rather than upon the money consideration. If he fails to comply with the conditions of the furlough status, the furlough should be revoked and he should be returned to the ordinary conditions of military service. It has been suggested that keeping track of reservists would involve great difficulties. There would no doubt be practical questions to solve, but none of the difficulties would seem to be insuperable. It is expected that these difficulties will be reduced in the future. With permanent regiments on foreign service, the regiments at home will be localized, and in a populous district there should be no difficulty. There is no reason why the reservists in such districts should not be assigned directly to regiments. In this way such organizations will keep in touch with their own reservists. If a reserve system is authorized, the means of carrying it into effect should be made as flexible as possible and left to the discretion of the Secretary of War.

8. SPECIAL RESERVES.

The main function of the Regular Army reserve is to raise the Regular Army to war strength and to maintain its war strength until raw recruits can be prepared for service at the front. Ordinarily it should not be called out except when war is imminent, but it would be a great advantage if the President could be given the power to call out sufficient reserves at any time to raise a small expeditionary force to war strength.

While the reserves should normally contain only those men who are completing their Regular Army service, provision should be made for the voluntary reenlistment of reservists for another stated period, provided such volunteers have the necessary physical qualifications and training, regulations governing such reenlistments to be determined by the Secretary of War.

There should also be provisions for enlistment in the reserve of soldiers who may have been discharged from the Army before the inauguration of the reserve system. It is believed that a considerable number of these men would assume the war obligation if there were some definite means of offering their services. Such enlistments, of course, should be subject to medical examination and a scrutiny of the record of the particular man.

9. RESERVE OFFICERS.

The reserve system outlined above is designed to maintain the effective and economical enlisted strength, but it makes no provision for the increased number of officers that will become necessary in war. In modern military operations the loss of officers is fully as great as the loss of enlisted men, and, further, under our system it will become necessary to detach officers from the regular establishment for staff duty and for employment with the citizen soldiery. The successful maintenance of large companies requires the presence of the full quota of officers, and the whole machine breaks down if suitable men are not forthcoming.

The lack of some provision of this kind is one of the greatest defects in our military system. This defect has been recognized to a certain extent in the amended militia law, which provides that individuals who pass certain examinations may be placed on a list of persons available for appointment as volunteer officers in war. In the volunteer bill (S. 2518) now pending in the Senate it is provided that when officers are detached from the Regular Army on duty with the Volunteers their vacancies may be filled by the assignment of a corresponding number of Volunteer officers to the regular organizations. But neither of these provisions meets the specific requirement of providing a reserve of junior officers for the organizations in the Regular Army. And there is an abundance of such material which can easily be made available. We maintain military instructors at a great many schools and colleges in the country, on the theory that such military training will become a military asset in war, and yet the young men who graduate at such institutions pass out into civil life without any definite place for them in our military establishment. They may in some cases go into the National Guard, some of them may enter the regular service, and some of them, no doubt, may find a place in the volunteer armies of the future, but the prospect of employing them is vague and contingent upon a great variety of uncertain conditions.

It is believed that it would be in the interest of sound policy to utilize young men of this type as reserve lieutenants in the Regular Army. Upon their graduation opportunities could be given them to serve with regular organizations at camps of instruction or maneuvers. After such probationary service, if found to be properly qualified, they could be commissioned for a limited number of years under an obligation to serve in war. This class of reserve officers would be recruited mainly from the schools and colleges, but the appointments should be open to other suitable classes, such as former members of the Regular Army, Volunteers, and National Guard who comply with proper conditions to be determined by the Secretary of War. These reserve lieutenants would be analogous to the officers of the Medical Reserve Corps of the Army. They should be definitely commissioned, assigned to an arm, and authorized to wear the uniform of that arm. Their names should be carried in the Army Register, and under certain conditions they should be attached to definite organizations of the Regular Army, serving in the neighborhood of their homes. They should receive no pay except when called into the service, but should have the privilege of serving at maneuvers and of volunteering as members of expeditionary forces. They should also be regarded as a preferred class from which civilian appointments in the Regular Army should be made. The value of such a force in war would be incalculable. By having a full quota of officers it would always be possible to maintain the maximum economical strength of the Regular Army. They would replace losses due to the ordinary casualties in war and would enable the Regular Army to spare more officers for employment in the greater war force. On the outbreak of war the reserve lieutenants should mobilize with the reserves and should proceed to the front as the reserves are called to the front. At the depots they could assist in recruiting and in the training of recruits and would perform many functions which must be left to chance under our present system. It is also believed that such reserve commissions would be appreciated as an honor by the best type of young men and that it would be no more than a proper reward to them for giving a part of their college training to preparation for military service in war.

There are now over 300 lieutenants of the Army on detached service. If the law authorized the President to put on active duty not to exceed 300 of these reserve officers to fill the places of lieutenants necessarily absent on detached service it would enable these reserve officers to obtain practical instruction, and it would facilitate the administration of the organizations concerned.

Attention is invited to the availability of the Military Academy at West Point as a source of supply of reserve officers and to the wisdom of making this source available. The Academy as now conducted handles between six and seven hundred cadets. Its capacity for efficient training is much more than that number, and, like any investment, the institution is not making the returns it should to the country unless its output is the maximum possible. Existing or probable vacancies in the Regular Army should not be considered in this connection. Existing vacancies could be given to graduates under an equitable plan, while the remaining graduates could return to their homes under an obligation to serve in the Regular Army, National Guard, or Volunteers. They would have the foundation of an education for any walk in life. In a few years the country would have in these graduates a corps of reserve officers with uniform training and uniform ideas regarding efficiency and duty.

10. RESERVES FOR THE CITIZEN SOLDIERY.

When the citizen soldiery is called into the service of the United States it, too, will encounter influences that will tend to reduce its strength. It should have sufficient reserves to maintain full strength until raw recruits can be prepared for the front, and unless its organizations are maintained at full strength in the of peace it should have enough other reservists to cover the expansion upon mobilization. Under present law, however, the Organized Militia bases its organization upon that of the Regular Army, and until a reserve system is provided for the Regular Army, arguments for a National Guard reserve would not be convincing or effective.

Under present conditions the citizen soldiery will mobilize at greatly reduced enlisted strength. It must go to the front with an expensive excess of officers in proportion to its effective strength, or its employment must be deferred until it can absorb a great mass of untrained and undisciplined material. In Chapter IX of this report the advantages of a definite peace organization for the citizen soldiery will be presented. Among the objects to be sought through such an organization will be the provision of a uniform peace strength with arrangements for war expansion and for the replacement of losses during the initial stages of war. Through the lack of such arrangements in the past our armies of citizen soldiery have been maintained at maximum cost and minimum effectiveness.

11. PROLONGATION OF THE TERM OF SERVICE IN TIME OF EMERGENCY.

Under present laws, if war is declared, it is possible for many men to demand their discharges for expiration of term of service in the first crisis of war and before they can give the Government any real return for the cost of their training. Some nations meet this contingency by reserving the right to retain soldiers in times of emergency for a limited period beyond their ordinary term of service. While Great Britain has the same system of voluntary service as our own, she reserves the right to "prolong" the service of enlisted men for a limited period upon the imminence of war, this being a condition inserted in the enlistment contract. It is believed that such a provision should be embodied in our military law and that it should be made applicable to the Regular Army and to the citizen soldiery. After training a man at great expense in time of peace the Government should have the right to hold him in time of emergency at least until a raw recruit can be trained to replace him.

12. THE RELATION OF LOCALIZATION TO THE RESERVE PROBLEM AND TO RECRUITMENT.

It has been indicated that the establishment of permanent foreign garrisons will permit localization of the units of the Regular Army at home. This will result in great economies of transportation and will lead to the development of many reforms which are almost impracticable so long as the organizations of the Army are shifted from place to place. The localization of the Army at home will facilitate the development of a reserve system, for where regiments are stationed in the populous parts of the country they will be able, in many cases, to keep in touch directly with their reserves, and also to obtain their recruits locally. The present recruiting system is based on recruiting for a shifting army. The service has been conducted with great ability and meets actual conditions, but it is wasteful and expensive as compared with a system of local recruiting for a localized army. Under present conditions the recruiting service comprises a total enlisted strength of 2,200 men. In addition there are not to exceed 4,800 recruits at the depots. These men are not immediately available as part of organized tactical units and constitute an element of waste in the military establishment. Whenever a regiment is so stationed that it can secure its own recruits in its own locality, it is obvious that the enlisted strength of the recruiting service can be correspondingly reduced. If all of the regiments of the Army were able to obtain their recruits locally, it is obvious that all of these men could be restored to the effective strength of the Army. It is not contended that this reform can or should be attempted immediately, but as the Army becomes localized it should be gradually accomplished. Under present conditions men are discharged at all periods

of the year, and small detachments of recruits are received throughout the year. Under these conditions there can be no definite period of recruit training. Under ideal conditions, with a reserve system and localized recruiting, it would be possible for a regiment to pass all of its reservists to the reserve about the 1st of November, and then devote itself for a few weeks to the problem of obtaining new recruits. This would make the winter a period of recruiting and recruit training, and would make it possible to devote all of the summer and fall to higher military training without the evils of a continual influx of recruits. Practically, it may be impossible to recruit the whole Army in this way, but every step toward it will tend to increase the efficiency of the Army and to diminish the large detachments of noneffectives, which, under present conditions, must be maintained in order to keep up the strength of the Army.

VI.

The tactical organization of mobile troops.

The division is the fundamental army unit in which the several arms are combined for joint action in the field. It is essentially a small army complete in itself and capable of independent action. Larger forces, such as field armies, are simply aggregations of two or more divisions, with such additional auxiliaries as may be required for the particular terrain and mission.

The details of division organization are different in different countries, but the essential idea is that a division is a force of infantry provided with a proper proportion of field artillery and cavalry and supported by certain special units which are concerned with the special problems of field engineering, communication, transportation, supply, and sanitation.

1. INFANTRY.

Under our system the company of infantry at war strength should comprise the maximum number of trained riflemen that can be handled effectively in action by three officers. This number appears to be about 128 men, or 16 squads of 8 men each. As there will always be losses from casualties, the total strength will not be available on the firing line, and for this reason 8 additional riflemen should be added to the war strength as a reasonable factor of safety. In order to give the desired strength the following is recommended as the war organization of the infantry company: 1 captain, 1 first lieutenant, 1 second lieutenant, 1 first sergeant, 1 quartermaster sergeant, 6 sergeants, 16 corporals, 3 cooks, 1 artificer, 2 musicians, 120 privates; total commissioned, 3; total enlisted, 150.

The peace strength of the company of infantry is governed by several considerations:

1. It is desirable for fiscal reasons to reduce the peace strength to a minimum. But such reductions of strength are fatal to war efficiency unless means are provided for expansion without the absorption of raw recruits. If the war expansion is to be by raw recruits, the war company will not be a trained company, and it will therefore be impracticable for 3 officers to control 150 men effectively.

2. Even if reserves are available, the peace strength of the company should be sufficient for purposes of instruction. The men who serve in the Army must become trained soldiers, and full Infantry training is not practicable if the peace strength be reduced too far. It is believed that for purposes of instruction the peace strength of the Infantry company should not be reduced below 100 enlisted men.

3. If trained reserves are not available, at least one division of the Regular Army should be maintained at war strength in order to provide an expeditionary force for sudden emergencies.

THE INFANTRY BATTALION.

The war strength of the infantry battalion should be as follows: 1 major, 1 lieutenant (adjutant), 1 sergeant major, 4 companies, 2 ammunition wagons; total commissioned officers, 14; total enlisted, 601.

HEADQUARTERS COMPANY.

In order to avoid unnecessary detachments from the companies and to provide a definite organization for machine guns, scouts, and the regimental wagon train, a headquarters company is recommended for each regiment of infantry, as follows: 1 captain, 1 first lieutenant, 1 second lieutenant, 1 first sergeant, 1 quartermaster sergeant, 2 cooks, 2 musicians, 1 mechanic, 1 horseshoer; total enlisted, 8.

First section; machine-gun detachment.—4 sergeants 8 corporals, 69 privates; total enlisted, 81.

Second section; scouts and orderlies.—1 sergeant, 2 corporals, 21 privates; total enlisted men, 24.

Third section; transportation section.—1 sergeant, 25 privates; total enlisted men, 26. (The relation of these men to such service corps as may be established in the future requires careful consideration.)

Total commissioned, headquarters company, 3; total enlisted, 139.

The three officers of the headquarters company may be provided without increasing the present commissioned strength of the regiment. As will be seen in the organization of the battalion and regimental staffs, three officers are released from staff duty. This gives a captain and two lieutenants for the headquarters company.

THE REGIMENTAL BAND.

The present authorized strength of the band is 28 enlisted. No change is recommended.

THE INFANTRY REGIMENT.

With the changes above proposed the war strength of the Infantry regiment would be as follows:

	Commissioned.	Enlisted.
1 colonel	1	
1 lieutenant colonel	1	
1 adjutant (captain)	1	
1 supply officer (captain)	1	
1 assistant supply officer (lieutenant)	1	
1 chaplain	1	
1 sergeant major		1
2 supply sergeants		2
2 color sergeants		2
1 band		28
1 headquarters company	3	139
3 battalions	42	1,803
Total	51	1,975

The above table gives the approximate organization of the Infantry regiment. The details of organization will be definitely and precisely determined in the experimental Infantry regiment to be assembled in the Central Division during the present summer.

2. THE INFANTRY BRIGADE AND THE DIVISION.

In the Field Service Regulations the Infantry division comprises three brigades of three regiments each. The total Infantry strength in this division is 13,500 (1,500 enlisted per regiment), and the total number of effective riflemen is 10,890. Nine regiments of the size proposed in this report will give a total enlisted strength of 17,775 and 15,084 effective riflemen. As the larger regiment is justified on grounds of economy, the practical question arises as to whether we should retain nine regiments in the division or propose a new division organization. A division of two brigades of three regiments each would give a total Infantry strength of 11,850, or 10,056 effective rifles. But this organization would sacrifice tactical advantages inherent in the three brigades. In the attack of the division there are generally three subdivisions—the frontal attack, the enveloping attack, and the reserve. In a three-brigade division there is a general officer for each subdivision, even though the forces assigned to the several tasks are not kept equal.

Another consideration which determines the strength of the division is the road space. In Europe, where the roads are excellent, an army corps of two divisions, each comprising 12,000 Infantry, is found to be the maximum force that can deploy from column in time to bring all of its troops into battle on the same day. The same corps could not complete its deployment from a single road in the average American terrain until it was too late for the effective employment of a part of the force. The road space of the Field Service Regulations division is so great that two divisions could not effectively deploy from the same road in this manner; and, on the other hand, if one such division is assigned to one road, the road capacity is not fully utilized. But if we retain the nine-regiment division and increase the regimental strength from 1,500 men to 1,975, we increase the number of effective rifles by 38 per cent without increasing the road space by more than 16 per cent. We, therefore, find that a division of three brigades of three regiments each, with 1,975 enlisted men per regiment, is a more economical organization than the division described in the Field Service Regulations, and is better adapted to American terrains. The proportions of Cavalry, Field Artillery, and special troops will now be considered on the assumption that the division is to comprise three Infantry brigades of three regiments each, and that each regiment is to have an enlisted strength of approximately 1,975.

3. CAVALRY.

As far as Cavalry action of the future is concerned, the organization of this arm must facilitate (a) quick and powerful dismounted fire action and (b) equally quick and powerful mounted shock action. At the same time the organization must be so flexible that it will permit the assignment of proper units as divisional Cavalry—first, to meet the requirements of a division as part of a higher tactical organization and, second, with a division or smaller unit acting alone. In addition, the organization must be adapted to the formation of Cavalry brigades and divisions.

The amount of Cavalry assigned any particular command will depend upon many considerations, such as the nature of the particular mission, the character of the terrain, and the composition of the enemy's forces.

Of the Cavalry so assigned, the nature of the operations may require a minimum number of units as divisional Cavalry and a maximum number as independent Cavalry.

Not only must the organization of the Cavalry regiment be so flexible as to meet all these requirements, but the organization decided upon must possess a high degree of mobility, and must be adaptable to varying tactical situations.

The present Cavalry regiment has a total war strength of approximately 1,200 enlisted men. As now organized it is so flexible that it can be formed to meet almost any particular tactical situation. A squadron of four troops can be detached and the remainder will form an appropriate command for a colonel. If a detachment of three troops is all that is required, the remaining troops can be handled as three squadrons of three troops each. If it becomes necessary for the regiment to operate in two equal parts, each part can consist of six troops organized into two squadrons.

The same number of troopers might be organized into a brigade of two regiments, each of six troops of 100 men, or each of four troops of 150 men. A regiment of three squadrons of three troops, each of 100 men, and with a depot troop, has also been proposed.

The regiment now authorized by law has the following maximum strength:

	Commissioned.	Veterinarian.	Enlisted.
Officers (including chaplain)	51		
Veterinarians		2	
Noncommissioned staff officers			8
Band			28
12 troops (organized as 3 squadrons)			1,200
Total	51	2	1,236

It is believed that the President should be authorized to add an additional or headquarters troop analogous to that proposed for the Infantry regiment and officered in the same manner. If the maximum authorized strength of the headquarters troop is placed as that of the Cavalry troop now authorized, its actual strength can be determined by service requirements as determined experimentally. The headquarters troop should comprise a demolition section in lieu of the scout section of the Infantry headquarters company.

The band might be dispensed with and a trumpet corps organized with the trumpeters of the troops.

With the larger regiment and the road space required for it, a brigade should normally consist of two regiments and a division of three such brigades, the proper auxiliary and special troops being added.

In view of the fact that there has been much discussion throughout the service on the subject of the organization of the Cavalry regiment it is recommended that thorough practical experiments be undertaken to enable the General Staff to try out and decide upon the organization best adapted to meet the special requirements of this arm.

Peace strength of the Cavalry.—The permissible peace strength of Cavalry depends on the means of expansion. If reserves are available, the troops may be kept at the minimum peace strength consistent with

proper instruction. If such reserves are not available, a low peace strength will involve a low war strength or serious deterioration in the early stages of a campaign. On the outbreak of war the Cavalry will probably be used in initial strategic operations, and it is therefore very important that it should be capable of full activity without delay, from the very outset.

4. Field Artillery.

The types of Field Artillery are classified as "horse," "light," "mountain," and "heavy."

Horse batteries are armed with the 3-inch gun.

Light batteries are armed with the 3-inch gun or the 3.8-inch howitzer.

Mountain batteries are armed with the 2.95 howitzer (to be replaced by the 3-inch howitzer).

Heavy batteries are armed with the 4.7 howitzer, the 4.7 gun, or the 6-inch howitzer.

The 4.7-inch howitzer, drawn by 8 horses, has very considerable mobility and is really intermediate between the light and heavy calibers.

Horse batteries are assigned for service with the Cavalry.

Light or mountain batteries and 4.7-inch howitzer batteries are assigned for service with Infantry divisions.

Heavy batteries (4.7-inch gun and 6-inch howitzer) are assigned as Army Artillery.

The organization of regiments must vary to fit the requirements of the particular types of guns or howitzers to be served. Hence legal enactments governing the organization of the Field Artillery should be worded so as to fix the maximum allowable establishment and leave it to the President to vary the strength of regiments, battalions, and batteries to meet the necessities of service.

The proposed maximum strengths of regiments, battalions, and batteries at war strength are shown below. The numbers of officers, noncommissioned officers, mechanics, trumpeters, cooks, and privates of any particular unit may, under the system suggested above, be varied as circumstances require, provided they are kept below the maximum allowed.

FIELD BATTERY.

[The strength here given is the maximum and is required for heavy batteries only. The strength for batteries of all other types will be less than the maximum strength.]

1 captain, 3 lieutenants (first or second), 1 first sergeant, 1 quartermaster sergeant, 1 stable sergeant, 8 sergeants, 16 corporals, 1 chief mechanic, 7 mechanics, 3 trumpeters, 3 cooks, 149 privates; total commissioned, 4; total enlisted, 190.

Field Artillery battalion.

[The enlisted strengths given are for battalions and regiments of Heavy Field Artillery. The strengths for other types will be less than the maximum and will be based on actual requirements.]

	Commissioned.	Enlisted.
Major	1	.....
Captain (adjutant)	1	.....
Lieutenant (supply officer)	1	.....
Sergeant major	.....	1
Quartermaster sergeant	.....	1
Scouts and signal detail, mounted orderlies and wagoner:		
Corporals	.....	4
Privates	.....	10
Trumpeter	.....	1
Batteries	12	570
Total	15	587

Field Artillery regiment.

[The enlisted strengths given are for battalions and regiments of Heavy Field Artillery. The strengths for other types will be less than the maximum and will be based on actual requirements.]

	Commissioned.	Veterinarians.	Enlisted.
Colonel	1	.....	.....
Lieutenant colonel	1	.....	.....
Captain (adjutant)	1	.....	.....
Captain (supply officer)	1	.....	.....
Captain (ordnance officer)	1	.....	.....
Chaplain	1	.....	.....
Veterinarians	.....	2	.....
Sergeant major	.....	.....	1
Quartermaster sergeant	.....	.....	1
Commissary sergeant	.....	.....	1
Color sergeants	.....	.....	2
Trumpeter sergeant	.....	.....	1
Scouts and signal detail, mounted orderlies, and wagoner:			
Sergeants	.....	.....	2
Corporals	.....	.....	2
Privates	.....	.....	12
Mechanics	.....	.....	3
Band	.....	.....	29
Battalions	45	.....	1,761
Total	51	2	1,815

The proposed normal assignment of Field Artillery to units of the other arms is as follows:

For each division (the number of Infantry rifles in the division is increased by 38 per cent and the number of guns by 33⅓ per cent. The proposed divisional artillery comprises 48 field guns and 16 field howitzers):

Brigade—
- 1 regiment of 3 battalions—
  - 1 battalion of 3 batteries of four 3-inch guns 12
  - 1 battalion of 3 batteries of four 3-inch guns 12
  - 1 battalion of 2 batteries of four 3.8-inch howitzers 8

For each division, etc.—Continued.

Brigade—Continued.
- 1 regiment of 3 battalions—Continued.
  - 1 battalion of 3 batteries of four 3-inch guns 12
  - 1 battalion of 3 batteries of four 3-inch guns 12
  - 1 battalion of 2 batteries of four 4.7-inch howitzers 8
- 1 ammunition column of 2 battalions.

For each field arm in addition to the divisional artillery:
- 1 regiment of 2 battalions—
  - 1 battalion of 2 batteries of four 4.7-inch guns 8
  - 1 battalion of 2 batteries of four 6-inch howitzers 8
- 1 ammunition column of 1 battalion.

For each Cavalry division:
- 1 regiment of 3 battalions of 2 batteries of 4 guns each 24
- 1 ammunition column of 1 battalion.

The approximate war strengths proposed for each of the regiments above referred to are:

Divisional artillery, 1 regiment, 47 officers and 1,438 men; 1 regiment, 47 officers and 1,486 men. (The number of officers here given are based on the proposed number of guns or howitzer batteries in each regiment. The difference between these numbers and the total commissioned strength, 51, is the number available in each case for duty with ammunition columns and other special Artillery service.)

Army Artillery, 1 regiment, 28 officers and 854 men.

Horse Artillery, 1 regiment, 39 officers and 1,160 men.

Thus the proposed maximum legal strength is not closely approached in any case. On the other hand, the maximum strength of batteries is very closely approached in the case of Heavy Artillery. As the exact combinations of batteries into battalions and regiments which it may be necessary to make in the future can not be foreseen, the law should show merely the superior limit and leave to the Executive the power to utilize the available strength in the most useful way.

5. Ammunition Service.

The personnel of this service is charged with receiving ammunition from the line of communication troops, transporting it up to the neighborhood of the combatant troops, and distributing it to the various combat trains of Infantry, Cavalry, and Field Artillery.

To insure the combatant troops deployed over a wide territory being promptly and regularly supplied with ammunition, an effective organization of this service is requisite. It will be necessary to establish close communication with the various commanders so as to learn what supplies are needed, to reconnoiter the country and find the best avenues of approach, to regulate the movements of elements of the train so as to meet the varying needs of different parts of the line of battle, and to maintain sure communication between all the elements of the train and with the supply depots. With a view to coordinating all these various duties and activities, it is proposed to charge the Field Artillery with this service and provide the necessary staff and organizations for the purpose.

To this end the law should empower the President to raise ammunition battalions, in the proportion of one per authorized Field Artillery regiment, whose maximum authorized strength should be that of a Field Artillery battalion. A certain personnel should be provided in each regiment as constituting the nucleus of this ammunition service, the same to be transferred to the appropriate divisional or Army ammunition column on mobilization. No other transfers should be made from the regiments; the additional personnel should be secured from reservists or by recruitment. To organize promptly an efficient ammunition service according to this plan, a satisfactorily working reserve system must be in existence.

The regiments of divisional artillery, as proposed above, have only two batteries in the howitzer battalion. The third batteries of the howitzer battalions may be designated as the nucleus of the divisional ammunition service, their personnel to be transferred to the ammunition column on mobilization. In the heavy artillery and the horse artillery the third battery of each battalion may similarly be designated as the nucleus of the appropriate ammunition column.

In Appendix II hereto attached the organization of the Field Artillery and of the ammunition service is discussed in greater detail.

Peace strength of Artillery.—The permissible peace strength of Artillery depends on the means of expansion. If reserves are available, the batteries may be kept at the minimum peace strength consistent with proper instruction. Much of the Artillery personnel in times of war is employed in the transportation and distribution of ammunition. With adequate reserves this service may be kept at greatly reduced strength without loss of efficiency.

6. Components of the Division and the Field Army.

Based upon the organization of Infantry, Cavalry, and Field Artillery above indicated, the complete division should comprise the following units:

Division headquarters.
3 Infantry brigades of 3 regiments each.
1 regiment of Cavalry.
1 brigade of Field Artillery (2 regiments).
* 1 pioneer battalion of Engineers.
* 1 field company of Signal troops.
* Sanitary troops organized as field hospitals and ambulance companies.
* 1 ammunition column.
* 1 supply train.
* 1 pack train.

EXTRA-DIVISIONAL TROOPS.

In addition to the organizations comprised in the divisions the following additional units should be available for assignment to each field army of three divisions:

Cavalry: Three or more brigades to be employed as independent Cavalry brigades; or two or more Cavalry brigades may be combined with proper auxiliaries to form a Cavalry division. (This provision of extra-divisional Cavalry applies to a field army comprising the regular troops and regarded as available at any time as an expeditionary force. The quota for additional field armies of Volunteers or other citizen soldiery should be not more than one Cavalry brigade to each three divisions.)

1 brigade of Infantry.
1 regiment of Heavy Artillery.
* 1 ponton battalion of Engineers (bridge train).
* 1 field army company of Signal troops (including wireless detachments).
* 1 base line telegraph company of Signal troops.
* 1 aeroplane company or detachment.
* 1 supply train.
* 1 ammunition column.

* Sanitary troops (additional field hospitals and ambulance companies, with the elements of the evacuation service).

The organizations marked (*) above have been tentatively outlined in the Field Service Regulations of 1910; but as changes are recommended in the fundamental units of Infantry and Field Artillery, it will be necessary to revise the organization of these auxiliaries to conform to the changes proposed in the combatant elements of the division. If the general policy of organization proposed in this report be approved, it is recommended that the General Staff be instructed to recommend a reorganization of the auxiliary services within the division in conformity with the following general principles:

(a) The divisions should habitually include the normal proportions of the three combatant arms and the special troops; that is, there should be a safe minimum of auxiliaries determined by average conditions.

(b) In addition to the divisions, there should be a proper reservoir of extra-divisional troops.

(c) When it is desired to form an expeditionary force for any particular purpose a field army should be organized by taking two or more divisions and adding the Army headquarters and such extra-divisional auxiliaries as may be appropriate for the particular terrain and mission.

(d) If one division is approximately sufficient for the particular expedition, the normal proportions can be modified, if necessary, by attaching such additional auxiliaries as may be required, or by detaching such auxiliaries as may be redundant in the particular situation.

(e) The proportions of auxiliaries in field armies and expeditionary forces should depend upon the mission of the particular force, the terrain in which it is to operate, and the character of opposition expected. Appropriate and sufficient auxiliaries aid the fighting power of the force, but redundant auxiliaries reduce its mobility, increase the difficulties of supply and administration, disturb the balance of the fighting team, and actually weaken the force by requiring additional measures for the security of the surplus units which in this case become burdensome impedimenta.

(f) The auxiliaries in the division should, therefore, be only those that will *always* be required in it. Exceptional units or exceptional proportions should be attached from the extra-divisional reservoir when needed.

In addition to the tactical reasons for the proposed policy which are given in paragraph (c) above, there is an important economic principle involved. If the division includes all of the auxiliary units which are required for every possible contingency, it will include many noncombatants and much impedimenta which it will not require for normal contingencies. These extra or reserve units must, of course, be available when needed, but it is more economical to retain them in rear of the Army as a reserve, where they can be forwarded to such divisions as may temporarily require them. But these extra units will never be required at the same time by all of the divisions of a field army. They should normally be in the rear of the field army, where the field army commander can forward them to the division or divisions which may require them at any particular time. Sound economic principle requires that the maximum fighting power should be developed for any sum that may be appropriated for military purposes. This requires the maximum possible investment in combatant troops and the minimum possible investment in noncombatant troops. The cost of noncombatant auxiliaries can be reduced to a minimum by concentrating them so far as practical in an extra-divisional reserve. To give each division the full quota required for all contingencies will increase the cost of the whole field army and will reduce the mobility and fighting efficiency of the several divisions.

VII.

The relation of promotion to organization.

The organization of the Army should be determined by strategical, political, and economic considerations, with the sole view of serving the public interest. In the past, however, questions of relative promotion have largely influenced the result. Proper promotion of the officers is essential in any military system, and parity of promotion under similar conditions is necessary if we are to have an effective force. Human nature is such that all officers desire their share of promotion. The result has been, however, that these questions of relative promotion have affected the proper consideration of all questions of organization. If an effort is made to secure an increase deemed necessary in any one arm, officers of the other arms are liable to oppose it unless by other increases, perhaps necessary and perhaps not, a parity of promotion is received. While, therefore, the question of promotion and rank is one that all officers are rightly interested in, it has interfered, and will continue to interfere, with any scientific and economical reorganization plans. It is therefore considered an absolutely necessary preliminary to any reorganization of the mobile army to place promotion on an equitable basis independent of organization.

In order to accomplish this result in the simplest and most equitable manner, and with a minimum disturbance of existing conditions, it is suggested that the following rules governing rank and promotion should be incorporated in the military law of the United States:

1. Rank and eligibility to command in any grade of the Army below that of brigadier general shall be determined by length of continuous commissioned service as an officer of the Regular Army. The date of commencement of continuous service in the case of any officer shall be the date of rank given in his first commission, and it shall be known as the "date of precedence." In each grade below that of brigadier general all officers of the Regular Army shall be arranged in the order of their dates of precedence, and those originally appointed with the same date of rank in the order of precedence at the time of their appointments: *Provided*, That the Secretary of War shall assign constructive dates of precedence to all officers of the following classes who occupy anomalous positions on the lineal lists of their several arms.

(a) Those officers of Cavalry, Field Artillery, Coast Artillery, and Infantry who were appointed under the act of February 2, 1901, and who had served as commissioned officers in the Regular Army or Volunteers prior to such appointment.

(b) Those officers who have lost rank by reason of the sentence of court-martial or as the result of examination for promotion.

(c) Those officers who have voluntarily transferred from one arm of the line to another or from a staff department to an arm of the line.

Each officer of class (c) above excepted shall be assigned a constructive date of precedence which will place him in the same position relative to officers of his own arm or corps as he now occupies on the lineal list of his arm or corps, and with reference to officers of other arms or corps whose dates of precedence may lie between that of the officer next above him and the officer next below him in his own arm or corps, he shall take precedence in accordance with total length of commissioned service in the Regular Army and Volunteers, and his constructive date of precedence shall be fixed accordingly; and for this purpose the date of acceptance of commission shall be regarded as the date of commencement of service of officers of the Regular Army and of staff officers of volunteers appointed by the President, and the date of muster into service shall be regarded as the date of commencement of service of line officers of Volunteers.

Each officer of class (b) and (c) above excepted shall be assigned a constructive date of precedence which will place his position for rank and eligibility to command next below the officer who immediately precedes him on the lineal list of his own arm or corps on the date of the passage of the act.

2. The order of promotion in each arm, department, or corps shall remain as now provided by law, subject to the exception described in paragraph 3 below, which applies to original vacancies in the Cavalry, Field Artillery, and Infantry.

3. Whenever any part of the Infantry, Cavalry, or Field Artillery is increased or the number of officers in any of these arms is increased the original vacancies above the grade of second lieutenant due to the increase shall be filled from the next lower grade in the three arms, the number of officers promoted from each arm to be proportional to the number of officers of that grade in the three arms as nearly as may be practicable: *Provided*, That the order of promotion in any arm shall be in the order of the lineal list of that arm, as now provided by law: *Provided further*, That, so far as practicable, officers shall be promoted in their own arm: *Provided further*, That when any officer is nominated for promotion into an arm other than his own he may waive such promotion, and in this case the vacancy shall pass consecutively to the officers next below him in the lineal list of his own arm: *And provided also*, That whenever any officer is promoted to another arm under the provisions of this rule his position for subsequent promotion in that arm shall be fixed by his position on the list for rank and eligibility to command as determined by the date of precedence defined in paragraph 1 above.

4. Whenever any part of the Infantry, Cavalry, or Field Artillery is reduced or the total number of officers in one or more of the three arms is reduced the surplus officers should not be absorbed in the arm or arms in which the reduction occurs, but should be prorated for absorption throughout the three arms: *Provided*, That whenever any officer is transferred to another arm under the provisions of this rule his lineal position for promotion in that arm shall be fixed by his position on the list for rank and eligibility to command as determined by the date of precedence defined in paragraph 1 above.

COMMENTS ON THE PROPOSED RULES FOR RELATIVE RANK AND PROMOTION.

Rule 1. This rule does not affect promotion in any way, but provides that all officers shall take precedence in their respective grades in the order of their actual seniority, and not according to the date of last commission. On July 23 last Capt. W——, of the Cavalry, was promoted to the grade of major after 23 years 1 month and 12 days of commissioned service. Maj. W—— is junior in rank to Maj. R—— of the Medical Corps, who, on the date of Maj. W——'s promotion, had served 9 years 8 months and 23 days. Maj. R——'s seniority is based on the fact that his commission as major antedates that of Maj. W—— by 9 days, and this notwithstanding the fact that Maj. W—— had served as a commissioned officer more than twice as long as Maj. R——. The proposed rule would not expedite Maj. W——'s promotion, nor would it retard that of Maj. R——. It would simply provide that after arriving in the same grade their precedence should depend upon actual seniority. Maj. R——'s rapid promotion has been due to special provisions of law, under which medical officers enter the Army with the grade of first lieutenant and are promoted to the grade of captain in five years after first commission. (The period is now three years.) These provisions are designed to compensate for the fact that such officers must acquire a special professional education before they can enter the Army. The proposed rule for relative rank would not interfere with such special rules of promotion, but would simply provide that after arriving in the same grade officers should take precedence in the order of actual seniority.

Among Maj. W——'s seniors, under the present rule of precedence is Maj. C——, of the Coast Artillery, whose seniority is based on the fact that he was promoted to the grade of major 16 days before Maj. W——'s promotion, notwithstanding the fact that he was actually Maj. W——'s junior as a commissioned officer by nine years.

The difference in length of service in this case is due to the fact that under present conditions promotion in the Cavalry is relatively slow, while promotion in the Coast Artillery is relatively rapid. The proposed rule of seniority would not affect promotion in either arm, but would simply tend to adjust relative rank on an equitable basis when officers arrive in the same grade. Relative rank determines the right to command, the right to choice of quarters, and precedence on boards and other duty, where officers of the different arms are required to serve together. Among officers in the same grade seniority for the purposes above indicated should be determined by actual seniority.

Rule 3.—This rule applies only to the Cavalry, Infantry, and Field Artillery. These are the combatant arms of the mobile army, and the rule is proposed in order to eliminate all questions of individual promotion from the problem of reorganization of the mobile army. With this rule in effect it is expected that questions of legislation affecting the mobile army can be considered purely on their merits from the standpoint of the public interest.

The application of the foregoing principles will tend to correct the present arbitrary inequalities in relative rank and promotion in the several branches of the Army. But it does not constitute a final solution of the promotion question.

At present there is no sufficient incentive to efficiency. The laggard and the hard-working, enthusiastic officer are advanced with equal steps and according to one cast-iron rule of promotion. It is important, on the one hand, to provide means for disposing of officers who for one reason or another have lost their usefulness; and it is necessary, on the other hand, to insure officers of ability arriving at command rank at a time of life when their usefulness is at a maximum. In either case action should be based upon the officer's record of achievement.

The essentials necessary to the ultimate solution of this problem are:

1. To put the Army on such an improved basis of organization and training that a common doctrine as to standards of military efficiency may be recognized throughout the service and applied to the professional records of all officers.

2. To provide positive and equitable means for advancing, retarding, or eliminating officers according to their several merits.

The difficulties of a practical solution of this problem are recognized. The matter should be made the subject of most careful and deliberate study in the future, and no step should be taken without adequate safeguards against the intrusion of favoritism and other abuses.

VIII.

An initial tactical organization for the mobile army, with a program of gradual expansion into a field army.

1. THE TROOPS AVAILABLE AFTER PROVIDING FOR THE FOREIGN GARRISONS AND THE POLICY OF ORGANIZATION PROPOSED.

It was shown in Chapter II of this report that after the minimum requirements of the foreign garrisons have been provided for the following organizations of the mobile army will remain in the United States: 16 regiments of Infantry, 11½ regiments of Cavalry, 2 regiments of Field and Mountain Artillery, 1 regiment of Horse Artillery, 8 companies of Engineers, 2 field companies of signal troops, 4 companies of signal troops (other than field companies), 1 field hospital, 1 ambulance company.

It is important that this force should receive a tactical organization as a mobile army, even though it should remain incomplete. It is also important that organization tables should indicate the successive increments by means of which the force should be expanded if it should be the pleasure of Congress to form it ultimately into a well-balanced field army. The organization should favor the prompt mobilization of all or part of the mobile army as an expeditionary force. The distribution and administration should also be adapted to the effective use of the Army as a nucleus for the organization and training of national guard and volunteer forces.

These conditions can best be met by organizing a skeleton or nuclear division in each of the three territorial departments. After providing the divisional Cavalry for each division, the remaining Cavalry should be formed into Cavalry brigades of two or three regiments each. When the tactical organizations thus formed have been completed further expansion should be with a view of dividing the central territorial region into two, each containing a complete tactical division with the proper proportion of extra-divisional troops. In considering the details of this organization it is necessary to bear in mind that while an ultimate segregation of the mobile Army into actual brigade commands is contemplated under the policy proposed by the Secretary of War, such segregation can not be accomplished at once, and during the period of transition the organization must be such as to meet the actual distribution of the mobile Army. *The essential object sought is to provide an organization in peace which will continue to exist in war.* The faulty distribution of the Army increases the practical difficulties of the problem, but can not be accepted as an argument for adopting a peace organization which must be replaced by a different extemporized organization on the outbreak of war.

2. THE PROPOSED ORGANIZATION OF THE SKELETON FIELD ARMY.

The proposed organization of the units of the mobile Army after providing for the foreign garrisons is shown in Table I, which follows. The number of organizations shown in the table does not correspond exactly with the numbers now present in the United States, because certain regiments to be relieved from the Philippines have not returned and certain other organizations destined for Panama and Oahu have not yet been dispatched on foreign service. The actual number of organizations within the United States and within the several territorial departments are therefore subject to fluctuation until the foreign garrisons are established.

The adoption of a peace organization like that shown in Table I will result in great decentralization. If it should be desired to assemble an expeditionary force at some place, as Galveston, no extemporization would be necessary. None of the divisions are complete, but a full division could be assembled promptly by a few brief orders like the following:

1. To the commanding general, Central Department, "Assemble the Second Division at Galveston."

2. To the commanding general, Eastern Department, "Send the First Brigade, First Division, to Galveston for duty with the Second Division."

Such simplicity is the result of decentralization and would be possible because there is no difference, except as to strength, between the proposed peace organization and the war organization. The preparation of mobilization and transportation plans would be a part of the routine duty of the several brigade and division commanders. At present such a force as this could not be assembled without complicated and difficult extemporization, and when assembled each of its general officers would be a stranger to his command and its problems of administration.

TABLE I.—*The skeleton field army as organized with existing troops.*

First Division.	Second Division.	Third Division.	Army troops.[1]
(To be stationed in the Eastern Department.) *First Brigade.*—3 regiments of infantry. *Second Brigade.*—1 regiment of infantry. *Divisional Artillery.*—1 battalion of field artillery. *Divisional Cavalry.*—(1 regiment less 1 squadron.)[2] *Engineers.*—Provisional pioneer battalion (2 companies). *Signal troops.*—None available. *Sanitary troops.*—No field hospitals or ambulance companies available.	(To be stationed in Central Department.) *First Brigade.*—3 regiments of infantry. *Second Brigade.*—3 regiments of infantry. *Divisional Artillery.*—1 regiment of field artillery. *Divisional Cavalry.*—1 regiment. *Engineers.*—Provisional pioneer battalion (2 companies). *Signal troops.*—1 field company. *Sanitary troops.*—1 ambulance company and 1 field hospital.	(To be stationed in the Western Department.) *First Brigade.*—3 regiments of infantry. *Second Brigade.*—3 regiments of infantry. *Divisional Artillery.*—Headquarters, 1 battalion of field artillery. *Divisional Cavalry.*—1 regiment. *Engineers.*—Provisional pioneer battalion (2 companies). *Signal troops.*—1 field company. *Sanitary troops.*—No field hospitals or ambulance companies available.	(For the formation of a cavalry division or independent cavalry brigades, and to provide extra-divisional auxiliaries.) *Cavalry.*—9 regiments (formed in brigade in sections of 2 or 3 regiments). *Horse Artillery.*—1 regiment. *Engineers.*—Provisional pontoon battalion (2 companies). *Signal troops.*—None available. *Sanitary troops.*—No field hospitals or ambulance companies available.

[1] The Army troops to be distributed in the three territorial departments.

[2] 1 squadron at Panama to be taken from one of the divisional Cavalry regiments. For the purposes of this table it is assumed that this squadron is taken from the First Division.

NOTE.—In minor wars where the command of the sea is not involved or in a more serious war after the command of the sea has been definitely secured by our Navy the troops of the Coast Artillery may be counted upon to reenforce the mobile army. In order to meet this contingency the peace organization and training of the Coast Artillery should include preparation for employment as auxiliary organizations of Siege Artillery, Infantry, and other services. For purposes of field training such provisional organizations as may be formed in the Eastern Department should have opportunities for field training with the First Division. The provisional organizations formed in the Western Department should likewise train with the Third Division.

3. FIRST INCREMENT OF THE SKELETON FIELD ARMY.

The field army shown in Table I is incomplete in every particular, but it is the best organization that can be effected with the forces available. It is believed that the first increment of the Army that Congress may authorize should be applied in such a way as to give the three skeleton divisions a uniform proportion of the several arms. Table II shows the improvement in the organization that would result from adding the following organizations as the first future increment of the mobile army:

Two regiments of Infantry (to complete second brigade, first division).

Six battalions of Field Artillery (one to each regiment now existing) (*a*).

One field company of Signal troops with sufficient additional personnel to form the nucleus of the field army aero and wireless service (*b*).

Five field hospitals (*c*).

Five ambulance companies (*c*).

(*a*) This would result in gaining one regiment of Field Artillery for home service, as after the change two 3-battalion regiments would replace three 2-battalion regiments on foreign service.

(*b*) In the organization of the Signal Corps every effort should be made to utilize as many as possible of the enlisted men now employed on technical duties and who are not included in field companies in time of peace. The plans for war expansion should also contemplate the fullest use of civilian aero operators, telegraphers, and other experts. These questions should be considered in connection with the revision of the Field Service Regulations.

(*c*) Every effort should be made to provide the necessary sanitary units for field service, but as much of their personnel as possible should be mobilized from the peace personnel on duty at posts. As the concentration policy progresses a greater percentage of Hospital Corps men will be released from post duty on mobilization. The plans should also be based on the idea of a war expansion through the absorption of civilians whose ordinary occupations are analogous to those of the Hospital Corps. The peace strength of all noncombatant troops should be kept at a minimum consistent with proper peace service and effective war expansion.

TABLE II.—*The skeleton field army as organized after the first increment.*

First Division.	Second Division.	Third Division.	Army troops.
First Brigade.—3 regiments of Infantry. *Second Brigade.*—3 regiments of Infantry. *Divisional Artillery.*—1 regiment. *Divisional Cavalry.*—1 regiment (less 1 squadron).[1] *Engineers.*—Provisional battalion (2 companies). *Signal troops.*—1 field company. *Sanitary troops.*—2 field hospitals and 2 ambulance companies. *Ammunition column.*[2] *Supply trains.*[2]	*First Brigade.*—3 regiments of Infantry. *Second Brigade.*—3 regiments of Infantry. *Divisional Artillery.*—1 regiment. *Divisional Cavalry.*—1 regiment. *Engineers.*—Provisional battalion (2 companies). *Signal troops.*—1 field company. *Sanitary troops.*—2 field hospitals and 2 ambulance companies. *Ammunition column.*[2] *Supply trains.*[2]	*First Brigade.*—3 regiments of Infantry. *Second Brigade.*—3 regiments of Infantry. *Divisional Artillery.*—1 regiment. *Divisional Cavalry.*—1 regiment. *Engineers.*—Provisional battalion (2 companies). *Signal troops.*—1 field company. *Sanitary troops.*—2 field hospitals and 2 ambulance companies. *Ammunition column.*[2] *Supply trains.*[2]	(For the formation of a Cavalry division or independent Cavalry brigades, and to provide extra-divisional auxiliaries.) *Cavalry.*—9 regiments (formed in brigade inspections of 2 or 3 regiments). *Horse Artillery.*—1 regiment. *Engineers.*—Provisional battalion (2 companies). *Signal troops.*—Nucleus of field army units including base-line, aero and wireless service.[4] *Sanitary troops.*—The field hospitals and ambulance companies assigned to the divisions will probably meet all requirements at this stage of development.

[1] See Table I.

[2] The proposed Artillery organization furnishes a cadre for the ammunition column. The details of expansion will depend on whether reservists are provided. If not, the expansion must be by recruitment. In either event detailed plans must be worked out.

[3] The cadre of the supply columns should be furnished by such service corps as may be authorized. The details of expansion must be worked out in connection with the service corps.

[4] The details of organization to be worked out by the General Staff with the Signal Corps during the revision of the Field Service Regulations.

4. SUBSEQUENT INCREMENTS OF THE FIELD ARMY.

After forming the balanced skeleton field army shown in Table II, the next increments should successively expand the skeleton divisions of the field army into complete divisions. The second increment, necessary to complete one of the divisions, is as follows:

1 brigade of Infantry (3 regiments).
1 regiment of Field Artillery.
1 pioneer company of Engineers (to complete the divisional battalion).
1 or more additional ambulance companies and field hospitals, the number to depend upon a determination of the number proper for the division and the number proper for the extra divisional reservoir.

The third and fourth increments would be identical with the second increment and would each complete another division.

The fifth increment should complete the quota of Army troops necessary to furnish an auxiliary division if the whole mobile Army should be employed as a field army or expeditionary force. The additional units are as follows:

1 regiment of heavy artillery (a).
1 brigade of Infantry (3 regiments).
1 company of Engineers (to complete the field army pontoon battalion) and appropriate engineer units for the Cavalry division.
Field Army Signal units (organization completed).
Sanitary troops (such additional ambulance companies, field hospitals, and evacuation hospitals as may be found necessary).

NOTE.—(a) Until a regiment of field-army heavy artillery can be provided one or more batteries or battalions of the divisional artillery will be equipped with the heavy types.

The complete field army with three divisions and army auxiliary troops as it would be organized after the fifth increment is shown in Table III.

TABLE III. *The field army with three divisions and Army troops complete as organized after the fifth increment.*

First Division.	Second Division.	Third Division.	Army troops.
First Brigade.—3 regiments of Infantry. *Second Brigade.*—3 regiments of Infantry. *Third Brigade.*—3 regiments of Infantry. *Divisional Artillery.*—1 brigade of 2 regiments. *Divisional Cavalry.*—1 regiment (less 1 squadron). *Engineers.*—1 pioneer battalion (3 companies). *Signal troops.*—1 field company. *Sanitary troops.*—3 field hospitals and 3 ambulance companies. *Ammunition column.* *Supply train.*	*First Brigade.*—3 regiments of Infantry. *Second Brigade.*—3 regiments of Infantry. *Third Brigade.*—3 regiments of Infantry. *Divisional Artillery.*—1 brigade of 2 regiments. *Divisional Cavalry.*—1 regiment. *Engineers.*—1 pioneer battalion (3 companies). *Signal troops.*—1 field company. *Sanitary troops.*—3 field hospitals and 3 ambulance companies. *Ammunition column.* *Supply train.*	*First Brigade.*—3 regiments of Infantry. *Second Brigade.*—3 regiments of Infantry. *Third Brigade.*—3 regiments of Infantry. *Divisional Artillery.*—1 brigade of 2 regiments. *Divisional Cavalry.*—1 regiment. *Engineers.*—1 pioneer battalion (3 companies). *Signal troops.*—1 field company. *Sanitary troops.*—3 field hospitals and 3 ambulance companies. *Ammunition column.* *Supply train.*	(For the formation of a Cavalry division or independent Cavalry brigades, and to provide extra-divisional auxiliaries for expeditions or for a field army.) *Cavalry.*—9 regiments (formed in brigade inspections of 2 or 3 regiments). *Horse Artillery.*—1 regiment. *Heavy Artillery.*—1 regiment. *Infantry.*—1 brigade. *Engineers.* Field Army battalion and proper additional units for the Cavalry division. *Signal troops.*—Field Army units. *Sanitary troops.*—To include additional ambulance companies, field hospitals, and evacuation service, the details to be worked out after investigation as to proper distribution between the divisions and the extra-divisional reservoir with the Army troops.

[See Table I.]

With the sixth increment the fourth division should come into being, and successive increments should complete it. What further increments may be necessary can not be foretold, but it is certain that the future military needs of the country, as they are understood to-day, can not be met by a mobile force of less than four divisions, and this is the goal toward which all effort should be directed.

But in the preparation of this report every effort has been made to separate the question of organization from the question of possible increase. Tactical organization should be adopted without reference to possible increases, and such increases as may be authorized in the future should be applied to the development of a consistent tactical plan.

3. THE NUMBER OF GENERAL OFFICERS REQUIRED BY THE TACTICAL ORGANIZATION.

Brigadier generals.—Modern tactical organization requires a homogeneous unit higher than the regiment. This unit is the brigade, and its commander should be a brigadier general selected as a general rule from the arm which he commands. The number of brigadier generals of the mobile army should therefore be based on the number of regiments. For each arm there should be at least one brigadier general for each three regiments or major fraction thereof. With the present strength of the Army the quota of brigadier generals of the mobile army should therefore be as follows:

	Regiments.	Brigadier generals.
Infantry	30	10
Cavalry	15	5
Field Artillery	6	2
Total	51	17

This number of brigadier generals is based on the present peace strength of the mobile army and should be increased in proportion to future increments of the Army. In time of war there should be a brigadier general for each organized brigade.

The number of brigadier generals required for the Coast Artillery organization is four, viz, one for each Coast Artillery inspection and one as chief of Coast Artillery.

Major generals.—The number of major generals should likewise be based upon the commands appropriate for such officers. The appropriate peace commands for major generals are as follows:

Territorial departments in the United States	3
Philippine Department	1
Hawaiian Department	1
Panama Department	1
Total major generals	6

In time of war there should be a major general for each organized division.

General officers required for duty on the General Staff and for other purposes.—The number of general officers authorized by law for detail to the General Staff should be in addition to those above enumerated for assignment to military commands. The additional general officers so required should be added in the grade of brigadier general. This will permit the assignment of general officers of either grade to the General Staff without reducing the total number available as military commanders. When a major general is detached from his appropriate command for detail to the General Staff, the brigadier general assigned to the military command so vacated should have the temporary rank, pay, and allowances of major general during his continuance in such advanced command.

6. ADDITIONAL OFFICERS REQUIRED FOR DUTIES OTHER THAN REGIMENTAL.

When additional officers are required for duty with the citizen soldiery, or for other military duty peculiarly related to their respective arms of the service, the numbers of such officers allotted to each arm should be based upon the actual requirements of the arm and not upon a pro rata between the several arms. The number of Infantry officers required for duty with the National Guard depends upon the requirements of the National Guard Infantry. Similarly the number of Cavalry officers required depends upon the needs of the National Guard cavalry. The relative numbers required from the two arms has no relation to the fact that the Regular Infantry comprises twice as many officers as the Regular Cavalry. It is recommended, therefore, that the number of such additional officers as may be authorized for purely tactical purposes in the future be based upon the actual needs of the several arms, with the understanding that the original vacancies due to any increase in the number of such extra regimental officers in the Infantry, Cavalry, or Field Artillery be prorated among the three arms according to the principles governing the filling of original vacancies as outlined in Chapter VII of this report.

But when additional officers are required for administrative duties not peculiarly related to any one arm, the total number of such officers should be prorated among the several arms as at present.

Whenever the number of additional officers allotted to any arm is increased in any manner, the grades of the new officers should be so allotted as to keep the ratios between the numbers of officers in the several grades, as near as may be, the same in the Cavalry, Field Artillery, Coast Artillery, and Infantry.

IX.

Raising and organizing the national volunteer forces.

1. LIMITATIONS UPON THE AVAILABILITY OF THE STATE MILITIA AS A NATIONAL FORCE.

The Constitution provides that Congress shall have power—

"to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion."

And, further—

"to provide for organizing, arming, and disciplining the militia and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress."

Under these provisions Congress passed the act of January 21, 1903, commonly known as the Dick bill. This act superseded practically all the militia laws on the statute books. It has since been amended by the act of May 27, 1908, and the act of April 21, 1910. Under the provisions of these laws the militia has been organized, uniformed, and equipped, and the President is authorized to employ the organized portion for the three purposes specified in the Constitution. Under the operation of these laws the general efficiency of the Organized Militia has been greatly improved but no acts of Congress can extend the scope of its employment as militia or modify the restricted fundamental law upon which the whole militia structure is based.

The Regular Army is organized under the general and plenary power of Congress "to raise and support armies," and it can be used both at home and abroad for any national purpose. The militia may be employed to support the Regular Army for the limited purposes mentioned in the Constitution, but it can not be employed for the varied purposes for which a national army may be required—for such purposes as our own history shows it is likely to be needed.

After the War of 1812 it seemed to be accepted as a settled policy that under existing constitutional limitations the militia should not be regarded as available for general military purposes.

In the Mexican War the Regular Army, supported by a volunteer army of national troops, achieved a series of victories unmarred by a

single defeat. The Battle of Buena Vista, fought at a time when nearly all the regular troops had been dispatched to take part in the campaign under Gen. Scott against the City of Mexico, was a triumph for the volunteers. A force of some 12,000 militia was called out for three months in the first stages of the war, but they were returned to their homes without having fired a shot.

The Civil War opened with a call for 75,000 militia to serve for three months. The disaster which ensued at Bull Run practically put an end to the use of militia during the war. A great volunteer army of citizen soldiery was called into being, which prosecuted the war as a national force.

After the Civil War there was a great development of Organized Militia throughout the country. Although national support was not liberally given, it was recognized that these State organizations furnished a valuable school of military training. When the Spanish War broke out a volunteer army was again organized, and under a provision of the law existing militia organizations were permitted to volunteer as complete units. These volunteer organizations were created under the power of Congress to raise and support armies. The militia upon volunteering completely lost its militia status as far as the Federal Government was concerned. The forces thus created were therefore available for general military purposes, and they were employed in Porto Rico, Cuba, and the Philippine Islands.

Under the legislation of 1898 regiments made up from militia organizations were received into the Federal service as volunteers, and with other new regiments of volunteers were formed into brigades, divisions, and Army corps. When a regiment or smaller organization volunteered as a body the governor of the State was authorized to appoint the militia officers of these units into corresponding grades in the same organizations when they were received into the service of the United States as part of the Volunteer Army; but the higher Army units, the brigades, divisions, and Army corps, were Federal units organized by the President and commanded by officers under his commission. Some of these general officers were appointed from the Regular Army, some were distinguished veterans of a former war, and some were appointed from the militia officers who volunteered from the States. But they all became Federal officers and were responsible to the constitutional Commander in Chief. This was in harmony with the national policy adopted in the Mexican War and continued throughout the War of 1861–1865.

The volunteer act of 1898 was drawn in haste and contained many defects, but in these two particulars it was based on our national experience and erected solidly upon the Constitution. It called for an army, a force that could be used at home or abroad, in attack or defense, and for general military purposes; it therefore did not attempt to use a force which the Constitution had restricted to three limited uses. It called for a National Army, and therefore its fundamental army units were Federal units. It did not favor repeating the folly committed in 1812, when we attempted to conquer Canada with groups of allied forces, rather than with a cohesive National Army.

The volunteers of 1898, like the volunteers of 1861, were citizen soldiers, but they were not militia. Our Constitution and our history alike confirm the dictum that citizen soldiers may be employed successfully for general military purposes, but that organized as militia they may not.

In the militia legislation of 1903 and 1908 we have departed from the sound policy based on the experience of 1812, 1846, 1861, and 1898. It is true that the Organized Militia of to-day is a more highly trained force than the militia of our early history, but the same constitutional limitations as to use and control prevent its full development as an effective national force, so long as it maintains its legal character as militia.

The present militia policy is erected on the theory that the militia may be used for general military purposes as militia. It provides that it shall enter the service as militia and remain militia, and yet contains the provision that it may serve either within or without the territory of the United States. With reference to this provision of the militia law, the Attorney General writes as follows in reply to a question from the Secretary of War:

"It is true that the act of January 21, 1903, as amended by the act of May 27, 1908 (35 Stat., pt. 1, 399), provides:

"'That whenever the President calls forth the Organized Militia of any State or Territory, or of the District of Columbia, to be employed in the service of the United States, he may specify in his call the period for which such service is required, and the militia so called shall continue to serve during the term so specified, either within or without the territory of the United States, unless sooner relieved by order of the President.'

"But this must be read in view of the constitutional power of Congress to call forth the militia only to suppress insurrection, repel invasion, or to execute the laws of the Union. Congress can not, by its own enactment, enlarge the power conferred upon it by the Constitution; and if this provision were construed to authorize Congress to use the Organized Militia for any other than the three purposes specified it would be unconstitutional. This provision applies only to cases where, under the Constitution, said militia may be used outside of our own borders and was, doubtless, inserted as a matter of precaution and to prevent the possible recurrence of what took place in our last war with Great Britain, when portions of the militia refused to obey orders to cross the Canadian frontier.

"I think that the constitutional provision here considered not only affords no warrant for the use of the militia by the General Government, except to suppress insurrection, repel invasion, or to execute the laws of the Union, but, by its careful enumeration of the three occasions or purposes for which the militia may be used, it forbids such use for any other purpose."

The opinion of the Attorney General in full is attached to this report as Appendix III.

We are thus brought squarely face to face with the problem of how we are to get the forces which we may need for purposes more general than those to which the Constitution restricts the use of militia. And this raises the whole question of how we are to go about providing for the great national volunteer force which in time of stress our country may need.

The Constitution provides two means whereby the National Government may draw upon the great body of potential national volunteers—directly under the power to raise and support armies, indirectly under the militia clause. The first power is unrestricted, the second definitely restricted. Such troops as may be raised under the latter power must undergo a change of status before they can be employed for general military purposes. The procedure necessary for developing a national force under each of these two powers is discussed below.

A. UNDER THE POWER TO RAISE AND SUPPORT ARMIES.

The "power to raise and support armies" is construed as follows in Tarble's Case, 13 Wallace, 408:

"Field, J.: Now, among the powers assigned to the National Government, is the power 'to raise and support armies' and the power 'to provide for the government and regulation of the land and naval forces.' The execution of these powers falls within the line of its duties, and its control over the subject is plenary and exclusive. It can determine, without question from any State authority, how the armies shall be raised, whether by voluntary enlistment or forced draft, the age at which the soldier shall be received and the period for which he shall be taken, the compensation he shall be allowed, and the service to which he shall be assigned. And it can provide the rules for the government and regulation of the forces after they are raised, define what shall constitute military offenses, and prescribe their punishment. No interference with the execution of this power of the National Government in the formation, organization, and government of its armies by any State officials could be permitted without greatly impairing the efficiency, if it did not utterly destroy, this branch of the public service."

In view of this language of the Supreme Court it would seem that Congress could organize a company or a battalion or a regiment of citizen soldiers in every congressional district if it chose to do so. It could limit the employment of the force to time of war only, or to other contingencies determined by itself. It could fix the period of instruction at 10 days a year, or 20 days a year, or 1 hour per week, or any other time that might be desirable. It could regulate the appointment of officers and provide for the voluntary transfer of officers and enlisted men from the present Organized Militia to the national force. It could organize battalions and regiments of the three arms and all of the auxiliaries that might be required for war purposes, and could combine them into properly proportioned divisions and field armies. It could organize it definitely as a territorial army uniformly distributed throughout the Union with all of the machinery of mobilization, concentration, and supply organized in time of peace. Congress could place any desired limit of strength upon its national army of citizen soldiers, or it could adopt the logical ideal of voluntary military service, and provide facilities for the military training of all patriotic young men who might volunteer to receive it.

By such means we would be enabled gradually to develop our military resources according to a definite and logical plan. Instead of trying to force upon the militia two duties which under the limitations of the Constitution are more or less incompatible we would recognize things as they are, and provide for two forces, each having its special function. This would afford obvious advantages to all concerned; the National Government would know upon what forces it could count; the States could proportion their forces to local needs; and individuals would have the choice of the particular kind of service they preferred; that is, State service with limited war liability, or war service only, under the National Government.

B. UNDER THE MILITIA CLAUSES OF THE CONSTITUTION.

But while a national citizen soldiery organized "under the power to raise and support armies" is the most direct and the most complete solution of our problem, it must be recognized that the immediate provision of such a force involves serious practical difficulties. It is unquestionably true that the present Organized Militia can not be employed for general military purposes, and that under the present law it can not be effectively trained for war as a homogeneous national force. On the other hand, it is a force actually in being and one composed largely of officers and men who have volunteered for military training because they desire to serve as soldiers in the event of war. The Organized Militia in short constitutes an existing organization. As it stands it is unsuited for national military uses. The question is, Can this impediment be removed?

Congress may organize and discipline the militia, but must leave to the States the appointment of its officers and the authority to train the force according to the discipline prescribed by Congress. Congress is also authorized to govern the militia when it is actually in the service of the United States. Congress may therefore prescribe any peace organization, discipline, or system of training for the militia which does not deprive the States of the following reserved powers:

1. To appoint the officers.
2. To train the forces according to the discipline prescribed by Congress.
3. To govern the militia when not actually in the service of the United States.

The practical question, then, is, Can Congress, under these limitations, convert the Organized Militia into an effective military force and utilize it for general war purposes?

It is believed that the modified militia pay bill recently prepared by the Secretary of War, after consultation with the National Militia Board, furnishes the basis for a practical solution of this problem. (A copy of the bill is hereto attached as Appendix IV.)

The bill provides that officers and enlisted men of the National Guard who conform to certain standards of efficiency to be prescribed by the Secretary of War shall be entitled to Federal pay. In order to be entitled to pay a man must be qualified for military service under the standards to be prescribed by the Federal Government, and he must likewise be a member of a military command of standard organization, strength, and efficiency.

The bill also provides that all organizations and individuals receiving such pay may, in certain emergencies and with the consent of Congress, be transferred to and incorporated with the Army of the United States, and when so transferred such organizations and individuals shall be subject to the laws and regulations governing the Armies of the United States.

It is believed that such militia organizations as qualify for pay under the terms of the bill would be available for general military uses, because when transferred to and incorporated with the Army of the United States they would cease to be militia and would be as fully under the control of Congress as is the Regular Army. It is obvious that no individual or organization of the militia should be the recipient of pay from the Federal Government unless he or it is fully available for general military purposes. It is also believed that the enactment of the bill would give the Federal Government an effective influence over the organization, training, and discipline of the Organized Militia without invading the constitutional powers of the States.

The power to appoint officers would still be reserved to the States, but only those appointees would receive Federal pay who are found fit to perform a definite Federal function and who are obligated to perform that function. The power to train the militia would be reserved to the States, but Federal pay would go only to that part of the militia which is actually trained and prepared for incorporation in the organ-

ized war army of the Nation. Under this policy the Government would not extend its influence over *all* of the militia in a State, but only over that portion which voluntarily engages to form a part of the national war army of citizen soldiery, and even over that portion the Federal influence would be indirect and without encroachment upon the powers reserved to the States by the Constitution.

A militiaman transferred to the Army of the United States under the provisions of the proposed bill should be required to serve until the expiration of his term of service or until a man could be trained to replace him in the event his term of enlistment expired soon after his transfer. The bill should therefore give the Federal Government the right to extend the term of enlistment of any man so transferred for a period of not to exceed 12 months. Without some such provision the force created would begin to melt away on the day it was mobilized. (See also sec. 11, ch. 5.)

Whether the operation of the bill will result in developing the militia of the States into a thoroughly efficient, well-organized national force sufficient for all military purposes can be determined only by experience. In view of the importance, as stated above, of using for war this available military asset, it is considered that a trial should be made and from experience gained a final satisfactory solution obtained.

2. ESTABLISHMENT OF DIVISION DISTRICTS AS A MEANS FOR SYSTEMATICALLY RAISING AND ORGANIZING THE VOLUNTEER FORCES.

While the peace organization of the national citizen soldiery can not be indicated in detail until its legal status is more definitely settled, it is possible to point out some of the objects of peace organization and the general relation of such organization to mobilization and preparation for war. As the war organization of any army involves the establishment of divisions and field armies, and as these complex units can not be extemporized on the outbreak of war, it may be accepted that the army of citizen soldiery should be made up of definitely organized divisions with the auxiliaries necessary to form complete field armies. Assuming that future legislation will provide for changing the status of the Organized Militia from a militia force of limited uses to a national force available for general military purposes, it will be possible to indicate a division organization based on the units now existing in the National Guard. An illustration may thus be made in a concrete way of the general objects to be attained.

The present strength of the National Guard is as follows:

Infantry, 139 regiments, 8 separate battalions, and 8 separate companies.
Cavalry, 74 troops.
Field artillery, 48 batteries.
Engineers, 22 companies.
Coast artillery, 120 companies.

It will be seen that we have the infantry organizations for approximately 16 divisions, the cavalry organizations for approximately 6 divisions, the field artillery for approximately 3 divisions, and the engineer contingent for 7 divisions.

As we have here the infantry organizations for 16 divisions, it will be assumed for purposes of illustration that our problem is to complete these divisions. For this purpose the territory of the United States should be divided into division districts, and it should be the policy of the Government to form a complete division in each division district by filling up the infantry regiments and by encouraging the organization of the artillery, cavalry, and other divisional components which are now lacking.

To each of these division districts should be assigned a General Staff officer, with the necessary number of Inspector Instructors detailed from the Regular Army, whose function it should be to arrange for the many details of organization which should be planned in peace and not left to extemporization in time of war. Among the duties of this division staff would be the preparation of plans of mobilization in conformity with general plans prepared in the War College. Problems of supply could also be worked out in advance and plans for the transportation of a division or a part of it to any point of concentration could be prepared by trained officers on the ground. The division staff would also be able to keep the War Department advised of the needs of the district and would act as the agent of the War Department in the gradual development of the lacking components of the division. The General Staff officer would also coordinate the efforts of the inspector instructors on duty with the several regiments and battalions so that, through him, the general war policy of the Nation could be transmitted to the units organized in the several States.

These division districts would not only facilitate the development of the organized army of citizen soldiery and simplify its mobilization in war, but the division districts would continue to be useful, even after the troops have gone to the front. The organization provided for the district in peace would prepare regimental depots for recruits and reserves in war, and if it should be necessary to augment the peace force by new levies of volunteers the division districts would furnish the machinery for the raising, organization, administration, and supply of such volunteer forces.

Taking the National Guard force as it exists to-day, we find that most of the individual units are far below their proper war strength, and that the Infantry of the National Guard is not provided with the proper proportion of Cavalry, Field Artillery, and special troops required to form divisions. Efforts are being made to correct these conditions, and it is believed that the organization of definite division districts would facilitate this reform.

An examination of the problem indicates that there are two reasons why the mounted troops have not been developed as rapidly as the Infantry. The first reason seems to be that, under our National Guard system, the troops are primarily State troops, and are presumably organized by the States in order to meet State requirements. It is obvious that the States will rarely have as much use for Cavalry or Field Artillery as they have for Infantry; and even if they need these forces, they will not need them in the proportion required for national purposes under conditions of modern warfare.

The second reason lies in the fact that Cavalry and Field Artillery are more expensive to raise than Infantry, and under present conditions Federal appropriations are not based on a recognition of this fact. For the minimum requirements of instruction, a battery of Field Artillery or a squadron of Cavalry must have a certain proportion of mounts, and under present conditions these animals must either be provided by the organizations or must be obtained at the charge of the State. The development of divisions in the National Guard, therefore, requires that the United States should furnish not only the necessary war material, but also an allotment for the purchase or hire of a certain number of animals for the Cavalry and Field Artillery. If the organized citizen soldiery is to be counted on in war, its Field Artillery and Cavalry must be organized in time of peace and must have the same facilities for training as the Infantry.

The only other solution of the problem is to maintain the Cavalry and Field Artillery organizations in the permanent establishment of the Regular Army. This solution, however, is not permissible economically, and in view of English experience with her territorial army, does not appear to be necessary. To maintain the divisional Cavalry and Field Artillery of the National Guard on the permanent establishment of the Regular Army would cost upward of $2,000,000 per year for each division of the National Guard, while the same forces could be economically maintained on a National Guard basis if less than one-tenth of that amount were allotted to cover cost of providing and maintaining a small quota of mounts to permit proper training.

It should, therefore, be the policy of the Government to develop the army of citizen soldiers in peace as an army of complete divisions, each division to contain its proper proportion of infantry, cavalry, field artillery, engineers, signal troops, and sanitary troops.

A correct organization of the military establishment will involve the organization of the regular mobile army into a force of complete tactical divisions, and a similar policy should apply to the force of citizen soldiers. It is true that on the adoption of the policy both the regular force and the one composed of citizen soldiers would be incomplete; but the completion of the organization would furnish a goal for future administration and legislation. The attainment of the ideal might be a question of years, and during the transition period practical makeshifts would be necessary as emergencies arise. If a war should come before the divisions were complete, it might be necessary to form a number of divisions by the consolidation of a greater number of incomplete divisions, but even this would involve less extemporization than would be necessary under present conditions. Or on the outbreak of war, if sufficient time should be available, the divisions might be completed by organizing new volunteer units to fill the gaps in the division organization. The existence of definite division districts would facilitate the organization of such forces. It would be understood that one of the peace problems of the incomplete divisions would be the preparation of plans for the completion of its organization in event of sudden emergency. Such new volunteers would be a logical expansion of the peace organization.

The fact that the present National Guard force lacks many of the units that would be necessary to convert it into a well-balanced war force is one of the principal arguments for legislation like that proposed in the volunteer bill now pending in the Senate. (See Appendix I.)

For the purposes of the foregoing discussion, divisional troops only have been considered. In working out a final plan the field army auxiliaries of cavalry, field artillery, and special troops, and the coast artillery reserves must also be provided for.

The complete organization of the mobile land forces of the United States will, therefore, include three distinct forces.

1. A regular army organized in divisions and cavalry brigades and ready for immediate use as an expeditionary force or for other purposes for which the citizen soldiery is not available, or for employment in the first stages of war while the citizen soldiery is mobilizing and concentrating.

2. An army of national citizen soldiers organized in peace in complete divisions and prepared to reenforce the Regular Army in time of war.

3. An army of volunteers to be organized under prearranged plans when greater forces are required than can be furnished by the Regular Army and the organized citizen soldiery.

The peace establishment of the Regular Army with the organized division districts of the National Guard should include the machinery for the recruiting organization and mobilization of this great third line of the national defense.

X.

Considerations determining the strength, composition, and organization of the land forces of the United States.

1. Political conditions affecting our country have changed very materially in the past 20 years, but it can hardly be said that the development of our land forces has kept pace with these changing conditions. Until quite recently our people have been almost wholly occupied with the task of overrunning our continental possessions and taking full possession of them. The Regular Army has been the forerunner of this movement, and has been organized, distributed, and trained for the requirements thus involved. This has kept the bulk of the Regular Army scattered in small units in our western country. Conquest and settlement have been fairly completed now, however, and the civil authorities are capable of maintaining orderly conditions as well in one part of our country as in another. If domestic questions were still the only ones that claimed serious attention it would seem that to deal with such questions only the Army should be distributed more equitably with respect to density of population.

But gradually our external problems have been assuming larger and larger proportions. While we were expanding other nations have been doing the like, and within the past few years it is found that practically the whole earth is now divided up among the principal nations and held by them either as actual possessions or as spheres of influence. Hitherto the interests of nations or of small groups of nations have been more or less local. But due to this world-wide expansion the contact between great nations and races has already become close. It tends to become continually closer, due to the increase of population and national needs, and due especially to the vastly increased facilities for intercommunication. With this close contact thus so recently established comes a competition, commercial, national, and racial, whose ultimate seriousness current events already enable us to gauge. Since our conflict with Spain in 1898 practically all of the principal nations of the earth have either been actively engaged in war or else brought to the verge of actual war. The evidence is clear that the nations and races capable of maintaining and protecting themselves are the only ones who can flourish in this world competition.

We have been drawn from our state of isolation and are inevitably involved in this competition. We must consider what preparation we will make to meet this change in our national situation. It may be said that we claim the undisturbed enjoyment of our possessions at home and the protection of our interests abroad. Our military requirements may then be summed up as follows: (1) To secure our home country from invasion; (2) to protect our foreign interests; (3) to maintain domestic peace and good order. Our forces should be proportioned, organized, and trained to meet these requirements.

2. ESTIMATE OF THE LAND FORCES NEEDED IN THE UNITED STATES.

Our requirements in the way of land forces are certain to change as the years go on, but in the light of present-day conditions it is estimated that at the outbreak of war with a first-class power we

should be capable of mobilizing at once in the United States an effective force of 460,000 mobile troops and 42,000 Coast Artillery; that this is the minimum number of first-line troops necessary; and that to augment this force and replace its losses we should have plans made for raising immediately an additional force of 300,000 men.

To meet requirements less vital than a great national war—as for example, the sending of expeditionary forces to protect certain foreign interests—it may be presumed that we would draw upon the forces thus enumerated; and as in the light of our recent experiences we can not possible foretell to what places expeditions may have to be sent nor what numbers will be required, all of these forces should be available for service anywhere.

3. REGULAR AND VOLUNTEER TROOPS.

The Regular Army contingent of this total mobile force at home should be sufficient to provide an expeditionary force capable of acting with the utmost promptness and decision and sufficient to furnish a training nucleus for the volunteer troops in peace and a stiffening element in war. To meet conditions we can now foresee it is believed the Regular Army should comprise four complete divisions, and that it should furnish as extra divisional troops a division of Cavalry and the quota of Heavy Field Artillery, Engineers, Signal, and sanitary troops appropriate for one field army. On this basis the regular contingent of mobile troops within the United States proper, when raised to war strength, would comprise about 112,000 men. The remaining 348,000 mobile troops would be made up of citizen soldiers organized in divisions and in field army auxiliaries. Each group of three division districts should furnish three complete divisions of citizen soldiers and the extra divisional troops considered appropriate for a field army of three divisions. On this basis the quota of 348,000 citizen soldiers might be raised from 12 division districts (as indicated in Chapter IX, the detailed organization of the citizen soldiery will depend upon the extent to which the present Organized Militia can be utilized for general military purposes. The organization of 12 divisions, with the extra divisional troops for four field armies and with the necessary Coast Artillery companies, will absorb all of the units now organized in the National Guard), and they would be the equivalent of four normal type field armies. The regular and volunteer contingents taken together would then represent five field armies, but the exact number in which the various divisions and auxiliaries would actually be combined to make up field armies would depend entirely upon the necessities of the campaign in view.

The regular contingent of Coast Artillery troops in the United States should comprise 26,500 men when on war footing, leaving 21,000 to be raised from citizen soldiery. These figures are based on a complete regular personnel for mine companies and 50 per cent personnel of regulars for gun companies for authorized armament.

XI.

A council of national defense.

As war is but a phase of international politics, so military policy is but a phase of international policy. In its broadest sense the organization of the land forces is but a part of the national war organization, which includes the organization of the sea forces and of all other national resources.

A scientific solution of our military problem must include a determination and definition of national policy and the provision of sufficient military and naval forces to support that policy against such adverse interests as may develop from time to time. As several departments of the Government are concerned in the settlement of this question, it is obvious that a sound policy must be predicated upon a comprehensive view of the whole problem with the view of coordinating and balancing its several elements.

In order to formulate a comprehensive policy for the consideration of Congress, it is believed that there should be a council of national defense similar to the one proposed in H. R. 1309. The function of this council, as defined in the bill, is to "report to the President, for transmission to Congress, a general policy of national defense and such recommendation of measures relating thereto as it shall deem necessary and expedient."

The members of the council, as provided in the bill, are as follows:

The President of the United States (ex officio president of the council).
The Secretary of State (to preside in the absence of the President).
The Secretary of War.
The Secretary of the Navy.
The chairman of the Committee on Appropriations of the Senate.
The chairman of the Committee on Foreign Relations of the Senate.
The chairman of the Committee on Military Affairs of the Senate.
The chairman of the Committee on Naval Affairs of the Senate.
The chairman of the Committee on Appropriations of the House of Representatives.
The chairman of the Committee on Foreign Affairs of the House of Representatives.
The chairman of the Committee on Military Affairs of the House of Representatives.
The chairman of the Committee on Naval Affairs of the House of Representatives.
The Chief of the General Staff of the Army.
An officer of the Navy not below the rank of captain, to be selected by the Secretary of the Navy.
The president of the Army War College.
The president of the Navy War College.

It would seem that through the agency of this council the problem of national defense should receive the joint consideration of all of the branches of the Government which are responsible for its ultimate solution.

APPENDIX I.

A bill (S. 2518) to provide for raising the volunteer forces of the United States in time of actual or threatened war.

Be it enacted, etc., That the land forces of the United States shall consist of the Regular Army, the Militia, and such volunteer forces as Congress may authorize.

SEC. 2. That the volunteer forces shall be raised and organized as in this act provided, only during the existence of war, or while war is imminent, and only after Congress has or shall have authorized the President to raise such a force: *Provided*, That the term of enlistment in the volunteer forces shall be the same as that for the Regular Army, and all officers and enlisted men composing such volunteer forces shall be mustered out of the service of the United States as soon as practicable after the President shall have issued a proclamation announcing the termination of the war or the passing of the emergency.

SEC. 3. That when volunteer forces are to be raised the President shall issue his proclamation, stating the number of men desired for each arm, corps, and department, within such limits as may be fixed by law, and the Secretary of War shall prescribe such rules and regulations, not inconsistent with the terms of this act, as may be necessary for the purpose of examining, organizing, and receiving into the service the men called for: *Provided*, That the power to organize shall include the power to provide the officers and enlisted men of all grades and classes, including trained nurses, male and female, that may be necessary in the various arms, corps, and departments: *Provided further*, That all enlisted men received into the service in the volunteer forces shall, as far as practicable, be taken from the several States and Territories and the District of Columbia, in proportion to their respective populations: *Provided further*, That when the raising of a volunteer force shall have been authorized by Congress, and after the Organized Militia of any arm or class shall have been called into the service of the United States, volunteers of that particular arm or class may be raised and accepted into said service in accordance with the terms of this act regardless of the extent to which other arms or classes of said militia shall have been called into said service.

SEC. 4. That the volunteer forces shall be subject to the laws, orders, and regulations governing the Regular Army in so far as such laws, orders, and regulations are applicable to officers or enlisted men whose permanent retention in the military service, either on the active list or on the retired list, is not contemplated by existing law; and no distinction shall be made between the Regular Army and the volunteer forces in respect to the conferring upon officers or enlisted men of brevet rank, medals of honor, certificates of merit, or other rewards for distinguished service: *Provided*, That officers of the volunteer forces shall be competent to sit upon courts-martial for the trial of officers and soldiers of the Regular Army and of the National Guard, or Organized Militia, when the latter has been called into the service of the United States; that officers of the Regular Army shall be competent to sit upon courts-martial for the trial of officers and soldiers of the volunteer forces and of the National Guard, or Organized Militia, when the latter has been called into the service of the United States, unless objection be made by the accused, and that no distinction shall be made between the Regular Army and the volunteer forces in respect to the eligibility of any regular or volunteer officer for service in any court of inquiry or military commission: *Provided further*, That the organization of all units of the line and of the signal troops of the volunteer forces shall be the same as that prescribed by law and regulations for the corresponding units of the Regular Army: *Provided further*, That when military conditions so require the President may organize the land forces of the United States into brigades and divisions and such higher units as he may deem necessary, and the composition of units higher than the regiment shall be as he may prescribe: *Provided further*, That to each regiment of infantry, cavalry, and artillery, and to each battalion of engineers and signal troops organized under this act, there shall be attached the same personnel of the Medical Department as are attached to like organizations of the Regular Army: *Provided further*, That the organization of the coast defenses, of machine-gun detachments, establishments of the Medical Department, remount depots, military trains, secret-service agencies, military prisons, lines of communication, including their supply deopts, and of other adjuncts that may be necessary in the prosecution of war, and the organization of which is not otherwise provided for by law, shall be as the President may from time to time direct.

SEC. 5. That the President is authorized, by and with the advice and consent of the Senate, to appoint all officers required by this act, the number and grade of such officers not to exceed the number and grade of like officers provided for a like force of the Regular Army: *Provided*, That all appointments below the grade of brigadier general in the line of the Volunteer forces shall be by commission in an arm of the service and not by commission in any particular regiment; and officers in each arm of the service shall be assigned to regiments and transferred from one regiment to another, as the interests of the service may require, by orders from the Secretary of War: *Provided further*, That no officer above the grade of colonel shall be appointed under the provisions of this act.

SEC. 6. That to provide the staff officers that will be necessary in the various staff corps and departments in time of war or while war is imminent, and that are not otherwise provided for in this act, the President is authorized to appoint, by and with the advice and consent of the Senate, such number of Volunteer staff officers of the proper grades for such corps and departments as he may find necessary: *Provided*, That the total number of such officers so appointed, including all such officers of the National Guard called into the service of the United States, shall not exceed the ratio of 1 officer to 200 enlisted men for all National Guard and Volunteer forces called into the service of the United States: *Provided further*, That the number of officers appointed in each grade in such staff corps and departments shall not exceed in each staff corps or department the proportionate strength of the corresponding grade as established by law for like staff corps and departments of the Regular Army: *Provided further*, That the President may appoint, by and with the advice and consent of the Senate, Volunteer chaplains at the rate of 1 for each regiment of Volunteer Infantry, Cavalry, and Field Artillery, and 1 for every 12 companies of Volunteer Coast Artillery raised, with rank corresponding to that established by law for chaplains in the Regular Army.

SEC. 7. That in appointing the Volunteer officers authorized by this act the President may select them from the Regular Army, from those duly qualified and registered pursuant to section 23 of the act of Congress approved January 21, 1903, from the National Guard of the District of Columbia, and, upon the recommendation of the various governors, from the National Guard of the several States and Territories in proportion, as far as practicable, to their respective populations, and as near as may be from the localities from which the troops were recruited, and from the country at large: *Provided*, That in appointments from the country at large preference shall be given those who have had honorable service in the Regular Army, the National Guard, or the Volunteer forces, or who have been graduates from educational institutions in which military instruction is compulsory: *Provided further*, That at the same time, not to exceed 1 Regular Army officer shall hold a Volunteer commission in any 1 battalion of volunteer engineers or signal troops, or in any 1 battalion of Volunteer Field Artillery; and not to exceed 4 Regular Army officers shall hold commissions in any 1 regiment of Volunteer Cavalry, Field Artillery, or Infantry, or in any 12 companies of Coast Artillery, including their field and staff, at the same time: *And provided further*, That Regular Army

officers appointed as officers of Volunteers under this act shall not thereby vacate their Regular Army commissions or be prejudiced in their relative or lineal standing therein.

SEC. 8. That the temporary vacancies created in any grade not above that of colonel among the commissioned personnel of any arm, staff corps, or department of the Regular Army, through appointments of officers thereof to higher volunteer rank, shall be filled by temporary promotion according to seniority in rank from officers holding commissions in the next lower grade in said arm, staff corps, or department; and all temporary vacancies created in any grade by temporary promotions shall in like manner be filled from, and thus create temporary vacancies in, the next lower grade; and the vacancies that remain thereafter in said arm, staff corps, or department that can not be filled by temporary promotions, as prescribed in this section, may be filled by the temporary appointment of officers of such number and grade or grades as shall maintain said arm, corps, or department at the full commissioned strength authorized by law: *Provided*, That in the staff corps and departments subject to the provisions of sections 26 and 27 of the act of Congress, approved February 2, 1901, and acts amendatory thereto, temporary vacancies that can not be filled by temporary promotions, as hereinbefore prescribed, shall be filled by temporary details made in the manner prescribed in said sections 26 and 27 and acts amendatory thereto, and the resulting temporary vacancies in the branches of the Army from which the details are so made shall be filled as hereinbefore in this section prescribed: *Provided further*, That officers temporarily promoted or appointed under the terms of this section shall be so promoted or appointed by the President, by and with the advice and consent of the Senate, for terms that shall not extend beyond the termination of the war or the passing of the existing emergency as defined by the President's proclamation, whereupon the said officers shall be discharged from the positions held by them under their temporary promotions or appointments, and officers detailed as herein authorized shall be relieved from their temporary details: *Provided, further*, That officers temporarily promoted under the provisions of this section shall not vacate their permanent commissions nor be prejudiced in their lineal or relative standing in the Regular Army.

SEC. 9. That all returns and muster rolls of organizations of the volunteer forces and of militia organizations while in the service of the United States shall be rendered to The Adjutant General of the Army, and upon the muster out of such organizations the records pertinent to them shall be transferred to and filed in The Adjutant General's Office. And regimental and all other medical officers serving with volunteer troops, or with militia organizations in the service of the United States, in the field or elsewhere, shall keep a daily record of all soldiers reported sick or wounded, as shown by the morning calls or reports, and shall deposit such reports, with other reports provided for in this section, in The Adjutant General's Office, as provided for herein for other reports, returns, and muster rolls.

SEC. 10. That in time of war all organizations of the land forces shall be recruited and maintained as near their prescribed strength as practicable. For this purpose the necessary rendezvous and depots shall be established by the Secretary of War for the enlistment and training of all recruits, and in order that officers may be available for recruiting duty the President is authorized, by and with the advice and consent of the Senate, to appoint officers of Volunteers of the proper arm of the service, additional to those elsewhere herein authorized, in number not to exceed at the rate of one major, four captains, five first lieutenants, and five second lieutenants for each organized regiment of Cavalry, Field Artillery, or Infantry, each 3 battalions of Engineers, or each 12 companies of Coast Artillery; that for purposes of instruction and discipline the troops at recruit depots herein authorized may be organized into companies and battalions, at the discretion of the Secretary of War, with noncommissioned officers and privates of such grades and numbers as may be prescribed by the President. The recruit rendezvous and recruit depots herein prescribed shall be under the direct control of the Secretary of War, and shall render their reports and returns to The Adjutant General of the Army: *Provided*, That to maintain the National Guard organizations in the service of the United States at their maximum strength the recruiting rendezvous and depots, in any State or Territory may, at the request of the governor thereof, enlist and train recruits for the National Guard organizations in the service of the United States from that State.

SEC. 11. That, in the organization of the recruiting system, the President is authorized to employ retired officers, noncommissioned officers, and privates of the Regular Army, either with their rank on the retired list or, in the case of enlisted men, with increased noncommissioned rank; or he may, by and with the advice and consent of the Senate, appoint and employ retired officers below the grade of colonel, with increased Volunteer commissioned rank not to exceed one grade above that held by them upon the retired list, or retired enlisted men with Volunteer commissioned rank not above the grade of first lieutenant: *Provided*, That retired officers and enlisted men while thus employed shall not be eligible for transfer to the field units, but shall receive the full pay and allowances of the respective grades in which they are serving, whether Volunteer or Regular, in lieu of their retired pay and allowances: *Provided further*, That upon the termination of this duty or, in case of those given Volunteer rank, upon muster out as Volunteers, the officers and men shall revert to their retired status.

SEC. 12. That, except as otherwise specifically prescribed by law, all officers provided for in this act are subject to such assignments of duty and such transfers as the President may direct: *Provided*, That medical officers of Volunteers when detailed as consulting surgeons shall not exercise command over the hospitals to which they may be assigned for duty, except that by virtue of their commissions they may command all enlisted men: *Provided further*, That medical inspectors shall be detailed for duty with each army, army corps, and division, and for the base and lines of communications, and that no officer shall be detailed for duty as a medical inspector except he be experienced in military sanitation.

SEC. 13. That all officers and enlisted men of the Volunteer forces shall be in all respects on the same footing as to pay, allowances, and pensions as officers and enlisted men of corresponding grades in the Regular Army: *Provided*, That enlisted men in the Quartermaster's Department and Subsistence Department of the Volunteer forces shall receive the same pay and allowances as enlisted men of corresponding grades in the Engineer Corps.

SEC. 14. That the commander of a division or higher military unit is authorized to appoint, from time to time, military boards of not less than three nor more than five officers of the Volunteer forces to examine into the capacity, qualifications, conduct, and efficiency of any commissioned officer of said forces within his command: *Provided*, That each member of the board shall be superior in rank to the officer whose qualifications are to be inquired into: *Provided further*, That if the report of such board is adverse to the continuance of any officer, and if the report be approved by the President, such officer shall be discharged from service in the Volunteer forces, at the discretion of the President, with one month's pay and allowances.

SEC. 15. That the act approved April 22, 1898, entitled "An act to provide for temporarily increasing the military establishment of the United States in time of war, and for other purposes," is hereby repealed, and all other laws or parts of laws inconsistent with the provisions of this act are, to the extent of such inconsistency only, hereby repealed.

MILITIA AND VOLUNTEERS AND METHODS OF APPOINTING THEIR OFFICERS.

Memorandum submitted by Senator DE POST to the Senate Committee on Military Affairs concerning the bill (S. 2518) for raising the volunteer forces of the United States in time of actual or threatened war.

The land forces of the United States are divided into three separate and distinct classes, consisting—

(a) Of the Regular Army, which is the military establishment maintained during both peace and war, under the provisions of Article 1, section 8, of the Constitution, giving Congress power to raise and support armies and to make rules for the government and regulation of the same.

(b) Of the militia of the different States and Territories and of the District of Columbia, when called into the service of the United States, under the provisions of Article 1, section 8, of the Constitution, giving Congress power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

(c) Of such volunteer forces as Congress shall authorize to be raised, under the provisions of Article 1, section 8, of the Constitution, giving Congress power to raise and support armies and to make rules for the government and regulation of the same.

MILITIA.

Under the acts of Congress approved May 8, 1792, July 17, 1862, and March 2, 1887, the militia of the different States, Territories, and District of Columbia is composed of all able-bodied citizens between the ages of 18 and 45; but under the provisions of the act of Congress approved January 21, 1903, known as the Dick law, and amendments thereto, the militia, as above constituted, is classified under two heads:

First. The Organized Militia, often styled the National Guard, consisting of officers commissioned by the governors of the respective States and Territories and in the District of Columbia by the President and of enlisted men who have engaged to serve for such specified periods as may be determined by the laws of the different States and Territories. In the District of Columbia these periods are determined by the United States statutes.

Second. The reserve militia, consisting of the whole body of the militia not regularly enlisted, organized, and uniformed.

The governors have power to call out the militia for service within their respective States and Territories, and Congress has power, under section 8, Article 1, of the Constitution, to call out the militia of the respective States and Territories to execute the laws of the Union, suppress insurrections, and repel invasions.

Congress, by the statute of 1795, made it lawful for the President to call out such numbers of the militia as he may deem necessary, and when properly mustered into the United States service such numbers as may be called out become a part of the land forces of the United States. It is evident, however, that it is not practicable for the President to call out such portions of the militia as do not possess a military organization. While the President has authority to determine the period for which the militia is to be called into the service of the United States, under the statutes he can not detain any officer or enlisted man beyond the term of his existing State commission or enlistment; and, except in the case of the militia of the District of Columbia, he can not make any appointments or promotions of commissioned officers of the Organized Militia of the States and Territories when called into the service of the United States, the authority to make such appointments being expressly reserved to the respective States under section 8 of Article 1 of the Constitution and given by statute to the governors of Territories.

VOLUNTEERS.

In general terms the word "volunteer" applies to a man who voluntarily engages in the military service of the United States, or of some particular State or Territory, and differentiates him from a man who is drafted compulsorily into the military service—a power which Congress has the right to exercise and did exercise during the Civil War. In this sense the term "volunteer" is just as much applicable to the officers and enlisted men of the Regular Army as to the officers and enlisted men of the so-called volunteer troops. It is equally applicable to the Organized Militia, so far as concerns their relations to their respective States and Territories, but when called into the national service by the President they are in no sense Volunteers so far as the United States is concerned.

To avoid confusion, it should be noted that the term "volunteers," as applied technically to one of the three classes into which our land forces are divided, is used in a special or restricted sense and includes only the troops which have been raised and maintained for limited periods under authority of Congress as adjuncts to the Regular Army in times of actual or threatened war or other emergency.

So far as the constitutional authority for their creation is concerned, the regular and the so-called volunteer forces are upon an identical footing, but are differentiated by the fact that the former are permanent and the latter temporary.

The term "volunteers," as applied to military organizations, appears for the first time in the act of May 28, 1798, which empowered the President to accept any company or companies of Volunteers who might associate and offer themselves for the service. This act authorized the President to appoint the commissioned officers of such company or companies, and the act of June 22, 1798, empowered him to organize the companies into legions, regiments, or battalions, and to appoint field officers for the same.

It will be noted that as the States or Territories are not mentioned in the act of May, 1798, the companies of Volunteers to be raised under its provisions were not in any sense State organizations, but could be taken from the country at large.

Volunteers are next mentioned in the act of March 2, 1799, which empowered the President to accept 28 regiments of such troops to be

employed in the same manner as the militia, and to appoint, by and with the advice and consent of the Senate, the volunteer field officers.

In 1803, when difficulties arose with Spain, the President was authorized by the act of March 3 of that year to require the executives of such of the States as he might deem expedient to organize, arm, equip, and hold in readiness to march at a moment's warning, detachments of militia, not exceeding in all 80,000 men; and the second section of this statute gave the President power to authorize the State executives to accept as part of such detachments any corps of Volunteers, the officers of whom were to be appointed by the State authorities.

The acts of February 24, 1807, and March 30, 1808, when trouble was anticipated with England, were practically repetitions of the statute of 1803, except that the number of men to be called out were not to exceed 30,000 and 100,000, respectively, including corps of Volunteers.

The act of February 6, 1812, was largely a reenactment of the statute of 1807, except that the number of Volunteers was not to exceed 50,000 men; but the act of July 6 of the same year repealed this statute so far as the appointment of officers was concerned and empowered the President to appoint and commission them, by and with the advice and consent of the Senate.

The act of February 24, 1814, reenacted the legislation of 1812, except that the President was authorized to receive such proportion of Volunteers "as in his judgment the public service may require," who were to serve for five years, or during the war; and about a month later the act of March 30, 1814, empowered the President, by and with the advice and consent of the Senate, to make all necessary appointments of officers and to fill all vacancies. During the following year there was still further legislation in regard to Volunteers. Sections 3 and 4 of the act approved January 27, 1815, empowered the President to receive into the service of the United States any Volunteers who might offer their services, not to exceed 40,000 men, and required that the officers should be commissioned by the President.

Passing now to the Florida War, the act of May 23, 1836, authorized the President to accept the services of not exceeding 10,000 Volunteers, the officers to be appointed in the manner prescribed by law in the several States and Territories to which such Volunteers belonged, and practically the same legislation was reenacted on March 3, 1839, when 50,000 Volunteers were authorized at the time of the dispute with Great Britain in regard to the Maine boundary line, and again on May 13, 1846, at the beginning of the Mexican War, 50,000 Volunteers were likewise authorized. It is to be observed, however, that the act of March 3, 1847, empowered the President to organize the Volunteers who might reenlist into companies, battalions, and regiments, and to commission the officers of the same.

During the act of April 7, 1858, a regiment of Volunteers was organized for the defense and protection of the Texas frontier, and two regiments to quell the disturbances in Utah, the officers of the three regiments to be appointed in the manner prescribed by law in the several States and Territories, except the regimental quartermasters and commissaries, who were detailed from the Regular Army.

During the Civil War the first legislation in regard to volunteers, enacted on the 22d of July, 1861, made a radical departure from either of the previous methods of appointing volunteer officers, inasmuch as it provided that the company officers were to be elected by the men and the field officers by the company officers. But the act of the 6th of August following rescinded this and prescribed that the vacancies among the commissioned officers of volunteer regiments were to be filled by the State governors.

Under the act of July 17, 1862, colored troops were first organized in South Carolina and Louisiana, and later in many other places to the number of nearly 100,000 men. While the officers in most instances were not named directly by the President, they were appointed, after passing careful examinations, by The Adjutant General and other officials under his authority.

On April 28, 1863, an invalid corps was organized for garrison duty, made up of officers and enlisted men who had been wounded or otherwise disabled for active field service, the officers, after passing satisfactory examinations, being appointed by the President, by and with the advice and consent of the Senate. About the same time six regiments and one company of United States Volunteers were organized, the officers being all appointed by the Secretary of War after passing examinations; and on the 20th of May, 1864, a regiment of veteran volunteer engineers was raised in the Army of the Cumberland, the officers being appointed by the President upon the recommendation of the commander of the Army of the Cumberland.

The last act relating to volunteers during the Civil War was that of November 28, 1864, which created a new Volunteer Army corps, consisting of not less than 20,000 men and known as the United States Veteran Volunteers, the officers being appointed by the Secretary of War after rigid examination.

The first legislation in regard to volunteers passed during the Spanish War was that of April 22, 1898, which gave the appointment of all regimental and company officers to the governors of the States in which their respective organizations were raised, except that the President was authorized to organize not exceeding 3,000 men possessing special qualifications, and to appoint the officers of the same. The act of May 11 of that year provided for a volunteer brigade of engineers and a force of 10,000 immunes, all of the officers to be appointed by the President, with the consent of the Senate.

The latest legislation on the statute books in regard to volunteers is that of March 2, 1899, which authorized the raising from the country at large of a force not exceeding 35,000 men for service in the Philippine insurrection, and provided that the officers should be appointed by the President, by and with the advice and consent of the Senate. It is admitted by all that the troops mustered into the service under the provisions of this act became the best disciplined and best instructed, and were therefore the most efficient and most economical body of volunteers that have ever formed a part of our national land forces.

It will be seen from the foregoing that there has been no uniform rule in the method of appointing officers of the volunteer forces, and that the legislation has often conferred this power wholly or in part upon the President, while at other times it has been vested in the governors of the States and Territories.

In all but two States of the Union militia officers below the rank of major are elected by the men and the field officers by the company officers. When the appointment of volunteer officers has been left to the State and Territorial executives, the usual practice has been—and particularly during the Spanish War—to make nearly all such appointments, and promotions as well, on analogous lines, the practical result being that the volunteer officers are elected by those whom they are to command. It is needless to point out that the appointment and promotion of officers on these lines is not only wholly wrong in principle but most pernicious in results, radically affecting, as it does, the discipline and efficiency of the troops and enormously increasing the expense to the Government by making it necessary to employ at least twice as large a number in order to secure the same result. In defense of this bad system it is claimed that the men would come forward more readily and in greater numbers, but when we consider the vast population from which the Volunteers can be drawn it is believed that this argument has but little weight. Within three months after the declaration of war with Spain no less than 56,258 men had enlisted in the Regular Army. If in 1898 such a large number of men were willing to enlist in the Regular Army, with its reputation for strict discipline and where the men have no voice whatever in the selection of their officers, should another war occur it would seem reasonable to suppose (taking into consideration the large increase of our population) that the necessary men would be forthcoming for the volunteer regiments, even if the appointment of the officers were vested in the President. As a matter of fact, in 1899, although the climate was very hot and unhealthy and the seat of war was at the other end of the world, there was no difficulty whatever experienced in raising from the country at large 35,000 Volunteers for service in the Philippines, the officers being all appointed by the President.

Even if the contention above referred to were true, it is submitted that, in the judgment of all military experts, volunteer troops in which the officers are elected by those under them would not be as efficient as a much lesser number organized under the system proposed in the bill, under which the President appoints the officers subject to the restrictions and limitations therein contained, and this, too, with an immense diminution in the expense of the war.

APPENDIX II.

Organization of Field Artillery—Organization of the ammunition service of divisions and armies.

The proposed organization of the Field Artillery is:

For each division:

1 regiment of 3 battalions:	
1 battalion of 3 batteries of four 3-inch guns	12
1 battalion of 3 batteries of four 3-inch guns	12
1 battalion of 2 batteries of four 3.8-inch howitzers	8
1 regiment of 3 battalions:	
1 battalion of 3 batteries of four 3-inch guns	12
1 battalion of 3 batteries of four 3-inch guns	12
1 battalion of 2 batteries of four 4.7-inch howitzers	8
1 ammunition column of 2 battalions.	

For each field army in addition to the divisional Artillery:

1 regiment of 2 battalions:	
1 battalion of 2 batteries of four 4.7-inch guns	8
1 battalion of 2 batteries of four 6-inch howitzers	8
1 ammunition column of 1 battalion.	

For each Cavalry division:

1 regiment of 3 battalions of 2 batteries of four guns each, caliber 3-inch	24
1 ammunition column of 1 battalion.	

The normal organization to be prescribed for the Field Artillery pertaining to divisions and field armies is complicated by the facts that several different calibers must be provided; that they must be provided in proper proportion, and that the various calibers must be grouped in organizations best adapted to employment in war and training in peace.

The choice of the proper organization for the divisional Artillery affords the principal difficulty. For the total number of Infantry and Cavalry in the division it is estimated that the total number of field pieces to be provided is about 60. It is regarded as necessary to have a certain number of howitzers included in this number, and it is regarded as desirable for purposes of training in peace and employment in war to group the various elements in definite regimental organizations.

After study of various combinations, the solution proposed above is regarded as best meeting the needs of our service. Each regiment is given a fair proportion of howitzers, and no more. With its three battalions—2 gun and 1 howitzer—the regiment is capable of meeting a variety of requirements in war and is well adapted to illustrating the varied uses of artillery during combined instruction with the other arms in the various parts of the country in time of peace. Each division is provided with a reduced number of both types of the fairly mobile howitzers (3.8-inch and 4.7-inch). This distribution is preferred to that of assigning one particular type to each division, since it may be impossible to foretell which division of a field army will need certain types most. It is, indeed, quite possible that all divisions, when deployed, will have use for a limited number of howitzers of both types.

The organization proposed for the horse Artillery is adapted to providing a two-battery battalion for each Cavalry brigade, which is believed to be the proper quota. If desirable, the third battery in each battalion may form the nucleus for ammunition service.

As for the Army Artillery, two batteries of 4.7-inch guns and two batteries of 6-inch howitzers are regarded as the proper quota for the normal type field army of three divisions. The third battery in each battalion may similarly be utilized as the nucleus of the ammunition service.

The strength and composition of batteries, battalions, and regiments of Field Artillery are determined by the characteristics of the particular types to be served, and hence it is not possible to provide a homogeneous organization. The organization as prescribed in legal enactments should hence be flexible, so as to permit varying the types assigned for any particular service to meet the requirements of the case and so as to permit a gradual evolution in normal organization as our experience with the various types and calibers of guns becomes more extensive. The law covering the organization of Field Artillery should accordingly be worded so as to indicate the maximum number of brigades, regiments, and ammunition battalions allowable, the maximum number of battalions and batteries in each, and the maximum strength of each unit, and leave it to the President to fix within this limit the strength of regiments, battalions, and batteries.

The existing law permits the desired flexibility, with the exception that it fixes the minimum strength. If the law prescribed the maximum strength of a regiment of Field Artillery as three battalions of three batteries each and indicated only the total maximum number of officers and enlisted men, then the President could vary the organization of any particular regiment to meet the needs of service.

AMMUNITION SERVICE.

The proposed organization of the divisional ammunition service is as follows:

	Officers.	Veterinarians.	Men.	Vehicles.	Animals.
First Battalion:					
Staff	2	1	9		12
Gun ammunition company	3		149	27	182
Howitzer ammunition company	3		163	28	211
Infantry ammunition company	4		145	59	266
Total	12	1	466	114	671
Second Battalion:					
Staff	2	1	9		12
Artillery train company	5		181	56	345
Infantry train company	4		145	59	296
Total	11	1	335	115	653
Divisional ammunition service:					
Staff	2	1	8		11
Grand total	25	3	809	229	1,335

Staff of an ammunition or train battalion:

1 major.
1 lieutenant.
1 veterinarian.
1 sergeant major.
3 sergeants, } agents and scouts.
3 corporals, }
2 privates (horseholders and orderlies).

Staff of headquarters divisional ammunition service:

1 colonel or lieutenant colonel.
1 lieutenant.
1 veterinarian.
3 sergeants, } agents and scouts.
3 corporals, }
2 privates (horseholders and orderlies).

The complement proposed for the Army ammunition service is a battalion of two batteries; the staff of the battalion to be similar to that of a divisional ammunition battalion; the strength of each company to be the same as that of the howitzer ammunition company given above.

If it is deemed desirable to provide a separate ammunition service for the Cavalry division, the complement for this duty should comprise a battalion of three companies each having the strength of the gun-ammunition company given above.

For economic reasons it is not considered desirable to maintain complete ammunition organizations in time of peace. A peace nucleus must be provided and all plans carefully worked out for securing the personnel necessary for passing to the war basis. To organize at once an effective service there must be a proper reserve system.

For the divisional ammunition service, a lieutenant colonel of one of the Artillery regiments should be designated as chief of the service and should be charged, in peace, with the detailed preparations for passing to the enlarged war footing. The third batteries of the two howitzer battalions of the division should constitute the nucleus of the ammunition service. All the officers and a limited number of enlisted men of these batteries should be maintained in peace; they may be employed on militia or other duty, but should be assembled at maneuver camps periodically for practicing, on a reduced basis, their appropriate duties in the ammunition service. On mobilization, the captains of these two skeleton batteries should be given temporary commissions as majors; the six lieutenants should be given temporary commissions as captains. A major would thus be provided to command each battalion, and captains would be provided to command the three companies of the first battalion and the two companies of the second battalion. The extra captain would be staff officer for the lieutenant colonel. The remainder of the officers would be reserve officers, designated in time of peace for their particular positions. There should be enough enlisted men in the two skeletonized howitzer batteries to provide a staff sergeant for the lieutenant colonel and each of the two majors and at least six noncommissioned officers for each ammunition or train company, thus making a total of 33 men for the two companies.

An effort should be made to enroll reservists and volunteers in the particular district in which the division is serving to make up the remainder of the enlisted strength.

For the Army ammunition service the lieutenant colonel of the Heavy Artillery regiment should command the battalion, and the skeletonized batteries should have, on the peace basis, a nucleus of officers and men.

Similar arrangements may be made for the ammunition service of a Cavalry division.

DETAILS OF DIVISIONAL SERVICE.

FIELD ARTILLERY.

The experience of recent wars seems to indicate that for the light field piece (3-inch) there must be maintained on wheels, in front of the advance supply depot, approximately 500 rounds per gun.

The supply to be thus maintained for the howitzer and other heavier calibers is not so well established. In an important engagement their expenditure will be great also, but as each wheeled vehicle can carry but a very limited number of these heavier projectiles, and the number of such vehicles must be kept down to the very minimum in order to reduce length of trains, it is evidently impracticable to keep anything like 500 pounds per gun on wheels for these calibers. Similarly, the number to be so maintained on pack mules for the mountain howitzers must be less than 500.

The number to be maintained on wheels or packs for the different calibers is estimated as follows:

	Rounds.
For the 3-inch rifle	464
For the 3-inch mountain howitzer	290
For the 3.8-inch howitzer	312
For the 4.7-inch howitzer	180

As for the distribution of the foregoing ammunition, the best practice seems to be to keep with the guns and their combat trains a number sufficiently large to give them a reasonable insurance against exhaustion of ammunition before resupply commences and to keep in the ammunition column the remaining amount as a rolling reserve to be served out to the various battalions and batteries in accordance with their expenditures.

On the basis of 3 caissons or 17 pack mules per gun the following are the amounts to be kept with the guns and their combat trains:

	Rounds per gun.
For the 3-inch gun	558
For the 3-inch mountain howitzer	170
For the 3.8-inch howitzer	168
For the 4.7-inch howitzer	90

The following, then, remain to be carried in the ammunition columns:

	Rounds per gun.
For the 3-inch gun	106
For the 3-inch mountain howitzer	120
For the 3.8-inch howitzer	144
For the 4.7-inch howitzer	90

Such being the amounts of ammunition to be carried by the divisional ammunition column, we may decide what the composition and organization of this column should be.

The function of the column is to receive ammunition from the line of communication troops and transfer it to the combat trains of the batteries. The distance to be covered in making this transfer may vary very considerably. The average distance to be traversed may be assumed as one-half day's march; this on the assumption that the advance supply depot will be located one day's march in rear of the combatant troops and that the line of communication troops will feed subdepots for each division a half day's march farther on. A day's march may be taken as 18 miles; hence we have 9 miles as the distance the division train will have to cover on the above hypothesis. If the distance is greater or less than this, the amount of ammunition that can be delivered at the front each day will be proportionately diminished or increased.

The routes to be followed in transporting ammunition by the divisional train may be illustrated graphically as shown in the following diagram:

[Diagram omitted in RECORD. See report on the organization of the land forces of the United States.]

The first portion of the travel from the divisional subbase toward the front will be on some already existing road, or on one which will have to be immediately blazed out for all the divisional supply trains. On approaching the combatant troops, however, some point on this route will have to be selected from which elements of the column can be sent to the different combat trains. This point may be termed "the distributing point." From here the vehicles will have to move often across country to reach the vicinity of the combat trains. Each element will move up to a convenient point to which empty caissons from the combat trains may be sent to be refilled. It may be assumed that these points are ordinarily about 1 mile in rear of the fighting line, and that the distance to be covered from distributing point will be 3 or 4 miles.

The procedure above outlined seems to be the one that would naturally be followed in the average case. It suggests two things as to the organization and composition of the divisional train:

1. That the train should be divided into two échelons: The first to have the duty of transporting ammunition from the distributing point to the various combat trains; the second to have the duty of bringing ammunition up to the road to the distributing point.

2. That ammunition should be carried in caissons in the first échelon, since all sorts of country may have to be negotiated; while for the second échelon Army wagons or motor trucks should be used, inasmuch as a great saving in men, animals, and length of train is thus insured, and inasmuch as wagons or trucks would be entirely suitable for the work to be done.

The foregoing may be accepted as fundamental considerations determining the organization of division trains. Both échelons should be capable of ready subdivision so that full subdivisions may be moving to the front while empty ones are moving to the rear to be filled. When the line occupied by the division is very extended, it may be desirable at times to split the leading échelon in two and send each part to establish a distributing point for supplying its part of the line.

The second échelon should have a section comprising the reserve of men, horses, matériel, and equipment and also the personnel and equipment for making minor repairs.

Reverting now to the amount of ammunition to be carried by the divisional ammunition column and accepting the fact that, so far as practicable, the total amount should be about equally divided between the two échelons, we have the following:

	First échelon.	Second échelon.
3-inch gun	53	53
3-inch mountain howitzer	40	80
3.8-inch howitzer	72	72
4.7-inch howitzer	45	45

From these figures we may now deduce the number of caissons, wagons, and packs to carry the amount of ammunition required in each échelon of the divisional ammunition column:

	First échelon—caissons or packs.	Second échelon—wagons.
3-inch gun	24	25
3-inch mountain howitzer	144	25
3.8-inch howitzer	12	10
4.7-inch howitzer	12	13

It thus appears that the first échelon of a divisional ammunition column must have—

Twenty-four caissons for 3-inch ammunition.
Twelve caissons for 3.8-inch ammunition.
Twelve caissons for 4.7-inch ammunition.

It is proposed to organize these into a gun ammunition company of 24 caissons and a howitzer ammunition company of 24 caissons, each as shown in tables appended hereto.

The second échelon requires 25 wagons for 3-inch, 10 for 3.8-inch, and 13 for 4.7-inch ammunition, or a total of 48 wagons.

It is proposed to organize these into an Artillery train company, as shown in table herewith. If it is found that motor trucks can be substituted for wagons, then the number of vehicles will be reduced and the personnel will be correspondingly reduced. Attached to the second échelon is the reserve section, comprising spare men, animals, matériel, and repair outfits.

If mountain guns are assigned to a division, the composition of the ammunition trains will depend upon whether these guns constitute the only guns of the division or are only a portion of the divisional artillery. The mountain ammunition company shown in the table attached will transport 40 rounds per gun for 36 guns, or 60 per gun for 24 guns. One company will suffice if only one regiment of the Artillery brigade is armed with mountain guns, but two must be taken if both regiments are so armed. If battalions of other calibers are present, suitable sections of their ammunition columns must be taken. The figures in tables just above are computed on the assumption that one full regiment of 36 guns accompanies the division. In such a case the other Artillery ammunition company would serve the ammunition for other calibers.

INFANTRY AND CAVALRY AMMUNITION.

The amount of ammunition to be carried per Infantry and Cavalry rifle is as follows:

Ninety rounds per rifle with each man.
One hundred and twenty rounds per rifle in combat trains.
One hundred and twenty rounds per rifle in divisional trains.

	Men.
In a division there will be 9 regiments of Infantry of approximately 2,000 men each, or	18,000
One regiment of Cavalry of 1,200 men	1,200
Making a grand total of	19,200

Multiply by 120=2,304,000 rounds=number of rounds in divisional train.

For the machine guns it is estimated that there should be 17,500 rounds per gun with the mobile troops; 4,500 rounds per gun are to be carried with the new machine-gun equipment, thus leaving about 12,000 rounds to be carried in divisional train. There are 6 machine guns for each of the 10 regiments of Infantry and Cavalry, or 60 guns. For these we must have 720,000 rounds. Hence, we have for the total in the divisional train 2,304,000+720,000=3,024,000 rounds.

To carry this amount and the necessary revolver ammunition we require 104 wagons for ammunition proper and 4 for other stores, or 108 in all.

It is proposed to organize these into: An Infantry ammunition company of 54 wagons for the first echelon; an Infantry train company of 54 wagons for the second echelon; the details of organization to be as shown in tables herewith.

SUMMARY OF DIVISIONAL SERVICE.

According to the foregoing analysis, the divisional ammunition service comprises:

First battalion:
1 gun ammunition company.
1 howitzer ammunition company.
1 Infantry ammunition company.

Second battalion:
1 Artillery train company.
1 Infantry train company.

Each of these battalions should be commanded by a major, the battalion staff being as shown in table herewith.

A lieutenant colonel should be in charge of the entire divisional ammunition service, his function being to carry out the orders of the division commander as to resupply of ammunition and to coordinate the workings of all the different elements.

ARMY AMMUNITION SERVICE.

The amount of ammunition to be maintained on wheels for the eight 4.7-inch guns and the eight 6-inch howitzers of the Army Artillery should be:

	Rounds per gun.
4.7-inch guns	336
6-inch howitzers	168

The amounts carried in the combat train are:

4.7-inch guns	168
6-inch howitzers	84

thus leaving for the ammunition column:

4.7-inch guns	168
6-inch howitzers	84

For these heavy calibers it is considered that there should be in the Army ammunition column 3 caissons per gun; the first echelon to comprise 1½ caissons per gun (that is, 24 caissons in all), drawn by horses; the second echelon to comprise 1½ caissons per gun (that is, 24 in all), drawn by horses or motors.

Gun ammunition company.

	Battery staff.	First platoon.			Second platoon.			Supply.	Total.
		First.	Second.	Third.	First.	Second.	Third.		
Captain									
Lieutenant	1								1
		1							1
Total commissioned	1	1			1				2
First sergeant					1				3
Quartermaster sergeant	1								1
Stable sergeant									1
Sergeants								1	1
Corporals		1						1	1
Horseshoers	2	1	1	1	1			1	3
Mechanics					1	1	1		3
Trumpeters								3	3
Cooks	2							2	2
Privates, drivers									2
Privates, cannoneers		12	12	12	12	12	12	3	3
Wagoners		8	8	8	8	8	8	3	75
Total enlisted	5	22	21	21	22	21	21	16	149
Caissons, 3-inch		4	4	4	4	4	4		24
Battery wagon								1	1
Field wagon								2	2
Total vehicles		4	4	4	4	4	4	3	27
Horses, draft		24	24	24	24	24	24	6	150
Horses, riding	6	3	1	1	3	1	1	8	24
Mules								8	8
Total animals	6	27	25	25	27	25	25	22	182

Howitzer ammunition company.

	Battery staff.	First platoon.			Second platoon.			Supply.	Total.
		First section.	Second section.	Third section.	First section.	Second section.	Third section.		
Captain									
Lieutenants	1								1
		1			1				2
Total commissioned	1	1			1				3
First sergeant	1								1
Quartermaster sergeant									1
Stable sergeant								1	1
Sergeants		1			1			1	1
Corporals	2	1	1	1	1	1	1	1	3
Horseshoers									8
Trumpeters								4	4
Musicians	2							2	2
Cooks									2
Privates:								3	3
Drivers		12	12	12	16	16	16	3	87
Cannoneers		8	8	8	8	8	8		48
Wagoners								3	3
Total enlisted	5	22	21	21	26	25	25	18	163

Howitzer ammunition company—Continued.

	Battery staff.	First platoon.			Second platoon.			Supply.	Total.
		First section.	Second section.	Third section.	First section.	Second section.	Third section.		
Caissons:									
3.8-inch		4	4	4					12
4.7-inch					4	4	4		12
Battery wagon								1	1
Field wagon								3	3
Total vehicles		4	4	4	4	4	4	4	28
Horses:									
Draft	6	24	24	24	32	32	32	6	174
Riding		3	1	1	3	1	1	9	23
Mules								12	12
Total animals	6	27	25	25	35	33	33	27	211

Mountain ammunition company.

	Battery staff.	First platoon.			Second platoon.			Supply.	Total.
		First.	Second.	Third.	First.	Second.	Third.		
Captain	1								1
Lieutenants		1			1				2
Total commissioned	1	1			1				3
First sergeant	1								1
Quartermaster sergeant								1	1
Stable sergeant								1	1
Sergeants		1			1			1	3
Corporals	2	1	1	1	1	1	1		8
Horseshoers								4	4
Mechanics								2	2
Trumpeters	2								2
Cooks								3	3
Packers		6	6	6	6	6	6	5	41
Packmaster								1	1
Cargador								1	1
Total enlisted	5	8	7	7	8	7	7	19	68
Packs:									
Ammunition		24	24	24	24	24	24		144
Forage and stores								4	4
Supply and kit								20	20
Total packs		24	24	24	24	24	24	24	168
Mules:									
Pack		24	24	24	24	24	24	24	168
Riding		6	6	6	6	6	6	16	52
Horses	6	3	1	1	3	1	1	3	19
Total animals	6	33	31	31	33	31	31	43	239

Artillery train company.

	Battery staff.	First platoon.			Second platoon.			Third platoon.			Reserve and supply.	Total.
		First section.	Second section.	Third section.	First section.	Second section.	Third section.	First section.	Second section.	Third section.		
Captain	1											1
Lieutenants		1			1			1			1	4
Total commissioned	1	1			1			1			1	5
First sergeant	1											1
Quartermaster sergeant											1	1
Stable sergeant											1	1
Sergeants		1			1			1			4	7
Corporals	2	1	1	1	1	1	1	1	1	1	5	16
Chief mechanic											1	1
Horseshoer											6	6
Mechanics											4	4
Trumpeters	2											2
Cooks											3	3
Drivers		9	8	8	4	3	3	5	4	4	31	79
Spare men											60	60
Total enlisted	5	11	9	9	6	4	4	7	5	5	116	181
3-inch wagons		9	8	8								25
3.8-inch wagons					4	3	3					10
4.7-inch wagons								5	4	4		13
Battery wagons											2	2
Store wagons											6	6
3-inch guns and limbers											1	1
Supply wagons											4	4
Total vehicles		9	8	8	4	3	3	5	4	4	13	61
Mules, draft		36	32	32	16	12	12	20	16	16	16	208
Horses:												
Draft											54	54
Riding	6	3	1	1	3	1	1	3	1	1	22	43
Spare horses											20	20
Spare mules											20	20
Total animals	6	39	33	33	19	13	13	23	17	17	132	345

Infantry ammunition or train company.

	Battery staff.	First platoon.			Second platoon.			Third platoon.			Reserve and supply.	Total.
		First section.	Second section.	Third section.	First section.	Second section.	Third section.	First section.	Second section.	Third section.		
Captain	1											1
Lieutenants		1			1			1				3
Total commissioned	1	1			1			1				4
First sergeant	1											1
Quartermaster sergeant											1	1
Stable sergeant											1	1
Sergeants		1			1						1	4
Corporals	2	1	1	1	1	1	1	1	1	1		11
Horseshoers											5	5
Mechanics											2	2
Trumpeters	2											2
Cooks											3	3
Privates, drivers		6	6	6	6	6	6	6	6	6	7	61
Spare men											54	54
Total enlisted	5	8	7	7	8	7	7	8	7	7	74	145
Wagons		6	6	6	6	6	6	6	6	6		54
Battery wagon											1	1
Field wagons											4	4
Total vehicles		6	6	6	6	6	6	6	6	6	5	59
Mules, draft		24	24	24	24	24	24	24	24	24	16	232
Horses:												
Draft											3	3
Riding	6	3	1	1	3	1	1	3	1	1	10	31
Total animals	6	27	25	25	27	25	25	27	25	25	29	266

An infantry train company has 50 spare mules in addition to the strength given above.

APPENDIX III.

DEPARTMENT OF JUSTICE,
Washington, February 17, 1912.

The SECRETARY OF WAR.

SIR: I have the honor to respond to your note of the 8th instant, in which you ask my opinion upon the following question:

"Whether or not, under existing laws, the President has authority to call forth the Organized Militia of the States and send it into a foreign country with the Regular Army as a part of an army of occupation, especially should the United States intervene in the affairs of such country under conditions short of actual warfare?"

From very early times, in both England and this country, the militia has always been considered and treated as a military body quite distinct and different from the Regular or Standing Army, governed by different laws and rules, and equally different as to the time, place, or occasion of its service. One of the most notable points of difference is this: While the latter was in the continued service of the Government and might be called into active service at all times and in all places where armed force is required, for any purpose, the militia could be called into the actual service of the Government only in a few special cases provided for by law. Their service has always been considered as of a rather domestic character, for the protection and defense of their own country and the enforcement of its laws.

This has always been the English doctrine, and in some instances acts of Parliament have expressly forbidden the use of the militia outside of the Kingdom.

Our ancestors who framed and adopted our Constitution and early laws got their ideas of a militia, its nature, and purposes from this, and must be taken to have intended substantially the same military body, with the same limitations of the occasion and nature of their service. If they had intended to enlarge this, they would have said so, just as they have when they intended to further limit or restrict the occasion or nature of their service.

When the Constitution gives to Congress the power "to raise and support armies" and to provide "for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions" and makes the President "the commander in chief of the Army and Navy of the United States and the militia of the several States when called into the actual service of the United States," it is speaking of two different bodies—the one the Regular Army, in the continuous service of the Government, and liable to be called into active service at any time or in any place where armed force is required; and the other a body for domestic service and liable to be called into the service of the Government only upon the particular occasions named in the Constitution. And acts of Congress relating to the Army and the militia must have the same construction.

It is certain that it is only upon one or more of these three occasions—when it is necessary to suppress insurrections, repel invasions, or to execute the laws of the United States—that even Congress can call this militia into the service of the United States or authorize it to be done.

As "insurrection" is necessarily internal and domestic, within the territorial limits of the Nation, this portion of the sentence can afford no warrant for sending the militia to suppress it elsewhere. And even if an insurrection of our own citizens were set on foot and threateningly maintained in a foreign jurisdiction and upon our border, to send an armed force there to suppress it would be an act of war which the President can not rightfully do.

The term "to repel invasion" may be, in some respects, more elastic in its meaning. Thus, if the militia were called into the service of the General Government to repel an invasion it would not be necessary to discontinue their use at the boundary line, but they might (within certain limits, at least) pursue and capture the invading force, even beyond that line; and just as the Regular Army might be used for that purpose. This may well be held to be within the meaning of the term "to repel invasion."

Then, too, if an armed force were assembled upon our border, so near and under circumstances which plainly indicated hostility and an intended invasion, this Government might attack and capture or defeat such forces, using either the Regular Army or the militia for that purpose. This, also, would be but one of the ways of repelling an invasion.

But this is quite different from and affords no warrant for sending the militia into a foreign country in time of peace and when no invasion is made or threatened.

The only remaining occasion for calling out the militia is "to execute the laws of the Union." But this certainly means to execute such laws where, and only where, they are in force and can be executed or enforced. The Constitution or laws of the United States have no extraterritorial force, and can not be compulsorily executed beyond or outside of the territorial limits of the United States.

It is true that treaties made in pursuance of the Constitution are, equally with acts of Congress, the supreme law of the land; but their observance, outside of our own jurisdiction, can not be enforced in the same way. The observance and performance, outside of our own jurisdiction, of treaty stipulations and obligations are left much to the honor, good faith, and comity of the other contracting party, rarely enforced at times by a regard for the consequences of a breach. We can not send either the Regular Army or the militia into a foreign country to execute such treaties or our laws. Such an invasion of a foreign country would be an act of war.

Outside of our own limits "the laws of the Union" are not executed by armed force, either regular or militia.

The Constitution had already given to Congress the unlimited power to declare war at any time and for whatever cause it chose. It did not, in this provision, attempt the useless thing of giving to Congress an additional power to declare war, or to afford an additional ground for doing so.

What is certainly meant by this provision is that Congress shall have power to call out the militia in aid of the civil power for the peaceful execution of the laws of the Union, wherever such laws are in force, and may be compulsorily executed, much as a sheriff may call upon the posse comitatus to peacefully disperse a riot or execute the laws.

Under our Constitution, as it has been uniformly construed from the first, the military is subordinate and subservient to the civil power, and it can be called upon to execute the laws of the Union only in aid of the civil power, and where the civil power has jurisdiction of such enforcement. Even the Regular Army can be thus called upon only on such occasions; and, certainly, the militia can not be thus called upon at any other.

Then, as the civil power is without force in a foreign country, and as even the Regular Army can not be sent into another country to there execute the laws of the Union, it follows that the Constitution confers no power to send the militia into a foreign country for the purpose stated in the question here considered. On the contrary, by its specific enumeration of the only occasions for calling out the militia, it clearly forbids this.

In all this I am not unmindful that nations sometimes do make hostile demonstrations and use armed force to compel the observance by another nation of its treaty obligations and sometimes send armed forces into another country to protect the lives and rights of its own citizens there.

I shall briefly notice these in their application to our own country, its Constitution, and laws. It will be observed, and as controlling and conclusive of the present question, that in case of a hostile demonstration against or a forcible attack upon another nation to enforce its treaty obligations or to punish their infraction there is no question involved of executing the laws of the invading nation, for such laws have no force or existence there. While the Constitution makes itself and the laws and treaties in pursuance thereof the supreme law of the land, it is only in our own land where such laws are supreme or of any force. As to the other contracting party, a treaty is a mere compact, depending for its observance upon the good faith, comity, or other moral

considerations.—The Constitution can not make itself or the treaties or laws made under it the supreme law of any other nation or give to either any force or existence beyond our own borders. So that when an armed force is used to compel the observance of treaty obligations or to punish or to obtain compensation for their violation there is no question of executing any law of the Union, for there is no such law there. It is but the forcible compelling of the observance of an agreement or compensation for its breach. The provision referred to does not warrant the use of the militia for this purpose.

Just so it is when in troublous times an army of occupation, large or small, is sent into a foreign country to protect the lives and the rights of our own citizens. Here, too, no law of the Union is being executed by such invasion, for no law of the Union exists or can be enforced there.

While it is the duty of every nation to afford proper protection to foreigners who are lawfully within its borders, yet this is not because of any law of the nation of which such foreigners are subjects, for no such laws exist or have any force there. No one can say in such a case that we are executing or enforcing any law of the Union. We are but aiding or compelling the foreign government to execute its own laws and to perform its own duty. As no law of the Union is being executed by such invasion, the militia can not be called out under this provision to take part in it. As no law of the Union can exist or be in force in any foreign country, the militia can not be called out to enforce any such law there.

The plain and certain meaning and effect of this constitutional provision are to confer upon Congress the power to call out the militia "to execute the laws of the Union" within our own borders, where, and where only, they exist, have any force, or can be executed by anyone. This confers no power to send the militia into a foreign country to execute our laws, which have no existence or force there, and can not be there executed.

If authority is needed for the conclusion here reached, the following may suffice:

In Ordronaux, Constitutional Legislation, page 501, it is said:

"The Constitution distinctly enumerates the three exclusive purposes for which the militia may be called into service of the United States. These purposes are: First, to execute the laws of the Union; second, to suppress insurrection; and third, to repel invasions.

"These three occasions, representing necessities of a strictly domestic character, plainly indicate that the services required of the militia can be rendered only upon the soil of the United States or of its Territories. * * * In the history of this provision of the Constitution there is nothing indicating that it was even contemplated that such troops should be employed for purposes of offensive warfare outside the limits of the United States. And it is but just to infer that the enumeration of the specific occasions on which alone the militia can be called into the service of the General Government was intended as a distinct limitation upon their employment.

"Being the ministers of the law to enforce its commands they can only be summoned by the law-making power to act within the extent of its jurisdiction and in the manner prescribed by the Constitution. They can not consequently be used to invade the territory of a neighboring country or to enforce any public rights abroad * * *.

"The militia of the States, restricted to domestic purposes alone, are to be distinguished therefore from the Army proper of the United States, which, whether in the form of Regular troops or Volunteers, may be used to invade a foreign country as well as to repel the attack of foreign enemies."

And in Von Holtz, Constitutional Law, page 170, it is said, "the militia can not be taken out of the country."

In Kneedler v. Lane (45 Pa. St., 238) Judge Strong, speaking for the court, said:

"Apart from the obligations assumed by treaty it is well known that there are many other cases where the rights of a nation and of its citizens can not be protected or vindicated within its own boundaries. But the power conferred by Congress over the militia is insufficient to enable the fulfillment of the demands of such treaties, or to protect the rights of the Government, or its citizens, in those cases in which protection must be sought beyond the territorial limits of the country."

And see Houston v. Moore (5 Wheat., 1) and Martin v. Mott (12 Wheat., 19, 27).

It is true that the act of January 21, 1903, as amended by the act of May 27, 1908 (35 Stat., pt. 1, 399), provides:

"That whenever the President calls forth the Organized Militia of any State, Territory, or of the District of Columbia, to be employed in the service of the United States, he may specify in his call the period for which such service is required, and the militia so called shall continue to serve during the term so specified, either within or without the territory of the United States, unless sooner relieved by order of the President."

But this must be read in view of the constitutional power of Congress to call forth the militia only to suppress insurrection, repel invasions, or to execute the laws of the Union. Congress can not, by its own enactment, enlarge the power conferred upon it by the Constitution; and if this provision were construed to authorize Congress to use the Organized Militia for any other than the three purposes specified it would be unconstitutional. This provision applies only to cases where, under the Constitution, said militia may be used outside of our own borders, and was doubtless inserted as a matter of precaution, and to prevent the possible recurrence of what took place in our last war with Great Britain, when portions of the militia refused to obey orders to cross the Canadian frontier.

I think that the constitutional provision here considered not only affords no warrant for the use of the militia by the General Government, except to suppress insurrection, repel invasions, or to execute the laws of the Union, but, by its careful enumeration of the three occasions or purposes for which the militia may be used, it forbids such use for any other purpose; and your question is answered in the negative.

Respectfully,

GEO. W. WICKERSHAM,
Attorney General.

APPENDIX IV.

A bill to further increase the efficiency of the Organized Militia, and for other purposes.

Be it enacted, etc., That under such regulations as the Secretary of War, after conference with the National Militia Board, shall prescribe, commissioned officers on the active list belonging to organizations of the Organized Militia of each State, Territory, and the District of Columbia participating in the apportionment of the annual appropriation provided by section 1661, Revised Statutes, as amended, shall receive compensation for their services, except during periods of service for which under existing law or the provisions of section 5 of this act they may become entitled to the same pay as officers of corresponding grades of the Regular Army, at the rate of certain percentages of the pay of officers of like grade in the Regular Army, not including longevity pay, as now provided by law, namely: Five per cent to all general officers commanding a division or brigade, the authorized officers constituting the division staff or brigade staff, including authorized officers detailed for duty therewith, the division and brigade inspectors of small arms practice, if any, the authorized aids, and chaplains; 20 per cent to commanding officers of companies, troops, batteries, and ambulance companies, and to adjutants and quartermasters of regiments, independent battalions or squadrons, or Coast Artillery districts; 15 per cent to all other officers belonging to regiments or smaller tactical units or Coast Artillery districts, including medical officers detailed or assigned to and doing duty with regiments or smaller tactical units or Coast Artillery districts, medical officers serving with field hospitals, and veterinarians.

SEC. 2. That under such regulations as the Secretary of War, after conference with the National Militia Board, shall prescribe, each enlisted man on the active list belonging to organizations of the Organized Militia of each State, Territory, and the District of Columbia participating in the apportionment of the annual appropriation provided by section 1661, Revised Statutes, as amended, shall receive compensation for his services, except during periods of service for which under existing law or the provisions of section 5 of this act he may become entitled to the same pay as an enlisted man of corresponding grade in the Regular Army, at a rate equal to 25 per cent of the initial pay now provided by law for enlisted men of corresponding grades of the Regular Army: *Provided*, That such enlisted man shall receive the compensation herein provided if he shall have attended not less than 45 regular drills during any one year, and a proportionate amount for attendance upon a lesser number of such drills, not less than 20: *Provided further*, That the compensation provided herein shall be computed for semiannual periods, beginning the 1st day of January and the 1st day of July of each year, in proportion to the number of drills attended; and no compensation shall be paid to any enlisted man for the first semiannual period of any year unless he shall have attended during said period at least 20 drills, and any lesser number of drills attended during said period shall be reckoned with the drills attended during the second semiannual period in computing the compensation, if any, due him for that year: *Provided further*, That when any man enters into an enlistment other than an immediate reenlistment he shall be entitled to proportional compensation for that year during the remainder of the year he shall attend a number of drills whose ratio to 20 is not less than the ratio of the part of the year so served to the whole year; and when any man's enlistment shall expire the compensation, if any, to which he may be entitled shall be determined in like manner: *And provided further*, That periods of any actual military duty equivalent to the drills herein prescribed, except those periods of service for which under existing law or the provisions of section 5 of this act members of the Organized Militia may become entitled to the same pay as officers and enlisted men of the corresponding grades in the Regular Army, may be accepted as service in lieu of such drills when so provided by the Secretary of War.

SEC. 3. That all amounts appropriated for the purposes of this act shall be disbursed and accounted for by the officers and agents of the Pay Department of the Army, and all disbursements under the provisions of the two preceding sections shall be made as soon as practicable after the 31st day of December and the 30th day of June of each year upon pay rolls prepared and authenticated in the manner prescribed by the Secretary of War: *Provided*, That stoppages may be made against the compensation payable to any officer or enlisted man hereunder to cover the cost of public property lost or destroyed by and chargeable to such officer or enlisted man.

SEC. 4. That no money appropriated under the provisions of this act shall be paid to any person not on the active list, nor to any person over 64 years of age, nor to any person who fails to qualify as to fitness for military service under such regulations as the Secretary of War, after conference with the National Militia Board, shall prescribe, and who has not voluntarily, in addition to his oath as a member of the Organized Militia, also agreed to render military service to the United States as hereinafter provided.

SEC. 5. That the President, with the consent of Congress, in time of war or when war is imminent, or in other grave emergency requiring the use of troops in excess of the Regular Army beyond the limits of the United States, may by order transfer to the Army of the United States any portion of the Organized Militia receiving or entitled to receive the benefits of this act to serve therein for the balance of their respective terms of enlistment or commission, unless sooner released by order of the President, and any Organized Militia so transferred shall from the date specified in the order of such transfer become for the time being a part of the Army of the United States and subject to the same laws in so far as the same may be applicable to them during their service under such transfer, excluding the retirement laws, and be entitled to the same pay, emoluments, and allowances as officers and enlisted men of the Regular Army of the same grade and the same prior service, and shall be available for any duty for which the Regular Army or Volunteer Army may be employed: *Provided*, That any member of the Organized Militia who, having agreed to render military service to the United States under the provisions of this act, neglects or refuses to present himself for service when so transferred, shall be subject to trial therefor by a duly constituted court-martial under such regulations as the President may prescribe: *Provided further*, That when in the discretion of the President the necessity for their further such use no longer exists, he shall release said organizations and the members thereof from liability to render further service under said order of transfer, and said organizations and the members thereof when so released shall cease to be a part of the Army of the United States.

SEC. 6. That whenever organizations are called into the service of the United States under existing law, or are transferred to the Army of the United States under the provisions of this act, those organizations only must be taken into such service or transferred to such Army which have already received compensation under the provisions of this act, and, in addition thereto, such other organizations as have become entitled to receive compensation hereunder between the time of the last semiannual disbursement and the time when such call or transfer is made. Organizations which at the date when called into the service of the United States or transferred to the Army of the United States are, in the judgment of the Secretary of War, organized so far as practicable as prescribed by law and regulations for like organizations of the Regular Army and are entitled to pay under this act, shall be taken by regiments brigades, divisions, or independent and separate organizations as the quota in each State, Territory, or the District of Columbia

or major fraction thereof may require, including all regimental, brigade, and division staff officers authorized by law and regulations for the corresponding units of the Regular Army or specially authorized by law for the Organized Militia: *Provided*, That divisions, brigades, regiments, and battalions or squadrons may be organized by the President out of lesser separate units called into the service of the United States or transferred to the Army of the United States as herein provided, and the President may then appoint commanders of such organizations and their respective staffs from officers of the Regular Army or of the Organized Militia: *Provided further*, That the positions of chief of staff and assistant chief of staff shall be left vacant in each division headquarters entitled to pay hereunder, and such vacancies shall be filled by appointment by the President when the division is called into the service of the United States or transferred to the Army of the United States.

SEC. 7. That when the Organized Militia is called into the service of the United States, or by transfer as hereinbefore provided becomes a part of the Army of the United States, and is employed in conjunction with the Regular or Volunteer forces of the United States, and military operations require the presence of two or more officers of the same grade in the same field, department, or command, or of organizations thereof, the President may assign the command of the forces of such field, department, or command, or of organizations thereof, without regard to seniority of rank in the same grade: *Provided*, That in the absence of such assignment by the President officers of the same grade shall rank and have precedence in the following order, without regard to the date of rank or commission as between officers of the different classes, viz: First, officers of the Regular Army and officers of the Marine Corps detached for service with the Army by orders of the President; second, officers of the Organized Militia transferred to the Army of the United States or called into the service of the United States; third, officers of the Volunteer forces: *Provided further*, That officers of the Regular Army holding commissions in the Organized Militia in the service of the United States or in organizations transferred to the Army of the United States as hereinbefore provided, or in the Volunteer forces, shall rank and have precedence under said commissions as if they were commissions in the Regular Army, but the rank of officers of the Regular Army under their commission in the Organized Militia shall not for the purpose of this section be held to antedate their formal entry into the service of the United States under said commissions.

SEC. 8. That all expenses necessary to the enforcement of this act, including the actual and necessary expense of travel of officers of the Army when traveling on duty pursuant to orders issued by the governors of the several States and Territories, or the commanding general of the Organized Militia of the District of Columbia, shall be payable out of any appropriation made to carry out the provisions of this act.

SEC. 9. That the Secretary of War shall cause to be annually estimated the amount necessary for carrying out the provisions in this act, and no money shall be expended hereunder except as shall from time to time be appropriated: *Provided*, That this act shall take effect July 1, 1913.

Mr. GOOD. I yield to the gentleman from Illinois [Mr. MANN] such remaining time as he may desire.

Mr. MANN. Mr. Chairman, nearly every day now we read of some article or some speech attacking the provision in the Panama Canal bill which Congress passed last summer in regard to the question of tolls, and particularly that portion of the law which exempted coastwise vessels from the payment of tolls. I do not propose to take very much time on the subject. It seems to me there is a concerted effort being made to discredit the action of Congress. Whether that effort proceeds in part from the activity of the transcontinental railways whose rates of fare are likely, or at least liable, to be affected seriously by the reduction of the cost of carriage by water I do not undertake at this time to say, but I read the other day a published statement attempting to discredit the action of Congress by the assumption that when that bill was under consideration in the House and in the Senate there were no Members present to speak of, and those who were here were worn out and too tired to think.

I quote some language from this publication as follows:

> We must all realize as we look back that when that provision was adopted the Members of both Houses were much exhausted; we were weary physically and mentally. Such discussion as there was was to empty seats. In neither House of Congress during the period that this provision was under discussion could there be found more than a scant dozen or two of Members.

It is unnecessary in the House, so far as membership of the House is concerned, to state that that statement is without foundation, because we all remember that in the discussion of the Panama Canal bill, and particularly of the Doremus amendment or substitute which was finally agreed to, the membership of the House was quite generally present; and I have seldom seen in my service in the House as large a membership of the House present when any discussion was being carried on.

But the statement that only a scant dozen or two Members of the House who were worn out is an assumption that the action of the House was without proper consideration, and is a reflection not only upon the House but the action which the House took.

The Doremus amendment or substitute for section 5 of the Panama Canal bill was, by consent of the House, printed in the RECORD of May 18. It was disposed of in Committee of the Whole House on the state of the Union on May 21. It was disposed of in the House itself on May 23; and May, by the way, was before the membership of the House was tired out, if they were tired out at all, which I did not observe during the session.

Let me give a few votes which were taken in Committee of the Whole to show whether there were only a scant dozen or two Members of the House present during the discussion.

In the Adamson committee amendment there was a division, and the ayes were 83 and the noes were 43.

On the Adamson amendment to the Goldfogle amendment, on the same section, the ayes were 52 and the noes were 63.

On the Sims amendment to the Goldfogle amendment the ayes were 44 and the noes were 66.

On the Goldfogle amendment itself, on a division, the ayes were 33 and the noes were 80.

On the Good amendment to the Doremus substitute the ayes were 24 and the noes were 99.

On the Doremus substitute, on a division, the ayes were 91 and the noes were 91; and on tellers being ordered, the ayes were 100 and the noes were 90.

On the final vote in the House the ayes were 147 and the noes were 128, "present" 8.

Mr. Chairman, I throw this into the RECORD because I am somewhat tired at some of the statements that are being made by extremely high authority for the purpose of making the country believe that that provision in the Panama Canal bill was without consideration by the House, and that action was taken in the absence of Members of the House. While I shall not quote the record in the Senate, it would bear analysis very much to the same effect.

But, Mr. Chairman, we are told that we were wrong in the action that we took; that the Panama Canal act should be submitted to some form of arbitration. The Hay-Pauncefote treaty is given as the basis for the claim that we do not have the authority to exempt our coastwise trade from the payment of tolls through this canal, and that claim is based upon paragraph 1, article 3, of the Hay-Pauncefote treaty. That paragraph reads:

> The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

Paragraph 3 of the same article provides:

> Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary, and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

Paragraph 4 of the same article provides:

> No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

Paragraph 5 of the same article provides:

> The provisions of this article shall apply to waters adjacent to the canal within 3 miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

Paragraph 1 reads:

> The canal shall be free and open to the vessels of commerce and war of all nations—

And the claim is made that that puts us upon the same terms precisely as any other nation. If that be true as to merchant marine, it is also true as to vessels of war. There is no distinction in the treaty in that paragraph between war vessels and merchant vessels. If we have no authority under the provisions of this treaty to give preference to our merchant marine, then we have no authority to give preference to our war vessels; and if this treaty applies to our merchant marine, it also applies to the war vessels; and if it applies to the war vessels, if we happen to be at war with any country, then we can not keep one of our war vessels anywhere within 3 miles of either end of the canal for more than 24 hours except in case of distress, and in case of distress the vessel must depart as soon as possible. Do we propose to submit to arbitration the question of whether in time of war with some other country we can maintain one of our warships within 3 miles of either end of the canal? Yet it is perfectly plain that if we can give no preference to the merchant marine, we have no authority to keep a war vessel, in time of war with any other country, within 3 miles of either end of the canal.

Mr. Chairman, to a certain extent we gave construction to the Hay-Pauncefote treaty. Shortly after the Hay-Pauncefote treaty we negotiated a treaty with the Republic of Colombia. There is no exception in the Hay-Pauncefote treaty as to Colombia, and in that treaty which we negotiated with Colombia,

though it never was ratified by the Republic of Colombia, it is provided in article 17:

The Government of Colombia shall have the right to transport over the canal its vessels, troops, and munitions of war at all times without paying charges of any kind.

If the provisions of the treaty apply to vessels of all nations, including the United States, they must also apply to the Republic of Colombia, and yet immediately after we had negotiated the Hay-Pauncefote treaty we negotiated this treaty with Colombia. Again, we negotiated a treaty with the Republic of Panama, in which we provided in article 19:

That the Government of the Republic of Panama shall have the right to transport over the canal its vessels and its troops and munitions of war in such vessels at all times, without paying charges of any kind.

That treaty is in force, but that is not the only treaty that we negotiated. So distinguished a man as the Hon. ELIHU ROOT, when he was Secretary of State, negotiated a treaty with the Republic of Panama, and another with the Republic of Colombia, and in the treaty with the Republic of Colombia, negotiated by Secretary of State ELIHU ROOT, it was provided:

The Republic of Colombia shall have liberty at all times to convey through the ship canal now in course of construction by the United States across the Isthmus of Panama the troops, materials for war, and ships of war of the Republic of Colombia without paying any duty to the United States, even in the case of an international war between Colombia and another country.

Yet it is reported that certain gentlemen of high authority have recently declared that under the Hay-Pauncefote treaty we have no right to make any discrimination in favor of ourselves, much less the Republic of Colombia. While it is true that this treaty is not in effect, because it was not ratified by the Republic of Colombia, yet it was negotiated by our Secretary of State and ratified and approved by the Senate of the United States. [Applause.] It is not our fault that it is not existing law as a treaty.

Mr. LONGWORTH. Mr. Chairman, was any protest made by any foreign nation at the time of the negotiation of any of these treaties to which the gentleman has referred?

Mr. MANN. There was no protest by any foreign nation at the time. I do not think that any foreign nation ever dreamed that there was no authority on the part of the United States to grant the preference which we have granted until after the transcontinental railroads got busy. [Applause.]

The following illuminating article on this subject has been prepared by the chief law officer of the Isthmian Canal Commission, Hon. Frank Feuille, and ought to be read by everyone interested, and by unanimous consent is herewith inserted:

"PANAMA CANAL TOLLS.

"The provision of the Panama Canal act, recently enacted by Congress, which discriminates in favor of American coastwise shipping and the vessels of the Republic of Panama, has brought forth a protest from the British Government and unfavorable comment from the press at home and abroad.

"It is claimed that the United States have violated treaty obligations in exempting American ships from toll charges at the canal; that in consenting to the Hay-Pauncefote treaty Great Britain surrendered valuable rights held by her under the Clayton-Bulwer treaty; that without the Hay-Pauncefote treaty the United States could not build and maintain the canal alone; and that the surrender of her rights under the Clayton-Bulwer treaty constituted a valid consideration entitling Great Britain to equal treatment for her ships with those of the United States at the canal. The question is a historical one to some extent. It might be well to refer briefly to the history of the subject.

"In 1850 the United States and Great Britain entered into an agreement, commonly known as the Clayton-Bulwer convention, to promote the building of a canal by the Nicaraguan route and, when constructed, to jointly protect it against unjust detention, confiscation, seizure, or any violation whatsoever. The contracting parties also agreed that neither would erect fortifications at the canal or its vicinity, and that neither would directly or indirectly obtain the exclusive benefit of the canal or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America. The Mosquito Coast, over which Great Britain was then attempting to exercise jurisdiction, is situated in the vicinity of the Atlantic entrance of the proposed Nicaraguan Canal.

"The United States had two purposes in view in making the convention—to stop Great Britain's encroachment upon Central American territory and to remove the obstruction at the Atlantic entrance of the canal resulting from the English assumption of jurisdiction over the Mosquito coast.

"One of the important provisions of the treaty was that prohibiting any discrimination in the use of the canal in favor of either of the contracting parties as against the other. The point is covered in the following explicit language:

"The Government of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the ship canal; * * * nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess, with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

"There are other provisions to the same effect in the treaty. It is significant that the explicit language of the Clayton-Bulwer convention in respect to equality of treatment of the contracting parties was not employed in the Hay-Pauncefote treaty. This will be discussed later on in this paper.

"The convention applied to the Nicaraguan route and to Central America and not to the Panama route or South America, of which the Isthmus of Panama forms a part.

"It is true that article 8 of the treaty did obligate the parties to extend their protection by treaty stipulations to the Panama route or the Tehauntepec route, but no such treaty stipulations were ever effected.

"Inasmuch as article 8 of the Clayton-Bulwer convention is referred to in the Hay-Pauncefote treaty, it might be well to quote it here at length:

"ART. 8. The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the Isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

"When the Clayton-Bulwer convention was made the United States was, under treaty obligations with New Granada, now Colombia, to guarantee positively and efficaciously to that Goverment the perfect neutrality of the Isthmus of Panama, with the view that the free transit from one to the other sea might not be interrupted or embarrassed while the treaty existed, and, in consequence, the United States also guaranteed in the same manner the rights of sovereignty and property which New Granada possessed over said territory. In other words, the United States was exercising a protectorate over the Isthmus of Panama in 1850, when the Clayton-Bulwer convention was made. In return for the protection afforded the Government of New Granada, the United States were to enjoy all the exemptions, privileges, and immunities concerning commerce and navigation which then or thereafter might be enjoyed by Granadian citizens, their vessels, and merchandise; and this equality of favors was to extend to the passengers, correspondence, and merchandise of the United States in their transit across the said territory from one sea to the other upon any means of communication established or to be established.

"The Clayton-Bulwer convention did not impair the treaty between the United States and New Granada. Doubtless the existence of the latter treaty caused article 8 to be inserted in the Clayton-Bulwer convention so that by further treaty stipulations that convention could be made extensive to Panama with the consent of New Granada. Without a material modification of the treaty with the latter country, the Clayton-Bulwer convention could not have been applied to Panama.

"However, no treaty stipulations for the extension of the Clayton-Bulwer convention to the Panama Canal were ever effected, and therefore that convention only applied to the Nicaraguan route and Central America.

"The Clayton-Bulwer convention remained in existence for 51 years—that is to say, from 1850 to 1901—when it was superseded by the Hay-Pauncefote treaty, and in all that time nothing of consequence was done by Great Britain to promote the construction of the canal. Hence the claim that the Clayton-Bulwer convention had become obsolete has some merit.

"No one familiar with the trend of public opinion in the United States but knows that the American people had concluded to build the canal independently of any other nation when the Hay-Pauncefote treaty was made, and had not that treaty been entered into there is no doubt that the moribund convention of 1850 would have been abrogated by our Government in response to popular demand.

"The Hay-Pauncefote treaty, made in 1901, did not affect the treaty made between the United States and New Granada, or Colombia as it is now called, respecting the Isthmus of Panama. Hence the United States, without interruption, has been under treaty obligations since 1846 to protect the Panama route and to maintain the neutrality of transit over the Isthmus. Neither the Clayton-Bulwer convention nor the Hay-Pauncefote treaty relieved the United States of the burden; and the preferential treatment accorded to the commerce of the United States across the Isthmus of Panama, in compensation for that burden, was not diminished or impaired by either of the conventions between England and the United States above mentioned. The right held by the United States under the Clayton-Bulwer treaty was equivalent to an easement over the Isthmus of Panama, and this easement ripened into a fee-simple title when the treaty with Panama was made in 1903. Whence comes England's right to claim equal treatment with the United States at the Isthmus? She did not get it under the Clayton-Bulwer convention nor by virtue of the Hay-Pauncefote treaty. The treaty between the United States and Panama added nothing to England's rights under the Hay-Pauncefote treaty. The Clayton-Bulwer convention and the Hay-Pauncefote treaty left the status at the Isthmus unchanged under which the United States held special commercial privileges over that territory. That the United States are now the owners of the territory, instead of being the holders of an easement, can not change the status. Hence the United States now have rights, commercial and otherwise, at the Isthmus superior to those of England, as they have had since 1846.

"It is claimed by Great Britain that the consideration for superseding the Clayton-Bulwer convention was to secure equality of treatment for her ships with those of the United States at the canal. There is no such consideration expressed in the Hay-Pauncefote treaty nor in the correspondence between the two Governments leading to the making of that treaty; nor does such a consideration arise by implication from a correct reading of the instrument. But a fair construction of it would permit of the suggestion that England's prime motive was to obtain the use of a shorter route to the Pacific through a canal built without cost to her, and the neutrality of which was to be maintained by the United States singly and alone. If Great Britain's contentions were correct, the benefit to the United States from the abrogation of the Clayton-Bulwer convention would not be apparent. The English contention means that the United States renounced all benefits under the Clayton-Bulwer convention and yet retained the burdens and obligations of that instrument, not only in respect to England but the other nations of the world as well, although they were not parties to the convention; and these burdens must be assumed in regard to a canal over which the Clayton-Bulwer convention could not have been extended without further treaty stipulations with New Granada as a party. Surely the burden is upon the party asserting such a claim to establish it by satisfactory evidence beyond doubt.

"If the claim of Great Britain is conceded that she surrendered certain rights in respect to the Nicaraguan Canal when she consented to the abrogation of the Clayton-Bulwer convention, she, in turn, was relieved of the joint obligation to promote the building of the canal and to protect it and maintain its neutrality when built. It is fair to assume that the latter compensated for the former. Be that as it may, Great Britain agreed to the Hay-Pauncefote treaty, and that treaty superseded the Clayton-Bulwer convention.

"But Great Britain will receive other considerations of incalculable value to her for agreeing to the abrogation of the Clayton-Bulwer convention. Her tonnage in steam and sailing vessels is greater than that of the other maritime nations combined. It is not unfair to Great Britain to say that the relative advantage to come to her from the opening of the canal will be in like proportion, and her great superiority over the other nations in tonnage will give her a most-favored position in the trade with the west coast of this hemisphere.

"She has great possessions in Asia and Australia and other parts of Oceanica; the Panama Canal will give her another highway to reach them.

"The benefits to come to her from the canal will not stop here. We know that British America is larger than the United States, excluding Alaska; and British Columbia, in the western part of Canada, contains vast lumber regions and immense wheat fields, which are just beginning to be developed. The opening of the canal will turn immigration toward the Canadian Pacific, and the future should bring a flourishing trade between that region and Great Britain in the exchange of manufactures for Canadian wheat and lumber.

"But these are not all the advantages which England will obtain from the canal. Canada has hundreds of miles of coast on the Atlantic and three or four hundred miles of coast on the Pacific, and is traversed by transcontinental railroads. These conditions will make British America a most valuable base for the operations of the English navy in both oceans when the canal is built, and thus the efficiency of England's navy will be increased almost equally with our own.

"These are some of the benefits that England is to receive from the canal. It is fair to assume that she considered them sufficient to compensate her for agreeing to the abrogation of the almost forgotten Clayton-Bulwer convention, so that there might be no obstacle to the building of the canal by the United States. Were the Panama Canal project abandoned at this time England would probably be injured by the abandonment as much as the United States, and yet the burden of building the canal and of maintaining its neutrality thereafter is entirely on the United States. England has no obligations in that respect.

"However, if we are under treaty obligations to treat England's ships on an equality with our own at the canal, it is our duty to respect them. But have we assumed such obligations? An answer to the question depends on the meaning of the Hay-Pauncefote treaty. The treaty was made in Washington on the 19th day of November, 1901. Its purpose, as declared in the preamble, was to remove any objection which might arise out of the convention of April 19, 1850, known as the Clayton-Bulwer convention, to the construction of the canal under the auspices of the United States, without impairing the 'general principle' of neutralization established under article 8 of that convention. The articles of the Hay-Pauncefote treaty are so interdependent that it is necessary to construe them together in order to get at the true meaning of the instrument, and for that purpose they are here set out in full:

"ARTICLE 1. The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th of April, 1850.

"ART. 2. It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations, or through subscription or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

"ART. 3. The United States adopts, as the basis of neutralization of such ship canal, the following rules, substantially as embodied in the Convention of Constantinople, signed the 28th day of October, 1888, for the free navigation of the Suez Canal; that is to say—

"1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect to the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

"2. The canal shall never be blockaded nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

"3. Vessels of war of a belligerent shall not take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service. Prizes shall be in all respects subject to the same rules as vessels of war of belligerents.

"4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hinderance of the transit, and in such case the transit shall be resumed with all possible dispatch.

"5. The provisions of this article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

"6. The plant, establishment, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be a part thereof, for the purposes of this treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents, and from acts calculated to impair their usefulness as part of the canal.

"ART. 4. It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the aforementioned canal shall affect the general principles of neutralization or the obligation of the high contracting parties under the present treaty.

"Those articles contain all the material provisions of the Hay-Pauncefote treaty.

"The declaration in the preamble of the Hay-Pauncefote treaty that it is not intended to impair the general principle of neutralization established by article 8 of the Clayton-Bulwer convention has been urged against any proposition to favor American ships at the canal.

"The argument is based on the assumption that the terms 'general principle of neutralization,' used in the preamble, include traffic conditions within their scope and meaning. But the assumption is not justified. They mean immunity from attack and nothing else. It is true the article in question does

provide that the canal shall be open to the citizens and subjects of United States and Great Britain on equal terms, but that was simply a statement of the consideration to each of the two contracting parties for the protection they were to extend to the canal. There are two separate elements expressed in the article—one, the protection of the canal, and the other the equality of treatment of the contracting parties in return for that protection.

"The general principle which the parties desired to extend to the Panama route was one of protection; that is to say, neutralization. That proposition is expressed in the first sentence of the article. The equality of treatment of the contracting parties is another thought expressing the consideration in return for the protection of the canal, and is found in the second sentence of the same article. The term 'neutralization' is not employed by international law writers to mean equality of treatment in respect to traffic conditions. The evident purpose of the Hay-Pauncefote treaty was to secure immunity from attack for the canal. No other meaning can be given to the word 'neutralization.'

"The language of article 2 of the Hay-Pauncefote treaty is quite clear and, unless its terms are modified by some subsequent provisions of that treaty, it concedes to the United States the enjoyment of all of the rights incident to the construction of the canal as well as the exclusive right for the regulation and management of the same. Is there any provision in the treaty which modifies article 2? It will be noted that the provisions relating to neutrality provided for in the Clayton-Bulwer convention are announced therein by the United States and Great Britain jointly, while in the Hay-Pauncefote treaty the United States alone establishes the rules. The partnership arrangement existing between the two countries under the Clayton-Bulwer convention has terminated, and the rules for the neutralization of the canal under the later treaty were enacted by the United States and must be maintained by that Government alone. Those rules are to be observed by other nations and not by the United States. If this statement is true, then the rule of equality does not apply to the United States.

"Great Britain's contention is that rule 1 does apply to the United States, and that, in effect, would be reading into the rule the words 'with the vessels of the United States,' so that the language of the rule, then, would be as follows:

"The canal shall be free and open to vessels of commerce and war of all nations observing these rules on terms of entire equality with the vessels of the United States.

"We do not believe that any such construction can be given to rule 1, if read in the light of the other provisions of the treaty.

"The language of article 2 is very clear and affirmative:

"The United States shall have and enjoy all the rights incident to the construction of the canal, as well as the exclusive right of providing for its regulation and management.

"These words can not be limited or impaired by implication. It requires an express provision in the treaty to minimize their effect, and none such can be found therein.

"The claim now advanced by Great Britain is confined to the subject of canal tolls, but with equal propriety it might include all benefits given to American vessels of war or commerce at the canal. The rule of equality is not limited to canal tolls, but relates to any discrimination in respect to the charges or conditions of traffic or otherwise, and includes vessels of war and vessels of commerce; consequently, no favors could be shown to our warships in the use of dry docks, anchorage basins, pilotage, coaling privileges, commissaries, and other conveniences at the canal without extending like privileges to foreign war vessels.

"Those who denied our right to fortify the canal relied on the broad language of the rule to sustain their contention, and if England's claim in respect to tolls is correct it would seem that the objection made to our fortifying the canal would be equally well taken. If the rule of equality places American ships on the same basis with foreign ships, then our belligerent vessels will not be authorized to revictual or take any stores in the canal except when strictly necessary, and all the other rules restricting the use of the canal by belligerents will apply to us. However, that doctrine has not been admitted by the people of the United States, and, for that matter, England has recognized our right to fortify the canal and to do anything necessary to protect it, and that carries with it an admission of a superior right in our warships to the use of the canal.

"The British protest assumes that the Hay-Pauncefote treaty did not admit of the United States protecting the territory on which the canal was to be built because the United States was not then the owner of it. The protest overlooks the important fact that at that very time the United States was under treaty obligation with Colombia to maintain the neutrality of the Isthmus and to guarantee the sovereignty right of that country therein, and that treaty obligation was not diminished in any respect by the Hay-Pauncefote treaty. Again, when the Hay-Pauncefote treaty was first submitted to the Senate it contained a provision to prohibit the United States from fortifying the canal. The Senate rejected the provision, and England accepted the treaty with the provision eliminated. In discussing the elimination of that provision, Lord Lansdowne, in a memorandum dated August 3, 1901, used this language:

"In my dispatch I pointed out the dangers of a construction in which one clause permitted the adoption of defensive measures while another prohibited the erection of fortifications. It is most important that no doubt should exist as to the intention of the contracting parties. As to this I understand that by the omission of all reference to the matter of defense the United States desire to reserve the power to protect the canal at any time when the United States may be at war from destruction or damage at the hands of an enemy or enemies. On the other hand, I conclude that with the above exception there is no intention to derrogate from the principles of neutrality laid down by the rules. As to the first of these propositions I am not prepared to deny that contingencies may arise when not only from a national point of view but in behalf of the commercial interests of the whole world it might be of supreme importance to the United States that they should be free to adopt measures for the defense of the canal at a moment when they were themselves engaged in hostilities.

"It is also to be borne in mind that, owing to the omission of the words under which this country became jointly bound to defend the neutrality of the canal and the abrogation of the Clayton-Bulwer treaty, the obligations of Great Britain will be materially diminished.

"Thus we see that the attempt to make the rules of neutrality applicable to the United States was without success. So that our right to fortify the canal may be said to be well established, and the right to fortify carries with it the further right to use the canal with our belligerent ships when necessary to prevent hostile fleets or armies from entering the canal. If ships of war and of commerce and other nations have an equal right with those of the United States in the matter of tolls it would be difficult for our Government to maintain that our belligerent ships have more rights in the canal than those of any other belligerent. Inasmuch as the burden of maintaining the neutrality of the canal is upon the United States alone, it follows that our warships are not within the rule of equality laid down in rule 1, and that being so, it would be playing fast and loose with the rule to include our commercial vessels within its provisions and not do likewise with our vessels of war.

"In discussing the belligerent rights of the United States at the canal, the British note of protest of November 14, 1912, says:

"Now that the United States has become the practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection.

"The writer of the protest does not seem to have had in mind the fact that the United States has been under treaty obligations since 1846 to protect the Isthmus and to maintain the neutrality of the transit across it, and that Lord Lansdowne, during the negotiations for the Hay-Pauncefote treaty, recognized not only our right, but that it was our duty to protect the canal. Were we so inclined, we might rest our case on the admission contained in the protest, that the acquisition by the United States of the territory over which the canal is being constructed was sufficient of itself to modify the treaty so as to accord belligerent rights to our warships. If the acquisition of the territory will thus benefit our war vessels, it is hard to conceive how equal favors to our vessels of commerce are to be withheld under such circumstances. At least one distinguished American diplomat has maintained that the acquisition by the United States of the canal strip did change the treaty status so as to authorize the exemption of American merchant ships from the payment of tolls. No doubt he will be pleased at discovering that Great Britain in her protest lends comfort to his views.

"Viewed in the light of the circumstances and conditions attending the execution of the Hay-Pauncefote treaty, and construing rule 1 in connection with the other terms of the instrument, that rule simply amounts to what is known in treaties as 'the most-favored-nation clause.' In other words, the rule means that the nations observing the rules of neutralization laid down in the treaty by the United States shall be preferred in the use of the canal without discrimination in favor of one of such nations as against the other.

"It has been said that language substantially the same as that of rule 1 of the Hay-Pauncefote treaty is employed in the treaty of Washington between the United States and Great Britain relating to the Canadian and American canals and the use of the Great Lakes and the St. Lawrence River, and that discrimination in favor of the ships of either of the contracting parties is not allowed under the latter treaty. It is true that entire equality is observed in the treatment of vessels of the

parties to the Washington treaty, but it is so because the treaty itself clearly and affirmatively prohibits a discrimination in favor of one of the parties as against the other. The statement that the language of the Washington treaty is substantially that of the Hay-Pauncefote treaty is incorrect. Article 27 of the Washington treaty leaves nothing to inference, but expressly says that Great Britain will engage to urge upon the Canadian Government to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion *on terms of equality with the inhabitants of the Dominion;* and the United States engages that the subjects of Great Britain shall enjoy the use of the St. Clair Flats Canal on *terms of equality with the inhabitants of the United States,* and engages to urge upon the State governments to secure to the subjects of Great Britain the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the high contracting parties *on terms of equality with the inhabitants of the United States.*

"Here we have unequivocal declarations that there shall be equality of treatment between the contracting parties. There is no such declaration in the Hay-Pauncefote treaty.

"It has also been said that the rule of equality, as expressed in the Hay-Pauncefote treaty, is the same as that laid down in the Suez Canal convention. But again we say that the statement is not correct. Article 1 of the Suez convention reads as follows:

"The Suez Maritime Canal shall always be free and open in time of war as in time of peace to every vessel of commerce or of war *without distinction of flag.*

"The words 'without distinction of flag,' which I have underscored, make the meaning quite clear that all nations shall stand upon an equal footing. There is no such language in rule 1 of the Hay-Pauncefote treaty.

"The correspondence between the United States and Great Britain leading up to the Hay-Pauncefote treaty throws much light on the subject. Rule 1 received the most serious consideration in the diplomatic negotiations preceding the adoption of the treaty, and that England's great solicitude was to secure for herself equal treatment with other nations appears from Lord Lansdowne's communication to Lord Pauncefote on October 23, 1901, on this subject, in which he said in part:

"I informed the United States chargé d'affaires to-day that His Majesty's Government had given their careful attention to the various amendments which have been suggested in the draft of the interoceanic canal treaty, communicated by Mr. Hay to your Lordship on the 25th of April last, and that I was now in a position to inform him officially of our views.

"Mr. Hay suggested that in article 3, rule 1, we should substitute for the words 'the canal shall be free and open to vessels of commerce and of war of all nations which shall agree to observe these rules,' etc., the words 'the canal shall be free and open to the vessels of commerce and of war of all nations observing these rules,' and in the same clause, as a consequence of the amendment, substitute for the words 'any nation so agreeing' the words 'any such nation.' His Majesty's Government were prepared to accept this amendment, which seemed to us equally efficacious for the purpose which we had in view, namely, that *of insuring that Great Britain should not be placed in a less advantageous position than any other power, while they stopped short of conferring upon other nations a contractual right to the use of the canal.* [The italics are mine.]

"The reasonable inference to be drawn from the language of the English negotiator is that he was seeking to obtain the most-favored-nation clause for Great Britain, and nothing more. We must bear in mind that the Clayton-Bulwer convention contained provisions prohibiting the contracting parties from—

"Acquiring or holding, directly or indirectly, for the citizens or subjects of the one any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the subjects of the other.

"The fact that no such language was employed or sought to be employed by Great Britain in the Hay-Pauncefote treaty is significant, and would seem to support the conclusion that she only desired equal treatment with other nations, especially as she had assumed no obligation in respect to the canal that would not be expected of the other nations using it; that is to say, that none of them would do any act in the canal unfriendly to the United States. That obligation rests upon all civilized nations at peace with us without the necessity of a treaty.

"But we need not leave our case here. It became necessary for the United States to enter into a treaty with the Republic of Panama to obtain the right of way across the Isthmus of Panama for the construction of the canal, and political jurisdiction over the Canal Zone. In part consideration for the cession of the canal strip by the Republic of Panama, the United States agreed that the vessels of the Panamanian Government should have free transportation over the canal at all times. This is a discrimination in favor of the vessels of Panama, inasmuch as no other nation has that privilege; but it is quite consistent with the most-favored-nation clause.

"The concession to the vessels of Panama, it is said, was necessary in order to acquire a right of way over which to build the canal, and, in consequence, the privilege granted to Panama was proper and did not militate against the proposition that the United States must treat the vessels of all nations on terms of entire equality with their own vessels. The argument would create the anomalous situation in which Panama occupied a position superior to all nations, including the United States. In addition, the argument begs the question entirely. If Great Britain's claim is correct, the United States could not have made any such concession to Panamanian vessels without violating the Hay-Pauncefote treaty, and, in order to keep within that treaty, some other consideration would have had to be given to Panama in lieu of the exemption accorded to her ships.

"But the concession to Panama is quite consistent with the most-favored-nation clause. That clause does not prevent the granting of a special privilege to another nation, provided a special consideration is given in return for the privilege. The most-favored-nation clause can not be understood to mean that a country should enjoy as a free gift that which is accorded to other nations for a full equivalent. That is to say, Great Britain, if she observes the rules of neutrality laid down in the Hay-Pauncefote treaty, shall enjoy the canal on an equal footing with all other nations observing those rules, but the rule would be unequal as to Panama if she were required to surrender the Canal Zone to the United States besides having to observe the rules of neutrality. Hence, Panama is entitled to a free canal for her vessels, because she has given a special consideration for the privilege which the other nations have not. This doctrine has been generally recognized, and especially by Great Britain.

"The United States entered into a commercial treaty with the Hawaiian Islands in 1876 by the terms of which mutual trade concessions were made by the two Governments. At that time Great Britain and Hawaii had a treaty containing the most-favored-nation clause. The British Government admitted that—

"As the advantages conceded to the United States by the Sandwich Islands are expressly stated to be given in consideration of and as an equivalent for certain reciprocal concessions on the part of the United States, Great Britain can not as a matter of right claim the same advantages for her trade under the strict letter of the treaty of 1851.

"We do not find that Great Britain's consent was asked by the United States before the concession was made to Panaman vessels, nor does it appear that Great Britain made any protest. It is fair to assume that she recognized the right of the United States to extend the privilege of a free canal to Panaman vessels in return for the cession of the Canal Zone and jurisdiction over it to our Government. It would seem that England could not very well admit a right to the United States in this and yet contend for her present construction of rule 1—that English ships and those of other nations observing the rules are entitled to use the canal on terms of entire equality with those of the United States.

"It is true that Great Britain now protests against the exemption of Panamanian vessels, but this objection, coming, as it does, nine years after the making of the treaty when the canal is almost completed, does not deserve serious consideration. The only purpose it can serve is that of demonstrating that England now recognizes that she can not concede our right to exempt Panamanian vessels without surrendering her case.

"We might pursue the most-favored-nation theory further. On January 9, 1909, the United States, Colombia, and Panama negotiated what was known as the tripartite agreement, by which the United States granted to Colombia the right to convey through the canal her troops, materials of war, and ships of war without paying any duty to the United States. The agreement was negotiated by our State Department with the executive departments of Colombia and Panama, and was ratified by our Senate and the Assembly of Panama, but was rejected by the Congress of Colombia, and hence did not become effective. The exemption from the payment of duties at the canal in favor of Colombian vessels could have been made only upon the theory that rule 1 accords to England nothing more than most-favored-nation treatment. Although Great Britain protested against the exemption of Colombian ships, the protest does not seem to have been as insistent as the one she now presents. Notwithstanding the English protest made at the time, our State Department carried forward the agreement, our Senate ratified it, and it failed only because the Colombian Congress rejected it.

"The issue now pending with England has had full consideration by the United States Government. Our State Department, in making the canal treaty with Panama and the tripartite agreement with Colombia and Panama, and the Senate in ratifying this convention, have demonstrated that the treaty-making

power of the United States has not been in accord with the English view of the subject. And now the Congress of the United States has spoken out against Great Britain's claim and has enacted the Panama Canal act, by which American shipping and the vessels of the Government of Panama are favored at the canal.

"We might still pursue the doctrine a little further that the most-favored-nation clause does not preclude a Government from granting special concessions to other nations in return for special favors. Suppose the United States, with some other maritime power as an ally, were to engage in a war. Would it be correct to say that we could not admit the belligerent ships of our ally into the canal on an equal footing with our vessels? The American people would hardly concede that, and it may well be doubted that Great Britain would admit it were she the ally.

"The issue has been discussed in this paper as though the burden were upon the United States in the argument. As a matter of fact the onus is on Great Britain to establish her contention. Great Britain, in effect, is claiming a servitude upon our property—the canal—and a limitation on our sovereignty. Her claim, if valid, means that we must tax our imports and exports and our coastwise trade passing through the canal equally with the trade of other countries using that waterway. That means a serious restriction upon the sovereign right of the United States to regulate their fiscal and economic policies as they may deem best. The restriction would amount to a limitation of our sovereignty as well as a servitude imposed upon our territory.

"It is a well-established rule of international law that one sovereign can not claim a servitude on the territory of another except by compact, and "if a dispute occurs between a territorial sovereign and a foreign power as to the extent or nature of rights enjoyed by the latter within the territory of the former, the presumption is against the foreign State, and upon it the burden lies of proving its claim beyond doubt or question."

"In summing up the objections to the British claim, we might say that the commercial advantages which the United States has at the Isthmus came from the treaty with Colombia of 1846 and not from the Clayton-Bulwer convention or the Hay-Pauncefote treaty, and neither of these affected the rights so held by us; that the terms of the Hay-Pauncefote treaty, when properly construed, do not sustain it; that in abandoning the explicit language of the Clayton-Bulwer convention, which clearly prohibited a discrimination in favor of the United States, England lost her right to claim at this time equality with the United States in the use of the canal for her vessels; that Lord Lansdowne's communication of October 23, 1901, to Lord Pauncefote, already mentioned, tends to prove that England's only desire was to obtain equality of treatment with other powers for her vessels at the canal and nothing more; that the canal treaty with the Republic of Panama, by which the vessels of the Republic are entitled to the free use of the canal, made without protest from Great Britain, is a strong circumstance in support of the proposition that rule 1 is nothing more than the most-favored-nation clause expressed in another form; and, lastly, Great Britain has not produced any sufficient proof to overcome the presumption arising against her from the circumstances just related, much less has she adduced any proof or argument to establish her claim beyond doubt or question.

"Many of our citizens believe that the issue between Great Britain and the United States on the subject of canal tolls should be submitted to The Hague tribunal for determination under the provisions of the arbitration treaty between the two countries. This assumes that the question is a justiciable one. The treaty does not require all questions that may arise between the two countries to be submitted to The Hague. It does say that 'differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the permanent court of arbitration,' etc. But the same clause of the treaty contains a proviso modifying the rules so laid down to the effect that neither of the parties is bound to submit questions affecting its vital interests, its independence, its honor, or the interests of third parties.

"We have seen that the issue does affect the vital interests as well as the independence of the United States, inasmuch as the English claim imposes a limitation upon our sovereignty and a servitude on our territory, so as to materially impair our right to freely adopt such economic and fiscal policies as we may deem best, and we are not at liberty to use our own with freedom. The question is a vital one and of the most serious importance to the people of the United States, because all of the maritime powers of the world are equally interested with England in obtaining a decision adverse to the United States. And yet we are expected to submit the issue to a tribunal that is controlled by these same maritime powers.

"It has been said that if the United States refused to submit the question to The Hague the arbitration treaty may as well be destroyed. The answer to that is: If the question does in fact affect our vital interests or our independence, then there is no authority for its submission to that tribunal. The proviso which excludes such questions from the jurisdiction of The Hague is just as binding on the parties as any other part of the treaty, and the necessity for its observance is accentuated when the question is one in which the powers controlling the court are vitally interested. I do not intend to reflect on The Hague tribunal, but am simply stating the facts. In this instance the judges would also be parties at interest.

"FRANK FEUILLE."

Mr. GOOD. Mr. Chairman, I reserve the balance of my time.

Mr. SHERLEY. Mr. Chairman, I yield 10 minutes to the gentleman from Massachusetts [Mr. MURRAY].

Mr. MURRAY. Mr. Chairman, I listened with a great deal of interest earlier in the afternoon to the remarks of the gentleman from Virginia, chairman of the Committee on Insular Affairs, because I happen to be a member of that committee, just as I happened to be a soldier in the Army of the United States during the War with Spain, as a direct result of which war I believe the United States has had a protectorate over those islands since 1898. I am shocked and greatly surprised at the character and the tone of the speech made by the gentleman who is chairman of that committee, not that I am surprised at some of the statements he made, because I violate no confidence when I say that some of the matters referred to by the gentleman were informally discussed by members of the Committee on Insular Affairs quite recently, and an attempt was made to decide upon the right course of action to be taken by the members of that committee. It was seriously suggested by some of the members of the committee that in view of the statements and revelations which were made by the gentleman from Virginia an investigation of the whole situation should be immediately had, and I asserted the fact that the Governor General of the Philippines, Cameron Forbes, was either in the United States at the time or he had not long since departed from our shores to resume his post at Manila. I believed we should get him by cable, if necessary, and give him the opportunity that every man who is accused falsely or justly is entitled to under our system—the right to be present when charges are made and to meet his accuser face to face.

I regret very much, in view of the fact a speech has been made this afternoon which will carry to all quarters of our country the information and belief of some people that Gov. Gen. Forbes is a grafter, that I for one did not insist upon his appearing in person to meet those charges. Like the gentleman from Kentucky who has so eloquently addressed this House during the afternoon, I know nothing about the truth or falsity of those charges, but if they are true Gov. Gen. Forbes should be impeached, and if you can convince me they are true I will vote to institute impeachment proceedings against him.

Mr. JONES. Will the gentleman permit me?

Mr. MURRAY. I will.

Mr. JONES. I want to say to the gentleman that he misunderstood me if he understood me to say I thought that Gov. Forbes was a grafter or that he was guilty of anything of the sort.

Mr. MURRAY. Then, Mr. Chairman, I am more pained and shocked in my heart of hearts than I was by the statement, because I thought the gentleman believed the truth of the things he said, but if he before this House tells me that he does not believe the things he said here to you, I believe he has done an irreparable injury to the fame and reputation of a man who should not be slandered.

Mr. JONES. The gentleman is doing me a great injustice which I can not think he means to do me.

Mr. MURRAY. I certainly did not intend to do so.

Mr. JONES. What I want to say is this, that every statement of fact made by me was true and susceptible of proof, and I will undertake to prove them, but I did not charge that Gov. Forbes was guilty of grafting. I said that a prominent American official had been charged with grafting and had been found guilty by a committee of investigation. I never believed that Gov. Forbes was personally dishonest, and nothing was further from me than to so charge or even intimate. I believe that when he undertook to disburse the public funds of the Philippines according to his own will and judgment, but without regard for the purposes set forth in the last appropriation act, he violated both the letter and the spirit of the organic act of Congress. That is all I stated. I did not charge or intimate

that he was guilty of any personal guilt in the way of grafting, and my remarks are not capable of being distorted into anything of the kind.

Mr. MURRAY. Mr. Chairman, I am delighted with what I have accomplished so far, because it has brought fairly from the chairman the expression of opinion that certainly was not clear to me during the course of his remarks during the early afternoon and what I fear was not clear to the rest of us who heard him.

Mr. JONES. My remarks will show for themselves. I shall not change a word of them.

Mr. MURRAY. Now, Mr. Chairman, I have no desire to offend the gentleman, and I do not believe he has any desire to offend me. I heard the great Senator from Texas a few weeks ago make a speech in the United States Senate which charmed me; and I shall never forget one thing that he said, and that was that during the time he had been here he had said some things which he wished he could erase from the record, some things which may have given offense to those with whom he has worked. That thought I would bear in mind during the time I am here; but when a statement with such careful preparation as was made by the gentleman from Virginia is made about one whose reputation I know, although I do not know him personally, I feel justified entirely in bringing from the gentleman as clear an explanation as I can.

Now, Mr. Chairman, I do not know Cameron Forbes. I would not know him if he walked in here. But I do know his reputation, because he lives in that community whose citizens have sent me to Congress. I remember that it was only a few years ago when I was a student in a law school, and we came upon that part of our course when we were told that persons might testify in a court of law as to the reputation of those whose reputation and character were in dispute, and as a young student I could not understand the practice that would permit testimony as to reputation, while denying the right to testify as to particular incidents and things that might come to one's knowledge. But to-day I appreciate the great force and value of reputation testimony as seldom I have been able to appreciate the value of it.

I know the reputation of Cameron Forbes, even though I do not know him. He is a man of great social and financial standing and strength, and there are hundreds who would never class him as a grafter or a crook unless the statements which have been made to-day were found to be true. I read from Who's Who in America, which is the only reference I found available:

Forbes, W(illiam) Cameron, governor general; Milton, Mass.; 1870; son of William Hathaway and Edith (Emerson) F.; grandson of Ralph Waldo Emerson; A. B. Harvard, 1892; unmarried. Clerk, Jackson & Curtis, bankers and brokers, Boston, 1894 to 1895; chief financial department Stone & Webster, electrical engineers, 1897 to 1902; partner J. M. Forbes & Co., bankers, Boston, since 1899. Member Philippine Commission and secretary of commerce and police in Government of Philippine Islands 1904 to 1908; vice governor of Philippine Islands July 1, 1908, to November 10, 1909; governor general since November 11, 1909. Clubs: Union, Tavern, St. Botolph (Boston), University (New York), University Columbia (Manila), Home, Boston. Address: Manila, P. I.

From his beginning as a clerk he went forward until he finally entered the public service, to which so many young college graduates of recent years have been attracted, and he went to the Philippine Islands not as governor general, but first in a subordinate position, and finally attracted the attention of President Taft, who himself had been the governor general, and who made Forbes governor general of the Philippines.

There has been opened up to-day the question of Philippine independence. I say, my position on that proposition is quite as sound and consistent with the Democratic platform, which I shall read, as that of the gentleman from Virginia [Mr. JONES] or any other gentleman in this House. There can be no difference among us who are Democrats with respect to our position, and I do not believe there is much difference, Mr. Chairman, between those who are Democrats and those who are Republicans in regard to the matter. It is not a partisan proposition, but a proposition that involves the patriotism, the honor, and the intelligence of American citizens quite as much as it involves the right of the Filipino citizens across the seas to have that self-government which was the earliest cause of conflict of the United States in the days when we were but colonies. I read from the last national Democratic platform:

We reaffirm the position thrice announced by the Democracy in national convention assembled against a policy of imperialism and colonial exploitation in the Philippines and elsewhere. We condemn the experiment in imperialism as an inexcusable blunder, which has involved us in enormous expense, brought us weakness instead of strength, and laid our Nation open to the charge of abandonment of the fundamental doctrine of self-government. We favor an immediate declaration of the Nation's purpose to recognize the independence of the Philippine Islands as soon as a stable government can be established, such independence to be guaranteed by us until the neutralization of the islands can be secured by treaty with other powers. In recognizing the independence of the Philippines our Government should retain such land as may be necessary for coaling stations and naval bases.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHERLEY. Mr. Chairman, I yield to the gentleman three minutes more.

Mr. MURRAY. Mr. Chairman, there are some who believe sincerely in the Jones bill, so called, and most of us who are members of the committee now charged with the responsibility of considering this matter are wondering whether we are wise in committing the party or the country to that particular proposition. I am frank to say I have never been in the Philippines, just as most Members of this Congress have never been there. All I am able to know about conditions is what I am able to get together and read from reports made by those who have been there. I have recently been charmed, and I believe instructed, by a book on the American Occupation of the Philippines, by one James H. Blount, who was a judge in the Philippines during his service there, just as he was a soldier, an officer in the Army, prior to his service on the bench.

I want to make public expression of my appreciation of that work, and I want to say I believe that it is a work that should be read carefully and closely by every man in the United States Congress who will be called upon to determine this question of the adoption or rejection of the Jones bill for Philippine independence. You, sir, are familiar with that book of Judge Blount, and you know that one of the great reasons that he advances there for getting out of the Philippine Islands is the danger of invasion by Japan in the event of any trouble between Japan and the United States. He advances that possible invasion, and he advances the proximity of the two places as a strong reason for our getting out of the Philippines. But suppose we do get out of the Philippines and Japan wants to take the place. Who is there to keep her from taking away those islands unless we have first had an international agreement that shall certainly stand behind the neutralization of the islands?

I believe that the gentleman from Virginia [Mr. JONES] has done well to stimulate the interest of my colleagues and of the American people in this matter of Philippine independence. I hope the full effect of his speech may be not to slander Cameron Forbes, not to defame President Taft and charge him with falsifying facts to the American people, because, sir, if your issue in the Jones bill is to be "Is Cameron Forbes a grafter?" I shall vote "no." If the issue is to be, "Has President Taft falsified the facts?" I shall vote "no." But if the issue is, "Shall Congress declare its intention to establish the independent sovereignty of the Philippine Islands with the right to self-government?" I shall vote "yes," and I believe the majority of my colleagues will do the same. [Applause.]

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

Mr. JONES. Mr. Chairman, I ask leave to proceed for one minute.

Mr. SHERLEY. I yield one minute, Mr. Chairman, to the gentleman.

The CHAIRMAN. The gentleman from Virginia is recognized for one minute.

Mr. JONES. Mr. Chairman, I can not think that the gentleman from Massachusetts [Mr. MURRAY], who is my personal friend as well as my associate on the Committee on Insular Affairs, means to say to this House that I have charged President Taft, or that I have charged Gov. Forbes, with falsifying statements. I said that President Taft was reported to have stated that our expenses on account of our occupation of the Philippine Islands were practically nothing. I have undertaken to inform the House as to some of the expenditures of the United States on account of our military occupation of the islands, and I have asserted that President Taft's views and mine as to what was "practically nothing" were very far apart.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. MURRAY. Mr. Chairman, let us not quibble about it.

Mr. JONES. I submit, Mr. Chairman, that my speech will show for itself. I shall not change one single word or syllable in it. I stand by every word in it, but I do not intend to be put in any false position. I have charged nobody with falsifying statements. I have criticized President Taft's New York speech, as I had the right to, but I have done so with absolute fairness. No man on this floor entertains a higher regard for President Taft than I do, and I would be the very last man to charge him with wrongdoing. I know him to be incapable of it. No word I have spoken can possibly be distorted into a reflection upon the integrity of President Taft.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. MURRAY. Mr. Chairman, will the gentleman yield?

Mr. JONES. I will yield if I am accorded the time.

Mr. SHERLEY. Mr. Chairman, I yield half a minute to the gentleman.

Mr. MURRAY. I want to ask the gentleman if he did not insist that President Taft had fixed $3,000,000 as the figure of cost of our occupancy of the Philippine Islands, and then proceeded to demonstrate that it cost not $3,000,000, but $300,000,000.

Mr. JONES. No; I said nothing of the kind. The gentleman has utterly misunderstood what I did say. The gentleman must know that the cost of civil government in the islands is one thing, and the cost of our military occupation another and entirely different thing. The Filipinos pay the entire cost of their civil government, whilst, of course, the United States pays the cost of our military. I said that President Taft said that the United States had contributed only $3,000,000 toward the civil administration of the affairs in the islands, and that that $3,000,000 had been given to keep the Filipinos from starving. I said that this was absolutely true, but I added that the commission had used part of that sacred fund on the Benguet Road. This is a wholly different statement from that which the gentleman would attribute to me. It was our military expenditures that President Taft said amounted to practically nothing. I have shown that they amount to many millions.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. SHERLEY. Mr. Chairman, I yield five minutes to the Resident Commissioner from the Philippine Islands [Mr. QUEZON].

The CHAIRMAN. The gentleman from the Philippine Islands is recognized for five minutes.

[Mr. QUEZON addressed the committee. See Appendix.]

Mr. SHERLEY. Mr. Chairman, I yield 10 minutes to the gentleman from Missouri [Mr. BORLAND].

Mr. BORLAND. Mr. Chairman, on last Friday the ex-Speaker of this House, the Representative from Illinois [Mr. CANNON], in the course of a debate in regard to the alleged filibuster, gave expression to some views in regard to the Lincoln memorial highway. In the course of those remarks he said:

> Speaking respectfully, to my mind, it is a prostitution of that great man's name when you speak of using it as an argument for the promotion and construction of good roads.

Mr. Chairman, that, of course, is a question of opinion. Lincoln's name has been used for many purposes since he occupied the highest station in our Nation, and his fame to-day is greater and broader and more universal than ever before in our history. My only answer to that is to ask the Clerk to read a brief paragraph from the hearings before the Committee on the Library, containing the statement of Gen. Thomas S. Hopkins, chairman of the Lincoln memorial committee of the Grand Army of the Republic.

The Clerk read as follows:

The Grand Army of the Republic some years ago indorsed the Lincoln highway. They voted upon it in national encampment, and the vote in favor of it was unanimous. From year to year they have continued the committee and I have been its chairman. Gen. Black, chairman of the Civil Service Commission, who is here to-day and who will speak, is also a member of that committee, and we come authorized to speak for that organization, to say to you gentlemen that the Grand Army of the Republic desires the Lincoln highway as a memorial to Mr. Lincoln. And I say to you also that we think that their preference, their wishes in the matter, while they should not be controlling with this committee, should receive your very careful consideration, because they helped in a small way to make Mr. Lincoln's name and fame. They stood behind him in those dark days, and many of them gave their lives for the cause, and the tie between Mr. Lincoln and his soldiers was very, very close.

But, Mr. Chairman, it is probable that the subject of the Lincoln Memorial will be brought up on Calendar Wednesday, to-morrow, and at that time the first free opportunity in general debate on the subject will be had. That is the proper time and place to discuss the merits of the proposition as to whether the highway or the Greek temple is the proper form of memorial.

The committee in charge of the bill have offered the opposition time to discuss that, and I have no doubt that the time promised will be given, and we shall utilize it for that purpose.

At this time I wish to draw the attention of the gentleman from Illinois and of this House to what I regard as a more important matter, which must enter into the views of this House in regard to the propaganda which has been carried on for the Greek temple. For that purpose I send to the Clerk's desk a clipping from the Philadelphia Public Ledger of January 23, 1913, which I ask to have read.

The Clerk read as follows:

ASK AID FOR LINCOLN STATUE—MEMBERS OF ART ASSOCIATION BEQUEST CONGRESSMEN TO VOTE FOR MEMORIAL.

A communication has been sent to every Congressman from Pennsylvania by the Fairmount Park Art Association, urging each to vote for the bill which provides for an appropriation to erect a Lincoln Memorial statue on the Mall in Washington. The letter reads as follows:

"DEAR SIR: Please do everything you can for the honor of Pennsylvania and the memory of Lincoln to secure the approval of the bill making an appropriation for the proposed Lincoln Memorial to be erected on the Mall in Washington, which is likely to come up this week in charge of the Hon. J. L. SLAYDEN, of Texas.

"If the grafters and automobile magnates who are trying to defeat this bill, in the interest of an automobile concourse to Gettysburg, accomplish their purpose, it will be a lasting disgrace against which the intellectual interests of the country are a unit in protesting.

"I am sending this letter by instruction of the board of trustees of the Fairmount Park Art Association.

"Yours, very respectfully,

"LESLIE W. MILLER, *Secretary.*"

Mr. Chairman, that is not a question of opinion. If the allegation comes from any responsible source, from anyone who knows of any grafter behind the proposition for the memorial to Lincoln, it is the duty of that responsible organization to bring that evidence to the attention of Congress. For there has been altogether too much of this cheap, reckless, irresponsible criticism of the people's representatives in Congress. [Applause.] If any man knows of any graft or any lobby, it is his duty to bring these facts to the attention of the American Congress. I trust that the organization will call that officer to account, or make him make good the statement which he has made, for these are not questions of opinion but are matters of fact.

To show the character of the indorsement which has come for the Lincoln highway, I send to the Clerk's desk a letter from the secretary of the Chamber of Commerce of the city of San Antonio, Tex., which I ask the Clerk to read.

The Clerk read as follows:

THE CHAMBER OF COMMERCE AND BUSINESS MEN'S CLUB,
San Antonio, Tex., January 21, 1913.

Hon. WILLIAM P. BORLAND, M. C.,
Washington, D. C.

DEAR SIR: I have yours of the 16th inclosing Library Committee's report on the Greek temple proposition, for which accept thanks.

I appreciate your sending me this report very much, and I immediately got busy and distributed these reports among our influential good-roads enthusiasts and in a few hours gathered them up and redistributed them, and, in addition to that, I had one of our daily papers print the report, and also print a statement from myself and others who had picked this report all to pieces and explained to the people the ridiculous part of it. Almost every organization of any kind whatsoever in San Antonio has wired Representative SLAYDEN insisting that he support the Washington to Gettysburg highway, and these telegrams have been constantly going to Mr. SLAYDEN for over two weeks, and more especially since it was referred back to his committee. The Washington Post clipping you sent me was published in one of our daily papers the day I received your clipping. Yesterday there was a telegram sent to Hon. JOHN N. GARNER, which reads as follows:

"We appreciate your efforts in behalf of the Lincoln memorial highway and pledge our assistance at any time we can be of help to this cause.

"J. W. WARREN,
"*President Texas Good Roads Association.*
"CHAS. GRAEBNER,
"*President Chamber of Commerce.*
"A. M. FISCHER,
"*President Bexar County Highway League.*
"CHAS. O. AUSTIN,
"*President Real Estate Exchange.*
"ATLEE B. AYRES,
"*President Fiesta Division of C. C.*"

In addition to this quite a number of Mr. GARNER'S admirers are writing him personal letters. In addition, our highway division, the real estate exchange, Chamber of Commerce, Fiesta Association, and the San Antonio Automobile Club have asked me to express their gratitude to you for the noble work that you are doing for this highway. We all assure you that we appreciate it, and I hope that I will have the pleasure of meeting you on March 6 and 7 at the good-roads convention, which will be held in Washington.

Yours, very truly, D. E. COLP, *Secretary.*

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. SHERLEY. Mr. Chairman, I yield the gentleman five minutes more.

Mr. BORLAND. Mr. Chairman, it appears, therefore, that gentlemen in all lines of business and in every section of the country have some views to express upon the Lincoln highway. It does not remain for a secretary of an art association to blanket this country with letters—which I trust have been and which I am sure have been properly rebuked by the members of the Pennsylvania delegation—denouncing as grafters those who are behind any proposition for the expenditure of public money. It must be apparent to the membership of this House that there is a marked difference in tone on the part of those who advocate the Greek temple as against their opponents, as compared with that on the part of those who advocate the highway as against their opponents. The highway people seem to

feel, and so far as I have known have always so expressed themselves, that the matter was for the fair, open, deliberate judgment of Congress. But the remarkable bitterness which has been developed on the side of those favoring the Greek temple is very difficult of analysis. It is difficult to escape the conviction that these scurrilous letters are inspired by some parasite of the Fine Arts Commission. I had my attention recently called to the fact that there was a vigilance committee in the District of Columbia to see that Congress did not exercise any independent judgment in this matter. I also had my attention called to the fact that there is pending before this House at this time Senate bill 2366, which has passed the Senate, for the purpose of appropriating $2,300,000 to remove the Botanic Garden into the bed of Rock Creek Park. Two million dollars for a Lincoln memorial and $2,300,000 to remove the Botanic Garden into the bed of Rock Creek Park make $4,300,000 which will have to pass through the banks of this city into the hands of the property owners and contractors of the District of Columbia. It is the solemn duty of Congress, without regard to partisanship but on the sole ground of patriotism, to exercise an unbiased and unpartisan judgment upon the expenditure of public money in the District of Columbia. We are charged with that responsibility and we can not escape it. We can not relegate it to any self-constituted vigilance committee of the District of Columbia that does not represent the rank and file of the small property owners of the District. I trust when this matter comes up to-morrow every man in the House will be prepared to exercise an independent judgment upon it, regardless of partisanship, regardless of the wishes of the vigilance committee. We must carefully consider that this will open the doors to endless expenditures of public money in the District of Columbia. It is but the beginning of a series of appropriations to buy up more or less unsalable property and increase the value of the remaining property in the District of Columbia.

Mr. COOPER. Mr. Chairman, I will ask the gentleman from Kentucky to yield me five minutes.

Mr. SHERLEY. Mr. Chairman, I desire to state for the benefit of the committee that no limit has as yet been put upon debate, and it is my purpose to make a statement respecting the bill itself and to start the reading before 5 o'clock. I yield five minutes to the gentleman from Wisconsin [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I have only a few words to say in reply to the statement just made by the distinguished gentleman from Missouri [Mr. BORLAND] that the Grand Army of the Republic wants a highway built to Gettysburg as a memorial to Abraham Lincoln.

Mr. BORLAND. Mr. Chairman, will the gentleman yield for a moment?

Mr. COOPER. Yes.

Mr. BORLAND. I refer to a record, not my own statement of the matter.

Mr. COOPER. Of course, if the gentleman does not indorse it, then it is nothing but the individual utterance of the source from which it came. The gentleman gave it to the House, and gave the House to understand that the Grand Army does want the road. I understand that the gentleman himself said at the meeting before the committee that the Grand Army favored it.

Mr. BORLAND. I said so and referred to the record of that fact.

Mr. COOPER. Yes. Mr. Chairman, with the consent of the committee, I will read a letter from a very distinguished member of the Grand Army of the Republic, a man who was its commander at one time and is now assistant adjutant general of the Grand Army of the Republic, Col. J. A. Watrous, of Milwaukee, a gallant soldier who was in the Battle of Gettysburg.

HEADQUARTERS GRAND ARMY OF THE REPUBLIC,
OFFICE OF ASSISTANT ADJUTANT GENERAL,
Milwaukee, Wis., December 28, 1912.

Hon. H. A. COOPER,
House of Representatives, Washington, D. C.

MY DEAR MR. COOPER: It is true that two or three national encampments, after most of the representatives were absent from the hall and the few present were weary, favored the Gettysburg proposition, but at Los Angeles, in national encampment last September, when nearly all of the 700 representatives were present, a report strongly favoring the memorial in Washington was adopted without a dissenting vote, followed by prolonged and hearty applause. Not a word was said in favor of the Gettysburg highway. Hence the friends of the memorial in Washington can declare that the 200,000 who answered Lincoln's call and loved him, still living and members of the Grand Army, through their representatives in national encampment, are against the highway and in favor of the memorial in Washington. There has been no encampment since last September; hence there has been no reversal of the decision.

I am exceedingly glad that you are in favor of the memorial in Washington.

With all good wishes and a happy new year, I remain,
Yours, very sincerely,

J. A. WATROUS.

Here is a letter which I received from him yesterday from Madison, Wis.:

HEADQUARTERS GRAND ARMY OF THE REPUBLIC,
DEPARTMENT OF WISCONSIN,
Madison, Wis., January 25, 1913.

Hon. HENRY A. COOPER,
House of Representatives, Washington, D. C.

MY DEAR MR. COOPER: Since writing you yesterday three past department commanders of Wisconsin, men who have been at the head of anywhere from ten to fifteen thousand Grand Army men, have asked me to include them in an appeal to Congress in behalf of the Lincoln memorial for Washington, and they took particular pains to say that they had not heard a single soldier in the State or elsewhere say a word in favor of the highway as a memorial, but nearly all of them, with whom they had conversed on the subject, thought it a most inappropriate thing to build an extensive highway which would be used chiefly by those owning automobiles and that the road would be lined with the kind of institutions that would be a disgrace to Lincoln instead of an honor.

In addition to that, Past Commander in Chief Weissert, one of the most popular men who ever headed the quarter of a million members of the Grand Army of the Republic, said: "If I have time, I will write Mr. COOPER myself, but anyway you say to him for me that with all my heart I hope that Congress will shield the Nation from a Gettysburg highway as a Lincoln memorial," and then he went on and gave many reasons why it would not be an honor to the great war President to build that road and call it a Lincoln memorial. You know Col. Weissert. He speaks for the boys of the Grand Army and the ex-soldiers with as much emphasis as any other man who has ever had anything to do with that organization.

The department commanders to whom I allude are Capt. J. P. Rundle, one of Milwaukee's best citizens and an extensive business man; another is Frank A. Walsh, and another is S. H. Tallmadge. While three others that I can name have not spoken to me on the subject within a day or two, as these have done, they have expressed themselves with great emphasis in favor of the memorial in Washington. I refer to that splendid soldier, Col. Benjamin F. Bryant, who won his way from a private to a major in an Ohio regiment. Another is R. B. Lang, whom you know, of Racine. Still another is Col. Fred Copeland, of La Crosse. I could give you the names of a hundred men, many of whom you know personally or by reputation, who have vigorously expressed themselves in favor of the memorial at Washington.

In short, Mr. COOPER, I do not hesitate to give it as my opinion, and, as you know, I have had rare opportunity to learn the sentiments of the ex-soldier element, that there is not one in ten thousand anxious for anything but the memorial in Washington as between the two propositions. I only wish that some one in each department realized the importance of bringing evidence before Congress on the subject and had taken it upon himself to shower Congress with letters and telegrams begging that the Washington memorial be chosen. Had there been time I am sure that there would have been a perfect shower all along the line from every State where there is a department of the Grand Army.

I begin to feel that I ought to apologize to you for such frequent writing, but I know of no one who would be more apt to use to advantage such information as I have been able to send you.

With best and all good wishes I remain,
Very sincerely, yours,

J. A. WATROUS.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COOPER. Mr. Chairman, I would like to ask the gentleman from Kentucky [Mr. SHERLEY] if he can give me five minutes more, and that is the last request I shall make.

Mr. SHERLEY. I have only five minutes remaining, but I will yield that time to the gentleman.

Mr. COOPER. I was much interested, Mr. Chairman, in what the gentleman from Missouri [Mr. BORLAND] said about the "Greek temple." I have received many letters denouncing the "Greek temple." Apparently only very few persons know anything about what really is proposed. The room in the memorial is to be higher than this Chamber. The building itself is to be higher by a number of feet than is this wing of the Capitol. The interior columns will be 7 feet and 5 inches in diameter, 25 feet in circumference, and 50 feet high. The building will be both majestic and very beautiful. I give it as my judgment, after having seen many of the important memorials in Europe and some in Asia, that nowhere will there be another so simple, beautiful, dignified, and effective.

On entering it one will see nothing in front of him in the majestic room, 60 feet in height, except at the opposite end a statue to Abraham Lincoln, not in "Greek garments," as somebody said yesterday, but clad as he was here in Washington in the days when he was saving the Republic of the United States. [Applause.] The place will be a sanctuary. Turning and looking between the columns he will read on the wall:

> Four score and seven years ago our forefathers brought forth on this continent a nation, conceived in liberty and dedicated to the proposition that all men are created equal—

and all of that wonderful address.

Mr. SHERWOOD. Did not he say that on the battle field of Gettysburg and not in a Greek temple?

Mr. COOPER. He said it at Gettysburg. But the visitor who goes into this noble memorial, sees the great statue, and reads those immortal words, will think as never before of their meaning and of the man who uttered them. That is the object of this memorial.

Riding over a fine highway might be pleasant to the man riding, but how immeasurably much more would he learn of

Lincoln while standing in that place sacred to his memory and reading the immortal lesson he taught the world.

The gentleman from Missouri denounces the memorial because it is of Greek architecture. From this I am sure that had he been here when the House many years ago was considering the bill which became a law and resulted in the monument to George Washington, and somebody had said we are going to erect an obelisk 555 feet high, the gentleman from Missouri [Mr. BORLAND] would have risen in his earnest way and said, "Mr. Speaker, was George Washington an Egyptian; are we to have an obelisk—an Egyptian obelisk—in honor of the great Father of his Country? God forbid!" [Applause.] "Are we to erect an obelisk to George Washington, and every time we look at it think of Rameses the Second, and Tethmosis the Second or Third—I do not remember the number—or Hatshepsut?" [Laughter.]

Some gentlemen say that we ought to build something practical—utilitarian—because Lincoln was a "practical man," and then they refer to his having been a railsplitter.

We do not seek to honor Abraham Lincoln because he split rails. Ten million men in this country can split rails, but where is there another man who could have done what Lincoln did in the wild storm that threatened to wreck the Republic? Where another man who could have written the Gettysburg address? It is to the spirit—the soul—of Lincoln that we wish to erect this memorial. This talk of a Greek temple is meaningless. How the gentleman must shudder whenever going along Fifteenth Street he looks up at the Treasury Building and sees those Greek columns. [Laughter.]

I suppose the gentleman is an admirer of American architecture. For example, the structure down on the Avenue, the Post Office Building, which Senator Hawley called a cross between a cathedral and a cotton factory. [Laughter.] Or, perhaps, he prefers another example of pure typical American architecture, the lofty, noble red shed in Judiciary Square, called the Pension Building. [Laughter.]

I shall vote for the memorial hall, because, on the banks of the Potomac, with only the lagoon between it and the monument to George Washington, it will be the most superbly effective memorial in the world. [Applause.]

Mr. BORLAND. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by inserting a letter from John E. Gilman, past commander in chief of the Grand Army of the Republic.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to extend his remarks in the RECORD by inserting a certain letter. Is there objection?

There was no objection.

The letter is as follows:

CITY OF BOSTON
SOLDIERS' RELIEF DEPARTMENT.
Boston, January 2, 1913.

DEAR SIR: While commander in chief of the Grand Army of the Republic, in 1910–11, I was greatly impressed with the unanimity of feeling among the veterans of the Civil War in favor of a memorial to our martyred President, Abraham Lincoln, to take the form of a Lincoln way, extending from Washington, where he labored, lived, and died for the perpetuity of our Republic, to Gettysburg, the greatest battle and the turning point of the war, where he, in November, 1863, delivered what is known as Lincoln's Gettysburg Address, the best known and most admired piece of literature of modern times. Could such a memorial be constructed, it would, I am sure, be pleasing to more people than any Greek temple that could ever be conceived.

In the name of my comrades and in my own behalf, I appeal to you to lend all your efforts and influence toward the construction of a Lincoln way.

Very respectfully, yours,

J. E. GILMAN,
Past Commander in Chief Grand Army of the Republic.

Mr. SHERLEY. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The time of the gentleman has been consumed.

Mr. SHERLEY. I ask unanimous consent to proceed for 20 minutes.

The CHAIRMAN. The gentleman from Kentucky [Mr. SHERLEY], in charge of the bill, asks unanimous consent to proceed for 20 minutes. Is there objection?

There was no objection.

Mr. SHERLEY. Mr. Chairman, I now desire to make a brief statement touching the bill that the committee will be asked to consider in a little while.

The estimates submitted to the committee aggregated $7,009,834, and the committee has recommended appropriations amounting to $5,218,250, which is $1,182,000 more than the bill of last year and $1,791,584 less than the estimates submitted.

These items of appropriation may be roughly divided into three general classes, namely: Fortification of seacoast forts, including ammunition; supply of Field Artillery matériel, including ammunition; miscellaneous items related to the above, but not strictly forming parts thereof. The first classification can be subdivided into three items: (*a*) Items pertaining to new armament and installation, including reserve ammunition. These items embrace guns, gun carriages, emplacements, sites for defense, electrical installation, searchlights, sea walls, submarine-mine structures, fire-control instruments and structures, and ammunition; (*b*) items pertaining to maintenance, repair, and alterations of property embraced in subdivision *a*, except ammunition; and (*c*) items pertaining to seacoast target-practice ammunition, including appliances for same, and subdivisions *a* and *b* should also be segregated according as they relate to continental United States and the insular possessions.

In the present estimates there is asked, under the first general division for continental United States, subdivision *a*, new matériel, etc., $1,219,084, of which sum there is recommended in the accompanying bill $673,000; under subdivision *b*, maintenance, repair, etc., $1,069,000, of which amount the bill carries $833,000; and under subdivision *c*, target-practice ammunition, $425,000, all of which is recommended in the bill, making a total estimate of $2,713,084, of which the bill carries $1,931,000.

In the insular possessions, under subdivision *a*, there is asked for new matériel, ammunition, etc., $1,847,531, of which there is recommended in the bill $1,430,031, and under subdivision *b*, maintenance, repair, etc., $89,319, of which the sum of $72,319 is recommended, making total estimates of $1,936,850, of which $1,502,350 is recommended, making a grand total of estimates of $4,649,934 for both continental United States and the insular possessions under the first general division, of which there is recommended $3,433,350.

Mr. GARRETT. Will the gentleman permit a question?

Mr. SHERLEY. I will.

Mr. GARRETT. How much of that is for the Philippine Islands?

Mr. SHERLEY. There will be expended in the Philippines some $700,000 for emplacement work, and then a part of the moneys for ammunition and for mine material, and so forth, that it is difficult, if not impossible, to segregate into a detailed statement. The bill carries all of the moneys necessary to complete the fortification of the Hawaiian Islands, and with the amounts provided in the bill the project as it relates to the Hawaiian Islands should be completed in its entirety.

In addition to these sums for the fortification of seacoast forts, including ammunition, there is carried under the second class considerable sums for Field Artillery material, including ammunition. This committee is doubtless aware of the fact that the Army appropriation bill carries provision for mobile artillery material and ammunition for militia, whereas the fortification bill carries the appropriation for similar ammunition and material for the Regular and Volunteer Army. It was represented before the committee this year, as it has been for several years past, that we were farther behind in having the requisite amount of material and ammunition for the mobile artillery than in any other particular, and it was urged upon the committee that we should be as liberal in the appropriations for these purposes as possible, and that if cuts were requisite they should not be made there. The Secretary of War appeared before the committee and submitted a detailed statement showing the relative order of importance of items contained in the Army and fortification bill.

Among those put at the very first in the fortification bill were the items relating to the mobile army. The committee in a general way have followed this recommendation made by those in charge of the Army. We have appropriated amounts that are larger than have been appropriated in recent years for matériel and ammunition, but we believe that the conditions presented by the hearings amply justify the position taken by the committee.

Under this second general classification there is asked, under subdivision *a*, new matériel, and so forth, including alteration of 3.2-inch batteries, $2,100,000, of which there is recommended $1,525,000, with an authorization of $300,000; under subdivision *b*, maintenance, repairs, and so forth, $45,000, all of which is given; under subdivision *c*, target-practice ammunition, $130,000, all of which is given; making total estimates of $2,275,000, of which the bill carries $1,700,000, with authorization of $300,000 as above.

Under the third general division there are asked the following items:

Current expenses, ordnance proving ground, Sandy Hook, N. J.	$56,200
Expenses of officers at the proving ground and compensation of draftsmen	18,700
Board of Ordnance and Fortification	10,000
Total	84,900

All of the estimates under the third general division are recommended.

One new project has been recommended by the committee, and that is the project that has from time to time been discussed and urged upon this floor but heretofore not allowed by Congress, namely, the one looking to the fortification of the mouth of the Chesapeake. When the original scheme for seacoast defense was adopted the report of the board, generally spoken of as the Endicott Board, recommended that there should be stationed at the mouth of the Chesapeake, to guard the entrance, monitors. That report was very greatly modified by what was known as the Taft Board report some years later, and in that report it was recommended that the mouth of the Chesapeake should be fortified by the building of an artificial island at the mouth and the creation of fortifications on both Cape Charles and Cape Henry.

Since then there has been a modification to the extent that they now believe that ample fortification can be had by the erection of defenses at Fort Henry, and that it will be unnecessary either to put additional fortifications at Cape Charles or to build an artificial island. This change has been brought about somewhat by virtue of the very great increase in the range of guns, and also by virtue of the increased draft of vessels, which in effect narrows the channel which war vessels of the first magnitude can use in coming through the Chesapeake.

I think it is only fair to say to this committee that this project for the fortification of the mouth of the Chesapeake was one about which the committee dealing with the matter had grave doubt. They studied it with considerable care and made a personal examination of the ground that was proposed to be purchased to be used for this fortification. The total project will cost, first and last, something between three and one-half and four millions of dollars. The cost of the land, which should be somewhere between $100,000 and $150,000, may be $125,000 or $130,000, is therefore a minor element in considering the project as a whole; and the committee, while anxious that nothing should be expended for the land beyond its true value, and believing that nothing will be so expended, yet realize that the determination of this policy should not rest upon the value of the land needed. The reason that finally actuated the committee in recommending the undertaking of this project was that we found a complete unanimity on the part of all Army and Navy officers touching the very great strategic importance of the lower Chesapeake, and the great desirability of fortifying it; and when it is realized, if their position is correct, that it is the key to great cities like Baltimore and Washington, that it involves the use by the Navy of a safe rendezvous in time of war, and also that it involves in a measure the security of the great naval station at Norfolk, I think that all will agree that Members should have very strong reasons for feeling that it should not be done to warrant them in putting their lay judgment against that of men who are trained to the study of these problems.

In this connection it may not be amiss to say on behalf of myself as chairman of the subcommittee on fortifications that I have recognized that there has always been and always will be a conflict of thought between the military man and the civilian. Any man who is deserving of being designated as a capable Army or Navy officer will be zealous, aye, overzealous, in his desire to have his country ready to meet any emergency that may arise; whereas the civilian will properly and necessarily discount, in a large measure, the view presented by the military experts. If we are to have an immediate war we are not going near fast enough. If we are not to have a war for 50 or 100 years, we are probably going too fast in our provision.

It seemed to me that the only position that could be taken was one that represented a compromise between these two necessarily hostile and conflicting views, and that without being frightened into undue expenditures we should yet have a proper realization of what war might mean to the country if it came, and should make proper safeguard for such an event happening.

No one who has read the history, not only of America but the history of any other great power, but must realize the tremendous loss of life and money that have come to nations because of their lack of preparation; certainly the history of America is replete with instances of that kind. I, for one, charged with the responsibility of presenting this bill to this committee, am not willing that we should lull ourselves into what I believe a false security as to the improbability of any war, and therefore not make proper provision.

As to just where the line shall be drawn, you will find as many opinions as there are men, but I submit to this committee that this bill here to-day presented is one drawn along conservative lines and does not undertake to push us too rapidly into expenditures for defenses, but does show a proper appreciation of what an inadequate defense might mean to the country in case war should come. In my judgment, the purpose of seacoast defense is to make absolutely free to seek the enemy the Navy of America. If a place is well fortified, in all human probability it will never be taken from the sea. Certainly to well fortify a place is to make it improbable that its capture will ever be undertaken from the sea except under extreme circumstances.

The proper fortification of our coast and our dependencies will insure to the Navy freedom of action to seek out the enemy and strike it, and that, to my judgment, is the best possible defense. Therefore it was, that weighing all these matters, having statements made by men who ought to know, who were trained to know, that fortification at the mouth of the Chesapeake would, in connection with mine defense and patrol of small craft, properly safeguard that very strategic point, that it would give a safe rendezvous to our Navy and protect the commerce that plies up and down the Chesapeake, the committee felt that it was no longer warranted in refusing to recommend the appropriation.

Mr. HELM. Will the gentleman yield?

Mr. SHERLEY. I will.

Mr. HELM. Will the gentleman inform the committee, or give it some information, as to the character and type of fortification it proposes to put there?

Mr. SHERLEY. Yes; it is proposed to place there certain batteries of big guns and mortars. In the original project it said 12-inch guns, but my judgment is that they should be 16-inch guns. I have not here the exact proposed plan of fortification, but I can give it to the gentleman later. I dislike to trust my memory as to just what it consists of.

Mr. HELM. It would be quite interesting to the committee. Some of us are not familiar with the project and such line of work, but we would like to know just what is going to be done.

Mr. SHERLEY. I will endeavor to give the gentleman and the committee full information. The hearings, both this year and formerly, show in detail, but I am unable for the moment to turn to it, but I will inform my colleague.

Mr. HELM. Speaking for myself, I am perfectly satisfied to have the gentleman summarize it.

Mr. SHERLEY. I think four 16-inch guns and eight mortars and carriages; but I am unable to carry in my mind all the details of these various fortifications. I will see that the RECORD contains a correct statement of it, and when the item is reached I will endeavor to give the gentleman the detailed information.

Mr. HELM. What I am seeking to ascertain is how the fortification of this particular place differs, if at all, from other fortified points on the Atlantic and Pacific coasts? What difference is there to be in the fortification of this particular cape?

Mr. SHERLEY. The fortification is on a cape.

Mr. HELM. How is it different from other fortifications on the Atlantic and Pacific coasts?

Mr. SHERLEY. The only difference is that in this particular instance a little heavier armament will be used, because the field that it is desired to cover by these guns at this entrance is a larger field than that which exists at most of the fortified places.

Mr. HELM. What is the type of gun that is usually used at the fortified points on the Atlantic and Pacific coasts?

Mr. SHERLEY. That has been a matter of evolution, and the constant tendency is toward an increase in the size of the armament. The gentleman will appreciate that there is a necessary race going on between the armament of ships and of the land batteries who oppose them. As the armament of ships increases, as the protective armor is strengthened, it becomes more and more desirable to increase the range and the size of guns used in land defense, and the constant tendency has been toward using larger guns. Until very recently the largest gun that we were using was a 12-inch gun.

Mr. HELM. That is for coast defense.

Mr. SHERLEY. For coast defense. They now have 14-inch guns and in certain instances 16-inch. For instance, one of the guns that will be provided for Panama will be a 16-inch gun.

Mr. HELM. I am talking about our Atlantic and Pacific fortifications.

Mr. SHERLEY. In this particular instance, at the entrance to the Chesapeake Bay, I think 16-inch guns will be used.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. SHERLEY. I should like to have five minutes more.

Mr. HELM. Are these to be disappearing guns?

Mr. SHERLEY. Yes.

Mr. HELM. All of them?

Mr. SHERLEY. Yes.

Mr. HELM. Are all the guns that are used in the coast defense disappearing guns?

Mr. SHERLEY. Yes.

Mr. HELM. Does any other country use the type of coast-defense gun that our Government is using?

Mr. SHERLEY. I have no doubt that they use disappearing guns. As to whether they are the exact counterpart of ours I do not know, but I am inclined to think they are not.

Mr. HELM. These disappearing guns are concealed behind an embankment, are they not?

Mr. SHERLEY. Yes.

Mr. HELM. Would it be proper to denominate them as masked batteries?

Mr. SHERLEY. The gun rises over a rampart and is fired, and the recoil carries it below, causes it to disappear from an outside view.

Mr. HELM. In case a shell was dropped over behind this embankment or protection or rampart, and should explode in proximity to these guns, what probable effect would the débris thrown up have upon the machinery for raising and lowering these guns?

Mr. SHERLEY. I should say if it was a big enough shell and exploded close enough, it would put the gun out of commission.

Mr. JAMES. It would cause it to disappear.

Mr. SHERLEY. Yes; it would cause it to disappear as a usable gun.

Mr. HELM. Is there any world power Government that uses this method of coast defense?

Mr. SHERLEY. Yes; and in further answer to the gentleman I will say to him that I do not believe any successful attack can be made upon the efficiency of our seacoast defense. I believe it is as efficient, and probably more efficient, than that of any other nation.

Mr. HELM. I expect that there is no doubt the gentleman is entitled to that conclusion, and I would not put my judgment up against his. I was trying to get some information. Does any other country operate its seacoast defenses behind ramparts or protection such as our coast defense is operated behind?

Mr. SHERLEY. Without being able to state with accuracy, I have no doubt whatever that they do.

Mr. HELM. The gentleman has never made any investigation of that?

Mr. SHERLEY. I have not. I have never undertaken to assume that my judgment touching the technical side of the coast defenses was comparable to that of the officers of the Army. I believe in the efficiency, as well as the patriotism, of the Army officers who have planned our defenses. If I were to complain of their action, it would be not that they underdefend, but that they sometimes in their zeal overdefend and fortify, and I believe that our work is modern, up to date, and I know from having personally witnessed it, that the accuracy of fire of our men is surpassingly good.

Mr. GARRETT. Mr. Chairman, I would like to ask the gentleman a question.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. GOOD. Mr. Chairman, I yield the gentleman such time as he may desire.

Mr. SHERLEY. Mr. Chairman, I want only three minutes.

Mr. GOOD. I yield the gentleman three minutes.

Mr. SHERLEY. We are to have a caucus, and I desire to have the committee rise at 5 o'clock. I yield to the gentleman from Tennessee.

Mr. GARRETT. I see the bill carries for fortifications in the Philippine Islands $700,000. I will ask the gentleman where that is to be expended. Of course I can ask that question when the item is read.

Mr. SHERLEY. I can give them to the gentleman in detail. Most of that particular money is to be used on the island of El Fraile, in Manila Bay. It is a small island, about the size of a battleship, the top of which is being cut off, and it is being protected by heavy masonry and armor, and is to have an armament consisting of 14-inch rifles and 6-inch rifles. The work on that has now proceeded to a point where the masonry work is rising considerably above low water, so as to enable work to be carried on even during the typhoon season, and therefore there will shortly be completed the emplacements for the guns that are to be put there; hence the $700,000 was asked.

Mr. GARRETT. That is not a new project?

Mr. SHERLEY. There is no new project being undertaken at this time.

Mr. GARRETT. Does the gentleman know whether that is included in the territory that the bill which has been reported by the Insular Affairs Committee retains?

Mr. SHERLEY. I do not know, but I can say to the gentleman that the defenses of Manila consist of fortifications at Fort Mills, Fort Frank, Fort Drum, and Fort Hughes, these fortifications being on Corregidor, Caballo, El Fraile, and Carabao Islands. The project contemplates the making of Corregidor the Gibraltar of the East, and when the fortifications are completed they ought to be able to withstand indefinitely an attack from any foreign power. The idea has been to make them sufficiently formidable to permit Corregidor to be the place of the last stand by the American troops in the event of a serious and disastrous war in that territory. In Subig Bay the fortifications are of a minor nature and have been entirely completed for some time past.

Mr. GARRETT. Of course the fortification of the city of Manila is the principal necessity, because that is the heart of the Philippine Islands.

Mr. SHERLEY. This not only looks to protection of Manila city, but in the event of the capture of the city of Manila and the destruction of our fleet in those waters the defenses are made sufficiently strong to enable the American troops there to hold out indefinitely against an enemy.

Before concluding this statement of the bill and its scope I simply desire to call attention to the provisions touching powder, its purchase, and manufacture. They are as follows:

The appropriations herein made for ammunition, when expended for manufacture of powder at the powder factory at the Picatinny Arsenal at Dover, N. J., shall be so expended only on the basis of and toward the operation of said powder factory to not less than one-half of the full capacity thereof during each calendar year.

No part of any money appropriated by this act shall be expended for powder, other than small-arms powder, at a price in excess of 53 cents a pound.

As I have in connection with the Army bill already discussed this question, it is unnecessary that I should now further deal with it. Under the five-minute debate I will be glad to give any additional information touching this or other items.

It is proper that I should call the committee's attention to a new provision in the bill requiring the preparation of plans, and so forth, by the department before the submission of estimates. The reason for this is obvious.

I believe the bill presented properly provides for the continuation and maintenance of our seacoast defense and those other matters within its purview relative to national defense. I hope it will receive the critical examination of this Committee of the Whole and that it may receive its approval.

Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. RUSSELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 28186, the fortifications appropriation bill, and had come to no resolution thereon.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I ask to present a conference report on the immigration bill for printing in the RECORD, and desire to give notice that on next Thursday morning, immediately after the reading of the Journal, I will call it up.

The SPEAKER. The conference report and statement will be printed in the RECORD under the rule.

Mr. COOPER. Mr. Speaker, I desire to ask the gentleman from Alabama [Mr. BURNETT] what he said as to when he would call up this conference report?

Mr. BURNETT. On Thursday, immediately after the reading of the Journal.

THE MISSOURI RIVER.

Mr. BOOHER. Mr. Speaker, I ask permission to have printed in the RECORD a paper written by Miss Luella A. Owen, of St. Joseph, Mo., entitled "The Missouri River and its future importance to the nations of Europe." This paper was read at the Ninth Geographical Congress, at Geneva, July 31, 1908. To my mind the article contains a vast amount of very useful and important information on the subject of inland waterways, especially as applied to the Missouri River.

The SPEAKER. The gentleman from Missouri asks unanimous consent to print in the RECORD the article mentioned. Is there objection? [After a pause.] The Chair hears none.

The article referred to is as follows:

THE MISSOURI RIVER AND ITS FUTURE IMPORTANCE TO THE NATIONS OF EUROPE.

(A paper read at the Ninth Geographical Congress at Geneva, July 31, 1908, by Luella A. Owen.)

On account of the enormous growth of industries and the rapid development of natural resources in the United States during the past 10 years, the question of transportation has assumed unexpected proportions and become a problem calling for immediate solution. The official report of the Interstate Commerce Commission shows that

within the time mentioned the volume of railroad business has increased more than 110 per cent, while the increase in railroad mileage amounted to only 21 per cent. As a logical result, the roads have become totally inadequate to meet the requirements of commerce, and the stress must be relieved by supplementary facilities that only the inland waterways can afford. For the time being competition is not the chief factor in traffic discussions, although even under present conditions it remains, as usual, an important consideration that can not be overlooked or ignored. What the roads can not accomplish the rivers must, and the vast tonnage of both heavy and bulky freight will be transported not only at greatly reduced cost but also with an economy of time which will figure as a new element in competitive water service.

No expert is required to point out the fact that the heaviest loss and greatest inconvenience resulting from lack of adequate railway service is necessarily borne by the great interior valley lying between the Rocky Mountains and the Alleghenies and drained by the Missouri and Mississippi Rivers. This valley produces the main support of the Nation, as well as the major portion of its heavy export surplus, and the most richly productive area is that vast region drained by the Missouri and its tributaries.

The long disuse of this wonderful and unsurpassed system of natural waterways has left the present generation in comparative ignorance of its unmeasured value until a realization of the overwhelmed condition of the railroads forced a dawning knowledge of neglected possibilities running wild unheeded.

In considering a subject of such wide extent and broad influence it is necessary to take a purely geographical view on which a clear conception of existing facts and future promise may be based. This includes a more extended range in latitude, longitude, and altitude than even the average inhabitant of the region is accustomed to take note of. The extremes of latitude are from those points on the Canadian line where Milk River crosses and recrosses to that where the waters pour into the Gulf of Mexico a total of 20 degrees. The longitude traversed by the waters of that most westerly tributary from their source to the sea is 24 degrees, while the variation in altitude is from sea level to perpetual snow, which on Longs Peak in Colorado is 14,000 feet, or 4,300 meters.

As a commercially navigable stream the Missouri is not equaled by any inland waterway in the world; and the force of its strong current can be converted into electrical energy for light and power not only in steep mountain passes and at the Great Falls, but might also be so utilized so far downstream as the cities of St. Joseph in Missouri and Atchison in Kansas, at which points the average rate of flow is about 7 miles per hour, the variations ranging from 6 at extreme low stage to 10 at the highest flood. The channel depth here at ordinary stage, between high and low, is about 30 feet. (This is the depth at the St. Joseph bridge, where it is 20 feet at low water, and on July 7, 1908, was 40 feet—*by careful measurement* taken by an experienced bridge employee.) The average fall between Omaha and these points is a little more than 1 foot per mile, diminishing to less than a foot at Kansas City. Below that the flow is from 3 to 4 miles, according to stage.

For domestic purposes the water supply is unlimited and pure, for, although far famed for the large amount of sediment held in suspension and transported to the Gulf, this is easily eliminated in settling basins provided for the purpose, and the water which flows off is absolutely pure under a powerful microscope. The supposition that the Missouri received its name from the quantity of solid matter carried is a mistake. The name is that of a once powerful tribe of Indians who welcomed the white adventurers to their lands on both sides of the stream where it flows through the present State, and who pronounced it Miz-zoo-rah or Miz-zoo-ri. The pronunciation with the soft *s* sound is pure Yankee and incorrect.

China alone possesses a river of approximate extent and similar in character, appearance, and commercial value, the Yang-tze-Kiang, whose yellow waters carry the vast interior traffic of a densely peopled region of about the same area, and give color and name to the Yellow Sea. The loess color is also seen in the lower Rhine, although this stream presents no reminder of the two other great turbulent streams beyond the known fact that the loess deposits on the banks of each have yielded evidence that human beings inhabited the regions before the close of the glacial period, and witnessed the causes and effects of a peculiarly interesting geological epoch.

The true headwaters of the Missouri River were not known until the summer of 1896, when a Government exploring party, sent into the mountains of Montana for the purpose of that discovery, completed the work undertaken a year before. The region was surveyed and mapped by these explorers, and in the same year the American Geographical Society published a short account of *The Utmost Waters of the Missouri River*, by Mr. J. V. Brower, who was chief of the party.

A portion of his description is as follows:

"At the crest of the Rocky Mountains on the southern border of the State of Montana, where the longest branch of the Missouri River takes its rise, the locality is essentially volcanic in its nature, but the eruptive forces have long since ceased to exist there, leaving crater walls and a serrated crest.

"The reconnaissance, which resulted in placing stone monuments on the State line, was principally conducted on snow-capped peaks, where several hundred snowslides had occurred recently, and during the latter part of June of the present year we encountered snow often 20 and 30 feet deep.

"The ascent of Burbside Mountain was accomplished, beyond which we were unable to pass with horses, on account of the tremendous drifts of snow.

"From every snow bank along the course of our exploration—and there were thousands of them—a little streamlet proceeded downward, under the rays of the summer's sun, to the lowest depressions of Culvers Canyon, where, uniting, the consequences incident to the birth of a plunging mountain stream were witnessed on every hand."

He also says:

"The channel distances have been very carefully considered, and all authorities available consulted, with the result that the longest continuous unbroken current of running water in the world, taking its rise near the crest of the Rocky Mountains in the upper portion of Culvers Canyon, State of Montana, thence flowing westwardly and northwardly through valleys that formerly constituted glacial lake beds, the stream, variously designated as Red Rock River, Beaver Head River, and the Jefferson Fork, passes the mouths of the Madison and Gallatin Rivers, and flows into the Mississippi above the city of St. Louis."

His carefully calculated total distance from the source under snow banks at the upper end of Culvers Canyon at an altitude of 8,000 feet above the sea, to the southwest pass at the Delta of the Mississippi, along the thread of the channel, is 4,221 miles. The distance from the same source to the junction of the Missouri and Mississippi is 2,945 miles. The total channel distance from the most extreme source of the Mississippi to the same point at the Gulf of Mexico is 2,553 miles, which is 1,668 miles less than the total main channel of the Missouri to the Gulf, and 392 miles less than the Missouri from its source to their junction.

The volcanic craters among the clouds here described, where the Missouri takes its rise, are only 20 miles, in an air line, from the western boundary of Yellowstone Park, while but 12 miles further eastward the magnificent activities displayed in the geyser basins may indicate that volcanic forces in the vicinity are merely dormant. Where flames appear to leap and flicker in the steaming waters of the Firehole Basin we find the extreme source of the Madison River, another of the beginnings of the Missouri, while the flow of the Gallatin commences with a conibination of waters from hot springs and snow banks in the northwest corner of the park. The Yellowstone, which is the largest tributary of the Missouri above the Mississippi junction, takes its meager beginning on Two-Ocean Pass, at an altitude of 7,950 feet, and gains such volume while still in the park that its low-water discharge at the northern boundary has been estimated at not less than 2,000 cubic feet per second, which is the exact volume estimated as necessary to be drawn from Lake Michigan to supply the contemplated 14-foot waterway to connect the Great Lakes with St. Louis and the Gulf. The altitude at that point is 5,300 feet above sea level, and is the lowest in the park.

The Yellowstone could be navigated advantageously, not only to this point, but also for a distance of some miles beyond, by small steamers of capacity fully equal to those in use by the Americans at Manila for the transportation of both passengers and freight up the Pasig River and across the Laguna de Bay. The Yellowstone was always considered navigable by large river steamers for a distance of 300 miles above the junction with the Missouri, but, unfortunately, it has been closed to navigation for all time by a great dam at Glendive, Mont., whose object is to turn the water into irrigating ditches for converting a vast stretch of semiarid grazing land into farms to attract a heavy population and induce more varied development in what is essentially a stock-raising country.

Milk River and a large number of other good streams of the smaller class, starting from the mountains of Montana and Wyoming and flowing into the Missouri, are of sufficient size to offer an important mileage of waterways prepared by nature to carry a heavy traffic as soon as the commercial possibilities of small, light-draft boats shall have come to be recognized in the broad interior West, where their usefulness has never yet been tested. Their value, indeed, could not easily be overestimated, even if the service should be wholly confined to the distribution of products of the coal and lignite mines and oil wells of that region; and yet, by this means vast quantities of ores from the mountains and grain from fields on the high plateaus could also be cheaply and promptly transported to home markets; or, if loaded on barges, might be well started toward the shipping port that would be arrived at without breaking bulk. Some conception of the volume of water carried by these streams may be acquired from the mere fact that the width of the Missouri, where it receives the Yellowstone, is 860 yards at the ordinary stage of summer flow, when the depth, too, is ample for navigation.

Similar conditions as to available small rivers and serious need of increased transportation facilities are found in both North and South Dakota, where the situation is obviously more grave than in States better provided with railway service. Their staple crop, wheat, never brings the price of an open market to the producers. They sell of necessity for the price offered by those who can control transportation and ship at pleasure, and who, therefore, reap the greater profit. With transportation on those small streams cooperating with service on the Missouri, sales as well as shipments would be made directly to European countries, which would have become an open market to all the States of the interior. While cost to consumers would be reduced, the producer's profit would increase.

The longest tributary of the Missouri and also the most peculiar of all American streams is the Platte, or Nebraska. Its two sources start from high peaks of the snowy range of the Rocky Mountains in northern and central Colorado, from whence they rush through cloud-bathed parks to leap down narrow gorges into magnificent canyons, and then, after pursuing devious courses to widely distant sandy plains, find their way to a meeting place in western Nebraska. Geological observations show that in the very recent past a shallow lake of considerable size existed here, fed by the uniting waters of the two streams poured in from the west and south and drained by the Great Platte. Numerous flat-topped elevations in the grass-grown lake bed bear witness that the placid surface was dotted with small islands. The scene is of special interest on account of suggesting the idea that the decrease in water supply was of sudden occurrence, it being an established fact throughout the region that if a lake becomes dry from gradually failing flow its bed is so filled with sediment that little, if any, depression remains.

This was the lake of "La Hontan's Limit" on his famous voyage up the Long River. The descriptions of his entire trip are so remarkably correct that every point mentioned, on both the outgoing journey and return, is easily recognized by those who are themselves familiar with the rivers traversed and their shores. The distinctive peculiarities of gradually changing scenes are given with a terse faithfulness quite impossible to one not an actual observer. The key to his misfortune of discredit is readily discovered in the simple fact that after the first few hours on the Wisconsin River he had no correct knowledge of locality. Indian hospitality to strangers was cordial and guidance through their territory and that of friendly nations freely given, but with some carefully concealed element of strategy designed to prevent a repetition of the journey without the assistance of native guides. The narrative of the Baron La Hontan clearly shows how the deception in his case was accomplished.

As is well known, Indians traveled with incredible speed in their long, narrow canoes, especially when going with the current. After resting and feasting in the country of the "Kikapous," the refreshed party, reenforced by 10 warriors, seized with enthusiasm the idea of extending the journey to the "Plantation of the Sun," so it is reasonable to suppose that the canoes moved swiftly. But the account states that, having crossed the portage, they "embarqu'd upon the River Ouisconsin" and "arrived in four days at the place where it empties itself into the River Mississippi, which is about half a league broad in that part. * * * It lies northeast and southwest, and its sides are adorn'd with meadows."

Now, this is a good description of the junction of the Mississippi with the Missouri, but where it receives the Wisconsin it is only one-third of that width, half a mile, and flows from a north-northwest direction through a narrow valley between high rocky bluffs. The distance from the portage is a little less than 200 miles.

As mention is made of the possibility of having passed unseen islands "which the darkness of the night hid from us as we came down," it is evident the party traveled by night as well as day, which makes four days an unreasonable time for the passage of those 200 miles. Many years later the English traveler, G. W. Featherstonhaugh, gave a description of his descent of the Wisconsin from the portage to the Mississippi in a birch-bark canoe which carried eight persons "commodiously," besides a tou and a half of provisions and baggage. The canoe was "carried by the current, independent of the paddles"; the party camped on shore at night and the Mississippi was entered at 3 o'clock in the afternoon of the third day.

By vigorous use of oars the time might have been reduced at least half, so it is plain that four days' continuous travel were ample for concluding a downstream journey so far as the Missouri junction, which was evidently done and the fact concealed from the French explorer by simply misnaming the river whose rapid currents he "stem'd" for 12 days before reaching the Long River. The Platte is readily identified without the necessity of allowances for the influence of time or changed inhabitants. The broad, placid stream, with but a narrow channel; the fertile valley on both sides, changing to hilly country with wooded shores, and further on to a desolation of limitless plains, followed by a dreary waste of sand—this is the progressive picture even to the present time. The river is remarkable for the absence of short curves in its entire course through the State of Nebraska, and in places the water spreads out in shallow sheets of great breadth almost on a level with the low banks, and in appearance is very like the Bitter Lakes seen in passing through the Suez Canal. The "Great Island," which "afforded great plenty of hares," is Grand Island, and the hares were jack rabbits, which were abundant on the western plains and are not scarce even now, but never quite reached the lower Missouri. The wolves and water fowl, the prairie chickens or pinnated grouse (called pheasants), and the "wild beeves" were all to be found where stated, but the wild turkeys that were sought in vain are known to have first appeared in the Platte in the year 1869.

No reasonable doubt of the journey can be based on the season in which it was made, for although it is usual for the rivers of the region to be closed by ice during a portion of the winter months, there are exceptions to the rule in frequent mild seasons, in which that return might be undertaken on January 26 and successfully accomplished. The stream called the "River of the Missouris" was the Osage, and that called the "River of the Osages" was the beautiful Niangua, near the mouth of which a village was burned. A familiar knowledge of the entire region and of its recent past would convince the most skeptic that the Baron la Hontan's description is incontestable proof of his journey up the Missouri and Platte Rivers, and that the impossible map was the fruit of Indian cunning. In tardy justice his name should be restored to a place on the geographical roll of honor as the first white man to penetrate into the real heart of the American Continent.

The Platte could easily and at reasonable expense be converted into a commercial highway of first importance, navigable by river boats of any capacity. The character of the country through which it flows is such that the work of construction and maintenance would be something similar to that of the Suez Canal, but with all the difficulties occasioned by shifting sand eliminated in eastern Nebraska. The natural supply of water is ample if it were not diverted to other uses, the annual flow of the North Fork alone being reckoned by the chief engineer of the Reclamation Service as "sufficient to cover 1,000,000 acres of land 1 foot in depth." An enormous dam, called the Pathfinder project, has been built in eastern Wyoming for the storage of these waters for irrigation. This dam forms a reservoir having a capacity of 43,500,000,000 cubic feet, which is more than ten times that of the famous Croton reservoir in New York. A storage basin on the South Fork above Denver is being built, to have a water surface when full of 2,000 acres. This is surpassed by one of the greatest dams in the world, which is nearly completed, on the Belle Fourche, in South Dakota, creating a reservoir 60 feet deep, with a water surface of about 9,000 acres when full.

Irrigation is also too popular in Kansas, where the small boat might be effective in the navigation of rivers generally regarded as too shallow for steamer traffic. Even the Kansas is not too large to prove its usefulness, although at Topeka the river has about the breadth and volume of the Seine where it flows through Paris, and the Arkansas might afford valuable transportation to the southern section, below the great dam at Garden City, if irrigation be not too lavish.

If only the surplus waters of excessive floods were to be stored in reservoirs, as was understood to be the purpose when they were being projected, their great and lasting value to the whole valley of the Missouri and its tributaries would be fully comprehended by all who have ever witnessed the havoc created by such floods. But if, on the other hand, these and others under construction and in contemplation shall be allowed to store and distribute an equal volume for irrigation in the more general seasons when no such floods occur, the result must of necessity damage the whole great system of inland water transportation west of the Mississippi. Therefore it can be plainly seen that unrestrained enthusiasm for bringing desert tracts and grazing lands under irrigation may produce results not anticipated, and most disastrous to those regions themselves, as it has been stated by a prominent railroad official that the products of the northern interior States have doubled in 10 years while their railroad facilities increased but one-eighth.

The area of country drained by and therefore commercially tributary to the Missouri River and its affluents above the Mississippi junction is equal to three times that of the German Empire, or to the combined areas of Italy, Switzerland, France, Great Britain, and the German Empire, a total of more than 600,000 square miles, and it is the most productive portion of the United States. Various crops predominate in different States and sections of States, from wheat in the most northern to cotton in the southern, the State of Missouri alone being able to excel in the whole range, although its northern limit is in the same latitude as Naples and its southern extreme nearly 1 degree farther south than the city of Tunis in Africa. Though less than half the size of the State of Montana, Missouri has an area greater by 2,572 square miles than that of England and Switzerland combined. Not being under narrow restrictions as to soil, climate, and rainfall, this one State grows two-thirds as much wheat as all the Dominion of Canada and one-tenth of the maize grown in the world in one year; it rivals California in the value of the fruit crop; surpasses all the States in zinc production and many of the Southern States in quantity as well as quality of cotton; all again in horses and mules, takes high rank in production of cattle and hogs, and ships 107,000,000 dozen of eggs in a season. These are only a few of the most abundant products of which there is a heavy surplus for export. Each State in the whole drainage system is in various ways a rich producer and a heavy shipper to the markets of Europe, and yet all the region under discussion could increase its output to an incredible extent to meet demand if there were adequate means of transportation.

In turn, the valley of the Missouri and its affluents is the consumer of an enormous quantity of European raw material and manufactured goods. The transportation of these imports and exports across the country by rail, or partly by rail and partly by the Lakes, is much more expensive than carriage by the Missouri River would be; and that without counting a great difference in port charges owing to negro labor in the South being cheaper than similar service at ports in the East, food in the South being a light expense and little clothing required.

With the advent of railroads in the West 50 years ago, transportation on the rivers was almost wholly abandoned and the tyranny of pilots ceased to trouble commerce. The Missouri is naturally a navigable stream, but is beset with dangers from shifting sand bars and stranded trees that require specially trained pilots and prohibit night travel. To meet the present stress immediate improvement is imperative, but consists simply in clearing the channel of these bars and snags and then maintaining it so, with the additional feature of navigation lights to perfect the security of continuous travel with increased speed. This work will be very inexpensive in comparison with the cost of building railroads having but a small fraction of the transportation capacity. The chief engineer in charge of river work at points below Sioux City has estimated that a congressional appropriation of $1,000,000 would place a dozen parties at work on different portions of the stream starting improvements that four or five millions in successive years would finish. The first year's work would put the river in good condition for navigation from the junction with the Mississippi to Fort Benton in Montana; and following that the channel would be widened and kept clear of obstructions and the banks protected from encroachments of the current.

A prominent railway authority and official of the Northern Pacific road has estimated the cost of additional track mileage and terminals of capacity to properly move the present freight of the country at $5,500,000,000, but states that this need can not be met. In discussing the situation he gives the average speed of a freight train as from 12 to 15 miles per hour, and the average distance traveled by each freight car in service as about 25 miles per day, saying "That is, the entire freight equipment of the country is employed to the fair limit of its capacity but two hours out of the twenty-four. On single-track lines freight must wait on sidings while passenger trains have right of way; cars stand for days or weeks in yards or at transfer points waiting their turn."

The same authority declares that a 15-foot channel from St. Louis to New Orleans would go further to relieve the entire Middle West and Southwest than any other work that could be undertaken, and that with such a depth of water a single powerful towboat would carry from 30 to 40 trainloads.

Others demonstrate the value of river service by the efficiency of the 9-foot channel of the Ohio, as shown by the official report, that one steamer sometimes tows as much as 60,000 tons of freight from Louisville to New Orleans on one trip. The horsepower of this steamer is 2,175, while that of locomotives to haul the same cargo on a road of average grade would be 24,000. The cost per ton per mile is said to be about one-eleventh of the average rail rate. The average cost of water transportation in the country in competition with rail is one-sixth of the cost by rail.

Freight transported down the Missouri River for shipment to foreign ports would have the time advantage of uninterrupted progress; and to the economy of water rates would be added that of no necessity of transfer anywhere between the starting point and shipping port, even if the start were made in the interior of Montana. And return cargoes of imports would be equally favored in distribution.

If the markets of Europe were thus opened to direct communication with the unlimited resources and heavy requirements of the Middle West and Northwest, the advantages would be mutual and of steady growth. The Missouri River is therefore as important to the nations of Europe as to the States it drains.

LINCOLN MEMORIAL.

Mr. STEPHENS of Texas. Mr. Speaker, I desire unanimous consent to extend my remarks in the RECORD for the purpose of making some remarks relative to the Lincoln Memorial in this city.

The SPEAKER. The gentleman from Texas asks unanimous consent to extend his remarks in the RECORD on the Lincoln Memorial. Is there objection? [After a pause.] The Chair hears none.

Mr. STEPHENS of Texas. Mr. Speaker, a Lincoln memorial hall should be substituted for all other kinds of memorials proposed in the resolution and amendment; it should be similar to the Albert Memorial Hall erected by the English people in London as a monument to the Prince Consort in the last century. It is a vast amphitheater in the Italian renaissance style, destined for concerts, scientific congresses, and art assemblies, and other similar uses. The building was erected from 1867 to 1871, designed by Fowke & Scott, architects; it is oval in form and measures 270 by 240 feet and 810 feet in circumference, and comfortably accommodates 8,000 people. It cost £200,000—one-half contributed by the public treasury, the other one-half by citizens, associations, and private subscriptions. This hall is situated on the south edge of Hyde Park. The architects were guided by the principles upon which the Romans constructed their great amphitheaters, and have succeeded in the Albert Hall in raising a structure unsurpassed in its attraction and beautiful proportions, and at the same time of great practical utility.

A similar memorial hall and auditorium should be erected in Washington to the memory of Abraham Lincoln, and used for the same purposes as the Albert Memorial Hall is used in London. I have to-day introduced a resolution for that purpose, and desire to present it as a substitute for the other resolutions on this subject. It is as follows, viz:

House concurrent resolution 69.

Resolved by the House of Representative (the Senate concurring), That the plan, design, and location for a Lincoln memorial determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby disapproved, and the said commission is hereby continued with directions to select a location in the city of Washington, D. C., and to secure plans and designs for the erection of a Lincoln national memorial hall and to make recommendation and report thereon to Congress at the session beginning the first Monday in December, 1913; said hall to be erected and dedicated to the memory of Abraham Lincoln and to be suitable for use as an auditorium for all such national and international public assemblies and uses as Congress may hereafter designate.

I also desire to insert as part of my remarks an editorial from the New York Tribune, of recent date, on this subject, and I fully concur in its conclusions. It is as follows:

[From the New York Tribune.]

A NATIONAL HALL.

The proposal to hold an inaugural reception in the rotunda of the Capitol, which is about as ill equipped for such a gathering as any large hall could be, calls renewed attention to the lack of adequate facilities in Washington for indoor state ceremonies on a large scale. There is no place where an inauguration address can be satisfactorily delivered in case of inclement weather, or where an international conference can be suitably conducted. When President McKinley died the state funeral was held in the Rotunda of the Capitol, but its size is inadequate, its lighting bad, and it is entirely unadapted to such ceremonies. The United States should have in Washington a structure for important meetings and ceremonies. It should be a building with all the dignity of a great Roman basilica or Gothic church, large enough to hold several thousand persons, impressive enough for the most solemn occasion. In addition to an auditorium it might well contain rooms where an international conference could be held and quarters where national guests could be suitably lodged. There an inauguration address could be delivered, a state reception given, a national hero's body lie in state, a public funeral be held. It might be for Washington what "the great hall of William Rufus" is to London or the Pantheon is to Paris.

The grounds in the rear of the Capitol, where the Grant Monument is being erected, would have furnished a suitable site for such a building, which, indeed, would be an appropriate monument to one of the Nation's great men. There are other available sites convenient to the Capitol, and there are other men whose memory the country holds in honor, any one of whom might be appropriately commemorated by a building at once grand and useful. Such a secular cathedral, which might be a hall of fame as well as a temple for the ceremonial functions of the Government, would serve a practical utilitarian purpose and be a stimulant of patriotic feeling.

EUROPEAN MUNICIPAL MARKET CONDITIONS.

Mr. AINEY. Mr. Speaker, I desire to have leave to extend my remarks in the RECORD on the subject of the high cost of living and distribution and collection of food supplies, and to print a short article on the subject of terminal market conditions in European countries, prepared by Mrs. Elmer Black, a member of the advisory board of the New York Market Terminal Commission.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania? [After a pause.] The Chair hears none.

Mr. AINEY. Mr. Speaker, I desire to submit some remarks on the subject of high cost of living, and particularly to that problem incident to the same which involves the collection and distribution of food supplies whereby the producer and consumer may be brought into better economic relations with each other, and to that end and elucidative thereof I am incorporating under the leave granted me a brief but comprehensive and exceedingly interesting article by Mrs. Elmer Black, a member of the advisory board of the New York Terminal Market Commission, covering an extensive investigation into European municipal market conditions and management.

While this article was prepared with the primary purpose of facilitating the establishment of a much-needed terminal market in the city of New York, the information contained therein, obtained after much painstaking effort and visits to all the large municipal markets of Europe, ought to be more readily available to the producers of the country as well as to the municipalities which represent largely the consumers.

The article referred to is as follows:

Article by Mrs. Elmer Black, member of the advisory board of the New York terminal market commission, upon the subject of "European municipal market conditions and management."

FOREWORD.

In the belief that the establishment of a first-class terminal market system, worthy of twentieth-century requirements, is a matter of vital importance to every family in New York, I have spent considerable time during the past few months investigating markets on both sides of the Atlantic.

As a result I am more than ever conscious of the need for an enlightened public opinion to support the efforts of the terminal market commission to secure this benefit for our community. I am convinced that our fellow citizens will approve the requisite expenditure once they are roused to a realization of the inadequacy of our food-distributing centers.

In the hope that my investigations may aid in the accomplishment of this reform I have prepared these observations, comments, and comparisons.

It is true that the problem of the high cost of living is afflicting the old lands of Europe, the newer countries like New Zealand, as well as our own wide territories of the United States. The causes vary according to local conditions, but everywhere it is agreed that a potent force for the amelioration of the condition of the consumers is found in the establishment of efficient terminal markets under municipal control for all progressive cities. With wise administration, stringent inspection, and sound safeguards these municipal markets benefit both producers and consumers. They eliminate considerable intermediate expense, delay, and confusion. Last, but not least, they return a profit to the city treasury.

It is because our New York markets achieve none of these beneficent results that I issue this plea for the establishment of an adequate terminal market system. I appeal to all who have the welfare of their city at heart to add the force of their opinion to the accomplishment of this civic improvement.

UNITED STATES.

New York, with over 5,000,000 inhabitants, has no effective market system. The buildings are out of repair, there is little or no organization, and the superintendent has testified before the New York food investigation commission (Mar. 12, 1912) that on their administration last year there was a loss to the city treasury of $80,000. To that must be added due consideration of the inconvenience to the consumers, producers, and dealers and the extra cost of handling entailed by the lack of modern market methods. The city has almost quadrupled its population in a generation, but the markets remain about as they were. Many other cities in the United States not only testify to the value of municipal markets as a means for lowering prices to the consumer, but so guard their interests as to provide a very different balance sheet.

Boston has a profit on its markets of $60,000, Baltimore $50,000, New Orleans $79,000, Buffalo $44,000, Cleveland (Ohio) $27,507, Washington (D. C.) $7,000, Nashville (Tenn.) $8,200, Indianapolis $17,220, Rochester (N. Y.) $4,721, and St. Paul (Minn.) $4,085.

If the following facts concerning municipal markets are studied, also, it will be seen that our city in any way comparable to New York fails to make the municipal markets yield advantages both to the community and the city treasury.

THE BRITISH ISLES.

London naturally serves as a starting point for a tour of European investigation. The British capital has, indeed, features that render it comparable in a peculiar degree with New York. The population of both, including their outer ring of suburbs, is over 5,000,000. In each case there is access to the open sea by means of a noble waterway over which passes the commerce of the seven seas. Railroads supplement the water-borne cargoes with home-grown produce fresh from the farms for the use of urban kitchens.

London's markets do not afford the unbroken example of municipal control that they would if a new system were to be created at the present day. Precedent looms large in British administration, and even now there are only two ways of establishing a market—by parliamentary authority and royal charter. King Henry III covenanted by charter with the city of London not to grant permission to anyone else to set up a market within a radius of 7 miles of the Guildhall, and this privilege was subsequently confirmed by a charter granted by Edward III in 1326. But of late years the city corporation has waived its rights and allowed markets to be established in various districts wherever a real necessity has been shown to exist. In fact, the markets of London have grown with the city, keeping pace with its requirements.

There remains, however, the fact that certain corporation markets and Covent Garden markets serve as great wholesale terminals, connected more or less unofficially with the numerous local markets in the outlying districts.

Chief among the corporation markets is Smithfield, covering about 8 acres and costing altogether $1,940,000. There are to be found wholesale meat, poultry, and provision markets, with sections for the sale, wholesale and retail, of vegetables and fish. In the last 20 years the development of cold-storage processes has lowered the quantity of home-killed meat and remarkably increased the importation of refrigerated supplies. Last year the wholesale market disposed of 433,723 tons of meat, of which 77.2 per cent came from overseas.

Ten years ago the United States supplied 41 per cent of the Smithfield meat, but now these supplies have fallen off enormously, and the last report of the markets committee says: "The United States, in particular for domestic needs, is within measurable distance of becoming a competitor with England for the output of South America." South America and Australasia are indeed the chief producers to-day for the British market.

This has developed a great cold-storage business in London. All told, London can accommodate 3,032,000 carcasses of mutton, reckoning each carcass at 36 pounds. Over 41 per cent of England's imported meat passes through Smithfield, and railroad access is arranged to the heart of the market. The Great Northern Railway Co. has a lease from the corporation on 100,000 feet of basement works under the meat market, with hydraulic lifts to the level of the market hall and inclined roadways for vehicular traffic.

Most of the tenants at Smithfield are commission salesmen, who pay weekly rents for their shops and stalls at space rates, all the fittings being supplied. Last year these rents brought in $427,920. There is a toll of a farthing on every 21 pounds of meat sold, which, together with cold storage, weighing, and other charges, amounted in the same period to $241,635. The meat sales are entirely wholesale, except on Saturday afternoons, when there is a retail "people's market," where thousands of the very poor buy cheap joints.

The inspection is very strict, every precaution is taken to insure cleanliness, and breaches of the regulations are punished by fines or imprisonment. All condemned carcasses are sent to a patent Podewill destructor to be reduced by steam pressure and rolling to a powder, which is disposed of as an agricultural fertilizer.

On these central meat markets there is a profit of about $100,000.

The corporation also controls a great live-cattle market at Islington, covering 75 acres. Over $2,500,000 have been spent on this market and the modern slaughterhouses attached thereto. These slaughterhouses are not regarded as a remunerative concern, but are provided because they afford hygienic methods, and private slaughterhouses in London are

decreasing rapidly. Last year 37,670 cattle, 101,646 sheep, 11,722 calves, and 34,981 swine were slaughtered there, the charges being 36 cents a head for cattle, 4 cents for sheep, 8 cents for calves, and 12 cents for hogs. Mainly on account of the extensions and improvements, this market is not being run at a profit at present, but its public utility is held to justify the outlay. Nor does the Deptford cattle market of 30 acres, maintained on the banks of the Thames to deal with live cattle imported from abroad, pay its way. But there has been a serious decline in imported stock in late years, especially from America. At this market extreme precautions are taken to prevent the entry of cattle disease that might spread infection to British flocks and herds. All animals landed there must be slaughtered within 10 days and submitted to rigid inspection. All hides and offal are immediately disinfected. Five hundred cattle can be unloaded from vessels at Deptford in 20 minutes. Last year 194,551 animals were killed, the meat being sent for sale to Smithfield and Whitechapel.

Billingsgate, the famous fish market of London, is also administered by the corporation. Its records cover over 600 years. It is hampered by narrow street approaches, but a very expeditious system of direct delivery of fish from the Thames side of the market building enables the licensed auctioneers to dispose of supplies very quickly. Steam carriers collect the fish from the fleets around the coast and deliver them packed in ice at Billingsgate every night. Billingsgate market has cost the city $1,600,000. Stand prices are high, but there is keen competition whenever a vacancy occurs. Last year the receipts amounted to $382,455. The auctioneers dealt with 194,477 tons of fish, of which 120,905 were water borne and 73,572 land borne. The city profited to the extent of over $40,000 on this fish trade.

On the wholesale and retail meat, fruit, vegetable, and fish market at Leadenhall there is also a profit of over $5,000.

On the entire municipal-market enterprises of the city there is a profit of $156,000. The markets are regarded with especial interest by the corporation, and the committee which regulates them is considered one of the most important in the whole administration of the city. In order to keep abreast of the times most of the profit is expended on improvements and extensions.

Covent Garden, London's great fruit, flower, and vegetable market, is owned by the Duke of Bedford, whose family have held it for hundreds of years. In the past century they have spent $730,000 on extensions and improvements. Of the present modern buildings the fruit hall cost $170,000 and the flower building $243,000. Formerly the producers were chiefly concerned in the market, holding their stands at a yearly rental. But with the expansion of London the growers have gradually given place to dealers and commission men, who pay 25 cents a day per square foot of space, and on the produce at a regular scale according to its nature. On flowers there is no toll, but each stand holder pays a fixed rental. Though this market has direct access neither to river nor railroad, it still retains its premier position among the wholesale markets of England. As the approaches are extremely narrow, most of the produce has to be carried on the heads of hundreds of porters from the wagons outside into the market buildings. As it is under private ownership, no figures are issued, but there is known to be a huge profit on the market. For outer London there are fruit and vegetable markets at Stratford in the east, Kew in the west, the Borough in the south, and two railroad markets in the north.

Birmingham, England's chief midland city, has owned its markets since 1824, administering them through a markets and fairs committee. Since 1908 the profits have been somewhat reduced, owing to outlay on improvements and extensions, but, although the city has expended $2,156,362 on the markets, the profits have paid off more than half of that indebtedness, besides relieving taxation in other directions.

Not far away is the small city of Kidderminster, that may be mentioned as affording a demonstration of provincial municipal enterprise under more restricted conditions. On its vegetable market it makes a profit of $1,000 and on its butter market a profit of $1,500. The population of the city is only 25,000. Another midland city, Wolverhampton, makes a profit of nearly $20,000.

Liverpool, the great northern port on the Mersey, has spent $1,242,534 on six municipal markets. The only market to lose money is the cattle market, which shows a deficit of $8,000. Liverpool has a cold-storage capacity for 2,176,000 carcasses. On the whole municipal market enterprise in this city of 700,000 people there is an average annual profit of $80,000.

Manchester serves not only its own area but surrounding industrial centers, with a total population of nearly 8,000,000. There are 12 markets and 4 slaughterhouses. Since 1868 the city has benefited by their administration to the extent of $3,250,000 profit.

Next to that of London, the fish market here is the largest in England. Its annual profit is well over $10,000, in addition to heavy extension payments in late years.

Dublin, the capital of what is often called "the distressful isle," makes a profit of $14,000 on the food market and $12,000 more on the cattle market, while Edinburgh, Scotland's chief city, makes about $15,000 a year on municipal markets.

Statistics are available of something like 150 other British towns and cities, ranging from a population of 5,000 upward, where there is the conviction born of experience that municipal markets pay not merely in profits but in convenience to the community, and they have a powerful influence in keeping prices down.

GERMANY.

Perhaps more than any other country in the world Germany places reliance on municipal markets, because of the peculiar pressure of the problem of the high cost of living in the cities of the fatherland. On several occasions during the last 12 months the butchers' stalls have been raided by women in protest against the 10 per cent increase in one year on the price of meat. And when to meet the clamor the Government reduced the hitherto prohibitive import duties on meat by one-half and the inland railroad charges by one-third it was on condition that the meat brought in should be for delivery to municipal markets or cooperative societies only. The result has been an immediate fall in retail prices ranging up to 50 per cent.

Berlin's 2,000,000 people since 1886 have had a splendid terminal market on the Alexanderplatz, consisting of two great adjoining halls, with direct access to the city railroad. One of these halls is entirely wholesale, while the other is partly wholesale and partly retail. Meat, fish, fruit, and vegetables are dealt with under the same roof by upward of 2,000 producers and dealers.

The whole market cost $7,250,000, of which $1,920,711 was for the main market and $4,852,862 was for the slaughterhouses, which are most elaborately equipped to insure sanitation and cleanliness. Great as the market is, the pressure of business has grown so much that a project is on foot to construct more accommodations at a cost of $15,000,000. The market is maintained by stand rentals and administrative charges and by a fund established for the improvement and extension of the system. On the entire enterprise, when all charges have been met and interest paid, there is a profit of over $135,000 a year.

A committee of 11, partly city councilors and partly selected representatives of the public, administer the markets, with 93 officials to insure the carrying out of their orders. The regulations are most elaborate, especially as regards the inspection of foods, which is conducted by a department having a staff of 609.

A healthy competition is created by the system of sales, which may be conducted by the producer himself or through an approved wholesale dealer or through one of the six municipal sales commissioners. These municipal sales commissioners have to give bonds on appointment and are not allowed to have any interest in the trade of the market beyond a small percentage on sales. Producers living at a distance can have their business carried through by them under conditions so well understood and respected as to insure confidence. Though the municipal sales commissioners handle less than a quarter of the sales, they nevertheless act as a check on the private dealers, especially as they issue a regular report on the average wholesale prices. Moreover, the purchasers benefit by these market arrangements, for if they buy from a regularly authorized dealer they can file a claim with the administration if the supplies delivered are faulty, and if their case is proved the account will be rectified.

About 50 carloads can be handled at once at the market, but when extended accommodations are provided it is intended to deal with 200 carloads simultaneously. On supplies thus delivered a railroad tax is collected from the receivers for maintaining rail connections, and this yields an annual profit of $11,000.

Of the stand holders, nine-tenths are monthly tenants, and the remainder pay 5 cents a day. The highest charge is 9.5 cents per square meter a day for meat stalls. The fish sold comes mainly from Geestemunde, at the mouth of the Weser, and is sold under the strictest conditions, only a small commission being allowed to be added by the dealers.

The slaughterhouses deal with 800 wagons daily, and for the use of the butchers and the market generally 2,000 square meters of distilled water are produced every day valued at 4 cents the square meter. Eight thousand pipes conduct the water to every part of the market. To insure cleanliness, bathrooms and rooms for drying clothes are established for the use of the butchers, who are charged 2½ cents a bath. In inspecting the carcasses the veterinarians take the most minute precautions. From every animal four samples are taken at different parts of the body, and each of these samples is submitted to tests for 20 minutes.

In an average year 14,000 carcasses are condemned and destroyed, as well as 400,000 diseased parts. Whenever possible the inspectors cut away diseased portions, and the remainder of the carcass, after being sterilized, is sent to the markets known as the Freibank, for sale to the very poor. This proportion is not so startling when it is considered that something like 2,000,000 animals are slaughtered every year, of which more than half are pigs. Until recently Germany used to export a large number of prime animals to the London market, but the demands of home consumers now prevent this and the export trade has practically ceased. In fact, Germany, in common with the rest of Europe, is now competing for the world's refrigerated supplies.

Storm doors and windbreaks are provided at the entrances to the markets and wagons are only allowed inside at certain hours and through specified doorways. Thus there is an absence of dust, and a carefully arranged series of windows insure ample ventilation. All dealers have to unpack their stock at least once every seven days for the destruction of unsound articles. All supplies of unripe fruit, horseflesh, and artificial butter have to carry labels disclosing their real nature. Attached to the market is a hospital with skilled attendance for cases of sickness or injury happening on the market premises.

As in most other centers, the establishment of the market led to the peddlers entering into outside competition. They bought their supplies wholesale inside and then offered them cheaply outside, free from stand rentals and other charges. This menace to the prosperity of the market grew so great that the peddlers' traffic in adjacent streets was prohibited and strictly limited elsewhere. This measure, in fact, is deemed essential in every city where municipal markets are conducted successfully.

Cologne completed a million dollar market in 1904 with a cold-storage plant and connections with the State and narrow-gauge railways. Nearly half the space is taken up by wholesale dealers in fruit and vegetables.

The chief fault of the market is the remoteness from the center of the town. At first it had a great success, but, on this account, it has not been entirely maintained. Encouraged by that initial prosperity, the city authorities bought a nearer site, but the subsequent decrease in the market's popularity has caused the postponement of extensions. Though the market does not pay the 5 per cent on capital that is required, the present administration, even with its drawbacks, does succeed in making a profit of about 3 per cent on the capital invested, last year's income amounting to $535,200.

Hamburg is peculiarly situated as to its market conditions. The market halls of Hamburg and Altona adjoin, but while the former is under the control of the Hamburg Senate, the latter is subject to the laws of the Prussian Government and administered by the Altona city authorities. Each has a large hall, with a considerable portion of the space used for auctions. The Senate of Hamburg appoints two auctioneers and Altona one; but, while the latter is a salaried official, the former are two Hamburg auctioneers approved by the Government for the special market business on undertaking not to trade on their own account. The trade of the chief market is in fish. With the Altona market, the Hamburg market, and the Geestemunde market, the sales in this section of Germany are the most important in the Fatherland for fresh sea fish and salted herrings. About a fourth comes in fishing cutters or steam trawlers direct alongside the market halls, while the remaining three-fourths come from Denmark by rail or by ships from England, Scotland, and Norway. Often there are three or four special fish trains from the north in a day, while 25 to 30 steamers bring the regular supply of imported fish.

The auctioneers derive their revenue from a 4 per cent charge on sales of the cargoes of German fishing vessels and 5 per cent on imported supplies. Out of this they pay half of 1 per cent to the Government on the German and 1 per cent on the foreign sales. No fees are charged to importers and dealers using the auction section of the fish market. Out of the percentage paid to the Government by the auctioneers is provided light and water, the cleansing of the halls and the carting away of refuse for destruction. Strict regulations govern the inspection of the fish, and to insure the destruction of these that have

deteriorated they are sprinkled with petroleum immediately on detection.

Steam fishing boats using the market quays pay 48 cents for 24 hours' use, seagoing sailing cutters 24 cents, river sailing cutters 6 cents, and small boats 3 cents, in which charges the use of electric and other hoists is included.

From these markets almost the whole of Germany receives its seafish supplies, for the distribution of which most of the leading dealers have branch houses in the principal cities.

There are also two markets—one in Hamburg and one in Altona—for the sale of farm produce, mostly transported thither by boats. Besides these, there is a big auction for imported fruit, conducted by private firms. All these Hamburg markets are prosperous, and their utility to the community is universally acknowledged.

Frankfort's market system dates back to 1879, when the first hall was erected at a cost of $375,000. It has 548 stands on the main floor renting at $1.08 per 2 square meters a month, payable in advance, while there is space for 347 more in the galleries at 84 cents per 2 square meters a month. Near by is a second hall, built in 1883 at a cost of $143,750. A third hall followed in 1899 at a cost of $38,500, while in 1911 further extensions were determined on and there are fresh projects now under consideration. Besides these covered markets the city has a paved and fenced square that has been used since 1907 as an open market, where stands are rented at 5 cents a day.

Sixty per cent of the stands in the market halls are rented by the month and 40 per cent by the day. Tuesdays and Fridays are reserved for wholesale trading. A market commission rules the markets, and the police enforce their regulations, the violation of which is liable to cost the offender $7.29 in fines or imprisonment up to eight days.

Munich, with a population of half a million, has the most modern of all the European municipal markets. It was opened in February, 1912, and embodies the improvements suggested by experience of market administration in other cities.

The total cost was $797,000, of which $510,000 was spent on four communicating iron market halls, with their cellar accommodation underneath; $190,000 on a receiving and toll department; $52,000 on a group of adjacent buildings, including a post office, restaurant, and beer garden; and $45,000 on roadways. The whole establishment covers 46,500 square meters, of which the market halls occupy 37,100 square meters.

At the northern extremity of the buildings is the toll and receiving department, where produce is delivered at special sidings connected with the south railway station of the city. Next comes a succession of lofty halls, with covered connections, terminating in a small retail section and the administration offices. At the northern end of the great market is a section where express delivery traffic is dealt with, while the western side is occupied with sidings for loading produce sold to buyers from other German centers.

Below the tollhouse and the market generally are vast cold-storage cellars and refrigerating plants for the preservation of surplus supplies till the demand in the market above calls for their delivery. Each market hall is devoted to a separate section of produce, and the cellars below are correspondingly distinct, so that there is an absence of confusion, orderliness is insured, and rapid deliveries facilitated. Across the underground space from north to south runs three roadways, while down the center from east to west a further broad aisle is provided, with an equipment of great hydraulic lifts. There are nine of these lifts altogether for heavy consignments, while each stand owner in the market has, in addition, a small lift connecting his stand and storage cellar.

Both market halls and underground cellars are so constructed as to facilitate ventilation and complete cleanliness. The floors are of concrete, and every stand is fitted with running water, with which all the fittings have to be scoured every day. There is both roof and side light and ample ventilation, while the entrances are wind-screened to prevent dust. Electric light is used underground, and the cellars are inspected as strictly as the upper halls, to insure due attention to hygiene. In the center of each market hall there are offices and writing rooms for those using the markets. In the restaurant 150 can be served with meals at one time, or they can be accommodated with seats in the beer garden.

Associated with this market establishment is a great cattle market and range of slaughterhouses on a neighboring site. The live-cattle market dates back for centuries, but the present accommodation was only completed in May, 1904, at a total cost of $1,600,000.

Last year 809,508 animals were sold, including 432,159 swine and 234,457 calves. In the slaughterhouses 713,228 of these were killed, besides 2,619 horses and 97 dogs. About 25 per cent of the animals reach the market by road from neighboring farms, while 75 per cent come by rail. For the inspection of all flesh foods there are very strict rules, enforced by the chief veterinary surgeon, Dr. Müller, and a staff of specially trained assistants. As in Berlin, extensive bathrooms are provided for the slaughterhouse staff, and baths are available at nominal charges. Though the new market halls have not been established long enough to provide a definite financial statement, the live-cattle market and slaughterhouses do afford an indication of the success of municipal administration in Munich. Last year the income was $416,500 and the expenditure $410,100, thus showing a profit of $6,400. The new produce halls are certainly the best equipped in the world, and the only element of doubt as to their success arises from the fact that three old-fashioned open markets are nearer the center of the city, and for that reason are even now preferred by many retailers. This fact emphasizes the importance of selecting a central position in establishing a municipal terminal market.

FRANCE.

Paris has one of the most skillfully organized municipal market systems in Europe. The chief food distribution center for the 3,000,000 Parisians is established at the Halles Centrales, a series of 10 pavilions covering 22 acres of ground and intervening streets. Altogether this great terminal market has cost the city more than $10,000,000.

Most of the pavilions are entirely for the wholesale trade, but some are used as retail markets to a limited extent. Retail traders are being decreased gradually, so that whereas in 1904 there were 1,164 retail stands there are now only 856.

The total receipts of the Halles Centrales and 30 local markets amount to $2,100,000, of which about $1,000,000 is profit. There is a general advance in the wholesale trade, but the local covered markets, or marchés de quartier, are not progressing in the same way, so the city does not quite maintain a steady level of market profit.

The reasons given for the falling off of the retail trade are various, but the principal causes appear to be (1) the growth of big stores, with local branches, that deliver the goods at the door, thus relieving the purchaser of the necessity of taking home market supplies; (2) the number of perambulating produce salesmen, who sell from carts in the street at low rates, having neither store rent nor market tolls to pay, and (3) the growth of cooperative societies.

A complicated and severe code of regulations governs the markets. Commission salesmen at the Halles Centrales must be French citizens of unblemished record and must give a bond of not less than $1,000 in proof of solvency. Producers may have their supplies sold either at auction or by private treaty, as they prefer, and as none of the agents are allowed to do business for themselves the distant growers have confidence in the market methods.

In the retail markets each dealer in fresh meat pays just under $6 a week in all, while dealers in salted meats, fish, game, and vegetables pay a much lower rate. All, however, in the covered markets pay three taxes—one for the right to occupy a stand, one for the cleaning and arranging of the markets, and one for the maintenance of guardians and officials. In the open markets the stands are rented by the day, week, or year, the rate for the day ranging from 10 to 30 cents, according to space. Several of these local markets have charters dating back to prerevolution days, that can not now be annulled.

It would be difficult to devise a more thorough system of inspection. An average year's seizures include half a million pounds of meat, 17,000 pounds of fruit and vegetables, and a half a million pounds of salt-water fish.

Thus the Paris market arrangements provide an admirable central clearing house, where supplies are inspected and sold under such conditions as to prevent the artificial raising of prices. It also acts as a feeder to the marchés de quartier, to the great convenience of local consumers. Moreover, the producer is safeguarded, for on his supplies a small fixed percentage only can be charged by the salesman, and the current market prices are made public by agents especially detailed for that purpose.

Havre, the well-known French seaport, with a population of 130,000, has a profit of over 6 per cent on the Halles Centrales and 40 per cent on the fish market. All told, there is a profit of $27,000 on the 12 municipal markets.

The Halles Centrales occupy an entire square in the center of the city, and cost $75,000, exclusive of the site. Gardeners and farmers are not permitted to sell their produce on the way to the market, and are only allowed to deliver to storekeepers after the wholesale market is closed. Here, as elsewhere where the markets are successful, every precaution is taken to avoid the prosperity of the market being dissipated by sales in the surrounding neighborhood. The annual rents for butchers are very moderate, ranging from $37.90 to $154.40; vegetable dealers, $42.85 to $92.64; dairy-produce dealers, $52.11 to $86.11; fishmongers, $23.16 to $86.85. In the wholesale markets there is an annual trade turnover worth well above $1,000,000, of which fish represents $280,000. So far from the fishermen finding the fish market detrimental to their interests, they welcome it and cheerfully observe the rule forbidding sales on the quays or transit sheds except under special permits.

Lyon, with a population of half a million, may be taken as the best example of a flourishing French provincial city at a considerable distance from the sea. The principal market, La Halle, is known all over France for its public auctions. Accommodation is provided for 276 stalls, rented at 14 cents a day per square meter for fruit, vegetables, and cheese, while other stalls for meat and fish are rented at 33 cents per square meter.

At the morning auctions, held at the rear of the hall, are sold immense quantities of fish, oysters, lobsters, game, poultry, butter, cheese, eggs, fruit, and vegetables. There is a rule that all supplies must come from outside Lyon, so that local store men can not there dispose of surplus stocks, but dealers in other French cities often thus relieve themselves when overloaded. These auctions not only enable local dealers to distribute supplies at cheap rates to the small stores all over the city, but wide awake housewives can frequently tell just what the stores gave wholesale for the produce offered to them retail later in the day, so a check can be kept on overcharges.

The auctioneers are given a monopoly of selling for 10 years, on binding themselves to pay to the city a sum equal to 2 per cent on the total annual sales. The minimum is fixed at $1,930 for one stand, or $5,650 for four stands, to be paid to the municipal treasury. Two per cent is added to the purchase price of every payment made by buyers at auction, and if this does not amount to $1,930 per stand for the year the auctioneer has to make up the difference. The poorer classes benefit largely by these sales, banding together to buy wholesale and then dividing their purchases.

There are also 17 markets for general retail trade in Lyon. The Terminal Market of La Halle cost the city $886,980. The company which built it was given a concession for 50 years on a division of profits arrangement, but within 16 months the utility of the market as an advantageous enterprise for the city was so clearly demonstrated that the municipality bought the company out.

AUSTRIA-HUNGARY.

Vienna, with 1,700,000 people to supply, has a magnificently managed system of 45 markets, 7 of which are located in large, well-ventilated halls, all kept spotlessly clean.

Market commissioners appointed by the municipality conduct the business of the markets according to strict regulations, enforcing a rigid inspection of all products as well as weights and measures. Violations of these rules are punishable by fines of about $2, imprisonment for 24 hours, or exclusion from the markets. Such penalties are enforced when buyers are defrauded, dealers oppose the market authority, or exceed the charges that are posted in the market.

Not merely land and water produce, but general farm and household requisites, are sold at these markets. Outside buying is strictly controlled, owners of boats on the Danube or wagons on the public streets paying toll to the municipality on any sales.

Over $60,000 profit is the average annual yield of the markets to the city treasury, and it is generally agreed that the market system tends to keep down the price of foodstuffs to normal levels.

Budapest has 715,000 people and a very complete market system, under which, though only nominal rentals are charged, there is a profit of over $100,000.

There is one large wholesale terminal market, while six local markets cater for the retail requirements of all quarters of the city. All salesmen are carefully selected, criminals and diseased persons being rigidly excluded. Though a wide variety of articles are sold in the smaller markets besides farm produce, storekeepers are not allowed to rent stalls, so the market men and farmers alone have the use of the buildings. The regulations under which they trade were drawn up by a market commission and confirmed by ministerial decrees. These regulations are regarded in Europe as a model of comprehensiveness, and

their observance insures close attention to hygiene. Among the rules is one insisting on the placing of all waste paper in the public refuse receptacles, while another compels the use of new, clean paper only in wrapping up food products.

Stalls are rented from 4 to 10 cents a day, according to the accommodation. Supplies come by boat, rail, and wagon, and when there is pressure on the interior market space sales are allowed from the boats and wagons at a toll of 10 cents a day. Otherwise only merchandise is allowed to be sold outside the market halls. Not only must no fish, game, meat, or poultry be sold without first being passed by the veterinary inspectors, but none of these articles of diet must be brought to market packed in straw, cloth, or paper. Unripe fruit must not be sold to children.

Every day a bulletin, issued by the market commission, sets out the wholesale prices, while a weekly list gives the retail prices, but in the latter case the note is added that the market commission will not be responsible for any controversy that may arise. All the stocks held by the market traders are insured by the municipality, though not to their full value.

Not only have these markets proved beneficial to the consumers generally, but the market men are unanimous as to their advantage, for they afford a ready and inexpensive means of doing a large business.

HOLLAND.

Amsterdam, with a population of 510,000, has all the local markets under the control of the municipality. They are divided into five districts, each managed by a director or market master responsible to the city council.

Two of the markets are covered, but the remainder are open and are situated by the side of the canals, along which the produce is brought in boats from the farms around. On the administration of the markets in an average year there is a profit of $36,000, but there is a law against making a profit on municipal enterprises, so the surplus is spent on local improvements.

Rotterdam, another great Dutch seaport, operates its markets under similar conditions and makes a profit of $34,000, of which $23,000 comes from the cattle and meat markets.

BELGIUM.

Brussels, possessing a population of half a million, reaps considerable advantage from its picturesque municipal markets, four of which are covered, while several are in the open air.

The renting of space to stand holders at the central market is according to the highest bidder, provided the price is not below $11.58 per month for meat, $9.65 for poultry and game, $5.79 for fruit, vegetables, butter, and cheese.

Both producers and dealers sell at these markets, all their supplies being subjected to drastic inspection regulations. All meats are tested by the municipal veterinary surgeon and his staff, while a communal chemist regulates the milk, butter, and general dairy produce. The cleansing of the markets is done by the department of public cleanliness. Some of the public markets are managed by a contractor, who receives $250.90 a year for setting up the stalls and keeping them in good order. He deposits a security on undertaking his contract, and in default of a satisfactory performance of his work the commune does it and charges him with it.

COMMENTS.

It has been testified that New York's annual food supply costs at the railroad and steamer terminals, $350,000,000. But the consumers pay $500,000,000 for it. The balance of $150,000,000 does not necessarily indicate that any particular section of middlemen have been exacting excessive profits. It merely demonstrates that too many people handle the produce between the farm and the fireside. The provision of an adequate terminal market system for New York would apply the remedy.

New York stands alone, for a city of its importance, in having to face an annual deficit on its markets. The results elsewhere prove that the deficit could be turned into a profit by the creation of a terminal-market system, equipped and administered on twentieth century lines.

America is exporting less foodstuffs than formerly. The annual value has fallen $120,000,000 in 11 years. The growth of the manufacturing population and the relative decrease of the agricultural population, together with the gradual impoverishment of much of our farm land, will soon make conditions worse unless we organize our food distribution.

The first step for New York is the establishment of a terminal-market system. It is estimated that New York's population will continue to grow at the rate of fully 100,000 a year, so this problem admits of no further procrastination.

In natural resources America is the richest country in the world. Other nations have to import vast quantities of produce because of the restricted area of their territory, the comparative unfruitfulness of their soil, or their adverse climatic conditions. We have a wide land of boundless fertility, never wholly in the grip of winter's cold. Yet we no more escape the high cost of living than these less favored people overseas. They have partially compensated for the disadvantages by organizing their markets, while we have neglected that important branch of civic enterprise.

Everywhere in Europe the provision of adequate terminal markets under municipal control is pointed to as a powerful aid in keeping food prices down. There is a lesson in that for New York and other American cities.

There is a lesson also for growers in up-State districts, for experience shows that with adequate markets, supplying produce at lower rates, there comes a demand for more farm and garden stuff and a greater variety of it. This directly aids in developing rural prosperity and enhances the value of agricultural land.

I believe a marked improvement will be shown if a bureau is maintained to inform farmers as to the demands of the market and the best method of packing, preparing, and dispatching their produce so as to reach the market in prime condition. Not only will that aid the market, but it will have a powerful influence in arresting "the drift from the land" to the cities.

The municipality should select central positions for its markets, with rail and river access. It should have effective control not only over the markets but the adjacent streets, wharves, and railroad sidings, so as to obviate evasion of the market tolls. The rentals should not be high, and no subletting should be allowed under any circumstances.

Under such conditions, with wise administration, New York's terminal-market system could be made a model that would be studied by other cities in an age when economic questions absorb the attention of all our public-spirited men and women.

In the interests of the people's health and happiness, no less than in consideration of the municipal finances, all should rally to the support of those who are seeking to secure the consummation of this urgent reform at the earliest possible moment consistent with a full consideration of all its aspects.

TOLLS ON THE PANAMA CANAL (H. DOC. NO. 1312).

Mr. MANN. Mr. Speaker, I ask unanimous consent to have printed as a House document an article prepared by the law officer of the Isthmian Canal Commission, Mr. Frank Feuille, regarding tolls on the Panama Canal.

The SPEAKER. The gentleman from Illinois asks unanimous consent to print as a House document an article on tolls on the Panama Canal. Is there objection? [After a pause.] The Chair hears none.

ELECTION TO COMMITTEE ON AGRICULTURE.

Mr. UNDERWOOD. Mr. Speaker, at the request of the gentleman from Illinois [Mr. MANN], the minority leader, I move the election of Mr. CHARLES H. SLOAN, of Nebraska, to fill a vacancy that belongs to the minority on the Committee on Agriculture.

The SPEAKER. Is there any other nomination? [After a pause.] The Chair hears none.

The question was taken, and Mr. SLOAN was elected to fill the vacancy.

EXTENSION OF REMARKS.

Mr. SHERLEY. Mr. Speaker, I would like to extend in the RECORD the remarks I made in the Committee of the Whole House on the state of the Union.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 6919. An act to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia;

S. J. Res. 153. Joint resolution granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia;

S. 2600. An act to authorize the Commissioners of the District of Columbia to prevent the exhibition of obscene, lewd, indecent, or vulgar pictures in public places of amusement in the District of Columbia;

S. 7162. An act to amend section 801 of the Code of Law for the District of Columbia; and

S. 7508. An act to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia.

ADJOURNMENT.

Mr. SHERLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock p. m.) the House adjourned to meet to-morrow, Wednesday, January 29, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under cause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of preliminary examination and survey of San Diego Harbor, Cal. (H. Doc. No. 1309); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

2. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of State calling attention to the estimate for 1914 of appropriation under the title "Arbitration of outstanding pecuniary claims between the United States and Great Britain" (H. Doc. No. 1310); to the Committee on Foreign Affairs and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of State calling attention to urgent deficiency appropriation for arbitration of outstanding pecuniary claims between the United States and Great Britain (H. Doc. No. 1311); to the Committee on Appropriations and ordered to be printed.

4. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of ascertainment of electors for President and Vice President appointed in the State of Wisconsin at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

5. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of Agriculture submitting supplementary estimate of appropriation for increase of salaries of gardeners (H. Doc. No. 1312); to the Committee on Agriculture and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HAY, from the Committee on Military Affairs, to which was referred the resolution (H. Res. 790) calling on Secretary of War for information, reported the same without amendment, accompanied by a report (No. 1399), which said bill and report were referred to the House Calendar.

Mr. STEPHENS of Texas, from the Committee on Indian Affairs, to which was referred the bill (S. 5678) to ratify an agreement with the Weeminuchi (or Wiminuche), and hereafter referred to as the Wiminuche Band of Southern Ute Indians of Colorado, for the relinquishment to the United States of their rights to occupancy of the tract of land known as the Mesa Verde, reported the same with amendment, accompanied by a report (No. 1400), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. McCOY, from the Committee on the Judiciary, to which was referred the bill (H. R. 28094) to amend section 96, chapter 5, of the act of Congress of March 3, 1911, entitled "The Judicial Code," reported the same with amendment, accompanied by a report (No. 1401), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. RUBEY, from the Committee on Agriculture, to which was referred the bill (S. 5294) to establish in the Bureau of Statistics, in the Department of Agriculture, a division of markets, reported the same with amendment, accompanied by a report (No. 1409), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House as follows:

Mr. CANTRILL, from the Committee on Claims, to which was referred the bill (H. R. 21025) for the relief of Allen J. Mann, jr., sole heir of Allen J. Mann, sr., deceased, reported the same with amendment, accompanied by a report (No. 1402), which said bill and report were referred to the Private Calendar.

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (H. R. 24462) for the relief of Frederick J. Ernst, reported the same with amendment, accompanied by a report (No. 1403), which said bill and report were referred to the Private Calendar.

Mr. POU, from the Committee on Claims, to which was referred the bill (H. R. 27695) for the relief of Edward N. McCarty, reported the same with amendment, accompanied by a report (No. 1404), which said bill and report were referred to the Private Calendar.

Mr. CANTRILL, from the Committee on Claims, to which was referred the bill (S. 5170) to reimburse Charles C. Crowell for two months' extra pay in lieu of traveling expenses, reported the same without amendment, accompanied by a report (No. 1406), which said bill and report were referred to the Private Calendar.

Mr. POU, from the Committee on Claims, to which was referred the bill (S. 2414) for the relief of Rittenhouse Moore, reported the same without amendment, accompanied by a report (No. 1408), which said bill and report were referred to the Private Calendar.

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (S. 1345) for the relief of Elizabeth L. W. Bailey, administratrix of the estate of Davis W. Bailey, deceased, reported the same without amendment, accompanied by a report (No. 1407), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 27792, reported in lieu thereof a resolution (H. Res. 800) referring to the Court of Claims the papers in the case of George Welty, accompanied by a report (No. 1405), which said resolution and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. COX of Indiana: A bill (H. R. 28467) to purchase a post-office site at Salem, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. SLAYDEN: A bill (H. R. 28468) providing for the erection of memorials to Thomas Jefferson and Alexander Hamilton in the District of Columbia; to the Committee on the Library.

By Mr. BRADLEY: A bill (H. R. 28469) granting two condemned cannon to the Wallkill Valley Cemetery Association, of Orange County, N. Y.; to the Committee on Military Affairs.

By Mr. DENT: A bill (H. R. 28470) to promote the safety of travelers and employees upon railroads engaged in interstate or foreign commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. HOBSON (by request): A bill (H. R. 28471) to construct two national auto highways, the first along or near to the thirty-fifth parallel of north latitude, from the Atlantic to the Pacific Ocean; the second along or near to the twenty-third meridian west from Washington, D. C., north to Canada and south to Mexico; to the Committee on Ways and Means.

By Mr. CULLOP: Resolution (H. Res. 799) providing for the appointment of a committee of the House of Representatives to attend and represent the House at the dedication and unveiling of a memorial statue to Thomas Jefferson at St. Louis, Mo., April 30, 1913, in commemoration of the acquisition of the Louisiana territory; to the Committee on Industrial Arts and Expositions.

By Mr. STEPHENS of Texas: Concurrent resolution (H. Con. Res. 69) disapproving the recommendations of the Lincoln Memorial Commission, continuing said commission, and directing it to make further report; to the Committee on the Library.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. AUSTIN: A bill (H. R. 28472) for the relief of Mrs. C. N. Carson; to the Committee on War Claims.

By Mr. BURKE of Wisconsin: A bill (H. R. 28473) granting an increase of pension to Edward J. Beach; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 28474) to amend the military record of Theodore Sanford Russell, alias Charles Grant; to the Committee on Military Affairs.

By Mr. COPLEY: A bill (H. R. 28475) granting an increase of pension to John Hennings; to the Committee on Invalid Pensions.

By Mr. CURRIER: A bill (H. R. 28476) granting an increase of pension to Henry Lemke; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 28477) for the relief of the heirs of Samuel Way, deceased; to the Committee on War Claims.

By Mr. ELLERBE: A bill (H. R. 28478) granting a pension to Edwin C. Gasque; to the Committee on Pensions.

By Mr. FERGUSSON: A bill (H. R. 28479) for the relief of Juan Ocana; to the Committee on Military Affairs.

Also, a bill (H. R. 28480) for the relief of Juan Paiz; to the Committee on Military Affairs.

Also, a bill (H. R. 28481) for the relief of Arthur W. Sudduth; to the Committee on Military Affairs.

Also, a bill (H. R. 28482) for the relief of Christobal Martinez, alias Christobal Martin; to the Committee on Military Affairs.

By Mr. GOULD: A bill (H. R. 28483) granting an increase of pension to Enoch F. Anderson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28484) granting an increase of pension to James M. Turner; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 28485) for the relief of Amos Dahuff; to the Committee on Military Affairs.

Also, a bill (H. R. 28486) for the relief of John R. Bailey; to the Committee on Military Affairs.

Also, a bill (H. R. 28487) for the relief of Alonzo Lewis; to the Committee on Military Affairs.

By Mr. HUGHES of West Virginia: A bill (H. R. 28488) granting an increase of pension to Frederick Flowers; to the Committee on Invalid Pensions.

Mr. HUMPHREY of Washington: A bill (H. R. 28489) to appoint James W. Keen master's mate in the Revenue-Cutter

Service and to place him as such upon the retired list; to the Committee on Interstate and Foreign Commerce.

By Mr. JACOWAY: A bill (H. R. 28490) for the relief of Ezra Adkins; to the Committee on War Claims.

By Mr. MOTT: A bill (H. R. 28491) granting an increase of pension to Frances P. O'Reilly; to the Committee on Pensions.

By Mr. MURRAY: A bill (H. R. 28492) granting a pension to Peter Crosby; to the Committee on Pensions.

By Mr. PALMER: A bill (H. R. 28493) granting a pension to Jeremiah Brong; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28494) granting an increase of pension to George H. Young; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 28495) granting a pension to Sarah F. Rink; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 28496) granting an increase of pension to Emily A. Potes; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 28497) granting a pension to Edmund Ralph; to the Committee on Invalid Pensions.

By Mr. COX: A bill (H. R. 28498) granting an increase of pension to Jack Meissner; to the Committee on Pensions.

By Mr. GARDNER of New Jersey: Resolution (H. Res. 798) authorizing payment to Charles S. Reed for extra services; to the Committee on Accounts.

By Mr. DICKINSON: Resolution (H. Res. 800) referring the bill (H. R. 27792) for the relief of George Welty to the Court of Claims; to the Committee of the Whole House.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Papers to accompany bill (H. R. 27081) for the relief of David H. Scott; to the Committee on Invalid Pensions.

Also, petition of Ernest Fitch and 250 other citizens of Coshocton, Ohio, asking for a congressional investigation of the prosecution by the Government of the Appeal to Reason; to the Committee on Expenditures in the Post Office Department.

By Mr. AYRES: Petitions of John Burroughs, New York; Herbert S. Gardner, St. Louis, Mo.; and Christopher P. Nelson, Chicago, Ill., favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. CALDER: Petition of the Philadelphia Peace Association of Friends, Philadelphia, Pa., favoring the striking out of the submitting to national arbitration of the passage of the Panama Canal act granting free tolls to vessels engaged in coastwise trade of the United States; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Association of Eastern Foresters, protesting against the passage of legislation transferring the control and ownership of the national forests to the States within which they lie; to the Committee on Agriculture.

Also, petition of the New York Fruit Growers' Association, favoring the passage of Senate bill 7208, for making the trans-Atlantic steamships liable for the damages of packages, etc., caused through negligence; to the Committee on Interstate and Foreign Commerce.

Also, petition of the New York State legislative board, Brotherhood of Locomotive Engineers, favoring the passage of the workingmen's compensation bill; to the Committee on the Judiciary.

Also, petition of James Hare, Brooklyn, N. Y., favoring passage of House bill 19115, for payment due workmen found just by the Court of Claims; to the Committee on War Claims.

Also, petition of Conservation Commission, favoring passage of legislation for an increase in appropriation to aid Federal protection of forests from fire; to the Committee on Agriculture.

By Mr. CURRIER: Petition of teachers and pupils of the Enfield (N. H.) public schools, favoring passage of the McLean bill providing for Federal protection for migratory birds; to the Committee on Agriculture.

By Mr. DONOHOE: Petition of the T-Square Club, Philadelphia, Pa., favoring the adoption of the Mall site and design as approved by the National Commission of Fine Arts, for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. DRAPER: Petition of the New York State Fruit Growers' Association, favoring the passage of Senate bill 7208, making the trans-Atlantic steamships liable for damages of packages, etc., caused through negligence; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of the proposed legislation transferring the control and ownership of national forests to the States wherein they lie; to the Committee on Agriculture.

By Mr. FORNES: Petition of the New York State legislative board Brotherhood of Locomotive Engineers, favoring the passage of the workingmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the National League of Government Employees, favoring passage of House bill 20995, granting to certain employees of the United States compensation for injuries sustained in the course of their employment; to the Committee on the Judiciary.

By Mr. FULLER: Petition of Herbut S. Gardner, St. Louis, Mo., favoring the passage of the McLean bill for Federal protection of migratory birds; to the Committee on Agriculture.

Also, petition of the Chicago Law and Order League, Chicago, Ill., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of John Burnham & Co., New York, N. Y., favoring the passage of House bill 27567, for the 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. GARDNER of Massachusetts: Petition of the Brockton Shoe Manufacturers' Association, of Brockton, Mass., protesting against the passage of House bill 27155, to prevent the sale of boots and shoes as of leather construction when other material is substituted therefor in manufacture, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GARNER: Petition of the Learners' Club, Brownsville, Tex., protesting against the passage of any legislation tending to break down the present system of protecting the national forests; to the Committee on Agriculture.

By Mr. GREGG of Pennsylvania: Petition of Annie E. Brothel and others, of Mount Pleasant, Pa., favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. HAYES: Petition of the Humboldt Chamber of Commerce of Eureka, Cal., favoring the passage of the Haugen bill for preventing the selling of any colored imitation of butter; to the Committee on Agriculture.

Also, petition of C. P. Nelson, Chicago, Ill.; H. S. Gardner, St. Louis, Mo.; Mrs. A. C. Rigdon, San Jose, Cal., and John Burroughs, West Park, N. Y., favoring the passage of the McLean bill for Federal protection of migratory birds; to the Committee on Agriculture.

Also, petition of the H. E. Irish Co., Santa Cruz, Cal., protesting against the Oldfield patent bill preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Langley & Michaels Co., San Francisco, Cal.; the Pacific States Electric Co., San Francisco, Cal.; the Van Arsdale-Harris Lumber Co. (Inc.), San Francisco, Cal.; the J. J. Pfister Knitting Co. (Inc.), West Berkeley, Cal., and the Chamber of Commerce of Sacramento, Cal., favoring the passage of House bill 27567 for 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of the System Federation of the Harriman lines, Los Angeles, Cal., favoring the passage of legislation for investigation of the present condition of the railroads and employees; to the Committee on the Judiciary.

Also, petition of the Chamber of Commerce of Los Angeles, Cal., favoring the passage of bill for legislation granting better navigation aids to the Pacific coast; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Chamber of Mines and Oil, Los Angeles, Cal., protesting against reduction in present tariff in borax; to the Committee on Ways and Means.

Also, petition of the San Jose Paste Co., San Jose, Cal., protesting against any cut in present tariff on agricultural products and provisions; to the Committee on Ways and Means.

Also, petition of San Francisco Chapter American Institute of Architects, San Francisco, favoring the adoption of the Mall site and design, as approved by the National Commission of Fine Arts, for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Auto Club of Southern California, favoring the adoption of a memorial road from Washington to Gettysburg for the memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. LEVY: Petition of the Consolidated Dental Manufacturing Co., New York, favoring the passage of legislation for regulating the practice of pharmacy and the sale of poisons in the District of Columbia; to the Committee on the District of Columbia.

Also, petition of the Waterbury Felt Co., Skaneateles Falls, N. Y.; Brainerd Manufacturing Co., East Rochester, N. Y.; and

R. F. Lang, New York, favoring passage of the Weeks bill (H. R. 27567) for a 1-cent letter postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of C. H. Blackall, Boston, Mass., favoring adoption of the Mall site and design as approved by the National Commission of Fine Arts, for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the New York Fruit Growers' Association, favoring the passage of Senate bill 7208, for making the trans-Atlantic steamships liable for the damages of packages, etc., caused through negligence; to the Committee on Interstate and Foreign Commerce.

Also, petitions of the Ford Motor Co., Detroit, Mich.; C. P. Nelson, Chicago, Ill.; John Burroughs, New York; and Herbert S. Gardner, favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. LINDSAY: Petition of the Long Island Automobile Club, Brooklyn, N. Y., asking that the Lincoln memorial highway bill be in the keeping of the Appropriation Committee instead of the Library Committee; to the Committee on the Library.

Also, petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of legislation transferring the control and ownership of national forests to the States wherein they lie; to the Committee on Agriculture.

Also, petition of the New York State Legislative Board of the Brotherhood of Locomotive Engineers, favoring the passage of the Federal workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the Conservation Commission, favoring the passage of the Weeks bill making appropriation for the Federal protection of forests from fires; to the Committee on Agriculture.

Also, petition of the New York State Fruit Growers' Association, favoring the passage of Senate bill 7208, for making the trans-Atlantic steamships liable for the damages of packages, etc., caused through negligence; to the Committee on Interstate and Foreign Commerce.

By Mr. MAGUIRE of Nebraska: Petition of sundry citizens of Lincoln, Nebr., favoring passage of legislation for national ownership and control of all public telephone and telegraph lines; to the Committee on Interstate and Foreign Commerce.

By Mr. MANN: Petition of the Cook County Farmers' Association, protesting against the passage of legislation for the reduction of tariff on sugar; to the Committee on Ways and Means.

By Mr. MOON of Tennessee: Petition of citizens of Chattanooga, Tenn., protesting against the passage of House bill 5382—the Brantley workmen's compensation act; to the Committee on the Judiciary.

By Mr. MOTT: Petition of the New York Fruit Growers' Association, favoring the passage of Senate bill 7208, for making the trans-Atlantic steamships liable for the damages of packages, etc., caused through negligence; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Association of Eastern Foresters, protesting against the passage of legislation transferring the control and ownership of the national forests to the States within which they lie; to the Committee on Agriculture.

Also, petition of the Conservation Commission, favoring passage of legislation for an increase in the appropriation to aid Federal protection of forests from fire; to the Committee on Agriculture.

By Mr. NEEDHAM: Petition of the Humboldt Chamber of Commerce, of Eureka, Cal., favoring the passage of Haugen bill, preventing the selling of any colored imitation of butter; to the Committee on Agriculture.

By Mr. PRAY: Petition of citizens of Lincoln and Flathead, Mont., favoring the passage of legislation preventing any trust, corporation, or individual from obtaining more than 160 acres of land or timber from the Government; to the Committee on the Public Lands.

By Mr. RAKER: Papers to accompany bill (H. R. 27545) for the relief of James Diamond for horse lost while hired by the United States Forest Service; to the Committee on Claims.

By Mr. REYBURN: Petition of the T Square Club, Philadelphia, Pa., favoring the adoption of the Mall site and design, as approved by the National Commission of Fine Arts, for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Philadelphia Bourse, favoring the passage of Senate bill 7503, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. SMITH of New York: Petition of Daniel O'Connell Division, No. 9, Ancient Order of Hibernians, protesting against having post offices open for delivery of mail on Sunday; to the Committee on the Post Office and Post Roads.

By Mr. UNDERHILL: Petitions of Hoggison Bros., New York; C. H. Blackall, Boston; the American Group of the Société des Architectes Diplômés par le Gouvernement Français, New York; the Mural Painters, New York; the Architectural League of New York; and the New York Chapter of the American Institute of Architects, New York, favoring the adoption of the Mall site and the design, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the American Automobile Association, favoring the passage of legislation for the adoption of the national highway from Washington to Gettysburg as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Illinois Chapter of the American Institute of Architects, Chicago, Ill., favoring the adoption of the Mall site, but protesting against the design, as approved by the National Commission of Fine Arts, for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Ford Motor Co., Detroit, Mich., favoring the passage of the McLean bill, granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the Farmers' National Congress, Chicago, Ill., favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Federation of Jewish Farmers of America, New York, favoring the passage of legislation for the adoption of a system of farmers' credit unions; to the Committee on Banking and Currency.

Also, petition of the National Association of Railway Commissioners, favoring the passage of Senate bill 6099, for the establishment of a uniform classification of freight in the United States; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Duchess Manufacturing Co., Poughkeepsie, N. Y., favoring the passage of House bill 27567, for a 1-cent letter postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of Sol Bloom (Inc.), New York, protesting against the passage of section 2 of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the United States Live Stock Sanitary Association, Chicago, Ill., favoring the passage of legislation to increase the appropriation for the eradication of ticks; to the Committee on Agriculture.

By Mr. WILSON of New York: Petition of the Conservation Commission, favoring passage of legislation for an increase in appropriation to aid Federal protection of forests from fire; to the Committee on Agriculture.

Also, petition of the New York State Legislative Board, Brotherhood of Locomotive Engineers, favoring the passage of the workingmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the Association of Eastern Foresters, protesting against the passage of legislation transferring the national forests to the control and ownership of the States within which they lie; to the Committee on Agriculture.

Also, petition of Long Island Auto Club, favoring the keeping of the Lincoln memorial highway bill in the hands of the Appropriations Committee instead of the Library Committee; to the Committee on the Library.

SENATE.

WEDNESDAY, *January 29, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact and conclusions filed by the court in the following causes:

Florence L. Braun, daughter and sole heir of Thomas J. Lucas, deceased, *v.* United States (S. Doc. No. 1045);

Weltha Post Leggett, widow of Mortimer D. Leggett, deceased, *v.* United States (S. Doc. No. 1044);

Daniel Pelton Duffie, son and sole heir of Alfred N. Duffie, deceased, *v.* United States (S. Doc. No. 1043);

Mary G. Carr, widow of Joseph B. Carr, deceased, *v.* United States (S. Doc. No. 1042);

Morgan K. Barnum, Malvern Hill Barnum, and Raynolds Barnum, children and sole heirs of Henry A. Barnum, deceased, *v.* United States (S. Doc. No. 1041); and

L. A. Williams, administrator of Edward S. Bragg, deceased, v. United States (S. Doc. No. 1040).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

The message also announced that the Speaker of the House had signed the following bills and joint resolutions, and they were thereupon signed by the President pro tempore:

S. 2600. An act to authorize the Commissioners of the District of Columbia to prevent the exhibition of obscene, lewd, indecent, or vulgar pictures in public places of amusement in the District of Columbia;

S. 6019. An act to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia;

S. 7162. An act to amend section 801 of the Code of Law for the District of Columbia;

S. 7508. An act to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia;

S. J. Res. 153. Joint resolution granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia; and

H. J. Res. 380. Joint resolution authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a petition of the Church Federation Council of Chicago, Ill., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. ASHURST presented a memorial of the congregation of the Seventh-day Adventist Church of Phoenix, Ariz., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

He also presented a petition of sundry landowners and homesteaders of Palo Verde Valley, Cal., praying for the enactment of legislation granting to the Homesteaders Irrigation Co., of Palo Verde Valley, a perpetual right to sufficient water to irrigate that valley, which was referred to the Committee on Irrigation and Reclamation of Arid Lands.

Mr. BURNHAM presented a memorial of the congregation of the Seventh-day Adventist Church of Claremont, N. H., and a memorial of the congregation of the Seventh-day Adventist Church of Amesbury, Mass., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented a petition of members of the camps of Spanish War Veterans of New Hampshire, praying for the enactment of legislation granting pensions to widows and minor children of Spanish War veterans, which was referred to the Committee on Pensions.

Mr. GRONNA presented a petition of the congregation of the Seventh-day Adventist Church of Dogden, N. Dak., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

He also presented a resolution adopted by the Farmers' Grain Dealers' Association of North Dakota, favoring the enactment of legislation fixing the requirements governing the receipt, transmission, delivery, and preservation of messages of interstate telegraph and telephone companies, which was referred to the Committee on Interstate Commerce.

Mr. OLIVER presented a petition of the board of directors of the Philadelphia Bourse, of Philadelphia, Pa., praying for a reduction of the rate of postage on first-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of sundry citizens of Wilkinsburg, Pa., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of the Board of Trade of Philadelphia, Pa., praying for the enactment of legislation to create a board of river regulation, etc., which was referred to the Committee on Commerce.

Mr. TOWNSEND presented memorials of the congregations of the Seventh-day Adventist Churches of Leslie, Watrousville, Bay City, Spring Arbor, Marine City, Scottville, Otter Lake, and Clifford Lake, all in the State of Michigan, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. BRANDEGEE. I present a telegram from Charles H. Beckwith, counsel of the Board of Trade of Springfield, Mass., which I ask may be read and lie on the table.

There being no objection, the telegram was read and ordered to lie on the table, as follows:

SPRINGFIELD, MASS., *January 27, 1913.*

Hon. FRANK B. BRANDEGEE,
United States Senate, Washington, D. C.:

It is absolutely necessary to obtain adequate navigation on Connecticut River for western Massachusetts that Connecticut River bill be passed without amendment at this session of Congress.

SPRINGFIELD BOARD OF TRADE,
CHARLES H. BECKWITH, *Counsel.*

Mr. MARTIN of Virginia presented an affidavit in support of the bill (S. 2043) granting a pension to R. L. Miller, which was referred to the Committee on Pensions.

Mr. GALLINGER presented a petition of the Anacostia Citizens' Association, of the District of Columbia, praying that an increase be made in the police force of the District of Columbia, which was referred to the Committee on the District of Columbia.

KIOWA AND COMANCHE INDIAN RESERVATIONS (S. DOC. NO. 1046).

Mr. OWEN. I present a memorial from the governor of Oklahoma, relative to certain lands granted to the State of Oklahoma within the Kiowa and Comanche Reservations. I ask that the memorial, with the accompanying illustration, be printed as a document and referred to the Committee on Public Lands.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE PRESIDENTIAL TERM.

Mr. WORKS. I submit some additional press clippings from the various newspapers in the country bearing upon Senate joint resolution No. 78. I do this because of the claim made on the floor of the Senate that no public interest is being taken in this proposed constitutional amendment. I ask that the clippings may be printed in the RECORD.

There being no objection, the matter referred to was ordered to lie on the table and to be printed in the RECORD, as follows:

Opinions of the press in 1912, compiled by the National Business League of America, preliminary to its nation-wide campaign for a single six-year term for the President of the United States, with ineligibility forever thereafter.

[From the Age, Birmingham, Ala.]

Congressman CLAYTON, chairman of the Judiciary Committee, presents a brief but strong report in support of the proposed constitutional proposition to extend the presidential term to six years and to render a President ineligible to a second term, even though a Vice President succeed to the office and had served but a small fraction of a full term.

Mr. CLAYTON urges the adoption of the proposition because it would lead to higher efficiency in administration, and it would put an end to machine building in the highest office in the gift of the people.

The common sense of the voters will put the proposition into the Constitution if Congress can be induced to submit it. Once ratified it would put an end not only to third-term movements but also to second terms, which are nearly as vicious.

[From the Advertiser, Montgomery, Ala.]

Inasmuch as the proposition of Representative CLAYTON, of Alabama, to make a presidential term six years has been in the minds of the people for some months, and has met with more or less favor, it is entirely probable that six years and not four will be the final choice of the party when the amendment is submitted to the people.

[From the Republican, Phoenix, Ariz.]

The sentiment in favor of a single presidential term is spreading. Senator WORKS has introduced a bill providing for a single term, and the Indiana Republican convention last week adopted a resolution in favor of a single term of six years.

The only objection that might be offered would be that six years might be too long a period; that within that time the people might desire a change of policies. In that respect a four-year term would be better. There is nothing, however, to be said in favor of two terms. If at the end of the President's term the people are satisfied with his policies and the manner of their execution, they may elect another man committed to them.

Under our present system a President, though he might prefer to retire to private life, is practically compelled to seek a renomination and a reelection as an indorsement of his administration.

[From the Herald, Fresno, Cal.]

There is much to be said in favor of the proposed amendment to the Constitution of the United States to increase the presidential term

to six years and to make an incumbent forever ineligible for reelection. The longer term would reduce the frequency of elections, lengthen the period between the seasons of business disturbance caused by presidential contests, and give the incumbent all the time necessary to carry out his policies.

[From the Call, San Francisco, Cal.]

General discussion in the press of the country brings out a strong sentiment in favor of the proposition to amend the National Constitution by making the term of President six years and prohibiting reelection. The idea is as old as the Republic. Seven States in the convention of 1787 favored a seven-year term, without right of reelection, and only two States were opposed. Later nine States voted for a six-year term, and only one was opposed. Just why the present plan was finally adopted has never been clearly explained.

The weight of authority favors the change proposed. President Jackson, in 1829, recommended a six-year term without reelection. President Hayes and President Grant followed this example, with this difference, that Grant favored a seven-year term. President Taft has indorsed the proposition, and there is reason to believe that a majority of the present Congress favors it.

[From the Telegram, Bridgeport, Conn.]

With nothing to fear or to hope for at the end of a six-year term, knowing that it would bring with it noneligibility either to a succeeding or a nonconsecutive lease of power, the President would be a disinterested servant of the people for every moment of his service, and those who hold minor offices would cease from troubling. All concerned might be persuaded to remember that they are making history and therefore induced to do their best.

[From the Herald, New Britain, Conn.]

A six-year term would be a distinct advantage to the country, for the reason that it would insure the occupant of the Presidency giving his complete attention to the affairs of state and not to strengthening himself for another term. In other words, he would not play politics. No sooner is a man inaugurated President than he begins to build fences for a second term, and it is a sort of unwritten law that he should be retained in office. This may be desirable with the tenure of office four years, but it would not be desirable if the term was six years. A President would then have an opportunity to work out his governmental policies through three Congresses and in this way would be able to benefit the country more than under the present system. It has been said that if the President was a good man and rendered valuable service, that he should be retained in office, but that argument is neither wise nor logical. To do that would probably mean the establishment of a machine that would soon become corrupt and difficult to remove from power.

[From the Journal-Courier, New Haven, Conn.]

President Taft would limit the presidential office to a single term of six years, and he gives a new reason why he thinks so. He says, "I am a little specific in this matter, because it seems necessary to be, so in order to be understood, I don't care how unambitious or modest a President is, I don't care how determined he is that he himself will not secure his renomination (and there are very few indeed who go to that extent), still his subordinates equally interested with him in his reelection will, whenever they have the opportunity, exert their influence and divide their time between the public service and the effort to secure their chief's renomination and reelection. It is different to prevent the whole administration from losing a part of its effectiveness for the public good by this diversion to political effort for at least a year of the four of each administration." The single term, then, of six years will achieve two results—it will leave the Chief Executive free to give his best service to the people without temptation of any kind and it will greatly increase the efficiency of the whole administration of government.

[From the Register, New Haven, Conn.]

There are positive arguments for the change. Four years is too short a time for a President to accomplish anything, chiefly because more or less of his time is wasted by the ambition to succeed himself. Increase his term by 50 per cent and relieve him of all worry to the future and you have by at least 100 per cent increased his net effectiveness for the term. Six years is nearly the cycle of man's physical renewal. It is a time in which the able man might accomplish something. Set that as at once his incentive and his limit—his incentive to make his impress on the history of his country then or not at all, his protection as well as his limit—and men worthy to be our Presidents will show a difference in their accomplishments in the office.

[From The Times, Leavenworth, Kans.]

There are many reasons in favor of making this change. Chief of these is, of course, the oft-repeated argument that it would take from the President the motive of ambition to be reelected, and from the beginning of the administration he would be thinking only of giving the country a creditable administration. In such case the politician would have less influence with him and the statesman more. With no second term in which to amend his record a President would use his utmost endeavors to make the best possible record during his one term.

That the proposed amendment would add greatly to the dignity of the office of President can readily be seen. It would make the President more independent, less sensitive to criticism, and after a time less criticized. It would place him where there would be no temptation to take part in unseemly struggles for office, and soon the office of President would come to be looked upon as is that of justice of the Supreme Court—as an office to be filled only by men of high character and learning and men of unquestioned honor and patriotism.

[From the Chicago Journal, Chicago, Ill.]

It is the duty of Congress to pass the single-term, six-year amendment at once. That amendment must provide that no person who has served six years in the White House shall be eligible to election under the new rule. If this amendment is put through Congress without delay the people will have time to ratify it before 1916; and the country will be spared a great deal of trouble and expense.

[From the Chicago Daily News, Chicago, Ill.]

Congress evidently is not willing at this time to consider on its merits the Works resolution for a constitutional amendment providing a single term of six years for each President and Vice President of the United States. In the Senate the other day debate on the resolution was turned into a political dispute as to the relative magnitude of the indiscretions committed by the men now seeking the Presidency. In the House a similar resolution has been shelved until the next session of Congress. Friends of this desirable reform, however, should not permit it to be thrust aside for any great length of time. It must come, and the sooner it comes the better.

So many abuses in government are bred by the second-term frenzy that attacks nearly every President as soon as he sets foot within the White House, that the people of the Nation would gladly lengthen the term of each Executive by two years in exchange for the privilege of making a really good official out of him, through the simple expedient of denying him a reelection.

The contention advanced by supporters of the present system that a President would have no adequate incentive to give good service to the people if the inducement of a second term were not held out to him is insincere. It is perfectly well known that the prospect of a second term is a demoralizing prospect. It unnerves the Executive arm far more frequently than does anything else. Its influence is good in no respect.

In urging Congress to pass the Works resolution its supporters insist that the President of the United States should be freed from the temptation to "play politics." Right, not political expediency, must direct Executive action in the White House.

[From the Record-Herald, Chicago, Ill.]

The proposed amendment to the Constitution restricting the President to one term of six years probably will bring forward few fresh arguments. It is an old question, as old, indeed, as the Government itself, and the wisdom of so restricting the Chief Executive's term has been debated at intervals since the time of Jackson. Yet the later arguments in favor of the reform are strikingly similar to those advanced when the fathers were framing the Government.

The perils of leaving a President free to succeed himself if he can have been considered by students of our form of Government from the first. De Tocqueville considered them, Bryce refers to them, and M. Otrogorski, in his Democracy and the Party System in the United States, published in 1910, gives it as his opinion that the reelection of the President must be prohibited. The Russian critic states his case after this fashion:

"The rescue of the Federal service from politics must be completed by submitting it to no influence but that of the Chief Executive and his principal officers throughout the country, and to no end but that of the public weal. Not only from the bosses at Washington must the President be emancipated, but from the party machine altogether. And that can not be achieved so long as the President looks for reelection. The presidential term should be lengthened to seven years and the reelection of the President prohibited."

There, in brief, is the argument of those who have opposed the reelection of the President, though it has been given in much more detail by other writers and speakers. But the gist of the matter is that the President must not be a politician. He must not use the great powers of his office to insure reelection. His appointments must not be made with an eye on the support of State bosses; he must not be tempted to lay aside his convictions and play the demagogue in order to win votes; his dignity must not suffer from a scramble to keep in his seat.

Said Mr. Randolph, speaking in the constitutional convention, "If he (the President) ought to be independent, he should not be left under a temptation to court a reappointment."

This thought seemed to have pursued the members of the convention from the very moment they began to consider the powers which were to be vested in the Chief Executive. On August 6 the committee of detail, to whom had been referred the various proposals, reported in favor of electing a President for a seven-year term and making him ineligible for a second term. This proposal in different forms was considered again and again.

There were some present who felt that a Chief Executive's dignity must suffer through being forced to join the mass again as a common citizen. To these spoke "Dr." Franklin, with his dry humor:

"In free governments the rulers are the servants and the people their superiors and sovereigns. For the former, therefore, to return among the latter was not to degrade but to promote them. And it would be imposing an unreasonable burden on them to keep them always in a state of servitude and not allow them to become again one of the masters."

In the end the convention took no action restricting the President's eligibility for reelection. It was not till the time of Jackson that the question again became a real issue. Jackson's friends said during the campaign that he would not consent to run a second time, and this declaration is thought to have added to the popularity of the candidate. He was a stanch supporter of the principle of one term when he took over the office of President. In his first message to Congress, in December, 1829, he suggested the wisdom of restricting the President to one term. In his annual message of the following year he said:

"In order, particularly, that this appointee may be placed beyond the reach of any improper influence, in order that he may approach the solemn responsibilities of the highest office in the gift of a free people, uncommitted to any other course than the strict line of constitutional duty, and that the securities for this independence may be rendered as strong as the nature of power and the weakness of its possessor will admit, I can not too earnestly invite your attention to the propriety of promoting such amendment of the Constitution as will render him ineligible after one term of service."

There can be little doubt that Jackson was sincere in his efforts to have the President's term restricted, notwithstanding the fact that he stood for reelection himself. It is pretty generally admitted that up to the time of his death he continued to believe what he had charged in his first campaign, that there was a cabal to continue President Adams in office, and that he had performed an important public service in defeating its plans.

Certain it is that from the time of Jackson down to Lincoln a clearly defined popular prejudice existed against the idea of a second term for the Chief Magistrate. This prejudice was overcome in the case of Lincoln by the demands of an extraordinary situation.

Later on the question of restricting the Executive's term was brought before the public when President Grant showed a desire for a third term. But even when he became the candidate of his party for a

second term there were those who objected strenuously. Chief of these was Horace Greeley, who, having alienated a considerable portion of his own party, became the candidate of the Democratic and Liberal Republican Parties against Grant. During the campaign which ensued the issue of the second term was raised, and Mr. Greeley opposed it with all the eloquence and force for which he was noted.

In an article contributed to a now defunct periodical called the Galaxy, in 1872, Mr. Greeley said:

"All that is needed is an intelligent, earnest, widespread conviction that the practice of reelecting a Chief Magistrate while in office is fraught with evil and peril: that it distracts his attention from the proper cares and duties of his station and impels him to consider not who are the fittest and most worthy to fill the offices in his gift, but what choice will be most likely to improve his chances of renomination.

"There is the right man for the Supreme Court, who has no influential clique at his back; here is a rival who is neither so capable nor so worthy, but whose friends control the party machine in a populous State and can send delegates to the approaching national convention either for or against the incumbent of the White House; who that knows human nature can doubt that the less fit aspirant has the better prospect of obtaining that judgeship? And this instance may stand for a thousand."

Speakers and writers of that day who joined in the discussion were accustomed to point to at least one excellence in the constitution of the Confederate States so recently overthrown. That constitution, they said, reflected at least one bit of experience which the Federal Government had had and had failed to benefit by. It made the President ineligible to succeed himself.

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[From the Mail, Moline, Ill.]

Every argument for a one-term limitation is sound. Not one argument so far advanced against it bears dissection. By making the term of the President six years and barring him from again seeking the office, he will be left to work solely for the good of the country from the first day.

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[From the Chronicle, Marion, Ind.]

There is soundness and wisdom in Mr. Taft's suggestion of a single term of six years for our Presidents. The gain to the people would be obvious and very great. In many ways a presidential campaign is a public nuisance. The minds of the people are distracted, business, whether foolishly or not, has acquired the habit of coming to a halt, as though some great calamity impended—probably Mr. Taft will recall, not without a reminiscent smile, that during the late campaign something was said about the closing of factory doors in case the voting went wrong—and men, women, too, are drenched with a flood of utterance and wearied with passionate mouthings. It is unnecessary; it is stupid. If we should reduce the frequency of the national upheaval from three times in 12 years to twice in 12 years the gain would be immense. There would be the added and important advantage of shielding the incumbent of the office from the temptation to use power and patronage in the effort to secure a second term.

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[From the Gazette, Cedar Rapids, Iowa.]

A six-year term would make the country more democratic. It would prevent the building up of political machines whose main purpose is to perpetuate some man or set of men in office.

The six-year term would give a President a better opportunity to make good. It would be unproductive of harm, because the Nation always elects a fairly representative man to the Chief Magistracy.

A six-year term would lessen the political turmoil, and that alone would be worth a great deal more than "the price of admission."

By all means let us have the single six-year term.

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[From the Times-Democrat, New Orleans, La.]

More than one presidential record has been marred by this seeking after a second term. During two years out of the four the desire for renomination influences, to a greater or less extent, the average Executive's official acts and colors his view of pending issues and questions. There is no reason to believe that we can, under the present system, get entirely away from that practice and custom. But by rigid limitation of the President's term of service, definitely fixed by the law of the land, we can relieve the Executive of the temptation now placed in his way. Measurably we can insure that he will serve the Nation during his full term of office instead of using his office for a part of the term to serve his own ambitions and candidacy for renomination. An aggressive campaign for the adoption of the one-term plan ought to be organized, we think, at once, while its wisdom and necessity are so widely admitted by the voters.

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[From the Times, Cumberland, Md.]

Some unconscious humorist assures the Chicago Record-Herald that "there is no public sentiment" in favor of the single six-year presidential term proposed.

We are bound to admit that we have heard no riotous demonstrations by advocates of such an amendment to the Constitution. But the majority of the Members of Congress favor it; the respective Judiciary Committees of the two Houses have indorsed it; progressive and independent newspapers are urging it; and men of light and leading in every part of the country are "coming out" for it. The National Business League of America is working for it.

In the Senate two insurgents, CRAWFORD and WORKS, are fathering the amendment, and some of its opponents are threatening a filibuster to prevent action on the resolution submitting it. They know that it will pass if it reaches a vote.

The unconscious humorist or noise-loving editors who fail to discover public sentiment for the amendment should try to understand that public sentiment is not always expressed by stormy mass meetings addressed by excited orators.

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[From the Gazette, Haverhill, Mass.]

There is nothing in the Constitution as it now is to prevent a life tenure of the presidential office. When the Constitution was created no one had any reason to suppose that the Executive department would become so powerful as it has become. Nothing has stood in the way of long-continued tenure of the presidential office but wholesome public sentiment and the antithird-term tradition, which arose from Washington's refusal of a third election. If that tradition is once violated and the barriers against a third term are broken down, they may be down for a long time.

A President in office who is a candidate for reelection has an undue advantage over other candidates in his own party for the nomination, and an undue advantage over his opponent of the other party in the election.

We are coming to the one-term Presidency as rapidly as the circumstances will permit. The present campaign has made sentiment in that direction, and the Clayton resolution may be the means of achieving the result earlier than expected.

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[From the Evening Union, Springfield, Mass.]

Six years has been suggested as a reasonable limit, and there are many pronounced advocates of the six-year single-term idea, but there are some that favor a single four-year term and others that believe in making it eight years. The arguments in favor of one are as good as those in support of another, except, perhaps, that the four-year term may be a little too short to enable a President to carry out the policies and pledges to which he and his party are committed. But the main idea, the single-term limit, has everything to commend it.

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[From the Call, Paterson, N. J.]

Many influential men of New York, when asked to comment on the question of a constitutional amendment limiting the President to a single six-year term, expressed themselves favorable to the change. Some thought it would make for greater stability in the business of the country, but it was generally believed by both Republicans and Democrats that the most important effect would be that on the conduct of the incumbent of the office himself. Most of them agreed that under the present four-year term, with eligibility for reelection, the President, no matter how well intentioned he may be, is unavoidably drawn into a certain amount of political intriguing that inevitably interferes with the discharge of his duties in a broad and statesmanlike manner.

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[From the Chautauquan, Chautauqua, N. Y.]

Andrew Jackson thought that a single term without reelection for a President under any circumstances would add another safeguard to our liberties. Second terms are not now feared as threats to our liberties; whether third or fourth terms are a menace and danger is a matter upon which opinion differs. But what is undeniable and clear is that second and third terms are incompatible with efficient and single-minded public service. The best of men can not be exposed to constant temptation. The temptation of incumbents to use patronage, to build or strengthen machines, to "mend fences," to make sure of delegates, to control conventions, is too strong to be resisted in most cases.

Nor is this all. Men in office who are candidates for second or third terms may, and generally do, consider bills and policies from the political or personal point of view. Some do it unconsciously, but all do it more or less. The incumbent who is not and can not be a candidate again for the same office is free to deal with public matters on their merits, to use his independent and sincere judgment, to make the public good his sole test or concern. This would be an enormous gain to good government and to "the rule of the people."

The more the question is studied the more vital and progressive the single-term idea is seen to be. There is not the least danger that the supply of presidential "timber" will ever be so restricted that second or third terms will be necessary. No man or set of men is really indispensable to an age or generation or nation. Any vigorous, sound body politic contains many men and women who are fit to do the work of the day. To dip into the great mass of citizens and select administrators and servants with an eye to results, without overestimating any individual or underestimating the virtue and intelligence of his equals, is not always an easy task. But stable and prosperous democracies must endeavor to do this very thing. The single six-year presidential term idea is consonant with the warnings of history and with common sense.

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[From the Leader-Republican, Gloversville, N. Y.]

Much, indeed, might be advanced in favor of the single six-year term as Chief Executive of the Nation, and in the opinion of the Leader-Republican a long step in the right direction will have been taken when discussion of the change proposed shall have been crystallized into favorable action. As yet the proposal is a comparatively new one, but it is one which from its practical nature seems destined to grow and expand in favor with the people.

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[From the Financial World, New York City.]

All classes, even the chronic office-holding politicians, whatever may be their party affiliations or opinions, will hail with satisfaction the preliminary efforts now being made in Congress to submit to the several States an amendment to the National Constitution, so as to extend the presidential term to six years and make the incumbent ineligible to succeed himself.

It would prove a most excellent move if this same rule of nonsuccession were carried further to include every elective office. Politicians are more or less selfish in the consideration of the general welfare, although statesmen in office affect to believe that the interests they have in public affairs—national, State, and local—are above all personal consideration. However, if that interest is not personally touching the pocketbook of officeholders, it is at least fed on the ambition to hold on as long as possible to the honors heaped upon them by their fellowmen. Man would not be man without ambitions.

But limit the Presidency and other elective offices to one term and the probabilities are that the men so honored will apply to their stewardship the very best ability, sincerity, and honesty that is in them. They will realize that there is no further reward to seek when their term of office ends.

The little Republic of Switzerland has demonstrated conclusively the great advantages that lie in limiting offices of state to only one term. One term is enough.

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[From the Eagle, Brooklyn, N. Y.]

We have confidence that the people and the States will soon set a prohibition of more than a single term in the Constitution itself, incidentally lengthening the one term from four to six years, with no reelection, as could wisely have been done at the start. The term could well be lengthened to reduce strain on a term of the present duration.

It could well be made incapable of repetition, to remove from any President the temptation to pervert his service and patronage to the continuance of himself in place and to stir in each party the growth of statesmen fit to make into Presidents.

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[From the Financial World, New York City.]

This much-to-be-desired reform can only be satisfactorily brought about by limiting the Presidency to one term and making that term half as long again as the present four-year tenure. Six years seems generally agreed upon as long enough to allow a new Executive to put through such political measures to which he is committed and on which he has made his campaign for the high office.

It is undeniably true that business halts more or less during a national campaign, if for no other reason than is to be found in the natural hesitating against going ahead when there is the possibility of a change of administration and with it a flood of new laws to which business will have to adjust itself. Six years, therefore, would give to business a period of rest from radical adjustments longer than is possible under our four-year system.

But the greatest handicap the country suffers under our present scheme of electing our Chief Executive is to be found in the right of succession, on which at present there is no limitation. Not a single bar is up to prevent a President succeeding himself as often as he may be able to prevail upon the electors to keep him in office. Only custom is in the way. This was set by George Washington in refusing a third nomination, contending that by serving twice as President he had done his duty toward his country and the people.

The one and the greatest advantage in the one-term movement for President, and which offsets any of the minor defects that may be cited, is that it would effectively do away with the political maneuvering now indulged in by a President in his natural ambition to become his own successor. With one term only possible to him, every President would give the country the best administration within his ability irrespective of political considerations, and more than that could not be expected. Naturally, he would desire that his administration should pass into history as one reflecting fame upon him, and he would act accordingly.

The one-term plan would forever blast the political ambitions which every President now keeps in mind to maintain himself in office through two terms at least, and which so often proves an obstacle to an impartial administration.

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[From the Herald, New York City.]

President Taft's plea for one term of six years for the President of the United States will undoubtedly give new impetus to this measure now before Congress.

The reform must come in the shape of a constitutional amendment, and after the bill has passed both Houses and become a law the amendment must be ratified by three-fourths of the States. But cumbersome as the process of amending the Constitution is, this great reform may be much nearer than persons generally suppose.

There has long been a very strong feeling in this country that two terms of four years each are enough for a President. Many persons believe that to limit the only term to six years is too short a period and would extend it to eight years.

With this view the Herald heartily agrees. The term should be eight years instead of six, and then there should be a proviso against any man ever seeking the Presidency again. Indeed, it might be wise to make some financial provisions for retiring Presidents.

But eight years are not too much. Washington served almost eight years; Jefferson, Madison, Monroe, Jackson, and Grant served eight years; Lincoln and McKinley were reelected, but were assassinated before the end of their second terms; Cleveland was elected to a second term after a four years' interim, and Roosevelt was elected to a second term, having filled the uncompleted term of McKinley as his first term.

But to have a President elected for an eight-year term would free the country from much strife, and to provide that there should be but one term would be bound to work for national security.

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[From the Evening Journal, New York City.]

Mrs. George J. Gould said to-day that she was an advocate of extending the term of the President of the United States to six years. She thinks that the longer period would give an opportunity for working out presidential reforms, and that a President who could not get a renomination would be less apt to play into the hands of the politicians. She would limit the six-year President to a single term.

"The Presidency of the United States has become the most powerful in the world," she said at her home, No. 657 Fifth Avenue. "So much responsibility and work devolve upon the incumbent of that high office that I sometimes marvel at the ability with which Presidents meet the obligations that are imposed upon them.

"The presidential term should be extended to six years and Presidents should be ineligible for reelection. The results, I am confident, would be a higher standard of public service and a greater devotion to the interests of the people.

"The experience of France, which makes the presidential term seven years, has, in the main, proved highly successful."

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[From Leslie's Weekly, New York City.]

The actual advantages of a single six-year presidential term overshadow the possible dangers of the change. The suggestion is made that if the electors made a colossal blunder in their choice the country might have a despot saddled upon it for six long years, whereas at present the most unsatisfactory President would not have to be endured longer than four years. If so disposed, a President might inflict incalculable damage upon the country; yet upon the Chief Executive, as upon every other official or department of the Government, there are certain constitutional checks, and as a last recourse a President, for good and sufficient cause, may at any time be impeached during his term of office, whether it be long or short.

In favor of a single long term, without possibility of renomination or reelection, there are decided advantages. Six years is long enough for a President to map out and to carry to successful completion a constructive national policy. Again, the periods of upheaval and unsettling so disastrous to the business interests of the country as a whole will be put two years further apart. Presidential year is always an "off" year. These "off" years should be separated as far as practicable.

Perhaps the greatest advantage of all is that a single term would insure a more fearless and disinterested service from the occupant of the presidential chair. Every President desires a reelection as a mark of approval of his administration, and hardly is he inducted into office before he begins to lay plans to secure another nomination. Though every move he makes may be perfectly honorable, his usefulness to the country as a whole is, in a measure, lessened by this desire for another term. Just as we always expect better results from a President's second term than from his first, so we would expect the best of which he was capable in a single long term.

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[From The Tribune, New York City.]

The wide approval given to the suggestion of a single presidential term is gratifying to The Tribune, which is earnestly desirous of seeing an end put to the embarrassments of a situation compelling a President to consider a renomination at the hands of his party as an indispensable indorsement of the merit of his first administration. Many men of prominence in this community have given their support to the single-term movement on the ground that its success would relieve the President of an unenviable obligation to court the favor of politicians in control of the party machinery and leave him free, if the term were extended to six years, to develop his policies with less distracting interference from them and the officeholders and office seekers whom they principally represent.

If a President only served a single term and was ineligible for reelection, it would be much-easier to carry through such an admirable plan as that of Mr. Taft for the extension of the classified service so as to cover all postmasters, collectors, registers, surveyors, and other higher grade employees whose offices are now considered legitimate party patronage. A President would have no inducement to select Federal officers with a view of getting their assistance in a campaign for renomination, could choose them for merit only, and insist that they keep out of partisan politics.

The responsibilities of the President have multiplied so rapidly in recent years and the labor thrust upon him is now so enormous that he ought to be allowed to give all his time and energy to the public business, with no thought for the thousand details of the process of paving the way for his own renomination and reelection. Mr. Taft, who has been noted for his neglect to take advantage of political opportunities, has properly complained of the useless strain put upon the President by forcing him to appoint and reappoint thousands of officers who should be selected by the competitive method and put under the protection of the classified service. When the second-term tradition is got rid of the President will be able to devote himself completely to his official duties and become more than ever a constructive force in administration and legislation and the leader not only of his own party but of the voters, without regard to party. Freed from the shackles of partisanship, he can become the President of all parties and all sections, as the framers of the Constitution wisely intended him to be.

Opposition to a single term is nowhere active and aggressive, and the adoption of a one-term amendment can be delayed only by lack of initiative and the too-prevalent disposition to think that the Constitution can be and should be amended only in times of stress and disturbance. It can be changed just as easily in an era of tranquillity, and all that is necessary to get the reform under way is to force action in Congress on a resolution which has already been reported favorably in each House.

Prominent men who have expressed opinions favoring a six-year term, with ineligibility for reelection, as advocated by the Tribune, are: Silas W. Burt, president of the Civil Service Reform Association; Frederick W. Whitredge, receiver of the Third Avenue Railway; Frederic R. Coudert, the lawyer; George M. Miller, president of St. Luke's Hospital; William Nelson Cromwell, the lawyer; Otto Bannard, the banker; Paul M. Warburg, of Kuhn, Loeb & Co.; William R. Willcox, chairman of the Public Service Commission; Samuel H. Ordway, president of the Civil Service Reform League; William Jay Schieffelin, president of the Citizens' Union; Benjamin F. Tracy, of the Manhattan Life Insurance Co.; J. Hampden Dougherty, the lawyer; Charles H. Strong, president of the City Club; Adolph Lewisohn, president of the General Development Co.; Eugene A. Philbin, formerly district attorney of New York County; Hugh Hastings, former State historian; Charles J. Peabody, of Brooklyn; Welding Ring, former president of the Produce Exchange; Edward Lauterbach, former member of the board of regents; and Henry R. Towne, president of the Merchants' Association.

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[From the Sun, New York City.]

The joint resolution proposing an amendment to the Constitution of the United States providing for a single term of six years for President, which is to come before the House of Representatives and the United States Senate on the reassembling of those bodies, is known as the Clayton resolution, being named after Representative HENRY D. CLAYTON, of Alabama, and reads:

"The executive power shall be vested in a President of the United States of America. He shall hold his office during a term of six years; and no person who has held the office by election, or who has acted as President under the Constitution or any law made in pursuance thereof, shall ever again be eligible to hold said office."

The resolution includes the Vice President.

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[From the Press, Utica, N. Y.]

Naturally enough there is a renewal of the discussion of the six-year one-term proposition. Now, as always before, there has seemed to be more arguments for than against it. Until human nature can be very materially changed, that seems to be the best possible solution of what is otherwise bound to be a perplexing problem. It is not at all likely that any man would be elected President of the United States who was unworthy or unable satisfactorily to complete a six-year term. In fact, the last four would probably be better than the first two years, for experience is worth a great deal, especially in an office of this kind, and that is one of the arguments advanced in favor of a second term. Under the present system the man who fails to be renominated is looked upon as having been discarded by his party, and the man who, being renominated, fails of reelection is looked upon as having been discarded by the whole people. Accordingly renomination and reelection are considered essential to a satisfactory reputation and standing in history.

In order to get the renomination there is an irresistible temptation to do certain things and leave certain things undone for the express purpose of getting votes or to acquire personal popularity. There is only one standard by which a President ought to judge every question which comes before him, and that is as to whether it is right and best for the general welfare. If he considers his own or his party's interest in that connection he is doing the people an injustice. Many a man has had a good appointment under a President for no other reason than that it would strengthen the Executive in this or that State.

The public service has been the loser by that operation. When a man knows that he will not be eligible for renomination he will endeavor to make the best possible record for himself, and indeed will be determined to do it. Knowing that doing right will not lose him a delegate he will have no temptation to do anything else. His chief end, aim, and ambition will be to make an honorable record, which will deserve and have an honorable place for all time in American history. That is as it ought to be and of itself constitutes a reason.

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[From the Plain Dealer, Cleveland, Ohio.]

A resolution providing for a constitutional amendment to change the presidential term from four to six years and to make the President ineligible for reelection will soon come up for action in the Senate.

Only one argument approaching validity has been urged against the amendment. This is that the spread of popular-preference presidential primaries throughout the Union will largely do away with the evils incident to a presidential campaign for renomination and reelection.

To some extent this contention is correct. The shameless use of patronage which has been customary will be of no avail in future preconvention campaign if the popular primary plan is generally adopted. The steam roller can roll conventions flat, but it can not crush the expression of popular sentiment. If popular preference is to become the accepted plan of presidential nomination a large part of the evil of the campaign for a second term will be eliminated.

Enough will remain, however, to make desirable the enactment of the single-term amendment. Even though a President is not busily engaged in oiling the patronage steam roller he will have his eyes constantly fixed on the second-term goal. He will be tempted to shape his policies to catch the popular fancy, regardless of his own convictions. He can not forget the popular primary any more than he can the balloting in November. He will be working first for popularity within his party and afterwards for popularity in the Nation.

A President who spends much effort to gain popular adulation is not likely to be the most useful executive. A President who assumes office with a six-year term ahead of him and with no possibility of reelection may proceed to give the Nation the best there is in him without fear and without favor.

Popular-preference primaries will go far toward nullifying the utility of the patronage steam roller. The single-term amendment will remove the President from the temptation of playing partisan politics. Both are desirable. Neither should be put aside because the other seems likely of enforcement.

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[From the Dispatch, Columbus, Ohio.]

The single-term idea is not directed against any man or party. There is nothing "political" in it in the ordinary and superficial sense of the word. It is inspired by the higher and purer conceptions of government and service.

Those who favor a single term of proper length—six or perhaps even eight years—do so because they wish to insure single-minded devotion to good government at all times in the White House, because they wish to remove temptation and pressure, to enable the President to deal with measures, issues, and men strictly on their merits.

Properly presented and explained the advanced single-term idea can not fail to commend itself to progressive and sober-minded citizens.

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[From The Journal, Columbus, Ohio.]

In both Houses of Congress the resolution to amend the Constitution by making the presidential term six years and no more has been indorsed by both Judiciary Committees. Now, the matter ought to be pushed to a vote and settled. There is no doubt the people favor the one-term idea. It is hardly a proposition to be argued.

Glorious for the Nation would it be if a President should be elected only every six years. And great would the presidency be if it did not have to think of a reelection.

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[From The Journal, Hamilton, Ohio.]

That single term of six years for President has great possibilities. Therefore it is going to win by constitutional amendment.

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[From The Sun, Springfield, Ohio.]

President Taft embraced a popular cause when he declared for a six-year term for the President of the United States and a legal bar to reelection. This will do away with much of the uncertainty in national affairs just previous to the national conventions, and will undoubtedly make for better results in the Executive office.

Under the present system the last year of every presidential term where the President is a candidate for the renomination and reelection is given over to political activities rather than to the duties of the office. The President's mind is taken up with schemes to further his own political ambitions. His subordinates dependent upon their chief retaining his place to hold their positions also give of their time to building up party fences. The holders of the many appointive places in the Federal service also are on the alert to serve the prevailing party and are unable to give the proper attention to their routine work.

The official business of the Nation is neglected for a period of almost a year preceding every national election. Following the election comes a period of readjustment, especially if the rival party has prevailed and new incumbents are appointed to the places.

In the days just preceding the election it is impossible to secure beneficial legislation. Everything is tainted with politics. The party in power refuses to pass any measure which is not available for campaign purposes, and the opposition steadfastly opposes any good measure for fear that it may be used in support of the plans of the rival party.

This condition is unsatisfactory. It seems that the people are entitled to have faithful, impartial service from the men they have elevated to office and for whose salaries a good percentage of the taxes is required. Yet, from the very nature of the present system, it is impossible to receive but a minor part of the efforts of the first termers during the preelection year.

In his speech Saturday night, President Taft has pointed one way of ending the present conditions. A six-year term, without possibility of reelection, would give the administration five years to work after the first year of readjustment. It would be possible for the President and his subordinates to expend their energy in making a record for efficiency rather than for expert political moves. With the heads of the departments demanding efficiency rather than political service the work of the men holding subordinate places would be correspondingly improved. The natural tendency of the inferiors would be to hold onto their places through good work rather than hazard their positions in the hope of securing a better under the next administration.

Four years is too short a time for the great national policies to be worked out. The work would be scarcely under way before another administration would begin; but under the six-year term it would be possible to carry out a consistent policy to a successful termination. Many bits of good legislation have been prevented because the term of the legislators ended before they had reached a vote, and a new party, with new policies, effectually prevented any attempt to pass it.

The new system is gaining in favor with all parties. Various public men have from time to time advocated the establishment of a six-year term for Presidents, and it would not be surprising if some action was taken to lengthen the term of the President following Wilson.

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[From the Courier, Zanesville, Ohio.]

If the Constitution is amended to limit the tenure of the presidential chair to one term of six years, the office will be placed where it ought to be—above the plane of politics—and its incumbent will be free to act without personal fear of the political consequences. President Taft favors the idea and President Elect Wilson has so expressed himself in the past. The people, we believe, would indorse the proposition if given the opportunity.

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[From the Oregonian, Portland, Oreg.]

To forbid reelection of a President implies no distrust of the people beyond that which the people have of themselves. The whole Constitution is a body of limitations, placed by the people themselves on the exercise of their undisputed power. This would be but an added limitation adopted by the people of their own free will.

The danger to the national interests through a change of Presidents in a time of crisis such as existed during the Civil War is too remote to be a serious factor. The people can be relied upon to elect a new President who will carry on those policies of a retiring President which they approve.

The people need fewer elections and their public servants need to be freed from the disturbing influence of frequent campaigns. With a six-year term and with ineligibility we should have longer periods of calm, better service, more continuity of policy, and wider interest in elections when they do come.

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[From the Gazette, Altoona, Pa.]

The single six-year term would emancipate the President and increase his power and prestige. He would and would sign or veto bills without thinking of "votes," and the pressure of spoilsmen and practical politicians would be largely removed; self-respect, firmness, dignity, conscientious devotion to duty would be immensely strengthened and exalted by the change.

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[From the American, Mahanoy City, Pa.]

President Taft was not the first citizen to advocate the amendment of the Federal Constitution so as to extend the presidential term from four to six years, making the occupant of the office ineligible for reelection. Others have spoken in favor of such a change, and a good many thoughtful citizens favor it.

They are opposed to the quadrennial agitation of the country hitherto inevitable to a national campaign. They think it injures business and gives Americans a bad reputation among their cousins on the other side of the seas. And then it is generally believed that freedom from ambition to succeed himself would enable a President to serve his country better than would be the case if he were moved by a desire to be his own successor.

The ordinary public officer who is eligible to succeed himself is likely to keep an eye on his chances and to move with a caution born of ambition. We suspect a one-term President generally would be more efficient than one who spent much time scheming to succeed himself.

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[From the Press, Philadelphia, Pa.]

Whatever else the Congress in its expiring session shall do or leave undone, the resolution pending in the Senate looking to the adoption of an amendment to the Federal Constitution, providing for the extension of the presidential term to six years and making the incumbent ineligible for reelection ought to be favorably acted upon. There is no question such an amendment would be adopted by every State in the Union. It would greatly add to the efficiency and independence of the President if his conduct in office were unbiased by any consideration other than the advancement of the public interest. It would end at once and for good both second and third term demagogy, with the implied drift toward one-man power and an abandonment of representative government. The danger of prolonging the incumbency of an unfit or dangerous man, who should be chosen to the Presidency through extension of the term of office, is sufficiently guarded against by the reservation of the power of impeachment in case of need.

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[From the Evening Telegraph, Philadelphia, Pa.]

To lengthen the presidential term to six years and limit it to a single period meets with our hearty approval. The question should no longer be left to the flexible interpretation of mere unwritten precedents, but a definite settlement of it should be incorporated in the Constitution in the form of a necessary and legal amendment. The lengthening and limiting of the term would give any ambitious President a long enough time to shape his policies and test them by experience, and would remove the temptation from such to ask for a second term on a specious plea and secure it by a questionable use of Executive patronage.

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[From the Dispatch, York, Pa.]

Contrary to a very general impression, the proposal to limit the presidential tenure to a single term is not new. At the very beginning of the Republic, when the great statesmen of that period were struggling with the mighty problems before them, the matter of the presidential term was a much-discussed and vexing theme. All sorts of suggestions were offered, ranging from life tenure to a single term of four years. When it was finally decided to make the presidential term four years, with eligibility for reelection, a single vote in the convention was the determining factor.

The great advantage to the country in limiting the presidential tenure to a single term of six years would be the enabling of the President to devote all his time to his official duties. Every President would know that he had but one term in which to perfect his policies and

carry them out, and he would not be distracted from his purpose by the necessity of laying plans for reelection almost from the day of his inauguration. Each President would have the courage to do what he believed was right, unembarrassed by the threats of his enemies that they would "beat him for reelection." A President would be in large measure exempt from the attacks of his enemies within the party, and at the expiration of his term he would retire to private life with indifference as to whether or not he had played the political game to the satisfaction of the politicians.

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[From the Gazette, York, Pa.]

The question of a single term for President of the United States is certain to be discussed exhaustively, if not exhaustingly, in the next few years. By its platform the Democratic Party is bound to take action in that direction, and in doing so it will be indorsed by a majority of the citizens of all parties. The phase of this question about which there is going to be the most debate is what the length of the term should be. There have been some who argued that it should be eight years. Now, however, it is generally conceded that this would be too long. Six years or four years seem to be the popular limits.

Those who argue in favor of the shorter term say that four years are plenty long enough for a good man and that six years would be altogether too long for a poor man to occupy the presidential chair. All of this latter part of the contention may be granted. But would not even two years be too long for an unfit President? It was the original intention of the founders of the Government to have short terms. Jefferson in a letter quotes that maxim of that day as being "Where annual election ends, tyranny begins." That, of course, would be a practical application of genuine democracy, the theory of government not necessarily the policy of the Democratic Party, but it will be granted by all that our country is too large for it to work out successfully. Massachusetts elects State officers annually, and even in that small State the frequency of the important elections is becoming burdensome.

So that it is plain we must look for some other way out of the difficulty. It is clear that the annual election of President is out of the question, and the eight-year term would be too long. It is true that six years would be too long for an unfit President, and so would four years. It seems, then, that the best way to settle the matter is to make sure of the right man and the right platform, and then give him time enough to thoroughly try out the policies for which he stands. If this is done, there can be little valid objection to a six-year term, and there can be little question that this is none too long to work out important policies.

Another thing should be borne in mind—the people are beginning to weary of the frequent and strenuous campaigns. There is danger that this may result in such an increasing indifference that it will be easier than it now is for incompetent and even dangerous men to be "put over" by scheming interests who look upon "practical" politics as a part of their business game. This must be reckoned with. Less frequent elections and a more thorough stirring up of interest in the campaigns seems the best solution.

Furthermore, it would be a great gain if this could be so arranged that the State elections could be held during those years when there were no national elections. Suppose, for example, that our Presidents were elected every six years and the Members of the Lower House of Congress every three years, so that a congressional election would come in the middle of the presidential term, as now. That would give all the States ample opportunity to arrange their elections at times when there would be no complications with national problems. Would not this result in better government all around? We believe it would.

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[From the Commercial Appeal, Memphis, Tenn.]

There is a growing inclination on the part of the public toward the six-year term. There are sensible reasons why such a term should be established instead of the brief four years now allotted to the President.

Everyone will admit that nothing so disturbs the commercial welfare of the country as an election. From ocean to ocean the States have been disturbed for the past two months, and will be until November.

A political campaign, even over a local issue, disturbs business. Brothers turn against brothers, fathers against their sons, over politics. The real truth is that we have too much of this sort of thing, and if it is not a presidential campaign it is another, with its turmoil and excitement.

Each President elected has entered office with the determination to do the best he could for the country. We have had no bad men in office. Our Presidents, irrespective of party, have been men of class. They have lived up to the platforms upon which they were elected as far as possible. No President has ever been associated with any graft scheme, and all have been practically free from the taint of scandal. It stands to reason that only men of the highest character present themselves for such an exalted office. Men of the highest character are elected, and the country has prospered under every President we have had since the days of George Washington.

It is safe to trust anyone who can secure the indorsement of the people, and if he is elected for six or eight years instead of four, so much the better. As it is, scarcely does a President get comfortably seated in office than it is necessary to run again. This keeps the country upset. No one can rest easily during a campaign. It is more uncertain in some States than in others. There is always an element of uncertainty in a campaign. No one can say what the outcome will be or what the effect on the country will be. Wall Street holds the balance of power. It can create a panic or quell one. Wall Street is always uneasy during a campaign, and while the street is uneasy so is the country.

With fewer elections the country would be better off, and with a longer presidential term there would be a smaller opportunity for strife and unsettled business conditions.

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[From the News, Wheeling, W. Va.]

From all indications an attempt will be made at the next session of Congress to change the tenure of office for the President of the United States from a term of four years to a single term of six years.

The change will necessitate an amendment to the Constitution, and will entail no little inconvenience. However, it seems to be a good idea.

At present the length of a presidential term is four years. A man may succeed himself as many times as he is able to secure the nomination and election, although custom makes it bad form to ask for another after one has served two terms.

A man is elected for a term of four years. During this time all of his actions are usually directed so that he will be able to secure a second nomination and election. His actions are "a play to the galleries," as it were. During his first term his time is so taken up by this "gallery play" that he is likely to neglect many of his duties and act contrary to the way he would act if his tenure were restricted to a single term.

During this term the members of the Cabinet, who owe their office to appointment from the Executive, play politics along with their chief. At the end of the first four years there is a possibility of defeat for the candidate for reelection.

If the tenure of office were made a single term of six years, the administration would undoubtedly be made more efficient. The time would be long enough to give a good Executive an opportunity to put into effect his policies and not long enough to permit an incapable Executive to harm the country.

The change is a good one. Think it over.

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[From the Intelligencer, Wheeling, W. Va.]

Presidential elections come too often, and Presidents too frequently play politics. A four-year term hardly enables a President to institute and carry through an established line of policy, and eligibility for reelection tempts him to try to secure reelection. As a rule, the first two years of a President's administration are given up to getting acquainted with his job, and the second two years are filled with efforts to secure another term. Lengthening the President's term and forbidding reelection would place the office of the Presidency on a higher plane and insure a higher grade of public service.

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[From the Chicago Evening Post, Tuesday, Oct. 25, 1904.]

REVELL FOR SIX YEARS—CHICAGO MAN URGES THAT THE TERM OF PRESIDENT SHOULD BE LIMITED—TELLING POINTS ARE MADE—SPEECH GIVEN AT OPENING OF COMMERCIAL CONGRESS AT ST. LOUIS.

ST. LOUIS, *October 25.*

The opening session of the Trans-Mississippi Commercial Congress was held here to-day in Convention Hall at the World's Fair. The congress will continue the remainder of the work.

Alexander H. Revell, of Chicago, vice president of the National Business League, delivered an address on the question of a single six-year term for President of the United States.

The feature of the opening session was the large attendance of visitors, showing the general interest in the proceedings. During the sessions of the congress, which will continue through Saturday, matters of importance to residents of the trans-Mississippi region will be discussed, such as irrigation, good roads, river navigation, and interstate-commerce laws.

Following the invocation by Rev. Michael Burnham, of St. Louis, the meeting was called to order by the chairman of the executive committee, Thomas Richardson, of Portland, Oreg. In a short introductory address, Mr. Richardson presented the president of the congress, R. C. Kerens, of St. Louis.

ADDRESS OF MR. REVELL.

Mr. Revell spoke as follows:

"The National Business League has started a movement to secure an amendment to the Constitution of the United States which will fix the term of office of the President at six years instead of four years. At the same time, and by the same amendment, it is proposed to make the President ineligible to reelection.

"I am not aware that anyone questions the expediency of the proposed change. Indeed, so far as I can learn, all admit that the changes proposed would be sound public policy. It is perhaps true that those who are engaged in politics for diversion or for profit may be lukewarm in the effort to prolong the period between elections. But it is not likely that the politician—the man who is trying to be politic and responsive to public demands—will interpose to prevent an admittedly needed and popular amendment.

"All things considered it may be accepted that the sentiment of the country is such that the amendment may be secured upon the presentation of the proper arguments to the electors and those who as officials may be instrumentalities in bringing it about. The labor that is before us consists in pulling together and putting in order the half-formulated latent sentiment in regard to the proposed amendment. It is this labor which the National Business League has undertaken to perform. It is to this endeavor that all right-minded electors are expected to extend courageous and industrious assistance.

"No reasonable objection can be raised against the lengthening of the President's term of office.

"As things now are there is, in fact, only about three years of settled conditions, and many would acknowledge only two years. The fourth year is given up to the campaign. In fact, it is only during the first two years of the presidential term that business, and that word does not mean the great capitalists only, can feel that conditions are settled. Along toward the end of the term the policy which the President has pursued is used by the opposition on which to unite in order to create an 'issue' for the oncoming campaign. The effect of all this is that business becomes more or less gambling against the chances of the presidential succession.

"LOOK TO THE GOVERNMENT.

"There is a growing tendency in this, and indeed in all countries, to look upon the government or the administration as the cause of the prosperity or adversity of the people. This tendency disposes the people to look more and more to the government as the author of their conditions. Demagogues, selfishly and ignorantly finding this tendency to exist, endeavor from time to time to arouse the voter into active hostility against the administration. To endeavor to convince his too easily persuaded auditors that a change of administration policy, especially in relation to the currency or the tariff, we will say, will change their fortunes from bad to good.

"The effect of this is that during any presidential term and under any policy which may be put into practice there are those who are disposed to find fault with it and to create an impression that exactly the opposite policy would be more in the interest of the general public. At times this sort of criticism results in the formation of parties predicated on propositions to squarely reverse the policy which is being put into practice by the sitting President and to put into operation an entirely opposite policy.

"The effect of this condition of things is to present to the business man a situation in which two distinctly opposite policies are proposed. He can make no calculations for the future, and he must hold in abeyance many of his enterprises and curtail his business until he finds out what is going to be done—what the result of the election will be.

"This condition of suspense operates to depress business and intensify adverse conditions, or at least to modify the benefits of the administrative policy which may be in practice at the time. The element of unwarranted doubt operates to bring about changes of policies

and Presidents, changes that are in themselves unwarranted and possibly harmful.

"NOT FAIR TO JUDGE BY.

"This presidential year is hardly a fair one to judge by. It is the most prosperous presidential year in 44 years, and perhaps for a longer period. This would hardly be the time or place, and it is not essential that we discuss all the reasons for this. While the year has been phenomenal as an election year, and with the splendid agricultural and financial situation, still there has been a pronounced timidity among business men in regard to inaugurating new business enterprises.

"Also there has been and is very general complaint, especially in manufacturing industries. Hence, the question naturally arises, Would not the year 1904 have been a record-breaking year had there been no presidential election?

"A longer term for the President would not only create a longer period of business security, but it would give ampler time for a President to formulate and carry out his policies. Very often presidential administrative plans can not be put into operation and the benefits of them realized by the general public before the time for another campaign approaches. In other words, the presidential term of four years is too brief for a President to inaugurate and carry out a policy. A six-year term would give ampler time.

"Another thing, the election of a President for six years would have a tendency to silence those agitators who preach discontent and advise the people to look forward to the next presidential election as the time when they could make a change which would repair their grievances. Six years would be too long to look ahead. With a six-year term the country would settle down to calmness and steadiness in business, which is unknown under the present four-year term.

"By making the President ineligible to succeed himself he would be enabled to leave politics behind when he took the oath of office. He could direct his efforts to being a good President. The record of a President would then merit careful comparison.

"By gradual growth it has come to be an unwritten law that a President is expected to succeed himself. It is expected that his second election will be a 'vindication' of his first term of office. There is no question about this fact. For a President to decline to be a candidate for reelection after having served a four-year term would be taken to mean that he believed that he could not be reelected.

"In other words, a failure to demand renomination would be accepted as a confession of the failure of him and his party to properly administer the Government.

"Thus it is incumbent on a President at the end of his term to again become a candidate for reelection even if he does not want to, and, in a measure, his party must renominate him even if he did not want renomination. As a mater of fact, this condition of things has practically established that the presidential service of a man is eight years.

"MUST KEEP IN FAVOR.

"This fact that the President must secure renomination and reelection compels him so to conduct and warp his administrative policies that he will remain in favor with the politicians who are to renominate him and also to cater to the more transient popular sentiment. No President since Washington that we know of has ever acted differently. No man, as mankind goes, can be expected to be at his best under such condition of things. He may fairly be expected to be at his worst. Poor human nature is not such that Presidents may be expected to crucify themselves for the unappreciated welfare of their supporters.

"Representative Gaines, of Tennessee, has been making a historical study of the question of one term for Presidents, and points out that it was a live question with the convention that framed the Constitution and has been under discussion a good part of the time since.

"One of the greatest curses of American politics is the spoils system. By means of their appointive power, from President down to coroner, with a few exceptions, public officials aspire to succeed themselves, and as soon as they are elected utilize the patronage of office in order to pay for favors rendered in the past and expected to be obtained in the future. A President who was not by custom expected to secure a 'vindication' by reelection would not be under compulsion to use his appointive power in order to make himself secure against the next nomination and election. In short, the one-term principle would tend, as nothing else would tend, to eradicate the spoils system.

"Now, then, what is to be done? The Constitution of the United States says concerning the term of the President: 'He shall hold his office during the term of four years.' In relation to the matter of amendments the Constitution says:

"'The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the legislatures of two-thirds of the several States, shall call a convention for the purpose of proposing amendments, which, in either case, shall be valid, to all intents and purposes, as part of the Constitution, when ratified by the legislatures, three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress.'

"TO APPEAL TO CONGRESS.

"From this it will be seen that either the State legislatures or Congress may initiate the proposition to amend the Constitution. The practice generally has been for Congress to propose and submit amendments to the several State legislatures. The same course will be pursued in this case, and Congress will be asked to propose an amendment making the presidential term to be six years and the President ineligible to reelection.

"The endeavor of the National Business League will be to make it apparent to the Senators and Representatives in Congress that the people actually desire that the proposed amendment be submitted to the legislatures. If this fact can be demonstrated, there is no doubt that Congress will hasten to comply with the demands of the public. Ratification in the State legislatures will be brought about by the same means. The responsiveness of our legislative bodies to the demands of business interests are always prompt and satisfactory.

"More and more the welfare of all the people is becoming and is understood to be wrapped up in and dependent upon business prosperity. To make it manifest, therefore, that the business men of the country believe and demand a presidential term of six years and no renomination of Presidents will be to assure the adoption of the amendment. The arousal of the business interests of the country, it will be seen, is the real, actual labor that is before the business league. Those who have undertaken to propagate the amendment proposition should see to it that those under them, those connected with them in business, their club fellows, their friends and customers, are fully advised of the amendment and its expected good results."

REPORTS OF COMMITTEES.

Mr. CHILTON, from the Committee on the Judiciary, to which was referred the bill (S. 8188) to amend section 113 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, reported it without amendment.

Mr. McCUMBER, from the Committee on Pensions, to which was referred the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, reported it with amendments, and submitted a report (No. 1164) thereon.

He also, from the same committee, submitted a report (No. 1168), accompanied by a bill (S. 8314) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, the bill being a substitute for the following Senate bills heretofore referred to that committee:

S. 602. Kate Brown.
S. 630. James R. Haldeman.
S. 910. Mary Francis.
S. 923. Jane De Graw.
S. 1012. Carrie Engberg.
S. 1572. Sarah E. McCann.
S. 1843. Susan M. Sumner.
S. 1991. Mary J. Anderson.
S. 3079. John W. Anderson.
S. 3546. John S. Rodgers.
S. 3550. John G. Myers.
S. 3555. Andrew J. Furry.
S. 3895. Charles F. Cooken.
S. 3980. William Robertson.
S. 3998. George W. Leslie.
S. 4012. William H. Weber.
S. 4014. George Ketzler.
S. 4020. August Schurman.
S. 4021. Samuel J. Riley.
S. 4080. William E. Huestis.
S. 4593. Orlina M. Cadwell.
S. 4602. George Warnick.
S. 5013. Louis M. Lea.
S. 5374. Thomas F. Stevens.
S. 5444. Darwin Zeek.
S. 5737. David F. Stewart.
S. 5779. Nathan Vanaman.
S. 5941. Joseph Johnson.
S. 5994. John N. Postlethwait.
S. 6212. John Miller.
S. 6261. John O. Branson.
S. 6375. Adam P. S. Poisal.
S. 6388. Francis M. Hanes.
S. 6475. John L. Skinner, jr.
S. 6639. John P. Glenn.
S. 6642. William A. Stewart.
S. 6643. William Turnbeaugh.
S. 6785. Julia A. Snedeker.
S. 6872. Martha R. Brown.
S. 7058. Elias Redmon.
S. 7085. George Moffatt.
S. 7090. Kate F. Sage.
S. 7213. Myra Van Winkle.
S. 7236. Charles G. Glidden.
S. 7280. Clara V. King.
S. 7342. James Griffey.
S. 7344. Sarah F. Boynton.
S. 7357. Emiles Pomeroy.
S. 7346. Fannie M. Page.
S. 7398. Thomas Gannon.
S. 7429. Orlan A. Hibbs.
S. 7450. William H. Hall.
S. 7451. William T. Francis.
S. 7462. Marshall D. House.
S. 7465. Henry McClure.
S. 7471. Mary J. Wood.
S. 7496. Ephraim Benedict Murphy, alias Ephralm Benedict.
S. 7497. Jay Doty.
S. 7553. Lorenzo F. Nolan.
S. 7613. Erastus G. Cummings.
S. 7786. Victoria L. McHone.
S. 7902. Margaret L. Thompson.
S. 8071. Daniel Hand.
S. 8098. Horace C. Webber.
S. 8131. Stanley H. Husted.
S. 8145. Joseph Cassiday.
S. 8144. William L. Sheaff.
S. 8157. Louis C. Emmett.

S. 8158. Christian Bowman.
S. 8159. Stephen Collar.
S. 8160. Baxter Johnson.
S. 8163. Mary E. Allen.
S. 8173. Georgiana Packard.
S. 8187. Josephine E. Miller.
S. 8201. Delia H. Austin.
S. 8203. Wendell P. Hood.
S. 8206. Lucy Gamble.
S. 8208. Elizabeth Croft.
S. 8213. Stephen B. Johnson.
S. 8237. Ferdinand O. Tennison.
S. 8239. Thomas Moody.
S. 8240. Charles Belknap.

Mr. JOHNSTON of Alabama, from the Committee on Military Affairs, to which was referred the bill (S. 4241) to encourage rifle practice and promote a patriotic spirit among the citizens and youth of the United States, reported it with an amendment and submitted a report (No. 1165) thereon.

Mr. GAMBLE, from the Committee on Indian Affairs, to which was referred the bill (S. 110) to authorize the sale and disposition of a portion of the surplus and unallotted lands in Todd and Bennett Counties, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, reported it with amendments and submitted a report (No. 1166) thereon.

YOSEMITE NATIONAL PARK.

Mr. WORKS. From the Committee on Public Lands I report back favorably without amendment the bill (S. 8279) to amend an act approved October 1, 1890, entitled "An act to set apart certain tracts of land in the State of California as forest reservations," and I submit a report (No. 1163) thereon. I ask for the present consideration of the bill.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SOLDIERS' HOME AT SANTA MONICA, CAL.

Mr. JONES. Under Senate resolution 160 the Committee on Military Affairs or a subcommittee thereof was directed to make an investigation of the management of the Branch National Home for Disabled Volunteer Soldiers and Sailors at Santa Monica, Cal. A subcommittee was appointed in pursuance of the resolution and made the investigation and submitted its findings and recommendations.

By direction of the full committee I submit the report of the subcommittee (Rept. No. 1167), together with a bill to transfer the Pacific Branch of the National Home for Disabled Volunteer Soldiers to the War Department, recommended by it. In doing so, I will state that the bill is reported with the recommendation of the subcommittee for such action and consideration as the Senate may desire to take upon it, and it is not to be understood as being recommended by the full Committee on Military Affairs. I ask that the bill be placed on the calendar.

The bill (S. 8297) to transfer the Pacific Branch of the National Home for Disabled Volunteer Soldiers to the War Department was read twice by its title.

The PRESIDENT pro tempore. The Chair will take the liberty of inquiring of the Senator from Washington whether the bill should not be referred to the committee.

Mr. JONES. The resolution directed the committee or a subcommittee to report the facts and their findings to the Senate. Under the peculiar language of the resolution, I think the bill should go to the calendar.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SANDERS:

A bill (S. 8298) to provide for the enlargement of the Federal building at Chattanooga, Tenn.; to the Committee on Public Buildings and Grounds.

A bill (S. 8299) to amend section 9 of the act entitled "An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," approved March 1, 1911.

The PRESIDENT pro tempore. To what committee does the Senator from Tennessee desire to have the bill referred?

Mr. SANDERS. The Committee on Commerce.

The PRESIDENT pro tempore. The Chair is disposed to refer it to the Committee on Conservation of National Resources.

Mr. SANDERS. It is really a water-power bill. I think it should go to the Committee on Commerce, but I am not sure.

The PRESIDENT pro tempore. The bill will be referred to the Committee on Commerce.

By Mr. CLARK of Wyoming:

A bill (S. 8300) to provide for the admission in evidence of certificates of the heads of executive departments and independent executive establishments to show the nonemployment of persons brought to trial under section 32 of the act of March 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States"; to the Committee on the Judiciary.

By Mr. OLIVER:

A bill (S. 8301) granting an increase of pension to Mary F. Nichols (with accompanying papers); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8302) to provide for the erection of a public building at Naugatuck, Conn.; to the Committee on Public Buildings and Grounds.

A bill (S. 8303) granting an increase of pension to Sarah L. Bentley (with accompanying papers); to the Committee on Pensions.

By Mr. GRONNA:

A bill (S. 8304) for the relief of Rodger Caplette; to the Committee on Claims.

By Mr. JACKSON:

A bill (S. 8305) to promote and encourage the building of modern public highways by granting aid thereto under certain conditions; to the Committee on Post Offices and Post Roads.

By Mr. GALLINGER:

A bill (S. 8306) to amend an act entitled "An act to require the erection of fire escapes in certain buildings in the District of Columbia, and for other purposes," approved March 19, 1906, as amended by the act approved March 2, 1907; to the Committee on the District of Columbia.

By Mr. PENROSE:

A bill (S. 8307) granting an increase of pension to Martha J. Strayer (with accompanying papers); to the Committee on Pensions.

By Mr. MARTIN of Virginia:

A bill (S. 8308) granting a pension to Joseph H. Mayo (with accompanying papers); and

A bill (S. 8309) granting an increase of pension to George W. Brown (with accompanying papers); to the Committee on Pensions.

By Mr. POINDEXTER:

A bill (S. 8310) to authorize the construction of a bridge across the Pend Oreille River opposite the town of Newport, Wash.; to the Committee on Commerce.

By Mr. WILLIAMS:

A bill (S. 8311) providing for a monument to commemorate the services and sacrifices of the women of the country at the time of the American Revolution (with accompanying papers); to the Committee on Public Buildings and Grounds.

By Mr. BANKHEAD:

A bill (S. 8312) for the purchase of a site and the erection of a public building at the city of Union Springs, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. CHILTON:

A bill (S. 8313) to provide for the erection of a public building at Williamson, W. Va.; to the Committee on Public Buildings and Grounds.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. McLEAN submitted an amendment providing for a survey to secure the increased depth of the harbor at Stamford, Conn., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. OWEN submitted an amendment authorizing the Secretary of the Interior to withdraw from the Treasury of the United States $10,000 on deposit to the credit of the Creek Indians and pay it to the trustees of the Henry Kendall College, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment authorizing the Secretary of the Interior to make a per capita payment of $200 from the tribal trust funds of the Seminole Indians to each individual officially enrolled as a member of that tribe, etc., intended to be proposed by him to the Indian appropriation bill, which

was referred to the Committee on Indian Affairs and ordered to be printed.

He also (for Mr. CHAMBERLAIN) submitted an amendment proposing to appropriate $10,000 for improving the Willamette River, Oreg., intended to be proposed by him to the river and harbor appropriation bill, which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Commerce.

Mr. O'GORMAN submitted an amendment providing for the purchase of subsistence supplies for all vessels in harbor-boat service not otherwise provided for, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. SMITH of Arizona submitted an amendment proposing to appropriate $20,000 for the erection and completion of a hospital building and equipment at Pima Agency, Ariz., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. MARTIN of Virginia submitted an amendment proposing to appropriate $60,000 for the purchase of not less than 600 acres of land convenient to the city of Washington, D. C., to be used for target-practice purposes, intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. RICHARDSON submitted an amendment providing for a survey of the Leipsic River, Del., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

CONNECTICUT RIVER DAM.

Mr. JONES. I submit an amendment, intended to be proposed by me, to the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River, and so forth. I ask that it be read and lie on the table.

The proposed amendment was read and ordered to lie on the table, as follows:

Amendment intended to be proposed by Mr. JONES to the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut, viz: Strike out all of section 1 after the words "*And provided further*," in line 19, page 2, and insert the following:

"The assent of Congress herein given shall not be complete and operative until there shall be filed with the Secretary of War an agreement signed by the said Connecticut River Co. and the proper authorities of the State of Connecticut in which is recognized and acknowledged the full authority of the State of Connecticut to supervise, regulate, and control the rates to be charged by said company, its successors and assigns, for the energy developed; and the right of said State from time to time to readjust such rates; and the right of said State to supervise, regulate, and control said corporation, its successors or assigns, its management, stocks, bonds, or evidences of indebtedness in such manner as may be provided from time to time by the laws of said State; and the right of said State to exact from said corporation, its successors or assigns, such annual charges as may be just and reasonable, taking into account the amount spent and required to be spent by said corporation in improving the navigation of said river and the right of said corporation to a reasonable return on the fair value of such dam and appurtenances, works and property, allowing for the cost of construction, maintenance, and renewal.

PUNISHMENT OF MURDER IN THE DISTRICT OF COLUMBIA.

Mr. JONES submitted the following concurrent resolution (S. Con. Res. 39), which was read, considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return the bill (S. 7162) to amend section 801 of the Code of Law for the District of Columbia.

HARBOR REGULATIONS, DISTRICT OF COLUMBIA.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 1072) to amend section 895 of the Code of Law for the District of Columbia, which were, on page 2, line 10, to strike out "ice, snow," and insert "or," and on page 2, line 10, to strike out ", or trash."

Mr. JONES. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

HOUSE BILLS REFERRED.

H. R. 22939. An act to legalize titles in the District of Columbia to certain citizens was read twice by its title and referred to the Committee on the District of Columbia.

H. R. 28180. An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, was read twice by its title and referred to the Committee on Commerce.

FUNERAL EXPENSES OF THE LATE SENATOR DAVIS.

Mr. CLARKE of Arkansas. I ask unanimous consent to dispose of a merely formal matter. Senate resolution 425, authorizing the Secretary of the Senate to pay the actual expenses incurred by the committee attending the funeral of the late Senator JEFF DAVIS. It will take only the time to read it.

There being no objection, the resolution was read, considered, and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the President of the Senate pro tempore in arranging for and attending the funeral of the late Senator JEFF DAVIS, from the State of Arkansas, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

CONTRIBUTIONS FOR CAMPAIGN PURPOSES.

Mr. JONES. I ask the Senate to consider Senate resolution 418, amending Senate resolution 79, in regard to the investigation of campaign contributions.

The PRESIDENT pro tempore. The Senator from Washington asks unanimous consent for the present consideration of the resolution named by him.

The resolution was read, considered, and agreed to, as follows:

Resolved, That Senate resolution 79, agreed to August 26, 1912, be, and the same is hereby, amended by inserting, on line 2, page 2, of said resolution, after the word "eight," the words "November 3, 1912."

PROPOSED EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

Mr. SMITH of Georgia. As a substitute for that motion, I move that the Senate proceed with the consideration of House bill 22871, to establish extension departments in connection with agricultural colleges.

The PRESIDENT pro tempore. That motion is not in order under the rule. The question is on the motion made by the Senator from Illinois [Mr. CULLOM].

Mr. CLARKE of Arkansas and Mr. SMITH of Georgia called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. SMITH of Georgia (when Mr. BACON's name was called). I desire to state that the senior Senator from Georgia [Mr. BACON] is detained at home by sickness in his family.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. I transfer that pair to the Senator from Nevada [Mr. MASSEY]. I desire this announcement to stand on each vote for the day. I vote "yea."

Mr. THORNTON (when Mr. FOSTER's name was called). I announce the absence of my colleague [Mr. FOSTER] on account of illness in his family, and ask that this announcement stand for the day.

Mr. GARDNER (when his name was called). I have a general pair with the Senator from Massachusetts [Mr. CRANE]. I transfer that pair to the Senator from Oklahoma [Mr. GORE] and vote. I vote "nay."

Mr. KERN (when his name was called). I have a general pair with the Senator from Kentucky [Mr. BRADLEY]. I desire to transfer that pair to the Senator from Tennessee [Mr. LEA] and vote. I vote "nay."

Mr. OLIVER (when his name was called). I have a general pair with the junior Senator from Oregon [Mr. CHAMBERLAIN]. I transfer that pair to the senior Senator from Idaho [Mr. BORAH] and will vote. I vote "yea."

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM]. He seems not to have voted. I therefore withhold my vote.

Mr. RICHARDSON (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. SMITH]. I transfer that pair to the Senator from New Mexico [Mr. FALL] and vote. I vote "yea." I make this announcement to stand for the day.

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. I transfer that pair to the Senator from Georgia [Mr. BACON] and will vote. I vote "nay."

Mr. TOWNSEND (when the name of Mr. SMITH of Michigan was called). The senior Senator from Michigan [Mr. SMITH] is unavoidably absent from the city. I desire this statement to stand for the day.

Mr. KERN (when the name of Mr. SMITH of South Carolina was called). I announce the unavoidable absence of the Senator from South Carolina [Mr. SMITH] on account of illness.

While I am on my feet I desire to transfer my pair with the Senator from Kentucky [Mr. BRADLEY] to the Senator from Maryland [Mr. SMITH], instead of to the Senator from Tennessee [Mr. LEA], as previously announced.

Mr. WILLIAMS. I have a pair with the senior Senator from Pennsylvania [Mr. PENROSE]. I transfer that pair to the Senator from Maine [Mr. JOHNSON] and will vote. I vote "nay."

The roll call was concluded.

Mr. LIPPITT. I have a pair with the senior Senator from Tennessee [Mr. LEA]. In his absence I withhold my vote.

Mr. SANDERS. I wish to announce the unavoidable absence of the senior Senator from Tennessee [Mr. LEA].

Mr. DILLINGHAM (after having voted in the affirmative). I inquire if the senior Senator from South Carolina [Mr. TILLMAN], with whom I am paired, has voted?

The PRESIDENT pro tempore. The Senator from South Carolina has not voted.

Mr. DILLINGHAM. Then I will withdraw my vote, having a general pair with that Senator.

Mr. BANKHEAD. On this question I have a pair with the senior Senator from Oregon [Mr. BOURNE], who is absent from the Chamber. I therefore withhold my vote.

Mr. OWEN. I transfer my pair with the Senator from Kansas [Mr. CURTIS] to the Senator from Nevada [Mr. NEWLANDS] and will vote. I vote "nay."

Mr. CULBERSON (after having voted in the negative). I desire to inquire if the Senator from Delaware [Mr. DU PONT] has voted?

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. CULBERSON. As I have a general pair with him, I withdraw my vote.

Mr. DILLINGHAM. I transfer my general pair with the Senator from South Carolina [Mr. TILLMAN] to the Senator from Wisconsin [Mr. STEPHENSON] and vote. I vote "yea."

Mr. JOHNSON of Maine (after having voted in the negative). I voted upon entering the Chamber just now, but I am informed that a pair had previously been transferred to me. I therefore withdraw my vote.

Mr. WILLIAMS. Mr. President, a moment ago I announced my pair with the Senator from Pennsylvania [Mr. PENROSE] and transferred it to the Senator from Maine [Mr. JOHNSON], who was not then present. I wish now to withdraw the transfer, so as to give the Senator from Maine an opportunity to vote, and also to withdraw my vote, and to stand paired with the Senator from Pennsylvania.

Mr. JOHNSON of Maine. Under that statement I vote "nay."

Mr. STEPHENSON entered the Chamber, and voted in the affirmative.

Mr. DILLINGHAM (after having voted in the affirmative). The Senator from Wisconsin [Mr. STEPHENSON], to whom I transferred my pair with the Senator from South Carolina [Mr. TILLMAN], having voted, I withdraw my vote.

The PRESIDENT pro tempore. The Chair will ask that the vote be again recapitulated, there having been several changes.

The Secretary recapitulated the vote.

Mr. CULBERSON. I desire to inquire if the Senator from Oregon [Mr. CHAMBERLAIN] is paired?

The PRESIDENT pro tempore. The Chair has no information on the subject.

Mr. CULBERSON. The Chair could probably secure it from the Secretary.

Mr. OLIVER. Mr. President, the Senator from Oregon [Mr. CHAMBERLAIN] is paired with me.

The PRESIDENT pro tempore. The Senator from Oregon, it has just been stated, is paired.

Mr. CLARKE of Arkansas. Mr. President, a Senator sitting by me suggests that the name of the junior Senator from Pennsylvania [Mr. OLIVER] was called on the roll call. Is that a fact.

Mr. OLIVER. My name was called on the roll call, but I transferred my pair with the junior Senator from Oregon [Mr. CHAMBERLAIN] to the senior Senator from Idaho [Mr. BORAH] and voted.

Mr. SMOOT. I desire to announce that the Senator from Oregon [Mr. BOURNE] is paired with the Senator from Alabama [Mr. BANKHEAD], the Senator from New Jersey [Mr. BRIGGS] is paired with the Senator from West Virginia [Mr. WATSON], the Senator from Michigan [Mr. SMITH] is paired with the Senator from Missouri [Mr. REED], and the Senator from Wyoming [Mr. WARREN] is paired with the Senator from Louisiana [Mr. FOSTER].

The result was announced—yeas 31, nays 31, as follows:

YEAS—31.

Brandegee	Cummins	McCumber	Sanders
Brown	Gallinger	McLean	Smoot
Burnham	Gamble	Nelson	Stephenson
Burton	Gronna	Oliver	Sutherland
Catron	Jackson	Page	Townsend
Clark, Wyo.	Jones	Perkins	Wetmore
Crawford	Kenyon	Richardson	Works
Cullom	Lodge	Root	

NAYS—31.

Ashurst	Hitchcock	Myers	Shively
Bristow	Johnson, Me.	O'Gorman	Simmons
Bryan	Johnston, Ala.	Overman	Smith, Ariz.
Chilton	Johnston, Tex.	Owen	Smith, Ga.
Clarke, Ark.	Kern	Perry	Swanson
Fletcher	La Follette	Perky	Thomas
Gardner	Martin, Va.	Poindexter	Thornton
Heikell	Martine, N. J.	Pomerene	

NOT VOTING—33.

Bacon	Culberson	Lea	Smith, S. C.
Bankhead	Curtis	Lippitt	Stone
Borah	Dillingham	Massey	Tillman
Bourne	Dixon	Newlands	Warren
Bradley	du Pont	Paynter	Watson
Briggs	Fall	Penrose	Williams
Chamberlain	Foster	Reed	
Clapp	Gore	Smith, Md.	
Crane	Guggenheim	Smith, Mich.	

So the Senate refused to proceed to the consideration of executive business.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia. I move that the Senate proceed to the consideration of House bill 22871, known as the agricultural extension departments bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto.

The PRESIDENT pro tempore. The question is upon agreeing to the amendment proposed by the Senator from Vermont [Mr. PAGE].

Mr. SMITH of Georgia. Mr. President, I desire to suggest to the Senate that it is exceedingly important to act to-day upon this bill, together with the amendments thereto. To-morrow we take up the constitutional amendment under unanimous consent, and following that the bill of the Senator from Vermont (S. 3) would come up as an original proposition. The friends of that measure well understand that if it should be passed independently of the House measure it would go to the House, would be referred to a committee, and there would be practically no chance to pass any part of it at this session of Congress. On the other hand, if we add to the House bill such portions of the amendment of the Senator from Vermont as we have perfected, the amendments would go at once to the House with the House bill, and necessarily would receive consideration. The House might decline to accept them immediately, and then a conference might be necessary. But before the conference committee we would have an opportunity of considering the amendments presented by the Senator from Vermont and adopted by the Senate, and out of this conference we could hope for legislation.

It is therefore exceedingly important to act on this measure to-day, while the House bill is before the Senate, and before Senate bill No. 3—the original bill of the Senator from Vermont—is reached. It will be reached immediately following the consideration of the constitutional amendment by unanimous consent.

I want to suggest to the friends of the amendment offered by the Senator from Vermont a few modifications of it. I wish very much that the Senator from Vermont were in his place, in order that we might have his consideration of these suggestions.

Mr. PAGE entered the Chamber.

Mr. SMITH of Georgia. I will take the liberty of repeating, since the return of the Senator from Vermont, what I have just said: It is extremely important, if we are to pass any of the provisions contained in the amendment of the Senator from Vermont, that we should have action to-day, as to-morrow we take up the constitutional amendment under unanimous consent, and immediately following that the original bill of the Senator from Vermont will come up. If we should act upon that original bill, there would be no chance for legislation at this session.

I think it unwise to send to the House, as an amendment to the House bill, all of the provisions presented by the Senator from Vermont. They involve an appropriation of $13,000,000. They involve so much new matter that we could hardly hope to obtain for them thoughtful consideration. Yet if we should take about three of them, instead of all six, and send them to the House, there would not be such a volume of them as to almost deter the mind from undertaking to consider them. If we would take his section 11, making the appropriation to secondary schools that have established distinct industrial or trades departments, and pass it, omitting section 10; if we would take, then, his appropriation to agricultural high schools, and pass it; if we would take his appropriation to normal

schools, and pass it, those three simple and distinct propositions sent to the House could be readily brought to the attention of Members of the House, and I think there would be much more hope of accomplishing something.

I have been continuously working upon this matter whenever I have had an opportunity; and I think we could make a few amendments, by eliminating a part of the measure for the present, and pass it. With those eliminations, I am ready to vote for it, and I am ready to help try to pass it through the House.

Mr. PAGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Vermont?

Mr. SMITH of Georgia. Yes.

Mr. PAGE. I shall be very glad, indeed, to have the valuable assistance of the Senator from Georgia in perfecting my bill in any way that seems to be right and best. But, as I look at the matter now, it seems to me that the provisions had better go through substantially as they appear in the original Page bill, so called, and then, out of conference, we may be able to get some results, such as have been suggested by the Senator from Georgia.

I am informed that there will be a little further discussion upon the bill this morning. Meanwhile I will give the matter consideration, and I will see the Senator from Georgia promptly about it.

Mr. SMITH of Georgia. I wish to give to the Senate again, very briefly, my criticisms upon the appropriation contained in section 10.

It is not limited to schools that have industrial departments. It would apply to over 13,000 schools. It would give only about $600 to each school. It undertakes to give instruction in agriculture, in the industries, in the trades, and in household economics. I do not think anyone who has had experience with the effort to introduce industrial and trades training in a high school has failed to find that good work can not be accomplished except where there is a distinct department devoted to the work, with equipment and with appropriation sufficient really to do something.

In the case of the work in the trades and the industries, you require equipment with tools; you require separate rooms for the instruction; you require a man especially trained, who is skilled with his hands, and who also has sufficient mental equipment to give the instruction. You can not put that kind of work into a high school with one or two thousand dollars; and if you tried it, your money would simply be wasted.

The Senator's second provision, No. 11, recognizes the distinction between undertaking to introduce industrial and trades work generally in high schools and undertaking to introduce it only in those which are equipped for it, and it limits the appropriation to schools with a distinct department, where the amount of expenditure will be sufficient to amount to something.

I speak so positively upon this subject because I have seen the experiment tried. For nearly 20 years I was actively connected with the public schools of my own city. We tried the experiment of expending a small sum in each school to try to introduce industrial and trades work. At the end of a couple of years we were compelled to abandon it and to establish a distinct department of industrial and trades work, with a distinct building and with a much larger appropriation. So far as I have been able to learn, practically all educators who have been enlisted in behalf of trades and industrial work give the same report—that the money is wasted when you undertake to add it to a high school without reference to the preparedness of the high school for the work. Not only is it wasted, but it interferes with the regular work of the high school, damaging that which has been already done without introducing any new, substantial work of real value.

Mr. President, I move to strike from the amendment of the Senator from Vermont section 10.

The PRESIDENT pro tempore. The Senator from Georgia proposes an amendment to the amendment of the Senator from Vermont, which will be stated by the Secretary.

The SECRETARY. It is proposed to strike out section 10.

Mr. CUMMINS. Mr. President, I think the Senator from Georgia has forgotten that section 10 has been already stricken out.

Mr. SMITH of Georgia. A substitute for section 10 has been placed in the amendment.

Mr. CUMMINS. What was formerly section 3 has been substituted for the original section 10.

Mr. SMITH of Georgia. Yes; that is now section 10.

Mr. CUMMINS. While I am on my feet, I desire to say that there is a great deal of force in what the Senator from Georgia has said. I prefer the old section 3 to section 10, as proposed by the Senator from Vermont, but I would not anticipate great results from either section. While I intend to follow the Senator from Vermont in this matter, frankness compels me to say that I think the value of his bill lies in other provisions in it rather than in section 3.

Mr. SMITH of Georgia. I want to say to the Senator that I have made up my mind to support section 11. I am going to support it and vote for it.

Mr. CUMMINS. But of course section 10 has been already stricken out of the amendment.

Mr. SMITH of Georgia. I am referring to the substituted section, which is the original section 3. I am seeking to direct the bill to the high school that has an industrial department, as contained in section 11, instead of undertaking to make an appropriation to a high school which has no industrial department. If we could get it, I would put the whole $6,000,000 into section 11 rather than to have three millions of it in section 3 and three millions of it in section 11, because from section 11 we will really get results.

Mr. CUMMINS. I have some objections, however, to the present form of section 11. I agree, however, that little can be done, under the provisions of this bill, in the general high schools of the country. But I do not think the provision should be so severe with regard to those high schools that have a department for instruction in the trades and industries and home economics. But I will refer to that later on.

Mr. PAGE. Mr. President, if I correctly understand the situation, the provision which the Senator from Georgia seeks to have placed in the bill is the same section that was stricken out on the motion of the Senator from Iowa. The Senate having passed upon that matter affirmatively, I hardly feel as though I could properly consent to a change now, and to a reversal of the action of the Senate, under the amendment proposed by the Senator from Georgia.

Mr. SMITH of Georgia. I understood the effect of the action of the Senate to be to substitute original section 3 for section 10 as the Senator from Vermont brought it in. I did not understand the action of the Senate to be a final determination that it would even retain section 3 as section 10. It was to the consideration of the advisability of concentrating our efforts on section 11, and giving what we give for industrial and trades work to schools where they have a distinct department for such work, that I was addressing myself before the Senate.

Mr. GRONNA. Mr. President, may I inquire what is the amendment proposed by the Senator from Georgia?

The PRESIDENT pro tempore. The motion of the Senator from Georgia is to strike out section 10 from the amendment of the Senator from Vermont as amended.

Mr. GRONNA. Mr. President, I had not intended to make any observations upon this particular section of the bill. If, however, we are to take for granted everything that has been said here in regard to this particular section, then farming is indeed a limited industry.

I am somewhat surprised to hear Senators say that they are opposed to the provision for vocational education and instruction in the trades and industries and home economics because it would not better the conditions on the farm. Does any Senator mean to say that the farmer has not as much use for a vocational education or special training in the trades and home economics as those engaged in any other industry? The farmer has as much use for the trade of blacksmith or carpenter or harness maker as any of the persons engaged in those trades in the cities.

I should like to have some of these "farmers" who come from the large cities tell me what work is to be done on a farm. I have not opposed the passage of the so-called House bill. I am not saying now that I intend to oppose the passage of the House bill. But it seems to me that the farmer in the large city is more interested in the passage of this measure than are the real farmers who live on their farms.

Are we expending these millions of dollars merely for the benefit of the farmer? Have we a right to take the money from the Treasury of the United States for the sole purpose of helping the farmer? Is it the belief of any Senator that the provisions of this bill will accomplish that very purpose?

Mr. President, you can not name a single trade embodied in this measure offered by the Senator from Vermont but what the farmer has as much use for it and it is of as much benefit to the farmer as it is for him to take hold of the plow handle and plow the ground.

Farming has indeed become very limited in its scope if nothing more is required of those engaged in it than the mere knowledge of knowing how to handle the shovel and the plow. You tell me that farming is the greatest industry in the world. I say yes; perhaps I ought not to say it, because I am a practical farmer, but I wish to say to you, sir, that the business of farming does not consist of such a limited scope as some would have us to believe. In my judgment the provisions in the bill now offered by the Senator from Vermont would ultimately be of great benefit and a great blessing not only to those engaged in the vocations and trades, but to farmers and to mankind.

Are we to make an appropriation for the farmer to teach him how to hold the plow or how to swing the ax? Do you suppose that that is the only thing to be done on a farm?

Mr. President, I am perhaps as much interested in this measure as any man can be, but I confess I am less enthusiastic over it than are some of the farmers in the big cities. It is not as important to teach the farmer how to produce crops as it is to find him a market for his products or to reduce the cost of production so that his industry will yield him a profit. The State which I have the honor, in part, to represent produced more than 150,000,000 bushels of wheat in 1912. That, sir, is an indication, so far as production is concerned, that the farmer in my State needs no special teaching in that line. I am not objecting, however, to any measure that will aid people in other sections of the country where they have not learned to farm as we have learned it in North Dakota.

Mr. President, to show to the Senate that the statement I have just made should receive some consideration, I wish to quote from the agricultural expert who has just made his first report of what is known as the Better Farming Association of North Dakota. Mr. Thomas P. Cooper, who, I understand, has been employed by the Federal Government, has this to say on that particular point:

> The problems of the agricultural sections of the State are to a great extent economic and social rather than the immediate question of production. Under the systems of farming which have been developed the North Dakota farmer has become expert in the production of the small grains cheaply. Farmers generally are well acquainted with the methods of agriculture which will enable them to produce crops. They are not familiar, however, with the methods of farm management required under other systems of farming or where new crops and live stock are to be used. Much additional knowledge is necessary.
>
> The fundamental problem, then, consists in arousing action among farmers and the public to such an extent that new systems of farming, new crops, and live stock will be generally adopted. This necessitates the creation of a new sentiment toward our farm lands and toward the farm as a permanent source of wealth and of income. Briefly, the basic agricultural problems confronting the work of this association may be classified as, first, the maintenance of the fertility of the soil, involving new cropping systems and the use of live stock; second, the introduction and general use of new economic crops, such as clovers, alfalfa, winter grains, and cord; third—

And, Mr. President, I think this should have been first—

> Third, the business reorganization of the farm for greater profits.

If you want to help the farmer in his condition, make it possible for him to receive a greater remuneration from what he produces. Will any Senator tell me that if farming were as profitable as other industries we would experience any difficulty in getting more people on the farms? In that respect farming has not been a profitable business.

I wish to quote briefly from a special message of Theodore Roosevelt, sent to the Senate February 9, 1909, upon this subject:

> Yet farming does not yield either the profit or the satisfaction that it ought to yield and may be made to yield.

The special commission appointed to make a report on the condition of country life has this to say:

> (A) STATEMENT OF THE GENERAL FARM PROBLEM.
>
> The farm labor problem, however, is complicated by several special conditions, such as the fact that the need for labor is not continuous, the lack of conveniences of living for the laborer, long hours, the want of companionship, and in some places the apparently low wages. Because of these conditions the necessary drift of workmen is from the open country to the town. On the part of the employer the problem is complicated by the difficulty of securing labor, even at the relatively high prices now prevailing, that is competent to handle modern farm machinery and to care for live stock and to handle the special work of the improved dairy. It is further complicated in all parts of the country by the competition of railroads, mines, and factories, which, by reason of shorter hours, apparently higher pay, and the opportunities for social diversion and often of dissipation, attract the native farm hand to the towns and cities.
>
> The difficulty of securing good labor is so great in many parts of the country that farmers are driven to dispose of their farms, leaving their land to be worked on shares by more or less irresponsible tenants, or selling them outright, often to foreigners. All absentee and proxy farming (which seems to be increasing) creates serious social problems in the regions thus affected. There is not sufficient good labor available in the country to enable us to farm our lands under present systems of agriculture and to develop our institutions effectively. Our native labor supply could be much increased by such hygienic measures as would lessen the unnecessary death rate among country children and insure better health to workmen.
>
> So long as the labor supply is not equal to the demand the country can not compete with the town in securing labor. The country must meet the essential conditions offered by the town or change the kind of farming.
>
> The most marked reaction to the labor difficulty is the change in modes of farm management, whereby farming is slowly adapting itself to the situation. In some cases this change is in the nature of more intensive and businesslike methods whereby the farmer becomes able to secure a better class of labor and to employ it more continuously. More frequently, however, the change is in the nature of a simplification of the business and a less full and active farm life. In the sod regions of the Northeast the tendency is toward a simple or even a primitive nature farming, with the maximum of grazing and meadow and the minimum of hand labor. In many States the more difficult lands are being given up and machinery farming is extending. This results in an unequal development of the country as a whole, with a marked shift in the social equilibrium. The only real solution of the present labor problem must lie in improved methods of farming. These improvements will be forced by the inevitable depletion of soil fertility under any and all one-crop systems in every part of the country, and realized by the adoption on the part of intelligent, progressive farmers of a rotation of crops and a system of husbandry that will enable them to employ their labor by the year and thereby secure a higher type of workman by providing him a home with all its appurtenances. The development of local industries will also contribute to the solution of the problem.
>
> The excessive hours of labor on farms must be shortened.

Anyone who has had experience in farming will know that farming has not been a profitable business.

But you tell me, sir, that we are going to help the farmer now and show him how he can increase production. Of course, we all welcome the assistance to an education which will help us to grow two blades where one grew before. We are all in favor of teaching the farmer to be able to produce more on the same number of acres than he has produced before. But I want to say that with the intensified farming greater production means an increased cost in farming. It is not because the farmer does not know how to produce larger crops and increase the yield on the farm, but it is because the profit he receives from his farm does not enable him to employ the labor that is necessary to produce that larger yield. It is for that reason and for that reason alone that we are unable to produce as much per acre in the United States as they are producing in foreign countries. We pay higher prices for labor than they do in Europe. We are confronted with the same conditions in the business of farming that other industries of this country have to experience, in that of paying higher wages. During the busy season of the year we have paid for the commonest kind of labor $3.50 to $4 per day.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Kansas?

Mr. GRONNA. With pleasure.

Mr. BRISTOW. I am very much interested in the Senator's suggestion that the farmer is confronted with the same wage problem that the industries are in the industrial centers. Does not the Senator think that it is a much greater problem for the farmer? Does he not have to pay much higher wages in proportion than are paid in the industries, because of the inclination of European immigrants to go to cities and not to go to the country?

Mr. GRONNA. Mr. President, I think that is true, although I do not want anyone to take my judgment on that. I only know what we have to pay on the farm. I do not know what has to be paid by other industries.

Mr. ROOT. May I ask a question of the Senator?

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from New York?

Mr. GRONNA. I am very glad to yield.

Mr. ROOT. I do not know whether it is a fact in the Senator's part of the country, but it is in mine, that the one trouble about the wage question with the farmer is that there is a very short period during the year, under our method of conducting a farm, during which a large amount of help is needed. It is very difficult to get help where you can employ a man only a couple of months; it is only the chance, floating fellow that you can pick up. Where you can give a man but two months' employment or three months' employment during the year, and nothing for nine months, of course you have a much smaller supply and poorer material, and you have to pay higher wages.

It has seemed to me in studying the farm problems in central and northern New York, under conditions which prevail over a considerable part of the country certainly, that one very important thing is that there shall be suggested and taught to farmers, particularly to the small farmers, a method of utilizing their farms so that the need for employment will come along at one time after another and run during the greater part of the year. It certainly is under some conditions possible to bring about an equalization of requirement for labor instead of having a very high requirement at one time during the year and not during the remainder. Does not the Senator think something useful might be done in that direction?

Mr. GRONNA. I want to thank the distinguished Senator from New York for making the observation. It is absolutely true, as he has stated, and the condition in my State is exactly as he has stated. But, Mr. President, the provision of this bill is that 75 per cent of the money which we are now appropriat-

ing shall be used absolutely for field tests. If the provisions of the Lever bill were such that we could use this appropriation in educating the farmers to change the present methods of farming and thereby change present conditions, to give instructions how to grow new crops, how to change the farm from a grain farm to a dairy farm, then, Mr. President, I should have nothing to say in opposition to taking 75 per cent of this entire appropriation for that work.

We grow certain crops and have become, so to speak, specialists in producing them. We want to get away from that idea of growing but one kind of a crop, and the bill proposed by the Senator from Vermont will in a large measure help the agricultural interests in that way. We want more prosperity and fewer hobos. We are sick and tired of feeding and employing the large population of hobos that come from the cities that we necessarily have been employing during the summer months. They are not fit to perform the labor that is to be performed on the farm; they know no more about the business of farming than the farmer as a class knows about the profession of the law; they are incapable of performing their work in a satisfactory manner to the farmer or to those who employ them. But, sir, teach them vocations and trades and then let them come to our part of the country, and although we may have to pay them just as high wages as we are paying them now, they will be able to perform their work in a better way. You will have increased the efficiency of those men, for they have been taught how to perform labor.

The condition in the country in the rural districts is such that it is absolutely impossible to get competent labor on the farm. Why, sir, it is necessary for those who own their farms to work from 12 to 18 hours per day; and the necessary labor can not be had. It goes to show two things—first, that the business of farming is not profitable, and, secondly, that labor can not be had. You tell me the farmer has been very successful. Yes, he has been successful, because his land has increased in value. But take the farmer as a class, take his business as a producer, allow him reasonable wages for his work, and I say without fear of successful contradiction that within the last two decades farming has not been a profitable business.

I believe, sir, that the amendment offered by the Senator from Vermont should have serious consideration. It may be that certain changes should be made in the measure, but I do not want to see it voted down simply on sentiment.

Neither do I want to let the so-called House bill pass without calling attention to the fact. I want the RECORD to show, if you please, that this legislation is not asked for by the farmer. I am not here to oppose it because the farmer does not ask for it. I am not here simply for the purpose of representing the farmer. I am here to help to the best of my ability each and every industry of the United States, but I do not want it to be understood that in the appropriation of this large amount of money you are simply appropriating it for the farmer, because you are not, and you know that you are not. I do not want the name of the farmer conjured with right here to help along other industries. I am willing to help other industries, as I have said, but let us do it upon their merits, or let us oppose them upon their demerits.

Mr. President, I have received a newspaper printed in my State, and I found in that paper the synopsis of a speech delivered by the president of our agricultural college, a most splendid man, a learned man, a man of great ability and with splendid education and experience in farming. He has this to say:

> Good farming is the best insurance against crop failure. Farming is a business. It requires a better business head, a man of broader vision, to farm scientifically than to practice in any other profession.

That is a statement said to have been made by President Worst, of the Agricultural College of North Dakota.

Mr. President, if this is true, why should we look upon this matter in such a narrow way? Why should we look upon this industry as one that is being carried on by a lot of uneducated, ignorant men, who do not know any more than just how to hold the plow? I believe, sir, that if we pass the so-called Lever bill we should change the section of the bill which provides that three-fourths of this appropriation shall be used for field tests. I do not remember if the appropriation is contained in the first section. I will ask the Senator from Georgia in what section is embodied the provision that 75 per cent of the appropriation shall be used for field tests?

Mr. SMITH of Georgia. I think that is the third section. That was a provision put on in the other House, the Senator will remember. That was not in the original bill as I introduced it in the Senate.

Mr. GRONNA. Mr. President, that is the very reason why I am making these few observations, in the hope that those Senators who are present to hear me will be willing to help me in changing that provision.

For years, Mr. President, we have been trying to change our methods of farming, and right here is a provision taking 75 per cent of the entire appropriation to be used for something that the farmer is trying to get away from.

It is not true that there is a shortage of farm products in this country; it is not true that the high cost of living is due to the high prices of agricultural products. In my town we have as good a market as can be found anywhere in the western country, and yet last fall we were compelled to sell our wheat as low as 67 cents per bushel; we had to sell our oats at 20 cents per bushel; we received from 30 to 32 cents per bushel for barley, and I presume that those who drink beer pay the same price as heretofore to those patriotic brewers who were here about a year ago and who were making such clamor all over the country against the high cost of living. I suppose that they are receiving the same amount for their beer now that they did when they paid $1.54 per bushel for barley. The other day, going through the city of Minneapolis, I stepped into a grocery store and asked the grocer, whom I have known for more than 30 years, a man who is still in that business, what reduction, if any, had been made in the price of cereals. To my astonishment I found that, with oats at 20 cents per bushel, Quaker Oats in packages were selling at the same price that they were when we received 52 cents per bushel—not a reduction of a single cent. I found, to my surprise, that Corn Flakes, Pettijohn's Breakfast Food—in fact, all the cereals—are selling at the same price now that they were a year ago, when the price of grain was double what it is to-day; and yet the people in the cities believe, and honestly so, that the high prices paid for the farm products is the cause of the high cost of living.

If you want to help the farmer, if you want to help the people of the country, do something for them that will aid distribution. If those of you who live in the cities and are complaining because of the high cost of living will help us to devise some method whereby we can distribute all this immense amount of products that are now going to waste, you will be benefited; you will get your products at a lower cost, and the farmer will get a fair and reasonable price for the products of his labor.

Mr. President, the matter of greatest importance to the farmer and to the country is not in showing the farmer how to farm, but the great question before the country, so far as agriculture is concerned and so far as the comfort and enjoyment of the people who depend upon the farming industry are concerned, is how to develop methods whereby the farmer can receive a fair price for his products, and to facilitate distribution in such a way that the public may receive the products of the farm at reasonable prices.

Millions of bushels of vegetables go to decay in certain sections of our country, while in other sections the public is hungry for them. In my State, North Dakota, thousands and thousands of acres of potatoes were not dug, but were left in the ground for fertilizer. Because they were selling at prices that would not pay for the labor, there would have been an absolute loss in taking them out of the ground, and so they were left there to decay. At the same time I found right here in the city of Washington that potatoes were selling for $1.10 a bushel, although in North Dakota we could not receive 15 to 25 cents a bushel; yet the farmer is being charged with direct responsibility for the high cost of living.

Ah, Mr. President, this is a serious proposition. I want, so far as I am able, to convince the Senate that it is not true that there is a scarcity of farm products in the United States. It is not true, sir, that the farmer is the cause, directly or indirectly, of the high cost of living.

Mr. President, it was with reluctance and a good deal of hesitancy that I began to make these observations upon this bill. In the first place, I know the meaning of the bill; I know, sir, that there is a powerful element back of it. Every banker in the cities, in the towns, and in the villages is demanding or asking for the passage of the bill. I am not going to say that they misunderstand it, but I am going to say that if they understood the provisions of this bill as I understand them they would not be so enthusiastic as they are in favor of its passage.

I am not willing to let it go unchallenged; I am not willing to have it said that we are passing a measure just for the benefit of the farmer. It would not be fair to the country to pass any measure that would benefit one industry at the expense of another; but I believe, sir, that if you want to do something for the country you must commence to educate the boy and the girl. It is too late to educate the old farmer. His mind is settled, his ideas are fixed, and you will not meet with very great success in going upon his farm and making field tests to show him how he will be better able to produce more grain per acre.

If you want to help the people of the United States you will accept the amendment offered by the Senator from Vermont [Mr. PAGE], because that is a measure wide enough in its scope to benefit not only one industry, but every industry in the United States. Oh, you may tell me that there is no necessity for vocational education or for instruction in the trades and home economics. Are you going to deny the farmer's daughter the opportunity of getting an education in home economics? Are you going to deny to the children of the men of the cities the right to receive some instruction in the trades and in the vocations which are absolutely necessary to carry on the great industries of this country? I care not where these men may be located or where they may live, when you have taken their boys or their girls and given them an education in the vocations, in the trades, or in home economics, you have increased their efficiency, you have done something for the people of our country.

The Senator from Georgia is perhaps as well qualified to talk upon this subject as any man in the Senate. I have not tried, Mr. President, to express any theory of my own or to advance any new philosophy. I have simply called attention to a few facts which are practical in everyday life. I desire to repeat, in order to emphasize the fact, that there is as much need for vocational education and knowledge of the trades on the farm as anywhere else on earth, because the farmer, to be successful, must at least have some one in his family or some one on his farm who has knowledge and ability as a blacksmith, as a carpenter, and as a harness maker.

The farmer's wife certainly is expected to understand her duties as a housewife, and she has the absolute right to instruction in home economics as much as anyone else.

I did not expect to take up so much of the time of the Senate. The Senator from Iowa [Mr. KENYON] reminds me, however, of something I have overlooked—that it is as difficult, and more so, to get servants to help do the housework as it is to get laborers to do the work on the farm. Farmers who are getting along in years and who find it difficult—and they all find it difficult—to have the work done on the farm, are anxious to sell their farms, not because they do not love farm work—because it is a delightful work if you are not worked too hard—but because it is impossible, under existing conditions, to take any recreation and enjoy the pleasure that every man and woman is entitled to whether in the city or in the country. It is impossible to get service either in the house or upon the farm.

For these reasons, Mr. President, if we are to pass a bill at all, I ask Senators to consider the amendment offered by the Senator from Vermont upon its merits, and if they do, I believe they will incorporate it in the House bill or accept it in place of the House bill.

Mr. SANDERS. Mr. President, agricultural education and education in the trades should go hand in hand. They are of equal importance. Our way of living in this day leads us to interchange the labor of the city and the labor of the country, both in the matter of seasons and in the effort to better conditions. Sometimes it drifts toward the country and sometimes toward the city. Our smaller places throughout the country are getting to be manufacturing places as well as the cities. So we have industrial pursuits and agricultural pursuits all mixed up, and there is no reason why they should not be treated upon a par.

I am therefore in favor of providing for education in the trades as well as for education in agriculture, both at the same time and in the same way.

There is another thing that is sometimes overlooked. That is that farming is no longer a matter of everyday drudgery. Farming to-day is done by machinery; and there is nothing so much needed on the farm to-day to make it profitable and to make farm life tolerable as that the farm people shall be educated in the trades.

Take the matter of engineering, for instance. It might be thought that that would never be practiced except in the cities. But to-day the traction engine is going all over the country, it is taking the place of the horse, and engineers are wanted everywhere.

Take the milling of the country. Not very far back it was confined to the cities and to places that had water power and to places where it was convenient to build steam mills. Nowadays the power is furnished by gasoline engines, which are being sold literally by the million to go to all parts of the country. It is necessary to have men who are skilled in the trades not only to operate those engines, but to operate all of the subsidiary machinery that goes with them.

So I think what we should do, Mr. President, is to adopt the amendment offered by the Senator from Vermont, and to pass it and the so-called Lever bill at the same time.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Georgia.

Mr. GRONNA. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from North Dakota suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	McLean	Sanders
Bankhead	Gamble	Martine, N. J.	Simmons
Bradley	Gardner	Nelson	Smith, Ariz.
Brandegee	Gronna	Newlands	Smith, Ga.
Bristow	Guggenheim	Oliver	Smoot
Brown	Hitchcock	Overman	Stephenson
Bryan	Jackson	Owen	Swanson
Burnham	Johnson, Me.	Page	Thomas
Catron	Johnston, Ala.	Paynter	Townsend
Clark, Wyo.	Jones	Percy	Wetmore
Clarke, Ark.	Kenyon	Perkins	Williams
Crawford	Kern	Perky	Works
Cullom	Lippitt	Pomerene	
Dillingham	Lodge	Richardson	
Fletcher	McCumber	Root	

The PRESIDENT pro tempore. On the call of the roll 57 Senators have answered to their names. A quorum of the Senate is present. The question is on the motion of the Senator from Georgia [Mr. SMITH] to strike out section 10 of the proposed amendment.

Mr. GRONNA. On that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. PAGE. Mr. President, I hope the amendment offered by the Senator from Georgia will not prevail.

The PRESIDENT pro tempore. The roll will be called on the amendment of the Senator from Georgia.

The Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). In the absence of the senior Senator from South Carolina [Mr. TILLMAN] from the city I transfer my pair with that Senator to the Senator from New Mexico [Mr. FALL] and vote "nay."

Mr. GARDNER (when his name was called). Notwithstanding my pair with the Senator from Massachusetts [Mr. CRANE] I am at liberty to vote on this proposition. I vote "nay."

Mr. LIPPITT (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA], and in his absence I withhold my vote.

Mr. OLIVER (when his name was called). I have a general pair with the junior Senator from Oregon [Mr. CHAMBERLAIN]. Not knowing how he would vote upon this question I withhold my vote.

Mr. RICHARDSON (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. SMITH] and withhold my vote. If I were at liberty to vote I would vote "nay."

Mr. WILLIAMS (when his name was called). I wish to announce my pair with the senior Senator from Pennsylvania [Mr. PENROSE], and therefore I withhold my vote.

The roll call was concluded.

Mr. SIMMONS (after having voted in the negative). I am paired with the Senator from Minnesota [Mr. CLAPP], but I transfer that pair to the Senator from Georgia [Mr. BACON], and let my vote stand.

Mr. CUMMINS. The junior Senator from Oregon [Mr. CHAMBERLAIN] is absent from the Senate on public business.

Mr. BANKHEAD (after having voted in the affirmative). I am paired with the senior Senator from Oregon [Mr. BOURNE], who is absent on business of the Senate, and I withdraw my vote.

The PRESIDENT pro tempore (after Mr. GALLINGER had voted in the negative). The present occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN]. As that Senator has not voted, the vote is withdrawn.

The result was announced, yeas 12, nays 44, as follows:

YEAS—12.

Ashurst	Burton	Perky	Smith, Ariz.
Bryan	Hitchcock	Pomerene	Smith, Ga.
Burnham	McCumber	Root	Thomas

NAYS—44.

Bradley	Dixon	Kern	Perkins
Brandegee	Fletcher	Lodge	Sanders
Bristow	Gamble	McLean	Simmons
Brown	Gardner	Martin, Va.	Smoot
Catron	Gronna	Martine, N. J.	Stephenson
Clark, Wyo.	Guggenheim	Nelson	Sutherland
Clarke, Ark.	Hitchcock	Newlands	Swanson
Crawford	Johnson, Me.	Overman	Thornton
Cullom	Johnston, Ala.	Page	Townsend
Cummins	Jones	Paynter	Wetmore
Dillingham	Kenyon	Percy	Works

NOT VOTING—39.

Bacon	Curtis	Lippitt	Shively
Bankhead	du Pont	Massey	Smith, Md.
Borah	Fall	Myers	Smith, Mich.
Bourne	Foster	O'Gorman	Smith, S. C.
Briggs	Gallinger	Oliver	Stone
Chamberlain	Gore	Owen	Tillman
Chilton	Jackson	Penrose	Warren
Clapp	Johnston, Tex.	Poindexter	Watson
Crane	La Follette	Reed	Williams
Culberson	Lea	Richardson	

So the amendment of Mr. SMITH of Georgia to the amendment was rejected.

The PRESIDENT pro tempore. The question now is upon agreeing to the amendment in the nature of a substitute.

Mr. SMITH of Georgia. On page 16, of section 21, I move to strike out, beginning at the middle of line 15, the balance of section 21.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 16, line 15, after the numerals and the semicolon, strike out the remainder of the section in the following words:

But the total number of such agricultural high schools in any State shall not be less than 1 for each 15 counties nor more than 1 for each 5 counties or fraction of 5 counties. Any such agricultural high school shall be open to admission without tuition charges and upon the same conditions to all persons otherwise qualified as herein provided residing in the district in which such school is located; but such school may be supported and controlled by the State, or by the district in which it is located, or by a portion thereof.

Mr. PAGE. Mr. President, I hope the amendment may not prevail.

Mr. SMITH of Georgia. Mr. President, I wish to state why I think it is important that this amendment should prevail. The provision that I move to strike out undertakes to limit the size of the territory in which these high schools shall exist. It says that in no case shall there be less than 5 counties and in no case shall there be more than 15 counties. I think the authorities of the State ought to be allowed to determine the size of the territory covered by an agricultural high school.

The only effect of the amendment to strike out is to leave the size of the territory in which the agricultural high schools are to exist to the authorities of the State. I can not see any advantage in undertaking to determine it ourselves by counties. Some counties are very large and other counties are very small. Some States have very small counties and other States have very large counties. To say that no high school, no matter how small the counties, shall have over 15 counties, and that no high school, no matter how large the counties, should have less than 5 counties, it seems to me is an unnecessary interference with the plan of location of the high schools.

The PRESIDENT pro tempore. Will the Senator from Georgia please suspend for a moment? The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. WORKS. I ask that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from California asks unanimous consent that the unfinished business may be temporarily laid aside. Is there objection? The Chair hears none. The Senator from Georgia will proceed.

Mr. SMITH of Georgia. The object of my motion is to free the bill from that objection. It does not in any sense lessen the appropriation for the agricultural high schools. It lets the agricultural high schools stand exactly upon the plan the bill provides, but it removes the limitations as to territory.

Mr. HITCHCOCK. I understood the amendment as read by the Secretary to include also the last sentence of the section. Possibly that was a mistake.

Mr. SMITH of Georgia. That was a mistake. It is to strike out all down to the word "but."

Mr. HITCHCOCK. I should like to have the amendment stated again from the desk, so that we may know exactly what is proposed to be stricken out.

The PRESIDENT pro tempore. The proposed amendment will be read.

The SECRETARY. On page 16, line 16, after the numerals and the semicolon, strike out down to and including the word "located" and the semicolon on line 23 in the following words:

But the total number of such agricultural high schools in any State shall not be less than one for each 15 counties nor more than one for each 5 counties or fraction of 5 counties. Any such agricultural high schools shall be open to admission without tuition charges and upon the same conditions to all persons otherwise qualified as herein provided residing in the district in which such school is located.

Mr. PAGE. Mr. President, I do not wish to take the time of the Senate for one minute on this matter. I will simply say that this bill has been submitted to the different States, and 35 of the different States have said that they approve this feature of the bill, or they have really approved the bill and have not objected to this feature.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Georgia [Mr. SMITH] to the amendment.

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question is on the amendment in the nature of a substitute submitted by the Senator from Vermont.

Mr. PAGE. I now wish to withdraw that amendment with the consent of the Senate. May I be permitted to do so?

The PRESIDENT pro tempore. The amendment having been amended, it would not be in order.

Mr. PAGE. I give notice that when the bill comes into the Senate I shall move to strike out all after the enacting clause and insert the Page bill in its entirety.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Vermont as a substitute.

The amendment was agreed to.

The PRESIDENT pro tempore. If no further amendments be proposed as in Committee of the Whole, the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

The PRESIDENT pro tempore. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. PAGE. I now move in the Senate, instead of the amendments as reported by the Committee of the Whole, to strike out all after the enacting clause and insert the Page bill in its entirety.

Mr. SMITH of Georgia. Mr. President, I think that is a great mistake on the part of the Senator from Vermont. I hardly think it is treating justly those who have helped make this measure. He came in himself with the House bill; we perfected the House bill, and we put in the essence of his bill which was not contained in the House bill as an amendment to the House bill. Now, he goes back to his bill No. 3, abandons the amendments that we have just adopted, abandons the bill that we have adopted as in Committee of the Whole, and asks us to strike out the measure that we have perfected as in Committee of the Whole.

I only desire to let the Senate understand what his motion is, and upon agreeing to it I call for the yeas and nays.

Mr. HITCHCOCK. Mr. President, I trust the Senator from Vermont will not press that amendment. I feel it is hardly just to those who have supported his proposed measure who are friends of the Lever bill and who assumed from statements he made that he was willing to accept the Lever bill as a part of his own measure. I certainly have acted upon the theory that the Senator from Vermont was willing to incorporate his bill and the Lever bill in one measure, and now to make a change at this time it seems to me is not wise and it is hardly just.

Mr. PAGE. Mr. President, I wish to say that on the 17th day of January I made a motion to amend. After I had made that motion the Senator from Georgia came to me and asked me if we could not reach some compromise. It almost took my breath away when he came, and I said——

Mr. SMITH of Georgia. I wish to correct the Senator. I did not ask the Senator to make a compromise.

Mr. PAGE. Mr. President, I will retract what I said. I will say that I stood upon the other side of the Chamber and the Senator came to me, and that is what I understood him to say. I said, "Senator, I am very happy indeed to do this, because my friends on this side have urged me to make some compromise with Senator SMITH. I will meet you at your house and we will see if we can not agree upon some compromise." I did so, and when I came back into the Senate imagine my surprise when I found that that compromise had not been understood by the Senator from Georgia. We have found ourselves with a variety of changes of views here in regard to the amendment which I offered on the 24th day of January, as I supposed to meet the wishes and views of the Senator from Georgia. I find that I was mistaken.

Now, I want to say to the Senator from Nebraska [Mr. HITCHCOCK], because he has been a friend of this measure from the first, that Senate bill No. 3 and the Lever bill are almost identical, the difference being that the Lever bill appropriates $3,480,000 and Senate bill No. 3, $3,000,000. I would be quite willing that in conference any amendment should be made that was thought best, but for the time being I find that I have

embarrassed my friends here by offering the amendment, which I certainly did in good faith to meet, as I supposed, the views of the Senator from Georgia.

Mr. SWANSON. Mr. President, I should like to ask the Senator from Vermont a question. I understood Friday afternoon that he contemplated offering the Page bill, commencing at section 10, as an amendment to the Lever bill. I understood that that was to be the method of procedure. If I mistake not he gave me marked out what he purposed to offer as an amendment, commencing at section 10. It was to be offered as an amendment to the Lever bill, and it would go on that bill as an amendment. I am frank to say that it was my purpose to vote that that amendment should go on the Lever bill. But to come in now and offer it as a substitute, when the House of Representatives has passed the Lever bill, and we have perfected it, to throw out our entire work and offer a substitute, it seems to me is not acting in good faith with those who were working for the Page bill, and it is not wise to do it.

I understand that the Lever bill is a part of the Page bill, and after section 10, as amended, it includes all that the Senator desires.

It appears to me that the right course to pursue for those of us who have been cooperating is to continue the method of cooperation we have been following. Why should the House of Representatives be slapped in the face? They sent this bill here for our consideration. The purpose is to get legislation and not the mere prestige of having a bill with a different name attached to it. It seems to me the right course for us to pursue is to stand by the amendment as we understood it was to be offered and as it has been adopted.

Then the bill can properly be considered as the product of both the House and the Senate. If you want to accomplish this legislation—if we are anxious to bring the benefits to the country—the right way to do it promptly and efficiently is to amend the Lever bill and let the Lever bill stand with the portions of the Page bill desired as an amendment to that bill.

Mr. PAGE. Mr. President, I simply repeat myself when I say that I consented to the amendment offered by me on the 24th day of January with a good deal of reluctance as to many of its features, but being urged, as I was by the friends of the measure on this side, to reach some compromise with the Senator from Georgia, if possible, I consented to amendments to which I did not fully subscribe. As far as I understand the matter, the arrangement, if one was made—I will withdraw that because the Senator from Georgia says there was no arrangement—the proposal which I made or which we made, it makes no difference, was disagreed, to because the Senator from Georgia came in here and notified the Senate that he was opposed to the amendment which I offered on January 24 as a substitute measure. Having made that offer in good faith as a compromise and having had that compromise repudiated, I now wish to say to the Senate that I have spent two years in perfecting this bill and I believe it is right, and inasmuch as that compromise was repudiated, I hope the Senate will pass the Page bill in its entirety without the change of a comma, and when we get into conference I will be as square as anyone in trying to reach legislation. I believe that——

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from North Carolina?

Mr. PAGE. If the Senator will allow me to finish the sentence, I believe that the Lever bill and the Page bill are identical except in some very few minor particulars.

If it was not so, I would say that it was absolutely improper for me to take the course I am pursuing. But inasmuch as it is simply a matter of words and a matter of construction, the material points of the Lever bill and the Page bill being the same, I hope the Senate will now pass the Page bill in its entirety without the change of a single comma.

Mr. SIMMONS. I hope the Senator from Vermont will not insist on his motion. I believe the Senators on this side will feel that they have been misled, and misled by the Senator from Vermont. I am sure that is the way I feel about it.

I listened very closely to the Senator's speech at the time he offered his bill as a substitute for the Lever bill. On two separate occasions during his argument the Senator stated that he had incorporated in his bill the Lever bill, without crossing a "t" or dotting an "i."

I am in favor of the Lever bill and I am in favor of the principle of the balance of the bill of the Senator from Vermont, although I think it is rather crudely drawn, and it ought to be redrafted. I want to be sure that we will get some legislation, and I think it would be unwise for us to materially amend the Lever bill in whatever bill we may pass here. I trust the Senator from Vermont will not insist upon his motion.

Mr. PAGE. Mr. President, I am sure the Senator from North Carolina is acting under a misapprehension when he supposes that in my proposed amendment I am materially changing the Lever bill. There are some few minor differences, and only a few.

Mr. SIMMONS. If the changes are immaterial, why should the Senator ask us now to take a different measure from that which he offered as a substitute in the beginning, with the positive and repeated assurance that he did not change the Lever bill in any particular, either as to letter or as to punctuation?

Mr. PAGE. I can only say I believe the amendment of January 24 was somewhat crude, because it was drawn in a good deal of haste. I wish to say that so far as the original bill is concerned it has been drawn with the greatest care and every detail looked after. I believe the Page bill, Senate bill No. 3, as originally before the Senate January 17, is a perfected measure. I am far from certain that the new bill is; and I simply say that, inasmuch as they reach the same conclusion substantially, I would rather have the original bill passed than to take the chances of an imperfect bill, which I think may have been drawn in consequence of the proposed arrangement with the Senator from Georgia.

Mr. SWANSON. I should like to make a parliamentary inquiry. I understand the Senator from Vermont offered an amendment which he had printed some days ago?

The PRESIDENT pro tempore. It has been agreed to.

Mr. SWANSON. No; the amendment has not been agreed to. Do I understand the Senator has withdrawn that amendment?

Mr. SMITH of Georgia. No; the amendment has been agreed to as in Committee of the Whole and reported to the Senate.

Mr. SWANSON. Now, his amendment was agreed to, and as I understand the parliamentary situation, after we come into the Senate he changes his program in the Senate from what he followed as in Committee of the Whole. If we vote against his bill as a substitute it still gives us an opportunity to vote for that amendment as adopted in the Senate. So if we vote down the bill he offers as a substitute—the Lever bill, with the amendment made—and following, section 10 will still be before the Senate?

The PRESIDENT pro tempore. That is correct.

Mr. CLARKE of Arkansas. Mr. President, it would be most unfortunate if any misunderstanding exists between the Senator from Georgia and the Senator from Vermont which would result in a confusion in the consideration of this bill as to some of us who have not kept up with it as closely as our duty requires, largely upon the faith we had in those two Senators. I believed that the progress which was made in maturing the bill has been in the direction of an adjustment that would be satisfactory; and if it were not, it left the bill in such a condition that it might be perfected in the conference committee. Unless the matter is in dispute between the two Houses it would not be subject to the jurisdiction of that committee.

As I understand what has transpired here within the last few days, there has been an effort made to pick out from the two bills the merits of both and unite them in a common bill, and that that end has been substantially attained in the report that was made by the Committee of the Whole to the Senate.

I would not like to differ with my worthy friend from Vermont on a question of recollection about a matter that would be material if a dispute should arise over it; but many of us, as the Senator from North Carolina [Mr. SIMMONS], have been very agreeable witnesses to the fact that this harmonious condition existed between himself and the Senator from Georgia.

Now, if we vote to strike down the Lever bill with all the wholesome amendments that have been added to it by the action of the Senate as in Committee of the Whole and to take up the original Page bill, it would require us to familiarize ourselves a little more with that particular bill than would otherwise be the case. A situation therefore has been created that would take some of us by surprise, or at least find us in a state of unpreparedness, which would not otherwise exist had the two bills been projected from the beginning.

I am willing to yield my judgment to the Senator from Vermont on this particular measure, but in view of what has transpired I feel somewhat committed to vote against his proposition to submit his bill as an entirety in its original form. I feel like I should vote to ratify by the action of the Senate the amendments that have been reported from the Committee of the Whole.

Mr. SMITH of Georgia. Mr. President, I regret the Senator from Vermont should suggest that any agreement between himself and myself in any way was not carried out. I hesitate about referring to matters that took place in private. I will only do so to this extent: I will state that the Senator from Vermont had for a number of weeks been urging me to have a private conference with him with reference to his bill, and finally he even suggested that he would call at my house, which I, of course, invited him to do. I was glad to see him there, and for several hours the subject was discussed, and I expressed certain criticisms with reference to the bill and suggested certain modifications of it. The Senator from Vermont made some modifications in the bill, and I explained to him that I did not mean even then that I could support the entire measure as he had redrafted it, although with two small exceptions this morning I reached the conclusion that I would vote for the majority of the provisions that he put into his amendment.

I want to state just what my attitude with reference to the matter is. I am deeply interested in seeing some legislation passed at this session. I begin with what we term the Lever bill. I am exceedingly anxious to see that bill passed, as the House has already passed it. If we can not get anything more than it, I prefer it to nothing.

I would be glad to see also added a provision starting the work of vocational education; I would be glad to see a provision starting the contribution to the agricultural high schools; and I would be glad to see a provision contributing something to the normal schools for instruction in industrial work.

That I did not agree to the entire measure as the Senator from Vermont presented it is true, and I do not now approve it as a whole. I do not believe we can possibly get it as a whole, and I do not think the Senate expects it. I think the Senate today in voting for it looks to see it improved and perfected in conference.

Now, what have we done to-day? What has been the result of the work we have been engaged on for a number of days? We have been trying to prepare a bill we hoped we might pass. We begin by taking the bill which the House has already passed. That is their idea of agricultural-extension work. We made a few small amendments to it, and we prepared to go back to the House, saying "We agree with you on your measure; we are taking no substantial issue with you on the measure you have approved; but we have added some amendments, and we invite you to come and join us in adding these amendments to the measure which you matured and passed."

That is what we did as in Committee of the Whole. We adopted those amendments, and those amendments which we adopted, going beyond what I thought it was advisable to adopt, cover practically the whole of the vocational work that was contemplated in the original Senate bill No. 3. We have added that vocational work to the House extension bill. We voted on it, and after we have acted upon it; after we have discussed it for days; after we have made a few amendments to it—not very material; after the two pieces of work have been put together, starting with the House bill and following on with the vocational bill of the Senator from Vermont, when we come into the Senate the Senator from Vermont asks us to repudiate the work of the Committee of the Whole and go back and take up a bill that we have not read, and which has not been considered at all in these days of work that we have been putting upon this measure. If we take that course, we shall take the best course we could pursue to kill the whole measure. As, I believe, the Senator from Virginia [Mr. SWANSON] has said, we practically slap the House in the face.

Mr. McCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from North Dakota?

Mr. SMITH of Georgia. Yes.

Mr. McCUMBER. Some of us were not present all of the time, and I think we would be gratified if the Senator from Georgia would explain to us wherein the amendment now offered by the Senator from Vermont differs from the bill as perfected in Committee of the Whole.

Mr. SMITH of Georgia. I would have to take it and read it all over and study it in order to do that. I do not know exactly.

Mr. McCUMBER. The Senator from Vermont says there is practically no difference.

Mr. SMITH of Georgia. Then, if that is true, why not adhere to what we have been working on for three or four days?

Mr. McCUMBER. I am not giving my own opinion one way or the other. I am simply asking if the Senator can show us wherein there is a difference?

Mr. SMITH of Georgia. I can not. I would, as I have said, have to take the bill up and restudy it. I have had my attention given for the past three days to the details of the measure before the Senate; I have had my attention given to the extension work of the House bill; and I have dismissed from my mind the other measure so far as it was contained in the original Page bill, No. 3.

Mr. McCUMBER. There seemed to be some objection, Mr. President, on the other side to the amendment because it was abandoning the House bill. Well, every amendment abandons it to some extent, and as amendments have been put in the bill in Committee of the Whole, I can not see the force of the claim of abandonment, because the bill will still remain the House bill, bearing the House number, acted upon in the Senate in either instance as a House bill, or the Lever bill, amended.

Mr. SMITH of Georgia. The proposition now of the Senator from Vermont is to strike everything out of the House bill but the title, to add a new title, and to substitute for it Senate bill No. 3, that we have not had under consideration as in Committee of the Whole.

Mr. McCUMBER. But it would still be the House bill, bearing the House number, and would hold its place and occupy a position as the House bill. That would not change it and make it a Senate bill.

Mr. SMITH of Georgia. It would have the number of the House bill, with nothing in it that the House put into it.

Mr. WORKS. Mr President, the broad statement has been made here, and has been made several times, that this is not only an abandonment of the House bill, but that it strikes out everything that is contained in that bill. On the contrary, I understood that this amendment includes the provisions of the House bill substantially as they passed the House. If that be so, it is simply an addition to the work that has been done by the House, and it is in no sense an abandonment of the House bill.

Mr. SMITH of Georgia. You will have to take it up and study it to find out whether it is or not.

Mr. LA FOLLETTE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. SMITH of Georgia. Yes.

Mr. LA FOLLETTE. The statement made by the Senator from California [Mr. WORKS] leads me to ask the Senator from Georgia if he will not state to the Senate the essential differences between these two bills as they deal with extension departments, which have already been established under the law.

Mr. SMITH of Georgia. Mr. President, I am not prepared, without some lengthy attention to the matter, to do so. I have dismissed the provisions of Senate bill No. 3 from my mind for quite a length of time. I have been devoting my attention to helping perfect the bill as it was passed in the other House, and I have been studying that bill to the exclusion of the other. I would have to go back to it and study it again in order to do what the Senator from Wisconsin requests.

Mr. LA FOLLETTE. I do not mean, Mr. President, in all details, but just simply that the Senator from Georgia state to us the essential differences. I have no doubt, from the study which the Senator from Georgia has made of these two measures, of his ability to clearly place before the Senate those differences.

Mr. SMITH of Georgia. I think I could mention two or three. The amount of the appropriation is different in the two bills. There is a provision in the House bill that nothing contained in that bill shall interfere with the demonstration work now being done by the Department of Agriculture, which we perfected here so as to provide that it should not interfere with certain work in the line of plant industries. In the House bill there is a provision as to the way in which the fund is to be used that is not contained in the Senate bill. The details of the plan of handling the money and the description of the responsibility of the Secretary of Agriculture with reference to the matter are somewhat different. I think it is worked out more in detail in the House bill than it is as contained in the original Page bill.

Mr. CUMMINS. Mr. President, may I ask the Senator from Georgia whether it be true, or not, that the provision in the Page bill covering the subject of the Lever bill is found in section 7?

Mr. SMITH of Georgia. Yes.

Mr. CUMMINS. I therefore suggest, if the Senator from Georgia can not state the differences, that the Secretary read the Lever bill and then read section 7 of the Page bill. We can all tell, then, what are the differences.

Mr. POINDEXTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Washington?

Mr. SMITH of Georgia. Yes.

Mr. POINDEXTER. I infer from the debate that it was the understanding of the Senator from Vermont [Mr. PAGE] when

he introduced the amendment that was adopted as a substitute for the Lever bill that he had reached an agreement of some kind with the friends of the Lever bill in the Senate, but it appears that that was a misunderstanding, and that the friends of the Lever bill now seem to be opposed to the amendment; that they did oppose it and voted against it. I happened to be absent when the vote was taken, but there was a division. The consequence is that, unless we adopt the amendment now proposed by the Senator from Vermont and go back to his original bill, which was the bill considered by the committee, the bill upon which he has worked, as he says; which he has had more or less before the Senate for the last year, at least, and on which he delivered his speech of June 5, 1912—unless we go back to that original bill and take that, we will be passing an amendment here with which nobody is satisfied.

The Senator from Vermont says that he made the concessions which were contained in that amendment in order to reach an agreement with the friends of the Lever bill, but it seems that he failed in that object. The Senator from Vermont prefers the original bill to the amendment. The Senator from Georgia is not satisfied with the amendment. So it would seem to be the reasonable thing to do, if the Senate, as is evident, is in favor of vocational education—of education in the trades and industries, and of providing for Federal aid to agricultural schools—to adopt the bill which has received the greatest care and consideration on the part of the committee and of the Senator from Vermont, which includes all of the provisions which have been suggested by him, and to allow those provisions to go to conference, so that they may be considered there.

Mr. SMITH of Georgia. I should like to ask what feature is there in the original bill No. 3 which has not been put on by amendment? Can the Senator from Washington state?

Mr. POINDEXTER. The amendment is almost identical with the bill, except as to minor differences. The title is different; it drops the bill which has come to be known as the Page bill; it deprives, in a measure, the Senator from Vermont of the credit of the legislation by dropping his bill and taking up an amendment. I understand it is true that in its principal features the amendment which has been adopted is identical with the original bill, but the Senator from Vermont prefers the form of the original bill; he prefers the manner in which it is expressed. It has been considered by the committee. I confess that I have not had an opportunity to consider the details of the form of these several bills, and I am simply speaking about the parliamentary situation in which we find ourselves—that we have adopted an amendment here which has not received the favor of either side to the controversy as between the Lever bill and the Page bill. The Page bill is conceded by everybody to contain substantially the Lever bill, also a number of additional features. We should adopt that bill and allow the matter to go to conference, so that the form of this legislation, the substance of which the Senate seems to have agreed to—there are very few here who are opposed to it, and it is a question of the form in which it is guarded, the manner in which these appropriations are to be expended—so that the form of the legislation can be finished and perfected in conference between the two Houses.

Mr. ROOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from New York?

Mr. POINDEXTER. I do.

Mr. ROOT. I rose to ask the Senator from Washington if he would point out, or perhaps the Senator from Vermont might point out, those portions of the original bill No. 3, which we speak of as the Page bill—the original, I mean, which he now moves to substitute—which reproduce the provisions of the Lever bill? I ask, Mr. President, because I am much interested in perfecting our system of conveying information about agriculture to the farmers of the country by means of these extension departments and field demonstrations. I think that it is just as important for this country now to increase the productivity of agriculture as it ever was to increase the productivity of manufacturing when the original protective tariff was adopted.

Mr. GRONNA. Mr. President——

Mr. ROOT. Excuse me for one moment. I should not like to have any substitute adopted here which leaves out the practical and effective provisions of the bill which the Senator from Georgia has been urging. On the other hand, I am a very firm believer in the importance of vocational education. I am not convinced that the Government of the United States ought to go into that, and I am far from being convinced that the scheme which has been evolved here for imposing control by the Government of the United States upon the secondary schools of the country is a wise scheme. I have very grave doubt about that; but I certainly do not want to vote upon this great mass of provisions without knowing the relation of one to the other. If the Senator will point out what parts of the Page bill, which he now moves to substitute, reproduce the provisions of the Lever bill, I shall be very much obliged to him.

Mr. GRONNA. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from North Dakota?

Mr. ROOT. Yes.

Mr. GRONNA. I should like to ask the Senator from New York this question: No one denies that we are all interested in the productivity of agriculture and individually we desire a large yield; but I should like to have the Senator from New York point out to me where the farmer is particularly benefited by the production of large crops, in every section of our country, so that we have a large surplus. In other words, is it not true that we have no means whereby the farmer can regulate the price of his products at all, while, on the other hand, the manufacturer, whether he produces much or little, fixes the price of his product—something that the farmer can not do?

Mr. PAGE. Mr. President, answering the——

Mr. ROOT. Mr. President, I feel bound to answer the question of the Senator from North Dakota, if the Senator from Vermont will allow me.

Mr. PAGE. Certainly.

Mr. ROOT. All the farmers whom I have ever known—and I have known a great many—would rather get 28 bushels of wheat to the acre than 14; they would feel better about it. The fact that the farmer individually can not regulate the prices of his products is no reason why his farm should not be made as productive as possible. The demand for food products in this country and throughout the world is increasing continually; the increased demand is continually increasing the prices which the farmer receives for his products; and as that demand continues to increase with the increase of population, the farmer stands to receive continually remunerative prices for his product, and, in my judgment, that increasing demand and the continuance of remunerative prices keep pace with the best improvement that is possible on the farms of this country.

Mr. GRONNA. Mr. President, I am afraid the Senator from New York misunderstood my question. I confess that I am as much in favor as is anyone else of increasing the productivity of our soil, and so, I believe, are the farmers of this country, but what I should like the Senator from New York, or any other Senator, to point out to me is the advantage that the farming industry or the farmer has received by the production of a large surplus. Is it not true that when this country has a large crop prices are reduced in proportion to the size of the crop? In 1910, for instance, there was a small crop all over the country, and in 1911 we had only a fair crop, but the farmers made money in 1911, while in 1912, with overproduction, there was practically a loss to the agricultural interests of the United States.

Mr. PAGE. Mr. President, the Senator from New York [Mr. ROOT] has asked me to point out the differences between the Lever bill and the Page bill, so far as what is known in the two bills as college extension work is concerned.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Kansas?

Mr. PAGE. Certainly.

Mr. BRISTOW. I understand the Senator from New York to inquire as to the difference between the substitute which the Senator from Vermont now offers and the bill which the Senate has agreed to as in Committee of the Whole. That is what I should like to know also.

Mr. PAGE. I was about to explain.

Mr. BRISTOW. I should like to know what difference there is between those two measures.

Mr. ROOT. Mr. President, I asked rather for the similarity than the difference. I want to know where in the Page bill occur the provisions which are similar or which accomplish the same effect as the provisions which are in the Lever bill. I can not find them.

Mr. OWEN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Oklahoma?

Mr. PAGE. I should like to answer the Senator from New York for just a moment, if the Senator will allow me.

Mr. OWEN. Just a moment. It seems to me that the point which needs explaining is the extent to which the amendments made as in Committee of the Whole do not include the Page bill.

Mr. PAGE. I will be very happy to answer that question. In the first place, Mr. President, the Page bill gives $3,000,000 to college extension work, $3,000,000 to district agricultural

schools, $3,000,000 to education in the rural communities, and $3,000,000 to education in the cities. There are four $3,000,000 appropriations. The Lever bill leaves out appropriations for industrial schools and adds $480,000 to college extension work. I consented to that. I do not know that I now object seriously to it, but still it seems to me that the $480,000 added by the Lever bill is more than ought to go to that feature of the work in consideration of what we have given to the other features.

Next, the Page bill from first to last provides that whatever the Federal Government shall do shall be matched by the States. The Lever bill does not do that. As to the $10,000 to each State which is immediately forthcoming and available under the Lever bill, it is provided that the States may have that fund absolutely without duplicating it. That is so contrary to the entire principle of the Page bill that I only yielded to the amendment because I wished to get a reasonable compromise. Third, the Lever bill contains this provision:

SEC. 3. That all correspondence for the furtherance of the purposes of this act issued from the agricultural colleges to their agents or by the agents of the said extension departments thereof receiving the benefits of this act shall be transmitted in the mails of the United States free of charge for postage, under such regulations as the Postmaster General from time to time may prescribe.

This provision was originally in Senate bill No. 3, but after very careful discussion it was thought to be an unsafe and unwise provision to incorporate. I do not know how many protests I received from publishers of agricultural papers in this country, who said to me: "If you incorporate this provision into your bill, you will perhaps allow the agricultural colleges to begin to publish newspapers; they can publish anything; and they can have, and will have, an unfair advantage over the agricultural press of this country, which ought to have a fair show in the fight, and they will not have it if you say that all the agricultural colleges may have the right to send everything they wish through the mails free." As every Senator knows, under the present statute they already have the right to send free the periodicals which they issue regularly. I do not know how extensive that privilege is; but, be that as it may, the Committee on Agriculture and Forestry, after considering it, thought it best to exclude that provision. That provision comes back to us from the House in the Lever bill.

I do not regard that as a very unwise feature; and as a compromise measure I was willing to accept it. I do not regard it as particularly unwise to add half a million dollars to the appropriation. As a matter of compromise, I was willing to accept that. I do not particularly object to giving the money to the States without making them duplicate it with an appropriation from their own treasuries; but I think it is wrong; I do not believe it is the best way. I believe the Page bill is the better way; and so, having failed of a compromise, I now come to say that, whereas I yielded reluctantly to these measures because of a supposed compromise, the compromise having been repudiated, I now ask that the Page bill in its original simplicity be enacted.

Mr. ROOT. Mr. President, I do not know or care anything about the compromises which have been made or the conferences which have been held. The Senator from Vermont has not answered the question. I will put it more distinctly. Where in the bill which he moves to substitute are contained the provisions which reproduce the same effect as the provisions of section 2 of the Lever bill?

Mr. PAGE. If the Senator from New York has before him the original amendment proposed by me on the 17th of January, or if he has the original Page bill, he will find in it this provision:

That for the support——

Mr. BRISTOW and Mr. CRAWFORD. Where is that?

Mr. PAGE. On page 6 of the amendment offered by me on January 17, or in section 7 of the original Page bill, Senate bill No. 3. That provision reads in this way:

SEC. 7. That for the support in each State college of agriculture and the mechanic arts of an extension department or division, the sum of $40,000 annually, beginning with the fiscal year ending June 30, 1915—

Let me explain that——

Mr. CRAWFORD. For what purpose is that?

Mr. PAGE. I will read further:

of which annual appropriation $10,000 shall be allotted to each of the 48 States for the benefit of such extension departments; and for the maintenance of such extension departments, the additional sum of $400,000 for the fiscal year ending June 30, 1914.

And so on, until it reaches $3,000,000. I do not need to read further, because it simply provides for the extension from year to year until $3,000,000 is reached.

Mr. ROOT. What is to be done with it?

Mr. PAGE. It is for what is known as college extension work. If Senators will turn to the bottom of page 2 in the original Senate bill No. 3, they will find what this work means. It is there described as follows:

Third. "Agricultural-extension department or division" shall mean a department or division which is established under the provisions of this act and under the direction of a State college of agriculture and the mechanic arts in any State, and which gives instruction and demonstrations in agriculture and home economics to persons not residing at said college nor at the district agricultural schools provided for in this act and which conveys or imparts to such persons information on such subjects through field demonstrations, publications, and otherwise.

That is almost the exact provision of the Lever bill; there is a difference in language; but, so far as the purpose of the bill is concerned, it is almost identical. It relates to work carried from the experiment stations to the adult farmer on the farm. It covers that in both bills. If Senators will recall the discussions we have been having here in the Senate for the last year, they will remember that the provisions of the Smith bill, so called because the Senator from Georgia last spring introduced into the Senate a bill substantially like the Lever bill, that the provisions of the Smith bill or the Lever bill are almost identical with the provisions of the Page bill, so far as college extension work is concerned.

If the bills were not substantially identical I could easily see the impropriety of my motion. But inasmuch as they are identical, or nearly so, and inasmuch as I believe the bill which I have introduced has been drawn with greater care and is better safeguarded than the amendment which was introduced here, as I understood, to meet a compromise, I now ask, because I believe it is the better bill, that the original bill be substituted.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Kansas?

Mr. PAGE. I do.

Mr. BRISTOW. I want to see if I am correct in my understanding. As I understand the Senator from Vermont, the practical difference is that the Lever bill provides for giving the franking privilege to the agricultural colleges and the schools that enjoy the benefit of these appropriations?

Mr. PAGE. An additional franking privilege.

Mr. BRISTOW. An additional franking privilege; and it also makes an appropriation from the Public Treasury which it does not require that the States shall meet with a like appropriation?

Mr. PAGE. The Senator is correct.

Mr. HITCHCOCK. Will the Senator permit an interruption there?

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Nebraska?

Mr. PAGE. Certainly.

Mr. HITCHCOCK. It seems to me section 31 of the amendment offered by the Senator from Vermont cures that defect, because it specifically provides that a double amount of money must be provided by State or local taxation. That is the amendment which has been adopted in Committee of the Whole, and which the Senator now proposes to substitute for his original bill, which in Committee of the Whole he voluntarily withdrew, and upon the strength of which withdrawal many votes were secured for the bill.

Mr. PAGE. I wish to correct the Senator, because I know he desires to be absolutely correct. I said that under the amendment of January 24, which I offered, I had not changed so much as a comma. The provisions of the Lever bill do not provide that an equal amount shall be appropriated by the States; and as I understand—and I think the Senator from Georgia will agree with me—as the bill will be left if we pass it to-day as it came from the Committee of the Whole, there will not be required from the States an amount equal to the amount appropriated by the Federal Government.

Mr. HITCHCOCK. Let me ask the Senator another question. Will not the bill which has been agreed upon in Committee of the Whole contain section 31, offered by the Senator himself?

Mr. PAGE. I do not know that I have offered any amendment to section 31.

Mr. HITCHCOCK. The Senator withdrew his original bill, Senate bill No. 3, and offered as an amendment to the pending bill everything following section 9. It is that which we have been discussing and that which we have finally agreed upon in Committee of the Whole. Section 31 of that amendment contains this provision:

But there shall in no case be disbursed under the terms of this act to any school or college out of moneys derived from the rural school department fund, the industrial school fund, the agricultural school fund, the college teachers' training fund, or the teachers' training fund, as provided by this act, more money than 50 per cent of the amount

which is supplied and expended during the same period for the same purpose for which such fund is to be expended out of either State and local or State or local public moneys.

Mr. PAGE. Mr. President, the trouble with the Senator's conclusion there is that the feature pertaining to the college extension fund is not included in that list.

Mr. HITCHCOCK. Then, as to three-quarters of the expenditures provided for in this bill, the provision is at least good?

Mr. PAGE. It is good as to practically all except the Lever appropriation of $10,000 to the colleges. Under the Lever bill the appropriation of $10,000 per year to the colleges is not to be duplicated by the States, while under the Page bill it is to be duplicated. In that respect I think the Page bill is the better.

Mr. HITCHCOCK. I think the Senator gave the impression that under the bill agreed upon in Committee of the Whole there was no obligation upon the States or the local communities to supply an equal amount of money. But this provision evidently covers the case as to three-quarters of the amount appropriated, and it is only in the case of one appropriation where that provision is not made.

Mr. BRISTOW. Mr. President, I desire to say that that was my understanding—that there was an appropriation in the bill as it was agreed to in the Committee of the Whole that the States were not required to meet with an equal amount. I did not understand that the States did not have to meet part of the appropriation, but that there was one appropriation which they did not have to meet, and that that was one of the differences.

Mr. HITCHCOCK. But that was a matter which the Senator himself could have cured in Committee of the Whole, and can still cure by an amendment.

I want to renew my statement made a few minutes ago—that it seems to me, without any regard to a disagreement between the Senator from Vermont and the Senator from Georgia, that the Senator from Vermont should in good faith carry out what he publicly agreed to here on the floor of the Senate on the suggestion of the Senator from Iowa. The Senator from Vermont used this language:

I will state my purpose in moving the amendment to the Lever bill, so called, H. R. 22871: For many months I have been trying to get action upon the original Senate bill No. 3. That action, as the junior Senator from Georgia well understands, has been postponed and objected to from time to time until he believes—and I do not know but that I agree with him in that belief—that to pass now the original bill, Senate bill No. 3, and send it to the House would probably mean that it would go into the Committee on Agriculture of that body, and that it would there die the death which comes to so many bills which we send over to the House toward the close of a session. * * * If we are at this session of Congress to grant Federal aid to industrial education, it must be done by substituting Senate bill No. 3 for the House bill. In other words, Senators who are in favor of extending industrial education to the boy as provided by Senate bill No. 3 must vote for the amendment which I have offered, for it is probable that in no other way can we reach this legislation at this session. If the amendment which I have offered substituting the Page bill for the Lever bill is adopted, then the matter goes into conference, and out of that conference it is believed some bill carrying with it a measure of Federal aid to industrial education will result.

Mr. PAGE. Mr. President, may I interrupt the Senator right there for just a moment? That is my position at this time—that in order to get action at this session we must substitute the Page bill for the Lever bill, because then it will go into conference, and from that conference we can get out some kind of a bill.

Mr. HITCHCOCK. If the Senator will permit me to add a word, that was the Senator's original position. But about that time the Senator from Iowa took the floor, and suggested to the Senator from Vermont a method of simplifying the procedure by amalgamating the two bills. He did it in this way:

I think it would simplify matters very much if the Senator from Vermont would allow the bill presented by the Senator from Georgia to stand, inasmuch as he does not propose to change it, and simply offer as an amendment that part of his bill which deals with the vocational education and additional appropriations for agricultural education. I believe we would get along with it a little faster if that were done.

Then the Senator from Vermont said:

Mr. President, I am very anxious to adopt whatever is the best and most proper course here. My suggestion on the 24th instant was that I would offer the amendment which has been placed upon the desks of Senators this morning. But I recognize the fact that the Senator from Iowa is a warm friend of the whole measure, and I am rather inclined to accept his wishes and his views. If the Chair informs me that that is the proper parliamentary procedure.

Having given notice that I would introduce this amendment as a whole, I will ask, as a matter of parliamentary procedure, whether I may properly omit at this time from my proposed amendment the first nine sections, which really are identical with House bill No. 22871, and move to amend the House bill by adding to it all of that portion of the proposed amendment which follows section 9?

Thereupon the Chair naturally told the Senator from Vermont that it was his privilege to change his position, and he did change it. We accepted the change, and we discussed the matter with the understanding that he had abandoned the original bill. No study has been placed upon the original bill since that time. We on this side have believed, and have voted with the Senator from Vermont in the belief, that he had abandoned the original bill, and had agreed to accept the suggestion made by the Senator from Iowa for the simplification of the matter.

It seems to me, after that has been done, that at least propriety, if not good faith, requires the Senator from Vermont to carry out the arrangement thus made in the open Senate.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Kansas?

Mr. PAGE. I do.

Mr. BRISTOW. I am not much interested in the different processes and maneuvers that have been resorted to in order to get the bill up to the present stage, but I am interested in what the bill does.

If the amendment which the Senator from Vermont now offers changes the bill which we passed in the Committee of the Whole so as to limit the franking privilege instead of extending it, and so as to require the States to put up funds whenever the Federal Government does, I want to vote for those two propositions. I do not care what the different understandings or misunderstandings have been, but I am interested in the substance of the legislation.

Mr. HITCHCOCK. If the Senator will permit me, it would be an easy matter to amend the bill in that way, and I would be very glad to join him in that. But it would not be necessary, in order to accomplish that, to take up a completely new bill which the Senate has not even been considering as in Committee of the Whole, and which does contain other features.

Mr. BRISTOW. If there is any other feature, I should like to know what it is. I have been trying to find out the differences between the two measures. Up to this time these two differences have been suggested. Are there any others?

Mr. PAGE. There are. I should like to have Senators give their attention to this statement, because I know that upon this point there is considerable difference of opinion.

The Lever bill gives $10,000 a year to each State. That makes a total of $480,000. Senate bill No. 3, as drawn, gives $640,000. Touching that particular feature, I want to say that the head of one of the colleges in Mississippi came to me and said: "Senator PAGE, if you knew the struggle we are making in the South to get along and give the negroes of the South some education along industrial lines you would say that we should have $10,000 for each agricultural college rather than $10,000 for each State." In other words, in States that have two agricultural colleges they ask that we give an added $10,000.

That feature was objected to by some, including, I think, the junior Senator from Georgia. But after a time I went to him with statements from Senators from the South, and said: "Senator, there is a strong feeling on the part of some that the negro colleges in the South should share this appropriation with the white colleges." The Senator from Georgia said to me substantially this—I do not want to misquote him, but as nearly as I can remember he said: "If you want to give us that added $10,000, I do not think we will object to it." So the Page bill, as drawn, gives the same amount to the negro colleges of the South that it gives to the white colleges. In other words, it gives $160,000 more, being $10,000 for each State having a negro college.

The Senator from Kentucky came to me and pleaded for that provision. He said: "You do not know how much we in Kentucky need to give industrial education to the negroes. Will you not aid me to get that provision in?" I said: "So far as I am concerned, Senator, I do not want to do anything that will imperil my bill; but if the Senator from Georgia and those who objected agree I will agree." I supposed I had the consent of the Senator from Georgia, so far as he was concerned, that this $10,000 for the agricultural colleges should be included in my bill, and so it was put in. But it is omitted from the Lever bill.

I do not want to say which is right. I wish the Senate might decide upon that. But I want to say that that provision is exactly as it was left by the Committee on Agriculture and Forestry of the Senate. I do not feel at liberty to emasculate the bill by changing those features, unless it be to effect a compromise which will prevent any disastrous results to these two bills—the Lever bill and the Page bill.

If I supposed Senate bill No. 3 were going to be imperiled, every Senator here knows I would yield to any kind of a compromise. But the facts are that the Page bill and the Lever bill coincide; and when they get into conference we can, from those two measures, produce a bill that I believe will meet per-

fectly the views of the Senate and will be at least a start in the great plan of Federal aid to industrial education.

Mr. FLETCHER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Florida?

Mr. PAGE. With pleasure.

Mr. FLETCHER. I should like to ask the Senator if he has any less reason to-day for believing that the measure will be imperiled by insisting on original Senate bill No. 3 than he had a few days ago, when this same matter was up, and when he then thought it wise, in order to accomplish definite results, to accept the Lever bill, and to add to it the provisions of his bill? The situation to-day is not at all different from what it was then, it seems to me.

Let me say to the Senator that from the time he introduced the bill and I first gave it consideration I have been an advocate of Senate bill No. 3, known as the Page bill. I have been under the general impression that it included to a very large degree, and in a general way, the provisions of the House bill known as the Lever bill, and that it went still further. Believing, as I always have, that the great Department of Agriculture of our Government has for its chief function that of education, I have heartily favored the assistance provided in educational directions by both the Lever bill and Senate bill No. 3.

But there seems to be a difference of opinion as to whether or not the provisions covering that particular subject in Senate bill No. 3 are substantially the same as the provisions in what is known as the Lever bill that has passed the House. In order to avoid any difficulty on that score, particularly as long as the Senator has just reiterated what he has said over and over again—that his bill contains substantially the same provisions as the Lever bill—it seems to me that it is the safer proposition to accept the House bill and to add to it such provisions as we have agreed to as in Committee of the Whole, which provisions are the work and have been prepared under the direction and guidance of the Senator from Vermont.

There would then go to the conferees the measure as it passed the House, with certain additions; and it would be for them to determine which of those additions, if any, they would agree upon; and if they did not agree upon any of the additions, we would at least get a measure which has already passed the House, and which would then become a law. I appeal to the Senator——

Mr. PAGE. Mr. President, may I interrupt the Senator for a moment?

The PRESIDENT pro tempore. The Senator from Vermont is entitled to the floor.

Mr. PAGE. I should like to ask the Senator from Florida if he has the slightest doubt that the bill, as I propose to amend it, would be the subject of a conference on the Lever bill, just as certainly as the Lever bill amended by the additional features of the Page bill?

Mr. FLETCHER. I confess, Mr. President, that in my judgment the measure would not then be in nearly so favorable a position, looking to definite results, as it would be if the Senator would accept the situation as it comes from the Committee of the Whole.

Mr. PAGE. I should like to know why, Mr. President.

Mr. FLETCHER. Because there would go to the House an entirely new bill, not the Lever bill as it passed the House at all, not the Lever bill with amendments which are merely additions to the Lever bill. There would go to the House an entirely different measure, embodying different and varying propositions, which would be referred there to the conferees, and it would have to be all thrashed out over again. Delay would necessarily ensue; and in my judgment there would be very serious doubt about it ever coming to any result at this session of Congress if that should be done.

As a friend of the measure, originally known as Senate bill No. 3, as a friend of both these propositions, I most respectfully urge upon the Senator from Vermont to leave this matter as it came from the Committee of the Whole.

I am not quite clear in my own mind about it, although it has been assumed in debate here, but I understand that the amendment offered by the Senator from Vermont on the 24th of January is now before the Senate as a part——

Mr. SMITH of Georgia. It has been adopted.

Mr. FLETCHER. It has been adopted; and although my recollection was that the Senator offered to withdraw that amendment in Committee of the Whole, I was not quite sure whether he did it or not. There was some confusion at the time.

Mr. PAGE. No; I did not.

Mr. FLETCHER. Does the Senator understand that his amendment offered on the 24th of January is the matter now before the Senate?

Mr. WILLIAMS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Mississippi?

Mr. PAGE. I should like to answer the Senator from Florida for just a moment. Then I shall be very glad to yield the floor to the Senator from Mississippi.

I made concessions, Mr. President, which I did not believe improved the bill. I believe the bill as it was originally drawn is a great deal the better bill. I have submitted my reasons for believing it is the better bill. When I consented to introduce the amendment of January 24, it was with the full expectation that I had reached a compromise, and that as a result of making the surrender and reaching a compromise we would have no opposition to the bill.

But the Senator will remember that all the afternoon objection after objection came up to the bill. So, finally, I feel, and I think the Senator will feel for me, that I have a right to say that now I should prefer to have the better and the stronger bill go to conference. If I thought it could not go into conference—if that is the parliamentary situation, and I am assured that it is by good parliamentarians—I should not object to anything. I want it to go to conference.

The language which I used, and which the Senator from Nebraska has quoted, conveys my exact sentiments. If I thought the bill could not go to conference, I would yield almost anything. But I am told that it can go to conference under the amendment I have offered, and believing that my last amendment is the better amendment, and that it more nearly perfects the bill, I should like to have it go in that way.

I believe that in the amendments that were hastily prepared to meet the views of the Senator from Georgia there were some things that were drawn too hastily. We have found now some very important defects in them. But the original bill, I believe, is perfect, so far as that is concerned. I believe every matter of technical language has been carefully provided for. It has been submitted to the best technicians I know in that line, and the bill has been approved by the educators of the country in the form in which I now ask it to go through. I hope Senators will not object to supporting my amendment, for I believe I have the better bill now.

Mr. SMITH of Georgia. Mr. President, the Senator continues to repeat that he introduced his amendment under a misapprehension, believing that a compromise had been reached. I desire to state that if he understood that agreement was by me he understood it in spite of the fact that I told him expressly that I would not agree to it. Nothing that I said justified him in believing that I intended to support it. I declined to agree to support it when the Senator came to my house. I told him as he left my house that I could not agree in advance to support it. I told him before he introduced it here that I had not agreed to support it.

I am a little weary of hearing upon the floor that the Senator introduced it under a misapprehension, if he means to refer to myself, as I have told him that I had not agreed to it often enough to exclude the justification of a misapprehension.

Mr. PAGE. Mr. President, I did not mean to say that the Senator had told me one thing or the other. I simply say, and I repeat it, that I supposed the Senator and myself had reached an agreement. It seems that I am wrong about it, so I do not reiterate that. I simply say that acting upon that supposition I introduced my amendment of January 24. Had I not supposed that we had reached an agreement, I should not have introduced it.

Mr. SMITH of Georgia. Mr. President, after we came into the Senate the Senator from Vermont introduced the amendment, knowing that I did not agree to it. He continued to press it here, knowing that I did not agree to it. He accepted the suggestion of the Senator from Iowa [Mr. CUMMINS], knowing that I had not agreed to it. I stated on the floor, in reply to a question of the Senator from Iowa, that I could not agree to it. I finally went a great deal further in agreeing to it in my votes to-day than I thought I could at the time it was introduced.

I have been trying to help to-day to get the measure into such a shape that we could pass something. If the Senator persists, I think perhaps the whole thing had better go over for the session, and let us start over again at the next session.

Mr. WILLIAMS. Mr. President, I am afraid there is a good deal of amour propre on both sides of this matter. I take it that what the Senate is seeking is results, and not names, and yet now and then names have a great deal to do with things.

I know something about the procedure at the other end of the Capitol. The two Houses will be further apart, actually as well as nominally, if it is announced to the 400 Members of the House of Representatives—a body so numerous that they

have not time to study all questions in detail—that the Senate has rejected the House bill, and has substituted for it the Senate bill. Immediately they will say to one another: "What do you know about the Page bill?" "Not much; virtually nothing." "Our bill was considered in committee. What course shall we take?" Immediately it will be concluded that the best course will be to send the bill to the Committee on Agriculture of the House, in order that that committee may study the bill and report it back to the House with some enlightening information as to the differences between the two bills.

This is a very small body, composed of ninety-odd Members. Yet, to-day, we have seen the best-informed Senators on the floor rise and ask for information as to the difference between two bills which have been pending here for—I will not undertake to say how long. There is the real danger in this situation.

Of course, I understand, and everybody understands, how two very honorable men may meet and discuss matters, and one may say: "I am of the opinion that this ought to be done." The other one says: "I do not know but that I could agree with you about that." The first one says: "I think this ought to be done." Then the other, having heard what the first is willing to concede, will say: "I will agree to that." When you get through you have a mutual misunderstanding; and yet both part with no agreement on the part of either to do precisely what the other desires. In fact, I think it is well, when men meet together and begin to talk about a difference, to remember always that the conversation, as a rule, is tentative.

I ask the attention of the Senator from Vermont. I am not asking him a question, but I am afraid if you go to the House of Representatives, as numerous a body as it is, as crowded with all sorts of business as it is, four times as much crowded as we are in every way, and say to them that you have substituted for a House bill a Senate bill, unless you are able to say to them that the Senate bill is identical with the House bill or identical except for immaterial variations, the course taken by the House would be to send the bill to the committee instead of sending it at once to conference. We are within 30 or 35 days of adjournment, and I do not believe I would take that chance. The point I want to make is that the two Houses will be further apart actually, because they are nominally further apart, if you take that course.

I confess with some degree of shame that I have had my mind lately dwelling more upon some other matters than upon this measure, and I really do not know just how far the Committee of the Whole adopted the provisions of the Lever bill and the provisions of the Page bill, but if they have substantially included the essential parts of both bills in one bill, then I have no doubt about the fact that the prospect of securing actual legislation would be much better if the matter were sent to the House in that way.

Mr. LODGE. Mr. President, I was out of the Senate when the motion was made. Is this a motion to substitute, striking out all after the enacting clause?

Mr. WILLIAMS. I will say to the Senator from Massachusetts that the method of doing business in the Senate he understands better than I. We have nothing before us immediately, but the Senator from Vermont gave notice, I understand, that when the bill got into the Senate——

Mr. LODGE. We are in the Senate now.

Mr. WILLIAMS. He would substitute the Page bill for the Lever bill.

Mr. LODGE. We are in the Senate now, but what I wanted information about, because I was out of the Chamber, was the question whether the motion is to strike out all after the enacting clause and insert.

Mr. WILLIAMS. The Page bill.

Mr. LODGE. If that is the motion, of course that takes both bills into conference.

Mr. WILLIAMS. Of course it does.

Mr. LODGE. It retains the House number.

Mr. WILLIAMS. I beg the Senator's pardon; it takes both bills into conference under the House rules unless a motion is made and carried to send it to the Committee on Agriculture. If you take 400 men and they do not know what the Senate bill is, they are not going to rush it into conference. A conference in the Senate is bad enough, but a conference at the other end is worse, because there are 400 Members; things have to be understood, have to be explained to them, and men are not willing to take up an entirely new bill and have it voted upon under a proposition that on amendment numbered 5 of the Senate the House conferees disagreed, and on amendment numbered 3 the House conferees agree, and so on. The House insists upon keeping its business in its own hands upon a few occasions when it can, and when a matter goes to conference it really can not do so.

Mr. LODGE. I thought from what the Senator said the motion was to substitute the Senate bill. If it were substituting the Senate bill for the House bill, it would go back as a Senate bill with the Senate number, and of course it would go to the committee and would not go into conference.

Mr. WILLIAMS. That is a distinction, but it is not a difference, and it is the difference to which the House will, in my opinion, pay attention, not the mere distinction.

Mr. LODGE. But I mean if it was a substitution, then it would go back, of course, as a Senate bill, and would go to the committee.

Mr. WILLIAMS. I understand that.

Mr. SMITH of Georgia. By striking out all after the enacting clause it would be a Senate bill with a House number.

Mr. WILLIAMS. So, when it goes back to the House from the Senate and the Senate has stricken out all of the House bill except the enacting clause and substituted for it a Senate bill, unless you can assure the parties in charge of the bill, and not only can but are willing to assure the House, that the two bills are either identical or there are immaterial differences, the Members of the House will want to have it examined by a House committee. They are not willing to act merely upon the deliberations of the Senate.

Mr. McCUMBER. Mr. President, I want to ask the Senator from Mississippi if the 400 Members of the House will feel that they know anything more about the Page amendment when it is put in divers amendments, as it has been in Committee of the Whole already, than when put in a single amendment in the Senate.

Mr. WILLIAMS. Absolutely they will, because, in the first place, they have been discussing one bill, and whether they will know or not, they will think they know. This is a psychological problem, and they will think they know, and thinking that the House bill has come back passed by the Senate with certain amendments, they will be willing to let the House bill go to the conferees in order that the differences between the two Houses concerning the amendments may be settled. In other words, the essential thing in their minds is, if the House bill is passed, then there will be no trouble about sending it to conference at once.

The PRESIDENT pro tempore. The pending question is on the motion of the Senator from Vermont to strike out all after the enacting clause of the bill and insert a substitute.

Mr. CUMMINS. Mr. President, I then vote against the proposition now before the Senate made by the Senator from Vermont, and I desire to state very briefly why I will do it.

I have been for the Senate bill, prepared in a large measure by the Senator from Vermont, and for which he is entitled to the greatest possible credit from the beginning until he entered upon this discussion. I think it was I who first suggested to the Senator from Vermont that in order to make certain of some legislation upon the subject he offer Senate bill No. 3 as a substitute when the House bill came before the Senate.

I know nothing about the conference between the Senator from Vermont and the Senator from Georgia, and I do not care to inquire into it. I only know that at one time the Senator from Vermont stated that he understood they had reached an agreement, and that the Senator from Georgia rejected that construction of their conference. My interest in this special matter was after that time, after the Senator from Georgia had indicated that he had entered into no agreement with the Senator from Vermont, after we all understood that the Senator from Vermont offered the substitute which bears the date of January 24, 1913. That substitute is a reproduction in its first nine sections of the House bill. There is no change whatsoever. The remaining sections are a reproduction of Senate bill No. 3, with the changes that had been made by the Senator from Vermont at the suggestion of the Senator from Georgia. He so declared.

I was intensely anxious that nothing should happen that would impair the chance for successful legislation, and therefore when the Senator from Georgia arose and said to the Senator from Vermont that he hoped he would offer that part of his substitute beginning with section No. 10 as an addition to the House bill, the House bill having been reproduced in terms in the first nine sections of the substitute in the hands of the Senator from Vermont, it seemed to me that we would be surer of that legislation if the suggestions of the Senator from Georgia were accepted, and I arose, caring not a whit whether the legislation came from the House or whether it came from the Senate. It makes no difference to me where it originates or who originates it. I simply desire the legislation itself. It seemed to me that the easiest and the surest way of reaching our end was to attach what might be called the Page part of this legislation to the Lever part of the legislation, if I may so designate a House bill and a Senate bill. I so declared, and

expressed the hope that the Senator from Vermont would adopt that course.

The Senator from Vermont did adopt that course, and so declared from his seat. He not only so declared, but he did offer these parts of his bill from section 10 through to the end as an amendment to the House bill. I know that he did that in perfect good faith. I know that he has but one desire, and that is to secure wise legislation upon this subject. But having embarked upon this course at my suggestion, he may feel himself at liberty to depart from that course, but I do not. I think we ought to adhere to the plan which resulted in the offer of the sections after No. 10 of the Senate bill. I believe so because there is a certain good faith which requires us to adhere to that course, and, second, because I believe it will tend to allay the irritation which little by little is creeping into the Senate upon the whole matter.

I sincerely hope that the Senator from Vermont will not persist in offering the original bill as a substitute, if you please, for the House bill, but will be content to pursue the course which was adopted day before yesterday and which has already had results so gratifying to every friend of both agricultural and vocational education.

I must not be understood by this as meaning to say that there are not certain parts of the Lever bill, so called, rather objectionable to me. I think there ought to be some amendments, and we ought to make them now. I happened to be out of the Senate for a moment, and I did not dream that the amendment would be adopted so quickly and that the bill would pass from the Committee of the Whole into the Senate, or I would have suggested certain amendments. I do not believe at all in the extension of the franking privilege. That is a matter which is very easily corrected by a simple amendment. Striking out half a dozen lines in the House bill will correct that error, if it be an error, as I think it is.

Again, I agree with the Senator from Vermont that each State ought to duplicate the contribution of $10,000 per year, as well as the additional sums that come in year after year. I think it would deepen their sense of responsibility, and it would be more in harmony with the entire structure of the House bill. But those are mere matters of detail that can be very easily corrected.

Again, there will have to be certain amendments made in the bill as it is now in the Senate. Day before yesterday section No. 10, as it appeared in the original bill offered, was stricken out upon my motion, and the language found in section 3 of the Senate bill was inserted in its stead. That makes a difference in certain phraseology throughout the whole bill, as the Senator from Vermont will assure the Senate. I think in half a dozen sections of the bill there recurs the words "rural-school fund," and after the adoption of my amendment there will be no rural-school fund. Wherever those words occur they must be stricken out and the words "secondary-school fund" must be substituted.

Mr. PAGE. If the Senator will allow me, the original Senate bill No. 3 is as the Senator from Iowa desires it.

Mr. CUMMINS. Precisely.

Mr. PAGE. It says "secondary schools, or schools of secondary grade, or high schools" shall mean schools offering courses in advance of the elementary schools, and so forth.

Mr. CUMMINS. But nowhere is it called a rural school.

Mr. PAGE. Not in the original Senate bill No. 3.

Mr. CUMMINS. Inasmuch as the original section has been now restored, the original phraseology describing it must be also restored.

I rather think that the Senator from Vermont did not benefit what might be called his part of the bill by trying to weave into it the suggestions of the Senator from Georgia. They do not fit very well, in my opinion, and I would be very glad if he could take the old Senate bill, with the exception of section 7, and offer it. I have no objection to that, but I do object, in view of everything that has occurred, to changing the whole course of procedure and now attempting to eliminate the House bill by substituting for it another measure. I would have been perfectly willing to have pursued that course had not the incident occurred which did occur here day before yesterday. I shall therefore vote against the proposed substitution by the Senator from Vermont.

Mr. PAGE and Mr. BRISTOW addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Kansas?

Mr. PAGE. I yield to the Senator.

Mr. BRISTOW. I understand that the bill as it is now before the Senate can be amended or perfected before the substitute amendment is voted upon.

The PRESIDENT pro tempore. Unquestionably.

Mr. BRISTOW. I therefore move to strike out section 3 of the bill as it is now before the Senate. It is the section that relates to the franking privilege, beginning on line 23, page 2.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. Strike out from the House bill section 3, which reads as follows:

That all correspondence for the furtherance of the purposes of this act issued from the agricultural colleges to their agents, or by the agents of the said extension departments thereof receiving the benefits of this act, shall be transmitted in the mails of the United States free of charge for postage, under such regulations as the Postmaster General from time to time may prescribe.

The PRESIDENT pro tempore. The Senator from Kansas moves to strike out the section just read. The question is on agreeing to the amendment of the Senator from Kansas.

Mr. LODGE. Mr. President, I think that section ought to be stricken from the bill. It is perfectly easy to make an allowance in their accounts to the agents in the field or to the colleges to be paid from the fund. The amount will not be large. But if you open this service to the franking privilege, you open a door to a great deal of misuse of the mails. It is almost impossible to keep the franking privilege within the proper limitations. I certainly think that a general provision like this for the franking privilege is a very mistaken one, and I hope it will be stricken from the bill before we vote upon it.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Kansas [Mr. BRISTOW].

The amendment was agreed to.

Mr. BRISTOW. I offer further to amend, on page 4, by striking out in line 7 after "part" the words "its allotment" and insert "any"; and also by striking out the word "additional" in line 8, so that it will read:

That no State shall be entitled to any part of any of these sums unless its legislature has heretofore provided, etc.

That makes the State appropriate an equal amount with the Federal Government of all the sums.

Mr. SMITH of Georgia. I will not resist that motion, but I will state to the Senate the reason why this fixed sum was given. It was thought that some of the States, the smaller States, ought to have a fixed sum, and that is the theory upon which it was put in. So far as my own State is concerned and those I am especially interested in, they are perfectly ready to meet any sum the Government gives. I have no authority to consent to it, but I shall not oppose that amendment.

Mr. BRISTOW. The reason why I proposed the amendment was that this is, of course, an aid to the States, and the aid is offered for two reasons. As I understand it, first it appropriates money from the General Treasury for that purpose, and that appropriation is used to encourage the States to appropriate their own money to carry on the work; so we not only appropriate the money that they will get the direct benefit from, but we induce the States to engage with the Government in this worthy cause by meeting the appropriation. I think it is nothing but just.

Mr. WILLIAMS. Before the Senator takes his seat, do I understand that this is to strike out the provision which gives $10,000 to each State unless the State duplicates the $10,000?

Mr. BRISTOW. Yes; it requires the States to duplicate the $10,000.

Mr. WILLIAMS. This bill, I understand, was drawn up upon a principle somewhat like the compromise giving each State two Senators and Representatives according to population. In other words, it was a compromise between territoriality and population and wealth. So it was concluded to give $10,000 to each State to start with, regardless of wealth or poverty or the size of the State, and then for the balance of the appropriations, for the most part it was given in proportion to wealth; that is to say, it was given upon condition that the State should duplicate the amount which the Federal Government gave.

Whether there be a State in the Union which could not duplicate the $10,000 or not I do not know. Nor does that interfere with the general principle at stake. If there be such a State, it ought not to be left out entirely. If there be not such a State, then all the States stand equally as regards the $10,000. It does not seem to me that that provision ought to be stricken out. It might very well happen that a perfectly new State might be bound up with the expenses of its new birth and everything else and be embarrassed about money.

The Senator from Kansas has said that the object of this was to aid the States in doing certain work for the people. The primary object, I take it, is to aid the people, and to leave

the people without aid because the State could not help them does not seem to me to be right.

Mr. PAGE. Mr. President——

The PRESIDENT pro tempore. The amendment proposed by the Senator from Kansas will be stated.

The SECRETARY. On page 4, lines 8 and 9, strike out the words "of its allotment," and, in line 9, strike out the word "additional," so that if amended the proviso will read:

Provided further, That no State shall be entitled to any part of these sums unless its legislature has heretofore provided or until it shall provide, etc.

Mr. SMITH of Georgia. I should like to suggest to the Senator from Kansas an additional reason that I recall now which was given for this appropriation to each State. It was that it guaranteed the immediate beginning of work everywhere without reference to appropriations, to give to each one of the States a demonstration of its value, and it would thereby lead the States to make the appropriations to call for the additional sums. I rather think that it is a desirable part of the bill.

Mr. BRISTOW. It seems to me that when the Federal Government proposes to aid the States in their educational development, this is going a good ways from our old idea. We are appropriating money for educational purposes to the various States, and it appears to me it is certainly good policy to require the various States to make an appropriation to meet that.

The objection has been made to meet that that this will fall more heavily upon the small States than the large States, a State of half a million of population as compared with a State of 5,000,000 population. But $10,000 for the educational benefit of a half million people is a great deal larger proportionate contribution to the educational facilities of that State than if the State had 5,000,000 people.

Mr. WILLIAMS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Mississippi?

Mr. BRISTOW. I do.

Mr. WILLIAMS. If the Senator will permit me an interruption, I think he is in error there. Territoriality has something to do with it. You may give a State, if it is a large State, with a sparse population, a certain sum of money to be expended for a certain purpose and it will not benefit it near so much as it would benefit a State of the same population with one-tenth of that area.

That reminds me of another defect in this bill. It says, for example, that there shall not be above one agricultural high school for five counties. Of course that is easy in the thickly settled Northeast, but without going down to Texas or Arizona, stopping at Mississippi on the way, five counties in my State, of which my own county would be a center, and Washington and Holmes and Hinds and Warren, the surrounding counties, would about duplicate the area of the State of Connecticut. So you have a high school there, with the people to attend it about five times as far, do you not understand? So they must go and board in order to get the same benefit that would be gotten in Rhode Island from taking the family buggy and driving in every day.

I am merely using that as an illustration just at present; but the assumption that just because a thing is a territorial area and called a State, it could get the same benefit from $10,000 which a smaller and more compact area could get with many more children enjoying the privilege, is a mistake.

Mr. BRISTOW. It seems to me that, if the Federal Government is going to appropriate money for the educational facilities of the State, it is nothing but fair that the State should be required to meet that appropriation by an equal amount of its own funds.

Mr. WILLIAMS. Let me ask the Senator one more question, and then I shall not disturb him further: Is the purpose of the bill to help the States or to help the people?

Mr. BRISTOW. It is to help both—to help the people and to help the States.

Mr. WILLIAMS. I take it that the object and the purpose of the bill is not to help the political entity that we call a State, but that it is to help the citizens of the United States in acquiring a vocational and agricultural education.

Mr. BRISTOW. The educational system of the country has been in charge of the States. We have not launched out until this time upon any great national educational system. There are a great many people who question the wisdom of it. Now, certainly I question the wisdom of the Government making an appropriation direct to the States for educational purposes. I may consent to an appropriation, provided the State will provide an equal amount, the purpose being to encourage the establishment of proper educational facilities in all the States.

Mr. WILLIAMS. Mr. President, if the Senator from Kansas will permit me to break a promise so recently made, I will say that I agree with the Senator, of course, that the instrumentality, the trustee in a certain sense, is the State; but, after all, the beneficiaries are the children of the people in the States operating from the Federal Government through the States.

Mr. PAGE. Mr. President, I do not want to take the time of the Senate any further on this question. I wish the Senate, if they are so inclined, to strike out all after the enacting clause and substitute Senate bill No. 3——

Mr. BRISTOW. Mr. President——

Mr. PAGE. I beg pardon; I thought the Senator from Kansas had yielded the floor.

Mr. BRISTOW. Mr. President, I ask that the question be put on my amendment.

The PRESIDENT pro tempore. The question is on the amendment submitted by the Senator from Kansas. [Putting the question.] The ayes appear to have it.

Mr. WILLIAMS. Let us have the yeas and nays on that, Mr. President.

The PRESIDENT pro tempore. The Senator from Mississippi demands the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. WETMORE (when Mr. LIPPITT's name was called). My colleague [Mr. LIPPITT] has a general pair with the senior Senator from Tennessee [Mr. LEA].

Mr. RICHARDSON (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. SMITH], and therefore withhold my vote.

Mr. SIMMONS (when his name was called). I transfer my general pair with the Senator from Minnesota [Mr. CLAPP] to the Senator from Georgia [Mr. BACON] and will vote. I vote "nay."

Mr. WILLIAMS (when his name was called). I wish to transfer the general pair which I have with the Senator from Pennsylvania [Mr. PENROSE] to the Senator from Indiana [Mr. SHIVELY] and will vote. I vote "nay."

The roll call was concluded.

Mr. OLIVER. I have a general pair with the junior Senator from Oregon [Mr. CHAMBERLAIN], and I therefore withhold my vote.

Mr. DILLINGHAM. I wish to transfer my general pair with the senior Senator from South Carolina [Mr. TILLMAN] to the Senator from New Mexico [Mr. FALL] and will vote. I vote "yea."

Mr. OWEN. I transfer my pair with the Senator from Kansas [Mr. CURTIS] to my colleague [Mr. GORE] and will vote. I vote "nay."

The PRESIDENT pro tempore (after having voted in the affirmative). The occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN]. As that Senator has not voted, the vote is withdrawn.

Mr. SUTHERLAND (after having voted in the affirmative). I observe that the Senator from Arkansas [Mr. CLARKE] did not vote. I have a pair with that Senator, and I therefore withdraw my vote.

The result was announced—yeas 40, nays 18, as follows:

YEAS—40.

Bourne	Cummins	Kern	Perkins
Bradley	Dillingham	La Follette	Poindexter
Brandegee	Dixon	Lodge	Pomerene
Bristow	Gamble	McCumber	Root
Brown	Gronna	McLean	Sanders
Burnham	Guggenheim	Martine, N. J.	Smoot
Catron	Hitchcock	Myers	Thomas
Clark, Wyo.	Johnson, Me.	Nelson	Townsend
Crawford	Jones	Page	Wetmore
Cullom	Kenyon	Percy	Works

NAYS—18.

Bankhead	Johnston, Ala.	Paynter	Swanson
Bryan	Johnston, Tex.	Perky	Thornton
Chilton	Martin, Va.	Simmons	Williams
Fletcher	Overman	Smith, Ariz.	
Heiskell	Owen	Smith, Ga.	

NOT VOTING—37.

Ashurst	Curtis	Massey	Smith, S. C.
Bacon	du Pont	Newlands	Stephenson
Borah	Fall	O'Gorman	Stone
Briggs	Foster	Oliver	Sutherland
Burton	Gallinger	Penrose	Tillman
Chamberlain	Gardner	Reed	Warren
Clapp	Gore	Richardson	Watson
Clarke, Ark.	Jackson	Shively	
Crane	Lea	Smith, Md.	
Culberson	Lippitt	Smith, Mich.	

So Mr. BRISTOW's amendment was agreed to.

Mr. CUMMINS. I offer a series of amendments which are purely formal. The Senate has adopted section 3 of the Senate

bill as now section 10 of the bill before the Senate. In that section the words used are "secondary schools" and not "rural schools." I therefore move to strike out the words "rural schools," where they are found; and I ask unanimous consent that it may be done without pointing out the line of each amendment where those words occur in sections 15, 16, 19, 20, 24, 25, 26, 28, and 33, and to substitute in each instance the words "secondary schools."

The PRESIDENT pro tempore. The amendment proposed by the Senator from Iowa will be stated.

The SECRETARY. Wherever the words "rural schools" appear in sections 15, 16, 19, 20, 24, 25, 26, 28, and 33, they shall be stricken out and the words "secondary schools" substituted therefor.

Mr. PAGE. Mr. President, I rather hope that the amendment offered by the Senator from Iowa may be adopted, although I want to state here and now that there have been, I will not say a multitude of amendments, but a great many amendments made to this bill, so that the bill is almost ridiculous in its make-up, if we take it in its present form. For instance, we have changed it, I think, by adding after the word "States" the words "and Territories." The bill from first to last has been drawn with particular reference to States, and I do not believe it will articulate with the Territorial laws. It is true that you have amended the Lever bill, so called, in two very important particulars to-day; you have, by a very decided vote, stricken out that feature which gave the States $10,000 each without the States paying another $10,000, and you have stricken out the feature giving them the franking privilege.

Now, I want to terminate this debate, so far as I am concerned, by saying that it is not exceedingly material whether you do or do not adopt the amendment which I am about to offer. I am simply going to add that I believe that if we take the Page bill in its entirety, we shall have a perfected bill, while, if we take the bill which we have amended so hastily, we shall get a bill that is full of incongruities.

In closing let me simply add that I hope the friends of Senate bill 3 will feel that, all things considered, it is wise to adopt the amendment which I have suggested, but there will be no broken hearts if this is not done. I believe it should be done, because I think Senate bill 3 is the better bill, but whatever the vote of the Senate may be I shall be satisfied.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Iowa [Mr. CUMMINS] to the amendment.

The amendment to the amendment was agreed to.

Mr. MARTINE of New Jersey. Mr. President, I desire to say that at the last session the Page bill was presented to me. I examined it quite thoroughly, and was convinced of the wisdom and the propriety of the measure. After that I received very many letters—nearly 200, as I recall—from a great many educational institutions in New York, New Jersey, and Pennsylvania urging its passage. I pledged myself to the Senator from Vermont [Mr. PAGE] that I would stand by him. I voted for the proposition that was suggested by the Senator from Georgia [Mr. SMITH]; but since it has been deemed best and wisest upon the part of the Senator from Vermont to urge the passage of his bill, in this controversy I will square myself with my agreement though the heavens fall. I am going to stand by the bill of the Senator from Vermont.

I want to vote for some measure that will tend to dignify labor. The whole trend of the times has been in contradiction to the man or the woman who works with his or her hands. Every effort has been made to hold up to the average young man the idea of being a lawyer, a doctor, or a theologian; the idea has been instilled into him that a profession should be his chief ambition in life. I want to do what little I can to dignify labor and induce men to labor. It is all very well in the clamor of the day to urge the youth of the land to stay on the farm; but the disposition of the country has been to ignore the farm boy, to frown on him with sneers and sundry little innuendoes aggravating to the sensitive mind. This has driven myriads of boys from the farm. I shall vote with the greatest pleasure and the greatest relish for the amendment proposed by the Senator from Vermont.

Mr. TOWNSEND. Mr. President, I have listened to this discussion and have been considering at different times the bill in charge of the Senator from Vermont [Mr. PAGE] for a great many months, and I think I am somewhat familiar with it. As I understand, the only objection to passing the substitute is the parliamentary situation, and possibly some agreement which seems to have been rather unilateral, the minds of the Senator from Georgia [Mr. SMITH] and the Senator from Vermont [Mr. PAGE] never having met in a common understanding in regard to it. Aside from that, no one questions that the so-called Page bill contains all the features of the Lever bill. I have heard nobody dispute that proposition.

Senators say that possibly the measure will have a different standing before the other House if we pass the House bill as it has been amended instead of the Page bill. I am somewhat familiar with the procedure in the House, and I can not understand that there are any more difficulties attaching to the proposed substitute than will attend the bill as we have already amended it. It has been amended and will go to conference or to a committee of the other House. It will have to go to a committee according to the argument of the Senator from Mississippi [Mr. WILLIAMS], because it materially changes the House bill. This does not necessarily follow and probably it will not.

So far as I am concerned, if I were to consider the parliamentary situation and were to be governed entirely by the effect either upon the other House or upon this, the question would be decided in my mind by the fact that the Senator from Vermont has had charge of this bill and has pressed it in season and out for many months, yielding too frequently, as it seems to me, to the requests of Senators, in order that they might place something in its stead. Further, if I understand aright, up until the day before yesterday this bill has been as much discussed as has the Lever bill and is better understood in the Senate. So it occurs to me that we can accomplish all that all Senators want, so far as legislation is concerned, if the House bill be amended by substituting after the enacting clause the Page bill, which, I repeat, contains everything that is in the Lever bill and is drawn with greater care. Its author has deliberated upon it for months; it has profited by the work of experts and is clear and harmonious in its terms. On the other hand, I venture to state that few Senators understand just what has been done by the Senate to the House bill. We know it has been changed day after day, here a little and there a little, but I feel sure that no one knows exactly what the bill is or whether it has been properly constructed.

Mr. SMITH of Georgia. If the Senator will permit me, why does he think so? It never was submitted to a committee; it has never been before the Agricultural Committee at all; and it has never been scrutinized line by line or section by section by the Senate.

Mr. TOWNSEND. Which bill has not?

Mr. SMITH of Georgia. The Page bill.

Mr. TOWNSEND. The Page bill has been presented to the Senate from the Committee on Agriculture and was discussed by the Senator from Vermont for several days, as I remember. It has been generally understood and discussed throughout the country. I have known few bills that have seemed to excite more interest and more attention than has the Page bill. The people understand it; and I confess, Mr. President, so far as I am concerned, I understand it much better than I do the Lever bill as it has been amended up to this moment. I quite agree with the Senator from Vermont that if we pass the Lever bill to-day possibly we may pass something that we do not understand. Few Senators know just what we have done and the parts of the bill may be inharmonious. I desire to ask the Senator from Vermont a question which has been suggested to me by the Senator from Washington [Mr. JONES]. Was his bill before the Committee on Agriculture and Forestry of the Senate?

Mr. PAGE. Of course, we have discussed this matter a long time in the Senate, and I supposed that every feature had been before the committee. It may be, however, that there have been some amendments made in the Senate which were never considered by the committee; but the bill has been before the committee and has been considered in all its essential features.

Mr. TOWNSEND. I understand, then, that Senate bill No. 3 has been considered by the committee?

Mr. CRAWFORD. Yes; and it has been reported.

Mr. TOWNSEND. I do not like to yield until I get an answer from the Senator from Vermont.

Mr. PAGE. It has been reported.

Mr. TOWNSEND. Then, it went to the Committee on Agriculture and Forestry, did it not?

Mr. PAGE. Certainly.

Mr. TOWNSEND. And was reported by that committee?

Mr. CRAWFORD. Will the Senator allow me a word there?

Mr. TOWNSEND. I should like to have that question answered.

Mr. CRAWFORD. I am a member of the Committee on Agriculture and Forestry, and was a member of the subcommittee which considered the Page bill. We had hearings on the substance of this bill, not in the technical form in which it is here now, but the entire scope of this bill, the agricultural features

and the vocational educational features of it, were considered. Representatives from the leading colleges of the United States, both agricultural colleges and universities, came to Washington on two different occasions, and I remember that we had hearings which extended over several days and that a report was submitted by the Senator from Vermont to the full Committee on Agriculture and Forestry—a most exhaustive report upon the different features of this bill, the committee having given him authority to collect the information. This proposed legislation is the result of all that. I doubt if during the last two years there has come before the Senate a bill that was the subject of more extensive preliminary investigation and work and the subject of a larger correspondence with educational leaders of this country than the Page bill which is now before the Senate.

Mr. TOWNSEND. Now, let me ask the Senator from Vermont directly, Is it not true that Senate bill No. 3 was considered by the Committee on Agriculture and Forestry and through the Senator from Vermont reported to the Senate?

Mr. PAGE. It was.

Mr. BURNHAM. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from New Hampshire?

Mr. PAGE. In just a moment.

Mr. BURNHAM. I merely want to corroborate the statement of the Senator from South Dakota [Mr. CRAWFORD]. That is all I care to say.

Mr. PAGE. The bill was reported to the Senate, but subsequently was redrafted in some minor particulars. I asked unanimous consent of the Senate that the redrafted bill might be substituted in place of the bill originally reported from the Committee on Agriculture and Forestry, and that unanimous consent was given.

Mr. SMITH of Georgia. Mr. President, if the Senator will allow me, I have both the bills here. The one which was passed by the Committee on Agriculture and Forestry is 16 pages long, while the bill subsequently presented and now being considered is 28 pages long; so that the second bill can not be exactly the same measure.

Mr. TOWNSEND. Mr. President, I hold in my hand Senate bill No. 3, Calendar No. 348, upon which I find the following notation:

In the Senate of the United States.

April 6, 1911. Mr. PAGE introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry.
February 26, 1912. Reported by Mr. PAGE, with amendments.
June 14, 1912. By unanimous consent the text of original bill and reported amendments withdrawn, and substitute reported, placed on calendar, and printed in roman.
July 24, 1912. Ordered reprinted as agreed to in Committee of the Whole; all in roman.

That is the record of the bill as it appears here on the desks of Senators.

Mr. SWANSON. Mr. President, will the Senator permit me to propound an inquiry to the Senator from Georgia? I did not understand his reply to the inquiry of the Senator from Michigan.

Mr. TOWNSEND. I yield to the Senator.

Mr. SWANSON. Do I understand, then, that the bill now offered as an amendment, consisting of 28 pages, has never been considered by the Committee on Agriculture and Forestry?

Mr. SMITH of Georgia. Unquestionably it has never been before the Agricultural Committee at all.

Mr. SWANSON. Not before a committee of the Senate for consideration at all?

Mr. SMITH of Georgia. The first Senate bill, No. 3, 16 pages long, was passed on and reported by the Agricultural Committee. After that was submitted to the Senate the Senator from Vermont redrafted his bill, and the bill now presented, 28 pages long, has never been before the Committee on Agriculture.

Mr. TOWNSEND. Is the Senator——

Mr. SWANSON. And my inquiry——

Mr. TOWNSEND. Just a moment. Is the Senator from Georgia on the Committee on Agriculture?

Mr. SMITH of Georgia. I am.

Mr. TOWNSEND. Then I take it the Senator from Georgia gave his consent that the original bill and reported amendments should be withdrawn and the substitute, as presented by the Senator from Vermont, should stand in place of the bill as reported by him.

Mr. SMITH of Georgia. My statement was that the Committee on Agriculture and Forestry had not examined and passed upon that bill. My consent was no more than the consent of each other Senator. The Senator from Vermont had charge of the matter. He referred to it as his bill, and it was his bill, and when he asked to present a substitute we all consented. The Senator from Michigan consented just as I did; but the bill did not go back to the Committee on Agriculture. It was the Committee of the Whole Senate that consented to the substitution.

Mr. TOWNSEND. I am not complaining about it.

Mr. SMITH of Georgia. My only point was that the bill of 28 pages has never been considered in detail by the Senate and has never been considered in detail by the committee.

Mr. McCUMBER. Right there let me ask the Senator from Georgia a question, with the consent of the Senator from Michigan.

Mr. TOWNSEND. I yield the floor.

Mr. McCUMBER. My question is as to whether or not the extra pages are not made up of the Lever bill, which is now attached to the Page bill?

Mr. SMITH of Georgia. Not at all; no. The portion of the bill which is similar to the Lever bill is exactly the same in the first bill of 16 pages and in the second bill of 28 pages. There are a number of quite substantial changes in the two bills. The new bill, which was presented with the 28 pages in it, has quite a number of features different from the old bill of 16 pages which the Committee on Agriculture and Forestry approved.

Mr. McCUMBER. Mr. President, I think two things are undisputed at the present time, namely, that the pending bill, the Lever bill as it has been amended, contains the provisions of the Lever bill and also practically all that was contained in the Page bill. On the other hand, the Page amendment contains practically everything that was in the Page bill, and also all of the principal provisions of the Lever bill. Whichever way we vote, we are practically passing the same bill, whether we adopt the Page amendment to the Lever bill, or amend the Lever bill by inserting the Page bill as a substitute.

My vote is going to be governed by this consideration: The Senator from Vermont has had this bill before the Senate for at least two years. He has devoted a great deal of study to it. Instead of having a proposition now which comes in the shape of divers amendments attached in different ways, he has the same proposition drawn up logically, properly, and in its order; and it is known as the Page bill. So that practically it is a question whether we will adopt the bill that has the name of a Member of the House attached to it, or the name of the Senator from Vermont. That is practically all there is to it now. Considering the length of time we have had the Page bill before us, I stand ready to give my colleague the compliment of voting that his bill shall be passed by the Senate.

The PRESIDENT pro tempore. The Chair will state the parliamentary situation as the Chair understands it.

Sundry amendments have been agreed to as in Committee of the Whole. The question is, the bill having been reported to the Senate, whether or not the Senate shall concur in those amendments. The Senator from Vermont proposes before that action is taken to strike out and insert. The Chair thinks that can not be done, but that the question should first be put upon concurring in the amendments made as in Committee of the Whole, for the reason that any Senator can ask for a separate vote upon any amendment agreed to. So that, whether or not the amendments agreed to as in Committee of the Whole are concurred in in the Senate, the Senator from Vermont can then offer his substitute.

Mr. LODGE. Mr. President, can the Senator from Vermont offer a substitute after the amendments made as in Committee of the Whole have been concurred in in the Senate? I venture to suggest that the point at which he must offer his substitute is before we pass in the Senate on the amendments made as in Committee of the Whole. That is, he must offer it as a substitute for the original bill.

Mr. BRANDEGEE. Why can not the Senator from Vermont offer his substitute for the original bill after the original bill has been perfected by the amendments which the Senate has adopted?

The PRESIDENT pro tempore. The Chair is of the opinion that that can be done.

Mr. LODGE. It can be done in that way.

The PRESIDENT pro tempore. The question is on concurring in the amendments agreed to as in Committee of the Whole.

Mr. LODGE. It occurred to me that under our usual practice, after amendments made as in Committee of the Whole had been concurred in in the Senate, it would be impossible then for the Senate to vote out those amendments, because they would have been adopted both as in Committee of the Whole and in the Senate.

The PRESIDENT pro tempore. The Chair thinks a motion to strike out the entire bill and insert would be in order.

The question now is on concurring in the amendments made as in Committee of the Whole.

The amendments were concurred in.

Mr. PAGE. Mr. President, I now move to strike out all after the enacting clause and insert the amendment which was offered by me on the 17th of January, which is identical with Senate bill No. 3, reported to the Senate June 14, 1912. It is what is known as the Page bill.

Mr. SMITH of Georgia. I ask that the amendment be read.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Vermont will be read.

The Secretary proceeded to read the amendment, and read to the end of section 5, on page 5.

Mr. SIMMONS. Mr. President, if it is in order, I move to dispense with the further reading of the amendment.

The PRESIDENT pro tempore. The Senator can ask unanimous consent that the further reading be dispensed with.

Mr. SIMMONS. I ask unanimous consent.

The PRESIDENT pro tempore. The Senator from North Carolina asks unanimous consent that the further reading of the amendment be dispensed with. Is there objection? The Chair hears none.

The question is on the amendment of the Senator from Vermont to strike out all after the enacting clause and insert. [Putting the question.] The Chair is in doubt.

Mr. POINDEXTER. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FLETCHER. What is the question?

Mr. LODGE. The question is on substituting the Page bill.

Mr. FLETCHER. The vote is being taken on the question of substituting the Page bill?

Mr. LODGE. Yes.

The Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). I transfer my general pair with the senior Senator from South Carolina [Mr. TILLMAN] to the Senator from New Mexico [Mr. FALL] and vote. I vote "yea."

Mr. GARDNER (when his name was called). Notwithstanding my pair with the junior Senator from Massachusetts [Mr. CRANE] on the pending measure, I am at liberty to vote. I vote "yea."

Mr. OLIVER (when his name was called). I have a general pair with the junior Senator from Oregon [Mr. CHAMBERLAIN]. I transfer that pair to the junior Senator from Maryland [Mr. JACKSON] and will vote. I vote "yea."

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. I therefore withhold my vote.

Mr. RICHARDSON (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. SMITH], and I withhold my vote.

Mr. SIMMONS (when his name was called). I transfer my pair with the junior Senator from Minnesota [Mr. CLAPP] to the senior Senator from Georgia [Mr. BACON] and vote. I vote "nay."

Mr. SUTHERLAND (when his name was called). I have a pair with the senior Senator from Arkansas [Mr. CLARKE]. In his absence I withhold my vote.

Mr. WILLIAMS (when his name was called). I wish to transfer my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the senior Senator from Maryland [Mr. SMITH] and vote. I vote "nay."

The roll call was concluded.

Mr. CULBERSON (after having voted in the negative). I will ask if the Senator from Delaware [Mr. DU PONT] has voted?

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. CULBERSON. I transfer my general pair with that Senator to the senior Senator from Indiana [Mr. SHIVELY] and will allow my vote to stand.

The PRESIDENT pro tempore. The present occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN], and for that reason withholds his vote.

Mr. PERKINS. I transfer my pair with the junior Senator from North Carolina [Mr. OVERMAN] to the senior Senator from Idaho [Mr. BORAH] and vote. I vote "yea."

Mr. SMOOT. I was requested to announce that the senior Senator from Louisiana [Mr. FOSTER] is paired with the junior Senator from Wyoming [Mr. WARREN]; that the senior Senator from Michigan [Mr. SMITH] is paired with the junior Senator from Missouri [Mr. REED]; and that the senior Senator from West Virginia [Mr. WATSON] is paired with the senior Senator from New Jersey [Mr. BRIGGS].

The result was announced—yeas 31, nays 30, as follows:

YEAS—31.

Bradley	Dillingham	Lodge	Poindexter
Brandegee	Gamble	McCumber	Sanders
Brown	Gardner	McLean	Smoot
Catron	Gronna	Martine, N. J.	Stephenson
Chilton	Guggenheim	Nelson	Townsend
Clark, Wyo.	Johnson, Me.	Oliver	Wetmore
Crawford	Jones	Page	Works
Cullom	Kenyon	Perkins	

NAYS—30.

Ashurst	Cummins	Martin, Va.	Smith, Ariz.
Bankhead	Fletcher	Myers	Smith, Ga.
Bourne	Heisket	Newlands	Swanson
Bristow	Hitchcock	Pagner	Thomas
Bryan	Johnston, Ala.	Percy	Thornton
Burnham	Johnston, Tex.	Perky	Williams
Burton	Kern	Pomerene	
Culberson	La Follette	Simmons	

NOT VOTING—34.

Bacon	du Pont	O'Gorman	Smith, Mich.
Borah	Fall	Overman	Smith, S. C.
Briggs	Foster	Owen	Stone
Chamberlain	Gallinger	Penrose	Sutherland
Clapp	Gore	Reed	Tillman
Clarke, Ark.	Jackson	Richardson	Warren
Crane	Lea	Root	Watson
Curtis	Lippitt	Shively	
Dixon	Massey	Smith, Md.	

So Mr. PAGE's amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to, and (at 4 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 30, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 29, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Lord God, our heavenly Father, in whom we live and move and have our being, we realize that we are involved in a moral order which Thou hast ordained; that we can do nothing without Thee; yet we may set ourselves against that order and bring harm to ourselves and others; hence we pray for wisdom to guide us, strength to sustain us in a willingness to work with Thee, that we may hasten the coming of Thy kingdom upon the earth. And Glory and honor and praise be Thine forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

ELECTION TO COMMITTEES.

Mr. UNDERWOOD. Mr. Speaker, as this is Calendar Wednesday, I desire to ask unanimous consent that I may move to elect three or four gentlemen to fill vacancies on committees.

The SPEAKER. The gentleman from Alabama asks unanimous consent to nominate certain gentlemen to fill vacancies on committees.

Mr. MANN. I assume that this will take no time?

Mr. UNDERWOOD. None at all. There is no contest about it.

The SPEAKER. Is there objection. [After a pause.] The Chair hears none.

Mr. UNDERWOOD. Mr. Speaker, for the Committee on Ways and Means, I wish to make the following nominations to fill existing committee vacancies:

Hon. JOHN H. ROTHERMEL to the vacancy on the Appropriations Committee occasioned by the death of Hon. J. G. McHenry.

Hon. GEORGE WHITE to the vacancy on the Appropriations Committee occasioned by the resignation of Hon. James Cox.

Hon. SCOTT FERRIS to the chairmanship of the Public Lands Committee occasioned by the resignation of Hon. Joseph T. Robinson.

Hon. C. B. SMITH to the vacancy on the Foreign Affairs Committee occasioned by the resignation of Hon. William Sulzer.

The SPEAKER. Are there any other nominations? If not, the question is on the election of those nominated by the gentleman from Alabama [Mr. UNDERWOOD].

The question was taken, and the above-named Members were elected.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. BURLESON, from the Committee on Appropriations, reported the bill (H. R. 28499) making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, which was read the first and second times, and with the accompanying report (No. 1413), ordered printed and referred to the Committee of the Whole House on the state of the Union.

Mr. BURLESON. Mr. Speaker, I desire to give notice that I will call this bill up immediately after the passage of the fortifications bill.

Mr. MANN. Mr. Speaker, I do not object to the presentation of the bill, but I wish to reserve all points of order upon the bill.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 39.

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return the bill (S. 7162) to amend section 801 of the Code of Law for the District of Columbia.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 24194. An act to create a new division of the western judicial district of Texas, and to provide for terms of court at Pecos, Tex., and for other purposes; and

H. R. 18841. An act incorporating the National Institute of Arts and Letters.

TIME OF MEETING TO-MORROW.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow.

The SPEAKER. The gentleman from New York asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow. Is there objection? [After a pause.] The Chair hears none.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday, and the call rests on the Committee on the Library.

LINCOLN MEMORIAL.

Mr. EVANS. Mr. Speaker, I am instructed by the Committee on the Library to call up Senate joint resolution 158.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Joint resolution (S. J. Res. 158) approving the plan, design, and location for a Lincoln memorial.

Resolved, etc., That the plan, design, and location for a Lincoln memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, approved.

Mr. EVANS. Mr. Speaker, we have come to an agreement, if it is agreeable to the other Members of the House, with the gentleman from Missouri [Mr. BORLAND], representing the Gettysburg proposition, that we may debate this subject for two hours on each side, and that at the end of that time the previous question shall be considered as ordered on Senate joint resolution No. 158.

Mr. BORLAND. I take it that the gentleman is asking unanimous consent to the statement he is making now?

The SPEAKER. Yes.

Mr. BORLAND. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BORLAND. If the previous question is ordered at the end of the agreed debate of two hours, will it be permissible to offer an amendment after ordering the previous question?

The SPEAKER. It will not, after ordering the previous question.

Mr. BORLAND. The agreement we have made extends to two hours' general debate on each side—four hours in all—but I have no power or disposition to preclude the right of any Member to offer amendments. I intend to offer an amendment of my own during the two hours' general debate, and I believe the agreement might well be that the amendments may be offered after the general debate or after the previous question, but voted on without further debate. I do not desire to extend the debate beyond the four hours.

Mr. MANN. As I understand, the gentleman from Missouri [Mr. BORLAND] desires to offer an amendment. I can not consent to an agreement that everybody in the House should offer an amendment, because it might take a week to dispose of them. I am perfectly willing to consent to an agreement that two hours' general debate should be had on a side, and the gentleman from Missouri [Mr. BORLAND] shall have the right to offer an amendment, and that at the end of four hours the previous question shall be considered as ordered on the resolution and amendment to final passage.

The SPEAKER. The Chair will state that it is only fair to say to the House that the gentleman from Texas [Mr. STEPHENS] notified the Chair before the House met that he wants to offer an amendment.

Mr. STEPHENS of Texas. I have an amendment that I desire to offer at the proper time, Mr. Speaker.

Mr. MANN. And also that the gentleman from Pennsylvania [Mr. LAFEAN] shall have the right to offer an amendment.

Mr. BORLAND. And that these amendments may be offered after my amendment is disposed of.

Mr. MANN. Will be offered at any time and be pending.

The SPEAKER. Is the proposition to cut everybody off from offering amendments except the gentleman from Missouri [Mr. BORLAND] and the gentleman from Texas [Mr. STEPHENS] and the gentleman from Pennsylvania [Mr. LAFEAN]?

Mr. EVANS. That is the proposition, Mr. Speaker.

Mr. JAMES. Well, Mr. Speaker, all these amendments that are offered to this resolution ought to be offered and pending before any one particular amendment is disposed of.

The SPEAKER. That will have to be done. They have not yet agreed upon that.

Mr. JAMES. I think the request of the gentleman from Missouri was——

The SPEAKER. The Chair will try to state what the sum total of these requests is: That the general debate on this proposition shall extend for four hours—that is, if enough gentlemen want to speak to occupy four hours—one half of the time to be controlled by the gentleman from Missouri [Mr. BORLAND] and the other half to be controlled by the gentleman from Illinois [Mr. EVANS], and at the end of the four hours the previous question shall be considered as ordered. In the meantime the gentleman from Missouri [Mr. BORLAND], the gentleman from Texas [Mr. STEPHENS], and the gentleman from Pennsylvania [Mr. LAFEAN] shall have the privilege of offering amendments, and their amendments shall all be pending when the previous question is ordered.

Mr. STEPHENS of Texas. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. STEPHENS of Texas. What time will be given to each one of us to present our amendments?

The SPEAKER. The Chair does not know about that. The Chair will recognize these three gentlemen to offer their amendments.

Mr. MANN. To offer their amendments.

Mr. BOOHER. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. BOOHER. I rise to ask, if this agreement goes through, does it cut out everybody else from offering an amendment?

The SPEAKER. It undoubtedly does.

Mr. BOOHER. Does it take unanimous consent?

The SPEAKER. It does.

Mr. BOOHER. Then I object.

The SPEAKER. The gentleman from Missouri [Mr. BOOHER] objects.

Mr. BORLAND. Mr. Speaker, I think perhaps a better solution of the matter would be that general debate go on for four hours, two hours to be controlled by the gentleman from Illinois [Mr. EVANS] and two hours to be controlled by myself, and that at the end of that the previous question shall be considered as ordered, but that amendments may be offered before or after the previous question and voted on without debate.

Mr. MANN. Mr. Speaker, the gentleman from Missouri [Mr. BORLAND] will readily see that if that agreement is entered into there might be 50 amendments offered to this resolution on which the yeas and nays might be demanded.

Mr. BORLAND. Is not that the right of the House, anyway?

Mr. MANN. It is the right of the House to prevent any amendment being offered under the operation of the previous question, if the House chooses to.

Mr. GARRETT. Mr. Speaker, I ask unanimous consent that general debate be concluded in four hours, one half to be controlled by the gentleman from Illinois [Mr. EVANS] and the other half to be controlled by the gentleman from Missouri [Mr. BORLAND], and——

Mr. BORLAND. Mr. Speaker, I ask unanimous consent that the general debate be concluded in four hours, one half to be controlled by the gentleman from Illinois [Mr. EVANS] and the other half by myself.

The SPEAKER. If no agreement is entered into, the gentleman from Illinois [Mr. EVANS] under the rules shall have an hour, and at any time during that hour, either in the beginning of it or at the end of it or between the beginning and end, he can move the previous question. If the previous question is voted, it shuts out everybody else from debate or amendment.

Mr. GARRETT. Mr. Speaker, I ask for the regular order.

The SPEAKER. The regular order is demanded.

Mr. BORLAND. It is not desirable to do that. I do not think the House desires to do that.

The SPEAKER. Does the gentleman from Tennessee [Mr. GARRETT] withdraw his demand for the regular order?

Mr. GARRETT. I withdraw it, Mr. Speaker, for the time being.

The SPEAKER. Is anyone preferring that request?

Mr. BORLAND. I am preferring a request, as tendered by the gentleman from Tennessee [Mr. GARRETT], that general debate be concluded in four hours, two hours to be controlled by the gentleman from Illinois [Mr. EVANS] and two hours to be controlled by myself; but I want the unanimous consent to extend no further than that.

Mr. EVANS. Mr. Speaker, I can not consent to that unless there is added to it a proposition that at the end of four hours the previous question shall be considered as ordered.

Mr. JAMES. Mr. Speaker, it might be possible that the original proposition, to which the gentleman from Missouri [Mr. BOOHER] objected, might be agreed to if it included his right to offer an amendment.

The SPEAKER. Does the gentleman ask that?

Mr. JAMES. I ask that, Mr. Speaker.

The SPEAKER. The gentleman from Kentucky [Mr. JAMES] asks unanimous consent that general debate upon this question shall run for four hours, if enough Members desire to speak to consume four hours, and that in the meantime, at any time the gentleman from Missouri [Mr. BORLAND], the gentleman from Texas [Mr. STEPHENS], the gentleman from Pennsylvania [Mr. LAFEAN], and the gentleman from Missouri [Mr. BOOHER] shall have the right to offer amendments, which shall be pending, and that at the end of four hours the previous question shall be considered as ordered. Is there objection?

Mr. EDWARDS. Mr. Speaker, reserving the right to object, I do not think it is a good precedent to set in this House, in the first place, to limit the number of amendments that may be actually offered. Again, I do not think it is a good precedent to set here to specify those who shall offer these amendments. How do the gentlemen in charge of the matter know who wishes to offer amendments until the matter is actually up? I think if we are going to specify those who are to offer amendments, the proper thing to do is for the gentleman who is in charge of the bill, Mr. EVANS, through the Speaker, to ascertain if any gentleman other than those specified wish to offer amendments, and if so, to give them an opportunity to do so.

Mr. JAMES. Mr. Speaker, does the gentleman desire to offer an amendment?

Mr. EDWARDS. I do not.

Mr. JAMES. Of course, the gentleman from Illinois [Mr. EVANS] will be too busy to go around and take a poll of the membership to find out who wants to offer an amendment.

Mr. EDWARDS. Mr. Speaker, the gentleman from Kentucky is too well versed in the affairs of this House not to know that that is not necessary. The Speaker could ascertain by asking if there are other gentlemen who wish to offer amendments.

Mr. JAMES. I am perfectly willing that the Speaker shall do that.

Mr. EDWARDS. I will be very glad to have that done.

Mr. KENDALL. Mr. Speaker, I would suggest to the gentleman from Illinois that the difficulty with that would be that the amendment may not suggest itself to the Member until debate has developed it.

Mr. EDWARDS. Mr. Speaker, I also had that in mind.

Mr. DIES. Mr. Speaker, there are some others who are not in favor of the proposition of the gentleman from Missouri [Mr. BORLAND] or of the other proposition, but who are in favor of one of these amendments. I want to know if there is any way whereby we can express an opinion in regard to the matter, not being in favor of either of the two propositions?

The SPEAKER. If this unanimous-consent agreement be made, then the only way the gentleman could express his opinion would be to get time either from the gentleman from Illinois [Mr. EVANS] or from the gentleman from Missouri [Mr. BORLAND].

Mr. STEPHENS of Texas. Mr. Speaker, I desire to ask if those gentlemen will give time to me in order that I may present the amendment that I propose to offer?

The SPEAKER. The gentleman from Texas [Mr. STEPHENS] propounds an inquiry to the gentleman from Illinois [Mr. EVANS] and the gentleman from Missouri [Mr. BORLAND], to know if either one of them, or both, will yield time to him or anybody else who desires to discuss these amendments?

Mr. EVANS. Mr. Speaker, on behalf of the Committee on the Library, I desire to say that we do not want to shut out any amendment to any proposition that is offered here in good faith, but we do not want any filibuster, and we want a vote on this proposition to-day.

The SPEAKER. That does not answer the question of the gentleman from Texas.

Mr. STEPHENS of Texas. Mr. Speaker, I have already offered a resolution.

Mr. KENDALL. Mr. Speaker, I desire to suggest to the gentleman from Texas that if this unanimous-consent agreement is entered into, the gentleman from Missouri [Mr. BORLAND] would have only two hours and the gentleman from Illinois [Mr. EVANS] would have two hours at their disposal.

Mr. STEPHENS of Texas. Then they could yield such time as they see proper to me for the purpose of explaining the proposition that I desire to offer, and also to other gentlemen to explain theirs.

Mr. KENDALL. Mr. Speaker, there are a good many gentlemen who desire to deliver speeches here to-day.

Mr. BORLAND. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BORLAND. If this unanimous-consent agreement is not adopted, I understand the procedure will be that the gentleman from Illinois, who has called up the resolution, would be entitled to one hour in his own right, during any time of which he may move the previous question. In order to secure further debate, it would be necessary to vote down that previous question, and then anybody else who arose would secure another hour.

The SPEAKER. That is correct.

Mr. BORLAND. And then if an amendment were proposed, anybody would secure an hour for or against an amendment as long as the previous question be voted down.

The SPEAKER. That is a parliamentary situation.

Mr. BORLAND. Then, Mr. Speaker, I think we can expedite this matter by the committee allowing these gentleman freedom of amendment if we limit the general debate to four hours. My purpose was that debate be limited to four hours and that amendments be offered either before or after the previous question and voted on without further debate, and I believe that the committee will see that that will be the best solution of the question.

Mr. EVANS. That is provided, however, that the previous question be considered as ordered, and then we can vote on your amendment——

Mr. BORLAND. The agreement is that the amendments be offered before or after the previous question is voted on without debate.

Mr. EVANS. Provided there is a proper limitation on the number of amendments.

Mr. BORLAND. But the gentleman will see the objection to a limitation upon the number of amendments. Some gentleman might move the previous question, or the time for the previous question might arrive before some gentleman might have had an opportunity to gain the floor to offer his amendment.

Mr. EVANS. That will be your fault.

Mr. BORLAND. No; it will not be my fault at all any more than your fault.

Mr. GRAY. Mr. Speaker, reserving the right to object, I may want to offer an amendment here, and I do not want to be barred out. I do not want to claim for others what I would not claim for myself.

The SPEAKER. Is there objection?

Mr. MANN. I wish the Chair would state again the proposition.

The SPEAKER. The proposition is that general debate on this question shall run for four hours, provided enough gentlemen want to speak to use four hours, one half to be controlled by the gentleman from Missouri [Mr. BORLAND] and the other half by the gentleman from Illinois [Mr. EVANS]; at the end of the four hours' debate the previous question shall be considered as ordered, and in the meantime the gentleman from Missouri [Mr. BORLAND] and the gentleman from Texas [Mr. STEPHENS], the gentleman from Pennsylvania [Mr. LAFEAN], and the gentleman from Missouri [Mr. BOOHER] shall have the right to offer amendments, and they shall be considered as pending.

Mr. GRAY. What about an amendment from the gentleman from Indiana? Have I the right to offer an amendment?

The SPEAKER. No; the gentleman from Indiana is not included in the pool.

Mr. GRAY. Well, I object.

Mr. STEPHENS of Texas. Then I shall be forced to object, unless I have time to present my amendment.

Mr. GRAY. I object to anything I am not in.

Mr. POU. Mr. Speaker, I ask that the gentleman from Indiana be included in the request.

The SPEAKER. The gentleman from North Carolina [Mr. POU] asks that the gentleman from Indiana [Mr. GRAY] be included in this privilege to offer an amendment.

Mr. GARRETT. Mr. Speaker, I demand the regular order.

Mr. JAMES. Mr. Speaker, I am willing to include the gentleman from Indiana in the request.

The SPEAKER. Is there objection?

Mr. STEPHENS of Texas. Mr. Speaker, I object unless I have time to present our amendment in 10 minutes.

The SPEAKER. The gentleman from Texas [Mr. STEPHENS] says he will object.

Mr. STEPHENS of Texas. I should like to have at least 10 minutes.

Mr. GARRETT. Mr. Speaker, reserving the right to object, it seems perfectly apparent the more the matter is discussed the further and further away from an agreement the House gets. There ought to be an end to it some time. I do not wish to interfere with the arrangement which the gentlemen have agreed upon, and it will be perfectly satisfactory to me if we could get it through, but it is evident we can not get it through, and therefore I demand the regular order.

Mr. JAMES. I think, Mr. Speaker, the gentleman is the only one standing between the House and an agreement.

Mr. GARRETT. Very well, Mr. Speaker, I withhold the demand until we hear what can be agreed upon.

Mr. SLAYDEN. Mr. Speaker, I think that the House generally would like to reach a final vote on this measure to-day. [Applause.] We are getting too near the end of the session. Important supply bills are pressing for attention, and I think that the proposition submitted by Mr. EVANS on one side and the gentleman from Missouri [Mr. BORLAND] on the other, of a four hours' debate, is reasonable, considering the general demand for an opportunity to say something on this measure, but I do believe that the agreement ought to carry with it the condition that there should be a final vote within a reasonable time after that on the resolution and any amendments that may be offered.

The SPEAKER. There will be a final vote immediately; a vote on these amendments, and then a vote on the main question, but in the meantime the gentleman from Texas [Mr. STEPHENS] serves notice that he will object unless Mr. EVANS and Mr. BORLAND, or either of them, yields him 10 minutes.

Mr. GARRETT. I did not hear that, Mr. Speaker.

Mr. STEPHENS of Texas. I think out of four hours we are entitled to at least 10 minutes.

Mr. EVANS. I will yield to the gentleman from Texas half of that time, Mr. Speaker, if Mr. BORLAND will yield the other half.

Mr. BORLAND. I did not understand the gentleman.

Mr. EVANS. I said I would yield the gentleman five minutes.

Mr. SPEAKER. What does the gentleman from Missouri say?

Mr. BORLAND. I yield to the gentleman from Texas five minutes under that agreement.

Mr. BOOHER. I desire to make a suggestion to the gentlemen who are managing this thing apparently, that the debate be limited to five hours; that the gentleman from Missouri [Mr. BORLAND] control two hours, the gentleman from Illinois [Mr. EVANS] control two, and the gentleman from Texas [Mr. STEPHENS] control one. That will let us take the vote at 6 o'clock. Those who are opposed to these two propositions ought to have more time than 10 minutes, and unless there is something of that kind I will object.

Mr. MANN. Mr. Speaker, I call for the regular order.

Mr. JAMES. I suggest to the gentleman from Missouri that the gentleman from Texas [Mr. STEPHENS] only wanted 10 minutes.

The SPEAKER. Is there objection?

Mr. MANN. What is the proposition?

The SPEAKER. The proposition as modified is this: That general debate shall run for four hours, two hours to be controlled by the gentleman from Missouri [Mr. BORLAND] and two hours by the gentleman from Illinois [Mr. EVANS], each one of them agreeing to yield out of that time five minutes apiece to the gentleman from Texas [Mr. STEPHENS], and that the gentleman from Missouri [Mr. BORLAND] and the gentleman from Texas [Mr. STEPHENS] and the gentleman from Pennsylvania [Mr. LAFEAN] and the gentleman from Missouri [Mr. BOOHER] and the gentleman from Indiana [Mr. GRAY] shall have the privilege of offering amendments, and that at the end of the four hours the previous question shall be considered as ordered on the bill and the amendments to final passage. Is there objection?

Mr. BOOHER. I object.

Mr. MANN. Reserving the right to object, I wish to make a parliamentary inquiry.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Senate joint resolution (S. J. Res. 158) approving the plan, design, and location for a Lincoln Memorial.

Resolved, etc., That the plan, design, and location for a Lincoln Memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, approved.

Mr. EVANS. Mr. Speaker, I yield 15 minutes of my time to the gentleman from Massachusetts [Mr. MCCALL]. [Applause.]

Mr. MCCALL. Mr. Speaker, the chief question pending before the House is whether Abraham Lincoln shall have a memorial in the city of Washington. There is no other city in the world, however large it may be, that has so many statues and monuments in its streets and public squares as has this city. There is the towering obelisk to Washington, unique in its impressiveness among all the memorials of the world. Then we have statues to generals, big and little, mounted upon horses of every breed, that give to some portions of the city the appearance of a cavalry parade. We have monuments to the foreign soldiers who aided us in establishing the independence of this country, and we have monuments and memorials to sailors of every period of our history. But the eye will search in vain for any memorial reared by the Nation in its Capital to the man who saved the Union, and in the saving of it gave up his life here, whose name was signed upon the title deed of freedom to 4,000,000 of slaves, and who reflected far greater fame upon the country by what he did in this city than any other of our statesmen. Congress has neglected its duty in this respect for a half century, and it is a reproach upon it. Lincoln does not need this monument. His place will be secure in the hearts of his countrymen for all time, and the homage of the struggling millions of mankind will go out forever to the man who illustrated the very chivalry of democracy. But the reproach will be upon us. I believe that the time has come at last when Congress can no longer fail to perform its duty to put up here in the city of Washington, the Capital of the country, a memorial to the greatest political genius our country ever produced. [Applause.]

I do not propose to be diverted into the discussion whether we should utilize the fame of Lincoln and attempt to discharge our duty to him by the construction of a national highway or by entering upon the policy of building boulevards in the different States. That is a question that should rest by itself. I think that Gettysburg was a great and dramatic battle, and that the boulevard, if one is ever to be built from here to Gettysburg, would be a very fitting thing. Before we do that we must look to the sources of our constitutional power. That question, I said, should be settled by itself. But if we are ever to have a memorial in the shape of a highway to commemorate the fame of Lincoln, then I think that highway should be built between Washington and Richmond.

Those are the two cities that but for him would have been the capitals of two independent nations. Between those cities was fought out the question whether we should have in this country one republic or two republics—whether we should have one flag or two flags. Lincoln fought for the idea of an indivisible nation, with its capital in the city of Washington. The Confederacy had its capital at Richmond. There was her president, there her cabinet, there her congress. There she kept her arms and her chariot.

That great contest was finally settled in favor of one country and one flag. If, then, we are to have a highway memorial to Abraham Lincoln, let it connect those two cities which but for him would have been the capitals of two hostile republics, and let that highway be built across the ground every inch of which was fought over by contending armies, over ground made fertile by the reddest and richest blood that was ever shed in war. [Applause.]

I take it that the House of Representatives has no disposition to-day to deny to Abraham Lincoln a memorial in the National Capital. Then the question comes, What sort of a memorial shall it be, and where shall it be placed? When I held the position now occupied by the gentleman from Texas [Mr. SLAYDEN] as chairman of the Committee on the Library, I endeavored to secure some sort of a memorial to Abraham Lincoln in the city of Washington. I endeavored to have the memorial in some way associated with the Capitol, but I found upon study that it would be so overshadowed by the Capitol that it would not be suitably placed.

The question of the site and the memorial was referred by Congress to a commission, and in the determination of the decision of that question we had the benefit of the best expert advice in the world. We had the National Commission of Fine Arts. Upon that commission was Burnham, the architect of the

World's Fair buildings at Chicago, and at the time of his death without a peer, I believe, among the architects of the world. We had that true artist, Frank Millet, whose loss perceptibly augmented even the appalling horror of the *Titanic* disaster. We had the great landscape architect, Frederick Law Olmsted, and we also had the greatest of living sculptors, Daniel French. There never was a better corps of artists, representing not one branch of art alone but representing it in its broadest aspects, than that which we had to aid us in coming to the decision that we reached.

They reported in favor of taking the site upon the banks of the Potomac, on the line of the axis running from the dome of the Capitol through the Washington Monument, and nearly a mile from the Monument. Just opposite, upon the other side, rises the home of the great Confederate chieftain, Robert E. Lee. [Applause.] Then they recommended that we adopt the plan which gentlemen—Members of the House—have seen displayed in the House lobby yonder.

Two objections have been made to that plan. The first is that it does not represent the idea of efficiency; that it is a mere waste of money to expend so much for an unproductive work. The other objection is that it is unsuitable in character to the memory of Lincoln.

I am entirely willing to rest under the scorn of gentlemen who think that we should put everything in life upon the basis of efficiency. I know there are men who would think it a mere waste of time to carve an Apollo or a Venus, when the same amount of labor might rear a hovel to shelter some human head; or who would regard the work of a painter, spending many months of his life in putting immortal tints upon canvas, as a mere waste of time, when he might devote his energies to painting many buildings and preserving them against the weather. But I have myself no sympathy with this view. I not only do not regard it as waste to encourage those pursuits which aim to cultivate and satisfy our sense of beauty, but I believe they make an appeal which makes life richer and better for all of us.

The notion of mere efficiency would cover this world of ours with concrete structures, built with the most nicely calculated strains, and would fill them up with human automatons, each devoted to his own narrow specialty, perhaps of making a boot heel, and chased by fast flying machinery all through the day. We might produce more under such system, but the individual would be shrunk, it would make of us a race of dwarfs, and our ores and coal, I believe, might better be permitted to remain in the earth's untouched bosom. I would not have our country, when the final reckoning is to be made between her and other nations, have nothing to present but an abnormally developed efficiency, and have that put beside the painting, the sculpture, the literature, the music, the architecture, and those other consummate flowers of civilization which other nations would bring. I do not underestimate a highly developed industrial system, if only there should be the more developed also those higher and more artistic expressions of the aspirations of our race, which should be the choicest possession of every one of its children.

As to the fitness of this work, it is said that you are going to erect in memory of Abraham Lincoln a Greek temple. But what would you have? Would we have an Egyptian obelisk, would we have a Turkish mosque, or a Gothic or Romanesque chapel, or would we have an American skyscraper? We must have some type, and by common consent there has been no type better fitted for this purpose than that shown in the marvelous conception of the Greek. In whatever relates to artistic expression, whether in poetry, in eloquence, in sculpture, or in architecture, who is there in the world who can surpass the Greek? What more speaking marbles were ever carved than those of Phidias? What strains of poetry have ever broken with sweeter music on the human ear than those of Homer and of Pindar? Where else has eloquence reached the chiseled beauty of Demosthenes? And although but few remnants of the architecture of the Greeks have survived the hand of the barbarian and the tooth of time, yet when we come in view of some fragments of them to-day, broken though they may be, and 20 centuries after their time, we stand before them enthralled in wonder.

There is nothing more beautiful in architecture than the column of the Greek. Would we speak scornfully of this Capitol in which we now are as a Greek temple? What building in the world is more decorated with the Greek style of architecture than this? The Greek column speaks. It illustrates dignity, beauty, simplicity, and strength. However the soul of Abraham Lincoln might have been chiseled in its shaping, as he came finally to be every one of those elements was represented in his character.

So, Mr. Speaker, I am in favor of this memorial, which has been designed by the greatest artists and architects whose advice we could procure. I am in favor of it because of its site upon the banks of the Potomac. It will be upon a spot over which the eyes of Lincoln used to look longingly and yearningly toward that part of the Union which he was trying to keep as a part of our common country. It will have across the river the home of the great Confederate chieftain, which now is the cemetery of thousands of heroes who wore both the blue and the gray. It will be a memorial in keeping with the majesty and the beauty of his character. In the fitness of its location, in the nobility of its character, and in the unique fame which it shall forever commemorate generations distant will be the day when it shall be paralleled by any other memorial reared to any one of the children of men. [Applause.]

Mr. EVANS. Mr. Speaker, I reserve the balance of my time, and ask that the gentleman from Missouri [Mr. BORLAND] now proceed.

Mr. BORLAND. The gentleman is evidently under the impression that I have some time. Mr. Speaker, if the gentleman does not want to use any more time now, I will ask for time in my own right.

The SPEAKER. The Chair will recognize any gentleman who desires to speak.

Mr. BORLAND. Mr. Speaker——

The SPEAKER. The gentleman from Missouri is recognized for one hour.

Mr. BORLAND. Perhaps the gentleman from Illinois is unaware that an agreement has not been made.

Mr. EVANS. Oh, no; I am aware that there is no agreement.

The SPEAKER. The gentleman from Illinois reserves the balance of his time, which is 45 minutes, and the gentleman from Missouri is recognized for an hour.

Mr. BORLAND. Mr. Speaker, I send to the Clerk's desk a substitute which I offer for the pending resolution, which I ask to have read at this time.

The Clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That the plan, design, and location for a Lincoln memorial determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, disapproved and the commission is hereby continued, with directions to report to Congress at the session beginning the first Monday in December, 1913, upon a memorial highway from Washington to the national battle field of Gettysburg, or any other appropriate memorial road, bridge, institution, or structure.

Mr. MANN. Is this an amendment offered by the gentleman, or a substitute?

Mr. BORLAND. A substitute.

The SPEAKER. It seems to be an amendment in the nature of a substitute. The Clerk will report the amendment.

The Clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That the plan, design, and location for a Lincoln memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, disapproved, and the commission is hereby continued, with directions to report to Congress at the session begining the first Monday in December, 1913, upon a memorial highway from Washington to the national battle field of Gettysburg, or any other appropriate memorial road, bridge, institution, or structure.

Mr. MANN. Mr. Speaker, I make the point of order that the amendment is not in order; or, I am perfectly willing to reserve it for a time, if the gentleman desires to address the House.

The SPEAKER. What is the point of order made by the gentleman from Illinois?

Mr. MANN. The point of order is, first, that this is a joint resolution which the gentleman proposes to change to a concurrent resolution; second, that the amendment is not germane to the resolution pending before the House.

Mr. BORLAND. Mr. Speaker, the substitute was drawn at the time that the concurrent resolution was on the calendar. Then they discovered their blunder and changed it to a joint resolution, and the joint resolution has been called up. I ask that this be changed to the proper form of a joint resolution.

The SPEAKER. The gentleman has the right to withdraw it, remodel it, and offer it again.

Mr. BORLAND. I ask that it be changed by substituting the words "Resolved by the Senate and House of Representatives in Congress assembled," and that it be entitled a joint resolution.

Mr. MANN. If the gentleman will move to strike out all after the resolving clause, he will have no difficulty about that proposition.

Mr. BORLAND. I offer it as a substitute for all after the resolving clause.

The SPEAKER. The Clerk will report the modification.

The Clerk read as follows:

Strike out all after the resolving clause and insert the following.

The SPEAKER. It is not necessary to read the body of the substitute again.

Mr. MANN. Now, Mr. Speaker, I make the point of order that the amendment is not germane to the resolution pending before the House; or I will reserve the point of order if the gentleman does not desire it disposed of at this time.

The SPEAKER. Which of the alternatives does the gentleman from Missouri prefer?

Mr. BORLAND. I will ask the gentleman to reserve his point of order. I do not think there is anything in it, but let it be reserved.

Mr. MANN. I think the point of order is perfectly good, but I am willing to reserve it and let the gentleman discuss his proposition.

The SPEAKER. The gentleman from Missouri [Mr. BORLAND] is recognized for an hour.

Mr. BORLAND. Mr. Speaker, I yield 20 minutes to the gentleman from Ohio [Mr. SHERWOOD]. [Applause.]

The SPEAKER. The gentleman from Ohio [Mr. SHERWOOD] is recognized for 20 minutes.

Mr. SHERWOOD. Mr. Speaker, I have here another Lincoln memorial project, handed me this morning by Col. McElroy, editor of the National Tribune, which has been approved by many citizens and citizen soldiers of Washington. This scheme has a utility feature. It provides for a Lincoln temple at the corner of Seventh Street and Pennsylvania Avenue, where the Government owns the ground, and for a great convention hall, where the people from the whole country coming here in religious, commercial, and other conventions, can have a free and convenient meeting place. As stated by Col. McElroy, it would be to Washington what the Forum was to Rome and the Acropolis to Athens. It would be a Greek temple with a meaning—a temple of patriotism. But in my limited time I can not discuss this project. I am for the Lincoln highway—72 miles—from Washington to Gettysburg.

Only once did I ever meet Abraham Lincoln. That was on the 4th of March, 1865, when I was clothed in the grim harness of war, with my once blue uniform tarnished with grime from the red-clay roads of northern Georgia. In November, 1864, I voted as an Ohio soldier for Abraham Lincoln for President while on the march in western Tennessee—voted in an old camp kettle, and we counted the votes at night by the light of the bivouac fires. I want to vote for a permanent and fitting and generous testimonial to Abraham Lincoln now, but not for a $2,000,000 Greek temple, to commemorate the greatest American of his epoch, who never even learned the Greek alphabet. [Applause.]

We have hundreds of monuments dedicated to Abraham Lincoln now. We have four in this National Capital. Under the great central dome stands, in white marble, Vinnie Ream's famous statue of Abraham Lincoln in the plain clothes of an American citizen. Only a few feet to the left is another statue—head and bust—also in marble, double heroic size. In Judiciary Square, on a raised pedestal, is a full-length statue of Lincoln, also in marble. In Lincoln Park stands the historic bronze statue of Lincoln unshackling the slave. So far as I know, none of the patriotic people of the United States are demanding more multiplication of Lincoln statues in this city. The city is now full of statues and monuments that are silent and cold and stand for nothing but Grecian art and sculpture and remind us only of nations and civilizations that are dead.

I will vote for a monument or statue, with ideas in it—a statue to fittingly typify Abraham Lincoln's mission and career. But there is nothing in this Greek temple, however artistic, however ornate, however impressive, that even suggests to the critical observer either the character, or career, or mission of Abraham Lincoln. Lincoln was never a student of Greek art or Greek sculpture. A Greek temple would be an appropriate testimonial to a learned linguist of a national university who had worn out his life in teaching the literature of a dead language, or of a Pagan civilization long since dead, but never for a great citizen of this Republic, who never saw the inside of a university in his school days and who learned to read books at night by the light of a pine-knot fire. Born in a cabin, he breathed the untainted air of the woods and fields. Born poor, but rich in soul and brain and hope and courage. Can we satisfy the patriotic longings of the American people to fittingly commemorate the memory of Lincoln by erecting a $2,000,000 Grecian temple in the National Capital? I do not believe it. We concede that no more is to be said of Abraham Lincoln than has already been written. History has said its last word. We all know that he was, of all public men of his time, the simplest in manners, the most all-pervading in human sympathy, the most constant in his devotion to his ideals. North or South, he has no critics to-day. I met him only once. But I stood within 10 feet of Abraham Lincoln on the 4th of March, 1865, and heard him deliver his last inaugural—his last oration on earth. I heard him say:

Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away. With malice toward none, with charity for all, with firmness in the right, as God gives us to see the right, let us strive to finish the work we are in, to bind up the Nation's wounds, to care for him who shall have bourne the battle, and for his widow and his orphan.

[Applause.]

We have made 48 years of history since that eventful day, but I can see Lincoln now as I saw him then, a tall, gaunt, stalwart man, with deep lines of care furrowing his cheeks, with inexpressible sadness in his face, a face that told the story of a man of many sorrows. A sad face, a strong face, a face radiant with the inspiration of a great soul, as he voiced in prophecy the ultimate destiny of this Nation. As a soldier of the Republic I heard Abraham Lincoln voice his national ideals in his last oration to the American people, and to-day as a citizen of a restored Republic I intend to vote for my conscientious conception of those ideals. It is time we had some American art and American sculpture and American ideas in this National Capital. The brave and prescient patriots of the Revolutionary epoch who founded this Capital and started the young Republic on its career never intended to make this city the home of wealth and monumental splendor, like Athens or Rome. It was intentionally located in the wilderness, that the representatives of the people should be free from the venal influences, the demoralizing environment of a dominating social set of money-fat idlers. [Applause.] This is the only great Capital around the world originally planned in native forest. All the great capitals of the Old World had long commercial lives before being crowned as capitals. It was only 48 days after the last act of ratification of the Federal Constitution that the first-born Congress of the original thirteen States decreed the wilderness on the eastern shore of the Potomac as the future Capital of the Republic.

Only a short time ago I was much amused over the observations of a newly married pair from Fort Wayne, Ind., who came here to shed their honeymoon. They were gazing in awe and admiration at the semicolossal group of statuary on the east front of the Capitol by Persico, erected in 1846, representing the discovery of America. Columbus is personated holding at arm's length a small globe on the top of which is cut "America." Beneath his ponderous legs crouches an awe-stricken Indian girl without a particle of drapery to shield her shapeliness from the gaze of mankind. It took five years to make the group and cost us $24,000. The ridiculous phase of this historic group was very pertinently illustrated by the observations of our young couple from Fort Wayne. I was not surprised when the young lady remarked, "I reckon that is Pocahontas and Capt. John Smith." "No; Flo," remarked the young man, "that is not a captain's uniform and Pocahontas never appeared in that shape without something on. This chap has on tight pants you see and baseball sandals, and what's that he's got in his hands? That is probably a baseball. I tell you what I think this is, Flo, you know Washington has got a baseball team called the Senators, and I'll bet yer this represents the pitcher, as the champion of America, bossing the Goddess of Liberty, and that stone woman on the Dome is the Goddess." [Laughter.]

The young lady smiled sweetly on the young man, in evident pride that he was so well up in the classics, and they walked over to view the other group just opposite. This group is intended to represent the sentiment of America. It is by Greenough and was executed in 1842 and cost $24,000. There are five figures—a hunter rescuing a naked white woman, with a naked baby, from a naked savage, while by the side of the woman is the faithful dog, appearing as if he did not know what all the racket is about. "What do you say that is, Charlie?" said our sweet nineteen. Charlie gazed intently at the naked Indian, the nude woman, the undraped baby, and the indifferent dog, and then slowly said, "Flo, I just give that up." Flo and Charlie are no exceptions to the great run of tourists. Thousands of visitors and curiosity hunters gaze daily upon these ridiculous groups of allegorical statuary, and no one appears to comprehend their significance.

A NAKED GEORGE WASHINGTON.

One of the most hideous pieces of art that mortal man ever beheld is the colossal statue of George Washington, by Greenough, ordered by Congress in 1832 for the Rotunda of the Capitol. It was made in Florence, Italy; was eight years in construction; is 12 feet high; weighs 12 tons; and cost $44,000. In 1840 the U. S. frigate *Constitution* was dispatched to Florence, Italy, to bring this monstrous monstrosity to the United States.

it was landed here in 1841, found to be too large for the Rotunda, and it stood in front of the Capitol for over half a century. It is now hidden from all human eyes, and I trust forever.

This immense figure represents George Washington naked to the waist, sitting in a chair. The right hand is raised high above the head and points to heaven; the left hand holds a Roman short sword, with the handle presented. A mantle falls over the legs. There is a small figure of Columbus on the left side and of an Indian on the other. There is a Latin motto carved on the back of the chair and on the front of the pedestal in raised letters. We might excuse a sculptor who would set up for public admiration the nude figure of a gladiator or a prize fighter, but was it not a hideous thing to put up a naked George Washington in front of our National Capitol? Without going further into the observations of rural tourists, is it not an outrage on American art to have a statue of George Washington naked, sitting in the chair of a Roman emperor, holding the sword of a Roman soldier, encompassed about with Roman symbols, and disfigured with a Latin motto? And yet this statue is a classic, patterned to commemorate Pagan art and sculpture, the same as the proposed Greek temple.

Go down Capitol Hill and look at the unsightly monstrosity—that marble memorial to Gen. Grant. We have just wasted a quarter of a million on that statue. Take a view of the pedestal in the center, surrounded by four African lions, crouchant with deperate claws. At one end of this misfit in marble is a group in bronze, intended to represent four plunging, crouching, rearing artillery horses, pulling a 6-pounder cannon over an impossible road of stumps and mud, with the two leading horses, with forelegs high in air, over a precipice. A cruel, painful conception, and entirely inappropriate, as Gen. Grant never commanded a battery in war and never shotted a cannon. And the African lions—not even a product of America. Not an idea in it to remind us of Gen. Grant; not a suggestion of the remarkable career, both in war and peace, of the foremost man of all the world.

Look at the equestrial statue of Gen. Jackson in front of the White House. See the hero of New Orleans on an impossible war horse, a classic from Rome, if you please, patterned after the show riders of the Roman amphitheater, with their horses on their hind legs in the sawdust. Not thus sat Gen. Jackson in war's reeling fray, when the foam hung from the lips of his tired horse and his wet limbs were slashed with the bloody slime of the battle field.

Look at the great figure above the central dome of this Capitol, that probably 90,000,000 of people think is the Goddess of Liberty. This is also an Italian product—a Roman classic, if you please. It was designed by Crawford in Rome in 1858. It is the figure of a woman, the sword and shield of a soldier, and the Phrygian helmet of a Pagan. This helmet is pierced by a crest of eagle quills. The only thing American about this statue is the eagle quills. Hence we have no Goddess of Liberty on the dome to personate a country all free and forever to be free. Let us chisel off the barbarous Pagan helmet and place a liberty cap instead, with a tiara of 48 stars, and bespangle it with jeweled gems from our mountains and mines—something American, something to symbolize a great Republic. [Applause.]

Take the Washington Monument, conceived and planned and originally built to the height of 152 feet by the contributions of patriotic citizens and societies. And how does that immense pile of white marble compare with Mount Vernon as a national shrine. Not at all. There is no sentiment, no patriotic inspiration in the cold conceits of sculptured marble. The hundreds of thousands of visitors and excursionists to this National Capitol take a far-away look at this cold marble pile and then go to Mount Vernon. And in the environment of the home of George Washington, in the association of George Washington with his historic mansion, and in the presence of his tomb Mount Vernon and not the Washington Monument has become our national shrine. And it will so remain long after the Washington Monument has crumbled into dust.

The most heroic incident in the life of Abraham Lincoln was his oration on the battle field of Gettysburg. It is conceded to be the leading classic in the heroic literature of the war period. The most valued and heroic incident in the life of Abraham Lincoln was his oration on this great battle field. Here was fought the most desperate, the most signal, and the most decisive battle of the entire four years' war. Next July the last sad remnants of two great armies—the blue and the gray—will meet in reunion on the battle field of Gettysburg—a continent-wide patriotic reunion to proclaim to all the world that this Nation is now one and inseparable. Let the Congress of the United States embrace this occasion to make that battle field a sacred national shrine. Let us build from this now overly ornated Capitol a national highway, to be known for all time as the Lincoln Highway to Gettysburg. And on the spot where Lincoln stood when he delivered his memorial oration on that ever memorable November day let us erect a marble tablet, with every shining sentence of that immortal classic cut into the solid marble. [Applause.] Let us have a memorial to Abraham Lincoln with ideas in it—ideas of patriotic inspiration. Monuments have no sympathy, no emotion, no voice. Let us have tokens and symbols that are prescient with inspiration for the future of our country. The great present, with its growing zeal for humanity, with a culture deepened and broadened by science and enriched by all history, with its strong winged soul of prophecy, hot with the blood beats of a realized brotherhood claims us, calls us, and holds us. Let us not stagger back into pagan darkness to study art and sculpture from nations and civilizations long since dead that knew neither chastity nor charity nor Christ. Give us something with life in it—American ideas vibrant with the full-throated voice of patriotic inspiration. Let us make a national shrine of Gettysburg and build a broad highway to this Capitol and hallow it for all time with the revered name of Lincoln. [Continued applause.]

Mr. BORLAND. Mr. Speaker, the fame of Abraham Lincoln is a growing one. Forty-seven years after his death his fame is greater to-day among his compatriots than ever before. Monuments have been built to Abraham Lincoln beginning almost with the time of his unhappy decease, and as years go by these monuments have been discarded by the American people as utterly inappropriate and insufficient to express the profound national appreciation of the wondrous character of Abraham Lincoln.

It was not that he was a ruthless conqueror, it was not that he was a pagan philosopher. It was not that he was a Lorenzo di Medici, patron of the fine arts, but that he was a great, profound student of human nature, with a sympathetic heart that beat in unison with the humblest citizen of his native land.

And as that impression has gone forth throughout all the rank and file of American citizenship, the monument to Lincoln's fame has gained an enduring foundation which will raise it to the eternal skies.

With all due respect to this Lincoln Commission, no one is prepared to admit that they have spoken the final word for the preservation of Lincoln's fame. It would not have been possible before the present time to secure an appropriation of $2,000,000 to commemorate any American except Washington. These other monuments have cost trifling sums in comparison, but they are discarded as utterly inadequate for the purpose. Washington contains Lincoln monuments, one at the courthouse and one on Lincoln Square. There is no dearth of Lincoln monuments, big and little, but they have not commanded the love and veneration of the American people as being expressive of the American ideal of Lincoln.

I am opposed to this Greek temple on one hand and I am in favor of the highway on the other. My views are simply stated: First, I believe the Greek temple is wholly inappropriate and will be so deemed by the American people. Second, I believe that the highway is nearer to a perpetual monument of Lincoln, nearer to expressing the epoch of American history, than any other form of memorial capable in or about the National Capital.

When this committee was chosen for the task of spending $2,000,000 of the people's money for a memorial in the city of Washington, they were confronted at once with the difficulty of spending that large sum without producing something that would detract from the National Capitol and the Washington Monument. It was a matter of some difficulty to spend such a sum and get any adequate return upon the money without erecting something that would produce an unfavorable comparison with the Washington Monument. Finally the committee hit on the Greek temple plan, or the Greek temple plan was conceived in the minds of the Fine Arts Commission, and the committee were induced to sanction it.

Mr. Speaker, the Greek temple form of construction is a very familiar one to architects, as I understand. It has been adapted to all kinds of public buildings, treasuries, churches, libraries, and art galleries. It has been duplicated countless times in the city of Washington and in every other great capital in the world. It will be duplicated countless times. It is the most hackneyed form of architectural art known now to architects. Architecture or art is, or should be, some expression of the age and clime which gives it birth. The Greek temple consists of a large rectangular building with a heavy, flat roof supported by columns. It is the product of a land of perpetual sunshine, where light and air are free and where the only desirable quality of the building is shade. We have transplanted that

form to our land of gray skies, to a land of wintry storms, to a land of artificial light and artificial heat, and we have adapted it successfully to many public buildings.

If the designs of this art commission are carried out, we shall have a great mall reaching from here to the Washington Monument, lined on both sides with buildings of Greek temple construction—one for the Department of Commerce and Labor, one for the Department of Justice, one for the Department of the Interior, one for the Department of Agriculture. There will be perhaps six or eight great white marble Greek temples stretching down from here to the Washington Monument. Then on the other side of the Monument will be another Greek temple if this resolution be adopted, only that Greek temple will be empty. It will contain only a heroic statue of Lincoln clad in American clothes, and it will be called a memorial to Abraham Lincoln. The Fine Arts Commission have so committed themselves to the Greek temple form of construction for Washington that they will turn every building in the Capital into a Greek temple in the course of time if their plans are carried out. Nobody would be able to tell whether that Lincoln memorial was an addition to the Bureau of Engraving and Printing or whether it was a storage place for congressional seeds until he got inside of it. The Bureau of Engraving and Printing, just now approaching completion, is a modification of the Greek temple with its heavy columns. The architectural absurdity of trying to adapt that plan to every conceivable building could not be better illustrated than in what happened at the Bureau of Engraving and Printing, for in a building of that kind the most desirable thing is light, and the thing that the Greek temple excludes is light. They have actually gone to the length of moving the glass windows out to fill up the intervening spaces between the columns in order to secure the necessary light for the Bureau of Engraving and Printing. I am informed, my colleagues, that your Fine Arts Commission actually drew plans for a school building in the District of Columbia in the form of the Greek temple, and when it was found it would require artificial light in the daytime for the children to study they discarded the scheme and burned up the plans. So the Greek temple, beautiful as it may be, is not adapted to every possible purpose, and certainly it is not adapted to a commemoration of a great American commoner. A week ago this day, when this matter was supposed to come up, one of the greatest artists in the country, Guston Borglum, was in the city of Washington. He is the man who molded that wonderful rugged head of Lincoln that stands in the rotunda of this Capitol, the most remarkable head of Lincoln that has ever been produced. I take it he is an artist whose artistic criticism is of some value. Borglum said that the Greek temple project does not contain $10,000 worth of art in the whole $2,000,000 worth of appropriation. He says that is a stonemason's job. The hackneyed temple design is simply enlarged to use up the requisite amount appropriated. If Congress had appropriated $4,000,000, it could have made it twice as big. Yet that interview was taken by every reporter to the papers in Washington and went into the waste-paper basket. Borglum says the epoch of Lincoln is filled with all the marvelous tragedies of the human heart.

It shows a great people emerging from the most tremendous struggle in history to solve the great problem of self-government, and the great problem of justice and equality to the weak, and that, being vital with everything that speaks of American life and American history, has been embalmed and ossified into a Greek temple borrowed from a distant age, and a pagan age at that.

I am opposed to the Greek temple as wholly inappropriate under any aspect to express the American sentiment for Lincoln. My colleagues, this Greek temple proposition is not primarily a memorial to Lincoln at all. It is a part of a much larger scheme, called, I believe, the "McMillan plan" for the beautification, as they call it, of Washington by turning it into a vast mausoleum. If Congress had appropriated $2,000,000 for a memorial to Alexander Hamilton or Thomas Jefferson, or, perhaps, as the gentleman from Illinois suggested, Jefferson Davis, the Fine Arts Commission would have dished up the same identical Greek temple. It is not any more appropriate for Lincoln, in fact less appropriate for Lincoln, than any American that could possibly be named. It need not be assumed that these $2,000,000 of the people's money which would be expended for this useless purpose will be the end of the matter. That building will have to be heated, lighted, plumbed, furnished with caretakers, attendants, guards, watchmen, and fuel; $18,000 or $20,000 a year in the sundry civil bill will not take care of that building. It is not to be assumed that this is the end of the expense of a useless building. It is designed to commit Congress to a scheme for the purchase of property in the District and for the enlargement of the park area of the District, and for the acquisition of more or less unsalable property in the District, of which the end can not be foreseen.

Why, there is a companion bill to this, that I mentioned yesterday, which has come over from the Senate, to appropriate $2,300,000 to move the Botanical Gardens into Rock Creek Park. That is one step contemplated under the present arrangement. How much more we have no way of telling.

On the other hand, I am in favor of the roadway, not simply because it has been indorsed by the Grand Army and by organized labor, and by other American bodies, but because I believe that there is no point within reach of the National Capital which is so identified with the epoch of Lincoln and with his character and career as the great battle field of Gettysburg. When foreigners come to our shores they do not come to see how well we can imitate the temples of ancient Greece; they do not come to see how well we can copy the Sistine Madonna or the Last Supper. They come to see something vital of American life, American ideals, and American history. When Americans travel about their own country they are not to be shown copies of the art of some distant age and clime, but something that will remind them of the struggle and career and triumph of Americans, and American history and American ideals.

The most extraordinary figures have been given out in the report of the Library Committee. I can not now stop to analyze them. It is said that this road would cost $35,000,000. That is the mildest statement in this report. In my State, where we have good roads, we build them for $4,500 a mile—that is, with a 12-foot surface, with an oil binder.

If you would make this road cost $20,000 a mile, the entire cost would be less than $1,500,000. There would be given unlimited contributions by States, by regiments, by patriotic societies, that would make this memorial to Lincoln not only a memorial to eternity but a memorial which would constantly be more and more of a memorial, and not be discarded at some future date as utterly inadequate to express the national sentiment toward Lincoln. It could be made one of the show places of America, if not of the entire world.

This memorial, this beautiful boulevard, would reach from the Nation's Capital to the Nation's greatest battlefield, to the culmination of that mighty struggle which solved for all time the question of the unity of the American Nation. Not a foreigner who came to our shores but would make a pilgrimage over that mighty boulevard from the Capital to the battle field or from the battle field to the Capital. Not an American citizen, not even an American schoolboy, but would feel that the longing wish of his heart was to see the great battle field of Gettysburg and then the great Capital of the Nation under whose flag he lives.

That great battle field would be an object of pleasure and interest besides being an opening of America to Americans. We send every year thousands of Americans and millions of American dollars to Europe, and yet we have more in this country to show them of natural beauty and heroic and historic triumph than they have in any country elsewhere on the civilized globe.

That boulevard would reach from the Capital to that great battle field which was immortalized not only by the burning words of Lincoln but by the dauntless heroism of the citizen soldiers of America, who on that great field for three long days, under a burning July sun, hurled themselves against each other in the greatest war of modern times, and proved to themselves and to all the world that they were one in race, one in courage, and one in destiny. [Applause.] Upon that great historic field during this current year will meet the veterans of the North and the veterans of the South, to clasp hands forever across the bloody chasm and to mark the realization and the fulfillment of the dearest wish of Abraham Lincoln—a peaceful, prosperous, reunited American Nation. [Applause.]

Mr. Speaker and gentlemen, I thank you. I reserve the balance of my time, Mr. Speaker.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to be recognized for the purpose of offering an amendment, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Texas [Mr. STEPHENS] offers his amendment, which the Clerk will report.

The Clerk read as follows:

Strike out all after the resolving clause and insert the following:

"That the plan, design, and location for a Lincoln Memorial determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled 'An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln,' approved February 9, 1911, be, and the same are hereby, disapproved, and the said commission is hereby continued, with directions to select a location in the city of Washington, D. C., and to secure plans and designs for the erection of a Lincoln national

memorial hall and to make recommendation and report thereon to Congress at the session beginning the first Monday in December, 1913; said hall to be erected and dedicated to the memory of Abraham Lincoln, and to be suitable for use as an auditorium for all such national and international public assemblies and uses as Congress may hereafter designate."

Mr. MANN. Mr. Speaker, I reserve a point of order upon the amendment.

The SPEAKER. The gentleman from Illinois [Mr. MANN] reserves a point of order upon the amendment.

Mr. STEPHENS of Texas. Mr. Speaker, I shall address myself to the necessity for the amendment that I have offered to the pending resolution. The commission alluded to in the amendment was created by act of Congress approved February 9, 1911. The members of that commission are WILLIAM H. TAFT, SHELBY M. CULLOM, JOSEPH G. CANNON, GEORGE P. WETMORE, SAMUEL W. MCCALL, Hernando De Soto Money, who has since died, and I do not remember at the present time the name of the gentleman who has taken his place, and CHAMP CLARK.

Under the terms of the act they were created a commission to be known as the Lincoln Memorial Commission. Their duties were to prescribe and determine upon the location, plan, and design of the memorial in the city of Washington, D. C., to the memory of Abraham Lincoln, subject to the approval of Congress; and if my amendment is adopted by this House it will continue this body in office for the purpose of determining where and how this Lincoln memorial building should be erected.

This commission, under the act creating it approved February 9, 1911, has the further authority to employ the services of such architects, sculptors, and others as it shall determine to be necessary, and to avail itself of the advice and services of the Commission on Fine Arts created by the act of March 3, 1910. And the act further provides that the construction of the monument or memorial shall be upon such site as shall be determined by the commission and approved by Congress, and its construction shall be entered upon as speedily as practicable after the plan and design therefor is determined upon and approved by Congress.

This amendment provides that the site shall be selected by this commission, that they shall secure plans and designs for the erection of a Lincoln national memorial hall, and make recommendations and report thereon at the session beginning the first Monday in December, 1913, said hall to be erected and dedicated to the memory of Abraham Lincoln, and to be suitable for use as an auditorium for all such national and international public assemblies and uses as Congress may hereafter designate.

Under my amendment, if adopted, this commission will be fully authorized and continued in power for the purpose of locating a Lincoln national memorial hall in this city for such public uses as Congress may hereafter designate.

I believe that if this amendment is adopted and this commission is given the authority provided in the amendment and the act creating it that they can and will report back to Congress the first Monday in December of this year, a plan for a hall to be erected and used for public purposes in this city that will be an honor to Abraham Lincoln, and also that will be of vast benefit to the people of this city as well as to the people of the whole United States. In my judgment enough has been said—and I will not reiterate any of the arguments—against the plan that has been adopted by this commission for a Grecian temple. Suffice it to say that it is in a location in Washington that I dare say but very few persons have visited or will ever visit. It is, I think, at least 2,000 feet from the Washington Monument and something like a mile from this place, and located on very low ground on the banks of the Potomac River, where only a great driveway is now located. It could not be used for any useful purpose. It is not in a position where it would be ornamental, because it is too far away from the Capitol. As between the two, I would vastly prefer to see the public-memorial road built from here to the battle field of Gettysburg. But that opens up a very dangerous proposition in my judgment.

Mr. RODENBERG. Could this hall that the gentleman has in mind be utilized for the purpose of an inaugural ball?

Mr. STEPHENS of Texas. This Grecian temple can not be used for the purpose of any assemblage whatever. It would only be a thing of beauty and of no practical utility, while the hall I propose would and could be used for inauguration or any other public purpose authorized by Congress.

Mr. RODENBERG. I mean the hall that the gentleman has in mind. Could that be used for inaugural balls?

Mr. STEPHENS of Texas. It could be used for all public purposes that Congress might be asked to designate. It could be used in the same way that the English people are using the Albert Memorial Hall in London.

But with reference to the public-road proposition, it is evident to my mind, from a document that I hold in my hand, published recently by Congress—Report No. 1294, Sixty-second Congress, third session—that there is more behind this memorial-road proposition than appears on the surface. In this report it is stated that—

> Two general plans for this memorial will be presented for the consideration of Congress. One plan restricts the memorial to a purely ornamental structure in Washington.

I have said enough on that proposition, because I do not believe this House will adopt any plan providing for a building of no practical utility. The report says, further, that—

> The other plan contemplates the construction of a great highway or boulevard, leading from a superb memorial structure in Washington to the spot at Gettysburg where Lincoln delivered his immortal address, which "crystallized the spirit of the Republic into a paragraph." Through its extensions by the various States this will rapidly develop into a transcontinental highway—

Here the object of this resolution is fully exposed, because it points out that—

> This will rapidly develop into a transcontinental highway and become the nucleus of a great national system of public roads which will bind together all sections of the Nation. Every city, town, and hamlet in the country will build a highway to connect with some extension of the Lincoln Road.

Now, let us inquire who is behind this great national highway proposition, to extend to every hamlet, town, and city in this country public roads built from money voted from the United States Treasury.

This document, gotten up and backed by the automobile manufacturers of the United States, further says that—

> We are therefore conducting a national campaign of publicity and organization to get the wishes of the people before Congress. As a part of this campaign it is very desirable to send a personal letter with a leaflet and form like the inclosed to 1,000 leading citizens in each of 275 congressional districts, asking those addressed to take this matter up with their Congressmen and Senators. To put these letters with inclosures in the mail costs about $45 per 1,000, or a total of $12,375.

This literature comes from the Lincoln Memorial Road Association, and it is the source of the sentiment that is backing this great Lincoln memorial road from Washington to Gettysburg. The secretary of this Lincoln Memorial Road Association is Lester T. McCleary, and he is taking advantage of this bill in order to advocate and push forward the great automobile proposition they are trying to advance in this country. Here is what the document further says:

> Having in mind the far-reaching importance of this matter, one of the good-roads committee connected with the automobile industry has subscribed $2,500 to aid our publicity campaign. Many of the leading automobile clubs and individual manufacturers have subscribed varying amounts. You may have subscribed directly or indirectly, but even if that is the case it is vital to the success of this movement that you subscribe a substantial amount in addition, as more money is urgently needed, and a popular subscription could not be raised in time to be available.
>
> Over 100 Members of the National House of Representatives, including the Speaker of the House, and many of the leading Senators of both parties have already expressed themselves in favor of the memorial road. We would like to make it as nearly unanimous as possible.
>
> I hope you will give this movement your strong moral and financial support and that you will act at once.
>
> In addition to making a substantial subscription now, I hope that each of your executive officers will write a personal letter to his Congressman and his two United States Senators urging them to favor the plan for the Lincoln memorial which includes the road to Gettysburg, and that you will arrange to have each of your representatives and agents throughout the country do the same.

Now, it is clear that the Automobile Good Roads Association is behind this memorial road for the purpose here fully disclosed, of extending the great national highway to every hamlet and village in this country. I do not believe there has ever been a more dangerous set of bills introduced in Congress than the bills providing for spending untold millions of dollars for building public roads in the States out of the Public Treasury.

If we should adopt the amendment offered by the gentleman from Missouri [Mr. BORLAND] it would be an entering wedge for the appropriation of hundreds of millions for public roads, and I hope that it will not be agreed to.

The advisability and practicability of building a great national memorial hall in this city is not doubted, and no one can truthfully say that it is not needed. A Greek temple is not needed. A great automobile road is not needed. It would not be built for the use of the common people of this country but for the use of automobile owners. Abraham Lincoln was an extremely practical man, and prided himself on being one of the great mass of the common people of this Nation, and we do him no honor by erecting the Grecian memorial structure proposed by this resolution.

It is necessary for us to adopt something that the whole people of the United States will be benefited by. But a few

days ago we had the question before us as to where we would have the inaugural ceremonies. If this hall had been erected it could be used for that purpose. We have river and harbor congresses and other like great public assemblies that are called to meet in this city. All of these organizations and meetings are semipublic, and if this Lincoln national memorial hall is erected it would be an easy matter for Congress to direct that all such assemblies could use it for their meetings.

Mr. SHARP. Will the gentleman yield?

Mr. STEPHENS of Texas. I will.

Mr. SHARP. Is the gentleman aware of the measure introduced by Senator ROOT, providing for a memorial to George Washington, which contemplates the erection of a building substantially like the one now advocated by the gentleman from Texas?

Mr. STEPHENS of Texas. I was not aware of that; but I think the Washington Monument standing in this city could not be improved upon. I have heard from no quarter any demand for the erection of another monument to Washington.

Mr. SHARP. It has already passed the Senate.

Mr. STEPHENS of Texas. So has this Lincoln memorial resolution passed the Senate. I think there is a public sentiment behind the Lincoln memorial resolution, but I know of none for the erection of another monument to Washington. I know of no better or any more lasting memorial which could be erected to the memory of Lincoln—or any more beneficial one—than to have a great hall, such as the Albert Memorial Hall in London, dedicated to his memory. Mr. Thornbury, a writer on old and new London, describes in his book the Prince Albert Memorial Hall.

Mr. CANTRILL. Will the gentleman yield?

Mr. STEPHENS of Texas. Yes.

Mr. CANTRILL. I would like to ask the gentleman if, in his judgment, it would not be a better public policy to appropriate money for the construction of buildings in Washington to alleviate the suffering of thousands of Government employees who are now employed under certain conditions that are absolutely inhuman? Would it not be better to do that than to expend this vast sum of money simply to beautify the city?

Mr. STEPHENS of Texas. The gentleman is correct, and he takes the same position that I have always taken.

Mr. CANTRILL. Mr. Speaker, if the gentleman will permit me, I would like to make one further remark. This is the only time that I will have to call attention to certain facts. I will state that there are hundreds of employees—and I can name the places—housed in this city to-day, who are working under conditions that are absolutely inhuman. I can point the gentleman to a department where Government employees have been working at a temperature of 112 degrees and where they are selected for that employment on account of the stature of the men, because no man of moderate height can go in there and work under the roof under which they have to work.

Mr. STEPHENS of Texas. Mr. Speaker, I presume the gentleman is referring to the Bureau of Engraving and Printing?

Mr. CANTRILL. No. There are other places also. There was another department where, on the sixth floor, there were 165 men and women employed. The fifth floor, directly underneath them, was covered with inflammable material—oil, blankets, and other things. The fire escapes to the sixth floor were locked, and at the drop of a match those people would have been cremated in an instant. There are dozens of cases of that kind here in Washington, and I want to ask the gentleman if it would not be better public policy, if it would not be better for the American Congress, to give its time to the alleviation of human suffering on the part of hundreds of Government employees and remedy these inhuman conditions rather than to squander millions of the people's money in the erection of a memorial to anybody at this time?

Mr. STEPHENS of Texas. Mr. Chairman, I desire to state that bills are now pending for the erection of buildings to take the place of those to which the gentleman refers, and I hope that in a very short time those buildings will be erected and that the conditions of the people who work in those buildings will be improved and that the clerks will have comfortable rooms in which to perform their duties.

Mr. CANTRILL. The point I wanted to bring out is whether we would not better take care of them now, remedy those conditions first, and then, if the Government finances permit, later on take up and consider these matters that are in the nature of a luxury, so to speak.

Mr. STEPHENS of Texas. Mr. Speaker, as I understand, the Committee on Public Buildings has now under consideration plans to erect buildings as fast as it can be done to take care of every Government employee in the city. I will state, further, to the gentleman that several years ago, when we authorized the building of the House Office Building, that I tried to defeat the measure, but we did not have enough Members on the floor opposed to the building to call the roll upon the question and force a record vote. I took the position then, and I take it now, that every public building where clerks are employed in this city should be erected before we erect a public building for ourselves, and I believed then and I believe now—although the office buildings were needed—that we commenced at the wrong end of these building enterprises, and that we should first have housed comfortably every clerk in the employ of this Government before constructing a marble palace for ourselves.

Mr. CANTRILL. I agree with the gentleman.

Mr. FOCHT. Mr. Speaker, I would ask the gentleman from Texas whether he does not know it to be a fact that there are now working in the Bureau of Printing and Engraving, in one large room, from 400 to 500 men and women under conditions which are worse than those that prevail in any sweat shop in the country—absolutely barbarous, a disgrace and a shame to the Federal Government? Is not that the fact?

Mr. STEPHENS of Texas. Mr. Speaker, I understand that the conditions are bad, and the gentleman must understand that we are now constructing one of the largest and best buildings in the city for the purpose of taking care of those people in the Bureau of Printing and Engraving.

Mr. Speaker, referring again briefly to the Albert Memorial Hall, I desire to state that after the Prince Consort died the question was raised in Great Britain as to what kind of a memorial should be erected to him. Queen Victoria survived him for many years. It was her desire and the wish of the English Nation that some proper memorial should be erected to the memory of Prince Albert. They agreed upon the Albert Memorial Hall as the best kind of memorial. It is a building on the edge of Hyde Park and is known as the Royal Albert Hall of Art and Sciences, and owes its origin to the fund which was raised in 1862 for the purpose of erecting in Hyde Park the national memorial to the late Prince Consort, which we have already described. With every desire that this recognition of the debt which English art, science, and industry owed to the Prince should be, in every sense of the word, such a memorial as the country itself preferred, the Queen requested a committee of gentlemen to suggest the form which the testimonial should assume.

And that testimonial took the form of a great building, such as suggested in my amendment. The author of the book I hold in my hand further says:

> After deliberating upon the matter, the committee recommended the erection of a personal memorial to the Prince Consort in Hyde Park, opposite what is best known as the Central Hall of Arts and Sciences. * * *
>
> A pardonable degree of curiosity was aroused respecting the ultimate destiny of the hall; but this was set aside when it was announced that the new building was intended, amongst other things, to accommodate science congresses, to provide a suitable arena for musical performances, and to serve other equally useful artistic and scientific purposes.

Such as the hall I propose can be used, and possibly will be used, under the direction of Congress.

> For this the building is admirably adapted from the immense disposable space it offers. Between 6,000 and 7,000 people can be seated in the hall, and, besides this, when the necessity arises, it is possible to place as many as 2,000 spectators in comfortable positions on an inclined staging in the picture gallery, which runs nearly around the hall.

And he goes on to say, further:

> Guided by the principles upon which the Romans constructed those amphitheatric buildings, the remains of which strike modern spectators with awe and admiration, the designers of the Albert Hall have succeeded in raising a structure of eminently beautiful and attractive proportions. Seen from the park or the Kensington Road, the hall stands boldly out in all the magnificence which invests a building in the style of Italian Renaissance.

The Kensington Road enters the park at the point where this building is erected. It goes on to say:

> In the plan of the interior it can be seen at once that the architect has taken for his model the old Roman amphitheater, though with such important modifications as, happily, quite another kind of entertainment, and, unhappily, less genial skies required. Roman plebeians and aristocrats were mere spectators, looking down on the fierce and bloody spectacles provided for their amusement in the arena. Here it was necessary so to provide that people might both hear and see, but above all things hear. Such a condition gives the key to the arrangement of the interior. Imagine, then, within an outer shell of staircases, corridors, refreshment and retiring rooms, a vast hall in shape of a graceful oval, of which the southern end is all but filled by the organ and orchestra, rising upward in tiers of seats. Fronting this orchestra is the auditorium, of horseshoe form, composed of arena, a level space; the amphitheater, or, as it might be better termed, the stalls, sloping upward toward the boxes; three tiers of boxes; above them the balcony; and, lastly, above it what is called the picture gallery. This gallery is not within the proper limits of the ellipse forming the interior, but is built over the staircases and corridors, which form an outer zone to the portions of the auditorium below. It

runs, therefore, around the whole of the interior, and the 30 Italian arches, with their scagliola pillars, through which the body of the hall is seen, are really its great ornaments.

The boxes and balcony project from the wall into the ellipse, each tier extending 3 feet beyond that above it. Such an arrangement enables the occupants of each tier to see without much difficulty, and be seen by those above them. One of the most remarkable features of the hall, in fact, is the perfect view of the interior, and of all within it, which can be had from any point. * * *

Since the day of the opening of the hall by Her Majesty, when the orchestra was occupied by 1,200 instrumentalists and vocalists, concerts on a grand and extensive scale have been the chief use to which the building has been put; and it was also used for part of the display in the annual industrial exhibitions of 1871 to 1874. The grandest scenes, perhaps, which have taken place within its walls were on the occasions of the State concerts given in honor of the visits to England of the Shah of Persia, the Czar of Russia, etc.; more recently the most notable functions have been the reception of Mr. Stanley and the concert on the occasion of the German Emperor's visit to England.

If we adopt my amendment, a similar building would constitute a splendid memorial of Abraham Lincoln.

Mr. CANNON. Will the gentleman yield?

Mr. STEPHENS of Texas. Certainly.

Mr. CANNON. When was the hall completed?

Mr. STEPHENS of Texas. In 1867, I believe; it was started in 1862, if I remember rightly.

Mr. CANNON. Will the gentleman allow me? In 1875, the first and only time I crossed the water, I visited London and was over there three weeks and saw the memorial to the late Prince Consort just off Hyde Park, not a hall, as beautiful a memorial as I ever saw. I did not know that hall was ever built until this minute.

Mr. STEPHENS of Texas. I will state to the gentleman that that stands directly in front of the memorial, and that it contains the great auditorium which I have been describing. I have a picture of it here.

Mr. CANNON. I am just telling the gentleman of my experience, and I was about an average mast-fed fellow, who crossed over there to see things. I saw that splendid monument, with no utility about it, and I never knew that the hall existed.

Mr. STEPHENS of Texas. I regret that the gentleman overlooked that magnificent hall. He certainly was not with a Cook party and being conducted through the city of London to see its famous buildings, as I was a few years ago. It is the most wonderful hall in that city, and said to be the most wonderful in the world.

I yield to the gentleman from Massachusetts [Mr. CURLEY] five minutes, and reserve the balance of my time.

Mr. CURLEY. Mr. Speaker, I listened, as did every Member of this House, with intense earnestness and with great admiration for the ability displayed by the distinguished and learned son of Massachusetts [Mr. MCCALL] in portraying the necessity that the memorial should take the form of a Greek temple. And we listened with the same rapt interest to the gentleman from Texas [Mr. STEPHENS] as he told the story of the temple erected in London, wherein he pointed out the fact that there is no hall available for a meeting place in Washington.

Mr. Speaker, I had an opportunity to attend a meeting held in a convention hall, that was capable of holding 5,000 zealous, enthusiastic Clark supporters for President, that is located in Washington and which is of sufficient size to accommodate most any character of gathering.

Mr. Speaker, it strikes me that we have rather strayed away from the significance that should attach to a memorial to Abraham Lincoln. The one salient feature that stands most preeminently forth in a study of the characteristics and of the life and of the struggles of that great somber, sorrowful man, who belongs to the centuries, whose deeds, achievements, and greatness overshadow those of any man of any nationality that ever trod God's footstool, was his love of humanity.

It permeates every act of the life of Lincoln, and we best remember this grand old citizen of America, whose first vision of life was a little log cabin in a Kentucky forest, a cabin that had no blinds and that typified simplicity itself, but where was born in surroundings equally as humble as those of the Nazarene the Nation's first citizen.

And this great, soulful character best portrays his affection for all the people in the closing words of his Gettysburg address:

A government of the people, by the people, and for the people.

And if a memorial is to be erected or constructed to commemorate the great life, the great character, the great achievements of a sublime individual, like the great American, Lincoln, let it be something that will typify his service, because service, after all, was the most predominant trait in the life of Lincoln, and that service was dedicated to humanity.

Admitting that a Greek temple, as is here proposed and which unquestionably will be adopted, is agreed upon, I ask in what way does it typify the splendid sacrifice for humanity and freedom of this sublime character, whose heart bled during the great internecine struggle for all the people?

The Appian Way, leading from the Forum through the centuries, has not only commemorated but proved of service to the people of Rome.

Lincoln needs no monument. His service for humanity has enshrined him in the hearts of the American people and in the hearts of liberty lovers in every portion of the civilized world. His keeping the Nation whole, his striking off the shackles from a race of people, and this sublime and splendid Republic, united and free, standing forth a beacon of hope to the oppressed and downtrodden seeking the light and justice, is the best testimonial that could ever be constructed by human or divine hands in the hearts and memories of a grateful people. [Applause.]

Mr. MCCALL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Massachusetts [Mr. MCCALL] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The SPEAKER. The gentleman from Iowa [Mr. PICKETT] is recognized for one hour.

Mr. PICKETT. Mr. Speaker, I will say in advance I do not expect to consume an hour of time. All are desirous of reaching a vote this afternoon, and many Members have expressed a desire for time.

While here and there among the membership of the House there are those who differ as to the details of the proposed memorial, although concurring in the finding that it should be erected in Washington, it is manifest that the best organized and most aggressive opposition to the plan proposed comes from those who for one cause or another are in favor of the highway to Gettysburg. I do not question the high-minded and patriotic impulses of the Members of this House who favor that proposition. It is well, however, for the people of the country to know something of the influences that have been the most active in the campaign that has been carried on to promote the highway project. I therefore desire to insert in the RECORD at this time an extract from a letter written by the executive secretary of the Lincoln Memorial Road Association of America. I am free to confess that when the road to Gettysburg was first suggested I was favorably impressed. I am a believer in good roads, and perhaps my feelings on the general subject of good roads influenced to some extent a friendly feeling for the Gettysburg highway. This predisposition was soon changed when the question was taken up for serious consideration.

The letter, after calling attention to the importance, from a good-roads point of view, of the Federal Government taking an initial step, proceeds as follows:

We are therefore conducting a national campaign of publicity and organization to get the wishes of the people before Congress. As a part of this campaign it is very desirable to send a personal letter with a leaflet and form like the inclosed to 1,000 leading citizens in each of 275 congressional districts, asking those addressed to take this matter up with their Congressmen and Senators. To put these letters with inclosures in the mail costs about $45 per 1,000, or a total of $12,375. Having in mind the far-reaching importance of this matter, one of the good-roads committee connected with the automobile industry has subscribed $2,500 to aid our publicity campaign. Many of the leading automobile clubs and individual manufacturers have subscribed varying amounts. You may have subscribed directly or indirectly, but even if that is the case it is vital to the success of this movement that you subscribe a substantial amount in addition, as more money is urgently needed and a popular subscription could not be raised in time to be available.

This extract speaks for itself and discloses that the campaign, for such it can very properly be called, that has been conducted by this so-called Lincoln Memorial Road Association is in the interest of good roads and the automobile industry. It also throws some light on the source from which the funds emanated to defray the expense. The letter concludes as follows:

In addition to making a substantial subscription now, I hope that each of your executive officers will write a personal letter to his Congressman and his two United States Senators, urging them to favor the plan for the Lincoln memorial which includes the road to Gettysburg and that you will arrange to have each of your representatives and agents throughout the country do the same.

That they have done so is evidenced not only by other documentary proof of record but by the numerous letters and telegrams that have been pouring in to Members of Congress from automobile concerns, urging them to appropriately memorialize Lincoln by building a highway to Gettysburg. [Applause.]

Yesterday while my distinguished friend from Missouri [Mr. BORLAND] was addressing the House he inserted in the RECORD and criticized a letter written by the Fairmount Park Art Association, of Philadelphia, to the Members of Congress from Pennsylvania, expressing views in opposition to the Gettysburg highway as a memorial to Lincoln. A little later in his remarks the gentleman inserted in the RECORD what seemed to me a rather remarkable letter, which I desire at this time to read:

THE CHAMBER OF COMMERCE AND BUSINESS MEN'S CLUB,
San Antonio, Tex., January 24, 1913.

Hon. WILLIAM P. BORLAND, *M. C.,*
Washington, D. C.

DEAR SIR: I have yours of the 16th inclosing Library Committee's report on the Greek temple proposition, for which accept thanks.

I appreciate your sending me this report very much, and I immediately got busy and distributed these reports among our influential—

Citizens who are interested in securing the best and most appropriate memorial to Lincoln? Oh, no—

among our influential good-roads enthusiasts—

Think of it! What a bald confession! Not even an attempt to mask the real designs.

The letter proceeds—

and in a few hours gathered them up and redistributed them—

The gentleman is certainly not lacking in activity or zeal for good roads—

and in addition to that I had one of our daily papers print the report and also print a statement from myself and others who had picked this report all to pieces and explained to the people the ridiculous part of it.

This is certainly rich—

Almost every organization of any kind whatsoever in San Antonio has wired Representative SLAYDEN insisting that he support the Washington to Gettysburg highway, and these telegrams have been constantly going to Mr. SLAYDEN for over two weeks, and more especially since it was referred back to his committee. The Washington Post clipping you sent me was published in one of our daily papers the day I received your clipping.

Evidently even gentlemen here have been interested in seeing that the press of the country are kept in touch with their proposition through the various good-roads enthusiasts.

Yesterday there was a telegram sent to Hon. JOHN N. GARNER, which reads as follows:

"We appreciate your efforts in behalf of the Lincoln memorial highway and pledge our assistance at any time we can be of help to this cause.

"J. W. WARREN,
"President Texas Good Roads Association.
"CHAS. GHAEBNER,
"President Chamber of Commerce.
"A. M. FISCHER,
"President Bexar County Highway League.
"CHAS. O. AUSTIN,
"President Real Estate Exchange.
"ATLEE B. AYRES,
"President Fiesta Division of C. C."

In addition to this quite a number of Mr. GARNER'S admirers are writing him personal letters. In addition, our highway division, the real estate exchange, Chamber of Commerce, Fiesta Association, and the San Antonio Automobile Club have asked me to express their gratitude to you for the noble work that you are doing for this highway.

Not for a *Lincoln memorial*, but for "this *highway*."

We all assure you that we appreciate it, and I hope that I will have the pleasure of meeting you on March 6 and 7 at the good-roads convention, which will be held in Washington.

Yours, very truly,
D. E. COLP, *Secretary.*

Whether intentionally or unintentionally there is manifest from this letter a very distinct back fire on the distinguished chairman of the committee, Mr. SLAYDEN, who for 14 years has been an honored Member of this House, and who, as chairman of this committee, has been conscientiously seeking to discharge his duty.

I submit that it is evident from the letter of the Lincoln Memorial Road Association, as well as from the letter I have just read and many other things with which the Members of this House are familiar, that this movement for the highway to Gettysburg has been promoted largely by good-roads enthusiasts, the automobile industry, and other business concerns.

When we witness the zeal with which they are seeking to use the sacred name of Lincoln to enhance their profits, it almost recalls the ghoulish humor from the grave scene in Hamlet.

Imperial Cæsar dead and turned to clay
Might stop a hole to keep the winds away.

This House will never permit the sainted memory of Lincoln to be commercialized for pecuniary profit. [Applause.]

Mr. BORLAND. Will the gentleman yield to me for a minute?

Mr. PICKETT. With pleasure.

Mr. BORLAND. Will the gentleman also read the letter from the Fairmont Park Art Association?

Mr. PICKETT. I will not read it in my time. It is printed in the RECORD as a part of the gentleman's remarks of yesterday, and I referred to it.

Mr. BORLAND. I trust the gentleman in fairness will read the literature in reference to the Greek temple side of the controversy.

Mr. PICKETT. You had an opportunity to read it.

Mr. BORLAND. I did read it yesterday.

Mr. PICKETT. And I am now replying.

I will add, however, that there is nothing in the letter issued by the Fairmont Park Association which does not go to the merits of the proposition, and certainly there is nothing which reflects any personal interest that the members of the association have in any line of business that will be promoted by any action taken by Congress in this matter.

Mr. Speaker, the memorial proposed in the pending resolution comes before the House not as the product of hasty action by the committee to which it was referred. It has been considered for years and embodies the best thought and contributions of the highest authorities on such subjects. It comes before this House with the deliberate and ripened judgment of the distinguished citizens who compose the Lincoln Memorial Commission, representing all parties and all sections, and which held 16 meetings during the consideration of the subject; with the approval of the gentlemen who compose the Fine Arts Commission, selected for their high repute in the world of art; with the approval of the Senate, whose unanimity of action reflects its cordial indorsement of the memorial; and, lastly, with the unanimous recommendation of your own committee, which has given to the subject its best thought and endeavor.

I do not know how many of the Members of the House have read the document which I hold in my hand, containing the report of the Lincoln Memorial Commission; extracts from the report of the Fine Arts Commission, and also extracts from the architect's description. It is difficult to conceive how anyone could read them without being carried irresistibly to a conclusion favorable to the memorial proposed. For the purpose of having it appear in the RECORD, I may be pardoned for quoting briefly two paragraphs therefrom, one a quotation from the late Hon. John Hay:

As I understand it, the place of honor is on the main axis of the plan. Lincoln, of all Americans next to Washington, deserves this place of honor. He was of the immortals. You must not approach too close to the immortals. His monument should stand alone, remote from the common habitations of man, apart from the business and turmoil of the city—isolated, distinguished, and serene. Of all the sites, this one, near the Potomac, is most suited to the purpose.

The other from the description of the architect who designed the memorial:

On the great axis, planned over a century ago, we have at one end the Capitol, which is the monument of the Government, and to the west, over a mile distant from the Capitol, is the monument to Washington, one of the founders of the Government. If the Lincoln memorial is built on this same axis still farther to the west, by the shore of the Potomac, we will there have the monument of the man who saved the Government, thus completing an unparalleled composition which can not fail to impart to each of its monuments a value in addition to that which each standing alone would possess.

There is a touch of the immortal in the isolation with which the architect enshrouds the names of Washington and Lincoln. The conception is lofty, one that grows upon you the more you study it. Washington was the commanding figure in the epoch which secured our independence and established our institutions. Lincoln was the potential figure in the epoch which tested the unity of our Republic and made our liberty real.

Washington and Lincoln will forever stand companionless in American history. They rise in their isolation as our two greatest citizens. [Applause.]

The word "immortal" is used with such abandon that its true significance is all too often lost. Time may be a cruel, but is a seldom erring, critic. To be immortal means more than to have achieved distinction in an epoch or a place among the great of an age or a cycle. It rests upon achievements which survive the receding years and live forever in the hearts of men. [Applause.]

Reflect for a moment upon the concept of the memorial. At one end of the main axis is the Capitol of the Nation, in the center the Monument to Washington, and at the other end the memorial to Lincoln. Looking into the future we can see the extension across the Potomac to Arlington, and then we will have at one end the Capitol, at the other Arlington, and in between the Monument to Washington and the memorial to Lincoln. The citizen, as he journeys thither, will first visit his Capitol with all that it symbolizes. He will then turn his eyes down the long vista to behold the Monument to Washington, the Father of his Country; beyond, the memorial to Lincoln, the savior of our Union; and yonder, in the distance on the green hillside of Virginia, once a part of Dixie but now and forever, thank God, a part of our common country, his eyes will stop at Arlington, where sleep the Nation's heroic dead. The Capitol, Washington, Lincoln, Arlington. What a sublime equation! What an immortal association! What a companionship for the ages! [Applause.]

The gentleman from Missouri [Mr. BORLAND], in his remarks this afternoon, suggested that the highway to Gettysburg "could be made one of the show places of the world." Think of it! The name of Lincoln utilized to make one of the "show places of the world." I do not know whether the gentleman from Missouri intended the meaning which the language imports, but this I know, it would be the result if the highway plan is adopted.

I do not care to discuss whether the highway could or could not be built within the appropriation. That question is of minor importance in the light of the graver consideration, How could it be protected by the Government from being used for purposes which would destroy any element of a Lincoln memorial? The Federal Government would have no jurisdiction over lands adjacent or contiguous to the highway, and they would be used, by the same spirit of commercialism which we have already seen manifest, for show places, amusement parks, and the like. The papers would be filled with advertisements of vaudeville performances and all the modern novelties of entertainment designed to attract the curious or pleasure-seeking crowd. In automobile phraseology it would be known as the "great joy ride of the country." I am unwilling that Lincoln's name should be thus desecrated. This is a good time and a fitting occasion for the Congress of the United States to give a practical lesson in American patriotism. [Applause.]

Contrast, if you please, the difference in the effect upon the mind and heart of the future citizen between an automobile trip over a highway to Gettysburg and a visit to the memorial proposed in the pending resolution. After visiting the Capitol of his country, with all its hallowed traditions and all that it brings to his heart, and then a visit to Washington's Monument, he pursues his way to Lincoln's memorial, rising with its lines of strength and beauty before him. In the center hall, 60 feet wide, 70 feet long, and 60 feet high—higher than this Chamber—he pauses in silent communion before a beautiful bronze statue of Lincoln. He then turns to read in bronze Lincoln's matchless speech at Gettysburg, and then in another place Lincoln's second inaugural, the closing paragraph of which is burnished in every American heart. That one sentence, "With malice toward none, with charity for all," has no counterpart in literature save the one which fell from the lips of the Great Master, "Father, forgive them, for they know not what they do." [Applause.]

Mr. Speaker, it is with such an inspiration I would leave the pilgrim patriot at the shrine of Lincoln. [Applause.]

The SPEAKER. The gentleman from Nebraska [Mr. KINKAID] is recognized.

Mr. KINKAID of Nebraska. Mr. Speaker, I desire time only to read a letter written me, by the adjutant of the largest Grand Army of the Republic post in the district I have the honor to represent, upon the subject under consideration, and which was approved by a unanimous vote of the membership of that post. The letter reads as follows:

SWITZ FURNITURE CO. (INC.),
Kearney, Nebr.

In answer to a circular letter just received concerning the Lincoln memorial, will say that I am unalterably opposed to a pile of foreign marble for a memorial to Lincoln. In my opinion a pile of marble does not represent anything, especially of foreign importation. Build the living memorial, the Gettysburg road. This will become a living memorial because there will be constant additions and improvements to the Lincoln road.

The nations of the world will come to this country to look at an American monument or memorial. It will at once become an attraction to everybody and permit everybody to aid in beautifying the road, subject of course to the approval of a commission, who will have this in charge. The American people would add millions of dollars in beautifying this road. In that sense it would be in reality a living memorial. It would become a national road to commemorate a nation's hero, in which all would have an interest and pride. Nothing could be more fitting for a memorial to Lincoln than this road from the National Capitol to the place where the greatest battle of the war was fought, and where Lincoln delivered his immortal address after the battle.

This would be such a departure from the pile of marble, at the same time so appropriate, that I should think that everybody would see it in that light. If this plan could be put before the people, in my opinion it would receive the approval of the Nation.

Respectfully, yours,
F. J. SWITZ.

P. S.—After reading the above letter to the Smith Gavit Post, No. 239, it was moved and carried that the post indorse the letter of Comrade Switz. Carried unanimously.

F. J. SWITZ, *Adjutant.*

[Applause.]

Mr. SHARP. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Amend the resolution by inserting after the resolving clause the following:

"That recognizing in Abraham Lincoln the greatest advocate of equal opportunity for all the people, and in whose illustrious life and achievements are exemplified the highest possibilities of the American youth, the establishment of a national vocational school, in which shall be given, at the lowest tuition possible, practical instruction in the trades and agriculture, is the most appropriate memorial that can be erected to perpetuate his memory; and that the Lincoln Memorial Commission, created by the act approved February 9, 1911, is hereby authorized and directed to use all or any portion of the amount appropriated by the provisions of said act in formulating and executing all plans necessary to give effect to this resolution, subject to the approval of Congress.

Mr. SHARP. Mr. Speaker, I am glad that the line of demarcation between the two sides of the House is not identical with the line of difference upon this important measure, and I wish to say at the outset of my remarks, with the intention of being fair to those who champion one side or the other of the question, that it is not my purpose to consume the hour or any considerable portion of it in my remarks. I do not desire to be dilatory in any way, and I would be very glad to have this measure finally passed upon before we adjourn to-day. Whatever is left of my time I shall be pleased to surrender back to the House.

It so happens, Mr. Speaker, by a coincidence that I had not before noticed until I looked at its date, that it is exactly one year ago to-day that I introduced the resolution which has just been read from the Clerk's desk. I have listened with a good deal of interest to the arguments presented by the champions of these two respective plans, which seem to be quite as far apart as the east from the west. I have been not a little amused to see the application of an old saw exemplified in the indulgence of the talk here, one side against the other—the pot calling the kettle black. It seems to me it all argues for the carrying through of a wholly different and better plan. I would not call my resolution a compromise measure. It has the features of neither of these measures that are advocated so eloquently to-day. Though it is widely different from either of them I have been not a little encouraged in the belief during the past week or two since the decision upon this measure became so imminent, and from reading editorials of leading papers throughout the country, that there is a very strong sentiment which, if it could only be molded and crystallized and directed along concrete lines, would defeat both of these propositions.

When I asked for some time in which to discuss the proposition, I frankly told the gentleman from Missouri [Mr. BORLAND] who had kindly consented to accommodate me, that I was against his proposition, which involved the construction of a $2,000,000 highway. It would furnish no utilitarian purpose whatever, except to the automobilists, who have been characterized here as much too enthusiastic by the gentleman from Iowa [Mr. PICKETT]. But if I am against the expenditure of this great sum of $2,000,000 for a highway—and I am willing to go a long way in subscribing to some of the views expressed and pictures so eloquently painted by the gentleman from Iowa [Mr. PICKETT] as to what might become of some of the unpleasant features of that highway—I am equally against any expenditure of the people's money for this great mass of granite and marble, such as we have depicted in the illustrations of the monument in our lobby outside of this Chamber. Mr. Speaker, if this question could be submitted to the vote of the American people, I very seriously doubt whether either one of these projects would receive a majority. Certainly, if the question were submitted to the rank and file of Americans—that class of our citizens which outnumbers the other class as nine to one throughout the United States, that class from which Abraham Lincoln, the emancipator of a great race, himself sprung—I believe an overwhelming majority would be against either one of these expensive and unwarranted propositions.

I want to say, lest my position be misunderstood, that no expenditure of money, no matter how large, could properly attest the attributes and the services of the greatest, in many ways, of all the Presidents of the United States. I am an admirer of Abraham Lincoln, and I am glad that the Nation's affection for his memory has taken form in such a magnificent appropriation. But, as has been well said by the gentleman from Missouri [Mr. BORLAND] and other speakers, it hardly comports with his character and achievements, with the high ideals set before the American people by Abraham Lincoln, that we should erect to his memory a monument such as they do abroad for Kings. Lincoln was of an entirely different class, differing from them as the American free people differ from the subjects of those monarchs. Perhaps the first speaker, Mr. MCCALL, is correct in his view that we should not necessarily embody the utilitarian in the memorial which we should erect to Abraham Lincoln's memory. It may be the consummation of all that is sublime and poetic, as the gentleman pointed out, to portray a character in our history upon canvas or sculptured in marble so it almost speaks; but it seems to me, Mr. Speaker, that if there is any one thing that ought to be placed above the mere pleasure and enjoyment of a highway on one side or the embodiment of sentiment and art on the other it is the elevation of mankind.

We have heard a great deal during the past few years about conservation projects. We are undertaking to conserve our streams, our water powers, and our forests; but, to my mind, we have not yet directed our conservation policy and our conservation energies, if I may use that expression, in the most

effective channels. Why, a conservation, my colleagues, the highest in degree of all, would be a conservation not alone of human energy, but of human character [applause], the building up of the great mass of people of our country by a proper recognition of their needs. That brings me to the consideration of my own resolution. My resolution has directly in point the building of a great vocational educational institution. I want to say to those who favor the establishment and the location of this memorial in the city of Washington, that if my resolution should be adopted and the plan therein contemplated carried out, it would not be necessary that this great institution should be located outside of Washington. If, indeed, the work to be done within its walls was to educate teachers in vocational work, then it would be a most appropriate location, because we have located here within a radius of a mile and a half all the great institutions and departments of the National Government.

I was reading some months ago the statistics showing the proportion of school children or children of school age attending, or who ought to be attending, our schools but failed, for some reason or other, to attend after the age of 14; and I am fortified by the official statistics when I say that 8 out of 10, not your children, of course, or mine, but the children of the great mass of the poor people—that class from whom Abraham Lincoln came himself—never again enter a school after that age. Eight out of ten of all the school children beyond a secondary grade have not, it literally means, the advantage of a school of any kind, though the doors ostensibly are open to them free of charge. Think of it, 8 out of 10! Why, my colleagues, if we have any more problems to solve in this Nation that will require time, that can not be solved within a day, I do not want you to forget that the hope of a proper solution of those problems rests in the boys and girls of to-day. In the history of a nation the development of a generation is but as a day; but if you expect great reforms they must all come from these little ones, because in the to-morrow they will take your seats here. If they are to govern wisely and well, they must have every benefit possible from our educational system.

Merely to open a school and say it is free of tuition to our children is not solving the problem. Theoretically it is giving one the same right as the other, but sooner or later we must come, gentlemen of this House, to adopt a system of training and education such as Germany and other foreign nations have entered upon successfully in the past 20 or 30 years. In my home town we have quite a number of factories which manufacture a superior quality of goods in certain lines, and if we seek to-day to get those who are specially skilled in those industries, where do we go? Why, we go to Germany or we go to France, where they specialize in that particular kind of work. So the resolution which I have introduced in the House to-day and for which I speak calls for a national indorsement, if you please, of a system that is as yet hardly practiced to any extent whatever in our own country.

I say it not in words of censure of our institutions. We are a new country. We have so many, many opportunities here for the advancement of young men just starting out in life; we have so many broad acres that are yet unpeopled by the millions to follow that we do not, of course, find ourselves driven by necessity, as do those crowded countries in Europe. But the problems are coming, and it is for us in all due and proper time to seize and take advantage of the kind of training such as we have seen so successfully carried out in Germany and the other countries referred to.

Every day you gentlemen have upon your desks before you petitions in favor of the Page educational bill, or the Lever bill, or some other similar measure favoring Government cooperation with the States. So this is not in any sense of the word an innovation. I say to you, my colleagues, if we could use the $2,000,000 that we have for that purpose in the founding or the building of a great vocational school in the city of Washington, we would lay the foundation for a memorial which would even outlast the granite foundation and marble superstructure of the beautiful monument so eloquently advocated by other speakers.

I am not one of those who would criticize that monument. Architecturally considered—while I am in no position to speak with authority—I have not studied it very much; but it seems like a beautiful building. I do not know whether it would be better to go back for our models to the Egyptian times or find them in Grecian architecture, or in the more simple lines of the so-called colonial period. I will not undertake to pass upon that plan of the memorial.

My objection lies in the fact that the American Congress is about to appropriate the great sum of $2,000,000 for that kind of a memorial, when if we wanted to memorialize Abraham Lincoln and recognize his services to humanity in that manner a very much less sum would answer the purpose just as well. I do not think that you could improve upon the statue of Abraham Lincoln designed by St. Gaudens and erected in Lincoln Park, Chicago, and I am told that that cost about 3 per cent of what this would amount to; in other words, about $60,000. Surely, for the ages to come, it seems to me that Cecil Rhodes, that great empire builder, who ran the modern highways of steel from the Southern Ocean northward across Africa into the land of the ancient Ptolemies, will be best known by the endowment of his Oxford scholarships when all his earthly achievements shall have been forgotten. You are all familiar, from reading at least, with his last resting place. In the cleft of a great granite rock, facing the south, in Cape Colony, I believe, among the scenes of his exploits as a miner and railroad builder, repose forever the remains of that great man.

But far away to the north, the country of his birth, in England, the conception of his lofty purpose will go on and on and on just as long as human institutions shall last. That is the character of a memorial I would like to see founded here, my colleagues. There have been a number of letters read on both sides, some in favor of the highway and some in favor of the Lincoln monument, but, if I may ask the indulgence of the House just for a few moments, I want to read from a communication of a former Member of this House, twice governor of the State of Massachusetts, a man who by foresight and industry has not only built up a great fortune for himself, but has also been a great help to the laborers and artisans of Massachusetts.

I wish to read now a few remarks from Gov. Foss, who wrote me upon the merits of this particular resolution. I shall not take the time of the House to read more than this one letter, but I want to say that without solicitation came all of those other letters from educational institutions throughout the country, from business firms, and from large manufacturing establishments. So far as my resolution is concerned, I have requested no petition to be sent to Congress. I have asked no petitions to be sent to any Member in favor of it, so that if it is not known to the extent that other propositions are known it is because there has been no effort made except to get for my own personal satisfaction the opinions of eminent educators and men who are at the heads of great industries in this country.

I read Gov. Foss's letter:

BOSTON, MASS., *March 13, 1912.*

Hon. W. G. SHARP,
House of Representatives, Washington, D. C.

MY DEAR MR. SHARP: Many thanks for the copy of your speech on the subject of establishing a vocational school as a memorial to Abraham Lincoln.

I hope your project will commend itself to the favorable consideration of Congress. If you succeed in securing some permanent Federal supervision for vocational guidance and for elementary training along industrial lines, you will have rendered a great service to this country.

I doubt whether there is any other public project which, in relation to its cost, offers a better assurance of public benefit, provided the plan is worked out along practical lines.

In Massachusetts we are particularly interested in educational work of a practical, industrial, and technical character. The legislature has recently voted $1,000,000 to the Massachusetts Institute of Technology in tacit recognition of its value to the State in training young men and women toward self-support.

That school is not a State institution, but the public is convinced of its importance to the State.

I believe that industrial education not only increases the average self-supporting power of the community, but that it has also a still more marked efficacy, for the reason that any normal man or woman cheerfully occupied in remunerative work has very little incentive to enter a life of crime.

Massachusetts now has in operation several public institutions known as industrial schools, to which are sent young boys and girls who have shown some minor disregard of law but who are not really criminals. In my judgment, it is a very wise use of public money, whether under State or Federal supervision, to start young people upon careers of usefulness.

Elementary work along vocational lines appears to be the best method of doing this. I believe that our industrial schools in this State enable us to get at the problems of evil doing and idleness before the police and the judiciary are compelled to deal harshly with them.

I take the liberty of sending you, as of possible interest, the full text of a speech which I read last year before the American Society of Anthropology and Criminology, together with some recent reports of our several industrial schools. I also send you copies of my two inaugural messages of 1911 and 1912, in which you will find my recommendations to the Legislature of Massachusetts in respect to still further efforts to forestall crime and at the same time build up the industrial efficiency of the Commonwealth.

It seems at first thought preposterous, but it is really true that in this country we are spending less money on education than we are on military preparations and expenses. I believe that we are not spending as much money on education as it is costing us to meet the direct and indirect losses from crime and pauperism. Inasmuch as education of a practical character is surely the best means of reducing these two last-named evils, I think you are working on the right track and I wish you success with all my heart.

Very truly, yours,
EUGENE N. FOSS.

That is a very interesting letter, indeed, and I have many others from prominent agricultural institutions, from men prominent as the heads of great industries, and from men who value the special services of those who have had this kind of training. Not to take the time longer of the House, and thank-

ing many of you who have been so patient as to listen to the advocacy of a proposition that is almost entirely new and not strongly favored on account of prior commitments to these other projects, I wish to say that in my opinion we could not do a better thing than to turn down both of these projects and establish a utilitarian institution which shall be for the uplift of mankind, that shall emphasize and embody in its character, for all time to come, the life and services of that greatest of all humanitarians—Abraham Lincoln. [Applause.]

Mr. STEPHENS of Texas. Mr. Speaker, I wish the gentleman from Illinois would use some of his time.

Mr. EVANS. Mr. Speaker, I yield 10 minutes to the gentleman from Kentucky [Mr. JAMES].

The SPEAKER. The gentleman from Kentucky [Mr. JAMES] is recognized. [Applause.]

Mr. JAMES. Mr. Speaker, the very purpose of the amendment to the resolution offered by the gentleman from Missouri [Mr. BORLAND] having, as he declares, as its chief end the perpetuation of the memory of Abraham Lincoln, the secondary, if not an equal paramount purpose of perpetuating good roads, will, in my judgment, be an injury rather than an aid to establishing the policy of governmental aid to good roads. [Applause.]

Mr. Speaker, the Congress of the United States, on February 9, 1911, with a unanimity that bespeaks a reunited country, enacted into law a bill providing for the erection of a monument or memorial in the city of Washington, D. C., to the memory of Abraham Lincoln. It provided that the construction of the "monument or memorial herein and hereby authorized shall be upon such site as shall be determined by the commission herein created and approved by Congress." This commission thus created has made its report. That is the question now to be considered by this House. There was no thought or suggestion when this original question was considered of attempting to use the memory and fame of Abraham Lincoln as a subterfuge to further the cause of Government aid to good roads. I am a friend to good roads. I voted to appropriate many millions of dollars to be divided between the States for this laudable purpose. The question now under consideration is, Shall the House repudiate its former action; shall the reputation and glory of Abraham Lincoln be used as a makeshift to begin by indirection that which gentlemen fear they shall be unable to do directly in the open? [Applause.]

Lincoln was born in Kentucky. He went to the State of Illinois. Kentucky gave him to Illinois and Illinois gave him to the Republic and the Republic gave him to the world. If a road were to be built—if in earnest you desire to perpetuate his memory and to pay tribute to his character—I submit that the road ought not to go to that sea of carnage and flood of sorrow, the battle field of Gettysburg, but it ought to be built, if a road is what you want, from Springfield, Ill., where he lived and lies buried, back to the old Kentucky home where he first saw the light. [Applause.]

But we Kentuckians love the memory of Abraham Lincoln too well to desire to use that as a vehicle for the purpose of throwing upon the Government the maintenance of and assistance in building public highways. [Applause.] Why, the arguments made here this morning, Mr. Speaker, that Washington's Monument was cold and clumsy looking, that some of the statues here to Lincoln are not beautiful; the argument that when men want to pay tribute to one whom they love and who made for the good of their Republic they should do something that would be useful—that argument would tear down every temple; it would uproot every shrine; it would even pull the flag from the sky because it might be made more useful than by simply swishing there. [Applause.]

The Washington Monument, Mr. Speaker, is a great tribute to the father of our country. I remember that when I first came to this Capital City when but a boy the great patriotic lesson that was impressed upon my mind by the lofty monument to the memory of the father of the Republic, which was at once emblematic of the affection and pride of a grateful people. [Applause.] Monuments, memorials, and statues are not intended to be useful. They are erected to men who have been useful and who have served their country well. [Applause.] You want this roadway from here to Gettysburg. Why select the field of carnage to perpetuate the memory of the man who loved peace so well [applause]; the one who said at the Hampton Roads conference, "Write union at the top and anything else under it." He wanted to avoid the dread conflict, and I believe this House will not do its duty to the memory of this great Kentuckian, this great Illinoisan, this great American, this great patriot if you allow yourselves to be diverted from your solemn purpose to erect a memorial to him to start a public-road movement or trifle with it in any such way as that. [Applause.]

Mr. Speaker, the man who erects a republic deserves a lasting place in the affections of men. But who is prepared to say that even the man who erects a republic is greater than the man who saves a republic? [Applause.] For those who have enjoyed the freedom and opportunity that liberty gives suffer more when it is taken from them than those who have never known of its glories. [Applause.]

Kentucky gave to the South Jefferson Davis, who stood at the head of a patriot army, which for courage and sincerity finds no counterpart in all the annals of war. [Applause.] Lincoln stood at the head of another patriot army, inspired by love of country. The war is over. Let us perpetuate the memory of Abraham Lincoln as befits his life and his deeds. But let me say here and now that, though some would trifle with it and use it as a public-roads propaganda, yet—

Till the future dares forget the past, his fate and fame shall be an echo and a light unto eternity.

[Long-continued applause.]

Mr. SIMS. Mr. Speaker, I have agreed that the gentleman from Illinois [Mr. EVANS] may yield five minutes to the gentleman from Mississippi [Mr. HUMPHREYS].

The SPEAKER. The gentleman from Mississippi [Mr. HUMPHREYS] is recognized for 10 minutes.

Mr. HUMPHREYS of Mississippi. Mr. Speaker, I shall vote for the memorial as proposed by the committee which has had the matter in charge. [Applause.] I naturally feel a hesitancy in differing with the gentleman from Ohio, Gen. SHERWOOD, who played such a conspicuous part as a Union soldier during the war between the States. I do not wish to play the hypocrite, nor profess to have that in me which is not there. I am the son of a Confederate soldier, and it is the proudest fact of my life that my father bore an honorable part in that great struggle for local self-government. Above my desk in the House Office Building hangs a picture of Jefferson Davis. At his feet when a boy I sat as at the feet of Gamaliel and learned the story of the Confederacy and the principles for which it stood. As a young man, when I stood at the altar with her who was to be the partner of my life, Jefferson Davis stood with us, and when the ceremony ended he placed his hands upon our heads and said, "God bless you, my children."

These are memories which I cherish, Mr. Speaker, and shall hand down a rich legacy to my children.

The great war ended 50 years ago, and, thank God, the thoughts of men have broadened with the process of the suns. In 1861 my father followed the Stars and Bars and wore the gray. In 1898 I followed the Stars and Stripes and wore the blue. [Applause.] I believe that I was right in 1898, and I as surely believe that he was right in 1861.

We are here to-day engaged in a high and lofty purpose. Abraham Lincoln needs no memorial. We can add nothing to his fame, nor can we subtract one jot or tittle from it. He and Jefferson Davis, Ulysses S. Grant, and Robert E. Lee must stand before the bar of history upon the record of their deeds done in the body, and each alike must abide its judgment. I have little respect for him on either side the line who fears that final verdict.

Those were bloody years, mad with strife and sad with the suffering and travail of a weeping people; but we should not forget them. We should rather teach our children to emulate the deeds of those who bore the brunt of battle and bowed beneath the awful burdens of State. I believe he reads his country's history with little understanding who can not catch an inspiration to patriotism from every battle field in this Republic. [Applause.] We have erected monuments throughout the North to the Union soldiers. We have erected monuments throughout the South to the Confederate soldiers; but the labor of love is not yet completed.

Mr. Speaker, I was in Quebec a few years ago and visited the Plains of Abraham. Two hundred years ago the British, under Wolfe, and the French, under Montcalm, fought on that battle field for the mastery of Canada. Upon it to-day there stands a monument erected by the descendants of those who fought under Wolfe and the descendants of those who fought under Montcalm. On it is inscribed this legend:

To Wolfe and Montcalm. Valor gave them a common death; history gave them a common fame; posterity gave them a common monument.

Speaking as far as I may speak for those whose hopes went out at Appomattox, I stand ready to vote for such a monument on every battle field of the Republic to commemorate the heroism of those who there gave up their precious lives, whether they wore the blue or whether they wore the gray. [Applause.]

I believe we are beginning such a monument here to-day, although this resolution provides for only half of it. The monument we are building is to Abraham Lincoln, the embodiment of all for which the Union soldier fought and won. Across the river, as I believe, upon the sacred soil of old Virginia, in the near future another monument will arise to the memory of Jefferson Davis, who was the embodiment of all for which the Confederate soldier fought and lost. For such a monument I believe no price could be too high; for such a purpose I believe that no money can be ill spent.

I think it ought to be beautiful. I would not stain the even virtue of our enterprise by exchanging the inspiration of the artist for the sordid commercialism of the road builder. [Applause.]

I believe it ought to be beautiful, beautiful enough to be worthy the high commission we will give it, a commission to tell the ages yet to come how soon it was that happy day rolled around, foretold in the prophetic language of Lincoln, "When the mystic chords of memory stretching from every battle field and patriot's grave to every heart and hearthstone all over this broad land would again swell the chorus of the Union when touched, as they surely have been touched, by the better angels of our nature." [Applause.]

Mr. SIMS. Mr. Speaker, I offer the following amendment, which I will read myself, as I think the Clerk will have difficulty in reading it:

In line 10 strike out the word "approve" and insert "disapprove, and that a memorial arch on Sixteenth Street at a suitable point north of the intersection of U Street and Sixteenth Street, at a cost not to exceed $2,000,000, be erected instead of the building provided by the commission."

Mr. MANN. Mr. Speaker, I reserve all points of order on the amendment on the theory that it has been reported by the Clerk.

Mr. SIMS. I read it myself because I thought the Clerk might have difficulty in reading it.

The SPEAKER. The Chair will rule that the Clerk read it.

Mr. SIMS. Mr. Speaker, no one in this House has more reverence for the characteristic qualities of Abraham Lincoln that made him worthy of our memory than I have.

What were the characteristics of Abraham Lincoln? Do you wish the future to have an idea of what the man was? Shall whatever we erect here as a memorial to him be a reflection of the man, so that it may be educational as well as ornamental? How did he start in life, and where? The gentleman from Kentucky [Mr. JAMES], the eloquent Senator-to-be, told you he was born in Kentucky, in a log cabin. What next do we hear of Abraham Lincoln? That he was a rail splitter; and I have a kindly feeling for any man who ever split rails. The next thing we hear of him was his championship of human rights, regardless of the color of the human being. From this humble beginning in the log cabin he rose to the highest office in the land. What do all these things suggest to our minds? Born in a log cabin, being a rail splitter, then becoming the great champion of human rights. Will it be to those things that we will recur when we look upon an artistic heathen temple, however beautiful it may be, erected in a reclaimed frog pond? God made Abraham Lincoln, and let us place his memorial on a God-made hill, where the mosquitoes and the frogs will not bother and annoy those who come to look upon it. I have little patience with using that name to promote any other purpose than the purpose for which it ought to be used; that is, to bring back to us in vivid recollection the man and what he was to his country, what he was as a citizen, and what he was when he died. Does your heathen temple suggest Lincoln in any phase of his useful life?

We can not get away from the thought suggested by the gentleman from Iowa [Mr. PICKETT], who charged, perhaps truthfully, that the road to Gettysburg would be used for purposes least suggestive of the life and character of Abraham Lincoln—show places, automobile races, and things of that sort. I am just as far from wanting to do things by indirection as any man in this House. I say if we are going to undertake to build public highways at national expense, let us go boldly about it, but I have as little patience with the location of this memorial in Potomac Park, in order that it may be used as an argument to build a magnificent automobile driveway from that park to Rock Creek Park, and on out to the Soldiers' Home, where it will be beyond the common use of a poor man, like Abraham Lincoln was in his early days, available only to the wealthy who can afford such things as automobiles and carriages. I do not mean to insinuate that the honorable committee that reported this bill or that the commission had any such thought and purpose, but this location is being contended for and promoted by some men who want it more as an excuse for building a great automobile driveway, than as a suitable and desirable place for a memorial to Abraham Lincoln.

Mr. Speaker, I have looked all over Washington, and I find nowhere in this city a memorial arch or an arch of any kind. The Washington Monument stands to the south of the White House. Here is a great avenue from the doors of the White House running north to the District boundary, one of the finest in this city. Along its course are many hills made by the Creator who made Lincoln, elevations higher by far than any proposed artificial mound to be erected in Potomac Park out of soil removed from other places and piled up in that mosquito-breeding swamp formerly known as the Potomac Flats. Why not place out on that great avenue on one of those splendid nature-built hills, a great monumental arch, as provided for in my amendment, not costing over $2,000,000 so as to keep it within the appropriation? Then upon that great arch, from one end to the other, place the log cabin; place the rail splitter on the top of a rail cut with the ax in his hands; place him there laboring for the freedom of the slave; place him in a miniature White House as President of this great Nation—and then you will have an inspiring object lesson to the youth of this country.

You can point to the boy born in the log cabin who, on account of his belief in right doing, ended his days on earth in the White House. It will be memorializing this great man in a way everyone will approve. Then there is one further thing to commend this location. There is no real estate speculative scheme that can connect itself with this memorial arch on Sixteenth Street. Of course any improvement on any street of any kind affects values near by it, but that part of the District has already been exploited. The property has been all bought and sold so often that the speculative opportunities are about all gone. Within two squares of that magnificent avenue runs Fourteenth Street, with street car lines. What poor persons that Lincoln loved so well will see his monument, or how often will they see it if placed down in that reclaimed frog pond, or how many will go over the proposed driveway from it and through Rock Creek Park to the Soldiers' Home? No; the people whom Lincoln loved and served in his lifetime will rarely ever see it. It takes their entire time in this high-priced town to make enough to buy the necessaries of life on which to live. With that great arch across that great avenue the poorest man, the poorest woman, the poorest boy in the city of Washington can go of his own accord, can go within two blocks by street cars and walk over and look at that magnificent memorial portraying to the youth of this country the possibilities of a great, free Republic. What will your Greek temple suggest to anybody that will be a benefit to the future generations of this country? Then there will not be any competition, as it were, between the Washington Monument and this proposed memorial arch as a monument to another great American citizen, erected on Sixteenth Street, in another and noncontiguous portion of the city.

By adopting my amendment we will have a memorial erected to Abraham Lincoln where the greatest opportunity will be afforded to people to see it, both those who live here and those who visit this Capital, both rich and poor.

Mr. Speaker, let us extend that memorial arch across this great avenue, and on it let there be placed such statues as may be necessary to bring to the lively remembrance of everyone who sees it those deeds in his life that made Abraham Lincoln what he was to this Nation. The arch can be as artistic as a Greek temple, and in purpose, design, and effect on the high land of Sixteenth Street it certainly will far exceed anything which can be placed down in Potomac Park. Besides, it will be no promoter's excuse to put off on the Government a lot of almost valueless real estate at high prices. The highway to Gettysburg could be used by the poor man, could be used by the wayfarer, could be used by the automobilists, could be used by the dray and the cart, but anybody who goes to this Potomac Park must use a carriage or automobile. There are no street cars approaching it, and you practically risk your life if you go down there afoot; if you are not a pretty good hand, pretty expert in the use of your legs, you will be in danger of your life. But instead of putting up anything in frog land, put it where everybody can see it who wants to, without the rich man's resources, without cost, where are the facilities of street car service, the cheapest form of transportation available to the poor, so that to them it will be an inspiration for all time to come, and in the erection of which no real estate scandal can possibly develop.

Let Lincoln's memorial be placed on the highest ground in the District, where the first ray of sun will wreath his brow in the morning and the last ray will light up that kindly face in the evening.

Mr. SIMS. Mr. Speaker, how much time have I used?

The SPEAKER. Eighteen minutes.

Mr. SIMS. Mr. Speaker, I yield 15 minutes of my time to the gentleman from Virginia [Mr. SAUNDERS] and reserve the balance.

The SPEAKER. The gentleman from Tennessee yields 15 minutes to the gentleman from Virginia [Mr. SAUNDERS] and reserves the balance of his time.

[Mr. SAUNDERS addressed the House. See Appendix.]

Mr. PICKETT. I yield 10 minutes to the gentleman from Minnesota [Mr. NYE]. [Applause.]

The SPEAKER. The gentleman from Minnesota [Mr. NYE] is recognized for 10 minutes.

Mr. NYE. Mr. Speaker, this should be a memorial of peace and not of war. While I was first attracted somewhat by the scheme to build a road to Gettysburg, America's great Austerlitz, upon further and more serious reflection I have concluded that that would be a mistake. I am disposed to look with a great deal of favor personally upon the idea suggested by the gentleman from Ohio [Mr. SHARP]. I think if Mr. Lincoln could speak to us to-day he would say that he would give the poor boys like himself an opportunity for at least a primary education. But I believe that as the question stands to-day none of these measures will be considered, probably, under the rules, and the question is, Shall we have a memorial after half a century, in which the life and memory and character of this great man have been sacredly cherished in the hearts of the American people? I think it has been wisely ordered that considerable time should elapse in which we might witness, as we have, the blending of the blue and the gray, and see men on both sides of this House unite in their earnest purpose to erect now, or as soon as possible, a suitable memorial to the western world's greatest patriot and greatest lover of mankind. [Applause.]

I say that this should be a memorial of peace and not of war. We should not be reminded so much of the physical and awful struggle between neighbors and brothers of half a century ago on that field as we should of that love which springs from the better impulse of our national life, which is at least latent in our national heart and which was personified in the life and character of Abraham Lincoln. This universal love of mankind, this paternal affection for mankind and his country enabled him to lead us out of the thick darkness of our national distress into the bright light of perpetual peace. I trust, and of lasting prosperity as a people. [Applause.] And I firmly believe that this man was so universal in his character that we may rejoice at this day to find a united country and a united House in their devotion to his memory. Have you ever noticed, as you have studied that immortal oration at Gettysburg, that he was a man too great to be affected even by the partisanship of war? So broad and parental was his love that his references on that field were to "the men who died here," "the men who sleep here." He did not even say then "the Union soldier," "the man in blue," or "the man in gray." It was a parental love, and he was large enough to see that under the infinite providence of God that terrible and mournful struggle was perhaps necessary in the evolution of our race and in the perpetuation of our institutions, and by reason of that broad, universal, and parental love he rose from that terrible night of conflict, at last holding aloft in mournful triumph the flag, not of a section, but of a nation, and the greatest Nation under God's blue sky. [Applause.]

I am for perpetuating the idea which dominated the great and masterful life of Abraham Lincoln. He knew in his great heart that love moves the world, that it is next to the heart of the Infinite. He came from the wilderness of the South. His heart in all that agony was as much with his neighbors of the South as his conscience was with the cause of human freedom contended for at the North.

For four long years, in agony and pain, he held one hand in the North and one in the South, and finally bound them together by his unselfish devotion to the cause of human liberty and an enduring Union. [Applause.]

It was not to celebrate a momentary victory or the heroism of the forces of one side in the conflict that he made that great speech. That speech was made that we might consecrate ourselves anew, as he said, to the cause of freedom and to the perpetuation of the Nation—a Nation dedicated to the principle that all men are equal. It was a prophecy of a new birth in freedom and a pledge that this new Nation that holds the hope of the world should not perish from the earth.

Mr. Speaker, let us build a beautiful memorial, not to the physical man, not to the battle field, not to perpetuate the memory of past antagonisms, but to symbolize that larger national love which Lincoln manifested to the world, without which all nations are but the passing pageant of an hour. [Applause.]

Mr. PICKETT. Mr. Speaker, I yield 10 minutes to the gentleman from Alabama [Mr. HEFLIN]. [Applause.]

Mr. HEFLIN. Mr. Speaker, I have listened with profit and pleasure to gentlemen who have spoken in the interest of good roads and to those who have favored a suitable memorial to Abraham Lincoln. I have gone upon record as a friend of good roads. I am a member of the Committee on Agriculture, and that committee reported during the last session a bill which carried an appropriation of more than $14,000,000 for the improvement and construction of public highways in the United States. I contributed in my humble way, Mr. Speaker, toward the passage of that bill through this House. As gentlemen here will recall, that bill died in the Senate. I am an advocate of good roads, and if I live I propose to continue in the Sixty-third Congress to plead for Government aid for public-roads building in the United States; but I do not have to vote now for a road from Washington to Gettysburg in order to convince the country that I am a friend of the good-roads movement. [Applause.]

There is a time for all things, the Good Book tells us, and this is the time for the Representatives of the American people to speak for and vote for a memorial temple to be erected in the capital of this Nation to the memory of Abraham Lincoln. [Applause.] What more appropriate place could be selected for the building of a monument to Abraham Lincoln than in the capital of the Nation? Here Representatives in Congress from the South and from the North discussed the great issues that were ultimately settled by the arbitrament of the sword. It was here that southern Representatives announced to the Nation the secession of their States, and from this capital went to cast their fortunes with their States on the field of war. Here Lincoln presided as President during that bloody conflict between the States. Here he received the good tidings that the war was over, and here that he rejoiced when the dove of peace brought an olive branch from Appomattox [applause], and here that his eyes glowed with the joyous vision of a reunited country. [Applause.] It was here that he said, "Let us all work together now to restore these States to their places in the great Union of States." [Applause.] Here, Mr. Speaker, that he breathed his last, to the great loss and deep sorrow of the South and the whole country. [Applause.]

Had he lived the South would never have known the horrors of reconstruction. [Applause.] The despised carpetbagger would never have been noted in the annals of southern history. [Applause.] The whole country suffered by his death, but the South suffered most. [Applause.] Had he lived the two sections, bravely fighting for what they believed to be right, would have been bound together sooner in the ties of everlasting love and union. [Applause.] Lincoln is the common heritage of our common country, and the South delights to honor his name. [Applause.] No section of our country takes more pride in this Capital of a reunited people than does the brave and chivalrous South. [Applause.] The war had to come. It took the war to settle the question of secession, and never until Lee surrendered to Grant at Appomattox and the names of these two brave generals passed into the Valhalla of American fame was the right to secede withdrawn from the States. [Applause.] Here Lincoln presided as President through that stormy period; here he breathed his last, and to this place the hearts of a sorrowing people turned at the sad news of his death; and here let us build a lasting monument to his memory. [Applause.]

No, Mr. Speaker, no automobile boulevard from Washington to Gettysburg will suffice to perpetuate the memory of Lincoln. [Applause.] Out yonder is Gettysburg, the scene of one of the bloodiest battles in human history. Monuments are erected there to the memory of those who fought on opposing sides. We have Gettysburg now, and we have a way to reach it, but, Mr. Speaker, we have no appropriate memorial in the city of Washington to the name of Abraham Lincoln. [Applause.] Let us erect here in this beautiful Capital City a magnificent temple to his memory.

In a few moments the tourist can view the entire magnificent memorial temple and carry it back home photographed upon his memory, but if he desired to see a highway builded from Washington to Gettysburg he would have to travel 90 miles in order to have a complete view of the entire memorial. I shall cast my vote in favor of a memorial temple to be erected in the Capital of our country to the memory of Abraham Lincoln. [Applause.]

Surrounded by poverty when a boy and with but little of the aid afforded by letters, he buffeted the waves of ill luck and ill fortune and rose superior to all opposing forces and achieved the highest office within the gift of a proud and patriotic people. [Applause.]

Mr. Speaker, in the years to come southern boys and northern boys, eastern boys and western boys, thrilled with patriotic emotions, will stand around this temple in solemn meditation and catch inspiration as they ponder the story of his eventful life. [Loud applause.]

Mr. BORLAND. Mr. Speaker, I now yield 10 minutes to the gentleman from Maryland [Mr. TALBOTT].

Mr. TALBOTT of Maryland. Mr. Speaker, my home and my occupation for a part of the time that President Lincoln was a great factor in making history are a little embarrassing to me. If the plan of the gentleman from Missouri [Mr. BORLAND] should obtain, the Lincoln highway would go through a part of my congressional district, and I think that is a part of the most beautiful land on earth. It would be a benefit to some of the very best people that ever breathed the breath of life. I have tried all I could to find out exactly what I ought to do in relation to this proposition. I do not think because I represent my own beautiful country that I should vote for this proposition of the highway unless it is right, and I have so stated. In the brief time allowed me I want to state that the construction of the highway is the only thing to do. If you could cross the Great Divide and say to Lincoln that we are determined to erect a memorial to him, befitting his public services and life and character, and ask him to make a selection, I am quite sure that he would say to construct the highway.

Mr. Speaker, what will the highway do? It is the connecting link between the field of the greatest battle ever fought and the National Capital, from which it was directed. It will be the road, strange to say, along which the Union veterans marched, and they had to interpose themselves between the grandest army—Gen. Lee's army—so far as bravery and fighting qualities are concerned, that the world ever saw, and this Capital.

It is not worth while to discuss the Battle of Gettysburg. It has been talked about and written about, and will be as long as the world stands. There is only one thing about it, I will say to my southern friends. We failed. The South failed at Gettysburg, and that is all there is to it—and there was the sunset of our ambition. Now, what in the world can be more appropriate than to construct a great highway from Washington to Gettysburg in memory of this great man. We are united, we are happy, we are a great Nation; and if we have done anything against each other for which we are sorry, we have forgiven each other.

Why not do the sensible thing and vote for this memorial from Washington to Gettysburg? We all have agreed that Abraham Lincoln was in public life, perhaps, the greatest humanitarian of his day. He was a plain character, a plain man, and I will repeat, if you could cross the Great Divide and reach him where he is and where he ought to be and say to him that we would like to do something to perpetuate the memory of his life and character and services for this land of ours, he would say at first, no; that he wanted nothing from any of us; that his life and character and services to his land were enough for him; but he would also say that if we had made up our minds to spend money, then that he wanted us to spend it in the way that would do the most good for the people of the country that he loved so well. That would be his message to us.

I have seen boats rowed around Pennsylvania Avenue and Sixth Street because of floods from the Potomac River, and you have got, perhaps, to meet that emergency if you place the memorial there.

Why, Mr. Speaker, this is the Mecca for all the people who can afford to visit this beautiful city and who want to see what is going on. They come to Washington. Do you want them to go home and say, "Oh, I saw the Lincoln memorial down here on a place that was flooded"? The best report for the returned visitor to make of his impression of Washington is, "I have traveled the Lincoln highway to the greatest battle field of the war, where the greatest generals, where the bravest soldiers, fought each other; I traveled it, and there"—if he is a southern man he will say—"I saw where Pickett charged and broke the line." If he is a northern man he will say, "I saw where Hancock fell, I saw where Sickles fell," and so on down the line. If you want to do a great thing, my countrymen, on the floor of this House, and you want to do a popular thing, connect this Capital City with the greatest battle field in the history of warfare; spend your money in that way. "Oh," says my friend HEFLIN, of Alabama, "it is a boulevard for automobiles." The man who has an automobile is going to ride, anyhow.

The SPEAKER. The time of the gentleman from Maryland has expired.

Mr. TALBOTT of Maryland. I would like to have one minute additional.

Mr. BORLAND. I yield one minute to the gentleman.

Mr. TALBOTT of Maryland. I want to say that you can not do a more fitting or a more glorious thing than to construct a road from the great Capital of the Nation to the great battle field of the Nation.

I thank you all, Mr. Speaker, and I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Maryland? [After a pause.] The Chair hears none.

Mr. McKENZIE. Mr. Speaker, in my judgment there can be but two good reasons given for the appropriating of public money for the construction of a monument or memorial to any individual.

One is that the character of and the services rendered by the individual were so exalted and beneficial to the people that the Representatives of the people are justified in appropriating public money for the construction of a monument or memorial commemorating the life and services of the individual.

The other reason—and which, in my opinion, is the stronger—is that such monument or memorial will tend to aid in the education and the enlightenment of the people.

I am opposed to the construction of a highway from Washington to Gettysburg in this instance, for, in my judgment, it would fail to serve, either as a monument to Abraham Lincoln or tend to aid in the education of our people.

Such a road truly would serve a certain purpose. It would make a nice driveway for those who can afford to enjoy themselves by traveling over the country in automobiles. But so far as being a memorial to Abraham Lincoln it would be a complete failure; for there would not be anything along this highway that would be suggestive of the life and services of Abraham Lincoln, save and except here and there an old Virginia rail fence, which might call to the mind of one familiar with the life of Mr. Lincoln that he once split rails in Illinois, and even this suggestion would be destroyed by the commercial advertising on the board fences and sign boards along the way, such as "Smoke Bull Durham," "Drink refreshing and invigorating Budweiser beer," and so forth, which would become matters of comment by the joy riders as they sped along this highway, which alone to the historian and the automobile driver for profit would be known and recognized as the Lincoln memorial highway.

Mr. Speaker, to advocate such a proposition is, to my mind, treating the name of Abraham Lincoln irreverently.

Is this what the American people want done in honor of Abraham Lincoln? Surely not. For, Mr. Speaker, if there is any American for whom a monument should be erected, solely as a matter of love and respect to his memory, that man is Abraham Lincoln, for his life and achievements furnish us the most striking illustration of the possibilities of American citizenship. He demonstrated that in this land of ours, without wealth or social position, it is possible for an American boy with energy and a good heart to win the highest honor within the gift of our people.

Washington, Jefferson, and many others have added brilliant pages to our history, and we love and revere their memory; but they were the children of fortune and social position, while Lincoln was the child of poverty and acquainted with adversity. Surely it is an inspiration to think of the life of this great man; to follow him in his career from his cabin home in old Kentucky, thence as a boy, with his pioneer father, to the wilderness of Indiana; thence to Illinois, from which State he came to this city as the Chief Executive of our Nation; and here for four long years, with sorrowful heart but with fixed purpose, he held aloft above the dark clouds of civil conflict the flag of our Union. And when the dove of peace had once more returned to our stricken country and the great armies that had battled for supremacy were about to disband and return to their homes in the North and the Southland, to become citizens once more of a peaceful and united country, Lincoln, who had borne the greatest burden of it all, was stricken down by the assassin and died without a word. The obscurity of his birth, the hardship and sorrow of his life, and his tragic and untimely death combine to form the most pathetic tragedy this world has witnessed since our Savior staggered and fell beneath his cross at Calvary.

Construct a road as a memorial to this man. Oh, no. Connect his name with Gettysburg, once the scene of bloodshed and carnage. No. For the mention of Gettysburg recalls one of the saddest incidents in our history. Lincoln, the great lover of peace, whose soul shuddered at the thought of war, should not be connected by memorial with any battlefield, but here in this city, the capital of the Nation, where he suffered and

died, should be constructed a magnificent monument which should stand alone, distinct, sublime, and which should be a tribute of love from the American people.

It is true it will cost something; it can not be used by anyone, and it should not; but it should simply stand as a monument to his life and services, and it should be of such imposing character that the thousands of students who visit this city annually, as they stand and gaze upon it in all its simple grandeur, will go away impressed with the thought that it portrays the strength and beauty of the character of Abraham Lincoln. I have but little patience with those who argue that Lincoln was a plain and unostentatious man and that this is a waste of money and that it had better be expended in a way that will be for the pleasure and convenience of at least a part of our people. Those who make the argument fail to conceive the real purpose of this monument. This monument, in my judgment, as I said before, should be erected simply as a memorial to this great man and for no other purpose. There are always present those who object to the expense or waste. We are told that when Martha brought the precious ointment to anoint her Master some complained and said that it should be sold and the money given to the poor. But that was Martha's tribute of love. So this monument to Abraham Lincoln should represent the tribute of love of his countrymen.

Mr. Speaker and gentlemen, as a citizen of Illinois and one who reveres the memory of Abraham Lincoln, and one who has oftimes stood at his tomb at Springfield, Ill., where his ashes rest in peace, in the name of the citizenship of that great Commonwealth that stood loyally by Lincoln in the hours of his greatest trial, I beg of you to stamp with your disapproval any proposition that tends to connect the name of this great man with any utilitarian purpose under the guise of constructing something to his honor.

Far better leave him alone in his glory. His fame is secure. No act of ours can add to the glory of his splendid career. No monument of granite or bronze is needed to perpetuate the story of his life and achievements through the coming centuries. As long as men love liberty and believe in the equality of man the name of Abraham Lincoln will shine with steady and increasing luster, and the erection of the proposed monument on the bank of the Potomac is not for the purpose of perpetuating his name, but simply to show our love and appreciation of his life and services.

Mr. EVANS. Mr. Speaker, I suppose it will be admitted by everyone that in case a majority vote was required to determine any architectural design in the world, where there are a number of competing plans, it would be impossible to secure a majority, and that consequently nothing would be done. The history of competitions in architectural memorials prove this to be true. The Washington Monument for half a century after it had been started remained incomplete. Half a century has elapsed since the death of Lincoln, and we have done nothing. There are many suitable forms which a memorial may take, and they appeal differently to many different minds, and there is only one way in which we can ever erect a memorial of any kind, and that is for some men to yield to the taste of others. The present situation shows the truth of the old saying, "de gustibus non disputandum." So one may think a bridge is the fittest monument, another an arch, another a pyramid, another an obelisk. Then there are all sorts and descriptions of statues which may better please the taste of others. We have come to a period in the history of a Lincoln memorial when it is time to act. We have chosen a Fine Arts Commission to advise us, and that commission is unanimous. The Congress of the United States has appointed a commission consisting of the President of the United States, the Speaker of this House, and distinguished Senators and Congressmen, and they have presented a unanimous report. Under these circumstances I for one feel that it is necessary to subordinate my own desire or my own project or my own taste to the taste of what is evidently the majority of those best qualified to pass on such a question. Two years ago, when this question first came before the Library Committee, I was opposed to this design. Two years' careful study of the entire subject, and after having had hearings before the Library Committee upon this subject, makes me perfectly clear on this proposition: That the majority of the people of the United States who have made a special study of artistic matters are satisfied with the memorial proposed by the Fine Arts Commission. The proposal comes within the amount authorized for the memorial. The cost of the Bacon design is $1,750,000, which will leave an ample margin for the preparation of the grounds and the planting suitable to the design.

Captious criticism is passed on every artistic design, and it seems to be impossible to avoid it. The greatest works of art have been subject at times to ridicule. I call the attention of the House to what happened in regard to the Washington Monument, and what I shall say of that monument I say on the assumption that there is not a man in this House who does not appreciate the lesson that that monument teaches. As a great judge of art has said:

> It is gray in the dawn, brilliant in the sunlight, black in the thunderstorm, pink in the afterglow, mysterious in the moonlight, vanishing in the mist, lost in the clouds—always majestic stands the memorial to the Father of his Country. In the sunlight and shadow, thunderstorm and mist, in the clouds and in the clear sky, against the golden sunrise and the red sunset, against the midday sky of blue and the midnight sky scintillating with stars, against the bright white clouds and the dark gray clouds, moving with the wind, bowing to the warmth of the sun, receiving the lightning's stroke, ever changing, it is always stately, always beautiful.

Yet adverse criticism was common years ago. In the North American Review of March, 1816, in discussing what was necessary for a design for the Monument, an author demanded a statue by capable American artists and derided the imitation of ancient models, and the author says:

> If an architectural monument is resolved upon, the principal forms are the pyramid, the obelisk, the triumphal arch, and the columns. The two former were peculiar to the Egyptians and may be considered beyond the power of any modern nation.

In 1879, in an article in the American Architect, we find this sentence in regard to the Washington Monument:

> The ugliest monument in the world is in a fair way to be completed.

In the same journal of December 13, 1884, we find these words:

> There is some satisfaction in reflecting that the United States possesses the tallest building in the world, but when this is said there will be little else about the Monument of which we can be proud.

W. W. Story, himself a noted sculptor, in protesting against the obelisk, said:

> This form of architecture is the refuge of incompetency. In architecture when an architect is incompetent he resorts to the obelisk.

An article in the Atlantic Monthly of April, 1879, referred to the "puerile character of the design" and to "clinging to an obsolete idea."

The debates in the House of Representatives on the final appropriations for the Washington Monument are likewise instructive. On August 2, 1876, a joint commission, as in the present case, was created by Congress, and that commission reported unanimously in favor of completing the obelisk on the site on which it was begun. On April 2, 1878, there was an interesting debate upon the floor of this House as to the location of the Monument. It was said to be in a swamp; that is worse than saying it is down "by the brewery." A gentleman from Michigan wanted the Monument placed upon solid ground at the soldiers' home. The brilliant Cox, of New York, known as Sunset Cox, said:

> One thing is very sure, and that is, that if that Monument is ever finished it will be as unsightly as it is to-day; it is not the kind of a monument we should erect in this city in the memory of George Washington.

Mr. Clymer, of Pennsylvania, said:

> It is a meaningless shaft. There is nothing in the past like it.

A Congressman from Maryland moved that the Monument be transferred to Baltimore. It would be useless to further quote from that debate. We have heard it all over again this afternoon; the same differences of tastes, the same wildness and crudity of statement, the same inappreciation of the beautiful in art, and the same appeal to the great unwashed.

Now, one word as to the practical value of this Monument. A monument in its very nature has no material value, and ought not to have. It ceases to be a monument when the latter is its predominating characteristic. For that very reason anything that is used every day can never be a memorial in the sense in which our race has raised memorials to its dead in all the past ages. A memorial which speaks of a man should bring to men the lesson of his life at a glance. It should not be something that will enable us to put money in our pockets or to save money.

A memorial is not an economic proposition—it is the payment of a debt of gratitude; it is a recognition of the example of greatness; it is a lesson to the youth of the land. To turn such an object to profit is prostitution, if not sacrilege. But our opponents especially love to dwell on the phrase "Greek temple," and to speak of Lincoln within that temple as a "Greek god," and some of them ask for American architecture as though there were such a thing. If the Greek temple is inappropriate for Lincoln, because it is Greek, then the Capitol in which we stand is inappropriate for us because its dome is Roman. If the argument for the road is good, let us tear down the Capitol building and build an up-to-date Chicago or New York skyscraper of 20 stories. The great styles of buildings were all discovered before America was discovered, and we to-day must and do adopt these styles to our changing needs,

and that is the purpose of great architecture. You might just as well object to the use of marble for sculpture because the Greeks used it, and ask why haven't we got some American metal or material out of which sculptures can be made. You might just as well object to pictures being painted in oil or water colors and ask why haven't we got some American material out of which pictures can be made. It is said by some that there is no connection between this magnificent monument and the character of Abraham Lincoln. Such a person must have a very singular concept of art. Of all the forms of architecture in existence the simplest, the plainest, and the most magnificent is the Grecian. All of these qualities should recall Abraham Lincoln. The acme of Greek art is the Parthenon at Atheus—the acme of the art of the people who developed the idea of federal power. It was Greek political and statesmenlike genius which welded together the idea of local sovereignty with a State that should be a unit to the rest of the world. The fundamental idea in the American Constitution is unity to the outside world but diversity of local powers among the States. Jefferson pointed out the analogy. Our Government is founded upon a Greek concept of statesmanship. To no other Nation could we look so well for forms that symbolize liberty and majesty and simplicity as to Greek architecture. And what three adjectives so suit Abraham Lincoln—liberty, majesty, and simplicity.

Certainly as grand a sight as the eyes of men can rest upon meets the traveler as he sails up the Aegean and enters the Piraeus and beholds the Acropolis crowned by a Greek temple. For over a thousand years that view has been the admiration of the Nations of the earth. It has done more to teach mankind the lesson of Greek civilization than any other scene in the world; it has done more to keep green the memory of Greek life than Marathon or Leuctra, or any road that the Greek may have built or than anything else that the Greeks ever did.

And it is now proposed here in Washington that we should erect a memorial to Abraham Lincoln as majestic, as simple, and as breathing the spirit of liberty which shall call the attention of succeeding ages to the second great period in our national existence and form a real and personal memorial of one of our two greatest national heroes.

Finally, there is but one question for us to-day. Shall we erect a monument to Abraham Lincoln or shall we not? It is preposterous to talk of a road in memory of Lincoln, because no road could be in memory of Lincoln. The men who talk about the Appian Way know nothing of Applus Claudius, but these selfsame men, when they behold Trajan's Column, or the arch of Septimus Severus or the arch of Constantine, are forced to remember these Roman emperors personally, and the reason is that these monuments are personal memorials and a road is a convenience. But the project is impracticable for other reasons. It will cost at least $20,000,000 to build a really distinctive road from Washington to Gettysburg, and such a road would have to be protected for hundreds of feet on both sides to prevent road houses and other places of objectionable amusement from abutting upon it and becoming its principal feature, and finally such a road could be used only by those who could afford automobiles or carriages. If a trolley line was placed upon it so that the plain people could use it, it would be valuable and useful and, perhaps, something that we ought to do, but it would not be a memorial of Abraham Lincoln. It would not be a work of art, it would be a problem of transportation. The Washington Monument cost $1,250,000; it would cost to-day probably $2,000,000. The talk of building an adequate monument in Washington and adding a road to it is simply to add an additional cost to the $2,000,000 already authorized, and it would in no wise add to the memory or glory of Abraham Lincoln. It might sell more rubber tires; it might be a benefit to the automobile interest; it might help the real estate interests; and I am saying none of these things with invidious meaning; it might do all of these things, but it would not perpetuate the memory of Abraham Lincoln. The question therefore is narrowed to this, Shall we set aside the unanimous finding of the Fine Arts Commission; shall we set aside the unanimous report of the Lincoln Memorial Commission, appointed under resolutions of the Senate and House of Representatives; shall we set aside the unanimous report of your committee and the bill which has passed the Senate? Shall we begin another 50 years of contest between artists over various forms of memorials, or shall we settle the matter by accepting the best authority that we have and in a few years place at the end of the Mall a monument unsurpassed in the art of the world, a monument in majesty and beauty of surrounding surpassing the Deutsches Ecke, where the Moselle flows into the Rhine, the Arc de Triumph in Paris, or the Garibaldi Memorial in Italy, and I believe the most magnificent testimony which the art of the world has ever raised in memory of any great man.

The monument to Lincoln, whatever its form, should be superlative of its kind.

John Hay said—I wish I could give his exact words—to a member of the Arts Commission: "The monument to Lincoln should not be in the rush of life, but a thing apart to which the American people would go for silent contemplation of the great qualities and character to which that monument is raised."

Gentlemen, we do not want the sensation of the joy rider connected with the thought of Lincoln in the minds of our American youth, but rather the catching of the breath in reverent awe, as when one enters the majestic silence of a great cathedral, where, within beautified silence, one may contemplate the qualities of heart and mind which go to make a great American.

Mr. MOORE of Pennsylvania. Mr. Speaker, while I would like to see a memorial road running from Washington to Gettysburg, and would even extend that road, as a national peace memorial, from Washington to Richmond, I intend to vote for the Lincoln memorial as recommended by the Committee on Library. Desirable as the Washington-Gettysburg road would be, it is evident that to substitute it now for the beautiful and stately structure proposed to be erected on the Mall in the Capital City would indefinitely postpone the memorial which the people have it in their hearts to erect to Lincoln.

Moreover, the defeat of the memorial plan as proposed by the Fine Arts Commission would start an unseemly controversy that would not do credit to our intelligence as Representatives of the people.

As a Pennsylvanian I would like to see a road to Gettysburg. If it is to be a memorial road, Congress could erect it without necessarily committing itself to a general good-roads construction propaganda. It could extend that memorial road to Richmond likewise without binding itself to assume the cost of goods roads in the various States or such roads as may be interstate, but is this the time to inject the good roads or even the memorial road proposition?

We have before us a resolution providing "Approving the plan, design, and location for a Lincoln memorial." The resolution contemplates the expenditure of $2,000,000 on a definite plan, a plan which involves the erection on the banks of the Potomac of a monumental structure close by the scenes of Lincoln's greatest activities and immediately across the way from Arlington, the former home of Gen. Lee. It is to be a fitting memorial upon hallowed ground in the official heart of the Nation.

In supporting the memorial as proposed, I am not opposing a memorial road to Gettysburg. I am supporting the proposition that is fairly and appropriately before the House. I want a great national memorial to the immortal Lincoln. The memorial road should not now be permitted to interfere with that worthy and patriotic project. Let us have the memorial first. The road project can be considered later.

Mr. MURRAY. Mr. Speaker, my contribution to this debate is not an original expression of opinion, but a remarkable newspaper editorial that was printed in the Sunday Globe, of Boston, Mass., on the anniversary of the birthday of Abraham Lincoln, February 12, 1911.

The editorial is signed "Dudley," the nom de plume of Mr. James Morgan, who has contributed essays of real literary value that ought to be remembered long after the things usually printed in a daily newspaper are forever forgotten.

The title of the editorial is "Two boys." It follows:

> The birth of a baby boy was hailed as the greatest event of the year 1811. His first little wail was heard round a waiting and listening world on a March morning 100 years ago.
>
> All Paris had stopped and pricked up its ears to catch the news. The vast palace of the Tuileries was filled with eager watchers. For 24 painful hours the expectant mother labored and her agonized cries rang through the great halls. The father, hero of mighty battles, fled in terror from the chamber of suffering. At last the child was safely delivered.
>
> Cannon boomed the joyous news from their iron throats. The immense crowds in the streets counted the reports—20, 21. Was that all? Then it must be a girl. But hark! There sounded the twenty-second. It was a boy. Whereat thousands screamed their delight, till the roar of the cannon was almost drowned as they belched forth the rest of their 101 salutes for the baby. A balloonist sailed away from the rejoicing city to scatter printed bulletins of the wonderful occurrence throughout the country.
>
> A KING IN THE CRADLE.
>
> While Paris held carnival with gay processions by day and brilliant fireworks by night, messengers sped on relays of horses to bear the great news to distant capitals.
>
> All the nations of Europe had been drawn together in mutual suspense. To some the boy was a herald of peace, while to others, the foes of his father's ambition, his advent carried discouragement or consternation. None remained indifferent to an event seemingly so momentous to mankind.
>
> Courtiers fawned and poets rhapsodized. The mother forgot her long torture in the pride of her belief that she had borne a successor to the

master of the world. The father's cheeks were wet with tears of joy as he stood beside the cradle of gold and gazed at the tiny hand that still would make kings tremble when he was gone and that would pass on to posterity the scepter he had won. Now he could entail Europe and humanity. France should be the baby's patrimony and all the earth his hegemony.

He must have at once the proudest crown that ever weighted an infant head. Whereupon Napoleon hailed his babe King of Rome and carried him through the arch of triumph to Notre Dame, where, with great pomp, he christened him for himself and for the boy's imperial Austrian grandfather Napoleon Francis Joseph Charles.

THE OTHER BOY.

While Napoleon had the only baby king in the world, there were several million other baby boys 100 years ago. One of them was 2 years old and a little more when Napoleon Francis Joseph Charles thrilled Europe with his birth cry. No notice had been taken of the existence of this child, however, beyond a mile or two of his birthplace. His birth did not receive even the honor of a line in any record that has been discovered. No physician was summoned to aid the mother in her labors, and the father could not record the event, since he hardly knew how to write his own name.

No neighbor took enough interest in it ever to be able in after years to recollect the coming of this boy into the world. It boded no more than another hungry mouth with which to share the crust of poverty. His eyes opened not on palace walls, but on the rough logs of a hut in the Kentucky wilderness. No crib of gold awaited him; his only cradle was his mother's arms. His sole crown was some chance rag that could be fashioned into the semblance of a cap.

Nature, however, that incorrigible democrat, had given him just as many fingers as the King of Rome wherewith to grasp anything they could lay hold of, from a rattle to a scepter.

L'AIGLON.

Pitiful as the contrast is between the births of those two boys, the contrast between their destinies is more pitiful still. Indeed, it is almost unkind to draw it.

The poor little King of Rome at 3 saw his crown dashed to pieces like a fragile toy. Marie Louise, his mother, fled with him to a cold welcome at her father's court in Vienna. His own father became to him a nameless outcast, and tutors puzzled how they might bring him up in ignorance of the empire and the glory to which he had been dedicated during his infancy. An alien name—the Duke of Reichstadt—and as he reached the years when under other fortunes he would have taken his place in the grand army as prince imperial his keepers strove to make him proud to put on the uniform of an Austrian sergeant.

The fledgling of the eagle never showed a desire to escape from his gilded cage, and although he died at 21 he lived long enough for the world to forget him.

THE HANDICAP OF ADVANTAGES.

If the world could have had eyes to see the start of the race between those two boys for fame and power 100 years ago, it would have had only a smile of pity for the son of Thomas Lincoln; its confidence and cheers would have been, as they were, all for the son of Napoleon.

Yet it was by no strange trick of fortune that Abraham Lincoln won the race. Leave out of the reckoning the early death of the King of Rome, leave out his father's downfall, leave this boy out entirely, and take any one of a hundred or a thousand heirs to great homes who were born 100 years ago and match him against Lincoln. Lincoln beat all the kinglets and princelings as he beat the King of Rome. They were endowed with no more fingers and no more toes than he had. Every fancied advantage which was fondly conferred on them only loaded them down.

HOW TO MAKE A KING.

Napoleon himself started at nothing and whipped the heir of all ages. Yet he forgot that he could not transmit to his son the superiority that had lifted him above the sons of conquerors. As well might an athletic champion flatter himself that he could bequeath his championship.

If Napoleon was determined to raise up another Napoleon, he might have tried to rear his boy as he was reared rather than like a Bourbon. His father and mother were hunted things in the Corsican mountains until within a few weeks of his birth, when, the war being over, they returned to Ajaccio, weary and poverty stricken, but just in time for him to be born under a roof. His childhood was as free as a savage's and nearly as wild. The sailors on the beach and the herdsmen in the mountains were his favorite companions and principal instructors.

LEARNING TO RULE.

The most practical and useful monarch Europe ever had was Peter the Great. He stepped down from the throne of the Czars and went to work in disguise that he might learn how to rule.

He stepped down from the throne of the Czars and shunned princes and palaces. Laboring and living among the working people of Holland, England, and other foreign countries, he made docks and shipyards and machine shops his university. Equipped with lessons from real life, he went back to his throne and erected Russia into a nation, adding half a dozen provinces to his empire, pushing its frontier to the shores of two seas, set up a modern army and fleet, and established academies, galleries, and libraries.

Liberty is the only school for greatness, and privation and toil the only teachers. The prevalent stupidity of royalty and aristocracy is far less surprising than the genius it develops in rare instances under overwhelming disadvantages.

LINCOLN'S APPRENTICESHIP.

In the race for all the greatest prizes of life there is a good deal of fairness and equality. There is a pretty even start for the enduring honors in statecraft and war, in letters, in science, and in whatever field men contend for the noblest rewards. Fame really means to be democratic, and there is no royal road to her temple.

It is open to doubt if any king ever had as many advantages as Abraham Lincoln or was so well trained for ruling or leading a people. We hear much of his disadvantages, and many view his triumph over them as in the nature of a miracle. Looked at in another light, however, it is plainly to be seen that Lincoln was far more wisely apprenticed than any prince to the trade of governing. Thus when his great task came to him it found him trained like a thorough journeyman to lead the masses whose life he shared.

Mr. BATES. Mr. Speaker, coming from Pennsylvania I trust I am not ungracious in rising to say a word in favor of this concurrent resolution. I am reminded to-day of the scriptural injunction:

Is not the life more than meat and the body than raiment.

On the one side is the utilitarian idea, a road to Gettysburg; on the other is the esthetic, the beautiful—the appeal to memory, to gratitude, to veneration, to pay a tribute and show our appreciation of the greatness of Abraham Lincoln.

I am not opposed to the Gettysburg road. It is a splendid project. I hope it can be worked out in the future, either as a Lincoln memorial or as a direct proposal to build a national highway from the Capital to one of the greatest battle fields of the world; but I am first in favor of an appropriate mausoleum in the city of Washington.

From the earliest days it has been our policy to erect in the National Capital suitable memorials to the men whom the people delight to honor. Washington, Marshall, Lafayette, Jackson, Scott, Webster, the French and Polish patriots in the Revolution, Grant, Sherman, Sheridan, and the other great names that stand out in history because of their deeds in the Civil War. All these have been honored, but alas, nothing yet for the greatest of them all, Abraham Lincoln. Thirty-four years ago a Lincoln Memorial Association was formed and money raised, but nothing came of the movement. Now a conclusion has been reached so that the matter is presented to us in a distinct, clear, concrete form.

Who goes to Paris without a pilgrimage to the Hotel Des Invalides and with a melancholy pleasure immerses himself in the atmosphere which pervades the tomb of the great Napoleon?

What American or what lover of his race will in the coming years ever visit Washington without having first in his heart a desire to bow at the shrine of Abraham Lincoln, to read his immortal words on the proposed entablature, and thereafter highly resolve that the sacrifices of his day and generation for the uplift of the human race shall not have been in vain?

Mr. KAHN. Mr. Speaker, I gather from the debate that there is practical unanimity among the Members of this House in the belief that the time has now come when there ought to be a memorial of some kind erected or constructed by the American people to the memory of Abraham Lincoln. There is a division of opinion as to whether that memorial should be a utilitarian or a sentimental one. Personally I prefer the sentimental memorial. I have come to my conclusion after having torn a few leaves from the history of the past. I recall that in the city of Rome, near the ancient Forum, there stands the Arch of Titus. It is somewhat scarred and weather-beaten, for it has braved the elements since the first century of the Christian era. The buildings that surround it have crumbled into dust, but it still stands—a mute reminder of the eventful history of the Emperor Titus—he who with Vespacian built the Coliseum, which stands nearby; the marble facings and the bronze ornaments that decorated that wonderful arena have all disappeared. The shouts of triumph or dismay, as the occasion warranted, that reverberated throughout its spacious interior have faded into silence. The lizard and the bat are its sole inhabitants. It is a magnificent ruin and few even recall in whose reign it was constructed. Close by the Arch of Titus is the Arch of Constantine. It, too, is in a fair state of preservation. It stands alone near the ruins of what was once the glory of Imperial Rome, the Forum. It was constructed in the early part of the fourth century. The barbarians who captured and destroyed the proud mistress of the world, Imperial Rome, allowed it to remain—a mute reminder of the life of one of the foremost of the Roman Emperors. The Column of Trajan, erected in the closing years of the first century and the Column of Hadrian, erected during the same period, still rear their lofty tops toward the blue of heaven, while the buildings that surrounded them at the time of their construction have almost entirely disappeared from the ken of man. If it were not for these few memorials of pure sentiment that have withstood the ravages of time, the four Emperors whose lives and memories they commemorate would probably have been forgotten, even as the lives and memories of so many of the Emperors of Rome have become obliterated.

Some of the Members of this House seem to favor a great road to connect our Capital with the battlefield at Gettysburg. In advocacy of their plan they point to the Appian Way and contend that that road conferred immortality upon its builder. But they do not tell the Members of this House that the Appian Way was built entirely by slave labor; they do not tell the Members of the House that during the Dark Ages, when the barbarians of northern Europe ravaged the Campagna and broke through the walls of the Eternal City itself, they destroyed the famous thoroughfare. It was buried among the ruins of the tombs and mausoleums that lined it on either side. During the Middle Ages the Appian Way was almost entirely lost to the

sight of man. It remained buried until the year 1850, when Pope Pius IX ordered Canina, one of the leading archeologists of his period, to excavate the ruins and the débris that covered it, and restore it for the benefit of the Italian people. Although the road originally ran to Capua and thence to Brundusium, the modern city of Brindisi, a distance of several hundred miles, the restoration of Canina proceeded only 6 or 8 miles beyond the tomb of Caecilia Metella, one of the few ruins that faced the ancient roadway at the dawn of the renaissance. I understand that even to-day it is not a highway beyond its tenth mile.

While no one can look into the future, and while we all hope that this Republic may endure forever, it is not outside of the range of possibility that any road that might be built between Washington and Gettysburg may some day meet the fate of the Appian Way.

We have had one experience in road building in this country. The Cumberland Road, known as "the great National Pike," was begun in 1806 and finished in 1840. How many of our countrymen know anything about it in this day and generation? And yet it was the subject of debate upon this floor time and again during that period. With the advent of the railroads it fell into disuse. For 16 years after its completion it was controlled by the Federal Government, but in 1856 it was relegated to the various States through which it passed. It is to-day little more than a memory.

To refer to one or two other monuments that commemorate the lives of those in whose honor they were erected, I need simply mention the Pyramid of Cheops, which has withstood the decay of time and the attacks of the elements for about 4,000 years. The villages and the towns that surrounded it have been effaced from the face of the earth. Even the splendid civilization of the Egyptians is to-day largely a matter of conjecture, but that wonderful pile stands in all its majesty and grandeur to remind those of our era that once upon a time there existed in Egypt, in the very heyday of the civilization of that historic land, a monarch by the name of Cheops or Khufu. At Kamakura, in Japan, stands a massive bronze monument of the Buddha, or Gautama, who lived in India 2,500 years ago. It has stood for generations. It has come down to us practically intact and unimpaired. And so I might go on recalling memorials of sentiment that have been erected to commemorate the world's heroes, and that still endure, while the utilitarian institutions which surrounded them have crumbled into shapeless ruins.

I believe that the so-called Greek temple in Potomac Park would stand for centuries as an inspiration to the youth of our land. When the generations yet unborn will behold it they will recall the fact that the martyred President sprung from the loins of an humble farmer and frontiersman; that he rose to the highest office within the gift of a mighty and free people; that he illustrates the wonderful possibilities of American citizenship; that he preserved the American Union; that his clear judgment and patriotic purposes brought order out of chaos; and that a grateful and reunited country, desiring to honor his memory, has erected this magnificent memorial to Abraham Lincoln in token of the love, the gratitude, and the veneration with which its citizens regard one of the greatest of all mankind.

Mr. LANGLEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. FOSTER. Mr. Speaker, I would like to ask the same privilege.

Mr. EVANS. Mr. Speaker, I ask unanimous consent that all gentlemen may extend their remarks in the RECORD within five legislative days upon this bill now pending.

The SPEAKER. The gentleman from Illinois asks unanimous consent that all gentlemen may extend their remarks for five legislative days upon this bill. Is there objection? [After a pause.] The Chair hears none.

Mr. MOORE of Pennsylvania. Does that include those who have not spoken?

The SPEAKER. It includes every Member in the House.

Mr. EVANS. Mr. Speaker, I yield five minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, it is now nearly half a century since the Civil War closed and Abraham Lincoln passed beyond. There has been a lapse of time which ought to permit us to survey the situation with little bias and little passion. I have put the Civil War behind me, a great conflict which was probably inevitable. There were patriots on both sides, gallant men in opposition, but the question of the Union was settled with the end of the war, and no one now would reopen the controverted question so bitterly contested before and during that war. I think we can well afford to do that which shows that the country is again a reunited country, with the passions of war passed by, if not forgotten. I would erect a memorial to Abraham Lincoln on the farther side of the Washington Monument, just this side of the Potomac River, across the river from the home of Robert E. Lee and the burial place of both Union and Confederate soldiers, and then I would erect a memorial bridge across that Potomac River, joining the then Confederate States with the Union, aye, Mr. Speaker, joining the memory of Abraham Lincoln with the memories and respect for Lee. Aye, Mr. Speaker, I would go further. In the course of years not far distant I would construct a roadway from Washington to Mount Vernon, from Mount Vernon to Richmond, and at the other end of that roadway have the Government of the United States construct a memorial to Jefferson Davis, the President of the Confederate States. [Applause.]

When we have done that we have shown to the world that the hearts of all Americans beat in the present as in the past with respect and love for their leaders on both sides. We can afford to forget the animosities and the passions in the peace that passeth all understanding. [Applause.]

Now, Mr. Speaker, I make the point of order against the amendments which have been offered.

The SPEAKER. The Chair will hear the gentleman.

Mr. MANN. This resolution is a resolution providing:

That the plan, design, and location for a Lincoln memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act—

Referred to in the resolution—

be, and the same are hereby, approved.

The act referred to in the resolution is an act approved February 9, 1911, which the Speaker will find in Thirty-sixth Statutes at Large, page 898. That was passed in the last Congress. That act provides that the gentlemen named in the act are created a commission to secure and determine upon a location, plan, and design for a monument or memorial in the city of Washington, D. C., to the memory of Abraham Lincoln, subject to the approval of Congress. Section 3 of the act provides—

That the construction of the monument or memorial herein and hereby authorized shall be upon such site as shall be determined by the commission herein created and approved by Congress.

The resolution pending before the House is simply a resolution to approve the location, the plan, and the design on the report of the commission which has been submitted to Congress in conformity with the act. It is not a resolution to amend the original act; it does not propose to amend the original act at all, but it is simply a resolution in accordance with the provisions of the original act to approve the plans which have been submitted by the commission.

Mr. BARTLETT. May I interrupt the gentleman?

Mr. MANN. Certainly.

Mr. BARTLETT. This is a joint resolution which has been passed and approved and has the force and effect of law?

Mr. MANN. Undoubtedly.

Mr. BARTLETT. Then does the gentleman not agree that we can repeal this entire law or this joint resolution or amend it in any way?

Mr. MANN. I am arguing now that you can not.

Mr. BARTLETT. Can not amend it or repeal it?

Mr. MANN. It is perfectly patent under the proposition that to repeal it is not germane to the resolution.

Mr. BARTLETT. Does not the gentleman from Illinois contend that this act could not be amended or repealed?

Mr. MANN. Certainly not. It would be in order to repeal or to pass an act or bill repealing the original act or amending the original act, but that is not the resolution pending before the House. It is not proposed by the resolution to affect the original act at all. There is not to be a line of the original act changed by this resolution. This resolution is in accordance with the existing provisions of the original act, providing for the approval by Congress of the plans recommended by the commission.

Mr. BARTLETT. May I ask the gentleman another question?

Mr. MANN. Certainly.

Mr. BARTLETT. We could approve these plans as well by an act as we could by a joint resolution?

Mr. MANN. Undoubtedly.

Mr. BARTLETT. There is no difference in an act or a joint resolution?

Mr. MANN. Not the slightest, in my opinion.

Mr. BARTLETT. And whatever you could do on a bill pending for this purpose you could do on a joint resolution?

Mr. MANN. I think so.

Now, the Speaker recently held that where a bill was pending to amend a section of the judiciary title, I believe, it was not in order to amend another section of that title, nor in order, by way of amendment, to introduce any new subject

matter not contemplated in the bill itself, because not germane to the provisions of the bill.

And even if in this case there were a bill pending to change the name of one of the commissioners I do not think it would be in order, as germane to that bill, to amend the other provisions of the act. But the joint resolution pending now is not a resolution to amend the original act at all. It is a resolution to carry into effect the provisions of the act as they stand in the law, providing that Congress shall approve these plans before the construction commences.

Mr. BORLAND. Mr. Speaker, I desire to be heard in opposition to the point of order.

Mr. Speaker, the view taken by the gentleman from Illinois [Mr. MANN] would so narrow the issue and so narrow the power of Congress in this respect that there would be nothing left for Congress to do under any form of resolution that could be introduced but to approve or disapprove the specific design or plan for a memorial.

The original act by which this commission was created is entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln." That title is broad enough to include not only a monument, such as is here reported upon, but any other form of memorial. But it is manifest by the line of argument adopted by the gentleman from Illinois that he would limit it to a monument, and there could be no other form of memorial.

The SPEAKER. The gentleman can dismiss that part of it from his mind at once, because the Chair thinks it is broad enough to cover any kind of a building that is intended to perpetuate the name of Lincoln. The Chair will ask the gentleman this question: What does the gentleman think about the limitation of that statute as to the place where this memorial is to be built?

Mr. BORLAND. Mr. Speaker, that is no more a necessary feature of this statute than the name of any of the commissioners or any of the other details of the original enactment. Congress intended to—and I believe the Speaker will agree that it did—reserve to itself the final word upon what this memorial should be. The memorial commission actually investigated—so they claim by their report—the Lincoln highway. They actually investigated other forms of memorials. But it is clearly within the power of Congress, having reserved to itself the right to approve or disapprove the findings of the commission created by Congress, to disapprove the findings of the commission and refer the matter to the commission with instructions to report upon some other form of memorial. Otherwise the power of approval reserved would be of no value to Congress.

Now, these gentlemen here have spoken about a bridge. Some of them have spoken about an arch. Some of them have spoken about an industrial school. The gentleman from Kentucky made a very eloquent speech about a road to Richmond. All of these projects seem to have been clearly in the minds of Members of Congress as possible and permissible under some form of memorial to Abraham Lincoln, as designated in the title of that act.

This resolution that I offer simply asks this commission to report on the first Monday in December, 1913, as Congress has the right to ask it to report, upon a memorial highway from Washington to the battle field of Gettysburg or any other appropriate memorial road, bridge, institution, or structure. That language is broad enough to include every proposition that has been debated before the House to-day.

Mr. JAMES. Mr. Speaker, will the gentleman yield for a question?

Mr. BORLAND. Yes.

Mr. JAMES. What does the gentleman say in connection with his statement that this act is broad enough to include his project from here to Gettysburg battle field, when in the language of the act creating this commission these words are used:

To secure and determine upon a location, plans, and design for a monument or memorial in the city of Washington, D. C., to the memory of Abraham Lincoln.

It is not outside; it is not to Gettysburg, but it is in the city of Washington, the District of Columbia.

Mr. BORLAND. Mr. Speaker, that is exactly the point I was trying to make. The design and purpose of that original law and of this resolution, which rests only upon that original law, was to find an appropriate memorial to Abraham Lincoln. The other matter was a matter of detail. Undoubtedly that must be one way in one law and another way in another law without changing the fundamental, underlying purpose of the law, which purpose was the establishment of a memorial to Abraham Lincoln; and any form of resolution is germane which is germane to that underlying proposition, without regard to details.

Suppose, instead of being "the District of Columbia," the detail had been that it should be on a certain square in the District of Columbia, or that it should be in a certain part of the District of Columbia, or some other incidental detail. Those matters are purely directory in many laws, but in this one more especially, because it does not enter at all into the fundamental purpose, which is to secure a memorial to Lincoln that Congress deems to be appropriate. If Congress deems that the memorial selected is not appropriate, it must have reserved to itself some vital power—not an empty power over the question—when it finally comes before Congress in the form of a report of the commission.

Mr. TALBOTT of Maryland. And yet in your resolution the District of Columbia is included.

Mr. BORLAND. Under the resolution I offer the commission could bring in any other memorial in the District of Columbia, even this Greek temple, for they are not limited to any particular structure. They are entitled to report upon any other Greek temple or upon an arch or any other memorial.

Now, what is the result of the reasoning of the gentleman from Illinois [Mr. MANN]? Congress must vote down this proposition unless it is willing to accept, without dotting an "i" or crossing a "t," the report of the Fine Arts Commission and the Lincoln Memorial Commission. If every Member of Congress is not agreed that that is the best form of memorial for Lincoln, there is no parliamentary alternative, according to this argument, except to vote it down. What is the result of that? The commission having reported has no more vitality. The gentleman says we can not extend the life of it; we can not enlarge its powers; we can not change the directions we gave to it. If a line of argument so narrow is followed, then we have no power except to vote it down, thereby putting an end forever to the commission and destroying the very purpose that Congress had, the fundamental purpose of really securing a memorial for Abraham Lincoln.

Mr. MANN. Mr. Speaker, I think the gentleman hardly intended to say that my contention was that Congress could not change the provisions about the memorial. That is not the question now pending before the Speaker. The question is whether an amendment is germane to the pending proposition. Congress has it within its power to repeal the law providing for the Lincoln Memorial Commission or to amend the law providing for the Lincoln Memorial Commission or to provide other commissions or to do what it pleases about it; but the question here is whether a proposed amendment is germane to a resolution simply approving something as contemplated by law.

The SPEAKER. The Chair is ready to rule. The pending resolution is very simple. It is simply to approve certain findings of that commission, that one proposition and nothing else.

The present occupant of the Chair has ruled more than once, or at least he ruled once and proposes to stick to it, that where a law contains several sections and some gentleman brings in a bill to amend one section of that law only, then the House can not wander around and undertake in that bill to amend other sections of that law, because there must be an end and a limit to all things. The statute provides that the Lincoln monument or memorial shall be "in the District of Columbia." That settles that part of it. I do not believe that under that statute you can go outside the District of Columbia. I do not believe that a fair, careful reading of this resolution will permit any amendment providing for passing on another memorial in the city of Washington or out of it.

There are various ways of defeating this proposition. The first step, if the House desires to take it, is to vote this resolution down. Any step might be taken after that. There are two ways of getting rid entirely of this limitation as to the District of Columbia. One of them is by a bill amending the statute creating the commission, and another by a joint resolution, which is tantamount to a bill, for the same purpose. Therefore the Chair sustains the point of order.

Mr. STEPHENS of Texas. Mr. Speaker, does that apply to the amendment that I introduced?

The SPEAKER. The Chair stated a part of the ruling does not apply to the proposition offered by the gentleman from Texas.

Mr. STEPHENS of Texas. I desire to call attention to the fact that my amendment applies to the District of Columbia.

The SPEAKER. The Chair understands that. The last part of the ruling applies to the amendment offered by the gentleman from Texas. The language of this resolution is as simple as it can be, and an amendment that undertakes to amend this resolution by authorizing the erection of another memorial

would not be germane. If the House does not want this memorial, it can vote this joint resolution down.

Mr. BOOHER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BOOHER. Does that apply to the amendment offered by the gentleman from Tennessee? His amendment is to disapprove and refer the matter back to the commission.

The SPEAKER. All of these amendments are exactly alike in substance except the amendment of the gentleman from Missouri [Mr. BORLAND], which contains another proposition also.

Mr. BOOHER. The amendment of the gentleman from Tennessee was for a memorial arch within the District of Columbia.

The SPEAKER. The Chair understands that. The Chair says that under this resolution no amendment establishing another memorial to Lincoln, either in the District of Columbia or out of it, is germane to the pending resolution.

Mr. BOOHER. Would not an amendment be in order disapproving the findings of that commission and referring the matter back to them without designating what they shall do?

The SPEAKER. The Chair will state that when the proper times comes any gentleman in the House can move to recommit the resolution, and if that motion carries that ends it for the time being. But nothing is permissible in a motion to recommit that is not permissible by way of amendment.

Mr. BOOHER. That is what I understood the rule to be, and I am inquiring whether an amendment disapproving the report and referring it back to the commission would be in order.

The SPEAKER. A motion to recommit and referring it back would undoubtedly be in order.

Mr. BORLAND rose.

Mr. EVANS. Mr. Speaker, I move the previous question on the resolution and pending amendments, and I wish to say to a number of gentlemen to whom I have promised time that I am treating them as I have treated myself. I have made no speech, because I felt it important that others could make the speeches.

The SPEAKER. The Chair will say to the gentleman from Illinois that the gentleman from Missouri [Mr. BORLAND] was on his feet addressing the Chair before the gentleman from Illinois made his motion. What is it the gentleman from Missouri rose for?

Mr. BORLAND. Mr. Speaker, I desire to submit an amendment, as follows: That the word "approved" in the resolution be stricken out, and in lieu thereof the words "disapproved; and the matter referred to the commission for further report upon the proposed memorial to Abraham Lincoln" be inserted.

Mr. MANN. Mr. Speaker, to that I make a point of order.

Mr. COOPER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. COOPER. Has debate been closed by action of the House?

The SPEAKER. Debate has not been closed. The gentleman from Illinois [Mr. MANN] reserved the point of order against each one of these amendments as they were offered.

Mr. COOPER. That does not affect the debate on the main question?

The SPEAKER. It does not.

Mr. COOPER. Mr. Speaker, will the gentleman from Illinois permit me to make a statement? During the debate in my absence to-day the gentleman from Ohio [Mr. SHERWOOD] told the House that yesterday I made a mistake in reporting what was written to me by Col. Watrous as to the favorable attitude of the Grand Army of the Republic toward the proposed memorial to Lincoln in this city. He said that he had with him a copy of the resolution adopted at the meeting of the Grand Army of the Republic in Los Angeles last September, which resolution, he said, was against the memorial.

On returning to the Chamber and learning of this statement of the gentleman from Ohio I immediately went to the telegraph office and wired to Col. Watrous in Milwaukee, who, as I said yesterday, was in the Battle of Gettysburg and at one time commander of the Grand Army of the Republic. I told him of the contradiction that the gentleman from Ohio, Gen. SHERWOOD, had made to my remarks, and asked him to wire me a reply at once. I have his reply, received a few moments ago. It is dated Milwaukee, January 29, 1913, and is addressed to me. It says:

Vote unanimous against road and for memorial in Washington.
J. A. WATROUS.

Then my friend from Illinois, Mr. EVANS, and my friend from Illinois, Mr. MANN, told me that a soldier on the floor of the House, the gentleman from Illinois, Mr. THISTLEWOOD, had a certified copy of the record of the proceedings of the Grand Army of the Republic at their meeting in Los Angeles last September. That soldier handed it to me, and with the permission of the gentleman from Illinois [Mr. EVANS] I will occupy time enough to read the resolution in question.

The SPEAKER. Will the gentleman yield?

Mr. EVANS. Yes.

Mr. COOPER. It is as follows:

Comrade Taylor, of Illinois, read the following report:

"Your committee on report of the committee on Lincoln way approves the report of the committee and recommends the indorsement by this encampment of the Cullom bill for the Lincoln Memorial Commission to erect a monument, to be located on the banks of the Potomac.

"WILLIAM C. ALBERGER,
"CHARLES H. TAYLOR,
"ALBERT A. NILES,
"*Committee.*"

Mr. BORLAND. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BORLAND. I would like to know how the gentleman from Wisconsin obtained the floor.

The SPEAKER. The gentleman from Illinois [Mr. EVANS] yielded him the time.

Mr. BORLAND. But the gentleman from Illinois did not have the floor. I had the floor to offer an amendment.

The SPEAKER. The gentleman from Wisconsin rose and obtained the floor by asking to submit a parliamentary inquiry.

Mr. BORLAND. The gentleman from Illinois [Mr. MANN] had raised the point of order to my amendment.

The SPEAKER. And the gentleman from Illinois [Mr. EVANS] yielded the gentleman from Wisconsin time enough to read the telegram.

Mr. BORLAND. I do not see how he could do that.

Mr. TOWNSEND. Does the gentleman from Missouri object to the telegram being read?

Mr. BORLAND. I object to his taking the floor in that manner. Other gentlemen want the floor and can not get it.

Mr. COOPER. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CANNON. Mr. Speaker, as I understand the situation, the gentleman from Illinois was recognized and proceeded to and did move the previous question on the resolution to final passage.

Mr. BORLAND. Mr. Speaker, I am afraid the gentleman is mistaken about that.

Mr. CANNON. I am not mistaken.

The SPEAKER. The Chair will state exactly what happened. The gentleman from Illinois [Mr. EVANS] rose and moved the previous question, but prior to that the gentleman from Missouri [Mr. BORLAND] had addressed the Chair. The Chair supposed he wanted to make a parliamentary inquiry, and not desiring to cut off any gentleman from the privilege of making a parliamentary inquiry, he asked the gentleman from Illinois [Mr. EVANS] to withhold his motion until the Chair could ask what the gentleman from Missouri desired. The gentleman from Illinois [Mr. EVANS] had moved the previous question.

Mr. BORLAND. Mr. Speaker, I obtained the floor to offer an amendment and did so, and the gentleman from Illinois [Mr. MANN] reserved the point of order against the amendment. It was on that situation that the gentleman from Wisconsin [Mr. COOPER] rose and asked leave to make a parliamentary inquiry, or some sort of an inquiry. Then when he had proceeded for some time he asked for time from the gentleman from Illinois [Mr. EVANS], who had no time and who had not the control of the floor.

The SPEAKER. The Chair believed at that time that that was the shortest way out.

Mr. COOPER. Mr. Speaker, I have only to add that that report was adopted. [Laughter.]

Mr. BORLAND and Mr. EVANS rose.

The SPEAKER. The Chair will recognize the gentleman from Missouri.

Mr. BORLAND. Mr. Speaker, I have submitted an amendment here against which a point of order has been made by the gentleman from Illinois [Mr. MANN]. Before discussing that point of order I should like to ask the gentleman to withhold his point of order until I may yield a few minutes to the gentleman from Ohio [Mr. SHERWOOD], who, in fairness, would like to be heard for a few moments.

The SPEAKER. The gentleman can not yield time on a point of order.

Mr. MANN. Mr. Speaker, while I did say I made the point of order on the amendment proposed by the gentleman from Missouri [Mr. BORLAND], that amendment was never offered, was never reported from the Clerk's desk, where it is necessary it should be. I have no objection to the gentleman having an opportunity to offer it.

Mr. BORLAND. I offered it.

Mr. CANNON. Mr. Speaker, the situation, and I watched it closely, is that the gentleman from Illinois, my colleague, Mr. EVANS, has the floor. He moved the previous question, and then, in the nature of unanimous consent, without his losing the floor, we have had what followed. I think he is entitled to the floor now and has not yielded the floor, as I understand it. I have no objection if the gentleman from Illinois will yield for unanimous consent to the gentleman from Ohio [Mr. SHERWOOD] having a minute, not to interfere with my colleague's right to the floor.

Mr. GARNER. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Texas rise?

Mr. GARNER. I rise for a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARNER. Mr. Speaker, my recollection is that the Chair recognized the gentleman from Missouri [Mr. BORLAND] when he was standing on his feet for the purpose of offering an amendment. In the meantime the gentleman from Illinois [Mr. EVANS] rose before the amendment was offered and the Chair recognized him, and he moved the previous question. Since that time there have been several things done in the way of conversation and parliamentary inquiries, but I submit to the Chair that the Chair had recognized the gentleman from Missouri [Mr. BORLAND] before he recognized the gentleman from Illinois.

The SPEAKER. No; no.

Mr. GARNER. I appeal to the record of the notes that the Chair had recognized the gentleman from Missouri [Mr. BORLAND], and the gentleman from Missouri was about offering his amendment; then the Chair recognized the gentleman from Illinois [Mr. EVANS], and he moved the previous question.

The SPEAKER. Here is the situation: The gentleman from Illinois [Mr. EVANS] moved the previous question. The gentleman from Missouri [Mr. BORLAND] had been trying to attract the attention of the Chair when he made the ruling on these amendments, and the Chair supposed that he was going to ask a parliamentary inquiry or appeal from the decision of the Chair; but he did neither, and his amendment was never offered.

Mr. GARNER. Well, the parliamentary situation is simply this: If the Chair desired to recognize the gentleman from Missouri for the purpose of offering an amendment, he having been standing on his feet for that purpose, he could have done so, but if he preferred to recognize the gentleman from Illinois [Mr. EVANS] to move the previous question he can do that.

Mr. BORLAND. Mr. Speaker, I would like to refresh the Chair's memory for a moment. When the gentleman from Illinois [Mr. EVANS] rose to move the previous question the Chair said of his own motion——

Mr. MANN. Will the gentleman yield for me to ask unanimous consent that the gentleman from Missouri be entitled to offer the amendment which he suggested, the gentleman from Ohio [Mr. SHERWOOD] to be permitted to address the House for two minutes, and at the end of that time the previous question be considered as ordered on the resolution and amendment thereto to final passage?

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the gentleman from Missouri [Mr. BORLAND] shall be permitted to offer his amendment, and that the gentleman from Ohio [Mr. SHERWOOD] shall have two minutes, and at the end of which time the previous question shall be considered as ordered.

Mr. BORLAND. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Illinois whether he means the previous question shall be considered as ordered or considered as offered?

Mr. MANN. As ordered.

Mr. BORLAND. Then I will have to object, because I can not——

Mr. CANNON. Regular order!

Mr. BORLAND (continuing). I can not consent to it.

The SPEAKER. The gentleman from Illinois [Mr. EVANS] moves the previous question.

The question was taken, and the previous question was ordered.

The SPEAKER. The question is on the third reading of the Senate resolution.

The Senate resolution was read a third time.

The SPEAKER. The question is on the passage of the Senate resolution.

Mr. BORLAND. Mr. Speaker, I have a motion to recommit.

Mr. BOOHER. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. BOOHER. To move to recommit.

The SPEAKER. The Chair had already recognized the other gentleman from Missouri to make a motion to recommit.

Mr. BORLAND. Mr. Speaker, I move that the resolution be recommitted to the Committee on the Library.

The SPEAKER. The question is on the motion to recommit the resolution to the Committee on the Library.

Mr. MANN. Mr. Speaker, on that I move the previous question.

The SPEAKER. The gentleman from Illinois moves the previous question on that motion.

The question was taken, and the previous question was ordered.

The SPEAKER. The question is on the motion to recommit this resolution to the Committee on the Library.

Mr. BORLAND. Mr. Speaker, on that I demand the yeas and nays.

The question was taken.

The SPEAKER. On this vote the yeas are 31, the nays are 153, not a sufficient number, and the yeas and nays are refused.

Mr. BORLAND. Mr. Speaker, I raise the question that there is no quorum present

Mr. FOSTER. Mr. Speaker, I make the point that there is a quorum.

The SPEAKER. The Chair will count. [After counting.] One hundred and ninety-nine Members are present—a quorum.

Mr. BORLAND. Mr. Speaker, I did not understand the Chair to announce whether or not there was a quorum. I rise for the purpose of asking the presence of the enrolled bill before final passage.

Mr. FOSTER. I make the point of order that it is too late.

Mr. MANN. We had the third reading.

The SPEAKER. The request comes too late.

EXPENSES OF INAUGURAL CEREMONIES.

Mr. FITZGERALD, from the Committee on Appropriations, by unanimous consent, reported back Senate joint resolution 157, to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913, which was referred to the Committee of the Whole House on the state of the Union.

THE LINCOLN MEMORIAL.

The SPEAKER. The question is on recommitting Senate joint resolution 158.

Mr. MANN. We had the vote on the motion to recommit, and declined to grant the yeas and nays.

The SPEAKER. The Chair's recollection about this is that immediately after the Chair announced that the vote was on the motion to recommit, the gentleman from Missouri [Mr. BORLAND] demanded the yeas and nays.

Mr. LANGLEY. That is correct.

The SPEAKER. And then the Speaker went through the counting process to find out whether the yeas and nays would be ordered, and, finally, whether there was a quorum present. The Chair does not believe he can be mistaken about that recollection. The question is on the motion to recommit.

The question was taken.

The SPEAKER. The noes have it.

Mr. BORLAND. Mr. Speaker, I ask for the yeas and nays.

Mr. HEFLIN. Mr. Speaker, I make the point of order that the motion is dilatory.

The SPEAKER. The House has just refused the yeas and nays on this proposition.

Mr. HEFLIN. Mr. Speaker, I make the point of order that the motion is dilatory.

The SPEAKER. The question is, Shall this resolution pass?

The question was taken, and the Senate joint resolution was passed.

On motion of Mr. EVANS, a motion to reconsider the vote by which the resolution was agreed to was laid on the table.

ENROLLED JOINT RESOLUTION PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following joint resolution:

H. J. Res. 380. Authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc.

LEAVE OF ABSENCE.

Mr. SCULLY, by unanimous consent, was granted leave of absence for one week, on account of illness in his family.

ADJOURNMENT.

Mr. EVANS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 4 minutes p. m.) the House adjourned until 11 o'clock a. m., Thursday, January 30, 1913.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 26737) to amend an act approved October 1, 1890, entitled "An act to set apart certain tracts of land in the State of California as forest reservations," reported the same with amendment, accompanied by a report (No. 1411), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. GARDNER of Massachusetts, from the Committee on the Library, to which was referred the bill (H. R. 28468) providing for the erection of memorials to Thomas Jefferson and Alexander Hamilton in the District of Columbia, reported the same without amendment, accompanied by a report (No. 1414), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. PEPPER, from the Committee on Military Affairs, to which was referred the bill (S. 5262) for the relief of Sylvester G. Parker, reported the same without amendment, accompanied by a report (No. 1412), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BURLESON: A bill (H. R. 28499) making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. HUGHES of West Virginia: A bill (H. R. 28500) to promote the safety of employees and passengers upon railroads engaged in interstate traffic; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 28501) to regulate the collection of internal revenue; to the Committee on Ways and Means.

By Mr. THOMAS: A bill (H. R. 28502) to provide for the erection of a monument to Lester Bryant; to the Committee on the Library.

By Mr. HUMPHREY of Washington: A bill (H. R. 28503) to amend an act entitled "An act to provide revenues, equalize duties, encourage the industries of the United States, and for other purposes"; to the Committee on Ways and Means.

By Mr. McGILLICUDDY: A bill (H. R. 28504) increasing the limit of cost fixed by act of Congress approved June 25, 1910, for enlargement, extension, etc., of Federal building at Bath, Me.; to the Committee on Public Buildings and Grounds.

By Mr. VOLSTEAD: A bill (H. R. 28505) to authorize the Minnesota River Improvement & Power Co. to construct dams across the Minnesota River; to the Committee on Interstate and Foreign Commerce.

By Mr. PUJO: A bill (H. R. 28506) to erect an extension to the post office and Federal court building at Alexandria, La.; to the Committee on Public Buildings and Grounds.

By Mr. AUSTIN: A bill (H. R. 28507) to protect honorably discharged soldiers, sailors, or marines employed under the civil service, who are rated as "good," from discharge or reduction from said service; to the Committee on Reform in the Civil Service.

By Mr. CARTER: Memorial from the Legislature of Oklahoma, favoring the election of Federal district judges by the people of their respective States; to the Committee on the Judiciary.

Also, memorial from the House of Representatives of the State of Oklahoma, expressing disapproval of the central banking scheme as proposed in the Aldrich currency bill; to the Committee on Banking and Currency.

Also, memorial from the Legislature of the State of Oklahoma, memorializing Congress to make early settlement of the claims of the Choctaw Indians against the United States; to the Committee on Indian Affairs.

Also, memorial from the Legislature of Oklahoma, favoring the Kenyon-Sheppard bill; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BROWNING: A bill (H. R. 28508) granting a pension to James Gleason; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 28509) to amend the military record of Richard Parke; to the Committee on Military Affairs.

By Mr. CANTRILL: A bill (H. R. 28510) granting an increase of pension to Rowland T. Vories; to the Committee on Invalid Pensions.

By Mr. CRAGO: A bill (H. R. 28511) granting a pension to John C. Gaither, jr.; to the Committee on Pensions.

By Mr. MICHAEL E. DRISCOLL: A bill (H. R. 28512) for the relief of George Le Clear; to the Committee on Military Affairs.

By Mr. FIELDS: A bill (H. R. 28513) granting an increase of pension to James M. Vansant; to the Committee on Invalid Pensions.

By Mr. GUERNSEY: A bill (H. R. 28514) for the relief of Albert Greenlaw; to the Committee on the Post Office and Post Roads.

By Mr. HUGHES of West Virginia: A bill (H. R. 28515) for the relief of Anna De Bord; to the Committee on Claims.

By Mr. LAFEAN: A bill (H. R. 28516) granting an increase of pension to John H. Hector; to the Committee on Invalid Pensions.

By Mr. LANGHAM: A bill (H. R. 28517) granting a pension to William John Rosenberger; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 28518) granting a pension to Mary Ellen Bousman; to the Committee on Invalid Pensions.

By Mr. NEELEY: A bill (H. R. 28519) granting a pension to Martha J. Curry; to the Committee on Pensions.

Also, a bill (H. R. 28520) granting an increase of pension to Philip M. Nuckles; to the Committee on Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 28521) granting an increase of pension to Mary R. Kendall; to the Committee on Pensions.

By Mr. SPARKMAN: A bill (H. R. 28522) granting an increase of pension to George W. Hendry; to the Committee on Pensions.

By Mr. THAYER: A bill (H. R. 28523) granting a pension to Josuah H. Brackett; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the Sumter Chamber of Commerce, favoring the passage of legislation for the purpose of eliminating the pistol from American life; to the Committee on Interstate and Foreign Commerce.

Also (by request), petition of citizens of the United States, suggesting a system of collecting tolls at the Panama Canal, so that there will not be any special privileges; to the Committee on Interstate and Foreign Commerce.

By Mr. ALLEN: Petition of the German-American Peace Society of New York, protesting against the passage of House bill 8141, for placing the State Militia on the national pay roll; to the Committee on Military Affairs.

By Mr. AYRES: Petition of the Richmond Chamber of Commerce, Richmond, Va., favoring the passage of legislation for a reform in the banking system of the United States; to the Committee on Banking and Currency.

Also, petition of the New York State Fruit Growers' Association, favoring the passage of House bill 7208, making the trans-Atlantic steamships liable for the damages of packages, etc., caused through negligence; to the Committee on Interstate and Foreign Commerce.

By Mr. BATES: Petition of the Meadville Art Association, Meadville, Pa., favoring the adoption of the Mall site and design as approved by the National Commission of Fine Arts for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Hafleigh & Co., Philadelphia, Pa., favoring the maintenance of the present tariff on pearl buttons; to the Committee on Ways and Means.

Also, petition of the school board of Gerardboro, Pa., and of John Burroughs, West Park, N. Y., favoring the passage of Senate bill 6497, for Federal protection of all migratory birds; to the Committee on Agriculture.

Also, petition of the Manufacturers' Association of Erie, Pa., protesting against the passage of Senate bill 6099, for the establishment of a uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

By Mr. BATHRICK: Petition of sundry citizens of the nineteenth district of Ohio, asking for a congressional investigation of the prosecution by the Government of the Appeal to Reason; to the Committee on Expenditures in the Post Office Department.

Also, petition of growers of ginseng of the State of Ohio, favoring an appropriation for the investigation of certain diseases peculiar to ginseng; to the Committee on Agriculture.

By Mr. BURKE of South Dakota: Petition of sundry citizens of Lake County, S. Dak., asking for a congressional investigation of the prosecution by the Government of the Appeal to Reason; to the Committee on Expenditures in the Post Office Department.

Also, petition of citizens of Lake County, S. Dak., favoring the passage of legislation to investigate the persecution of the editors of the Appeal to Reason by officials of the United States; to the Committee on Expenditures in the Post Office Department.

By Mr. CALDER: Petition of Richmond Chamber of Commerce, Richmond, Va., favoring the passage of legislation for a reform in the banking system of the United States; to the Committee on Banking and Currency.

Also, petition of the New York State Congregational Woman's Home Missionary Union, asking that the tolls at the Panama Canal be submitted to arbitration if it can not be settled by diplomacy; to the Committee on Interstate and Foreign Commerce.

Also, petition of Herbert S. Gardner, St. Louis, Mo., and L. T. Hinsking, Brooklyn, N. Y., favoring the passage of the McLean bill for Federal protection of migratory birds; to the Committee on Agriculture.

Also, petition of the Moller & Schumann Co., Brooklyn, N. Y.; the Oliver Bros. Purchasing Co., New York; the American Laundry Machinery Co., Rochester, N. Y.; and Louis Schulman, New York, favoring the passage of the Weeks bill (H. R. 27567) for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. CARY: Petition of the Lucy Webb Hayes Training School and the Sibley Memorial Hospital, Washington, D. C., protesting against the passage of House bill 27570, relative to certain public lands; to the Committee on the District of Columbia.

Also, petition of the Richmond Chamber of Commerce, Richmond, Va., favoring the passage of legislation for a reform in the banking system of the United States; to the Committee on Banking and Currency.

Also, petition of the John Pritzloff Hardware Co., Milwaukee, Wis., favoring passage of the Weeks bill (H. R. 27567), for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. DRAPER: Petition of the Richmond Chamber of Commerce, Richmond, Va., favoring the passage of legislation for a reform in the banking system of the United States; to the Committee on Banking and Currency.

By Mr. DYER: Petition of the More-Jones Brass & Metal Co., St. Louis, Mo.; Reinhart Grocer Co., St. Louis, Mo.; and the Webb Freyschlag Mercantile Co., Kansas City, Mo., favoring the passage of the Weeks bill (H. R. 27567), for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of Herbert S. Gardner, St. Louis, Mo.; Christopher P. Nelson, Chicago, Ill.; John Burroughs, New York; J. C. Strauss, St. Louis, Mo.; and A. H. Foote, St. Louis, Mo., favoring the passage of the McLean bill, for Federal protection of migratory birds; to the Committee on Agriculture.

Also, petition of the National League of Government Employees, favoring passage of House bill 20995, granting to certain employees of the United States compensation for injuries sustained in the course of their employment; to the Committee on the Judiciary.

Also, petition of the Missouri Naval Reserve, St. Louis, Mo., favoring passage of House bill 2588, for promoting the efficiency of naval militia; to the Committee on Naval Affairs.

Also, petition of the Lucy Webb Hayes Training School and the Sibley Memorial Hospital, Washington, D. C., protesting against the passage of House bill 27570, relative to certain public lands; to the Committee on the District of Columbia.

Also, petition of the Moon Motor Car Co., St. Louis, Mo., favoring the adoption of a national highway from Washington to Gettysburg for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Everett W. Patterson, St. Louis, Mo., favoring the adoption of the Mall site and design, as approved by the National Commission of Fine Arts, for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. FORNES: Petition of Boring & Tilton, New York, and the New York Chapter of American Institute of Architects, favoring the adoption of the Mall site and design, as approved by the National Commission of Fine Arts, for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of legislation transferring the control and ownership of national forests to the States wherein they lie; to the Committee on Agriculture.

Also, petition of the New York State Conservation Commission, favoring the passage of the Weeks bill making appropriation for the Federal protection of forests from fires; to the Committee on Agriculture.

Also, petition of the United States Live Stock Sanitary Association, Chicago, Ill., favoring the passage of legislation to increase the appropriation for eradication of ticks; to the Committee on Agriculture.

Also, petition of the Richmond Chamber of Commerce, Richmond, Va., favoring the passage of legislation for a reform in the banking system of the United States; to the Committee on Banking and Currency.

By Mr. FULLER: Petition of the Illinois Chapter of American Institute, protesting against the adoption of a national highway from Washington to Gettysburg for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Charles R. Post, Brooklyn, N. Y.; George Shawgo, Wesley, Pa.; and James Bathhurst, Philadelphia, Pa., favoring passage of House bill 1339 granting an increase in pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. GOLDFOGLE: Petition of the Chamber of Commerce of Poughkeepsie, N. Y., favoring the passage of legislation granting a Federal charter to the Chamber of Commerce of the United States; to the Committee on the Judiciary.

Also, petition of the Richmond Chamber of Commerce, favoring the passage of legislation for a reform in the banking system of the United States; to the Committee on Banking and Currency.

Also, petition of Newman Erb and M. Ross, of New York, N. Y., favoring the passage of House bill 1309 for the establishment of a council of national defense; to the Committee on Naval Affairs.

Also, petition of the New York Conservation Commission, favoring an additional appropriation for Federal aid in protecting the forests from fires; to the Committee on Agriculture.

Also, petition of the Association of Eastern Foresters, of Trenton, N. J., protesting against the passage of legislation transferring the control and ownership of national forests to the States wherein they lie; to the Committee on Agriculture.

By Mr. HAMMOND: Petition of the Cloquet Commercial Club, Cloquet, Minn., protesting against the passage of legislation transferring the control and ownership of national forests to the States wherein they lie; to the Committee on Agriculture.

By Mr. HENRY of Connecticut: Petition of citizens of Hartford, Conn., favoring the passage of House bill 1309, for the establishment of a national council of defense; to the Committee on Naval Affairs.

By Mr. LEVY: Petition of Boring & Tilton and Delano & Aldrich, New York, favoring the adoption of the Mall site and design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the New York State Legislative Board of the Brotherhood of Locomotive Engineers, favoring the passage of the Federal workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the Chamber of Commerce of Poughkeepsie, N. Y., favoring the passage of legislation granting a Federal charter to the Chamber of Commerce of the United States; to the Committee on the Judiciary.

Also, petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of legislation transferring the control and ownership of national forests to the States wherein they lie; to the Committee on Agriculture.

Also, petition of the Conservation Commission, favoring the passage of the Weeks bill making appropriation for the Federal protection of forests from fires; to the Committee on Agriculture.

By Mr. LINDSAY: Petition of the Rochester Stamping Co., Rochester, N. Y., favoring passage of House bill 27567, for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of Boring & Tilton and Ludlow & Peabody, New York, favoring the adoption of the Mall site and design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of George N. Wingate, New York, favoring the passage of House bill 1309, providing for a council of national defense; to the Committee on Naval Affairs.

Also, petition of Charles R. Post, Brooklyn, N. Y., favoring passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of the Richmond Chamber of Commerce, Richmond, Va., favoring the passage of legislation for a reform in the banking system of the United States; to the Committee on Banking and Currency.

By Mr. NEELEY: Petition of citizens of the seventh Kansas district, favoring the passage of House bill 25040, for amending the hours-of-service law so that the persons handling orders relative to the movement of trains will not have to work over eight hours; to the Committee on Interstate and Foreign Commerce.

By Mr. PUJO: Papers to accompany bill to erect an extension to the post office and Federal court building at Alexandria, La.; to the Committee on Public Buildings and Grounds.

By Mr. UNDERHILL: Petition of the Association of Eastern Foresters, protesting against the passage of legislation transferring the control and ownership of the national forests to the States wherein they lie; to the Committee on Agriculture.

Also, petition of the conservation committee of the State of New York, favoring an additional appropriation for Federal aid for protection of forests from fires; to the Committee on Agriculture.

Also, petition of the New York State Fruit Growers' Association, favoring the passage of Senate bill 7208, making trans-Atlantic steamships liable for damages to packages, etc., caused through negligence; to the Committee on Interstate and Foreign Commerce.

By Mr. WILSON of New York: Petition of the Richmond Chamber of Commerce, Richmond, Va., favoring the passage of legislation for a reform in the banking system of the United States; to the Committee on Banking and Currency.

Also, petition of the New York State Fruit Growers' Association, favoring the passage of Senate bill 7208, making trans-Atlantic steamships liable for damages of packages, etc., caused through negligence; to the Committee on Interstate and Foreign Commerce.

SENATE.

THURSDAY, *January 30, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

CHESAPEAKE & POTOMAC TELEPHONE CO. (H. DOC. NO. 1315.)

The PRESIDENT pro tempore [Mr. GALLINGER] laid before the Senate the annual report of the Chesapeake & Potomac Telephone Co. for the year 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the joint resolution (S. J. Res. 158) approving the plan, design, and location for a Lincoln memorial.

The message also announced that the House had agreed to the resolution requesting the President to return the bill (S. 7162) to amend section 801 of the Code of Law for the District of Columbia.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 24121) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims.

The message further announced that the House insists upon its amendments to the bill (S. 7160) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. RUSSELL, Mr. ADAIR, and Mr. FULLER managers at the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. RUSSELL, Mr. ADAIR, and Mr. FULLER managers at the conference on the part of the House.

PETITIONS AND MEMORIALS.

Mr. RICHARDSON presented petitions of the congregations of the Methodist Episcopal Churches of Selbyville and Magnolia, in the State of Delaware, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. CRAWFORD presented memorials of the congregations of the Seventh-day Adventist Churches of Elk Point, Viborg, Colman, and Beresford, all in the State of South Dakota, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. MYERS presented memorials of the congregations of the Seventh-day Adventist Churches of Butte and Bozeman, in the State of Montana, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented a memorial of sundry citizens of Dillon, Mont., remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which was ordered to lie on the table.

Mr. HITCHCOCK presented memorials of the congregations of the Seventh-day Adventist Churches of Ringgold, Ragan, and Collegeview, all in the State of Nebraska, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. BRISTOW presented a petition of the Woman's Christian Temperance Union of Mound Valley, Kans., and a petition of sundry citizens of Mound Valley, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. PERKINS presented a resolution adopted by the Aero Club, of Washington, D. C., favoring an appropriation for the establishment of a national aeronautical laboratory in Washington, D. C., which was ordered to lie on the table.

Mr. NELSON presented a memorial of the congregation of the Seventh-day Adventist Church of St. Paul, Minn., and a memorial of the Seventh-day Adventist Church of Duluth, Minn., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. DU PONT presented a memorial of sundry citizens of Smyrna, Del., remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which was ordered to lie on the table.

Mr. MARTINE of New Jersey (for Mr. BRIGGS) presented memorials of the Thomas A. Edison Co. (Inc.), of Orange, N. J.; of sundry citizens of Newark, Riverside, and New Brunswick, in the State of New Jersey; and of the American Association of Foreign Newspapers, of New York, N. Y., remonstrating against the enactment of legislation providing for the removal of restricted prices on patented goods, etc., which were referred to the Committee on Patents.

He also (for Mr. BRIGGS) presented petitions of sundry citizens of Pennington, Canford, Ridgewood, Montclair, Ocean City, East Orange, West Hoboken, Garwood, Orange, Hackensack, Vincentown, Daretown, Moorestown, Clinton, Pleasantville, Madison, Summit, Princeton, Paterson, Newark, Asbury Park, Atlantic City, Springfield, Port Morris, Green Creek, Haddonfield, Long Branch, Somerville, and Oakhurst, all in the

State of New Jersey, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also (for Mr. BRIGGS) presented memorials of the German-American Alliance, of Middlesex County and Elizabeth, and of sundry citizens of Newark, Jersey City, Union Hill, Atlantic City, New Brunswick, and Camden, all in the State of New Jersey, and of sundry citizens of New York, N. Y., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also (for Mr. BRIGGS) presented petitions of sundry citizens of Englewood and Montclair, in the State of New Jersey, praying for the enactment of legislation providing for the protection of migratory birds, which were ordered to lie on the table.

He also (for Mr. BRIGGS) presented a petition of sundry citizens of Jersey City, N. J., praying for the enactment of legislation providing for the establishment of a board of river regulation, etc., which was referred to the Committee on Commerce.

He also (for Mr. BRIGGS) presented petitions of sundry citizens of Secaucus and Kenvil, in the State of New Jersey, praying for the enactment of legislation granting the Government power to establish game reservations upon national lands, which were referred to the Committee on Forest Reservations and the Protection of Game.

He also (for Mr. BRIGGS) presented a petition of Phoenix Lodge, No. 315, International Association of Machinists, of Elizabeth, N. J., praying for the passage of the so-called eight-hour bill, which was ordered to lie on the table.

He also (for Mr. BRIGGS) presented memorials of the congregations of the Seventh-day Adventist Churches of Perth Amboy and Fairton, and of sundry citizens of Vineland, all in the State of New Jersey, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also (for Mr. BRIGGS) presented petitions of sundry citizens of East Orange and Newark, in the State of New Jersey, praying for the construction of a public highway from Washington, D. C., to Gettysburg, Pa., as a memorial to Abraham Lincoln, which were ordered to lie on the table.

He also (for Mr. BRIGGS) presented petitions of members of the Friday Club of Bridgeton and of the Woman's Club of Arlington, in the State of New Jersey, praying for the establishment of a national department of public health, which were ordered to lie on the table.

He also (for Mr. BRIGGS) presented memorials of sundry officers of the Home Building and Loan Association, of Asbury Park, N. J., remonstrating against the enactment of legislation levying a special excise tax on building and loan associations, which were ordered to lie on the table.

He also (for Mr. BRIGGS) presented petitions of the Board of Trade of Elizabeth and of sundry citizens of Grenloch, in the State of New Jersey, praying for the enactment of legislation granting a charter to the Chamber of Commerce of the United States, which were referred to the Committee on the Judiciary.

He also (for Mr. BRIGGS) presented petitions of the New Jersey State Teachers' Association; the Board of Trade of Elizabeth; the School of Industrial Art of Trenton; the mayor of Trenton; W. H. S. Demarest, president of Rutgers College; Prof. J. G. Lipman, of Rutgers College; the New Jersey State Grange; the Board of Education of Elizabeth; the superintendent of the Vineland Training School; of Hon. Ernest R. Ackerman, of Plainfield; of the president and superintendent of the Board of Education of South Orange; of Edward S. Pierson, of Jersey City; of the superintendents of public schools of Union County, Bloomfield, Elizabeth, Vineland, Asbury Park, Glen Ridge, and New Brunswick; of the New Jersey Bankers' Association; and of sundry citizens, all in the State of New Jersey, praying for the passage of the so-called Page vocational education bill, which were ordered to lie on the table.

He also (for Mr. BRIGGS) presented petitions of sundry citizens of Orange and Jersey City, in the State of New Jersey, praying for the enactment of legislation granting pensions to veterans of the Indian wars, which were referred to the Committee on Pensions.

He also (for Mr. BRIGGS) presented petitions of sundry citizens of Newark, Harrison, East Orange, Passaic, Elizabeth, and Jersey City, all in the State of New Jersey, praying for the enactment of legislation granting pensions to widows and orphans of Spanish War veterans, which were referred to the Committee on Pensions.

He also (for Mr. BRIGGS) presented petitions of sundry citizens of Newark, N. J., praying for the enactment of legislation to prohibit the use of trading coupons, which were referred to the Committee on Finance.

He also (for Mr. BRIGGS) presented a petition of Local Branch No. 380, National Association of Letter Carriers, of Trenton, N. J., praying for the enactment of legislation providing for the retirement of certain employees in the civil service, which was referred to the Committee on Civil Service and Retrenchment.

He also (for Mr. BRIGGS) presented a memorial of Local Grange No. 36, Patrons of Husbandry, of Medford, N. J., remonstrating against the repeal of the oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also (for Mr. BRIGGS) presented a memorial of the Woodbury Mill & Lumber Co., of Woodbury, N. J., remonstrating against the passage of the so-called anti-injunction bill, which was referred to the Committee on the Judiciary.

He also (for Mr. BRIGGS) presented petitions of Union No. 62, International Brotherhood of Bookbinders; of Union No. 14, United Hatters of North America, of Newark; of Phoenix Lodge, No. 313, International Association of Machinists, of Elizabeth; of Union No. 63, Glass Bottle Blowers' Association, of Williamstown; of Union No. 307, Painters, Decorators, and Paper Hangers, of Morristown; of Union No. 3, Cigar Makers' International Union, of Paterson; and of Union No. 139, Carpenters' Union, of Jersey City, all in the State of New Jersey, praying for the passage of the so-called anti-injunction bill, which were referred to the Committee on the Judiciary.

He also (for Mr. BRIGGS) presented memorials of sundry citizens of Salem, Oreg.; Philadelphia, Pa.; Buffalo, N. Y.; Boston, Mass.; Madison, Wis.; and New York, N. Y., remonstrating against the enactment of legislation increasing the rate of postage on printed matter, which were referred to the Committee on Post Offices and Post Roads.

He also (for Mr. BRIGGS) presented petitions of the Whitlock Cordage Co., of New York, N. Y.; of the New Jersey Fire Insurance Co., of Newark; and of sundry citizens of Newark and Paterson, in the State of New Jersey; of Wheeling, W. Va., and of Philadelphia, Pa., praying for the adoption of a 1-cent postage on first-class mail matter, which were referred to the Committee on Post Offices and Post Roads.

He also (for Mr. BRIGGS) presented memorials of the American Truth Society of Paterson, and of sundry citizens of Passaic, all in the State of New Jersey, remonstrating against an appropriation being made to celebrate the one hundredth anniversary of peace with England, which were ordered to lie on the table.

Mr. GALLINGER presented the petition of Robert Fletcher, of Dartmouth College, Hanover, N. H., and a petition of the congregation of the First Methodist Episcopal Church of Claremont, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a resolution adopted by the New England Club of Library Commission Workers, of Boston, Mass., favoring the adoption of certain amendments to the parcel-post law, which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. CLARK of Wyoming, from the Committee on Public Lands, to which was referred the bill (H. R. 23351) to amend an act entitled "An act to provide for an enlarged homestead," reported it without amendment and submitted a report (No. 1169) thereon.

Mr. WORKS, from the Committee on Public Lands, to which was referred the bill (S. 7875) to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal., reported it with amendments and submitted a report (No. 1170) thereon.

Mr. CLARKE of Arkansas, from the Committee on Military Affairs, to which was referred the bill (H. R. 24365) providing for the taking over by the United States Government of the Confederate cemetery at Little Rock, Ark., reported it without amendment and submitted a report (No. 1171) thereon.

He also, from the same committee, to which was referred the bill (S. 6766) providing for the taking over by the United States Government of the Confederate cemetery at Little Rock, Ark., reported adversely thereon, and the bill was postponed indefinitely.

He also, from the same committee, to which was referred the bill (S. 4549) to place the name of Sergt. Herman C. Funk upon the officers' retired list, reported it with an amendment and submitted a report (No. 1172) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULBERSON:

A bill (S. 8315) granting permission to Ella S. Gilliland, and Clara E. Gilliland, joined by her husband, W. H. Gilliland, to institute suit against the United States of America in the district court of the United States for the eastern district of Texas for the partition and adjustment of the rights and titles claimed by them in certain lands situated in said eastern district of Texas; to the Committee on the Judiciary.

By Mr. SMITH of Maryland:

A bill (S. 8316) granting an increase of pension to Elizabeth McLaughlin; to the Committee on Pensions.

By Mr. KERN:

A bill (S. 8317) for the relief of John M. Butler (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 8318) granting an increase of pension to Thomas White (with accompanying papers); and

A bill (S. 8319) granting an increase of pension to Joel A. Griffin (with accompanying papers); to the Committee on Pensions.

By Mr. SANDERS:

A bill (S. 8320) granting an increase of pension to Matilda I. Nason; to the Committee on Pensions.

By Mr. GRONNA:

A bill (S. 8321) to amend section 1 of an act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended; to the Committee on Interstate Commerce.

By Mr. SMOOT:

A bill (S. 8322) granting a pension to Charles O. Farnsworth (with accompanying papers); to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 8323) for the relief of F. W. Tyler; to the Committee on Claims.

By Mr. JONES:

A bill (S. 8324) to appoint James W. Keen as master's mate in the Revenue-Cutter Service, and to place him as such upon the retired list; to the Committee on Commerce.

A bill (S. 8325) granting an increase of pension to Carrie A. Miller; and

A bill (S. 8326) granting a pension to Jesse F. Cochran, alias Franklin Cochran; to the Committee on Pensions.

By Mr. SMITH of Arizona:

A bill (S. 8327) for the relief of G. O. Nolan; to the Committee on Claims.

By Mr. MARTINE of New Jersey (for Mr. BRIGGS):

A bill (S. 8328) to place Peter Vredenburgh, late first lieutenant of Infantry, United States Army, on the retired list of the Army; and

A bill (S. 8329) for the relief of Second Lieut. John F. Brown, Philippine Scouts, United States Army; to the Committee on Military Affairs.

By Mr. BRADLEY:

A bill (S. 8330) granting an increase of pension to Leander Ledford (with accompanying papers); to the Committee on Pensions.

By Mr. TOWNSEND:

A bill (S. 8331) granting a pension to Josephina Soleau (with accompanying papers); to the Committee on Pensions.

By Mr. POMERENE:

A bill (S. 8332) to increase the limit of cost of the public building at Piqua, Ohio; to the Committee on Public Buildings and Grounds.

AMENDMENTS TO RIVER AND HARBOR BILL.

Mr. WORKS submitted an amendment proposing to appropriate $1,250,000 for necessary improvements on the Colorado River to protect the lands and property of Imperial Valley, Cal., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $22,067 for the maintenance of the improvement of San Diego Harbor, Cal., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. PERKINS submitted an amendment providing for a survey of Berkeley Harbor with a view to the development and completion of the Berkeley inner harbor, California, intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. LODGE (for Mr. CRANE) submitted an amendment providing for a survey of Marion Harbor, Mass., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

REGULATION OF PILOTAGE.

Mr. JONES submitted an amendment intended to be proposed by him to the bill (S. 7629) to provide for the further Federal regulation of pilotage, which was referred to the Committee on Commerce and ordered to be printed.

EIGHT-HOUR LAW.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (H. R. 18787) relating to the limitation of the hours of daily services of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia.

Mr. BORAH. I move that the Senate insist upon its amendments and agree to the conference asked for by the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. BORAH, Mr. PENROSE, and Mr. SHIVELY conferees on the part of the Senate.

ADDRESS OF SENATOR HEISKELL.

Mr. HEISKELL. Mr. President, if you should be surprised that I who have so lately become a Member of this body should now arise to say farewell, please remember that there are circumstances over which I have no control. Certain Senators were kind enough to invite, advise, and induce me to make my leave-taking the occasion for some remarks to the Senate. I am glad to see that we have a quorum of the Senate present, but I must observe that of those Senators who invited, advised, and induced me to speak there is not a quorum present. I have the news from Arkansas, where the legislature is in session. My successor, whom I can warrant to you as a good and worthy man, has been elected, and even now he is bearing down upon me, armed with a commission which is to serve as a writ of dispossession against the present occupant of this seat. Within a few weeks, after March 4, he in his turn will be succeeded by another Senator. But you know the saying is the third time the charm, and this third Senator will stay with you for the full term of six years. There is senatorial glory enough to go around—if you keep it moving fast enough. I have foreseen what has now happened and thus you will be able to understand why I have, since coming here, been making an exhaustive and painstaking investigation to find what are the rights, privileges, prerogatives, and immunities that may be enjoyed by a man who is a former Member of the United States Senate.

After a service in this body of 22 days I am going home and spend the remaining years of my life in writing my "reminiscences of the Senate." When I came here I was not even acquainted with the geography of the Capitol and its grounds, and I had some difficulty in finding my way into the Senate, but the Arkansas Legislature has now shown me the way out. I had equal difficulty with respect to the Senate Office Building, but I finally located my quarters in a committee room over whose door is a legend that I at first hastily read as "Mississippi River and its tribulations," for I knew that the tribulations of the Mississippi River are both grievous and multitudinous.

I must make acknowledgment that my stay here has been made pleasant, and things generally have been made easy for me by that historic courtesy that guides and sweetens the proceedings of this body. I have found pleasure in doing my part as best I could in this courtesy while a Member here, but as I am editor of a newspaper I am somewhat perturbed at the thought that an obligation to observe the highest courtesy toward the Senate may rest upon me for the rest of my life. And if when other editors are thundering against the Senate I must sit silent in my sanctum, I shall indeed suffer partial paralysis of my editorial functions.

I came by the Senatorship by the easy way of appointment by the governor. I did not have to go through the storm and stress or, I might even say, the rough and tumble of a State-wide, popular primary, which, under normal conditions, is the arbiter of political fate in Arkansas. And I can assure Senators who have never had that experience that when a man gets a Senatorship as a result of a popular primary he is fairly entitled to enjoy to the fullest all its honors and emoluments. We have indeed in the popular primary States a government of the people, and I affirm my faith in that government, even though there are some persons in these States who are apprehensive

at what may befall us from the votes of those electors, who are dubbed with the uncouth terms of "red neck" and "hillbilly." And what is a hillbilly? He is one of thousands and thousands of white men, poor in the goods of this world, the very foundation course of the structure of human society, who work at the trades of the countryside or cultivate small farms in the sweat of their own brows, whose greatest interests in this world are home, family, school, church, and their country. If these men are sometimes misled, the fault is not so much with them as with him who perverts his talents and abuses his powers to play upon their honest hearts and open minds. It is natural that they should be moved and influenced by one who goes among them dressed, maybe, somewhat in their own garb, even though he may have assumed that dress for the purpose of that express excursion, who can talk to them in their own words and phrases, who can comfort them in their troubles and rejoice with them in their simple joys, who can, actually or in effect, put his arm around them and make them feel that he is their friend and their defense, for the inequalities of social and economic conditions always yearn for a voice to cry their protest. As it was in Greece and Rome, so it is with us to-day. He who has consummate skill to put himself in the place of a champion of the people is not merely a well-known and popular man; he becomes a sentiment, a belief, a creed, and a conviction. But if anyone fears that these masses of men may lay violent hands upon the historic fabric of our institutions, let him remember that the day may come when their true American bone and fiber will make them a fortress and a stronghold for all those things this Nation holds most dear.

Mr. President, one of the great figures in the history of the Senate said, in speaking of his State:

> I shall enter on no encomium upon Massachusetts. She needs none. There she is. Behold her and judge for yourselves.

And I may say that my State of Arkansas needs no encomium. She needs only to be seen and to be known. For it has been the singular misfortune of Arkansas to be misused, misadvertised, misunderstood, and misinterpreted. Because we have areas of lowlands along with our highlands, our hills, and our mountains, some persons who are unacquainted with the State are accustomed to speak of it as a place of swamps.

For the most part these lowlands are not swamps at all. They are covered with towns and plantations, or are lands that can be reclaimed for farms and homes with the simplest works of drainage, and are being so reclaimed by local enterprise. But "swamp" is a ready and an easy word, which gratifies the human appetite for a touch of derogation, and is often chosen by the tongue in preference to more accurate, if less satisfying, terms of description. In my own State we have a name for a particular type of political partisan who inhabits the lowlands and is noted for the great interest he takes in public affairs. He is called a "Swamp Democrat." These lowlands lie generally in eastern Arkansas, a region that was in part inundated by the last great flood in the Mississippi. A flood is a bad visitation. But eastern Arkansas is the daughter of the Father of Waters. For century after century he has drawn on the East, the North, and the West for the treasures of their soil and laid them at her feet. And when mankind came to claim this daughter of the river he found her dowered with wealth far greater than the marriage portions of all the princesses of the earth. Now that eastern Arkansas has been wooed and won by mankind, she has built bulwarks against the Mississippi, but sometimes he breaks in and leaves muddy tracks all over the place. Thus we are in need of works of reclamation, for flood protection and drainage, and for channel improvement also. It is a saying in our State that Arkansas has more miles of navigable rivers than any other State in the Union, and, I regret to add, perhaps as few miles of navigated rivers.

The Nation might well turn its eyes to this undeveloped empire. You have heard the fearsome formula of the political economist about the pressure of population on the means of subsistence. But in Arkansas so many crops may be raised in the same year on the same ground, and so bountiful is the earth that the trouble is rather the pressure of the means of subsistence upon the population.

Rich in all the things that make a State both strong and great and bring it the most substantial and enduring prosperity, Arkansas may well rest content in the sure and certain knowledge that she must come into her own at last. She has suffered undeservedly from the libels of penny-a-liners, who would be shamed if they could know the excellence of the Commonwealth and its people, and from some who have managed to possess themselves of her voice and utterance and appropriated them to the forwarding of their own personal or political fortunes. Arkansas needs nothing more than to be known for what she truly is. And Arkansas asks nothing more than that her own and veritable voice, the voice of an enlightened, progressive, God-fearing, and God-serving people, may be heard before the Nation and the world.

IMMIGRATION OF ALIENS.

Mr. LODGE. I desire to give notice that immediately after the morning business to-morrow, assuming that the unanimous-consent agreement in reference to the joint resolution as to presidential term will then have been exhausted, I shall call up the conference report on the immigration bill, which has passed the other House this morning without a roll call.

THE PRESIDENTIAL TERM.

The PRESIDENT pro tempore. The Secretary will read the unanimous-consent agreement in reference to the special order for to-day.

The Secretary read as follows:

> It is agreed by unanimous consent that on Thursday, January 30, 1913, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States, and before adjournment on that legislative day will vote upon any amendment that may be pending, any amendments that may be offered, and upon the bill—through the regular parliamentary stages—to its final disposition.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

The PRESIDENT pro tempore. The question is on the amendment offered by the senior Senator from Georgia [Mr. BACON] to the amendment of the committee.

Mr. LODGE. Mr. President, I should like to suggest that if this amendment is to go into the Constitution of the United States we should not insert in that great instrument a split infinitive; and so, on page 2, in line 9, I suggest that the language should read: "Eligible again to hold the office by election."

Mr. CUMMINS. Mr. President, that change has already been made; it was an error in the report.

Mr. LODGE. I am glad to hear that that has already been done.

Mr. CUMMINS. It was done some two or three months ago.

Mr. LODGE. But it has not been done on the copies that are furnished to us; it has been done without the knowledge of the Senate.

Mr. CUMMINS. The joint resolution has been printed as it has in fact been reported.

Mr. LODGE. I had nothing before me except the print which we find on our desks. I did not know the change to which the Senator from Iowa refers had been made.

The PRESIDENT pro tempore. The amendment heretofore proposed by the Senator from Georgia [Mr. BACON] to the amendment of the committee will be stated.

The SECRETARY. On page 2, line 6, of the proposed amendment of the committee, before the word "years," it is proposed to strike out the word "six" and insert "four," so that, if amended, the amendment will read:

> The term of the office of President shall be four years.

Mr. LODGE. Mr. President, do I understand that what has just been stated is the pending question.

The PRESIDENT pro tempore. That is the pending question.

Mr. LODGE. What is this that is presented to us? Is it the report of the committee amendment that has just been read?

The PRESIDENT pro tempore. It is an amendment proposed by the senior Senator from Georgia [Mr. BACON] to the amendment of the committee to the joint resolution.

Mr. LODGE. I understand. I should like to ask the Secretary to read the amendment of the committee.

The PRESIDENT pro tempore. The Secretary will read as requested.

The SECRETARY. The Committee on the Judiciary reported the joint resolution with an amendment to strike out, beginning on page 1, line 10, as follows:

> The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of six years and shall be ineligible to a second term, and, together with the Vice President, who shall hold for a like term, and shall also be ineligible to a second term, be elected as follows:

And in lieu thereof to insert:

> The executive power shall be vested in a President of the United States of America. The term of the office of President shall be six years; and no person who has held the office by election, or discharged its powers or duties, or acted as President under the Constitution and laws made in pursuance thereof shall be eligible to again hold the office by election.
>
> The President, together with a Vice President chosen for the same term, shall be elected as follows.

Mr. LODGE. I am glad to find that the error to which I referred has been corrected in the official copy of the joint resolution. I was misled by the only copy which was in my possession.

Mr. President, I do not propose to consume the time of the Senate in discussing this proposed amendment to the Constitution, upon which I suppose the minds of Senators are made up, nor do I think it is necessary to enter upon any protracted debate upon it. I desire merely to state my own reasons for opposing it.

I am not in favor of this change in the Constitution. The chief argument which is offered for the passage of this joint resolution, limiting the President to one term, is that if he has no hope of reelection he will then devote himself exclusively to policies for the benefit of the country and to the work of the country, and that he will not use the patronage of his great office to promote his own renomination and reelection.

I do not myself believe, Mr. President, that patronage is very helpful in electing or reelecting anyone to office. On the contrary, I believe that as a rule it is positively harmful. Instances of the defeat either for nomination or for election are very frequent in our history of a President having all the patronage in his possession. The use of patronage, of which complaint is made, is in reality chiefly with reference to its influence upon Congress. That the power of appointment has an influence upon Congress is, I think, undoubted, human nature being constructed as it is, but I can not see that limiting the President to one term will alter the effect of the patronage on Congress, if it has an effect. A President limited to one term, so far as he is personally concerned, is at least anxious that the policies to which he is committed and which he desires should be carried into execution.

The patronage, if used at all, would be just as much used for that purpose as to promote his own reelection, and even more constantly. You will not get rid of the effect of patronage or the force of the power of appointment until you are rid of human nature in the Congress of the United States. Therefore, Mr. President, it does not seem to me that in that direction the argument in regard to patronage has very great weight.

As to the point of patronage not being used to promote his own renomination or reelection, if a President is debarred from using the power of his great office to secure his own renomination or his own reelection, surely he will be desirous to have a successor who shall be in sympathy with his views, who will be willing to carry out the policies which he has been unable to complete; he will desire that his own party shall remain in power; for a President without a party and without party principles would not be a desirable President. Therefore, Mr. President, it does not seem to me that we really gain anything in that direction, and, although superficially the argument resting on the case of the presidential power appears to have much weight, it seems to me in its essence to have very little.

There is another reason which we hear spoken of, but which I need not dwell upon, namely, that a provision of this kind in the Constitution of the United States will be a defense against Cæsarism, against a permanent President or dictator. Mr. President, the protection of the country against Cæsarism or a dictatorship or a perpetual President rests in the character of the American people. No paper provision can protect us against that. If we should reach the point where the people were ready to have a perpetual President or dictator, no constitutional provision would stand in the way of a revolution of that character in our system of government, if the people had sunk to that point. When the people are ready to fall into the hands of an imperial despot or a perpetual dictator or President, paper barriers will not prevent the calamity.

But the all-sufficient reasons against the adoption of the proposed amendment to my mind are two. The first one applies to the proposition of the committee; it does not apply to the amendment proposed by the Senator from Georgia [Mr. BACON]. Under our system we have divided the three branches of government—the legislative, the judicial, and the executive—and have made them coordinate and independent. Our system is not like that of England, which has been adopted very largely throughout the Continent of Europe. That system is to have the executive and the legislative power in the same hands. The executive and legislative powers of England are in reality, whatever the forms may be, vested in a committee of the House of Commons. Under that system when at an election the party control changes, the executive and the legislative change together, and they both are in harmony; but under our system that frequently is not the case. At this moment we have a President belonging to one party and the House of Representatives controlled by another. I have in my own not very long experience seen that same situation occur more than once. It happened in the last two years of President Harrison's administration; it happened in the last two years of President Cleveland's administration, and it happened frequently before that. I do not think the situation which it produces is a desirable one. I believe that the conduct of the business of the Government should be in the hands of the party which has received authority from the people to conduct the Government.

I am not prepared to say that we should give up our system of the separation of the departments on that account; but no system is perfect. It is a necessary defect in the system which divides and makes independent the three branches of government. It does not seem to me desirable to enhance the evils of that situation by making it possible to have a President and a Congress or a President and one House of Congress of different political parties last for four years instead of for two. It is a false position and an unnatural situation, one which is not consonant with our system of government. It arrests the work of carrying out the will of the people as expressed at the polls. To a certain extent it is unavoidable. As I have said, under our system it must occur from time to time, but it is now limited by the limitation of the presidential term. Under the six-year term, I think that that defect of the system, if you choose to call it such—and it is a defect, as it seems to me—would be enhanced and not diminished.

Finally, Mr. President, I think it is very dangerous to declare constitutionally that a man who has once been President of the United States shall never be President again.

I have opposed elsewhere—not here, because the question has not been raised here—but I have opposed in public discussion to the best of my ability the compulsory initiative and referendum, because I believe it means the destruction of representative government and because I believe its tendency would be to establish a method of legislation which is in its nature impossible. I know from my own experience with reference to constitutional amendments in my own State on which we are called upon to vote by "yes" or "no," at an election, that I am not capable of legislating intelligently in that way, and I do not think that others are. I believe that this scheme would force the people to legislate by a method which no people on earth can carry out effectively and intelligently. I need not enter into the details, and I do not mean to argue that question here; but it is impossible, to my mind, to have intelligent legislation by answering at the ballot box with a categorical "yes" or "no" on a measure which may include many sections and where there is no opportunity for amendment or debate. I believe myself that the system of compulsory initiative and referendum tends and is intended to throw power into the hands of comparatively small and well-organized minorities and to take it away from the great body of the people, although I know that the cry for the initiative and referendum is made in the name of the people.

Now, Mr. President, we are asked to take from the people by this proposed constitutional amendment the decision of a question which they are preeminently capable of settling. There is no question whatever that the voters of this country are able to say whether they think a certain man who has served as President ought again to be President; and it seems to me we are simply taking from the people by this proposed constitutional amendment a right which ought not to be denied to them. I have sufficient confidence in the American people to believe that they can be trusted absolutely to say who shall be President of the United States and to determine whether a man who has once been President is fit to be President again.

It would have been a melancholy day for this country if we had been unable to elect to a second term George Washington or Abraham Lincoln. No man can tell when a situation will arise when it might be a vital necessity to retain for a second term a President then in office. We might be engaged in a war where it would be the veriest misfortune conceivable to say that the man at the head of the Government should be changed at the end of four years.

I think we can safely let this matter remain where it is. I have no fear that we shall have any perpetual President. I have too much confidence in the American people and in their good sense for that. I have no fear that they can not be fully trusted with the power to say whether a man shall serve a second time or a third time if he seeks it, and I think we are running a very great risk in taking up this limitation as to eligibility for a second term.

I have no desire to enter into further details, Mr. President. I simply wished to put upon the record the reasons which will govern me in voting against this resolution.

Mr. SUTHERLAND. Mr. President, I want to make just a single observation in reference to this matter.

The Senator from Massachusetts has said, and others have said here, that this is an attempt to take from the people their power to elect a President to successive terms. I do not understand that it is any such attempt at all. It is a proposition to submit to the people the question whether or not they will take from themselves that power. In the last analysis it will rest in the good judgment of a majority of the people of the United States—indeed, more than a simple majority, because it will require three-fourths of the States to ratify this proposed constitutional amendment.

Mr. LODGE. Mr. President, if the Senator will allow me, I am of course aware that this is a constitutional amendment which must be submitted to the people, and that it could not be adopted without the votes of three-fourths of the States. I know that. What I referred to was the attempt in this resolution itself. What it aims at is a limitation on the powers of the people. If the people choose to take from themselves their own existing right, that is their affair; but the matter has not reached that stage yet.

Mr. SUTHERLAND. My position is that this is a matter that the people of the United States have been discussing for a long time. We do know that there is a sentiment, a very large sentiment—precisely how large we do not know—in the United States in favor of this proposed amendment. Let the people of the United States say whether they want it or not. If they determine that they do, then a majority of the people will have spoken upon it.

Mr. PAYNTER. Mr. President is it in order to offer an amendment at this time?

The PRESIDENT pro tempore. No; there is one amendment pending. The Senator can have his proposed amendment read for the information of the Senate.

Mr. PAYNTER. Then I ask that it be read for information.

The PRESIDENT pro tempore. The Secretary will read as requested.

The SECRETARY. It is proposed to add at the end of the section the following:

Provided, That the term of the incumbent in the office of President when this amendment takes effect shall be for six years.

Mr. CUMMINS. Mr. President, I should like to suggest to the Senator from Kentucky that when his amendment is offered it ought to follow the word "election," in line 10, rather than to follow the resolution itself.

Mr. PAYNTER. That is what I was about to suggest.

Mr. CUMMINS. I desire to suggest, further, that there is pending an amendment, submitted by the Senator from Georgia, striking out "six years" and inserting "four years." If that amendment should be adopted, then the proposed amendment of the Senator from Kentucky would not be necessary, even from his point of view.

Mr. PAYNTER. Mr. President, I will not discuss the question of the necessity for the adoption of the pending amendment to the Constitution. My amendment was prepared simply for the purpose of suggesting an idea that was in my mind. I have drawn it hastily, and perhaps it is rather dangerous to amend the Constitution by words that are added in the midst of a debate.

The conditions are these: If this amendment as reported should be adopted, the question would arise at the close of the incoming administration—if the amendment should become effective before the close of it—as to whether the President then in office would hold office for the term of six years or for only four. That question would necessarily arise, and it would be necessary to give this amendment interpretation to determine the effect of it.

In a matter so important as fixing the term of the President no question should be left open for decision. The amendment should make it perfectly clear whether the term of the person then in the office of President should be six or four years. That, of course, is upon the idea that it is made a six-year term. Of course if it remains a four-year term, then the amendment which I have suggested would not be proper at all, because I have no purpose or desire to see the term of the incumbent when the amendment is adopted made longer than that of his predecessors or successors.

So, Mr. President, if this amendment does not meet with the approval of the Senate, some provision ought to be added to the pending resolution which will take care of the situation which I have suggested—that is, the possibility of controversy at the end of the term in the event the resolution is adopted in its present form.

Mr. DIXON. Mr. President, I should like to hear the amendment submitted by the Senator from Kentucky read again. I did not clearly get it.

The PRESIDENT pro tempore. The proposed amendment will be read.

The SECRETARY. In the amendment proposed by the committee, on page 2, line 10, after the word "election," it is proposed to insert:

Provided, That the term of the incumbent in the office of President when this amendment takes effect shall be for six years.

Mr. PAYNTER. Mr. President, will the Senator yield to me for a moment?

Mr. DIXON. I yield.

Mr. PAYNTER. There is one suggestion which I intended to make, but neglected to make. The incoming President was nominated and elected upon the idea that it was for a four-year term. If this amendment should be adopted, he would be disqualified—if that is the proper interpretation of the amendment—from holding office for more than four years. It seems to me it would not be fair to him to deprive him of a six-year term when this is adopted after he has been elected to the present ensuing term.

Mr. DIXON. I should like to ask the Senator from Kentucky whether or not that was the understanding of the present President elect, Woodrow Wilson, that he is to serve only one term of four years?

Mr. PAYNTER. I am discussing a constitutional question now, not what may have been the understanding.

Mr. DIXON. But I understood the Senator from Kentucky to say that that was the understanding of the present President elect.

Mr. PAYNTER. As I said, I am discussing the constitutional question.

Mr. CUMMINS. Mr. President, I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. CUMMINS. I understand perfectly well that if the resolution should be adopted as it comes from the committee, it would be wise to make it specific—that is, to place it beyond any controversy as to its application. But there is an amendment pending to the resolution, offered by the senior Senator from Georgia. The amendment proposed by the Senator from Kentucky is not an amendment to that amendment, but it is an amendment to the original resolution, and therefore can not properly be offered at the present time.

The PRESIDENT pro tempore. The Senator from Iowa correctly states the parliamentary situation. The amendment of the Senator from Kentucky is not in order now.

Mr. CUMMINS. Therefore, while of course I do not want to limit the remarks that may be made upon any subject that may be pertinent to the question, I suggest that the Senator from Kentucky withhold his amendment until it becomes in order.

The PRESIDENT pro tempore. The Chair suggested that it would be read merely for the information of the Senate.

Mr. PAYNTER. I understood the Chair so to rule.

Mr. CULBERSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Texas?

Mr. DIXON. I do.

Mr. CULBERSON. May I have the attention of the Senator from Kentucky for a moment? While I think it is an inadvertence, the Senator from Kentucky, in his amendment, has omitted any reference to the Vice President.

Mr. PAYNTER. I have not studied that question, but I think my amendment includes the Vice President. As I suggested in my former remarks, it is rather an unsafe thing to accept an amendment offered under these circumstances. More time ought to be taken for its consideration. I think the question important enough for the Senate to take an abundance of time to consider it.

Mr. DIXON. Mr. President, I understand——

The PRESIDENT pro tempore. If the Senator from Montana will permit the Chair to make an observation, the Senator from Georgia [Mr. BACON] is not now in the Senate; and the Chair desires to read from the RECORD precisely what occurred on the 15th of August last in reference to the amendment.

Mr. CUMMINS said:

Mr. President, I have been informed that there are some others who desire to speak upon this joint resolution, but that they are not prepared to proceed this afternoon. I know also the very great anxiety of some Senators that we shall take up the calendar. In view of those circumstances, I ask unanimous consent that the unfinished business be temporarily laid aside.

Mr. BACON. Before that is done I wish to offer an amendment to the joint resolution in order that it may be stated, and then I shall make no objection to the request.

Subsequent to that, and after some debate had occurred, Mr. BACON said:

I simply desire to offer an amendment, and I will ask the Secretary to take it down. It is on the sixth line on the the second page, to strike out the word "six" and to insert the word "four." I do not ask to do anything more now than to have that entered.

Mr. DIXON. Mr. President, no formal amendment having been offered, but merely a suggestion having been made by the Senator from Georgia, to clarify the situation and leave no loophole for further constitutional construction and the possible embarrassment of the incoming President of the United States, I desire to offer a specific amendment. I should like to have the Secretary read it, if it is in order to have it offered at this time. If it is not in order, I will present it later in the day.

The PRESIDENT pro tempore. The Chair will rule that, upon the statement just read, the suggested amendment on the part of the Senator from Georgia is not now pending. The Senator from Montana offers the amendment which will be read by the Secretary.

The SECRETARY. On page 2, line 10, after the word "election," it is proposed to insert the following words:

Provided, That this provision shall not apply to the President elect, Woodrow Wilson.

Mr. DIXON. I hope the Senator who reported the resolution, or the one who introduced it, will accept this amendment, as it would clear up the embarrassment and any possible doubt that might arise as to the status of the President elect, as suggested by the Senator from Kentucky.

Personally I have not heard any great demand from the country for this constitutional amendment, which would forever prohibit the people of the United States, when they thought best so to do, from reelecting a faithful President for a second term. Candidly, I think the purpose of this resolution would have been better stated, and it would have come nearer telling the cold truth, if it had been entitled—

A proposed amendment to the Federal Constitution for the relief of certain aspirants for the office of President of the United States.

Outside of a very select circle of prospective presidential candidates, I think there has been no demand from the people themselves to have the Federal Constitution amended in this respect. As the Senator from Massachusetts said, if it had been in operation from the beginning of the Government it would have forbidden George Washington's second election; it would have forbidden this Nation to have had the services of Abraham Lincoln in the greatest crisis this Government has ever faced; it would have eliminated William McKinley from his second term; it would have eliminated Andrew Jackson from his second term. In all seriousness, boiled down to the real essence of the matter, I think it would be better entitled—

A bill for the relief of certain presidential candidates now occupying to a greater or less extent the political stage.

This resolution seeks to revive the old rule that used to prevail in many congressional districts—to "pass the honors around." Until the last few years in some congressional districts there was an unwritten law that no man could "represent the district for more than two terms," not because such a rule gave better service in the House of Representatives, but in order that certain aspiring politicians of the district might have an opportunity to go to Congress. It was not for the benefit of the people; it was not for the benefit of the Government; but it was purely and simply in the interest of certain ambitious gentlemen in that particular congressional district.

We know the result. It used to be a standing joke that the "two-term districts" in the House of Representatives were usually less ably represented than any other districts in the country.

Theoretically, the argument for this amendment is based on the fear of some great overshadowing personality perpetually assuming the presidential office. They talk about the power of Federal patronage in the hands of the President. They fear that a man holding the power of appointing thousands of Federal officers is invulnerable, so far as his reelection is concerned.

I now want to testify that while we have seen the power of Federal patronage prostituted by the Executive, the worst examples of the prostitution of Federal patronage have emanated from the Senate Chamber, instead of from the White House. The old senatorial oligarchy that held legislation and held control of the Senate in the hollow of its hands committed far greater crimes in the matter of the use of Federal patronage for personal, private ends that any President who ever occupied the White House. If the argument applies to a second term for the President, it applies with equal force to a second term for every Senator in this Chamber. If a man becomes dangerous by reason of his power of distributing Federal patronage—and that is all of the argument behind the proposed resolution—the same consideration applies with even greater force to the Members of this body. No President distributed Federal patronage by himself. With the power of confirmation lodged in the Senate, Federal patronage is distributed much more largely by the Members of the Senate than by the President.

There is no possible fear, Senators, that any man, occupying the position of President, can ever force his reelection by the use of patronage. There is no possibility that any man can perpetuate his power as President by the power which comes from occupying that position temporarily.

It is true that under the old system of nominations in conventions the power of patronage was tremendous. It was used to renominate Senator after Senator. It was used in a lesser degree to renominate Congressmen by the distribution of post offices in the district. But it has never yet, and it never will in the future, reelect any man to any office within the gift of the people.

We saw within the last year a President force his own renomination from the hands of an unwilling political party by the use of Federal patronage. The Senate remembers the incident, last February, when 10 nominations which had been sent to the Senate affecting post offices and collectorships in a certain Southern State were withdrawn en bloc and, in effect, put up to the highest bidder for delegates to the Republican national convention. While the use of patronage might have yielded delegates under the old plan of presidential nominations, it did not bring results in the elections. Last November the people of the United States in no uncertain terms expressed their opinion of a nomination forced by an Executive by the misuse of Federal patronage. You fear shadows, gentlemen, and not actual realities.

There will never be another President of the United States nominated under the old system. I think I am on fairly safe ground when I make that prophecy. The presidential preference primary is already here in 12 or 15 States, and within the coming four years, during President Elect Wilson's administration, I predict it will be put into effect in a majority of the States.

What is the power of Federal patronage under the new conditions of a presidential primary? The old plan of electing Senators within the next 60 days will have become a thing of the past. The constitutional amendment that we submitted last year for the direct election of Senators will probably be ratified by the necessary three-fourths of the States during the present sessions of the different legislatures. Whether it is or is not ratified, the manner of electing Senators, as a matter of fact, has already been relegated to a direct vote of the people under the primary systems in vogue in a majority of the States.

You are submitting a proposed amendment that the people of this country have not demanded, and you are doing it under the whip and spur of possible presidential candidates. Eliminate their individual ambition and the agitation for the one-term President would disappear like the morning mist.

I think I may offer another amendment to this resolution. The argument for it is just as valid as is the argument for the one term for the Presidency. If we are going to have a one-term President, why not follow it up and have a one-term Senator?

Any Senator who has served in this Chamber knows the great power, the great wisdom, the great efficiency, that come from long-time service in this body. Would any Senator argue that a Senator who has served two terms or three terms here is less patriotic than those of us who have served one term? The human intelligence revolts, Senators, against that kind of an argument.

Does any man believe that Abraham Lincoln was less patriotic during his second term than during his first? Was Jackson less effective as a President, was he less patriotic, during his second term than his first? Was McKinley or Madison or Monroe or Grant or any other man who has ever yet held that great office for more than one term less patriotic during his second than his first term?

The American people will take care of the election of a President. You need have no fear on that ground. You are offering something that is not demanded by the people, except the agitation that largely flows from personal ambition.

Do you, Democratic Senators, want to embarrass your incoming President, the first you have had for 16 years, by a resolution of the Senate which says to Woodrow Wilson, "No matter how good a President you may be during the next four years, no matter how effective you may be in administering that great trust, no matter how much you are entitled to the reward of a vote of confidence of your countrymen, at the end of that four-year term, in order to provide an opportunity for certain other politicians and statesmen who want to be President, we will now foreclose any hope that you may have for the reward that comes from work well done"?

Mr. MARTINE of New Jersey. Will the Senator permit me?

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from New Jersey?

Mr. DIXON. With a great deal of pleasure.

Mr. MARTINE of New Jersey. The President elect, Woodrow Wilson, has declared in most positive terms his adherence in the wisdom and the good sense of the people in favor of one term, and the great Democratic Party that assembled at Baltimore declared in favor of one term. Of course that term was supposed to be a four-year term. A very great body of the people of the United States have ratified that through Mr. Wilson's election. So I feel that the Senator may leave Woodrow Wilson out of the controversy.

Mr. DIXON. Does the Senator from New Jersey, the home State of the President elect, speak ex cathedra when he states that Woodrow Wilson would not have a second term?

Mr. MARTINE of New Jersey. He has so declared in a public way not to myself; and he is a man of convictions as we all know, and a man who generally can be relied upon and believed in any statement he has advanced. He has so declared, and our party has declared in most unmistakable terms in favor of one term.

Mr. DIXON. I merely wanted to inquire, and that was why I directed my remarks first to the Senator from Kentucky [Mr. PAYNTER], whether or not Woodrow Wilson has made any public declaration that he would not be a candidate for a second term.

Mr. MARTINE of New Jersey. Not in words, but he has declared on two or three occasions his judgment in the wisdom of one term.

Mr. DIXON. Was that declaration made before or after his nomination at Baltimore?

Mr. MARTINE of New Jersey. I think before his nomination; but he is a man of so much stability of character that you can understand he has not shifted overnight. My friend and the country may have implicit faith and reliance in his declarations as being the result of deliberate judgment.

Mr. DIXON. Can the Senator from New Jersey now refer me to any specific declaration at any specific time by the President elect?

Mr. MARTINE of New Jersey. I am at a loss at this moment to give you that reference.

Mr. DIXON. I should like to ask the Senator from New Jersey, who I doubt not is fully in the confidence of the President elect, whether or not immediately preceding the nomination at Baltimore there was any understanding between the President elect and a distinguished citizen of Nebraska regarding his future attitude in this matter, in the event of his nomination?

Mr. MARTINE of New Jersey. I can set the Senator at rest on that. I was not in conference previous to the Baltimore convention nor since it with the President elect.

Mr. DIXON. I understand, Mr. President, that at the other end of the Capitol there are two or three distinguished gentlemen holding strategic positions in that legislative branch of the Government who are waiting and anxious and willing for the passage of this resolution by the Senate in order to expedite its passage through the House before the termination of the present session of Congress.

Mr. MARTINE of New Jersey. I have no knowledge of any such desire.

Mr. DIXON. The Senator from New Jersey refers to the declaration of his party platform. Does the Senator know who was the author of that celebrated plank in the platform of the Baltimore convention?

Mr. MARTINE of New Jersey. I am not prepared to state who was the author. I think no single individual.

Mr. DIXON. I happen to hold in my hand——

Mr. PAYNTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Kentucky?

Mr. DIXON. With pleasure.

Mr. PAYNTER. If the Senator desires to know, I can state what has been publicly stated in some of the newspapers of Kentucky.

Mr. DIXON. I do not believe that the newspapers of Kentucky would be competent witnesses on this very personal question.

Mr. PAYNTER. I will give the Senator the information, and he can give such credit to it as he desires. It has been stated by some of the papers in Kentucky that ex-Gov. Beckham wrote that clause in the platform. I have no personal knowledge whatever on the subject.

Mr. DIXON. A Senator on my left remarks that he understood the name of the real author of that special plank in the platform begins with "B," but it is not Beckham, and he does not reside in Kentucky. I should like to ask the Senator from Kentucky if he ever heard any rumors of that kind?

Mr. PAYNTER. Is the Senator from Montana asking me a question? I will say to the Senator I do not desire to engage in any speculation which would deprive Kentucky of any honor to which she is entitled.

Mr. DIXON. Mr. President, I have here the "platforms of the two great political parties." That must be a misprint. The Senator from Rhode Island [Mr. LIPPITT] passed this up to me. I suspect there must be a misprint where it says "platforms of the two great political parties."

Mr. O'GORMAN. It was printed before the last election.

Mr. DIXON. The Senator from New York relieves my embarrassment. He says this book was printed before the last election. That evidently explains the typographical error, reading it in the light of the latest election returns. It says: "Platforms of the two great political parties, compiled by South Trimble, Clerk of the House of Representatives," with the date of July, 1912. I see where he made the error. This does not include the platform of the Progressive Party, which is now the second "great political party." I read from the Democratic platform:

TERM OF PRESIDENT.

We favor a single presidential term, and to that end urge the adoption of an amendment to the Constitution making the President of the United States ineligible for reelection, and we pledge the candidate of this convention to this principle.

Does not the Senator from New Jersey, on second thought, now get a clearer vision of the notion that Woodrow Wilson was for a single term? Might he not confuse it and take the Democratic platform rather than Woodrow Wilson's declaration?

Mr. MARTINE of New Jersey. I still believe and insist that President Elect Woodrow Wilson has so declared.

Mr. DIXON. Does not the Senator from New Jersey have an indistinct recollection of something spoken by Mr. Wilson in the far-distant past, when the President elect held different views on many things from what he has since he has had wider experience in national affairs, and possibly at that time he gave vent on some occasion to an ill-defined view that a single term might be better than to reelect an efficient President for a second term? I think the Senator from New Jersey will probably also be in accord with me when I say that that was before Woodrow Wilson had been President elect of the United States.

Mr. MARTINE of New Jersey. It does not militate at all against the assertion or the principle whether it was given before the election or after the election.

Mr. DIXON. Of course this plank was in the Democratic platform. That does not argue that any great percentage of the people of this country are demanding that we shall set aside the entire traditions of this Republic and declare that no efficient competent public servant can be reelected for the second time.

Mr. MARTINE of New Jersey. But it certainly——

Mr. DIXON. The plank of this platform—and I know what platform planks have meant many times in the past——

Mr. MARTINE of New Jersey. It is certain that——

Mr. DIXON. Just let me finish what I am saying.

The PRESIDENT pro tempore. The Senator from Montana has the floor.

Mr. DIXON. I remember in the Democratic platform four years prior to this one there was a specific, positive declaration for the entire removal of the tariff duties on lumber, manufactures of lumber, and print paper, and many other things that the Democratic Congressmen and Senators, when it came to final action, in no way recognized, and it was openly repudiated here on the floor of the Senate Chamber.

Mr. MARTINE of New Jersey. That does not militate at all against the assertion I made with reference to the President elect, nor does it prove anything to the contrary. The Democratic Party have declared unequivocally in this platform in favor of one term, and on every husting and in every newspaper our platform was published and republished. It was advocated by every man on the stump for the successful candidate, and acquiesced in by a majority of the votes of the people of the United States by a verdict that is sufficient in itself to be recognized as being a great public sentiment.

Mr. DIXON. The Senator from New Jersey will also remember that the Democratic platforms in the past have contained many declarations about things that the American people absolutely repudiated.

Mr. MARTINE of New Jersey. That is true, but they repudiated some other platforms.

Mr. DIXON. I will have to again remind the Senator from New Jersey that the American people have not indorsed that plank in the platform.

Mr. MARTINE of New Jersey. Not specifically that plank, of course. I realize that it may be argued that a majority vote of all the people of the United States was not cast for the President elect. But be that as it may, it is worth something as a verdict of public sentiment. It has not been combated by the Republican Party nor by the Progressive Party, nor has an attempt been made to stand against that specific plank in our platform.

Mr. DIXON. No; but by the wildest stretch of imagination the Senator from New Jersey would not argue that a majority or any respectable minority of the American voters have indorsed that plank, or that a majority of the American voters indorsed that platform in the election on the 5th of November. The Democratic Party polled the smallest percentage of the total vote at the last election that any political organization ever polled when it elected a President with one single exception.

Mr. MARTINE of New Jersey. If my Progressive friend can get any comfort out of any analysis of figures, God knows he is welcome to it. However, the verdict of the people has been pretty well declared. I would say, with all dignity and with all pleasantry, the Senator from Montana might just as well accept the situation agreeably and pleasantly. The next President is to be a Democrat, and, thank God, he comes from New Jersey, and we will dispense to you justice, fairness, and humanity. We are in favor of a system of political policy that shall check even the possibility in the vaguest way of a President conniving to make secure his reelection.

The arguments which have been advanced by the Senator now on the floor in this particular case, wherein he refers to the President taking out a whole batch of nominations in order that he might parcel them out to some communities or States wherein he could gain favor, to my mind is one of the strongest reasons in the world for the policy of one term.

Mr. DIXON. That is what I have just said to the Senate, and the Senator from New Jersey evidently heard me, that that policy had resulted in his complete repudiation by the American voters, and probably had as much to do——

Mr. MARTINE of New Jersey. Mr. President——

The PRESIDENT pro tempore. Senators will address the Chair and get permission to interrupt. Does the Senator from Montana yield to the Senator from New Jersey?

Mr. DIXON. Yes.

Mr. MARTINE of New Jersey. I will not say, nor do I agree, that the defeat of Mr. Taft is entirely attributable to the particular incidents to which the Senator from Montana refers, but it was bigger and broader things than that which brought about the annihilation of the Republican Party. It was the high-tariff policy of your party that has burdened and cursed the people of this country; they have opened their eyes to the iniquity of it, and the verdict is well recorded.

Mr. DIXON. I of course do not want to go into all the causes of the present situation which put the great Republican Party in the third place in the balloting of this Nation; but I do not believe that the Senator from New Jersey is doing a patriotic thing, is doing a wise thing, in acting under the spur of personal equation, rather than looking forward a hundred years into our coming national life, gauged by the result of the past 130 years of national life, respecting the election of the Chief Executive, when he urges at this time the passage of this joint resolution, which, in the light of all human experience, will not lead to better government or to a better personnel in the future Presidents of the United States.

You propose to exempt the Presidents from every other class of men holding positions of honor and trust. I want to reiterate, finally, that there is no reason why the President of the United States, holding the most exalted position of all, with every motive leading him to a higher aspiration than any other man holding an office, should be limited to the one term, when Senators who are voting for this joint resolution would consider it an insult to their conscience and their past services if you insinuated that a Senator should have only one term, because, perchance, he might use his first term, and the patronage and influence that came with it, in order to perpetuate himself in office.

I say again, there has been far greater crime—I will not say "crime"—but there has been far greater danger to the public service from a senatorial oligarchy, a few long-term Senators holding all the strategic positions in matters of legislation, than ever flowed from the White House from any man who ever was elected the second time to the Presidency of the United States. I think, if it is in order, I also want to offer an amendment limiting the senatorial term. Let us try it out with the same square rule. If the President is limited to one term, I think we should also submit to the people of the States—they may be just as anxious for that—a proposition limiting Senators to one term in the Senate. Will the Senator from New Jersey support me in that contention?

Mr. MARTINE of New Jersey. I feel that the situation is entirely different. A Senator has no appointing power.

Mr. DIXON. A Senator, as a matter of fact, has more appointing power than the President.

Mr. MARTINE of New Jersey. Well, by indirection the Senator may have a degree of appointing power, but the President is the source of the appointing power.

I appreciate the splendid thoughts that were just now advanced by the Senator from Montana. I realize that I am not a man of large experience in matters of government; I am entirely new; but I also realize, and I believe the Senator will realize with me, that the best of us are but human. The President of the United States is not unlike the Senator from Montana or the Senator from New Jersey. We are all liable to err, but with that full knowledge in view I believe I am better safeguarding not only the country, but that I am better safeguarding the future, those who will come after us, by staying the possible greed for power that may come and is to-day lodged in the minds of thousands of ambitious men throughout the length and breadth of our country. I shall therefore vote to sustain the proposition of one term, not for partisan purposes or for the purpose of aiding any individual, but upon the broad principle that I am thereby better advancing the welfare of my country and the happiness and prosperity of those who may come after us.

Mr. DIXON. Then why not apply it to the senatorial term?

Mr. MARTINE of New Jersey. I do not know but that I might be willing to meet you on that proposition. On general principles I believe the larger the number who can come in contact with and aid in the direction of the policy of the Government the better citizenship and the better Republic we shall have. So the Senator can not stump me on that.

Mr. DIXON. Now, I see I have already made one convert. [Laughter.] It had never occurred to the Senator from New Jersey that the curse of Federal patronage, the danger of Federal patronage, lies not in the President but in the Senators and the Representatives of the United States. The Senator from New Jersey and every other Senator knows that. While we technically refer to the power of presidential appointments, does the President of the United States make an appointment in Massachusetts when the Senators from that State are in political accord with him, except on the initiative of the Senators from Massachusetts?

Mr. MARTINE of New Jersey. Well, I know——

Mr. DIXON. The President elect, in making his New Jersey appointments, in all human probability will take what will soon be the senior Senator from New Jersey into very strict and confidential communication. We know and the country knows that the President does not distribute patronage, but that the Senate of the United States distributes patronage.

The Members of the House of Representatives name the postmasters of the country; the Senators name the marshals, the collectors, and the Federal judges. There may be once in a while an exception to the rule. It is not the patronage of the President; it is the patronage of Representatives and Senators.

If you want to eradicate the evil, let us apply the same rule to ourselves that we are going to try to apply to the President of the United States. There is just as much argument for limiting your tenure to one term in the Senate as for limiting the President to one term. The Senator from New Jersey happily, on second thought, agrees with me. If we are going to upset the traditions of the whole history of the Republic and to eradicate for the future the possibility of second Lincolns and Washingtons and Jacksons and McKinleys, let us do it with even-handed justice, let the committee withdraw the present joint resolution, go back to the seclusion of their committee room, and report a new joint resolution proposing to amend the Constitution limiting the senatorial service to one term, the presidential service to one term, and, by the same rule, congressional service to one term, and let us submit it all to the people of the United States and see what they will have to say about it.

I have occupied much longer time than I had dreamed of doing. I desire again to reiterate that, under the old system of nominations, Federal patronage was a powerful influence in causing a nomination, but it never has been and never will be of any influence in forcing an election. One man can take a pony to the water, but 20,000 men can not make him drink.

Mr. WILLIAMS. Mr. President, sometime ago I presented an amendment intended to be proposed to the joint resolution. I wish now to modify it somewhat and, if it be in order, to offer it now. If it is not in order now, then I give notice that I will offer it later.

Mr. CUMMINS. Mr. President, will the Senator from Mississippi yield to me just for a moment?

Mr. WILLIAMS. For what purpose?

Mr. CUMMINS. I want to recall to the attention of the Chair the position of the amendment offered, or which I thought was offered, by the senior Senator from Georgia [Mr. BACON].

Mr. WILLIAMS. I will be through in a second, but I will yield to the Senator.

Mr. CUMMINS. I think it might make some difference, possibly, with the offering of the amendment of the Senator from Mississippi. My attention was diverted a moment ago while the Chair announced his construction of what occurred on the 15th of August last. I have always supposed that the amendment offered by the Senator from Georgia would be the pending question whenever the joint resolution was under consideration. The Chair, by looking up the RECORD, will see that upon a vote in the Senate the joint resolution was taken up, and while it was under consideration Mr. BACON said:

I simply desire to offer an amendment, and I will ask the Secretary to take it down. It is on the sixth line on the second page, to strike out the word "six" and to insert the word "four." I do not ask to do anything more now than to have that entered.

The last sentence, I assume, had reference to a general understanding that the debate would not proceed at that time; but it seems to me very clear that the Senator from Georgia did offer the amendment and that it is now pending. I simply desire to keep the record straight; that is all.

The PRESIDENT pro tempore. Upon reconsideration of the matter, the Chair is of opinion that the Senator from Iowa is right. The Chair is informed that at a subsequent time, when the Senator from Georgia himself was in the chair, he considered that his amendment was pending.

Mr. CUMMINS. I remember that also.

The PRESIDENT pro tempore. And the present occupant of the chair would reverse the suggestion made a little time ago, and consider that the amendment offered by the Senator from Georgia is now pending and is the question before the Senate. The amendment of the Senator from Mississippi [Mr. WILLIAMS] can be read for information, but it is not in order for consideration at the present time.

Mr. WILLIAMS. Mr. President, I wish to call the attention of the Senate to the amendment and its purpose. The amendment as originally presented by me contained in the latter part phraseology which I took from the joint resolution which is pending before the Senate. So far was I from thinking that the amendment did affect anybody personally who had been a candidate for the Presidency that I did not reflect about that at all. I am very desirous that whatever amendment does pass and does go before the people shall go before them without arousing necessarily the antagonism of the followers of any man or those who have been followers of any man. The amendment as I now present it changes the original amendment, as I shall indicate. The original amendment provided:

No person who has held the office by election, or discharged its powers or duties, or acted as President by succession for any term or fraction of a term under the Constitution and laws made in pursuance thereof shall be reeligible beyond his second term or term and a fraction.

Now, I have changed it so that it will read:

No person who shall hereafter hold the office or discharge its powers or duties—

And so forth.

The amendment, as I offer it now—and I ask the attention of Senators to it, because it is a mere putting into the Constitution of what I regard as being the unwritten law of the Republic—is to strike out all after the resolving clause and to insert the following:

The executive power shall be vested in a President of the United States of America. The term of the office of President shall be four years. He shall be reeligible for one additional term of four years, and not thereafter reeligible at any time. No person who shall hereafter hold the office or discharge its powers or duties, or act as President by succession for any fraction of a term under the Constitution and laws made in pursuance thereof shall be reeligible beyond such a fraction of a term and for one term by election.

The President, together with a Vice President chosen for the same term, shall be elected as follows.

That strikes out everything in the original amendment which might have looked as if it were intended to strike at an ex-President or an ex-candidate for the Presidency. I understand that the amendment is not now in order.

The PRESIDENT pro tempore. It is not now in order.

Mr. WILLIAMS. I ask that it may be printed as an amendment and be pending.

Mr. DIXON. Mr. President, I should like to ask the Senator from Mississippi a question. As I understand, the Senator has now so arranged his amendment that it does not include the man who has been twice President. He would not be debarred.

Mr. CLARKE of Arkansas. Mr. President, I send to the desk an amendment, which I propose to offer when the time arrives for the consideration of such an amendment, to be added as a proviso at the end of line 10, on page 2, after the word "election."

The PRESIDENT pro tempore. Does the Senator from Arkansas desire to have the amendment read?

Mr. CLARKE of Arkansas. I desire it to be read and printed, so that it may be pending.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. On page 2, line 10, after the word "election," it is proposed to insert the following proviso:

Provided, That the foregoing provisions shall not affect the eligibility to reelection of the President or Vice President in office at the time of its adoption as a part of the Constitution, nor that of any person who has served in either of said offices prior thereto.

Mr. CLARKE of Arkansas. I favor the proposed amendment to the Constitution limiting the presidential term to a single period of six years. But I think it would cheapen this great public question to give it a possible personal application to any individual. The movement itself antedated the present situation of affairs with reference to the personnel of recent and probable future presidential aspirants which arose to confuse the councils of its friends.

The question itself is possessed of merits of the most far-reaching and important character. These can only be obscured and minimized by associating their discussion with the personal aspect of politics. In the present day the business of legislating, so far as it relates to the larger public questions, has been evolved into a system entirely distinct and different from that contemplated by the Constitution, and which was of everyday practice in the early days of this Government. We are gravitating more nearly to the European system of having measures of great importance projected and actively promoted by a so-called responsible ministry. They come to us in the form of a redemption of the platform promises of the party to which the President belongs, or they are deemed administration measures evolved by current demands of the public service, or subsequently adopted as party propositions.

With the power to dispense patronage, and the power to intrigue for renomination and reelection, such measures are very seriously handicapped, or they are unfairly promoted by that group of powers which the President in modern times exercises. I think the question is of sufficient magnitude by and of itself to engage the attention of Congress without having it fettered with the remotest personal aspect of the question.

Again, I do not believe that in this Republic any man is sufficiently dangerous, nor is he of sufficient importance, to be complimented by having it understood that the Constitution must be amended to get rid of him or to safeguard the interests of the Republic by excluding him from office. Common sense, patriotism, sense of justice, and the love of country will be amply sufficient to protect this country against any such alleged "bad man." I am not inclined to believe that there are any bad men offering for this office or ever likely to offer for it. There are none in existence who have occupied it who have not left behind them when they left office admirers and supporters who do not believe that the public service would have been substantially advanced in efficiency had they been continued in the office.

The recklessness and heat of political debate sometimes lead to the use in public discussion of epithets and criticisms that are far beyond the limits of fact and the proprieties with which we debate and consider questions of importance here. So my purpose in offering this amendment is to really assist in the ultimate passage of the proposition to limit the presidential office to a single term of six years, and I believe its final adoption will be very greatly promoted by incorporating in the resolution affirmative language indicating that it is not our intention to interfere with any of the merely personal features of pending political controversies.

Mr. ROOT. Mr. President, I had prepared an amendment having the same purpose as that which has just been so well stated by the Senator from Arkansas. I think I will send it to the desk and have it read. Perhaps some Senators may prefer that.

The PRESIDENT pro tempore. The proposed amendment will be read.

The SECRETARY. On page 2, line 9, after the word "thereof," it is proposed to insert—

After the 4th day of March, 1917.

Mr. ROOT. The design of that amendment is to make this resolution applicable only to those who are elected or hold office after the 4th of March, 1917.

Mr. CLARKE of Arkansas. That is substantially what I intended to do; but the language I employed would fit in better, in the event the committee amendment should be adopted in lieu of the original proposition. But either will answer the purpose.

Mr. ROOT. Mr. President, I think changing the Constitution in a matter affecting the framework of our Government is too serious to be complicated by any personal considerations. I do not think we ought to have any question about Mr. Wilson or Mr. Roosevelt or Mr. Taft or anybody else when we are considering what shall be the framework of the Government of this country for generations to come, and we should carefully exclude any possibility of such considerations.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from California?

Mr. ROOT. Yes; I will be glad to yield.

Mr. WORKS. If the Senator is about to conclude, I will wait.

Mr. ROOT. I was about to conclude. I have said substantially what I wish to say.

The proposed change from the customary two terms, provided the same party continues in power, to a single term of six years commended itself to me. I should not be willing to limit it to one term of four years, for I think a President uses the first part of that time in getting familiar with his office, so that he reaches the point of highest efficiency, and in the last part of it his efficiency is greatly decreased by the fact that he is going out of office and his power is vanishing.

I look upon this subject from a little different point of view than that which I heard stated here; and that is from the point of governmental efficiency.

I think the possibility of renomination and reelection of a President who is in office seriously interferes with the working of our governmental machinery during the last two years of his term; and just about the time he gets to the point of highest efficiency people in the Senate and in the House begin to figure to try to beat him. You can not separate the attempt to beat an individual from the attempt to make ineffective the operations of the Government which that individual is carrying on in accordance with his duty. Legislation in this Congress has been largely dominated for two years past by considerations of that sort; and I should like to see those considerations exiled from these Halls.

The work of the executive departments is affected by a situation of this kind. The heads of bureaus, and the heads of divisions, and the clerks, and the subordinate officers begin toward the end of a term to turn their attention to the question of election or reelection, and their efficiency is greatly decreased.

I think we would have a more effective Government if we exiled from the considerations operating upon both legislation and administration any idea of reelection of the President. It is for that reason that I have felt very favorably inclined toward this amendment.

Mr. WORKS. Mr. President, I have already discussed this question at considerable length, and I am not disposed to take up the time of the Senate in further discussion. But I do want to say, in view of some remarks that have been made on the floor this morning, that at the time I introduced this resolution I disavowed any intention of favoring any man or any candidate for office. Therefore I thoroughly appreciate the views on that subject of the Senator from Arkansas and the Senator from New York. I should like to have every personal interest eliminated from this controversy. It is a great fundamental question that we are dealing with here. It ought not to be complicated in any way by the interest any individual may have in the result of the votes that may be taken upon it.

Therefore I am very much in sympathy with the proposition to have this resolution take effect at the expiration of the next term of the President of the United States, so that all questions of its affecting candidates or persons who have already been elected may be eliminated from the controversy.

Mr. BRISTOW. Mr. President, may I inquire what the pending amendment is?

The PRESIDENT pro tempore. The pending amendment is the amendment submitted by the senior Senator from Georgia [Mr. BACON] to strike out "six" and insert "four."

Mr. BRISTOW. I desire to state that at the proper time I shall offer the amendment which I send to the desk, and I ask to have it read and printed.

The PRESIDENT pro tempore. The amendment will be read, and will be printed.

The SECRETARY. It is proposed to insert the following as a separate paragraph after line 10, on page 2:

The Congress shall have power to provide for the recall of the President by a popular vote at any biennial election.

The PRESIDENT pro tempore. The question is upon the amendment submitted by the Senator from Georgia [Mr. BACON] to the amendment of the committee.

Mr. CUMMINS. Upon that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAMS. Mr. President, before the yeas and nays are taken I want to make a statement in explanation of the vote which I shall cast upon the amendment. I understand that it proposes to strike out "six years" and substitute "four years."

I shall vote for the amendment, with a view of perfecting the resolution and making it better, though I shall afterwards offer a substitute for it as amended. My reason is that I think six years is too long to have a bad President in the White House, if we ever should have one. I think four years fits in better with all the balance of our system. It fits in better with the terms of Members of the House. It fits in better with everything. I am of the opinion that Mr. Jefferson once uttered that the present practice, which is practically a term of eight years with the opportunity of recall in the middle of the term, is better than either of the others. But I think the argument made by the Senator from Massachusetts is sound, and it would apply not only to a six-year but to a seven-year term. You are emphasizing rather than diminishing the defect of our system as it is, and that defect consists in the fact that now and then you have a legislature and an Executive out of sympathy with one another; and to perpetuate the period during which they may be out of sympathy with one another is to perpetuate lame and impotent and unsatisfactory government.

Mr. OWEN. Mr. President, I ask that the amendment be read.

The PRESIDENT pro tempore. The amendment will be again read.

The SECRETARY. On page 2 in the proposed amendment of the committee, on line 6, before the word "years," it is proposed to strike out "six" and insert "four," so that if amended the clause will read:

The term of the office of President shall be four years.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum. This is a rather important matter, and we should have a quorum in the Chamber when it is passed upon.

The PRESIDENT pro tempore. The Senator from Mississippi suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Dixon	McCumber	Sanders
Bankhead	du Pont	McLean	Shively
Bourne	Gallinger	Martine, N. J.	Simmons
Bradley	Gamble	Myers	Smith, Ariz.
Brandegee	Gardner	O'Gorman	Smith, Ga.
Bristow	Gronna	Oliver	Smith, Md.
Bryan	Guggenheim	Overman	Smoot
Burnham	Hitchcock	Owen	Stephenson
Burton	Jackson	Page	Sutherland
Catron	Johnson, Me.	Paynter	Swanson
Chamberlain	Johnston, Ala.	Percy	Thomas
Clapp	Jones	Perkins	Thornton
Clark, Wyo.	Kenyon	Perky	Townsend
Cullom	Kern	Pomerene	Wetmore
Cummins	Lippitt	Richardson	Williams
Dillingham	Lodge	Root	Works

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. FOSTER] on account of illness in his family. I ask that this announcement may stand for the day.

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] is necessarily absent from the city. I desire this announcement to stand for the day.

Mr. SWANSON. I desire to announce that my colleague [Mr. MARTIN of Virginia] is detained from the Senate on account of illness.

Mr. KERN. I wish to announce the unavoidable absence of the junior Senator from South Carolina [Mr. SMITH] on account of illness.

Mr. TOWNSEND. In addition to my statement in reference to the absence of the senior Senator from Michigan [Mr. SMITH], I desire to state that he is paired with the junior Senator from Missouri [Mr. REED].

The PRESIDENT pro tempore. On the call of the roll 64 Senators have answered to their names. A quorum of the Senate is present.

The question is upon the motion submitted by the senior Senator from Georgia [Mr. BACON], upon which the yeas and nays have been ordered.

Mr. ASHURST. I ask that the amendment be read.

The PRESIDENT pro tempore. The amendment will be again read.

The SECRETARY. On page 2, in the proposed amendment of the committee, line 6, before the word "years," it is proposed to strike out "six" and insert "four"; so that, if amended, that portion of the amendment will read:

The term of the office of President shall be four years.

The PRESIDENT pro tempore. The Secretary will call the roll on agreeing to the amendment of the Senator from Georgia [Mr. BACON] to the amendment of the committee.

The Secretary proceeded to call the roll.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. I transfer that pair to the junior Senator from Nevada [Mr. MASSEY]. I desire this announcement to stand for the day. I vote "nay."

Mr. DILLINGHAM (when his name was called). I transfer my general pair with the senior Senator from South Carolina [Mr. TILLMAN] to the Senator from New Mexico [Mr. FALL], and I vote "nay."

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is not present in the Chamber, I will withhold my vote. If I were at liberty to vote, I should vote "nay."

Mr. GARDNER (when his name was called). I have a general pair with the Senator from Massachusetts [Mr. CRANE], and I withhold my vote.

Mr. LIPPITT (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA]. In his absence, I will withhold my vote. If I were at liberty to vote, I should vote "yea."

Mr. OWEN (when his name was called). I transfer my pair with the Senator from Kansas [Mr. CURTIS] to the Senator from Georgia [Mr. BACON] and vote. I vote "yea."

Mr. RICHARDSON (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. SMITH]. In his absence, I withhold my vote. If he were present, I should vote "nay."

Mr. SUTHERLAND (when his name was called). Has the Senator from Arkansas [Mr. CLARKE] voted?

The PRESIDENT pro tempore. That Senator has not voted.

Mr. SUTHERLAND. I have a pair with that Senator. Not knowing how he would vote, I withhold my vote. If I were permitted to vote, I should vote "nay."

Mr. WILLIAMS (when his name was called). I have a pair with the Senator from Pennsylvania [Mr. PENROSE]. Not being satisfied in my mind as to how he would vote on this particular amendment, I withhold my vote. If he were present, I should vote "yea."

The roll call was concluded.

Mr. CHILTON. I wish to announce the pair of my colleague [Mr. WATSON] with the Senator from New Jersey [Mr. BRIGGS].

Mr. THORNTON. I wish to announce that the senior Senator from Wyoming [Mr. WARREN] is paired with the senior Senator from Louisiana [Mr. FOSTER].

The result was announced—yeas 25, nays 42, as follows:

YEAS—25.

Ashurst	Clapp	McCumber	Smith, Ariz.
Bankhead	Dixon	McLean	Smith, Ga.
Borah	Gronna	Martine, N. J.	Smoot
Bourne	Johnston, Tex.	O'Gorman	Stephenson
Brislow	Kenyon	Owen	
Catron	La Follette	Perky	
Chamberlain	Lodge	Shively	

NAYS—42.

Bradley	Fletcher	Myers	Sanders
Brandegee	Gallinger	Nelson	Simmons
Brown	Gamble	Newlands	Smith, Md.
Bryan	Guggenheim	Oliver	Swanson
Burnham	Heiskell	Overman	Thomas
Burton	Hitchcock	Page	Thornton
Chilton	Jackson	Paynter	Townsend
Clark, Wyo.	Johnson, Me.	Percy	Wetmore
Colson	Johnston, Ala.	Perkins	Works
Cummins	Jones	Pomerene	
Dillingham	Kern	Root	

NOT VOTING—28.

Bacon	du Pont	Martin, Va.	Smith, S. C.
Briggs	Fall	Massey	Stone
Clarke, Ark.	Foster	Penrose	Sutherland
Crane	Gardner	Poindexter	Tillman
Crawford	Gore	Reed	Warren
Culberson	Lea	Richardson	Watson
Curtis	Lippitt	Smith, Mich.	Williams

So Mr. BACON's amendment to the amendment of the committee was rejected.

Mr. BRISTOW. I should like to have the amendment I just offered now read.

The PRESIDENT pro tempore. The Senator from Kansas submits an amendment, which will be read.

The SECRETARY. After line 10, on page 2, insert:

The Congress shall have power to provide for the recall of the President by a popular vote at any biennial election.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Kansas to the amendment of the committee.

Mr. BRISTOW. Mr. President, I am very much opposed to this amendment to the Constitution, because I believe that the four years is a long enough term for the President before the people shall have an opportunity to pass judgment on his administration. I think the Senator from Massachusetts [Mr. LODGE] this morning presented very clearly one of the weaknesses of our system of government. It not infrequently occurs that the President is out of harmony with the Congress politically, and the result is that important legislation is held up until the country has had an opportunity to pass upon the issues involved in the controversy.

When a President has had two years and his administration is not satisfactory to the American people, they usually elect a Congress of political views different from those of the President. The purpose of the people is to express dissent from the administration in power. In my opinion that should mean a reversal in the policy of the Government, but under our system it can not result in a reversal in the policy of government; it only means a suspension of the functions of government to a certain extent; that is, the laws or the policies which the President stands for and which the people have disapproved can not be changed, because he has the power to stop the legislation. We have had an experience now of two years in which the Congress differs with the President upon the questions of tariff. The country has passed upon the tariff policy of the present administration adversely to the President, but the President, being in power for four years, has for two years prevented the will of the people, as expressed in the congressional elections, from being enacted into law. This has happened time and again in the history of our country.

So I think it would be dangerous and highly unsatisfactory if the President should have the power to suspend action for four years instead of two, which would be the case in the event that a constitutional amendment of this kind should be adopted.

If there is anything in the theory of our Government that it is a government which rests upon the will of the governed, then there ought to be means by which the will of the governed can become manifest and effective.

Instead of making the Government more flexible and more responsive to public will this constitutional amendment proposes to make it less flexible and more irresponsive to the public will. The argument that is made here on the floor in behalf of the amendment is that it relieves the President from any responsibility to the people for his administrative acts. It is proposed to intrench him in office beyond their reach, regardless of the character of his administration.

The Senator from Massachusetts never expressed a more potent truth than when he said that if the people want to reelect a man perpetually and establish a dictatorship paper constitutions will not prevent them from doing it. This is a step in the direction of preventing public opinion from exercising its will in an orderly way in the government of the United States.

One of the amazing things in connection with this controversy is that it seems to have the support of the Democratic Party. I have always understood that the Democratic Party believed in popular government; that it claimed to believe in the wisdom of the people. Yet we have here the contradictory proposition of the Democratic Party as a party supporting a proposition to take from the people the power to reelect a man if they think he has made a good public servant. It refuses to permit them to pass judgment upon the character of his administration. This proposition is based upon the theory that the President should be independent of the people.

This amendment is contrary to the trend of modern thought, to the political movement of modern times, because the evolution of our Government has been to give the people more power and not take from them powers which they now have.

It is said that the President during the last years of his administration may become a poor President, because he seeks to popularize himself with the people for the purpose of securing a reelection; that it is a bad thing for the President to seek to please the people who chose him to govern them, and therefore we will take from them the right to reelect a man because

he has pleased them; and we will take from the President the incentive to respond to the popular will in his administration. That is what this means, and that is the very theory upon which it is being pressed.

I believe that the American people are perfectly capable of selecting their Presidents. I have not any less faith in the intelligence of the American people to-day than had our fathers when the Constitution was adopted. They did not believe that it was unsafe to permit the American people to have the opportunity of reelecting their President. They believed that the American people at that time could be trusted, that they had sufficient intelligence and information to act wisely. I do not believe it has ever been claimed that they were not patriotic. The allegation has never been made that the American people did not love their country and did not want to exercise the functions of the Government which they had the privilege of exercising in harmony with what would be for the best interests of the country.

But it has been alleged that the public itself has not the information, has not the intelligence, to judge wisely in regard to laws or governmental policies. But it has remained for this day for any considerable coterie of statesmen to question their wisdom in selecting their Presidents. If 130 years ago leading statesmen of our country believed that then it was perfectly safe to permit the people to have the opportunity of reelecting a President if they saw fit, is it not just as safe now? When the Constitution was adopted there was but two daily papers in the United States and neither of them had a circulation of fifteen hundred. Now, there are thousands of them, many of which have circulations aggregating hundreds of thousands.

Mr. HITCHCOCK. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Nebraska?

Mr. BRISTOW. I do.

Mr. HITCHCOCK. The Senator from Kansas thinks that because our forefathers decided, after prolonged debate, to make no prohibition against the reelection of the President, therefore we in this day, after our experience of more than 100 years, should take their judgment. I ask him in reply, if that assumption or conclusion is correct, would it not also be true that we should take the judgment which they then rendered upon the election of United States Senators instead of now making up our minds to change the arrangement as they then made it and make those Senators elected directly by the people instead of by the legislatures, as our forefathers designed?

Mr. BRISTOW. The premise of the Senator from Nebraska is not correct. I did not say that because our forefathers thought it would be safe for the people to be trusted with the power to reelect therefore we ought to be able to trust them. I did say, in substance, that if they believed, with the facilities for popular information which then existed, it was safe to trust the American people, certainly with the enlarged opportunities for public information, with the increased capacity of the American people to judge upon public questions, it does not become us now to take from the people an authority which our fathers thought they at that time were capable of wisely and safely exercising. If the argument was sound then it is a thousandfold sounder now.

I will say further to the Senator from Nebraska that even if our fathers, when the Constitution was adopted, had forbidden the American people by its provisions to reelect a President, I would now be in favor of taking out of the Constitution that restriction.

Mr. HITCHCOCK. I am very glad to hear the Senator say that, because it seems to me that the argument he made was without very good foundation, and he practically abandons it now when he says that he does not believe in taking their judgment in the light of recent experience.

Mr. BRISTOW. I think the Senator is entirely mistaken, or he did not understand me. I am afraid that he has not been listening with his usual attention. I have not abandoned any argument or any position that I took. I am simply emphasizing the position which I took and trying to call to the attention of the Senate the reasons why the people should now or could now more safely be trusted with this authority than they could 130 years ago. If it was safe then, as our fathers believed, and experience has demonstrated they were right, why is it necessary now to take from the people this right which they have enjoyed for that time and which every Senator in this Chamber must admit they have exercised wisely, because there is not a Senator who will rise from his seat and declare that this power has been abused by the American people in the past. They have not reelected a President who has abused the power of the Presidency, but the uniform experience of the American people in the administration of their Government has been that whenever a President was not a good President he is removed at the end of four years by selecting his successor. It is an amazing proposition to me that this amendment can command the support that it now does, and, regardless of the amendments submitted here to-day, which doubtless will be incorporated in the joint resolution before it is acted upon, I believe the motive that prompts many of the advocates of this constitutional amendment—I do not say all, for I know it is not true as to all—is to keep the Presidency open so that this great honor may be passed around to gratify ambitious statesmen instead of being used to serve the best interests of a nation of 90,000,000 people.

The Senator from Montana [Mr. DIXON] referred to some of the Presidents who had been reelected, indicating that it would not have been in the public interest to have changed the national administration at certain critical periods in the history of our country. There has never been, in my judgment, a great President who has not been reelected. I do not believe that the American people have ever refused to reelect a great President who had served them wisely. They have never elected a man for the third time, and possibly the action of Washington in refusing a third election, basing it upon the ground he did, has had a tremendous influence in preventing the election of any man for the third time.

But nevertheless, in my judgment, that has only been a factor, because in the development of our political institutions it has not been customary, and it has not been the habit of the American people, to continue any administration, personal or partisan, for a long period of time. The Republican Party, I believe, will have had continuous control of the Government of the United States for 16 years on the 4th day of next March, and, if I remember accurately, that is the longest period when the administration of the Government has ever been intrusted in the hands of any one party. Parties in power gradually become arbitrary and seem to lose touch, to use a common phrase, with the rank and file of the population. When they do so they are retired and their opponents are placed in charge of the Government. If the opponents do not exercise that power or that responsibility in harmony with public opinion the opponents are soon retired, and the defeat serves as a warning, as an instruction, as a discipline to the party that had theretofore controlled the Government. So the very operations of this Government of ours have been such, judging from the experience of the past, as to make the limitation proposed wholly unnecessary.

There is not a Senator here who will point to any period in the history of his country and cite it as an example that justifies this change in our Constitution. The experience of 130 years has demonstrated that this power has never been used except wisely by the American people. Then why is it to be taken from them? Ah, my friends, I wish——

Mr. WILLIAMS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Mississippi?

Mr. BRISTOW. I do.

Mr. WILLIAMS. If the Senator from Kansas will permit an interruption, I wish to ask does the Senator understand this joint resolution as taking any power from the American people?

Mr. BRISTOW. I certainly do.

Mr. WILLIAMS. I had, then, a misapprehension. I thought that the joint resolution was to submit the question to the people whether or not they should take certain powers from themselves.

Mr. BRISTOW. Oh, yes; I understand. That has been referred to once before here this morning by a Senator in discussing the question, but Senators do not vote upon these constitutional amendments simply for the purpose of submitting them. Heretofore, at least, such an amendment has reflected the judgment of the Senators who voted upon it. We have not submitted amendments as they come along and passed them on to the people; that has not been the practice of the United States Senate or of the House of Representatives.

Mr. WILLIAMS. Mr. President, my question was not directed to that. I did not say that any Senator voting for the amendment would not also be willing, as one of the people, to vote to circumscribe his power as one of the people that far; but the Senator has been arguing for about 10 minutes upon the line that we are depriving the American people of an opportunity, of a liberty, and of a power, when really what we are proposing to do is to submit to them a joint resolution which, so far from depriving them of any power, gives them a power to deprive themselves of a power, and which requires a vote of three-fourths of all the States in the Union voting by a majority of the people before it can become effective.

Mr. BRISTOW. I shall be very glad if the Senator from Mississippi will take that same view of his responsibility in

submitting an amendment when some amendments which are now pending before the Committee on the Judiciary come before the Senate for action.

Mr. WILLIAMS. Mr. President, I beg the Senator's pardon once more. The Senator seems still to misunderstand me. It is the duty of a Senator to reflect his own opinion as a citizen in the vote which he casts upon a proposed amendment to the Constitution. But that is not the question. The Senator is making a speech to go to the world for the purpose of influencing public opinion, and he seems to be trying to make the impression upon the people that we are depriving them of an opportunity or of a power, whereas the truth is that those of us who think that we are willing to circumscribe our power as a part of the people to this extent are submitting it to the remainder of the people to see if they are willing to do so.

Mr. BRISTOW. I am making a few remarks for the purpose of impressing the country with the fact that a large number of the membership of the United States Senate believe there should be taken from the people the power to reelect a President even if he has been a satisfactory one, for the passing of this joint resolution can mean nothing else.

Mr. OWEN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Oklahoma?

Mr. BRISTOW. I do.

Mr. OWEN. I wish to call the attention of the Senator from Kansas to the fact that when this joint resolution is submitted to the people, it is not submitted to the people, but is submitted to the delegates of the people, much smaller in number, who may be more easily influenced in the matter than the people, and the people do not in reality pass upon the joint resolution. I think the Senator from Kansas is entirely right in demanding the right of recall on any man who is put in the presidential chair.

Mr. BRISTOW. I thank the Senator from Oklahoma.

Mr. DIXON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Montana?

Mr. BRISTOW. I do.

Mr. DIXON. I merely want to supplement what the Senator from Oklahoma [Mr. OWEN] has said. As a matter of fact, the people of the United States will never have any opportunity to pass on these matters. With the 48 States, averaging probably 125 members of the legislature to a State, it is within the power of less than 6,000 people by the membership of those legislatures to effectually and perpetually tie the hands of the American people in this matter.

Mr. WILLIAMS. Mr. President, if the Senator from Kansas will pardon me——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Mississippi?

Mr. BRISTOW. I do.

Mr. WILLIAMS. In reply to the Senator from Montana [Mr. DIXON], I will say that his remarks rest upon an assumption which I do not believe has any foundation in fact, and that is that when the legislatures of three-fourths of the States of the American Union vote in a certain way they do not reflect the opinion of the American people; that his assumption is an assumption which takes it for granted that representative government is a broken reed; that it is an obsolete, useless, and ridiculous institution; that the representatives of the people in the States do not represent the people who make them representatives. That now and then there should be a Judas Iscariot amongst the Twelve Apostles goes without saying; that there should now and then be representatives of the people who misrepresent the people goes equally without saying; but I, for one, get a little tired of the assumption, generally made oracularly, that when the representatives of the people act in the name of the people and for the people, exercising the functions which the people have intrusted to them, the people have neither part nor parcel in their action.

Mr. DIXON. Will the Senator from Kansas permit me to make a suggestion?

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Montana?

Mr. BRISTOW. I do.

Mr. DIXON. The Senator from Mississippi [Mr. WILLIAMS] evidently overlooks the fact that in every other constitutional amendment submitted by Congress to the legislatures of the different States such submission has been for the purpose of enlarging the power of the people themselves. This is the only constitutional amendment proposed to be submitted that has for its purpose the curtailment of the power of the people.

Mr. WILLIAMS. That is a totally different question; that is going to the merits of the proposition.

Mr. DIXON. The amendment rests on an entirely different basis from that of any other constitutional amendment heretofore submitted. It tends to curtail the power of the people, while every other constitutional amendment has had for its purpose the enlargement of the power of the people themselves.

Mr. WILLIAMS. I do not care to reply to that, because that is going to the merits of the proposition, and I do not think it is fair to take up the time of the Senator from Kansas [Mr. BRISTOW] for that purpose. That goes to the main argument and is a total deflection from the point I was making, which was that the Senator from Kansas was making an appeal to the people that they were being sacrificed and deprived of something by us, whereas as a matter of fact, it will rest with them as to whether it shall be consummated or not.

Mr. OWEN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Oklahoma?

Mr. BRISTOW. I do.

Mr. OWEN. I merely want to suggest that representative government has so far failed in the United States that the people from one end of this Nation to the other have risen in rebellion against it, and from the Pacific coast to Maine have demanded the right to again take into their owns hands, when necessary, the direct power to govern.

Mr. BORAH. Mr. President, I do not agree with the Senator from Oklahoma——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Idaho?

Mr. BRISTOW. I do.

Mr. BORAH. I do not agree with the Senator from Oklahoma that representative government has failed. It has not failed. Because a representative now and then has proven incompetent it can not be said that representative government has failed. But if it has failed this is not the remedy for it. We are now proceeding contrary to the doctrine which the Senator from Oklahoma urges, and not in harmony with it, when we undertake to take away from the people the right to select whom they would for their Chief Magistrate.

Mr. HITCHCOCK. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Nebraska?

Mr. BRISTOW. I do.

Mr. HITCHCOCK. Does the Senator from Idaho [Mr. BORAH] think that the present restrictions in the Constitution should be eliminated and that the people should be given the unrestricted right to select whom they please for President? We have, for instance, a restriction that a man not a native of the United States shall not be President and that a man below a certain age shall not be President. We have similar limitations which apply to Senators. Does the Senator from Idaho take the position that no restriction should be applied to the office of President of the United States?

Mr. BORAH. I will answer that question by asking the Senator from Nebraska a question. Does the Senator from Nebraska think, if those restrictions were taken off, there would be any danger from leaving it to the people to select whom they would to represent them in the Senate? I accept the doctrine of representative government in all its logical conclusions.

Mr. HITCHCOCK. I do not think it is a question of providing against a danger. I think we are here to endeavor to so amend the Constitution of the United States as to improve the conditions surrounding the exercise of Executive power. We had a spectacle here only a few months ago of the office of the President of the United States being prostituted for the purpose of making a disgraceful campaign. That would not have been possible if this prohibition had been part of the Constitution. We saw the President of the United States leave the White House and go out upon a campaign of competitive personal vilification. We have seen over and over again months of the time of the President taken up in the effort to secure his reelection and in preparing for it, and I think it is a very wise thing to place a limitation upon the people of the United States and to make it impossible for the President of the United States to do such things.

Mr. BORAH. Does not the Senator from Nebraska think that the people are perfectly capable of passing judgment upon the propriety of conduct of a candidate for the Presidency, whether he is in the White House or whether he is simply trying to get into the White House?

Mr. HITCHCOCK. That might possibly be so if the matter could be submitted simply to a vote of the American people, but we all know that great machinery has got to be placed in motion. We saw a President of the United States renominate himself. The Senator from Kansas and the Senator from Idaho both know that the President secured his nomination by the use of

presidential power, and that he might have been reelected had it not been for the unusual revolutionary course pursued in wrecking the Republican Party.

Mr. BORAH. I am sure the Senator from Nebraska thinks that, when the matter got to the power of the people, the people took care of it pretty well.

Mr. HITCHCOCK. I think they took care of it admirably.

Mr. BORAH. Yes. Why not leave it to them at all times?

Mr. HITCHCOCK. But, nevertheless, the closing months of the term of the President of the United States were disgraced—and I am not criticizing the President for what he did; possibly he was forced into the action which he took by the attacks made upon him—but the fact was that the whole country was ashamed of the spectacle presented, and the whole country realized that the presidential power was being used. It is to prevent the use of such presidential power that this constitutional amendment is proposed.

Mr. BORAH and Mr. WORKS addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Kansas yield further to the Senator from Idaho?

Mr. BRISTOW. I do.

Mr. BORAH. I had the honor—I will not say the pleasure—of being in attendance on both the convention of four years ago and of the one held last summer; and I could not discover any perceptible difference between the effect of the influence which was exerted upon the convention in 1908 by the gentleman who was nominating his successor and that exerted in 1912 by the gentleman who was nominating himself. It might have been done in a different way, but the exertion bore the same fruit in each instance.

Mr. HITCHCOCK. I will not undertake to explain what difference there might have been. I do not know that there was any; but I think the President of the United States ought to be removed from political struggles.

Mr. BORAH. Mr. President, there is no possible way to remove the President of the United States from political struggles if he is a man at all fit to be in the presidential chair. If he is a man fit to be there, he will be a political leader and will direct the political forces of his party. If he is interested in anything in the world, except his own individual aggrandizement, he will undertake to direct the forces of his party whether he is retiring from the Presidency or whether he is coming into the Presidency. We have never had a great President who was not a political leader. We never will have a great President who is not a political leader in this Republic. He is the head of his party and will seek to lead his party, if not for his cause, then to the advantage of his successor.

Mr. HITCHCOCK. I will say to the Senator that the time will never come when the presidential office will be divorced from politics so long as the occupant of the office has, or thinks he has, the opportunity of reelecting himself; but I want to say to the Senator that when the American people adopt this proposed constitutional amendment, as I believe they will adopt it, it will do more to remove the great office of President from the disgraceful contentions for reelection than anything else that can be done.

Mr. BORAH. Mr. President, just a word. To my way of thinking there was never a more aggressive campaign from the White House than that which was waged by Mr. Jefferson for the selection of his successor or that which was waged by Gen. Jackson for the selection of his successor or that which was waged by Col. Roosevelt for the selection of his successor. They were party leaders; the party looked to them and reposed confidence in them; they molded public opinion; they believed in the principles of their party; they believed that it was necessary in order to serve the country that the principles of their party should prevail, and therefore they exerted their influence, as I say every true leader of his party will do, whether he is coming into office or going out of office.

Mr. HITCHCOCK. Ah, but the Senator realizes that there is a vast space of time between the days of Jefferson and the present day, and he knows that the methods employed and the weapons used in the days of President Jefferson were of far different character from the weapons used and the methods employed in the present day.

Mr. BORAH. Mr. President, there is not a very long——

Mr. WILLIAMS. Mr. President, if the Senator from Nebraska will permit an interruption——

The PRESIDENT pro tempore. The Chair will call the attention of Senators to the fact that only one Senator can talk at the same time.

Mr. WILLIAMS. I may not have heard all that the Senator from Idaho said, but if his reasoning was as defective as was his historical allusion it must have been very defective indeed. Mr. Jefferson exercised no part of his influence to nominate Mr. Madison. He exercised influence to keep his party in power, but he had two warm personal friends, Madison and Monroe, who were candidates for the nomination at the hands of the Democratic-Republican Party, and he declared that he would stand neutral between them.

Mr. BORAH, Mr. WORKS, and others addressed the Chair.

The PRESIDENT pro tempore. To whom does the Senator from Kansas yield? There are four Senators claiming the attention of the Chair, asking for recognition.

Mr. BRISTOW. I yield to the Senator from Idaho [Mr. BORAH], and then I should like to resume.

Mr. BORAH. I hesitate to differ on a question of political history with the Senator from Mississippi, but I am quite sure that I am not in error when I say that Mr. Jefferson exerted influence to select his successor. I am perfectly willing to let my statement stand and be supported by the historic facts, notwithstanding the view entertained by the Senator from Mississippi.

Mr. WILLIAMS. Mr. President, I have made no statement of historic facts. The Senator from Idaho made a statement of historic facts——

Mr. BORAH. I was aware the Senator from Mississippi had not made any, but he undertook to——

Mr. WILLIAMS. But the statement of historic facts made by the Senator from Idaho rests upon no evidence which he can produce now or during this year or during this decade; and if he can I for one shall be very glad to see it. It rests upon a great many federalistic statements as to what Jefferson did, but there is not a word or there is not a fact that can be attributed to him that shows that he ever raised his hand as between those two men. He did, however, want one or the other nominated.

Mr. BORAH. And the one he wanted nominated succeeded.

Mr. WILLIAMS. But privately he preferred Mr. Madison, and said so in a letter to Jack Eppes, his son-in-law.

Mr. BORAH. The Senator from Mississippi will proceed in a few moments to support my contention. He has already said that which is precisely true, that while Mr. Jefferson let it be understood that he would not exert any effort as between the two men, he never hesitated to let his private friends know what he desired to have, and he got it.

Mr. WILLIAMS. Of course I am not trying to answer the Senator's argument. I am merely trying to keep history straight.

Mr. BORAH. The Senator from Mississippi is too shrewd an observer and student not to know the historical facts to which I have referred. Mr. Jefferson quietly but effectively and persistently let his friends know his preference for Madison.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from California?

Mr. BRISTOW. I do.

Mr. WORKS. It is said everything comes to him who waits——

Mr. BRISTOW. I hope that my time will come bye and bye. [Laughter.]

Mr. WORKS. The Senator from Nebraska [Mr. HITCHCOCK] has said that the people admirably took care of the situation resulting from the kind of campaign he has discussed. I am afraid he thinks so because the people elected a Democratic President; but I should like to ask him whether he thinks the subsequent action of the people wiped out the disgrace to this country resulting from the kind of campaign that took place before the nominations?

Mr. HITCHCOCK. I certainly entirely agree with the Senator from California on that point. I merely felt compelled to answer as I did the categorical question of the Senator from Idaho [Mr. BORAH].

While I am on my feet, I should like to ask the Senator from Idaho this question: Has there not been a vast change in the methods which were used in a dignified way by Thomas Jefferson to express his ideas and his convictions and to give his reasons for desiring a particular successor or a particular party to succeed, and the present-day methods of turning over the whole machinery of executive power to a campaign to control a convention? Can the Senator not see the tremendous change that has developed and the need for a remedy for this new evil?

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Idaho?

Mr. BRISTOW. I do.

Mr. BORAH. I am not criticizing the methods of Mr. Jefferson in selecting his successor. They were consummate and perfect for his day. He used all the influence necessary to

accomplish his purpose. I do not say that he used corrupt methods or means. Of course, I do not know that he did; and, if I did know it, I would conceal it for the sake of our Democratic friends, who are just now coming into power. [Laughter.]

Mr. HITCHCOCK. Mr. President, I should like to ask the Senator——

The PRESIDENT pro tempore. Does the Senator from Kansas yield further?

Mr. BRISTOW. Yes.

Mr. HITCHCOCK. I should like to ask the Senator from Idaho, in all candor, if it is not very generally suspected at the present time, and if there is not strong circumstantial evidence to warrant the belief, that the motive which impelled Theodore Roosevelt to force a certain successor upon the convention at Chicago in 1908 was that he had ultimately in view the reappearance of Theodore Roosevelt as a candidate for President four years later? Is it not suspected and believed that the motive which the President had at that time, in 1908, was really one of self-interest?

Mr. BORAH. Mr. President, I am sure the Senator from Nebraska does not entertain that view. So I will say, in my opinion, that view is simply the fumes of a diseased mind.

Mr. HITCHCOCK. Mr. President, I am very glad to have the Senator from Idaho give me a clean bill of health [laughter], but I am not able to permit myself to admit that there is no ground for that belief. I have heard from certain sources that I think reliable that Theodore Roosevelt was immensely surprised when he learned that William H. Taft was to be a candidate for renomination.

Mr. BRISTOW. Mr. President, there have been one or two suggestions made during the last half hour of miscellaneous controversy that I should like to give a little attention to, and then I will finish the remarks that I was making.

The Senator from Nebraska [Mr. HITCHCOCK] referred to divorcing the Presidency from politics. I think the Senator, after reflection, will see how ridiculous a proposition of that kind is. The Presidency is a political position, the highest within the gift of the American people, and the business of the President is to administer the political affairs of his country as the Chief Executive. We hear a good deal of cheap talk—I do not refer, of course, to any talk in the Senate—about divorcing this and that from politics. There is no more honorable calling among men, if you will except the holy calling of the ministry, than the calling of the politician, if he understands the dignity and the responsibility that go with the administration of the political affairs of his country. It is true that there are cheap grafters who occasionally inject themselves into political affairs and fail to appreciate the high purpose which ought to animate men who are engaged in administering the politics of the country, and such men merit the condemnation of all; but it is as utterly impossible to divest the Presidency of the United States from politics as it would be to divest the ministry from religion. It is the business of the President of the United States to administer political affairs as the executive head of the Government, and he should administer them wisely and in the public interest.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Iowa?

Mr. BRISTOW. I do.

Mr. CUMMINS. I think the Senator from Kansas is absolutely accurate when he says that the Presidency is a political office and must always remain a political office, but I want him to recall his expression and see if he is willing to reaffirm the statement that it is the business of the President to administer the political affairs of the country. Is the Senator not willing to qualify that a little?

Mr. BRISTOW. Well, I may——

Mr. CUMMINS. Is there not a very great difference, in other words, between political offices? We are holding political offices here, but I hope the duties are quite different from those that are performed by the person who holds the political office of President of the United States.

Mr. BRISTOW. What I meant—I do not now remember whether I expressed myself with accuracy—was that the President exercised the political duties that were conferred upon the Chief Executive of the Nation. Those duties are political.

The Senator from California referred with some emotion to the disgraceful incidents which antedated the election last year, and the nomination as well. I can not conceive that it is the business of the American Congress to try to engraft common sense into men's minds by constitutional amendment. I do not care how many constitutional amendments you adopt, you can not make a man wise if he is not so by nature, nor can you prevent a man from disgracing his office if he is disposed to do it. I am not saying that any offices have been disgraced, for I do not agree with the Senator from California in his statement that political campaigns that may be in bad taste are disgraceful.

The only argument that is made in favor of this resolution is that it will prevent a President from becoming inefficient by endeavoring to please the people in order to renominate and reelect himself. If the effort of any man to please an intelligent constituency is against him and should disqualify him, then I am glad that I am not in harmony with that view, which is the view that seems to be expressed here in this debate by the advocates of this resolution.

I want to carry out a little further the view suggested by the Senator from Idaho in regard to the efforts made by a President to select his successor. I believe President Roosevelt was responsible for the nomination of Mr. Taft four years ago. He wanted Mr. Taft nominated because he believed Mr. Taft would carry out the policies of government to which Mr. Roosevelt's administration was devoted. With that purpose in view he used the powerful influence which he had with the American people in order to induce his party to nominate the man who he thought would prolong those policies four years longer. As the Senator from Idaho has said, any President who was worth his salt would undertake to do the same thing by all honorable means. If he believed that the policies of government for which his administration stood were wise and in the interest of his country, then he should undertake to influence in an honorable way the selection of a successor who would continue to carry out those policies.

This amendment will have no more influence than if it were not passed in preventing an administration from being active in politics to promulgate and promote its ideas. It simply changes the situation so that the President instead of undertaking to renominate himself—if you care to put it that way—will undertake to nominate his successor, as has been done by the great Presidents of the past, as the Senator from Idaho has very clearly and very accurately stated.

As to whether or not these efforts are disgraceful, unpatriotic, or unwise, depends upon the character of the man who is President. As I have said, you can not adopt constitutional amendments that will legislate or incorporate common sense into a man's head. And if a President does unwise or disgraceful things the people will pass a wise judgment upon his action.

Referring to the original interruption of the Senator from Mississippi [Mr. WILLIAMS], who criticized the position I took when I said that the resolution proposed to take from the people a power which they now have, and which they have had since the Constitution was adopted, and which they have exercised wisely, and concerning their exercise of which not a word of criticism has been heard, I desire to say that it must be conceded that a vote of the Senate upon a resolution submitting an amendment to the Constitution of the United States is equivalent to, and is, in fact, a recommendation from the Senate that that amendment be adopted by the people. If it were not, why should it require two-thirds of the membership of this body to submit the resolution? When the resolution goes before the people, it goes before the people with the sanction of two-thirds of the membership of this body, and no other construction can be put upon the action of the Senate.

So, I repeat, this is a proposition to take from the people authority which they have been exercising for approximately 130 years, which they have exercised with wisdom and discretion, from the exercise of which no harm has ever come to the country, and the lack of which authority would have been at times a calamity to this Government.

With that statement, which can not be successfully contradicted by any man upon this floor, I leave the question to the consideration of the Senate.

Mr. SUTHERLAND. Mr. President, before the Senator takes his seat I should like to ask a question for information. As I understand, the amendment proposed by him is to the effect that Congress may provide for a recall of the President at the end of a two-year period?

Mr. BRISTOW. Yes.

Mr. SUTHERLAND. Suppose Congress so provides, and the people act, and the President is recalled, what then becomes of the Government?

Mr. BRISTOW. If the Congress is authorized to recall the President, it is certainly authorized to provide for the Government, after he is recalled, by letting the people select his successor. I can modify the amendment so as to provide for that if it is deemed necessary.

Mr. SUTHERLAND. The Senator's proposed amendment certainly does not cover that point. The Senator's amendment simply provides that Congress may provide for a recall of the

President. Who shall then succeed to the presidential office, or how it shall be provided for, is left wholly in the air.

Mr. BRISTOW. I think it is left with Congress. I have not any doubt about it. Of course I am not a constitutional lawyer, but if I can construe the ordinary language that is used in the affairs of men, it seems to me that if Congress is given the authority to provide for the recall of the President, the recall in itself means that provision must be made for his successor.

Mr. SUTHERLAND. The provision to which this would be an amendment, if it were adopted, is that the term of office of the President shall be six years. If we add to that simply a provision that at the end of two years the President may be recalled, and say nothing more about it, it would seem to be self-evident that no provision exists by which the term could be filled for the remaining period.

Mr. BRISTOW. I ask the Secretary to read the amendment.

The PRESIDENT pro tempore. The amendment will be again read.

The Secretary read as follows:

The Congress shall have power to provide for the recall of the President by a popular vote at any biennial election.

Mr. BRISTOW. In my opinion that gives full power to Congress to provide for the recall of the President and the selection of a successor by a popular vote, if the people see fit to do it. If it does not, I shall be glad to listen to a suggestion from the very able constitutional lawyer who sits by my side, the Senator from Utah, as to an amendment that will cover that point.

I think the people ought to have the right when they pronounce judgment adversely upon an administration to put another one in control of the Government that will carry out their will; and that is the purpose of this amendment to the resolution. I do not think their hands ought to be tied for six years, so that an Executive who happens to get in and who may refuse to serve the public interests can stay there in defiance of the people. I can not understand how men can think that is a wise way to administer the affairs of a government the sovereign power of which is the popular will.

Mr. BRANDEGEE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Connecticut?

Mr. BRISTOW. Certainly.

Mr. BRANDEGEE. It occurred to me, Mr. President, that it would simplify the process, and accomplish the manifest purpose of the Senator, if he would make the term of the President two years instead of six. Then, of course, he could be reelected if the people approved his administration, and there would be no necessity for a recall.

Mr. BRISTOW. No; no; I do not agree with the Senator. I think there are many men who would be elected President that would serve the full six years under this resolution, if it should ever pass, without meriting rebuke from the hands of the American people at the end of the first two years of their terms of service. The experience of our country has demonstrated that wise men are not only retained in office, that their administrations are not only supported in the congressional elections following the inauguration of their administrations, but that they are reelected, after having served four years, with Congresses in harmony with their views.

Mr. BRANDEGEE. That is the very question, Mr. President, if the Senator will yield.

Mr. BRISTOW. Certainly.

Mr. BRANDEGEE. The Senator suggested, as one of the principal arguments in favor of the proposed amendment, the fact that at the end of two years of a presidential term the temper of the country might change, and it might elect a House of Representatives of political opinion different from that of the President, and therefore if the President could be recalled the Presidency could be placed in harmony with the House and with Congress. He instanced the present situation of Congress, which he described as being hostile to the tariff policy of the present President.

If the country should change its opinion as to the party in power and should elect a House of Representatives hostile to the President, on the Senator's own statement of the case and in conformity with his own argument would it not be wise to have the President elected each two years, just as Members of the House of Representatives are elected?

Mr. BRISTOW. No; I do not think so; and I want to take issue with the statement which the Senator from Connecticut made when he began. He said "If the temper of the country should change." I do not think the temper of the country changes quickly on public questions.

Mr. BRANDEGEE. I am inclined to differ from the Senator.

Mr. BRISTOW. If the President changes, if he does not carry out the policies for which he stood, and the people are disappointed in him because he has not done so, they ought to have the right then to recall him, because he has failed to carry out the will and purpose of the people who elected him. I do not think the temper of the country changed on the tariff between 1908 and 1910. I think the temper of the country in 1908 and in 1910 was exactly the same. It elected a Democratic Congress in 1910 not because it was in favor of any Democratic policy on the tariff, because that was a vague and uncertain proposition, but because it was the only way it had of expressing its disapproval of the administration bill, the Payne-Aldrich tariff bill. If there had been any other way of correcting that legislative mistake, in my judgment there would not have been a change such as we have now.

This amendment to the resolution seeks to make more responsive to public opinion our executive administration. The Senator from Massachusetts and I disagree on almost everything. I think this is the first time for many months that we have met on common ground on any political question. We do it in this case from entirely different points of view. He has called attention to the fact that the English Government is more responsive to the will of the people than is our Government, because there is greater authority in the Parliament of England than there is in the Congress of the United States. The administration of the laws of England rests with a ministry whose existence does not depend upon the will of a president or a king, but upon the will of the Parliament; and when public opinion makes itself felt with the Parliament, the ministry must be in harmony with the Parliament or go out of power.

Our Government is such that the executive administration of the laws may be out of harmony with the legislative branch of the Government, and it results in a blockade of legislation for two years. While the adoption of this amendment to the resolution probably would not be the most desirable way to correct this unfortunate condition that frequently confronts us, it certainly would be better than to perpetuate a blockade of this kind for four years instead of two, as it now is. This resolution enlarges the present obstruction.

Mr. POINDEXTER. Mr. President, it seems to me this resolution is a striking example of an effort to accomplish a certain definite and very well-understood purpose, in the serious matter of changing the Constitution of the United States, which will have an effect the opposite of that which is intended.

One of the objects of this resolution is to improve the administration of the office of President by removing the inducement offered by the ambition of the President to succeed himself—to occupy his time in securing a reelection—and thereby to induce him to devote himself to the performance of the duties and functions of his office.

Another purpose of the advocates of this resolution is, I suppose—to judge from the conversation and the speeches we heard in the recent campaign—to save the country from a Napolean or a Cæsar who might use the power and patronage of the administration to perpetuate himself indefinitely in office.

I think it is clearly demonstrable that, if this resolution should be adopted, it would have the opposite effect in both particulars. It was not once or twice but many times that this question was debated when the Constitution was framed and when the term of office of the President was fixed. The first and the only Federal constitutional convention which ever sat in this country devoted a great amount of time to the question whether or not the President should be ineligible for reelection.

It is perfectly true, as the Senator from Kansas has said, that while all the reasons still exist that existed then for retaining the President's eligibility for reelection, many of the objections have disappeared, and there are now a great many additional reasons which did not exist at that time in favor of preserving in the people the power, if they see fit, perhaps in some great emergency of the Government or of the country, to retain at the head of the executive branch of the Government, it may be, the only man who is available to deal with the problems of the hour.

One of the strong reasons that was urged in the Federal convention against the proposition to make the President ineligible for reelection was that it would remove the incentive to meet the approval of the people whom he was serving which would come from an honorable reelection to the office which he held. That argument had great weight with the convention in determining against the same proposition which is put forward here.

The term of six years for President is entirely too long for a bad man, and it is too short for a good man. The remedy for the abuse of the powers of the Presidency and for the misuse of patronage is certainly not by taking away from the people a portion of the power which they now have for the control of that office, but rather by increasing it.

The proposition involves the whole broad question of the relations of the people to the Government, to what extent the people are to be able to control the Government, and how much power the Federal Government shall have. This proposition is to limit the power of the Federal Government by limiting the term of the Chief Executive. The question of the control of private monopoly, of whether or not the Federal Government is to have sufficient power to deal with interstate monopoly, of the relations of State governments to the Federal Government, whether these questions are to be left to the States, or whether the Federal Government is to be supported and upheld in the efforts which the advocates of Federal control are making, are all involved in this proposition.

Mr. President, if the Government were an alien Government or in control of an alien power, the proposition on the part of the advocates of government by the people to limit its power would be perfectly logical. But the Government is not an alien government; it is not such a government as existed in England, when the models upon which this Government was framed were developed, where the source of government was derived from some place outside of the people, when the King repudiated the doctrine that he got his power from the people, when the barons had another power, and when there was constant political warfare between these separate and distinct estates. The people, represented by the Commons, the barons, and the King, each claimed prerogatives independent of the other.

I think it is generally conceded in this country that the powers of government find their origin in the people, that all just government depends upon the consent of the governed. We are confronted constantly with the problem whether the Government is to be more independent of the people, more removed from their control, less responsive, or whether, on the other hand, the people are to be given a wider and more direct control over its various departments.

I admit that so far as the use of the power of the Presidency, including the disposition of patronage and appointment to office is concerned, if our political system of party government and party organization and conventions were to continue as they have existed in the past, there is a very great opportunity for perpetuating the Presidency in the hands of the incumbent by the use of the power and patronage of the office.

But that is utterly impossible. It has been demonstrated by recent political history in this country under the system of primaries which is now finding favor, and which has been put in force in a large number of States, that where the people have the real power to select the President, the abuses of presidential power, the misuse of presidential patronage, are perfectly futile and worse than futile, in an effort to perpetuate the incumbent in office.

The last campaign for the nomination of the Republican candidate has been pointed out here and it has been justly stigmatized. In that campaign every opportunity of office was taken advantage of. Every use that could be made of patronage or presidential power was set in motion to secure the nomination. And yet, in every State in the Union where the people had an opportunity to take a real part in the nomination, that misuse and abuse of power and patronage was condemned and repudiated, and their choice given by an overwhelming verdict of public opinion to another man, who was a private citizen and had no opportunity to bring to bear appointments to office and presidential favors in order to get delegates in the convention. So, when the system of primary nominations prevails, whenever it shall be generally adopted in this country, by which the people will really have an opportunity to control the nominations for the Presidency, it will be utterly impossible for the nomination to be controlled by a President, however long he may be in his office; and when that becomes evident, as it must become evident, as is already demonstrated, the attempt of the incumbent to secure the nomination by such abuses which are sought to be avoided and prevented by this resolution will be voluntarily abandoned.

Mr. President, the question involved in this resolution of the degree of responsiveness of the Federal Government to the popular will and its power and responsibility when it has been chosen is a very live question before the American people today. There is being agitated throughout the country a proposition for calling a constitutional convention, and it is based upon the proposition that the conditions which have grown up largely in the last 20 years have far more, even, than the Civil War united the country into one Nation and have developed and emphasized the necessity of one central Government, with ample power to deal with abuses which reach from one border of the Nation to the other. I say that question is directly involved in this resolution as it affects the executive branch of the Government.

A few years ago the verdict of the American people was taken as to whether or not there should be an income tax. It was debated for years. The American people in a regular election voted in favor of an income tax. It was taken up in Congress, but the Congress which met after the election was not the one which had been chosen in the election. Under a hold-over system the legislative branch was not immediately responsible to the public will, and when in the course of a year the new Congress which had been chosen came into power and this question, which had been decided in the election, was presented to them the people were confronted by the obstacle of a large portion of the legislative branch holding over from previous elections. But finally, after a long course of agitation, the verdict of the people found response in an act of Congress, and it went before a third department of the Government and was argued by the attorneys for the people and the attorneys for the great private interests that were opposed to that measure.

There had been decisions of the Supreme Court of the United States, a number of them, five of them, that such a law was constitutional. The Supreme Court heard the argument. They voted upon it and were evenly divided. One judge was absent. A rehearing was had. The absent judge took his seat upon the bench, and, of course, if his decision should be in favor of the income tax it would be established by the verdict of the Supreme Court as constitutional. He did decide in favor of it, but one of the other judges had reversed his previous decision in the case, having changed his mind overnight, and the long campaign for a just system of taxation by which the greater part of the wealth of the country, intangible personal assets, which largely escape, in my judgment, the assessor, ended in nothing, because the Government was not responsive to public opinion. As has been said here, it is less responsive than the Government of England or any other government under a modern constitution in Europe.

Now, instead of meeting these difficulties by making the Government more responsive to the people and by increasing its power, it is proposed to limit it and at the same time to further restrict the control of the people over it.

I do not know, Mr. President, how the myth arose that Washington ever—in his farewell address or at any other time—gave the great weight of his almost infallible judgment in favor of the proposition that a President should not hold more than two terms, that the tenure of the office should be limited either by custom or by law. I have read his farewell address, and it seems to me if it means anything it means that Washington was seeking to excuse himself before the American people because of his desire to retire to the enjoyment of private life, and was asking their indulgence to relieve him from what might seem to them to be his duty to continue in office for a longer period than for two terms. I want to read, because it is very brief, what he says on this point. He says:

> I beg you at the same time to do me the justice to be assured that this resolution has not been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that in withdrawing the tender of service, which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness, but am supported by a full conviction that the step is compatible with both.
>
> The acceptance of and continuance hitherto in the office to which your suffrages have twice called me have been a uniform sacrifice of inclination to the opinion of duty and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this previous to the last election had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations and the unanimous advice of persons entitled to my confidence impelled me to abandon the idea. I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety, and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

It was an argument that there was no crisis in the affairs of the country at that time which demanded his continuance in office. It was an implication that if there had been such a crisis it would not only have been proper for the American people, should they see fit to do so, to continue him in office as President for more than two terms, but that it would have been the duty of the incumbent if called upon by the people to serve in that capacity. There is not anything that can be deduced from this expression to indicate that Washington either intended to establish a two-term custom or that he favored the doctrine of ineligibility.

But there is more than that in an epitome of all that can be said against this proposition written by Washington upon the identical subject, and if the Senate will indulge me for reading a portion of a page, I will do so. He says in a letter to Lafayette:

> There are other points in which opinions would be more likely to vary. As, for instance, on the ineligibility of the same person for President after he should have served a certain course of years. Guarded so effectually as the proposed Constitution is in respect to the prevention of bribery and undue influence in the choice of President, I confess I differ widely myself from Mr. Jefferson and you as to the expediency or necessity of rotation in that appointment. The matter was fairly discussed in the convention, and to my full conviction, though I can not have time or room to sum up the arguments in this letter. There can not, in my judgment, be the least danger that the President will by any practicable intrigue ever be able to continue himself one moment in office, much less to perpetuate himself in it, but in the last stage of corrupted morals and political depravity, and even then there is as much danger that any other species of domination would prevail. Though when a people shall have become incapable of governing themselves and fit for a master it is of little consequence from what quarter he comes. Under an extended view of this part of the subject, I can see no propriety in precluding ourselves from the services of any man who on some great emergency shall be deemed universally most capable of serving the public.

Now, if there is a danger of a man subverting the Constitution by the power of office, the very inclusion in the instrument of a prohibition against serving more than one term of six years will be the greatest incentive that can be offered to such a man.

Suppose a man of that caliber occupied the office who had met, perhaps, with the favor of the people, and was willing to use, as it was assumed in making this argument, an ambitious President would be willing to use the powers which come to him as President to subvert the spirit of the Government and its laws, and he should be confronted by a provision, a written attempt, a paper barrier, against perpetuating himself in office, there would be the greatest temptation that could be offered to him to violate the Constitution, to suspend this provision, to make some declaration by which to take advantage of his popularity with the people and his power as President, and ignore the amendment which is proposed here.

There are a great many free constitutions where there is not any freedom. There are a great many countries, small and large, where provisions of this kind are constantly violated. The hope of the country does not depend upon the Constitution as it is framed now, nor as it is to be amended, but it depends upon the capacity of the people to preserve peace and order and good government. The Constitution is no stronger than the political morals of the people who framed it and for whose government it was established. If you assume that a people can be corrupted by a President by the use of his office, so that he will be elected when he ought not to be, you have assumed that they are incapable of self-government and you have abandoned the whole case. You can not protect such a people by written constitutions. There can not be any form of free government which would be successful with such a people.

There are many things in our Constitution and in our extraconstitutional Government, a system of party government in the United States, which are practicable here, successful here, but which would be utterly impracticable in some other countries where the people are less educated, where they are less informed, where they possess less stability, less love of justice, less respect for the law.

I have heard a great many arguments made in the Senate against some of the proposed new agencies, which, after all, are nothing more than new ways of organizing political parties, and the Constitution does not deal with that at all. And yet they are opposed here as though they were undermining the very foundation of the Constitution. There is the primary, for instance. The primary nomination of candidates for office, the presidential preference primary, has nothing to do with the Constitution. It is a mere system of party government. I have heard many of the arguments made against those popular agencies which would be perfectly sound in the case of some constituencies, perhaps, in this country, and of the entire population of some other countries.

In considering whether or not the President shall hold office for six years and be ineligible for reelection, the whole question is as to whether or not the people are capable of determining that question for themselves, or whether you are going to attempt to put a guardian over them in the shape of a straightjacket provision saying what they can not do in regard to electing a Chief Executive of the Nation.

If they were in their swaddling clothes such a provision would be necessary, but when they for a thousand years have exercised self-government and enjoyed freedom, when they have developed the greatest system of education, the most ample means for the transmission of information of any people in the world, it is an unusual time now, when we are in the midst of progress, when information and education are on the increase instead of on the wane, to introduce a proposition here to deprive them of some of their powers and pass a resolution which implies at least that we have suddenly awakened to the conclusion that the American people are politically decadent.

I imagine that every great private monopoly in the United States would hail with joy the passage of this joint resolution. I say "private monopoly" because the question of the regulation of those great private agencies underlies most of the political issues of to-day.

When a campaign to establish some principle of control or restraint of those who seek to use the power of wealth, the control of transportation, the undue advantage and special privilege of the tariff for the oppression of their weaker neighbors or the masses of the people—a power which must be restrained by the Government, because there is no other source from which the restraint can come—and it must be restrained by the Federal Government, because leaving it to the States is leaving it to be unrestrained. The States have not the requisite physical or political power, and many times they have not the disposition, when a campaign to put in the hands of the Federal Government means for this regulation and control is under way, and the question has been weighed before the people at the bar of public opinion—when they have rendered their judgment upon it in the election, and it has gone its course through all the checks and balances and divided powers of our system of government, and finally is having its effect in the hands of a vigorous and earnest administrator of the office of President—just as he is about to accomplish the results for which this long campaign has been waged he finds this amendment coming into play, should it be adopted, and saying that he must go out of power, and the hand of the man who has been found willing and able to meet the needs of the people upon this great question is palsied and their will rendered futile.

Every country furnishes examples, from which it is manifest that disaster would have fallen upon them if they had been governed in the great crises of their history by such a provision as this. Our own history is full of such instances. We have had times of stress, when the Nation's existence was at stake, when the conduct of a great war or the prosecution of a great policy depended upon a single individual who was the man fitted for the hour. Suppose that in the midst of his power, his official responsibility, his official opportunity, in the Civil War, for instance—because it may as well be as not that his six years' term would expire in the midst of a critical campaign, upon which the life of the Nation was at stake—this amendment should call him out of office, throwing the country into the throes of an election of a new and untried man. It is not logical; it is not common sense; it does not tend toward the freedom or liberty of the people or to enlarge in any way the safety or the service which the Government renders to them.

There is not a successful private organization in the world which would adopt such a policy, and one phase of the Government is but that of a great business organization. Every great private business concern has achieved its success to a large extent by the selection of competent men to do its work and by keeping them in their position and by promoting them to the highest positions so long as they remain faithful and competent.

The fathers of the Constitution were wise enough to fix a short term of office for the President, and to leave him eligible for reelection, because it gives the people an opportunity every four years to determine whether or not he is competent to administer the duties of that office. It is impossible for him to abuse the power of the office to any great extent within that short period, with the new agencies of nomination I have referred to, and yet it leaves with the people the privilege of continuing him there indefinitely, or at least past the danger period of some critical passage of the Nation, if they see fit to do so.

An occasion that everybody will bear in mind was when the Empire of Great Britain first extended itself in that mighty sweep around the world and established its flag and its laws from its island home to the end of the seven seas—when the Earl of Chatham was at the head of the English Government, when Clive was selected by him to lead the armies of England in India, when he sent Wolfe to face Montcalm in Canada, when he was waging a mighty struggle against the armies of France on the frontier of Germany—when the question was whether England should blossom and bloom and prosper and flourish as the greatest empire of modern times or whether it should sink into obscurity and insignificance as a defeated rival of its European neighbors. Suppose in that crisis in the history of Great Britain some foolish, some absolutely illogical provision of the constitution had decreed that the great Lord Chatham should give up the helm of state and step down and a

new and untried and incompetent man should take his place. The same condition might well arise here—it will arise here if this amendment is adopted, the effects of which will come back to plague and curse the people for whose benefit it is supposed to be framed.

During the delivery of Mr. POINDEXTER's speech.

Mr. GALLINGER. Mr. President, will the Senator from Washington yield to me for a moment?

Mr. POINDEXTER. I yield to the Senator from New Hampshire.

Mr. GALLINGER. I offer a proposed substitute for the joint resolution, that it may be pending.

Mr. POINDEXTER. I am very glad to yield for that purpose.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). The Secretary will read the proposed substitute.

The Secretary read as follows:

The executive power shall be vested in a President of the United States of America. The term of the office of the President shall be four years. No person who has held the office by election, or discharged its powers or duties, or acted as President under the Constitution and laws made in pursuance thereof, shall be eligible to hold the office by election more than one additional term.

Mr. GALLINGER. I thank the Senator from Washington.

Mr. POINDEXTER. The Senator is entirely welcome.

Mr. HITCHCOCK. Will the Senator from Washington yield to me to offer an amendment, that it may be printed?

Mr. POINDEXTER. I yield to the Senator from Nebraska for that purpose.

Mr. HITCHCOCK. My amendment contemplates striking out the reference to the officer who may hold or exercise the power. I should like to have it read, so as to get it into the RECORD.

The PRESIDING OFFICER. The Senator from Nebraska proposes an amendment, which will be read.

The SECRETARY. On page 2, line 7, in the committee amendment, after the word "election," strike out down to and including the word "thereof," in line 9, so as to read:

The executive power shall be vested in a President of the United States of America. The term of the office of President shall be six years, and no person who has held the office by election shall be eligible to hold again the office by election.

After the conclusion of Mr. POINDEXTER's speech.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Kansas [Mr. BRISTOW] to the amendment of the committee.

Mr. BRISTOW. I should like the yeas and nays on that, Mr. President.

The yeas and nays were ordered.

Mr. OWEN. Mr. President, before the vote is taken I wish to say that I want to give my adherence to the proposal submitted by the Senator from Kansas [Mr. BRISTOW]. I believe that the people of the United States ought to have the right, if they find the President of the United States is not in accord with matured public opinion, to name his successor and to do so without waiting for six years or four years if after two years they find he is not in accord with public sentiment.

The President of the United States, in my judgment, is not to be regarded as an individual. He is controlled by his environment; he is controlled by advisers; and he is controlled by influences that are brought to bear upon him in a great variety of ways. If he be of a temperament which yields to the blandishments of interests which are opposed to the interests of the American people, and that be made manifest from his conduct, I am of opinion that the people should have the right to put a masterful hand on him, take him from his seat of power, and place in his stead some man who will represent the interests, the aspirations, and the hopes of the people of this country. For that reason I am in favor of the proposed amendment of the Senator from Kansas to the committee amendment.

The PRESIDING OFFICER. The Secretary will state for the information of the Senate the amendment to the amendment proposed by the Senator from Kansas.

The SECRETARY. It is proposed to insert as a separate paragraph, after line 10, on page 2, the following:

The Congress shall have power to provide for the recall of the President by a popular vote at any biennial election.

The Secretary proceeded to call the roll.

Mr. LIPPITT (when his name was called). I again announce my general pair with the senior Senator from Tennessee [Mr. LEA] and refrain from voting.

Mr. OWEN (when his name was called). I transfer my pair with the senior Senator from Kansas [Mr. CURTIS] to my colleague [Mr. GORE] and vote. I vote "yea."

Mr. OLIVER (when the name of Mr. PENROSE was called). My colleague [Mr. PENROSE] is out of the city to-day. If he were present on this roll call he would vote "nay." He is paired with the Senator from Mississippi [Mr. WILLIAMS].

Mr. RICHARDSON (when his name was called). I again announce my pair with the junior Senator from South Carolina [Mr. SMITH]. He is absent, and I therefore withhold my vote.

Mr. WILLIAMS (when his name was called). I transfer my pair, which is with the senior Senator from Pennsylvania [Mr. PENROSE], to the senior Senator from Virginia [Mr. MARTIN] and will vote. I vote "nay."

The roll call was concluded.

Mr. BOURNE. I desire to announce that I am paired with the senior Senator from Alabama [Mr. BANKHEAD]. Hence I withhold my vote.

Mr. DILLINGHAM. I desire to announce that on all the votes to be taken to-day, I have transferred my pair with the senior Senator from South Carolina [Mr. TILLMAN] to the Senator from New Mexico [Mr. FALL]. On this question I shall vote. I vote "nay."

Mr. CHILTON. I announce the pair of my colleague [Mr. WATSON] with the senior Senator from New Jersey [Mr. BRIGGS].

The result was announced—yeas 10, nays 58, as follows:

YEAS—10.

Ashurst	Dixon	Owen	Thomas
Bristow	Gronna	Perky	
Clapp	Martine, N. J.	Poindexter	

NAYS—58.

Borah	Dillingham	La Follette	Shively
Bradley	du Pont	Lodge	Simmons
Brandegee	Fletcher	McCumber	Smith, Ga.
Brown	Gallinger	McLean	Smith, Md.
Bryan	Gamble	Myers	Smoot
Burnham	Guggenheim	Nelson	Stephenson
Burton	Helskell	O'Gorman	Sutherland
Catron	Hitchcock	Oliver	Swanson
Chamberlain	Jackson	Overman	Thornton
Chilton	Johnson, Me.	Page	Townsend
Clark, Wyo.	Johnston, Ala.	Paynter	Wetmore
Clarke, Ark.	Johnston, Tex.	Percy	Williams
Culberson	Jones	Perkins	Works
Cullom	Kenyon	Pomerene	
Cummins	Kern	Root	

NOT VOTING—27.

Bacon	Fall	Massey	Smith, Mich.
Bankhead	Foster	Newlands	Smith, S. C.
Bourne	Gardner	Penrose	Stone
Briggs	Gore	Reed	Tillman
Crane	Lea	Richardson	Warren
Crawford	Lippitt	Sanders	Watson
Curtis	Martin, Va.	Smith, Ariz.	

So Mr. BRISTOW's amendment to the amendment of the committee was rejected.

Mr. WILLIAMS. Mr. President, I now call up the amendment which I presented this morning.

The PRESIDING OFFICER. The Senator from Mississippi proposes an amendment, which the Secretary will state.

The SECRETARY. In lieu of the matter proposed to be inserted by the committee, it is proposed to insert the following:

The executive power shall be vested in a President of the United States of America. The term of the office of President shall be four years. He shall be reeligible for one additional term of four years and not thereafter reeligible at any time. No person who shall hereafter hold the office or discharge its powers or duties or act as President by succession for any fraction of a term under the Constitution and laws made in accordance thereof shall be reeligible beyond such a fraction of a term and for one term by election.

The President, together with a Vice President chosen for the same term, shall be elected as follows.

Mr. CLARKE of Arkansas. Mr. President, I make the point of order that that substitute can not be considered at this time, as there are certain other amendments pending to the committee amendment. The friends of the committee amendment have a right to perfect it before any proposition that goes to the life of it is entertained.

Mr. WILLIAMS. In reply to that, I would say that I think that position hardly well taken. Here is an amendment to the joint resolution; it does not go to the life of it; it merely goes to the terms of it; it substitutes a term of eight years, with an opportunity for recall by reelection in the middle of that term, for a term of six years. I do not see that it goes to the life of the proposition, and the amendments which may be made would be useless only in the event that they were not pertinent to the main proposition.

Mr. CLARKE of Arkansas. Mr. President, the proposition is clearly a substitute for the pending amendment of the Committee on the Judiciary. The gist of the substitute of the Senator from Mississippi is to preserve the old idea of two terms of four years each, adding a disqualification to hold beyond that period, whereas the proposition of the committee is to substitute for the provision now in the Constitution an entirely new provision of one term of six years. The two propositions obviously do not cover the same ground, and before we are compelled to vote on the amendment allowing two terms of four years each, with ineligibility to reelection to a third term, we

ought to have the right to perfect the original proposition, so that in its final form it may be intelligently compared with the amendment with which it must contend for its life.

The PRESIDING OFFICER. The amendment reported by the committee is in the nature of a proposition to strike out certain parts of the joint resolution and to insert in lieu thereof new matter proposed by the committee. The Chair is of the opinion that the proposition of the Senator from Mississippi [Mr. WILLIAMS] to substitute the language proposed by him for that proposed by the committee would be in order at this time, there being no other amendment pending. If it were a substitute for the whole proposition the Chair would hold that the joint resolution as reported by the committee must be first perfected before the substitute could be offered.

Mr. CLARKE of Arkansas. Mr. President, just one word before the matter is finally disposed of. It is not only a substitute for the main proposition contained in the original joint resolution, but it will be a substitute for the committee amendment of an entirely different nature, and will supersede it, because the two are not susceptible of being reconciled. It is nothing more nor less in its last analysis than a motion to substitute for the committee amendment the proposition submitted by the Senator from Mississippi. Obviously we ought to have a right to perfect the committee amendment before a motion to strike it out—because that is what it amounts to—is entertained. Individual amendments can not be considered until committee amendments have been disposed of. That is another one of our rules that would be applicable just there.

Mr. DIXON. Mr. President, did I understand the Chair to say there was no other amendment now pending?

The PRESIDING OFFICER. There are several amendments which have been sent to the desk to be read, and in some instances to be printed, but none has been formally offered.

Mr. DIXON. Mr. President, early this morning, in order to save President Elect Wilson from being put in the uncomfortable attitude of being the only President of the United States who would be specifically restricted to one four-year term, I submitted an amendment, which was read and is pending, especially eliminating Woodrow Wilson from the operation of the proposed constitutional amendment. I did not think our Democratic friends would want to put the President elect in the position standing by himself as the only man who would be so restricted. Notwithstanding the Senator from New Jersey this morning, speaking, I presume, with authority, said that Mr. Wilson never would be a candidate again, I did not think the United States Senate wanted especially to single him out for this unenviable position. That amendment was read, and I am sure is pending.

The PRESIDING OFFICER. The Chair will state, for the information of the Senate, that the Senator from Montana sent the proposed amendment to the desk, but at the time there was another amendment pending. Of course, no amendment can be offered while another amendment is pending; and so the Chair did not consider the amendment of the Senator from Montana as pending.

Mr. MARTINE of New Jersey. Mr. President, I do not desire to be quoted as giving utterance to the words the Senator from Montana has just credited to me, that the President elect had declared that he would never again become a candidate. I did not say just that. I said that he has declared on a number of occasions in favor of one term. I further stated that it was the policy of our party, as declared in the Baltimore convention, to favor one term, and President Elect Wilson has declared, and redeclared, his adherence to the platform of the Baltimore convention. Further than that, I had no thought of committing him.

Mr. WILLIAMS. Mr. President, have I not been recognized?

The PRESIDING OFFICER. Does the Senator from New Jersey yield; and if so, to whom?

Mr. MARTINE of New Jersey. Have I the floor?

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. MARTINE of New Jersey. I yield, then, to the Senator from Mississippi. I am only too glad to yield to him.

The PRESIDING OFFICER. Does the Senator from New Jersey yield the floor?

Mr. MARTINE of New Jersey. Certainly, I do.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CUMMINS. Mr. President, just a word with regard to the point suggested by the Senator from Arkansas [Mr. CLARKE]. Possibly the Chair, in his ruling upon that, overlooked the fact that the Judiciary Committee itself proposed an amendment by way of a substitute for the original joint resolution. While it is probably not so denominated in the printed matter before the Senate, yet it is, in substance, a substitute. I think, under those circumstances, that if there is any proposition to perfect the substitute so offered by the committee, there should be an opportunity given for amendments of that character before an amendment for the entire substitute is considered.

The PRESIDING OFFICER. Senate joint resolution No. 78 does not purport to be a substitute for the original joint resolution as introduced. A part of the resolution is left in existence.

Mr. CUMMINS. That is true, but it is the mere formal part. The effective part of the joint resolution is in the report from the Committee on the Judiciary. It is an amendment, but it would be effective in and of itself if it were adopted, while the other is merely formal and preliminary. I think, under those circumstances, the substitute offered by the Senate committee should be perfected before a different proposition is considered for the one reported by the committee.

The PRESIDING OFFICER. In the opinion of the Chair, the proposition of the Senator from Mississippi is an attempt to perfect the joint resolution in a different way from that proposed by the committee and, technically at least, is not a substitute for the entire resolution. Therefore the Chair has ruled that is in order at this time.

Mr. WILLIAMS. Mr. President, I did not expect to have to take up this matter this evening, and I shall not be able to do the subject entire justice. I wish to say, in the first place, that there are two reasons, in my opinion, why the proposition which I offer is preferable to the amendment proffered by the committee. The first one is that a term of six years is too long if there be no opportunity for the recall of a bad officer during that time. The second is a tactical reason, and I would address myself on this subject to the friends of the proposed constitutional amendment itself.

If you go before the people with the idea of preventing a longer tenure in the Executive Office than eight years, and giving in the middle of that term a reelection, which, in the case of a bad officer acts as a recall and in the case of a good officer acts as an encouragement, you present to the people an idea with which they are already acquainted; you merely write into the Constitution what has sometimes been called "the unwritten law of the American presidential succession."

They will not be called upon to debate a new thing. It is practice as much as words which makes institutions, and that has been the practice of the American Republic. I think the tactical reason is a weighty one for those who really do desire to put an end to the real evil.

Mr. President, what is the real evil? It is that under our Constitution there is an indefinite tenure of the Executive Office; that there is a possibility of self-succession for life in the Executive Office. That is the real evil. The question as to just what the term should be, whether four, six, or eight years, is a minor question. So that when you come to fixing a presidential term and presenting the proposition to the people it is of the highest importance to present it in such a way as that it shall become a part of the Constitution and give the proposition every possible advantage arising from an existing state of public opinion.

The Senator from Washington [Mr. POINDEXTER] seems to think that we are depriving the people of some right or privilege. We are doing nothing of the kind. We are proposing to the people an amendment upon which they shall sit in judgment, to be adopted by them or to be rejected by them, under the machinery of the Constitution, as they may see fit. It is the wildest sort of talk to try to put it in any other way.

One Senator said to-day that the time might come when some great matter or, as he said, the life of the Nation might depend upon the continued service of one man. Mr. President, it may be that I have not read history carefully, but I do not know of any period in the world's history where anything worth while has depended altogether upon one man or when any great service for civilization or the world, at the head of the doing of which stood a great man, could not have been carried through with somebody else at the head of it.

What I propose is to reenforce the unwritten law of the Republic. Back of that stands the example of George Washington. Few of us realize how beneficial that example was. He did not put his reasons for it in words. He was a man whose benefits to his country consisted chiefly in acts and not much in words. But had this Republic elected George Washington for one more term, and had he died during that term—and, as a matter of fact, if he had died at the time he did die, he would have died during the term—we would have started there the precedent of a man being elected to the presidential office for life. It would have been quoted as a precedent for election for life.

The next President remained in office only one term. Had that President had a term of eight years instead of four, in my opinion, this Republic in that early day, before it had been taught to march firmly, would have gone to pieces. The alien and sedition laws had aroused such a feeling of rebellion among the people that already the Virginia and Kentucky resolutions contained veiled allusions to a dissolution of the Union—threats and menaces. The longer we remain united the more dangerous it is to attempt disunion. But at that very early day nobody at all doubted the right of a State to secede.

I have mentioned these two things because they illustrate the beauties of our working practice at both ends—first, that a man can be encouraged during a first term by reelection to a second without danger of perpetuity in office; and, secondly, that a bad policy, a dangerous policy, can be gotten rid of at the end of a short period without resort to revolution.

Jefferson gave his reasons for imitating the example of Washington, and gave them in that style which was so lucid, so clear, and so forceful that the American people have appreciated it from that time on.

Washington's example, at a time when our institutions were yet in the wet mold and not dry set, and unstable in many particulars, had not had the effect which later on, after Jefferson's statement of reasons, it had. The legislatures of eight States—and at that time they had no nominating conventions, and the legislatures nominated candidates—one after another had nominated Mr. Jefferson for a third term. Even the senior Senator from Massachusetts [Mr. LODGE], in his History of the United States, says there is no doubt about the fact that Mr. Jefferson could have been easily reelected. Amongst these eight States not one southern or southwestern State, where Jefferson was peculiarly strong, had yet spoken. Then Mr. Jefferson stopped the movement and gave the reasons, which I shall read:

> My opinion originally was that the President of the United States should have been elected for seven years and forever ineligible afterwards. I have since become sensible that seven years is too long to be irremovable and that there should be a peaceable way of withdrawing a man in midway who is doing wrong. The service for eight years, with a power to remove at the end of the first four, comes nearer to my principle as corrected by experience, and it is in adherence to that that I determine to withdraw at the end of my second term. The danger is that the indulgence and attachments of the people will keep a man in the chair after he becomes a dotard and that reelection through life shall become habitual and election for life follow that. Washington set the example of voluntary retirement after eight years. I shall follow it. And a few more precedents will oppose the obstacle of habit to anyone who after a while shall endeavor to extend his term. Perhaps it may beget a disposition to establish it by an amendment to the Constitution.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Kansas?

Mr. WILLIAMS. Yes.

Mr. BRISTOW. I simply want to ask the Senator if that is not practically the same principle that was presented in the amendment which I offered, except that Mr. Jefferson would provide for a recall at the end of a four-year term instead of a two-year term?

Mr. WILLIAMS. Substantially it amounts to the same thing, except that this fixes a definite period for election; and the recall, if it takes place, takes place as a result of an election, the time of which is prescribed. It is different in this, of course, that under the operation of the Senator's amendment the term would be six years, and the recall might occur at the end of each two years of the term. My chief objection to that was that it would have gradually set up a condition of things where we would be electing a President every two years, or at least voting upon the election of a President every two years.

Mr. BRISTOW. Mr. President, I am sorry to interrupt the Senator again; but I admit that would be the case unless the President satisfied public opinion and at the end of the first congressional term a Congress in harmony with his views were elected. Otherwise, of course, there would be another election.

Mr. WILLIAMS. I do not want to argue the Senator's amendment now; but, if I remember correctly, it provided that the people should have the power to recall at each general Federal election. That would be every two years. There would always be enough men wanting to recall the President to vote against him, and then the people who did not want to recall him would have to go and vote for him, and thus you would have a presidential campaign every two years. You could not help it to save your life under the operation of such a provision as that in the Senator's amendment.

These further words of Jefferson ought to be remembered by everybody in connection with the presidential tenure:

> If some period be not fixed, either by the Constitution or by practice, the office will, though nominally elective, become for life and then hereditary.

In what I previously read he expressed the hope that habit would make the example set by Washington the practice always of the American people; and here he tells the danger.

Gentlemen say that we are timid; that we are frightened at shadows, and all that; and then they rise in all the august majesty of a narrow nationalism and say: "We are the American people. We do not need any restrictions of majorities; we need not restrict ourselves."

Mr. President, our whole system of government is a government of restrictions placed by the people upon themselves—the Federal Government, the State government, and everything else. The American people have been peculiarly wise in this, that hitherto they have been wise enough to distrust themselves, and therefore have deliberately and purposely, in the fundamental and organic voice of the people—the Constitution of the United States and the constitutions of the various States—put restrictions upon themselves.

In the smallest matters those restrictions exist. A community frequently can not incur a debt amounting to over 50 per cent of the assessed value of its taxable property. Why not say, "The people are capable of ruling. Their wisdom is absolutely infallible. Let them incur all the debts they want to incur; it is their affair. Why restrict them at all?"

If there were an outside force restricting them, the argument would be good. But it is not good when the people restrict themselves, as they do and ought to do, not only in little matters like this but in large matters. Our forefathers in Great Britain restricted the government by the Bill of Rights, and we restrict all government in this country by the first 10 amendments to the Constitution, which constitute our Bill of Rights. Everything is a restriction upon the people, operating through their representatives, as well as upon the representatives operating against the people.

I am not one of those who believe that tyranny is a particle sweeter because it is the tyranny of a majority. I believe, with old Roger Williams, that there are two classes of things in this world—the things of the first table and the things of the second table. The things of the first table are those things which are between God and the individual man, and government has no right to touch them. If 99,999,999 of the people out of 100,000,000 wanted to do anything in connection with them and one man stood up in his right and said "No," then that one man's voice should restrain all the rest. Amongst these things are freedom of religion and various other things that will occur to your own minds. Ninety-nine per cent of the American people, I suppose, are nominally Christians. One per cent of the American people are Jews. The people have voluntarily put upon themselves restrictions with reference to that matter. They have never established the Christian religion as the religion of their country. They had the power to do it. They had the power to refuse to restrict themselves from doing it. But they decreed that for all time there should never be among us an establishment of religion. They were wise enough to know that men always, everywhere, have weaknesses. If you flatter yourself that the American people are not like the Grecian people and not like the Roman people and not like the French people, and do not share the common human nature, that is a little chauvinistic vanity that may be welcome to you and make you feel better, but there is not a particle of truth in it.

The Senator from Massachusetts said this morning that there was no danger of Cæsarism in America. The whole history of the world shows that free institutions everywhere in the world have been overturned by whom? An unpopular man was never dangerous to free institutions anywhere. They have been overturned by popular heroes, concerning whom the people thought what the Senator from Washington this morning thought—that there might occur times when one man was absolutely indispensable. One man is never absolutely indispensable, either to the people or to God or to civilization or to culture or to anything else largely worth while in this world.

Mr. LODGE rose.

Mr. WILLIAMS. I yield to the Senator from Massachusetts.

Mr. LODGE. I merely wanted to say that I did not say quite what the Senator quotes me as saying.

Mr. WILLIAMS. I misunderstood the Senator, then.

Mr. LODGE. I said that there was no danger of Cæsarism while the character of the American people was what it is; but the defense against Cæsarism rested in the character of the people, and not in constitutional barriers.

Mr. WILLIAMS. The character of the American people is like the character of every other people that ever existed. We are not any wiser, we are not physically any stronger, we are not morally any better, than any other people that I know of of the white race.

Mr. POINDEXTER. Mr. President——

Mr. WILLIAMS. Wait one moment. Thus far we have had just this advantage: We are bolder, more enterprising, more inventive, and more venturesome, for the reason that the ancestors from whose loins we came were the most venturesome and daring of the people amongst whom they lived. They therefore left the old associations of a lifetime to come into a wilderness and make their way with rifle and ax.

I think therefore that particular characteristic has come down to us. It will be bred out after a while, but to a large extent it still exists. It has made us the greatest inventive and adventuring people of the world. It makes us the great captains of industry. We are a people who peculiarly dare take chances, and individually as well as nationally and as communities. But otherwise you need not flatter yourselves that the dangers which in all history have threatened other people, and have threatened them through majorities, will never threaten us.

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Washington?

Mr. WILLIAMS. Yes.

Mr. POINDEXTER. The Senator, after having made a very broad statement, qualified it after I had risen to put a question to him concerning it, by excluding the colored races of the world in his statement. The statement was so broad that it struck me as absolutely in conflict with the observation of everyone. That was the reason I rose.

Mr. WILLIAMS. What was that?

Mr. POINDEXTER. Why, that the people of the United States were no different in the matter of government or capacity to govern themselves than any other people in the world.

Mr. WILLIAMS. I did not say that.

Mr. POINDEXTER. I think the Senator did.

Mr. WILLIAMS. I did not say anything about the capacity for governing themselves. That comes from experience, and of course we have had in that regard greater experience. But I do not know that we have any larger capacity to govern ourselves than our neighbors across the line in Canada. I do not think we have. I do not know that we have any larger capacity to govern ourselves than the people of the same English-speaking race in Australia and New Zealand. I doubt if we have shown any larger capacity to govern ourselves than the people left back in Great Britain, whence we came.

Mr. LODGE. How about the people across the other line to the south?

Mr. WILLIAMS. Oh, we have a larger capacity to govern ourselves than people who never had any experience in governing themselves. I am coming to that pretty soon, because it has something to do with this very identical question. I will tell you one reason why those people have never had any capacity to govern themselves, and that is that they did not have sense enough to take the advice of the words of Thomas Jefferson, and after one term and two terms and three terms and four terms, if a man was popular, they kept him in office, until after a while the elections became a mere form and the man who went in stayed in; staying in, he did all the governing. That is one reason. But, of course, the greater reason back of it all is that they are not purely a white race; and so far I do not know of any race except the white race that has developed capacity for self-government, or perhaps one might prefer to say have had the experience which develops it.

Mr. POINDEXTER. The Senator from Mississippi has qualified the former statement which he made, and now admits, as I understand, that there are some races of the world that, by reason of their color, are not qualified——

Mr. WILLIAMS. Put it "by reason of their experience."

Mr. POINDEXTER. And others by reason of a lack of experience, and others by reason of not having sense enough, and others by reason of not ever having had any self-government. That includes the greater portion of the world.

Mr. WILLIAMS. The Senator from Washington is making a wide divergence. I had said nothing about the American people not being better fitted than most people for self-government. I was talking about the character of the people being substantially the same. I had not referred to the question of self-government at all until the Senator interrupted me. But to return to our sheep. The passions, the prides, the prejudices, the loves, and the hates that make people do things dangerous to their own liberty exist in America just as well as they do anywhere else, and just as much as they ever existed anywhere else; perhaps owing to the brave and somewhat reckless character of our people in an emphasized degree.

They say we start at shadows. It does not seem so to those who have just actually witnessed an attempt by a very bold, brave, able, and popular man to be elected President for a third term according to his definition of a third term, and who have witnessed the fact that during that campaign he never answered the question as to whether he would run at the end of a third term for a fourth, or at the end of the fourth for a fifth, or at the end of a fifth for a sixth term. And notwithstanding that danger he received the second largest popular vote of the candidates who were running.

People who laugh at Jefferson's "suspicions," and all that, have only generally to wait long enough and their posterity begins to laugh at them.

When the Constitution was first published Jefferson said, in a letter which he wrote from France: "Your Presidency seems to be a poor edition of a Polish king"—that is, an elective monarchy.

The Senator from Montana [Mr. DIXON] this morning asked, "Why single out the President, of all the elective officers, to circumscribe his term?"

The answer is self-evident. It is because the President has more power, while in office, than any monarch in all Europe, except the Czar of Russia. There is no sort of analogy between the principles that should govern the tenure of office of legislators like Senators and a man holding this gigantic power of the American Executive. Power is never dangerous except where power is great. No one Senator has any great power. No one Representative has any. No one governor has, and so it goes.

If Washington had not set his example, and if Jefferson had not followed it and given the reasons for it, which he did in his splendid way, it might have been the case that America would have furnished to the world a second example and a "poor edition of a Polish king."

Our South and Central American friends down here have furnished us with several of them. Rome furnished us with it. The consuls were elected by the people, and there was a restriction that they were eligible only for two terms. Marius was elected for the third and the fourth and the fifth and the sixth terms, and came back to Italy at the head of the legions; and Sylla did the same thing; and the whole old Roman institution went to pieces. Why, to the very latest day of the so-called Roman Republic—and they never themselves called it an empire—the emperors were "elected by the people." That was the theory—by the people of the city of Rome.

If it had not been for the example set by Washington and followed by Jefferson, and the reasons given for it, undoubtedly Washington would have been elected for life; undoubtedly Jefferson would have been elected indefinitely, if not for life, because his party elected Madison and Monroe and John Quincy Adams. Though Adams's administration was not Democratic-Republican, he was elected as a Democratic-Republican and as the candidate of that party.

Mr. DIXON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Montana?

Mr. WILLIAMS. That party continued, then, to elect men, so that some Senator was mistaken this morning in saying that 16 years was the longest period for which one party had been in power.

Now I yield to the Senator from Montana.

Mr. DIXON. I am surprised at the statement of the Senator from Mississippi as to the reelection of Jefferson or any other man. The truth was that at the close of Jefferson's administration he was so very unpopular with his party that he practically held no communication with Congress. He was practically isolated at the White House during the last of his term.

Mr. WILLIAMS. I do not want to be deflected from the argument, but I ought to answer that wild variance from history in justice to history. No man, except George Washington, ever left the presidential office so popular with his party as Thomas Jefferson. Thomas Jefferson not only was President for eight years, but he was—what Mr. Roosevelt hoped to be and did not succeed in being—at one and the same time President and ex-President for 16 years afterwards. Neither Madison nor Monroe ever undertook to do any important thing without communicating with Jefferson at Monticello. About the Monroe doctrine itself, about the Spanish treaty, about everything, he was communicated with. As I said a moment ago, eight States in their legislatures begged him to become a candidate for a third term. Of the Southern States not one had spoken, because their legislatures were not in session at that time. And even a historian of the rather Federalistic leaning of my friend, the Senator from Massachusetts [Mr.

LODGE], records that there is no doubt about the fact that he easily could have been reelected.

Mr. DIXON. I wish to refresh the memory of the Senator from Mississippi, with all due respect to his great historical knowledge, by the statement that his conception of Jefferson's political situation at the close of his second term is absolutely the reverse of the facts in the case at that time.

He was in the very trough of the sea of his popularity with his party and the people.

Mr. WILLIAMS. That has nothing to do with my argument. The Senator can not refresh my knowledge of history by a mere ipse dixit statement of his own. I will say that that is my opinion, then, of what history records, and the Senator may keep to his. There is this difference between us: The utterances of the legislatures of the time, the mass meetings of the time, the newspapers throughout the South and the West at the time, the resolutions passed after his retirement by the various legislatures all over the country—very many things are on the side which I hold and not on that which the Senator holds.

Mr. DIXON. The Senator will find upon fuller investigation that the situation was so acute that I think Jefferson sent no communications to Congress during its last session of his term in the White House.

Mr. WILLIAMS. No; that is very true as to his sending few communications after Madison's election, but it was because he had a very curious theory that after his successor was elected his successor really was the President, and that he ought not to attempt to control public affairs, but should leave them as far as possible to Mr. Madison. Mr. Madison was his warm friend, his Secretary of State, belonged to his own party, and he knew all about him.

Mr. DIXON. The Senator from Mississippi, I feel certain, is in the heat of his argument interpolating many things which never existed into the political history of the United States in Jefferson's administration.

Mr. WILLIAMS. I am not interpolating a thing. If the Senator will take the trouble to read a little, he will find that in several letters Mr. Jefferson himself gave that reason for his conduct; so that I am interpolating nothing.

I was going on to say that Washington could undoubtedly have been reelected as long as he pleased; from what we know Jefferson could have been reelected as long as he pleased; Andrew Jackson could have been reelected as long as he pleased; Grant could have been reelected as long as he pleased; McKinley certainly could have been reelected once more, but for this example which Washington had set and the reasons for it given by Mr. Jefferson. Of course when I say Jackson and Grant could have been reelected, the chances are that but for the example of the one great man and the precept of the other, somebody else would have been holding the office for life and neither Jackson nor Grant could have had any chance to be elected for the first time. How long it would have taken reelections to have become mere matters of form is of course a matter of speculation, but that in the course of time they would have become mere matters of form is a matter of certainty.

An indefinitely self-successive Executive, easily turned into a dictatorship, has been, as I said a moment ago, the rock upon which the so-called South American "Republics" have split, and the good sense of the American people in taking the advice of their great men and in restricting themselves has been that which has saved our institutions from a like death of the spirit. The mention of that is the greatest tribute that can be paid to the American people. Thus far they have been the only great people who have been willing to bind themselves, as it were, in swaddling clothes with written constitutions, and then abide by the written constitutions after they had done it. They were the first people in modern times who ever undertook it.

The written constitutional idea itself was the idea that the majority of the people ought to exclude from the power of majorities certain things with which majorities ought to have nothing under the sun to do.

So all this talk about our restricting the people is—I will not say demagogic; I do not mean that exactly, but it is fictitious. It is fictitious for two reasons; first, because if there is any restriction at all the people will place it upon themselves; and, secondly, because our whole Government rests upon the idea of restricting the power of majorities by an organic law.

I have something else to read. The words in which Jefferson closed his public declination are wise, I think, and patriotic. I want to call your attention to them. When these legislatures had urged him to run for the third term and when he had refused, he finally made this public announcement:

> That I should lay down my charge at a proper period is as much a duty as to have borne it faithfully. If some termination to the services of the Chief Magistrate be not fixed by the Constitution, or supplied by practice, his office, nominally for years, will, in fact, become for life; and history shows how easily that degenerates into an inheritance. Believing—

Mark this, those of you who believe in popular government—

> Believing that a representative government, responsible at short periods of election, is that which produces the greatest sum of happiness to mankind, I feel it a duty to do no act which shall essentially impair that principle; and I should unwillingly be the person—

Unwillingly be the person—

> who, disregarding the sound precedent set by an illustrious predecessor, should furnish the first example of prolongation beyond the second term of office.

Something was said here this morning about our not being bound by the acts of previous generations. Grown men now and then act like boys in a debating society when they get to arguing the question as to how far we are bound by precedents. Of course we are not bound to accept the opinions of our forefathers because they were their opinions, but we are not bound to throw them off because they thought them wise, either; and the fact that they thought them wise, other things being equal, is one reason, at any rate, why we should think them wise. The fact that what they thought was wise they adopted, and that under the institutions which they made for their government in the constitutions of the Federal Government and the States and by their practice under those constitutions, we have grown opulent and great and have remained free, recommends the things to me which they indorsed. Of course it does not recommend them to the point of saying that I must accept them solely because they accepted them.

Now, one word further. There has grown into existence lately a class of public men I would call "platformists." They seem to think that a platform is a Constitution of the United States or Holy Writ that has just been handed to them and which they must obey under all circumstances. As a general principle, a party platform ought to be carried through by the party adherents; and it is a principle as invariable as saying that when I give my word to do something I ought to try essentially and in spirit to do it. But my resolution here does not differ at all essentially from what is advocated in the Democratic platform.

The Democratic platform says that there should be "one term." It may be replied that under my resolution and the time-honored practice there are two terms of four years each. But that is a mere matter of verbiage. You can call the tenure under my resolution what Mr. Jefferson called it, if you choose, a presidential tenure of eight years, with the opportunity of recall by the people in the middle of the tenure. So, even for the strict constructionist, platformist, this is just as much one term of eight years as it is two terms of four years.

What the Democratic Party was striking at was the essential evil, and the essential evil is indefinite self-succession of the Executive, or, rather, the opportunity for indefinite self-succession in the Executive Office in a way such that elections may gradually become mere matters of form and degenerate into tenures for life, and after that, perhaps, into tenures by heredity.

I can not sufficiently emphasize the idea, which I repeat once more before I sit down, that those of us who are seeking to put some definite term to the presidential tenure will find we can obtain our purpose much more readily and certainly if we offer to the people a proposition containing an idea with which they are historically acquainted instead of offering them a new idea—if we simply say to them that we will write in words into the Constitution what Washington, Jefferson, Jackson, and McKinley thought by practice to write into it. Thus far the people have said "Washington would not, Jefferson would not, Grant could not, Roosevelt could not, and nobody else shall;" but it does not follow, necessarily, that they will always say it.

It is only, mind you, the brave, able, and popular man who is dangerous to free institutions. The Senator from Washington says that if we throw up a paper barrier in the way of these men we tempt them to upset the Constitution. No; we deprive them of the opportunity to do it, except by plain, palpable, and obvious revolution. Our institutions would not be upset by the mere fact of any man holding office for a third term.

Mr. POINDEXTER. Mr. President——

Mr. WILLIAMS. One word further. I say they would not be upset by any man holding for a third term. They would be upset gradually, insidiously sapped—undermined—and if the man were permitted to remain in office long enough to organize his forces of various sorts—the forces that control national destiny—then, at the end of an uncertain period, the people would wake up some day and find that thing had been done without any notice that it was going to be done, and in a way such that historians would differ about fixing the exact period when the old institutions had been set aside and the new substituted—the exact moment at which the sapping and undermining had become effective. Do you imagine that the people of Rome knew that they had overturned the old Roman government even when Cæsar came back from Gaul? They did not have the slightest idea of it. Do you imagine that they knew that they would overturn the old Roman republic when they elected Marius for the sixth term as consul? They had not the slightest idea of it.

Mr. POINDEXTER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Washington?

Mr. WILLIAMS. I do.

Mr. POINDEXTER. The Senator says that the ambitious man will gradually undermine the Constitution and overturn it, and in another part of his address he said that the most dangerous man was the most popular man.

Mr. WILLIAMS. I said the only dangerous man to free institutions was a popular man. An unpopular man has never done them hurt.

Mr. POINDEXTER. Let me ask the Senator if, given that combination which he has described, an ambitious man and a popular man, and in some critical juncture of the Nation's affairs, in some really important issue before the people, believed that he was the man to carry out their wishes in that regard, does the Senator think that this paper resolution which you are passing here now would have any practical effect?

Mr. WILLIAMS. Yes; I know it would. I did not say as the Senator said. Precisely what I said was stronger than what he quoted me as saying. I said the only dangerous men to free institutions were popular men. They must be first bold; then they must be popular; and then they must be ambitious, unscrupulously ambitious. If you give them the three things and then give them "a crisis," they would prevail. The French people had no idea that they had overset the French Republic when they elected Napoleon Bonaparte as First Consul. They thought what the Senator from Washington [Mr. POINDEXTER] had in his mind a moment ago, that Napoleon was the only man who could save the French people. The French republican armies under Moreau and under Hoche had been winning victories on the Rhine and everywhere else even before Napoleon's achievements. He was the greatest general of them all, I have no doubt, but in him the French people put a man in to save the Republic who destroyed the Republic.

When they elected the third Napoleon, there being at that time popularity in name only, as President of the French Republic, they had no idea they were destroying the Republic. They did have an idea that nothing but Napoleonism could restore France to her "glory" and her greatness, and her "destiny," and all that sort of thing.

Cæsar and Napoleon the Great are good illustrations of abnormally great, bold, popular, ambitious men, each meeting with a crisis, where the fact of his ability and popularity and alleged "necessity to the State" could be urged as a reason for submitting to a coup d'état.

You are going to have crises in your history, and you are going to have men of that sort. Even if it were admitted that a paper barrier, as you call it, could not always be relied upon to prevent men of that ilk from doing their will, yet it will be some obstruction and do some good, and in ordinary times it will be absolutely effectual.

Now, if you have something that in ordinary times is absolutely effectual, then the example for the dangerously great and bold and ambitious will not be given by men less able and less ambitious and less bold, so that when the crisis comes the people can not be told nor made to believe that they are doing what they did before, and therefore, again, are the less easily deceived as to what is the real significance of what they are doing.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Idaho?

Mr. WILLIAMS. I do.

Mr. BORAH. I do not see how the example of Napoleon is exactly in point. If I remember correctly he was elected for only one term, and he was limited by the Constitution or the laws of France to one term. In any event the question of reelection never came into his affair. In order to make Napoleon's usurpation relevant we would need to provide against any election.

Mr. WILLIAMS. I do not remember whether the Constitution and laws of France at that time limited the consulate to one term or not.

Mr. BORAH. It was limited to 10 years.

Mr. WILLIAMS. I do not remember about that. Of course he was elected to but one term when he was first elected, and he could have been elected to but one term.

Mr. BORAH. He was elected for but one term.

Mr. WILLIAMS. Nor did that matter make any difference. It was a very long term, and he never served out that one term as consul, according to my recollection. He perpetrated the coup d'état during that term.

Mr. BORAH. Within the six years which we would have incorporated in our Constitution he perpetrated it.

Mr. WILLIAMS. If you strike a case where a man comes into the Presidency in command of a million trained troops, yes; but the Senator must admit that does not present itself very often in the history of the world.

Mr. BORAH. Nor do we have the Napoleonic illustration very often.

Mr. WILLIAMS. If you allow a man to go into the office and be reelected indefinitely—take a man of no great ability; take myself or the Senator—if we wanted to do it; if you gave us 12, 15, or 20 years in the presidential office, no power on earth or under heaven could turn us out if we wanted to stay in.

Mr. BORAH. But the Senator from Mississippi and I would have a hard time staying there that long.

Mr. WILLIAMS. Oh, yes; but there would be a possibility of it in any case unless we adopt some amendment, or unless we enforce the old practice. Thus far the American people have prevented the possibility of it by adhering to what they call their unwritten law. By the way, there are unwritten laws; this is an instance; the Monroe doctrine is another. They are almost as sacredly binding upon a people as their written law. But I am through with the discussion, Mr. President. I express the hope that the amendment may be adopted.

Mr. McCUMBER obtained the floor.

The PRESIDING OFFICER. Will the Senator from North Dakota yield to the Chair for a minute? The Chair desires to call the attention of the Senator from Mississippi to the amendment he has proposed. The resolution, as reported from the committee with the committee amendment, is as follows:

> Omit the part struck through and insert the part printed in italic.

That is the committee amendment. The Senator from Mississippi has proposed in lieu of the amendment reported by the committee to insert the following.

Mr. WILLIAMS. I said strike out all after the resolving clause and insert.

The PRESIDING OFFICER. If the Senator will allow the Chair, on his own draft he will see the Chair stated it correctly.

Mr. WILLIAMS. Then it must have been wrong in my draft.

Mr. CLARKE of Arkansas. Mr. President, if you are going to open the ruling upon my point of order and reverse your action, you have opened up another discussion of it here and I will withdraw it.

The PRESIDING OFFICER. The Chair assumes that the Senator from Mississippi would like to have it corrected.

Mr. WILLIAMS. The Chair is right. Let it be in lieu of the amendment proposed by the committee.

The PRESIDING OFFICER. The Senator from Mississippi sees that as the language is at present, if his amendment prevails, it would leave in the resolution the language proposed to be stricken out by the committee amendment, and that would make an inconsistent resolution entirely.

Mr. WILLIAMS. I see the point.

Mr. CLARKE of Arkansas. That was very earnestly presented, but the Chair did not catch the statement I made. That was the foundation on which I proceeded. I undertook to make myself clear. The Chair persists in reversing it. I do not care to open it up for discussion. So I will withdraw it and let us vote.

The PRESIDING OFFICER. For that very reason the Chair held it was in order, because it was not a substitute.

Mr. CLARKE of Arkansas. I did not catch the Chair's reason, because it did not strike me that there was any reason to catch.

The PRESIDING OFFICER. The reason is this——

Mr. CLARKE of Arkansas. The Chair had thought all those things, but I could not keep up with the train of thought by which he reached those conclusions.

Mr. McCUMBER. Mr. President, is it desired that the amendment be first perfected, or may I be permitted to present an amendment at this time?

The PRESIDING OFFICER. There is pending the amendment of the Senator from Mississippi [Mr. WILLIAMS], which he has had returned to him in order that he may modify it.

Mr. McCUMBER. Mr. President, I presume that the amendment of the Senator from Mississippi is intended to be a substitute for the portion of the committee amendment, on page 2, between lines 5 and 10, inclusive. If that is true, then I wish

to offer a substitute for his amendment; if it is not the case, I wish to offer an amendment in lieu of that portion of the committee amendment.

The PRESIDING OFFICER. The Chair will state that the Senator from Mississippi has offered his amendment and it is now pending. It is an amendment to an amendment, and therefore further amendments can not be offered until the amendment of the Senator from Mississippi to the amendment of the committee shall have been disposed of.

Mr. McCUMBER. Then, Mr. President, I send to the desk an amendment in the nature of a substitute for that portion on page 2 of the committee amendment between lines 4 and 10, inclusive, and ask that the amendment to the amendment may be read and printed.

The PRESIDING OFFICER. The Secretary will state the amendment to the amendment proposed by the Senator from North Dakota.

The SECRETARY. In lieu of the amendment reported by the committee, on page 2, lines 4 to 10, inclusive, it is proposed to insert the following:

The executive power shall be vested in a President of the United States of America. The term of office of President shall be for four years; and no person shall be eligible for more than two terms, and no person who has served as President by succession, under the Constitution and laws made in pursuance thereof, for the major fraction of one term, shall be eligible to hold more than one full term thereafter.

The PRESIDING OFFICER. The amendment will be printed and lie on the table.

Mr. OWEN. I offer an amendment which I shall propose to-morrow to the joint resolution, and I ask that it be read and printed.

The PRESIDING OFFICER. The Secretary will state the proposed amendment.

The SECRETARY. On page 2, line 12, after the word "be," it is proposed to strike out "elected as follows" and insert:

Nominated and elected by the direct vote of the legal voters of the States. The vote of each State shall be certified by the governor of the State to the President of the United States Senate and, estimated upon the basis that the vote of each State shall be equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress, shall be counted and declared as by law provided. Congress shall immediately provide by law the method and means for the direct nominations herein provided.

The PRESIDING OFFICER. The amendment will be printed and lie on the table.

Mr. WILLIAMS. I wish to modify my amendment—perhaps unanimous consent is necessary to enable me to do so—by inserting the following instead of the original caption:

In lieu of so much of the committee amendment as is contained in lines 4, 5, 6, 7, 8, 9, and 10, on page 2, insert the following.

The PRESIDING OFFICER. Without objection, the Senator may modify his proposed amendment as indicated. The Chair hears no objection. The Secretary will state the amendment of the Senator from Mississippi as modified.

The Secretary read as follows:

In lieu of so much of the committee amendment as is contained in lines 4, 5, 6, 7, 8, 9, and 10, on page 2, as amended, insert the following:

"The Executive power shall be vested in a President of the United States of America. The term of the office of President shall be four years. He shall be reeligible for one additional term of four years, and not thereafter reeligible at any time. No person who shall hereafter hold the office or discharge its powers or duties, or act as President by succession for any fraction of a term under the Constitution and laws made in pursuance thereof shall be reeligible beyond such a fraction of a term and for one term by election.

"The President, together with a Vice President chosen for the same term, shall be elected as follows."

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

Mr. WILLIAMS. Mr. President, if I can get the consent of the Senate—I suppose it would require unanimous consent—I think this matter is of such importance that I would rather not have the vote taken now, with the present attendance in the Senate. If I can get the consent of the Senate, I will ask that the vote on the amendment be taken at the conclusion of the vote upon the committee amendment, when there will be a fuller attendance.

Mr. GALLINGER. Mr. President, to that end the Senator had better withdraw his amendment for the present and hold it in abeyance. I think the Senator will be acting wisely to put the matter in that form.

Mr. WILLIAMS. Very well, I will withdraw it for the present; and I give notice that after the Senate committee amendment has been disposed of I will offer it.

Mr. BORAH. I desire to ask the Senator in charge of the joint resolution if it is his purpose to close the matter before a recess is taken?

Mr. CUMMINS. I suppose that I am in a sense in charge of the joint resolution. I do not intend to ask for a vote to-night unless the Senate should so require; I do not think to do so would be entirely fair. A great many Senators, as I know, have been compelled already to leave the Chamber, and I should not like to see a vote taken upon any important amendment to-night.

Mr. GALLINGER. If the Senator will permit me, manifestly a vote can not be had to-night, and I think the Senator will act wisely if he does not undertake to press the matter. There will probably be a good deal of debate yet.

Mr. ROOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from New York?

Mr. BORAH. I yield to the Senator from New York.

Mr. ROOT. I have endeavored to perfect the amendment of which I gave notice a few moments ago, and I will ask that it be read and printed in its present form.

The PRESIDING OFFICER. Without objection, the Secretary will read the proposed amendment.

The Secretary read as follows:

On page 2, lines 8 and 9, strike out the words "under the Constitution and laws made in pursuance thereof" and insert in lieu thereof the words "after the 4th day of March, 1917," so that the joint resolution will read as follows:

"The executive power shall be vested in a President of the United States of America. The term of the office of President shall be six years; and no person who has held the office by election, or discharged its powers or duties, or acted as President after the 4th day of March, 1917, shall be eligible to again hold the office by election.

"The President, together with a Vice President, chosen for the same term, shall be elected as follows."

The PRESIDING OFFICER. The proposed amendment will be printed and lie on the table.

Mr. HITCHCOCK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho desire to retain the floor?

Mr. BORAH. I was simply going to ask at what time the Senator from Iowa is going to move a recess?

Mr. CUMMINS. I intend just now to ascertain, if I can, the sense of the Senate with regard to fixing an hour to-morrow to vote upon the amendments that have been or may be offered, and upon the joint resolution itself. I have no desire whatever to press the matter to a determination until we shall have finished the debate; but I do know that we ought to reach an end of it in a reasonable time, so that we may proceed to other business. In order to test it, therefore, and without any thought of bringing the debate to a hasty conclusion, I ask unanimous consent that a vote upon the joint resolution and all amendments offered, or to be offered, may be taken at 5 o'clock to-morrow afternoon without further debate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa?

Mr. BORAH. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Idaho will state his point of order.

Mr. BORAH. I should like to know, once for all, if I can, whether or not that would be a violation of the unanimous-consent agreement which we have entered into?

The PRESIDING OFFICER. The unanimous-consent agreement was to vote upon "the legislative day," which may run to any calendar day. Of course, this is not a point of order——

Mr. BORAH. When we change that and fix a certain hour, is not that a modification of the unanimous-consent agreement?

Mr. BOOT. Not if the hour is fixed not later than 5 o'clock.

Mr. CUMMINS. I intended to be understood as asking that the hour be fixed at not later than 5 o'clock. I do not want to make the request if it is in the slightest degree an infringement of the unanimous-consent agreement, nor do I press it against the desire of any Senator. I will not even compel him to make a formal objection. If he will indicate to me that it is not agreeable to him, I will not make the request.

The PRESIDING OFFICER. In the opinion of the Chair, it would not violate the unanimous-consent agreement, but that is not a question on which the Chair can rule.

Mr. BRISTOW. Mr. President, I think it would be a violation of the unanimous-consent agreement. When unanimous consent was requested, I think the Senator will remember that I myself suggested that it be made "the legislative day." I had in mind the fact that there would then be no limitation of the debate on the amendments that might be offered. I was called out of the Chamber for a few moments, and this request for unanimous consent might have been granted, and that would have changed the whole purpose of the original unanimous-consent agreement if I had not accidentally come in, unless there had been some other Senator to object. While I do not want this matter to run on to any unusual time, I do not want the debate curtailed.

Mr. SUTHERLAND. Mr. President, if the Senator will permit me——

Mr. CUMMINS. Yes.

Mr. SUTHERLAND. The Senate has repeatedly done this very thing. I call the attention of the Senate to the fact that

when we were considering the so-called compensation bill I made the identical request which the Senator from Iowa now makes. It was doubted at that time whether or not that would be a violation of the unanimous-consent agreement, and I produced at that time several precedents. It is not a violation, as it seems to me, because we have now agreed that we will dispose of the joint resolution during the legislative day, and fixing the time at 5 o'clock to-morrow simply amounts to a definition of what the legislative day shall consist; in other words, it fixes an end to the legislative day to-morrow at 5 o'clock.

Mr. CUMMINS. Well, Mr. President, as I said a moment ago, I do not intend to press the request against the known desire of any Senator at this time, and inasmuch as the Senator from Kansas [Mr. BRISTOW] has indicated that it would not be wise, according to his view, I withdraw the request for fixing the hour to vote.

Mr. HITCHCOCK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Nebraska?

Mr. CUMMINS. I do.

Mr. HITCHCOCK. I desire to present an amendment. I ask to have it read, printed, and lie on the table.

The PRESIDING OFFICER. Does the Senator from Iowa yield for that purpose.

Mr. CUMMINS. Certainly, I yield. I intend now to do nothing further, I may say, than presently to move a recess of the Senate, and I hope that any Senator who has an amendment will present it now, so that it may be printed and be on the desks of Senators to-morrow.

Mr. HITCHCOCK. I present an amendment, which I ask may be read, printed, and lie on the table. I shall offer it as a substitute for the paragraph reported by the committee.

The PRESIDING OFFICER. The Secretary will state the amendment.

The SECRETARY. As a substitute for the lines 4 to 10, inclusive, on page 2, it is proposed to insert:

The executive power shall be vested in a President of the United States of America. The term of the office of President shall be six years and no persons elected for six years after the adoption of this amendment shall be eligible again to hold the office by election.

The PRESIDING OFFICER. Without objection, the amendment will be printed and lie on the table.

Mr. CUMMINS. I move that the Senate take a recess until 11.45 o'clock to-morrow morning.

DEPARTMENT OF HEALTH.

Mr. OWEN. Mr. President, before that motion is put——

The PRESIDING OFFICER. Does the Senator from Iowa withhold his motion?

Mr. CUMMINS. I withhold it.

Mr. OWEN. I wish to give notice that on Monday next, after the morning hour, I shall move that the Senate proceed to the consideration of Senate bill No. 1, to establish a department of health, and for other purposes.

RECESS.

Mr. CUMMINS. I renew my motion that the Senate take a recess until 11.45 o'clock a. m. to-morrow.

The motion was agreed to; and (at 5 o'clock and 35 minutes p. m.) the Senate took a recess until to-morrow, Friday, January 31, 1913, at 11.45 o'clock a. m.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January 30, 1913.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We bless Thee, O God, our heavenly Father, that back of the vast universe of which we are a part, back of our joys and sorrows, our hopes and disappointments; back of all the issues of life is infinite wisdom, power, and goodness. Yet may we not forget that Thou hast dignified Thy children with the gift of choice, and holdest them responsible for their acts; that the seeds we sow to-day will be the harvest of the morrow or some subsequent morrow.

Help us, therefore, to sow good seed that our harvest may be the fruits of joy. In Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

CAPITAL PUNISHMENT BY ELECTROCUTION—RETURN OF BILL BY THE PRESIDENT.

The SPEAKER. The Chair lays before the House a concurrent resolution of the Senate, which the Clerk will report.

The Clerk read as follows:

Senate concurrent resolution 39.

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return the bill (S. 7162) to amend section 801 of the Code of Law for the District of Columbia.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

CLAIMS OF GOVERNMENT EMPLOYEES FOR INJURIES.

Mr. POU. Mr. Speaker, I call up the conference report on the bill (H. R. 24121) for payment of claims for Government employees for injuries.

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

An act (H. R. 24121) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims.

Mr. POU. I ask unanimous consent, Mr. Speaker, that the statement be read instead of the conference report.

The SPEAKER. The gentleman from North Carolina [Mr. POU] asks unanimous consent that the statement be read in lieu of the conference report. Is there objection? [After a pause.] The Chair hears none. The Clerk will read the statement.

The conference report is as follows:

CONFERENCE REPORT (NO. 1380).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 24121) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, and 15, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "$22,231.38"; and the House agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: In lieu of the language stricken out insert the following: "To pay $1,500 to Oscar F. Lackey, for injuries received while in the employ of the Isthmian Canal Commission as assistant engineer in construction of the Panama Canal on November 21, 1905"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "two thousand"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "seven hundred and fifty"; and the Senate agree to the same.

EDWD. W. POU,
JOHN A. MAGUIRE,
WM. H. HEALD,
Managers on the part of the House.

COE I. CRAWFORD,
W. L. JONES,
Managers on the part of the Senate.

The Clerk read the statement as follows:

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 24121) to pay certain employees of the Government for injuries received while in the discharge of their duty, and other claims, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate No. 1, and agree to the same with an amendment as follows: In lieu of the language used in Senate amendment insert the following: "$22,231.38." The bill, as passed the House on May 31, carried an appropriation for $61,555.74. This bill passed the Senate July 24, with amendments, reducing the amount to $20,981.38. The conferees agreed

to increase this appropriation to $22,231.38, thereby providing for all the items in the bill as agreed upon.

That the House recede from its disagreement to the amendment of the Senate No. 2. This amendment upon the part of the Senate was striking out a period and inserting in lieu thereof a semicolon.

That the House recede from its disagreement to the amendment of the Senate No. 3. This amendment by the Senate was striking out that part of the title of said bill, viz, "And to pay certain other claims arising under the various departments of the United States Government as hereinafter stated."

That the House recede from its disagreement to the amendment of the Senate No. 4. The bill, as passed by the House, carried an appropriation "to pay $1,500 to Alice M. Burrows, widow of Leslie Burrows, late rural mail carrier on route No. 2, Coal Run, Ohio, who lost his life in the discharge of his duty." The Senate reduced this amount to $1,000, which said amount is hereby agreed to.

That the House recede from its disagreement to the amendment of the Senate No. 5, and that the Senate recede from its amendment by inserting in lieu of the language stricken out the following: "To pay $1,500 to Oscar F. Lackey for injuries received while in the employ of the Isthmian Canal Commission as assistant engineer in construction of the Panama Canal on November 21, 1905."

That the House recede from its disagreement to the amendment of the Senate No. 6, and that the Senate recede from its amendment by inserting in lieu of the language stricken out, the following: "To pay $2,000 to Pedro Sanches, as compensation for the loss of both hands, which were blown off by a premature explosion of dynamite in Culebra Cut, Canal Zone, on March 16, 1908."

That the House recede from its disagreement to the amendment of the Senate No. 7, and that the Senate recede from its amendment by inserting in lieu of the language stricken out, the following: "To pay $750 to Benjamin Demorest, for personal injuries sustained while employed on the United States lighthouse tender Oleander on the Mississippi River;" and that the House recede from its disagreement to the amendment of the Senate No. 8, striking out the following words: "And the loss of a leg."

That the House recede from its disagreement to the Senate amendments Nos. 9, 10, 11, 12, 13, 14, and 15. These were items stricken from the bill by the Senate, which provided for the payment of certain claims arising under the various departments of the United States Government other than personal injuries.

And the House agree to the same.

EDWD. W. POU,
JOHN A. MAGUIRE,
WM. H. HEALD,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

PENSIONS.

The SPEAKER. The Chair lays before the House Senate bill 7169, granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors. The Clerk will report the title of the bill.

The title of the bill was read.

Mr. RUSSELL. Mr. Speaker, I move that the House further insist upon the House amendments and agree to the conference asked for by the Senate.

The SPEAKER. The gentleman from Missouri [Mr. RUSSELL] moves that the House insist upon the House amendments and agree to the conference asked by the Senate. The question is on agreeing to that motion.

The motion was agreed to; and the Speaker announced as the conferees on the part of the House Mr. RUSSELL, Mr. ADAIR, and Mr. FULLER.

The SPEAKER. The Chair lays before the House another Senate bill with House amendments—S. 8034. The Clerk will report the bill by title.

The Clerk read the title of the bill, as follows:

S. 8034. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

Mr. RUSSELL. Mr. Speaker, I move to insist upon the House amendments and agree to the conference asked for by the Senate.

The SPEAKER. The gentleman from Missouri moves that the House insist upon the House amendments and agree to the conference asked for by the Senate.

The motion was agreed to; and the Speaker announced as the conferees on the part of the House Mr. RUSSELL, Mr. ADAIR, and Mr. FULLER.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I desire to call up the conference report on the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States."

The SPEAKER. The Clerk will report it.

Mr. GOLDFOGLE. Mr. Speaker, before the report is read I should like to ask the gentleman from Alabama [Mr. BURNETT], in view of a statement that was made to me this morning, whether there has been any change made in this conference report now before us from the report that was last submitted?

Mr. BURNETT. I will state what changes were made, if the gentleman will permit. In the report submitted last, on the 23d of January, in the definition of aliens, it says:

That the word "alien" wherever used in this act shall include any person not a native-born or naturalized citizen of the United States, or who has not declared his intention of becoming a citizen of the United States in accordance with law.

That last clause has been stricken out by the conferees and has been inserted on page 2, exempting from the payment of head tax those who have filed their declaration of intention.

The only other change is at the bottom of page 2 of this report, where the law excluded those who have committed crimes. We strike that out and insert the old law, which is:

Persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude.

Those are the only changes.

The SPEAKER. Of course this discussion is by unanimous consent.

Mr. GOLDFOGLE. It has been stated to me this morning that a change has been made in that provision which exempts certain members of a family from the operation of the literacy test; in other words, that some members of a family under 21 can not come in, although illiterate daughters under 21 may come in, which, of course, will result in separating members of families in many cases.

Mr. BURNETT. There never was anything in any of the reports that exempted sons under 21 and over 16. Those under 16 can come in, because they do not fall within the purview of the law. There is nothing at all in that.

Mr. GOLDFOGLE. So that if a boy is 16½ years of age and illiterate he can not come in, while his sister, either under or over 16 years of age, can come in, and thus separation of the family will be effected, though both brother and sister are under 21 years of age.

Mr. BURNETT. There has been no change at all. That has been the way all the time. If the gentleman had read the previous reports, he would have seen that there is no change since the former conferences or since the bill passed the House, so far as that is concerned.

Mr. GOLDFOGLE. I will ask the gentleman from Alabama whether under the conference report as now presented there would not be this separation of families effected? Take the case of a boy sixteen and a quarter years of age, illiterate, and his sister, say, 15 or 17 years of age, the sister could come in with her parents or join them, while the boy would be kept out, and if he came over would be deported?

Mr. BURNETT. It does not matter how old the daughter is; if she is single or a widow, she can come in with the parents.

Mr. GOLDFOGLE. I am speaking of a son or brother as young as sixteen and a quarter or sixteen and a half years of age.

Mr. BURNETT. That is the fact. If he is over 16 years of age, this separation may take place. There is no change in that. A son may be prohibited from coming in on account of being diseased. Those things frequently occur.

The SPEAKER. The Clerk will read the conference report.

Mr. BURNETT. I ask that the statement be read in lieu of the report.

The SPEAKER. The gentleman from Alabama asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. RAKER. Reserving the right to object——

The SPEAKER. The gentleman from California [Mr. RAKER] reserves the right to object.

Mr. SHERLEY. I am going to insist that one thing or the other be done.

Mr. BURNETT. If the gentleman will wait a moment, I would like to see if we can come to an agreement.

Mr. RAKER. If I can not get legitimate questions answered, it will compel my insisting upon reading the entire report.

Mr. SHERLEY. I suggest to the gentleman that the ordinary procedure is to let the matter come before the House. Then an opportunity will be given, but we ought not to proceed in this way without anything before the House.

Mr. RAKER. There will be something before the House when I get started. I want to ask a few questions concerning the matter, and it will save time——

Mr. SHERLEY. It will not save time.

Mr. MANN. Can we not have an agreement as to the time to be occupied in debate if the reading of the report is waived?

Mr. RAKER. My purpose is to ask a few questions which I think the chairman of the committee will be able to answer. If I can not have that privilege, I shall be compelled to insist upon the reading of the entire report, so that I may become familiar with the contents of it.

Mr. MANN. If the gentleman will yield, the gentleman may ask his questions and thus take up the time of the House, and then somebody else may require the report to be read, the waiver of which could be only by unanimous consent. Can you not agree upon the length of time to be occupied in debate, and save the reading of the report?

Mr. RAKER. That would suit me, if we can agree on it.

Mr. BURNETT. That is the very thing we are trying to do now, to reach an agreement.

Mr. MANN. I ask unanimous consent that there may be 20 minutes' debate on a side on this proposition, and that the statement may be read in lieu of the report.

The SPEAKER. The gentleman from Illinois asks unanimous consent that there be 20 minutes' debate on each side, and that the statement be read in lieu of the report.

Mr. GOLDFOGLE. Mr. Speaker, reserving the right to object, I ask that that request be so modified as to allow 30 minutes on each side.

Mr. BURNETT. That is too long a time.

Mr. MANN. It would take an hour to read the report.

Mr. FITZGERALD. Mr. Speaker, I hope that will not be done. This conference merely corrects a mistake inadvertently made. We have business piling up here, and to discuss this matter with the overwhelming sentiment of the House as it is is a waste of time that we can not afford. We have only 20 working days remaining and 10 appropriation bills to consider.

The SPEAKER. It will take an hour to read the conference report if any Member insists upon it.

Mr. FITZGERALD. I trust that no gentleman will insist upon it.

The SPEAKER. Is there objection?

Mr. RAKER. Reserving the right to object, if time is granted to discuss this, I want five or seven minutes.

Mr. BURNETT. I will give the gentleman five minutes of my time.

The SPEAKER. Will the gentleman from New York give the gentleman from California two minutes of his time, as he wants seven?

Mr. GOLDFOGLE. Certainly.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and the Clerk will read the statement.

The conference report is as follows:

CONFERENCE REPORT (NO. 1410).

The committee of conference on the disagreeing votes of the two Houses to the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States" having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

Strike out the text inserted by the House amendment and insert in lieu thereof the following:

"That the word 'alien' wherever used in this act shall include any person not a native-born or naturalized citizen of the United States; but this definition shall not be held to include Indians not taxed or citizens of the islands under the jurisdiction of the United States. That the term 'United States' as used in the title as well as in the various sections of this act shall be construed to mean the United States and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. That the term 'seaman' as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign port or place.

"That this act shall be enforced in the Philippine Islands by officers of the General Government thereof designated by appropriate legislation of said Government.

"SEC. 2. That there shall be levied, collected, and paid a tax of $5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who have in accordance with law declared their intention of becoming citizens of the United States or on account of aliens who shall enter the United States after an uninterrupted residence of at least one year, immediately preceding such entrance, in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, nor on account of otherwise admissible residents of any possession of the United States, nor on account of aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, by agreement with transportation lines, as provided in section 23 of this act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: *Provided further*, That said tax, when levied upon aliens entering the Philippine Islands, shall be paid into the treasury of said islands, to be expended for the benefit of such islands: *Provided further*, That in the cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall upon application be refunded to the alien: *Provided further*, That the provisions of this section shall not apply to aliens arriving in Guam or Hawaii; but if any such alien, not having become a citizen of the United States, shall later arrive at any port or place of the United States on the North American Continent, the provisions of this section shall apply.

"SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had one or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or

their official character; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port, the Secretary of Commerce and Labor shall have consented to their reapplying for admission; persons whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway may be admitted in the discretion of the Secretary of Commerce and Labor; all children under 16 years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe; persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

"That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

"All aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips, of uniform size, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plainly legible type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this act relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Commerce and Labor to be reached after a full hearing and an investigation into the facts of the case; but such determination shall not become final until a period of 30 days has elapsed. Within three days after such determination the Secretary of Commerce and Labor shall cause to be published a brief statement reciting the substance of the application, the facts presented at the hearing and his determination thereon, in three daily newspapers of general circulation in three of the principal cities of the United States. At any time during said period of 30 days any person dissatisfied with the ruling may appeal to the district court of the United States of the district into which the labor is sought to be brought, which court or the judge thereof in vacation shall have jurisdiction to try de novo such question of necessity, and the decision in such court shall be final. Such appeal shall operate as a supersedeas: *Provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants: *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign government to its citizens or subjects to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone: *Provided further*, That nothing in this act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of a concession or privilege for any fair or exposition authorized by act of Congress, from bringing into the United States, under contract, such alien mechanics, artisans, agents, or other employees, natives of his country, as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may prescribe both as to the admission and return of such persons: *Provided further*, That nothing in this act shall be construed to apply to accredited officials of foreign governments nor to their suites, families, or guests: *Provided further*, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

"SEC. 4. That the importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import, into the United States any alien for the purpose of prostitution, or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall in every such case be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than 10 years and by a fine of not more than $5,000. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or in any district in which a violation of any of the foregoing provisions of this section occur. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this act which relate to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to or to enter the United States shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than two years. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against a wife or husband.

"SEC. 5. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to induce, assist, encourage, or solicit the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the provisions of section 3 of this act, and for every violation of any of the provisions of this section the person, partnership, company, or corporation violating the same shall forfeit and pay for every such offense the sum of $1,000, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such aliens thus offered or promised employment as aforesaid, as debts of like amount are now recovered in the courts of the United States; or for every violation of the provisions hereof the person violating the same may be prosecuted in a criminal action for a misdemeanor, and on conviction thereof shall be punished by a fine of $1,000, or by imprisonment for a term of not less than six months nor more than two years; and under either the civil or the criminal procedure mentioned separate suits or prosecutions may be brought for each alien thus offered or promised employment as aforesaid.

"SEC. 6. That it shall be unlawful and be deemed a violation of section 5 of this act to induce, assist, encourage, or solicit any alien to come into the United States by promise of employment through advertisements printed, published, or distributed in any foreign country, whether such promise is true or false, and either the civil or the criminal penalty imposed by said section shall be applicable to such a case: *Provided*, That States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States may advertise, and by written or oral communication with prospective alien settlers make known, the inducements they offer for immigration thereto, respectively.

"SEC. 7. That it shall be unlawful for any person, association, society, company, partnership, corporation, or others engaged in the business of transporting aliens to the United States, including owners, masters, officers, and agents of vessels, directly or indirectly, by writing, printing, or oral representation, to solicit, invite, or encourage any alien to come into the United States, and anyone violating any provision hereof shall be subject to either the civil or the criminal prosecution prescribed by section 5 of this act; or if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any owner, master, officer, or agent of a vessel has brought or caused to be brought to a port of the United States any alien so solicited, invited, or encouraged to come by such owner, master, officer, or agent, such owner, master, officer, or agent shall pay to the collector of customs of the customs district in which the port of arrival is located or in which any vessel of the line may be found the sum of $400 for each and every such violation; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while the fine imposed remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit with the collector of customs of a sum sufficient to cover such fine: *Provided further*, That whenever it shall be shown to the satisfaction of the Secretary of Commerce and Labor that the provisions of this section are persistently violated by or on behalf of any transportation company, it shall be the duty of said Secretary to deny to such company the privilege of landing alien immigrant passengers of any or all classes at United States ports for such a period as in his judgment may be necessary to insure an observance of such provisions: *Provided further*, That this section shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements, confined strictly to stating the sailings of their vessels and terms and facilities of transportation therein.

"SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, or shall conceal or harbor, or attempt to conceal or harbor, or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment for each and every alien so landed or brought in or attempted to be landed or brought in.

"SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel, to bring to the United States any alien afflicted with idiocy, insanity, imbecility, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200 for each and every violation of the provisions of this section. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental or physical defect of a nature which may affect his ability to earn a living, as contemplated in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25 for each and every violation of this provision. It shall also be unlawful for any such person to bring to any port of the United States any alien who is excluded by the provisions of section 3 of this act because unable to read or who can not become eligible, under existing law, to become a citizen of the United States by naturalization, as provided in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens from a foreign port such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $100 for each and every violation of this provision. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, or while the fine remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 10. That it shall be the mandatory and unqualified duty of every person, including owners, officers, and agents of vessels or transportation lines, other than those lines which may enter into a contract as provided in section 23 of this act, bringing an alien to any seaport or land border port of the United States to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers, and the failure of any such owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than $100 nor more than $1,000 or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Commerce and Labor it is impracticable or inconvenient to prosecute the owner, master, officer, or agent of any such vessel, a pecuniary penalty of $1,000 shall be a lien upon the vessel whose owner, master, officer, or agent violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United States court.

"SEC. 11. That whenever he may deem such action necessary the Secretary of Commerce and Labor may, at the expense of the appropriation for the enforcement of this act, detail immigrant inspectors and matrons of the United States Immigration Service for duty on vessels carrying immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. On such voyages said inspectors and matrons shall remain in that part of the vessel where immigrant passengers are carried. It shall be the duty of such inspectors and matrons to observe such passengers during the voyage and report to the immigration authorities in charge at the port of landing any information of value in determining the admissibility of such passengers under the laws regulating immigration of aliens into the United States. It shall further be the duty of such inspectors and matrons to

observe violations of the provisions of such laws and the violation of such provisions of the "passenger act" of August 2, 1882, as amended as relate to the care and treatment of immigrant passengers at sea, and report the same to the proper United States officials at ports of landing. Whenever the Secretary of Commerce and Labor so directs, a surgeon of the United States Public Health Service, detailed to the Immigration Service, not lower in rank than a passed assistant surgeon, shall be received and carried on any vessel transporting immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. Such surgeon shall be permitted to investigate and examine the condition of all immigrant and emigrant passengers in relation to any provisions of the laws regulating the immigration of aliens into the United States and such provisions of the "passenger act" of August 2, 1882, as amended as relate to the care and treatment of immigrant passengers at sea, and shall immediately report any violation of said laws to the master or commanding officer of the vessel, and shall also report said violations to the Secretary of Commerce and Labor within 24 hours after the arrival of the vessel at the port of entry in the United States. Such surgeon shall accompany the master or captain of the vessel in his visits to the sanitary officers of the ports of call during the voyage, and, should contagious or infectious diseases prevail at any port where passengers are received, he shall request all reasonable precautionary measures for the health of persons on board. Such surgeon on arrival at ports of the United States shall also, if requested by the examining board, furnish any information he may possess in regard to immigrants arriving on the vessel to which he has been detailed. While on duty such surgeons shall wear the prescribed uniform of their service and shall be provided with first-class accommodations on such vessel at the expense of the appropriation for the enforcement of this act. For every violation of this section any person, including any transportation company, owning or operating the vessel in which such violation occurs shall pay to the collector of customs of the customs district in which the next United States port of arrival is located the sum of $1,000 for each and every day during which such violation continues, the term "violation" to include the refusal of any person having authority so to do to permit any such immigrant inspector, matron, or surgeon to be received on board such vessel, as provided in this section, and also the refusal of the master or commanding officer of any such vessel to permit the inspections and visits of any such surgeon, as provided in this section, and no vessel shall be granted clearance papers pending the determination of the question of the liability of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of all such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 12. That upon the arrival of any alien by water at any point within the United States on the North American Continent from a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or at any port of the said insular possessions from any foreign port, from a port in the United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners or consignees of the steamer, sailing, or other vessel having said alien on board to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, contain full and accurate information as to each alien, as follows: Full name, age, and sex; whether married or single; calling or occupation, personal description (including height, complexion, color of hair and eyes, and marks of identification); whether able to read; nationality; country of birth; race; country of last permanent residence; name and address of the nearest relative in the country from which the alien came; seaport for landing in the United States; final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; by whom passage was paid; whether going to join a relative or friend, and if so, what relative or friend, and his or her name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane or supported by charity; whether a polygamist; whether an anarchist; whether a person who believes in or advocates the overthrow by force or violence of the Government of the United States or of all forms of law, or who disbelieves in or is opposed to organized government, or who advocates the assassination of public officials, or is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States; the alien's condition of health, mental and physical; whether deformed or crippled, and if so, for how long and from what cause; and such master or commanding officer, owners, or consignees shall also furnish information in relation to the sex, age, class of travel, and the foreign port of embarkation of arriving passengers who are United States citizens. That it shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or from any port of the said insular possession to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with the immigration officials before departure a list which shall contain full and accurate information in relation to the following matters regarding all alien passengers and all citizens of the United States or insular possessions of the United States departing with the stated intent to reside permanently in a foreign country, taken on board: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States or insular possessions thereof; if a citizen of the United States or of the insular possessions thereof, whether native born or naturalized; intended future permanent residence; and time and port of last arrival in the United States or insular possessions thereof; and such master or commanding officer shall also furnish information in relation to the sex, age, class of travel, and port of debarkation of the United States citizens departing who do not intend to reside permanently in a foreign country, and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each person of the classes specified taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall be punishable as provided in section 14 of this act: *Provided*, That in the case of vessels making regular trips to ports of the United States the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further*, That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen, whether native born or naturalized.

"SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, the names of those coming from the same locality to be assembled so far as practicable, and no one list or manifest shall contain more than 30 names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, and so forth, are contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is of any of the classes excluded from admission into the United States by section 3 of this act, and that also according to the best of his knowledge and belief, the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessels, and the manifests shall be verified by such surgeon before a United States consular officer.

"SEC. 14. That it shall be unlawful for the master or commanding officer of any vessel bringing aliens into or carrying aliens out of the United States to refuse or fail to deliver to the immigration officials the accurate and full manifests or statements or information regarding all aliens on board or taken on board such vessel required by this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a refusal or failure, or that the lists delivered are not accurate and full, such master or commanding officer shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each alien, concerning whom such accurate and full manifest or statement or information is not furnished, or concerning whom the manifest or statement or information is not prepared and sworn to as prescribed by this act. No vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine.

"SEC. 15. That upon the arrival at a port of the United States of any vessel bringing aliens it shall be the duty of the proper immigration officials to go or to send competent assistants to the vessel and there inspect all such aliens, or said immigration officials may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this act bind the said transportation lines, masters, agents, owners, or consignees: *Provided*, That where removal is made to premises owned or controlled by the United States, said transportation lines, masters, agents, owners, or consignees, and each of them shall, so long as detention there lasts, be relieved of responsibility for the safekeeping of such aliens. Whenever a temporary removal of aliens is made the transportation lines which brought them and the masters, owners, agents, and consignees of the vessel upon which they arrive shall pay all expenses of such removal and all expenses arising during subsequent detention, pending decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, such expenses to include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel in the event of deportation, excepting only where they arise under the terms of any of the provisos of section 18 thereof. Any refusal or failure to comply with the provisions hereof to be punished in the manner specified in section 18 of this act.

"SEC. 16. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine, and who shall certify, for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service, upon such terms as may be prescribed by the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental defect shall be detailed for duty or employed at all large ports of entry, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defect is suspected, and the services of interpreters shall be provided for such examination. That the inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this act, shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and, where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered, under the provisions of this act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section 125 of the act approved March 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States." Any commissioner of immigration or inspector in charge shall also have power to require the attendance and testimony of witnesses before said inspectors and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States, and to that end may invoke the aid of any court of the United States; and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpœna issued by any commissioner of immigration or inspector in charge or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents, if demanded, and testify; and any failure to obey such order of the court shall be punished by the court as a contempt thereof. That any person, including employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not less than six months nor more than two years, or by a fine of not less than $200 nor more than $2,000; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall on conviction thereof be punished by imprisonment for not less than one nor more than 10 years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Commerce and Labor is permitted by this act, the alien shall be so informed and shall have the right to be represented by counsel or other adviser on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation.

"SEC. 17. That boards of special inquiry shall be appointed by the commissioner of immigration or inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, shall from time to time designate as qualified to serve on such boards. When in the opinion of the Secretary of Commerce and Labor the maintenance of a permanent board of special inquiry for service at any sea or land border port is not warranted, regularly constituted boards may be detailed from other stations for temporary service at such port, or, if that be impracticable, the Secretary of Commerce and Labor shall authorize the creation of boards of special inquiry by the immigration officials in charge at such ports, and shall determine what Government officials or other persons shall be eligible for service on such boards. Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. All hearings before such boards shall be separate and apart from the public.

Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Commerce and Labor, and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision, which shall be rendered solely upon the evidence adduced before the board of special inquiry. In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of a board of special inquiry if adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Commerce and Labor: *Provided*, That the decision of a board of special inquiry, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens affected with tuberculosis in any form or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section 3 of this act.

"SEC. 18. That all aliens brought to this country in violation of law shall, if practicable, be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came on the vessels bringing them. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien; or to take any security from him for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act, unless prior to reembarkation the Secretary of Commerce and Labor has consented that such alien shall reapply for admission, as required by section 3 hereof; and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that such master, purser, person in charge, agent, owner or consignee has violated any of the foregoing provisions such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the customs district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of this section; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any alien found to have come in violation of any provision of this act, if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act, or such alien may be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required as a witness and for deportation. No alien certified, as provided in section 16 of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless with the express permission of the Secretary of Commerce and Labor: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

"SEC. 19. That any alien, at any time within three years after entry, who shall enter the United States in violation of law; any alien who within three years after entry becomes a public charge from causes existing prior to the landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within three years after the entry of the alien to the United States; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who any way assists, protects, or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section 4 hereof; any alien, at any time within three years after entry, who shall enter the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, shall, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and deported: *Provided*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence, make a recommendation to the Secretary of Commerce and Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States. In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty now existing, the decision of the Secretary of Commerce and Labor shall be final.

"SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Commerce and Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If effected at any time within five years after the entry of the alien, such deportation, including one-half of

the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such vessels or transportation line by which such aliens respectively came, or, if that is not practicable, at the expense of the appropriation for the enforcement of this act. If such deportation is effected later than five years after the entry of the alien, or, if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Commerce and Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section 18 of this act: *Provided*, That when in the opinion of the Secretary of Commerce and Labor the mental or physical condition of such alien is such as to require personal care and attendance, he may employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in like manner. Pending the final disposal of the case of any alien so taken into custody he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

"SEC. 21. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis in any form or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Commerce and Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof, holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. The admission of such alien shall be a consideration for the giving of such bond or undertaking. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, district, county, town, or municipality in which such alien becomes a public charge.

"SEC. 22. That wherever an alien shall have taken up his permanent residence in this country, and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife or minor children to join him, if said wife or any of said children shall be found to be affected with any contagious disorder, such wife or children shall be held, under such regulations as the Secretary of Commerce and Labor shall prescribe, until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable and the husband or father or other responsible person is willing to bear the expense of the treatment, they may be accorded treatment in hospital until cured and then be admitted, or if it shall be determined that they can be permitted to land without danger to other persons, they may, if otherwise admissible, thereupon be admitted.

"SEC. 23. That the Commissioner General of Immigration shall perform all his duties under the direction of the Secretary of Commerce and Labor. Under such direction he shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder; he shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid, and to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed; he shall prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico, so as not unnecessarily to delay, impede, or annoy persons in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose; it shall be the duty of the Commissioner General of Immigration to detail officers of the Immigration Service from time to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges. He may, with the approval of the Secretary of Commerce and Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this act, detail immigration officers, and also surgeons of the United States Public Health Service employed under this act for service in foreign countries. The duties of commissioners of immigration and other immigration officials in charge of districts, ports, or stations shall be of an administrative character, to be prescribed in detail by regulations prepared under the direction or with the approval of the Secretary of Commerce and Labor: *Provided*, That for the purpose of making effective the provisions of this section relating to the protection of aliens from fraud and loss, and also the provisions of section 30 of this act, relating to the distribution of aliens, the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors.

"SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and their compensation fixed and raised or decreased from time to time by the Secretary of Commerce and Labor, upon the recommendation of the Commissioner General of Immigration and in accordance with the provisions of the civil-service act of January 16, 1883: *Provided*, That said Secretary, in the enforcement of that portion of this act which excludes contract laborers, may employ, without reference to the provisions of the said civil-service act, or to the various acts relative to the compilation of the official register, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw annually from the appropriation for the enforcement of this act $50,000, or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Commerce and Labor certifies that an itemized account would not be for the best interests of the Government: *Provided further*, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation act approved August 18, 1894, or the official status of such commissioners heretofore appointed.

"SEC. 25. That the district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act. That it shall be the duty of the United States district attorney of the proper district to prosecute every such suit when brought by the United States under this act. Such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with such violation may be found. That no suit or proceeding for a violation of the provisions of this act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

"SEC. 26. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station, shall be disposed of after public competition, subject to such conditions and limitations as the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, may prescribe, and all receipts accruing from the disposal of such exclusive privileges shall be paid into the Treasury of the United States. No intoxicating liquors shall be sold at any such immigrant station.

"SEC. 27. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

"SEC. 28. That any person who knowingly aids or assists any anarchist or any person who believes in or advocates the overthrow by force or violence of the Government of the United States, or who disbelieves in or is opposed to organized government, or all forms of law, or who advocates the assassination of public officials, or who is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such anarchist or person aforesaid to enter therein shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.

"SEC. 29. That the President of the United States is authorized, in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral, and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign Governments in their own territories to prevent the evasion of the laws of the United States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who, under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

"SEC. 30. That there shall be maintained a division of information in the Bureau of Immigration and Naturalization; and the Secretary of Commerce and Labor shall provide such clerical and other assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens at the immigrant stations of the United States and to such other persons as may desire the same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, have access to aliens who have been admitted to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner General of Immigration, who, with the approval of the Secretary of Commerce and Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

"SEC. 31. That any person, including the owner, agent, consignee, or master of any vessel arriving in the United States from any foreign port or place, who shall knowingly sign on the ship's articles, or bring to the United States as one of the crew of such vessel, any alien, with intent to permit such alien to land in the United States in violation of the laws and treaties of the United States regulating the immigration of aliens, or who shall falsely and knowingly represent to the immigration authorities at the port of arrival that any such alien is a bona fide member of the crew, shall be liable to a penalty not exceeding $5,000, for which sum the said vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 32. That no alien excluded from admission into the United States by any law or treaty of the United States regulating the immigration of aliens, and employed on board any vessel arriving in the United States from any foreign port or place, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to regulations prescribed by the Secretary of Commerce and Labor providing for the ultimate removal or deportation of such alien from the United States, and the negligent failure of the owner, agent, consignee, or master of such vessel to detain on board any such alien after notice in writing by the immigration officer in charge at the port of arrival, and to deport such alien, if required by such immigration officer or by the Secretary of Commerce and Labor, shall render such owner, agent, consignee, or master liable to a penalty not exceeding $1,000, for which sum the said vessel shall be liable, and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 33. That it shall be unlawful and be deemed a violation of the preceding section to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens: *Provided*, That in case any such alien intends to reship on board any other vessel bound to any foreign port or place he shall be allowed to land for the purpose of so reshipping, and may be paid off, discharged, and permitted to remove his effects, anything in such laws or treaties or in this act to the contrary notwithstanding, provided due notice of such proposed action first be given to the principal immigration officer in charge at the port of arrival.

"SEC. 34. That any alien seaman who shall desert his vessel in a port of the United States or who shall land therein contrary to the provisions of this act shall be deemed to be unlawfully in the United States and shall, at any time within three years thereafter, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section 20 of this act.

"SEC. 35. That it shall be unlawful for any vessel carrying passengers between a port of the United States and a port of a foreign country, upon arrival in the United States, to have on board employed thereon any alien afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, if it appears to the satisfaction of the Secretary of Commerce and Labor, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel and that the existence of such affliction might have been detected by means of a competent medical examination at such time; and for every such alien so afflicted on board any such vessel at the time of arrival the owner, agent, consignee, or master thereof shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and while it remains unpaid: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine: *Provided further*, That such fine may, in the discretion of the Secretary of Commerce and Labor, be mitigated or remitted.

"SEC. 36. That upon arrival of any vessel in the United States from any foreign port or place it shall be the duty of the owner, agent, consignee, or master thereof to deliver to the principal immigration officer in charge of the port of arrival lists containing the names of all aliens employed on such vessel, stating the positions they respectively hold in the ship's company, when and where they were respectively shipped or engaged, and specifying those to be paid off and discharged in the port of arrival; or lists containing so much of such information as the Secretary of Commerce and Labor shall by regulation prescribe; and after the arrival of any such vessel it shall be the duty of such owner, agent, consignee, or master to report to such immigration officer, in writing, as soon as discovered, all cases in which any such alien has deserted the vessel, giving a description of such alien, together with any information likely to lead to his apprehension; and before the departure of any such vessel it shall be the duty of such owner, agent, consignee, or master to deliver to such immigration officer a further list containing the names of all alien employees who were

not employed thereon at the time of the arrival, but who will leave port thereon at the time of her departure, and also the names of those, if any, who have been paid off and discharged, and of those, if any, who have deserted or landed or been duly admitted; and in case of the failure of such owner, agent, consignee, or master so to deliver either of the said lists of such aliens arriving and departing, respectively, or so to report such cases of desertion, or landing, such owner, agent, consignee, or master shall, if required by the Secretary of Commerce and Labor, pay to the collector of customs of the customs district in which the port of arrival is located the sum of $10 for each alien concerning whom correct lists are not delivered or a true report is not made as above required; and no such vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and, in the event such fine is imposed, while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon deposit of a sum sufficient to cover such fine.

"SEC. 37. The word 'person' as used in this act shall be construed to import both the plural and the singular, as the case may be, and shall include corporations, companies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any director, officer, agent, or employee of any corporation, company, or association acting within the scope of his employment or office shall in every case be deemed to be the act, omission, or failure of such corporation, company, or association, as well as that of the person acting for or in behalf of such corporation, company, or association.

"SEC. 38. That this act, except as otherwise provided in section 3, shall take effect and be enforced from and after July 1, 1913. The act of March 26, 1910, amending the act of February 20, 1907, to regulate the immigration of aliens into the United States; the act of February 20, 1907, to regulate the immigration of aliens into the United States, except section 34 thereof; the act of March 3, 1903, to regulate the immigration of aliens into the United States, except section 34 thereof; and all other acts and parts of acts inconsistent with this act are hereby repealed on and after the taking effect of this act: *Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, nor to repeal, alter, or amend section 6, chapter 453, third session Fifty-eighth Congress, approved February 6, 1905, or the act approved August 2, 1882, entitled 'An act to regulate the carriage of passengers by sea,' and amendments thereto: *Provided*, That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act, except as mentioned in the last proviso of section 19 hereof; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the laws or parts of laws repealed or amended by this act are hereby continued in force and effect."

JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.

H. C. LODGE,
WM. P. DILLINGHAM,
LE ROY PERCY,
Managers on the part of the Senate.

The Clerk read the statement, as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the Senate bill (S. 3175) regulating the immigration of aliens submit the following detailed statement in explanation of the effect agreed upon and recommended in the conference report:

The changes made since the last conference report was accepted by the House on January 25 are as follows:

First. The change made in the definition of the word "alien" during the second conference has been modified.

Second. In section 3 the following clause has been stricken out: "persons who have committed a felony or other crime or misdemeanor involving moral turpitude." In lieu thereof has been reinserted the provision of existing law, viz, "persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude."

JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.

Mr. RAKER. Mr. Speaker, the main thing I desire to call the attention of the House to is in regard to Asiatic immigration, and particularly to the Chinese, Hindu, and Japanese immigration, as it relates to this bill. Also to the provision in the bill which is somewhat of a substitute—and I use the word advisedly—as to excluding persons ineligible to become citizens of the United States by naturalization.

The bill as it was originally introduced did not contain any questions as to Chinese, and the bill provided that all laws relating to the exclusion of Chinese persons should be repealed. The original bill as prepared by the committee contained a provision that "persons who are ineligible to become citizens of the United States for naturalization." Then the bill as presented on August 7, 1911, S. 3175, contained the provision, "persons who are not eligible to become citizens of the United States by naturalization. This provision shall not apply to persons of the following status or occupation."

Then, the bill as amended January 18, 1912, contained this provision: "Persons who are not eligible to become citizens of the United States by naturalization," with the same provision that it shall not apply to persons of the following status or occupation, which is there specified.

On February 14, 1912, Senate bill 3175 was recommitted to the Committee on Immigration of the Senate, and contained, in addition to the above, "*Provided*, That persons who are not eligible to become citizens of the United States by naturalization, unless otherwise provided for by treaties, conventions, or by agreement or passport." That provision, in substance, was in the bill as prepared by the committee at the first draft of it. On August 7, 1911, February 18, 1912, February 14, 1912, and as reintroduced April 15, 1912, and as reintroduced and passed the Senate April 19, 1912, and as submitted to the House, the entire matter was stricken out, and the Burnett amendment substituted therefor. The three conference reports, 1340, 1378, and 1410 contain the same provision as was in the original bill.

The SPEAKER. The gentleman from California asks unanimous consent to insert the statement in the RECORD as a part of his remarks. Is there objection?

There was no objection.

The statement is as follows:

Provisions of the bill relating to persons who are not eligible to become citizens of the United States by naturalization, Senate bill 3175, as prepared by the committee of the Senate, per Senator DILLINGHAM, the bill originally containing the following provisions:

1. In lines 15 to 25, both inclusive, page 11, and lines 1 to 5, page 12, are the following:

"Persons who are not eligible to become citizens of the United States by naturalization. This provision, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, capitalists, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States; but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the accepted classes shall be deemed to be in the United States contrary to law and shall be subject to deportation as provided in section 20 of this act."

2. On August 7, 1911, Senate 3175, a bill to regulate the immigration of aliens into and the residence of aliens in the United States, was introduced by Senator DILLINGHAM, read twice, and referred to the Committee on Immigration. This bill as thus introduced contained the following provisions, which will be found in lines 20 to 25, page 7, and lines 1 to 10, page 8, under section 3, as follows:

"Persons who are not eligible to become citizens of the United States by naturalization. This provision, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, capitalists, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States; but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the accepted classes shall be deemed to be in the United States contrary to law and shall be subject to deportation as provided in section 20 of this act."

3. On January 18, 1912, the bill was reported by Mr. LODGE, calendar No. 190, which contains the following provisions therein in section 3, lines 2 to 20, page 8 thereof, as follows:

"Persons who are not eligible to become citizens of the United States by naturalization. The foregoing provision, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, capitalists, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes, shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 20 of this act."

4. On February 14, 1912, Senate bill 3175 was recommitted to the Committee on Immigration and reported the same day by Mr. LODGE from the committee. In section 3, on lines 1 to 21, page 8, will be found the following, namely:

"Persons who are not eligible to become citizens of the United States by naturalization, unless otherwise provided for by treaties, conventions, or by agreements or passports. The foregoing provision,

however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, capitalists, and travelers for curiosity and pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes, shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 20 of this act."

5. On April 15, 1912, Senate bill 3175, was ordered printed by the Senate, which was done, and in section 3, lines 11 to 25, page 8, and lines 1 to 6, page 9, it contains the following, namely:

"Persons who are not eligible to become citizens of the United States by naturalization, unless otherwise excluded by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The two provisions next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, capitalists, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes, shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 20 of this act."

6. On April 19, 1912, Senate bill 3175 passed the Senate, and in section 3, lines 7 to 25, page 8, contains the following, namely:

"Persons who are not eligible to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The two provisions next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law and shall be subject to deportation as provided in section 20 of this act."

7. On April 20, 1912, Senate bill 3175 was reported to the House of Representatives and referred to the Committee on Immigration and Naturalization and contained the same provisions identical with that specified above.

8. On June 7, 1912, the Committee on Immigration and Naturalization of the House reported Senate bill 3175, striking out all after the enacting clause and inserting in substance what is known as the Burnett bill.

9. Senate bill 3175 passed the House of Representatives on the 18th day of December, 1912, which adopted the Burnett amendment which struck out all of the Dillingham bill after the enacting clause and substituted the Burnett bill therefor, which substitute is as follows:

"That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States the following persons shall also be excluded from admission thereto, to wit: All aliens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

"SEC. 2. That for the purpose of ascertaining whether aliens can read or not the immigrant inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plain type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip.

"SEC. 3. That the following classes of persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit through the United States; (c) all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory.

"SEC. 4. That an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came in the manner provided by section 19 of 'An act to regulate the immigration of aliens into the United States,' approved February 20, 1907."

10. There were three conference reports filed from the conferees. The first was Report No. 1340, presented January 16, 1913, which report contained the following provision on pages 3 and 4 thereof, as follows: "Persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act."

11. The second report of the conferees was filed January 23, 1913, Report No. 1378, to accompany S. 3175, which conference report, No. 1378, on pages 3 and 4 thereof, contained the following, namely:

"Persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act."

12. The third report of the conferees on Senate bill 3175 was presented January 28, 1913, and is No. 1410, and on pages 3 and 4 thereof contains the following, namely:

"Persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act."

It will be seen from the above that in substance the provisions above referred to have been carried out in the preparation and introduction of the Dillingham bill, S. 3175, through its preparation and progress in the Senate and in the House and from the conferees practically the same. In other words, no change was made by the conferees of the original provisions as it actually passed the Senate.

Mr. RAKER. Mr. Speaker, the real object and intent and the promise was that there should be real exclusion of Asiatic laborers. This bill is not within the terms of the promise, and the gentleman's agreement is not within the purview of the Constitution, that the President of the United States should agree with a foreign power that a foreign magistrate should designate the qualifications of men who should come to this country. If the committee desire to have a real illiteracy test, so far as it applies to the Hindus and to those others of Asia, they should have placed in that conference the amendment offered in relation to excluding those who are unable to read any European language, the same as is the law now in Cape Colony and Australia. It then would have been effective, and it would not have been this provision, which simply leaves it not to the Government of the United States to determine but to some foreign prince or governor, or whatever may be his title, to determine whom he shall allow to come to this country. Instead of having a real exclusion bill, which will exclude those who should not become a part and parcel of the country, we have this bill, which will exclude a few, but it does not cover the idea of those in the West, who have been believing that this Congress would give them a real exclusion bill, as they have been demanding for so many years and as has been actually promised. While I shall vote for this conference report, it is not my idea as to what the law should be.

So far as the Chinese are concerned, in respect to the question of illiteracy, there are only 6 per cent of Chinese who can not read and write who have come to this country, and but a small percentage of the others; so, as a matter of fact, the real purpose of the bill is not accomplished. It tends somewhat in that direction, but I do not believe the people should be dealt with in a way to leave any question about the matter when the provisions of the bill can be made so plain and so clear in its language as to carry out the real desire of the public—entire exclusion of all Asiatic laborers.

SENATE BILL 3175 AS IT RELATES TO CHINESE IMMIGRATION.

Senate bill 3175, as prepared by the committee of the Senate, per Senator DILLINGHAM, upon the subject of Chinese immigration, contained the following provisions:

1. On page 70, lines 2 to 6, is as follows:

"All laws relating to the exclusion of Chinese persons or persons of Chinese descent, except such provisions thereof as may relate to the naturalization of aliens, and all other acts and parts of acts inconsistent with this act, are hereby repealed on and after the taking effect of this act."

2. Senate bill 3175, as introduced on August 7, 1911, in the Senate, contained the following provision, found on page 55, lines 21 to 23:

"All laws relating to the exclusion of Chinese persons or persons of Chinese descent, except such provisions thereof as may relate to the naturalization of aliens, and all other acts and parts of acts inconsistent with this act, are hereby repealed on and after the taking effect of this act."

3. Senate bill 3175, as introduced on January 18, 1912, reported by Mr. LODGE with amendments, in lines 11 to 17, page 62, contained the same provisions as above specified.

4. Senate bill 3175, reported on February 14, 1912, was on the same day recommitted to the Committee on Immigration, and was on the same day reported by Mr. LODGE with amendments, and the same provisions as above specified were contained in the bill, lines 11 to 17, page 62.

5. Said bill was, on April 15, 1910, ordered to be reprinted as amended, and the following provisions are found therein. Lines 8 to 11, page 8, contain the following:

"Chinese persons or persons of Chinese descent, whether subjects of China or subjects or citizens of any other country foreign to the United States." And on page 63, lines 17 to 23 thereof, is found the following: "All laws relating to the exclusion of Chinese persons or persons of Chinese descent, except such provisions thereof as may relate to the naturalization of aliens, and except as provided in section 3 of this act; and all other acts are hereby repealed on and after the taking effect of this act."

6. On April 19, 1912, Senate bill 3175 passed the Senate and was reported to the House on April 20, 1912, which contained the following provisions, lines 5 to 7, on page 8, as follows:

"Chinese persons or persons of Chinese descent, whether subjects of China or subjects or citizens of any other country foreign to the United States." And on lines 19 to 24, page 57, is found the following provisions: "All laws relating to the exclusion of Chinese persons or persons of Chinese descent, except such provisions thereof as may relate to the naturalization of aliens, excepting as provided in section 3 of this act, are hereby repealed on and after the taking effect of this act."

7. The bill was considered by the House Committee on Immigration and Naturalization and reported to the House on June 9, 1910, which struck out all of the bill except the enacting clause and inserted what is known as the Burnett amendment, which is found on pages 58, 59, and 60 of the bill thus reported.

8. S. 3175 went to conference, and the first conference report (No. 1340) in substance adopted the Dillingham bill as it passed the Senate, with the Burnett amendment as it passed the House, and on page 24 contains the following provision:

"*Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent."

9. The second conference report (No. 1378) of the conference on S. 3175 contained the same provisions as specified in conference report No. 1340, in so far as it relates to Chinese immigration.

10. Conference report No. 1410, the report of January 28, 1913, to the House contained the same provisions relative to Chinese immigration as the first and second reports of the conference committee of both Houses.

Had the bill as passed the Senate become the law, the Chinese-exclusion bill would undoubtedly have been repealed. With the provisions of section 3 of the bill stricken out and the provision of the conference reports included as last above set out, the Chinese-exclusion law will still remain in full force and effect.

With the enactment of H. R. 13500 this repeal question would be fully and finally settled as it ought and should be. Without doubt this bill, H. R. 13500, will be enacted into law in the near future. It will make exclusion of all Asiatic laborers effective and provide proper machinery for its full enforcement.

The SPEAKER. The time of the gentleman from California has expired.

By unanimous consent, Mr. RAKER was granted leave to extend his remarks in the RECORD.

Mr. GOLDFOGLE. Mr. Speaker, I yield five minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, it is said that the third time is a charm—three times and out. This is the third conference report on this bill. It is to be hoped that if it passes the House it will also pass the scrutiny of the conferees who have made it, and also of the Senate. I believe the conferees who have made the report have agreed substantially that the two former reports need to be corrected. It is an illustration of the effect of the rule which was adopted by the House.

The Senate passed an immigration bill consisting of nearly 60 pages, with a great many sections in it. The House committee reported that bill to the House with the recommendation that all the bill after the enacting clause be stricken out and one section be inserted, which was a part of one section of the original Senate bill with some changes in it. If the House had had an opportunity to consider the original Senate bill, section by section, these various changes which have been made in the conference report, one after another, would probably never have had to be made in the conference report, because they would have been called to the attention of the conferees. But under this method of legislation the matter is not brought up before the House, and evidently gentlemen who represent the House are not familiar with the provisions of the Senate bill, and have agreed to propositions in conference which subsequently they have come in and proposed to change. In the second conference report there was inserted a provision consisting of a description of an alien which was not in the first conference, and in the third conference report that description is left out, leaving it as it was in the first conference report, and they have inserted an item in some other place in the bill.

No one can expect that we will secure perfect legislation by putting through the House a Senate bill with many sections in it, 50 or 60 pages long, without any consideration by the House, leaving it wholly to the conferees to write the bill. We have heard a great deal at different times about the decadence of the power of the House as one of the coordinate branches of Congress. There is nothing which tends to bring on such decadence or to prove that such decadence exists so much as this method of legislation.

We ought to have considered the provisions in the Senate bill; there ought to have been opportunity in the House for Members to discuss the provisions in the Senate bill, and then we would not have had three conference reports, nor would we be called upon, as we will be called upon, to enact measures in the future to correct many of the errors now in this conference report, provisions which would not be in the law if the House had had the opportunity to consider it. A bill that passed the Senate practically with little discussion, passed the House without any discussion or consideration of most of the provisions in it, can not expect to be a very perfect measure. [Applause.]

Mr. GOLDFOGLE. Mr. Speaker, I yield four minutes to the gentleman from Pennsylvania [Mr. MOORE].

Mr. BURNETT. Mr. Speaker, one minute, if the gentleman will yield to me to use some of my time now.

Mr. GOLDFOGLE. Certainly, with Mr. MOORE'S consent.

Mr. BURNETT. Mr. Speaker, I yield three minutes to the gentleman from Massachusetts [Mr. GARDNER].

Mr. GARDNER of Massachusetts. Mr. Speaker, the gentleman from Illinois [Mr. MANN] is quite right in calling the attention of the House to the singular fact that for the third time this conference report is under consideration. He is wrong, however, in attributing this phenomenon to the rule under which this bill was originally considered. The truth is, Mr. Speaker, that the situation in which we find ourselves is a noteworthy illustration of the evils of filibustering. Had gentlemen last summer refrained from filibustering against the call of the Committee on Immigration on Calendar Wednesday, the conferees would have had all these matters fresh in their minds. Had not the desire existed to postpone action until after election, it would not have proved necessary to bring this report three times before the House. Now, to speak seriously for a moment, I think the gentleman is wrong in supposing that there will be a great deal of legislation required to correct the mistakes in this conference report.

The fact is that this bill has been under the scrutiny of many of the sharpest-eyed lawyers of this country, both in and out of Congress. They have discovered mistakes, which we admit, errors and contradictions which would sooner or later reveal themselves and perhaps require court interpretation. Mr. Speaker, that is true of all codifications of this sort. It occurred in the case of the last codification of the immigration law. The only difference in the situation arises from the close scrutiny to which this bill has been submitted by many able lawyers in New York and elsewhere. The mistakes have been found out before the law has been sent to the President for his signature rather than afterwards.

Mr. GOLDFOGLE. Mr. Speaker, I yield three minutes to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. Mr. Speaker, the real objection I have to this legislation arises from the insertion in it of the illiteracy test, which I believe to be un-American and an unjust restriction upon the worthy poor who desire to come to the United States, and I do strenuously object to the manner in which this legislation is brought into the House. The House itself discussed only the question of the illiteracy test, and that under very limited conditions as to time of debate. It did not discuss the so-called Dillingham bill at all. That bill, which constitutes the major portion of the legislation now proposed, originated in conference, and the House had no opportunity whatever to dissect it, to analyze it, or thoroughly consider it. The practice has arisen——

Mr. RAKER. Will the gentleman yield?

The SPEAKER. Does the gentleman from Pennsylvania yield?

Mr. MOORE of Pennsylvania. Mr. Speaker, I regret I can not yield; I have but three minutes, and I guess about a minute and a half of that is gone.

The SPEAKER. The gentleman declines to yield.

Mr. MOORE of Pennsylvania. Mr. Speaker, the practice has arisen here in recent years, surely since I have been a Member of the House, of instituting new legislation in conference. Now, what does that mean? It means that the representatives of the people, coming from various districts throughout the country, are thrown absolutely upon the mercy of a majority of six men in star chamber. In the closet, outside, wherever they may meet, they decide as to the matters we are to put through this House. The difficulty with this conference report is that it has not been considered as it ought to be by a deliberative body; it has been considered only in star chamber and has been rushed through the House on each occasion that it has appeared here. In the present instance it comes back because

certain errors or imperfections were found in the bill upon the other side of the House where they had a chance to consider it, but we are supposed to rush it through here in 40 minutes without again having an opportunity to consider the merits of the vital questions involved. Whose judgment are we to take in matters of this kind? Are we to respond to the wishes of the people who send us here, or are we to yield in the last analysis to the six men, in this instance five men, who constitute the conferees and who prepared this report and brought it into the House?

The SPEAKER. The time of the gentleman has expired.

Mr. GOLDFOGLE. Will the gentleman from Alabama [Mr. BURNETT] use some of his time?

Mr. BURNETT. How much time have we?

The SPEAKER. The gentleman from Alabama has seven minutes left.

Mr. BURNETT. I have no further request for time.

Mr. GOLDFOGLE. I now yield three minutes to the gentleman from Wisconsin [Mr. COOPER].

Mr. COOPER. Mr. Speaker, when this 24-page conference report on the immigration bill, comprising 38 sections, came up first on the 17th of this month, I read my copy of it from the beginning until I reached section 3, which names the classes of aliens who could not be allowed to enter this country, and found that among those who were to be excluded would be—

Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

I read no further, but with a lead pencil underscored the words I have just read, and pointing them out to several Members in my vicinity announced that it was immaterial what the rest of the report might be, those words were sufficient for me, and that I should vote against it. I have in my hand the copy I had that day.

The report passed the House and went to the Senate, but came back here a few days ago, with a request for another conference, which was granted. To-day we are considering the third conference report.

The reason for having a third conference is found in the statement of the Senator who asked for it. He declared in the Senate, on January 23, that it had been discovered after examination that the provisions of the report as adopted by the House were so transposed as to nullify the deportation clause in the cases of the white-slave traffic and also in cases of disease or crime—in other words, that the House had in effect voted to repeal the clause of the law under which we now send back criminals, diseased persons, and managers of the infamous traffic in white slaves.

That report was rushed through here too rapidly for proper consideration. Mr. Speaker, the haste with which the House of Representatives too often attempts to enact legislation of importance is altogether wrong. There ought to be deliberation and opportunity for the study of an important conference report in order to enable each Member of the House for himself to decide whether it does or does not appeal to his judgment as being worthy of support. But we have no such opportunity when a report of 24 pages is brought in and passed after a debate of only a few minutes on a side. For years I have been protesting against that sort of thing, and I shall continue so to protest while I am honored by a seat in this Chamber.

Mr. GOLDFOGLE. Mr. Speaker, I yield two minutes to the gentleman from Illinois [Mr. GALLAGHER].

Mr. GALLAGHER. Mr. Speaker, I can only say, in connection with what I have already said about this bill now before the House, that I believe that this proposition to restrict immigration is un-American, that it is unwise, and unfair. And the very fact that this bill has been before this House three times shows conclusively that in its original form and as it passed on two former occasions it was ill considered, that it was not proper legislation, and that the other body in the other end of the Capitol would not agree to the bill as passed. And I mistake the times and public opinion in this country considerably if there is not a protest from one end of the country to the other against this class of legislation. I do not believe that conditions in this country warrant it. I do not believe that conditions confronting the American people require any such legislation. In fact, I know if this law goes into force you will hear a howl from one end of this broad land to the other against such a bill, because the business interests, conditions in the farming communities, and the necessity in this country for the class of labor you propose to exclude will be such that everybody voting for it will hear as a result of that vote a protest against this class of legislation.

I do not wish to be misunderstood in the attitude I assume with relation to the immigration question. I will concede that the laws affecting immigration are not perfect. Evils do result from their enforcement and application. But the committee having this legislation in charge failed entirely in recognizing the real weakness of the whole scheme of immigrant legislation. The evils flowing from our immigration laws require for their correction not restrictive, repressive, or prohibitive laws, but, on the contrary, laws that will provide for the proper distribution of the immigrants in order to avoid congestion in our large cities and in order that assimilation can be more effectively accomplished and the country generally benefited by this immigration.

These reforms can not be effected by the application of the literacy test. The western and southern sections of the country require an influx of white settlers for the development of their vast natural resources, which for lack of such labor are in a deplorable condition of stagnation. And it is astonishing in the face of the existence of this necessity to find such persistent activity among the Representatives of these sections in opposition to a liberal policy affecting immigration.

You can not legislate morality into a people. Moral stamina is the result of long and gradual development under the beneficent influence of an advanced civilization. The literacy test alone will not accomplish this. The educated crook, the intellectual swindler, the confirmed anarchist, all can comply with this so-called literacy test and find admission to our shores. While the honest, hard-working, industrious, and God-fearing person suffering from conditions of illiteracy for which he is no way responsible, and under which it has been his unhappy fate to be born, would, under the operation of this test, be excluded from the blessings of our free institutions.

The fallacy and utter groundlessness of the extravagant claims made by the advocates of this test as an instrumentality in the betterment of conditions of the country socially, commercially, and politically is conclusively shown by a very strong editorial which appeared recently in the Boston Morning Herald, and which reads as follows:

ILLITERACY AND IMMIGRATION.

One honest hard-working illiterate, who lives clean and raises a decent family, is worth a hundred of the inefficients our schools turn out annually, who can read and write, but who are too fine to work and who are utterly useless in the civilization they live in. We place too high an estimate upon mere literacy; but if we paid more attention to teaching children that morality which comprehends respect for parents and law and the necessity of earning bread by the sweat of their face, we would not be troubled so much with the envy and discontent which are the outgrowth of laziness and inefficiency.

The literacy test for the exclusion of immigrants is the sheerest humbug; had such a law been in force since the early seventeenth century America would still be a howling wilderness. The American troubles of the twentieth century are not the fruits of illiteracy and immigration; they are made right here on the soil by those born on the soil, by the lazy, the inefficient, the envious, the unsuccessful—all the products of our public schools. Go to your prisons sometime and learn how many of the inmates are illiterates. When literacy has become a synonym for sanity, honesty, industry, and physical soundness it will be time enough to make illiteracy a barrier for admission to the Republic. I would rather have an illiterate who can steer a plow, wield a sledge, roof a house, lay brick, or dig a good sewer than a dozen half-baked chaps who can write dog and read cat and who are willing to live on the labor of a father and mother. Let Congress face the question fairly and let the Government back up the immigration authorities in enforcing the laws we have. The illiterate test is pure punk, just plain flapdoodle. (Boston (Mass.) Morning Herald, June 3, 1912.)

The greatest danger to our country and its standards comes not from without but from within. Every immigrant coming to our shores comes with the love of freedom in his heart to improve his condition and to enjoy the blessings of liberty and free government. We should welcome him not as a subject of suspicion but as a prospective citizen worthy of our confidence and encouragement. The love of liberty in the American heart has been its most priceless treasure, bestowed in a spirit of patriotism and nationality, and let its benign influence pervade the native and the immigrant alike, leading all in one common aspiration to higher, nobler, and grander ideals of national greatness.

The SPEAKER. The gentleman from New York [Mr. GOLDFOGLE] has eight minutes and the gentleman from Alabama [Mr. BURNETT] seven minutes remaining.

Mr. GOLDFOGLE. Mr. Speaker, I have so often expressed, during the several debates we have had on immigration, my opposition to the literacy test that I shall not attempt now to reiterate what I have heretofore said.

But I do wish to call the attention of the House particularly this morning to the fact that while, under this bill, a daughter who may be illiterate can come in with her parents or follow her parents and join them here, a son, say, a few days over 16 years of age who may be illiterate within the meaning of the bill will be kept out. Thus there will be worked a separation of the family. Would any gentleman in this House, with kindness in his heart and fairness in his mind, be willing to have

such a condition? Such a separation, in my opinion, is a cruelty which ought not to find place in American legislation.

It was asserted in the other body, at the other end of the Capitol, that such a hardship as I indicated just now would be worked under the bill if it is enacted into law. I can not conceive of a greater hardship—nay, of a greater inhuman act—to a father or mother than to be compelled to leave behind him or her their boy who has been, under the laws of the foreign country, unfortunately denied opportunity for education; a boy, say, but a few days over 16 years, is to be excluded, while the rest of the family, females, may be admitted. Yet if this bill becomes a law such would be the deplorable situation in many and many a case.

While some gentlemen on the Committee on Immigration of this House have talked so much about their desire not to allow unnecessary separation of families and have professed in words deep solicitude for keeping families together as a matter of common humanity, yet some of these same gentlemen—two of them members of the conference committee—would work the hardship that I have pointed out.

The illiteracy test, as has been so often stated, and as we reiterate this morning, is neither a test of fitness nor of character. The conditions of the country do not require that such test shall be imposed. I am willing to go any length that can be devised by any man in this House to keep out the criminal, the evil-minded, the vicious, the pauper, and the insane. I would not allow any of that class to come within the United States, nor would I give them one single inch of ground to dwell on. But the healthy in mind and in body, those who are capable of self-support, those who come here willing to abide in peace and within the law amongst us and aid by their contribution of mind and thrift and energy to the proper upbuilding of the communities in which they would dwell and who are otherwise admissible under the provisions of existing law I would not forbid entrance to our land.

Mr. MOORE of Pennsylvania. Mr. Speaker, will the gentleman yield to me for one question?

The SPEAKER. Does the gentleman yield?

Mr. GOLDFOGLE. For a question; certainly.

Mr. MOORE of Pennsylvania. Is it not a fact, frequently stated during this controversy, that anarchists, murderers, criminals, the insane, and otherwise undesirable are already excluded by existing law?

Mr. GOLDFOGLE. Yes; and if we enforce the existing law as it was intended it should be enforced, you will have ample protection to the country. If we need more legislation to keep out anyone that is evil-minded, vicious, or criminal, I stand here ready to vote for such legislation. But I would not pass such legislation as is now proposed, which is un-American in principle, may operate harshly, and is unnecessary and uncalled for by the existing conditions of the country. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. BURNETT. Mr. Speaker, I will reply to the criticisms of the gentleman from California [Mr. RAKER] of the provision that he objected to on account of its not being broad enough. I will say that among those excluded are persons who can not become eligible under existing law to become citizens of the United States by naturalization unless otherwise provided by existing agreements as to passports, or by treaties, conventions, and so forth.

As I understand, the objection of the gentleman is because it does not go far enough by making exceptions of those who come in under passport agreements, and because he says the Japanese coolies are not being kept out. That clause is for the purpose of keeping out the Hindus, who are coming in and becoming a menace to the West.

I want to call attention to the fact that more Japanese are to-day going out than are coming into the United States. During the fiscal year ending June 30, 1910, 2,508 Japanese were admitted and 5,204 departed, making 2,426 more who went out than came in. During the fiscal year ending June 30, 1911, there were 4,282 who came in and 5,869 who went out, making 1,487 more who went out than came in. That passport law is being enforced. The Japanese are being kept out, and the purpose of this bill was to keep out new immigration that is coming in on the Pacific coast.

Mr. Speaker, in regard to the protest that gentlemen have made against adopting conference reports of this kind, the same argument might be made against any conference report.

I have never heard the gentleman from Pennsylvania [Mr. MOORE], who is always on his feet when river and harbor appropriations are coming in, make any protest that river and harbor bills contain hundreds of items frequently that are put in by conference committees. Other gentlemen who have protested to-day have sat here dumb as oysters when conference reports involving millions of dollars have been involved. And yet when we get this immigration bill here they make a great outcry about the little consideration given to conference reports, and it seems to me they make this protest for the purpose of squaring themselves with somebody.

Mr. Speaker, my good friend, the gentleman from New York [Mr. GOLDFOGLE], standing like Father Abraham, at least in splendid physical appearance if in nothing else, a grand patriarch of his people and of his party, has shed crocodile tears here over the boy 16½ years old who might be excluded. We had to draw the line somewhere, Mr. Speaker. He says there would be a separation of families. Yet where the father or the mother can read, is it probable that the boy who is past 16 years of age would not himself learn to read?

Mr. GOLDFOGLE. Is it not a fact that the father, if he be over the age specified in the bill, may come in, though he be illiterate?

Mr. BURNETT. The father, if he is 55 years old, may come in, although he may be illiterate.

Mr. GOLDFOGLE. And then the boy could be kept out if he is 16½ years old.

Mr. BURNETT. Possibly there might be a few isolated cases of that kind, but a man over 55 years of age ought not to have any children as young as 16. [Laughter.]

Mr. GOLDFOGLE. Does the gentleman think men ordinarily stop becoming fathers after they are 39?

Mr. BURNETT. I am just past 55 a few years, and I became a grandfather day before yesterday. [Applause.]

But seriously this was the reason why we had to draw some kind of a line. The Immigration Commission in making their report stated that one of the main reasons that induced them to recommend the illiteracy test was because too much unskilled labor is coming to this country. Now, the boy from Europe coming over here, who is over 16 years of age, is of that age when he comes in competition with unskilled labor. The unmarried or widowed daughter is let in for the purpose of encouraging the bringing in of wives and daughters. Many of these undesirables do not bring their families, and we wanted to encourage the women to come; and for the further reason, that we believe the widowed or single daughter is more likely to be a dependent of the father than is the boy who is between 16 and 21 years of age.

Gentlemen like the gentleman from Pennsylvania [Mr. MOORE] inveigh against the danger of legislation by conference committees, and yet every one of them admits that there are many wise provisions in the conference report, and each time come back with their principal attack on the illiteracy test, just as they have been doing for years.

They pretend that it is an attack on all foreigners, and yet they—every one—know that the Jews and the people from northwestern Europe will not be affected by it. Many intelligent foreigners refuse to make themselves parties to any such fallacies and repudiate the men who advance them.

I give the following example, printed in the Brooklyn Daily Eagle of December 12, 1912:

WOULD STIFFEN SULZER ON ILLITERACY BILL—MR. DWYER TEARS CONGRESSMAN IS AGAINST MEASURE.

Following is a copy of a letter sent to Governor-Elect Sulzer by Edward Dwyer, of Bay Ridge:

DEAR SIR: I have been rather surprised to notice statements in the columns of the daily papers to the effect that you were opposed to the enactment into law of Senate bill No. 3175, drawn up by Mr. DILLINGHAM, which provides an illiteracy test for immigrants desiring to land on our shores. Inasmuch as this bill was passed by the Senate last April, and it is a well-known fact that the leaders of the Democratic House of Representatives agreed to have it considered in December, it seems odd to other members of the organization with which I am connected, as well as myself, that you should be so active in opposing a measure that is needed to protect the American workingman.

As a supporter of the Democratic Party in the Nation and State, I had imagined that there could not be any of the leaders who would take the stand the newspaper reports indicate that you have taken. During the campaign just ended you never referred to this immigration question, and if it was even hinted that you were opposed to restrictive legislation it would have cost you many votes, and your stand would seriously injure your chances for reelection two years hence.

The American people, native as well as foreign born, are becoming thoroughly aroused over the lax immigration laws that permit tens of thousands of undesirables to enter this country annually, a class which does not understand, nor care to learn, anything concerning American institutions. They are willing to labor for a wage that no American citizen can exist on. These people are content to live on filth, can keep body and soul together on the sort of food that would soon kill off the native-born American, the Irishman, German, Englishman, or Scandinavian.

What we are entitled to in this great country is a chance to live decently, to rear our children up good Americans, and to be enabled to save a little money for the rainy day. How can we carry out this program when in every occupation of life we have to compete with foreigners whose only aim is to gather enough money to bring them back to their native land and to live in ease for some time?

It has been shown, as you well know, that almost 40 per cent of the immigrants arriving here annually leave the country. Speak to men who have worked for large railroads and they will tell you of the same crowd of foreigners that they have observed, working for a few

mouths on a railroad, returning to Europe with the money earned, and repeating the thing every year. A large percentage of those who stay are not a credit to any land. In New York State the undesirable foreigners form 40 per cent of the population of our jails and insane asylums.

Think of the tax all of this means on our citizens. The attempt of the foreign steamship companies, their paid attorneys, and the corrupt press to raise the cry of religious bigotry and racial animosity in order to injure the cause of immigration restriction has failed.

This is a question that affects every American no matter where he was born. It is a fight for existence. The clinching argument in favor of the adoption of the illiteracy test is the report of the Congressional Immigration Commission, which declared that many undeniably undesirable persons enter every year. There is a growing criminal class in this country, due to foreign immigration.

Organized labor has demanded restrictive legislation, resolutions have been adopted time and again by the labor unions, and the leaders like John Mitchell and Samuel Gompers have repeatedly spoken out against the admission of so many undesirables.

You are a friend of organized labor, even though it has been alleged that you were reported absent or not voting on many measures that came up in the last session of Congress. I am not inclined to believe the press reports that you are opposed to the illiteracy test, and on behalf of others, as well as myself, I urge you to vote for and secure other votes for the measure.

Yours, truly, EDWARD DWYER,
356 Seventy-eighth Street.

BROOKLYN, N. Y., *December 10, 1912.*

Those who would open our ports to the scum of Europe quote President Charles W. Eliot as being opposed to restriction, and yet the following from the New York Times of February 1, 1913, shows that Dr. Eliot would keep out the very kind that the illiteracy test would debar.

EX-PRESIDENT CHARLES W. ELIOT A RESTRICTIONIST NOW.

ELIOT WOULD BAR BACHELORS—PROPOSES IMMIGRATION LAW LIMITING ADMISSIONS TO 15 PER CENT.

BOSTON, *January 31.*

This afternoon, in discussing a bill now before the legislature which seeks to establish an immigration inspection board for Massachusetts, Dr. Eliot told a large audience at the Twentieth Century Club that the large numbers of unmarried male immigrants should be restricted to 15 per cent of the entire number of foreign-born admitted to the country.

Dr. Eliot argued against the blending of the different races, and his point taken in opposition to allowing the wholesale immigration of bachelors was in support of this argument. In taking this stand on the immigration question Dr. Eliot added his support to the plan advocated by United States Senator DILLINGHAM, of Vermont, chairman of the Senate Immigration Committee, who said it would be a good thing for the Nation to rule that only married men accompanied by their families should enter the country as immigrants.

The great metropolitan press of the country is becoming alarmed over the conditions growing out of the tremendous influx of illiterates from foreign shores. I will read a few:

[From the New York Sun, June 27, 1912.]

When we remember the sources of a very large proportion—almost the bulk—of our great immigration in recent years the reason for the difficulties created thereby are easy to see. These droves of newcomers are drawn almost entirely from eastern and southern Europe, and it comes practically to this, that the illiteracy of those nations is transported to America in shipload lots, and that however broad the spaces in this country and however great the opportunities of betterment for everybody, congestion and clogging of all usual or even extraordinary provisions for education and general Americanization of the illiterate and variously defective immigrants must result, at least temporarily, in the cities and States where they come and stay in such large numbers. The reasonableness of placing some check upon such an obviously intolerable abuse of a welcome to these shores is evident enough; blind opposition to any such measures must provoke reasonable resentment and proper measures of self-protection.

[From the Saturday Evening Post, May 18, 1912.]

ILLITERATE IMMIGRANTS.

Since the Spanish-American War we have received two and a quarter million immigrants who were unable to read or write in any language, nearly all of whom undoubtedly were unable to speak English. Their only means of communication was the spoken word in their mother tongue. Naturally these immigrants tend to congregate in foreign-speaking, foreign-thinking communities. Wholly dependent for information upon a fellow countryman's word of mouth, they are especially liable to exploitation.

Illiteracy shuts them out from most opportunities for bettering their condition. Inevitably they work for the lowest pay; and, coming in such great numbers, there is no doubt they tend to depress the general level of wages in the industries they enter.

It is quite true, as urged by those who oppose a literary test in our immigration laws, that character is more important than education; but the point has no practical relevancy, because it is plainly impossible to frame any statutory test for character. If there is to be any restriction upon immigration it should bar out the least desirable; and no candid person will deny that, by and large, the illiterate immigrant is less desirable than the literate. His illiteracy raises a strong presumption that he has been badly conditioned socially and politically. It handicaps him tremendously in comprehending American conditions and purposes.

We shall, as a matter of course, bar known criminals, the insane, and paupers. If there is to be any finer discrimination as regards immigration from European countries the literacy test ought to be adopted.

The following from the Cincinnati Time-Star—Hon. Charles Taft's paper—of December 26, 1912, speaks earnestly on the subject:

CONGRESS AND IMMIGRATION.

The country has noted with rather less interest than the subject deserves the effort of Congress to provide a "literacy" test for future immigration into the country.

A bill providing that no immigrant who is unable to read in some recognized language shall enter the United States hereafter has passed the House. Another bill along similar lines has passed the Senate. The two measures are now in conference and there seems to be little reason to doubt that an agreement will be reached before long.

Some newspapers have made more or less serious objection to the new immigration bills. They hold that a literacy test will not get to the bottom of the immigration problem. They hold that the country needs all the cheap labor it can get. To bar out a man because he can not read, they say, will keep out of the United States a great deal of the new bone and sinew that we need in our national make-up, at the same time allowing many useless and even dangerous persons who happen to be able to read to get into the country.

Undoubtedly there are some valid objections to a literacy test for immigrants. It may be that a better method can be devised for cutting down the present tremendous bulk of immigration into this country. However, the fact remains that the immigration question has been one of the big questions before Congress for a good many years now and nothing has been done. And this in spite of the fact that thinking men all over the country have fully realized the menace to our free institutions involved in the arrival of people without training in self-government at such a tremendous rate that not even our remarkable powers of assimilation can take care of them.

No reasonable man questions the tremendous service the immigrant has rendered this country. As a matter of fact, all of us owe our existence as Americans to the immigration of one period or another.

But the flow of new population into the United States has been very different these past 15 years from what it was before that time. Until toward the close of the nineteenth century the people who sought homes in this country were practically all of one blood, easily capable of amalgamation, and readily susceptible to the American ideals of self-government. English, Irish, Scotch, German—these may not have been brothers in blood, but they were at least first cousins.

Then came a sudden onrush of new immigrants from southern and eastern Europe. Go over the immigration list of any great liner arriving at New York nowadays, and how many English, Irish, Scotch, or German names will you find?

The proportion, of course, is very small. Practically all our immigration of to-day is made up of people from southern and eastern Europe. And at the same time that the character of the flow of population into the United States has changed the number of immigrants arriving has jumped from a hundred or two hundred thousand to nearly a million in the average year. In good times we get over a million; in bad times the number diminishes considerably, but the average is very high.

We are not saying anything against the Italians, the Russian Jews, and the other peoples who have provided the bulk of our immigration in recent years. Everybody who has rubbed up against the immigrant knows that these peoples have given some splendid citizens to this Republic. They have given some citizens of doubtful value, too, but the average, at least where the light of American institutions has had a chance to get in, has been fairly good.

But the whole matter does not rest upon a question of quality. We are getting more immigrants than we can handle, speaking not in a commercial but in a patriotic sense. We ought not to take in newcomers faster than we can educate them up to the old American ideals of self-government. It should never be forgotten that free institutions will live in this country only so long as we maintain a high average of individual character and individual intelligence.

Congress appointed a commission to go into the matter of immigration a number of years ago. This commission, made up of men admirably fitted for the work in hand, worked hard for several years. It visited most of the countries of Europe, making careful study of conditions there as well as of conditions in this country. When its report was finally made public it was seen that the commission was very strongly in favor of some positive action by the American Government toward the drastic restriction of immigration.

It is many months since that report was made. Congress can not now be accused of taking action on it hastily. The majority of the Members of the House and Senate have come to the conclusion that the most promising device for solving the immigration problem is a literacy test. If on trial this device proves a failure, we can try something else. But in the meantime something will have been done.

The cry is that we need the laborers, and yet here is what a recent number of the Gloucester Times says about that branch of the question:

THE IMMIGRATION QUESTION AGAIN.

The conference of charities and correction held in Cleveland last week has a very vigorous discussion of the immigration question, and finally by a vote expressed itself in favor of unrestricted immigration. In criticizing the conclusions of the Federal immigration commission Cyrus L. Sulzberger, of New York, said:

"The only accurate generalization made by the restrictions on the subject of immigration is that the nationality of the immigrants has changed; that whereas in former years the bulk of the immigrants came from northwestern Europe, it has lately been coming from south and eastern Europe. This is obviously true, but it is not true, as is so often asserted, that while the so-called older immigration was desirable the newer is undesirable."

And then he went on to argue that the newcomers make a better showing in regard to alcoholism, insanity, hospital costs, criminality, and various other points of statistical comparison than the settlers from northern Europe.

Let all this be granted, although it is far from being proved as yet, and the main question is by no means settled. It is not strange that immigrants should be very solicitous that others should have the same privilege which they have themselves enjoyed. And yet it remains true that there are economic reasons which make it desirable that the incoming tide should be restrained, at least for a few years. Our cities are flooded with unskilled laborers. There is not a manufacturing city of any size which does not have in it thousands for whom there is practically no work. Let a mill manager advertise for boys, and he is besieged by adults who wish to do the work and are willing to take the boy's pay. Conditions are seriously upset by such a large movement of population in this direction. There is certainly nothing unreasonable in itself and nothing unfair to other people that for a series of years we should limit somewhat the number who are allowed to come in. All other Nations find it necessary to do this. And the United States is fast finding it necessary, all charity conferences to the contrary notwithstanding.

The following is the attitude of a large number of educators, labor leaders, and financiers on this very question, and the comment of a Boston paper on it:

ATTITUDE OF LEADING EDUCATORS, LABOR LEADERS, AND FINANCIERS OF NEW ENGLAND.

To the Senate and House of Representatives of the United States:

While we are aware that there is a world-wide rise in the cost of living and that there are local causes of disturbance and distress which need correcting, we none the less believe that distressing conditions in the United States are greatly aggravated by the fact that the less skilled classes of labor are subjected to an artificial and unnecessary competition. This competition is due to the unlimited importation from numerous parts of the world of laborers often induced to come here by persons interested financially in their coming, whose controlling interest is not in the personal welfare of the immigrant or in the general welfare of our country.

We believe the evidence to be conclusive that under these conditions the maintenance of a proper American standard of living among the laboring classes of our country is impossible in this State, or in any other State subject to these same conditions. We therefore most respectfully urge that this overshadowing menace be not ignored by you, and that you relieve this situation by limiting the importation of labor to a point where the American standard of living among great bodies of laborers shall no longer be broken down.

EDUCATORS.

A. Lawrence Lowell, president Harvard University.
Richard C. Maclaurin, president Massachusetts Institute of Technology.
Henry A. Garfield, president Williams College.
T. N. Carver, professor of political economy, Harvard University.
C. J. Bullock, professor of economics, Harvard University.
O. M. W. Sprague, assistant professor of banking and finance, Harvard University.
William Z. Ripley, professor of political economy, Harvard University.
Robert A. Woods, author and leading social worker.

LABOR LEADERS.

John F. Tobin, general president of the Boot and Shoe Workers' Union.
John Golden, president United Textile Workers of America.
James Duncan, first vice president American Federation of Labor.
Arthur M. Huddell, business agent Building Trades Council.
Henry Abrahams, secretary International Cigarmakers' Union and secretary Boston Central Labor Union.

FINANCIERS.

Henry Lee Higginson, senior partner of Lee, Higginson & Co.
Alfred D. Foster, president New England Mutual Life Insurance Co.
Philip Stockton, president Old Colony Trust Co.
Francis R. Hart, vice president Old Colony Trust Co.

[Editorial from the Monitor (Christian Science), Boston, Mass., June 12, 1912.]

Massachusetts signers of a petition to Congress for restriction of immigration along lines proposed in the original Dillingham bill are of a kind that gives the document more than usual significance. The presidents of Harvard University, the Institute of Technology and Williams College, several of the most eminent economists of Harvard's faculty, and a veteran social settlement worker, Robert A. Woods, speaks for educators and investigators of social consequences of lax standards of admission, and they represent that particular element of society able to look at the issue somewhat objectively and disinterestedly. Joined with them are six representative leaders of organized labor in New England, who deprecate the lowering of standards of living and undermining of the wage scale caused by constant importation of immigrants. Last but not least there are the names of representative makers of the financial, industrial, and commercial prosperity of New England.

Filing of such a petition with such signatures is symptomatic of conditions that are forcing thoughtful Americans to consider more carefully than formerly some of the ultimate effects upon republicanism and civilization of wholesale and undiscriminate methods of increase of the foreign-born population which went on for generations unchecked. The fact that no other section of the English-speaking race has ever permitted such a process of race amalgamation as the United States has invited is beginning to be weighed for what it is worth; and Canada's present rigid testing of her would-be settlers is not without its exemplary effect on the neighboring Republic.

New England naturally is the more disturbed by the results of the past policy of laxity, because of the startling multiplication within her borders, especially in her industrial centers, of people to whom the emigrants from other lands and of other faiths. The task now being thrown upon many of the New England cities in the way of assimilation and Americanization of newcomers is greater than they are equal to. Hence the breakdowns of law and order such as were seen recently in Lawrence.

The following are resolutions of State legislatures, labor, farmer, patriotic, and other organizations on the subject; also of labor leaders and the declarations of other great thinkers and newspapers. Seventeen State legislatures have adopted memorials, of which the following is a sample:

Whereas the United States Immigration Commission, after four years' investigation and the expenditure of $1,000,000, has made a 42-volume report to Congress; and
Whereas it is being proposed that the immigration evils from which the Northeastern States are suffering be relieved by diverting and distributing the aliens now crowding into and congesting the slums, sweatshops, and city centers of the Northeast; and
Whereas the Immigration Commission clearly points out that this country with any considerable net foreign immigration, our laws and administrative policy are the weakest of any new country, and that "substantial restriction is demanded by economic, moral, and social considerations," and the illiteracy test is recommended "as the most feasible single method for excluding undesirable immigration"; Therefore be it

Resolved by the State Senate of Tennessee (the House concurring), That we hereby memorialize Congress to immediately enact some such literacy test as is recommended by the Immigration Commission, as is law in Australia, New Zealand, and other new countries, pass other needed legislation along the lines of the Immigration Commission's suggestions, and do not pass any legislation looking to the diversion and distribution of the kind of alien population that is now congesting the northeastern cities and causing so many evils there; And be it further

Resolved, That a certified copy of this resolution be sent by the secretary of the senate at once to the President of the United States, to our two United States Senators, and each of our Representatives at Washington, D. C., with the request that it be presented to Congress and properly referred.

Adopted February 7, 1911.

N. BAXTER, Jr.,
Speaker of the Senate.
A. M. LEACH,
Speaker of the House of Representatives.

Approved February 9, 1911.

BEN W. HOOPER, *Governor.*

I, W. D. Scruggs, chief clerk of the senate, hereby certify that this is a true and correct copy of senate joint resolution No. 27, adopted February 7, 1911.

W. D. SCRUGGS,
Chief Clerk of the Senate.

FARMERS' EDUCATIONAL AND COOPERATIVE UNION OF AMERICA,
OFFICE OF SECRETARY TREASURER,
Rogers, Ark., November 28, 1912.

HONORED SIR: In keeping with instructions of the National Farmers' Union in annual session at Chattanooga, Tenn., September 3, 4 and 6, I have the honor to submit herewith a resolution recommended in the report of the committee on immigration and adopted unanimously by the convention.

Respectfully, yours,
[SEAL.] A. C. DAVIS, *Secretary-Treasurer.*

Resolution offered by the committee on immigration.

Whereas the Immigration Commission has reported recommending the very legislation long urged and advocated by this organization and its vast membership scattered throughout 28 States; and
Whereas a bill, S. 3175, containing this legislation passed the Senate April 19, 1912, and has been before the House since: Therefore be it

Resolved by the Farmers' Educational and Cooperative Union of America in eighth national convention at Chattanooga, Tenn., this 5th day of September 1912, That we indorse the legislative recommendations of the Immigration Commission, commend the patriotic action of the Senate in passing Senate bill No. 3175, containing the legislation recommended by the commission and advocated by us, and urge upon the House the speedy passage of the bill next December, as promised; and be it further

Resolved, That the national secretary send a certified copy of this resolution to every Member of Congress at the opening of the next session.

Respectfully submitted.

JOHN MCKINNEY (California), *Chairman,*
LAWSON E. BROWN (Georgia), *Secretary,*
O. P. FORD (Alabama),
A. H. EVANS (Illinois),
Committee on Immigration.

NEW YORK UNITED GARMENT WORKERS INDORSE ILLITERACY TEST.

Editor Sullivan was invited to address the board on the immigration question. The following resolutions were adopted:

"The general executive board of the United Garment Workers of America, at a session of its quarterly meeting in New York City, on Thursday, June 23, 1905, unanimously passed the following:

"*Resolved,* That the unprecedented movement of the very poor to America from Europe in the last three years has resulted in wholly changing the previous social, political, and economic aspects of the immigration question. The enormous accessions to the ranks of our competing wageworkers, being to a great extent unemployed, or only partly employed, at uncertain wages, are lowering the standard of living among the masses of the working people of this country, without giving promise to uplift the great body of immigrants themselves. The overstocking of the labor markets has become a menace to many trade-unions, especially those of the lesser skilled workers. Little or no benefit can possibly accrue to an increasing proportion of the great numbers yet coming; they are unfitted to battle intelligently for their rights in this Republic, to whose present burdens they but add others still greater. The fate of the majority of the foreign wageworkers now here has served to demonstrate on the largest possible scale that immigration is no solution of the world-wide problem of poverty.

"*Resolved,* That we call on American trades-unionists to oppose emphatically the proposed scheme of Government distribution of immigrants, since it would be an obvious means of directly and cheaply furnishing strike breakers to the "combine" capitalists now seeking the destruction of the trades-unions.

"*Resolved,* That we condemn all forms of assisted immigration through charitable agencies or otherwise.

"*Resolved,* That we warn the poor of the earth against coming to America with false hopes; it is our duty to inform them that the economic situation in this country is changing with the same rapidity as the methods of industry and commerce.

"*Resolved,* That we call on the Government of the United States for a righteous relief of the wageworkers now in America. We desire that it should either (1) suspend immigration totally for a term of years, or (2) put into force such an illiteracy test as will exclude the ignorant and also impose such a head tax as be sufficient to send back all those who within a stated period should become public dependents."

Resolution.

Whereas it is estimated that the outflow of gold from this country to Europe, due to the present system of immigration, amounted in the year 1909 to $357,000,000; and
Whereas it is admitted that this system is encouraged by the Governments of countries from which the hordes of emigrants are coming hither, for the very reason that the aliens send back to their friends and relatives abroad a large percentage of their earnings, which is in turn paid to foreign landlords as rents or to foreign Governments as taxes, thus indirectly bolstering Asiatic and European despotism

and fanatism at the expense of American resources while intensifying the struggle for existence among our own people, greatly lessening the opportunities for home building among us, tending mightily to race suicide by increasing the difficulties of raising children, lowering moral standards, weakening patriotic sentiment, and breeding contempt for American customs, laws, and traditions, and, in fine, driving plenty, peace, and innocence from our shores; and

Whereas alien corporations, and the outlaws and vampires who conduct the white-slave trade, are known to thrive by reason of the immigrant traffic, and to combine with "bosses" in industry and "bosses" in politics for the promotion of sordid and corrupt schemes that imperil both our industrial and political systems, exasperating labor, paralyzing capital, prostituting the ballot, assailing our courts of justice, nullifying good laws, imitating bad ones, and jeopardizing the existence of constitutional free government among us; and

Whereas information is at hand tending to show that our Representative in Congress is disposed to stifle all legislation in that body which is designed to remedy the manifold and crying evils here complained of, and that he has, to that extent, demonstrated his lack of diligence, probity, patriotism, and fidelity to his constituency; and

Whereas an election for Members of Congress is approaching, at which our own Representative must appeal again to the electors for their votes: Therefore be it

Resolved, 1. That we, the Immigration Restriction League, of Brooklyn, N. Y., representing many thousand voters, are sorely aggrieved by the failure of Congress to pass suitable laws for the restriction of immigration to the United States.

2. That we condemn as unfaithful, unwise, and undesirable any and every Member of Congress who has failed to urge the passage of such laws.

3. That we pledge our support at the coming election to candidates known to favor the speedy enactment of such laws, and demand that every candidate shall, before election day, publicly and distinctly announce his views and declare his purposes respecting such legislation, and that any candidate who neglects or refuses so to do will be regarded as hostile to our cause.

DR. JAMES L. ARMSTRONG, *President*.
THOS. W. CHRISTY, *Secretary*.

Adopted April 14, 1910.

[Editorial from recent issue of Gazette-Times, of Pittsburgh, Pa.]

The statement is made that there is a perceptible shortage in the supply of common labor in Pittsburgh and western Pennsylvania. For this class of workmen industrial and development concerns rely upon foreigners chiefly from Italy and Austria-Hungary. Tens of thousands of immigrants returned to Europe during the depression following the panic of 1907, and the influx latterly has not been as great as in previous years. Meantime Brazil and Argentina are proving more attractive because of the abnormal prosperity in those South American countries.

This is a state of affairs fortunately which Pennsylvania can bear with equanimity. There may be temporary inconvenience caused by inability to secure enough men, but in the long run matters will balance themselves. In any event by the proportion that immigration of this kind falls off will the process of assimilation and Americanization make headway. Naturally the employer, anxious to maintain production and keep pace with competitors, considers the incoming alien purely from his capacity to work—a unit in the great system of building and making. Society and the State, however, must estimate him from another angle, and that is as to his quality as a citizen. There is to-day in this State no more important, difficult, or far-reaching problem confronting the community than that of the proper education and civilization of these foreigners. It is of a great deal more consequence to the Commonwealth that they become moral, lawabiding, patriotic, sober, and thrifty than that mere production be kept up to the requirements of demand. Industrious they are, willing, competent, and tractable, but unless they are subject to stimulating and elevating influences and are taught to have a better regard for American laws and customs their settlement in this country is neither for their good nor ours.

Court and police records bear terrible testimony to the price we are paying for immigration of this character, and there is every reason why Congress should so amend the statutes that it will be impossible longer to bring so many thousands of men whose presence is desirable only because they can be used as common labor. If there were less of such immigration to our shores, it is not improbable that there would be a revival of interest in America among the more intelligent Europeans.

Resolution adopted at a public meeting held in New York City, May 17, 1912, urging the passage by the House of Representatives of the Dillingham Immigration bill (S. 3175).

Whereas a meeting recently held at Cooper Union, presided over by a former Congressman, once a member of the Immigration Commission and now attorney for the Navigazione Generale Italiana and other foreign steamship lines, at which a resolution was adopted in opposition to the Dillingham immigration bill, which contains legislation recommended by the Immigration Commission and which passed the Senate April 19, after three months' consideration and many days' debate; and

Whereas that meeting was called and addressed by agents of the steamship companies, padrones, and others peculiarly and pecuniarily interested, directly or indirectly, in the free importation of cheap labor and the unrestricted immigration of undesirables; and

Whereas that meeting did not represent the sentiment or the voting citizenship of the city; and

Whereas the financial and other burdens of our existing inadequate immigration laws are shown by the statement of Gov. Dix and other State officials that unrestricted immigration is costing the taxpayers of New York over $8,000,000 a year for the care of dependents and defectives, and by the present investigation, and were pointed out by the congressional Immigration Commission after its five years' thorough investigation, which reported in 42 volumes that our existing laws are "weak and ineffectual," recommended "substantial restriction" as "demanded by economic, social, and moral considerations," and found the "reading and writing test" to be one of the "most feasible methods" for excluding undesirable immigration: Therefore be it

Resolved, That this meeting urges upon the House of Representatives the immediate passage of the Dillingham, or Immigration Commission, bill (S. 3175) in order to put this country on a par with other new countries, such as Canada and Australia; and be it further

Resolved, That the secretary of this meeting send a copy of this resolution to the President, the Vice President, Senator H. C. LODGE, and each Member of the House at Washington, D. C.

JOSIAH C. PUMPELLY, *Chairman*,
255 West One hundred and eighth Street.
G. C. KINNEY, *Secretary*,
815 West One hundred and seventy-ninth Street.

[Extract from article entitled "Protect the workman," by John Mitchell, The Outlook, August, 1911.]

The American workman recognizes the necessity of reasonable restrictions upon the admission of future immigrants; he realizes that his own welfare depends upon being able to work and to live in harmony and fellowship with those who have been admitted and are now a part of our industrial and social life.

The American wage earner, be he native or immigrant, entertains no prejudice against his fellow from other lands; but, as self-preservation is the first law of nature, our workmen believe and contend that their labor should be protected against the competition of an indeed immigration comprised largely of men whose standards and ideals are lower than our own. The demand for the exclusion of Asiatics, especially the Chinese and the Hindus, is based solely upon the fact that as a race their standard of living is extremely low and their assimilation by Americans impossible. The American wage earner is not an advocate of the principle of indiscriminate exclusion which finds favor in some quarters, and he is not likely to become an advocate of such a policy unless he is driven to this extreme as a matter of self-preservation. He fails, however, to see the consistency of a legislative protective policy which does not, at the same time that it protects industry, give equal protection to American labor. If the products of our mills and factories are to be protected by a tariff on articles manufactured abroad, then, by the same token, labor should be protected against an unreasonable competition from a stimulated and excessive immigration. * * *

If we are going to regulate immigration at all, we should prescribe by law definite conditions, the application of which would result in securing only those immigrants whose standards and ideals compare favorably with our own. To that end wage earners believe—

First. That, in addition to the restrictions imposed by the laws at present in force, the head tax of $4 now collected should be increased to $10.

Second. That each immigrant, unless he be a political refugee, should bring with him not less than $25, in addition to the amount required to pay transportation to the point where he expects to find employment.

Third. That immigrants between the ages of 14 and 50 years should be able to read a section of the Constitution of the United States, either in our language, in their own language, or in the language of the country from which they come.

[From the New York Sun, Mar. 28, 1912, Evening Edition.]

A COMING ISSUE.

In more ways than one the present and the near future seem likely to offer years of unusual test for the Republic in which we live. A desire to experiment with the iridescent toy of pure democracy has already disturbed the workings of representative government in various parts of the country. And impatience with courts and constitutions may well cause graver confusion. The actual evil from such experiments may not be great, and we try at pure democracy contains a fresh demonstration of the futility of such reversion to primitive methods in a modern state. Nor have we any patience with those gloomy dyspeptics who consider that American political sense has gone to the dogs. It hasn't—and it is a pleasure to observe it attacking the new problems at once with zest and patience.

But America is one thing, and America overlaid or interlarded with large slices of the most ignorant and unreliable portions of Europe is another. And the indeterminate factor in the coming years—the coming issue—is the question of how much further we can permit free, unsifted immigration. Our current immigration both raises the most serious problems now forming for governmental consideration, and also, by lowering the intelligence of the electorate, furnishes the gravest hindrance to their solution. The sudden eruption of the gaunt figure of syndicalism in our labor troubles is the most ominous sign of the times. We have had our strikes aplenty in the past. But the first considerable development of an actually revolutionary spirit comes to-day—and comes, as lately at Lawrence and now at Paterson, among the unAmerican immigrants from southern Europe.

The question is not one to be settled in a day or in a year. We shall doubtless have it with us for a long while to come. But we think the time is ripe for a very serious debate upon the problem, and actually for a beginning of restrictive measures. The first brute need for hands to lay open an unexplored continent has unquestionably passed. Such need as remains must be balanced against the paramount need for minds to govern a highly developed nation.

Fortunately, the whole subject has been most thoroughly examined in recent years and the facts are before the Nation. The recent congressional investigation resulted in a plentiful array of statistics, and especially in a single volume, The Immigration Problem, prepared by Prof. Jenks and Prof. Lauck, who aided in the study. Much of their interesting report was stated to the Senate recently by Senator SIMMONS, of North Carolina. The question is before that body in connection with a bill codifying the immigration laws. A provision for an educational test was cut out in committee, but has been offered as an amendment by the Senator from North Carolina. To quote the conclusion of his argument:

"In nearly every State we are expending annually enormous sums of money to educate the boys and the girls who are to be the citizens of the future, who are to control the destiny of this country and its institutions. In many States there are compulsory attendance laws. The taxpayers are assuming this great financial burden; they are insisting upon this higher degree of education for our boys and girls because they appreciate and thoroughly understand the fact that in an enlightened democracy such as ours, a country where we have sovereignty citizenship, the safety of our institutions, nay, the perpetuity of those institutions, depends upon the measure of intelligence of its people.

"Here, sir, we are spending annually upon our boys hundreds of millions of dollars to fit them for citizenship, because we know that that better fits them for participation in a Government like ours. Yet, Mr. President, in the face of this fact, in the face of this large expenditure of money for this purpose, when the Nation as a whole comes to act we open the doors and admit every year to our citizenship between 200,000 and 300,000 of as densely ignorant and illiterate peoples as live under God's sun. Why should we do this? Is it not a contradiction in policy? Is it not inconsistent with our whole educational history, especially of the last 25 or 30 years?"

The facts which he quoted to support his view are familiar enough. The change in the character of immigration in the last 25 years is notorious. Of the total immigration prior to 1883, 95 per cent came from England, Ireland, Scotland, Wales, Belgium, Denmark, France, Germany, the Netherlands, Norway, Sweden, and Switzerland. From 1883 to 1907, 81 per cent came from Austria-Hungary, Bulgaria, Greece, Italy, Montenegro, Poland, Portugal, Roumania, Russia, Servia, Spain, Syria, and Turkey. This latter stream is one-half illiterate; more than a third does not settle here, but returns to its source, and the rest largely lives to itself and resists assimilation. All of which facts are admirably illustrated, for example, in the racial condition existing in Lawrence, Mass.

Whether the literacy test is a sound method of restriction is a moot question. Nine out of the ten members of the congressional investigating committee agreed upon it as the best practical means, though frankly admitting its shortcomings. Possibly such a test, if supplemented by other restrictions, might meet the needs of the situation. But the point we would make is that the time has come when some restrictive plan must be devised and applied. The question admits of no division between capitalist and laborer. It has passed beyond the range of purely economic discussion and entered a field wherein all Americans must unite to grapple with a serious threat against the solidarity of the Nation. We trust neither Congress nor the people will find a presidential election too engrossing to permit the immediate consideration of this pressing issue.

[From the New York Tribune, July 15, 1912.]

FORESEES ALIEN PERIL—BRITISH CONSUL GENERAL WRITES ABOUT IMMIGRATION PROBLEM—SWARMS OF ILLITERATES—MR. BENNETT EXPRESSES FEAR OF LESSENING OF ANGLO-SAXON SUPREMACY IN AMERICA.

In his annual report to the British Parliament, Courtenay Walter Bennett, British consul general at New York, expresses a vague fear that the enormous influx of immigrants, with different ideas of law, liberty, and justice than those who founded the country, may lead to serious trouble in the future. He intimated that the outlook indicated a lessening of Anglo-Saxon supremacy.

The report, which consists of 50 printed pages, covers a wide range of topics, from the usual trade reports to a study of social and economic conditions of the country.

The future Manhattan Island, in the opinion of Consul General Bennett, will be a city of towering skyscrapers, with rents so high that the average business house will be forced to seek quarters outside of Manhattan Island.

He also points out that New York City is losing its supremacy as the money center of the United States, which is due, he declares, to the increase of wealth in other parts of the Union. The basis for this conclusion he found in the bank clearances during the years 1905-1911, which show that New York in 1911 had only 58 per cent of the entire bank clearances of the United States as opposed to 65 in 1905.

Speaking of the influx of immigration, Mr. Bennett said:

"The new immigration is illiterate in the proportion of 35.6 per cent compared with 2.7 per cent of the old. It acquires English very slowly, if at all—while races of the old immigration either spoke English to begin with or a tongue so allied to English that its acquisition was easy. It is very largely a male immigration, whereas the old was an immigration of families; it is nomadic, where the old was settled; it is comparatively segregated; finally, it is not an immigration at all in the sense that the old was, but an advancing and receding flood."

MANY GO HOME TO STAY.

Elaborating on this, he points out that one-third of all the immigrants now coming to this country return to their native lands, and of this number two-thirds remain there.

After reviewing the cosmopolitanism and heterogeneity of New York's population, Mr. Bennett says:

"In many quarters the belief is held that the gates of immigration have been opened too widely and that the enormous influx of people with different ideas of law and liberty and justice may lead to serious trouble in the future. Whether the mass of new immigrants will be absorbed in the old and eventually turned into valuable American citizens or whether the original ethnic elements, pressed upon on the one side by the colored population, which is increasing rapidly in numbers and is to-day estimated at over 10,000,000, and on the other side by the mass of new immigrants, much of which is not Christian in belief, will be modified, subdivided, or drowned in the flood of foreigners, and thus rendered impotent to exercise its proper influence, are questions which occasion present anxiety, but which can only be answered in the unknown future."

Continuing, Mr. Bennett dwells on labor conditions generally, and observes:

"It is also perhaps desirable to point out that labor conditions in the States are approaching conditions found in Europe more rapidly than is generally thought. The labor market is overstocked; unemployment, especially among the unskilled laborers, is very prevalent, while competition for a vacant berth is as keen in New York as it is in London."

TELLS OF SKYSCRAPER PROBLEM.

The skyscraper problem Mr. Bennett describes in part:

"It appears to be the wish of everybody to have their offices or places of business as near to Wall Street or the docks as possible. This wish naturally sent up the rents, the land became more valuable, and at the same time the landlords wished to make as much profit as possible from their landed property. The space available for building being limited, and only sufficient to accommodate hundreds, it was found necessary to devise a scheme for making it suitable for thousands. In London a somewhat similar difficulty was experienced, and the tendency was met by building story after story beneath the level of the street. In New York the architects built upward story upon story up to 52 stories in the newest buildings, and the age of the skyscraper arrived. Land, therefore, which under normal circumstances could only give homes or office room to, say, 200 or 300, now gives room for 10,000, or even 14,000. The extra cost in building is more than covered by the increased rents asked and obtained.

"To-day, forming, as they do, a sort of vacuum into which hundreds of thousands of human beings are being projected every day at about the same hour, and from which they are ejected every evening, also in crowds, the skyscraper has paralyzed all efforts to relieve traffic congestion in New York.

"New roads, ferries, railways, subways, and elevated tracks have been made, but as fast as they are completed the growing traffic overtakes their carrying powers, and the congestion remains as bad as ever it did.

"The day apparently must come, and before many years are past, when the skyscrapers have brought the city to an impasse, when millions will be working where thousands were intended to work, where rents have risen to such a figure that they can not profitably be made, and when people will begin to find it necessary to carry on their business more cheaply in places situated not on Manhattan Island."

ATTITUDE OF NATIONAL GRANGE.

Resolution adopted at the national session, 1912.

Whereas the Senate has passed an excellent bill, S. 3175, containing the legislation recently recommended by a congressional investigating commission as necessary to exclude undesirable immigration, and the House leaders have announced that the measure will be considered "the first thing in December"; and

Whereas we have recommended that the head tax be increased, the illiteracy test be enacted, the foreign steamships be fined for bringing undesirables, and that other judicious measures be adopted by the Congress of the United States: Therefore be it

Resolved by the National Grange in forty-sixth annual session, That we urge this needed legislation.

[From the Outlook, Sept. 14, 1912.]

ATTITUDE OF THE RAILROAD BROTHERHOODS—THE LITERACY TEST FOR IMMIGRANTS.

May I have the honor of your columns to say a few words in regard to the immigration question discussed editorially and by correspondence in your issue of June 22?

All labor leaders are agreed, so far as I know, and my acquaintance is extensive, that some substantial curb ought to be placed at once on the present enormous influx and efflux of foreign labor. And while I know of no official identified with any of the various labor organizations of the country who would take exception to your statement that the literacy test "would be inadequate to protect this country from (all) undesirable immigrants," I feel certain that practically all of them would be inclined to dissent from your other statement that it would not help "secure those that are desirable."

There is absolutely no question about the Immigration Commission's finding that there is an "oversupply of unskilled labor in this country," which affects indirectly, but none the less deleteriously, wages and conditions of employment in the skilled trades. For years our organizations have recognized with increasing conviction the need of just such legislation as that recommended by the commission, and have gone on record at our conventions and before congressional committees as favoring it, and particularly the reading and writing test, because we find that those who can not read or write are the ones at Lawrence in textile industries, at Bethlehem in the steel mills, and even at work in the railway construction camps, as pointed out by the Immigration Commission, that are the easiest induced to come here, to be hoodwinked into coming, to be worked at lower wages and longer hours, and that they are the ones who render conditions less safe and less sanitary and who are used by the labor exchanges, the large employers of cheap labor, and the like to prevent an improvement of conditions commensurate with inventions and changing needs, an increase in wages to keep pace with the increased cost of living, etc.

The commission emphasizes the fact, I believe, that the illiterate, as one would expect, are the most difficult to organize into a law-abiding union and the easiest to become the tools of violent agitators, such as have made their appearance recently during labor troubles at Lawrence and other places.

With your statement that transient workers coming to go back with their parsimonious hoardings, unaccompanied by their families, should be excluded, and that a limit should be placed upon the number coming, I believe all students of labor conditions agree and at least 80 per cent of the thinking public. A large number, considerably over half, I believe, would be in favor of going further for a specified time, in order to allow the forces of assimilation to relieve the situation. But the rub comes as to the tests to accomplish this purpose. The Republican Party had declared for the illiteracy test in specified terms, and a general declaration of the Democratic Party has been interpreted on the stump in a campaign or two to mean the same identical thing.

In your editorial you advocate an increased head tax, the requirement of some money in the pocket, which is law in Canada, among other restrictive provisions and orders that make our weak laws look ridiculous, a character certificate, and the limitation of numbers coming per annum. But would any one or all of these "secure those that are desirable" and keep out those that are "undesirable"? Would not any test, as a matter of fact, in academic argument, keep out some possibly desirable person? And could not even our present feeble laws, excluding merely a few of the undeniably undesirable and objectionable, be said to do this? Do they not keep out desirable immigrants, even though the law is enforced very liberally and generously and charitably? In my experience I know of no piece of legislation that has not had brought against its enactment the charge that it would do some hardship, and nowadays we hear much said about the administration of the laws by the courts being a "reproach to civilization." But is that any reason for abolishing, as the nihilist and anarchist would, all government? Or for the owner of a barn, using the same reasoning, burning it to destroy the rats?

To us who make a specialty of studying, exclusively almost, the needs of labor and labor problems, the illiteracy test seems, as it did to the Immigration Commission, "the most feasible" for starting the proper regulation and control of immigration, because it would, as pointed out by the commission, work the least possible harm and do the greatest possible good of any of the tests considered, and by so recommending it they, as I understand, did not preclude the enactment of additional and other tests, and did not mean to recommend it as a substitute for other existing as well as proposed legislation, such as you mention.

H. E. WILLS,
National Joint Legislative Representative,
Order of Railway Conductors, Brotherhood of Railway Trainmen, and Brotherhood of Locomotive Engineers.

[Views of Senator ELIHU ROOT. Extract from speech delivered in United States Senate April 19, 1912.]

Mr. President, I am opposed to the amendment striking out the illiteracy clause. I believe the time has come when it will be for the benefit of the people of the United States, including all the millions of immigrants who have come into this country in recent years, to put

into our immigration law a clause which will require the immigrants who are admitted here to pass the test of ability to read and write.

I intend to say but a very few words on the subject. I am not in favor of this proposition for the reason that it will tend to exclude criminals and anarchists. I do not suppose it is intended for that purpose at all, and the fact that it will not accomplish that purpose is no argument against the test. I am not in favor of the test of illiteracy because I think there are not many good people who would become useful citizens and who can not read and write at this time. It may well be that such a test will exclude a good many people whom we should be glad to have here. But, Mr. President, the question is not whether this test will still leave it possible for some people to come in who ought to come in, or whether it will keep out certain people whom it would be well to keep out, but whether such a test will be beneficial to the people of the United States.

It seems clear to me that it will be beneficial as a whole. I think there is a general and well-founded feeling that we have been taking in immigrants from the Old World in recent years rather more rapidly than we have been assimilating them. They have been coming in rather more rapidly than they have been acquiring American habits of thought and the American spirit of government, and it could not well be otherwise in view of the fact that of the 9,555,000 immigrants who have come into this country during the 12 years following the War with Spain, 2,238,801 over 14 years of age were unable to read and write, with the result that we have many great communities composed of people gathered together unable to speak the English language, unable to read the newspapers or the magazines or the books through the agency of which a knowledge of what is going on in the world and a knowledge of the principles of our Government may be communicated to our people.

These communities of foreigners, speaking a foreign tongue, with foreign habits and thoughts, cut off by inability to read from the great body of the people of America, cut off from our ideas, from our thoughts, our sentiments, our feelings, our purposes by their own ignorance, are encysted in the body politic of America and the body social of America and are not a part, in fact, of the organized community which we call the United States.

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Mr. President, there are two special considerations that I wish to lay before the Senate in its dealing with the question whether it is desirable for us to impose this limit. One is that the coming of great numbers of these people who are wholly illiterate and who have to take, of course, the lowest rate of wages, whose minds are not open to the ordinary opportunities for bettering their condition, does tend to break down the American standard of wages, and to compel American workmen, whether they be born here or be a part of the 9,000,000 who have come in since the War with Spain, to compete with a standard of wages and a standard of living that they ought not to be required to compete with.

Now, that is the reason why within a comparatively recent time the workingmen of the country who formerly were moved by sympathy with the friends they had left behind them on the other side of the ocean have now come to feel that it is essential that something be done, so that this bringing in and planting on our soil the pauper labor of Europe may be checked, and why they are asking for this legislation.

I do not see, sir, how any one upon either side of this Chamber can square his conduct with his professions of a desire to promote the welfare, to improve the conditions, to contribute to the happiness of men who work with their hands in this country and refuse to check this influx of ignorant labor to compete with our workingmen and reduce them to a standard of living below that which they have at present.

There is one other consideration which seems to me of very serious importance. We do not have to wait now, sir, for men to be naturalized and accorded the suffrage before they can exercise a potent influence upon the most vital concerns of the whole people. It is only a few weeks since we have seen Great Britain face to face with a paralysis of industry, with imminent danger of famine, with a condition which had thrown out of employment more than 2,000,000 of the working people who themselves were not on strike, but who were thrown out of employment because the coal supply to keep going the industries in which they worked had failed. That situation was brought about by a vote of the miners of coal.

But a few years ago, sir, we ourselves were confronted with a situation—not so widespread and not so imminent in its danger, but serious enough—when the coal miners of Pennsylvania stopped absolutely the supply of anthracite coal for the country. That stoppage of that great supply necessary to the comfort, necessary to keep going the furnace fire and the kitchen fire, to keep going the manufactories which employed labor, to keep going the wages of labor, was brought about by a vote of the miners in the anthracite regions of Pennsylvania.

Mr. President, I do not in the remotest degree touch upon the question of right or wrong, wisdom or unwisdom, expediency or inexpediency of such a vote. At times it may be justified; at times it may not. It even may be a close and doubtful question as to whether the men who mine the coal or the men who work in any other of the great basic industries upon which our great structure of production and commerce is built up should vote to stop.

Surely, sir, it is of vital importance to the people of the United States that the men who are to consider that question, the men who are to vote whether they will go on to furnish or will cease to furnish the supplies necessary to the continuance of our industries at large, to the continuance of the supply of the necessities and comforts of life—merely it is of vital importance to us that the men who are to cast that vote shall be men instructed, men who are able to read, men who are able to get into touch with the sentiments of American life, with the principles of American institutions. Yet we find by the report of the Immigration Commission that it is into those basic industries upon which all our industries depend that these new arrivals from southeastern Europe are. They go to the point where ignorant, uninstructed action may do the greatest damage, to the point where instructed and wise action is of the greatest consequence. Here is what the commission says:

"A large proportion of the southern and eastern European immigration of the past 25 years has entered the manufacturing and mining industries of the Eastern and Middle Western States, mostly in the capacity of unskilled laborers. There is no basic industry in which they are not largely represented, and in many cases they compose more than 50 per cent of the total number of persons employed in such industries."

And to-morrow, sir, the question whether the workers in our mills shall continue to have employment, the question whether our furnace fires shall continue alive, whether the ordinary necessities of life shall be cut off, is liable to be determined by the vote of the miners, more than 50 per cent of whom, according to this report, may be unable to read and write.

I have read the statement from the report of the commission. The commission says:

"There is no basic industry in which they are not largely represented"—

That is, these unskilled laborers from southeastern Europe—"in which they are not largely represented, and in many cases they compose more than 50 per cent of the total number of persons employed in such industries."

I do not think it is a fact that a majority of the miners in any part of the country are illiterate, but I say that unless we put some check on this immigration we are feeding into the body of men who are engaged in these basic industries, the continuance of which is necessary for all other industries, a continual stream of men whose minds are closed to the principles and the sentiments of our American institutions and our American civilization. I think that this consideration is powerful in its persuasion toward the adoption of such a test as it is now proposed to strike out from the bill.

THE UNION LEAGUE CLUB OF NEW YORK CITY INDORSES THE ILLITERACY TEST.

Whereas the Republican Party has declared in its national platforms of 1896 and 1900 that, in the interest of the American workingman, it favors a more effective restriction of cheap labor from foreign lands; and

Whereas many of the immigrants now landing in this country are of a less desirable class than those of former years; and

Whereas the coming of great numbers of such class tends, by the changing of standards of living and the lowering of public ideals, to undermine our national institutions: Now therefore be it

Resolved by the Union League Club of New York City, That we heartily indorse the attitude of the present national administration and of the present commissioner of immigration of the port of New York, as manifested in the more efficient enforcement of existing laws.

Resolved, That we demand in every port of entry in the United States a strict enforcement of that provision of the present law which excludes "all persons who are found to be and are certified by the examining surgeon as being mentally and physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living."

Resolved, That we favor such amendments to the present law as will authorize the deportation of any immigrant who becomes a public charge for any cause within one year of landing, and as will permit the deportation within one year after landing of such persons as were, in fact, at time of landing, paupers, or likely to become public charges, even though such disability was not detected at the time of said landing.

Resolved, That we urge upon Congress the enactment of laws which will secure the selection of a better class of immigrants by the exclusion of such adult aliens as are unable to read a language or dialect and of such as have not in their possession sufficient money to assure their support while seeking employment; and be it further

Resolved, That copies of these resolutions be forwarded to the President of the United States, the Secretary of Commerce and Labor, the Speaker of the National House of Representatives, and to each of the Senators and Representatives in Congress of the State of New York.

[House hearings, Immigration Committee, 1910, p. 69.]

THE ILLITERACY TEST WOULD KEEP OUT ALIEN CRIMINALS.

Mr. PATTEN. The illiteracy test is not proposed as a means of excluding criminals, it is not offered as a substitute for existing laws debarring criminals, but as an additional selective and restrictive measure, and on the ground that, for an enlightened democracy such as we have, on the average, the man who can read and write is more likely to be better fitted for American citizenship than the one who can not. If the steamships can not bring illiterates they will bring literates. Of course an elementary—even a high school—education is no absolute guaranty against rascality. The test is proposed merely as another means of sifting out the more unassimilative aliens. It would seem, as Commissioner General Sargent argued, that the man who can read, write, and figure must necessarily be better equipped for the struggle for existence—better prepared for American citizenship, and more likely to take up with our standards and ideals, else our whole public-school system is wrong. There are, of course, individual cases of illiterate persons making excellent citizens, but statistics show, as one would expect, that it is the illiterate who generally has criminal propensities, is averse to country life, settles down in the crowded quarters, takes no permanent interest in the country, lacks a knowledge of a trade, has lower standards of life, a less ambition to seek a better——

Mr. KÜSTERMANN. He may not have had any chance to learn.

Mr. PATTEN. That is true; but the public-school system, the forms of government, and other institutions are reflections of capacities, characteristics, etc., of people. The late Commissioner General of Immigration, Mr. Frank P. Sargent, in one of his annual reports, expressed a decidedly contrary opinion, and argued that a rudimentary education certainly could not be a handicap in the struggle for existence, and the inference I drew from his statements was that it was decidedly desirable, and that our public-school system was all right.

[Part of memorial adopted by both branches of Vermont State Legislature and approved by the governor.]

VERMONT LEGISLATURE MEMORALIZES CONGRESS FOR ENACTMENT OF ILLITERACY TEST AND SENATE BILL 3175.

Whereas Congress, February 21, 1907, created an Immigration Commission composed of three Senators, three Members of the House of Representatives, and three persons appointed by the President, for the purpose of making a careful and searching investigation into the entire question of immigration both in this country and abroad, and after several years painstaking investigation at a cost of a million dollars, said commission has issued its exhaustive report of 40 volumes and urgently recommends the passage of a measure which will restrict the admission of those less likely to become desirable citizens; and

Whereas the commission, with a single dissenting opinion, recommends the reading and writing test as the one best calculated to restrict undesirable immigration; and

Whereas the Hon. WILLIAM P. DILLINGHAM, senior Senator from Vermont, as chairman of the Immigration Commission, introduced a bill containing the illiteracy test, and said bill has passed the Senate and is now pending before the House of Representatives under the title of the Dillingham-Burnett bill: Therefore

Resolved, That the congressional delegation from Vermont is urgently requested to advocate and aid in the passage of any immigration bill containing the illiteracy test.

[Extract from 1912 Annual Report of the United States Commissioner General, Hon. D. J. Keefe.]

COMMISSIONER GENERAL OF IMMIGRATION, HON. D. J. KEEFE, RECOMMENDS ILLITERACY TEST IN HIS ANNUAL REPORT FOR 1912.

While I have not heretofore opposed the insertion in the law of what has come to be known as the "illiteracy test," I have wish to expressed positive approval of it, preferring that what seemed to me to be the ideal test, viz, a very high and rigidly enforced rule with respect to moral, mental, and physical soundness of applying aliens should be inserted in the statute and given far-reaching effect by appropriate regulations. During the past two years my attention has been directed to numerous arguments, both favorable and unfavorable to the illiteracy test, and I have been so much impressed with those of the former character that gradually I have come to believe that the situation in the United States produced by immigration heretofore comparatively unrestricted (which situation has been described in previous reports of the bureau, as well as in the comprehensive report of the Immigration Commission recently published) demands that some method be adopted by which the influx of foreigners so unduly large as to be unhealthful may be so extensively reduced in actual numbers as materially to affect the existing purely economic phase of the proposition. It seems to have been shown quite clearly that this result would be accomplished by the illiteracy test. Of course, it is true that this is not the ideal method of sifting immigration so as to exclude none except altogether undesirable and admit none except altogether desirable aliens; that must be accomplished, if at all, by such tests as can be devised to apply to their moral, mental, and physical qualifications. But undoubtedly the illiteracy test would accomplish the immediately important purpose of materially reducing the volume of immigration and would principally reach aliens of a generally undesirable character.

An individual alien, although unable to read and write, might prove to be a valuable acquisition to the country; but when immigration is considered in larger proportions the case of this individual would sink into insignificance. Take, for instance, a thousand aliens who can not literate and compare them with a thousand who are illiterate. While individual exceptions to the rule, as already indicated, would undoubtedly be found, there can be little question that among the latter thousand there would be a great many more undesirable from the moral, mental, and physical standpoint than among the former thousand. Another consideration which impresses me with respect to the illiteracy test is the fact that as a rule the literate alien generally is better qualified than the illiterate to acquire a knowledge of and respect for our political and social institutions and may, therefore, be more readily assimilated. I believe, however, that if the illiteracy test should be adopted for the purpose of immediately effecting a material reduction in the volume of immigration the standard with respect to moral, mental, and physical qualifications should simultaneously be raised.

[Editorial from the Boston Evening Transcript, Nov. 16, 1912.]

SOUND VIEWS ON IMMIGRATION.

There has come to the Settler's desk a little pamphlet by Theodore Marburg, Esq., of Baltimore, which sets forth in a straightforward manner the menace of foreign immigration. So much sentimental sophistry is put out concerning this subject nowadays that it is a peculiar satisfaction to come upon a discussion that is thoroughly sane.

The reality of the immigration peril is patent to every unprejudiced observer of American life. Immigration of the quantity and the quality that has been coming to this country in recent years involves grave dangers. Regarded from an economic, a social, or a political viewpoint, its effects are bad. It causes economic disturbance, overcrowding the labor market, and depressing the wage rate. It multiplies, complicates, and aggravates the problems of social reform. It subjects American institutions to a severe strain and endangers the success of the democratic experiment.

The political danger is emphasized especially by Mr. Marburg: "We owe it to the world to continue to make this experiment successful. If shutting out immigrants seems unfair, it is unfair in a bigger way to permit the overcrowding which will place a strain upon our institutions. The advantages of slower growth will be manifold. The older the Government the deeper will it become rooted in the affections of the people. The slower the change of conditions we are compelled to meet, the greater will be the opportunity to accommodate ourselves to such change and to do it successfully. We have a right to exercise a choice not only in the character and health of the individuals we admit, but in the races we admit. It might be well to try, for a generation at least, the experiment of limiting the numbers of immigrants, declaring definitely how many we will receive from each of the European peoples, and giving a decided preference to the hardy northern blood. * * * What use is there in multiplying a population if you are going to subject vast numbers to a life in factory and mine? It is not by growth in numbers that the world is moved forward, but by growth in kind. Ever a higher type living under conditions of greater social justice, that is an aim worth striving for."

[Editorial from the New York Herald, Apr. 13, 1912.]

TROUBLE AHEAD.

We call attention in the news columns this morning to the flood of immigrants now pouring into the country through the port of New York. They are coming in larger numbers than ever before. In March 83,654, a record number for that month, passed inspection. So far in April 6,000 more have entered than for the first half of April last year. Some 3,000 a day, often more, have to be examined by the immigration inspectors. Almost needless to say, it is impossible to determine properly in the time that can be given each of them the fitness of any such number for entrance. At the very most 1,800 can be cared for with the quarters and the staff at the command of the commissioner of immigration.

Hence, a large number of most undesirable persons are being necessarily admitted. We pointed out in the Herald months ago, with the warning that immigration would probably be higher than ever this year, that at the present time nearly two-thirds of the inmates of the public insane asylums of the metropolitan district are of foreign birth. The ratio will be even higher after this. Insanity is only one of the undesirable qualities in such a heterogeneous mass. It may be fairly taken as an index of what can be confidently expected from our shortsighted policy.

This must stop. We need better immigration laws, but above all we need at once more inspectors to enforce our existing laws properly. We are laying up physical, mental, and moral trouble for our people. Who is to blame?

AN ELEMENTARY EDUCATION BETTER FITS FOR THE STRUGGLE FOR EXISTENCE AND FOR PARTICIPATION IN OUR PUBLIC AFFAIRS.

Senator F. M. SIMMONS, APRIL 12, 1912.
Washington, D. C.:

I see by the CONGRESSIONAL RECORD that you are to speak next Monday on your illiteracy-test amendment to the immigration bill (S. 3175) now pending before the Senate, and I beg to say that there are over 400,000 members of the above patriotic society that have been urging for several years with more and more emphasis the adoption of such a test for adult aliens.

The membership feels that there is quite too much illiteracy in the country already, and that we ought to require of our own, by means of compulsory school-attendance laws, that they be able to read and write—as well as of foreigners entering the country—on the ground that a rudimentary education better fits one for the struggle for life and for citizenship in this country.

JOHN H. NOYES,
National Legislative Committee, National Council,
Junior Order United American Mechanics.

[Extracts from an article by Samuel Gompers in the official publication of the American Federation of Labor, The American Federationist, of Jan., 1912.]

IMMIGRATION—UP TO CONGRESS.

(Resolution 77, passed at the annual convention held at Toronto, Ontario, Nov., 1909.)

Whereas the illiteracy test is the most practical means for restricting the present stimulated influx of cheap labor, whose competition is so ruinous to the workers already here, whether native or foreign; and

Whereas an increased head tax upon steamships is needed to provide better facilities, to more efficiently enforce our immigration laws, and to restrict immigration; and

Whereas the requirement of some visible means of support would enable immigrants to find profitable employment; and

Whereas the effect of the Federal bureau of distribution is to stimulate foreign immigration: Therefore be it

Resolved, By the American Federation of Labor in twenty-ninth annual convention assembled, That we demand the enactment of the illiteracy test, the money test, an increased head tax, and the abolition of the distribution bureau; and be it further

Resolved, That we favor heavily fining the foreign steamships for bringing debarable aliens where reasons for debarment could have been ascertained at the time of sale of ticket.

The final inning of the tug of war over immigration has now begun. In this contest tremendous forces are engaged. On the side of America are the upholders of two distinctive American sentiments, the maintenance of the American standard of living for our wageworking classes and the maintenance of American institutions as they are, unimpaired through the financial degradation of the working classes. On the pro-immigration side is the powerful immigration machine, composed of the transocean combine, with all its thousands of agents and other innumerable parasites, the bankers, padrones, etc., who are coining money out of the millions of immigrants coming in the course of years into this country from Europe.

The center of this tug of war has at last shifted to Congress. No longer is the discussion indefinite, casual, or partisan or without an immediate object, conducted through the press and other insufficient agencies of information and debate. No longer, either, is it backed up merely by individual impressions or the partial investigations heretofore promoted by various private institutions. The Federal Government undertook four years ago the solution of the immigration question through scientific means. It set out to ascertain the undeniable facts and after three full years of research its commission has brought forward no less than 40 volumes on the subject, covering every possible phase. Its recommendations it has brought forward in concise form in a separate pamphlet.

A reading of these recommendations confirms the facts of the case as they have been accepted by the American Federation of Labor after the serious study its members had given the question for decades. The local, and then the international unions, and finally the annual conventions of the American Federation of Labor itself, have had immigration up for consideration as one of the principal labor topics on literally thousands of occasions. The membership as a whole, from upholding the sentiments the great majority once entertained, namely, that this country could go on indefinitely absorbing the entire possible stream of immigration, have reluctantly, in view of the facts, passed over to the sway of the sentiment that their own good heartedness toward the immigrant and the laborers of the Old World was being exploited by large employers for the purpose of reducing wages as well as by the steamship combine and its myriad of parasites for the sake of their own profits. At last the great body of the American industrial wageworkers have come to see one fact above others, which is that the immigrants are assimilated in America through the wageworking class. This means that the American-born wage earners and the foreign wage earners who have been here long enough to aspire to American standards are subjected to the ruinous competition of an unending stream of men freshly arriving from foreign lands who are accustomed to so low a grade of living that they can underbid the wage earners established in this country and still save money. Whole communities, in fact whole regions, have witnessed a rapid deterioration in the mode of living of their working classes consequent on the incoming of the swarms of lifelong poverty-stricken aliens. Entire industries have seen the percentage of newly arrived laborers rising until in certain regions few American men can at present be found among the unskilled.

By the commission's report it is shown that in many communities as high as 50 and even 70 per cent of the children in the public schools are the offspring of foreign fathers. This remarkable change in America, it must be kept in mind, is almost wholly in the wage-working class. It was recognized by our wageworkers in many parts of the country that this radical change in population was taking place, and hence delegates to the trade-union conventions began some years ago to give their testimony as to the need of restriction of the evidently assisted, or artificially promoted, immigration. Opposition to those who supported these views brought about a continual sifting and searching for the truth, as it affected trade-unionism and the general wage level.

At work in advance of the investigators of the Immigration Commission were the representatives of labor as most deeply interested investigators in the cause of labor. Not only in a general way, but most strikingly in certain occupations and in certain districts of the country, what had been brought home to trade-unionists as going on through immigration was the rapid change in the membership of the unions as well as in population. In no country on the face of the globe do such rapid transitions in industry and in population take place as in ours. Therefore, in time the general opinion among union men on immigration had come to be such as was expressed in the resolution passed at the Toronto convention.

Mr. GOLDFOGLE. I ask unanimous consent to print in the RECORD the pamphlet which I hold in my hand, prepared by Mr. Max J. Kohler, of New York City, one of the delegates on civil and religious rights of the Union of American Hebrew Congregations.

The SPEAKER. The gentleman from New York [Mr. GOLDFOGLE] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The document referred to is as follows:

PRESIDENT TAFT'S VIEWS ON IMMIGRATION.

[Extract from a speech delivered by the President at Cambridge Springs, Pa., on Saturday, Oct. 26, 1912, at the dedication of a Polish college.]

I can not close without some reference to the question of immigration and the attitude that ought to be taken by the lovers of our country. I am one of those who believe that America is greatly better in her present condition, and will have still greater advantage in the future, because of the infusion into our body, politic and social, of the sturdy peasantry and the better educated classes who have come to us from the nations of Europe. In the actual development of the country it would have been impossible for us to have done what has been done in the construction of railroads, in the development of our farms, and in the establishment of our industries, had we not had the strong arms and the steady heads of those who have come to us from continental Europe. Assuming that the foundation of our country and the original people here were from the islands of Great Britain and Ireland, and treating the foreign question as one now of immigration from continental Europe, I repeat that I do not share in the fear that our citizenship is ultimately likely to suffer by the coming from other continental countries for the purpose of permanent settlement of any of the peoples who are now coming. We have a right to have, and ought to have, immigration laws that shall prevent our having thrown upon us the undesirable members of other communities, like the criminals, imbeciles, the insane, and the permanently disabled, but we have a vast territory here not yet filled, in the development of which we need manual labor of a constant and persistent kind, and I think we have shown in the past, as we shall show in the future, that our system of education is sufficiently thorough and sufficiently attractive to those who come here that they of all others avail themselves of it with promptness and success. I have an abiding faith in the influence of our institutions upon all who come here, no matter how lacking in education they may be, if they have the sturdy enterprise to leave home and to come out to this country to seek their fortunes. It is not the uneducated who scoff at education—they value it. They sacrifice everything to enable their children to obtain that which they were denied. The second generation of a sturdy but uneducated peasantry, brought to this country and raised in an atmosphere of thrift and hard work, and forced by their parents into school to obtain an instrument for self-elevation, has always contributed to the strength of our people, and they will continue to do so. The difficulty that they do not speak our language makes the process of amalgamation slower perhaps, but it does not prevent it.

I am proud of our country that we have had its doors swinging easily open for the industrious peoples of other countries that have sought ours for greater happiness and quicker development, and he would be blind indeed who would deny that a substantial part of our progress is due to this policy of generosity toward those who are seeking the atmosphere of freedom and the land of equal opportunity.

PRESIDENT ELECT WILSON'S VIEWS ON IMMIGRATION.

28 WEST STATE STREET, TRENTON, N. J.,
October 21, 1912.

Dr. CYRUS ADLER, *Philadelphia, Pa.*

MY DEAR DR. ADLER: * * * I am in substantial agreement with you about the immigration policy which the country ought to observe. I think that this country can afford to use and ought to give opportunity to every man and woman of sound morals, sound mind, and sound body who comes in good faith to spend his or her energies in our life, and I should certainly be inclined, so far as I am concerned, to scrutinize very jealously any restrictions that would limit that principle in practice. * * *

Cordially and sincerely, yours, WOODROW WILSON.

THE INJUSTICE OF A LITERACY TEST FOR IMMIGRANTS.

The Dillingham bill (S. 3175), which has passed the Senate, and the Burnett bill (H. R. 22527), which has been reported to the House of Representatives, represent a radical departure from the historical policy of our Government respecting immigration legislation. These bills, if enacted into law, would for the first time restrict immigration, whereas heretofore all legislation has been regulative. The method resorted to for the restriction of immigration in both of these bills is that of a literacy test, which is the sole provision of the Burnett bill.

In addition the Dillingham bill contains many radical innovations. Principal among these are (1) section 3, which provides for the exclusion of all persons not eligible to naturalization; (2) section 18, which requires that all aliens admitted to the United States shall be provided with certificates of admission and identity; (3) the abolition of the time limit of three years within which persons may be deported; and (4) the consolidation of the general immigration statutes with the Chinese-exclusion laws. There are other minor changes from existing law which tend to render the admission of aliens difficult when not excluding them entirely.

In support of the adoption of legislation to restrict immigration its advocates base their arguments in the main upon the report of the Immigration Commission. This is a report in forty-odd volumes, published in a limited edition, and there has been no opportunity for the commission to properly digest the material collected by it.

With respect to the opportunity for properly weighing the material gathered by the commission, its own editorial adviser, Prof. H. Parker Willis, has stated (Survey, Jan. 7, 1911, p. 571):

"With so much actually collected in the way of detailed data, and with but scant time in which to summarize these data; lacking, moreover, a sufficient number of trained writers and statisticians to study the information acquired and to set it down with a due proportion of properly guarded inference, it is a fact that much of the commission's information is still undigested and is presented in a form which affords no more than a foundation for the work of future inquirers. Such inquirers ought immediately to take the data in hand before they become obsolete and while they still represent existing conditions with substantial accuracy. Pending the results of such inquiry, however, those who would judge what the Immigration Commission has done and would fain find there material in support of their own preconceived ideas should be careful. And those who wish simply to appraise the work of the commission, with a view to forming some well-founded conclusion as to its meaning and its merit, must confine themselves to very narrow limits. They must recognize that only in the broadest way can conclusions as yet be drawn from the masses of statistics and the very general textual treatment to be presented in the reports of the commission. The question may be raised whether the commission would not have done better had it limited the field work more narrowly, and increased the relative amount of expenditure devoted to 'overhead work' in the office. It did not do so, however, and the result has been, instead of a small and finished study, a large and uncompleted body of data."

Nevertheless, a majority of the Immigration Commission recommend the restriction of immigration and the adoption of the literacy test as the most feasible method of accomplishing this purpose.

The Dillingham bill provides for the exclusion of all aliens over 16 years of age who can not read and write the English or some other language, but permits an admissible alien to bring in or send for his wife, his children under 16 years of age, his parents or grandparents over 50 years of age, whether they can read and write or not. The test of an immigrant's ability to read and write is to be applied by requiring him to read and write 20 to 25 words of the Constitution of the United States.

The Burnett bill excludes all aliens over 16 years of age who are unable to read English or the language or dialect of some other country and permits an admissible alien to bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, his unmarried or widowed daughter, whether able to read or not.

It will be noted that the Dillingham bill requires reading and writing and admits only those children of an immigrant who are under 18 years of age, whereas the Burnett bill requires only reading and permits an immigrant to bring in or send for his daughters, irrespective of age, though sons over 16 years of age will be excluded, thus dividing a family.

Both the Burnett bill and the Dillingham bill would in practice exclude almost all those females unable to read and write over 16 years of age coming alone and who may desire to enter domestic service.

If the provision for the literacy test contained in the Dillingham bill requiring words from the Constitution of the United States to be read and written is enacted into law, it would in practice exclude a great many to whom the terms of the Constitution are unknown and for many of which there is no equivalent in their language. They would find it impossible to read the language of the Constitution, and on this account the percentage of exclusions would probably be double that estimated.

On the face of the statistics compiled by the Commissioner General of Immigration 26 per cent of all immigrants would be excluded by the literacy test, though in the case of some immigrants more than 50 per cent would be excluded.

The following table shows the percentages of aliens over 14 years of age who would be excluded by a literacy test:

Abstract of reports of Immigration Commission (Vol. I, p. 89). Number and percentage of immigrants admitted to the United States who were 14 years of age or over and who could neither read nor write during the fiscal years 1899 to 1910, inclusive, by race or people.

[Compiled from the reports of the Commissioner General of Immigration.]

Race or people.	Number 14 years of age or over admitted.	Persons 14 years of age or over who could neither read nor write.	
		Number.	Per cent.
African (black)	30,177	5,733	19.0
Armenian	23,822	5,624	23.0
Bohemian and Moravian	79,721	1,222	1.7
Bulgarian, Servian, and Montenegrin	95,596	39,803	41.7
Chinese	21,584	1,516	7.0
Croatian and Slovenian	320,977	115,785	36.1
Cuban	36,431	2,282	6.3
Dalmatian, Bosnian, and Herzegovinian	30,861	12,651	41.0
Dutch and Flemish	68,497	3,004	4.4
East Indian	5,724	2,703	47.2
English	347,458	3,647	1.0
Finnish	137,916	1,745	1.3
French	97,638	6,145	6.3
German	625,793	32,236	5.2
Greek	208,508	55,089	26.4
Hebrew	806,786	209,507	26.0
Irish	416,640	10,721	2.6
Italian (north)	339,201	38,897	11.5
Italian (south)	1,690,570	911,566	53.9
Japanese	146,172	35,956	24.6
Korean	7,259	2,763	38.1
Lithuanian	161,441	79,001	48.9
Magyar	507,082	35,001	11.4
Mexican	32,721	18,717	57.2
Pacific Islander	336	83	24.7
Polish	861,303	304,675	35.4
Portuguese	55,930	38,122	68.2

Abstract of reports of Immigration Commission, etc.—Continued.

Race or people.	Number 14 years of age or over admitted.	Persons 14 years of age or over who could neither read nor write.	
		Number.	Per cent.
Roumanian	80,839	28,266	35.0
Russian	77,479	29,777	38.4
Ruthenian (Russniak)	140,775	75,165	53.4
Scandinavian	530,634	2,221	.4
Scotch	115,788	767	.7
Slovak	342,583	82,216	24.0
Spanish	46,418	6,724	14.5
Spanish-American	9,008	547	6.1
Syrian	47,834	25,496	53.3
Turkish	12,670	7,336	59.5
Welsh	17,076	322	1.9
West Indian (except Cuban)	9,983	320	3.2
Other peoples	11,309	5,001	44.6
Not specified	67	5	7.5
Total	8,388,624	2,238,901	26.7

But these figures are based on the voluntary statements of the immigrants, and a literacy test would in practical application probably keep out a great many more than the figures above given would indicate, especially with the Constitution as the test, since they are probably underestimates rather than overestimates, and they do not make allowance for the nervousness of the immigrant at the time of examination. Instead of excluding only 2 per cent of the Jews, as stated on page 6 of Report No. 259, Sixty-second Congress, second session, House of Representatives, the above statistics show that 26 per cent of the Jews would be excluded.

Recent statistics of Jewish immigrants to Galveston give the following figures:

	Per cent.
Of 1,333 males:	
Can read Yiddish and Russian	53.89
Can read Yiddish only	.24
Can read Russian only	2.82
Can read Yiddish, Russian, and Hebrew	.71
Can not read any language	12.55
Of 220 females: Can not read any language	37.73

These are in the main the victims of Russian religious persecution, to whom the schools are closed on account of the faith they profess. The recent volume by Mary Antin, "The Promised Land," shows from her personal experience that to the Jews of Russia the United States typifies, above all else, the land where their children may have the benefits of education denied them by the Russian Government.

[Extract from an address by Hon. Charles Nagel, Secretary of Commerce and Labor, delivered on Jan. 18, 1911, at New York.]

I am on record as being unqualifiedly opposed to the illiteracy test. It is not a matter of sentiment. You may indulge sentiment in an individual case, but you can not indulge sentiment in governmental policy. You must know why you come to your conclusion. I think I know why I have come to mine. I care more for the sound body and the sound mind and the straight look out of the eye and the ability and the willingness to work as a test than for any other test that can be given.

I have been asked whether illiteracy stands in the way of assimilation. I say unqualifiedly, in my opinion it does not. On the contrary, to be entirely frank about it, I believe that the ability to read and write a foreign language, aided by your foreign press in this country, tends to perpetuate the spirit of colonization longer than it can be if a sound mind and body comes in without the ability to read and write and is forced of necessity to resort to our own language.

And on October 9, 1912, in a speech at Cooper Union, Secretary Nagel said:

"I am bound to admit that I can not support that law, broadly speaking. I believe it is intended as a piece of legislation for wholesale exclusion, and I don't believe in that kind of legislation. If you want to exclude certain nationalities, say so, and meet the issue squarely. I don't believe literacy is a fair test for the admission of an immigrant. I will say again what I said a year ago, that I care more for the sound body and the sound mind and the straight look out of the eye and the ability and willingness to work as a test than any other test that can be given."

[From the Annual Report of the Commissioner General of Immigration, 1909, p. 5.]

* * * It can not be stated as a hard and fast rule that the desirability of an alien is always to be measured by his ability to read and write.

[From the Annual Report of the Commissioner General of Immigration, 1910, p. 5.]

There may be some merit in the proposals to fix a "literacy test" and to increase the head tax; but, as was explained in last year's report, neither of these projects is likely to be as efficacious as their advocates think; for the first is not in the direction, necessarily, of raising the general standard and is not as practical as it looks on the surface, and the second, under the existing system of lending money or selling passage on credit, would to some extent increase opportunities for the exploitation of aliens, and bring many of the lowest element into the country in a more impoverished state than they now come.

[Extracts from the views of Mr. Bennet, of New York, and Mr. O'Connell, of Massachusetts, House of Representatives, Report No. 1956, part 2, Sixty-first Congress, third session.]

* * * The educational test * * * will keep out some able-bodied men and women of irreproachable moral character and filled with the desire to work, but who have not had early educational advantages; and will admit practically every foreign-born criminal who has misused early advantages, and also that small but dangerous class who come to this country with no intention of engaging in an honest occupation, but of maintaining themselves through the exploitation of their fellow-countrymen. Education is the principal means through which this class obtains the confidence of its victims.

We do not, however, principally oppose the literacy test because of its being a sham, nor entirely because it keeps out many who should be admitted and lets in some who should be debarred, but because the reasons given for restriction are slight and those for selection do not exist. It is true that the Immigration Commission reported that in some basic industries there was a surplus of labor, which indicated that there was an overplus of unskilled laborers in the industries of the country, but the commission unanimously recommended that so far as restriction was concerned it should be applied to unskilled laborers either single or coming here leaving their families behind them. The sole recommendation of the Immigration Commission in regard to the educational test was that it was the most feasible, from which we assume the majority meant that it was the easiest to secure, and even in this we think that that majority was in error. As to the character of the immigrants who have come to this country in the past 25 years, the Immigration Commission—nine men of differing views—reported unanimously that conviction for crime is no more common among the new immigrants than among the native born; that they are far less the victims of disease than any other class of immigrants of whom statistics have ever been kept; that they are rarely found among the victims of alcoholism; that pauperism is relatively at a minimum among them; that in the most congested blocks of cities having the largest foreign-born populations five-sixths of the homes of the foreign-born are well kept and two-fifths are immaculate—and this on the report of women investigators; that their children attend school in large numbers; and that such new immigrants are much more rarely found in the insane asylum than their predecessors.

While we concur in the evident opinion of the commissioner general that the literacy test would not be effective, there is no question about its effectiveness concerning one class, and that is the illiterate aliens who in prior years have been admitted to this country and who are not yet naturalized. In past years, when times have become hard in this country, the alien who had but recently arrived, who was an unmarried man, or who had a family in the country of his birth, went back at the first sign of economic distress, thus relieving this country of any question as to his support. The most recent and impressive example was had during the years of 1907 and 1908, and these returning aliens went cheerfully because they understood that when there was a demand again for labor in this country they could return.

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The moment the literacy test is enacted every alien in this country who can not comply with it, and who has the slightest desire to attach himself to our country, will be attached to this country by the fact that if he once goes out he can not certainly come in, for even the method of administration of the new test is uncertain. And, therefore, if another period of economic distress should come, we would not have the benefit of the economic relief which we had in the recent years through the emigration of those who were least competent to succeed. This would make any subsequent panic or business depression much more disastrous and the recovery much more slow.

* * * * * * * *

It has been our boast since the days of Roger Williams, Lord Baltimore, and William Penn that this country was the refuge for the oppressed. On that sentiment, in large part, has been built up our national idea of free America, and because of that sentiment we have attracted here the ambitions of every nation. The free and unrestricted immigration of the able-bodied has not injured our country in the past, but has helped it, and the maintenance of our shores as an asylum for the oppressed has made us an example for liberty everywhere and a continued menace to tyranny. We can not afford, after our emphatic success as exponents of liberty and freedom, to adopt at this time any measure based upon an avowal of our belief that lack of opportunity of any alien people has made them our inferiors, nor can we afford to close our doors to fugitives from oppression and injustice still unfortunately existing. The Russian-Jewish mothers who have seen their husbands and their children killed and maimed in the pogroms have just as much right in this country in the twentieth century as the Puritan and the Pilgrim had in the seventeenth. The Pole and the Finn who has seen his country enslaved have the same rights to come here to freedom and liberty as had William Penn and his Quakers.

The denationalized Roumanian Jew, proscribed because of race and religion in the country of his birth, has the moral right to enjoy our country's Constitution guaranteeing religious freedom. The family of the murdered Armenian Christian from Asia Minor can not be barred without a reversal of all our previous professions and practice, and the South Italian, coming to this country to escape the burden of medieval landlordism, puts his claim on exactly the same grounds as the Irish immigrant of the fifties. In the past the peoples coming to us because of similar reasons have risen among us to standing and success, and there is no reason to believe that those now coming will not do so also. The rigid bill, ordered to be reported, against which we protest, would bar out, irrespective of every other consideration, the people of any of the classes we have mentioned. * * *

[Extract from the views of Representatives Gustav Küstermann, ADOLPH J. SABATH, and HENRY M. GOLDFOGLE, presented to the House of Representatives on Jan. 28, 1911. House of Representatives, Sixty-first Congress, third session, Report No. 1956, part 2.]

The application of a literacy test would serve to exclude from admission some able-bodied men and women of good moral character, capable of self-support, and industriously inclined, but who owing to the unfortunate and in many instances deplorable conditions existing in their native lands have not had the advantage of education. In some of the countries from which many of the immigrants at which this bill is manifestly aimed come the opportunity of acquiring a knowledge of reading and writing is quite meager, while in some localities in those countries the opportunity for education is to such persons practically denied. And yet these people may be thoroughly honest, thrifty, and enterprising, industrious and self-supporting. When admitted to our shores, thousands and thousands of them avail themselves of the means of the popular and liberal school system almost everywhere afforded in the Union to get a rudimentary education, certainly at least sufficient to enable them to read and write.

In every large city—indeed in every city and almost every large town—men and women of foreign birth are to be found who, when they landed in this country could neither read nor write, have learned to do

so in the schools, either the day or night schools, or obtained their knowledge through private instruction or, as is frequently the case, by being taught by their own children. Hundreds of thousands of such persons have become good farmers and mechanics, storekeepers and tradesmen, and successful and prosperous business men in different lines of industry and have contributed to the general welfare of the communities in which they settled. Myriads of such persons have made desirable acquisitions and became, after they had availed themselves of the opportunities this country affords, desirable citizens.

The children of immigrant parents, whether born here or abroad, quickly acquire an education in our schools. They exhibit eagerness to learn. Statistics demonstrate and experience proves that these children have great aptitude for study and make rapid and, in fact, remarkable educational progress. Very large numbers of them graduate from the schools with honor, many of them go to high schools and colleges. Yet their parents, if illiterate when knocking at the doors of our country for admission, would have been turned away under an educational test such as the bill reported proposes. * * *

We can not but regard the bill as un-American. It is opposed to all the traditions of our country and subversive of the broad principles we have always professed in the past. Our national boast has been that this country was the refuge for the downtrodden and the oppressed, who when coming in a healthy bodily and mental condition and with law-abiding spirit should be permitted to enter our gateway and to receive the hospitable shelter of our land. That sentiment in very large part has built up our national idea of free Americanism. We attract through its means the ambitious from other nations. The immigration of the able-bodied and honestly inclined has heretofore contributed in a very large degree to the greatness and prosperity of this Republic.

The maintenance of our land as an asylum for the oppressed and those who are compelled to escape from scenes of tyranny and persecution has made us an example for true liberty everywhere. In the line of our traditions and of the principles that have guided us in the past, through means of which our country stands preeminent as the land of liberty and freedom and equal opportunity, we can not afford to close our doors to those who still unfortunately suffer from oppression existing in foreign lands merely because they can not read, although otherwise qualified for such admission under existing law.

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[Extract from the veto message of President Cleveland, Mar. 2, 1897.]

A radical departure from our national policy relating to immigration is here presented. Heretofore we have welcomed all who came to us from other lands, except those whose moral or physical condition or history threatened danger to our national welfare and safety. Relying upon the jealous watchfulness of our people to prevent injury to our political and social fabric, we have encouraged those coming from foreign countries to cast their lot with us and join in the development of our vast domain, securing in return a share in the blessings of American citizenship. A country's stupendous growth, largely due to the assimilation and thrift of millions of sturdy and patriotic adopted citizens, attests the success of this generous and free-handed policy which, while guarding the people's interests, exacts from our immigrants only physical and moral soundness and a willingness and ability to work.

A contemplation of the grand results of this policy can not fail to arouse a sentiment in its defense, for however it might have been regarded as an original proposition and viewed as an experiment, its accomplishments are such that if it is to be uprooted at this late day its disadvantages should be plainly apparent and the substitute adopted should be just and adequate, free from uncertainties, and guarded against difficult or oppressive administration.

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It is said, however, that the quality of recent immigration is undesirable. The time is quite within recent memory when the same thing was said of immigrants who, with their descendants, are now numbered among our best citizens.

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The best reason that could be given for this radical restriction of immigration is the necessity of protecting our population against degeneration and saving our national peace and quiet from imported turbulence and disorder.

I can not believe that we would be protected against these evils by limiting immigration to those who can read and write in any language 25 words of our Constitution. In my opinion it is infinitely more safe to admit a hundred thousand immigrants who, though unable to read and write, seek among us only a home and opportunity to work than to admit one of those unruly agitators and enemies of governmental control, who can not only read and write, but delights in arousing by inflammatory speech the illiterate and peacefully inclined to discontent and tumult. Violence and disorder do not originate with illiterate laborers. They are rather the victims of the educated agitator. The ability to read and write as required in this bill in and of itself affords, in my opinion, a misleading test of contented industry and supplies unsatisfactory evidence of desirable citizenship or a proper apprehension of the benefits of our institutions. If any particular element of our illiterate immigration is to be feared for other causes than illiteracy, these causes should be dealt with directly instead of making illiteracy the pretext for exclusion to the detriment of other illiterate immigrants against whom the real cause of complaint can not be alleged.

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[Extract from the remarks of Prof. Emily Greene Balch, Wellesley College, author of Our Slavic Fellow Citizens, at meeting of the American Economic Association, Washington, D. C., Dec. 29, 1911.]

I do not include the illiteracy test among the measures that I desire, because I believe that it would affect exclusion along a line that would cause great hardship and that is not coincident with desirability and undesirability from our point of view. The minor who can not read Ruthenian and whose son came over from Harvard recently to consult me about the social work that he wants to do among his people in Pennsylvania was better stuff and better fitted to prosper in America than the unsuccessful "intellectual proletariat" who come to America to recoup their failure at home. Of course I am citing an exceptional case, but I believe that it is a fact that most Americans have an entirely false conception of the real significance of peasant illiteracy, which need not connote a lack of either energy or intelligence. The advantage, too, when here, of the ability to read and write in a foreign language is vastly overrated and the barrier that it sets up to assimilation is quite overlooked.

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[Extract from the testimony of Miss Grace Abbott, director of the Immigrants' Protective League, Chicago, before the Committee on Immigration, House of Representatives, Jan. 11, 1912.]

I feel very strongly that it would be a great mistake to have a literacy test, because of the fact that there are many parts of Europe, notably in Galicia, and in parts of Russia and Hungary, as well as in southern Italy, where the possibility of getting an education is often extremely difficult. To exclude them would mean excluding a group of people who are eager to advance their position, who are willing to make great sacrifices in order to do it, but who happen to lack the ability to read and write. Great numbers of them supply that lack immediately upon coming here, and some come in order to supply it. The literacy test is no guaranty of character, and it seems to me its adoption would be a departure from American traditions which would not be beneficial to the American industrial situation.

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[Extract from the testimony of Herman Stump, former Commissioner General of Immigration, before the Industrial Commission. Report of the Industrial Commission, Vol. XV, p. 6.]

My idea of immigration is this: We have, in my mind, the most skillful and best laboring class in the world; I think American workingmen are superior to others. It may be in some of the finer arts, where it takes long to acquire the skill that is required, it is not so, but for the production of work, with our improved machinery, we can beat the world. We are also an educated people. We want our sons to become our clerks, accountants, and business men, and find employment on the higher walks and occupations. We must necessarily have a certain other class to do our manual work, not menial exactly, but work which is honorable but at the same time of a lower order, which requires no skill or education. We want laborers upon our roads, upon our railroads, to clean our sewers and streets, and everything of that kind, and when you look around I think you will find that Americans are getting beyond that. A young able-bodied man who comes from a foreign land to settle here, with energy and willingness to work, is an acquisition to the country, and while we do not want him to occupy the positions which education would enable him to occupy, we want him to occupy the positions where it does not matter much whether he knows his A B C's or the simple rule of three or anything else.

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[Extract from the testimony of Dr. Joseph H. Senner, former Commissioner of Immigration at the Port of New York, before the Industrial Commission. Report of the Industrial Commission, Vol. XV, p. 168.]

Based on my extended practical experience in charge of the paramount immigration station, I state that with the present number of inspection aides and of available registry clerks, an introduction of the Lodge bill would much more than double the time for examination, and thereby double the hardships of steerage passengers. Its practical effect would, therefore, in my opinion, come dangerously near to an annihilation of immigration from nations of higher grade.

In order to dispose right here of the Lodge bill, I wish to state that our opposition to the same is principally based on our conviction that the proper time for such an educational test is at the time of naturalization and not upon admission to the country. We further regard its application to women as not only generally unjust, but practically also as a severe aggravation to our much vexed servant-girl question. We believe that its introduction for immigrants stands in a rather curious contrast with the present policy of expansion and its consequence as to wholesale reception of illiterate, if not savage, coeltizens. And finally, as a protective measure for American workingmen, the Lodge bill would be simply a farce, because the skilled laborer, whose competition organized labor wishes to restrict, could at any time pass any such examination.

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[Extract from an editorial in New York Christian World, Mar. 18, 1911.]

Every year there are attempts to foist upon Congress bills to prevent immigration. Now it is one form of test now another. At present it is the so-called educational test that the perpetrators of these bills would insert in our immigration laws. As a matter of fact, there could hardly be a more deceptive test of real worth. The public-school system is not developed in many parts of Europe as it is here, or had not been until very recent years. Consequently many who have been coming here have not been what one might call scholars. Not always could they read and write. But these very ones have often been our best immigrants—strong, lusty, ambitious, good-natured, hard-working young men. The proposed educational test would shut out just these men who are tilling our farms, building our houses, laying our railroads and bridges, digging our coal from the earth. Many of them, under the stimulus of American surroundings, and since it is necessary, if they would have a share in the American Government, learn to read. The New York night schools are full of adults learning reading and other useful accomplishments. Their children learn with greatest avidity. The test of immigration should be health and morality. We can not afford to be the hospital for those Europe has made sick so long as Europe can afford to care for them, neither can we act as the penitentiary for her criminals; but apart from this we should welcome the immigrants freely, for they are our wealth.

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[Extract from a protest against the proposed new immigration law, presented to the President by a delegation of citizens of Philadelphia, after conference with Speaker CANNON and the Pennsylvania congressional delegation, June 23, 1906.]

It is submitted that an immigrant should not be denied admission to our country if he is morally, physically, and mentally sound; that inability to read is not a fair measure of a man's moral worth nor of his economic value nor of his mental capacity; in short, it is not a fitting test of a man's honesty nor of his capacity to work with his hands nor of his ability to learn. Experience proves that moral soundness—simple honesty—is independent of intellectual culture; many men are morally sound notwithstanding their ignorance, and many others are morally unsound in spite of their education.

The ability to read is not a fair measure of a man's economic value, because experience proves that a man's capacity to earn a living is not necessarily dependent on intellectual culture.

* * * * * * *

A man's inability to read is not a fair test of his intelligence nor of his ability to learn. Many men are so circumstanced as to be precluded from learning how to read. This occurs in some cases, as in that of the Jewish inhabitants of Russia and Roumania, through governmental measures enforced for that very purpose, or, as in the case of other subjects of those Governments and of some of the inhabitants of other European lands, through hindering causes of a sociological nature. Such privation, though preventing a man from learning life through literature, does not prevent him from learning through experience; on the contrary, it quite frequently enhances this latter capacity, as numerous instances prove. It is therefore in the highest degree unreasonable to

assume that a man's inability to read so strikingly impairs his value as a factor in the social economy that he must be completely debarred from taking part in it.

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[Extract from an article on "Adjustment—not restriction," by Miss Grace Abbott, director of the Immigrants' Protective League, Chicago, Survey, Jan. 7, 1911, p. 529.]

As for the literacy test, it is difficult to find anything to recommend it as the best means, or even as a good means, of selecting our future citizens. What we desire is a character test, and the ability to read and write has never been regarded as a means of determining honesty or thrift. It is not even a test of ambition, for the immigrants come without the meager educational equipment because they have been given no opportunity to attend school in the countries from which they come. There is nothing which is so much the result of conditions ever which the immigrant has no control as his ability to read and write and no deficiency which we are so well equipped to supply.

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[Views of Hon. J. HAMPTON MOORE, of Pennsylvania, House of Representatives, Report 1, 1956, part 2, Sixty-first Congress, third session, Jan. 28, 1911.]

I am opposed to restriction of immigration by the illiteracy test, because the enforcement of such a test would tend to exclude worthy but uneducated immigrants who are willing to work, and of whom we stand in need, and would admit unworthy, educated immigrants who will not work and of whom we already have more than we need. In my judgment the desirable immigrant is the law-abiding worker who comes to this country in good faith, and the undesirable immigrant is the clever and educated schemer who, immediately upon his arrival, begins to find fault with our institutions.

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[Extract from a speech of Hon. John C. Kelliher, of Massachusetts, in the House of Representatives.]

I would ask you to follow me in your mind's eye under the bed of Boston Harbor, where Yankee enterprise and energy have bored an immense tunnel with an opening of sufficient size to permit of a double-tracked roadbed that brings inestimable joy to the denizens of a great section of the city in the form of convenience and comfort in reaching their homes from the business locality of the city. Could this work have been done as economically and with the dispatch that characterizes it if countless sons of sunny Italy had not been at hand? Go with me also into the subway we are now building in Boston, which will be a boon to all the people of that congested city. Toiling like beavers in a cut, the arch of which is scarcely 15 feet under the foundation of a 12-story building, can be seen by night and day myriad Italians toiling with no apparent thought of the great danger that ever hovers over this hazardous enterprise. It is safe to say that if a knowledge of the art of reading were the test demanded, rather than a sound body and willingness to swing a pick, there would be scarcely a mother's son of them engaged upon that great public project. Now, with what class of labor do these Italians interfere? The Irishman of to-day won't go into the trench unless it is to act as a boss; the German can not be induced to grasp a pick; the native American's physical make-up would bar him if he did not consider such menial labor beneath him; the Scandinavian finds ample demand for his service in more congenial branches; the Englishman answers the call of the mill proprietor, and the Scotchman goes with him.

If you shut the door to the dark-skinned son of Italy, where will we go to get the commodity which to us is an essential? The second generation, the son of the trench-digging Italian, won't follow his father's footsteps in those ditches. He goes to school, absorbs book-learning quickly, and becomes imbued with a laudable ambition to better himself, and he does. You could no more coax him to wield a pick or handle a shovel than you could a Sioux Indian to imbibe water as a social beverage if whisky were available. This being so, if you bar out the Italian, Pole, and Hungarian, from whence are we to recruit our trench diggers?

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[Extract from a speech of Hon. Bourke Cockran, of New York, in the House of Representatives.]

We who oppose the educational test believe the man who works with his hands, who is trained to efficiency in labor, is the desirable immigrant. The test that we wish to impose is one that will establish his ability and his willingness to work. * * * There is not a vicious man in any community outside of the poorhouse that is not more or less educated. He can not live by his wits rather than by his hands unless those wits are trained to some extent. Any unlettered immigrant shows that he must have virtuous instincts by the very fact that he comes here, for he can have no other purpose than to support life by his toil. I believe that it is more important that the applicant for admission to these shores should be made to show by the calloused palms of his hands that he is accustomed to work than to show glibness of tongue in meeting a literary test.

Mr. Chairman, let us consider in the light of ordinary experience what must happen to the man who comes here with nothing except the capacity to work. He must work to live, and he must work hard all day. No man who spends all the hours of the day in work can be vicious. Even if he had vicious propensities, he would have no time to indulge them. How can any man work from morning until night, increasing the production of the soil, and be other than a valuable citizen? The man who comes here where no mode of living is possible to him except by the work of his hands gives a bond to society that his life, if it be supported at all, must be spent in actively serving the common welfare. The unlettered man can live only by work. The educated man never wants to live by manual labor. If I were reduced to a choice—and I do not want to exclude anybody—but if I were reduced to a choice between the man who could stand this educational test and the man who could not—if I must exclude one or the other—it would be the man with such a literary qualification as the bill provides, for he may lead a vicious life, while the man who works with his hands can not lead other than a useful because an industrial life.

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[Extract from an address made by Judge Nathan Bijur at the Massachusetts Reform Club, on Jan. 28, 1907.]

On the other hand, it is a matter of common knowledge that thousands of honest, sturdy, and intelligent natives of many European countries are illiterate, due solely to the lack of educational facilities in the country of their origin and residence. The fact is well known to every person having experience with this class of immigrants that in this country they rapidly acquire sufficient familiarity with our language to overcome their early disability.

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[Letter of Cardinal Gibbons.]

CARDINAL'S RESIDENCE,
408 NORTH CHARLES STREET,
Baltimore, Md., May 5, 1912.

Rabbi WILLIAM ROSENAU,
1515 Eutaw Place, Baltimore, Md.

MY DEAR MR. ROSENAU: I am in receipt of your esteemed favor of the 3d instant, and in reply I beg to say that I am not in favor of any educational test as applied to immigrants desiring to enter the United States. Such a law, if passed, would, in my opinion, work great harm, for illiteracy is by no means always ignorance. If the immigrant is industrious and thrifty, he will make a useful citizen, whether he be literate or illiterate. The educated schemer is in more ways than one more dangerous than the honest workman, even though he be illiterate.

Very sincerely, yours,

J. CARDINAL GIBBONS,
Archbishop of Baltimore.

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[Letter of President Eliot of Harvard University.]

CAMBRIDGE, MASS., *February 14, 1910.*

Hon. JOSEPH F. O'CONNELL,
House of Representatives.

MY DEAR SIR: I beg leave to invite your attention to the following statement of the principles which should govern the national legislation on immigration:

(1) Our country needs the labor of every honest and healthy immigrant who has the intelligence and enterprise to come hither.

(2) Existing legislation is sufficient to exclude undesirable immigrants.

(3) Educational tests should not be applied at the moment of entrance to the United States, but at the moment of naturalization.

(4) The proper education test is capacity to read in English or in the native tongue, not the Bible or the Constitution of the United States, but newspaper items in some recent English or native newspaper which the candidate can not have seen.

(5) The attitude of Congress and the laws should be hospitable and not repellant.

The only questions which are appropriate are. Is he healthy, strong, and desirous of earning a good living? Many illiterates have common sense, sound bodies, and good characters. Indeed, it is not clear that education increases much the amount of common sense which nature gave the individual. An educational test is appropriate at the time when the foreigner proposes to become a voting citizen. He ought then to know how to read.

Very truly, yours,

CHARLES W. ELIOT.

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[Letter of President John Cavanaugh, C. S. C., of Notre Dame University.]

NOTRE DAME, IND., *February 26, 1910.*

The Hon. JOSEPH F. O'CONNELL,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN O'CONNELL: * * * I am not in favor of any educational test as applied to immigrants desiring to enter the United States, though an educational test is entirely proper before naturalization.

* * * * * * *

Very sincerely, yours,

JOHN CAVANAUGH, C. S. C.,
President.

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[Letter of President Harry Pratt Judson, of the University of Chicago.]

THE UNIVERSITY OF CHICAGO, *February 28, 1910.*

Hon. JOSEPH F. O'CONNELL,
House of Representatives, Washinton, D. C.

DEAR SIR: * * * I am not in favor of the restriction of immigration on the basis of the ability to read some European language. There is no doubt that the ability in question is desirable. At the same time the conditions of workingmen in the old country and their conditions in our country are radically different. If they are industrious and honest and thrifty, they will make useful citizens, and their children, having the opportunity of attending our free public schools, will acquire the needed education. * * *

Very truly, yours,

HARRY PRATT JUDSON.

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[Letter of President Joseph Himmel, of Georgetown University.]

GEORGETOWN UNIVERSITY,
Washington, D. C., February 28, 1910.

Hon. JOSEPH F. O'CONNELL,
House of Representatives.

SIR: Regarding the educational test as a means of restricting immigration, on which question there is an agitation to report out a bill, I beg leave to submit the following:

(1) The educational test should be applied to the voter, not to the immigrant.

(2) The laws restraining immigration are sufficiently drastic, and if put into execution will safeguard the country. Those who have openly taught immorality and favored anarchy should be excluded rather than the illiterates.

An illiterate artisan is not necessarily an ignorant or undesirable immigrant. Our whole past history proves that such men may serve the country in their proper sphere.

Very truly, yours,

JOSEPH HIMMEL, *President.*

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[Letter of President J. G. Schurman, of Cornell University.]

CORNELL UNIVERSITY,
Ithaca, N. Y., March 4, 1910.

Hon. JOSEPH F. O'CONNELL,
House of Representatives, Washington, D. C.

DEAR SIR: I have your communication of February 23, with the inclosed copy of the letter of ex-President Eliot, of Harvard University, on the subject of the admission of immigrants into the United States.

I fully concur in the views expressed by President Eliot, and I do not think I can express them in clearer, more forcible, or appropriate language.

Very truly, yours, J. G. SCHURMAN.

[Letter of President T. I. Gasson, of Boston College, Boston, Mass.]

BOSTON COLLEGE,
Boston, Mass., February 25, 1910.

Hon. JOSEPH F. O'CONNELL,
Washington, D. C.

MY DEAR MR. O'CONNELL:

* * * * * * *

(1) Does not the country need the toil of every intelligent, active, and moral worker who comes to us?

(2) The proper time for the educational test is when the immigrant seeks to be naturalized.

(3) Let existing legislation be enforced before new laws are enacted. The wise regulations already made, if enforced, would bar out undesirable subjects.

(4) There are millions of acres in the West waiting for these farm-loving immigrants. I am sure that you will insist upon these truths.

Ever yours, sincerely, T. I. GASSON, S. J.

RATIO OF FOREIGN BORN TO NATIVE BORN UNCHANGED.

Much is made by restrictionists of the supposed enormous influx of foreigners, and especially of the change in the racial character of immigrants. For their purposes they characterize the immigration which arrived here before 1890 as the "old" immigration and that which has arrived since then as the "new."

But there has been practically no change in the ratio between foreign born and native born, as is demonstrated by the following table:

Census year.	Total population considered.	Native born.		Foreign born.	
		Number.	Per cent of total.	Number.	Per cent of total.
1840	31,443,321	27,304,624	86.8	4,138,697	13.2
1870	38,558,371	32,991,142	85.6	5,567,229	14.4
1880	50,155,783	43,475,840	86.7	6,679,943	13.3
1890	63,069,756	53,761,652	85.2	9,308,104	14.8
1900	76,303,387	65,843,302	86.3	10,460,085	13.7
1910	91,972,266	78,629,766	84.3	13,342,500	15.7

The change in the source of our immigration is due to the simple fact that in the countries from which the United States before 1890 drew the bulk of its immigration there has been an enormous industrial and economic expansion. And this, as is well known, is particularly true of Germany, which has become a country of immigration instead of one of emigration. Owing to the industrial development of that country, so many agricultural laborers have been drawn into skilled industries that great numbers of unskilled laborers are attracted from Austria-Hungary, Russia, and Italy—the same countries that supply the United States with the bulk of its unskilled labor.

The characterization of the present-day immigration as coming from a source out of harmony with the spirit of American institutions and not readily assimilable on that account can be matched almost word for word by a similar characterization of the "old" immigration dating back to the beginning of the nineteenth century. (See Report of Industrial Commission, 1901, Vol. XV, pp. 449–491, and Hearings before House Committee on Immigration, 62d Cong., 2d sess., pp. 95–98.)

[Speech of Senator JAMES A. O'GORMAN delivered in the Senate on Apr. 18, 1912.]

I am opposed to the imposition of an educational test upon those born in foreign countries who desire to come to the United States. I think it would be regrettable to exclude thousands of able-bodied, honest, and industrious men, otherwise desirable, who might not be able to meet the requirements of this proposed qualification.

It is said in behalf of this amendment that the large number of foreign born who pass through the ports of the United States enter into competition with American labor. That is true; it has always been true; it was as true a generation ago as it is to-day; and yet in its results the entire country has been benefited.

This proposal to exclude foreigners has no novelty. This Republic had but completed the first decade of its existence when, in the administration of John Adams, the same sentiments which I have heard expressed on this floor to-day and yesterday were uttered against the foreign born. To discourage immigration, as far back as 1798, under the influence of the Federalist Party, the period of naturalization was extended from 5 to 14 years, and during the same session of Congress and under the same influences the odious alien and sedition laws were passed, which conferred upon the then President of the United States the power to exclude at his will any foreigner found upon American territory. It is to the honor of our institutions and to the glory of the Republic that the shame and infamy of that legislation was wiped out when the Democrats of this country elected Thomas Jefferson to the Presidency.

From time to time in every succeeding generation there have been those who were opposed to the admission of the foreign born into the brotherhood of the Republic. The same arguments were used then that are used now. Within the memory of men in this Chamber it was said of the races which are now glorified and alluded to as the "old immigration" that they could not be assimilated with the American body politic. That those accusations in those days were unfounded has been demonstrated by the experience of the American people. That the aspersions now cast upon the races from southern and eastern Europe are equally unfounded will be established in time.

We are not crowded on this continent. The population of all Europe might be placed in the single State of Texas, and there would be less congestion than now prevails on the Continent of Europe. If there ever came a time when the American people may deem it necessary to impose restrictions upon desirable immigration, the time will not come in our generation; and if a restriction should be required, if it should be deemed wise as a national policy to discourage immigration, let us proceed upon a safe and sound theory; let us make the qualification that of character and not educational attainments.

Our country is enriched every time an honest, able-bodied man enters the United States. Our institutions are threatened, our safety imperiled, when we become careless respecting those who, possessing an intellectual qualification, are devoid of that which is far more essential, a character qualification. Washington himself spoke of the need of preserving the morality of our people. With this proposed test you ignore the morality of your citizenship; you ignore the question as to whether in character the man is worthy to take his place in this great Republic and help to work out those problems that promise so much for the betterment and happiness of mankind.

For many years in our history we claimed to be the country that extended a welcome to the oppressed from every clime. Why have we changed? Are we so content with our own insulation and with the blessings of our institutions that we would exclude the rest of the people of the world from sharing in their advantages? Our marvelous prosperity, unexampled in the history of governments, a growth in a century and a quarter from 3,000,000 to 90,000,000 people, was made possible only by the policy of free immigration that this country has so generously and so wisely observed in the past. The foreign born have contributed their share of energy, devotion, and patriotism to the greatness of the Republic.

I can find nothing in the suggestions of Senators who have spoken on the other side of this proposition to incline me to yield to their view. I shall vote against every educational test. Impose any character test, and it will have my support.

[From a speech of Senator WILLIAM J. STONE, of Missouri, Apr. 19, 1912.]

Of course, education, enlightenment, is most desirable. Universal education is a part of our national policy. All the States are striving, at great public expense, to educate their children. Ignorance is to be regretted. But, Mr. President, I want to say that I do not believe that the people who are ignorant of book lore—the unlettered people—who come to us from Europe are the agitators who stir up and disturb the social and industrial life of America. Education, even rudimental education, is greatly to be desired. Education better fits a man or woman to fight the battle of life in this remarkably intelligent age in which we are living. But, Mr. President, there are in all countries, America among them, thousands of people—law-abiding, honest, industrious, patriotic people—who can neither read nor write, but who are anxious that their children should enjoy better advantages than have come to them. Such people—good, moral, honest, industrious people—come here from Europe, bringing their little ones with them, seeking to enjoy all the wider and better advantages of this great free Republic of ours. These are not bad people; they are good people. We know, if we know anything, that the evangels of the red flag and the disturbers of public order are composed of a class of men who are smart, who are educated, who speak with glib tongues, and who have the power of arousing the passions of their listeners. A man of this type I would exclude, even though he held a college degree; but I would not exclude an honest, law-abiding man merely because he could neither read nor write. This proposed policy is a reversal of our entire national policy up to this time.

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Mr. President, before closing these observations I wish to say that this literacy test in this bill smacks too much of Know-Nothingism and A. P. A.ism to command my support. All of you are familiar with the old Know-Nothing propaganda, and you are also familiar with the more recent revival of that propaganda under the name of the American Protective Association. Both of those movements were intended to lay drastic and most intolerant proscription upon foreign-born people and upon the membership of the Catholic Church. The era of Know-Nothingism was before my day, but I know as a matter of history that the Democratic Party fought the movement tooth and nail and destroyed it. When A. P. A.ism was projected and raised a threatening hand against the equality of American citizenship because of the accident of birth and because of religious conviction I happened at that time to have the honor of being the governor of Missouri. Without a moment of hesitation I put myself in opposition to the movement. At the meeting of the Democratic State convention in 1894 I wrote a resolution denouncing A. P. A.ism and was successful in having it incorporated in the party platform then adopted. The Democratic Party as an organization followed a similar course throughout the country, and A. P. A.ism, like Know-Nothingism, disappeared as an active force in public affairs. Still there can be no doubt that the intolerant spirit of these movements remains. It lurks quiescent, but it is still in the minds and hearts of many men. I will not say, for I would be most unwilling to believe, that any Senator supporting this educational test approves the intolerant spirit and un-American doctrines of Know-Nothingism or A. P. A.ism; nevertheless, this educational test is but one form of giving new life and vigor to that spirit and those doctrines. I can not support a proposition so strongly marked with intolerance as this one. Why should we deny admission to an honest, manly man of good health and strength and against whose character no word can be spoken simply because, unfortunately, his environments and opportunities have been such as to deny him the advantages of an education? Why, sir, if it had been the rule in many of our States that no man should exercise the right of suffrage who could not read and write, that rule would have disfranchised thousands of honest and patriotic men who believed in orderly government and who stood ever ready to defend American institutions. It has been said with apparent good authority that the parents of more than one man who became President of the United States were illiterate. This we know, that the descendants of men who could neither read nor write have made great names for themselves and added luster to our history. Mr. President, keep out immoral and wicked people; keep out those likely to become a public charge; keep out those who would foment disorder and make war upon our institutions and civilization; but I invoke you not to turn back honest men or virtuous women—men and women who want to work, improve their conditions in life, educate their children, build happy homes, and make themselves good citizens, capable of doing good service to the country—simply and only because they are uneducated.

[Remarks of Senator JAMES E. MARTINE, of New Jersey, in the United States Senate Apr. 18, 1912.]

Mr. President, I can not vote for the literacy test in this bill as a passport to this country. Forty to fifty years ago 90 per cent of the immigrants that came to this country came from Ireland and Germany, and scarcely one of them could have stood this test; and yet all those immigrants, or practically all of them, became industrious citizens,

amassed money, yes, fortunes, through their thrift and ambition, and their children to-day are among the best citizens of this country. Education to a man or woman of evil character and disposition will make him or her most dangerous.

Mr. President, this test would have kept my mother, from whose bosom I drank the milk of justice and liberty, from this fair, fair land. I believe that this great country, blessed of God, can digest and assimilate all of the nations of the earth. I have no fear. Let our test be clean morals, sound and clean bodies, and, with a public-school system, we can safely trust the rest to God. As Heaven is my witness, I will never vote to pass a measure that makes this ungenerous and unjust exaction on the part of a free people.

CONGESTION IN LARGE CITIES.

With regard to congestion in large cities, which is also put forth as an argument for further restriction, the following, taken from the abstracts of the report of the Immigration Commission, shows how much this has been exaggerated:

[Extract from Reports of the Immigration Commission, Vol. I, pp. 36–37.]

Of late years the general impression that owing to immigration the poorer districts of the large cities are greatly overcrowded and that in consequence the living conditions are insanitary and even degrading has been so prevalent that it seemed desirable to make a very thorough investigation of this question. In consequence, in seven cities—New York, Philadelphia, Chicago, Boston, Cleveland, Buffalo, Milwaukee—a very careful study was made of the conditions prevailing in the poorer quarters of the city inhabited by immigrants of various races. As was to be expected, many extremely pitiful cases of poverty and overcrowding were found, at times six or seven or even more people sleeping in one small room, sometimes without light or direct access by window or door to the open air. On the whole, however, the average conditions were found materially better than had been anticipated. Moreover, a comparison of the conditions in a great city like New York or Chicago with those in some of the smaller industrial centers, such as mining or manufacturing towns, shows that average conditions as respects overcrowding are very materially worse in some of the small industrial towns than in the large cities. For example, the per cent of households having six or more persons per sleeping room of the race which showed the worst conditions in these large cities was only 5.2, whereas in the industrial centers studied in several cases the proportion was higher than this, and in the case of one race as high as 9.5 per cent.

Moreover, in the large cities the population changes much more frequently than is generally thought. New immigrants are attracted to these poorer residential quarters by the presence of friends or relatives and the necessity of securing living quarters at the lowest possible cost, but as their economic status improves after living in this country for some time, they very generally move to better surroundings. The undesirable districts of the cities that are now inhabited largely by recent immigrants were formerly populated by persons of the earlier immigrant races. Few of these are now found there, and these remnants ordinarily represent the economic failures—the derelicts—among a generation of immigrants which, for the most part, has moved to better surroundings.

In instances, too, where deplorable conditions were found they were due in part, at any rate, to circumstances over which the inhabitants have little direct control, such as a poor water supply or insanitary drainage—matters that should be attended to by the city authorities.

While instances of extreme uncleanliness were found, the care of the households as regards cleanliness and an attempt to live under proper conditions was usually found unexpectedly good, about five-sixths of all the families visited in the poorer quarters of these large cities keeping their homes in reasonably good or fair condition.

There seem to be little doubt that the various races, owing presumably to their differing environments in Europe, differ somewhat as regards overcrowding and the care of their apartments, but the differences are less than might have been anticipated. The reports seem to indicate clearly that the chief cause of the overcrowding is a desire of the families to keep well within their income or to save money, even at the expense of serious discomfort for the present, in order that they may better their condition in the future. The worst conditions were found among those who live in boarding groups, largely unmarried men, whose purpose is to save money in order that they may send it back to their home country or return thither themselves as soon as a sufficient amount has been secured.

RECENT COMMENTS ON PROPOSED IMMIGRATION LEGISLATION WITH SPECIAL REFERENCE TO THE PENDING DILLINGHAM BILL, S. 3175.

ADMINISTERING THE IMMIGRATION ACTS.

The ideal immigration law, like the ideal law on any subject within the competence of Congress, should embody certain elementary principles. It should state its purpose plainly instead of by implication. It should go at its purpose directly and not circuitously. It should be so worded as to give the least possible opportunity for the arbitrary exercise of administrative discretion compatible with the execution of the people's will as expressed through their Representatives in Congress. If, at any time, the majority of the people ceases to be in favor of restricting immigration, such a policy should be frankly stated and honestly carried out. To legislate by means of administrative regulation is a common enough practice in every country. But it is a method that is peculiarly objectionable when applied to so human a problem as the right of free entry into this country. We can not deal with men and women as Germany's tariff authorities deal with American cattle. When tariff relations between the two countries are pleasant, Germany's "sanitary" precautions against American meat products function kindly. When tariff difficulties arise, Germany need not resort to formal reprisals; the sanitary inspection of American food imports merely becomes very rigid. This is a form of lawmaking by bureaucracy which we ought never to think of in connection with our immigration problem.

Such general considerations must enter into any just opinion of the bill for regulating immigration introduced by Senator DILLINGHAM last summer, and reported with amendments by the Senate Committee on Immigration last week. Several of the provisions in this measure are objectionable, because they contravene the requirements of an honest, above-board immigration policy. The bill contains clauses that are apparently intended as entering wedges for restriction. Ingress into this country is to be surrounded with increased administrative formalities. The right of reentry for aliens is put into question. By defining "aliens" for all administrative purposes of the law as all persons not native born or naturalized citizens of the United States, questions are raised with regard to the wives and minor children of citizens. The provision for the exclusion of "persons not eligible to become citizens by naturalization" is intended as a restatement of the Chinese exclusion acts, but contains the germs of possible misunderstanding with regard to Japanese, Koreans, Malays, and other Asiatics. More than that, it raises the danger of assimilating the execution of our general immigration laws to the methods pursued under the Chinese exclusion acts. Administrative regulations that have hitherto come into play against the Chinese may tend to become general. Restriction will be apt to become exclusion. That may be the intention of the framers of the bill. If so, it should be honestly stated.

Objections of a like nature rise against that clause of the bill which provides that all immigrants shall secure certificates of admission and identity, as well as return certificates upon leaving this country. This not only builds up very serious difficulties about the process of entry and egress, in this country, but tends to create a registry or passport system which is alien to the spirit of our institutions, and, being applied only to one element in the population, takes on the character of class discrimination. In 1882, President Arthur, in a well-known veto message, declared:

"Without expressing an opinion on that point, I may invite the attention of Congress to the fact that the system of personal registration and passports is undemocratic and hostile to the spirit of our institutions. I doubt the wisdom of putting an entering wedge of this kind into our laws. A nation like the United States, jealous of the liberties of its citizens, may well hesitate before it incorporates into its policy a system which is fast disappearing in Europe before the progress of liberal institutions. A wide experience has shown how futile such precautions are, and how easily passports may be borrowed, exchanged, or even forged by persons interested to do so."

We need only think of the merry game of evasion that attends upon the execution of the Chinese exclusion laws to foresee the opportunities for fraud and the miscarriage of justice under a similar practice applied to our vast European immigration.

To a policy of regulation that is indeed regulation no objections can be made. Restriction upon European immigration so far has been almost entirely based on reasons of public health and public morals. It is stated that the deportations of aliens from this country constitute 1 per cent of the total number of arrivals. Though this means a large number of persons in the aggregate, it is perhaps not too large a percentage of insurance against alien disease and crime. But to make medical inspection and administrative routine part of an unwritten scheme for checking immigration is quite another thing. The intelligence and conscience of the country are not behind such measures. (New York Evening Post, Jan. 24, 1912.)

OUR IMMIGRATION POLICY.

To the EDITOR OF THE EVENING POST.

SIR: Your recent editorial on the Dillingham immigration bill (S. 3175), now pending in the United States Senate, should appeal to all Americans. As the purpose of that bill is to amend and codify our immigration laws it should be carefully scrutinized. In addition to the objections named by you, it would give warrant to the average inspector to exclude more than a majority of the incoming immigrants. Under the law as it now stands at least 40,000 were deported during the last two years. The act of 1907, after enumerating several excluded classes, names beggars, paupers, and persons likely to become a public charge. Now, in addition, it is proposed by this bill to add to section 3 a new class, denominated "vagrants." Under this head, inspectors must deport persons (otherwise admissible), "homeless," "wanderers," "who go from place to place," without occupation, and beggars, as defined by the dictionaries. Will not a large majority of immigrants, for the time being homeless, wanderers, without occupation, come under one of these definitions? Would it not have excluded many of our best citizens of foreign birth if adopted earlier in our history?

We all agree that undesirable aliens should be excluded; but homeseekers, otherwise admissible, should not be excluded even though "homeless and wanderers from place to place, and without actual occupation," even though illiterate, for such are needed to develop the unoccupied acreage of the South and West, and the abandoned farms of the Eastern and Middle States, with the intensive farming to which they were accustomed in the fatherland; and to open our mines and to build our roads, aqueducts, tunnels, and canals.

The term "vagrants" is otherwise unfortunate, as it is used by the police in making arrests of suspects and persons sought under extradition proceedings against whom no charges are brought for offenses against local laws. When requested by chiefs of police in other jurisdictions to make such arrests, the charge of "vagrant" is used, for want of something definite. It is too elastic and can be used by immigration officials to exclude multitudes (otherwise admissible), to suit a policy of extreme restriction, on the part of biased immigration inspectors.

My point of view is that of a citizen, a taxpayer, a member of many patriotic ancestral societies, who loves his country and honors its flag. As such I object to the proposed policy of extreme exclusion; I object to the proposed literacy test as applied to robust young farmers, and I believe that good results will follow the adoption of admitted aliens, as wards of the Nation, until they acquire English and learn the rights and duties of citizenship.

J. AUGUSTUS JOHNSON,
New York Evening Post, January 29, 1912.

INJUSTICE IN IMMIGRATION BILLS.

Strong disapproval of the Dillingham bill reported by the Senate committee, further restricting immigration, was expressed yesterday by Max J. Kohler, of 30 Broad Street, who is a member of the committee on immigration of the National Conference of Charities and Correction, of which President Emeritus Eliot, of Harvard, is chairman. Since the bill was reported by Senator LODGE a similar bill, only more restrictive in that it restores the illiteracy test for immigrants which was dropped by the Senate committee, has been introduced in the House of Representatives by Mr. FOCHT, of Pennsylvania. Mr. Kohler took exception to both bills, as well as to the Lodge report on the Senate measure.

"That report," he said yesterday, "was calculated, very likely unintentionally, to keep the public in ignorance of radical changes of a revolutionary character in the proposed law. The vague language of the report and its failure to call attention to the important provisions of the bill are probably responsible for the failure of the press to refer to these radical changes which would not otherwise have escaped strong comment.

"One very important provision of this sort is veiled in the report by language referring simply to a proposed 'consolidation of the Chinese immigration service with the general immigration service in the interest

of economy.' As a matter of fact, section 3 of the bill, to which the report here alludes, excludes all persons not eligible to become citizens by naturalization, with specified exceptions, and provides for certificates of admission and identity for all admitted aliens against which certificates of readmission upon the departure of such aliens from the United States are to be issued.

"WOULD VIOLATE TREATIES.

"This provision is in substance a reenactment of the Chinese-exclusion laws, except that it extends them to other Asiatics such as Japanese, Koreans, Malays, and the like. The statute would violate our treaties with China, with Japan (with whom we have now a 'gentleman's agreement' excluding only laborers), and with other countries, and would cause much friction. While it might ameliorate the Chinese-exclusion laws somewhat, in some respects, and make them more oppressive in others, it would have a very bad effect in consolidating these laws with our general immigration laws, and accustom the immigration authorities—who would then enforce all these provisions in common—with the practice in vogue under the Chinese-exclusion laws, of rejecting uncontradicted evidence in favor of aliens.

"More revolutionary still is the provision in section 18, requiring all alien immigrants whatsoever to procure in duplicate 'certificates of admission and identification,' and return certificates, thus establishing a sort of 'ticket of leave' system for all aliens. What the use of the certificate would be is not apparent, as, unlike the Chinese-exclusion laws, it is not made the exclusive method of establishing right of residence here—in which event it would be very oppressive, because of loss of certificates, changes in appearance, and impossibility of segregating aliens from American citizens and aliens who are now here, who are not required to have any certificates—and is not authority for readmission of such aliens after trips abroad. Its enforcement would cost millions of dollars in the way of additional Government employees to make out such certificates, and it would seriously retard ingress of all aliens into the country while the certificates are being prepared and retard their egress on visits abroad while arranging to secure return certificates, and ignorance of these silly requirements would lead to many thousands of exclusions and deportations. A general disciminatory antialien feeling would be engendered by these provisions and even in the present form they probably are violative of treaty obligations toward foreign countries.

"We do not want to have paupers come here, nor persons likely to become paupers; nor anarchists, criminals, contract laborers, or persons mentally or physically defective. On the other hand, we do not want our laws to be so phrased as to keep out others who are desirable and whom this country needs." (New York Times, Jan. 27, 1912.)

[Rev. Percy S. Grant, minister of the Church of the Ascension, New York City, in the North American Review, April, 1912.]

The rapidity with which the democratic ideas are taken on by immigrants under the influence of our institutions is remarkable. I have personally had experiences with French-Canadians, Portuguese, Hebrews, and Italians. These races have certainly taken advantage of their opportunities among us in a fashion to promise well for their final effect upon this country. The French-Canadian has become a sufficiently good American to have given up his earlier program of turning New England into a new France—that is, into a Catholic province—or of returning to the Province of Quebec. He is seeing something better than a racial or religious ideal in the freedom of American citizenship, and on one or two occasions, when he had political power in two municipalities, he refrained from exercising it to the detriment of the public-school system. He has added a gracious manner and a new feeling for beauty to New England traits.

The Portuguese have taken up neglected or abandoned New England agricultural land and have turned it to productive and valuable use. Both the French-Canadian and the Portuguese have come to us by way of the New England textile mills.

The actual physical machinery of civilization—cotton mills, woolen mills, iron mills, etc.—lock up a great deal of human energy, physical and mental, just as 100 years ago the farms did, from which later sprang most of the members of our dominant industrial class. A better organization of society, by which machinery would do still more and afford a freer play for mental and physical energy and organization, would find a response from classes that are now looked upon as not contributing to our American culture; would unlock the high potentialities in the laboring classes now unguessed and unexpended.

The intellectual problems and the advanced thinking of the Hebrew, his fondness for study, and his freedom on the whole from wasteful forms of dissipation, sport, and mental stagnation, constitute him a more fortunate acquisition for this country than are thousands of the descendants of colonial settlers. In short, we must reconstruct our idea of democracy—of American democracy. This done, we must construct a new picture of citizenship. If we do these things we shall welcome the rugged strength of the peasant or the subtle thought of the man of the Ghetto in our reconsidered American ideals. After all, what are these American ideals we boast so much about? Shall we say public schools, the ballot, freedom? The American stock use private schools when they can afford them; they too often leave town on election day; as for freedom, competent observers believe it is disappearing. The conservators and believers in American ideals seem to be our immigrants. To the Russian Jew Abraham Lincoln is a god. If American ideals are such as pay honor to the intellectual and to the spiritual or foster human brotherhood, or love culture and promote liberty, then they are safe with our new citizens, who are eager of these things.

IMMIGRATION A VITAL QUESTION.

Justin F. Denechaud, secretary of the Louisiana State board of immigration, who is here attending the Southern Commercial Congress, said to-day:

"To the South more than to any other section of the country immigration is a vital question. Those in charge of recommending to Congress changes in our immigration laws should bear in mind that our section is yet practically undeveloped. In my State alone, Louisiana, with an area of more than 29,000,000 acres, only 5,000,000 acres, or about one-sixth, is now developed.

"Not only do we need a large population to till the soil, but we also need laborers to build railroads and ditches. Where is this labor to come from unless it is from the countries of Europe? The European immigrant was admitted and furnished for the North, East, and West in their development. I do not wish to be misunderstood and to mean that the Government should let down the bars and admit the undesirables, but I do mean that the bars should not be put so high as only the educated and the man with means shall be permitted to enter this country. The passage of such a law as is being asked of Congress from many quarters will deprive the South of its needed labor. The rapid development of the agricultural lands in the South will be the means of checking immigration of the American farmer into frozen Canada." (Nashville (Tenn.) Banner, Apr. 8, 1912.)

The Western and Southern States need more white people. They are all thinly populated, and they will surely be heard from when the proposed literacy test comes to a final vote.

Underlying the Dillingham-Lodge bill is the fetish of Teutonic superiority and Latin degeneracy, and even of the ancient jealousy of all race mixtures as a danger to the American stock and to American ideals. These notions were long ago disproven. This country still needs and long will need all the honest, able-bodied men it can secure, no matter what European country furnishes them. (Birmingham (Ala.) Age-Herald, Apr. 25, 1912.)

PROPOSED IMMIGRATION RESTRICTION.

The effort to restrict immigration comes partly from a labor element that fears competition and partly from a social element that has little or no knowledge of the history and the results of immigration in this country. The effort to restrict by an educational clause in the immigration law is a makeshift, an evasion of an issue that the politician does not wish to meet openly. It will not exclude the criminal, the diseased, or the otherwise undesirable. It will exclude many whose muscles are needed and whose exclusion would retard our economic development. If Congress believes that the labor market is, or is immediately likely to be, unduly overcrowded and our interests thereby endangered, it is within the power of that body to prohibit immigration or to limit the number of arrivals for a period of years. But the real trouble is not in the number of those who come. Broadly, the labor market is not overcrowded. Wages have risen in the term of the heaviest immigration in the history of the country. The difficulties of the question are behind the gates and not at them. (New York Sun, May 6, 1912.)

THE LITERACY TEST.

The proposed literacy test would keep out a great many immigrants, but it is doubtful if it would exclude the really undesirable aliens, the proletariat that produces social ferment in dense alien populations.

Criminals are not the illiterates as a rule. Some education is required to write Black Hand letters and some degree of intelligence is needed to make bombs. (Jersey City (N. J.) Journal, May 11, 1912.)

THE LITERACY TEST.

The literacy test can not be made too general or all immigrants would be barred. A mere smattering knowledge would be of little benefit to an immigrant. Among the very poor it is usually the man of little education who is the malcontent, and it most frequently happens that the criminal classes are recruited from that class.

The able-bodied illiterate is of more value to this country than the physically weak with a scant education.

The literacy test is a poor one. So widespread is the protest against the bills that enactment seems very improbable. (Fargo (N. Dak.) Forum, May 10, 1912.)

THE IMMIGRATION QUESTION.

Would any real advantage come to the country from the enactment of the Dillingham immigration bills? One familiar argument for it is that the United States is receiving immigrants now who are not readily assimilable. But it is not literacy that makes the immigrant from parts of southern and eastern Europe unassimilable. If he can not be assimilated it is because his racial unlikeness to the settlers of this continent is too great. But the literacy test will keep out only a fraction of the alien races. The problem of their assimilation will remain unsolved.

Nor will the literacy test be sure to keep out the least desirable of the arriving immigrants. It is not usually the man who can not read and write who recruits an anarchist population here. It is the "intellectual proletariat" of Europe which, coming here, congregates in cities and adds to their ferment. The man who works with his hands has always found his place readily in this country, and if he ever makes trouble, by strikes and rioting, it is only as he begins to be assimilated and to develop the American standard of living. Again, the criminals who come to this country and are one of the gravest evils of immigration are seldom of the illiterate class. Illiterates do not write Black Hand letters. It is worthy of note also that some of the illiterates who come here do not require to be assimilated. They form a sort of international balance of labor, moving back and forth between this country and Europe as their services are required, and always intending to live finally in their old home. (New York Tribune, May 9, 1912.)

LITERACY TEST FOR VOTING, NOT FOR WORKING.

In the vigorous protest against the Dillingham bill "to regulate the immigration of aliens to and the residence of aliens in the United States," which slipped so easily through the Senate and is now before the House Committee on Immigration and Naturalization, a special point is made against the clause which would include among those to be denied admission to the country, "all aliens over 16 years of age and physically capable of reading and writing who can not read and write the English language or some other language." * * * The objection to the admission of illiterate aliens seems to come mainly from two sources—from organizations of workingmen already here, mostly of alien origin, who wish to restrict competition in labor, and from those who regard as politically or socially dangerous large masses of "ignorant foreigners," who gather in industrial centers, like the factory towns and mining districts, and who are easily led into lawless demonstrations in time of excitement.

Many immigrants are unfortunately illiterate, without fault of their own, and without lacking intelligence and character which will make them useful and peaceable subjects of a free government. Most of them are industrious and thrifty, and a large proportion are desirous of learning and of having their children educated. They are capable of becoming a desirable element in the working population, and most of them do become so. (New York Journal of Commerce, May 19, 1912.)

IMMIGRATION.

In general it may be said that the literacy test is the poorest possible means of determining the value of a prospective immigrant. * * *

Immigration has been one of the most essential factors in the development and prosperity of the United States. A great part of the country is still but sparsely settled and no part is so overcrowded that there is not room for many more. Intelligent distribution of immigration would be a much wiser policy than restriction by a literacy test. (Buffalo (N. Y.) Express, May 9, 1912.)

THE MASS MEETING TO-DAY.

The mass meeting this afternoon at the Star Theater is called to voice the protest of Buffalo against unwise and unjust restriction in immigration laws of the United States.

That this protest will be logical in significance, spirited in expression, and impressive in the numbers supporting it, is certain. * * *

The Times believes the sterling citizenship of Buffalo, irrespective of nationality, is with that large portion of our population which has taken the lead in this matter.

We have equal faith that the citizenhood of the Nation is with it, too.

Every American, except the few aboriginal inhabitants of this country, is an immigrant or the descendant of an immigrant.

Without immigrants, there could have been no civilized nation on this continent.

If all the restrictions on immigration, which are now exercised, or which are pending, had been put in force against the Puritan Fathers of New England, the Catholics who settled Maryland, the cavaliers who built the first settlement in Virginia, the Quakers who established Philadelphia, and the poor debtors who founded Georgia, the beginnings of this Republic would have been nipped in the bud.

It is proposed to exclude worthy immigrants because they can't read and write.

Daniel Boone couldn't read and write.

The literacy test is no test at all.

Many of the best-known men of Buffalo, men prominent in manifold walks of life, men distinguished as clergymen, officials, lawyers, publicists, and orators, constitute the corps of speakers at to-day's mass meeting.

There is no need to anticipate the arguments of such men.

The duty of the occasion is to do all that is in us to maintain the hospitality of the United States, that quality which has made this country the refuge of the oppressed throughout the world, and which has been repaid to America many times over by the loyalty, the blood, the toil, the money, and the patriotism of her foreign-born citizens. (Buffalo (N. Y.) Times, May 12, 1912.)

OUR FOREIGN ELEMENT.

That there should be very vigorous opposition to the so called Dillingham immigration bill, now under discussion in the United States Senate, is not to be wondered at.

Had the restrictions it seeks to impose been in force during the last 60 or 70 years the country would have been deprived of thousands upon thousands of immigrants who came here and made good, and whose descendants are to-day among the very flower of American citizenship.

A test of illiteracy is not a fair test. Cardinal Gibbons puts the case strongly and truthfully when he says that illiteracy is not ignorance or incompetence—that if the immigrant is industrious and thrifty he will make a useful citizen, whether he be literate or illiterate.

The thousands who have been coming to Lowell and kindred communities during the last 15 or 20 years, and against whose kind the Dillingham bill is aimed, have shown themselves to be both industrious and thrifty.

And they have recently given striking demonstrations that they are no more minded to work for too low wages than are other nationalities whose immigration began earlier—that they want to lift themselves up to the American standard of living, not pull that standard down.

They are seeking to adapt themselves to American ways, and are making more rapid progress than is generally appreciated. The "natives" will profit by getting in touch with them and lending a helping hand.

They are, too, as a rule, temperate as well as industrious and thrifty. Few of them are seen in the police court, and fewer still in the almshouse. (Lowell (Mass.) Telegram, May 12, 1912.)

THE BROAD VIEW.

Every effort to restrict immigration on the ground of illiteracy alone has proved a failure from the beginning of the agitation for it, many years ago. The great majority of the people have been opposed to it since their attention was called to it by the able veto message of President Cleveland when such a bill reached him for consideration. The bill had gone through Congress with little debate, but he put a stop to the movement for restraint of the kind provided in the bill, and it has made no progress since then, even with the large immigration from southern Europe that alarms a number of excellent citizens. (Buffalo (N. Y.) Express, May 13, 1912.)

ILLIBERAL AND HARSH REQUIREMENTS.

This Senate bill makes ability to read and write in some language or dialect one of the requirements for the admission of those over 16 years of age. The immigrants from a certain number of countries are excluded from this requirement, but it applies generally to all immigrants from Europe, except certain relatives of immigrants who are themselves admissible. It is as moderate an application of the illiteracy disqualification as can well be made, yet it is felt by many good people to be harsh and unfair, and vigorous protests are being made against it.

If it be totally illiterate means always to be idle or stupid, it would be an entirely proper test for exclusion. But some immigrants fleeing from hard conditions and an oppressive government in the Old World have never had an opportunity to learn to read or write. Their labor would be acceptable here and their inability to read would not necessarily prevent their being orderly and self-supporting citizens. A man who has been denied opportunities to learn to read may be intelligent in spite of his illiteracy. A man of brains and brawn, in good health, and of unimpeachable character, should not be barred out of this land because conditions beyond his control have prevented him from learning to read. (Philadelphia (Pa.) Press, May 14, 1912.)

THE DILLINGHAM BILL.

The Dillingham bill now pending in Congress marks a wide departure from the generally accepted theory followed for many years concerning immigration. To restrict and to restrain are the cardinal principles of the proposed act. Heretofore the main idea of legislation has been to regulate, and not to prevent. There are those who believe that the time has come when such a change as that now proposed is necessary; that an absolute barrier must be raised against the hordes of those aliens who certainly are not elevating the standard of citizenship. On the other hand, the question is asked whether it is wise or humane to refuse a refuge and a haven to those who simply have been so unfortunate as to be born or reared in countries possessing less natural advantages or less endowed with the blessings of liberty. * * *

A man who can not read or write is not necessarily unworthy. Illiteracy is a misfortune, not a crime, and the illiterate should not have the door of opportunity shut in his face because he was unable to enjoy in his own land the advantages of education. Such a law penalizes misfortune and is un-American. (Buffalo (N. Y.) Commercial, May 15, 1912.)

ILLITERACY NOT IGNORANCE.

Last Sunday afternoon a meeting was held in this city to protest against the passage of the Dillingham and Burnett bills, now pending in Congress.

The principal bone of contention is the senseless educational test.

The speakers were Adelbert Moot; Col. John B. Weber, former Representative and Commissioner of Immigration, who has made a study of the immigration problem; Representative CHARLES B. SMITH; Health Commissioner Fronczak; and Dr. Boraiderl.

The suggested educational test is uncalled for, unnecessary, silly. Thousands of immigrants who were unable to read, unable to write, have come to this country. They have made good. Their citizenship is of the first class. They have been builders. The Nation could not well have done without them. (Buffalo (N. Y.) Times, May 16, 1912.)

RESTRICTION OF IMMIGRATION.

Of course paupers and criminals should be excluded. They should stay where they are produced. They will not develop our country. But those who will develop our resources and strength ought to be welcomed. That is a plain principle, but at present it is openly or covertly opposed on grounds that will not stand examination. In its extreme of narrow absurdity it appears in the policy urged and adopted in Australia, where in the assumed interest of labor it would discourage even white immigration. The one and only argument back of all these exclusion rules is, confessed or unconfessed, that a paucity of labor is desired by a class of laborers, so that they may secure larger wages by the resulting competition for it. There then follows for them an increased cost of living by the increased price of products, and the process goes on, more cost of living, more wages.

The Dillingham bill, now being considered in Congress, is another law intended to unify our laws for restricting population by immigration. The purpose we do not approve. We regard it as unwise in political economy, and ungenerous and indefensible morally. It is of the same ethical type as the action of the titled passengers on the lifeboat only half filled, who were unwilling to try to save others that were struggling in the sea. Immigrants come here to improve their condition a great deal; they are told they must not do it for fear we shall be crowded a little.

Senator DILLINGHAM's able defense of the bill brings out some important admissions resulting from the very careful investigation of the conditions of immigration. It appears that immigrants as a body are choice people, the choice of their race, whatever that race may be. They have more than usual enterprise. They are of those who have ambition to improve their condition. They are strong and healthy young people. They are able and willing to work. It appears further that an illiteracy test does not shut out criminals; criminals generally can read. Immigrants are, on the whole, picked people. The children of immigrants attend our public schools more faithfully than do the children of native parents. Further, there is no effort on the part of foreign governments to dump their undesirable citizens on our shores. No evidence of that could be found. * * *

The main provision is that those who can not read are excluded. The argument given for this exclusion is not that the illiterate are not useful laborers, nor that they are more criminal, but that they take the unskilled fields of labor, and that these fields are overcrowded. Evidence of this is that the annual income of such laborers in the coal and steel industries, as compared with their daily wage, shows that there are considerable periods of nonemployment. It is not made clear that such cessation from work is due to the failure of work to do. We judge that those who are willing to work steadily can get work, and it would not be bad if those who are less faithful should be crowded into other less toilsome and less remunerative pursuits. The purpose of the bill is to exclude common laborers, such as work in mines or on railroads. It is further the aim to shut out those who do not desire to make their permanent home here, for nearly half of those who come go back to live. If this is the case, one would think it would please these enemies of immigration. The young men come here, enrich the country more by their work than we are impoverished by the money we pay them, and which they send or carry back to Italy or Hungary, and they do not remain to be further competitors in the labor market; and yet the bill tries to exclude these temporary creators of wealth. The policy and purpose are indefensible. (The Independent, New York, May 16, 1912.)

LITERACY TEST FOR VOTING.

The Senate passed the Dillingham bill to limit immigration by means of a literacy test, but the House hesitates, and public sentiment is rapidly changing in relation to the bill. * * *

The Dillingham bill proposes to exclude "all aliens over 16 years of age and physically capable of reading and writing, who can not read and write the English language or some other language." This would shut out many immigrants who would soon become useful citizens. If the country had a better plan of distribution—if immigrants were landed at other ports than New York, no objection to their coming here would arise. Better distribution and a delay in naturalization would be better remedies. In other words the literacy test should arise when admission to citizenship is applied for and not to admission to residence in the country. If we apply it to the latter we turn our backs on our traditions and on thousands whose only crime is the plotting for freedom against tyranny at home. We are not ready to stand for despotism and against liberty even to please some Senators. (Birmingham (Ala.) Age-Herald, May 17, 1912.)

THE LITERACY TEST.

The literacy test is undoubtedly the weak feature of the Dillingham immigration bill. In the opinion of Charles Nagel, Secretary of Com-

merce and Labor, illiteracy does not stand in the way of assimilation, and we should imagine that this was the correct view to take of the matter. The illiterate man comes to our shores with his mind in a receptive condition. He is willing and even anxious to learn our methods of doing things. He has remained illiterate because his opportunities for education have been few. Here he will find many such opportunities, and if he is the right sort he will be quick to take advantage of them. It isn't the illiterate man, as a rule, that we have to fear, but the man who comes here laboring under the delusion that he knows it all, so to speak, and is unwilling to be taught. These are the sort of men who are apt to turn dangerous agitators and sometimes do. If a man has a strong, healthy body and a well-balanced mind he should be a most desirable immigrant, no matter whether he is illiterate or not. If illiterate he will work and acquire an education in spite of the poor start he has had at home. Capacity for work and willingness to perform it more than counterbalance a failure to stand a literacy test. Such a test is therefore palpably undesirable. (Brockton (Mass.) Times, May 27, 1912.)

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NO IMMIGRATION LEGISLATION.

Better no legislation at all on the immigration question than bad legislation. The voice of the Nation has declared too emphatically against such propositions as that of the Root amendment for the deportation to their countries of political refugees and the proposition to shut out some of our most useful elements of citizenship by imposing a literacy test. (Newark (N. J.) Star, May 30, 1912.)

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SIFTING THE IMMIGRANTS.

What qualities do we want in our immigrants to make them a welcome addition to our population? Without undertaking to give a comprehensive answer to this question, there are certainly four qualities which are needed:

Good physical health.

The economic virtues, such as temperance, honesty, and thrift.

A desire to become Americans, and the purpose to remain in America.

Capacity to become assimilated with the American population.

And the classes which we desire to exclude from America are also four:

Physical, mental, and moral degenerates.

Idlers, agitators, and cranks. We can breed all of these we want without help from the Old World.

Transients who come here to earn a little money, to live as near the edge of poverty as possible to be while in this country—Hungarians, Italians, Poles, and the like—and to return to their homes as soon as they have accumulated a meager competence.

Those whose race peculiarities are such as make intermarriage with the American people and assimilation into the American Nation undesirable if not impossible.

What the Nation wants of Congress is such legislation as will sift our immigration on the lines indicated above.

No simple provision, such as a perfunctory test of reading and writing, or a certain amount of money in hand, or the demand of a larger head tax, will suffice to solve our immigrant problem. We must either be willing to organize an effective and competent method of selecting the immigrants we want or we must continue to take them as they come, and do the best we can with them when they are here. (The Outlook, New York, June 1, 1912.)

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ILLITERACY AND IMMIGRATION.

One honest, hard-working illiterate, who lives clean and raises a decent family, is worth a hundred of the inefficients our schools turn out annually, who can read and write, but who are too fine to work and who are utterly useless in the civilization they live in. We place too high an estimate upon mere literacy; but if we paid more attention to teaching children that morality which comprehends respect for parents and law and the necessity of earning bread by the sweat of their face, we would not be troubled so much with the envy and discontent which are the outgrowth of laziness and inefficiency.

The literacy test for the exclusion of immigrants is the sheerest humbug; had such a law been in force since the early seventeenth century, America would still be a howling wilderness. The American troubles of the twentieth century are not the fruits of illiteracy and immigration; they are made right here on the soil by those born on the soil, by the lazy, the inefficient, the envious, the unsuccessful—all the products of our public schools. Go to your prisons some time and learn how many of the inmates are illiterates. When literacy has become a synonym for sanity, honesty, industry, and physical soundness it will be time enough to make illiteracy a barrier for admission to the Republic. I would rather have an illiterate who can steer a plow, wield a sledge, roof a house, lay brick, or dig a good sewer than a dozen half baked chaps who can write dog and read cat and who are willing to live on the labor of a father and mother. Let Congress face the question fairly, and let the Government back up the immigration authorities in enforcing the laws we have. The illiterate test is pure punk. Just plain flapdoodle. (Boston (Mass.) Morning Herald, June 3, 1912.)

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LABOR SCARCITY AND IMMIGRATION.

All of these facts may serve to remind us how fortunate the country has been to escape the limitation of immigration, which was so warmly urged in the last session of Congress and still threatens. There could be no greater folly from the industrial point of view than to require, as does this bill, that everyone shall be excluded who can not pass a literacy test and show some knowledge of English. For certain lines of work no American-born laborers are available—particularly is this true of unskilled labor in the iron and steel trades. In them such a restriction would speedily become crippling. It is no answer to this that conditions of work should be so attractive as to bring it to a higher class of men. Much can be done, indubitably, in this direction. But American labor will enter certain lines of work on no terms. Foreign labor will; why should it be compelled to master a new tongue before entering? For decades past the heavy outdoor work has been done by Irish or negroes or Italians or Slavs; the history of many a long-established industry is the story of first one nationality and then another carrying it onward. The United States needs immigration more than any other country, because here men rise rapidly in the social scale, as they can not elsewhere. The sons and daughters of one generation of day toilers are clerks or artisans. And to put up the bars at this particular period in our history would be to deal a blow in advance to our coming prosperity. (New York Evening Post, Sept. 23, 1912.)

THE ILLITERACY TEST.

The spirit of the Statue of Liberty in the harbor of New York, which, to immigrants catching their first sight of America, symbolizes the land of freedom, equality, and democracy, was well represented by the New York delegation in Congress yesterday, when the entire group of Democrats from that State went on record in caucus against the immigration bill, with its unfair illiteracy test for incoming foreigners.

If the United States made any pretensions to being a country dedicated exclusively to the "upper classes," the erudite, and the fastidious, the immigration bill which has been included in the Democratic program for the present session would be an accurate reflection of such sentiments. If, however, the United States is to remain what it was intended to be—a haven for the oppressed, the lover of liberty and freedom, the toiler, and the ambitious—then the present bill is a step backward toward an exclusiveness which, if exercised 100 years ago, would have paralyzed the growth of the Nation.

The illiteracy test would have robbed the country of some of its strongest and greatest men. Some of the ablest lawyers at the bar, the noblest humanitarians, the best and most progressive business men of to-day are the progeny of parents who could neither read nor write when they came to the United States.

Is opportunity to be denied to all those who have not had the advantage of an education in the countries where they were born? Many of the immigrants who can neither read nor write are the quickest students, once they have landed on American soil. Barring them from entering this country will deprive the Nation of the rich blood that is needed if the country is to continue to grow as it has grown in the past.

Many American-born men and women have been unable to obtain an education until they were well on in life, and yet have grown into fine manhood and womanhood. Criminals are frequently well educated, and so are many incompetents. The country needs as many healthy European immigrants as will come here, and the only tests that should be applied are those of health and morality. (Washington Post, Dec. 5, 1912.)

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RESOLUTIONS.

[Memorial and resolutions adopted at a mass meeting held at Cooper Union May 5, 1912.]

From the establishment of our Government it has been its consistent policy not only to permit but to encourage immigration into the United States. In consequence, our resources have been developed, new and important industries have been established, the great West has been peopled, and we have been blessed by a prosperity which is unparalleled in the annals of history. But for this liberal policy there would have been a dearth in the land of that vital energy which is as essential to material and moral improvement. A considerable percentage of those who have largely contributed to the progressiveness of our Nation are either immigrants themselves or the sons and daughters of immigrants.

While the right and the duty of our Government to regulate immigration is conceded, to the end that those who would imperil our prosperity and the permanence of our institutions should be excluded, it would be a genuine misfortune if any laws arbitrarily restrictive of immigration were enacted. It would be retrogression. It would close our gates to the oppressed who have hitherto been afforded refuge, and to those who supply strong arms and stout hearts to our industrial activities and further the increase of our national wealth.

Senate bill 3175, known as the Dillingham bill, and similar legislation now pending in Congress, if enacted, would operate as a reversal of that policy which has hitherto so signally contributed to our national greatness. Their most significant feature is the literacy test. This proposed restriction is conceded by its authors to be purely arbitrary. It would not exclude those who are inimical to our form of government, for they are usually highly educated. It would not keep out those who are physically, mentally, or morally degenerate. On the contrary, it will affect principally those whose brawn and muscle and whose obedience to law and authority make them especially useful and desirable as additions to our population.

It is this part of our immigrants which has built our railroads, canals, tunnels, and aqueducts; which labors in our mines, on our public highways, and upon our farms, which are being deserted by those of American birth. It is they who laboriously toil in those occupations which are avoided by our older population. Many of them learn to read and write after they arrive here. Their children avail themselves of the educational opportunities which are afforded them, and in a few years are not distinguishable from the descendants of the early settlers. If this test had been applied to the immigration of the last 60 years it would not only have seriously impaired our working capacity, but it would have deprived the country of great moral and ethical forces which have strengthened the public sense of solidarity.

The test proposed is the ability to read and write various clauses of the Constitution of the United States—a test with which many of our native-born citizens would find it difficult to comply. To require a foreigner, unfamiliar with our political phraseology, to undergo successfully such an examination under the most trying conditions, with none to sit in judgment but an inspection officer, would be most unjust. If it were deliberately intended to enmesh and entangle him, it could not be more effectually accomplished. Immigration should not be confounded with naturalization.

The pending bills are further objectionable because they contain a provision in the nature of a ticket of leave, which practically requires an immigrant at his peril to keep in his possession a certificate issued to him on his arrival, and another, added in the tumult of debate, which though with proper protective clauses now absent, might be appropriate in a neutrality law, has no possible relevancy to an immigration act by which an alien charged with a conspiracy for the violent overthrow of a foreign Government may be summarily deported to his death without the right of trial by jury and without judicial hearing of any kind, even though he may himself be the victim of criminal espionage and conspiracy.

Believing for these reasons that the passage of the pending bills would be an unqualified misfortune to the country and give rise to grave injustice and gross abuses,

It is resolved by this assemblage, composed of citizens who have given to this subject mature thought, that it vigorously protests against the proposed legislation, and fervently prays that no immigration laws be enacted which shall not be in complete accord with the principles which we have herein advocated; that copies of this memorial be forwarded to the President of the United States, to the Secretary of Commerce and Labor, and to every Senator and Representative

in Congress, and that they be urgently requested to oppose the enactment of these proposed restrictive laws as being detrimental to our common welfare and inconsistent with those American ideals which have given the stimulus of humanity to the conscience of the world.

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[At a town meeting held in Philadelphia, May 8, 1912, at Musical Fund Hall, under the chairmanship of Dr. C. J. Hexamer, president of the German-American Alliance, the following preamble and resolutions were adopted.]

Whereas the United States Senate has passed the Dillingham bill and the Burnett bill is now before the House of Representatives, both of which contain educational tests for immigrants, be it resolved by the citizens of Philadelphia in meeting assembled that we are unqualifiedly opposed to an educational test for immigrants.

We hold that existing law prohibits the incoming of criminals, paupers, lunatics, persons of immoral life, those afflicted with contagious diseases, and all others who may reasonably be regarded as dangerous to the public welfare or likely to become burdens upon the public purse. These provisions are sufficient for the exclusion of all unfit immigrants, and any further restriction must inevitably result in inhumanity and wrong.

That the literacy requirement is not a fair measure of moral worth, of economic value, or mental capacity, or civic worth.

Experience proves that moral soundness—simply honesty—is independent of intellectual culture. The vast majority of those ignorant of letters are morally sound, while a minority of the literate are morally defective despite their education.

The proposed changes in existing law is a reversal of the fundamental principles of our free Government and the history and traditions of our country. It has been the consistent will and policy of the people of the United States that this land should ever be a refuge for the oppressed and persecuted of the earth. It is inconceivable that a free and prosperous people, whose institutions are founded upon the broadest humanity and the most explicit recognition of the rights of man, could wish to close its ports against peaceable, honest, worthy, and industrious men and women seeking for themselves and their children political, religious, and industrial freedom. To turn them back, because of defective education, to the oppression and misery from which they are escaping would be for this Nation stultification and shame.

We further protest against section 18 of the Senate bill, which is of a far reaching character, has the result of placing worthy immigrants upon the same plane as persons sent to penal colonies, and will undoubtedly work hardship. It, moreover, virtually establishes an internal passport system which up to this time has only been known in the most autocratic of Governments.

Resolved, That a copy of these resolutions be sent to the President of the Senate and the Speaker of the House of Representatives.

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[Resolutions adopted at a mass meeting at Faneuil Hall, Boston, May 3, 1912.]

Resolved, That this meeting of the citizens of Boston protests against the adoption of the Dillingham and Burnett bills as being un-American in spirit and harmful to the best interests of the future people of the United States.

Resolved further, That the chairman of the committee organizing this meeting shall appoint a committee of five, who shall proceed to Washington to urge upon the individual Members of the House of Representatives and upon the officials of the parties the objections of this meeting to the proposed good-conduct certificates for immigrants.

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[Resolution adopted by a mass meeting of the citizens of Cleveland, May 9, 1912.]

Whereas there is now pending in the House of Representatives two measures known as the Dillingham bill (S. 3175) and the Burnett bill (H. R. 22527), both of which provide that a literacy test be applied to all immigrants entering the United States; and

Whereas the Dillingham bill, in addition to a literacy test, provides that all immigrants be required to carry with them a certificate of identity; and

Whereas we not only regard those provisions as hostile to the spirit of our American institutions, but also believe that they would work injustice to worthy immigrants and deprive our country of an element which, on the basis of experience, would develop into worthy citizenship; and

Whereas we believe that such restrictive legislation will seriously retard the commercial and industrial progress of this country: Therefore be it

Resolved, That we, the citizens of Cleveland, in mass meeting assembled, representing every element of our citizenship, protest against the passage of Senate bill No. 3175 and House bill No. 22527, and that we earnestly appeal to our Representatives in Congress to put forth every effort at their command for the purpose of defeating these two measures; be it further

Resolved, That a copy of these resolutions be forwarded to the President of the United States and to our Representatives in the Congress of the United States.

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[Resolutions adopted by citizens of St. Louis, Mo., in mass meeting, May 1, 1912.]

Whereas there is now pending in the House of Representatives two measures known as the Dillingham bill (S. 3175) and the Burnett bill (H. R. 22527), both of which provide that a literacy test be applied to all immigrants entering the United States; and

Whereas the Dillingham bill, in addition to a literacy test, provides, in section 18 thereof, that all immigrants be required to carry with them a certificate of identity; and

Whereas these measures are so un-American in spirit, so inhuman in their effect as to practically mean the closing of the gates of America in the faces of those worthy immigrants who seek shelter in the United States from religious and political persecution; and

Whereas we believe that such restrictive legislation will seriously hamper the proper development of our country and retard its commercial progress: Therefore be it

Resolved, That we hereby protest against the passage of Senate bill No. 3175 and House bill No. 22527, and that we earnestly appeal to our Representatives in Congress to use every legitimate means at their command for the purpose of defeating these two measures: be it further

Resolved, That a copy of these resolutions be forwarded to the President of the United States and to our Representatives in the Congress of the United States.

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[Resolutions adopted by the Common Council of the City of Johnstown, N. Y., Apr. 29, 1912.]

Whereas there is now pending in the House of Representatives two measures known as Dillingham bill (S. 3175) and the Burnett bill (H. R. 22527), both of which provide that a literacy test be applied to all immigrants entering the United States; and

Whereas the Dillingham bill, in addition to a literacy test, provides in section 18 thereof that all immigrants be required to carry with them a certificate of identity; and

Whereas these measures are so un-American in spirit, so inhuman in their effect, as to practically mean the closing of the gates of America in the faces of those worthy immigrants who seek shelter in the United States from religious and political persecution; and

Whereas we believe that such restrictive legislation will seriously hamper the proper development of our country and retard its commercial progress: Therefore be it

Resolved, That we hereby protest against the passage of Senate bill No. 3175 and House bill No. 22527, and that we earnestly appeal to our Representative in Congress to use every legitimate means at his command for the purpose of defeating these two measures: Be it further

Resolved, That a copy of these resolutions be forwarded to the President of the United States and to our Representatives in the Congress of the United States.

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[Resolutions of Pittsburgh Chamber of Commerce, June 3, 1912.]

Our national boast has been that this country was the refuge for the downtrodden and oppressed, who in a healthy bodily and mental condition, and with a law-abiding spirit, sought entrance at our gates with a view of making this country their home and taking their chances with us. This sentiment has built up our national idea of free Americanism. The immigration of the able-bodied and honestly inclined has contributed in a large degree to the greatness and prosperity of this Republic.

In the line of our tradition and of the principle that has guided us in the past, through means of which our country stands preeminent as the land of liberty and freedom and equal opportunity, we can not afford to close our doors to those who still unfortunately suffer from oppression existing in foreign lands merely because they can not read, although otherwise qualified for admission under existing laws.

The proposed educational test, if enacted into law, will affect the immigration of the very people this country needs most, namely, the honest, thrifty, industrious, and self-supporting laboring classes; and in this respect they are harsh and oppressive measures.

When the various phases of this question are considered we can not but reach the conclusion that if any of the proposed bills requiring the educational test for immigrants seeking admission to this country is enacted into law it will not only be against the policies of this country, under which it has grown to greatness, but against the interests of the Nation at large and especially against the best interests of Pennsylvania.

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[Resolutions of Italian-American Business Men's Association, Buffalo, N. Y., May 8, 1912.]

Resolved, That we, the Italian-American Business Men's Association of the city of Buffalo, N. Y., representing the sentiment of 60,000 Italians in Buffalo and Western New York, earnestly protest against the enactment of any law which denies the right of entry to the United States of those who, through no fault of their own, have failed to receive an education; we denounce the illiteracy test proposed in the Dillingham and Burnett bills as un-American in spirit and opposed to the principles on which this Nation was founded, namely, that it is the haven and refuge of the oppressed of every land; that it is antagonistic to the commercial and industrial advancement of this country.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

FORTIFICATIONS APPROPRIATION BILL.

Mr. SHERLEY. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 28186, the fortifications appropriation bill, and pending that I ask unanimous consent that general debate be now closed.

The SPEAKER. The gentleman from Kentucky moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of House bill 28186, and pending that he asks unanimous consent that general debate on this bill be considered closed. Is there objection?

Mr. FOWLER. Mr. Speaker, reserving the right to object, I should be glad if the gentleman in charge of the bill would give some little further time for discussion of the bill before he closes general debate.

Mr. SHERLEY. I suggest to the gentleman that any reasonable request under the five-minute rule will no doubt be granted. We have had one day's debate on this bill; we are in the situation that in a very few weeks the session will end, and the majority portion of the great supply bills are unacted upon.

Mr. FOWLER. I have never taken one moment's unnecessary time of the House in discussion.

Mr. SHERLEY. How much time does the gentleman want?

Mr. FOWLER. Ten or fifteen minutes.

Mr. SHERLEY. I will modify my request, Mr. Speaker, to the extent of asking that the general debate close in 15 minutes.

The SPEAKER. Is there objection?

Mr. RODDENBERY. Reserving the right to object, I do not care to press the gentleman if he wants to get on with his bill, but I should like 10 minutes of general debate.

Mr. SHERLEY. I suggest that there will be an opportunity for the gentleman under the five-minute rule.

Mr. RODDENBERY. It is purely a matter of preference, but I should prefer to have 10 minutes of general debate rather than to take it under the 5-minute rule, because if taken under the 5-minute rule it might provoke discussion.

Mr. SHERLEY. I am sure that it will not provoke discussion because, being in charge of the bill, I shall see to it that the debate is confined to the bill. I am trying to expedite the real public business of the House, business that ought to be attended to.

Mr. RODDENBERY. I do not desire to press the gentleman, but I should like to have 10 minutes under the head of general debate before the gentleman goes into the consideration of the measure under the 5-minute rule.

Mr. SHERLEY. Mr. Speaker, I am willing to modify my request to the extent of asking that general debate close in 25 minutes, the gentleman from Georgia to have 10 minutes, and the gentleman from Illinois [Mr. FOWLER] to have 15 minutes.

The SPEAKER. The gentleman from Kentucky modifies his request, and asks unanimous consent that general debate be closed in 25 minutes, 10 minutes to be given to the gentleman from Georgia [Mr. RODDENBERY] and 15 minutes to the gentleman from Illinois [Mr. FOWLER]. Is there objection?

There was no objection.

The motion of Mr. SHERLEY was then agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the fortifications appropriation bill, with Mr. RUSSELL in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 28186, the fortifications appropriation bill. By order of the House general debate will be closed in 25 minutes, 10 minutes to be given to the gentleman from Georgia [Mr. RODDENBERY] and 15 minutes to the gentleman from Illinois [Mr. FOWLER].

Mr. RODDENBERY. Mr. Chairman, I heard with interest day before yesterday the statement of the gentleman from Kentucky [Mr. SHERLEY], explanatory of the fortifications bill, and it appeared to me that he fully and comprehensively covered the bill, and his remarks reflecting the action of the committee manifested great care and doubtless much wisdom.

I am not disposed to interrupt the orderly business of the House, but I desire, Mr. Chairman, without underestimating the importance of the fortifications appropriation bill, to call the committee's attention to a subject that in point of gravity and point of importance to this country and its protection against foreign and domestic danger is far superior and altogether outweighs the questions of the fortifications bill in time of tranquillity and peace. I hold before me the Chicago Record-Herald of the dates of January 17 and 18, 1913. The first caption is "Feeble-minded white girl married to a 42-year old negro."

Some time ago I addressed a few remarks to the House touching the marriage in Chicago of the negro pugilist, Johnson, to an unfortunate white woman. It was then said by a good many Members that it was a rare case, an isolated case. I said on that occasion that it was a remarkable case that attracted wide attention. Such marriages are, however, not an uncommon occurrence, too frequent in Illinois, and too frequent elsewhere. I hold here the marriage certificate of this late outrage. Upon inspection of it there appears the gentle white hand of a woman and the strong white hand of a man, each upraised with fingers touching each other over an open Bible. These words immediately follow this holy emblem:

This is to certify that George F. Thompson, of Chicago, State of Illinois, and Hellen E. Hanson, of Chicago, State of Illinois, were by me united in holy matrimony, according to the ordinance of God and the laws of the State of Michigan, at Niles, on the 13th day of January, A. D. 1913.

That unholy certificate is signed by two witnesses to the ceremony and underwritten by "Charles Ager, minister of the gospel." A white minister at that, who ought to be tarred and feathered and driven into exile, scorned, as he is, by all decent people. Look upon this certificate, gentlemen, and you will witness the binding in wedlock of a 42-year-old negro to a 15-year-old feeble-minded white American girl, according to the laws of the State of Michigan, and conformable to the statutes of the State of Illinois. I desire to read a few extracts from the newspaper report of this case and incorporate them in the RECORD:

It became known that Thompson took the girl to Niles from Hammond, Ind., arriving at 4.30 o'clock in the morning of January 14. He hid the child in a room at the Forler House in the railroad district. At 10 o'clock the next morning he visited L. J. Torney, a justice of the peace, and asked him to perform the wedding ceremony.

To the credit of the justice, let it be said, he refused. Later he secured the services of the alleged white minister.

Another report from the paper says:

The girl is the only daughter of a widow who lives at 3855 Wentworth Avenue, and who conducts a little grocery at Thirty-eighth and South States Streets. The little girl helped her mother around the store while not attending school. She is small for her age, and still does her hair in a braid and wears short dresses.

My God, that the laws of any civilized State will permit a bestial brute to invade the home of a poor and defenseless widow, and, in defiance of her, to have sanctioned by law his wedlock to such a pitiable child! [Applause.]

The published report says further:

Thompson, who is a widower and who has two children, saw the child two weeks ago. He frequently went to the grocery and bought the child candy and ribbons. On January 10 he bought her a big doll which opened and shut its eyes and "talked." The child was delighted. When he asked her to go with him to the home of a negro friend, William Price, of 6636 Throop Street, late in the afternoon, the child was willing. She took her doll with her. Thompson kept her at Price's home all night.

It is sufficient to arouse the Nation that a 42-year-old African negro can take to another negro's home a 15-year-old feeble-minded child and keep her all night, and then, having wed her, outrage her, leave her dying, and escape violence of brave men in a great city. How long will the legislators of these States remain recreant to public duty? After the marriage he was arrested. Let me read on:

After a physician had found Emma Hanson, whom Thompson had married, in the negro's home, at 3820 La Salle Street, apparently dying, the child was removed secretly to a hospital by agents of the Juvenile Protective League and has not since recovered consciousness.

Thompson is being held in the county jail pending the outcome of the child's injuries. He is formally charged with abduction and his preliminary hearing has been set for January 24 before Judge Courtney.

Gentlemen, you may understand how this can be, but it passes my comprehension how any venal brute can marry a helpless, enfeebled white child and ever find lodgment in a jail or confinement in police barracks. All law-abiding men abhor violence in disregard of law, but what ought to be done with this beast propriety makes it impossible to state. When I cited to you the Johnson marriage in December I then stated that unless action was taken this outrage would inevitably lead to others. Here is what the black brute, Thompson, says, according to the published report:

Thompson, in his cell in the county jail, yesterday told why he lured the slip of a girl from her home and married her. He said he had a right to take the girl for his wife "if Jack Johnson could marry Lucile Cameron."

"If I want that girl, why can't I have her? I married her, and what are they going to do about it?"

I do not know what they will do about it in Michigan or Chicago, but I do know what they would do about it in Georgia. Propriety again will not permit me to say. He goes on insolently in these words:

I wanted her and I got her. Her mother is raving because I am colored. She thinks I ain't good enough. But if Jack Johnson is good enough to marry white women, why can't I marry one?

There you have it, sirs. In the name of girlhood and womanhood, I appeal to the recreant States to take action. Let the people call on their servants for legislation. I am happy to note that Kansas last week passed through the house a bill prohibiting such marriages.

Gentlemen, if others will not follow, do you not think we had better pass the constitutional amendment offered by me a few weeks ago prohibiting forever the marriage of whites and negroes in this country? [Applause.]

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. SHERLEY. Mr. Chairman, I yield 15 minutes to the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman, I yield two minutes and a half to the gentleman from Colorado [Mr. RUCKER].

Mr. RUCKER of Colorado. Mr. Chairman, the West has been the object of more poison-pointed javelins than any other section of the country, and especially our agricultural interests. I want to call the attention of the chairman and of the House to a significant statement made by Dr. Galloway, of the Bureau of Plant Industry, in a hearing upon the 17th day of this month concerning irrigated agricultural lands.

I will print that in the RECORD. In short, it means that, in his opinion, irrigated lands soon wear out. The view presented by Dr. Galloway is a blow not only to all the irrigated and irrigable lands in the West and every farmer who owns a tract of land that is being irrigated, but it is a blow also given to the great reclamation projects which we have now in process of construction in the West. In that connection I want to print as a part of my remarks extracts from practical farmers who have irrigated their farms for as much as 40 years, and, contrary to the statement of Dr. Galloway, their farms have grown more productive and valuable. It is a natural source of fertilization, the spreading of the waters upon the land, and I also want in this connection to give this testimony personally that for 35 years I have been irrigating lands, and my crops have grown from year to year under this natural fertilization by the spreading of the waters upon the land.

I am aware of the fact that there is a little bit of testimony that Dr. Galloway might bring to his aid drawn from the way-off eastern countries where irrigation first started, but those lands, supposed to have deteriorated in value, did not deteriorate because of irrigation, but, on the contrary, it was because of the exhaustion of the water supply by denuding the forests at the high country, thereby drying up the springs and natural reservoirs.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RUCKER of Colorado. Mr. Chairman, I also ask to print an editorial appearing in the Rocky Mountain News, the most reliable and most widely circulated paper in the Rocky Mountain and semiarid regions, concerning conservation in the western section of our country, showing all that the West asks for at the hands of the incoming administration.

The CHAIRMAN. The gentleman from Colorado asks unanimous consent to incorporate certain articles in the RECORD. Is there objection? [After a pause.] The Chair hears none.

The articles referred to are as follows:

The CHAIRMAN. Are any of the lands reclaimed by irrigation now being lost to agriculture?

Dr. GALLOWAY. From alkali?

The CHAIRMAN. From any causes.

Dr. GALLOWAY. Yes, sir.

The CHAIRMAN. From the action of saturation wearing it out?

Dr. GALLOWAY. Yes, sir.

The CHAIRMAN. Then, as a matter of fact, some of the land that is being reclaimed is also being lost to agriculture?

Dr. GALLOWAY. Yes, sir; that is true.

The CHAIRMAN. To any marked degree?

Dr. GALLOWAY. To a marked degree.

The CHAIRMAN. As a matter of fact, do irrigated lands have their problems which affect their own life and production to the degree that humid lands have?

Dr. GALLOWAY. Far more so, in my judgment. I will even go so far as to say what I have said before, that as far as I know there has never been any long-continued successful irrigation agriculture in an arid climate anywhere in the world.

COLORADO FARMERS LAUGH AT DR. GALLOWAY—PROVE IRRIGATED LAND PRODUCES BEST RESULTS—UNANIMOUS REPLY FROM EXPERTS REFUTES STATEMENT THAT ARTIFICIALLY WATERED AREAS DO NOT LAST LONG.

Colorado farmers and agricultural experts are virtually unanimous in their denunciation of the statement credited to Dr. B. F. Galloway in his testimony before a committee of the National House of Representatives to the effect that agriculture can not be carried on successfully for a long time under irrigation.

Farmers in the northern Colorado and Arkansas Valley districts, where irrigation has been practiced for more than 50 years, agree that the lands which have been longest irrigated are now producing the best yields.

Colorado farmers in the irrigated districts are eager that the testimony of Dr. Galloway be contradicted at once lest its falsity do permanent harm to the State among people who have no knowledge of irrigation. Most of them agree that the doctor has studied irrigation only "through a field glass from a palace-car window."

Following are some expressions from men who have made a competency from farming by irrigation in Colorado, and who know whereof they speak:

BUMPER CROPS IN WELD PROVE IRRIGATION—FARMERS, INDIGNANT AT GALLOWAY, POINT TO YIELDS ON LAND LONG WATERED.

GREELEY, *January 26.*

Farmers of Weld County who have accumulated fortunes by tilling land are indignant at the statement credited to Dr. B. G. Galloway, Chief of the Bureau of Plant Industry, who asserts that irrigated lands in the West are deteriorating as the result of being cultivated for a period of years.

There is no grave problem confronting Weld County from this cause, and unusually large yields this year in every crop, with the sole exception of potatoes, farmers say, prove conclusively that the Government expert is grossly misinformed.

N. D. Bartholomew, who has farmed in Weld County for 25 years, and who has accumulated a fortune, said:

"Our land to-day is better than it was 40 years ago or 25 years ago either. It produces better than it once did."

S. A. Bradfield, a pioneer of Greeley, said: "This is the pioneer irrigated section of Colorado. I stand firm in the opinion that there is no better farming country than in this section, and I deny emphatically that the soil is not as good as it ever was; in fact, I know from my own experience that it is a great deal richer and better."

More than a quarter of a million acres are under irrigation in Weld County. Irrigation has been practiced here since 1870 and the territory has been steadily increasing. Land is worth from $200 to $300 an acre, and water rights vary in price from $500 to $3,000.

LORY EXPLAINS STATEMENT—DECLARES PROBLEMS OF IRRIGATION WILL BE SOLVED.

FORT COLLINS, *January 26.*

President Charles A. Lory, of Colorado Agricultural College, when asked to-night for a statement regarding Dr. B. T. Galloway's declaration that there is danger of deterioration of soils under irrigation, said:

"Dr. Galloway's statement should not be interpreted in terms applicable to agriculture under humid conditions. His claim before the House committee was that the methods of humid agriculture would not be successful in irrigated culture. Irrigated agriculture has problems peculiarly its own. They present no greater difficulty than the problem of humid agriculture."

GRAND VALLEY SOIL, WATERED 30 YEARS, BETTER THAN EVER—GRAND JUNCTION EXPERTS DECLARE PROPER IRRIGATION CAN NOT INJURE LAND.

GRAND JUNCTION, COLO., *January 25.*

That systematic and scientific irrigation in no way injures the soil of the Grand Valley is the statement of leading irrigation experts in Grand Junction. They admit that indiscriminate use of water and negligence on the part of landowners is injurious to the land, but this can be easily overcome by drainage. In connection with the $4,000,000 Grand Valley project which is being built by the Government, a mammoth drainage system is also under way, which will cost $500,000 and free the Grand Valley from all fear of seepage in the future.

"No land will be injured by irrigation," declared E. E. Udlock, a landholder, "if any degree of care is taken in handling it. There is land here which has been under cultivation 30 years which is as rich now as any in the world. It lies on the river bottom, too, where seepage would most likely occur."

"I've farmed my ranch for 25 years," declared R. A. Orr, "and the land is better to-day than when I started. I do my own irrigating or supervise it."

"My ranch is 3 miles east of town and is in a rather low spot," declared M. M. Morse, "but seepage is no bugaboo to me. If I turned the water in my orchard for days at a time without looking after it, the soil would become water logged. Any land would, in any place. I am not bothered with alkali."

Much low land in the valley which went to seep before scientific irrigation was known is now being reclaimed.

COLORADO AND CONSERVATION.

It has been suggested that the chamber of commerce shall send 100 representative citizens to Washington to acquaint President Wilson with Colorado's views on conservation in order that the present "policy of disuse" may be abated, and a wiser and more sympathetic administration of the public domain inaugurated in the Western States.

Whether this plan is carried out or not, it is imperative that Colorado should do something to ameliorate the hardships worked upon the State by Pinchotism and to avert the danger of additional legislation based on ignorance and misunderstanding.

The theorists and bureau experts are already at work, and nothing is more necessary than that their misrepresentations shall not be allowed to poison President Wilson as they poisoned Taft and Roosevelt. Even now the eastern press is charging that "the enemies of conservation" are rallying to attack the whole conservation movement "on the partisan political ground that it is a Roosevelt movement." And Colorado is prominently mentioned as one of the "enemies."

This is not the truth nor has it ever been the truth. Colorado is not antagonistic to the policy of conservation, but is only insisting that it be freed from some apparent evils that have prevented the proper growth and development of this State.

For the East to assume that Colorado is working hand in hand with land grabbers and speculators is an insult to a State that has made a more strenuous fight against special privilege than any other in the Union.

It is to put the public domain into the possession of individual users that Colorado is struggling, and in this struggle there is not the slightest intent to "enrich a few people" or to open the way to huge grabs and ruthless exploitation of the natural resources. In his inaugural address Gov. Ammons put Colorado's position in a nutshell. He said:

"I believe in conservation in the meaning of the prevention of waste and monopoly. I am unalterably opposed to it in its definition of preserving things in their natural state undeveloped for future generations.

"I am also opposed to putting our lands and resources on a tenantry basis to pay taxes into the Federal Treasury. We will never be able to settle our lands and improve them properly unless the people can own them. * * *

"More than half the territory of Colorado and probably more than 90 per cent of the resources, outside of land, are still in Government ownership. To place these on a tenantry basis to pay rental into the Federal Treasury is to withdraw them permanently from State and local taxation. The people, therefore, who must supply county governments and State institutions must pay not only their own just share of taxes, but also those avoided by the Federal property."

It is against these repressions and obstacles that Colorado is protesting and will continue to protest until injustices are remedied. Our people have grown weary of seeing their greatest problem decided in the East, where there is no such problem, and by eastern men who have neither knowledge nor sympathy. We feel that we have a right to share in the decisions that affect the State so vitally and to protest against these decisions when they are stupid and unjust.

Vast changes are taking place under our very eyes, and yet no recognition of them is made in Washington. The "grazing lease," for instance, is now outgrown and has become intolerable. We have found that the waste stretches once deemed usable only for range are fertile in the extreme and available for agricultural purposes. Emmer, the new wheat, means ripening harvests where once the lone steer had to crop acres for subsistence. Other discoveries bid fair to change the whole face of things in Colorado, and yet it is insisted, in the sacred interests of conservation, that we shall govern ourselves according to rules laid down in the past.

The governmental position with regard to water is a case in point also. The fear that water power may become "monopolized" has developed into a mania. In the very nature of the element it is not pos

sible to monopolize water power, for its use for this purpose works no miraculous disappearance. It is still there, still susceptible to use by others. And out of this ridiculous fear has developed a policy that regards every applicant for any such privilege as a thief and an enemy.

Colorado wants landowners and home builders. Under conservation, as the bureaucrats administer it, Colorado is barred from getting either. Not until the prospector is given the hope of owning the mine that he discovers, not until the old homestead law pushes the "grazing lease" out of existence, can Colorado achieve its destiny.

Gov. Wilson has already stated that he is for conservation not reservation. Let a Colorado delegation prove to him that this State has had nothing but reservation and there is small doubt but that his fairness will agree to a change.

Mr. FOWLER. Mr. Chairman, on the 18th day of this month in the Canadian Parliament a bill was pending for the organization of the Canadian navy, and while it was under discussion a gentleman representing the north Ontario district, a Conservative in politics, the Hon. Samuel Simpson Sharpe by name, took an active part in the discussion thereof. He opposed the bill and took occasion to deliver himself on the personnel of the American Navy. The Washington Post of the 19th day of this month published his speech, and I quote therefrom the following extract:

Few native Americans sign for the Navy, and those who do are desperate. Men who are no good socially, morally, and otherwise. A hard winter, hard times, and strikes make the best recruiting seasons for the United States Navy. Thus it becomes a sort of home for destitutes and moral degenerates. Deserters from foreign ships—Scandinavians, Russians, Finns, Austrians, and Latins—take kindly to the Yankee Navy, for in it they learn the language and a trade, and the life to them is easy compared with their previous existence.

Mr. Chairman, the enemies of Bob Ingersoll said that he was an agnostic because he did not know anything about the future world. The Hon. Samuel Simpson Sharpe, upon the same line of reasoning, must be an agnostic, because he does not know anything about this world, especially about the personnel of the American Navy. The full complement of the American Navy is 51,500 men. There are to-day 47,515 enlisted men in our Navy; 42,857 are American-born citizens, 2,875 are naturalized foreigners, and 128 unnaturalized foreigners have made application for citizenship; 96.25 per cent of our entire naval force are American citizens and 90.20 per cent are American born. For more than six long years the American Navy has not admitted foreigners into its service except those who were members thereof before we required American citizenship as a qualification to enter our Navy

It would seem, Mr. Chairman, from these figures, that instead of the American Navy being a recruiting station for moral degenerates and deserters from foreign ships that it is a place where the best citizens of this land seek an opportunity to render honorable service in defense of this country. More than 73,000 men during the year 1912 offered their services to become members of the American Navy and only 17,743 were admitted, because of the high standard which is required in the examination before one can enter our Navy. Mr. Chairman, I do not desire to throw any reflections upon our sister on our north or upon any of her citizens, but I resent the statement made by this Canadian legislator as a slander upon the personnel of our Navy, and suggest that he acquaint himself with facts before he delivers himself again upon this subject. I want to advise him that the American Navy stands among the best navies in the world, while not as large as some, but among the best and bravest. Whoever heard of braver language more courageously delivered than that of Capt. Lawrence, of the *Chesapeake*, in deadly conflict with the British *Shannon* in 1813, when, wounded and dying, he uttered these immortal words, "Don't give up the ship."

It has been the motto of the American sailor ever since, both at home and abroad. No history has been made brighter in any nation of this world than the record of the deeds of valor of the American Navy. [Applause.] The report which was sent by Commodore Perry of his naval victory on Lake Erie in 1813, "We have met the enemy and they are ours," is an index of the courage and of the bravery of the American soldiers and American sailors.

Our ships float into every clime, on every water, and in every port in the world, and have made for us a reputation as the bravest among the brave, always ready for any emergency on land or on sea, and he who speaks disparagingly either of our Navy or of our Army does it either because he is ignorant of the conditions in America or because he wants to slander the greatest Nation in the world.

Mr. ESCH. Will the gentleman yield for a question?

Mr. FOWLER. Mr. Chairman, I will be glad to yield to the gentleman.

Mr. ESCH. Is it not a fact that when our fleet made its trip around the world and the men of the fleet were granted shore leave, their conduct met with the praise and commendation of the citizens and authorities of every port and nation they visited?

Mr. FOWLER. I am glad the gentleman propounded that question, Mr. Chairman, because I intended to allude to some of the great incidents of the American Navy, among which was the trip around the world mentioned by the gentleman. In every port where that great fleet landed it was hailed with greetings by crowned heads, and our sailors were received in the highest circles. If you want to know the bravery of men, go ask the wreck of our splendid ship the *Maine*, which was blown up in the Harbor of Habana; ask the remains of the dead seamen, 223, who gave up their lives on the high seas that men might be free.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOWLER. Mr. Chairman, I ask unanimous consent that I may have an extension of time of two and one-half minutes.

Mr. SHERLEY. The time was fixed in the House, and it is not in the power of the committee to fix general debate.

The CHAIRMAN. The Chair understands that when the time for general debate is fixed in the House the committee has no power to extend it by unanimous consent.

Mr. FOWLER. Mr. Chairman, I do not care to take up time in the discussion of this bill under the five-minute rule for this purpose, but I will be compelled to take the time then instead of now.

Mr. SHERLEY. I ask for the regular order, which is the reading of the bill.

The CHAIRMAN. The Clerk will read the bill.

The Clerk read as follows:

Be it enacted, etc., That the sums of money herein provided for be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available and to continue available until expended, namely:

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. The personnel of the American Navy ought never to be called into question.

Mr. SHERLEY. Mr. Chairman, I make the point of order that the gentleman is not speaking to the matter before the committee, and, therefore, is not in order.

The CHAIRMAN. The gentleman understands the bill is being read for amendment, and it is not in order to discuss anything except the matter before the committee.

Mr. FOWLER. Mr. Chairman, the appropriation provided here is for the purpose of protecting the American Navy——

Mr. BUCHANAN. Mr. Chairman, I want to ask unanimous consent that the gentleman be given an extension of time. My belief is that he will ask for only two and one-half minutes, and if it is refused it will consume more time than if you permit him to have those two or three minutes. I therefore ask that he be given unanimous consent to continue for three minutes.

The CHAIRMAN. The point of order was made that he was not discussing the subject in the bill.

Mr. BUCHANAN. I ask unanimous consent——

The CHAIRMAN. The gentleman from Illinois [Mr. BUCHANAN] asks unanimous consent that the gentleman from Illinois [Mr. FOWLER] be permitted to discuss other subjects.

Mr. SHERLEY. Mr. Chairman, at the special request of the gentleman from Illinois, general debate, which was then about to be closed and could have been closed, in my judgment, by a motion, was permitted to extend so as to give him the maximum of the time that he requested. I have no desire except to perform the public business of the country. I submit that we have reached the time in this House when the desire of the gentlemen to speak on general subjects should not be permitted to interfere with the public business before the Congress.

The CHAIRMAN. Does the gentleman from Kentucky object?

Mr. SHERLEY. I make the point of order it is not in order to give unanimous consent after the question has been settled by the House.

Mr. BUCHANAN. I submit that there has been much time wasted.

The CHAIRMAN. The matter is not debatable. The Chair understands that it is out of order to discuss general subjects at this time. The committee may grant unanimous consent to do so. The question is on the request of the gentleman from Illinois [Mr. BUCHANAN] to give three minutes to the gentleman from Illinois [Mr. FOWLER] to discuss general subjects at this time. Is there objection? [After a pause.] The Chair hears none. The gentleman from Illinois [Mr. FOWLER] is recognized for three minutes.

Mr. FOWLER. Mr. Chairman, if the gentleman to whom I have alluded as a member of the Canadian Parliament wants to know anything about the personnel or the marksmanship of the American Navy, I ask him to consult the remains of the *Vizcaya*, the *Cristobal Colon*, the *Maria Theresa*, the *Oquendo*,

the *Pluton*, and the *Furor*, now lying at the bottom of the sea off the Harbor of Santiago Bay. If the gentleman had only made himself acquainted with the history of the Spanish-American War he might have saved himself the criticism of having slandered the American Navy.

Mr. Chairman, it is well known by everybody that the great trip which the *Oregon* made, in charge of Capt. Clark, around the Horn, in order to engage in the memorable battle on the 3d day of July, 1898, has become historical, and every student of history knows that that daring deed compares favorably with any naval event of any fleet or any other war vessel in the world.

I say, Mr. Chairman, the remarks of the gentleman in the Canadian Parliament is a slander upon the personnel of the American Navy, and I challenge him and the world to show a higher citizenship in the Navy in any country, in any clime, upon any vessel, and in any battle than that which has been displayed by the personnel of the American Navy. [Applause.]

I print in the RECORD the following tables taken from the report of the Secretary of the Navy for the year 1912:

Comparative statement of reenlistments.

	1911	1912	Increase.	Decrease.
Men entitled to reenlist under discharge	6,752	11,432	4,680	.....
Total men reenlisted	3,840	6,227	2,378	.....
Total men enlisted	15,724	17,743	2,019	.....
Percentage of men entitled to reenlist who reenlisted	57	54	.....	3
Men enlisted for fiscal year to serve during minority	2,410	2,250	.....	160
Enlisted men serving during minority	6,243	6,646	403	.....
Men holding certificates of graduation	1,180	1,292	112	.....
Men serving under continuous-service certificates	11,405	12,955	1,550	.....
Total number of men serving under reenlistments June 30	12,978	15,309	2,331	.....
Per cent of enlisted men serving under reenlistment June 30	27.26	32.22	4.96	.....
Men serving June 30:				
Under first enlistment	34,634	32,206	.....	2,428
Under second enlistment	8,055	9,289	1,234	.....
Under third enlistment	2,704	3,516	812	.....
Under fourth enlistment	931	1,078	147	.....
Under fifth enlistment	538	542	4	.....
Under sixth enlistment	328	366	38	.....
Under seventh enlistment	186	266	80	.....
Under eighth enlistment	147	159	12	.....
Under ninth enlistment	80	79	.....	1
Under tenth enlistment	9	14	5	.....
Total in service, including prisoners, June 30	47,612	47,515	.....	97

Citizenship.

	Native born.	Naturalized.	Aliens declared intentions.	Aliens resident in United States.	Aliens nonresident in United States.	Natives of— Porto Rico.	Guam.	Samoa.	Philippines.	Total.
Petty officers	13,684	2,064	63	11	13	7	5	5	106	15,958
Other rates	29,175	811	65	150	153	39	67	78	1,019	31,557
Total	42,859	2,875	128	161	166	46	72	83	1,125	47,515

The above includes 864 prisoners who are not counted in the full number allowed by law.

Nativity and residence of the enlisted force.

Native born	42,663
Foreign born	4,852
Total force	47,515

States furnishing greatest number native born.

New York	6,484
Illinois	2,537
Indiana	1,695
Texas	1,323
Pennsylvania	4,648
Ohio	2,466
Maryland	1,421
Michigan	1,314
Massachusetts	2,575
New Jersey	1,813
Missouri	1,381
Iowa	1,014
Total	28,671

Greatest number of foreign born, by countries.

Philippines	1,123
Sweden	294
Japan	214
Germany	636
England	236
Ireland	435
China	232
Total	3,170
Residents of the United States	45,726
Nonresidents	1,789
Total force	47,515

Color.

White	44,261
Negro	1,438
Chinese	258
Japanese	210
Filipino	1,125
Samoan	83
Chamorro (Guam)	72
Hawaiian	18
Indian American	4
Porto Rican	46
Total, including 864 prisoners under sentence dishonorable discharge	47,515

Enlistments.

Applicants for enlistment		73,364
Applicants physically qualified and enlisted:		
First enlistment	11,516	
Reenlistment	5,720	
Applicants' disqualifications waived and enlisted	507	
		17,743
Applicants accepted who failed to enlist		3,829
Applicants rejected for physical disability	36,999	
Applicants rejected for other causes	14,793	
		51,792
		73,364

Summary of enlistments.

Number of enlistments at recruiting stations	12,489
Number of enlistments at naval stations in the United States	716
Number of enlistments at foreign naval stations	333
Number of enlistments on receiving ships	2,740
Number of enlistments on cruising vessels	1,465
Total enlisted	17,743

The CHAIRMAN. The time of the gentleman has expired. The Clerk will read.

The Clerk read as follows:

For the procurement or reclamation of land, or right pertaining thereto, needed for site, location, construction, or prosecution of works for fortifications and coast defenses, $100,000.

Mr. GILLETT. Mr. Chairman, I move to strike out the paragraph.

The CHAIRMAN. The gentleman from Massachusetts [Mr. GILLETT] moves to strike out the paragraph.

Mr. GILLETT. I would like to ask the gentleman from Kentucky [Mr. SHERLEY] in charge of the bill if this is the paragraph to purchase the land on Chesapeake Bay?

Mr. SHERLEY. It is.

Mr. GILLETT. This project for the defense of the entrance to Chesapeake Bay has been pressed upon the Committee on Appropriations by the War Department ever since I have been on that committee. I remember that about 10 years ago the committee went down the bay, as I believe it has done this year, and investigated personally the conditions there, and every year from then until now this project has been pressed upon the committee, and every year until now the committee has rejected it. This is the first time that a favorable report has ever been made upon it.

That illustrates the great advantage which the Army and Navy always have in finally accomplishing their projects, because the Army and Navy are always steadfast to their opinions. They are always here, while the membership of this House is shifting; and some year, if they press it year after years, as has happened in the case of this and so many other projects, they will find a committee that is favorable. Then the proposition will be reported, and that project, if it is once under way, is bound to be completed, and then they can devote their energies and persistence to some other project which the House up to date has rejected.

But, of course, that is no argument, necessarily, against this project. We all have the right to change our minds, and different committees can have different opinions. But I wish to call the attention of the committee first to the proposition that the main ground upon which this is reported is that the Army and Navy are unanimous for it. That proposition has been equally true ever since I have been on this committee. They have recommended the defense of the entrance to Chesapeake Bay, and the delegation from Virginia, naturally and properly, have always urged it upon the committee.

But what is the reason for defending the entrance of the Chesapeake Bay? Unquestionably the cities of that bay are as well defended as any in the country to-day. We have Fortress Monroe, we have the defenses of Baltimore, we have the defenses of Washington all completed, and all within the original project of the Endicott Board, wherein this defense

at the entrance of the bay was reported as an outer defense. The original project, or the project that was pressed upon us for many years, was that an artificial island should be constructed at the entrance of the bay. In that way the deep-water channel could be absolutely covered and defended against an approaching hostile fleet.

That unquestionably would be better than to fortify Cape Henry, but the expense would be very large, and I presume it was upon that ground that the subcommittee now have abandoned the island project, which would be a much stronger defense, but which would be a more expensive project, and it is doubtless upon that ground that we now have proposed simply a fortification upon Cape Henry and none on Cape Charles.

Now, the entrance to Chesapeake Bay is 12 miles wide, but the deep-water channel comes within about 5 miles of Cape Henry, so that if modern guns are erected upon that cape, as this project, I understand, proposes, the deep-water channel will be adequately protected.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. GILLETT. I ask that my time be extended five minutes.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. GILLETT. Beyond this deep-water channel are 7 miles of shoal water, but in that shoal water there are channels 18 to 23 feet deep, so that the scout boats of the enemy and the transports of the enemy can still come in, and the Army engineers tell us that despite these fortifications on Cape Henry it will be necessary to have a flotilla of armored vessels of the scout size in Chesapeake Bay to protect it against the scouts and transports of the enemy. So that we are not absolutely defending it, and I venture to predict that just as soon as this project is completed the Army and Navy will tell us that it is necessary to have another battery over upon the other cape, and the reason they do not say so now is because they are willing to accept this project and partially defend it, and then I predict we will be asked to fortify the other cape, and thus absolutely cover the channel.

Now, I recognize that we would all like to have that bay protected. We would like every bay along the coast protected, but I recognize the truth of what the gentleman from Kentucky [Mr. SHERLEY] says, that after all you can not lay down a hard and fast rule as to what you shall defend. It is a good deal like a man's life insurance or fire insurance. Different men will have different opinions as to how adequately you should insure. The same man at different times may have different opinions, and so this committee at different times has shown that it has, and some members of the committee have had different opinions upon this very project.

But in my opinion this is not a necessary project, because the cities of the bay are now all well protected. Lynnhaven Bay could be used by a hostile fleet to be sure as a refuge, but we can not shut up all the bays on the Atlantic from hostile fleets. If we shut up Chesapeake Bay, there are plenty of other undefended bays to which a hostile fleet can go, and where they can take refuge. So we are not preventing them having a base on the Atlantic coast. Why, then, should we go to this expense of $3,500,000 to fortify the entrance of a bay whose cities are all admirably fortified? It seems to me that while our present coast defenses are not completed, while it now requires $21,000,000 to complete the fire control, the modernizing of the equipments, the searchlights, and the electrical installations of the forts that we have on our coasts, while so much money as that still remains to be expended and ought to be provided to make them serviceable, it is foolish for us to launch out into a new project costing between $3,000,000 and $4,000,000. And it strikes me it is particularly strange that the Democratic majority, which refuses to increase the size of the Army, which says it is going to diminish the appropriations for military defenses, should come forward with this project, which necessarily increases the Coast Artillery force to protect Chesapeake Bay, because to-day the Coast Artillery force is grossly inadequate. And we all know that the Coast Artillery are not like an ordinary army. We can not recruit them at a moment and have them serviceable. The Coast Artillery is more like the Navy. This country has lately decided that it is not the number of guns we have, but it is the number of hits we can make that count. So in the Coast Artillery you have got to have skilled men. You can not recruit them at the moment of war as you can our ordinary army. You have got to have men who can make the guns tell. They will be needed at the very outbreak of the war and must know how to manage their guns at the very first approach of the enemy.

Now, in what condition is our Coast Artillery to-day? The Coast Artillery report says that to give not a war force, but just one single manning for our present home coast defenses, would require 44,000 men, and all we have to-day to man those present existing forts is 21,000 men. So that there is to-day a lack of 23,000 men to give just one manning to our present home Artillery force.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. GILLETT. Mr. Chairman, I will ask for an extension of five minutes more and then I will request no further extension.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent for five minutes more. Is there objection?

There was no objection.

Mr. SLAYDEN. Will the gentleman permit a question?

Mr. GILLETT. Certainly.

Mr. SLAYDEN. As I understand the gentleman's argument, he is suggesting a large increase, about 50 per cent, in the Coast Artillery Corps?

Mr. GILLETT. It seems to me that there ought to be at least that.

Mr. SLAYDEN. I have been told by a general officer of the United States Army that it is the policy of some governments not to maintain at their full strength Coast Artillery organizations, because it is a character of work that can be supplemented by laborers and intelligent mechanics, assuming, of course, that a skeleton of trained men is kept to direct these people. A general officer of the United States Army gave me that information, if it is information.

Mr. GILLETT. All I know is what the chief of our Coast Artillery says, and he makes the point that the Coast Artillery men are men that you can not recruit at once, but that experience is necessary to make them useful.

Mr. SLAYDEN. The gentleman knows that if he goes to the head of the Cavalry arm, or an officer of the Infantry arm, or of the Artillery, that he will try to convince him that the country is going to the devil in short order if that particular arm of the service is not augmented.

Mr. GILLETT. I will agree with the gentleman; and I do not blame the Army officers for that tendency, because no man in a professional line is worth much if he does not exaggerate, even to himself, the importance of his line. They ought to be enthusiastic. It is true that the board that is planning our coast defense are very apt to exaggerate—and that is an argument really against this project—because they are apt to overexaggerate the need of defense. We can see why it is, and probably we would do the same thing if we were in their place, because in case of war if a disaster happens in any one spot they want to be able to say, "We recommended to Congress that that spot should be defended, and therefore it is Congress and not we that are to blame." I presume it is true that the chief of every division will exaggerate the importance of his recommendation; but it does seem to me that when to-day it requires simply to man once our present existing coast defense 44,000 men, and we have only 21,000 for that purpose, that is an argument that before we branch out to inaugurate new defenses we ought, at least, to complete the old and to complete the manning of the old.

Moreover, the existing defenses are not worth anything unless they have men who can shoot these guns with accuracy; and also they are not useful unless they have the fire control, the searchlights, and power plants, and all the other appurtenances which go to-day to make up a great fortification. There is now lacking $21,000,000 to complete all these; so it seems to me, Mr. Chairman, that now is a strange time to take up this new project, which has been before us and rejected so many years.

Mr. SLAYDEN. Will the gentleman yield for another question?

Mr. GILLETT. Certainly.

Mr. SLAYDEN. Does not the gentleman think it would be an excellent idea to supplement our defenses with treaties of arbitration with all the governments of the world?

Mr. GILLETT. Oh, I am as much in favor of that as anybody could be, and would be glad to do it, but I recognize the uncertainty of war. We may not need these defenses, and we may need them. We have to exercise a certain elasticity of judgment, and many men will differ. I have stated my opinion that this defense is not imperatively necessary and we should still postpone it as it has been postponed so many years.

Mr. MANN. Mr. Chairman, I wish to ask the gentleman from Kentucky whether there were elaborate plans made for this proposed fortification, what they are, and what it is going to cost?

Mr. SHERLEY. Mr. Chairman, in answering the gentleman from Massachusetts I shall endeavor to give the gentleman from Illinois the information he asks for. The gentleman from

Massachusetts has truly said that this proposal has been before Congress for some 10 years, but he draws from that fact a very different conclusion than I would draw from it. He says, having been before Congress for 10 years and Congress having heretofore not agreed to it, it should not agree to it now.

But I submit in all candor that the very fact that in the face of repeated refusals of Congress to agree to the project—not just the project now before the committee, but one touching the fortification of the Chesapeake—the Army and the Navy have given the best evidence of the importance of it, from their viewpoint, and I present now to this House this question, and it seems to me fundamental, whether we, as laymen, are going to put our judgment as to a strategic matter of this kind against the judgment of men trained to determine it, after that determination has become fixed and the plan has become a detailed one, and when, in my judgment, the present plan also answers the objections that heretofore have been made. The original proposition that was submitted to this Congress was contained in the report of the Endicott Board. It did not report that the defenses of Washington or Baltimore or of Norfolk were sufficient in themselves, but it recommended at that time as the only practical way of defending the mouth of the Chesapeake, the stationing of certain monitors there. That proposition was revised by the Taft Board; that board recommended the building of an artificial island, and the placing of batteries upon Cape Charles and Cape Henry.

Mr. Chairman, no subject has gone through a greater evolution than the art of seacoast defense. The range of guns, the accuracy of fire, particularly the accuracy of fire of mortars, to-day compared with the old days have revolutionized seacoast defense, and more and more as the warships have had heavier armament and heavier armor has the tendency been to increase the size of our guns and their range, so that to-day, instead of having a proposition with all of the uncertainty that was involved in a project to build an artificial island, the cost of which nobody knew, and the sufficiency of which no one could then determine, we have now a proposition that contemplates the use of armament of sufficient caliber and sufficient range to cover the mouth of the Chesapeake; and the gentleman is not accurate when he says that it will be impossible for the guns upon Cape Henry to control the field at the mouth of the Chesapeake. It is about 12 miles from Cape Henry to Cape Charles. A modern 16-inch gun will be able to cover entirely that field, and that is also true of the modern mortars that it is proposed to station there; and when that is supplemented with the mine defense, I say to you that the testimony of the officers showed that it would be an adequate defense.

Mr. GILLETT. Mr. Chairman, the gentleman does not mean that 12 miles can be covered by a battery with an effective defense?

Mr. SHERLEY. I do not mean to say that the actual 12 miles can, but I mean to say that the entire usable channel can.

Mr. GILLETT. Yes; the deep water. That is 5 miles.

Mr. SHERLEY. Not only the deep water, but what the gentleman has spoken of as of less depth, for transports, will be within the field of the range of the 16-inch guns, and it was so testified before our committee.

[The time of Mr. SHERLEY having expired, by unanimous consent he was granted five minutes more.]

Mr. Chairman, the proposition that confronts us is this: It is true that the fortifications of Fort Monroe, that the fortifications upon the Potomac, that the fortifications at Baltimore, protect Washington and Baltimore from sea attack; but it is not the purpose of this fortification at the mouth of the Chesapeake to simply protect those cities from sea attack. This is the proposition that underlies the whole matter. You have a great harbor for the rendezvous of ships. At Lynnhaven Bay is one of the greatest anchorages upon the Atlantic coast. There is not now mounted a single gun upon the Atlantic shore that could in any way prevent a fleet, assuming that it was not interfered with by our fleet, anchoring in Lynnhaven Bay, and making a safe base for operations there in the Chesapeake. The very purpose of defense is to leave your Navy free to seek the enemy. If you have here at home a safe rendezvous that a foreign navy can use for operations, you have presented a situation that would compel in the breaking out of war the bringing of part of your fleet to prevent the use of this rendezvous by another fleet.

Not only is that so, but in the event of an indeterminate action between the American fleet and a foreign fleet, you need to go into some place for refuge, and as a refuge this is in many ways the most attractive place upon the Atlantic coast, and it would be at any time to our fleet. I grant you that it is hard for a lay mind, and I share the difficulty, to contemplate a situation where our fleet might be so destroyed that the enemy's fleet would be at liberty to make landing parties of great size, to bring transports and troops, and take, by overland, any of those cities.

And yet the War of 1812 presented just exactly that proposition, and it was through this entrance that the forces were landed and marched on to the Capitol and burned it. Now, the gentleman says there are plenty of harbors that are not fortified that can be used. The gentleman's information is better than mine, as I can not recall any harbor, and I call on him now to say what harbor there is near the Chesapeake that is undefended that could be used as a rendezvous by a hostile fleet.

Mr. GILLETT. I did not say near the Chesapeake, but what is the matter with the Delaware breakwater?

Mr. SHERLEY. Does the gentleman think that behind the Delaware breakwater a fleet could lie?

Mr. GILLETT. Why, I think so.

Mr. SHERLEY. Does the gentleman mean to say they could make that a base for operations?

Mr. GILLETT. I do not see why not. It is not as good as Lynn Haven Bay, but it is satisfactory. There are a number of undefended harbors also in New England they could get into. Of course, those are not near the Chesapeake.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. SHERLEY. Yes.

Mr. MOORE of Pennsylvania. I think there is no question but that a fleet could be accommodated behind the breakwater if the breakwater were dredged out, but the difficulty is now it has shoaled up to a certain extent, and we have been unable to have those shoals removed.

Mr. SHERLEY. I am speaking of conditions as we have them to-day. I am not advised of any place that is comparable in its importance and in its availability as the Chesapeake. Now, the gentleman says we should not undertake this matter until we have brought up all the units of our defense, and he cites to you the fact that twenty-odd million dollars is needed now for the defenses we already have.

Now, the gentleman is again mistaken. It is true that estimates exist looking to the expenditure of something like $27,000,000 for what might be designated as accessories to our coast defenses, but it is unfair again to assume, because the estimates exist for these additional needs, that therefore the present defense is inadequate. For instance, we have at present at practically all of these fortifications temporary fire control, a fire control that is sufficient in time of war, but yet not the permanent system that is proposed to be installed for all time. So is it true in regard to the searchlights. We have not all we ought to have and all we will have, but the gentleman is not warranted in giving the impression to this House that other places are so in need of money for accessories that you should not expend the money here. Now, we are actually proposing to expend somewhere between $100,000 and $150,000. I have frankly stated to the committee that in my judgment the expenditure in the final run will amount to nearly $4,000,000, if not quite that sum.

I present to you this proposition: That there is unanimity on the part of Army and Navy officers, first, as to the necessity for defending the lower Chesapeake; second, as to the efficiency of the proposed defense; third, as to the great size and value of the commerce that uses those waters; fourth, as to the stake that we have there in the Norfolk Navy Yard; fifth, as to the great cities of Washington, the Capital of the Nation, Norfolk, and Baltimore; that it is not an extreme position to say that the Government, having embarked upon millions and millions of expenditure for national defense, shall undertake this project, calling for $4,000,000, that has back of it all of this at stake. Because of all this, I did not feel I should put my judgment against the judgment of these officers. I had a good deal of the feeling of the gentleman from Massachusetts, and a large part of it was due to the fact that at one time the project did not present what seemed to be feasible. They came to us with an artificial-island proposal when we did not know what the character of the foundation was upon which it was to be built or the amount of money that it was to cost. They came to us at a time when our range of guns was very limited as compared to what it is now.

There were many reasons why we were warranted, and I defend the action of the committee in the past, in having refused to agree to the project; but I believe we have reached a time when the project is sufficiently advanced to enable us to judge clearly and realize that it will be adequate, and I am not willing, with the responsibility put upon me, to put my judgment against these officers. Now, much is said about Army and Navy officers always desiring to do various unjustifiable things, and the gentleman from Massachusetts [Mr. GILLETT] very prop-

erly qualifies his suggestion by saying they ought to be zealous, but I deny that our Army and Navy officers are simply seeking an opportunity to spend money. I think they have spent a great deal, and a great deal for which we did not get a proper return, but taking them man for man I believe they rank as high in intelligence, in patriotism, and in desire to serve the interests of our country as any of the citizens of America, and their integrity is beyond question.

They come from the body of us, they come from our congressional districts, and there is no reason why they should have imputed to them always the motive of desiring their own interest when they make a recommendation to the Congress of the United States. I hope the motion of the gentleman from Massachusetts may not be agreed to.

Mr. HELM. Mr. Chairman, I move to strike out the last two words.

When this bill was before the House on a former occasion, in the endeavor to get some information about our method of maintaining our coast defenses, I asked my colleague, the gentleman in charge of the bill [Mr. SHERLEY], some questions, and among them was this one:

In case a shell was dropped over behind this embankment or protection or rampart and should explode in proximity to these guns, what probable effect would the débris thrown up have upon the machinery for raising and lowering these guns?

The answer was:

I should say, if it was a big enough shell and exploded close enough, it would put the gun out of commission.

Now, I do not pose as an expert. I have no training or knowledge whatever of war or of the machinery of war, but I ask this committee if that statement does not present some food for thought, and is it not worth while to consider it?

If I understand the way in which these guns are operated, they are operated from behind a bank, something similar to the walls here that support this balcony. The guns are down here, and have machinery with which to lift them above the top of the embankment behind which they are concealed. They are lifted, fired, and then are immediately lowered. I presume these coast-defense guns are of different caliber.

I have received information from a source that I consider reliable that guns of very small caliber are established at some of these coast-defense stations, and it was represented to me by an officer who was in this particular branch of the Army, that some of the guns that are behind these places are inferior in caliber, range, and effectiveness to the guns carried and fired by a dreadnought or man-of-war, or, to put it as concretely as I can, that a man-of-war could stand off at sea and throw a shell over into this emplacement, and that the gun in the emplacement on the coast did not have the range to reach the man-of-war. In other words, it would be like my engaging in a pistol duel with a man who had in his hands an improved or special "44" while I had a "22," or a Flobert rifle, or something like that, though not as extreme.

Mr. SHERLEY. Will the gentleman yield for a question?

Mr. HELM. With pleasure.

Mr. SHERLEY. Does the gentleman remember what happened when Port Arthur was attacked by sea? Port Arthur was in no sense as strong a fortification as ours.

Mr. HELM. I do not. I am only giving this information for what it is worth and in the utmost good faith. There is no intention of reflecting on anybody connected with the committee or any officer of the Army. It came to me in such a way that it made a strong impression on me as a matter worthy of consideration and attention, and I thought it might be worth five minutes of time to try to present it to the committee as best I could.

Mr. KOPP. Will the gentleman yield?

Mr. HELM. With pleasure.

Mr. KOPP. Is it not a fact that in most of our coast defenses the caliber of the guns used is much larger than the caliber of the guns used on a modern battleship, and with a much more effective range?

Mr. HELM. The only thing I can say is a repetition of what I have said, that an officer of the Army in this particular branch of it—in the coast defense division of the Army—conveyed the information to me in person that the coast-defense guns could not compete with those of the Navy. That is the best term I can use to convey my idea. He said that they did not have the reach—not all of them, but some of them—and he further said that a gun on land, the same gun and same caliber, had, by reason of its having a permanent location, a longer reach than the same caliber of gun with the same amount of powder on a vessel. Is that correct? I think I have quoted him substantially correct.

Mr. KOPP. Certainly.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. HELM] has expired.

Mr. HELM. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent for five minutes more. Is there objection? [After a pause.] The Chair hears none.

Mr. HELM. I simply bring that out for information. It was news to me. I did not know that until the officer told it to me. I simply mentioned that to corroborate and substantiate myself in the fact that I did receive such information.

Mr. KOPP. I think the officer must have been mistaken in this respect. He may have been discussing antiquated guns or guns that were effective a few years ago, but in discussing those guns he should place against them the guns that were placed on the battleships in that day. The guns that have been placed in our fortifications lately are much more effective guns than guns carried on our battleships to-day.

Mr. HELM. Just a moment. I never saw one of these guns or these pits in which these coast-defense guns are concealed during my life. But I understand there is a gun used called the "Crozier disappearing gun." Is that correct?

Mr. KOPP. Yes.

Mr. HELM. Now, this gentleman, the officer who gave me this information, was talking to me about the Crozier disappearing gun.

Mr. SHERLEY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. HELM. Yes.

Mr. SHERLEY. Was not this the contention of the officer—and it is an old one—that we ought to use 12-inch guns at a high velocity instead of using guns of a larger caliber with larger projectiles and a less velocity? Now there are two schools of thought——

Mr. HELM. Will the gentleman allow me to go on? I have but a limited time.

Mr. SHERLEY. I simply wanted to suggest to the gentleman that this was the contention: It was found that by firing a 12-inch gun at a certain velocity the tendency after a few shots was to wear the gun out; that the same velocity and impact could be had by using a larger projectile from a larger calibered gun at a less velocity, because the force of impact is determined by the weight of the projectile in connection with the velocity with which it is carried.

Mr. HELM. Now, does the gentleman want me to answer the question?

Mr. SHERLEY. Now, as the result of that, the 14-inch gun would last very much longer, and the Army is using a larger caliber of gun with less velocity, and the Navy is using a smaller caliber of gun at a higher velocity.

Mr. HELM. Now, in answer to the gentleman, I do not now recall that the views explained by him were touched upon by the officer giving me this information. The position that this officer seemed to take was this, if I can express it as aptly as he did: That when this shell was dropped over close to this disappearing gun, which had more or less complicated and intricate machinery to raise it and to lower it, or when a shell was dropped anywhere close to it, plowing up the ground and throwing up stones and débris generally, such as would follow such an explosion, a cloud of this débris would be thrown over or dumped upon these guns equipped with this machinery, and that stuff would get mixed up in the intricacies of the machinery, and you would have a good gun and you would have plenty of ammunition, and you would have plenty of men to operate the gun, but this trash and stones and other débris would get into this intricate machinery, prevent its operation, and put the gun out of commission.

Now, that suggested to my mind a line of thought and raised the question with me—and that is my only purpose in rising and inflicting myself on the committee—the question as to whether, if that is true, we are maintaining the right kind of guns for coast defense. And I will state, further, that this officer said and gave it as his opinion—not as mine, and it struck me with some force—that there was no reason why these guns should not stand out in the open and speak for themselves and defend themselves. I do not know; I do not put up my judgment or my opinion for anything; but if a gun is established and made stable it can not, at least, be put out of commission by reason of the débris that becomes mixed up with the intricate and involved machinery that is used in elevating and lowering it. It is a thought that is perhaps worth following up.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COX. Mr. Chairman, I rise for the purpose of opposing the motion of the gentleman from Kentucky [Mr. HELM], and I want to ask the gentleman in charge of the bill a question.

Mr. SHERLEY. Certainly.

Mr. COX. The gentleman spoke a moment ago about these guns wearing out after being fired a certain number of times. Take the 12-inch guns. How many times can that gun be fired without wearing out?

Mr. SHERLEY. My memory is, 300 times.

Mr. COX. That is, with solid shot?

Mr. SHERLEY. With the usual projectile.

Mr. COX. Then what is done with it? Does it have to be relined?

Mr. SHERLEY. It must not be assumed that when a gun begins to wear that it is a useless gun. It simply becomes a less accurate gun, just as the gentleman knows, if he has ever shot with a rifle, that after a while the wearing of the rifling in the barrel will have the effect of interfering with the accuracy of the gun.

Mr. COX. How many shots will a 14-inch gun fire before it is worn out?

Mr. SHERLEY. There is nothing in the 14-inch gun that makes it any better than the 12-inch gun if used under similar conditions; but by using a larger projectile, with a smaller charge of powder and less velocity to the projectile, there is less wear upon the rifling, and the difference would be somewhat in proportion to the amount of powder used.

Mr. COX. Does the gentleman think it would fire about as many shots as a 12-inch gun?

Mr. SHERLEY. As now used it will fire more, because the velocity is lower than in the 12-inch, and so the erosion is less. At the same velocity it would probably last as long, though I have a dim recollection—the gentleman appreciates the fact that he is questioning me concerning a very technical branch——

Mr. COX. I am; and I am asking for information, because I do not know anything about it.

Mr. SHERLEY. I have a dim recollection that some one, probably Gen. Crozier, testified before our committee that there was a little difference in the life of guns, varying according to size.

Mr. COX. How much does it cost to manufacture a 12-inch gun and mount it? What is the cost complete?

Mr. SHERLEY. It costs about $128,000 for the gun and its carriage. That does not include the emplacement. That work is done by the engineers. The work done by the Ordnance Bureau, which includes the gun and its carriage, amounts to about $128,000.

Mr. COX. Does it cost about the same amount to manufacture a 14-inch gun that it does a 12-inch gun?

Mr. SHERLEY. About the same.

Now, I promised to tell the gentleman from Illinois [Mr. MANN] about the character of the armament to be placed on Cape Henry.

Mr. MANN. And where it is to be located.

Mr. SHERLEY. It is to be located at Cape Henry, almost at the end of it, so that there will be a complete control of the entire outer harbor. If the gentleman is at all familiar with that ground——

Mr. MANN. I am familiar with it.

Mr. SHERLEY. It is just beyond the lighthouse, out toward the sea, on a strip of land there. The shore line curves there, and the chord of the arc is about a mile long.

Mr. MANN. That would command the channel across between the capes, would it?

Mr. SHERLEY. Not only command the channel——

Mr. MANN. But the entrance?

Mr. SHERLEY. And the entrance, and would prevent any ships lying around near the entrance and coming suddenly into range of fire. They would be within extreme range of the gun fire. There would be no land shelter for them.

Mr. MANN. My recollection is that the channel there that is necessarily used by the vessels is close to Cape Henry, on the south side.

Mr. SHERLEY. The deeper channel is, and most war vessels would certainly have to use the deeper channel. This proposition must be borne in mind: That the commander of a ship would not unduly risk his ship unless something very great was to be gained by it. It is conceivably possible that a given ship might, under very favorable circumstances, run the fortifications, but that a sufficient number of ships could run them so as to make their doing it of any value I do not believe possible.

Mr. MANN. I was down there last summer on a revenue cutter, which was blowing up a stranded vessel, and learned by experience how it was done, and my recollection is that the captain of the revenue cutter, who was certainly fully acquainted with the methods of navigation there in the channels, stated that it was impossible for his vessel to go into the entrance at any place except through the channel which is right up against Cape Henry, and not a very wide channel at that.

Mr. SHERLEY. That is true, and the accuracy of firing of modern guns within a field of 5 or 6 miles is surpassingly great.

Mr. MANN. Certainly no battleship with a draft of over 20 feet or even less than that would have the chance of a snowflake in the lower regions to get by the fortifications on Cape Henry.

Mr. SHERLEY. I think it would be very improbable.

Mr. MANN. Now, Mr. Chairman, if the gentleman will yield for one more question.

Mr. SHERLEY. Certainly.

Mr. MANN. Cape Henry is close to Virginia Beach, a somewhat noted summer resort, and there is a summer resort right on Cape Henry. There was a time when this matter was urged before Congress when many gentlemen suspected that the people most active in urging this fortification were those who were interested in disposing to the Government at a high compensation of a summer resort that was not profitable. I take it that the gentleman's investigation has gone far enough to absolutely assure him that the necessity of this grows out of the real opinion of the War Department and not out of the desire of people to dispose of property to the Government.

Mr. SHERLEY. I have, and I will say this to the gentleman. Of course it is perfectly natural that people having property to sell, who expect to get a good price for it, should want to sell it. It is perfectly natural that people at Norfolk and the surrounding country should be anxious to have money expended on fortifications in that vicinity. Massachusetts is the only State that I have discovered, on this floor at least, that wishes that it did not have the fortifications around there to defend Boston. A gentleman from Massachusetts made that statement on the floor a few days ago, to my surprise.

This is the situation touching the land: The land is not worth anything as productive land, but by virtue of being a very attractive sand beach and being near large centers of population, the whole strip of land is rapidly being used by summer residents and hotels, not of very fine character, but in some instances of some pretension.

This particular strip of land is occupied but by very few buildings. Its probable value is, I think, somewhere between $100,000 and $130,000 or $140,000.

Mr. MANN. If the gentleman will permit, I do not know how many Members may be here who were on what they call the Jamestown survivors trip two years ago, I believe, when we took luncheon at this place.

Mr. SHERLEY. That was a little bit above the point.

Mr. MANN. Yes; but very close to it.

Mr. SHERLEY. Very close to it. The actual formation of the land is such that the constant winds from the sea have been piling up the sand and drifting it back onto large forests until you have sand dunes rising to a considerable height, and when you climb to the top of them you look down upon a forest of trees, and gradually year by year the sand is encroaching more and more on the forests.

But the point I want to suggest to this committee is that there is ample protection for the Government, so far as there is ever protection for the Government, in the purchase of this land. It has power of condemnation, if it becomes necessary, and while I am as solicitous as any man here in a desire that not a penny shall be expended beyond the real value of this land, I do not believe that the question of whether we shall pay $110,000 or $130,000 for the land is a material matter in connection with the project. The value of the land is a minor factor in the whole expenditure, which will reach somewhere near $4,000,000.

Mr. MANN. How much land does the project contemplate will be required by the Government?

Mr. SHERLEY. About a mile of water front and half a mile deep.

Mr. MANN. On which water front?

Mr. SHERLEY. On Chesapeake Bay. I mean a mile of shore line and half a mile back from Chesapeake Bay.

Mr. MANN. Which shore line?

Mr. SHERLEY. From the lighthouse out toward the sea.

The CHAIRMAN. The Clerk will read.

Mr. HAMILTON of West Virginia. Mr. Chairman, it seems to me that to complete the record we should have a vote. The gentleman from Massachusetts moved to strike out the paragraph and it ought to be voted on.

Mr. SHERLEY. I so understood it, but was informed otherwise informally by the Chair. Did the gentleman from Massachusetts move to strike out the paragraph?

Mr. GILLETT. I think I did.

Mr. SHERLEY. Then I ask for a vote.

The question was taken; and on a division (demanded by Mr. SHERLEY) there were 9 ayes and 29 noes.

So the amendment was rejected.

The Clerk read as follows:

Hereafter estimates shall not be submitted to Congress for appropriations for construction of gun and mortar batteries, modernizing older emplacements, and other construction under the Engineer Department, in connection with fortifications and other works of defense, until after plans, specifications, and estimates of cost shall have been prepared therefor.

Mr. MANN. Mr. Chairman, on that I reserve the point of order.

Mr. SHERLEY. Mr. Chairman, I desire to offer an amendment to that paragraph.

Mr. FOWLER. Mr. Chairman, I also reserve the point of order.

Mr. SHERLEY. Mr. Chairman, the paragraph is clearly subject to a point of order. The purpose of the paragraph is this: In considering the estimates the committee has constantly been confronted with a condition where the engineer officers, when asked what a particular project would cost, would reply that they thought it was going to cost a given sum, but that they did not want to be considered as being absolutely tied to that sum. They would state that that is their guess. Then, when they are questioned as to why they can not give us something more than a guess, we are told that the definite plans have not been always prepared prior to the submission of the estimate, and that as a result they are simply figuring from similar work elsewhere as to what this particular work will cost. The result of that is to produce what I consider a very bad situation. I believe Congress is entitled to know in advance, within reason, what a project is going to cost before it undertakes the work. We were furnished an illustration of that in the Philippines, where the engineering work touching emplacements on El Fraileу, cost over $1,000,000 more than was originally estimated, using the word "estimate" in the way that the engineers now use it—the reason being largely that a detailed plan had not been worked out. It is only fair to say that subsequently the general design was enlarged and more concrete and heavier armor used in that very peculiar fortification. But, I think, the reform here aimed at will be a salutary one. The engineers when they are questioned say, "We did not get so and so from the Artillery," or "We were not sure about certain plans of the Ordnance," and always it has been difficult to place the responsibility. Hereafter, before projects are presented, it will be incumbent upon the various corps to get together and perfect their plans, so that they can give us a reasonable estimate.

Take, for instance, the situation at present in regard to San Pedro, which is the defense for Los Angeles. We are just undertaking that work in this particular bill, and we are carrying $100,000 for emplacement work. When I asked Col. Burr what the cost of the emplacement would be for the fortification there he told me in round figures, and said that that was his guess. I said that I hoped it was going to be a more accurate guess than the one we had in the Philippines, and he then stated the reason why he was unwilling to assume the responsibility of tying himself to exact figures.

Mr. MANN. Mr. Chairman, I believe there is no department of the Government where the officers in charge read the language of the law and endeavor to follow it as carefully as they do in the Engineer Department of the War Department. I would like to ask the gentleman just what the language in this bill means. It says:

Estimates shall not be submitted to Congress for appropriations for construction of gun and mortar batteries, modernizing older emplacements, and other construction under the Engineer Department in connection with fortifications and other works of defense.

Does that mean that they can make no estimate for anything in connection with the defense of the Government from the Engineer Department until there have been plans and estimates of cost prepared in advance?

Mr. SHERLEY. The language there follows, or was intended to follow, the exact language of the bill. For instance, the gentleman will find that one of the paragraphs in the bill is for the construction of gun and mortar batteries.

Mr. MANN. Yes.

Mr. SHERLEY. Another one is for modernizing older emplacements, and there is other construction work under the bill. Of course it would only apply to this bill.

Mr. MANN. No; it would not. This is a general provision of law.

Mr. SHERLEY. I do not mean to this bill, in a calendar sense, but I mean only to the scope of this bill.

Mr. MANN. I do not think that is correct. You can put a provision in this bill that covers anything, just as we did in the District bill last year. As a matter of fact, would not this language forbid the department from making an estimate for anything in the way of defense of the Government until these plans, specifications, and estimates of cost shall have been prepared? It may be the placing of a fortification in front of a harbor in time of war or something of that sort. The general language in the paragraph seems to cover everything in the way of construction for works of defense.

Mr. SHERLEY. This bill is in connection with fortifications and other works of defense, and we have used the language of the bill.

Mr. MANN. I am not endeavoring to criticize it, but I am simply calling attention to it.

Mr. SHERLEY. I understand. It may be that there should be an exception in time of war, but certainly in time of peace I know of no reason why they should not. There is one amendment that I propose offering that I think ought to be offered, and that is to strike out the word "specifications," and the reason for that is this:

I am informed that the specifications are rarely drawn up until just when the actual work is about to commence and the specifications are put in the hands of either the officer doing the work or, in the case of a contract, in the hands of the contractor.

Mr. MANN. Now, the gentleman will notice the bill carries an appropriation of $5,000 for the preparation of plans for fortifications. The bill does not carry any appropriation for the preparation of plans in connection with fortifications and other works of defense. It may be we could make an estimate, but suppose we want to put a mine in front of a harbor and it may not be——

Mr. SHERLEY. Except that the Engineer Department has nothing to do with that, I suggest to the gentleman, and it is limited to the Engineer Department. I have no objection, however, to striking out the words "and other works of defense."

Mr. MANN. I think the Engineer Department does have something to do with placing of mines.

Mr. SHERLEY. I think the gentleman is mistaken.

Mr. MANN. Well, I may be mistaken. It is not carried in this bill, but I think they do have something to do with the placing of mines.

Mr. SHERLEY. The work, so far as I know, is in the hands of the Artillery Corps, and not in the hands of the engineers.

Mr. MANN. Does not the gentleman think that the words "and other works of defense" should be stricken out?

Mr. SHERLEY. I have no objection, but I am quite sure the other provision will be a salutary one. I have no objection to striking out the words the gentleman desires.

Mr. MANN. Then I will withdraw the point of order.

Mr. FOWLER. Mr. Chairman, I did not withdraw my point of order against the paragraph.

The CHAIRMAN. Does the gentleman from Illinois make the point of order against the paragraph?

Mr. FOWLER. Mr. Chairman, I reserve the point of order and ask why "plans, specifications, and estimates" should not be stricken out?

Mr. SHERLEY. Because if we did that there would be nothing left to the provision.

Mr. FOWLER. What is the matter with the word "cost"? Do you leave the word "cost" in there?

Mr. SHERLEY. Yes. And that is just it; an estimated cost that is not based on a plan is not worth having. That is our trouble now.

Mr. FOWLER. The trouble with your provision in the bill is you leave the United States without any remedy in time of war.

Mr. SHERLEY. Oh, I think not.

Mr. FOWLER. There is no doubt about it in my mind.

Mr. SHERLEY. We just differ about that.

Mr. FOWLER. Well, I make the point of order against the paragraph.

Mr. SHERLEY. All right.

The CHAIRMAN. Does the gentleman desire to argue the point of order?

Mr. SHERLEY. It is subject to the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

For tools, electrical and other supplies, and appliances, to be furnished by the Engineer Department, for the use of the troops for maintaining and operating searchlights and electric light and power plants at seacoast fortifications, $40,000.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word. In connection with the paragraph which has just gone out on the point of order I want to ask a question. I have read over the gentleman's report on this bill—a very admirable report—in which the gentleman has given on a technical subject detailed information in a way that is ordinarily not given in

reports on appropriation bills. It gives the history of the appropriation for the last 25 years, designates the officers under which these sums are disbursed, and in detail the items for which we appropriate. Now, I want to compliment the gentleman for his preparation of the report, because I think that too often gentlemen in charge of technical appropriation bills are too brief in their reports. In reading the report over and devoting a major portion of my attention to a history of recent appropriations I find this item enumerated in the report, namely, $1,043,000, on page 2 of the report, at the bottom of the page, which the report says is a return to the Treasury. Now, does that amount consist of a single item of appropriation returned for some cause, or is it an accumulation of many unexpended items?

Mr. SHERLEY. Without being able to answer with certainty, my impression is that there are quite a number of items which were covered back into the Treasury.

Mr. MURDOCK. Am I correct in this impression that several years ago in this department there accumulated in the Treasury a large sum of money which was available for these various boards?

Mr. SHERLEY. Last year, the gentleman may recall, in the bill we made quite a number of reappropriations. I have only had direct connection with the fortification bill for four or five years. Within that time there have been no very great sums. There have been at times sums running up maybe to $100,000 or more, but my predecessor, the gentleman from Iowa [Mr. Smith], was very zealous in reappropriating or covering into the Treasury unexpended balances that there was no reason for leaving to the disposal of the department.

Mr. MURDOCK. Does the gentleman remember whether he succeeded in covering back into the Treasury an amount of money, say, equaling four or five million dollars?

Mr. SHERLEY. I am informed by the clerk of the committee, whose memory runs back very much further than mine, that at one time they did discover a good many millions of dollars, but it was prior to my connection with the bill. Now, as to what happened in that connection I am not exactly clear, but I think it was reappropriated and used for the purposes of defense instead of new appropriations being made.

Mr. MURDOCK. As this department is now conducted and as appropriations are made for it by Congress, there is no such item of segregated funds?

Mr. SHERLEY. I want to assure the gentleman that this appropriation now is practically a current one. While the funds are available until expended, if the gentleman will go through the hearings he will find one of the questions always asked is as to the Treasury balance, the funds allotted and unexpended, and in every instance where we find any undue sum we use that for some other purpose; and where there seems to have been more money appropriated heretofore than was necessary we cut that particular appropriation, because the gentleman will appreciate a good many of these items are maintenance items instead of items for original construction. If there are any large sums loose, as I may say, I am not aware of it.

Mr. MURDOCK. In connection with the report, I see quite a detailed history of the Endicott Board and a supplemental board called the National Defense Board. Now, have the plans which these two boards in the past have outlined for the Nation been generally completed, or are we in the process of completing them as a Nation?

Mr. SHERLEY. The Endicott Board plans were so radically modified by the Taft Board plans, the National Defense Board, that they can practically be disregarded. I can say to the gentleman that, broadly speaking, we have carried out and followed very closely the Taft Board plans, but they are modified from time to time, as they should be, because of the experience gained in matters of armament and seacoast defense. The Taft Board plans in some instances were more elaborate, perhaps, than the needs of the country called for, and there are parts of those projects that will not be carried out. I believe the ultimate defense will cost, in some particulars, considerable less than was estimated in the Taft Board plans.

Mr. MURDOCK. I would like to ask the gentleman if it is his purpose to print the report of this committee on this bill in the RECORD.

Mr. SHERLEY. It had not been my purpose.

Mr. MURDOCK. I hope the gentleman will do it as a model for other committees having appropriation reports to make.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For the purchase, manufacture, and test of ammunition for mountain, field, and siege cannon, including the necessary experiments in connection therewith and the machinery necessary for its manufacture at the arsenals, $900,000.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. I desire to ask the chairman of the committee what is the necessity of increasing the amount $300,000 above the appropriation in the last bill? Is there any deficiency?

Mr. SHERLEY. In no particular are we so unprepared as in connection with ammunition for the mobile artillery, and the committee therefore felt that we should make a larger appropriation than heretofore so as to endeavor to supply some of the ammunition that we all felt was needed.

Mr. FOWLER. Is that for the purpose of giving the Government greater control over the manufacture of its own ammunition?

Mr. SHERLEY. The size of the appropriation has nothing to do with that one way or another.

Mr. FOWLER. It has not anything to do with that question?

Mr. SHERLEY. No.

Mr. FOWLER. Then what benefit does the Government derive from the increased appropriation?

Mr. SHERLEY. It gets more ammunition.

Mr. FOWLER. Manufactured by the Government?

Mr. SHERLEY. Most of it; but some of it is not.

Mr. FOWLER. Is any of it purchased from the Du Pont Co.?

Mr. SHERLEY. Heretofore we have been purchasing quite a considerable part of our powder from the Du Pont people. I will say to the gentleman that less than 10 per cent of this sum is used for powder whether manufactured by us or purchased.

Mr. FOWLER. What does this go for, then?

Mr. SHERLEY. For the projectiles, shells, caps, and all the other things that go to make ammunition.

Mr. FOWLER. Is there now greater necessity for increasing this appropriation for this purpose than there was in the last bill?

Mr. SHERLEY. Last year we were more liberal than we had been for some time past, and this year we felt that we could appropriate this sum; the committee thought this amount ought to be appropriated.

Mr. FOWLER. Were there any objections in the committee to the appropriation of that sum?

Mr. SHERLEY. The report of the committee was a unanimous report.

Mr. FOWLER. Then I will withdraw my objection.

The CHAIRMAN. The objection is withdrawn.

Mr. COX. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Indiana moves to strike out the last word.

Mr. COX. I desire to get some information. For some time I have been somewhat interested in the policy of the Government manufacturing its own ammunition and its own munitions of war, and in connection with the gentleman from Kansas [Mr. MURDOCK], I think the gentleman in charge of this bill should be complimented for the limitation upon the cost of powder. But that is not the point I wanted to bring out. I wanted to get a little information on a paragraph that has been passed—

For the purchase, manufacture, and test of mountain, field, and siege cannon—

And so forth. About how much of the cannon that is being made for fortification purposes is now being made and manufactured in the Government's own arsenals, if the chairman can give us some information upon that?

Mr. SHERLEY. That depends a good deal upon the character of the matériel. In some instances we are making a very large part; in others we are making very much less. I will say to the gentleman that at present we are using all the arsenals to the utmost of their available capacity. There is now pending before the subcommittee on the sundry civil appropriation bill in the Committee on Appropriations a proposal to expend some $250,000 in alterations at the Rock Island Arsenal, with the idea of their making more of this matériel, inasmuch as the amount of small arms to be manufactured will be very much less in the future than it has been heretofore, the reserve being pretty nearly supplied. As the result of that, if the appropriation should be made, we will in the future manufacture very much more of this matériel than heretofore.

Mr. COX. Now, I am asking information on the armament of the fortifications—the large guns. Does the gentleman mean to say that in the future we will manufacture more large cannon than we have manufactured in the past?

Mr. SHERLEY. If the gentleman will permit me, the paragraph that the gentleman refers to has nothing to do with seacoast cannon. It refers to the mobile Artillery. As to the seacoast cannon, we now manufacture our supply entirely.

Mr. COX. I am talking about the armament of fortifications that has been passed over.

Mr. SHERLEY. That was for the purchase, manufacture, and test of mountain, field, and siege cannon.

Mr. COX. Yes.

Mr. SHERLEY. Now, the mountain, field, and siege cannon are not the same kind of armament as seacoast cannon.

Mr. COX. Yes. That is an explanation that I had not heard before. Now, to what extent is this kind of cannon being manufactured in our arsenals?

Mr. SHERLEY. I can not answer that, for the reason I stated a few moments ago, that the cannon are of various caliber, from 3-inch up, and consist not only of the guns but the carriages and limbers and a good many other things in connection with the guns. As to some of them we have been making a larger quantity than others, but we are using to the utmost the capacity of the arsenals as they exist to-day.

Mr. COX. Are we making at our arsenals to-day any 12-inch or 14-inch guns?

Mr. SHERLEY. Yes; but that has nothing to do with this paragraph at all. That is seacoast cannon. The gentleman can carry the distinction in his mind in this way: The mobile artillery means what the words imply—something that is capable of being moved—and while they have used very much larger siege guns in some instances recently than heretofore, yet they must be movable in order to be mobile, within the meaning of the term "mobile artillery."

Mr. COX. I understand that. Now, will the gentleman allow me to call his attention to this language in the paragraph? I want to see what it means. Leaving out the first part of it, it reads:

Provided, That the Chief of Ordnance, United States Army, is hereby authorized to enter into contracts or otherwise incur obligations for the purposes above mentioned not to exceed $300,000, in addition to the appropriations herein and heretofore made.

How are those contracts let—on competitive bidding?

Mr. SHERLEY. Yes.

Mr. COX. Let out to various manufacturers?

Mr. SHERLEY. Yes. I will say to the gentleman that we have had very elaborate testimony touching this whole subject, which he will find in the hearings. In some instances the cost of our manufacture as against the cost of buying from private manufacturers was very much in favor of the Government. However, it is only fair to say that some of the recent contracts approach and in some cases go under the price that it has been costing the Government to manufacture itself. Whether that was due to the agitation by the committee and other Members or not is a question, though probably it is only fair to say that some of it has been due to the fact that the manufacturers, having gotten over the initial cost of making a new article, were enabled to effect economies that warranted them in bidding at a lower figure.

Mr. COX. Is it not fair to say that a large part of this reduction has been caused by the fact that the Government has engaged largely in the manufacture?

Mr. SHERLEY. I have no doubt in the world that in some instances we have been charged exorbitant prices for some of the things we have bought, and I want to assure the gentleman that the committee, within the limit of its power, has made searching inquiry and will continue to do so. What has been done in regard to powder should also be done as to a great many articles. What enabled us to work with some degree of accuracy in the powder matter was the fact that we could present known costs to the Government in comparison with the supposed cost to the private manufacturer. The gentleman will appreciate, however, the difficulty of determining cost. For instance we buy a certain quality of steel for the making of our guns. Now, for a committee to determine intelligently just what that steel ought to cost is a problem of no mean magnitude.

Mr. COX. I am satisfied that is true. Now, one further question, if the gentleman will permit me. Is it not the gentleman's observation and conclusion, based upon a thorough and exhaustive investigation, that ever since the Government embarked upon the plan of manufacturing powder or ammunition of any kind, or arms of any kind, from that moment down to the present time the tendency has been for the manufacturers of these same commodities to lower their prices to the Government?

Mr. SHERLEY. I could not say as to what the actual fact has always been, but that would be the natural tendency; and I want to say this to the gentleman: Here is my own idea of what ought to be the policy of the Government touching the manufacture or purchase of material for war purposes. I believe that in large measure it should make the most of such material, and I think the reason is entirely different from that which applies ordinarily to governmental manufacture or purchase.

The defense of the Nation, the life of the Nation, is so important that the Government can well afford to go into manufacture and not be dependent upon outside aid. In addition to that, usually the thing that is needed is something for which there is but one purchaser, the Government itself. Therefore unless it, by manufacture of its own, has some sort of whip over the outside manufacturer, it is liable to be held up in price. I would not be in favor of the Government manufacturing shoes for the soldiers, because shoes are things that are bought and sold in the open market, and concerning which the Government is at no disadvantage any more than any other purchaser; but in the making of things that it peculiarly and exclusively uses, I think it ought to do a large part of the manufacturing. Whether it ought to do all of it or not is a question. For instance, the Government in having some of its powder manufactured outside has had a basis of comparison by which we could determine whether we were efficiently manufactering it ourselves or not. It also had somewhat the advantage of having the inventive genius and skill of others as well as our own officers engaged in the work. It also might provide for an additional supply in case of great need in time of war. But, broadly speaking, I think we ought to manufacture very largely the things that we exclusively need for war purposes.

Mr. COX. Are we manufacturing as much as half our powder now that is used in the Army, or what proportion are we manufacturing?

Mr. SHERLEY. No; the Army and Navy plants together have been manufacturing, I think, about 40 per cent. That is my recollection.

Mr. COX. Can the gentleman give the committee any figures as to the per cent of small arms and cannon that the Government is manufacturing?

Mr. SHERLEY. We do not deal with small arms in this bill, and I would not undertake to give the gentleman complete information on that subject.

Mr. COX. Can the gentleman give us any information as to the other part of my question?

Mr. SHERLEY. As to seacoast cannon, we are manufacturing all of them. We do not make the steel. We buy the steel, but we actually make the cannon.

Mr. HAY. I will say to the gentleman that we manufacture all of our small arms.

Mr. COX. What does the gentleman think of the wisdom, or unwisdom, perhaps—and I am now asking for information, because I know the gentleman is thoroughly familiar with this matter—as to making appropriations large enough for the Government to go in and do this work and make its own material far enough ahead so that it may meet any ordinary emergency that may arise in time of war?

Mr. SHERLEY. I do not like to anticipate what my judgment may be touching an item that is before me in the sundry civil bill, but I am inclined to think that we ought with reasonable dispatch to give sufficient capacity to the arsenals to do the great proportion of the work. But the gentleman from Indiana will appreciate that some of the work we are doing now at arsenals will begin to grow rapidly less.

Mr. COX. Will it continue to grow rapidly less in the future?

Mr. SHERLEY. It will, as to that character of work, and that will give us available space for other kind of work. I am not prepared to say that we ought overnight to jump into building arsenals to undertake work. The gentleman from Indiana must understand that we have no monopoly of skill any more than any manufacturer has, and that if we undertake to do new work we will find it expensive, just as a manufacturer does in the first instance. If you undertake to throw us immediately into doing a great deal of new work you will find that there will be a great deal of waste of money.

Mr. COX. I think the gentleman is quite right, but in time does not the gentleman think we ought to do that?

Mr. SHERLEY. Yes; and I think in time that will be the policy of the Government.

The Clerk read as follows:

No part of any money appropriated by this act shall be expended for powder other than small-arms powder at a price in excess of 55 cents a pound.

Mr. HEALD. Mr. Chairman, I move to strike out the last word. If I may have the attention of the gentleman from Kentucky, I would like to ask his attention to the preceding paragraph as to the capacity of the arsenal referred to.

Mr. SHERLEY. About 9,000 pounds a day.

Mr. GOOD. Two million seven hundred thousand pounds, or nine thousand pounds a day?

Mr. SHERLEY. Yes; 9,000 pounds a day, or about 2,700,000 a year.

Mr. HEALD. The question I want to ask the gentleman from Kentucky is whether this refers to the theoretical capacity or the actual capacity of these arsenals?

Mr. SHERLEY. It says its full capacity, and I suppose its full capacity means its actual capacity.

Mr. HEALD. Does the gentleman realize that the theoretical capacity of these factories is an entirely different proposition from their actual capacity? It was shown in the hearings last year that in the manufacture of smokeless powder the actual output was but one-third of the theoretical capacity of the plant, and I understood that Admiral Twining, after these hearings, in a letter to the chairman of the Committee on Naval Affairs, stated that while the final output might be increased to three times the present output, that one part of the process of manufacture, and a necessary part of it, was running 24 hours a day, and, therefore, without increasing any part of the process, it would absolutely be impossible to increase its total output.

Mr. SHERLEY. As I understand it, the Navy is running its plant 24 hours a day and at its full capacity.

Mr. HEALD. Does that apply to every part of the process, or is one part running 24 hours and the other parts only 8 hours?

Mr. SHERLEY. I can not say, but I assume that it is used at its maximum—all of the plant. Whether that implies the lying idle for a few hours of certain parts of the plant I do not know, because that involves a knowledge of powder making that I do not possess. I think the term "full capacity" is one about which there need be no undue confusion of mind.

Mr. HEALD. If I may further suggest, my idea was to bring out this fact: That while it has been stated that these Government powder factories are running on one eight-hour shift, it may be that when we desire to operate these plants for three eight-hour shifts for the purpose of increasing the total output we may find that we are already working them to their full actual capacity. My impression from reading the statements made by Admiral Twining in the hearings before the Naval Committee last year was to the effect that the total output could not be increased without increasing some parts of the plants, and the committee has not provided in any place for their enlargement.

Mr. SHERLEY. The gentleman will realize that the provisions of this bill for the manufacture would carry with it the right to make certain expenditures in connection with the arsenal and in connection with the manufacture.

It may be that some one part of the plant needs to be increased in order to use other parts at their maximum capacity, and I assume that no mathematical accuracy can be had in determining the full capacity of a plant by simply multiplying the output of one shift of eight hours by three, but the actual tests would show full capacity and an approximate idea of full capacity ought not to be difficult.

The CHAIRMAN. The time of the gentleman from Delaware has expired.

Mr. HEALD. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HEALD. Mr. Chairman, some years ago, according to my recollection, there was an appropriation made for an increase of these plants, and while that has been done I have not observed that there has been an increase of their capacity. For that reason, I think the committee ought to know whether or not an increase in certain parts of the process of manufacture shall be enlarged so that the maximum efficiency of every part of the plant can be made available. There is one thing certain to my knowledge, and that is the power plants at these plants are largely in excess of the requirements of the other parts, although that is not the one to which I was particularly referring.

Mr. SHERLEY. Mr. Chairman, I suppose there will not be any need, in order to arrive at an output of one-half of the full capacity, to increase materially any part of the existing plant, and in connection with the Navy plant I find Admiral Twining before our committee made the following statement:

Mr. SHERLEY. Do you actually operate that plant at the maximum of its capacity?

Admiral TWINING. Yes. This represents substantially its maximum capacity. All of the processes that can be advantageously carried on continuously are carried on, except possibly on holidays, for 24 hours a day, while certain processes that can not be efficiently carried on that way because of the overloading of some other part of the plant are carried on 8 or 16 hours per day.

Mr. HEALD. Mr. Chairman, that practically covers the suggestion I was making, that the plant is probably not so balanced that the maximum of product can be secured from each part of the process.

Mr. SHERLEY. I have no information as to whether there is absolute accurate adjustment between every part, but as they are making it much under the price that we have been buying it for, it shows, at least, that we have been obtaining an efficiency that may be well commended.

Mr. HEALD. I only thought if we are going to secure the maximum efficiency from these plants that it is desirable that every part of the plant be made efficient.

Mr. SHERLEY. I have no doubt they have ample power to do that. Certainly a recommendation made by those in charge would receive careful consideration at our hands.

Mr. GOOD. Mr. Chairman, I move to strike out the last word. The adoption of this provision we are now considering and the paragraph we have just passed will result, in my opinion, in economy in the purchase of powder and ammunition. According to the reports, in 1911 there was purchased by the Army and Navy 3,950,000 pounds of powder, not including small-arms powder. There was a total of 4,436,680 pounds of powder purchased. In 1912 we purchased 2,448,000 pounds of powder. This powder was all purchased at a price of 60 cents per pound, except in the small-arms powder, which was purchased at a higher price. If the limitation, which we are placing on this bill, had prevailed in the appropriation bills of 1911 and 1912, we would have saved to the Government in 1911 in the purchase of powder $310,707.60, and in 1912 $151,360.

Mr. MADDEN. Mr. Chairman, will the gentleman yield for a question?

Mr. GOOD. Certainly.

Mr. MADDEN. The gentleman is talking about the purchase of powder now.

Mr. GOOD. Yes.

Mr. MADDEN. And the powder that is manufactured?

Mr. GOOD. No; I will reach that presently.

Mr. MADDEN. I would like to ask in this connection about the powder that the Government manufactures at this plant, where I think the gentleman stated it was only producing one-sixth of its maximum capacity, working one-third of its time.

Mr. GOOD. I did not say that.

Mr. MADDEN. I understood the gentleman did, not to-day.

Mr. GOOD. The plant, according to the statement of Gen. Crozier, has a maximum capacity of 9,000 pounds per day, or 2,700,000 pounds per year.

Mr. MADDEN. That is 24 hours per day?

Mr. GOOD. Twenty-four hours per day, and that plant is being worked only to one-sixth of its capacity.

Mr. MADDEN. How many hours a day?

Mr. GOOD. There is no statement made with reference to that. The plant last year produced somewhere between 400,000 and 500,000 pounds of powder.

Mr. MADDEN. The conclusions I reached from the statements which were made were based upon what I believe to be the fact, that eight hours a day was being employed in this particular powder factory and that during the eight hours' work only one-sixth of the maximum output was being produced, so that I was wondering, in estimating the total aggregate possibilities of the plant, whether the estimate was not more than double what the working capacity of the plant is.

Mr. GOOD. I would rather trust the statement of Gen. Crozier in regard to that than my own or any statement of any Member of the House, because I believe he has the detailed knowledge of the facts connected with that subject, which we do not have.

Mr. MURDOCK. Will the gentleman yield?

Mr. GOOD. I will.

Mr. MURDOCK. Why does not the Government work this Picatinny powder plant more than one-sixth of its capacity? What is the reason for it?

Mr. GOOD. It is on the theory that the Government ought to purchase of private factories a certain amount of powder for the purpose of enabling those factories to furnish powder in time of war.

Mr. MURDOCK. Now the Government can make the powder cheaper than a private concern?

Mr. GOOD. The Government can not make it any cheaper than a private concern. We do not know what it is costing to manufacture powder by a private concern. Col. Buckner was before the committee, and refused to state what it was actually costing the Du Pont factory to manufacture powder. We do know, in the Navy, where we produced 2,500,000 pounds of powder last year, that it cost, exclusive of overhead charges, 30½ cents per pound.

Mr. MURDOCK. Inclusive of overhead charges, how much?

Mr. GOOD. Inclusive of overhead charges, as computed by Admiral Twining, in the Navy, the cost was 40.74 cents per pound.

Mr. MURDOCK. Then this bill fixes a limitation of 33 upon the powder of the private manufacturer?

Mr. GOOD. Yes, sir.

Mr. MURDOCK. It would follow from the figures that the gentleman has given that the Government does make powder cheaper than the private manufacturer.

Mr. GOOD. It makes powder cheaper than the private manufacturer sells it, but we do not know what it is costing the private manufacturer to produce powder. Personally I believe that the private manufacturer is manufacturing this powder at not to exceed 25 cents per pound. If gentlemen will turn to the hearings and read the testimony of Admiral Twining, commencing on page 358, wherein he enumerates 10 or 12 different things wherein the Government is handicapped and private manufacturers are not handicapped, all of which add to the increased cost of powder, I think he will realize that this cost of 30½ cents could be materially reduced. In the cost of 40.74 cents is included interest on investment. This charge is 3 cents per pound. We have made two appropriations for the powder factory at Picatinny Arsenal, one of $165,000 and one of $175,000, or $340,000, exclusive of land and officers' quarters. The capacity of that plant is, generally speaking, according to Gen. Crozier's statement, 3,000,000 pounds. If you multiply that by 3 cents a pound, you have $90,000 a year as an interest charge on an investment of $340,000.

Mr. MURDOCK. Then I will ask the gentleman this: Is this payment which we make to the private manufacturer of powder in excess of what it costs the Government to manufacture powder in the nature of a subsidy by this Government to this single powder company to keep it in existence?

Mr. GOOD. Well, I do not know that I would say it is in the nature of a subsidy. I will say it is in the nature of a compromise between those who believe that the Government ought to manufacture all of its powder and those who believe that the private manufacture ought to be kept in operation, so that in time of war we would not find ourselves without powder.

Mr. MURDOCK. That defines, to my mind, a subsidy.

Mr. GOOD. I will say to the gentleman, personally, I would prefer to see that in matters of this kind——

The CHAIRMAN. The time of the gentleman has expired.

Mr. GOOD. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FOWLER and Mr. MADDEN rose.

Mr. GOOD. I yield to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. In making the figure of cost 40 cents, including overhead charges, was there anything calculated for the destruction of property, wear and tear, and renewal?

Mr. GOOD. Oh, yes; the depreciation is provided for. I will say to the gentleman that the estimate of depreciation is 10 per cent. The plant at Indian Head has been in operation for 10 years; the plant is practically in as good condition as when it was installed.

Mr. MADDEN. I notice no account is taken of the value of the land on which the plant is constructed.

Mr. GOOD. The estimate of $512,000 is the entire value of the Picatinny Arsenal, which includes not only the cost of the powder factory but also the value of the land and the cost of all officers' quarters that are situated on the land.

Mr. MADDEN. The gentleman did not state that a moment ago.

Mr. GOOD. But that is the case.

Now I yield to the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Does your estimate include loss by reason of the explosion of powder?

Mr. GOOD. The cost of insurance is placed by Admiral Twining in his statement, found on page 293, at 3 cents a pound.

Mr. FOWLER. That is intended to cover loss of that kind?

Mr. GOOD. Yes.

Mr. FOWLER. Now, I desire to inquire if the last bill did not limit the amount per pound to 71 cents?

Mr. GOOD. You mean a year ago?

Mr. FOWLER. Yes; the last bill that was passed through this House.

Mr. GOOD. The Army bill was passed a few days ago, and in that bill we limited the price of small-arms powder to 65 cents, if I recall correctly; but the cost of manufacturing small-arms powder, according to the testimony of all the witnesses, is about 10 cents a pound or more in excess of the cost of ordnance powder.

Mr. FOWLER. In the last fortification bill that was passed did you not limit the amount which might be paid for powder to 71 cents per pound?

Mr. GOOD. To 60 cents for cannon powder.

Mr. FOWLER. And small-arms powder was 71 cents?

Mr. GOOD. Seventy-one or seventy-two.

Mr. FOWLER. Now, can you tell the committee what was paid for small-arms powder prior to this limitation of a year ago?

Mr. GOOD. In 1908 the cost per pound was 84½ cents and 86.7 cents; in 1909 it was 78 cents; in 1910 it was 75 cents. It has been 75 cents ever since that time until 1912.

Mr. FOWLER. Have there been any changes made affecting the economics of the manufacture of powder during this time which would lower the price materially?

Mr. GOOD. No doubt there have been some changes. The report of Gen. Crozier shows a saving of 3 cents a pound in the Army, and the report of Admiral Twining shows a saving of 2 cents and a fraction in the Navy.

Mr. FOWLER. Does not that show the enormous profits which the powder companies have been receiving from the United States prior to the efforts of this committee to limit the price to be paid?

Mr. GOOD. I have no doubt but that the private manufacturers have made enormous profits.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. GOOD] has expired.

Mr. GOOD. Mr. Chairman, I ask for two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FOWLER. Do you not think the committee has done the country a great work by investigating the price of powder and undertaking to limit the amount which should be paid to other companies than that of the company manufacturing powder by United States authority?

Mr. GOOD. I think it has, and I think the probability is that we will make appropriation for increasing our present plants, and will discontinue the practice of furnishing to the Du Pont Powder Co. or any other powder company that private and secret information, and those discoveries that our officers in the Army and Navy have made in the betterment of these explosives, and turning them over to a private concern, which in turn manufactures powder and sells it to the different nations of the world.

Mr. CANNON. Why should we not, if the gentleman will allow me?

Mr. HEALD. Mr. Chairman——

The CHAIRMAN. To whom does the gentleman from Iowa yield?

Mr. GOOD. I will yield, first, to the gentleman from Illinois.

Mr. CANNON. Why should we discourage our own people, unless the Government goes into commerce in competition with the other nations of the world? Why should we follow a policy that would discourage our own people from adding to production that involves labor and contributes to the commerce of the world?

Mr. GOOD. I think that as a general principle we should not; but when it comes to powder, when it comes to any article that is used in warfare, it seems to me that after we have expended a great deal of money in educating officers in the Army and Navy to perfect a given device, that device should not be turned over to the very power with which we might come in actual contact.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent that my colleague from Iowa be given a minute more.

Mr. CANNON. The answer is plausible and possibly satisfactory. I am not criticizing the gentleman. I am asking the question from another standpoint.

The CHAIRMAN. The gentleman from Iowa [Mr. GREEN] asks unanimous consent that his colleague [Mr. GOOD] be allowed to proceed for one minute more. Is there objection?

There is no objection.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

Mr. GOOD. I yield.

Mr. GREEN of Iowa. Is it not a fact that all the other countries in the world keep the art and the special chemical formulæ for the making of explosives that they use in this ordnance powder secret, from the fact that it is controlled by their own subsidies?

Mr. GOOD. I do not know as to that. I know that France manufactures her own powder; not only her military powder, but she has a monopoly upon all powder. It is the purpose of the officers of the Army and Navy to keep our formulæ secret, but after submitting those formulæ to the powder manufacturers, the same manufacturers are now, according to the testimony of their officers, going to the different countries of the world soliciting trade. Of course, they could furnish to other nations the same powder that they are furnishing to us, made under the formulæ that are submitted by our Army and Navy officials.

Mr. GREEN of Iowa. And that constitutes the objection against imparting these formulæ?

Mr. GOOD. I think so.

Mr. HEALD. Mr. Chairman, I would like to ask the gentleman a question.

Mr. GOOD. Certainly.

Mr. HEALD. The gentleman suggests that the formulæ and the art of making powders and their development have been in the hands of Army and Navy officers, and have been turned over to private manufacturers of powder. Surely the gentleman does not mean that as a statement of fact.

Mr. GOOD. I mean to say that the first smokeless powder that was manufactured in this country was manufactured by an officer in the Navy under a formula that he himself had perfected, and, if I do not mistake the hearings, that formula was afterwards sold to the Du Pont Powder Works. I do not want to detract from the very efficient service that the Du Pont Powder Co. has rendered to the country in helping to perfect that formula and to produce a better grade of powder than this officer in the Navy had originally formulated.

Mr. HEALD. Will the gentleman give me a minute of time?

Mr. GOOD. The gentleman can get it. Now, Mr. Chairman, this provision will, in addition, provide for the manufacture by the Government of a million pounds of powder more than it manufactured last year. While we do not know exactly what it is costing the private manufacturer to manufacture powder, we do know that, exclusive of overhead charges, it is costing the Government only about 30 cents a pound to manufacture it. These overhead charges will go on whether the arsenal at Picatinny manufactures 400,000 pounds of powder or manufactures 1,400,000 pounds, as it will under the provisions of this bill. Therefore it is safe to say that the million pounds of powder that it will manufacture this year in excess of what it manufactured last year will cost the Government only 30 cents per pound, or it will result in a net saving of almost $300,000 to the Government; and the limit that we have placed on the price of powder will do no injury to the private manufacturer. It is still large enough to give the manufacturer an ample profit on his investment. While I think the price is still too large, I hope that these provisions placed in the bill with regard to powder will prevail and be adopted by the committee.

Mr. MANN. Will the gentleman yield for a question?

Mr. GOOD. Yes.

Mr. MANN. With reference to—

> The operation of said powder factory to not less than one-half of the full capacity thereof.

If this powder factory should be operated one-half the days of the year to its full capacity, 24 hours a day, or for the entire year 12 hours a day at its full capacity, would not that comply with the provision contained in these words?

Mr. GOOD. I do not know.

Mr. MANN. Is it not patent on its face that it would? You are now putting up a construction of these words to officers of the United States, and I think they are entitled to have some opinion from the debate in Congress when the provision is being considered.

Mr. GOOD. This provision provides that the powder factory at Picatinny shall produce one-half of its maximum capacity——

Mr. MANN. Of its full capacity.

Mr. GOOD. Of its full capacity. Now, the matter is left entirely with the officer in charge of that factory whether he shall operate it under two shifts part of the time, part of the time under one shift, or part of the time under three shifts, and let it remain idle part of the time. Gen. Crozier says the maximum capacity is practically 3,000,000 pounds per year, and we say by this provision the Ordnance Department of the Army shall conduct that factory at one-half of its maximum capacity.

Mr. MANN. What he says about the maximum capacity may be one thing, but the question is, How much powder can they manufacture? That is getting down to brass tacks, as we say. If they run the factory at full capacity for one-half of the year, assuming that the seasons do not make any difference, would not that comply with the provisions of the bill?

Mr. GOOD. I think it would if they produced one-half of the full capacity of the plant.

Mr. MANN. Supposing they ran the plant the entire year, 24 hours a day, would that be obtaining the full capacity of the plant, regardless of what somebody said it ought to produce?

Mr. GOOD. If it produces 9,000 pounds for each day in the year.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHERLEY. I ask unanimous consent that all debate on this paragraph close in five minutes.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that all debate on this paragraph close in five minutes. Is there objection?

Mr. HEALD. If I can have two minutes of that time I will not object.

The CHAIRMAN. The Chair hears no objection.

Mr. HEALD. Mr. Chairman, I can not, in fairness, let the gentleman's statement go as to the development of smokeless powder. As a matter of fact, the history of it has been recited on this floor many times, and it is to the effect that the Army and Navy officers did develop, in theory, a smokeless powder, and then called together the manufacturers of this country and laid before them the theory of its manufacture and asked them to bring about its commercial development. The commercial development of the manufacture of smokeless powder has never been at the hands of the Army or Navy. It has been wholly and entirely in the hands of private manufacturers. When the Government started to make it commercially, it was with the assistance of the experts from these companies, who gave to the Government all of their processes, and not the Government giving to the private manufacturers their discoveries or their improved processes. And further, the secret of the manufacture of these powders is not one that is kept from any manufacturer. There is no secret about it.

The manufacture of gunpowder in France is exclusively a Government monopoly, and in the light of the history of explosions of magazines on French vessels, I think there is reason to believe that this country has certainly a higher grade of powder than that which is produced by the French Government monopoly.

I for one do not believe in this Government exclusively manufacturing its own powder. The fact has been referred to on this floor that private manufacturers of smokeless powder in this country are beginning to sell their product to the governments of foreign countries. That may be deprecated. It has been. The question is asked, Why should the powder manufacturers of this country sell powder to foreign countries with whom we might engage in war? There is no difference between selling them powder than manufacturing for them the battleships which we are glad to build in our shipyards, and we never miss an opportunity to secure contracts for them. I believe that the sale of powder to foreign countries has been made with the concurrence and the consent of this Government and with the assistance of the War Department and the Navy Department and the State Department. It would not be rash to assume that this condition has been brought about so that these private factories may be held intact as a reserve for this country in time of war. That policy is one which Congress seems determined to destroy, and, in my opinion, if it abolishes it the result will be the same condition of Government monopoly that exists in France to-day.

The CHAIRMAN. The time of the gentleman from Delaware has expired.

Mr. GOOD. I ask unanimous consent that the gentleman may have one minute more in order that I may ask him a question.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that the gentleman may have one minute more. Is there objection?

There was no objection.

Mr. GOOD. I want to call the gentleman's attention to the testimony of Admiral Twining, at the bottom of page 308 of the hearings, wherein he gives a history of the development of smokeless powder in this country, and he says:

> The earliest knowledge I have in regard to smokeless powder of the type we are now using is that it was discovered by a French chemist named Vielle about 1882. The French Government began to use it in 1887 in small sizes, a powder which might be said to be in general the same as we are using to-day, although some minor differences or changes have been made in the manufacture. However, it was made according to much the same smokeless-powder formula that we use to-day. About 1893 the same kind of powder was used in Russia, and they probably discovered the secret in France. In 1896 one of our chemist in the service of the Navy, named Patterson, who is now the chemist in charge of the powder factory, discovered a method of producing soluble nitrocellulose of 12.5 nitration, which was higher than had been thought possible before. In 1897 the Navy began the

manufacture of smokeless powder at Newport, R. I., and manufactured about 1,000 pounds that year. I believe that some of that powder is still in existence and that it is good powder yet. Lieut. Bernadou and Capt. Converse, two naval officers, who had been prominently identified with ordnance matters, made a very extensive study of smokeless powder and took out certain patents. I believe that these patents are not valid to-day, and I do not think that any royalty has been paid in consequence of them.

Mr. HEALD. I suggest to the gentleman that the production of 1,000 pounds of powder in one year, or about 3 pounds per day, is not a commercial manufacture, and I think his reference supports what I have just said, that the theory of it had been worked by the officers of the service; but the department had brought together the commercial manufacturers of powder and asked them to make it a commercial success. They did make it a commercial success, and when this Government started to manufacture on a commercial basis these same manufacturers furnished freely, without expense to the Government, plans for processes and machinery. The Government did not supply the private manufacturers.

The Clerk read as follows:

For the alteration of 3.2-inch batteries to rapid-fire field batteries, including sights, implements, equipments, and the materials and machinery necessary for alteration and manufacture at the arsenals, $175,000.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. I do so for the purpose of asking the chairman why the appropriation in this paragraph is increased $100,000 above the appropriation in the last bill?

Mr. SHERLEY. There are quite a number of old 3.2-inch batteries which can be converted into modern 3-inch batteries at a cost very much less than it would require to create new batteries. As I stated a while ago, we are very far behind what we need in matériel for mobile artillery, and this is the cheapest way to get that matériel.

Mr. FOWLER. Are these rapid-fire guns worn out?

Mr. SHERLEY. No; but when made there was no successful method of recoil, and the rapid fire was much less than in the modern gun. It is now practically an antiquated gun. The development has been so rapid in connection with these guns that the 3.2-inch gun is now antiquated.

Mr. FOWLER. How many of these guns will be repaired?

Mr. SHERLEY. Four batteries.

Mr. FOWLER. Does the gentleman think it will take $100,000 to make the necessary changes?

Mr. SHERLEY. It was estimated that for the conversion of seven 3.2-inch batteries into 3-inch batteries it would take $250,000, and that was the amount of money asked. We have given $175,000, which, with the available balance, would make the conversion of the four batteries.

Mr. FOWLER. What would it cost to complete these batteries new? Has the gentleman any estimate on that?

Mr. SHERLEY. Yes; I have not it at hand, but I think it would cost $77,000 for a battery.

Mr. FOWLER. For the new battery or the converted one?

Mr. SHERLEY. For the new one, and about half as much to convert it.

Mr. FOWLER. Would the converted one be as good as the new one?

Mr. SHERLEY. Yes.

Mr. FOWLER. And would save just so much to the country?

Mr. SHERLEY. Yes.

Mr. HOBSON. Will the gentleman yield?

Mr. SHERLEY. Certainly.

Mr. HOBSON. I want to ask the gentleman as to whether the new tube they put in is necessitated through rapid erosion or whether the gentleman has any statement as to the cost of the change in caliber? I can understand about the uniformity of equipment.

Mr. SHERLEY. I do not think the change of caliber is due to any tendency toward erosion of the old gun any more than the new. It is simply that the 3.2-inch gun is considered to be of a caliber that has become practically obsolete, and they are making these to correspond, to be uniform with other 3-inch guns, ammunition for which would be useful for all, both the newly made and the converted type.

Mr. HOBSON. Mr. Chairman, I can understand the advantage of uniformity of ammunition, but with large batteries like these are you would have uniform ammunition anyway. I would say to the gentleman that I do not want to ask for information that was not given by the technical officers, but the question of the life of the guns, particularly in the Navy, is a mooted question, and is being carefully investigated, and I was wondering whether the change of this caliber to a smaller caliber, which would be done evidently by simply the introduction of a tube with its own rifling, has been necessitated largely by the fact that the old type that is there has suffered rapidly from erosion.

Mr. SHERLEY. I think not. I think a lot of these were not used enough to suffer at all, but a material change having to be made to modernize them in other ways, in the way of carriage and recoil, they also modernize them to the extent of making them uniform with the standard 3-inch guns.

Mr. HOBSON. And also whether the gentleman had before his committee the question of the length of the life of the Coast Artillery guns?

Mr. SHERLEY. Oh, yes; from time to time we have had testimony touching that, and the desirability of using larger caliber guns with less charge of powder, as against a smaller caliber with a greater charge. In other words, getting the same impact force by an increase in the size of the projectile rather than by an increase of the speed of the projectile.

Mr. HOBSON. Have they any information within the last year or two, recent information, throwing light on that question before the gentleman's committee?

Mr. SHERLEY. I do not think there has been any particular testimony. There does not seem to be much difference of opinion.

The Clerk read as follows:

ENGINEER DEPARTMENT.

For construction of seacoast batteries, as follows:
In the Hawaiian Islands, $70,000;
In the Philippine Islands, $700,000;
In all, $770,000.

Mr. FOWLER. Mr. Chairman, I move to strike out the paragraph. I desire to ask the chairman whether there have been appropriations for this same purpose of constructing seacoast batteries in the Hawaiian Islands heretofore; and if so, about how long has that been going on?

Mr. SHERLEY. Mr. Chairman, that work has been going on for a number of years. There have been expended there large sums heretofore.

Mr. FOWLER. They expended $170,000 there in the last appropriation.

Mr. SHERLEY. We have expended $2,989,000 and odd heretofore at Honolulu and Pearl Harbor in connection with the fortifications there.

Mr. FOWLER. I see you cut the appropriation $100,000 this time below the appropriation of a year ago. Was that because of the fact that the appropriations which had already been made were sufficient to warrant the cutting off of that amount?

Mr. SHERLEY. A year ago they asked for $222,200, which it was estimated was sufficient to complete the work to be done there. We gave them $170,000, which should have left a difference of $52,200, as being the amount needed to entirely finish the work; but the estimate of the year before was based on an error of some thousands of dollars, the result being that there is now needed $70,000 to complete the emplacement work at the Hawaiian Islands.

Mr. FOWLER. Will this complete the seacoast-battery defense there, or will there be a requirement hereafter for additional appropriations for that purpose?

Mr. SHERLEY. There will be certain details that may have to be supplied, but, broadly speaking, the items carried in this bill, of which this is one, are sufficient to complete the entire project for the Hawaiian Islands.

Mr. FOWLER. In the Philippine Islands I discover that you are able to cut the appropriation there $100,000.

Mr. SHERLEY. Oh, we have cut the appropriation very much more than that. They are asking this year, in this one item, $1,000,000, and we are appropriating $700,000.

Mr. FOWLER. Last year your amount appropriated was $800,000.

Mr. SHERLEY. The amounts of appropriations are determined by the amount of money that can be expended during the period which the bill is supposed to cover. There are certain projects for the Hawaiian Islands and the Philippine Islands. The work is being prosecuted as rapidly as possible, and we ascertained at the hearings how much will be needed to continue that work until moneys from another bill will be available.

Mr. FOWLER. Will this $700,000 complete the project, or is it intended simply to provide for what is necessary until the next bill is prepared?

Mr. SHERLEY. It is to provide what is necessary until the next bill.

Mr. FOWLER. And what is the estimate for the completion of the items now under way?

Mr. SHERLEY. Well, under this item as of July 1, 1912, there was needed $1,000,000 for the construction of emplacements. We are carrying here $700,000, and, speaking generally,

I would say about $300,000 more money will be needed for the emplacement work there.

Mr. FOWLER. Unless we give the Philippine Islands their independence we will continue to appropriate something like that annually, will we?

Mr. SHERLEY. At the end of another appropriation of approximately $300,000 the amount of money necessary for emplacement work will be completed. Now, what the gentleman perhaps desires to know is the amount of money, in round figures, that is necessary to complete the project for the Philippine Islands, and as to that I have to say as of July 1, 1912, not having made the subtraction of the amount carried in this bill, there was needed for Manila Bay about $1,163,000, which, of course, does not include the proportionate part of the moneys necessary to be expended for ammunition and submarine mines, which perhaps could not be segregated.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GREEN of Iowa. Mr. Chairman, I move to strike out the last word. I simply desire half a minute to ask a question of the gentleman from Kentucky. We have a naval station in Cuba at Guantanamo, but no fortifications there, I understand?

Mr. SHERLEY. No.

Mr. GREEN of Iowa. There is no appropriation, I observe, in the bill for any fortifications there?

Mr. SHERLEY. And none asked.

Mr. GREEN of Iowa. That is just what I wanted to inquire.

Mr. SHERLEY. There is a project for Guantanamo which involves an expenditure of about $2,240,000, but so far there has not been presented to the committee any estimate for fortifications at that place.

Mr. GREEN of Iowa. I simply wanted to inquire whether the committee deemed it inadvisable or whether it was because of no recommendation.

Mr. SHERLEY. I might say to the gentleman and for the further benefit of the committee that as of date July 1, 1912, having in mind either the beginning and completion of fortifications or the completion of those already commenced at San Juan, Guantanamo, Honolulu, Pearl Harbor, Guam, Manila Bay, Subig Bay, and Kiska Island, there will be needed appropriations totaling eleven million one hundred and thirty-seven thousand and some odd dollars. That includes moneys for seacoast reserve ammunition, submarine mines, and carries all the items like emplacement, electric installation, searchlights, fire control, submarine mine structures, etc.

Mr. GREEN of Iowa. That fully answers the subject of my inquiry.

The CHAIRMAN. The pro forma amendment will be considered as withdrawn.

The Clerk read as follows:

For installation and replacement of electric light and power plants at the defenses of the following localities:
In the Hawaiian Islands, $34,469.

Mr. MANN. Mr. Chairman, I offer the pro forma amendment, and I hope I will not be considered hypercritical in a suggestion which I am about to make. These provisions of the bill are carried under the head in large capital letters, "Fortifications in insular possessions." The term "insular possessions" grew up from the War with Spain to describe certain territory which we had acquired apart from continental United States; but Hawaii is no longer an insular possession; it is a part of the United States, and really ought not to be described as an insular possession. It is true it is an island, but it is not a possession. It is a part of the United States. There is quite a distinction between Hawaii, a Territory, and Porto Rico and the Philippine Islands and the island of Guam. They are possessions. I did not know whether it is practical in the next fortifications bill to either leave out the heading "Fortifications in insular possessions" or segregate the Hawaiian items under the head of "Territory of Hawaii."

Mr. SHERLEY. Mr. Chairman, I think it may be perfectly proper in another bill to let the heading show "Fortifications in insular possessions and the Hawaiian Islands." The idea that actuated the committee, and which I think was a proper one, was to be enabled to give just some such information as I have tried to give a few minutes ago touching the moneys we are spending outside of continental United States.

Mr. MANN. I understand; but why not change that heading and make it correct?

Mr. SHERLEY. I see no reason why, but I am inclined to believe we will have practically cleaned up the Hawaiian Islands in this bill. We may have an occasional item next year.

Mr. MANN. I care nothing about it; but, of course, Hawaii stands on a different footing from all the rest of this territory now, because we have incorporated it into the Union and made it a Territory of the Union.

Mr. SHERLEY. I think the gentleman's suggestion is a proper one, and next year I think it should be carried out.

The Clerk completed the reading of the bill.

Mr. FOWLER. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SHERLEY. Mr. Chairman, I move that the committee do now rise and report the bill (H. R. 28186) to the House with the recommendation that the same do pass.

The motion was agreed to; and Mr. GARRETT having assumed the chair as Speaker pro tempore, Mr. RUSSELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28186) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, and had directed him to report the same to the House with the recommendation that the bill do pass.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. SHERLEY, a motion to reconsider the vote by which the bill was passed was laid on the table.

THE LATE SENATOR TAYLOR.

Mr. SIMS. Mr. Speaker, I would like to ask unanimous consent to submit the order which I send to the Clerk's desk.

The SPEAKER pro tempore. The gentleman from Tennessee submits an order which the Clerk will report.

The Clerk read as follows:

Ordered, That Sunday, February 23, 1913, be set apart for addresses on the life, character, and public services of Hon. ROBERT L. TAYLOR, late a Senator from the State of Tennessee.

The SPEAKER pro tempore. The question is on agreeing to the order.

The question was taken, and the order was agreed to.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. BURLESON. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 28499) making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, and pending action upon that motion I wish to inquire of the gentleman from Ohio [Mr. TAYLOR] if we can agree upon the length of time to be consumed in general debate on the bill?

Mr. TAYLOR of Ohio. I will say to the gentleman from Texas [Mr. BURLESON] that I have no applications for time. I am perfectly willing to go into the reading of the bill at once.

Mr. BURLESON. I will say to the gentleman from Ohio that I have one request for time. The gentleman from Indiana [Mr. CLINE] has asked me for 30 minutes, and with the permission of the gentleman from Ohio [Mr. TAYLOR] I suggest we allow the debate to run on and be limited to one hour.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BURLESON] moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the District of Columbia appropriation bill, and in that connection asks unanimous consent that the general debate be limited to 1 hour, 45 minutes to be controlled by the gentleman from Texas [Mr. BURLESON] and 15 minutes by the gentleman from Ohio [Mr. TAYLOR]. Is there objection to the request for unanimous consent?

There was no objection.

The motion that the House resolve itself into the Committee of the Whole House on the state of the Union was agreed to.

CONTESTED-ELECTION CASE—KINNEY AGAINST DYER.

Mr. NELSON. Mr. Speaker, I ask unanimous consent that I may present a report from the Committee on Elections No. 2, and ask for its immediate consideration. (H. Res. 801, H. Rept. 1422.)

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the resolution.

The Clerk read as follows:

REPORT.

The Committee on Elections No. 2 has had under consideration the contested-election case of Thomas E. Kinney *v.* Hon. L. C. Dyer, from the twelfth district of Missouri, and begs leave to report as follows:

The allegations of fraud and intimidation made by contestant were not sustained by the evidence adduced.

Therefore we beg to submit the following resolution for adoption:

Resolved, That Hon. L. C. Dyer is entitled to his seat as a Representative of the twelfth congressional district of Missouri.

The SPEAKER pro tempore. Is there objection to the resolution proposed by the gentleman from Wisconsin [Mr. NELSON]?

Mr. FOSTER. Reserving the right to object, Mr. Speaker, I would like to inquire if this is a unanimous report?

Mr. NELSON. It is a unanimous report from the committee.

The SPEAKER pro tempore. The question is on the adoption of the resolution.

The resolution was agreed to.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The SPEAKER pro tempore. The motion of the gentleman from Texas [Mr. BURLESON] prevails. The House will resolve itself into Committee of the Whole House for the consideration of the District of Columbia appropriation bill, and the gentleman from Georgia [Mr. RODDENBERY] will take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 28499, the District of Columbia appropriation bill, with Mr. RODDENBERY in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the District of Columbia appropriation bill, which the Clerk will report.

The Clerk read the title of the bill as follows:

A bill (H. R. 28499) making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes.

Mr. BURLESON. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

Mr. BURLESON. Mr. Chairman, I yield 45 minutes to the gentleman from Indiana [Mr. CLINE].

The CHAIRMAN. The Chair understands that by order of the House general debate is to be limited to 1 hour, 45 minutes to be controlled by the gentleman from Texas [Mr. BURLESON], and 15 minutes to be controlled by the gentleman from Ohio [Mr. TAYLOR].

Mr. BURLESON. Yes. Mr. Chairman, I yield 45 minutes to the gentleman from Indiana [Mr. CLINE].

Mr. CLINE. Mr. Chairman, in the time allotted to me I desire to discuss the business and political interests of the American people in the Asiatic continent; and by so doing, invite the attention of the House and country to some problems that may well engross the public mind.

There are broad ethnological facts and social principles, elementary in the very existence of races and color, that ultimately shape the whole trend of national and race life. We can not change them; they have been recognized in all history, and will continue to remain fixed. All we can do, and what we should do, is to observe these well-intrenched facts and principles of race and color, and shape our destinies within the rules.

I pause here to pay a tribute, well deserved, to those wards of ours in the far-off Pacific—the inhabitants of the Philippines, of whom I shall have some things to say—our brown man of the Orient, whose ancestors for more than three centuries were more or less under Spanish dominion; who never ceased to struggle against both foreign and domestic oppression. At some time or other during this long period, laying in the pathway of the world's travel, they have been the prey of great nations of western Europe and eastern Asia. Plundered, robbed, and exploited, the products of their toil stolen by aliens, they have at last broken away from a dominant and blighting despotism, and seem to be coming into their own.

The venality of the conqueror sums up all the crimes of successful conquest. There is a mysterious element in human life that demands equality and resists crushing domination in the application of every system of government or economics, whether it be a highly developed system or not. Wherever development is greatest, there will the advocate of the former and the enemy of the latter be greatest. It is a law of progress that where climatic conditions and fertility of soil contribute most to the quick accumulation of wealth, there will civilization alike quicken and advance.

Representative government is the only sure guaranty of any character that personal liberty and personal rights will be protected. The wholesale intrusion of the individual into the political structure of a State government is an American idea of the construction of civil institutions. A strong centralization of power, either in the hands of an usurper or in the government itself, can not exist with our theory of popular government. A powerful executive, invading the constitutional rights and prerogatives of a coordinate branch of representative government and assuming to discharge its functions with a strong hand, can not exist in a true democracy. That the doctrine of the right to control a different people than that participating directly in the government, either by conquest or purchase, implies a government by force of arms can not be disputed, and that it is an European and not an American doctrine is also true. There never has been a conquest of territory except by force of arms, and that conquest rarely maintained except by a resident force of arms in the subjugated territory. Territorial conquests on this continent have ceased. The races of the world seem now to be fixed and settled; and just as each nation holds in high veneration its history, its policies, its life and liberty, so will the happiness of the nation thus committed to high ideals be secure. Rivers and mountain chains will not in the future constitute national boundary lines; it will be the blood that flows in the veins that will fix the habitation.

Some facts with reference to races and governments are as well settled as any principle in mathematics. Europe will never be overrun with the blacks of southern Asia, nor will the brown man or the yellow man burden the soil of this Republic, either as a citizen or as a subjugator of our personal liberties. The entire trend of thought has turned away from that of colonization and conquest to that of methods of government in which are vested and recognized the rights of the citizens composing the government. The civilization of the twentieth century is a thousand years distant in national and race tendencies from the days of Napoleon and George the Third.

There never was a time when the "national home" acquired such proportions of interest in the movement of affairs as it does to-day. Not only is this statement applicable to nations, but more so to races. Not only have they fixed their "dwelling grounds" but the great nations and distinctive races have, apparently, forecasted their future locations and boundaries for long periods of time. We, ourselves, have declared that this hemisphere shall be the home of the Aryan races—the home of the white man. We early declared it our purpose to dedicate this continent not only to the white race, but to that larger personal liberty that we espouse. On December 2, 1823, we announced that—

> We owed it to candor and to the amicable relations existing between the United States and those foreign powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonial dependencies of any European power we have not interfered and shall not interfere. But with the governments that have declared their independence we have on great consideration and just principles acknowledged we could not view any interposition for the purpose of oppressing them or controlling in any way their destiny by any European power in any other light than as a manifestation of an unfriendly disposition against the United States. * * * It is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness, nor can anyone believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is impossible, therefore, that we should behold such interposition with indifference.

In that declaration we builded better than we realized. We made it, as we supposed, for our own protection, but we made it in fact for the whole white race. We defined not only the limits of government, but the character of the government and the limits of color in national function that should inhabit this continent. The individual man has lost his personality in these world movements in races. Hereafter nations and races will be the unit of consideration and not the individual. One of the conditions that marks the difference between the white man and the colored races is that the white man has established a different plane of living, comporting with his different state of civilization than the colored races. He refuses to be content with clothing, food, and tendencies of those races; hence, the tendency to crowd the markets of the white man to sell his labor and the increasing force thereby adding to the antipathy of race prejudice, demanding of the constituted powers that those races with competing labor be eliminated from contact and competition, and that we maintain our standard of living and of race purity. So fixed and powerful is race prejudice that wherever inferior races appear to be gaining the ascendancy, the white man invokes the criminal statute to protect himself. In California the marriage of a white man or woman to a Mongolian or a negro constitutes a felony. I believe as much in the natural habitat of race distinction as I do in the distinguishing habits of the races themselves.

Through some unaccountable source we exercise control over and possession of the Philippine Islands, with more than 7,000,000 millions of people, two times as many as we had when we denounced England for our own subjugation—lands wholly populated by a race different from ours and more than 7,000 miles away, differing in religion and history, in color and

civilization, having nothing in common with us except the desire to manage their own affairs and govern themselves as we do ourselves. We have nothing in common with the Filipinos and never can have, because of race differences that are insurmountable. Projected into the character of the Filipino, that has become a constituent part of his nature and that of all Asiatic races through centuries of heredity, are differences of religion, civilization, and fundamentals in morals and government. These people are opposed to us in every essential of life, character, and personality; yield to us a suspicious obedience, view us with an increasing aversion, while we proclaim to them and to the world our belief in the essential principles of personal liberty. No great publicist has ever put our claim to subjugate the inhabitants of that archipelago upon any other basis than that of conquest, or that we are the trustee of a "manifest destiny."

Development of social life and government has a uniform basis. Mutual dependence is everywhere forced upon all classes. All have the same aspirations, the same intellectual aptitude, the same inclinations—the only difference is in degree—and all are the product of natural evolution. I may not hesitate to say that this national mobilization—this consolidation—of races, all arising out of a law of necessity and a desire not only for lighter burdens of government, but for no government at all by alien races, have introduced into world politics, in acute form, new and far-reaching problems.

These problems are not those to come at some future time; they are here now. The fast-breeding nations of India, China, northern Africa, and Japan, some of whom are now dominated by a handful of Europeans—these hundreds of millions, moved by the new spirit of this age, adjusting themselves with white men through the rising tide of commerce, with a mighty and successful struggle will throw off this restriction by foreign power and establish, I care not how crude it may be, a representative system of government by and for themselves. Let me amplify what I mean by very recent history of Japan. Half a century ago her commerce and taxes were controlled by a foreign power. She had no foreign relations, no navy, but a small army, and she stood in mortal fear of being swallowed up by China. In less than 25 years she has become an independent sovereign nation, whipped China, sliced off Korea and Formosa, and ranked herself as the seventh naval power in the world. She engaged in war with one of the most formidable Governments on earth, hurled her navy against the great war vessels of the Russians, sunk them like broken reeds, and sent 24,000 prisoners to Tokyo. She did more than that. She brought Russia to her knees in arbitration and divided Manchuria to herself, and then formed a defensive alliance with England, the greatest naval power in history. Do such great movements, that shifts power from continent to continent, mean nothing to us?

But the sun had hardly gone down on these achievements by Japan before the common people of China, restive under the dying embers of the Manchu dynasty, in one supreme effort established a national representative government, on which work we have officially, as a Nation, congratulated them, so that now two of the most powerful nations of eastern Asia, with more than four hundred millions of people, are competing with each other for the balance of power and for the liberation of the brown and yellow races. Who in this Chamber may not well assume that these marvelous transformations now proceeding, either China or Japan—probably Japan—may not for her protection attempt to guarantee like protection to all who may join her in the new régime? May we not soon hear the cry of "Asia for Asiatics," as we heard a century ago the cry of "America for Americans"? Japan, more than any other eastern power, has assimilated and improved upon many of our ideas, especially where mechanical skill is required. By her successes with Russia she put herself into the class of world powers with her sixty millions of people and turned into their highway on her march to her future destiny.

I yield to no man in unswerving loyalty to the scope of the Monroe doctrine, to which I have already invited your attention. It is as fixed and irrevocable as any tenet of our institutions, and the world recognizes that fact and our right to enforce it as one not subject to any national convention, review, or decision by any organized body.

I do not share, Mr. Speaker, in the jingo spirit manifested by certain statesmen relative to the occupancy of territory on this continent by the Japanese, either in Hawaii or in Magdalena Bay. Such hysteria, that periodically inflames the public mind, is as baseless as a dream. What possible excuse could Japan have to invade the Western Hemisphere, 6,000 miles from home, without a coaling or supply station? Does she need territory or commercial advantages? Suppose she desired to enter upon an era of conquest and attempted subjugation, what would it profit her? She has scattered lands and islands, from Manchuria on the north to Australia on the south, out of which to make empires and into which to spill her surplus population and build these dependencies out of her own or kindred races in her own zone and at her door. Is it possible that that strong commercial instinct that has marked the whole history of the Japanese might seize her? Why should she look westward for trade? We only take 9 per cent of her foreign trade and send her but 5 per cent, and that when she has within easy reach three-fifths of the population of the globe. What part are we to play, if any, in this marvelous transformation of races in the Eastern Hemisphere?

We have no announced future policy in the Philippines. The time is ripe in these evolutions to inquire, not only for our own safety but in justice to the residents of the Philippines, what our purpose is. One great political party, so long in power, refuses to answer the call of the brown man when he asks of this enlightened Christian Nation what the destinies of himself and his children are to be in his own land, now held from him by a strong, powerful Government. Have we strayed from our long-established national doctrine? Let me quote one sentence from John Stuart Mill:

> The government of a people by itself has a meaning and a reality, but such a thing as a government of one people by another does not and can not exist.

Around that principle have clustered all the race problems and political problems of government. We intrenched ourselves upon this same rock in our declaration:

> All men are created free and equal, and are endowed with certain inalienable rights, among which are life, liberty, and the pursuit of happiness.

On that theory are constructed al the States of this federation, and in it rests all our ambitions in the common struggle, with a common hope to a common destiny. Nearly a century after that proclamation, standing upon a field where was waged the mightiest conflict that ever convulsed the human race, where was sealed forever on this continent the covenant of human freedom, the immortal Lincoln said:

> Four score and seven years ago our fathers brought forth on this continent a new Nation, conceived in liberty and dedicated to the proposition that all men are created equal.

And concluded that memorable address with the words:

> And that a government of the people, by the people, and for the people shall not perish from the earth.

That declaration and what it stands for is as precious to us as the "altars of our religious faith." Have we strayed from our long-established national belief and practice? And are we ready to abandon in our relations with the Filipino the most solemn compact for the preservation of personal and popular liberty ever sealed by the force of arms or by the holy influence of peace? Are we to ape Great Britain, that marvelous sea power that within a century, by the virile hand of the Crown, "swung the pendulum" of British interests across a hemisphere into India, Australia, and Africa, and made the far-away Pacific the scene of her future battle grounds and conquests? Are we to go, too, at our election or be forced to go into these distant waters to enforce a wrong against a people who of right ought to be as free as we are, and would be but for us? We may crush and smother, in our attitude with the Philippines, the principles of personal liberty and representation temporarily that we have so successfully and so justly taught the world was supreme in the government of men, but if we do it will reincarnate itself again to our humiliation. The Boston Herald correctly states the position:

> The important thing for America to decide is not whether the retention of the Philippines will pay, whether it benefits them, or whether it ministers to our national pride, but whether it is right, for on no other foundation can any great national policy securely rest.

The hysteria of imperialism and territorial expansion in the Far East or anywhere else is dead beyond a resurrection. The problem now is not where we can get more territory and more alien races, but how can we honorably get rid of what we now have. There are only two possible courses for the Republic in its conduct with the Philippines—either statehood, to which every act of our occupation for 14 years has pointed, or the recognition of their independence properly safeguarded. Statehood is an unthinkable proposition—to put into the hands of an alien race, consisting of 7,000,000 people, the possibility of the balance of power for 100,000,000 American citizens, and thereby jeopardize our rights and liberties; to make possible a vote in the Philippines on a popular election by them to decide our entire domestic and foreign policy would be to invite the most astounding consequences imaginable. We forget that the fundamental principle in good government consists in assimilating the people as a unit on political institutions. On the administration of the Government of course another principle

obtains. Not only must we be a unit as to our political institutions, but on national character and society. The value of the Government to the individual consists in conceding political supremacy, in the recognition of political authority, and in assisting to maintain that authority established upon a strong constitutional basis as the organic law of the land to be unflinchingly adhered to until regularly changed. National character must have the very highest possible standard of right and justice, and society must contribute to a progressive civilization.

Let me observe, then, in connection with that statement, that if there is one well-established fact in history it is that color prejudice is fixed, and no creed, no form of government, will blind races radically different into a harmonious, homogenous whole. Some irrevocable law of the mind has fixed the prejudices of race and color as insurmountable barriers. Let me quote from Campbell's "Twentieth Century in Siam," "Nature has set up physical barriers that are not for man to break down, and Asia will always be Asiatic." I do not agree with my friend from Texas [Mr. SLAYDEN] that these prejudices are "because of color," as he asserts. Color can not account for failure in natural development and incapacity in some instances for self-government. Climatic conditions, environment, and inherited incapacity for a thousand generations distinguishes them in "creation's divine event." The brown man, the yellow man, and the black man, on the one hand, and the white man, on the other, have been separated always from each other by lines they never passed, and that independent of themselves. No more marked illustration of that fact exists than the association of the Spaniards with the Filipinos for 300 years. After that long period the races emerged from that contact practically free from the blood of each other, the Filipinos being more than 90 per cent pure in race and color. England has been in India for 150 years and administering a government over 300,000,000 of black men, and the gulf socially between them is wider and deeper than ever, and if England did not recognize this antagonism to exist, and that the time is coming when she will need Japan to protect her interests in India, why the alliance that now maintains? Antagonism of color and races will not permit an American or Europeans to be merged with an Asiatic. The chasm exists everywhere and is without fathom. I believe that those distinctions are as lasting as the races themselves, and no temporary government, no creed, no trade will eradicate it; hence the impossibility of unifying the brown man of the Philippines with the Anglo-Saxon of this Republic in our institutions, our morals, and in our civilization.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Indiana yield to the gentleman from Kansas?

Mr. CLINE. I will yield for a question.

Mr. CAMPBELL. If the gentleman is right in his theory, why wait for a period of eight years or six months to get rid of the Philippines?

Mr. CLINE. I will develop that proposition when I get a little further on.

Mr. CAMPBELL. Another question: Why may not people of different races or different nationalities live together under the same government, either a nation made up of a continent or a nation made up of a continent and outside islands?

Mr. CLINE. I have stated as clearly as I could my position on that question, but I will say to the gentleman from Kansas it is because of the inherited tendencies that lie in the very nature of the races that are antagonistic to the white man or the European.

Mr. COX. Put there by God, who created them.

Mr. CAMPBELL. We are living here in the United States, some 90,000,000 of us, many nationalities and different races, living apparently in harmony and having a very good Government.

Mr. CLINE. Oh, Mr. Chairman, the great melting pot of American civilization, I know, has unified the races that have come to this country and made them a harmonious and consistent unit, but the representation who came were from the white nations of Europe, and not from the Asiatics. [Applause.]

Mr. CAMPBELL. We have some millions of Africans in this country, living under the same Government with us. Why may we not have living with us some Asiatics, protected by the same flag?

Mr. CLINE. Does the gentleman presume that the citizenship of this Republic, demonstrating as it has its ability to successfully organize and maintain the greatest representative government that ever existed, will ever consent that the Negro, who was a "Helot in the day of Abraham" and will be a thousand years hence, because of the fixed limitation that his Maker has written into his being, who has not in the whole history of his race a philosopy, a science, a discovery, a religion, or a government to his credit, be permitted ever to assume the control or management of the government of the Anglo-Saxon race in this Republic? [Applause.]

Mr. CAMPBELL. I can not agree with the statement of the gentleman entirely.

Mr. CLINE. We have flattered ourselves that we assumed a "manifest destiny" when we subjugated the Philippines and took them and their lands over. That is, I suppose, the position taken by my friend from Kansas [Mr. CAMPBELL], and that was the justification of Mr. Froude in his work, "The English in the West Indies," when he used this language:

> We have another function such as the Romans had. The sections of men on this globe are unequally gifted. Some are strong and can govern themselves; some are weak and are the prey of foreign invaders or of internal anarchy; and freedom, which we all desire, is only attainable by weak nations when they are subject to the rule of others who are powerful and just. This was the duty that fell to the Latin nations 2,000 years ago. In these modern times it has fallen to us.

Mr. Froude should have anticipated to-day, when Premier Asquith has forced through the British House of Commons a constitutional government for Ireland, as some compensation for a century of cruel and unwarranted oppression. It ought not to be forgotten that the struggle of the Boers in South Africa was against English exploitation. A philosophy of that character, that has nothing to commend it but brute force, does not appeal to the intelligence of this age. A government of a people by another people does not and can not exist. Either the people govern themselves or they are governed by a supply government, administered from home, hated, scorned, because it invites men to dream of liberty that can not be realized and in its installation proclaims the inferiority of the subject and his inability to govern himself. Let me remark further, in connection with the statement from John Stuart Mill—

> that there is no alien community, either of race or color, but what is better satisfied with an inferior form of government administered by themselves than with a superior form of government administered by an alien.

Not only do we hold the Philippines against their will—and I digress long enough to say that it is a matter of common knowledge that American supremacy is not wanted in the islands by that people—but we have appropriated their lands by the thousands of acres and parceled them out to other aliens for personal benefit and exploitation.

The position of the Democratic Party, standing by its traditions and those of its founder, believing in the principles of personal liberty and in their fullest enjoyment by all people, regardless of color or location, refuses to indorse the policy of subjugation that the dominant party had inaugurated with such enthusiasm. It has made itself clear on the proposition in the last four national conventions. In 1900 the Democratic Party in national convention said:

> * * * We favor an immediate declaration of the Nation's purpose to give the Filipinos, first, a stable form of government; second, independence; and third, protection from outside interference such as has been given for nearly a century to the Republics of Central and South America.

In 1904 the Democratic Party in national convention duly assembled made another declaration on the Philippine problem, as follows:

> We insist that we ought to do for the Filipinos what we have done already for the Cubans, and it is our duty to make the promise now and upon suitable guaranties of protection to citizens of our own and other countries resident there at the time of our withdrawal, set the Filipino people on their feet, free and independent to work out their own destiny.

In 1908 the party, still expressing the sentiment of the great body of the American people on this same question, said:

> We favor an immediate declaration of the Nation's purpose to recognize the independence of the Philippine Islands as soon as a stable government can be established, such independence to be guaranteed by us as we guarantee the independence of Cuba, until the neutralization of the islands can be secured by treaty with other powers.

In the recent Baltimore convention we said:

> We favor an immediate declaration of the Nation's purpose to recognize the independence of the Philippine Islands as soon as a stable government can be established, such independence to be guaranteed by us till the neutralization of the islands can be secured by treaty with other powers.

The Democratic Party, having made those declarations in the several national conventions, is only doing its duty when it comes into power to say officially what it did in its national councils. So believing, I introduced on June 16, 1911, in this Congress, the following House joint resolution:

> To authorize the President of the United States to take measures for the delivery of possession, control, and government of the Philippine Islands to the Filipino people, and to promote their future independence by treaties of neutrality.
>
> *Resolved, etc.*, That it is the purpose of the United States to withdraw sovereignty over the Philippine Islands and to permit the Filipino people to establish for themselves an independent representative government, such withdrawal of sovereignty to be completed in July, 1920.

> SEC. 2. (a) That in pursuance of the execution of such declared purpose on the part of the United States, and to aid and assist the Filipino people to assume such independent government, they shall be permitted to elect the upper branch of the Philippine Legislature, now known as the Philippine Commission, at the first general election after January 1, 1913.
>
> (b) That after January 1, 1917, the Filipino people may assemble in delegate convention to ordain a constitution for the permanent government of the islands, which, when so ordained, shall be submitted to the President and Congress of the United States for approval.
>
> (c) That said constitution shall contain an educational qualification for suffrage, providing that the right of suffrage shall be limited to those who can read and write some recognized language.
>
> (d) That the executive power of the government of the Philippines shall reside in and be exercised by the United States as fully in all respects as at present until the date of evacuation.
>
> (e) That from now until the final withdrawal of its sovereignty the United States will conserve for the Filipino people the natural resources of the islands, including lands, minerals, timber, and water power.
>
> (f) That at the time of the withdrawal of the United States from the occupancy of the islands the President of the United States may reserve such coaling and naval supply stations, and the right to defend them, as in his judgment may seem proper.
>
> SEC. 3. That pending the creation of such independent form of government by the Filipinos and in the promotion thereof the President of the United States is enjoined to consider the practicability of securing a treaty among the principal powers of the world to assure the complete neutrality and independence of the Philippine Islands and favored trade relations between the Philippine Islands and the signatory powers.
>
> SEC. 4. That the policy herein declared is subject to modification in the event that pending the arrival of the time herein fixed for the withdrawal of sovereignty from the Philippine Islands the Filipino people shall engage in armed revolt or insurrection against the authority of the United States.

Following the introduction of the resolution other gentlemen introduced similar resolutions that undoubtedly have been of service to the committee in formulating the present bill under consideration and which has my unqualified support.

While I believe the Filipinos are to-day capable of self-government, as I shall hereafter attempt to establish, I also believe under the great considerations of life and treasure that we have expended in their welfare that we should doubly safeguard a home government for them, establishing beyond question all these necessary elements upon which to build the superstructure. They should be gradually led up to the point of unquestioned efficiency. The bill provides that they shall be permitted to elect the upper house of their legislature. We provide in a constitution that it should contain a qualification for suffrage, and that the constitution should be approved by the President and the Congress of the United States; that during all this period up to 1921 the National Government should retain all the executive powers in the islands, and on our removal therefrom retain sufficient ground for a coaling and supply station. We ought to do another thing to establish and maintain the confidence of the Filipino people in ourselves during this period, and that is that we should maintain their natural resources—mineral, timber, water-power sites, and their vacant lands—and that they should not be exploited by promoters of home corporations. That to guarantee and protect their interest in this new-born civic relation to the Governments of the world we should urge upon the President the necessity of negotiating neutrality with these great powers for their safety. We provide further in this bill reported by the committee that if there should be any armed revolt against our Government during the period between now and 1921 that our proposition would be subject to modification. It is the purpose of the bill to throw about the Filipino all the environments that this great Government could, so that they would focus their entire effort in preparing themselves to assume the discharge of those functions that belong to a free people.

Before proceeding further with this discussion, I call attention to a short series of unsupported statements filed by the minority members of the Committee on Insular Affairs against this bill and denominated "Views of the minority."

As an exhibition of duplicity of statement and unsteady English it merits consideration. The views are opened by this statement:

> The inhabitants of the Philippine Islands do not constitute a homogeneous people.

In answer to that I quote from volume 2, page 44, Philippine Census of 1903. That shows that less than one-tenth of 1 per cent of the inhabitants of the islands are mixed either in blood or color. The same authority, page 9, states:

> As compared with the Twelfth Census of the United States these of the Philippine Census—

Referring to tables—

> are somewhat simpler, the difference being due to the more homogeneous character of the population of the Philippine Islands.

The second unsupported statement in the "views" is as follows:

> They are composed of many different tribes, some styled civilized and some admittedly wholly wild. There are some 15 or 20 different languages or dialects. In many instances those who speak one dialect can not speak or understand any other. Only about 10 per cent of all the people can read or write in any language or dialect, and less than 3 per cent have what we would call a common-school education.

To completely refute such gross misstatements, I quote from volume 2, Census of 1903—10 years ago—page 90:

> Out of a total population 10 years of age and over 20 per cent can read or write or both, and of the males of voting population 31.4 per cent can read and write.

These people received their education before the date of American occupation. What would be the percentage now, 10 years after the complete establishment of a school system and after it is now estimated that millions of children, young men, and women of the Philippines have entered upon a course of education? And at this point I desire to call attention to a paragraph in the message of the Acting Governor General to the Third Philippine Legislature, dated at Manila, October 16, 1912, as follows. I quote from page 4:

> A general educational system was inaugurated in the beginning. More than half a million students are attending school as these lines are written. For several years the average has been nearly as great, so that we can say that between three and four million students have had greater or less advantages in the public schools of the Philippine Islands. Many private schools are also serving the people. Each year adds to the number of mature age who have received some school training.

And your attention is invited especially to the following statement in the same connection:

> In these modern days every civilized country is developing in democracy. Whatever form that this government may assume, it must be based upon the democratic idea of a government by the people. It is not enough that a few people shall be educated in high schools or universities, but all should have sufficient general education to enable them to take an intelligent place in the electorate.

To return again to the proposition, I now quote from the Census of 1903, page 78, that shows that of the Philippine population 10 years of age and over, there were 2,211,433 who could read or write, or 44.5 per cent of the population. That was a decade ago. I also quote from the director of education, eleventh annual report, to show that there are 50,140 persons who have received advanced education in the colleges and universities and private schools of the island. So eager are the inhabitants of the Philippines for the benefits that flow from a common-school education that in the island of Luzon alone there were 4,000 children that were denied educational advantages because there were neither teachers nor school room. Fifty per cent of the graduates from the high schools of the island go into the universities. The University of the Philippines, opened only three years ago, has more than 1,200 students registered. Even in the Moro Provinces there are 142 schools and 195 Christian Filipino teachers, which the "views" tell us are the deadly foes of the Moros, and these teachers are educating more than 5,000 children, and some from these Provinces are now pursuing courses of study in the university.

I quote again from the Philippine census—volume 2, page 75—showing that even in the most uncivilized section 13 per cent of the people either read or write their own dialect, and this was 10 years ago. I submit that the statement made in the "Views of the minority" is not supported by to-day's conditions. Such statements are an injustice to the Filipinos, for whom these gentlemen profess such deep solicitation.

Another statement that will bear a little scrutiny is the one in which a defense is made for American occupation in that the islands afford us a great market for our foreign trade. I quote from the minority report, page 5, as follows:

> On the other hand, the largely increased markets afforded by the Philippines for the products of our farms and our factories is of a great deal of value to us.

I presume if they are of value to us it is because their markets yield us a profit. Let us see what the trade with the Philippines was last year. We received in imports from the islands last year $21,517,777. We sold to the Philippines $20,096,522. It cost us, at a very conservative estimate, $40,000,000 to administer our theory of "benevolent assimilation." If we had all the trade, both exports and imports, given us we would still be nominally only even with the game. Such palpable mistatements do discredit to the high character of the man who makes them. Gentleman assert that the proponents of this bill want to set the Philippines adrift, subject them to the prey of other nations as a prize for warlike ambitions. If the Governments of the earth are so anxious to grab the Philippines why have they not seized Siam, that independent Government of 6,000,000 people, lying between the French and English possessions in southern Asia? Siam has maintained an independent sovereignty under its present dynasty for a longer period than this Republic has stood—a nation without a navy, without an army, and 70 per cent of its people

illiterate. The concluding statement of the "views" is as follows:

It would be a cowardly shrinking of duty, a disgrace to the American people, and an injury to the Filipinos to give them self-government before they are fitted for it.

No one disputes the truth of that statement. It is a more cowardly shrinking from a sacred duty, a deeper disgrace for the American people under our declaration of inalienable rights, and a greater injury to refuse to give the Filipinos self-government when they are fitted for it. The question turns upon the proposition, Are they qualified for self-government?

I shall digress here for a moment's treatment of the criticism administered to the Democratic Party by the present administration. The President, for whom I have the highest personal regard, has invoked every opportunity, not only in public addresses but in a message to Congress, vehemently attacking the Democratic Party in its proposed redemption of its platform pledges. He assumes a monopoly of information and opinion on the Philippine problem and expresses his disgust if they are questioned. The President's opinion, which has been given all the currency that the press could afford him, does not express the views of the people. Neither the President nor his party has ever given in a concrete statement its attitude on the Philippine problem or informed that struggling people what may be expected from them. I quote the following as the last declaration of the party on this subject, made at the Chicago convention, in 1912:

The Philippine policy of the Republican Party has been and is inspired by the belief that our duty toward the Filipino people is a national obligation which should remain entirely free from partisan politics.

A more studious attempt to avoid the whole question could hardly have been made. Since it has become a certainty that the Democratic Party would be returned to power every possible agency that could be invoked—political, commercial, or otherwise—has been drafted to create public sentiment in the minds of the people and to induce the Democratic Party to abandon its platform declarations. A cabal of interests involving many persons in the civil service in the Philippines has joined the administration in its efforts to prevent legislation and to continue in power the present "domination of an oligarchical and probably exploiting minority" in the archipelago. The press has been filled with letters from people connected with the administration in the Philippines that a mere cursory examination will disclose are the product of concerted design. None of these letters give any credit to the Filipino people for their successes in attempting to patriotically and honestly advance the material interests of the country. No credit is given the men and women scattered everywhere throughout the islands, fired by a patriotic devotion for the permanent and social uplift of the people. All credit is taken by the administration, and after a complete exposition of the Moro Provinces, in which all the discreditable conditions imaginable are charged to the entire Filipino people, these letters express the deep solicitude that the Filipinos shall be given their independence "when they are fitted for it." The Democratic Party will not hinge its actions in legislating for eight millions of people upon press reports inspired by personal and private interests. An administration that has not been free from scandal, even in the Philippines—that was rebuked by the people in November as no administration in the history of the country has been; that succeeded by its course and conduct in sending a great political party to the scrap heap—ought to manifest some modesty in insisting that its foreign policy should be imitated by its successor.

But to return to the question of qualification for self-government, I submit the statement made by Dr. Schurman, president of Cornell University, made 10 years ago, when he was a member of the first Philippine Commission. If he could make such a statement 10 years ago, what could he say now, after the advancement the inhabitants have made? Dr. Schurman said:

But whatever may be done with the Mohammedans, the civilized and Christianized democracy of Luzon and the Visayans desire independence. They are fairly entitled to it, and, united as they are now, I think they might very soon be intrusted with it. In their educated men, as thorough gentlemen as one meets in Europe or America, this democracy of 6,500,000 Christians has its forcordained leaders.

I invite your attention to the ability demonstrated by the members of the Philippine Assembly. There are some opportunities that we have extended to the Filipinos, which they have eagerly embraced, that constitutes an impeachment of the statement made by the friends of subjugation that the Philipinos were incapable of self-government. In 1905 we passed an act that established what is known as the Philippine Assembly. It provided, among other things, that within two years after there should be a census taken of the inhabitants of the islands, and that a general election should be held to elect from each of the several districts a representative in the assembly.

The bill provided that there should not be more than 100 or less than 50 districts, and the representation should be fixed according to the completion of the census, and, the necessary steps taken, the islands constituting the Philippines were divided for legislative purposes into 80 districts, and the representation fixed at 90,000 for each representative. The Legislature of the Philippines consists of the assembly and the Philippine Commission, the commission conforming to our Senate, made up of nine members appointed by the President of the United States, five of whom are Americans and four Filipinos. The Congress of the United States was organized under our Constitution for 60 years before a Representative in this body represented 90,000 inhabitants. We were organized on a basis of 30,000 to each Representative, only one-third of what the Filipino was supposed to be able to represent. We made no mistake in the Philippine representation, either, for the reason that the assembly has shown itself to be able and patriotic in the discharge of its duty and has a creditable place with other great legislative bodies. We thought so well of the Filipino as to his ability to govern himself and his country that we gave him concurrent jurisdiction with the commission in all matters of legislation, except for the non-Christian tribes. We organized the assembly along the same lines that the House of Representatives is organized. It has the right to initiate all bills for the raising of revenue. One of the first acts of the Philippine Assembly was to take from the speaker the right to be a member of the rules committee—a reform that we made after they had set the example for us. It has been widely proclaimed by the friends of this "benevolent assimilation" that there was no national sentiment among the Filipinos, and consequently no desire for self-government. Out of the 80 representatives to the assembly 64 were elected upon the issue of immediate independence and the other 16 were for independence after better developed conditions. As a further evidence of a prevailing national spirit, I quote from a recent article in the American Political Science Monthly, written by James Alexander Robertson, librarian of the Philippine Library, a keen observer of events, and not in harmony with the idea of independence. This article was written as a review of the first regular and special session in 1909, and is found in the November, 1910, issue. It reads:

The delegates, although elected to represent a certain district locally, are keenly alive to the fact that they represent all the Philippines and must obtain the best good for the whole country.

And again in the same article:

If the leaders proceed with the wisdom that Rizal had, it is not too much to say that the Philippine Assembly will have permanently an honored place among the deliberative assemblies of the world.

How could the Philippine Assembly be entitled to such a coveted place among the legislative bodies of the world if it had not displayed the patriotism, ability, and public conscience based upon a national policy to merit such consideration? Congress placed in the hands of the assembly the power to originate every line of expenditure in the islands except as indicated.

The conduct of the members of the assembly has met the expectations of the friends of self-government. In the second election of members of the assembly, out of the 81 districts there were 66 members elected who favored immediate independence and 15 who were in favor of deferred independence. Out of the 19 reelections all but 2 were for immediate independence. In the election for governors of the municipalities two years ago the parties divided equally for the 30 cities. At the recent election there were 23 governors elected that favored independence at once and 9 who were in favor of independence deferred, and yet we are told that there is no national spirit in the Philippines. It has been widely published that the small vote cast for the assembly is another evidence of no national spirit. What are the restrictions imposed on suffrage in the Philippines? No man can vote unless he is 23 years of age, owns $250 worth of property, or pays $15 taxes, speaks and writes either Spanish or English, or was an officer above a certain rank in the late Spanish régime. (Act 1582, U. S. P. C., sec. 13.) Had you submitted that kind of a test to the whites and blacks in the South after the war what kind of a vote would you have gotten? If you make that the test of a right to vote in the great cities of this country to-day, what will be the vote? One of the very strongest tests of the ability of the Filipino for self-government is that he holds more than 95 per cent of the offices from judge of the supreme court down through all the clerical positions and discharges his duties with fidelity and ability. They are intrusted with positions of trust and confidence, occupy positions of great responsibility with perfect safety to the service.

What is the test you propose to put the Filipinos to to determine whether they are capable of self-government? Is it to be the character of the work you give him to do, or the manner in which he does it? These are some of the subjects you have committed to his charge and permitted him to appropriate money from the public treasury for construction of highways and bridges, sanitary systems for the cities, river and harbor improvements, educational system for the islands, the establishment of a bureau of labor and a bureau of agriculture, and the establishment of colleges to promote agriculture, irrigation of the islands, the organization of a constabulary for police purposes and protection. On all these subjects he has legislated to the entire satisfaction of the people, and they have indorsed the action of their legislative officers by returning most of them to their positions. On their action, Mr. Robinson, in the article above referred to, they are complimented as patriotic and deserving of recognition among the great legislative bodies of the world. Not only has there been no complaint or criticism of the assembly but no hint even has come from the Government of the commission of any intent to seek the repeal of the law organizing the assembly.

I want to call your attention to the administration of justice in the islands as an indication of the ability of the people to take care of their own interests. These judicial positions are filled with Filipinos of high character, and their work has received the highest commendation for ability and careful and quick dispatch of the business intrusted to them. Every municipality has its local self-government, presided over by native citizens, and the business is transacted in an entirely satisfactory manner.

I call your attention to what Hamilton M. Wright, in his Handbook of the Philippines, says of the morality of the Filipinos:

There are no more devoted people than the people of the Philippines. Religious worship obtains among all classes. A place of worship is an essential to the life of the people. In every Filipino community, no matter how humble it may be, is to be found a place of worship.

The Filipinos are the only Christian nation in the Eastern Hemisphere. For intelligence and patriotism they are not to be compared to any other Asiatic race. Heathen China has been able to establish a republic and receive congratulation from the great nations of the world in an effort to establish an independent republic, based largely upon the American Constitution in its structure. Does anyone want to put the Chinese under a system of benevolent assimilation to ascertain whether they are capable of self-government? No one has advanced any such proposition.

Another evidence of the capabilities of the Filipino is demonstrated in the progress made in the public schools since American occupation. As far back as 1867 there were 1,674 public schools in the islands, and this number had increased in 1898 to 2,146. The interest in the cause of education is shown by the fact that as soon as the Filipino people were able to wrest their government from Spanish domination they established a system of education, and made the attendance compulsory. As soon as the United States took control of the Philippines a system of education was inaugurated, and in 1903 the enrollment of the Filipino pupils reached 182,202, which in the year 1910 had reached the number of 610,493, and the number of teachers had increased to 9,176, of whom 8,493 were Filipinos. The advancement which the Filipinos have made is well illustrated by the following quotation from the message of the Governor General to the Philippine Legislature, under date of December 16, 1912. I quote from page 2:

Not in Manila alone, but throughout the archipelago may be found earnest and able men devoted to the cause of the people and fired with the highest ambition for the material uplift of those about them. No wonder, then, that with limited revenues and conditions untoward in many respects the result of their labors and ambitions are marked to-day by a condition of well being and opportunity heretofore unknown in the Philippine Islands.

This general education will only increase the problem for this Government. Since 1903, according to the authority I have just quoted, we have had more than 4,000,000 of the inhabitants from the Philippines in the public schools of the islands. By 1921, if this progress continues, the dissemination of knowledge and the growth of their material interests continue, what will this mighty leverage do for the Filipino people? The spread of general intelligence of this age is not in harmony with the theory that the Filipino will remain the ward of the Republic. Let me speak plainly. If we shall have made progress correspondingly in the islands from now until 1921 that we have since 1903, and after being under our sovereignty for nearly a quarter of a century, equipped in every way to govern themselves, is it too much for us to expect that if we refuse them that demand for independent sovereignty that they will not ally themselves with some other power that will give it to them? The highest evidence of competency will arise out of a splendid school system, a religious devotion, a high morality, all of which are inconsistent in this age with national dependency and race servitude to an alien power.

We ought to get out of the islands as a matter of political expediency, barring our inmoral right to hold the islands and the injustice of maintaining our supremacy. I want to invite the attention of the House to the cost to us of assimilating the brown man of the "Gem of the Orient" with the white man of this Christian Nation. The immense treasure we have expended and shall continue to spend staggers the comprehension. Our first two years' war wih Spain and the occupation of the Philippines cost the Government the sum of $691,521,723.03. This is the compilation shown by the clerks of the Committee on Appropriations in the House and Senate.

Mr. SHERWOOD. Does that include the $200,000,000 of bonds issued?

Mr. CLINE. It does.

Mr. SHERWOOD. It is exclusive of that?

Mr. CLINE. I think not. Our appropriations for the Army in 1899, made of course before the declaration of war in 1898, was $23,193,392, and the next year it leaped to $80,430,206.06. The next year to $93,374,755.97, an increase of seventy millions in two years for the Army, four times as much as we paid for the Alaska and Louisiana Purchase, out of the latter of which we have carved some of the great States of this federation.

The appropriation for the Navy for 1898 was $33,003,234.68. It jumped to $56,098,783.68 the next year, an increase of more than twenty-three millions. It continued to increase until in 1910 it was $136,935,199.05, an increase of more than 400 per cent over the appropriations of 14 years ago. This year the appropriation is $126,478,338.24. We have appropriated a thousand millions more for the Navy alone since we entered upon this beautiful theory of benevolent assimilation in 14 years than we did the previous 14 years. It has been estimated by those who are in a position to know that the maintenance of the Army and necessary Navy in the Philippines costs us $40,000,000 a year and that the cost to the American people in this project of territorial acquisition has cost us in the 14 years more than a thousand millions of dollars, and by 1921 we shall have added to that immense amount drawn from the savings of the people in the experiment of territorial expansion, four hundred millions more, an absolute loss of that vast sum of money unless we count the investment as a benevolence to the Filipino. And that is not the most serious aspect. I quote from a speech made by the late Senator Hale in reporting the naval appropriation bill made March 3, 1904, carrying more than ninety-seven millions. He said:

If we ever get into war, no matter with whom, the first thing we will have to do will be to spend hundreds of millions of dollars to protect the Philippines.

But that is not the whole cost to us. Since our expansion program was instituted we have pensioned more than 25,000 soldiers; there are now on the rolls 23,382, as many pensioners on the rolls charged to the Philippine service as there were soldiers in the whole standing army of the Government for 30 years before the Philippine struggle, and that does not include the pension to widows of those who have died.

I have no complaint to make in that direction. We ought to pension those who go into that service and suffer in health due to their enlistment. We paid the soldiers of the Spanish-American and the Philippine War last year $3,111,000, and this burden, for it is a burden—and I say it not complaining—will increase as the years go by. If we shall continue to increase the number on the rolls at this rate, till we are as far away from the date of our occupation as we are from the Civil War we will have added $10,000,000 annually to our expenditures for Philippine service. I make no objections to pensions so long as Congress permits the Government to take men into the Philippines to maintain subjugation. It ought to pay the price. The way to keep the pensions down is to get out of the Philippines while we can do so honorably.

A very large portion of the increased Army and Navy is due directly to our "benevolent assimilation." Let me analyze for a minute. What would the money do for the improvement of our internal resources if spent in this country if our expenditure is $40,000,000 a year? In 10 years we could construct from the interior to the sea a complete system of national waterway, establishing cheap freight rates that would be a benefit to 100,000,000 people; or in one year we could construct all the coastwise trading vessels that we needed for our South American trade; or we could maintain yearly a million miles of highways for the delivery of United States mail; or we could, in two years, build and equip with a million-dollar sinking fund a mechanical and industrial school in every State in the Union.

Mr. Speaker, the great sea battles of the future will be fought in the eastern Pacific and Indian Oceans; fought for two purposes—supremacy in the Far East and for the libera-

tion from alien rule. If we are wise, we will neither seek to take part for the former cause or resist the latter. It is enough for us to remain master and in peaceful possession of this sea-bound continent of the western world, where the genius and industry of our people will find a fruitful field for centuries to come in the unlimited resources, where this crowning civilization of ours shall continue to lead with "kindly light" the races of the earth to a freer, happier, and more enlightened existence. Though we stand between the European Continent and the Pacific, its vastness is so great that no naval power in the West can command it. I quote from Mr. Putman Weald, in his Conflict of Color, "that no nation or combinations of nations can control it."

Men trained in the evolution of war in our own Navy know this fact. They further know and have asserted it, that no western nation could maintain inself in Asiatic waters against the powers there. That ward of ours, the Philippines, is at the mercy of the Asiatic powers, if they combine, no matter what our alliances are in the west. We can not control the trend of political thought or repress it by military and naval forces. If we are to have a hand in Asiatic development, it must be in some other way than by force of arms. I speak to sane and thoughtful men; our vast coast line, our possessions separated from us by thousands of miles, our vulnerable points of attack in the Tropics, makes the hope of naval and military supremacy for us in the Far East a delusion and its realization an impossibility. The distinguished Senator from Massachusetts, discussing the peace treaties with Great Britain and France recently in the Senate, said "war between the United States and England or between the United States and France was inconceivable, if not impossible."

If that be true, and I believe it is true, how insane the thought of subjugating or even maintaining supremacy in the Far East in the event of war. There are measures of self-protection that we may employ for our preservation. There is now pending before the Interparliamentary Union that met in Geneva, Switzerland, last autumn, the greatest proposition ever submitted by a congregation of civilized powers. This is the resolution:

Provided, That the several Governments be required, in arbitration or other treaties, to be considered in the future, a preamble providing that they mutually recognize, first, their natural independence; second, their territorial integrity; and third, their absolute sovereignty in domestic affairs.

We are in an age of constitutional and representative government. The silent forces of that change are seen everywhere as the evolution of the races shall proceed; the influence of our example will be felt. The trade that will flow through the Panama gateway, more than anything else, will transform the world and claim for us recognition for high national character and dispensation of justice to all men. If we shall have our way, our supreme desire will be that all those forces that make for peace and happiness, our prosperity as a Republic, and a commercial Nation shall be made secure. The overwhelming force of the western world's neutrality will, if we are wise, make for our security in the East. Our peril lies in our failure to bind them to us by those treaty provisions that they will love us for these rights we extend to other nations that we enjoy ourselves. Our nobleness that we have enkindled in the breasts of other races has inspired in them our hopes and our destinies.

It was the province of this Republic to illustrate to the world one principle—the principle of self-government anchored within the doctrine of personal liberty. To do that, in the language of that renowned French publicist, Bagehot, we have "exaggerated the idea." We have given it all the prominence that a mighty people could summon. We have so filled the public mind, not only of our own land, but in the west, with the theory that we are bound to each other by that cement which flows from an all-engrossing overwhelming purpose. For a century and a half we have had but one object to which we have given the highest consideration and self-committed devotion. Men with matchless fortitude and unequaled bravery have dared to sacrifice all and do all to perpetuate and exalt the common cause of personal freedom. It is the ideal toward the perfection of which we bend every energy and every hope. [Applause.]

During the delivery of the foregoing remarks, the time of Mr. CLINE having expired, Mr. TAYLOR of Ohio yielded to him five minutes.

Mr. TAYLOR of Ohio. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. BURLESON] to explain the bill. [Applause.]

[Mr. BURLESON addressed the committee. See Appendix.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. CLARK of Florida having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 1072) to amend section 895 of the Code of Law for the District of Columbia.

The message also announced that the Senate had insisted upon its amendment to the bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. BORAH, Mr. PENROSE, and Mr. SHIVELY as the conferees on the part of the Senate.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 8279. An act to amend an act approved October 1, 1890, entitled "An act to set apart certain tracts of land in the State of California as forest reservations."

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

The Clerk proceeded to read the bill, and read as follows:

Building inspection division: Inspector of buildings, $3,000; principal assistant inspector of buildings, $1,800; assistant inspectors of building:—11 at $1,200 each; fire-escape inspector, $1,400; temporary employment of additional assistant inspectors for such time as their services may be necessary, $3,000; civil engineers or computers—1, $1,800; 1, $1,500; chief clerk, $1,500; clerks—1 at $1,050, 1 at $1,000, 1, who shall be a stenographer and typewriter, $1,000; 1 at $900; messenger, $480; assistant inspector, $1,500.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph that there are some items in it not authorized by existing law. And in order to facilitate matters I will say that at the top of page 2 the words "additional compensation for two assistants to the engineer commissioner, detailed from the Engineer Corps of the United States Army under act of June 11, 1878, two at $250 each," is not authorized by law.

Then, in line 7, "one, $1,400." That contains an increase of $100, and I make the point of order against that also.

Mr. BURLESON. Mr. Chairman, I do not think the point of order is well taken. The item providing for additional compensation to two assistants to the engineer commissioner has been carried in the bill for a number of years, and was embodied in the bill in order to save expense. An additional officer was estimated for by the District Commissioners for the purpose of superintending the building at the time the item was embodied in the bill.

The estimate had been forwarded to the House, and they urged the creation of an additional office, the office of superintendent of the District Building, at a salary estimated at $2,000 or $2,400. The subcommittee dealing with the matter reached the conclusion that the officer was unnecessary, that by imposing the additional duty upon the assistant engineer commissioners and allowing them $250 each we could obviate the necessity for creating the new office, and for that reason we embodied this item in the bill, I think, three or four years ago. It was at the time that we took charge of the new municipal building. As I understand it, even if there had been no officer or office of this character authorized, the fact that it had been embodied in an appropriation bill and carried for three or four years is sufficient authority under the rules of the House for again embodying it in an appropriation bill.

The CHAIRMAN. Does the gentleman from Texas desire to be heard on the point of order against the item of $1,400 in line 7?

Mr. BURLESON. No, Mr. Chairman; I only desire to state that this is an office that has been carried in the bill for a number of years at $1,300, and the subcommittee at this time, upon the urgent insistence of the Commissioners of the District, increased the salary of the person holding it $100, they giving us the reasons why the increase should be made.

The CHAIRMAN. The Chair is prepared to rule. The point of order is sustained on both items. The point of order made by the gentleman from Kentucky was against the paragraph. Does the gentleman from Kentucky modify it so that he lodges it against the two items mentioned?

Mr. JOHNSON of Kentucky. Mr. Chairman, I am willing to make it against these two items. With those two corrections, I have nothing against the paragraph.

The CHAIRMAN. The point of order is sustained as the gentleman from Kentucky modifies it.

Mr. BURLESON. Now, Mr. Chairman, I move to insert, in line 7, page 2, after the figures "$1,500," the words and figures, "one, $1,400."

The Clerk read as follows:

Amend, page 2, line 7, by inserting, after the figures "$1,500," "1 $1,400."

The amendment was agreed to.

Mr. BURLESON. I understand that the Chair sustains the point of order against the words "additional compensation for two assistant commissioners to the engineer commissioner detailed from the Engineer Corps of the United States Army under act of June 11, 1878, 2 at $250 each."

The CHAIRMAN. Yes; the Chair sustains the point of order against those words, and the Clerk will read.

The Clerk read as follows:

Purchasing division: Purchasing officer, $3,000; deputy purchasing officer, $1,600; computer, $1,440; clerk, $1,500; clerks—1, $1,450; 6, at $1,200 each; 3, at $900 each; 6, at $720 each; inspector of fuel, $1,500; assistant inspector of fuel, $1,100; storekeeper, $900; messenger, $600; driver, $480; inspector, $900; inspector, $780; 2 laborers, at $600 each; 2 property-yard keepers, at $1,000 each; inspector of materials, $1,200; temporary labor, $150.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph because there are items contained in it that are not authorized by law. In order to facilitate matters, I will make my objections specifically known. In line 17, page 2, there is a provision for one clerk at $1,450. That is an increase of $100. In line 21, page 2, there is a provision for two property-yard keepers. That is the creation of an additional office. That should be one instead of two.

Mr. BURLESON. Mr. Chairman, I will state that the point of order against the first item is well taken and I concede it. With reference to the second item, I desire to state to the gentleman that the District Commissioners directed our attention to the fact that the assistant property-yard keeper was performing exactly the same service that is being performed by the property-yard keeper, and they thought it was only just and fair that his salary should be equalized with the salary of the property-yard keeper. It was for that reason that we created the additional office of property-yard keeper, eliminating the office of assistant property-yard keeper, and putting them on an equality. If that does not appeal to the gentleman, of course the point of order will be well taken.

Mr. MANN. Mr. Chairman, I contend that it is not well taken.

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from Illinois?

Mr. MANN. Mr. Chairman, I thought the gentleman was through, and I wish to be heard for a moment on the point of order.

Mr. BURLESON. Mr. Chairman, I concede that the point of order made to the item providing for a clerk at $1,450, in line 17, is well taken. I do not concede the proposition that the other point of order is well taken.

Mr. MANN. Mr. Chairman, I think there is no provision of law outside of the appropriation bill for any of the officers named in this paragraph, unless it be the purchasing officer. I do not remember about that. I am quite sure there is no legislative provision of law providing for the computers, or the clerks, or the inspectors of fuel, or the assistant inspectors of fuel, or the storekeepers, or the messenger, or the driver, or any of the other officers named in the paragraph, and the question is whether, without a specific provision of law naming these officers, Congress can make an appropriation under its authority to make an appropriation for carrying on the expenses of the District of Columbia. I think the rulings have been numerous that these various items in the District of Columbia appropriation bill were warranted by the organic law creating the District and providing for the government of the District. It is certain that if a point of order will lie against the two property-yard keepers, then it will lie against one property-yard keeper, because it never has been held that an increase in the number of officials in an appropriation bill, where the number is not fixed by legislative enactment, is subject to a point of order. For instance, in the Post Office appropriation bill every year we necessarily increase the number of clerks and carriers. We specify in the Post Office appropriation bill the number of clerks at the different grades of salaries. It is necessary for the maintenance of the Post Office Department that Congress have the power to increase the number in the current bill beyond the number in the current law. It is within the power of Congress, if we can appropriate for these offices at all, to specify the number for which we appropriate.

Mr. JOHNSON of Kentucky. Mr. Chairman, there is no sort of doubt that every item in that paragraph is subject to a point of order. Not a single, solitary officer in that list has ever been authorized by law. They have been carried for a number of years, but no man can find authorization for one of them. Those offices are necessary, some of them at least, and because they are I do not choose to make the point of order against all of them, but I know that there are idle men in that department, and that the number of idle men may not be unnecessarily increased is the reason why I have made the point of order against the creation of another office.

Mr. MANN. Mr. Chairman, the suggestion of the gentleman from Kentucky [Mr. JOHNSON] that these two property-yard keepers are not necessary is one thing. I do not know anything about that. But that does not affect the question of the point of order. The question here is, and it runs all through this bill—because there are very few positions in this bill that are created by legislative enactment—whether Congress, having passed a law providing for the District of Columbia for the purchase of property, for the ownership of property, for the care and protection of property is under that authority, authorized to provide those officials which Congress thinks are necessary to carry out the business of the organic law providing for the government of the District of Columbia?

Mr. SAUNDERS. Mr. Chairman, I desire to say that I have sent out for the statute, but following the same line of argument that I have been undertaking to present, I wish to state that when authority of law is given for a policy to be pursued, or carried out by a department, or bureau, as for instance, when a department is authorized to make an investigation, or to bring about certain results, the number of officials or agents that may be appropriated for by the committee as being necessary for the investigation, or to secure the results, is a question of discretion to be exercised by the Committee on Appropriations. The authority to make the investigation, or to take the steps contemplated, must be afforded by positive law. We submit that existing law authorizes the employment of these officials, and thereby affords this committee the authority to appropriate for their payment. It is certainly within the proper province of this committee to provide for the salaries of the officials, of agents created pursuant to law. I deny that there is any specific limitation in any act to the effect that only one property yard keeper shall be appointed. No such limitation existing, two such keepers may be appointed, and it is within the discretion of the Appropriations Committee to provide for the salaries of the same. The crux of the matter is whether there is authority to appoint one. If such authority exists without limitation, two may be appointed. The Committee on Appropriations were satisfied on investigation, that two of these officials were needed, and hence made provision for their payment. We submit this matter to the ruling of the Chair.

Mr. JOHNSON of Kentucky. Mr. Chairman, the gentleman from Illinois has referred to the Post Office appropriation bill. That is quite a different matter from the District appropriation bill. The District appropriation bill must not contain an office which has not been authorized under what is known as the organic act of June 11, 1878, or by some amendment thereto. That organic act, taken in connection with that which preceded it, doing away with the territorial form of government, passed June 20, 1874, provides that the commissioners shall not create any offices. That does not mean, of course, that Congress can not create them; but Congress has not passed a law creating any of these offices, and because points of order have not been made against any of the rest of them is no reason why the point of order should not be sustained as against this one.

The CHAIRMAN. Will the gentleman from Kentucky permit this inquiry? If a department or a division exists by authority of law, say of the organic act, which does not fix salaries either in the amount or number of employees in connection with that department or division, nor the particular title by which their office would be known or designated; now, if that be the fact and then thereafter Congress proceeds to legislate by making appropriation to any given amount for given employees for the purpose of carrying out the duties devolving upon that division or department, and if after they have created a certain number as necessary for the carrying on of the work of that department and having fixed their salaries and given the titles of the officers, say, as in this case, one property yard keeper, at $1,000 per annum, such employee or officer not being named in the statute in any way; then if thereafter the Appropriations Committee bring in an additional employee in connection with that department, there being no limit in the law as to the number of employees in that department or number of any particular class of employees in that particular department, does the gentleman contend that before that one particular laborer or property yard keeper can be authorized and cared for by an appropriation that there would have to be a specific act of Congress creating the office or officer of that division or that department?

Mr. JOHNSON of Kentucky. Mr. Chairman, I do in the District of Columbia bill, but I do not contend for it in other bills. This comes under the act of June 11, 1878, and from the passage of that act there has been no such thing created by law

as any of these officers except the purchasing officer himself. As for the property yards, there is no legislation creating them or creating any of these positions that are named under them. There is a purchasing agent authorized by law, but none of those named in the paragraph, and as to the property after it is purchased, there is no law directing him what shall be done with it, and, as a matter of fact, the purchasing agent now purchases in very limited quantities, and it is delivered about the District of Columbia in very small quantities, and but recently the Committee on the District of Columbia has filed in the House a report that there should be a warehouse in which to keep these goods. There is none, and this afternoon, the item having been left out of the bill, the gentleman from New York [Mr. REDFIELD] has just dropped in the basket a bill to provide for a warehouse where these things may be kept, and that bill names the officers who are to preside over that warehouse, and that bill undertakes to cure the very defect that is here.

Mr. SAUNDERS. Before the Chair rules, and if the gentleman from Kentucky [Mr. JOHNSON] has finished, I desire to call the attention of the Chair to the following section and to say in this connection that it is conceded that if this point of order is well taken, it is an exception to the general rule. Hence it must rest upon some provision of law, and I would like to see the particular provision making this exception. If such a provision exists, I am not aware of it.

Mr. JOHNSON of Kentucky. Oh, Mr. Chairman, the burden is upon them to show that it is not subject to a point of order.

Mr. SAUNDERS. Well, I admit that is true, but if the gentleman is familiar with the section to which he refers, and I am not, I ask him for the convenience of the Chair to cite the book, and page. Otherwise it will be necessary to make an investigation of the law that will delay the progress of the bill. In the meantime, I desire, as I have said to call the attention of the Chair to the following law:

Each head of a department is authorized to employ in his department such number of clerks of the several classes recognized by the law, and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees, and at such rates of compensation respectively, as may be appropriated for by Congress from year to year.

In this connection the following ruling has been made. The general law authorizing the employment in the executive departments of such clerks as may be appropriated for, is held to authorize appropriations for clerkships not otherwise authorized. (IV Hinds, sec. 3675.) Moreover when a department is created for a declared purpose, an appropriation for the instrumentalities to carry out this purpose, is authorized. (IV Hinds, sec. 3615.)

The CHAIRMAN. May I ask the gentleman if that is not the law relating to the executive departments of the Government which we ordinarily know as departments headed by Cabinet officers?

Mr. SAUNDERS. I now cite the Chair to this further section:

The commissioners are authorized to abolish any office, to consolidate two or more offices, to reduce the number of employees, to remove from office, and to make appointments to any office under them authorized by law.

Mr. JOHNSON of Kentucky. "Authorized by law." There is not any question about that.

Mr. SAUNDERS. There is no question about that. But what I was going to say to the Chair was that the language "authorized by law" in nowise differs in effect from the language "as may be appropriated for by Congress." If they may be appropriated for, they are authorized by law. If they are authorized by law, they may be appropriated for.

The CHAIRMAN. Does not the gentleman concede that if the point of order is made against this item on the ground as stated by the gentleman from Kentucky [Mr. JOHNSON], that it is not authorized by existing law, and if that point is contested by any gentleman or member of the committee, that the burden is on the member of the committee to show authority authorizing such an office and appropriation?

Mr. SAUNDERS. That is true. I admit that, but it is for the Chair to determine whether or not we have sustained the burden.

Now I am not familiar with, in fact have never seen, the section of the law to which the gentleman from Kentucky [Mr. JOHNSON] refers. In the absence of that statute, I refer the Chair to the sections cited as ample authority for the action of the Committee on Appropriations to which objection is made. I might also say, that we rely upon the general rule, and if it is contended that an exception exists in the case of this particular bill, the burden is on the party making the point of order to furnish the authority creating the exception. The presumption would be that the rule is universal, until the contrary is shown.

The CHAIRMAN. This question arises on the threshold of taking up the bill, and it may be like questions will again arise throughout the bill, and the Chair is indulging the gentleman at this time so that it can be thrashed out, and if a conclusion can be reached about it now, we might not be put to the necessity of putting further time on it.

Mr. JOHNSON of Kentucky. Mr. Chairman, I find I have a memorandum here, which reads as follows:

The mere appropriation for a salary does not thereby create an office so as to justify appropriations in succeeding years.

My notes refer me to Hinds' Precedents, volume 4, pages 393, 443, and 460, which the Chair has at his disposal.

The CHAIRMAN. The Chair is ready to rule. It is conceded that the point of order made against the item of $1,450, in line 17, is subject to a point of order, being an increase in the salary not authorized by law, and therefore the point of order is sustained.

Mr. BURLESON. Now, before the Chair rules upon the other, I wish to perfect the bill. I offer an amendment——

Mr. MANN. You can not offer an amendment until the point of order is disposed of.

Mr. BURLESON. The Chair did not sustain that point of order.

Mr. MANN. The gentleman made a point of order on the paragraph.

Mr. JOHNSON of Kentucky. I desire to modify the point of order until we reach those two items.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph. The gentleman from Kentucky [Mr. JOHNSON] made a point of order on the provision in reference to the two property-yard keepers. Until that is disposed of the gentleman can not offer an amendment.

The CHAIRMAN. The Chair is ready to rule.

Mr. SAUNDERS. If the Chair will permit me I would like to submit to the Chair, in connection with the law cited, some additional authority showing that no such exception exists in the case of this particular bill as is contended for, but that the general principle applicable to the other bills applies as well to this bill.

The Secretary of the Treasury shall carefully consider all estimates submitted to him as above provided, and shall approve, disapprove, or suggest such changes in the same, or any item thereof, as he may think the public interest demands; and after he shall have considered and passed upon such estimates submitted to him, he shall cause to be made a statement of the amount approved by him and the fund or purpose to which each item belongs, which statement shall be certified by him, and delivered, together with the estimates as originally submitted, to the Commissioners of the District of Columbia, who shall transmit the same to Congress.

I submit that this section in connection with the other citations, amply supports the right of the committee to make the appropriations recommended for two of these offices, instead of one. In addition, I cite the following extract to which my attention has been called:

To the extent to which Congress shall approve of said estimates, Congress shall appropriate to the amount of 50 per cent thereof.

The items are here; they are estimated for, and the estimates have been approved. In conformity with this estimate the committee has made the proper appropriation.

Mr. JOHNSON of Kentucky. The committee has approved it, Mr. Chairman, but Congress has not.

The CHAIRMAN. The Chair is ready to rule upon the point of order made by the gentleman from Kentucky [Mr. JOHNSON] against the two property yard keepers at $1,000 each, on line 22 of page 2, the point of order being directed to the item as being an increase of one property yard keeper at the salary stated.

The Chair takes cognizance of the fact that the purchasing division is a division of the government of the District of Columbia, necessary and incident to the carrying out of the work relating to that division for the District of Columbia. Now, if that be true and such a division is authorized under the law, and Congress undertakes to provide and does provide for the officers and salaries of that department, there being no express statute limiting the number of employees in it——

Mr. JOHNSON of Kentucky. Right there, Mr. Chairman, if the Chair will pardon me for one moment, the statute creating the office of purchasing agent does limit it, because it does not go any further. It creates the one, and stops with the one.

The CHAIRMAN. The point as stated by the gentleman from Kentucky proceeds on the assumption, then, that the purchasing division and all its officers and employees, unless he will consider this an exception, would be subject to the same point of order as he makes against this one property yard keeper.

Mr. JOHNSON of Kentucky. The point of order, I contend, would lie against every officer in that paragraph except the one officer, the purchasing agent, which office has been created by law and none of the others has been.

The CHAIRMAN. That is precisely what the Chair undertook to state, that if the position taken by the gentleman relative to the purchasing officer was correct then the salary of each person in that division would be subject to a point of order if a Member saw fit to make it. In that view the Chair does not concur.

Then, as the Chair was about to state, if the item providing for two property yard keepers in conjunction with this division is reported by the committee, based upon estimates made in conformity with law, it would be not a parliamentary question as to whether two property yard keepers at this day and hour should go into the bill, but would be a matter to be determined by the will of the committee, and therefore the point of order on that item is not sustained.

Mr. MANN. Mr. Chairman, I withdraw the point of order.

Mr. BURLESON. Mr. Chairman, I offer an amendment. After the word "clerks," in line 17, page 2, insert "1 at $1,300."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Texas [Mr. BURLESON].

The Clerk read as follows:

Amend, page 2, line 17, by inserting, after the word "clerks," the words "1 at $1,300."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. BURLESON].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Building inspection division: Inspector of buildings, $3,000; principal assistant inspector of buildings, $1,800; assistant inspectors of buildings—11 at $1,200 each; fire-escape inspector, $1,400; temporary employment of additional assistant inspectors for such time as their services may be necessary, $3,000; civil engineers or computers—1 $1,800, 1 $1,500; chief clerk, $1,500; clerks—1 at $1,050, 1 at $1,000, 1 who shall be a stenographer and typewriter, $1,000, 1 at $900; messenger, $180; assistant inspector, $1,500.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph, especially on page 3, line 5, as to a computer, "1 at $1,800." That is an increase of salary from $1,500.

Mr. TAYLOR of Ohio. Mr. Chairman, does the gentleman make the point of order?

Mr. FOWLER. Yes; I make the point of order.

Mr. TAYLOR of Ohio. I think the Chair can dispose of it.

Mr. BURLESON. Mr. Chairman, I will ask the gentleman from Illinois [Mr. FOWLER] to reserve his point of order.

The CHAIRMAN. Does the gentleman from Illinois reserve his point of order or make it?

Mr. FOWLER. I reserve it.

Mr. BURLESON. Mr. Chairman, the subcommittee, in preparing this bill, constrained by the earnest representations made by the District Commissioners, slightly increased the salary of this officer. The District Commissioners stated that this man was appointed in 1909. They stated, further, that—

This position is a most important one, involving great responsibility and care, and requires a man of high technical training and of exceptional ability. He passes on the structural features of buildings, and permit to build is issued only after approval of plans by him. The increase in the number of large buildings, in the erection of which iron, concrete, and other fire-resisting materials form such a conspicuous structural feature, has necessitated the expenditure of a greater amount of technical labor than has ever heretofore been required. The salary is quite incommensurate with the duties rendered, and is unfair to the type of man necessary to properly fill the position.

I want to state to the committee that the subcommittee, acting upon just such recommendations, have increased the salaries of quite a number of employees in the District service. They did it after giving most careful consideration to the statements made to them by the District Commissioners. I concede that any individual Member, without any investigation whatever, can come here and set up his judgment, based merely upon the reading of an item in the bill, against the judgment of the committee, and that the point of order will be sustained and the item eliminated from the bill.

Mr. BARTLETT. I want to call attention to the fact that the committee have been very careful to set out in detail in their report what they have done in each particular instance, so that nothing is concealed or attempted to be concealed.

Mr. BURLESON. I do not intend to consume the time of the House in giving the reasons which prompted us to grant these small increases in the bill.

Mr. FOWLER. I shall be glad to have them.

Mr. BURLESON. We have increased the salaries of 83 employees. Those increases aggregate $15,329. The average increase in each of these salaries is $184.

Mr. SAUNDERS. They are the smaller fish.

Mr. BURLESON. As a general rule they are the officials of the District government who are receiving the smallest salaries.

Your committee have not attempted to conceal from the membership of the House any action that it has taken in connection with this matter. In our report we specifically point out every change that is made in this bill, either in the way of an increase of a salary or the omission of a salary; either in the way of the creation of a new office or the elimination of an office heretofore carried in the bill. Every single item involving a change of legislation is carefully set forth in the report published for the information of this House.

Now, as I have stated, if any individual Member wants to set up his judgment against the judgment of the subcommittee that prepared this bill and the judgment of the entire committee that afterwards gave it their approval, he can do so, and I do not propose to consume the time of the House in making the explanations that moved us to grant these few increases.

Mr. FOWLER. Mr. Chairman, I shall be glad to ask the gentleman how many of these increases affect those who are engaged in manual labor in the District of Columbia.

Mr. BURLESON. I will state to the gentleman that most of these increases are for such employees.

Mr. TAYLOR of Ohio. At least 90 per cent.

Mr. BURLESON. The gentleman from Ohio informs me about 90 per cent.

Mr. TAYLOR of Ohio. Probably more.

Mr. BURLESON. That 90 per cent are those engaged in manual labor; but I am not able to state it accurately.

Mr. FOWLER. Does the gentleman mean to say that 90 per cent of the $15,000 increase applies to those who are engaged in manual labor?

Mr. BURLESON. That is his estimate. I will not attempt to make an estimate. I am unable to state, but I will state that the major portion of these increases are for those who are engaged in manual labor. The gentleman has the report of the committee before him, and that portion of it covers only two pages. He can run through the list and very readily ascertain those who are engaged in manual labor.

Mr. FOWLER. Is it not a fact that the increases for those engaged in manual labor are a mere bagatelle?

Mr. BURLESON. I do not think so.

Mr. FOWLER. For instance, about $40 where a man is getting $320 a year, or $40 where a scrub woman is getting $240 a year. In other words, she is to receive a total annual compensation of $280 by your increase. And it is not worthy of the name of an increase; it is an insult to the person who is doing the manual labor. Is it not a fact that you increase others by leaps and bounds, by hundreds of dollars, such as the district attorney, to the amount of $500 at one jump?

Mr. BURLESON. It is not a fact that we are increasing others by leaps and bounds against those engaged in manual labor. There has been a proportionate, fair, just increase in those engaged in manual labor as compared with others. The gentleman has alluded to the corporation counsel. I want to say that he earns every dollar that is being paid him by the District government, and a recommendation has been made year after year that the salary of that official of the District government be increased, and this year the committee yielded to the request of the commissioners, and increased it to the amount that he deserves.

Mr. FOWLER. The committee tried to increase it last year.

Mr. BURLESON. No; they did not.

Mr. FOWLER. Yes; the committee did and a point of order was sustained, and now you come back and try to increase it again. I ask you if you could not get 25 just as good lawyers to take the place for the salary now paid if you would but open the door and let them come in?

Mr. BURLESON. I am quite sure that you could not, and I will say to the gentleman from Illinois that I am not responsible for the frailty of his memory when he says that last year we attempted to increase the salary, because I tell you we made no such attempt. In fact, we were subjected to some little criticism because we increased only two salaries in the District of Columbia appropriation bill last year, and those were the salaries of two employees in the Tuberculosis Hospital.

Mr. FOWLER. I know that you did not increase the salary of the district attorney, but you tried to do it.

Mr. BURLESON. I say again that I am not responsible for the frailty of the memory of the gentleman from Illinois that makes him reiterate that statement when I state to him that the committee increased only two salaries, and were subjected to some little criticism because we did not increase others.

Mr. FOWLER. Does the gentleman mean to say that the salary of the district attorney was not reported from his committee in the bill recommending that the salary be increased to $5,000?

Mr. BURLESON. That is exactly what I mean to say.

Mr. FOWLER. And does the gentleman mean to say that a point of order was not sustained to that effort to make the increase?

Mr. BURLESON. That is just exactly what I mean to say, positively and emphatically; that we made no such effort. The gentleman's memory evidently goes back to a bill before the last year's bill.

Mr. DYER. If the gentleman from Texas will permit, I will say that there was some amendment offered from the floor to increase the district attorney's salary, and that probably is what confuses the mind of the gentleman from Illinois.

Mr. BURLESON. But that is not the issue here.

Mr. FOWLER. I can not recall, Mr. Chairman, of course, every item in the bill, but I do recollect the fact of some man standing here on the floor of the House and making a point of order against an effort—whether by amendment or whether it was in the bill as it came from the hands of the committee I can not recall—but it was sought to increase the salary of the District attorney from $4,500 to $5,000, and I still recall that whenever there was an amendment offered to increase the salary of a laboring man, such as those who scrub the streets around the markets of this city at a salary of $240 a year, that the committee, or some member thereof, stood on the floor of this House and made a point of order against every attempt to increase the salary of the laboring man of this District.

Mr. BURLESON. Just as we made the point of order to the amendment seeking to increase the salary of the corporation counsel.

Mr. FOWLER. I made that point of order.

Mr. MADDEN. Mr. Chairman, I wish to direct myself to the consideration of the item against which my colleague [Mr. FOWLER] has reserved the point of order. Recommendation has been made by the committee to increase the salary of the computer from whatever he is receiving now to $1,800. This computer is a civil engineer. The volume of building being done throughout the District is growing greater every day, and the character of the construction of the buildings is much superior to what it used to be. Different classes of material are being used in the construction of buildings now, and many of the buildings are being constructed wholly of steel, so far as the interior goes.

The man who occupies this place, whoever he may be—and I do not know who he is—must be able to figure the tensile strength of all materials entering into the construction of a building. He must have the scientific knowledge on which to base a recommendation for the issuance of a permit which will enable those who issue the permit to be certain that the material used has the strength to carry the load which is to be placed upon it. This position is one requiring the highest class of scientific engineering knowledge, and the sum of $1,800 a year is inadequate to compensate such a man for the service which he is required to render.

Mr. BUTLER. One can not get it for $1,800, can he?

Mr. MADDEN. There is no city in the Union with a population equal to that of Washington whose building department is run anywhere nearly so economically as the building department in this city. I think it would be much better for the people who live in the District and for the safety of the people who are engaged in the construction of buildings to have many more technical men employed, to see that all the material entering into the construction of buildings is of the character that will insure safety. I surely hope that my colleague will not insist upon a point of order against the recommendation for the increase of a salary of a man required to know what a man who occupies this place must know. The construction of buildings is an important factor in the life of a community. To see that they are properly constructed is one of the most essential elements in the conduct of this department. The man who is a computer must not only know how to figure tensile strength of steel girders and of every other article of material entering into a building, but he must be able to ascertain whether all the sanitary appliances necessary are being provided. This is an important task. We ought not to consider it too lightly. We ought to be willing to pay men who are qualified to do this important task just compensation, and because some man who occupies a more menial position, forsooth, may not be getting all that some Member thinks he ought to get for the work he does, is not a good argument against the payment of proper compensation to the man who needs this scientific knowledge in order to perform his work.

Mr. BURLESON. Mr. Chairman, in order that there may be no doubt about the action taken by the committee last year, I have here the bill that was reported to the House, and one of the items is:

Corporation counsel, $4,500.

The CHAIRMAN. Does the gentleman from Illinois insist on his point of order?

Mr. FOWLER. I make the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. BURLESON. Mr. Chairman, I move to amend by inserting after the word "computers" the words and figures "one, $1,500."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 3, line 5, by inserting at the beginning of the line: "One, $1,500."

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk read as follows:

To reimburse two elevator inspectors for the provision and maintenance by themselves of two motor cycles for use in their official inspection of elevators in the District of Columbia, $10 per month each, $240.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph, because it is not authorized by existing law. It is another means of paying a private claim, which is not in order on this bill. I refer the Chair to the authorities which I found and laid on his desk a moment ago.

Mr. BURLESON. Mr. Chairman, I contend that this is not subject to a point of order. By this item it is intended to reimburse two employees of the Government for expenditures made by them by reason of using an implement or machine that is necessary to be used in the discharge of their official duties.

Mr. COX. Who buys the motor cycles in the first instance—the District or the employee?

Mr. JOHNSON of Kentucky. The employee.

Mr. BURLESON. I do not know. In some services the employee buys them and in some the District owns the machines. I do not know whether in this particular case the motor is furnished by the employee or is owned by the District.

Mr. JOHNSON of Kentucky. The hearings show that they are privately owned.

Mr. BURLESON. I am just now informed that in this particular case the employees own their own motor cycles.

Mr. DYER. And this is furnished upon the same theory that car tickets are furnished to inspectors.

Mr. BURLESON. Exactly; and this fund is necessary to be used in the discharge of duties imposed upon them by the office they hold, just as certain employees are paid $20 a month for the keep of a horse; just as street-car tickets are furnished to certain employees whose duties call upon them to use the street car service.

Mr. MANN. May I ask the gentleman why did the committee reduce the amount from $15 to $10 a month?

Mr. BURLESON. You mean reduce the estimate?

Mr. MANN. These inspectors are now paid at the rate of $15 for expenses of maintaining motor cycles. Why was it reduced to $10?

Mr. BURLESON. We did it after making inquiry of a number of the merchants in the city who are engaged in selling motor cycles. Anxious to protect the Treasury, we made an investigation to ascertain whether we were paying too much, and we reached the conclusion that $10 per month was ample to cover this service, and therefore we reduced it from $15 to $10.

Mr. COX. In that connection will the gentleman yield?

Mr. BURLESON. Certainly.

Mr. COX. Has this amount been turned over in a lump sum to these owners of these motor cycles heretofore?

Mr. BURLESON. They are paid each month $10 to cover expenses which they incur.

Mr. COX. Whether the expense has actually taken place, so far as the repair of these motor cycles is concerned or not?

Mr. BURLESON. There may be more expense incurred during one month than $10 would cover, and the next month it may be less. As I have just stated, we made inquiry of half a dozen merchants who are engaged in selling these motor cycles, with a view of ascertaining what would be a fair cost per month for this service, and we reached the conclusion, based on what they told us, that $15 was too much, and we reduced it to $10. We think $10 per month is a fair allowance for this service.

Mr. COX. Will the gentleman yield at that point? The gentleman did not have before him any of the owners of the motor cycles with a view of eliciting from them the information as to how much the upkeep of the motor cycles actually did cost them?

Mr. BURLESON. No; we tried to secure our information from unbiased sources and we adopted the means at hand in order to secure unbiased opinions, and therefore we made inquiry of those who are engaged in the sale of motor cycles, and not from those who are operating them.

Mr. COX. And they estimated $10?

Mr. BURLESON. The merchants stated to us that $10 was a fair allowance for the service.

Mr. TAYLOR of Ohio. We called up various motor-cycle owners and others in regard to the subject, we had a very careful investigation of this matter, and after thoroughly considering it we thought we could reduce it to $10——

Mr. COX. Was there any objection coming from the owners of the motor cycles in regard to the reduction in any way?

Mr. TAYLOR of Ohio. Coming from the owners we proposed to compensate, we have not consulted them, but we found it was a fair, liberal rental.

Mr. COX. Did you hear of any protest on their part?

Mr. TAYLOR of Ohio. We have not heard anything.

Mr. JOHNSON of Kentucky. Mr. Chairman, it is admitted that these machines are owned by individuals and not by the District. The language itself shows that it is a contemplated reimbursement to an individual to cover the expense of caring for his private property, and I insist that by that it becomes a private claim, and when it becomes a private claim it is subject to the point of order, according to the authority which I just laid before the Chairman—the fourth volume of Hinds' Precedents.

The CHAIRMAN. The Chair is ready to rule. The Chair sustains the point of order.

Mr. BURLESON. Mr. Chairman, I offer the following amendment: Insert in the place where the language was stricken out the following:

To two elevator inspectors, for the provision and maintenance by themselves of two motor cycles for use in their official inspection of elevators in the District of Columbia, $10 per month each, $240.

Mr. JOHNSON of Kentucky. Oh, Mr. Chairman, that is just the same thing. I make the point of order against it.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 3, by inserting in the place of the paragraph stricken out:

"To two elevator inspectors, for the provision and maintenance by themselves of two motor cycles for use in their official inspection of elevators in the District of Columbia, $10 per month each, $240."

Mr. JOHNSON of Kentucky. That is a distinction without a difference, Mr. Chairman. I have made the point of order.

The CHAIRMAN. The gentleman from Kentucky makes the point of order on the amendment.

Mr. SAUNDERS. Mr. Chairman, I desire to address myself to the point of order. When a policy is established to be carried out, or discharged by a department, or bureau head, or their equivalent, it is entirely competent to appropriate for the agents required to carry out the policy, and for the instrumentalities that promote the efficiency of the agents.

In conformity with this principle we appropriate for the maintenance of the horses of the mounted police, though as I understand these horses are owned by the policemen. This appropriation provides for the maintenance of an instrumentality highly promotive of an efficient discharge of duty by these officials. In a word it greatly increases their efficiency, and in effect renders an increase of their number unnecessary. It is in the interest of economy to make this appropriation. This is not a claim. These men are making none. The amendment makes a direct appropriation to pay for the upkeep of motor cycles, just as we might provide these officials with riding horses, or car tickets, or horse-propelled vehicles in order to increase their efficiency, by providing them with means of rapid transit. These instrumentalities multiply the efficiency of these particular officials, and it is entirely competent for this committee to provide for their maintenance. In this connection, I can submit to the Chair, if it is desired, abundant authority to establish that when authority is given to create an official, and to give him a salary, an appropriation may be made to pay for his transportation necessarily incurred in the discharge of his duties. If the official owns the instrumentality as the officials in this instance, happen to do, it is competent for us to provide for their upkeep, just as we might appropriate for the car fare of certain employees, when in the course of duty, it is necessary to use the cars. No question of reimbursement is presented in this amendment. We are primarily and directly providing for the maintenance of the motor cycles of these particular officials, who have frequent occasion to use them in the line of duty.

The CHAIRMAN. Does the gentleman from Kentucky [Mr. JOHNSON] desire to be heard on the point of order?

Mr. JOHNSON of Kentucky. Mr. Chairman, I thought the point of order had been sustained.

The CHAIRMAN. No ruling has been made by the Chair on the amendment as proposed by the gentleman from Texas [Mr. BURLESON].

Mr. JOHNSON of Kentucky. Mr. Chairman, as to the amendment, it is just the same thing as the original clause, except it is couched in a little different language. The purpose and object is just the same and the end is just the same.

The CHAIRMAN. The original amendment to reimburse elevator inspectors is subject to the infirmity, as viewed parliamentarily, as an appropriation for a private claim. The original amendment recited that it was to reimburse for the upkeep, as stated by the gentleman from Kentucky, as the private instrumentality of travel of the employee. Now the gentleman moves an amendment which is to allow a certain sum for elevator inspectors for repair of vehicles——

Mr. JOHNSON of Kentucky. Would not that be an increase in their salary and be subject to a point of order?

The CHAIRMAN. The Chair will hear the gentleman on the subject.

Mr. JOHNSON of Kentucky. That is all.

The CHAIRMAN. The Chair rules on the amendment as it is submitted in such a way as to construe the effect of it, as judged by the rule of parliamentary law, and the point of order to the amendment as last offered is accordingly overruled. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Transportation, for means of transportation, and for maintenance of means of transportation, $1,000.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order against the item in that it is new legislation. And I might say in support of it that in the hearings, on page 25, line 30, this colloquy took place before the Committee on Appropriations:

Mr. BURLESON. This item on page 12 practically means the starting of a new item of appropriation which will be carried continuously?

Col. JUDSON. Yes, sir; that is what it means.

Mr. BURLESON. Mr Chairman, it is a new item—I do not deny that—but it is intended to defray the expenses of certain employees in the District government whose duties compel them, if they properly discharge them, to visit every section of this city. It is to defray the expenses of the building inspectors and the elevator inspectors. The latter are compelled, some of them, to visit all the public buildings, all the hotels, and all the office buildings, and they can not properly discharge their duties unless they go to these various places. The District government undertakes, in this item, to furnish them transportation in order that they may properly discharge the duties imposed upon them. The method of transportation may be by street car, motor car, horse and buggy, bicycle, or motor cycle, but the purpose of the appropriation is to facilitate and aid the employees of the government who are compelled to visit various parts of the city to properly and efficiently discharge their duties.

Mr. JOHNSON of Kentucky. I am quite familiar with the purpose of it, Mr. Chairman. That appears upon its face. But, nevertheless, it is new legislation.

Mr. CANNON. Mr. Chairman, I am at a loss to see how this point of order could be sustained. In the first place, here is a District government created by law. This is an appropriation to support that government, and we, as the common council, are considering the appropriation. Does the gentleman contend that if another building for the fire department was necessary, that would be a new appropriation? Is it a new appropriation, not authorized, to buy an additional fire engine? Here is a service; this is for transportation in the conduct of that service. It is a necessary incident, or it is an incident to the service. It may be that it is not necessary, but that is up to the Committee of the Whole and to the House to establish. But to say that it is not authorized by law is equivalent to saying that if you have been using towels heretofore you could not make an appropriation for sponges.

The CHAIRMAN. The Chair overrules the point of order. The Clerk will read.

The Clerk read as follows:

Plumbing inspection division: Inspector of plumbing, $2,000; principal assistant inspector of plumbing, $1,550; assistant inspectors of plumbing—1 at $1,200, 4 at $1,000 each; clerks—1 at $1,200, 1 at $900; temporary employment of additional assistant inspectors of plumbing and laborers for such time as their services may be necessary, $1,700; draftsman, $1,350; sewer tapper, $1,000; 3 members of the plumbing board, at $150 each.

Mr. COX. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman in charge of this bill whether or not the members of this plumbing board receive any other salary than $150.

Mr. BURLESON. They receive additional compensation. The members of the board are employees of the District gov-

ernment, but as their duties as members of this board was an additional duty imposed upon them at the time the board was provided for, an estimate was submitted for paying its members, and after carefully considering the estimate it was thought that the service being rendered was worth the amount carried in the bill.

Mr. COX. How much other salary do they get?

Mr. BURLESON. I do not recall the salary that is otherwise paid to the various members of the board.

Mr. COX. How many of them are there?

Mr. BURLESON. There are three of them. These duties of the members of this board are discharged by them after office hours.

Mr. COX. That is the very point I wanted to inquire about.

Mr BURLESON. And for that reason we concluded that we could utilize the services of certain of the District employees and fairly compensate them for it, aiding them and at the same time saving expense to the District.

Mr. COX. Then they do not consume any time whatever in this work that should be devoted to their other duties? This is an extra duty which they perform, and this $150 payment to each is intended to be compensation for that extra duty?

Mr. BURLESON. Yes; for the extra duty they perform after office hours.

Mr. CALDER. Mr. Chairman, what are the duties of the plumbing board?

Mr. BURLESON. There are certain duties imposed by law upon this plumbing board; the statute was passed a few years ago. Persons who are desirous of engaging in business as plumbers in the District of Columbia are required by law to have certain qualifications, certain attainments, and this board passes upon the qualifications of those desiring to enter the trade before they are given a plumber's license.

Mr. COX. Do all the plumbers have to have a license?

Mr. BURLESON. As I understand it; yes.

Mr. COX. Then this is a board to examine the qualifications of plumbers in this District?

Mr. BURLESON. Yes; they test the qualifications of those who are desirous of engaging in the plumbing business in the District of Columbia.

Mr. CALDER. It is a very necessary board. We have a similar board in my home city.

Mr. BURLESON. We have a similar board to examine those who wish to engage in steam engineering. Congress thought it was necessary to provide by law for the creation of this board, and acting in pursuance of that law the board was provided for, and we thought it more economical to employ those who were already in the District service, receiving compensation for labors they were performing at that time, as members of the board and compensate them for the additional service they rendered.

Mr. McKELLAR. Mr. Chairman, does this plumbing board fix the price for plumbing? [Laughter.]

Mr. BURLESON. Probably that duty ought to be imposed upon them, but up to the present time it has not been imposed upon them.

Now, Mr. Chairman, I move that the committee rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. RODDENBERY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28499) making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, and had come to no resolution thereon.

ENROLLED BILL AND JOINT RESOLUTION SIGNED.

The SPEAKER announced his signature to enrolled bill and joint resolution of the following titles:

S. 1072. An act to amend section 895 of the Code of Law for the District of Columbia; and

S. J. Res. 158. Joint resolution approving the plan, design, and location for a Lincoln memorial.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 8279. An act to amend an act approved October 1, 1890, entitled "An act to set apart certain tracts of land in the State of California as forest reservations"; to the Committee on the Public Lands.

LEAVE OF ABSENCE.

Mr. WILDER, by unanimous consent, was granted leave of absence for five days, on account of the death of his mother.

HOUR OF MEETING TO-MORROW.

Mr. BURLESON. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn until 11 o'clock to-morrow.

The SPEAKER. The gentleman from Texas [Mr. BURLESON] asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow.

Mr. MANN. Reserving the right to object, Mr. Speaker, I would like to know what the House will proceed with to-morrow, so far as the public business is concerned.

Mr. BURLESON. It is my purpose to try to continue the consideration of this bill.

Mr. MANN. But the gentleman is not at all sure that we might not have an extra hour for other purposes wasted? The gentleman can get unanimous consent that we proceed with the consideration of this bill to-morrow.

Mr. BURLESON. Well, I will modify my request and ask unanimous consent that we proceed with the consideration of the District of Columbia appropriation bill to-morrow immediately after the approval of the Journal.

The SPEAKER. Of course that is subject to conference reports and things like that.

Mr. BURLESON. Certainly.

The SPEAKER. The Chair thought perhaps they would again get up the immigration conference report to-morrow. The gentleman from Texas asks unanimous consent that when the House adjourns to-day it adjourn until 11 o'clock to-morrow morning, and that after the reading of the Journal and such little matters of routine as ought to be attended to the House shall resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the District of Columbia bill.

Mr. MURRAY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURRAY. The Chair made a reference to such matters as conference reports. I should like to know whether the House may at this time make an arrangement which would give this matter precedence over such a matter as the conference report on the immigration bill?

The SPEAKER. Yes; the House can do that by unanimous consent, but there are no conference reports. There are always some little matters of routine, like personal requests and corrections of the Journal, and there might be some little matter of business that would not take a minute to attend to, that Members would want to present for immediate consideration.

Mr. MANN. That can be done by unanimous consent of the House to-morrow.

Mr. MURRAY. The Chair made reference to a possible conference report on the immigration bill.

The SPEAKER. That remark was intended to be facetious.

Mr. MURRAY. Oh.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MANN. Is an adjournment to 11 o'clock included as a part of the unanimous consent?

The SPEAKER. Yes.

EXPENSES OF THE INAUGURAL CEREMONIES.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of Senate joint resolution 157, one of the inaugural resolutions.

The SPEAKER. The gentleman from New York asks unanimous consent for the present consideration of a joint resolution, which will be reported by the Clerk.

Senate joint resolution 157, to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States March 4, 1913, was read, as follows:

Resolved, etc., That to enable the Secretary of the Senate and Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States March 4, 1913, in accordance with such program as may be adopted by the joint committee of the Senate and House of Representatives, appointed under a concurrent resolution of the two Houses, including the pay for extra police for three days, at $5 per day, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $25,000, or so much thereof as may be necessary, the same to be immediately available.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

Mr. MANN. Mr. Speaker, I have no objection to the consideration of the joint resolution, but I wish to ask the gentleman a question.

Mr. FITZGERALD. I shall be glad to answer the gentleman's question.

Mr. MANN. This appropriation, as I understand it, is, in part or in whole, to cover the expenses which may be incurred under the direction of the joint committee of the House and Senate.

Mr. FITZGERALD. It is to cover entirely the expenses to be incurred.

Mr. MANN. It covers those expenses, but it may cover some other things.

Mr. FITZGERALD. Stands and such things.

Mr. MANN. Stands and platforms out in front of the Capitol, and so forth?

Mr. FITZGERALD. Yes. Four years ago, after the joint committee had provided a stand, the officials of the two Houses provided separate stands. I understand the Superintendent of the Capitol Building and Grounds has taken the matter up with the joint committee and objected to those stands because of the fire danger, and I understand that the joint committee have arranged to have a stand sufficiently large to provide the accommodations which would be given by these separate stands if they were erected.

Mr. MANN. That brings us to the real point of inquiry; how many tickets do we get?

Mr. FITZGERALD. I will ask the gentleman from Tennessee to make a statement and to be as liberal as he can. I do not think the gentleman from Illinois is particularly interested in it.

Mr. MANN. I am getting the information for the benefit of the House.

Mr. GARRETT. Mr. Speaker, it was decided by the joint committee to increase the size of the regular stand so that it would have a capacity as great as was had by the regular stand four years ago with the two extra stands that were built, one by the Senate and one by the House, in so far as that committee could control the situation. The Superintendent of the Capitol Building and Grounds thought the erection of those special stands very objectionable on account of the danger of fire, and recommended this proposition which the committee now adopts. Now, as far as the number of tickets is concerned, I have to say to the gentleman from Illinois that that is still in abeyance.

Mr. MANN. I thought that possibly the committee had got far enough so that the gentleman could figure out how much space there will be. It will not be long before there ought to be an announcement to the House, because Members will be receiving requests for seats very soon.

Mr. GARRETT. The seating capacity of the stand that is recommended by the joint committee is 8,500. Of course, the gentleman understands that there will be something like 2,000 of these tickets taken up to accommodate those who have admission to the Senate floor.

Four and eight years ago each Member of the House received four tickets and each Member of the Senate received 12 tickets to the stand.

Mr. FITZGERALD. That is a great disproportion.

Mr. MANN. They had the same size stand that we had, but a smaller membership.

Mr. GARRETT. That was based upon the fact that they only had a membership of less than one-third of the House. There is a hope that the House may have some addition to that number, but I can not say positively.

Mr. FITZGERALD. I have a great many applications for seats on the stand, but if the gentleman could make arrangements so that some of these applicants could remain here permanently during the next three or four years I think they would be willing to surrender their places on the stand. [Laughter.]

Mr. GARRETT. I can say to the gentleman that it will certainly not be less than four tickets to each Member, and possibly more.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. FITZGERALD, a motion to reconsider the vote whereby the joint resolution was passed was laid on the table.

ADJOURNMENT.

And then, on motion of Mr. FITZGERALD (at 5 o'clock and 42 minutes p. m.), the House, under its previous order, adjourned until to-morrow, Friday, January 31, 1913, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, submitting an item of appropriation for the consideration of Congress in connection with the preparation of the sundry civil bill for the fiscal year ending June 30, 1914 (H. Doc. No. 1314); to the Committee on Appropriations and ordered to be printed.

2. A letter from the president of the Chesapeake & Potomac Telephone Co., submitting annual report of said company for the year 1912, to be substituted for report submitted January 13, 1913 (H. Doc. No. 1315); to the Committee on the District of Columbia and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting a supplemental estimate of an appropriation for settlement of claims for damages to and loss of private property of citizens of the United States for the fiscal year 1914 (H. Doc. No. 1316); to the Committee on Military Affairs and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting a supplemental estimate of an appropriation for service of the fiscal year 1914 for repairs to the Government roadway to Vicksburg (Miss.) National Cemetery (H. Doc. No. 1317); to the Committee on Military Affairs and ordered to be printed.

5. A letter from the Washington Utilities Co., submitting report for the month of December and year 1912, and Washington-Virginia Railway Co. report for 11 months ended November 30, 1912 (H. Doc. No. 1318); to the Committee on the District of Columbia and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. RUCKER of Colorado, from the Committee on Pensions, to which was referred the bill (H. R. 19800) pensioning the surviving officers and enlisted men (or their widows), who served in the Indian wars of the western frontiers of the several States and Territories from the year 1865 to the year 1898, inclusive, reported the same with amendment, accompanied by a report (No. 1417); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BRADLEY, from the Committee on Military Affairs, to which was referred the bill (H. R. 28469) granting two condemned cannon to the Wallkill Valley Cemetery Association, of Orange County, N. Y., reported the same without amendment, accompanied by a report (No. 1421), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BULKLEY, from the Committee on Patents, to which was referred the bill (H. R. 28286) to amend sections 4931 and 4934 of the Revised Statutes of the United States, reported the same with amendment, accompanied by a report (No. 1423), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FITZGERALD, from the Committee on Appropriations, to which was referred the joint resolution (S. J. Res. 157) to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913, reported the same without amendment, accompanied by a report (No. 1415), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. SLAYDEN, from the Committee on Military Affairs, to which was referred the joint resolution (S. J. Res. 143) authorizing the Secretary of War to loan certain tents for use at the meeting of the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine to be held at Dallas, Tex., in May, 1913, reported the same without amendment, accompanied by a report (No. 1416), which said bill and report were referred to the House Calendar.

Mr. WEBB, from the Committee on the Judiciary, to which was referred the bill (H. R. 28335) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, reported the same without amendment, accompanied by a report (No. 1418), which said bill and report were referred to the House Calendar.

Mr. ALEXANDER, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill (S. 1653) to provide American register for the steam yacht *Diana*, reported the same without amendment, accompanied by a report (No. 1420), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill (S. 3873) for the relief of Lewis F. Walsh, reported the same without amendment, accompanied by a report (No. 1419), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. STEPHENS of California: A bill (H. R. 28524) to create a board of local inspectors, Steamboat-Inspection Service, for the port of Los Angeles, Cal.; to the Committee on the Merchant Marine and Fisheries.

By Mr. COX: A bill (H. R. 28525) to purchase a post-office site at Salem, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. LANGLEY: A bill (H. R. 28526) to provide cumulative sick leave with pay to storekeepers, gaugers, and storekeeper-gaugers; to the Committee on Expenditures in the Treasury Department.

By Mr. TAYLOR of Colorado: A bill (H. R. 28527) for the relief of the White River Utes, the Southern Utes, the Uncompahgre Utes, the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uinta Bands of Ute Indians, known as the Confederated Bands of Ute Indians, of Colorado; to the Committee on Indian Affairs.

By Mr. RAKER: A bill (H. R. 28528) for improvement of Sacramento River between Chico Landing and Red Bluff, Cal.; to the Committee on Rivers and Harbors.

By Mr. HOWARD: A bill (H. R. 28529) increasing the limit of cost of the post-office building at Atlanta, Ga.; to the Committee on Public Buildings and Grounds.

By Mr. REDFIELD: A bill (H. R. 28530) to provide for a warehouse for the receipt, care, and distribution of supplies for the use of the government of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. MOORE of Pennsylvania: A bill (H. R. 28531) for the purchase of a site and to begin the construction thereon of a customhouse in the city of Philadelphia, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. SWEET: A bill (H. R. 28532) to increase the limit of cost for the construction of the Federal building at Holland, Mich.; to the Committee on Public Buildings and Grounds.

By Mr. LEVY: Joint resolution (H. J. Res. 391) recognizing The Star Spangled Banner as the official anthem of the United States of America; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CANTRILL: A bill (H. R. 28533) for the relief of Isaiah James; to the Committee on War Claims.

By Mr. EDWARDS: A bill (H. R. 28534) for the relief of the heirs of Mary J. Cooper, deceased; to the Committee on War Claims.

By Mr. ESTOPINAL: A bill (H. R. 28535) waiving the age limit for admission to the Pay Corps of the United States Navy in the case of Minor Meriwether, Jr.; to the Committee on Naval Affairs.

By Mr. FERGUSSON: A bill (H. R. 28536) granting a pension to Pedro Pena; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 28537) granting a pension to David Jewell; to the Committee on Invalid Pensions.

By Mr. GOOD: A bill (H. R. 28538) granting a pension to Sophia C. Lother; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 28539) granting an increase of pension to Milton Laird; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28540) granting an increase of pension to John Boler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28541) granting an increase of pension to Robert C. Stanley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28542) granting an increase of pension to Alice O. Crippen; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 28543) for the relief of Paris R. Winslow; to the Committee on Military Affairs.

By Mr. HELM: A bill (H. R. 28544) for the relief of Shelby County, Ky.; to the Committee on War Claims.

By Mr. HINDS: A bill (H. R. 28545) granting a pension to Alice C. Sawtelle; to the Committee on Invalid Pensions.

By Mr. HOLLAND: A bill (H. R. 28546) for the relief of Washington Allman and others; to the Committee on Claims.

By Mr. KINKAID of Nebraska: A bill (H. R. 28547) granting an increase of pension to John G. Richardson; to the Committee on Invalid Pensions.

By Mr. KNOWLAND: A bill (H. R. 28548) granting an increase of pension to Charles A. Baender; to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 28549) granting an increase of pension to S. P. Marlette; to the Committee on Invalid Pensions.

By Mr. MORRISON: A bill (H. R. 28550) granting a pension to William R. Pryor; to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 28551) granting an increase of pension to Jeanette Rice; to the Committee on Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 28552) to remove the charge of desertion from the military record of William R. Potter; to the Committee on Military Affairs.

By Mr. PRAY: A bill (H. R. 28553) granting a pension to George H. Kyle; to the Committee on Pensions.

By Mr. RAKER: A bill (H. R. 28554) for the relief of Robert T. Legge; to the Committee on Claims.

By Mr. RUCKER of Colorado: A bill (H. R. 28555) for the enrollment of Tilla A. Provost and Harold Provost, Nebraska Winnebago Indians, and for making an allotment to Tilla A. Provost; to the Committee on Indian Affairs.

By Mr. SHERWOOD: A bill (H. R. 28556) granting an increase of pension to Eliza Robbins; to the Committee on Invalid Pensions.

By Mr. STEENERSON: A bill (H. R. 28557) to amend an act entitled "An act granting an increase of pension to Marie J. Blaisdell," approved May 24, 1909; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Papers to accompany bill (H. R. 28195) for the relief of Harry Adelbert Nichols; to the Committee on Invalid Pensions.

Also, petition of the Ohio State legislative committee of the Order of Railway Conductors, protesting against the passage of the bill known as the Brantley bill; to the Committee on the Judiciary.

By Mr. AYRES: Petition of the National Association of Shellfish Commissioners, Boston, Mass., favoring the passage of legislation making an appropriation for investigations for the further development of the oyster industry; to the Committee on the Merchant Marine and Fisheries.

By Mr. CARY: Petition of the Lumber Carriers' Association, Detroit, Mich., protesting against the passage of House bill 23673, relative to the placing of more sailors on the small boats of the Great Lakes; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Schneider Furniture Co., North Milwaukee, Wis., favoring the passage of the Weeks bill for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the New York Zoological Society, New York, favoring the passage of the McLean bill, granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the Forster Lumber Co., Milwaukee, Wis., favoring the passage of legislation for a further appropriation for Federal aid to the protection of forests from fires; to the Committee on Agriculture.

By Mr. CLARK of Florida: Petitions of C. Fred Ward and other citizens of Winter Park, Fla.; J. H. Huddleston and other citizens of Geneva, Fla.; John F. Cogswell and other citizens of Clancona, Fla.; Thomas Murray and other citizens of Palatka, Fla.; and Frank Harvard and other citizens of Tangerine, Fla., protesting against any reduction of tariff on the citrus fruits; to the Committee on Ways and Means.

Also, petition of Auxiliary 23 to B. 52, N. A. L. C., favoring the passage of the Hamill bill, to provide for the retirement of the aged and infirm civil employees; to the Committee on Pensions.

By Mr. DRAPER: Petition of the National Association of Shellfish Commissioners, Boston, Mass., favoring the passage of legislation making appropriations for investigations for the improvement of the oyster industry; to the Committee on the Merchant Marine and Fisheries.

By Mr. DYER: Petition of C. J. Belzang, commander of the St. Louis Camp, favoring the passage of legislation granting pensions to the veterans of the various Indian wars; to the Committee on Pensions.

Also, petition of the Religious Liberty Association, Takoma Park, Washington, D. C., relative to House bill 25682, a bill to punish violations of the Lord's day in the District of Columbia; to the Committee on the District of Columbia.

Also, petition of the New York Zoological Society, New York, favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of C. H. Hughes, St. Louis, Mo., favoring the passage of House bill 1309, to establish a council of national defense; to the Committee on Naval Affairs.

By Mr. FULLER: Petition of Thomas A. Morrison, Southport, Pa., and William F. Irwin, Melrose, Mass., favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of the Clover Leaf Casualty Co., Jacksonville, Ill., favoring the passage of House bill 27567, for a 1-cent letter postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the Richmond (Va.) Chamber of Commerce, favoring the passage of legislation for a reform in the banking system of the United States; to the Committee on Banking and Currency.

By Mr. GOLDFOGLE: Petition of Boring & Chilton, New York, favoring the adoption of the Mall site and design as adopted by the National Commission of Fine Arts for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Theodore Sutro, New York, favoring the passage of House bill 1309, for the establishment of a council of national defense; to the Committee on Naval Affairs.

By Mr. GRIEST: Petition of the Spanish War Veterans of Lancaster, Pa., favoring the passage of House bill 26537, to donate to the city of Lancaster, Pa., two bronze or brass field-pieces for the use of General William S. McCaskey Camp, United Spanish War Veterans; to the Committee on Military Affairs.

By Mr. LAMB: Petition of the Richmond Chamber of Commerce, Richmond, Va., favoring the passage of legislation for the immediate reform in the banking system of the United States; to the Committee on Banking and Currency.

By Mr. LEVY: Petition of the New York Zoological Society, New York, favoring the passage of the McLean bill for Federal protection of all migratory birds; to the Committee on Agriculture.

Also, petition of the Municipal Art Society of New York, favoring the adoption of the Mall site and design as approved by the National Commission of Fine Arts, for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Newman Erb, William W. Lawrence, J. W. Jinks, and Robert Wheeser, of New York, N. Y., favoring the passage of House bill 1809, for the establishment of a council for national defense; to the Committee on Naval Affairs.

Also, petition of the Thread Agency, New York, favoring the passage of House bill 16663, relative to the changing of dates for the corporations, joint stock companies, etc., to file their annual returns; to the Committee on Ways and Means.

Also, petition of the National Association of Shellfish Commissioners, Boston, Mass., favoring the passage of legislation for investigations for the further development of the oyster industry; to the Committee on the Merchant Marine and Fisheries.

By Mr. LINDSAY: Petition of the Municipal Art Society of New York, favoring the adoption of the Mall site and the design as approved by the National Commission of Fine Arts for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the New York Zoological Society, New York, favoring the passage of the McLean bill for Federal protection of all migratory birds; to the Committee on Agriculture.

Also, petition of the National Association of Shellfish Commissioners, Boston, Mass., favoring the passage of legislation making appropriations for investigations for the further development of the oyster industry; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Remington Typewriter Co., New York, protesting against the passage of the Oldfield patent law revision substitute bill (H. R. 23417), making certain revisions in the present patent laws; to the Committee on Patents.

By Mr. PLUMLEY: Petition of the Congregational Church, Barnet, Vt., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. RAKER: Petitions of the Chamber of Commerce of Anderson, Cal.; T. H. Ramsey, J. J. Wells, the Bank of Tahama, and Cone & Kimball, of Red Bluff, Cal.; the Sacramento Valley Development Association, Sacramento, Cal.; Curtis Olive Co., and the Gibraltar Investment Co., of Los Angeles, Cal., protesting against the passage of legislation for any reduction of tariff on olives and olive oils; to the Committee on Ways and Means.

Also, petition of the General Federation of Women's Clubs, protesting against the passage of any legislation tending to destroy the present national system of forest preservation; to the Committee on the Public Lands.

Also, petition of the Humboldt Chamber of Commerce, Eureka, Cal., protesting against the passage of the Lever bill (H. R. 20281), for the removal of the tax on colored oleomargarine; to the Committee on Agriculture.

Also, petitions of John Burroughs, of West Park, N. Y., and the Ford Motor Co., Detroit, Mich., favoring the passage of the McLean bill, extending Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petitions of the Griffin & Kelley Co. and the Pacific States Electric Co., San Francisco, Cal.; the J. J. Pfister Knitting Co., West Berkeley, Cal.; the Home Industry League of California, Langley; the Michaels Co., San Francisco, Cal.; and the Sacramento Chamber of Commerce, Sacramento, Cal., favoring the passage of the Weeks bill, for a 1-cent postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the Altolia Mining Co., San Francisco, Cal., protesting against the unreasonable reduction of tariff on tungsten ore; to the Committee on Ways and Means.

By Mr. REILLY: Petition of New Haven County Pomona Grange, No. 5, favoring the passage of the McLean bill, granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the Connecticut Automobile Association, New Haven, Conn., favoring the adoption of the national highway from Washington to Gettysburg as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Richmond (Va.) Chamber of Commerce, favoring the passage of legislation for a reform in the banking system of the United States; to the Committee on Banking and Currency.

By Mr. TUTTLE: Petition of citizens of Port Morris, N. J., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of William G. De Meza, Plainfield, N. J., favoring the passage of bill granting a pension to Mrs. Margaret Rix, widow of James T. Rix; to the Committee on Invalid Pensions.

Also, petition of the New Jersey Chapter, American Institute of Architects, Jersey City, N. J., favoring the adoption of the Mall site and the design as approved by the National Commission of Fine Arts for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the clubs of the fifth district of the New Jersey Federation of Women's Clubs, favoring the passage of legislation for the establishment of a national bureau of health; to the Committee on the Judiciary.

Also, petition of the Elizabeth Board of Trade, Elizabeth, N. J., favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Plainfield Democratic Club, Plainfield, N. J., protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. UNDERHILL: Petition of the National Association of Shellfish Commissioners, Boston, Mass., favoring passage of legislation making appropriations for investigations for the further development of the oyster industry; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the New York State legislative board, Brotherhood of Locomotive Engineers, favoring the passage of bill known as the Federal workingmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the Richmond Chamber of Commerce, Richmond, Va., favoring the passage of legislation for a reform in the banking system of the United States; to the Committee on Banking and Currency.

By Mr. WILDER: Petition of 50 boys and girls from one of the Gardner schools, Gardner, Mass., favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. WILSON of New York: Petition of the National Association of Shellfish Commissioners, Boston, Mass., favoring the passage of legislation making appropriation for investigations and experiments for the development of the oyster industry; to the Committee on the Merchant Marine and Fisheries.

SENATE.

FRIDAY, *January 31, 1913.*

(Continuation of legislative day of Thursday, January 30, 1913.)

The Senate reassembled at 11 o'clock and 45 minutes a. m., on the expiration of the recess.

The PRESIDENT pro tempore (Mr. GALLINGER). Senate joint resolution No. 78 is before the Senate as in Committee of the Whole and open to amendment.

Mr. CULLOM. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Illinois raises the question that there is no quorum present, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cummins	Lodge	Sanders
Borah	Dillingham	McCumber	Shively
Brandegee	du Pont	McLean	Simmons
Bristow	Gallinger	Martine, N. J.	Smith, Ariz.
Burnham	Gamble	Myers	Smith, Ga.
Burton	Gronna	Nelson	Smoot
Catron	Guggenheim	Newlands	Stephenson
Chamberlain	Heikell	Oliver	Sutherland
Chilton	Hitchcock	Overman	Swanson
Clapp	Jackson	Page	Thomas
Clark, Wyo.	Johnston, Ala.	Perkins	Thornton
Crawford	Jones	Perky	Townsend
Culberson	Kenyon	Richardson	Wetmore
Cullom	La Follette	Root	Williams

Mr. TOWNSEND. I desire to state that the senior Senator from Michigan [Mr. SMITH] is absent on business. I should like to have this announcement stand for the day.

Mr. SWANSON. I wish to announce that my colleague [Mr. MARTIN of Virginia] is detained from the Chamber on account of sickness. I will let this announcement stand for the day.

Mr. THORNTON. I wish at this time to announce the necessary absence of my colleague [Mr. FOSTER] from the Chamber on account of illness in his family, and also to state that he is paired with the junior Senator from Wyoming [Mr. WARREN]. I ask that this announcement may stand for the day.

The PRESIDENT pro tempore. Fifty-six Senators have answered to their names. A quorum of the Senate is present.

SENATOR FROM IDAHO.

Mr. PERKY. I present the credentials of Hon. WILLIAM E. BORAH, chosen by the Legislature of the State of Idaho a Senator from that State for the term beginning March 4, 1913, and ask that they be read and filed.

The PRESIDENT pro tempore. The credentials will be read.

The credentials of WILLIAM EDGAR BORAH, chosen by the Legislature of the State of Idaho a Senator from that State for the term beginning March 4, 1913, were read and ordered to be filed.

INDEPENDENCE OF THE JUDICIARY (S. DOC. NO. 1052).

Mr. McCUMBER. With the permission of the Senate I send to the Chair an address delivered to the graduating class of the Yale Law School, June 17, 1912, by William B. Hornblower, of New York. It is a very important address, and I ask that it be printed as a public document.

The PRESIDENT pro tempore. Without objection, that order will be made.

PROPOSED INTRODUCTION OF A BILL.

Mr. SUTHERLAND. I should like to ask leave out of order to introduce a bill to be referred to the Committee on the Judiciary.

Mr. CUMMINS. I have no objection, but——

Mr. LODGE. I make the point of order that under the unanimous-consent agreement the Senate can not engage in any other business.

The PRESIDENT pro tempore. The Senator from Massachusetts objects on the ground that under the unanimous-consent agreement the bill can not be received. The Chair thinks the point of order is well taken.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the joint resolution (S. J. Res. 157) to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913.

The message also announced that the House had passed a bill (H. R. 28186) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the President pro tempore:

S. 1072. An act to amend section 895 of the Code of Law for the District of Columbia;

H. R. 18841. An act incorporating the National Institute of Arts and Letters;

H. R. 24194. An act to create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes; and

S. J. Res. 158. Joint resolution approving the plan, design, and location for a Lincoln memorial.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts and joint resolutions:

On January 29, 1913:

S. J. Res. 145. Joint resolution to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913.

On January 30, 1913:

S. 2666. An act granting an increase of pension to William P. Clark; and

S. 6380. An act to incorporate the American Hospital of Paris.

On January 31, 1913:

S. J. Res. 153. Joint resolution granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia.

HOUSE BILL REFERRED.

H. R. 28186. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

THE PRESIDENTIAL TERM.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. BRISTOW. What is the pending amendment, may I inquire?

The PRESIDENT pro tempore. No amendment is pending.

Mr. BRISTOW. Was the amendment which the Senator from Mississippi [Mr. WILLIAMS] offered voted on yesterday?

The PRESIDENT pro tempore. The Senator from Mississippi withdrew his amendment temporarily.

Mr. McCUMBER. There is an amendment pending, I think. I offered one yesterday.

The PRESIDENT pro tempore. The Senator from North Dakota submitted an amendment to be printed. Does the Senator offer it now?

Mr. ROOT. Mr. President——

Mr. McCUMBER. I yield to the Senator from New York.

Mr. ROOT. I offer the amendment which I submitted yesterday and which has been printed.

The PRESIDENT pro tempore. The Senator from New York offers an amendment, which will be read.

The SECRETARY. On page 2, lines 8 and 9, in the amendment of the committee, strike out the words "under the Constitution and laws made in pursuance thereof" and insert in lieu thereof the words:

> The executive power shall be vested in a President of the United States of America. The term of the office of the President shall be six years; and no person who has held the office by election, or discharged its powers or duties, or acted as President after the 4th day of March, 1917, shall be eligible to again hold the office by election.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from New York.

Mr. WILLIAMS. I should like to see that amendment just one moment.

Mr. HITCHCOCK. It is on the Senator's desk.

Mr. WILLIAMS. I suppose the intention of the Senator from New York is not to let it be retroactive.

Mr. ROOT. Precisely. It relieves——

Mr. WILLIAMS. I think if the Senator will watch this language he will see that it is subject to a possible misconstruction:

> And no person who has held the office by election, or discharged its powers or duties, or acted as President after the 4th day of March, 1917, shall be eligible to again hold the office by election.

Does not the Senator mean to say that no person who has held the office by election or discharged its powers or duties or

acted as President shall be eligible after the 4th day of March, 1917?

Mr. ROOT. It is intended to require that the cause of ineligibility shall be the holding of the office or the acting as President after the 4th of March, 1917, so that no one will be made ineligible before.

Mr. WILLIAMS. If that is the intention, it is all right.

Mr. ROOT. The idea is that no previous election or acting as President shall disqualify anyone. That really will not take effect in any sense or degree until after the expiration of President Wilson's term.

Mr. WILLIAMS. It would operate in this way if that is your intention. Mr. Wilson, for example, comes in now, and he would serve until 1917.

Mr. ROOT. He would not be ineligible.

Mr. WILLIAMS. He would not be eligible any more.

Mr. ROOT. He would not be ineligible. He would be eligible.

Mr. WILLIAMS. I meant to say "ineligible."

Mr. ROOT. And Mr. Taft would be eligible and Mr. Roosevelt would be eligible.

Mr. WILLIAMS. I meant to say he would not be ineligible. Then it might happen that Mr. Wilson could occupy the presidential office for three terms.

Mr. ROOT. No; one afterwards and one before.

Mr. WILLIAMS. Yes; that is right; one six-year term afterwards and one term of four years.

Mr. HITCHCOCK. Before the Senator from New York takes his seat I should like to ask him what possible reason there is for disqualifying for election to the Presidency a Vice President or a Cabinet officer who may be exercising the powers of President and duties of the office for, say, six months?

It seems to me that the purpose of this proposed amendment to the Constitution is to give a term of six years to a President and then to prohibit him from running for reelection. But the use of the language in the committee amendment and the language of the amendment proposed by the Senator from New York includes a prohibition against the Vice President who has temporarily filled the office or a Cabinet officer who has temporarily filled the office from running for President, whereas the situation might be such that he would be preeminently the choice of the people and he might have held the office for only a few months. I should like to ask the Senator from New York whether the following amendment, which I propose to offer and which has been printed, does not fully meet the needs and avoid all possible ambiguities such as the Senator from Mississippi has raised. If the Senator will permit me, I should like to read my amendment for his consideration in connection with his own.

> The executive power shall be vested in a President of the United States of America. The term of the office of President shall be six years, and no person elected for six years after the adoption of this amendment shall be eligible again to hold the office by election.

That excludes any man elected to the office. It does not exclude a man who has held it temporarily for a short time and does not apply to President-elect Wilson.

Mr. BORAH. Mr. President——

Mr. ROOT. I wish to say, if the Senator from Idaho will excuse me for a moment, in regard to the observation just made by the Senator from Nebraska that I am inclined to agree with him. I should prefer the amendment in a simple form, not undertaking to take in all the accidental and temporary holders of the Presidency, but this amendment was not designed to touch that. It was addressed solely to the single proposition that whatever amendment we adopt ought to be postponed in its effect, so that it will have no possible personal interest urging toward its adoption or its defeat.

I understand the adoption of this amendment, postponing the operation until after the 4th of March, 1917, will not at all interfere with another amendment which deals with the subject the Senator from Nebraska has just referred to.

Let me hasten, Mr. President, while I am up to say that in copying the provision the old split infinitive has crept in again. The copy was made from the print before it was corrected, and the words "again" and "to" should be transposed in line 6. That shows the persistency of evil.

Mr. BORAH. Mr. President, the amendment which is offered by the Senator from New York, I understand, would not exclude from reelection the President elect.

Mr. ROOT. It would not.

Mr. BORAH. And it would not exclude from reelection the ex-President.

Mr. ROOT. It would not.

Mr. BORAH. Mr. President, that discloses the weakness of this whole proposition. We are willing to except from the rule the President, the President elect, and the ex-President. Those who are opposed to this resolution believe that in the future it may be considered wise to except from the rule some living ex-President or President. If this is a good rule in the future, it is a good rule now. It can not be said that it is a reflection upon any man, when we are adopting an amendment to the Constitution of the United States, to make it apply to all citizens alike.

I do not think that I would be as anxious as some Senators here to exclude the ex-President from reelection, but if we are going to amend the Constitution I am sure it should be made to apply to all alike.

Now, if we of this generation think it wise to say that there are some men who are sufficiently virtuous and sufficiently patriotic and sufficiently able to be reelected, may we not leave this question to future generations to determine the same thing?

So I think, Mr. President, that in the effort to get around the present situation we reveal the real weakness of this movement, and I am opposed to the amendment.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from New York [Mr. ROOT] to the amendment. [Putting the question.] The noes appear to have it.

Mr. ROOT. I ask for a roll call.

Mr. HITCHCOCK. I should like to ask whether the amendment of the Senator from New York is open to amendment or if his amendment should be adopted whether my amendment would have to be offered as a substitute.

The PRESIDENT pro tempore. The Chair would suggest that the amendment itself is open to amendment.

Mr. HITCHCOCK. The amendment of the Senator from New York?

The PRESIDENT pro tempore. It is open to amendment.

Mr. HITCHCOCK. May I, then, propose mine as a substitute, and first secure a vote upon that?

Mr. ROOT. My amendment is an amendment to the committee amendment.

The PRESIDENT pro tempore. The amendment of the Senator from New York is an amendment to the committee amendment, and the amendment itself can be amended.

Mr. CLARKE of Arkansas. Mr. President, may I inquire in what order the amendments are being offered to the committee amendment? Are they offered in the order in which they were presented, or are they called up at the pleasure of a Senator addressing the Chair?

The PRESIDENT pro tempore. The Chair has no authority to place the amendments before the Senate, and they will be considered as Senators proposing them shall call them up.

Mr. CLARKE of Arkansas. I rose to ascertain the order in which they should be presented for the purpose of withdrawing the amendment which I proposed. I see that the Senator from New York has covered that ground so much better than I did, so much more compactly and so much more clearly, that I wish permission to withdraw the amendment I offered.

The PRESIDENT pro tempore. The Senator from Arkansas can withdraw his amendment.

Mr. HITCHCOCK. If it would be proper, then, I offer my amendment as a substitute for the amendment offered by the Senator from New York.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Nebraska [Mr. HITCHCOCK] will be stated.

The SECRETARY. In lieu of the words proposed to be inserted by the Senator from New York insert the following:

> The executive power shall be vested in a President of the United States of America. The term of the office of President shall be six years, and no person elected for six years after the adoption of this amendment shall be eligible again to hold the office by election.

Mr. BRISTOW. If I understand that amendment properly, a President might die within a month after he was inaugurated and the Vice President succeed him and serve for 5 years and 11 months, and then he would be eligible for election 6 years longer, placing him continuously in office practically for 12 years.

Mr. BORAH. That is correct.

Mr. BRISTOW. I do not think I want any proposition of that kind.

Mr. HITCHCOCK. Mr. President, that is a possibility, but it seems to me that the alternative presents a greater evil. We propose by the language contained in the committee amendment and by the language contained in the amendment offered by the Senator from New York to disqualify a Vice President or possibly a Cabinet officer, who may have served only a month, from being elected President of the United States. I do not think that such a proscription is contemplated.

The real purpose of the proposed amendment to the Constitution, confining the President to one term and the length of that term to six years, may be said to be two-fold. In the first place, the public sentiment in favor of a single term had its origin in the desire to avoid frequent elections. It was considered that an election of a President every four years tended to keep the country in an almost continuous state of political uproar, to the disturbance of business and to the unsettling of commerce and the industries of the country. The first proposition was to have a President elected every six years instead of every four years. Later, under the development of the presidential power, there has grown a sentiment in this country that no President should be reelected, for the reason that the centering of such a tremendous power in the Executive office is so without any parallel in the country that that great power should not be twice intrusted to the same man.

Mr. BORAH. May I ask the Senator from Nebraska what is the object of making this exception as to a man who has been elected once for the six-year term? Why not have the constitutional provision apply as soon as the States shall have ratified it?

Mr. HITCHCOCK. So as to apply to the President elect and to ex-President Roosevelt and to President Taft? Does the Senator make that inquiry? The objection that has been stated is that it is unjust to adopt an amendment that seems to point to any particular individual, which seems to disqualify ex-President Roosevelt or President Taft, who has only held one term, or President Elect Wilson, who will have held one term at the expiration of the approaching term.

Mr. ROOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nebraska yield to the Senator from New York?

Mr. HITCHCOCK. I do.

Mr. ROOT. I wish to say that the amendment, which is really a substitute, offered by the Senator from Nebraska, accomplishes the purpose I had in mind equally well with the amendment which I offered. I should be entirely satisfied if the amendment suggested by the Senator from Nebraska be adopted. I say this now because I am obliged to leave the Chamber for the purpose of taking a train. I shall be paired, but I shall be silent. I wish to say that I am perfectly satisfied with the amendment offered by the Senator from Nebraska. It accomplishes the purpose I had in view.

Mr. BORAH. Before the Senator leaves to take the train, may I ask why it is necessary to except anyone from the provision of a constitutional amendment?

Mr. ROOT. Because, Mr. President, in making an amendment to the Constitution of the United States we ought to deal impersonally for the general interests of the Government of the United States, and we ought to exclude from consideration all personal elements. That was the idea in prohibiting this amendment from applying to any of the men who are now in the active political field by reason of their previous election to the Presidency of the United States.

Mr. BORAH. It occurs to me that when we except three persons we make it personal, but when we make a universal rule it applies to all alike and can not be personal. There are three distinguished gentlemen occupying a place as political leaders, and you designate and single them out. You might just as well insert their names in this amendment and make it personal. You are amending the Constitution and making an exception to these three distinguished men in American politics.

Mr. ROOT. I will leave the Senator's argument with simply calling attention to the fact that the Senator is avowedly desirous to defeat the whole proposition.

Mr. BORAH. The Senator from New York is correct again.

Mr. PAYNTER. Is it in order to offer an amendment to the amendment offered by the Senator from New York?

The PRESIDENT pro tempore. One amendment to that amendment is now pending, and it would not be in order to offer another at the present time.

Mr. PAYNTER. I may be permitted to suggest that we ought to amend it further. Under the amendment offered by the Senator from Nebraska the joint resolution would not take effect for 10 years practically, because the incoming President will hold for 4 years and it provides that after a man has been elected President for 6 years he shall be ineligible. I think an amendment should be made to put in operation this constitutional provision two years earlier than it would go into effect under the amendment suggested by the Senator from Nebraska. I would suggest that the words "nineteen hundred and seventeen" be stricken out of the amendment offered by the Senator from New York and "nineteen hundred and twenty-one" inserted in lieu of it, so that at the end of 8 years it would take effect instead of 10 years.

Mr. WORKS. Mr. President, I hope the amendment offered by the Senator from Nebraska will be adopted. As the joint resolution was first introduced by me it provided in very simple terms for one term for the President and Vice President of the United States. There was no particular reason why the limitation should be applied to the Vice President of the United States except to put them upon a uniform basis. There was, on the other hand, no reason why the rule should not be applied to the Vice President as well as to the President.

The joint resolution went into the Judiciary Committee. They have so changed it that if the Vice President of the United States should assume the office for one day, or the Secretary of State, under the rule of succession provided by statute, should serve for any length of time, either of them would be absolutely disqualified to become a candidate for President. I think, Mr. President, that is unjust. I do not think this joint resolution ought to go to that extent. I am very strongly in favor of limiting the holding of the office by the President of the United States to one term of six years. I have endeavored, in a speech of some length that I made here some time ago, to give my reasons for the convictions that I entertain; but my ideas do not go so far as that of the Judiciary Committee in the particulars that I have suggested, and I should be very glad if everything might be eliminated from this joint resolution except the simple question of limiting the tenure of the President to one term and disqualifying him thereafter.

I understand that a case might arise where the Vice President might succeed to the office of President very soon after the term for which the President had been elected, but that will occur very infrequently; it has done so in the past. So I think it will be much better to leave that situation as it is than to place this limitation upon any citizen of this country who has held the office for so brief a time as might occur—taking the other side of the situation.

With respect to the other question, whether this provision ought to be made to apply to citizens of this country who have already held the office of President of the United States, I will say that personally, so far as the principle involved is concerned, I should prefer to have it take effect absolutely and apply to everybody; but we can not conceal from ourselves the fact that there has intervened in this case a question of personality. It is perfectly evident to every Senator on this floor that Senators are being influenced more or less by that consideration of personality. I should be glad to see that phase of it eliminated; and in order to do that, in order that we may come to this question as a mere principle—and it is a great fundamental principle—I shall be perfectly willing to have these gentlemen excepted from the provisions of the joint resolution.

Mr. BORAH. Mr. President, if these gentlemen are excepted, they ought to be excepted during their entire natural life.

Mr. WORKS. Mr. President, I am not willing to allow the Senator from Idaho to misrepresent my position. I am not saying that it ought to be done. Personally, I would much rather it were not done; but in order to eliminate that phase of it, for one I am willing to waive my convictions in respect to it; the Senator from Idaho [Mr. BORAH] is not, because his whole purpose in the matter is to defeat this joint resolution and to get everything possible into it to bring about that result on the final vote.

Mr. BORAH. Mr. President, the Senator from Idaho has been laboring industriously to get everything out of the joint resolution instead of getting everything into it. I have offered no amendment to it, and I do not propose to do so. I do not see how the joint resolution could be amended so as to make it any better than it was—for defeat. I am thoroughly opposed to the proposed amendment to the Constitution. That is pretty well understood. I may be in error, but I have not yet heard any argument that convinces me that I am. I do think, however, that the amendment ought not to be framed here upon the basis of some man's individual ambition to be President.

Mr. WORKS. I think so, too, Mr. President, and if that were the sole question involved, if there were nothing outside of it except the simple question of excepting these three gentlemen from the effect of the joint resolution, I should be opposed to it; but the fear I have in mind is that by reason of that very fact we are going to lose the vital issue that is presented in this case. That is precisely why the Senator from Idaho would be glad to have the joint resolution in that situation.

Mr. BORAH. Mr. President, I do not assume for a moment that the Senator from California introduced this joint resolution in the first instance by reason of the aspiration of a certain individual now in American politics to be President a third time. I do not assume that those who are urging it were urging it for that reason, yet I think that anyone who scans the situation will realize that the joint resolution would have had no

considerable support at this time had it not been for that fact. There have been only three times when this matter has been very much discussed among the American people. They were during Gen. Jackson's administration; at the time Gen. Grant's name was mentioned in connection with a third term; and at the time Col. Roosevelt was mentioned in connection with a third term.

Since the Senator from California seems to assume that certain Senators are actuated because of personal relations, more or less strong with these men, I must be permitted to say that, in my judgment, the only real foundation for this joint resolution, the beginning of it, grew out of our situation at the present time. I am quite aware that there are individuals supporting it who support it for an entirely different reason; but so far as any sustained interest in it is concerned, so far as any general support is concerned, it comes by reason of the fact that Col. Roosevelt's name was mentioned in connection with a third term.

Mr. PAYNTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from California yield to the Senator from Kentucky?

Mr. WORKS. I yield to the Senator from Kentucky.

Mr. PAYNTER. In view of the statement of the Senator from California [Mr. WORKS] as to the personal aspect of the case, I want to say that when I suggested "twenty-one" instead of "seventeen," as provided in the amendment of the Senator from New York [Mr. ROOT], I felt that it would be very well for it to take effect at the end of eight years. I think the joint resolution which is pending, as reported from the Committee on the Judiciary, is too indefinite; that it would have to be determined in some way whether or not the incoming President would hold for four years or for six years, and I should infinitely prefer to see a designation of four years rather than to leave the question open.

In addition to that, I want to say that under my construction of the amendment offered by the Senator from Nebraska [Mr. HITCHCOCK] and approved by the Senator from New York, the incoming President could be reelected at the end of four years; he then could be reelected under that language for six years, and thus could be President for 10 years. I am not influenced by political or personal considerations in this matter. I should infinitely prefer to see the term limited to four years than to make it possible for one man to hold for 10 years. Therefore I am very much opposed to the amendment which has been offered by the Senator from Nebraska and accepted by the Senator from New York.

Mr. WORKS. Mr. President, I certainly had no intention of intimating that the Senator from Kentucky [Mr. PAYNTER] was influenced by any such motives as the Senator from Idaho [Mr. BORAH] seems to think some others may be influenced by. I think it is placing a very low estimate upon Members of the Senate to say that any Member of this body would be influenced to vote one way or the other upon a great question like this on account of his personal friendship to any individual, and I am quite sure that no such feeling exists on the part of any Member of this body.

Mr. President, I do not feel that I would be justified in taking up the time of the Senate in discussing this question generally, because I have heretofore consumed a good deal of the time of the Senate in giving my views upon it. I only arose for the purpose of speaking directly to the amendment offered by the Senator from Nebraska [Mr. HITCHCOCK], because it comports with my ideas on the subject from the beginning, with the single exception of placing this limitation upon it in view of the personal equation that has entered into this discussion.

Mr. CLAPP. Mr. President——

The PRESIDENT pro tempore. Does the Senator from California yield to the Senator from Minnesota?

Mr. WORKS. I yield to the Senator from Minnesota, and yield the floor.

Mr. CLAPP. Mr. President, the Senator from California [Mr. WORKS] has just stated that he did not consider and he thought no other Senator considered for a moment that the personal equation enters into this matter. It seems to me that the amendment offered by the Senator from New York [Mr. ROOT] and the amendment offered by the Senator from Nebraska [Mr. HITCHCOCK] constitute a reflection upon the Senate itself. In effect they say to the country that a great principle—for it is a great principle—can not pass this body unless the adherents of three partisan leaders are recognized and the partisan leaders themselves are cared for in this proposed constitutional amendment.

I am not in favor of placing a limitation upon the right of the American people to elect as President whomsoever they please. I think one instance in our country's history shows how dangerous such a limitation might be; but if we place this limitation upon the people and upon ourselves it can only be justified upon the ground that the principle itself is a correct principle.

It seems to me, Mr. President, if I may use the expression without objection in this body, that it is almost trifling with a great fundamental principle that we should recognize a personal equation and exempt three gentlemen from a proposed constitutional amendment. One of those men I hold in close friendship, and yet as a friend of that man I would dislike to see this amendment to the joint resolution adopted. If it is wise for the American people to place this limitation upon themselves, it is unwise to except my friend or any other Senator's friend from the operation of this limitation.

Let us treat this matter squarely and fairly upon its merits. I do not believe in the limitation; but if it be wise to impose this limitation, let us rise to the occasion and impose it as against each and every individual whether or not he may have been President in the past.

Mr. SUTHERLAND. Mr. President, I quite agree with what the Senator from California [Mr. WORKS] has said with reference to this proposed constitutional amendment. I am supporting it because I believe it is a wholesome principle to put into the Constitution of the United States. I am not supporting it because its effect may be to eliminate any particular individual or individuals from further consideration for the presidential office. I am anxious that this joint resolution should be adopted and submitted to the American people; I am further anxious that the proposed constitutional amendment should be adopted by the people; and I shall support the amendment suggested by the Senator from New York [Mr. ROOT], not because I believe that it would not be better to have the provision go into the Constitution without this exception, but because I believe that it will stand a far better chance of being adopted with the amendment than without it.

We have already heard from individuals that this was an attempt not to put some fundamental principle into the Constitution, but an attempt to preclude certain individuals from being renominated and reelected to the Presidency. If we do not put this amendment into the joint resolution we shall hear much of that claim while the amendment is pending before the several States. It will be urged in many States that this is simply an attempt to prevent this man or that man who has heretofore been President of the United States from being reelected, and the fundamental character of the principle will be to a very large extent lost sight of in that personal application of it. I intend to support the proposed amendment for that reason—to eliminate that particular element from consideration when the amendment is to be considered by the legislatures of the various States.

Mr. POINDEXTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Washington?

Mr. SUTHERLAND. I do.

Mr. POINDEXTER. I should like to ask the Senator from Utah if he does not believe that, if this principle is meritorious, it ought to apply to the individuals whom the Senator has in mind? The Senator has said that he has heard objections made to one of the men referred to again holding the office of President. Those objections were more or less based upon the fact that he had served two terms. If there is any——

Mr. SUTHERLAND. If the Senator will pardon me——

Mr. POINDEXTER. Just let me complete my statement.

Mr. SUTHERLAND. The Senator has not quoted me quite accurately.

Mr. POINDEXTER. If there is merit in the proposition to prevent a man from holding a third term or a second term, why should it not apply in one case as well as in any other case? Why should any man be excepted?

Mr. SUTHERLAND. I have endeavored to make my position clear, Mr. President. I think it should apply; I think it would be far better if there were no exceptions made at all; and I attempted to make that clear. What I have said is that it has already been claimed that the whole object of this proposed constitutional amendment was to exclude from future consideration some particular individual, and I fear that that same claim will be made when the amendment is submitted to the legislatures of the various States. So I propose by my vote to take out of the question that particular thing, if I can.

Mr. POINDEXTER. In that event——

Mr. SUTHERLAND. So that—if the Senator will permit me to finish—the question may be determined by the American people wholly from an impersonal standpoint. Let them pass upon the great fundamental principle that is involved, stripped of these personal considerations entirely, and I am willing to forego my objection to the exceptions—for I have objections

to them—for the sake of the larger question which is involved.

Mr. POINDEXTER. Mr. President, the effect of that would be that the entire virtue of this amendment, so far as the present time is concerned and so far as current issues in this country are concerned, would be destroyed. The joint resolution would be emasculated so that it would have no effect upon existing conditions, which conditions are said to be dangerous and said to be the very conditions which are intended to be saved and remedied by this proposed amendment to the Constitution, and the joint resolution would be left valueless and without force as to the present time and never to be of any benefit to the American people, except upon some future contingency that might never occur.

It is said that there is now danger of a man perpetuating himself in office because of his ambition and his popularity with the people and because of the power and prestige that he has gained from having held the presidential office for two terms. If there is such a danger, that is the danger that the American people are concerned with far more than with some unknown danger in the future years that may never occur. If the amendment is of importance, it is of importance to meet the condition which confronts the people to-day, and if you strike it out, if you adopt this proposed amendment to the joint resolution, it may never have any effect.

Mr. SUTHERLAND. Mr. President, the Constitution or an amendment to the Constitution is not a transitory or a temporary thing; it is to endure for all time; and for the sake of obtaining a fundamental principle of this kind, so far as I am concerned, I am willing to forego the temporary inconvenience that may result, if any such does result, from an exception of this character for the sake of the future.

Mr. PAYNTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Kentucky?

Mr. SUTHERLAND. I do.

Mr. PAYNTER. I understood the Senator from Utah to say that he favored the amendment offered by the Senator from New York.

Mr. SUTHERLAND. I did.

Mr. PAYNTER. In connection with that, the Senator from New York said that he would accept the amendment, or that he favored the amendment, of the Senator from Nebraska. Now, I desire to call the Senator's attention to that fact.

This is the amendment of the Senator from Nebraska:

> The executive power shall be vested in a President of the United States of America. The term of the office of President shall be six years, and no person elected for six years after the adoption of this amendment shall be eligible again to hold the office by election.

If my interpretation of this amendment is correct, President Elect Wilson would be eligible under it to be reelected for six years. Do I understand the Senator to mean that he would be in favor of this presidential term, or two terms aggregating 10 years?

Mr. SUTHERLAND. No, Mr. President. I have distinctly said that I was in favor of the amendment proposed by the Senator from New York [Mr. ROOT]. If I understand the amendment offered by the Senator from Nebraska, I am not in favor of that amendment.

Mr. PAYNTER. I simply want the Senator to make himself perfectly understood in regard to it.

Mr. SUTHERLAND. The amendment that I favor is the amendment proposed by the Senator from New York and not the amendment proposed by the Senator from Nebraska.

Mr. CUMMINS. Mr. President, I think there is some misunderstanding with regard to the attitude at least of some of us who are in favor of this resolution. I am for the resolution, because I believe a President of the United States who is ineligible for reelection will be a better President than though he were eligible for reelection. I am not so much concerned about the fear of permanency in office.

The view of the Senator from Washington, it seems to me, is wholly inadmissible. There is a reason—not a fanciful reason, not a personal reason—why every ex-President could be exempted from the operation of this provision. Indeed, in principle he ought to be exempted. The amendment is intended to make a better President and a more faithful and more efficient performance of duty.

Referring to the distinguished ex-President of the United States, nothing that we can do will add to or take away from the efficiency of his work during the time he was President of the United States. That has gone. If he should be again President of the United States, it would be his efficiency during that term that would most concern the American people.

Mr. POINDEXTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Washington?

Mr. POINDEXTER. I will not interrupt the Senator further than for one very brief remark.

Mr. CUMMINS. I am very glad to have the Senator do so.

Mr. POINDEXTER. Would you not be destroying the principal value of the amendment if you made these exceptions, in that you would destroy the precedent that a President shall not hold office for more than two terms, which has been established by custom in this country?

It is true, as the Senator from Iowa says, that it is too late now to affect the administration which is past and gone. But viewing the question from the standpoint of the Senator from Iowa, the breaking down of the precedent, by allowing a man who has already served two terms to serve another term, would open the way to affect the administrations which are to come in the future.

Mr. CUMMINS. It does not break down the principle. The principle involved is to take away from a President the temptation to depart from the path of his duty, the temptation to execute the laws with fear or with favor, instead of without fear and without favor. At least, that is the principal object that I seek to accomplish by my support of the resolution.

Mr. WILLIAMS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Mississippi?

Mr. CUMMINS. I do.

Mr. WILLIAMS. If the Senator will pardon me, I want to make this suggestion: Does not the Senator think the general principle that legislation should not be retroactive applies to this case as well as to others? Instead of its being an exception, it is merely fixing a date at which a provision intended to control the future destiny of the country shall take effect.

Mr. CUMMINS. Precisely.

Mr. WILLIAMS. It would be a violation of principle to make it retroactive.

Mr. CUMMINS. I think it is exactly in accord with the principle of all legislation. What we want to do is to affect for the better, if we can, the conduct of Presidents in the future, by taking away from them the motive that with some people is persuasive and overpowering, to discharge the duties of the presidential office in such a way as to conduce to a renomination and a reelection. Therefore the ex-President ought not to be reached by its provisions; and the present Executive, who will be an ex-President in a very few days, ought not to be reached by its provisions.

The incoming President would not fall within the category of the ex-President. But there is no probability that this amendment will receive the concurrence of three-fourths of the States for a year or two or three years, until practically the end of the term upon which he is about to enter. Therefore, substantially, he falls into the class of ex-Presidents, and should not be excluded by the principle of this proposed amendment to the Constitution.

I do not think the matter is very important; but it has been made an issue, and the motives of a good many of us who have advocated the resolution have been assailed. It has been asserted that it is our purpose to exclude certain persons from again holding office. I am so earnestly in favor of the principle itself, and I so earnestly hope that the resolution will finally become a part of the Constitution, that I desire to remove every possible objection that can be urged to it that will not impair the value of the change itself.

I am not quite agreed with the Senator from Nebraska with regard to the other part of his amendment. As I said in the Committee on the Judiciary, I would be willing to agree to make it applicable to the Vice President, or to those who come in by succession under the laws of Congress passed in pursuance of the Constitution, only in the event that the Vice President held for a certain substantial time the office of President. If the Vice President came in during the very closing days of a presidential term, I think it would be very unfair to exclude him or render him ineligible ever again to hold the office. If the Secretary of State should come in and hold the office for 30 days, just long enough to call Congress together so that it might order another election, I think it would be unfair to exclude him from the chance of being elected to this high office.

Therefore I suggest to the Senator from Nebraska that if he were to change his amendment so as to exclude these people only in the event that they held the office a certain and substantial length of time, he would very greatly strengthen it in its passage.

Mr. LODGE. Mr. President, I do not see that the amendment of the Senator from Nebraska differs from that of the Senator

from New York on the material point. If we are going to exempt these three gentlemen from the operation of this constitutional amendment, it stands to reason that Mr. Wilson will be able to hold the office continuously for 10 years. It does not make any difference how you bring it about; but if you do not allow the 7 years of Mr. Roosevelt and the 4 years of Mr. Taft and the 4 years of Mr. Wilson to count against them, Mr. Wilson will be in a position where he can have the Presidency, if he can get renominated and reelected, for 10 consecutive years.

It seems to me it is a contradiction of all that this resolution seeks to accomplish to start it with a provision of that kind. If the principle is worth anything, surely it is a principle that ought to be applied without embodying in the Constitution a temporary personality.

Mr. WILLIAMS. Mr. President, I differ with the Senator from Massachusetts in this respect: The essential thing that is aimed at is not to fix any particular number of years after which the President shall be ineligible for reelection. The principle is one altogether independent of a term of 4 years, or 6 years, or 8 years, or 10 years. The principle is to fix a definite termination to the present condition of the possibility of indefinite tenure, which might lead to perpetual tenure, or to life tenure.

If this resolution itself recited that the presidential term should be 10 years, and that after that time nobody should be reeligible, the principle would be saved. The principle would be saved, too, provided you fix a limit beyond which he shall not be reelected, beyond which it will be treason to the Republic to attempt to be reelected.

Mr. LODGE. It seems to me the length of term is a very essential point.

Mr. WILLIAMS. I think it is essential, too; but I mean it is a minor matter. The main thing is to make it impossible for a President indefinitely to succeed himself.

Mr. LODGE. But it does not seem to me that we ought to start with creating such an inequality that one man may have the Presidency for 13 years with a gap between, another may have it for 10 years with a gap between, another may have it for 10 consecutive years, and no other American citizen at any time is ever to hold it for more than 6 years. It seems to me, we start with an inequality if we attempt to do anything of that kind. If this principle is sound—I do not believe in it myself—it ought to be equally applied to all.

Mr. WILLIAMS. Mr. President, this principle is equally applied to all. We are changing the Constitution. Under the Constitution now a man may be elected as long as he lives, provided he can get enough votes for each term. We are providing for a condition of things to begin upon a certain date, and after that date everybody will stand upon an absolute equality of footing. The fact that something may have happened prior to that time whereby one has enjoyed the presidential office for a longer term than another argues no inequality at all. The Senator from Massachusetts and I have never been President to-day, so far as that is concerned. One of these men has been President seven years, another has been President four years, and if some other ex-President were living he would have been President eight years. But as this is a law to take effect in the future, and as it is made for the future, it would be a violation of every principle of sound legislation to make it retroactive, so as to visit with a penalty a citizen of the United States who ought to stand upon an equality with all others, for no better reason than that in the past the people of the United States had honored him with the Presidency.

This is not legislation for the present; it is not legislation for the past; it is legislation for the future. All the equality you can demand is that after the law goes into operation it shall operate with absolute equality upon all citizens of the United States.

Mr. BORAH. The Senator states a correct principle, it seems to me; but this amendment changes that principle.

Mr. LODGE. It does.

Mr. BORAH. The principle the Senator states is one that is now embodied in the original resolution, and if it is ratified it will operate as against all persons. But the amendment which is offered excepts some three individuals from its operation.

Mr. WILLIAMS. Oh, no.

Mr. BORAH. Yes; it does. I think, upon reflection, the Senator will agree with me that it does, because there are only three individuals to whom the exception can possibly apply.

Mr. WILLIAMS. This resolution simply says that after a certain date nobody who is elected President for a term of six years shall be reeligible. It may be true that there will be three individuals in the United States who will stand upon a different footing from the balance of the people of the United States, owing to past service. But as far as the operation of this law is concerned, the amendment of the Senator from New York fixing a date at which it shall take effect, and it having no operation until that date, it bears upon all with absolute equality. It would be just as unfair to make this legislation retroactive—and the Constitution is nothing but fundamental and organic legislation—as it would to violate the principle in all other cases where you are legislating. It is generally admitted that except under very peculiar circumstances legislation ought not to be retroactive. On the contrary, if you do not adopt the amendment of the Senator from New York you will be making an exception against three men. You are saying that they shall be the only three people in the United States who after this law begins to go into operation shall not be operated upon equally by it. You are penalizing them for something that took place in the past before it became legislation.

Now, that is not all. One more word and I shall quit. It will be found that the men who are opposed to the main proposition—the general, fundamental proposition of putting an end to indefinite tenure in the presidential office—are also the men who are opposed to the amendment offered by the Senator from New York. I am not questioning men's motives; I am just reciting now what might possibly be a motive. If a man wanted to defeat the general amendment, then he could not go about it in a better way than to array a very large part of the people of the United States against it, and, when it was being submitted to the States, to go to the poeple and say: "These people say in their high political manner that they were asserting a high fundamental principle, but they are after one man's scalp; they are persecuting this man. He received something over 2,000,000 votes from the American people, and they are trying now to render him ineligible to the Presidency." That would be done at once. Although it may not be the actual motive of those who are opposing the main proposition, it could possibly be the motive of anybody who wanted to defeat the main proposition.

Now, we are sensible men. If we are in favor of the main proposition, we want it ratified by the States. It will not be ratified if anybody can raise a persecution cry and say that it is directed at one particular man, and we who are in favor of the main proposition would be foolish to let it go out to the country handicapped in that manner.

Not only is it wrong that legislation should be retroactive, but it is unwise that those who want it passed should handicap themselves with active, aggressive antagonism on personal grounds of a great number of people; not the whole 2,000,000, of course, but a great share of them; as many of them as could be stirred up to look at the matter from that standpoint.

That is not all. They not only would say it, but it would be very hard to reply to it, because if the amendment of the Senator from New York is defeated now, after it had been explained that the purpose of it is to keep it from being directed personally at the ambition of this particular gentleman, who is the idol of a great many of the American people—if then it should be voted down and the proposition should be kept in its original condition, so that that particular man would be ineligible, there would be no answer, there would be no possible reply when they say that you singled him out and shot at him. You knew, or you thought, that he might be elected President. You hated him, and therefore you incapacitated him constitutionally. I do not want him to die believing that he could have been elected President of the United States if he had not been prevented by a constitutional amendment. I want him to run again; I want him to run twice more if he wants to, and to be beaten both times, and then he will probably be satisfied. But when I fight men I fight them fairly. I would not take advantage of a man by making a provision retroactive so as to keep him from having a free field and a fair opportunity.

Mr. BORAH obtained the floor.

Mr. OWEN. I will ask permission of the Senator from Idaho to submit a couple of memorials which I had no opportunity of presenting before. One is from the Legislature of the State of Oklahoma memorializing Congress to pass a law providing for the election of the Federal district judges. I ask that it be printed in the RECORD.

Mr. LODGE. I make the point of order that under the unanimous-consent agreement no business is in order.

The PRESIDENT pro tempore. The Senator from Massachusetts repeats the point of order made at an earlier hour, which was sustained by the Chair, and the memorials can not now be received.

Mr. HITCHCOCK. Will the Senator from Idaho yield to me to permit me to change the form of the amendment which I proposed to the amendment offered by the Senator from New

York to conform to the decision of the Chair that I should offer it in the shape of an amendment instead of a substitute? I also offer it in this form for the purpose of conforming to the suggestion made by the Senator from Iowa. I ask that it be read as it will read after these amendments.

The PRESIDENT pro tempore. The Senator from Nebraska modifies the proposed amendment to the amendment offered by the Senator from New York. It will be read as modified.

The SECRETARY. In line 6, page 2, after the word "President"——

Mr. HITCHCOCK. No; I have modified the Root amendment as printed. The modification should appear on line 5, after the word "President."

The SECRETARY. After the word "President," in line 5 of the amendment proposed by the Senator from New York, insert "for two years or more."

Mr. HITCHCOCK. This is for the double purpose of meeting the objection urged by the Senator from Idaho. To permit a Vice President to run for election as President after he might have served for five years as President would be contrary to the spirit of this amendment. It also conforms to the suggestion made by the Senator from Iowa and still retains most of the verbiage of Senator ROOT's amendment. If the amendment is adopted in this form it will not exclude President Taft, nor ex-President Roosevelt, nor President Elect Wilson from reelection, nor would it exclude from election a Vice President who had acted as President for less than two years.

Mr. BORAH. May I ask the Secretary to read the amendment as now proposed.

The PRESIDENT pro tempore. The amendment will be reported as it would read if the amendment of the Senator from Nebraska should be agreed to.

The SECRETARY. The Senator from New York proposes to strike out the words "under the Constitution and laws made in pursuance thereof," after the word "President," and to insert the words "for two years or more," so that if amended it will read:

> The executive power shall be vested in a President of the United States of America. The term of the office of President shall be six years, and no person who has held the office by election or discharged its powers or duties, or acted as President for two years or more after the 4th day of March, 1917, shall be eligible to hold again the office by election.

Mr. BORAH. Mr. President, as I understand that amendment now, instead of extending the term of the present President, for instance, to 10 years, it extends it to 12.

Mr. HITCHCOCK. I should like to have the Senator explain how he reaches that conclusion.

Mr. BORAH. Of course I have only listened to the reading of it, but if the term of office of the President should be six years, and no person who has held the office by election or discharged its powers or duties or acted as President for two years or more after the 4th day of March, 1917—perhaps I am in error as I have only listened to the reading and have not examined it.

Mr. CUMMINS. It is quite evident the two years ought not to come in just at that point. I think if the Senator from Nebraska will examine it he will find it ought to be inserted somewhere else.

Mr. HITCHCOCK. I was endeavoring to conform to the suggestion of the Senator from Iowa. I would ask where I should place it.

Mr. CUMMINS. It is qualifying there the time at which this amendment goes into effect if it should be ratified.

Mr. BORAH. If you would make it 1919 instead of 1917——

Mr. CUMMINS. What the Senator from Nebraska means is to say that neither the Vice President nor one who comes in by succession shall be ineligible at all, unless he held the office for two years.

Mr. BORAH. I presume that is precisely what the Senator means, but I do not think his language covers it.

Mr. CUMMINS. I think not either. I think he will have to readjust it in some way.

Mr. BORAH. If the amendment is to be left as it is now offered, I shall not make any further remarks upon it.

Mr. JONES. While Senators are fixing up the amendment I will suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Washington suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Bryan	Clapp	Dixon
Bankhead	Burnham	Clark, Wyo.	du Pont
Borah	Burton	Clarke, Ark.	Fletcher
Bourne	Catron	Cullom	Gallinger
Bradley	Chamberlain	Cummins	Gamble
Brandegee	Chilton	Dillingham	Gronna
Guggenheim	Lodge	Paynter	Smith, Ariz.
Heikell	McCumber	Penrose	Smoot
Hitchcock	McLean	Percy	Stephenson
Jackson	Martine, N. J.	Perkins	Sutherland
Johnson, Me.	Myers	Perky	Swanson
Johnston, Ala.	Nelson	Poindexter	Thomas
Jones	Newlands	Pomerene	Thornton
Kenyon	Oliver	Richardson	Townsend
Kern	Overman	Sanders	Wetmore
La Follette	Owen	Shively	Williams
Lippitt	Page	Simmons	Works

Mr. KERN. I again announce the unavoidable absence of the Senator from South Carolina [Mr. SMITH] on account of illness. I make the announcement to stand for to-day.

The PRESIDENT pro tempore. On the call of the roll 68 Senators have answered to their names. A quorum of the Senate is present.

Mr. SWANSON. I should like to ask the Senator from Iowa why in this amendment which has been submitted by the committee, he has limited it, making it read "again to hold the office by election." It seems to me making the limitation by election precludes a President from succeeding himself by the votes of the people, but would permit him to run for Vice President and obtain the office by succession, or he could be Secretary of State and obtain it by succession.

Mr. CUMMINS. Precisely.

Mr. SWANSON. It appears to me if we are going to have simply one term for President and prevent all scheming and let his ambition be satisfied and fulfilled, we ought to strike out the term "by election," and let it be understood there will be distinctly but one term. If the words "by election" are in it seem to me, as we are preparing for the far future, an able, scheming, ambitious man could be President, and if he had the vast power that it is suggested he would acquire he could have a dummy elected President and himself Vice President.

Under this constitutional amendment that dummy could resign, and the Vice President, who had previously been the President, would succeed to the Presidency. At the end of the six years he could have another election of that kind. He could have another man run for President and he himself run for Vice President, and then he could have the man chosen as President resign. Under such a constitutional amendment as that which is proposed here Diaz could perpetuate himself in office in Mexico during his entire life.

It seems to me, if we are preparing for the future and going to have one term for President, we should limit the tenure to one term both by election and by succession; and it seems to me, in order to accomplish this purpose, the words "by election" should be stricken out. I should therefore like to know from the Senator from Iowa why it is that he uses the language "to succeed himself by election"? Why does he not prohibit it otherwise?

Mr. CUMMINS. The reason was because we were not sufficiently imaginative even to conceive of such a situation as that described by the Senator from Virginia. I can not conceive of a dummy being elected President and then resigning in order to allow a Vice President to enter the succession.

Mr. SWANSON. What I should like to ask the Senator is, Could that be done under this proposed amendment?

Mr. CUMMINS. The persons who are ineligible are ineligible only to election, and, of course, if a person who had been President were elected Vice President and the President should die or resign, there is nothing in this proposed amendment to prevent the succession of the Vice President; or if a person who had been elected President and had held the office were thereafter made Secretary of State, and the President and Vice President should both die, there is nothing in this amendment to prevent that Secretary of State from succeeding to the office of President.

Mr. SWANSON. Does the Senator from Iowa see any objection to the words "by election" being stricken out and limiting the tenure to one term?

Mr. CUMMINS. I do see some objection to it. We do not in the joint resolution propose to make the Vice President ineligible for reelection; we are dealing with the office of President alone. I do not see why, for instance, a Secretary of State who had succeeded for, say, 30 days to the office of President should not at some future time succeed if all the circumstances combined that bring in a Secretary of State. I think it would render ineligible persons who are not within the principle of the joint resolution.

Mr. SWANSON. If the words "by election" were stricken out, it would not render ineligible anyone except a person who had previously held the office of President.

Mr. CUMMINS. That is all.

Mr. SWANSON. Mr. President, while there might be no trouble ever arise, I think, if we are going to settle the tenure of the office of President so as to restrict it to one term, it ought

to be settled distinctly for one term. I therefore move to strike out the words "by election," so as to limit the President absolutely to one term.

The PRESIDENT pro tempore. That amendment is not in order at the present time.

Mr. SWANSON. I want to submit it so that it may be in order at the proper time.

The PRESIDENT pro tempore. The question is upon the amendment of the Senator from Nebraska [Mr. HITCHCOCK] to the amendment presented by the Senator from New York [Mr. ROOT].

Mr. POINDEXTER. Mr. President, the amendment proposed by the Senator from Mississippi [Mr. WILLIAMS] in this matter and the argument by which he supported it is very much like Artemus Ward's patriotism when the war broke out. He was willing that all of his wife's relatives should enlist. It is very much like the effort of some people to get to heaven by laying down rules of good conduct for somebody else to follow which they themselves do not practice. The Senator says that the trouble about this joint resolution is that it discriminates against the ex-President, the present President, and the incoming President; that they will have a disqualification laid upon them which does not apply to anybody else. It seems to me that the exact contrary of that is the case. If the amendment to the joint resolution proposed by the Senator from Nebraska is adopted, we shall be in such a situation that these three men will have a privilege which in the future no other citizen of the United States will have——

Mr. CUMMINS. Mr. President——

Mr. POINDEXTER. Just let me complete my sentence. They will be eligible to be elected to the Presidency notwithstanding having served four years, or more than four years, while no other citizen will have that privilege. It is not at all an ex post facto law as the joint resolution was originally framed. The inhibition against ex post facto laws has no application to it. It is simply a question of whether the law shall go into effect to-day or whether it shall go into effect four years from now. That is the only question. Now I yield to the Senator from Iowa.

Mr. CUMMINS. Mr. President, assuming that the purpose of this proposed amendment is to create a situation in which every President as he comes into office in the future shall know that he can not be renominated or reelected—if that is the purpose of the amendment—does the Senator from Washington think that would apply to Col. Roosevelt or to Mr. Taft?

Mr. POINDEXTER. I beg the Senator's pardon. I did not hear the first part of his statement.

Mr. CUMMINS. I stated a little while ago that the object of this amendment was to tell every President when he comes into office, "You can not be reelected. You can not hold for any other term than the one for which you are now elected." That is the purpose of the amendment. Is there any departure from that principle in putting everybody in this country upon the same plane with regard to future elections?

The Senator from Washington, it seems to me, is sticking in the bark. He is saying that there is a proposed exception here, when, as a matter of fact, there are no exceptions at all, unless it be in the case of the incoming President, who falls within the category of ex-Presidents, because this amendment will not be and can not be ratified until his term is practically over.

Now, to be absolutely concrete, suppose Mr. Roosevelt were again elected President of the United States. This amendment tells him when he comes in, "You can not be reelected, and therefore you must discharge your duties without any ambition of that kind." If Mr. John Smith is elected, it tells him precisely the same thing. There is no difference between the command that it puts upon the ex-President and the command it puts upon any other person. Therefore it seems to me that it is hardly fair for the Senator from Washington to keep insisting that we are creating exceptions by making this amendment apply to everybody in the future, without regard to the offices they have held in the past.

Mr. POINDEXTER. But the Senator from Iowa does not propose to do that; he does not propose to make it apply to everybody in the future without regard to the offices which they have held in the past.

Mr. CUMMINS. Precisely.

Mr. POINDEXTER. He proposes to except three men——

Mr. CUMMINS. No, sir.

Mr. POINDEXTER. On account of the offices and notwithstanding the offices they have held in the past.

Mr. CUMMINS. It does not except anybody.

Mr. POINDEXTER. It is difficult for me to understand how the Senator reaches that conclusion.

Mr. CUMMINS. Because it says that no man who is hereafter elected President of the United States shall serve for more than one term. That is the proposed amendment.

Mr. POINDEXTER. Well, the proposition of adopting that amendment is the subject under discussion. That is not the original joint resolution. The question is whether or not——

Mr. CUMMINS. That is not the original joint resolution.

Mr. POINDEXTER. No.

Mr. CUMMINS. And I did not suppose that anybody in the world would ever insist that it was aimed at Col. Roosevelt or at anybody else. That idea has arisen since. It has been very busily promulgated throughout the United States that we were engaged here in trying to render Col. Roosevelt ineligible to reelection as President.

Mr. POINDEXTER. I myself think that that is a very low plane upon which to put this discussion.

Mr. CUMMINS. I do, too.

Mr. POINDEXTER. And I am sure that nobody would resent it more quickly than would Col. Roosevelt.

Mr. CUMMINS. I agree to that. I think it must be abhorrent to him; I know it is abhorrent to him.

Mr. POINDEXTER. Undoubtedly, so far as his personal ambitions or intentions may be concerned, and it is, if I may be allowed to say so, abhorrent to me, and difficult to conceive of the Senate of the United States voting upon a question of this kind affected in any degree whatever by its application to individuals or by its effect upon the political ambitions of the friends or the opponents of Senators who vote upon the question.

My opposition to this resolution is based upon a sincere conviction that it would be a political and governmental mistake. I am perfectly frank to say that, being opposed to the entire resolution, it is perfectly agreeable to me to oppose the introduction of amendments to it which, I think, would give it an artificial strength; but I am opposed also to the proposed amendment upon principle, because I believe, if the original joint resolution is sound at all, it ought to be applied now.

The proposition of the friends of this amendment is that the resolution is a very important improvement of the Constitution and of our political system, in the conditions of electing Presidents, but that we want to excuse ourselves and our friends at the present time from being subjected to that improvement in the Constitution. We are asked to lay down a rule of government for the people who are to come four years from now and who will be in the center of the stage at that time.

The best thing that we can do for our descendants is to furnish them good ancestors, and the best thing we can do for the people who come after us, so far as the political affairs of this country are concerned, is to now conduct the political affairs of the country properly in order that we may pass on unimjured to them the frame of government and the political system which is deemed best and wisest. If we want the people 4 years from now or 10 years from now to adopt this rule the best argument that we can advance to them in its behalf is that we have adopted it ourselves and made it applicable at the present time to the leaders of the various parties in this year, instead of four years from now.

The Senator from Mississippi [Mr. WILLIAMS] said—and I only want to say one word with reference to his argument and, of course, I want to pass aside entirely his implication that this amendment to the joint resolution only concerns Col. Roosevelt, because, of course, it concerns Mr. Taft and Mr. Wilson as well, and their friends, but that personal element has nothing to do with it—the Senator said, in effect, in his argument that the amendment ought to be adopted so that the resolution might meet the approval of the American people. He said that if this resolution should go out for the ratification of the people of the country bearing its effect upon the leaders of the party to-day, the friends of these leaders—he said the friends of Col. Roosevelt, but I will enlarge that by saying the friends of the leaders of the different parties—will oppose the resolution. Well, why will they oppose it? Supposing that that is the reason that they will oppose it, upon what principle is it based? Because, in their judgment, we must assume that these people believe that it is for the best interest of this country that the leaders of their party should serve as President of the United States notwithstanding the fact that they have been President before; in other words, that it is the judgment of the American people that the obstacle of having served as President of the United States ought not to be considered in the choice of a President.

Mr. WILLIAMS. Mr. President——

Mr. POINDEXTER. If that is their judgment——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Mississippi?

Mr. POINDEXTER. In just a moment—if that is their judgment, it is the judgment of the people upon the merits of the question.

Mr. WILLIAMS. Mr. President, of course the Senator's view of why they should oppose this is his view, but that is not mine. The reason why I think they would oppose it if it went before them in that shape would be because they would regard it as affected with a personal stinge that would make it, in their opinion unjust and unfair, because they would regard it as retroactive legislation and addressed at persons. My experience is that the people generally resent anything that they regard as being unfair or of the character which I have indicated, and I myself think it would be unfair. I think it is unfair to pass a law for the guidance of conduct in the future and make it retroactive.

Mr. POINDEXTER. Does the Senator believe that it would be any more unfair to the people of the country now to deprive them of the privilege of selecting their choice for President of the United States without this restriction than it would be unfair to deprive the people of the country 4 or 10 years from now, or the next generation, of the privilege of selecting their choice as President?

Mr. WILLIAMS. "Law" is defined to be "a prescribed rule of conduct." If a contingency occurs for operation under the law after it has been passed, and when the nature of the law is known to everybody, when it operates equally upon everybody it can be unfair to nobody; but if a law is made to retroact, then, so far as its retroactive effect is concerned, it is not a prescription but it is a postscription, and that is the reason why it is unfair. Now, in answer to the Senator's question—and I think that answers it—it can not be unfair at all afterwards, though it might be considered unfair if it were retroactive. I myself would so consider it.

Mr. POINDEXTER. Well, Mr. President, I do not consider that the joint resolution would be retroactive; in fact, it is not retroactive in its terms and it is not retroactive in its effect. It takes effect from the present time, if it is adopted, without this amendment. It does not take effect in the past; it did not in any way whatever influence or prevent the election of either one of these gentlemen as President in past years or affect the term which they served, but operates as to whether or not they as well as other citizens of the United States under like conditions shall be reelected at some time in the future. It is in future and not ex post facto either in its terms or in its effect.

The Senator from Mississippi must not forget that the people hereafter will have their favorite leaders of political policies and parties in which they believe as well as the people of to-day, and that they will be just as anxious to be free to choose their leaders and champions in the political conflicts of the country then as they are now. There will be no difference in that condition from the existing condition which the Senator desires to except from this amendment.

Mr. WILLIAMS. Mr. President, of course the people will hereafter have their favorites and sometimes their idols as much as they have them now. But there is a very broad difference between the condition of things that will exist after the adoption of this amendment and the condition of things now. Hereafter men will have notice served upon them beforehand that the utmost they can do for their favorite is to elect him for the prescribed term which the Constitution shall fix. As a consequence of that, knowing beforehand, before they make him President for the first time, that they can not make him President the second time, they will not feel themselves unfairly dealt with. But they might feel themselves unfairly dealt with if you said to them: "This man shall not be reelected," although at the time he was elected the first time no such rule existed. It will have the effect upon the men themselves of restraining hero worship and human idol worship within certain limits.

Mr. POINDEXTER. I readily see the distinction which the Senator from Mississippi seeks to draw. But in my judgment it is evidently not in accordance with the effect of the resolution, because while it is true that in future the people will have notice served upon them by this resolution that their favorites will be ineligible, the friends of the present leaders to whom we have referred will likewise have notice served upon them by the resolution that those leaders are not eligible. There is no difference in that respect.

Mr. WILLIAMS. But, if the Senator will pardon me, in the one case the offense, if I may so call it, which would be penalized would have been committed after the law was passed, and in the other case it would have been committed before the law was passed.

Mr. POINDEXTER. Oh, no.

Mr. WILLIAMS. In other words, the amendment amounts to this: The penalty for being once elected President of the United States, if this amendment becomes part of the Constitution, is that the man thus elected shall not be again elected. That penalty was not announced to the world as to these gentlemen.

Mr. POINDEXTER. Let me ask the Senator a question. Is it not true that the offense is not the original election to office, if you desire to call it an offense at all? I think "offense" is scarcely the proper term.

Mr. WILLIAMS. Of course that is metaphorical.

Mr. POINDEXTER. It is not the original election, but it is the reelection, the continuous election, that is the so-called offense. If that is to be committed, it will be committed in the future, and can only be committed in the future, by Mr. Taft or Mr. Wilson or Mr. Roosevelt, as well as by those that will come after them.

Mr. WILLIAMS. The word "penalize" is, of course, an unfortunate one; but just at this moment I can not think of a better one to put in its place. In effect, if this amendment becomes a part of the Constitution, a man is penalized for having been elected once by being denied the privilege of being elected any more. As to the future, after the law goes into operation, everybody has full notice of that before he goes into the presidential office, and his friends have full notice of it. Nobody could contend that there was anything unequal or unfair about it then. But if a man had been elected President before that time, and you were to apply the rule to him, you would be penalizing him—to use that word again—for an act which took place prior to the existence of the law, and that would produce the feeling that an unfair thing had been done.

The Senator from Washington and I both understand that when we are running for office and have an antagonist, we would give him $500 any day in the world to do a patently unfair thing, or a thing that the people would regard as unfair. There would be no surer way of electing him or me than for our antagonist to do a thing of that sort. So that necessarily there would be a degree of antagonism—and the Senator is right in saying so—not upon the part of the followers of one of these gentlemen alone, but perhaps to a certain extent upon the part of the followers of the other. I refer to that gentleman alone, because there is an earnestness and a zeal and—if I may use the word—a quasi fanaticism behind his supporters.

Mr. POINDEXTER. That is on account of his superior merit.

Mr. WILLIAMS. That may be. Undoubtedly it is on account of his excessive merit in the minds of his supporters.

Mr. POINDEXTER. Exactly.

Mr. WILLIAMS. This is not the first time that an idea has taken the place of a thing in the history of the world. The tulip craze in Holland is a startling example of it, and the belief in the soundness of the Mississippi bubble is another. But however that may be, I am now attempting to apologize for having referred to one more than another, because he was in my mind, and that is probably the reason he was in my mind. That, at least, was my conception.

Mr. POINDEXTER. I am very glad to know that the Senator admits, at least, that there is a general principle at stake, and not merely a personal and individual issue.

In answer to the question which the Senator from Iowa asked a moment ago, I will say that I think the fallacy of the proposition included in the question is in his assumption that the only object of the resolution is to serve notice upon the incoming President that he can not be reelected for the influence and effect it will have upon the administration of the office. I do not think that is the only object of the resolution on the part of many, at least, of those who are supporting it. I think an object that is, at least, equally important in their conception of it is the substantial fact, the substantive, concrete proposition of preventing a man from serving any longer than six years in the Presidency, not only for the effect it would have upon his six-year administration, but because it would be considered an insidious danger to the Republic that he should serve an indefinite number of terms.

Mr. SANDERS. Mr. President, I do not think any action of this kind should be in any sense retroactive. Whether this is in fact retroactive or not, it is certainly so in its application. Then I do not think that any such action should be in any sense personal. It has been perfectly evident in this discussion that this is what is most dreaded; and, in fact, the amendments now offered are for the purpose of avoiding making it personal, and in a certain sense making it retroactive.

I think the best amendment that has been offered so far was that offered by the Senator from New Hampshire, which

proposed that the term of the office of President shall be for four years and that no one should hold the office for more than one additional term.

The idea in making this a six-year term is that there shall be but one term. If we allow two terms, as is suggested by the amendment referred to, it will be proper to have only a four-year term.

We seem to have lost sight of one important fact in this discussion, which is that one of the most baleful influences in the election of Presidents is that of a President choosing his successor. I think it is just as dangerous as for a President to undertake to succeed himself. We have had a concrete example of that sort of thing very recently. There has never been an administration so paralyzed as the one we have just had by the effort to carry out a certain line of policies, not by a man succeeding himself, but by a man choosing his successor to do so. It was necessarily more or less of a failure on this account.

I do not think we should lose sight of this for a minute, because it is just as dangerous as the other.

I think the whole amendment is a mistake, in fact. I think it would be better to go back to the original plan we have followed all the while. If anything, we should simply add the provision that there should not be more than two terms, in order to avoid the ancient fear that we might have a man perpetuate himself in office indefinitely.

Mr. BRANDEGEE. Mr. President, I should like to ask the Senator from Iowa whether the language of the resolution as reported by the committee, stating that the term of the office of President shall be six years, does affect or was intended to affect the term of office of the next President to be inaugurated?

Mr. CUMMINS. I can not answer the Senator from Connecticut. He is a member of the committee, and knows its purpose as well as I. As I remember, that inquiry was not made. I think probably it was not present in the minds of the members of the committee.

Mr. BRANDEGEE. I do not remember whether or not the matter was discussed at the time the resolution was before the committee, and it occurred to me as I was looking at the print of the bill here. I do not, myself, see why it would not, although of course the President elect was elected at a time when the Constitution provided that the term of office should be for four years. But say one or two years hence, if this amendment should take effect, the Constitution would then provide that the term of the office which he would hold should be six years. I was not clear in my own mind whether it was the intention of the Senators, or of the proposed resolution, that that should be accomplished.

Mr. CUMMINS. I do not think there is any intention about it. I do not remember that the matter was under discussion. I believe that if the amendment were adopted and ratified by the States prior to the expiration of the coming term, it would extend the term, and of course would render the incumbent ineligible for reelection.

Mr. BRANDEGEE. I am inclined to agree with the Senator on that.

Mr. BRISTOW. Mr. President, I understand the amendment now before the Senate is that offered by the Senator from Nebraska [Mr. HITCHCOCK].

The PRESIDENT pro tempore. The Chair has ruled that it is in order.

Mr. CUMMINS. As an amendment to the amendment offered by the Senator from New York [Mr. ROOT].

Mr. BRISTOW. I thought the Senator from New York accepted that amendment.

The PRESIDENT pro tempore. The Senator can not accept an amendment. It is for the Senate to decide that question. The question is upon the amendment submitted by the Senator from Nebraska [Mr. HITCHCOCK] to the amendment.

Mr. HITCHCOCK. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Nebraska suggests the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	McCumber	Smith, Ariz.
Bankhead	Cummins	McLean	Smith, Ga.
Borah	Dillingham	Martine	Smith, Md.
Bourne	Dixon	Myers	Smoot
Bradley	du Pont	Oliver	Stephenson
Brandegee	Gallinger	Overman	Sutherland
Bristow	Gamble	Page	Swanson
Brown	Gronna	Paynter	Thomas
Bryan	Guggenheim	Penrose	Thornton
Burton	Hitchcock	Percy	Townsend
Catron	Jackson	Perkins	Wetmore
Chamberlain	Johnson	Perky	Williams
Clapp	Johnston, Ala.	Poindexter	Works
Clark, Wyo.	Jones	Richardson	
Clarke, Ark.	Kenyon	Sanders	
Crawford	La Follette	Simmons	

The PRESIDENT pro tempore. Sixty-three Senators have answered to their names. A quorum of the Senate is present.

Mr. McCUMBER. Mr. President, I do not intend at this time to discuss the question, but only to express my view upon this amendment. I have an amendment pending, which I am going to ask be substituted at the proper time. I only want to say that I am unutterably opposed to making a distinction between American citizens now living or those who may live in the future. I shall vote against this amendment, because I want every citizen to be placed exactly upon the same grounds, with the same rights to hold an official position. If this is carried into the proposition, in the end I shall be forced to vote against the amendment entirely.

Mr. THORNTON. Mr. President, with the principle embodied in the original joint resolution of the Senator from California [Mr. WORKS] I can find no fault, because I believe the principle is sound. I have more than once during the last four or five years expressed myself to that effect and I have not changed my opinion on it. Of late, however, I have been doubtful as to whether that amendment in its form, as presented by the Senator from California, could pass this body; and the result of the discussion yesterday in the Senate satisfied me that there is such a division of opinion among Senators on that subject that it could not be passed.

I believe that there is a possibility, if not a probability of the joint resolution as proposed to be amended by the Senator from New York [Mr. ROOT] and the Senator from Nebraska [Mr. HITCHCOCK] passing this body, and therefore I shall vote for that amendment. It is true that if the amendment passes and is ratified, we may possibly not begin to receive the benefits we hope to receive from it for 10 years to come, but after that time the benefits will be continuous and permanent.

In so far as the amendment of the Senator from Nebraska is concerned, which I understood to have been accepted by the Senator from New York, I believe that it should be adopted. I think it should be adopted in the interest of fairness, or if not that, for the fear of possible injustice. The danger that may arise from its adoption, the possibility of one person holding too long a term, is entirely problematical. It may possibly never arise at all; but even if it should, I think we can better afford to adopt that which will work no injustice than to leave it out, when its being left out may operate as a very serious injustice to some of the citizens of this country.

Holding these views, I shall vote for the joint resolution as amended, with the hope that it will pass the Senate and be ratified in due time by the requisite number of States.

Mr. HITCHCOCK. I should like to inquire whether I can not at this time modify the amendment which I have proposed.

The PRESIDENT pro tempore. The Senator from Nebraska can make such modification as he pleases.

Mr. HITCHCOCK. Then, in conformity to the suggestion of the Senator from Iowa, I desire to insert in the amendment of the Senator from New York, in line 4, after the word "election," the words "after the 4th day of March, 1917," and allow the other offer of amendment to stand as applied to line 4. Can the Secretary read the proposed amendment as it would then read?

The SECRETARY. After the word "election," in line 7, in the original joint resolution——

Mr. HITCHCOCK. I am amending the amendment of the Senator from New York, in line 4, after the word "election," by inserting the words "after the 4th day of March, 1917."

The PRESIDENT pro tempore. The Chair will call the attention of the Senator to the fact that the part he proposes to amend is the text of the original committee amendment, but the Senator can move it as an amendment to the text of the committee amendment.

Mr. HITCHCOCK. So it will read as follows:

The executive power shall be vested in a President of the United States of America. The term of the office of President shall be six years, and no person who has held the office by election after the 4th day of March, 1917, or discharged its powers or duties, or acted as President for two years or more after the 4th day of March, 1917, shall be eligible to again hold the office by election.

I think that meets the objections of the Senator from Idaho, which I think were hardly warranted. It conforms to the views of the Senator from Iowa, and it leaves the amendment as I offered it in full force as far as its intent is concerned.

Mr. OLIVER. I call the attention of the Senator from Nebraska to the fact that he has again restored the split infinitive.

Mr. HITCHCOCK. I will ask the Secretary to correct that. I will say to the Senator that was not my error; it was because I took the text of the amendment of the Senator from New York.

Mr. OLIVER. I know that the amendment of the Senator from New York perpetuated it.

Mr. HITCHCOCK. The amendment I offered did not have the split infinitive.

Mr. TOWNSEND. Mr. President, I do not propose to detain the Senate further than to express briefly the reasons which induce me to oppose the proposed joint resolution. I do not believe there is any demand for an amendment to the Constitution changing the tenure of the President. I do not believe there is any need for such an amendment in order to secure the best possible results under popular Government. I say I do not believe there is any popular demand for such legislation, because I have heard of none. I recognize, of course, that there are a great many things presented to the country under the statement that the people are demanding them, when the people have not considered them at all. The necessities or apparent necessities of politicians sometimes induce them to claim a popular demand for legislation when it does not exist in fact.

I do not think that any good would be accomplished by the adoption of this joint resolution as a remedy for the evils disclosed by the advocates of this measure. I have no fear that the people will abandon our Republic for a monarchy by placing any man in perpetual power. No man has ever been elected President for a third time, and I do not believe that the people will ever give anyone a third term.

As to preventing the abuse of patronage by a President this measure would be futile. A retiring President could and probably would exercise as much power to secure the nomination of his successor as he would exercise in securing his own renomination. Back of elections and nominations are the people; they have regulated these matters in the past and they will continue to do so in the future. It is proposed that we shall amend the Constitution now through the State legislatures. It is proposed to make it a little more difficult by this amendment for the people to exercise their will hereafter, but, nevertheless, they could do it. In this day and age, when popular opinion is demanding that it shall be easier for the people to control their own Government, I am not in favor of placing any obstacles in their way. I repeat, I do not believe that any good can come from this measure. I can see that possible ill can come from it.

I am especially opposed to this particular amendment to the resolution because it makes exceptions for the benefit of individuals. I know Senators argue with some reason that this is placing all citizens of the future in exactly the same position, but if it is wrong for a President while serving to work for his own renomination, it will be just as wrong for President Wilson to do that as it will be for the next President to do it, and if this proposition is a good one it should apply to all men. If I had voted for any of these amendments—which I have not voted for, because I am opposed to the whole proposition—I would especially oppose this one.

It is readily understood that we ought to have no exceptions to the rule. It is a fact that three gentlemen living in the United States who would possibly be affected by this legislation are the only ones to whom this amendment could apply with special force, and I submit that we have no business to amend our Constitution with the idea of its affecting some particular individual. It should be absolutely general in its statement and uninfluenced by any temporary existing condition.

It is for these reasons, Mr. President, and others which I am not going to stop to mention now, but which have been submitted by other Senators much better than I can state them, that I propose to vote not only against the pending amendment, but against all amendments, and finally against the joint resolution itself.

The PRESIDENT pro tempore. The question is upon the amendment to the amendment, which will be stated.

The SECRETARY. In the amendment proposed by the committee, page 2, line 7, after the word "election," insert the words "after the 4th day of March, 1917," and in line 8, after the word "President," insert the words "for two years or more."

Mr. POINDEXTER. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BROWN (when his name was called). I have a general pair to-day with the senior Senator from Virginia [Mr. MARTIN]. I therefore withhold my vote.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. I transfer that pair to the junior Senator from Nevada [Mr. MASSEY] and vote "nay."

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is not in the Chamber, I will withhold my vote. If I were free to vote, I would vote "nay."

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The present occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN]. A memorandum of that Senator reads as follows:

I will vote for a single term of four or six years; on all other propositions "nay."

So the Chair feels at liberty to vote "nay."

Mr. LIPPITT (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA]. In his absence, I withhold my vote.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM]. If he were here, I am advised that he would vote "nay." I will therefore take the liberty of voting. I vote "nay."

Mr. RICHARDSON (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. SMITH]. In his absence I withhold my vote.

Mr. LODGE (when Mr. ROOT's name was called). The Senator from New York [Mr. ROOT] is absent from the city. He is paired with the junior Senator from Texas [Mr. JOHNSTON].

Mr. TOWNSEND (when the name of Mr. SMITH of Michigan was called). In addition to my statement made this morning, that the senior Senator from Michigan [Mr. SMITH] is necessarily absent from the city, I desire to state that he is paired with the junior Senator from Missouri [Mr. REED].

Mr. WILLIAMS (when his name was called). I will inquire if the senior Senator from Pennsylvania [Mr. PENROSE] has voted.

The PRESIDENT pro tempore. That Senator has not voted.

Mr. WILLIAMS. I have a pair with the senior Senator from Pennsylvania. I transfer that pair to the junior Senator from Arkansas [Mr. HEISKELL] and will vote. I vote "yea."

The roll call was concluded.

Mr. DILLINGHAM. I have a general pair with the senior Senator from South Carolina [Mr. TILLMAN], which in his absence I transfer to the senior Senator from New Mexico [Mr. FALL]. I make this transfer for the day. I vote "nay."

Mr. LODGE. I desire to announce the pair of my colleague [Mr. CRANE] with the Senator from Maine [Mr. GARDNER].

Mr. OWEN. I transfer my pair from the senior Senator from Kansas [Mr. CURTIS] to my colleague [Mr. GORE] and vote. I vote "yea."

Mr. SWANSON. I desire to announce that my colleague [Mr. MARTIN] is paired with the senior Senator from Nebraska [Mr. BROWN], and that he is detained from the Senate on account of sickness.

The result was announced—yeas 27, nays 37, as follows:

YEAS—27.

Ashurst	Hitchcock	Owen	Smith, Md.
Bryan	Johnson, Me.	Percy	Sutherland
Chamberlain	Kern	Perky	Swanson
Chilton	Martine, N. J.	Pomerene	Thornton
Clarke, Ark.	Myers	Simmons	Williams
Cummins	Oliver	Smith, Ariz.	Works
Fletcher	Overman	Smith, Ga.	

NAYS—37.

Bankhead	Clark, Wyo.	Jones	Poindexter
Borah	Crawford	Kenyon	Sanders
Bourne	Cullom	La Follette	Smoot
Bradley	Dillingham	Lodge	Stephenson
Brandegee	Dixon	McCumber	Thomas
Bristow	Gallinger	McLean	Townsend
Burnham	Gamble	Nelson	Wetmore
Burton	Gronna	Page	
Catron	Jackson	Paynter	
Clapp	Johnston, Ala.	Perkins	

NOT VOTING—31.

Bacon	Foster	Martin, Va.	Shively
Briggs	Gardner	Massey	Smith, Mich.
Brown	Gore	Newlands	Smith, S. C.
Crane	Guggenheim	O'Gorman	Stone
Culberson	Heiskell	Penrose	Tillman
Curtis	Johnston, Tex.	Reed	Warren
du Pont	Lea	Richardson	Watson
Fall	Lippitt	Root	

So Mr. HITCHCOCK's amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question recurs on the amendment submitted by the Senator from New York [Mr. ROOT], which will be stated.

The SECRETARY. On page 2, in the proposed amendment of the committee, lines 8 and 9, strike out the words "under the Constitution and laws made in pursuance thereof" and in lieu insert a comma and the words "after the 4th day of March, 1917."

The amendment to the amendment was rejected.

Mr. McCUMBER. I now offer an amendment to be inserted in lieu of lines 4 to 10, inclusive, on page 2.

The PRESIDENT pro tempore. The Senator from North Dakota submits an amendment to the amendment, which will be read.

The SECRETARY. In lieu of the words proposed to be inserted by the committee embraced in lines 4 to 10, both inclusive, insert the following words:

The executive power shall be vested in a President of the United States of America. The term of office of President shall be for four years; and no person shall be eligible for more than two terms; and no person who has served as President, by succession, under the Constitution and laws made in pursuance thereof, for the major fraction of one term, shall be eligible to hold more than one full term thereafter.

Mr. McCUMBER. Mr. President, I can express in almost a single sentence one of the dominant reasons which governs me in casting my vote in favor of a limitation upon the term of office of the President of the United States. I should be willing to vote for an amendment that would fix the term of office for four years and no more. Next to that I would prefer an amendment that would fix the eligibility for not exceeding two terms of four years each, and if neither of these could be passed I think I would then vote for the proposition for a six years' term.

Mr. President, this matter has so far been discussed, if I catch the spirit of the discussion correctly, upon the theory that we were fixing an official position for a dictator of the United States, and to limit the term of that dictatorship for a certain term of years. This Government is essentially a government by party, and not a government by a President. It should be a government by party rather than a government by a President. Each party relying upon the efficacy of its policies for its continuous existence, depending at all times upon the support of the public, will better present and crystallize into legislation those things which are for the lasting benefit of the people than any other system of conducting a government.

That political party, Mr. President, which gives to the people generally the greatest degree of substantial prosperity ought to continue in control of the Government. If, therefore, the administration of President-elect Wilson is successful, I maintain that it will be due to the Democratic Party and not due to Mr. Wilson; and if the Democratic Party of the United States will during the next four years give us a prosperity in the United States commensurate with our conditions, then I am willing to concede that the Democratic Party is entitled to handle the reins of this Government for the next four years succeeding.

Further than that, Mr. President, neither Mr. Wilson nor any other man has a right morally and ought not to have a right legally to use the great power that he has acquired by reason of being honored by the Democratic Party—a power under which he can build around him a mighty political machine, and through the notoriety that makes his name a household word throughout the land use that power to destroy the party that gave it to him.

If I could so change the Constitution that no President could take advantage of the position which has been given him by a political party to destroy that party, as that power has been exercised at least once before, I would do so. Though the Democratic Party, Mr. President, should be eminently successful in its administration, in its governmental trust, it would be within the power of Mr. Wilson to destroy that party by demanding a renomination, and upon failure to secure it, by organizing a new party within his own for the purpose of destroying it because of its failure to give him a nomination. Mr. President, while it has not heretofore been expressed, I am certain that sentiment is in the minds of a great many Senators who are desirous of voting in favor of an amendment to our Constitution limiting the presidential term.

The two great parties are so evenly matched in strength that a division of one into factional parts will always insure its defeat. It is, therefore, in the power of any man who holds the office of President for four years to destroy the party which placed him in that position. As I believe in a government run by party rather than a government run by a President; as I believe in a government conducted under party policies rather than a government of one man, I wish to see the political party that has earned the support of the people of the United States in its fidelity to the trust that has been imposed upon it by the people have its organization so protected that it can submit its policy with a solid front to the people rather than a number of antagonistic candidates, each claiming to represent the policies of that party.

When this country, Mr. President, is to be ruled by a President, and not by a Congress, then I shall be ready to go further and proceed to abolish a useless Congress. On the other hand, so long as there is to be a government by the people, represented by a political party and not a government by the President, I shall be in favor of so limiting the presidential term as to preclude the President from destroying the very party which made him its leader, and thereby placed in his hands the very instrument for its own destruction.

Mr. President, it has been said in debate by one Senator that if this rule should apply to the President, it should equally apply to the position of any Senator or to any other political position. That can be answered in one single sentence. The candidacy of a Senator for reelection can not possibly have the effect of destroying his own political party. The candidacy of a President for reelection, when he has not been nominated by his party, will most assuredly have that effect. That is the main difference, and it is the controlling difference in the mind of one who believes in the control of the Government, not by the President, but by the Congress.

Mr. BORAH. Mr. President——

Mr. McCUMBER. Just one moment. During the last few years, Mr. President, we have exaggerated the importance of the position of the Presidency in the United States, and we have to a great degree minimized the importance of Congress. I believe we should hold Congress, and not the President, responsible for the success of any administration.

Mr. CRAWFORD. Mr. President, will the Senator from North Dakota permit me to ask him a question?

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from South Dakota?

Mr. McCUMBER. I yield, Mr. President.

Mr. CRAWFORD. Do I understand the Senator to mean that he thinks it a justification for proposing an amendment to the Constitution of the United States that by doing so some party might be preserved which otherwise might be destroyed by a President?

Mr. McCUMBER. If there is any justification on earth for a political party, there is a justification for its preservation.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. PAGE in the chair). Does the Senator from North Dakota yield to the Senator from Idaho?

Mr. McCUMBER. I yield.

Mr. BORAH. It seems to me that what the Senator from North Dakota desires is a penal statute rather than a constitutional amendment; that it ought to be made a crime for a man who has been a member of one party to ever join another party. That is the only way in which you could prevent a man from going out and being the candidate of another party.

Mr. McCUMBER. Mr. President, it is perfectly proper for a President or ex-President to join as many parties as he sees fit. I, however, support this constitutional amendment for the very reason I have suggested, and I am not afraid to stand upon the position that I believe in the rule of a political party. The same reasons that will justify any Senator in voting for this proposition upon the grounds which he has given, namely, that a President can so surround himself with a political following that he can perpetuate his own official position term after term, would justify me in voting for this amendment, because a President by so surrounding himself with a political following can destroy his own political party whenever he can not control its nominations. The one reason is just as valid as the other, and if one would be equivalent to a penal statute so also would the other have the same effect.

Mr. President, I should vote for the amendment as it was proposed by the committee if I could reduce the six-year term to four years. I would vote for it anyway even if I could not do that, but the Senate has already voted against the four-year limitation. I think that was the better proposition. Then I would prefer that we should limit the official position to two terms, or one term and the major fraction of another. I have therefore introduced the amendment for that purpose, and shall ask for a vote upon it.

Mr. BORAH and Mr. WILLIAMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Idaho.

Mr. WILLIAMS. If the Senator from Idaho will pardon me, I suggest the absence of a quorum. If we are coming to the crux of this matter, we ought to have a quorum present.

The PRESIDENT pro tempore. Does the Senator from Idaho yield for the suggestion of the Senator from Mississippi?

Mr. BORAH. Yes.

The PRESIDENT pro tempore. The Senator from Mississippi suggests the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	Lodge	Shively
Borah	Cummins	McCumber	Simmons
Bourne	Dillingham	McLean	Smith, Ariz.
Bradley	Dixon	Martine, N. J.	Smith, Ga.
Brandegee	Fletcher	Nelson	Smith, Md.
Bristow	Gallinger	Newlands	Smoot
Brown	Gamble	Oliver	Stephenson
Bryan	Gronna	Owen	Sutherland
Burnham	Jackson	Page	Swanson
Burton	Johnson, Me	Paynter	Thornton
Catron	Johnston, Ala.	Percy	Townsend
Chamberlain	Johnston, Tex.	Perkins	Wetmore
Chilton	Jones	Perky	Williams
Clapp	Kenyon	Pomerene	Works
Clark, Wyo.	La Follette	Richardson	
Clarke, Ark.	Lippitt	Sanders	

The PRESIDENT pro tempore. On the call of the roll 62 Senators have answered to their names. A quorum is present. The question is on the amendment submitted by the Senator from North Dakota [Mr. McCUMBER] to the amendment of the committee.

Mr. BORAH. Mr. President, the amendment offered by the Senator from North Dakota [Mr. McCUMBER] reads:

The executive power shall be vested in a President of the United States of America. The term of office of President shall be for four years; and no person shall be eligible for more than two terms, and no person who has served as President, by succession, under the Constitution and laws made in pursuance thereof, for the major fraction of one term, shall be eligible to hold more than one full term thereafter.

The substance of this amendment has been the practice and custom of the American people for a hundred and odd years—ever since the Government began. We have now a term of four years, and at no time have the people ever disclosed any settled purpose of breaking over the precedent which was established, or, rather, the example which was given us by Washington and particularly by Jefferson. This would change the Constitution, it is true, but it would not change that which has become the unwritten law of this country, and it gives rise to the question: What brings on this discussion and this proposed constitutional amendment at this time? What tendency has there been upon the part of the people to break away from the precedent heretofore established and from the rule so long prevailing? There has not been, so far as any permanent result may be referred to, any evidence upon the part of the people as disclosed by their act to establish any other rule than that which has prevailed for 125 years and more. If there had been an effort which could be recognized as representing the well-sustained opinion of the American people, that they would set aside the precedent heretofore established, there might be some reason for this amendment; but we have now experimented for a hundred and odd years; there has been no infraction of the rule, and every time the question has been presented to the American people they have rejected the proposition. We are simply writing into the Constitution that which has been as fairly established as if it had been actually written into the Constitution; and, while I am not in favor of the original resolution, it has one virtue which this has not. I am not going to discuss it now, because I propose to say something upon it later. This amendment makes no change whatever from that which has become a settled conviction in the minds of the American people.

Mr. WORKS. Mr. President, I am glad that for once in this discussion I can agree with the Senator from Idaho [Mr. BORAH]. This amendment proposed by the Senator from North Dakota [Mr. McCUMBER] is simply a provision against a third term. I think it would be a useless amendment of the Constitution. The people of this country in all its history have never elected any man to a third term as President of the United States, and, in my judgment, they never will. Therefore it is unnecessary for the Senate to submit an amendment of this kind to the people of this country. The people have already settled that question, in my judgment, and the only effect of the adoption of this amendment would be to defeat the proposition that is regularly before the Senate for its consideration.

I am just as much opposed to a second term as I am to a third, except that the latter does leave to the people of this country the fear and the belief that a man who is elected to a third term may become a dictator or continue to hold office indefinitely; but, so far as the evil effect is concerned, it is just as great, in my judgment, to permit the holding of a second term as it is a third term. As I said in the beginning, however, it would be idle to submit any proposition such as this to the people of this country, because the question has already been settled.

Mr. CRAWFORD. Mr. President, in substance and essence I can not see the difference which the Senator from Idaho [Mr. BORAH] and the Senator from California [Mr. WORKS] seem to think exists between the amendment proposed by the Senator from North Dakota and the original amendment. The purpose of both is to place a limitation upon the time a President of the United States may serve the people of the United States in that office. The original amendment would limit that term of service to six years, while the amendment offered by the Senator from North Dakota would limit that service under certain conditions to eight years——

Mr. WORKS. Mr. President——

Mr. CRAWFORD. Just let me finish the sentence, if you please. And under certain other conditions that service might end with a four-year period, while under certain other conditions, in the case of succession, that service might cover a term somewhere between four years and eight years, its length depending entirely upon the length of the fractional term; but the purpose of each and all, or if not the purpose of each and all, the effect of each and all of these proposed changes is to fix by constitutional limitation an arbitrary limit to the term of service that may be rendered by a President of the United States.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from California?

Mr. CRAWFORD. I yield.

Mr. WORKS. The great and important difference between the two is that there is an intervening election——

Mr. CRAWFORD. Yes; I am going to discuss that.

Mr. WORKS. An election to a second term, which is the objectionable feature of the whole business.

Mr. CRAWFORD. I am going to discuss that.

Mr. McCUMBER. Will the Senator yield to me for a moment?

Mr. CRAWFORD. I am speaking of this feature now.

Mr. McCUMBER. Will the Senator yield to me before he leaves that point?

Mr. CRAWFORD. I yield to the Senator.

Mr. McCUMBER. The difference between the two is simply that the amendment reported by the committee provides for one term of six years, while the amendment which I offer provides for not exceeding two terms of four years each, or eight years. The one compels us practically to accept for the full term of six years a President who has been elected, while the other allows us to make a change two years earlier, at a regular election, if the American people desire to make that change.

Mr. CRAWFORD. Exactly.

Mr. McCUMBER. My reason is——

Mr. CRAWFORD. I do not care now to yield the floor.

Mr. McCUMBER. My reason is that if we get a President with whom we are not satisfied we would not be compelled to allow him to remain six full years.

Mr. CRAWFORD. Mr. President, those are differences of another character. The statement I started out to make, and which I insist upon, is that, so far as the period of service is concerned, the object of each of these amendments is to fix a limitation upon the term of that service. I think myself, if there be virtue in either of them, that the amendment of the Senator from North Dakota has this virtue—that if a President should be elected for a term of four years whose service is not acceptable to the American people and whose services they are anxious to dispense with they can get rid of him two years earlier under the amendment proposed by the Senator from North Dakota than they can under the proposition of the Senator from California; and, Mr. President, it is not unlikely that occasions will arise with as great frequency where the American people are anxious to dispense with the services of a President who is not meeting their expectations and would be glad to get rid of him at the end of four years as that cases will arise where a President of the United States, installed in the office, is so fulfilling the expectations of the American people that they are entirely willing that he shall serve for a term of four years or six years—cases in which, if left to them to say that he shall serve longer, they will gladly say that they wish him to serve them longer.

There is another side to this question. Let us look this situation frankly and fairly in the face. We began the discussion of this proposed constitutional amendment here last August, before Congress adjourned. At that time we were just entering upon a very interesting and in some respects startling political campaign. A striking figure who was the chief topic in that discussion was one of the candidates for the Presidency of the United States. He was the target of irony; he was the target of sarcasm; he was the target of ridicule in address after address delivered day after day here in the Senate. Later on, when the Senator from California began the discussion at this session, he addressed his remarks at considerable length to what he called the unfortunate spectacle of a President and ex-President of the United States hurling epithets at each other during a political campaign. In spite of all that can be said to divert attention away from it, the characters that give emphasis to the consideration of this amendment are these prominent figures in the political life of America to-day.

Mr. President, I for one have no fear of any serious evil following vigorous discussions between two prominent citizens upon the rostrum in this country, even though one be an ex-President and the other a President, and even though in such discussion they use epithets which are not the most elegant that could be used by gentlemen—if they are throwing light upon problems that are before the American people for consideration and solution.

I maintain that regardless of the individuals involved the fierce controversy last year so riveted the attention of the American people upon a condition of things which existed in a great national convention at Chicago that it will be impossible for those same conditions ever to exist again. I am willing to prophesy here and now that never again in another great national convention, as was the case in the last convention, will delegates from the South and from certain Northern States be selected as they were selected and be allowed to sit in a convention and have the deciding vote in naming the candidate of a great political party for the Presidency of the United States. The resultant effect of the vigorous denunciations of Col. Roosevelt which followed that action in Chicago is seen in the fact that the candidate whose nomination was forced upon his party carried only two States, and they two of the smallest and most insignificant so far as political strength in the electoral college is concerned. The vigorous denunciation and the epithets riveted the attention of the American people upon an abuse; and that abuse will be torn up by the roots, eradicated, and never again repeated.

I have no fear that great disaster or danger to American institutions, to American society, and the public welfare will come because vigorous and virile men of strong convictions and courage struggle fiercely in the forum of public debate and denounce conditions like those exposed in the Chicago convention, no matter though one of them be a President and the other an ex-President. But it is asserted we should amend the Constitution of the United States so that no such thing as that can ever again occur. Was this strife between two candidates for the Presidency an injury to the country? Far from it.

Mr. President, talk about patronage being used by a candidate for the Presidency! Suppose you could say here by the adoption of this amendment that Mr. Wilson can not be a candidate for reelection at the end of four years, would that prevent Mr. Wilson as President of the United States from using his power, if he were a bad man, so that such use of it would be detrimental to the public interest? Suppose Mr. Wilson should say, "The Constitution of the United States has been so amended that I am ineligible to reelection, but while I am ineligible I am under obligations to a distinguished citizen of this Republic, whose courage and individuality and eloquence at a crisis in the great national convention where I was nominated were the potent force that made me the nominee and defeated another candidate who on three or four previous ballots secured the vote of a decided majority of that convention; and while I am prevented by the Constitution from being a candidate for reelection myself, I would be an ingrate if I did not, so far as I can, so shape affairs that he should be my successor. Will your constitutional amendment prevent him from doing that?

If it is vicious and wrong for a President to use this power for the purpose of securing a renomination for himself, would it not be equally vicious and wrong for him to use patronage and power for the purpose of securing the nomination of a friend to whom he felt he was so bounden?

So the amendment, if adopted, will not enable you to get away from what you call an evil. If you abolished it there, it would remain in force and effect in a place where it is far more dangerous; that is, in the Congress of the United States.

Take the case of one of these Congressmen, elected to the House, and who knows that at the end of two years he must face his constituents for reelection. He has a lot of post offices in his district to be filled; appointments are made upon the recommendation of the Congressman, and he freely uses that patronage for the purpose of securing renomination and reelection. It is not proposed to touch that.

Every one of these Senators, if he will put aside hypocrisy about this thing, knows that from the time he is installed here for the first term or the second term he is thinking about reelection. If he has the power to use his official influence to secure the appointment of his friends rather than his enemies as marshals, revenue collectors, and numerous other public officers here and there, he uses it in that way. Then why not confine to six years the term of every Senator here, and provide in this amendment that a Senator shall not be eligible for reelection? Why not send along with it a proposed amendment to the Constitution that no Congressman shall hold his office for more than two years?

The American people have gotten along for 125 years with the Constitution as it stands, and we are more democratic now by far than we were when it was framed and adopted. We are enlarging the power of the people all the time instead of limiting it. We are here proposing to put up a barrier, and to ask the American people to ratify it, by which they will foreclose themselves from the right to call into their service the man of the hour during a crisis when the very destiny of the Republic may be hanging in the balance. They are foreclosing themselves from drafting him into service. He may be in the harness. He may have his hand at the helm. He may be guiding the ship of state, and he may be doing it not only to the satisfaction of the American people but in a way that wins the plaudits of mankind everywhere. In the crisis, at the turning point, he is there. He is in control. He has his forces well in hand. He has the confidence of a united people back of him.

It may be an emergency where no other man can take his place. But the 4th of March comes and he steps out and his people have been deprived of the privilege of retaining him and continuing his services—for what reason? Because we are afraid that he might become a despot in America. Because in this age of democratic tendencies, when we are going as far as any representative government has ever gone, through initiative and referendum and recall, in the direction of retaining full control and sway in the hands of the people, we are afraid to leave the bars down so that the American people can continue to employ an efficient servant at a time of great need and danger. We are building up a barrier against it because we are afraid that here, in America, this man might become a despot.

We have no fear of a despot with an American citizenship like this, composed of between ninety and one hundred millions of people clothed with the power of the ballot, with all the traditions of America, with all the love of individuality and freedom that exists in America. Shall it be said that we are afraid of a despot and that we must erect a barrier by a constitutional amendment for the purpose of protecting the people from a despot? Ah, if you look through the gauze of this thing, the real facts back of it are that men become anxious to put off the stage of action some striking, dominant figure who is fearless, who is denouncing wrong, who is shaking things up.

Men would like to go to sleep, and be sluggish and easy-going and undisturbed, and have an administration floating along with the tide for six years or for eight years with no agitation, with no fearlessness about it. That would suit a great many people. We do not want it. It is this vigorous, fearless denunciation of wrongs, this fearless discussion of public questions in the forum, with all the faults and abuses that go along with it, more than any other one thing that gives us security and protection.

I am against the amendment originally proposed and the amendments offered to it. I would rather have two terms of four years each, with an opportunity in the middle to get rid of a bad President, than to have a term of six years, with no opportunity within that period to get rid of a bad President, and an absolute limitation upon the right to continue the service of a good President for a longer time. I do not see in that anything sound or wholesome or which has in it any protective principle for the American people. I shall vote against every amendment proposed to this resolution, and against the resolution itself.

SENATOR FROM ARKANSAS.

Mr. CLARKE of Arkansas. I present the credentials of WILLIAMS MARMADUKE KAVANAUGH, Senator elect from the State of Arkansas, and ask that they be read and placed on file.

The PRESIDENT pro tempore. The Secretary will read the credentials.

The credentials of WILLIAMS MARMADUKE KAVANAUGH, chosen by the Legislature of the State of Arkansas a Senator from that State to fill the unexpired portion of the term ending March 3, 1913, occasioned by the death of the late Senator JEFF DAVIS, were read and ordered to be filed.

Mr. CLARKE of Arkansas. The Senator elect is present, and I ask that the oath of office be administered to him.

The PRESIDENT pro tempore. The Senator elect will present himself at the desk for the purpose of taking the oath.

Mr. KAVANAUGH was escorted to the Vice President's desk by Mr. CLARKE of Arkansas, and, the oath prescribed by law having been administered to him, he took his seat in the Senate.

THE PRESIDENTIAL TERM.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. WILLIAMS. Mr. President, "the man of the hour," "at the very crisis," "the life of the Nation is at stake," "the dominant figure who is fearless." We have just heard those phrases. They are phrases that are familiar—very familiar. They are the phrases that passed from one lip to another, understanding, about the time Cromwell turned Parliament out of doors and about the time Napoleon Bonaparte kicked out the Corps du Legislatif.

"We are not afraid of a despot." Neither was any other fool nation that ever existed until after they got him; and they did not know when they were getting him, either, as far as that is concerned.

So much for that. These be well-known words. They have been the excuse for every coup d'état. They have been the excuse for every fanatical, revolutionary usurpation of authority that ever took place in the world; and the very crisis which is regarded as a thing to be taken care of gives the only opportunity for their effective use.

You do not carry on governments to take care of crises. You take care of things that are not crises. Crises are going to take care of themselves some way or other—God only knows how. If the crisis is big enough, it will overturn the whole Government. You need not fear about that.

The Senator from Idaho—and in this his words are echoed by the Senator from California—urges that the amendment of the Senator from North Dakota [Mr. McCUMBER] ought not to be adopted because it would be merely writing into the Constitution the present unwritten law and practice of the Republic. Each one of them says that for 125 years the American people have refused to vary from that law and from that practice. That is very true; but had it not been for the example set for them and the reasons given for it, they would have varied from it many times perhaps.

The fact that for 125 years this salutary principle and practice has not been departed from is not a reason why the principle should not be written in words into the Constitution of the country. It is true that for 125 years the American people have refused to depart from that principle. But it can not be said that either ambitious men or ambitious followers of men have not attempted to persuade them to depart from it.

In one case a great general, who had been President for two terms, undertook to break down the principle and practice. He was rebuked by his own party. In another case a great colonel, who had been President for virtually two terms, undertook to break down the principle and the practice. True, he was rebuked by all parties. But there is sufficient warning to put us upon guard; sufficient warning to give us notice that the principle is never safe as long as it is unwritten, and as long as there is the right in no man's mouth to say to those who attempt to break it down that they are committing treason against American institutions.

The amendment introduced by the Senator from North Dakota [Mr. McCUMBER] is identical, so far as I can see, with the amendment which I introduced the other day and withdrew temporarily, saying that I would reintroduce it when the committee amendments had been considered by the Senate. I did not notice this morning that the committee amendments had been finished and that the Senator from North Dakota offered his amendment. As I have no pride of authorship any more than he has, I shall withdraw my own amendment and support his, first desiring the opportunity to let the Senate know that the two amendments are identical in purpose and in intendment, with a little difference of phraseology only, I believe. I am willing to admit that the Senator's amendment is better than my own. It is a bit more concise and expresses precisely the same idea.

One word concerning the difference between the original amendment introduced by the Senator from California and that now being discussed as an amendment to it. The amendment of the Senator from California gives a term of six years, during which you can not get rid of a President, no matter how bad a President he is. The American people have several times had their flesh creeping to get rid of a President before four years had expired. They got rid of John Adams, they got rid of John Quincy Adams, they got rid of Van Buren, they got rid of Tyler, they got rid of Andrew Johnson, just as soon as they could get a chance to do it. In one or two cases, and especially in the case of John Adams and of Andrew Johnson, the conditions were almost revolutionary, so that it looked for a while as if we might have to overturn the Government to get rid of them, in the one case by the Virginia and Kentucky resolutions, and in the other case by a farcical and very unjust impeachment proceeding, resorted to for the purpose of revolutionizing the Government, and which would not have been resorted to if the people could have gotten a chance to vote earlier.

The proposition offered by the Senator from North Dakota [Mr. McCUMBER] is for a term of eight years, with an opportunity for the people to recall the incumbent in the middle of the term. That is what it means. You may call it two terms of four years each, but it is just as if you had proposed an amendment for an eight-year term, and said that there should be an opportunity at the end of four years to recall him. Yet the Senator from California—who, if I am not misinformed, is a great initiative, referendum, and recall man—does not want this opportunity given to recall at the end of the shorter term.

It amounts to the same thing, except that it is the orderly, prescribed method of recall, as all elections for short terms are, instead of being a haphazard thing, to be gotten up upon a petition that may come overnight or at any time when the people are not looking for it en masse. It is the opportunity for recall at a prescribed date which everybody knows beforehand. The very fact that the principle has been carried out in practice for 125 years is a reason why we ought to put it above the danger or the risk of overthrow.

The amendment offered by the Senator from North Dakota being precisely my own, I shall not offer mine afterwards, but shall ask those who agree with the idea which is contained in both to vote for his amendment.

Mr. BORAH. Mr. President, we have the principle of the recall in the Constitution at present as it would be found in this amendment, and that is the reason why, to my mind, there is no danger in this situation.

If we had in the Constitution a provision by which a man could hold the Presidency for a long term of years until the people lost interest in his successor, there would be much logic in the argument of the Senator from Mississippi. But the principle of the recall, as the Senator refers to the recall now, is written in the Constitution, and that is the great safeguard. A man must go back to the people every four years for his certificate of continuance in office, and the people of the United States must pass upon the question of whether or not he is fit to continue in office. So long as the principle of the recall is there, obligating the person holding the office to recur to the people for approval or condemnation of his course, to my mind it is perfectly safe to leave it there.

Mr. WILLIAMS. Mr. President, will the Senator from Idaho pardon an interruption?

Mr. BORAH. Yes, sir.

Mr. WILLIAMS. Does not the Senator from Idaho remember that Napoleon the Third submitted to the French people some 8 or 10 plebiscites in order to establish his usurpation, and got a majority for each one of them? Does not the Senator know that if the proper condition of things or presentation of circumstances occurs unless there is some barrier recall either under that name or by election at times ceases to be a protection to the majority themselves, owing to the idol worship of the majority? Does he not know that that has been history for all time?

Mr. BORAH. No; I am sorry to say the Senator from Idaho is not familiar with that historic fact. The fact is that Napoleon was elected to the consulship, and that he usurped the power which he finally acquired during the term of the office for which he had been elected, and in violation of the rule which the Senator would now write into the Constitution. It simply illustrates the fact that when the people reach the level where they want some one to rule over them permanently they will give no heed or attention to the fact that there is a written provision against it. They did not do so with reference to Napoleon; neither did they do so with reference to Cæsar. In both instances the men usurped their power in violation of the written law of their country.

Mr. WILLIAMS. Yes; but they submitted their claims to the people.

Mr. BORAH. Precisely.

Mr. WILLIAMS. And by an overwhelming vote in the case of Napoleon the First, and by an equally overwhelming vote upon the plebiscites under Napoleon the Third, each successive act of usurpation was ratified.

Mr. BORAH. That is quite true. They submitted the matter to the people. But what we are arguing against now is the efficacy or the inefficacy of a written constitution prohibiting them from selecting the man if they desired to. They had the written law in both instances, and yet they selected the man in spite of that fact.

Mr. WILLIAMS. But they selected one as Consul and the other as President, and each one of whom turned himself into an emperor.

Mr. BORAH. Exactly; and he usurped his power in violation of the law. It all comes back to the question whether or not the people are capable of determining whom they will have for President of the United States, the recall provision being embedded in the Constitution so as to necessitate the resubmission of the question to the people every four years.

Mr. OWEN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Oklahoma?

Mr. BORAH. Certainly.

Mr. OWEN. I should like to be permitted to call to the attention of the Senator from Idaho the fact that the action of the people who voted for Julius Cæsar under the safeguard of a Pretorian Guard and the people who voted for Napoleon Bonaparte as First Consul, when they had no telegraph and no telephone and no newspapers and no railroads and no general intelligence, compared with that which is now possessed by the American people, ought not to be used in this debate as a basis for our consideration of the ability of the people to use discretion in the exercise of the suffrage.

Mr. BORAH. The Senator from Idaho agrees perfectly with the Senator from Oklahoma.

A great deal has been said with reference to the example of Washington and of Jefferson; and I certainly would not, if I could, detract anything from the worth of those examples. But something is due to the American people themselves. It is not exactly in accordance with the facts as I understand them to say that without these examples the reverse of that which followed would have been true, because we had the question presented in the case of Gen. Grant. Grant saw fit to permit his name to be used in violation of the precedent which had been established, and the people of the United States within his own party rejected his aspirations to the office. If we have any confidence at all in the capacity of the American people to carry on a representative form of government, we certainly can afford to trust them to select their Chief Magistrate when the matter is to be submitted to them for their consideration, as it is now, once every four years.

If the people can not select a Chief Magistrate for a second term or refuse him the third and the fourth after they have had an opportunity to know his course in public life, the first selection is a mere matter of chance and of guesswork. They have more information, they have a greater opportunity to know, they can pass upon the matter with greater intelligence the second time or the third time than they could the first time. The entire matter rests at last with the intelligence, the patriotism, and the thoughtful consideration of the people who select their Chief Magistrate in this country.

The PRESIDENT pro tempore. The question is upon the amendment proposed by the Senator from North Dakota to the amendment.

Mr. McCUMBER. Mr. President, I suggest the want of a quorum.

The PRESIDENT pro tempore. The Senator from North Dakota suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cummins	Kern	Perky
Bankhead	Dillingham	La Follette	Pomerene
Borah	Dixon	Lippitt	Richardson
Bourne	du Pont	Lodge	Simmons
Brandegee	Fletcher	McCumber	Smith, Ariz.
Bristow	Gallinger	McLean	Smith, Ga.
Brown	Gamble	Martine, N. J.	Smith, Md.
Bryan	Gardner	Myers	Smoot
Burton	Gronna	Nelson	Stephenson
Catron	Hitchcock	Newlands	Sutherland
Chamberlain	Jackson	Oliver	Swanson
Chilton	Johnson, Me.	Overman	Thomas
Clapp	Johnston, Ala.	Owen	Thornton
Clark, Wyo.	Johnston, Tex.	Page	Townsend
Clarke, Ark.	Jones	Paynter	Wetmore
Crawford	Kavanaugh	Percy	Williams
Culberson	Kenyon	Perkins	Works

The PRESIDENT pro tempore. Sixty-eight Senators have answered to their names. A quorum of the Senate is present.

The question is on the amendment submitted by the Senator from North Dakota [Mr. McCUMBER] to the amendment of the committee.

Mr. McCUMBER. I ask that the amendment to the amendment be again read.

The PRESIDENT pro tempore. The amendment to the amendment will be read.

The SECRETARY. In lieu of so much of the committee amendment as proposes to insert the words embraced in lines 4 to 10, both inclusive, on page 2, insert:

The executive power shall be vested in a President of the United States of America. The term of office of President shall be for four years; and no person shall be eligible for more than two terms, and no person who has served as President, by succession, under the Constitution and laws made in pursuance thereof, for the major fraction of one term, shall be eligible to hold more than one full term thereafter.

Mr. WILLIAMS. Mr. President, my attention has been called to a respect in which our two amendments are not identical. I wish to offer an amendment to this amendment so as to cure the evil. I wish to strike out the words "has served" and insert in lieu thereof the words "shall hereafter serve." That will prevent what I think most of us are anxious to prevent—injecting any personal issue into the matter. If it should go through as it is now worded by the Senator from North Dakota it would prevent anybody who hitherto had served from being reelected, and that is not the purpose I take it.

Mr. McCUMBER. Mr. President, there is wherein the two amendments differ.

Mr. WILLIAMS. I did not notice that difference until a moment ago, when my attention was called to it.

Mr. McCUMBER. The amendment represents my own view, that we should make no distinction between persons who have served and persons who may serve hereafter, that the law should apply to all American citizens exactly the same.

Mr. WILLIAMS. Then, with that explanation, I offer an amendment to the amendment, to strike out the words "has served," on line 4, of the Senator's amendment, and to substitute the words "shall hereafter serve."

Mr. McCUMBER. I rise to a point of order, as to whether that amendment can be offered now.

The PRESIDENT pro tempore. The amendment to the amendment is clearly in order.

Mr. McCUMBER. It is in order?

The PRESIDENT pro tempore. It is an amendment to the amendment, and it is clearly in order. The Secretary will state the amendment to the amendment.

The SECRETARY. In line 4, strike out the words "has served" and in lieu insert the words "shall hereafter serve," so that if amended it will read:

And no person shall be eligible for more than two terms, and no person who shall hereafter serve as President, by succession, etc.

The PRESIDENT pro tempore. The question is on agreeing to the amendment to the amendment.

Mr. WILLIAMS. I find it is necessary after the word "President" to put in "by election or."

The PRESIDENT pro tempore. The amendment to the amendment as modified will be stated.

The SECRETARY. After the word "President," in line 5, insert the words "by election or," so that if amended it will read:

The term of office of President shall be for four years; and no person shall be eligible for more than two terms, and no person who shall hereafter serve as President by election or by succession, etc.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Mississippi [Mr. WILLIAMS] to the amendment proposed by the Senator from North Dakota [Mr. McCUMBER]. [Putting the question.] The noes appear to have it.

Mr. WILLIAMS. I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDENT pro tempore. The noes have it, and the amendment to the amendment is rejected.

Mr. CULBERSON. I move to amend the McCumber amendment by striking out the words "two terms," in line 4, and inserting the words "one term."

The PRESIDENT pro tempore. The question is on the amendment submitted by the Senator from Texas to the amendment proposed by the Senator from North Dakota. [Putting the question.] The noes appear to have it.

Mr. CULBERSON. I call for a division.

The amendment to the amendment was rejected, there being, on a division—ayes 9, noes 40.

The PRESIDENT pro tempore. The question is on the amendment submitted by the Senator from North Dakota.

Mr. McCUMBER. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The present occupant of the chair is paired with the Senator from New York [Mr. O'GORMAN], and withholds his vote.

Mr. GARDNER (when his name was called). I have a general pair with the Senator from Massachusetts [Mr. CRANE], and therefore withhold my vote.

Mr. JOHNSTON of Texas (when his name was called). I am paired with the Senator from New York [Mr. ROOT], and withold my vote.

Mr. LIPPITT (when his name was called). I again announce my pair with the senior Senator from Tennessee [Mr. LEA], and withhold my vote.

Mr. OWEN (when his name was called). I transfer my pair with the Senator from Kansas [Mr. CURTIS] to my colleague [Mr. GORE] and vote "nay."

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM], but as he would vote "nay" on this proposition I will take the liberty of voting. I vote "nay."

Mr. RICHARDSON (when his name was called). I am paired with the Senator from South Carolina [Mr. SMITH], and I withhold my vote.

The roll call was concluded.

Mr. KERN. I have a general pair with the Senator from Kentucky [Mr. BRADLEY]. I transfer that pair to the Senator from Virginia [Mr. MARTIN] and vote "nay."

Mr. CLAPP (after having voted in the negative). I have a general pair with the senior Senator from North Carolina [Mr. SIMMONS], and not knowing how he would vote if present, I desire to withdraw my vote.

The result was announced—yeas 3, nays 61, as follows:

YEAS—3.

McCumber	Penrose	Williams

NAYS—61.

Ashurst	Cullom	La Follette	Sanders
Bankhead	Cummins	Lodge	Shively
Borah	Dillingham	McLean	Smith, Ariz.
Bourne	Dixon	Martine, N. J.	Smith, Md.
Brandegee	du Pont	Myers	Smoot
Bristow	Fletcher	Nelson	Stephenson
Bryan	Gamble	Newlands	Sutherland
Burnham	Gronna	Oliver	Swanson
Burton	Hitchcock	Overman	Thomas
Catron	Jackson	Owen	Thornton
Chamberlain	Johnson, Me.	Page	Townsend
Chilton	Johnston, Ala.	Paynter	Wetmore
Clark, Wyo.	Jones	Perkins	Works
Clarke, Ark.	Kavanaugh	Perky	
Crawford	Kenyon	Poindexter	
Culberson	Kern	Pomerene	

NOT VOTING—31.

Bacon	Foster	Martin, Va.	Smith, Ga.
Bradley	Gallinger	Massey	Smith, Mich.
Briggs	Gardner	O'Gorman	Smith, S. C.
Brown	Gore	Percy	Stone
Clapp	Guggenheim	Reed	Tillman
Crane	Johnston, Tex.	Richardson	Warren
Curtis	Lea	Root	Watson
Fall	Lippitt	Simmons	

So Mr. MCCUMBER's amendment to the amendment was rejected.

Mr. PAYNTER. Yesterday I suggested that I would offer an amendment, but at that time it was not in order. I offer it now.

The PRESIDENT pro tempore. The Senator from Kentucky submits an amendment to the amendment, which will be read.

The SECRETARY. On page 2 of the amendment of the committee, line 10, after the word "election," insert the following proviso:

Provided, That the term of the incumbent in the office of President when this amendment takes effect shall be for six years.

Mr. PAYNTER. I should like to have the amendment reported by the committee read in connection with my amendment, and then I will give my reasons for offering the amendment to the amendment.

The PRESIDENT pro tempore. The amendment will be read as it would read if amended by the amendment of the Senator from Kentucky.

The SECRETARY. If amended, the amendment of the committee in so far as inserting new words are concerned will read:

The executive power shall be vested in a President of the United States of America. The term of the office of the President shall be six years, and no person who has held the office by election or discharged its powers or duties or acted as President under the Constitution and laws made in pursuance thereof shall be eligible to hold again the office by election: *Provided*, That the term of the incumbent in the office of President when this amendment takes effect shall be for six years.

The President, together with a Vice President chosen for the same term, shall be elected as follows.

Mr. PAYNTER. Mr. President, in making an amendment to the Constitution it is probable that any doubt may arise hereafter or is now in the minds of the Senators it ought to be removed. That which can be made certain never should be left uncertain and in doubt. Especially is that the case when we are dealing with the greatest office of our country. We know what a serious political conflict might arise over the question of succession in the presidential office, one of the political parties claiming that the term ended at one time and another political party claiming it did end at another time.

My own opinion is that under the amendment as reported from the committee the incoming President will hold his term for six years if it is adopted during his term; I do not intend to elaborate and to give the reasons which I have for it except to state that that provision of the Constitution will be the controlling one as to the tenure of the office whenever it is ratified and becomes a part of the Constitution. It will be, indeed, the only provision in the Constitution which determines the tenure of office at the expiration of four years from the 4th of next March. So my opinion is that the effect of this amendment is to prolong the term and to make it six years instead of four.

If I am correct in this, then why not adopt my amendment, which will make it absolutely certain as to what the Congress means by the language that it has employed?

It may be said that this is extending the term of the President two years. That may be true, but if the proper interpretation is given to the amendment as reported by the committee, it has exactly the same effect as it will have by adopting the amendment which I have offered. In other words, it does not change the import of the amendment to the Constitution reported by the committee.

It will make certain that which otherwise might be in doubt.

Mr. WORKS. Mr. President, I have always understood that the adoption of this proposed amendment would have just the effect which it is proposed to be made certain by the amendment now offered by the Senator from Kentucky. I have never had any doubt that the adoption of the amendment as it comes from the committee would have the effect to extend the term of the incumbent of the office to six years.

I think the people of this country ought to know and understand exactly what this amendment does provide for. There should be no uncertainty with respect to it. If the people are not willing to adopt it with that construction placed upon it, we certainly ought not to send it out to the country with any question remaining as to what the effect of it is to be.

I hope for that reason that the amendment proposed by the Senator from Kentucky to the amendment will be adopted.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Kentucky to the amendment. [Putting the question.] The Chair is in doubt.

Mr. PAYNTER. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

The PRESIDENT pro tempore (when the name of Mr. GALLINGER was called). The occupant of the chair is paired with the Senator from New York [Mr. O'GORMAN].

Mr. LIPPITT (when his name was called). I again announce my pair with the Senator from Tennessee [Mr. LEA], and refrain from voting.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM]. As he is absent from the Chamber, and I do not know how he would vote on this question if present, I withhold my vote.

Mr. RICHARDSON (when his name was called). I am paired with the Senator from South Carolina [Mr. SMITH] and refrain from voting.

The roll call was concluded.

Mr. OWEN. I transfer my pair with the Senator from Kansas [Mr. CURTIS] to my colleague [Mr. GORE] and vote. I vote "yea."

The result was announced—yeas 30, nays 36, as follows:

YEAS—30.

Ashurst	Johnson, Me	Overman	Smith, Md.
Bryan	Johnston, Ala.	Owen	Swanson
Burton	Jones	Percy	Thomas
Chamberlain	Kavanaugh	Perkins	Thornton
Chilton	Kern	Perky	Williams
Cummins	Martine, N. J.	Simmons	Works
Fletcher	Myers	Smith, Ariz.	
Hitchcock	Newlands	Smith, Ga.	

NAYS—36.

Borah	Clarke, Ark.	Jackson	Poindexter
Bourne	Crawford	Kenyon	Pomerene
Bradley	Culberson	La Follette	Sanders
Brandegee	Cullom	Lodge	Shively
Bristow	Dillingham	McCumber	Smoot
Burnham	Dixon	McLean	Stephenson
Catron	du Pont	Oliver	Sutherland
Clapp	Gamble	Page	Townsend
Clark, Wyo.	Gronna	Penrose	Wetmore

NOT VOTING—29.

Bacon	Gallinger	Massey	Smith, S. C.
Bankhead	Gardner	Nelson	Stone
Briggs	Gore	O'Gorman	Tillman
Brown	Guggenheim	Paynter	Warren
Crane	Johnston, Tex.	Reed	Watson
Curtis	Lea	Richardson	
Fall	Lippitt	Root	
Foster	Martin, Va.	Smith, Mich.	

So Mr. PAYNTER's amendment to the amendment was rejected.

Mr. OWEN. I offer the amendment I send to the desk.

The PRESIDENT pro tempore. The Senator from Oklahoma offers an amendment, which will be read.

The SECRETARY. In the amendment of the committee, on page 2, line 12, strike out the words "elected as follows" and insert:

Nominated and elected by the direct vote of the legal voters of the States. The vote of each State shall be certified by the governor of the State to the President of the United States Senate and, estimated upon the basis that the vote of each State shall be equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress, shall be counted and declared as by law provided. Congress shall immediately provide by law the method and means for the direct nominations herein provided.

Mr. OWEN. Mr. President, this amendment does away with the electoral college. It proposes that the vote of the States shall be certified to the President of the Senate, and have the same weight in determining the election of a President as now under the electoral-college system. It, of course, would serve the end of economy in making unnecessary the nomination of 400 or 500 electors, in making unnecessary the printing of their names and the voting for those electors by millions of voters and the counting of the vote. It would save time and would operate more directly to produce the result desired.

The more important part of the amendment, however, is that providing for the direct nomination by popular vote of presidential candidates and doing away with the national conventions, which heretofore have been in some instances believed to have been unfairly controlled by machine methods and by improper influences. It is carrying out what many of the States now have; it is carrying out the principles of progressive government; it is carrying out the proposals laid down in the Democratic national platform at Baltimore; it is carrying out the declarations of the so-called Progressive Party, and I think will be acquiesced in by probably three-fourths of the people of the United States.

It needs no argument to explain the meaning of a preferential primary for the Presidency, and no debate upon it, so far as I am concerned, is thought necessary. I simply briefly explain the amendment itself. It proposes a presidential preference primary; does away with the electoral college; and has the vote certified immediately to the President of the Senate, to be counted as now provided by law.

The PRESIDENT pro tempore. The question is upon the amendment submitted by the Senator from Oklahoma [Mr. OWEN] to the amendment of the committee.

Mr. WILLIAMS. Mr. President, I want to say a few words in explanation of the vote I shall cast. I shall vote for this amendment, not chiefly for the reason stated by the Senator from Oklahoma [Mr. OWEN], but chiefly for another reason.

The electoral college is a source of danger to American institutions. It may some day precipitate a great crisis and a revolution. Of course, the unwritten law is that the elector votes in accordance with the dictates of the party to which he belongs and votes for the nominee of his convention, or, in this case, if this amendment is adopted, the nominee of the presidential primaries of his party. But there is no law which compels him to do it. It is merely a matter of keeping faith and honor. It is a great compliment to the American people that hitherto in every case faith and honor have been kept; but the statement does not go without contradiction that they will always be kept.

There might be a very close presidential election, when one or two votes swerved from the direction in which the people had shot them into a new direction, either by passion, prejudice, money, or corruption—something or other might defeat the will of the people in an election. It might be true that in such a case an elector would hesitate a long time because of the fear of personal danger that would follow; but corrupt men are sometimes very bold. There is hardly a pledge of honor made in any direct way. The party merely nominates the electors, and it is taken for granted that they are going to act honorably. Thus far they have done so; but suppose some one in a case like that did not do so. If each party insisted, one upon the right to take the seat because the machinery provided by the Constitution to elect him had elected him, to wit, a majority of the electoral college, and the other, the choice of the people, asserted the right to the seat, there might be great trouble; there might possibly be even civil war; but, at any rate, if there were not, the will of the people might be defeated. It is for that reason, more than for the reason that the amendment contains the direct-nomination feature, that I shall support it.

Mr. CUMMINS. Mr. President, I desire the attention of the Senator from Oklahoma for a moment. I wish to call his attention to the fact that if his amendment were adopted it might not accomplish the purpose which he has in view; in other words, there would still be left in the Constitution all its provisions with regard to the selection of electors, the counting of their votes before Congress, and the subsequent arrangements in case there be no choice.

Mr. OWEN. It would be explicitly repealed.

Mr. CUMMINS. It seems to me that the Senator has not successfully joined the amendment with those provisions of the Constitution that would remain.

Mr. OWEN. My amendment would be in conflict with so much of it as the Senator refers to, and would repeal it. The language has been so drawn as to cause that vote to be counted and declared as provided by law. It, therefore, attaches itself immediately to the present provisions for the counting of the electoral vote in the House of Representatives.

Mr. CUMMINS. I am entirely in favor of the election of a President in the way suggested by the Senator from Oklahoma, yet the proposed amendment would, in my opinion, leave the Constitution in inextricable confusion.

Mr. OWEN. Another suggestion has been made, that the governor of a State, not being a Federal officer, might refuse to certify the returns. The governor of every State takes an oath to observe the Constitution of the United States as well as that of his own State. This would be a part of his oath of office, and he would be pro tanto an officer of the United States for this purpose.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Oklahoma yield to the Senator from California?

Mr. OWEN. I yield to the Senator from California.

Mr. WORKS. I desire to call the attention of the Senator from Oklahoma to the fact that there is a proposed amendment to the Constitution now pending before the Committee on the Judiciary providing for the election of President and Vice President by a direct vote of the people which covers all the provisions relating to the subject of elections and returns. It seems to me it would be unfortunate to complicate this one question with so important a question as that, which may probably be considered by itself and be voted upon separately.

Mr. OWEN. The fact that some other proposition is pending elsewhere in no wise invalidates the propriety of this amendment.

Mr. CRAWFORD. Will the Senator from Oklahoma yield to me?

The PRESIDENT pro tempore. Does the Senator from Oklahoma yield to the Senator from South Dakota?

Mr. OWEN. I do.

Mr. CRAWFORD. The subject with which the Senator from Oklahoma is dealing in his proposed amendment is one in regard to which I am in entire sympathy with the Senator. I should like to see an amendment submitted which would reach that end, but I think it is rather unfortunate to couple it with this proposal for limiting the term of the President of the United States, because upon that proposition I am unalterably opposed to a limitation. If this provision, in which I believe, is tied up with that proposition, in which I do not believe, my vote would go on the side against the amendment proposed by the Senator, because I can not indorse the other, and I think it would be better to have this proposition a separate one standing upon its own merits. I think the Senator would thereby get more friends for it.

Mr. OWEN. Mr. President, I will offer as an extenuating circumstance in submitting my amendment at this time the statement that it is extremely difficult to amend the Constitution of the United States. It has only been done in the case of war since the first original amendment, barring the probable amendment now pending; so that if an amendment is proposed and carried at all it must be carried upon the wave of some very important public opinion. I believe that nine-tenths of the people of the United States have made up their minds now that they do not want any man to twice hold the position of President; that they do not want any man occupying the White House to use that place and the enormous patronage and power of that position to further his own ambition as a politician. Believing that, I am compelled to reconcile myself to the unhappy position in which I find the Senator from South Dakota posed.

Mr. CRAWFORD. I think the Senator will find that the people believe in this proposal a good deal more earnestly and profoundly and extensively than they do in the other.

Mr. OWEN. Perhaps that may be true, Mr. President; but I remind the Senator from South Dakota that 4,000,000 men voted for the Progressive candidate in the last election, and favored the naming of a President by a presidential primary. I remind the Senator also that 6,000,000 and more Democrats voted for it, and they are committed to it by the Baltimore convention. Therefore there are over 10,000,000 men now committed to it in this Republic. I take it, therefore, that it has some friends.

Mr. CRAWFORD. To what does the Senator refer? Does he want an election without the intervention of the electoral college?

Mr. OWEN. I refer to the more important part of it—the presidential primary.

Mr. CRAWFORD. Certainly I am not objecting to the presidential primary; I believe in it. The Senator misunderstands me. I believe in both the presidential primary and in the direct election of President, but I do not believe in Senate joint resolution No. 78, introduced by the Senator from California [Mr. WORKS], to which this amendment is proposed to be attached. I should like to vote for this amendment embracing the presidential primary and the direct election of President, but I do not want it tied onto the proposition in Senate joint resolution No. 78, for which I can not stand, and I certainly insist that 10,000,000 of the American people have not shown that they are in favor of Senate joint resolution No. 78.

Mr. OWEN. Perhaps that may be true; but I think so large a number are in favor of it that it will become the law if it passes this Congress; and since this matter is now before the Senate, fixing the term of office, it is entirely germane and proper to propose the manner of the nomination and election of the candidate who is to hold that term. Since the amendment only proposes a presidential primary and does away with the electoral college, which is now useless and expensive, and does not change the method of State representation, giving to each State a vote in accordance with the number of Representatives and Senators, it therefore only does away with a somewhat cumbersome process and establishes a presidential preference primary. To that I say there is a very large adherence of voters in the United States. Desiring to carry out the Baltimore platform as rapidly as possible, I did not wish to lose a convenient occasion to present the first amendment which the opportunity afforded.

Mr. CRAWFORD. Mr. President, I am sorry that my efforts are unavailing. What I hoped I might do was to persuade the Senator that his entire proposition is so much better than that contained in the pending resolution that he ought to cut loose from the other and not have it hang as a dead-weight upon the amendment he has offered.

Mr. OWEN. Since I am in favor of both, I shall be glad to have my proposition help pull the other along.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Oklahoma yield to the Senator from California?

Mr. OWEN. I yield to the Senator from California.

Mr. WORKS. I do not want to be understood by what I said as being opposed to the proposition submitted by the Senator from Oklahoma if it were separately submitted. I am so far committed to that idea that I myself have offered a joint resolution proposing an amendment to the Constitution providing for the direct election of the President and Vice President of the United States. Therefore I am not hostile to what the Senator desires, but I think it would be unfortunate to both of these propositions to have them coupled together, for the simple reason that the individual who comes to vote upon it will have to be in favor of both of them in order to vote for the proposed constitutional amendment. There are a great many voters in this country who would be favorable to one of them and opposed to the other. The result would probably be that, if they should go to the country, they would both be defeated; and that is the contingency I desire to avoid.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Oklahoma to the amendment reported by the committee.

Mr. POINDEXTER. I should like to have the amendment to the amendment again stated.

The PRESIDENT pro tempore. The Secretary will again state the amendment to the amendment.

The SECRETARY. On page 2, line 12, it is proposed to strike out the words "elected as follows" and insert:

> Nominated and elected by the direct vote of the legal voters of the States. The vote of each State shall be certified by the governor of the State to the President of the United States Senate and, estimated upon the basis that the vote of each State shall be equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress, shall be counted and declared as by law provided. Congress shall immediately provide by law the method and means for the direct nominations herein provided.

The PRESIDENT pro tempore. The question is on the amendment submitted by the Senator from Oklahoma to the amendment of the committee. [Putting the question.] The Chair is in doubt.

Mr. CULBERSON. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

The PRESIDENT pro tempore (when Mr. GALLINGER'S name was called). The present occupant of the chair is paired with the Senator from New York [Mr. O'GORMAN], and therefore withholds his vote.

Mr. LIPPITT (when his name was called). I again announce my pair with the senior Senator from Tennessee [Mr. LEA] and refrain from voting.

Mr. OWEN (when his name was called). I transfer my pair with the Senator from Kansas [Mr. CURTIS] to my colleague [Mr. GORE] and will vote. I vote "yea."

Mr. RICHARDSON (when his name was called). I again announce my pair with the junior Senator from South Carolina [Mr. SMITH] and withhold my vote.

The roll call was concluded.

Mr. TOWNSEND (after having voted in the negative). I voted "nay" for the purpose of making a statement to the effect that I previously stated that I should vote "nay" on all amendments; but this amendment, which I had not anticipated, I am in favor of, although if it is attached to the pending resolution I shall feel compelled to vote against the amended measure on its final passage.

The PRESIDENT pro tempore. Debate is not in order.

Mr. TOWNSEND. I change my vote to "yea."

The PRESIDENT pro tempore (Mr. GALLINGER). Under the arrangement made with the Senator from New York [Mr. O'GORMAN] the occupant of the chair feels at liberty to vote, and votes "nay."

The result was announced—yeas 32, nays 36, as follows:

YEAS—32.

Asburst	Crawford	La Follette	Poindexter
Borah	Culberson	McLean	Pomerene
Bourne	Dixon	Martine, N. J.	Shively
Bristow	Fletcher	Myers	Smith, Ariz.
Bryan	Gronna	Newlands	Smith, Md.
Chamberlain	Johnson, Me.	Overman	Swanson
Chilton	Jones	Owen	Townsend
Clapp	Kern	Perky	Williams

NAYS—36.

Bankhead	Cummins	McCumber	Simmons
Bradley	Dillingham	Nelson	Smith, Ga.
Brandegee	du Pont	Oliver	Smoot
Burnham	Gallinger	Page	Stephenson
Burton	Gamble	Paynter	Sutherland
Catron	Jackson	Penrose	Thomas
Clark, Wyo.	Johnston, Ala.	Percy	Thornton
Clarke, Ark.	Kenyon	Perkins	Wetmore
Cullom	Lodge	Sanders	Works

NOT VOTING—27.

Bacon	Gardner	Lippitt	Smith, Mich.
Briggs	Gore	Martin, Va.	Smith, S. C.
Brown	Guggenheim	Massey	Stone
Crane	Hitchcock	O'Gorman	Tillman
Curtis	Johnston, Tex.	Reed	Warren
Fall	Kavanaugh	Richardson	Watson
Foster	Lea	Root	

So Mr. OWEN'S amendment to the amendment of the committee was rejected.

Mr. OLIVER. I offer an amendment to the amendment.

The PRESIDENT pro tempore. The Senator from Pennsylvania offers an amendment to the amendment, which will be stated.

The SECRETARY. On page 2, at the end of line 5, it is proposed to amend the committee amendment by inserting the word "every," and in line 6, after the word "President," by inserting the words "elected after the ratification of this amendment."

Mr. OLIVER. I ask that the committee amendment be read as it would appear if my amendment were adopted.

The PRESIDENT pro tempore. The amendment as proposed to be amended by the Senator from Pennsylvania will be read.

The Secretary read as follows:

> The executive power shall be vested in a President of the United States of America. The term of the office of every President elected after the ratification of this amendment shall be six years; and no person who has held the office by election, or discharged its power or duties, or acted as President under the Constitution and laws made in pursuance thereof shall be eligible to again hold the office by election.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Pennsylvania. [Putting the question.] By the sound, the noes appear to have it.

Mr. OLIVER. I call for the yeas and nays.

Mr. CULBERSON. Let the amendment be again stated.

The PRESIDENT pro tempore. The Secretary will again state the amendment.

The Secretary again stated the amendment.

Mr. OLIVER. Mr. President, in explanation of the amendment I wish to say that I do not think it is the right thing for the Congress of the United States and the legislatures of the several States to extend the term of a President who has been elected by the people for a definite term of years. Therefore I think that the constitutional amendment, if adopted and placed before the legislatures for ratification, should apply only to Presidents elected thereafter. I understand if the committee amendment as it now stands should be agreed to unamended it is probable that the term of the President in office at the time

would be extended to six years. I am unalterably opposed to that, and if the joint resolution is placed before the Senate in that shape I expect to vote against it; otherwise, as a general proposition, I am now and always have been in favor of a single term of six years for our Presidents.

Mr. DIXON. Mr. President, in other words, the amendment offered by the Senator from Pennsylvania makes a special exemption as to Woodrow Wilson; that is the effect of it. It does not carry out the provision of the Democratic platform, which specifically declares for one term. The amendment now offered is not in accord with the platform of the Democratic convention, which I understand Senators on the other side of the Chamber are urging——

Mr. OLIVER. I am not solicitous for the Democratic platform at all.

Mr. DIXON. I am merely calling the attention of the Democratic Senators to the fact that the amendment of the Senator from Pennsylvania is in direct violation of the terms of the Democratic platform.

Mr. CUMMINS. Mr. President, I do not think the Senator from Montana [Mr. DIXON] has given the right interpretation to the amendment offered by the Senator from Pennsylvania [Mr. OLIVER]. It is my opinion that the resolution as reported by the committee would, if adopted as a part of the Constitution during the term of any President, extend that term to six years. I believe that would be its legal effect. Now, the Senator from Pennsylvania proposes an amendment that will relieve the resolution of that effect and confine its operation to those Presidents who are elected after it is ratified. That is to say, it does not make any difference whether it is Mr. Wilson or Mr. Smith or Mr. DIXON. It may be Mr. DIXON.

Mr. DIXON. I am not a candidate.

Mr. CUMMINS. One can not tell what the future has in store for him or for any other aspiring and ambitious and energetic man. This amendment may not be ratified, even if it is adopted here, for years; and the amendment proposed by the Senator from Pennsylvania is general. It simply says it will not prolong the term of the President who is in office at the time it is ratified. The Democratic platform does not require that the term to which Mr. Wilson has been elected shall be extended.

Therefore the Senator from Montana is wholly in error with regard to his interpretation of the amendment offered by the Senator from Pennsylvania. It has nothing to do with the Democratic platform. Therefore I hope he will not be able to disturb the Democratic serenity with respect to the subject of this amendment.

I for one am in favor of the amendment proposed by the Senator from Pennsylvania. I voted for the amendment proposed by the Senator from Kentucky simply because I believed that was the proper interpretation—that is, the real interpretation—of the amendment without his suggestion. But now that it is raised definitely and proposed to be changed by the amendment offered by the Senator from Pennsylvania, I shall vote for it. I think it is fair and just.

The PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. OLIVER] demands the yeas and nays upon the amendment proposed by him to the amendment of the committee.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

The PRESIDENT pro tempore (when Mr. GALLINGER'S name was called). The present occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN].

Mr. GARDNER (when his name was called). I transfer my pair with the junior Senator from Massachusetts [Mr. CRANE] to the junior Senator from New York [Mr. O'GORMAN] and will vote. I vote "nay."

The PRESIDENT pro tempore. Under that arrangement, the present occupant of the chair will change his pair from the junior Senator from New York [Mr. O'GORMAN] to the junior Senator from Massachusetts [Mr. CRANE] and will vote. I vote "nay."

Mr. LIPPITT (when his name was called). I again announce my pair with the senior Senator from Tennessee [Mr. LEA].

Mr. PAYNTER (when his name was called). I again announce my pair with the Senator from Colorado [Mr. GUGGENHEIM], and therefore withhold my vote.

Mr. RICHARDSON (when his name was called). I again announce my pair with the junior Senator from South Carolina [Mr. SMITH], and therefore withhold my vote.

The roll call was concluded.

Mr. SWANSON. I desire to announce that my colleague [Mr. MARTIN of Virginia] is paired with the Senator from Nebraska [Mr. BROWN]. He is detained from the Senate on account of illness. I wish that announcement to stand for the rest of the day.

The result was announced—yeas 13, nays 52, as follows:

YEAS—13.

Bradley	Cummins	Oliver	Sutherland
Brandegee	Dillingham	Penrose	
Chamberlain	du Pont	Percy	
Chilton	McCumber	Pomerene	

NAYS—52.

Asburst	Culberson	Kenyon	Sanders
Bankhead	Cullom	Kern	Shively
Borah	Dixon	La Follette	Simmons
Bourne	Fletcher	Lodge	Smith, Ariz.
Bristow	Gallinger	Martine, N. J.	Smith, Md.
Bryan	Gamble	Myers	Stephenson
Burnham	Gardner	Nelson	Swanson
Burton	Gronna	Overman	Thomas
Catron	Hitchcock	Owen	Thornton
Clapp	Johnson, Me.	Page	Townsend
Clark, Wyo.	Johnston, Ala.	Perkins	Wetmore
Clarke, Ark.	Jones	Perky	Williams
Crawford	Kavanaugh	Poindexter	Works

NOT VOTING—30.

Bacon	Guggenheim	Newlands	Smith, S. C.
Briggs	Jackson	O'Gorman	Smoot
Brown	Johnston, Tex.	Paynter	Stone
Crane	Lea	Reed	Tillman
Curtis	Lippitt	Richardson	Warren
Fall	McLean	Root	Watson
Foster	Martin, Va.	Smith, Ga.	
Gore	Massey	Smith, Mich.	

So Mr. OLIVER'S amendment to the amendment of the committee was rejected.

Mr. CUMMINS. Mr. President, before the joint resolution passes from the Committee of the Whole, I desire to submit some observations upon the matter. I am suffering from a disability—temporary, I hope—that makes it very difficult for me to speak, and somewhat painful as well. I therefore hope that I may be permitted to say what I have to say quietly and with little interruption.

I had not intended to say anything in the nature of an extended speech, and would have adhered to that resolution, but some remarks were made yesterday that seem to call for a reply that has not yet been made. I very deeply regret that I can not concur with some of my brother Senators with whom I have been generally in absolute sympathy, and upon whose political and economic judgment I have become accustomed to rely.

I look upon this measure as a distinctly progressive proposition. This simply indicates the infinite variety of the human judgment. Some of my closest friends in the Senate apparently believe that it is an attack upon the rights, the privileges, and the power of the people. On the contrary, I believe it to be a great advance in the protection and the preservation of the rights and the privileges of the people.

I have often heard it said that there ought to be, and that eventually there will be, a line drawn between the voters of the United States upon one side of which there will align themselves the conservatives, the reactionaries, the standpatters, while upon the other there will be ranged the progressives, the radicals. I have become convinced that this line never will be drawn; because while I have been fighting, as I have assumed, for the rights of the people during a somewhat extended and somewhat stormy political career, I now find myself assigned by some of my associates to the ranks of those who are alleged to be indifferent to the rights and the privileges of the people.

I intend to prove that this is a progressive measure. I intend to prove that it is not only progressive to submit this proposition to the judgment of the people, but that it is progressive when it is considered upon its merits by the people.

The people have an absolute right to say what their Government shall be. Have I a progressive friend in the Senate who disputes that proposition? It is the fundamental, the original declaration of human rights so far as it applies to government. They have a right to say what their Government shall be.

I have no patience with that phraseology or terminology that speaks of the people in the third person. We do not give the people anything. We can not give the people anything in the way of governmental power, nor could we take away from the people anything in the way of power or privilege had it not been that years ago our forefathers provided that the people of this country should not have an opportunity to say what their Government should be until Congress opened the door to that opportunity.

I am for the referendum. I have asserted it before; I assert it now. I believe this is the best example of the referendum that the institutions of the United States can present. I am speaking now, of course, of the national institutions, the Constitution and the laws of the United States.

How is it that those who believe that the people of this country have a right to say what their Government shall be hesitate about giving them the opportunity which the adoption of this resolution would confer upon them? If there is any taking

from the people power or privilege or opportunity, it is by those who refuse to give them the chance which, according to the civilized notions of modern government, they ought to have.

There are many of us who believe that the referendum should be made applicable not only to constitutions but to laws as well. I am one of them. If the legislature of a State or if the Legislature of the United States refuses to adopt legislation which the people demand, I believe that the people have a right to insist that the legislation shall be submitted to them for approval or rejection.

Just so here. It is proposed by this resolution to give the people of this country the opportunity to say what their Government shall be—to say whether they would rather have a President limited to a single term or a President eligible to successive terms. Yet it is insisted that because there is individual opinion among some Senators that if these Senators were voting in their primary capacity they would not regard this as a wise restriction to be placed on their own power as citizens, therefore they should not give the people the chance to exercise their elemental and their fundamental right.

I do not look upon the duty that we as Senators perform from that point of view. I do not believe it ought to be required that two-thirds of the Senate of the United States and two-thirds of the House of Representatives shall be completely convinced of the wisdom of a proposed amendment to the Constitution before the people shall have the opportunity to vote upon it. I believe that whenever Senators and Members of the House are convinced that a fair proportion of the people of the United States desire an opportunity to correct or to amend their fundamental law it is our duty to give them the chance to make their Government what it ought to be.

I am especially amazed at the attitude of some of my friends who have recently conducted a campaign in which the referendum bore a prominent part. It surprises me that they should here seek to close the door which this resolution would open. But I agree that before we can fairly submit an amendment of this kind to the people there must be shown a reasonable, fair demand for it. I agree that it ought not to be within the power of a single Senator to rise and say, "I think the people want this change made in their Constitution," and therefore command the support of all the Senators, without regard to their individual opinions upon the subject.

I do not assert that constitutional amendments should be submitted upon any such slender demand. But I reassert that if we believe any considerable number of the people of this country are in favor of so limiting the term of the President, and if they have expressed themselves so that they can be understood, then the man who votes against the submission of a proposed amendment to the Constitution does so in violation of the principle to which I have referred, ordinarily known as the referendum.

Let us see about this question. It has been spoken of here as though it had arisen now practically for the first time, and there had been no discussion of it throughout the years of the existence of our Government. I suppose this amendment, or the equivalent of it, has been introduced into Congress oftener than any other proposed amendment to the organic law. It has been debated more than any other amendment unless it be the amendment providing for the direct election of Senators.

I beg to read just a word indicating in a very meager way something of its history. I read from page 123 of volume 2 of the American Historical Association Report for 1896:

> Over 125 amendments have been submitted to change the term of President and fix the period of eligibility. These were brought out chiefly by the fear that the President would use the patronage of his office to secure his reelection. More than 50 of these have been propositions to fix the term at six years.

I will not pursue this comment, but will say that while the enemies of the proposition have usually been able to prevent a vote, it never has been submitted to either branch of Congress without receiving the votes of a majority of the Members of the body to which it was submitted.

I turn now to page 126, and read another extract:

> The simplest and most effective remedy would seem to be the restriction of all Presidents to a single term, a provision which the Federal convention had first unanimously adopted.

I will consider that later.

> Over 90 proposed amendments have affirmed that principle. It was presented to Congress first in 1815 as one of the amendments proposed by the Hartford convention, by the Members from Massachusetts and Connecticut, upon the instruction of their legislatures. In addition, these resolutions provided that the President should not be elected from the same State two terms in succession, thus showing New England's jealousy of Virginia.

I refer to this only to show that it is not a new subject; that it has been a matter of almost continuous demand and debate since the adoption of the Constitution.

But that is not all. Nine or ten States in the Union have, through their legislatures, at various times demanded this amendment limiting a President to a single term. I have not at hand the names of these States, nor are they material. I am simply passing through the history of the matter in order to show that we have here the firm basis of a referendum for a change in the Constitution.

Mr. BRANDEGEE. Mr. President, will the Senator yield for a question?

Mr. CUMMINS. Certainly.

Mr. BRANDEGEE. I am not sure that I understood the Senator in his statement describing the circumstances under which Congress ought to submit amendments. In view of the language of Article V of the Constitution—

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments—

I want to ask the Senator whether he means to be understood as saying that under the language "deem it necessary" it is not necessary to secure the personal approval of the Senators to the proposition, or does he construe it to mean whenever, for any reason, they deem it necessary—for instance, if they thought a considerable number of people would like to have it submitted?

Mr. CUMMINS. I construe it in the latter way. I confess I formerly held the opposite belief, before I had given the matter great thought, and before I had become impressed with the high necessity of bringing government back to the people, and giving them the full power which they ought to exercise in their own affairs. I always proceeded upon the assumption that no constitutional amendment should be submitted until it commanded the approval and had convinced the judgment of two-thirds of the Senate and two-thirds of the House. I think it is against that construction of the Constitution that a great deal of the unrest which now exists is directed. If we were to wait until two-thirds of each body were actually convinced of the necessity of a particular proposition, expressed in a particular way, we would never amend the Constitution of the United States; and the course that is being taken in this matter seems to me well adapted to establish a principle of action that will prevent the amendment of the Constitution of the country.

But I pass on to see what has been done further with regard to the movement for a single term. Three political parties have declared for this amendment. The Whig Party declared for it I think twice, certainly once. The People's Party, which was a protest against both the Democratic and the Republican Parties, declared for it, and from the platform of the People's Party, adopted at the time to which I refer, a very considerable part of the modern declarations of all existing political parties have been taken.

The People's Party organized under circumstances that are familiar to every Senator, coming directly from the body of the people themselves, declared unhesitatingly and unequivocally for a single term for President. Those earnest people did not suppose that they were organizing a raid upon their own rights and privileges. They were the advance men of their time. They were the radicals of the decade from 1880 to 1890; and while they may have been mistaken—and I am not arguing that proposition now—I do commend the declaration of the People's Party, which was really the first great protest against many of the practices and principles which we all now condemn. They insisted that the Constitution of this country should be amended so that a President should not be permitted to hold his office for more than one term; and it seems to me that such a declaration furnishes a fair basis for a referendum. Most of the friends of the referendum have stood for a plan that required the reference of a law to the action of the people in their primary capacity upon a petition signed by 8 per cent or 10 per cent or 15 per cent of the voters.

Now, tell me whether the declaration of the People's Party and the declaration of the Whig Party and finally the declaration of the Democratic Party in Baltimore last year, a party that succeeded in gathering into its following nearly 7,000,000 of the voters of the United States, should be heeded? Will anyone pretend that these accumulated demands for this change in our Constitution do not present a fair basis for submitting the question to the people themselves? So far as the referendum is concerned they who believe in it keep the word of promise to our ear and break it to our hope if they now refuse the submission of this resolution. They are doing precisely what they have charged the enemies of the doctrine with doing now these many years.

It has been constantly asserted that a few men have been able to prevent the people from remodeling their Constitution so that their powers and their privileges would be protected more adequately than they now are; and with this constant history

in Congress, with the declaration of these three great parties, further proof will be added. I might add another party although the declaration is not direct. When the Progressive Party in Chicago last summer declared explicitly and emphatically for the refendum, what did it mean? Did it mean that those who happened to be for the time being acting in a representative capacity should, after they knew that a large body of their fellow men were asking an opportunity to vote upon an important, serious proposition like this, refuse to open the door simply because they themselves were not convinced of the wisdom of the course proposed?

No; I can understand perfectly how my friends here, whether of one political complexion or another, can be opposed to this amendment as citizens. I can understand that there may be a difference of opinion with regard to the wisdom of limiting a President to a single term, for that is a question the debate upon which began when the Constitutional Convention met in 1787 and it has continued until the present time. I know there is a wide variety of judgment respecting it. But how, in view of what I have said, those who are in favor of an enlargement of the rights of the people, in favor of giving them at every fair opportunity the privilege of declaring what their Government ought to be and what their Constitution ought to be, can vote to refuse a submission of a proposal of this kind I am utterly unable to understand.

But I will add a little more to this volume of demand, because a demand of this sort is cumulative in its character. At the time of the formation of the Constitution, Thomas Jefferson was for the single term; Alexander Hamilton was against it. I wonder if those who are now considering the matter from the standpoint of the rights and the powers of the people and their influence in public affairs think that Alexander Hamilton was more profoundly interested and concerned for the people than was Thomas Jefferson. Alexander Hamilton believed, as we all know, in a President elected during good behavior, and when he failed in that he desired, of course, as much permanency as possible in the presidential office. He was patriotic and sincere; but I think it can not be said, at least, that those of us who prefer to follow the teachings of Thomas Jefferson are any the less the friends of the people.

It has been said that a great controversy arose over it about the close of Andrew Jackson's term; and that is true. But Andrew Jackson was in favor of this proposition. Daniel Webster was in favor of it, because he explicitly affirmed the Whig platform that contained a limitation immediately after its adoption, I think, in 1840. Henry Clay was in favor of a single term; Charles Sumner was in favor of a single term.

I listened the other day with a good deal of interest to the development of this subject by the senior Senator from Massachusetts [Mr. LODGE] and I could but remember the attitude which Charles Sumner had assumed upon the same great problem, and he did not assume it because he was opposed to Gen. Grant having a third term. I know that a great deal of literature upon this subject accumulated while Gen. Grant was a candidate for a third term, but the controversy in Congress did not occur solely at that time.

Charles Sumner in 1871, before the expiration of Grant's first term, presented a resolution upon this subject, and I intend to ask the consent of the Senate that the resolution he then offered shall be read, because it describes so well the difference between the opinion of the then Senator from Massachusetts and the present Senator from Massachusetts that I think it will be both instructive and interesting, and aside from that it contains a review of the whole subject up to that time. I ask that the Secretary read from the words "Joint resolution proposing an amendment of the Constitution, confining the President to one term," on page 321 of the volume I send to the desk, to the end of the resolution, on page 326.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

Joint resolution proposing an amendment of the Constitution confining the President to one term.

Whereas for many years there has been an increasing conviction among the people, without distinction of party, that one wielding the cast patronage of the President should not be a candidate for reelection; and this conviction has found expression in the solemn warnings of illustrious citizens, and in repeated propositions for an amendment of the Constitution confining the President to one term.

Whereas Andrew Jackson was so fully impressed by the peril to republican institutions from the temptations acting on a President, who, wielding the cast patronage of his office, is a candidate for relection, that in his first annual message he called attention to it; that in his second annual message, after setting forth the design of the Constitution "to secure the independence of each department of the Government and promote the healthful and equitable administration of all the trusts which it has created," he did not hesitate to say, "The agent most likely to contravene this design of the Constitution is the Chief Magistrate," and then proceeded to declare, "In order particularly that his appointment may as far as possible be placed beyond the reach of any improper influences, in order that he may approach the solemn responsibilities of the highest office in the gift of a free people uncommitted to any other course than the strict line of constitutional duty, and that the securities for this independence may be rendered as strong as the nature of power and the weakness of its possessor will admit, I can not too earnestly invite your attention to the propriety of promoting such an amendment to the Constitution as will render him ineligible after one term of service." And then again, in his third annual message, the same President renewed his patriotic appeal.

Whereas William Henry Harrison, following in the footsteps of Andrew Jackson, felt it a primary duty, in accepting his nomination as President, to assert the one-term principle in these explicit words: "Among the principles proper to be adopted by any Executive sincerely desirous to restore the administration to its original simplicity and purity, I deem the following to be of prominent importance: First, to confine his service to a single term"; and then, in public speech during the canvass which ended in his election, declared, "If the privilege of being President of the United States had been limited to one term the incumbent would devote all his time to the public interest, and there would be no cause to misrule the country"; and he concluded by pledging himself "before Heaven and earth, if elected President of these United States, to lay down, at the end of the term, faithfully, that high trust at the feet of the people."

Whereas Henry Clay, though differing much from Andrew Jackson, united with him on the one-term principle and publicly enforced it in a speech June 27, 1840, where, after asking for "a provision to render a person ineligible to the office of President of the United States after a service of one term," he explained the necessity of the amendment by saying: "Much observation and deliberate reflection have satisfied me that too much of the time, the thoughts, and the exertions of the incumbent are occupied during his first term in securing his reelection; the public business consequently suffers." And then again, in a letter dated September 13, 1842, while setting forth what he calls "principal objects engaging the common desire and the common exertion of the Whig Party," the same statesman specifies "an amendment of the Constitution limiting the incumbent of the presidential office to a single term."

Whereas the Whig Party in its national convention at Baltimore, May 1, 1844, nominated Henry Clay as President and Theodore Frelinghuysen as Vice President, with a platform where "a single term for the Presidency" is declared to be among "the great principles of the Whig Party, principles inseparable from the public honor and prosperity, to be maintained and advanced by the election of these candidates," which declaration was echoed at the great national ratification convention the next day, addressed by Daniel Webster, where it was resolved that "the limitation of a President to a single term" was among the objects "for which the Whig Party will unceasingly strive until their efforts are crowned with a single and triumphant success";

Whereas, in the same spirit and in harmony with these authorities, another statesman, Benjamin F. Wade, at the close of his long service in the Senate, most earnestly urged an amendment of the Constitution confining the President to one term, and in his speech on that occasion, February 20, 1866, said, "The offering of this resolution is no new impulse of mine, for I have been an advocate of the principle contained in it for many years, and I have derived the strong impressions which I entertain on the subject from a very careful observation of the workings of our Government during the period that I have been an observer of them; I believe it has been very rare that we have been able to elect a President of the United States who has not been tempted to use the vast powers intrusted to him according to his own opinions to advance his reelection"; and then, after exposing at length the necessity of this amendment, the veteran Senator further declared, "There are defects in the Constitution, and this is among the most glaring; all men have seen it; and now let us have the nerve, let us have the resolution, to come up and apply the remedy";

Whereas these testimonies, revealing intense and widespread convictions of the American people, are reenforced by the friendly observations of De Tocqueville, the remarkable Frenchman to whom our country is under such great and lasting obligations, in his famous work on "Democracy in America," where he says, in words of singular clearness and force, "Intrigue and corruption are vices natural to elective governments; but when the chief of the state can be reelected, the vices extend themselves indefinitely and compromise the very existence of the country; when a simple candidate seeks success by intrigue his maneuvers can operate only over a circumscribed space; when, on the contrary, the chief of the state himself enters the list he borrows for his own use the force of the government; in the first case it is a man with his feeble means; in the second it is the state itself, with its immense resources, that intrigues and corrupts"; and then, again, the same great writer, who had studied our country so closely, testified, "It is impossible to consider the ordinary course of affairs in the United States without perceiving that the desire of the reelected dominates the thoughts of the President; that the whole policy of his administration tends toward this point; that his least movements are made subservient of this object; that, especially as the moment of crisis approaches, individual interest substitutes itself in his mind for the general interest";

Whereas all these concurring voices where patriotism, experience, and reason bear testimony have additional value at a moment when the country is looking anxiously to a reform of the civil service, for the plain reason that the peril from the Chief Magistrate so long as he is exposed to temptation surpasses that from any other quarter, and thus the first stage of this much-desired reform is the one-term principle, to the end that the President, who exercises the appointing power, reaching into all parts of the country and holding in subserviency a multitudinous army of officeholders, shall be absolutely without motive or inducement to employ it for any other purpose than the public good; and

Whereas the character of republican institutions requires that the Chief Magistrate shall be above all suspicion of using the machinery of which he is the official head to promote his own personal aims: Therefore be it

Resolved by the Senate and House of Representatives, etc., That the following article is hereby proposed as an amendment to the Constitution of the United States, and, when ratified by the legislatures of three-

fourths of the several States, shall be valid to all intents and purposes as parts of the Constitution, to wit:

ARTICLE.

SECTION 1. No person who has once held the office of President of the United States shall be thereafter eligible to that office.

SEC. 2. This amendment shall not take effect until after the 4th day of March, 1873.

DEATH OF REPRESENTATIVE GEORGE S. LEGARE.

A message from the House of Representatives, by J. S. South, its Chief Clerk, communicated to the Senate the intelligence of the death of Hon. GEORGE S. LEGARE, late a Representative from the State of South Carolina, and transmitted resolutions of the House thereon.

The PRESIDENT pro tempore. The Chair lays before the Senate resolutions of the House of Representatives, which will be read.

The resolutions were read, as follows:

IN THE HOUSE OF REPRESENTATIVES,
January 31, 1913.

Resolved, That the House has heard with profound sorrow of the death of Hon. GEORGE S. LEGARE, a Representative from the State of South Carolina.

Resolved, That a committee of 16 Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect this House do now adjourn.

Mr. WILLIAMS. Mr. President, I submit the resolutions which I send to the desk, and ask for their adoption.

The resolutions (S. Res. 445) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. GEORGE S. LEGARE, late a Representative from the State of South Carolina.

Resolved, That a committee of nine Senators be appointed by the President of the Senate pro tempore, to join the committee appointed on the part of the House of Representatives, to attend the funeral of the deceased, at Charleston, S. C.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives.

The PRESIDENT pro tempore appointed, under the second resolution, as the committee on the part of the Senate, Mr. TILLMAN, Mr. SMITH of South Carolina, Mr. MARTINE of New Jersey, Mr. SWANSON, Mr. PERKY, Mr. MYERS, Mr. GRONNA, Mr. CRAWFORD, and Mr. POINDEXTER.

Mr. WILLIAMS. Mr. President, I move, as a further mark of respect to the memory of the deceased Representative, that the Senate take a recess until 11.45 o'clock to-morrow morning.

The motion was unanimously agreed to; and (at 5 o'clock and 25 minutes p. m.) the Senate took a recess until to-morrow, Saturday, February 1, 1913, at 11.45 o'clock a. m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January 31, 1913.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Once more, Almighty God, our Father, we are brought face to face with the inevitable in the death of another Member of this House. Increase our faith in the immutability of Thy character and in the prolongation of life, that we may be comforted with his dear ones in the overruling of Thy providence for the eternal and everlasting good of Thy children. And help us to be ready when the summons comes that we may pass serenely on to the larger life. And Thine be the praise in Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

OMNIBUS CLAIMS BILL.

Mr. SIMS. Mr. Speaker, I desire to submit a request for unanimous consent. I ask unanimous consent to take up the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference asked by the Senate. This bill is what is commonly called the omnibus war-claims bill. I desire to state to the Members of the House who have claims in this bill and are interested in it, that I put in every available moment of the extra session working on the items that composed the bill and therefore obtained an early report. The bill was taken up and passed in the House at a very early period of the regular session. It went to the Senate and was not passed by the Senate until the 21st day of January, 1913. As soon as the bill came back to the House, I first asked the Speaker to let it remain upon the Speaker's table and then made a request for unanimous consent to take the bill from the Speaker's table, disagree to the Senate amendments and agree to the conference asked for by the Senate. That request was objected to, and the bill then had to go to the Committee on War Claims. The committee was called together immediately and reported the bill back to the House with the recommendation that the Senate amendments be disagreed to and the conference asked by the Senate agreed to. To-day is the day on which the Private Calendar can be considered by the House, provided a preferential motion to go into the Committee of the Whole for the consideration of the District appropriation bill is voted down. Then after we have gone into the Committee of the Whole for the consideration of the omnibus war-claims bill, and the committee has taken up this bill, it can be considered. The bill is 278 pages long. It will be utterly impossible to have anything like a conference upon this bill which I could ask the House to accept, if it is not sent to conference immediately. Under the ordinary rules of the House, without the slightest effort to filibuster, it will be impossible in one day to vote on the 233 numbered Senate amendments, many of which are divisible and upon which many votes can be demanded. But I realize, and I realized yesterday, that it would be utterly impossible, even though we used the whole of to-day, to get this bill acted upon and sent to conference.

I simply desire to let the House know the situation. As I understand, the House has agreed to take up for consideration to-day the District appropriation bill, and I hope that my request will be granted. I desire to say to anyone who is disposed to object, that no bill will be reported back from conference upon which any gentleman will not be satisfied an honest effort was made on the part of the conferees to discharge their duties to this House.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, may I ask the gentleman how many items were in the bill as it passed the House?

Mr. SIMS. There were about 1,080 separate claims. That is my recollection.

Mr. MANN. As I understand, the Senate, by amendment, struck out 982 of those——

Mr. SIMS. Practically all of them.

Mr. MANN (continuing). And added 15 items under the war claims provision, and in addition to that it added some 1,600 items of claims over which the Committee on War Claims has no jurisdiction.

Mr. SIMS. As to the number I do not know, but the gentleman is right as to the latter part of his statement, beyond any question. Personally I have not counted the number.

Mr. MANN. There are over 1,600, I believe, or about 1,600. There are 1,230 overtime navy-yard claims, 278 naval claims for additional pay on account of service at sea, 94 navy and war claims, longevity and extra pay, and 9 miscellaneous claims added by the Senate. The committee, of course, has probably no special knowledge concerning these claims, which have not been pending before the House, and which if pending before the House would be before the Committee on Claims instead of the Committee on War Claims.

Mr. SIMS. That is undoubtedly correct.

Mr. MANN. Does the gentleman himself believe that it would be quite fair to the House or even to the conferees of the House to send to a conference now a bill where the Senate has stricken out practically all of the items which were inserted by the House concerning war claims and have added 1,600 items over which the committee has no jurisdiction, to send those to conference where the plain intention—I will not say intention—but the plain effort would be to bring about a compromise by accepting all the claims which the House had proposed and the Senate had stricken out and all the claims which the Senate now proposes in addition to those that the House passed before. The gentleman knows the pressure that comes to the conferees from Members of the House having some claim that some constituent is writing him about, and the gentleman knows the moment this bill would go to conference the claim agents and the claim attorneys who are interested in these claims would see that every claimant would at once communicate with the Members of Congress from their respective districts urging them to urge the conferees to agree to the conference report and take care of their special claims.

Mr. SIMS. Mr. Speaker——

Mr. MANN. I have the greatest confidence in the gentleman from Tennessee and the other conferees who would be appointed by the House, but personally I would not subject myself to that pressure under any condition if I were even as hard-hearted about some things as the gentleman from Tennessee——

Mr. SIMS. If the gentleman from Illinois will permit me in his time, if the gentleman is going to object, in which to suggest that I realize the difficulty that confronts the conferees in the discharge of their duties, especially the conferees on a bill coming from the Committee on Claims or War Claims. The gentleman very correctly says we have no special knowledge of these claims. Most of them are in classes, and I admit that it would be exceedingly difficult, and it might turn out that we could not come to any agreement at all, but I would ask the gentleman from Illinois if it is within the purview of duty that a chairman of a committee should dodge responsibility and not make every effort he can to discharge that duty to the utmost?

Mr. MANN. I think the gentleman from Tennessee is performing his function properly in seeking to have this bill sent to conference, but here, for instance, is a claim for increased pay on account of longevity service based upon a statute passed in 1838 by one of those who received the pay, and the Government construed it one way until the Supreme Court decided otherwise in 1881, and claims are allowed in this bill dating back from 1838 to officers who died in the forties and fifties before the war on the ground that their longevity pay should have commenced with their entrance into the Military or Naval Academy instead of their actual entrance into the service of the Government in the Army and Navy as commissioned officers, and this bill contains a general provision waiving the statute of limitations as to every officer of the Army and the Navy from 1838 down to the time when this longevity pay was allowed, although all the officers received their pay and were satisfied with their pay in the service of the Government. And no one knows, and no one has made a computation to estimate the amount of money which would be involved by that.

Mr. SIMS. The gentleman will remember that I stood here and fought at the risk of defeating an entire omnibus bill, what was called the Selfridge board claims, when every pressure, and even threats, were brought to bear upon me; and I stood to the last and defeated those claims. Now, I promise I will stand against any claim in this bill regardless of pressure that can be brought until I am shown it is right and ought to be paid.

Mr. MANN. The gentleman is one of the most popular and able and honest Members of this House. I should dislike very much to see the gentleman made unpopular in the House by resisting all of these claims from half or three-fourths or four-fifths of the Members of Congress going to him at the request of their constituents. I wish to preserve the popularity of my friend for him.

Mr. SIMS. I want to ask the gentleman from Illinois [Mr. MANN] just one question. We will take what he says as being correct. Under existing circumstances, with an objection to this request, will it be practically possible to get this bill to conference except by a special rule providing for a vote upon the naked question of disagreement of Senate amendments and for a conference?

Mr. MANN. I do not know about that. I would not wish to say. I am willing to cooperate with the gentleman from Tennessee in having these war claims paid now or hereafter; but it seems to me that the distinguished body at the other end of the Capitol ought to be courteous enough with the body at this end of the Capitol to not insert into the war-claims bill, which comes from one committee of this House, other matters which in this House belong to another committee. For instance, we have two pension committees of the House, one relating to pensions for survivors of the Civil War, one relating to pensions for officers or men concerned with other wars or the Regular Army. The Senate has one pension committee, and yet they never mix the two propositions, because they recognize in the Pension Committee in the Senate that the House has two pension committees, and they never insert in a bill that comes from the Invalid Pensions Committee of the House a proposition that belongs to the Pensions Committee of the House, or vice versa. They had best take that into consideration on the claims bill, then there will be no trouble in passing a proper claims bill in the House. But to think of inserting 1,600 claims in a bill from the War Claims Committee, the jurisdiction over those bills pertaining to the Claims Committee, and then ask to have three members of the War Claims Committee pass upon those in conference is the height of bad legislation.

Mr. SIMS. And the gentleman, of course, must know that we are powerless to prevent that.

Mr. MANN. I am addressing my remarks to the House, with the hope that they will be considered elsewhere.

The SPEAKER. Is there objection?

Mr. MANN. I object.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The SPEAKER. Under the order of the House, the House will resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 28499, the District of Columbia appropriation bill, and the gentleman from Georgia [Mr. ROBINSON] will take the chair.

Mr. BURLESON. Mr. Chairman, I ask that the Clerk proceed with the reading of the bill.

The Clerk read as follows:

Plumbing inspection division: Inspector of plumbing, $2,000; principal assistant inspector of plumbing, $1,350; assistant inspectors of plumbing—1 at $1,200, 4 at $1,000 each; clerks—1 at $1,200, 1 at $900; temporary employment of additional assistant inspectors of plumbing and laborers for such time as their services may be necessary, $1,700; draftsman, $1,350; sewer tapper, $1,000; 3 members of the plumbing board, at $150 each.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order as to that item, and, without repeating or reiterating, I present the same reasons that I did yesterday, that it is simply the payment of a private claim when it comes to reimbursing an individual for property owned by himself and not by the Government.

Mr. BURLESON. Mr. Chairman, I concede the point is well taken, and I offer the following amendment:

Insert, after the semicolon, in line 2, the following:

"The three assistant inspectors of plumbing, for the provision and maintenance by themselves of three motor cycles for use in their official inspection in the District of Columbia, $10 per month each, $360."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 4, line 2, after the word "each," insert the following:

"The three assistant inspectors of plumbing, for the provision and maintenance by themselves of three motor cycles for use in their official inspections in the District of Columbia, $10 per month each, $360."

Mr. JOHNSON of Kentucky. Mr. Chairman, I must insist there is not a particle of difference between the amendment and the other, and I make the point of order on it, because it is exactly the same proposition, inasmuch as it is the private debts of an individual concerning private property and not public property.

Mr. SAUNDERS. Mr. Chairman, I would suggest a most essential difference between the two propositions. We discussed this principle on yesterday in another connection. It is well to have a settlement of the matter before proceeding further.

This is the difference between the matter in the bill, and the matter of the amendment. So far as the language of the bill is concerned, the word "reimbursed," might be considered as indicating payment to some one having a claim against the District, by reason of money paid, or services rendered. But to appropriate directly in advance, or even after the use of these machines, certainly can not in any sense be considered as payment of a private claim. No claim against the District, or the Government ever arises in connection with these machines. Their use as private property by the owners, can not be made the basis of a claim.

It might as well be contended that if we appropriate, as we do, for the street-car fares of certain officials of the District, such an appropriation is the payment of a private claim, or that if we appropriate for transportation of any sort for any officer in connection with the discharge of the duties of his office, a claim is thereby discharged.

I submit these further arguments to the Chair, calling attention as well in this connection to what appears in the RECORD of yesterday.

The CHAIRMAN. The Chair would like to inquire in respect to the salaries of these assistant inspectors of plumbing, fixed by statute, as the gentleman describes. If a motion were made to increase the salary by $10 a month, or $120 a year, and a point of order were made, the point might probably be sustained because it was an increase of the salary. Now, if these are privately owned vehicles and are used by these officials in connection with the labor or service they are designated to render, and by this amendment a particular amount per month is paid to a particular employee or a particular class of employees, how does it escape the objection of being in effect an increase of salary for that year?

Mr. SAUNDERS. Of course it might be argued that indirectly, when transportation is provided for, the salary is increased. But it is not so regarded. It is an appropriation which is authorized, whatever may be its incidental effect upon the officer. It might not affect the salary at all, as the officer might walk if transportation is not provided, thereby reducing his efficiency, but leaving the salary intact. I wish to call the attention of the Chair to some precedents in connection with this matter. While it is true that an increase in a salary carried in

an appropriation bill of the preceding year, is subject to a point of order, on the ground that it changes existing law, yet the Chair will find on looking into the matter—and I have a memorandum of the reference on my desk—that this holding is an exception, and admitted to be an exception to the general rule.

The Chair will find that Chairmen in ruling on this very proposition, announce that if an opportunity was given to rule upon the same as an original proposition, they would not sustain it. There is no foundation of reason for this ruling. It is one of mere convenience.

I admit of course that these precedents exist, and that an increase of the salaries of officials who are carried at other salaries in the last appropriation bill is subject to a point of order. But that ruling rests, as I have said, on no foundation of reason. It is admitted to be an exception, and one unsupported by principle. If offered as an original proposition I have no doubt that the present occupant of the chair would decide that the point of order was not well taken.

This being so, there is no reason why the Chair should undertake to extend the application of this precedent to a situation like this, when such an application would tend to cripple the operations of the District government. In the discharge of their duties these men are rendered more efficient by the use of these instrumentalities. This appropriation is really an economy, because it enables one official to do the work possibly of one and one-half, or two officials. I put this matter on a broader basis than one of salary, and assert that it is an appropriation for the proper operation of a government which we have created, and for which we appropriate.

Mr. FRANCIS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. SAUNDERS. Certainly.

Mr. FRANCIS. Is not the same true with regard to the rural-route carriers throughout the country—the efficiency of their service is facilitated by reason of conveyances beyond the amount of the salary appropriated for them?

Mr. SAUNDERS. Yes. But this is not a question of law, but one that addresses itself to the discretion of the committee. It is perfectly competent for the committee to strike out this item.

Mr. FRANCIS. In the enactment of the original bill was it not contemplated that the parties receiving this salary should make these inspections and do this work? Was it not contemplated by the original act that this service should be rendered?

Mr. SAUNDERS. Oh, certainly it was.

Mr. FRANCIS. Then why allow the extra compensation for it?

Mr. SAUNDERS. It is not an extra compensation, except in an indirect way. It may not be, as I have shown any increase at all, even indirectly. But I will call the attention of the gentleman to the fact that on account of the increase of population, and business in this city, the number of these inspections has greatly increased." Hence a different situation from the former one, is presented. If you do not provide these instrumentalities, it will be necessary to provide more officials. If it is considered to be unwise to provide for this transportation, then strike this item out of the bill. But in the judgment of the Committee on Appropriations that action would be a mistake. The situation is up to the Committee of the Whole.

If it is considered an unwise appropriation to provide that one man, by the use of a motor cycle, can do the work of two, then strike out the provision for a motor cycle. It is perfectly competent for the gentleman from Ohio [Mr. FRANCIS] to make that motion. I will not become involved in any controversy about the rural carriers, or any other officials of the Government. I am simply submitting to the Chair that in connection with the government of this city, the committee is authorized to provide those instrumentalities, for its officials, which make for the economical government of the city by rendering the work of a given number of officials more efficient, and that such a provision is not subject to a point of order. If it was proposed to increase the salary of an official, from a present salary of $50 a month to one of $60, it is freely admitted that this increase would be subject to a point of order, but as heretofore pointed out, the precedents sustaining this point of order, are admittedly exceptions to the general rule, and preceding occupants of the chair following these precedents have said that they merely followed those decisions, though they regarded them as erroneous. That being so, why should the application of a ruling which can not be supported upon principle, be extended to a proposition like the pending one? I submit the matter to the ruling of the Chair.

Mr. BURLESON. Mr. Chairman, one word in addition to what has been said by the gentleman from Virginia. This can not in any sense be called an increase in the salaries paid these additional employees. It is appropriating a sum of money to furnish the means whereby they may properly discharge the duties imposed upon them, to afford a facility for the more expeditious performance of their duty, and it is in no sense an augmentation of their salary and is not intended as such.

Mr. JOHNSON of Kentucky. Mr. Chairman, the gentlemen in charge of this bill admit that the item as it now appears in the bill is for the reimbursement or payment of a private claim. Therefore it is subject to a point of order. They take the anomalous position, however, that to pay a private claim after it has been incurred is subject to a point of order, but to pay a private claim before it is incurred is not subject to a point of order. Instead of being a better position, it is a more untenable position. But, in addition to agreeing to pay a private claim before it is incurred, the effect of it, plainly put, is to increase a salary. So, Mr. Chairman, upon the two points I insist upon my point of order.

Mr. SAUNDERS. Mr. Chairman, before you rule, may I submit to you the authorities I referred to in connection with this proposition?

The CHAIRMAN. Certainly.

Mr. SAUNDERS. The section in Hinds' Precedents reads as follows:

In the absence of a general law fixing a salary, the amount appropriated in the last appropriation bill has been held to be the legal salary, although in violation of the general rule that the appropriation bill makes law only for the year.

That is on page 453 of volume 4 of Hinds' Precedents. Then on page 455 we find this ruling of the Chair. I referred to this before, and now simply wish to put the matter before the Chairman in an authoritative form:

The Chair can not refrain from saying that if this question were presented for the first time—

That was an amendment increasing a salary over that carried in the last appropriation bill—

he would have no hesitation in ruling the amendment to be in order; but to carry out in that way the conviction of the Chair might overturn the whole appropriation bill, or so large a portion of it as to render it inoperative. The Chair therefore takes the opportunity to shield himself behind the decisions which have been heretofore made and sustains the point of order.

I say that such a precedent as this, standing as it does, with no principle behind it, ought not to be relied upon, or strained in order to meet a situation like the present, which is in no way its analogue.

Mr. JOHNSON of Kentucky. Mr. Chairman, there is no authority that anyone can find which will authorize anybody to incur a private claim and then agree in advance to pay it.

Mr. FITZGERALD. Mr. Chairman, this is in no sense a private claim. I do not understand that anyone has conceded that this is to pay a private claim. It would be perfectly competent on this bill to provide means of transportation for these officials, whether by automobiles or motor-propelled vehicles, either by purchase of them or by the hire of them, and the purpose of this provision is not to discharge a private claim, but in effect to obtain means of transportation by hiring the vehicles from the persons owning them who happen to be in the service of the District.

Under the ruling that certain facilities can be furnished upon these bills for the necessary transaction of public business in the District, this is one of the facilities that can be carried. Otherwise the rules of the House of Representatives are different from what anyone ever conceived them to be. If nothing can be done on an appropriation bill under the various statutes providing for the existence of the government of the District of Columbia and its maintenance except something that has been done in the past, it is idle to attempt to provide for the maintenance of a government in a municipality where the details of the appropriations must be modified from time to time to meet the varying conditions.

The CHAIRMAN. In the language of this amendment, "to three assistant inspectors of plumbing for the provision and maintenance by themselves of three motor cycles," and so forth; does the gentleman understand that the words "the provision" might be construed that the motor cycle shall be used by the inspector for the purpose and also that it might be by the inspector bought from that sum, in part or in whole, which motor cycle shall afterwards be his individual property? That question was not raised on yesterday, but I suggest it to the gentleman.

Mr. MANN. If the gentleman from Texas will yield, it seems to me that the language simply means that these inspectors shall have provided themselves with motor cycles and maintained them. While the language says "to reimburse three assistant inspectors," I think we all understand that this is not a claims bill. Take any item in any bill for traveling expenses; here are post-office inspectors of no value unless they can travel, and their salaries do not cover the traveling expenses, and could not, but we provide every year for the amount which may be used for transportation of these post-office inspectors at a rate to be fixed, usually not exceeding so much. These expenses are first incurred by the inspectors. They spend the money before they get it. They are reimbursed on vouchers which they present.

In the same way these inspectors of plumbing, in order to get the best efficiency, are required to move around the District of Columbia by the aid of some method of rapid transportation, and the best, fastest, and cheapest method of transportation is by motor cycle. Having gone to the expense of providing themselves with motor cycles and maintaining these motor cycles, we, in fact, make an appropriation and then limit the amount which they can be paid for their transportation. It would undoubtedly be in order to provide street car fare for them as we provide railroad fare for inspectors who are required to go out of the city. If you have inspectors, it is necessary to have tools with which they can work, and among the tools with which they work is the means of moving around the city rapidly. The inspector who had to walk would find it a slow method of inspection. The District government might permit him to hire a carriage or a wagon with which to go around, but that is slow and costly. Now, here the provision is to provide traveling expenses. They can not get this in advance. They do not draw the money in advance for the succeeding month, but it is to reimburse them after they have gone to the expense.

The CHAIRMAN. Let the Chair ask a similar question to that propounded to the gentleman from New York. In line 4, suppose the words "and maintenance" were eliminated. Then it would read: "To three inspectors of plumbing for the provision by themselves of three motor cycles for use," and so forth. What would be the import of the words "the provision"?

Mr. MANN. Suppose you left that out and provided for maintenance of the motor cycles. They might possibly draw the money then for the maintenance without having them, but this provision "for the provision and maintenance" requires them to have the motor cycles before they can draw the money. They must, before drawing the money, have provided themselves with motor cycles. They do not buy the motor cycles out of this fund.

The CHAIRMAN. Then it is the claim of the gentleman that the words "the provision" constitute one of the objects for which the allowance is made, the statement indicating that before the maintenance shall be allowed they must have themselves made the provision?

Mr. MANN. They must have themselves made the provision.

The CHAIRMAN. The Chair will ask what construction the chairman of the committee puts upon that proposition?

Mr. BURLESON. Mr. Chairman, I think the words "for the provision" mean that during the period of time that this $10 a month is allowed it is not only to maintain the motor cycle, but also to accumulate a fund with which to purchase another when the one being used has worn out.

Mr. JOHNSON of Kentucky. Mr. Chairman, the gentleman from Illinois has made a rather ingenious argument, and yet is full of fallacy. He has cited the instance of a post-office inspector traveling. Let us take that. Let us suppose that the post-office inspector travels upon a railroad. Could there be put into this bill a provision to pay the railroad for the damage which that post-office inspector might do to the seat of the railroad train? Is not that a similar proposition to this? Mr. Chairman, the further they go with their argument from this point the more apparent it becomes that it at last is a private claim which it is endeavored to pay out of a public fund in an appropriation bill.

The CHAIRMAN. In the opinion of the Chair the point of order is not well taken, and the Chair overrules the point of order.

Mr. COX. Mr. Chairman, I offer the following amendment to the amendment which I send to the desk and ask to have read.

The Clerk read as follows:

After the amendment, insert the following:
"*Provided* That no more of said sum shall be expended than is actually necessary for the maintenance of said motor cycle."

Mr. BURLESON. Mr. Chairman, I will accept that amendment.

The CHAIRMAN. The question is on the amendment.

The amendment to the amendment was agreed to.

The CHAIRMAN. The question now on is on the adoption of the amendment as amended.

The amendment was agreed to.

The Clerk read as follows:

Care of District building: Clerk and stenographer, $2,000; chief engineer, $1,400; 3 assistant engineers, at $1,000 each; electrician, $1,200; 2 dynamo tenders, at $875 each; 7 firemen, at $720 each; 3 coal passers, at $600 each; electrician's helper, $840; 8 elevator conductors, at $600 each; laborers—2 at $660 each, 2 at $500 each; 2 chief cleaners, who shall also have charge of the lavatories, at $500 each; 30 cleaners, at $240 each; chief watchman, $1,000; assistant chief watchman, $660; 8 watchmen, at $600 each; pneumatic-tube operator, $600; in all, $36,530: *Provided*, That the employees herein authorized for the care of the District building shall be appointed by the assistants to the engineer commissioner, with the approval of the commissioners.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order to the paragraph for the reason that it contains new legislation. My point is directly aimed at line 18, where there is the following provision:

Provided, That the employees herein authorized for the care of the District building shall be appointed by the assistants to the Engineer Commissioner, with the approval of the commissioners.

That is legislation taking away from the commissioners the power to make that appointment. There is scramble enough now over appointments, trying to hide them away so that they can not be taken advantage of after the 4th of March, and I wish to stop this.

Mr. BURLESON. Mr. Chairman, I will state to the Chair that this is, word for word, the paragraph as it has been carried in this bill for a number of years. There is nothing new in the item; the proviso is a limitation on the appropriation made. It directs the commissioners to do certain things in connection with the employment of the officials provided for.

The CHAIRMAN. The gentleman does not contend that the fact of its having been carried in an appropriation bill will give it any better standing if it is not provided for by law.

Mr. JOHNSON of Kentucky. Mr. Chairman, I will say right there that it was not in the last appropriation bill, according to my recollection.

Mr. FOSTER. Oh, yes; it was.

Mr. JOHNSON of Kentucky. But it does not make any difference whether it was or was not. I do not think it was there.

Mr. BURLESON. I am quite sure it was in the last appropriation bill.

The CHAIRMAN. Does not the organic act provide that these employees shall be appointed by the commissioners?

Mr. BURLESON. Mr. Chairman, I hold in my hand the last District appropriation act passed by Congress, and it contains this proviso, word for word.

The CHAIRMAN. What authority of law is there for conferring upon the assistant engineers the power of the appointment of these employees?

Mr. BURLESON. I do not think that there is any specific authority.

The CHAIRMAN. Then, does not the organic act particularly provide that they shall be appointed by the commissioners?

Mr. BURLESON. But the Chair will note that it is to be done with the approval of the commissioners.

Mr. JOHNSON of Kentucky. Yes; and the President must appoint, subject to the approval of the Senate.

The CHAIRMAN. In the absence of any specific authority upon the subject, the Chair sustains the point of order.

Mr. BURLESON. Mr. Chairman, I offer the following amendment: After the colon, on page 4, line 18, add the following: "*Provided*, That the employees herein authorized to take care of the District building shall be appointed by the commissioners."

The Clerk read as follows:

Page 4, line 18, after the colon, add the following:
"*Provided*, That the employees herein authorized to take care of the District building shall be appointed by the commissioners."

Mr. JOHNSON of Kentucky. Read that again, please.

The amendment was again reported.

Mr. JOHNSON of Kentucky. Mr. Chairman, this carries no authorization; there is no "herein authorized," and I make the point of order on that.

The CHAIRMAN. The point of order is overruled, and the Clerk will read.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the subcommittee, the gentleman from Texas [Mr. BURLESON], relative to the $240 each, which is provided in line 15, for pay of charwomen. I desire to know whether he thinks that is the correct figure or not that they should be paid?

Mr. BURLESON. The gentleman means whether it is adequate compensation?

Mr. JOHNSON of Kentucky. Yes; or inadequate.

Mr. BURLESON. I think it is adequate compensation.

Mr. JOHNSON of Kentucky. I will ask the gentleman from Texas to turn to page 13, line 9, where provision is made to pay the charwomen in the library $180 each per year.

Mr. BURLESON. I will state to the gentleman from Kentucky that the hours of service of these charwomen may differ and do differ in the various buildings. A charwoman is not continuously employed——

Mr. JOHNSON of Kentucky. I understand that.

Mr. BURLESON. She serves the District only an hour and a half or two hours or two hours and a half a day, and there is the greatest demand for those places. It is universally regarded in the city as adequate compensation for the services rendered. It is higher pay than is given to charwomen who are engaged by the owners of the large office buildings in the city, and I assure the gentleman that there is no disposition on the part of those in charge of the bill to give inadequate compensation to any person serving the District government. We have not the slightest doubt in our minds that this is liberal compensation for the services rendered.

Mr. JOHNSON of Kentucky. Mr. Chairman, I was addressing myself to the subject of discrimination. For the Takoma Park Library 6 charwomen are provided for, to be paid $180 a year; for the Municipal Building 30 charwomen are provided for, to be paid $240 a year. Now, it is inevitable that either one is paid too much or the other is paid too little.

Mr. FOSTER. Not necessarily.

Mr. JOHNSON of Kentucky. It is necessarily, because it takes 6 charwomen just as long to clean the public library building as it takes 30 to clean the Municipal Building.

Mr. FOSTER. How does the gentleman know that?

Mr. JOHNSON of Kentucky. How does the gentleman know the contrary?

Mr. FOSTER. I am asking for information; the gentleman is giving information, and I would like to know where he gets it.

Mr. JOHNSON of Kentucky. I think the committee——

Mr. FOSTER. To say it takes as long to clean in one place as another, the gentleman must have some reason for it.

Mr. JOHNSON of Kentucky. That is exactly what the gentleman from Kentucky is relying upon—reason for it.

Mr. FOSTER. Well, give it to us; let us know what it is.

Mr. JOHNSON of Kentucky. Use your reason and I am quite sure the gentleman from Kentucky will have it.

Mr. FOSTER. I suggest to the gentleman from Kentucky that he does not give any reason for it. He states now it might take as long to clean a certain building as another and——

Mr. JOHNSON of Kentucky. I asked the question, Why the reason for the discrimination?

Mr. FOSTER. The gentleman made the statement.

Mr. JOHNSON of Kentucky. Now, I am asked in turn to show their proposition is correct.

Mr. FOSTER. The gentleman may be right; I am asking him to give some reason for it, that is all; I do not know; I am not denying the gentleman's statement.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out "$240," in line 15, and insert "$180."

Mr. BURLESON. Mr. Chairman, I make the point of order on that.

The CHAIRMAN. The gentleman from Kentucky moved first to strike out the last word. Does he withdraw that amendment?

Mr. JOHNSON of Kentucky. I withdraw the pro forma amendment and move to strike out "$240" and insert "$180" and pay all these alike.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BURLESON].

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Kentucky.

The Clerk read as follows:

Page 4, line 15, strike out the figures "$240" and insert in lieu thereof "$180."

Mr. BURLESON. I hope the amendment will be voted down.

Mr. BUTLER. Is that the charwoman amendment?

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. COX. Division, Mr. Chairman.

Mr. JOHNSON of Kentucky. I demand a division.

Mr. MANN. Which amendment was to be voted on?

The CHAIRMAN. The amendment of the gentleman from Kentucky [Mr. JOHNSON], to strike out "$240" and insert "$180," and the Chair has announced that the noes seem to have it.

Mr. JOHNSON of Kentucky. Division, Mr. Chairman.

The committee divided; and there were—ayes 1, noes 22.

So the amendment was rejected.

Mr. JOHNSON of Kentucky. Mr. Chairman, I ask for information as to what was done with lines 18, 19, 20, and 21.

The CHAIRMAN. The point of order was sustained as made by the gentleman from Kentucky [Mr. JOHNSON] on the proviso beginning in line 18. Thereafter the gentleman from Texas [Mr. BURLESON] moved an amendment. A point of order was made against it by the gentleman from Kentucky and overruled. The amendment was then submitted to the committee and the committee adopted it. The Clerk will read.

Mr. FOWLER. Mr. Chairman, I move to strike out the paragraph, for the purpose of making an inquiry of the chairman of the subcommittee as to what provisions are made for these charwomen in the discharge of their duties in cleaning the District building.

Mr. BURLESON. All the appliances and all the materials used for cleaning purposes are supplied by the District government. The only service that is rendered by these charwomen is to report to the building at a certain time after office hours, and to remain there, in some instances, two, three, or three and one-half hours and clean the building.

Mr. FOWLER. What is the average length of time which is required to clean the building?

Mr. BURLESON. Do you mean the Municipal Building?

Mr. FOWLER. Yes.

Mr. BURLESON. I am not sure. I think probably it may be from two to three and one-half hours a day.

Mr. FOWLER. Now, are these women required to get down on their hands and knees and scrub and mop the floor of this building?

Mr. BURLESON. I have never been in the District building while it was being cleaned, and I do not know what particular rules and regulations about requiring them to get on their hands and knees have been adopted by those who have charge of the cleaning of the building, but I am satisfied that such regulations are adopted as will accomplish the result desired, which is a proper cleaning of the building.

Mr. FOWLER. I submit that there ought to be a proper sanitary cleaning, but could not that be done by the use of mops and scrub brushes such as would prevent the women from having to get down on their hands and knees to do this work?

Mr. BURLESON. If I made myself clear, I did not say that they got down on their hands and knees. I informed the gentleman I did not know whether they got down on their hands and knees or not, but I feel quite sure that all proper appliances are furnished to these charwomen. It may be they have vacuum cleaners for all I know, it may be they have mops with handles sufficiently long to permit them to maintain an erect position at all times. I am not sure about that.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. FOWLER. I move to strike out the last three words, Mr. Chairman.

The CHAIRMAN. The Chair can not entertain that motion, it being a pro forma motion, and the gentleman having been already recognized for five minutes on a pro forma motion.

Mr. FOWLER. Mr. Chairman, I desire to withdraw the pro forma amendment, and then move to strike out the paragraph.

The CHAIRMAN. That is the motion the gentleman originally made?

Mr. FOWLER. I ask unanimous consent for the purpose of inquiring into this important question.

Mr. TAYLOR of Ohio. I object.

The CHAIRMAN. For how long?

Mr. FOWLER. Five minutes.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. FOWLER. Did your committee make inquiry as to the method and appliances furnished to these charwomen for the cleaning of this building?

Mr. BURLESON. We did not. I want to say to the gentleman from Illinois that I am satisfied that the means utilized for the cleaning of the Municipal Building are identical with the means utilized for cleaning the Office Building, where you go every day and where you are compelled to see how the cleaning is effected.

Mr. COX. They use the same means that our wives employ in our homes.

Mr. FOWLER. Mr. Chairman, that it just the reason why I am inquiring of the distinguished gentleman, so that I may

know as to whether or not these women are required to get down on their hands and knees for the purpose of scrubbing, mopping, and cleaning the floors of this building.

Mr. Chairman, I know that these women are so poor that they will endure whatever indignities are put upon them in doing this menial work. Their wants for the necessaries of life are so great that they do not dare to make known their grievances for fear of losing their jobs. I know, from the statement of a woman employed in the House Office Building, who, because she was required to get down on her hands and knees and crawl over the hard stone floor, had inflicted bruises upon her knees which have not yet healed, and she has not made it known to the public because she is afraid that by so doing she will lose her job. I can not name her in this reference without endangering her employment, as she believes.

Mr. Chairman, I believe that a complete and sanitary condition could be brought about in this and other public buildings by furnishing these charwomen with mops and scrubbing brushes with handles, whereby the work could be done by them while standing instead of crawling on their hands and knees. These poor, helpless women who are required to do for the District of Columbia and the United States of America work such as will bring upon their persons bruises and sores which they are compelled to endure for fear of losing their jobs should be speedily relieved by Congress. I insist, Mr. Chairman, that such a condition is a disgrace to the authority that makes the employment, I care not what that authority is. [Applause.]

Now, Mr. Chairman, I would not have adverted to this matter had it not been for that sickening and sad story that was told to me a few days ago by this poor charwoman in the House Office Building, a building controlled by Congress and by the laws that Congress enacts. I trust, Mr. Chairman, that Congress will tolerate it no more. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. CANNON. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. CANNON] moves to strike out the last word.

Mr. CANNON. I know the kindly heart of my colleague [Mr. FOWLER], and I know his desire, in season and, I think, sometimes out of season, to be the champion of the oppressed. I know another thing—a fact which, I think, is shared in the experience of every Member of Congress—that many, many times in the course of a month people, by letter, in the District of Columbia—women, sometimes in person, sometimes by letter, sometimes pastors of churches, sometimes well-disposed people in other avocations—are making recommendations to secure employment for women as charwomen.

I made some inquiry about it some years ago. The hours generally are about two hours a day, generally from 5 o'clock to 7 in the evening, or perhaps from 4 to 6 o'clock in some of the departments. For the two hours' labor about 75 cents is paid. In the main women who have to work for a living, frequently women with families, seek this employment. It may be from my colleague's standpoint that they ought to have, instead of 75 cents, $1, or $2, or $3. As it is, the compensation runs to about $240 a year.

Take the House Office Building. We come pretty nearly having constant sessions of Congress. It is harder on the charwomen during the sessions than it is during the vacation. I apprehend possibly that for the service rendered the places are greatly sought after. Of course we have with us always people who have to earn their own living. We have nearly 100,000,000 people in the United States. My colleague and myself have had the experience—I am older than he—of working at $6 a month on the farm, in the harvest field. I did that, after I was big enough to do a man's work, at 75 cents a day. After all, matter is made to assume shape useful to the human family by means of labor, and in the last analysis all things are charged over on production—production by manual toil, production by use of the brain. It may be that these charwomen ought to have larger compensation. But after all this seems to be about the compensation proper for the service. It commands the service and it is greatly sought after. I am quite willing, if the gentleman has information that would warrant it, that the amount should be increased.

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield to his colleague?

Mr. CANNON. Oh, certainly.

Mr. FOWLER. Does my colleague from Illinois think that $280 a year is enough for these women for the work which they do?

Mr. CANNON. Two hours a day?

Mr. FOWLER. Yes.

Mr. CANNON. I think it is very fair compensation, I will say to my friend.

Mr. FOWLER. Is it not a fact that in the House Office Building—and I say so from experience—they work about four hours a day?

Mr. CANNON. I am not advised. It may be so during the sessions of Congress.

Mr. COX. Will the gentleman yield for a question?

Mr. FOWLER. Yes; I shall be glad to do so. I have not the floor. I was trying to get at the facts in this case.

Mr. CANNON. I will yield to the gentleman.

Mr. COX. What is the average wage paid in the gentleman's vicinity at home for the servants who do household labor, where they do all kinds of family work, including cooking, washing, scrubbing the floors, and things of that kind?

Mr. FOWLER. I do not know.

Mr. COX. Does the gentleman believe it exceeds $5 a week?

Mr. FOWLER. I am inclined to think that the average price would not exceed $5 per week.

Mr. COX. Is it not the gentleman's candid, sincere judgment that the average price does not exceed $4 a week in the homes where servant girls do cooking, washing, scrubbing, and everything else?

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out the last word. My desire was briefly to call attention to the discrimination in the pay of charwomen. I moved to strike out $240 a year and insert $180, for the purpose of emphasizing the matter, intending when we come to the other item of $180 to move to increase the amount to $240.

Mr. BURLESON. But surely the gentleman from Kentucky did not understand me when I said to him that the service rendered is not the same.

Mr. JOHNSON of Kentucky. I understood the gentleman.

Mr. BURLESON. In some cases the cleaners work two or three hours, or perhaps three and one-half hours, and in the other case they work probably only an hour or an hour and a half.

Mr. JOHNSON of Kentucky. We will probably not get to the item on page 13 to-day, and I hope that we may have some information on it by the time we get to it.

Mr. FOWLER. Mr. Chairman, I desire to speak in opposition to the pending amendment.

Mr. CANNON. I withdraw the amendment.

The CHAIRMAN. The pro forma amendment is withdrawn.

Mr. FOWLER. An amendment was offered by the gentleman from Kentucky [Mr. JOHNSON], and I desire to speak in opposition to that amendment, only one speech having been made thereon.

The CHAIRMAN. As the Chair understands, the amendment of the gentleman from Kentucky [Mr. JOHNSON] was to strike out $240 and insert $180.

Mr. FOWLER. I beg the pardon of the Chair. The gentleman from Kentucky [Mr. JOHNSON] has just taken his seat after delivering himself upon a motion to strike out the last word, and I desire to speak in opposition to that motion.

The CHAIRMAN. The gentleman from Illinois.

Mr. FOWLER. Mr. Chairman, in answer to my opposition to the low wage and the humble manner in which the service is done by these charwomen, my distinguished friend [Mr. COX] interposes the average wage paid in my district to people doing such work as general housework, and he asks if $5 a week or $4 a week is not sufficient for that work.

Mr. COX. No; I beg the gentleman's pardon. That was not my question.

Mr. FOWLER. Well, that was inferred by me—that that was the tenor of the gentleman's question.

Mr. COX. I was simply asking as to what the average wages were. I did not say that was enough.

Mr. FOWLER. I do not desire to misquote the gentleman. I desire to say that those who perform that kind of labor in my district are given homes in the houses where they work and are treated as members of the house, and no woman is required to get down on her knees and hands and crawl over the floor, filthy and dirty, for the purpose of mopping it up. He who thinks 75 cents a day is sufficient pay for such services places a very low estimate upon the unfortunate poor of this land. I never had a woman or a man get down on hands and knees for the purpose of scrubbing and cleaning my house, and as long as I live no person by my will shall ever be required to go through such humble and degrading course of work; and it is a shame that any white man should indorse such a course. I never intend to vote for a bill, whether it be in a municipality or in such a legislative body as this, which will

entail upon poor, unfortunate mankind, with poverty staring them in the face, the necessity of humbling them by placing them on hands and knees to crawl for hours through the filth and dirt in order to clean a floor for me or for anybody else. [Applause.]

The CHAIRMAN. The time of the gentleman from Illinois has expired.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. BLACKMON having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendment bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 22871. An act to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Assessor's office: Assessor, $3,500, and $500 additional as chairman of the excise and personal-tax boards; 2 assistant assessors, at $2,000 each; clerks—4, including 1 in arrears division, at $1,400 each, 4 at $1,200 each, 7, including 1 in charge of records, at $1,000 each, 2 at $900 each; draftsman, $1,200; assistant or clerk, $900; license clerk, $1,200; inspector of licenses, $1,200; assistant inspector of licenses, $1,000; messengers—1 $600, 1 $450; 3 assistant assessors, at $1,000 each; clerk to board of assistant assessors, $1,500; messenger and driver for board of assistant assessors, $600; 2 clerks, at $720 each; temporary clerk hire, $500; record clerk, $1,500; in all, $48,220.

Mr. COX. Mr. Chairman, I reserve a point of order to the provision, "Assessor, $3,500, and $500 additional as chairman of the excise and personal-tax boards." I do not think there is anything in the law to justify that appropriation of $500.

Mr. BURLESON. The excise board and the personal-tax board have been created by law. The additional compensation to the assessor to serve the two boards has been carried in the bill for many years. Two boards are provided for by law.

Mr. COX. I understand that, but there is no provision for the increase in the man's salary of $500 by reason of the fact that he served the excise board.

Mr. BURLESON. It is an item that has been carried in the bill as compensation for the man many years.

Mr. COX. That might be true, but because it is carried in current law does not justify this appropriation.

Mr. BURLESON. The additional duty is imposed upon him, and the compensation of $500 is fixed for the service which he renders to these two boards.

Mr. COX. Mr. Chairman, I make the point of order.

The CHAIRMAN. The Chair will ask the gentleman from Texas, Has the $500 been carried in the bill from the time the $3,500 salary was carried in the bill?

Mr. BURLESON. I am unable to state whether the salary of the assessor has always been fixed at $3,500, but I know that since it has been fixed at $3,500 the $500 additional allowed him for the service on the two boards has been carried in the bill.

The CHAIRMAN. In the absence of any further evidence from the committee that the $500 additional is not original with the $3,500, the Chair will be inclined to sustain the point of order.

Mr. BURLESON. Mr. Chairman, I ask unanimous consent that that item be passed over until it can be looked up.

Mr. COX. I have no objection.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that this item be passed over for the present. Is there objection?

There was no objection.

The Clerk read as follows:

Auditor's office: Auditor, $4,000; chief clerk, $2,250; bookkeeper, $1,800; accountant, $1,500; clerks—three at $1,600 each, three at $1,400 each, one at $1,350, four at $1,200 each, five at $1,000 each, one $938, two at $900 each, two at $720 each; messenger, $600; disbursing officer, $3,000; deputy disbursing officer, $1,600; clerks—one $1,200, two at $1,000 each, one $900, messenger, $480; in all, $43,656.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. I desire to ask the chairman of the committee what was the moving cause of creating an accountant at $1,500? That is in line 6.

Mr. BURLESON. I will read the gentleman the note of the commissioners on that particular point:

NOTE.—The work in the auditor's office has increased within the past few years so rapidly and in such volume as to call for additional expert help, particularly along accounting, analytical, and statistical lines. An accountant of ability and good technical training can not be obtained under $1,500. A position of this kind in the office would result in a saving of money to the District by enabling the auditor to inaugurate a series of cost accounts from which could be obtained information that would show whether the several branches of the District government are being economically and efficiently administered.

That was the reason that prompted us to make the appropriation.

Mr. FOWLER. Has the gentleman any information as to whether this additional work has come up within the last 12 months?

Mr. BURLESON. The note states that the work has rapidly increased in volume.

Mr. FOWLER. I was trying to get at the specific character of the work which had increased, if the gentleman has information concerning it.

Mr. BURLESON. The only information we have is that set forth in this note. It appealed to us as a sound reason why we should allow this.

Mr. FOWLER. Was the recommendation made by the commissioners?

Mr. BURLESON. It was, and properly estimated for, or it would not be in this bill.

Mr. FOWLER. I am quite sure of the careful scrutiny of the gentleman and his committee, and I might take the liberty of saying that his committee deserves a great deal of credit, but I do not wish to throw bouquets unnecessarily, because this is well known to this House.

Mr. BURLESON. We are feeling in need of bouquets at this particular juncture.

Mr. FOWLER. If the accountant is necessary I have no objection to creating the new office. I withdraw my pro forma amendment.

The Clerk read as follows:

Office of corporation counsel: Corporation counsel, $5,000; first assistant, $2,500; second assistant, $1,800; third assistant, $1,600; fourth assistant, $1,500; fifth assistant, $1,500; stenographers, one $1,200, one $840; clerk, $720; in all, $16,660.

Mr. FOWLER. Mr. Chairman, I make a point of order to this paragraph.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph that it changes the law in relation to the salary of the corporation counsel. It is changed from $4,500 to $5,000 a year.

The CHAIRMAN. The point of order is sustained.

Mr. BURLESON. To the entire paragraph?

Mr. JOHNSON of Kentucky. No; I will modify my point of order and make it only against the salary of the corporation counsel.

Mr. BURLESON. I do not care to discuss the matter. I will offer the following amendment: After the word "counsel" insert the figures "$4,500."

The Clerk read as follows:

Page 6, line 14, after the word "counsel" insert "$4,500."

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out the last word. Mr. Chairman, the question raised in the hearings before the committee and brought to the floor of the House was that the salary of the corporation counsel should be increased because of the "unusual" service rendered by the corporation counsel. The services rendered by the present corporation counsel are quite "unusual" in the practice of law, I must grant. I have here a transcript of the record of the Supreme Court in the case of the District of Columbia, plaintiff in error, versus James T. Petty, Charles W. Church, et al. That discloses, Mr. Chairman, that in 1901 or 1902 a disbursing clerk in the employ of the United States Government misappropriated about $73,000. The corporation counsel, after the expiration of about a year, brought suit in the name of the District of Columbia against the then auditor of the District of Columbia, a man named Petty. That suit was brought upon Petty's official bond. The penal sum of that bond was $20,000. The District attorney, in rendering "unusual" service, brought suit, not against Petty for the $73,000, the amount of the defalcation, but he brought suit for $20,000, the penal sum in the bond, for which the sureties were bound. The usual service rendered by a corporation counsel would have been to bring suit against the principal for the full amount of the loss, $73,000, and against the sureties on the bond for the penal sum of the bond, which was $20,000, but under this proceeding, as I just said, a suit was brought even against the principal himself for only $20,000, thus not endeavoring to recover $53,000, if there was liability.

On the 9th of November, 1903, this corporation counsel filed suit of the description just set out. To that petition, or declaration, a demurrer was filed and sustained. Then the corporation counsel was directed by the court to file an amended petition or declaration and set out wherein the original declaration was faulty. The corporation counsel in this "unusual" service did file the amended declaration, but it took him nearly two years

to do it, and when he filed it he failed to incorporate in his amended declaration the very words or the substance which the court had directed him to allege in his amended declaration when he overruled the original declaration. That went along for perhaps a couple of years more and a demurrer was sustained to the amended petition. The court again set out what this corporation counsel in this "unusual" proceeding should allege, but again he failed to allege it, and a demurrer again was sustained. Then, again, after the lapse of perhaps two years more, this corporation counsel filed another amended declaration. Again he failed to set out in his amended declaration the allegations the court had said to him he should set out. Another demurrer was filed and was sustained. This went along until three years one month and three days had elapsed between the filing of the original declaration and the filing of the last defective amended declaration. The court, in finally passing upon it, held that it was not a public fund and that the auditor was not liable.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. JOHNSON of Kentucky. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. JOHNSON of Kentucky. Mr. Chairman, as I say, the court, in disposing of it, held that the auditor was not liable in the first place; that this money which was misappropriated was not a public fund, but that it was money which the commissioners had caused people in the District of Columbia to deposit with them before they would authorize permit work to be done. The court, dismissing these numerous faulty, defective declarations, recites that almost eight years had intervened since the filing of the original declaration, and since that judgment there has never been anything done toward bringing a suit against the commissioners upon their official bonds to collect this $73,000 from them, which, as the court has substantially decided, they are answerable for.

And even as we stand here now the few remaining months of limitation are running, with this sum of money unpaid, with this deficit standing there to be made up by nobody.

Mr. BURLESON. Will the gentleman yield for a question?

Mr. JOHNSON of Kentucky. Yes.

Mr. BURLESON. Was the present corporation counsel the corporation counsel at that time?

Mr. JOHNSON of Kentucky. Will the gentleman tell me who the present corporation counsel is?

Mr. BURLESON. A man by the name of Thomas.

Mr. JOHNSON of Kentucky. These faulty declarations are all signed by one E. H. Thomas, as corporation counsel.

Mr. BURLESON. Was he the corporation counsel at the time the suit was instituted?

Mr. JOHNSON of Kentucky. He is the corporation counsel who filed the first defective declaration and who filed the subsequent defective declarations.

Mr. COX. What is the statute of limitation there?

Mr. JOHNSON of Kentucky. It was 12 years, and now something like 11 years have run.

Mr. COX. Has the gentleman anything at all as to what excuse the corporation counsel gave for this peculiar condition of affairs?

Mr. JOHNSON of Kentucky. An appropriation has been asked to increase his salary for unusual services. I take it for granted this proceeding is a fair illustration of the unusual services rendered. The court further says:

His derelictions the act expressly charged not to the auditor but to the commissioners.

And yet this corporation counsel is still in the employment of the Government with the official bonds of the commissioners good and binding and no move is made to collect this $73,000.

Mr. BATES. Will the gentleman yield there?

Mr. JOHNSON of Kentucky. Certainly.

Mr. BATES. Does the gentleman say that the court held that the commissioners were liable for this private fund?

Mr. JOHNSON of Kentucky. The court says this in speaking of the auditor, "His derelictions the act expressly charged not to the auditor but to the commissioners." That is what the court says.

Mr. O'SHAUNESSY. Will the gentleman yield?

Mr. JOHNSON of Kentucky. Gladly.

Mr. O'SHAUNESSY. Who has the appointment of the corporation counsel?

Mr. JOHNSON of Kentucky. The commissioners have the appointment of the corporation counsel, and I have introduced a bill taking it out of the hands of the commissioners to appoint the corporation counsel who has thus permitted them to be shielded when they should come into court and pay the defalcation for which they are responsible. My bill provides the President shall appoint the corporation counsel and some of these days I hope to have the good luck to get it before this House for passage.

Mr. COX. Somebody has to make this defalcation good.

Mr. JOHNSON of Kentucky. Now, an effort is made to go further than that. The commissioners themselves sent to this body through the Secretary of the Treasury at the last session of Congress an item to go in the deficiency bill to pay this money.

Mr. COX. That is the very point I wanted to bring out, that somebody had to make it good.

Mr. JOHNSON of Kentucky. But instead of having it made good out of the bond of the people who are the real defaulters they have recommended that the United States Government pay that shortage.

Mr. COX. That is the point exactly.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BURLESON. Mr. Chairman, I know nothing of the facts which resulted in this suit. The present commissioners I know were not the commissioners at the time the unauthorized regulation was made which resulted in the loss of this particular lawsuit. The only representations which have been made to us with reference to the corporation counsel were that he is a man of high character, a man of ability, and that he has discharged efficiently every duty imposed upon him by the laws of the municipal government. The commissioners have repeatedly urged that his salary be increased to $5,000. That is less than is being paid a number of employees of the Government who are lawyers and who have less important and less onerous duties imposed upon them than are imposed upon this official.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Farmers' produce market: Market master, $900; assistant market master, who shall also act as night watchman, $600; watchman, $600; laborer for sweeping B Street sidewalk, used for market purposes, and the farmers' produce market square, $360; sweeping B Street, used for market purposes, $480; hauling refuse (street sweepings), $600; in all, $3,540.

Mr. LEWIS. Mr. Chairman, I desire to offer the following amendment at the end of line 9, page 7.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of line 9, on page 7, insert the following:

"For the erection of shelters on the open space at the intersection of Ohio and Louisiana Avenues with Tenth and Twelfth Streets, bounded by Tenth and Twelfth and B and Little B Streets NW., known and designated as the farmers' produce market, and the necessary paving in connection therewith, $47,000; and the limitation of 10 cents per day for each space at the above-mentioned market contained in the act of June 27, 1906, is hereby revoked, and the Commissioners of the District of Columbia are authorized to charge hereafter not to exceed 20 cents per day for each."

Mr. JOHNSON of Kentucky. I make the point of order against the amendment that it is new legislation.

Mr. LEWIS. Mr. Chairman, I hope the gentleman will desist until I make a statement.

Mr. JOHNSON of Kentucky. I reserve the point of order, Mr. Chairman.

Mr. LEWIS. Mr. Chairman, the amendment just read is a portion of the bill itself as proposed by the commissioners of this city. The amount stated in the amendment is the amount fixed in the Book of Estimates by them. The design of the provision itself is to afford those farmers who can do business directly with the consumers of Washington market facilities for that purpose. In the present situation Washington City seems to have a market under corporate control, a market that the farmers of the surrounding country, the first and most direct supply area for the consumers of Washington, can not enjoy. And the District Commissioners themselves, after the fullest consideration of the rights of the consumers of this city and the farmers dealing directly with them, have proposed this provision now for the third time. I only ask that the House listen to what the commissioners themselves have said in lieu of a statement about the matter myself. They say:

NOTE.—During the fiscal year 1912, $5,463.40 was collected for the use of space at this market. The lighting arrangement was improved for the benefit of the farmers during the very early morning hours, specially during the winter months. This installation was made at an expense of $349.75. The gross receipts for the past nine years amounted to $41,203.35; expenses, $27,615.15 (estimated); net revenue for nine years, $13,588.20.

In the busy season as many as 545 wagons have been accommodated on one day. Average number daily, about 250.

These shelters have been urged by the farmers for a number of years past and committees appointed to represent them in this matter have stated that the farmers are willing to pay more for the use of space if such shelter from the weather is afforded them, and the commissioners have twice included an item for the erection of the shelters in their estimates to Congress.

This market provides the consumer with produce direct from the farmers at prices very much to the advantage of the former. As a check on excess prices of other dealers every effort should be made to encourage trade at this market in the way of shelter and conveniences for doing business. Other large cities are expending large sums for the establishment of markets for the producer, fully realizing the advantages that will accrue to the community at large, and Washington, the National Capital, should not remain behind other progressive cities in this respect.

I submit, Mr. Chairman, that the subject of the consumer's rights and of the farmer's rights as a producer is one worthy of the consideration of this House, and this amendment ought to receive consideration.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. LEWIS] has expired. The gentleman from Kentucky [Mr. JOHNSON] makes a point of order, and the point of order is sustained.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out the last word, for the purpose of asking to extend my remarks in the RECORD in order to insert the transcript of record of "The District of Columbia, plaintiff in error, v. James T. Petty; Charles W. Church, et al., executors of Charles B. Church, deceased; Jesse B. Wilson, and George T. Dearing."

Mr. BURLESON. Mr. Chairman, reserving the right to object, I would like to know how many pages there are and about how much it will cost.

Mr. JOHNSON of Kentucky. The gentleman knows more about that than I do. There are 41 pages.

Mr. CALDER. Mr. Chairman, I hope the gentleman from Texas [Mr. BURLESON] will not object. A statement has been made in regard to this corporation attorney's record, and we ought to have this transcript in the RECORD.

Mr. JOHNSON of Kentucky. I desire to have it in full in the RECORD.

The CHAIRMAN. The question is on the request of the gentleman from Kentucky [Mr. JOHNSON]. Is there objection? [After a pause.] The Chair hears none.

The transcript referred to is as follows:

IN THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

(No. 2215.)

District of Columbia, etc., appellant, v. James T. Petty et al. Supreme Court of the District of Columbia. At law. No. 46544. District of Columbia, plaintiff, v. James T. Petty, Charles W. Church, William A. H. Church, Mary A. Church, and Joseph J. Darlington, executors of Charles B. Church; Jesse B. Wilson, and George T. Dearing, defendants.

UNITED STATES OF AMERICA,
District of Columbia, ss:

Be it remembered, that in the Supreme Court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above entitled cause, to wit:

DECLARATION, ETC., FILED NOVEMBER 9, 1903.

In the Supreme Court of the District of Columbia. At law. No. 46544. District of Columbia, plaintiff, v. James T. Petty, Charles B. Church, Jesse B. Wilson, George T. Dearing, defendants.

The plaintiff, the District of Columbia, a municipal corporation, sues the defendants, James T. Petty, Charles B. Church, Jesse B. Wilson, and George T. Dearing, for that, to wit, on the 1st day of May, A. D. 1888, the defendant, James T. Petty, was the auditor of the District of Columbia, to which office the said defendant, James T. Petty, before, on, from, and after the said date, to wit, the 1st day of May, A. D. 1888, had been appointed and continually held, and was the incumbent thereof until, to wit, the 15th day of August, A. D. 1902. And for that the defendant James T. Petty, by the name "Jas. T. Petty"; the defendant Charles B. Church, by the name "Chas. B. Church"; the defendant James B. Wilson; and the defendant George T. Dearing, by the name "Geo. T. Dearing," on the 1st day of May, A. D. 1888, by their certain joint and several writing obligatory, sealed with their seals, a copy whereof is now shown to the court here, the date whereof is the day and year last aforesaid, acknowledged themselves to be held and firmly bound unto the plaintiff, the District of Columbia, in the sum of $20,000, to be paid to the said District of Columbia when they, the said defendants, should be thereunto afterwards requested, which said writing obligatory was and is subject to a certain condition thereunder written whereby, after reciting to the effect following, to wit:

"Whereas the above bounden, James T. Petty, has been appointed to the office of auditor in and for the District of Columbia," it is therein set forth as follows:

"Now, therefore, the condition of said obligation is such that if said James T. Petty shall faithfully and efficiently perform all the duties of his said office as provided for by law, and the rules and regulations from time to time duly prescribed for the government of the civil service of said District, and shall well and truly pay over, disburse, and account for all moneys that shall come to his hands, as the law and orders governing said service shall require, then said obligation to be void, otherwise to remain in full force."

Yet the said defendant, James T. Petty, contrary to the form and effect of the said writing obligatory and of the conditions thereof, failed and neglected to faithfully and efficiently perform all the duties of his said office as provided by law, and failed and neglected to faithfully and efficiently observe the said rules and regulations, and failed and neglected to truly pay over, disburse, and account for all moneys that came to his hands, as the law and orders governing his duties and services required, in this:

First. That said defendant Petty, as auditor as aforesaid, failed to account for moneys of the District of Columbia, represented by checks of the amounts, dates, and numbers given below, which were drawn by the disbursing officer, Charles C. Rogers, of the District of Columbia, or his deputy, and countersigned by the said Petty, as auditor as aforesaid, or by the acting auditor to the order of the said auditor of the District of Columbia, on the Treasurer of the United States, charged to the "Permit fund, District of Columbia," which said checks should have been deposited by the said defendant, James T. Petty, as auditor as aforesaid, in accordance with law and the rules governing the conduct of his office, with the Treasurer of the United States, to the credit of the appropriation "Improvements and repairs, District of Columbia, assessment and permit work"; but said checks were not so deposited, but were indorsed by the said Petty, as auditor as aforesaid, and afterwards cashed at the Central National Bank, of Washington, D. C., and the proceeds of the said checks so cashed were never in any manner paid or accounted for to the said plaintiff or deposited in any bank or in the Treasury of the United States to its credit.

Ck. No.	Date.	Amount.	Remarks.
140189.	June 12, 1902	$1,315.00	Cashed June 19, 1902.
143574.	July 14, 1902	1,197.75	Cashed July 18, 1902.
146101.	August 20, 1902	1,412.28	Cashed August 23, 1902.
147498.	August 27, 1902	1,132.40	Cashed September 2, 1902.
148578.	September 20, 1902	2,693.80	Cashed September 29, 1902.
153705.	October 23, 1902	3,821.59	Cashed November 28, 1902.
159014.	December 3, 1902	3,020.91	Cashed December 17, 1902.
166460.	February 9, 1903	2,770.11	Cashed February 24, 1903.
169394.	February 21, 1903	2,402.31	Cashed April 8, 1903.
173116.	March 30, 1903	3,241.25	Cashed May 4, 1903.

Second. The said defendant Petty, as auditor as aforesaid, failed to account for moneys of the District of Columbia represented by checks of the amounts, dates, and numbers given below, which were drawn by the disbursing officer of the District of Columbia, Charles C. Rogers, or his deputy, and countersigned by the said Petty, as auditor as aforesaid, or by the acting auditor, on the Treasurer of the United States, to the order of the said James T. Petty, auditor as aforesaid, and charged to various appropriations of the District of Columbia, which checks were indorsed by the said James T. Petty, as auditor as aforesaid, and should, in accordance with law and the rules and regulations aforesaid, have been deposited in the Traders' National Bank, of Washington, D. C., as reimbursements of the deposit and assessment fund; but the said checks were not so deposited, but after being indorsed by the auditor as aforesaid were cashed at the Central National Bank, of Washington, D. C., and the proceeds of the said checks so cashed were never in any manner paid or accounted for to the said plaintiff.

Ck. No.	Date.	Amount.	Remarks.
55369.	March 7, 1900	$1,510.03	Cashed March 19, 1900.
81507.	December 4, 1900	3.04	Cashed January 28, 1901.
81662.	December 7, 1900	2,627.24	Cashed January 28, 1901.
81751.	December 13, 1900	1,237.10	Cashed January 28, 1901.
95079.	April 9, 1901	1,916.52	Cashed April 27, 1901.
98382.	May 13, 1901	2,778.52	Cashed May 18, 1901.
101420.	June 6, 1901	1,401.28	Cashed July 1, 1901.
102994.	June 20, 1901	1,643.94	Cashed July 1, 1901.
108282.	August 28, 1901	1,943.44	Cashed November 2, 1901.
122883.	January 8, 1902	1,272.32	Cashed February 14, 1902.
122932.	January 10, 1902	809.39	Cashed February 14, 1902.
136148.	April 25, 1902	751.16	Cashed May 5, 1902.
144772.	July 26, 1902	1,166.23	Cashed August 12, 1902.
148210.	September 16, 1902	1,354.40	Cashed September 22, 1902.
151831.	October 11, 1902	1,169.77	Cashed October 16, 1902.

Third. That said defendant Petty, as auditor as aforesaid, failed to account for moneys of the District of Columbia represented by checks of the amounts, dates, and numbers given below, drawn by said James T. Petty, auditor as aforesaid, to the order of the said James T. Petty, as auditor as aforesaid, upon the Central National Bank, of Washington, D. C., charged to the account of the said auditor in said bank; the said checks were intended for deposit in the Traders' National Bank, of Washington, D. C., to reimburse the deposit and assessment fund, where said fund was kept; but the said checks, having been indorsed by the said James T. Petty, as auditor as aforesaid, were not so deposited, but the same were cashed at the Central National Bank, of Washington, D. C., and the proceeds thereof were never in any manner paid or accounted for to the said plaintiff.

Ck. No.	Date.	Amount.	Remarks.
3283.	July 12, 1899	$693.58	Cashed July 27, 1899.
3301.	July 21, 1899	3,721.10	Cashed August 3, 1899.
3479.	November 22, 1899	1,582.09	Cashed December 4, 1899.
3571.	January 18, 1900	1,565.83	Cashed January 24, 1900.
3607.	February 25, 1900	1,903.23	Cashed February 26, 1900.
3711.	April 7, 1900	2,347.07	Cashed April 11, 1900.
3883.	July 12, 1900	3,365.12	Cashed July 13, 1900.
4172.	February 20, 1901	2,282.79	Cashed March 19, 1901.
4329.	June 18, 1901	770.17	Cashed June 29, 1901.

Fourth. That the said defendant Petty, as auditor as aforesaid, failed to account for moneys of the District of Columbia represented by checks of the amounts, dates, and numbers given below drawn by the said James T. Petty, as auditor as aforesaid, the first three upon the Central National Bank, of Washington, D. C., and the last three upon the National Capital Bank, of Washington, D. C., all of said checks being payable to the order of the said James T. Petty, as auditor as aforesaid; that the said checks drawn to him, as auditor as aforesaid, should have been deposited at the said banks to the credit of the said Petty, as auditor as aforesaid; but the said checks were not so deposited, but having been indorsed by the said Petty, as auditor as aforesaid, were cashed at the Central National Bank, of Washington, D. C., and the proceeds thereof were never in any manner paid or accounted for to the said plaintiff.

Ck. No.	Date.	Amount.	Remarks.
3498.	December 1, 1899	$475.00	Cashed December 1, 1899.
3998.	September 24, 1900	8,009.00	Cashed November 7, 1900.
3721.	April 17, 1900	2,000.00	Cashed.
864.	June 7, 1899	192.73	Cashed June 22, 1899.
879.	June 14, 1899	369.92	Cashed June 22, 1899.
921.	September 27, 1899	2,000.00	Cashed.

Fifth. That the defendant Petty, as auditor as aforesaid, failed to account for moneys of the District of Columbia represented by checks

of the amounts, dates, and numbers given below, drawn by the said James T. Petty, as auditor as aforesaid, upon the Central National Bank, of Washington, D. C., payable to the order of the said James T. Petty, as disbursing agent Rock Creek Park, District of Columbia; that the said checks or the proceeds thereof were used by the said Petty in his capacity as such disbursing agent, and the said checks so drawn by him as auditor were drawn without authority of law, and the proceeds thereof were never in any manner repaid or accounted for to the said plaintiff.

Ck. No.	Date.	Amount.	Remarks.
4599.	March 18, 1902	$666.58	May 20, 1902.
4613.	April 19, 1902	721.39	Cashed.

contrary to the form and effect of the said writing obligatory and of the said condition thereof; whereby an action has accrued to the plaintiff to demand and have of and from the defendants the said sum of $20,000, yet the defendants, although often requested so to do, have not as yet paid the said sum of $20,000, but they to do this have heretofore wholly refused and still do refuse, to the damage of the plaintiff of $20,000, and thereupon it brings this suit and claims said sum with interest and costs.

A. B. DUVALL,
E. H. THOMAS,
Attorneys for Plaintiff.

NOTICE TO PLEAD.

The defendants are to plead hereto on or before the twentieth day, exclusive of Sundays and legal holidays, occurring after the day of the service hereof; otherwise judgment.

A. B. DUVALL,
E. H. THOMAS,
Attorneys for Plaintiffs.

(Copy of bond.)

Know all men by these presents:

That we, James T. Petty, Charles B. Church, Jesse B. Wilson, and George T. Dearing, of the District of Columbia, are held and firmly bound unto the District of Columbia in the sum of $20,000, lawful money of the United States of America, to be paid to the said District of Columbia, or to the certain attorney, successor, or assigns thereof, for which payment, well and truly to be made, we and each of us do bind ourselves, and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals. Dated this 1st day of May, A. D. 1888.

Whereas the above bounden James T. Petty has been appointed to the office of auditor in and for the District of Columbia: Now, therefore, the condition of said obligation is such that if the said James T. Petty shall faithfully and efficiently perform all the duties of his said office, as provided for by law and the rules and regulations from time to time duly prescribed for the government of the civil service of said District, and shall well and truly pay over, disburse, and account for all moneys that shall come to his hands, as the law and orders governing said service shall require, then said obligation to be void; otherwise to remain in full force.

JAS. T. PETTY. [SEAL.]
CHAS. B. CHURCH. [SEAL.]
JESSE B. WILSON. [SEAL.]
GEO. T. DEARING. [SEAL.]

Signed and sealed in the presence of—
SAML. OBRAND.
H. J. CALDWELL.
FRANK A. SELL.
GEO. A. THOMAS.

Approved May 1, 1888, W. B. Webb, Commissioner, District of Columbia. Approved May 2, 1888, S. E. Wheatley, Commissioner, District of Columbia. Approved May 2, 1888, Chas. W. Raymond, major of Engineers, Engineer Commissioner, District of Columbia.

DEMURRER, FILED JANUARY 22, 1904.

* * * * * * *

The defendants Charles B. Church, Jesse B. Wilson, and George T. Dearing say that the declaration in the above-entitled cause is bad in substance.

J. J. DARLINGTON,
RALSTON & SIDDONS,
Attorneys.

Among the points of law intended to be argued in support of the above demurrer is that there is no law nor any rule or regulation pleaded under which defendant Petty was chargeable with the custody of, or otherwise accountable for, any of the moneys in the said declaration mentioned.

SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FRIDAY, FEBRUARY 16, 1906.

Session resumed pursuant to adjournment, Mr. Justice Wright presiding.

* * * * * * *

Upon consideration of the demurrers of the defendants filed herein, it is ordered that the said demurrers be, and the same are hereby, sustained, with leave to the plaintiff to amend its declaration as it may be advised within 30 days.

FRIDAY, MARCH 16, 1906.

Session resumed pursuant to adjournment, Mr. Justice Wright presiding.

* * * * * * *

Upon motion of the plaintiff, the time within which to amend the declaration in this cause is further extended for the period of 15 days from this date.

AMENDED DECLARATION, FILED MAY 1 TO DECEMBER 12, 1906.

* * * * * * *

Now comes the plaintiff, the District of Columbia, by leave of court first had and obtained, amends its declaration filed in this cause by adding thereto the following count, viz:

The plaintiff, the District of Columbia, a municipal corporation, sues the defendants James T. Petty, Charles B. Church, Jesse B. Wilson, and George T. Dearing, for that the mayor of the city of Washington, by and with the consent of the board of aldermen thereof, were authorized to appoint an auditor and a comptroller for said city by act of Congress approved July 7, 1870 (16 Stats., 191, sec. 5); and the said act provided that it shall be the duty of the auditor to audit all accounts against the said corporation, to certify the same, when found correct, to the comptroller and to retain the originals of all contracts made and orders given for all descriptions of work or improvements by the corporation aforesaid; that it shall be the duty of the comptroller to keep an exact account of all warrants issued in the manner herein-after provided for, and of all taxes levied by the corporation, under their respective heads; to countersign and keep an accurate record of all receipts for taxes or other revenue of any description whatever, given by the collector and register, such receipts not to be valid unless so countersigned, and compare the same daily with the books of said collector and register; that each and every account against the corporation of Washington, when audited and certified by the auditor, shall be paid by a warrant of the comptroller, countersigned by the mayor; and in no case shall payments be made in any other manner than provided for in this act. But no account shall be paid, by warrant or otherwise, unless there is a fund to the credit of that particular account. The money received from any and all sources, for and on account of the corporation, shall, on the day of receipt, be deposited by the collector and register to the credit of the city of Washington, in such place as may be designated as a depository for the funds of the corporation by an act of the board of aldermen and board of common council, approved by the mayor; and such depository shall, each day that deposits are made, furnish a statement of the same to the comptroller, to be by him filed in his office.

That by act of Congress approved February 21, 1871 (16 Stats., 419), the District of Columbia was created a body corporate for municipal purposes, with power to contract and to be contracted with, sued and be sued, plead and be impleaded, and with certain other powers of Congress appear; that the legislative assembly created by the said act was given power to provide by law for the election or appointment of such ministerial officers as may be deemed necessary to carry into effect the laws of said District, to prescribe their duties, their terms of office, and the rate and manner of their compensation; and that the charter of the said city of Washington was by the said act repealed and all officers of the said corporation abolished on and after the 1st day of June, 1871. That the Legislative Assembly of the District of Columbia continued the office of auditor and the office of comptroller from the said 1st day of June, 1871, for a period of 45 days by act passed June 2, 1871; that by act of the legislative assembly approved August 23, 1871, the duties of certain officers for said District of Columbia were prescribed and it was thereby provided:

"SEC. 10. That it shall be the duty of the auditor of the District of Columbia to audit all accounts against the said District, and also to compare all accounts against the cities of Washington and Georgetown and the county of Washington created prior to the 1st day of June, 1871, and if found correct upon comparisons with the appropriations made therefor by the legislative assembly and the report of the special commission to audit said claims, a copy of which shall be filed with the auditor by said commission, to approve and certify the same. He shall keep a record of all bills certified by him, their amounts, the appropriation to which they are chargeable, and the date of approval. He shall retain in his office the originals of all contracts and agreements not otherwise provided for. He shall also examine and audit all accounts, not otherwise provided for in this act, and certify the amount of the same to the comptroller. He shall countersign all warrants drawn by the comptroller if, upon comparison with the amount certified by him, he shall find the same correct, and shall give bond, to be approved by the governor, in the sum of $20,000, conditioned for the faithful discharge of the duties of his office. He shall receive an annual compensation of $3,000. The deputy auditor shall perform such duties as the auditor may prescribe, and, in case of temporary disability of said auditor, from sickness or other cause, he shall act in the capacity of auditor during the continuance of such temporary disability, and no longer, and shall receive an annual compensation of $2,000, and shall give bond, to be approved by the governor, in the sum of $15,000, conditioned for the faithful discharge of the duties of his office.

"SEC. 11. That it shall be the duty of the comptroller of the District of Columbia to keep an exact and accurate account of all appropriations made by the legislative assembly, and all bonds, stocks, and certificates of indebtedness issued by said District. He shall receive and file in his office a transcript of all assessments of taxes upon real estate and personal property in the District of Columbia so soon as the list shall have been made by the superintendent of assessments and taxes. He shall each year prepare from such transcript an aggregate of the amount of taxes levied, and shall compare the same with the assessment lists and the tax books of the collector of taxes. He shall charge to the respective appropriations all payments made upon the certificate of the auditor, and submit to the governor a monthly statement of the balance outstanding to the credit of the respective appropriations. He shall examine all accounts certified to him by the auditor, and if satisfied that they are correct, draw warrants upon the treasurer therefor, and in no case whatever shall any warrant be drawn upon any appropriations unless there is a balance to the credit thereof. He shall carefully file all receipts, and record in a book prepared to that purpose, all reports of tax sales (including those to the District of Columbia) made to him by the collector. He shall each week compare the record of the register with the treasurer's record of license certificates issued, and shall keep an account of any and all transactions which, by law, may be required to pass through his office. He shall receive a salary of $4,000 per annum, and give bond, to be approved by the governor, in the sum of $50,000, conditioned for the faithful performance of his duties."

That by act of Congress approved June 20, 1874 (18 Stat., p. 116) all provisions of law providing for an executive, for a secretary for the District, for a legislative assembly, for a board of public works, and for a Delegate in Congress in the District of Columbia were repealed, and the President of the United States was authorized to appoint a commission, consisting of three persons, who should, until otherwise provided by law, exercise all the power and authority then lawfully vested in the governor or board of public works of said District, subject to certain limitations; that said commissioners were authorized to abolish any office, consolidate two or more offices, reduce the number of employees, remove from office, and make appointment to any office authorized by law. That under said power the said commissioners on the 11th day of August, 1876, consolidated the three offices of auditor, comptroller, and deputy comptroller into that of auditor, and by a subsequent order, dated August 19, 1876, the said order of the 11th day of August, 1876, was by the said commissioners modified and the said auditor was directed to perform the duties of auditor and comptroller; that by act of Congress, approved June 11, 1878 (20 Stat., p. 102), Congress created a permanent form of government for the District of Columbia and provided that the District of Columbia should remain a municipal cor-

poration; that all laws then in force relating to the District of Columbia not inconsistent with the provisions of said act should remain in full force and effect, and the appointment of three commissioners was authorized to exercise all the powers and authority vested in the then commissioners of the said District, and by section 4 of said act it is provided, among other things, that all taxes collected shall be paid into the Treasury of the United States, and the same, as well as the appropriations to be made by Congress, shall be disbursed for the expenses of the District on itemized voucher, which shall have been audited and approved by the auditor of the District of Columbia, certified by the commissioners or a majority of them.

That by act of Congress approved March 3, 1881 (21 Stat., p. 466), it was provided that the accounts of all disbursements of the commissioners of said District shall be made monthly to the accounting officers of the Treasury by the auditor of the District of Columbia on vouchers certified by the commissioners, as now required by law; that the same provision as last above cited is also contained in section 3 of the act of Congress approved July 1, 1882 (22 Stat., p. 144); that by order duly passed the Commissioners of the District of Columbia on the 8th day of December, 1882, abolished the office of comptroller and imposed the duties of said office on the said auditor, and directed said auditor to give bond in the penalty required by law; that, to wit, on the 13th day of June, 1888, the Commissioners of the District of Columbia passed an order of the tenor and effect as shown by Exhibit A, attached hereto as part hereof.

That by act of Congress approved March 3, 1891 (26 Stat., p. 1064), the said pay clerk mentioned in paragraph 4 of the said order, dated, to wit, the 13th day of June, 1888, was recognized and described in the said act as disbursement clerk, who was thereby authorized to pay laborers and employees of the District of Columbia with moneys advanced to him by the commissioners in their discretion upon pay rolls or other vouchers audited and approved by the auditor of the District of Columbia and certified by the commissioners, as then required by law, which said pay rolls and other vouchers the said act required to be included in the account of the commissioners.

That in the course of administration the commissioners found it expedient that all work done by the District of Columbia as the result of cuts made in streets, avenues, roads, and alleys in said District be paid from a fund known as the "Deposit and assessment fund," which was whole cost work, and thereupon the said commissioners on, to wit, the 6th day of February, 1897, passed an order providing in tenor and effect that for convenience in keeping the accounts in case of repairs made by the District of cuts in pavements and other work done by the District which were paid for from private deposits, a general account be opened, styled "Deposit and assessment fund," and that all material and labor for such works to be charged against said account and to be paid by assessments against the deposits made for such purposes.

That from, to wit, July 1, 1878, until, to wit, the 30th day of June, 1898, except as to the duties imposed on the disbursing clerk, hereinbefore mentioned, the auditor of the District of Columbia was and continued to be the officer in charge of the disbursements of money which came into the hands of the Commissioners of the District of Columbia. That the duties of the said auditor under the said two orders dated, to wit, the 13th day of June, 1888, and February 6, 1897, required that said auditor should keep accounts with individual depositors of moneys which they had deposited with the collector of taxes to reimburse the District of Columbia for the expenses which as whole cost work done on public streets, avenues, alleys, roads, and spaces by the District at the solicitation of individual citizens and for their benefit; that when said whole cost work was done for which said deposit was made the said auditor was required to make requisition, approved by the commissioners, for the amount thereof upon the collector of taxes, and to receive the said money so drawn on the said requisition and deposit the same in some bank or banks to his credit as auditor of the District of Columbia, to be held to reimburse the appropriations out of which moneys had been expended to do said work or to pay direct from the said moneys in his hands as aforesaid the actual cost of labor and material for whole cost work performed as aforesaid, and to return to individual depositors the amount of money to their credit and unexpended, &c.

That prior to the said order of February 6, 1897, by act of Congress approved August 7, 1894 (28 Stats., pp. 247, 248), it was provided, among other things, that property owners who requested improvements under the permit system shall deposit in advance with the collector of taxes of the District of Columbia an amount equal to one-half of the estimated cost of such improvements; that all money received by the collector of taxes for the District of Columbia for work done upon the request of property owners shall be deposited by him in the United States Treasury to the credit of the permit fund; that upon completion of work done at the request of property owners, the commissioners shall repay to the then current appropriation for assessment and permit work out of the permit fund, a sum equivalent to one-half of the cost of the work, and shall return to the depositors from the same fund, as application may be made therefor, any surplus that may remain over and above one-half of the cost of the work; that the said repayment to the appropriation for assessment and permit work and the said return to the depositors from the said permit fund above mentioned were duties which were required of the said auditor. That the said work was actually known as "half-cost work."

That the collector of taxes, upon receiving the moneys on account of the said whole-cost work deposited the same in bank to his credit as collector of taxes, which said money was drawn from time to time therefrom upon request made by the said auditor, and the said commissioners directed the said collector of taxes to pay the amount thereof to the said auditor, and thereupon the said collector of taxes paid over the same to the said auditor, taking his receipt therefor. That the said requests of the said auditor and the said orders of the said commissioners are too great in number to be set forth in this declaration; that moneys for the said half-cost work on deposit being received by the collector of taxes were by him deposited as required by law in the Treasury of the United States to the credit of the permit fund; that upon requisitions by the Commissioners of the District of Columbia upon the Secretary of the Treasury of the United States that official advanced to the said commissioners certain funds from time to time out of the said permit fund.

That by act of Congress approved June 30, 1898 (30 Stats., p. 329), a disbursing officer was created for the District of Columbia, who was required to give bond to the United States for the faithful performance of the duties of his office in the disbursing and accounting, according to law, for all moneys of the United States and the District of Columbia that should come into his hands. That the said disbursing officer never received any of the moneys derived from the said whole-cost work, and the said money continued to be received and disbursed as aforesaid; that as to the said half-cost work from the time of the appointment of the said disbursing officer the same was received by the collector of taxes and paid by him into the Treasury of the United States to the credit of the permit fund and drawn therefrom on the request of the commissioners on the said Secretary of the Treasury and placed to the credit of the said disbursing officer with the Treasurer of the United States; that the duties of the said auditor continued as to the said half-cost work under the said orders of the commissioners and the said statutes as aforesaid.

That it became and was the duty of the said auditor to see upon the completion of the said half-cost work that the then current appropriation for assessment and permit work was repaid to the extent of one-half of the cost of said work out of the said permit fund; that to accomplish this the said auditor, with the approval of the commissioners, stated an account in his favor as auditor of the District of Columbia, and thereupon the said disbursing officer issued his check on the moneys advanced to him by the said Secretary of the Treasury out of the said permit fund in favor of the said auditor, who countersigned the same, and it then and there became the duty of the said auditor from time to time, upon receipt of each check, to properly account for and disburse the said money and cause the said appropriation for assessment and permit work to be reimbursed out of the said funds so received as aforesaid by him.

That by act of Congress approved July 1, 1902 (32 Stats., p. 592), it was provided that the auditor of the District of Columbia shall continue to prepare and countersign all checks issued by the disbursing officer, and no checks involving disbursements of public moneys by the disbursing officer shall be valid unless countersigned by the auditor of the District of Columbia; that, to wit, on the 1st day of May, A. D. 1888, the defendant, James T. Petty, was the auditor of the District of Columbia, to which office the said defendant, James T. Petty, on, from, and after the said date, to wit, the 1st day of May, A. D. 1888, had been appointed and continually held and was the incumbent thereof until, to wit, the 16th day of August, A. D. 1903. And for that the defendant, James T. Petty, by the name of "Jas. T. Petty," the defendants Charles B. Church, by the name of "Chas. B. Church," the defendant Jesse B. Wilson, and the defendant George T. Deering, by the name of "Geo. T. Deering," on the 1st day of May, A. D. 1888, by their certain joint and several writing obligatory, sealed with their seals, a copy whereof is now shown to the court here, the date whereof is the day and year last aforesaid, acknowledged themselves to be held and firmly bound unto the plaintiff, the District of Columbia, in the sum of $20,000 to be paid to the said District of Columbia when they, the said defendants, should be thereunto afterwards requested, which said writing obligatory was and is subject to a certain condition thereunder written whereby after reciting to the effect following, to wit:

"Whereas the above bounden James T. Petty has been appointed to the office of auditor in and for the District of Columbia," it is therein set forth as follows:

"Now, therefore, the condition of said obligation is such that if said James T. Petty shall faithfully and efficiently perform all the duties of his said office, as provided by law, and the rules and regulations from time to time duly prescribed for the government of the civil service of said District; and shall well and truly pay over, disburse, and account for all moneys that shall come into his hands, as the law and orders governing said service shall require, then said obligation to be void, otherwise to remain in full force."

Yet the said defendant, James T. Petty, contrary to the form and effect of the said writing obligatory and of the conditions thereof, failed and neglected to faithfully and efficiently perform all the duties of his said office as provided by law, and failed and neglected to faithfully and efficiently observe the said rules and regulations, and failed and neglected to truly pay over, disburse, and account for all moneys that came to his hands as the law and orders governing his duties and services required, in this:

First. That said defendant Petty as auditor as aforesaid failed to account for moneys of the District of Columbia, represented by checks of the amounts, dates, and numbers given below, which were drawn by the disbursing officer, Charles C. Rogers, of the District of Columbia, or his deputy, and countersigned by the said Petty as auditor as aforesaid, or by the acting auditor, to the order of the said auditor of the District of Columbia, on the Treasurer of the United States, charged to the "Permit fund, District of Columbia," being half-cost work under the said act of Congress approved August 7, 1894, which said checks should have been deposited by the said defendant, James T. Petty, as auditor as aforesaid, in accordance with law and rules governing the conduct of his office, with the Treasurer of the United States to the credit of the appropriation "Improvements and repairs," District of Columbia, assessment and permit work; but said checks were not so deposited, but were indorsed by the said Petty as auditor as aforesaid and afterwards cashed at the Central National Bank of Washington, D. C., and the proceeds of the said checks were never in any manner paid or accounted for to the said plaintiff or deposited in any bank, or in the Treasury of the United States to the credit of any appropriation for assessment and permit work, as required by law and as hereinbefore set forth in this declaration.

Ck. No.	Date.	Amount.	Remarks.
140189.	June 12, 1902	$1,315.00	Cashed June 19, 1902.
143574.	July 14, 1902	1,197.75	Cashed July 18, 1902.
146101.	August 20, 1902	1,412.28	Cashed August 23, 1902.
147498.	August 27, 1902	1,132.49	Cashed September 2, 1902.
148358.	September 29, 1902	2,693.80	Cashed September 29, 1902.
153705.	October 23, 1902	3,821.50	Cashed November 25, 1902.
159004.	December 3, 1902	3,020.91	Cashed December 17, 1902.
160460.	February 9, 1903	2,770.11	Cashed February 24, 1903.
163204.	February 21, 1903	2,402.31	Cashed April 8, 1903.
173416.	March 30, 1903	3,241.25	Cashed May 4, 1903.
	Total	23,007.49.	

Second. That the said defendant Petty, as auditor as aforesaid, failed to account for moneys of the District of Columbia represented by checks of the amounts, dates, and numbers given below, which were drawn by the disbursing officer of the District of Columbia, Charles C. Rogers, or his deputy, and countersigned by said Petty, as auditor as aforesaid, or by the acting auditor, on the Treasurer of the United States to the order of the said James T. Petty, auditor, as aforesaid, and charged to various appropriations of the District of Columbia, which checks were indorsed by the said James T. Petty, as auditor as aforesaid, and should, in accordance with law and the rules and regulations as aforesaid, have been deposited in the Traders' National Bank, Washington, D. C., as reimbursements of the deposit and assessment fund, whole-

cost work, as said work is hereinbefore set forth; but the said checks were not so deposited, but, after being indorsed by the said auditor as aforesaid, were cashed at the Central National Bank of Washington, D. C., and the proceeds of said checks so cashed were never in any manner paid or accounted for to the plaintiff, and the said deposit and assessment fund was not reimbursed by the said Petty, as he was required to do, as hereinbefore set forth:

Ck. No.	Date.	Amount.	Remarks.
55309.	March 7, 1900	$1,510.03	Cashed March 19, 1900.
81507.	December 4, 1900	3.04	Cashed January 28, 1901.
81692.	December 7, 1900	2,027.24	Cashed January 28, 1901.
81751.	December 13, 1900	1,237.01	Cashed January 28, 1901.
95079.	April 9, 1901	1,916.52	Cashed April 27, 1901.
98782.	May 13, 1901	2,778.52	Cashed May 18, 1901.
101420.	June 6, 1901	1,491.28	Cashed July 1, 1901.
102594.	June 20, 1901	1,643.94	Cashed July 1, 1901.
108282.	August 28, 1901	1,943.44	Cashed November 2, 1901.
122883.	January 8, 1902	1,272.32	Cashed February 14, 1902.
122932.	January 10, 1902	809.39	Cashed February 14, 1902.
136148.	April 25, 1902	751.16	Cashed May 5, 1902.
144772.	July 26, 1902	1,166.23	Cashed August 12, 1902.
148210.	September 16, 1902	1,354.40	Cashed September 22, 1902.
151381.	October 11, 1902	1,169.77	Cashed October 16, 1902.
	Total	21,674.38	

Third. That said defendant Petty, as auditor as aforesaid, failed to account for moneys of the District of Columbia represented by checks of the amounts, dates, and numbers given below, drawn by the said James T. Petty, auditor as aforesaid, to the order of the said James T. Petty as auditor as aforesaid, upon the Central National Bank of Washington, D. C., charged to the account of the said auditor in said bank; the said checks were intended for deposit in the Traders' National Bank of Washington, D. C., to reimburse the deposit and assesment fund where said fund was kept for whole-cost work, as said work is hereinbefore set forth; the said checks having been indorsed by the said James T. Petty, as auditor as aforesaid, were not so deposited, but the same were cashed at the Central National Bank of Washington, D. C., and the proceeds thereof were never in any manner paid or accounted for to the said plaintiff, and the said deposit and assessment fund was not reimbursed by the said Petty as he was required to do as hereinbefore set forth.

Ck. No.	Date.	Amount.	Remarks.
3283.	July 12, 1899	$693.58	Cashed July 27, 1899.
3301.	July 21, 1899	3,721.10	Cashed August 3, 1899.
3479.	November 22, 1899	1,582.09	Cashed December 4, 1899.
3571.	January 18, 1900	1,565.83	Cashed January 24, 1900.
3607.	February 25, 1900	1,903.23	Cashed February 26, 1900.
3711.	April 7, 1900	2,347.07	Cashed April 11, 1900.
3869.	July 12, 1900	3,365.12	Cashed July 13, 1900.
4172.	February 20, 1901	2,282.79	Cashed March 19, 1901.
4329.	June 18, 1901	770.17	Cashed June 29, 1901.
	Total	18,230.98	

Fourth. That the said defendant Petty, as auditor as aforesaid, failed to account for moneys of the District of Columbia represented by checks of the amounts, dates, and numbers given below, drawn from funds belonging to said whole-cost work as said work is hereinbefore set forth, by the said James T. Petty, as auditor as aforesaid, the first two upon the Central National Bank of Washington, D. C., and the last three upon the National Capital Bank of Washington, D. C., all of said checks being payable to the order of the said James T. Petty as auditor aforesaid; that the said checks drawn to him as auditor, as aforesaid, should have been deposited at the said banks to the credit of the said Petty, as auditor as aforesaid, for the benefit of said whole-cost work, but the said checks were not so deposited, but having been indorsed by the said Petty as auditor as aforesaid, were cashed at the Central National Bank of Washington, D. C., and the proceeds thereof were never in any manner paid or accounted for to the said plaintiff, and the said whole-cost work was not reimbursed by said Petty, as he was required to do, as hereinbefore set forth.

Ch. No.	Date.	Amount.	Remarks.
3998.	September 24, 1900	$8,000.00	Cashed November 7, 1900.
3721.	April 17, 1900	2,000.00	Cashed.
864.	June 7, 1899	192.73	Cashed June 22, 1899.
870.	June 14, 1899	369.92	Cashed June 22, 1899.
921.	September 27, 1899	2,000.00	Cashed.
	Total	12,571.65	

Fifth. That the said defendant Petty, as auditor as aforesaid, failed to account for moneys of the District of Columbia represented by checks of the amounts, dates, and numbers given below from funds belonging to said whole-cost work, as said work is hereinbefore set forth, were unlawfully drawn by the said James T. Petty, as auditor as aforesaid, upon the Central National Bank of Washington, D. C., payable to the order of the said James T. Petty, as disbursing agent, Rock Creek Park, D. C.; that the said checks, or the proceeds thereof, were unlawfully used by the said Petty in his capacity as such disbursing agent, and the said checks so drawn by him as auditor were drawn without authority of law from said funds of the District of Columbia, and the proceeds thereof were never in any manner repayed or accounted for to the said plaintiff, and the said whole-cost work was not reimbursed by the said Petty, as he was required to do, as hereinbefore set forth.

Ch. No.	Date.	Amount.	Remarks.
4599.	March 18, 1902	$666.58	May 20, 1902.
4613.	April 19, 1902	721.39	Cashed.

Contrary to the form and effect of the said writing obligatory, and of the said condition thereof whereby an action has accrued to the plaintiff to demand and have of and from the defendant the said sum of $20,000, yet the defendant, although often requested so to do, has not as yet paid the said sum of $20,000, but they to do this have heretofore wholly refused, and still do refuse, to the damage of the plaintiff of the sum of $20,000, and thereupon it brings this suit and claims said sum, with interest and costs.

E. H. THOMAS,
Attorney for Plaintiff.

* * * * * * *

EXHIBIT "A."

(Copy.)

REFER IN REPLY TO NO. 3-8.

OFFICE OF THE COMMISSIONERS
OF THE DISTRICT OF COLUMBIA,
Washington, June 13, 1888.

Ordered:

The collector of taxes of the District of Columbia, upon receiving a deposit for permit work, or for plumbers' or engineers' license fund, shall issue receipts therefor in duplicate, consecutively numbered, showing from whom, for what purpose, and the amount received; deliver the original receipt to the depositor, and transmit the duplicate to the auditor of the District of Columbia. He shall not pay out the moneys thus received except upon requisition of the auditor, approved by the commissioners.

2. The superintendent of streets and the superintendent of sewers, respectively, shall prepare in duplicate the pay rolls or other vouchers for services rendered or material furnished payable from the permit fund, which, after approval by the commissioners, as in cases of disbursements under an appropriation, shall be forwarded to the auditor for audit and payment.

3. The auditor of the District, after receiving a pay roll or other voucher, prepared in accordance with section 2 of this order, shall examine, approve the same if found to be correct, and make requisition upon the collector of taxes for the amount thereof, as provided in section 1 of this order.

4. Once a month, upon a day regularly set apart for the purpose, the pay clerk of the auditor's office shall take the rolls thus prepared, with the money necessary to meet the same, repair to the places where the pay in cash to each claimant the amount found to be due. He shall give bond, with approved security in the sum of $5,000 for the faithful performance of the duties required of him.

5. The auditor of the District shall open an account with the collector of taxes, District of Columbia, debiting the balances turned over by the late collector, May 4, 1888, on account of permit and license funds, and all subsequent deposits, and crediting the requisitions honored by the collector in accordance with section 1 of this order.

6. The auditor of the District of Columbia shall debit himself with the moneys received from the collector of taxes upon requisition made as provided in section 1 and credit himself with payments upon vouchers duly certified and approved as in sections 2 and 7 of this order.

7. After the work for which a deposit has been made has been completed and paid for, the auditor shall state the account with the depositor, make requisition as in section 1 for any balance that may appear in his favor, and repay the same upon presentation of the original certificate of deposit.

The receipt of the depositor upon the original certificate, for the amount thus repaid, shall be the auditor's voucher for such repayment.

Official copy furnished the auditor, District of Columbia.

By order:

W. TINDALL, *Secretary.*

S. R.

DEMURRER OF CHURCH AND DEARING TO AMENDED DECLARATION, FILED MARCH 9, 1907.

* * * * * * *

The defendants Charles B. Church and George T. Dearing say that the declaration in the above-entitled cause is bad in substance.

J. J. DARLINGTON,
Attorney for Defendants Church and Dearing.

NOTE.—Among the points of law intended to be argued in support of the above demurrer is that there is no law, nor is any rule or regulation duly prescribed for the government of the civil service in the District of Columbia pleaded, under which the defendant Petty was chargeable with the custody of, or otherwise accountable for, any of the moneys in the said declaration mentioned.

DEMURRER OF WILSON TO AMENDED DECLARATION, FILED MARCH 18, 1907.

* * * * * * *

The defendant, Jesse B. Wilson, says that the amended declaration in the above-entitled cause is bad in substance.

RALSTON & SIDDONS,
Defendant Wilson's Attorneys.

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POINTS OF LAW TO BE ARGUED IN SUPPORT OF DEMURRER.

Among the points of law intended to be argued in support of the foregoing demurrer is—

That there is no law, rule, or regulation pleaded under which the defendant Petty was chargeable with the custody or otherwise accountable for any of the moneys in the said declaration mentioned; and

That prior to the alleged failure to account for moneys coming to his hands he had been relieved by law from all responsibility for the handling of money and his sureties consequently relieved from any default in connection therewith.

RALSTON & SIDDONS,
Attorneys for Defendant Wilson.

DEMURRER OF PETTY TO AMENDED DECLARATION, FILED MARCH 27, 1907.

* * * * * * *

The defendant James T. Petty says that the amended declaration in the above-entitled cause is bad in substance.

W. C. SULLIVAN, *Attorney.*

* * * * * * *

Among the points of law intended to be argued in support of the foregoing demurrer is that there is no law, nor any rule or regulation pleaded, under which the said defendant James T. Petty was chargeable with the custody of, or otherwise accountable for, any of the moneys in the said declaration mentioned.

SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FRIDAY, OCTOBER 18, 1907.

Session resumed pursuant to adjournment, Mr. Justice Wright presiding.

* * * * * * *

Upon hearing the defendants' demurrers to the plaintiff's amended declaration, it is considered that said demurrers be, and the same are hereby, sustained.

OPINION, FILED OCTOBER 18, 1907.

* * * * * * *

The clause in the bond "as the law and orders governing said service shall require" does not refer to the manner in which moneys

may have come into the hands of the auditor, but rather to the manner and method of accounting for it; that is, the purpose of the bond is primarily to hold the auditor for all public moneys received by him and, secondarily, to require him to account according to whatever, if any, system of accounting happened to be provided for by "the law and orders governing said service" (of accounting); it is not the intent of the bond to exempt the auditor from liability for moneys received according to the custom and routine of his office, although not according to the detail of some written law or order.

But it is necessary to the statement of a cause of action that the declaration set forth that the months for which it is claimed he failed to account "came into his hands." Ther is nothing in the first, second, third, and fourth paragraphs of the declaration which shows that the moneys were ever either actually or constructively in the possession of the defendant.

The following appears in the fifth paragraph:

"That the said checks or the proceeds thereof were unlawfully used by the said Petty * * *."

This adoption of the disjunctive is empty. It charges neither that he used the checks nor that he used the proceeds. Moreover, the phrase "were unlawfully used by the said Petty in his capacity as such disbursing agent" is no more than a conclusion of law, not an averment of fact. If he did make use of checks or proceeds, the manner of the use should be set out. The opinion of the court may then be taken as to whether such use was unlawful, but as it stands the entire sentence first quoted contains no averment of fact and is therefore to be disregarded on demurrer.

There appearing in none of the paragraphs and direct averment that the defendant Petty ever had the moneys in his possession and no averment of facts from which that conclusion follows, the demurrer must be sustained.

WRIGHT.

SUGGESTION OF DEATH OF CHARLES B. CHURCH, ETC., FILED JANUARY 5, 1909.

* * * * * * *

Now comes the plaintiff, District of Columbia, by its attorney, E. H. Thomas, and suggests the death of the defendant, Charles B. Church, on April 26, 1908, leaving a last will and testament which has been duly probated and admitted to record in proceedings 15281 of this court holding probate term, whereby Charles W. Church, William A. H. Church, Mary A. Church, and Joseph J. Darlington are appointed executors, all of whom have qualified.

And said plaintiff further moves the court that an order be passed making the said Charles W. Church, William A. H. Church, Mary A. Church, and Joseph J. Darlington, executors, parties to this suit and process be issued against them.

E. H. THOMAS,
Attorney for Plaintiff.

SUPREME COURT OF THE DISTRICT OF COLUMBIA.

TUESDAY, JANUARY 5, 1909.

Session resumed, pursuant to adjournment, Hon. Harry M. Clabaugh, chief justice, presiding.

* * * * * * *

Comes now the plaintiff, by its attorney, Mr. E. H. Thomas, and suggests the death of the defendant herein, Charles B. Church, and showing to the court that Charles W. Church, William A. H. Church, Mary A. Church, and Joseph J. Darlington have duly qualified as executors of the estate of Charles B. Church, deceased, moves that said executors be made parties defendant, whereupon it is ordered that said executors be, and are hereby, made parties defendant in the place and stead of said Charles B. Church, deceased. Further, leave is hereby granted plaintiff to forthwith file an amendment to the amended declaration herein.

AMENDMENT TO AMENDED DECLARATION, FILED JANUARY 5, 1909.

* * * * * * *

Now comes the plaintiff, District of Columbia, by leave of court first had and obtained, and amends its amended declaration filed in this cause as follows:

1. Amend the paragraph in said amended declaration denominated "First" by adding, after the word "Columbia," in the third line thereof, the words "which came into his hands."
2. Amend the paragraph in said amended declaration denominated "Second" by adding, after the word "Columbia," in the second line thereof, the words "which came into his hands."
3. Amend the paragraph in said amended declaration denominated "Third" by adding, after the word "Columbia," in the second line thereof, the words "which came into his hands."
4. Amend the paragraph in said amended declaration denominated "Fourth" by adding, after the word "Columbia," at the end of the second line thereof, the words "which came into his hands."
5. Amend the paragraph in said amended declaration denominated "Fifth" by adding, after the word "Columbia," in the second line thereof, the words "which came into his hands."
6. Amend the paragraph in said amended declaration denominated "Fifth" as follows: Strike out the word "or" in the phrase "that said checks or proceeds were unlawfully used" and insert in lieu thereof the word "and," so that the said phrase shall read "that said checks and proceeds were unlawfully used," in the eighth and ninth lines of said paragraph of amended declaration.

E. H. THOMAS,
Attorney for Plaintiff.

MOTION OF PETTY TO STRIKE OUT LEAVE TO AMEND, ETC., FILED APRIL 21, 1909.

* * * * * * *

Now comes the defendant James T. Petty, appearing by his attorney specially for this purpose and for no other, and moves the court to vacate the order passed in the above cause on the 5th day of January, 1909, granting the plaintiff leave to amend upon the following grounds:

1. Because said motion was granted without notice to this defendant, and without opportunity to be heard.
2. Because of the rendition of a final judgment in said cause against the plaintiff on, to wit, the 18th day of October, 1907, or more than three terms before the passage of the said order of January 5, 1909, which judgment was not followed by any other or further proceeding in the cause during the term in which it was rendered nor for a long time, to wit, for more than a year thereafter.
3. Because there was and is no cause pending in this court in which any such order could be granted.
4. Because the court was without jurisdiction to pass any such order.
5. Because the said order was improvidently granted.

W. C. SULLIVAN,
Attorney for Defendant James T. Petty,
Appearing Specially for the Purpose of this Motion and for no Other Purpose.

DISTRICT OF COLUMBIA, *ss:*

I, James T. Petty, on oath say that no notice was given to me or to anyone in my behalf of any application to the court for an order granting leave to amend the declaration in the case of District of Columbia v. James T. Petty et al., Law No. 46544, subsequently to the judgment in my favor rendered in said cause, on, to wit, the 18th day of October, 1907, and that my first notice of said amendment, or of any application therefor, was obtained by me from the announcement in the newspapers that the said amendment had been granted.

JAMES T. PETTY.

Subscribed and sworn to before me this 20th day of January, A. D. 1909.

[SEAL.] IRWIN H. LINTON,
Notary Public, D. C.

E. H. THOMAS, Esq., *Attorney for Plaintiff:*

Please take notice that on Friday, the 23d day of April, A. D. 1909, at 10 o'clock a. m., or so soon thereafter as counsel can be heard, the foregoing motion to vacate the order granting leave to amend will be presented to the court for its action.

W. C. SULLIVAN,
Attorney for Defendant James T. Petty,
Appearing Specially for the Purpose of this Motion and for no Other Purpose.

JANUARY 27, 1909.

Service of above acknowledged.

E. H. THOMAS, *for Defendant.*

MOTION OF DEARING TO STRIKE OUT LEAVE TO AMEND, ETC., FILED APRIL 21, 1909.

* * * * * * *

Now comes the defendant George T. Dearing, appearing by his attorney specially for this purpose and for no other, and moves the court to vacate the order passed in the above cause on the 5th day of January, 1909, granting the plaintiff leave to amend upon the following grounds:

1. Because said motion was granted without notice to this defendant and without opportunity to be heard.
2. Because of the rendition of a final judgment in said cause against the plaintiff on, to wit, the 18th day of October, 1907, or more than three terms before the passage of the said order of January 5, 1909, which judgment was not followed by any other or further proceeding nor for a long time, to wit, for more than a year thereafter.
3. Because there was and is no cause pending in this court in which any such order could be granted.
4. Because the court was without jurisdiction to pass any such order.
5. Because the said order was improvidently granted.

J. J. DARLINGTON,
Attorney for Defendant George T. Dearing,
Appearing Specially for the Purpose of this Motion and for no Other Purpose.

DISTRICT OF COLUMBIA, *ss:*

I, George T. Dearing, on oath say that no notice was given to me, or to anyone in my behalf, of any application to the court for an order granting leave to amend the declaration in the case of District of Columbia v. James T. Petty et al. (Law No. 46544), subsequently to the judgment in my favor rendered in said cause, on, to wit, the 18th day of October, 1907, and that my first notice of said amendment, or of any application therefor, was obtained by me from the announcement in the newspapers that the said amendment had been granted.

GEO. T. DEARING.

Subscribed and sworn to before me this 23d day of January, A. D. 1909.

[SEAL.] WALTER E. HILTON,
Notary Public, D. C.

E. H. THOMAS, Esq., *Attorney for Plaintiff:*

Please take notice that on Friday, the 23d day of April, 1909, at 10 o'clock a. m., or so soon thereafter as counsel can be heard, the foregoing motion to vacate the order granting leave to amend will be presented to the court for its action.

J. J. DARLINGTON,
Attorney for Defendant George T. Dearing,
Appearing Specially for the Purpose of this Motion and for no Other Purpose.

JANUARY 27, 1909.

Service of above acknowledged.

E. H. THOMAS, *For Defendant.*

SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FRIDAY, APRIL 30, 1909.

Session resumed pursuant to adjournment, Hon. Harry M. Clabaugh, chief justice, presiding.

* * * * * * *

Upon consideration of the motions filed herein by the defendants James T. Petty and George T. Dearing, to vacate the order of court entered herein on the 5th day of January, 1909, granting the plaintiff leave to amend, it is ordered that said motions be, and the same hereby are overruled, with leave to said defendants to plead or demur as advised, within 10 days hereof.

* * * * * * *

DEMURRER OF GEORGE T. DEARING, FILED MAY 10, 1909.

* * * * * * *

The defendant George T. Dearing says that the plaintiff's declaration as amended is bad in substance.

J. J. DARLINGTON,
Attorney for Defendant George T. Dearing.

NOTE.—One of the matters of law intended to be argued on the hearing of the foregoing demurrer is, that there is no law, nor is there any rule or regulation duly prescribed for the government of the civil service of the District of Columbia pleaded, under which the defendant James T. Petty was chargeable with or authorized to receive or have the custody of any of the moneys in said declaration mentioned, or which required him to pay over, disburse, or account for the same.

J. J. DARLINGTON,
Attorney for the Defendant George T. Dearing.

DEMURRER OF JAMES T. PETTY, FILED MAY 10, 1909.

* * * * * * *

The defendant James T. Petty says that the plaintiff's declaration as amended is bad in substance.

W. C. SULLIVAN,
Attorney for Defendant James T. Petty.

NOTE.—One of the matters of law intended to be argued on the hearing of the foregoing demurrer is, that there is no law, nor is there any rule or regulation duly prescribed for the government of the civil service of the District of Columbia pleaded, under which the defendant James T. Petty was chargeable with or authorized to receive or have the custody of any of the moneys in the said declaration mentioned, or which required him to pay over, disburse or account for the same.

W. C. SULLIVAN,
Attorney for Defendant James T. Petty.

DEMURRER OF JESSE B. WILSON, FILED FEBRUARY 24, 1910.

* * * * * * *

The defendant, Jesse B. Wilson, says that the plaintiff's declaration as amended is bad in substance.

RALSTON, SIDDONS & RICHARDSON,
Attorneys for Defendant Jesse B. Wilson.

NOTE.—One of the matters of law intended to be argued on the hearing of the foregoing demurrer is that there is no law nor is there any rule or regulation duly prescribed for the government of the civil service of the District of Columbia pleaded under which the defendant James T. Petty was chargeable with or authorized to receive or have the custody of any of the moneys in the said declaration mentioned, or which required him to pay over, disburse, or account for the same.

RALSTON, SIDDONS & RICHARDSON,
Attorneys for Defendant Jesse B. Wilson.

DEMURRER OF CHARLES W. CHURCH ET AL., EXECUTORS, FILED MARCH 4, 1910.

* * * * * * *

The defendants Charles W. Church, William A. H. Church, Mary A. Church, and Joseph J. Darlington, executors, say the plaintiff's declaration as amended is bad in substance.

J. J. DARLINGTON, *Attorney.*

Among the matters of law intended to be argued in support of the foregoing demurrer is that there is no law, nor any prescribed rule or regulation pleaded under which the defendant was chargeable with the custody of or was accountable for the checks or moneys, or any of them, in the declaration mentioned.

J. J. DARLINGTON,
Attorney for Defendant Executors.

SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FRIDAY, MARCH 4, 1910.

Session resumed pursuant to adjournment, Hon. Harry M. Clabaugh, chief justice, presiding.

* * * * * * *

MONDAY, MARCH 14, 1910.

Session resumed pursuant to adjournment, Hon. Harry M. Clabaugh, chief justice, presiding.

* * * * * * *

Upon motion of the plaintiff by its attorney, Mr. William Henry White, the time within which to be heard on a motion for leave to amend the declaration herein is hereby extended to the 18th instant, inclusive.

FRIDAY, JUNE 17, 1910.

Session resumed pursuant to adjournment, Hon. Harry M. Clabaugh, chief justice, presiding.

* * * * * * *

District of Columbia, plaintiff, *v.* James T. Petty, Jesse B. Wilson, George T. Dearing, and Charles W. Church, William A. H. Church, Mary A. Church, and Joseph J. Darlington, executors, defendants. No. 46544. At law.

Upon consideration of the motion of plaintiff made by Mr. William Henry White, one of the assistant corporation counsel, orally in open court, for leave to file a second amended declaration herein, it is ordered that said motion be, and the same is hereby, denied.

Whereupon, it appearing that the demurrer of the defendant James T. Petty, the demurrer of the defendant George T. Dearing, the demurrer of the defendant Jesse B. Wilson, and the demurrer of Charles W. Church, William A. H. Church, Mary A. Church, and Joseph J. Darlington, executors, were on the 4th day of March, 1910, sustained to the declaration herein as amended; it is considered that this cause be, and the same is hereby, dismissed and that the defendants recover of plaintiff their costs of defense to be taxed by the clerk, and have execution thereof.

From the foregoing judgment the plaintiff by its said attorney in open court notes an appeal to the Court of Appeals of the District of Columbia.

DIRECTIONS TO CLERK FOR PREPARATION OF TRANSCRIPT OF RECORD, FILED JULY 5, 1910.

The clerk in making up the record on appeal in this case will please include the following:

November 9, 1903. Appearance, order declaration, notice to plead, and copy of bond.
January 22, 1904. Demurrer.
February 16, 1906. Demurrer sustained and leave to plaintiff to amend.
March 16, 1906. Time to amend extended 15 days from date.
December 12, 1906. Leave granted plaintiff to amend declaration.
Amended declaration and Exhibit A.
March 9, 1907. Demurrer of defendants Church and Dearing.
March 18, 1907. Demurrer of defendant Wilson.
March 27, 1907. Demurrer of defendant Petty.
October 18, 1907. Demurrer to amended declaration sustained. Opinion of court.
January 5, 1909. Suggestion of death of defendant Church, etc.
January 5, 1909. Death of defendant Church suggested, new party substituted and leave granted plaintiff to file amendment to amended declaration. Amendment to amended declaration.
April 21, 1909. Motion of defendant Petty to strike out leave to amend, affidavit and notice.
April 21, 1909. Motion of defendant Dearing to strike out.
April 30, 1909. Motions of defendants Petty and Dearing overruled, and leave to plead over.
May 10, 1909. Demurrers of defendants Dearing and Petty.
February 24, 1910. Demurrer of defendant Jesse B. Wilson.
March 4, 1910. Demurrers of Church and Darlington, executors. Demurrers to amended declaration sustained. Order extending time within which to apply for leave to amend.
June 17, 1910. Original motion for leave to amend filed, cause dismissed at cost of plaintiff and appeal in open court.

E. H. THOMAS,
W. H. W.,
Corporation Counsel, Attorney for Plaintiff.

We hereby agree to the above designation.

W. C. SULLIVAN,
Attorney for Defendant Petty.
J. J. DARLINGTON,
For Defendants Church and Dearing.
RALSTON, SIDDONS & RICHARDSON,
Attorneys for Defendant Jesse B. Wilson.

MEMORANDUM.

July 4, 1910. Time in which to file transcript of record in court of appeals extended to and including September 1, 1910.

SUPREME COURT OF THE DISTRICT OF COLUMBIA.

UNITED STATES OF AMERICA, *District of Columbia, ss:*

I, John R. Young, clerk of the Supreme Court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 52, both inclusive, to be a true and correct transcript of the record according to directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 46544 at law, wherein District of Columbia is plaintiff and James T. Petty et al. are defendants, as the same remains upon the files and of record in said court.

In testimony whereof I hereunto subscribe my name and affix the seal of said court, at the city of Washington, in said District, this 27th day of August, 1910.

[Seal Supreme Court of the District of Columbia.]

J. R. YOUNG, *Clerk.*
By ALF. G. BUHRMAN,
Assistant Clerk.

Indorsed on cover: District of Columbia Supreme Court. No. 2215. District of Columbia, etc., appellant, *v.* James T. Petty et al. Court of Appeals, District of Columbia. Filed August 31, 1910. Henry W. Hodges, Clerk.

TUESDAY, DECEMBER 13, A. D. 1910.

District of Columbia, a municipal corporation, appellant, *v.* James T. Petty, Charles W. Church, William A. H. Church et al. No. 2215.

The argument in the above-entitled cause was commenced by Mr. William H. White, attorney for the appellant, and was continued by Messrs. J. J. Darlington and W. C. Sullivan, attorneys for the appellees, and was concluded by Mr. E. H. Thomas, attorney for the appellant.

On motion the appellant is allowed 10 days to file additional authorities herein, with leave to the appellees to reply thereto if so advised.

IN THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

District of Columbia, a municipal corporation, appellant, *v.* James T. Petty, Charles W. Church, William A. H. Cuhrch et al. No. 2215.

OPINION.

Mr. Justice Robb delivered the opinion of the court:

* * * * * * *

This is an appeal from a judgment of the Supreme Court of the District sustaining the demurrer to appellant's declaration in an action upon the official bond of appellee Petty, as auditor of the District, demurrers to the original and first amended declaration having been previously sustained. Motion further to amend was denied.

The original declaration was filed November 9, 1903, and alleged that Petty, as principal, and Church, Wilson, and Dearing, as sureties, executed a bond on May 1, 1888, the material part of which reads as follows:

"Whereas the above bounden James T. Petty has been appointed to the office of auditor in and for the District of Columbia, it is therein set forth as follows:

"Now, therefore, the condition of said obligation is such that if said James T. Petty shall faithfully and efficiently perform all the duties of his said office, as provided for by law, and the rules and regulations from time to time duly prescribed for the government of the civil service of said District, and shall well and truly pay over, disburse, and account for all moneys that shall come to his hands, as the law and orders governing said service shall require, then said obligation to be void; otherwise to remain in full force."

The original declaration alleged the failure on the part of Petty to perform "all the duties of his said office as provided by law," failure faithfully and efficiently to observe "the said rules and regulations," and failure and neglect truly "to pay over, disburse, and account for all moneys that came into his hands, as the law and orders governing his duties and services required," in this:

First. That he failed to account for moneys of the District of Columbia represented by 10 checks of specified amounts and dates drawn by Charles C. Rogers, disbursing officer, or his deputy, countersigned by Petty as auditor, or by the Acting Auditor of the Treasury of the United States, charged to the "Permit fund, District of Columbia," which checks should have been deposited by Petty as auditor, in accordance with law and the rules governing the conduct of his office, with the Treasurer of the United States to the credit of the appropriation "Improvements and repairs, District of Columbia, assessment and permit work"; that said checks were not so deposited, but were indosed by Petty as auditor as aforesaid, cashed at the Central National Bank of Washington, and their proceeds never accounted for to the District of Columbia or deposited in any bank or in the Treasury of the United States to its credit.

Second. That Petty, as auditor, failed to account for moneys of the District represented by 15 checks of specified dates and amounts, drawn and countersigned as above stated and charged to various appropriations of the District of Columbia and indorsed by Petty as auditor, and which should, "in accordance with law and the rules and regulations aforesaid, have been deposited in the Traders' National Bank, of Washington, D. C., as reimbursements of the deposit and assessment fund"; that said checks were not so deposited, but after indorsement as aforesaid "were cashed at the Central National Bank of Washington, D. C., and the proceeds of said checks so cashed were never in any manner paid or accounted for to the said plaintiff."

"Third. That Petty, as auditor, failed to account for moneys of the District of Columbia represented by nine checks of specified dates and amounts drawn by him as auditor to his order as auditor upon the Central National Bank of Washington, D. C., charged to the account of said auditor in said bank and intended for deposit in the Traders' National Bank of Washington, D. C., to reimburse the deposit and assessment fund, where said fund was kept; that said checks, after indorsement by Petty, were not so deposited but were cashed at said Central National Bank of Washington and their proceeds never paid or accounted for to the District of Columbia.

Fourth. That Petty, as auditor, failed to account for other moneys of the District of Columbia represented by six checks of specified dates and amounts drawn by him as auditor, the first three upon said Central National Bank and the last three upon the National Capital Bank of Washington, all payable to his order as auditor; that said checks drawn as aforesaid should have been deposited at the said banks to Petty's credit as auditor; that they were not so deposited, but, after indorsement, were cashed at the Central National Bank and the proceeds never paid or accounted for to the District of Columbia.

Fifth. That Petty, as auditor, failed to account for other moneys of the District represented by two checks of stated dates and amounts drawn by him as auditor upon the Central National Bank, payable to his order "as disbursing agent, Rock Creek Park, D. C."; that the said checks, or the proceeds thereof, were used by the said Petty in his capacity as such disbursing agent, and the said checks so drawn by him as auditor were drawn without authority of law and the proceeds thereof were never in any manner repaid or accounted for to the said plaintiff.

To this declaration a demurrer was filed by the sureties on June 22, 1902, upon the ground that there was no law, nor any rule or regulation pleaded, under which Petty was chargeable with the custody or otherwise accountable for any of the moneys mentioned in the declaration; in other words, the question raised by the first demurrer was whether, in the absence of controlling statutory provisions, it was necessary to plead the rules and regulations under which it was claimed Petty became the custodian of and accountable for the moneys in the declaration mentioned. Judgment of the court sustaining this demurrer was entered February 10, 1906, whereupon on March 16 following leave to amend was sought and obtained.

The first amended declaration was filed on December 12, 1906. In this amended declaration the alleged breaches were copied verbatim from the original declaration, but were preceded by a summary of the statutes, rules, and regulations thought to apply to the office of auditor of the District of Columbia, and which will be noticed later. To this amended declaration the sureties again demurred upon the ground stated in the demurrer to the original declaration, the defendant also demurring. The court, on October 18, 1907, sustained the demurrer.

On January 5, 1909, the death of Mr. Church, one of said sureties, was suggested, and his executors were ordered to be made parties. Upon the same date leave was sought and obtained to file a second amended declaration, the amendment consisting of the addition of the words "which came into his hands" in each of the five assignments of breach, so that each of said assignments read, "that said defendant Petty, as auditor aforesaid, failed to account for moneys of the District of Columbia which came into his hands, represented by checks of amounts, dates, and numbers given below," etc. and, secondly, by striking out the word "or" in the fifth assignment of breach, so that the clause in which it occurs reads "that said checks and proceeds" were used. To this declaration another demurrer was filed upon the ground previously alleged. On March 4, 1910, the court, after hearing, again sustained the demurrer, whereupon motion for leave to amend was again made, and on June 17, 1910, this motion was denied and judgment given for the defendants, from which judgment this appeal was taken.

Appellees make no question as to the right of the District to take the bond in suit, their sole contention being that the declaration states no breach of it. The first question, therefore, which logically presents itself is whether, in an action of this kind, where liability depends upon prescribed rules or regulations, recovery can be had unless such rules and regulations are pleaded. A careful review of the authorities leaves no room for doubt upon this question. The rule, as stated by Dillon in his work on Municipal Corporations, is that "the acts, votes, and ordinances of the corporation are not public matters, and must, unless otherwise provided by statute, be pleaded and proved." (1 Dill. Mun. Corps., sec. 83, 4th ed.) In Robinson v. Tramway Co. (164 Fed. 174), Judge Van Devanter, now Mr. Justice Van Devanter of the Supreme Court of the United States, said: "An ordinance is not a public statute, but a mere municipal regulation, and to make it available in establishing a charge of negligence it must be pleaded, like any other fact of which judicial notice will not be taken. Here it was not pleaded, and so could not be proven."

"The general rule is well settled (citing cases) that municipal ordinances and by-laws are not laws of which judicial notice will be taken, but facts to be pleaded and proven. If not duly pleaded, they can not be proven." (Cyc., vol. 28, p. 393.)

In Shugen v. Rundle (99 Wis., 78), damages were sought for an alleged false imprisonment, and the trial court ruled that plaintiff's arrest was without due process and that he was entitled to recover damages from the officer arresting him. In the appellate court it was argued that this ruling was erroneous, owing to an ordinance of the city of Milwaukee granting authority to policemen of that city to make arrests in cases of misdemeanor. The court said: "The ordinance was not mentioned in the pleadings or introduced in evidence, the first makes its appearance in the case when printed in appellant's brief. The obligations of courts are sufficiently burdensome when they are required to take cognizance of all acts granting powers to municipal corporations. They have uniformly refused to take notice of the acts and ordinances of such bodies except upon due proof. (Citations.) And the introduction of such an ordinance in evidence when not pleaded, against proper objection, is error."

In Porter v. Waring (69 N. Y., 250) it was said: "If the court could — judicial notice of the ordinances of a municipal corporation, it would involve consideration of all the numerous enactments, whether printed or otherwise, which the common council have adopted and which relate to the subject of the controversy, and the existence of many of which might be entirely unknown to the parties or their counsel."

While some of the cases hold that ordinances must be set on in haec verba, we think the general rule to be that it is sufficient to set forth their provisions in substance. (Railroad Co. v. Ashline, admx., 171 Ill., 313; Klp v. Paterson, 26 N. J. L., 142; Decker v. McSorley, 11 Wis., 91; Wagner v. Garrett, 118 Ind., 114; Lexington v. Woolfolk, 117 Ky., 708.) They must be carefully identified, however, that they may be found without difficulty.

We will next review the history of the office of auditor and the rules and regulations governing the same, as given in the amended declaration. The act of July 7, 1870 (16 Stat., 191), authorized the mayor and aldermen of the city of Washington to appoint an auditor and comptroller, and made it the duty of the auditor to audit and certify to the comptroller all accounts against the corporation and to retain the originals of all contracts made and orders given for work and improvement by the District. It was the duty of the comptroller to keep an account of all warrants, of all taxes levied, and all receipts for taxes given by the collector and register. The act further provided that every account against the corporation of Washington, when audited and certified by the auditor, should be paid by warrant of the comptroller, countersigned by the mayor. The act provided, however, that all moneys received from any and all sources should be deposited by the collector and register to the credit of the city in a designated depository.

Under the act of February 21, 1871 (16 Stat., 419), the District of Columbia was created a body corporate for municipal purposes, and the power of election and appointment of municipal officers was lodged in its legislature, the act repealing the charter of the city of Washington and abolishing all offices of that corporation after June 7, 1871. The act of the legislative assembly of August 23, 1871 (Albert's Compilation, p. 210), made it the duty of the auditor to audit all accounts against the District, to keep a record of all bills certified by him and the appropriations to which they are chargeable, to certify to the comptroller all accounts audited by him, and to countersign all warrants drawn by the comptroller, if found correct. The comptroller was to keep an account of all appropriations made by the legislative assembly and of all evidences of indebtedness issued by the District, to keep a transcript of all assessments of taxes, to charge to the respective appropriations all payments made upon certificate of the auditor, and to draw warrants upon the treasurer therefor if there was a balance to the credit of the particular appropriation.

The act of June 20, 1870 (18 Stat., 116), abolished the existing form of government and established the present system. This act authorized the commissioners to abolish and consolidate offices and make appropriations thereto. The declaration alleges that the board of commissioners consolidated the office of auditor and comptroller and deputy comptroller by order of August 11, 1876, and by order of August 19, 1876, modified that order so as to continue the office of auditor and comptroller, and appointed one person to perform the duties of both offices. Under said order of August 11, which is set out in the declaration, it is provided "that the clerk in the auditor's office who shall be charged with the business of special assessments shall give a bond to the District of Columbia" for the faithful performance of his duties. Said order of August 19 provided that "the clerk in the auditor's office who shall be charged with the business of collecting and accounting for special assessments shall give a bond to the District of Columbia" for the faithful performance of his duties.

The act of June 11, 1878 (20 Stat., 102), continued the existing form of government by commissioners and provided that all taxes should be paid into the Treasury of the United States and that the same, as well as appropriations to be made by Congress, should be disbursed for the expenses of the District on itemized vouchers audited and approved by the auditor of the District and certified by the commissioners or a majority of them.

The act of Congress of March 3, 1881 (21 Stat., 466), provided that accounts of all disbursements of the commissioners of the District should be made to the accounting officers of the Treasury by the auditor on vouchers certified by the commissioners as required by law. The same provision is also contained in section 3 of the act of Congress of July 1, 1882. (22 Stat., 144.) These enactments were followed by an order of the commissioners dated December 8, 1882, abolishing the office of comptroller and imposing his duties upon the auditor.

Such was the situation when the bond was given. The declaration then sets out that on June 13, 1888, the commissioners passed an order containing seven sections. An inspection of the order, which is made a part of the declaration, shows that under section 1 the contractor of taxes was required, upon receiving a deposit for permit work, etc., to give receipts therefor in duplicate, delivering the original to the depositor and transmitting the duplicate to the auditor. This section forbids the collector to pay out moneys thus received except upon requisition of the auditor, approved by the commissioners. Section 2 of the order required the superintendents of streets and sewers, respectively, to prepare in duplicate pay rolls or other vouchers for services rendered or materials furnished, payable from the permit fund, which, after approval by the commissioners, were to be "forwarded to the auditor for audit and payment." This section, however, was followed by section 3, requiring the auditor, after receiving a pay roll or other voucher prepared in accordance with section 2, to examine and approve the same if found correct, and make requisition upon the collector of taxes for the amount thereof as provided in section 1, and by section 4 specifying the manner in which these moneys should be paid, and by whom. That section required "the pay clerk of the auditor's office" to take the rolls thus prepared, with the money necessary to meet the same, to the place where the work was being done and to pay in cash to each claimant the amount his due. This pay clerk was required to give a bond for the faithful performance of the duties required of him. Section 5 required the auditor to open an account with the collector of taxes, debiting him with all deposits on account of permit work and license funds and subsequent deposits, crediting the requisitions honored by the collector. Section 6 required the auditor to debit himself with moneys received from the collector of taxes, upon requisitions made as provided in section 1, and to credit himself with payments upon vouchers duly certified and approved as in sections 2 and 7. The seventh and last section, which, however, is not here involved, required the auditor, after the completion of the work for which the deposit had been made, to state an account with the depositor and make requisition for any balance or deposit, the receipt of the depositor being the auditor's voucher for such payment.

What constituted "permit work," the deposits on account of which made up the "permit fund," is gathered from the statement in the declaration that in the course of administration "the commissioners found it expedient that all work done by the District of Columbia as the result of cuts made in streets, avenues, roads, and alleys in said District, be paid from the fund known as the 'deposit and assessment fund,' which was whole-cost work," done at the solicitation of individual citizens for their benefit and at their expense.

The act of Congress of March 3, 1891 (26 Stat., 1064), provided "for one disbursing clerk," and authorized him to pay laborers and employees of the District, such payments to be made "with moneys advanced to him by the commissioners in their discretion, upon pay rolls or other vouchers audited and approved by the auditor of the District of Columbia and certified by the commissioners as now required by law." This disbursing clerk was required to give bond to the satisfaction of the commissioners in the sum of $25,000, and it was expressly provided that he should be subordinate to the commissioners and that they should "in every respect be responsible to the United States, the District of Columbia, and to individuals for the acts and doings of said disbursing clerk." The accounts of this disbursing clerk were to be audited by the auditor of the District, who, however, was required to forward such accounts to the commissioners for their approval. This disbursing clerk, it is alleged in the declaration, was the officer designated in said order of June 13, 1888, as "pay clerk."

The act of August 7, 1894 (28 Stat., 247), provided for so-called "half-cost" work by requiring property owners desiring improvements under the permit system to deposit in advance with the collector an amount equal to one-half of the cost of such improvements. Moneys thus received by the collector were to be deposited by him in the Treasury of the United States to the credit of the permit fund. Upon the completion of the work the commissioners were required to repay the current appropriation for assessment and permit work out of such permit fund one-half the cost of such work and return to the depositors from the same fund any surplus remaining over and above one-half of the cost of the work. It will be noticed that this statute was not enacted until several years after the promulgation of said order of June 13, 1888, and was authority for half-cost and not whole-cost work.

The declaration alleges that on the 6th of February, 1897, the commissioners passed an order providing that for convenience in keeping the account "in case of repairs made by the District of cuts in pavements and other work done by the District, which were paid for from private deposits, a general account be opened styled 'Deposit and Assessment Fund,' and that all material and labor for such works to be charged against said account and to be paid by assessments against the deposits made for such purposes."

The act of June 30, 1898 (30 Stat., 525), provided for the appointment by the Commissioners of the District of a disbursing officer for the District, who was required to give bond in the sum of $50,000. This act expressly provided that thereafter advances in money should be made "on the requisition of said commissioners to the said disbursing officer instead of to the commissioners," and required him to account for the same as then "required by law of the said commissioners."

The only other act necessary to be noticed is the act of July 1, 1902 (32 Stat., 592), requiring the auditor of the District to continue to prepare and countersign all checks issued by the disbursing officer, no check of such officer involving the disbursement of public moneys to be valid unless so countersigned.

It is of course axiomatic that while duties akin to those expressly imposed upon a bonded officer may be subsequently devolved upon him so as to charge his sureties, duties of a wholly different character may not, the reason being that one class of duties may reasonably be presumed to have entered into the contemplation of the parties at the time of the execution of the bond, while the other class may not. (Gasson v. United States, 97 U. S., 584; 2 Brandt S. & G., sec. 660.) The question before us in this case, however, is not so much whether there has been a breach of any after-imposed duties on the part of the auditor as whether, upon this record, can he be said that responsibility for the custody of the moneys mentioned in the declaration in any way devolved upon him.

It is so apparent, we think, as to render discussion unnecessary that down to the promulgation of said order of June 13, 1888, there was no law, rule, or regulation making the auditor of the District custodian or accountable for public moneys. It is insisted by the appellees that the whole-cost work, to which the "permit-work" deposit mentioned in this order was devoted, was entirely unauthorized by law, and hence that the order is not material here. We can find no statute authorizing the District to receive or expend such permit-work deposits. On the contrary, the commissioners were prohibited from contracting for improvement of streets, etc., except in pursuance of appropriations made by law." (Albert's Compilation, chap. 19, secs. 29, 31, pp. 201–202.) The order, therefore, has no place in this inquiry as the moneys received from citizens for street improvement were not public moneys in any legal sense. The transaction between the individuals holding the office of commissioner and the citizens who advanced the money.

The act of 1891, making appropriation "for one disbursing clerk," provided that payments to laborers and employees should be made by such clerk with moneys advanced to him not by the auditor, but by the commissioners. This disbursing clerk was also, under the act, required to give bond to the United States, and was made subordinate not to the auditor but to the commissioners. His derelictions the act expressly charged not to the auditor but to the commissioners. The auditor was required to audit the accounts of this disbursing clerk, but again the act placed responsibility upon the commissioners by requiring the auditor promptly to forward such accounts to them for approval. From 1891 to the act of June 30, 1898, it is conceded there was no change in the method of disbursement. That act, as noted, created a disbursing officer for the District, required him to be appointed by the commissioners, and required him to give bond for the faithful performance of his duties "in the disbursing and accounting, according to law, for all moneys of the United States and of the District of Columbia that may come into his hands." The proviso following that advances in money should be made to the disbursing officer "instead of to the commissioners," and that he should account for such moneys "as now required by law of said commissioners," negatives the contention that it was then understood that advances had previously been made to the auditor and is in affirmation of the proposition that such advances had previously been made to the commissioners.

The declaration specifically assigns, as the breach for which recovery is sought, the failure on the part of the auditor to account for certain checks alleged to represent moneys. The exact nature of these various transactions is set out in the declaration. There was no law making it the duty of the auditor to have the custody of or to disburse any of these moneys, nor does the declaration, as we have found, set out any prescribed rule, order, or regulation imposing said duties, or either of them, upon the auditor. It follows, therefore, that the demurrer was rightly sustained.

The refusal of the court to permit still further amendment of the declaration is assigned as error. While it is difficult to perceive how the defect in the declaration could be overcome by amendment, we are certainly not prepared to hold that there was an abuse of discretion by the trial court in overruling the motion. Almost eight years had intervened since the filing of the original declaration. An oral motion for leave to file a third amendment was made, unaccompanied—so far as the record discloses—by any showing of cause or by any suggestion as to the character of the proposed amendment. In the circumstances, the court was entirely justified in overruling the motion.

Judgment affirmed with costs.

Affirmed.

(Indorsed:) No. 2215. District of Columbia, a municipal corporation, appellant, v. James T. Petty et al. Opinion of the court per Mr. Justice Robb. Court of Appeals, District of Columbia. Filed May 1, 1911. Henry W. Hodges, clerk.

MONDAY, *May 1, A. D. 1911.*

District of Columbia, a municipal corporation, appellant, v. James T. Petty, Charles W. Church, William A. H. Church, et al. No. 2215. April term, 1911.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

This cause came on to be heard on the transcript of the record from the Supreme Court of the District of Columbia and was argued by counsel. On consideration whereof it is now here ordered and adjudged by this court that the judgment of the said supreme court in this cause be, and the same is hereby, affirmed with costs.

Per Mr. JUSTICE ROBB.
May 1, 1911.

IN THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

District of Columbia, a municipal corporation, appellant, v. James T. Petty, Charles W. Church, William A. H. Church, Mary A. Church, and Joseph J. Darlington, executors of Charles B. Church, Jesse B. Wilson, and George T. Dearing, appellees. No. 2215.

PETITION FOR WRIT OF ERROR.

And now comes the District of Columbia, a municipal corporation, plaintiff herein, and says:

That on or about the 1st day of May, 1911, the Court of Appeals of the District of Columbia entered a judgment herein in favor of the above-named defendants against the plaintiff, in which judgment and the proceedings had prior thereto in this case certain errors were committed to the prejudice of this plaintiff, all of which will more in detail appear from the assignment of errors which is filed with this petition.

Wherefore this plaintiff prays that a writ of error may issue in this behalf out of the Supreme Court of the United States for the correction of errors so complained of, and that a transcript of the record, proceedings, and papers in this cause, duly authenticated, may be sent to the Supreme Court of the United States.

EDWARD H. THOMAS,
Corporation Counsel, Attorney for Plaintiff.

IN THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

District of Columbia, a municipal corporation, appellant, v. James T. Petty, Charles W. Church, William A. H. Church, Mary A. Church, and Joseph J. Darlington, executors of Charles B. Church, Jesse B. Wilson, and George T. Dearing, appellees. No. 2215.

ASSIGNMENT OF ERRORS.

The plaintiff, the District of Columbia, a municipal corporation, in connection with and as part of its petition for writ of error filed herein, makes the following assignment of errors, which it avers were committed by the court in the rendition of the judgment against this plaintiff appearing of record herein, that is to say:

First. The court erred in holding and deciding that the original declaration of the plaintiff and as amended did not state facts sufficient to constitute a cause of action against the defendants.

Second. The court erred in holding and deciding that there is no law nor any rule or regulation pleaded under which the defendant, Petty, and his sureties were chargeable with the custody of, or otherwise accountable for, any of the moneys in said original declaration and the amendments thereto mentioned.

Third. The court erred in holding and deciding that the action was founded on failure to observe the rules and regulations from time to time prescribed for the government of the civil service of the District of Columbia and that it was necessary to plead such rules and regulations, and in failing to hold that said Petty was liable for not accounting for all moneys that came into his possession or that the purpose of the bond was to hold him for all public moneys received by him.

Fourth. The court erred in holding and deciding that the condition of the bond in suit did not cover breaches under laws and regulations enacted and in force subsequent to the execution of the bond.

Fifth. the court erred in holding and deciding that the moneys which came into the hands of said Petty could not be disbursed except by congressional appropriation.

Sixth. the court erred in not holding and deciding that the bond in suit was good although not a statutory bond and that the principal and sureties were estopped to deny its validity.

Seventh. the court erred in sustaining the demurrers of the defendants to the original declaration and the amendments thereto and in rendering judgment for the defendants.

Wherefore the plaintiff prays that the said judgment may be reversed.

DISTRICT OF COLUMBIA,
By EDWARD H. THOMAS,
Corporation Counsel.

(Indorsed:) At law. No. 2215. District of Columbia, a municipal corporation, appellant, v. James T. Petty, Charles W. Church, William A. H. Church, Mary A. Church, and Joseph J. Darlington, executors of Charles B. Church, Jesse B. Wilson, and George T. Dearing, appellees. Petition for writ of error and assignment of errors. Court of appeals, District of Columbia. Filed May 12, 1911. Henry W. Hodges, clerk.

FRIDAY, MAY 12, A. D. 1911.

District of Columbia, a municipal corporation, appellant, v. James T. Petty, Charles W. Church, William A. H. Church, et al. No. 2215.

On motion of Mr. William H. White, of counsel for the appellant, it is ordered by the court that a writ of error to remove this cause to the Supreme Court of the United States issue.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the justices of the Court of Appeals of the District of Columbia, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court of appeals before you, or some of you, between District of Columbia, a municipal corporation, appellant, and James T. Petty, Charles W. Church, William A. H. Church, et al., appellees, a manifest error hath happened, to the great damage of the said appellant as by its complaint appears, We being willing that error, if any hath been, should be duly corrected, and

full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington within 30 days from the date thereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the Hon. Edward D. White, Chief Justice of the United States, the 12th day of May, in the year of our Lord 1911.

[SEAL COURT OF APPEALS, DISTRICT OF COLUMBIA.]

HENRY W. HODGES,
Clerk of the Court of Appeals of the District of Columbia.

UNITED STATES OF AMERICA, *ss:*

To James T. Petty; Charles W. Church, William A. H. Church, Mary A. Church, and Joseph J. Darlington, executors of Charles B. Church; Jesse B. Wilson, and George T. Dearing, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to a writ of error, filed in the clerk's office of the Court of Appeals of the District of Columbia, wherein District of Columbia, a municipal corporation, is plaintiff in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Hon. Seth Shepard, chief justice of the Court of Appeals of the District of Columbia, this 12th day of May, in the year of our Lord 1911.

SETH SHEPARD,
Chief Justice of the Court of Appeals of the District of Columbia.

Service acknowledged May —, 1911.

J. J. DARLINGTON,
Of Counsel for Appellees Other than Petty & Wilson.
W. C. SULLIVAN,
Counsel for Appellee Petty.
J. H. RALSTON,
Attorney for Defendant Jesse B. Wilson.

[Indorsed:] Court of Appeals, District of Columbia. Filed May 12, 1911. Henry W. Hodges, clerk.

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

I, Henry W. Hodges, clerk of the Court of Appeals of the District of Columbia, do hereby certify that the foregoing printed and typewritten pages, numbered from 1 to 53, inclusive, contain a true copy of the transcript of record and proceedings of said court of appeals in the case of the District of Columbia, a municipal corporation, appellant, v. James T. Petty, Charles W. Church, William A. H. Church, et al., No. 2215, April term, 1911, as the same remain upon the files and records of said court of appeals.

In testimony whereof I hereunto subscribe my name and affix the seal of said court of appeals, at the city of Washington, this 16th day of May, A. D. 1911.

[SEAL COURT OF APPEALS, DISTRICT OF COLUMBIA.]

HENRY W. HODGES,
Clerk of the Court of Appeals of the District of Columbia.

Indorsed on cover: File No. 22,723. District of Columbia Court of Appeals. Term No. 647. The District of Columbia, plaintiff in error, v. James T. Petty; Charles W. Church et al., executors of Charles B. Church, deceased; Jesse B. Wilson and George T. Dearing. Filed June 7, 1911. File No. 22,723.

Mr. LEWIS. I do not think the point of order on my amendment was sustained. I think it is too late. He reserved the point of order and did not make it.

The CHAIRMAN. The gentleman from Kentucky [Mr. JOHNSON] reserved a point of order. The gentleman from Maryland was heard on it, and the gentleman from Kentucky rose and renewed the point of order, and the Chair sustained it.

Mr. LINTHICUM. Mr. Chairman, I wish to offer an amendment. After line 9, page 7, I wish to offer the amendment down to and including the figures "$47,000."

The CHAIRMAN. The Clerk will report the amendment.

Mr. JOHNSON of Kentucky. Where is "$47,000"?

Mr. LINTHICUM. In the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 7, at the end of line 9, insert the following:

"For the erection of shelters on the open space at the intersection of Ohio and Louisiana Avenues with Tenth and Twelfth Streets, bounded by Tenth and Twelfth and B and Little B Streets NW., known and designated as the farmers' produce market, and the necessary paving in connection therewith, $47,000."

Mr. JOHNSON of Kentucky. Mr. Chairman, I reserve the point of order on the item for the reason that it increases an expenditure besides being legislation. An amendment is in order to reduce an appropriation, but an amendment is not in order to enlarge one. It is also new legislation.

Mr. LINTHICUM. Mr. Chairman, I understand that to be the case. If the amendment is germane to the bill, I do not see why we have not the right to amend and increase the appropriation. This is not to increase any specific appropriation. It is making an entirely separate appropriation for the protection of the farmers who bring their produce to that market. It seems to me from what the gentleman from Maryland, my colleague [Mr. LEWIS], has said that that protection should certainly be given to these farmers. If we want the farmers to bring their produce and sell it directly to the consumer, certainly every convenience ought to be offered for that provision, just as we are giving protection to those people who are selling in the inclosed markets. I do not see that the gentleman's point of order is well taken there.

Mr. JOHNSON of Kentucky. I make the point of order.

The CHAIRMAN. However meritorious the gentleman's amendment might be, that is not for the Chair to pass upon. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

Fish wharf and market: Market master and wharfinger, who shall have charge of the landing of vessels, the collection of wharfage and dockage rentals, and the collection of rents for fish houses at the municipal fish wharf and market hereinafter established, for not exceeding 16 months at the rate of $75 per month, beginning March 1, 1913, $1,200; assistant market master, who shall also act as laborer, for the same period, at the rate of $50 per month, not exceeding $800; in all $2,000, to be immediately available; and the Commissioners of the District of Columbia are authorized and directed in the name of the District of Columbia to take over, exclusively control, regulate, and operate as a municipal fish wharf and market, the water frontage on the Potomac River lying south of Water Street, between Eleventh and Twelfth Streets, including the buildings and wharves thereon, and said wharf shall constitute the sole wharf for the landing of fish and oysters for sale in the District of Columbia; and said commissioners shall have power to make leases, fix and determine rentals, wharfage and dockage fees, and to collect and pay the same into the Treasury, one-half to the credit of the United States and one-half to the credit of the District of Columbia, and to make and amend, from time to time, all such regulations as they may deem proper for the control, regulation, and operation of said municipal fish wharf and market; and all leases, subleases, and other private rights of occupancy in and to any or all of said property are terminated on, from, and after March 15, 1913; and all laws and parts of laws requiring the advertisement and sale of rights and privileges for a fish wharf or dock, and all laws or parts of laws inconsistent with the provisions hereof are repealed.

Mr. JOHNSON of Kentucky. I make a point of order against the paragraph because it is legislation.

Mr. BURLESON. Mr. Chairman, will the gentleman withhold for a moment?

Mr. JOHNSON of Kentucky. I will reserve the point of order.

Mr. BURLESON. I want to ask the gentleman whether he will permit the House to pass upon the proposition if I can satisfy him that this is meritorious?

Mr. JOHNSON of Kentucky. Mr. Chairman, there is one feature in it that I wish to speak of. It is admitted that for the purpose of landing oyster boats and vessels down there about $7,000 a year is collected. That $7,000 a year goes on the price of oysters and fish in the city of Washington, and I very much doubt the propriety of it.

Mr. BURLESON. Does the gentleman understand that this fish wharf is now under the control of a private contractor, and that his contract will expire on the 15th day of March of this year, and that the District derives a revenue at this time of only about $1,200 a year, with the addition of $210, and that under the new scheme the District would derive a revenue of six or seven thousand dollars which now goes to the private contractor? The same burden may hereafter rest upon the consumer, it is true, after the authorities have taken it over, but instead of the revenue now being derived going into the pockets of a private individual we have a new plan whereby it would go into the treasury of the District government. In addition thereto, a very insanitary condition exists at the fish-market wharf at this time, and we hope to correct it by the municipal authorities taking control.

I will say to the gentleman that if he will look into the proposition—if he will reserve his point of order and look into the proposition—and does not then say that it is meritorious, I shall not contend with him about the matter. But I would like, if the gentleman will permit it, for the members of the subcommittee to explain the matter to the House just as it is, and let the House pass on it as to whether or not it shall continue in the bill.

Mr. JOHNSON of Kentucky. Mr. Chairman, I have already looked into the subject.

Mr. BURLESON. It is subject to a point of order, I admit.

Mr. JOHNSON of Kentucky. They are contemplating the erection of very costly buildings down there. This lease will expire in a few months, and the property will become public, and no private individual will derive any rents from it. But the District Commissioners contemplate the erection of costly buildings there, and the hiring of a number of men to take charge of them, and will impose a tax of several thousand dollars a year on the people of Washington for their fish and oysters.

Mr. BURLESON. If the gentleman will permit, the gentleman is wholly mistaken about it. There is no contemplation on the part of the commissioners to erect any character of buildings there at all.

Mr. JOHNSON of Kentucky. Then I misread what is in the Book of Estimates, as sent here by the Secretary of the Treasury upon the recommendation of the Commissioners of the District, and there is also much in the hearings relative to it.

Mr. BURLESON. I will state to the gentleman that during the hearings, as I recall, nothing was said about the erection of costly buildings, or buildings of any character whatever.

Mr. JOHNSON of Kentucky. It is all there.

Mr. BURLESON. The only difference between the future conditions and the conditions that exist there now will be that, instead of being controlled by a private contractor, it will be controlled by the municipality.

Mr. JOHNSON of Kentucky. May I ask the gentleman a question right there?

Mr. BURLESON. Yes.

Mr. JOHNSON of Kentucky. Does the gentleman contend that the private contractor will have anything to do with this property after the lease expires?

Mr. BURLESON. He will not.

Mr. JOHNSON of Kentucky. Then that settles it.

Mr. BURLESON. He will not; but we will be compelled to readvertise and permit another contractor to operate this fish wharf, because the service must be rendered to the people of the District.

Mr. JOHNSON of Kentucky. Then do not let them have it for $1,200 when it is worth $6,000 or $7,000.

Mr. BURLESON. I will state to the gentleman that the District Commissioners, under the operation of the law, will be compelled, unless we can embody this item in the bill, to re-lease this fish wharf.

Mr. JOHNSON of Kentucky. I am not sure that the gentleman is correct in that. I think it requires an act of Congress to again lease it.

The CHAIRMAN. The point of order made by the gentleman from Kentucky [Mr. JOHNSON] is sustained. The Clerk will read.

The Clerk read as follows:

Engineer Commissioner's office: Engineer of highways, $3,000; engineer of bridges, $2,250; superintendent of streets, $2,000; superintendent of suburban roads, $2,300; superintendent of sewers, $3,300; inspector of asphalts and cements, $2,400 (*Provided*, That the inspector of asphalts and cements shall not receive or accept compensation of any kind from, or perform any work or render any services of a character required of him officially by the District of Columbia to, any person, firm, corporation, or municipality other than the District of Columbia); assistant inspector of asphalts and cements, $1,500; superintendent of trees and parkings, $2,000; assistant superintendent of trees and parkings, $1,200; assistant engineers—1 $2,200, 1 $2,100, 4 at $1,800 each, 2 at $1,600 each, 4 at $1,500 each, 1 $1,350, 1 $1,200; transitmen—2 at $1,200 each, 1 $1,050; rodmen—4 at $900 each, 8 at $780 each, 12 chainmen at $650 each; draftsmen—1 $1,500, 1 $1,350, 2 at $1,200 each, 1 $1,050; general inspector of sewers, $1,300; inspector of sewers, $1,200; bridge inspector, $1,200; inspectors—2 at $1,500 each, 6, including 3 inspectors of streets, at $1,200 each, 1 $1,000, 1 $900; foremen—12 at $1,200 each, 1 $1,050, 10 at $900 each; foreman, Rock Creek Park, $1,200; 3 subforemen, at $1,050 each; bridge keepers—4 $650, 3 at $600 each; chief clerk, $2,250; permit clerk, $1,500; assistant permit clerk, $1,000; index clerk and typewriter, $900; clerks—1 $1,800, 3 at $1,500 each, 2 at $1,400 each, 5 at $1,200 each, 2 at $1,000 each, 1 $900, 1 $840, 2 at $750 each, 1 $600; messengers—1 $600, 6 at $540 each; skilled laborers—1 $625, 2 at $600 each; janitor, $720; principal steam engineer, $1,800; 3 steam engineers, at 1,200 each; 3 assistant steam engineers, at $1,050 each; 6 oilers, at $690 each; 6 firemen, at $875 each; inspector, $1,400; storekeeper, $900; superintendent of stables, $1,500; blacksmith, $975; 2 watchmen, at $630 each; 2 drivers, at $630 each; inspector of gas and meters, $2,000; assistant inspectors of gas and meters—1 $1,000, 2 at $900 each; messenger, $600; in all, $180,710.

Mr. FOWLER. Mr. Chairman, I make a point of order against that part of this paragraph in line 7, page 9, superintendent of suburban roads, $2,300. This salary is increased from $2,000 to $2,300.

Mr. BURLESON. That is true. Does the gentleman desire to know the reason why?

Mr. FOWLER. I will reserve the point of order, if the gentleman desires to have me do so.

Mr. BURLESON. I do not desire to consume the time of the Committee of the Whole if the gentleman is going to make the point of order anyway.

Mr. FOWLER. I am going to make the point of order. I have looked into the matter.

Mr. BURLESON. If, in spite of any explanation I might make, the gentleman is going to make the point of order, I have nothing to say.

The CHAIRMAN. The point of order is sustained.

Mr. BURLESON. In line 7, page 9, after the word "roads," where the blank has been created by the words stricken out under the point of order, I move to insert the figures "$2,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 9, line 7, after the word "roads," at the end of the line, insert "$2,000."

The amendment was agreed to.

The Clerk read as follows:

Municipal architect's office: Municipal architect, $3,600; superintendent of construction, $2,000; chief draftsman, $1,700; draftsmen—1 $1,400, 1 $1,300; heating, ventilating, and sanitary engineer, $2,000; superintendent of repairs, $1,800; assistant superintendent of repairs, $1,200; boss carpenter, boss painter, boss plumber, boss steam fitter, 5 in all, at $1,200 each; boss grader, $1,000; machinist, $1,200; clerks—1 $1,050, 1 $620; copyist, $840; driver, $540; in all, $26,250.

Mr. FOWLER. I move to strike out the last word.

Mr. JOHNSON of Kentucky. I make a point of order against that paragraph.

The CHAIRMAN. The gentleman from Kentucky makes the point of order against the paragraph.

Mr. JOHNSON of Kentucky. There is legislation in it, increasing a salary from $1,600 to $1,800, on page 10, line 24.

The CHAIRMAN. Does the gentleman from Texas [Mr. BURLESON] desire to be heard?

Mr. BURLESON. No.

The CHAIRMAN. The point of order is sustained.

Mr. BURLESON. I offer an amendment. After the word "repairs," in line 24, insert the words "$1,600" in the blank caused by sustaining the point of order.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk reads as follows:

Page 10, line 24, after the word "repairs," insert "$1,600."

The amendment was agreed to.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out the last word. In the former bill this language appears:

Municipal architect's office: Municipal architect, whose duty hereafter shall be to prepare or supervise the preparation of plans for and superintend the construction of all municipal buildings, and the repair and improvement of all buildings belonging to the District of Columbia, and serve under the direction of the Engineer Commissioner of the District of Columbia, $3,600.

I would ask the gentleman from Texas [Mr. BURLESON] who has charge of this bill whether or not, in his opinion, the leaving out of those words will lessen the duties of the municipal architect?

Mr. BURLESON. It will not.

Mr. JOHNSON of Kentucky. I am rather inclined to that belief. In fact, I feel reasonably certain of it, because of the use of the word "hereafter" in the former appropriation. But while we are upon this subject I desire to state that while the law is that the municipal architect shall prepare all the plans and specifications, notwithstanding that fact the Commissioners of the District of Columbia paid out for architect's fees—

On the Strong John Thomson School, No. 156	$3,492.00
On the Business High School, No. 144	2,425.50
On the Charles F. Powell School, No. 157	1,946.00
On the Monroe School, No. 72	1,296.47
On Sixteenth Street Bridge	82.00
To replace Potomac School, No. 159	2,000.00
On John Eaton School, No. 160	2,000.00
On the McKinley Manual Training School, No. 130	4,950.00
On Engine Company No. 2	1,200.00
On Chemical Engine Company No. 2	770.00
On Manual Training School, Wisconsin Avenue, No. 164	1,622.23
On Armstrong Manual Training School, No. 129	1,902.39
On the Cardozo Manual Training School, No. 168	1,113.32
On Engine Company No. 24	770.35
On Normal School No. 2, No. 169	7,000.00
On the Q Street Bridge	3,000.00
On the building of Columbia Hospital for Women	1,762.59
On the Takoma Park Library	1,224.00
On Engine Company No. 23	995.50
On Convenience Station No. 3	599.62
On plans for the Reformatory and Workhouse	5,000.00
On plans for a new Central High School	22,500.00

Notwithstanding there is this law staring the commissioners in the face they have paid out that large sum of money for architects' service.

The CHAIRMAN (Mr. GARRETT). The time of the gentleman has expired.

Mr. JOHNSON of Kentucky. I ask for five minutes more.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. MANN. When were these amounts that the gentleman has just stated paid out?

Mr. JOHNSON of Kentucky. During the present term of the municipal architect.

Mr. MANN. I think this provision as permanent law has not been in very long.

Mr. JOHNSON of Kentucky. I do not know how long, but I asked the commissioners to furnish me with the amounts that the architect's office had paid out during this time, and this is what I have just read.

Mr. MANN. The provision went in as permanent law last summer. I would like to ask the gentleman whether this provision was carried in the bill before; I know there was some contest about it in the House. Were these amounts paid out before it became permanent law?

Mr. JOHNSON of Kentucky. No; they were not; I am quite sure.

Mr. MANN. It was not made permanent law until last summer.

Mr. JOHNSON of Kentucky. I think not, because I hold in my hand a letter dated August 9, 1909, addressed to the Commissioners of the District, signed by Mr. Tweedale, as auditor of the District of Columbia, overruling the items, which the commissioners afterwards paid. I wish to make that letter a part of my remarks.

In that letter the auditor plainly told the commissioners that these fees were being illegally paid, and refused to let them pass through his office. They took an appeal from his decision, and Mr. R. J. Tracewell, Comptroller of the Treasury, overruled the auditor of the District of Columbia and permitted them to pay.

Mr. COX. What is the date of that decision?

Mr. JOHNSON of Kentucky. The date of the decision is August 18, 1909. When the comptroller overruled the auditor of the District of Columbia he was compelled, in order to do so, not to mention in his ruling the very point upon which the auditor has based his decision. In order that this matter may go into the RECORD, I wish to embody Mr. Tracewell's ruling as a part of my remarks. The law is that the municipal architect shall do the work himself, and, notwithstanding that law, these enormous fees have been paid outside.

Mr. BURLESON. Mr. Chairman, I want to ask the gentleman if these buildings were not contracted for before the law became effective imposing the duty on the municipal architect?

Mr. JOHNSON of Kentucky. I have not gone into that matter closely, but there is a letter from the auditor to the District Commissioners saying that it was against the law for him to pay these amounts, and he declined to pay them.

The CHAIRMAN. The pro forma amendment will be withdrawn.

The following are the papers referred to by Mr. JOHNSON of Kentucky:

OFFICE OF THE AUDITOR OF THE DISTRICT OF COLUMBIA,
Washington, August 9, 1909.

The honorable the COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

GENTLEMEN: Under date of August 4, 1909, the commissioners issued the following order:

"That contract be entered into between the District of Columbia and the following-named persons, to assist the municipal architect in the preparation of plans and specifications for the school buildings and other buildings hereinafter mentioned, at the compensation and within the time limitation stated in each case respectively, upon the following conditions, namely:

"First. That the plans and specifications shall be prepared and delivered to the municipal architect within the time limited in each case respectively.

"Second. That the plans and specifications so prepared shall be approved by the Commissioners of the District of Columbia.

"Third. That in the event a bona fide proposal can not be obtained by said commissioners to construct a building upon the plans and specifications so prepared, within the amount of money available for each building, respectively, the person or persons who prepared same shall so modify said plans and specifications, without further compensation, as to enable a proposal to be obtained within the amount of money available for each building, respectively.

"Fourth. That the above conditions shall be accepted in writing by the persons named before this contract shall be in effect.

"With Paul J. Pelz for plans and specifications for the eight-room school building to take the place of the old Potomac School building, at a compensation of $2,000 for plans, specifications, and necessary details; to be completed within three months from the date of this order.

"With Appleton P. Clark, Jr., plans and specifications for the eight-room school building at Cleveland Park, at a compensation of $2,000 for plans, specifications, and necessary details; to be completed within three months from the date of this order.

"With Thomas W. Power for plans and specifications for the public-convenience station at Ninth and F Streets NW., at a compensation of $700 for the plans, specifications, and necessary details; to be completed within two months from the date of this order.

"With L. E. Dessez for plans and specifications for the engine house to take the place of No. 2, at a compensation of $1,200 for plans, specifications, and necessary details; to be completed within three months from date of this order.

"With Averill, Hall & Adams for plans and specifications for the engine house near Minnesota and Pennsylvania Avenues, at a compensation of $750 for plans, specifications, and necessary details; to be completed within three months from the date of this order.

"With H. J. Rush Marshall for plans and specifications for annex or extension of McKinley Manual Training School, at a compensation of $3,150 for plans, specifications, and necessary details; to be completed in time to begin construction next spring, not later than April 1, 1910."

This order is based on the recommendation of the municipal architect dated July 27, 1909. The municipal architect states that there are 16 buildings provided for in the 1910 District appropriation act—11 new buildings and 5 additions or enlargements. The municipal architect further states giving the work to outside architects would be the most expeditious method of securing the completion of the plans and specifications for the reason that, if all the plans had to be made in the office of the municipal architect, it would take about 32 months with the present force of 4 draftsmen, and it would require 22 draftsmen to complete the plans for the 16 buildings in 6 months. He further states that it would not be advisable for the District to employ 22 men for a period of 6 months and discharge them after their work had been completed, as by this method the District would not be able to secure the services of good experienced draftsmen without paying very high rates, and with the strong probability that the employment of that number of draftsmen in the office of the municipal architect would impose such a drain on the employment of per diem services authorized by section 2 of the District appropriation act as to seriously jeopardize the administrative work of the several branches of the engineer department, which secures the employment of per diem services under the said section.

The office of municipal architect was created by the 1910 District appropriation act in the following language:

"* * * Municipal architect, whose duty it shall be to prepare and supervise plans for, and superintend the construction of all municipal buildings, and the repair and improvement of all buildings belonging to the District of Columbia under the direction of the Engineer Commissioner of the District of Columbia, $3,600; and all laws or parts of laws placing such duties upon the inspector of buildings of the District of Columbia are hereby repealed." (35 Stat., 692.)

Further reference is made to the municipal architect in the 1910 District appropriation act under the head of public schools:

"That the plans and specifications for all buildings provided for in this act shall be prepared under the supervision of the municipal architect and shall be approved by the Commissioners of the District of Columbia, and shall be constructed in conformity therewith." (35 Stat., 709.)

Prior to the creation of the office of municipal architect the law provided as follows:

"That the plans and specifications for school buildings shall be prepared under the supervision of the inspector of buildings of the District of Columbia and shall be approved by the Commissioners of the District, and shall be constructed by the commissioners in conformity therewith; and the plans and specifications for all other buildings provided for in this act shall be prepared under the supervision of the inspector of buildings of the District of Columbia, and shall be approved by the Superintendent of the Capitol Building and the Commissioners of the District and shall be constructed in conformity therewith." (35 Stat., 295.)

It will be observed that this provision of law did not specifically impose on the inspector of buildings, as is the case with the municipal architect, the duty of preparing plans for District buildings. Congress undoubtedly recognized that to add this very important feature of municipal administration to an office already charged by law with very large and important responsibilities would not produce the best results and would hinder, rather than advance, the expeditious handling of the work. This, it appeals to me, was the reason why the inspector of buildings, under the provision quoted, was only charged with having the plans and specifications prepared under his supervision, and not with the actual preparation of the plans and specifications.

The language of this provision is practically the same as that which appears under the head of public schools in the District appropriation act for the fiscal year 1910, in reference to the municipal architect. But the law creating the office of municipal architect expressly and in terms declares that it shall be the duty of the municipal architect to prepare and supervise the plans for and superintend the construction of all municipal buildings, and the repair and improvement of all buildings belonging to the District of Columbia under the direction of the Engineer Commissioner of the District.

In submitting to Congress the necessity for the creation of the position of municipal architect of the District of Columbia, the commissioners recommended that the duties of the proposed officer should be prescribed as follows:

"Municipal architect, whose duty it shall be to supervise the preparation of plans for and the construction of all municipal buildings, and the repair and improvement of all buildings belonging to the District of Columbia, under the direction of the Engineer Commissioner of the District of Columbia; and all laws or parts of laws placing such duties upon the inspector of buildings of the District of Columbia are hereby repealed." (Estimates of Appropriations, 1910, p. 504.)

The duties recommended by the commissioners for the municipal architect were substantially those which were imposed by law upon the inspector of buildings. Congress, however, in creating the office, did not adopt verbatim the language of the law proposed by the commissioners, as will be seen by a comparison of the recommendation of the commissioners with the law of Congress creating the position of municipal architect. As illustrating the views of the engineer commissioner of the District and the views of the Subcommittee on District Appropriations of the House of Representatives, as those views appear of record in the printed hearings on the District of Columbia appropriation bill for 1910, pages 19 et seq., the following is here quoted:

"MUNICIPAL ARCHITECT.

"Mr. BOWERS. Here is some legislation—

"Municipal architect, whose duty it shall be to supervise the preparation of plans for and the construction of all municipal buildings and the repair and improvement of all buildings belonging to the District of Columbia under the direction of the engineer commissioner of the District of Columbia, $3,600; and all laws or parts of laws placing such duties upon the inspector of buildings of the District of Columbia are hereby repealed.

"Maj. MORROW. That we went into last year, and it is explained in the notes.

"Mr. BURLESON. We did not allow it last year?

"Mr. BOWERS. No; evidently not; otherwise it would not be here now.

"Mr. VREELAND. Don't you think you can get a greater diversity by getting different architects to prepare designs for the school buildings?

"Maj. MORROW. We do not intend that this man shall do all the architectural work of the District. He will probably design half of the school buildings. Probably a quarter of the school buildings are now designed in the office of the inspector of buildings. He will simply employ architects and supervise their work.

"Mr. VREELAND. Who does this work now?

"Maj. MORROW. The inspector of buildings this year, and we employ several architects under him.

"Mr. MADDEN. What percentage do you pay the architects?

"Maj. MORROW. They are paid according to the architect's schedules; 2½ per cent and 3½ per cent.

"Mr. MADDEN. Two and one-half per cent where they do not superintend?

"Maj. MORROW. Two and one-half per cent where they work up a given plan. Three and one-half per cent when they furnish the plan and designs; it would be 5 per cent when they do the work of designing and supervising the construction.

"Mr. GARDNER. Does the inspector get anything additional where he furnishes the plans?

"Maj. MORROW. No, sir; not a cent.

"Mr. GARDNER. There are no perquisites of that kind?

"Maj. MORROW. No, sir.

"Mr. MACFARLAND. I believe that the inspector of buildings ought to be relieved of the work which a municipal architect ought to do, and that it would improve the service greatly.

"Mr. GARDNER. He is substantially relieved if he has only the plans for two buildings.

"Maj. MORROW. Not at all, Mr. Chairman. You do not understand that very clearly. For instance, one day last week the inspector of buildings and myself spent an hour or more in the office of Marsh & Peter, architects, to go over the plans of a new 12-room building to relieve the Thompson School, now about to be advertised. He had the supervision of those plans, although the architect is preparing them. In the office we went over those tracings and made numerous pencil notes on those tracings. That took one hour and a half of his time out of that day in the supervision of the plans prepared by this architect, the architect being paid 2½ per cent for the work that he does on the plans, work which is largely done by the employees of that office who have to prepare those plans. They are not in the office of the inspector of buildings. That same things happens with all other school buildings that are designed outside, and that was only one of a number of visits he has had to make to that office. At the same time, the municipal architect would not have so much of the other work to do but that he could take care of a few more buildings in his own office.

"Mr. MADDEN. Is every contractor who is about to erect a building required to submit his plans to the inspector of buildings for his approval before he begins construction?

"Maj. MORROW. Yes, sir.

"Mr. MADDEN. Who looks after the sanitary provisions in the plans before the permit is issued?

"Maj. MORROW. The inspector of buildings and the inspector of plumbing. All the plumbing arrangements are looked over by the inspector of plumbing before the permit is issued, and all the details are worked over by the computers to see if the walls are of the right thickness and that the floors have the proper strength, and so on.

"Mr. MADDEN. Is the inspector of buildings an engineer?

"Maj. MORROW. Yes.

"Mr. MADDEN. He knows how to figure on the strength?

"Maj. MORROW. Yes, sir; and he has two computers in his office who do but little else.

"Mr. MADDEN. Is he required to be an engineer?

"Maj. MORROW. The present inspector of buildings is a graduate of Lafayette College.

"Mr. MACFARLAND. The board of education has recommended that there shall be a school architect at $3,000 a year under the board of education, and the commissioners have recommended that all that work shall be done by the municipal architect, together with all other municipal buildings, at a salary of $3,600.

"Mr. GARDNER. One man, you think, ought to be able to take care of it all?

"Mr. MACFARLAND. Without doubt."

Congress has prohibited the employment of personal services by the government of the District of Columbia, except where authority is specifically granted the commissioners by law for such employment. In the District appropriation act for the fiscal year 1906, section 2, is found the following prohibitory legislation:

"That no civil officer, clerk, draftsman, copyist, messenger, assistant messenger, mechanic, watchman, laborer, or other employee shall, after June 30, 1905, be employed in any office, department, or branch of the government of the District of Columbia except annually at such rates and in such numbers, respectively, as may be specifically appropriated for by Congress for such clerical and other personal service for each fiscal year; and no civil officer, draftsman, copyist, messenger, assistant messenger, mechanic, watchman, laborer, or other employee shall after said date be employed in any office, department, or other branch of the government of the District of Columbia or be paid from any appropriation made for contingent expenses or for any specific or general purpose unless such employment authorized and payment therefor specifically provided in the law granting the appropriation or authorized as hereinafter provided, and then only for services actually rendered in connection with and for the purposes of the appropriation from which payment is made and at the rate or compensation usual and proper for such services." (33 Stat., 913.)

By reference to the 1910 District appropriation act it will be found that Congress has provided for the several offices and departments of the District government positions and offices carrying annual compensations. In addition to the offices carrying annual compensations, Congress has authorized the commissioners to employ certain temporary per diem services within a given amount. This authority for the current fiscal year is contained in section 2 of the District appropriation act for the fiscal year 1910, which reads as follows:

"The services of draftsmen, assistant engineers, levelers, transmen, rodmen, chainmen, computers, copyists, overseers, and inspectors temporarily required in connection with sewer, street, or road work, or the construction and repair of buildings and bridges, or any general or special engineering or construction work authorized by appropriations may be employed exclusively to carry into effect said appropriations when specifically and in writing ordered by the Commissioners of the District; and all such necessary expenditures for the proper execution of said work shall be paid from and equitably charged against the sums appropriated for said work; and the Commissioners of the District in their annual estimates shall report the number of such employees performing such services and their work and the sums paid to each and out of what appropriation: *Provided*, That the expenditures hereunder shall not exceed $62,000 during the fiscal year 1910." (35 Stat., 310.)

It will be seen that this section authorizes the employment of draftsmen and other necessary clerical services in connection with the construction and repair of buildings, and does not authorize the employment of personal services of architects designated as such. I am in very grave doubt whether the commissioners have the authority under the law to enter into contracts with architects for the preparation of plans and specifications for school buildings, as indicated in their order of August 4, 1909, supra. It appeals to me that in creating the office of municipal architect and in terms providing that that officer shall prepare and supervise all plans that Congress meant, taking into consideration the several laws herein quoted, that such plans were to be prepared in the office of the municipal architect and under his supervision, and, if necessary, through the employment of temporary per diem services of the character mentioned in section 2 of the District appropriation act for the fiscal year 1910, above quoted.

In view of the grave doubt as to the authority of the commissioners to enter into contracts with the architects mentioned in their order of August 4, 1909, supra, I have the honor to recommend that the questions be submitted to the Comptroller of the Treasury for his decision—

1. Whether under the law the commissioners can legally make such contracts; or

2. Whether in the preparation of plans and specifications for school buildings and other municipal buildings such plans and specifications shall be prepared in the office of the municipal architect; and

3. If additional services be necessary, whether such services must not be employed under section 2 of the District appropriation act for the fiscal year 1910, supra.

Very respectfully,

A. TWEEDALE,
Auditor District of Columbia.

TREASURY DEPARTMENT,
Washington, August 18, 1909.

To the PRESIDENT OF THE BOARD OF COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

SIR: I am in receipt, by your reference of the 13th instant, of a letter from the Auditor for the District of Columbia, wherein the general question is raised whether your board is authorized to let contracts to outside architects for the preparation of plans and specifications for the erection of certain school and other municipal buildings in the District of Columbia, namely: For one eight-room school building, to take the place of the old Potomac School building; for an eight-room school building at Cleveland Park; for annex or extension of McKinley Manual Training School; for a public-convenience station at Ninth and F Streets NW.; for an engine house, to take the place of No. 2; for an engine house near Minnesota and Pennsylvania Avenues. It is stated also in the auditor's letter that the District appropriation bill for the current fiscal year contains provision for 16 municipal buildings—11 new buildings and 5 additions or enlargements; that there are at present 4 draftsmen in the employ of the District and at the command of the municipal architect; that it will require the services of 22 draftsmen for a period of 6 months to make the plans for these 16 buildings; and that such a drain would jeopardize the other services contemplated by section 2 of said appropriation act, which provides for the employment of draftsmen, assistant engineers, levelers, transitmen, rodmen, chainmen, computers, copyists, overseers, and inspectors temporarily required in connection with sewer, street, or road work, or the construction and repair of buildings and bridges, or any general or special engineering or construction work authorized by appropriations, and to be exclusively employed to carry into effect such appropriations when specifically and in writing ordered by the Commissioners of the District; and that all such expenditures shall be paid from and equitably charged against the sums appropriated for said works, provided that the expenditures for said purposes shall not exceed $62,000 for the current fiscal year.

Prior to the present fiscal year the law made no provision for a municipal architect for the District of Columbia.

The architectural work of the District was provided for in 35 Statutes at Large, page 295, as follows:

"That the plans and specifications for school buildings shall be prepared under the supervision of the inspector of buildings of the District of Columbia and shall be approved by the Commissioners of the District, and shall be constructed by the commissioners in conformity therewith; and the plans and specifications for all other buildings provided for in this act shall be prepared under the supervision of the inspector of buildings of the District of Columbia, and shall be approved by the Superintendent of the Capitol Building and the Commissioners of the District, and shall be constructed in conformity therewith."

As the necessary consequence of this legislation outside architects were employed and paid from the several building appropriations. It would appear from the above act that all the architectural work of the District was to be prepared under the supervision of the inspector of buildings of the District of Columbia, and the plans for school buildings were to be approved by the Commissioners of the District. The plans and specifications for all other municipal buildings, except school buildings, were to be approved jointly by the Superintendent of the Capitol Building and the District Commissioners.

The District appropriation act for the current fiscal year (35 Stat. L., p. 692) first created the office of municipal architect for the District of Columbia in the following language, and prescribed his duties as follows:

"* * * municipal architect, whose duty it shall be to prepare and supervise plans for, and superintend the construction of, all municipal buildings, and the repair and improvement of all buildings belonging to the District of Columbia, under the direction of the Engineer Commissioner of the District of Columbia, $3,600. And all laws or parts of laws placing such duties upon the inspector of buildings of the District of Columbia are hereby repealed."

Further along in said act, page 709, we find the following clause:

"That the plans and specifications for all buildings provided for in this act shall be prepared under the supervision of the municipal architect and shall be approved by the Commissioners of the District of Columbia, and shall be constructed in conformity therewith."

There is apparently a conflict between these clauses as to the duties of the municipal architect. From their casual reading it would appear that it was the duty of this officer, as prescribed in the clause creating his office, to prepare the plans and specifications for all the municipal buildings of the District. But when read more carefully it is apparent that Congress even in this clause had in mind that there was some municipal buildings that he was to supervise their plans and specifications only, and not prepare them. The language is "whose duty it shall be to prepare and supervise plans for." * * * Where he is required by law to prepare plans and specifications for a building, it would be little less than nonsensical for Congress to command him to supervise his own preparations.

Bringing to our aid a few well-understood rules of statutory construction the apparent conflict between these two clauses of the act disappear.

1. It is presumed that all legislation is enacted to accomplish the result sought.

2. That each and every word in a law is to be given its plain and ordinary meaning, unless it has a technical one different from the ordinary meaning.

3. That a law general in its character must give way to a law special in its nature on the same subject.

The results sought in the enactments contained in the laws providing for the erection of municipal buildings in the District of Columbia, and about which you inquire, is the erection of these buildings in a reasonable time from the date of the availability of the appropriations therefor. One of the necessary and preliminary incidents to the accomplishment of these results is the preparation of plans and specifications for these buildings. The clause creating the office of municipal architect and defining its duties is general in character and apparently covers all municipal buildings. The second clause is special, and defines his duties as to the particular municipal buildings provided for in the appropriation act for the present fiscal year.

It is not made his duty in the latter clause to prepare plans and specifications for these particular buildings, but on the contrary to supervise these plans. This clause has the same legal effect as if it were a proviso to the clause wherein he is directed to prepare all plans and specifications for all municipal buildings. It also serves to explain why Congress used the words "supervise plans" in the first clause.

I am therefore of the opinion that you are authorized to contract with outside architects for the plans and specifications of all municipal buildings provided for in the District of Columbia appropriation act for the present fiscal year, and that it is the duty of the municipal architect to prepare the plans and specifications for all other municipal buildings, and to superintend the construction of all municipal buildings, including the buildings provided for in the current District appropriation act, under the direction of the engineer commissioner of the District.

The second and third questions submitted are:

"2. Whether in the preparation of plans and specifications for school buildings, and other municipal buildings, such plans and specifications shall be prepared in the office of the municipal architect; and

"3. If additional services be necessary, whether such services must be employed under section 2 of the District appropriation act for the fiscal year 1910, supra."

The second question is fully answered above.

Any temporary additional draftsmen, computers, copyists, etc., needed by the municipal architect to enable him to prepare plans and specifications for municipal buildings, or to properly supervise plans prepared by outside architects, must be furnished him under the conditions and limitations of section 2 of the District of Columbia appropriation act for the present fiscal year, above referred to in this decision.

Respectfully,

R. J. TRACEWELL, *Comptroller.*

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. I desire to ask the chairman the reason for creating the new office on page 11, line 2.

Mr. BURLESON. The skilled machinist?

Mr. FOWLER. He is designated as a machinist.

Mr. BURLESON. The Commissioners of the District, acting upon the recommendation of the municipal architect, reached the conclusion that the additional officer was needed in connection with repair work on certain engines and boilers and other machinery that is used in the District service, and also in connection with certain service to be rendered in the schools. They say that there are several steam and gas engines for running the fans and electric motors, which are in constant need of repair. They were satisfied that it would be more economical to employ regularly a machinist for this purpose than to give sporadic employment to other concerns for the repairs.

Mr. FOWLER. The bill provides for a boss carpenter, a boss tinner, a boss plumber, a boss steam fitter, and boss grader.

Mr. BURLESON. All of whom are kept busy in the discharge of their official duties. The commissioners reached the conclusion that this additional man was necessary. I have before me the note, which is as follows:

The service of a skilled machinist is badly needed in connection with the repair shop, for the reason that there are in the various school buildings 46 gas engines, used for running the fans, and 7 electric motors, used for the same purpose. There are also several steam engines which are constantly in need of repairs of such a nature as to require the services of a skilled machinist. They comprise the boring out of gas-engine cylinders, making piston rings, piston rods, etc. Heretofore it has been necessary to send these parts to some local machine shop for repair, and in doing so great delays have been experienced and in many cases exorbitant charges have been made on account of the work being done as an emergency job. As we have at present an up-to-date machine shop, equipped with lathes, shaper, power drills, etc., which have been collected and installed by the superintendent of repairs, with the aid of a machinist, from equipment discarded by the school officials as unfit for further use, work can be turned out at a great saving to the District, and can be done in a more satisfactory manner than if it were sent out to outside concerns.

Mr. FOWLER. I was going to ask, after enumerating the various bosses, if any of the duties provided for this new officer were not now performed by any of these various bosses?

Mr. BURLESON. No; the repairs that have been necessary have been sent to various machinists, local machine shops, for repair, and in doing so many of the charges were exorbitant by reason of their being emergency jobs. As I have stated, the committee believed it would be more economical to employ a regular skilled machinist.

Mr. FOWLER. Is it intended to send him to the various parts of the city for the purpose of looking after these machines?

Mr. BURLESON. He is to repair and supervise the repair of these various machines.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

Mr. COX. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 11, line 3, at the end of the line, add the following: "*Provided*, That no money herein appropriated shall be paid to architects outside of the municipal architect's office for any public building in the District of Columbia."

Mr. BURLESON. Mr. Chairman, on that I reserve the point of order.

Mr. MANN. Mr. Chairman, I make the point of order against the amendment in its present form. The current law expressly provides for the employment of architects outside of the municipal architect's office, and I do not think the gentleman himself would desire to have this change that law.

Mr. COX. I understand that the present law requires all the plans and specifications to be prepared by the architect's office.

Mr. MANN. That is what I supposed the gentleman thought. Last year there was more or less contest in reference to the high school buildings. There was an appropriation for the purchase of land for the high school buildings. A bill was reported from the Committee on the District of Columbia providing that the surplus funds not expended might be used in the preparation of plans. That bill was never passed; but when the appropriation bill passed it provided the same thing, and provided, as I recall it, expressly, that outside architects might be employed. I do not think anyone wishes to change that provision, because that has already been done.

Mr. COX. What law was that in?

Mr. MANN. In the District of Columbia appropriation bill.

Mr. JOHNSON of Kentucky. Mr. Chairman, if the gentleman will permit, I will say that since the adoption of this general law there have been two or three instances in the making of appropriations where that law has been overlooked by Congress, and a special provision inserted in the few instances to which I have referred, for the employment of an outside architect; but I do insist that in the list which I just sent to the Clerk's desk as a part of my remarks, from which I read, there is item after item paid out by the Commissioners of the District of Columbia for services of outside architects, notwithstanding the item which I now have before me prohibiting it, and which reads as follows:

Municipal architect's office: Municipal architect, whose duty hereafter it shall be to prepare or supervise the preparation of plans for, and superintend the construction of, all municipal buildings, and the repair and improvement of all buildings belonging to the District of Columbia, and serve under the direction of the engineer commissioner of the District of Columbia, $3,600.

The CHAIRMAN. Does the gentleman from Illinois insist upon his point of order?

Mr. MANN. I make the point of order.

Mr. BURLESON. Mr. Chairman, it is a change of existing law.

Mr. MANN. Mr. Chairman, I do not think the gentleman from Indiana desires his amendment to go in in the shape in which it is.

Mr. COX. It may not be perfect.

Mr. MANN. The provision in reference to the Central High School building last year was—

that the Commissioners of the District of Columbia are hereby authorized to use so much as may be necessary of any unexpended balances remaining in the appropriations for the purchase of a site for a new Central High School and for the purchase of a site for a new M Street High School, contained in the District appropriation act for the fiscal year 1912, approved March 2, 1911, for the employment of architectural services in the preparation of plans and specifications for said high schools and for such other personal services and expenses in connection therewith as may be necessary.

Mr. COX. Does the gentleman contend that is a general law?

Mr. MANN. Certainly it is a general law as to these schools, and that is all.

Mr. COX. Does it apply to all of the public-school buildings here?

Mr. MANN. No; only to those two school buildings.

Mr. COX. Then it is not a universal law. It is not an organic act that shall apply to every public building.

Mr. MANN. Certainly not.

Mr. COX. Then, Mr. Chairman, I contend that my amendment is solely a limitation, and is clearly within the rules of the House.

Mr. BURLESON. The Chair will understand there is an appropriation carried in this bill for the Central High School building and the M Street High School building, and to that extent it would be a change of the law referred to by the gentleman from Illinois.

Mr. MANN. Mr. Chairman, of course I do not know just what the gentleman's amendment covers in the way it is offered. It is offered as an amendment to a paragraph containing certain salaries, no portion of which could be used for the employment of outside architects at all. If the gentleman's amendment is only a limitation upon that paragraph, of course it would be in order, but useless.

The CHAIRMAN. The language of this is—

Provided, That no money herein appropriated shall be paid to architects outside of the municipal architect's office for any public building in the District of Columbia——

Mr. MANN. The usual provision is, that no money appropriated by this paragraph or section, or no money appropriated by this act. That does not say either one. I do not know how the comptroller or the Chair might construe that.

Mr. COX. Now, Mr. Chairman, I want to submit this observation.

Mr. MANN. Mr. Chairman, I withdraw the point of order. I believe it is a pure limitation, whatever it may mean.

Mr. BURLESON. Mr. Chairman, I renew the point of order.

The CHAIRMAN. The Chair will hear from the gentleman from Indiana on his point of order.

Mr. COX. Mr. Chairman, I want to submit this observation. While my amendment was hastily drawn and may not be properly and correctly worded, I believe it ought to pass, in view of the facts that have been recently disclosed here by the gentleman from Kentucky. There is a frightful condition of affairs here, and I will lead up to the point in a moment. Here we are appropriating to maintain a great architect's office in the District of Columbia, the sum total of the appropriation being $26,250 a year to maintain the salaries in that office, and yet, Mr. Chairman, under the figures disclosed by the gentleman from Kentucky [Mr. JOHNSON], the District of Columbia in some way or manner has paid out $67,000 to outside architects to prepare plans and specifications, I presume, for public buildings here in the District of Columbia. Now, if my amendment is a limitation upon the appropriation for this bureau, which I insist it is, then I insist, Mr. Chairman, it is clearly in order under the Holman rule, as it certainly tends to reduce expenditures.

The CHAIRMAN. The rule in regard to limitations upon an appropriation is pretty liberal and there can be a limitation, as the gentleman from Texas understands, that does change existing law under the existing rules——

Mr. BURLESON. Mr. Chairman, of course I am not familiar with the facts stated in the communication read by the gentleman from Kentucky, but as was said by the gentleman from Illinois [Mr. MANN], last year there was a specific authorization to employ outside architects in the preparation of the plans for the M Street High School and the new Central High School. I have not had an opportunity to examine this amendment, but I would not want anything to go into this bill that might interfere with the carrying out of the express purpose of Congress in that particular. I am inclined to think that probably as it reads it may be a limitation, but I will ask that the amendment be voted down, because it can serve no good purpose.

The CHAIRMAN. Does the gentleman withdraw the point of order?

Mr. BURLESON. I withdraw the point of order and ask that the amendment be voted down.

The CHAIRMAN. The question is on the amendment of the gentleman from Indiana [Mr. COX].

The question was taken, and the Chairman announced the noes seemed to have it.

Upon a division (demanded by Mr. COX) there were—ayes 7, noes 20.

Mr. JOHNSON of Kentucky. Mr. Chairman, I demand tellers.

The CHAIRMAN (after counting). Thirteen gentlemen demand tellers; not a sufficient number.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] Fifty-three gentlemen are present—not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Ames	Byrnes, S. C.	Davidson	Floyd, Ark.
Anderson	Cantrill	Davis, Minn.	Focht
Ansberry	Carter	Davis, W. Va.	Fornes
Anthony	Clark, Fla.	De Forest	Foss
Barchfeld	Claypool	Difenderfer	Gardner, Mass.
Bartholdt	Cline	Dixon, Ind.	Gardner, N. J.
Bartlett	Collier	Doremus	George
Bates	Cravens	Driscoll, D. A.	Gill
Bathrick	Crumpacker	Dupré	Gillett
Berger	Currier	Ellerbe	Godwin, N. C.
Booher	Curry	Fairchild	Goldfogle
Burke, Pa.	Danforth	Finley	Gould
Gray	Lenroot	Parran	Slemp
Greene, Vt.	Lever	Patten, N. Y.	Smith, J. M. C.
Gregg, Pa.	Lewis	Patton, Pa.	Speer
Griest	Lindsay	Pepper	Stack
Gudger	Littlepage	Plumley	Stanley
Hamlin	Littleton	Pou	Stephens, Miss.
Hardwick	Longworth	Prince	Taggart
Harris	McCall	Pujo	Talbott, Md.
Harrison, Miss.	McCoy	Rainey	Taylor, Ala.
Harrison, N. Y.	McCreary	Randell, Tex.	Thayer
Hartman	McGillicuddy	Ransdell, La.	Thistlewood
Hayes	Maher	Rauch	Tilson
Heald	Martin, Colo.	Reyburn	Townsend
Higgins	Matthews	Richardson	Vare
Hill	Merritt	Riordan	Vreeland
Holland	Mondell	Roberts, Nev.	Warburton
Hull	Moon, Pa.	Rubey	Webb
Jones	Morgan, La.	Rucker, Colo.	Weeks
Kahn	Morse, Wis.	Rucker, Mo.	Whitacre
Kinkead, N. J.	Mott	Sabath	White
Kitchin	Murdock	Scully	Wilder
Konig	Needham	Sells	Wilson, Ill.
Lafean	Nelson	Shackleford	Wilson, N. Y.
Lafferty	Nye	Sheppard	Wilson, Pa.
Lamb	Oldfield	Sherwood	Wood, N. J.
Langley	O'Shaunessy	Simmons	Woods, Iowa

Thereupon the committee rose; and the Speaker having resumed the chair, Mr. GARRETT, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee finding itself without a quorum, he had directed the roll to be called, and he reported the list of the absentees.

The SPEAKER. Two hundred and twenty-nine Members have responded to the call—a quorum.

AGRICULTURAL EXTENSION BILL.

Mr. MANN. Mr. Speaker, the Lever agricultural extension bill, H. R. 22871, an act to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto, with Senate amendments, is on the Speaker's table. The gentleman from South Carolina [Mr. LEVER] is absent temporarily, and at his suggestion I ask unanimous consent that there be a print of the bill with Senate amendments made, and that it remain on the table.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent for a print of the bill H. R. 22871, the agricultural extension bill, with Senate amendments, and that the bill shall remain on the table. Is there objection?

Mr. BLACKMON. Reserving the right to object, Mr. Speaker, I did not quite catch the request of the gentleman from Illinois [Mr. MANN].

The SPEAKER. The gentleman wants the bill to be printed with Senate amendments, and asks that it remain on the table so that the Members can find out what is in the Senate amendments. Is there objection? [After a pause.] The Chair hears none.

LATE REPRESENTATIVE M'HENRY.

Mr. ROTHERMEL. Mr. Speaker, I ask unanimous consent for the present consideration of the following order.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent for present consideration of the following order, which the Clerk will report.

The Clerk read as follows:

Ordered, That Sunday, the 16th of February, be set apart for addresses on the life, character, and public services of Hon. JOHN G. MCHENRY, late a Representative from the State of Pennsylvania.

The SPEAKER. Is there objection to considering this order now? [After a pause.] The Chair hears none.

The question is on agreeing to the order.

The question was taken, and the order was agreed to.

The SPEAKER. The Chair will state that both of these requests, the one on the part of the gentleman from Illinois [Mr. MANN] and the one on the part of the gentleman from Pennsylvania [Mr. ROTHERMEL] are out of order, and are not to be taken as a precedent as to other business having a right to go in between a committee rising on a call and resuming its sitting.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN (Mr. GARRETT). The question is on the amendment proposed by the gentleman from Indiana [Mr. COX].

Mr. BURLESON. Inasmuch as the House is now full, I think probably there ought to be some explanation or short statement in order that the Members may know exactly what they are voting upon.

The CHAIRMAN. An amendment was pending on which the House was dividing, when the point of no quorum was made, which precipitated this roll call.

Mr. BURLESON. I ask unanimous consent that the amendment may be again reported, and I move that I may have five

minutes in which to explain the situation, and that the gentleman from Kentucky [Mr. JOHNSON] may have five minutes.

The CHAIRMAN. Without objection, the amendment will be again reported.

There was no objection.

The Clerk read the amendment, as follows:

Page 11, at the end of line 3, insert:

"*Provided*, That no money herein appropriated shall be paid to architects outside of the municipal architect's office for any public buildings in the District of Columbia."

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] asks unanimous consent that he may address the committee for five minutes, and that the gentleman from Kentucky [Mr. JOHNSON] may address the committee for five minutes. Is there objection? [After a pause.] The Chair hears none. The gentleman from Kentucky [Mr. JOHNSON] is recognized.

Mr. JOHNSON of Kentucky. Mr. Chairman, in explanation of the amendment I desire to say to the House that the Committee of the Whole House on the state of the Union was acting with a very few members present. With that small attendance I read a statement furnished by the Commissioners of the District of Columbia, at my request, to the effect that notwithstanding the fact that there is a law which directs the municipal architect and his force to prepare all the plans and specifications for all buildings erected by the District of Columbia—notwithstanding that mandatory law—the commissioners have recently paid out the sum of more than $67,000 to outside architects. The gentleman from Indiana [Mr. COX] has offered an amendment of limitation to the bill, providing that there shall be in substance no outside architect's fees paid under the provision of this bill.

That is the substance of the question that is now before the House. I think that a simple, plain statement of it is just as good as a longer presentation of it would be, and just as good as any elaborate argument would be. The law is mandatory. I repeat, that there be no fees paid to outside architects. But notwithstanding that fact, the commissioners have paid these outside architects' fees to the extent of more than $67,000.

It may be well, however, for me to state that the $67,000 is not made up entirely of fees paid out in direct violation of the law, for the reason that two or three appropriations have carried with them the right to employ outside architects. But it leaves the fact still remaining that the commissioners, notwithstanding the law, do employ outside architects. It is believed that if the amendment offered by the gentleman from Indiana [Mr. COX] is adopted it can not be done out of any appropriation that is made in this bill.

Mr. BURLESON. Responding to the statement made by the gentleman from Kentucky [Mr. JOHNSON] that there is no authorization of law for the employment of architects in the preparation of plans within the District of Columbia, it is only necessary for me to read you the law. The law reads as follows:

Municipal architect, whose duty hereafter it shall be to prepare or supervise the preparation of plans for, and superintend the construction of, all municipal buildings, and the repair and improvement of all buildings belonging to the District of Columbia.

Under that law there has been no concealment of the practice of the District authorities. The statement was made in last year's hearings by the Engineer commissioner, in clean-cut terms, showing just exactly what was being done, and I will read it to the committee:

Mr. JUDSON. As to the municipal architect's office, I would say that no increase in that office is essential, but it seems to be advisable because we are still, as Congress has been informed from year to year, obliged to give some portion of our work out to architects. The force is not enough to design all of the buildings that are provided for. Most of the changes are directed toward the end of permitting a greater number of the buildings to be designed in the municipal architect's office.

I asked him, then, this question:

Mr. BURLESON. What percentage of them would be prepared in the municipal architect's office if these increases were granted?

Mr. JUDSON. That is a little hard to say, because I do not know just what the appropriations will be for buildings next year or the character of them.

Mr. BURLESON. Can you tell me the percentage of buildings the designs for which were prepared by the municipal architect's office last year?

Mr. JUDSON. I will insert that information in the record.

Mr. SAUNDERS. In proportion to those prepared on the outside?

Mr. JUDSON. I will insert that in the record. I know it is true that the municipal architect's work was done at considerably less cost than the work that was put out. So it was a very good thing to have as many as possible designed in his office. The total cost of planning and inspecting construction was 3.38 per cent of the cost of the buildings. It would have been 6 per cent if outside architects had done it all, and 5.04 per cent if the architects had made all of the plans. The cost of inspection by the municipal architect's office was 1.54 per cent, and the cost of preparation of plans by that office was less than 1 per cent. Outside architects receive 3½ per cent for plans alone. Sixty-two and one-half per cent of the work was done in the office of the municipal architect, and 37½ per cent of the work was done by private architects in 1911 (fiscal year).

Now, gentlemen, under the limitation proposed and discussed by the gentleman from Kentucky [Mr. JOHNSON] it would be impossible to secure the assistance of outside architects in the preparation of plans for these buildings. Every man here knows that it is utterly impossible for the municipal architect's force, costing only $26,250, many of the employees of this office being employed in repair work and supervision work, to prepare all the plans for all the buildings that are being authorized by the Congress for municipal purposes.

Mr. COX. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. BURLESON. Certainly.

Mr. COX. Does not the gentleman know that that is the same and the identical argument that is used by the architects in the Treasury Department, but that notwithstanding that argument, Congress repealed what is known as the Tarsney Act, which gave to the outside architects a tremendous amount of work?

Mr. BURLESON. That may be; but as I have shown you, in 67½ per cent of the work the service is rendered by the municipal architect's office at less than the cost of the outside service, and the commissioners, in order that the municipal architect could do a larger portion of this work, have asked for a larger force and yet have stated from year to year that the municipal architect's office can not do all of this work. It has not been the policy here to have all the buildings modeled after the same plan, and in last year's bill we authorized the employment of an unexpended balance for payment to Mr. Ittner, in order that we might secure his services in the preparation of plans for the new Central High School Building, which is to cost $1,000,000.

I do not want to see that amendment go on, because it would interfere with the interests of the public service, and it would interfere with that architect going on with this work in the preparation of the plans for the new Central High School Building.

And it is for these reasons that we ask the committee to vote down the amendment that has been offered.

Mr. JOHNSON of Kentucky. Mr. Chairman, I believe I have some time left.

The CHAIRMAN. The gentleman from Kentucky has two minutes remaining.

Mr. JOHNSON of Kentucky. Mr. Chairman, the argument made by the gentleman from Texas [Mr. BURLESON] could not be more forcibly stated than he has stated it as a reason why this amendment should pass.

Mr. BURLESON rose.

The CHAIRMAN. Does the gentleman from Kentucky yield to the gentleman from Texas?

Mr. BURLESON. I have no desire to shut off the gentleman from speaking, but he did not reserve the remainder of his time.

Mr. JOHNSON of Kentucky. I was given five minutes without any reservation.

Mr. BURLESON. I should like to know how much time he consumed originally.

The CHAIRMAN. The gentleman from Kentucky is recognized for two minutes.

Mr. JOHNSON of Kentucky. The fact remains that the Commissioners of the District of Columbia are violating the law. Where they get the money to pay this $67,000 to outside architects I do not know, but they pay it, and they pay it over the protest of their own auditor. They pay it against the written opinion of their own auditor that they have no right to pay it.

Mr. BURLESON. But Mr. Tracewell, the supreme authority, overruled him.

Mr. JOHNSON of Kentucky. They appealed it to Mr. Tracewell, Comptroller of the Treasury, and I have just filed his written opinion, in which, in order to agree with the commissioners, he is compelled not to mention the main question, but he writes all around it. He ignores absolutely the good argument put up by the auditor for the District of Columbia, and simply does not controvert it or mention it otherwise.

The chairman of the subcommittee, the gentleman from Texas [Mr. BURLESON], has just read to you the permanent law, which provides that they shall not go on the outside for architects. Yet they have gone on the outside for them. This amendment, if it does no other good, will emphasize the fact that they are going beyond their authority, and that Congress does not intend to stand for their violation of the law. They even go into a hearing admitting their violation of it, and a Member of this House comes here and practically boasts of their defiance of the law. [Applause.]

Mr. SLAYDEN. Mr. Chairman, I move to strike out he last word. I confess that I am not familiar with the statute that has been referred to by the gentleman in charge of the bill and by the chairman of the Committee on the District of Columbia, but I hope that if the law does not now permit, it will be so amended that in the future it will permit the employment of high-class architects outside of the municipal architect's office. It may be a little bit cheaper—although of that I am not convinced—to employ an architect on a salary to design buildings who will get up stock designs and put up a building here and a building there and a building in some other place, all alike. Perhaps, Mr. Chairman, if we were controlled by the argument of the gentleman we would be influenced to adopt Mr. Edison's plan of poured concrete houses on models that we could go into the market and buy.

Now, my information with reference to the operations of the Tarsney Act is that it did not entail any additional expense upon the Government of the United States.

Mr. COX. If the gentleman will permit me, the proof before my committee last summer showed it to be a fact that it increases the total cost about 2 per cent.

Mr. SLAYDEN. Possibly I was misinformed. I do not know. I said I had been informed. I have not read the evidence as carefully as the gentleman has.

Mr. COX. And I will state to the gentleman that that is J. Knox Taylor's own statement.

Mr. SLAYDEN. Mr. J. Knox Taylor was interested in having that work confined to his office. I do not mean to insinuate that he would not tell the truth about it, for I believe he would; but every man is more or less influenced in his judgment by the interest of his office or his organization, and he was ambitious to do all that work. Now, I believe we will get materially better buildings by consulting outside architects. I have just been assured that we will get materially better buildings and better-looking buildings and a style of architecture that will more commend us and our taste to future generations, and without materially increasing the cost, by securing the additional services of outside architects.

Mr. COX. The Tarsney Act has been repealed.

Mr. SLAYDEN. Yes; and I think it was a mistake. I voted against its repeal.

Mr. COX. I voted for it.

Mr. SAUNDERS. Mr. Chairman, I move to strike out the last two words. The committee opposes the amendment because it does not regard the same as good legislation. Such an amendment in its possible effect might interfere with a provision of the bill adopted last year. Another reason for objecting to this amendment is that the same principle which might render it altogether proper that all the work done in Capt. Taylor's office should be done by the employees of that office, does not apply in this case.

Many of the Government buildings are of a uniform character: the architect's office can use, and does use the plans of one building for another building. The question of architectural beauty does not in many instances enter into the preparation of the plans necessary to be prepared in Capt. Taylor's office.

But in Washington, with respect to a number of buildings that are to be constructed, having regard to the general character of the architecture in other public buildings, having further regard to the general beautification of the public buildings in Washington, in its proper development by a succession of stately buildings for public use, it is absolutely necessary that authority should be given to call upon, and employ on certain occasions, the services of outside architects.

It is no reflection upon the architect's department that this is necessary to be done. Every State has an attorney general, and yet it is frequently true in all the States that special assistants are provided for the attorney general in respect of some cases of peculiar difficulty. Every county has its prosecuting officer, but frequently it is necessary to go beyond the county and secure special counsel to aid in the conduct of some prosecution of an unusual character. To put such a limitation as this into the bill would hinder the District from securing the assistance of architects required for special work. This amendment is not good legislation.

So far as the ruling referred to by the gentleman from Kentucky [Mr. JOHNSON], is concerned, I call attention to the fact that one of the documents filed, contains a reversal of the ruling of the auditor. I do not wish to enter at all into the merits of either ruling. It is unnecessary to do so. But the fact remains that the ruling of the auditor was overruled by Mr. Tracewell to whom the appeal was taken. It is perfectly competent for this body, if it chooses, so to do, to put this limitation on the architect's office of the District. It is up to the committee.

Mr. COX. Mr. Chairman, I rise to oppose the amendment offered by the gentleman from Virginia. I crave the indulgence of the committee for only a few moments. Incidentally the Tarsney Act became involved in this discussion. I presume there are Members of the House who have read the correspondence between Mr. Burnham, the then acknowledged peer of the architects in this country, and the great John G. Carlisle, of Kentucky, who at that time was Secretary of the Treasury. The outside architects were not employed, notwithstanding the statute looked him squarely in the face which gave him the right to employ outside architects. Mr. Carlisle, in his rugged honesty, refused to employ them, and Mr. Burnham took him to task for it. The result was that all through Mr. Carlisle's term of office the Tarsney Act was not put into effect.

Mr. MANN. If the gentleman will pardon me, Mr. Carlisle named the architect of that monstrosity known as the Chicago post office.

Mr. COX. It may be that the architecture of that building gave to the city of Chicago a building suitable to the city of Chicago. I do not know anything about that. But, Mr. Chairman, the proof is easily within the reach of every Member of this House that, by reason of the Tarsney Act increasing the cost of public buildings in this country 2 per cent, Congress in its wisdom and candid judgment repealed the Tarsney Act. J. Knox Taylor, in my judgment a splendid architect, said that he had no doubt that his office was perfectly capable of handling all buildings up to $2,000,000. I am not in favor of creating architecture bureaus and then going outside of them and employing outside architects. If they are not competent, they have no business to be in office. If they are not competent to design and superintend the construction of public buildings, my judgment is that they had better get out of office in the District of Columbia and get some one else that is.

Mr. BURLESON. But the office has not the force.

Mr. COX. I stand ready at any moment to vote for enough money in this bill that will make the architect's office in the District of Columbia of sufficient size and force to do all the work necessary to be done.

Mr. BURLESON. But points of order will be made against those provisions.

Mr. COX. It is up to this House to settle this one question, in my judgment, Does this House propose, in the first place, to vote this amendment in?

If it proposes to stand for economy, it will vote for it. Of that, I have not the shadow of a doubt. But their idea that they say they have to go outside to get outside architects to me is preposterous; I do not believe one word of it.

Mr. AUSTIN. Mr. Chairman, will the gentleman yield?

Mr. COX. Yes.

Mr. AUSTIN. Is it not a fact that the Supervising Architect's Office of the Treasury Department is now two years behind with plans and specifications for public buildings already authorized by Congress?

Mr. COX. That has nothing on earth to do with this question. They were behind long before Congress repealed the Tarsney Act.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. COX. Certainly.

Mr. MADDEN. Mr. Chairman, I understood the gentleman stated that while John G. Carlisle was Secretary of the Treasury no outside architects were appointed.

Mr. COX. Under the Tarsney Act.

Mr. MADDEN. Does the gentleman know who was the Supervising Architect of the Treasury under Mr. Carlisle?

Mr. COX. No.

Mr. MADDEN. Does the gentleman know who drew the plans for the Chicago Federal Building during the term of office of Mr. John G. Carlisle as Secretary of Treasury?

Mr. COX. I do not know. I suppose it is a great design.

Mr. MADDEN. If the gentleman knew, he would know that the Supervising Architect of the Treasury had nothing whatever to do with it, and that Mr. Henry Ives Cobb, the celebrated architect, was appointed by Mr. John G. Carlisle to draw those plans and supervise the construction of that building.

Mr. COX. And I will undertake to say that the architecture of the public building in Chicago is all right.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. COX. Mr. Chairman, I ask unanimous consent to proceed for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. COX. Mr. Chairman, it is demonstrated here beyond any doubt, no one has controverted the proposition, that the commissioners of this District, in open, notorious violation of the law of the country——

Mr. BURLESON. Oh, that is controverted, and it is denied in fact.

Mr. COX. Are going outside and hiring outside architects. Let them keep within the law. If they have not force enough in this bureau, let them go before the great Committee on Appropriations and ask for it, and I feel sure that no man on the floor of this House will undertake to vote against such a proposition. I hope the amendment will be voted in the bill. If it is done, it will be in the interest of economy and, in addition, will serve notice on the commissioners that they must obey the law.

The CHAIRMAN. The question is on the amendment of the gentleman from Indiana, the pro forma amendments being considered as having been withdrawn.

The question was taken; and on a division (demanded by Mr. Cox) there were—ayes 18, noes 34.

So the amendment was rejected.

The Clerk read as follows:

Surveyor's office: Surveyor, $5,000; assistant surveyor, $2,000; clerks—1 at $1,225, 1 at $975, 1 at $875; 3 assistant engineers, at $1,500 each; computer, $1,200; record clerk, $1,050; inspector, $1,200; draftsmen—1 $1,225, 1 $900; assistant computer, $900; 3 rodmen, at $825 each; chainmen—3 at $700 each, 2 at $650 each; computer and transitman, $1,200; in all, $25,925.

Mr. FOWLER. Mr. Chairman, I make the point of order on the provision for an assistant surveyor, on line 4, at $2,000. That is an increase of $200 in the salary.

The CHAIRMAN. The point of order is sustained.

Mr. BURLESON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 12, line 4, after the word "surveyor" insert "$1,800."

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk read as follows:

Free Public Library, including Takoma Park branch: Librarian, $3,500; assistant librarian, $1,500; chief circulating department, $1,200; children's librarian, $1,000; librarian's secretary, $900; reference librarian, $1,000; assistants—1 $1,000; 6, including 1 in charge of Takoma Park branch, at $720 each, 5, including 1 for the Takoma Park branch, at $600 each, 3 at $540 each, 3, including 1 in charge of Takoma Park branch, at $480 each; copyist, $480; classifier, $900; cataloguers—1 $720, 1 $600, 2 at $540 each; stenographer and typewriter, $720; attendants—6 at $540 each, 5 at $480 each; collator, $480; 2 messengers, at $480 each; 10 pages, at $360 each; 2 janitors, at $480 each, 1 of whom shall act as night watchman; janitor of Takoma Park branch, $360; engineer, $1,080; fireman, $720; workman, $600; library guard, $720; 2 cloakroom attendants, at $360 each; 6 charwomen, at $180 each; in all, $41,900; and hereafter the Takoma Park branch shall be kept open on the same days and during the same hours as the Free Public Library shall be open to the public.

Mr. FOWLER rose.

Mr. FOSTER. Mr. Chairman, I reserve the point of order on the paragraph.

The CHAIRMAN. Does the gentleman from Illinois [Mr. FOWLER] yield to his colleague from Illinois, Mr. FOSTER?

Mr. FOWLER. Yes.

Mr. FOSTER. Mr. Chairman, I desire to make an inquiry of the chairman of the committee. Does this provide for keeping the library open on Sundays?

Mr. BURLESON. It was to require those in charge of the public library to keep open the branch library at Takoma Park the same hours that the main library is kept open, in order that the people of that section of the city may receive the same service.

Mr. FOSTER. And that is on Sundays?

Mr. BURLESON. I do not remember. I think probably they do keep it open during some hours on Sunday.

Mr. TAYLOR of Ohio. Mr. Chairman, I think I can explain that language, as I asked the questions respecting it in the hearings. The authorities in charge of that library have been in controversy with the committee because we insist on combining the Takoma Park branch and making it a mere adjunct and part of the main library, while they want it a separate institution, and ask for quite an elaborate clerical force. We did not meet their demands. The result is that during the current year they have been opening the Takoma branch only three days in the week, claiming that we had so cut down their clerical force that they were obliged to have those clerks during the other three days of the week, in order to keep up the work of the main library. A very careful and exhaustive examination of these gentlemen, who were perfectly sincere in their belief, undoubtedly, did not satisfy the committee that that was necessary, but we did believe that by adding one clerk at $900 that would give the very necessary help which they claimed and make it possible to keep open the Takoma branch library the same length of time and the same hours and days as is the main library. We have added one clerk, and we then say they must keep it open, because we believe that they sincerely believe they can not keep it open with the one clerk, and therefore they might not keep it open, to the detriment of the people in the neighborhood of Takoma Park, unless they were directed to do so.

Mr. FOSTER. So this additional clerk is for the purpose of keeping that library open the extra hours?

Mr. TAYLOR of Ohio. Yes; and extra days. We insist upon that being done at Takoma Park, and the branch is to be kept open.

Mr. FOSTER. I withdraw the point of order.

Mr. FOWLER. Mr. Chairman, on page 13, line 9, I move to strike out the words "one hundred and eighty" and insert the words "two hundred and forty." Now, Mr. Chairman——

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 13, line 9, by striking out "$180" and inserting "$240."

Mr. BURLESON. On that I make the point of order, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas makes the point of order.

Mr. BURLESON. I will reserve the right to object.

Mr. JOHNSON of Kentucky. Mr. Chairman, I know the item is subject to the point of order, but I ask the gentleman from Texas to waive it and let the House determine whether or not the pay should be increased.

Mr. BURLESON. I will do it if the gentleman will agree for the House to pass upon the points of order which the gentleman proposes to make to this bill.

Mr. JOHNSON of Kentucky. No; I will not do anything of the kind.

Mr. BURLESON. I will be glad to permit the House to pass on them.

Mr. JOHNSON of Kentucky. I have no doubt the gentleman will be willing to exchange $1,000,000 for $180.

Mr. BURLESON. I reserve the point of order in order that the gentlemen may discuss it.

Mr. FOWLER. Mr. Chairman, I have no disposition to increase materially the appropriation in this bill as it comes from the hand of this intelligent committee. The library building is used six days in the week by the public. There is a provision in this bill requiring it to be kept open on Sunday, making seven days in the week, which use undoubtedly would cause the accumulation of deleterious matter and would require as much time to clean it as any building in this city.

Mr. BURLESON. Will the gentleman permit a question?

Mr. FOWLER. Surely.

Mr. BURLESON. Does the gentleman from Illinois know how long these employees are engaged in their labors?

Mr. FOWLER. Well, I only know what is required at the House Office Building. It takes the women there from two to four hours to clean that building, and I suppose that the time required there is about the average required by the force employed in other public buildings.

Mr. BURLESON. Then I understand the gentleman does not claim to have any knowledge with reference to the situation in the library?

Mr. FOWLER. Only in a general way. I have understood that it requires from two to four hours' work to clean this building.

Mr. BURLESON. Well, I will state to the gentleman that he is mistaken about that. I will ask the gentleman now, does he know how many people are engaged in the performance of this service?

Mr. FOWLER. Only what the bill carries—the bill for six charwomen in that vast library where concourse after concourse of people go for the purpose of reading.

Mr. BURLESON. But the gentleman will admit that an entirely different character of population visits the Municipal Building from that which visits the library building, will he not?

Mr. FOWLER. Well, I do not know; of course there is always a difference in the class of people visiting the different buildings because of the business transacted in the buildings.

Mr. BURLESON. That is the point; so the gentleman concedes that proposition, and admits he has absolutely no information——

Mr. FOWLER. No; I do not admit I have no information, because I have been making inquiries concerning it. I have made that my business, and I do not know of any building in the city or used by the Government where charwomen are paid such low wage.

So I seek by this amendment to try to equalize the pay so that these women may receive a better salary for their services.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. SAUNDERS. May I ask the gentleman a question?

Mr. FOWLER. Certainly; if I may have the time.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. SAUNDERS. I ask unanimous consent that it be extended for two minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SAUNDERS. These women are paid for work of two or three hours a day; we will say that it is three hours.

Mr. FOWLER. The information I have is that they average from two to four hours.

Mr. SAUNDERS. Then they are paid at the rate of $90 a month on the basis of a day of eight hours.

Mr. FOWLER. One hundred and eighty dollars a year.

Mr. SAUNDERS. If they are paid at the rate of $15 a month, it would be at the rate of three times that, or $45 a month, for an eight-hour day. That is pretty good compensation.

Mr. FOWLER. If you see fit to analyze time in that way——

Mr. SAUNDERS. That is a fair way to do it.

Mr. FOWLER. When one is required to do short-hour work at a certain time it is very hard to get employment at other work in other places in a piecemeal and dodge-about way.

Mr. SAUNDERS. This is not a dodge-about way; it is a fixed time in the evening of the day.

Mr. FOWLER. But to get additional work at other places under other masters in order to make up a fair salary for the day or the month does involve much dodge-about uncertainty in getting steady employment.

Mr. SAUNDERS. We have no information to the effect that that trouble exists. On the contrary, we are informed that there is great competition for these places, and they are regarded as desirable places at the wages that they carry.

Mr. FOWLER. It is true that there is great competition, and there is great poverty which requires the competition. If the business was elevated to a higher level, with a better wage, the number of applicants would increase so rapidly that you could not get office room sufficient to accommodate the additional applicants.

Mr. SAUNDERS. For that reason we do not care to increase it. Your statement in that respect is true.

Mr. FOWLER. I say that there ought to be an adequate wage for the character of work done.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has again expired.

Mr. FOWLER. I trust the gentleman will permit the question to be passed on by the committee.

Mr. BURLESON. Mr. Chairman, the Public Library is under the control of a board of directors made up of some of the most reputable citizens in this District. The chairman of the board is Mr. Theodore Noyes, who has always taken the deepest interest in this library and its condition. He has repeatedly appeared before the subcommittee and urged certain increases for the library force, and certain increases in the compensation of the various employees of the library. I am quite sure that Mr. Noyes and his fellow members have not overlooked a single class of employees connected with the library who deserve an increase. Yet they never have urged at any time an increase in the compensation of this particular force. I feel quite sure that if this was not adequate compensation for the service that is being rendered, Mr. Noyes would have brought it to the attention of the subcommittee.

I insist on the point of order.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

Miscellaneous, Free Public Library, including Takoma Park branch: For books, periodicals, and newspapers, including payment in advance for subscriptions to periodicals, newspapers, subscription books, and society publications, $7,500.

Mr. FOSTER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] moves to strike out the last word.

Mr. FOSTER. May I inquire of the gentleman from Texas [Mr. BURLESON] if last year's bill did not provide for the purchase of books, periodicals, and newspapers, and this does not?

Mr. BURLESON. There is certain additional language there. The additional language is—

Including payment in advance for subscriptions to periodicals, newspapers, subscription books, and society publications.

Under the rule of many publishing houses they will not furnish their publications without a prepayment of the subscription, and it was necessary that this language should be embodied in the bill in order to meet that requirement.

Mr. FOSTER. I understand; but in last year's bill you provided, as I remember, for the purchase of books.

Mr. BURLESON. This does that, too. We dropped out the word "purchase" because it was surplusage.

Mr. FOSTER. That includes it, does it?

Mr. BURLESON. Oh, yes.

Mr. FOSTER. Last year you had that, but you did not have the other language. I wondered if this gave you the necessary authority.

Mr. BURLESON. It does.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Telephones connected with the system of the Chesapeake & Potomac Telephone Co. may be maintained in the residences of the superintendent of the water department, superintendent of sewers, secretary of the Board of Charities, health officer, chief engineer of the fire department, and superintendent of police, of the District of Columbia, under appropriations contained in this act.

Mr. COX. Mr. Chairman, I make a point of order on that paragraph. It is clearly subject to it.

Mr. BURLESON. That is true; but will the gentleman reserve it?

Mr. COX. I will reserve it.

Mr. BURLESON. Under the paragraph carried in the legislative appropriation bill last year payment for telephones installed in the offices of the various employees of the Federal Government in the executive departments is prohibited. The Commissioners of the District of Columbia estimated in this bill for 12 telephones, informing us originally that various employees in the District government had requested telephones to the number of 52. They had that many at the time this item that I have referred to was embodied last year in the legislative appropriation bill. The commissioners reduced the number to 12. Subsequently they submitted to us a list of the officials that they thought should be furnished with telephones. This list embraced twenty-odd employees of the District government.

The subcommittee went over the list carefully. In that list were telephones for the commissioners and for the secretaries to the commissioners and various other employees. The subcommittee went over the list carefully, I say, and, considering only the interests of the people of the District of Columbia, considering only the efficiency of the municipal public service, we reduced the number to six, as now carried in the bill. We believe that the burden of paying for a telephone should not be imposed upon the superintendent of sewers, to illustrate, or on the superintendent of the water department or on the chief engineer of the fire department. It is in the interest of the people that these officials should be promptly reached if their services are required; and believing that, we embodied in the bill this item to furnish these particular officials with telephone service at the cost of the District.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. BURLESON. Certainly.

Mr. COX. Your bill does not say how many you purpose to carry by your appropriation.

Mr. TAYLOR of Ohio. It provides for six. It names them specifically.

Mr. FOWLER. They are denominated.

Mr. BURLESON. Each one is specified.

Mr. COX. What do these telephones cost?

Mr. BURLESON. I think the cost is $4 a month.

Mr. COX. Four dollars a month?

Mr. BURLESON. Yes.

Mr. COX. This request is in violation of the law passed last year, is it not?

Mr. BURLESON. This is intended to meet that situation. It is to modify the law, in so far as these particular officials are concerned.

Mr. COX. But, as I understand the law as it now exists, there can not be any appropriation made for any of these officials, and this is an exception to the law passed last year?

Mr. BURLESON. Yes; for these particular persons that we have enumerated.

Mr. COX. I do not see any reason why that should be done. It seems, according to the suggestion of the gentleman from Kentucky [Mr. JOHNSON], that the plan is gradually to enlarge the list next year, and then the year after, so that in the course of a very few years the law passed last year will be virtually emasculated and destroyed and the total number will eventually be restored that were in last year. I can not see, Mr. Chairman, any reason at all for the item remaining in this bill, for the reason that the very titles of the persons to whom it is proposed to give these telephones show that they are all high-priced and high-salaried men.

The CHAIRMAN. Does the gentleman make the point of order?

Mr. COX. I insist on the point of order.

The CHAIRMAN. The gentleman from Indiana [Mr. Cox] insists on his point of order.

Mr. TAYLOR of Ohio. The purpose of the committee was not in any sense to begin a raid against the legislation carried in last year's measure. But if you will look at the particular officials designated, you will find that each one of these men is at the head of what might be termed an emergency department, subject to call at any hour of the day or night.

Mr. COX. Does not the gentleman believe they ought to pay their own telephone bills at their own private residences, telephones which they can use for their own personal purposes?

Mr. TAYLOR of Ohio. No.

Mr. COX. If it is true, let us live up to the law.

Mr. TAYLOR of Ohio. These men, by reason of their positions, are called upon officially at all hours and should be in close touch with the public.

Mr. COX. There is no question about that; but let them pay for their own telephones.

Mr. TAYLOR of Ohio. They may be called upon at any time to meet a serious emergency. That is why the committee have made this allowance, and they are the only ones we ever will allow, as far as the present subcommittee is concerned.

Mr. LOBECK. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Indiana yield?

Mr. COX. I yield.

Mr. LOBECK. I want to commend the committee for making the recommendation for these six persons who are named here. No up-to-date city in the country requires that the superintendent of a water department shall pay for his own telephone at his home. From heavy rainfalls sewers at any point in a city may be flooded. The superintendent of sewers must keep a telephone at home, so that he can be called in his official capacity. He may be called at any hour of the night. There may be a flood in any portion of the city, and his men call him up. The same can be said of every one of these six men named here. They must be in touch with their departments at all times. It is necessary that they should have telephones convenient, for the protection of property and of the people of this city, and no up-to-date city requires the heads of this class of municipal departments to pay for telephones, but telephone service is paid for by the taxpayers.

The CHAIRMAN. The time of the gentleman from Indiana has expired. Does the gentleman make the point of order?

Mr. COX. I make the point of order.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

For carrying out the provisions of the act approved March 1, 1899, entitled "An act to authorize the Commissioners of the District of Columbia to remove dangerous or unsafe buildings and parts thereof, and for other purposes," to pay the members of the board of survey provided for therein, other than the inspector of buildings, at a compensation of not to exceed $10 for each survey, and to pay the cost of making safe or removing such buildings upon the refusal or neglect of the owners so to do, the unexpended balance of the appropriation made for this purpose for the fiscal year 1913 is reappropriated for the fiscal year 1914.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against that paragraph, because lines 22, 23, 24, and 25 are legislation.

The CHAIRMAN. Does the gentleman from Texas [Mr. BURLESON] desire to be heard on the point of order?

Mr. BURLESON. What is the gentleman's point of order?

Mr. JOHNSON of Kentucky. The unexpended balance of this appropriation is reappropriated.

Mr. BURLESON. There was an unexpended balance in this fund last year.

Mr. FOSTER. How much?

Mr. BURLESON. About $7,500, or something in excess of $7,000, and instead of appropriating directly out of the Treasury, we have reappropriated the unexpended balance, as one means of keeping up with the expenditures that are being made by the board.

Mr. FOSTER. Do you appropriate enough each year then to keep up this fund? I notice that last year the sum of $2,000 was appropriated.

Mr. BURLESON. We try to make the appropriation adequate for the service that is to be performed. Sometimes in a fund of this kind the amount appropriated is not all expended, and we frequently reappropriate the amount. It is not unusual in appropriation bills. There is no change in the law. It is done in order to avoid duplication of appropriations. It is a good practice, and I think it is not a violation of any of the rules of the House. It is one recognized form of appropriating money.

Mr. JOHNSON of Kentucky. Mr. Chairman, under the covering-in act this money would go back into the Treasury. These four lines suspend the operation of the covering-in act, so far as this appropriation is concerned, and reappropriate it.

The CHAIRMAN. The Chair is ready to rule. The point of order is overruled.

The Clerk read as follows:

Hereafter any final judgment or decree of the Court of Appeals of the District of Columbia may be reexamined, affirmed, reversed, or modified by the Supreme Court of the United States, upon writ of error or appeal, in all cases wherein is involved the validity or infringement of any patent in which the District of Columbia, or the Commissioners of the District of Columbia, or a contractor doing work for the District of Columbia under a contract where said commissioners assume responsibility for infringement of patent rights, or any of them, are parties in interest, and all laws or parts of laws inconsistent with the provisions hereof are hereby repealed.

Mr. MOORE of Pennsylvania. Mr. Chairman, I make a point of order against the pagagraph on the ground that it is new legislation.

Mr. JOHNSON of Kentucky. Will the gentleman reserve it?

Mr. MOORE of Pennsylvania. I will.

Mr. JOHNSON of Kentucky. In explanation of this, Mr. Chairman, I will say that there is a claim made that there is a patent on so simple a thing as asphalt pavement. In order to be entirely rid of any annoyance on that score, a bill was prepared and introduced into the House, went before the District Committee, a favorable report was made on the bill, it came before the House, and was passed practically unanimously and is now before the Senate. This ought to become a law for the protection of the commissioners in the building of streets in the District of Columbia. If it can not become a law in the regular way, there is no excuse for its not becoming a law in this way.

Mr. MOORE of Pennsylvania. Mr. Chairman, this is clearly new legislation. It is injecting into an appropriation bill legislation that does not pertain particularly to it. It multiplies the work imposed upon the Supreme Court of the United States and involves the question of the interminability of suits at law. I insist on the point of order.

Mr. BARTLETT. Does not the gentleman think as important a question as this ought to be dealt with by the Supreme Court of the United States?

Mr. MOORE of Pennsylvania. If it is a question of such importance, I will say to the gentleman it ought to come up as new legislation, to be discussed in the regular way.

Mr. BARTLETT. It has passed the House unanimously.

The CHAIRMAN. Does the gentleman from Pennsylvania insist upon his point of order?

Mr. MOORE of Pennsylvania. I insist upon the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

Condemnation of streets, roads, and alleys: For purchase or condemnation of streets, roads, and alleys, $1,000.

Mr. JOHNSON of Kentucky. Mr. Chairman, I reserve a point of order upon that. I would like to ask the chairman of the committee if he does not think it well to limit the appropriation of money for condemnation purposes to alleys? The law does not apply to streets and roads.

Mr. BURLESON. As I understand, there is a general law authorizing the condemnation of streets and assessing all the damages and benefits to property owners.

Mr. JOHNSON of Kentucky. But you are asking money for it.

Mr. BURLESON. Only a thousand dollars.

Mr. JOHNSON of Kentucky. Does not the gentleman think it had better be limited to alleys?

Mr. BURLESON. I do not, for the money is expended only in very rare instances, to meet emergencies.

Mr. JOHNSON of Kentucky. I withdraw the point of order.

The Clerk read as follows:

The part of Twentieth Street NW., in the District of Columbia, beginning at Park Road and extending north along the west side of square 2617 to the north end of said square, shall hereafter be designated Park Road; and the part of said Twentieth Street beginning at Park Road and extending south along square 2604 to Adams Mill Road shall hereafter be designated Walbridge Place.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order that that is new legislation.

Mr. TAYLOR of Ohio. Will the gentleman reserve it?

Mr. JOHNSON of Kentucky. I will.

Mr. TAYLOR of Ohio. Mr. Chairman, the purpose of this legislation arises from the peculiar condition with reference to Twentieth Street and a street also called Twentieth Street, located, I should say, a mile away from it; not in a direct line with it, but entirely across Rock Creek Park from Twentieth Street as we know it. Carrying out Twentieth Street as far as they could up to the park, the commissioners ran across the park and found a little road about one block long that is, in fact, Park Road, and named it Twentieth Street. The next block, and all the rest of the road, is called Park Road. The matter was brought to our attention by the commissioners and by a Member of this House, the gentleman from Wyoming, Mr. MONDELL, who lives on this part called Twentieth Street. He and his neighbors have unanimously petitioned for this change because their friends and those who come from the stores are unable to find them. They go as far as they can on Twentieth Street and find no such house number and give it up. It is to meet an unusual condition and an error made by some previous Board of Commissioners by which the street, which is in no way attached to Twentieth Street, not on a direct line with it and more than a mile away, was erroneously named, and, as I say, the balance of it is called Park Road. We thought it was to meet a pressing emergency and we have put it in the bill.

Mr. JOHNSON of Kentucky. Mr. Chairman, I believe that I will insist on the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

The Commissioners of the District of Columbia are authorized, in their discretion, to use such portion of public space lying south of Water Street and east of Fourteenth Street SW. as may, in their judgment, be necessary for the site of an asphalt plant and the storage yards and other necessary accessories therefor, and to construct a bulkhead on the water side of said site, upon such lines as they may deem necessary to rectify the present bulkhead line: *Provided*, That the District of Columbia shall pay to the United States as compensation for the land contained in said site one-half the estimated value thereof, namely, $19,500, and there is hereby appropriated, entirely from the revenues of the District of Columbia, said sum of $19,500, which shall be deposited in the Treasury of the United States to the credit of the United States, and thereafter the title to said property shall be in the name of the District of Columbia. And they are further authorized to establish, construct or purchase, maintain, and operate, on the site above described, an asphalt plant with the necessary accessory structures, materials, means of transportation, road rollers, tools and machinery, and railroad sidings, all or any part of the above work to be executed by day labor or contract, as in the judgment of the commissioners may be deemed most advantageous to the District of Columbia, and the cost of the same and of any necessary incidental or contingent expenses in connection therewith shall be paid from the appropriation for "Repairs streets, avenues, and alleys" made herein: *Provided further*, That the total expenditure under the above authorization for an asphalt plant shall not exceed the sum of $90,000; and the portable asphalt plant purchased under the appropriation for repairs of streets, avenues, and alleys for the fiscal year 1913 may be operated under the immediate direction of the Commissioners of the District of Columbia in doing such work of resurfacing and repairs to asphalt pavements, in the repair of macadam streets by constructing on such macadam streets an asphalt macadam wearing surface and in the construction of asphaltic macadam surfaces on concrete base, as in their judgment may be economically performed by the use of said plant, and so much of this appropriation as is necessary for the purposes aforesaid is hereby made available for such work.

Mr. GREGG of Pennsylvania. Mr. Chairman, I make the point of order against the paragraph that it is new legislation.

Mr. JOHNSON of Kentucky. Mr. Chairman, I also make the point of order against the paragraph.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BURLESON. Mr. Chairman, I have a substitute which I desire to offer as an amendment in lieu of the paragraph stricken out, which I send to the desk and ask to have read.

The Clerk read as follows:

The portable asphalt plant purchased under the appropriation for repairs of streets, avenues, and alleys for the fiscal year 1913 may be operated under the immediate direction of the Commissioners of the District of Columbia in doing such work of resurfacing and repairs to asphalt pavements, in the repair of macadam streets by constructing on such macadam streets an asphalt macadam wearing surface and in the construction of asphaltic macadam surfaces on concrete base, as in their judgment may be economically performed by the use of said plant, and so much of this appropriation as is necessary for the purposes aforesaid is hereby made available for such work.

Mr. JOHNSON of Kentucky. Mr. Chairman, on that I reserve the point of order.

Mr. SAUNDERS. Mr. Chairman, on behalf of the committee I would like to make a statement in this connection. This is an apparatus, or machine that the city now owns. It is in use at the present time for the repair of streets. In its practical operation it has proved to be most efficient and economical, but there is not enough work to occupy it all the time. In the course of its use for the purposes of repair, the District authorities have ascertained as a practical proposition, as a matter of dollars and cents, that it could be economically used for the actual paving of short sections of the streets. It is not proposed to go into general street paving and this proposition has nothing to do with any asphalt plant proposition. The paragraph is simply intended to authorize the District of Columbia to use machinery which it already owns, to the fullest extent of its economic possibilities. That is all there is to the proposition. The officials have ascertained that short sections of the street can be paved most economically in this way. They give the figures, and ask only to be allowed to use this machine for paving during such hours as it is not in use for the repair of streets. This use will effect a most desirable and economical result.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. SAUNDERS. Yes.

Mr. MOORE of Pennsylvania. Is this work that would ordinarily be advertised for?

Mr. SAUNDERS. Yes, I so understand.

Mr. MOORE of Pennsylvania. Would there be any competition brought about by advertising for this kind of work?

Mr. SAUNDERS. So far as that is concerned, there would be no advertising for the relatively small amount of paving that this machine would do.

Mr. MOORE of Pennsylvania. Then there would be some competition?

Mr. SAUNDERS. Oh, no, so far as the question of competition is concerned, that would be eliminated. The city has ascertained, so that it is no longer a matter of theory, that short sections of the street, when other sections of the street are pulled up, can be paved by the use of this portable plant. The machine reduces the material, and it is then used for the paving of these short sections.

Mr. MOORE of Pennsylvania. The city owns the plant?

Mr. SAUNDERS. Yes. It is proposed to utilize a present piece of machinery for certain paving that can be economically done by its use.

Mr. JOHNSON of Kentucky. Mr. Chairman, there have been persistent efforts made during the last few years to build a municipal asphalt plant. Each of those efforts carried with it the giving away of the public domain. Because of that, more than for any other reason, I have each time opposed the establishment of a municipal asphalt plant. After the proposition had several times met defeat at the hands of the House, then the commissioners came with a proposition to expend $7,500 for a portable asphalt plant for the purpose of repairing holes and breaks in the asphalt streets. It was not contemplated, in so far as anybody knew, that they were to go further, but it now develops that that $7,500 plant was the camel's head being stuck in, because immediately following that comes the proposition that the law compelling competitive bids and the advertising for the work to be done by competitive bid is to be done away with, and this $7,500 plant to be succeeded, most likely, with a $175,000 plant, which will become a permanent fixture. When that happens, that the work is being done by day laborers under perhaps an extravagant commission and is not being done as cheaply as it could be had from a contractor, then this law is permanent and we must go ahead under that system. It repeals the contract system, and believing—having no doubt in my own mind—that this is, as I said, an instance of the camel's head, the next step will be entirely within the house, and the camel will be the sole occupant. Now, it was contemplated in the first place, as I said, to give up Government domain. Then the bill comes along with another proposition to pay half of what somebody says this public domain is worth, and the figure fixed for one-half of it is $19,000. I have contended upon the floor of this House before, and I again repeat, that if you pass the amendment just now offered the next step taken will be to find a place to store the material for this $7,500 asphalt plant. That will require a roof. Then it will be immediately proposed to be enlarged into a permanent municipal asphalt plant, and perhaps put upon this very valuable piece of property lying in the District of Columbia, which I have said before, and I repeat now, is the most valuable piece of water front in the District of Columbia, as bounded upon the south is the main channel of the Potomac and bounded upon the west is the railroad track which reaches the railroad trains and gives access by railroad to all the world; and, as I said, it also runs on the main channel of the Potomac River and has water access to all the world, yet the commissioners come and tell us that it is worth a dollar a foot. I have made some investigation——

Mr. BURLESON. Will the gentleman permit an interruption?

Mr. JOHNSON of Kentucky. Certainly.

Mr. BURLESON. I will state that I thought that was the gentleman's objection to this project last year, and we tried to meet the objection by imposing upon the District government the burden of paying for one-half of the lot that is to be occupied, and I will state to him that I am perfectly willing that he should place an estimate upon this property in any sum he sees fit and I will accept it as an amendment to this bill.

Mr. JOHNSON of Kentucky. Well, the gentleman is assuming both for myself and for himself; but I believe, Mr. Chairman, as I was about to say, that the $7,500 movable asphalt plant was the camel's head. That was simply to do patchwork. Now they come and want to do street work. And when this

$7,500 plant appears to be too small, then what are they going to do? Ask for a bigger one, and get it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order.

Mr. SAUNDERS, Mr. MOORE of Pennsylvania, and Mr. REDFIELD rose.

Mr. SAUNDERS. Mr. Chairman, I desire to be heard on the point of order.

Mr. JOHNSON of Kentucky. Mr. Chairman, I will reserve the point of order.

The CHAIRMAN. The gentleman from Kentucky reserves the point of order, and the Chair will recognize the gentleman from New York [Mr. REDFIELD], a member of the committee.

Mr. REDFIELD. Mr. Chairman, I am sorry that I was not in the House when this subject of the asphalt plant came up, because I have had peculiar experience in connection with this matter, and I think I may venture for a few moments to lay the results of that before the committee. When I was commissioner of public works in the borough of Brooklyn, in New York City, in 1902 and 1903, the department under my care laid 100 miles of asphalt pavement in two years. We had something like 200 miles of asphalt streets. There was one particular problem with which the contract system under which we had to work could not deal well, and that was the problem of street repairs. I found it literally impossible to proceed under contract with that particular item for a very practical reason. Street repairs are caused by plumbers' cuts and by odd breaks in pavements here and there. They will be a yard or less in area and will occur in scattered places. No contractor can estimate accurately the cost of doing these little petty items of work scattered over hundreds of miles of streets. We finally got an asphalt plant largely for that purpose, with the result that the cost of the work was cut about in half and greatly increased in quality. Now, the next item was the item of small repairs, such as resurfacing small areas. That can not be done economically by contract, because the quantities are too small and the places are too scattered to permit the contractor to properly estimate upon it, and for a like reason we carried our municipal asphalt plant into that service, with the admirable effect, Mr. Chairman, of cutting the cost down largely and increasing the quality of the work greatly.

The using of this small plant for small jobs of resurfacing may be, as my friend from Kentucky [Mr. JOHNSON] says, the entering of the camel's head. If it be, then experience shows, Mr. Chairman, it is a mighty good camel. Personally I speak from having myself done, I think, as much as any other man to destroy the Asphalt Trust. I carried on a combat with that trust every day for many long months and drove it out of the streets of Brooklyn entirely and put in free competition. I am the last man to speak in favor of anything in the world which restricts the freedom of action on the part of contractors, but this is a particular element in street work of which I speak from practical knowledge, which can not properly be done by large contractors and which can not be economically done by small ones. I hope the measure will prevail as it stands.

Mr. SAUNDERS. Mr. Chairman, as I said, I wish to address myself to the point of order, because I do not consider that this item is properly subject to a point of order. This paragraph comes within the operation of the Holman rule, because it reduces the amount covered by the bill. It reduces the amount that would otherwise be necessary for the operations to which this bill relates.

Now, as to whether or not a permanent plant would reduce the expenses, that would be a matter of speculation. A paragraph providing for such a plant would clearly be subject to a point of order. Its operation would be a prospective and problematical matter. But with respect to a plant of the kind in present use, in this city, it has been tested, and we have the figures in relation to its operation. Its cost of operation is no longer a question of speculation, but a matter of easy verification. That is the difference between this, and an entire asphalt proposition. With such a proposition we are not concerned at this time. If the experience of the city with this temporary plant is satisfactory, and it is proved to be a good thing then we ought to go further and provide for a complete and permanent asphalt plant. But that is another proposition. It might be good legislation to provide for such a plant, but we are not considering such a plant in the present measure. In this connection I wish to call the attention of the Chair to the figures relating to the particular use of the plant for which this authority is asked. There is no question but that the paragraph is new legislation, and unless it can be shown that the new legislation proposed will reduce expenses, it is clearly subject to a point of order. We admit that. But if it is shown that it will reduce expenses, then it comes within the rulings that have been made touching the Holman rule.

Permit me to call the attention of the Chair to the situation with respect to this portable plant. This plant, according to the testimony before us in the hearings—and there is nothing to the contrary—has been highly successful. With it the city is now repairing all the places where the streets are cut to lay pipes of any kind. All the holes that occur in the street are repaired with this same plant. But this use occupies only a portion of its time. It is a familiar proposition of business that hardly requires any demonstration, that when you own a piece of property, which in its limited use is operated economically, you can increase that use with an additional resulting economy. That is what is proposed to be done here. It is proposed to make further use of an existing apparatus that has demonstrated its utility and economy, so as to reduce expenses still further by its operation.

Now, for what purpose would that plant be used under the authority of this paragraph? A small section of street——

Mr. MOORE of Pennsylvania. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Virginia [Mr. SAUNDERS] yield to the gentleman from Pennsylvania [Mr. MOORE].

Mr. SAUNDERS. Certainly.

Mr. MOORE of Pennsylvania. Can the gentleman tell whether there was authority in law for the purchase of this plant?

Mr. SAUNDERS. Oh, yes. It was put in the bill last year, but its use was limited to the repair of cuts and holes, in a word to repair work pure and simple.

Mr. MOORE of Pennsylvania. How much is involved by its use?

Mr. SAUNDERS. Relatively little. The city can not go into a large business with one small machine. It is a matter of only a few hours' work additional to its present use.

Mr. MOORE of Pennsylvania. If it were a matter of a thousand dollars and merely smoothing off edges here and there, I think there could be no serious objection to it; but if it is a matter of a thousand dollars, where competition would be eliminated——

Mr. SAUNDERS. No competition involved here, as I will show the gentleman in a minute.

There is a provision in this bill for macadamizing a short section of street by the Pan American Building.

Should that section be paved by the asphalt company here, and no other can practically compete with it the paving would be done according to a contract price. It is proposed to give authority for the use of the portable plant, so far as it can be used, to pave short sections of street with the material that is dug up elsewhere. Thus they will do this paving with city labor, city material, and city plant. Only a few sections, comparatively speaking, or a few blocks, would be paved in the course of a year, by the use of this machine, but a valuable object lesson might be furnished.

Mr. MOORE of Pennsylvania. Of course, the gentleman realizes that if that work were extended it would mean the establishment of a new bureau in the District of Columbia?

Mr. SAUNDERS. Possibly, but that would require additional legislation. This is purely a business proposition. If its operation proves to be economical and effective, the gentleman would desire to extend it, would he not?

Mr. MOORE of Pennsylvania. I see no objection to it if it is used simply in smoothing off edges, and so forth.

Mr. SAUNDERS. It is small construction work that is intended to be provided for.

Mr. MOORE of Pennsylvania. There being warrant of law for it?

Mr. SAUNDERS. There is warrant of law for the repair of streets, but not for the paving of streets. Permit me to give you the figures in this connection, from the hearings:

Mr. BURLESON. Could you do the work on the street between the Bureau of American Republics and the Daughters of the American Revolution buildings in that way?

The answer was:

Col. JUDSON. Yes; we could do that very easily.

Mr. JOHNSON of Kentucky. Whose answer is it?

Mr. SAUNDERS. Col. Judson's answer. He said:

Yes; we could do that very easily.

Then the colloquy proceeded—

Mr. BURLESON. That could be done with this portable asphalt plant?

Col. JUDSON. Yes, sir.

Mr. BURLESON. And could be done very much cheaper than by contract?

Col. JUDSON. Yes. I may say that these figures are worked out most carefully by Mr. McComb, who is a very careful man, from the best data that could be obtained in the country. He showed that, per cubic

foot, the standard asphalt material for repairs cost 54.4 cents by contract; that it would cost 41.84 cents with a fixed municipal plant, and that it cost 45.6 cents with a portable plant, which, as you will see, is intermediate. What is capable of being done by a portable plant is based on what has actually been done. What could be done here with a municipal fixed plant is, of course, just a matter of calculation.

This matter of the work that can be done with this portable plant, is no longer a question of speculation.

These figures, and the experience of the city differentiate as clearly as can be done, the difference between the pending proposition and one for an entire plant. In the one case we have the results of actual experience, in the other the inquiry would be speculative. The effect of this legislation will be to reduce expenses. In its work this repair plant has already reduced expenses. Hence it has been demonstrated that in its further use, a further reduction of expenses will be effected. Therefore it is within the benefit of the Holman rule.

The CHAIRMAN. The Chair is ready to rule.

Mr. JOHNSON of Kentucky. Mr. Chairman, this is a very plain proposition.

The CHAIRMAN. The Chair is ready to rule.

Mr. JOHNSON of Kentucky. I do not know whether the Chair will rule with me or against me. [Laughter.]

The CHAIRMAN. If the ruling of the Chair is not satisfactory to the gentleman, the Chair will reopen his mind. The point of order made against the amendment appears, of course, in the RECORD. The members of the committee as well as the Chairman are familiar with the splendid and elaborate opinion rendered construing the Holman rule and applied to a somewhat similar proposition by the distinguished gentleman from Virginia [Mr. SAUNDERS]; also the opinion by the distinguished gentleman from Kentucky [Mr. JOHNSON]; and by the distinguished gentleman from Tennessee [Mr. GARRETT], who presided over the committee about a year ago when this bill was under consideration; and lest the Chair may not state these rulings so clearly and differentiate as thoroughly and accurately as those gentlemen did, the present occupant of the chair will only direct attention to those lucid interpretations of the Holman rule and announce that, enlightened and guided by these precedents, it is his judgment that the amendment is not safely within the Holman rule, and therefore sustains the point of order.

Mr. BURLESON. Mr. Chairman, I offer another amendment. I offer the same amendment with additional words added after the last word of the amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Texas [Mr. BURLESON].

The Clerk read as follows:

The portable asphalt plant purchased under the appropriation for repairs of streets, avenues, and alleys for the fiscal year 1913 may be operated under the immediate direction of the Commissioners of the District of Columbia in doing such work of resurfacing and repairs to asphalt pavements, in the repair of macadam streets by constructing on such macadam streets an asphalt macadam wearing surface and in the construction of asphaltic macadam surfaces on concrete base, as in their judgment may be economically performed by the use of said plant, and so much of this appropriation as is necessary for the purposes aforesaid is hereby made available for such work: *Provided*, That the powers herein conferred shall not be exercised except under conditions that will insure the doing of the work contemplated hereunder at prices that shall be less per square yard than such or similar work can be done by contract.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order on that.

The CHAIRMAN. The gentleman from Kentucky [Mr. JOHNSON] makes a point of order on the amendment. The point of order is sustained.

Mr. SAUNDERS. May I have a moment, Mr. Chairman? This amendment meets the objection sustained by the Chairman in his former ruling. The face of this amendment carries a reduction. Unquestionably this amendment is legislation, but it effects a reduction. The apparatus can be utilized under this amendment provided the cost of operation is less than the cost of the same work, if it be done by contract. If the work can not be done with this portable machine at less than the contract price per cubic yard, then the machine shall not be used at all.

The CHAIRMAN. In the opinion of the Chair, the provisions of the Holman rule are not satisfied by this conditional and contingent provision for retrenchment. This amendment provides for the operation of a certain instrumentality upon the express condition that if at some time hereafter, in the judgment and opinion of those District officers employing and operating it, it may be employed so as to reduce expenses. As in this case, more specifically stated, the amendment may retrench or it may not retrench, dependent on opinion of some other authority than the House, and provided some future ascertainment will justify the experiment. Whether there will be a reduction of expenses is to be determined by the judgment of those executing the work under one system, as compared with the cost of the work under the system now employed by the District. The rule requires the House to legislate a positive, not a contingent or equivocal reduction. The House may and does nominate others to carry retrenchment into effect, but so long as the language of the amendment shows on its face that there may never be a saving or attempted saving by the legislation, if enacted, it is impossible for the Chair to rule that the amendment will retrench expenditures. The Chair sustains the point of order.

Mr. MOORE of Pennsylvania. Mr. Chairman, in that connection I call attention to the paragraph on page 20 which we have just passed, which fixes a limit of $1.80 per square yard for this kind of work. There was an opportunity for the gentleman offering the amendment to establish the efficiency of the rule by fixing a rate which might lower the cost. Rather than that he has left it to the discretion of the commissioners.

Mr. BURLESON. I ask unanimous consent that this item may be passed until we can prepare an amendment, and that the Clerk proceed with the reading of the bill.

Mr. JOHNSON of Kentucky. I understand that the Chair has ruled, so the only question will be whether the Chair will reopen the question or not.

Mr. BURLESON. No; we are going to offer another amendment.

The CHAIRMAN. If at any time it should come to the attention of the Chair that he had made an incorrect ruling, he would be perfectly willing to correct that ruling, but the Chair has no doubt of the correctness of his ruling at this time.

Mr. BURLESON. I am not asking the Chair to reopen the matter at all. I am just asking the Chair to pass this until we can prepare a new amendment, and proceed with the reading of the bill in order not to lose any time.

The CHAIRMAN. If there be no objection, this paragraph will be passed with that understanding, and the Clerk will read.

The Clerk read as follows:

The authority given the Commissioners of the District of Columbia in the act making appropriations for the expenses of the District of Columbia, approved March 2, 1907, to make such changes in the lines of the curb of Pennsylvania Avenue and its intersecting streets in connection with their resurfacing as they may consider necessary and advisable is made applicable to such other streets and avenues as may be improved hereafter under appropriations: *Provided*, That no such change shall be made unless there shall result therefrom a decrease in the cost of the improvement.

Mr. FOSTER. I make a point of order on that paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] makes a point of order against the paragraph.

Mr. BURLESON. Will the gentleman reserve it for an explanation?

Mr. FOSTER. I reserve it.

Mr. BURLESON. The purpose of this is to enable the commissioners to narrow a street or shift the curbing from the line prescribed by the highway plan, in order to save the lives of a line of trees. Frequently in resurfacing a street to establish a new line of curbing, it becomes necessary to cut down through the roots of the trees which are close to the street and sidewalk being recurbed. This results in the killing of the trees. The sole purpose of this is to give the same authority which was conferred upon the District Commissioners with reference to Pennsylvania Avenue and the streets adjacent thereto, and to extend this authority to other streets, provided, in every case, that the expense shall be less.

Mr. FOSTER. I understand that last year we had this provision in the bill, with some modifications from this. This makes it permanent law, and does not propose to limit it to the appropriations made at this time. It makes it the law for all time to come.

Mr. JOHNSON of Kentucky. They did not do what they said they would on Pennsylvania Avenue. They have torn up old curbing and put down new curbing in the same place.

Mr. FOSTER. I do not think we ought to make this the law until it is thoroughly considered by the committee having jurisdiction of such matters.

Mr. BURLESON. As I understand, then, the gentleman objects to the use of the word "hereafter," which makes it permanent?

Mr. FOSTER. Yes.

Mr. BURLESON. Then I ask unanimous consent that the word "hereafter" may be stricken out.

The CHAIRMAN. In what line?

Mr. JOHNSON of Kentucky. In line 8, page 27.

The CHAIRMAN. With the point of order reserved, the gentleman from Texas [Mr. BURLESON] asks unanimous consent to consider the paragraph, and that the word "hereafter" may be stricken out. Is there objection?

Mr. FOSTER. And then put in the words "contained in this act" after the word "appropriation."

Mr. BURLESON. All right. I have no objection to that.

The CHAIRMAN. The Clerk will report the amendment to the paragraph.

The Clerk read as follows:

Page 27, line 8, strike out the word "hereafter." In line 9, after the word "appropriation," insert the words "contained in this act."

Mr. BURLESON. That is all right. I accept that amendment.

Mr. FOSTER. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas.

The question was taken, and the amendments were agreed to.

The Clerk read as follows:

Highway Bridge across Potomac River: Draw operators—2, at $1,020 each, one $720; 4 watchmen, at $720 each; labor, $1,500; lighting, power, and miscellaneous supplies, and expenses of every kind necessarily incident to the operation and maintenance of the bridge and approaches, $8,620; in all, $15,760.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order against the item of $720 in line 24, page 27. It is an increase of salary of $120.

Mr. BURLESON. It is subject to a point of order, Mr. Chairman.

The CHAIRMAN. The point of order is sustained.

Mr. BURLESON. I move to amend by inserting the figures "$600."

The Clerk read as follows:

Page 27, line 24, insert "$600" at the beginning of the line.

The amendment was agreed to.

The Clerk read as follows:

For the construction of a bridge across Rock Creek on the lines of Pennsylvania Avenue, in accordance with plans approved by the Commissioners of the District of Columbia, and the said commissioners are authorized to enter into a contract or contracts for said work at a total cost not to exceed $160,000, of which so much thereof as may be necessary is authorized to be used for carrying suitable water mains across Rock Creek, to replace those now carried over said creek, to be immediately available and remain available until expended, $25,000.

Mr. JOHNSON of Kentucky. Mr. Chairman, to that I reserve a point of order.

Mr. BURLESON. Mr. Chairman, this item makes provision for the construction of a new bridge across Pennsylvania Avenue. The old bridge across Pennsylvania Avenue beyond Washington Circle is quite old. For many years it has been regarded in a measure as insecure, if not unsafe; it is quite narrow, and the street car company is unable to cross it because it is not of sufficient strength to uphold their cars. By reason of their inability to cross it they pass over on N Street, making a very abrupt and, in a way, dangerous turn.

For a number of years the people in Georgetown have been petitioning the Committee on Appropriations to provide for the construction of this new bridge. It is not a monumental bridge, although the plans they have in mind will provide a bridge in form and in the general outline and in the general appearance of the other bridges that have been constructed across Rock Creek.

The committee has endeavored, as far as they could, to safeguard the interests of the District in this paragraph. The original estimate provided that 15 per cent should be assessed against the railroad company as their portion of the contract part of the construction of this bridge.

The subcommittee were inclined to the belief that that was not a sufficient amount to be paid by the railroad company. They directed the municipal authorities to take a census of the traffic at that point—a census of the foot passengers, vehicles, and tonnage as well. They carefully considered the data furnished and reached the conclusion that the railroad company should bear at least 33⅓ per cent of the total cost of the construction of the bridge.

Under the general law the railroad, after this bridge has been constructed, will be compelled to bear 50 per cent of the cost of maintenance. I believe, in brief, those are the main reasons for the appropriation.

Mr. COX. Will the gentleman yield for a question?

Mr. BURLESON. Certainly.

Mr. COX. I see it authorizes the commissioners to enter into a contract or contracts for said work, the total cost not to exceed $160,000. I would like to know how that contract is let; is it by open competition?

Mr. BURLESON. By competitive bids.

Mr. COX. Bids called for in the newspapers?

Mr. BURLESON. Yes; in the usual way.

Mr. COX. Open competitive bids, to be let to the lowest responsible bidder?

Mr. BURLESON. Yes. There is no possibility of collusion, and I want to say that the District has been remarkably free from graft in the construction of the great improvements that we have made here for a number of years past.

Mr. LOBECK. Will the gentleman yield?

Mr. BURLESON. I will.

Mr. LOBECK. In making the plans has consideration been given to the proposed roadway to the Potomac?

Mr. BURLESON. Yes; some consideration has been given that, and provision made for it.

Mr. LOBECK. It is proposed to put a road down through there to the Potomac.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. BURLESON. I ask for two minutes more.

[By unanimous consent, the time of Mr. BURLESON was extended two minutes.]

Mr. COX. Is the gentleman prepared from memory to tell us something about the tonnage and traffic that passes over this point?

Mr. BURLESON. I believe it is in the hearings.

Mr. COX. While they are looking that up, I will ask this question: Has the gentleman any estimate of what the total cost will be when finally completed?

Mr. BURLESON. One hundred and sixty thousand dollars. I neglected to state that there will be certain real estate acquired for the abutments of this bridge. All the damages are to be assessed as benefits.

Mr. COX. Let me see if I understand the gentleman. The amount carried by this bill is $160,000 for a bridge, and, as I understand it, that is the total cost of the bridge. Is that correct?

Mr. BURLESON. Certainly.

Mr. COX. And of that sum of $160,000 does the gentleman say that the railroad company will be required to pay 33⅓ per cent?

Mr. BURLESON. Thirty-three and one-third per cent of the $160,000.

Mr. COX. So that the only cost to the District of Columbia would be $160,000 less 33⅓ per cent.

Mr. BURLESON. The railroad company will pay 33⅓ per cent, the District of Columbia will pay 33⅓ per cent, and the General Government will pay 33⅓ per cent, and under the general law the railroad company will pay 50 per cent of the cost of maintenance of the bridge.

Mr. COX. Do I understand the gentleman desires to put something in the RECORD from the hearings?

Mr. BURLESON. Yes. I read from pages 261 and 262, from a letter addressed to me by Engineer Commissioner Judson:

This census was taken betwen the hours of 7 a. m. and 7 p. m., January 9, 1913. Calculated on the theory that the traffic across the proposed new bridge would equal the total street railway traffic now crossing the M Street Bridge, the total of traffic now crossing the present Pennsylvania Avenue Bridge, and one-half of all the other traffic, exclusive of street railway traffic, now crossing the M Street Bridge, the estimated traffic over the proposed new bridge would be as follows:

	Tons.	Passengers.
Street railway	10,336	10,785
Other traffic	3,105	6,912

Mr. COX. That is per day.

Mr. BURLESON. Yes; per day.

Mr. TAYLOR of Ohio. That was taken between 7 and 7.

Mr. BURLESON. Showing that the street car traffic was more than twice what the other traffic amounts to.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order.

The CHAIRMAN. The Chair would like to ask the gentleman from Kentucky, who makes the point of order, how he differentiates between this paragraph, which the Chair will read, which is a part of the present bill, and a paragraph from which he will quote, from Hinds' Precedents. The Chair reads the first few lines of the pending paragraph:

For the construction of a bridge across Rock Creek, on the lines of Pennsylvania Avenue, in accordance with plans approved by the Commissioners of the District of Columbia—

And so forth. The Chair finds a ruling made on May 4, 1906, by Mr. Chairman DALZELL, in Hinds' Precedents, volume 4, page 531:

The construction of a bridge on a road in the District of Columbia was held to be the continuation of a public work. On May 4, 1900, the sundry civil appropriation bill being under consideration in Committee of the Whole House on the state of the Union, this paragraph was read:

"For construction of a bridge across Rock Creek on the line of the roadway from Quarry Road entrance, under the direction of engineer commissioner of the District of Columbia, $22,000, one-half of which sum shall be paid out of the revenues of the District of Columbia."

Mr. J. H. BANKHEAD, of Alabama, having made a point of order, the Chairman held:

"The Chair has no doubt that this appropriation is in continuation of a public work already begun and is not subject to a point of order."

Mr. JOHNSON of Kentucky. Has the Chairman nothing to say about the $25,000 to be immediately available?

Mr. BURLESON. That is clearly in order. The Chair will recall that, under the rules, the Committee on Appropriations has exclusive jurisdiction over deficiencies.

The CHAIRMAN. The gentleman from Kentucky calls the attention of the Chair to the following language in the bill:

Of which so much thereof as may be necessary is authorized to be used for carrying suitable water mains across Rock Creek to replace those now carried over said creek, to be immediately available and remain available until expended, $25,000.

Why would not that come clearly under this ruling in Hinds' Precedents?—

An appropriation for repair of an existing Government road to a national cemetery, etc., is in order on a general appropriation bill as in continuance of a public work.

Mr. JOHNSON of Kentucky. But, Mr. Chairman, there is already a bridge there. This is not a continuation of a bridge already there. It is proposed to tear down and build a new bridge. The same proposition would apply to schools—to tear down one school and build another. You can not do that. If there was no bridge there that would be a different proposition, but there is a bridge there, and it has just been so stated by the gentleman who is in charge of the bill.

Mr. BURLESON. Suppose the bridge were to break down?

Mr. JOHNSON of Kentucky. There is no use in supposing that when it has not done it. That is a different proposition. When we get to the broken-down bridge, then we will cross the gully.

The CHAIRMAN. The Chair is ready to rule. In connection with what has been propounded in the nature of an inquiry by the Chair to the gentleman from Kentucky, as part of the Chair's ruling, the Chair will only add that if it appears that there is a bridge of some type at the point where it is proposed to construct the bridge, as provided for in the paragraph, it is not a parliamentary question as to whether or not the paragraph would be in order. The committee might decide that a wider bridge or a new bridge was necessary for public use. It does not devolve on the Chair to pass upon this phase of the subject. The Chair, therefore, overrules the point of order.

Mr. JOHNSON of Kentucky. Mr. Chairman, take the remarks of the Chairman himself. I will have the stenographer read them to you——

The CHAIRMAN. The Chair overrules the point of order.

Mr. SLAYDEN. Mr. Chairman, I would like to ask the gentleman in charge of the bill a question about a matter that is not strictly pertinent to this paragraph, but as all of page 29 seems to deal with the traction company it suggests a question. The gentleman perhaps knows that I live in a part of the city that has been denied transportation facilities for a long time, and from time to time we have had promises from the people who are responsible for that crime known as the Sixteenth Street herdic that there would be certain facilities granted to the people who live in that section. Now, I have once or twice this year been able to mount that extraordinary vehicle that in one respect at least bears a striking likeness to the wonderful one-horse shay. In all of its joints, in all of its wheels, and in all of its connections it has grown uniformly and hopelessly decrepit, and the one I was on one day went to pieces as Dr. Holmes's shay did, and I hope it will never be repaired. I have seen it stated in the papers from time to time that we should have better facilities for transportation in that region, but they do not come. I do not know which committee has jurisdiction over this matter, whether such matters are cared for by the gentleman from Kentucky [Mr. JOHNSON] or the gentleman from Texas [Mr. BURLESON], but I do hope that from one or the other of them we will have legislation that will either force an abandonment of the street or give us a decent service. Nothing now remains of the Sixteenth Street herdics but smell and noise.

Mr. JOHNSON of Kentucky. Mr. Chairman, I desire to state that a bill reaching the matter the gentleman from Texas desires has already passed this House, been signed by the President, and has become a law.

Mr. SLAYDEN. But we can not ride the law.

Mr. JOHNSON of Kentucky. There have been some indulgences granted by the Commissioners of the District, but I am reliably informed that the new herdics will go on service the 22d day of February.

Mr. SLAYDEN. Is that in celebration of the memory of the man who never told a lie? [Laughter.] I will have to accept that statement.

Mr. REDFIELD. Mr. Chairman, I ask unanimous consent to recur to line 17, on page 2.

The CHAIRMAN. The gentleman from New York [Mr. REDFIELD] asks unanimous consent to recur to line 17, page 2.

Mr. REDFIELD. I move——

The CHAIRMAN. Is there objection?

Mr. FOSTER. Could we find out the purpose of the gentleman's request?

Mr. REDFIELD. The purpose of this motion is to restore the item of $1,450, reduced by an oversight to $1,300, to its present amount of $1,450, for this reason: The purchasing agent of the District of Columbia, pursuant to the report of a committee of which I was a member, has let go one clerk entirely and has either let a second clerk go or is about so to do. In so doing he threw a large amount of additional work upon this particular man, and I told him I believed Congress would be sufficiently fair, when this man had assumed the work of two others, or substantially so, to recognize his willingness to do that by increasing his salary to $1,450. This was stricken out on a point of order in my absence. I called the attention of the chairman of the Subcommittee on Appropriations to that, and also the chairman of the District Committee. I think it is clearly a case of justice to a hard-working employee, and the District will be something like $1,500 to the good on the transaction. My amendment is to restore the figures $1,450 which were stricken out.

Mr. TAYLOR of Ohio. You are asking unanimous consent to revert to this paragraph?

Mr. REDFIELD. I am.

Mr. TAYLOR of Ohio. Do I understand from the gentleman from New York he only asks this in one particular case and for one particular salary, or does he intend to allow others to go back and convince the jury or committee that many of these salaries which were increased were increased because they were deserved, but which also went out on points of order?

Mr. REDFIELD. No; this was the one case.

Mr. TAYLOR of Ohio. Then I shall have to object.

Mr. REDFIELD. Will the gentleman withhold his objection?

Mr. TAYLOR of Ohio. I will withhold it.

Mr. REDFIELD. Mr. Chairman, in regard to this one single case, as a member of the committee on the purchasing methods of the District of Columbia, whose report has been filed, and where I did a considerable portion of the work, I frankly told the purchasing agent that his office was, to my mind, run at too large an expense for the clerical force and I told him he ought to reduce that force. Pursuant to the suggestion he did let one man go entirely. I told him he still should reduce his force, and pursuant again to the suggestion he either let the second man go or is about so to do. Now, this work that two men did was good work and it had to be done, and it is now thrown upon the one man to my personal knowledge; and, speaking not from what I am told but from what I know, the work which two men did before, now put upon the shoulders of one man, is loyally and faithfully undertaken.

There is no case of the kind to my knowledge in the bill anywhere. I think it is only an act of common, ordinary justice to let this man have this trifling amount, when the District stands a gainer by 15 times the sum because of this arrangement.

Mr. TAYLOR of Ohio. Mr. Chairman, I quite understand, and have no doubt that this clerk should have been promoted, else I would not, as a member of the subcommittee in charge of the bill, have voted and advocated his promotion. But to my personal knowledge there is not an increase advocated by the committee in this bill that is not a just and proper increase; and I can not subscribe to going back in the case of one individual and giving him a promotion at the request of any of my fellow members unless they agree that we go back to them all and try to convince the committee of the merits of their promotion. And for that reason I insist upon my objection.

The CHAIRMAN. The gentleman from Ohio [Mr. TAYLOR] objects, and the Clerk will read.

The Clerk read as follows:

And the Chief of Engineers, United States Army, is authorized and directed to transfer to the Commissioners of the District of Columbia the land under his jurisdiction in square 1194 which is necessary, in the judgment of said commissioners, for the construction of the aforesaid bridge and approaches.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order to that paragraph. It is another attempt to give away the public domain.

Mr. BURLESON. What part does the gentleman mean?

Mr. JOHNSON of Kentucky. On top of page 31 there.

The CHAIRMAN. The gentleman from Kentucky [Mr. JOHNSON] makes a point of order on the paragraph.

Mr. BURLESON. I will state to the Chairman that this land is necessary as an abutment upon which one end of the bridge is to rest. It is owned by the Government; and it is necessary, as I understand it, to raise the western end of the bridge upon this property.

The CHAIRMAN. The Chair is ready to rule. The point of order is sustained. The Clerk will read.

Mr. BURLESON. Before the Clerk proceeds to read, I ask unanimous consent that that particular paragraph may be passed in order that we may prepare an amendment to see if we can not meet the objection made by the gentleman from Kentucky [Mr. JOHNSON].

Mr. JOHNSON of Kentucky. With the point of order pending, Mr. Chairman?

The CHAIRMAN. Does the Chair understand that the gentleman from Kentucky [Mr. JOHNSON] desires that the ruling as made by the Chair be revoked and remain pending?

Mr. JOHNSON of Kentucky. Mr. Chairman, I do not wish to lose my right to make a point of order.

The CHAIRMAN. Against the amendment the gentleman may offer at the time?

Mr. JOHNSON. Yes; nor against this.

Mr. BURLESON. As I understand it, you will have the right to make a point of order against any amendment I may offer.

Mr. JOHNSON of Kentucky. That is right.

The CHAIRMAN. The Chair will state that any amendment which the gentleman from Texas may propose at the time would be new matter, and subject to a point of order or the reservation of a point of order. The Clerk will read.

Mr. BORLAND. Mr. Speaker, on page 31, following line 6, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Missouri offers an amendment, which the Clerk will report.

The Clerk read as follows:

That hereafter whenever, under appropriations made by Congress, the roadway of any street, avenue, or road in the District of Columbia is improved by laying a new pavement thereon or by resurfacing an existing pavement from curb to curb or from gutter to gutter, where the material used is sheet asphalt, asphalt block, asphaltic or bituminous macadam, concrete, or other fixed roadway pavement, such proportion of the total cost of the work, including the expenses of the assessment, to be made as hereinafter prescribed, shall be charged against and become a lien upon the abutting property, and assessments therefor shall be levied pro rata according to the linear frontage of said property on the street, avenue, or road or portion thereof upon the roadway of which said new pavement is laid or the existing roadway of which is resurfaced: *Provided, however*, That there shall be excepted from such assessment the cost of paving or resurfacing the roadway space included within the intersections of streets, avenues, and roads, as said intersections are included within building lines projected, and also the cost of paving the space within such roadways for which street railway companies are responsible under their charters or under law on streets, avenues, or roads where such railways have been or shall be constructed.

The assessments hereinbefore provided for shall be levied in the following manner, viz: Where the average width of roadway is 32 feet or less between curbs, or between gutters where no curb exists, one-half the total cost of the work, including the expenses of the assessment, shall be assessed as hereinbefore provided; where the average width of roadway is greater than 32 feet between curbs, or between gutters where no curb exists, one-half of the proportion of the total cost of the work which the width of 32 feet bears to the total width of the roadway between curbs, or between gutters where no curbs exist, together with one-fourth of the proportion of the total cost of the work which the balance of the roadway width in excess of 32 feet bears to the total width of the roadway, including the expenses of the total assessment, shall be assessed as hereinbefore provided.

Assessments levied under the provisions hereof shall be payable and collectible in the same manner and under the same penalty for nonpayment as is provided for assessments for improving sidewalks and alleys in the District of Columbia, as set forth on page 248 of volume 28, United States Statutes at Large: *Provided*, That the cost of publication of the notice of such assessment upon the failure to obtain personal service upon the owner of the property to be assessed therein provided for, and of the services of such notices, shall be paid out of the appropriation for the work, and such assessments when collected shall be deposited in the Treasury of the United States to the credit of the United States and the District of Columbia in equal parts.

Mr. BURLESON. Mr. Chairman, I will state that the committee would have made a report of this paragraph, but we were afraid a point of order might be made against it. I am free to say that I have not examined it with that care which I would have given it if I had thought it was going into the bill. It is a matter of great importance, and I am perfectly willing that it should be considered on its merits.

I now move that the committee do rise.

Mr. GARNER. Mr. Chairman, I ask unanimous consent for permission to extend my remarks in the RECORD for the purpose of inserting a short address made by my colleague from Mississippi [Mr. WITHERSPOON] before the Society of Sons of the American Revolution on Wednesday, January 15, 1913.

The CHAIRMAN. The gentleman from Texas [Mr. GARNER] asks unanimous consent to extend his remarks in the RECORD by publishing the address as indicated. Is there objection?

There was no objection.

Mr. BORLAND. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BORLAND. The chairman of the subcommittee, the gentleman from Texas [Mr. BURLESON], had begun the debate on this amendment, and then he moved that the committee rise. Does that give me an opportunity to debate the question when the committee sits again?

The CHAIRMAN. The Chair will state for the information of the gentleman that the amendment offered by him will be considered as a new paragraph and as having been read by the Clerk, and pending, with no further proceedings taken.

Mr. BORLAND. Well, the gentleman from Texas [Mr. BURLESON] had made some formal debate of the matter, and then moved that the committee rise. My question is, Do I have an opportunity to resume the debate when the committee sits again?

Mr. BURLESON. No point of order has been made.

The CHAIRMAN. There is no rule that now occurs to the Chair that would interrupt the ordinary procedure of debate under the five-minute rule.

Mr. BORLAND. No point of order having been made upon it, the matter is open for debate?

The CHAIRMAN. The Chair rules that if no point of order has been made, it is now too late to make a point of order.

Mr. BURLESON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. RODDENBERY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28499) making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, and had come to no resolution thereon.

OFFICERS ON THE ACTIVE LIST OF THE ARMY.

Mr. HAY. Mr Speaker, I am directed by the Committee on Military Affairs to call up House resolution 790. It is a privileged resolution, asking for certain information from the Secretary of War.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolution (H. Res. 790) calling on Secretary of War for information.

Resolved, That the Secretary of War be, and he is hereby, directed to submit to the House of Representatives at the earliest practicable date a statement showing, in the case of each officer on the active list of the Army with rank above that of colonel, the following items of information, to wit:

First. Total length of service as a commissioned officer of the Army.

Second. Length of service as a commissioned officer of the line of the Army in each grade from second lieutenant to colonel, both grades inclusive; also the total length of such service in all of said grades.

Third. Length of time actually on duty with troops, as a commissioned officer of the line of the Army, in each grade from second lieutenant to colonel, both grades inclusive; also the total length of such duty in all of said grades.

Fourth. Length of service as a commissioned officer of a staff corps or department, or of a bureau or office of the War Department, in each grade below that of brigadier general; also the total length of such service in all of said grades.

Fifth. Length of service as a general officer, or as chief of a staff corps or department of the Army, or as a chief of a bureau or office of the War Department, with the rank of a general officer.

Mr. BURKE of South Dakota. Mr. Speaker, is that a request for unanimous consent?

The SPEAKER. No; it is a privileged matter.

Mr. BURKE of South Dakota. I would like to ask the gentleman from Virginia [Mr. HAY] if it has a unanimous report from the Committee on Military Affairs?

Mr. HAY. It has.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

On motion of Mr. HAY, a motion to reconsider the vote whereby the resolution was agreed to was laid on the table.

RELIEF OF INDIANS OCCUPYING RAILROAD LANDS.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to call up Senate bill 5674, for the relief of Indians occupying railroad lands, and ask unanimous consent that the House insist on its amendments and agree to the conference asked by the Senate.

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

An act (S. 5674) for the relief of Indians occupying railroad lands.

The SPEAKER. The gentleman from Texas [Mr. STEPHENS] asks unanimous consent that the House insist on its amendments to this bill and agree to the conference asked for by the Senate. Is there objection?

There was no objection; and the Speaker announced as conferees on the part of the House Mr. STEPHENS of Texas, Mr. HAYDEN, and Mr. BURKE of South Dakota.

ENROLLED JOINT RESOLUTION SIGNED.

The SPEAKER announced his signature to enrolled joint resolution of the following title:

S. J. Res. 157. Joint resolution to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay

the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 24194. To create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes; and

H. R. 18841. Incorporating the National Institute of Arts and Letters.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Military Affairs was discharged from further consideration of House Document No. 1317, and the same was referred to the Committee on Appropriations.

HOUR OF MEETING TO-MORROW.

Mr. BURLESON. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet to-morrow at 11 o'clock a. m.

The SPEAKER. The gentleman from Texas [Mr. BURLESON] asks unanimous consent that when the House adjourns to-day it adjourn to meet to-morrow at 11 o'clock a. m. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. BURLESON. Mr. Speaker, I desire to give notice that to-morrow, immediately after the approval of the Journal, I shall move to proceed with the consideration of the District of Columbia appropriation bill. I now ask unanimous consent that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of that bill immediately after the reading of the Journal to-morrow.

The SPEAKER. The gentleman from Texas [Mr. BURLESON] asks unanimous consent that immediately after the reading of the Journal to-morrow the House shall resolve itself automatically into Committee of the Whole House on the state of the Union for the further consideration of the District of Columbia appropriation bill. Is there objection?

Mr. BURKE of South Dakota. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman from Texas [Mr. BURLESON] who has made the request if he has consulted the minority leader, Mr. MANN, in relation to it?

Mr. BURLESON. I have not; but I feel quite sure that the gentleman from Illinois [Mr. MANN] appreciates the importance of getting on with the appropriation bills.

Mr. BURKE of South Dakota. The same request could be made when the House meets to-morrow morning at 11 o'clock.

Mr. SAUNDERS. Let me suggest to my friend that the gentleman from Illinois [Mr. MANN] was here yesterday when the same thing was done, although to-day would have been private-bill day under the rule. To-morrow it will be different, because this bill will be in order in due course.

Mr. BURKE of South Dakota. I will ask the gentleman what time he will expect the committee to rise to-morrow evening, to-morrow being Saturday?

Mr. BURLESON. At the usual hour.

Mr. BURKE of South Dakota. What hour is that?

Mr. BURLESON. Somewhere in the neighborhood of 5 o'clock.

Mr. BURKE of South Dakota. With the understanding that the committee will rise at the usual hour, I will offer no objection.

The SPEAKER. Is there objection?

There was no objection.

ELECTION OF UNITED STATES SENATORS BY POPULAR VOTE.

The SPEAKER laid before the House a communication from the secretary of state of Oregon, announcing the ratification by the legislature of that State of the amendment to the Constitution of the United States providing that Senators shall be elected by the people of the several States.

Mr. LEVER. Mr. Speaker, I desire to inquire if it is true that unanimous consent has been given during the day for a print of the Senate amendments to House bill 22871?

The SPEAKER. Yes; that consent was given.

DEATH OF REPRESENTATIVE LEGARE.

Mr. JOHNSON of South Carolina. Mr. Speaker, it is my sad duty to announce to the House of Representatives the death of Hon. GEORGE S. LEGARE, a Representative from the State of South Carolina. I shall not take the time of the House now, but on some future occasion we shall ask the House to pay proper tribute to his memory. I offer the resolution which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 804.

Resolved, That the House has heard with profound sorrow of the death of Hon. GEORGE S. LEGARE, a Representative from the State of South Carolina.

Resolved, That a committee of 15 Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expense in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The SPEAKER. The Chair will ask unanimous consent to have that resolution amended by providing for a committee of 16 Members instead of 15. Is there objection?

There was no objection.

The resolution was agreed to; and the Speaker announced as the committee on the part of the House Messrs. DAVIDSON, LOUD, WILSON of Illinois, ANDRUS, YOUNG of Kansas, FINLEY, ELLERBE, JOHNSON of South Carolina, BYRNES of South Carolina, AIKEN of South Carolina, LEVER, HAMLIN, MCLAUGHLIN, BROUSSARD, REILLY, and BOOHER.

ADJOURNMENT.

Mr. JOHNSON of South Carolina. Mr. Speaker, I ask the Clerk to report the last resolution.

The Clerk read as follows:

Resolved, That as a further mark of respect this House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 42 minutes p. m.) the House, under the order heretofore adopted, adjourned until to-morrow, Saturday, February 1, 1913, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Savannah River at Augusta, Ga., with a view to determining what improvements are necessary in the interest of navigation by way of enlarging and extending the project authorized by the river and harbor act of June 25, 1910 (H. Doc. No. 1319); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Lake Crescent and Dunns Creek, Fla., from the St. Johns River to Crescent City (H. Doc. No. 1320); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of the Treasury, laying before Congress facts regarding cost of building at the port of Boston authorized by act of February 23, 1909, and suggesting legislation increasing limit of cost of same (H. Doc. No. 1322); to the Committee on Immigration and Naturalization and ordered to be printed.

4. A letter from the president of the Capital Traction Co., transmitting annual report of said company for the year ending December 31, 1912 (H. Doc. No. 1321); to the Committee on the District of Columbia and ordered to be printed.

5. A letter from the Secretary of Commerce and Labor, transmitting part 2 of the annual report of the Commissioner of Lighthouses for the fiscal year ended June 30, 1912 (H. Doc. No. 1323); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. LAMB, from the Committee on Agriculture, to which was referred the bill (S. 6497) to protect migratory game and insectivorous birds in the United States, reported the same without amendment, accompanied by a report (No. 1424), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HAUGEN, from the Committee on Agriculture, to which was referred the bill (H. R. 27279) to amend the second clause of section 4 of chapter 784 of the United States Statutes at Large, volume 32, page 195, reported the same without amendment, accompanied by a report (No. 1427), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. TUTTLE, from the Committee on the Post Office and Post Roads, to which was referred the resolution (H. Res. 778) directing the Committee on the Post Office and Post Roads to institute and carry forward an investigation into the letting of contracts, etc., reported the same without amendment, accompanied by a report (No. 1426), which said bill and report were referred to the House Calendar.

Mr. ROTHERMEL, from the Committee on Expenditures in the Department of Commerce and Labor, submitted a report (No. 1425), together with the views of the minority, on the fur-seal industry of Alaska, which report was referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. McKELLAR, from the Committee on Military Affairs, to which was referred the bill (H. R. 26849) for the relief of Charles Dudley Daly, reported the same with amendment, accompanied by a report (No. 1428), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. STEPHENS of Texas: A bill (H. R. 28558) to regulate the sale or other disposition by Indians of property issued to them by the United States, and for other purposes; to the Committee on Indian Affairs.

By Mr. CRAGO: A bill (H. R. 28559) for the relief of the nurses who served in the War with Spain; to the Committee on Pensions.

By Mr. COVINGTON: A bill (H. R. 28560) for the purchase of a site and erection of a Federal building at Cambridge, Md.; to the Committee on Public Buildings and Grounds.

By Mr. LEWIS: A bill (H. R. 28561) to amend an act entitled "An act to require the erection of fire escapes in certain buildings in the District of Columbia, and for other purposes," approved March 19, 1906, as amended by the act approved March 2, 1907; to the Committee on the District of Columbia.

By Mr. FERRIS: Resolution (H. Res. 802) requesting the President of the United States to furnish the House of Representatives with all the affidavits, charges, corroborating evidence, letters, and other official documents in the case of Willard N. Jones; to the Committee on the Judiciary.

By Mr. SIMS: Resolution (H. Res. 803) to nonconcur in gross in Senate amendments to H. R. 19115; to the Committee on Rules.

By Mr. LAFFERTY: Memorial of the Legislature of the State of Oregon, urging the calling of a convention to propose a constitutional amendment prohibiting polygamy in the United States; to the Committee on the Judiciary.

Also, memorial of the Legislature of the State of Oregon, favoring the passage of a Federal law for the protection of migratory birds; to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 28562) granting an increase of pension to Wilson S. Thorp; to the Committee on Pensions.

By Mr. CULLOP: A bill (H. R. 28563) granting an increase of pension to Francis M. Neal; to the Committee on Invalid Pensions.

By Mr. FERGUSSON: A bill (H. R. 28564) granting a pension to Thomas F. Lancaster; to the Committee on Invalid Pensions.

By Mr. HEALD: A bill (H. R. 28565) granting a pension to Wilhelmina Widdoes; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 28566) for the relief of the heirs of Sarah B. Matthews and Elijah B. Matthews, deceased; to the Committee on War Claims.

By Mr. LEE of Pennsylvania: A bill (H. R. 28567) granting an increase of pension to John Drobel; to the Committee on Invalid Pensions.

By Mr. PARRAN: A bill (H. R. 28568) granting an increase of pension to Mary E. Ryan; to the Committee on Invalid Pensions.

By Mr. REDFIELD: A bill (H. R. 28569) for the relief of Charles L. Schroeder; to the Committee on Claims.

By Mr. TAYLOR of Ohio: A bill (H. R. 28570) granting an increase of pension to Samuel C. Chesley; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of the Navy League of the United States, Washington, D. C., favoring the passage of House bill 1309, to establish a council of national defense; to the Committee on Naval Affairs.

Also, papers to accompany bill (H. R. 26681) for the relief of William L. Johnson; to the Committee on Pensions.

By Mr. CALDER: Petition of the Remington Typewriter Co., New York, protesting against the passage of the Oldfield patent revision substitute bill (H. R. 23417) for certain changes in the present patent laws; to the Committee on Patents.

Also, petition of the National Association of Shellfish Commissioners, Boston, Mass., favoring the passage of legislation making appropriations for investigations for the development of the oyster industry; to the Committee on the Merchant Marine and Fisheries.

By Mr. CARY: Petition of sundry citizens of Madison, Wis., favoring passage of the McLean bill for Federal protection of migratory birds; to the Committee on Agriculture.

Also, petition of the Fond du Lac Table Manufacturing Co., Fond du Lac, Wis., favoring the passage of the Weeks bill (H. R. 2756) for a 1-cent letter postage rate; to the Committee on the Post Office and Post Roads.

By Mr. CRAGO: Petition of the Coke Producers' Association, of Connellsville, Pa., protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FULLER: Petition of the National Society for the Promotion of Industrial Education, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of Harry G. Harris and Jacob Sands, of Kirksville, Mo., favoring passage of House bill 1331, to increase pension of veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. GARNER: Petition of citizens of Edinburg and Hidalgo, Tex., favoring the passage of House bill 22789, making appropriation for the building of diplomatic buildings in some of the leading countries; to the Committee on Foreign Affairs.

Also, petition of the Dock and Marine Council, Galveston, Tex., protesting against any change in the present laws controlling the collection of tolls of vessels at the Panama Canal; to the Committee on Interstate and Foreign Commerce.

By Mr. HAMILTON of West Virginia: Petition of Local Union No. 22, A. F. G. W. U., Williamstown, W. Va., protesting against the passage of any legislation for the reduction of tariff on glassware; to the Committee on Ways and Means.

Also, papers to accompany bill (H. R. 24582) granting an increase of pension to J. T. Piggott, Parkersburg, W. Va.; to the Committee on Invalid Pensions.

By Mr. KALANIANAOLE: Petition of the Honolulu Chamber of Commerce, Honolulu, Hawaii, favoring the passage of legislation for the recognition of the Chinese Republic by the United States; to the Committee on Foreign Affairs.

By Mr. LEVY: Petition of Charles King and W. E. Curtis, New York, favoring the passage of House bill 1309, to establish a council of national defense; to the Committee on Naval Affairs.

By Mr. LINDSAY: Petition of the Thread Agency, New York, favoring the passage of House bill 16663, permitting corporations, joint-stock companies, etc., to file their annual returns at the close of their fiscal year; to the Committee on Ways and Means.

By Mr. REILLY: Petition of the National Association of Shellfish Commissioners, Boston, Mass., favoring the passage of legislation making appropriations for investigations for improving the oyster industry; to the Committee on the Merchant Marine and Fisheries.

By Mr. SLOAN: Petition of Edward M. Heating and other ex-Philippine soldiers, favoring the passage of House bill 25312, granting increase of pension to all who lost sight of one eye in the military service of the United States; to the Committee on Pensions.

By Mr. WEEKS: Petition of the young men's department, Congregational Church, Newton, Mass., favoring the passage of the Kenyon-Sheppard bill to prevent the shipping of liquors into dry territories; to the Committee on the Judiciary.

SENATE.

SATURDAY, *February 1, 1913.*

(Continuation of legislative day of Thursday, January 30, 1913.)

The Senate reassembled at 11 o'clock and 45 minutes a. m., on the expiration of the recess.

READING OF WASHINGTON'S FAREWELL ADDRESS.

The PRESIDENT pro tempore (Mr. GALLINGER). Under the order of the Senate of January 24, 1901, the Chair announces the appointment of the senior Senator from Connecticut [Mr. BRANDEGEE] to read Washington's Farewell Address on February 22, 1913.

REPORT OF INTERURBAN RAILWAY CO. (H. DOC. NO. 1328).

The PRESIDENT pro tempore laid before the Senate the annual report of the Interurban Railway Co. for the year ending December 31, 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authenticated copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of South Carolina at the election held in that State November 5, 1912, which was ordered to be filed.

CALLING OF THE ROLL.

Mr. CULLOM. Mr. President, I suggest the want of a quorum.

The PRESIDENT pro tempore. The Senator from Illinois suggests the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cummins	Lodge	Shively
Bourne	Curtis	McCumber	Smith, Ariz.
Brandegee	Dixon	McLean	Smith, Ga.
Bristow	du Pont	Martine, N. J.	Smoot
Brown	Gallinger	Myers	Stephenson
Bryan	Gronna	Nelson	Sutherland
Burnham	Guggenheim	Page	Swanson
Burton	Hitchcock	Paynter	Thomas
Chilton	Jackson	Percy	Thornton
Clark, Wyo.	Jones	Perkins	Townsend
Crawford	Kavanaugh	Perky	Wetmore
Culberson	Kenyon	Richardson	Williams
Cullom	La Follette	Sanders	Works

Mr. JONES. I desire to state that the Senator from Vermont [Mr. DILLINGHAM], the Senator from South Dakota [Mr. GAMBLE], the Senator from Minnesota [Mr. CLAPP], the Senator from Kentucky [Mr. BRADLEY], the Senator from Pennsylvania [Mr. OLIVER], the Senator from Indiana [Mr. KERN], the Senator from Florida [Mr. FLETCHER], and the Senator from Alabama [Mr. JOHNSTON] are absent at a meeting of the Committee on Privileges and Elections.

Mr. THORNTON. I wish to announce the necessary absence of my colleague [Mr. FOSTER] on account of illness in his family, and also that he is paired with the junior Senator from Wyoming [Mr. WARREN]. I will let this announcement stand for the day.

The PRESIDENT pro tempore. Fifty-two Senators have answered to their names. A quorum of the Senate is present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House insists upon its amendments to the bill (S. 5674) for the relief of Indians occupying railroad lands disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. STEPHENS of Texas, Mr. HAYDEN, and Mr. BURKE of South Dakota managers at the conference on the part of the House.

ENROLLED JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. J. Res. 157) to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913, and it was thereupon signed by the President pro tempore.

SENATOR FROM DELAWARE.

Mr. RICHARDSON. I present the credentials of WILLARD SAULSBURY, chosen by the Legislature of the State of Delaware a Senator from that State for the term beginning March 4, 1913, which I ask may be read, and there is accompanying it a letter from the secretary of state of the State of Delaware which I ask to have printed in the RECORD.

The credentials of WILLARD SAULSBURY, chosen by the Legislature of the State of Delaware a Senator from that State for the term beginning March 4, 1913, were read and ordered to be filed.

The PRESIDENT pro tempore. The Senator from Delaware asks that a letter from the secretary of state of the State of Delaware, relating to the credentials of the Senator elect, be printed in the RECORD. Is there objection? The Chair hears none.

The letter referred to is as follows:

STATE OF DELAWARE,
OFFICE OF SECRETARY OF STATE,
Dover, Del., January 31, 1913.

SECRETARY OF THE UNITED STATES SENATE,
Washington, D. C.

SIR: I herewith inclose the certificate of election of WILLARD SAULSBURY to the United States Senate as a Senator from Delaware for the constitutional term beginning March 4, 1913.

For your information, and in accordance with section 2, Rule VI, of the standing rules of the Senate, I herewith hand you the following information in connection with this election:

Name, WILLARD SAULSBURY.
Date of certificate, January 29, 1913.
Governor (signing certificate), Charles R. Miller.
Secretary of state (signing certificate), Thomas W. Miller.
State from which Senator is elected, Delaware.
Vote given at election: WILLARD SAULSBURY, 28; HARRY A. RICHARDSON, 11; John G. Townsend, jr., 5; Alfred I. du Pont, 3; Ruby R. Vale, 1; Alexander P. Corbit, 1; Simeon S. Pennewill, 1; necessary to choice, 26.

Very truly, yours,
THOMAS W. MILLER,
Secretary of State.

SENATOR FROM SOUTH DAKOTA.

Mr. GAMBLE. I present the credentials of THOMAS STERLING, chosen by the Legislature of the State of South Dakota a Senator from that State for the term beginning March 4, 1913, which I ask may be read and placed on file.

The PRESIDENT pro tempore. The Secretary will read the credentials.

The credentials of THOMAS STERLING, chosen by the Legislature of the State of South Dakota a Senator from that State, for the term beginning March 4, 1913, were read and ordered to be filed.

INTERSTATE SHIPMENT OF LIQUOR.

Mr. GRONNA. I ask unanimous consent to have printed as a Senate document a brief on the so-called Kenyon interstate liquor-shipment bill.

Mr. LODGE. I regret to do it, but I must make the same point of order that I made previously. Under the unanimous-consent agreement no other business is in order.

The PRESIDENT pro tempore. The Senator from Massachusetts makes the point of order that under the unanimous-consent agreement no routine business can be transacted. The point of order is sustained. Senate joint resolution No. 78 is before the Senate as in Committee of the Whole.

THE PRESIDENTIAL TERM.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

The PRESIDENT pro tempore. The Senator from Iowa [Mr. CUMMINS] is entitled to the floor.

Mr. CUMMINS. Mr. President, with respect to the phase of the matter that I was discussing last evening I desire only to say further that I believe every constitution should contain a provision that a proposed amendment to the Constitution initiated by the legislative branch of the Government and failing to meet the approval of that branch of the Government should be submitted to the people for their approval or disapproval upon a fair and reasonable proportion of the people indicating their desire for such submission. I think that is a proposition upon which those who believe in the referendum will agree.

Our Constitution has no such provision. Our forefathers intended that it should be difficult to amend the Constitution. I believe that there ought to be such opportunities for reflection and consideration as would always prevent hasty or ill-advised action; but in view of the development of the science of government and of the sociology of the present day I think it has become the duty of Congress to submit proposed amendments to the people whenever Congress is made to understand that a fair and reasonable proportion of the people to be affected desire such an amendment to be submitted to them. It will become more and more, it seems to me, our duty to construe the Constitution in this way.

What I said yesterday was simply to make it clear that there had been from the beginning of the Government a continuous, persistent demand for this amendment to our organic law. That demand has found expression in the declaration of political parties. It has found expression in the action of many States.

It has found expression in the declaration of an illustrious line of patriots and statesmen from the beginning until now. I think that we can well accept this evidence of the desire of the people to be permitted to determine for themselves what their government shall be in the stead of that definite petition which modern constitution makers have inserted in modern constitutions.

I now pass for a very few minutes to discuss the merits of the proposal. In doing so I am acting not as a Senator in the Congress of the United States. I am not speaking now as a Senator; I am speaking as one of an hundred millions of people, all of whom are to be affected by the amendment if it becomes a part of the Constitution. I am considering it precisely as though all the voters of the United States were assembled and we were trying to determine for ourselves whether it is wise or unwise to prescribe this rule for the conduct of our public business.

I assume that there is no Senator who will declare that the people, the source of all power, ought not to prescribe rules for their own government. I know that there is a tendency in these later days to disparage the rules which are intended to prevent the people from doing at any particular time and in any way in which they desire to do it whatsoever they at that moment may want to do—that is to say, what a majority of them may want to do—but I can not think that that view has found approval among the thinking men of the country, and especially has it not found approval in the Senate of the United States.

This is a Government of law; it is a Government of constitutions; and it is absolutely necessary, as I think every Senator here will agree, that the people shall in their primary capacity prescribe rules not only for the restraint of their representatives but for their own restraint as well.

Let us take some of the examples of these restraints. I do not say that all of them are wise; I only instance them in order that we may have the subject well in mind. The Constitution of the United States declares that no man shall be elected President of the country unless he be 35 years of age. The people in that have restrained themselves from selecting a man for President who has not attained the age of 35 years. It is a limitation, a restriction upon their powers and privileges, of which we have heard so much.

Again, the Constitution declares that the person chosen for President must be a natural-born citizen. No matter how long he may have been a citizen of the United States, no matter how early in his life he may have come into the United States, the people have no right under the Constitution to elect any man President unless he was born a citizen of the United States. Whether this is a wise or an unwise restraint I do not say. I only mention it in order to indicate that always the people have recognized that they must prescribe rules for their Government that will bind themselves as well as their representatives.

Again, the Constitution says that no man shall be elected a Senator in the Congress of the United States unless he is 30 years of age, unless he has been nine years a citizen of the United States, and unless he be at the time he is elected an inhabitant of the State from which he comes.

A State might very much desire at the moment to select a man who had not been a citizen of the United States for nine years; it might desire to select a man who was not an inhabitant of the State; and yet they have put this restraint upon themselves, because at the time the Constitution was adopted it was believed that on the whole the country would be better served if these persons excluded by the Constitution are not permitted to hold this particular office.

It is likewise true of Representatives in Congress. A man to hold that office must be 25 years of age, and must have been a citizen of the United States for seven years before his election, and must have been an inhabitant of the State from which he comes.

These are simply illustrations of the restraints which the people have hitherto put upon themselves with regard to the selection of a President, a Senator, and a Representative.

Again, it is in the power of the House of Representatives to impeach and in the power of the Senate to try and convict. The Constitution says that one of the penalties imposed after a conviction in an impeachment proceeding may be disqualification for any office under the laws of the United States. Therefore, if a President were impeached and the Senate of the United States had attached this disqualification to him, no matter how much the people of the country might desire after that time to elect him President or to elect him Senator or to elect him Representative, they would be incapable of doing it, because the framers of the Constitution believed it would be better for the country and that the calm counsel of a deliberative body in establishing rules would furnish better protection than the act of the immediate time.

But that is not all. Our Constitution puts many restraints upon the people in a legislative way. Suppose that we had introduced into the United States the system of direct legislation. I will not discuss the practicability or the merits of that system at this time, but suppose it had been established. We would be met with these restraints upon the power of the people:

No bill of attainder or ex post facto law shall be passed.

Does any Senator here believe that it is not wise for the people to say to themselves in the deliberation of a constitutional convention or assemblage that we shall not pass a bill of attainder or ex post facto law?

Or, again, that—

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

That is a restraint upon the people, indirect now because it is a restraint upon their Representatives in Congress, but it would be direct if we had the system of direct legislation.

And again, passing to another section:

No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

A State, if it had the system of direct legislation as many States now have, might think it very desirable at a particular time to pass a law that would impair the obligation of a contract. The people of the State might feel the injustice of a particular obligation so keenly that they would be willing to pass a law that would impair the obligation of the contract in which the debt or obligation was created.

Is there, however, anyone who feels that it is an invasion of the powers and the privileges of the people if they themselves declare as a rule of their own conduct that they will not pass any law which violates the obligation of a contract or pass any law which makes a thing criminal that before that time was not criminal, and makes an act committed before that time a criminal act that was innocent at the time it was performed?

I simply mention these things in order to show that we may go far afield if we attempt to fashion our conduct upon the hypothesis or upon the proposition that the people in making their laws and in making their constitutions ought not to put any restraint upon themselves.

It is not a wise and sound principle of government that the majority of the people have a right to do at a given time anything that a majority at the moment desire to do. There is no government in the world that could survive for a decade the establishment of a principle of that kind.

Therefore, without going further into the philosophic doctrine itself, or the abstract doctrine, I come to consider whether it is wise for the people to say to themselves, "We will not elect a man President of the United States who has held that office"; in other words, that we will establish the system of a single term for President of the United States.

Now, I recognize that there may be a great difference of opinion upon the merits of this proposition. I take great pleasure in acknowledging my own belief that those who oppose it are entirely sincere and that they oppose it because they believe that it is not wise to so restrict the action of the people. I grant you that there is no other tribunal so trustworthy in the election of a President as the tribunal of the people. I have implicit faith, the highest confidence, in their patriotism, in their intelligence, in their desire to render complete justice among themselves; but I have no higher confidence in the ability of the people to select a President of the United States than I have in their ability to declare, when the question is submitted to them, whether they desire that, under any circumstances, one who has held the office shall again hold the office. I think that the highest privilege, the dearest power that the people of this country can exercise is the power to say for themselves what their Constitution shall be, by what rule they will be governed in the future. Therefore, in appealing for the passage of this joint resolution, I am opening the door to the exercise of that highest and most sacred right which any free people can either enjoy or exercise. If we wait until two-thirds of the Senators and two-thirds of the House of Representatives are individually convinced that this rule ought to obtain before we give the people the opportunity to declare upon it themselves we will wait either until the millenium or we will wait until the pressure of public opinion upon Senators and Representatives leaves them no other course to pursue save the submission of the amendment.

Let us see now for a moment the point we have reached in the argument. The people want a President who will render

them the best possible service; they want a President who will be a faithful, efficient public servant. I will endeavor to state the argument on the other side, and if I do not state it fairly I want some one who is opposed to the joint resolution to correct me. It is said that a President will more faithfully and more efficiently execute his duties if he executes them with a view to a renomination by the party to which he belongs and a reelection by the people; that the stimulus of this popular approval will lead him to a better and more complete performance of the duties with which he is charged than if he knew that there could be for him no renomination and no reelection. I do not believe in that proposition. I believe that the President of the United States will more faithfully execute his duties under the proposed limitation. I am not now speaking of the President as a leader of a party, because we do not elect Presidents as leaders of parties or as leaders of the people. Presidents may be leaders of the party to which they belong; they may be leaders of public thought; but they are not elected either to be leaders of parties or leaders of public thought. They are elected to perform certain duties imposed upon them by the Constitution and by the laws which have been enacted by the Congress of the United States.

I do not want it to be understood that I think a President ought to efface himself from political affairs; that he ought not to occupy his abilities and to employ his experience in the general service of the people; but if he has those abilities and if he has that experience, he will be a leader of men, not because he has the power of a President, but because he has the power of character and capacity. I am not considering that phase of the activities of a man who happens for the time being to be a President of the United States. I am considering only those duties which he has sworn to perform which the Constitution places upon him and which the Congress of the United States have required should be performed.

I think that a President of the United States will more perfectly keep an eye single to the work which he has undertaken to do if he is not disturbed, if he is not vexed, if he is not influenced by the thought of renomination or reelection.

Very much has been said in praise of the Presidents of the United States from the beginning until now. I join in it all, and would emphasize if I could. The United States has been conspicuously fortunate in the character and attainments of the men who have been elevated to the high office of President; but, nevertheless, I am bound to say that it is my belief that every President of the United States, save one—and he is only a possible exception, but I do make one exception—that every President of the United States save one, no matter how good a President he was, would have been a better President if he had been ineligible to renomination and reelection. The exception that I make in my own mind is George Washington; and I make it only because I believe that he was indifferent—wholly indifferent—with respect to his renomination and reelection.

Mark you, I am not taking away any of the just praise which ought to be accorded to all these illustrious men when I say that the ambition for renomination and reelection disturbed their serenity when they ought to have been most serene, impaired their efficiency when they ought to have been most efficient, because so long as the Constitution remains as it is, so long as the incumbent of the presidential office is eligible for renomination and reelection, he must be a candidate for it, for it is the renomination and the reelection that constitute the approval of what he has done, and failure to renominate and reelect is a disapproval of what he has done. Therefore, in the first place, a President is bound to devote a very considerable part of his time to the mere work of securing a renomination and the mere participation in a campaign for reelection.

The duties of the presidential office are growing in importance with every day; the power of the President has immensurably increased in the last quarter of a century; and so long as you put before the President the view that he must be renominated and reelected in order not to be disgraced he will devote, he ought to devote, a large part of his time that should be wholly employed in the public service to the manipulation and the organization necessary to bring about a renomination and reelection. No man can escape from that temptation. If we could bring candidates from the heavenly regions, with all the exemptions which they have from mortal weakness, they could not escape the temptation which I have pointed out.

Now, it will be said, I know, that that temptation is the very thing that leads Presidents to a faithful performance of their duties. I do not think so. I am not saying, mark you, that the people are not competent to reject a President who has not been efficient and faithful. The history of the country is full of instances in which such Presidents have been rejected. That is not the point that I am trying to make. The point that I am making is the effect upon the administration of the office itself and the weakness that it injects into the work which the President must necessarily do. It makes no difference whether the people reject him or not, his work has been neglected and illy done; and for that wrong, for that misfortune, there is no remedy whatsoever. I believe that a President will more faithfully perform his duty if no influence can approach him from any quarter touching a renomination or a reelection.

What are the duties of a President? They are, first, to execute the Constitution and the laws of the United States; and they ought to be executed without fear, without favor, without influence. They ought to be executed against the rich and the poor alike; they ought to be executed against the great and the small alike; they ought to be executed against the famous and the obscure alike. We have a great variety of laws; some of them are popular and some of them are unpopular; some of them are popular with a certain portion of the community and unpopular with another portion of the community. Those laws will increase in number and they will multiply in importance. What we desire, what we ought to have, is a condition in which the President of the United States will move forward to the execution of these laws blind to personality, blind to influence, blind to the position of those who are to be affected by the enforcement of the statutes. Take, for instance, the statute which I think is the most important of all the legislation of Congress, a statute that vitally affects, I think, the integrity and the permanency of our institutions, a statute which will grow with every day. I mean the statute directed against contracts, combinations, and conspiracies in restraint of trade and commerce. I think that this law—I mention it as one of many—will be more faithfully administered, more energetically applied without respect to persons or conditions, if the President of the United States is free from the influences which these great powers can exert.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I yield.

Mr. BORAH. That is one of the strong reasons, to my mind, why this proposed constitutional amendment should not be adopted. The influences which exert themselves against the execution of this law would still operate directly upon the President, but the influence which demands the enforcement of this law, the public sentiment of the people of the United States, will be taken away and entirely destroyed. I think it is well to have in operation public sentiment as well as private interests.

Mr. CUMMINS. It makes no matter, Mr. President, as I said a few moments ago, if the people condemn the action of the President; the action has been had, the wrong has been inflicted. I am endeavoring to support this proposal upon the belief on my own part that it is not so likely that neglect will occur and inefficiency will intervene and partiality be exercised if the President is free from all these influences. I can not think a man whom the people of the United States elect as President of the United States, and therefore a man of high character, therefore a man of great ability, therefore a man of wide and generous experience—I can not think that he is as likely to abandon his duty because he has no hope of reelection as he will be to abandon it under the influence of those who are interested either for or against the administration of the law, when that influence reaches or affects renomination and reelection.

If the people could see everything that is done, could know just why everything is done, and could penetrate the hidden recesses of the presidential thought, that might be so, and part of my objection might disappear, but the people can not understand everything that takes place in the administration of law. The neglect, the inefficiency must be marked and long-continued before it will be or can be condemned by the great mass of the people.

I think, Mr. President, that this proposal, if carried into the Constitution, will work for the highest welfare of the people of this country. I believe as firmly as I can believe anything that these insidious influences, presented under the most extraordinary circumstances—I do not mean, of course, that a President of the United States would deliberately bargain away his integrity and his manhood; but the thought I have in mind is this: The President wants to be renominated and reelected; a man approaches him in order to influence, as he may think very properly, his conduct in the administration of the law; the President know that this man holds high position in the community in which he lives and is capable of exercising great influence upon the thought and action of his fellow men; the Prest-

dent knows also that if he is not renominated and reelected the rejection will be the equivalent of a condemnation of his Presidency—there is no mortal man who will not be moved by that influence. He may be unconscious of it; he may insensibly take on the opinion that seems to him the one best adapted for his renomination and reelection, but it is not within human nature to wholly reject the influence.

Mr. BORAH. Will it interrupt the Senator if I ask him a question?

Mr. CUMMINS. Not at all. I shall be very glad to have the Senator do so.

Mr. BORAH. If this is a legitimate argument—and the Senator is presenting it with great effect—suppose we take this illustration: The Senator has referred to the enforcement of the Sherman law. Let us assume that some powerful interest is opposed to the enforcement of the Sherman law and representatives of that interest visit the President; they present their view of it, and more insidious influences operate than the insidious influence of reelection; and suppose those insidious influences have their effect. The counterbalancing influence is the public demand that that law shall be enforced. I sincerely think that when you take away the counterbalancing influence, the public demand, and remove the President from the touch of the public influence, you leave him to deal alone with the private interests which may operate in this insidious and subtle way with a President of the United States, if we are to assume that the argument is legitimate at all.

Mr. CUMMINS. I have assumed that it is legitimate, because it seems to me to bear directly upon the merits of the matter.

Mr. BORAH. I did not mean to say that it is not; but if it is an argument to be taken into consideration that a President can be affected by these influences, then there are two influences operating one against the other—the one represented by the public demand, the other represented by the private interests operating in a subtle and secret way.

Mr. CUMMINS. No, Mr. President; I do not look upon the equation from that point of view. I assume, now, that the President is an honest man. I assume that the people have acted with intelligence in selecting him as President. I am assuming that he intends to remain honest during the course of his administration. I am assuming that he desires faithfully to execute the law as he understands the law and as he recognizes his duty. I do not think any man who would probably be elected President of the United States would be deflected from the path of his duty by these influences unless they should be coupled up with a desire of his own—a desire to accomplish a thing which he would stand condemned before the American people if he did not accomplish.

I can not think we will install a President whose instinct is to do wrong. I believe the history of the country will sustain my assertion that our Presidents have been honest men and they have desired to do their duty. But the conflicting interests and conflicting emotions which must reside in the presidential mind or conscience when he must balance up his course in a particular matter with respect to its effect upon his political future I regard as a most flagrant weakness in our institutions.

I do not think he ought to be compelled to undergo the temptation. I think he ought to understand that when he reaches the Presidency he has attained the climax of human ambition, and that when he presides for a period of years over the fortunes of the greatest Nation on the face of the earth his ambition ought to be satisfied. So far as he is concerned, we will work no injury upon him by excluding him thereafter from the office. The only question is whether the people will have a President who will more faithfully perform the duties which have been imposed upon a President by Constitution and by law if he is free from the ambition to court any interest or any influence save the influence that grows out of an honest execution of his duties, or whether we ought to put him in the maelstrom of politics from the beginning to the end of his administration—put him where he must travel from one end of the country to the other, appealing to the people in precisely the same way as does a candidate for any other office.

I think the work of a President of the United States is sufficient to consume all his time. It is sufficient to demand all his strength. It ought to require his undivided and his persistent devotion. And even then it may grow too great for mortal man successfully to perform.

But you will observe I have not mentioned the matter of patronage. That does not affect me very much. I have not had much experience in patronage myself, and I care very little about it. I know that vast power grows out of its distribution. All I have to say about that part of the matter is that any President who attempts, either through the use of patronage, through its grant, or through its refusal, to influence any other department of the Government or any member of any other department of the Government, or who attempts to influence any man in the United States in his primary relations to the Government is not only utterly unfit for the office but falls under the specific condemnation of the Constitution of the United States.

I am not a believer in this notion that the President of the United States is the administration of which he is a part. I am not a believer in this modern sentiment that we elect Presidents of the United States to establish policies and to ordain the course which the Government should take during the time they may be in office. We do not elect Presidents for any such purpose. If the man elected President by his intrinsic or inherent worth is able to influence public opinion in a legitimate way, he has a perfect right to do it. But he has no right, moral or legal, to use any part of the power bestowed upon him by virtue of his election to influence anybody or to influence any event. He may recommend, according to his views, legislation which he thinks should be enacted. That is entirely within his constitutional privilege. He may inform Congress as to the state of public affairs. That is entirely within his privilege. But aside from these two things the President who performs the duties of his office, who administers the laws of his country with any view whatsoever to his own reelection, and who attempts to use the power of his office, either for that or for legislation, violates not only the ethics of good government but the Constitution of his country as well.

As great as the office is, as much power as it has, I think we have been in recent years assigning to it a place which it does not occupy in the framework of our Government, and we have been magnifying it in a way which will ultimately destroy the independence of Congress and make a President of the United States, whether for one term or for many terms, the practical dictator of our affairs.

That leads me to just one last remark. I have heard it said several times that when we establish the principle of a single term we overturn the work of the fathers, that we reverse a result which they reached deliberately and, of course, for a patriotic purpose. I have thought that those who have hitherto spoken upon that subject—I mean within the last day or two—have somewhat misapprehended the history of this controversy in the Federal convention which prepared and submitted to the people the National Constitution; and I intend to call attention, for just a moment, to what actually did happen there.

When this convention met, immediately after its organization, two plans of government were proposed, one by Edmund Randolph, of Virginia, another by Charles Pinckney, of South Carolina. Under the Randolph plan the President of the United States was to be elected by what he called the National Legislature—what we know as Congress—and was to be ineligible for reelection. In the Pinckney plan there was no provision as to the method of electing a President of the United States, and he was to be eligible for reelection. Hamilton's plan, which came a little later, provided for the election of a President by electors and that he should hold his office during good behavior.

A report of the committee of the whole house was made on June 19, 1787, and in that report, submitted to the convention as a convention, the Randolph idea was adopted. I need not go through all the debates that occurred between the submission of the plan and the report I have just mentioned.

By the report of that committee—the committee of the whole—to the convention the President was to be elected by the Congress, or National Legislature, and was not to be eligible for reelection. I only mention that to inquire further the reason given for the ineligibility. There was but one. It was reiterated a great many times and in a great many forms and varieties of phrase. When all is said, the reason was that the President of the United States should be independent; that he should not be subject to the influence of Congress; that he should be free to execute the laws of the country in the way that an upright conscience would demand. Therefore so long as the Federal convention held to the idea of electing a President by the National Legislature, so long it held to the idea that he must be ineligible for reelection.

I have now stated what occurred on the 19th of June, 1787. I may say, however, that the term during all this time was to be seven years. Finally, on the 26th of July, the resolutions of the convention which declared ineligibility were referred to a committee of detail, whose power was to look them over and again report. This committee was composed of Rutledge, Randolph, Gorham, Ellsworth, and Wilson. That committee reported on the 6th day of August, and it reported in favor of an election by the National Legislature and ineligibility for

reelection. From that day until August 30 the subject was not considered. On August 30 those subjects which had been postponed were referred to a committee of 11, one from each State.

On September 4 this committee of 11 reported a modification of this article, reducing the term to four years, entirely changing the method of electing the President and saying nothing respecting ineligibility, being substantially the plan that was finally adopted in the Constitution—an election by electors chosen by the several States.

Mr. LIPPITT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Rhode Island?

Mr. CUMMINS. Certainly.

Mr. LIPPITT. While the Senator is reviewing that part of the proceedings of the constitutional convention, I hope he will not fail to call to the attention of the Senate the fact that the question of ineligibility was closely related to the method by which the President was to be elected. So long as the President was to be elected by what was then called the National Legislature—what we now know as Congress—the members of the convention, as I remember, seemed to be very fixed in their determination to have the President ineligible for reelection. His relations with the National Legislature itself were to be so close that it was thought quite inadvisable that a President and a National Legislature should be in those relations to each other with regard to the reelection of the President that they were also in concerning the constant daily transaction of business.

One of the great reasons why that method of selecting the President was not decided upon was because, on mature consideration, the convention was opposed to making the President ineligible. One strong reason for finally selecting the present method of electing the President was to get over, as I remember, what they considered the inadvisability of making the President ineligible for another election.

I simply desire to call that view of the matter to the Senator's attention.

Mr. CUMMINS. Mr. President, in most of what has just been said by the Senator from Rhode Island I agree, because it recites historical facts. I had already stated that the original plan presented by Mr. Randolph required the election by the National Legislature, and that the President was to be ineligible, because it was feared that there would not be sufficient independence of action upon his part, and it was desirable that the President should be independent in the conduct of the office. During the whole of the convention they were seeking for some plan for the election of a President of the United States that would make him independent, that would insure the execution of the law without fear or favor, on the part of the President, of anybody or toward anybody.

The Senator from Rhode Island is quite right in saying that the matter of ineligibility was closely connected with the method of electing a President; but after all the principle that was present in the minds of the members of the convention and the problem that they were seeking to solve was, How can we get a President of the United States who will be free of all influence in the performance of his duty? It was believed——

Mr. WORKS. Mr. President——

Mr. CUMMINS. I will yield in just a moment. It was believed finally, when they had fallen upon the idea of electing a President, not by the National Legislature but by a body of electors chosen by the several States, that they had succeeded in discovering a plan that would make the President of the United States an independent branch of the Government of the United States.

I now yield to the Senator from California.

Mr. WORKS. In discussing this question some time back I made a part of my remarks the proceedings of the Constitutional Convention, and it was shown by the proceedings that at one time during their deliberation a majority of the States voted in favor of the particular proposition that is now before the Senate, except that the term of office was fixed at seven years instead of six. To my mind it is perfectly evident that the outcome by which we have our present system was a compromise between the two extremes upon that question, which was discussed day after day and presented at various times. There was a conflict between the two extremes in respect to it, some of them going to the extent of desiring that it should be made a life tenure. It is perfectly evident to me, from a consideration of the proceedings themselves, that the present mode of selecting the President and his term of office was a compromise that was not really satisfactory to either branch of that convention.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. BORAH. The vote which was taken by the several States in favor of the proposition as it is now proposed was taken at the time when they still had before them the proposition of electing the President by Congress. Never after the proposition of electing by the electoral vote was agreed upon was there any considerable support in the convention for the ineligibility of the President.

Mr. CUMMINS. I agree with the statement of the Senator from Idaho. First, let me say that the work of the convention went to the committee of 11, with the provision that the President was to be elected by the National Legislature for seven years and that he was to be ineligible. That is the way it went to the committee. But when the report came in from the committee—and this was very near the close of the convention—the Randolph provision had been stricken out and the plan of electing by electors had been adopted and the term reduced to four years, without saying anything whatever as to eligibility or ineligibility. After that time there was practically no discussion of the subject and little division.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I do.

Mr. WORKS. There was no practical discussion of that question, because that occurred right at the close of the convention.

Mr. CUMMINS. Precisely; within a very few days of the close.

Mr. WORKS. And as a matter of fact it received very little consideration, as far as the record shows.

Mr. CUMMINS. Hardly any.

Mr. LIPPITT. Mr. President——

Mr. CUMMINS. I yield to the Senator from Rhode Island.

Mr. LIPPITT. I do not want to inject myself unduly into the very careful speech which the Senator from Iowa is making on this question, but the statement has just been made that the final decision which was reached by the Constitutional Convention was a compromise. I have in the course of considering this question examined the proceedings of that convention with considerable care, and I can not agree to the statement that the final result was in any degree a compromise.

To my mind it was not only not a compromise, but after the most mature deliberation of this question, after taking vote after vote upon it, and after considering it from every different standpoint, because the questions of the duration of the term, of eligibility, and of the method of election were all inextricably mixed up with each other—I say, after considering all these relations with the greatest care the final result was a victory, complete, final, and decisive for the method of election which we now have in force. The original idea was that the term of the President should be seven years, that he should be ineligible, and that he should be elected by the National Legislature. The final result of the discussion, which was very elaborate and during which there were votes taken upon many methods, was the adoption of the present method. This was the opposite extreme of the method first proposed.

Therefore I fail to see where there was any element of compromise in it or where there was anything but evidence of entire conviction after the most mature deliberation.

Mr. WILLIAMS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Mississippi?

Mr. CUMMINS. I do.

Mr. WILLIAMS. I think the personal equation entered into this matter very much, though of course it could not be discussed before the convention. George Washington presided over that convention. Everybody knew that he was going to be the first President of the United States. Everybody knew that he was the only man in America in whom all Americans had absolute confidence as to his integrity and his wisdom, especially his integrity, and his patriotism. That seems to me to have been the case, reading more between the lines than in the discussion itself, because that matter could not have been discussed out loud in the convention, but men talked to one another about it. It will be remembered that the school which followed Mr. Jefferson was in favor of seven years at first, with ineligibility forever afterwards, and he expresses why they changed their desire in a letter a part of the language of which, with the permission of the Senator from Iowa I will read. This is what he said when he gave up this idea, and wrote to his friends to give it up. It had been put in the Constitution as it

is, and the point was as to whether they should insist upon that as one of the amendments conditional to the ratification of the Constitution. He writes:

Indeed, since the thing is established—

That is, this four years term, with indefinite reeligibility—

Indeed, since the thing is established I would wish it not to be altered during the life of our great leader—

Referring to Washington—

whose executive talents are superior to those, I believe, of any man in the world, and who, alone, by the authority of his name and the confidence reposed in his perfect integrity, is fully qualified to put the new Government so under way as to secure it against the efforts of opposition. But having derived from our error all the good there is in it I hope we shall correct it the moment we can no longer have the same name at the helm.

I think that thought running through the minds of very many accounts for the fact that although a majority of that convention at one time desired to put ineligibility into the Constitution after a fixed term, they finally took the position which they did take. Very many people were of the opinion that, except for George Washington being President and being reeligible as long as the Nation needed him at that time, we could not get our institutions out of the wet mold and get them dry set, as I expressed it the other day. I think the personal equation had much to do with it.

Mr. LIPPITT. May I interrupt the Senator further? The Senator from Mississippi is bringing the name of Thomas Jefferson into this question. On the contrary, Jefferson had absolutely nothing to do with the formation of the Constitution. Jefferson was in Paris at that time.

Mr. WILLIAMS. I said this was a letter written from Paris, did I not?

Mr. LIPPITT. If the Senator from Iowa will pardon me one minute, Jefferson was in Paris at that time, and when the draft of the Constitution was sent to him one thing that he more than anything else objected to was this question of the eligibility of the President. He felt that it would inevitably result in a permanent President, and in the most extravagant language wrote those views to several of his friends in this country. On the other hand, George Washington, who while he took no active part in the debates on this subject, writing just a short time after the receipt of Jefferson's letters in this country on the same subject, said that the matter had been decided to his full satisfaction.

As a plain matter of fact, when the final vote upon this question was taken it is rather a curious illustration of the way the minds of the men who composed that convention changed as the result of their deliberations; the only State that voted against the present method of electing the President was the State of North Carolina, which, when the first vote had been taken for the purpose of making the President ineligible and his term seven years, had been one of the States that had voted against that method of electing the President, assuming probably that they were in favor of a shorter term of eligibility. In other words, all the States that had been at first in favor of noneligibility came over to the side of eligibility, and the State that voted finally the other way was one of the States that voted against it at the first instance. As a matter of fact, with scarcely an exception all the men who composed that convention finally came to the view which has been engrafted in the Constitution.

Mr. WILLIAMS. If the Senator from Iowa will pardon me just a moment longer, I was rather unfortunate if I conveyed the impression that this was the language used by Mr. Jefferson in America. I thought I said he wrote the letter from Paris to his friends after the Constitution had been decided upon and had been submitted to the people. That is what took place.

The people who were opposed to the Constitution as it first came from the convention were opposed to it mainly upon three grounds: First, that it contained no bill of rights; secondly, that it contained no express assertion that all authority not delegated was reserved to the States—they insisted upon that—and, third, this question of the ineligibility of the President. This letter was read by me to show what Mr. Jefferson from abroad advised his friends; and, by the way, his letters were used in the Virginia convention to secure the adoption; and had his great name and influence been with George Mason, and with Monroe, and with Richard Henry Lee, and the other men who were opposing the adoption Virginia never would have adopted the Constitution, and if Virginia had not adopted it the scheme would not have gone into operation.

I quoted it to prove that he recognized at that time—that it was in his mind and therefore by analogy to infer that it was in other people's minds—that during the lifetime of George Washington, at any rate, this ineligibility should not be engrafted upon the Constitution, he himself saying that "the thing having been established as it is now, I would not have it changed during the lifetime of our great chief," as he called him. I think that idea was in the mind of very many of the people in the convention. It evidently was in the mind of somebody who had written to Jefferson, to whom Jefferson was replying in writing this letter; and it was in the mind of very many people, and very reasonably so, too. After the Government was once taught to march properly, after it had become stable, after the people had become accustomed to the institutions, after the Union had lasted long enough to cement its several parts together, then he helped for a change to the first principle that he had advocated.

Mr. CUMMINS. I fear this very interesting discussion about an immaterial matter has obscured the point I was trying to make.

However, I might as well add the result of my recollection as to the matter that has now been propounded. The truth is that there was a very large amount of discussion on this question from the beginning of the convention up to the middle of July, but although it had been decided this way and that way, and possibly half a dozen different times, finally, on the 26th of July, the convention submitted to the committee that I have already mentioned the resolutions which up to that time had the concurrence of the convention tentatively, and those resolutions included a seven-year term election by the National Legislature and ineligibility.

On the 6th day of August this committee reported, approving the resolutions in that respect and recommending the adoption of a constitution containing those provisions.

Now, mark you, that was on the 6th day of August. Then ensued weeks of discussion, but not upon this subject. On the 30th of August a committee of 11 was elected which reported on September 4 substantially in favor of the Constitution as it now is in this respect. The convention adjourned within a few days after that time, as I remember it, and there was no extended discussion upon the question after the report of the last committee. The votes had mainly been taken before then. I do not remember of any important debate that occurred upon the resolutions after that time.

I did not, however, refer to the history of the convention for the purpose of ascertaining whether it was for or against ineligibility. It finally was against ineligibility, and I accept that. It was against it, however, because it believed that it had found a plan of election through which the President would be independent of all influences save his own sense of duty. I have brought it to the attention of the Senate because I believe that the developments of the 125 years or more of our national existence, the national experience, the observations of thoughtful patriots, must lead us to believe that influences have arisen since the adoption of the Constitution, unknown and unanticipated by its framers, which ought to be guarded against as sedulously and as effectually as the fathers attempted to guard against the undue influence of the National Legislature over the Executive.

I agree that our forefathers intended that the President of the United States should be free and independent; I agree that they believed that he ought to be undisturbed and unvexed by any thought save the execution of the Constitution and the laws of the United States; they believed that they were devising a plan that would accomplish that result. History, however, has taught us that they failed to perceive the influences that would arise. They failed to understand that a President in office and eligible to reelection must devote his time, his abilities, and his power for reelection in order to escape the censure that would otherwise be inferred. When we propose here ineligibility, we are proceeding upon the same principle which animated our forefathers; we are seeking to protect the presidential office against the same dangers in character that were present in the minds of the men who finally adopted the Constitution, and I believe that we can render no higher service to the people of this country than by giving them a chance to exercise the most important, the most sacred, the most vital power or privilege which the freemen of any country can exercise—the opportunity to say what their Constitution shall be in the days to come.

Mr. CRAWFORD. Mr. President, before the Senator takes his seat I desire to ask him a question.

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from South Dakota?

Mr. CUMMINS. I am very glad to yield.

Mr. CRAWFORD. The Senator has made a very interesting presentation of his views. I confess, however, to being a little disappointed at his not developing or considering in his remarks more than he has done this phase of the question: What advantage is gained or what compensation have the people in return for giving up the check and restraint which they can now exercise upon the President by reason of their having the power at the end of four years to put the seal of condemnation upon his acts? For instance, an active campaign is waged, one of intensity, one of very deep interest, among the whole people of the United States in relation to the solution of a great controversial issue, and a President has been elected who the people expected would represent their view in the settlement of that controversy, and within three or four months after his election and after his being installed in office they discover that, while he may not be corrupt or dishonest, his real sympathies, the real viewpoint by which he is governed, is not what they expected it to be, and that influences far more conservative, on the one hand, perhaps, or far more radical, on the other hand, perhaps, than the viewpoint which they expected him to take is the viewpoint by which he is being governed. Now, if he can immediately assure himself that he can follow his own bent and inclination without harm, because he is going to hold this office for six years, and the people have no power to exercise any influence or check or restraint upon him, and the coterie of advisers who are congenial to him, who may represent him, and whom the people consider absolutely inimical are his chief advisers, they are helpless, because this opportunity to put the seal of condemnation upon his acts in the case of reelection within the shorter period during which he can continue to abuse their confidence has been destroyed.

Mr. CUMMINS. Mr. President, in so far as the real duties of the Chief Executive are concerned, I think I have answered the question propounded by the Senator from South Dakota. It is plainly evident that his view of what a President should be and what he should do is vastly different from mine. I deplore the fact that the Presidents of the United States have in recent years attempted to be or to manage the Government of the United States, have attempted to establish policies to which they have coerced everybody who could be brought within the influence of their great power. I do not look upon a President of the United States from any such standpoint. I think he is elected to execute the law, and that he ought to do it without courting the popular favor or the favor of special interests. The President, if he is conscientious, has vastly less discretion than would appear from the general view that we accept now of Presidential duties. I think the people of this country ought to be taught that their legislation is to come from Congress and that the policies of the country, so far as they are established and perpetuated by legislation, are to be established by Congress. I therefore have not looked at the question from the standpoint occupied by the Senator from South Dakota.

Mr. CRAWFORD. Well, Mr. President, I can see that in its relationship to the people the Senator would give narrower scope and environment to the office of President than I would. I think it is absolutely right that the President should seek to be of assistance to the American people in shaping policies; but that is not the particular idea I wanted to emphasize.

Mr. CUMMINS. As a man that is true, and as a President, he may recommend to Congress whatsoever he desires; but I do not believe, as I have often said, that a President, nominated by a party and elected by the people, should be permitted to set up a standard of loyalty or of patriotism, either to the party or to the country, and to hold every man disloyal who did not accept it.

Mr. CRAWFORD. But I want to call the Senator's attention to another feature, which I regard as a very important one, and that is, the opportunity to bring to bear upon the conduct of public officials, whether they are in Congress or whether they occupy executive offices, the power of the people of the United States to bring to bear upon them the effect of wholesome public opinion. The Senator knows that oftentimes a lethargy is in possession of this Congress, so that year after year goes by and no action whatever is taken, although a clamor exists among the people of the United States for some specific relief—it may be railway legislation; it may be tariff revision, or what not—and yet we are sluggish, inactive, unresponsive, and finally the power of public opinion knocking at these doors compels results. Now, I would have the power of public opinion have the same opportunity to influence Executive action. If Executive action is slow, unresponsive, hesitating, or if Executive action is inclined to be wrong, I think this opportunity to put the seal of disapproval upon the conduct of the Executive furnishes one of the strongest weapons in the hands of the people to compel the consideration of public interests that the people have in their possession; and would not this amendment absolutely take it away?

Mr. CUMMINS. Not at all, Mr. President, unless it is assumed that the people deliberately select a scoundrel for President of the United States. If they do make so unwise a selection as that, of course I think some of the results that have been indicated by the Senator from South Dakota would follow; but I am assuming that a man enters the presidential office with honest purposes, with the intent and capacity to execute or perform his duty, and I am seeking simply to remove from him those influences which, in my opinion, will and which, in my opinion, have, in a great many instances, diverted the Chief Executive from the path that he ought to have pursued.

During the delivery of Mr. CUMMINS's speech,

Mr. BRANDEGEE. I send to the desk a proposed amendment that I intend to offer at the proper time, or I will offer it now if I may do so and have it pending. I am obliged to leave the Chamber, and that is the reason why I ask leave to offer it now. I will discuss it later.

The PRESIDENT pro tempore. The Senator from Connecticut proposes the amendment now?

Mr. BRANDEGEE. I will propose it now if it is in order. I am not familiar with the parliamentary situation.

The PRESIDENT pro tempore. The joint resolution is still in Committee of the Whole.

Mr. BRANDEGEE. I thought it was in the Senate.

The PRESIDENT pro tempore. It is not.

Mr. BRANDEGEE. My impression is that the RECORD shows it is in the Senate.

The PRESIDENT pro tempore. The RECORD does not show that.

Mr. BRANDEGEE. Very well. Then I do not desire to offer the amendment as in Committee of the Whole, because it is similar to one that was voted down in Committee of the Whole. I will present it in the Senate.

After the conclusion of Mr. CUMMINS's speech,

Mr. SUTHERLAND. Mr. President, I offer an amendment to the amendment.

The PRESIDENT pro tempore. The Senator from Utah submits an amendment to the amendment of the committee, which the Secretary will state.

The SECRETARY. On page 2, line 10, of the committee amendment, after the word "election," it is proposed to insert:

Provided, That the foregoing shall not operate to extend the term of the President in office at the time this amendment is adopted.

Mr. SUTHERLAND. Mr. President, I am not certain whether the amendment is in order in Committee of the Whole, in view of the amendment offered by the Senator from Pennsylvania [Mr. OLIVER], which was voted down, and I submit that parliamentary question to the Chair.

The PRESIDENT pro tempore. If the amendment is identical with the amendment which was voted down, the Chair would be of opinion that it ought to be withheld until the joint resolution shall have been reported to the Senate.

Mr. SUTHERLAND. Then I give notice that I will offer the amendment when the joint resolution reaches the Senate.

The PRESIDENT pro tempore. The joint resolution is still before the Senate as in Committee of the Whole and open to amendment.

Mr. GRONNA. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from North Dakota suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators responded to their names:

Ashurst	Cummins	Lippitt	Simmons
Bankhead	Dillingham	McLean	Smith, Ariz.
Borah	Fletcher	Martine, N. J.	Smith, Ga.
Bourne	Gallinger	Nelson	Smith, Md.
Bradley	Gamble	Oliver	Smoot
Bristow	Gronna	Page	Stephenson
Burnham	Hitchcock	Paynter	Swanson
Burton	Jackson	Percy	Thomas
Catron	Johnson, Me.	Perkins	Thornton
Chamberlain	Johnston, Ala.	Perky	Townsend
Clapp	Jones	Poindexter	Wetmore
Clark, Wyo.	Kavanaugh	Richardson	Williams
Clarke, Ark.	Kenyon	Root	
Crawford	La Follette	Shively	

The PRESIDENT pro tempore. On the call of the roll 54 Senators have answered to their names. A quorum of the Senate is present.

Mr. POINDEXTER. Mr. President, I do not desire to go over a second time the merits of this resolution. I can not consent, however, that a vote shall be taken without some reference on my part to the argument made by the Senator from Iowa as to the duty of the Senate to submit this resolution to the people in the nature of a referendum.

The charge of the Senator from Iowa that those who are opposed to this resolution are opposing a progressive measure, a measure which represents the principles of a political movement which has come recently to be known by that name, coming from that Senator, who has been such a distinguished

champion of progressiveism in the United States, is a charge which can not be passed over without some defense.

The Senator from Iowa has for many years, in his own State and throughout the Nation, come to be known as a champion of liberal policies. He led a movement which his party finally accepted by a declaration in its platform; and if the party, when it was returned to power after a campaign conducted upon that platform, had kept its pledges, the division of the party which has taken place and its deposition from the seat of government would not have occurred.

I do not share, though, the pessimism and the discouragement expressed by the Senator from Iowa as to the hope which he said he once had, and which I think all progressives had, and most of them still have, that there would be a real and a natural division of political parties in this country by which, on the one hand, those who advocate progressive policies would gather themselves in a party which might be called a liberal or, if you choose, a radical party, drawing to itself progressive elements from all of the old parties, or from those of no party; and, on the other hand, those who were opposed would gather themselves together in a tory party, or a conservative, reactionary, or standpat party. I say, I can not share his feeling that that result will not yet come about.

I think there is a seething movement lying underneath the surface of party organization in all of the old parties which is constantly tending toward that end. I think there has been an actual accomplishment—sometimes not acknowledging itself by the adoption of a party name, but shown by the votes in both branches of Congress, shown by the cooperation of members of different parties who believe in progressive principles, in the States, and in the conduct of campaigns—proving that this movement is not only not hopeless, but that it is gaining ground, that it has accomplished results, and that ultimately there will be here, as there is in every other country which has a government by party, a logical division between those of liberal and progressive principles and those who believe in reaction.

Mr. President, it is certainly a legitimate argument on the part of the Senator from Iowa that if the question before the Senate is in the nature of a referendum, as he contends it is, it would be in line and in harmony with and in fact would be required by the principles of the Progressive Party, regardless of the individual views of the Members of the Senate that they should adopt the resolution, not for the purpose of expressing their conviction upon the merits of the matter, but for the purpose of submitting it to the people that the people might decide whether the Constitution was to be amended or not.

I am willing to agree with the Senator from Iowa that the Constitution should be more elastic, that it should be more easily susceptible of amendment, that it should be in a larger degree, at least, more responsive to the people. It is difficult for me, however, to harmonize that portion of the argument of the Senator from Iowa with the concluding part of his argument, in which he seemed rather to tend to the opposite extreme, judging from the illustrations which he made, in which he seemed to contend that the Constitution should be fixed so that the people could only with great difficulty change it, and that it was necessary for the people——

Mr. CUMMINS. Mr. President——

Mr. POINDEXTER. Just allow me to conclude the sentence—to put restraints upon themselves which they were not able with readiness to remove, to bring about just and orderly government.

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Iowa?

Mr. POINDEXTER. I yield.

Mr. CUMMINS. Mr. President, the Senator from Washington has very greatly misunderstood me. I am sure nothing I said would bear that interpretation, because it has been one of the fundamental tenets of my political faith that many of the obstacles in the way of amending constitutions ought to be removed. I think there ought to be an initiative with regard to the Constitution so that the people themselves, without the intervention of any legislative branch of the Government, could compel the submission of a constitutional proposal.

Mr. POINDEXTER. I understand that that is the Senator's view. I have always understood, at least, that that general policy was advocated by the Senator.

Mr. CUMMINS. I do not think, however, that the people ought to change their Constitution without the opportunity for mature and deliberate reflection and consideration. I am sure the Senator will agree with me in that.

Mr. POINDEXTER. Entirely.

Mr. CUMMINS. When it comes to the merits of a particular proposal, that is quite a different matter. I believe there are rules which the people ought to lay down for their own guidance and that they ought not to depend upon their action at a particular time respecting many of the subjects of government. I think the Senator from Washington will agree with me about that.

Mr. POINDEXTER. I do agree, and that is why I am not discouraged in the belief that we will be able to cooperate toward that one grand, and I hope not far off, if not divine event—the uniting of all progressives in one party.

Mr. CUMMINS. I am not pessimistic about that.

Mr. POINDEXTER. The fact that we may differ about this particular measure does not discourage me in the belief that we may agree about the underlying principle, because the question here is simply as to a means for accomplishing a result upon which I think we are in harmony.

Mr. CUMMINS. I hope the Senator from Washington will not think I have any doubt about the progress, with accelerated speed and effectiveness, of the great progressive movement of the last decade. What I said with regard to that was that I rather despaired of being able to gather the progressives into a single political organization, in view of the great difference of opinion among progressives as to the merits of a particular measure.

Mr. POINDEXTER. There always will be that difference of opinion about particular measures or particular agencies. I do not think it is cause for discouragement, for instance, that we have different opinions about this particular measure. Just as it is said "there is one glory of the sun and another glory of the moon and another glory of the stars, and one star differeth from another star in glory," so real Progressives differ as to the means and agencies for bringing about the result upon which they are agreed.

I think we are all agreed, for instance, that there should be in this country a rule of law rather than of men, and that it should operate uniformly and equally on all alike; that force and violence and fraud, from whatever source, should be subjected to the law. I mention these very general propositions because it is a live question. We have seen the rule of law departed from, and the rule of force and violence and fraud and bribery substituted in its place, both by those who are mighty in their power, although private citizens, and by those who are their servants. We have seen the corporations use these means, and we have seen the labor unions use them.

I understand that all progressives are agreed that one object to be accomplished by this great movement is that all, whether individuals or corporations or labor unions, shall be subjected to law, and that the law shall operate upon them all equally. That is one general principle upon which we are all agreed. I am sorry to say that there are many political opponents of ours who, while they may pretend to believe in that doctrine, do not practice it; and many of them boldly admit that they do not believe in it, but assert that there must and ought to be special privilege and special exemption in this country.

I think we are all agreed that, while there is wealth and ought to be, and while it should have its personal enjoyment and opportunity and the social advantages which wealth gives, wealth should not command legal advantages; that mere money should not be above manhood nor above the Government nor above the officers and the Senators of the people, but that the officers of the Government should be above mere property and its agents.

I think we are all agreed, as progressives—most of us, at least—that while the natural resources of the country and the great wealth of the public lands should be developed, and even developed by private means, for the increment and for the benefit of the private means which develop them, yet there should be attached to that development, and to the franchises under which it operates, certain conditions and restraints by which the Nation whose property this is shall share in the profits and in the increment which comes from its use and its enjoyment. There are many of our opponents who do not believe in that principle, but who are seeking, by one means or another, to escape from it, sometimes by advocating State control of natural resources, which, in their minds, means no control at all.

It is true, as I said, that I agree with the Senator from Iowa that the people should have reasonable opportunity to amend the Constitution.

If we were operating here under an elastic law by which, upon certain conditions, this resolution coming before us should be submitted to the people for their consideration and rejection or ratification, I would readily consent that we should so act. I would favor a law of that nature, of course with certain restrictions and under certain conditions.

But I can not consent to the doctrine advanced by the Senator from Iowa that we must surrender our opinions as to the merits of this resolution, and that because it is presented here by a

Senator and advocated by some Senators, and because, as is said, during the 124 years of the life of Congress under the Constitution a number of similar resolutions have been presented, and because Thomas Jefferson in his time, which was a century or more ago, favored this principle, we must surrender our judgment as to what is best for the American people to-day and permit the resolution to take its course under the Constitution after Congress has ratified it by a two-thirds vote.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER (Mr. TOWNSEND in the chair). Does the Senator from Washington yield to the Senator from Kansas?

Mr. POINDEXTER. I yield.

Mr. BRISTOW. As I understand it, if the Senator will excuse me, while Thomas Jefferson seemed to favor a continuous term, did he not connect that with the principle of the recall by the people of the President if he was unsatisfactory?

Mr. POINDEXTER. He did. Furthermore, I would say upon that point, that whatever Jefferson may have advocated—a letter was read here this morning which indicated that he did not advocate the ineligibility of the incumbent to such an extent that he opposed the adoption of the Constitution on that account—whatever may have been his views or whatever may have been the views of some of his contemporaries or their successors in the conduct of public affairs in this country, it still remains that the consensus of opinion in the Federal convention and in the decades which followed it from that time to this has been opposed to this contention.

When the convention adjourned it appeared to be unanimously in favor of the system which is now established. Many similar resolutions have been introduced in Congress, but they have never met with sufficient favor, so far as I am informed, to attain a two-thirds vote in either branch of Congress.

The Senator from Iowa assumes that there is a public demand for it, and on that account he would submit it to the people and surrender our views upon the merits of it. I disagree with him upon that. I want to cite an instance, and I hesitate to do it because I think probably my motives will be misconstrued. I wish to call attention to the condition of affairs when Mr. Roosevelt went out of office. I say it without any consideration whatever of personal affiliation or personal preference as to the Presidency or personal ambition or personal desires. I sincerely believe, and I think it will be admitted by many, at least, of those who are frank and who apparently opposed Mr. Roosevelt, that, notwithstanding the fact that he had served practically two terms in the Presidency, he would have received the approval of the American people by election to a third term if he had been willing to receive it at that time.

It indicated the view of the American people on the doctrine of ineligibility when more than 4,000,000 votes were cast for Mr. Roosevelt in the last campaign, conducted with an imperfect organization, after an effort of a few weeks by a new and untried organization, gotten hastily together. Does that indicate that the American people have any deep-seated conviction that under those circumstances they should not reelect a man who had already served in the Presidency? I do not think that it does.

I have not seen any evidence, I have not seen nor heard in the address of the Senator from Iowa anything upon which I think it can be predicated that any substantial proportion of the American people are concerned in the adoption of this resolution. But even if they were, is it incumbent upon us, upon the record here and upon the showing which has been made, to throw aside our convictions upon this particular measure because we might believe in a referendum or in the elasticity of the Constitution and act contrary to our convictions upon this question? However elastic the Constitution might be, and however the referendum might be established, under any system when men in the Senate and out of the Senate are called upon to vote they are supposed to vote their judgment and their convictions upon the particular thing on which they are voting and not to vote in favor of an amendment to the Constitution, a very important one, which they do not believe in and which they think would be injurious, which they believe would be dangerous, which might be of fatal consequences in some crisis, in order to indicate that they are in favor of a general principle which is involved. Yet that is the substance of the argument of the Senator from Iowa.

Mr. KENYON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Iowa?

Mr. POINDEXTER. I yield to the Senator from Iowa.

Mr. KENYON. The Senator has touched the point that has troubled me a great deal in this discussion, and I should like to ask him a question. If a substantial part of our population desired certain changes in the Constitution and the only way they could reach that matter would be through their legislatures, the legislature or the convention approving it, and if the Senator did not believe in the proposition that a substantial majority of the people might want, would he still believe it was his duty to vote to give them a chance to express their belief, regardless of his own opinion?

I am not in favor of this amendment, but this is not the adoption of the amendment to the Constitution. It is merely giving a chance, in the only way there is a chance, for the people, acting through their legislatures, to amend the Constitution. What is the Senator's idea about that?

Mr. POINDEXTER. My idea about that is that if a Senator is opposed to the resolution strongly, if his convictions are fixed, if he is of the opinion that it would be a governmental mistake of deep significance, exercising his duty here in a vote which while the Senator says is not the adoption of the amendment may lead to the adoption of the amendment, which is the first step in the adoption of the amendment, he should vote his convictions and his judgment upon the merits of the question. That is what he is here for. That is the function which he is performing as a Senator.

If it were perfectly plain, I will say to the Senator from Iowa, under the Constitution that a Senator in so voting to submit an amendment is not necessarily expressing his convictions on the subject and on the merits of the question, but that he is simply voting in order to give the people an opportunity, and if that were the system under which we were operating, of course a Senator ought to vote that way. It would be his duty to so vote under that system, because he would then be voting in accordance with law, in accordance with the Constitution. But when the Constitution puts the Senate as a political court to determine the merits of the question, their votes are regarded by the people of the country as an indication of their views. Leaders in the several States constitute the membership of this body, and their views may influence the judgment of their constituents to some extent, at least; and their constituents are entitled to their judgment upon the merits of the question.

Mr. KENYON. If the question were to be submitted directly to the people for ratification, then I take it the Senator would be in favor of submitting this amendment to the people regardless of his own view. I do not think the people are influenced very much by the opinion of Senators. It has not been the history heretofore.

Mr. POINDEXTER. I qualified my statement by saying "to some extent." How much or how little would depend on circumstances. It would depend on the Senators and upon the conditions in their States.

I wish to say, however, pursuing the argument a little further, that what I have just been saying was assuming that if we were to submit this resolution it would be in the nature of a referendum, and I was arguing it upon that basis. That is a much stronger case than the one which is before us, because it would not be a referendum to the people. The action of the State legislatures in many instances which are required to ratify this amendment to make it effective, in instances which every Senator can recall, are as far from the popular will and from the desire of an enlightened public opinion as the nadir is from the zenith.

It is not a submission to the people, but it is a submission to a representative body many of whom hold over from year to year in the senates of the several States, which contain all the disabilities and all the disadvantages so far as being a reflection of the popular will is concerned, which has been discussed throughout the country for a generation or more in the contention about the direct election of United States Senators. It has been demonstrated in a great many States that where the people desire one man for United States Senator the legislatures abandoned their duties as legislators and the enactment of laws and devoted an entire session to controversy about the election of men none of whom the people would favor.

I only mention that as illustrating that the votes of legislatures upon this question need not and probably would not represent the popular will. I have known in my own State many times when the people overwhelmingly desired certain legislation it was impossible to obtain it in the legislature. The secret influences which have been spoken of that operate at times upon the high office of President, or with a possibility of operating there, have the same possibility of operating in the legislatures, and do operate there and have operated there. In many

instances it became known and published. Many instances were not known.

The senior Senator from Iowa bases, in part, his argument in favor of this resolution upon its advocacy by some great men in the early days of the Republic. I have already said that while those men advocated it they did not represent the consensus of opinion; but even though they did represent the consensus of opinion, even though it was generally advocated and the Constitution had been adopted contrary to the public will, so far as this provision is concerned it would not be a reason, in my judgment, why we should change the provision at this time, because the conditions under which the country is governed and the necessities and needs as to the Federal Government and the views of the people toward the Federal Constitution have been revolutionized in the last hundred years.

When the Federal Constitution was adopted it was not a Democratic instrument, but it was so framed that the people could not readily control the Government. It was what we would call a reactionary instrument as viewed from the conditions of affairs at the time of the Revolution itself. It was in a great wave of democracy which upheld the armies, the Declaration of Independence, and the principles of government expressed there, and which sustained the great movement against the wealth of the country, against the Tories and the King and Parliament of Great Britain. There had been, after the Revolution, a reaction. There had been a swinging back of the pendulum. There was a jealousy not only on the part of the States but on the part of the people against the Federal Government. They did not need so much government in those days. The purpose of the Government is to restrain the aggressions of the strong against the weaker ones in the community. There were not any very strong in the community in those days. All were comparatively equal.

Now, the question is the control, the regulation, the restraint not only of those who are stronger than they were at the time the Senator from Iowa holds up as a precedent, but stronger private individuals controlling greater influence over the conditions of their neighbors and the masses of the people than any other country ever had in any age of the world.

So the question is where is the authority coming from for the necessary restraint of this power, which in the hands of selfishness and avarice is used to oppress, to extort an undue share from the people of the wealth of the country? It can not come from any source except the Federal Government. The tendency now is not to limit the powers of the Federal Government, but it is to extend them and to avoid the dangers which were apprehended from a strong Federal Government, by at the same time establishing agencies which give the people control over the Federal Government.

I pointed out, and I do not care to repeat it, that one of these new agencies is the nomination of a President by a direct primary, which removes the possibility of the abuse of patronage. We saw in the last election a demonstration as perfect as it could be that this country has nothing to fear from the abuse of patronage under this new system of party patronage—that nomination of a President by the people can not be brought about by the abuse of patronage. Patronage was abused. Patronage was used to every extent to which it could be used to secure a renomination. It was justified by those who used it as having been the practice of their predecessors in office. But the result of it was 8 electoral votes in the electoral college, 4 of them from Vermont gained by a margin of 1,200 plurality, and 4 of them from the State of Utah gained with the support and power of the great religious organization in that State which supported the Republican candidate for the Presidency.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Utah?

Mr. POINDEXTER. I yield.

Mr. SMOOT. I think the statement the Senator has just made is not correct.

Mr. POINDEXTER. I am not saying this in any hostile sense toward the State of Utah; I am simply citing as an illustration the narrow margin by which those eight electoral votes were obtained. Is it not true that the president of the Mormon Church issued a public declaration prior to the election advising the adherents of that religious faith to support Mr. Taft for the Presidency?

Mr. SMOOT. It is not true, Mr. President. He did not advise anybody to vote for President Taft. He spoke of President Taft's administration in connection with a statement that he made in relation to the conditions in Mexico. The State of Utah, of course, did not cast the number of votes for President Taft that it did four years ago by something like thirteen or fourteen thousand. I have not the exact figures here.

Mr. POINDEXTER. He got a pretty fine vote in Utah; much better than he did in Vermont.

Mr. SMOOT. I can not state as to Vermont, but the Republican Party carried the State of Utah by between six and seven thousand votes. They carried it four years before by, I think, twenty-odd thousand.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the junior Senator from Utah?

Mr. POINDEXTER. I yield.

Mr. SUTHERLAND. The truth about it is that——

Mr. POINDEXTER. I should like to say in explanation, before the Senator makes his statement—I do not want to be misunderstood about it—that I am not making any attack upon President Smith nor upon the Mormon Church at this time, nor any criticism of what he did. I am simply referring to the fact, if my statement is a fact, and if it is not correct I will be glad to be corrected; but if I am not correct, then there are thousands of good Mormons throughout Idaho and Utah who were misled in this statement, because they believed that the president of the church was in favor of the election of Mr. Taft.

Mr. SUTHERLAND. Mr. President, the fact is that President Taft carried the strongest non-Mormon county in the State, namely, the county of Salt Lake. Indeed, he procured the greater part of his majority——

Mr. POINDEXTER. I think that was probably due to the fact that the junior Senator from Utah lives there and supported him.

Mr. SUTHERLAND. Of course, that may have had something to do with it. I can not enter into a discussion of that. But that is the fact. It is also a fact that President Taft was supported by the strongest non-Mormon newspaper in the State, a newspaper which has been in the past bitterly antagonistic to the Mormon Church. It is also a fact that he lost the vote—that is, a majority of the vote went against him—in two of the strongest Mormon counties in the State, namely, the county of Utah and the county of Cache, where there are comparatively few non-Mormons.

Mr. POINDEXTER. I understood there was an insurgent movement among the Mormons.

Mr. SUTHERLAND. There was an insurgent movement of a limited extent throughout the State. It did not materialize sufficiently to carry the State away from Mr. Taft. But what I am stating to the Senator is a fact.

Now, as far as Idaho is concerned, I have no information as to the vote. It is true that President Smith some time prior to the election, when the administration had been criticized for its conduct in the affairs of Mexico, published an article on that subject, in which, as I recall it, he advocated the attitude of the administration; but he gave no instruction of any kind.

Mr. POINDEXTER. Is it or is it not true that that statement from the president of the Mormon Church, made, I think, on Saturday or Friday, was read the following Sunday morning before the election in every Mormon Church in Utah?

Mr. SUTHERLAND. I do not think that is true.

Mr. SMOOT. Mr. President, I will state to the Senator that that is absolutely false. There is not a word of truth in it.

Mr. POINDEXTER. How many churches was it read in?

Mr. SMOOT. None whatever the Sunday before the election, or any other Sunday.

Mr. POINDEXTER. I am very glad the Senator has put himself on record in that regard. I asked the question. I have seen a published statement to that effect.

Mr. SMOOT. If the Senator undertakes to judge the people of Utah by statements that he may see from time to time in the press, he certainly will misjudge them most of the time, because the press in general contain articles of a sensational character rather than statements of facts.

Mr. POINDEXTER. I did not make the statement, but only inquired of the Senator from Utah in regard to the matter. The statement which I did make as to President Smith is in substance, I believe, correct.

Now, I think that is all I have to say upon the first suggestion of the senior Senator from Iowa [Mr. CUMMINS], in the first place, that we are not called upon here to act in the capacity of passing a referendum, but that we are called upon here to vote upon a constitutional amendment; and, in the second place, that even if we did act as though we were referring a referendum it would not have that effect and there would be no referendum, because there is no opportunity for the people to vote upon the proposition.

Before I pass, however, from the reference of the junior Senator from Utah [Mr. SUTHERLAND] to the matter which was just under discussion, stating that he did not know what the conditions were in the State of Idaho, I want to say that the conditions there were that Col. Roosevelt, who with a number of

other men—it makes no difference whatever to me who it affects—would be excluded by the operation of this joint resolution, if it were adopted, from being a candidate, received over 25,000 votes, without having the names of his electors on the ballot, on account of the decision of a court which under a strained, and as I am advised by competent lawyers in Idaho—and it is my own opinion—an unwarranted construction of the statutes of that State issued a writ of injunction against the printing of the names of the Progressive presidential electors upon the ballot. That was the condition in Idaho.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington further yield to the Senator from Utah?

Mr. POINDEXTER. Yes.

Mr. SUTHERLAND. How does the result in Idaho, under the conditions the Senator has stated, differ from that in California where another candidate for the Presidency was affected?

Mr. POINDEXTER. They differ very radically from the conditions in California, because the Republicans in California had an opportunity to put the names of their electors upon the ballot and refused to use it, preferring, what no doubt, if they were willing to subordinate principle, was a fine piece of political strategy and tactics upon their part, to combine with the Democrats in order to defeat the Progressives.

Mr. SUTHERLAND. The decision in California, as I recall, came too late for the regular Republicans to have the names on the ballot by a regular petition.

Mr. POINDEXTER. In California all parties had the same opportunity to put their electors upon the ballot. The Republicans could have done it in the same way that the Progressives did. It was a question whether or not the names of the presidential candidates should be printed on the ballot.

The Progressives were willing their candidate's name should be printed there. The Republicans had a candidate—I do not feel like referring to these various individuals—whose name they did not want printed on the ballot, and they refused to put their electors on the ballot as Taft Republicans. That is the reason why they did not put them there. That was the decision of the court. The same rule applied to all parties. But in Idaho there was an absolute inhibition against the Progressives from printing the names of electors on the ballot at all, and notwithstanding that fact they came near carrying the State, polling substantially a third of the vote in this three-cornered contest.

Mr. HITCHCOCK. Mr. President——

The PRESIDING OFFICER. Will the Senator from Washington yield to the Senator from Nebraska?

Mr. POINDEXTER. Yes.

Mr. HITCHCOCK. Do I understand that one of the reasons why the Senator is opposed to this proposed constitutional amendment is that it would except ex-President Roosevelt from being a candidate hereafter for President?

Mr. POINDEXTER. Not at all. I think my vote indicates that that is not my position.

Mr. HITCHCOCK. I was trying to reconcile the Senator's vote yesterday on my amendment. He stated just now that one of the evils of the amendment pending would be to exclude ex-President Roosevelt, who had been so popular in Idaho and other States.

Mr. POINDEXTER. The Senator misapprehended my remarks. I did not say that one of the evils would be that it excluded him. I said that it would exclude him. That is quite different from saying it would be an evil. My opinion is if it was adopted at all it ought to exclude him, and I voted that way and believe that way. I do not hold any brief for ex-President Roosevelt or anyone else in this matter. I believe that he ought to have been elected President of the United States because he had a legitimate majority of delegates in the Republican national convention, and I think he would have been elected if he had had a united party behind him and had been nominated there.

But that has nothing to do with this question. What I did say was that the number of votes that were cast for him, while he would be excluded by this amendment, indicates that popular opinion is not demanding the amendment. That is the point I am making.

Mr. HITCHCOCK. So the Senator's position is this: He is opposed to the proposed constitutional amendment because it proposes to limit the power of the people to select their candidates.

Mr. POINDEXTER. Yes.

Mr. HITCHCOCK. Yet if it is adopted he wants it to go so far as to exclude ex-President Roosevelt.

Mr. POINDEXTER. I do. That is my position exactly. If it is to operate at all, of course it should operate on all alike.

Mr. President, only one word with reference to the merits of the question. The senior Senator from Iowa [Mr. CUMMINS] said that there was no country in the world which was ruled by a majority. I do not agree with that; I think that there are some countries that are ruled by a majority; but I do not know of any country in the world which has restricted itself from keeping a fit man in office, as this resolution proposes to do. I know there are some countries that are ruled by a minority; and there are some countries that are ruled by one man. I am not in favor of an unconstitutional government; I am in favor of a constitutional government, with all due restrictions upon the power of the majority, but I would much rather have a country ruled by a majority than to have one ruled by a minority or than to have one ruled by a monarchy. I think that that is one of the general distinctions between the progressives and the reactionary parties.

The Progressive Party prefers the opinion and the power of the majority, and the reactionary party prefer the power and the control of a minority, because they have no faith in the ability and the intelligence of the masses to operate the Government whether directly of through representatives.

Of course, there is nothing involved in this discussion or in any of the new agencies of government which in any way justifies the attacks which have been made by the "stand-pat" Republicans throughout the country upon that movement on the ground that it is undermining the foundations of the Constitution. It does not deal with the Constitution; it does not affect in any way whatever the substance or the principle of representative government, but it makes representative government more responsive to the people.

One objection that I have to this amendment is not that it gives too much power to the Government, but that it makes the Government too weak. The constant change in the administration of the Government, the compelled and absolute requirement that there shall be rotation in office under all circumstances, obviously weakens the Government.

As I said before, that was the object in the early days of this Republic. The object was to weaken the Government. I am in favor, and I think many other Progressives are in favor, although they are misunderstood upon that subject, of strengthening the Government. I think it will have to be strengthened if it is going to be able to deal with modern political problems, but at the same time the people should be given control over it; in other words, the Government should be responsive and at the same time it should be responsible. Agencies can be adopted, and have been adopted, by which the evils that come from the eligibility for reelection to the office of President can be removed and eligibility for reelection to the office can still be retained.

I am not in favor of the indefinite continuance of the President in office. I think that reasonable rotation in office, when it is voluntary, when it is in response to public opinion, as it has been in this country, is a good thing; but when it ceases to be in response to an enlightened public opinion; when it is imposed contrary to the will of the people by a Constitution, which may have been adopted 50 years before, the problems originated with which it has to deal and solve, it is not progressive; it does not tend to enable the people, through their Government, to restrain the evils of private monopoly, growing out of the great modern agencies of industry and transportation—the telegraph, modern machinery, and steam locomotion.

The Senator from Iowa said that there was no Government ruled by a majority. I think England is ruled substantially by a majority. I am not going to repeat the comparison between the Government of England and our Government. It is natural to make it because the English are our forbears; we speak their language, and have substantially their laws. Our capacity for self-government and the love of liberty we inherited from them.

Why does not the majority rule in England substantially? Of course they have a King, but he is about like a queen bee in a hive. He is absolutely under the control of the people; his functions are largely those of a social leader. The entire Government of Great Britain is elected by a majority of the people at one time. There are no checks in the way of hold-over members of the House of Commons; there are no checks in the way of courts that can set aside the acts of Parliament; there are no checks in the way of a veto, which either the House of Lords or the King can impose upon the acts of the House of Commons made in response to well-settled public opinion. That is a Government by a majority, and it is a successful Government by a majority. It is true that the majority have imposed certain restraints upon themselves in the way of a bill of rights. We have inherited that bill of rights, and we have modeled it to meet our conditions here; but I refuse absolutely in this argument to have the argument transplanted by the Senator from Iowa into a proposition of whether there should be any

constitutional restraint or whether there should be this particular constitutional restraint.

We are not debating here the question of whether or not there should be trial by jury fixed in the Constitution, whether or not there should be an inhibition against the violation of contracts, or the right to bear arms or that property can not be taken without due process of law. Of course such provisions ought to be in the Constitution; of course those principles are sound; but because the principle in general is sound does it follow that we must limit the term of the President and make him ineligible for reelection? What connection is there between the Bill of Rights and the tenure of office of the Chief Executive? There is not any whatever. We can concede the general principle advocated by the Senator from Iowa and yet oppose this particular proposed provision of the Constitution, which could not have any other effect than to cripple the Government and to cripple the people in wrestling with the great questions with which they are compelled to wrestle through the Government, which is the only agency they have with which to deal with them. The safety of the Constitution is in its justice and wisdom. An unjust or unwise amendment is but a weakness and temptation to violate it, and disrespect for the fundamental law endangers the Republic.

Mr. DIXON. Mr. President, I want to take up about six minutes of the time of the Senate; but before this debate closes, and before the vote is taken, I want to have presented to the Senate the most comprehensive argument, boiled down in a few words, presenting more phases of this subject than any other argument that has ever yet been made on this question.

We heard yesterday from the senior Senator from Iowa [Mr. CUMMINS] quotations from Charles Sumner and, I think, one from Henry Clay; and the senior Senator from Mississippi [Mr. WILLIAMS] many times referred to the views of Mr. Jefferson on this much-mooted question at the time of the holding of the constitutional convention. But the views of Hamilton himself, the greatest mentality of them all, have not in this debate even been suggested, I think, by any Senator. Hamilton 125 years ago said all that has since been said on this same subject. He said it in a very few and concise words. I should like to have the entire Senate hear it, for it is almost equal to Washington's Farewell Address, to which we devote one day during each session. Therefore, before I ask the Secretary to read the article in the Federalist, I should like to suggest the absence of a quorum, so that we may have a fuller house to hear Alexander Hamilton's viewpoint.

The PRESIDING OFFICER. The Senator from Montana suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cummins	Lippitt	Shively
Bankhead	Curtis	Lodge	Simmons
Bourne	Dillingham	McCumber	Smith, Ariz.
Brandegee	Dixon	McLean	Smith, Ga.
Bristow	du Pont	Oliver	Smith, Md.
Brown	Fletcher	Overman	Smoot
Bryan	Gallinger	Page	Stephenson
Catron	Gamble	Paynter	Sutherland
Chamberlain	Hitchcock	Percy	Swanson
Chilton	Jackson	Perkins	Thomas
Clapp	Johnson, Me.	Poindexter	Thornton
Clark, Wyo.	Johnston, Ala.	Pomerene	Townsend
Clarke, Ark.	Jones	Richardson	Wetmore
Crawford	Kenyon	Root	Williams
Cullom	Kern	Sanders	Works

Mr. KERN. I desire to announce the unavoidable absence of the junior Senator from South Carolina [Mr. SMITH] on account of illness in his family.

The PRESIDING OFFICER. Sixty Senators have answered to their names. A quorum of the Senate is present.

Mr. DIXON. Now, Mr. President, with a larger audience present, I hope Senators will pay real attention to what is probably the most powerful and concise argument yet delivered on this question, made not during the constitutional debate, but contained in an article which appeared in the Federalist, written by Hamilton after he had heard all of the arguments advanced during the entire period of the Constitutional Convention. It will take only four or five minutes to read what Hamilton had to say. I now ask that the Secretary read what I send to the desk.

The PRESIDENT pro tempore. The Senator from Montana asks unanimous consent that the Secretary read the matter to which he has referred. Without objection, the Secretary will read as requested.

The Secretary read as follows:

ALEXANDER HAMILTON ON THE QUESTION OF REELECTION.

The administration of government in its largest sense comprehends all the operations of the body politic, whether legislative, executive, or judicial, but in its most usual and, perhaps, in its most precise signification it is limited to executive details and falls peculiarly within the province of the Executive Department. The actual conduct of foreign negotiations, the preparatory plans of finance, the application and disbursement of the public moneys in conformity to the general appropriations of the legislature, the arrangement of the Army and Navy, the direction of the operations of war; these and other matters of a like nature constitute what seems to be most properly understood by the administration of government. The persons, therefore, to whose immediate management these different matters are committed ought to be considered as the assistants or deputies of the chief magistrate; and on this account they ought to derive their offices from his appointment, at least from his nomination, and ought to be subject to his superintendence. This view of the subject will at once suggest to us the intimate connection between the duration of the Executive Magistrate in office and the stability of the system of administration. To reverse and undo what has been done by a predecessor is very often considered by a successor as the best proof he can give of his own capacity and desert; and in addition to this propensity, where the alteration has been the result of public choice, the person substituted is warranted in supposing that the dismission of his predecessor has proceeded from a dislike to his measures; and that the less he resembles him the more he will recommend himself to the favor of his constituents. These considerations, and the influence of personal confidences and attachments, would be likely to induce every new President to promote a change of men to fill the subordinate stations, and these causes together could not fail to occasion a disgraceful and ruinous mutability in the administration of the Government.

With a positive duration of considerable extent, I connect the circumstance of reeligibility. The first is necessary to give to the officer himself the inclination and the resolution to act his part well, and to the community time and leisure to observe the tendency of his measures, and thence to form an experimental estimate of their merits. The last is necessary to enable the people, when they see reason to approve of his conduct, to continue him in the station in order to prolong the utility of his talents and virtues, and to secure to the Government the advantage of permanency in a wise system of administration.

Nothing appears more plausible at first sight nor more ill founded upon close inspection than a scheme which, in relation to the present point, has had some respectable advocates—I mean that of continuing the Chief Magistrate in office for a certain time and then excluding him from it, either for a limited period or forever after. This exclusion, whether temporary or perpetual, would be nearly the same; and these effects would be for the most part rather pernicious than salutary.

One ill effect of the exclusion would be a diminution of the inducements to good behavior. There are few men who would not feel much less zeal in the discharge of a duty when they were conscious that the advantages of the station with which it was connected must be relinquished at a determinate period than when they were permitted to entertain a hope of obtaining, by meriting, a continuance of them. This position will not be disputed so long as it is admitted that the desire of reward is one of the strongest incentives of human conduct, or that the best security for the fidelity of mankind is to make their interest coincide with their duty. Even the love of fame, the ruling passion of the noblest minds, which would prompt a man to plan and undertake extensive and arduous enterprises for the public benefit, requiring considerable time to mature and perfect them, if he could flatter himself with the prospect of being allowed to finish what he had begun, would, on the contrary, deter him from the undertaking when he foresaw that he must quit the scene before he could accomplish the work and must commit that, together with his own reputation, to hands which might be unequal or unfriendly to the task. The most to be expected from the generality of men in such a situation is the negative merit of not doing harm instead of the positive merit of doing good.

Another ill effect of the exclusion would be the temptation to sordid views, to peculation, and, in some instances, to usurpation. An avaricious man who might happen to fill the office, looking forward to a time when he must at all events yield up the emoluments he enjoyed, would feel a propensity, not easy to be resisted by such a man, to make the best use of the opportunity he enjoyed while it lasted; and might not scruple to have recourse to the most corrupt expedients to make the harvest as abundant as it was transitory; though the same man, probably, with a different prospect before him might content himself with the regular perquisites of his situation, and might even be unwilling to risk the consequences of an abuse of his opportunities. His avarice might be a guard upon his avarice. Add to this that the same man might be vain or ambitious as well as avaricious. And if he could expect to prolong his honors by his good conduct, he might hesitate to sacrifice his appetite for them to his appetite for gain. But with the prospect before him of approaching and inevitable annihilation, his avarice would be likely to get the victory over his caution, his vanity, or his ambition.

An ambitious man, too, when he found himself seated on the summit of his country's honors, when he looked forward to the time at which he must descend from the exalted eminence forever, and reflected that no exertion of merit on his part could save him from the unwelcome reverse; such a man, in such a situation, would be much more violently tempted to embrace a favorable conjuncture for attempting the prolongation of his power, at every personal hazard, than if he had the probability of answering the same end by doing his duty.

Would it promote the peace of the community or the stability of the Government to have half a dozen men, who had had credit enough to be raised to the seat of the supreme magistracy, wandering among the people like discontented ghosts and sighing for a place which they were destined never more to possess?

A third ill effect of the exclusion would be the depriving the community of the advantage of the experience gained by the Chief Magistrate in the exercise of his office. That experience is the parent of wisdom, is an adage, the truth of which is recognized by the wisest as well as the simplest of mankind. What more desirable or more essential than this quality in the governors of nations? Where more desirable or more essential than in the first magistrate of a nation? Can it be wise to put this desirable and essential quality under the ban of the Constitution and to declare that the moment it is acquired its possessor shall be compelled to abandon the station in which it was acquired and to which it is adapted? This, nevertheless, is the precise import of all those regulations which exclude men from serving their country, by the choice of their fellow citizens, after they have by a course of service fitted themselves for doing it with a greater degree of utility.

A fourth ill effect of the exclusion would be the banishing of men from stations in which, in certain emergencies of the State, their presence might be of the greatest moment to the public interest or safety.

There is no nation which has not at one period or another experienced an absolute necessity of the services of particular men; in particular situations perhaps it would not be too strong to say to the preservation of its political existence. How unwise, therefore, must be every such self-denying ordinance as serves to prohibit a nation from making use of its own citizens in the manner best suited to its exigencies and circumstances. Without supposing the personal essentiality of the man, it is evident that a change of the Chief Magistrate, at the breaking out of a war or at any similar crisis, for another, even of equal merit, would at all times be detrimental to the community, inasmuch as it would substitute inexperience for experience and would tend to unhinge and set afloat the already settled train of the administration.

A fifth ill effect of the exclusion would be that it would operate as a constitutional interdiction of the stability in the administration. By necessitating a change of men in the first office of the Nation it would necessitate a mutability of measures. It is not generally to be expected that men will vary and measures remain uniform. The contrary is the usual course of things. And we need not be apprehensive that there will be too much stability, while there is even the option of changing; nor need we desire to prohibit the people from continuing their confidence where they think it may be safely placed, and where, by constancy on their part, they may obviate the fatal inconveniencies of fluctuating councils and a variable policy.

These are some of the disadvantages which would flow from the principle of exclusion. They apply most forcibly to the scheme of a perpetual exclusion; but when we consider that even a partial exclusion would always render the readmission of the person a remote and precarious object, the observations which have been made will apply nearly as fully to one case as to the other.

What are the advantages promised to counterbalance these disadvantages? They are represented to be, first, greater independence in the Magistrate; second, greater security to the people. Unless the exclusion be perpetual, there will be no pretense to infer the first advantage. But even in that case may he have no object beyond his present station to which he may sacrifice his independence? May he have no connections, no friends, for whom he may sacrifice it? May he not be less willing by a firm conduct to make personal enemies when he acts under the impression that a time is fast approaching on the arrival of which he not only may but must be exposed to their resentments upon an equal, perhaps upon an inferior, footing? It is not an easy point to determine whether his independence would be most promoted or impaired by such an arrangement.

As to the second supposed advantage, there is still greater reason to entertain doubts concerning it. If the exclusion were to be perpetual, a man of irregular ambition, of whom alone there could be reason in any case to entertain apprehension, would, with infinite reluctance, yield to the necessity of taking his leave forever of a post in which his passion for power and preeminence had acquired the force of habit. And if he had been fortunate or adroit enough to conciliate the good will of the people he might induce them to consider, as a very odious and unjustifiable restraint upon themselves, a provision which was calculated to debar them of the right of giving a fresh proof of their attachment to a favorite. There may be conceived circumstances in which this disgust of the people, seconding the thwarted ambition of such a favorite, might occasion greater danger to liberty than could ever reasonably be dreaded from the possibility of a perpetuation in office by the voluntary suffrage of the community exercising a constitutional privilege.

There is an excess of refinement in the idea of disabling the people to continue in office men who had entitled themselves, in their opinion, to approbation and confidence, the advantages of which are at best speculative and equivocal, and are overbalanced by disadvantages far more certain and decisive.

PUBLIUS.

(The Federalist, pp. 398-403.)

Mr. WILLIAMS. Mr. President, it is not at all astonishing that a follower of a man who would like to be President of the United States for life should have had read to the Senate a moment ago the utterances of Alexander Hamilton which we have just heard. It is not at all astonishing that Alexander Hamilton should have written that. Nobody acquainted with Hamilton's views would have the slightest doubt as to how Hamilton would vote to-day if this question were submitted to him. He would vote against any proposition that fixed any term of public service at all, short of life, for the President of the United States and for most other officers.

I have said that, and I want to prove it by showing that historically the plan of government presented by Alexander Hamilton for the consideration of the Constitutional Convention provided that the President should hold his office for life. It provided that the Senators should hold their offices for life. It provided that the Senate should have power to declare war and to make peace. It provided, furthermore, that the judges should be Federal judges in the States, and that they should hold their offices for life.

It is no wonder that a man who entertained these views should be favorable to any plan under which an opportunity could possibly present itself for a man to hold the office of President for life. Not only that, but under the plan which he presented to the Constitutional Convention the Federal Government was to appoint the governors of the States. It is not at all to be wondered at that a man who wanted a President to hold office for life should have made a very labored argument in favor of an indefinite tenure of presidential office, so that possibly a man might serve for life.

Mr. DIXON. Mr. President, in the earlier sittings of the Constitutional Convention Jefferson presented a tentative plan of his conception of a possible constitution. Along with Jefferson's plan dozens of other members of the same Constitutional Convention presented possibly not so comprehensive a scheme but as to the various details of government suggestions as widely at variance with the final work of that convention as was Hamilton's.

This was not Hamilton's opinion at the beginning of the convention. It was his judgment after having sat for three months in Philadelphia and having heard all the various schemes presented and there debated. This was his judgment months afterwards, when the ratification of the Constitution was pending before the constitutional convention of the State of New York. It was his final ripened judgment and conclusion. Notwithstanding it may not be perfect, I offer it to the Senate, and believe it is entitled to as much consideration as the views of any Senator who has presented them during this discussion, whether he be from Mississippi or from any other State. These are the views of Alexander Hamilton.

Mr. SUTHERLAND. I should like to ask the Senator from Montana a question before he takes his seat. He says that in the course of three months Hamilton changed his mind to the radical extent which the Senator has described. Does he not think that if Hamilton were living to-day, after the experience of 125 years that this country has had, he might by this time have agreed with us upon this subject?

Mr. DIXON. Mr. President, the Senator from Utah does not exactly state what I tried to say. I say these were the final views of Hamilton, after having heard all the various suggestions that arose in the constitutional debates during the entire summer in Philadelphia.

How Hamilton would vote this afternoon, if a Member of this body, I do not know. I do not presume to have so intimate an acquaintance with his views as some other Senators have professed regarding certain other men of that period. I have heard one or two Senators freely vouch for what Jefferson would do or what Henry Clay would do after an experience of 125 years. What Hamilton would do under these conditions, I am frank to say, I do not know. But I wanted the Senate to have the benefit of his matured views after all that discussion had gone on for a space of about two years; and I commend it to the careful attention of the Senators who are advocating this amendment.

Mr. WILLIAMS. Mr. President, so far as I know, Alexander Hamilton never changed his views. If the Senator will take the trouble to read the letters of Gouveneur Morris, his nearest and dearest personal friend, the man selected by Hamilton's family to pronounce his eulogy, he will find that assertion to be supported.

In the articles in the Federalist, Hamilton was arguing not for what he believed, but for what was attainable. Hamilton, above all men at that time, desired a union between the American Colonies; and he desired a union which should be stable and fixed and permanent. Therefore, when the Constitutional Convention rejected every single proposition and sentence offered to it by Alexander Hamilton—there is not in the Constitution one sentence that proceeds from him—he still advocated the adoption of the Constitution as it left the convention, because it was, of course, very much nearer his ideal than the old confederacy, which was but a rope of sand.

A higher compliment can not be paid to any man than to say that having left his own firm foundation of faith for the purpose of advocating the nearest attainable thing to it, he did it with exceeding great ability.

What I said a moment ago was not said with the view of attacking the man's intellectual integrity. I merely wanted to reenforce the idea that a man who was in favor of life tenure for the Presidency naturally would have his mind gravitate toward every argument in favor of indefinite tenure of the Presidency.

I stated a moment ago what Hamilton's plan of government was, but I did not state that that was a compromise between Hamilton and himself; and yet it was. In the very speech in which he advocated his plan, which I have outlined, he said that if we were seeking a model government, the government which he would recommend as a model government, if it could be adopted—and he confessed that it could not be then—was one under which the office of Executive should be hereditary and not for life alone. In that same speech he went on later to give the reasons why an hereditary Executive was always better than an elective Executive—so highly paid, that he was subject to no temptation of corruption; so far above the ordinary politics of the country that he could not be the subject of any momentary tumult of feeling or of passion. I am not attempting to repeat literally what he said, of course, because I can not remember it. So that even that utterance was a compromise between himself and his advocacy of a life tenure; and his advocacy of a life tenure was a compromise between him and himself with regard to his real, original view in favor of an hereditary Executive.

It is not astonishing that the so-called new nationalism advocated by the Senator from Washington—or by the chief of the party to which he belongs, at any rate—should ally itself at every point of possible contact with ancient, discredited Federalism. They are identical in their ultimate purposes.

Mr. POINDEXTER. Mr. President, is there anything in the ancient federalism in the nature of direct election of Senators, or party control by primary nominations, or the referendum or the recall? Those are the things that are advocated by the "new nationalism," as the Senator from Mississippi calls it. They seem to me to be rather the antithesis of the views of Alexander Hamilton which he has just been describing.

Mr. WILLIAMS. Mr. President, the end sought by both is a freedom from constitutional trammels and restrictions. The end sought by both is that a government shall do whatever that government thinks is right, regardless of any fundamental restriction of any description. The instrumentalities by which it is sought to accomplish the end are totally different.

In the beginning the man who wanted a government unrestricted in power sought it by frankly stating that and by frankly setting up a government hereditary in tenure of office, with a class set aside, as John Adams proposed and advocated, who should represent gentlemen as against simple men. When you come down years later, we of America have furnished the most remarkable man that has existed for a long time. His idea is, under the name of "new nationalism," by plebiscite rule, by force of the popularity of the proposer of the plebiscite, to set aside all restrictions upon a majority, so that a majority may do whatever it pleases.

There is no distinction in my mind between letting a king do whatever he pleases and letting a majority do whatever it pleases. A majority can be wrong. Even Abraham Lincoln said:

> You can fool all of the people some of the time, and you can fool some of the people all of the time.

I believe, with him, that you can not fool all of the people all the time. I believe, with Jefferson, that error is not to be feared so long as reason is left free to combat it. But it does not follow from that that for short intervals of time you may not have a tyranny of a majority equal to the tyranny of any Czar or any Cæsar that ever existed.

The point of union between the Senator, or between his chief, at any rate—I do not know whether he completely understands the philosophy of his chief or not—and ancient Hamiltonians is that they both want a government unrestricted and unrestrained by constitutional limitations.

Why, the latest announcement of the Senator's chief was that he wanted to set aside a decision of the Supreme Court of the United States——

Mr. POINDEXTER. Mr. President——

Mr. WILLIAMS. Oh, I beg your pardon; I beg your pardon. He wanted to set aside a decision of a State supreme court, not the Supreme Court of the United States. He wanted to set aside the decision of a State supreme court by submitting the decision to a plebiscite, one of the plebiscites of Napoleon the Third.

Mr. POINDEXTER. Mr. President——

Mr. WILLIAMS. No doubt the Senator was about to rise and correct me and say that he did not advocate submitting a decision of the Supreme Court of the United States to a plebiscite.

Mr. POINDEXTER. That was not what I had in mind.

Mr. WILLIAMS. That was going a bit too far for him. And yet, in logic and in common sense, if it is right to submit to a plebiscite a decision of the supreme court of a State, it is equally right to submit to a plebiscite a decision of the Supreme Court of the United States.

Mr. POINDEXTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Mississippi yield to the Senator from Washington?

Mr. WILLIAMS. I yield.

Mr. POINDEXTER. I am very much surprised that the Senator from Mississippi shies so much at the idea of submitting to the people a constitutional question involving the decision of a court, as I have heard him so many times eulogize the political principles of Thomas Jefferson, who believed that the courts should not even have any power to declare unconstitutional a law of Congress.

There is another statement the Senator made that I should like to call attention to at the same time, if it will not interrupt him too much. It is due, apparently, to his being afraid of this name "new nationalism." I do not call it that. The Senator calls it that. It does not make any difference what we call it.

The Senator is inveighing against the rule of the majority. The cardinal principle of Thomas Jefferson's political philosophy was the rule of the majority, subject, of course, to constitutional restrictions. When the Senator says that the "new nationalism," or the Progressive Party, advocates an unconstitutional government its simply indicates that he does not understand Progressive principles.

Nobody is advocating the abolishment of constitutional restrictions. The greatest advocate of popular liberty in this country—and that is what the Progressives are advocating—framed the Bill of Rights of the Constitution. The Progressive Party would be the last, I believe, to abolish the Bill of Rights. I have not heard any suggestion tending in that direction. So the Senator puts the whole question upon a false ground when he says that they are in favor of setting aside all constitutional restrictions. They are not in favor of any such thing. There is nothing in the record of the party or any principle which they have ever advocated or adopted that indicates that they are in favor of setting aside all constitutional restrictions.

Mr. WILLIAMS. Let us see about that, Mr. President. Here is a man who comes upon the arena and who says that the decision of a court shall be set aside by plebiscite. I take it the Senator from Washington and I will agree that thus far the ex-President's utterance goes. If I am mistaken about that, I should like to be corrected.

Here is a man who comes upon the arena and says that the decision of a court shall be set aside by plebiscite. When? Under what circumstances? Whenever that decision is founded upon the opinion of the court to the effect that the law is unconstitutional. If I am mistaken about that, I should like to be corrected.

When a court decides that a given statute is invalid because it is unconstitutional, the court is, in the court's opinion, upholding a constitutional limitation. This knight of the twentieth century would set aside the constitutional limitation which the court has pronounced to exist regarding that particular act by virtue of the vote of the people in a plebiscite submitted to the people.

You go further. This election decides that the decision shall be reversed. There is no appeal from that election. Does it not necessarily follow, therefore, that you have set aside all constitutional limitations whenever a majority votes to set them aside? And is there any answer to that?

There is but one really novel feature in the American Government. Every other feature in it came either from our English forbears or from our colonial ancestors. That novel feature is that there shall be a written constitution which shall be the organic, fundamental law of the land, and that no other law not in pursuance of that, no other law in violation of that, shall be law at all.

Senators know that I almost worship Thomas Jefferson. My old grandfather said he took his religion and his politics both from him. I do not take my religion from him, but I do take my politics very largely from him. Very frequently they play on my passion for him by introducing irrelevant things to get me off on the subject of Thomas Jefferson. I shall not follow the Senator much upon that question; but when the Senator says that Thomas Jefferson said that the courts should have no power to set aside unconstitutional acts of Congress, I will give him six months to furnish the evidence to support his assertion.

What Thomas Jefferson complained about was not that the courts set aside unconstitutional acts but that they failed to set them aside. He complained that John Marshall undertook to make a constitution by judicial construction, and that, instead of abiding by the Constitution as it was written, he undertook to make a constitution by construction.

Mr. POINDEXTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Mississippi yield to the Senator from Washington?

Mr. WILLIAMS. Yes.

Mr. POINDEXTER. I shall be glad to furnish the evidence that the Senator calls for in much less than six months, in the form of Jefferson's written declarations on the subject and his well-known position.

Mr. WILLIAMS. The Senator can produce a lot of things which, taken out of keeping with everything else, might have a tendency in that direction. For example, Jefferson once said that the Federal courts were "the sappers and miners of the Constitution." At another time he said that unless the powers of the courts were restrained the entire Federal Government and our system would go to pieces, although not in that exact language. The first language was his language, "the sappers and miners of the Constitution."

He fought the Federal judiciary all of his life, and the Federal judiciary fought him. His quarrel with the Federal judiciary, however, was not that it failed to set aside unconstitutional acts, but that it affirmed unconstitutional acts; in other words, that it undertook to create a constitution by construction. That was his quarrel with John Marshall in the Marbury-Madison case; that was his quarrel all the way through.

As I said a moment ago, it is becoming evident, even to my somewhat dense intellect, that Senators upon the other side now and then attempt to deflect me from the line of an argument by referring to Thomas Jefferson. It seems to be admitted that I have made myself his professional defender.

Mr. POINDEXTER. Now that the Senator has been deflected, I will not deflect him any further, except to agree that the logic of the Senator's statement that Jefferson objected, not to the courts setting aside unconstitutional laws but to their refusal to set aside constitutional laws, amounted simply to this, that Jefferson refused to accept the judgment of the courts as to which laws were constitutional and which were unconstitutional, and insisted on substituting either his own judgment or that of Congress for theirs. Jefferson even went so far as to refuse to submit to the decisions of the Supreme Court as to the constitutionality of acts of Congress.

Mr. WILLIAMS. O Mr. President, the Senator has now raised a totally different question. Of course, Jefferson refused to accept as his opinion the opinion of a court concerning a constitutional question. Andrew Jackson refused to do it. Everybody else has refused to do it. I refuse to do it right now. Abraham Lincoln refused to do it. Abraham Lincoln said that the only thing that the Dred Scott case settled was that Dred Scott was still a slave, but it could not settle any political question. That far, of course, Jefferson went. That far the Senator goes. That far I go. That far every man with common sense goes, unless he is a mere lawyer and nothing else; and the most dangerous man to free institutions is a mere lawyer and nothing else.

Mr. POINDEXTER. Especially if he is a constitutional lawyer.

Mr. WILLIAMS. I do not admit for one minute that the opinion of the Supreme Court concerning a constitutional question binds me in my official capacity as a Senator. Jefferson did not admit that it bound him in his official capacity as a President. Andrew Jackson did not admit that it bound him in his official capacity as a President. He went so far as to say: "John Marshall has pronounced the decree of the court; now let him execute it."

In so far as the Senator is concerned, as a Senator, or I, or a man at the other end of the Capitol in the House of Representatives, we have sworn to maintain the Constitution, not according to the opinion of the Supreme Court, but according to our own. That is a totally different question. It has nothing to do with this one.

In the next place, the Senator said that Mr. Jefferson said that our duty was to submit to the rule of a majority. Why, the very difference between Jefferson and Rousseau was this: Rousseau said that the only free government was a government by a majority, and that even the English people were not free, because they were not free except once or twice in so many years, when they went to an election to elect representatives, and that that was not a free government nor a government of the people. Jefferson contended, upon the contrary, more strenuously than any man in America except Roger Williams, that there were limitations upon the power of majorities; that there were fields into which majorities must not enter at any time; that there were things of the first table between man and his Maker with which majorities had nothing to do. He contended for it to the last day of his life, and always. You will find in his inaugural address these words:

> The rule of the majority, in order to be binding, must be reasonable.

When he was contending for his own right to be President of the United States because he had been elected by the people, he worded it thus:

> He relied upon the voice of a majority, honestly and constitutionally expressed.

"Honestly and constitutionally expressed." What does that mean? That excluded the voice of the majority as to matters of the first table with which the majority had nothing to do, and it merely included the voice of the majority as to matters of the second table, and even in connection with that only when it was constitutionally expressed.

I did not intend to talk as long as this, but before I sit down I want to repeat that the longer any sensible man examines the theory of Roosevelt and the theory of Hamilton the more he will find that they are nearly identical. Of course, the one was advanced in one period of the world's history by arguments adapted to that period and the other is propounded in another period by arguments adapted to that period. But when you carry them back to the matter of ultimate analysis they amount to this: That majorities ought to be unrammeled, that there ought to be no sort of written constitutional restrictions upon them which they can not set aside by an election. In the first case the argument was that government ought to be sufficiently strong to withstand pressure from the people. In the second case it is that a majority of the people ought to be so strong as to withstand pressure from ethics, morals, constitutions, and anything else. They come back to the same point of an unrammeled, unlimited, unrestricted government, the only difference between them being as to who may constitute the government, and that is all.

Mr. DIXON. Mr. President, just one suggestion for one minute. It did not occur to me when I asked to have the opinion of Hamilton read for the benefit of the Senate that the mere mention of the name of Alexander Hamilton with Theodore Roosevelt automatically started the Senator from Mississippi in a denunciation of both those eminent men, and usually with a peroration eulogistic of Thomas Jefferson. But the Senator's historical reminiscences are always interesting.

Mr. WILLIAMS. I did not understand the Senator. Did the Senator say that I denounced either Alexander Hamilton or Roosevelt? I was confining myself to their opinions.

Mr. DIXON. I said the Senator's historical reminiscences are always interesting; but I think they always have to be taken from the viewpoint of the Senator from Mississippi. Jefferson was so anxious for majority rule that he proposed a new constitutional convention every 17 years. He said that each generation should have the right, and it should be executed, to override the fundamental basic law. When the Senator from Mississippi quotes some far-fetched suggestion of Alexander Hamilton regarding the Presidency, that he enunciated about the time of the Philadelphia convention, he will remember that Franklin, supported by several members of that convention, proposed a Presidency of three men, not united in one head. But that does not detract from the unanswered argument made by Hamilton in the article from the Federalist, which the Secretary read a few minutes ago, regarding the limitation of presidential power.

Mr. HITCHCOCK. I now offer the amendment I send to the desk.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. On page 2, strike out lines 4 to 10 in the amendment of the committee, and insert:

> The executive power shall be invested in a President of the United States of America. The term of the office of President after March 3, 1917, shall be six years, and no person elected for six years after the adoption of this amendment shall be eligible again to hold the office by election.

Mr. HITCHCOCK. Mr. President, I am going to ask for the yeas and nays on this amendment, without any particular discussion as far as I am concerned, for the reason that the question has been very thoroughly canvassed. I want to say, however, that my amendment is the shortest one that has been proposed, occupying only five lines; that it is without any ambiguity whatever; that it has not lengthened the term of President elect Wilson; that it does not exclude Wilson from reelection; that it does not exclude ex-President Roosevelt or President Taft from reelection; but merely establishes the principle hereafter, as a rule and part of the Constitution, that no man who has once occupied the office of President of the United States by election shall be eligible to reelection.

Mr. BORAH. Mr. President, the brevity of the amendment offered by the Senator from Nebraska is in its favor, but as I understand the effect of his amendment it would be to permit two parties occupying a prominent place in our politics to serve for 10 years and the other for 13.

Mr. HITCHCOCK. I think that is not the proper way to state the matter.

Mr. BORAH. I am trying to state it as I understood it.

Mr. HITCHCOCK. I think that that is not a correct statement of the matter. It does not permit them to do so, and it does not forbid the people from selecting those men who have previously occupied office if they desire to do so.

My amendment, Mr. President, is designed to attach to the Constitution the intended reform in the fairest possible way, leaving to the American people the utmost possible freedom of judgment as far as these three particular individuals are concerned.

I think it rather inconsistent for the Senator from Idaho to object to this form of amendment, when it is less restrictive

than the other form, and when the Senator is complaining of the other form because it is somewhat restrictive.

I think we can well trust the American people in the next few years to decide whether they desire to elect Roosevelt President or not. I think we can trust them to decide whether they desire to reelect President Taft or President-elect Wilson or not. We can at least afford to take our chances on those possibilities, which already exist, in order that we may engraft upon the Constitution this very desirable reform.

I wish to say to the Senator that it may be proper to vote against this amendment on principle, but I think it is hardly fair to oppose the amendment on the ground that it is intended to popularize it among the people.

Mr. BORAH. Mr. President, I was simply desirous of knowing whether or not this amendment had the effect which I thought it had, and I find now that it has that precise effect. But the Senator from Nebraska and I will agree that we may leave it to the people to select Col. Roosevelt again if they desire, or Mr. Wilson again if they desire, or Mr. Taft again if they desire. I have the same faith in posterity that I have in the present generation. For that reason I am willing to leave it to them to elect some future Roosevelt or Wilson or Taft again if they desire to do it. For that reason I am opposed to the whole affair.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Nebraska [Mr. HITCHCOCK] to the amendment of the committee.

Mr. SUTHERLAND. I ask to have the amendment to the amendment again read.

The PRESIDENT pro tempore. The amendment to the amendment will be again read.

The SECRETARY. On page 2 strike out lines 4 to 10, inclusive, in the amendment of the committee and insert:

> The executive power shall be vested in a President of the United States of America. The term of the office of President after March 3, 1917, shall be six years, and no person elected for six years after the adoption of this amendment shall be eligible again to hold the office by election.

Mr. SUTHERLAND. Mr. President, so far as I am concerned, I am in favor of both propositions contained in this amendment, but I think it is unwise to submit both propositions together, because there are probably some Members of the Senate who are in favor of one but not in favor of the other.

If I understand the amendment, it proposes to accomplish two things—first, to prevent this resolution from being construed so as to extend the term of the President in office when the amendment is adopted, and, second, so as to permit persons otherwise ineligible under the general language of the resolution as now drawn to be eligible to the Presidency notwithstanding they have served in that office one or more terms in the past.

I think, Mr. President, that I shall ask to have the question divided, so that we may vote upon each separately; but before I do that I want to say a word or two in reference to the first branch of the amendment. It seems to me exceedingly desirable that that part of the amendment should be adopted, whether we adopt the second or not.

I was somewhat surprised yesterday when the Senator from California [Mr. WORKS], for whose legal judgment I have the utmost respect, stated that the resolution as reported to the Senate would have the effect, if adopted, of extending the presidential term of the President in office at the time it was adopted for two years longer. I understood the Senator from Iowa [Mr. CUMMINS] coincided in that view, and perhaps other Senators did the same.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from California?

Mr. SUTHERLAND. Certainly.

Mr. WORKS. I infer from what the Senator says that he disagrees with me upon that legal proposition. Suppose that he so, does the Senator think we ought to send out this resolution to be voted upon with a degree of uncertainty as to the construction which should be placed upon it?

Mr. SUTHERLAND. No; Mr. President, I intended to say before I finish, that I think it should not be sent out with that uncertainty. But I first want to state very briefly why I think the resolution in its present form is not susceptible of that construction. The joint resolution proposes, so far as this particular question is concerned, to amend the Constitution so that the term of office of the President shall be six years.

Now, the rule of construction is beyond all doubt that statutes, constitutions, municipal ordinances are all to be given a prospective effect and not a retrospective effect, unless provision is clearly made to the contrary. In other words, unless the statute contains terms clearly indicating that it shall be given a retroactive effect it must always be given a prospective effect only.

The doctrine was very clearly laid down by Lord Chief Justice Cockburn in the Second Law Reports of Queen's Bench Division, 269, in this language:

> It is a general rule that where a statute is passed altering the law, unless the language is expressly to the contrary, it is to be taken as intended to apply to a state of facts coming into existence after the act.

The Supreme Court of the United States has repeatedly held that the rule applies to a constitution as well as to a statute.

In Shreveport v. Cole (129 U. S., 43) that court said:

> Constitutions as well as statutes are construed to operate prospectively only, unless on the face of the instrument or enactment the contrary intention is manifest beyond reasonable question.

Now, the question is whether or not to hold this constitutional amendment to extend the term of office of the President in office at the time it shall be adopted would be to give it a retroactive effect. It seems to me clearly that it would. I call attention to what is said in Sutherland on Statutory Construction, in the second volume at page 1161:

> It is always presumed that statutes were intended to operate prospectively, and all doubts are resolved in favor of such a construction. These same rules of construction apply to constitutional provisions and to by-laws and ordinances. A new constitutional provision as to the advanced age which should prevent the incumbents of certain judicial offices from retaining them was held prospective; it did not apply to persons in office at the time of its taking effect.

And again in section 643:

> Acts changing the term of office or compensation of public officers were held not to apply to those in office.

And again on page 1163:

> Where an act made provision for a pension for policemen who shall serve 20 years it was held to apply only where the 20 years' service was after the passage of the act.

Now, I call attention to a case which I think is very clearly in point, decided by the supreme court of my own State, the case of Farrel against Pingree, reported in Fifth Utah, page 443, the syllabus of which reads:

> A statute will not be given a retrospective effect, unless its terms show clearly a legislative intention that it should operate restrospectively, and where an act amending an act relating to the terms of county treasurers substituted the words "two years" for the words "four years" a person elected to the office before the term of the incumbent who was elected and had served almost two years before the passage of the amendatory act had expired will not be entitled to the office as against the incumbent.

In other words, they hold that to give the statute that construction would be to give it a retroactive effect. In the course of the opinion the court says, on page 447:

> There was no vacation of the office in express terms by the enactment of the 11th of March, 1886. The question then arises, Was there such a vacation by implication? There was no repeal of the act creating the office. The amendment dealt only with the length of the term of office. It left all the residue of the statute intact and in full force. If the legislature intended to vacate the office, that intention must clearly appear before a court is warranted in saying it exists. The defendant claims that such intent is shown in the enactment declaring that the old statute "is hereby amended by striking out the word 'four.'" But all that the striking-out clause vacates is the word "four." Nothing else is pretended in the act to be vacated. That word is dropped out of the statute, but the office is not dropped out. It is left to stand as it stood before.

Then, lower down:

> He—
>
> Meaning the county treasurer—
>
> had been duly elected to it nearly two years prior to that time, had not been removed, nor had he resigned, and the office had not been abolished. Only the time limit had been removed. But the true rule of construction is to take the whole of a statute and consider all of its parts together, and not to take a fraction and consider that by itself. The amendatory enactment of the 11th of March, 1886, not only contained the words "striking out the word 'four,'" but it also contained the words "substituting the word 'two' in lieu thereof." The striking out and the substitution were simultaneous acts. With the word "two" in place of "four" we are to consider the effect of the change. There is no authority or sound reason for holding that such an amendment took effect as of August, 1884—nearly two years prior to its enactment.

So there could be no ground for holding here, if this constitutional amendment shall be adopted, that in reality it took effect at the beginning of the term of the incumbent of the office at the time the amendment was adopted.

The defendant contends that although the statute took effect on the day of its passage, yet that it related back to the August of 1884, the date of Harris's election. We are at a loss to know why this is so. The amendment says nothing whatever about the enactment relating back two years, or any other time, prior to its passage, and we see nothing in the amendment upon which to hang an inference of that nature. We are not justified in adding to a statute something that the legislature never intended or had in contemplation in enacting the statute. The legislature had the power to have said so; but we are not now considering the power of the legislature, we are simply considering whether they had exercised that power.

And on the following page I will insert in the RECORD still another extract from the opinion, without stopping now to read it:

> It being clear, therefore, that the legislative intent that the amendment should be retrospective does not appear. It is settled by an

> overwhelming weight of authority that the enactment of the 11th of March, 1886, had no retrospective or retroactive effect, but its operation is entirely prospective. The well-nigh two years that Harris had held the office of county treasurer could not, therefore, be counted as part of the two years' term of office provided for in the amendment. The two years contemplated in the enactment were some two years to begin at a time subsequent to its passage. The amendment found Harris in office. It did not vacate his office nor abolish it. The amendment, if made applicable to him at all, simply told him that thereafter he could hold the office for two years. The word "thereafter" would, of course, mean after the amendment should go into effect, which would occur when there had been a publication of the enactment. (Comp. Laws, p. 78, sec. 2.) He would therefore be entitled to hold the office under the amendment, if it could apply to him, for the period of two years after publication of the amendment; and the time of such publication does not appear, nor is it material, as no doubt the publication took place shortly after its passage and prior to the general election in August, 1886. But as we have seen, if the amendment be at all applicable to Harris, he was under it authorized to hold the office two years following the enactment, and consequently the election of the defendants to the office at the general election in August, 1886, and before such two years had expired, was unauthorized by law. But the statute was in no way applicable to Harris. He held his office under a statute which had not been repealed, nor had it in any manner been modified, except that the term of office after its passage was to be two instead of four years, as theretofore. No reference was made to the cases of persons then in office. The statute was wholly prospective, and related to terms of office in the future.

In that case the change in the law was the converse of what is attempted to be made here—that is, it shortened the term instead of having lengthened it—but the rule of construction would be precisely the same because nobody has a vested right in an office. The legislature has exactly the same power to shorten the term that it has to extend it. It is purely a question of statutory construction as to whether it should be given a retroactive effect.

The only other case I desire to call attention to is the case of Greer against Asheville, reported in One hundred and fourteen North Carolina, page 678. I shall only stop to read the syllabus of that case:

> The term of office of a city marshal appointed under a charter providing that marshals should hold office during the official term of the aldermen is not enlarged from one to two years by an amendment to the charter extending the term of the aldermen from one to two years.

So, Mr. President, while I feel quite convinced that the resolution, if adopted, would not have the effect of extending the term of the then incumbent of the presidential office, at the same time I recognize that there are many lawyers who disagree with that construction, and it is quite reasonable to suppose that many others throughout the country may differ with it also.

That being so, it is of vast importance, as it seems to me, to make it perfectly clear just what we intend by this joint resolution. It is necessary that we should do that for two, to my mind, very sufficient reasons. First, if we do not make it clear, we will jeopardize, in my judgment, the adoption of this amendment by the people of the country. That reason, of course, will not appeal to those who are opposed to the joint resolution in any form. It ought to appeal to the friends of the joint resolution. It will jeopardize it in this way: Doubt will be suggested as to whether the effect of the joint resolution will be to extend the term of President Wilson, if he should happen to be in office, and many members of the legislatures will be unwilling to bring about that result.

I am perfectly free to say that, so far as I am concerned, I consider it a matter of no great consequence in the adoption of this great fundamental principle whether we extend the term of President Wilson or any other man two years. I care very little about that, but there are many people in the country who will care much about it; and when that question is presented to the various legislatures of the States it will be a makeweight against the adoption of the amendment. It seems to me that for that reason the friends of this measure ought to be willing to make it perfectly certain that it is not intended to have that result.

Now, the second objection to leaving it uncertain, and to my mind it is a more serious objection than the one which I have discussed, is that if the joint resolution shall be adopted in its present form the matter will still be left in doubt as to whether it operates to extend the term of the then incumbent, and we shall have the question presented to us whether we shall hold an election in 1916 or 1918, whether the incumbent of the office at that time shall continue to hold for two years longer or shall go out of office on the 4th of March, 1917. We can all see that that may result not only in a serious dispute, which would be exceedingly unfortunate, but that, in some state of the public mind, which may exist at that time, it may result in great disturbance and in a situation the gravity of which we can not foresee.

We do not know what dispute it may lead to; we do not know how serious the dispute may be; and we do not know what serious results may flow from the dispute. For both of these reasons, it seems to me to be of the utmost importance that we should make it perfectly clear that we do not intend, in the resolution, to extend the term of any President who is in office, whoever he may happen to be.

The PRESIDENT pro tempore. The question is on agreeing to the amendment to the amendment.

Mr. SUTHERLAND. I ask for a division of the question as indicated by me.

Mr. LODGE. I make the point of order that it can not be divided. It is a motion to strike out and insert.

The PRESIDENT pro tempore. The Chair will have to sustain the point of order under Rule 18:

> If the question in debate contains several propositions, any Senator may have the same divided, except a motion to strike out and insert, which shall not be divided.

The pending amendment is a motion to strike out and insert.

Mr. WORKS. Mr. President, I am not going to detain the Senate by any discussion of the legal question that has been raised by the Senator from Utah [Mr. SUTHERLAND] because of the fact that we are so thoroughly agreed as to the duty of the Senate to make the resolution so clear and plain that there can be no question of construction with reference to it. I have the very highest regard for the opinion of the Senator from Utah upon this or any other legal question, but I think he overlooks the fact that by this resolution the term of six years is fixed. There can be no other term. Therefore I think the resolution applies directly to the term which exists at the present time and extends it. But I am not going to emphasize my views upon that subject.

The PRESIDENT pro tempore. The Senator from Nebraska demands the yeas and nays on agreeing to the amendment to the amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). I transfer the general pair I have with the senior Senator from South Carolina [Mr. TILLMAN] to the Senator from New Mexico [Mr. FALL]. I make this announcement for the day. I vote "yea."

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is absent from the Chamber and I have no means of knowing how he would vote if present, I will withhold my vote.

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The Senator from New Hampshire is paired with the junior Senator from New York [Mr. O'GORMAN]. The Senator from Massachusetts [Mr. CRANE] is paired with the Senator from Maine [Mr. GARDNER]. By consent, a transfer will be made whereby the Senator from New York and the Senator from Massachusetts will stand paired and that will permit the Senator from Maine and me to vote. I vote "nay."

Mr. LIPPITT (when his name was called). I announce my general pair with the senior Senator from Tennessee [Mr. LEA], and in his absence will refrain from voting.

Mr. RICHARDSON (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. SMITH]. I transfer that pair to the Senator from Illinois [Mr. CULLOM] and vote. I vote "nay."

Mr. TOWNSEND (when Mr. REED's name was called). I have been handed a telegram from the Senator from Missouri [Mr. REED], stating that he is detained at home on account of sickness in his family, and that if he were here he would vote against the presidential term limited to six years. He is paired with the senior Senator from Michigan [Mr. SMITH].

Mr. ROOT (when his name was called). I have a general pair with the junior Senator from Texas [Mr. JOHNSTON], and therefore withhold my vote.

Mr. CHILTON (when Mr. WATSON's name was called). I announce the pair of my colleague [Mr. WATSON] with the senior Senator from New Jersey [Mr. BRIGGS].

The roll call was concluded.

Mr. CLARK of Wyoming. On all votes to-day I transfer the general pair which I have with the senior Senator from Missouri [Mr. STONE] to the junior Senator from Nevada [Mr. MASSEY], and vote. I vote "nay."

Mr. BRISTOW. I am requested to announce that the junior Senator from South Dakota [Mr. CRAWFORD] is paired with the junior Senator from New Jersey [Mr. MARTINE] and that the junior Senator from North Dakota [Mr. GRONNA] is paired with the junior Senator from Montana [Mr. MYERS].

Mr. CHILTON. I have a general pair with the Senator from Illinois [Mr. CULLOM], but an arrangement has been made, which has been announced, for the transfer of that pair, so that I am at liberty to vote. I vote "nay."

Mr. ASHURST. I have been requested to announce that the Senator from Montana [Mr. MYERS] is absent on business of

the Senate, and that he is paired with the Senator from North Dakota [Mr. GRONNA].

Mr. BRYAN. I have been requested to state that the junior Senator from Texas [Mr. JOHNSTON] is absent on business of the Senate, and, as has been stated, is paired with the Senator from New York [Mr. ROOT].

The result was announced—yeas 27, nays 42, as follows:

YEAS—27.

Ashurst	Fletcher	Newlands	Sutherland
Bryan	Gardner	Oliver	Swanson
Burton	Gore	Percy	Thomas
Chamberlain	Hitchcock	Perky	Thornton
Clarke, Ark.	Johnson, Me.	Shively	Wetmore
Cummins	Johnston, Ala.	Smith, Ga.	Works
Dillingham	Kavanaugh	Smith, Md.	

NAYS—42.

Bankhead	Clark, Wyo.	Lodge	Pomerene
Borah	Curtis	McCumber	Richardson
Bourne	Dixon	McLean	Sanders
Bradley	Gallinger	Nelson	Simmons
Brandegee	Gamble	Overman	Smith, Ariz.
Bristow	Guggenheim	Owen	Smoot
Brown	Jackson	Page	Stephenson
Burnham	Jones	Paynter	Townsend
Catron	Kenyon	Penrose	Williams
Chilton	Kern	Perkins	
Clapp	La Follette	Poindexter	

NOT VOTING—26.

Bacon	Fall	Martine, N. J.	Smith, S. C.
Briggs	Foster	Massey	Stone
Crane	Gronna	Myers	Tillman
Crawford	Johnston, Tex.	O'Gorman	Warren
Culberson	Lea	Reed	Watson
Cullom	Lippitt	Root	
du Pont	Martin, Va.	Smith, Mich.	

So Mr. HITCHCOCK's amendment to the amendment of the committee was rejected.

Mr. WILLIAMS. Mr. President, I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The Senator from Mississippi offers an amendment, which will be stated.

The SECRETARY. It is proposed, on page 2, to strike out lines 4, 5, 6, 7, 8, 9, and 10 of the amendment of the committee and to insert:

The executive power shall be vested in a President of the United States of America. The term of the office of President shall be four years. He shall be reeligible for one additional term of four years, and not thereafter reeligible at any time. No person who shall hereafter hold the office or discharge its powers or duties, or act as President by succession for any fraction of a term under the Constitution and laws made in pursuance thereof, shall be reeligible beyond such a fraction of a term and for one term by election.

Mr. WILLIAMS. Mr. President, this amendment has two salient points in it. The first is to write into the Constitution what has hitherto been regarded as the unwritten law. The second point is to eliminate from the controversy all possible personal issues by making the amendment take effect prospectively altogether and retrospectively not at all, so that every citizen of the United States, after this amendment passes, will stand upon an equal footing.

The PRESIDENT pro tempore. The question is upon the amendment submitted by the Senator from Mississippi to the amendment of the committee. [Putting the question.] The noes appear to have it.

Mr. WILLIAMS. I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. If there be no further amendment to be offered as in Committee of the Whole, the question is on agreeing to the amendment to the joint resolution reported by the Committee on the Judiciary.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended.

Mr. BRANDEGEE. I sent to the desk a few moments ago an amendment which I should like the Secretary to read now, and I will offer it. Then I should like to have the Secretary read an amendment, which I understand has been sent to the desk by the Senator from Utah [Mr. SUTHERLAND], on the same subject, as I want to see which I like best.

The PRESIDENT pro tempore. The Senator from Connecticut asks for the reading of his proposed amendment. The Secretary will read as requested.

The SECRETARY. On page 2, line 10, after the word "election," in the amendment made as in Committee of the Whole, it is proposed to insert:

The provision of this proposed amendment concerning the term of office shall affect the term of office of Presidents hereafter elected only.

The PRESIDENT pro tempore. The Senator from Connecticut asks that the amendment proposed by the Senator from Utah [Mr. SUTHERLAND] be also read. If agreeable to the Senator from Utah, that will be done.

The SECRETARY. On page 2, line 10, after the word "election," in the amendment made as in Committee of the Whole, it is proposed to insert:

Provided, That the foregoing shall not operate to extend the term of the President in office at the time this amendment is adopted.

Mr. BRANDEGEE. May I ask the Senator from Utah a question? If this proposed constitutional amendment should not be ratified for six or eight years, would not the Senator want this six-year term to apply to the President who might then be in office?

Mr. SUTHERLAND. No; the very purpose of the proposed amendment is to make it clear that it shall not apply to the President in office; that no matter when the amendment is adopted it should not so apply.

Mr. BRANDEGEE. If the amendment were adopted and a man were elected President after the amendment was the law of the land, why ought it not to apply?

Mr. SUTHERLAND. Because it would be giving it a retroactive effect.

Mr. BRANDEGEE. I do not follow the Senator in that.

Mr. SUTHERLAND. My whole position about it is that, no matter when this amendment shall be adopted, if it be 10 years from now, we will find some President in office, and there will then be a doubt as to whether it operates to extend the office of that President or whether it does not. It is of vast importance, as it seems to me, to settle that doubt in this joint resolution, to make it perfectly clear either that we do intend to extend the term of the incumbent at the time it is adopted or that we do not so intend—one thing or the other. That necessity will be just as great in 10 years as it will be in 2 years. We shall always find some President in office.

Mr. BRANDEGEE. I will ask that the amendment which I proposed be again stated.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Connecticut will be again stated.

The SECRETARY. On page 2, line 10, after the word "election," in the amendment made as in Committee of the Whole, it is proposed to insert:

The provision of this proposed amendment concerning the term of office shall affect the term of office of Presidents hereafter elected only.

The PRESIDENT pro tempore. The question is on the amendment submitted by the Senator from Connecticut [Mr. BRANDEGEE] to the amendment made as in Committee of the Whole.

Mr. CUMMINS. Mr. President, as a friend of the main proposition, I wish to say that, while the object of the Senator from Connecticut is identical apparently with the object of the Senator from Utah, it seems to me that the amendment proposed by the Senator from Utah will accomplish the object more perfectly and certainly than would the one proposed by the Senator from Connecticut.

Mr. BRANDEGEE. In view of that statement, if the Senator from Iowa is of that opinion, I will withdraw my proposed amendment to the amendment.

The PRESIDENT pro tempore. The Senator from Connecticut withdraws his amendment to the amendment.

Mr. SUTHERLAND. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Utah to the amendment made as in Committee of the Whole will be stated.

The SECRETARY. On page 2, line 10, after the word "election," it is proposed to amend the amendment by inserting:

Provided, That the foregoing shall not operate to extend the term of the President in office at the time this amendment is adopted.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Utah to the amendment made as in Committee of the Whole.

Mr. CUMMINS. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The present occupant of the chair has a general pair with the junior Senator from New York [Mr. O'GORMAN], which he transfers to the junior Senator from Massachusetts [Mr. CRANE]. The occupant of the chair votes "nay."

Mr. RICHARDSON (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH]. I transfer that pair to the Senator from Illinois [Mr. CULLOM] and will vote. I vote "yea."

Mr. ROOT (when his name was called). I again announce my pair with the Senator from Texas [Mr. JOHNSTON] and withhold my vote.

The roll call was concluded.

Mr. DU PONT. I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. He is absent from the

Chamber, and I therefore withhold my vote. If I were free to vote, I should vote "yea" on this amendment.

Mr. ASHURST. I have been requested to announce that the Senator from Montana [Mr. MYERS] is paired with the Senator from North Dakota [Mr. GRONNA] and that they are both absent on business of the Senate.

Mr. CHILTON. I have just been informed that the arrangement as to the transfer of my pair with the senior Senator from Illinois [Mr. CULLOM] stands for this vote also, and I therefore desire to vote. I vote "nay."

While I am on my feet, I desire to make the same announcement as to my colleague [Mr. WATSON] as on the previous roll call.

The result was announced—yeas 29, nays 38, as follows:

YEAS—29.

Ashurst	Dillingham	Nelson	Sanders
Brandegee	Gamble	Oliver	Smoot
Brown	Gore	Penrose	Sutherland
Burnham	Guggenheim	Percy	Wetmore
Burton	Jackson	Perkins	Works
Clark, Wyo.	Johnson, Me.	Perky	
Cummins	Jones	Pomerene	
Curtis	McCumber	Richardson	

NAYS—38.

Bankhead	Dixon	Lodge	Smith, Ga.
Borah	Fletcher	McLean	Smith, Md.
Bourne	Gallinger	Overman	Stephenson
Bristow	Gardner	Owen	Swanson
Bryan	Hitchcock	Page	Thomas
Catron	Johnston, Ala.	Paynter	Thornton
Chamberlain	Kavanaugh	Poindexter	Townsend
Chilton	Kenyon	Shively	Williams
Clapp	Kern	Simmons	
Clarke, Ark.	La Follette	Smith, Ariz.	

NOT VOTING—28.

Bacon	du Pont	Martin, Va.	Root
Bradley	Fall	Martine, N. J.	Smith, Mich.
Briggs	Foster	Massey	Smith, S. C.
Crane	Gronna	Myers	Stone
Crawford	Johnston, Tex.	Newlands	Tillman
Culberson	Lea	O'Gorman	Warren
Cullom	Lippitt	Reed	Watson

So Mr. SUTHERLAND's amendment to the amendment made as in Committee of the Whole was rejected.

The PRESIDENT pro tempore. The question now is upon concurring in the amendment made as in Committee of the Whole.

Mr. DIXON. I ask that the amendment made as in Committee of the Whole be read.

The PRESIDENT pro tempore. The Secretary will read as requested.

The SECRETARY. The amendment made as in Committee of the Whole was, on page 1, line 9, after the words "as follows," to strike out:

The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of six years and shall be ineligible to a second term, and, together with the Vice President, who shall hold for a like term, and shall also be ineligible to a second term, be elected as follows:

And in lieu thereof insert:

The executive power shall be vested in a President of the United States of America. The term of the office of President shall be six years; and no person who has held the office by election, or discharged its powers or duties, or acted as President under the Constitution and laws made in pursuance thereof shall be eligible to hold again the office by election.

The President, together with a Vice President chosen for the same term, shall be elected as follows:

The amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, and read the third time.

The PRESIDENT pro tempore. The question is, Shall the joint resolution pass?

Mr. CUMMINS. Mr. President, in view of the fact that the Constitution requires this joint resolution to be adopted by a two-thirds vote, I call for the yeas and nays.

The PRESIDENT pro tempore. The Chair will state that upon the question of the passage of the joint resolution a two-thirds vote is required. The Senator from Iowa demands the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BRISTOW (when Mr. CRAWFORD's name was called). I am requested to state that upon this vote the Senator from South Dakota [Mr. CRAWFORD] is paired with the senior Senator from Virginia [Mr. MARTIN] and with the junior Senator from New Jersey [Mr. MARTINE].

Mr. DU PONT. I again announce my pair with the senior Senator from Texas [Mr. CULBERSON] and withhold my vote.

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The occupant of the chair again announces his pair with the junior Senator from New York [Mr. O'GORMAN]. He transfers that pair to the junior Senator from Massachusetts [Mr. CRANE]. The Chair is informed that if those two Senators were present the Senator from New York would vote "yea" and the Senator from Massachusetts "nay." The Chair votes "nay."

Mr. GARDNER (when his name was called). Under the announcement just made by the Chair, I am at liberty to vote. I vote "yea."

Mr. LIPPITT (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA]. On questions involving a two-thirds vote, by agreement with him I am relieved from that pair, and therefore I vote "nay."

Mr. SWANSON (when the name of Mr. MARTIN of Virginia was called). My colleague [Mr. MARTIN of Virginia] is detained from the Senate on account of sickness. As stated by the Senator from Kansas [Mr. BRISTOW], my colleague is paired with the junior Senator from South Dakota [Mr. CRAWFORD]. If my colleague were present, he would vote "yea."

Mr. RICHARDSON (when his name was called). I transfer my pair with the junior Senator from South Carolina [Mr. SMITH] to the Senator from Illinois [Mr. CULLOM] and will vote. I vote "nay."

Mr. ROOT (when his name was called). I again announce my pair with the junior Senator from Texas [Mr. JOHNSTON] and withhold my vote. If I were at liberty to vote, I should vote "nay."

Mr. SMITH of Georgia (when his name was called). I vote "yea." While on my feet, I desire to announce that the senior Senator from Georgia [Mr. BACON] has been detained until to-day at home by sickness in his family. He hopes to be here to-morrow.

Mr. TOWNSEND (when the name of Mr. SMITH of Michigan was called). I desire to state that the senior Senator from Michigan [Mr. SMITH] is absent on business and is paired with the junior Senator from Missouri [Mr. REED].

Mr. KERN (when the name of Mr. SMITH of South Carolina was called). I desire again to state that the Senator from South Carolina [Mr. SMITH] is unavoidably absent on account of illness in his family.

Mr. CLARK of Wyoming (when the name of Mr. WARREN was called). I desire to announce the unavoidable absence of my colleague [Mr. WARREN]. He is paired with the senior Senator from Louisiana [Mr. FOSTER].

Mr. CHILTON (when Mr. WATSON's name was called). I again announce the pair of my colleague [Mr. WATSON] with the Senator from New Jersey [Mr. BRIGGS].

The roll call was concluded.

Mr. SANDERS. I wish to announce the unavoidable absence of the senior Senator from Tennessee [Mr. LEA].

Mr. SIMMONS. I have been requested to state that the Senator from Texas [Mr. CULBERSON] is paired with the Senator from Delaware [Mr. DU PONT]. If the Senator from Texas were present and at liberty to vote, he would vote "yea."

Mr. DU PONT. In view of the statement just made by the Senator from North Carolina [Mr. SIMMONS], I feel at liberty to vote. I vote "yea."

Mr. ASHURST. I have been requested to announce that the Senator from Montana [Mr. MYERS] and the Senator from North Dakota [Mr. GRONNA] are both absent from the Senate on business of the Senate, and that those Senators are paired. If present the Senator from Montana would vote "yea," and the Senator from North Dakota would vote "nay."

The result was announced—yeas 47, nays 23, as follows:

YEAS—47.

Ashurst	Cummins	McCumber	Smith, Ariz.
Bankhead	Dillingham	Nelson	Smith, Ga.
Brandegee	du Pont	Newlands	Smith, Md.
Brown	Fletcher	Overman	Smoot
Bryan	Gamble	Owen	Sutherland
Burnham	Gardner	Paynter	Swanson
Burton	Guggenheim	Penrose	Thomas
Catron	Hitchcock	Percy	Thornton
Chamberlain	Johnson, Me.	Perkins	Wetmore
Chilton	Johnston, Ala.	Perky	Williams
Clark, Wyo.	Kavanaugh	Pomerene	Works
Clarke, Ark.	Kern	Simmons	

NAYS—23.

Borah	Dixon	Lippitt	Richardson
Bourne	Gallinger	Lodge	Sanders
Bradley	Jackson	McLean	Shively
Bristow	Jones	Oliver	Stephenson
Clapp	Kenyon	Page	Townsend
Curtis	La Follette	Poindexter	

NOT VOTING—25.

Bacon	Foster	Massey	Stone
Briggs	Gore	Myers	Tillman
Crane	Gronna	O'Gorman	Warren
Crawford	Johnston, Tex.	Reed	Watson
Culberson	Lea	Root	
Cullom	Martin, Va.	Smith, Mich.	
Fall	Martine, N. J.	Smith, S. C.	

The PRESIDENT pro tempore. Upon the final passage of the joint resolution the yeas are 47 and the nays are 23. More than two-thirds of the Senators present having voted in the affirmative, the joint resolution is passed.

IMMIGRATION OF ALIENS.

Mr. LODGE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses to the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States" having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

Strike out the text inserted by the House amendment and insert in lieu thereof the following:

"That the word 'alien' wherever used in this act shall include any person not a native-born or naturalized citizen of the United States; but this definition shall not be held to include Indians not taxed or citizens of the islands under the jurisdiction of the United States. That the term 'United States' as used in the title as well as in the various sections of this act shall be construed to mean the United States and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. That the term 'seamen' as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign port or place.

"That this act shall be enforced in the Philippine Islands by officers of the General Government thereof designated by appropriate legislation of said Government.

"SEC. 2. That there shall be levied, collected, and paid a tax of $5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who have in accordance with law declared their intention of becoming citizens of the United States or on account of aliens who shall enter the United States after an uninterrupted residence of at least one year, immediately preceding such entrance, in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, nor on account of otherwise admissible residents of any possession of the United States, nor on account of aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, by agreement with transportation lines, as provided in section 23 of this act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: *Provided further*, That said tax, when levied upon aliens entering the Philippine Islands, shall be paid into the treasury of said islands, to be expended for the benefit of such islands: *Provided further*, That in the cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall upon application be refunded to the alien: *Provided further*, That the provisions of this section shall not apply to aliens arriving in Guam or Hawaii; but if any such alien, not having become a citizen of the United States, shall later arrive at any port or place of the United States on the North American Continent the provisions of this section shall apply.

"SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had one or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars, vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port, the Secretary of Commerce and Labor shall have consented to their reapplying for admission; persons whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway may be admitted in the discretion of the Secretary of Commerce and Labor; all children under 16 years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe; persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

"That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

"All aliens over 16 years of age, physically capable of reading, who can not read the English language or some other language or dialect, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips of uniform size, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plainly legible type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this act relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Commerce and Labor to be reached after a full hearing and an investigation into the facts of the case; but such determination shall not become final until a period of 30 days has elapsed. Within 3 days after such determination the Secretary of Commerce and Labor shall cause to be published a brief statement reciting the substance of the application, the facts presented at the hearing, and his determination thereon in three daily newspapers of general circulation in three of the principal cities of the United States. At any time during said period of 30 days any person dissatisfied with the ruling may appeal to the district court of the United States of the district into which the labor is sought to be brought, which court or the judge thereof in vacation shall have jurisdiction to try de novo such question of necessity, and the decision in such court shall be final. Such appeal shall operate as a supersedeas: *Provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants: *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign government to its citizens or subjects to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone: *Provided further*, That nothing in this act shall be construed to prevent, hinder, or restrict any alien exhibitor or holder of a concession or privilege for any fair or exposition authorized by act of Congress from bringing into the United States, under contract, such alien mechanics, artisans, agents, or other employees, natives of his country, as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may prescribe both as to the admission and return of such persons: *Provided further*, That nothing in this act shall be construed to apply to accredited officials of foreign governments nor to their suites, families, or guests: *Provided further*, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

"SEC. 4. That the importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import, into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall in every such case be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than 10 years and by a fine of not more than $5,000. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or in any district in which a violation of any of the foregoing provisions of this section occur. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this act which relate to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to or to enter the United States shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than two years. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against a wife or husband.

"SEC. 5. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to induce, assist, encourage, or solicit the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the provisions of section 3 of this act, and for every violation of any of the provisions of this section the person, partnership, company, or corporation violating the same shall forfeit and pay for every such offense the sum of $1,000, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such aliens thus offered or promised employment as aforesaid, as debts of like amount are now recovered in the courts of the United States; or for every violation of the provisions hereof the person violating the same may be prosecuted in a criminal action for a misdemeanor, and on conviction thereof shall be punished by a fine of $1,000, or by imprisonment for a term of not less than six months nor more than two years; and under either the civil or the criminal procedure mentioned separate suits or prosecutions may be brought for each alien thus offered or promised employment as aforesaid.

"SEC. 6. That it shall be unlawful and be deemed a violation of section 5 of this act to induce, assist, encourage, or solicit any alien to come into the United States by promise of employment through advertisements printed, published, or distributed in any foreign country, whether such promise is true or false, and either the civil or the criminal penalty imposed by said section shall be applicable to such a case: *Provided*, That States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States may advertise, and by written or oral communication with prospective alien settlers make known, the inducements they offer for immigration thereto, respectively.

"SEC. 7. That it shall be unlawful for any person, association, society, company, partnership, corporation, or others engaged in the business of transporting aliens to the United States, including owners, masters, officers, and agents of vessels, directly or indirectly, by writing, printing, or oral representation, to solicit, invite, or encourage any alien to come into the United States, and anyone violating any provision hereof shall be subject to either the civil or the criminal prosecution prescribed by section 5 of this act; or if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any owner, master, officer, or agent of a vessel has brought or caused to be brought to a port of the United States any alien so solicited, invited, or encouraged to come by such owner, master, officer, or agent, such owner, master, officer, or agent shall pay to the collector of customs of the customs district in which the port of arrival is

located or in which any vessel of the line may be found the sum of $400 for each and every such violation; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while the fine imposed remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit with the collector of customs of a sum sufficient to cover such fine: *Provided further*, That whenever it shall be shown to the satisfaction of the Secretary of Commerce and Labor that the provisions of this section are persistently violated by or on behalf of any transportation company, it shall be the duty of said Secretary to deny to such company the privilege of landing alien immigrant passengers of any or all classes at United States ports for such a period as in his judgment may be necessary to insure an observance of such provisions: *Provided further*, That this section shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements, confined strictly to stating the sailings of their vessels and terms and facilities of transportation therein.

"SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, or shall conceal or harbor, or attempt to conceal or harbor, or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment for each and every alien so landed or brought in or attempted to be landed or brought in.

"SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel, to bring to the United States any alien afflicted with idiocy, insanity, imbecility, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200 for each and every violation of the provisions of this section. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental or physical defect of a nature which may affect his ability to earn a living, as contemplated in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25 for each and every violation of this provision. It shall also be unlawful for any such person to bring to any port of the United States any alien who is excluded by the provisions of section 3 of this act because unable to read or who can not become eligible, under existing law, to become a citizen of the United States by naturalization, as provided in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens from a foreign port such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $100 for each and every violation of this provision. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, or while the fine remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 10. That it shall be the mandatory and unqualified duty of every person, including owners, officers, and agents of vessels or transportation lines, other than those lines which may enter into a contract as provided in section 23 of this act, bringing an alien to any seaport or land border port of the United States to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers, and the failure of any such owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than $100 nor more than $1,000 or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Commerce and Labor it is impracticable or inconvenient to prosecute the owner, master, officer, or agent of any such vessel, a pecuniary penalty of $1,000 shall be a lien upon the vessel whose owner, master, officer, or agent, violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United States court.

"SEC. 11. That whenever he may deem such action necessary the Secretary of Commerce and Labor may, at the expense of the appropriation for the enforcement of this act, detail immigrant inspectors and matrons of the United States Immigration Service for duty on vessels carrying immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. On such voyages said inspectors and matrons shall remain in that part of the vessel where immigrant passengers are carried. It shall be the duty of such inspectors and matrons to observe such passengers during the voyage, and report to the immigration authorities in charge at the port of landing any information of value in determining the admissibility of such passengers under the laws regulating immigration of aliens into the United States. It shall further be the duty of such inspectors and matrons to observe violations of the provisions of such laws and the violation of such provisions of the "passenger act" of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and report the same to the proper United States officials at ports of landing. Whenever the Secretary of Commerce and Labor so directs, a surgeon of the United States Public Health Service detailed to the Immigration Service, not lower in rank than a passed assistant surgeon, shall be received and carried on any vessel transporting immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. Such surgeon shall be permitted to investigate and examine the condition of all immigrant and emigrant passengers in relation to any provisions of the laws regulating the immigration of aliens into the United States and such provisions of the "passenger act" of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and shall immediately report any violation of said laws to the master or commanding officer of the vessel, and shall also report said violations to the Secretary of Commerce and Labor within 24 hours after the arrival of the vessel at the port of entry in the United States. Such surgeon shall accompany the master or captain of the vessel in his visits to the sanitary officers of the ports of call during the voyage, and, should contagious or infectious diseases prevail at any port where passengers are received, he shall request all reasonable precautionary measures for the health of persons on board. Such surgeon on arrival at ports of the United States shall also, if requested by the examining board, furnish any information he may possess in regard to immigrants arriving on the vessel to which he has been detailed. While on duty such surgeons shall wear the prescribed uniform of their service and shall be provided with first-class accommodations on such vessel at the expense of the appropriation for the enforcement of this act. For every violation of this section any person, including any transportation company, owning or operating the vessel in which such violation occurs shall pay to the collector of customs of the customs district in which the next United States port of arrival is located the sum of $1,000 for each and every day during which such violation continues, the term "violation" to include the refusal of any person having authority so to do to permit any such immigrant inspector, matron, or surgeon to be received on board such vessel, as provided in this section, and also the refusal of the master or commanding officer of any such vessel to permit the inspection and visits of any such surgeon as provided in this section, and no vessel shall be granted clearance papers pending the determination of the question of the liability of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of all such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 12. That upon the arrival of any alien by water at any point within the United States on the North American Continent from a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or at any port of the said insular possessions from any foreign port, from a port in the United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners or consignees of the steamer, sailing, or other vessel having said alien on board to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, contain full and accurate information as to each alien as follows: Full name, age, and sex; whether married or single; calling or occupation, personal description (including height, complexion, color of hair and eyes, and marks of identification); whether able to read; nationality; country of birth; race; country of last permanent residence; name and address of the nearest relative in the country from which the alien came; seaport for landing in the United States; final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; by whom passage was paid; whether going to join a relative or friend, and if so, what relative or friend, and his or her name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane or supported by charity; whether a polygamist; whether an anarchist; whether a person who believes in or advocates the overthrow by force or violence of the Government of the United States or of all forms of law, or who disbelieves in or is opposed to organized government, or who advocates the assassination of public officials, or is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States; the alien's condition of health, mental and physical; whether deformed or crippled, and if so, for how long and from what cause; and such master or commanding officer, owners, or consignees shall also furnish information in relation to the sex, age, class of travel, and the foreign port of embarkation of arriving passengers who are United States citizens. That it shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or from any port of the said insular possession to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with the immigration officials before departure a list which shall contain full and accurate information in relation to the following matters regarding all alien passengers, and all citizens of the United States or insular possessions of the United States departing with the stated intent to reside permanently in a foreign country, taken on board: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States or insular possessions thereof; if a citizen of the United States or of the insular possessions thereof, whether native born or naturalized; intended future permanent residence; and time and port of last arrival in the United States, or insular possessions thereof; and such master or commanding officer shall also furnish information in relation to the sex, age, class of travel, and port of debarkation of the United States citizens departing who do not intend to reside permanently in a foreign country, and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each person of the classes specified taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall be punishable as provided in section 14 of this act: *Provided*, That in the case of vessels making regular trips to ports of the United States the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further*, That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen, whether native born or naturalized.

"SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, the names of those coming from the same locality to be assembled so far as practicable, and no one list or manifest shall contain more than thirty names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, and so forth, are contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is of any of the classes excluded from admission into the United States by section 3 of this act, and that also according to the best of his knowledge and belief, the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens, the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessels, and the manifests shall be verified by such surgeon before a United States consular officer.

"SEC. 14. That it shall be unlawful for the master or commanding officer of any vessel bringing aliens into or carrying aliens out of the United States to refuse or fail to deliver to the immigration officials the accurate and full manifests or statements or information regarding all aliens on board or taken on board such vessel required by this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a refusal or failure, or that the lists delivered are not accurate and full, such master or commanding officer shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each alien concerning whom such accurate and full manifest or statement or information is not furnished, or concerning whom the manifest or statement or information is not prepared and sworn to as prescribed by this act. No vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine.

"SEC. 15. That upon the arrival at a port of the United States of any vessel bringing aliens it shall be the duty of the proper immigration officials to go or to send competent assistants to the vessel and there inspect all such aliens, or said immigration officials may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this act bind the said transportation lines, masters, agents, owners, or consignees: *Provided*, That where removal is made to premises owned or controlled by the United States, said transportation lines, masters, agents, owners, or consignees, and each of them shall, so long as detention there lasts, be relieved of responsibility for the safekeeping of such aliens. Whenever a temporary removal of aliens is made the transportation lines which brought them and the masters, owners, agents, and consignees of the vessel upon which they arrive shall pay all ex-

penses of such removal and all expenses arising during subsequent detention, pending decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, such expenses to include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel in the event of deportation, excepting only where they arise under the terms of any of the provisos of section 18 hereof. Any refusal or failure to comply with the provisions hereof to be punished in the manner specified in section 18 of this act.

"SEC. 16. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine, and who shall certify, for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service, upon terms as may be prescribed by the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental defect shall be detailed for duty or employed at all large ports of entry, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defect is suspected, and the services of interpreters shall be provided for such examination. That the inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this act, shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and, where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered, under the provisions of this act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section 125 of the act approved March 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States." Any commissioner of immigration or inspector in charge shall also have power to require the attendance and testimony of witnesses before said inspectors and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States, and to that end may invoke the aid of any court of the United States; and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpœna issued by any commissioner of immigration or inspector in charge or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents if demanded, and testify; and any failure to obey such order of the court shall be punished by the court as a contempt thereof. That any person, including employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not less than six months nor more than two years, or by a fine of not less than two hundred nor more than two thousand dollars; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall on conviction thereof be punished by imprisonment for not less than 1 nor more than 10 years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Commerce and Labor is permitted by this act, the alien shall be so informed and shall have the right to be represented by counsel or other adviser on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation.

"SEC. 17. That boards of special inquiry shall be appointed by the commissioner of immigration or inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, shall from time to time designate as qualified to serve on such boards. When in the opinion of the Secretary of Commerce and Labor the maintenance of a permanent board of special inquiry for service at any sea or land border port is not warranted, regularly constituted boards may be detailed from other stations for temporary service at such port, or, if that be impracticable, the Secretary of Commerce and Labor shall authorize the creation of boards of special inquiry by the immigration officials in charge at such ports, and shall determine what Government officials or other persons shall be eligible for service on such boards. Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. All hearings before such boards shall be separate and apart from the public. Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Commerce and Labor, and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision, which shall be rendered solely upon the evidence adduced before the board of special inquiry. In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of a board of special inquiry if adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Commerce and Labor: *Provided*, That the decision of a board of special inquiry, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens affected with tuberculosis in any form or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section 3 of this act.

"SEC. 18. That all aliens brought to this country in violation of law shall, if practicable, be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came on the vessels bringing them. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien; or to take any security from him for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act, unless prior to reembarkation the Secretary of Commerce and Labor has consented that such alien shall reapply for admission, as required by section 3 hereof; and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the customs district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of this section; and no vessel shall have clearance

from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any alien found to have come in violation of any provision of this act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act, or such alien may be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required as a witness and for deportation. No alien certified, as provided in section 16 of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless with the express permission of the Secretary of Commerce and Labor: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

"SEC. 19. That any alien, at any time within three years after entry, who shall enter the United States in violation of law; any alien who within three years after entry becomes a public charge from causes existing prior to the landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within three years after the entry of the alien to the United States; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists, protects, or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section 4 hereof; any alien, at any time within three years after entry, who shall enter the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, shall, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and deported: *Provided*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence, make a recommendation to the Secretary of Commerce and Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States. In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty now existing, the decision of the Secretary of Commerce and Labor shall be final.

"SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Commerce and Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If effected at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such vessels or transportation line by which such aliens respectively came, or, if that is not practicable, at the expense of the appropriation for the enforcement of this act. If such deportation is effected later than five years after the entry of the alien, or, if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Commerce and Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section 18 of this act: *Provided*, That when in the opinion of the Secretary of Commerce and Labor the mental or physical condition of such alien is such as to require personal care and attendance, he may employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in like manner. Pending the final disposal of the case of any alien so taken into custody he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

"SEC. 21. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis in any form or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Commerce and Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof, holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. The admission of such alien shall be a consideration for the giving of such bond or undertaking. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, District, county, town, or municipality in which such alien becomes a public charge.

"SEC. 22. That wherever an alien shall have taken up his permanent residence in this country, and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife or minor children to join him, if said wife or any of said children shall be found to be affected with any con-

tagious disorder, such wife or children shall be held, under such regulations as the Secretary of Commerce and Labor shall prescribe, until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable and the husband or father or other responsible person is willing to bear the expense of the treatment, they may be accorded treatment in hospital until cured and then be admitted, or if it shall be determined that they can be permitted to land without danger to other persons, they may, if otherwise admissible, thereupon be admitted.

"SEC. 23. That the Commissioner General of Immigration shall perform all his duties under the direction of the Secretary of Commerce and Labor. Under such direction he shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder; he shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid, and to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed; he shall prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico, so as not unnecessarily to delay, impede, or annoy persons in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose; it shall be the duty of the Commissioner General of Immigration to detail officers of the Immigration Service from time to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges. He may, with the approval of the Secretary of Commerce and Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this act, detail immigration officers, and also surgeons of the United States Public Health Service employed under this act for service in foreign countries. The duties of commissioners of immigration and other immigration officials in charge of districts, ports, or stations shall be of an administrative character, to be prescribed in detail by regulations prepared under the direction or with the approval of the Secretary of Commerce and Labor: *Provided*, That for the purpose of making effective the provisions of this section relating to the protection of aliens from fraud and loss, and also the provisions of section 30 of this act, relating to the distribution of aliens, the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors.

"SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and their compensation fixed and raised or decreased from time to time by the Secretary of Commerce and Labor upon the recommendation of the Commissioner General of Immigration and in accordance with the provisions of the civil-service act of January 16, 1883: *Provided*, That said Secretary, in the enforcement of that portion of this act which excludes contract laborers, may employ, without reference to the provisions of the said civil-service act, or to the various acts relative to the compilation of the official register, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw annually from the appropriation for the enforcement of this act $50,000, or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Commerce and Labor certifies that an itemized account would not be for the best interests of the Government: *Provided further*, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation act approved August 18, 1894, or the official status of such commissioners heretofore appointed.

"SEC. 25. That the district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act. That it shall be the duty of the United States district attorney of the proper district to prosecute every such suit when brought by the United States under this act. Such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with such violation may be found. That no suit or proceeding for a violation of the provisions of this act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

"SEC. 26. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station, shall be disposed of after public competition, subject to such conditions and limitations as the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, may prescribe, and all receipts accruing from the disposal of such exclusive privileges shall be paid into the Treasury of the United States. No intoxicating liquors shall be sold at any such immigrant station.

"SEC. 27. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

"SEC. 28. That any person who knowingly aids or assists any anarchist or any person who believes in or advocates the overthrow by force or violence of the Government of the United States, or who disbelieves in or is opposed to organized government or all forms of law, or who advocates the assassination of public officials, or who is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such anarchist or person aforesaid to enter therein shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.

"SEC. 29. That the President of the United States is authorized, in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral, and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign Governments in their own territories to prevent the evasion of the laws of the United States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who, under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

"SEC. 30. That there shall be maintained a division of information in the Bureau of Immigration and Naturalization; and the Secretary of Commerce and Labor shall provide such clerical and other assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens at the immigrant stations of the United States and to such other persons as may desire the same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, have access to aliens who have been admitted to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner General of Immigration, who, with the approval of the Secretary of Commerce and Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

"SEC. 31. That any person, including the owner, agent, consignee, or master of any vessel arriving in the United States from any foreign port or place, who shall knowingly sign on the ship's articles, or bring to the United States as one of the crew of such vessel, any alien, with intent to permit such alien to land in the United States in violation of the laws and treaties of the United States regulating the immigration of aliens, or who shall falsely and knowingly represent to the immigration authorities at the port of arrival that any such alien is a bona fide member of the crew, shall be liable to a penalty not exceeding $5,000, for which sum the said vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 32. That no alien excluded from admission into the United States by any law or treaty of the United States regulating the immigration of aliens, and employed on board any vessel arriving in the United States from any foreign port or place, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to regulations prescribed by the Secretary of Commerce and Labor providing for the ultimate removal or deportation of such alien from the United States, and the negligent failure of the owner, agent, consignee, or master of such vessel to detain on board any such alien after notice in writing by the immigration officer in charge at the port of arrival, and to deport such alien, if required by such immigration officer or by the Secretary of Commerce and Labor, shall render such owner, agent, consignee, or master liable to a penalty not exceeding $1,000, for which sum the said vessel shall be liable, and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 33. That it shall be unlawful and be deemed a violation of the preceding section to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens: *Provided*, That in case any such alien intends to reship on board any other vessel bound to any foreign port or place he shall be allowed to land for the purpose of so reshipping, and may be paid off, discharged, and permitted to remove his effects, anything in such laws or treaties or in this act to the contrary notwithstanding, provided due notice of such proposed action first be given to the principal immigration officer in charge at the port of arrival.

"SEC. 34. That any alien seaman who shall desert his vessel in a port of the United States or who shall land therein contrary to the provisions of this act shall be deemed to be unlawfully in the United States and shall, at any time within three years thereafter, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section 20 of this act.

"SEC. 35. That it shall be unlawful for any vessel carrying passengers between a port of the United States and a port of a foreign country, upon arrival in the United States, to have on board employed thereon any alien afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, if it appears to the satisfaction of the Secretary of Commerce and Labor, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel and that the existence of such affliction might have been detected by means of a competent medical examination at such time; and for every such alien so afflicted on board any such vessel at the time of arrival the owner, agent, consignee, or master thereof shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and while it remains unpaid: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine: *Provided further*, That such fine may, in the discretion of the Secretary of Commerce and Labor, be mitigated or remitted.

"SEC. 36. That upon arrival of any vessel in the United States from any foreign port or place it shall be the duty of the owner, agent, consignee, or master thereof to deliver to the principal immigration officer in charge of the port of arrival lists containing the names of all aliens employed on such vessel, stating the positions they respectively hold in the ship's company, when and where they were respectively shipped or engaged, and specifying those to be paid off and discharged in the port of arrival; or lists containing so much of such information as the Secretary of Commerce and Labor shall by regulation prescribe; and after the arrival of any such vessel it shall be the duty of such owner, agent, consignee, or master to report to such immigration officer, in writing, as soon as discovered, all cases in which any such alien has deserted the vessel, giving a description of such alien, together with any information likely to lead to his apprehension; and before the departure of any such vessel it shall be the duty of such owner, agent, consignee, or master to deliver to such immigration officer a further list containing the names of all alien employees who were not employed thereon at the time of the arrival, but who will leave port thereon at the time of her departure, and also the names of those, if any, who have been paid off and discharged, and of those, if any, who have deserted or landed or been duly admitted; and in case of the failure of such owner, agent, consignee, or master so to deliver either of the said lists of such aliens arriving and departing, respectively, or so to report such cases of desertion, or landing, such owner, agent, consignee, or master shall, if required by the Secretary of Commerce and Labor, pay to the collector of customs of the customs district in which the port of arrival is located the sum of $10 for each alien concerning whom correct lists are not delivered or a true report is not made as above required; and no such vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and, in the event such fine is imposed, while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon deposit of a sum sufficient to cover such fine.

"SEC. 37. The word 'person' as used in this act shall be construed to import both the plural and the singular, as the case may be, and shall include corporations, companies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any director, officer, agent, or employee of any corporation, company, or association acting within the scope of his employment or office shall in every case be deemed to be the act, omission, or failure of such corporation, company, or association, as well as that of the person acting for or in behalf of such corporation, company, or association.

"SEC. 38. That this act, except as otherwise provided in section 3, shall take effect and be enforced from and after July 1, 1913. The act of March 26, 1910, amending the act of February 20, 1907, to regulate the immigration of aliens into the United States; the act of February 20, 1907, to regulate the immigration of aliens into the United States, except section 34 thereof; the act of March 3, 1903, to regulate the immigration of aliens into the United States, except section 34 thereof; and all other acts and parts of acts inconsistent with this act are hereby repealed on and after the taking effect of this act: *Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, nor to repeal, alter, or amend section 6, chapter 453, third session Fifty-eighth Congress, approved February 6, 1905, or the act approved August 2, 1882, entitled 'An act to regulate the carriage of passengers by sea,' and amendments thereto: *Provided*, That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act, except as mentioned in the last proviso of sec-

tion 19 hereof; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the laws or parts of laws repealed or amended by this act are hereby continued in force and effect."

H. C. LODGE,
WM. P. DILLINGHAM,
LE ROY PERCY,
Managers on the part of the Senate.
JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.

The report was agreed to.

REPORT OF POTOMAC ELECTRIC POWER CO. (S. DOC. NO. 1053).

The PRESIDENT pro tempore laid before the Senate the annual report of the Potomac Electric Power Co. for the year ended December 31, 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

REPORT OF WASHINGTON RAILWAY & ELECTRIC CO. (S. DOC. NO. 1047).

The PRESIDENT pro tempore laid before the Senate the annual report of the Washington Railway & Electric Co. for the year ended December 31, 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

REPORT OF ANACOSTIA & POTOMAC RIVER RAILROAD CO. (S. DOC. NO. 1048).

The PRESIDENT pro tempore laid before the Senate the annual report of the Anacostia & Potomac River Railroad Co. for the year ended December 31, 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

REPORT OF CITY & SUBURBAN RAILWAY (S. DOC. NO. 1049).

The PRESIDENT pro tempore laid before the Senate the annual report of the City & Suburban Railway of Washington for the year ended December 31, 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

REPORT OF BRIGHTWOOD RAILWAY CO. (S. DOC. NO. 1050).

The PRESIDENT pro tempore laid before the Senate the annual report of the Brightwood Railway Co. for the year ended December 31, 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

REPORT OF GEORGETOWN & TENNALLYTOWN RAILWAY CO. (S. DOC. NO. 1051).

The PRESIDENT pro tempore laid before the Senate the annual report of the Georgetown & Tennallytown Railway Co. for the year ended December 31, 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

REPORT OF THE CAPITAL TRACTION CO. (H. DOC. NO. 1321).

The PRESIDENT pro tempore laid before the Senate the annual report of the Capital Traction Co. for the year ended December 31, 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

REPORT OF GEORGETOWN GAS LIGHT CO. (H. DOC. NO. 1324).

The PRESIDENT pro tempore laid before the Senate the annual report of the Georgetown Gas Light Co. for the year ended December 31, 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a joint resolution adopted by the Legislature of North Carolina, which was ordered to lie on the table and to be printed in the RECORD, as follows:

Joint resolution memorializing the Congress of the United States to pass the Webb-Kenyon-Sheppard bill, relative to shipping liquors into prohibition territory.

Whereas the State of North Carolina, by a direct vote of the people, has prohibited the manufacture and sale of liquors; and

Whereas the Federal Government under its present laws protects the liquor traffic outside of the State in shipping and delivering their liquors to illicit dealers within the State of North Carolina, thus interfering with the State in the enforcement of her liquor laws; and

Whereas there is now pending in the Congress of the United States a measure known as the Webb-Kenyon-Sheppard bill (S. 4043), which has as its purpose the prevention of interstate shipment of liquors which are to be disposed of in violation of the State laws: Therefore be it

Resolved by the house of representatives (the senate concurring), That the Congress of the United States be, and the same is hereby, earnestly memorialized and requested to pass the said Webb-Kenyon-Sheppard bill at the earliest possible date; and be it further

Resolved, That a copy of these resolutions, properly certified, be forwarded at once to the Speaker of the House of Representatives and to the President of the Senate of the United States.

In the general assembly read three times and ratified this the 29th day of January, 1913.

H. N. PHARR,
President pro tempore of the Senate.
GEO. W. CONNOR,
Speaker of the House of Representatives.

Examined and found correct.

NEWELL, *for Committee.*

STATE OF NORTH CAROLINA,
DEPARTMENT OF STATE,
Raleigh, January 30, 1913.

I, J. Bryan Grimes, secretary of state of the State of North Carolina, do hereby certify the foregoing and attached two sheets to be a true copy from the records of this office.

In witness whereof I have hereunto set my hand and affixed my official seal.

Done in office at Raleigh, this 30th day of January, in the year of our Lord 1913.

[SEAL.] J. BRYAN GRIMES,
Secretary of State.

The PRESIDENT pro tempore presented resolutions adopted by the Philippine Assembly favoring the enactment of the so-called Jones bill, providing independence for the people of the Philippine Islands, which were referred to the Committee on the Philippines.

He also presented a memorial of sundry members of the Little Russian National Union, residents of the State of Ohio, remonstrating against the adoption of the so-called "illiteracy test" amendment to the immigration bill, which was ordered to lie on the table.

Mr. CULLOM presented a petition of sundry citizens of Humboldt, Ill., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of the Trades and Labor Assembly of Alton, Ill., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. PAGE presented a memorial of the congregation of the Seventh-day Adventist Church of Wolcott, Vt., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. DU PONT presented a petition of the congregation of the First Baptist Church, of New Castle, Del., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. CATRON, from the Committee on Military Affairs, to which was referred the bill (S. 8139) for the relief of William W. Prude, reported it without amendment and submitted a report (No. 1173) thereon.

Mr. BRISTOW, from the Committee on Military Affairs, to which was referred the bill (H. R. 17256) to fix the status of officers of the Army and Navy detailed for aviation duty, and to increase the efficiency of the aviation service, reported it with amendments and submitted a report (No. 1174) thereon.

He also, from the same committee, to which was referred the bill (S. 6371) to fix the status of officers of the Army detailed for aviation duty, and to increase the efficiency of the aviation service, reported adversely thereon, and the bill was postponed indefinitely.

Mr. PENROSE, from the Committee on Finance, to which was referred the bill (H. R. 2359) to refund certain tonnage taxes and light dues, reported it without amendment.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. McLEAN:

A bill (S. 8335) granting an increase of pension to Emily H. Bailey (with accompanying papers); and

A bill (S. 8334) granting an increase of pension to Mary J. Mackin (with accompanying papers); to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 8335) to establish the legislative reference bureau of the Library of Congress and the congressional corps of legislative investigators, and to maintain them until July 1, 1914; to the Committee on the Library.

By Mr. SUTHERLAND:

A bill (S. 8336) granting to the civilian employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment; to the Committee on the Judiciary.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. FLETCHER submitted an amendment providing for the survey of the channel from St. Johns River to Crescent City, Fla., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment providing for a harbor of refuge for the safe anchorage of vessels at Key West, Fla., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. BRYAN submitted an amendment providing for the improvement of the harbor at Miami (Biscayne Bay), Fla., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. PENROSE submitted an amendment providing for indefinite leaves of absence under certain conditions for employees in the postal service who have become incapacitated through superannuation, etc., intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

Mr. CURTIS submitted an amendment proposing to appropriate $2,000 to complete the sidewalks, curbing, etc., around the new post-office building at Clay Center, Kans., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. BRANDEGEE submitted an amendment proposing to appropriate $100,000 to procure for the Bureau of Standards a large testing machine of fine quality for transverse loads on built-up beams, bridge girders, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. HITCHCOCK submitted an amendment proposing to increase the number of post-office inspectors in charge of divisions, at $3,000 each, from 15 to 16, etc., intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

Mr. DU PONT submitted an amendment proposing to appropriate $50,000 for the acquisition by purchase or condemnation of land for a suitable range for Field Artillery target practice, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. WETMORE submitted an amendment proposing to appropriate $50,000 for continuing the improvement of the harbor of refuge, Block Island, R. I., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. JONES submitted an amendment providing for a survey of the Apoon mouth of the Yukon River, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

THE SENATE CHAMBER.

The PRESIDENT pro tempore. On the 15th day of January the Senate adopted a resolution (S. Res. 432), which the Secretary will read.

The Secretary read as follows:

Resolved, That the President of the Senate pro tempore is hereby authorized to appoint a special committee of five Senators. Said committee shall investigate and at the earliest practicable date report to the Senate whether it is feasible and desirable to improve or remodel the Senate Chamber and the rooms thereunto appertaining.

The PRESIDENT pro tempore. Under the terms of the resolution the Chair appoints Mr. REED, Mr. OLIVER, Mr. CUMMINS, Mr. LIPPITT, and Mr. OWEN members of the special committee.

REPORT OF NATIONAL ACADEMY OF SCIENCES.

Mr. WETMORE. I present the annual report of the National Academy of Sciences for the fiscal year 1912, as required by statute. The same statute provides for the printing, so that no action on the part of the Senate is required. I ask that the report may lie on the table.

The PRESIDENT pro tempore. The report will lie on the table.

THE FEDERAL ADMINISTRATIVE (S. DOC. NO. 1054).

Mr. SUTHERLAND. I have a copy of an article by Jasper Yeates Brinton, assistant United States attorney, Philadelphia, Pa., on "Some powers and problems of the Federal administrative," which I regard as a very valuable document. I ask that the paper be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CONNECTICUT RIVER DAM.

Mr. BRANDEGEE. Mr. President, I should like to have a little better order in the Chamber.

The PRESIDENT pro tempore. The Senate will be in order. The Senator from Connecticut complains that on account of the confusion he is unable to make himself heard.

Mr. BRANDEGEE. I wanted order so that Senators might hear me while I make a request for unanimous consent. I did not want any question to arise about Senators understanding the request.

The PRESIDENT pro tempore. The Senate will be in order.

Mr. BRANDEGEE. Mr. President, there has been upon the calendar for several weeks an important bill concerning the authorization of a dam across the Connecticut River. There is opposition to the measure on the part of some Senators, and the views of the minority have been filed. It is very important that action of some kind shall be taken upon it at this session if possible. I have conferred with the Senator who drew the views of the minority, and he has agreed with me and the chairman of the Committee on Commerce and the Senator under whose immediate charge the bill is that it might be taken up, if the other Senators would agree to it, on next Thursday for consideration and action.

I send to the desk a request for unanimous consent, which I hope may be granted.

The PRESIDENT pro tempore. The order will be read.

The Secretary read as follows:

It is agreed by unanimous consent that on Thursday, February 6, 1913, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of Senate bill 8033, Calendar No. 1001, authorizing the construction of a dam across the Connecticut River, and before adjournment on that legislative day will vote upon any amendment that may be pending, all amendments that may be offered, and upon the bill through regular parliamentary stages to its final disposition.

This agreement shall not interfere with the unanimous-consent agreement entered into on January 11, 1913, concerning Senate bill 4043, to prohibit interstate commerce in intoxicating liquors in certain cases.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Connecticut?

Mr. BORAH. Mr. President, this bill apparently is of local importance only; and it would seem strange perhaps that I should make any suggestions about it; but the bill carries a provision which establishes a policy, as I understand, with reference to power sites in this country.

I am not sufficiently familiar with the bill to express my views as to how I would finally act upon the matter, but it is a matter of vital importance to that portion of the country from which I have the good fortune to come. There is no measure which will come before the Senate at this session of so much importance to the people of the West as this particular measure. I only want to say that, if we are going now to take steps to establish a policy with reference to conservation, I want an opportunity to present a side of that subject which has not yet been given very much attention.

We have succeeded splendidly in tying up all the natural resources of the West, and, so far as they have been tied up as against waste and monopoly, the West does not object; but they have been tied up just as successfully and just as effectively against the people of the West. If a conservation policy is now in its inception, I want, if I can, to attach to the measure some provision which will also give some relief to those who, in good faith, are trying to avail themselves of some of the natural resources of the West. I wish, therefore, the Senator from Connecticut would not make this request for unanimous consent prior to Monday. It may be that by that time I could agree to the date suggested by him, but it gives very little time for discussion in the closing hours of the session, and very little time for consideration. I shall endeavor not to interfere with the consideration of the bill or the convenience of the Senator from Connecticut; but, in view of its great importance to us, I should like to have the Senator defer his request until Monday at least, and then I hope to be able to determine definitely whether or not I can get my amendment ready.

Mr. BRANDEGEE. Of course, Mr. President, I have to yield to the request of the Senator.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had agreed to the concurrent resolution of the Senate, No. 35, providing for the assembling of the two Houses of Congress for the counting of the electoral votes for President and Vice President of the United States.

The message also announced that the House had appointed Mr. RUCKER of Missouri and Mr. YOUNG of Michigan tellers on the part of the House.

POPULAR GOVERNMENT.

Mr. OWEN. I ask unanimous consent for an order to print 1,000 copies of Senate Document No. 603, Sixty-first Congress, second session, which is exhausted.

Mr. WILLIAMS. Mr. President, before that is granted, reserving the right to object, what is the document?

Mr. OWEN. It is a document giving a list of the various statutes relating to the people's rule system of government.

Mr. WILLIAMS. I shall object to that.

The PRESIDENT pro tempore. Objection is made to the request of the Senator from Oklahoma.

DONATION OF CONDEMNED CANNON.

Mr. SANDERS. I ask unanimous consent for the present consideration of the bill (S. 8273) authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls.

The PRESIDENT pro tempore. The Senator from Tennessee asks unanimous consent for the present consideration of a bill the title of which will be stated.

The SECRETARY. A bill (S. 8273) authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of War to deliver condemned bronze or brass cannon or fieldpieces and suitable outfit of cannon balls as follows:

To the city of Lancaster, in the State of Pennsylvania, for the use of General William S. McCaskey Camp, No. 53, United Spanish War Veterans;

To the town of Washington, in the State of Mississippi, for the use of Jefferson College;

To the city of Corinth, in the State of Mississippi;

To the city of Grand Forks, in the State of North Dakota;

To the city of Lakota, in the State of North Dakota;

To the State of North Dakota, for use at the Fort Rice Memorial Park;

To the proper authorities of the State Soldiers' Home at Port Orchard, Wash.;

To the city of Davenport, Wash.;

To the city of Trinidad, in the State of Colorado, for the use of the Trinidad Post, No. 25, Grand Army of the Republic; and

To the city of Rocky Ford, in the State of Colorado, for the use of the Wadsworth Post, No. 93, Grand Army of the Republic.

Mr. SANDERS. On behalf of the committee I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The Senator from Tennessee offers an amendment, which will be stated.

The SECRETARY. On page 2, line 5, after the word "Dakota," it is proposed to strike out "one" and insert "two."

The amendment was agreed to.

Mr. SWANSON. Mr. President, I should like to offer an amendment.

Mr. OLIVER. Mr. President, I suggest that the Senator from Tennessee has a number of amendments to submit on behalf of the committee. Then other amendments would naturally be in order.

Mr. SANDERS. On behalf of the committee I offer the amendments which I send to the desk.

The PRESIDENT pro tempore. The amendments will be stated.

The SECRETARY. On page 2, after line 12, it is proposed to insert:

To the city of Minot, in the State of North Dakota, one condemned bronze or brass cannon or fieldpiece and a suitable outfit of cannon balls.

On page 3, after line 2, to insert:

To the city of Raton, in the county of Colfax and State of New Mexico, two condemned bronze or brass cannon and a suitable outfit of cannon balls.

To the town of Lookout Mountain, in the State of Tennessee, two condemned cannon and a suitable outfit of cannon balls.

The amendments were agreed to.

Mr. SWANSON. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. Following the amendment just agreed to, it is proposed to insert:

To the county of Mecklenburg, in the State of Virginia, two condemned bronze or brass cannon or fieldpieces and a suitable outfit of cannon balls.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I offer the amendment which I send to the desk and ask to have read.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. After the amendment last agreed to it is proposed to insert:

To the city of Jackson, in the State of Mississippi, one condemned bronze or brass cannon or fieldpiece and a suitable outfit of cannon balls.

The amendment was agreed to.

Mr. CLAPP. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. After the amendment last agreed to it is proposed to insert:

To the city of Bellevue, in the State of Ohio, one condemned bronze or brass cannon or fieldpiece and a suitable outfit of cannon balls.

The amendment was agreed to.

Mr. FLETCHER. Mr. President, I offer the amendment which I send to the desk and ask to have read.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. After the amendment last agreed to it is proposed to insert:

To the city of Jacksonville, in the State of Florida, two condemned bronze or brass cannon or fieldpieces and a suitable outfit of cannon balls.

The amendment was agreed to.

Mr. CHILTON. Mr. President, I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. After the amendment last agreed to it is proposed to insert:

To the Greenbrier Military Academy at Lewisburg, in the State of West Virginia, two condemned bronze or brass cannon or fieldpieces and a suitable outfit of cannon balls.

The amendment was agreed to.

Mr. PAGE. Mr. President, I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. After the amendment last agreed to it is proposed to insert:

To the county of Lamoille, in the State of Vermont, two condemned bronze or brass cannon or fieldpieces and a suitable outfit of cannon balls.

The amendment was agreed to.

Mr. SMOOT. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. After the amendment last agreed to it is proposed to insert:

To the University of Utah at Salt Lake City, in the State of Utah, two condemned bronze or brass cannon or fieldpieces and a suitable outfit of cannon balls.

The amendment was agreed to.

Mr. THOMAS. I move an amendment to include the University of Colorado at Boulder, Colo.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. After the amendment last agreed to it is proposed to insert:

To the University of Colorado at Boulder, in the State of Colorado, two condemned bronze or brass cannon or fieldpieces and a suitable outfit of cannon balls.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. CLAPP. Mr. President, I move the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. It is proposed to insert:

To the city of Virginia, in the State of Minnesota, one condemned bronze or brass cannon or fieldpiece and a suitable outfit of cannon balls.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LACE-MAKING AND OTHER MACHINERY.

Mr. LODGE. I ask unanimous consent for the present consideration of the bill (H. R. 12813) to refund duties collected on lace-making and other machines and parts or accessories thereof imported subsequently to August 5, 1909, and prior to January 1, 1911.

The PRESIDENT pro tempore. The Senator from Massachusetts asks unanimous consent for the present consideration of the bill, which will be read by the Secretary.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM W. PRUDE.

Mr. SMOOT obtained the floor.

Mr. JOHNSTON of Alabama. Will the Senator yield to me for a moment?

Mr. SMOOT. I yield to the Senator.

Mr. JOHNSTON of Alabama. I ask unanimous consent for the immediate consideration of order of business 1040, being the bill (S. 8139) for the relief of William W. Prude.

The PRESIDENT pro tempore. The Senator from Alabama asks unanimous consent for the present consideration of a bill, which will be read by the Secretary.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It authorizes the President of the United States to appoint William W. Prude, late a cadet at the Military Academy at West Point, second lieutenant of Infantry of the Army, and to place him upon the retired list with the pay of a retired second lieutenant of Infantry.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SETTLERS ON UNSURVEYED LANDS.

Mr. JONES. I ask unanimous consent to consider the bill (S. 8190) authorizing settlers on unsurveyed lands to make final proof under laws existing at the time of settlement.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Public Lands with an amendment, on page 1, line 9, after the word "perfect," to strike out "his," so as to make the bill read:

Be it enacted, etc., That any person entitled to enter lands under the homestead laws, who may have established residence upon unsurveyed lands prior to the passage and approval of the act of June 6, 1912, entitled "An act to amend section 2291 and section 2297 of the Revised Statutes relating to homesteads," may perfect his proof for such lands under said act of June 6, 1912, or under the law existing at the time of the establishment of such residence, as he may elect, such election to be signified to the Department of the Interior in accordance with rules and regulations to be prescribed by the Secretary.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CAROLINE O. BALLARD.

Mr. PENROSE. I ask unanimous consent for the present consideration of Senate resolution 439, a resolution submitted by me and reported from the Committee to Audit and Control the Contingent Expenses of the Senate, being Calendar No. 1028.

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay, out of the contingent fund of the Senate, to Caroline O. Ballard, widow of William S. Ballard, late a messenger of the Senate, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

Mr. SMOOT. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock p. m., Saturday, February 1) the Senate adjourned until Monday, February 3, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February 1, 1913.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Out of the deeps where the purest and sweetest affections have their birth and from which spring spontaneously faith, reverence, worship, we cry unto Thee, O God, our Father, for help, strength, guidance in the onward march of time, that our lives may be worthy and our acts in consonance with Thy will; that at the end of our earthly sojourn we may merit Thine approval. And everlasting praise be Thine in Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

FUR-SEAL INVESTIGATION.

Mr. ROTHERMEL. Mr. Speaker, I ask unanimous consent to make the hearings relating to the investigation of the fur-seal industries of Alaska a part of the report of the Committee on Expenditures in the Department of Commerce and Labor.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to make the hearings in the fur-seal investigation a part of the report. Is there objection?

Mr. FOSTER. Mr. Speaker, reserving the right to object, I will ask the gentleman from Pennsylvania how extensive these hearings are?

Mr. ROTHERMEL. They contain about 1,000 pages, but nearly all of it is in type in the Printing Office. The hearings have been carried away and there is such a demand for them that it will become necessary to have some more printing done in the case. I thought it would be better to make it a part of the report. There has been a tangle in the fur-seal business for 40 years, and we have endeavored to settle the dispute, so far as investigations are concerned, up to this time, so that there will be no investigation needed in the future. I thought it would be a good idea to make a public document of the entire proceedings.

Mr. FOSTER. Mr. Speaker, it seems to me that this is not a very good plan without first going to the Committe on Printing.

Mr. ROTHERMEL. It has been the custom heretofore to make it a part of the report, I understand, and I really feel it is hardly necessary to do that. I would say to the gentleman from Illinois.

Mr. FOSTER. Mr. Speaker, I will state that I have endeavored to get some matters printed as documents heretofore and have been unable to do so because the Committee on Printing has objected to printing these matters as documents. I believe they ought to go to the Committee on Printing, and let that committee decide the matter of whether we shall have this printed as a document.

The SPEAKER. The gentleman is not asking to have it printed as a document, but as a part of his report.

Mr. FOSTER. In practice it would amount to the same thing as though it were printed as a document.

Mr. ROTHERMEL. Mr. Speaker, I would say to the gentleman from Illinois that the entire committee has agreed that it is necessary to do this.

The SPEAKER. How much is there of it?

Mr. ROTHERMEL. There are about 1,000 pages, but about 75 per cent of that is in type in the Government Printing Office.

Mr. FOSTER. Mr. Speaker, I wish the gentleman would let the matter go over to-day.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois objects.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. BURLESON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 28499, the District of Columbia appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for further consideration of the District of Columbia appropriation bill, with Mr. RODDENBERY in the chair.

The CHAIRMAN. When the committee rose yesterday there was an amendment pending presented by the gentleman from Missouri, Mr. BORLAND.

Mr. BORLAND. Mr. Chairman, for the present I will yield to the gentleman from Texas, the chairman of the committee.

Mr. BURLESON. Mr. Chairman, I ask unanimous consent to return to page 25 of the bill, under an agreement reached yesterday, for the purpose of offering an amendment which obviates the difficulty which we encountered yesterday.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BURLESON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 25, after line 7, insert as a new paragraph the following:

"The portable asphalt plant purchased under the appropriation for repairs of streets, avenues, and alleys for the fiscal year 1913 may be operated under the immediate direction of the Commissioners of the District of Columbia in doing such work of resurfacing and repairs to asphalt pavements, in the repair of macadam streets by constructing on such macadam streets an asphalt-macadam wearing surface, and in the construction of asphaltic macadam surfaces on concrete base as in their judgment may be economically performed by the use of said plant, and so much of this appropriation as is necessary for the purposes aforesaid is hereby made available for such work: *Provided*, That at no time hereafter shall more work of resurfacing and repairs be done with the portable asphalt plant than can be accomplished with the single portable plant now owned by the District of Columbia."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BORLAND. Mr. Chairman, I desire to discuss the amendment which was submitted on yesterday.

Mr. CANNON. Mr. Chairman, I ask that the amendment be again reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

There was no objection, and the Clerk again read the amendment.

Mr. CANNON. Mr. Chairman, is this now offered for the first time?

Mr. BORLAND. No; it was offered last night.

Mr. CANNON. I wish to reserve a point of order upon it.

The CHAIRMAN. The Chair will state to the gentleman from Illinois that when the amendment was offered on yesterday just prior to the committee rising, the question of whether a point of order could be raised was presented. The Chair ruled that no point of order having been made until after debate had began it was too late to make the point of order. The amendment of the gentleman from Missouri was offered and read at the Clerk's desk. The gentleman from Texas [Mr. BURLESON] submitted a few remarks and made some inquiries, whereupon the question of whether a point of order could be made or not was raised, and the Chair ruled that it was too late.

Mr. CANNON. I think the Chair was correct.

Mr. BOOHER. Mr. Chairman, this is a very important amendment. It changes the law of this District in relation to these improvements entirely. It seems to me that it is as important as any legislation we have been considering this session. There are but 22 Members present this morning, and I do not believe that legislation of this great importance ought to be entered upon unless there is a quorum present. I therefore make the point of order that there is no quorum present.

The CHAIRMAN. Evidently there is no quorum present, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken, S. C.	Gardner, N. J.	Lever	Riordan
Alexander	George	Lewis	Roberts, Nev.
Ames	Gill	Lindsay	Rodenberg
Andrus	Gillett	Littleton	Rubey
Ansberry	Glass	Longworth	Rucker, Colo.
Anthony	Goldfogle	Lond	Rucker, Mo.
Ashbrook	Graham	McCoy	Sabath
Barchfeld	Green, Iowa	McCreary	Scully
Bartholdt	Greene, Mass.	McDermott	Sells
Berger	Griest	McGillicuddy	Shackleford
Bradley	Gudger	McGuire, Okla.	Sheppard
Broussard	Hamilton, W. Va.	McKenzie	Simmons
Burke, Pa.	Hamlin	McLaughlin	Slayden
Burke, S. Dak.	Hammond	Madden	Slemp
Burke, Wis.	Hardwick	Maguire, Nebr.	Sloan
Byrnes, S. C.	Hardy	Maher	Smith, Saml. W.
Calder	Harris	Mann	Speer
Callaway	Harrison, N. Y.	Martin, Colo.	Stack
Candler	Hart	Martin, S. Dak.	Stanley
Carlin	Hartman	Matthews	Stephens, Cal.
Claypool	Haugen	Merritt	Sterling
Clayton	Hawley	Moon, Pa.	Sweet
Cooper	Hayden	Morgan, La.	Taggart
Copley	Heald	Murdock	Talbott, Md.
Covington	Henry, Conn.	Needham	Taylor, Ala.
Craven	Higgins	Nelson	Thayer
Curry	Hill	Norris	Thistlewood
Davidson	Holland	Nye	Tilson
Davis, Minn.	Houston	Olmsted	Tuttle
Davis, W. Va.	Howard	O'Shaunessy	Underwood
De Forest	Howell	Palmer	Vare
Deitrick	Howland	Parran	Vreeland
Dickinson	Hughes, Ga.	Patten, N. Y.	Warburton
Dies	Hull	Payne	Watkins
Difenderfer	Humphrey, Wash.	Peters	Webb
Dixon, Ind.	James	Plumley	Weeks
Dodds	Johnson, S. C.	Porter	Whitacre
Donohoe	Kindred	Post	White
Driscoll, D. A.	Kinkead, N. J.	Pou	Wilder
Dupre	Kitchin	Pray	Wilson, Ill.
Dwight	Konig	Prince	Wilson, N. Y.
Finley	Konop	Pujo	Wilson, Pa.
Fitzgerald	Korbly	Rainey	Wood, N. J.
Floyd, Ark.	Lafean	Randell, Tex.	Woods, Iowa
Focht	Lafferty	Ransdell, La.	Young, Kans.
Fordney	Lamb	Rauch	Young, Mich.
Fornes	Langley	Redfield	Young, Tex.
Foss	Lawrence	Reilly	
Gardner, Mass.	Lee, Ga.	Reyburn	

During the roll call the Speaker directed that his name be called.

The Clerk called the name of Mr. CLARK of Missouri, and he answered "Present."

The committee rose; and the Speaker having resumed the chair, Mr. RODDENBERY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee finding itself without a quorum he caused the roll to be called, that 189 Members had answered present, and he reported herewith the names of the absentees to the House.

The SPEAKER. The Chairman of the Committee of the Whole House on the state of the Union reports that that committee finding itself without a quorum he caused the roll to be called, and 189 Members—a quorum—responded to their names, and he furnishes a list of the absentees to the House.

The committee resumed its session.

Mr. BORLAND. Mr. Chairman, I ask unanimous consent that I may proceed for 15 minutes instead of 5 in order to explain this amendment.

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] asks that he may proceed for 15 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. BORLAND. Mr. Chairman, the pending amendment which I have offered to the District bill embodies a reform for which I have been fighting since the time when I was a member of the District Committee in the Sixty-first Congress, as my former colleagues on that committee well know. It proposes that a portion of the cost of street improvements shall be assessed against the abutting property benefited. That is the law in an overwhelming majority of American cities. Street improvements of a certain class are classed as a special benefit to the property adjoining the improvement and are not classed as a part of the general tax burden of the community. That is the law in nearly every American city of which I know. In the District of Columbia, on the contrary, street improvements of a very important class—pavements and resurfacing—have been paid for entirely out of the general fund. That general fund, as you know, is made up one-half by contributions from the Federal Treasury, which means the people of the United States and in general, and one-half from the general revenues of the District of Columbia. Toward that one-half contributed by the general revenues of the District of Columbia every property owner and resident of the District of Columbia contributes. The merchant contributes on the little stock of groceries on his shelves toward the raising of that general revenue fund; the householder pays on his little household goods; the teamster pays on his wagon; everybody contributes toward that general fund. Then that general fund is drawn upon to provide the street improvements and construction of streets in localities and in additions, in which after they have been brought to a high state of improvements streets have been opened up, paved, and so on, put upon the market as high-priced property, sometimes as $2 or $3 a square foot, much higher than the property that contributes toward their improvement. While they are in the course of improvement, before they are platted and actually put upon the market, they are assessed at comparatively low rates, and contribute only as unplatted property toward this general fund which is going toward their improvement and advancement. Now that is the concrete condition of affairs here. This amendment provides that half of the cost of street improvements shall be charged against the abutting property on both sides, which would mean that one-fourth of it would fall upon a particular piece upon one side. We take the average width of the running surface of the street at 32 feet. The amendment provides that where the street is 32 feet or less one half shall be paid by the property owners on both sides and the other half shall be paid out of the general fund. Where the street is wider than 32 feet, one-fourth of the excess over 32 feet is charged against the abutting property owner. The reason of that, of course, is apparent. There are in the District a number of exceptionally wide streets, more than there are in some of the other American municipalities, and it is only fair that the excessive width shall be only partly borne by the adjoining property. These exceptionally wide streets are in the down-town district, where improvements have been made, so as a practical question we can not improve except on the resurfacing, which is not a very expensive matter.

The amendment also provides that the part which must be paved by the street railway company shall be deducted from the cost of the construction of the street. So that in the aggregate the down-town property will not be charged with a great deal of expense. Now, I am free to confess that I believe it would be perfectly fair on a 32-foot street, or any average width of street, to charge the abutting property with the total cost of the construction or reconstruction of the street, because that is true in 62 per cent of the American cities. In addition to that, gentlemen, as most of you know, the abutting property pays in many cities for the repair of the street. But this amendment leaves the repair of the street still at the expense of the general fund. This is a very conservative amendment. It not only leaves the property owner free from the expense of repair, but it only charges him with one-half of the cost of construction and one-fourth of the excess over the average width of the street. I am free to say that I would have drawn the amendment to make him pay all the cost of a 32-foot street, but this amendment has been prepared with a great deal of care by the assistant engineer officer of the District. I believe in having the principle

established that the abutting property contribute, and then we can amend in the future if a demand appears. If they ask for better or further legislation, we, of course, are in position to give it to them from time to time. But at present it is the principle that we are contending for, that a portion of this expense must be paid by the abutting property owner. Now it has been said, and it may be raised in the course of this argument, that a little property owner who has bought his home on the installment plan may be affected by this proposition. The contrary is true. The little property owner who has bought his home on the installment plan will be relieved by the operation of this amendment. He is now being taxed to pay for the construction of the new property. He is not being taxed for his own property, because he bought his own property from the builder, who was engaged in the speculation of putting up these houses. But he bought it with the street improvements put in new, and paid a price which covered those improvements, and he is now taxed for the other property which is sold by the same builder on the installment plan.

Mr. FRANCIS. Will the gentleman yield?

Mr. BORLAND. I yield to the gentleman from Ohio.

Mr. FRANCIS. What does your amendment define a special improvement to be? Within what limits is it?

Mr. BORLAND. It is confined to one class of special improvements, the surfacing of streets and the construction of the same. And it extends the same rule to those streets that now applies to sidewalks and alleys. And that is all. Now suppose we take a little property owner who has bought a house on an 18-foot lot, and that may be at least the average width, although, perhaps, it is a little wider than the average width, of these cheap houses. Suppose he is on a 32-foot street. He and the property owner across the street from him pay for 16 feet of that. In other words, each of them pay for 8 feet, and he pays on 18-foot frontage.

The new construction or entire reconstruction of that street would not cost over $2 a yard, and his whole cost in 11 years would be $32 if he paid for the entire construction of the street. But the resurfacing, which might occur once in five or six years, would not cost over more than $16 or $17 in the entire five or six years. There is not a chance of a hardship on the little property owners or nothing in the argument that he is being taxed for the larger property owner, but it is to equalize the conditions between the little property owner and the big property owner that this amendment is introduced. And, more than that, it is to equalize the condition between the little merchant and the little teamster and the person who is paying on personal property for the construction of these streets. You all know that the bankers and rich men do not pay on securities. They do not pay a penny on the magnificent fortunes here toward the maintenance of the District of Columbia, and, of course, they do not pay for street improvement. The person that has tangible property in the District, who pays a personal tax, and who has only a little bit of a grocery store, pays for the construction of these streets.

Mr. JOHNSON of Kentucky. I invite the gentleman's attention to the further fact relative to the payment of tax upon tangible property, or not paying it upon intangible property, that under an act of Congress personal adornments are exempt from taxation, so that those who wear thousands and thousands of dollars worth of diamonds in the District of Columbia are exempt by act of Congress from paying taxes upon them.

Mr. CANNON. The gentleman says the bankers and plutocrats do not pay on securities and property, and so forth. The gentleman says that those who have the diamonds and precious jewels do not pay. I want to ask the gentleman if it is not in the power of Congress to enact legislation that will make the so-called plutocrats pay and those with the fortunes in diamonds pay, and if that would not be better than to tax in the aggregate the great majority of the people in the District who own their little homes? Is it not better to recollect——

Mr. BORLAND. Mr. Chairman, I shall join very heartily with the gentleman from Illinois [Mr. CANNON] in the tax reform that he suggests. I am glad that the suggestion comes from him, and I am going to second his efforts with all the determination that I have. But we do not necessarily take the place of this legislation by doing so. The gentleman's argument points out the necessity for this very legislation.

This legislation is a part of the reform to secure justice between property owners, big and little. In my city and district, and I undertake to say in other cities represented by gentlemen here, when real estate men are getting ready an addition for the market they sometimes pave the streets, put in the sewers, put in handsome waiting stations at the car lines, and everything to make the property attractive, and then donate those improvements to the city when they offer their addition for sale. They do not wait for the ordinary machinery of law, but in all cases they, not the property owners, have to pay for those improvements.

Now, we come here to the situation in the District of Columbia, where they have never paid for these improvements. They have always been paid for out of the general fund, one-half of which is paid by the people of the United States at large, so that, unlike the situation in my city, the citizen here will not pay for the street improvement of his own property.

Mr. CANNON. Mr. Chairman, are we operating under the five-minute rule?

The CHAIRMAN. We are operating under the five-minute rule.

Mr. BORLAND. Mr. Chairman, did I consume all of my time?

The CHAIRMAN. All but three minutes.

Mr. CANNON. Mr. Chairman——

The CHAIRMAN. The gentleman from Illinois is recognized.

Mr. CANNON. Under the rules of the House, Mr. Chairman, legislation is prohibited on appropriation bills. At times those rules by special order have been nullified for the time being, and unless points of order are made promptly items on appropriation bills subject to points of order or amendments to appropriation bills subject to points of order are not subject to points of order after debate has begun on such amendments. That is the case here.

Now, it is difficult in five minutes to talk adequately about this amendment, and if I do not get through in five minutes I am going to ask for an additional five minutes. Here is legislation, far-reaching, proposed without notice to the House, without any investigation, so far as I know, and certainly without even the introduction of a bill referred to the Committee on the District of Columbia, to tax according to the size of the lot, the linear foot, one-half of the improvement and the resurfacing where the surface of the street is to be renewed, and in the name of benefiting the poor man, the small property holder.

Mr. Chairman, I never owned a foot of property in the District of Columbia, and never expect to. The temptation was strong during this great development of Washington and my service in the House, but I refused to purchase for the simple reason that, as one of the common council for the District, I preferred not to be embarrassed. It was not unlawful to purchase, and I will not say it was contrary to good taste, but I preferred not to be embarrassed in the premises.

Now, what is this propostion? It is to tax, without regard to the value, the property upon the various streets for construction and for resurfacing. Let us see how it would operate. Take Pennsylvania Avenue as an example. I find that there is 91 feet of it. You take out the street car tracks that the street car companies would have to care for, and after you would take out the curbs there would be subject to this taxation 30 feet of it on the adjacent property on each side, that would pay half; and 13½ feet for resurfacing, one-fourth.

Go to F Street; go to G Street. Why, property is constantly decreasing in value on this great, wide Pennsylvania Avenue, while it is constantly increasing in value on F Street and G Street. Property is now worth $30 or $40 a square foot there, and you can not, I dare say, as far as Sixth Street—maybe Seventh Street on the Avenue—you can not get $3 or $4 a square foot. And yet on this broad avenue the many little property holders must care for that broad thoroughfare in this resurfacing.

Take the whole of Washington from the Capitol to the Eastern Branch. There are many streets, wide streets, that are not worth one-tenth part of what property on Massachusetts Avenue from Dupont Circle away out to Rock Creek is worth. Yet there is the same charge. Now we have plenary power.

Mr. TAYLOR of Ohio. I might say also that that valuable part of Massachusetts Avenue from Dupont Circle west is improved and will not be taxed for many years to come.

Mr. CANNON. Precisely. "He that hath, to him shall be given; and he that hath not, from him shall be taken even that which he hath." That was meant from the spiritual standpoint. Here is a proposition, as I see it, that comes from the physical and material standpoint.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON of Kentucky. Mr. Chairman, I ask unanimous consent that the gentleman from Illinois be given time to conclude his remarks.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that the gentleman from Illinois be given time to conclude his remarks. Is there objection?

There was no objection.

Mr. CANNON. I shall not take much time. I do not wish to weary the Committee of the Whole. Now, in the aggregate,

the small property holders in Washington, as I believe, are to be found where the property is the least valuable; and this proposition is that if somebody has 30, 40, or 50 feet in depth and 20 or 30 feet in width, with a shanty on it that is not worth $100 or $1,000, he shall pay just the same as the owner of an apartment house or a six-story hotel like the National Hotel or the Metropolitan Hotel, on the Avenue, and so on. The little fellow, colored or white, who may have only 50 feet in depth, with a one-story shack upon it, pays just as much under this law as the man pays who has a six-story building. He pays just as much as the property owner on F Street or just as much as the owners of the Willard Hotel or property in that neighborhood, where it is said that the ground sells for from $30 to $40 a square foot. And this is proposed in the name of benefiting the poor man.

Gentlemen, take the great houses in this city that cost $100,000, $200,000, $300,000, or half a million dollars, if you choose. It is an open secret that property of that kind does not, according to what it cost, pay one-half of the proportionate tax that the little property of the poor clerk or poor laborer pays. As assessments go in this District the poorer property owners pay two or three times as much tax in proportion to the value of their property. It is said that this policy is pursued in order to enable good improvements to be constructed in this city. Yet under this law the cheap property, that is not worth one-tenth as much as the expensive property, pays just as much for the construction and resurfacing of pavements as does that very valuable property. Oh, they say that they cut off hills and fill valleys, and that great avenues are laid out, and that great capitalists and real estate speculators build houses and sell lots. Yes; they do.

Now, we have plenary power. The gentleman from Missouri [Mr. BORLAND] says he wants to relieve the poor man and the multitude of them in Washington, with their little homes, paying taxes already overburdened in comparison, from paying for the improvement of these great avenues. We have plenary power, and I would be ready to join hands with the gentleman from Missouri [Mr. BORLAND] under well-matured, well-considered legislation providing that in the improvement of that kind of property the owner of the more valuable property should pay a part or all of the expense, if you choose, of paving or resurfacing the streets.

Mr. BORLAND. Mr. Chairman, will the gentleman yield?

Mr. CANNON. Yes.

Mr. BORLAND. The House had that plenary power during all the eight years that the gentleman from Illinois was Speaker of the House and appointed the Committee on the District of Columbia. That furnished a fair opportunity to put the gentleman's views into operation.

Mr. CANNON. The gentleman is correct. I was Speaker for eight years. Before that I was chairman of the Committee on Appropriations. The gentleman from Missouri says that the bankers do not pay, and that the street car companies and others did not pay proper taxes. But Mr. Babcock, who was chairman of the Committee on the District of Columbia, being sick, the Committee on Appropriations, of which I was chairman, took up of necessity the question of amending the tax law of the District of Columbia, and that committee spent weeks upon a tax law, and there came a special order making that bill in order as an amendment to the District of Columbia appropriation bill, which had been matured by the committee after full notice to all the District, full hearings, and ample discussion. For the time being the Committee on Appropriations became, as to that legislation, practically a Committee on the District of Columbia.

We made it in order, and, as I recollect, 3 to 4 per cent was levied upon the gross earnings of the banks, and a similar amount upon the gross receipts of the street railways. So that while it is true the District Committee did not report it, yet is that any reason why, with a hop, skip, and a jump, the gentleman from Missouri should turn a double somersault, able as he is and having given the investigation that he has, in the twinkling of an eye, and put upon us this legislation that I assert here now will relieve the bankers and the alleged plutocrats and the capitalists and the real estate men and put a further burden upon the small property holder, the poor negro, the poor clerk, and men who live within Washington proper.

Now, if we entered on this matter at all I doubt if there is a man in the House, except my friend from Missouri and possibly the chairman of the District Committee, who is prepared, with a hop, skip, and a jump, in the closing days of the session of Congress, to prepare a proper amendment. The gentleman says, "Why, you can offer an amendment to tax these people as they extend new avenues and go into real estate speculation." Oh, yes; it is easy to say that, but my observation is that it is not an easy task to mature a tax system and do it intelligently under the five-minute rule right off the bat. It requires study and investigation.

Now, the gentleman says that in Kansas City the whole of this charge is placed upon the adjacent property holders without regard to its improvements, without regard to its value. I apprehend that is true. The whole of the charge in certain streets in Danville was placed there, but it works a great hardship. Nevertheless the ordinance was passed and the tax was paid, but property that was worth $200 a front foot paid no more for the improvement of these streets than the property a mile away that was not worth $10 a front foot. It worked an injustice, and yet the desire to have good streets made us pass the ordinance, and the tax was collected.

Now, I want to say, touching the District of Columbia, that it is not on all fours with Kansas City. Kansas City has had a wonderful growth, but it has not had time to apportion the taxes there equitably. It is a wonderful business city and has had wonderful prosperity. Washington, in the aggregate, is made up in its population of clerks, messengers, watchmen, and the great aggregate of them are poor men. It is not a manufacturing city; it is not a business city, except as retailers furnish to the 300,000 people that which they desire to buy. Of course, we come in here and see the beautiful city, one-half of the expense of which is borne by the Government and one-half by the District, and we think they are a favored people. But, gentlemen, they are not the favored people. There are bright people in the public service in Washington; they are splendid and magnificent in intellect. They come here and drop into a groove; but whenever I see one come here and drop into that groove—and I am now speaking of the average man—I feel like saying, "Abandon hope all ye who enter here," because they fall out of acquaintanceship in Illinois, in Missouri, and Oklahoma, and they live and die spending their month's salary, in many cases two or three months in advance, and, speaking respectfully, they get the dry rot. [Applause.] When they drop out of the service they have no way to live. That is a penalty instead of a benefit.

Now, I would have been glad if the gentleman from Missouri, in precipitating this amendment upon the House, had thought about it and had provided for all or a part of the improvement of streets and avenues that extend far out to the northwest, and after a while may extend to the northeast. I would have been glad if he had separated the improvements of that kind and said how much or all that should be made at the expense of the proposed new property that sells from two to three or four dollars a square foot, whereas you can not get one quarter of that here; and when you get down into the territory of the southwest and the southeast property is hardly worth owning.

It is not equitable; it is not fair. Our Democratic friends are soon to come into full power with full responsibility. You are going to have a session of Congress commencing somewhere in March or April. It may be a long session. You have two years in front of you with full power, and I apprehend that my friend from Missouri [Mr. BORLAND], still being in the House, will retain his place on the Committee of Appropriations and will be on the—perhaps upon the subcommittee on the District of Columbia. I know that he is able; I know that he is zealous. I am not criticizing him personally; I am commending him; but I do say that, in my opinion, upon this bill in the closing days of this session of Congress, we have neither the time nor the information to properly and equitably enact this legislation.

Mr. JOHNSON of Kentucky. Mr. Chairman, I ask unanimous consent to address the committee for 10 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. JOHNSON of Kentucky. Mr. Chairman, in the discussion of this most important subject I believe no better way of discussing it can be had than to go just a little bit into the history of affairs. At one time we had simply the city of Washington, bounded on the south by the Potomac River, upon the east by the Eastern Branch of the Potomac River, upon the north and the northwest by Florida Avenue, and upon the west by a short strip of Rock Creek Park. When the Federal Government concluded to adopt what is known as the half-and-half plan for the city of Washington its contemplation was that it would adopt the half-and-half plan for the about 6,000 acres which composed the original city of Washington.

Mr. SHERWOOD. Mr. Chairman, the gentleman does not mean 6,000 acres in the original city of Washington. It was built in a wilderness.

Mr. JOHNSON of Kentucky. Still that was the original boundary and embraced about 6,000 acres. In those 6,000 acres were the Anacostia Flats, the Mall, and the Potomac Flats.

When you take those swamps that existed then from the 6,000 acres you have a comparatively small portion left. Congress did agree to appropriate half for the current expenses of that, but by an act of Congress that boundary has been obliterated. You have now no city of Washington, you have no city of Georgetown, but you have instead the District of Columbia, and the half-and-half plan now extends to the 69¾ square miles of the whole District of Columbia.

Tracts of land in the District of Columbia, in the midst of primeval forests, are opened up and laid out into town lots. Under that plan the District of Columbia calls upon the Federal Government to pay one-half for the expense of the streets that are opened and macadamized and paved through that, and the Federal Government does it.

The Federal Government pays its half. Across the eastern branch of the river you find streets laid out and you find authority for Congress to go in there and pave them with asphalt, where there is almost not a house, and if you will look to-day you will find the boxes of the rural route established there. Is that what Congress contemplated when it agreed to go upon the half-and-half plan for the city of Washington? I say that no such contemplation was entertained.

To go further along with the history of the District of Columbia, the act of June 11, 1878, which is the half-and-half plan, taxation was made "uniform." Taxation now in the District of Columbia is not uniform. When did it lose its uniformity? It lost its uniformity under the act of 1902, when the gentleman from Illinois [Mr. CANNON] was chairman of the Committee on Appropriations. At that time the Committee on Appropriations brought in an appropriation bill for the District of Columbia, and brought in with it a rider of four or five printed pages changing the plan of taxation in the District of Columbia. By that bill the original rate of taxation of $1.50 a hundred upon real estate was changed to $1.50 a hundred upon a two-thirds valuation, instead of $1.50 upon a real valuation as had been theretofore.

Mr. CANNON. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Kentucky. Certainly.

Mr. CANNON. In language the gentleman is correct. In fact he is wrong. In other words, under the operation of that act of 1902 there became a real valuation, more nearly real than ever before that time, by far. Property theretofore was taxed happy-go-lucky and without a full consideration, and Congress concluded that if we could get a real valuation and then make it two-thirds, we would get far greater revenue than we were getting under the assessments and the mode of taxation in vogue up to that time, and such proved to be the fact. The revenues have constantly increased from that time to the present.

Mr. JOHNSON of Kentucky. Mr. Chairman, as I was saying, before this rider was attached to the appropriation bill in 1902 the rate of taxation in the District of Columbia was "uniform."

Mr. CANNON. It was still uniform.

Mr. JOHNSON of Kentucky. The adoption of that rider on the appropriation bill brought about the change that I was mentioning. The act of June 11, 1878, the organic act, provided that real estate should be taxed at $1.50 a hundred upon its real value. The rider to which I have just referred changed that law and made the tax rate $1.50 upon two-thirds of its real value. That makes the tax upon real estate a dollar a hundred, and that same rider, gentlemen, did another thing: It left the tax standing at a dollar and a half as to the real value upon the tangible personal property, so the tax law was made to discriminate in favor of real property as against personal property. Real estate is now taxed at a dollar a hundred, and personal property in the District of Columbia is taxed at $1.50 a hundred.

Mr. Chairman, the gentleman from Illinois [Mr. CANNON] has just criticized this procedure of coming in, as he says, in the last few days of a session to correct the manner of building streets in the District of Columbia. Let me invite the attention of the gentleman from Illinois to the fact that when he, as chairman of that committee in 1902, placed this rider, to which I have referred, upon the District appropriation bill, that it did not pass this body until the 2d day of March, just an hour before the adjournment of Congress. With more than 30 days——

The CHAIRMAN. The time of the gentleman has expired.

Mr. CANNON. Mr. Chairman, I trust the gentleman may have such extension as he may desire.

Mr. SIMS. Mr. Chairman, I ask that the gentleman be permitted to conclude his remarks, as he is chairman of the District of Columbia Committee.

The CHAIRMAN. The gentleman from Illinois and the gentleman from Tennessee ask that the gentleman from Kentucky may be permitted to proceed and conclude his remarks. Is there objection? [After a pause.] The Chair hears none.

Mr. JOHNSON of Kentucky. Now, Mr. Chairman, with some 30 days yet remaining of this session I contend there is ample time to give due consideration to this amendment, and I believe the gentleman from Illinois should be the last of all those here to criticize, in view of the fact that he succeeded in having passed a discriminatory act as to taxation one hour before the final adjournment of Congress in 1902.

The gentleman has said that he has never owned a foot of ground in the District of Columbia. For that I most genuinely and sincerely congratulate him. I have no doubt that his opportunities to have grown rich from real estate transactions here have been many, and I congratulate him most heartily that he has declined them. Mr. Chairman, we have over the signatures of great men who have been in this body and in the other end of the Capitol the statement that they have grown rich out of real estate speculations in the District of Columbia. We know it to be a fact that a recent Vice President of the United States carried real estate in the District of Columbia in the name of his secretary. That statement became a public statement when Mr. Saunders, one of the most reputable and prominent real estate dealers in the District of Columbia, appeared before the Committee on the District of Columbia not a great while ago and made that statement. Now, Mr. Chairman, the question comes down to this: Will the Federal Congress continue to pay half of all the expenses for building the streets in the wilderness portion of the District of Columbia when it was not contemplated in the act of 1871 when the boundary line of the city of Washington and the boundary line of the city of Georgetown were wiped away and these 69¾ square miles were made one municipal corporation instead? The wording of the amendment which the gentleman from Missouri [Mr. BORLAND] offers is that when streets lying in front of property owned by the Federal Government are improved the Federal Government must come in and pay its proportion of building the streets just like a private citizen would. What can be fairer, what can be fairer? But to say that a man can own 10 or 100 acres out here in the unbroken wilderness of the District of Columbia and lay it out in lots, streets, and alleys, and come in here and ask the Congress to appropriate a quarter of a million dollars perhaps, and it has been done many times, to build asphalt streets and granitoid pavements through it, and then sell those lots to the poor, not for what they were worth before the Federal money was spent upon them, but for what they were worth before plus the hundreds of thousands of dollars added to them as a subsidy by the Congress.

Talk about the poor! There are three classes of people in this District—one is the rich, the other is the middle class, and the other is the poor. The rich we know, and everybody else knows, are escaping taxation. This is the haven of the tax dodger. Here the rich man can live and die cheaper than anywhere else on earth. We have here no inheritance tax. I have been endeavoring to get out of the District of Columbia Committee an inheritance-tax bill introduced, I believe, by the gentleman from Minnesota [Mr. NYE]. Thus far I have been unable to do so, and it is a sad commentary that even if we did get it out there is a death trap at the other end of this building for such measures.

But, Mr. Chairman, reverting for just one minute to the question of Representatives and Senators owning real estate in the District of Columbia. In the Washington Post of August 28, 1911, is the following most significant statement. It reads as follows:

> The drift of the well-to-do and influential element toward this city could take no better turn than we see in the increasing number of congressional homes. Once they become interested it is noticeable that Members undergo a change of heart that bodes no ill for the municipality. Naturally they come to see that Washington really needs all that Washington people are asking for. Already we owe much to the efforts of Senators and Representatives who have made permanent investments here, and conceivably the good offices of many others would be quickened if proper influences were brought to accelerate the movement from the "deestrict" to the District.

Mr. SIMS. Does it specify what those "proper" elements are that are going to bring about the action of which the gentleman has just read?

Mr. JOHNSON of Kentucky. I can only say this, that but recently one of the Commissioners of the District of Columbia told me that one of the richest and most powerful men in the District of Columbia had told him that he had made it his policy to have influential Members of the House and Senate purchase real estate in the District of Columbia, in order that their assistance might be had toward keeping down the taxes and toward securing improvements in the District.

Mr. SIMS. All of which that commissioner, I suppose, heartily approved?

Mr. HAMILTON of Michigan. May I ask the gentleman a question?

Mr. JOHNSON of Kentucky. Yes, sir.

Mr. HAMILTON of Michigan. Is it true or is it not true that the proportion of Representatives who own property in the District of Columbia is quite small on account of the brevity of their tenure?

Mr. JOHNSON of Kentucky. I believe it is comparatively small, and I am perfectly frank to say that I believe the article which I have just read from the Washington Post is a libel upon Members of Congress. [Applause.] I know that there are men in this body, and I know that there are men in the other body who own their own homes here, that are just as far from being corrupt as the Almighty Himself, and this article is but another of the many libels heaped upon Members of this House who will not blindly go and do their bidding. Now, Mr. Chairman——

Mr. HAMILTON of Michigan. That is making them a little too honest. [Laughter.]

Mr. JOHNSON of Kentucky. No, sir. I believe the people have selected to come here and represent them some of the most honest men in the United States.

Mr. HAMILTON of Michigan. I agree with that, but I want to suggest that when the gentleman states that men are as honest as the Almighty, that is putting it strong.

Mr. JOHNSON of Kentucky. I believe there are men here who are absolutely and perfectly honest. For perfect honesty there can be no exaggerated comparison.

Mr. MURDOCK. Will the gentleman yield?

Mr. JOHNSON of Kentucky. Yes, sir.

Mr. MURDOCK. The gentleman started to segregate the people of this District into three classes, and he mentioned, first, the rich, and then he spoke of the middle classes of this city. Who constitute the middle classes?

Mr. JOHNSON of Kentucky. As I was saying, the rich are the rich. That is definition sufficient. They are the people who own magnificent homes. They are the people who have big bank accounts. They are the people who have bonds and securities securely locked up, upon which they pay no tax, and they are the people who steer this ship of state from behind. Then, again, we have the humble house owners, and those are the middle class. And then we have those who are too poor to own a home. And by the act of 1902, to which I have just referred, a man who owns a house and leases it pays a dollar a hundred tax upon the house and ground upon which it stands, while the man who is too poor to own a house must pay a dollar and a half a hundred tax upon his little personal effects.

Now, one other feature in this matter presents itself to me. It is no new idea with me, and last fall I prepared a table upon the subject. The table which I now have in my hand has each of the 48 States upon it, and it shows, according to population, what proportion each State bears toward this subsidy granted by Congress to the District of Columbia.

Why, gentlemen, we come here and fight among ourselves, not only day after day, but week after week, as to whether or not the Federal Government shall build one battleship or two. Yet we can scarcely secure a corporal's guard, a dozen men, to come here and participate in the consideration of the District of Columbia appropriation bill, by which every Congress grants as a subsidy to the District of Columbia more than the cost of a *Dreadnought* and pay no sort of attention to it. We fight among ourselves here as to whether the widow of a distinguished general in the War of 1861–1865 shall be paid a pension of $50 a month, and yet we come here and pay as a pension to the widow of a policeman the salary of $50 a month and never ask a question. Part of that pension comes from the revenues of the District of Columbia and the rest of it comes by reaching into the Treasury of the Federal Government for it.

What does each State pay toward this subsidy of which I am speaking? Alabama pays $144,571; Arizona pays $13,770; Arkansas pays $106,081; California pays $160,260; Colorado pays $73,841; Connecticut pays $75,116; Delaware pays $13,633; Florida pays $50,714; Georgia pays $175,810; Idaho pays $21,939; Illinois, $379,945; Indiana, $181,993; Iowa, $149,912; Kansas, $113,941; Kentucky, $154,301; Louisiana, $11,612; Maryland, $50,023; Massachusetts, $87,284; Michigan, $226,849; Minnesota, $189,356; Mississippi, $121,089; Missouri, $221,915; Montana, $25,340; Nebraska, $80,335; Nevada, $5,517; New Hampshire $29,013; New Jersey, $170,962; New Mexico, $22,055; New York, $614,103; North Dakota, $38,884; Ohio, $521,223; Oklahoma, $11,664; Oregon, $45,333; Pennsylvania, $516,498; Rhode Island, $35,562; South Carolina, $102,107; South Dakota, $39,344; Tennessee, $147,218; Texas, $262,561; Utah, $25,158; Vermont, $23,985; Virginia, $138,918; Washington, $76,951; West Virginia $82,282; Wisconsin, $157,262; Wyoming, $9,836; and the District of Columbia, $22,308.

Mr. KINKAID of Nebraska. Mr. Chairman, will the gentleman yield for a single question?

The CHAIRMAN. Does the gentleman yield?

Mr. JOHNSON of Kentucky. Yes.

Mr. KINKAID of Nebraska. Upon what basis is that table ascertained?

Mr. JOHNSON of Kentucky. As I said before reading it, on the basis of population.

Mr. TOWNER. What census?

Mr. JOHNSON of Kentucky. The last census.

Mr. MURDOCK. Mr. Chairman, I want to get this correctly in my mind. Does the gentleman's table show that the States of Pennsylvania and New York pay annually over a million dollars taxes to the District of Columbia?

Mr. SIMS. Yes.

Mr. JOHNSON of Kentucky. New York pays $614,103 and Pennsylvania $516,498.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. JOHNSON of Kentucky. I do.

Mr. MOORE of Pennsylvania. Does the gentleman mind telling us how he arrives at the figures in this particular table? The proportions, as I understand, are based on the population of the States, and, as the gentleman states it, each State contributes so much to the maintenance of the District of Columbia. I want to ascertain the manner in which the statement was prepared.

Mr. JOHNSON of Kentucky. For the fiscal year—for the current year——

Mr. MOORE of Pennsylvania. Based on general appropriations?

Mr. JOHNSON of Kentucky. Yes. For the current year the Federal Government has subsidized the District of Columbia to the extent of $6,197,403.

Mr. MOORE of Pennsylvania. Then the gentleman divides that amongst the States as per population?

Mr. JOHNSON of Kentucky. Yes.

Mr. MOORE of Pennsylvania. I see.

Mr. JOHNSON of Kentucky. Now, Mr. Chairman, I have here, if the committee will bear with me just a little bit, some more very intersting figures. For streets, sewers, and water mains the State of Alabama pays $14,097.

The State of Arizona pays $1,347; the State of Arkansas, $1,380; California, $15,675; Colorado, $5,267; Connecticut, $7,350; Delaware, $1,335; and so on through with all the States; showing that the subsidy for streets paid by the States of this Union to the District of Columbia amounts to $606,472 this fiscal year.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield? The gentleman used the term that annually the United States "subsidizes" the District to the extent of something over $6,000,000.

Mr. JOHNSON of Kentucky. Yes; for the current year, $6,197,403.

Mr. YOUNG of Michigan. How many cents?

Mr. BURKE of South Dakota. Does the gentleman think the word "subsidizing" is the proper term?

Mr. JOHNSON of Kentucky. I use the term advisedly.

Mr. BURKE of South Dakota. That is the amount of money that Congress annually appropriates.

Mr. JOHNSON of Kentucky. That is the amount of money that Congress appropriated for the current fiscal year. For the approaching fiscal year they are asking considerably more.

Mr. BURKE of South Dakota. That is the appropriation for the District of Columbia.

Mr. JOHNSON of Kentucky. Yes.

Mr. BURKE of South Dakota. And that is what the gentleman refers to as a subsidy; that is one-half of the moneys that are expended in the District of Columbia for its government.

Mr. JOHNSON of Kentucky. Yes. The total amount contributed for the present fiscal year is more than six millions.

Mr. HELGESEN. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Kentucky. Yes.

Mr. HELGESEN. Can the gentleman tell this House how much each State would contribute to the expenses of the government of the District of Columbia if the National Government paid its share of the taxes on the property it owns here at a full valuation, under the ordinary system of taxation?

Mr. JOHNSON of Kentucky. It is the old, old rule that the king pays no taxes. For the Federal Government to tax itself, collect the money, and return it into the Treasury would be the equivalent of taking money out of one pocket and putting it into the other.

Mr. TAYLOR of Ohio. That is what it is doing now to the extent of $6,000,000.

Mr. JOHNSON of Kentucky. The gentleman from North Dakota [Mr. HELGESEN] has put a hypothetical question for the answer to which there is absolutely no basis to work from. If it were a real question instead of a hypothetical one, then we would have a basis from which to fix it. The statement has been made so many times that some people have come to believe that the Federal Government owns one-half of all the property in the District of Columbia.

In 1873 or 1874 Gov. Shepherd made the statement, which found its way into print, that the Federal Government owned one-half of all the property, not in the District of Columbia but in the city of Washington, the city of Washington being then bounded, as I have said, by what is now Florida Avenue. But that statement made by Gov. Shepherd was based upon values and not upon area.

We all know that the Federal buildings here have cost a great deal more than any other buildings in the District. As to what their value is I am not advised. But when we come to area, only one-sixth of the entire District of Columbia is built up, and then, if we consider Federal property in the District of Columbia that is used for Federal purposes alone, we have another subject.

The Federal Government owns Potomac Park, but Potomac Park is not owned by the Federal Government for the exclusive use of the Federal Government. Potomac Park is owned by the Federal Government, improved and kept up for the pleasure of the citizens of Washington. The Federal Government owns Lafayette Square, opposite the White House, but that square is not for the exclusive use of the Federal Government. It is for the use, the pleasure, and the health of the citizens of the city of Washington. The Federal Government owns Lincoln Park. That is not owned for Federal use. It is owned and kept for the pleasure and recreation of the citizens of Washington. Does anybody tell me that that should be a basis for taxation between the Federal Government and the District of Columbia?

I say no; and I further say that when we come to ascertain how much property the Federal Government owns in the District of Columbia for Federal use exclusively, that it is my opinion that all told it is less than 20 acres out of more than 50,000 acres.

Mr. SIMS. May I ask the gentleman a question right there?

Mr. JOHNSON of Kentucky. Certainly.

Mr. SIMS. I want to ask the gentleman if it is not a fact that Potomac Park and Rock Creek Park, while owned by the Federal Government, are practically inaccessible to the clerks, the Federal employees of whom the gentleman from Illinois [Mr. CANNON] spoke awhile ago, and to the average citizen of the District of Columbia? I ask the gentleman if they are not almost altogether used by well-to-do people who go there in their carriages and automobiles?

Mr. JOHNSON of Kentucky. Almost exclusively used by the rich. Show me one man or woman or child afoot in Rock Creek Park, and I will show you 5,000 in automobiles and carriages.

Mr. CAMPBELL. Will the gentleman yield?

Mr. JOHNSON of Kentucky. I will.

Mr. CAMPBELL. Did the gentleman from Kentucky ever walk out through there?

Mr. JOHNSON of Kentucky. No, sir; I will never walk out there; it is too far.

Mr. CAMPBELL. I have walked out there, and I have seen thousands on foot where I have seen one in an automobile. I have walked out there holidays and every Sunday.

Mr. JOHNSON of Kentucky. There is not a Member on the floor of this House who will agree that he has seen the same thing.

Mr. TAYLOR of Colorado. Oh, yes; I have.

Mr. MURDOCK. I think the gentleman is mistaken.

Mr. FARR. I think the gentleman from Kansas is right.

Mr. HAYES. Mr. Chairman, I want to say that I can testify to the correctness of the statement made by the gentleman from Kansas. I have seen thousands on foot in Rock Creek Park where I have seen a hundred in automobiles.

Mr. JOHNSON of Kentucky. Mr. Chairman, I do not believe that I am blind.

Mr. SISSON. The gentleman is not blinded by the interests.

Mr. JOHNSON of Kentucky. As suggested by the gentleman from Mississippi, the interests have not blinded me, either.

Mr. BURKE of South Dakota. The gentleman from Kentucky has given the subject of District affairs a great deal of consideration, and will he tell us how the taxes in the District of Columbia compare with the taxes on property of a similar character in other cities of the population of the city of Washington?

Mr. JOHNSON of Kentucky. I am glad the gentleman asked me that question. I have no table here to read the exact figures from, but I do not hesitate to make the broad statement that taxes in this municipality are less than that of any other city of the same size in the United States. The newspapers are undertaking to blind the people upon that subject. Take the metropolis of my own State, the city of Louisville. There they have a city tax, there they have a county tax, and there they have a State tax. Here you have only the city tax, without the county tax or the State tax. I say that every other city of any consequence in the whole United States, when these three taxes are added together, pays a much larger tax than does the city of Washington.

Mr. BORLAND. Will the gentleman yield?

Mr. JOHNSON of Kentucky. Certainly.

Mr. BORLAND. I want to call the gentleman's attention to a further analysis of the gentleman's position by stating the fact that most all cities have a State tax, a county tax, a city tax, a school-district tax, and a special improvement tax, all five included in this one tax here.

Mr. JOHNSON of Kentucky. That is true, and we have but one tax here. As the gentleman from Illinois [Mr. CANNON] said a few moments ago, the tax upon the big property is less than it should be and the tax on the little home is more than it should be. In confirmation of that I refer gentlemen to the report recently filed in this body by the Committee on the District of Columbia showing that there are 40,000 homes here that are overtaxed, and during the inquiry and during the publicity that was given to that inquiry only one man had the courage to say that he was undertaxed, and that was Gifford Pinchot, and I wish to commend him most highly for it.

Mr. MICHAEL E. DRISCOLL. Will the gentleman yield?

Mr. JOHNSON of Kentucky. Certainly.

Mr. MICHAEL E. DRISCOLL. The gentleman has given the subject of taxation much thought and consideration. I will ask the gentleman if he has any information as to how the tangible property and the intangible property has escaped readjustment of taxation?

Mr. JOHNSON of Kentucky. That depends upon how you readjust.

Mr. MICHAEL E. DRISCOLL. I mean how is it brought about?

Mr. JOHNSON of Kentucky. You see in the daily press, you see it every day, that there is a "compact" between the District of Columbia and the Federal Government relative to taxation. Between whom was the compact? Who represented the District of Columbia when that compact was made? Less than a dozen men, who beat at the doors of Congress until they succeeded in having the rate of taxation made lower for the rich man without lessening that for the poor man.

Mr. MURDOCK. The gentleman from Kentucky enumerated a few moments ago the property owned by the Federal Government. I wish he would clear my mind on this impression that I have had for many years—that the roads and streets belong to the Government, that the ground upon which the sidewalks are erected belong to the Government, and that the land between the sidewalk and the buildings, which are constructed on the building line, also belongs to the Government. I would like to ask the gentleman if I am correct in that impression?

Mr. JOHNSON of Kentucky. Mr. Chairman, if the gentleman will indulge me one moment, I think I can read to him a decision of the Supreme Court of the United States on that subject.

Mr. MURDOCK. I want to know if the Federal Government owns the roads, the land upon which the sidewalks are constructed, and the intervening land between the sidewalk and the building line.

Mr. JOHNSON of Kentucky. I can not turn to that decision at this moment, but I will say that the Supreme Court of the United States has decided that the Federal Government has sovereignty only in the streets. Gov. Shepherd and others who have undertaken to show that the Federal Government owns one-half of the original city of Washington included all the streets, squares, parks, and alleys in that estimate, and in valuing it away back yonder in 1874 placed a valuation of 36 cents a square foot upon all streets in order to prove that idea. All

these business houses down town run their cellars or basements out to the curbstone, and that is on property not owned by them and for which they pay no rent. Take the banks and trust companies. Their vaults extend under the streets beyond their own property line, and the property does not belong to them, and yet they rent the vaults that are embraced therein.

Mr. MURDOCK. The gentleman understands that in other cities, where householders do occupy ground not belonging to them under a pavement, they pay rent for it.

Mr. JOHNSON of Kentucky. Yes.

Mr. MURDOCK. This Government pays for such rental outside of the customhouse in New York.

Mr. JOHNSON of Kentucky. Investigations of a subcommittee of the District of Columbia recently have developed that the vaults of the banks and trust companies here, for which they are receiving large revenue, are out under the streets, for which they pay neither to the District of Columbia nor to the Federal Government a single penny.

Mr. Chairman, getting back one moment to the parks, what a ludicrous idea it is to hear stated on this floor and to see paraded through the public press the great overwhelming necessity for opening a park between the old Soldiers' Home and Rock Creek Park! It is only a mile or two, and I imagine I can see the one-legged ex-Federal soldier going down for a few miles through the parks that are provided for his special enjoyment. That idea is absurd. If you are to spend millions of dollars there, that the old soldier may have the benefit of the parks, how long is that going to last for these one-armed and one-legged, full-crutched old men, none of whom can now expect to live more years than you have fingers on your hands. They talk about levying assessments for parks to be acquired under the bill now before us. You may authorize it to be done, but who is to do it? Congress may most solemnly direct that it shall be done, but will it at last be done? More than 20 years ago Congress appropriated $1,200,000 for the acquirement of Rock Creek Park. A commission was appointed to acquire Rock Creek Park. Perhaps the richest man in the District of Columbia a few days ago said before the District of Columbia Committee, when under oath, that he had gone to the President and had secured the appointment of that commission. That commission, when it came to acquire Rock Creek Park, looked up the assessed values of the various tracts of lands that it was to acquire. Then they doubled the amount of the assessed value, with a view of paying the property holders double the amount of the assessed value of their property; but when they had doubled it they found they had money left of the $1,200,000. Having money left they multiplied the assessed valuation by three, and still they had money left. Then they multiplied that assessed valuation by four, and still had money left. Then they multiplied it over and over again, until they paid the owners of that property 600 per cent more than it was assessed at. Those commissioners were charged by solemn act of Congress to assess benefits upon the surrounding property. All but one of that commission has passed to the great beyond, but that assessment of benefits upon the surrounding property to this day stands unmade.

Great sums of money have been spent to beautify that park and improve the value of the surrounding property. Congress has solemnly directed that benefits be assessed upon the surrounding property, but it has not been done in all these 20 years. That commission, or, rather, most of that commission, has died, only one lives, but the commission is not dead. That survives. When the commission last adjourned the record shows that it did not adjourn sine die. Consequently it is within the power of the President of the United States to appoint a commission to take the place of these dead men, that they may go back and assess these benefits.

Mr. SISSON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Kentucky yield to the gentleman from Mississippi?

Mr. JOHNSON of Kentucky. I do.

Mr. SISSON. In speaking of the amount of property which has been condemned for the Government and amounts paid by the Government for this property, the gentleman stated it was six times the assessed value.

Mr. JOHNSON of Kentucky. Six hundred per cent.

Mr. SISSON. Six hundred per cent more than the assessed value. Is that an exception to the general rule when the Government buys property in the District?

Mr. JOHNSON of Kentucky. Mr. Chairman, in answer to that I will say that I do not wish to make a statement unless I can be accurate in it.

Mr. SISSON. I will simply state this to the gentleman: That in the condemnation of the property between the Capitol and the Union Station he will find that the property was assessed at $1 a square foot, and that it was condemned at $6 a square foot, so I simply want to know if six times the assessed value was the general rule when the Government wants to buy property.

Mr. JOHNSON of Kentucky. I hear it stated, Mr. Chairman, and nobody has disputed or disclaimed it, that the property that is now being condemned between the Capitol and the Union Station is being paid for many times more than it is worth and many times more than it has ever been assessed at until it was known that this property was to be acquired by the Government. I was talking about benefits not having been assessed on property adjacent to Rock Creek Park. There is a proposition pending now to sell that property to the United States. Sell it for what? With these benefits that should have been assessed against it? No; but they propose to sell it to the United States Government, improved as it is by the expenditure of a public fund, with the increased value added. We hear much about the McMillan Park scheme. Ten years ago that was conceived by the real-estate speculators of the District of Columbia. It calls for a chain of parks extending around the town. Over here we have a jail that cost nearly $1,000,000, that is said to be one of the best jails in the whole United States. That falls within the scope of the McMillan Park plan. In order to get away from that your penal institution has gone down to Occoquan, in the State of Virginia, and no man who has information upon the subject will deny the assertion that I now make that it is contemplated to tear down this million-dollar jail and let that ground go into the park system. Already they have planned for it, for a race track and other propositions like that. Mr. Chairman, one other thing. I was informed, Mr. Chairman, in advance of the final draft of this bill that the Committee on Appropriations, or rather the Subcommittee on Appropriations, desired to bring in the amendment which is now pending, introduced by the gentleman from Missouri [Mr. BORLAND], but they were apprehensive that the point of order would be raised against it.

I congratulate them for their good intentions in this matter, and the gentleman from Missouri [Mr. BORLAND] ought specially to be the subject of congratulation of the people of this land throughout its length and breadth for having brought this amendment in here and having managed it so well that it will come to a vote before this House. The question upon this amendment is this: Under the act of June 11, 1878, when it was contemplated that the Federal Government should pay one-half of the current expenses of the city of Washington Congress did agree to pay one-half of all the cost of the streets. But now that it is claimed, now that it is being put into effect, that Congress must pave one-half of all the streets in this 60½ square miles comprising the District, that is another proposition. So this bill reduces that expenditure from one-half upon the part of the Federal Government to one-third, and this, I say, is a great step in the right direction.

It is a step that I know the people will approve from ocean to ocean, and I say again that the gentleman from Missouri [Mr. BORLAND] is to be congratulated for having gotten it before this House.

Let me call the attention of this House to one more proposition. But recently we saw the Washington papers exploiting the fact that over in Philadelphia there was a great meeting of people from all over the United States, and that there they adopted a resolution deploring the idea that anybody would contemplate doing away with the half-and-half plan, and expressing the hope that this half-and-half plan would continue. Who were those people? That was a gathering of the real-estate men of the United States. Who introduced that resolution? One of the most prominent real-estate dealers in the District of Columbia introduced it. Was that an uprising on the part of the people throughout the States from which these real-estate people came? Did the poor people or the people in the middle walks of life in the District of Columbia send that real-estate broker from Washington to the city of Philadelphia to introduce that resolution? I say, No. That resolution had its conception in the minds of the real-estate speculators in the District of Columbia.

Mr. Chairman, in conclusion I ask to insert in the RECORD the statement from which I have just read as a part of my remarks.

The CHAIRMAN (Mr. BARTLETT). The gentlemen from Kentucky [Mr. JOHNSON] asks unanimous consent to insert the paper to which he has referred in the RECORD. Is there objection?

There was no objection.

The statement is as follows.

Annual Federal aid to the District of Columbia.

[This tabulation and analysis sets forth the Federal aid extended toward the municipal expenses of the District of Columbia, distributed pro rata to population among the various States, for the fiscal year 1911–12. The numerous items which constitute the District budget have been reduced to 10 heads following the main lines of expenditure, and grouping under "Miscellaneous" the Federal apportionment, i. e., one-half of such items as "Militia, $80,050; contingent expenses, $101,030; emergency fund, $8,000; marking historical places, $500"; and numerous smaller items. "Schools" carry both salaries and maintenance and new buildings. "Improvements and repairs" carry such items as extensions of streets, paving, assessment and permit work, bridges, and construction other than school buildings. "Streets and sewers" curry street cleaning and all sewer work and maintaining. The groupings are necessarily arbitrary, but the main idea has been to convey a definite statement of the net charge against each State in the Union of the general subsidy paid by the Federal Government toward the purely local and municipal expenses of the District of Columbia.]

	States and Territories.	I. Schools.	II. Streets, sewers, water mains.	III. Police.	IV. Improvements and repairs.	V. Salaries and health.	VI. Interest, sinking fund.	VII. Lighting.	VIII. Fire department.	IX. Charities, corrections.	X. Miscellaneous.	Total.
1	Alabama	$37,171	$14,097	$11,839	$26,847	$9,657	$11,333	$5,405	$7,758	$16,224	$3,720	$144,571
2	Arizona	3,552	1,347	1,133	2,566	922	1,083	516	741	1,550	360	13,770
3	Arkansas	27,373	10,380	8,733	19,745	7,113	8,345	3,980	5,714	11,945	2,763	105,081
4	California	41,339	15,675	13,187	29,811	10,769	12,602	6,010	8,626	18,032	4,155	160,205
5	Colorado	13,878	5,267	4,431	10,032	3,608	4,235	2,029	2,899	6,055	1,407	53,841
6	Connecticut	19,380	7,350	6,182	14,000	5,035	5,907	2,818	4,044	8,454	1,646	75,116
7	Delaware	3,520	1,335	1,121	2,538	913	1,072	511	734	1,535	354	13,633
8	Florida	13,083	4,963	4,174	9,448	3,398	3,989	1,903	2,730	5,710	1,316	50,714
9	Georgia	45,360	17,203	14,472	32,762	11,778	13,830	6,595	9,466	19,790	4,558	175,810
10	Idaho	5,660	2,147	1,806	4,088	1,470	1,726	823	1,181	2,472	566	21,939
11	Illinois	98,028	37,076	31,277	70,775	25,470	29,887	14,254	20,455	42,807	9,916	379,945
12	Indiana	46,942	17,797	14,979	33,913	12,200	14,316	6,798	9,799	20,482	4,767	181,993
13	Iowa	38,666	14,667	12,340	27,935	10,047	11,792	5,624	8,071	16,884	3,886	149,912
14	Kansas	29,382	11,147	9,378	21,263	7,637	8,962	4,275	6,135	12,832	2,930	113,941
15	Kentucky	39,811	15,096	12,709	28,751	10,342	12,137	5,788	8,308	17,374	3,995	154,301
16	Louisiana	28,796	10,920	9,186	20,805	7,482	8,780	4,187	6,010	12,574	2,872	111,612
17	Maine	12,904	4,893	4,118	9,321	3,353	3,935	1,876	2,693	5,630	1,300	50,023
18	Maryland	22,520	8,539	7,185	16,263	5,850	6,866	3,274	4,700	9,811	2,276	87,284
19	Massachusetts	58,496	22,195	18,671	42,269	15,206	17,844	8,510	12,212	25,542	5,904	226,849
20	Michigan	48,835	18,517	15,588	35,285	12,693	14,894	7,105	10,195	21,327	4,897	189,336
21	Minnesota	36,681	13,685	11,513	26,059	9,374	11,002	5,246	7,530	15,745	3,632	139,867
22	Mississippi	31,243	11,847	9,968	22,556	8,116	9,525	4,543	6,520	13,631	3,140	121,080
23	Missouri	57,256	21,713	18,267	41,337	14,871	17,456	8,326	11,949	25,032	5,766	221,915
24	Montana	6,538	2,478	2,085	4,727	1,698	1,994	951	1,364	2,849	656	25,340
25	Nebraska	20,727	7,859	6,612	14,969	5,385	6,319	3,013	4,326	9,035	2,090	80,335
26	Nevada	1,423	539	454	1,027	369	433	207	297	621	147	5,517
27	New Hampshire	5,486	2,851	2,388	5,401	1,944	2,282	1,088	1,562	3,264	747	29,013
28	New Jersey	41,110	15,727	14,074	31,844	11,461	13,448	6,414	9,205	19,258	4,421	170,922
29	New Mexico	5,690	2,157	1,815	4,108	1,478	1,736	827	1,187	2,485	572	22,055
30	New York	157,957	60,374	50,554	114,333	41,100	48,423	23,511	33,066	69,383	15,977	614,103
31	North Carolina	38,357	14,546	12,239	27,713	9,965	11,694	5,577	8,005	16,750	3,850	148,666
32	North Dakota	10,027	3,804	3,200	7,242	2,607	3,058	1,459	2,093	4,375	1,019	38,884
33	Ohio	82,853	31,430	26,444	59,854	21,530	25,268	12,052	17,295	36,181	8,316	321,223
34	Oklahoma	28,815	10,925	9,190	20,806	7,485	8,785	4,189	6,012	12,581	2,876	111,664
35	Oregon	11,695	4,434	3,737	8,446	3,039	3,556	1,708	2,441	5,105	1,172	45,333
36	Pennsylvania	133,254	50,500	42,521	96,254	34,618	40,628	19,378	27,810	58,234	13,301	546,498
37	Rhode Island	9,433	3,576	3,009	6,812	2,451	2,876	1,371	1,958	4,114	952	36,552
38	South Carolina	26,345	9,991	8,405	19,027	6,845	8,032	3,831	5,498	11,504	2,629	102,107
39	South Dakota	10,150	3,852	3,238	7,332	2,638	3,095	1,476	2,118	4,424	1,021	39,344
40	Tennessee	37,982	14,403	12,118	27,433	9,868	11,581	5,523	7,926	16,570	3,814	147,218
41	Texas	67,743	25,730	21,615	48,926	17,599	20,654	9,851	14,136	29,623	6,684	262,561
42	Utah	6,491	2,460	2,071	4,688	1,685	1,979	944	1,364	2,828	647	25,158
43	Vermont	6,188	2,378	1,974	4,469	1,607	1,887	900	1,291	2,690	601	23,985
44	Virginia	35,841	13,592	11,435	25,658	9,300	10,928	5,212	7,489	15,641	3,531	138,918
45	Washington	19,868	7,529	6,335	14,339	5,157	6,043	2,887	4,143	8,661	1,969	76,951
46	West Virginia	21,206	8,050	6,773	15,333	5,515	6,473	3,086	4,430	9,265	2,101	82,282
47	Wisconsin	40,574	15,387	12,945	29,305	10,541	12,485	5,900	8,468	17,716	4,041	157,262
48	Wyoming	2,544	962	810	1,834	659	774	367	529	1,108	249	9,836
49	District of Columbia	5,762	2,182	1,835	4,157	1,495	1,755	836	1,201	2,514	571	22,308
	Total	1,508,355	606,472	510,144	1,154,592	415,346	487,704	232,497	333,735	698,216	160,340	6,197,403

Mr. LENROOT rose.

The CHAIRMAN. The Chair will state to the gentleman from Wisconsin that all debate has been exhausted.

Mr. LENROOT. Mr. Chairman, I move to strike out the last word. The debate has wandered far afield from the real subject that is before this committee, and I want to discuss for a few moments the merits of the amendment. I do not know but that the committee needs to be refreshed in their recollection of what the amendment really is.

The amendment proposed by the gentleman from Missouri provides that in certain cases of paving streets there shall be assessed to the abutting property where the pavement is less than 32 feet in width one-half the cost of the improvement, and where the pavement is in excess of 32 feet a different rate.

Now, Mr. Chairman, I had supposed that the question of the justice of assessment of special benefits upon property adjoining an improvement was so clearly established that it would not be open to argument. I think the District of Columbia perhaps is the only place in the United States where the system of assessment of special benefits has not been adopted. But, Mr. Chairman, I do not know whether the gentleman from Missouri [Mr. BORLAND], in presenting his amendment, was aware that the system he now proposes in this amendment is now being rapidly discarded by every State in the Union. He proposes what is known as the "front-foot rule" method of assessing benefits, a method, Mr. Chairman, assuming that it is valid and constitutional, that is open to most serious objection. I shall discuss the legal phase of it in just a moment, but I want to call attention now, assuming its validity, to the situation that would exist if this amendment should be adopted.

We all know there are a great many triangles in the city of Washington, where private property in a triangle comes to an apex. With this amendment adopted—the front-foot rule method—one-half the cost assessed to the end of the triangle, will anyone say that it will not mean confiscation?

Mr. BORLAND. Are not the triangles which the gentleman has in mind in many cases owned by the Government?

Mr. LENROOT. But a great many are not.

Mr. BORLAND. There are some at the intersection of avenues, like New Hampshire Avenue, perhaps, and others, but property there is valuable and would not be confiscated.

Mr. LENROOT. Of course, the apex of a triangle comes to nothing. Now, does the gentleman think that the 1 foot at the apex of that triangle should stand the same cost for pavement of a street abutting it as other property?

Mr. BORLAND. I have no hesitation in answering that question. Light and accessibility are the great desirable features of property, and people buy those triangles at higher prices on account of not being restricted as to light and accessibility. They pay more for the triangle than they do for the inside piece of property, and it can more easily bear the cost of street improvement.

Mr. LENROOT. Of course at a triangle there are two streets, one on either side. Does the gentleman believe the apex of that triangle may be owned by one individual and a part of it by another, and does he think the apex of the triangle is benefited as much as the base of it is?

Mr. BORLAND. Unquestionably.

Mr. LENROOT. Then I do not care to argue with the gentleman if he thinks that is true.

Mr. BORLAND. The man who owns the base of the triangle can only get light from the two ends, but the man who owns the apex has light all around his premises. If it is business property it is worth for rental purposes two or three times as much, and if it be residence property it is worth a great deal.

Mr. LENROOT. But we are making assessments to property by reason of the improvement.

Mr. BORLAND. We have no right to impose special benefits for the improvement of a street and put some general benefits on it by reason of the location.

Mr. LENROOT. I want to call the gentleman's attention to the fact that all of those features have been brought out and decided in the Supreme Court of the United States, and these arguments have been raised in many cases.

The CHAIRMAN (Mr. RODDENBERY). The time of the gentleman from Wisconsin [Mr. LENROOT] has expired.

Mr. BORLAND. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more.

Mr. BURLESON. Mr. Chairman, I ask unanimous consent that the debate on this amendment be closed in 30 minutes, 5 minutes of which shall be given to the gentleman from Wisconsin [Mr. LENROOT], 5 minutes to the gentleman from Iowa [Mr. PROUTY], 5 minutes to the gentleman from Ohio [Mr. TAYLOR], 5 minutes to the gentleman from Indiana [Mr. CULLOP], and 5 minutes to the gentleman from Tennessee [Mr. SIMS].

Mr. SISSON. I would like to say to the chairman of the subcommittee that I have taken no time during the entire discussion of this bill, and I would like to have 5 minutes.

Mr. BURLESON. Then I would add to that request that the gentleman from Mississippi [Mr. SISSON] have 5 minutes.

Mr. LENROOT. Reserving the right to object, Mr. Chairman, there has been an hour and a half discussion, but practically none on the merits of this amendment. I do desire 10 minutes, because I believe I have something of value upon this subject, and it is all upon the amendment.

Mr. TAYLOR of Ohio. I quite agree with the gentleman from Wisconsin [Mr. LENROOT]. There has been unlimited time given to several gentlemen who have discussed the amendment to some extent, and who spent most of their time discussing the general features of District legislation which met with their approval or disapproval. Now, this is a very radical and most important piece of legislation, coming on the floor, as it does, without having the approval or the consideration of any great committee of this House. The only opportunity to thrash it out and discuss it on its merits is to be afforded by giving a little time to gentlemen who may have ideas on the subject, and I ask that we give an hour for discussion, and that we give the gentleman from Wisconsin [Mr. LENROOT] 10 minutes, if he desires.

Mr. BURLESON. Very well, Mr. Chairman. I ask unanimous consent that the debate on this amendment be closed in 1 hour; that an hour be given to this discussion; and that out of that time there be given to the gentleman from Wisconsin [Mr. LENROOT] 10 minutes and to the other gentlemen I have named 5 minutes each, and that I be given 5 minutes.

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] asks unanimous consent that all debate close on this amendment and amendments thereto——

Mr. BURLESON. Yes——

The CHAIRMAN. In 1 hour, and that 10 minutes of the time be given to the gentleman from Wisconsin [Mr. LENROOT], 5 minutes to the gentleman from Indiana [Mr. CULLOP], 5 minutes to the gentleman from Tennessee [Mr. SIMS], 5 minutes to the gentleman from Mississippi [Mr. SISSON], 5 minutes to the gentleman from Iowa [Mr. PROUTY], and 5 minutes to the gentleman from Texas [Mr. BURLESON].

Mr. TAYLOR of Ohio. Well, Mr. Chairman, I also desire time. I might want 10 minutes. Inasmuch as there will be plenty of time in that hour, I shall want 10 minutes, although I may not use it all.

The CHAIRMAN. And 10 minutes to the gentleman from Ohio [Mr. TAYLOR], the remainder of the time to be controlled on recognition.

Mr. SISSON. Mr. Chairman, one moment. I do not know that I shall consume more than 5 minutes, but there is one phase of the question that I would like to discuss, and I want to have an understanding with the gentleman from Texas [Mr. BURLESON] that if I shall need 10 minutes I shall have such time. I may not want it all, for I shall try to get through in 5 minutes.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

The CHAIRMAN. The remainder of the time to be allotted on recognition by the Chair, the right to obtain extension of time by unanimous consent, of course, prevailing under the rule. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin [Mr. LENROOT] is recognized for 10 minutes.

Mr. LOBECK. In regard to the matter of apexes, is it not a fact that most of the apexes are in the old part of Washington, and that there are practically none of that character of streets that are now being improved?

Mr. LENROOT. I live away out on Mount Pleasant, and I will say to the gentleman that there are some there.

Mr. LOBECK. I was just looking at the map.

Mr. LENROOT. I want to call attention to another inequality in this amendment. Take, for example, two corners. Upon one corner the owner owns 20 feet in depth. Across the street from him another owner owns 100 feet in depth, and yet under this amendment the assessment will be the same upon the man who owns 20 feet as upon the man that owns 100 feet. No one would say for a moment that those two owners of property were being equally benefited.

Now, Mr. Chairman, with reference to the principle upon which this assessment of special benefits rests, I can do no better than to quote the language of the Supreme Court of the United States in the case of Norwood against Baker, in United States Reports 172, page 269, which only reiterates the well-established rule laid down by all the courts. They say in the syllabus:

> The principle underlying special assessments upon private property to meet the cost of public improvements is that the property upon which they are imposed is peculiarly benefited, and therefore that the owners do not in fact pay anything in excess of what they receive by reason of such improvement.

That is the principle, Mr. Chairman, and unless the property owner does receive that special benefit we have no right to impose the cost upon him. We have no right to impose upon him one penny in excess of the special benefit that he receives.

Now, the gentleman from Missouri [Mr. BORLAND] made the statement that the front-foot rule method had been indorsed by all the courts and was adopted by all the States. I will say, Mr. Chairman, that 30 years ago that was true. All the States of the Union at that time practically upheld that doctrine, but they are now rapidly getting away from it. Remember, that when we pass an amendment in this form Congress itself arbitrarily determines what assessment shall be paid by property owners in Washington. Such provisions have been sustained, but solely upon the ground that the legislative body itself determined the benefit equaled the cost, but that is purely a legal fiction. The gentleman from Missouri will not claim that Congress is to-day determining that all property that is improved is benefited, regardless of its situation, regardless of its amount, to the extent of one-half of the cost of the improvement. This opinion in Norwood against Baker goes on to say:

> But the power of the legislature in these matters is not unlimited. There is a point beyond which the legislative department, even when exerting the power of taxation, may not go consistently with the citizen's right of property. As already indicated, the principle underlying special assessments to meet the cost of public improvements is that the property upon which they are imposed is peculiarly benefited, and therefore the owners do not, in fact, pay anything in excess of what they receive by reason of such improvement. But the guaranties for the protection of private property would be seriously impaired if it were established as a rule of constitutional law that the imposition by the legislature upon particular private property of the entire cost of a public improvement, irrespective of any peculiar benefits accruing to the owner from such improvement, could not be questioned by him in the courts of the country. It is one thing for the legislature to prescribe it as a general rule that property abutting on a street opened by the public shall be deemed to have been specially benefited by such improvement, and therefore should specially contribute to the cost incurred by the public. It is quite a different thing to lay it down as an absolute rule that such property, whether it is in fact benefited or not by the opening of the street, may be assessed by the front foot for a fixed sum representing the whole cost of the improvement.

Since that decision, Mr. Chairman, in a footnote to Elliott on Roads and Streets, I find that a number of States, following the reasoning in Norwood against Baker, have held the front-foot rule absolutely invalid. Among them are two Texas cases, in Ninety-fourth Federal and Ninety-first Federal Reporter, and an Arkansas case. Elliott, in his work, says:

> Since the recent decision of the Supreme Court of the United States in the Norwood v. Baker case, there is a reaction in this direction

That is, against upholding the validity of statutes arbitrarily imposing assessments on the front-foot rule.

Now, Mr. Chairman, I am heartily in accord with what the gentleman from Missouri [Mr. BORLAND] desires to do, and if it were possible, on the spur of the moment, to frame an amendment to his amendment providing that the property owner should have a right to come before the commission and show

that he was not specially benefited by the improvement to the extent that it is proposed to assess him, and that would give the commission the right in that case to exempt him from the assessment, or only assess him such sum as he was specially benefited, then I should heartily favor the amendment; but I am not in favor of this proposition, which is a step backward, and which all the other States of the Union that are legislating upon this subject are now discarding.

Mr. TOWNER. Is it not true that what you contend for under the decisions as they now exist would really be the case; that is, that the party would have the right to make this showing in his behalf under the terms of this law now?

Mr. LENROOT. Absolutely not; because while reference is made to the statute of 1894, which does provide for a notice of the proposed assessment, and the right of the property owner to make objections, that notice is not provided for at all in the amendment of the gentleman from Missouri [Mr. BORLAND].

Mr. TOWNER. The notice is comparatively an unimportant matter. The question is as to his integral right, the right that he would have to be heard as to whether or not such taxation could legally be placed against him.

Mr. LENROOT. I will say to the gentleman that the decisions are uniform, that if the property owner has the right to be heard, he has a constitutional right to be given notice of the hearing, and if the statute does not provide for notice, the statute itself is invalid.

Mr. TOWNER. I agree to that.

Mr. LENROOT. Now, Mr. Chairman, as I have said, I should be glad if an amendment could be offered; but realizing that it is a technical subject, I have not had the time to venture to prepare such an amendment, because it must provide for notice, and must provide for power upon the part of the commission to determine the matter of benefits.

I wish very much that this matter might go over until Monday, so that this situation could be cleared up. I think when the gentleman from Missouri comes to consider the matter carefully and consider the decisions on the subject he will agree with me that there should be an amendment along the lines I have suggested.

Mr. TOWNER. Mr. Chairman, the legal propositions involved in this matter have been ably presented to the committee. I think the gentleman from Wisconsin exaggerates, perhaps, the necessity for the particular act which grants the power to make the assessment also include the notice as a part of that act.

However, I should have no objection whatever to that amendment being made to this act. I desire to call attention to a few of the objections that are made to this proposition. In the first place it is suggested that this legislation ought not now, during the closing days of the session, be brought to the consideration of Congress—that there is not time enough to consider it. I presume that objection might always be made, but let me suggest to gentlemen that this method of taxation, that this proposition of placing the burden for paving the streets and properly surfacing them on the adjoining property owners, is the almost universal rule in this country. This proposition is only for the purpose of bringing this city in uniformity with other municipalities in this country. It is not a new proposition. It is a proposition that has been before every court in the United States. There has been a great diversity of laws on this proposition, and the principle has been definitely settled that where there are any benefits that may be shown to accrue to the adjoining property owner by reason of the improvement, the right of taxation by this method exists; and further, that they will not go into a close and careful computation as to the amount of the benefit when it comes to determining whether the right of taxation exists.

It has been further suggested, Mr. Chairman, in opposition to this legislation, that it will be a burden upon the poor man and not upon the rich, who have already received that benefit. Let me suggest to gentlemen that this objection may be urged at any time in the future, and if it were a valid objection it might always be urged and therefore prevent any legislation whatever being had. It is time, I think, and I am sure the country will conclude, that the taxation of the city of Washington should be placed upon a fair and equitable basis. It is time that the changes that ought fairly to be made should be made. It is time that we should make the property of the city bear a fair burden of the taxation of the city. It is not necessary for us to offer special inducements to those who come here for the purpose of escaping taxation, and therefore I believe that we should now adopt a system of taxation which is fair and just and is uniform with that of the whole country. We should begin to-day to do that which it is our duty to do, to see that the property in this city bears at least a fair proportion of the taxation for its public improvements. [Applause.]

Mr. CANNON. Mr. Chairman, I made a statement from recollection a little while ago, and, after all, when one who has had long service in the House depends on his recollection it is not always easy to get things accurate, but, in substance, I did get what I said accurate. The gentleman from Kentucky, no doubt in the best of faith, attacked the legislation of 1902. His attack was not, in my judgment, well founded.

Let us see what the conditions were in 1902. By decisions of the courts, by the practice in 1902 before the act was amended, while the half-and-half act provided for the taxation of personal property, it was practically a dead letter. Prior to 1902 personal property paid, in round numbers, $147,000. The law was amended in 1903, and then it yielded $372,000. In 1904, $632,000; in 1905, $662,000; 1906, $699,000; and in 1912, $1,100,000. Assessors were removable by the District Commissioners if they did not perform their functions, but while the dollar and a half law was on the statute books the assessments ran all awry.

In 1902, under the law prior to the amendment that was passed upon the appropriation bill, the taxes received were $2,858,000. The very first year, the law being enacted in June, real estate yielded in 1903, $3,250,000; in 1904, $3,259,000; in 1905, $3,315,000; in 1906, $3,575,000; in 1912, $4,883,000. That is the same law which my friend from Kentucky [Mr. JOHNSON] complains has changed the law of 1877. There is the plain tale.

Why was this done? It did not belong to the Committee on Appropriations, but the Committee on Appropriations was asked to recommend further advances to the District. The District was falling behind. The year before this act was enacted in 1902 the District of Columbia owed a floating debt of more than $1,000,000, with additional obligations in sight under legislation in process of enactment on reports from the District Committee which increased that floating debt in 1903 to more than three millions and a half. That was what they asked. The House struck it out, and struck out the enacting clause, and yet the floating debt was to increase. Under spur of the necessity of the situation the Committee on Appropriations reported on the District of Columbia appropriation bill that year a provision which required a reduction of the appropriations carried for salaries in the District of Columbia appropriation bill by 10 per cent, unless there should be enacted during that year a personal-tax law. The provision went through the House of Representatives on the District appropriation bill for the fiscal year 1903—and an amendment providing for a reformation in making assessments. The Senate struck it out and substituted therefor a general real estate and personal tax law, which was finally agreed upon in conference and, being agreed to by the two Houses, now constitutes the law.

[The time of Mr. CANNON having expired, by unanimous consent, on the request of Mr. JOHNSON of Kentucky, his time was extended for 10 minutes, not to be included within the time already arranged for by the committee.]

There was an act that provided for a personal tax, which by practice, backed up by decisions that I have not now time to discuss, cut the personal tax down to almost nothing. The machinery did not operate. That was the condition. We put on an amendment for a reduction of 10 per cent on the salaries, knowing that if anything would move the personnel of the District it would be a reduction of salaries, to take effect and to remain in effect unless a provision were enacted into law providing for a personal tax, or the collection of a personal tax. We put that provision on under a special rule. The Senate struck out both provisions. It went to conference, and we obtained the legislation I refer to. I just want to read a few words from some broken remarks I made on that conference report on June 28, 1902:

> The Committee on Appropriations under the organic law was confronted with this condition and with these estimates. It commenced the preparation of its bill in December, expecting to report it before the holidays, but with this condition it deferred consideration. It waited through December, January, February, and March for legislation. Through the public prints and by announcement inspired from another body, and from the committee that had legislative jurisdiction in another body, we were led to infer that the proper committees would give legislation for an increase of taxation. We waited and waited and waited in vain, until finally, when it was patent that the Congress was to close without any effort for legislation, the Committee on Appropriations reported this bill. It contained a provision cutting down 10 per cent all the salaries of employees in the District, and by special rule we put on a provision providing the machinery to enforce the law of 1877, so that we could get tax revenues from personal property.

The Senate struck out both provisions, and it went to conference. We obtained a compromise bill, which for the first time placed a tax of 4 per cent upon the gross receipts of the banks, street railway companies, and building associations. We

doubled the excise tax for retail, and so forth. That is the law to-day—not as much as it ought to be. I still think that sufficient tax is not laid upon personalty, and perhaps not upon the banks and street railway companies, but I shall not take time now to refer to that matter.

There is the whole story. What has happened in the meantime? Under that law, with the rapidly increasing appropriations for the District of Columbia, we have paid almost $2,800,000 of that floating debt, and it would not have been paid, but would have been constantly increasing, if that law had not been enacted. This bill succeeded in wiping that out, and, in addition to that, we paid the District's part for the construction of the Municipal Building.

We have extended our sewer system at great cost. We have had to do with our water improvements at a large expense and many other exceedingly great expenses; $3,800,000 went out for the filtration plant. Now listen:

In the judgment of your committee, the conferees on the part of the House, the Senate bill did not raise enough money. We needed more, and after a long conference we got something of a concession, the best we could do.

And then I speculated about what would be raised, and much more was raised under that taxation than I anticipated. I submitted some more remarks and said that this was not a labor of love, which I have not time to read. It was a condition that was forced upon the Committee on Appropriations, over which I had the honor at that time to preside—a unanimous committee—and forced upon the House, not under the general rules of the House, but by a special order bringing this whole matter before the House and sending to the Senate a provision that moved the Senate to act, and it did act, and I said here that I had no pride in this legislation; I was not an expert about the matter. We amended the law. We put the assessment board to be appointed by the President for a term of three years, and provided they should not be removed except for cause, and that the court should pass upon that cause. Why? Because the poor assessor has about as much chance, with all the influences, social—I will not say corrupt—and otherwise, about as much chance, unless he has protection, as a cat in hell without claws. [Laughter and applause.]

Now, I have told you merely this passing history; I have hastily revived my recollection. I have said all I desire to say; I will not again refer to my remarks touching taxation by the linear foot for street improvements; I have already spoken of that.

Mr. JOHNSON of Kentucky. May I ask the gentleman one question?

Mr. CANNON. Certainly.

Mr. JOHNSON of Kentucky. I wish to ask the gentleman to restate the reason for giving the assessors a practical life tenure of office?

Mr. CANNON. The reason was this, that with all the social influences and with all the power arising from every standpoint that citizens of the District had to affect the District Commissioners, with a press that was in harmony and very properly in harmony because here the press lives, the assessor who was seeking to do his duty and keep his oath, his tenure of office was liable to be very, very short, and therefore we put in that provision in extremis, and I think, upon the whole, it has acted very well.

Mr. JOHNSON of Kentucky. Well, I am glad to have the explanation from the gentleman as to why the assessors were given this practical life tenure. It has been suspected by myself, I will say, and believed by many, that another provision in this same bill creates the assessors as an excise board, and, as I have just said, a great many people believe they were given practically life tenure of office, because the powers of an excise board were conferred upon them, and suitable men, when once gotten in for that purpose, might be held indefinitely.

Mr. CANNON. Well, it was for the protection of the assessors. It was to provide, starting in with proper and honest assessors, that they could not be discharged except for cause.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SISSON. Mr. Chairman and gentlemen of the committee, I want to congratulate the gentleman from Illinois [Mr. CANNON] upon the enactment of that legislation under the circumstances which the record shows it was then enacted, and I want to say also that in serving on the Committee on Appropriations with the gentleman from Illinois that he is faithful, cautious, and always strong, and is one of the most careful legislators on the Committee on Appropriations, and on the subject of appropriations he is absolutely sound. So I want to congratulate him, and it is not amiss to say he has rendered many services of like kind and character to the people of the United States. I differ with him, however, in reference to the position he takes on the amendment before the committee. Under the amendment proposed by the gentleman from Missouri [Mr. BORLAND] the property owner would pay one-fourth of the street expenses; that is, the property owner on one side would pay one-fourth and the property owner on the other side would pay one-fourth and the Federal Government, under the half-and-half system would pay one-fourth and the District taxes would bear the burden of one-fourth. I believe that the evidence that it is not unfair to the property owners of the District of Columbia is because so many of the great cities require the property owners to pay all of the street pavement in front of their property, and I presume that those people in the cities who have a direct vote upon the municipal officers and do vote for the municipal officers secure in the main practically the government which they think best. We ought to be peculiarly careful, as Members of Congress, in enacting legislation for this District, because they do not have representation here.

No property owner should be done an injustice, but I believe that under the present system of taxation that the small property owner could not in any sense of the word be injured. But under the system which prevails it inures absolutely to the benefit of the real estate man who is improving property for sale. For example, you take a large quantity of land which is farm land now, and a company is organized for the purpose of developing the property; if they have sufficient influence to have streets built, it costs them absolutely nothing, for the United States now owns the water system; and when they plat the land the water is placed under each lot without expense to the property, and the street is built without expense to the property. Land thus bought by the acre is sold by the square foot. The real estate speculator in the District charges the property with all these improvements which have cost him nothing, and in addition thereto enjoys the unearned increment. Under the present iniquitous system he enjoys all this without expense to himself and without paying one cent for a house. The land has been made valuable for homes out of Government money, and these real estate men get the entire benefit—not the poor home seeker or Government clerk or Government employee. They then charge the property with all the money that has been expended by the Federal Government, and farm land is sold after these improvements are made wholly out of the Federal Treasury and the District treasury, and the real estate speculator gets the entire benefit; and he charges up to the small home owner who desires to buy a lot the entire expenditure in the nature of improvements. In addition to that, the natural increase and the rise in values, by virtue of opening it up to settlement and building the streets, is also charged to the small property owner. He has to pay for them under this present system, whereas if the system were changed the property owner opening up property would be compelled himself to pay one-half of the street improvement. The result would be that the unimproved real estate would be developed less rapidly and the small home owner would have infinitely more opportunity to buy the unimproved real estate and suffer the inconveniences a while, and then, when the street is opened up and enough settlement is there to justify municipal improvements going to that neighborhood, the poor property owner and the poor home owner would get the benefit of the unearned increment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SISSON. Mr. Chairman, there was an understanding that if I should not complete my remarks within the time, I should have five minutes more.

The CHAIRMAN. The Chair will state that by special order 50 minutes of time was disposed of, leaving 10 minutes undisposed of. Gentlemen have been recognized in order, and have consumed that 10 minutes. There now remains no time in which extensions can be had. Does the gentleman ask unanimous consent?

Mr. SISSON. I will state, Mr. Chairman, that I had an understanding with the chairman of the subcommittee.

Mr. TAYLOR of Ohio. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended five minutes, not to be taken out of the time under the order.

The CHAIRMAN. The gentleman from Ohio [Mr. TAYLOR] asks unanimous consent that the time of the gentleman from Mississippi [Mr. SISSON] be extended for five minutes, not to be taken out of the time under the order already made by the committee. Is there objection? [After a pause.] The Chair hears none.

Mr. SISSON. Mr. Chairman, now this debate has taken quite a wide range. Nothing has been said about the amount of property owned by the Government in the District of Columbia. I do not know what percentage of area the Government owns, but it has been intimated here that by virtue of the ownership of the streets by the Federal Government, the Federal Government should pay the taxes on the ground covered by

the streets. I do not know of a municipality, a town, or a village in the world where there has ever been a tax placed upon the property owned by the city, and because the title to the street happens to be in the Federal Government I do not think that it will be seriously argued here the Government should pay taxes on the streets. It has also been argued that because the Government owned so much property here and so much area here that for that reason the Federal Government should pay a part of the municipal taxes. I do not believe that argument is tenable, because the presence of the Federal Government in this city is what gives the value to all real estate and makes it possible for this to be a city, and the people living in the District of Columbia, doing business here, educating their children here, get a hundredfold more benefit from the Federal Government than do those people who do not happen to be so fortunate as to live within the District. So I do not believe that that argument is tenable, because in no State does the State pay taxes in the capital of the State on property owned by the State. It has been suggested that this Capital be removed nearer the center of population. If St. Louis would duplicate the buildings and duplicate the property we have here I would favor moving the Capital to that city, being, as it is, in the center of the United States. It could well afford to duplicate those buildings and have the Capital City moved there, and there would be no contention whatever that the Federal Government would be a curse to that city. I am getting tired of the continuous complaint coming from the citizens of the District of Columbia and coming from the real estate people of the District that Congress is penurious in dealing with District matters. We are by far more liberal than we ought to be.

Mr. JOHNSON of Kentucky. California gave $17,000,000 to get an exposition located there for only a little while.

Mr. SISSON. The gentleman from Kentucky [Mr. JOHNSON] has stated to me that the State of California gave $17,000,000 for an exposition to be located there but for a short time. I do not blame the people of the District of Columbia so much. I presume if other people would live here as they do, they would soon become educated as are the people of the District of Columbia. I am criticizing the system which Congress is maintaining in this District. If you would change it, you would hear a different cry. Cut out the half-and-half system.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CULLOP. Mr. Chairman, I am heartily in accord with the purpose of this amendment. And yet the amendment may not do equal justice to all the citizens. But it is hardly possible to pass any law that will do equal and exact justice to all. This amendment, however, is predicated upon a principle that is practically right and one that a great many of the States of the Union have adopted and are carrying out successfully.

Some objection has been made that in some of the States of the Union legislation of this kind has been stricken down by the courts. That would not be the case here. In such States, where decisions of that kind have been rendered, it will be found, doubtless, by an examination of them, that the legislation came in conflict with some provision of the constitutions of those States, and for that reason the law in those States was held to be invalid.

Now, if the citizen is to pay for the improvements of the street, as provided for in this amendment, he will take an interest in the making of the improvements; he will see that the proceeds derived from the taxation of his property are economically and wisely expended and that the improvements are well made.

Objection has been made also that some of the property may be taxed unjustly on account of this provision; that a valuable piece of property will have to bear its proportion and that a piece of property not so valuable will have to bear its proportion. Mr. Chairman, adjoining properties will bear the same burden fairly distributed under this amendment, and, consequently, will receive the same proportion of benefits from it. Therefore it will work fairly as to the two kinds of property, and the owners will not suffer any injustice from the adoption of such an amendment as this.

Now, I think that every Member in this House is desirous of improving the city of Washington, but it is unfair that the owners of property in the city of Washington shall receive an increase of value in their property by the payment of taxes collected from people all over the Union. As the law now stands, the property owner of California is taxed for the purpose of improving the property—increasing the value of the property owned by a citizen of the city of Washington; and while that far-distant citizen has a pride in the city of Washington, still he ought not to be taxed in the same proportion as the owner of property in Washington is taxed for the purpose of improving the value of property here in the city of Washington. Such a course is manifestly unfair.

Now, in the improvement of streets it will bring about a better system of improvements. It will not improve the streets out in the parts of the District of Columbia where there are no residents and no public requirement for such improvement, but it will curtail that improvement and improve the streets only in such localities where the property is built up and the population dense. Upon the plan now employed it is unfair to the property owner in one locality that he be taxed, as he is now taxed, for the purpose of building up the improvements out in another locality far distant from him. Under the method proposed by this amendment the property owners adjoining the street pay one-half of the improvement, the Government one-fourth, and the District of Columbia one-fourth; and I take it that the amendment will work fairly to all the country if it is adopted, as I hope it will be.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SIMS and Mr. TAYLOR of Ohio rose.

Mr. SIMS. Mr. Chairman, I will yield in favor of the gentleman from Ohio [Mr. TAYLOR], who is a member of the committee.

The CHAIRMAN. The gentleman from Ohio [Mr. TAYLOR] is recognized.

Mr. TAYLOR of Ohio. Mr. Chairman, I am not in favor of this amendment, not because I am not in favor of an equitable distribution of the cost of improvements among the citizens who enjoy those improvements, but for the reason that I am opposed to vital legislation being catapulted on the floor of the House without any consideration at the hands of any of the great committees that may have jurisdiction over it and then passed or rejected merely on statements made and theories propounded by gentlemen who are practically relying upon their personal opinions fortified by mere guesswork.

I am glad to have heard the argument of the gentleman from Wisconsin [Mr. LENROOT]. I am familiar with the case of Norwood against Baker. I know a good deal about the front-foot rule. I live in Ohio, and in my home city we pay for our improvements under that rule. That city is laid out in squares and not laid out in angles, as is Washington There is not a city in the Union of which I have any knowledge where the front-foot rule would work such gross inequalities and injustices as it would in the city of Washington.

Now, that is one thing that a committee, and a very able committee, should consider before we write into the statute books a radical change from our present system of taxation. Why, Mr. Chairman, when the present law providing for the half-and-half system and the $1.50 rate of taxation was enacted it became a law only after a great committee, a joint committee of the House and Senate, composed of very able members, had spent months of investigation and had filed a very elaborate and complete report upon which the legislation was based.

Although my service in Congress will soon be over, I stand ready to-day to vote for anything along the lines of just and equitable taxation and vote to see that the citizens pay their just proportion of the benefits peculiar to them as individuals. I am not opposing that, but I am opposing this method of trying to enact legislation without proper and intelligent consideration.

Here is another inequality. The city is full of those triangles which the gentleman from Wisconsin [Mr. LENROOT] mentioned. Some gentleman stated in his argument that they were in the old portion of the city. If a man knows anything about the new portions of the city, I guarantee he will find more jogs and triangles by far in the new portions of the city than in the older parts of the city.

I happen to have a map here that was furnished to our committee while we were considering street improvements. We are asked now under this amendment to compel those who desire streets in front of their property, if this amendment becomes a law, to pay a proportion of that cost. Now, what effect is that going to have? They are not only going to pay one-fourth or one-half, but as repairs are not covered in this amendment, they must still go on and pay their regular $1.50 rate of taxation toward repairs and maintenance of streets already laid down in front of their properties.

Here is a map of the District of Columbia. All that part marked in brown has completed improved streets. The very heart and core of the great District of Columbia is to-day improved permanently with asphalt streets. Those streets, with the repairs put on them out of the general revenues, are good for not less than 20 years, and we now propose to make the people who are beginning to live out in the part of the District shown in white on this map, the poor clerks and small householders, proceed immediately to pay for their street improve-

ments, while for 20 years the millions of dollars of real property in the heart of Washington will not have to pay one cent toward the upkeep of those streets. We relieve entirely, except for repairs, those gentlemen who own the great central part of the city until their streets are worn out.

Let us look this amendment squarely in the face. Let us send it to a great committee. The chairman of the District Committee is here to-day. Many of its members have been on the floor throughout the discussion of this bill. Let them come in, after a careful consideration of this great subject, and present a just and equitable bill, and if I am in Congress it will receive my support. But I will not vote for one separate amendment which on its face lacks equity and shows that the great mass of the people will not be affected by it for many years to come, while those who can least afford to bear it will begin to pay immediately.

Mr. SISSON. Will the gentleman permit one interruption?

Mr. TAYLOR of Ohio. Certainly.

Mr. SISSON. The gentleman from Kentucky stated that you could now assess the benefits that have accrued to the property owners by virtue of street improvements. Do you believe that could be done now?

Mr. TAYLOR of Ohio. Do you mean that you could assess back the benefits on the finished work?

Mr. SISSON. That is what I am asking.

Mr. TAYLOR of Ohio. I do not think you could.

Mr. SISSON. I just wanted to ask about that.

Mr. TAYLOR of Ohio. This amendment does not provide for it.

Mr. SISSON. I am speaking of the present law.

Mr. TAYLOR of Ohio. I am giving my off-hand judgment, which, as a rule, is not very good when things like this are sprung suddenly, that you could not do it.

Mr. SISSON. My reason for asking the question was that if that could be done, then if the law was enforced you could assess these benefits against these recently improved streets.

Mr. TAYLOR of Ohio. If that could be done there would be some equity in it, but it is not proposed to be done in this amendment, and a proposition to amend the amendment would simply result in a hodgepodge.

Mr. SISSON. If the difficulty lies in a failure to enforce the existing law, then the thing to do is to enforce it.

Mr. TAYLOR of Ohio. We are enforcing the present law, as far as I am able to find out.

Now, I want to speak of one thing that everybody seems to be worried about. That is, that the people of the country are paying something, or, as the gentleman from Kentucky [Mr. JOHNSON] says, are paying a subsidy to the citizens of the District of Columbia. I live in the State of Ohio, which, according to the figures presented by the chairman of the District Committee [Mr. JOHNSON of Kentucky], pays about the third largest amount.

New York, Pennsylvania, possibly Illinois and Ohio are the ones paying the largest amounts according to his population figures, which are absolutely worthless, because we collect no per capita taxes. If you—living outside this District—do not want to pay anything toward the support of the District of Columbia or the support of the Federal Government, do not smoke, drink, chew, or import anything, and you are out of it.

I never have heard a citizen of my district but what was proud to a great degree of the city of Washington, which they consider to be the city of the whole people of the United States, and they want what little money the Government sees fit to spend upon it expended in such a way as to make it the greatest capital of any nation in the world. I do not believe one Member of this House has ever had a complaint or a petition from his constituents asking that they be relieved from any burden caused by the Government participation in the expenses of the District of Columbia. I have had hundreds, possibly thousands, of visitors from my home city and county, and every one of them left here proud of what they saw had been accomplished, and willing to see greater things done toward the beautification and upbuilding of the greatest capital of the greatest nation in the world.

I am against this amendment, but I am not against just and equitable taxation for improvements peculiarly beneficial to individuals in this District or any other place. [Applause.]

Mr. SIMS. Mr. Chairman, it is an admitted fact that no intangible personal property in the District of Columbia is taxed, and that there is a thousand dollars exemption on tangible personal property. Stocks, bonds, mortgages, money, it makes no difference how many millions in value, pay absolutely no tax in this District whatever.

Now, if there was a corresponding burden upon the property that is taxed equivalent to that failure to tax intangible property that is lost to the District by not being taxed, we could excuse such a thing. But here in the District of Columbia real estate, the only thing that is taxed except tangible personal property, is permitted by law to be taxed at two-thirds of its value. It is utterly impossible for an assessor, as the gentleman from Illinois [Mr. CANNON] said, to stand against the pressure brought to bear on him and assess it for more than that. Therefore, taxes on the only species of property, real estate, that is taxed at all is $1 a hundred, or $10 a thousand, in the finest improved city in the United States.

Take my own State and district; the largest town in my district does not exceed 20,000 inhabitants, and the tax upon practically the same assessed value is $3.45 a hundred dollars. I do not mean the city tax, but all taxes combined. Why should a man, because he lives in the finest city in the United States, yea, the finest city in the world, be further compensated by reducing his taxes? Just as long as the half-and-half plan exists we will have this anomalous condition on us. That is the fundamental error of the whole thing. It may have been wise to do it when it was done, but we will have these people continuously knocking at the door of Congress for increased appropriations for the District of Columbia while the percentage burden of taxation is being reduced.

I say that the man who lives in the District of Columbia and owns his home ought to pay more taxes than in any other place on earth, because he is getting more for his money than anywhere else. But the purpose that seems to lie behind the people of the District of Columbia is to get rid of paying for city benefits, which they get in a greater volume than the people in any other city on the face of the earth. The only way to do justice is to levy a just, reasonable, and fair tax upon the people of the District of Columbia, both upon the real, tangible, and intangible personal property, regardless of the appropriations made; make it uniform and let them pay it into the Treasury of the United States, and then let Congress make the appropriations with reference to the city's needs, and then what these fair and just taxes do not pay, pay the balance out of the United States Treasury. Then you will stop this eternal knocking at the doors of Congress and this nagging at us to buy this frog pond and that gulch and other useless forms of real estate because the District can pay its part without increasing its burden and because the volume of values must and always will increase.

There is no reason why this Capital should be a great and populous city. What benefit is Chevy Chase to the National Government as a seat of government? What benefit is it to Members of Congress to have a clubhouse away out in the woods while our people pay for part of it? It is absurd, it is wrong, it is illogical, and it is robbery of our constituents. The people here ought to bear these expenses because they get the exclusive benefits of same.

There is a necessity for this amendment so that these great avenues and extensive projects may be kept up, at least in part, by the people of the District of Columbia. The morality usually voiced by the people here has been a dollar-and-cent morality, an exchange of their rights as citizens for a mess of pottage in reduced taxation called the organic act. It is organic folly, and we will never get rid of these troubles until we wipe that statute off the books and let everybody pay their taxes according to what they own, and let the Government pay the balance of whatever appropriations may be made regardless of ratio. [Applause.]

Mr. PROUTY. Mr. Chairman, I have been a member of the Committee on the District of Columbia for nearly two years, and I appear on this occasion as a kind of amicus curiæ for that committee. Ever since I have been on that committee somebody has appeared asking for an extension of some road, an improvement of some highway, and I have felt that if these fellows that were appearing there had to pay the expenses of the improvements they would not besiege the committee so persistently as they do, and therefore as a friend of that committee I am in favor of the principle, at least, of this measure.

While I have the floor, however, I wish to make a few general remarks upon this subject. I have for the last 30 days been listening to experts in this city upon the question of real-estate values, and if there is any one thing that has been established beyond all doubt and all controversy it is that real estate in the city of Washington is springing and leaping in values as it is nowhere else in the United States. We had one little piece of property down here upon which was centered the thought of this committee, which had sprung in value from $18 a square foot to $50 a square foot in a little over three years. This naturally led me to inquire the cause of this remarkable increase in the value of real estate in the city of Washington. Everybody who is familiar with real estate values knows that

the question of taxation is an important factor. It always figures in the value. This led me to a general inquiry, and I addressed letters to the mayor of every large city of the United States inquiring as to the assessment of the property in other cities, and without going into detail I might say this, that while the assessment on real estate property in the city of Washington is 10 mills, the average of cities of this size and class in the United States is 22 mills. In other words, real estate assessments in the United States is more than twice what it is in the city of Washington.

Take, for instance, my own city. We pay 22 mills on every dollar of real value of real estate in our city. In addition to that, every man has to pay for special improvements that are put in front of his property. In Washington that is all absorbed by the General Government and by general taxation. That is not fair. There has been a good deal of talk here about the fact that in the District of Columbia there is a large amount of property belonging to the Federal Government. I undertake to say that the ownership of that property does not throw a single burden upon the property of the individual owner in the District of Columbia. [Applause.]

Another thing has been called to my attention in making this investigation, and that is this—that the people of the city of Washington, per capita, are the wealthiest people in the United States. The average wealth of the citizens of Washington is $2,300, and in the next highest city it is $1,800. That shows that the people of Washington are at least able to bear their share in carrying on the burdens of their purely local government. I have given a good deal of thought and attention to this whole matter during the last month. I have looked at it from almost every angle, but I can see no reason in the world why the citizens of Washington should not maintain and control and pay the bills for their own local government, just like any other city does. I have addressed letters to the capitals of all of the principal countries of the world, and so far as I can find there is not another capital in the world that is subsidized by its General Government like the city of Washington is.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. SIMS. Mr. Chairman, I ask unanimous consent that the gentleman from Iowa be permitted to proceed for five minutes, not to be included in the general order heretofore made.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. PROUTY. I yield to the gentleman from Kansas.

Mr. CAMPBELL. The gentleman from Iowa is very pronounced in the opinion that the entire amount of money necessary to maintain the District government should be paid out of local taxation. Does the gentleman from Iowa couple with that proposition the right of self-government in the District of Columbia?

Mr. PROUTY. Yes; I think they are two things that should go hand in hand.

Mr. CAMPBELL. Then, instead of the amendment that is being discussed here, as well as other questions that are not included in the amendment, the whole question calls for general legislation of the greatest possible importance not only to the District of Columbia but to the country; and does the gentleman think that that legislation should be enacted by an amendment on an appropriation bill?

Mr. PROUTY. My answer to that would be this, in a general way: I am engaged in preparing a bill, which I will have the pleasure of presenting to this House, which covers all of these questions; but as this goes in part along the line I am in favor of, I propose to do all I can to get just as far as I can, and I will frankly say to the Members of the House that I will call on them to the best of my ability to consider a general proposition for reorganizing the entire system of government in the city of Washington. In other words, after having looked this question over from every corner, I do not believe there is any way that these questions can all be solved except by an absolute divorce between the District of Columbia in its purely municipal affairs and the Federal Treasury. [Applause.]

The CHAIRMAN. For what purpose does the gentleman from New York rise?

Mr. REDFIELD. I did not mean to interrupt the gentleman, but I would like to be recognized for five minutes when he has finished.

Mr. PROUTY. Mr. Chairman, there is no greater wrong in my opinion that a sovereign power can exercise than that of taxing one class of people for the benefit of another, and the first thought of every candid and sincere Congressman or legislator must be on the line of so adjusting things that unreasonable burdens will not fall upon anybody. As has been called to your attention by the chairman of our distinguished committee, not the distinguished chairman, but the chairman of our distinguished committee [laughter and applause] we not only pay all of these burdens at home in sustaining all of these affairs, but we come down here with our contribution to the people of the city of Washington. My people at home pay for their own schooling, pay for their own policing, pay for all those affairs, and then we come down here and throw into the laps of people who are wealthier per capita than my people a certain portion for the purpose of providing water, light, and everything else.

Mr. CANNON. Will the gentleman allow me?

Mr. PROUTY. With pleasure. I probably will have to ask a minute or two more.

Mr. CANNON. I hope it will be granted, but my recollection is from a careful examination that the citizens of Iowa per capita are the wealthiest people in the United States, and I believe in the world.

Mr. PROUTY. I accept the compliment, but unfortunately that only applies to the agricultural portion; I am talking about cities of the size of Washington.

Mr. CANNON. It includes all of them.

Mr. PROUTY. We are wealthy out there; we admit it; but we have not reached that point of generosity where we are willing to take from our own treasury and pour it into the laps of fellows who are just as well fixed as we are.

Mr. SISSON. You want to keep your riches.

Mr. PROUTY. What I wanted to state is, so you will understand it, for I speak with deliberation, that there is no city of the size in the group between 300,000 and 400,000 in the United States where the individuals per capita are as wealthy as they are in the city of Washington. That being true, what excuse can anybody give for taking money from the people of some other city and bringing it down here to pay the expenses of the fellows who live in this city.

The CHAIRMAN. The time of the gentleman has expired.

Mr. REDFIELD. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman from New York [Mr. REDFIELD] rise?

Mr. REDFIELD. Mr. Chairman, I would like to speak for a few moments on the amendment.

The CHAIRMAN. The Chair will advise the gentleman that under a unanimous agreement the time has been fixed for debate and except by unanimous consent——

Mr. JOHNSON of Kentucky. Mr. Chairman, I ask unanimous consent that the gentleman from New York may address the committee for five minutes.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that the gentleman from New York may proceed for five minutes. Is there objection? [After a pause.] The Chair hears none. The understanding of the Chair is that that is not to be deducted from the order the committee has already made.

Mr. REDFIELD. Mr. Chairman, I should not trouble the committee in this debate were it not that I happen to have had experience in administering a law of this kind much more severe in its terms, and can speak from experience. In the Borough of Brooklyn, in the city of New York, the law requires that the entire expenses of all public improvements of every nature having to do with street improvements, sewers, pavements, and everything of that kind, shall be borne wholly by the abutting property owners, the extent of the assessment area on each side being one-half the abutting block unless by special enactment. The only protection against confiscation which the property owner has under this severe statute is that the city has no right of its own to begin improvements. They must be initiated by the property owners themselves through a special proceeding provided for that purpose, and in the cases where assessments are very large—I had under my care a single sewer that cost something over $3,000,000—in such cases the law now permits the carrying of the assessment over a term of years, with interest thereon, but the entire cost of all these improvements is willingly paid by the property owners, and it does not in the faintest degree restrict the activities and the growth of the city in the construction of public works. As a matter of fact, in one year I had under my care some 80 contractors at work doing work of this character under the very onerous—or, rather, the very drastic—provision that I have described.

When I came to Washington from that experience, and found in the outlying parts of this city that the city, supported in part by the United States Government, was making improvements in streets, the benefit of which immediately accrued to the abutting property, but without expense to it, it seemed to me, and it seems to me now, one of the most shocking things I ever heard of the kind. I think this amendment would be bet-

ter if they—the property owners—paid it all. If they paid it all, then they should have the right to initiate, because it is not proper that the city should impose upon property owners such a tax of its own will without any voice upon their part. And in large improvements I think they might be given a term of years in which to pay, as, for example, in the case of a great trunk sewer, and things of that kind. But the principle of this amendment is perfectly sound. My property is benefited by a street; not yours a mile away, but mine. I expect to get that benefit back, and I ought to pay, and cheerfully pay, without any question of justice or injustice, what I am squarely getting back through the proceeds of that work. That is the practice elsewhere, and it ought to prevail here. [Applause.]

Mr. BURLESON. Mr. Chairman, the issue presented is quite simple and easily understood. Under the amendment proposed by the gentleman from Missouri [Mr. BORLAND] a change of plan in the payment for the construction and reconstruction of streets and avenues within the District of Columbia is proposed. The present plan authorized by law for paving of streets and avenues in the District requires that one-half of the expense shall be met by the District government and one-half by the General Government. The first question that arises in one's mind is, Is that just and fair? One way to arrive at a satisfactory answer to the query as to whether it is just and fair is to look to other cities and see what plan has been adopted in such cities in dealing with the subject matter under discussion.

It has been made manifest by repeated statements here that in an overwhelming majority of cities in the United States the entire cost of the construction and the reconstruction of streets is borne by the abutting property owner on the thoroughfare being improved. Such being the case, one is justified in concluding that there is nothing radically unfair in the proposition to impose a small part of such expense on abutting property owners in the District of Columbia. There is nothing novel in the plan to accomplish this result as outlined in the amendment of the gentleman from Missouri. He utilizes the same plan that exists in other cities of the United States for assessments against property owners. The only question remaining to be decided is whether the percentage of this cost to be assessed is too high. Is what he proposes unjust and unfair? What does he propose? He proposes that the abutting property owner, the man who owns the property to be benefited, shall pay one-fourth of the cost of the pavement on the street in front of such property. In other cities, as has been said, such property owner frequently has to pay the entire cost of such improvement. In some cases they pay half, but here it is proposed that such owner shall pay only one-fourth of the cost of the paving.

Mr. TAYLOR of Ohio. It is one-half of the cost. Where the property owner is charged to the center of the street he pays one-half of the cost.

Mr. BURLESON. One-half of the cost to the street-car track, or the center of the street, one-fourth of the entire cost of the street in front of his property.

Mr. TAYLOR of Ohio. But in other cities the person also pays only 50 per cent, because he only pays to the center of the street.

Mr. BURLESON. There is no difference between us. The proposition to be determined then is, is this too much; if so, offer an amendment to reduce it. The gentleman from New York [Mr. REDFIELD] has just suggested that he thinks the abutting property owner ought to pay all the cost of such street construction. I do not think he ought to pay it all in the city of Washington. Personally I do not want to completely abandon the half-and-half plan of paying municipal expenses that prevails in this city, but I want to call the attention of those who favor the existing plan that there are certain inequalities growing out of this plan which must be corrected or the whole plan will be either abolished and abandoned or radically changed. There is no doubt about that. I am a friend of the city of Washington. I do not want the present half-and-half plan abandoned, but I do desire certain inequalities, certain injustices, that result therefrom changed. These injustices against the whole people of the United States should be speedily eliminated or changed, in order that the plan itself may be saved. Personally I do not believe that the people of the United States should pay anything toward defraying the cost of schooling the children of the District of Columbia.

I believe that ought to be changed. There are also other injustices resulting from this plan, and if we correct these inequalities we will continue under the present half-and-half system until Washington is made and maintained as the most beautiful city in the world. Mr. Chairman, I appeal now to this committee to act cautiously in this matter. If we do act advisedly, act in the interest of the city, by adopting this amendment offered by the gentleman from Missouri [Mr. BORLAND], we may prevent more radical action in the future. [Applause.]

Mr. TAYLOR of Ohio. Will the gentleman yield just for one question? As chairman of the subcommittee in charge of the bill is it not a fact that this very amendment in the last days of our consideration of the bill was presented by you as chairman to the committee and discussed, and it was unanimously decided that it was inopportune to bring forth radical changes in legislation in an appropriation bill, and that this was conveyed to the full committee which agreed unanimously with us?

Mr. BURLESON. That is measurably true. It is a matter that we were afraid we ought not to undertake at this time. But as far as the amendment is concerned I want to say that it was prepared by one of the most competent engineer officers ever brought to the service of this District, the assistant engineer commissioner, Capt. Brooke. He had also the assistance of the law officers of the District in preparing this amendment.

Mr. TAYOR of Ohio. But not by a lawyer, or by anybody familiar with taxation.

Mr. BURLESON. It was prepared after full consultation with the law officer of this city, and it will stand the test in the courts. Take that from me. [Applause.]

Mr. SISSON. Mr. Chairman, I simply want to make this statement that the action was not entirely unanimous in the Committee on Appropriations.

Mr. BORLAND. Mr. Chairman, I want to call the attention of the committee in closing this debate to a fact that was referred to here by the chairman of the subcommittee [Mr. BURLESON], that this amendment is not a hasty suggestion, but has been carefully prepared by an engineer officer, Capt. Brooke, the assistant engineer officer of the District. It has been prepared with a view of articulating into and operating according to the machinery of the law now governing the District of Columbia. It is an adaptation of a principle that is in force in the District of Columbia in regard to sidewalks and alleys, and has been enforced and passed upon by the Supreme Court of the United States. It simply extends that principle to another class of improvements, to wit, the surfacing of the roadways of the streets.

There is not any question but that legally the proposition is sound and that we can go at least as far as making the abutting property owner pay one-half of the cost of those improvements. The gentleman from Wisconsin [Mr. LENROOT] recalled the case of Norwood against Baker, which was decided in 1898, and which caused a great deal of confusion at that time in the assessment laws of the various States. The opinion in the case of Norwood against Baker went away beyond the facts involved in that particular case in criticizing the front-foot rule or any other arbitrary form of assessing the benefits. Immediately after the decision in that case there went to the court from Kansas City the case of the Barber Asphalt Co. against French, in which case the question of the legality of the front-foot rule of assessment in paving improvements was squarely presented. The issue had not been clearly defined in the Norwood-Baker case. The front-foot rule was sustained by the Supreme Court of Missouri and by the Supreme Court of the United States in the case of the Barber Asphalt Co. against French, as reported in One hundred and eighty-first United States.

In that case the opinion not only reviewed every preceding case involving street improvements, but even specially mentioned the case of Mattingly against the District of Columbia, in which the Supreme Court sustained the very law that we are now proposing to extend to street improvements. That will be found on page 345 of the opinion. Then the court proceeds to say that the opinion in the case of Norwood against Baker should go no further than to leave to every man the constitutional right under the fourteenth amendment to go into a court of equity and enjoin the municipal authorities in any rare case of confiscation that may occur. That is true with respect to this law. A man has the right now to go into a United States court of equity and enjoin a case that happens to be a case of confiscation.

Mr. LENROOT. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. BORLAND. Yes.

Mr. LENROOT. The gentleman knows that that was a decision by a divided court?

Mr. BORLAND. Yes.

Mr. LENROOT. The gentleman knows that Mr. Justice Harlan dissented?

Mr. BORLAND. Yes.

Mr. LENROOT. And that two other justices dissented?

Mr. BORLAND. Yes. That has been true since the rendering of the court's opinion in the case of the Barber Asphalt Co. against French. It leaves the question in such a position that where a man feels he is damaged he can go into court and litigate the question himself. It is now a question whether you will have a general law on the subject or whether you will put upon the property owner the necessity in each case of going to a jury and determining the damages in each case. You must either have a general plan of ascertaining damages, as under this front-foot rule, which works well in the majority of cases, or you must submit every particular case to a jury and show the exact damages and benefits to each piece of property. Under the latter plan of apportionment the burden of taxation is so increased by these expenses that it becomes a substantial injustice to the property owner instead of an act of justice.

Mr. LENROOT. Will the gentleman yield?

Mr. BORLAND. Yes.

Mr. LENROOT. Can the gentleman furnish any authority for the proposition that it requires a jury to settle these questions? The commission decide them.

Mr. BORLAND. Yes; but the Constitution of the United States says it shall not be done without due process of law, and every man still has that right reserved in all these forms of city improvements. For that reason, gentlemen, we can at least go this far. As has been said by the gentleman from New York [Mr. REDFIELD], I repeat it is a conservative step toward making the property owner pay a part of the improvements. I would go as far as the gentleman from New York [Mr. REDFIELD] does. I would make the property owner pay it all; but I agree that we ought now to adopt the principle of making property owners here pay a portion of the cost of the improvements opposite their property, and do it according to the established machinery of law which is now in operation in the District.

I call for the vote.

The CHAIRMAN. The time of the gentleman has expired. All time has expired.

Mr. LENROOT. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The gentleman from Wisconsin offers an amendment to the amendment, which the Clerk will report.

The Clerk read as follows:

Amend the amendment by striking out the word "levied" where it appears after the word "assessments," in the first line of the last paragraph, and inserting the word "levied" before the word "payable," in the same line.

Also add to the amendment the following:

"*Provided further*, That if upon any hearing of objections to the proposed assessment by any property owner affected the commissioners shall determine that the special benefits accruing to the property proposed to be assessed are not equal to the proposed assessment, then and in such case the commissioners shall determine the amount of such special benefits, if any, and such amount only shall be assessed against such property."

Mr. BORLAND. These are separate amendments, and I demand a division of them.

Mr. LENROOT. I suggest to the gentleman that while they are separate they should be treated together.

Mr. BORLAND. I have no objection to the first one.

Mr. LENROOT. The first one ought not to go in unless the last one is adopted.

Mr. BORLAND. I demand a division of those amendments, because, as I say, I am not opposed to the first one, that it shall be levied as well as collected under the rule applying to sidewalks; but I am opposed to the second amendment, which gives the commissioners some sort of arbitrary discretion to discriminate against certain property owners as to how much shall be paid.

Mr. SISSON. That is now the law.

Mr. BURLESON. That is now the law, absolutely.

The CHAIRMAN. Debate is closed, and everything is proceeding now by unanimous consent.

Mr. LENROOT. I ask unanimous consent that I may have two minutes in which to make a statement concerning my amendment.

Mr. BORLAND. Reserving the right to object, I should like to have two minutes in which to reply.

Mr. BURLESON. Very well; but I serve notice that I am going to object to any further extensions to anybody.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin [Mr. LENROOT]?

There was no objection.

Mr. LENROOT. Merely in the interest of the gentleman's own amendment I wish to state that he does not want this first amendment adopted unless the second one is adopted, because the first amendment will require the commission to give the notice under the law of 1894, and the gentleman does not want that notice given unless there is some discretion to be reposed in the commission, as under the law of 1894, but which is not proposed in the gentleman's amendment. So the two practically go together and ought to stand or fall together.

Mr. BORLAND. The gentleman is not quite correct about that. The notice is not intended to cover the cost of the apportionment of the assessment. The notice is not intended to cover the desirability of the improvement at all, and that notice is perfectly feasible under this law as it is under the sidewalk law. I have no objection to the first amendment.

Mr. BURLESON. Mr. Chairman, I ask that the amendment offered by the gentleman from Wisconsin be voted down.

The CHAIRMAN. The gentleman from Missouri asks for a division of the amendment offered by the gentleman from Wisconsin, and the question is on the adoption of the first part of the amendment.

The question was taken; and on a division (demanded by Mr. LENROOT) there were 8 ayes and 45 noes.

So the amendment to the amendment was lost.

The CHAIRMAN. The question now is on the second part of the amendment offered by the gentleman from Wisconsin in the nature of a proviso.

The question was taken, and the amendment was lost.

Mr. CALDER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. Is it an amendment to the pending amendment?

Mr. CALDER. It is.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. CULLOP having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Curtiss, one of its clerks, announced that the Senate had passed the following resolutions (S. Res. 445):

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. GEORGE S. LEGARE, late a Representative from the State of South Carolina.

Resolved, That a committee of nine Senators be appointed by the President of the Senate pro tempore, to join the committee appointed on the part of the House of Representatives, to attend the funeral of the deceased, at Charleston, S. C.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives.

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now adjourn.

And that in compliance with the foregoing the President of the Senate pro tempore had appointed as said committee Mr. TILLMAN, Mr. SMITH of South Carolina, Mr. MARTINE of New Jersey, Mr. SWANSON, Mr. PERKY, Mr. MYERS, Mr. GRONNA, Mr. CRAWFORD, and Mr. POINDEXTER.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Amend the amendment, in the first paragraph, by striking out the words "or by resurfacing and existing pavement."

The CHAIRMAN. The question is on the amendment to the amendment offered by the gentleman from New York.

The question was taken, and the amendment was lost.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Missouri [Mr. BORLAND].

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

For the purpose of investigating and reporting upon the collection and disposal of garbage and other city waste originating in the District of Columbia, including the preparation of plans and specifications for the construction of plants, the necessary accessories, and the employment of personal services and such other incidental expenses as may be necessary to carry out the purposes of this appropriation, to be immediately available, $10,000.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph. I desire to ask the gentleman in charge of the bill if it is contemplated by this provision in the bill to take that portion of the Baltimore & Ohio Railroad right of way which was abandoned by virtue of a law passed February 12, 1901, whereby this roadway become the property of the United States and subsequently was completed by a deed thereto. I ask if it is intended by this paragraph to take that as the site for the proposed building?

Mr. BURLESON. Mr. Chairman, I have no idea as to where it is intended to locate the proposed garbage plant. I ask unanimous consent that this item be passed, as the gentleman from Virginia [Mr. CARLIN] requested to have it passed if he was not present at this time.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that this paragraph may be passed over with the point of order pending. Is there objection?

There was no objection.

Mr. LOBECK. Mr. Chairman, I want to suggest to the gentleman from Illinois [Mr. FOWLER] that the item on page 30 of the bill is probably the one that he refers to, instead of this one on page 33.

The Clerk read as follows:

Bathing beach: For superintendent, $600; watchman, $480; temporary services, supplies, and maintenance, $2,250; for repairs to buildings, pools, and the upkeep of the grounds, $1,500, to be immediately available; in all, $4,830.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order against the paragraph for the reason that it is not authorized by existing law.

Mr. BURLESON. The gentleman refers to the words making it immediately available?

Mr. JOHNSON of Kentucky. No; I refer to the bathing-beach proposition.

Mr. BURLESON. There is a statute which authorizes it.

Mr. JOHNSON of Kentucky. I will read the statute to the gentleman if he wishes to hear it. It is as follows:

Be it enacted, etc., That the Commissioners of the District of Columbia are hereby authorized and permitted to construct a beach and dressing houses upon the east shore of the tidal reservoir against the Washington Monument grounds, and to maintain the same for the purpose of free public bathing, under such regulations as they shall deem to be for the public welfare; and the Secretary of War is requested to permit such use of the public domain as may be required to accomplish the objects above set forth.

SEC. 2. That the sum of $3,000 is hereby appropriated, from the revenues of the District of Columbia, to be immediately available for the purposes of this act.

Approved, September 26, 1890. (U. S. Stat., vol. 25, p. 490.)

Now, Mr. Chairman, this carries the proposition of $2,250 for repairs and another item of $1,500 for upkeep, payable half and half. It is quite clear from the act that I have just read that it was originally a District proposition.

Mr. BURLESON. I will state to the Chair that under the act of Congress authorizing a bathing beach it has been established, and appropriations for its maintenance and upkeep have been carried in this paragraph, I think, for some years by law. It has been carried for a number of years in the exact language that is contained in this bill except the words "immediately available." We have that right under the rules of the House, and, furthermore, it is necessary, because a number of the buildings have been injured by a storm. If the bathing beach is to be utilized during the coming summer when bathing beaches are ordinarily utilized, the money must be immediately available in order that the repairs may be effected.

The CHAIRMAN. Will the gentleman from Kentucky read the second section in the act of 1890 again?

Mr. JOHNSON of Kentucky. It is as follows:

SEC. 2. That the sum of $3,000 is hereby appropriated, from the revenues of the District of Columbia, to be immediately available for the purposes of this act.

Therefore it is quite apparent on its face, Mr. Chairman, that the money to be available for the purpose of the act was to be appropriated from the revenues of the District of Columbia, and not on the half-and-half plan.

The CHAIRMAN. The Chair will ask the gentleman from Texas if the act of 1890 is authorization for the bathing beach, and for its maintenance, repairs, and continuance, if the Congress would not have to look to that act as its authority for its continuance and repairs, and if the original act made it chargeable only against the District revenues, if it would not be subject to a point of order upon that ground—not on the ground that $4,830 is in excess of $3,000, but considering the first paragraph of the bill in connection with the paragraph against which the point of order is made, in the light of the act of 1890, would not the Chair be obliged to sustain the point of order?

Mr. BURLESON. Mr. Chairman, the bathing beach was established under that act, but there is no stipulation in it that the maintenance and upkeep shall be wholly from the revenues of the District of Columbia. It is true that was the first appropriation for the bathing beach, and it is stipulated by terms that it should be wholly from the revenues of the District of Columbia; but having established it, it is a municipal institution, and the necessary appropriation was carried in the District appropriation bill in the usual way, couched in the language of the present paragraph.

I call the attention of the Chair to the fact that in the act of 1908 $10,000 was appropriated.

The CHAIRMAN. That was an appropriation act?

Mr. BURLESON. An appropriation act for the improvement of wharves and floating baths. That was one-half from the revenues of the General Government and one-half from the revenues of the District government. Consequently this is a composite institution, if such a term can be used. It has been erected partly from funds taken only from the revenues of the District of Columbia and partly from the revenues taken one-half from the District and one-half from the General Government. I will read to the Chair the language of the act of 1908. Providing for the superintending force it then says:

And for temporary service, maintenance, and repairs, $1,950; construction of bathhouses, and for improvement of the wharves and floating baths, $7,000; and the appropriation of $5,000 for this purpose for the fiscal year 1907 is hereby made available, and in addition to the $5,000 herein provided.

There are $12,000 appropriated in the act of 1908 for improvements and the construction of new buildings for the bathing beach. This is simply for the supervisory force to take care of an institution that has been erected partly out of the funds of the District of Columbia and partly out of the funds of the General Government.

The CHAIRMAN. Is there any other act?

Mr. JOHNSON of Kentucky. That is the only act.

Mr. BURLESON. It is a public work in progress.

The CHAIRMAN. Is there any other act, except that of 1890, and the appropriation bill from which the gentleman has just read?

Mr. BURLESON. None other than the ordinary appropriations carried from year to year since that time.

Mr. GILLETT. Mr. Chairman, may I suggest this, that in the act of 1890 it is the first section by itself which authorizes the bathing beach. That section says nothing as to how the funds shall be paid. It simply authorizes the construction and maintenance. Consequently, of course, under the ordinary law it would be paid half and half; but it happens that we one year pay half and half and in other years, as, for instance, in the case of the playgrounds, we pay wholly by the city. That is a matter which the House can determine each year.

The CHAIRMAN. Can the House determine that each year in an appropriation bill, if the question is raised?

Mr. GILLETT. I think so. It might be a question whether it was not subject to a point of order to say that it should be paid entirely by the District. But when the work is once authorized it can certainly be paid in one year half and half. Any existing project authorized can be maintained afterwards half and half.

This original law was in two sections, one independent from the other. The first provided for the construction and maintenance of a bathing beach and then the second provided that the appropriation should be made by the District alone. I do not concede that that limits and offsets the general law that the expenses shall be always paid half and half. It simply provided that that portion of the appropriation should be paid by the District, and it seems to me, inasmuch as the bathing beach was authorized alone by a section, that it is in the discretion of the House afterwards to decide as to how it shall be paid.

Mr. SAUNDERS. Mr. Chairman, this is a public work, and it is a public work that was constructed under the following authority of law:

That the Commissioners of the District of Columbia are hereby authorized and permitted to construct a beach and dressing houses on the east shore of the tidal reservoir against the Washington Monument grounds, and to maintain the same for the purpose of free public bathing, etc.

The Chair will observe that not only is authority given for the construction of this beach, and the buildings therewith, but for the maintenance of the same. It is to be maintained, too, as the Chair will observe, as a free bathing resort under regulations which are prescribed. I wish to further call the attention of the Chair to——

The CHAIRMAN. Before proceeding, will the gentleman read the next paragraph so the Chair may have the two in connection? The Chair has not the act.

Mr. SAUNDERS. The Chair will observe that there is an authorization for the construction of this public work. Hence there is authority to appropriate for the same, because whatever is established by authority of law, may be appropriated for by Congress. In the very act pursuant to which this work was constructed there is a provision for buildings. The second and last section, is as follows:

That the sum of $3,000 is hereby appropriated out of the revenues of the District of Columbia, to be immediately available for the purposes of this act.

This section has no relation to the authority for the construction of the work. That portion of the act stands alone. So far as the appropriation of this money from a particular source is concerned it may be said that this fact does not furnish any ground for holding that thereafter, when the work has been established, these buildings may be allowed to go to ruin for lack of authority to appropriate for them under the general principle relating to the appropriations for repairs, and continuation of a public work. There are a great many rulings relating to appropriations that may be made with respect to a public

work that is in progress. Permit me to call the attention of the Chair to this particular one:

An appropriation for current repairs and improvements of the Botanic Garden was held to be a continuation of a public work. (4 Hinds, sec. 3787; see also 4 Hinds, sec. 3778.)

I am informed that there was no law establishing that garden, but be that as it may, the proposition to which I direct the attention of the Chair is that an appropriation for improvements and current repairs of the Botanic Garden was held to be a continuation of a public work.

Certain buildings are called for in connection with this bathing beach. Unless in due course these buildings are repaired, this public property will fall into ruin, and become valueless for the purposes for which it was designed. Will it be contended that the general principles relating to the authority to appropriate for continuing a public work should not apply to this case, merely because the original act provided that the first appropriation should be made from the revenues of the District of Columbia? There is no inhibition in this act operating to restrain a subsequent Congress from appropriating for repairs or improvements, as these appropriations are usually made in the District of Columbia. The money in the first instance might have been given for this purpose, and the act might have provided in terms that the construction of the beach should be made with this money; but such a provision would not operate to deprive a subsequent Congress of the authority to appropriate for the continuation of the work. If the act making the first appropriation is to be construed as intending that all subsequent appropriations must be made from the District of Columbia, then it may be fairly contended that no greater amount than $3,000 may be appropriated, and that this particular sum must be regarded as the limit of cost. This beach has been appropriated for in the District bill for many years, just as other public works have been appropriated for. The interpretation sought to be given to the act is a strained and fanciful one, and I submit to the Chair that in the interpretation of this act, aid may be found in the fact that this statute has not been heretofore construed, as it is sought to be construed to-day. Why should it be considered that with reference to this small item, it was the intention of Congress to provide that it should not be appropriated for on the half and half principle? Why should this distinction be made as to this little work, and why, unless the meaning of the statute is absolutely clear, should it be so construed as to take this work out of the general rule? This construction is not the inevitable meaning of the section of the act providing that the first $3,000 should be appropriated from the revenues of the District. There may have been many reasons for this provision in the first instance, all consistent with the intent that, thereafter when the work was established, and progressing, it should be controlled by the general principles relative to appropriations for such works. The act itself shows that the first appropriation was intended to start the work at once. It was to be immediately available. The legislators may have thought that the District of Columbia ought to put the work on its feet, so to say, and therefore ought to pay the initial cost. But this is perfectly consistent with an intention to authorize Congress to appropriate for the work thereafter on the half and half principle. I repeat that to take this one appropriation, this initial appropriation from the District revenues, and argue, therefrom that thereafter all appropriations for maintenance and repair must be made exclusively from the District revenues, is to give a strained and fanciful interpretation to the act, an interpretation opposed to its manifest meaning, and at variance with the general policy relating to appropriations in the District of Columbia. For these reasons we insist that the point of order should be overruled.

The CHAIRMAN. The Chair is ready to rule.

Mr. JOHNSON of Kentucky. The gentleman has just stated this is a public work——

The CHAIRMAN. The Chair is ready to rule.

Mr. JOHNSON of Kentucky. Just a moment. I wish to state this is a public graft. I remained in Washington for 30 days after the adjournment of Congress, and if the often repeated statements in the newspapers are to be believed, the superintendent of that place when the doors of it were locked against the public was down there receiving people to bathe for which he received special fees. In addition to that, Mr. Chairman——

Mr. GILLETT. May I ask the gentleman, how does the gentleman obtain that information? Does he know it personally?

Mr. JOHNSON of Kentucky. I announced that if the statements often made in the newspapers last fall were to be believed that was true. I have heard also the commissioners had an investigation of that matter, but I do not know of my own knowledge that that is true.

Mr. GILLETT. I do not know anything about it myself, only it seems to me such a serious charge as that ought to have a more definite foundation than mere newspaper statements.

Mr. JOHNSON of Kentucky. The newspapers day after day charged that to be a fact, and then the superintendent came into the public print and made his statement in regard to it.

Mr. BURLESON. Does the gentleman always accept the statements made in that newspaper?

Mr. JOHNSON of Kentucky. I wish to assure him that I do not. But, Mr. Chairman, just one other thing. The gentleman from Virginia [Mr. SAUNDERS] has advanced a new rule for the construction of a pavement. He says the first section stands by itself for the construction of the whole bill. Just the reverse is true. Any paper must stand in its entirety to be construed. It applies not only to a will, to a deed of conveyance, but it applies also to the act of any legislative body. That I may not be misunderstood, Mr. Chairman, my point of order in the main—and I have minor points of order against the item—is that there is nothing in this which authorizes an expenditure on the part of the Federal Government. I do not take the position that this bill does not authorize the continuance of this thing for the people of the District of Columbia.

Mr. BURLESON. If the Chair will just permit an additional suggestion. Frequently provision is made for the erection or construction of public-school buildings, which provision would be subject to a point of order had it been directed against the item at the time it was originally presented. But the public-school building having been provided for and erected under that appropriation, surely no one would contend that the Government could not make provision for janitor service or repairs to the school building after it had been brought into existence. And that is exactly analogous to the present case.

The CHAIRMAN. The Chair entirely agrees with the statement of the gentleman from Texas [Mr. BURLESON] just made with reference to public schools or playgrounds, and concedes the authority of Congress by appropriation to provide for their continuance as a public work after they have once been put into operation. But the Chair would not agree with the gentleman's position if there were a general act, or special act, originally providing for the construction and maintenance of those buildings if thereafter an appropriation were sought to be made upon terms contrary to the act of original authorization under which they were first brought into existence and maintained. In regard to this particular paragraph against which the point of order is now made, if the paragraph for a bathing beach, and so forth, had appeared in this appropriation bill prior to the passage of this act of 1890, it would have been subject to the point of order, because there was no law authorizing it, either wholly out of District revenues or by half-and-half appropriation. On September 26, 1890, however, an act was passed, the first section of which reads:

That the Commissioners of the District of Columbia are hereby authorized and permitted to construct a beach and dressing houses upon the east shore of the tidal reservoir against the Washington Monument Grounds, and to maintain the same for the purpose of free public bathing, under such regulations as they shall deem to be for the public welfare; and the Secretary of War is requested to permit such use of the public domain as may be required to accomplish the objects above set forth.

The second section is as follows:

That the sum of $3,000 is hereby appropriated from the revenues of the District of Columbia, to be immediately available, for the purposes of this act.

It is of course assumed that the $3,000 was expended for the purposes of this act as provided in section 1. The purposes of the act as set out in section 1 are "to construct a beach and dressing houses," and so forth, and "to maintain the same." Then, if any subsequent appropriation is sought to be made for the maintenance, repair, and continuance of this public work, why not follow the act in pursuance of which the first appropriation was made? Why discard the special act of Congress passed for this specific purpose and rely upon an implied authority, derived from another law of prior existence?

In the view of the existing statute on the subject, the entire act being, according to familiar rule, construed together, a judicial officer would be required under rules of law to look to the intention of the legislation and to the intention, if necessary to be resorted to, of the legislators at the time the act was passed. It seems to the Chair that if it was intended by Congress at the time of passing the act of 1890 that the construction and maintenance of the bathing beach would be chargeable to the District of Columbia for one year only, and that thereafter the maintenance and repair of the bathing beach would be chargeable and appropriated for under the half-and-half clause, then Congress would undoubtedly have said so in the act, either by express provision to that effect or by words of limitation. There is no ambiguity in the language contained in the act of

1890; there is no conflict or want of harmony between the two sections; the last is the logical sequence to the first, and it fixes the expense of the enterprise wholly on the District. This being true, as is apparent from a clear reading of the act itself, the Chair is forced to the legal conclusion, giving to words their usual and ordinary meaning and significance, that the bathing beach, as authorized and appropriated for by the act, was to be for free public bathing in the District of Columbia, to be constructed and maintained wholly from the revenues of the District. At any rate, that is what the law which brought the beach into existence says. In that view of the case, the Chair is compelled to sustain the point of order. The Clerk will read.

The Clerk read as follows:

For the construction, by contract or otherwise, of an underground drain from the fountain lying south of the White House, across the grounds of the White House (reservation No. 1) and of the Washington Monument (reservation No. 2) to the bathing beach near Seventeenth and B Streets NW., $2,500; and the Commissioners of the District of Columbia are authorized to enter said reservations for the purpose of installing said drain.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order against the paragraph as being new legislation.

Mr. BURLESON. The bathing pools are gone now, and, of course, we do not want the water. I concede that it is new legislation.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

The commissioners shall submit for the consideration of Congress, in the annual estimates for the government of the District of Columbia for the fiscal year 1915, detailed estimates for the construction of not exceeding two public bathing beaches, with all necessary buildings, on separate sites other than that now used and where tidal water shall be constantly available for bathing purposes.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order against the paragraph, because it is legislation.

Mr. BURLESON. It is conceded, Mr. Chairman.

The CHAIRMAN. The point of order is conceded and sustained. The Clerk will read.

The Clerk read as follows:

For salaries: Clerk (stenographer and typewriter), $900; supervisor, $2,500; to be employed not exceeding 10 months, as follows—13 directors of playgrounds or recreation centers at $65 per month each, assistant director at $60 per month; to be employed not exceeding 7 months, as follows—2 assistant directors at $60 per month each, assistant director at $50 per month; to be employed not exceeding 3 months, as follows—1 assistant director at $60 per month, 13 assistants at $45 per month each; watchmen, to be employed not exceeding 12 months, as follows—10 at $45 per month each, one at $25 per month; in all, $21,275.

Mr. FOSTER. Mr. Chairman, last year's bill, I think, provided for——

Mr. FOWLER. I reserve a point of order against the paragraph, Mr. Chairman.

Mr. FOSTER (continuing). The salary of the superintendent for 10 months at $175 per month. This year I see $2,500 is recommended.

Mr. BURLESON. We made provision last year for only certain months of the year.

Mr. FOSTER. Ten months.

Mr. BURLESON. And they now want it for 12 months, the entire year, and they have increased his salary proportionately.

I will call the attention of the gentleman from Illinois [Mr. FOSTER] to the fact that all of these funds are to be paid wholly from the revenues of the District of Columbia, and that was really one of the terms of the compromise—that if they would assent to the proposition that these expenses were to be taken only from the treasury of the District of Columbia, we would be liberal with them in making provision for the playgrounds.

And whereas we have not ceased to scrutinize these items, yet we have been inclined to be liberal with them in this matter, inasmuch as the money is to come wholly from the revenues of the District of Columbia, and these various changes that are suggested in this item were earnestly urged by those in charge of the playgrounds.

Mr. TAYLOR of Ohio. Mr. Chairman, may I suggest to the gentleman from Texas [Mr. BURLESON] further that the superintendent of the playgrounds, or whatever his title may be——

Mr. FOSTER. Supervisor of the playgrounds——

Mr. TAYLOR of Ohio. Yes. Was brought here under what amounts to a moral promise to receive this salary. He left a larger salary at the place he came from.

Mr. COX. Where did he come from?

Mr. TAYLOR of Ohio. I do not know, but his last employment was in my city. I never knew him and had not met him before he came to Washington, but I understand he received a larger salary there, and we thought we were under a sort of moral obligation to see to it that the promise made to him was fulfilled.

Mr. FOSTER. That is no authority.

Mr. TAYLOR of Ohio. I know; but that is one of the considerations that influenced the committee in reporting this salary—that he had been led to expect a compensation equal to that which he received before he came here. I do not represent him, and have no authority to speak for him.

Mr. FOSTER. Did the District Commissioners recommend that this be done?

Mr. TAYLOR of Ohio. Yes. The District Commissioners put it in the estimates, and we were liberal because, as the gentleman from Texas [Mr. BURLESON] has said, the payment comes entirely out of the District revenues.

Mr. FOSTER. Still I do not think Congress ought to let certain people control this matter, and only a few of them who have to say anything about it. It comes off the taxpayers.

Mr. BURLESON. I will say to the gentleman from Illinois that we would not permit any unreasonable charge. We have not omitted our supervision of the matter. We still have it under scrutiny; but, as I say, we have been more liberal by reason of the fact that the entire burden of this service must be borne by the District taxpayers.

Mr. FOSTER. And it is the gentleman's opinion that after an investigation of this subject the matter ought to stand as it is?

Mr. BURLESON. Yes. We regard them as reasonable and just charges.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] reserved a point of order on the paragraph.

Mr. FOWLER. Mr. Chairman, under the explanation of the chairman of the committee that the amount is to be paid wholly out of the funds of the District of Columbia, I will withdraw the point of order.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] withdraws his point of order. The Clerk will read.

The Clerk read as follows:

Hereafter, all railroads using engines propelled by steam shall pay to the District of Columbia for the lighting, under the direction and control of the Commissioners of the District of Columbia, of the public roads, streets, avenues, and alleys, for their full width, through which their tracks may be laid, for the length of the street occupied by the said tracks, whether the said tracks be laid above, below, or at grade; as well as for the lighting of the subways and bridges over or under which the tracks of said railroads pass; and in default of payment of such bills actions at law may be maintained by the District of Columbia against said railroads or their successors, transferees, or lessees therefor: *Provided*, That nothing herein shall be held to repeal the act of May 26, 1908, relating to the Washington Terminal Co.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out the last word. I wish to inquire of those who have the bill in charge whether it would not be better, instead of saying "all railroads using engines propelled by steam," to say "all railroads other than street railroads," or something like that. The distinction has been made all along in the District of Columbia between street railroads and the other kind of railroads by designating the latter as railroads using engines propelled by steam. It may be that at no very distant day all those railroads upon entering the District of Columbia will use electricity to propel them, particularly through the tunnel down here.

Mr. SAUNDERS. So far as I am personally concerned, I am willing to accept the amendment. The chairman of the subcommittee is absent at this moment, and I suggest that we pass it without prejudice, to be returned to later.

Mr. JOHNSON of Kentucky. Will the gentleman make that request?

Mr. SAUNDERS. I ask unanimous consent that this section be passed without prejudice, to be returned to on motion hereafter.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the pending paragraph be passed without prejudice, with the right to recur to it hereafter. Is there objection?

There was no objection.

The Clerk read as follows:

For the erection of a brick or concrete storehouse and wall on land belonging to the District of Columbia, or on the portion of the old right of way of the Baltimore & Ohio Railroad through square 857, which the commissioners are hereby authorized to use as a site for this storehouse and for any other municipal use they may deem necessary, including the grading and improving of the ground, $7,500.

Mr. FOWLER. Mr. Chairman, I make a point of order against that paragraph. It is entirely new legislation, without any authorization.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. BURLESON. Mr. Chairman, this item is subject to a point of order, but it will save the District, as well as the General Government, considerable expense if the warehouse is erected. They are now paying rather an exorbitant sum for rent of buildings to protect the materials and supplies of the electrical department. By the construction of a building costing

$7,500 this rent could be saved. But I admit that this is new legislation, and subject to a point of order.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. FOWLER. Yes.

Mr. LITTLEPAGE. I insist on it.

The CHAIRMAN. The point of order is insisted on by the gentleman from Illinois [Mr. FOWLER] and the gentleman from West Virginia [Mr. LITTLEPAGE]. The point of order is sustained.

Mr. SAUNDERS. Mr. Chairman, just a moment ago the paragraph on page 38, begining with line 5, was passed by unanimous consent, to be recurred to at any time. I ask that that be done now.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent to recur to page 38, beginning at line 5, for the purpose of offering an amendment. Is there objection?

Mr. SAUNDERS. The amendment is proposed by the gentleman from Kentucky [Mr. JOHNSON]. It is that the words "using engines propelled by steam" be stricken out, and the words "other than street railroads" be inserted in lieu thereof.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 38, lines 5 and 6, by striking out the words "using engines propelled by steam," and inserting in lieu thereof the words "other than street railroads."

Mr. SAUNDERS. So far as the committee are concerned they accept that amendment.

The amendment was agreed to.

The Clerk read as follows:

For completing the purchase, installation, and maintenance of water meters to be placed on the water services of the National Museum, Washington Aqueduct, Naval Hospital, Naval Medical School, Library of Congress, and Hygienic Laboratory Buildings and for each and every purpose connected therewith, said meters to be purchased, installed, and maintained by and remain under the observation of the officer in charge of the Washington Aqueduct, $4,700.

Mr. JOHNSON of Kentucky. Mr. Chairman, reserving the right to make the point of order, I wish to inquire of the gentleman from Texas [Mr. BURLESON], who is in charge of the bill, as to whether or not these are items similar to the ones to which the gentleman from Illinois [Mr. MANN] made a point of order last year.

Mr. SAUNDERS. The gentleman from Illinois [Mr. MANN] did make the point of order, as I remember it, but he withdrew the point of order upon the statement made that the purpose was to detect waste of water.

Mr. TAYLOR of Ohio. To determine the capacity of the plant.

Mr. BURLESON. To detect the wastage of water occasioned by leakage.

Mr. JOHNSON of Kentucky. Mr. Chairman, I decline to make a point of order.

The CHAIRMAN. The Clerk will read.

Mr. HEFLIN. Mr. Chairman, I ask unanimous consent to extend some remarks in the RECORD by printing a speech delivered by the Hon. AUGUSTUS O. STANLEY, of Kentucky, on the subject of injunctions and the subject of Robert E. Lee.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to extend some remarks in the RECORD by inserting the addresses referred to. Is there objection?

Mr. FOSTER. Reserving the right to object, I would like to ask the gentleman if these speeches will come at the end of the RECORD instead of in the midst of the proceedings?

Mr. HEFLIN. They will come at the end of the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

The Clerk read as follows:

Heads of departments in high and manual training high schools in group B of class 6, 12 in all, at a minimum salary of $1,900 each.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman a question. I observe that in the language of this bill it provides always for the minimum salary of the teachers. For instance, the paragraph just read says:

Heads of departments in high and manual training high schools in group B of Class 6, 12 in all, at a minimum salary of $1,900 each.

Mr. BURLESON. That is the basic pay; the salary is increased from year to year, and the longevity pay is carried in a separate paragraph.

Mr. CULLOP. I observe in the report on page 4, that seven teachers' salaries have been increased from $1,000 to $1,900 a year.

Mr. BURLESON. That is true.

Mr. CULLOP. Are those the only increases that are made?

Mr. BURLESON. No; but all of the teachers, I think, receive a certain increase of salary each year as the result of their length of service. That increase continues for a fixed period.

Mr. CULLOP. That is the automatic increase provided for some years ago.

Mr. BURLESON. This particular increase resulted from an item carried in the last year's appropriation bill, embodied in that bill at the other end of the Capitol. There were certain teachers who had been, under the provisions of law, denied longevity increase, and so that particular paragraph was put in the bill. This increase is the accumulated longevity pay to which they were entitled.

Mr. CULLOP. And which had been denied them under the operation of law?

Mr. BURLESON. Yes.

Mr. CULLOP. Mr. Chairman, I want it understood that I am not opposed to any increase in teachers' salaries. In my opinion, they are engaged in the most important service that there is connected with our civilization.

Mr. BURLESON. The gentleman is speaking generally and not particularly with reference to the school-teachers of the District of Columbia.

Mr. CULLOP. I am speaking of the school-teachers generally.

Mr. BURLESON. I am glad of that.

Mr. CULLOP. I think they perform the most important service of any employees we have in the Nation. I have long since believed that as a general rule all over the country school-teachers ought to be paid more liberally than they are because of the valuable and important service that they render to the public.

Mr. Chairman, the school-teachers in our public schools, I desire to take this occasion to say, are entitled to the highest consideration for their unselfish efforts in behalf of humanity. They perform a service for which we all owe them a debt of lasting gratitude, and wherever I can promote their welfare I feel it my duty to do so.

Upon them rests a great responsibility, and every reasonable encouragement should be given them in order to show our full appreciation for their great and good work. Intrusted to their care and keeping in a great measure is the future of the country and the hope of the Republic. The public schools are the people's colleges, and in these the young of this generation are trained for the responsibilities of succeeding generations, and as they perform their services the result will bear its fruit when the opportunities are presented. To them is committed for education the children of our land. They train the head, heart, and body, and the character of the future men and women is being formed and molded in a great degree by them; hence our consideration for their service. In their great work we should lend encouragement and stimulate their efforts for the highest standard, in order that it should be well performed; and therefore it should be well remunerated, that the best results may be obtained.

The Clerk read as follows:

Longevity pay: Longevity pay for director of intermediate instruction, supervising principal, supervisor of manual training, principals of the normal, high, and manual training high schools, principals of the grade manual training schools, heads of departments, director and assistant director of primary instruction, directors and assistant directors of drawing, physical culture, music, domestic science, domestic art, and kindergartens, teachers, clerks, librarians and clerks, and librarians to be paid in strict conformity with the provisions of the act entitled "An act to fix and regulate the salaries of teachers, school officers, and other employees of the board of education of the District of Columbia," approved June 20, 1906, as amended by the acts approved May 26, 1908, May 18, 1910, and June 26, 1912, $375,000.

Mr. JOHNSON of Kentucky. Mr. Chairman, reserving the right to make a point of order, I wish to inquire of the gentleman the reason of inserting the word "high," on page 43, line 18.

Mr. BURLESON. That is to make it more specific and clear. My recollection is that under the terms of the amendment referred to a moment ago these teachers were in the high school.

Mr. TAYLOR of Ohio. Mr. Chairman, it refers to manual-training school teachers, and in order that there shall be no mistake, there being grade manual-training schools and high manual-training schools, the word "high" was inserted.

Mr. BURLESON. It is a word of limitation rather than enlargement.

Mr. JOHNSON of Kentucky. Mr. Chairman, I do not make the point of order.

The Clerk read as follows:

J. Ormond Wilson Normal School and Ross School, engineer, $960; janitor, $600; laborer, $420; 3 laborers, at $360 each; in all, $3,000.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on that.

The CHAIRMAN (Mr. HAY). Does the gentleman reserve it or make it?

Mr. FOWLER. I reserve it. For the J. Ormond Wilson Normal School and the Ross School provision is made for an

engineer, at $900. I desire to ask the gentleman in charge of the bill if that is a new position created in the department, a new engineer?

Mr. BURLESON. Yes; this is a new building just completed, and we are supplying the force.

Mr. FOWLER. Do they need an engineer there all the time?

Mr. BURLESON. Certainly they do. It is a building that is intended to house several hundred students, and very much larger than the library, about which the gentleman was talking yesterday.

Mr. FOWLER. If it is necessary, I do not want to cut it out at all.

Mr. BURLESON. It is necessary.

Mr. FOWLER. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

Eastern High School, janitor, $900; laborer, $420; laborer $360; in all, $1,680.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. I desire to ask the chairman why it is that in the Eastern High School no provision is made for an engineer, whereas in the paragraph on page 45, to which I called your attention a moment ago, there is an engineer provided for?

Mr. BURLESON. The Eastern High School has a janitor. It is a very much smaller building.

Mr. FOWLER. Are there not three buildings together in that Eastern High School?

Mr. BURLESON. We did not allow them an engineer because they did not ask for it and did not make it plain that one was needed. If they had asked for it and made it plain to us that one was needed, we would have allowed it. The fact that one is not there is because they did not make it plain that one was needed.

Mr. FOWLER. Mr. Chairman, I accept the gentleman's explanation.

The Clerk read as follows:

McKinley Manual Training School, janitor, $900; engineer and instructor in steam engineering, $1,500; assistant engineer, $1,000; 2 assistant janitors, at $720 each; fireman, $420; 2 laborers, at $360 each; in all, $5,980.

Mr. FOWLER. Mr. Chairman, I reserve the point of order. I desire to ask the gentleman why the salary of the engineer is increased from $1,200 to $1,500?

Mr. BURLESON. Because the District Commissioners estimated for the increase and urgently insisted upon it, and because the president of one of the labor organizations appeared before the committee and directed our attention to the fact that the engineers and employees of the District school service were underpaid. They convinced us that there ought to be a slight increase in the salary, and for that reason we granted it.

Mr. FOWLER. Why did you not increase the salary of the two laborers from $360 to something like $400 or $500?

Mr. BURLESON. Because we thought the service they were rendering was not worth that amount of money.

Mr. JOHNSON of Kentucky. Mr. Chairman, I will say to the gentleman from Illinois that the Committee on the District of Columbia in the course of investigations held found that the pay for many of the engineers and janitors was so small that competent service could not be obtained, and that because of that fact many of the engines and furnaces were being destroyed. The Committee on the District of Columbia believes it would be a matter of economy to increase the salaries of some of them rather than to leave valuable machinery and boilers in the hands of alleged incompetent men.

Mr. GARNER. Mr. Chairman, was it not the duty of the Committee on the District of Columbia to report a bill increasing these salaries rather than to leave it to the Appropriations Committee?

Mr. JOHNSON of Kentucky. I do not know whether the gentleman would call it duty. That recommendation has been filed by the committee.

Mr. GARNER. Under the rules of the House, is it not impossible for the Committee on Appropriations to increase the salaries if a point of order be made?

Mr. JOHNSON of Kentucky. My opinion is that this is subject to a point of order.

Mr. GARNER. Being subject to a point of order and being legislation that is desirable, it occurs to me that it is the duty of the Committee on the District of Columbia to bring in this legislation and make it absolutely so the will of the House can be carried out.

Mr. JOHNSON of Kentucky. The gentleman from Texas fails to appreciate, I am sure, the extent of the work that the District of Columbia Committee has had upon its hands, quite recently in any event.

Mr. FOWLER. Mr. Chairman, I see in the next paragraph, providing for the Armstrong Manual Training School, there is an increase of salary of the engineer from $1,000 to $1,200. Why was not his salary made $1,500, the same as it was in the McKinley Manual Training School?

Mr. BURLESON. Because we thought it was adequate compensation for the service that particular engineer was rendering. The measure of responsibility was less.

Mr. FOWLER. There are some assistant engineers there, and their salaries have been increased from $720 to $1,000.

Mr. BURLESON. We did it for the same reason I have just stated to the gentleman. They are all subject to the point of order. I will call the attention of the gentleman from Illinois to the fact that they are all subject to a point of order.

Mr. FOWLER. I felt I knew that, but I was trying to see whether I ought to make the point of order or not.

Mr. MOORE of Pennsylvania. Will the gentleman reserve that for a moment, until I ask a question of the gentleman from Texas?

The CHAIRMAN. Does the gentleman from Illinois reserve the point of order?

Mr. FOWLER. I will reserve the point of order for a moment.

Mr. MOORE of Pennsylvania. Does the gentleman from Texas say that the representatives of the labor organizations were in favor of the increase of this salary?

Mr. BURLESON. That was not the reason that moved the committee to grant the increase. The District Commissioners estimated for this increase. They earnestly urged that it be granted and gave the reasons therefor. Subsequently a representative of the labor organizations asked to come before the committee. We granted him permission, and he made full explanation of the salaries received by engineers connected with the school service compared with the wages received by persons engaged in similar services in private employment, and we reached the conclusion that it was only just and fair that this increase should be granted.

Mr. MOORE of Pennsylvania. It was apparent to the committee that it was the wish of the labor organizations that the increase in this particular instance should be granted?

Mr. BURLESON. Undoubtedly. The representative of the labor organization was very earnest in his insistence that the increase be granted, stating it was inadequate compensation for the services rendered, and the committee was impressed with the justice of his contention and unanimously granted the increase.

Mr. MOORE of Pennsylvania. It seems to be in conformity with the union rules in the District in regard to wages paid for this kind of work?

Mr. BURLESON. We did not go into that, being governed entirely by the representation that this was inadequate compensation for the services which were being rendered.

Mr. MOORE of Pennsylvania. I ask the indulgence of the gentleman from Illinois for just one more question. I would like the gentleman from Texas to say whether or not this engineer and instructor in steam engineering renders services both as an engineer in the management of the building and also as an instructor in steam engineering to the students of the school?

Mr. BURLESON. That is true.

Mr. MOORE of Pennsylvania. So he acts in a dual capacity?

Mr. BURLESON. He acts in a dual capacity.

Mr. MOORE of Pennsylvania. And the committee, of course, was unable to pay him two salaries, and, Solomon-like, differentiate between the engineer who does the actual work in the school building, and the instructor in steam engineering who instructs the scholars—— [Cries of "Regular order!"]

I hope the gentleman from Illinois will withdraw his point of order in this instance, as it seems to me to be a most meritorious case.

Mr. FOWLER. Mr. Chairman, the same work which is done in the McKinley Manual Training School is done in the Armstrong Manual Training School—that is, he is both engineer and instructor in engineering; but if I could get an understanding that they both will be placed upon the same plane, that you will not object to an amendment I shall offer to increase the salary of the engineer of the Armstrong Manual Training School, I have no disposition to interpose a point of order.

Mr. MOORE of Pennsylvania. Will the gentleman from Illinois yield?

Mr. FOWLER. Certainly.

Mr. MOORE of Pennsylvania. Is it not apparent to the gentleman that the committee was confronted with a great difficulty in solving this question? Here was an employee occupying a dual position, an engineer in charge of the engineering features of the building, charged with the preservation of the property and the safety of the machinery. That was one job——

Mr. FOWLER. It is the same in the Armstrong Manual Training School.

Mr. MOORE of Pennsylvania. He is certainly worth $750 for that, and that would have been only one-half of his employment. Then he is employed as instructor of steam engineering, training the young idea how to shoot. That is worth $750 more.

Mr. FOWLER. The gentleman fails to understand my contention.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. MOORE of Pennsylvania. I submit to the gentleman that this is a meritorious case, and he ought not to press his point of order.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. FOWLER. I desire to say if the gentleman will not agree to allow an increase in the salaries in the Armstrong Manual Training School——

Mr. BURLESON. I will state to the gentleman from Illinois that when we reach the item I will explain it to his complete satisfaction as to why the change is made in the salaries.

Mr. FOWLER. Mr. Chairman, upon the guaranty of the gentleman I will withdraw the point of order. [Applause.]

The Clerk read as follows:

Armstrong Manual Training School, janitor, $900; assistant janitor, $720; engineer and instructor in steam engineering, $1,200; assistant engineer, $720; 2 laborers, at $360 each; in all, $4,260.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against this paragraph, and desire to ask the gentleman in charge of the bill why it is that he did not increase the assistant engineer's salary in this school from $720, to $1,000, the same as was done in the McKinley Manual Training School, the same character of work being performed by these assistant engineers in each of the schools?

Mr. BURLESON. Because the conditions are entirely different. The McKinley Manual Training School is a white school. The attendance is twice the attendance of the Armstrong Manual Training School, which is a negro school. In the McKinley School a very large percentage of the pupils are males, and the duties devolving upon this engineer as an instructor are very much greater than the duties devolving upon the engineer at the Armstrong Manual Training School, where a large percentage of the pupils are females. Inasmuch as these schools are very different in size, not only as to the buildings but in the number of pupils attending them, and because of the fact that the duties of the engineer at the McKinley Manual Training School are more onerous and responsible than the duties imposed upon the engineer at the Armstrong Manual Training School, we felt constrained to make this difference in their salaries.

Mr. FOWLER. Why, then, did you make an increase at all?

Mr. BURLESON. Because we did not want to be put in the attitude of discrimination, even if the service was not exactly as important. We went beyond the recommendation of the school board in the case of the Armstrong Manual Training School.

Mr. FOWLER. Did they recommend any increase in the salary of the engineer?

Mr. BURLESON. They did not. But we thought it was only fair, so long as we were increasing the salaries of these other engineers—although the cases were entirely different, although there was no estimate in their behalf, and no labor organization appearing in their interest—we did not propose to discriminate against them.

Mr. FOWLER. Is that engineer a colored man?

Mr. BURLESON. He is.

Mr. FOWLER. Why not increase his salary the same as you do that of the engineer in the McKinley Training School?

Mr. BURLESON. We did more for him than we did for the white man.

Mr. FOWLER. You have increased his salary $200, whereas you increased the salary of the McKinley Manual Training School engineer $300.

Mr. BURLESON. There was an urgent insistence that the salary of the engineer of the McKinley Training School be increased for the reasons I have given. There was no recommendation for an increase of the salary of the engineer in the Armstrong School.

Mr. FOWLER. He does exactly the same work in this school that the engineer does in the McKinley Manual Training School.

Mr. BURLESON. The point we make is that it is not the same kind of work.

Mr. FOWLER. He is both an engineer and a teacher of engineering.

Mr. BURLESON. That may all be.

Mr. FOWLER. Is there any difference in the size of these schools?

Mr. BURLESON. I have just stated to the gentleman that the McKinley Manual Training School is twice as large as the Armstrong Manual Training School.

Mr. FOWLER. You did in a way.

Mr. BURLESON. I did say in express terms that the McKinley Manual Training School is more than twice as large as the other.

Mr. TAYLOR of Ohio. And the work of the engineer at the McKinley Manual Training School is very much heavier and very much more important than that of the engineer at the Armstrong Manual Training School, and the salaries are very equitable. In fact, the colored engineer, at $1,200, is very much better paid, in my judgment, than is the white engineer at the other school, at $1,500.

Mr. FOWLER. Mr. Chairman, I withdraw my point of order and——

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] withdraws his point of order.

Mr. FOWLER (continuing). And move to strike out the words "$1,200," in line 14, page 26, and insert in lieu thereof the words "$1,300."

Mr. BURLESON. To which amendment I make a point of order.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The Clerk read as follows:

Amend, line 14, page 26, by striking out "$1,200" and inserting in lieu thereof "$1,300."

The CHAIRMAN. Does the gentleman from Texas [Mr. BURLESON] make a point of order against the amendment?

Mr. BURLESON. I made a full statement about this matter. I will withdraw my point of order, Mr. Chairman, and let the House pass upon the proposition.

Mr. FOWLER. Mr. Chairman, the amendment is not subject to a point of order.

Mr. TAYLOR of Ohio. The gentleman from Texas [Mr. BURLESON] has withdrawn it.

Mr. FOWLER. An increase having once been made and carried in the bill permits an amendment under the rules of the House.

Now, Mr. Chairman, I will be very glad to see this amendment carried for many reasons. I would not have a bill passed here discriminating against a man because of his color for any consideration.

Mr. BLACKMON. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. FOWLER. That every man stands upon an equality before the law in America must be conceded by all. [Applause.]

The CHAIRMAN. Does the gentleman yield to the gentleman from Alabama?

Mr. FOWLER. Yes.

Mr. BLACKMON. I wish to ask the gentleman from Illinois if the fact were shown to him that the white man was doing twice as much work as the negro, would he want to give the same salary to the negro as to the white man?

Mr. FOWLER. If the labor differs in character and quantity sufficiently to justify a discrimination were both laborers white men, then I would make a discrimination if one were a white man and the other a colored man.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. But, Mr. Chairman, unless there is such a difference in the work to be performed in these institutions that it can be said upon principles of equity that a distinction ought to be made, then I am not in favor of making such distinction.

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Pennsylvania?

Mr. FOWLER. Yes. I have only five minutes. I will yield for a question only.

Mr. MOORE of Pennsylvania. Does the gentleman know whether the union rules with regard to the wage scale obtain in this case as in the other?

Mr. FOWLER. Oh, I suppose the wage scale has nothing to do with this case at all, and it ought not to have anything to do with the other case. In other words, Congress, in passing upon the question of an adequate wage, ought to do its duty upon the basis of right, and not upon any other consideration.

Mr. MOORE of Pennsylvania. I am speaking of the union-labor question now. Where a wage scale is fixed for this kind of work the highest and best scale ought to be paid. Is the

gentleman arguing that in this particular instance labor organizations are interested, or is he arguing——

Mr. FOWLER. I can not say. Mr. Chairman, whether labor organizations have had anything to say concerning this question or not, but the highest scale ought to be paid where a wage scale has been agreed upon.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FOWLER. Mr. Chairman, I desire an extension of time for three minutes.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask that the gentleman's time be extended three minutes.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MOORE] asks that the time of the gentleman from Illinois [Mr. FOWLER] be extended three minutes. Is there objection?

Mr. GARRETT. I object.

The CHAIRMAN. The gentleman from Tennessee [Mr. GARRETT] objects.

Mr. BURLESON. Mr. Chairman, just a word in reply. I want to assure the committee that there has been absolutely no discrimination in practice in this case. If there was any discrimination, it was in behalf of the engineer at the Armstrong Manual Training School. He did not ask for the increase himself. The District Commissioners did not ask it for him. The labor organizations did not ask that his salary be increased. But when we took into consideration the other institutions, we discriminated in his favor by granting him an increase when we were really probably not justified in granting the increase, and I ask the committee to vote down the amendment.

Mr. DYER. I want to ask the gentleman if the question of color had anything to do with it?

Mr. BURLESON. Oh, absolutely nothing. The facts are just as I have stated them.

Mr. MOORE of Pennsylvania. Will the gentleman yield for a question there? Does he know whether in this particular instance the engineer happens to be a member of a labor organization? The gentleman from Illinois [Mr. FOWLER] was indicating that he spoke very largely as a representative of the workingmen, and there is a question as to whether the colored brother is a member of any labor union in this District.

Mr. BURLESON. I think they are not permitted to be members of labor unions.

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Illinois.

The question being taken, the Chairman announced that the "noes" appeared to have it.

Mr. FOWLER. Division, Mr. Chairman.

The committee divided; and there were—ayes 2, noes 17.

Mr. FOWLER. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Illinois makes the point of order that there is no quorum present. The Chair will count.

Mr. BURLESON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Mr. FOWLER. Mr. Chairman, I withdraw the point of no quorum.

The CHAIRMAN. The Chair would like to carry into effect the withdrawal of the point of order by the gentleman from Illinois if he can find a parliamentary way in which to do it; but the gentleman from Texas moved that the committee rise, and the motion has been agreed to and the result announced.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RODDENBERY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28499) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, and had come to no resolution thereon.

SPEAKER PRO TEMPORE AT SUNDAY SESSION.

The SPEAKER designated Mr. LINTHICUM to act as Speaker pro tempore at the session of the House to-morrow, Sunday, February 2.

COUNTING THE ELECTORAL VOTE.

Mr. RUCKER of Missouri. Mr. Speaker, I ask to take from the Speaker's table Senate concurrent resolution 35, and consider the same.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 12th day of February, 1913, at 1 o'clock in the afternoon, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate pro tempore shall be their presiding officer; that two tellers shall be previously appointed on the part of the Senate and two on the part of House of Representatives, to whom shall be handed, as they are opened by the President of the Senate pro tempore, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate pro tempore, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

The SPEAKER. The question is on concurring in the Senate resolution.

Mr. BURKE of South Dakota. Mr. Speaker, before the question is taken I desire to ask the gentleman in charge of the resolution if it is in the usual form?

Mr. RUCKER of Missouri. It is a verbatim copy of the resolution passed four years ago.

The resolution was concurred in; and the Speaker appointed Mr. RUCKER of Missouri and Mr. YOUNG of Michigan as tellers.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Military Affairs was discharged from the further consideration of House Document No. 1316, and the same was referred to the Committee on Appropriations.

ADJOURNMENT.

Mr. BURLESON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 40 minutes p. m.) the House adjourned until Sunday, February 2, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on advisability of providing for the west breakwater at Kahului Harbor, Hawaii (H. Doc. No. 1330); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of preliminary examination and survey of Bayou Teche, La., with view to securing increased depth (H. Doc. No. 1329); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

3. A letter from the president of the City & Suburban Railway Co. of Washington, transmitting annual report of said company for the year ending December 31, 1912 (S. Doc. No. 1049); to the Committee on the District of Columbia and ordered to be printed.

4. A letter from the president of the Potomac Electric Power Co., transmitting annual report of said company for the year ending December 31, 1912 (S. Doc. No. 1053); to the Committee on the District of Columbia and ordered to be printed.

5. A letter from the president of the Brightwood Railway Co., transmitting annual report of said company for the year ending December 31, 1912 (S. Doc. No. 1050); to the Committee on the District of Columbia and ordered to be printed.

6. A letter from the president of the Washington Railway & Electric Co., transmitting annual report of said company for the year ending December 31, 1912 (S. Doc. No. 1047); to the Committee on the District of Columbia and ordered to be printed.

7. A letter from the president of the Georgetown & Tennallytown Railway Co., transmitting annual report of said company for the year ending December 31, 1912 (S. Doc. No. 1051); to the Committee on the District of Columbia and ordered to be printed.

8. A letter from the president of the Anacostia & Potomac River Railroad Co., transmitting annual report of said company for the year ending December 31, 1912 (S. Doc. No. 1048); to the Committee on the District of Columbia and ordered to be printed.

9. A letter from the Secretary of the Treasury, transmitting, for the information of Congress, detailed statement of the refunds of customs duties, etc., for the fiscal year ended June 30, 1912 (H. Doc. No. 1325); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

10. A letter from the Secretary of the Treasury, transmitting, for the consideration of Congress, an amended estimate of appropriation submitted by the acting chairman of the Interstate Commerce Commission for the year 1914 (H. Doc. No. 1326); to the Committee on Appropriations and ordered to be printed.

11. A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of Commerce and Labor submitting an amendment to the estimate of appropriation for printing and binding for the Department of Commerce and Labor for the year 1914 (H. Doc. No. 1327); to the Committee on Appropriations and ordered to be printed.

12. A letter from the chairman of the executive committee of the Washington Interurban Railway Co., transmitting the annual report of said company for the year ending December 31, 1912 (H. Doc. No. 1328); to the Committee on the District of Columbia and ordered to be printed.

13. A letter from the Acting Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of South Carolina at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

14. A letter from the president of the Georgetown Gas Light Co., transmitting annual report of said company for the year ending December 31, 1912 (H. Doc. No. 1324); to the Committee on the District of Columbia and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. FIELDS, from the Committee on Military Affairs, to which was referred the bill (S. 7415) granting to the Atchison, Topeka & Santa Fe Railway Co. a right of way through the Fort Wingate Military Reservation in New Mexico, and for other purposes, reported the same without amendment, accompanied by a report (No. 1429), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DENT, from the Committee on the Public Lands, to which was referred the bill (S. 5378) releasing the claim of the United States Government to that portion of land, being a fractional block, bounded on the north and east by Bayou Cadet, on the west by Cevallos Street, and on the south by Intendencia Street, in the old city of Pensacola, reported the same with amendment, accompanied by a report (No. 1431), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (S. 5377) releasing the claim of the United States Government to lot No. 306 in the old city of Pensacola, reported the same with amendment, accompanied by a report (No. 1432), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. NYE: A bill (H. R. 28571) to authorize the Northern Pacific Railway Co. to construct a bridge across the Mississippi River in Minneapolis, Minn.; to the Committee on Interstate and Foreign Commerce.

By Mr. EDWARDS: A bill (H. R. 28572) officially naming the War between the States; to the Committee on the Judiciary.

By Mr. CLAYTON: A bill (H. R. 28573) to amend section 32 of an act approved March 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States"; to the Committee on the Judiciary.

By Mr. THOMAS: A bill (H. R. 28574) to provide for the erection of a monument to Lester Bryant; to the Committee on the Library.

By Mr. COOPER: A bill (H. R. 28575) to provide a commission to secure plans and designs for a bridge as a memorial of peace and union, to be known as the Grant-Lee Bridge, and to be constructed across the Potomac River from a point in the city of Washington near the site selected by law for a memorial to Abraham Lincoln to the national cemetery at Arlington, in the State of Virginia; to the Committee on the Library.

By Mr. ADAMSON: A bill (H. R. 28576) to promote the efficiency of the Public Health Service; to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER: A bill (H. R. 28577) to authorize the enlargement of the Federal building site at Ardmore, Okla.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 28578) to increase the limit of cost of the Federal building at McAlester, Okla.; to the Committee on Public Buildings and Grounds.

By Mr. LINTHICUM: A bill (H. R. 28579) to provide uniform regulations for boats engaged in the towing service; to the Committee on the Merchant Marine and Fisheries.

By Mr. CRAVENS: Resolution (H. Res. 805) providing for two additional clerks to the Committee on Enrolled Bills; to the Committee on Accounts.

By Mr. AKIN of New York: Resolution (H. Res. 806) for reform in the civil service; to the Committee on Reform in the Civil Service.

By Mr. CARTER: A memorial from the Legislature of the State of Oklahoma, asking for the appointment of a committee to investigate rural-credit systems in foreign countries to the end that such systems be established in the United States; to the Committee on Banking and Currency.

Also, a memorial from the State of Oklahoma, praying for correction of boundary line between the Fort Sill Military Reservation and the State of Oklahoma; to the Committee on the Public Lands.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CALDER: A bill (H. R. 28580) for the relief of Alexander H. Allan and others; to the Committee on Claims.

By Mr. CARLIN: A bill (H. R. 28581) for the relief of William S. Shacklette; to the Committee on Claims.

Also (by request), a bill (H. R. 28582) for the relief of Bella Crounse and other heirs of the estate of James Bell, deceased; to the Committee on Claims.

By Mr. CARY: A bill (H. R. 28583) for the relief of Patrick Powers; to the Committee on Military Affairs.

Also, a bill (H. R. 28584) for the relief of Leonard Seis; to the Committee on Military Affairs.

By Mr. DAVIS of West Virginia: A bill (H. R. 28585) for the relief of James H. McGill; to the Committee on Military Affairs.

Also, a bill (H. R. 28586) for the relief of the heirs of Elijah M. Hart; to the Committee on War Claims.

By Mr. DIXON of Indiana: A bill (H. R. 28587) granting an increase of pension to Allen Hartwell; to the Committee on Invalid Pensions.

By Mr. DYER: A bill (H. R. 28588) granting a pension to Margaret Cassidy; to the Committee on Invalid Pensions.

By Mr. FERGUSSON: A bill (H. R. 28589) granting an increase of pension to Augustin Prada; to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: A bill (H. R. 28590) granting a pension to Olive H. Glines; to the Committee on Invalid Pensions.

By Mr. GREENE of Massachusetts: A bill (H. R. 28591) granting an increase of pension to Catherine L. Dow; to the Committee on Invalid Pensions.

By Mr. GREGG of Pennsylvania: A bill (H. R. 28592) granting an increase of pension to Alexander Barclay; to the Committee on Invalid Pensions.

By Mr. HAMILTON of Michigan: A bill (H. R. 28593) granting an increase of pension to Clara P. Schnader; to the Committee on Invalid Pensions.

By Mr. LAWRENCE: A bill (H. R. 28594) granting a pension to Ralph E. Henderson; to the Committee on Pensions.

By Mr. MOTT: A bill (H. R. 28595) for the relief of Hansen & Dieckmann; to the Committee on Claims.

By Mr. POWERS: A bill (H. R. 28596) to restore to the rolls in the War Department the name of Joel B. Ellis and to issue to him an honorable discharge; to the Committee on Military Affairs.

By Mr. SAUNDERS: A bill (H. R. 28597) granting a pension to John L. Taylor; to the Committee on Invalid Pensions.

By Mr. SMALL: A bill (H. R. 28598) for the relief of Mary Bailey Pratt; to the Committee on Claims.

By Mr. STERLING: A bill (H. R. 28599) granting a pension to Mary C. Cherry; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of the Navy League of the United States, Washington, D. C., favoring passage of legislation for reorganizing the personnel of the Navy; to the Committee on Naval Affairs.

By Mr. ASHBROOK: Petition of the Chamber of Commerce of Richmond, Va., favoring the passage of legislation for a

reform in the banking system of the United States; to the Committee on Banking and Currency.

Also, petition of the public-service commission of Ohio, favoring the passage of Senate bill 6999, for the establishment of a uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

By Mr. CALDER: Petition of Charles C. Suffren, of Brooklyn, N. Y., favoring the passage of legislation for the establishment of a council for national defense (H. R. 1309); to the Committee on Naval Affairs.

Also, petition of George W. Wingate, favoring the passage of House bill 1309, providing for a council of national defense; to the Committee on Naval Affairs.

Also, petition of Newman Erb, of New York, favoring the passage of House bill 1309, providing for a council of national defense; to the Committee on Naval Affairs.

By Mr. CARLIN: Papers to accompany bill for the relief of William S. Shacklette; to the Committee on Claims.

By Mr. CLARK of Florida: Petition of B. T. Wheeler and other citizens of Orange County, Fla.; Lewis Young and other citizens of Volusia County, Fla.; and A. L. Maclean and other citizens of Orange County, Fla., favoring the retention of the present tariff on all citrus fruits; to the Committee on Ways and Means.

Also, petition of T. A. Taylor and other citizens of Volusia County, Fla., asking for the retention of the present tariff duties on citrus fruits; to the Committee on Ways and Means.

By Mr. DRAPER: Petition of the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. DYER: Petition of the Navy League of the United States, favoring the passage of the bill for legislative reorganizing the personnel of the Navy; to the Committee on Naval Affairs.

Also, petition of John D. Roberts Camp, No. 7, United Spanish War Veterans, of Hoquiam, Wash., favoring the passage of legislation to permit the battleship *Oregon* the right of first passage through the Panama Canal; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Missouri Fish and Game League, favoring the passage of the Weeks bill (H. R. 36) and the Kent bill (H. R. 23839) for the Federal protection of migratory birds; to the Committee on Agriculture.

Also, petition of Claude Kilpatrick and others, of St. Louis, favoring the passage of the bill for protection of migratory birds; to the Committee on Agriculture.

Also, petition of the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. ESCH: Petition of the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. FOSS: Petition of the Chicago Women's Outdoor Art League, protesting against the passage of any legislation tending to destroy the present system of national forest preservation; to the Committee on Agriculture.

By Mr. FRANCIS: Petition of teachers and students of the Freeport schools, Freeport, Ohio, favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. GREENE of Massachusetts: Petition of the Board of Trade, North Attleboro, Mass., protesting against the passage of legislation changing the tariff duties on jewelry, silverware, and kindred articles; to the Committee on Ways and Means.

By Mr. HAYES: Petition of the Towner's Mercantile Co., Salinas, Cal., and the Griffin & Shelley Co., San Francisco, Cal., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the Sacramento Valley Development Association, Sacramento, Cal., protesting against the passage of legislation for a reduction of tariff on olives and olive oils; to the Committee on Ways and Means.

Also, petition of Charles A. Kofoid, Berkeley, Cal., and David Starr Jordan, Stanford University, Cal., favoring the passage of legislation for the repairing of the U. S. S. *Albatross*; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Home Industry League of California; the Federal Rubber Manufacturing Co., San Francisco, Cal.; and the Klanber Wangerheim Co., San Diego, Cal., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the Woman's Christian Temperance Union, Morgan Hill, Cal., favoring the passage of the Kenyon "red-light" injunction bill, for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. KAHN: Petition of the congregation of the First N. P. Church, San Francisco, Cal., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. KONOP: Petition of the Yahr & Langé Drug Co., Milwaukee, Wis., protesting against the passage of legislation changing the duties on chemicals; to the Committee on Ways and Means.

By Mr. LEVY: Petition of the Chamber of Commerce of the United States, favoring the passage of the Page agriculture and industrial education bill (S. 3); to the Committee on Agriculture.

Also, petition of Philip Hiss, of New York, N. Y., favoring the passage of legislation for the establishment of a council for national defense (H. R. 1309); to the Committee on Naval Affairs.

Also, petition of the United States Live Stock Sanitary Association, Chicago, Ill., favoring the passage of legislation to increase the appropriation for the eradication of ticks; to the Committee on Agriculture.

By Mr. LINDSAY: Petition of the Navy League of the United States, Washington, D. C., favoring passage of legislation for reorganizing the personnel of the Navy; to the Committee on Naval Affairs.

Also, petition of the Dentists' Supply Co., New York, favoring the passage of legislation to regulate the practice of pharmacy and the sale of poisons in the District of Columbia; to the Committee on the District of Columbia.

Also, petition of Augustus R. Smith, Philadelphia, Pa., favoring passage of House bill 1339, to increase the pensions of veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of the Philadelphia Coal Exchange, Philadelphia, Pa., favoring the passage of legislation to repeal the mercantile-tax bill; to the Committee on Ways and Means.

Also, petition of the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. MOTT: Petition of the National Association of Shellfish Commissioners, Boston, Mass., favoring the passage of legislation for investigations for the improvement of the oyster industry; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Remington Typewriter Co., New York, protesting against the passage of the Oldfield patent bill (H. R. 23417) proposing certain changes in the present patent laws; to the Committee on Patents.

Also, petition of the Poughkeepsie (N. Y.) Chamber of Commerce, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States; to the Committee on the Judiciary.

Also, petition of the Chamber of Commerce of the United States of America, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. PARRAN: Papers accompanying bill (H. R. 28568) granting an increase of pension to Mary E. Ryan; to the Committee on Invalid Pensions.

By Mr. POST: Petition of the Navy League of the United States, Washington, D. C., favoring the passage of legislation to reorganize the personnel of the Navy; to the Committee on Military Affairs.

By Mr. PRAY: Petition of the Central Labor Council, Anaconda, Mont., favoring the passage of legislation for a congressional investigation regarding the enforcement of laws relating to safety appliances on railroads and boiler inspection; to the Committee on Interstate and Foreign Commerce.

By Mr. RAKER: Petition of the Philadelphia Coal Exchange, Philadelphia, Pa., favoring the passage of legislation to repeal the mercantile tax bill; to the Committee on Ways and Means.

Also, petition of the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Federal Rubber Co., San Francisco, Cal., favoring the passage of House bill 27567, for a 1-cent letter postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of J. D. Sweeney, Rev. Ellis Purlee, and H. P. Andrews, of Red Bluff, Cal., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. STEVENS of Minnesota: Petition of the Minnesota Educational Association, St. Paul, Minn., favoring the passage of legislation for the establishment of a national university in Washington, D. C.; to the Committee on Education.

Also, petition of Branch No. 28, N. A. L. C., St. Paul, Minn., favoring the passage of House bill 20995, providing for compensation of Government employees who may be injured while in the line of duty; to the Committee on the Judiciary.

HOUSE OF REPRESENTATIVES.

SUNDAY, *February 2, 1913.*

The House met at 12 o'clock noon and was called to order by Mr. LINTHICUM as Speaker pro tempore.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our God and our Father, whose presence pervades all space with rays divine, humbly, reverently we wait on Thy blessing. Open Thou our spiritual eyes, that we may see the glories round about us; our spiritual ears, that we may hear "the rustle of wings," the song of angels; our spiritual hearts, that we may feel the warm currents of Thy love and be reassured in our longings, hopes, and aspirations. Time and space are nothing, life in Thee alone is life, so we believe, so we aspire, so we pray. Our coming together to-day in memory of a great man is the earnest of that immortality which springs spontaneously from the soul and lifts us to the realms of high heaven, source of all good. His deeds speak more eloquently than tongue or pen of his worth to State and Nation. It is well thus to commemorate them, that he may live again in those who shall come after him.

Comfort those who knew and loved him, his bereaved wife and family, in the undying hope of the eternal and everlasting life in a risen and glorified Christ. For Thine is the kingdom, and the power, and the glory forever. Amen.

The SPEAKER pro tempore. The Clerk will read the Journal of the proceedings of yesterday.

Mr. TALBOTT of Maryland. Mr. Speaker, I ask unanimous consent to dispense with the reading of the Journal.

The SPEAKER pro tempore. The gentleman from Maryland asks unanimous consent to dispense with the reading of the Journal and that the Journal be approved. If there be no objection, it will be so ordered.

There was no objection.

THE LATE SENATOR RAYNER.

The SPEAKER pro tempore. The Clerk will report the order for to-day's session.

The Clerk read as follows:

On motion of Mr. LINTHICUM, by unanimous consent.

Ordered, That Sunday, February 2, 1913, at 12 o'clock m., be set apart for addresses upon the life, character, and public services of Hon. ISIDOR RAYNER, late a Senator from the State of Maryland.

Mr. LINTHICUM. Mr. Speaker, I offer the following resolution.

The Clerk read as follows:

House resolution 807.

Resolved, That the business of the House be now suspended that opportunity may be given for tributes to the memory of Hon. ISIDOR RAYNER, late a Senator from the State of Maryland.

Resolved, That as a particular mark of respect to the memory of the deceased and in recognition of his distinguished public career the House, at the conclusion of these exercises, shall stand adjourned.

Resolved, That the Clerk communicate these resolutions to the Senate.

Resolved, That the Clerk send a copy of these resolutions to the family of the deceased.

The resolutions were agreed to.

Mr. TALBOTT of Maryland. Mr. Speaker, my remarks upon this solemn occasion, when we meet to pay tribute to the late Senator from Maryland, Hon. ISIDOR RAYNER, shall be very brief, but I feel that I should not permit the opportunity to pass without saying something about his life, character, and public services.

In the death of Senator RAYNER, to quote from the Evening Sun of Baltimore—

> Maryland has lost a man of real statesmanlike stature, of clear public vision, and of true democratic ideas.

Maryland not only loses this great man but his death is a severe blow to the Democratic Party, now about to come into control of every branch of the National Government.

My acquaintance with Senator RAYNER dates from 1876. I first met him in the presidential campaign of that year at an open-air mass meeting in Baltimore. He was then a young man, and made one of the best political speeches I ever heard. He attracted the attention of the people and the party leaders, and from that time on during the whole of his life he was always in demand as a popular and able orator.

I served with Mr. RAYNER in the Fifty-third Congress, when Mr. Cleveland was President, and he was one of the Congressmen who stood loyally by the President in his fight for the redemption of the party pledges.

He later was elected as attorney general of Maryland on the ticket with the now senior Senator from Maryland, Hon. JOHN WALTER SMITH, who was the successful candidate for governor in 1899. It is useless for me to say that he filled this high office with credit and distinction. It was not long after this that he was called upon to represent the hero of Santiago, Admiral Schley, in his defense before the court of inquiry. Mr. RAYNER'S splendid effort in this notable case will long be remembered as a masterly defense of a brave and heroic man by a great and accomplished lawyer.

Mr. RAYNER came to the Senate in 1905 to succeed the late Hon. Louis E. McComas. His campaign for the senatorship was a most vigorous and nerve-racking one. There were no less than five candidates for the office, and it was only after many caucuses, party conferences, and the keenest political maneuvering that he was chosen.

On account of his previous experience in Congress, his capacity to grasp public questions, his knowledge of public affairs, and his legal training he immediately took a most prominent part in all discussions and the workings of the legislative machinery in the Upper House.

Mr. RAYNER spent more than seven years in the Senate, and he took his place there as an orator, a debater, and a constitutional lawyer, and his career in that august body soon proved to his constituents that they had made no mistake in choosing him as their representative, for in all his actions and dealings as a public official he was always in entire sympathy with the people whom he was chosen to represent and was quick to respond to popular sentiment.

Again quoting from the Evening Sun, of Baltimore:

> Above all, his instincts were true to the principles of popular government, and he intuitively turned to the side of right in nearly every great public contest. There was no shadow of turning in his democracy, and he upheld with unflinching firmness and enthusiasm the traditions and the faith of his party as handed down to him by its great political apostles.

As a member of the Judiciary Committee and the Committee on Foreign Relations he rendered most valuable service to his country and his party. He made a special study of the Constitution and international affairs, and was looked upon by both Republicans and Democrats as one of the leading authorities and most active and widely informed Senators on these great questions.

It was a great disappointment to Senator RAYNER not to be able to take part in the late campaign. The national committee and the Maryland Democratic State central committee had mapped out a most important work for him, and his inability to take up the work not only grieved him, but considerably handicapped the party leaders, and was more keenly felt as the campaign progressed.

His last public appearance was in the debate at Baltimore with the former Congressman W. Bourke Cockran, in which he acquitted himself with great credit. After this, on advice of his physicians, he was obliged to cancel all his campaign engagements and was forced to take to his bed, and five or six weeks thereafter he passed into the life everlasting.

Mr. RAYNER was known as a home man. He belonged to but one club and was only rarely found there, preferring to spend the few leisure hours which he did have in his family circle. He was a devoted husband and a loving and indulgent father, and no matter what we say or do here to-day we can not fill the wide gap that has been made in his family circle by his untimely death.

> Peace and death's beauty to his heart to-day,
> Who is not dead, but only gone away
> To sleep a little, as a child who goes
> When twilight folds the petal of the rose.

Mr. HAUGEN took the chair as Speaker pro tempore.

[Mr. COVINGTON addressed the House. See Appendix.]

Mr. LINTHICUM. Mr. Speaker, in offering this tribute to the memory of ISIDOR RAYNER, late a Senator from the State of Maryland, there comes to me a flood of feelings peculiarly tender.

The latter portion of Senator RAYNER'S public life was so interwoven with events with which I was intimately connected

that I was in position to observe at close range this man of whom all Maryland was proud, and by reason of the nearness of my viewpoint able to analyze his motives and understand the inspiration which led him step by step into the fuller confidence of his fellow men, finally bringing him that reward which inevitably follows the faithful and intelligent discharge of a great public trust.

ISIDOR RAYNER first saw the light of day in Baltimore, April 11, 1850, the son of William S. and Amelia R. Rayner. Completing his primary education in Rippert & Newell's Academy, in Catonsville, Baltimore County, Md., he entered the University of Virginia, supplementing an academic course by one in law at the same institution, where, as a member of the Jefferson Society of the university, at the age of 18, he was chosen anniversary orator, taking as the subject of his address "Religious liberty." So well did he acquit himself in his study of the law that the examining board of the university said to him:

There is no occasion to ask you anything more. You have mastered your book so recently and well that you know more about these matters than we do.

Returning from college, he entered the law offices of Brown & Brune, in Baltimore; in 1870 was admitted to the bar, and within a comparatively short space of time won an enviable standing in his chosen profession.

It is the general testimony of those lawyers acquainted with his legal ability that he was a deep and careful student, who, within a comparatively brief period, thoroughly mastered the principles of law. His power of analysis was keen, his penetration deep, his argument sound, and invariably supported by a multitude of citations that evidenced the thoroughness with which he explored his subject. Had he devoted himself exclusively to that jealous mistress whom so many have wooed in vain, doubtless he would now be remembered as one of the far-reaching Leacons of the legal profession. As it was, with his attention distracted by the endless exactions of public office, he left a reputation which hundreds may well envy whose opportunities for legal preferment far exceeded those he enjoyed.

Perhaps the greatest legal achievement of Senator RAYNER was his defense of Admiral Schley, a gallant citizen of Maryland. It was not expected the defense would mainly devolve upon Senator RAYNER, as Judge Jere M. Wilson, of Washington, was senior counsel, but Judge Wilson died soon after the court convened, and thus upon the Senator was shifted the entire burden of the case. He did not shrink from the task, although he was not an admiralty lawyer. The rapidity with which he mastered the subject, studied trigonometry, sea law and lore, gulf-stream currents, and a multitude of other intricate details, was astounding to his friends, who knew him to be the possessor of a mind likened by one of his admirers to a—

mighty machine and a delicate mechanism, capable of strokes of the greatest power and at the same time of the most delicate, exquisite, and subtle touches.

When the time for argument arrived, Senator RAYNER at first spoke in agreeable and measured tones, until, becoming warmed to his subject, he struck out with powerful and convincing blows. Stripping his discussion of useless surplusage he dwelt upon the salient features of the case, and scoring the tricky memories of witnesses, lashed with Herculean vigor the traducers of the man whose fame rang around the world and whose exclamation in the height of victory, "There's glory enough for all," will go down to future generations as one of the most magnanimous expressions of the age.

As the oratorical flight of the great Marylander reached its climax, the court and the great assemblage awed, as it were, by the brilliancy of the orator and his earnestness, seemed unwilling to utter a sound, hardly to breathe, for fear that some word which fell from his lips might be lost; when instantly that the tension was relieved, there broke forth an applause such as might be likened only to a pent-up storm suddenly released. The three admirals, acting as the court, hastened to congratulate him; his friends and the assembled spectators poured praise upon him, and the brilliancy of his effort was spread broadcast throughout the United States.

Senator RAYNER'S advent in politics was almost simultaneous with his entry upon the practice of his profession. In 1878 he was elected to the Maryland Legislature, where he served on the judiciary committee and was chairman of the Baltimore city delegation. In 1885 he was elected to the State senate, resigning when his term was about half finished to become the Democratic candidate for Congress. He was elected to the Fiftieth, Fifty-second, and Fifty-third Congresses and declined to receive a fourth term. Accepting the nomination for attorney general for Maryland he was elected to that office, which he held from 1899 to 1903.

I vividly recall the events connected with his first election to the United States Senate in 1904. The balloting was carried on for about a month, and the tenacity with which his friends clung to him during that long interval, despite the repeated and vigorous endeavors to sway them, convinced me that there was something unusual in a personality which could inspire such unbroken and unwavering devotion. I had the pleasure of working and voting for him and felt it almost a personal triumph when victory was finally determined for him at the night caucus of the legislature preceding the final vote of that body the next day.

Senator RAYNER stood high in the distinguished body of which he was a member. Constitutional law was the favorite field of his brilliant and versatile mind, and his masterful knowledge of the subject was expanded and enriched by contact on the floor of the Senate with contemporary students of that document, notably Senators Spooner, Bailey, and ROOT. Only a few days before his death I read in the Saturday Evening Post one of those humorous and always interesting sketches by Samuel G. Blythe, in which he poked fun in his inimitable way at the fondness of the Maryland Senator for speaking on his favorite subject. But Mr. Blythe did not say—as he would have been justified in adding—that whenever Senator RAYNER discussed the Federal Constitution the floor and galleries of the Senate always filled, and those who came invariably remained until his last word was spoken, experiencing every sensation within the art of the orator to inspire, marveling at his knowledge of the subject, fascinated with his lucidity, thrilled by his eloquence, and delighted with the deep intuition and clever reasoning which he displayed in debate.

As an example of his pleasing and graceful style in address one should read his remarks on Roosevelt's "The Charter of Democracy." Probably no words of Senator RAYNER ever were more eagerly received or widely applauded. With deferential respect for the individual whose program he was discussing, with charity toward the ignorance of law which distinguished that program, with the keenest irony and the most subtle ridicule, he demonstrated by convincing example and clever analysis the folly of subjecting to popular recall the decisions of the judiciary. Two paragraphs of that address ever will be remembered. One is typical of the gentle irony and convulsing ridicule of which he was master and which he employed so effectively; the other breathes that intense love of his country's institutions which he understood so well.

I quote them:

I never retired at night that I did not expect some political earthquake in the morning, and I never arose in the morning that I did not look for some volcanic eruption at night. I think he is a most captivating and charming person. He can talk to you by the hour upon subjects that he does not know anything about at all with the same ease and facility that he can discuss those to which he has devoted the closest study. This is a gift of Providence that none of his predecessors ever possessed. His dissertations upon the Constitution are a feast of reason and a flow of soul. The last conversation I had with him was in relation to the case of Col. Stewart, whom he had charged with certain temperamental infirmities and in whose behalf I had asked for a court of inquiry in the Senate. He informed me that being Commander in Chief of the Army and Navy of the United States he would not pay the slightest attention to any law that Congress passed and that he had a perfect right, if he wanted to, to sentence Col. Stewart to death; that he did not intend to do it, but that he had the constitutional right to do so.

* * * * * * *

Speaking for my country and not for my party, speaking for the autonomy and stability of our institutions, speaking for the Constitution, in all of its parts, if we are to pass in again under his yoke, with his outstretched arm under his latest utterance hanging over the seat of justice, the refuge and bulwark of our institutions, ready to strike it down with a wanton attack upon its integrity, and if this attack is to succeed and the era of the common law is to be revived, when its judges were the abject serfs and slaves of the crown, then, in my judgment, it would have been better if the Constitution had never been framed and its authors had never attempted by an apportionment of constitutional functions almost perfect in their allotment to construct an indissoluble union of indestructible States.

Those who knew not Senator RAYNER in his home life knew not the Senator at his best. It was here he shone with all his tenderness, with all his love, and with that great devotion which he ever exhibited for his loved ones. His home life was ideal. He possessed those domestic virtues which stand for the integrity of the American home, the corner stone of American institutions. Within the sheltering privacy of the family circle was revealed those lovable traits of his sterling character that will ever endear his memory to his friends. None who enjoyed access to that circle could fail to approximate him at his true worth. Here the formalities of official position were forgotten and he was to be seen in the more treasured rôle of husband, father, companion, or host.

His addresses were always in eager demand. The mere announcement that he would speak was sufficient to command a large audience. They came to gather knowledge from his lips, to revel in the delight his oration afforded, to witness the fearless freedom and ease with which he handled his subject. Such an occasion was a mental feast none could fail to relish.

His last public address was in the Lyric Theater, in Baltimore, where, on October 7, 1912, he met the Hon. W. Bourke Cockran in joint debate on the issues of the late campaign. His effort was a splendid one and added to his reputation, but even then the invisible and blighting hand of death was upon him. More than one of his admirers left the hall that night shaking their heads, solemnly averring:

The Senator was not his best this evening.

His address lacked just enough of that sparkling keenness which always distinguished his utterances to render it noticeable. The old-time fire was not in his words and actions. Those who observed his subdued vigor mentally and physically little dreamed that the tumult of the great national campaign then raging, in which with pain-racked body he was heroically doing his part, hardly would have subsided ere this favorite and beloved son of Maryland would have laid him down to his final sleep.

Like Wolfe at Quebec, he lived long enough to see the banners of that army in which he was a valiant and trusted leader wreathed with the garlands of victory. The flush of success doubtless gave him new lease of life, though brief. It must have been a source of extreme pleasure to him in his last days that his countrymen, accepting his appraisement of our Federal Constitution as correct, had by an overwhelming majority voted to preserve the integrity of that document whose surpassing worth and splendidly balanced unity had been his chosen theme on more than one occasion.

We hear the dip of the golden oars
And catch a gleam of the snowy sail,
And, lo, they have passed from our yearning heart;
They cross the stream and are gone for aye.
We may not sunder the veil apart
That hides from our vision the gates of day;
We only know that their bark no more
May sail with us o'er life's stormy sea.

Mr. Speaker, I ask unanimous consent to print in the RECORD the remarks of Rev. Ulysses G. B. Pierce, Chaplain of the Senate and pastor of All Souls Unitarian Church of Washington, at the funeral of Senator RAYNER.

The SPEAKER pro tempore. The gentleman from Maryland asks unanimous consent to extend his remarks by printing the address referred to. Is there objection?

There was no objection.

The address of Dr. Pierce is as follows:

"Once more, in the providence of God, we stand with bowed head and with hushed voices in the ineffable presence of death. Labor as we will to school and discipline ourselves, we can not so stultify ourselves as to be insensible to the majesty and augustness of this solemn hour. Repress our utterance as we may, the heart will find some secret and silent language to voice our awe and our faith. We are not so hardened and callousel that, as we journey on the highway of life, we can stay the tears as we behold—

"The milestones into headstones changed,
"'Neath every one a friend.

"And at such a time, when the occasion breathes its own thought, how little we can do! When, as of yore, the Spirit with its tongues of fire seems to descend upon us and to speak to each one in his own language, how cold and empty seems all that we can say! How well-nigh impertinent seem our words of praise! They seem to cut and wound hardly less than words of blame. And we would not have it otherwise. For we know the grief that is in our hearts, however our lips may fail in utterance.

"We speak sometimes of the silent tribute of tears. Are we not wiser than we suspect when we use such words? Why should we disguise the matter? Why should we attempt to conceal what our very presence here says so plainly? The simple truth is that our own deep sense of loss is the highest tribute we can pay to him who has gone from us. And who does not feel that this loss is personal? Not to everyone is it given thus to endear himself to all who knew him. And our own sense of personal loss is a true measure of his greatness.

"It is just as so often happens in our ordinary walk of life. We rejoice in the tree whose strength and beauty have been our admiration. Under its shade we found shelter. We were nourished by its fruits. But not until storm or tempest or the ruthless ax of the woodman has laid its prostrate form before us do we know its true proportions. We sometimes call death the great leveler; and so it is. But is not death also the great revealer? And now that the long and honorable career of public service and private life is brought to a close we realize, as never before, how blessed we have been and how great is the loss we suffer.

"Did I say public service and private life? Alas, these are sometimes separate and distinct things. But with the true man public service and private life grow from the same root of faithful devotion to duty. To such a man his public life is only an extension of his private character; it is a sharing with the larger family of the city, State, or Nation of those qualities which make home a sacred place. To such private life is not a screen where he would hide aught, but it is the smaller area into which are concentrated as by a sunglass the love and devotion which the larger public has shared and rejoiced in. No wonder, then, that when we are called to part with such a man home and city and State and Nation should each feel its own loss to be supreme. The larger family of the public mourns him as an honored and faithful servant of the common good; the family circle mourn for him as husband and father, and mourn as they only can who were privileged to share with him the sanctities of the home.

"And yet, as was said, here are not two lives, but one life. Public service and private life grew from the same divine root. Faithfulness to duty, dependence upon God, there is no fruitage of the Spirit that can not grow from this. Is not this the meaning of the poet's great words—

"Yea, let all good things await
Him who cares not to be great
But as he saves or serves the State.
Not once or twice in our fair country's story
The path of duty was the way to glory.
He, that ever following her commands,
On with toil of heart and knees and hands,
Thro' the long gorge to the far light has won
His path upward, and prevail'd,
Shall find the toppling crags of Duty scaled
Are close upon the shining table-lands
To which our God himself is moon and sun.

"Duty—heaven; by a beautiful necessity does not the one lead always to the other? When, like Jacob of old, we go faithfully on our way, is it not then that the angels of God meet us? And when in our pilgrimage we tarry at a certain place because the sun of life is set, do we not in the morning find this to be none other than the house of God, this to be the gate of heaven? When we know that to live is Christ, then, also, we know that to die is gain. And when we speak of our deep loss we are speaking of ourselves, not of him. If our sense of loss is the measure of his great worth, so also is it the measure of his gain. For it is true beyond peradventure that—

"Virtue treads paths that end not in the grave;
No bar of endless night exiles the brave;
And to the saner mind
We rather seem the dead that stay behind.

"It is, then, for ourselves that we mourn, knowing our great loss, while he has ascended to his Father and to our Father, to his God and to our God.

"And, indeed, when one has come into the world richly endowed, when he has trained and disciplined his mind and has submitted all to the Father of our spirits, when a man has unsparingly given himself for others and has counted not his own life dear unto himself if only he may work the work of Him who sent him while it is called day, and when at the last his every thought has been not for self, but for others, why should not such a soul be able to say, with the apostle, 'I have fought the good fight, I have finished the course, I have kept the faith; henceforth there is laid up for me the crown of righteousness which the Lord, the righteous Judge, shall give to me at that day'? And can we doubt that even now the liberated spirit of such a man has heard the approving words, 'Well done, good and faithful servant; enter thou into the joy of thy Lord'?"

Mr. LEWIS. Mr. Speaker, in a few words I wish to state the view held by the people of Maryland of the Hon. ISIDOR RAYNER, their late representative in the Senate. He was distinctively, as has been said, a statesman. And by this, of course, they meant to designate an unswerving and unusual spirit of loyalty to national interests as well as the interests of Maryland. It is undeniable that the citizen has two sets of rights and interests: In one of his relations he is purely an individual with corresponding claims direct upon his fellows; in another he is a member in a great State or national cooperative organization, where his rights and interests are collective in character and depend for the protection and enjoyment upon the degree of wisdom and loyalty exhibited by his representatives in official life. It is in the latter relation that Senator RAYNER was best known to our people, and it is a great pleasure to testify to their high appreciation of his signal devotion and very great ability in serving them.

There can be no question of his unyielding courage and fixity of purpose in this respect. The history of all parts of our country has been practically alike since the war, and all understand the terrific power wielded by those whose interests were individual and opposed in character to the collective interests, and how too many have yielded—even great political parties have succumbed—to individual interests which have had the power to set aside the collective interests in favor of their own. In such a situation the loyalty of ISIDOR RAYNER was always invincible, for he was a statesman and not one of those who look to the actions of individuals rather than to the collective organization of society for their applause and protection.

With this great spirit of loyalty to public interests there was combined a degree of talent in advocacy which amounted to genius itself. I shall not need to recite his life's story or the commanding incidents of his public career. They have been presented by others. But Maryland was proud, almost immoderately proud, of his prowess in debate. She had had others in this House or the Senate of whose brilliancy she was proud; and the Nation was proud. He sustained, and splendidly sustained, her past glory and brought her added glory with the recurring years. She knew how to judge and compare great men in the public service. For had she not reared at least her share and devoted them to the Nation's service? There was Pinckney; there was Henry Winter Davis; and then ISIDOR RAYNER.

He has gone with them, but his glory remains here with theirs. It is good and is as imperishable as the spirit of loyalty to the public.

Mr. KONIG. Mr. Speaker, ISIDOR RAYNER is dead. His work is done. Our action to-day can neither brighten nor tarnish his fame. But, sir, the beauty of the custom is its defense—to gather here in the workshop of a departed worker and here on the day of rest for those of us who are still in the struggle remind one another of the accomplishments of him who has gone to his eternal rest.

Senator RAYNER was a leader in the Senate; he was a leader in the House; he was a leader at the bar of Maryland. Wherever he served, there he led; and he led because he deserved to lead. Endowed with a genius for oratory, imbued with high ambition, gifted with strong intelligence and remarkable industry, and possessed of great wealth, Senator RAYNER soon took his place among the men at the top.

But, Mr. Speaker, I revere the memory of ISIDOR RAYNER not because he got to the top, but I revere his memory because wherever he served he served with fidelity and honesty. Men deserve honor only as they are faithful and honest, albeit they may have fame and notoriety as they are successful. But for a vagary of fortune the unknown sailor at the mast might have been the famed admiral on the bridge, and the obscure soldier in the ranks might have been the heralded general at the front, the sweating toiler the proud captain of industry, and the humble voter the exalted magistrate. Fortune favors, and we are famous; fortune frowns, and we are obscure.

Whether fortune enables us to become famous or keeps us obscure, we have it within us to say whether we shall be honest or dishonest, faithful or unfaithful; and accordingly as we choose do we deserve the approval or the disapproval of our fellow men. And, after all, what difference does it make whether we are remembered with the world's great men or forgotten with its men unknown? It may well be that we all in playing our little parts are but deceiving ourselves with our seriousness; that we, with our heavy trifling, are the sport of some genius to us as inconceivable as it is unknown.

But, taking ourselves as we find ourselves, there is no man with an ambition to attain anything who does not as soon as he attains it finds himself possessed of an ambition to attain something else above and beyond it, and the which if he does not attain leaves him as much unsatisfied as if his first ambition had not been realized. Such is the nature of human effort and ambition; perhaps it is well that it is so.

This fact of human history teaches us all a lesson, no matter what may be our station in life, our lot, or our fortune; if we do our duty honestly and faithfully, we need envy no man, no matter what his wealth or what his position. There is no top rung to the ladder. Position, wealth, and parts are not in themselves happiness, but, on the contrary, they are oftentimes sources of unhappiness. The wise man tempers his ambition with contentment.

ISIDOR RAYNER served his country well and faithfully; let us pray God that we may do likewise. The great majority of us can not hope to be as famed as Senator RAYNER, but we all can hope and endeavor to leave behind us that which our late lamented friend left behind him, a reputation for honesty and fidelity.

Mr. LEWIS. Mr. Speaker, I ask unanimous consent that the Members of the Maryland delegation and of the House have one week in which to print remarks on the subject of the life, character, and public services of the late Senator RAYNER.

The SPEAKER pro tempore. The gentleman from Maryland asks unanimous consent that the Members of the House from Maryland and other Members of the House have unanimous consent to print remarks in the RECORD at any time within one week. If there be no objection it will be so ordered.

There was no objection.

And then, in accordance with the resolution previously adopted and as a further mark of respect to the memory of the late Senator RAYNER, the House (at 12 o'clock and 44 minutes p. m.) adjourned until to-morrow, Monday, February 3, 1913, at 12 o'clock noon.

SENATE.

MONDAY, *February 3, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the order of the Senate of December 16, 1912.

The Secretary proceeded to read the Journal of the proceedings of Thursday last, when, on request of Mr. CULLOM and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MISSISSIPPI RIVER BRIDGE.

Mr. CULLOM. Out of order, I ask leave to call up the bill (S. 8182) granting to the Inter City Bridge Co., its successors and assigns, the right to construct, acquire, maintain, and operate a railway bridge across the Mississippi River. It will take only a minute to pass it.

The PRESIDENT pro tempore. The Senator from Illinois asks unanimous consent for the present consideration of the bill indicated by him. Is there objection? The Chair hears none. The bill will be read.

The Secretary read the bill.

Mr. CUMMINS. Mr. President, I have just entered the Chamber. Is there a request for the present consideration of this bill?

The PRESIDENT pro tempore. There is.

Mr. CUMMINS. I wish to have an opportunity to examine it before it is put on its passage.

The PRESIDENT pro tempore. The Chair will state to the Senator from Iowa that the bill has been taken up by unanimous consent, but that does not——

Mr. CULLOM. I am willing that the bill shall go over if the Senator from Iowa wants to look at it.

The PRESIDENT pro tempore. The bill will go over upon the request of the Senator from Iowa.

SENATORS FROM TENNESSEE AND TEXAS.

Mr. SANDERS presented the credentials of WILLIAM ROBERT WEBB, chosen by the Legislature of the State of Tennessee a Senator from that State for the remainder of the term ending March 3, 1913, in the room and stead of NEWELL SANDERS, heretofore appointed by the governor of Tennessee as the successor of Robert L. Taylor, deceased, which were read and ordered to be filed.

Mr. CULBERSON presented the credentials of MORRIS SHEPPARD, chosen by the Legislature of the State of Texas a Senator from that State for the unexpired portion of the term of Hon. Joseph W. Bailey ending March 3, 1913, which were read and ordered to be filed.

Mr. CULBERSON. The Senator elect from Texas is present and ready to take the oath of office.

Mr. LEA. The Senator elect from Tennessee is in the Chamber and ready to take the oath of office.

The PRESIDENT pro tempore. The Senators elect will present themselves at the desk for that purpose.

Mr. SHEPPARD and Mr. WEBB advanced to the Vice President's desk, escorted by Mr. CULBERSON and Mr. LEA, respectively, and the oath prescribed by law having been administered to them, they took their seats in the Senate.

CALLING OF THE ROLL.

Mr. CLARKE of Arkansas. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Arkansas suggests the absence of a quorum. The Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Lea	Shively
Bacon	Cummins	Lippitt	Simmons
Bankhead	Curtis	Lodge	Smith, Ariz.
Borah	Dillingham	McCumber	Smith, Ga.
Bourne	du Pont	McLean	Smith, Md.
Bradley	Fletcher	Martine, N. J.	Smith, Mich.
Brandegee	Gallinger	Myers	Smoot
Bristow	Gamble	O'Gorman	Stephenson
Brown	Gardner	Oliver	Sutherland
Burnham	Gronna	Overman	Swanson
Burton	Guggenheim	Owen	Thornton
Catron	Jackson	Page	Tillman
Clapp	Johnson, Me.	Perkins	Townsend
Clark, Wyo.	Johnston, Ala.	Perky	Warren
Clarke, Ark.	Jones	Pomerene	Webb
Crane	Kavanaugh	Richardson	Wetmore
Crawford	Kenyon	Root	Williams
Culberson	La Follette	Sheppard	Works

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. FOSTER] on account of illness in his family, and also that he is paired with the junior Senator from Wyoming [Mr. WARREN]. I ask that this announcement may stand for the day.

Mr. MARTINE of New Jersey. I was requested to state that the Senator from Colorado [Mr. THOMAS] is absent from the city on important business.

Mr. SWANSON. I desire to announce that my colleague [Mr. MARTIN] is detained from the Senate on account of sickness. I wish this announcement to stand for the day.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 72 Senators have answered to their names. A quorum is present.

CREDENTIALS.

Mr. CULBERSON presented the credentials of MORRIS SHEPPARD, chosen by the Legislature of the State of Texas a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

IMPRISONMENT IN THE ARMY AND NAVY (S. DOC. NO. 1059).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Navy, transmitting, in response to a resolution of January 7, a statement of the number of persons serving in the Navy or Marine Corps of the United States confined, through sentence of general court-martial, during the year 1912, their offenses, term of confinement imposed in each case, and the prison or other place of confinement, etc., which with the accompanying papers, was referred to the Committee on Naval Affairs and ordered to be printed.

REPORT OF WASHINGTON GAS LIGHT CO. (H. DOC. NO. 1333).

The PRESIDENT pro tempore laid before the Senate the annual report of the Washington Gas Light Co. for the year ended December 31, 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

WASHINGTON & OLD DOMINION RAILWAY CO. (H. DOC. NO. 1334).

The PRESIDENT pro tempore laid before the Senate the annual report of the Washington & Old Dominion Railway Co. for the year ended December 31, 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact and conclusions filed by the court in the following causes:

John J. Ennis *v.* United States (Brooklyn Navy Yard) (S. Doc. No. 1057);

Charles W. Brock, and sundry subnumbered cases, *v.* United States (Portsmouth Navy Yard, Portsmouth, N. H.) (S. Doc. No. 1058);

Virginia C. Boush, administratrix of Jonathan E. Boush, deceased, and sundry subnumbered cases, *v.* United States (Norfolk Navy Yard) (S. Doc. No. 1056); and

John W. Parrish *v.* United States (United States Naval Academy, Annapolis, Md.) (S. Doc. No. 1055).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House insists upon its amendments to the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War and to certain widows and dependent relatives of such soldiers and sailors, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey managers at the conference on the part of the House.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, and it was thereupon signed by the President pro tempore.

PETITIONS AND MEMORIALS.

Mr. CRAWFORD. I present a joint resolution adopted by the Legislature of South Dakota, which I ask may be read and referred to the Committee on Public Lands.

The joint resolution was read and referred to the Committee on Public Lands, as follows:

STATE OF SOUTH DAKOTA,
DEPARTMENT OF STATE.

UNITED STATES OF AMERICA, *State of South Dakota, ss:*

I, Frank Glasner, secretary of state of the State of South Dakota, do hereby certify that the annexed senate joint resolution No. 2 was duly passed by the 1913 session of the Legislature of the State of South Dakota, and is now in full force and effect.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota this 30th day of January, A. D. 1913.

[SEAL.] FRANK GLASNER, *Secretary of State.*
By J. T. NELSON, *Assistant Secretary of State.*

A joint resolution requesting the Congress of the United States to amend the 320-acre homestead law, designated and known as the Mondell bill, to include the State of South Dakota.

Be it resolved by the Senate of the State of South Dakota (the House of Representatives concurring): SECTION 1:

Whereas there are now in force and effect certain laws enacted by the Congress of the United States granting and giving to citizens the right to make homestead entry upon 320 and 640 acre tracts of land; and

Whereas certain Government lands situate in the State of Nebraska are affected by the 640-acre homestead law, and certain Government lands situate in the States of Wyoming, Idaho, Montana, Washington, Oregon, Utah, Arizona, New Mexico, and Colorado are affected by the 320-acre homestead law; and

Whereas Government lands in the State of South Dakota have been and are now eliminated from any law giving to citizens the right to make homestead entry upon more than 160 acres of land; and

Whereas the general classification of the Government lands in South Dakota compares with the lands in the State so affected by the laws aforesaid; and

Whereas it is just and reasonable, from the nature of conditions, that the Government lands in the State of South Dakota be included in the 320-acre homestead act: Therefore be it

Resolved, That we favor and earnestly urge the Congress of the United States by proper enactment to so amend the 320-acre homestead law, known as the Mondell bill, as to include the remaining Government lands suitable for homestead entry situate in the State of South Dakota; and be it further

Resolved, That we request our Senators and Representatives in Congress to employ their best efforts to compass this end.

Mr. CRAWFORD. I present a joint resolution adopted by the Legislature of South Dakota, which I ask may be read and referred to the Committee on Indian Affairs:

The joint resolution was read and referred to the Committee on Indian Affairs, as follows:

STATE OF SOUTH DAKOTA,
DEPARTMENT OF STATE.

UNITED STATES OF AMERICA, *State of South Dakota, ss:*

I, Frank Glasner, secretary of state of the State of South Dakota, do hereby certify that the annexed senate joint resolution No. 8 was duly passed by the 1913 session of the Legislature of the State of South Dakota, and is now in full force and effect.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota this 30th day of January, A. D. 1913.

[SEAL.] FRANK GLASNER, *Secretary of State.*
By J. T. NELSON, *Assistant Secretary of State.*

A joint resolution requesting the Secretary of the Interior to take steps to revise existing rules for the leasing of allotted Indian lands, and that our Senators and Representatives in Congress assist in securing such revision.

Be it resolved by the Senate of the Legislature of the State of South Dakota (the House of Representatives concurring), That the Secretary of the Interior be requested to take needful and necessary steps looking to an immediate revision of existing rules and regulations promulgated by him governing the right to lease and the manner of leasing allotted Indian lands, with a view to securing the more rapid development of the large areas of unoccupied land now held by Indian allottees of the various Indian tribes. To the end that such object may be speedily attained, our Senators and Representatives in Congress are earnestly requested to lend their aid in securing immediate and favorable consideration thereof.

SEC. 2. That a copy hereof be transmitted to the Secretary of the Interior and to each of the Senators and Representatives in Congress from the State of South Dakota.

Mr. CRAWFORD presented memorials of the congregations of the Seventh-day Adventist Churches of Huron, Webster, Aberdeen, and Florence, all in the State of South Dakota, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. CURTIS. I present a memorial from the Cherokee Freedmen, which I ask may be printed in the RECORD and referred to the Committee on Indian Affairs.

There being no objection, the memorial was referred to the Committee on Indian Affairs and ordered to be printed in the RECORD, as follows:

Memorial of Cherokee Freedmen.

To the honorable Senate and House of Representatives of the United States of America in Congress assembled:

Whereas by certain articles of the treaty, made and entered into by and between the United States of America and the Cherokee Nation, proclaimed August 11, 1866, there were certain freedmen, free colored persons, and their descendants clothed with all the rights of native Cherokees; and

Whereas by certain acts of deceit, discrimination, and opposition on the part of certain classes of Cherokees and the Cherokee Nation, and by the effect of certain acts of congressional legislation, and by the acts and doings of certain agents of the Government of the United States said persons believe and feel that said rights have been limited, curtailed, abridged, and in various instances overlooked or ignored, whereby they, as a class and as individuals of a class of citizens of the Cherokee Nation, have sustained much damage and received great injury, and believe themselves entitled to some form of redress; and

Whereas said freedmen, free colored persons, and their descendants, firmly believing in the right of the people to peaceably assemble for their own good and apply to those invested with the powers of Government for redress by petition, address, or remonstrance, have organized themselves together in one band or association under the name of ——, for the enforcement and protection of all rights granted them by the aforesaid treaty, and have adopted this method of making their grievances known and praying for relief.

Our grievances are:

1. After having been given the right to elect to settle and live in certain designated parts of the Cherokee Nation by article 4 of the treaty of 1866, said right has been violated, and the enjoyment thereof entirely defeated by promises and agreements made on the part of the Cherokees, which have not been kept and performed by them.

2. The Cherokee Nation did, about the year 1867, erect large and costly school buildings, create, and for a period covering about 16 years, maintain and support, high schools for the education of their children out of the funds of the Cherokee Nation to the exclusion of our children.

3. Said nation did erect and for many years maintain and support a blind asylum and orphans' home out of the funds of said nation to the exclusion of our people.

4. The Cherokee National Council passed certain intermarriage laws, and enforced the same, the effect of which put the Indians directly in touch with the highest form of American civilization, and gave them advantages that could not have been attained in no other way, to the exclusion of our people.

5. In the matter of the payment of moneys per capita we believe and feel that we have been unjustly dealt with, in that some of our people whose names appeared upon approved rolls of citizenship in the Cherokee Nation were paid and received such payments, while others of the same class whose names appeared upon the same rolls were paid and received none.

6. And certain classes of Cherokees have been permitted, and did by various attacks, by various suits at law, attempt to and at this time have a suit at law pending calculated to defeat our property rights in the Cherokee Nation entirely, thereby putting us to great and useless expense of time and money.

7. We believe and feel that we have been unjustly dealt with in the matter of the enrollment of our people, some of the members of some of our families having been duly enrolled as citizens, while the applications for the enrollment of others of the same families having the same status have been rejected.

8. That the applications for the enrollment of many of our people were rejected because of the time limit and the hasty action of the Secretary of the Interior and the Dawes Commission in trying to obey the requirements of the time limit.

9. A large number of our people who were rejected had been theretofore enrolled by various authorities as citizens of the Cherokee Nation, had settled in said nation in good faith, made lasting and permanent improvements upon the lands, lived unmolested for from 10 to 30 years, had exercised many of the rights of citizenship, and after being rejected were ejected and dispossessed from and of said improvements, leaving their labor and improvements without compensation.

10. The restrictions upon the alienation and incumbrance of our lands, both adults and infants, have been removed, and the supervisory jurisdiction of the Government over us and our valuable inheritied lands has been relinquished all in advance of those of the Indians, and our people, though comparatively lowest in point of intelligence as a class of Cherokee citizens, have been left exposed to the greed and grafts of the shrewd and unscrupulous hoarders of wealth, who would naturally be first to appear upon the scene, and left unfavorably exposed to the attacks of the disgruntled element of the Indian citizens who yet enjoy the care and protection of the United States Government.

Wherefore we, the freedmen, free colored persons, and their descendants of the late Cherokee Nation, respectfully petition that our grievances above mentioned be given due consideration, and that we be given such redress as in the wisdom of your honorable body seems meet, and your petitioners will ever pray.

ELI NAVE, *President.*

STIT ROGERS, *Secretary.*
(Through our delegation.)

Mr. TILLMAN. I send to the desk a letter which I ask may be read and referred to the Committee on Claims.

There being no objection, the letter was read and referred to the Committee on Claims, as follows:

2004 ELEVENTH STREET NW.,
Washington, D. C., January 23, 1913.

Hon. B. R. TILLMAN,
United States Senate, Washington, D. C.

HONORED SIR: My name is Jane Steptoe. I was born in South Carolina, not far from Beaufort, and I deposited in the Freedmen's Bank $1,100. I still have a balance of $800. I am now 72 years old, not able to work to earn my living, and am dependent upon other people for my support, and you know that I do not get all that I should have in these my declining years.

We have been encouraged about this money for several years. The Presidents have asked Congress to pay us our money ever since Mr. Cleveland was President, and Congress will not pay us. I now write to ask you, as you are in Congress and one of the men who has to appropriate this money, if you will please get this appropriation through and let Congress pay us. I can not tell you how my conditions are, but just place yourself in my position, at my age, and suppose that you had no means of support, you would think it very hard; but as the Lord has blessed and prospered you, and you don't have to be dependent upon others, please remember me and others and the Lord will certainly bless you more than twofold if you will let Congress pay us the money which is our very own. We do not ask you to give us something that does not belong to us; we are simply asking in the name of the Lord for that which is our own hard-earned money.

Respectfully, yours,

JANE STEPTOE.

Mr. FLETCHER. I present resolutions adopted by the Tampa Bay Pilots' Association, of Florida, which I ask may be printed in the RECORD and referred to the Committee on Commerce.

There being no objection, the resolutions were referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

TAMPA BAY PILOTS' ASSOCIATION,
Tampa, Fla., January 17, 1913.

Resolution.

Whereas we, the undersigned pilots of the port of Tampa, Fla., do hereby protest against the various bills now pending in the Commerce Committee of the United States Senate—"A bill to provide for the further Federal regulation of pilotage," introduced by Mr. NELSON, and known as S. 7629, and "A bill relating to the anchorage of vessels in navigable waters of the United States," also introduced by Mr. NELSON, and known as S. 3019; also a bill, H. R. 20630, introduced by Mr. HANNY, entitled "A bill to provide for the further Federal regulation of pilotage," which is awaiting the action of the Committee on the Merchant Marine and Fisheries; and

Whereas we view the introduction, favorable report, and passage of the said bills to be extremely detrimental, if not, indeed, absolutely destructive, to the fundamentals of the pilotage system in this country, as well as detrimental to many of the parts; and

Whereas this pilotage system has been under control of the States for over 100 years and a board selected by the persons most interested in the safety and prosperity of shipping and appointed by our governor and approved by the State senate; and

Whereas this bill proposes arbitrarily and unnecessarily to destroy this system and to take control of this important service from the hands of those most interested in its efficiency, by whom it has been brought to its present satisfactory condition, and proposes to confide it to those who, whatever ability they may have in other respects, can not be said with certainty to have had any experience whatsoever with the duties and requirements of the service; and

Whereas the Federal regulations, as they appear to us (a) would not increase the efficiency of the pilots or the pilotage system now in vogue; (b) would and could not decrease the rates of pilotage without becoming a drain on the Public Treasury; (c) would tyrannically usurp a business which has been built by time, experience, and the expenditures of large sums of money, thereby depriving many individuals of the fruits of their labor, to which they are justly entitled: Therefore be it

Resolved, That we, the pilots aforesaid, do hereby respectfully, and as earnestly and emphatically as in our power, memorialize and petition our United States Representatives in Congress and United States Senators from this State to use their utmost endeavors to prevent these bills from becoming a law or any antipilotage legislation of any nature.

Also, that a copy of this resolution be sent to the President of the Senate, one to the Speaker of the House of Representatives, one to the chairman of the Commerce Committee, one to the chairman of the Committee on the Merchant Marine and Fisheries, one to the president of American Pilots' Association, and urge them to use their influence in defeating these bills.

C. J. BELGAR,
H. L. JOHNSON,
H. G. WARNER,
C. D. THAMES,
CARL WM. BAHRT,
JNO. J. FORGARTY,
MARK RYAN.

Mr. SMITH of Maryland presented petitions of sundry citizens of Burtonsville, Beltsville, and Silver Spring; of Eureka Grange, No. 177, Patrons of Husbandry, of Eureka; and of Local Grange No. 179, Patrons of Husbandry, of Beltsville, all in the State of Maryland, praying that an appropriation be made for the erection of shelters covering the Wholesale Produce Market between Tenth, Twelfth, and B Streets, in the city of Washington, D. C., which were referred to the Committee on Appropriations.

He also presented a petition of sundry citizens of Allegany County, Md., praying for the establishment of game reservations upon the public lands, which was ordered to lie on the table.

Mr. GARDNER presented resolutions adopted by the Chamber of Commerce of Oldtown, Me., favoring the passage of the so-called Page vocational education bill, which were ordered to lie on the table.

He also presented a memorial of members of the Woman's Club of Houlton, Me., remonstrating against the transfer of the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

Mr. WARREN presented a memorial of the congregation of the Seventh-day Adventist Church of Lander, Wyo., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. BRISTOW presented a petition of sundry citizens of Emporia, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented memorials of the congregations of the Seventh-day Adventist Churches of Severy and Herndon, in the State of Kansas, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. RICHARDSON presented petitions of the congregations of the Methodist Episcopal Churches of Camden, Lebanon, and Nassau, all in the State of Delaware, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. JACKSON presented a memorial of sundry citizens of Hagerstown, Md., remonstrating against the parole of Federal life prisoners, which was ordered to lie on the table.

He also presented a petition of the congregation of the Mount Olive Methodist Episcopal Church, of Delmar, Del., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. OWEN. I present a concurrent resolution passed by the Legislature of Oklahoma, memorializing Congress to pass a law providing for the election of Federal district judges by the people of their respective States. I ask that the concurrent resolution be read and referred to the Committee on the Judiciary.

There being no objection, the concurrent resolution was read and referred to the Committee on the Judiciary, as follows:

House concurrent resolution 3.

Resolution memorializing Congress to pass a law providing for the election of Federal district judges by the people of their respective States.

Be it resolved by the House of Representatives of the State of Oklahoma (the Senate concurring therein), That—

Whereas the Federal district judges who receive their office by appointment by the President of the United States and who hold their office for life, or during good behavior, and who are not amenable to the people, and by reason of this are not always mindful of the rights and privileges of the people; and

Whereas since their creation by the American Congress their jurisdiction and powers have been enlarged until the special interest seeking classes and the wealthy can and do compel the common people of our country to go into the Federal courts oftentimes at a large expenditure of money and time, taking them away from the judges whom they, the common people, elect; and

Whereas the Federal district judges have become a refuge for the great corporations, contesting the laws passed by our State legislature and thereby having them declared unconstitutional, as in the recent case of our revenue laws, whereby the corporations were permitted to get from under the burdens of taxation and shift them upon the farmer, the merchant, and laboring classes; Therefore be it

Resolved by the House of Representatives of the State of Oklahoma (the Senate concurring therein), That we memorialize, request, and urge Congress to pass a law providing for the election of Federal district judges, limiting their jurisdiction and power and their tenure of office to a term of years.

That a copy of this resolution be sent to our United States Senators and Members of the National House of Representatives.

Passed by the house of representatives January 20, 1913.

J. H. MAXEY,
Speaker of the House of Representatives.

Passed the senate January 25, 1913.

C. B. KENDRICK,
President pro tempore of the Senate.

Mr. OWEN. I present a concurrent resolution passed by the Legislature of Oklahoma relative to immediate provision being made for the payment to all members of the Choctaw and Chickasaw Tribes of Indians who have been endowed with the rights of citizenship of their pro rata part of all funds now held by the Government of the United States, and so forth. I ask that the concurrent resolution be read and referred to the Committee on Indian Affairs.

There being no objection, the concurrent resolution was read and referred to the Committee on Indian Affairs, as follows:

House concurrent resolution 4.

Be it resolved by the house of representatives (the senate concurring therein), That—

Whereas the Government of the United States holds in trust approximately the sum of $6,500,000 for the members of the Choctaw and Chickasaw Tribes of Indians; and

Whereas under the terms of the treaty of 1866 between the Choctaw and Chickasaw Indians and the United States certain lands known as the Leased District, lying between the ninety-eighth and one-hundredth meridian west longitude, were ceded to the United States for a nominal consideration of $300,000; and

Whereas the members of said tribes of Indians have, through their officials and representatives, since said treaty contended that it was the intention of the tribes to lease said lands to the United States for specific purposes and not to sell the same; and

Whereas the actual value of said Leased District was many millions of dollars in excess of said $300,000: Now therefore be it

Resolved by the Legislature of the State of Oklahoma, That we respectfully memorialize the Congress of the United States—

First. That it make immediate provision for the payment of all those members of the Choctaw and Chickasaw Tribes of Indians who have been endowed with all the rights of citizenship, including the right to alienate their lands as other citizens of the United States, of their pro rata part of all funds now held by the Government of the United States for said Indians; and

Second. That it enact such legislation as will provide for suitable and adequate payment to the members of said tribes of Indians for the reasonable value of said Leased District: And be it further

Resolved, That the Senators and Representatives from the State of Oklahoma are requested to use all honorable means to secure the enactment of the foregoing legislation.

Passed the house of representatives January 20, 1913.

J. H. MAXEY,
Speaker of the House of Representatives.

Passed the senate January 20, 1913.

E. L. MITCHELL,
Acting President of the Senate.

I hereby certify that this is a true and correct copy of the above and foregoing resolution.

GUS POOL, *Chief Clerk.*

Mr. CULLOM presented a petition of members of the Young Men's Baraca Class of the South Street Methodist Episcopal Church, of Rockford, Ill., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. LODGE. I present a resolution passed by the directors of the Springfield (Mass.) Board of Trade December 10, 1912, in regard to the Connecticut River Dam. The resolution is very brief and with no signatures. I ask that it lie on the table and be printed in the RECORD.

There being no objection, the resolution was ordered to lie on the table and to be printed in the RECORD, as follows:

Resolution passed by the directors of the Springfield (Mass.) Board of Trade December 10, 1912.

Resolved, That this community is in urgent need of practicable navigation of the Connecticut River from Long Island Sound to Holyoke; that, in the opinion of this board, the enactment of the bill introduced by the Connecticut River Co. at this session of Congress will insure the accomplishment of such navigation. Wherefore this board earnestly urges the Members of both Houses of Congress to enact said bill at this session.

Mr. LODGE presented a petition of the Young Men's Class of the Congregational Church of West Newton, Mass., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented petitions of sundry citizens of Bryantville and Boston, in the State of Massachusetts, praying for the construction of a public highway from Washington, D. C., to Gettysburg, Pa., as a memorial to Abraham Lincoln, which were ordered to lie on the table.

Mr. MYERS presented a memorial of the congregation of the Seventh-day Adventist Church, Great Falls, Mont., and a memorial of the congregation of the Seventh-day Adventist Church of Stevensville, Mont., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. CHAMBERLAIN. I present a joint resolution adopted by the Legislature of Oregon, which I ask may be printed in the RECORD and referred to the Committee on the Judiciary.

There being no objection, the joint resolution was referred to the Committee on the Judiciary and ordered to be printed in the RECORD, as follows:

Senate joint resolution 2.

STATE OF OREGON,
TWENTY-SEVENTH LEGISLATIVE ASSEMBLY,
SENATE CHAMBER.

Whereas it appears from an investigation recently made by the Senate of the United States, and otherwise, that polygamy still exists in certain places in the United States, notwithstanding prohibitory statutes enacted by the several States thereof; and

Whereas the practice of polygamy is generally condemned by the people of the United States, and there is a demand for the more effectual prohibition thereof by placing the subject under the Federal jurisdiction and control, at the same time reserving to each State the right to make and control its own laws relating to marriage and divorce: Now therefore be it

Resolved by the senate (the house of representatives concurring), That the application be made, and hereby is made, to Congress under the provisions of Article V of the Constitution of the United States, for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited, and Congress shall be given power to enforce such a prohibition by appropriate legislation.

Resolved, That the legislatures of all other States of the United States, now in session or when next convened, be, and they are hereby, respectfully requested to join in this application by the adoption of this or an equivalent resolution.

Resolved further, That the secretary of state be, and he is hereby, directed to transmit copies of this application to the Senate and the House of Representatives of the United States, and to the several Members of the bodies representing this State therein; also to transmit copies hereof to the legislatures of all other States of the United States.

Adopted by the house January 16, 1913.

C. N. MCARTHUR,
Speaker of the House.

Adopted by the senate January 15, 1913.

DAN J. MALARKEY,
President of the Senate.

Indorsed: Senate joint resolution No. 2.

JOHN W. COCHRAN,
Chief Clerk.

Filed January 20, 1913.

BEN W. OLCOTT,
Secretary of State.

UNITED STATES OF AMERICA, STATE OF OREGON,
OFFICE OF THE SECRETARY OF STATE.

I, Ben W. Olcott, secretary of state of the State of Oregon and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of senate joint resolution No. 2 of the Twenty-seventh Legislative Assembly of the State of Oregon with the original thereof as filed in the office of the secretary of state of the State of Oregon on the 20th day of January, 1913, and that it is a full, true, and complete transcript therefrom and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 20th day of January, A. D. 1913.

[SEAL.]

BEN W. OLCOTT,
Secretary of State.

Mr. CHAMBERLAIN. I present a joint memorial adopted by the Legislature of Oregon, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the joint memorial was ordered to lie on the table and to be printed in the RECORD, as follows:

Senate joint memorial 2.

STATE OF OREGON,
TWENTY-SEVENTH LEGISLATIVE ASSEMBLY,
SENATE CHAMBER.

Whereas there have been introduced in Congress three bills (Nos. H. R. 36, H. R. 4428, S. 2367) to afford Federal protection to migratory game birds; and

Whereas there is a very general sentiment in this State in favor of such protection, and an urgent request for the enactment of such a law has been made, as appears by the numerous petitions received: Now therefore

Resolved (the house concurring), That Congress be, and hereby is, requested to enact a law giving ample protection to migratory game birds.

Resolved, That the legislatures of all other States of the United States now in session or when next convened be, and they are hereby,

respectfully requested to join in this request by the adoption of this or an equivalent resolution.

Resolved further, That the secretary of state be, and he hereby is, directed to transmit copies of this resolution to the Senate and the House of Representatives of the United States and to the several Members of said body representing this State therein; also to transmit copies hereof to the legislatures of all other States of the United States.

Concurred in by the house January 20, 1913.

C. N. McARTHUR,
Speaker of the House.

Adopted by the senate January 16, 1913.

DAN J. MALAKKEY,
President of the Senate.

Indorsed: Senate joint memorial No. 2, by committee on Federal relations.

J. W. COCHRAN,
Chief Clerk.

Filed January 22, 1913.

BEN W. OLCOTT,
Secretary of State.

UNITED STATES OF AMERICA, STATE OF OREGON,
OFFICE OF THE SECRETARY OF STATE.

I, Ben W. Olcott, secretary of state of the State of Oregon, and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of senate joint memorial No. 2 of the Twenty-seventh Legislative Assembly of the State of Oregon with the original thereof as filed in the office of the secretary of state of the State of Oregon on the 22d day of January, 1913, and that it is a full, true, and complete transcript therefrom and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 22d day of January, A. D. 1913.

[SEAL.] BEN W. OLCOTT,
Secretary of State.

Mr. BROWN. I present a joint resolution passed by the Legislature of Nebraska, which I ask may be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objection, the joint resolution was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

STATE OF NEBRASKA,
OFFICE OF SECRETARY OF STATE.

STATE OF NEBRASKA, *Office of Secretary of State:*

I, Addison Wait, secretary of state of the State of Nebraska, do hereby certify that I have carefully compared the annexed copy of memorial and joint resolution in re Nebraska Territorial Militia enacted and passed by the thirty-third session of the Legislature of the State of Nebraska, with the enrolled bill on file in this office, and that the same is a true and correct copy of said memorial and joint resolution.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Nebraska.

Done at Lincoln this 31st day of January, A. D. 1913, of the independence of the United States the one hundred and thirty-sixth, and of this State the forty-sixth.

[SEAL.] ADDISON WAIT,
Secretary of State.

[Memorial and joint resolution in relation to the Nebraska Territorial Militia; introduced by Robert C. Druesedow.]

Whereas the Nebraska Territorial Militia, who served four months in subduing the several raids and depredations of hostile Indians between 1862 and 1864, have never been officially recognized as entitled to all the benefits of the pension laws as other volunteer organizations for the alleged reason that they were not regularly mustered into the service of the United States; and

Whereas these volunteer soldiers were called and mustered into active service by our Territorial executive officers, appointed by the Federal Government, and when no time was given for sending the regular mustering officers on account of the sudden unprovoked acts of marauding and murdering bands of Indians, the acknowledged wards of the Government; and

Whereas the settlers of the border territory, the overland mail, and the emigrants to the Rocky Mountain district were justly entitled to the quickest and fullest protection of the Federal authorities: Be it

Resolved, That our Senators and Representatives in Congress, present and prospective, be requested to renew the best and earliest endeavors of their predecessors to procure the passage of an act similar to the one passed in February, 1895, giving the Missouri State Militia title to pension, etc.; and

Resolved, That the honorable secretary of the State of Nebraska be requested to forward a certified copy of this memorial to each of our Senators and Representatives as soon as possible after its passage and approval, as a bill for the relief of the militia of several border States is in the hands of committee on Federal relations, which ought to include the Nebraska Territorial Militia, whose services were rendered and accepted when the Government did not have sufficient troops for the common defense of our frontier.

I hereby certify that the above is a correct copy of a resolution adopted by the House of Representatives of the Nebraska Legislature on the 28th day of January, 1913.

HENRY C. RICHMOND, *Chief Clerk.*

Mr. HITCHCOCK presented a memorial of Local Union No. 107, Farmers' Educational and Cooperative Union, of Elkhorn Valley, Nebr., and a memorial of the Farmers' Educational and Cooperative Union of Dodge County, Nebr., remonstrating against the adoption of the so-called Aldrich currency plan, which were referred to the Committee on Finance.

He also presented memorials of the congregations of the Seventh-day Adventist Churches of Loup City, Omaha, and Brock, all in the State of Nebraska, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. JOHNSON of Maine presented memorials of the congregations of the Seventh-day Adventist Churches of Lewiston, Portland, Dyer Brook, Crouseville, and South Woodstock, all in the State of Maine, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. JONES presented a resolution adopted by members of the King County Democratic Club of Seattle, Wash., favoring the recognition of the Republic of China by the United States, which was referred to the Committee on Foreign Relations.

Mr. GAMBLE presented a joint resolution adopted by the Legislature of South Dakota, favoring the adoption of certain amendments to the homestead law, which was referred to the Committee on Public Lands.

He also presented a joint resolution adopted by the Legislature of South Dakota, favoring a revision of the existing rules regulating the leasing of allotted Indians lands, etc., which was referred to the Committee on Indian Affairs.

Mr. GRONNA presented a memorial of the congregation of the Seventh-day Adventist Church of Stanley, N. Dak., and a memorial of the congregation of the Seventh-day Adventist Church of Newhome, N. Dak., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. PAGE. I present a joint resolution passed by the Legislature of Vermont, which I ask may be printed in the RECORD and referred to the Committee on the Judiciary.

There being no objection, the joint resolution was referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Joint resolution making application to Congress under the provisions of Article V of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited.

Whereas it appears from investigation recently made by the Senate of the United States, and otherwise, that polygamy still exists in certain places in the United States, notwithstanding prohibitory statutes enacted by the several States thereof; and

Whereas the practice of polygamy is generally condemned by the people of the United States and there is a demand for the more effectual prohibition thereof by placing the subject under Federal jurisdiction and control, at the same time reserving to each State the right to make and enforce its own laws relating to marriage and divorce: Now therefore

Resolved by the senate and house of representatives, That the application be made, and hereby is made, to Congress, under the provisions of Article V, of the Constitution of the United States, for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited, and Congress shall be given power to enforce such prohibition by appropriate legislation.

Resolved, That the legislatures of all other States of the United States now in session or when next convened be, and they hereby are, respectfully requested to join in this application by the adoption of this or an equivalent resolution.

Resolved further, That the secretary of state be, and he hereby is, directed to transmit copies of this application to the Senate and House of Representatives of the United States, and to the several Members of said bodies representing this State therein; also, to transmit copies hereof to the legislatures of all other States of the United States.

FRANK E. HOWE,
President of the Senate.
CHARLES A. PLUMLEY,
Speaker of the House of Representatives.

Approved December 18, 1912.

ALLEN M. FLETCHER, *Governor.*

STATE OF VERMONT,
OFFICE OF THE SECRETARY OF STATE.

I hereby certify that the foregoing is a true copy of a joint resolution making application to Congress, under the provision of Article V of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States, whereby polygamy and polygamous cohabitation shall be prohibited, approved December 18, 1912, as appears by the files and records of this office.

Witness my signature and the seal of this office, at Montpelier, this 10th day of January, 1913.

[SEAL.] GUY W. BAILEY,
Secretary of State.

Mr. SIMMONS. I have in my hand a joint resolution of the Legislature of North Carolina ratifying the seventeenth amendment to the Constitution of the United States, providing for the election of United States Senators by the people. North Carolina was the first State to ratify the amendment, and as the resolution directs that a copy of it shall be sent to the two Houses of Congress, I ask that this resolution lie on the table and be printed in the RECORD.

There being no objection, the joint resolution was ordered to lie on the table and to be printed in the RECORD, as follows:

Joint resolution ratifying the seventeenth amendment to the Constitution of the United States.

Whereas both the Houses of the Sixty-second Congress of the United States of America, at its second session, by a constitutional majority of two-thirds thereof, made the following proposition to amend the Constitution of the United States of America, in the following words, to wit:

"*Resolved that the Senate and the House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That in lieu of the first paragraph of section

3 of Article I of the Constitution of the United States, and in lieu of so much of paragraph 2 of the same section as relates to the filling of vacancies, the following be proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States:

"The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

"When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

"This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution."

Therefore be it

Resolved by the Senate and House of Representatives of the State of North Carolina, That the said proposed amendment to the Constitution of the United States be, and the same is hereby, ratified by the General Assembly of the State of North Carolina; and further be it

Resolved, That certified copies of this joint resolution be forwarded by the governor of this State to the Secretary of State at Washington and the presiding officers of each House of the National Congress.

In the general assembly, read three times, and ratified this 25th day of January, 1913.

E. L. DAUGHTRIDGE,
President of the Senate.
GEO. W. CONNOR,
Speaker of the House of Representatives.

Examined and found correct.

A. L. MARTIN, *of Cherokee, for Committee.*

STATE OF NORTH CAROLINA, DEPARTMENT OF STATE.
Raleigh, January 25, 1913.

I, J. Bryan Grimes, secretary of state of the State of North Carolina, do hereby certify the foregoing and attached (three sheets) to be a true copy from the records of this office.

In witness whereof, I have hereunto set my hand and affixed my official seal.

Done in office at Raleigh, this 25th day of January, A. D. 1913.

[SEAL.] J. BRYAN GRIMES,
Secretary of State.

REPORTS OF COMMITTEES.

Mr. CURTIS, from the Committee on the District of Columbia, to which was recommitted the bill (H. R. 19236) to regulate the practice of osteopathy in the District of Columbia, reported it with amendments and submitted a report (No. 1175) thereon.

He also, from the Committee on Pensions, to which was referred the bill (H. R. 27806) granting a pension to Mary MacArthur, reported it without amendment and submitted a report (No. 1176) thereon.

He also, from the same committee, to which was referred the bill (H. R. 3967) granting an increase of pension to John R. Fugill, reported it without amendment and submitted a report (No. 1177) thereon.

Mr. FLETCHER, from the Committee on Public Health and National Quarantine, to which was referred the bill (S. 7722) to promote the efficiency of the Public Health Service, reported it without amendment and submitted a report (No. 1178) thereon.

Mr. BOURNE, from the Committee on Post Offices and Post Roads, to which was referred the bill (S. 7467) for the relief of George H. Grace, asked to be discharged from its further consideration and that it be referred to the Committee on Claims, which was agreed to.

Mr. CLAPP, from the Committee on Indian Affairs, to which was referred the bill (S. 8077) for the relief of the Turtle Mountain Chippewa Indians, and for other purposes, asked to be discharged from its further consideration and that it be referred to the Committee on Public Lands, which was agreed to.

APPOINTMENT OF GENERAL COURTS-MARTIAL.

Mr. DU PONT. From the Committee on Military Affairs I report favorably, with an amendment, the bill (S. 8272) regulating the appointment of general courts-martial in the Armies of the United States, including all persons belonging thereto and all persons now or hereafter made subject to military law, and I submit a report (No. 1182) thereon. I ask unanimous consent for the present consideration of the bill. I trust that there may be no objection made, for the reason that the legislation embodied in it has been and is most urgently and pressingly needed for the proper discipline and efficiency of the Army.

The PRESIDENT pro tempore. The Senator from Delaware makes a report from the Committee on Military Affairs. The matter is not in order for debate unless permission for the present consideration of the bill is granted, and the question has not yet been submitted to the Senate.

Mr. DU PONT. Mr. President, the few words I am going to say are of an explanatory nature.

The PRESIDENT pro tempore. Without objection, the Senator will proceed.

Mr. DU PONT. I repeat that the few remarks I am going to make are simply of an explanatory nature, so that Senators may understand the importance of the measure. The administration of military justice is seriously hampered by certain provisions of existing laws which were framed many years ago and are entirely out of touch with present conditions.

In the first place, the delays incident to trials by general courts-martial are excessive. The report of the Judge Advocate General for the past year shows that the average period between the preferment of charges and the official announcement of acquittal or conviction is nearly seven weeks, and, this being the average period, it goes without saying that in very many cases the time is as long as three or four months; during which period, if officers, the accused remain in arrest, and, if enlisted men, in confinement, and in either case are unable in consequence to perform their appropriate military duties. This is a very poor showing, as the fundamental principle of a code of military punishment is the enforcement of prompt obedience by prompt punishment.

Another consideration, perhaps even more important, is that whenever troops are assembled in any considerable numbers, under existing conditions, for instruction or other purposes, there is no provision of law by which military offenses can be punished, and I can best illustrate this by citing the state of things which existed when a division of troops was assembled on the Mexican frontier about a year ago. The commander of that division had no authority to convene a general court-martial for the trial of offenders, and discipline could only be preserved by the convening of general courts-martial under the fiction of law, by one of his subordinate officers who happened to be in command of the Department of Texas.

The Military Committee has made careful examination into this state of affairs and believes that it is imperative that some legislation should be passed at once to promote the proper discipline and efficiency of the Army; and I am informed that the House Committee on Military Affairs has already examined and approved of the legislation embodied in this bill in connection with the proposed revision of the Articles of War. I hope, therefore, that it may pass the Senate, to the end that it may be incorporated in the Army appropriation bill and put into effect on the 1st of July next.

It is to be observed that the greater part of the provisions embodied in the bill are those now on the statute book. The changes proposed enable general courts-martial to be convened with greater facility and promptitude, as well as to more effectively guard the rights of the accused, both of which considerations are of the highest importance. The special courts-martial herein provided for take the place of the old garrison and regimental courts-martial, with authority to impose sentences of somewhat more severity, which will enable these tribunals to deal with many offenses which heretofore had to be brought before general courts-martial, and will greatly expedite the administration of military justice. The provisions in regard to summary courts-martial are practically those which are now on the statute book, with one proviso, which is believed to be more just to the enlisted men who are brought before these courts.

In this connection I will send to the Secretary's desk, and ask that it be read, a communication to the Secretary of War from nearly all of the general officers of the Army enlarging upon the necessities of the prompt passage of the legislation referred to.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read the letter, as follows:

WASHINGTON, *January 13, 1913.*

The SECRETARY OF WAR.

SIR: In response to your verbal request for an expression of opinion upon the "proposed new articles of war," now being considered by Congress with a view to their enactment into law as a military code for the armies of the United States, we, the undersigned general officers of the Army, after a deliberate study of the proposed new articles, are pleased to state as follows:

1. That we, and we believe all other older officers of the Army, have long been impressed with the fact that the present Articles of War are archaic in character, ill adapted to the prompt and efficient administration of military justice in the Army under modern service conditions, and therefore badly in need of revision.

2. That we consider the revision of present articles, as set forth in the "proposed new articles," has been thoroughly and carefully made, obsolete articles in the present code having been omitted, the remaining articles carefully revised, new and badly needed articles added, and the whole so systematically and scientifically arranged as to form a military code admirably adapted to the needs of military justice both in peace and in war in the Army not only as at present organized but also under the proposed reorganization.

3. That we are therefore of the opinion that the "proposed new articles of war" are in every way a great and a much-needed improvement upon the present articles, and that the sooner they are enacted

into how the better it will be for the interests of prompt and efficient administration of military justice in the Army.

Arthur Murray, major general, United States Army; Thomas H. Barry, major general, United States Army; Wm. H. Carter, major general, United States Army; Tasker H. Bliss, brigadier general, United States Army; E. Z. Steever, brigadier general, United States Army; R. K. Evans, brigadier general, United States Army; C. R. Edwards, brigadier general, United States Army; Fred. A. Smith, brigadier general, United States Army; R. W. Hoyt, brigadier general, United States Army; W. S. Schuyler, brigadier general, United States Army; M. M. Macomb, brigadier general, United States Army; Marion P. Maus, brigadier general, United States Army.

Mr. JOHNSTON of Alabama. Mr. President, I only desire to say at this time that I heartily concur with the chairman of the committee [Mr. DU PONT] that this proposed legislation is of great importance to the administration of the affairs of the Army. Especially has the measure commended itself to those of us who have seen service in either of the armies during the Civil War.

The PRESIDENT pro tempore. From the Committee on Military Affairs the Senator from Delaware reports Senate bill 8272, and asks unanimous consent for its present consideration. The Secretary will read the bill for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment of the Committee on Military Affairs was to strike out all after the enacting clause and insert:

That courts-martial shall be of three kinds, namely: First, general courts-martial; second, special courts-martial; and third, summary courts-martial.

SEC. 2. General courts-martial may consist of any number of officers from 5 to 13, inclusive.

SEC. 3. Special courts-martial may consist of any number of officers from three to five, inclusive.

SEC. 4. A summary court-martial shall consist of one officer.

SEC. 5. The President of the United States, the commanding officer of a territorial division or department, the Superintendent of the Military Academy, the commanding officer of an army, a field army, an army corps, a division, or a separate brigade, and, when empowered by the President, the commanding officer of any district or of any force or body of troops, may appoint general courts-martial whenever necessary; but when any such commander is the accuser or the prosecutor of the person or persons to be tried, the court shall be appointed by superior competent authority, and no officer shall be eligible to sit as a member of such court when he is the accuser or a witness for the prosecution.

SEC. 6. The commanding officer of a district, garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a brigade, regiment, detached battalion, or other detached command, may appoint special courts-martial for his command; but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable, and no officer shall be eligible to sit as a member of such court when he is the accuser or a witness for the prosecution.

SEC. 7. The commanding officer of a garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a regiment, detached battalion, detached company, or other detachment may appoint summary courts-martial for his command; but such summary courts-martial may in any case be appointed by superior authority when by the latter deemed desirable: *Provided*, That when but one officer is present with a command he shall be the summary court-martial of that command and shall hear and determine cases brought before him.

SEC. 8. General courts-martial shall have power to try any person subject to military law for any crime or offense made punishable by the Articles of War, and any other person who by statute or by the law of war is subject to trial by military tribunals: *Provided*, That no officer shall be brought to trial before a general court-martial appointed by the Superintendent of the Military Academy.

SEC. 9. Special courts-martial shall have power to try any person subject to military law, except an officer, for any crime or offense not capital made punishable by the Articles of War: *Provided*, That the President may by regulations, which he may modify from time to time, except from the jurisdiction of special courts-martial any class or classes of persons subject to military law.

Special courts-martial shall have power to adjudge punishment not to exceed confinement at hard labor for six months or forfeiture of six months' pay, or both, and in addition thereto reduction to the ranks in the cases of noncommissioned officers, and reduction in classification in the cases of first-class privates.

SEC. 10. Summary courts-martial shall have power to try any soldier, except one who is holding the privileges of a certificate of eligibility to promotion, for any crime or offense not capital made punishable by the Articles of War: *Provided*, That noncommissioned officers shall not, if they object thereto, be brought to trial before a summary court-martial without the authority of the officer competent to bring them to trial before a general court-martial.

Summary courts-martial shall have power to adjudge punishment not to exceed confinement at hard labor for three months or forfeiture of three months' pay, or both, and in addition thereto reduction to the ranks in the cases of noncommissioned officers and reduction in classification in the cases of first-class privates: *Provided*, That when the summary-court officer is also commanding officer no sentence of such summary court-martial adjudging confinement at hard labor or forfeiture of pay, or both, for a period in excess of one month, shall be carried into execution until the same shall have been approved by superior authority.

SEC. 11. Articles 72, 73, 75, 81, 82, and 83 of section 1342 of the Revised Statutes; the first section of an act entitled "An act to promote the administration of justice in the Army," approved October 1, 1890, as amended by the first section of an act approved June 18, 1898 (30 Stat., 483, 484), are hereby repealed.

SEC. 12. That this act shall take effect on July 1, 1913.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill regulating the constitution, composition, and jurisdiction of courts-martial in the armies of the United States, and for other purposes."

UNITED STATES ATTORNEY FOR DISTRICT OF CONNECTICUT.

Mr. BRANDEGEE. From the Committee on the Judiciary I report favorably, with an amendment, the bill (S. 8058) providing for an increase of salary of the United States attorney for the district of Connecticut, and I submit a report (No. 1179) thereon. I ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Connecticut?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment of the Committee on the Judiciary was, in line 5, after the words "rate of," to strike out "$5,000" and insert "$3,500," so as to make the bill read:

Be it enacted, etc., That from and after the passage of this act the salary of the United States attorney for the district of Connecticut shall be at the rate of $3,500 a year.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LAWS RELATING TO ALASKA.

Mr. SMOOT. From the Committee on Printing I report with amendments Senate concurrent resolution No. 38, to print the laws of the United States applicable to the Territory of Alaska. I ask unanimous consent for the present consideration of the resolution.

The amendments were, in line 2, before the word "thousand," to insert "four"; in line 7, before the word "copies," to strike out "thousand" and insert "1,500"; in line 8, before the word "copies," to strike out "thousand" and insert "and 2,500"; and in line 9, after the words "House of Representatives," to strike out "and ——— copies for each of the Committees on Territories of the Senate and the House of Representatives," so as to make the concurrent resolution read:

Resolved by the Senate (the House of Representatives concurring), That there be printed 4,000 copies of the laws of the United States applicable to the Territory of Alaska, compiled by the Committee on Territories of the Senate and the Committee on Territories of the House of Representatives in compliance with Public Act No. 334, 1,500 copies of which shall be for the use of the Senate and 2,500 copies for the use of the House of Representatives.

The amendments were agreed to.

The concurrent resolution as amended was agreed to.

SEIZURES OF COTTON.

Mr. SUTHERLAND. From the Committee on the Judiciary I report back favorably without amendment the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, and I submit a report (No. 1181) thereon. I ask for the present consideration of the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill? The Chair hears none.

Mr. SUTHERLAND. The bill which I send to the desk is a House print, and the motion in italics should be read as part of the bill. The Senate committee has submitted no amendments.

The PRESIDENT pro tempore. The Chair would suggest to the Senator that according to the recognized practice of the Senate it is necessary that it should be the Senate print.

Mr. SUTHERLAND. It has been printed; but the clerk, by mistake, sent me the wrong print.

The PRESIDENT pro tempore. It can be read, if the Senator desires.

The Secretary read the bill, as follows:

Be it enacted, etc., That section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, be amended so as to read as follows:

"SEC. 162. The Court of Claims shall have jurisdiction of any claim therefor filed prior to January 1, 1915, of those whose property was taken subsequent to June 1, 1865, under the provisions of the act of Congress approved March 12, 1863, entitled 'An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States,' and acts amendatory thereof where the property so taken was sold and the net proceeds thereof were placed in the Treasury of the United States; and the Secretary of the Treasury shall return said net proceeds to the owners thereof, on the judgment of said court, and full jurisdiction is given to said court to adjudge said claims, any statutes of limitations to the contrary notwithstanding: *Provided*, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims."

Mr. CRAWFORD. I shall be obliged to ask to have the bill go over.

Mr. SUTHERLAND. I think the Senator from South Dakota will not ask that, if he will allow me to make a very brief statement in regard to the measure.

The PRESIDENT pro tempore. Without objection, the Senator from Utah will proceed.

Mr. SUTHERLAND. The only change the bill proposes to make in existing law is to add the proviso which dispenses with the allegation and proof of loyalty in this particular class of claims. These are claims that originated after the close of the war, as a result of the seizure of certain cotton by the Government of the United States. The general rule stated by the statute is that in the case of claims brought in the Court of Claims there shall be an allegation and proof of loyalty; but it occurred to the House, which passed the bill, and to the Senate Committee on the Judiciary, which considered it, that that ought to be dispensed with in cases of this kind, where the seizure was made and the claim arose after the conclusion of the war.

Mr. CRAWFORD. I should like to ask the Senator if the limitation as to time, 1915, is the present law?

Mr. SUTHERLAND. No. That, however, is a limitation upon the existing law and not an extension of it, because under the existing law no time is fixed within which the claims are to be presented, and this limits their presentation to the time stated, 1915.

Mr. CRAWFORD. In the omnibus claims bill we inserted a provision that barred the sending of these war claims to the Court of Claims upon the passage of the bill.

Mr. OVERMAN. If I may interrupt the Senator, these are cases that do not come to Congress at all. They are presented under the general provision that allows a person to go to the Court of Claims if he has a claim of this sort. They will never come before Congress.

Mr. CRAWFORD. What class of claims are they?

Mr. OVERMAN. They are claims where cotton was seized as abandoned property after June 1, 1865, the proceeds of the sale of which, the Supreme Court of the United States held, have been held in the Treasury as a trust fund, as after Lincoln's and Johnson's proclamations everybody was loyal.

Mr. CRAWFORD. Then this is a class of cases where the money is actually in the United States Treasury?

Mr. SUTHERLAND. Precisely.

Mr. OVERMAN. Exactly.

Mr. SUTHERLAND. The money is in the Treasury.

Mr. OVERMAN. We do not have to give any authority to the claimants to go to the Court of Claims.

Mr. CRAWFORD. It is not a class of claims that comes to Congress, then?

Mr. SUTHERLAND. Not at all. I thought the Senator did not realize that these claims are not of that class.

Mr. SMOOT. I should like to ask the Senator if they are not claims, however, that have been before the Claims Committee for many, many years past?

Mr. OVERMAN. Claims of this sort have been before Congress; but the Senator will remember a few years ago Congress passed a general statute allowing anybody having a claim of this sort to go directly to the Court of Claims, and this is intended to remove the necessity for pleading and establishing loyalty. It will allow anyone who has a just claim to go before the Court of Claims.

The Senator will remember that I had published a list of the claims where the property seized was held by the person as the bailee for the Southern Confederacy. That was done to keep anybody from going to the Court of Claims in such a case, because where it was held by him as bailee for the Southern Confederacy of course he could not recover.

Any person who has a just claim arising after June 1, 1865, for property seized after that date, of course under Lincoln's and Johnson's amnesty proclamations, is not required to prove loyalty. But in the statute the words were not sufficient, and the court has held that they must plead loyalty. This bill removes that bar. It has twice passed the House of Representatives unanimously.

Mr. SMOOT. Does the bill apply simply to the $4,000,000 held in the Treasury?

Mr. OVERMAN. It will not be $4,000,000; it will not be $1,000,000. It covers all those claims where property was seized after June 1, 1865, in the hands of an owner who had been pardoned by Abraham Lincoln and Andrew Johnson. That is the truth about it.

Mr. SUTHERLAND. It applies to the fund of $4,000,000, which will not be increased.

Mr. OVERMAN. It applies to that fund. It will not be one-third of it or one-fourth of it or one-fifth of it.

Mr. JOHNSTON of Alabama. I ought to say to the Senator from Utah that there is a contention that a good deal of the cotton had been previously sold to the Confederate Government. That, of course, is an issue that is not involved in this bill at all. The Government claimed, of course, that where the original owner had sold the cotton to the Confederate Government he could not then claim compensation for it from the United States. But that does not apply to these cases where the cotton was sold, and the name of the claimant reported to the Government, and the money placed in the Treasury. It merely allows the real owners at the time of the seizure to put in their claim.

Mr. OVERMAN. The bill simply removes that bar of disloyalty.

Mr. SMOOT. Do I understand the Senator to mean to say that if a man was disloyal before the 1st of June, 1865, and was the owner of the cotton, and after June 1, 1865, it was taken by the Government of the United States, the bill removes that bar of disloyalty?

Mr. OVERMAN. It does. Of course, they were all disloyal prior to April, 1865, but then when Lincoln and Johnson issued their amnesty proclamations and they were received back into the Union they were loyal citizens, and the Supreme Court in the Klein case—Thirteenth Wallace—has already held that they were loyal.

Mr. SMOOT. Does the bill provide any way to take care of cases, like many that I believe exist, where the Southern Confederacy had taken the cotton but it was held in the hands of private individuals?

Mr. OVERMAN. It does not affect that class of cases. In these cases the Government gave a receipt and the fund was placed in the Treasury.

Mr. SMOOT. The pending bill does not touch that class of claims.

Mr. OVERMAN. It does not touch any claim except where the person was the real bona fide owner of the cotton after June, 1865, where the cotton was seized and the money put into the Treasury and held in trust; and the Supreme Court has said twice that it is a trust fund.

Mr. SUTHERLAND. It simply applies to this one class of claims.

Mr. CLARKE of Arkansas. Mr. President, I was on the committee that framed the code of which that provision is one of the sections. The purpose of it was to remove the bar of the statute of limitations. For six years after 1869, I think it was, the owners of this cotton had the right to go before what was known as the Southern Claims Commission to assert their ownership. The cotton was taken under the authority of an act of Congress known as the captured and abandoned property act, which was subsequently held to be unconstitutional by the Supreme Court. The result of that action of the Supreme Court was to leave no authority whatever for the seizure of the cotton. It left the taking wholly unauthorized. The question of loyalty or disloyalty had nothing to do with it. The special agents of the Government found a number of persons in the South in possession of cotton, and seized it under the supposed authority of the act of Congress which was afterwards decided to be invalid.

This bill is intended to so change the law as to give a cause of action to those whose property was thus taken and afterwards sold and the proceeds placed in the Treasury to the credit of the persons in whose possession it was at the time of seizure. It does not propose to enlarge the provisions of law so as to create a cause of action in favor of those whose cotton was taken and sold and the proceeds not placed in the Treasury. This latter class of taking constitutes about 50 per cent of the cotton that was taken under the authority of that supposed act. A very limited part of the seizures made under the authority of that act resulted in the proceeds being actually placed in the Treasury. The entire fund now in the Treasury and subject to be claimed under the provisions of this bill, I think, represents less than $4,000,000.

Before the owners of the cotton were advised by the claim agents, who stir up such things as this, that they were the owners of this money and there was a cause of action in their favor for its recovery, the statute of limitations had in many cases run against the claims. Thus the matter stood for some 25 years, until we incorporated certain provisions in the new code of practice in that chapter relating to the organization and jurisdiction of the courts of the United States. In dealing with that part of the chapter which related to the practice and jurisdiction of the Court of Claims it was thought to be an appropriate place to insert a provision of this kind. The effect of the passage of this act will be, therefore, to renew, in favor of those who owned the cotton at the time of seizure, provided this took place after the 1st of June, 1865, a cause of action, and their recovery in such a proceeding is limited to the funds that are now on deposit in the Treasury of the United States to the credit of that particular claimant. It does not enlarge, as I said before, the scope of the proceeding so as to include those whose property was seized and the proceeds thereof never accounted for in the form of a deposit in the Treasury.

I think that this provision for dispensing with proof of loyalty of the claimant, now sought to be incorporated in the law, was taken for granted when we framed the code. The Court of Claims has recently worked out the result, though, that another provision of the law which related to claims for damages

to property seized and destroyed during the war should apply, and that in this class of cases it should be a condition precedent that the owner should be able to show that he was loyal at the date of the taking.

This class of claims is to be differentiated altogether from that class of claims, because the seizure in these cases was made after the war had ceased, and whether the owners of the cotton seized were disloyal or loyal, the agents of the Government were not entitled to seize it, because it was not the policy of the victorious army nor the Government of the United States to take from the vanquished in the Civil War such property as they rightfully owned in their individual right.

Therefore I say I think there is no great mystery about the matter when it is somewhat well understood, as it can be well understood by a very short examination.

It is now sought to introduce a limitation of time, which, in my opinion, is wholly unnecessary, since there is a limitation of the amount and identity of fund to be recovered. The right of action is confined to those who have money on deposit in the Treasury and which fact is shown by the public record. If that provision limiting the time for presenting claims to January 1, 1915, is inserted now, it will be necessary to change it again if some claim agent at any time after 1915 shall discover that some one has not presented his claim. But the question of loyalty was a minor one, and really ought not to arise in the controversy, because the fact is that this was property taken from private custody and after the war ceased.

Mr. CRAWFORD. Mr. President, the fact that this report was just handed in this morning and has not been printed, and these claims may have relation in some form—I am not sure that they do or do not—to other claims, or may establish some precedent with reference to the extension of time that is serious, I feel disposed to insist that the matter shall go over until the report is printed. It can not delay the measure much, and I think it is a better procedure than to act immediately upon these reports without having them printed and having an opportunity to examine them.

Mr. CLARKE of Arkansas. If the matter goes over under that objection, I trust the Senator from South Dakota will look into it also with a view to inserting a provision affirmatively, if not there now, that will prevent a recovery for cotton that was sold to the Confederate Government and subsequently seized by other persons under some claim that it had been abandoned by the Confederacy and that these therefore became entitled to it by mere act of taking it. I should limit the relief to persons whose cotton was taken from them personally and from their ownership. There exist many claims growing out of the seizure of cotton that was bought by the Confederate Government and because of inadequate transportation facilities was not shipped to the centers where it was converted into money or supplies by the Confederate Government. There are doubtless a number of persons who have that sort of pretended title and who may come in under this bill with claims unless specifically excluded. I do not think there is anything in the bill that includes what the Senator from South Dakota has in mind, and it is a feature worthy of adoption.

Mr. OVERMAN. The courts have held in numerous cases that they can not recover.

Mr. CLARKE of Arkansas. This is a general act giving to everybody the right, but I think it ought to be limited.

Mr. OVERMAN. If the Senator from South Dakota desires that the bill may go over I have no objection to that. I am satisfied if he will examine it he will favor it.

The PRESIDENT pro tempore. Without objection, the bill will go over.

STANLEY MITCHELL.

Mr. SWANSON. From the Committee on Naval Affairs I report back favorably without amendment the bill (S. 7622) for the relief of Stanley Mitchell (S. Rept. 1180). I call the attention of the junior Senator from North Carolina [Mr. OVERMAN], who introduced the bill, to this report.

Mr. OVERMAN. I ask unanimous consent for the consideration of the bill. It will take only a minute.

Mr. GALLINGER. Let it be read for the information of the Senate.

Mr. JONES. I think it should be read before the question of consideration is put.

The PRESIDENT pro tempore. The bill will be read.

The Secretary read the bill, as follows:

Be it enacted, etc., That the President be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, appoint Stanley Mitchell, midshipman, United States Navy, an ensign in the United States Navy, and place him upon the retired list as such with three-quarters pay of his grade: *Provided*, That the said Stanley Mitchell shall not, by the passage of this act, be entitled to back pay or allowances.

Mr. GALLINGER. I should like to have a brief statement made concerning this matter. It is a little irregular.

Mr. OVERMAN. This man was a cadet at Annapolis. He stood his mental examination for graduation and stood very high in his class, but failed on the physical examination, on account of tuberculosis. Three doctors and the Army surgeon said he had contracted the disease while a student at Annapolis.

Mr. GALLINGER. I am now reminded of the fact. I am familiar with the case, and I think it is a very just one.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LA FOLLETTE:

A bill (S. 8337) to create a legislative drafting bureau and to establish a legislative reference division of the Library of Congress; to the Committee on the Library.

By Mr. McCUMBER:

A bill (S. 8338) granting an increase of pension to Caleb E. Stewart; to the Committee on Pensions.

By Mr. KENYON:

A bill (S. 8339) to remove the charge of desertion from the military record of William M. Carroll; and

A bill (S. 8340) for the relief of John W. Terry; to the Committee on Military Affairs.

A bill (S. 8341) granting an increase of pension to R. C. Jones; and

A bill (S. 8342) granting an increase of pension to John C. Steeves; to the Committee on Pensions.

By Mr. PERKY:

A bill (S. 8343) granting an increase of pension to William Oliver (with accompanying papers); and

A bill (S. 8344) granting a pension to Walter L. Hammond; to the Committee on Pensions.

By Mr. ASHURST:

A bill (S. 8345) granting an honorable discharge to Ustacio B. Davison (with accompanying papers); to the Committee on Military Affairs.

By Mr. CRAWFORD:

A bill (S. 8346) granting to the counties of Aurora and Brule, in the State of South Dakota, the title to lands situated therein which lie within the meandered lines defining beds of lakes; to the Committee on Public Lands.

By Mr. BURTON:

A bill (S. 8347) granting a pension to Allen Landis (with accompanying papers); to the Committee on Pensions.

By Mr. THORNTON:

A bill (S. 8348) waiving the age limit for admission to the Pay Corps of the United States Navy in the case of Minor Meriwether, jr.; to the Committee on Naval Affairs.

By Mr. GUGGENHEIM:

A bill (S. 8349) for the relief of the heirs of Frederick T. Dent; to the Committee on Claims.

By Mr. JONES:

A bill (S. 8350) granting a pension to Mabel F. Coen; to the Committee on Pensions.

By Mr. BURNHAM:

A bill (S. 8351) granting an increase of pension to Daniel W. Eaton; and

A bill (S. 8352) granting an increase of pension to Elijah C. Lawrence; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8353) granting an increase of pension to Lucy A. Bradley (with accompanying papers);

A bill (S. 8354) granting an increase of pension to David Burns (with accompanying papers); and

A bill (S. 8355) granting an increase of pension to Elizabeth Fogg (with accompanying papers); to the Committee on Pensions.

By Mr. GUGGENHEIM:

A bill (S. 8356) for the enrollment of Tilla A. Provost and Harold Provost, Nebraska Winnebago Indians, and for making an allotment to Tilla A. Provost; to the Committee on Indian Affairs.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. O'GORMAN submitted an amendment proposing to appropriate $250,000 for improving the Harlem River Ship Canal for rectification of the bend between the Hudson River and Broadway, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. SUTHERLAND submitted an amendment proposing that the words "civil-service employees" used in section 4 of the act of June 30, 1913, be declared to extend to and include all employees in the unclassified service under the jurisdiction of the War Department, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. McCUMBER submitted an amendment relative to the rank of petty officers, noncommissioned officers, and enlisted men of the United States Navy and Marine Corps on the retired list who had creditable Civil War service, etc., intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

He also submitted an amendment relative to the rank of petty officers, noncommissioned officers, and enlisted men of the Army on the retired list who had creditable Civil War service in the Regular or Volunteer forces prior to April 9, 1865, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $8,500 for the improvement of Macomb Street NW., from Thirty-third Street to Thirty-sixth Street, intended to be proposed by him to the District of Columbia appropriation bill, which was ordered to be printed and, with the accompanying papers, referred to the Committee on Appropriations.

Mr. CLAPP (by request) submitted an amendment proposing to appropriate $2,000 for the opening and improvement of Eighteenth Street, between Minnesota Avenue and Good Hope Road SE., intended to be proposed by him to the District of Columbia appropriation bill, which was ordered to be printed and, with the accompanying paper, referred to the Committee on Appropriations.

Mr. FLETCHER submitted an amendment proposing to appropriate $75,000 for an inland waterway from Pensacola Bay through Bay La Launch to the western shore of Wolf Bay, Fla. and Ala., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment providing for an inland waterway from Wolf Bay to Mobile Bay, Ala., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. BRANDEGEE submitted an amendment proposing to appropriate $400 for the expenses of the jury commission of the District of Columbia, etc., intended to be proposed by him to the District of Columbia appropriation bill, which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Appropriations.

Mr. LODGE submitted an amendment proposing to appropriate $25,000 to meet the expenses incident to holding an international shooting competition at Camp Perry, Ohio, in cooperation with the Perry Victory Centennial celebration to be held in September, 1913, etc., intended to be proposed by him to the Army appropriation bill, which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. SIMMONS submitted an amendment proposing to appropriate $1,100,000 for the construction of a harbor of refuge at Cape Lookout, N. C., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. CRAWFORD submitted an amendment proposing to appropriate $75,000 for such bank revetment above Elk Point, on the Missouri River, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $5,000 for expenses of exploration in the steppe regions of western Siberia for specimens and seeds of yellow-flowered hardy alfalfa for use in experimental tests, etc., intended to be proposed by him to the Agriculture appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. CURTIS submitted an amendment proposing to appropriate $85 to pay A. L. Robb, of Atchison, Kans., for extra services as mail carrier, intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

Mr. BOURNE presented an amendment proposing to appropriate $100,000 for improving Tillamook Bay and Bar, Oreg., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment providing for the survey of Nehalem Bay and River, Oreg., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to increase the appropriation for improving the Columbia River between the foot of The Dalles Rapids and the head of Celilo Falls, Oreg. and Wash., from $600,000 to $1,200,000, intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment providing for the improvement of the harbor at Coos Bay, Oreg., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to increase the appropriation for improving the Willamette and Yamhi. Rivers, Oreg., from $30,000 to $40,000, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

CONNECTICUT RIVER DAM.

Mr. BORAH. I submit an amendment intended to be proposed by me to the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut, which I ask may be read and lie on the table.

There being no objection, the amendment was read and ordered to lie on the table, as follows:

Amendment intended to be proposed by Mr. BORAH to the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut, to wit:

Insert a new section, to be known as section 6, as follows:

"SEC. 6. That no part of the cost or expense incurred or sustained in locating, constructing, building, or maintaining any dam located, constructed, built, or maintained under the act of June 17, 1902, entitled 'An act appropriating the receipt from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands,' shall be charged against the entrymen or settlers taking up lands upon such reclamation projects, but all and the entire of such cost or expense shall be borne by the Government and paid out of the Treasury of the United States, out of any money not otherwise appropriated, and any charges heretofore made against settlers or entrymen for the locating, constructing, building, or maintaining of any such dam or dams shall be deducted and taken out of any amounts yet due and unpaid to the Government by and upon the part of such entrymen or settlers."

SEC. 2. Renumber section 6 as section 7.

WITHDRAWAL OF PAPERS—JOHN CARR.

On motion of Mr. CURTIS, it was

Ordered, That the papers accompanying the bill (S. 6551) granting a pension to John Carr, Company D, One hundred and sixteenth Regiment Illinois Volunteer Infantry, be withdrawn from the files of the Senate, no adverse report having been made upon the same.

EMPLOYMENT OF STENOGRAPHER.

Mr. BRISTOW submitted the following resolution (S. Res. 446), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay for a stenographer to a Senator who is not chairman of a committee, at $1,200 per annum, from February 3, 1913, to be paid from the contingent fund of the Senate until the expiration of the present Congress.

COUNTING OF ELECTORAL VOTE.

Mr. DILLINGHAM. I submit the following resolution, for which I ask present consideration.

The resolution was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the tellers on the part of the Senate authorized by the concurrent resolution of the two Houses relating to the counting of the electoral vote for President and Vice President of the United States be appointed by the President pro tempore.

The PRESIDENT pro tempore. Under the resolution just adopted by the Senate, the Chair appoints the Senator from Vermont [Mr. DILLINGHAM] and the Senator from New Jersey [Mr MARTINE] tellers on the part of the Senate.

INTERSTATE SHIPMENT OF LIQUORS (S. DOC. NO. 1060).

Mr. GRONNA. I have a pamphlet, being a brief on the so-called Kenyon interstate liquor shipment bill. I ask that the pamphlet be printed as a Senate document.

The PRESIDENT pro tempore. Without objection it is so ordered.

STANDING ROCK INDIAN RESERVATION.

Mr. CLAPP. I present a conference report, and as it is very brief I ask unanimous consent for its present consideration.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with the following amendments: Page 3 of the amendment, line 21, after the word "said," strike out the word "reservations" and insert in lieu thereof the word "reservation." Page 6 of the amendment, line 4, after the word "entry" strike out the word "six" and insert in lieu thereof the word "five." Page 6 of the amendment, line 8, strike out the first two words of said line, to wit: "Four dollars" and insert in lieu thereof the words "Three dollars and fifty cents," and the House agree to the same.

MOSES E. CLAPP,
PORTER J. MCCUMBER,
HENRY F. ASHURST,
Managers on the part of the Senate.

JOHN H. STEPHENS,
SCOTT FERRIS,
CHARLES H. BURKE,
Managers on the part of the House.

The report was agreed to.

CONNECTICUT RIVER DAM.

Mr. BRANDEGEE. Mr. President, on Saturday last, just before adjournment, I asked unanimous consent for the fixing of a day for the consideration of an important bill on the calendar, authorizing the construction of a dam across the Connecticut River. At the request of the senior Senator from Idaho [Mr. BORAH], the matter was deferred until to-day. I now send to the desk a proposed unanimous-consent agreement relating to that bill, and I ask unanimous consent for its adoption.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent for the adoption of the order which he has sent to the desk, which will be read.

The Secretary read as follows:

It is agreed by unanimous consent that on Thursday, February 6, 1913, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of Senate bill 8033, calendar No. 1001, authorizing the construction of a dam across the Connecticut River, and before adjournment on that legislative day will vote upon any amendment that may be pending, all amendments that may be offered, and upon the bill through regular parliamentary stages to its final disposition.

This agreement shall not interfere with the unanimous-consent agreement entered into on January 11, 1913, concerning Senate bill 4043, to prohibit interstate commerce in intoxicating liquors in certain cases nor with appropriation bills, conference reports, or the consideration of the commemorative resolutions which are on the calendar for Saturday, February 8.

Mr. BORAH. Mr. President, this bill, as I said upon Saturday, is apparently one of local concern only, but, upon examination of the bill, I conceive it to be one of very general concern. I do not want to be placed in the position of opposing the proper consideration of the bill, and I am perfectly willing that the bill shall, for instance, be made the unfinished business, so that it may come up from day to day and we may discuss it; but I do not feel this morning that I am willing to consent, at this late hour in the session, that a bill, which is of vast importance to the country, and to our part of the country particularly, shall be crowded in and considered under the compulsion of a unanimous-consent agreement. If the bill should pass without certain amendments, judging the future by the past, the President would undoubtedly veto the bill, and therefore nothing would be gained. If the bill should pass with certain amendments, then it is the entering wedge, Mr. President, to the establishment of a policy in this country with reference to power sites than which there is no more important subject before the country. Whether I agree with the bill or whether I disagree with it in its present form would make very little difference, for the reason that there is not sufficient time to work out and amplify and make efficient a power-site measure which will be what it ought to be when it is finally adopted. What I object to, however, is the adoption of that which will be cited as a precedent and the initiation of a policy without carrying with it all those things which a policy of that kind should have.

Step by step, rather quietly and inoffensively and modestly, they are fastening upon our part of the country a system which is not entirely agreeable to all parties. While this measure may be a proper one, I think anyone must concede that there are many other things which ought to go with it, and that many things should be done with reference to the matter of conservation on the other side of the question, in order to make conservation something aside from that of reservation. What I want is to take up this whole question and formulate a policy of conservation which will make our natural resources available to the people. As it is now our coal, our power sites, our agricultural lands are locked up, and it does seem to me that we ought to formulate a policy which while conserving these resources against monopoly permits them to be available to the people. I am opposed to this piecemeal, slipshod, incomplete, and ineffective method of dealing with the subject.

Mr. President, just a word further. I am perfectly willing, as I have said, to meet with all those who are in favor of establishing a policy with reference to our water-power sites, such a policy as will prevent their being taken possession of by a few corporations and monopolies; but, at the same time, I should want a policy which would be of some service to the people in the community in which the power sites are established. If we are going to push this bill with these amendments in it, I feel that the entire subject should be fought out and a policy as broad as the country established, because this will be cited as a precedent.

I ask the Senator from Connecticut if he is not willing that this bill should be made the unfinished business, so that we may work out around this proposition a measure commensurate with the importance of the subject with which it deals?

Mr. BRANDEGEE. Mr. President, replying to the suggestion of the Senator from Idaho, I have this to observe: Of course I understand that what he has said is tantamount to an objection if I should persist in the application for unanimous consent to vote on the bill on the legislative day named. Am I not correct?

Mr. BORAH. Permit me to say, Mr. President, that I would say that it is tantamount to that only for to-day. I would have to object to it for to-day for the reason that the Senator from Colorado [Mr. THOMAS], who is absent, asked that the matter be not disposed of to-day, and, so far as to-day is concerned, I would have to object. I am very anxious—just as anxious as anyone else can be—that this matter be worked out; but I am sure that only one side of it is being worked out by this bill; and while I do not say that I would object to a unanimous-consent agreement, I would object to it taking effect in so short a time that we could not have sufficient opportunity to properly debate the measure. I would want a longer time than the 6th of February.

Mr. BRANDEGEE. The 6th of February, of course, was only the time of the legislative day upon which the bill would be acted upon. The legislative day might run on for any number of calendar days after that, as it would if the bill were the unfinished business.

Mr. BORAH. But it might require a vast amount of physical energy to run it on.

Mr. BRANDEGEE. The only objection to making the bill the unfinished business, Mr. President, would be that it might then be displaced at any time if the Senate should get tired of hearing the advocates of the bill discuss it. The Senate might then proceed to the consideration of something else, when the bill would be swept from its preferred position and relegated to the calendar.

So far as the discussion of the measure is concerned, of course, it could be proceeded with any day as the unfinished business, exactly as well as though the unanimous consent was granted; but there was no agreement for a disposition of the bill if it were made the unfinished business. I had offered the unanimous-consent proposition after conference with the chairman of the Committee on Commerce, the senior Senator from Minnesota [Mr. NELSON]; with the Senator from Alabama [Mr. BANKHEAD], who drew the views of the minority; and with the Senator from Ohio [Mr. BURTON], under whose immediate charge the bill is. It was satisfactory to all of us, and I had hoped that the unanimous consent might be granted. I think I should hardly feel justified in agreeing to another course of procedure unless there was actual objection made to this request for unanimous consent.

Mr. BORAH. Mr. President, as I have said, I shall have to object to the request for the day, but if the Senator from Colorado returns to-morrow perhaps we can agree upon it. I do not want to prevent the Senator from Connecticut getting his bill passed at this session, but I am very anxious that a proper time be given for its consideration, because there are extra-

neous matters in the bill, as I look at it—there are matters in it which ought to be in a separate bill—so that we could work out a policy with reference to power sites without having the extreme pressure of a local situation forcing us to the subject.

Mr. BRANDEGEE. Mr. President, I hope the Senator from Idaho will not proceed to the discussion of the bill now. I do not want to take up so much of the time of the Senate in asking for a unanimous-consent agreement. I admit there are many things in the bill about which Senators have different ideas, and I agree with the Senator from Idaho that time enough ought to be taken in the discussion of the provisions of the bill so that a proper bill may be worked out, if this is not a proper bill, and that a proper policy should be adopted; but my view has been, and still is, that that result, much to be desired, could be attained under a unanimous-consent agreement—a proposition which could run on for any number of calendar days—to finally dispose of it in some way upon the legislative day. That simply means that, without interfering with appropriation bills, conference reports, and the funeral exercises, the bill will be kept before the Senate until it is acted upon. It might be passed, it might be rejected, it might be amended, or it might be indefinitely postponed or laid upon the table; but the mere agreement to dispose of it does not at all deprive anybody of any rights, so far as I can see.

Mr. BORAH. Mr. President, as I have said, I will have to object to the request for to-day; but I do not desire to be understood, if the Senator wishes to consider the matter, as objecting further than to-day.

Mr. BRANDEGEE. I understand the Senator does not object in a captious spirit at all, but in order that my own record may be clean and that I may not have waived any right or violated any understanding I had with the chairman of the committee, I wanted the objection to be made for the day. I will then confer with all these gentlemen again and propose some other course to-morrow. I give notice, however, that each day, until some program is agreed upon, I shall ask the Senate to attempt to agree upon a program for the early consideration of this bill.

Mr. JONES. Mr. President, I merely desire to suggest to the Senator that it seems to me a rather unusual course to ask for unanimous consent to consider a bill through all the stages to its final passage, involving a matter of this importance, when it has not been discussed at all and no consideration has been given to the measure in the Senate.

Mr. BRANDEGEE. Why, Mr. President, the procedure is not at all unusual.

Mr. JONES. I do not remember——

Mr. BRANDEGEE. The discussion may go on, as I have said, all the rest of the session, if Senators want to keep the matter before the Senate——

Mr. JONES. So I understand; but the bill——

Mr. BRANDEGEE. And if they do not so desire, they can indefinitely postpone the bill at any time.

Mr. JONES. That, of course, is entirely plain; but I do not remember of any time in my short service here where a bill of any importance has been put down by unanimous consent for consideration and disposal on a legislative day when no discussion has been had on it at all during the session.

Mr. BRANDEGEE. I do not care to discuss that now, because objection was made and the matter is not before the Senate.

Mr. JONES. I simply wanted to suggest that for the consideration of the Senator.

Mr. SMITH of Michigan. Mr. President, apropos of the discussion which has just taken place, I send to the Secretary's desk, and ask to have read for the information of the Senate, some telegrams bearing upon the Connecticut River improvement measure.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

SPRINGFIELD, MASS., *January 27, 1913.*

Hon. WILLIAM ALDEN SMITH, *Washington, D. C.:*

We urge the immediate passage of Connecticut River bill as it is, without any amendments.

HOLYOKE BOARD OF TRADE,
By MORTON HULL, *Secretary.*

SPRINGFIELD, MASS., *January 27, 1913.*

Hon. WILLIAM ALDEN SMITH,
United States Senate, Washington, D. C.:

We trust that the Connecticut River bill will pass Congress without amendment. This is of vital commercial importance to all the large industries and commercial interests of Springfield, Chicopee, and Holyoke.

SPRINGFIELD BOARD OF TRADE.

SPRINGFIELD, MASS., *January 27, 1913.*

Senator WILLIAM ALDEN SMITH, *Washington, D. C.:*

Entire membership Connecticut Valley Waterways Association urge immediate passage in Senate, without amendment, of Connecticut River bill.

H. H. BOWMAN, *Vice President.*

SPRINGFIELD, *Mass., January 28, 1913.*

WILLIAM ALDEN SMITH,
Senate, Washington, D. C.:

We request immediate passage Connecticut River bill, without amendment.

JOHN A. DENISON, *Mayor.*

SPRINGFIELD, MASS., *January 27, 1913.*

Hon. WILLIAM ALDEN SMITH,
United States Senate, Washington, D. C.:

It is absolutely necessary to obtain adequate navigation in Connecticut River for western Massachusetts that Connecticut River bill be passed without amendment at this session of Congress.

SPRINGFIELD BOARD OF TRADE,
CHAS. H. BECKWITH, *Counsel.*

INSPECTION AND GRADING OF GRAIN.

Mr. CRAWFORD. Mr. President, the bill (S. 223) to provide for the inspection and grading of grain entering into interstate commerce, and to secure uniformity in standards and classification of grain, and for other purposes, being Calendar No. 870, is a bill in which the producers of cereals and grains in the Northwest are very much interested. I give notice that at the conclusion of the consideration of Senate bill No. 1, which the Senator from Oklahoma [Mr. OWEN] has given notice he would call up for consideration, I shall ask the Senate to consider Senate bill 223.

DEPARTMENT OF HEALTH.

Mr. OWEN. Mr. President, on January 30 I gave notice that to-day, after the morning business was disposed of, I should move that the Senate proceed to the consideration of Senate bill No. 1, a bill providing for the establishment of a department of health.

It has been three years since a bill was introduced for the purpose of establishing a department of health substantially of like purpose with that which is now before the Senate, on the calendar as Senate bill No. 1, providing for a department of health. This bill was very thoroughly and carefully considered by the committee; many hearings were given; and it was reported on April 13, 1912, now nearly one year ago.

The Republican Party has committed itself to the policy of improving the processes for caring for the public health. The Democratic Party has declared in favor of it in terms most explicit. The question has been referred to the President's Commission on Efficiency, and a favorable report made by that commission.

I do not think the bill now needs debate. I do not wish to take up the time of the Senate to go into any prolonged debate. I should like merely to state, as a brief——

The PRESIDENT pro tempore. The Chair will call the attention of the Senator to the fact that he has not yet moved to take up the bill.

Mr. OWEN. I am now submitting a few preliminary observations, and will then make the motion.

The PRESIDENT pro tempore. Without objection, the Senator will proceed.

Mr. OWEN. The bill merely provides for the consolidation of an independent health service with our present health service, combined with the bureaus having charge of the enforcement of the pure-food act and the collection of vital statistics. The matter is before the Senate, and I think it is well understood by every Senator. I trust the matter may be disposed of without any extended debate. I shall be very glad to answer any questions with regard to it that may be asked.

I now move that the Senate proceed to the consideration of Senate bill No. 1.

Mr. WORKS. Mr. President, I hope the Senate will not take up this bill for consideration at this time. This is what is generally known as the Owen medical bill. It is perhaps one of the most generally discussed bills outside of Congress, and it is one of the most earnestly opposed bills that has ever been before the Senate.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER (Mr. BRYAN in the chair). Does the Senator from California yield to the Senator from Utah?

Mr. WORKS. I yield to the Senator.

Mr. SMOOT. If we are going to discuss this question and to vote upon it, I believe we ought to have a quorum of the Senate present. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Utah suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Lea	Shively
Bacon	Cummins	Lippitt	Simmons
Bourne	Curtis	McCumber	Smith, Ariz.
Brandegee	Dillingham	McLean	Smith, Ga.
Bristow	du Pont	Martine, N. J.	Smith, Md.
Brown	Gallinger	Myers	Smith, Mich.
Bryan	Gamble	Oliver	Smoot
Burnham	Gardner	Owen	Stephenson
Burton	Gore	Page	Thornton
Catron	Gronna	Paynter	Warren
Chamberlain	Hitchcock	Percy	Watson
Clapp	Jackson	Perkins	Webb
Clark, Wyo.	Johnson, Me.	Perky	Wetmore
Clarke, Ark.	Jones	Pomerene	Williams
Crane	Kenyon	Richardson	Works
Culberson	La Follette	Sheppard	

The PRESIDING OFFICER. Sixty-three Senators have responded to their names. A quorum of the Senate is present.

Mr. OWEN. Mr. President, upon my motion I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. WORKS. Mr. President, when I was interrupted I was saying that this is what is generally known as the Owen medical bill——

Mr. GALLINGER and Mr. HITCHCOCK addressed the Chair.

The PRESIDING OFFICER. Does the Senator from California yield, and to whom?

Mr. WORKS. I yield to the Senator from New Hampshire.

Mr. GALLINGER. I suggest to the Senator from California, if he will permit me, that under our rules the motion is not debatable. It is true the Senator from Oklahoma debated it before making the motion, but I think we ought not to violate our rule. We will have plenty of debate if the bill comes up.

Mr. WORKS. I am certainly not disposed to violate any of the rules of the Senate. If there is objection——

Mr. GALLINGER. Of course, I do not object.

The PRESIDING OFFICER. The question is, Shall the Senate take up Senate bill No. 1 for consideration?

Mr. SMOOT. Mr. President——

Mr. GALLINGER. To which there is objection.

The PRESIDING OFFICER. The Senator from New Hampshire objects.

Mr. OWEN. I move that the Senate proceed to the consideration of the bill. I have a right, I believe, under the parliamentary rule, to have the voice of the Senate upon that question. I ask that the yeas and nays be taken, if the motion is not agreed to by a viva voce vote.

The PRESIDING OFFICER. Undoubtedly the Senator has a right to a vote upon whether or not the Senate will take up the bill. But the Senator has not a right to the yeas and nays, unless a fifth of the Senators present demand the yeas and nays.

Mr. GALLINGER. And the Senate has declined to order the yeas and nays.

Mr. OWEN. I wish to suggest that there has not been submitted to the Senate the question whether or not the bill shall be taken up.

Mr. WORKS. I ask unanimous consent that I may make an explanation with reference to the matter, for the purpose of showing why I, personally, am not prepared at the present time to take up the discussion of the bill, and to give my reasons therefor in a very few words.

The PRESIDING OFFICER. The Senator from California asks unanimous consent that he may proceed to discuss the bill. Is there objection?

Mr. WORKS. Not to discuss the bill; I am not asking that. I do not expect to do that.

Mr. OWEN. The request of the Senator from California, I understand, is that the bill be not now considered because he is not prepared to discuss it.

Mr. WORKS. That is all.

Mr. OWEN. To that I am constrained to object.

The PRESIDING OFFICER. Objection is made. The question is whether the Senate shall take up Senate bill No. 1, notwithstanding the objection of the Senator from New Hampshire.

Mr. CLARKE of Arkansas. I ask unanimous consent that the Senator from California be allowed to submit certain remarks in explanation of the reasons why he does not care to have the bill considered at this time. That is all he asks.

Mr. WORKS. That is all I ask.

Mr. OWEN. I have no objection to that.

Mr. GALLINGER. I rise to correct a statement by the Chair. I did not object to the bill coming up. The Senator from Oklahoma moved that it should be taken up, and on that motion he asked for the yeas and nays. The yeas and nays were denied; and the only objection I made was, the yeas and nays having been denied, that the Senator could not renew his request.

The PRESIDING OFFICER. The Chair understood the Senator from New Hampshire to object. Is there objection to the request that the Senator from California may proceed to make an explanation as to his attitude upon the bill, or a personal explanation, as the Chair understands the request? The Chair hears none. The Senator from California will proceed.

Mr. WORKS. Mr. President, one of the very important questions that will arise in the discussion of this bill is as to whether or not it is necessary legislation. On the 6th day of January I offered a resolution here, which was passed by the Senate, calling upon the Secretary of the Treasury to furnish to the Senate information as to the medical activities of the Government, and the amount of money that has been expended during the last year for that purpose. That report has not yet come to the Senate. I expect it to disclose fully the different bureaus and branches of the medical service as they now exist and the amount of money that the Government has paid out in sustaining the medical activities of the Government.

The delay in receiving this report has not been upon my part. I have inquired about it on one or two occasions. I wrote to the Secretary of the Treasury a private letter, saying to him that it was important that that information should be had by the Senate before this bill was taken up. This morning, after I learned that the Senator from Oklahoma desired to take up the bill, I telephoned to the Treasury Department to ascertain when that information could be had, and was informed that two of the bureaus had not yet furnished the necessary information, and that it would take a day or two, or perhaps a little longer, to get that information.

I very much desire, and I think the Senate will desire, to have that important information before the Senate before the bill is taken up for discussion. It is one that necessarily will be discussed at considerable length. I expect to make some extended remarks upon it myself, and I desire to have this information and data before the bill is taken up for discussion.

Mr. SMOOT. I move that the Senate proceed to the consideration of executive business.

Mr. OWEN. I make the point of order that my motion is before the Senate.

The PRESIDING OFFICER. The motion of the Senator from Utah, however, has precedence.

Mr. OWEN. Then I move a recess until 2 o'clock.

Mr. SMOOT. That motion is not in order, Mr. President.

Mr. OWEN. That motion takes precedence of a motion to go into executive session, as I understand the rules of the Senate.

Mr. SMOOT. Not a motion for a recess; a motion to adjourn is the only motion that would take precedence.

Mr. OWEN. I make a motion that the Senate adjourn and reassemble at 2 o'clock.

Mr. SMOOT. That motion is not in order, Mr. President.

The PRESIDING OFFICER. The Chair will hear from the Senator from Oklahoma upon that motion.

Mr. JOHNSTON of Alabama. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Alabama suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Curtis	McLean	Smith, Md.
Bacon	Dillingham	Martine, N. J.	Smoot
Bourne	Gallinger	Myers	Stephenson
Brandegee	Gardner	O'Gorman	Sutherland
Bristow	Gore	Oliver	Swanson
Brown	Gronna	Owen	Thornton
Bryan	Hitchcock	Page	Tillman
Burnham	Johnson, Me.	Percy	Townsend
Catron	Johnston, Ala.	Perkins	Warren
Chamberlain	Kavanaugh	Perky	Watson
Clapp	Kenyon	Pomerene	Webb
Clark, Wyo.	La Follette	Richardson	Wetmore
Clarke, Ark.	Lea	Sheppard	Williams
Cullom	Lippitt	Shively	Works
Cummins	McCumber	Smith, Ariz.	

The PRESIDING OFFICER. Fifty-nine Senators have responded to their names, and a quorum of the Senate is present. The Senate will pardon a statement. The Chair is of the opinion that the motion of the Senator from Oklahoma would take precedence, but the time having arrived to which he moved a recess the motion becomes inoperative. The Senator from Utah moves that the Senate proceed to the consideration of executive business. The question is on the motion of the Senator from Utah.

Mr. SMITH of Georgia. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. I transfer that pair for the day to the junior Senator from Nevada [Mr. MASSEY]. I vote "yea."

Mr. CULLOM (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. CHILTON] and therefore withhold my vote.

Mr. RICHARDSON (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. SMITH] and therefore withhold my vote. If he were present, I should vote "yea."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Louisiana [Mr. FOSTER]. I therefore withhold my vote.

Mr. WATSON (when his name was called). I have a general pair with the senior Senator from New Jersey [Mr. BRIGGS]. I transfer that pair to the junior Senator from Colorado [Mr. THOMAS] and vote "nay."

Mr. WILLIAMS (when his name was called). I have a pair with the senior Senator from Pennsylvania [Mr. PENROSE]. I transfer that pair to the junior Senator from Missouri [Mr. REED] and vote. I vote "nay."

The roll call was concluded.

Mr. SHIVELY. I wish to announce that my colleague [Mr. KERN] is temporarily absent from the Chamber on important public business.

Mr. WARREN. As I stated before, I am paired with the Senator from Louisiana [Mr. FOSTER]. I make a transfer so that that Senator will stand paired with the Senator from Maryland [Mr. JACKSON]. I will therefore vote. I vote "yea."

Mr. DU PONT (after having voted in the affirmative). I should like to inquire whether the senior Senator from Texas [Mr. CULBERSON] has voted.

The PRESIDING OFFICER. The Chair is informed that that Senator has not voted.

Mr. DU PONT. Under those circumstances, as I have a general pair with the senior Senator from Texas, I will withdraw my vote.

Mr. RICHARDSON. I will transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from New Mexico [Mr. FALL] and vote "yea."

Mr. SMOOT. I desire to announce that the senior Senator from Minnesota [Mr. NELSON] is paired with the senior Senator from Virginia [Mr. MARTIN].

Mr. JONES. I desire to state that my colleague [Mr. POINDEXTER] is detained from the Chamber on important business.

The result was announced—yeas 37, nays 37, as follows:

YEAS—37.

Bourne	Crawford	Lippitt	Smoot
Brandegee	Cummins	Lodge	Stephenson
Bristow	Curtis	McCumber	Sutherland
Brown	Dillingham	McLean	Townsend
Burnham	Gallinger	Oliver	Warren
Burton	Gamble	Page	Wetmore
Catron	Gronna	Perkins	Works
Clapp	Guggenheim	Richardson	
Clark, Wyo.	Jones	Root	
Crane	Kenyon	Smith, Mich.	

NAYS—37.

Ashurst	Johnson, Me.	Owen	Smith, Md.
Bacon	Johnston, Ala.	Paynter	Swanson
Bankhead	Kavanaugh	Percy	Thornton
Bryan	La Follette	Perky	Tillman
Chamberlain	Lea	Pomerene	Watson
Clarke, Ark.	Martine, N. J.	Sheppard	Webb
Fletcher	Myers	Shively	Williams
Gardner	Newlands	Simmons	
Gore	O'Gorman	Smith, Ariz.	
Hitchcock	Overman	Smith, Ga.	

NOT VOTING—21.

Borah	Dixon	Martin, Va.	Smith, S. C.
Bradley	du Pont	Massey	Stone
Briggs	Fall	Nelson	Thomas
Chilton	Foster	Penrose	
Culberson	Jackson	Poindexter	
Cullom	Kern	Reed	

So the Senate refused to proceed to the consideration of executive business.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Oklahoma [Mr. OWEN] to proceed to the consideration of Senate bill No. 1. [Putting the question.] The noes appear to have it.

Mr. OWEN. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is absent from the Chamber, I will withhold my vote.

Mr. RICHARDSON (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH]. I transfer that pair to the Senator from New Mexico [Mr. FALL] and vote "nay."

Mr. WARREN (when his name was called). I transfer my general pair with the Senator from Louisiana [Mr. FOSTER], so that he will stand paired with the Senator from Maryland [Mr. JACKSON]. I vote "nay."

Mr. WATSON (when his name was called). I transfer my pair with the Senator from New Jersey [Mr. BRIGGS] to my colleague [Mr. CHILTON], and I vote "yea."

Mr. WILLIAMS (when his name was called). With the same explanation that I made upon the last roll call, I desire to vote. I vote "yea."

The roll call was concluded.

Mr. DILLINGHAM (after having voted in the negative). I will inquire whether the senior Senator from South Carolina [Mr. TILLMAN] has voted.

The PRESIDING OFFICER. That Senator has not voted, the Chair is informed.

Mr. DILLINGHAM. Then I withdraw my vote, having a general pair with that Senator.

The result was announced—yeas 33, nays 33, as follows:

YEAS—33.

Ashurst	Gore	O'Gorman	Smith, Ga.
Bacon	Hitchcock	Overman	Swanson
Bryan	Johnson, Me.	Owen	Thornton
Burton	Johnston, Ala.	Paynter	Watson
Chamberlain	Kavanaugh	Percy	Webb
Clarke, Ark.	Lea	Perky	Williams
Crawford	Martine, N. J.	Pomerene	
Fletcher	Myers	Sheppard	
Gardner	Newlands	Smith, Ariz.	

NAYS—33.

Borah	Crane	Lippitt	Stephenson
Bourne	Cullom	Lodge	Sutherland
Brandegee	Cummins	McCumber	Townsend
Bristow	Gallinger	Oliver	Warren
Brown	Gronna	Page	Wetmore
Burnham	Guggenheim	Perkins	Works
Catron	Jones	Richardson	
Clapp	Kenyon	Smith, Mich.	
Clark, Wyo.	La Follette	Smoot	

NOT VOTING—29.

Bankhead,	du Pont	Massey	Smith, Md.
Bradley	Fall	Nelson	Smith, S. C.
Briggs	Foster	Penrose	Stone
Chilton	Gamble	Poindexter	Thomas
Culberson	Jackson	Reed	Tillman
Curtis	Kern	Root	
Dillingham	McLean	Shively	
Dixon	Martin, Va.	Simmons	

So Mr. OWEN's motion was not agreed to.

THE CALENDAR.

Mr. SMITH of Georgia. I move that the Senate take up the regular calendar of business and proceed to the consideration of unobjected bills.

Mr. LODGE and others. That is right.

The PRESIDING OFFICER. The Senator from Georgia moves that the Senate proceed to the consideration of unobjected bills under Rule VIII.

The motion was agreed to.

Mr. LODGE. Only unobjected bills are to be considered.

The PRESIDING OFFICER. The first bill on the calendar will be stated.

The bill (S. 2493) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri was announced as first in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill goes over on objection.

The bill (S. 1505) for the relief of certain officers on the retired list of the United States Navy was announced as next in order.

Mr. BRISTOW. Let that go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 2151) to authorize the Secretary of the Treasury to use at his discretion surplus moneys in the Treasury in the purchase or redemption of the outstanding interest-bearing obligations of the United States was announced as next in order.

Mr. OVERMAN. Let that go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 256) affecting the sale and disposal of public or Indian lands in town sites, and for other purposes, was announced as next in order.

Mr. GALLINGER. Let that go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 3) to cooperate with the States in encouraging instruction in agriculture, the trades, and industries and home economics in secondary schools; in maintaining instruction in these vocational subjects in State normal schools; in maintaining extension departments in State colleges of agriculture and mechanic arts; and to appropriate money and regulate its expenditure, was announced as next in order.

Mr. GALLINGER. I move that the bill be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PAGE subsequently said: I should like to know what action was taken on Senate bill No. 3?

The PRESIDING OFFICER. The bill was indefinitely postponed.

Mr. PAGE. I suppose that is what will be eventually done with it, but I ask the Senate not to do it now, for I do not know what may be the condition later.

The PRESIDING OFFICER. That has already been done.

Mr. GALLINGER. I ask that the motion be reconsidered; that the bill be passed over without prejudice.

Mr. PAGE. Yes; let it go over without prejudice.

The PRESIDING OFFICER. Without objection, the motion by which the bill was indefinitely postponed will be reconsidered, and the bill goes over.

The bill (S. 2234) to provide for a primary nominating election in the District of Columbia, at which the qualified electors of the said District shall have the opportunity to vote for their first and second choice among those aspiring to be candidates of their respective political parties for President and Vice President of the United States, to elect their party delegates to their national conventions, and to elect their national committeemen was announced as next in order.

Mr. GALLINGER. Let the bill go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 5728) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Osage Nation of Indians against the United States was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill goes over.

The bill (S. 3316) to repeal an act entitled "An act to promote reciprocal trade relations with the Dominion of Canada, and for other purposes," approved July 26, 1911, was announced as next in order.

Mr. GALLINGER. I ask that the bill be placed under Rule IX.

The PRESIDING OFFICER. Without objection, it will be so ordered.

The bill (S. 5186) to incorporate the Brotherhood of North American Indians was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 461) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Ponca Tribe of Indians against the United States was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDING OFFICER. The bill goes over.

The bill (S. 5917) relating to procedure in United States courts was announced as next in order.

Mr. CLARKE of Arkansas. Let that bill go over.

The PRESIDING OFFICER. The bill goes over.

HARRIET PIERSON PORTER.

The bill (S. 118) granting an increase of pension to Harriet Pierson Porter was announced as next in order.

Mr. DU PONT. Mr. President, if there is no objection to that bill, I should be very glad to have it taken up.

Mr. McCUMBER. There will be some discussion on it, if that is done, but I do not desire to object.

The PRESIDING OFFICER. What is the request of the Senator from Delaware?

Mr. DU PONT. My request is that the bill be taken up; it has been on the calendar a very long time.

Mr. BRANDEGEE. No one has objected to its consideration.

Mr. GALLINGER. No.

The PRESIDING OFFICER. No one has objected to the consideration of the bill so far. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Pensions with amendments, on page 1, line 7, before the word "general," to strike out "brevet brigadier" and insert "major"; in line 7, after the name "United States," to strike out "Army" and insert "Volunteers"; and in line 8, after the words "rate of," to strike out "one hundred" and insert "fifty," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Harriet Pierson Porter, widow of Fitz John Porter, late major general, United States Volunteers, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

The amendments were agreed to.

Mr. McCUMBER. I ask for the reading both of the favorable and the adverse reports in this case.

The PRESIDING OFFICER. Without objection, the Secretary will read as requested.

The Secretary read the report submitted by Mr. DU PONT April 10, 1912, as follows:

The Committee on Pensions, to whom was referred the bill (S. 118) granting an increase of pension to Harriet P. Porter, have examined the same and report:

This bill as amended proposes to increase from $12 to $50 per month the pension of Harriet P. Porter, widow of Fitz John Porter, late major general, United States Volunteers.

The military history of Gen. Fitz John Porter shows that he was a cadet at the United States Military Academy from July 1, 1841, to July 1, 1845, when graduated and appointed brevet second lieutenant, Fourth Artillery. He was promoted full second lieutenant June 18, 1846; first lieutenant May 29, 1847; and was breveted assistant adjutant general June 27, 1856. He was commissioned as colonel, Fifteenth Infantry, May 14, 1861, and a few days later was appointed brigadier general of Volunteers. He was promoted major general of Volunteers July 14, 1862, and was cashiered and dismissed from the Army January 21, 1863. By act of Congress, approved July 1, 1886, he was restored as colonel of Infantry, to rank from May 14, 1861, and was retired from active service August 7, 1886. He served in the War with Mexico from September 6, 1846, to September, 1847, when wounded at the storming of Chapultepec. Gen. Porter died May 21, 1901, at the ripe old age of 80 years.

A similar bill, S. 5593, was introduced in the Sixty-first Congress and referred to a subcommittee. The following report made by that subcommittee in the third session of the Sixty-first Congress sets out in detail the services of Gen. Porter and the peculiar circumstances in his case:

"Your subcommittee, to whom was referred S. 5593, granting a pension to Harriet Pierson Porter, reports the same favorably with the following amendment, viz:

"Amend the title so as to read: 'Granting an increase of pension to Harriet Pierson Porter.'"

"In line 8 strike out the period and insert a comma and the words 'in lieu of that she is now receiving.'

"Maj. Gen. Fitz-John Porter, to whose widow the bill gives an increase of pension, entered the United States Military Academy in 1841, graduated in 1845, and took part with the greatest distinction in all the battles of our Army under Gen. Scott in the Mexican War. He was wounded in the desperate assault upon the Belen Gate of the City of Mexico, the 2 other officers of his battery being killed, and 27 out of 30 enlisted men of the battery being killed or wounded.

"He served with honor in the Regular Army until the breaking out of the Civil War, when he was appointed colonel of one of the new regiments of Infantry, and soon afterwards major general of Volunteers, being assigned to the command of a division and afterwards the Fifth Corps of the Army of the Potomac under Gen. McClellan. Detached with his corps from that Army and ordered to join Gen. John Pope in front of Washington, he took part in the second Battle of Bull Run in August, 1862, where the Fifth Corps lost in about an hour's time 2,151 men, being one-third of its force present. Not long after a successful attempt was set on foot to unjustly make Gen. Porter the scapegoat of the disastrous defeat of the Union forces in that battle. Charges were preferred against him, and notwithstanding his indignant assertions of entire innocence he was tried by a general court-martial, which, after hearing a great deal of conflicting testimony, found him guilty and sentenced him to be cashiered and not allowed to hold any office of trust or profit under the United States Government.

"Conscious of his innocence, Gen. Porter used every effort for years to have his case reopened, and, after many unsuccessful attempts, in 1878 President Hayes at last ordered a board of inquiry to make a thorough investigation of his case. Various original dispatches and other important papers which had not been presented at the court-martial were laid before this board, together with the testimony of many Confederate general officers as to the exact location and strength of the southern troops opposed to Porter at the second Battle of Bull Run, upon which were based some of the chief allegations in support of the original charges, all of which conclusively showed that the previous evidence against him was absolutely false and misleading.

"The members of the board of inquiry, consisting of Gens. Schofield, Terry, and Getty, after a most searching investigation lasting over 12 months, reported that 'the original charges and specifications bore no discernible resemblance to the actual facts in the case. That the judgment of the original court-martial upon Gen. Porter's conduct was based upon totally erroneous impressions, not only respecting what his conduct really was, but respecting all the circumstances under which he acted, and that not one of all the gallant soldiers who took part in the occurrences under consideration was less deserving of such condemnation than he.'

"They further reported that, in their opinion, 'justice requires at his hands such action as may be necessary to annul and set aside the findings and sentence of the court-martial in the case of Maj. Gen. Fitz-John Porter, and restore him to the positions of which that sentence deprived him, such restoration to take effect from the date of his dismissal from the service.'

"President Hayes submitted this report to Congress 'for such action as shall seem expedient and just,' and although Gen. Grant, in a printed article in the North American Review made a very strong appeal that justice be done to Gen. Porter, no action was taken by Congress until June 25, 1885, when the bill was passed restoring him to the Regular Army with the rank of colonel as of the date of his dismissal, coupled with the proviso that he was to receive no pay or emoluments during the time he was out of service.

"Gen. Porter, upon his complete vindication and restoration to the Army, did not receive the back pay and emoluments, amounting to $95,310.18, to which he would have been entitled had he not been most unjustly deprived of his commission, and which he should have received under every principle of justice and equity and in conformity with the precedents established by several analogous cases. In the opinion of your subcommittee this is a sufficient reason for excluding from consideration the fact that Mrs. Porter, who owns no real estate whatever, has an income of a little over $1,700 a year upon which she has to support herself and an unmarried daughter.

"Attention is called to the statement of account hereto appended in the case of Gen. Fitz-John Porter, and also to a statement of analogous cases in which back pay and allowances were granted to officers who were restored to the Army as of the dates of their original commissions.

"H. A. DU PONT."

Statement of account in the case of Maj. Gen. Fitz-John Porter, showing the amount which would be due him on the assumption that he remained in the service as a major general of Volunteers until Dec. 1, 1865, and that from that date up to Aug. 6, 1886, he held the grade of colonel on the active list.

PAY.

Jan. 21, 1863, to Dec. 31, 1865, pay of a major general, at $220 per month	$5,226.00
Jan. 1, 1863, to Feb. 28, 1865, 15 rations a day, at 30 cents each	1,809.00
Mar. 21, 1865, to Dec. 31, 1865, 15 rations a day, at 50 cents each	2,250.00
Total pay	9,285.00

ALLOWANCES.

Servants: The officer was entitled to servants, not to exceed four, if employed.

Jan. 21, 1863, to Mar. 2, 1865, 4 servants, at $11 per month each	$1,116.13
Mar. 3, 1865, to Dec. 31, 1865, 4 servants, at $16 each per month	590.40
Total servant hire	1,706.53

FORAGE.

Forage for horses, if kept.

Jan. 1, 1863, to Dec. 31, 1865, at $20 per month	$465.96

PAY.

Jan. 1, 1866, to June 30, 1866, pay of colonel, at $95 per month	$570.00
6 rations and 4 additional rations for length of service, at 50 cents	900.00
July 1, 1866, to Mar. 1, 1867, pay of a colonel, at $95 per month	763.16
6 rations and 5 additional rations for length of service, at 50 cents	795.30
Mar. 2, 1867, to July 14, 1870, pay of a colonel, at $110 per month	4,443.92
July 1, 1866, to June 30, 1868, 33⅓ per cent increase on pay proper under section 1 of the act of Mar. 2, 1867	843.37
Mar. 2, 1867, to July 27, 1867, 6 rations plus 5 additional rations for length of service, at 50 cents	962.50
July 28, 1867, to July 14, 1870, 6 rations plus 5 additional rations, at 50 cents	3,554.21
Total pay for period from Jan. 1, 1866, to July 14, 1870	12,832.46

SERVANT HIRE.

If servant was employed—July 1, 1866, to July 14, 1870, 2 servants, at $10 each per month	$1,552.00
Forage for horses Jan. 1, 1865, to Mar. 2, 1867, at $12 per month	312.60

PAY.

July 14, 1870, to Aug. 5, 1886, pay of a colonel with more than 20 years' service, at $4,500 per annum	72,262.50

Summary.

PAY.

Jan. 21, 1863, to Dec. 31, 1865	$9,285.00
Jan. 1, 1866, to July 14, 1870	12,832.46
Total	22,117.46
Less 5 per cent tax	1,106.87
	21,010.59
Pay—July 14, 1870 to Aug. 5, 1886	72,262.50
Total pay	93,273.09

ALLOWANCES.

Servant hire	3,258.53
Forage	778.56
	4,037.09

STATEMENT OF ANALOGOUS CASES.

"The act of February 24, 1905 (33 Stat. L., 806), contains the following provision:

"'That the proper accounting officers be, and they are hereby, directed to settle and adjust to Sarah K. McLean, widow of the late Lieut. Col. Nathaniel H. McLean, all back pay and emoluments that would have been due and payable to the said Nathaniel H. McLean as a major from July 22, 1864, to the date of his reinstatement, March 3, 1875, and that the amount due by said adjustment is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated.'

"NOTE.—This officer resigned from the service July 23, 1864, on account of having been ordered to Oregon for duty. The order sending him to Oregon was the result of his activity in unearthing frauds in the Quartermaster Department and his resignation was in the nature of a protest against the treatment which was accorded him. The full circumstances relating to the matter will be found in House Report No. 279, Forty-third Congress, second session, and Senate Report No. 126, Fifty-third Congress, second session.

"Attention is called to the case of Collins v. United States (14 C. Cls., 568; and 15 C. Cls., 22).

"In this case the officer was restored to the Army and judgment was rendered in his favor for back pay amounting to $17,987.83.

"In the case of Kilburn v. United States (15 C. Cls., 41, 46) the court used this language:

"'In all the cases referred to the parties to whom back pay has been allowed have been considered by Congress to have been illegally or unjustly or inadvertently dismissed the service. In order to remedy the wrong or repair the injustice of such dismissal, it has been considered both just and humane that its revocation should be complete, and should relate back to the day of the order of dismissal, so as to make the party entitled to full pay, as though no such order had ever been made. (Winters v. The United States, 3 C. Cls. R., 136; Smith v. United States, 2 C. Cls. R., 206.) But such arrearages of pay have in every instance been allowed only under the acts of Congress authorizing the beneficiaries under them to assume a definite rank from a past date. This doctrine is fully expounded in the case of Maj. Collins (ante, p. 22).'"

Mrs. Porter now receives a pension of $12 per month, provided by the acts of January 29, 1887, and April 19, 1908, on account of her distinguished husband's service in the Mexican War. She was married to the deceased officer March 19, 1857, and is now over 72 years of age and in very poor health.

In a sworn statement accompanying the bill she declares that her average income from railroad bonds, etc., is about $1,700 per year.

In view of the statements set forth in the foregoing a majority of your committee recommend the passage of the bill when amended as follows: On line 8 strike out the words "one hundred" and insert in lieu thereof the word "fifty."

On line 7 strike out the words "brevet brigadier" and insert in lieu thereof the word "major," and in the same line strike out the word "Army" and insert in lieu thereof the word "Volunteers."

The PRESIDING OFFICER. The views of the minority will now be read, as requested by the Senator from North Dakota.

The Secretary read as follows:

VIEWS OF THE MINORITY.

Mr. McCUMBER, on the part of the minority of the committee, submits the following views:

The minority of the Committee on Pensions, feeling that the claim for a special bill in this case is wholly unjustified from any standpoint, submit the following reasons for their refusal to concur with the majority of the committee in reporting this bill favorably:

COMMITTEE ON PENSIONS CREATED TO RELIEVE CASES OF DESTITUTION ONLY.

Preceding the rules which have governed the committee for many years is a note, which reads as follows:

"NOTE.—The Pension Committees of the two Houses of Congress were created to consider a very few claims in which, from their peculiar circumstances of extreme disability and destitution, adequate relief could not be obtained from the bureau, * * *. Nor is it the policy of the Government to provide full support for soldiers or their widows, but solely to prevent absolute want, and it is believed, therefore, that private pension legislation should be restricted to cases of such extreme destitution as render assistance imperative."

Rule 7 provides:

"Where the widow of an officer is pensioned under the act of April 19, 1908, an increase will not be recommended in excess of the general-law rating for his rank; in cases where the circumstances suggest that a lower rate would be proper such lower rate only will be recommended."

Rule 7 also provides:

"No increase of pension to widows will be recommended above the general-law rating except in cases of destitution, to be substantiated by competent testimony; and the word 'destitution' will be held to mean the same when applied to an officer or his widow as when applied to a private or his widow; it will not be contracted or expanded to meet particular cases."

These rules are recited, first, to show the purposes of private pension legislation, and, second, to show wherein the particular case in question should be governed by those rules.

In a sworn statement accompanying the bill, Mrs. Porter declares that her average income from railroad bonds, etc., is about $1,700 per year. In addition to this she is receiving $144 per year pension, making her total income $1,844 per year, or over $150 per month.

This is not a case of destitution. And if it is not a case of destitution, what is it? Favoritism, pure and simple.

If Mrs. Porter should be entitled to $600 per year pension, in addition to her present income from other sources, then the widow of every other officer of similar rank should receive the same, and she should receive it under a general law. It is not the proper province of either the committee or Congress to single out anyone for special favor. If the general law does not grant sufficient pension to the widows of officers, then the general law should be changed and made applicable to all cases.

By granting this special favor to one who is not in need of it we are committing a rank injustice to the hundreds who are refused and who are in need of it.

Mr. DU PONT. Mr. President I wish to say a few words on this matter.

The views of the minority, after citing the rules of the Pension Committee, which I have already discussed in the case of Mrs. Hawkins, states that Mrs. Porter's case is not a case of destitution but of "favoritism, pure and simple," and that if she should be entitled to $600 per year, as provided in the bill, in addition to her present income from other sources, "then the widow of every other officer of similar rank should receive the same," and that by granting this "special favor" we are committing a "rank injustice" to others.

I take issue with these statements. Mrs. Porter's case has nothing in common with the hundreds of other cases that have come before Congress. It is unique. Nothing like it has ever occurred before and probably will never occur again. Gen. Porter belonged to the Regular Army for almost 22 years, his service including both the Mexican and Civil Wars. During the former war he was wounded in the heroic assault upon the Belen Gate of the City of Mexico, the other two officers of his battery

being killed, and 27 of the 30 enlisted men which composed it being killed or wounded. In the latter war he served with great distinction and gallantry until the autumn of 1862, when he was unjustly court-martialed and dismissed from the Army. In 1878, by direction of President Hayes, a searching reinvestigation as to the real facts in the case was made by a court of inquiry, which vindicated Gen. Porter in the most handsome manner, and reported that the judgment of the original court-martial was based upon totally erroneous impressions not only respecting what his conduct really was, but respecting all the circumstances under which he acted, and added that justice required that the findings and sentence of the original court-martial be annulled and set aside, and that he be restored to the position of which he had been deprived, such restoration to take effect from the date of his dismissal from the service. It was not until 1885 that Congress took action and restored him to his rank in the Regular Army, but under the influence of party prejudice denied him the pay or emoluments during the time that he was unjustly deprived of his commission, which amounted to a large sum of money. This latter stipulation was contrary to all precedents and in violation of every principle of equity and justice.

Mrs. Porter is over 70 years of age and has a daughter dependent upon her for support. It is submitted that the granting of the pension provided for in the bill is not by any means an act of "favoritism," but a proper recognition of the long, faithful, and distinguished service which Gen. Porter had rendered to his country in two wars. I trust that the bill for her relief may be favorably considered by the Senate, which would thus make indirectly, but in a very meager and inadequate way, some compensation for the pay and emoluments of which her husband was so unjustly deprived.

Mr. McCUMBER. Mr. President, if I remember aright, another bill which had a place on the calendar just preceding the pending measure was considered by the Senate at the last session. I refer to the bill granting an increase of pension to the widow of Gen. Hawkins. The evidence in that case showed that the claimant was in receipt, as I now remember, of an income in the neighborhood of $1,400 per annum. It differs from this bill only in the matter of the amount. In this particular case the claimant is now in receipt of a general income amounting to $1,844 a year, or about $150 per month.

Mr. President, this brings clearly before the Senate the danger of passing these special bills without consideration and without any general rule that would apply to all cases. Suppose now, that we were to pass this bill in favor of Mrs. Porter, and should grant her this extra sum of $600 per year as is provided in this bill, giving her something over $2,000 a year, what answer could we make to the claim of Mrs. Hawkins that she has not been justly treated? What reply could we give to hundreds of other widows who are exactly in the same position, namely, whose claims have been rejected because they did not bring their cases within the very salient rule of the committee, which indicates the very purpose for which the committee was created, or, at least, the main purpose which it is conserving to the public, and that is, to grant relief only in cases of destitution.

I confess that I know very little about the merits of the controversy which resulted in the dismissal of Gen. Porter and his reinstatement in his position; but I do know that if he was unjustly removed by court-martial, then certainly his widow ought to be entitled to present a bill to the Committee on Claims, and if there was anything due to the general that was unjustly taken from him the Committee on Claims ought to investigate that question and grant such relief as would be proper and just in that particular case.

I would be in favor of that course; but I am not in favor of trying the question whether or not the general was unjustly deprived of his salary and emoluments for a number of years in connection with an application for the benefit of Mrs. Porter which, if allowed, would take her case entirely out of the general range of cases that have been considered by the Committee on Pensions.

I have said time and again, Mr. President, that the Senate, by allowing a spirit of sympathy or of favoritism or of friendship in some particular case to govern them, will necessarily put the committee in a position that will be extremely embarrassing. I again call attention to that portion of the report which I submitted as the views of the minority as to the very object of the creation of this committee. It was created, in the first instance, Senators, for the purpose of considering general pension legislation. Its functions were increased so that it should consider special legislation for what purpose? Not for the purpose of taking up particular cases in which any Senator would desire to have a pension increased, but for the sole and only purpose that, sitting as a quasi court of equity, it might do justice to those cases which could not be reached by the general law. We ought not to extend the function of that committee; we ought not to extend the power of that committee so that it will go beyond this and take up any case without reference to any rule and grant such pension as the momentary impulse of either the committee or the Senate may dictate.

As I have stated in this report, the very purpose of the committee—its operation, at least—is indicated in the little note preceding our rules, which reads:

> The Pension Committees of the two Houses of Congress were created to consider a very few claims—

Those "few claims" have increased very materially—

> in which, from their peculiar circumstances of extreme disability and destitution, adequate relief could not be obtained from the bureau.

I want to call attention to the fact that in every case the question of disability and destitution becomes a leading question.

> Nor is it the policy of the Government to provide full support for soldiers or their widows, but solely to prevent absolute want, and it is believed, therefore, that private pension legislation should be restricted to cases of such extreme destitution as render assistance imperative.

Following out this very object, the very soul and spirit of the power which was given to the committee to consider special pension legislation, the rules further provide:

> No increase of pension to widows will be recommended above the general-law rating except in cases of destitution, to be substantiated by competent testimony—

Mark this part of a proper rule—

> and the word "destitution" will be held to mean the same when applied to an officer or his widow as when applied to a private or his widow; it will not be contracted or expanded to meet particular cases.

Mr. President, we are now asked to expand it enormously to meet a particular case. The income of Mrs. Porter to-day is about $1,844 per year. It is asked by this bill to increase it $600 more, so that it will be $2,444 per year.

I object to this; I oppose it because it does an injustice to the hundreds of widows whose cases we have turned down in the past, and because it forces upon us a precedent that we can hardly escape in the consideration of future cases that may come before the committee.

Since I have been chairman of the Committee on Pensions my main efforts have been directed toward the preventing that committee ever being used for the purpose of favoritism. I think we have been eminently successful in that endeavor. We have an established rule that in no case will we recommend a pension above $50 per month. The Senate itself has overruled that sort of unwritten law of the committee on two or three occasions—I think two within the last two years—where $100 a month has been granted.

We are now brought face to face with a condition that we ought to meet, and ought to meet fairly. If, as a matter of fact, Mrs. Porter is entitled to $50 per month without reference to the amount of her income, then there are at least 200 widows, whose husbands were of the same rank, who are entitled to the same amount. If they are entitled to that, then we ought to have the courage to stand up here and vote through a general bill, so that we will not be forced to take up one bill and grant fifty or one hundred dollars a month and then take up another bill and grant twelve or fifteen dollars per month.

Mr. DU PONT. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Delaware?

Mr. McCUMBER. I yield to the Senator.

Mr. DU PONT. I should like to ask the Senator from North Dakota a question. He spoke of some 200 or 250 widows whose husbands were of the same rank as Gen. Porter. I should like to ask him if there are any of those 250 widows whose husbands were unjustly driven out of the service and lost for a long period of years the pay and emoluments to which they were entitled and were deprived of them in this way? That is what differentiates this case from the others.

Mr. McCUMBER. Mr. President, undoubtedly no two cases are alike. I again assert that if the widow of Gen. Fitz John Porter has any just claim against the Government for the deprivation of the general during his life of certain salaries that should have been received by him during that time the remedy is and ought to be by a bill which would refer that matter to the Court of Claims or the Committee on Claims. The Senate Committee on Pensions did not investigate that matter. It was not necessary for them to investigate that matter. So I simply ask the Senate to stand with that rule of the committee, which was designed to secure the doing of equal justice in respect to every claim brought before them.

Mr. GALLINGER. Mr. President, Gen. Fitz John Porter was a New Hampshire man. At the time when passions were heated

there were many people in New Hampshire who believed that Gen. Porter had not done his entire duty as an officer of the Army of the United States. That time has passed, and a monument has been erected in the city of Portsmouth to the memory of Gen. Porter.

When this matter was under discussion before the House of Representatives a Member of that House from New Hampshire, who served under Gen. Porter, made a speech that cleared up, in my mind, every thought that I ever had entertained—and I confess I had entertained some doubts—as to Gen. Porter's loyalty and as to his conduct while he represented the Government on the field of battle.

The record of this man is a remarkable record. It goes back to the War with Mexico, where he performed distinguished service and where he received a very severe wound. To my mind, in dealing with this particular case, the fact is worthy of consideration that this man, because of the unjust accusations made against him—and beyond a doubt they were unjust—was deprived of some $60,000 that he otherwise would have received. I understand, in fact, that it is a much larger amount than that.

Mr. DU PONT. Nearly $90,000.

Mr. GALLINGER. Nearly $90,000, that he otherwise would have received, had not those accusations been made against him. He died in comparative poverty. During all the long years that he served the Government he had accumulated in bonds, I believe, enough to give his widow an income of $1,700 a year. That $1,700 a year went to support the widow and an unmarried daughter whom she is supporting at the present time.

Congress gave this widow a pension of $12 a month, which she is now receiving. To my mind it is a most extraordinary thing that any member of the Committee on Pensions should haggle about this proposed increase to $50 per month. I hesitate to say a word on this subject, because for a number of years I served as chairman of the Committee on Pensions, and the very rule that the Senator from North Dakota has invoked—or a portion of it, at least—was written by me. But that rule never was used to debar worthy widows whose husbands had served with great distinction as officers of the United States.

If I remember correctly—and I do not say this at all in a controversial spirit—the Senator from North Dakota has declared over and over again that he did not believe the widow of a general officer was entitled to any more pension than the widow of a private soldier. I think I am not incorrect in making that statement.

Mr. McCUMBER. The Senator can assert that as my statement on prior occasions and as my statement to-day.

Mr. GALLINGER. Of course I take issue with that. Mr. President, because I think it is a most extraordinary position for a Senator to take.

I do not know how many widows of general officers holding the rank of major general, without any reference to the great injustice that was done Gen. Fitz John Porter, are receiving less than $50 per month, but I know that a great many of them are receiving that amount and some of them a much larger amount.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Utah?

Mr. GALLINGER. Yes.

Mr. SMOOT. Has the Senator in his mind the idea that the committee has refused to recommend a pension of $50 per month in this case?

Mr. GALLINGER. I have that in mind; yes.

Mr. SMOOT. I want to say to the Senator that the bill provides $50 a month pension for the widow of Gen. Porter.

Mr. GALLINGER. Yes; the committee has so reported, but the chairman of the committee insists that the bill ought not to pass. That is what I am addressing myself to—the attitude of the chairman of the committee. The chairman of the committee wants this woman to remain on the pension roll at $12 per month.

I have a little list here, to which I will refer in a moment. I remember that the Senate in its wisdom—and it was an act of wisdom, notwithstanding the Senator from North Dakota took precisely the position he does now, in opposition to it—voted $50 a month to the widow of Admiral Schley. I voted for it. I believed it was right, notwithstanding the rule that the Senator then invoked, which he argued ought to debar her from receiving more than $12 per month, I suppose.

We are not granting such large pensions now as we did shortly after the war, and I am glad we are not. We then voted $2,000 a year, in one case, to the widow of an officer not more distinguished than was Gen. Fitz John Porter. I think in several instances pensions of as much as $2,000 per year were granted—to the widows of Gen. Thomas, Gen. Logan, Gen. Blair, and others—and a pension of $2,500 was granted to the widow of Gen. Sheridan. In running over the list I have found a number of cases which I want to put in the RECORD, because they are illuminating. They may not have been wisdom, but they were the action of Congress.

Sallie R. Alexander, widow of Lieut. Col. Thomas L. Alexander, is getting $50 a month. She is the widow of a lieutenant colonel.

Emily L., widow of Gen. Benjamin Alvord, is getting $50 a month.

Eliza B., widow of Gen. Robert Anderson, was given $50 a month, and it was afterwards increased to $100.

Abby P., widow of Gen. Richard Arnold, is getting $50 a month.

Juliet Opie H., widow of Col. Romeyn B. Ayers, is getting $75 a month.

Margaret T., widow of Commander Samuel H. Baker, United States Navy, $50 a month.

Mary A., widow of Gen. Edward D. Baker, $50 a month.

Mrs. Mary Palmer Banks, widow of Gen. Nathaniel P. Banks, is getting $100 a month.

Mary T., widow of Gen. Joseph K. Barnes, $50 a month.

Elizabeth T. Beall, $50 a month.

Fannie S., widow of Admiral John C. Beaumont, $50 a month.

Mary A. Bedel, $50 a month.

Margaret C., widow of Admiral Henry H. Bell, $50 a month.

Mrs. Henry A. Benham, widow of Gen. Henry A. Benham, $50 a month.

Eliza Berry, widow of Gen. Hiram G. Berry, $50 a month.

Emily B., widow of Gen. Daniel D. Bidwell, $50 a month.

Maria A., widow of Gen. David B. Birney, $50 a month.

Sarah M. Bissell, widow of Commodore Simon B. Bissell, $50 a month.

Sarah R., widow of Paymaster John V. B. Bleecker, $50 a month—a paymaster in the Navy, I suppose.

Elise Blenker, $50 a month.

Nancy Carson Blunt, $75 a month.

Ellen M., widow of Pay Director William Benton Boggs, $50 a month—I presume a pay director in the Navy.

Henrietta E., widow of Rear Admiral Charles S. Boggs, $50 a month.

Celestia A., widow of Horace Boughton, $50 a month.

Leonora A. Boyden, $50 a month.

Jane D., widow of Capt. Thomas L. Brent, $50 a month.

Martha C., widow of Capt. Kidder Randolph Breese, $50—a captain, not a major general.

F. Selina Buchanan, $50 a month.

Priscilla R. Burns, $50 a month.

Mrs. Rochie Brien Buell, widow of Gen. George P. Buell, $50 a month.

Hattie A., widow of Gen. Ward B. Burnett, $50 a month.

Mr. President, I happen to have information that some of those widows have quite as much property, and in some instances I know more property, than has the widow of Gen. Fitz John Porter. The Senator from Illinois [Mr. CULLOM] reminds me that the widow of Gen. John M. Palmer is receiving $50 a month, and I recall that fact; and the widow of Gen. McClellan, and a great many others I have not named. I have simply selected a few.

It is sometimes a good thing to break rules. The Senate broke rules when I was chairman of the Committee on Pensions, in many instances overruling me, and I did not find any fault. I wanted to keep down these special pension bills as much as possible. I think they ought to be kept down, and there ought to be great discrimination exercised. But it is a little different when we come to consider a case like this, where a man performed the remarkable services that Gen. Fitz John Porter did in two wars, and left his widow, accustomed to some of the luxuries of life, at least, with a mere pittance, because it is a pittance. Her income is less than girls are receiving as stenographers in the Capitol to-day, and half of what some young men are receiving as clerks to committees in the Capitol to-day.

I submit, Mr. President, that it is hardly worth while for the Senate to spend a great deal of time in coming to the conclusion that this bill, amended as it has been, should be passed. I should have opposed a pension of $100 a month. But this bill, amended as it has been to $50 a month, ought not to be opposed by any Senator, and certainly ought not to be defeated by a vote of the Senate.

Mr. McCUMBER. Mr. President, I am constrained to believe that it is always worth while for the Senate to prevent injustice being done; that it is always worth while for the Senate, as nearly as it can, to insist that equal justice shall be done to all persons.

The Senator has read the names of a large number of people who receive pensions of $50 a month. As is well known, this system of granting private pensions is a system that has been followed for more than half a century. Immediately after the close of the war, when, it seems to me, that perhaps we were swayed more by impulse than we are to-day, but very little attention was paid to the needs of the claimants. Those pensions were voted upon the record of the officer, and upon that record alone.

I should like to ask the Senator from New Hampshire if he knows of a single case in the last quarter of a century in which a private pension bill carrying $50 per month has been passed for the benefit of a widow who had an income of over $150 per month?

Mr. GALLINGER. I call the Senator's attention to the bill which I hand to him.

Mr. McCUMBER. The Senator refers to the case of the widow of Admiral Schley. I do not remember now just what her income was. I stated but a short time ago that that was one of the cases in which the Senate had made an exception and had granted a pension in a case where I thought it ought not to be granted, on account of the income that was being received.

Mr. President, the Senate has that power. It has the power to make any kind of precedent it sees fit to make. If it desires by its vote that the widow of Gen. Hawkins, who has an income of $1,400 a year, shall receive no additional pension, but that the widow of Gen. Porter, who has an income of over $1,400 a year, shall receive a pension of $50 a month, the Senate can do that. There will be at least one vote against that inconsistency and that injustice.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Harriet Pierson Porter."

DEPARTMENT OF PUBLIC HEALTH.

The bill (S. 1) to establish a bureau of health, and for other purposes, was announced as next in order.

Mr. SMOOT. Let the bill go over.

The PRESIDENT pro tempore. The bill will go over.

PONCA INDIANS OF OKLAHOMA AND NEBRASKA.

The bill (S. 5169) authorizing the Ponca Tribe of Indians to intervene in the suit of the Omaha Indians in the Court of Claims, and for other purposes, was considered by the Senate as in Committee of the Whole.

The bill had been reported from the Committee on Indian Affairs with amendments, on page 2, line 6, after the word "authorities," to insert "under contract approved by the Commissioner of Indian Affairs and the Secretary of the Interior, in accordance with the provisions of existing law"; and on line 13 to strike out "to decree the fees to be paid to the attorney employed by the Ponca Indians to represent them therein and his associates, such fees to be paid out of any funds of the tribe in the Treasury of the United States," and insert "said court shall decree the amount of the fee to be paid the attorney for the claimant Indians, such amount to be deducted from any money which may be found to be due said Indians: *Provided*, That the amount of the attorney's fee shall not be greater than that named in the approved contract," so as to make the bill read:

Be it enacted, etc., That the Ponca Tribe of Indians, residing in the States of Oklahoma and Nebraska, is hereby authorized and empowered to appear in and be made parties to any suit or suits in the Court of Claims heretofore instituted or which may hereafter be begun under and by virtue of an act of Congress approved June 22, 1910, entitled "An act of Congress authorizing the Omaha Tribe of Indians to submit claims to the Court of Claims," with full rights of appeal as therein provided for other tribes.

In such suits the Ponca Tribe may file such petitions, interventions, answers, or other pleadings as they may be advised are necessary or proper, which pleadings shall be verified by their attorney selected and employed by their tribal authorities under contract approved by the Commissioner of Indian Affairs and the Secretary of the Interior, in accordance with the provisions of existing law, to represent the tribe therein; and the Court of Claims shall have full jurisdiction, legal and equitable, in such suits to hear and determine the rights of the Ponca Indians against the United States and against any other tribe or band of Indians parties thereto; and upon final determination of any such suit said court shall decree the amount of the fee to be paid the attorney for the claimant Indians, such amount to be deducted from any money which may be found to be due said Indians: *Provided*, That the amount of the attorney's fee shall not be greater than that named in the approved contract.

The amendments were agreed to.

Mr. GALLINGER. I was about to inquire, but I see the Senator from Oklahoma [Mr. OWEN] is not in his seat, as to what the fees ordinarily are that are named in the approved contracts. But the Senator from Utah [Mr. SMOOT] suggests that the bill is all right; and as I know very little about Indian affairs, I will not oppose it at all.

Mr. SMOOT. I will say to the Senator that I took up the question with the department, and the department approves this bill, with the amendments that have just been made.

Mr. GORE. Mr. President, my colleague is absent from the Senate at this time. Personally, I am not familiar with the bill. I have no information in regard to it. I should like to see it reasonably limited, however; but I do not know enough about the measure to propose a proper amendment, if one is necessary.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 3463) to establish a bureau of national parks, and for other purposes, was announced as next in order.

Mr. GALLINGER. Let that bill go over.

The PRESIDENT pro tempore. The Senator from New Hampshire objects, and the bill will go over.

The bill (S. 2371) to amend section 3224 of the United States Compiled Statutes so as to prevent the restraining of the assessment or collection of any tax—State, county, municipal, district, or Federal—was announced as next in order.

Mr. SMOOT. I ask that the bill go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 5455) to establish a system of wireless telegraphy in the Philippine Islands was announced as next in order.

Mr. GRONNA. I ask to have the bill go over.

The PRESIDENT pro tempore. The Senator from North Dakota objects, and the bill will go over.

The bill (S. 5955) for the relief of certain retired officers of the Navy and Marine Corps was announced as next in order.

The PRESIDENT pro tempore. The bill has been heretofore read as in Committee of the Whole.

Mr. CLARKE of Arkansas. Let it be read for information, Mr. President, and then I will see whether or not I wish to object to it.

The Secretary read the bill.

Mr. CLARKE of Arkansas. I object.

The PRESIDENT pro tempore. Objection being made, the bill will go over.

INDIAN ALLOTMENTS.

The bill (H. R. 1332) regulating Indian allotments disposed of by will was considered as in Committee of the Whole.

The PRESIDENT pro tempore. The bill has already been considered as in Committee of the Whole, and an amendment submitted by the Senator from Washington [Mr. JONES] was agreed to. If not so desired, the amendment will not be again stated, and the bill will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

BILLS, ETC., PASSED OVER.

The bill (S. 5863) for the retirement of employees in the civil service, and for other purposes, was announced as next in order.

Mr. JOHNSTON of Alabama and Mr. OLIVER. Let the bill go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 4654) to regulate contracts for the future delivery of cotton was announced as next in order.

Mr. LODGE. Let the bill go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 6169) for the protection and increase of State game resources was announced as next in order.

Mr. SMITH of Arizona. Let the bill go over.

The PRESIDENT pro tempore. The bill goes over under objection.

The bill (S. 5069) to promote the efficiency of the enlisted personnel of the United States Navy was announced as next in order.

Mr. CLARKE of Arkansas. I object to that bill.

The PRESIDENT pro tempore. Under objection, the bill goes over.

The bill (S. 93) to establish a botanical laboratory at Denver, Colo., was announced as next in order.

Mr. LODGE. Let that go over.

The PRESIDENT pro tempore. The bill goes over under objection.

The bill (S. 2344) to pay the balance due the loyal Creek Indians on the award made them by the Senate on February 16, 1903, was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDENT pro tempore. Upon objection, the bill goes over.

The bill (S. 2845) to acquire certain land in Washington Heights for a public park to be known as McClellan Park was announced as next in order.

Mr. GRONNA. Let that go over.

The PRESIDENT pro tempore. The bill goes over under objection.

The next business on the calendar was the motion of Mr. POINDEXTER that the Senate Committee on Interstate Commerce be discharged from the further consideration of S. 3297, to abolish the Commerce Court, etc., and that said bill be placed upon the calendar, under Rule VIII, for consideration by the Senate.

Mr. GALLINGER. Let that go over.

The PRESIDENT pro tempore. The motion goes over under objection.

The bill (S. 7030) to provide for a permanent supply of coal for the use of the United States Navy and other governmental purposes; to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes was announced as next in order.

Mr. SMOOT. Let the bill go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 6896) to reopen and extend certain letters patent granted to Richard B. Painton; to insert certain claims in said letters patent dated May 9, 1899, was announced as next in order.

Mr. GALLINGER. Let that go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 2518) to provide for raising the volunteer forces of the United States in time of actual or threatened war was announced as next in order.

Mr. McCUMBER. Let that go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 6172) to regulate the method of directing the work of Government employees was announced as next in order.

Mr. McCUMBER. Let that go over.

The PRESIDENT pro tempore. The bill will go over under objection.

The bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases was announced as next in order.

Mr. GALLINGER. Let that go over under Rule IX.

Mr. LODGE. That is a special order.

Mr. GALLINGER. It is; but let it go under Rule IX.

Mr. KENYON. The bill is a special order, and a time has been fixed by unanimous consent for a vote upon it.

Mr. GALLINGER. It will not affect it at all if it goes under Rule IX.

The PRESIDENT pro tempore. Under the suggestion of the Senator from New Hampshire, without objection the bill will go to the calendar under Rule IX.

FREDERICK H. FERRIS.

The bill (H. R. 21524) for the relief of Frederick H. Ferris was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, on page 1, lines 9 and 10, to strike out "28th day of February, 1865," and insert "30th day of December, 1864," so as to make the bill read:

Be it enacted, etc., That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Frederick H. Ferris shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a second lieutenant of the Seventy-fourth Regiment United States Colored Infantry on the 30th day of December, 1864: *Provided*, That no pension shall accrue prior to the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 6812) to amend section 3 of an act entitled "An act to provide for the allotment of land in severalty," etc., approved February 28, 1891, was announced as next in order.

Mr. McCUMBER. Let that go over.

The PRESIDENT pro tempore. The bill will go over under objection.

The next business on the calendar was S. Res. 362, for an investigation into the expenditures of the Forest Service and the appointment of a committee for that purpose.

Mr. SMOOT. I desire to ask a question of the Senator who introduced the resolution. I notice that he is not present in the Chamber. For that reason I ask that it may go over to-day.

The PRESIDENT pro tempore. The resolution will go over under objection.

The bill (H. R. 22913) to create a department of labor was announced as next in order.

Mr. SMOOT. Let that go over to-day, Mr. President.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 223) to provide for the inspection and grading of grain entering into interstate commerce, and to secure uniformity in standards and classification of grain, and for other purposes, was announced as next in order.

Mr. CLARKE of Arkansas. Let that go over.

The PRESIDENT pro tempore. The bill will go over.

Mr. CRAWFORD. As I said this morning, this is a bill in which the producers of cereals and shippers of grain in the Northwest are very much interested. They have been pressing upon Congress for some time——

Mr. CLARKE of Arkansas. Let me say——

Mr. CRAWFORD. I was going to ask that some day certain be fixed when we might take up this bill.

Mr. CLARKE of Arkansas. I have no objection to its being taken up at any time. I was requested to interpose an objection on behalf of the senior Senator from Maryland [Mr. SMITH]. Whenever he is present I will be very glad to turn the matter over to him.

Mr. LODGE. I object to the consideration of the bill.

The PRESIDENT pro tempore. Under objection the bill goes over.

The bill (H. R. 24153) to amend and reenact section 5241 of the Revised Statutes of the United States was announced as next in order.

Mr. PENROSE. Let that go over.

The PRESIDENT pro tempore. The bill goes over under objection.

The bill (S. 3345) to amend the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies" was announced as next in order.

Mr. GALLINGER. Let that go over.

The PRESIDENT pro tempore. The bill goes over under objection.

FIRST LIEUTENANT SYDNEY SMITH.

The bill (S. 7288) to authorize the transfer of First Lieut. Sydney Smith from retired to the active list of the Army was announced as next in order.

Mr. SMOOT. If the Senator reporting that bill is present I should like to have some explanation as to the reason for it. I do not see that Senator in the Chamber. I ask that the bill may go over.

Mr. GALLINGER. That is a bill in which some friends of mine are interested. I do not rise to ask for action on it. It was reported without a written report, which is unfortunate, and I am going to move that it be recommitted to the committee. We never will pass it in its present form without a report.

The PRESIDENT pro tempore. The Senator from New Hampshire moves that the bill be recommitted to the Committee on Military Affairs.

The motion was agreed to.

BILLS, ETC., PASSED OVER.

The next business on the calendar was Senate resolution 375, proposing to discharge the Committee on the Judiciary from further consideration of the concurrent resolution (S. Con. Res. 4) instructing the Attorney General of the United States to prosecute the Standard Oil Co. and the American Tobacco Co.

Mr. CLARKE of Arkansas and Mr. GALLINGER. Let that go over.

The PRESIDENT pro tempore. The resolution goes over under objection.

The bill (H. R. 16461) to regulate judicial procedure of the courts of the United States was announced as next in order.

Mr. CATRON. Let that go over.

The PRESIDENT pro tempore. The bill goes over under objection.

The bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909, was announced as next in order.

Mr. KENYON. I ask that that bill may go over.

The PRESIDENT pro tempore. Being objected to, the bill goes over.

PROTECTION OF WATER SUPPLY IN COLORADO.

The bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., was announced as next in order.

Mr. SMOOT. The Senator from Wyoming [Mr. CLARK] is not in the Chamber, and I understand that he desires to make a statement before the bill shall pass.

Mr. GUGGENHEIM. I have not been informed by the Senator from Wyoming that he objects to the bill. The fact is that the Senator from Wyoming is upon the Committee on Public Lands. If I remember correctly, I attended the meeting, and that Senator at that time voted in favor of this bill. I do not think, therefore, the Senator from Utah is justified in bringing up the question at this time.

Mr. SMOOT. I am justified in bringing up the question if there are a number of Senators who have stated that they wish to express their views on the bill when it comes before the Senate. While they voted to report it to the Senate many of them thought that the land ought to be given directly to the cities, rather than have a joint administration of the cities and the Government. The Senator from Colorado was at the committee meeting, and I suppose he remembers very well that that was the position of a great many Senators there.

Mr. GUGGENHEIM. My recollection is that there was one Senator who objected at the time, and he has since withdrawn his objection. I should like very much to have the bill considered. It has been on the calendar for some time. It has passed the House, and is a very meritorious and a very just bill. I feel constrained to move, notwithstanding the objection of the Senator from Utah, that the bill be taken up.

Mr. GALLINGER. The Senator can not make that motion.

Mr. SMOOT. Of course, not under the rule we are proceeding, but I am not going to object to the consideration of the bill, after listening to the statement of the Senator from Colorado, any further than to say that I believe it was a very bad practice to establish to grant certain lands in any forest reserve for the protection of a watershed unless you grant it directly to the city and allow the city or cities, as the case may be, to control it. In this bill we provide that there shall be a joint control between the city of Manitou and the city of Colorado Springs with the Forest Service. I think myself that it is rather a bad practice.

Now, that is all I want to say in relation to the bill, and I am not going to object to the present consideration of it.

Mr. GUGGENHEIM. Mr. President, the mayor of the city of Colorado Springs was in the city and appeared before the committee in reference to this bill. It received the support of that gentleman and also of the department. There is a very exhaustive report with the bill, and from what I can see it is a very meritorious measure. I trust that it may pass.

Mr. SMOOT. The mayor of the city would be more than pleased if the lands were given outright to the city and allow them to control them and patrol them in the future. There is not any question about that. But they did not think it could be passed in the House in that shape, and therefore the bill is here giving joint control to the cities and the Department of Agriculture.

Mr. GRONNA. I should like to ask the Senator from Utah a question. Has it been the policy of the department to administer lands in this way?

Mr. SMOOT. This is the first measure I remember passing the Senate where there was joint control of a watershed between cities and the Department of Agriculture.

Mr. GRONNA. The Senator from Utah is chairman of the Committee on Public Lands. Of course, he knows what the policy of the department is in this respect. May I ask him if it is the policy of the department to give the lands outright to the cities where needed for a watershed?

Mr. SMOOT. Time and again we have passed bills here for different cities within Colorado allowing the cities to buy the land at $1.25 an acre, but this bill provides that there shall be certain lands, I forget how many thousand acres, set aside for the purpose of the protection of watersheds at Colorado Springs and in Manitou, but it does not provide for the purchase of the lands. The lands are set apart for that purpose, and the joint control and patrol of them is to be in the future between the two cities and the Department of Agriculture.

I want to say to the Senator from Colorado, I am in sympathy with the idea and with what is to be accomplished by this bill, but to get it through Congress the mayor of Colorado Springs thinks that the bill provides now the only way of doing so at the present session of Congress.

Mr. GUGGENHEIM. This bill has passed the House of Representatives.

Mr. SMOOT. Yes; it passed the House of Representatives, but if it went into conference with any other provision they were afraid the House would not agree to it, and therefore we could not get it through at this session.

Mr. GUGGENHEIM. I should think that the Senator from Utah would permit the Senator from Colorado to take that chance.

Mr. SMOOT. I am not objecting to the consideration of the bill now. I have made my statement, and it shall pass as far as I am concerned. I was only answering the question of the Senator from North Dakota [Mr. GRONNA].

Mr. GALLINGER. If the Senator from Colorado will permit me, I observe that the department recommends the passage of the bill with an amendment which has been incorporated in the bill, and that the Interior Department says that consultation has been had with the Secretary of Agriculture, and he likewise approves of it.

Mr. GUGGENHEIM. Both the departments approve of it—the Agricultural Department and the Interior Department. As I have said, it is a very meritorious bill, and it is of a local nature.

Mr. GRONNA. May I ask the Senator from Colorado if the bill as it passed the House is, in substance, the same as the bill we now have before us?

Mr. GUGGENHEIM. This is the House bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Lands with amendments.

The first amendment was, in section 3, page 6, line 19, after the word "by," to strike out "the Secretary of Agriculture in cooperation with" and to insert "and at the expense of," and in line 21, after the word "Manitou," to insert "under the supervision of the Secretary of Agriculture," so as to make the section read:

SEC. 3. That the lands heretofore described and reserved for municipal water-supply purposes shall be administered by and at the expense of the city of Colorado Springs and the town of Manitou, under the supervision of the Secretary of Agriculture, for the purpose of storing and conserving the water supply, protecting them from pollution, and preserving the timber on said lands to more fully accomplish such purposes, and to that end said city and town shall each have the right, subject to approval by the Secretary of Agriculture, to the use of any and all parts of the lands reserved for them, respectively, for the storage and conveying of water, and the construction and maintenance thereon of reservoirs, pipes, mains, conduits, and other like improvements.

The amendment was agreed to.

The next amendment was, in section 5, page 7, line 24, after the word "heretofore," to insert "or hereafter"; in the same line, after the word "any," to insert "municipality"; and on page 8, line 1, after the word "thereof," to strike out "and now existing under and by virtue of the laws of the United States or of the State of Colorado" and to insert "or the water thereof," so as to make the section read:

SEC. 5. That this act shall be subject to all legal rights heretofore or hereafter acquired by any municipality, person, or persons in or to the above-described premises, or any part thereof, or the water thereof.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

INCOME TAX.

Mr. BROWN. Mr. President, I am pleased to inform the Senate that advices from the States of Wyoming and Delaware to-day are to the effect that the income-tax amendment has been ratified by both States. The joint resolution originated in the Senate, and I congratulate the Senate on the part it played. The joint resolution having been favored by a special message by the President of the United States, I congratulate him, and I congratulate the American people on having ratified this, the sixteenth amendment to the Constitution.

SWAMP LAND IN NEVADA.

The bill (S. 4994) to authorize the inclosure of certain lands in the State of Nevada containing dangerous quagmires was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. The bill will go over.

HARRY S. WADE.

The bill (H. R. 15181) for the relief of Harry S. Wade was announced as the next in order.

Mr. CRAWFORD. Mr. President, I wish to say that is a very appealing case of personal injury. A laborer on the Government works out on one of the coast rivers lost his sight entirely and is almost totally deaf because of an explosion in

some dredging operations there in which there was negligence on the part of some of the employees above him.

This bill passed the House and came to the Senate and was reported to the Senate before the close of the last session in August. It was amended there by reducing the amount, and afterwards when a more complete statement of the facts was reported they appealed so strongly to the members of the committee that it was recalled after having been passed with this amendment, for the purpose of having it reconsidered so that the Senate might have an opportunity to pass it just as the House passed it.

A motion to reconsider has never in form been made, and I now move to reconsider the vote by which the amendment was adopted and the bill passed by the Senate at the last session, so that we may have it before the Senate for the purpose of passing it in the same form in which it passed the House. I make that motion.

The PRESIDENT pro tempore. What is the motion the Senator makes?

Mr. CRAWFORD. Pursuant to a notice which I gave some time ago, I move to reconsider the vote by which the Senate amended the bill H. R. 15181.

The PRESIDENT pro tempore. The Chair would suggest to the Senator that it is necessary to move to reconsider the vote by which the Senate passed the bill.

Mr. CRAWFORD. Very well; I put it, then, in that form. I want to put it in the right way, of course.

The PRESIDENT pro tempore. The question is on the motion of the Senator from South Dakota that the Senate reconsider the votes by which the bill was read the third time and passed by the Senate.

The motion to reconsider was agreed to.

The PRESIDENT pro tempore. The bill is before the Senate and the question is, the Chair presumes, upon the motion the Senator now makes.

Mr. CRAWFORD. What I desire is to abandon the amendment by which the amount was reduced from $2,500 to $1,500. This is a workingman who, as a result of the explosion, lost his sight, both eyes absolutely, and his hearing is also practically destroyed, and the physicians so report. It comes to us through the department.

The PRESIDENT pro tempore. The question is upon the motion to reconsider the vote by which the amendment of the committee was adopted.

The motion to reconsider was agreed to.

Mr. CRAWFORD. I ask that the amendment be rejected.

The PRESIDENT pro tempore. The affirmative is always put. The question is on the amendment which was proposed by the committee.

The amendment was rejected.

Mr. CRAWFORD. Now I ask that the bill be put upon its passage as it came from the House.

The bill was ordered to a third reading, read the third time, and passed.

CONNECTICUT RIVER DAM.

The bill (S. 8063) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut, was announced as next in order on the calendar.

Mr. GALLINGER. Let that go over.

The PRESIDENT pro tempore. The bill goes over on objection.

PROTECTION OF INTERSTATE SHIPMENTS.

The bill (H. R. 16450) to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same, was announced as next in order.

Mr. CLARKE of Arkansas. Mr. President, at the last session of the Senate when the calendar was considered I objected to this bill, not because I did not recognize the fact that it covered a subject matter which needed legislation, but because of my scruples against leaving to the Federal Government any more doubtful authority. In respect to the constitutionality of this bill it falls within the so-called twilight zone, which is gradually disappearing by surrender to the National Government in response to a demand for effective remedies for developed evils with which the State authorities seem wholly incompetent to deal.

It is said to be a fact by those whose investigations have covered the subject somewhat comprehensively that the breaking into interstate cars has become an evil of such magnitude that the State authorities are either unwilling or unable to deal with it, and that some remedy ought to be extended against a gang, band, or association of persons in existence who depredate upon property of that character. My whole trend of thought is in the direction of an effective Government. I am in favor of a Government that will govern, and I am in favor of an effective remedy wherever there is a developed evil that can not be successfully coped with. My scruples therefore are somewhat elastic, and in this particular case I am disposed to yield to the evident justice of the case and permit this bill to pass, and I intend to vote for it.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments.

The amendments were, on page 3, line 13, after the word "judgment," to strike out "or" and insert "of," and, in line 14, after the word "conviction," to insert "or acquittal on the merits," so as to make the bill read:

Be it enacted, etc., That whoever shall unlawfully break the seal of any railroad car containing interstate or foreign shipments of freight or express, or shall enter any such car with intent, in either case, to commit larceny therein; or whoever shall steal or unlawfully take, carry away, or conceal, or by fraud or deception obtain from any railroad car, station house, platform, depot, steamboat, vessel, or wharf, with intent to convert to his own use any goods or chattels moving as, or which are a part of or which constitute, an interstate or foreign shipment of freight or express, or shall buy, or receive, or have in his possession any such goods or chattels, knowing the same to have been stolen; or whoever shall steal or shall unlawfully take, carry away, or by fraud or deception obtain, with intent to convert to his own use, any baggage which shall have come into the possession of any common carrier for transportation from one State or Territory or the District of Columbia to another State or Territory or the District of Columbia, or to a foreign country, or from a foreign country to any State or Territory or the District of Columbia, or shall break into, steal, take, carry away, or conceal any of the contents of such baggage, or shall buy, receive, or have in his possession any such baggage or any article therefrom of whatsoever nature, knowing the same to have been stolen, shall in each case be fined not more than $5,000 or imprisoned not more than 10 years, or both, and prosecutions therefor may be instituted in any district wherein the crime shall have been committed. The carrying or transporting of any such freight, express, baggage, goods, or chattels from one State or Territory or the District of Columbia into another State or Territory or the District of Columbia, knowing the same to have been stolen, shall constitute a separate offense and subject the offender to the penalties above described for unlawful taking, and prosecutions therefor may be instituted in any district into which such freight, express, baggage, goods, or chattels shall have been removed or into which they shall have been brought by such offender.

SEC. 2. That nothing in this act shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof; and a judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

LANDS IN MONTANA.

The bill (S. 3130) to authorize the Secretary of the Interior to permit the Conrad-Stanford Co. to use certain lands was announced as next in order.

Mr. CLARK of Wyoming. I think that bill may, perhaps, give rise to some discussion. I object to its consideration.

The PRESIDENT pro tempore. The bill goes over under objection.

Mr. MYERS. I realize that Senators are probably not prepared to-day to discuss the bill, but if it does not meet with any objection I should like to have the bill set down for consideration on some certain day in the future.

Mr. CLARK of Wyoming. I do not know that I would object to that, but I am pretty sure that the discussion will take a very wide range.

Mr. MYERS. That is my object in asking to have the bill set down for consideration on some certain day, so that those who wish to express their views may have time to do so, which they probably would not have to-day.

Mr. CLARK of Wyoming. It occurs to me, Mr. President, that unanimous consent, perhaps, could not well be given while the Senate is so thin as it is at present.

Mr. MYERS. I must say I do not hear what the Senator says.

Mr. CLARK of Wyoming. I think I shall object.

The PRESIDENT pro tempore. The Senator from Wyoming objects.

CIGARS FURNISHED EMPLOYEES BY MANUFACTURERS.

Mr. BRYAN. When Calendar No. 949, being House bill 25741, was called, I understood the Chair to say that objection was made, but I am informed that the Senator from Iowa [Mr. KENYON] did not object to that calendar number, so I make the request that it be again called.

Mr. KENYON. My objection was intended to apply to Order of Business No. 942 and not to Order of Business No. 949.

The PRESIDENT pro tempore. Objection having been made inadvertently, the Secretary will again state Order of Business No. 949.

The SECRETARY. A bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1900.

Mr. ROOT. I think that bill had better go over, Mr. President.

The PRESIDENT pro tempore. The bill goes over, under objection.

Mr. LODGE. Mr. President, I should like to make an appeal to have that objection withdrawn. All that the great mass of this bill does it to merely reenact existing law. The only thing it does is to permit the continuance of a custom which is as old as the trade. The workmen are allowed to have one or two cigars that are spoiled, that are not perfectly rolled. They are known as "smokers." This is to permit the workmen to have those cigars without tax. The law has been recently interpreted that those "smokers" should be taxed, and this is to exempt them from taxation. I believe it is a thoroughly just bill. The committee considered it very carefully and I hope it may be allowed to go through.

Mr. PENROSE. I wish to add, Mr. President, to what the Senator from Massachusetts has said, that such cigars are taken for the consumption of the workmen; they are not sold.

Mr. LODGE. That is entirely right. They are not taken for sale; they are taken only for the consumption of the workmen.

Mr. PENROSE. It seems to me to be a good standard for a cigar when the maker smokes it and can stand it. [Laughter.]

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. ROOT. I withdraw my objection.

The PRESIDENT pro tempore. The objection is withdrawn.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1900, to read as follows:

SEC. 3392. All cigars weighing more than 3 pounds per thousand shall be packed in boxes not before used for that purpose containing, respectively, 5, 10, 12, 15, 25, 50, 100, 200, 250, or 500 cigars each; and every person who sells, or offers for sale, or delivers, or offers to deliver, any cigars in any other form than in new boxes as above described, or who packs in any box any cigars in excess of or less than the number provided by law to be put in each box, respectively, or who falsely brands any box, or affixes a stamp on any box denoting a less amount of tax than that required by law, shall be fined for each offense not more than $1,000, and be imprisoned not more than two years: *Provided*, That nothing in this section shall be construed as preventing the sale of cigars at retail by retail dealers from boxes packed, stamped, and branded in the manner prescribed by law: *Provided further*, That each employee of a manufacturer of cigars shall be permitted to use, for personal consumption and for experimental purposes, not to exceed 21 cigars per week without the manufacturer of cigars being required to pack the same in boxes or to stamp or pay any internal-revenue tax thereon, such exemption to be allowed under such rules and regulations as the Secretary of the Treasury may prescribe: *And provided further*, That every manufacturer of cigarettes shall put up all the cigarettes that he manufactures or has manufactured for him and sells or removes for consumption or use in packages or parcels containing 5, 8, 10, 15, 20, 50, or 100 cigarettes each, and shall securely affix to each of said packages or parcels a suitable stamp denoting the tax thereon, and shall properly cancel the same prior to such sale or removal for consumption or use, under such regulations as the Commissioner of Internal Revenue shall prescribe; and all cigarettes imported from a foreign country shall be packed, stamped, and the stamps canceled in like manner, in addition to the import stamp indicating inspection of the customhouse before they are withdrawn therefrom.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LEGAL REPRESENTATIVES OF SAMUEL SCHIFFER.

The bill (H. R. 8861) for the relief of the legal representatives of Samuel Schiffer was considered as in Committee of the Whole.

The bill had been reported from the Committee on Claims with an amendment to strike out all after the enacting clause and to insert:

That the claim of the legal representatives of Samuel Schiffer, growing out of the purchase by the late firm of J. Schiffer & Co., of New York, of certain lots of cotton registered as turned over to or seized by the United States authorities at Savannah, Ga., about January, February, and March, 1865, in the names of Keziah Hall, M. Rich, Mrs. John (Catherine) Ruckert, A. Fawcett, Mary Haley, John Elkan, A. B. Wessolowsky, Lewis Levi, Raphael Cohen, Simon (or Solomon) Cotner, L. Hohenstein, S. W. Silverhill, Mrs. H. M. Kenney, and Mrs. Henry (Hannah) Fowler, be, and the same is hereby, referred with all accompanying papers to the Court of Claims, and jurisdiction is hereby conferred on said court to hear and determine the same, and to enter judgment for any amount found to be due as the net proceeds of the sale of said cotton or any part thereof. Said court is hereby authorized to consider said claim under the provision of section 162 of the act of March 3, 1911 (36 Stats., 1135, the Judicial Code), and to adjudge said claim, the act of July 2, 1864 (13 Stat. L., 376), and all other nonintercourse laws to the contrary notwithstanding.

Mr. SMOOT. Mr. President, I should like to ask the Senator who reported the bill if the amendment simply allows the claim to be referred to the Court of Claims, or does it give the Court of Claims any authority whatever to enter a judgment, to be paid by the Government without an act of Congress?

Mr. OLIVER. It does, Mr. President. It allows the Court of Claims to pass upon the merits of the claims, to make an award, and to enter judgment against the Government, to be paid without further action of Congress.

Mr. CRAWFORD. Does it allow an appeal to the Supreme Court?

Mr. OLIVER. Of course, at least it does not prevent it, and I assume that an appeal would lie in any event.

Mr. CRAWFORD. I presume it would.

Mr. OLIVER. If not, the bill can be so amended as to provide that an appeal will lie to the Supreme Court.

Mr. President, I may say that the bill as passed by the other House provided for the payment of $62,158.34; but when the bill was referred to me by the Committee on Claims, upon examination of the matter, while I was thoroughly satisfied of the justice of the claim, it seemed to me there were certain facts in connection with some of the claims, but only a small part of the claims, that ought to be inquired into by a court. I therefore reported to the committee that instead of providing for the direct payment of the claim it should be referred to the Court of Claims for consideration.

I will state that this claim has been before four different Congresses, has passed the Senate once or twice, and has passed the other House in the present Congress, and it now rests with us. The money has actually been in the Treasury of the Government ever since 1865, and the claim ought to be paid. It is a just claim; but in order to be absolutely certain about it, I thought it was better to refer the matter to the Court of Claims than for Congress to take the responsibility of withdrawing the money directly from the Treasury.

Mr. GALLINGER. Did I understand the Senator to say that the House bill provides for direct payment of the claim?

Mr. OLIVER. The House bill provides for direct payment of the claim without qualification. My amendment substitutes for that a provision for reference to the Court of Claims.

Mr. SMOOT. I should like to ask the Senator if the claim has ever been before the Court of Claims?

Mr. OLIVER. A part of this claim was before the Court of Claims and judgment awarded. It was appealed to the Supreme Court of the United States solely upon the question of the nonintercourse law which prevailed at that time, and it was reversed by the Supreme Court.

This cotton, Mr. President, was purchased somewhat under color of the authority of President Lincoln himself. The more I investigated the claim the better I became satisfied of its justice, except perhaps as to certain items of it. It may be that, upon inquiry by the Court of Claims, some of the items will be thrown out and the award will be for not so great a sum as is provided by the House bill. That is the only doubt that I have upon the subject.

Mr. SMOOT. I was going to say, Mr. President, that if the claim has already been before the Court of Claims and judgment has been awarded there, if sent back to the Court of Claims, perhaps the same judgment will be rendered. It seems to me that as the amendment is framed it would preclude the Government from appealing to the Supreme Court of the United States, for it reads:

And the same is hereby referred with all accompanying papers to the Court of Claims, and jurisdiction is hereby conferred on said court to hear and determine the same, and to enter judgment for any amount found to be due as the net proceeds of the sale of said cotton or any part thereof.

Mr. OLIVER. I would suggest that at the end of that clause there be inserted an additional amendment providing for an appeal to the Supreme Court of the United States. There is no objection to that.

Mr. SMOOT. If that be put in so that there will be no doubt as to right of appeal, I will not object to the consideration of the bill.

Mr. OLIVER. Then, Mr. President, I move that the committee amendment be amended by inserting after the word "thereof," in line 15, on page 2, the words:

The said judgment to be subject to an appeal to the Supreme Court of the United States.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

MOTOR BOAT FOR CUSTOMS SERVICE.

The bill (H. R. 26549) to provide for the construction or purchase of motor boat for customs service was considered as in Committee of the Whole. It directs the Secretary of the Treasury to construct or purchase one gasoline motor boat for service in the customs collection district of Corpus Christi, Tex., at a cost not to exceed $6,000, but the Secretary of the Treasury may use the boat elsewhere than at Corpus Christi, as the exigencies of the service may require.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE L. THOMAS.

The bill (S. 7488) for the relief of George L. Thomas was considered as in Committee of the Whole. It directs the Postmaster General to credit to the accounts of George L. Thomas, postmaster at New Bethlehem, Pa., $5,711.93, and to certify the said credit to the Auditor for the Post Office Department, that being the amount of money-order funds embezzled by Ella E. Latimer, an employee in the post office, without fault or negligence on the part of George L. Thomas, and appropriates $5,711.93 for the payment of the claim.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LANDS IN AID OF PUBLIC SCHOOLS.

The bill (S. 6507) to further assure title to lands granted the several States, in place, in aid of public schools was considered as in Committee of the Whole. It provides that where a grant of lands in place has heretofore been made or may hereafter be made to any State in aid of public schools the governor of any such State may cause to be listed with the Secretary of the Interior any sections or parts of sections so granted, and it shall be the duty of the Secretary of the Interior to examine such lists, and if the lands are found to be of the character so granted and free from valid adverse claim, initiated prior to the survey of the township in which they are situated, to certify them to the State entitled thereto in further assurance of title; but no such list shall be certified until the State shall have published, for a period of 30 days in a newspaper of general circulation in the vicinity of the land, a notice of the filing thereof, and as to lands hereafter surveyed such publication shall not be made until after the expiration of three months from the filing of the township plat of survey in the district land office. Nothing herein contained shall be construed to postpone the time of the attachment of the grant of such lands under existing law.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

On motion of Mr. LODGE the title was amended so as to read: "A bill further to assure title to lands granted the several States, in place, in aid of public schools."

CORVALLIS AND YAQUINA BAY MILITARY WAGON ROAD.

The bill (H. R. 8151) providing for the adjustment of the grant of lands in aid of the construction of the Corvallis and Yaquina Bay military wagon road, and of conflicting claims to lands within the limits of said grant, was announced as next in order.

Mr. BURTON. Let that bill go over.

The PRESIDENT pro tempore. The bill will be passed over on the objection of the Senator from Ohio.

Mr. CHAMBERLAIN. Mr. President, I trust the Senator will withdraw the objection. There is no adverse report on the bill, and it is merely a local measure.

Mr. BURTON. My objection was based on the portion of the report made by the Secretary of the Interior on the bill, in which he says:

In conclusion the department must report adversely upon a bill which would permit selection of more than 9,000 acres, and suggests that if legislation is to be had relative to the adjustment of this grant any further measure of relief extended should not permit of selection in excess of 1,848.84 acres, and such selections should be restricted to the unreserved, unoccupied, nonmineral, surveyed public lands of the United States in the State of Oregon subject to homestead entry.

Mr. CHAMBERLAIN. Mr. President, if the Senator will look at the bill further he will find that it has been amended to conform exactly to the report of the Secretary of the Interior. There is no question about it.

Mr. SMOOT. If the Senator will allow me a moment, the first section of the bill provides:

That the Secretary of the Interior be, and he is hereby, authorized and directed to cause patents to be issued conveying to the administrator of the estate of T. Egenton Hogg 1,848.84 acres.

That is the number of acres, as the Senator from Ohio will notice, which the Secretary says should be allowed to be selected.

Mr. BURTON. Do the Senator from Oregon and the Senator from Utah state that this bill is now in the form approved by the Secretary of the Interior?

Mr. SMOOT. It is.

Mr. CHAMBERLAIN. Yes. If it is not, I will be very glad to withdraw my approval of it at any time.

Mr. BURTON. Then, I will make no further objection.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MISSISSIPPI RIVER BRIDGES AT MINNEAPOLIS, MINN.

The bill (S. 8248) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn., was considered as in Committee of the Whole. It proposes to extend the time for commencing and completing the construction of the bridge authorized by the act of Congress approved January 27, 1912, to be built across the Mississippi River, from the intersection of Nineteenth Avenue south and Bluff Street to the intersection of Tenth and University Avenues southeast, in the city of Minneapolis, Minn., to one year and three years, respectively.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. LODGE. Mr. President, I suggest that the next three bills are precisely the same as the bill just passed, providing for extending the time for the construction of bridges at Minneapolis at different points, and I ask unanimous consent that all three bills may be read the third time and passed. As I have said, they are exactly the same, except as to the location of the bridges.

Mr. GALLINGER. I will have to object to that, Mr. President. Let the bills be taken up in order.

The PRESIDENT pro tempore. The bills will have to be considered in their order.

The bill (S. 8249) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn., was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The bill (S. 8251) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn., was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The bill (S. 8250) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn., was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ROCK RIVER BRIDGE AT COLONA FERRY, ILL.

The bill (H. R. 27157) granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS.

The joint resolution (H. J. Res. 226) for the appointment of three members of the Board of Managers of the National Home for Disabled Volunteer Soldiers was announced as next in order.

Mr. CLARKE of Arkansas. I understand the senior Senator from Missouri [Mr. STONE] desires to be present when that joint resolution is considered. For that reason I object to its present consideration.

The PRESIDENT pro tempore. The joint resolution will go over under objection.

CHARLES S. JACKSON.

The bill (H. R. 20385) to reimburse Charles S. Jackson was considered as in Committee of the Whole. It proposes to appropriate $82 to reimburse Charles S. Jackson, late lieutenant, Eleventh Regiment United States Cavalry, for the amount paid by him by deduction from his pay as lieutenant for hire of a mount, equipments, and forage under the order of the chief quartermaster at Atlanta, Ga., dated the 5th of April, 1910,

which mount and equipments were used by him in connection with progressive military-map work in the Department of the Gulf, to which he had been detailed by proper authority.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PUBLIC PARK IN THE DISTRICT OF COLUMBIA.

The bill (S. 7772) to authorize the condemnation of land for a park at the intersection of Twenty-sixth Street, Twenty-seventh Street, and Q Street NW., and a highway from said park along the boundary of Oak Hill Cemetery and across the north part of square 1284 to Twenty-ninth and R Streets was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Buildings and Grounds with an amendment, in section 2, page 2, line 15, after the word "damages," to strike out:

Provided, however, That of the amount found to be due and awarded by the jury in said condemnation proceeding as damages for and in respect of the land to be taken in said condemnation proceeding herein authorized, plus the costs and expenses of the proceeding, not less than one-half thereof shall be assessed by the jury as benefits against those lots, pieces, or parcels of land situate, lying, or being within an assessment area hereby created, which assessment area shall embrace all of the area lying within the distance of 1 mile from any point of said park and connecting highway: *Provided further*, That all land owned by the United States or the District of Columbia lying within said assessment area shall be exempt from assessment; which benefits, when collected, shall be covered into the Treasury of the United States to the credit of the revenues of the District of Columbia and the United States in equal parts.

So as to make the section read:

SEC. 2. That there is hereby appropriated, one-half from the revenues of the District of Columbia and one-half from any money in the United States Treasury not otherwise appropriated, an amount sufficient to pay the necessary costs and expenses of said condemnation proceeding taken pursuant hereto and for the payment of amounts awarded as damages.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MISSISSIPPI RIVER RAILWAY BRIDGE.

The bill (S. 8182) granting to the Inter City Bridge Co., its successors and assigns, the right to construct, acquire, maintain, and operate a railway bridge across the Mississippi River was announced as next in order.

Mr. CUMMINS. Mr. President, that is the bill which was called up this morning by the Senator from Illinois [Mr. CULLOM]. An understanding was reached that the bill was not to be considered until we have an opportunity to examine it. Therefore I ask that it go over.

The PRESIDENT pro tempore. The bill will go over under objection.

RESTRAINT OF TRADE.

The bill (H. R. 25002) to amend sections 73 and 76 of the act of August 27, 1894, was announced as next in order.

Mr. SMITH of Maryland. I ask that that bill go over.

The PRESIDENT pro tempore. The bill will be passed over under objection.

Mr. CUMMINS subsequently said: Mr. President, while the Senator from Maryland [Mr. SMITH] is here, I desire to give notice that I shall call up for consideration to-morrow morning, after the routine morning business, House bill 25002, being Order of Business 1021. It is a very important measure, and it is thought by those who have proposed it and those who have considered it to be so important that it should be promptly considered. I desired to make that statement before the Senator from Maryland left the Chamber.

Mr. SMITH of Maryland. I will say to the Senator that I do not know that I shall offer any objection whatever to the bill. My object in asking to have it go over was, inasmuch as I had received some letters from constituents calling my attention to it, that I wanted to make some inquiry in regard to the measure.

Mr. CUMMINS. I do not want to call it up before the Senator from Maryland has had full opportunity to examine it; but there is a real and immediate demand for the legislation. I hope the Senator from Maryland will be able to examine it by to-morrow morning.

Mr. SMITH of Maryland. I merely desire to make some inquiry about it. I do not know that I shall object to it at all, and I do not know just whether the inquiries that I have will have any effect at all upon my mind. I merely wanted to ascertain about some features of it.

PENSIONS AND INCREASE OF PENSIONS.

The bill (S. 8274) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors was considered as in Committee of the Whole. It proposes to pension the following-named persons at the rates per month stated:

William Q. Mahan, late of Company G, Thirty-third Regiment Illinois Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Elmer Howe, late of Company L, Twenty-second Regiment New York Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

Annie George, widow of Philip George, alias Archie Thompson, late of Company G, Thirteenth Regiment Wisconsin Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Flavius J. Jordan, late of Company L, Thirteenth Regiment Missouri Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Ellen E. Payne, widow of Charles W. Payne, jr., late of Company C, Sixth Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Sarah A. Perkins, widow of George A. Perkins, late of Company A, One hundred and eleventh Regiment New York Volunteer Infantry, $12 per month.

John Murphy, late of Company C, First Regiment New Hampshire Volunteer Cavalry, $40 per month in lieu of that he is now receiving.

John M. Guthrie, late of Company B, Twenty-fourth Regiment Iowa Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Fannie L. Graham, widow of John L. Graham, late of Company B, Sixth Regiment Connecticut Volunteer Infantry, $12 per month.

Reuben Bronson, late of Company E, Forty-eighth Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Mary E. Briggs, widow of Benajor A. Briggs, late of Company D, Thirtieth Regiment Wisconsin Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Susannah Elmore, former widow of James B. Long, late of Company G, Ninety-ninth Regiment Indiana Volunteer Infantry, $12 per month.

John Dodgion, late of Company F, Fifth Regiment Provisional Enrolled Missouri Militia, $24 per month in lieu of that he is now receiving.

Wiley C. Hunter, late of Company A, Second Regiment North Carolina Volunteer Mounted Infantry, $24 per month in lieu of that he is now receiving.

James A. Swaney, late of Company D, Fortieth Regiment Missouri Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Aldano Neal, late of Capt. Chandler's company, National Guards, New Hampshire Militia, $20 per month in lieu of that he is now receiving.

Samuel Elliott, late of Company A, Seventh Regiment Pennsylvania Reserves Volunteer Infantry, $30 per month in lieu of that he is now receiving.

William Cook, late of Company A, Ninety-fifth Regiment Pennsylvania Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Henry E. Hayes, late second lieutenant Company I, Tenth Regiment New York Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Samuel M. Skelton, late of Company F, Ninety-first Regiment Ohio Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Elijah H. Spencer, late of Companies B and H, Twenty-first Regiment Missouri Volunteer Infantry, $30 per month in lieu of that he is now receiving.

James H. Cowan, late of Company K, Fifteenth Regiment Missouri Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

William H. Chapman, late of Company B, Fourth Regiment West Virginia Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Warner P. Price, late of Company A, Fifteenth Regiment West Virginia Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Jacob Bowser, late of Company C, Fourth Regiment Ohio Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Henry Basemann, late of Company E, Twelfth Regiment Kansas Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Elmer Joseph, late of Company G, Fifty-third Regiment Pennsylvania Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Lorenzo Birch, late of Company D, Eighty-seventh Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Daniel Van Syckel, late of Company I, Forty-seventh Regiment Pennsylvania Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Frederick H. Williams, late of Company I, Thirty-first Regiment Wisconsin Volunteer Infantry, and Company E, Eighteenth Regiment United States Infantry, $30 per month in lieu of that he is now receiving.

Titus Rexroad, now known as Titus S. Rector, late of Company A, One hundred and twenty-fifth Regiment United States Colored Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Martha A. Johnson, widow of Albert H. Johnson, late of Company H, First Battalion, Fourteenth Regiment United States Infantry, $20 per month in lieu of that she is now receiving.

John Moulton, late of Company K, Third Regiment Vermont Volunteer Infantry, $40 per month in lieu of that he is now receiving.

James B. Davis, late quartermaster sergeant Sixth Regiment West Virginia Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Sarah F. Elwell, widow of William H. Elwell, late acting ensign, United States Navy, $20 per month in lieu of that she is now receiving.

Lyman B. Gillett, late of Company K, Twenty-third Regiment Illinois Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Sarah J. Wilson, former widow of Reason H. Wilson, late of Company G, Fourteenth Regiment West Virginia Volunteer Infantry, $12 per month.

Oliver Jones, late of Company G, Eighth Regiment Minnesota Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Abel Grovenor, late captain Company C, Hatch's Independent Battalion Minnesota Volunteer Cavalry, $50 per month in lieu of that he is now receiving.

Henry Harris, late of Company D, First Regiment West Virginia Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Byron M. Standish, late of Company K, One hundred and forty-fifth Regiment Ohio National Guard Infantry, $30 per month in lieu of that he is now receiving.

Jane Starrett, widow of William P. Starrett, late of Company F, One hundred and fifty-first Regiment Pennsylvania Volunteer Infantry, $12 per month.

William H. Warren, late of Company C, Seventeenth Regiment Connecticut Volunteer Infantry, $30 per month in lieu of that he is now receiving.

George W. Sills, late of Company E, Second Regiment Potomac Home Brigade, Maryland Volunteer Infantry, $30 per month in lieu of that he is now receiving.

James R. C. Fink, late of Company M, Second Regiment Pennsylvania Volunteer Cavalry, $36 per month in lieu of that he is now receiving.

Arthur F. McNally, late of Company K, Twelfth Regiment West Virginia Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Walter Niles, late of Company A, Twenty-fourth Regiment Michigan Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Amos R. Sutton, late of Company K, Twenty-sixth Regiment Illinois Volunteer Infantry, $24 per month in lieu of that he is now receiving.

John H. Howlett, late of Capt. Degge's Company A, Fifth Battalion District of Columbia Militia Infantry, $12 per month.

George W. Youngs, late of Company D, Sixth Regiment Connecticut Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Frankie E. Bedell, widow of Byron C. Bedell, late of Company L, Seventh Regiment Michigan Volunteer Cavalry, and Company C, Third Regiment Veteran Reserve Corps, $20 per month in lieu of that she is now receiving.

Joseph Cole, late of Company F, Thirty-fourth Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Jonas Skinner, late of Company E, Eighty-second Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

William Monks, late captain Company K, Sixteenth Regiment Missouri Volunteer Cavalry, $50 per month in lieu of that he is now receiving.

Inger A. Steensrud, widow of Anthon A. Steensrud, alias Anthony Olson, late of Company B, Sixth Regiment Wisconsin Volunteer Infantry, and Company B, Twenty-first Regiment Veteran Reserve Corps, $20 per month in lieu of that she is now receiving.

Renhard Habig, late of Battery H, First Regiment West Virginia Volunteer Light Artillery, $24 per month in lieu of that he is now receiving.

Marion O. Brown, late of Company C, Second Regiment Colorado Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

John E. Watkins, late of Company G, Third Regiment Wisconsin Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Samuel Green, late of Company H, Fifth Regiment United States Colored Volunteer Infantry, $30 per month in lieu of that he is now receiving.

George H. Batchelder, late of Company D, Fourth Regiment Iowa Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

George H. Torrence, late of Company B, Two hundred and sixth Regiment Pennsylvania Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Levi H. Hahn, late of Company I, Forty-fifth Regiment Pennsylvania Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Joseph Johnson, late of Company B, Eleventh Regiment Connecticut Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Arbell Skaggs, widow of John C. Skaggs, late of Company E, Thirty-seventh Regiment Kentucky Volunteer Infantry, $12 per month.

Clara H. Scott, widow of David E. Scott, late of Company D, Twenty-third Regiment Ohio Volunteer Infantry, $12 per month.

Charles W. Ash, late of Company C, Thirty-third Regiment, and Company I, Twenty-sixth Regiment, Kentucky Volunteer Infantry, $30 per month in lieu of that he is now receiving.

William H. Clouser, late of Company I, Eighty-fourth Regiment Pennsylvania Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Thomas S. Underwood, late of Battery E, Third Regiment United States Artillery, $24 per month in lieu of that he is now receiving.

Charlotte Lewis McMahon, widow of Michael McMahon, late of Company I, Eighth Regiment New York Volunteer Heavy Artillery, and former widow of Merritt Lewis, late of Company K, Seventh Regiment Michigan Volunteer Cavalry, $12 per month.

George W. Thompson, late of Company D, Thirty-seventh Regiment Kentucky Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Frederick D. Skinner, late musician, band, Fifth Regiment New York Volunteer Infantry, $12 per month.

Catherine Benson, widow of Andrew J. Benson, late of Battery B, First Regiment Michigan Volunteer Light Artillery, $20 per month in lieu of that she is now receiving.

William Putnam, late chaplain One hundred and sixtieth Regiment New York Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Ezekiel R. Thomas, late of Company D, Nineteenth Regiment Maine Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Lucius E. Fletcher, late of Company H, Fourth Regiment Wisconsin Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Samuel E. Merriam, late of Company A, Tenth Regiment Vermont Volunteer Infantry, and Battery E, First Regiment United States Artillery, $24 per month in lieu of that he is now receiving.

William J. Heal, late of Company H, Fourth Regiment, and Company H, Nineteenth Regiment, Maine Volunteer Infantry, $40 per month in lieu of that is now receiving.

Andrew E. Clark, late captain Company F, Twenty-sixth Regiment Maine Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Isaac A. Conant, late of Company I, Twenty-sixth Regiment Maine Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Thomas McKenna, late of Company A, First Regiment Connecticut Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Ophelia A. Comstock, widow of Daniel E. Comstock, late of Company K, Twenty-seventh Regiment Massachusetts Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Mary J. Weeks, widow of William L. Weeks, late of Company I, Third Regiment New Hampshire Volunteer Infantry, and Company K, Fifteenth Regiment, and Company H, Second Regiment, New Jersey Volunteer Infantry, $20 month in lieu of that she is now receiving.

Lurlette S. Case, widow of John E. Case, late of Company E, Sixteenth Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Adaline Minnett, widow of Charles W. Minnett, late of Company F, Twenty-first Regiment New Jersey Volunteer Infantry, $20 per month in lieu of that she is now receiving.

John G. K. Ayers, late of Company H, Eighth Regiment Missouri Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Anna M. Johnson, widow of John B. Johnson, late captain Company D, One hundred and thirty-seventh Regiment Illinois Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Thomas B. Fontty, late of Company C, Second Regiment West Virginia Volunteer Cavalry, $36 per month in lieu of that he is now receiving.

Moses Rowell, late of Company I, Eleventh Regiment, and Company I, Sixth Regiment, New Hampshire Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Huldah Nesbitt, former widow of Allen Nesbitt, late of Company K, Thirty-fifth Regiment Iowa Volunteer Infantry, $20 per month.

Charles S. Penley, late of Company H, Twenty-third Regiment Maine Volunteer Infantry, and unassigned company, Maine State Guards, $24 per month in lieu of that he is now receiving.

David H. Gray, late of Company A, Fourteenth Regiment Maine Volunteer Infantry, $40 per month in lieu of that he is now receiving.

John Snyder, late of Company K, Thirty-first Regiment New Jersey Volunteer Infantry, and Company C, One hundred and thirty-fifth Regiment Ohio National Guard Infantry, $30 per month in lieu of that he is now receiving.

Mary M. Croft, widow of Charles I. Croft, late hospital steward, First Regiment California Volunteer Cavalry, $24 per month in lieu of that she is now receiving.

Riley Hawley, late of Company I, Forty-fourth Regiment Wisconsin Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Mary E. Workman, widow of Stephen H. Workman, late of Company G, One hundred and seventeenth Regiment Ohio Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Hellen L. Chatfield, widow of Markus M. Chatfield, late of Company B, First Regiment Iowa Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

John Sanderson, late of Company A, Fifty-eighth Regiment Ohio Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Caroline J. McBratney, widow of Sherman McBratney, late of Company M, Tenth Regiment Ohio Volunteer Cavalry, $12 per month.

John C. Vennum, late of Company B, Seventy-fifth Regiment Illinois Volunteer Infantry, $36 per month in lieu of that he is now receiving.

John Painter, late of Company C, First Regiment Arkansas Volunteer Cavalry, $36 per month in lieu of that he is now receiving.

Lefford Mathews, late of Company D, First Regiment Arkansas Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Francis W. Crumpton, late of Company B, Second Regiment Missouri State Militia Cavalry, $40 per month in lieu of that he is now receiving.

John Wells, late of Company A, Second Regiment Rhode Island Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Charles Herbstreith, late of Company F, Eleventh Regiment Illinois Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

Joseph Girdler, late of Company C, Second Regiment Kentucky Volunteer Cavalry, $40 per month in lieu of that he is now receiving.

Harvey T. Smith, late of Company B, One hundred and forty-ninth Regiment Pennsylvania Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Francis M. Bishop, alias Marion F. Bishop, late first lieutenant Company E, First Regiment Michigan Volunteer Infantry, and captain Company H, Second Regiment United States Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Richard T. Blaikie, late of Company B, Eighty-second Regiment Pennsylvania Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Marcellus B. Kent, late of Company I, Forty-sixth Regiment Illinois Volunteer Infantry, $40 per month in lieu of that he is now receiving.

George W. Seymour, late of Company D, Twenty-second Regiment Connecticut Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Lucinda M. Fuller, widow of Henry A. Fuller, late of Company M, First Regiment New Hampshire Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

John Emanuel Smith, late of Twenty-sixth Unattached Company, Massachusetts Militia Infantry, $30 per month in lieu of that he is now receiving.

Catherine Soper, widow of Edward B. Soper, late of Company C, Twenty-second Regiment Connecticut Volunteer Infantry, $12 per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The bill (S. 8275) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, was considered as in Committee of the Whole. It proposes to pension the following-named persons at the rates per month stated:

John W. Slaughter, late of Company L, Second Regiment Kentucky Volunteer Infantry, War with Spain, $20 per month in lieu of that he is now receiving.

Warren Hilliard, late of Company B, Eighteenth Regiment United States Infantry, War with Spain, $8 per month.

Louisa A. Thatcher, widow of Joseph L. Thatcher, late carpenter, United States Navy, and dependent mother of William J. Thatcher, late chief turret captain, U. S. S. *Georgia*, United States Navy, $24 per month in lieu of that she is now receiving.

George Hollederer, late of Troop I, Third Regiment United States Cavalry, $12 per month.

Charles W. Camp, late of Company M, Twenty-seventh Regiment United States Volunteer Infantry, War with Spain, $20 per month in lieu of that he is now receiving.

George R. Smith, late of Company B, One hundred and sixtieth Regiment Indiana Volunteer Infantry, War with Spain, $20 per month.

Edward Seaton, late of Company K, Forty-fourth Regiment United States Volunteer Infantry, $15 per month in lieu of that he is now receiving.

Florida Kennerly, widow of Pierre M. Kennerly, late of Capt. McKinstry's Volunteers, War with Mexico, $20 per month in lieu of that she is now receiving.

Charles M. Baughman, late of Company K, Sixth Regiment Illinois Volunteer Infantry, War with Spain, $30 per month.

Elizabeth S. Lewerenz, widow of Alfred C. Lewerenz, late civil engineer, United States Navy, $40 per month in lieu of that she is now receiving, and $2 per month additional on account of the minor child of said Alfred C. Lewerenz until he reaches the age of 16 years.

Minnie Wadsworth Wood, widow of Oliver E. Wood, late colonel, Artillery Corps, and brigadier general, United States Army, retired, $40 per month in lieu of that she is now receiving.

Francis Redmond, late of Troop K, Ninth Regiment United States Cavalry, and Hospital Corps, United States Army, $12 per month.

Charles E. Harris, late of Company G, Tenth Regiment United States Infantry, War with Spain, $12 per month.

Annie V. Smith, widow of Sebree Smith, late captain Third Regiment United States Artillery, $30 per month in lieu of that she is now receiving.

Barbara B. Haws, widow of William Haws, late of Capts. Robert Thomas and Coleman Boren's companies, Utah Volunteers, Utah Indian war, $12 per month.

Martha A. Hughes, widow of Edward M. Hughes, later commander, United States Navy, $40 per month in lieu of that she is now receiving.

Charles L. Stevens, late of Troop E, Fifth Regiment United States Cavalry, $16 per month.

Emily W. Tilley, widow of Benjamin F. Tilley, late rear admiral, United States Navy, $50 per month in lieu of that she is now receiving.

James McMahon, late of Company B, Twenty-sixth Regiment United States Infantry, $30 per month in lieu of that he is now receiving.

Israel Wood, late of Company K, First Regiment Oregon Riflemen, Cayuse Indian war, $16 per month in lieu of that he is now receiving.

George W. Thurman, late of Capt. Abel George's Company B, Second Regiment Oregon Mounted Volunteers, $16 per month in lieu of that he is now receiving.

Andrew G. Aiken, late of Capt. William H. Harris's company of Minute Men, Ninth Regiment Oregon Mounted Volunteers,

Oregon and Washington Territory Indian war, $16 per month in lieu of that he is now receiving.

James P. Bartlett, late of Capt. William Strong's Company A, Washington Mounted Volunteers, Oregon and Washington Territory Indian war, $16 per month in lieu of that he is now receiving.

Mary F. Read, widow of Thomas Read, late of Company A, Fourth Regiment United States Infantry, War with Mexico, $20 per month in lieu of that she is now receiving.

William Cornell, late of Company M, First Regiment United States Volunteer Engineers, War with Spain, $10 per month.

Michael Hoffman, late of Company B, United States Mounted Rifles, Texas and New Mexico Indian war, $16 per month in lieu of that he is now receiving.

Ornan F. Hibbard, late of Capt. Hiram Wilbur's Company B, First Regiment Oregon Volunteers, Oregon and Washington Territory Indian war, $16 per month in lieu of that he is now receiving.

Emma Myers, widow of Fred Myers, late of Troop K, Sixth Regiment United States Cavalry, $12 per month.

Frederick M. Douglass, late of Capt. Stewart's company, First Regiment Florida Mounted Volunteers, Seminole Indian war, $16 per month in lieu of that he is now receiving.

Sara S. Dowdy, widow of Robert W. Dowdy, late major, Twenty-sixth Regiment United States Infantry, $25 per month.

Green Hines, dependent father of Hilton P. Hines, late of Company F, Second Regiment United States Infantry, War with Spain, $24 per month in lieu of that he is now receiving.

Esther B. Shultz, widow of Joseph S. Shultz, late civil engineer, with rank of lieutenant, United States Navy, $35 per month in lieu of that she is now receiving, and $2 per month additional on account of the minor child of the said Joseph S. Shultz until she reaches the age of 16 years.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PROOF OF SIGNATURES AND HANDWRITING.

The bill (H. R. 20102) relating to proof of signatures and handwriting was announced as next in order.

Mr. LODGE. Let that bill go over, Mr. President.

The PRESIDENT pro tempore. The bill will go over under objection.

Mr. KENYON. Mr. President, I should like to inquire what is the objection to this bill.

Mr. LODGE. I made objection under a misapprehension. I thought the bill read was Order of Business 1025. It was my mistake. I have no objection whatever to Order of Business 1029, being House bill 20102.

Mr. JONES. I desire to call the attention of the Senate to the fact that Order of Business No. 1025 has already been passed, and should not be on the calendar.

The PRESIDENT pro tempore. The Chair has been informed that Order of Business 1025, being Senate resolution 418, and Order of Business 1028 have heretofore been disposed of, and should not now be on the calendar.

Mr. LODGE. I find there are a number of bills on the calendar that have been previously passed, such as the agricultural extension bill. I do not know why they are kept on the calendar.

The PRESIDENT pro tempore. Those which have been passed are not, of course, being laid before the Senate. The Senator from Massachusetts withdraws his objection to the consideration of House bill 20102.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment, in line 3, before the word "officer," to insert "judicial," so as to make the bill read:

Be it enacted, etc., That in any proceeding before a court or judicial officer of the United States where the genuineness of the handwriting of any person may be involved, any admitted or proved handwriting of such person shall be competent evidence as a basis for comparison by witnesses, or by the jury, court, or officer conducting such proceeding, to prove or disprove such genuineness.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

BILLS PASSED OVER.

The bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war was announced as next in order.

Mr. BRYAN. Let that bill go over, Mr. President.

The PRESIDENT pro tempore. The bill will go over.

Mr. McCUMBER. Mr. President, was objection made to the consideration of House bill 27475? I did not hear it.

Mr. BRYAN. I objected to the consideration of the bill.

The PRESIDENT pro tempore. The bill goes over, under objection.

The bill (S. 4241) to encourage rifle practice and promote a patriotic spirit among the citizens and youth of the United States was announced as next in order.

Mr. McCUMBER. I object to the consideration of that bill.

The PRESIDENT pro tempore. The bill will be passed over, under objection.

The bill (S. 8188) to amend section 113 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1912, was announced as next in order.

Mr. LODGE. I object to that bill.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 110) to authorize the sale and disposition of a portion of the surplus and unallotted lands in Todd and Bennett Counties, in Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect, was announced as next in order.

Mr. SMOOT. Let that go over for the day.

The PRESIDENT pro tempore. The bill goes over, under objection.

The bill (S. 8297) to transfer the Pacific Branch of the National Home for Disabled Volunteer Soldiers to the War Department was announced as next in order.

Mr. JONES. The Senator from Kansas [Mr. BRISTOW] was uncertain in committee whether he was in favor of that bill or not. As he is not present, I ask that it go over.

The PRESIDENT pro tempore. The bill will go over under objection.

PENSIONS AND INCREASE OF PENSIONS.

The bill (S. 8314) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors was considered as in Committee of the Whole. It proposes to pension the following-named persons at the rates per month stated:

Kate Brown, widow of William N. Brown, late of Companies E and K, Sixty-fifth Regiment Illinois Volunteer Infantry, $20 per month in lieu of that she is now receiving.

James R. Haldeman, late first lieutenant Company E, One hundred and ninety-fifth Regiment Pennsylvania Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Mary Francis, widow of John A. Francis, late second lieutenant Company F, Eighteenth Regiment Connecticut Volunteer Infantry, $24 per month in lieu of that she is now receiving.

Jane De Graw, widow of Charles R. De Graw, late of Company A, Twenty-second Regiment New Jersey Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Carrie Engberg, widow of Peter Engberg, late of Company G, Seventh Regiment Minnesota Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Sarah E. McCann, widow of Francis McCann, late of Company K, Fourth Regiment Rhode Island Volunteer Infantry, and First Company, Second Battallon Veteran Reserve Corps, $24 per month in lieu of that she is now receiving.

Susan M. Sumner, widow of John H. Sumner, late captain Company A, Third Regiment Michigan Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Mary J. Anderson, widow of James S. Anderson, late of Company G, One hundred and twenty-second Regiment Ohio Volunteer Infantry, $20 per month in lieu of that she is now receiving.

John W. Anderson, late of Company A, Sixth Regiment Indiana Volunteer Infantry, $40 per month in lieu of that he is now receiving.

John S. Rodgers, late of Independent Battery F, Pennsylvania Volunteer Light Artillery, $30 per month in lieu of that he is now receiving.

John G. Myers, late of Company A, One hundred and fifth Regiment Pennsylvania Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Andrew J. Furry, late of Company E, First Regiment United States Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Charles F. Cooken, late of Company F, Forty-fifth Regiment Iowa Volunteer Infantry, $24 per month in lieu of that he is now receiving.

William Robertson, late of Company C, Fourteenth Regiment United States Infantry, $30 per month in lieu of that he is now receiving.

George W. Leslie, late of Company I, Fourth Regiment Pennsylvania Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

William H. Weber, late of Company C, Thirty-sixth Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

George Ketzler, late of Company B, Fiftieth Regiment Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

August Schurman, late of Company B, Seventy-fourth Regiment New York Volunteer Infantry, and Company C, Twentieth Regiment Veteran Reserve Corps, $30 per month in lieu of that he is now receiving.

Samuel J. Riley, late of Company C, Fifteenth Regiment Missouri Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

William E. Huestis, late of Company F, Fifth Regiment Kansas Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Orlina M. Cadwell, widow of George Cadwell, late of Company B, Forty-ninth Regiment Massachusetts Volunteer Infantry, $20 per month in lieu of that she is now receiving.

George Warnick, late of Company H, One hundred and fifth Regiment Pennsylvania Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Louis M. Lea, late of Company D, One hundred and forty-eighth Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Thomas F. Stevens, late of Company B, One hundred and twenty-second Regiment Illinois Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Darwin Zeek, late of Company E, One hundred and fourth Regiment Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

David F. Stewart, late of Company A, Fifth Regiment Indiana Volunteer Cavalry, $36 per month in lieu of that he is now receiving.

Nathan Vanaman, late of Company D, Twelfth Regiment West Virginia Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Joseph Johnson, late of Company G, Eighth Regiment Illinois Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

John N. Postlethwait, late of Company A, Eleventh Regiment West Virginia Volunteer Infantry, $30 per month in lieu of that he is now receiving.

John Miller, late of Company H, Fifty-second Regiment Ohio Volunteer Infantry, $30 per month in lieu of that he is now receiving.

John O. Branson, late of Company B, One hundred and thirty-fourth Regiment Indiana Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Adam P. S. Polsal, late of Company F, Second Potomac Home Brigade Maryland Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Francis M. Hanes, late of Company B, Eighth Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

John L. Skinner, jr., late second lieutenant Company E, One hundred and fortieth Regiment Illinois Volunteer Infantry, $24 per month in lieu of that he is now receiving.

John P. Glenn, late of Company B, Eighth Regiment Iowa Volunteer Cavalry, and Company D, Seventeenth Regiment Veteran Reserve Corps, $30 per month in lieu of that he is now receiving.

William A. Stewart, late of Company A, Twenty-seventh Regiment Iowa Volunteer Infantry, $24 per month in lieu of that he is now receiving.

William Turnbeaugh, late of Company E, Eighteenth Regiment Missouri Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Julia A. Snedeker, widow of George W. Snedeker, late of Company C, Eighty-fifth Regiment Indiana Volunteer Infantry, $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Gertrude M. Snedeker, helpless and dependent child of said George W. Snedeker, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Julia A. Snedeker the name of the said Gertrude M. Snedeker shall be placed on the pension roll, at $12 per month, from and after the date of death of said Julia A. Snedeker.

Martha R. Brown, widow of Preston W. Brown, late of Company I, Fourth Regiment Michigan Volunteer Cavalry, $12 per month.

Elias Redmon, late of Company B, One hundred and twenty-fourth Regiment United States Colored Volunteer Infantry, $30 per month in lieu of that he is now receiving.

George Moffatt, late of Company B, Fifty-second Regiment Wisconsin Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Kate F. Sage, widow of George D. Sage, late paymaster's steward, U. S. S. North Carolina and Coeur de Leon, United States Navy, $20 per month in lieu of that she is now receiving.

Myra Van Winkle, widow of Barrack S. Van Winkle, late of Company H, Thirty-first Regiment Iowa Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Charles G. Glidden, late of Company C, Twenty-second Regiment Maine Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Clara V. King, widow of Charles King, late of Company B, First Regiment Michigan Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

James Griffey, late of Company H, Twenty-seventh Regiment United States Colored Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Sarah F. Boynton, widow of David C. Boynton, late of Company B, Fifth Regiment Minnesota Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Emiles Pomeroy, late of Company K, Eighty-third Regiment Pennsylvania Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Fannie M. Page, widow of Fernando Page, late of Company K, Third Regiment Michigan Volunteer Infantry, $12 per month.

Thomas Gannon, late of U. S. S. *Sabine*, *Potomac*, and *Stockdale*, United States Navy, $24 per month in lieu of that he is now receiving.

Orlan A. Hibbs, late of Company A, Seventeenth Regiment Kentucky Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

William H. Hall, late of Company B, Fourteenth Regiment Connecticut Volunteer Infantry, $30 per month in lieu of that he is now receiving.

William T. Francis, late of Company C, Thirtieth Regiment Kentucky Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Marshall D. House, late of Company C, Sixteenth Regiment Connecticut Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Henry McClure, late of Company G, Thirteenth Regiment Kentucky Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Mary J. Wood, widow of Warren M. Wood, late of Company E, Second Regiment Connecticut Volunteer Heavy Artillery, $20 per month in lieu of that she is now receiving.

Ephraim Benedict Murphy, alias Ephraim Benedict, late of Company B, Sixty-first Regiment Massachusetts Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Jay Doty, late of Company C, Twenty-third Regiment Connecticut Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Lorenzo F. Nolan, late of Company I, Forty-fourth Regiment Indiana Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Erastus G. Cummings, late of Company I, Twentieth Regiment Maine Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Victoria L. McHone, widow of Lewis McHone, late second lieutenant Company B, Ninth Regiment Kansas Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

Margaret L. Thompson, former widow of William B. Hooper, late of Company L, First Regiment New Jersey Volunteer Cavalry, $12 per month.

Daniel Hand, late of Company K, Eighty-eighth Regiment Indiana Volunteer Infantry, $12 per month.

Horace C. Webber, late of Company L, First Regiment Maine Volunteer Heavy Artillery, $50 per month in lieu of that he is now receiving.

Stanley H. Husted, late of Company B, First Regiment Wisconsin Volunteer Heavy Artillery, and second lieutenant Company F, Twelfth Regiment United States Colored Volunteer Heavy Artillery, $30 per month in lieu of that he is now receiving.

Joseph Cassiday, late of Company C, Second Regiment Maryland Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

William L. Sheaff, late of Company I, One hundred and twenty-ninth Regiment Pennsylvania Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Louis C. Emmett, late of Company C, First Regiment Oregon Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Christian Bowman, late of Company D, Two hundred and first Regiment Pennsylvania Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Stephen Collar, late of Company F, Thirteenth Regiment Michigan Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Baxter Johnson, late of Company I, Seventh Regiment Michigan Volunteer Infantry, and Company F, Twenty-eighth Regiment United States Infantry, $30 per month in lieu of that he is now receiving.

Mary E. Allen, widow of Charles G. Allen, late captain Company D, Fourteenth Regiment United States Colored Volunteer Heavy Artillery, $20 per month in lieu of that she is now receiving.

Georgiana Packard, widow of George W. Packard, late of Company A, Ninth Regiment Kansas Volunteer Cavalry, and Company G, Eighth Regiment United States Veteran Volunteer Infantry, $24 per month in lieu of that she is now receiving.

Josephine E. Miller, widow of Abraham B. Miller, late pilot U. S. S. Minnesota, United States Navy, $12 per month.

Delia H. Austin, widow of John F. Austin, late captain Company M, Seventeenth Regiment Illinois Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

Wendell P. Hood, late of Company F, Forty-eighth Regiment Massachusetts Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Lucy Gamble, widow of David W. Gamble, late of Company C, Fifteenth Regiment West Virginia Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Elizabeth Croft, widow of William M. Croft, late of Company A, Ninth Regiment Pennsylvania Reserves Volunteer Infantry, and Company B, One hundred and ninetieth Regiment Pennsylvania Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Stephen B. Johnson, late of Company I, Eleventh Regiment New York Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Ferdinand O. Tennison, late of Company D, Third Regiment Missouri State Militia Cavalry, $30 per month in lieu of that he is now receiving.

Thomas Moody, late of Company F, Second Regiment Missouri State Militia Cavalry, $30 per month in lieu of that he is now receiving.

Charles Belknap, late of Company E, Nineteenth Regiment Wisconsin Volunteer Infantry, $30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ENLARGED HOMESTEAD.

The bill (H. R. 23351) to amend an act entitled "An act to provide for an enlarged homestead" was considered as in Committee of the Whole. It proposes to amend sections 3 and 4 of the act entitled "An act to provide for an enlarged homestead," approved February 19, 1909, and of an act entitled "An act to provide for an enlarged homestead," approved June 17, 1910, so as to read as follows:

SEC. 3. That any homestead entryman of lands of the character herein described, upon which entry final proof has not been made, shall have the right to enter public lands, subject to the provisions of this act, contiguous to his former entry, which shall not, together with the original entry, exceed 320 acres.

SEC. 4. That at the time of making final proofs, as provided in section 2291 of the Revised Statutes, the entryman under this act shall, in addition to the proofs and affidavits required under said section, prove by two credible witnesses that at least one-sixteenth of the area embraced in such entry was continuously cultivated for agricultural crops other than native grasses beginning with the second year of the entry, and that at least one-eighth of the area embraced in the entry was so continuously cultivated beginning with the third year of the entry: *Provided*, That any qualified person who has heretofore made or hereafter makes additional entry under the provisions of section 3 of this act may be allowed to perfect title to his original entry by showing compliance with the provisions of section 2291 of the Revised Statutes respecting such original entry, and thereafter in making proof upon his additional entry shall be credited with residence maintained upon his original entry from the date of such original entry, but the cultivation required upon entries made under this act must be shown respecting such additional entry, which cultivation, while it may be made upon either the original or additional entry, or upon both entries, must be cultivation in addition to that relied upon and used in making proof upon the original entry; or, if he elects, his original and additional entries may be considered as one, with full credit for residence upon and improvements made under his original entry, in which event the amount of cultivation herein required shall apply to the total area of the combined entry, and proof may be made upon such combined entry whenever it can be shown that the cultivation required by this section has been performed; and to this end the time within which proof must be made upon such combined entry is hereby extended to seven years from the date of the original entry: *Provided further*, That nothing herein contained shall be so construed as to require residence upon the combined entry in excess of the period of residence, as required by section 2291 of the Revised Statutes.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DESERT-LAND ENTRIES IN CALIFORNIA.

The bill (S. 7875) to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Lands with an amendment, on page 2, line 3, after the word "east," to insert "San Bernardino meridian," so as to make the bill read:

Be it enacted, etc., That no desert-land entry heretofore made in good faith under the public-land laws for lands in townships 4 and 5 south, range 15 east; townships 4 and 5 south, range 16 east; townships 4, 5, and 6 south, range 17 east; townships 5, 6, and 7 south, range 18 east; townships 6 and 7 south, range 19 east; townships 6 and 7 south, range 20 east; townships 4, 5, 6, 7, and 8 south, range 21 east; townships 5, 6, and 7 south, range 22 east; township 5 south, range 23 east San Bernardino meridian, shall be canceled prior to May 1, 1916, because of failure on the part of the entryman to make any annual or final proof falling due upon any such entry prior to May 1, 1916.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CONFEDERATE CEMETERY AT LITTLE ROCK, ARK.

The bill (H. R. 24365) providing for the taking over by the United States Government of the Confederate cemetery at Little Rock, Ark., was announced as next in order.

Mr. SMOOT. Mr. President, I should like to ask the Senator from Arkansas what special reason there is for the United States Government to take over the Confederate cemetery at Little Rock, Ark.?

Mr. CLARKE of Arkansas. The reasons are largely sentimental. The fact is that the National Government maintains quite a considerable cemetery at that particular point. Near there, or just adjoining there, on a small tract of land 400 by 200 feet, or possibly larger than that, are buried the remains of quite a number of Confederate soldiers. It was thought to be in accordance with the progress of reconciliation which has already taken place that those cemeteries be under one control, something after the fashion of that adopted at Springfield, Ill. The expense is a nominal one. I personally had thought that possibly the ex-Confederates might keep it up. But it was deemed to be the sentiment of the community that there should be no longer two managements of that particular resting place of those who had distinguished themselves upon that occasion which has now become a memory so dear to all of us.

There is much to be said, or nothing to be said, on the subject one way or the other. If it is intended to be debated, there would be much to be said upon it. If the propriety of it does not occur to the Senator immediately upon the statement, it probably would require some elaborate argument to convince him.

Mr. SMOOT. I asked the Senator the question because of the fact that I thought perhaps there was some special reason for this. I notice that he says that they are adjoining each other.

Mr. CLARKE of Arkansas. They are immediately adjoining. There is just a stone wall between them.

Mr. SMOOT. I wish to ask the question whether the same help that takes care of the national cemetery at Little Rock of the Federal soldiers will take care of the Confederate cemetery?

Mr. CLARKE of Arkansas. That is the understanding. The expense will be nominal.

Mr. SMOOT. The only expense would be $2,125 a year?

Mr. CLARKE of Arkansas. No, sir; that would be the entire expense of making the opening in the wall and making such repairs as may be required. The entire expense now of maintaining the cemetery there is probably $2,000 a year. The understanding is that it will not add materially to the expense of maintaining the cemetery.

Mr. SMOOT. I see that the Quartermaster General states that there is no objection on the part of his office to the favorable consideration of the bill, but if it becomes a law it will be necessary to make provision for placing it in the proper repair by increasing the appropriation for the care and maintenance of national cemeteries for the fiscal year 1914.

Mr. CLARKE of Arkansas. At present the Confederate cemetery is not kept up as well as the national cemetery adjoining, and the probabilities are that the walks would be improved and a variety of little improvements would be made that would be necessary to make it conform to the general appearance of the other cemetery.

Mr. SMOOT. Mr. President, as the two cemeteries adjoin, I shall not object.

Mr. MARTINE of New Jersey. Mr. President, with the Senator's permission, I beg to say that it was my privilege when at Little Rock a few months or weeks ago to visit this spot. Immediately the question was raised in my mind, and I so expressed it, that it seemed a bit of dire neglect that the soldiers' graves on one side were so beautifully taken care of and the others were in a most chaotic and neglected state; and I recall having suggested to the gentlemen who were with me that it seemed sad and unfortunate——

Mr. GALLINGER. That did not reflect on the Government, however.

Mr. MARTINE of New Jersey. Not at all, sir—that 50 years had passed since that horrid strife, and God's green grass grew alike over them both, and did its best to obliterate the horrid thoughts and memories of the past. It seemed to me ungenerous, to say no more, that within this distance of 30 or 40 feet this plat should be so neglected, and I expressed my hope that the United States, in its generosity and charity, would in the very near future take that in, and that they might all be cared for alike.

It is useless to contend now as to the sentiments or as to the reasons of the strife. They were all of God's creation, and all of one great, glorious, and grand country. The cost of maintaining that little plat could be but a pittance, the remains of a few Confederate soldiers; and I do plead with all the earnestness of my nature that the Senate of the United States may do its part toward obliterating the evidences of that horrid strife in that little plat.

Mr. SMOOT. There is nobody objecting, so far as I know.

Mr. MARTINE of New Jersey. I know that; but I say, at the same time, that I really ache sometimes for the opportunity to give vent to my sentiments in a case that is so deserving as I feel this is.

Mr. McCUMBER. Let the matter go over for the present.

The PRESIDENT pro tempore. Objection being made, the bill will go over.

Mr. CLARKE of Arkansas subsequently said: I ask unanimous consent to take up the bill (H. R. 24365) providing for the taking over by the United States Government of the Confederate cemetery at Little Rock, Ark. The bill has been read.

The PRESIDENT pro tempore. The Senator from Arkansas asks that the Senate consider the bill indicated by him. Is there objection?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HERMAN C. FUNK.

The bill (S. 4549) to place the name of Sergt. Herman C. Funk upon the officers' retired list was considered as in Committee of the Whole. It authorizes the President to place the name of Herman C. Funk on the retired list created by the act of Congress approved March 2, 1907, with the rank, pay, and allowances of a sergeant of infantry retired.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to place the name of Herman C. Funk upon the retired list created by act approved March 2, 1907."

OFFICERS DETAILED FOR AVIATION DUTY.

The bill (H. R. 17256) to fix the status of officers of the Army and Navy detailed for aviation duty, and to increase the efficiency of the aviation service, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Military Affairs with an amendment to strike out all after the enacting clause and insert:

That after the passage and approval of this act the pay as now or as may be hereafter fixed by law for officers of the Regular Army, Navy, and Marine Corps shall be 20 per cent additional for such officers as are now or may be hereafter detailed by the Secretary of War or the Secretary of the Navy on aviation duty: *Provided*, That this increase of pay shall be given to such officers only as are actually engaged in the flying of heavier-than-air craft, and while so detailed, as provided herein: *Provided further*, That no officer holding rank above that of captain shall receive the additional pay provided for by this act: *And provided further*, That at the same time no more than 30 officers of the Army and 30 officers of the Navy and Marine Corps shall be detailed to the aviation service.

SEC. 2. That all laws and parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

REFUND OF TONNAGE TAXES.

The bill (H. R. 2359) to refund certain tonnage taxes and light dues was considered as in Committee of the Whole. It authorizes the Secretary of the Treasury to refund the following amounts to the respective named companies, assessed and collected under section 4225, Revised Statutes, which amounts are hereby appropriated: Ninety-three dollars in the case of the American dredge *Erie*, without enrollment, upon the application of the Duluth-Superior Dredging Co.; and $270 in the case of American scows *Nos. 1* and *2*, American dredge *Lincoln*, and American derrick-scow *No. 1*, without enrollment, upon the application of the Duluth Marine Contracting Co.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The PRESIDENT pro tempore. That concludes the calendar.

LAND IN THE DISTRICT OF COLUMBIA.

Mr. GALLINGER. The bill (S. 1899) to repeal a portion of an act heretofore passed relating to the alienation of the title of the United States to land in the District of Columbia some way got under Rule IX and has escaped my attention. It is a bill recommended by the Department of Justice, the Commissioners of the District of Columbia, and Gen. Bixby, of the Engineer Corps. I hope it will be taken up now and passed. There is no objection to it, as far as I know.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to repeal section 2 of the act approved March 3, 1899 (30 Stats., 1346), authorizing and directing the Secretary of War to correct the records of the War Department in respect to any of the lots mentioned in Senate Document No. 277, Fifty-fifth Congress, second session.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FLATHEAD IRRIGATION PROJECT.

Mr. SMOOT. The bill (S. 5957) providing for the issuance of patents to entrymen for homesteads in the so-called Flathead irrigation project is on the calendar under Rule IX. I move its indefinite postponement.

The motion was agreed to.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 2 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, February 4, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

MONDAY, *February 3, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Lord, our God and our Father, we approach Thee in the sacred attitude of prayer in faith and confidence that by the uplift of the moment we may receive of that spirit which knows no anger, turmoil, nor strife, but which is "first pure, then peaceable, gentle, and easy to be entreated, full of mercy and good fruits," that we may leave behind us a record clean, pure, after the similitude of the Prince of Peace. Amen.

The Journal of the proceedings of Sunday, February 2, 1913, was read and approved.

RESIGNATION OF REPRESENTATIVE SHEPPARD.

The SPEAKER laid before the House the following communication, which was read by the Clerk:

FEBRUARY 3, 1913.

Hon. CHAMP CLARK,
Speaker House of Representatives.

MY DEAR SIR: I have this day notified the governor of Texas of my resignation as a Member of the House of Representatives from the first Texas district, said resignation to be effective immediately.

Yours, very truly,

MORRIS SHEPPARD.

THE LATE REPRESENTATIVE CONNELL.

Mr. AYRES. Mr. Speaker, I ask unanimous consent for the present consideration of the following order, which I send to the Clerk's desk.

The Clerk read as follows:

Ordered, That Sunday, February 16, 1913, be set apart for addresses upon the life, character, and public services of Hon. RICHARD E. CONNELL, late a Representative from the State of New York.

The SPEAKER. The gentleman from New York asks unanimous consent for the present consideration of the order. Is there objection?

There was no objection.

The order was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 12813. An act to refund duties collected on lace-making and other machines and parts or accessories thereof imported subsequently to August 5, 1909, and prior to January 1, 1911.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. J. Res. 78. Joint resolution proposing an amendment to the Constitution of the United States.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 8190. An act authorizing settlers on unsurveyed lands to make final proof under laws existing at the time of settlement;

S. 8273. An act authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls; and

S. 8139. An act for the relief of William W. Prude.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 8190. An act authorizing settlers on unsurveyed lands to make final proof under laws existing at the time of settlement; to the Committee on the Public Lands.

S. 8273. An act authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls; to the Committee on Military Affairs.

S. 8139. An act for the relief of William W. Prude; to the Committee on Military Affairs.

S. J. Res. 78. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

MALAMBO FIRE CLAIMANTS.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent to discharge the Committee on Appropriations from the further consideration of the bill H. R. 23836, and refer it to the Committee on Claims.

The SPEAKER. The gentleman from New York asks unanimous consent to discharge from further consideration the Committee on Appropriations and refer to the Committee on Claims the bill of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 23836) to enable the Secretary of War to pay the amount awarded to the Malambo fire claimants by the joint commission under article 6 of the treaty of November 18, 1903, between the United States and Panama.

The SPEAKER. Is there objection?

There was no objection.

HOT SPRINGS RESERVATION, ARK. (H. DOC. NO. 1331).

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent to print as a House document the document prepared by the Interior Department showing the receipts and expenditures on account of the Hot Springs Reservation, Ark., and refer it to the Committee on Appropriations.

The SPEAKER. The gentleman from New York asks unanimous consent to have printed as a House document the report of the Arkansas Hot Springs Reservation and refer it to the Committee on Appropriations. Is there objection?

Mr. MANN. Reserving the right to object, what is this report?

Mr. FITZGERALD. It is a statement showing the receipts and expenditures of the Hot Springs Reservation during the last three years. It shows the receipts from the sale of lots. It was brought before the committee in a hearing, and I think it is of sufficient importance to have it printed as a House document rather than in the hearings of the committee.

Mr. MANN. Why does it go to the Committee on Appropriations instead of to the Committee on Public Lands?

Mr. FITZGERALD. It comes in connection with some estimates that are before the committee in connection with the reservation.

The SPEAKER. Is there objection?

There was no objection.

PENSIONS.

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the bill S. 8035, granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and wars other than the Civil War, and to certain widows and dependent relatives of said soldiers and sailors, and agree to the conference asked for.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that the House insist on its amendments to the bill S. 8035 and agree to the conference. Is there objection?

There was no objection.

The SPEAKER appointed as conferees on the part of the House Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey.

CALENDAR FOR UNANIMOUS CONSENT.

The SPEAKER. This is Unanimous Consent Calendar Day, and the Clerk will report the first bill on that calendar.

CHOCTAW AND CHICKASAW INDIANS.

The first bill on the Unanimous Consent Calendar was the bill (H. R. 25507) to authorize certain changes in homestead allotments of the Choctaw and Chickasaw Indians in Oklahoma.

The Clerk began the reading of the bill.

Mr. CARTER. Mr. Speaker, I have little hope of this bill getting through by unanimous consent, and I ask to have it passed on the calendar without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

EXCHANGE OF LANDS FOR SCHOOL SECTIONS WITHIN AN INDIAN, MILITARY, NATIONAL FOREST, OR OTHER RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25738) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes.

The bill was read.

The SPEAKER. This bill is on the Union Calendar.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that this bill may be considered in the House as in Committee of the Whole House on the state of the Union.

Mr. MARTIN of South Dakota. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. MARTIN of South Dakota. The question of unanimous consent has not been put to the House.

The SPEAKER. Is there objection?

Mr. KNOWLAND. Mr. Speaker——

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to suggest to the gentleman first, that this is a House bill on this calendar, and that later on the calendar, as the gentleman knows, there is a Senate bill. Why not strike this bill off the Calendar for Unanimous Consent and let whatever disposition is made depend upon what is done with the Senate bill?

Mr. RAKER. I desire to substitute at this time the Senate bill and lay aside the House bill.

Mr. MANN. Well, the Senate bill will be reached in due time, and it can be disposed of. When the Senate bill is reached the proposition can be disposed of, and therefore I object to the consideration of this bill.

The SPEAKER. The gentleman from Illinois objects, and the bill will be stricken from the calendar. The Clerk will report the next bill.

COAL MINING COMPANIES IN THE STATE OF OKLAHOMA.

The next business on the Calendar for Unanimous Consent was the bill (S. 3843) granting to the coal-mining companies in the State of Oklahoma the right to acquire additional acreage adjoining their mine leases, and for other purposes.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior, under rules and regulations to be prescribed by him, may grant to the operator of any coal mine or mines in the State of Oklahoma the right to acquire additional acreage from the unleased segregated coal land of the Choctaw and Chickasaw Nations, in the State of Oklahoma, not to exceed in any case 640 acres of land: *Provided*, That the land sought to be acquired adjoins and is contiguous to the coal-mining property in operation: *And provided further*, That the right to acquire such additional lands shall extend only to coal-mining corporations, individual, or individuals actually operating coal mines in said State in good faith, and in only such cases as may be found necessary for the successful administration of such mine: *And provided further*, That the lease or leases on such additional coal lands shall not be made for a longer period of time than existing leases and shall not be made at a less rate of royalty than the rate of royaty paid on existing leases now in operation in said State of Oklahoma.

SEC. 2. That all parts of the act entitled "An act to ratify and confirm an agreement with the Choctaw and Chickasaw Tribes of Indians, and for other purposes," passed and approved July 1, 1902, in conflict with the provisions of this act are hereby repealed.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object——

Mr. CARTER. Mr. Speaker, in explanation of this measure I will say that this is simply a proposition to provide for the leasing of new lands for mining purposes which lie adjacent to present leases. The act of June 28, 1898, provided for the leasing of all of the coal lands in the Choctaw and Chickasaw Nations in Oklahoma, making an arbitrary rate of royalty to 12 cents per ton, as I now recall, on screened coal. By that law the Secretary of the Interior was permitted to change the rate of royalty when he thought it necessary, and the rate was afterwards changed to 8 cents per ton for mine run, which those who are familiar with coal mining will know is a much better rate for the lessor than 10 cents on the screened basis.

Under that law something over 100 leases were taken out for the mining of coal, running for 30 years from the date of the lease, but on July 1, 1902, you had the so-called supplemental agreement providing for the sale of those coal lands. Advertisements were made for bids, and numerous bids were received, but none, in the opinion of the Secretary of the Interior, of sufficient price to warrant the sale of the land. So coal mining drifted along under this lease system, until some leases have been worked out completely; that is to say, worked up to the limit of the leases. No further progress can be made until some authority be given by this Congress to the Secretary of the Interior permitting him to make additional leases, at least to the operators who heretofore have operated the mines in good faith. Now, if this bill is not passed, the natural result will be that the old openings will fill up with water and the coal, which is the property of the Indians, will be damaged and perhaps destroyed and the Indians will get absolutely nothing from it. If this bill is permitted to pass, then the Secretary can go ahead and make new leases to the old operators under the same condition of their old leases and the Indians continue to get 8 cents per ton royalty, for this provides a royalty basis by tonnage and no sale of the land giving anyone any advantage over another person.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. CARTER. I yield to the gentleman from South Dakota.

Mr. BURKE of South Dakota. As I understand the law at the present time no new leases can be made of any coal lands in the Choctaw and Chickasaw Nations?

Mr. CARTER. That was stopped by the act of July 1, 1902.

Mr. BURKE of South Dakota. And that act was passed on the theory that the lands were going to be sold, and they did not want to have them leased.

Mr. CARTER. That is true.

Mr. BURKE of South Dakota. Now, recently we have enacted a law by which it is proposed to dispose of the surface——

Mr. CARTER. Yes.

Mr. BURKE of South Dakota (continuing). And not sell the coal. So that in fact there ought to be some legislation to dispose of coal by lease or otherwise. But this bill only goes to the extent of permitting the Secretary of the Interior to lease not exceeding 640 acres of land contiguous to land that has been worked out to a person who holds a lease. Is not that correct?

Mr. CARTER. That is true.

Mr. BURKE of South Dakota. Unless there is some such legislation an operator who has exhausted the coal in the land covered by his lease will have to cease operations. Is not that true?

Mr. CARTER. That is true.

Mr. BURKE of South Dakota. And he will therefore lose to a very great extent the value of his machinery, and so forth, that he has there?

Mr. CARTER. Not only that, if the present openings are abandoned, they will fill up with water and the coal belonging to the Indians will be very badly and permanently damaged.

Mr. BURKE of South Dakota. The money that is received from coal royalties is used, I believe, for the purpose of education among the Chickasaw and Choctaw Indians. So that there ought not to be any objection to this bill. But I will say there ought to be general legislation permitting the leasing of these coal lands.

Mr. CARTER. I expected to cover all that in the course of my remarks, and I am very glad the gentleman from South Dakota has brought it out in such a lucid manner.

Mr. STEPHENS of Texas. The attorneys here in Washington representing them are in favor of this bill for the reason that it will add considerable to the amount of revenue they will receive for the coal mined?

Mr. CARTER. That is true.

Mr. STEPHENS of Texas. New railroad tracks will have to be put down, and unless the mines start it would be an insecure position for them to take. In other words, it would injure them greatly. So that under these leases the adjoining lands can be operated under existing leases and plants now in operation?

Mr. CARTER. That is true.

Mr. MANN. Now, Mr. Speaker, will the gentleman from Oklahoma yield?

Mr. CARTER. Yes.

Mr. MANN. How many coal operators are there on these lands now holding leases?

Mr. CARTER. Do you mean the number of leases or the number of operators?

Mr. MANN. The number of men.

Mr. CARTER. I can not say accurately, Mr. Speaker, but I would judge that there were some 50 or more.

Mr. MANN. How many leases are held?

Mr. CARTER. Something over 100, if I remember correctly.

Mr. MANN. That is, the same operator holds more than one lease in many cases?

Mr. CARTER. Yes, in some instances; but a great many of them have only one.

Mr. MANN. How much coal is being mined there?

Mr. CARTER. I think about 3,000,000 tons per annum.

Mr. MANN. How many of these leases are there where the coal is practically exhausted under the present leases?

Mr. CARTER. There are about half a dozen at present, I presume.

Mr. MANN. What is the size of these leases, ordinarily?

Mr. CARTER. Nine hundred and sixty acres. The gentleman will understand, though, that the leases were made at an early day, before the coal crop was well defined, and by saying 960 acres of leased land it might not necessarily follow that there are 960 acres of coal, because much of the land that was first leased was found afterwards to be barren of coal.

Mr. MANN. The gentleman proposes in the bill the limitation of 640 acres. That means that the new leases shall not cover more than 640 acres in any case?

Mr. CARTER. That is the intention.

Mr. MANN. When the coal is exhausted on that 640 acres the same conditions will exist then as exist now on the present leases?

Mr. CARTER. Undoubtedly, unless we have legislation in the meantime taking care of that.

Mr. MANN. What does this bill mean when it says that operators may acquire additional acreage?

Mr. CARTER. That means that they may acquire the lease within the discretion of the Secretary. At least, that is the intention of it.

Mr. STEPHENS of Texas. Not to exceed 640 acres.

Mr. MANN. Do the terms mean to acquire the title to operate? Does it mean there to acquire a title to this 640 acres?

Mr. CARTER. That is not the intention of it. It was meant to acquire a lease of 640 acres.

Mr. MANN. That is not what the bill says.

Mr. CARTER. If the title might be said to exist to a lease, they might acquire that title, might they not?

Mr. MANN. Would the gentleman have any objection to making that read "acquire by lease" wherever they use the term "acquire"?

Mr. CARTER. None in the least. I think that is a good suggestion.

Mr. CAMPBELL. I will state to the gentleman from Illinois [Mr. MANN] that that is the only way he could acquire it now, except by violating the law.

Mr. MANN. But here is proposed a new law to permit them to acquire the property.

Mr. CAMPBELL. But this does not repeal the general law.

Mr. MANN. I beg the gentleman's pardon. It proposes to repeal the existing law and all laws that may be in conflict with it.

Mr. BURKE of South Dakota. Mr. Chairman, I would like to ask the gentleman whether, if you change the word "acquire" to "lease," so as to permit the acquiring of the right to lease, that would not meet the objection, and strike out the word "acquire" entirely?

Mr. MANN. I had it marked that way in my bill, but——

Mr. BURKE of South Dakota. I think by changing the word "acquire" to "lease" would accomplish what is proposed by the framers of the bill.

Mr. CARTER. Strike out "acquire" and insert "lease" will answer every purpose.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. CARTER. Mr. Speaker, I ask unanimous consent that this bill may be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Oklahoma [Mr CARTER] asks unanimous consent to consider this bill in the House as in Committee of the Whole. Is there objection?

Mr MANN. I object to that.

The SPEAKER. The gentleman from Illinois [Mr. MANN] objects.

Mr. CARTER. Mr. Speaker, I move to go into the Committee of the Whole House on the state of the Union.

The SPEAKER. The gentleman from Oklahoma [Mr. CARTER] moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill. The question is on agreeing to that motion.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3843) granting to the coal-mining companies in the State of Oklahoma the right to acquire additional acreage adjoining their mine leases, and for other purposes, with Mr. HUMPHREYS of Mississippi in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of Senate bill 3843, which the Clerk will report.

The Clerk read the title of the bill, as follows:

An act (S. 3843) granting to the coal-mining companies in the State of Oklahoma the right to acquire additional acreage adjoining their mine leases, and for other purposes.

Mr. CARTER. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with. It has just been read.

The CHAIRMAN. The gentleman from Oklahoma [Mr. CARTER] asks unanimous consent to dispense with the first reading of the bill. Is there objection?

There was no objection.

Mr. CARTER. Mr. Chairman, aside from the amendments that have been suggested by the gentleman from Illinois [Mr. MANN] I do not care to make any further discussion on the bill, and so I ask that it be read under the five-minute rule for amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior, under rules and regulations to be prescribed by him, may grant to the operator of any coal mine or mines in the State of Oklahoma the right to acquire additional acreage from the unleased segregated coal land of the Choctaw and Chickasaw Nations, in the State of Oklahoma, not to exceed in any case 640 acres of land: *Provided*, That the land sought to be acquired adjoins and is contiguous to the coal-mining property in operation: *And provided further*, That the right to acquire such additional lands shall extend only to coal-mining corporations, individual or individuals actually operating coal mines in said State in good faith, and in only such cases as may be found necessary for the successful administration of such mine: *And provided further*, That the lease or leases on such additional coal lands shall not be made for a longer period of time than existing leases and shall not be made at a less rate of royalty than the rate of royalty paid on existing leases now in operation in said State of Oklahoma.

Mr. STEPHENS of Texas. Mr. Chairman, I want to say, for the information of the gentleman from Illinois [Mr. MANN], a word regarding the proviso beginning on line 5, page 2. I do not think it would be necessary for him to offer any amendment, because this proviso makes it perfectly plain. The bill provides—

That the lease or leases on such additional coal lands shall not be made for a longer period of time than existing leases and shall not be made at a less rate of royalty than the rate of royalty paid on existing leases now in operation in said State of Oklahoma.

Mr. MANN. What is the object in leaving the matter open to construction when there are two constructions, and we mean only one thing and can say so?

Mr. STEPHENS of Texas. I will say to the gentleman from Illinois that in my opinion the whole section should be construed together, and it is perfectly clear that this last provision shall apply only to leases. It says—

That the lease or leases on such additional coal lands shall not be made for a longer period of time than existing leases and shall not be made at a less rate of royalty than the rate of royalty paid on existing leases now in operation in said State of Oklahoma.

Mr. MANN. I do not agree with the gentleman as to that.

Mr. STEPHENS of Texas. From that it is perfectly apparent that only leasing can be done under this act.

Mr. MANN. No; that applies only when leases are made, and under the former part of the bill they might pass title to the property.

Mr. STEPHENS of Texas. I beg leave to differ with the gentleman. The language is perfectly plain.

Mr. MANN. I have great deference for the opinion of my friend from Texas, and yet when you are passing a bill why not make it clear beyond a question of construction?

Mr. Chairman, I move to strike out, in line 6, page 1, the word "acquire" and insert the word "lease."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. MANN].

The Clerk read as follows:

Amend, page 1, line 6, by striking out the word "acquire" and inserting the word "lease."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANN. In line 10 strike out the word "acquired" and insert the word "leased."

The Clerk read as follows:

Page 1, line 10, strike out the word "acquired" and insert the word "leased" in lieu thereof.

The amendment was agreed to.

Mr. MANN. Mr. Chairman, I move, in line 11, after the word "property," to insert the words "of the applicant," so that it will read:

Contiguous to the coal-mining property of the applicant in operation.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 1, line 11, by inserting after the word "property" the words "of the applicant."

Mr. STEPHENS of Texas. There is no objection to that.

The amendment was agreed to.

Mr. MANN. I move to amend, on page 2, line 1, by striking out the word "acquire" and inserting the word "lease"

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 2, line 1, strike out "acquire" and insert "lease."

The amendment was agreed to.

Mr. MANN. In line 7, page 2, after the word "leases," insert "of the respective applicants."

The Clerk read as follows:

Page 2, line 7, after the word "leases," insert the words "of the respective applicants."

The amendment was agreed to.

Mr. BURKE of South Dakota. Mr. Chairman, I move to strike out the last word for the purpose of getting some information. I call the attention of the gentleman from Oklahoma [Mr. CARTER] to the language that appears in the last proviso of section 1 on page 2, where it is provided that the royalty shall not be—

a less rate of royalty than the rate of royalty paid on existing leases now in operation in said State of Oklahoma.

I suppose it is intended that the royalty shall not be less than the operator is paying under the lease that he now has. Will the gentleman explain what is intended by the language:

And shall not be made at a less rate of royalty than the rate of royalty paid on existing leases now in operation in said State of Oklahoma.

That might mean any leases in Oklahoma.

Mr. CARTER. They have now an arbitrary rate of royalty at 8 cents per ton, and under the law the rate must be uniform.

Mr. BURKE of South Dakota. That is what I wanted to know—whether there are any coal lands in Oklahoma leased at less than that rate.

Mr. CARTER. They are all at a flat rate of 8 cents per ton, with the right of the Secretary of the Interior either to increase or reduce the rate.

Mr. BURKE of South Dakota. Let me ask the gentleman if there is any operator who is paying a greater royalty than 8 cents?

Mr. CARTER. There is not at present in Oklahoma.

Mr. BURKE of South Dakota. It occurs to me that if an operator was paying 10 or 12 cents and we granted him a lease of additional land adjoining that which he is now operating he ought not to have the lease at less than he is now paying.

Mr. CARTER. All leases are at the same flat rate—8 cents per ton mine run.

Mr. MILLER. I move to strike out the last two words for the purpose of asking another question. As I understand there are two methods of paying royalties on coal, both per ton, but one for mine run and the other for screened coal.

Mr. CARTER. No; it is a flat rate of 8 cents a ton, mine-run coal, for all leases in Oklahoma.

Mr. MILLER. I admit that in the Choctaw and Chickasaw countries there is only one method, which is 8 cents per ton mine run, but my additional inquiry is if there is not another method in use elsewhere?

Mr. CARTER. Perhaps so, but not on the land in question here.

Mr. MILLER. There is some controversy as to which brings in the largest remuneration to the mine owner. It has been found there, has it not, that this method of paying 8 cents per ton mine run is more valuable to the owner of the mine than, say, 12 cents per ton screened coal?

Mr. CARTER. Mr. Chairman, that would depend, of course, on the amount of slack that the coal might run. The coal in Oklahoma would, I judge, run about 30 per cent to 50 per cent slack, so that the rate of 8 cents a ton would produce a much larger royalty than 10 or 12 per ton on screen basis.

Mr. MILLER. Under this bill is it not possible for the Secretary of the Interior to prescribe almost any reasonable sum as a royalty; provided it is not less than 8 cents, mine run?

Mr. CARTER. He can raise or lower it, as he sees fit, above or below 8 cents a ton.

Mr. MILLER. How can he bring it below under this bill?

Mr. MANN. He can not bring it below 8 cents under this bill.

Mr. CARTER. I was speaking of the present law.

Mr. MILLER. This bill safeguards the Indians from every standpoint as long as the Secretary of the Interior faithfully does his work.

Mr. CARTER. The bill gives safeguards to the leases made under its provisions which do not now exist in regard to other leases of land.

Mr. MILLER. This, as the gentleman knows, is touching on a subject that a great many minds have a right to be active about. Is it not the gentleman's opinion that there should be some comprehensive general legislation in the near future to take care of this entire coal question of the Choctaws and Chickasaws?

Mr. CARTER. Undoubtedly there ought to be provision made to dispose of the segregated mineral land, either by sale or by lease. It seems now that it might be impossible for us to sell the land under present conditions. So the only alternative left in justice to the Indians and the proper development of the country would be to lease the lands. Right now we are menaced by the lack of coal in parts of this very coal district, for the reason that leases can not be made that should be made. But this bill comes over from the Senate in its present form, and this is the first opportunity we have had for consideration without objection. It is now late in the session. If any substantial change is made in its provisions it may cause its defeat. Therefore we feel obliged to urge such relief as is contained in this measure.

Mr. MILLER. By the so-called supplemental agreement, under date of July 1, 1902, Congress agreed with the Indians that there should be a sale of the entire mineral area, something like 446,000 acres. I should like to ask the gentleman from Oklahoma if he thinks that as good a price could be received now as could have been received in 1904? What is the present market as to coal in that section?

Mr. CARTER. That is a question that is largely conjecture. The coal business in Oklahoma has been in pretty bad shape for the past several years on account of the oil and gas development near the coal lands. But as the supply of gas has become diminished to some extent and the railroads are reinstating coal burners the price of coal is again coming back somewhat to the normal conditions that existed before the discovery of oil and gas in Oklahoma.

Mr. MILLER. Mr. Chairman, I withdraw the pro forma amendment.

The CHAIRMAN. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

SEC. 2. That all parts of the act entitled "An act to ratify and confirm an agreement with the Choctaw and Chickasaw Tribes of Indians, and for other purposes," passed and approved July 1, 1902, in conflict with the provisions of this act are hereby repealed.

Mr. MANN. Mr. Chairman, I move to strike out section 2.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 2, by striking out section 2.

Mr. MANN. Mr. Chairman, as it now stands, if enacted into law, it would repeal all of sections 56 to 63, inclusive, of the act of July 1, 1902, repealing, as I recall, the very basis of the original leases. That is not intended to be done, and there is no occasion for the repealing clause in the bill.

Mr. CARTER. Mr Chairman, I differ with the gentleman from Illinois about that, but I see no necessity for section 2 in the bill.

Mr. MANN. Has the gentleman from Oklahoma looked up the act of July 1, 1902, to see what this would repeal?

Mr. CARTER. I am very familiar with the act of July 1, 1902.

Mr. MANN. It would repeal sections 56 to 63, inclusive, in the act of July 1, 1902, because they are all in conflict with this act.

Mr. CARTER. Oh, I do not think so. It would not repeal anything except in so far as the operation of its own provisions are concerned.

The act of July 1, 1902, sought to do two things, as follows: First, to provide for the sale of these lands; second, to prevent any further leasing of them. Now, this bill certainly does not, in any manner, contemplate a sale, but it does provide to lease, under certain conditions, and to that effect it amends the act of July 1, 1902, whether this language remains in the bill or not; but there is no necessity for it.

Mr. MANN. The gentleman will notice that this provision does not even say "all parts of the act so far as they are in conflict with this act." It says it repeals all of the provisions which are in conflict with said act, and all of sections 56 to 63 of the original act are in conflict with this act.

Mr. BURKE of South Dakota. Mr. Chairman, I would suggest to the gentleman from Oklahoma that I think he ought to consent to the amendment.

Mr. CARTER. I have already expressed a willingness to consent to the amendment. It is immaterial and superfluous as I have just tried to show.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was agreed to.

Mr. CARTER. Mr. Chairman, I move that the committee do now rise and report the bill with the amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HUMPHREYS of Mississippi, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill S. 3843, and had directed him to report the same back to the House with sundry amendments thereto, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en grosse. The question is on agreeing to the amendments.

The amendments were agreed to.

The SPEAKER. The question now is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. MANN. Mr. Speaker, I offer the following amendment to the title, which I send to the desk and ask to have read.

The Clerk read as follows:

Strike out the title of the bill and insert:
"Authorizing the Secretary of the Interior to lease to the operators of coal mines in Oklahoma additional acreage from the unleased segregated coal land of the Choctaw and Chickasaw Nations."

The SPEAKER. The question is on the amendment to the title.

The amendment was agreed to.

On motion of Mr. CARTER, a motion to reconsider the vote by which the bill was passed was laid on the table.

STANDARD FRUIT AND VEGETABLE BARRELS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23113) to fix the standard barrel for fruits and vegetables.

The Clerk proceeded to read the bill.

Mr. ASHBROOK (interrupting the reading). Mr. Speaker, the gentleman from New Jersey [Mr. TUTTLE], the author of this bill, is not in the Chamber at this time. I ask unanimous consent that the bill be temporarily passed over without prejudice.

The SPEAKER. The gentleman from Ohio asks unanimous consent to pass this bill temporarily without prejudice. Is there objection?

Mr. MANN. Mr. Speaker, what does the gentleman mean by "temporarily"?

Mr. ASHBROOK. Mr. Speaker, I understand the gentleman from New Jersey will be here later in the day, and he desires to have the bill called up at that time.

Mr. MANN. Mr. Speaker, I do not think we ought to commence that practice.

The SPEAKER. The gentleman from Illinois objects.

Mr. MANN. Mr. Speaker, if the gentleman desires to pass the bill on the calendar, I have no objection.

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection?

There was no objection.

NORTH RIVER BRIDGE CO.

The next business on the Calendar for Unanimous Consent was the bill (S. 4978) to supplement and amend the act entitled "An act to incorporate the North River Bridge Co. and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road," approved July 11, 1890.

The Clerk read the bill as follows:

Strike out all after the enacting clause and insert:
"That section 2 of the act entitled 'An act to incorporate the North River Bridge Co., and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road,' approved July 11, 1890, be, and the same is hereby, so amended as to extend the time for the completion of the said bridge and approaches therefor for 10 years from the date of the approval hereof: *Provided*, That this act shall not be construed as authorizing the building of said bridge in accordance with plans heretofore approved by the Secretary of War, but drawings showing the location and plans of said structure shall again be submitted to him for his consideration and approval before construction shall be entered upon: *And provided further*, That actual work hereunder and in accordance with such plans so approved must be commenced within three years after the approval of this act, or in default thereof the grantee shall forfeit all rights and privileges hereby and herein granted.

"SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved."

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I reserve the right to object.

Mr. KINKEAD of New Jersey. Mr. Speaker, I object.

Mr. GOLDFOGLE. Mr. Speaker, I will ask the gentleman from New Jersey to reserve his objection for a moment.

Mr. KINKEAD of New Jersey. Very well.

Mr. HAMILL. Mr. Speaker, I ask unanimous consent to make a short statement with regard to my attitude and the attitude of my colleague upon this bill.

The SPEAKER. For how long?

Mr. HAMILL. For three minutes.

The SPEAKER. The gentleman from New Jersey asks unanimous consent to address the House for three minutes. Is there objection?

There was no objection.

Mr. HAMILL. Mr. Speaker, this is a bill to incorporate the North River Bridge Co. The purpose of the charter is to enable the company to put a bridge over the North River, connecting the States of New York and New Jersey. When the bill first came up for consideration I objected to it, because I did not know what the purpose of the charter was. After a consultation with the gentleman from New York [Mr. GOLDFOGLE] and other persons interested in the bill, I came to the conclusion that it was a good bill and am still of that belief. I am, however, opposed to its consideration to-day for this important reason: The States of New York and New Jersey have appointed a joint commission to consider the advisability of building a bridge across the North River. That commission has been in communication with me through a personal call of some of its members, and they expressed fear that the rights which would be granted to the North River Bridge Co. might be exclusive of and detrimental to the rights given to the commission under the acts of the two legislatures.

They cite as an instance the fact that when the Williamsburg Bridge was built in New York City over the East River the municipality had to pay $800,000 to a bridge company which had previously acquired rights on both sides of the stream, and the commission is fearful lest the same situation may develop with regards to the operations of the North River Bridge Co. Now, I am unwilling that the State of New Jersey, in the event of its determining to contribute to the erection of an interstate bridge, should be put in a position where it would be compelled to pay part of an indemnity to a bridge company formed under a Federal charter which vested certain rights in the company that should have been withheld in the act granting incorporation.

The amount both States would have to pay as part of the cost of construction would be a heavy enough burden upon the taxpayers without requiring an expenditure for such an incidental as I have mentioned. It is solely for this reason that I am compelled at this time to object. I am in favor of building a bridge across the North River because I fully realize what a great boon it would be to have the States of New York and New Jersey connected by that means. I do not share the belief expressed by some gentlemen on this floor that this company has no intention of building a bridge and that the only purpose in procuring a charter is to enable the incorporators to issue stock and sell it to innocent buyers. From what I can learn I believe these incorporators are amply sound financially and that they are ready and able to construct a single span bridge which will, I understand, cost something like $60,000,000. However, the rights granted by the bill under consideration might, as I said, conflict with other rights conferred on the joint commission appointed by the States of New York and New Jersey, and might put upon these States additional and unwarranted expense. I can not positively state that such would be the effect of this charter, but I can inform the House that the attorney for the interstate commission is carefully considering this bill to determine whether or not this would be so, and in a short time I expect he will let us know what his conclusions on the matter are. If the rights granted in this charter do not conflict with the rights of the commission or impose on the States the liabilities I have mentioned, then I want to be understood as being ardently in favor of the passage of this charter, and I will in that event do all I can to have the North River Bridge Co. obtain it. Therefore, Mr. Speaker, I am compelled to object.

I am sorry to disappoint my colleague [Mr. GOLDFOGLE] who for a long time has had this bill in charge. I realize how hard and patiently he has labored to have the bill enacted. I know with what diligence and persistency he has tried to overcome all objections. I hope, nevertheless, that I can bring about a conference between my colleague [Mr. GOLDFOGLE] and the members of the New York and New Jersey bridge commission which will bring about a friendly agreement as to the proper form of a charter for the North River Bridge Co., and I have no doubt he will then have the pleasure of seeing his work accomplished and a bridge bill passed.

Mr. GOLDFOGLE. Mr. Speaker——

The SPEAKER. The gentleman from New Jersey objects.

Mr. GOLDFOGLE. Will the gentleman from New Jersey kindly reserve his objection until I make a statement?

Mr. HAMILL. I will reserve my objection.

The SPEAKER. The gentleman withholds his objection.

Mr. GOLDFOGLE. Mr. Speaker, I thank the gentleman from New Jersey [Mr. HAMILL] for his courtesy and for his kind words of commendation uttered a few moments ago. This bridge contemplated by the bill has become a public necessity. I have stated on the floor here on a previous occasion the great necessity that exists for a bridge across the Hudson River. The ever-increasing population of both New York and New Jersey in the vicinity where the bridge is contemplated over there, the enormous increase in freight as well as passenger traffic, the absolute necessity under existing conditions of facilitating transportation, the fact that the present tunnels are for passengers only, all require that there should be no further hesitation in passing this measure. The mayor of New York City and the board of estimates have petitioned Congress to pass this bill so we can get this much-needed bridge.

Years ago, after the charter of the North River Bridge Co. was passed, financial depression set in and that for quite a while prevented the financing of the project. Happily that condition has long passed. Then there were engineering difficulties in the way. Those engineering difficulties have been surmounted and overcome, and the best engineers of this country, the most skillful we have, say that such a bridge as is contemplated can easily be built. I am but repeating to-day what I have said before, both to members of the Committee on Interstate and Foreign Commerce and to this House, that men perfectly reputable and of very high standing in the community from which I come have given assurances that there will be ample capital furnished to build the bridge. I ought to say, also, that some of the delay which occurred in proceeding with the work of construction was due to a protracted litigation that finally terminated in the company's favor in the Supreme Court of the United States, which court affirmed the validity of the charter. Now, I trust that the gentleman from New Jersey, who has been so very kind heretofore and so exceedingly courteous to me, can see his way clear to withdraw his objection; but if the gentleman from New Jersey still insists in opposing the measure for the reasons that he has already stated, may I ask the gentleman from New Jersey to allow this bill to be passed without prejudice?

Mr. HAMILL. We have no objection.

Mr. CALDER. Mr. Speaker, I ask unanimous consent to address the House for a minute or two on this subject.

The SPEAKER. Did the gentleman from New Jersey reserve his right to object, or did he make objection?

Mr. HAMILL. I still reserve the right to object, Mr. Speaker.

The SPEAKER. The gentleman from New York [Mr. CALDER] asks unanimous consent to address the House for two

minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. CALDER. Mr. Speaker, the authorities of New York City, including the mayor and board of estimate and apportionment, have adopted a resolution and forwarded it to the Speaker of this House recommending the enactment of this legislation. I rise simply, Mr. Speaker, to ask unanimous consent to insert in the RECORD at this time the resolution referred to.

Mr. HAMILL. Regarding what?

Mr. CALDER. Recommending the passage of this bill.

Mr. HAMILL. There are two North River bridge bills.

Mr. CALDER. I speak of the one now under consideration.

The SPEAKER. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

The resolution referred to is as follows:

Resolution of the board of estimate and apportionment of the city of New York.

Whereas a petition has been presented to this board by the North River Bridge Co., dated January 22, 1913, asking us to recommend to Congress the passage of an act, S. 4978, which provides for an extension of time for the construction of the proposed bridge over the Hudson River, extending from the State of New Jersey to the city of New York, which act has already passed the United States Senate; and

Whereas it is in our opinion in the public interest that such bill should be passed and that such a bridge should be built as soon as the location and character thereof, and the manner of its operation, are approved by the Secretary of War, the communities in New Jersey affected thereby, and this board: Now, be it

Resolved, That we favor the passage of said act by Congress; and further, be it

Resolved, That the mayor be requested to send to the House of Representatives copies of said petition and this resolution.

It is understood, however, that our approval of said act is upon the express condition that it shall be so worded that the free and unrestricted rights of the States of New York and New Jersey to erect a bridge at any location between said States shall be unimpaired, except at the location which may be finally selected for the bridge to be constructed by the North River Bridge Co.

I hereby certify that the foregoing is a true copy of a resolution adopted by the board of estimate and apportionment at a meeting of said board held on January 23, 1913.

Dated, New York, January 23, 1913.

JOSEPH HAAG,
Secretary Board of Estimate and Apportionment.

Mr. TOWNSEND. Mr. Speaker, I ask unanimous consent to address the House for three minutes, to explain why I am not in accord with my two colleagues, Mr. KINKEAD and Mr. HAMILL, and I ask them to temporarily withhold their objection.

The SPEAKER. The gentleman from New Jersey asks unanimous consent to address the House for three minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. TOWNSEND. Mr. Speaker, I see no reason why anyone, either from New York or New Jersey, should object to any legislation proposed here in the slightest degree helping or calculated to help the building of a bridge over the North River, connecting the city of New York with the New Jersey shore. We have here two bills, each proposing an extension of time to a company formed for the purpose of building a bridge such as I have suggested. Without attempting to pass on the relative merit or strength of these companies, I contend that we are more likely to get a bridge if we encourage two competing companies than if we discourage both, as is now proposed by my colleague, Mr. HAMILL.

There is an interstate commission for examining this problem, but there is no reason why we should not have two or three bridges there. One of these bills relates to an extension of time of a company which has already expended a quarter of a million of dollars in engineering work, in doing practical work, in boring the bed of the river, and so forth. The Legislature of New Jersey and the Legislature of New York have approved the proposed plans incorporated in one of these bills, and the Secretary of War also has approved these plans.

Mr. HAMILL. Will the gentleman yield for a question? I will ask for more time for him.

Mr. TOWNSEND. Certainly; I will yield to my colleague.

Mr. HAMILL. Does the gentleman believe this charter ought to be granted if it would exclude the commission from building a bridge anywhere within the same limits within which this company may build a bridge?

Mr. TOWNSEND. Certainly not, Mr. Speaker. There is ample room on Manhattan Island and in the State of New Jersey for the approaches to three bridges. Across the East River there are already four bridges.

Mr. HAMILL. The gentleman does not get my point. I will state it again. This company may, I understand, build the bridge between Forty-second Street and Fifty-ninth Street, New York. Now, if this privilege would exclude the commission from putting a bridge within those limits, would the gentleman then favor this bill to the exclusion of the right of the commission?

Mr. TOWNSEND. My colleague makes an inference that is not founded upon good reason. The Brooklyn Bridge and the Manhattan Bridge are as near in their terminals as these two bridges would be if they were in the same district indicated by my colleague.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HAMILL. Mr. Speaker, I would like to have the gentleman yield for a moment.

Mr. ADAMSON. Mr. Speaker, I would like to make two or three remarks about this bill, inasmuch as it and the next one on the calendar came from our committee. It is true both of these bills are in behalf of enterprises that have been before the public for a long time, and the objection, I understand, now about extending the authority in the two cases is that they are thought to be speculative and that there is no prospect of building a bridge. All of us would be glad to see a bridge or two bridges or more, if they could be built, and all I have to say will be said without deciding the question of whether or not there is money in sight to build either. So we reported them both together, and if anybody objects to one I want both objected to, because I want them to stand or fall together. If they are speculative, I want them both in the field instead of one.

Mr. FOSTER. The gentleman from Georgia need not be afraid about that.

Mr. MANN. Will the gentleman from Georgia yield?

Mr. ADAMSON. Yes, sir; I yield.

Mr. MANN. Does the gentleman believe that at this time there is a field for profitable operation of two bridges across the Hudson River at New York?

Mr. ADAMSON. If the charge be true that either enterprise is speculative, only reaching out and trying to make money by building a bridge or promoting such project, we would be just as safe with two authorizations as one. I prefer to have the two.

Mr. MANN. Ought not the gentleman's committee to determine as to what company shall be permitted to build a bridge there, so that two companies will not be authorized, one possibly intending to build a bridge and the other intending to sell stock to innocent purchasers for the purpose of taking care of themselves?

Mr. ADAMSON. Both enterprises have been complimented with that charge.

Mr. MANN. I understand.

Mr. ADAMSON. The gentleman having long been a great ornament to the committee of which I have the honor to be the chairman——

Mr. MANN. An able and efficient chairman——

Mr. ADAMSON (continuing). Is thoroughly familiar with the fact that these charges have been handled back and forth, and we have renewed this authority two or three times in the last 20 years. It is unnecessary to say, even if it were in order, who opposed and who supported the granting or the ordering of these reports.

Mr. MANN. It seems to me, if the gentleman will permit, if a bridge is needed across the Hudson River at New York, the gentleman's committee ought to determine, before it makes a recommendation or gives authority, that somebody is able to raise the money and carry on the enterprise, and that we ought not to pass one or two speculative propositions in order to aid gentlemen selling stock, which I am afraid both of these are for.

Mr. ADAMSON. It is not violating any propriety to say that several members of the committee made that same suggestion that has been made by the gentleman from Illinois a good many times before the report was made.

Mr. HAMILL. Mr. Speaker——

The SPEAKER. Is there objection?

Mr. ADAMSON. I would like just to add, in conclusion, Mr. Speaker, that if any man with the money in bank or to his credit, according to reputation, would say to our committee that the money is in hand to build the bridge, that bridge company could get authority from our committee unanimously any day without any question about it.

Mr. GOLDFOGLE. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Georgia [Mr. ADAMSON] yield to the gentleman from New York [Mr. GOLDFOGLE]?

Mr. ADAMSON. Yes; I yield.

Mr. GOLDFOGLE. I desire to ask the gentleman from Georgia [Mr. ADAMSON], the chairman of our committee, whether it is not a fact that one of New York's most prominent, substantial, and best-standing citizens wrote a letter, which I showed to the gentleman, vouching for the fact that capital was ready for the building of this bridge, and that gentlemen of responsibility and of high standing in financial circles stood

ready to pay in sufficient money to carry on the building and construction of the bridge?

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. ADAMSON. I will answer that. Answering that, Mr. Speaker, the distinguished gentleman from New York did show me a letter from a great and learned man expressing opinions as to what they would be able to do after this authority is granted.

Mr. GOLDFOGLE. No; his absolute assurances.

Mr. ADAMSON. I have also had letters from the mayor and other men also making these same promises and reasoning as to what they would be able to do in the market after the authorization was granted. I have written to every single one of them to the effect that "if one of your numerous money kings of New York shall write me saying that the money shall be forthcoming you will secure the passage of these bills."

Mr. GOLDFOGLE. The gentleman from Georgia, I hope, will concede that the gentleman I referred to as having written the letter I showed him is a highly reputable citizen of high standing in our community.

Mr. ADAMSON. Yes; but he did not say the money was ready, but thought it could be raised.

Mr. GOLDFOGLE. Yes; he said the money was ready.

Mr. MANN. Does not the gentleman from Georgia [Mr. ADAMSON] remember, having served on the Committee on Interstate and Foreign Commerce for many years with me, that when he and I first served on that committee we heard the same roseate representations as to the prospect of the next 10 years in the history of this bridge after the first 10 years were about to run out?

Mr. ADAMSON. Yes. I not only remember that, but I remember that President McKinley called an extra session of Congress at that time, so that the gentleman from Illinois and I, as we had just been first elected, could show to the public the benefit of our service [laughter], and a picture of that bridge was then hung in our committee room, and it is hanging there yet.

I want to be honest with this House, and I want to say that those gentlemen have not shown to us that there is money in readiness to be paid out. If it is their desire to be licensed to go out fishing for capital, I do not want them to have a monopoly; I want them to have competition.

Mr. HAMILL. Mr. Speaker, I just want to get into this frightfully turbulent discussion one word edgewise. [Laughter.]

Mr. ADAMSON. It is good-humored. We are giving the gentleman some good jokes. [Laughter.]

Mr. HAMILL. I am thoroughly convinced of the necessity of building a bridge across the North River, and for no other reason than that the present tunnel under the North River is inadequate for carrying freight across the river through the tunnels to the terminal in New York, but, as I stated, the rights which we might grant by this charter may possibly conflict with rights conferred on the joint commission formed by the Legislatures of New York and New Jersey, and it is because of that that I am objecting at this time to the consideration of this bill.

The SPEAKER. Is there objection?

Mr. COX. I object.

Mr. HAMILL. Yes; I object.

The SPEAKER. The gentleman from New Jersey [Mr. HAMILL] and the gentleman from Indiana [Mr. COX] both object. The bill is stricken from the calendar. The Clerk will report the next one.

NEW YORK & NEW JERSEY BRIDGE COMPANIES.

The next business on the Calendar for Unanimous Consent was the bill (S. 5659) to supplement and amend an act entitled "An act to authorize the New York & New Jersey Bridge Cos. to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey," approved June 7, 1894.

The Clerk read the title of the bill.

Mr. AYRES. Mr. Speaker, I ask unanimous consent that this bill be passed without prejudice.

The SPEAKER. The gentleman from New York [Mr. AYRES] asks unanimous consent to pass this bill without prejudice. Is there objection?

Mr. GOLDFOGLE. Reserving the right to object——

Mr. MANN. Reserving the right to object, let me ask the gentleman what possible good will it do to keep this bill on the Unanimous Consent Calendar, occupying a little space there, when the gentleman knows that the bill can not pass on the Unanimous Consent Calendar?

Mr. AYRES. If the gentleman states that to be true, I will not ask it.

Mr. MANN. It is true if I live.

Mr. FITZGERALD. Mr. Speaker, this bill and the preceding one must go together.

The SPEAKER. Is there objection?

Mr. GOLDFOGLE, Mr. FITZGERALD, and Mr. HAMILL objected.

The SPEAKER. The bill will be stricken from the Calendar for Unanimous Consent, and the clerk will report the next bill.

LAND IN KANSAS CITY, KANS.

The next business on the Calendar for Unanimous Consent was the bill (S. 3952) for the purpose of repealing so much of an act making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indians located in Kansas City, Kans., providing for the sale of a tract of land located in Kansas City, Kans., reserved for a public burial ground under a treaty made and concluded with the Wyandotte Tribe of Indians on the 31st day of January, 1855 (said section of said act relating to the sale of said land), be, and the same is hereby, repealed.

The bill was read, as follows:

Be it enacted, etc., That so much of an act making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1907, approved June 21, 1906, providing for the sale of a tract of land located in Kansas City, Kans., reserved for a public burial ground under a treaty made and concluded with the Wyandotte Tribe of Indians on the 31st day of January, 1855 (said section of said act relating to the sale of said land), be, and the same is hereby, repealed.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The Chair understands that the gentleman from Kansas [Mr. TAGGART] desires to offer an amendment to this bill.

Mr. TAGGART. Mr. Speaker, I offer an amendment to remove an objection that was made to this bill by the gentleman from Illinois [Mr. MANN] when the bill was considered on a former occasion.

The SPEAKER. The gentleman will send up his amendment.

Mr. TAGGART. I send the amendment to the Clerk's desk.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Strike out all the words in line 3, page 2, after the word "six," and all of lines 4, 5, 6, and 7, and the words "relating to the sale of said land," in line 8, and insert in lieu thereof the following:

"That the Secretary of the Interior is hereby authorized to sell and convey, under such rules and regulations as he may prescribe, the tract of land located in Kansas City, Kans., reserved for a public burial ground under a treaty made and concluded with the Wyandotte Tribe of Indians on the 31st day of January, 1855. And authority is hereby conferred upon the Secretary of the Interior to provide for the removal of the remains of persons interred in said burial ground and their reinterment in the Wyandotte Cemetery at Quindaro, Kans., and to purchase and put in place appropriate monuments over the remains reinterred in the Quindaro Cemetery. And after the payment of the costs of such removal, as above specified, and the costs incident to the sale of said land, and also after the payment to any of the Wyandotte people, or their legal heirs, of claims for losses sustained by reason of the purchase of the alleged rights of the Wyandotte Tribe in a certain ferry named in said treaty, if, in the opinion of the Secretary of the Interior, such claims or any of them are just and equitable, without regard to the statutes of limitation, the residue of the money derived from said sale shall be paid per capita to the members of the Wyandotte Tribe of Indians who were parties to said treaty, their heirs, or legal representatives."

Mr. BURKE of South Dakota. There was a further amendment intended to be included.

Mr. TAGGART. It was intended to include the words "as reads as follows" before the words proposed to be inserted.

The SPEAKER. If there be no objection, the Clerk will make that modification.

Mr. FERRIS. Mr. Speaker, I desire to inquire if this amendment changes the purpose of the bill, or does it simply change the verbiage of the bill?

Mr. TAGGART. It simply makes the intention of the bill definite and certain, leaving no doubt as to what is repealed and what the intention of the bill is.

Mr. FERRIS. Does it accomplish for these Indian women what the gentleman hopes to accomplish?

Mr. TAGGART. It accomplishes precisely what they have demanded and what was the evident intention of the Senate in passing the bill, inasmuch as this paragraph is contained on page 2 of the report accompanying the bill.

Mr. FERRIS. The gentleman from Kansas [Mr. TAGGART] and the gentleman from Illinois [Mr. MANN] had a conversation about it last week, and the gentleman from Illinois was of the opinion at that time that the bill, in fact, did not accomplish anything, I think.

Mr. MANN. It repealed a great deal that the gentleman did not wish repealed. Now the gentleman in his amendment recites the language he wishes to repeal.

Mr. FERRIS. The trouble about it was that the amendment was so long I could not exactly catch it.

Mr. TAGGART. That is the language of the paragraph that is sought to be repealed. I did not draw the bill and had no share nor part in it.

The SPEAKER. The Clerk will report the additional language that the gentleman wishes to put in the amendment.

The Clerk read as follows:

As reads as follows.

The amendment was agreed to.

The SPEAKER. The question is on the third reading of the Senate bill as amended.

The bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act repealing the provision of the Indian appropriation act for the fiscal year ending June 30, 1907, authorizing the sale of a tract of land reserved for a burial ground for the Wyandotte Tribe of Indians in Kansas City, Kans."

CONVEYANCE OF CERTAIN LANDS TO THE STATE OF TEXAS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 27875) authorizing the President to convey certain lands to the State of Texas.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President of the United States be, and he is, in his discretion, hereby, authorized to direct the Secretary of the Interior to convey to the State of Texas, for the use of the State experimental station in connection with the agricultural research and demonstration work, such portions of the old Fort Brown Military Reservation as he may deem advisable: *Provided*, That should the State of Texas fail or refuse to use the property herein authorized to be conveyed for the purposes above set out, it shall revert to the United States and become a part of the public domain thereof.

With the following amendment recommended by the committee:

Amend, by adding after the word "authorized," in line 4, the words "in his discretion, to direct the Secretary of the Interior."

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I would like to ask the gentleman from Texas how much land is involved in this tract.

Mr. GARNER. The Agricultural Department has requested 280 acres. My understanding is that the buildings occupy about 40 acres, and there is about 320 acres in the tract.

Mr. MANN. The intention is to turn over the entire 320 acres?

Mr. GARNER. No; the intention is to convey that portion of the land set out in the President's order of June 12, 1912, which is set out by metes and bounds.

Mr. MANN. The Government is now maintaining an experiment station on the land?

Mr. GARNER. Yes.

Mr. MANN. If it is turned over to the State of Texas the State will maintain it and partially relieve the Government from the expense of its further maintenance?

Mr. GARNER. The Government intends to cooperate with the State of Texas.

Mr. MANN. The bill provides that should the State of Texas fail or refuse to use the property herein authorized to be conveyed for the purposes above set out, it shall revert to the United States. Does that mean fail or refuse at any time?

Mr. GARNER. I suppose so.

Mr. MANN. Then, why not say so?

Mr. GARNER. Well, this is the usual clause that is put in every bill. I do not want the property used for any purpose except what the bill says it shall be used for.

Mr. MANN. The last part of the proviso is that if it is not so used it shall revert to the United States and become a part of the public domain thereof. If it became a part of the public domain, would it be subject to entry in any shape? Why not say that it shall revert to the United States?

Mr. GARNER. I care nothing about it; it is a part of the public domain of the United States now. It was transferred from the War Department to the Interior Department some months ago.

Mr. MANN. In one sense it is a part of the public domain, and if so, it does not need to recite it here.

Mr. SISSON. Will the gentleman from Texas yield?

Mr. GARNER. Yes.

Mr. SISSON. Does the gentleman know what this land is worth?

Mr. GARNER. I do not know that I can state to the gentleman with any degree of accuracy the value of the land. If it is land subject to irrigation from the Rio Grande, it would be worth $100 an acre. If it is not subject to irrigation, I should think $10 or $25 an acre would be all that it was worth.

Mr. SISSON. Does the gentleman know what the Government paid for it?

Mr. GARNER. I have no idea. It is an old fort, over 60 years old, and it is right on the edge of Brownsville.

Mr. FITZGERALD. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. FITZGERALD. Does the gentleman expect the United States to give Texas all of the military reservations in that State?

Mr. MANN. Not all at once. [Laughter.]

Mr. GARNER. Speaking for myself, I have an idea about what ought to be done with these abandoned posts. I may as well state my own personal views about it now. If the information I get is correct, and especially applied to these two posts that were spoken of, they ought to be used for public purposes, and I will tell the gentleman why. You can not possibly sell these houses at the post the gentleman referred to a moment ago at Fort Clark, Tex., for 10 per cent of the value that they could be put to for public purposes, such as a tuberculosis sanitarium.

Mr. MANN. The gentleman is willing to make one agreement, I suppose, that as long as he is here he will not ask for more than two forts to be turned over in any one year? [Laughter.]

Mr. GARNER. I think that would be fair and liberal on my part.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Texas if it is the intention of the department to go ahead and do the same amount of work on this reservation that it is now doing?

Mr. GARNER. It will cooperate with the State.

Mr. FOSTER. Or is it the intention that the National Government shall withdraw its support from this particular tract of land?

Mr. GARNER. Mr. Speaker, I will say to the gentleman from Illinois [Mr. FOSTER] that there is now before the Legislature of Texas a proposition for an appropriation of $25,000, and I have information from the chairman of the finance committee of the senate, as well as from members of the house of representatives, that if this bill goes through $25,000 to continue this work there will be appropriated by the Texas Legislature. It is my understanding from Dr. Galloway that the United States Government will cooperate, but to what extent or in what manner I am not informed; but it is the policy of his department to encourage the States as much as possible to do this work under their supervision and suggestion.

Mr. FOSTER. Would the gentleman from Texas be willing to put in an amendment providing that the National Government should not expend any more money on this particular tract?

Mr. GARNER. I should think it would be very unwise to prohibit the National Government from cooperating with the State in a situation of this kind.

Mr. FOSTER. Would the gentleman be willing to provide that the State must appropriate not less than $25,000 before this transfer is made?

Mr. GARNER. I think that would be an undesirable provision. The question here is simply whether or not the Agricultural Department shall continue to appropriate $20,000 each year to keep up this garden, as it does in California and in Florida—there are three of them in the United States—or whether it will permit the State of Texas through its legislature to carry on this work under the supervision and instruction of the Agricultural Department.

Mr. FOSTER. If the State of Texas is going to do that, I do not see any particular objection to the bill.

Mr. GARNER. My information is that they are making an effort. It does not lie within the power of any man to foretell the acts of the Legislature of the State of Texas or the acts of the Congress of the United States.

Mr. FOSTER. This may help them to get the appropriation.

Mr. GARNER. I think when this bill becomes a law it will be an incentive.

Mr. FOSTER. Then the gentleman thinks it would not be wise to provide either one of these conditions. Would it not be well to lease this to the State of Texas?

Mr. GARNER. I do not understand this is anything more than a perpetual lease. If the State fails to use this for any other purpose than that for which it is conveyed, it will revert to the United States.

Mr. MANN. Mr. Speaker, does not my colleague think we can afford to give any State in the Union some land to carry on experimental work in preference to giving it the money out of the Federal Treasury?

Mr. FOSTER. My colleague probably was not in the Chamber at the moment I asked the gentleman from Texas if he would be willing to have an amendment inserted providing that the Government should not expend any more money there.

Mr. MANN. Oh, but the Government may wish to make some experiments there itself, but meanwhile the State of Texas has to carry on this experimental work now being carried on exclusively by the United States, and if the State fails to do that the property goes back to the United States Government.

Mr. FOSTER. I do not think that under the terms of this bill there is any reason for the National Government not expending the same amount of money in the future as in the past.

Mr. MANN. Even if it does, the State of Texas will have to spend most of the money.

Mr. FOSTER. I will ask the gentleman from Texas, then, if he is willing to put in a provision that the State of Texas this year shall appropriate $25,000, which the gentleman from Texas thinks it is going to do.

Mr. MANN. I know, but the gentleman from Texas objects to that as a matter of courtesy between legislative bodies. [Laughter.]

Mr. FOSTER. It may be a matter of economy to the State of Texas.

Mr. MANN. Does not my colleague think that if we can work the State of Texas into this that we ought to do it?

Mr. FOSTER. Oh, yes.

Mr. SHERLEY. Does the gentleman from Illinois think that we will ever be successful, through a member of the Texas delegation, in working the State of Texas for anything?

Mr. MANN. Oh, yes; we worked them last year for a tuberculosis sanitarium.

Mr. SHERLEY. And they worked us for a lot of valuable property.

Mr. MANN. We worked them for a sanitarium, or sanatorium; I have forgotten which it was in this case.

Mr. FOSTER. Mr. Speaker, in view of the gentleman's explanation, as good as he is able to make, and his plea for the State of Texas, I shall not object.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. GARNER. Mr. Speaker, there are committee amendments.

The SPEAKER. The Clerk will report the first committee amendment.

The Clerk read as follows:

Page 1, line 3, after the word "is," at the end of the line, insert the words "in his discretion."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Page 1, line 4, after the word "authorized," insert the words "to direct the Secretary of the Interior."

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Speaker, I move to amend, in line 9, by inserting, after the word "Texas," the words "at any time."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 9, after the word "Texas," insert the words "at any time."

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Speaker, I move to amend, page 2, lines 2 and 3, by striking out "and become a part of the public domain thereof."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, lines 2 and 3, strike out the words "and become a part of the public domain thereof."

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. GARNER, a motion to reconsider the vote by which the bill was passed was laid on the table.

AMERICAN COMMISSION FOR INVESTIGATION OF RURAL CREDITS IN EUROPE.

The next business on the Calendar for Unanimous Consent was S. J. Res. 132, providing for an American commission for the investigation of rural credits in Europe.

The Clerk read as follows:

Whereas the Department of State of the United States detailed, upon the application of the Southern Commercial Congress, David Lubin, American delegate to the International Institute of Agriculture, Rome, Italy, to direct a conference on agricultural finance, held under the auspices of the Southern Commercial Congress in Nashville, Tenn., April 1 to 6; and

Whereas 27 States were represented through delegates in the conference; and

Whereas resolutions were unanimously adopted providing for an American commission to go abroad for the investigation of rural credits in Europe; and

Whereas the Southern Commercial Congress will send the commission abroad, composed of delegates from all States of the United States, to report to the International Institute of Agriculture (which under treaty is supported by the Government of the United States), at the time of the meeting of the General Assembly of the International Institute of Agriculture, May, 1913: Therefore be it

Resolved, etc., That the Congress of the United States, in recognition of the valuable service to be rendered the United States in the investigation of the European systems of agricultural finance, hereby indorses the proposed American commission and invokes for it the diplomatic consideration of the countries to be included in the itinerary.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask some gentleman upon what theory is the committee proceeding in having Congress interfere in diplomatic relations directly?

Mr. MOSS of Indiana. Mr. Speaker, this resolution has passed the Senate unanimously and has been reported unanimously by the Committee on Foreign Affairs. It does not call for a dollar's expenditure on the part of the United States Government. It is an effort on the part of certain persons to begin at their own expense a cooperative study of certain questions affecting the agricultural prosperity in the United States, and they would like to have an opportunity to do so under the most favorable circumstances, and therefore are asking from Congress an official recognition of the project and seeking to obtain certain diplomatic courtesies from Governments in Europe. Now, Mr. Speaker, this question has been referred to the President of the United States, and I shall ask permission to insert in the RECORD as a part of my remarks the remarks which President Taft made at a dinner held here in Washington a few days ago specifically indorsing this particular project and this particular inquiry. I shall ask also, without taking the time to read it, Mr. Speaker, to insert in the RECORD a letter which Sir Horace Plunkett, a member of the British Parliament, wrote to Gov. Woodrow Wilson, calling his attention to this particular commission and the scope of it, and asking him to express his approval or disapproval. I will insert his reply, and at this point I should like to read the letter which Gov. Wilson wrote in reply specifically indorsing this project.

The letter is as follows:

STATE OF NEW JERSEY, EXECUTIVE DEPARTMENT,
January 30, 1913.

Hon. DUNCAN U. FLETCHER, *Washington, D. C.*

MY DEAR SENATOR: The inclosed letter from Sir Horace Plunkett will explain itself. I had a long talk with Sir Horace the other day, and I write now, as he suggests, to tell you that the proposed enlargement of the scope of inquiry by the commission which is to visit Europe has my entire and cordial approval. I think there are few safer guides than Sir Horace Plunkett.

Cordially and sincerely, yours,

WOODROW WILSON.

So this, Mr. Speaker, is a movement which has not only the indorsement of President Taft but that of President Elect Wilson.

Mr. BATHRICK. Will the gentleman yield?

Mr. MOSS of Indiana. With pleasure.

Mr. BATHRICK. Do I understand the gentleman to say that the project of farm credits, or the proposed commission to investigate farm credits, has the indorsement of Woodrow Wilson?

Mr. MOSS of Indiana. The proposed commission and its visit to Europe is what he referred to.

I hold in my hand, Mr. Speaker, also resolutions of indorsement that were passed by the American Association of Commercial Executives, by the Farmers' National Congress, by the National Grange, by the Chambers of Commerce of the United States, and by the Farmers' Educational and Cooperative Union of America, which I will ask also to insert as a part of my remarks.

Now, Mr. Speaker, without arguing this question further, I desire to say when this commission was proposed it was primarily to study the European system of agricultural credits. And it was to be composed of delegates, two from each State of the Union, to go at their own expense, or at the expense of the local organization nominating them. There have been acceptances from practically every State in the Union and from certain Provinces in Canada. But since that time there has been a change made in the purposes of the commission which greatly enlarges the scope of it.

Mr. KINDRED. Will the gentleman yield?

Mr. MOSS of Indiana. With pleasure.

Mr. KINDRED. Does this bill carry with it any appropriation?

Mr. MOSS of Indiana. It does not carry a dollar of appropriation. That is probably the only mistake that has been made in this movement. When the immigration question reached Congress an appropriation of hundreds of thousands of dollars was made to send a commission abroad to study that question, but the farmers of the country, recognizing the fact that this movement is essentially a cooperative matter, and that it is a ques-

tion with which the National Government properly has very little to do, assumed the initiative and proposed to study it at their own expense, and all that they are asking of Congress is that this activity shall have the recognition of Congress, and thereby assure the diplomatic courtesies of the European countries which it is proposed to visit.

Now, as I said, Mr. Speaker, there has been a change and enlargement in the scope of this inquiry which makes it a study more particularly of the cooperative methods of farmers themselves, as related to the whole branch of agricultural production and agricultural distribution, rather than to the one question of agricultural credit; and if it is carried out it will be an American commission to inquire into the organization of agricultural business in Europe. The inquiry will embrace an examination of the methods employed by the progressive agricultural communities in production and marketing and in the financing and all similar operations. Special note will be taken first of the parts played, respectively, in the promotion of agriculture by the Government and by volunteer organizations of the agricultural classes; second, the application of the cooperative system to agricultural production, distribution, and finance; third, the effect of cooperative action upon social conditions in rural communities; fourth, relation of the cost of living to the business organization of the food-producing classes.

Mr. SISSON. Will the gentleman yield a moment?

Mr. MOSS of Indiana. Certainly.

Mr. SISSON. I want to state to the gentleman that I am in sympathy with the movement that is on foot to establish a proper system of agricultural credits. How will the personnel of this commission be selected?

Mr. MOSS of Indiana. It is to be selected by recommendation from governors of the States, so far as the governors may make nominations; also by responsible commercial bodies of the States and by invitations extended by the Southern Commercial Congress and accepted by representative individuals who are willing to pay their own expenses.

Mr. SISSON. What I am endeavoring to arrive at is what part the different farmers' organizations will have, throughout the respective sections of the country, to do with the selection of these delegates.

Mr. MOSS of Indiana. Farmers' organizations have the same right as commercial organizations to select delegates, provided they pay the expense.

Mr. SISSON. Of course, the gentleman appreciates the value of the report depends largely on the character of this commission. If the commission is of a character in sympathy with this movement, you would get recommendations which might result in a great deal of good, and information that might result in a great deal of good; but if it should be made up of men who might take a different view of the situation we might get the very information we do not want.

Mr. MOSS of Indiana. There are at present, Mr. Speaker, more than 60 acceptances.

Mr. SISSON. Can the gentleman give me any information in a general way, about who these men are?

Mr. MOSS of Indiana. I have said, Mr. Speaker, that I do not have the personnel; but the governors of certain States, and more particularly of the Southern States, have made nominations, and where the governor of any State nominates two delegates they are recognized as the official delegates. I think that in most of the Southern States the governors have made nominations; but as to some of them I am not sure.

Mr. BARTLETT. Will the gentleman permit me to say in answer to his question, that I know the gentleman selected from my State, Mr. Harvey Jordan, who was at one time president of the Cotton Growers' Association. That is the character of the selection from my State. I know he was selected for that purpose by those authorized to select him. There was no economy in selection, so far as he is concerned.

Mr. SISSON. The gentleman states that this is to be without expense to the Federal Government?

Mr. MOSS of Indiana. Absolutely.

Mr. SISSON. Now, in the event these gentlemen accept the appointment and go on this commission, there will be no purpose on their part to ask Congress to defray any expenses they might incur?

Mr. MOSS of Indiana. Absolutely none.

Mr. BATHRICK. Mr. Speaker, will the gentleman yield?

Mr. MOSS of Indiana. With pleasure.

Mr. BATHRICK. I desire to ask whether any farm organizations have been requested officially to name any person on this commission?

Mr. MOSS of Indiana. That I can not say, specifically, Mr. Speaker, because I have not that information. But I do know that any farm organization that nominates a delegate and provides for his expenses is welcome to have that delegate go with the commission. Members of this House and Members of the Senate have also accepted and are to be members of this commission.

Mr. BATHRICK. Another question, please. I am entirely in sympathy with any method of investigation looking to the ascertainment of facts respecting a farm credit system. Does not the gentleman think that it will hasten legislation or action in some direction toward getting a farm credit system if this commission were asked to report at an early date?

Mr. MOSS of Indiana. I will state in regard to that, Mr. Speaker, that I do not regard this question as requiring national legislation. I believe that this is a question of purely State legislation, and in no sense of the word will it come within the purview of national legislation. That is my view of the matter.

Mr. BATHRICK. I believe that the gentleman will ascertain himself later that it is a matter of national legislation and that it will be considered.

Mr. MOSS of Indiana. This only emphasizes that this is a question requiring considerable thought and study, and this is the first systematized and organized effort which has been made in the United States to study it.

Mr. BURKE of Pennsylvania. Mr. Speaker——

The SPEAKER. Is there objection?

Mr. MANN. I reserve the right to object.

Mr. BURKE of Pennsylvania. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. MOSS of Indiana. With pleasure.

Mr. BURKE of Pennsylvania. The gentleman stated that the present Chief Executive had indorsed this. Did he indorse this resolution, or did he indorse the Southern Commercial Congress? What is the expression?

Mr. MOSS of Indiana. I will say to the gentleman that the Southern Commercial Congress gave a dinner here in the city at which Sir Horace Plunkett was a guest and at which President Taft himself was a guest, and that President Taft, discussing this matter, used these words:

> The subject of credits and the necessity for improving the method of the securing of better credit for the farmers is one that I have discussed; taking much of it on credit, because I have not had the personal experience that justifies me in speaking with any authority. The results that we have seen in Germany and in France and other countries—doubtless in Ireland—makes me think that we would be without our usual willingness to adapt anything good that we see unless we take up this subject, study it, as you propose to study it, through your commission, and then adapt it to the States in so far as it may be adapted to our civilization and our people.

It was specifically, Mr. Speaker, an indorsement of this particular commission and its method of going to Europe and making this study.

Mr. BURKE of Pennsylvania. Has either the President or Mr. Wilson or the chambers of commerce of the United States particularly indorsed this particular provision that the Congress of the United States invokes for it the diplomatic consideration of the countries to be included in the itinerary? Has anybody holding any official position indorsed that particular proposition?

Mr. MOSS of Indiana. Why, Mr. Speaker, I do not think it would be necessary for the President of the United States or any incoming President of the United States to petition Congress to extend a courtesy to a group of representative American citizens, comprising from 60 to 100, who are going abroad to spend 60 days, at their own expense, in a study that must be prosecuted in European countries. This is a request for an official recognition by Congress in order that European countries which they are going to visit may extend every opportunity to prosecute their studies, with the understanding that they are to meet their own expenses and to make reports to the States and organizations which send them.

Mr. BURKE of Pennsylvania. Does the gentleman know of anything by which Congress directly invoked the diplomatic consideration of other countries?

Mr. MOSS of Indiana. I know of no precedent, but if a precedent is wanting I favor making it.

Mr. BURKE of Pennsylvania. Would it not be a bad one——

Mr. MOSS of Indiana. That is a matter about which there may be a difference of opinion——

Mr. BURKE of Pennsylvania (continuing). To set aside all the traditions and all the practices of a well-ordered government?

Mr. MOSS of Indiana. I should like to say that my service in the House has been very short, and I came here from the farm. Therefore I have not had large opportunity of studying the precedents of Congress. So I can not answer the gentleman's question more fully; but I will say that I can see no impropriety whatever in the Congress of the United States giving official recognition to a body of representative American citi-

zens who are going abroad to study a question that has been recognized by every national platform that has been written in the past campaigns and to carry out a mission which has been specifically indorsed by the President of the United States and by the man who in four weeks will be President of the United States. More than that, the question of the high cost of living is one, I think, that is being discussed as generally as any other question before the people. The President of the United States within a week has said that the American Nation are at a point where they will soon be importing food to feed the American people. The Government, both State and National, is spending large and ever-increasing sums in agricultural education. Yet consumption steadily gains on production. The farmer under present conditions sells his products to the middlemen, who in turn become the purveyors of our population. The official reports of the Secretary of Agriculture disclose that the middleman increases the average price 65 per cent to the consumer. In many instances the producer sells at a loss, while the consumer pays an extortionate price, with only the middleman making a profit. Under these circumstances it seems to me that Congress should not hesitate to take this action.

Mr. SHERLEY. Mr. Speaker, I think one point that is in the minds of a good many of us here is why the Government should undertake to commend a body of men over whose selection it has no control. In other words, you are asking Congress to give an unusual letter of credit to a group of men the personnel of which we know nothing about. Now, if it is so important that the Government itself should ask other Governments to consider representatives from this country, ought not the Government, as a Government, to select those representatives? And when has the State become so obscure that the accredited representatives from a State need an additional indorsement in order to receive consideration abroad?

Mr. MOSS of Indiana. Mr. Speaker, that is a question that goes to every man in his representative capacity, and will have to be answered by each one upon his own responsibility. It is a question that I am not here to answer, only for myself and to my constituents.

Mr. SHERLEY. But it is proposed that Congress shall ask consideration for them abroad.

Mr. MOSS of Indiana. This matter has passed the Senate unanimously.

Mr. SHERLEY. A great many things pass the Senate unanimously.

Mr. MOSS of Indiana. It has received the approval of the President and of the incoming President.

Mr. MANN. Will the gentleman yield for a question?

Mr. MOSS of Indiana. Certainly.

Mr. MANN. If consideration is given for this resolution, does the gentleman intend to offer any amendment to it, or to pass it as it is?

Mr. MOSS of Indiana. To pass it as it is.

Mr. MANN. Who appoints these delegates?

Mr. MOSS of Indiana. They are to be appointed, in large part, by the governors of the States.

Mr. MANN. The resolution says the Southern Commercial Congress will send the commission abroad.

Mr. MOSS of Indiana. The Southern Commercial Congress initiated the movement and is in nominal control only.

Mr. MANN. Is that the fact, or is it not?

Mr. MOSS of Indiana. This commission received its initiative from the Southern Commercial Congress, but the Southern Commercial Congress is asking the governors of the States and other authorities to make the nominations.

Mr. MANN. That may be, but does the Southern Commercial Congress intend to name the men? The resolution says "delegates from all the States." Is it necessary before they go abroad that there shall be delegates from each State?

Mr. MOSS of Indiana. No, sir; that is not necessary. It is an opportunity for all of the States to send delegates.

Mr. MANN. Then the resolution is not accurate in that respect, because it says "delegates from all the States."

Mr. MOSS of Indiana. I know there have been acceptances to the number of more than 60 of these delegates, but no man can tell to-day whether there will actually be representatives from every State.

Mr. MANN. That is what I thought. Therefore it seems to me improper to recite it in the resolution, which may be presented to somebody, when it may not be true. Now, is it expected that the Southern Commercial Congress will pay the expenses of these delegates or that they will pay those expenses themselves?

Mr. MOSS of Indiana. Either the delegates personally or the organization nominating them.

Mr. MANN. I suppose that is so, but which is it?

Mr. MOSS of Indiana. In some instances one and in some the other.

Mr. MANN. Do I understand that the Southern Commercial Congress makes a discrimination and will pay the expenses of some, but will not pay the expenses of others?

Mr. MOSS of Indiana. Why, Mr. Speaker, the Southern Congress does not pay the expenses of any of the delegates.

Mr. MANN. I understood the gentleman to say that they did. It is understood, then, that these gentlemen go abroad at their own expense?

Mr. MOSS of Indiana. Absolutely so.

Mr. MANN. And they are expected to study the subject of rural credits and report to whom?

Mr. MOSS of Indiana. Their report, Mr. Speaker, will be to the organization appointing them.

Mr. MANN. That is not what the resolution says.

Mr. MOSS of Indiana. These gentlemen will go back to their respective communities to discuss this question and awaken public interest, thus taking the first steps toward securing practical cooperation among the farmers of the country.

Mr. MANN. This says that the commission shall report to the International Institute of Agriculture at Rome at its meeting in May.

Mr. MOSS of Indiana. The word "report" there means that they shall convene at Rome to begin their labors.

Mr. MANN. I think not.

Mr. MOSS of Indiana. That is the meaning of it.

Mr. MANN. I think that is not the meaning of it and not the intention of the resolution, in my opinion. Now, if the purpose is to send a letter to this agricultural institute at Rome, commending to the institution a lot of gentlemen who want to make a visit abroad, that is one thing; but the resolution says they are to report to the International Institute of Agriculture in May, 1913.

Mr. MOSS of Indiana. The word "report" means that they are to arrive at Rome at that time and start on their tour.

Mr. MANN. What will they do with the resolution if passed; present it to the institute and say, "Gentlemen, we are here; look at it"? To whom will they present the resolution? It is safe to say that the nations abroad are not waiting with bated breath to know whether this resolution passes; they do not know that it is in existence. Suppose it does pass, what will be done with it, as a matter of fact? Will it be presented to somebody abroad? I take it that they will not walk up to the Parliament of England and say, "Here is a resolution; give us seats in the gallery." Will they present it to the prime minister? It will be rather an unusual thing to pass a resolution to be presented to an administrative officer of a foreign government. It would be rather an unusual thing for the administrative body abroad to pay any attention to a legislative resolution passed here.

Mr. NORRIS. Mr. Speaker, I think it ought to be stated here that the question of rural credits in Europe is one that has received a great deal of consideration here. While I have no objection to this resolution, it seems to me that the gentleman from Illinois [Mr. MANN] has pointed out some of the reasons why it certainly could not be of any great consequence.

Now, there was a resolution on this subject which passed the Senate. There have been two resolutions to the same effect introduced in this House that provided for the study of the European agricultural credit system by a commission of five American citizens that should be appointed by the President; and I think the resolutions, or some of them, provided that the appointment should be confirmed by the Senate and that their expenses should be paid; and I think also these resolutions provided that a salary should be paid to them while making the study, and providing a time in which they should report to Congress the conclusions which they reached.

It seems to me that the question is one well worthy of serious and careful study. I do not have much faith in this proposed resolution. I have no objection to it, but I do not believe it will accomplish much. While nobody could object to anyone going over and studying as they please, yet if we want to get something upon which to base National or State legislation from a study of this question, it ought to be made, it seems to me, by men who are named either by Congress or by the President, and whose duty it will be to make a report; and then we ought to pay their expenses and also for their time in order that the appointing power may not be confined only to men who are sufficiently wealthy to bear their own expenses. We should not confine it only to the wealthy.

It seems to me before the final consideration of this particular resolution it ought to be known to the House that the kind of resolution that I have indicated has passed the Senate and is before the Committee on Agriculture of this House; that this committee has given several hearings on the subject, and has

heard men from different parts of the United States as well as Members of Congress on the question; that we ought not to deceive ourselves into the idea that by passing this resolution we are going to accomplish anything of particular merit. While I shall not object to it, I am perfectly willing that these men should go and study as they please, but I do not want somebody afterwards, if a resolution should be reported by the Agricultural Committee, to say that it had already been passed upon and that this was sufficient. I want investigation made of the rural credit systems of Europe. The farmers of our country have to pay too high a rate of interest when they borrow money. They have the best security in the world and ought to be able to borrow money at a much lower rate. The farmers of Europe by a system of cooperation have been able to get money as low, if not lower, than business men. I would like to send a commission of farmers to Europe to study the subject with a view of applying it here. We sent a commission over there to study banking in a commercial sense, why not let the farmers have a commission of their own number to study rural or farmers' cooperative banks?

Mr. BATHRICK. Mr. Speaker, will the gentleman yield?

Mr. NORRIS. Certainly.

Mr. BATHRICK. The gentleman concedes that the passing of this resolution, with the assistance given officially to these gentlemen who propose to go abroad and discuss and investigate this subject at their own expense, is not going to do any harm, but may result in good.

Mr. NORRIS. That may be, and I shall not object, but I do not believe that the resolution will result in much good, for the several reasons that the gentleman from Illinois [Mr. MANN] has indicated, and that I have tried to point out myself. If we desire to study this question then we ought to provide in our resolution for a method of selection of the men who shall make up the commission, and provide that they shall make a report, and then we ought to pay them for their work. We ought not to confine the investigation to men who are wealthy enough to pay their own expenses.

Mr. MANN. Mr. Speaker, in addition to what the gentleman from Nebraska [Mr. NORRIS] has said, we have a great many consular representatives abroad. We have a number of general consular representatives and we have some commercial agents abroad, any one of whom is qualified to make a study of this subject. It is not so difficult to study, so far as that is concerned, as far as the facts are concerned. It is easy to ascertain the facts concerning these rural banks abroad. The difficulty is in applying those facts to the situation in our own country. I do not see how anybody can allow this resolution to pass and then object to similar legislation that may be asked by the ladies' sewing society or some other society anywhere throughout the land that wishes to send abroad members to study some particular subject, and asks Congress to pass a resolution granting or asking diplomatic courtesies to their delegates.

Mr. BUTLER. Mr. Speaker, can not these gentlemen go abroad without legislation?

Mr. MANN. They can not only go without legislation if they have the money, but they can obtain from the Secretary of State a special letter commending them to all of the diplomatic officials of the United States abroad, and thereby obtain an introduction with commendatory words to the respective administrative officers abroad.

Mr. STEENERSON. Mr. Speaker, it seems to me that in line 7 on page 2 this resolution seeks to command the officers of foreign Governments.

Mr. MANN. It must be addressed to the administrative and executive officers abroad through the legislative branch of this country.

Mr. MOSS of Indiana. Mr. Speaker, just a word, and then we will pass the matter, whether it be objected to or not. In regard to what the gentleman from Nebraska [Mr. NORRIS] has said, there will be no objection on my part, and I believe upon the part of no one associated with these men, to the Government of the United States appointing a commission and paying them salaries and their expenses, if the Government cares to do it. There are, however, a great many consular officers, as has been said by the gentleman from Illinois [Mr. MANN], and other paid officials of the United States stationed abroad, and it seems to me this body of men has the right to be commended to their good offices as well as to similar courtesies upon the part of foreign Governments.

As regards the resolution referred to by the gentleman from Nebraska [Mr. NORRIS] there is this objection to that. The men who are behind this proposition are the pioneers who proposed this question of going abroad. It is they who have awakened public interest and have gotten to the point where there are at least 25 or 30 States willing to appoint delegates and pay their expenses. Naturally there are gentlemen who would like to get on the pay roll of the United States Government, and take advantage of the popularity that has been created on this particular subject. They propose that a commission shall be appointed to go abroad on a junket, having their expenses paid out of the Treasury of the United States as well as their salaries. It seems to me that is a very poor reason for objecting to this voluntary commission and for this attempt to prevent these gentlemen receiving the diplomatic courtesy of European Governments and the ordinary courtesy of the Congress of the United States. Gov. Wilson has truly said that it is difficult for the common people to be heard at Washington and that a few men are ready to act as guardians for the Nation, but I doubt if the governor anticipated that an objection would be made on the floor of this House to a recognition of a voluntary commission to go abroad at private expense, under the guidance and with the fellowship of a distinguished member of the British Parliament, to study a question of supreme importance to every citizen of the Nation.

THE SOUTHERN COMMERCIAL CONGRESS,
Southern Building, Washington, D. C.

THE AMERICAN COMMISSION TO INQUIRE INTO THE ORGANIZATION OF AGRICULTURAL BUSINESS IN EUROPE.

GENERAL INSTRUCTION TO THE COMMISSION.

The inquiry will embrace an examination of the methods employed by progressive agricultural communities in production and marketing and in the financing of both these operations.

Special note will be taken of—

First. The parts played, respectively, in the promotion of agriculture by the Governments and by voluntary organizations of the agricultural classes.

Second. The application of the cooperative system to agricultural production, distribution, and finance.

Third. The effect of cooperative action upon social conditions in rural communities.

Fourth. The relation of the cost of living to the business organization of the food-producing classes.

PRESIDENT TAFT'S ADDRESS.

He spoke as follows:

"In our workaday politics one sometimes gets just a little bit tired of the use of the term 'progressive' by gentlemen who make no progress except in its use for platform purposes, and therefore when you meet a man who has really made the progress for his people that we are all seeking he is entitled to our sincere tribute of respect.

"There is not anything that the Southern Commercial Congress has done that shows the sincerity of its purpose more than this honor to Sir Horace Plunkett. He has been engaged in a country in which the accumulations of mistaken legislation had produced such a condition that it needed almost the surgeon's knife to bring about a betterment, but the history of the land legislation of Ireland is one that now, with its successful result, we ought to study for the purpose of enabling us to see whether we can not take something from that experience to help us on.

"It is true they have no constitution in England or in Ireland that is written, and Parliament is absolute, and there were a good many things done with respect to land in Ireland that we could not do here under our Constitution, and that would not have been justified, except for the evils that had grown out of parliamentary legislation and of a misstatement—or a misunderstanding certainly—of the necessities of Ireland.

ACHIEVES GREAT SUCCESS.

"Now, Sir Horace Plunkett has worked in that field, and he has made a great success; and it is certain that the Southern Commercial Congress in looking to the improvement of the South, and the improvement of the agricultural methods, and the improvement of those methods with relation to the improvement of the people engaged in agriculture, has done something that can be of great assistance to them. Now, I came here to say that, and that only.

"The subject of credits, and the necessity for improving the method of the securing of better credit to the farmers, is one that I have discussed, taking much of it on credit, because I haven't had the personal experience that justifies me in speaking with any authority. The results that we have seen in Germany and in France and in other countries—doubtless in Ireland—make me think that we would be without our usual willingness to adapt everything good that we see unless we take up this subject, study it, as you propose to study it, through your commission, and then adapt it through the States, in so far as it may be adapted to our civilization and our people.

CONFRONTED BY NECESSITY.

"We used to think that we could not learn anything about agriculture from the other side; that we were so rich and that our crops were so big that really to look over to England, where they had to cultivate down to the last foot, was to do something that indicated a retrogression rather than a progression; but now we are reaching a point where we can calculate that unless we do something in the way of improving our methods of agriculture we shall be at a point where we shall have to import what we eat, and we shall become dependent on other countries, rather than to feel the independence which has swelled our heads to a point—sometimes I think to a point of danger. We have a great deal to learn, and I doubt not that from such authority as Sir Horace Plunkett we can learn a great deal.

"The South has a great deal to learn. She is learning. She is learning rapidly in her exchange of cotton for a diversified planting.

* * * * * * * * *

* * * I only came here to express, on behalf of the whole country, the pleasure we have in the presence of a gentleman who has shown by what he has done—not by what he has said—and by what he has brought about that he is a progressive.

JANUARY 29, 1913.

Hon. WOODROW WILSON,
Governor of New Jersey, Trenton, N. J.

DEAR GOV. WILSON: The Southern Commercial Congress, which initiated the proposed American commission to Europe upon agricultural credit, honored me with a dinner on Monday last, at which President

Taft attended and spoke. The President had asked me to attend the conference of governors at the White House upon the same subject on December 7, but my ship was delayed in a storm and I could not be present. As I intimated to you at the interview you were kind enough to give me on the 21st instant, I was very skeptical as to any useful purpose being served by this costly project, and I feel that I ought now to tell you of certain changes in the original plan which have completely changed my judgment upon the matter.

That the system of credit prevailing in agricultural communities in this country is not all that it should be may be admitted, but it is equally certain that the entire business organization of the American farmers is in a deplorably backward condition. It may be generally stated that agriculture is the only important business occupation in this country which is unorganized, and until some progress has been made in applying what is now coming to be recognized as the obvious remedy—the introduction of cooperation—it is little use discussing the best kinds of credit system to meet the farmers' needs. In any case, the literature upon the subject is good and exhaustive. A few economists and financiers familiar with agricultural conditions could derive from this source far more light upon the American problem than is likely to be shed by the collective wisdom of the traveling commission.

I found that the leaders in the movement were altogether inclined to agree with this view. Before the dinner they agreed to change the scope of the proposed inquiry, and I send you herewith a copy of the instructions which will be given to the commission. At the dinner this document was adopted, and President Taft indorsed it.

My purpose in troubling you with this matter at such an extremely inconvenient time is that your Presidency will be seven weeks old before the commission starts for Europe on April 26. I think you will agree that if the issues which are now raised in the inclosed document are really well discussed by the commission, a profound effect may be produced upon public opinion in regard to the place of agriculture in your national economy. In any case, I am certain that the mere raising of these issues in so public a manner will stir thought throughout the Union, which will have its influence upon legislation and administration affecting the production and distribution of the Nation's food. If you could see your way to write either to Senator FLETCHER, president of the Southern Commercial Congress, or to me, or both, a letter expressing your own personal approval of the enlarged inquiry, it would, I am sure, be extremely helpful to those who are anxious that some real benefits should accrue from all the labor which will be involved. I only mention myself in this connection because it might enable me to be more useful to the commission in Europe if I had this official recognition to strengthen my hand.

Believe me to be,

Very respectfully, yours, HORACE PLUNKETT.

P. S.—Address, 36 West Tenth Street, New York City.

Resolutions adopted by national organizations indorsing the American commission that is being assembled by the Southern Commercial Congress.

AMERICAN ASSOCIATION OF COMMERCIAL EXECUTIVES.

Whereas the Department of State of the United States detailed, upon the application of the Southern Commercial Congress, David Lubin, American delegate to the International Institute of Agriculture, Rome, Italy, to direct a conference on agricultural finance, held under the auspices of the Southern Commercial Congress in Nashville, Tenn., April 1 to 6; and

Whereas 27 States were represented through delegates in the conference; and

Whereas resolutions were unanimously adopted providing for an American commission to go abroad for the investigation of rural credits in Europe; and

Whereas the Southern Commercial Congress will send the commission abroad, composed of delegates from all States of the United States, to report to the International Institute of Agriculture (which under treaty is supported by the Government of the United States) at the time of the meeting of the general assembly of the International Institute of Agriculture, May, 1913: Therefore be it

Resolved, That the American Association of Commercial Executives, in recognition of the valuable service to be rendered the United States in the investigation of the European systems of agricultural finance, hereby indorses the proposed American commission.

FARMERS' NATIONAL CONGRESS.

Resolved, That the Farmers' National Congress favors an investigation of agricultural banking and credit in vogue in Europe, and indorses the movement to send a national investigating commission abroad to study and report upon the rural credit system in effect in continental European countries.

NATIONAL GRANGE.

Whereas the Department of State of the United States detailed, upon the application of the Southern Commercial Congress, David Lubin, American delegate to the International Institute of Agriculture, Rome, Italy, to direct a conference on agricultural finance held under the auspices of the Southern Commercial Congress in Nashville, Tenn., April 1 to 6; and

Whereas resolutions were unanimous adopted providing for an American commission to go abroad for the investigation of rural credits in Europe; and

Whereas the Southern Commercial Congress will send the commission abroad, composed of two delegates from each State of the United States, to report to the International Institute of Agriculture, which under treaty is supported by the Government of the United States, at the time of the meeting of the general assembly of the International Institute of Agriculture, May, 1913: Therefore be it

Resolved by the National Grange in convention assembled at Spokane, Wash., That in recognition of the valuable service to be rendered the United States in the investigation of the European systems of agricultural finance they hereby indorse the proposed American commission.

Resolved, That we, the members of the National Grange in annual session in the city of Spokane, Wash., in this our forty-sixth annual session, do urge that the legislature of each State in the United States appropriate $2,400 to defray the expenses of two delegates, who, in company with the delegates from the other States, shall make a study of the various financial systems of the world and evolve a plan that shall meet our financial needs.

CHAMBER OF COMMERCE OF THE UNITED STATES.

(Resolution will be forwarded later.)

FARMERS' EDUCATIONAL AND COOPERATIVE UNION OF AMERICA.

(Resolution will be forwarded later.)

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I dislike to object to anything that the gentleman from Indiana [Mr. MOSS] so urgently presses, because I have come to have great confidence in his judgment; but still on this occasion I feel the resolution is improper, and therefore I object.

The SPEAKER. The gentleman from Illinois objects, and the bill will be stricken from the calendar.

REFUND OF CORPORATION TAX.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 27323) to provide for refund or abatement under certain conditions of penalty taxes imposed by section 38 of the act of August 5, 1909, known as the special excise corporation-tax law.

The Clerk read the bill, as follows:

Be it enacted, etc., That any corporation, joint-stock company, association, or any insurance company subject to the special excise tax provided by section 38 of the act of August 5, 1909, known as the special excise corporation-tax law, which has been or may be compelled to pay or become liable for any additional tax within the provisions of subsection 5 of said section 38, which additional tax has been or may hereafter be imposed for a neglect to file a return as provided in said corporation-tax law on or before the 1st of March of any year, may, within one year after the passage of this act, or within one year after the date of notice of assessment where such notice is given after the passage of this act, make application to the Commissioner of Internal Revenue for a refund of such additional tax. And the Commissioner of Internal Revenue, with the advice and consent of the Solicitor of Internal Revenue, is hereby directed to remit, abate, or pay back all such additional taxes in excess of $100 for any single year whenever in any case it appears to his satisfaction that the additional tax was assessed or imposed solely because of a neglect to make a return at the time or times specified in said act, and without any intention or design on the part of any officer of such corporation, joint-stock company, association, or insurance company to hinder or delay the United States in the collection of the tax originally assessed.

The SPEAKER. Is there objection?

Mr. SHERLEY. Mr. Speaker, reserving the right to object, I would like to have an explanation in regard to this bill. Is this bill retroactive at all?

Mr. BRANTLEY. To some extent.

Mr. SHERLEY. To what extent?

Mr. BRANTLEY. Mr. Speaker, I would like to state to the gentleman from Kentucky—and then I will yield to the gentleman from Maine [Mr. MCGILLICUDDY], the author of the bill, to answer any specific questions in reference to it—that this bill is designed to grant some relief from one of the very drastic penalties of the present corporation-tax law. It has the very cordial support of the Treasury Department, and has been unanimously reported by the Committee on Ways and Means after full hearing and investigation. It is a thoroughly meritorious measure. I will now yield to the gentleman from Maine [Mr. MCGILLICUDDY] to answer the specific questions of the gentleman from Kentucky.

Mr. MCGILLICUDDY. Mr. Speaker, under the provision of the act of August 5, 1909, as the House knows, a tax of 1 per cent on net incomes not exceeding $5,000 is assessed and collected. Now, under section 3 of that act it is provided that the return containing the information upon which the tax is assessed shall be made on or before the 1st day of March in every year. In section 5 it is provided that in cases of fraudulent intent, or of failure to file the return because of fraud, then an additional tax of 100 per cent of the original tax is assessed, and in case of mere neglect to file the return an additional tax of 50 per cent is assessed. And in addition to that, under section 8 of the act, it is provided wherever a refusal or neglect to file the return exists there shall be a fine of from $1,000 to $10,000. Now, the proposed bill does not alter or change the law in any respect affecting anybody except those persons who, through some inadvertence and without any intention whatever of evading or delaying the collection of the tax, have failed to file their return on the 1st day of March in each year.

Mr. BARTLETT. May I interrupt the gentleman?

Mr. MCGILLICUDDY. Certainly.

Mr. BARTLETT. Then it is also the fact that people who are not liable to pay the tax by reason of not having the amount of income provided for are also penalized for failure to make the return.

Mr. MCGILLICUDDY. Precisely; that occurred in my State where a corporation did not earn anything in the way of net income, and as provided by the act they were subject not only to this original penalty but to the fine of section 8 in addition.

Now, as has been stated by the gentleman from Georgia, who reported the bill, this bill when it was introduced was referred to the Committee on Ways and Means and by the chairman of that committee was referred to the Secretary of the Treasury

for his suggestion, and I will read what he says in regard to it. This is under date December 20 last:

I am of opinion that the proposed bill, providing as it does for refund or abatement of all taxes or assessments over and above $100 in any individual case, accomplishes the desired purpose admirably by providing a punishment which, taken in connection with paragraph 9 of section 38 of the tariff act of August 5, 1909, will prove amply sufficient to insure the proper compliance with the provisions of this law and at the same time prevent the infliction of drastic punishment for simple neglect. The language of the proposed bill seems to be free from criticism, and I unqualifiedly recommend that the proposed measure be enacted into law.

Respectfully, FRANKLIN MACVEAGH, *Secretary.*

Mr. SHERLEY. If the gentleman pleases, I have read what the Secretary says, but I am not quite sure whether he is accurate, and he does not give me the information I desire. I would like to ask the gentleman how much refund there will be if this becomes the law?

Mr. McGILLICUDDY. As near as can be ascertained, about $225,000.

Mr. SHERLEY. I would like to ask the gentleman, secondly, whether he considers the language of the act as presented here limits the refund of assessments under section 5 or whether it does not permit at least a plausible contention for a refund for any other penalties under any other section of the excise act?

Mr. McGILLICUDDY. I think not.

Mr. SHERLEY. I would like for the gentleman to look at it with that in mind, because I am not at all sure.

Mr. McGILLICUDDY. Well, this bill does not cover anything except the failure to make returns through mere neglect, and when it appears there was no intent or design to delay or in any way hinder the collection of the tax.

Mr. SHERLEY. That is just the question. The gentleman sees that. I call his attention to the fact that on page 1 of the bill it speaks there of the payment under subsection 5.

Mr. McGILLICUDDY. From what line are you reading?

Mr. SHERLEY. Lines 8 and 9. There it refers to subsection 5 of the excise act, but when it comes to the refund with reference to any additional penalty, it is not any additional penalty because of the provisions of section 5. It seems to be very much broader than the Secretary's letter would indicate, or the gentleman's statement would indicate.

Mr. McGILLICUDDY. I think the bill was drawn very carefully with that in view, and it all refers back to subsection 5 of section 38.

Mr. SHERLEY. Let us see, if the gentleman will permit. It says:

And the Commissioner of Internal Revenue, with the advice and consent of the Solicitor of Internal Revenue, is hereby directed to remit, abate, or pay back all such additional taxes in excess of $100 for any single year.

Now, that does not seem to limit it to the excess taxes that were collected under the excise part of the act.

Mr. McGILLICUDDY. It limits it.

Mr. SHERLEY. Does it necessarily? I think, in a matter of this kind, it ought not to be a matter of inference or doubt or construction to be put on the word "such." The gentleman's contention may be the right one, but——

Mr. McGILLICUDDY. But the only tax referred to, if you will permit, is the tax referred to in line 8, and that specifically refers to subsection 5, where it says, "Any such additional tax." It can not possibly refer to any other. There is no other tax to which it can refer.

The SPEAKER. Is there objection?

Mr. SHERLEY. Mr. Speaker, reserving the right to object, this is a matter of considerable importance. It is rather an unusual bill to pass by unanimous consent at best, and I want to feel sure that it does not accomplish anything beyond what the gentleman states.

Mr. McGILLICUDDY. I am in hearty sympathy with what the gentleman has to say. If he can make the bill any better than it is, I shall be very glad to have it done.

Mr. MANN. Will the gentleman yield?

Mr. McGILLICUDDY. Yes.

Mr. MANN. The only thing that can be paid back in any event is the additional tax?

Mr. McGILLICUDDY. And not all of that.

Mr. MANN. I understand. The additional taxes are the penalty for not making the return.

Mr. McGILLICUDDY. It is not called a penalty. It is called "an additional tax."

Mr. MANN. I am calling it a "penalty." That is what it is.

Mr. McGILLICUDDY. It is in effect; yes.

Mr. SHERLEY. I understand you are not going to pay back in any event anything but what you designate as a "penalty," but you ought not to pay back the penalty except in a very limited number of cases, where the failures to make the returns are excusable.

Mr. McGILLICUDDY. There is no provision to pay back any penalty.

Mr. SHERLEY. We are using the words "additional tax" and "penalty" in the same sense.

Mr. McGILLICUDDY. It is hardly in the same sense in the original act. One is an additional tax assessed under section 5 and another is a penalty collected under section 8.

Mr. SHERLEY. I understand; but there are several additional taxes, as I recall, under the various sections. There are three or four sections that call them "additional payments." Have you the excise law there?

Mr. McGILLICUDDY. Yes; I have the law.

Mr. SHERLEY. If the gentleman will read the provisions that are set forth——

Mr. McGILLICUDDY. Section 5 is the only provision involved. It says:

All returns shall be retained by the Commissioner of Internal Revenue, who shall make assessments thereon; and in case of any return made with false or fraudulent intent, he shall add 100 per cent of such tax; and in case of refusal or neglect to make a return or verify the same as aforesaid, he shall add 50 per cent of such taxes.

That is all this bill refers to. Now, under section 8, if the gentleman will follow it, there are penalties both for the intentional failure to file the return and for the refusal or neglect. That is the penalty. And in the next clause there is a further penalty of imprisonment in certain cases, with which this bill has nothing whatever to do. I am sure, if the gentleman will examine the bill, he will find it accomplishes all he has in mind.

Mr. SHERLEY. I am trying to do that, but from the way in which the gentleman brings up this bill I have to examine it on my feet or my remedy passes by. Now, as I understand, a penalty, where they simply neglect to make the return, is imposed to the extent of 50 per cent. That is an arbitrary amount.

Mr. McGILLICUDDY. Yes.

Mr. SHERLEY. And where there has been a real intent to defraud it is 100 per cent.

Mr. McGILLICUDDY. That is correct.

Mr. SHERLEY. If that be so, and you want to refund only those taxes which come about through neglect why use the language "when it appears to his satisfaction that the additional tax was assessed or imposed solely because of neglect"? There can be no discretion there. The amount of the tax will show whether it was done through neglect or through intent to defraud. Why not have the law limited to a refund in those cases where the additional tax was 50 per cent and exclude those cases where it was 100 per cent? Do you not here open up all of them?

Mr. McGILLICUDDY. You accomplish the same purpose in different language.

Mr. SHERLEY. Oh, here under the original law you let the very size of the tax determine the character of the fault, whereas in this bill you leave it to the discretion of the officials to determine in all cases under section 5 whether or not it was because of the one reason or the other.

Mr. McGILLICUDDY. Not all cases, but simply in cases of neglect, where there was no intent to defraud.

Mr. SHERLEY. I understand; but you leave it to the discretion of the official to determine what was the reason, whereas the size of the tax determines it better than his discretion.

Mr. McGILLICUDDY. I do not see how that can be.

Mr. SHERLEY. For instance, here are two men who have a certain tax return to make, of the same amount. One of them has an additional tax levied of $1,000, which is 100 per cent. The other has an additional tax levied of $500, because in his case the failure was due simply to neglect, whereas in the first man's case the failure was due to a desire to defraud. Now, you are not limiting the recovery to the case of one, but leaving it to the discretion of the official, where he may think the other fellow did it through neglect and order a remission of the tax. Now you have a certain rule. Why make it uncertain, in the discretion of the official?

Mr. BRANTLEY. Mr. Chairman, let me call the attention of the gentleman to the language of the bill, which permits the right to make application for a refund only in those cases where the 50 per cent additional tax is imposed for failure or neglect to file the returns.

Mr. SHERLEY. Where is the language to warrant that statement?

Mr. BRANTLEY. In lines 5 and 6 of page 2. He may "make application to the Commissioner of Internal Revenue for a refund of such additional tax," which additional tax is referred to on the first page as the tax imposed under subsection 5 of section 38 for a neglect to file a return, and the whole bill deals only with the tax imposed for a neglect to make the return. Then, of course, when it comes before the Treasury Department on the application for a refund, the Treasury Department must have the right to inquire as to whether this is a mere case of neglect or not, and if they find it is——

Mr. SHERLEY. Why?

Mr. BRANTLEY. Because somebody must enforce the law.

Mr. SHERLEY. Ah, but that is just the point. The very provisions of the law separate the classes of cases, and there is no discretion given. There is an arbitrary additional tax of 50 per cent imposed when there is neglect only. Now, if that is the only case you are trying to reach, why not require, when the additional tax of 50 per cent has been added through neglect, that such tax shall be refunded?

Mr. BRANTLEY. I will say to the gentleman from Kentucky that this is precisely what this bill does.

Mr. SHERLEY. That is the gentleman's conclusion.

Mr. BRANTLEY. The honorable Secretary of the Treasury, who has carefully examined the bill, says the bill is admirably drawn.

Mr. SHERLEY. Oh, the gentleman has been in Congress longer than I have been, and he knows how much credit to give to the recommendation of a Secretary in a matter that perhaps has never met his personal eye.

Mr. BRANTLEY. I want to say to the gentleman that the Commissioner of Internal Revenue——

Mr. SHERLEY. I would rather have the gentleman's opinion than that of either of those officials.

Mr. BRANTLEY. Let me suggest to the gentleman from Kentucky that perhaps he does not understand the application of the law in question. The Commissioner of Internal Revenue informs us that in the operation or enforcement of the present incorporation tax law he has had numerous complaints made, or applications made, for a refund of this 50 per cent additional tax upon the ground that the failure to file the returns promptly on March 1 was mere inadvertence or neglect, and therefore that the applicants ought not to be required to pay a penalty; that he found on construing the law that this 50 per cent is not imposed as a penalty, but that it is a tax—so the language of the law is—and no matter how well satisfied he might be that a clerk or agent has neglected to obey the order of the president of the corporation to file the tax returns, with no thought or purpose of evading the payment of the tax, that the additional amount must be exacted. In one case it was shown that the return was made out, and then a clerk put it in his desk and forgot to take it out.

Numerous cases of that kind have occurred; and yet no relief could be granted, because under the construction given the law the tax is mandatory.

Mr. SHERLEY. I have no issue with the gentleman as to the desirability of refunding in cases of that sort, but I have a very strong desire that the act shall be limited to just that kind of cases. The gentleman assures me that that is the fact, but I am not completely satisfied from the cursory reading of the bill, which I have had to give it on my feet, and I suggest to the gentleman, inasmuch as there is a classification made by the law itself, why leave it to a matter of construction? Why not simply in three of four lines provide that power is given for a refund of additional taxes of 50 per cent that were levied because of the failure on account of neglect? Then you exclude the other.

Mr. BRANTLEY. Mr. Speaker, I think if the gentleman will study the language of the bill carefully he will see that that is what it does.

Mr. SHERLEY. That may be, but we ought not to have any doubt about it.

Mr. BRANTLEY. If you limit it simply to cases where the tax is imposed in case of mere neglect, necessarily some officer has to say, when you make application for the refund, that that failure to make the return was a mere case of neglect.

Mr. SHERLEY. But there is a difference in the way the officer acts. In one case he is limited to the fact that the additional tax is 50 per cent. According to your bill he is limited in his discretion.

Mr. BRANTLEY. I do not think there is a member of the Committee on Ways and Means who does not sympathize with the purpose and wishes of the gentleman from Kentucky. I want to say to him that this bill was really very carefully considered by the committee. We did not stop with the letter from the Secretary of the Treasury. We invited a hearing; we had an oral hearing, and nearly every word of the language of this bill was criticized in the committee, and we reached the conclusion that it accomplished the identical result that the gentleman from Kentucky desires to accomplish.

Mr. SHERLEY. I have a very high opinion of the accuracy of the gentleman and his ability as a lawyer, and I shall not press my point to the extent of objecting to the consideration of the bill, but I have called the attention of the House to what seems to me to be a doubtful construction.

Mr. SLAYDEN. Has the gentleman in his mind the words that he thinks are essential to correct the bill?

Mr. SHERLEY. I think in three or four minutes I could draw the necessary amendment, but the gentleman is asking at my hands a rather unfair thing. I have been engaged in a running debate, and it is hard for me immediately to offer the language.

Mr. SLAYDEN. I hope the gentleman will disabuse his mind of the idea that I wanted to ask an unfair question.

Mr. SHERLEY. No; but what the gentleman asks is rather a severe test.

Mr. SLAYDEN. The particular case in which the gentleman from Kentucky said no one would object to the refund is a case that arose in my town. The clerk made the report and dropped it into his desk. The authorities of the corporation thought that it had been filed. They paid their tax 30 days before it matured, in fact.

Mr. SHERLEY. I indicated that I thought the law, in providing a refund where the additional tax of 50 per cent had been assessed, would be completely narrowed to cases such as the gentleman has stated.

Mr. SLAYDEN. The gentleman from Maine [Mr. McGILLICUDDY] is willing to do anything which is necessary in order to make the bill clear.

Mr. McGILLICUDDY. I am entirely willing to do anything that will make the bill as clear as possible to accomplish the purpose that we all agree upon. I think it does accomplish it as it now reads.

Mr. SHERLEY. I can not attempt on my feet to amend the bill. If I was going to amend it, I would strike it all out and rewrite it in about six lines.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. BRANTLEY. Mr. Speaker, I ask unanimous consent to have this bill considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Georgia asks unanimous consent to have this bill considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the bill for amendments.

The Clerk read the bill at length.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. BRANTLEY, a motion to reconsider the vote whereby the bill was passed was laid on the table.

PHILIPPINE HEMP INDUSTRY.

The next business on the Calendar for Unanimous Consent was House resolution 767, requesting from the President of the United States information concerning the exemption of American importers of manila hemp from payment of the export tax thereon.

The Clerk read the resolution with the committee amendments.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I would like to ask the gentleman from Georgia whether the Ways and Means Committee reporting this resolution asking for the information of the President in regard to a tariff matter in regard to the effect on an industry growing out of the tariff, intends to get the advice of the present President or the next President; whether the present Ways and Means Committee desires the advice of President Taft about the effect of a tariff on an industry, or whether it is simply laying the foundation by the passage of this resolution to have the President elect when inaugurated make a report to the Committee on Ways and Means of the House on this subject?

Mr. BRANTLEY. Mr. Speaker, if my friend from Illinois will permit me to tell him why the resolution was reported I think that will answer his inquiry. It appears that the resolution, which is in courteous form, seeks certain information that it is very desirable to have. It is represented that the present tariff law imposes an export tax at Manila on all hemp exported from Manila, but provides that where such hemp is exported to the United States and is used and consumed in the United States there shall be a refund of a large proportion of this export tax.

Now, it is claimed that the effect of all this is that the manila hemp grower, being unable to know whether his hemp is going to be used and consumed in the United States, has to sell his hemp with the export tax on it, which tax he has to pay, and then that the importer in the United States gets the rebate. It is charged that this results in quite a concession to certain im-

porters in the United States at the expense of the hemp growers in the Philippines.

The purpose of this resolution is to get at the facts, and it seems there is no place to get them except from the executive department of the Government. The information sought might be of material advantage, if furnished by the present Chief Executive, to the Ways and Means Committee in framing the hemp and flax schedule of the tariff.

Mr. MANN. There is now practically free trade between the Philippine Islands and the United States with reference to hemp.

Mr. BRANTLEY. On the exported hemp the grower pays the export tax.

Mr. MANN. I say there is practically free trade between the United States and Manila in hemp. Now, the gentleman proposes to pass a resolution and, not content with asking for the facts, he asks the President's advice to the House whether this free trade has operated unjustly, and also to what extent it has depressed the hemp industry. That is not a question of fact; it is a question of opinion, and a political opinion.

Mr. BRANTLEY. Let me ask the gentleman from Illinois, if it be a fact that the present method of granting the rebate on these export taxes does not result in an injustice to the Manila and the Philippine hemp grower, does he not think that the present President of the United States ought to have the privilege of saying that it does not?

Mr. MANN. I do not think the present President of the United States desires any further opportunity to advise the Democratic House what it shall do on the tariff question, because the President is quite certain that if he gives you good advice you will sneer at him, and if he gives you bad advice you will take advantage of it.

Mr. BRANTLEY. But this is for the Filipinos.

Mr. MANN. It is a matter within the control of the Ways and Means Committee and a matter for Congress to legislate upon. If the gentleman desires the opinion of President Taft on the tariff, I will be glad to join with him in asking the President to give his opinion on free trade and protection as a tariff policy.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. BRANTLEY. I yield.

Mr. BARTLETT. Mr. Speaker, I desire to suggest to my colleague, so far as the advice of the President is concerned, he has never yet given the Democratic House any good advice on the subject of tariff.

Mr. MANN. The trouble is that the Democrats have not followed his good advice, though they will wish some day that they had.

Mr. BARTLETT. I think he rather wishes now that he had not given it.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois objects, and the bill will be stricken from the calendar.

PAY OF OFFICERS IN THE NAVY.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25715) providing that officers of the Navy be allowed pay from the dates they take rank.

The Clerk read the bill, as follows:

Be it enacted, etc., That all officers of the Navy who, since the 3d day of March, 1899, have been advanced or may hereafter be advanced in grade or rank pursuant to law shall be allowed the pay and allowances of the higher grade or rank from the dates stated in their commissions.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, as I understand this simply proposes to grant back pay to officers of the Navy who were not confirmed for some time after they were nominated, according to the additional grade they received, from the time they were nominated up to the time of confirmation.

Mr. HOBSON. The gentleman is correct.

Mr. MANN. How much is involved?

Mr. HOBSON. It involves in the neighborhood of $20,000, according to the estimate of the Paymaster General.

Mr. MANN. Are not these officers of the Navy who receive their promotions quite satisfied at the time they receive them, without coming in and asking Congress to pay back pay for 12 or 13 years back?

Mr. HOBSON. Mr. Speaker, of course the gentleman realizes that an officer is always glad to have a promotion. There is a term they call that kind of a promotion—a jackass promotion—one which does not give the officer any pay with his advancement. They like to have even jackass promotions. But I will say to the gentleman that this is simply a matter of justice. Those officers when promoted perform the duties of the higher grade, and the intention of the law originally was to give them pay from the date of their commission; and, in fact, the law ran from 1874 until 1899 with that interpretation. This is simply to overcome a construction given to it by a particular Comptroller of the Treasury.

Mr. MANN. Mr. Speaker, I have great admiration for the officers of the Army and Navy at all times. It is unfortunate, perhaps, for the Government that in time of peace many of them are not very busy and some of them lie awake nights or spend some time of the day finding out new methods of trying to increase pay. They were the ones who wanted the personnel bill of 1899 passed. They were the ones who urged Congress to pass the bill which gives them promotions more than they would have had before.

Mr. HOBSON. Mr. Speaker, this has nothing to do with the personnel bill of 1899. This has nothing to do with officers who have been promoted by law—that is, special promotions. This is simply in the ordinary routine of business. Sometimes the Senate is in session and sometimes it is not. Nearly all of the officers of the Navy get their pay from the date of their commission, but it happens that a certain comptroller ruled that in the process of promotions of certain young officers the law did not permit them to be paid from the date of their commissions, but that their pay should not begin till the date of confirmation by the Senate, which is an uncertain matter. It is only these few exceptional cases that this bill deals with.

Mr. MANN. What is the date of the commission?

Mr. HOBSON. It varies, of course. It is the date when they are advanced.

Mr. MANN. What is the date of the commission as related to nomination and confirmation?

Mr. HOBSON. In some cases the date is established by law. Take ensigns, for instance, to which this bill applies. Ensigns' commissions are dated now from the 1st day of July of the year of graduation from Annapolis. Formerly they were dated two years from that time. The pay of an assistant civil engineer will run from the time that the President issues the commission, irrespective of any other antecedents. It dates from the day the President signs it. That is not fixed by law. He begins his duties on that day. The Senate may confirm it immediately or the Senate may not be in session, and it may be a long time before it is confirmed, but the officer will be subject to orders and will perform the duties of the office from the date of his commission. In all other cases except these pay begins with the date of commission when they begin the duties of their office, and not later, when the Senate confirms them.

Mr. MANN. The gentleman has not answered my question, which I asked for information. Where the President nominates an officer for promotion and that nomination is not confirmed for some time, what date does the commission bear?

Mr. HOBSON. It bears the date of the vacancy in some cases, as pointed out above, and in all cases the date of the issuance of the commission by the President. The commission bears the date when the duties begin even though the President may be a few days late in issuing it. His practice is to have the date that of the date of the existence of the vacancy to which the promotion is made.

Mr. MANN. Regardless of when the nomination is confirmed?

Mr. HOBSON. Regardless of the confirmation, and this only asks that those officers who have come under this exception shall be treated as all other officers and get their pay from the day on which they are promoted.

Mr. MANN. It is a case of a man having received a basket full of good things and kicks because he loses one cherry and thinks he ought to have it.

Mr. HOBSON. The gentleman in some cases may be correct, but in this specific case he is not, and I will give an illustration: There is a difference, say, between Members here who are continued from one Congress to the next and those who come in fresh. Suppose that Congress, not assembling until December, the Sergeant at Arms should determine that those who pass from the old Congress to the new should receive their pay from the 4th of March, and those who came in new should not receive their pay until they were finally sworn in. It is exactly analogous to this.

Mr. MANN. Why, no; I will give the gentleman the analogy. Suppose the Members who were elected last fall, who are not new Members of Congress, should say their commissions should date practically from the day of election and they should be paid from that date, not from the date that they were sworn in. That is the analogy.

Mr. HOBSON. The gentleman is very much mistaken.

Mr. MANN. That is the exact analogy.

Mr. HOBSON. The gentleman is very much mistaken. The pay of the older Members only begins the 4th of March. Now, all they ask is that the new Members shall begin at the same time when the new Members assume the responsibility and duties of the office on the 4th of March. All of these officers who fall under this exception did assume the duties of their office, and they ought to begin to receive their pay from such date of commission. It is analogous to the 4th of March for a new Member. The gentleman's ideas might apply to other cases, but they do not apply to this specific case.

Mr. NORRIS. Will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. NORRIS. I want to ask the gentleman for information, suppose the Senate for any particular cause does not confirm?

Mr. HOBSON. The officer is not promoted, and if his place is taken by another in the lower rank and he is not confirmed in the higher grade, then he would be dropped from the Navy.

Mr. NORRIS. No; I mean before the promotion he is drawing a certain salary, and then the President appoints him to a particular place——

Mr. MANN. He is not expelled from the Navy, because if they did there would be a great many out of the Navy.

Mr. NORRIS. Now, suppose he is not confirmed by the Senate. If this bill were passed, would he be drawing another salary in the meantime?

Mr. HOBSON. He would be drawing the salary from the date of his commission when he assumed the duties. Now, then, when he went up to that place his place would be taken in the lower grade by another officer, and when the appointment of the lower grade is confirmed by the Senate and the officer moving to the higher grade is not confirmed by the Senate when the time comes for that officer to be passed up, and he has never been confirmed by the Senate, he will be practically without any position. He could not go back to the lower grade.

Mr. NORRIS. The gentleman has not quite taken the illustration I want to make. I am not speaking of the man who comes up and takes his place, but what I want to know is, would he draw the salary for the promotion that he eventually would not get, as a matter of fact, in case the Senate failed to confirm him?

Mr. HOBSON. I do not think a case like that ever came up.

Mr. MANN. They would have to go over that as a matter of bookkeeping.

Mr. NORRIS. I presume it is liable to occur now, as there are a great many confirmations that are liable to fail in the Senate. What I want to know is, when the President promotes a man would he then be entitled to pay, if this bill passes, from the date the President promoted him?

Mr. HOBSON. Yes, if finally confirmed; all the others do now, and those carried by this bill would also.

Mr. NORRIS. Suppose that promotion was not confirmed. It might be a year even before the Senate acted, or several months. In the meantime he has been drawing the salary.

Mr. HOBSON. I think the gentleman will find that if the Senate votes adversely on a nomination for promotion the officer goes back to his original grade, provided his position in the lower grade has not been filled by nomination and confirmation.

And then, if the Senate continued to decline to confirm, it would simply legislate the officer from the Navy.

Mr. NORRIS. It would not legislate him out of the Navy. He would still have his old position, would he not?

Mr. HOBSON. Well, if his position in the lower grade had been filled by another, there would not be any position for him.

Mr. MANN. What becomes of him?

Mr. HOBSON. The comptroller would then decline to pay his salary. I do not believe that has ever occurred. The President could wait for confirmation before sending in a nomination to fill the lower grade.

Mr. MANN. Suppose a man gets a recess appointment during the long vacation of Congress and his nomination is not confirmed. He may be nominated, say, to one of the admirals' positions. That is a matter of grace and not of rank. Does the gentleman mean to say that he does not draw pay of the lower rank?

Mr. HOBSON. He draws pay of the higher rank under existing law until the Senate acts. If it acts adversely, then the pay of the higher grade ceases forthwith.

Mr. MANN. If the nomination is not confirmed, he goes back, of course. There are a large number of nominations, as we know from the CONGRESSIONAL RECORD, pending confirmation in the Senate now. In my talk with people in Washington and meeting naval officers, I have heard considerable anxiety expressed as to whether they be confirmed, but I have not heard anybody stand on the question of whether he would receive the salary of the old rank or the new rank for the course of a few weeks' time. They are all willing to take the confirmation and the commission and pay from the date of the confirmation.

Mr. HOBSON. The gentleman refers to the cases in the Senate, and I am glad he cites those because they are in point. The officers he meets and those now before the Senate need have no anxiety as to the pay. That is provided for by law. The law of 1874 reads as follows:

That on and after the passage of this act any officer of the Navy who may be promoted in course to fill the vacancy in the next higher grade shall be entitled to the pay of the grade to which promoted from the date he takes rank therein, if it be subsequent to the vacancy he is appointed to fill.

And the date he takes rank therein is the date of his commission. The President can issue a temporary commission—a gunboat commission—pending action by the Senate, but, of course, the President can not actually issue or hand the final commission to the officer until the Senate has confirmed him. But when the Senate does confirm the date of the commission is made the date of the vacancy, and the pay of the officer in the higher grade begins under the law at the date specified in the commission. If confirmation were never made, the pay of the higher grade would still be legal till the date of the Senate's refusal. All that is asked in this bill is that the law be made uniform, that these exceptions that have been made contrary to the intent of the law be removed, and these officers, in the name of right and justice, be included under the law. They have done the work of the advanced position. It is the practice of our Government, and of all Governments, that officers promoted should receive the pay of the higher grade from the date of promotion, the date of their commission, the date when they actually begin to do the duties of the higher grade.

Mr. MANN. The gentleman is an authority on this subject, and I would like to propound a conundrum to him. Suppose one of these Army or Navy officers now under nomination and not yet confirmed in the Senate becomes of a retiring age before the confirmation is made, is the man retired at the higher rank or the lower rank?

Mr. HOBSON. I believe that the gentleman from Illinois knows perfectly well that he never finally attains the higher rank until confirmed by the Senate, and that the law for retirement is mandatory, and that he would retire on attaining the age limit of the law, and consequently, if not confirmed by the Senate before that age, would never receive the pay or the rank of the higher grade.

Mr. MANN. The gentleman is very positive, perhaps, that he is right; but it is a matter that is not settled in the Army and Navy circles yet, because they have such cases now, and they are very much exercised over them.

Mr. HOBSON. May I ask the gentleman if it has been his intention all the time to object to the consideration of this bill?

Mr. MANN. It has been my intention, unless the gentleman could remove the objection I had to it.

Mr. HOBSON. If the gentleman really has an objection, I will try to remove it.

Mr. MANN. I had thought I had indicated the objection I had. The gentleman and I do not seem to agree upon the proposition.

The SPEAKER. Is there objection?

Mr. MANN. I will have to object, Mr. Speaker.

AERODYNAMICAL LABORATORY.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 27992) to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof.

The Clerk read the bill, as follows:

Be it enacted, etc., That the action of the President in creating a temporary commission, consisting of Dr. R. S. Woodward, president Carnegie Institute of Washington, chairman; Charles D. Walcott, Smithsonian Institute, secretary; Dr. S. W. Stratton, Director United States Bureau of Standards; Prof. William J. Humphreys, consulting physicist, United States Weather Bureau; Brig. Gen. James Allen, United States Army, Chief Signal Officer; Maj. Samuel Reber, chief signal officer, eastern district; Capt. W. I. Chambers, United States Navy, in charge of aviation, United States Navy; Naval Constructor David W. Taylor, United States Navy; M. B. Sellers, technical committee, Aeronautical Society of New York; Henry A. Wise Wood, scientific engineer, vice president Aero Club of America; Bion J. Arnold, scientific engineer, Aero Club of Chicago; Prof. W. F. Durand, scientific engineer, Leland Stanford University; Prof. Richard MacLaurens, president Massachusetts Institute of Technology; Charles M. Manley; Harold H. Sewall; Herbert Parsons; Col. Frederick H. Smith; Hon. Frank West Rollins; and Dr. A. F. Zahm, secretary Aero Club of Washington, to consider and to make recommendation at the earliest practicable date on the necessity or desirability of establishing a national aerodynamical laboratory be, and the same is hereby, confirmed; said commission shall be composed of not to exceed 19 members. It shall have a stenographer and such other assistants as said commission may authorize.

The members shall each be paid their actual expenses in going to and returning from Washington when necessary to attend meetings, and actual expenses while attending the same.

Said commission shall diligently inquire into the desirability or necessity of establishing a national aerodynamical laboratory, and shall at the earliest practicable date report to Congress its recommendations, together with such facts as it may have ascertained.

SEC. 2. That to meet the expenses made necessary by this act the sum of $5,000, or so much thereof as is necessary, is hereby appropriated from any moneys not otherwise appropriated.

SEC. 3. That said commission shall make its report at the earliest practicable date, not later than the 4th day of March, 1913, and shall at the filing of said report cease to exist.

The SPEAKER. Is there objection?

Mr. MANN. I reserve the right to object.

The SPEAKER. The gentleman from Illinois [Mr. MANN] reserves the right to object.

Mr. MANN. May I ask the gentleman from Alabama [Mr. HOBSON], is this commission now doing business at all?

Mr. HOBSON. It is.

Mr. MANN. Who is here attending it?

Mr. HOBSON. Nearly all the members, I understand, are here.

Mr. MANN. There are quite a number of members that I know who are not here, and who have not been here. I do not know what they are doing in connection with it. I wondered who has charge and who is doing the work here.

Mr. HOBSON. I have not made a roll call of them. Capt. Chambers is in charge. He informed me on Saturday that the commission was proceeding and hoping to be able to make its report before the 4th of March.

Mr. MANN. Are they having any meetings?

Mr. HOBSON. They are having meetings daily, morning and afternoon, I understand.

Mr. MANN. What do they need an appropriation for?

Mr. HOBSON. To pay the necessary expenses of their members.

Mr. MANN. What expenses can there be? Capt. Chambers already has a stenographer at his beck and call, has he not?

Mr. HOBSON. The gentleman understands that they are receiving the hospitality of the Carnegie Foundation here, and are using its hall. There is no expense for the hall. If the gentleman will read section 2 he will find——

Mr. MANN. I have just read it. I have referred to it.

Mr. HOBSON. It covers the necessary expenses of the commission. I will say to the gentleman that there are no salaries. They are not paid for their time, and the money will be used chiefly to pay their traveling expenses from their homes to Washington and their hotel bills while in Washington.

Mr. MANN. Well, of course most of these officers are in Washington.

Mr. HOBSON. And there will be none for those who are.

Mr. MANN. Here is a proposition to have a report submitted to Congress in a month's time. Of course 20 or 30 gentlemen, or whatever may be the number of them—whether 19 or otherwise—holding meetings on the subject of aeroplanes and air navigation and air experimentation, will not get together on anything unless somebody has it prepared for them. I supposed Capt. Chambers had it all worked out. Why not get Capt. Chambers's views?

Mr. HOBSON. We have his views.

Mr. MANN. Why, then, this commission?

Mr. HOBSON. We believe that, competent as Capt. Chambers is in such matters, the advice of 18 other experts in such matters, in private and official life, would add to the value of such a report.

Mr. MANN. What authority had the President for appointing this commission?

Mr. HOBSON. None.

Mr. MANN. Do we not have a law forbidding it to be done?

Mr. HOBSON. We did enact such a law, and that is the reason why it is necessary to pass this law, if the commission——

Mr. MANN. And the President, having violated the law——

Mr. HOBSON. I am not going to be put in the position of saying the President violated the law.

Mr. MANN. That was the law.

Mr. HOBSON. The President did not violate that law or any other law that I know of; but the President could not pay the expenses of the commission unless it was confirmed or authorized by law. The President, I take it, could appoint any gentlemen he pleased on a nonofficial commission, and if they desired they could assemble in Washington and make a report; but the President could not defray their expenses, and the commission would not have the standing and dignity of an official commission unless it received the sanction of such a bill as this.

Mr. MANN. I suppose the President can ask Bill Jones or anybody else for an opinion on any question, but I think that the President has not the power to appoint an official commission without the authority of Congress.

Mr. HOBSON. The gentleman must understand that this commission is not official unless this bill or some such bill is passed.

Mr. MANN. We have in the Army men working on aviation——

Mr. HOBSON. Not very many——

Mr. MANN. Not as many as I would like to have, and we have men in the Navy working on aviation.

Mr. HOBSON. This will get more.

Mr. MANN. I supposed that is what it is for.

Mr. HOBSON. Yes.

Mr. MANN. In advance, as the gentleman says, of any report of any commission or authority to do it.

Mr. HOBSON. The gentleman is as omniscient as any man I know, but in aerodynamics even the most learned of all are in a realm that requires careful and scientific investigation.

Mr. MANN. The gentleman scolds me because I agree with him that there should be more men working on this subject. The gentleman said we needed more men. Therefore, following him for once at least I said, "I am ready to give more men without waiting for the report of the commission." Then the gentleman lectured me because I did not want to wait until the commission was appointed.

Mr. HOBSON. If the gentleman will listen to me a little longer, I will explain to him that this commission would make the development and expansion of aerodynamics regular and consecutive and effective, and under it we could proceed then with this aerodynamic laboratory as the nations abroad have done, and it would be more economical and more efficient than simply having to appoint more officers and detail them at random to this duty.

Mr. MANN. Now, let us see. If this commission should be appointed, this bill having been reported from the Committee on Naval Affairs, I take it that the report of that commission when made might naturally be sent to the distinguished committee which reported in favor of the bill, thereby conferring upon the Committee on Naval Affairs practically exclusive jurisdiction of the subject of air navigation in the House. Is that one of the purposes of the bill?

Mr. HOBSON. I disagree with the gentleman. I do not think he really thinks that.

Mr. MANN. Certainly, I really think that. That would probably be the result.

Mr. HOBSON. That the report of this commission would give the Naval Committee exclusive jurisdiction of aerodynamics?

Mr. MANN. Oh, exclusive jurisdiction of this subject of an aerodynamic laboratory.

Mr. HELM. I would like to ask the gentleman from Illinois or the gentleman from Alabama a question.

Mr. HOBSON. If the gentleman from Illinois [Mr. MANN] will excuse me for a moment, I will yield to the gentleman from Kentucky.

Mr. MANN. The gentleman from Alabama has the floor.

Mr. HOBSON. If the gentleman from Illinois will excuse me long enough to listen to the question of the gentleman from Kentucky——

Mr. MANN. Certainly.

Mr. HELM. Does the Army appropriation bill carry an appropriation of about $175,000 for aeroplane purposes?

Mr. MANN. It carries $100,000.

Mr. HELM. I thought it was a total of $175,000—an appropriation of $100,000 and an unexpended balance of about $75,000.

Mr. MANN. No.

Mr. HELM. Remaining from the former bill.

Mr. HOBSON. The total appropriation of the United States Government to date for this purpose, exclusive of the present Army and Navy bills, is only $140,000, while the appropriations abroad to the same date are as follows: France, $7,400,000; Russia, $5,000,000; Germany, $2,250,000; Great Britain, $2,100,000; Italy, $210,000; and Japan, $600,000.

Mr. MANN. The appropriation in the Army bill for aeroplanes is $100,000.

Mr. HAY. In the current bill it is $125,000.

Mr. MANN. It is included in the appropriation for the signal service.

Mr. HAY. And we appropriated $125,000 for that purpose.

Mr. MANN. I thought it was $100,000.

Mr. HAY. It was last year, but this year it was made $125,000.

Mr. HELM. Did you not also carry over an unexpended balance of $60,000 or $65,000?

Mr. HAY. Oh, no.

Mr. HOBSON. This commission has the head of the Signal Corps as one of its members, and the Navy seeks no preponderance or priority of authority.

Mr. MANN. The gentleman is familiar with the reports that have already been made from some of the committee of the House, possibly not for an aerodynamic laboratory, but for something along the same line, at once place in Ohio and one place, I believe, in the South.

Mr. HOBSON. I do not think those are questions of pending legislation.

Mr. MANN. Yes.

Mr. HOBSON. I thought the experimental place in Texas was a matter of assignment by the War Department.

Mr. MANN. There are bills on the subject in the House.

Mr. HOBSON. I do not say there are not.

Mr. MANN. Bills which have been reported.

Mr. HOBSON. I have not seen them.

Mr. MANN. There are reported bills on the subject in the House. The gentleman from Ohio [Mr. SHARP] has been very much interested in the subject. The gentleman from Georgia [Mr. HARDWICK] has been very much interested. He has had a bill on the subject for some plant at some place in the South.

Mr. HOBSON. I have heard no objection, in the hearings before our committee or elsewhere, to having a central aerodynamical laboratory similar to the ones they have in other countries—in France, England, Italy, and Germany—where they have found them absolutely necessary for the development of the art of aviation and aerostatics. As far as I know, no objection to this bill has been made by Members of Congress or others interested in establishing stations in other places.

On the contrary, there is the most cordial concurrence by those in civil life with the military and naval authorities over this bill. Abroad several aerodynamic laboratories have been established where the expense was met and defrayed partially by the Government and partially by private citizens. I have been unofficially informed that as soon as this Government gives proper encouragement to the movement in this country there are many citizens of this country who are prepared to give the same kind of cooperation in defraying expenses that has been made abroad.

I will say to the gentleman from Illinois [Mr. FOSTER] that there is probably no department of modern knowledge and scientific progress that is more important than this department. There is none in which the experimentation is as important or as necessary as this. It took many, many decades of experimenting to determine the constants for the formulæ used in navigation of the water, and water navigation is not yet beyond the realm of experimentation. It will require the most careful scientific experimentation to get the corresponding constants for formulæ for navigation of the air. Such experimentation as this commission would promote is necessary for the proper development of the art and science of this navigation, both for commercial purposes and the purpose of defense, in which we have already fallen behind the rest of the world.

Mr. FOSTER. I want to say that I am not opposing the establishment of this laboratory, but it seems to me that it is useless to appoint a commission to determine whether we ought to establish it. Now, I know that the gentleman's knowledge of naval affairs is great and that his advice is good. I am always glad to listen to him on these subjects. But it seems to me that if it is necessary, and the gentleman shows by the report here that the establishment of this laboratory in foreign countries has been had and what good work is being done there, in the light of that it seems to me useless to have a commission to determine whether we ought to establish a laboratory. I might agree with the gentleman if he would bring in a bill to establish a laboratory.

Mr. HOBSON. I will say to the gentleman that a bill will be brought in before long for that purpose; but I want to say to the gentleman that the authority of the commission, the nature of its report, and all those questions raised by the gentleman were gone into by the Naval Committee, and the gentleman will find that while the bill does not direct the committee to make a general investigation of the subject of the aerodynamic laboratory, it does call upon them to report recommendations, with such facts as they have ascertained, and their report will not be simply that the Government ought to establish an aerodynamic laboratory, but it will go further. The report will embody the plans for such a laboratory carefully formulated, with such information as they have gathered from the rest of the world, and the plan will embody the opinions of experts from all parts of the country and we will have this valuable result at practically no cost for their services.

We are getting the services of 19 men of the highest achievement in that science practically free. All we are asked to do, when they are doing the work for the Government as a labor of love, is to dignify them by making it an official commission, defraying their necessary traveling and hotel expenses. If we report that, I can assure the gentleman from Illinois that it will not be merely a question of reporting whether we ought or ought not to have such a laboratory, and that I am sure he himself will be much gratified and fully satisfied with the nature of their report. After that report we will bring in a bill based upon the information which has been gathered by the 19 members and their joint conclusions and plans, to establish a proper aerodynamic laboratory in Washington for the use of the Army, the Navy, and the Marine Corps and the use of civilians and for all those interested in the art and science generally. I hope the gentleman from Illinois will not persist in his objection.

Mr. MANN. What will be the line of work of this aerodynamic laboratory if established?

Mr. HOBSON. I can tell the gentleman that, in my judgment, it will be largely the same line of experimentation that was made in the development in the art of navigation at sea, only they will be dealing with a gas instead of a liquid; but they will have to get similar constants for the various formulæ, which they can only get by systematic investigations. I could go into detail and tell you about the question of thrust and the question of friction, involving the pitch, shape, area of the propellers, the lifting power, working area, obliquity, shape of planes, and so forth.

Mr. MANN. That is what we want to hear about. The gentleman says he can, but can he?

Mr. HOBSON. I think I can.

The SPEAKER. Is there objection?

Mr. FOSTER. I object.

AMENDING GENERAL PENSION LAW.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 28093) to amend the general pension act of May 11, 1912.

Mr. FOSTER. Mr. Speaker, the gentleman from Missouri [Mr. RUSSELL], the author of this bill, is compelled to be away to-day. He requested that I ask unanimous consent that the bill might go over until another day.

Mr. MANN. Why should not we pass it now?

The SPEAKER. The gentleman from Illinois asks unanimous consent that this bill be passed over without prejudice.

Mr. MANN. Mr. Speaker, let us have the bill read, and then we will see if anybody objects to it. I do not believe there is any objection to the bill.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the general pension act of May 11, 1912, is hereby amended by striking out section 5 and adding in lieu thereof a new section, so as to read as follows:

"SEC. 5. That it shall be the duty of the Commissioner of Pensions, as each application for pension filed under this act is adjudicated, to cause to be kept a record showing the name, length of service, and age of each claimant, the monthly rate of payment granted to or received by him, and the county and State of his residence; and shall at the end of the fiscal year 1914 tabulate the records so obtained by States and counties, and to furnish certified copies thereof upon demand and payment of such fee therefor as is provided by law for certified copies of records in the executive departments; and that further increase of rate under this act on account of advancing age shall be made without further application by pensioner and shall take effect and commence from the date he is shown by the aforesaid record to have attained the age provided by this act as a basis of rating: *Provided*, That where a claim has been heretofore adjudicated and the record therein does not sufficiently establish the date of birth of the soldier or sailor pensioner nothing herein shall prevent such further investigation as is deemed necessary, in order to establish a record upon which future increases of rate under this act, on account of advancing age, may be possible, the object being to advance automatically the rate of pension, as provided for by this act, without unnecessary expense to the pensioner."

The SPEAKER. Is there objection?

Mr. SLAYDEN. Mr. Speaker, I would like to ask the gentleman from Illinois for a little information about this bill. I could not get the entire purport of it from the reading of the Clerk. It says something about automatic increases of pensions.

Mr. FOSTER. Mr. Speaker, for instance, a soldier is 66 years old. He gets his pension based upon that age, for his service, whatever it may have been. The record shows and it has been established that his age be 66. This bill provides that when he becomes 70 years of age he gets an increase given to him automatically without his going through all the form of an affidavit and a formal application.

Mr. MANN. Mr. Speaker, if the gentleman will permit, I think the matter is very well stated in a letter sent by the

gentleman from Missouri [Mr. RUSSELL] to the Interior Department, and a reply to that letter. He stated:

It has always occurred to me that the increase of pensions by reason of age ought to be allowed automatically, but I realize that your department can not, without much additional work in preparing lists, tell when the increase should begin, but I can see no necessity for formal applications, when all the necessary proof is already on file. Many old soldiers are poor, afflicted, and many miles from a notary public, and if a written notice was sufficient it would save them much trouble and expense and often avoid delay.

Thereupon the department prepared a memorandum which went into this bill, for the purpose of obtaining and retaining—which they get in the ordinary course—the addresses of these soldiers. Under this bill as they grow older, and as age allows an increase of pension, it is allowed to them without their being required to file an application for an increase.

Mr. FOSTER. When we passed the bill in 1908 all of the widows' pensions were increased automatically, and this simply provides that the increase shall be done in that way.

Mr. MANN. On account of age.

Mr. FOSTER. On account of age and nothing more.

Mr. SLAYDEN. Mr. Speaker, both gentlemen from Illinois, like Plato, reason well.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole, as it is on the Union Calendar.

The SPEAKER. Is there objection?

Mr. RODDENBERY. Mr. Speaker, reserving the right to object, will the gentleman from Illinois have any objection to a short amendment being offered to the bill?

Mr. FOSTER. Mr. Speaker, I have no objection to that. The gentleman has the right to offer his amendment. I could not prevent that.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from Illinois asks unanimous consent that the bill be considered in the House as in Committee of the Whole. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the bill for amendment.

The Clerk again read the bill.

Mr. RODDENBERY. Mr. Speaker, I offer the following amendment which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, on page 1, line 12, after the semicolon following the word "residence," by inserting the following:

"And upon inquiry and ascertainment first made by the commissioner a record showing and designating the names and addresses and salaries or pay of all claimants who are in the employment in any department or branch of the Government service at a rate of pay or salary in excess of $1,000 per annum."

The SPEAKER. The question is on the amendment offered by the gentleman from Georgia.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were—ayes 15, nays 35.

So the amendment was rejected.

The SPEAKER. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. FOSTER, a motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS THE MISSISSIPPI RIVER, MINNEAPOLIS, MINN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 27944) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city.

The Clerk read as follows:

Be it enacted, etc., That the city of Minneapolis, in the county of Hennepin and State of Minnesota, a municipal corporation organized under the laws of the State of Minnesota, be, and it is hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the Mississippi River from Third Avenue south, near its intersection with First Street south on the west side of said river, to the intersection of Second Street and First Avenue southeast, on the east side of said river, in the city of Minneapolis, in the State of Minnesota, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Clerk read the committee amendment, as follows:

Strike out all of section 1 after the enacting clause and insert in lieu thereof the following:

"That the time for commencing and completing the bridge authorized by the act of Congress approved January 27, 1910, as amended by the act approved January 27, 1912, to be built across the Mississippi River from Third Avenue south to First Avenue southeast, in the city of Minneapolis, Minn., is hereby extended to one year and three years, respectively, from date of approval hereof."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn."

BRIDGE ACROSS MISSISSIPPI RIVER, MINNEAPOLIS, MINN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 27988) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city.

The Clerk read as follows:

Be it enacted, etc., That the city of Minneapolis, in the county of Hennepin and State of Minnesota, a municipal corporation organized under the laws of the State of Minnesota, be, and it is hereby, authorized to construct, maintain, and operate a bridge and approaches thereto in said city across the Mississippi River, extending from Washington Avenue north, near its intersection with Lyndale Avenue north and Forty-second Avenue, crossing the tracks of the Minneapolis, St. Paul & Sault Ste. Marie Railway Co. and the Water Works Park, across the river to the intersection of Thirty-seventh Avenue northeast, if extended, with the river south of the pumping station, in such a manner as not to impede or hinder navigation in said river at the location above stated, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Clerk read the committee amendment, as follows:

Strike out all of section 1 of the bill, after the enacting clause and insert in lieu thereof the following:

"That the time for commencing and completing the construction of the bridge authorized by the act of Congress approved January 27, 1912, to be built across the Mississippi River from Washington Avenue north, near its intersection with Lyndale Avenue north and Forty-second Avenue, to Thirty-seventh Avenue northeast, in the city of Minneapolis, Minn., is hereby extended to one year and three years, respectively, from date of approval hereof."

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn."

BRIDGE ACROSS MISSISSIPPI RIVER, MINNEAPOLIS, MINN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 27986) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city.

The Clerk read as follows:

Be it enacted, etc., That the city of Minneapolis, in the county of Hennepin and State of Minnesota, a municipal corporation organized under the laws of the State of Minnesota, be, and it is hereby, authorized to construct, maintain, and operate a new bridge and approaches thereto across the Mississippi River, where an old bridge is now standing, from Plymouth Avenue north, on the west side of said river, to Eighth Avenue northeast, on the east side of said river, in the city of Minneapolis, in the State of Minnesota, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Clerk read the committee amendment, as follows:

Strike out all of section 1 except the enacting clause and insert in lieu thereof the following:

"That the time for commencing and completing the construction of the bridge authorized by the act of Congress approved February 15, 1910, as amended by the act approved January 27, 1912, to be built across the Mississippi River, from Plymouth Avenue north to Eighth Avenue northeast in the city of Minneapolis, Minn., is hereby extended to one year and three years, respectively, from date of approval hereof."

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn."

BRIDGE ACROSS MISSISSIPPI RIVER, MINNEAPOLIS, MINN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 27987) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city.

The Clerk read as follows:

Be it enacted, etc., That the city of Minneapolis, in the county of Hennepin and State of Minnesota, a municipal corporation organized under the laws of the State of Minnesota, be, and it is hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the Mississippi River, extending from the intersection of Nineteenth Avenue south and Bluff Street across the river to the intersection of Tenth and University avenues southeast, in the city of Minneapolis, in the State of Minnesota, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Clerk read the committee amendment, as follows:

Strike out all of section 1 after the enacting clase and insert in lieu thereof the following:

"That the time for commencing and completing the construction of the bridge authorized by the act of Congress approved January 27, 1912, to be built across the Mississippi River from the intersection of Nineteenth Avenue south and Bluff Street to the intersection of Tenth and University Avenues southeast, in the city of Minneapolis, Minn., is hereby extended to one year and three years, respectively, from date of approval hereof."

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn."

On motion of Mr. NYE, a motion to reconsider the votes by which the above four bills were passed was laid on the table.

BRIDGE ACROSS MISSOURI RIVER IN NORTH DAKOTA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 27879) providing authority for the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota.

The Clerk read as follows:

Be it enacted, etc., That the Northern Pacific Railway Co., a corporation organized under the laws of Wisconsin, its successors and assigns, are hereby authorized to construct, maintain, and operate a bridge and approaches thereto across the Missouri River at a point suitable to the interests of navigation in section 36, township 134 north, range 79 west, in the State of North Dakota, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

Mr. MANN. Mr. Speaker, this bill is on the Unanimous Consent Calendar in another place.

The SPEAKER. The Clerk will strike it off where it appears at another place.

PUBLICITY IN TAKING EVIDENCE UNDER THE SHERMAN ANTITRUST LAW.

The next business on the Calendar for Unanimous Consent was the bill (S. 8000) providing for publicity in taking evidence under the act of July 2, 1890.

The Clerk read as follows:

Be it enacted, etc., That in the taking of depositions of witnesses for use in any suit in equity brought by the United States under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and in the hearings before any examiner or special master appointed to take testimony therein, the proceedings shall be open to the public as freely as are trials in open court; and no order excluding the public from attendance on any such proceedings shall be valid or enforceable.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, it seems to me, I will say to the gentleman from Nebraska [Mr. NORRIS], that the Supreme Court having recently made some rulings which very much reformed the procedure in court, that it is a matter of doubtful propriety for us to try to enact a new rule right following that.

I would like to encourage the Supreme Court to make rules all along the line of procedure and provide a rule that would not only prevent depositions under the trust law being secret, but prevent the taking of any depositions in secret.

Mr. NORRIS. I would like to say to the gentleman that I agree fully with what he says, but there are reasons that I think will appeal to the gentleman why this law should be passed as affecting the so-called Sherman antitrust law that do not apply to cases generally. As he knows, it is the universal rule—I presume there has been no exception to it—that in every case commenced under that act the evidence is always taken by a master, because it is scattered over the country, and he goes around from place to place and takes the evidence, and he is a good while taking it. And the ordinary case that as a rule is heard in court is somewhat different. Almost universally in these cases practically all of the evidence is taken by the master and taken at various places. The Attorney General tells me that in this particular case where the question was raised in Boston it was the first time it ever had been raised. Everybody supposed, or at least the department did, that the taking of the testimony by the master must be taken in public the same as in open court. He also tells me that in these cases he has never known an exception to this rule; that at various times the publicity that is given to the taking of the evidence as the case progresses, it usually taking several months to take the evidence—he, on account of such publicity, gets additional evidence that he is able to offer in the case before the case is finally closed. Now, the evidence taken in this way in the aggregate constitutes hundreds and sometimes thousands of pages, so that when it gets into court, if this should be secret until that time, it means it always will be secret, because it is too great and voluminous for any attention to be paid to it by anyone.

Mr. MANN. Mr. Speaker, I have no doubt whatever in my own mind, so far as the United States courts are concerned, that all evidence ought to be taken in public. They do not try divorce cases or things of that sort. But here is a proposition to have Congress immediately after the making of equity rules by the Supreme Court provide that in a certain class of cases evidence shall be public.

Mr. NORRIS. The equity rules of the Supreme Court do not apply here.

Mr. MANN. I understand they do not cover this; thereby giving the impression to the courts and masters that the taking of evidence in other cases may properly be in secret. I think if the Supreme Court has its attention directed to the case the gentleman speaks of, or any case on the subject, that the court will make a rule permitting the taking of testimony by any master or examiner in secret, which would be far better, in my judgment, than enacting this into law.

Mr. NORRIS. I will say to the gentleman from Illinois that I think he readily concedes that there is a reason, as I have, in my weak way, tried to give, for the enactment of this law as applied to these cases, that does not apply to the ordinary case.

Mr. MANN. No; I do not see any reason that does not apply to the ordinary case.

Mr. NORRIS. The reason is——

Mr. MANN. I think the gentleman's reasoning is good. I do not wish the gentleman to misunderstand me. And I think it is also good on other occasions.

Mr. NORRIS. There is not any other class of cases that I know of where it is the almost universal rule that all the evidence is taken by a master or a traveling court. Most of this evidence in the ordinary case is taken in open court.

Mr. MANN. On the contrary, the bulk of the testimony in all of the interstate cases is taken by the master and not taken in open court.

Mr. NORRIS. I presume the cases the gentleman refers to are cases under this Sherman antitrust act.

Mr. MANN. Certainly not. They are cases in which the Interstate Commerce Commission is interested, and have nothing to do with the Sherman antitrust cases, and there are many cases in which not only the Government is interested, and other parties interested, and are now tried where the bulk of the testimony is taken by deposition, although the court in recent rulings endeavors to have as much testimony taken in open court as possible. But take one of the railroad cases involving rates of fare, and I do not want to give the masters or examiners the impression that they can take that testimony in secret.

Mr. NORRIS. And I do not either, I will say to the gentleman. But let us now consider it just for a moment. It is conceded by everybody that there are some cases that arise in court where there are reasons why the evidence should be taken in secret.

Mr. MANN. What kind of a case? I do not concede anything of the kind in any case that comes before the United States court.

Mr. NORRIS. There are hundreds of men who claim it, for instance, in cases, as it was referred to in this particular case I had reference to up in Massachusetts, where the object of the case is to obtain secrecy and the publication of the evidence would absolutely nullify the judgment that somebody is seeking in the court. And there are other cases where the evidence might be immoral and indecent, or something of that kind, where the court, for that reason, might order it taken in secret, but none of these reasons exist in cases brought by the Government under the Sherman antitrust act, and this bill applies only to such cases.

The exceptions are very few; I admit it. But if we made this law general we would not be able to get it passed, because there are exceptions that ought to exist.

Mr. MANN. Is not that a very good reason, then, why it ought to be handled by the Supreme Court in making its rules, so that it can provide for the exceptions?

Mr. NORRIS. If the Supreme Court had such rules with regard to evidence taken in such cases, that would be well. I can not speak with authority on that subject, but, in my judgment, in this particular case, where the court ordered the evidence to be taken in secret, it means that the United States Government will go no further in the case.

Mr. MANN. I do not know what the case is, I will say to the gentleman.

Mr. NORRIS. It is a denial of justice.

Mr. KENDALL. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. NORRIS. Yes; I yield to the gentleman.

Mr. KENDALL. I understood the gentleman from Illinois [Mr. MANN] to suggest that the Supreme Court had recently promulgated certain rules covering the practice, but their rules were not inclusive of this case?

Mr. MANN. That is what I said.

Mr. KENDALL. The gentleman also advanced the idea that if an abuse of this sort occurred the court might correct it. I assume it is the inferior court the gentleman has reference to?

Mr. MANN. No; the Supreme Court.

Mr. KENDALL. The rules of the Supreme Court were promulgated after this Massachusetts case?

Mr. NORRIS. Yes.

Mr. MANN. That may be true. They may have been promulgated after that. They were prepared, I understand, before this question arose.

Mr. KENDALL. In this Massachusetts case, on complaint, I suppose, of the Attorney General, or the law officer of the Department of Justice, an appeal was made to the court to direct the master to order an open hearing, and the court, after very careful deliberation, approved entirely the action of the master.

Mr. MANN. It may be the court was right. I do not know.

Mr. KENDALL. The gentleman can conceive of a case.

Mr. NORRIS. I am not contending that the court was wrong as a matter of law. I do not believe the Government could get that order reversed if it tried to. I have read the proceedings, and there was very little of it on either side. I think it was conceded by both sides that it was a matter in which the court had the discretionary right to say either way, and if this bill is not passed the court can provide that a hearing shall be secret, and the Supreme Court can not set aside that order.

Mr. MANN. The Supreme Court can issue an order any day amending the rules.

Mr. NORRIS. Yes; but a case would not be reversed if it went up on that particular account.

Mr. KENDALL. It is not contended that any law was violated by the judge. It was simply an impropriety?

Mr. NORRIS. Yes.

Mr. CLAYTON. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Nebraska yield?

Mr. NORRIS. Yes; I yield to the gentleman.

Mr. CLAYTON. Mr. Speaker, I appreciate fully the value of the suggestion made by the gentleman from Illinois [Mr. MANN] that there ought not be any special legislation where a general rule or a general statute could take care of the subject matter of any proposed legislation. I think that is a wise and salutary rule to be observed in lawmaking. But there are exceptions to the rule which are just as wise as the rule, and those exceptions sometimes are themselves of greater wisdom than a mere adherence to the rule.

Now, in this case, as everybody knows, the case of the Shoe Machinery Trust, which called for this special legislation, no suit or proceeding can be begun under the Sherman antitrust law, so called, as this suit against the Shoe Machinery Co. was begun, except by the consent and by the authority and in the name of the Attorney General. Now, the Attorney General, in the administration of justice and in the prosecution of that proceeding has found himself hampered by a rule of the court, and he has appealed to the Congress to remove that obstacle.

He claims that in this very case against the Shoe Machinery Manufacturing Trust, in Boston, the order of Judge Putnam that the testimony be taken behind closed doors has worked to the detriment of the correct administration of public justice; and from the fact that he has asked for this legislation I infer that he has been unable to get relief anywhere else. I infer that he has been unable to get relief from Judge Putnam's court, and he is unable to get relief through any rules of the Supreme Court. Therefore he appeals to Congress to pass this act.

Mr. COOPER. Mr. Speaker, will the gentleman from Alabama tell us what, if any, reason was assigned by the judge who ordered that testimony to be taken in secret?

Mr. CLAYTON. I am not apprised of the reason the judge gave for his ruling.

Mr. COOPER. What reason could he give?

Mr. CLAYTON. I can not imagine any; but whether he had a reason or not, he did it, and we are trying to correct what I believe to be an obstruction to the correct administration of justice.

Mr. BURKE of Pennsylvania. Does the gentleman know in what way a Government case would be prejudiced as a consequence of an order of this kind? I assume, of course, that neither of the parties to the proceeding would be excluded, nor would their counsel. Both parties would be made fully cognizant of every step taken in the proceedings. Now, what I would like to ask the gentleman is in what way is the Government or the Attorney General prejudiced by the order to take the testimony in secret?

Mr. CLAYTON. I can not answer exactly what reason the Attorney General may give for it, because I do not have it directly from the Attorney General, and I do not wish to give reasons which may be chargeable to him, but I want to give what I suppose to be his reasons. In all these matters like the shoe machinery trust case the public is interested, and in every one of these investigations, through the medium of spreading the information through the press and through the bystanders who heard it, public information has been disseminated, and in many cases the Department of Justice has had its attention called to other facts with which it was unacquainted until these public hearings.

Sometimes the bystanders have heard things and the Attorney General has derived information from them which, if they had been excluded from the hearings, he perhaps would not have gotten. Sometimes the matter has gone to the press and has been discussed there, and from that source he has derived further information beneficial to him in the successful prosecution of suits against the trusts. At any rate, the Attorney General has said not only to the gentleman from Nebraska [Mr. NORRIS], who introduced the bill on this subject in the House, but to Senator NELSON, of Minnesota, that he regarded it as important that the taking of testimony in these suits hereafter should be in public. I think I am violating no confidence when I say that the distinguished Senator from Minnesota [Mr. NELSON] said he introduced this bill and secured its passage through the Senate at the request of the Attorney General, and that it was prepared at the Department of Justice, and that the reason for it was that in a recent suit instituted by the Department of Justice under the antitrust law against the Boot and Shoe Machinery Manufacturing Trust in Boston United States Circuit Judge Putnam ordered that the testimony before the master be taken behind closed doors. This the Attorney General, so the Senator from Minnesota thinks, rightfully objected to and insisted that the taking of the testimony should be open to the public.

Now, Mr. Speaker, the day has long since passed when we should have star-chamber proceedings, and the public has a right to know, especially in a matter like the Shoe Machinery Trust case, what is going on, because a suit of that kind is not between private parties. It is a suit in behalf of the people. It is inaugurated by the Attorney General, and can not be inaugurated except through the Department of Justice, and it is peculiarly a public matter and the public is peculiarly interested in it, and it can not be said that there can be any sound public policy why the testimony should be taken in secret. I assume it will not be said that the disclosures will be so indecent as to shock the public. If the trust has been guilty of anything so wrong, so shocking to the sensibilities of a judge, the people ought to know about it; and they have a right to have these hearings in the open, as they have always been before.

At any rate, the chief law officer of the Government has advised Congress that it would promote the administration of public justice to have this bill passed, and I am quite willing to take his judgment, because he is primarily chargeable with the execution of the law.

Mr. BURKE of Pennsylvania. I would just as soon take the judgment of the chairman of the Committee on the Judiciary on that subject.

Mr. CLAYTON. I thank the gentleman for the compliment. If it is of any value, I will say that the chairman of the Committee on the Judiciary agrees with the Attorney General.

Mr. BURKE of Pennsylvania. I do not dissent from the gentleman's opinion, but I wanted to know if there was any special reason, growing out of any particular case, that made it necessary for the passage of this legislation. It seems to me that there might be cases where trade secrets might be disclosed, for we all know that there have been improvident prosecutions.

Mr. CLAYTON. To meet that objection, this bill is limited in its nature.

Mr. BURKE of Pennsylvania. With reference to the Sherman antitrust law, but I believe there have been cases brought under that statute where it ought not to apply.

Mr. CLAYTON. The fact that it is limited met with the disapproval of the gentleman from Illinois, as I understood it.

Mr. MANN. If this bill was referred to the Attorney General and he expressed an opinion in regard to it, was there any special reason why that opinion should not be furnished to the House?

Mr. NORRIS. It was not referred to the Attorney General, and, with the exception of a slight change, it was drawn by the Attorney General.

Mr. MANN. Every department of the Government draws a great many bills for Members of Congress. I would like to have the department express its opinion in writing.

Mr. NORRIS. The Attorney General was not asked by the committee to do that, but he has referred to this particular case in this report, published and before Congress.

Mr. MANN. Yes.

Mr. NORRIS. Recommending this very legislation.

Mr. MANN. That is true. I have no doubt the Attorney General is in favor of it.

Mr. NORRIS. Why should we refer the bill back to the Attorney General after he had prepared it?

Mr. MANN. So as to have a statement in reference to it. The Attorney General is conducting a lawsuit. He has been unable to get the judge to do what he wants done, and thereupon he proposes to force the judge to do it by legislation through Congress for the purpose of affecting that particular lawsuit.

Mr. NORRIS. Does the gentleman from Illinois think the Attorney General is trying to cover up anything?

Mr. MANN. The gentleman from Illinois would not put it upon that ground. I have great confidence in the Attorney General.

Mr. NORRIS. If the gentleman's criticism is correct, it ought to go to the committee and not to the Attorney General.

Mr. MANN. I am not criticizing.

Mr. NORRIS. The Attorney General, I know, would not object to giving his opinion.

Mr. MANN. I asked if there was any reason why we did not have the opinion of the Attorney General, and the gentleman from Nebraska has given the reason, and that is satisfactory, so far as I am concerned. But I am not satisfied to pass the bill by unanimous consent.

Mr. BURKE of Pennsylvania. Will the gentleman from Nebraska yield?

Mr. NORRIS. For a question.

Mr. BURKE of Pennsylvania. Will the gentleman indicate what benefit there would be derived by the passage of this particular provision to open to the public this testimony?

Mr. NORRIS. The gentleman has asked a question which I will answer. The first reason is that unless there is some reason to the contrary, the proceedings of court should always be open to the public. If we are going to permit the decision of this court to stand—and I do not know how we can meet it without a change of the law—you will be met at the threshold of every prosecution under the Sherman antitrust law with an application for a secret hearing. In effect, it will mean that in every case under the Sherman antitrust law the evidence shall be buried and not given to the public if we do not pass this legislation.

Further answering the gentleman, I want to say that these cases to which this act would apply are always cases in which the United States Government is a party, commenced by the Attorney General of the United States. He represents the people of the United States, and any citizen ought to have the right to go into the court and have cognizance of the proceedings, particularly in a case where the people of the United States are a party.

Mr. BURKE of Pennsylvania. If that is true, why did the gentleman qualify and make an exception in some cases? If the courts are to be opened, why ought they not to be opened in all cases?

Mr. NORRIS. If we should come in here with a general act there would be a dozen objections, and one would be that there might be some case where the testimony was immoral and indecent and where the court ought to have a right to make it secret.

Then they would say it would apply to other cases where the evidence is taken in open court rather than by a master, as in this case. The reason why we are not having it apply generally is we want to avoid the very objection the gentleman seems inclined to make because we did not include all the cases. We concede there may be cases in which the hearing ought to be secret.

Mr. BURKE of Pennsylvania. Mr. Speaker, if the gentleman can conceive why there should be exceptions made with reference to other laws, is it not possible that other gentlemen can conceive why there should be exceptions made in the administration of this law?

Mr. NORRIS. I concede that is right, and if the gentleman can point out any reason why there should not be publicity, I think that is proper.

Mr. BURKE of Pennsylvania. I simply point out this fact. There has been no reason pointed out by the proponents of this bill why this particular statute should be taken out and made an exception of when it comes to its enforcement by the Attorney General.

Mr. NORRIS. I thought I had stated that to the gentleman in the first place. One reason for it is that, unless there should be reasons given to the contrary, there ought to be publicity in court proceedings, and no man has ever yet been able to give any reason why there should not be publicity in cases under the Sherman Antitrust Act.

Mr. BARTLETT. In this particular case what was the reason?

Mr. NORRIS. I am answering one question and I will yield to the gentleman just as soon as I get through with this answer. Another reason why this class of cases should be made public is because the testimony is always taken by a referee, a master. The gentleman understands that under the Sherman antitrust law there will be some evidence taken in San Francisco and some in Massachusetts. It is scattered around. A master is appointed and he may consume six months in taking the testimony.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object——

Mr. NORRIS. Mr. Speaker, I desire to finish my answer. The master is traveling all over the country taking evidence. He takes some in Kansas City, and then he goes to Omaha, where he takes some more evidence, and then in New York City, and so on around the country. When he gets through he has a large amount of evidence, thousands of pages, perhaps. If the public are excluded from the hearings in Kansas City and in Omaha, the public does not know what the evidence is until it is filed in open court. At that time if there is any reason why publicity should be given, it disappears for the reason that no man would go through such a voluminous record.

Mr. BURKE of Pennsylvania. Who is to decide the issue in that judicial proceeding—the public or the judge?

Mr. NORRIS. I will tell the gentleman where the public comes in, if the gentleman does not think the public ought to be in as a matter of right. The result will be that there will be no publicity, as a matter of practice, in these cases unless the publicity takes place when the evidence is produced before the master. In every case yet that the present Attorney General has ever commenced under the Sherman Antitrust Act, and he has commenced more than any other Attorney General, there has never been one yet where in some hearing evidence was not developed and given to the public which was the means of giving to him additional evidence, which he offered in the case before it was finally finished. So that in this class of cases, if the newspapers publish what one witness or another witness testifies to before the master, some man a thousand miles away will read it and he will write to the Attorney General and give him some information that is of material benefit in the case.

Mr. TOWNSEND. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TOWNSEND. Mr. Speaker, has a reservation of objection been made upon this bill?

The SPEAKER. Yes.

Mr. TOWNSEND. Is the gentleman who has made the reservation too jealous of it to allow the rest of us to enjoy some of its benefits?

The SPEAKER. The Chair does not know. The gentleman from Illinois [Mr. MANN] made the reservation.

Mr. MANN. Mr. Speaker, if the gentleman from New Jersey will propound that question so that I can understand it, I will be very glad to answer it. I could not understand it as propounded before.

Mr. NORRIS. Mr. Speaker, I think that a proposition coming from the Attorney General of the United States is entitled to great weight, wherein he says that there is not a case where publicity has been given that it has not assisted him.

Mr. BURKE of Pennsylvania. The fact that the Attorney General has instituted a prosecution under the Sherman antitrust law becomes a matter of public knowledge the moment the papers are filed. The newspapers throughout the United States make that known, especially the papers of the community where the offending party resides.

Now, a suit already having been begun by the Federal Government and knowing such a proceeding is in course of being con-

cluded, and knowing that such a complaint is made against a particular institution, what additional virtue is there to be found in inviting the public into these hearings where trade secrets and methods of doing business are in line with everything that is legitimate, fair, and proper? What is to be gained by admitting the public there for the purpose of ascertaining those secrets and peddling them to their rivals?

Mr. NORRIS. Does the gentleman dispute the word of the Attorney General?

Mr. BURKE of Pennsylvania. I have not the word of the Attorney General. I have the gentleman's word that——

Mr. NORRIS. Does the gentleman deny that I am telling him correctly?

Mr. BURKE of Pennsylvania. I do not; I do not doubt the gentleman's word at all.

Mr. NORRIS. There is the reply; the gentleman's question is answered.

Mr. MANN. Mr. Speaker, I have no doubt of the word of the gentleman from Nebraska on anything. I had intended, if I may say to the gentleman, when this matter came up to move to strike out the restriction and let it apply to all hearings, but the gentleman has convinced me that there are some cases, which I can not imagine myself, where there ought to be secrecy, so I do not feel disposed to make that motion if the bill comes up. On the other hand, I think it requires further attention, and for the present, at least, I shall object.

The SPEAKER. The gentleman from Illinois objects, and the bill is stricken from the calendar.

DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

Mr. FLOOD of Virginia, from the Committee on Foreign Affairs, reported the bill (H. R. 28907) making appropriations for the consular and diplomatic service for the fiscal year ending June 30, 1914, which was read the first and second time, and, with the accompanying report (No. 1434), ordered printed and referred to the Committee of the Whole House on the state of the Union.

Mr. MANN. Mr. Speaker, I reserve all points of order on the bill.

UNALLOTTED TRIBAL LANDS OF THE CHOCTAW AND CHICKASAW NATIONS.

The next business on the Calendar for Unanimous Consent was the bill (S. 5676) authorizing the Secretary of the Interior to set aside for sanatorium purposes not to exceed four sections of the unallotted tribal lands of the Choctaw and Chickasaw Nations of Oklahoma.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to designate and set aside not to exceed four sections of the unallotted lands belonging to the Choctaw and Chickasaw Tribes of Indians in Oklahoma, said reservation being for the purpose of providing land on which to build a sanatorium or sanatoria for the benefit of said tribes of Indians.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, whoever is in charge of the bill I would like to ask if he intends to ask for the passage of the bill or for the amendment, which is not shown by the bill reported by the committee?

Mr. CARTER. Mr. Speaker, we intend to ask for the passage of the substitute as shown in the report.

Mr. MANN. Well, then, I shall object.

The SPEAKER. Did the Chair understand the gentleman from Illinois to say he would object?

Mr. MANN. Mr. Speaker, I will reserve the right to object.

Mr. HARRISON of Mississippi. Mr. Speaker, I desire also to reserve the right to object.

Mr. MANN. Mr. Speaker, I do not think the gentleman ought to expect to come in here with a bill where they report an amendment which is not reported in such shape that it is reported with the bill where it should be—only printed in the report—gross negligence by some one—carrying an appropriation which the original bill does not do, and then, having obtained the consent of the House to consider the same bill, proposes to consider something entirely different that never was properly presented to the House.

Mr. CARTER. Mr. Speaker, I presume that was a mistake of the printer, or some one.

Mr. MANN. Oh, it is not a mistake of the printer at all.

Mr. CARTER. Well, where does the mistake lie?

Mr. MANN. I do not know where it lies, but it lies with somebody—probably lies with the gentleman who made the report——

Mr. KENDALL. The gentleman said the printer, or some one.

Mr. MANN. That is my friend from Oklahoma.

Mr. CARTER. Does the gentleman consider that I am not some one?

Mr. MANN. No; I think the gentleman is a big one—nearly the whole thing in these matters.

Mr. CARTER. Mr. Speaker, I will admit I did not look after sending the copy to the printer. I did tell the clerk of the committee what I would like to have in the report, and the gentleman from Illinois certainly understands that Members do not have time to look after all these details.

Mr. MANN. Well, I know I have made more reports on bills to this House than any man in the House, unless it be from the Committee on Pensions, and I have never brought a report to the House without looking at the bill and the report to see whether it was properly marked.

Mr. CARTER. The gentleman certainly does not expect the perfection in the ordinary Member that he has acquired

Mr. MANN. I expect more in the gentleman from Oklahoma than I ever expect to acquire before I get to the other world.

I know how this occurred. The gentleman, instead of giving it to the printing clerk and putting in the basket a marked copy of the bill itself, showing the amendment, simply showed the amendment in the report. The printing clerk does not read through the long reports presented by committees in order to ascertain what amendments are proposed and fix up the bill accordingly. They would have to have 40 printing clerks if that were done. There should be filed with the report two copies of the bill. I asked the gentleman whether he was willing to have the Senate bill and pass it, or whether he wanted to take the House substitute that was not before the House.

Mr. CARTER. The bill as it passed the Senate only provides there shall be 2,560 acres of land, without any appropriation for the hospital at all. The House bill, as we expected to have it, provides an appropriation of $50,000 for the building of the hospital. Now, we have not any use for the land to be set aside unless we have the appropriation for the hospital.

Mr. MANN. The appropriation belongs in the Indian appropriation bill. If this bill should pass and go to the President and be signed, the gentleman would probably, without any difficulty at all, have inserted in the Indian appropriation bill $50,000, or even $50,000,000, for the purpose.

Mr. CARTER. But that would put it off for another year, Mr. Speaker, and this is a very urgent matter.

Mr. MANN. I do not think it would put it off at all, although I do not think it would hurt very much if it were put off for another year.

Mr. CARTER. We could not have the appropriation this year if we passed the bill, because I think the Indian appropriation bill will be reported to the Senate right away—in fact, it may be reported to-day.

Mr. HARRISON of Mississippi. I want to ask the gentleman from Oklahoma [Mr. CARTER] if the Senate substitute carries with it an appropriation of $50,000?

Mr. CARTER. The Senate bill has no substitute. The Senate passed the bill originally. The House substitute does carry an appropriation of $50,000.

Mr. HARRISON of Mississippi. With the four sections of land?

Mr. CARTER. With the four sections of land.

Mr. BURKE of South Dakota. On that line I want to say a word, because I do not think the gentleman from Illinois [Mr. MANN] understands the situation perhaps. As I understand it, the Choctaw Council has made an appropriation of $50,000 out of their own money, and that has been approved, as I understand it, by the President. Am I correct?

Mr. CARTER. That is correct.

Mr. BURKE of South Dakota. Now, this simply ratifies it and allows them to expend their own money for this purpose, which, to my notion, is a much better way of disposing of this amount of money than paying it to them per capita, which we would be obliged to do.

Mr. MANN. That is ordinarily true. We are not supposed on unanimous-consent days to pass appropriations, much less appropriations like this. I think it would be bad practice to pass such an amendment as is proposed here.

Mr. HARRISON of Mississippi. I want to ask the gentleman from South Dakota [Mr. BURKE] if in approving this matter Mr. Taft says that the $50,000 is to be taken out of the Choctaw fund?

Mr. BURKE of South Dakota. That is what I have stated.

Mr. HARRISON of Mississippi. Why not the Choctaw and Chickasaw fund?

Mr. BURKE of South Dakota. The gentleman from Oklahoma [Mr. CARTER] probably can explain My understanding is that it is to be a Choctaw matter, and the Chickasaws are not to participate in it.

Mr. CARTER. There was some doubt of the propriety of Congress to appropriate funds of any of the Five Civilized

Tribes for such purpose as this without their consent. We had the consent of the Choctaw Council, but not of the Chickasaw legislature, for the use of these funds, and the governor of the Chickasaw Nation objected to having any appropriation made for this purpose out of Chickasaw funds unless the Chickasaw legislature agreed to it. For that reason we made it a Choctaw proposition at the request of the chief of the Choctaws.

Mr. HARRISON of Mississippi. Did the Chickasaw Council agree that their land should be allotted?

Mr. CARTER. There is no allotment of land. The Chickasaw legislature took no action in the premises for the very good reason that they have not met for several years, but the governor of the Chickasaws said that in view of the fact that the land where the hospital would be built was worth very little money he would make no objection to the use of the land, but did object to any part of the appropriation coming out of the Chickasaw funds unless the Chackasaws agreed to it.

Mr. HARRISON of Mississippi. Why is it necessary to have four sections of land to use for sanitarium purposes?

Mr. CARTER. I do not know that it is necessary.

Mr. HARRISON of Mississippi. That is what you purpose to give.

Mr. CARTER. We followed the recommendations of the Choctaw Council.

Mr. HARRISON of Mississippi. Who is supposed under this bill to attend to this sanitarium?

Mr. CARTER. The Secretary of the Interior, under rules and regulations, will appoint somebody to attend to it, I presume.

Mr. HARRISON of Mississippi. Who are allowed to attend there for treatment?

Mr. CARTER. Any bona fide Choctaw. That might not mean that people from your State with less than one two-hundred-and-fifty-sixths Indian, and who are now attempting to divest the Choctaws of Oklahoma of some of their just rights, would be admitted.

Mr. HARRISON of Mississippi. That means that no part of this sum shall be used for the treatment of any Choctaw from Mississippi, and that those Choctaws are to be cut off?

Mr. CARTER. It might mean the keeping out of many thousands of people who, though they may be among the best people in the gentleman's State, yet to all intents and purposes are Indians for revenue only. [Laughter.]

Mr. HARRISON of Mississippi. Then I will object to the bill.

The SPEAKER. The gentleman from Mississippi objects.

Mr. MANN. I wish the gentleman would withhold his objection for a moment.

Mr. HARRISON of Mississippi. Then, Mr. Speaker, I will reserve the right to object.

Mr. MANN. I would like to know whether the gentlemen are willing to pass the Senate bill as reported in the House without the amendment, which is not shown on the face of the bill, because, as a matter of practice, I shall object to the passing of the bill with an amendment here, reported back to the House with a report recommending the striking out of all after the enacting clause, but not showing it on the bill, so that Members are not put on guard. That is an exceedingly bad practice.

Mr. FERRIS. Mr. Speaker, I shall not attempt to say anything, or contend that the report is properly gotten up. We all agree about that. But I want to call the attention of the gentleman to one or two things before he knocks the bill off the calendar——

Mr. MANN. Which I shall do unless the gentlemen are willing to take the original bill.

Mr. FERRIS. I want the gentleman to understand one or two facts before he does that. The Choctaw legislature, which is a legislative body, has formally passed this bill, the president has approved it. It is now up to Congress to ratify it.

Mr. MANN. I know that——

Mr. FERRIS. The Choctaw legislature spent most of the winter considering and passing upon this proposition.

Mr. MANN. Yes; they appropriated $50,000, but it requires our approval.

Mr. FERRIS. And the President of the United States has sent to this Congress at this session a long message particularly urging upon us the necessity of the protection of the Indians from disease.

Mr. MANN. I understand that.

Mr. FERRIS. And when the Indian appropriation bill was up, the gentleman from Illinois [Mr. MANN] and the gentleman from Wisconsin [Mr. COOPER] and others belabored the committee for not appropriating more of the moneys of the Federal Government for this purpose. The object of this bill is to appropriate the money of the Indian people, and they themselves have appropriated it, to do the very thing that the President has asked to be done by his special message, and to do the very thing about which the gentleman from Illinois and others complained, because it was not done. I think the gentleman ought to let the Indians spend some of their own money for this purpose, when it is conceded so necessary by everyone who knows the facts.

Mr. MANN. I shall not prevent them. The money will still be there and will still be used for that purpose.

Mr. FERRIS. But there will be no hospital there, and the Indians can not spend their money only as they come to Congress for their authority.

Mr. MANN. There may be no hospital; that is true.

Mr. HARRISON of Mississippi. I object.

The SPEAKER. The gentleman from Mississippi objects, and the bill is stricken from the calendar. The Clerk will report the next one.

MEMORIALS TO THOMAS JEFFERSON AND ALEXANDER HAMILTON.

The next business on the Calendar for Unanimous Consent was the bill (S. 745) providing for the erection of a statue to Thomas Jefferson at Washington, D. C.

The Clerk read the bill, as follows:

An act (S. 745) providing for the erection of a statue to Thomas Jefferson, at Washington, D. C.

Be it enacted, etc., That a commission is hereby created, to be composed of the Secretary of State, the chairman of the Committee on the Library of the Senate, and the chairman of the Committee on the Library of the House of Representatives, of the Sixty-second Congress, to select a site on the public grounds in the District of Columbia, exclusive of the Capitol Grounds and the grounds of the Library of Congress, for a statue of Thomas Jefferson to cost, complete, not to exceed $100,000; and, to procure plans and designs for the same to be reported to Congress during its next session, the sum of $5,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, I would like to have read the amendment proposed by the committee.

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

That a commission is hereby created, to be composed of the Secretary of State, the Secretary of the Treasury, the chairman of the Committee on the Library of the Senate, and the chairman of the Committee on the Library of the House of Representatives of the Sixty-second Congress, to select sites on the public grounds in the District of Columbia, exclusive of the Capitol Grounds and the grounds of the Library of Congress, for memorials to Thomas Jefferson and Alexander Hamilton, to cost, complete, not to exceed $100,000 each; and to procure plans and designs for the same, to be reported to Congress during its next session, the sum of $10,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 2. There shall be deducted from the $100,000 authorized for the erection of the memorial to Alexander Hamilton a sum equal to that turned over to the commission by the Alexander Hamilton Memorial Association.

SEC. 3. The designs of the memorials shall be subject to the approval of the Commission of Fine Arts.

The SPEAKER. The gentleman from Illinois [Mr. MANN] reserves the right to object.

Mr. SLAYDEN rose.

The SPEAKER. The gentleman from Texas [Mr. SLAYDEN] is recognized.

Mr. SLAYDEN. Mr. Speaker, I had expected that the gentleman from Massachusetts [Mr. GARDNER], who made the report on this measure, would be in the House. Oh, I beg the gentleman's pardon; I see he is here. I yield to the gentleman.

Mr. GARDNER of Massachusetts. Mr. Speaker, two bills came over from the Senate, one providing for a statue of Thomas Jefferson, and the other providing for a statue of Alexander Hamilton. They came to our Committee on the Library, and we thought it best to combine the two bills together and present the measure to the House in the present form.

As a matter of fact, there has been a Hamilton Memorial Association for some time which has raised about $6,000, and we provide in this bill that that $6,000 shall be turned into the fund of $100,000 to be devoted to the erection of a statue to Hamilton. In the past there has been legislation looking toward the erection of a monument to Jefferson.

Mr. MANN. Mr. Speaker, I withdraw my reservation of the right to object.

Mr. COX. I renew it.

The SPEAKER. The gentleman from Illinois withdraws his reservation of the right to object, and the gentleman from Indiana [Mr. COX] makes a reservation of his own.

Mr. GARDNER of Massachusetts. Nothing has been done under the prior resolution, I think, largely owing to the death of John Hay. That is the whole story.

Mr. COOPER. Will the gentleman from Massachusetts inform the House, if he can, what has become of the fund raised by the sale of a very handsome edition of the works of Thomas

Jefferson for the purpose of erecting in this city a memorial hall in honor of Jefferson.

Mr. GARDNER of Massachusetts. I do not know. I know nothing about that. This is the first time I ever heard of it.

Mr. COOPER. I ask because I have $60 invested in those books myself.

Mr. BARTLETT. The gentleman got the books, did he not?

Mr. COOPER. I got the books.

Mr. MONDELL. Were they worth the money?

Mr. BARTLETT. They were well worth the money.

Mr. MANN. They were worth the money if you could not get them for less.

Mr. GARDNER of Massachusetts. I think the gentlemen who were members of the committee at that time are not now on the committee. Possibly the gentleman from Texas [Mr. SLAYDEN] may have some recollection about it.

Mr. COOPER. I should like to ask the gentleman from Texas [Mr. SLAYDEN], chairman of the Committee on the Library, if he knows what has become of that fund?

Mr. SLAYDEN. I could not hear the gentleman's inquiry.

Mr. COOPER. Several years ago a society was organized, the exact name of which I do not recollect, but my impression is that it was the Jefferson Memorial Association——

Mr. SLAYDEN. That is correct.

Mr. COOPER (continuing). The purpose of which was to secure funds by the sale of copies of the works of Thomas Jefferson to erect a memorial building to him in this city.

Mr. SLAYDEN. I regret to say that I can not advise the gentleman about that. I was a subscriber to the work—20 volumes, as I remember—and I think I paid $30 for them.

Mr. COOPER. I was a subscriber and paid $60. [Laughter.]

Mr. SLAYDEN. The books were worth the money. They were the best collection of Jefferson's works that I have ever seen, and I do not regret the investment; but if the association ever made any money out of the publication I do not know of it. The Committee on the Library had no connection whatever with it.

Mr. CANNON. If I may be allowed, a gentleman sitting not a great distance from me suggests that the two gentlemen who bought the books were easy marks.

Mr. COOPER. In reply to the gentleman from Illinois I will say that, in my judgment, I was not taken in at all in purchasing the works of Thomas Jefferson. I have read them with great pleasure and profit. [Applause on the Democratic side.]

Mr. McCOY. Mr. Speaker, as there seem to be so many suckers in the House, I suggest that the inquiry of the gentleman from Wisconsin be referred to the Committee on the Merchant Marine and Fisheries. [Laughter.]

The SPEAKER. The gentleman moves that this bill be referred to the Committee on the Merchant Marine and Fisheries. Those in favor will say aye.

The affirmative vote was taken.

Mr. MANN. Mr. Speaker, unanimous consent to consider the bill has not yet been given.

The SPEAKER. That is true. Did the gentleman from New Jersey make his motion in earnest?

Mr. McCOY. Only by way of suggestion to the gentleman from Wisconsin [Mr. COOPER].

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. COX. I reserve the right to object, Mr. Speaker.

The SPEAKER. The gentleman from Indiana [Mr. Cox] reserves the right to object.

Mr. SLAYDEN. Mr. Speaker, these bills to erect statues or memorials to Thomas Jefferson and Alexander Hamilton did not originate in the House. The distinguished Senator from Massachusetts, Mr. LODGE, offered a bill in the Senate a year ago to commemorate Alexander Hamilton, and Mr. BACON, the senior Senator from Georgia, followed immediately with a similar bill to appropriate for a statue or memorial for Thomas Jefferson. Thus these two distinguished men who did such wonderful service for the country in those early days were again put into company running, so to speak, a race with each other at this late day. Both bills passed the Senate, as I remember, unanimously. Having come to the Committee on the Library, the committee finally, as the gentleman from Massachusetts [Mr. GARDNER] stated, thought it better to combine the two.

Now, Mr. Speaker, I want to say to some gentlemen who do not seem to know it, that this is the first bill reported out of the Committee on the Library which asks the Government to undertake a penny of expense. There are pending in that committee bills that call for an aggregate sum approximately of four and a half million dollars, asking for statues or memorials to people, many of whom, I confess with shame, I never heard of before these authorizations were asked. Ninety per cent are intended to commemorate the deeds of soldiers and sailors, and the Committee on the Library has reached the conclusion that enough had been done in that line for a long time. They believe that civilians had something to do with the creation and the maintenance and the direction of this Government; that some people besides those who wore epaulets are entitled to the gratitude of the American people and have a right to expect that honor will be done to the memory of such men.

In December last the committee, being appalled by this great number of bills asking that memorials be erected to Colonel This and General That, to celebrate a skirmish at this place and a battle at that, passed a resolution expressing the opinion of the committee that until proper recognition had been given to civilians who had done great service for the people they would report no other bills for memorials. The committee think that the great statesmen, the great literary and scientific men, should be recognized, and that great events, rather than individuals, may properly be commemorated.

That is the attitude of the committee to-day, and this is the first and only bill that it has reported in the whole life of the Sixty-second Congress, and I believe that I speak with approximate accuracy when I say that it is probably the only one that will emerge.

Mr. SHERWOOD. Will the gentleman yield?

Mr. SLAYDEN. Yes.

Mr. SHERWOOD. What is to be the expected cost of it?

Mr. SLAYDEN. I will say that when we conferred with the members of the Fine Arts Commission with reference to the bills presented in the Senate and which use the word "statue" we were told that $100,000 was too much for a statue and it might be enough or too little for a memorial. We believe that a statue made by a great artist on a proper pedestal can be erected for less than $100,000, and therefore the bill was phrased as it is.

Mr. MURRAY. Mr. Speaker, I want to inquire of the gentleman——

Mr. GARDNER of Massachusetts. Mr. Speaker, have I the floor?

Mr. MURRAY. I thought the gentleman had yielded the floor to the gentleman from Texas.

Mr. GARDNER of Massachusetts. I did not intend to do so.

Mr. MURRAY. I only wanted to ask the gentleman from Texas if he would tell me what memorials there are in the city of Washington to Hamilton and Thomas Jefferson?

Mr. SLAYDEN. None that I know of.

Mr. KENDALL. Will the gentleman from Massachusetts yield?

Mr. GARDNER of Massachusetts. Certainly.

Mr. KENDALL. I want to inquire, without any view of interposing an objection, because I am in favor of the bill, under the provisions of this resolution the Secretary of State, the Secretary of the Treasury, and the chairman of the Committee on the Library in the House and in the Senate are to have the selection of the site, as I understand it?

Mr. GARDNER of Massachusetts. Yes.

Mr. KENDALL. I wanted to inquire if the Committee on the Library in the House had considered the question of site?

Mr. GARDNER of Massachusetts. Yes.

Mr. KENDALL. It seems to me it would be fitting and appropriate to locate in front of the State Department the statue of Jefferson and in front of the Treasury Department the statue of Hamilton. I wanted to know whether that sentiment met with any favor in the committee.

Mr. GARDNER of Massachusetts. Yes; those suggestions were both discussed along with many others, and the committee came to the conclusion that it would provide nothing as to the site except to exclude from consideration the Library grounds and the Capitol grounds.

Those sites are excluded by the terms of the bill, but otherwise we felt that this commission was more competent to decide the question than we.

Mr. KENDALL. This Commission on Fine Arts will have no influence at all in determining the location of these memorials.

Mr. GARDNER of Massachusetts. No; this special commission designated in the bill——

Mr. KENDALL. The Commission on Fine Arts must approve finally of the type of memorial, but it will have nothing to say as to where they shall be located.

Mr. GARDNER of Massachusetts. No; the bill leaves the question of site in the hands of two members of the incoming Cabinet, a Member of the Senate, and a Member of the House. I want to say to the gentleman from Indiana [Mr. Cox] that

if he intends to make his objection in any event, I wish he would make it now. If he desires any explanation, I shall be very glad to give it.

Mr. COX. Mr. Speaker, I will say that I intend to make the objection.

Mr. GARDNER of Massachussetts. Mr. Speaker, then I make the objection now.

Mr. COX. Mr. Speaker, I object.

The SPEAKER. The gentleman from Massachusetts and the gentleman from Indiana object.

DESERT-LAND ENTRIES, CHUCKAWALLA VALLEY, CAL.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26943) to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and the Palo Verde Mesa, Riverside County, Cal.

The Clerk read the bill, as follows:

Be it enacted, etc., That no desert-land entry heretofore made in good faith under the public-land laws for lands in townships 4 and 5 south, range 15 east; townships 4 and 5 south, range 16 east; townships 4, 5, and 6 south, range 17 east; townships 5, 6, and 7 south, range 18 east; townships 6 and 7 south, range 19 east; townships 6 and 7 south, range 20 east; townships 4, 5, 6, 7, and 8 south, range 21 east; townships 5, 6, and 7 south, range 22 east; township 5 south, range 23 east, shall be canceled prior to May 1, 1916, because of failure on the part of the entryman to make any annual or final proof falling due upon any such entry prior to May 1, 1916.

Mr. FOSTER. Mr. Speaker, I reserve the right to object. I notice that this provides for the time of filing the proof, prior to May 1, 1915, or 1916, as it was in the bill originally. I notice the letter from the Secretary of the Interior says that an extension of one year is all that ought to be given, and if that extension be given it would enable these entrymen to determine whether this project could be irrigated or not, and that one year was all that they needed.

Mr. FERRIS. But he made a later report than that.

Mr. FOSTER. I have not the later one.

Mr. RAKER. Mr. Speaker, I feel that I may be able to explain the situation. The committee will observe that the first report was made December 28, 1912. It is found on pages 4 to 5 of the report.

Mr. FOSTER. I have the report.

Mr. RAKER. Recommending one year. These people, through their associations, sent Mr. Shepherd to Washington, and the matter has been taken up by the Department of the Interior. It has been gone into very fully, together with the report of the engineer in charge. The Secretary now states that he feels it is right and proper that an extension of two years be granted these people.

I want to say, in addition to that statement, that I have here the report of the engineer of this project, showing the plat and the map and pictures of this desert land, some 250,000 acres. There is no water there, nothing except some brush of various kinds, and no living creature is there except at two places where deep wells have been dug and a little water obtained. These people have gone out and prepared this report. It is by one of the best engineers in the United States—a man who participated in the building of the Panama Canal. The people had to pay, on an average, $320—$80 for filing. In taking their witnesses from Los Angeles and other places in California it cost them in the neighborhood of $100, and I want to say to the committee that these are all residents of the State of California. There are something over 800 of them. It costs, under the law—and those up to the first of the year have expended that amount—$320 on each tract of land. The entire cost of this project they figure on will be from six to eight millions of dollars. The original organization, when these people first filed, got into some complications, and on account of the arrangement of the Secretary of the Interior and the condition in Mexico a board has now been appointed to investigate whether or not they will be permitted to use the water. That being the case, this one firm was unable to go ahead.

These 800 people have formed an association for the purpose of going in there, and here is the report of the engineer that it is feasible; that the water can be had and that the ditches can be made, and that these 250,000 acres of barren desert land can be made as beautiful as the valley of San Jose or the Imperial Valley in southern California. Less than $50 an acre will be the expense to these people. Going out into the sagebrush and pulling it out and pulling up this vegetation without any water, and having to haul it, it will be no improvement on the land. They ask this Congress to grant them two years' time in which to complete the organization, to the end that they might go on the Colorado River, put in the necessary pumps and build the necessary ditches for the purposes of getting this water out upon this land, and then when that time has expired they will be compelled to pay the same amount upon the improvement of the land and of the ditches and the water rights which will go into its development.

The Government loses nothing; absolutely nothing; it just simply says to these people, "We will give you two years' time to develop and improve the methods so as to be able to obtain sufficient water for these lands."

Mr. KAHN. Will my colleague yield for a question?

Mr. RAKER. I do.

Mr. KAHN. This land is absolutely valueless unless they get the right to take the water from the Colorado River and put it upon this land?

Mr. RAKER. It is absolutely valueless, and a man can not live there without water being brought in that country.

Mr. KAHN. And by putting the water upon the land it will provide homes for many thousands of people?

Mr. RAKER. It will.

Mr. KAHN. It will take at least two years in perfecting the work of pumping the water from the river?

Mr. RAKER. In arranging the conditions to get it started, it will.

Mr. KAHN. How much has been already expended by the people who are interested in this project?

Mr. RAKER. Oh, something over $200,000.

Mr. KAHN. And that money will be largely lost unless this legislation passes?

Mr. RAKER. Absolutely. The money will be absolutely lost, and they will have lost their right to the lands, and the expenditure of this money will go for naught.

Mr. KENT. I desire to ask my colleague some questions. As I understand this project, these people expected to obtain water by the action of a corporation which was put out of business, in part at least, by its disagreement with the Government as to its powers to secure water from the Colorado River.

Mr. RAKER. That is it. On account of conditions in Mexico.

Mr. KENT. On account of Mexican conditions and contentions. Then this water corporation having been put out of business, these people who had taken up the land found themselves powerless to carry out the conditions imposed by the laws respecting arid lands and were unable to proceed in the way of development simply because there was no way by which they could get water. Hence I understand that they have organized together in a mutual association to provide the water of which they were deprived by the failure of this corporation.

Mr. RAKER. That is the condition.

Mr. KENT. I understand that they have expended a very large amount of money in clearing their land and preparing for irrigation, and it is utterly impossible to carry their improvements any further or to obey the letter of the law because they are barred from obtaining water at the present time.

Mr. RAKER. The gentleman states the condition correctly.

Mr. KENT. Now I understand that the proposed bill simply gives these people a chance to save their money, gives them a run for their money as it were; that there is no one interested in taking their land away from them; that the land is valueless without such improvements as they may put upon it. The only objection I have heard against giving them the extension of time they request is that they may be swindled by some one asking them to furnish more money for irrigation. This, it seems to me, is beside the point. It is our duty to give them the opportunity to do all they can do. Neither the Government nor anyone else will be injured in the slightest degree by the extension of their right to the two years asked by this bill.

Mr. RAKER. That is true.

Mr. FOSTER. Mr. Speaker, I withdraw the objection.

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask if this bill should become a law what possibility is there of getting irrigation on this land within the next two years?

Mr. RAKER. Well, I will answer the gentleman by stating I hold in my hand here——

Mr. MANN. That will not answer it.

Mr. RAKER. I can not answer it in one word—showing the examination and the feasibility of this irrigation project. The secretary of the association and a list of men I have here who are scattered all over California are working now and preparing to handle this work——

Mr. MANN. Where is that set forth in the report?

Mr. RAKER. Well, you will find the statement of Mr. L. V. Shepherd to the Secretary of the Interior on page 2, January 15, 1913. That is set out in that statement. I state in addition to the statement we have gone over the matter with Mr. Shepherd and many others; they are scattered all over the State of California, and this list will show their names and

where they live. I know many of them, and I know they are in earnest in trying to develop this desert country.

Mr. MANN. I know. But how are they going to get the water?

Mr. RAKER. They are going to get the water first by putting in a dam and carrying it down to a certain distance——

Mr. MANN. I find in Mr. Shepherd's letter, to which the gentleman has referred, this statement, that letter being addressed to the Secretary of the Interior:

> Pending the settlement of the international question that has arisen concerning the waters of the Colorado River, you have ruled that we shall not be allowed to take any water from that stream. Because of the revolution in that country it may be many years before a settlement of this question can be made.

Now, the gentleman attempts, with that letter before him, to say that that letter bears out the proposition that they can get this water on this land within two years, when the place they are going to get it from is likely to be in dispute for many years, according to the letter itself.

Mr. RAKER. In answer to the gentleman, I will state that Mr. Shepherd and those people would like to have three years. That is their idea of the matter, and they believe they can get it arranged. As to the international question, the matter is being taken up now, and I am informed by the authorities that in the next few months that question will be disposed of so far as the Government is concerned.

Mr. MANN. You have no more information than Mr. Shepherd has, and he says that it will be many years; and we all know they are not in position to settle it now.

Mr. RAKER. I took the matter up with the Secretary and Mr. Newell, and went over that situation, and they are in process of adjusting it now. You can not do the thing in a minute.

Mr. MANN. They had best get it adjusted before we come in on this proposition.

Mr. KAHN. As I understand it, the international question that is involved is this: The water that is to be used on this land is to be taken from the Colorado River. None of this land is on the Mexican boundary. It is altogether in the State of California. But there may be some international question involved as to the right to withdraw the quantity of water from the river for irrigating this vast tract of land, and that is what I believe they have been trying to negotiate with the Government of Mexico.

Mr. MANN. Now, having called the attention of the gentleman to the letter of Mr. Shepherd, which he quotes, that they probably can not settle this question for many years to come—meaning the international question—let me call his attention to the next statement made by Mr. Shepherd, as follows:

> Although there is enough water flowing down the Colorado River annually, according to measurements taken at Yuma, Ariz., by the United States Reclamation Service, to irrigate every acre available along the lower reaches of the river, in order to avoid litigation with prior rights, we may be obliged to wait until the waters of Colorado River are conserved, which will have to be done by the Government because of the magnitude of the undertaking.

What encouragement does the gentleman find in the proposition that they will get this water within two years?

Mr. RAKER. I will answer the gentleman as to the encouragement I find in that. It is that these people have spent their money. They are bona fide residents of the State of California. They have formed an organization or an association, and they are going there now to continue the expenditure of their money and get the matter arranged to expend all the way from $6,000,000 to $8,000,000 to develop this water right and irrigate this desert land. They are the ones who understand it. They are on the ground; and certainly the Government is not injured, no living man on earth is injured, and if we can by an extension of two years relieve these people of expending their money for nothing and eventually developing a first-class irrigating system by private individuals, I ask the gentleman from Illinois if that is not a proper method of legislation and if we ought not to do it?

Mr. KENT. It seems to me that the gentleman from Illinois is unduly heedful that these people may be swindled by somebody else, having, in his opinion, been swindled in the past.

Mr. MANN. If I had been more heedful, or if somebody else had been more heedful before they had been swindled at first, that would have been better.

Mr. RAKER. These are the same men.

Mr. KENT. The point is that these people have been acting in perfect good faith in taking up this useless land and believing they could make it useful, and I do not understand why we, acting for the Government, should enforce against them the hardships of the law when the conditions are such as they are. I believe they ought to have a chance to have a run for their money and see if they can not obtain water. Because this gentleman or that one believes they can not get water is not sufficient reason for us to clamp down on them.

Mr. FERRIS. What earthly harm could it do for them to keep on trying if they want to do so, inasmuch as they may get it in the last analysis?

Mr. MANN. The Chuckawalla Development Co. undertook to develop this land.

The people of California and the other people of the country had the right to believe that the Government of the United States would not authorize the formation of a company to start in on irrigation and obtain the money of the people for the irrigation—for the water—unless it could be carried into effect. They sold these rights all over the State of California to innocent purchasers, who believed that the Government in its wisdom would protect them from that kind of a swindle, and when they got through they find that the Chuckawalla Valley & Palo Verde Mesa Development Co. consists only in obtaining money and using it themselves, not in obtaining water. Now comes along a proposition of the gentlemen themselves, or some of them——

Mr. RAKER. Mr. Speaker, will the gentleman yield?

Mr. KAHN. Will the gentleman yield?

The SPEAKER. Does the gentleman yield? To whom does he yield?

Mr. MANN. Not unless I can stop it. I want to make a statement. It makes no difference to me.

Now, gentlemen come in and want to go ahead with this scheme, knowing that they can not get any water in the time fixed by this bill. And we know that what they intend to do is to get all the people interested in this land to put up some more money to go a little further. Everyone that knows anything about it knows that they can not furnish the water within the time fixed by this bill, and in the end we will help to delude these innocent purchasers again to put in more good money to follow the bad money that went before.

Mr. GARNER. This must be a bunco scheme, then. [Laughter.]

Mr. MANN. I do not doubt the good faith of the gentlemen.

Mr. FERRIS and Mr. KAHN rose.

The SPEAKER. To whom does the gentleman yield?

Mr. MANN. I have not the floor.

Mr. FERRIS. Mr. Speaker, 800 entries are involved here. Eight hundred entrymen have been trying to get water to irrigate these 800 entries. They failed in the first instance to get the water required. I call it to the attention of this House that in the last 10 years the Reclamation Service has expended more than $60,000,000 in experimenting, and much of the time they have failed. Here are 800 entrymen trying to keep from falling, trying to irrigate their own lands with their own money, at their own expense.

They have been trying since 1908 to convert a portion of California's arid lands into a productive area. They come here now and ask nothing but two more years in which to try. If they fail—if they never get water—the Federal Government gets back every acre of the land. What possible bugaboo and what possible mountain can we erect here, and what "possible straw" man can we conjure up to keep 800 people from the opportunity of trying to irrigate their own lands with their own money, at their own expense?

There is nothing else in this bill. The Secretary of the Interior has looked this over, and in a letter that he wrote to the chairman of the Committee on Public Lands on January 16, 1913, only two or three weeks ago, he says, among other things, this:

> After consideration of the representations now made I am willing to modify the report previously submitted to conform with the present request made on behalf of the desert-land claimants, and I have, therefore, to recommend that the proposed extension be made, as suggested by the pending bill, but that the last line on page 2 be amended to read "entry prior to May 1, 1915."

He says he is willing to modify his first report. In the letter he first wrote he said they ought to have one year. The people there were asking for three years, and he now compromises with them and urges that they have two years' extension.

Now, it is proposed to throw this House into a frenzy because 800 men are trying to have an extension of two years in which to irrigate and water their own lands.

Mr. CANNON. If the land is worthless, what possible objection would there be to giving them five years?

Mr. FERRIS. None at all. I think they ought to have it. The Secretary says two years in his report, and when we come here by unanimous consent it must be two years or none at all. If we had exceeded the two years by one month in this report there would be 75 objections, coming from as many Members, and this bill would have been stricken off the calendar, and those 800 men would have had to abandon their homesteads.

Members ought not to conjure up straw men here when there is no ground of objection.

Mr. MANN. That is a great term of the gentleman's. Is it not—"conjure up"?

Mr. FERRIS. It is a term that may not sound well, but it expresses the case.

Mr. KAHN. Is it not true that when these entrymen made their application to the Secretary of the Interior they wanted to get three years and that it was cut down one year?

Mr. FERRIS. That is true.

Mr. MARTIN of South Dakota. If this is so simple a matter as the gentleman's eloquence would indicate, what reason, if any, does the Secretary furnish to the committee for insisting upon two years' extension instead of three?

Mr. FERRIS. He thinks they can probably accomplish it in two years.

Mr. MARTIN of South Dakota. In his report, then, he takes the view opposite to that of the gentleman from Illinois that the thing is impossible altogether?

Mr. FERRIS. A man by the name of Shepherd had some correspondence with the Interior Department and with the Reclamation Service about it, and I think they stated that the revolution in Mexico may require more time, and they may have trouble to divert the water from the Colorado River; but the Secretary in a letter written two weeks ago says he has no objection to two years, and I call his attention to his letter contained in the report on page 2, where he sets out his views on the subject. This bill ought to pass. The settlers need the legislation. The State needs the development. It is a heroic fight they are making on desert lands to make homes and comply with the law. It seems to me when only an extension is asked the Federal Government ought to give them a chance. It is unfortunate that the calendar is such that this bill has to be subjected to a unanimous-consent consideration. It is a case of fiddling while Rome burns. No possible harm could come. There is every reason to believe good will come from it.

Mr. KENT. I have a very recent letter from the Assistant Secretary of the Interior, which came to me yesterday, and I very much regret that I have not the letter with me, in which he strongly recommends the granting of this time. He thinks it is in the interest of justice and a proper thing to do. That is the most recent word on the subject, I believe.

Mr. LAFFERTY. Will the gentleman yield?

Mr. RAKER. Yes.

Mr. LAFFERTY. It seems that the objection behind the granting of this time grows out of the fact that Mexico has some claim to the water of the Colorado River. I should like to inquire if any gentleman on the floor of this House knows of any reason, in any treaty or provision of international law, which authorizes the Government of Mexico to interpose any objection to the diverting of sufficient water from the Colorado River to irrigate these lands?

Mr. SHERWOOD. Have they any government in Mexico?

Mr. LAFFERTY. I do not see why the people of the United States should be restricted in their right to the use of the water.

Mr. KAHN. I think I can answer the question, to a certain extent. There is a diversion from the Colorado River in Mexican territory some hundreds of miles south of the land covered by this bill, and I daresay that the Mexican Government has a right to receive constantly the quantity of water which it is now using. That, of course, makes an international complication, but I do not think it is so serious that it will be difficult to reach a determination as soon as there is a government in Mexico that our Government can treat with.

Mr. STEPHENS of Texas. Are the citizens of Mexico using any water from the river now? My understanding is that there is no water being used from the river in Mexico, and hence they have no prior rights.

Mr. KAHN. Yes; there is considerable water being used. I do not know to what extent it is being used in Mexico.

Mr. STEPHENS of Texas. In Mexico is what I speak of.

Mr. KAHN. But the diversion dam of the irrigation company that waters the Imperial Valley is in Mexican territory.

Mr. STEPHENS of Texas. How many Mexican citizens are using water on Mexican territory?

Mr. KAHN. I think there is some irrigation down there in the neighborhood of a place they call Calexico.

Mr. STEPHENS of Texas. Unless there is some, they would have no prior right, and we would have the right to take water if we had use for it.

Mr. KAHN. Very true.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. MANN. I object.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that this may be passed over until next unanimous-consent day. I did not really complete what I had to present to-day, and this seems to be so vital to these people that I ask that unanimous consent.

Mr. MANN. The gentleman has the right to put it on the Unanimous Consent Calendar again.

The SPEAKER. The gentleman from Illinois objects. The bill will be stricken from the Calendar for Unanimous Consent, and the Clerk will call the next bill.

Mr. RAKER. I desire to insert in the RECORD a list of these applicants who own the land.

The SPEAKER. The gentleman asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The list of entrymen referred to is as follows:

ENTRYMEN IN THE CHUCKAWALLA VALLEY.

Los Angeles: C. E. Adams, 323 West Forty-seventh Street; Ellis R. Allen, 1205 South Olive Street; Daniel and Maud L. Althouse, 201 Story Building; Edw. W. Austin, 143 East Avenue 41; H. C. Ballie, 2075 West Twenty-ninth Place; Stephen E. Bandle, 149 North Pritchard Street; Emil Bechter, 307 West Fourth Street; Eva Beeson, 319 South Cahuenga Boulevard; Joe Beeson, 319 South Cahuenga Boulevard; Asa D. Bemis, 1702 West First Street; John F. Betz, 690 P. E. Building; C. E. Black, 702 Ferguson Building; Inez Boydstun, 2833 Huron Street; Walter N. Bradley, 349 Towne Avenue; E. H. Bresee, 1066 Lake Street; Dr. Paul Bresee, 524 South Spring Street; Aaron Brown, 137 South Spring Street; W. A. Brown, City Hall; William M. Bullock, 301 South Broadway; Frank M. Cagwin, 2351 West Thirtieth Street; Daniel H. Carey, 360 South Hill Street; Mrs. E. V. Cash, 732 South Flower Street; Elizabeth C. Clarke, 933 Manhattan Place; Eugene E. Cohn, 802 California Street; Isadore Cohn, 225 South Los Angeles Street; Morris Cohn, 216 South Los Angeles Street; Jesse M. Colburn, 233 H. W. Hellman Building; J. P. Colburn, 1020 Story Building; Julius Conrad, 127 South Main Street; James P. Conway, 131 West Avenue 51; Edgar W. Cook, Box 123, Station C; Frank S. Cooper, 1632 Seventh Avenue; Rowland H. Crocker, West Seventh Street; Edw. J. Crowley, 3954 Normandie Avenue; William J. Daley, 3759 South Main Street; Francis Davis, Seattle; Nancy E. Davis, Seattle; Phillip Deutz, 225 San Fernando Building; Mrs. John Dutcher, care of McM. & Hueth; William A. Eckerly, 309 North Boylston Street; L. C. Edwards, 226 Laughlin Building; Dr. H. B. Fasig, 2121 North Broadway; Estella S. Flood, 305 North Boylston Street; Eber M. Frazee, 3911 Arroyo Seco Avenue; Charles Gardner, 324 Douglas Building; R. A. Gelssel, 1535 West Twenty-eighth Street; Jennie Z. Gewertz, Citizens' Bank Building; H. A. Gilman, 769 Pacific Electric Building; John J. Gonzales, 105 South Spring Street; Martin J. Gress, 537 South Broadway; William J. Hanna, 5008 Pasadena Avenue, Trust and Savings Building; V. J. Hannon, 1444 Dana Street; Sherman E. Hart, 2131 Pasadena Avenue; Henry E. Hartwell, 1823 East Sixty-fifth Street; William C. Havener, 603 East Thirtieth Street; William C. Heffelinger, 2129 Park Grove Avenue; Frank W. Heidel, 221 East Avenue 40; George W. Hille, care Hamburger's Department Store; F. J. Hirtz, 4014 Marathon Street; Charles M. Hoff, 1245 Norton Avenue; Grant W. Holland, 1462 West Thirty-seventh Place; William L. Holland, 1462 West Thirty-seventh Place; Charles A. Holt, 512 Mount Washington Drive; A. E. Hughes, 1429 West Thirty-eighth Place; Cary M. Hunt, 2914 South Vermont Avenue; Fred B. Johnson, 518 East Twelfth Street; John A. Johnson, Congress Hotel; Julia Johnson, Congress Hotel; John A. Johnson, Congress Hotel; Julian P. Jones, 2131 Twenty-ninth Place; E. P. King, 314 South Olive Street; Albert F. Koenig, 424 P. E. Building; Charles C. Lane, 140 West Avenue 34; John W. Lawrence, 209 South Fresno Street; V. L. Lawrence, 2825 East Second Street; George Du. Lee, 614 West Fifty-fourth Street; A. E. Loder, 615 International Bank Building; George L. Louden, 966 Arapahoe Street; H. G. Louden, 1431 South Los Angeles Street; Miss Marie E. Louden, 966 Arapahoe Street; Ella P. McConnell, 463 Kenmore Avenue; Peter McCready, 532 South Main Street; Edw. C. McGarrell, 715 West Fifty-fifth Street; James E. McMahon, 532 South Main Street; William J. McMahon, 532 South Main Street; George Mack, 409 Columbia Trust Building; Frank A. Marnell, Baltimore Hotel; Alice R. Martin, 3964 Denker Avenue; Arthur W. Martin, 1278 West Twenty-second Street; Charles B. Messenger, 143 North Avenue 54; Mrs. E. R. Michael, 732 South Flower Street; Winifred Michael, 453 South Hope Street; Charles H. Miller, 1608 West Seventh Street; George H. Moore, rural route No. 12, box 93; Marks S. Moses, 130 East First Street; Thomas A. Nash, 153 Naud Street; Lizzie M. Nave, 321 South Grand Avenue; Loyd P. Nichols, 926 West Thirty-fifth Street; Charles T. Nonman, 4200 Pasadena Avenue; Charles F. Off, 104 North Union Avenue; John A. Painter, 280½ South Spring Street; Ira S. Palmer, 1315½ East Eighteenth Street; Marcus Pluth, 1462 West Thirty-seventh Place; Edwin A. Pope, 424 Laughlin Building; Ezra J. Post, 2121 Pasadena Avenue; Herman H. Powell, 583½ East Fortieth Street; Jessie C. Read, care Southern Pacific Railroad Co., Arcade Station; E. M. Reinhard, 1521 Harvard Boulevard; B. R. Reinhold, 624 Citizens Bank Building; Mary B. Rothroch, 301 North Broadway; W. F. Sagar, care Wetherby-Kayser Shoe Co.; A. E. Schmutzler, 500 East Thirty-fifth Street; Ray M. Seymour, 935 East Forty-sixth Street; L. V. Shepherd, 5034 Pasadena Avenue; Frank T. Sherman, 106 North Hope Street; Edw. M. Skeats, 1547 Council Street; Col. H. Sinbaugh, 2914 South Vermont Avenue; Ernest J. Smith, 202 West Thirty-second Street; George E. Smith, 143 East Avenue 42; H. G. Smith, 1562 East Twenty-third Street; Charles A. Spears, Hall of Records; Peter B. Spears, Hall of Records; Peter Spellacy, 411 Citizens Bank Building; L. C. Strehlinger, 2257 North Thirtieth Street; Albert O. Switzer, 2308 West Thirtieth Street; Harry Wallace, 501 Western Avenue; Mortimer A. Webber, 1323 Dewey Avenue; Claude Wheeler, 2833 Huron Street; William E. Wheeler, 2833 Huron Street; Alden N. Whitcomb, 181 North Daly Street; Edw. W. Whitcomb, 181 North Daly Street; Emma W. White, Hotel Victoria, Second and Hope; Zell A. Wood, 909 Manhattan Place.

ENTRYMEN ON THE PALO VERDE MESA.

In Los Angeles only: John W. Anderson, 1096 West Jefferson Street; Everett E. Atkins, 4150 South Main Street; Sidney M. Barbour, 1709 West Twenty-fifth Street; Emory W. Bartlett, 603 East Thirtieth Street; Ruth T. Bayley, 178 South Oxford Avenue; William A. Brown, 4242

South Flower Street; Walter H. Butler, 1314 Orange Street; Arden R. Cleveland, 1081 West Thirty-fifth Street; James M. Clinard, 219 East Adams Street; George R. Copelin, 849 East Twenty-third Street; William H. Cramer, 1171 West Thirtieth Street; Julian F. Cumberland, 131 West Avenue 51; George J. Dameral, 412 South Broadway; Walter V. Dowell, 512 Laughlin Building; John H. Engler, 410 West Second Street; Elizabeth J. Eagen, 2354 Seventh Avenue; Fred W. Eagen, 609 Fay Building; Lyman Farwell, 618 Fay Building; Victor F. Finley, 441 South Hope Street; Benjamin F. Frease, 1143 East Forty-eighth Street; Edwin F. Frease, 1143 East Forty-eighth Street; Bert O. Gardner, Chamber of Commerce; William D. Hammel, 1128 San Pedro Street; Edna M. Hildebrandt, 1110 East Eighth Street; Maud A. Hodge, 519 Crocker Street; Maurice J. Jones, 1616 Griffith Avenue; Netta S. Kaus, 1136 South Alvarado Street; A. H. Koebig, 841 Title Insurance Building; A. H. Koebig, jr., 841 Title Insurance Building; William H. Kruse, 1501 Central Avenue; Curtis H. McClure, 235 East Second Street; J. N. King, 1158 Townsend Avenue (or Blythe); Erwin H. Mack, 2316 Lincoln Street; Fay M. Manatt, 1039 South Union Avenue; William Marshall, care of Equitable Branch Security Trust & Savings Bank; Margaret I. Martin, 1820 New England Street; Cynthia Mender, 1012 North Alvarado Street; E. A. Montgomery, 409 Columbia Trust Building; Beatrice Moore, 2811 Maplewood Avenue; George V. Morrison, 1850 New England Avenue; Albert E. Nicholls, 1128 San Pedro Street; Harry Peterson, 134 West Thirtieth Street; Jefferson A. Phillips, 927 East Twenty-ninth Street; George Popkin, 451 South Spring Street; Edith M. Remalia, 835 South Olive Street; Meta E. Remalia, 2370 West Twentieth Street; John C. Reutch, 1424 Vernon Avenue; Edward J. Rodden, 2219 West Sixteenth Street; James C. Rush, 219 East Adams Street; Mary Rush, 219 East Adams Street; Susie B. Rush, 219 East Adams Street; J. L. Ryder, 2017 Pasadena Avenue; Frank Selch, 333 Crocker Street; Fred Sayles, 121 West Ninth Street; Julius Shwerdtferger, 816 West Jefferson Street; Louis Scobey, 1516 Maple Avenue; George T. Shepard, 926 Santee Street; Edward Siebke, 2727 Dalton Avenue; Elsie T. Simpson, 131 West Fortieth Place; W. H. Slabaugh, 2014 Vermont Avenue; Edwin E. Smith, 1146 East Thirty-third Street; Arthur W. Stevens, 1406 Burlington Avenue; Ernest Sunshine, 145 Chestnut Street; Everett W. Vaughn, 423 East Twenty-third Street; George Vaughn, 423 East Twenty-third Street; Mary C. West, corner Twenty-fifth Street and Seventh Avenue; George L. Wight, 317 West Seventieth Street; Albert W. Wilding, 1630 North Thirty-seventh Place; Clarence E. Wiley, 948 East Twenty-third Street; William J. Woods, 504 Fremont Avenue; A. R. Hineth, Citizens' Bank Building; F. L. Mc-Mechen, Citizens' Bank Building; Dr. C. F. English; William Lord, general delivery; Miss E. B. Stephens, Bixel Street; R. Sandoval, 1451 East Fifty-first Street; Mrs. Bertha M. McConnell, 218 East Forty-third Street.

Afton (via Verona): Mrs. Nettie Galbraith.

Alhambra: Josephine B. Woolverton, 926 North Garfield Avenue; Minta G. Woolverton, 926 North Garfield Avenue.

Altadena: Abraham L. Holling.

Anaheim: Francis M. Dowling, R. F. D. No. 3.

Angels Camp: John A. Bracco, George M. Brodie, Archie O. Dunbar, George D. Garland, Fred B. Jones, T. H. Ryan Jones, August May, Dr. George P. Pache, James Redding, James A. Snow, Albert C. Wilson.

Lassa: Cora C. Du Bois, Peter V. Du Bois, Katherine W. Pobes.

Arcadia: George L. Tucker.

Arlington: Clason S. Burgess.

Bakersfield: John W. Dunn.

Baldwin Park: Gus O. Dodson.

Berkeley: Andrew Moore, 1320 Arch Street; Arthur B. Smith; Robert H. Harding, 1410 Spring Street; Fanny D. Moore, 1320 Arch Street.

Biola: Henry L. Schmidt.

Blanco: Samuel Black, jr.

Boulder Creek: John R. Slunott.

Bloomington: David M. Waddell.

Blythe: Tyndall Bolce, Abner F. Bowen, Dr. Alexander Brown, Mrs. Lucilla M. Clayton, Mrs. Anna G. Green, William A. Hadden, Ernest Hubner, Charles D. Patterson, Charles E. Yost, John I. Bunch, Albert T. Clayton, Basil De Meyer, George England, Charles E. Fine, Andrew A. Graham, John R. Graham, William G. Graham, Edward A. Green, Joseph W. Hopkins, Anna M. Hulett, Henry R. Hulett, Lillian Hulett, John H. Kerley, Elmer Layton, George A. Layton, John E. Long, Johnston McElroy, George C. Rice, Ernest F. Smith, Robert Tankard, Guy H. Waltman, Henry Baumann, Charles H. Pipher.

Brawley: Phillip Doetsch, Frank Hooley, John Schwartz, Milton A. Conner, Walter A. Simons.

Clearwater: Sarah E. Blake, James M. Williams.

Chico: James B. Rowray.

Coalinga: Merl L. Boles, care W. K. Oil Co.; Maud L. Corona, box 988; William H. Garrigan, box 717; David F. Harpster; Frank M. McWreath.

Congress Junction, Ariz.: William H. Borders.

Colton: Earl P. Burke.

Compton: Louis I. Finn, R. F. D. No. 2.

Chicago, Ill.: Joel Spitz, 529-531 South Franklin Street.

Corona: William T. Blackman; J. G. Daniels; Martha C. Ford; Glen D. Francisco, box 252; Gottfield C. Hirtz, R. F. D., care Mr. Robinson; Ancil T. Hoffman, box 177; Lewis C. Kirby; Sarah R. Kirby; Walter E. Korn; Clarence McDaniels, box 151; James L. Parks, box 1788; E. E. Penprase, box 204; George M. Roberds; Anton Scherman, jr.; August J. Steinke; Hiram C. Strauss; Elzie Veach; George H. Walker; Andrew J. Ware; Jasper N. Wells; Hal H. Wood, R. F. D. No. 1; David M. Browning; Lawrence F. Malone; Cecil B. Randall; Charles W. Wrestler; William H. Sargent.

Courtland: L. R. Beckley, Charles E. Hollister, Frank E. Hollister.

Corina: Herbert E. Longbeed, Garnet Lovely, Marie G. Lovely.

Cross Landing: Peter Stewart.

Cupertino: George W. Glendenning; Anna D. Lydiard; Harry B. Lydiard; William M. Scott, R. F. D. No. 11; Alma E. Sims; Thomas J. Streeter.

Downey: Phillip S. Jewell, R. F. D. No. 1, box 147; Patrick F. Ryan; William C. Showalter.

Danville: Ellis Price.

Davenport: Menno S. Price.

Exeter: Evalena Ballor.

Fort Bidwell: Robert H. Wilson, care F. N., Bidwell News.

Fullerton: Harry F. Dalrymple; Manager Good; Jesse Goodwin; William A. Goodwin; James F. Hixon; C. N. Lacock, box 212; Orion W. Lillie; Albert M. Russell, R. F. D. No. 1; Arthur Staley; Drusilla Staley; George W. Jenkins, jr.

Fairfield: George A. Mouey, care superior court, Solano County.

Felton: William C. Stevenson.

Glendale: Elmer E. McQuivy, 1551 Ivy Street; Lilly H. McQuivy, 1551 Ivy Street; Arthur T. Winterscill, 111 North Louise Street.

Gardena: M. A. Schofield (for H. M. Zurbuchen).

Glendora: Wallace L. Howard, Frank M. Kubry, Daniel H. Mauerhan, Fred C. Neet, Cyrus W. Wilhite.

Glenwood: Edwin S. Martin.

Gonzales: Charles W. Parsons.

Hanford: James N. Hoyt.

Huenemee: Wilmot C. White.

Hollywood: Henry A. Lohiker, 124 Chester Court; Ada M. Sheppard, 6919 Hawthorne Avenue; Roy Sheppard, Idaho Falls, Idaho; Will C. Sheppard, 6919 Hawthorne Avenue; Harriet M. Zurbuchen, care M. A. Schofield, Gardena.

Hynes: Lizzie Hughes.

Jackson: Elmer D. Boydston, William H. Greenhaigh, Mrs. Addell Zumbiel, Edwin V. Zumbiel.

Jamestown: George T. Black; Mrs. Josephine T. Black; Joseph P. Cardoza; Dr. C. E. Congdon; Mrs. Helen L. Davenport, Hotel Neville; Charles N. Hamblin; John E. Nolan; Luther W. Smith; Ben F. Stine.

King City: William M. Braunstetter; Frederick Burchard, box 87; Henry A. Burchard, box 87; Hans J. Lang; George A. Martin; Mrs. Belle Talbott; Paul Talbott.

Lindsay: Sidney A. Allen, Albert Ford, Effie M. Griswold, Oliver J. Griswold.

La Canada: Miss May C. Young.

Lodi: Frank F. Irey.

Lompoc: Thomas S. Archer, Ernest Eckert, Ray B. Saunders.

Long Beach: Mrs. E. Brownburger, 143 Chestnut Street; P. W. Barrett, 147 East Ocean Avenue; John B. Burke, 1819 East Fourth Street; Fred A. Curtis, No. 2, box 87; Clifford C. Doran, Hotel Del Mar; Joe M. Sewell, 630 Linden Avenue; Chester H. Brockway, 529 New York Street; Orolnsey S. Brockway, 829 New York Street; Frank J. Curtis, No. 2, box 87; George E. Curtis, No. 2, box 87; Millard F. Curtis, No. 2, box 87.

Lordsburg: E. H. Bixby, L. H. Bixby, Mrs. Margaret C. Bixby, Sadie P. Bixby, Charles M. Harvey, R. T. Soper, A. A. Woelk.

Los Gatos: Arch L. Culker, John M. Culker.

Manhattan, Kans.: A. B. Smith.

Martinez: Albert L. Dooley.

Mecca: P. S. Gruendike.

Mesarilla: W. H. Saults, Robert N. Coffey, Christian T. Lang, J. E. Pierson, T. E. Poore, Paul S. Knight, Mrs. J. E. Knight.

Modesto: Fidelia A. Lukins.

Monrovia: Dr. Joseph E. Pottenger, Hal Maxwell Stemons.

Murphys: John A. Manuel, Raymond T. Manuel, David E. Roberts.

Napa: William J. Chalk.

Neighbors: Arabella E. Bodkin, Jane Nelson, Clarence E. Vertrees.

Nordhoff: Henrich P. Hess.

Oakland: Harry R. Browne, 590 East Twentieth Street; George P. Clough, 1472 Ninth Avenue; Samuel F. Rutter, 1516 Eighth Avenue; Henry F. Wintermeyer, 2323 Twenty-fifth Avenue, East Oakland.

Ocean Park: Simon L. Hardman, 2650 Main Street; William M. Kendall, post-office box 294; Charles G. Reed, box 327; Frank W. Seager, 3018 Third Street.

Oswego, Oreg.: John Q. Jamieson, R. F. D. No. 1, box 169.

Orange: Samuel A. Luke; James Nickle; Vernon S. C. Barger; Henry Schaffert; Albert C. Storum, 118 Olive Street.

Oxnard: Francis L. Scoles, 250 D Street; Anthony H. Wittman, 226 E Street.

Pasadena: E. I. Ames, R. F. D. No. 1, box 228; Corda L. Anderson, 37 East Walnut Street; George N. Anderson, 37 East Walnut Street; George W. Collis, 58 East Colorado Street; Laura S. Eddy, 425 North Orange Grove Avenue; William W. Fitch, R. F. D. No. 11, box 120; M. H. Hannum, 825 Park Avenue; William I. Harding, 523 North Galena Avenue; Moses A. Hughes, 335 Park Street; George Wharon James, Avenue; Charles W. Mann, 148 South Grand Avenue; 1098 Raymond Avenue; Harry S. O'Brien, 790 Garfield Lenore Meyer, 556 Prospect Avenue; Alice M. Skinner, 556 Avenue; Charles Pinnick, 37 East Walnut Street; Lulu M. Prospect Avenue; Aug. C. Skinner, 556 Prospect Avenue; Tillie Burns, 721 Mound Avenue, Anderson, 37 East Walnut Street; Laura S. Eddy, 425 North South Pasadena; Frank L. Carr; Lizzie Carr, 88 North Marengo Avenue; Rachel N. Hammel, 177 North Los Robles Avenue; Guy R. Jacobs, 1180 North Wilson Avenue; Mrs. A. W. Cimerich, 858 Summit Avenue; William F. Kruger, 37 East Walnut Street; Alfred H. Lovely, 721 Mound Avenue, South Pasadena; Dr. Z. T. Malaby, 666 North Raymond Avenue; Benjamin A. Moll, 445 North Wilson Avenue; Eliza J. Slaven, 345 Stevenson Avenue.

Pomona: William H. Manchester, 749 North Gordon Street; Frederick C. Thomas; Mr. Burke.

Perris: Frank Kramer.

Perris: Harvey A. Shiffer.

Port Costa: Louis J. Delos.

Phoenix, Ariz.: Mabel Ward, care Ward & Billson Nursery Co.; H. L. Billson, care Scottsdale stage; Mrs. H. L. Billson, care Scottsdale stage; Ray W. Ward, care Scottsdale stage.

Princeton: Justin C. Crowell, Thomas E. Davies.

Pueblo: Lee Craig.

Quincy: Robert N. Fletcher.

Ramona: Florence M. Johnston, Eliza S. Curtis, Joseph Fountain, John Klink, Carl A. Benson, Josef Siebold, Helen M. Marlow, John P. Snyder, Milton K. Handy.

Redlands: Francis L. Chamberlain, James H. Richards, William E. Bleeke, William H. Goodrich, William Leistico, Richard R. Tatnall.

Redondo Beach: William N. Perry, 200 Pacific Avenue.

Rio Vista: Emory J. Fraser, Murray L. Isham, Daniel McCormick, Ethel P. McCormick, Agnes M. Stewart, William A. Stewart.

Ripona: Leroy A. Pawley, R. F. D. No. 1; Verd M. Anderson, R. F. D. No. 10.

Riverside: Edward T. Grundstrom, Ninth and Main Streets; Irving M. Huberty, 309 Magnolia Avenue; Charles G. Reynolds, 187 East Arlington Avenue.

Salinas: Dr. George F. Faulkner, Albert C. Hensen, Christen H. Hansen, George T. Scott.

San Bernardino: George L. Barrows; Ben Humphreys; Harriet J. Humphreys, 147 Seventh Street; Mathew A. Humphreys, 147 Seventh Street; Ola M. Lawrence; Mary A. Sedgwick; Albert G. Knight, 404 Tenth Street; Harold T. Merritt, 404 Tenth Street; George G. Oldaker, 276 Mount Vernon Avenue.

San Diego: Benjamin L. Hinman, care Brewster.

San Dimas: Charles A. Butler, George M. Butler, Maurce Du Bois, Frank H. Harwood, Frank A. Hickman, Percy A. Johnstone, William R. Johnstone, J. E. McFadden, John F. McLean, Elisha Mitchell, Christa T. Muggelberg, Herbert J. Phelps, Wilson M. Smith, Elizabeth H. Taylor, Lucien S. Taylor, David C. Teague, Elmer E. Teague, Minnie E. Teague, Robert M. Teague, Russell W. Teague, Edward W. Thomas, Myrtle R.

Thomas, Raymond A. Torrey, Genevieve Walker, Harry E. Walker, Loyal O. Whitmer.

San Fernando: William J. Millen.

San Francisco: Edgar Vertrees, Clarence E. Vertrees.

San Jacinto: Edgar Vertrees, Clarence E. Vertrees.

San Francisco: I. A. Cottingham, 3319 Jackson Street; Robert J. Craig, 205 Tehama Street; John R. Cunningham; Gus Davis, 2135 Sutter Street; Arthur R. Eddy, 51 Hill Street; Joseph S. Harlan, 809 Pierce Street; Lelia Harlan, 809 Pierce Street; Edw. C. Johnson, 439 Jones Street; Louis P. McGettigan, 40 Belvidere Street; Reginald H. McKnig, 1000 First National Bank Building; Homer W. Norton; H. M. R. Rodman, 2020 Howard Street; Charles F. Rutter, 1752 Steiner Street; Margaret Rutter, 1752 Steiner Street; Alexander E. Sim, 157 Sutter Street; Edward T. Taylor, 94 Walter Street; Sol. J. Vogel, care New York Life Insurance Co.; George N. Williams, 1001 Pine Street; Hal A. Curtis, Empire Theater; Margaret E. Hatton, 1111 Pine Street; Albert M. Howe, 1756 Fell Street; Edgar L. Lewis, 2424 Buchanan Street; Frederick M. Lewis, San Marco Hotel; Harry F. Lewis, 510 Battery Street; Martha L. McKaig, 2022 Fell Street; Florence Moore, Keystone Apartments; Joseph A. Moore, 840 Cole Street; Dr. Louis S. Moore, corner Maine and Howard Streets; Mary A. Rethers, 2900 Scott Street; Theodore C. Rethers, 2900 Scott Street; Henry Rosenfeld, 1024 Merchants Exchange; Louis Rosenfeld, 1024 Merchants Exchange; R. S. Shainwald, 34 First Street; George B. Thornton, care American-Hawaiian Steamship Co., Pier 23; Fanny D. Moore, 1320 Arch Street.

San Jose: James Beatty, First National Bank Building; Henrietta K. Beatty, First National Bank Building; William J. Close, 31 West Santa Clara Street; Earl B. Isham, 297 North Third Street; Mrs. Clara R. Long, 655 South Sixth Street (care Rev. George I. Long); Rev. George I. Long, 655 South Sixth Street; Frank W. Luther, 601-602 First National Bank Building; Edgar E. Lynch; Arden H. Michener; Fred J. Rugg, 341 North Crittenden Street; William E. Stevens, 60 South Seventh Street.

San Pedro: Louis Levy; Gustav Litschke, 420 Beacon Street.

Santa Barbara: Ira C. Goodridge, care The Upham.

Santa Clara: Arthur E. Graham.

Santa Cruz: C. P. R. Adney, care William H. Bias; Robert B. Bias, 73 Walnut Street; William H. Bias; Philip P. Bliss; Christian Buch; Mrs. Charles H. Cornell, 177 North Braciforte Avenue; William H. Crowe, 406 Ocean Street; William D Crumpton; F. A. DeCray; Henry H. Hrapwell; Henry J. Godfrey; Abraham C. Grover; George H. Harrington; Henry Hertz; Peter M. Kimmey; Charles Lewis; Matt R. Marko, 28 Franklin Street; Mathilde Metzler; William W. Morley; Leonard J. Nehf; Ella St. C. Orton; Frank H. Parker; C. S. Price, superintendent of schools; William E. Vanderwort; Willett Ware; Dr. F. D. Webley, corner Brighton Avenue and East Cliff Drive; George W. Whitney; Joseph T. Winterholder; Benjamin C. Wise.

Santa Monica: Bertha C. Chase, 313 Nevada Avenue, box 346; Arthur A. Weber.

Santa Paula: Albert Hofmeister.

Santa Rosa: Charles Hallowell.

Saratoga: John L. Pendleton, Charles S. Pendleton.

Sawtelle: Perry A. Ball, Soldiers' Home; E. J. Calhoun, 614 Fourth Street; James Hill, Soldiers' Home; Oscar R. Lord, Soldiers' Home; George Raper, Soldiers' Home; John W. Ball; Edwin L. Barnard; Charles G. Bunting, Soldiers' Home; Benjamin F. Cook, Soldiers' Home; George B. Dunkin; Henry C. Gilbert; William Hasse, Soldiers' Home; Dr. Augustus B. Hromadke; Julia A. Johnson; Lydia J. Ledwith; Samuel A. McCorrison; Abraham Palmer; Arthur C. Seward; Gilbert Tull.

Sebastopol: Olive T. Allen.

Selma: Charles Hallowell.

Sonora: Joseph M. Buthenuth, Harris J. Cofill, Dr. E. T. Gould, George A. Howard, Bertha M. Kahl, Rebecca Lick, Roy T. McNeely, George Michel, Gilbert M. Voorheis.

Soquel: Albert F. Davis, George Cunnison.

Spreckels: Stanley A. Gandy, Jennie E. Moore, James R. Riley, George E. Stadler, Ralph H. Moore.

Stockton: Dr. L. M. Haight; Reinhart Hall, 229 East Oak Street; Francis M. Johnson, care Dr. Fitzgerald, Elks Building; George E. McLeod, 9 South Hunter Street; Joseph W. Manuel, 212 West Acacia Street; John W. Moore; Luke W. Peart, care Heald's College; Benjamin M. Woodhull, 1115 East Weber Avenue.

Suisun: Frederick A. Butterfield, Mary E. Crocker, box 53; James A. Keys, Charles E. Mayfield, May A. Mayfield, James S. Polland, Robert Stewart, Augustus C. Tillman, Alexander E. Trainor, George C. Trainor, Dr. F. E. Webster.

Terra Bella: Harry G. Hutchins.

Tipton: A. C. Walsh.

Tracy: Henry Schmidt, Wilhelm Schmidt.

Vallejo: John H. Brennan, Albert R. Casper, Valentine Hathaway, Fred H. Heegler, Gustave O. Klotz, John E. Paulson, Eva F. Suydam.

Visalia: Charles C. Robinson.

Waterman: Laverne L. Freeman; Oliver L. Morton, care L. L. Freeman.

Watts: Hays Anderson, Joseph Burgess, Lemuel L. Ellis, Delos E. Gamble, William L. Summers, Charles A. West, James H. West, Myrtle A. West, Arthur R. Wilms.

Westminster: E. C. Phelps.

Westgate: Louis H. Duryee, Lawrence G. Marshall, Francis J. Folsom.

Whittier: Omer S. Coppock; Kittie A. Coulthurst, care William H. Coulthurst; Harry A. Eckert; Rev. N. T. Edwards; Ruby L. Faucett; Nellie W. Keen, care Scott Keen; Amos C. Maple; John Neal, care Robert Neal; Arthur C. Pickering; Cecil E. Pickering; William J. Randall; Reba Randall; V. A. Reynolds; Agnes R. Sargent; Prof. R. E. Smith; Estelle Stevens, care Alfred J. Stevens; Albert K. Tanner; Emit Tanner; Parmelie Tanner; Anna M. Todd, care Joseph Todd; Charles G. Warner, 637 North Washington Avenue; May L. Warner, 637 North Washington Avenue; Herbert E. White; Laura A. Yale; Eddie W. Reider, 514 East Bailey Street; Elizabeth R. Saxman, 140 Newlin Street; Jessie C. Smith, 516 East Camilla Street.

EXCHANGE LANDS FOR SCHOOL SECTIONS IN RESERVATIONS.

The next business on the Calendar for Unanimous Consent was the bill (S. 5068) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes.

The Clerk read the bill at length.

Mr. MANN and Mr. MARTIN of South Dakota reserved the right to object.

Mr. MANN. Mr. Speaker, I hope the gentleman from California will ask to have this go over without prejudice. It is pretty late in the day, and I do not know whether anybody is to object or not, but I want to be heard for a few moments upon the bill.

Mr. RAKER. I am perfectly willing to do so, but this is the last bill that will be taken up.

Mr. MANN. It is?

Mr. LAFFERTY. How does the gentleman know? I have got a bill on the calendar.

Mr. MANN. The gentleman speaks by the card. But I can say to him that we are not going to take this one up. I think there are several little bills, however, that gentlemen would like to get through which are unobjected to. If this comes up it will take some little time. It is a Senate bill, and I shall ask for the regular order.

The SPEAKER. The gentleman from Illinois demands the regular order, and the regular order is, Is there objection?

Mr. MARTIN of South Dakota. Mr. Speaker, unless I am permitted to reserve an objection I will make it, but I am perfectly willing to reserve it.

Mr. FERRIS. Mr. Speaker, along early in the afternoon, when a companion House bill to this was up and had a good chance to be considered, the gentleman from Illinois suggested that we let it go by, so that we could take up the Senate bill. Now, does not the gentleman think it would be right to let the gentleman from California take up his bill, because he lost his opportunity early in the day?

Mr. MANN. The gentleman did not lose his opportunity; he had no opportunity.

Mr. FERRIS. The gentleman from Illinois will remember the conversation.

Mr. MANN. I remember the facts and the conversation.

Mr. FERRIS. Have I misstated them?

Mr. MANN. I do not think the gentleman has, but he has drawn an inference that ought not to be drawn from the facts. I do not think there is any necessity of wasting time in taking the bill up to-night. I do not desire to sit here late in the evening, but I wish to be heard for a few moments on the bill if it is taken up. If that is not satisfactory to the gentleman from California, I will ask for the regular order.

Mr. FERRIS. I think it would follow from the fact that the gentleman from Illinois suggested that——

Mr. MANN. I did not suggest anything, because I was going to object to the House bill. The gentleman had a Senate bill in another place on the calendar.

Mr. FERRIS. That is precisely what I said.

Mr. MANN. There was no act of bad faith.

Mr. FERRIS. I did not charge that.

Mr. MANN. Well, I think the gentleman rather intimated it.

Mr. FERRIS. Oh, not at all. The gentleman is never in bad faith. I merely thought it would appeal to him.

The SPEAKER. Is there objection?

Mr. MARTIN of South Dakota. I object.

BOARD OF REGENTS, SMITHSONIAN INSTITUTION.

The next business on the Calendar for Unanimous Consent was Senate joint resolution 156, to appoint George Gray a member of the Board of Regents of the Smithsonian Institution.

The Clerk read the Senate joint resolution, as follows:

Resolved, etc., That the vacancy in the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, shall be filled by the reappointment of George Gray, a citizen of Delaware.

The SPEAKER. Is there objection?

There was no objection.

The Senate joint resolution was ordered to a third reading, was read the third time, and passed.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 3175. An act to regulate the immigration of aliens to and the residence of aliens in the United States.

FINAL PAYMENT FOR LANDS, UMATILLA RESERVATION, OREG.

The next business on the Calendar for Unanimous Consent was the bill S. 3225, an act providing when patents shall issue to the purchasers or heirs of certain lands in the State of Oregon.

The Clerk read the bill, as follows:

Be it enacted, etc., That all persons who have heretofore purchased any of the lands of the Umatilla Indian Reservation, in the State of Oregon, and have made or shall make full and final payment therefor in conformity with the acts of Congress of March 3, 1885, and of July 1, 1902, respecting the sale of such lands, shall be entitled to receive patent therefor upon submitting satisfactory proof to the Secretary of the Interior that the untimbered lands so purchased are not susceptible of cultivation or residence, and are exclusively grazing lands, incapable of any profitable use other than for grazing purposes.

SEC. 2. That where a party entitled to claim the benefits of this act dies before securing a patent therefor, it shall be competent for the executor or administrator of the estate of such party, or one of the heirs, to make the necessary proofs and payments therefor to complete the same; and the patent in such cases shall be made in favor of the heirs of the deceased purchaser and the title to said lands shall inure to such heirs as if their names had been especially mentioned.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. FERRIS. Mr. Speaker, I ask unanimous consent to consider the bill in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The bill was ordered to a third reading, was read the third time, and passed.

On motion of Mr. FERRIS, a motion to reconsider the vote whereby the bill was passed was laid on the table.

TO INCREASE THE EFFICIENCY OF THE NAVY AND MARINE CORPS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24225) to amend an act entitled "An act to reorganize and increase the efficiency of the personnel of the Navy and Marine Corps of the United States," approved March 3, 1899.

Mr. MANN. Mr. Speaker, to save time, unless the gentleman from Texas asks to have this passed over, I shall object.

Mr. GREGG of Texas. If the gentleman from Illinois is going to object I ask that it be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

TITLE TO CERTAIN LAND IN BALDWIN COUNTY, ALA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 11478) to quiet title and possession with respect to a certain unconfirmed and located private land claim in Baldwin County, Ala., in so far as the records of the General Land Office show said claim to be free from conflict.

The Clerk read the bill, as follows:

Be it enacted, etc. That all the right, title, and interest of the United States in and to the lands situate in section 44, township 1 north, range 2 east, and section 49, township 1 north, range 1 east, containing 639.97 acres, in Baldwin County, Ala., known as the Francis Girard grant, shall be, and the same are, in so far as the records of the General Land Office show the said land to be free from conflict, hereby directed to be granted, released, and relinquished by the United States, in fee simple, to the respective owner or owners of the equitable titles thereto and to their heirs and assigns forever as freely and completely, in every respect whatever, as could be done by patents issued therefor according to law.

SEC. 2. That nothing in this act shall in any manner abridge, divest, impair, injure, or prejudice any valid right, title, or interest of any person or persons in or to any portion or part of the lands mentioned in the said first section, the true intent of this bill being to relinquish and abandon, grant, give, and concede any and all right, interest, and estate, in law or equity, which the United States is or is supposed to be entitled to in said lands, in favor of all persons, estates, firms, or corporations who would be the true and lawful owners of the same under the laws of the State of Alabama, including the laws of prescription, in the absence of the said interest and estate of the United States.

SEC. 3. That the Department of the Interior shall cause patents to issue for such lands, and such patents shall issue in the name of the original claimant, and when issued shall be held for the use and benefit of the true and lawful owner or owners, as provided in sections 1 and 2 of this act.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to have the gentleman tell us what this is.

Mr. FERRIS. Mr. Speaker, this bill seeks to acquire title to about 414.5 acres of land that were acquired under the Girard grant. It was always assumed that the grant was confirmed by the act of 1819, but the Interior Department says that is not true. It says it was not approved. The bill only seeks to confirm the title to that portion of the grant which is not in conflict, and the Interior Department says that the 414.5 acres are not in conflict. The Interior Department in its letter suggests an amendment to the end that the Federal Government will not be seeking to confer title to some one, being left in the attitude of an insurer of title. We have modified the bill and amended it so that it meets with the approval of the department. The department's letter is of date July 24, 1912, signed by the Assistant Secretary, Samuel Adams. He recommends it. The bill was before his predecessor, Mr. Ballinger, and he recommended it. The land has been occupied and owned and held for so long that I think there can be no possible objection to the bill. The same care about confirmations and perfecting of title did not prevail then that is now present. There can be no possible objection to the bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. FERRIS. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, strike out line 4 and insert "persons, estates, firms, or corporations, who would be the true and lawful owners of the same under the laws of Alabama, including the laws of prescription had the private land claim of the said Francis Girard been confirmed by the third section of the act of March 3, 1819 (3 Stat., 528)."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. FERRIS, a motion to reconsider the vote by which the bill was passed was laid on the table.

TERMS OF UNITED STATES COURT AT NEWARK, N. J.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 28994) to amend section 96, chapter 5, of the act of Congress of March 3, 1911, entitled "The Judicial Code."

The Clerk read the bill, as follows:

Be it enacted, etc., That section 96, chapter 5, of the act of Congress approved March 3, 1911, and therein designated "The Judicial Code," be amended so that the same shall read as follows:

"SEC. 96. The State of New Jersey shall constitute one judicial district, to be known as the district of New Jersey. Terms of the district court shall be held at Newark on the third Tuesday in January, the first Tuesday in May, and the third Tuesday in October, and at Trenton on the first Tuesday in April, the third Tuesday in September, and the first Tuesday in December. The clerk of the court for the district of New Jersey shall maintain an office, in charge of himself or a deputy, at Newark and at Trenton, each of which offices shall be kept open at all times for the transaction of the business of the court; and the marshal shall also maintain an office, in charge of himself or a deputy, at Newark and at Trenton, each of which offices shall be kept open at all times for the transaction of the business of the court."

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I reserve the right to object. What is the necessity for holding court at Newark?

Mr. McCOY. Mr. Speaker, the necessity arises from the fact that most of the business done in the United States courts in the district of New Jersey arises in the northern counties. More than half of the population of the State is in those northern counties and still there is no term of court held except in Trenton.

Mr. MANN. I suppose this bill was prepared after some consideration and possibly consultation. It was introduced on January 15, reported on January 28, and nearly every date that was in the original bill is changed by amendments. Is this in conformity with the wishes of the people over there?

Mr. McCOY. Mr. Speaker, the bill as introduced provided for six terms, three in one place and three in another, but after consultation with the two judges of the United States district courts and with attorneys in the northern part of the State it was agreed that the four terms would be sufficient—two in Newark and two in Trenton.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. McCOY. Mr. Speaker, I ask unanimous consent that it be considered in the House as in the Committee of the Whole.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the amendments.

The Clerk read as follows:

Line 10, page 1, strike out the words "the third Tuesday in January" and the word "May" and insert in place of the word "May" the word "April."

Line 11, page 1, strike out the word "third" and insert in place thereof the word "first." Strike out the word "October" and insert in place thereof the word "November."

Line 1, page 2, strike out the words "first Tuesday in April the" and the word "September" and insert in place of the word "September" the word "January."

Lines 2 and 3, page 2, strike out the word "first" and insert in place thereof the word "second." Strike out the word "December" and insert in place thereof the words "September of each year."

The SPEAKER. The question is on agreeing to the amendments.

The amendments were agreed to.

The SPEAKER. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. McCOY, a motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS MISSISSIPPI RIVER, BATON ROUGE, LA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25762) for the construction of a bridge across the Mississippi River at or near Baton Rouge, La.

The Clerk read as follows:

Be it enacted, etc., That the Baton Rouge Bridge & Terminal Co., a corporation organized under the laws of the State of Louisiana, its successors and assigns, be, and are hereby, authorized to construct, maintain, and operate a bridge, and all approaches thereto, across the Mississippi River at or near the city of Baton Rouge, La., at a point suitable to the interests of navigation, in accordance with the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906: *Provided*, That said bridge shall be so constructed, maintained, and operated that, in addition to its use for railroad trains and trolley cars, it shall provide for a separate roadway and approaches and continuous use by the public as a highway bridge, to be used for all kinds of highway traffic and travel, for the transit of which reasonable rates of toll may be charged and received, but no rate for passage of a single passenger on a railroad train shall exceed 25 cents.

SEC. 2. That the Interstate Commerce Commission shall have authority to make rules and regulations for the use of this bridge by any other common carrier engaged in interstate commerce at any time any other such common carrier may desire to use it jointly, and the Interstate Commerce Commission is authorized to fix charges for any such joint use, and such charges shall be based upon the relation that the proportionate use of each carrier bears to the interest of the net income from the sale of bonds to the amount of the actual cost of construction.

SEC. 3. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I notice the War Department reports that this bill is in the usual form, which it is not. I would like to ask the gentleman who has charge of the bill why there is a departure in this bill from the usual form with reference to bridge bills, and why we should pass a bill authorizing the charge of 25 cents to each passenger on a train crossing the bridge. The bill says not to exceed 25 cents, and I assume it is 25 cents. I would like to ask why it is not left within the control of the War Department, which would have control under the general bridge act without this specific provision in it?

Mr. BROUSSARD. Mr. Speaker, the gentleman from Illinois will notice that the committee has stricken out that portion of the bill to which he refers.

Mr. MANN. I did not hear the gentleman.

Mr. BROUSSARD. I said the gentleman from Illinois will notice that the committee has stricken out that portion of the bill to which he refers.

Mr. MANN. I beg the gentleman's pardon. It has done nothing of the kind; the gentleman is mistaken. The committee has reported striking out section 2, but what I refer to is in the first section, under the proviso, the last part of which reads, "but no rate for passage for a single passenger on a railroad train shall exceed 25 cents."

Mr. BROUSSARD. The proviso reads:

Provided, That said bridge shall be so constructed, maintained, and operated that, in addition to its use for railroad trains and trolley cars, it shall provide for a separate roadway and approaches and continuous use by the public as a highway bridge, to be used for all kinds of highway traffic and travel, for the transit of which reasonable rates of toll may be charged and received, but no rate for passage of a single passenger on a railroad train shall exceed 25 cents.

Mr. MANN. The last part is what I read.

Mr. BROUSSARD. Now, the gentleman asks, as I understand it, why the 25 cents was put in this bill. It was only a restriction upon the charges that may be placed upon passengers going across this bridge.

Mr. MANN. Well, I think it would be construed as authority to charge 25 cents, whereas without that provision the War Department may determine that 10 cents is enough, as it probably is.

Mr. BROUSSARD. I am perfectly willing for that to go out, if the charge seems to be too high, because what we are seeking to secure by this bill is a bridge across the Mississippi River where five great roads run to the river at a little town across from the capital of the State, Port Allen, and to be permitted to cross the river on a bridge provided for by this company organized for that purpose, and if the charge for passengers be too high in the gentleman's opinion, I am perfectly willing to eliminate that charge. In fact, as the gentleman will see by section 2, we wanted the Interstate Commerce Commission to fix the charge.

Mr. MANN. I take it it is a railroad and wagon bridge.

Mr. BROUSSARD. Yes; that is what it is.

Mr. MANN. That is all covered in the general bridge act without this proviso in the bill.

Mr. BROUSSARD. I am perfectly willing to strike out the proviso. We wanted the commission to regulate the charges on this bridge as we originally introduced the bill, but the Interstate Commerce Committee thought proper to strike out that provision.

Mr. MANN. The gentleman may not understand that under the general bridge law the Secretary of War can regulate this absolutely.

Mr. BROUSSARD. Without any specific declaration?

Mr. MANN. Without any specific declaration at all.

Mr. BROUSSARD. I should welcome the gentleman's amendment.

Mr. MANN. They have that authority, and that is far better for the security of the people than even the Interstate Commerce Commission.

Mr. BROUSSARD. I will strike out that portion of the bill which limits the charge which shall be made for passengers going over the bridge. What we are seeking to do is to get the bridge.

Mr. MANN. I think the gentleman would be a great deal better off if he would move to strike out the proviso in section 1. He will be in better position to get the bridge.

Mr. BROUSSARD. Mr. Speaker, I move to strike out the proviso in section 1.

The SPEAKER. Is there objection to the consideration of this bill?

Mr. MOORE of Pennsylvania. Mr. Speaker, reserving the right to object, I would like to ask the gentleman how far this bridge would be from the city of New Orleans?

Mr. BROUSSARD. It will be about 80 miles up the river.

Mr. MOORE of Pennsylvania. That is, the distance from New Orleans to the capital of Louisiana?

Mr. BROUSSARD. From New Orleans to Baton Rouge.

Mr. MOORE of Pennsylvania. Is it to be a fixed bridge or a drawbridge?

Mr. BROUSSARD. It will be a drawbridge, and a modern one that will not interfere with navigation on the river.

Mr. MOORE of Pennsylvania. I do not want to interfere with the gentleman's project nor his section of the country, but the Government is spending large sums of money on the improvement of the Mississippi River for a distance, all told, of about 2,500 miles from the Lakes to the Gulf, and the distance from Baton Rouge to New Orleans, as the gentleman has stated, is about 80 miles, so that this bridge would probably be the southernmost bridge on the Mississippi River up to the present time. I wanted to ask about the navigation. The gentleman says the bridge would be constructed so it would not impede the navigation, and that it would be a drawbridge so that masted vessels might get through. Has the gentleman any information with regard to the effect of this bridge and its abutments upon floods that occasionally break out in this vicinity on the Mississippi River?

Mr. BROUSSARD. Mr. Speaker, to be perfectly frank with the gentleman from Pennsylvania [Mr. MOORE]. I have not that information beyond this, that the people who are interested are not interested because they propose to have any stock in this company organized in Louisiana to build the bridge, but because of the fact that the people in that section of Louisiana where I live can, by virtue of this proposition, get to New Orleans, by retracing the line of railroad west, an hour earlier; and so will the mail reach western Louisiana and southeastern Texas one hour sooner than it does now by crossing on the ferry at New Orleans. So that, inasmuch as the people whose lands are subject to overflow are petitioning for this bridge to be built in order to convenience them in their travel, and to convenience the mail in reaching destination in that populous section of the country, I judge that they have considered the matter, and if they are not fearful of any results that might come from any impediment of the flow of the river to the sea, by which there might be a greater danger in protecting their lands from overflow, we should not be.

Mr. MOORE of Pennsylvania. Baton Rouge is on comparatively high ground, is it not? Does it not stand well up above the river?

Mr. BROUSSARD. It stands well up above the river. In fact, Baton Rouge is on a hill, and we who come from the side of the river where I live—the western side of the river—will have to meet very high hills on the Baton Rouge side, the eastern or capital side of the river, and this bridge will have to be built so as to meet the ridge above the capitol. I want to say to the gentleman from Pennsylvania, besides that, that the War Department has recommended that this bill be passed.

Mr. MOORE of Pennsylvania. Yes; I have seen that in the report.

Mr. BROUSSARD. It will not interfere with navigation, according to the United States engineers, but besides that it gives a quicker access to New Orleans, which, in my judgment,

will be the city to which all the trade of the Mississippi River Valley will come after the Panama Canal is completed. All the western country that is reached by the Texas & Pacific Railroad and by the Southern Pacific Railroad will find its terminus in order to reach these markets, whether on the Atlantic side of South and Central America or on the Pacific side of South and Central America, and in the Orient as well. And the Frisco system, that recently has come to Port Allen, is anxious to cross the river and get on to the western side and carry freight on to the Pacific coast.

Besides the Colorado Southern and other roads, five in all, as I am informed, meet at that point just across the river from Baton Rouge, being able to cross by bridge, will reach the Atlantic seaboard, and reach the Panama Canal, and reach the western part of this hemisphere, and reach the Orient as well. All of these roads centering at Port Allen, across from Baton Rouge, will be able to save 1 hour in crossing so far as passengers are concerned, and possibly 24 hours in crossing so far as freight is concerned, and get on the other side of the river and reach their destination so much the sooner.

Mr. MOORE of Pennsylvania. I sincerely trust that that development will take place, but I want to call the attention of the gentleman to the fact that 2,500 miles of this navigaion will land up against this bridge, once constructed, and if it impedes the commerce that is being carried on on this navigable stream it would be a serious matter.

Mr. MANN. Mr. Speaker, I call for the regular order.

The SPEAKER. The regular order is demanded. Is there objection?

Mr. MOORE of Pennsylvania. I hope the gentleman does not want to destroy this bill.

Mr. MANN. I call for the regular order.

Mr. MOORE of Pennsylvania. I hope the gentleman will not destroy this bill.

The SPEAKER. The regular order is demanded, and if anybody objects, the bill will be stricken from the calendar.

Mr. MOORE of Pennsylvania. Mr. Speaker——

The SPEAKER. It is not debatable. Every Member has the right to call for the regular order when he chooses.

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MOORE of Pennsylvania. In view of the demand for the regular order, is it not in order to make the point that no quorum is present?

The SPEAKER. It is always in order to make that point.

Mr. TALBOTT of Maryland. Mr. Speaker, I move that the House adjourn.

The SPEAKER. The gentleman from Maryland moves that the House adjourn.

Mr. FITZGERALD. I trust the gentleman will withhold that motion until I can submit a request.

Mr. TALBOTT of Maryland. I will withhold my motion, Mr. Speaker.

Mr. MOORE of Pennsylvania. The demand for the regular order is a closure measure. I do not wish to defeat the measure that the gentleman from Louisiana [Mr. BROUSSARD] has in hand.

Mr. MANN. Mr. Speaker, I call for the regular order. Let it go over until next week.

Mr. MOORE of Pennsylvania. I do not want to prejudice this bill.

Mr. MANN. Unless the gentleman himself objects to it, it does not go off the calendar.

Mr. BROUSSARD. Mr. Speaker, I ask unanimous consent that this bill go over until next week without prejudice.

The SPEAKER. Is there objection to the gentleman's request?

There was no objection.

HOUR OF MEETING TO-MORROW.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 10.30 o'clock to-morrow morning.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent that when the House adjourns to-day it adjourn until 10.30 o'clock to-morrow morning. Is there objection?

Mr. MANN. We have not got through the appropriation bills, and we shall have to meet at 9 o'clock pretty soon.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. FITZGERALD. Mr. Speaker, the gentleman from Texas [Mr. BURLESON] asked me to announce that the House will sit late to-morrow night in order to finish the District of Columbia appropriation bill.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on the Library was discharged from the further consideration of the bill (H. R. 28575) to provide a commission to secure plans and designs for a bridge as a memorial of peace and union, to be known as the "Grant-Lee Bridge," and to be constructed across the Potomac River from a point in the city of Washington near the site selected by law for a memorial for Abraham Lincoln to the national cemetery at Arlington, in the State of Virginia, and the same was referred to the Committee on Interstate and Foreign Commerce.

ADJOURNMENT.

Mr. TALBOTT of Maryland. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 4 minutes p. m.) the House, in accordance with the order previously made, adjourned until to-morrow, Tuesday, February 4, 1913, at 10 o'clock and 30 minutes a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred, as follows:

1. A letter from the president of the East Washington Heights Traction Railroad Co., transmitting annual report of said company for the year ending December 31, 1912 (H. Doc. No. 1332); to the Committee on the District of Columbia and ordered to be printed.

2. A letter from the Secretary of War, transmitting memorandum report of the Chief of the Bureau of Insular Affairs, giving a list of useless papers pertaining to said bureau (H. Doc. No. 1335); to the Committee on Disposition of Useless Executive Papers and ordered to be printed.

3. A letter from the president of the Washington Gas Light Co., transmitting annual report of said company for the year ending December 31, 1912 (H. Doc. No. 1333); to the Committee on the District of Columbia and ordered to be printed.

4. A letter from the president of the Washington & Old Dominion Railroad, transmitting annual report of said company for the year ending December 31, 1912 (H. Doc. No. 1334); to the Committee on the District of Columbia and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Vermillion River, La., and channel to connect Vermillion River with the inland waterway between Franklin and Mermentau, at Schooner Bayou (H. Doc. No. 1336); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII.

Mr. CARY, from the Committee on the District of Columbia, to which was referred the bill (S. 7599) to authorize the extension of Twenty-fifth Street SE. and White Place, reported the same without amendment, accompanied by a report (No. 1433), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. McCALL: A bill (H. R. 28600) to authorize the Lincoln Memorial Commission to procure a plan and design for a memorial bridge across the Potomac River; to the Committee on Interstate and Foreign Commerce.

By Mr. McKELLAR: A bill (H. R. 28601) for the purchase of a site and erection of a public building in the city of Memphis, Shelby County, Tenn.; to the Committee on Public Buildings and Grounds.

By Mr. STEVENS of Minnesota: A bill (H. R. 28602) to authorize the Secretary of War to make an agreement with the Municipal Electric Co., a corporation, for the disposal of the hydroelectric power developed by the dam between St. Paul and Minneapolis, Minn.; to the Committee on Rivers and Harbors.

By Mr. HUMPHREY of Washington: A bill (H. R. 28603) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1899, and for other purposes," approved July 1, 1898; to the Committee on the Public Lands.

By Mr. COVINGTON: A bill (H. R. 28604) for the purchase of a site and the erection of a Federal building at Salisbury, Md.; to the Committee on Public Buildings and Grounds.

By Mr. CARTER: A bill (H. R. 28605) for the purchase of a building and lot as a mine rescue station at McAlester, Okla.; to the Committee on Mines and Mining.

By Mr. MARTIN of South Dakota: A bill (H. R. 28606) to authorize the sale and disposition of a portion of the surplus and unallotted lands in Todd County, in the Rosebud Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect; to the Committee on Indian Affairs.

By Mr. FLOOD of Virginia: A bill (H. R. 28607) making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1914; to the Committee of the Whole House on the state of the Union.

By Mr. BUCHANAN: A bill (H. R. 28608) to provide the Government with means sufficient to supply the national want of a sound circulating medium; to the Committee on Ways and Means.

By Mr. DAVIS of Minnesota: A bill (H. R. 28609) providing for the purchase of a site and the erection of a public building at Northfield, Minn.; to the Committee on Public Buildings and Grounds.

By Mr. GARNER: Resolution (H. Res. 808) requesting the Attorney General to transmit to the House of Representatives certain information; to the Committee on the Judiciary.

By Mr. STEENERSON: Resolution (H. Res. 809) requesting information of the President as to practicability of extending a 2-cent letter postage rate similar to that in force with Great Britain and Germany to other European countries desiring the same; to the Committee on the Post Office and Post Roads.

By Mr. BURKE of South Dakota: Memorial from the Legislature of the State of South Dakota requesting the Secretary of the Interior to revise the rules governing right to lease and manner of leasing allotted Indian lands; to the Committee on Indian Affairs.

Also, memorial from the Legislature of South Dakota, asking Congress to amend the 320-acre homestead law, known as the Mondell bill, so as to include the remaining Government lands in South Dakota; to the Committee on the Public Lands.

By Mr. MARTIN of South Dakota: Memorial from the Legislature of the State of South Dakota, requesting the Secretary of the Interior to revise the rules governing right to lease and manner of leasing allotted Indian lands; to the Committee on Indian Affairs.

Also, memorial from the Legislature of South Dakota, asking Congress to amend the 320-acre homestead law, known as the Mondell bill, so as to include the remaining Government lands in South Dakota; to the Committee on the Public Lands.

By the SPEAKER (by request): Memorial from the Legislature of North Carolina, memorializing the Congress of the United States to pass the Webb-Kenyon-Sheppard bill relative to shipping liquors into prohibition territory; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FLOOD of Virginia: A bill (H. R. 28610) to remove the charge of desertion from the military record of William H. Harlow, alias John Deen; to the Committee on Military Affairs.

By Mr. FORDNEY: A bill (H. R. 28611) to remove the charge of desertion from the record of Robert J. McConkey; to the Committee on Military Affairs.

By Mr. HINDS: A bill (H. R. 28612) granting a pension to Daniel Donovan; to the Committee on Invalid Pensions.

By Mr. SHACKLEFORD: A bill (H. R. 28613) to construe the name of E. T. Bourger, as the same appears in the report of Hawkins-Taylor commission in relation to Company F, Osage County Battalion Missouri Home Guards, to refer to Joseph Bourgeret of Osage County, Mo.; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the King County Democratic Club, of Seattle, favoring the passage of legislation for the recognition of the Chinese Republic by the United States; to the Committee on Foreign Affairs.

By Mr. ANSBERRY: Petition of the department of agriculture of the State of Ohio, Columbus, Ohio, favoring the passage of legislation making appropriation for Federal cooperation for the eradication of hog cholera; to the Committee on Agriculture.

By Mr. ASHBROOK: Petition of the Ohio State board of agriculture, favoring the passage of bill for an appropriation for the cooperation of the Federal Government with the States in the eradication of the swine plague; to the Committee on Agriculture.

By Mr. BARTLETT: Petition of the Southern Labor Congress, Atlanta, Ga., relative to the treatment of the employees by the Louisville & Nashville Railroad; to the Committee on Labor.

By Mr. CARY: Petition of the Yahr & Lange Drug Co., Milwaukee, Wis., protesting against the passage of legislation for the reduction of tariff on medicinal chemicals; to the Committee on Ways and Means.

Also, petition of the Friday Afternoon Club, favoring the passage of House bill 25685, providing for the labeling and tagging of all fabrics and articles intended for sale which enter into interstate commerce; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Chamber of Commerce of the United States, favoring the passage of the Page agriculture and industrial bill (S. 3); to the Committee on Agriculture.

Also, petition of the Philadelphia Coal Exchange, favoring the passage of legislation for repeal of the mercantile-tax bill; to the Committee on Ways and Means.

Also, petition of the Wisconsin Retail Hardware Association, favoring the passage of the Weeks bill (H. R. 27567) for 1-cent letter postage; to the Committee on the Post Office and Post Roads.

By Mr. DANFORTH: Petition of the Central Trades and Labor Union Council, Rochester, N. Y., favoring the passage of legislation for enforcing the inspection of locomotive boilers and safety appliances for railway equipment; to the Committee on Interstate and Foreign Commerce.

By Mr. FORDNEY: Petition of the American Flint Glass Workers' Union, Local Union No. 127, Lancaster, Ohio, protesting against the passage of legislation for the reduction of tariff on imported glassware; to the Committee on Ways and Means.

By Mr. FULLER: Petition of John Bodwell, Paxton, Ill., favoring the passage of House bill 1339, to increase the pensions of veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of the National Refining Co., Peoria, Ill., favoring the passage of the Weeks bill (H. R. 27567), for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. GOLDFOGLE: Petition of the Columbia Ribbon & Carbon Manufacturing Co., New York, favoring the passage of legislation for the reduction of duty on cotton tapes to be used for typewriter ribbons; to the Committee on Ways and Means.

Also, petition of the Chamber of Commerce of the State of New York, protesting against the passage of legislation for placing the Board of General Appraisers under control of the Treasury Department; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Wholesale Liquor Dealers' Association of America, Cincinnati, Ohio, protesting against the passage of the Kenyon liquor bill, for preventing the shipment of liquor into dry territories; to the Committee on the Judiciary.

Also, petition of the Maritime Association of the Port of New York, favoring the passage of legislation for the establishment of a Weather Bureau station at Sandy Hook; to the Committee on Appropriations.

By Mr. KAHN: Petition of the Howard Presbyterian Church, of San Francisco, Cal., and the Ministers' Union of San Francisco, Cal., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. KNOWLAND: Petition of the Methodist Church of Oakland, Cal., favoring the passage of the Kenyon "red-light" injunction bill, for the cleaning up of Washington, D. C., for the inauguration; to the Committee on the District of Columbia.

By Mr. LINDSAY: Petition of M. S. Becker, commissioner second district of Albany, N. Y., favoring the passage of Senate bill 6099, for the establishment of a uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

By Mr. LINDBERGH: Petition of citizens of Richmond, Minn., protesting against the passage of legislation permitting the sale of colored oleomargarine for a substitute for butter; to the Committee on Agriculture.

Also, petition of sundry citizens of Cross Lake, Minn., asking for a congressional investigation of the prosecution of the Government of the Appeal to Reason; to the Committee on Expenditures in the Post Office Department.

By Mr. NYE: Petition of sundry citizens of Minneapolis, Minn., favoring passage of legislation for the establishment of a council of national defense; to the committee on Naval Affairs.

By Mr. O'SHAUNESSY: Petition of the Audubon Society of Rhode Island favoring the passage of the McLean bill for the Federal protection of migratory birds; to the Committee on Agriculture.

By Mr. SCULLY: Petition of the Richmond Chamber of Commerce, Richmond, Va., favoring the passage of legislation for a reform in the present banking system of the United States; to the Committee on Banking and Currency.

Also, petition of the National Association of Shellfish Commissioners, Boston, Mass., favoring the passage of legislation making appropriations for investigations for the improvement of the oyster industry; to the Committee on the Merchant Marine and Fisheries.

By Mr. SPARKMAN: Petition of citizens of the first district of Florida favoring the passage of the Jones-Works bill to limit the number of saloons in the District of Columbia; to the Committee on the District of Columbia.

By Mr. TAYLOR of Ohio: Petition of sundry citizens of Columbus, Ohio, favoring the passage of the McLean bill for the Federal protection of migratory birds; to the Committee on Agriculture.

By Mr. UNDERHILL: Petition of the Chamber of Commerce of the United States, favoring the passage of the Page agricultural and industrial education bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Poughkeepsie Chamber of Commerce, Poughkeepsie, N. Y., favoring the passage of pending legislation granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the legislative committee of the Philadelphia Coal Exchange, favoring the passage of legislation for the repeal of the mercantile tax bill; to the Committee on Ways and Means.

By Mr. WILSON of New York: Petition of the Navy League of the United States, Washington, D. C., favoring the passage of legislation for reorganizing the personnel of the Navy; to the Committee on Naval Affairs.

SENATE.

TUESDAY, *February 4, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. BRANDEGEE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

RELIEF OF INDIANS ON RAILROAD LANDS.

Mr. ASHURST. Mr. President, I ask leave to withdraw as one of the conferees on the part of the Senate upon the disagreeing votes of the two Houses on the bill (S. 5674) for relief of Indians occupying railroad lands.

The PRESIDENT pro tempore. The Senator from Arizona asks to be excused from further service upon the conference committee as stated by him. Without objection, he is excused, and the senior Senator from Missouri [Mr. STONE] will be appointed in his stead.

VENTILATION OF SENATE AND HOUSE CHAMBERS (S. DOC. NO. 1061).

The PRESIDENT pro tempore laid before the Senate a communication from the Superintendent of the United States Capitol Building and Grounds, transmitting certain information relative to the better ventilation of the Senate and House Chambers, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

EAST WASHINGTON HEIGHTS TRACTION RAILROAD (H. DOC. NO. 1332).

The PRESIDENT pro tempore laid before the Senate the annual report of the East Washington Heights Traction Railroad for the year ended December 31, 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

DISPOSITION OF USELESS PAPERS.

The PRESIDENT pro tempore. The Chair lays before the Senate a communication from the Secretary of Commerce and Labor, recommending the disposal of certain papers on file in the Department of Commerce and Labor which have no permanent value or historical interest.

The communication will be referred to the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments. The Chair appoints as a committee on the part of the Senate the Senator from Arkansas [Mr. CLARKE] and the Senator from New Hampshire [Mr. BURNHAM].

The Secretary will notify the House of Representatives of the appointment of the committee on the part of the Senate.

PETITIONS AND MEMORIALS.

Mr. CULLOM presented a petition of sundry citizens of Crossville, Ill., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BRISTOW presented a petition of sundry citizens of Colby, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. RICHARDSON presented a petition of the congregation of the Greome Memorial Methodist Protestant Church, of Lewes, Del., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. ASHURST presented resolutions adopted by the Chamber of Commerce of Graham County, Ariz., favoring the enactment of legislation providing for the conservation of the flood waters of the San Francisco and Gila Rivers, etc., which were referred to the Committee on Irrigation and Reclamation of Arid Lands.

He also presented resolutions adopted by the Trades Council of Phoenix, Ariz., favoring the strict enforcement of legislation providing for the inspection of locomotive boilers and safety appliances for railway equipment, which were referred to the Committee on Interstate Commerce.

He also presented a memorial of the congregations of the Seventh-day Adventist Churches of Phoenix, Ariz., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. BOURNE. I present a petition signed by 226 residents of Oregon, praying that the lands now included in the Siuslaw National Forest Reserve be restored to settlement. I ask that the form of the petition, but not the signatures, be printed in the RECORD, and that the petition be referred to the Committee on Public Lands.

The PRESIDENT pro tempore. The Senator from Oregon asks that the form of the petition, without the signatures, be printed in the RECORD, and that the petition in its entirety be referred to the Committee on Public Lands. Without objection, it is so ordered.

The petition is as follows:

STATE OF OREGON, *County of Lane.*

Hon. JONATHAN BOURNE, JR.,
United States Senator from Oregon:

We, the undersigned residents of the Siuslaw National Forest Reserve, hereby petition our honorable Senators and Representatives in Congress to return the Siuslaw National Forest Reserve to settlement, subject to homestead entries and settlement. In support of our claims we do hereby state the following reasons:

1. That a national forest is a detriment to the people who live in its vicinity.
2. That all kinds of natural resources within the national forest are withheld from use.
3. That the national forests are run so as to favor the big man and not to help the home builder.
4. That the homestead is taken away from settlement for ranger stations.
5. That the forestry officers are opposed to the settlers and are anxious to keep the country a wilderness by reporting against all claims whether good or bad.
6. That the forestry officials are eastern theorists who know nothing about the West.
7. That the timber sales are handled in the interest of monopoly for the Lumber Trust.
8. That the forest reserve prohibits settlement and improvement, thereby reducing the amount of taxes for schools and roads, which are greatly needed in the Siuslaw National Forest.

Dated this — day of ——, 1912.

Mr. SIMMONS. I present a joint resolution passed by the General Assembly of North Carolina, declaring the views of that body with reference to interstate passenger and freight rates and charges. I ask that the joint resolution be printed in the RECORD and referred to the Committee on Interstate Commerce.

There being no objection, the joint resolution was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

A joint resolution declaring the views of the General Assembly of North Carolina with reference to interstate passenger and freight rates and charges, and for other purposes.

Resolved by the house of representatives (the senate concurring):

First. That in the view of the General Assembly of North Carolina, Congress should declare illegal, under any and all circumstances, any greater charge by any public-service company for transporting passengers or freights of a given kind and quantity a shorter distance than is charged for transporting the same a longer distance in the same direction when the shorter haul is included in the longer.

Second. That the Senators and Representatives in Congress from this State be, and they are hereby, requested and respectfully urged to support a bill repealing the first and second proviso to section 4 of the interstate-commerce act and to support such other amendments as

may be necessary to make effective the policy declared for in the first resolution above.

Third. That pending the enactment into law by Congress of the principles above declared for it should, in the opinion of the General Assembly of North Carolina, be the policy of the State to press before the Interstate Commerce Commission objections to the injustice of allowing any discrimination against North Carolina points in favor of other points outside of the State to which hauls are longer than to the North Carolina points, and which longer hauls include the hauls to such North Carolina points.

Fourth. That in addition to the powers conferred on the North Carolina Corporation Commission to institute and prosecute cases before the Interstate Commerce Commission for relief to the people of North Carolina for discriminatory and excessive charges by common carriers, power is conferred upon the governor to institute and prosecute such cases, either independently or in conjunction with the North Carolina Corporation Commission in his name on behalf of the people of the State or in the name of any combined association or body of citizens, or in the name of the North Carolina Corporation Commission, and for such purpose the sum of not exceeding $5,000 a year is appropriated, out of any money in the State treasury not otherwise appropriated, to be paid on the order of the governor.

Fifth. That the secretary of state shall transmit to each of the United States Senators and Members of Congress from this State a copy of these resolutions.

That this resolution shall be in force from and after its ratification.

In the general assembly read three times and ratified this 30th day of January, 1913.

E. L. DAUGHTRIDGE,
President of the Senate.
GEO. W. COSMOS,
Speaker of House of Representatives.

STATE OF NORTH CAROLINA,
DEPARTMENT OF STATE,
Raleigh, January 30, 1913.

I, J. Bryan Grimes, secretary of state of the State of North Carolina, do hereby certify the foregoing and attached (three sheets) to be a true copy from the records of this office.

In witness whereof I have hereunto set my hand and affixed my official seal.

Done in office at Raleigh, this 30th day of January, A. D. 1913.

[SEAL.] J. BRYAN GRIMES,
Secretary of State.

Mr. BURTON presented petitions of the congregation of the Methodist Episcopal Church of Cambridge and of sundry citizens of Sulphur Springs and Buffalo, in the State of Ohio, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. SMITH of Michigan presented memorials of sundry citizens of Ann Arbor and Detroit, in the State of Michigan, remonstrating against the parole of Federal life prisoners, which were ordered to lie on the table.

He also presented a petition of sundry citizens of Barry and Eaton Counties, in the State of Michigan, praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

He also presented memorials of the congregations of the Seventh-day Adventist Churches of Flint, Battle Creek, Reed City, Byron Center, Bunker Hill, Monterey, Omer, Clare, Sandusky, Detroit, Alden, Birmingham, Dimondale, Bancroft, Durand, Greenwood, Sand Lake, Sault Ste. Marie, Oleon, Shelby, Iron River, Traverse City, Gaylord, Wilson, Hazelton, Chapin, White Lake, Lapeer, Frankfort, Ola, Mt. Pleasant, Lakeview, Olmwood, L'Anse, Stanton, Whittemore, Coleman, Bushnell, Kent City, Grand Haven, Alpena, Jefferson, St. Louis, Holly, Marion, Elwell, Allendale, Grand Ledge, Kalamazoo, and Homer, all in the State of Michigan, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. GALLINGER presented the memorial of Clara Sherwood Waters, D. O., of Washington, D. C., remonstrating against the enactment of legislation to regulate the practice of osteophathy in the District of Columbia, which was ordered to lie on the table.

He also presented the petition of Prof. Robert Fletcher, Thayer School of Engineering, Dartmouth College, Hanover, N. H., praying for the enactment of legislation to promote a continuing and consistent program of naval construction, which was referred to the Committee on Naval Affairs.

He also presented the petition of Fred T. Pollard, of Newport, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. CLAPP presented a petition of the Woman's Christian Temperance Union of Winnebago, Minn., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of the members of the Minnesota Educational Association, praying for the establishment of a national university at Washington, D. C., which was referred to the Committee on the University of the United States.

Mr. SMITH of Maryland presented a petition of sundry citizens of Laurel and Burtonsville, in the State of Maryland, praying that an appropriation be made for the erection of shelters over the Wholesale Produce Market between Tenth, Twelfth, and B Streets NW., city of Washington, which was referred to the Committee on Appropriations.

He also presented a petition of the Ministerial Union of Baltimore, Md., praying for the enactment of legislation to prohibit the interstate transmission of race gambling bets, which was referred to the Committee on the Judiciary.

Mr. PENROSE presented a memorial of the Coke Producers' Association of the Connellsville coke region, of Pennsylvania, remonstrating against the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. PERKINS presented memorials of the congregations of the Seventh-day Adventist Churches of Arcata, San Bernardino, and Ferndale, all in the State of California, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented a petition of the Grand Lodge of Good Templars of San Francisco, Cal., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of the Woman's Christian Temperance Union of Morgan Hill, Cal., praying for the passage of the so-called Kenyon "red-light" injunction bill, which was ordered to lie on the table.

He also presented a petition of the board of directors of the Chamber of Commerce of Los Angeles, Cal., praying for the enactment of legislation exempting American coastwise shipping from tolls through the Panama Canal, which was referred to the Committee on Interoceanic Canals.

Mr. BROWN presented telegrams, in the nature of petitions, from members of the Medical Society of Douglas County, the Medical Society of Dodge County, and the Medical Society of Lancaster County, all in the State of Nebraska, praying for the establishment of a national department of public health, which were ordered to lie on the table.

He also presented a memorial of the congregation of the Seventh-day Adventist Church of Crawford, Nebr., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

He also presented memorials of members of the Farmers' Educational and Cooperative Unions of Dodge County, Scribner, Hooper, and of Nickerson, all in the State of Nebraska, remonstrating against the adoption of the so-called Aldrich currency plan, which were referred to the Committee on Finance.

Mr. JONES. I present a telegram from Mrs. O. G. Ellis, public health department, State Federation of Women's Clubs of Olympia, Wash., which I ask to have read and lie on the table.

The PRESIDENT pro tempore. The Senator from Washington asks that a telegram which he sends to the desk be read and lie on the table.

The Secretary read as follows:

OLYMPIA, WASH., *February 3, 1913.*

Senator WESLEY L. JONES,
Senate Chamber, Washington, D. C.:

The National Federation and Washington State Federation of Women's Clubs have studied and then indorsed the Owen bill overwhelmingly. We urge you to vote and work for Owen bill as representing 7,000 Washington women.

MRS. O. G. ELLIS,
Public Health Department,
State Federation of Women's Clubs.

Mr. JONES. I have several other telegrams relating to the same subject. I simply ask that the signatures be noted in the RECORD and that the telegrams lie on the table.

There being no objection, the telegrams were ordered to lie on the table, as follows:

From W. W. Seymour, mayor; Dr. Edwin W. James, health officer; Arizona B. Wimple, pure-food inspector; Mrs. F. J. Schug, president Council of Women's Clubs; and Dr. C. Stewart Wilson, president Pierce County Medical Society, of Tacoma, Wash.

From the Medical Women's Club, of Seattle, Wash.

From Christen Quevli, president Washington State Antituberculosis League, of Tacoma, Wash.

From Mrs. H. L. Willis, chairman of Civic Committee of State Federation, and president of Civic Improvement Club of Mount Vernon, Wash.

From James R. Yocom, of the Committee on Medical Legislation of Washington State Medical Association, of Tacoma, Wash.

Mr. JONES presented a petition of sundry citizens of Wenatchee, Wash., praying that an investigation be made into the action of the Interior Department in declining to approve a lease granted to the Uncle Sam Oil Co. by the Osage National Council, which was referred to the Committee on Public Lands.

Mr. PAGE presented memorials of sundry citizens of Ferrisburg and Vergennes, in the State of Vermont, remonstrating

against the enactment of legislation providing for the parole of Federal life prisoners, which were ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. PERKINS, from the Committee on Appropriations, to which was referred the bill (H. R. 28186) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes reported it with an amendment and submitted a report (No. 1183) thereon.

Mr. BRISTOW, from the Committee on Claims, to which was referred the bill (S. 4669) for the relief of S. W. Fenton, reported it with amendments and submitted a report (No. 1184) thereon.

Mr. PENROSE, from the Committee on Naval Affairs, to which was referred the bill (S. 7202) fixing the date of reenlistment of Gustav Hertfelder, first-class fireman, United States Navy, reported it without amendment and submitted a report (No. 1185) thereon.

Mr. ROOT. From the Committee on the Library, I report favorably with amendments the bill (S. 8337) to create a legislative drafting bureau and to establish a legislative reference division of the Library of Congress. I ask leave, at a later day, after the hearings which the committee has had upon the subject have been written out and printed, to file a written report to accompany the bill.

The PRESIDENT pro tempore. The bill will be placed on the calendar. Without objection, the Senator from New York will have the permission of the Senate to file a report as requested.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. O'GORMAN:

A bill (S. 8357) for the relief of Maurice Edgar Rose, late assistant surgeon, United States Navy; to the Committee on Naval Affairs.

By Mr. JOHNSTON of Alabama:

A bill (S. 8358) granting an increase of pension to John A. Shannon (with accompanying papers); to the Committee on Pensions.

By Mr. LODGE:

A bill (S. 8359) to incorporate the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

By Mr. SHIVELY:

A bill (S. 8360) granting an increase of pension to Seth Watson; to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 8361) granting a pension to Mary E. Bennett (with accompanying papers); to the Committee on Pensions.

By Mr. PERKY:

A bill (S. 8362) to authorize reclamation of arid public lands (with accompanying paper); and

A bill (S. 8363) to authorize reclamation of arid ceded trust lands in former Indian reservations (with accompanying paper); to the Committee on Public Lands.

By Mr. BANKHEAD:

A bill (S. 8364) to amend section 70 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911 (with accompanying paper); to the Committee on the Judiciary.

By Mr. RICHARDSON:

A bill (S. 8365) to promote the safety of travelers and employees upon railroads engaged in interstate and foreign commerce.

The PRESIDENT pro tempore. The bill will be referred to the Committee on the Judiciary.

Mr. BRANDEGEE. I should like to have the title of the bill read again. As it was read, I thought it should go to the Committee on Interstate Commerce.

The PRESIDENT pro tempore. The Chair glanced at it very hurriedly, and thought it involved legal matters. The Secretary will again read the bill by title.

The Secretary again read the bill by title.

Mr. BRANDEGEE. I am not sure but that most of the bills involving safety appliances have gone to the Committee on Interstate Commerce heretofore.

The PRESIDENT pro tempore. The Chair will change the reference to that committee.

Mr. BURTON. I should like to ask to what committee the bill is to be referred.

The PRESIDENT pro tempore. The Committee on Interstate Commerce.

Mr. BURTON. It pertains to the equipment of railways?

The PRESIDENT pro tempore. The Chair is so informed. The Chair first indicated the Judiciary Committee, thinking it was a bill of a different nature.

By Mr. LEA:

A bill (S. 8366) granting a pension to John H. Gray; to the Committee on Pensions.

By Mr. ASHURST:

A bill (S. 8367) granting an increase of pension to Alice I. Simpson (with accompanying papers); to the Committee on Pensions.

By Mr. CLAPP:

A bill (S. 8368) to amend an act entitled "An act granting an increase of pension to Marie J. Blaisdell," approved May 24, 1900; to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 8370) to incorporate the Mothers' Day International Association; to the Committee on the Judiciary.

A bill (S. 8371) granting an honorable discharge to Lawrence Lynch; to the Committee on Naval Affairs.

A bill (S. 8372) granting an honorable discharge to Edgar B. Strang (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 8373) granting an increase of pension to William Raup; and

A bill (S. 8374) granting an increase of pension to Dallas Bumbaugh (with accompanying papers); to the Committee on Pensions.

By Mr. BACON:

A bill (S. 8375) for the restoration of Park Howell, late captain, to the Medical Corps of the Army of the United States (with accompanying papers); to the Committee on Military Affairs.

OLD EXCHANGE BUILDING, CHARLESTON, S. C.

Mr. TILLMAN. I introduce a bill authorizing the Secretary of the Treasury to give to the order of the Daughters of the American Revolution the Old Exchange Building in Charleston, S. C., which I ask may be read twice by its title and referred to the Committee on Public Buildings and Grounds.

The bill (S. 8369) authorizing the Secretary of the Treasury to give to the order of Daughters of the American Revolution the Old Exchange Building, in the city of Charleston, S. C., was read twice by its title.

Mr. TILLMAN. I present petitions of various chapters of the order of the Daughters of the American Revolution, signed by F. Louise Mayes, State regent of South Carolina; Lee C. Harby, chairman of the standing committee on local affairs, Rebecca Motte Chapter, Daughters of the American Revolution, of Charleston, S. C.; James Simons, president of the Society of the Cincinnati of the State of South Carolina; and Jeannie M. Baker, regent for the Sumter's Home Chapter. I ask that the papers be referred to the Committee on Public Buildings and Grounds, to accompany the bill.

The PRESIDENT pro tempore. The bill and accompanying papers will be referred to the Committee on Public Buildings and Grounds.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. O'GORMAN submitted an amendment proposing to appropriate $235,700 for improving the channel in Flushing Bay, Long Island, N. Y., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $250,000 for continuing the improvement of the Harlem River Ship Canal, New York, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. LODGE submitted an amendment proposing that books not containing advertising matter or issued for purposes of advertising shall be subject in all respects to the provisions of section 8 of the Post Office act approved August 24, 1912, intended to be proposed by him to the Post Office appropriation bill, which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Post Offices and Post Roads.

Mr. SMITH of Georgia submitted an amendment proposing to appropriate $60,000 for the improvement of the Savannah River at Augusta, Ga., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. BURTON submitted an amendment proposing to appropriate $5,000 for the participation of the United States by official delegates at the international conference for the purpose of drawing up international rules and regulations for the assignment of load lines to merchant ships, etc., intended to be proposed by him to the diplomatic and consular appropriation bill, which was referred to the Committee on Foreign Relations and ordered to be printed.

Mr. JONES submitted an amendment proposing to appropriate $1,521.88 for payment of judgment rendered in cause No. 58, United States District Court for the Western District of Washington, southern division, rendered February 23, 1912, in favor of Julius Anthon and Marie Anthon, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. SMITH of Maryland submitted an amendment proposing to appropriate $47,000 for the erection of shelters on the open space at the intersection of Ohio and Louisiana Avenues with Tenth and Twelfth Streets, in the city of Washington, D. C., etc., intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. BRANDEGEE submitted an amendment providing for securing of increased depths and the removal of obstructions to navigation in Stamford Harbor, Conn., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. WEBB. I have here a brief which I desire to have printed in the RECORD and as a public document. It was prepared by W. G. M. Thomas, of Chattanooga, Tenn., a lawyer of great legal ability.

Mr. SMOOT. I should like to ask the Senator if it is a brief upon any bill before the Senate?

Mr. WEBB. Yes, sir; and it is a brief prepared by a lawyer of great legal learning.

Mr. SMOOT. Upon what bill?

Mr. WEBB. On the Kenyon-Sheppard temperance bill, which is to come up for final action on the 10th of February.

Mr. SMOOT. Does the Senator want to have it printed in the RECORD and also as a public document?

Mr. WEBB. I make that request, sir. I should like to have it in the RECORD particularly.

Mr. SMOOT. Generally all such requests are for printing in the RECORD.

Mr. WEBB. Very well.

Mr. SMOOT. I will say to the Senator that whenever such matter is printed in the RECORD, of course it can be sent through the mails just the same, and it would answer every purpose.

Mr. WEBB. All right.

Mr. SMOOT. I have no objection to its being printed in the RECORD.

Mr. WEBB. That is satisfactory to me.

The PRESIDENT pro tempore. The Senator from Tennessee limits his request to printing in the RECORD. Without objection, it will be so ordered.

There being no objection, the paper was ordered to lie on the table and to be printed in the RECORD, as follows:

For many years the liquor traffic has sought shelter behind two provisions of the Constitution of the United States whenever it has been assailed by State legislation seeking to regulate, restrain, or prohibit it.

1. The fourteenth amendment, which provides: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law."

2. Article I, section 8, of the Constitution, which provides that the Congress shall have power to regulate commerce among the several States. * * *

These two constitutional provisions the liquor interests have insisted are cities of refuge to which the traffic could flee when assaulted; but years ago the Supreme Court of the United States forced such interests to abandon this face-cloth amendment as either a defense or shelter, and it is now a fact that the only provision of the Federal Constitution to which such interests may retreat is Article I, section 8, known as the commerce clause of the Constitution.

As to the fourteenth amendment, the court has met and answered every argument, and a few cases will render this clear:

In one case the Supreme Court of the United States said that the sale of intoxicating liquors "is not one of the rights growing out of citizenship of the United States." (Bartemeyer v. Iowa, Wall., 129.)

In another case that court said: "And if any State deems the retail and internal traffic in ardent spirits injurious to its citizens and calculated to produce idleness, vice, or debauchery, I see nothing in the Constitution of the United States to prevent it from regulating and restraining the traffic or from prohibiting it altogether if it thinks proper." (The License cases, 5 How., 576–577.)

In another case the court said: "The law of a State prohibiting the manufacture and sale of intoxicating liquors is not repugnant to the Constitution of the United States. That question is now no longer open in this court." (Foster v. Kansas, 112 U. S., 201, 206.)

In still another case it is said the State has the right to prohibit the manufacture of intoxicating liquors within her limits and prohibit all sale and traffic in them in the State, "and such legislation by a State is a clear exercise of her undisputed police power, which does not abridge the liberties or immunities of citizens of the United States, nor deprive any person of property without due process of law, nor in any way contravene any provision of the fourteenth amendment to the Constitution of the United States." (Kidd v. Pearson, 128 U. S., 1, 16.)

And again in another case it is said: "A prohibition simply upon the use of property for purposes that are declared by valid legislation to be injurious to the health, morals, or safety of the community can not, in any just sense, be deemed a taking or an appropriation of property for the public benefit. Such legislation does not disturb the owner in the control or use of his property for lawful purposes nor restrict his right to dispose of it, but is only a declaration by the State that its use by anyone for certain forbidden purposes is prejudicial to the public interests." (Mugler v. Kansas, 123 U. S., 668–669.)

Article I, section 8, of the Federal Constitution provides that Congress shall have power to regulate commerce among the several States. In thus vesting in Congress this power the Constitution impliedly forbids any State the right to exercise it without the consent of Congress. Without such consent the State has no power to regulate commerce among the several States, but with such consent the State has unlimited power.

Under this clause of the Federal Constitution the rule of law is that the silence of Congress, or its failure to act, on the subject of commerce among the several States is to be taken as legally equivalent to its declaration that such commerce shall be free and unrestricted.

But with respect to interstate commerce in intoxicating liquor Congress has not been silent and it has not failed to act. In 1890 it enacted a law, known as the Wilson Act, providing that all intoxicating liquors transported into any State shall, upon arrival in such State, be subject to the operation and effect of the laws of such State. The liquor interests attacked that statute, but the Supreme Court of the United States upheld it as valid and constitutional; but it was the judgment of the court that the words "arrival in such State" included delivery to the consignee. Therefore, under the court's construction of this Wilson Act, interstate commerce did not cease until the liquor had actually reached the hands of the consignee. (Rhodes v. Iowa, 170 U. S., 412–421.)

The pending Kenyon bill proposes to advance one step beyond the provisions of the Wilson Act.

This Kenyon bill is, in fact, a simple measure. It does two things: First, it withdraws the power of Congress over interstate commerce in so far as intoxicating liquor is involved; second, it consents that the power of the State shall attach to such commerce immediately upon the arrival of the interstate shipment across the State's boundary line and before the article is delivered to the consignee.

Under the Kenyon bill the statutes of the State will control liquor from and after the arrival of the liquor in the State and before its delivery to the consignee.

This is a mere recognition of the doctrine of State rights.

Is there any sound reason to be assigned in opposition to this bill? Should not the people of each State have the free and unobstructed right to control their domestic affairs in their own way? Should not each State in the American Union have the right to expect the cooperation of the Federal Government in the due, impartial, and thorough administration and enforcement of the laws involving the State's public policy and internal affairs? Is it not both reasonable and right for the Congress of the United States to say to each State, "We voluntarily withdraw our constitutional power over interstate commerce in intoxicating liquors, and we consent that the State's power over such commerce shall attach immediately upon the arrival of any such liquor within the boundaries of the State and before it shall have been delivered to the consignee"?

This is the sum total of the Kenyon bill; and the supporters of the bill represent 71 per cent of the land area of the United States, as against 29 per cent represented by those who reside in "wet" territory. Fifty-one per cent, or forty-six and one-fourth million of the people of the United States live in "dry" territory. Nine American States are 100 per cent "dry," 39 are more than 50 per cent "dry," 25 are over 85 per cent "dry," and 19 are over 90 per cent "dry."

The Members of Congress and the people at large who favor this bill represent a majority of the inhabitants of the United States, and they represent almost three-fourths of the land area of the Nation.

The advocates of this bill in and out of Congress stand for the rule of the people, the right of the people in each several State to enforce State laws without Federal obstruction, and to administer their own internal affairs without statutory or constitutional hindrance on the part of the General Government.

The people of each State have the undoubted right, as American citizens, to determine for themselves whether their State shall be "wet" or "dry," and the Federal Government should freely grant to the State and its people the right to protect themselves by an unembarrassed enforcement of the law.

It is true that the Supreme Court of the United States has said: "Liquor, however obnoxious and hurtful it may be in the judgment of many, is a recognized article of commerce." (Adams Express Co. v. Kentucky, 214 U. S., 218, 222.)

But that court has also said: "The purpose of the Wilson bill was to make liquor, after its arrival, a domestic product and confer power upon the State to deal with it accordingly." (Pabst Brewing Co. v. Crenshaw, 198 U. S., 17, 27.)

And again:

"Congress, sedulous to prevent its exclusive right to regulate commerce from interfering with the power of the States over intoxicating liquor, by the Wilson Act, adopted a special rule enabling the States to extend their authority as to such liquor shipped from other States before it became commingled with the mass of other property in the State by a sale in the original package." (Delamater v. South Dakota, 205 U. S., 93, 98, 99.)

It is apparent that since the passage of the Wilson Act the settled purpose of the Supreme Court of the United States has been to differentiate intoxicating liquors from other objects of interstate commerce, and to distinguish between the decisions which have reference to ordinary articles of commerce between the States and those which concern intoxicating liquors.

In their literature, addressed to members and nonmembers, sent out by the liquor interests in opposition to the passage of this Kenyon bill, the assertions are made that "this bill is the most dangerous measure ever aimed at the liquor traffic"; that "this bill must be killed"; and "the passage of the Kenyon bill will be the biggest victory ever won by the Antisaloon League."

The liquor interests attempt to support their opposition by assigning but one reason, and that reason is that the bill interferes with the citizens' rights and personal liberty; but the Supreme Court of the United States has long since expressly overruled such an objection.

The sale of intoxicating liquors "is not one of the rights growing out of citizenship of the United States." (Bartemeyer v. Iowa, 18 Wall., 129.)

The following are quotations from decisions of the Supreme Court of the United States:

Mr. Chief Justice Taney:

"It is equally clear that the power of Congress over this subject does not extend farther than the regulation of commerce with foreign nations and among the several States; and that beyond these limits the States have never surrendered their power over trade and commerce, and may still exercise it free from any controlling power on the part of the General Government. Every State therefore may regulate its own internal traffic according to its own judgment and upon its own views of the interest and well-being of its citizens." (License cases, 5 How., 574.)

The State "is not bound to furnish a market for it, nor to abstain from the passage of any law which it deems necessary or advisable to guard the health or morals of its citizens, although such law may discourage importation or diminish the profits of the importer or lessen the revenue of the General Government. And if any State deems the retail and internal traffic in ardent spirits injurious to its citizens and calculated to produce idleness, vice, or debauchery, I see nothing in the Constitution of the United States to prevent it from regulating and restraining the traffic or from prohibiting it altogether, if it thinks proper." (Id., 576, 577.)

Mr. Justice McLean:

"The acknowledged police power of a State extends often to the destruction of property. A nuisance may be abated. Everything prejudicial to the health or morals of a city may be removed. * * * It is a power essential to self-preservation, and exists, necessarily, in every organized community. It is, indeed, the law of nature, and is possessed by man in his individual capacity. He may resist that which does him harm, whether he be assailed by an assassin or approached by poison. And it is the settled construction of every regulation of commerce that under the sanction of its general laws no man can introduce into a community * * * anything which contaminates its morals or endangers its safety. * * * Individuals in the enjoyment of their own rights must be careful not to injure the rights of others." (Id., 589.)

Mr. Justice Grier:

"It is not necessary for the sake of justifying the State legislation now under consideration to array the appalling statistics of misery, pauperism, and crime which have their origin in the use or abuse of ardent spirits. The police power, which is exclusively in the States, is alone competent to the correction of these great evils, and all measures of restraint or prohibition necessary to effect the purpose are within the scope of that authority. There is no conflict of power or of legislation as between the States and the United States; each is acting within its sphere and for the public good; and if a loss of revenue should accrue to the United States from a diminished consumption of ardent spirits, she will be the gainer a thousandfold in the health, wealth, and happiness of the people. (Id., 631.)

Mr. Justice Woodbury:

"How can they (the States) be sovereign within their respective spheres without power to regulate all their internal commerce, as well as police, and direct how, when, and where it shall be conducted in articles intimately connected either with public morals or public safety or the public prosperity?" (Id., 628.)

Mr. Justice Harlan:

In Mugler v. Kansas (123 U. S., 660) it was insisted that, under our system of government, the State may not control the tastes, appetites, habits, and drink of the people except as to the individual's conduct to others, leaving him sole judge as to all that only affects himself.

Mr. Justice Harlan said:

"It will be observed that the proposition and the argument made in support of it equally concede that the right to manufacture drink for one's personal use is subject to the condition that such manufacture does not endanger or affect the rights of others. If such manufacture does prejudicially affect the rights and interests of the community, it follows, from the very premises, that society has the power to protect itself by legislation against the injurious consequences of that business.

"Government may require 'each citizen to so conduct himself and so use his own property as not unnecessarily to injure another.'" (Munn v. Illinois, 94 U. S., 113, 124.)

Mr. Justice Bradley:

"If the public safety or the public morals require the discontinuance of any manufacture or traffic, the hand of the legislature can not be stayed from providing for its discontinuance by any incidental inconvenience which individuals or corporations may suffer. All rights are held subject to the police power of the State."

The police power of the State extends "to the protection of the lives, health, and property of the citizens, and to the preservation of good order and public morals." (Beer Co. v. Mass., 97 U. S., 25, 32, 33.)

Mr. Chief Justice Waite:

The law of a State prohibiting the manufacture and sale of intoxicating liquors is not repugnant to the Constitution of the United States. That question is now no longer open in this court. (Foster v. Kansas, 112 U. S., 201-206.)

Mr. Justice Lamar:

The State has the right to prohibit the manufacture of intoxicating liquors within her limits, and prohibit all sale and traffic in them in the State, "and such legislation by a State is a clear exercise of her undisputed police power, which does not abridge the liberties or immunities of citizens of the United States nor deprive any person of property without due process of law." (Kidd v. Pearson, 128 U. S., 1.)

Mr. Justice Shiras:

"The evils attending the vice of intemperance in the use of spirituous liquors are so great that a natural reluctance is felt in appearing to interfere, even on constitutional grounds, with any law whose avowed purpose is to restrict or prevent the mischief." (Scott v. Donald, 165 U. S., 58, 91.)

Mr. Chief Justice Fuller:

"The Constitution does not provide that interstate commerce shall be free; but, by the grant of this exclusive power to regulate it, it was left free except as Congress might impose restraint. Therefore it has been determined that the failure of Congress to exercise this exclusive power in any case is an expression of its will that the subject shall be free from restriction or impositions upon it by the several States." (In re Rahrer, 140 U. S., 545, 555.)

"No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so." (Id., 562.)

"All property in this country is held under the implied obligation that the owner's use of it shall not be injurious to the community." (Mugler v. Kansas, 123 U. S., 665.)

"By the settled doctrines of this court the police power extends at least to the protection of the lives, the health, and the property of the community against the injurious exercise by any citizen of his own rights." (Patterson v. Kentucky, 97 U. S., 501, 504.)

"A prohibition simply upon the use of property for purposes that are declared by valid legislation to be injurious to the health, morals, or safety of the community can not, in any just sense, be deemed a taking or an appropriation of property for the public benefit. Such legislation does not disturb the owner in the control or use of his property for lawful purposes, nor restrict his right to dispose of it, but is only a declaration by the State that its use by anyone for certain forbidden purposes is prejudicial to the public interests." (Mugler v. Kansas, 123 U. S., 668, 669.)

"There is no justification for holding that the State, under the guise merely of police regulations, is here aiming to deprive the citizen of his constitutional rights, for we can not shut out of view the fact, within the knowledge of all, that the public health, the public morals, and the public safety may be endangered by the general use of intoxicating drinks; nor the fact, established by statistics accessible to everyone, that the idleness, disorder, pauperism, and crime existing in the country are, in some degree at least, traceable to this evil. If, therefore, a State deems the absolute prohibition of the manufacture and sale within her limits of intoxicating liquors for other than medical, scientific, and manufacturing purposes to be necessary to the peace and security of society, the courts can not, without usurping legislative functions, override the will of the people as thus expressed by their chosen representatives. * * * And so, if, in the judgment of the legislature, the manufacture of intoxicating liquors for the maker's own use as a beverage would tend to cripple, if it did not defeat, the effort to guard the community against the evils attending the excessive use of such liquors, it is not for the courts, upon their views as to what is best and safest for the community, to disregard the legislative determination of that question." (Mugler v. Kansas, 123 U. S., 662.)

SPEECH OF SENATOR JOSEPH WELDON BAILEY.

Mr. MARTIN of Virginia. Mr. President, I have had a great many requests for copies of the speech delivered in the Senate by Senator Bailey on the 2d day of January last. I am unable to supply the calls that have been made on me for copies, and I ask that it be printed as a Senate document.

Mr. SMOOT. Did the Senator from Virginia say that the speech was delivered in the Senate?

Mr. MARTIN of Virginia. Yes; the speech was delivered in the Senate.

Mr. SMOOT. Then I wish to say to the Senator that the Joint Committee on Printing have refused at all times to have printed as a public document any speech delivered in either House of Congress.

I may state while I am on my feet the reason for this action. If we undertake to do that, then any Member of the House or Senate could deliver a speech upon any subject and have it not only in the RECORD but printed as a public document and send it, without expense to the Senator or Representative, to any part of the country he saw fit.

Mr. MARTIN of Virginia. If the Senator objects, of course that disposes of the matter. I might say that I have had personal requests for perhaps as many as 20 copies of that speech, and I am unable to supply them.

Mr. SMOOT. I do not want the Senator to think——

Mr. MARTIN of Virginia. I thought if it could be printed so that this demand could be supplied it would be very agreeable to me. That is all there was in it, so far as I am concerned, and the objection disposes of it.

Mr. SMOOT. I do not want the Senator to think that it is a captious objection.

Mr. MARTIN of Virginia. Not at all.

Mr. SMOOT. I want simply to say that the joint committee have agreed upon that course and have followed it out strictly so far.

Mr. MARTIN of Virginia. I understand the situation. I am not thinking that it is a captious objection at all.

The PRESIDENT pro tempore. The request is withdrawn.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts and joint resolutions:

On February 1, 1913:

S. J. Res. 158. Joint resolution approving the plan, design, and location for a Lincoln memorial.

On February 3, 1913:

S. J. Res. 157. Joint resolution to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913;

S. 6919. An act to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia;

S. 7508. An act to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation, known as the German Orphan Asylum Association of the District of Columbia"; and

S. 1072. An act to amend section 895 of the Code of Law for the District of Columbia.

PUNISHMENT OF MURDER IN THE DISTRICT (S. DOC. NO. 1062).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, ordered to be printed, and, with the accompanying bill, referred to the Committee on the District of Columbia:

To the Senate:

In response to the resolution of the Senate (the House of Representatives concurring) of January 30, 1913, I return herewith Senate bill No. 7162, entitled "An act to amend section 801 of the Code of Law for the District of Columbia."

WM. H. TAFT.

THE WHITE HOUSE, *January 31, 1913.*

OFFICERS FOR AVIATION DUTY.

The PRESIDENT pro tempore. If there is no further morning business, the morning business is closed.

Mr. CUMMINS. I ask unanimous consent——

Mr. MARTINE of New Jersey. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey rise for morning business?

Mr. MARTINE of New Jersey. I rose for inquiry as to a matter regarding a bill which was passed yesterday, the bill (H. R. 17256) to fix the status of officers of the Army and Navy detailed for aviation duty, and to increase the efficiency of the aviation service. I wish to offer an amendment to that bill at the proper time. Would it be proper at this time?

The PRESIDENT pro tempore. The Chair will entertain a motion affecting the bill.

Mr. MARTINE of New Jersey. I presume I should move a recall of the bill from the House.

The PRESIDENT pro tempore. It would be necessary for the Senator to enter a motion to reconsider the bill and ask for its recall.

Mr. MARTINE of New Jersey. If that be proper at this time, I ask respectfully a reconsideration of the vote by which the bill was passed.

The PRESIDENT pro tempore. The Senator can enter a motion to that effect and move to recall the bill.

Mr. MARTINE of New Jersey. I enter the motion, then.

Mr. CULBERSON. Will it not be necessary to recall the bill from the House?

The PRESIDENT pro tempore. The Chair was about to state——

Mr. MARTINE of New Jersey. I move that the Senate request the House to return House bill 17256.

The PRESIDENT pro tempore. The Senator from New Jersey moves the recall from the House of the bill indicated by him, with a view to its reconsideration by the Senate.

Mr. SMOOT. May I ask the Senator from New Jersey what is the bill to which he refers?

Mr. MARTINE of New Jersey. It is the bill (H. R. 17256) to fix the status of officers of the Army and Navy detailed for aviation duty, and to increase the efficiency of the aviation service.

Mr. SMOOT. That bill was passed yesterday.

Mr. MARTINE of New Jersey. It was passed yesterday.

The PRESIDENT pro tempore. The question is on the motion of the Senator from New Jersey to request the return from the House of Representatives of the bill named by him.

The motion was agreed to.

Mr. MARTINE of New Jersey. Now, I desire to offer——

The PRESIDENT pro tempore. A motion in reference to the bill is not in order until the bill shall have been returned to the Senate by the House of Representatives.

RESTRAINT OF TRADE.

Mr. CUMMINS. Mr. President, I ask unanimous consent for the present consideration of House bill 25002. The bill was brought to the attention of the Senate yesterday upon the call of the calendar.

Mr. SMITH of Maryland. Mr. President, I want to say that so far as any objection I made to the bill on yesterday is concerned I withdraw it. I presume the bill to which the Senator from Iowa refers is the same bill which I asked on yesterday be carried over, is it not?

Mr. CUMMINS. Yes.

Mr. SMITH of Maryland. I withdraw the objection to the bill I then made.

The PRESIDENT pro tempore. The Senator from Iowa asks unanimous consent for the present consideration of a bill, the title of which will be stated.

The SECRETARY. A bill (H. R. 25002) to amend section 73 and section 76 of the act of August 27, 1894.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. CULBERSON. Let the bill be read for information, Mr. President.

The PRESIDENT pro tempore. The bill will be read.

The Secretary proceeded to read the bill, but was interrupted by——

Mr. CULBERSON. Mr. President, that is sufficient; I now remember the bill.

Mr. CUMMINS. Mr. President, may I suggest in a moment what the bill is?

Mr. CULBERSON. I have no objection to the consideration of the bill. I recalled the bill after a portion of it had been read by the Secretary.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. CUMMINS. Mr. President, I think it is due to state to the Senate what the bill proposes to do. The act of 1894 made unlawful certain combinations and conspiracies substantially as the antitrust law does. Section 73 of that act is not amended by this proposed act in any other way than by inserting the words "as agent or principal." Those words are not very material, but it was thought better to insert them.

I will state the chief amendment proposed in section 76 of that act. Section 76 gave to the Government the right to seize property that was being transported from State to State in violation of the terms of section 73. Articles that were imported into the United States under such a combination or conspiracy were not included in the act of 1894, and the only purpose of this amendment is to enable the Government more effectively to administer the law by giving it the power to seize and confiscate articles coming into the United States which would be in violation of section 73.

I think there can be no objection to the proposed legislation. It is to correct a weakness in the law that has been discovered in certain prosecutions which have heretofore been instituted.

The PRESIDENT pro tempore. The amendments reported by the Committee on the Judiciary will be stated in their order.

Mr. CUMMINS. I ask that the first committee amendment shall be disagreed to, because it was made without remembering that the act of 1894 did not receive the approval of the President, but became a law without his approval. Therefore that amendment should be disagreed to.

The PRESIDENT pro tempore. The first amendment reported by the Committee on the Judiciary will be stated.

The first amendment was, on page 1, line 4, before the word "August," to strike out "of" and insert "approved," so as to read:

That section 73 and section 76 of the act approved August 27, 1894, etc.

The amendment was rejected.

The next amendment of the Committee on the Judiciary was, on page 1, line 5, after the words "eighteen hundred and ninety-four," to insert "entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes'"; in line 7, after the word "same," to strike out "is" and insert "are"; on page 2, line 21, after the word "property," to strike out "owner" and insert "owned"; in line 23, before the word "and" and after the word "thereof," to strike out the parenthesis marks; in line 24, after the word "Act," to strike out "and" and insert "imported into and being within the United States or"; and on page 3, line 1, after the word "transportation," to strike out "from a foreign country into any State, or," so as to make the bill read:

Be it enacted, etc. That section 73 and section 76 of the act of August 27, 1894, entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," be, and the same are hereby, amended to read as follows:

"SEC. 73. That every combination, conspiracy, trust, agreement, or contract is hereby declared to be contrary to public policy, illegal, and void when the same is made by or between two or more persons or corporations either of whom, as agent or principal, is engaged in importing any article from any foreign country into the United States, and when such combination, conspiracy, trust, agreement, or contract is intended to operate in restraint of lawful trade, or free competition in lawful trade or commerce, or to increase the market price in any part of the United States of any article or articles imported or intended to be imported into the United States, or of any manufacture into which such imported article enters or is intended to enter. Every person who is or shall hereafter be engaged in the importation of goods or any commodity from any foreign country in violation of this section of this act, or who shall combine or conspire with another to violate the same, is guilty of a misdemeanor, and on conviction thereof in any court of the United States such person shall be fined in a sum not less than $100 and not exceeding $5,000, and shall be further punished by imprisonment, in the discretion of the court, for a term not less than 3 months nor exceeding 12 months."

"SEC. 76. That any property owned under any contract or by any combination, or pursuant to any conspiracy, and being the subject thereof, mentioned in section 73 of this act, imported into and being within the United States or being in the course of transportation from one State to another, or to or from a Territory or the District of

Columbia, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law."

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. GRONNA. Mr. President, I should like to ask the Senator from Iowa whether or not this bill applies to anything but violations of the Sherman antitrust law?

Mr. CUMMINS. It does not. The act of 1894 provides:

SEC. 73. That every combination, conspiracy, trust, agreement, or contract is hereby declared to be contrary to public policy, illegal, and void when the same is made by or between two or more persons or corporations either of whom is engaged in importing any article from any foreign country into the United States and when such combination, conspiracy, trust, agreement, or contract is intended to operate in restraint of lawful trade or free competition in lawful trade or commerce, or to increase the market price in any part of the United States of any article or articles imported or intended to be imported into the United States or of any manufacture into which such imported article enters or is intended to enter.

That is made unlawful. The act, in a subsequent section, limited the power of the Government to seize property that was owned in violation of law and that was being used in violation of law to property being transported from one State to another, and did not include property that was imported into the United States and had not passed beyond the limits of the State into which it was imported. For instance, property coming into New York under the act of 1894 and owned illegally, as I have read, if it were passed from New York to New Jersey would be liable to seizure, but if it remained in the city of New York it could not be seized. This proposed act is intended to give the Government the same power to take the property before it enters into transportation between the States that it now has to take it if it does enter into transportation between the States.

Mr. GRONNA. So that the property which comes into this country in violation of the Sherman antitrust law would be subject to seizure under that law but under no other law?

Mr. CUMMINS. There is a little difference between the antitrust law and the act of 1894, although they are intended to carry out the same general policy. The section which we are now proposing to amend refers only to the goods that are condemned under section 73 of the act of 1894.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The PRESIDENT pro tempore. The amendment reported by the committee to the title of the bill will be stated.

The SECRETARY. It is proposed to amend the title so as to read: "A bill to amend section 73 and section 76 of the act approved August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes.'"

Mr. BRANDEGEE. Mr. President, I call the attention of the Senator from Iowa to the title as proposed to be amended. I ask him if he does not think the word "approved," the first word in the third line from the end, should be changed to the word "of"?

Mr. CUMMINS. The bill has been so amended. The amendment reported by the committee in that respect has been disagreed to because that act was not approved by the President, but was allowed to become a law without his approval.

Mr. BRANDEGEE. An amendment was made in line 4, on the first page of the bill, but not in the title in the place I have indicated, in the third line from the end.

Mr. CUMMINS. That is true. That amendment to the title should be made.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. In the amended title as reported by the committee it is proposed to strike out the word "approved" and insert "of," before the word "August," so as to read: "A bill to amend section 73 and section 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes.'"

The amendment to the amendment was agreed to.

The amended title as amended was agreed to.

Mr. BRANDEGEE. Now, Mr. President, the bill having been passed, I should like to have it printed in the RECORD.

The PRESIDENT pro tempore. Without objection, upon request of the Senator from Connecticut, the bill as passed will be printed in the RECORD.

The bill as passed is as follows:

Be it enacted, etc., That section 73 and section 76 of the act of August 27, 1894, entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," be, and the same are hereby, amended to read as follows:

"SEC. 73. That every combination, conspiracy, trust, agreement, or contract is hereby declared to be contrary to public policy, illegal, and void when the same is made by or between two or more persons or corporations either of whom, as agent or principal, is engaged in importing any article from any foreign country into the United States, and when such combination, conspiracy, trust, agreement, or contract is intended to operate in restraint of lawful trade, or free competition in lawful trade or commerce, or to increase the market price in any part of the United States of any article or articles imported or intended to be imported into the United States, or of any manufacture into which such imported article enters or is intended to enter. Every person who is or shall hereafter be engaged in the importation of goods or any commodity from any foreign country in violation of this section of this act, or who shall combine or conspire with another to violate the same, is guilty of a misdemeanor, and on conviction thereof in any court of the United States such person shall be fined in a sum not less than $100 and not exceeding $5,000, and shall be further punished by imprisonment, in the discretion of the court, for a term not less than 3 months nor exceeding 12 months."

"SEC. 76. That any property owned under any contract or by any combination, or pursuant to any conspiracy, and being the subject thereof, mentioned in section 73 of this act, imported into and being within the United States or being in the course of transportation from one State to another, or to or from a Territory or the District of Columbia, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law."

CONNECTICUT RIVER DAM.

Mr. BRANDEGEE. Mr. President, has morning business closed?

The PRESIDENT pro tempore. Morning business has closed.

Mr. BRANDEGEE. I should like to prefer a request for unanimous consent before the morning business is closed.

The PRESIDENT pro tempore. The Chair will consider it open for that purpose.

Mr. BRANDEGEE. I ask the Secretary to read the proposed unanimous-consent agreement which I handed to him a moment ago.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

It is agreed by unanimous consent that on Thursday, February 6, 1913, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of Senate bill 8033, calendar No. 1001, authorizing the construction of a dam across the Connecticut River, and before adjournment on that legislative day will vote upon any amendment that may be pending, all amendments that may be offered, and upon the bill through regular parliamentary stages to its final disposition.

This agreement shall not interfere with the unanimous-consent agreement entered into on January 11, 1913, concerning Senate bill 4043, to prohibit interstate commerce in intoxicating liquors in certain cases, nor with appropriation bills, conference reports, or the consideration of the commemorative resolutions which are on the calendar for Saturday, February 8.

Mr. BORAH. Mr. President, the proposed unanimous-consent agreement is the same, I presume, as that submitted yesterday morning.

Mr. BRANDEGEE. Yes; it was read from the RECORD.

Mr. BORAH. Mr. President, I object.

Mr. BRANDEGEE. Then, Mr. President, I give notice that I will ask the Senator in charge of the bill, the Senator from Ohio [Mr. BURTON], to move to proceed to the consideration of the bill to-morrow, on the return of the chairman of the Committee on Commerce [Mr. NELSON].

The PRESIDENT pro tempore. The notice will be entered.

Mr. BANKHEAD. Mr. President, I think perhaps it may be well to have the parliamentary status of this bill determined before we proceed any further with its consideration. Two reports have been filed—one was filed for the committee by the Senator from Ohio [Mr. BURTON]; the other was filed, signed by a majority of the committee, though in this case called the "minority report." The status, therefore, is that a majority of the Committee on Commerce file a report proposing to strike from the bill, as proposed by the Senator from Ohio, a certain proviso. When this bill comes before the Senate I should like to know who will have charge of the bill, whether or not it will be the minority or majority of the committee?

The PRESIDENT pro tempore. The bill is not now before the Senate. The Senator from Connecticut simply gave notice that at a certain time he would ask that it be taken up.

Mr. BANKHEAD. I misunderstood the Senator. We can determine that question, then, when the bill comes up.

The PRESIDENT pro tempore. "Sufficient unto the day is the evil thereof."

Mr. BORAH. May I ask the Secretary to state the notice which the Senator from Connecticut gave?

The PRESIDENT pro tempore. The reporter will please read it.

Mr. BRANDEGEE. I can state it again, Mr. President.

The PRESIDENT pro tempore. The reporter can read it.

The reporter read as follows:

Mr. BRANDEGEE. Then, Mr. President, I give notice that I will ask the Senator in charge of the bill, the Senator from Ohio [Mr. BURTON], to move to proceed to the consideration of the bill to-morrow upon the return of the chairman of the Committee on Commerce [Mr. NELSON].

Mr. BORAH. Mr. President, I have no doubt that that request will be granted by the Senator from Ohio.

Mr. BRANDEGEE. I will say that if it is not, I will call up the bill myself.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Utah?

Mr. BORAH. I yield.

Mr. SMOOT. I thought the Senator was through.

Mr. BURTON rose.

Mr. BORAH. I yield to the Senator from Ohio.

Mr. BURTON. Mr. President, I should be ready to make that motion now, but the chairman of the Committee on Commerce, the Senator from Minnesota [Mr. NELSON], made an earnest request that action be not taken on the bill until his return. He will return to-morrow morning. In any event, I give notice that whether the bill is brought up for consideration or not I shall seek to address the Senate on the bill immediately after the close of the routine morning business to-morrow.

Mr. BORAH. Mr. President, I shall not oppose the order which is to be moved by such concert of action; but I will say to the Senator from Connecticut that I am perfectly willing that the bill shall be made the unfinished business.

Mr. BRANDEGEE. That would be the effect if the motion prevailed to proceed to its consideration and the debate upon it continued until after 2 o'clock, as I understand.

Mr. BORAH. That depends upon the hour at which the motion is made.

Mr. BRANDEGEE. Yes.

Mr. BORAH. I have no objection whatever to the consideration of this bill, but I want it to come at a time when we can give it some consideration.

Mr. BRANDEGEE. The Senator and I are entirely in accord in that respect.

Mr. SMOOT obtained the floor.

Mr. WARREN. Mr. President——

Mr. SMOOT. I yield to the Senator from Wyoming for a moment.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WARREN. Mr. President, at an earlier day conferees were appointed on the legislative, executive, and judicial appropriation bill. The Senator from Louisiana [Mr. FOSTER], who was unavoidably called away and who will be away for some time, requests that his place upon the conference committee be filled, and I ask the Chair to fill it.

The PRESIDENT pro tempore. Upon the statement of the Senator from Wyoming, the Senator from Louisiana [Mr. FOSTER] will be excused from service upon the conference committee, and the Senator from North Carolina [Mr. OVERMAN] will be appointed in his place.

EXECUTIVE SESSION.

Mr. SMOOT. Mr. President, I move that the Senate proceed to the consideration of executive business.

The PRESIDENT pro tempore. The Senator from Utah moves that the Senate proceed to the consideration of executive business.

Mr. MARTIN of Virginia. Upon that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BRADLEY (when his name was called). I am paired with the junior Senator from Indiana [Mr. KERN], and therefore withhold my vote.

Mr. CLARKE of Arkansas (when his name was called). I am paired with the junior Senator from Utah [Mr. SUTHERLAND]. Unless he appears before the roll call is concluded, I will not vote.

Mr. SHIVELY (when Mr. KERN's name was called). I desire to announce that my colleague is necessarily absent from the city. He is paired with the junior Senator from Kentucky [Mr. BRADLEY].

Mr. MARTIN of Virginia (when his name was called). I am paired for the day with the Senator from Minnesota [Mr. NELSON]. I transfer that pair to the Senator from Oklahoma [Mr. GORE] and vote. I vote "nay."

Mr. OLIVER (when his name was called). I am paired with the junior Senator from Oregon [Mr. CHAMBERLAIN]. I desire this announcement to stand for the day.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM]. As he is absent from the Chamber, I will withhold my vote.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. As he is paired with the Senator from Massachusetts [Mr. CRANE], which leaves me free to vote, I will do so. I vote "yea."

Mr. RICHARDSON (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. SMITH]. In his absence, I withhold my vote.

Mr. SMITH of Michigan (when his name was called). I am paired with the junior Senator from Missouri [Mr. REED]. I transfer that pair to the Senator from New Mexico [Mr. FALL] and will vote. I vote "yea."

Mr. WARREN (when his name was called). I have a general pair with the Senator from Louisiana [Mr. FOSTER], who is detained from the Chamber by illness in his family. I therefore withhold my vote.

The roll call was concluded.

Mr. CLARK of Wyoming (after having voted in the affirmative). I transfer my general pair with the senior Senator from Missouri [Mr. STONE] to the junior Senator from Nevada [Mr. MASSEY] and will allow my vote to stand. I ask that this announcement may stand for the day.

Mr. WATSON. I have a general pair with the senior Senator from New Jersey [Mr. BRIGGS]. I transfer that pair to the Senator from Oklahoma [Mr. OWEN] and vote. I vote "nay."

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. FOSTER] on account of illness in his family, and also that he is paired with the junior Senator from Wyoming [Mr. WARREN]. I ask that this announcement may stand for the day.

The result was announced—yeas 37, nays 35, as follows:

YEAS—37.

Borah	Crawford	Jones	Smith, Mich.
Bourne	Cullom	Kenyon	Smoot
Brandegee	Cummins	Lippitt	Stephenson
Bristow	Curtis	Lodge	Sutherland
Brown	Dillingham	McCumber	Townsend
Burnham	du Pont	McLean	Wetmore
Burton	Gallinger	Page	Works
Catron	Gamble	Penrose	
Clapp	Gronna	Perkins	
Clark, Wyo.	Jackson	Root	

NAYS—35.

Ashurst	Johnson, Me.	O'Gorman	Smith, Md.
Bacon	Johnston, Ala.	Percy	Swanson
Bankhead	Kavanaugh	Perky	Thomas
Bryan	La Follette	Pomerene	Thornton
Chilton	Lea	Sheppard	Tillman
Culberson	Martin, Va.	Shively	Watson
Fletcher	Martine, N. J.	Simmons	Webb
Gardner	Myers	Smith, Ariz.	Williams
Hitchcock	Newlands	Smith, Ga.	

NOT VOTING—23.

Bradley	Fall	Nelson	Reed
Briggs	Foster	Oliver	Richardson
Chamberlain	Gore	Overman	Smith, S. C.
Clarke, Ark.	Guggenheim	Owen	Stone
Crane	Kern	Paynter	Warren
Dixon	Massey	Poindexter	

So the motion was agreed to, and the Senate proceeded to the consideration of executive business. After 1 hour and 15 minutes spent in executive session the doors were reopened, and (at 2 o'clock and 10 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, February 5, 1913, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate February 4, 1913.

COLLECTOR OF CUSTOMS.

Frederick S. Stratton, of California, to be collector of customs for the district of San Francisco, in the State of California. (Reappointment.)

PROMOTIONS IN THE PUBLIC HEALTH SERVICE.

William E. Glanville to be assistant surgeon in the Public Health Service, United States, to fill an original vacancy.

John H. Smith, jr., to be assistant surgeon in the Public Health Service, United States, to fill an original vacancy.

Henry F. White to be assistant surgeon in the Public Health Service, United States, to fill an original vacancy.

SURVEYOR GENERAL OF OREGON.

D. L. Keyt, of Oregon, to be surveyor general of Oregon, vice George A. Westgate, term expired.

RECEIVER OF PUBLIC MONEYS.

Douglas W. March, of South Dakota, to be receiver of public moneys at Pierre, S. Dak., his term expiring February 5, 1913. (Reappointment.)

PROMOTIONS IN THE ARMY.

QUARTERMASTER CORPS.

Lieut. Col. Thomas Cruse, Quartermaster Corps, to be colonel from February 1, 1913, vice Col. William H. Miller, retired from active service January 31, 1913.

Maj. Arthur W. Yates, Quartermaster Corps, to be lieutenant colonel from February 1, 1913, vice Lieut. Col. Thomas Cruse, promoted.

INFANTRY ARM.

Lieut. Col. Samuel W. Dunning, Infantry, unassigned, to be colonel from February 1, 1913, vice Col. Charles A. Booth, unassigned, retired from active service January 31, 1913.

Maj. Robert H. Noble, Twelfth Infantry, to be lieutenant colonel from February 1, 1913, vice Lieut. Col. Samuel W. Dunning, unassigned, promoted.

Capt. Isaac C. Jenks, Infantry, unassigned, to be major from February 1, 1913, vice Maj. Robert H. Noble, Twelfth Infantry, promoted.

APPOINTMENTS IN THE ARMY.

MEDICAL RESERVE CORPS.

To be first lieutenants with rank from January 25, 1913.

Roger Post Ames, of Louisiana.

George Henry Torney, jr., of Massachusetts.

POSTMASTERS.

ALABAMA.

Reuben Hosea Sartain to be postmaster at Oakman, Ala., in place of Alice A. Sartain, deceased.

Edgar A. McFerrin to be postmaster at Opp, Ala., in place of Edgar A. McFerrin. Incumbent's commission expires February 20, 1913.

Henry C. Willis to be postmaster at Alexander City, Ala., in place of Henry C. Willis. Incumbent's commission expires February 20, 1913.

ARIZONA.

Leonard D. Redfield to be postmaster at Benson, Ariz., in place of Leonard D. Redfield. Incumbent's commission expires February 11, 1913.

CALIFORNIA.

John J. Campbell to be postmaster at Galt, Cal., in place of John J. Campbell. Incumbent's commission expired January 20, 1913.

Albert E. Dixon to be postmaster at Point Loma, Cal., in place of Albert E. Dixon. Incumbent's commission expired January 20, 1913.

John T. Green to be postmaster at Wasco, Cal. Office became presidential January 1, 1913.

Frederick C. Harvey to be postmaster at Lone Pine, Cal. Office became presidential January 1, 1913.

Frank H. Owen to be postmaster at Colton, Cal., in place of Wilson Hays, deceased.

John H. Rupp to be postmaster at Cucamonga, Cal. Office became presidential January 1, 1913.

David C. Simpson to be postmaster at Courtland, Cal., in place of Charles E. Bauer, resigned.

Evelyn Stokes to be postmaster at Guadalupe (late Guadalupe), Cal., in place of Evelyn Stokes, to change name of office.

COLORADO.

E. F. Van Noy to be postmaster at Fort Morgan, Colo., in place of Frank E. Baker, removed.

CONNECTICUT.

William E. Gates to be postmaster at Glastonbury, Conn., in place of William E. Gates. Incumbent's commission expired January 20, 1913.

Tudor Gowdy to be postmaster at Thompsonville, Conn., in place of Tudor Gowdy. Incumbent's commission expired January 20, 1913.

DELAWARE.

Walter Beaston to be postmaster at Middletown, Del., in place of John A. Dolls, deceased.

FLORIDA.

Leland M. Chubb to be postmaster at Winter Park, Fla., in place of Leland M. Chubb. Incumbent's commission expires February 9, 1913.

Florida E. Gay to be postmaster at Lynn Haven, Fla. Office became presidential January 1, 1913.

John Harvey to be postmaster at Williston, Fla. Office became presidential January 1, 1913.

James H. Lundy to be postmaster at Perry, Fla., in place of James H. Lundy. Incumbent's commission expired January 26, 1913.

GEORGIA.

Julian Asher to be postmaster at Midville, Ga. Office became presidential January 1, 1913.

Benjamin L. Bryan to be postmaster at Union Point, Ga., in place of Benjamin L. Bryan. Incumbent's commission expired January 27, 1913.

Mary P. Dixon to be postmaster at West Point, Ga., in place of Mary P. Dixon. Incumbent's commission expired January 27, 1913.

William T. Edwards to be postmaster at Canton, Ga., in place of William T. Edwards. Incumbent's commission expired January 11, 1913.

Henry M. Miller to be postmaster at Colquitt, Ga., in place of Henry M. Miller. Incumbent's commission expired January 27, 1913.

William F. Pentecost to be postmaster at Lawrenceville, Ga., in place of William C. Cole, resigned.

Josiah J. Walker to be postmaster at Rowden, Ga. Office became presidential January 1, 1913.

IDAHO.

Thomas C. White to be postmaster at St. Maries, Idaho, in place of Thomas C. White. Incumbent's commission expired December 17, 1912.

ILLINOIS.

Arthur Brown to be postmaster at Thebes, Ill., in place of Holly C. Marchildon, removed.

Wallace Diver to be postmaster at Dallas City, Ill., in place of Wallace Diver. Incumbent's commission expired January 26, 1913.

Mary E. Foster to be postmaster at Bradford, Ill., in place of Eugene A. Foster, deceased.

William M. McDonald to be postmaster at Chandlerville, Ill., in place of William M. McDonald. Incumbent's commission expired January 14, 1913.

Herman F. Mette to be postmaster at Flanagan, Ill., in place of Herman F. Mette. Incumbent's commission expires February 20, 1913.

S. J. Porterfield to be postmaster at Cullom, Ill., in place of John W. White. Incumbent's commission expires February 20, 1913.

INDIANA.

Joseph S. Vanatta to be postmaster at Earl Park, Ind., in place of Joseph S. Vanatta. Incumbent's commission expired January 25, 1913.

William L. Walters to be postmaster at Fort Branch, Ind., in place of William L. Walters. Incumbent's commission expires March 2, 1913.

IOWA.

George C. Allen to be postmaster at Estherville, Iowa, in place of George C. Allen. Incumbent's commission expired December 20, 1910.

Eugene M. Crosswait to be postmaster at Earlham, Iowa, in place of Eugene M. Crosswait. Incumbent's commission expires February 9, 1913.

Harry C. Chapple to be postmaster at Independence, Iowa, in place of Harry C. Chapple. Incumbent's commission expires February 20, 1913.

William B. Davis to be postmaster at Lewis, Iowa. Office became presidential January 1, 1913.

Susan Dickey to be postmaster at Mechanicsville, Iowa, in place of William L. Comstock. Incumbent's commission expired December 14, 1912.

John H. Hunt to be postmaster at Allison, Iowa, in place of John H. Hunt. Incumbent's commission expired December 14, 1912.

J. E. T. Johnson to be postmaster at Gowrie, Iowa, in place of J. E. T. Johnson. Incumbent's commission expired December 14, 1912.

Eva Keith to be postmaster at Goldfield, Iowa, in place of Eva Keith. Incumbent's commission expired January 11, 1913.

S. L. Thompson to be postmaster at Corwith, Iowa, in place of S. L. Thompson. Incumbent's commission expired March 25, 1912.

KANSAS.

Henry L. Cooper to be postmaster at Eldorado, Kans., in place of Alice Murdock, removed.

Clarence P. Dutton to be postmaster at McCracken, Kans., in place of Clarence P. Dutton. Incumbent's commission expired January 14, 1913.

Maude McElheny to be postmaster at Louisburg, Kans., in place of George V. McElheny, deceased.

Harry B. Price to be postmaster at Cherokee, Kans., in place of John F. Price. Incumbent's commission expired January 11, 1913.

Clark C. Thomas to be postmaster at Moran, Kans., in place of Clark C. Thomas. Incumbent's commission expired January 11, 1913.

LOUISIANA.

Tina Collins to be postmaster at Bastrop, La., in place of John Dominique. Incumbent's commission expired January 20, 1913.

Mary Hunter to be postmaster at Pineville, La. Office became presidential January 1, 1913.

MAINE.

Joseph F. Dorr to be postmaster at Kittery Point, Me., in place of Horace Mitchell, resigned.

Roy M. Hescock to be postmaster at Monson, Me., in place of Roy M. Hescock. Incumbent's commission expired January 12, 1913.

Clarence L. Ridlon to be postmaster at West Paris, Me., in place of Clarence L. Ridlon. Incumbent's commission expires March 1, 1913.

MARYLAND.

Edgar F. Bradley to be postmaster at Hurlock, Md., in place of William H. Stevens, jr. Incumbent's commission expired January 29, 1913.

Thomas O. Jefferson to be postmaster at Federalsburg, Md., in place of Thomas O. Jefferson. Incumbent's commission expires February 11, 1913.

William B. Massey to be postmaster at Greensboro, Md., in place of William B. Massey. Incumbent's commission expires February 11, 1913.

Asbury C. Riley to be postmaster at Snow Hill, Md., in place of Asbury C. Riley. Incumbent's commission expired January 11, 1913.

MASSACHUSETTS.

Benjamin Derby, jr., to be postmaster at Concord Junction, Mass., in place of Benjamin Derby, jr. Incumbent's commission expired February 1, 1913.

Francis D. Dunbar to be postmaster at Canton, Mass., in place of Francis D. Dunbar. Incumbent's commission expires February 9, 1913.

George H. Haines to be postmaster at Sandwich, Mass., in place of Charles E. Brady, resigned.

MICHIGAN.

Stuart Beatty to be postmaster at Utica, Mich., in place of Stuart Beatty. Incumbent's commission expired December 14, 1912.

Andrew Bram to be postmaster at Hancock, Mich., in place of Charles F. Rogers. Incumbent's commission expires February 9, 1913.

David J. Evans to be postmaster at Millington, Mich., in place of David J. Evans. Incumbent's commission expired December 14, 1912.

Edward Glerum to be postmaster at Le Roy, Mich. Office became presidential January 1, 1912.

Lynn T. Hulett to be postmaster at Augusta, Mich. Office became presidential October 1, 1912.

Maurice H. Kimberly to be postmaster at Bellevue, Mich., in place of George A. Barnes, resigned.

Ebenezer A. Litchfield to be postmaster at Elsie, Mich., in place of Ebenezer A. Litchfield. Incumbent's commission expires February 9, 1913.

Ben F. McMillen to be postmaster at Tekonsha, Mich., in place of Ben F. McMillen. Incumbent's commission expired January 14, 1913.

William C. Mertz to be postmaster at St. Charles, Mich., in place of William C. Mertz. Incumbent's commission expires March 1, 1913.

William E. Roblick to be postmaster at Barryton, Mich., in place of James L. Campbell, removed.

O. J. Pennell to be postmaster at Berrien Springs, Mich., in place of Guy C. Mars. Incumbent's commission expires February 9, 1913.

Frank F. Taylor to be postmaster at Tawas City, Mich., in place of William B. Kelly, deceased.

MINNESOTA.

Frank E. Bardwell to be postmaster at Excelsior, Minn., in place of Frank E. Bardwell. Incumbent's commission expired January 14, 1913.

John D. Barstow to be postmaster at Barnum, Minn. Office became presidential January 1, 1913.

Jacob Gelb to be postmaster at Gaylord, Minn., in place of Jacob Gelb. Incumbent's commission expires February 9, 1913.

O. R. Hatton to be postmaster at Brooten, Minn., in place of O. R. Hatton. Incumbent's commission expires February 11, 1913.

James Haukland to be postmaster at Maynard, Minn. Office became presidential January 1, 1912.

Hattie J. Hodgson to be postmaster at Herman, Minn., in place of Hattie J. Hodgson. Incumbent's commission expires February 9, 1913.

Mathias B. Jenson to be postmaster at Clarkfield, Minn., in place of Mathias B. Jenson. Incumbent's commission expires February 9, 1913.

J. T. Larson to be postmaster at Evansville, Minn., in place of J. T. Larson. Incumbent's commission expires February 11, 1913.

Frank A. Lindbergh to be postmaster at Crosby, Minn. Office became presidential January 1, 1913.

Mary Mogren to be postmaster at Ortonville, Minn., in place of Mary Mogren. Incumbent's commission expires February 11, 1913.

Charles M. Nelson to be postmaster at Elbow Lake, Minn., in place of Charles M. Nelson. Incumbent's commission expires March 1, 1913.

J. B. Pallansch to be postmaster at Albany, Minn., in place of J. B. Pallansch. Incumbent's commission expires February 10, 1913.

Charles S. Peterson to be postmaster at Badger, Minn. Office became presidential January 1, 1913.

Fred D. Vibert to be postmaster at Cloquet, Minn., in place of Fred D. Vibert. Incumbent's commission expired January 22, 1913.

MISSISSIPPI.

Laura M. Gowdy to be postmaster at Batesville, Miss., in place of Laura M. Gowdy. Incumbent's commission expires February 9, 1913.

Samuel M. Howry to be postmaster at Oxford, Miss., in place of Samuel M. Howry. Incumbent's commission expired January 11, 1913.

Nannie B. Richardson to be postmaster at Woodville, Miss., in place of Nannie B. Richardson. Incumbent's commission expired January 11, 1913.

MISSOURI.

Mary C. Dyer to be postmaster at Warrenton, Mo., in place of Iola W. Morsey. Incumbent's commission expired December 14, 1912.

B. P. Sigler to be postmaster at Bethany, Mo., in place of B. P. Sigler. Incumbent's commission expires March 2, 1913.

MONTANA.

George W. Crane to be postmaster at Fort Benton, Mont., in place of George W. Crane. Incumbent's commission expires February 10, 1913.

Harry L. Coulter to be postmaster at Plains, Mont., in place of Harry L. Coulter. Incumbent's commission expires February 17, 1913.

NEBRASKA.

Andrew B. Anderson to be postmaster at Florence, Nebr. Office became presidential January 1, 1913.

Benjamin F. Colburn to be postmaster at Palmer, Nebr., in place of Orrin Peck, deceased.

Abraham L. Gray to be postmaster at Riverton, Nebr. Office became presidential January 1, 1913.

Jacob H. Jimerson to be postmaster at Liberty, Nebr. Office became presidential January 1, 1913.

J. L. Johnson to be postmaster at Bridgeport, Nebr., in place of Charles F. Clawges. Incumbent's commission expired January 28, 1913.

Adelbert W. Knight to be postmaster at Belgrade, Nebr. Office became presidential January 1, 1913.

Harry P. Tincher to be postmaster at Odell, Nebr. Office became presidential January 1, 1913.

Fay Whitfield to be postmaster at Peru, Nebr., in place of Fay Whitfield. Incumbent's commission expired December 17, 1912.

NEW HAMPSHIRE.

Adelia M. Barrows to be postmaster at Hinsdale, N. H., in place of Adelia M. Barrows. Incumbent's commission expired January 26, 1913.

NEW JERSEY.

Henry H. Banker to be postmaster at New Brunswick, N. J., in place of Charles W. Russell. Incumbent's commission expired January 13, 1913.

William H. Bannard to be postmaster at Asbury Park, N. J., in place of William H. Bannard. Incumbent's commission expires February 20, 1913.

William Cardwell to be postmaster at East Orange, N. J., in place of Marcus Mitchell, deceased.

Ezra F. Ferris to be postmaster at Chatham, N. J., in place of Ezra F. Ferris. Incumbent's commission expired January 26, 1913.

Samuel Gordon to be postmaster at South River, N. J., in place of Samuel Gordon. Incumbent's commission expired January 11, 1913.

Forman T. Johnson to be postmaster at Lakewood, N. J., in place of Albert M. Bradshaw. Incumbent's commission expired December 16, 1912.

Ada B. Nafew to be postmaster at Eatontown, N. J., in place of Ada B. Nafew. Incumbent's commission expired January 14, 1913.

Alexander B. Roberts to be postmaster at Tenafly, N. J., in place of Alexander B. Roberts. Incumbent's commission expires February 9, 1913.

William M. Thompson to be postmaster at Red Bank, N. J., in place of Louis Y. Manning. Incumbent's commission expires February 9, 1913.

NEW YORK.

Dana Brasted to be postmaster at Westport, N. Y., in place of Dana Brasted. Incumbent's commission expired January 11, 1913.

William T. Chapman to be postmaster at Pawling, N. Y., in place of William T. Chapman. Incumbent's commission expires February 17, 1913.

Jarius S. Chase to be postmaster at Windsor, N. Y., in place of Jarius S. Chase. Incumbent's commission expired January 11, 1913.

John A. Hanna to be postmaster at Dover Plains, N. Y., in place of John A. Hanna. Incumbent's commission expires February 17, 1913.

Ethel M. Makepeace to be postmaster at Alexandria Bay, N. Y., in place of Elbert E. Makepeace, deceased.

Hugh Smiley to be postmaster at Mohonk Lake, N. Y., in place of Daniel Smiley, resigned.

John Smythe to be postmaster at Cold Spring, N. Y., in place of John Smythe. Incumbent's commission expired January 18, 1913.

Philo C. Wheeler to be postmaster at Cincinnatus, N. Y., in place of Philo C. Wheeler. Incumbent's commission expired January 11, 1913.

Charles N. Wood to be postmaster at Angola, N. Y., in place of Charles N. Wood. Incumbent's commission expired January 11, 1913.

NORTH CAROLINA.

John F. Dobson to be postmaster at Goldsboro, N. C., in place of John F. Dobson. Incumbent's commission expired December 11, 1911.

Frank M. Grice to be postmaster at Elizabeth City, N. C., in place of John P. Overman. Incumbent's commission expired May 14, 1912.

Mattie S. Martin to be postmaster at Leaksville, N. C., in place of Mattie S. Martin. Incumbent's commission expired May 16, 1912.

NORTH DAKOTA.

William E. Biggs to be postmaster at New Rockford, N. Dak., in place of William E. Biggs. Incumbent's commission expires February 17, 1913.

Anna C. Knudson to be postmaster at Taylor, N. Dak., in place of Joseph F. Christen, resigned.

OHIO.

Edward H. Collins to be postmaster at Bedford, Ohio, in place of Edward H. Collins. Incumbent's commission expired January 21, 1913.

Lee W. Hungerford to be postmaster at Fairport Harbor, Ohio, in place of Thomas M. Irwin, deceased.

Thomas L. Knauf to be postmaster at Calla, Ohio, in place of Thomas L. Knauf. Incumbent's commission expired January 21, 1913.

Wilson A. Korns to be postmaster at New Philadelphia, Ohio, in place of Wilson A. Korns. Incumbent's commission expired April 13, 1912.

A. C. Smith to be postmaster at Byesville, Ohio, in place of Charles R. Austin, deceased.

OKLAHOMA.

Charles D. Campbell to be postmaster at Apache, Okla., in place of Charles D. Campbell. Incumbent's commission expired March 20, 1912.

Jay Collis to be postmaster at Manitou, Okla., in place of Jay Collis. Incumbent's commission expired January 14, 1913.

Lydia Dodson to be postmaster at Nowata, Okla., in place of Frank McCartney. Incumbent's commission expired February 28, 1912.

Ransom H. Drewry to be postmaster at Marlow, Okla., in place of Ransom H. Drewry. Incumbent's commission expired January 14, 1913.

Frank Gallop to be postmaster at Clinton, Okla., in place of Frank Gallop. Incumbent's commission expired January 28, 1913.

Marion Haskins to be postmaster at Blanchard, Okla., in place of Robert E. L. McLain, resigned.

Edwin F. Korns to be postmaster at Newkirk, Okla., in place of Edwin F. Korns. Incumbent's commission expired January 28, 1913.

Mary H. McBrian to be postmaster at Ryan, Okla., in place of Mary M. McBrian. Incumbent's commission expired January 21, 1913.

Charles G. Wattson to be postmaster at El Reno, Okla., in place of Charles G. Wattson. Incumbent's commission expired June 28, 1910.

James Wilkin to be postmaster at Tonkawa, Okla., in place of James Wilkin. Incumbent's commission expires February 11, 1913.

Orlo H. Wills to be postmaster at Delaware, Okla. Office became presidential July 1, 1911.

OREGON.

J. W. Donnelly to be postmaster at Condon, Oreg., in place of John F. Reisacher, resigned.

Frank B. Southwick to be postmaster at Salem, Oreg., in place of Squire Farrar. Incumbent's commission expired April 12, 1910.

Guy E. Tex to be postmaster at Central Point, Oreg., in place of Guy E. Tex. Incumbent's commission expires March 2, 1913.

Wilson S. Watters to be postmaster at Stayton, Oreg. Office became presidential January 1, 1912.

PENNSYLVANIA.

Frank M. Butterfield to be postmaster at New Milford, Pa., in place of Frank M. Butterfield. Incumbent's commission expires February 9, 1913.

William S. Davidson to be postmaster at Lemoyne, Pa. Office became presidential January 1, 1913.

Horace A. Deardorff to be postmaster at Aspinwall, Pa., in place of Samuel R. McMorran, resigned.

A. L. Etter to be postmaster at Middletown, Pa., in place of John S. Longenecker. Incumbent's commission expires February 9, 1913.

William T. Evans to be postmaster at Lykens, Pa., in place of Henry Feindt. Incumbent's commission expired January 12, 1913.

Julia C. Gleason to be postmaster at Villanova, Pa., in place of Julia C. Gleason. Incumbent's commission expired January 11, 1913.

Robert H. Johnston to be postmaster at Elk Lick, Pa., in place of Albert B. Lowry, resigned.

Timothy J. Leahy to be postmaster at Sayre, Pa., in place of Timothy J. Leahy. Incumbent's commission expires February 9, 1913.

James B. Mates to be postmaster at Butler, Pa., in place of James B. Mates. Incumbent's commission expires February 9, 1913.

Perry W. Orr to be postmaster at Harrisville, Pa. Office became presidential January 1, 1912.

Frank J. Over to be postmaster at Hollidaysburg, Pa., in place of Frank J. Over. Incumbent's commission expires March 2, 1913.

Thomas W. Parkinson to be postmaster at Norwood Station, Pa. Office became presidential October 1, 1912.

Thomas Powell to be postmaster at Patton, Pa., in place of Edward Hunter. Incumbent's commission expired February 17, 1912.

I. N. Rodkey to be postmaster at Spangler, Pa., in place of Eliza Mitchell. Incumbent's commission expired December 11, 1911.

Elizabeth R. Skelton to be postmaster at Cynwyd, Pa., in place of Elizabeth R. Skelton. Incumbent's commission expired January 25, 1913.

Sylvester C. Stout to be postmaster at Glenside, Pa., in place of Sylvester C. Stout. Incumbent's commission expires February 9, 1913.

Uriah H. Wieand to be postmaster at Emaus, Pa., in place of Uriah H. Wieand. Incumbent's commission expires February 9, 1913.

RHODE ISLAND.

Edward S. Payne to be postmaster at Block Island, R. I., in place of Edward S. Payne. Incumbent's commission expired January 11, 1913.

James S. Scully to be postmaster at Crompton, R. I. Office became presidential January 1, 1913.

SOUTH CAROLINA.

Philip L. Moorer to be postmaster at St. George, S. C., in place of Joseph H. Abbey. Incumbent's commission expired January 29, 1913.

SOUTH DAKOTA.

Arthur W. Bartels to be postmaster at Gary, S. Dak., in place of Arthur W. Bartels. Incumbent's commission expires February 9, 1913.

Charles McCaffree to be postmaster at Howard, S. Dak., in place of Boyd Wales. Incumbent's commission expired January 26, 1913.

N. Howard Wendell to be postmaster at Aberdeen, S. Dak., in place of N. Howard Wendell. Incumbent's commission expires February 11, 1913.

TENNESSEE.

Susanah E. Farley to be postmaster at Whiteville, Tenn., in place of Susanah E. Farley. Incumbent's commission expires March 3, 1913.

William C. Lyle to be postmaster at Dandridge, Tenn. Office became presidential January 1, 1913.

TEXAS.

John N. Johnson to be postmaster at Rockwall, Tex., in place of John N. Johnson. Incumbent's commission expires February 11, 1913.

F. H. Pierson to be postmaster at Lone Oak, Tex., in place of George L. Johnson, deceased.

C. R. Porterfield to be postmaster at Lott, Tex., in place of C. A. Cox. Incumbent's commission expired December 16, 1912.

G. B. Renfrow to be postmaster at Rockdale, Tex., in place of Ben Lowenstein. Incumbent's commission expired January 14, 1913.

J. T. Sewell to be postmaster at Daingerfield, Tex., in place of D. H. McCoy. Incumbent's commission expired January 27, 1913.

VERMONT.

Carroll B. Webster to be postmaster at Barton, Vt., in place of Carroll B. Webster. Incumbent's commission expires February 9, 1913.

VIRGINIA.

John S. Bateman to be postmaster at Crozet, Va. Office became presidential October 1, 1911.

A. B. Buchanan to be postmaster at Tazewell, Va., in place of William C. Pendleton, resigned.

Channing M. Goode to be postmaster at College Park, Va., in place of Channing M. Goode. Incumbent's commission expires February 9, 1913.

James H. Hurt to be postmaster at Wytheville, Va., in place of J. L. Gleaves, deceased.

William F. Kennedy to be postmaster at Kenbridge, Va. Office became presidential January 1, 1913.

Florence Rambo to be postmaster at Damascus, Va. Office became presidential October 1, 1912.

John C. Tucker to be postmaster at National Soldiers' Home, Va., in place of John C. Tucker. Incumbent's commission expired May 20, 1912.

WASHINGTON.

W. W. Askren to be postmaster at Bothell, Wash. Office became presidential January 1, 1913.

Carl E. Barron to be postmaster at Sumner, Wash., in place of De Witt C. Hostetter, resigned.

Fred Colbert to be postmaster at Ilwaco, Wash. Office became presidential January 1, 1913.

Jacob T. Grove to be postmaster at Deer Park, Wash., in place of Jacob T. Grove. Incumbent's commission expired January 28, 1913.

Orin D. Post to be postmaster at Sumas, Wash., in place of Orin D. Post. Incumbent's commission expires February 11, 1913.

WEST VIRGINIA.

Edward A. Byron to be postmaster at Berwind, W. Va. Office became presidential January 1, 1913.

James W. Hughes to be postmaster at Huntington, W. Va., in place of James W. Hughes. Incumbent's commission expired February 3, 1913.

Paul H. Metcalf to be postmaster at Williamstown, W. Va., in place of Paul H. Metcalf. Incumbent's commission expired January 11, 1913.

WISCONSIN.

Robert J. Audiss to be postmaster at Westfield, Wis., in place of Robert J. Audiss. Incumbent's commission expires February 9, 1913.

Charles E. Bartlett to be postmaster at Cameron, Wis., in place of Charles E. Bartlett. Incumbent's commission expired January 12, 1913.

Fred R. Bloodgood to be postmaster at Whitewater, Wis., in place of Frank B. Goodhue. Incumbent's commission expired January 11, 1913.

William W. Clarke to be postmaster at Milton, Wis., in place of William W. Clarke. Incumbent's commission expires March 1, 1913.

Frank W. Heath to be postmaster at Spencer, Wis. Office became presidential January 1, 1913.

William Kuelling to be postmaster at Shullsburg, Wis., in place of William Kuelling. Incumbent's commission expired December 14, 1912.

Irwin R. Nye to be postmaster at Wittenberg, Wis., in place of Irwin R. Nye. Incumbent's commission expired January 12, 1913.

Lewis P. Perry to be postmaster at Gillett, Wis., in place of Lewis P. Perry. Incumbent's commission expired February 13, 1912.

Frank J. Salter to be postmaster at Prentice, Wis., in place of Frank J. Salter. Incumbent's commission expires February 9, 1913.

Frank J. Wiley to be postmaster at Hancock, Wis., in place of Frank J. Wiley. Incumbent's commission expires February 18, 1913.

WITHDRAWALS.

Executive nominations withdrawn from the Senate February 4, 1913.

POSTMASTERS.

ALABAMA.

Dallas B. Smith to be postmaster at Opelika, in the State of Alabama.

CONNECTICUT.

Edward E. Ashley to be postmaster at Plainfield, in the State of Connecticut.

GEORGIA.

Hugh D. North to be postmaster at Midville, in the State of Georgia.

IOWA.

John H. Schlosser to be postmaster at Dallas Center, in the State of Iowa.

MISSOURI.

Campbell F. Reid to be postmaster at Warrenton, in the State of Missouri.

NEW YORK.

Melbourne Hutton to be postmaster at Nanuet, in the State of New York.

Daniel Smiley to be postmaster at Mohonk Lake, in the State of New York.

PENNSYLVANIA.

Daniel Smiley to be postmaster at Mohonk Lake, in the State of Pennsylvania.

WISCONSIN.

August G. Koch to be postmaster at Kewaskum, in the State of Wisconsin.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February 4, 1913.*

The House met at 10.30 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou who art the God and Father of all men, who hearest and answerest prayer, take away from us unrighteous thoughts, ignoble desires, selfish ambitions, that we may dwell with our fellow men in the spirit of brotherhood, striving in our daily life to do unto them as we would have them do unto us. In the spirit of the Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

J. P. CORNES—LEAVE TO WITHDRAW PAPERS.

Mr. DANFORTH, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of J. P. Cornes (H. R. 21555, Sixtieth Congress), no adverse report having been made thereon.

RATIFICATION BY DELAWARE OF INCOME-TAX AMENDMENT.

The SPEAKER laid before the House a communication from the secretary of state of Delaware announcing the passage of the general assembly of that State of a concurrent resolution ratifying the sixteenth amendment to the Constitution of the United States relative to the income tax.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. BURLESON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the District of Columbia appropriation bill, H. R. 28499.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 28499) making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, with Mr. RODDENBERY in the chair.

The CHAIRMAN. When the committee rose on the day it was last considering this bill the committee was dividing on an amendment offered by the gentleman from Illinois [Mr. FOWLER]. The Clerk will report the amendment.

The Clerk read as follows:

Page 46, line 14, strike out "$1,200" and insert in lieu thereof "$1,500."

Mr. FOWLER. Mr. Chairman, I desire to withdraw my amendment.

The CHAIRMAN. If there be no objection the amendment will be withdrawn. The Clerk will read.

The Clerk read as follows:

Birney and annex, Brookland, Bryan, Curtis, Dennison, Force, Gage, Gales, Garfield, Garnet, Grant, Grover Cleveland, Henry, Johnson and annex, Langdon, Lincoln, Lovejoy, Miner, Monroe and addition, Peabody, Seaton, Sumner, Webster, Strong John Thomson Schools, 24 janitors, at $720 each; 24 laborers, at $500 each; in all, $24,480.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word, for the purpose of asking the gentleman in charge of the bill why it was necessary to increase the janitors from 20 to 24 in this department?

Mr. BURLESON. To serve in new school buildings that have been brought into commission since the last appropriation bill was passed.

Mr. FOWLER. What additional schools have been instituted?

Mr. BURLESON. The Ross School, the J. Ormond Wilson Normal School, the Randle Highlands School, and, I think, one other.

Mr. FOWLER. There are no additional or new janitors on account of increases in numbers at old schools, are there?

Mr. BURLESON. We increased the compensation allowed to a number of janitors because of the earnest recommendation of a special committee that had been appointed by the District Committee, which made an investigation of the janitor service.

Mr. FOWLER. You have not increased the salaries of the janitors in these schools in this paragraph?

Mr. BURLESON. Not in this particular paragraph.

Mr. FOWLER. The increase in the number was the only question that was troubling me. I did not know what was the occasion for increasing the number.

Mr. BURLESON. The compensation allowed these janitors was not increased, because it was not estimated for and was not asked for by the school authorities. The increase in the compensation of a number of janitors was because of the necessity arising from the fact that new school buildings had been brought into service.

Mr. FOWLER. I withdraw the pro forma amendment, Mr. Chairman.

The CHAIRMAN. If there be no objection the pro forma amendment will be considered as withdrawn, and the Clerk will read.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. RUBEY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, announced that the Senate had passed without amendment bills of the following titles:

H. R. 2359. An act to refund certain tonnage taxes and light dues;

H. R. 8151. An act providing for the adjustment of the grant of lands in aid of the construction of the Corvallis and Yaquina Bay military wagon road, and of conflicting claims to lands within the limits of said grant;

H. R. 15181. An act for the relief of Harry S. Wade;

H. R. 20385. An act to reimburse Charles S. Jackson;

H. R. 23351. An act to amend an act entitled "An act to provide for an enlarged homestead";

H. R. 24365. An act providing for the taking over by the United States Government of the Confederate cemetery at Little Rock, Ark.;

H. R. 25741. An act amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August, 1909;

H. R. 26549. An act to provide for the construction or purchase of motor boat for customs service; and

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Coloma Ferry, in the State of Illinois.

The message also announced that the Senate had passed with amendment bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 8861. An act for the relief of the legal representatives of Samuel Schiffer;

H. R. 16470. An act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles therefrom in process of transportation in interstate shipment, and the felonious exportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious reception or possession of the same;

H. R. 17256. An act to fix the status of officers of the Army and Navy detailed for aviation duty and to increase the efficiency of the aviation service;

H. R. 20102. An act relating to proof signatures and handwriting;

H. R. 23293. An act for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo.; and

H. R. 21524. An act for the relief of Frederick H. Ferris.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 118. An act granting an increase of pension to Harriet Pierson Porter;

S. 1899. An act to repeal a portion of an act heretofore passed relating to the alienation of the title of the United States to land in the District of Columbia;

S. 4549. An act to place the name of Herman C. Fink upon the retired list created by act approved March 2, 1907;

S. 5169. An act authorizing the Ponca Tribe of Indians to intervene in the suit of the Omaha Indians in the Court of Claims, and for other purposes;

S. 6507. An act further to assure title to lands granted the several States, in place, in aid of public schools;

S. 7488. An act for the relief of George L. Thomas;

S. 7622. An act for the relief of Stanley Mitchell;

S. 7772. An act to authorize the condemnation of land for a park at the intersection of Twenty-sixth Street, Twenty-seventh Street, and Q Street NW., and a highway from said park along the boundary of Oak Hill Cemetery, and across the north part of square 1284 to Twenty-ninth and R Streets;

S. 7875. An act to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal.;

S. 8058. An act providing for an increase of salary of the United States attorney for the district of Connecticut;

S. 8272. An act regulating the constitution, composition, and jurisdiction of courts-martial in the Armies of the United States, and for other purposes;

S. 8274. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 8275. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; and

S. 8314. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 38.

Resolved by the Senate (the House of Representatives concurring), That there be printed 4,000 copies of the laws of the United States applicable to the Territory of Alaska, compiled by the Committee on Territories of the Senate and the Committee on the Territories of the House of Representatives in compliance with public act No. 334, 1,500 of which shall be for the use of the Senate and 2,500 copies for the use of the House of Representatives.

The message also announced that the Senate had passed the following resolution:

Resolved, That the tellers on the part of the Senate authorized by the concurrent resolution of the two Houses relating to the counting of the electoral votes for President and Vice President of the United States be appointed by the President pro tempore.

In compliance with the foregoing resolution the President pro tempore appointed as said tellers Mr. DILLINGHAM and Mr. MARTINE of New Jersey.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

In the event of the absence of any engineer, assistant engineer, janitor, assistant janitor, laborer, fireman, or caretaker at any time during school sessions the board of education is hereby authorized to appoint a substitute, who shall be paid the salary of the position in which employed, and the amount paid to such substitute shall be deducted from the salary of the absent employee.

In all, $122,940.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out the last word. I wish to inquire if, in line 9, before the word "absent," it would not be well to insert the word "unauthorized"?

Mr. BURLESON. I think the amendment is not necessary, although I have no objection to it.

Mr. JOHNSON of Kentucky. I am not insisting on it. I notice in line 11 it is only to apply during school sessions. I think there has to be a janitor around in vacation time.

Mr. BURLESON. I will state that an unauthorized absence on the part of these engineer employees would mean that he had severed his connection with the school.

Mr. JOHNSON of Kentucky. No; they may have been given a vacation.

Mr. MANN. If the gentleman from Kentucky will yield, I understand the purpose of this is to appoint a substitute and have the substitute paid in the absence of the engineer. It is to save the doubling up of salaries.

Mr. JOHNSON of Kentucky. I only called the chairman's attention to it; I have no criticism to make.

Mr. BURLESON. In the event of the absence of the engineer without authority there would be no question but that the school board could put in a substitute and pay him a salary.

Mr. JOHNSON of Kentucky. Mr. Chairman, I withdraw my pro forma amendment.

The Clerk read as follows:

Medical inspectors: Chief medical inspector of public schools, $1,800; 12 medical inspectors of public schools, 1 of whom shall be a woman, 2 of whom shall be dentists, and 4 of whom shall be of the colored race, at $900 each; in all, $7,800: *Provided*, That said inspectors shall be appointed by the commissioners only after competitive examination, and shall have had at least three years' experience in the practice of medicine or dentistry in the District of Columbia, and shall perform their duties under the direction of the health officer and according to rules formulated from time to time by him, which shall be subject to the approval of the board of education and the commissioners.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order that this is not authorized by law. I will reserve the point of order for the present.

Mr. BURLESON. Mr. Chairman, I send to the Clerk's desk and ask to have read a letter from Dr. Woodward, health officer, in explanation of the creation of this new office.

The Clerk read the letter, as follows:

COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
HEALTH DEPARTMENT,
Washington, January 9, 1913.

Hon. ALBERT S. BURLESON,
House of Representatives, Washington, D. C.

DEAR SIR: As stated to you this morning, I am very much interested in the medical inspection of schools and hope that something can be done this year to make our service more efficient.

There are now 10 medical inspectors and 2 dental inspectors, each a part-time employee. No adequate provision has ever been made for the supervision of their work, and no provision has even been made for following up its results through school nurses. The pending tentative appropriation bill marks, therefore, in my judgment, a step in the right direction, inasmuch as it does provide for efficient supervision.

The basic principle upon which the medical inspection of schools in the District of Columbia is organized is embodied in section 1 of the regulations governing the service, which is as follows:

"SEC. 1. No pupil will be permitted to attend the public schools of the District of Columbia who is suffering from any defect or disease which renders his presence materially detrimental to the welfare or the safety of other pupils, nor will any pupil be permitted to attend school when such attendance will materially jeopardize his own health and the condition out of which such jeopardy arises is of a temporary character."

During the fiscal year 1912 the 10 medical inspectors made 8,258 visits to schools and 37 to the homes of pupils. The total number of examinations of pupils by medical inspectors was 10,603. The pupils examined were in 6,528 cases in attendance at school at the time of examination, and of these pupils 725 were found to be in such physical condition as to render it advisable that they be excluded. The pupils not in actual attendance at school at the time of examination were those who had been absent for varying periods and various causes and who were examined merely to determine whether they were in condition to resume their school duties, and all were readmitted. The usual examinations were made of applicants for admission to the normal schools.

By confining the work of each of the two recently appointed dental inspectors to one school at a time instead of having them go from school to school as medical inspectors do, there has been no loss of time on the streets. As a result, these two inspectors, during the school year, examined 4,165 pupils. Of these pupils 3,441 had teeth with 17,128 cavities, 9,012 of which had progressed so far as to be in need of filling at the time of examination. Eight hundred and thirty-one pupils had lost one or more teeth, of which 1,687 were of the second or permanent set. Eighty-six pupils had abscesses. Reexaminations were made of 1,660 pupils, and in only 180 cases had the dental work recommended by the dental inspector been done.

I append a table showing the number of children excluded from school and the principal causes for such exclusions by reason of the work of the medical inspection of schools and under authority of section 1 of the regulations governing the service set forth above. Most of these children excluded, probably all of them, would have remained in school to the detriment of other pupils, to their own detriment, or possibly to the detriment of the community had it not been for the medical-inspection service.

Yours, very truly,
W. C. WOODWARD,
Health Officer.

Statement showing the number and principal causes of exclusion of pupils from the public schools of the District of Columbia through the medical-inspection service during the fiscal year 1912.

Bronchitis	3
Cerebrospinal meningitis, exposure to	2
Chicken pox	50
Chorea	1
Conjunctivitis	35
Diphtheria	19
Exposure to	6
Suspected	15
Impetigo	28
Measles	26
Mumps	17
Pediculosis, capitis	247
Ringworm	6
Scarlatina	6
Tonsilitis	17
Whooping cough	60
Tinea	36
Miscellaneous	92
Total	725

Mr. JOHNSON of Kentucky. Mr. Chairman, in my judgment, this is clearly subject to a point of order. It is the creation of a new bureau, and it is one, if it should be tolerated at all, that should not be under the school board but under the board of health and come under that head.

On yesterday I noticed on the calendar on motions to discharge committees a bill to authorize the appointment of dental surgeons in the United States Navy. It certainly seems to me that the taxpayers throughout the length and breadth of this Nation should not be called upon to pay for the physicians who render medical service to all those who happen to be within the school age in the District of Columbia. Here there is a minimum school age, but there is no maximum school age. The school reports show persons in attendance as old as 66 years. So if a man wants his teeth fixed free of charge, all he has to do is to go to school one day and then have dental services free. If he is not well, no matter how old he is, all that is necessary is for him to go to school one day, be subjected to this medical examination, sent away from school, have a physician paid for out of the Public Treasury, then have nurses, paid for out of the Public Treasury, to go and nurse him. I say there is no warrant of law for anything of the kind.

The CHAIRMAN. The Chair would like to ask the gentleman from Kentucky a question. If this is only an instrumentality for protecting the thousands of children of the public schools against contagion and the contracting of disease, why is it not inherent within the power of the Appropriation Committee?

Mr. JOHNSON of Kentucky. It more properly belongs to the board of health. The board of health may take cognizance of it, and no doubt would have authority to go there, but I maintain that the school board is clothed with no such power.

Mr. BURLESON. Mr. Chairman, the medical inspectors are under the direction of the chief health officer of the District. The gentleman from Kentucky is laboring under a misapprehension as to the purpose and effect of this provision. It does not provide for free dental service; it does not provide for free medical attendance; it provides for the inspection of the mouths of children, with a view to ascertaining whether their teeth need attention, and if they ascertain there is necessity for attention to report that fact to the parents. There is no burden on the treasury of the District to supply this dental service.

It is simply an examination, and upon that examination, if an unhealthy condition is discovered, there is a report made by this medical inspector to the parent that the child's mouth needs attention, or if an illness is discovered there is simply a report made to the health officer, and the health officer requires the withdrawal of the child from the school. There is no free medical attendance furnished at all under this paragraph of the bill.

The CHAIRMAN. The Chair would like to ask the gentleman from Texas a question. How is the vaccination of school children supervised here at the present time?

Mr. BURLESON. It is all under this paragraph in the bill. If it is ascertained that a child has the smallpox or the chicken pox or any contagious disease, that child is immediately sent home and a report made to the health officer of the fact that the child has a disease, and the parent is advised, and then the parent provides medical attention for the child.

Mr. JOHNSON of Kentucky. Mr. Chairman, it is, under the law, the duty of the officers of the board of health to ascertain these facts for themselves directly and not indirectly through these sinecures herein provided for. If these people are to be paid to examine their teeth, why not have them paid to examine their feet? You can go from one end of the pupil to the other, and there is just as much authority for one as there is for the other.

Mr. BURLESON. Mr. Chairman, I will state to the gentleman from Kentucky that there is authority for examination of the feet of the child. If the child has the itch and it is discovered, a report of that fact is made to the parent of the child, and the child is excluded from the school, and that is the only means of protecting the school from an outbreak of contagious diseases.

Mr. JOHNSON of Kentucky. Mr. Chairman, every State in the Union has a board of health, I believe, and all of these quarantines and getting a diseased child out of the schools is done by the board of health; and I hope, before we have gone a very great deal further in the bill, to show the importance of why this item should come under the board of health and not under the school board. I hope to be able to show that this is designedly put under the head of the school board instead of under the board of health. That we will reach by and by.

Mr. BURLESON. Mr. Chairman, I will say to the gentleman from Kentucky that under the wording of the paragraph, if he will turn to it, he will see that these officers shall perform their duties under the direction of the health officer and according to the rules formulated from time to time by him.

Mr. JOHNSON of Kentucky. If so, then it ought to be paid for out of the appropriation for the health department and not out of this appropriation.

Mr. BURLESON. That merely looks to the arrangement of the bill.

Mr. JOHNSON of Kentucky. Mr. Chairman, I beg to differ with the gentleman and say that there is considerably more in it than the mere arrangement of the bill. Mr. Chairman, I make the point of order.

The CHAIRMAN. The Chair overrules the point of order.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. Does the gentleman from Kentucky desire to be heard?

Mr. JOHNSON of Kentucky. No.

Mr. BURLESON. Mr. Chairman, I think there ought to be a word of explanation to the committee. I want to state that these inspectors are under the direction of the health officer of the District of Columbia. This is the medical inspection that is furnished to protect the children of the public schools from an outbreak of contagious disease and the gentleman from Kentucky is mistaken when he thinks that it affords free dental service or free medical service. All that this paragraph requires or all that it authorizes is that these medical inspectors shall examine the school children from time to time, and if a contagious disease is discovered, or if an unwholesome condition of their teeth is discovered, a report is made by the medical inspector to the health officer, and the health officer advises the parent of the child as to the facts. I think it should not be stricken out.

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. BURLESON. Certainly.

Mr. WILLIS. Mr. Chairman, I simply wanted to suggest to the gentleman that I know personally that the educational institutions generally throughout the country, the teachers' associations, and so forth, are heartily in favor of this medical inspection as it is provided in this bill.

Mr. BURLESON. That is true. Every progressive city in the United States affords this service for the children.

Mr. WILLIS. Absolutely, without exception.

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

Mr. BURLESON. Certainly.

Mr. MANN. The duties of these medical inspectors being as stated by the gentleman, what is the special advantage of employing a chief medical inspector?

Mr. BURLESON. If the gentleman from Illinois had been here a moment ago——

Mr. MANN. I was here a moment ago and I heard the letter read.

Mr. BURLESON. I had a letter read from the chief health officer.

Mr. MANN. I heard it read.

Mr. BURLESON. They have been insisting for a number of years that we did not have as adequate medical inspection as the city should be given. The health officer was very insistent that he should have a chief inspector in order that he might supervise the work of the other medical inspectors for the purpose of securing more efficient service and to cover a larger number of pupils than have heretofore been covered by the medical inspection.

Mr. MANN. I heard the letter read from the health officer, but that does not answer the question. What will this chief medical inspector of public schools do?

Mr. BURLESON. The chief medical inspector is to devote his entire time to this work——

Mr. MANN. But what is he to do?

Mr. BURLESON. Why, he performs the duties of an inspector as well as supervises the other medical inspectors under the direction of the chief health officer.

Mr. MANN. I take it the chief medical inspector himself is not going to go around to all the schools and examine pupils as to disease or the condition of their teeth. Is he to be a sort of detective and see whether the others do their work? If so, you will require one detective for each inspector.

Mr. BURLESON. No; he is not to perform service as a detective, but he is to visit all the schools and is to devote his entire time to this work. He has to look after the other inspectors and see that they are properly discharging their duties under the requirements.

Mr. MANN. It seems to me, with due respect to the gentleman and the health officer, if he wants to get additional service performed he had better divide the $1,800 among the inspectors rather than have a chief medical inspector who probably would have very little to do with the work of medical inspection.

Mr. BURLESON. On the contrary, I will say to the gentleman from Illinois, that he is to devote his entire time to this service, whereas the others only devote a part of their time to the service, and I am free to say that we followed the advice and suggestions made by the chief health officer.

Mr. MANN. That is the best reply the gentleman has given.

Mr. FOWLER. Mr. Chairman, I desire to ask the gentleman in charge of the bill why it is that this new position should be created when the bill provides that all of these medical inspectors shall perform their duties under the direction of the health officer, there being a health office department in this city?

Mr. BURLESON. It is utterly impossible for one health officer to inspect these schools. He must have assistants to aid him in the proper discharge of his duty.

Mr. FOWLER. You provide for 12.

Mr. BURLESON. We need more.

Mr. FOWLER. And you provide for a chief inspector.

Mr. BURLESON. We need a chief inspector for the reasons I have given, and I will read to the gentleman what the superintendent of schools had to say on this subject:

> Dr. DAVIDSON. Dr. Woodward, the health officer of the District, recommends that this item be recast, and that it shall provide for a chief medical inspector of the public schools at a salary of $1,800 a year. The medical inspection of the schools is under the guidance and direction of the health officer, who has from the very beginning felt that the work of inspection needed closer supervision than it is now receiving. He now desires to place the work under a chief medical inspector whose whole time shall be devoted to the supervision of the staff of medical inspectors and their work in the schools.

Now, if I were to talk a week I could not make more of an explanation than I have offered, and I ask the gentleman to permit us to vote on this proposition and proceed with the consideration of the bill.

Mr. FOWLER. Mr. Chairman, I have no disposition to delay the House one moment in the consideration of this bill. I realize the shortness of the session and the amount of work to be performed, and yet if this chief medical inspector is created here

it appears to me that he rather conflicts with the efficiency of the health department of this city.

It is a criticism of the health department. You have already had this medical inspection bureau of 12 members since 1904, and now you propose to create a head while these men have been acting under a head, to wit, the health department of the city.

Mr. BURLESON. But he can not give it that close supervision which he thinks it should have.

Mr. FOWLER. Then why not have the chief as the health officer and increase the force if it is inadequate?

Mr. BURLESON. Because the health officer thinks this office should be created, and in his recommendation he is supported by the unanimous action of the District Commissioners and the school board.

Mr. FOWLER. You are getting too many big men here at the expense of the little men. One health department appears to me to be sufficient if there is a sufficient amount of assistants under this department.

Mr. BURLESON. I will say to the gentleman from Illinois [Mr. FOWLER] that it is analogous to having a chief of police and inspectors of police under the chief of police.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. FOSTER. Mr. Chairman, I want to say one word before we vote on this provision for the appropriation of $7,800 for the medical inspection of the children in the schools of this District of Columbia. This is an important item, and is one that ought to have serious consideration. We know this, that children are liable to a great many contagious diseases, and then doctors are continually finding children among a lot of other children who are so afflicted, and it is important that there should be a head of this department so there may be a proper inspection of school children at the regular time, when their attention may be called to it by the teacher. And I think this is such an important proposition that it ought not to be stricken out of the bill.

Mr. FOWLER. Will the gentleman yield for a question?

Mr. FOSTER. Certainly.

Mr. FOWLER. This paragraph provides that these medical inspectors shall perform their duties under the direction of the health officer and according to the rules formulated by him from time to time. Does not that give a head?

Mr. FOSTER. Let me say this, that in here provision is made for one chief medical inspector, who is supposed to give his whole time to this work, at $1,800 per year. Now, I want to submit to my colleague that a salary of $1,800 a year, living in the city of Washington, for a competent physician who has had three years' practice here, is not an exorbitant one.

Mr. FOWLER. I am not complaining of the expense.

Mr. FOSTER. It is necessary that some one should be at the head of this work. Now, of course, we have the health department, and I want to submit to my colleague that the health department of the city of Washington is not an extravagant one. There is a good deal of work to be done so that the city shall have that proper attention which shall keep the city in a sanitary condition so that it shall be as healthy as possible.

Mr. FOWLER. Do you not think that if these medical examiners were under the health officer that the health officer constitutes a chief sufficient to give all proper instruction?

Mr. FOSTER. I think in the health department of the city that may be true, and yet I submit to my colleague that in the matter of thousands of little children, some of them coming from the kind of houses in which they live, this is an important matter. It is of such importance that I do not think it should be stricken from the bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DYER. Mr. Chairman, I request recognition in order to ask the gentleman from Illinois [Mr. FOSTER] a question. He has given a good deal of time and attention to matters pertaining to the health of the people of this city during his service here. Under the present law is it not the duty of the health officer to look after the sanitation of the school buildings and see that they are kept in proper condition?

Mr. FOSTER. I think so. I think it very necessary we should have some head of the department to do that.

Mr. DYER. It is the duty of the health officer, is it not, to look after the sanitation now?

Mr. FOSTER. Yes; he is the head of all of it.

Mr. DYER. The gentleman is familiar with the health department here. Its work is limited. For instance, the health department does not give any attention practically to the public hospitals and institutions. Those are under the direction of what they call the Board of Charities.

Mr. FOSTER. Yes, sir.

Mr. DYER. And that the health commissioner has nothing else to do except to look after sanitation, practically?

Mr. FOSTER. I will state to the gentleman from Missouri [Mr. DYER] that if he gives that the attention it should have it will take his entire time, because no doubt the gentleman realizes, from his service on the Committee on the District of Columbia and visiting different parts of the city, that it is very necessary some one from the health department should visit these different places and try to keep the city in as sanitary a condition as possible.

Mr. DYER. I agree with the gentleman on that, Mr. Chairman. I further think that it is a bad precedent that has grown up here in the District of Columbia to have so many people unconnected, unresponsible to one another, looking after the health of the public. I believe that the responsibility should be centered, that it should be put into the hands of some one man, and that he should be held responsible for the sanitation and public health, including that of the schools. Inspectors should be furnished to assist him in this work, but some one should be held responsible to the public instead of dividing it up into half a dozen heads, with poor satisfaction in many instances.

Mr. FOSTER. This department is under the jurisdiction of the health officer.

Mr. DYER. And he is to be held primarily responsible?

Mr. FOSTER. Certainly——

Mr. BURLESON. By the very terms of this paragraph.

Mr. DYER. That is what I am in favor of, and I will say to the gentleman from Texas [Mr. BURLESON] that I think this whole health business in the District of Columbia should be put under one responsible head, instead of having a lot of men who have no responsibility looking after public institutions.

Mr. BURLESON. I will say to the gentleman that the health office of the District of Columbia is under one officer, the health officer.

Mr. DYER. I am speaking of hospitals and the poor.

Mr. BURLESON. I am inclined to agree with the gentleman about that.

Mr. JOHNSON of Kentucky. Mr. Chairman, I ask leave to withdraw the motion to strike out, and offer an amendment to the paragraph by striking out "Chief medical inspector of public schools, $1,800" and changing the amount from "$7,800" to "$6,000." In other words, the substance of my amendment is to do away with the creation of this new office.

The CHAIRMAN. The gentleman from Kentucky [Mr. JOHNSON] withdraws his pro forma amendment and offers an amendment which the Clerk will report.

The Clerk read as follows:

> On page 48, lines 21 and 22, strike out the words "Chief medical inspector of public schools, $1,800" and change the amount in line 25 from "7,800" to "$6,000."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chairman announced that the "noes" seemed to have it.

Mr. DYER. Mr. Chairman, I ask for a division.

Mr. BURLESON. Mr. Chairman, I make the point of order that the gentleman did not rise soon enough. But I do not want to be captious, and I will withdraw the point of order.

The CHAIRMAN. The Chair thinks the gentleman from Texas is right. A division is asked for.

The committee divided; and there were—ayes 7, noes 15.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

> For the purchase and repair of tools, machinery, material, and books, and apparatus to be used in connection with instruction in manual training, and for incidental expenses connected therewith, $25,000.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out the last word, for the purpose of getting some information.

The CHAIRMAN. The gentleman from Kentucky [Mr. JOHNSON] moves to strike out the last word.

Mr. JOHNSON of Kentucky. Is that the paragraph under which the school-book item comes, or is it under the next—line 10—or where does it come?

Mr. ROUSE. On line 14, page 50.

Mr. BURLESON. It comes in a subsequent paragraph.

Mr. JOHNSON of Kentucky. I withdraw the pro forma amendment, Mr. Chairman.

The CHAIRMAN. Without objection, the pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

> For textbooks and school supplies for use of pupils of the first eight grades, who at the time are not supplied with the same, to be distributed by the superintendent of public schools under regulations to be

made by the board of education of the District of Columbia, and for the necessary expenses of the purchase, distribution, and preservation of said textbooks and supplies, including one bookkeeper and custodian of textbooks and supplies, at $1,200, and one assistant, at $660, $65,000: *Provided*, That the board of education, in its discretion, is authorized to make exchanges of such books and other educational publications now on hand as may not be desirable for use.

Mr. JOHNSON of Kentucky. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Kentucky [Mr. JOHNSON] offers an amendment, which the Clerk will read.

The Clerk read as follows:

Add at the end of the paragraph just read, page 50, line 25, the following: *Provided further*, That no money appropriated by this act shall be expended for the purpose of furnishing textbooks or any school supplies to any pupil whose parent is able to purchase them; and every parent shall be deemed able to so purchase unless the contrary appear by the sworn statement of the parent and to the satisfaction of the superintendent of public schools for the District of Columbia."

Mr. BURLESON. Mr. Chairman, I reserve a point of order on the amendment.

Mr. JOHNSON of Kentucky. The point of order is not good. This is a limitation.

The CHAIRMAN. The point of order is reserved.

Mr. BURLESON. I will withdraw the point of order, Mr. Chairman, and let the committee pass upon the merits of the proposition.

Mr. JOHNSON of Kentucky. The point of order is not good, because the amendment clearly comes within the Holman rule. The question is simply this, Mr. Chairman, as to whether the people all over this country shall be taxed for the purpose of buying schoolbooks for the children of the very many rich people who reside in the District of Columbia. I am unquestionably of the opinion that people who live in the District of Columbia, and especially those who are very rich, should buy schoolbooks for their own children and not compel a tax to be imposed upon all the country for that purpose.

Mr. DYER. Will the gentleman yield?

Mr. JOHNSON of Kentucky. Yes.

Mr. DYER. Does the gentleman know of any number of rich people in the city of Washington who send their children to the public schools?

Mr. JOHNSON of Kentucky. I do not know who send their children, and I do not know who do not send them.

Mr. DYER. I will ask the gentleman if it is not a fact that in practically all the large cities now textbooks are furnished to the children of the public schools free by the people.

Mr. JOHNSON of Kentucky. That may be true, but where that is done the local taxpayers pay for it, while here the local taxpayers pay half of it and the taxpayers in every quarter of this Nation pay the other half.

Mr. DYER. The gentleman will agree with me that the people of Washington pay whatever proportion is taxed up against them.

Mr. JOHNSON of Kentucky. Yes; and it is the proportion that I am objecting to. I do not see any reason why anybody should want to make it possible to have the poor people in the States taxed to buy books for their own children and then contribute to the purchase of schoolbooks here for the rich. We are all willing to be taxed everywhere to purchase schoolbooks for the poor children, but not for the children of the rich.

Mr. MURRAY. Will the gentleman from Kentucky allow me to interrupt him?

Mr. JOHNSON of Kentucky. Certainly.

Mr. MURRAY. I should like to inquire of the gentleman what the practice is in his home section in regard to the furnishing of textbooks for children in the schools?

Mr. JOHNSON of Kentucky. In the State of Kentucky the parent of every child who is able to furnish textbooks for his children must do so, and those who are not able to purchase them go to the county court judge and get them free of charge.

Mr. MURRAY. I should like to inquire of the gentleman, further, how that works out in practice?

Mr. JOHNSON of Kentucky. It works admirably.

Mr. MURRAY. Will the gentleman inform the committee whether or not any considerable number of children in the public schools of his State are furnished textbooks free?

Mr. JOHNSON of Kentucky. Oh, yes; a very large number of them. Practically every negro in the State gets his schoolbooks free. Many of the white people and nearly all the negroes have their textbooks furnished free.

Mr. MURRAY. Has there been any agitation at any time of a proposition to have all the school children furnished with books at public expense?

Mr. JOHNSON of Kentucky. Yes; and the legislature refused to pass such a bill.

Mr. MURRAY. Recently?

Mr. JOHNSON of Kentucky. Yes; only a few years ago. But I wish to call the attention of the gentleman from Massachusetts to this fact, that in his immediate locality and in mine a local tax is imposed to pay for the purchasing of schoolbooks for the children of that locality, while under this provision there is a tax levied upon the gentleman's locality and mine to pay for textbooks for children here in Washington.

Mr. MURRAY. Yes; but the objection the gentleman makes is a fundamental one against the system in vogue here. The gentleman is chairman of the Committee on the District of Columbia, and he might well, and I think in the course of time he will, work out some plan by which we may escape from all that sort of thing; but it does seem to me to be rather unwise to single out a particular object of taxation like this for reduction, while we permit the existing system to remain with respect to other things.

Mr. JOHNSON of Kentucky. I have not found one so easily selected as this. Neither have I found any other which is so horribly discriminative as this.

Mr. MURRAY. I understand, from a hasty reading of the gentleman's amendment, that those children who bring certificates that their parents can not furnish them, and are not financially able to furnish them, with books are to be given books for their children free.

Mr. JOHNSON of Kentucky. Oh, yes.

Mr. MURRAY. Is not that likely to make a discrimination among the different pupils in schools which will be rather unfortunate?

Mr. JOHNSON of Kentucky. Oh, no; they do not have to go to the schoolroom to do it. All that is necessary is for the parent to go to the school board and there make a satisfactory showing that he is not able to buy the books. He will then get them free.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. MURRAY. I move to strike out the last word.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MURRAY] is recognized for five minutes.

Mr. MURRAY. Mr. Chairman, it is seldom that I differ with the gentleman from Kentucky [Mr. JOHNSON], and I do not like to do so in this instance. It is because of that dislike that I have asked him these questions, in order to get clearly in my mind the proposition contained in his amendment. I have never known the time since my earliest school age in Massachusetts when there was such a discrimination among the pupils in the schools as this amendment would make.

Some years ago there was an agitation in my State on this subject, and the time came in the Commonwealth of Massachusetts when by law the textbooks in the public schools were furnished free. It was first proposed that those parents who were able to furnish their children with textbooks should be required to do so; but the fatal objection was made that that made a discrimination among the children and singled out perhaps one child in a schoolroom who was known as having parents who were financially unable to furnish textbooks, while perhaps sitting alongside of that child was another child who felt superior to him because his parents were financially able to purchase books.

Mr. FERRIS. Will the gentleman yield for a question?

Mr. MURRAY. Yes.

Mr. FERRIS. I wonder if the gentleman has had time to make an analysis of the States that have laws providing for the furnishing of free textbooks and those that have not?

Mr. MURRAY. No, Mr. Chairman; I have not, because this amendment came up so suddenly that there was not time for me to obtain the information.

Mr. FARR. I can give the gentleman some information on that.

Mr. MURRAY. I have no information about that. I would that all States in the Union would take the stand that my own Commonwealth of Massachusetts has taken, because I am very sure that the plan we are now working under is working well. It is only recently that one man in a campaign was very severely criticized because he seemed to advocate a return to the old days of discrimination among the children.

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. MURRAY. I will yield.

Mr. FOWLER. I desire to ask the gentleman if in his State where textbooks are furnished you have any trouble with reference to the children taking the textbooks home to use for the purpose of preparing their lessons for the next day?

Mr. MURRAY. That is what they are given them for.

Mr. FOWLER. Is it not a fact that the control of the textbooks is left entirely with the teacher, and that it is wholly discretionary with the teacher?

Mr. MURRAY. Absolutely.

Mr. FOWLER. Is it not that way in this city now?

Mr. MURRAY. I am not sufficiently familiar with the practice in this city to answer the gentleman.

Mr. FOWLER. And do not the children have to go to the teacher and ask the teacher in order to get permission to take the book home to study?

Mr. MURRAY. That was the practice in my school days.

Mr. FOWLER. Does the gentleman think that system is a wise one?

Mr. MURRAY. It was wise enough in my day, because we could always get permission to take the books.

Mr. FOWLER. Does not the gentleman think that the children ought to have free use of the textbooks to take them home whenever they choose?

Mr. MURRAY. Yes.

Mr. FOWLER. Does not the gentleman think that furnishing the public textbooks without the free use is a detriment instead of a working benefit?

Mr. MURRAY. In practice that is not the result of it at all. It was always perfectly easy for me to take home my schoolbooks when I had an ambitious inclination to do it. There was no difficulty about it whatever. If the gentleman believes the passage of this amendment would be to encourage education and make it possible to take home textbooks where it is not possible now, he certainly is laboring under a misapprehension.

Mr. FOWLER. I had an experience in this city, and I find on examination of children to be promoted to the higher grades this month only a very small percentage of them passed the examination.

Mr. MURRAY. That is most regrettable.

Mr. TALCOTT of New York. Will the gentleman yield?

Mr. MURRAY. I yield to the gentleman from New York.

Mr. TALCOTT of New York. Is it not a fact that free textbooks necessarily follow a compulsory system of education?

Mr. MURRAY. Certainly; they go hand in hand.

Mr. FERRIS. Will the gentleman yield?

Mr. MURRAY. Certainly.

Mr. FERRIS. I want to ask the gentleman, if it develops that only 12 States out of 48, one-quarter in the aggregate, has free textbooks, does not the gentleman think it is time enough to have free textbooks when a majority of the States adopt it?

Mr. MURRAY. Oh, no; I would not wait for that.

Mr. COX. Will the gentleman from Massachusetts yield?

Mr. MURRAY. Certainly.

Mr. COX. The question of free textbooks was a vital issue in my State during the last campaign, and the gentleman is discussing an interesting subject to me. I would like to ask him if he has any data as to how much it costs the State of Massachusetts to furnish free textbooks?

Mr. MURRAY. I have not the details as to the cost. It can be obtained from the annual reports of the various school boards of the cities and towns. I think I ought to say that some gentlemen seem to think there is going to be a financial loss to the cities and towns by reason of furnishing free textbooks. At the beginning of the school year every pupil is given him to take home a blank in the nature of a receipt for the books issued, and the parents of the children sign that receipt. If at the end of the school, or at any time during the term, the child may have lost or destroyed the books charged to him, the parent is compelled to pay for them before new books can be issued or before the child can continue with his classes. That is a reasonable regulation and nobody objects to it.

Mr. FARR. Mr. Chairman, I hope this amendment will not prevail. It will be a decided step backward educationally and a humiliation to the people who are making a struggle to educate their children. Speaking from the standpoint of economy, I am certain that the District saves 20 per cent in the cost of books, without considering the additional life given to the textbook and the increased efficiency of the school work.

I have an amendment on my desk in favor of free textbooks to high-school pupils. I think they ought to be given to every high-school student. That is where the parents are having the hardest struggle to educate the children, and books ought to be free. We have had free textbooks in Pennsylvania since 1893. In one city, Pittsburgh, as the result of the law, in one year 3,000 children went into the public schools. The tendency was to increase the children in attendance in all grades, and in many cases the number attending high schools was doubled. Even in Massachusetts, where they have had compulsory education since the seventeenth century, one of the significant things following the adoption of free textbooks was an increase of 10 per cent in the attendance on high schools.

There is a benefit in many ways in free books. The knowledge of the benefits that follow free books is spreading all over the country, and in the course of a few years there will hardly be a State in the Union that will not furnish them free of charge to the pupils. It is more economical. They last longer. The efficiency in the schoolroom is greater. I recall an instance where there were 79 children out of 300 in attendance at a school who either did not have any books or not enough books. Think of the feelings of a child without a book sitting beside those having books and the inefficiency of the school work that must follow a condition like that.

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. FARR. Certainly.

Mr. WILLIS. I want to ask whether the gentleman has considered this fact, that if this amendment carries it puts the badge of dishonor on free books and makes it humiliating to the child who uses them.

Mr. FARR. Yes; decidedly. One child, because it is poor, getting its books free and the other having them bought by its parents, the child on that condition getting the free books is humiliated and its individuality weakened.

Mr. JOHNSON of Kentucky. Mr. Chairman, I would like to ask the gentleman how one child is to know how the other gets its books.

Mr. FARR. Oh, the gentleman can trust the child for that. It will know.

Mr. JOHNSON of Kentucky. If there is anything in the gentleman's argument that there is humiliation carried with it, the child is not going to tell. Under my amendment all the parent has to do is to go before the school board and show his inability to buy, and then the school board turns over the books.

Mr. FARR. Why should a parent be compelled to go before the school board and show that he is unable to purchase school books?

Mr. FERRIS. Mr. Chairman, if a man is in the poorhouse, that humiliates him, and so on all along the line. Carried to its last analysis, if a man is poor, that humiliates him, and where is this socialism going to stop?

Mr. FARR. We do not want to subject the children who are not able to buy books to that humiliation. It is hurtful to the child.

Mr. JOHNSON of Kentucky. The same reason would apply to the purchase of a suit of clothes.

Mr. FARR. I want to say that if the gentleman lived in a State where free books are furnished he would not offer an amendment of this kind. We had a provision in Pennsylvania whereby books could be furnished to indigent persons, but it was not practical. We enacted a law that in one day provided free school books and school supplies to a million children, with the result that there was a large increase in the attendance in the lower grades and the nearly doubling of the attendance in the high-school grades in various parts of the State.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. HOBSON. Mr. Chairman, I move to strike out the last word. The gentleman from Pennsylvania [Mr. FARR] is correct in his position that the line of development now is toward free textbooks, a necessary concomitant of compulsory education, beginning with the elementary grades and advancing toward the higher studies. An investigation of the educational conditions of this country would show a most startling situation with regard to the education of about 94 per cent of the American children. About 6 per cent get an education. Ninety-four per cent do not get an education. That is a broad statement, but it is essentially correct. The little instruction they do get is largely lacking in the elements that bear upon the great facts and laws of life—writing, arithmetic, spelling, and grammar—this is all. The average American child leaves school to-day before the age of 12. One of the important reasons why they leave is the question of supplying textbooks. In addition, the line of progress is for free textbooks in order that the State and the community may more carefully determine the nature of the instruction. The time has come when education in this country should include instruction along vocational and vital lines, and that can come best with—I do not say only with—the practice of providing free textbooks. For my part I propose to vote against this amendment for these fundamental reasons.

Mr. BURLESON. Mr. Chairman, just a word with reference to the amendment offered by the gentleman from Kentucky [Mr. JOHNSON]. For many years before we made provision in

the District appropriation bill for free textbooks the State of Maryland had provided for free textbooks throughout all the elementary grades and the high schools. An agitation was started in the District of Columbia for free textbooks. A paragraph was embodied in this bill furnishing them for the grades. After a child passes from the grades to the high school the parent is required to purchase all the textbooks. That was before the law compelling compulsory education. After that law was passed the policy of furnishing free textbooks for the grade schools was continued just as it is carried in this bill. I can not for my life see how we are going to enforce the compulsory education law unless we furnish the children in the grades with free textbooks. [Applause.] Furthermore, gentlemen, the gentleman from Pennsylvania [Mr. FARR] and the gentleman from Ohio [Mr. WILLIS] struck the crux of this issue when they stated that if we adopted the amendment offered by the gentleman from Kentucky [Mr. JOHNSON] it would stigmatize the children of the poor. We all know that if this amendment is adopted that many, many children will avoid the schools because they do not want to be put in the attitude of asking for free textbooks when other children attending the schools are furnished textbooks by their parents. Personally I think we ought to furnish textbooks for the high schools, because I feel, as has been stated by the gentleman from Pennsylvania, there is a considerable percentage of the children who finish the grades and are unable to continue their education because they can not procure the necessary textbooks to enable them to attend the high schools.

Mr. J. M. C. SMITH rose.

The CHAIRMAN. Does the gentleman from Texas yield?

Mr. BURLESON. Not now—but that would be a matter of legislation which we have not attempted upon this bill, and I shall make the point of order against the amendment when it is offered by the gentleman from Pennsylvania because it is not authorized by law; but I do sincerely hope that the amendment offered by the gentleman from Kentucky will be voted down.

Mr. J. M. C. SMITH. I would like to make an inquiry of the gentleman.

Mr. BURLESON. Just for a question, because I want to get on with the bill.

Mr. J. M. C. SMITH. Will the gentleman please inform us what the average daily attendance of the schools is in the District of Columbia?

Mr. BURLESON. It is about 53,000.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Kentucky.

The question was taken, and the amendment was rejected.

Mr. FARR. Mr. Chairman, I move to strike out on line 14 and the beginning of line 15, page 50, the words "of the first eight grades."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 50, lines 14 and 15, strike out the words "of the first eight grades."

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order on the amendment on two grounds—that it is not authorized by law, and next that it increases the appropriation.

Mr. FARR. Will the gentleman reserve his point of order for a moment?

Mr. JOHNSON of Kentucky. I will reserve the point of order.

Mr. FARR. Mr. Chairman, I want to supplement my former remarks with the statement that, after all, the stock in trade of the poor boy is education. If we do not provide free books for him in these high schools, we are preventing hundreds of the young men and young women in Washington from getting a high-school education. Dr. Schaeffer, State superintendent of education of Pennsylvania, makes the assertion that the boy who does not get a high-school education is prevented from working in 40 different avocations. Now, I want to ask this intelligent Congress if we want to stand in the way of the American boy earning a livelihood in one of the 40 different avocations from which he would be precluded if he does not get a high-school education such as Washington so splendidly offers him?

Mr. HOBSON. Will the gentleman reserve his point of order for a moment?

Mr. JOHNSON of Kentucky. I will.

Mr. HOBSON. Mr. Chairman, I do not desire to keep the House long on this question, but I want to emphasize what the gentleman from Pennsylvania [Mr. FARR] has said. A careful investigation has shown that if a boy stops school at the age of 14, at the age of 25 his average wage will be $2. If he stops at the age of 16, two years longer, at the age of 25 his average wage is $4; it has been doubled. Furthermore, a more extensive investigation shows that of the 10,000 leaders in America 7,700 are recruited out of 2½ per cent of our people who get a college education. It shows this, that if a boy goes to college the chance is 1 in 40 that he will become one of the 10,000 leaders. If he only goes through the high school, the chance is 1 in 400. It is reduced tenfold, and if he only goes to the common school it is reduced twentyfold more. There is only 1 chance in 8,000, and the difference between the common school and the high school makes a twentyfold difference in the earning capacity of the citizen in the end. I would now like to discuss the point of order. In the public schools of Washington it is now the law that textbooks can be furnished free.

In the true spirit of the law why should you say one grade higher or one grade lower should not have the books? I believe the principle should be settled in this ruling that Congress can give free textbooks to the public schools of Washington City irrespective of grades, and I wish to advance this for not sustaining the point of order.

Mr. FARR. May I suggest there will not be necessarily an increase in the amount appropriated, should my amendment be adopted, on account of the fact that there will be a 20 per cent reduction in the cost of the books furnished those pupils promoted to the high schools, and the boys and girls now in the high schools will have books.

Mr. HOBSON. Irrespective of that fact, the law providing for free textbooks is not the law that, broadly interpreted, you can have for certain grades and not for other grades. The interpretation of existing law should go below the specification of grades, and I do not believe should be subject to a point of order.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. RUBEY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolution:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. 17256) to fix the status of officers of the Army and Navy detailed for aviation duty, and to increase the efficiency of the aviation service.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

For utensils, material, and labor, for establishment and maintenance of school gardens, $1,200.

Mr. WILLIS. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Ohio offers an amendment, which the Clerk will report.

The Clerk read as follows:

At the end of line 7, page 51, strike out "$1,200" and insert "$1,500," so that the paragraph will read:

"For utensils, material, and labor, for establishment and maintenance of school gardens, $1,500."

Mr. BURLESON. Mr. Chairman, I reserve a point of order on that.

Mr. WILLIS. I am willing to have the point of order disposed of. It is not subject to a point of order. I want to discuss the amendment on its merits. I will ask for a ruling by the Chair. This expenditure is authorized by existing law, and is not subject to a point of order.

The CHAIRMAN. Does the gentleman from Texas [Mr. BURLESON] make the point of order?

Mr. BURLESON. I doubt whether the point of order is good. I have made it in order that the gentleman might have an opportunity to discuss it.

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] withdraws the point of order. The gentleman from Ohio [Mr. WILLIS] is recognized.

Mr. WILLIS. This amendment provides that instead of appropriating $1,200 for the school gardens we shall appropriate $1,500 for that purpose. It may be recalled that there was a good deal of discussion of this item a year ago; $1,200 was provided for it in 1911. Last year it was cut down to $1,000. Some of us tried to increase the amount to $1,200, but failed. This year the superintendent of schools asked for $1,500; the committee allowed $1,200, the amount we tried to get last year, and I am proposing by this amendment to give simply what the

superintendent asks. I refer to the hearings, page 120, where the chairman of the committee is questioning Supt. Davidson:

Mr. BURLESON. You ask for an increase of $500 for the maintenance of school gardens.

Dr. DAVIDSON. The money required, Mr. Chairman, is for soil and manure for more than 100 school yards; for bulbs and seeds for the flower gardens on the school premises, and for the care and maintenance of the school gardens proper.

Mr. TAYLOR. Do you buy the seed?

Dr. DAVIDSON. Yes, sir.

Mr. BLAIR. The boys themselves do the work on these gardens, but the people who have the necessary technical skill direct them.

In other words, the superintendent asks for $1,500 for the school garden work. Now, I want to congratulate the committee on their liberality to some extent. The appropriation, as stated, for the current year is $1,000. They are proposing to raise it to $1,200, $200 over what it was the year before. But I think that amount is not sufficient to properly carry on the work. What has been the result of the decreased appropriation? As a matter of fact, of these school gardens, where the boys and girls in the city of Washington are getting into "God's great out of doors" and raising vegetables and flowers and putting in their time, as they ought to, it has been necessary for the authorities to close two in the past year. Now, it seems to me, Mr. Chairman, at a time when this country is aflame with the idea of teaching agriculture in the schools, it is not desirable or wise to be rather niggardly in this appropriation.

I am frank to say, as I said before, that the committee has given something of an increase, but I believe not enough to properly carry on the work.

There is another effect of the reduction. Not only have two of the gardens absolutely been closed, but it has been found impossible to secure a proper amount of material and fertilizers so as to carry on this work as it ought to be carried on. I call attention to the fact that this appropriation has to be divided between about 109 or 110 schools, and in some of those schools, where the scholars are too small to do the heavy work, it is necessary to employ labor; and if it is necessary to have the work done as it ought to be done, it is necessary to employ some kind of instruction. Some of the teachers have been working through the summer helping the boys and girls without pay or with only nominal pay. Such work can not be carried on in a haphazard way and get the best results. I want to say that in all the schools where the scholars are big enough to do the work they do it. In some schools where the children are too small to do the work of spading the ground and other like work, it is necessary to employ common labor; but aside from that, the boys and girls of the city of Washington are doing the actual work. They are raising vegetables and flowers, and the inquiry has been made as to what is done with this product. In the first place the important thing is not the vegetables or the flowers, but the important thing is the boy or the girl and the training they get in this work. Incidentally, I may say that these vegetables and flowers are taken into the schoolroom and used as a means of nature study in absolutely the best possible way in which that important subject can be brought to the attention of the pupils.

I invite attention to another fact—that a large portion of this appropriation was expended in what you might call individual work; that is to say, individual plats of ground were assigned to a boy, and that boy was made to understand that that plat of ground was his and that the product of that ground would be his. There is the idea of ownership, which is one of the best things to develop in citizenship, I think.

Those boys cultivated those plats of ground. There was a healthy spirit of rivalry among them to see which boy should raise the biggest and best crop of vegetables or the finest flowers, and those products were carried to the teachers or the parents. I submit, Mr. Chairman, that there is not anything finer or more beneficial than that, and I think we ought to join in the spirit that is abroad in the land and increase this appropriation in the name of the 50,000 school children of Washington.

The CHAIRMAN. The time of the gentleman has expired. The question is on agreeing to the amendment.

Mr. BURLESON. Mr. Chairman, your committee in dealing with this particular paragraph gave it careful consideration, and were very liberal with the school gardens. This item was intended to supply the means of conducting these gardens not by hired employees but by the school children themselves. We believe it would not be good policy to provide a fund out of which the labor should be provided for these school gardens. We thought that the children should perform such light labor for themselves as the cultivation of a garden required. We believed that it would make them self-reliant. We believed that it would not only make for the health of the pupils, but it would make for their self-respect if we allowed them to provide a little something for themselves, and have furnished in this item as much money as has ever been provided for this purpose.

By the same process of reasoning as the gentleman from Ohio [Mr. WILLIS] has brought forward here, we might increase this item to $5,000. If $1,200 is good, $1,500 would be better, and $5,000 would be still better. I think we have been liberal, and I ask that the committee vote down the amendment in order that we may proceed with the consideration of the bill.

Mr. WILLIS. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. BURLESON. I yield.

Mr. WILLIS. Has the gentleman noticed the statement of the director of school garden work, in which it is made clear that none of this money is expended for labor except in three schools in which the children are too small to perform the actual manual labor of spading the ground? After that is done the children themselves do the work.

Mr. BURLESON. Yes; we gave that matter consideration.

Mr. WILLIS. So that the work is actually done by the boys and girls big enough to do the work.

Mr. BURLESON. We did give consideration to that subject. The people in charge of this work are enthusiastic, as they should be. We are glad to know that they are deeply interested in it; yet no matter how much we allow, they will always feel that we should allow just a little more. I think the appropriation is adequate. It is as much as has ever been appropriated, and I ask the committee to vote down the amendment.

Mr. HOBSON. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Alabama [Mr. HOBSON] moves to strike out the last word.

Mr. HOBSON. I do that simply to point out the wisdom of having the educational part of this bill, which I believe the committee realizes, increase with the increased attendance on the public schools.

When you apportion the $1,200 among 110 schools it makes about $10 or $11 to a school. Now, very clearly, that does not entail any element of extravagance, and the $1,500 would be only about $14 to a school. The money is not being used for labor, as has been pointed out by the gentleman who offered the amendment, and it would be in line with proper attention to the increase of school attendance and the extension of life study. It is in line with the latest development in educational work; that is, by the object-lesson method, the tangible contact with nature by the children who are learning these subjects.

Mr. WILLIS. Mr. Chairman, will the gentleman permit me to suggest to him, in answer to the remark made by the gentleman from Texas [Mr. BURLESON], that no portion of this money is used in the purchase of seeds or bulbs? The seeds and bulbs and shrubbery are purchased by the teachers and pupils themselves out of their own money, and this is for the purchase of material aside from that.

Mr. HOBSON. Yes. I notice that the Department of Agriculture is going to lend a hand more and more to the development of school gardens in all the schools of the country, particularly in the agricultural and rural districts, and that is a wise line of development. A small, reasonable increase of $300 out of a $1,200 fund, which is only one in four for this particular purpose, certainly looks reasonable to me, and in the line of proper development.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Ohio [Mr. WILLIS].

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. HOBSON. A division, Mr. Chairman.

The committee divided; and there were—ayes 12, noes 17.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

Mr. WILLIS. Under the permission just granted I desire to add a statement from the report made last year by the teacher who acted as director of the school-garden work.

The statement is as follows:

I hereby submit to you an itemized statement of the expenditures under the school-garden appropriation for the fiscal year ending June 30, 1911. The appropriation reads:

"For utensils, materials, labor, and for establishment and maintenance of school gardens, $1,200."

Of this $800 has been apportioned to the white schools, $400 to the colored schools. You will note the expenditure for tools was small—$50.97—the larger part due to the opening of a new garden at Deanwood. Old tools are repaired every year at no expense to the District of Columbia. No unnecessary tools are on hand.

Under the head of materials, nothing but bone meal, manure, and soil has been bought, and the fencing for the Deanwood School. The soil and fertilizer, costing $549.93, have been distributed to 109 school buildings for lawns and shrubbery as well as the cultivated gardens. All the labor has been performed by children, except at three schools where the children were too small. At the Franklin there is no grade higher than the third, so a man was necessarily employed. Approximately 43,500 children, or all the children in the elementary schools, receive benefit from this expenditure of $549.93; for, after the yards have been properly fertilized, the gardens are planted and cultivated by the children and the flowers and vegetables raised are used for nature study in the schoolrooms.

No portion of the appropriation is used for the purchase of seeds, bulbs, or shrubbery. They are purchased by teachers and children.

We have used the remaining money—$550.79—in maintaining five gardens, four white and one colored, for sixth-grade boys, where each boy has his own garden plot and is taught elementary agriculture. The number of boys has fluctuated from 300 to 500 according to the land available. It was the wisdom of the committee wording this appropriation that no teacher was necessary for this number of boys or the subject. To obviate such conditions the Board of Education appointed the undersigned, in addition to her regular work as a training teacher in Normal School No. 1, supervisor of gardens of the District of Columbia at an annual salary of $1, such salary to be paid from the $1,200 appropriated. This salary has never been drawn.

The work with the boys' classes is started in February in the schoolroom by the regular teachers guided by the supervisor. Outdoor classes begin in April and last until October, during school months the undersigned and her assistant conduct the classes as stated before in addition to their regular work. During July and August there must be guidance. For four summers the undersigned devoted her entire vacation to directing the boys, without remuneration. Later, several young teachers in the white schools expressed their willingness to enroll as laborers at 25 cents per hour. Their average pay has been $4 per week. It has been somewhat more expensive in the colored schools as no one could be procured at such low rates. These persons have been called upon to perform every kind of laboring work connected with the garden except plowing, and at the same time have been teachers of elementary agriculture at less pay than street laborers, with such success that the attendance in some of these gardens has been between 90 and 98 per cent during the hottest days of August.

The appropriation proposed for 1913 is reduced $200, because the expenditure for labor is considered excessive. In other cities there are laborers employed by the year for school gardens, the city of Cleveland employing a number, the pay of these laborers being from $50 to $60 per month.

Our labor has been an intelligent one—by the day or hour, as needed. Anything less than the amount we have had will necessitate the closing of the community gardens until a corps of teachers is provided.

Respectfully submitted.

SUSAN B. SIPE,
Training Teacher in Normal School.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and the Speaker having resumed the chair, sundry messages, in writing, from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills and resolutions of the following titles:

On January 23, 1913:

H. R. 14925. An act to amend "An act to parole United States prisoners, and for other purposes," approved June 25, 1910.

On January 24, 1913:

H. J. Res. 289. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States, relating to the carrying of dangerous articles on passenger steamers; and

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty.

On January 27, 1913:

H. R. 25515. An act for the relief of Joshua H. Hutchinson;

H. J. Res. 369. Joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.;

H. R. 25764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry; and

H. R. 25878. An act granting certain lands for a cemetery to the Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes.

On January 28, 1913:

H. R. 45. An act affecting the town sites of Timber Lake and Dupree, in South Dakota;

H. R. 22437. An act for the relief of the heirs of Anna M. Torreson, deceased; and

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

On January 29, 1913:

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire.

On February 3, 1913:

H. J. Res. 380. Joint resolution authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc.

On February 4, 1913:

H. R. 8768. An act to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia; and

H. R. 18841. An act incorporating the National Institute of Arts and Letters.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

For the purchase of a motor car for the superintendent of schools at a cost not exceeding $1,000, and for the purchase of a motor delivery vehicle, at a cost not exceeding $2,000, the maintenance of the said motor vehicle, including the hire of drivers of both vehicles, not exceeding $600 per annum each, $4,200.

Mr. COX. Mr. Chairman, I make a point of order against that paragraph.

Mr. BURLESON. Will the gentleman reserve the point of order?

Mr. COX. I will, if the gentleman from Texas wishes to make a statement, but I will make the point of order later on.

Mr. BURLESON. I think it is not subject to the point of order, and will discuss that question if the Chair desires it, but I want first to give the reason as to why we put this item in the bill.

The superintendent of schools of the District of Columbia came here from a city that was paying him a larger salary than he receives under the provisions of this bill. He has nearly 200 schools under his care, and if he is to discharge properly the important duties imposed upon him it is absolutely necessary that he visit these schools at least once a year, and frequently it is necessary that he visit a particular school more than once during the year.

Mr. COX. What means of transportation has he?

Mr. BURLESON. Last year the superintendent of schools—notwithstanding the fact that he received a salary of only $5,000 from the District of Columbia while the Nebraska city from which he came offered him $6,000—was compelled to pay $500 out of his own pocket for means of transportation to visit these schools. We thought that it was only an act of justice to him that he be furnished with the means of transportation, in order to enable him to make these visits. I contend that this item is not subject to a point of order, because it simply furnishes to an officer authorized by law the means for properly discharging the duties imposed upon him.

With reference to the other items embodied in this bill, we authorize the purchase and maintenance of a motor vehicle. Last year there was paid from the contingent fund of the District of Columbia the sum of $3,147 for a transportation charge that must be met, transportation that is absolutely necessary in order that these schools may be properly conducted and supplied. We reached the conclusion that it was in the interest of economy to provide a motor vehicle at $2,000 and a maintenance charge of $600, thereby saving this annual cost of $3,147.13. This is not just one isolated year, taken for the purpose of illustration. We went back through a series of years, and the average cost for transportation which must be met is in excess of $3,000 each year; and your committee, believing that it would save money for the Government and the District to provide this motor vehicle, embodied this item in this paragraph.

Mr. COX. What does the gentleman mean by saying that the cost of transportation aggregates $3,000 a year? What is that transportation for?

Mr. BURLESON. I will read the gentleman the item. It is fully set forth in the hearings.

Mr. COX. I have not had time to read the hearings on this subject.

Mr. BURLESON. In 1908 the contract for hauling was $2,255.89; special hauling, $6.37.

In 1909 the contract for hauling was $2,645.52, and special hauling of furniture from the various schools to the property yard and storage, absolutely necessary to carry on the schools, was $2,762. We maintain a storage department, and when a new school is opened, or when desks or other school furniture are required, they must be sent, and this hauling is absolutely essential.

In 1911 the contract for hauling was $3,312. In 1912 the contract for hauling was $3,144.13.

Mr. COX. Is this for the hauling of school supplies?

Mr. BURLESON. School supplies and school utensils, and all those things that are necessary for the proper conduct of the schools.

Mr. COX. Then the contemplated purchase of this motor vehicle is for the purpose of buying an auto to haul those supplies?

Mr. BURLESON. A motor truck to haul school supplies.

Mr. COX. The hearings have been handed me, and the gentleman has read some of them into the record. In 1908 there was a contract for hauling. Was that let out in one contract or is that the sum total of contracts making that amount?

Mr. BURLESON. I think it is not all carried under one contract. I think there are a number of contracts aggregating that amount.

Mr. COX. To one contractor?

Mr. BURLESON. I am not sure of that, but I know the expense entailed on the District during the years I have incorporated here is as I have read it. I know it is in the interest of economy that this item be continued in the bill.

Mr. COX. It looks as if the gentleman had made out a strong case for the motor delivery vehicle, but how about the cost of the motor car for the superintendent? Does the gentleman think that is a meritorious item?

Mr. BURLESON. I will state that the estimate for this motor car was $1,500. Your committee, with a view of economizing wherever economy could be practiced, made an inquiry, and we reached the conclusion that a suitable vehicle could be secured for $1,000. We also reached the conclusion that $600 was as little as we could possibly hope to provide a driver and the fuel for the vehicle.

Mr. COX. Does the gentleman think he can get two drivers for these cars for $600?

Mr. BURLESON. Six hundred dollars each.

Mr. COX. Does the gentleman think that for the sum total appropriated here, $4,200, he can purchase both cars and hire the drivers and pay for the cost of maintenance?

Mr. BURLESON. We thought so, but to be candid with the gentleman the matter was discussed in the subcommittee and there was some little apprehension expressed that perhaps $600 was not enough to pay for a driver and for the fuel for the automobile that is to be furnished for the school superintendent. A suggestion was also made that the superintendent might learn to run his own car.

Mr. COX. That is a good suggestion.

Mr. BURLESON. I assure the gentleman from Indiana that every effort has been made to economize, and we put the item in the bill because we believed it was economical and only just and fair to the superintendent.

Mr. COX. Is this the first time that the gentleman's committee has ever embarked on the scheme of providing transportation for the superintendent of schools?

Mr. BURLESON. No; in years gone by we furnished a horse and buggy, and for that service, I think, we allowed $320. The horse and buggy afforded slow means of transportation, and the superintendent was unable to make the character of examination of schools which he thought they required, so he abandoned the horse and buggy and utilized a motor vehicle last year, for which, as I say, he paid $500.

Mr. MANN. Will the gentleman yield?

Mr. BURLESON. Certainly.

Mr. MANN. We now provide, as I understand, a garage for the automobile owned by the superintendent?

Mr. BURLESON. I think the garage has not been provided.

Mr. MANN. I do not know that it has been actually provided, but it is authorized in the current appropriation law.

Mr. BURLESON. I think it is authorized, but I think it has not been provided. I think the quarters have not been secured, but there was an authorization.

Mr. MANN. Provided for in the last appropriation bill.

Mr. BURLESON. I think it has not been secured as yet, but there is an authorization for it in last year's bill.

Mr. MANN. I understood the gentleman to say just now that this item is intended to pay for the gasoline, and so forth, for the superintendent's car and for the motor vehicle. That is not the way the item reads.

Mr. BURLESON. We think the word "maintenance" covers gasoline.

Mr. MANN. Yes; but the word "maintenance" does not apply to the superintendent's motor car. The language is quite explicit.

Mr. BURLESON. I will state that this is the language of the estimate, and we thought it would cover the charge for gasoline.

Mr. MANN. But it does not. The language in the bill provides for the purchase of a motor car and the purchase of a motor vehicle and for the maintenance of the motor vehicle. I take it that where you authorize in one paragraph the purchase of a car and a vehicle and provide for the maintenance of the vehicle that that does not include the maintenance of the car.

Mr. BURLESON. I am free to say that I am not familiar with the language ordinarily used in connection with automobiles.

Mr. MANN. If it is intended to provide for the maintenance of the car it ought to say so, because plainly it does not say so now.

Mr. BURLESON. I suggest to the gentleman from Illinois that the matter can be remedied easily by adding the letter "s" to vehicle, making it plural.

Mr. MANN. Yes.

Mr. BURLESON. If the gentleman will offer an amendment——

Mr. MANN. I do not care to offer the amendment.

Mr. BURLESON. After the point of order is disposed of I will offer it.

Mr. COX. Mr. Chairman, I desire to ask the gentleman one more question. Is this the first time that we have ever purchased a motor car for the superintendent of public schools?

Mr. BURLESON. Yes; it is the first attempt to provide him with a motor car. I will state to the gentleman that in last year's bill provision was made for an allowance to the superintendents of schools of $300 each for the hire of the horse from a livery stable and of an automobile from a garage.

Mr. COX. That is in last year's bill?

Mr. BURLESON. Yes.

Mr. MANN. It is in the current law?

Mr. BURLESON. Yes.

Mr. COX. Mr. Chairman, at first blush, this looked to me like a useless expenditure of the people's money, but after hearing the explanation of the gentleman from Texas I think he has made a very strong case. I do not desire to cripple the public-school service of the city of Washington, and I withdraw the point of order.

Mr. BURLESON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 51, line 11, strike out the word "vehicle," after the word "motor," and insert the word "vehicles."

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk read as follows:

For the purchase of fixtures, apparatus, specimens, and materials for the laboratories of the departments of chemistry and biology in the Central, Eastern, Western, Business, and M Street High Schools, J. Ormond Wilson Normal School, and Normal School No. 2, and the installation of the same, $2,100.

Mr. WILLIS. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman a question. The question has no relation whatever to the pending item. I notice in the committee report an estimate at page 93 for sanitary drinking fountains. There is no item in the bill that I can find, and I wondered whether provision was made in the bill for that item.

Mr. BURLESON. We make provision for a number of sanitary drinking fountains.

Mr. MANN. I will refer the gentleman to page 49, line 21.

Mr. WILLIS. Very well. I see it.

The Clerk read as follows:

Toward the construction of a new Central High School on the site purchased for that purpose and toward the grading and other work necessary to prepare the site, the grading of an athletic field, the construction of retaining walls, and the construction of an athletic stadium, and the total cost of said work shall not exceed $1,200,000, under contracts which are hereby authorized therefor, $3,000.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph. It is legislation unauthorized by law.

Mr. BURLESON. Mr. Chairman, under the District appropriation bill of last year an unexpended balance of a sum appropriated for the purchase of a site for this school was reappropriated for the purpose of securing the services of an architect to prepare plans for the Central High School building, to have a seating capacity of 2,500 students. Inasmuch as under former appropriation acts we have appropriated $250,000 for the purchase of a site, and inasmuch as we have reappropriated an unexpended balance of that sum appropriated for the site for the purpose of engaging the services of an architect to prepare plans for this school, I contend that this is a work in progress and is not subject to a point of order. I desire to

read to the chairman the language carried in the last appropriation act with reference to this particular school:

The Commissioners of the District of Columbia are hereby authorized to use so much as may be necessary of any unexpended balances remaining in the appropriation for the purchase of a site for a new Central High School and for the purchase of a site for a new M Street High School, contained in the District appropriation act for the fiscal year 1912, approved March 2, 1911, for the employment of architectural services in the preparation of plans and specifications for said high schools, and for such other personal services and expenses in connection therewith as may be necessary: *Provided*, That the plans for the Central High School shall provide accommodations for not less than 2,500 pupils.

Mr. JOHNSON of Kentucky. Mr. Chairman, I believe that this is the first time in the history of the Congress that anybody has contended that the erection of a new, unauthorized building was not subject to a point of order.

Mr. BURLESON. Mr. Chairman, before the gentleman proceeds, I desire to state that I will concede that if this is the first time an effort was made to provide for the erection of this high school by the purchase of a site and appropriation of money therefor, it would be subject to a point of order. The Chair must remember that in a former appropriation bill an amount was appropriated to purchase a site for a Central High School. The site has been purchased. Under an appropriation act an unexpended balance of the amount appropriated for the purchase of a site was directed to be expended in the preparation of plans for this high school and a limitation upon the cost of the high school was indirectly embodied in the bill by fixing 2,500 as a seating capacity of the school. Consequently my contention is that this is a work in progress; it has been begun, the site purchased, plans have been prepared, now followed by an attempt to appropriate money to erect the school.

Mr. JOHNSON of Kentucky. Mr. Chairman, Congress was willing during its last session to spend some money for the preparation of plans and specifications for a new building, to see whether or not they would afterwards make the appropriation. The architect who has made these plans and specifications frankly admits in the hearings that instead of the plan for an $800,000 building that he brought in a plan for a $1,200,000 building. The Chair will find on page 522, paragraph 3790, of Hinds' Precedents, that an appropriation for the construction of a new schoolhouse is subject to the point of order. That same ruling applies also to playgrounds. Then the Chair will find in Hinds' Precedents, fourth volume, page 576, paragraph 3880, that all preliminary work necessary, and so forth, is subject to the point of order; and, in section 3859, that an authorization to prepare estimates does not authorize, and so forth, and also paragraph 3782, the making of a survey does not authorize the beginning of a work. The precedents are quite numerous and have never been departed from in this House. I therefore make the point of order.

The CHAIRMAN. If the Committee on Public Buildings and Grounds authorized the purchase of a site for the construction of a public building, the Committee on Appropriations would thereupon be authorized to appropriate for the purchase of that site, but the Committee on Appropriation would not be authorized to proceed thereafter to appropriate for the construction of a building on this site until the Committee on Public Buildings and Grounds has further authorized the construction of a building thereon. It is clear that the Committee on Appropriations might insert in an appropriation bill a provision for the purchase of a site for a central high school, being moved by various reasons. One reason might be, in the opinion of the House, the point of order would not be insisted upon, or that at that time the site might be acquired much more advantageously than at some later time, although the House or the committee might not be inclined at that time to proceed with the construction of a building; and the point of order against that proposition not having been made at that time, the Chair is not of opinion that the failure to lodge the point of order against the appropriation for the acquisition of the site waives the right to make the point of order against the Appropriations Committee providing for the construction of the building unless in legal manner the authorization according to law has first been had. The point of order is sustained.

Mr. MANN. Mr. Chairman, the Chairman in his ruling stated that the Committee on Public Buildings and Grounds would have jurisdiction over the construction.

The CHAIRMAN. The District of Columbia Committee.

Mr. BURLESON. Did the Chair give consideration to that part of the bill directing the expenditure of the unexpended balance for the preparation of plans for the high school?

The CHAIRMAN. The Chair read in the last appropriation bill the provisions in that respect in connection with the paragraph against which the point of order was lodged and was of the opinion that the authorization of the plans did not amount in law to an authorization for the construction of a building. The Clerk will read.

The Clerk read as follows:

Toward the construction of a new M Street High School for colored pupils, on the site purchased for that purpose, and toward the grading of said site, and the total cost of said building shall not exceed $550,000, under contracts which are hereby authorized therefor, $150,000.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

For the purchase of ground adjacent to the Petworth School, $15,000.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph.

Mr. OLMSTED. Mr. Chairman, do I understand the point of order is made against lines 17 and 18?

The CHAIRMAN. The gentleman from Kentucky, as the Chair understands, reserved the point of order on lines 17 and 18.

Mr. JOHNSON of Kentucky. No; I did not.

The CHAIRMAN. On lines 19 and 20.

Mr. JOHNSON of Kentucky. Nineteen and twenty was my point of order.

Mr. OLMSTED. Mr. Chairman, I think they are not subject to a point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. OLMSTED. Mr. Chairman, the paragraph 18—

For the purchase of ground adjacent to the Petworth School, $15,000

Now, the Chair will find in the Manual, page 404—

The purchase of land for a work already established has been admitted under this principle, and also additions to existing buildings in cases where no limits of cost have been shown.

The CHAIRMAN. What page?

Mr. OLMSTED. Page 404, section 821, Manual of the Sixty-second Congress, second session. I do not know whether this land is actually adjoining or not. If it is, it is certainly in order to appropriate for this building. It is a question of fact which I am unable to answer. The language is "adjacent," which comes pretty near to "adjoining." You will find authority in section 3774 of the fourth volume of Hinds' Precedents for the proposition that—

The purchase of additional ground and the erection of an addition to an existing building was held to be in continuation of a public work.

The CHAIRMAN. What was the section the gentleman just read?

Mr. OLMSTED. Section 3774 of the fourth volume of Hinds'. If it is an entirely independent plat or in no way connected or related to the property already owned, it would be a new work. But if it is, as I understand, really adjoining the Petworth School, then the provision is in order.

Mr. SAUNDERS. May I submit to the Chair a word in this connection, simply carrying out the point suggested by the gentleman from Pennsylvania [Mr. OLMSTED]? If the Chair will look at the next page, in paragraph 3776, it seems that the distinction is made as to whether this is a separate tract or lot, not contiguous or adjoining to other tract, or whether it is adjoining the existing tract. If it is a separate and detached lot, it can not be purchased under the precedents. If it is adjoining, and in addition to a lot already owned, upon which there is an existing building, as suggested by the gentleman from Pennsylvania, it is not subject to a point of order. Section 3776 says:

A proposition to purchase a separate and detached lot of land for an Army target range was held not to be in continuation of a public work.

The CHAIRMAN. The Chair is ready to rule. The point of order is overruled. The Clerk will read.

The Clerk read as follows:

For the purchase of lots 7, 8, and 9, square 511, as a site for an annex to the John F. Cook School, $8,500.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order against that paragraph. It is for the purchase of a site.

The CHAIRMAN. The gentleman from Kentucky makes a point of order against the paragraph.

Mr. OLMSTED. Mr. Chairman, that is stated in the paragraph to be a site for an annex. If the land is adjoining land already owned, it is in order. I am not advised as to the facts in the matter.

The CHAIRMAN. The Chair would like to ask the gentleman from Texas [Mr. BURLESON] if the lots 7, 8, and 9, square 511, are adjoining and adjacent to the John F. Cook School?

Mr. BURLESON. They are, but the difficulty could be obviated—and I have no objection to it—by inserting after the word "eleven" the word "adjoining." I will state to the Chair that is the fact.

The CHAIRMAN. The Chair will accept the statement. It is not necessary for the Chair to rule, but the Chair would have to overrule the point of order.

The Clerk read as follows:

METROPOLITAN POLICE.

Major and superintendent, $4,000; assistant superintendent, with rank of inspector, $2,500; 3 inspectors, at $1,800 each; 11 captains, at $1,500 each; chief clerk, who shall also be property clerk, $2,000; clerk and stenographer, $1,500; clerk, who shall be assistant property clerk, $1,200; 3 clerks, at $1,000 each; 4 surgeons of the police and fire departments, at $720 each; additional compensation for 20 privates detailed for special service in the detection and prevention of crime, $4,800, or so much thereof as may be necessary; 13 lieutenants, 1 of whom shall be harbor master, at $1,320 each; 46 sergeants, 1 of whom may be detailed for duty in the harbor patrol, at $1,250 each; 491 privates of class 3, at $1,200 each; 100 privates of class 2, at $1,080 each; 49 privates of class 1, at $900 each; amount required to pay salaries of privates of class 2 who will be promoted to class 3 and privates of class 1 who will be promoted to class 2 during the fiscal year 1914, $2,729; 6 telephone operators, at $720 each; 14 janitors, at $600 each; messenger, $700; messenger, $500; inspector, mounted, $240; 55 captains, lieutenants, sergeants, and privates, mounted, at $240 each; 64 lieutenants, sergeants, and privates, mounted on bicycles, at $50 each; 18 drivers, at $720 each; 3 police matrons, at $600 each; in all, $907,789.

Mr. JOHNSON of Kentucky. Mr. Chairman I make the point of order against the entire paragraph that it is not authorized by existing law.

Mr. BARTLETT. None of it?

Mr. JOHNSON of Kentucky. None of it.

The CHAIRMAN. The gentleman from Kentucky makes a point of order against the entire paragraph on the ground that it is not authorized by existing law. The Chair will hear the gentleman on that.

Mr. JOHNSON of Kentucky. Mr. Chairman, I have no objection to taking the lead in the matter for the purpose of facilitating matters. I will make this brief statement relative to it: The Metropolitan police force was first organized, I believe, in 1861. During the continuance of the war of 1861–1865 the United States Government paid the Metropolitan police force. After the war was over and found conditions still unsettled, the Metropolitan police was carried along and paid for by the Federal Government until, perhaps, by the act of June 20, 1874. It might have assumed a new form, but the Federal Government nevertheless continued to pay the cost of the Metropolitan police force. When the act of June 11, 1878, was passed, in which was embraced the half-and-half plan, then it devolved upon the Federal Government to pay half and upon the government of the District of Columbia to pay the other half of the cost of maintaining that force. I wish to invite the attention of the Chair particularly to this fact, that here we have two governments—the Government of the United States and the government of the District of Columbia. The act of June 11, 1878, otherwise known as the "organic act," containing, as I just said, the half-and-half principle, went a little further with the police and the schools and the fire department and the streets than that act went with any other contingent expenditure of the government of the District of Columbia. The organic act just referred to recited in specific terms that the cost of maintaining the schools, the police and fire departments, and the building of the streets should be borne half by the Federal Government and half by the District of Columbia.

By that act the Federal Government incurred the expense of one-half of the maintenance of the Metropolitan police force. I repeat that, Mr. Chairman, by the act of June 11, 1878, the Federal Government incurred the expense of paying one-half of the cost of the Metropolitan police. But, Mr. Chairman, in the sundry civil appropriation bill which passed Congress on June 20, 1878, or, in other words, just nine days after the passage of the act of June 11, 1878, this language occurs:

And the said commissioners are hereby authorized to fix the salaries to be paid to the officers and privates of the Metropolitan police until otherwise provided by law, and to require the Washington Gaslight Co. to light the city lamps at such price as shall to said commissioners appear to be just and reasonable, and all the expenses heretofore incurred by the General Government for the board of health, for the Metropolitan police force, and for gas inspection shall hereafter be a charge upon the government of the District.

Now, Mr. Chairman, I contend that, while it must be admitted that by the act of June 11, 1878, the Federal Government incurred the expense of one-half of the cost of maintaining the Metropolitan police force, yet by the words contained in the sundry civil appropriation act which passed Congress just nine days thereafter that expense was transferred in every way, in every part, from the Federal Government to the government of the District of Columbia.

That, Mr. Chairman, is my point of order.

Mr. BURLESON. Mr. Chairman, I call the attention of the Chair to the act of Congress approved February 28, 1901, which carries this provision:

The Metropolitan police force shall consist of 1 major and superintendent, 1 captain and assistant superintendent, and such number of captains, lieutenants, sergeants, privates of class 2, privates of class 1, desk sergeants, and others as Congress may from time to time provide.

The CHAIRMAN. What is the gentleman reading from?

Mr. BURLESON. From the act of Congress approved February 28, 1901.

The CHAIRMAN. Following the argument of the gentleman from Kentucky [Mr. JOHNSON] as best the Chair could, the contention he makes is, that about nine days after the act of June 11, 1878, was passed, by a paragraph in the sundry civil appropriation act it was enacted that the Metropolitan police hereafter should be paid for exclusively from the revenues of the District of Columbia. Now, in what way does the act of 1901, cited by the gentleman from Texas, alter that act of June 20, 1878, providing the manner of payment, as cited by the gentleman from Kentucky [Mr. JOHNSON]?

Mr. BURLESON. I did not quite catch the point made by the gentleman from Kentucky. As I understand it, though, the point of the gentleman is that the expenses incurred by the Metropolitan police force should be borne exclusively from the District revenues. Is that the gentleman's point?

Mr. JOHNSON of Kentucky. That is the point.

The CHAIRMAN. That is the point the gentleman makes.

Mr. BURLESON. I will ask the Chair to indulge me until I can look up the law on the subject.

The CHAIRMAN. While the gentleman from Texas is looking up the law, and while the matter will be considered as pending, let us see if the mind of the Chair and the mind of the gentleman from Kentucky [Mr. JOHNSON] and the mind of the gentleman from Texas [Mr. BURLESON] meet upon what the proposition is. It is conceded by the gentleman from Kentucky that under the act of June 11, 1878, the expense of keeping up and maintaining the Metropolitan police was chargeable half and half from the revenues of the General Government and the revenues of the District of Columbia.

And the gentleman from Kentucky maintains that in nine days thereafter an act was passed providing that thereafter the entire expenses of the maintenance of the Metropolitan police force should be charged against the revenues of the District government.

Mr. JOHNSON of Kentucky. And in that connection, Mr. Chairman, I wish to present this further idea to the Chairman: That theretofore, as long as the Federal Government was participating in the payment of the police, the number was limited, and the salary was limited to $800. But by the act of June 20, 1878, nine days after the organic act was passed, imposing the payment of all the cost of the Metropolitan Police force on the District of Columbia, all limitations were taken off. The Commissioners of the District of Columbia, because they were to pay for it, were permitted to appoint as many police as they saw fit. Neither was there any further limitation upon the salaries paid until 1901, when the commissioners themselves succeeded in getting through Congress an act setting out or describing of what the Metropolitan Police should consist—of a major, and so forth, and so on—and fixing their salaries. But that does not shift the obligation as to who is to pay that debt.

Mr. BURLESON. I should like to ask the gentleman the date of that law.

Mr. JOHNSON of Kentucky. The date is stated on the top of it there—June 20, 1878, nine days after the passage of the organic act.

Mr. BURLESON. The gentleman furnishes me with a paper memorandum, but I do not find the date on it.

Mr. JOHNSON of Kentucky. The date is stated on it. I am giving the gentleman the correct date.

Mr. BURLESON. I wish the gentleman would furnish the text of the law, so that we can see the law rather than an isolated excerpt from it.

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] requests that the item be passed for the present, with the point of order pending.

Mr. BURLESON. With the point of order pending.

Mr. JOHNSON of Kentucky. For the further information of the gentleman I will say that the act of June 20, 1878, is in volume 20 of the statutes, and this part of it is on page 208.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas [Mr. BURLESON] that this paragraph be passed for the present with the point of order pending?

There was no objection.

The Clerk read as follows:

To aid in the support of the National Bureau of Criminal Identification, to be expended under the direction of the Commissioners of the District of Columbia, provided the several departments of the General Government may be entitled to like information from time to time as is accorded the police departments of various municipalities privileged to membership therein, $200.

Mr. JOHNSON of Kentucky. I make the point of order against that paragraph for the same reasons as just stated relative to the preceding paragraph.

The CHAIRMAN. If there be no objection, the paragraph will be passed with the same limitations as to unanimous consent.

Mr. JOHNSON of Kentucky. Let them all go together; yes.

The Clerk read as follows:

Miscellaneous: For fuel, $4,000.

Mr. JOHNSON of Kentucky. Mr. Chairman, I understand that my point of order extends to the item of "Miscellaneous: For fuel, $4,000," also. I make the point as to that upon the same ground.

The CHAIRMAN. If there be no objection, it will be passed under the same conditions with the point of order pending.

The Clerk read as follows:

For repairs and improvements to police stations and grounds, $5,500.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the same point of order.

The CHAIRMAN. The item will be passed subject to the same conditions.

The Clerk read as follows:

For miscellaneous and contingent expenses, including the purchase of new wagons, rewards for fugitives, modern revolvers, maintenance of card system, stationery, city directories, periodicals, telegraphing, telephoning, photographs, printing, binding, gas, ice, washing, meals for prisoners, furniture and repairs thereto, beds and bed clothing, insignia of office, purchase of horses, horse and vehicle for superintendent, bicycles, motor cycles, police equipments and repairs to same, harness, forage, repairs to vehicles, van, patrol wagons, motor patrol, and saddles, mounted equipments, and expenses incurred in the prevention and detection of crime, and other necessary expenses, $29,500; of which amount a sum not exceeding $500 may be expended by the major and superintendent of police for the prevention and detection of crime, under his certificate, approved by the Commissioners of the District of Columbia, and every such certificate shall be deemed a sufficient voucher for the sum therein expressed to have been expended: *Provided*, That the War Department may, in its discretion, furnish the District Commissioners, for the use of the police, upon requisition, such worn mounted equipment as may be required.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the same point of order against that paragraph.

The CHAIRMAN. If there be no objection, the paragraph will be passed, subject to the same conditions.

The Clerk read as follows:

For five motor patrol wagons, at $2,500 each, $12,500.

Mr. JOHNSON of Kentucky. I make the same point of order as to that paragraph.

The CHAIRMAN. If there be no objection, it will be passed over like the preceding ones.

The Clerk read as follows:

For maintenance of motor vehicles, $2,500, or so much thereof as may be necessary.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the same point of order as to that paragraph.

The CHAIRMAN. If there be no objection, it will be passed, subject to the same conditions.

The Clerk read as follows:

In all, $54,000.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the same point of order as to that.

The CHAIRMAN. Without objection, the paragraph will be passed subject to the same conditions. The Clerk will read.

The Clerk read as follows:

Harbor patrol: Two engineers, at $1,000 each; watchman, $540; 2 deck hands, at $540 each; in all, $3,620.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the same point of order as to that paragraph; they all go together.

Mr. BURLESON. This has no connection with the Metropolitan police service.

Mr. JOHNSON of Kentucky. We will see whether it has or not. I reserve the point of order, and we will let it be passed with the others. If I do not show that it comes under the same provision, it would do no harm.

The CHAIRMAN. Without objection, the paragraph will be passed, with the point of order pending.

There was no objection.

The Clerk read as follows:

For fuel, construction, maintenance, repairs, and incidentals, $2,000; in all, $5,620.

Mr. JOHNSON of Kentucky. Mr. Chairman, I reserve a point of order against this item, the same as the other.

The CHAIRMAN. Without objection, this paragraph will be passed with the others, with the point of order pending.

There was no objection.

The Clerk read as follows:

FIRE DEPARTMENT.

Chief engineer, $3,500; deputy chief engineer, $2,500; 3 battalion chief engineers, at $2,000 each; fire marshal, $2,000; deputy fire marshal, $1,400; 2 inspectors, at $1,080 each; chief clerk, $1,800; clerk, $1,200; 37 captains, at $1,400 each; 39 lieutenants, at $1,200 each; superintendent of machinery, $2,000; assistant superintendent of machinery, $1,200; 25 engineers, at $1,200 each; 25 assistant engineers, at $1,100 each; 2 pilots, at $1,150 each; 2 marine engineers, at $1,200 each; 2 assistant marine engineers, at $1,100 each; 2 marine firemen, at $720 each; 39 drivers, at $1,150 each; 39 assistant drivers, at $1,100 each; 219 privates of class 2, at $1,080 each; 42 privates of class 1, at $960 each; hostler, $600; laborer, $480; in all, $355,870.

Mr. COX. Mr. Chairman, I make a point of order on the figures "$1,200," in line 14, page 58, and I also make a point of order against the figures "$1,200" at the end of line 15. They are increases in salary.

Mr. BURLESON. Will the gentleman reserve his point of order?

Mr. COX. Yes.

Mr. BURLESON. I will state that the change was made so that the salaries would conform to those being paid other engineers throughout the District service. It was made not only upon recommendations of the commissioners, but upon those of labor organizations, which claimed that the compensation which these engineers was receiving was inadequate, and that it was in nowise equal to the compensation for engineers engaged in similar employment by private firms. It is an increase, but was made to conform to the other increases made in the salaries of other engineers.

Mr. COX. I have no doubt that the purpose stated by the gentleman is true and genuine. Eleven hundred and fifty dollars is a pretty good salary, and I must insist on the point of order in both instances.

The CHAIRMAN. The points or order are sustained in both instances.

Mr. BURLESON. Mr. Chairman, I move to insert, after the word "at," on page 58, line 13, in the blank occasioned by the sustaining of the point of order, the figures "$1,150."

The Clerk read as follows:

Amend, page 58, line 13, by inserting, after the word "at," the figures "$1,150."

The amendment was agreed to.

Mr. BURLESON. I now move to amend by inserting, after the word "at," at the end of line 15, the figures "$1,150."

The Clerk read as follows:

Amend by inserting, after the word "at," at the end of line 15, page 58, the figures "$1,150."

The amendment was agreed to.

The Clerk read as follows:

HEALTH DEPARTMENT.

Health officer, $4,000; assistant health officer, who hereafter shall be a physician and during the absence or disability of the health officer shall act as health officer and discharge the duties incident to that position, $2,500; chief clerk and deputy health officer, $2,500; clerks—1, at $1,400; 5, at $1,200 each; 4, at $1,000 each; 1, at $720; chief sanitary inspector, $1,800; sanitary inspectors—8, at $1,200 each; 2, at $1,000 each; 2, at $900 each; chief food inspector, $1,600; food inspectors—5, at $1,200 each; 6, at $1,000 each; 5, at $900 each; chemist, $1,800; assistant chemist, $1,200; assistant bacteriologist, $1,200; skilled laborer, $600; messenger and janitor, $600; driver, $600; poundmaster, $1,200; laborers, at not exceeding $50 per month each, $2,000; in all, $63,620.

Mr. JOHNSON of Kentucky. Mr. Chairman, I reserve a point of order on this paragraph for the same reasons that I set out in making the point of order relative to the Metropolitan police. Upon the suggestion of the gentleman from Texas in charge of the bill, I make a point of order now to each item under the health department.

Mr. BURLESON. Mr. Chairman, it is understood that the same point of order is directed to each item under the health department until we reach the provisions relating to the courts.

Mr. JOHNSON of Kentucky. We have an understanding that I am not to rise at the end of each paragraph and renew the point of order.

The CHAIRMAN. The gentleman from Kentucky and the gentleman from Texas ask unanimous consent that each paragraph under the division of health department be passed with a point of order pending against each paragraph with the right to recur to it hereafter.

Mr. BURKE of Pennsylvania. Mr. Chairman, what effect will that have on amendments?

The CHAIRMAN. Of course, if the point of order was sustained there would be nothing to amend. If the point of order is not sustained it will be open to amendment.

Mr. JOHNSON of Kentucky. If I understand the Chair correctly, if the matter should go out on a point of order there would be no amendment in order to that part which is stricken out. I do not understand the Chair to hold that an amendment to the bill would not be in order, because, if these items requiring the Federal Government to participate in the payment should go out on that point, I myself shall offer an amendment to the bill continuing all of these things at the expense of the District of Columbia, where the law puts it.

Mr. BURKE of Pennsylvania. If the whole paragraph is passed, and, as I understand, if it is held to be in order, it will be open to amendment.

The CHAIRMAN. The Chair understands it so, and by unanimous consent it will be so ordered. Is there objection?

There was no objection.

Mr. BURLESON. Mr. Chairman, as I understand, the items are to be read, and if the gentleman from Pennsylvania desires to offer an amendment I am willing that he should offer it and consider it as pending, to be passed upon after the Chair has ruled upon the point of order.

The CHAIRMAN. The Clerk will read the paragraph.

The Clerk read as follows:

Not less than 12 of the sanitary and food inspectors above provided for shall be employed in the enforcement of the milk and pure-food laws and the regulations relating thereto and in the inspection of dairies and dairy farms.

For the enforcement of the provisions of an act to prevent the spread of contagious diseases in the District of Columbia, approved March 3, 1897, and an act for the prevention of scarlet fever, diphtheria, measles, whooping cough, chicken pox, epidemic cerebrospinal meningitis, and typhoid fever in the District of Columbia, approved February 9, 1907, and an act to provide for registration of all cases of tuberculosis in the District of Columbia, for free examination of sputum in suspected cases, and for preventing the spread of tuberculosis in said District, approved May 13, 1908, under the direction of the health officer of said district, and for the prevention of other communicable diseases, including salaries or compensation for personal services, not exceeding $10,000, when ordered in writing by the commissioners and necessary for the enforcement and execution of said acts, and for the prevention of such other communicable diseases as hereinbefore provided, purchase and maintenance of necessary horses, wagons, and harness, purchase of reference books and medical journals, and maintenance of quarantine station and smallpox hospital, $24,000: *Provided*, That any bacteriologist employed under this appropriation shall not be paid more than $6 per day and may be assigned by the health officer to the bacteriological examination of milk and other dairy products and of the water supplies of dairy farms, and to such other sanitary work as in the judgment of the health officer will promote the public health, whether such examinations be or be not directly related to contagious diseases.

Mr. JOHNSON of Kentucky. Mr. Chairman, I wish it understood that I reserve the point of order upon all of the two preceding paragraphs, not only for the reasons heretofore stated, but for the additional reason that under any and all circumstances it is legislation.

Mr. BURKE of Pennsylvania. Mr. Chairman, the amendment which I had in mind and which we discussed is to the paragraph on page 60 of the bill. I assume that the Chair understood that I did not wish to have the paragraph passed without submitting the amendment. I ask to have pending the amendment to line 11, page 60, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 60, line 11, strike out "$1,200" and insert "$1,500."

Mr. BURLESON. To that I reserve the point of order.

The CHAIRMAN. The gentleman from Texas reserves the point of order, and the amendment will be considered as pending.

Mr. JOHNSON of Kentucky. Mr. Chairman, I reserve the point of order against the whole paragraph.

The CHAIRMAN. As the Chair understands, the gentleman from Kentucky has already reserve the point of order against the paragraph. The Clerk will read:

The Clerk read as follows:

The action of the commissioners in locating a pound and stable for the health department on reservation No. 290, located along James Creek Canal at the intersection of South Capitol and I Streets SE., under the authorization contained in the District appropriation act approved March 2, 1911, is ratified and confirmed, and the jurisdiction and control over said reservation is transferred to the Commissioners of the District of Columbia: *Provided*, That the District of Columbia shall pay to the United States as compensation for the land contained in said reservation one-half the estimated value thereof, namely $4,100, and there is hereby appropriated, entirely from the revenues of the District of Columbia, said sum of $4,100, which shall be deposited in the Treasury of the United States to the credit of the United States, and thereafter the title to said reservation shall be in the name of the District of Columbia.

Mr. JOHNSON of Kentucky. Mr. Chairman, at the conclusion of the reading of that I wish to know if it is understood that I have reserved all points of order against everything which has gone before under the head of the Metropolitan police.

Mr. BURLESON. Undoubtedly. The point of order, as I understand it, is that the expense should all be borne by the District of Columbia.

Mr. JOHNSON of Kentucky. That is one point of order that I made. This is the second time that I have risen at the end of the particular paragraph for the purpose of stating that if that point of order should be overruled, I still am in the attitude of reserving points of order against legislation which occurs in the item just read as well as in the other items.

Mr. BURLESON. I have no objection to that.

The CHAIRMAN. Without objection, it is understood that the gentleman from Kentucky reserves all points of order on the several paragraphs.

There was no objection.

Mr. DYER. Mr. Chairman, I desire to offer an amendment which I send to the Clerk's desk. First, I desire to submit a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DYER. While the point of order is pending here to this paragraph is it in order to offer this amendment?

The CHAIRMAN. It is in order to offer amendments and have them read and remain pending, subject to such disposition as may be made of the point of order.

Mr. DYER. Very well. I offer the amendment.

The Clerk read as follows:

Add at the end of line 23, page 64, the following: "*Provided*, That hereafter the tuberculosis hospital shall be under the direction and control of the health department."

Mr. BURLESON. Mr. Chairman, to that I reserve the point of order.

The CHAIRMAN. The gentleman from Texas reserves the point of order to the amendment, which will be pending, and the Clerk will read.

The Clerk read as follows:

COURTS.

To pay the reporter of the Court of Appeals of the District of Columbia for volumes of the reports of the opinions of said court, authorized to be furnished by him under section 229 of the Code of Law for the District of Columbia as amended July 1, 1902, 22 volumes, at $5 each, namely, 11 copies each of volumes 40 and 41, $110.

Mr. COX. Mr. Chairman, I move to strike out the last word, for the purpose of getting some information. I would like to ask the chairman in charge of the bill whether the law mentioned in this paragraph fixes the price of these reports at $5. The reason I make the inquiry is that it strikes me as a very high price to pay for a supreme court report. The supreme court reports of the State of Indiana, I think, now sell at $1.50 each, at least at not more than $1.75 each, and I imagine they are about as large in bulk as these reports are. They may not contain as much law, though I doubt that.

Mr. BURLESON. Mr. Chairman, to be candid with the gentleman, I do not know to whom these particular volumes are furnished. It is evidently required by law that 22 volumes be furnished certain of the officials of the District of Columbia, and for which the reporter is entitled to make a charge of $5 per volume.

Mr. MANN. Eleven volumes.

Mr. BORLAND. There are two numbers, 40 and 41—22 volumes altogether, 11 of each.

Mr. BURLESON. The item has been carried in the bill for many years. We made no inquiry about it. It is only these officials of the District of Columbia who can complain about it, and there has never been any complaint laid with the committee or with the commissioners that the charge is excessive.

Mr. COX. Mr. Chairman, I have just had handed to me the Code of Laws of the District of Columbia, section 229 of the code, which provides for the publication, but the organic law itself does not seem to fix the price at which the volumes are to be sold. It seems to have been fixed in the appropriation act.

There is hereby appropriated out of any moneys in the Treasury not otherwise appropriated such sums as may be necessary to pay said reporter therefor at the rate of not exceeding $5 per volume, and said appropriation shall be deemed a permanent and annual appropriation, and one-half thereof shall be paid out of the revenues of the District of Columbia.

Mr. BURLESON. It is an indefinite, continuing appropriation.

Mr. COX. A permanent appropriation.

Mr. BURLESON. And the $5 per volume has been fixed and is chargeable. They pay it and have never complained of it being excessive. We have never had any complaint from any quarter about it.

Mr. COX. Well, I take it under this law these reports are furnished to the various courts of the District, are they not?

Mr. BURLESON. As I understand it, the reporter is authorized to charge not to exceed $5 a volume for the report.

Mr. COX. He furnishes it to the courts, does he not?

Mr. BURLESON. There are furnished 11 copies of each report to certain officials of the District, probably a copy goes to each court.

Mr. COX. Well, I take it the attorneys here in this city are interested in buying these same reports.

Mr. BURLESON. I do not know about that.

Mr. COX. The gentleman does not know, in other words, whether or not the attorneys here buy them at one price and the courts pay for them at another price?

Mr. BURLESON. We pay this amount to the reporter for the volumes that he is required by law to furnish to certain officials in the District.

Mr. COX. I understand, but the gentleman does not know what he sells them at to attorneys?

Mr. BURLESON. I have no information on that point.

Mr. COX. It strikes me as a very high price.

Mr. BORLAND. If the gentleman from Indiana will yield, $5 is a high price for law reports, and it is true that that is higher than the average of the supreme courts of the various States. The cost of that volume of law reports depends to a great extent upon the number of copies that are published, and in a very small jurisdiction like the District of Columbia the initial cost of getting up the volumes is the same, and the number of copies that can be sold is very much smaller than in the State of Indiana, and it controls very largely the price.

Mr. BURLESON. It is probable that very few volumes of these reports are published, and that, of course, as stated by the gentleman from Missouri, would entail an additional or greater cost on those who purchase the particular volume, because there are a very few of them required.

Mr. COX. If I remember correctly, the Supreme Court Reports of the United States only cost about $3 or $3.50.

Mr. BURLESON. But those reports are required by all the lawyers throughout the United States.

Mr. COX. What I was particularly interested in getting information if I could was whether or not this reporter was getting a certain price for them, to wit, $5 a volume for furnishing the courts, and then letting lawyers in the District who buy them have them at a less price.

Mr. BURLESON. I think in the legislative bill there is an item carried authorizing the reporter to charge persons in the District who desire this volume $5 per volume. I have that impression.

Mr. COX. I withdraw the pro forma amendment.

The Clerk read as follows:

Police court: Two judges, at $3,600 each; clerk, $2,200; deputy clerks—1, $1,600; 1, $1,500; 2, at $1,200 each; deputy financial clerk, $1,500; 7 bailiffs, at $900 each; deputy marshal, $1,000; janitor, $600; engineer, $900; assistant engineer, $720; fireman, $480; 2 assistant janitors, at $360 each; matron, $600; 3 charmen, at $360 each; in all, $28,680.

Mr. COX. Mr. Chairman, I make a point of order on the figures "$2,200," in line 7, and also on the figures "$1,600," in the same line.

Mr. BURLESON. Will the gentleman reserve the point of order?

Mr. COX. I will reserve it.

Mr. BURLESON. Mr. Chairman, I will state to the gentleman from Indiana that the clerk of this court has been in the service of the District government for 40 years, and in the last 6 or 8 years his labors have materially increased by reason of the increased litigation in this court and the lawyers of the District and the District Commissioners have repeatedly importuned us to increase his salary, stating that he was entitled to an increase by reason of the increased duties that have been imposed upon him. Now, those are the facts in this case. It is subject to the point of order.

Mr. COX. Mr. Chairman, I have no doubt of the sincerity of the gentleman in charge of the bill, nor do I have any doubt of the sincerity of the gentlemen who have importuned him and his committee to increase this, but $2,000 is a good deal of a salary.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BURLESON. Mr. Chairman, I move to amend by inserting, after the word "clerk," page 66, line 7, "$2,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert, after the word "clerk," page 66, line 7, "$2,000."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. BURLESON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. RODDENBERY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 28499, the District of Columbia appropriation bill, and had come to no resolution thereon.

STATISTICS ON IMPORTS AND EXPORTS OF THE UNITED STATES (H. DOC. NO. 1340).

The SPEAKER laid before the House the following message from the President of the United States, which was read and referred to the Committee on Ways and Means and ordered to be printed:

To the Senate and House of Representatives:

By joint action of the Department of Commerce and Labor and the Treasury Department, committees of those two departments have recently made a careful investigation of the methods of preparing the statistics of the imports and exports of the United States.

These committees have unanimously recommended that the laws relating to the preparation of shippers' manifests be amended in such manner as to compel the preparation by exporters of accurate and complete lists in regard to merchandise sent out of the United States. Without such amended laws these committees deem that it is impossible for the customs officers to obtain with accuracy the figures of our export trade. The existing law regarding statistical returns of exports by sea was enacted in 1821, and naturally falls to meet conditions existing at the present time, when methods of communication and transportation, classes of articles entering international commerce, places of production of such articles, and the demands of business for information in reference thereto have greatly changed. A large proportion of the merchandise now being exported originates in the interior of the country, and is of such character and variety that a proper description thereof can not be made at the port of exportation. It is recommended, therefore, that a measure be enacted which will remedy the unsatisfactory conditions in our export statistics.

This new measure should provide that persons forwarding merchandise from interior points for exportation shall supply to the transportation company receiving such merchandise a manifest similar in general form to that required at the port of exportation, which manifest shall be conveyed by the transportation company to the port of exportation and delivered to the collector of customs.

For any omission from or incorrect description of the merchandise in any manifest, whether originating in the interior or at the port of exportation, as to kind, quantity, or value, the owner, shipper, or consignor, or agent of either, should be made liable to a fine of $50, unless it be shown that such omission was due to a mere clerical error. If it be shown that the incorrect statement has been willfully or fraudulently made, the person responsible therefor should be deemed guilty of a misdemeanor, and rendered liable to fine or imprisonment.

The bill should also provide a penalty for the failure of the transportation company to procure from the exporter at the original place of shipment the manifest noted above, and likewise a penalty for failure to transmit it to the collector of customs at the port of exportation, or for failure to deliver it to any other transportation company to which it may deliver the merchandise en route, and the company so receiving should be also required under penalty to forward to the collector of customs the said manifest.

The bill should prohibit, under penalty for violation, the disclosure by any officer, employee, or other representative of a common carrier of any information regarding the kind, quantity, value, destination, or consignee of any of the merchandise carried by it for exportation and described in the manifest above referred to.

It is believed that a measure embodying these suggestions into law would fully meet the objections now offered to the proposition that interior shippers shall supply manifests of the goods forwarded for exportation. The chief objection has been that information regarding their business might be disclosed by employees of the common carriers transporting the merchandise and receiving statements as to its character, valuation, destination, and the consignee. The plan, if carried into effect, would, it is believed, protect the original exporter against disclosure of his business, give to the customs officers at the port of exportation sufficient information to enable them to properly describe and value the mechandise, and also assure much

greater accuracy as to the true value of the merchandise being exported.

I suggest, as equally important, an amendment to section 4197 of the Revised Statutes of the United States, making the law conform to the present practice by which vessels are permitted to file a supplementary manifest within four business days after the clearance of the vessel, a practice without authority of law, but sanctioned by the customs regulations (art. 128).

The provisions of section 4197 of the Revised Statutes requiring the master of the vessel to file a complete manifest of the cargo before a clearance is granted, a measure enacted before the utilization of steam power in ocean traffic and prior to the transaction of business with the aid of telegrams, cablegrams, and telephonic communications, can not be carried out under present methods of commercial transactions. To demand a strict compliance with the requirements of the statute in this particular would congest traffic, delay travel and the transportation of the foreign mails, paralyze business, and jeopardize our international commerce. It is found that there has been no enforcement of this part of the statute at the larger ports of the United States for upward of 30 years. It is believed that the law for the clearance of vessels and filing of cargo manifests should be in harmony with the law requiring the presentation of shippers' manifests. The amendment proposed to the law would be justified by many years' experience and careful consideration of this important subject. It would add no burdens to the duties of steamship companies. Instead it would simplify the preparation of the manifest and legalize the present custom of filing supplementary manifests. It should fix the same penalty ($500) for failure to file a manifest and obtain a clearance for a vessel, and should provide a penalty of $50 for neglect of entering merchandise in the manifest. It should grant the same period for filing a supplementary manifest as the current practice under article 128 of the Customs Regulations.

The recommendations of this message have received the approval of the two departments whose work and functions will be most affected by them—the Treasury Department and the Department of Commerce and Labor.

If a bill or bills embodying the suggestions of this message would be useful to the Congress or to any committees thereof considering the subject, they will be forwarded on request.

WM. H. TAFT.

THE WHITE HOUSE, *February 4, 1913.*

NEW YORK AND NEW JERSEY JOINT HARBOR LINE COMMISSION (H. DOC. NO. 1339).

The SPEAKER laid before the House the following veto message from the President of the United States, which was read:

To the House of Representatives:

I return to you without my approval the joint resolution authorizing the President to appoint a member of the New Jersey and New York Joint Harbor Line Commission.

When it was first proposed to me that an officer of the Corps of Engineers should be made a member of a State commission proposed to be created by the States of New York and New Jersey to investigate and report upon port conditions in the port of New York, I expressed myself as being heartily in favor of legislation which would permit such an officer to be so designated. I believed and still believe that there are many matters affecting the said port, some of which are mentioned in the resolution of the Legislatures of the States of New York and New Jersey which creates the said joint commission, in the treatment of which conference and cooperation between the Federal and State authorities would be highly desirable. It has since been brought to my attention, however, that one of the objects embraced in the said resolution of the State legislatures, as to which the proposed joint board was to make investigation and report, was the question of the "extension of pierhead lines." Jurisdiction and authority over the location of pierhead lines in New York Harbor is at present vested wholly in the Federal authorities—that is, in the Secretary of War, acting on the advice and recommendation of the Chief of Engineers, and the New York Harbor Line Board, consisting of three officers of the United States Corps of Engineers. They exercise their duty, not in the interests of New York or New Jersey alone, but in the interest of the commerce of the entire Nation passing up and down the Hudson River and in and out of the port of New York. Since this resolution was first introduced, and since my attention was first called to the subject, there has arisen a sharp difference of opinion as to the location of the pierhead line in the Hudson River, in the said port of New York, between these Federal authorities and the local authorities of that neighborhood, including the very members of the two State commissions of New Jersey and New York, who constitute six of the proposed seven members of the joint board above mentioned. These local authorities and these State commissioners have urged the adoption of a pierhead line which would materially narrow the existing fairway of the Hudson River at its narrowest point, and their application has been denied by the Federal authorities. The proposal to narrow the Hudson River at that point has been passed upon by four successive Secretaries of War, including myself when I held that office. They have uniformly decided against the proposition. I myself hold firmly the conviction that any further encroachments upon the existing fairway of the Hudson River at that point would be most shortsighted and eventually destructive of the commercial interests of the Nation, which it is the duty of the Federal authorities to conserve. I regard the question as one which, in the light of these successive decisions, ought to be considered as finally and irrevocably settled. If a decision, made so carefully and uniformly by so many disinterested officers of the Government, can be now successfully opened and reversed upon the insistence of local officers or local business interests, there can be no assurance of any permanent, farsighted protection of the needed width of the great river upon which the prosperity of the commerce of the greatest port of this Nation ultimately depends.

Although the authority granted by the States of New York and New Jersey to this proposed joint commission is merely advisory, nevertheless, if it were permitted, with the sanction of Congress and with the presence in its membership of a Federal engineer, to investigate and recommend upon this subject of the location of pierhead lines, it would inevitably be claimed by those interested that its recommendation should be controlling upon the question. Its conclusions would either be urged upon the Federal authorities to induce them to surrender their independent judgment or they would be made the basis for an appeal directly to Congress to overrule that judgment and arbitrarily to fix the pierhead line by statutory enactment. I believe that such conditions could only operate injuriously to a proper decision. I deem it of the highest importance that this authority over the location of harbor lines shall be exercised, not by local officials, subject to the bias and prejudices of their locality, but by officers of the General Government after careful judicial investigation, as at present, exercising their functions with a vision broad enough to embrace the interests of the entire Nation.

I therefore return the joint resolution without my approval, suggesting that it be amended by a proviso that the authority of the joint commission of which such officer shall be a member shall not extend to the consideration of or recommendation upon the location of any harbor lines within the said port.

WM. H. TAFT.

THE WHITE HOUSE, *February 4, 1913.*

Mr. TOWNSEND. Mr. Speaker, I move that the resolution referred to in the President's veto message be passed, the objection of the President to the contrary notwithstanding. And upon that motion I desire to be heard when it is proper that I should be.

The SPEAKER. The gentleman from New Jersey [Mr. TOWNSEND] moves that on reconsideration the House shall pass the resolution; the objection of the President to the contrary notwithstanding. The Clerk will report the resolution.

The Clerk read as follows:

House joint resolution (H. J. Res. 210) authorizing the President to appoint a member of the New Jersey and New York Joint Harbor Line Commission.

Resolved, etc., That the President of the United States be, and is hereby, authorized to designate an officer of the Corps of Engineers, United States Army, whose assignment of duty relates to harbor work in, or in the neighborhood of, New York Harbor to act as a member of the said New Jersey and New York Joint Harbor Line Commission: *Provided*, That no expense shall accrue to the United States by reason of such appointment, and the officer designated may receive such compensation for his services on said commission as may be provided by the States aforesaid.

The SPEAKER. The gentleman from New Jersey [Mr. TOWNSEND] is recognized.

Mr. TOWNSEND. It is with naturally a great reluctance that I rise to make this motion, as a first-term Member. But the reading of the veto message discloses clearly that the President lacked certain essential information in writing as he did. I quote, Mr. Speaker, from the message wherein the President says:

When it was first proposed to me that an officer of the Corps of Engineers should be made a member of a State commission proposed to be created by the States of New York and New Jersey—

And so forth.

That commission, Mr. Speaker, had been in existence more than a year—I believe two years—when it was suggested to the President that he appoint an officer of the Corps of Engi-

neers to make a seventh member of it. And in spite of that fact, the message dated yesterday, refers to this as a "proposed commission." Further, in the veto message the President writes:

Although the authority granted by the States of New York and New Jersey in this proposed joint commission—

Again displaying the fact that, in the multitude of duties which engage his attention at this time, he has not been correctly informed as to the fact, which is that this commission which he twice refers to as a "proposed commission" has for two years been diligently at work endeavoring to adjust the differences existing between the States of New Jersey and New York in respect to that most momentous question, the harbor line.

It was my honor first to suggest to the President that, complying with the request made by the Legislature of New Jersey, he should appoint a seventh member of this commission. The Legislature of New York, by resolution, did its part in creating this commission and appointed three commissioners; the Legislature of New Jersey did its part in creating this commission and appointed three commissioners, but added to its resolution a request that the President should appoint a seventh commissioner. When I had the honor to wait upon the President at the request of Gov. Wilson to ask him to comply with the request of the New Jersey Legislature, he took the matter under consideration, and with courteous promptness informed me that he believed he required the authority of Congress to appoint that seventh commissioner. I introduced the resolution authorizing him to do so; it was referred to the House Committee on Military Affairs, investigated, referred also, of course, by the House Committee on Military Affairs to the Secretary of War, reported favorably by the House Committee on Military Affairs, and passed this House. It went to the other body of this Congress and was there passed, after proper investigation. The resolution then went to the President for his signature, completing the legal requirements, so that he might comply with the request of these two States and appoint a seventh commissioner.

Gentlemen here need not be instructed as to the necessity of the seventh commissioner. Naturally the three commissioners representing New York and the three commissioners representing New Jersey might arrive at a tie vote in respect to matters properly coming before them under the authority of the resolutions creating that commission. I call the attention of gentlemen here to the fact that in this message of the President he says:

Although the authority of the States of New York and New Jersey in this supposed joint claim is merely advisory.

That is all of their authority; but that advice is most necessary. It is, indeed, absolutely essential that the great questions which now confront the shipping interests of New York and Newark, and therefore the shipping interests of this whole country, affecting the harbor lines of New York and New Jersey, should be finally settled.

This commission can have no power—no one has suggested that it has any power—to settle the extent of the pier lines on either the Manhattan or Jersey City or Hoboken or Weehawken fronts of the North River. Of course they can have no power. It is not suggested in the resolution, either of the Legislature of New York or of New Jersey. But these two halves of the commission consist of men who in some cases have given a life study to this very vital question, and they are now finally preparing themselves to solve it. They are not a "proposed commission," as described in this veto measure, but they are an existing body of men actively at work. They require the assistance and advice of a seventh member; and, as the resolution which has just been read at the Clerk's desk provides, that seventh member should be an officer of the Engineer Corps of the Army whose duties are related to the waters in and about the harbor of New York.

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. HAY rose.

Mr. TOWNSEND. Certainly.

The SPEAKER. To whom does the gentleman yield?

Mr. TOWNSEND. I will yield first to the gentleman from Illinois [Mr. MANN] and to the gentleman from Virginia [Mr. HAY] next.

Mr. MANN. The gentleman refers to the language of the President about "a proposed commission," and takes exception to that language. I do not think it is very important, but it is quite certain that the existing commission does not consist of seven members, one of them being an engineer officer of the Army, and the "proposed commission," as I understand the language of the veto message, refers to the commission as it would exist if the resolution became a law and an engineer officer of the Army were detailed as a member of that commission. We can not require the State of New York or the State of New Jersey to accept an engineer officer as a member of the commission unless they consent to it, and the "proposed commission" is the one which will be organized with the engineer officer as a member.

But, barring that, does not the gentleman believe that it would be wiser to let the veto message and the resolution go to the committee which reported it for further examination before asking for a vote in the House?

Mr. TOWNSEND. I am disposed at all times to accept suggestions of the gentleman from Illinois when given in the friendly spirit in which he now speaks, and under ordinary circumstances I would at this time adopt his suggestion that this matter lie over. But I wish to say to the gentleman from Illinois and other Members of the House that this question of the harbor line in New York is urgent and acute, and the gentleman must understand that when I speak of that I am just as much interested as any New York Member, because the waters of New Jersey—that part of New Jersey which I in part represent—are a part of New York Harbor and are so treated in the statutes. I would adopt the gentleman's suggestion if it were not, as I say, that this matter has become acute.

Mr. HAY. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. TOWNSEND. In one second I will yield. Trans-Atlantic lines have already launched and are now outfitting steamers which have no berth into which they can be hauled, either on the Manhattan side or on the New Jersey side of New York Harbor. The matter is acute, I repeat, and should be definitely settled as soon as possible.

Mr. MANN. Assuming all that to be true, this resolution passed the House by unanimous consent, being on the Unanimous Consent Calendar, having apparently the recommendation of the War Department. Since then it has gone to the President, and the President has sent his veto message to the House. Now, the gentleman knows that the President in acting upon matters of this sort has the resolution referred to the proper department before he disposes of it, and in this case it is apparent and we have the right to assume that the Engineer Department of the War Department has advised the veto message. In that situation does not the gentleman think that before asking the House to vote the resolution over the President's veto we ought to have an opportunity given to the committee to investigate the matter, or at least that the membership of the House should have an opportunity to investigate it more than it can be done by mere debate?

Mr. TOWNSEND. I will withhold my answer until the chairman of the Committee on Military Affairs [Mr. HAY] asks his question, which may give the information desired by the gentleman from Illinois.

Mr. HAY. The President recommends a proviso which, if put upon the resolution, will cure the objections he has to it. What objection has the gentleman from New Jersey to the proviso recommended by the President in his veto message?

Mr. TOWNSEND. Mr. Speaker, I ask that that proviso be read again.

The SPEAKER. The Clerk will report the proviso, if there be no objection.

The Clerk read as follows:

I therefore return the joint resolution without my approval, suggesting that it be amended by a proviso that the authority of the joint commission of which such officer shall be a member shall not extend to the consideration of or recommendation upon the location of any harbor lines within the said port.

Mr. TOWNSEND. Mr. Speaker, the very purpose of this commission is to locate harbor lines. The President does not say there that this commission shall not determine pier lines. Of course, this commission can only recommend pier lines to Congress or to the Secretary of War.

Mr. HAY. What does the gentleman say as to the contention of the President that the Federal Government has complete control of these pierheads and harbor lines?

Mr. TOWNSEND. I concur in that contention absolutely; but the legislatures of these two States, after repeated delays, have decided in their wisdom that the best way to determine what is essential to cure the existing evils there would be to create this commission. I will say to the gentleman from Illinois that the commission have been at work for a year or more—two years I believe. They have accumulated data of very great importance; they are earnestly pushing their work in order that they may lay before the departments of the Government and Congress, and the committee of which the gentleman from Virginia [Mr. HAY] is chairman [the Committee on Military Affairs], data which is important and absolutely essential to proper legislation. They are proceeding upon a matter

that, as the President's message says, is of importance to the whole United States, and my objection to further delay is that delay can not be afforded in view of the imminent needs of the shipping interests of the harbors concerned. We are starved for harbor room and harbor facilities, not only in New York, but in Newark. Our commerce in Newark is growing so rapidly that the city of Newark itself is preparing plans to spend millions of dollars for harbor improvement independent of what Federal aid may be given to us.

Mr. OLMSTED. Mr. Speaker, will the gentleman from New Jersey yield?

Mr. TOWNSEND. Certainly.

Mr. OLMSTED. I understand the gentleman from New Jersey to agree entirely with the President that the question of harbor lines is one over which the Federal Government has entire control. Why, then, should we agree to a commission in which the Federal Government will have only one member out of seven?

Mr. TOWNSEND. I will answer the question in this way: An Army engineer goes up to New York. Or there may be three Army engineers if you please. They are scientists. They take hold of certain engineering problems and determine how they shall be carried out. They watch the contractors and see, for instance, that the new channel with which the gentleman is familiar is properly constructed; that the contractors do their work properly.

This joint commission, on the other hand, consists of men familiarly acquainted with the commercial interests of the ports, men who live there, men whose affairs are there. For instance, I know the members of the New Jersey commission personally, and I know that they are men who all their business lives have been concerned with this matter of the expeditious handling of commerce. They are there not because they are assigned there from the War Department scientifically to control certain engineering problems, but they are there eager to arrange this matter so that the commerce of the two ports, which are one port, shall be most efficiently, economically, and scientifically managed. These commissioners have a greater interest in the matter and a different interest than an Army engineer can have. An Army engineer is concerned with his science. He has a channel to build and he designs it, he watches it and controls the work.

But these commissioners want to know how near they can bring a ship to rail, how much they can improve the shipping facilities of the port of New York—or Newark, if you please—part of which I have the honor to represent, by dredging a channel close to unlimited warehouses and manufacturing plants. That is the difference, I will say to the gentleman.

Mr. OLMSTED. Could not the Government send its own engineers or commissioners, who could consult with the gentlemen so well informed? Would not that be better than for the Government to send one man to constitute a part of a commission the other members of which would have the power to outvote him six to one, although he is the representative of the Federal Government, which has the right of exclusive control of these harbors?

Mr. TOWNSEND. I will say to the gentleman that there is an assumption in his statement that these gentlemen, who are, at least so far as the New Jersey members are concerned, prosperous and respected citizens, and I assume the same as to the New York members, are going to suggest to the Government a program of improvement which is calculated to injure the very medium by which, in part, they conduct their prosperous business.

Mr. OLMSTED. I do not suppose they would do it intentionally, but it is a question for the Government itself and not for them to decide.

Mr. TOWNSEND. The Government must decide it in the final analysis, anyway. These gentlemen serve without pay, work hard and diligently, and suggest projects and plans to the Government. They not only suggest them, but they prepare and present to the Government data upon which the Government can intelligently act.

Mr. OLMSTED. What is to prevent them from doing it now, except that they themselves can not agree?

Mr. TOWNSEND. Because their suggestions at times must differ. They are only human beings. There are different and in some respects rival interests in New York and New Jersey which may bring them to a standstill. They are reasonable men, and they will consult with the engineer who, the resolution proposes, shall be added to the commission.

Mr. BORLAND. Will the gentleman yield?

Mr. TOWNSEND. Certainly.

Mr. BORLAND. I would like to ask the gentleman whether the proviso suggested by the President that this commission shall have no power to investigate and recommend the location of harbor lines would not in effect take the very meat out of the movement that gave rise to the creation of the commission?

Mr. TOWNSEND. The gentleman suggests the very thought: To say that we shall pass here a resolution assisting in creating a commission which shall not suggest the things they were created to suggest strikes me as evidence that the message of veto was somewhat hastily written.

Mr. BORLAND. Let me ask the gentleman this question: Was not the resolution passed by Congress in response to an invitation from the New Jersey Legislature that the President of the United States should appoint an engineer officer to serve with a commission that had already been created?

Mr. TOWNSEND. Quite so.

Mr. BORLAND. He was asked to appoint an officer whose powers and duties had been defined by the State Legislatures of New York and New Jersey.

Mr. TOWNSEND. The gentleman states the fact.

Mr. BORLAND. We have a right to refuse the invitation, but scarcely the right to say what the States of New York and New Jersey shall do in clothing their commission with the powers that they think important.

Mr. TOWNSEND. The gentleman has stated the situation exactly.

Mr. CARLIN. Will the gentleman yield?

Mr. TOWNSEND. Certainly.

Mr. CARLIN. Is it not a fact that the joint commission of New York and New Jersey are powerless to fix the harbor lines without the consent of the Federal Government?

Mr. TOWNSEND. Absolutely.

Mr. CARLIN. This resolution is intended to bind the Government to the result of the deliberations of that board?

Mr. TOWNSEND. I should say not. I will say to the gentleman from Virginia, as I was trying to explain to the gentleman from Pennsylvania, that this joint harbor line commission is investigating a great many questions not familiar, perhaps, to some gentlemen here. Those questions include the whole Staten Island proposition, they include the far reaches of the river opposite Manhattan, the East River proposition, the harbor line which will be extended by the barge canal coming down there, the Jamaica Bay project, and they also include the extension of harbor lines in many directions which are necessary to accommodate the rapidly growing commerce there.

Mr. CARLIN. The appointment of an engineer is not essential to the investigation by that board.

Mr. TOWNSEND. No; but the indorsement of the engineer will make of much greater value the recommendations of the committee when Congress and the executive departments of the Government find that the recommendations come not only from the joint harbor committee, but from a joint harbor committee acting with the advice of a member of the Engineer Corps.

Mr. CARLIN. Is it not a fact that the Engineer Corps could give the advice without being a member of this commission?

Mr. TOWNSEND. They could, but it is desirable that such advice should be given by an engineer officer who is known as acting with the commission.

Mr. KAHN. Will the gentleman yield?

Mr. TOWNSEND. I will.

Mr. KAHN. To what extent would the activities of this board be circumscribed if the Army officer were to act with them in an advisory capacity, although he made no recommendation as to the amounts to be expended? That, as I understand, is the purpose of the amendment suggested by the President.

Mr. TOWNSEND. I will say to the gentleman from California there is no proposal here that this board should recommend amounts to be expended. What they want to do is to so determine for all time, or within vision of human eyes, what it is best to do to establish these hundreds of miles of harbor front; to make a cohesive plan—a plan harmonious and which will equally apply to both States and all the waters not only of New York, the lower bay and upper bay, but at Newark—both the kills and both the rivers. It is a very large and interesting proposition.

These gentlemen have worked diligently; they are gentlemen of intelligence, gentlemen of rectitude and standing; and they now ask the Government to supply them with scientific advice, and the President, laboring, apparently, under the inadvertence of not being informed that this commission already exists, suggests that they be not so advised. That is the effect of the veto.

Mr. BURKE of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. TOWNSEND. Certainly.

Mr. BURKE of Pennsylvania. The gentleman stated in the course of his remarks that the President evidently was not fully advised and suggested that the President had used language in his message to the effect that this was a "proposed" joint body. I think the gentleman will find upon examining the President's message more clearly that the word "proposed," as he used it, referred to the legislation on the part of the State of New Jersey and to the State legislation now existing prior to the creation of the body, and that it does not refer to the joint resolution before the House.

Mr. TOWNSEND. Of course the gentleman is at liberty to interpret the language as he sees fit.

Mr. BURKE of Pennsylvania. I know the gentleman does not wish to place a wrong construction upon the language.

Mr. TOWNSEND. Mr. Speaker, I do not desire to detain the House any longer. The House has listened with great patience and courtesy to me. I will read the language, and the gentleman can construe it as he wishes and I reserve the privilege of construing it as I understand it. The President writes in his message:

When it was first proposed to me that an officer of the Corps of Engineers should be made a member of a State commission proposed to be created—

If the gentleman thinks that the term "proposed to be created" is equivalent to the term "already created," that a proposed thing is a fait accompli, then we differ in our conception of the meaning of the English language and I am doubtless wrong. I also call his attention to this language, on page 4 of the message:

Although the authority granted by the States of New York and New Jersey in this proposed joint commission.

The joint commission was created more than a year ago, and I am under the impression two years ago, and has been in active operation. If that means that a commission is still to be created, I shall take a new grip upon my study of the English language.

Mr. BURKE of Pennsylvania. There is evidently a difference of opinion with reference to the language in the message. I can not quite agree with the construction the gentleman places upon it. I do not know whether his notes——

Mr. TOWNSEND. They are taken verbatim. I had an opportunity to examine the message before it was read from the Clerk's desk.

Mr. BORLAND. Mr. Speaker, will the gentleman yield?

Mr. TOWNSEND. Yes.

Mr. BORLAND. I will ask the gentleman to yield me time enough to have inserted as a part of my remarks the letter of Gov. Woodrow Wilson requesting this officer and the reply of President Taft.

Mr. TOWNSEND. Yes; I will gladly yield the gentleman enough time to read it at this time.

Mr. BORLAND. Very well; I will read it. I read now from the report of the Committee on Military Affairs, to accompany House Joint resolution 210:

In pursuance with request of the New Jersey Legislature the governor of New Jersey wrote to the President of the United States, as follows:

"I take the liberty of sending you inclosed a copy of joint resolution of the two houses of the New Jersey Legislature passed and approved in March last.

"In compliance with that resolution I venture to ask if you would be willing to appoint an experienced member of the Engineering Corps of the Army, acquainted with port conditions in and around New York, to confer with the commissioners from this State and from the State of New York with regard to the matters referred to in the joint resolution. I know the interest felt by the War Department in the important matter of the development of the great port of New York, and I sincerely hope that it will be possible for you to permit us to have the invaluable cooperation suggested.

"Cordially and sincerely, yours,

WOODROW WILSON."

In reply to the above letter the President of the United States wrote to the governor of New Jersey as follows:

"I am fully in sympathy with the proposition for the joint commissions provided for by your State and New York, but the statutes of the United States are so strict with reference to my appointing commissions without the specific authority of Congress that I have referred your letter to the Secretary of War for consideration as to whether we have any authority. If we conclude that we have not—as is quite likely—then the Secretary of War and I will bring to the attention of Congress the necessity for such action as will enable us to cooperate with you fully in the useful purpose of your commission.

"Sincerely, yours,

"WILLIAM H. TAFT."

Mr. KAHN. Mr. Chairman, will the gentleman yield for a moment?

Mr. BORLAND. I reserved only time enough to read this.

Mr. KAHN. As I heard the letter of the governor of New Jersey, and as I understood it, he asked for an Army officer to confer with this commission—the commission appointed by the two States. He did not ask for an officer to act with them as a member of the commission, but for an officer to confer with them. Is not the President's veto predicated upon the fact that the resolution provided that this officer should act with this commission, and does not the President suggest that the officer simply be placed in a position where he can confer with this commission?

Mr. BORLAND. No. The gentleman from California has not read the veto message with the care necessary to find out that point.

Mr. KAHN. I have not read it at all.

Mr. BORLAND. The President vetoes the resolution upon the ground that the harbor lines in New York have been fixed as recommended by four successive Secretaries of War, including himself, and that that question is not open and ought not to be reopened, and that he will not appoint an Army officer unless the powers of the State commissions herein spoken of are restricted so that they may not recommend any change in the harbor lines. That being the purpose of the commission, of course it would not be possible or wise for Congress to so suggest that they be restricted. It would not be wise if it were possible, and it is not possible. If the President's veto went no further than to say the Army officer should not be a member of the commission, that that would not be a wise thing from the Federal standpoint, that he should be designated to confer with the commission, I am satisfied that New Jersey and New York would accede to that kind of a change in the invitation extended.

Mr. TOWNSEND. Mr. Speaker, I will not detain the Members longer, except to say this: Here is an opportunity to get some action on this matter of finally determining certain very important points in relation to that one harbor, consisting of the bays and rivers of New Jersey and of New York. This resolution merely empowers the President to appoint a scientific adviser to this joint commission, and I hope that we will not be deprived of that at this very critical time, because we are being pressed on all sides in New Jersey as well as New York for the determination of this question.

Mr. MANN. Mr. Speaker, I made the suggestion a moment ago to the gentleman from New Jersey that the resolution which was vetoed and the veto message might be sent to the Committee on Military Affairs, which reported the resolution, so that the House might have more full information. May I understand now from the gentleman from New Jersey whether he declines to accept the suggestion that the matter be referred to the Committee on Military Affairs, or whether he proposes to insist upon voting upon the veto proposition at this time?

Mr. TOWNSEND. I say again to the gentleman from Illinois I reluctantly declined the suggestion made by him in good faith and——

Mr. MANN. I have no criticism of the gentleman. Mr. Speaker, I make the point of order there is no quorum present. It is quite evident we will have to have the House here before we can act upon a veto message.

Mr. TOWNSEND. Mr. Speaker, in view of the fact that other business pending here would be delayed, I will withdraw my motion, and I do so reluctantly, that the resolution do pass the veto of the President notwithstanding, and move that the resolution and President's message be referred to the Committee on Military Affairs.

The SPEAKER. Does the gentleman from Illinois [Mr. MANN] withdraw his point of no quorum?

Mr. MANN. Mr. Speaker, I withdraw the point of no quorum.

The SPEAKER. The gentleman from New Jersey moves that the resolution and the President's veto message be referred to the Committee on Military Affairs.

The question was taken, and the motion was agreed to.

THE LATE REPRESENTATIVE SMITH OF CALIFORNIA.

Mr. NEEDHAM. Mr. Speaker, I ask unanimous consent for the adoption of the following order.

The SPEAKER. The Clerk will report the order.

The Clerk read as follows:

Ordered, That Sunday, February 23, 1913, be set apart for addresses upon the life, character, and public services of the Hon. SYLVESTER CLARK SMITH, late a Representative from the State of California.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The question was taken, and the order was agreed to.

RETURN TO SENATE OF H. R. 17256.

The SPEAKER laid before the House the following resolution from the Senate.

The Clerk read as follows:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill H. R. 17256, "An act to fix the the status of officers of the Army and Navy detailed for aviation duty and to increase the efficiency of the aviation service."

The SPEAKER. Without objection, the request of the Senate is agreed to.

There was no objection.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. BURLESON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 28499, the District of Columbia appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 28499, the District of Columbia appropriation bill, with Mr. RODDENBERY in the chair.

The CHAIRMAN. The Clerk will read.

Mr. BURLESON. Mr. Chairman, there is a point of order pending, made by the gentleman from Kentucky against the figures "$1,600," in line 7, page 66.

Mr. JOHNSON of Kentucky. I did not make any point of order.

Mr. BURLESON. The gentleman from Indiana [Mr. COX] made the point of order. I concede the point of order is well taken.

The CHAIRMAN. The point of order is sustained.

Mr. BURLESON. Mr. Chairman, I move to amend by adding after the word "one" the figures "$1,500" in line 7, page 66.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 66, line 7, after the word "one," insert the figures "$1,500."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Writs of lunacy: To defray the expenses attending the execution of writs de lunatico inquirendo and commitments thereunder in all cases of indigent insane persons committed or sought to be committed to the Government Hospital for the Insane by order of the executive authority of the District of Columbia under the provisions of existing law, including the employment of an alienist at not exceeding $1,200 per annum, $3,500.

Mr. BURLESON. Mr. Chairman, I ask now to return to the item of the Metropolitan police and that the Chairman hear the discussion on the point of order.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on this paragraph before we leave it.

The CHAIRMAN. The gentleman from Illinois reserves a point of order upon the last paragraph read. The gentleman from Texas requests that the committee recur to page 54, under the head of "Metropolitan police," on the point of order raised against the paragraph and on the succeeding paragraph.

Mr. MANN. Does not the gentleman from Texas [Mr. BURLESON] desire to have the matter on which my colleague [Mr. FOWLER] reserved a point of order disposed of, so as to get rid of that item before we go back?

Mr. BURLESON. I am perfectly willing to do that.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] reserved a point of order on the paragraph.

Mr. FOWLER. Mr. Chairman, I can not see any reason for increasing the salary of the alienist in this paragraph.

Mr. BURLESON. I will say to the gentleman from Illinois that the alienist is an accomplished physician, a man of ability, and repeatedly the District Commissioners have urged that his compensation be increased. Last year we received a number of communications from physicians in the city urging that additional compensation be allowed.

Mr. COX. Does he devote all of his time to this work?

Mr. BURLESON. He devotes most of his time to this work. He is an expert in this line, and he does not devote all of his time to the work, but for a graduated physician $1,000 was considered by the committee as inadequate compensation for this service.

Mr. FOWLER. You can not find a very learned alienist even for $1,200, although he spend only half of his time. Well, Mr. Chairman, I withdraw the point of order.

Mr. FOSTER. I renew the point of order, Mr. Chairman.

The CHAIRMAN. The point of order is well taken.

Mr. FOSTER. I might not want to make the point of order.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] withdraws the point of order?

Mr. FOSTER. I make the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. BURLESON. I desire to amend by inserting "1,000" in lieu of the "1,200" stricken out.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Writs of lunacy: To defray the expenses attending the execution of writs de lunatico inquirendo and commitments thereunder in all cases of indigent insane persons committed or sought to be committed to the Government Hospital for the Insane by order of the executive authority of the District of Columbia under the provisions of existing law, including the employment of an alienist at not exceeding $1,000 per annum, $3,300.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] requests that the committee return to page 54, line 19, the Metropolitan police, and proceed with the consideration of the points of order made against that paragraph and the succeeding paragraphs. Is there objection? [After a pause.] The Chair hears none.

The gentleman from Kentucky [Mr. JOHNSON] is recognized.

Mr. JOHNSON of Kentucky. Mr. Chairman, I have stated the case, and if the gentleman on the other side, after having been heard, present anything worth while, I may have something more to say.

The CHAIRMAN. The Chair is ready to rule upon the point of order. A point of order was directed to the paragraph on the ground, as stated by the gentleman from Kentucky, that it was not in order, because the item should be paid wholly from the revenues of the District of Columbia, and upon the other points of order on which the gentleman from Kentucky [Mr. JOHNSON] reserved points of order, the Chair is not ready to rule, because the gentleman from Kentucky [Mr. JOHNSON] has not specifically stated what those points of order are. But the Chair is ready to rule on the first one.

Mr. SAUNDERS. I do not care to present any matters to the Chair——

The CHAIRMAN. Does the gentleman from Virginia rise to speak in support of or against the point of order?

Mr. SAUNDERS. I intended to give the history of legislation in this matter and show that beyond any question the point of order is not well taken. The history of legislation from the beginning of the formation of the Metropolitan police force down to its abolition and then the appearance of this item in the statute in connection with other matter shows that beyond question the point of order, as I expect to submit to the Chair, is not well taken.

The CHAIRMAN. The Chair does not care to hear the gentleman from Virginia [Mr. SAUNDERS]. The Chair will rule. The act of June 11, 1878, creating a permanent form of government for the District of Columbia provided that the expense and cost of maintaining the police force should be paid half and half from the revenues of the United States and the revenues of the District of Columbia, respectively. On June 20, 1878, the Congress passed in the sundry civil appropriation bill the following provision:

And the said commissioners are hereby authorized to fix the salaries to be paid to the officers and privates of the Metropolitan police until otherwise provided by law and to require the Washington Gas Light Co. to light the city lamps at such price as shall by said commissioners appear to be just and reasonable, and all expenses heretofore incurred by the General Government for the board of health, for the Metropolitan police, and for gas inspection shall hereafter be a charge upon the government of the District.

It is evident from reading that section of the act that the words "government of the District" are not employed as designating the legal title of the District government, because the word "government" begins with a small letter. It relates, then, to the fact of government and not to the form of government; the function of government, not the style of government. The act of 1878 having provided in what way the expenses of government of the District should be paid, the Chair fails to see how in any way the insertion of the paragraph in the sundry civil bill would change or conflict with the existing organic act of June 11, 1878.

In this connection it will be noted that in June, 1878, the first session of the Forty-fifth Congress was in progress. At that time there was no District of Columbia appropriation bill, eo nomine, but the expenses of the government of the District of Columbia were carried from year to year in the sundry civil bill. The same Congress, then, which enacted the clause of June 20, 1878, was the identical Congress that in 1879, at the second session of the same Congress, passed the sundry civil appropriation bill, charging the expenses of the Metropolitan police force equally against the Federal Treasury and the District treasury.

The act of the same Congress, at its second session, recognizing the half-and-half provision, goes of its own weight as an argument if not an implied construction. The same Congress which engrafted onto the sundry civil bill the paragraph upon which the gentleman from Kentucky bases the point of order, in the year immediately succeeding, provided appropriation for and charged the expense of the Metropolitan police force equally against the Federal Government and the District of Columbia. If there were any ambiguity this circumstance might, under the rules of legal construction, be looked to.

The Chair might recount also somewhat the history of the police force and the health board prior to 1878 and subsequent to 1878, but it seems to the Chair that the language of the section of the act upon which the point of order is sought to be based is sufficient of itself to warrant and indeed to impel the Chair to

overrule the point of order. The organic act of June 11, 1878, charged the expense of the government of the District jointly and equally against the District and Federal Government revenues. The act of June 20, 1878, in no way changed that law, but in fact reenacted it by charging the maintenance of the Metropolitan police to the government of the District. A reenactment pro tanto. Accordingly the point of order is overruled. The Clerk will read, unless the gentleman from Kentucky [Mr. JOHNSON] desires to present other points of order.

Mr. BURLESON. Mr. Chairman, my understanding is that the Chair's ruling embraces also the various points of order directed against the paragraph in the health department.

The CHAIRMAN. The Chair intends the ruling to be so construed.

Mr. JOHNSON of Kentucky. I accept the ruling to one as applying to all.

The CHAIRMAN. The Clerk will read.

Mr. JOHNSON of Kentucky. Mr. Chairman, I would like to know how far the Clerk had read.

The CHAIRMAN. The Clerk announces that he had read down to and including line 22, on page 67.

Mr. JOHNSON of Kentucky. He skipped a whole lot.

Mr. MANN. It was read.

The CHAIRMAN. The Clerk will report the first amendment pending.

Mr. JOHNSON of Kentucky. Mr. Chairman, I have some points of order reserved through these several pages. I am hurrying all I can to find them.

The CHAIRMAN. The Chair will indulge the gentleman.

Mr. JOHNSON of Kentucky. Mr. Chairman, there is one salary, on page 57, line 19, that is increased from $540 to $600.

The CHAIRMAN. The Clerk will report the paragraph. The gentleman from Kentucky [Mr. JOHNSON] makes a point of order. Which $600 salary does the gentleman refer to?

Mr. JOHNSON of Kentucky. The hostler, $600.

Mr. BURLESON. I concede the point of order; but I will state to the gentleman——

Mr. JOHNSON of Kentucky. I will withdraw the point of order.

The CHAIRMAN. The point of order is withdrawn.

Mr. JOHNSON of Kentucky. What page is the health department on?

Mr. BURLESON. On page 59, at the bottom of the page.

Mr. MANN. Mr. Chairman, may I ask the gentleman from Texas [Mr. BURLESON] a question in reference to these sanitary and food inspectors?

Mr. BURLESON. I will state to the gentleman from Illinois that the paragraph as heretofore carried in the bill was very confusing, and we asked last year that the chief health officer reorganize his force, or rather that he rewrite the paragraph of the bill so that it could be readily understood by Members of Congress.

Mr. MANN. That is not what I wanted to ask about. The provision in the new paragraph with reference to 12 sanitary and food inspectors requires that they "shall be employed in the enforcement of the milk and pure-food laws and the regulations relating thereto and in the inspection of dairies and dairy farms." Has the gentleman been able to ascertain how much the Government is now spending inspecting dairy farms around Washington?

Mr. BURLESON. I am unable to state with any degree of accuracy the aggregate cost to the Government of inspecting dairy farms, but in these paragraphs carrying appropriations for the health service there were various provisions providing for milk inspection and milk inspectors and veterinary surgeons who should be inspectors of dairies. When the item was redrafted by the health officer, in order that the service should not be diminished or impaired in the slightest we aggregated the number of inspectors that were carried in bills heretofore for the milk service, and put this particular provision in the bill, that "not less than 12 sanitary and food inspectors, above provided for, shall be employed in the enforcement of the milk and pure-food laws," because that was the number of inspectors heretofore detailed for that service.

Mr. MANN. Heretofore we have provided specifically in this bill for two inspectors of dairies and dairy farms. You now have here a paragraph that would authorize 12. Of course, it is not expected that those 12 will be engaged in that work. I have no criticism of that, but I wish to know whether the gentleman has received any information as to how much the Government is now expending. Gentlemen understand that the Bureau of Animal Industry, under its general powers, sends inspectors all over this territory tributary to Washington inspecting dairies and dairy farms, so that I think the traveling expenses alone of the inspectors employed in the Bureau of Animal Industry doing this same work amount to more than the entire appropriation for this purpose in the District bill.

Mr. BURLESON. That is probably true, but the gentleman from Illinois knows——

Mr. MANN. Does not the gentleman think that, after all, there ought to be some segregation in some bill, and that we ought to know how much we are spending in inspecting the milk of which we happen to partake, as against the rest of the country, which has to pay its own expenses?

Mr. BURLESON. I will say to the gentleman that the very purpose of the re-formation of this item was to simplify it, in order that we might get before us an idea as to how many of these inspectors were engaged in inspecting milk.

Mr. MANN. But it just goes the other way. Now, under the existing law there are two inspectors of dairies and dairy farms. The gentleman cuts out the two and lumps them in with twelve, authorizing the whole twelve to be used for certain purposes, which may be necessary. I do not know about that.

Mr. BURLESON. If the gentleman will take the old bill——

Mr. MANN. I have a copy of it in my hand.

Mr. BURLESON. If the gentleman will take the old bill and go over it carefully he will find that a number of these inspectors were required to perform service as milk inspectors. We have aggregated the entire number and have tried to keep just as many in this service as the old bill required or authorized.

Mr. MANN. Under the existing law do the milk inspectors also become inspectors of dairies and dairy farms?

Mr. BURLESON. Some of them.

Mr. MANN. We having specifically provided for inspectors of dairies and dairy farms, do the other inspectors do that same work under the head of milk inspectors?

Mr. BURLESON. Some of them do and some of them do not. Some of them are veterinarians. Those that are veterinarians, in addition to inspecting milk or securing samples to be inspected at the laboratory, are engaged in performing service as dairy inspectors.

Mr. MANN. And then, in addition to that, the Bureau of Animal Industry in the Agricultural Department duplicates the work, and has other inspectors inspecting the same dairies and the same dairy farms.

Mr. COX. Does the gentleman remember the amount that the Bureau of Animal Industry spend in duplicating this service?

Mr. MANN. I do not remember the amount. My attention was attracted by a report in regard to traveling expenses, and I ran down the items of the traveling expenses of inspectors inspecting dairies and dairy farms adjacent to Washington.

Mr. COX. According to the Book of Estimates, the amount is between $25,000 and $30,000.

Mr. MANN. I do not remember the amount; but I found a considerable number of inspectors of the Bureau of Animal Industry doing inspecting work during long periods of the year and incurring considerable traveling expenses in addition to their salaries. Whether we get the benefit of their work or not I do not know, but it is quite certain that we are spending a very large sum of money in inspecting the dairies and dairy farms around Washington. It ought to be done by some one bureau or department of the Government and not duplicated by several.

Mr. BURLESON. Of course there is no authorization for any inspector, appointed under the provisions of the Agricultural appropriation bill, making any inspections within the limits of the District of Columbia.

Mr. MANN. These inspectors do not make inspections within the limits of the District of Columbia to any considerable extent.

Mr. BURLESON. Some of them do.

Mr. MANN. To the extent that there are dairies in the District of Columbia, and they are few and far between.

Mr. BURLESON. I will admit that, but there are some.

Mr. MANN. The milk comes from outside, and that is where they do the inspecting.

Mr. BURLESON. I will say to the gentleman that they inspect the dairies which are within the limits of the District of Columbia, too, I doubt not, although it is in violation of law. We have only furnished such inspectors as the District authorities have from time to time insisted were necessary for the proper performance of that service, and in re-forming this item we tried to continue in the District service the same number of inspectors that have heretofore been detailed as milk and dairy inspectors.

Mr. MANN. I am calling the attention of the gentleman from Texas to the situation because as an alternative proposition I hope that next year, if he is the Secretary of Agriculture, as I trust he will be [applause]——

Mr. BURLESON. Upon that subject I have no information. [Laughter.]

Mr. MANN (continuing). He will take the matter into consideration there, or, if he is making up the District bill here, he will ascertain how much work is being done by the Bureau of Animal Industry for the benefit of the District at the instance of the health officer here, possibly much of which is duplicated.

Mr. JOHNSON of Kentucky. Mr. Chairman, on page 64, beginning at line 7, down to and including line 23, inclusive, I make a point of order that it is legislation; not that this item entirely gives away the public domain, but that it is selling it for a trifle.

Mr. BURLESON. We endeavored to ascertain the real value of these lots, and we accepted the only information that was offered us on the subject. We are trying to impose on the District government the burden of paying one-half of the value of the lots upon which the farm was established.

Mr. MANN. May I ask the gentleman from Kentucky a question with reference to this item?

Mr. JOHNSON of Kentucky. I will yield to the gentleman from Illinois.

Mr. MANN. If the item goes out and the District does not pay for the land, will not they still have possession of it just the same?

Mr. JOHNSON of Kentucky. Yes; but the Government will still own the land and the house on it.

Mr. MANN. What good will that do the Government?

Mr. JOHNSON of Kentucky. It may be of value some time to the Government, and I insist on the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. BURKE of Pennsylvania. Mr. Chairman, what became of page 60?

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Pennsylvania [Mr. BURKE].

The Clerk again reported the amendment.

Mr. BURKE of Pennsylvania. Mr. Chairman, I hope the gentleman from Texas will withdraw his point of order. The situation is this: The poundmaster—Mr. Emil Kuhn—of this city for many years was paid $1,500, which was a very modest and well-earned salary. Last year for the first time it was reduced to $1,200, and he was the only employee in the District, so far as I have been able to find, whose salary was reduced. In addition to that, one subordinate in the department was taken away from him entirely, thus increasing his duties. Since the passage of the last appropriation bill the District Commissioners have imposed on the poundmaster an additional burden of taking care of the cats in the District. That is a very hazardous undertaking, as everybody knows; chasing cats is not usually a profitable or a pleasant pastime. Mr. Kuhn, who holds this position and has held it for some years, has been recommended by all the commissioners as an efficient and diligent officer and he certainly deserves the sum of $1,500, which was paid to his predecessor for a number of years and was paid to him during recent years. I believe the committee will so vote if the gentleman from Texas will not press his point of order.

Mr. BURLESON. Mr. Chairman, I will state that Mr. Kuhn, who holds the position, is a very efficient officer and is discharging his duties in a very satisfactory manner. The salary heretofore in the bill was carried for reasons which were explained last year, and the committee felt constrained to restore the salary to the sum it was before those reasons were brought into existence. I make the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. JOHNSON of Kentucky. What became of the point of order that I made to lines 7 to 23, inclusive, on page 64?

The CHAIRMAN. The point of order made by the gentleman from Kentucky was sustained. The Clerk will report the next amendment.

Mr. CARLIN. Mr. Chairman, I will ask the Chair to return to page 33, where there was a point of order pending against lines 4 to 11, inclusive. I make the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. BURLESON. Mr. Chairman, I ask unanimous consent to reconsider the motion by which the item at the bottom of page 67, line 22, was stricken out on a point of order, so that I may restore the original sum reported in the bill. I desire to state again that the salary paid to this officer, the alienist, is a very small salary for the services he renders. I ask now that the item be reconsidered, that my motion to substitute $1,000 in the blank, after sustaining the point of order, be reconsidered.

Mr. MANN. I object.

The Clerk read as follows:

INTEREST AND SINKING FUND.

For interest and sinking fund on the funded debt, $975,408.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph. In doing so I will say that I made a point of order against this paragraph in the bill of a year ago, but failed to get a ruling going directly to the matter. I have sent to the present occupant of the chair a copy of the CONGRESSIONAL RECORD containing three arguments heretofore made by me upon the subject, and also containing the arguments made by gentlemen who at that time opposed my views. In addition to that, I wish to read an opinion rendered by the attorney general of the State of New York, which throws some additional light upon this subject. The communication which I read is as follows:

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY GENERAL.
Albany, November 9, 1875.

Hon. D. C. ELLIS,
Superintendent of Bank Department.

DEAR SIR: Yours of October 29, 1875, with inclosures, was duly received. The attorney general has examined with considerable care the questions propounded to the superintendent of the bank department on behalf of several savings banks in the city of New York, and has come to the conclusion that trustees of savings banks may, under the statutes of this State, lawfully invest the moneys deposited in said banks in the 3.65 bonds of the District of Columbia, issued under the acts of Congress of June 20, 1874, and February 20, 1875. By chapter 371 of the session laws of 1875, section 26, trustees of savings banks are authorized "to invest moneys deposited in those banks in stocks or bonds of the United States or those for which the faith of the United States is pledged to provide for the payment of interest and principal."

By section 7 of the act of Congress of June 20, 1874, as amended by the act of February 20, 1875, after providing for the issue of the bonds in question, and for the form thereof, it is further provided as follows:

"That the faith of the United States is hereby pledged that the United States will [by proper proportional appropriations, as contemplated by this act, and by causing to be levied upon property within said district such taxes as will do so] provide the revenues necessary to pay the interest on such bonds as the same may become due and payable, and create a sinking fund to pay the principal thereof at maturity."

The terms of this provision are so similar to those used in our State statute, in regard to investments by trustees of savings banks, as to raise a strong inference that the framers of the latter act must have had the acts of Congress in relation to the issue of these bonds before them and framed the act with special reference to these acts.

That was signed by Daniel Pratt, attorney general.

In addition to that, Mr. Chairman, as I stated in an argument upon this question upon the floor of the House made on the 12th of January a year ago, when the contemplated purchase of these bonds was under consideration by New York banking institutions, the distinguished Charles O'Conor was employed by them to give his opinion as to whether or not it would be a safe investment for them. That distinguished jurist, after going through the matter, recommended to President Grant that the words "do so" be added to the original act, and when those words were supplied it made the act read:

That the faith of the United States is hereby pledged * * * by causing to be levied upon property within said District such taxes as will do so, provide the revenue necessary—

And so forth. In addition to that, Mr. O'Conor, in treating of the subject, used this language in speaking of the methods adopted by the United States Government to see these bonds were paid:

By naming the methods in which the United States designs to perform its obligation—that is, through taxation on the District.

Mr. BURKE of Pennsylvania. Mr. Chairman, were those words inserted according to his suggestion?

Mr. JOHNSON of Kentucky. They were, and according to the opinion rendered by him they made the obligations payable out of the taxes levied upon the District of Columbia. Mr. Chairman, a year ago I stated as emphatically as I could, but for the benefit of those who did not read what I had to say on that occasion, as well as for those who are present now who were not present then, I wish to make this statement: That the faith of the United States has been solemnly pledged by the Congress to see that these bonds, both principal and interest, are paid. I take the position that as between the United States Government and the bondholder the United States Government is bound to him for the full payment of both principal and interest. That question and that question alone was always discussed by everybody who entered upon a discussion of that subject, but until I took up another feature of the bill a year ago nobody, from 1874 until now, that I could find, had ever discussed the proposition as to the liability existing between the Federal Government and the District of Columbia. My contention is, as I just said, that the United States Government is liable to the bondholder simply as a guarantor, and that as between the United States Government and the District of Columbia the United States Government is only such guarantor.

One of the first questions raised upon the floor of this House upon the subject was raised—I forget the year—by Mr. De Armond, then a Representative in Congress from the State of Missouri, when the House was presided over in the Committee of the Whole House on the state of the Union by the gentleman from New York [Mr. PAYNE]. Mr. De Armond offered an amendment to the sinking-fund and interest clause. After discussion of it, the gentleman from New York [Mr. PAYNE] rendered a

carefully prepared ruling. In that ruling he decided against the amendment offered by the gentleman from Missouri, Mr. De Armond. In rendering that ruling I contend that the gentleman from New York [Mr. PAYNE] substantiated the principle for which I now stand, because to have sustained the amendment offered by the gentleman from Missouri, Mr. De Armond, would have overruled my position, but when the gentleman from New York held the point of order good to the amendment offered by Mr. De Armond he then practically sustained the position for which I now contend. That ruling I have also, together with the one rendered a year ago by the gentleman from Tennessee [Mr. GARRETT], sent to the Chair, and I trust that he has read the CONGRESSIONAL RECORD containing the arguments made pro and con upon this question as well as the ruling rendered by the gentleman from New York [Mr. PAYNE], and also that rendered a year ago by the gentleman from Tennessee [Mr. GARRETT]. When the matter was up for discussion a year ago I was taking the position that inasmuch as the law directed that the Secretary of the Treasury should advance the money with which to pay the interest as it accrued that he was also thereby directed to charge it up against the District of Columbia as an advancement upon such appropriations as the Congress might make for the benefit of the District of Columbia. In the midst of my argument upon that occasion I was asked a question by the gentleman from Pennsylvania [Mr. DALZELL] as to whether or not the amount set out in the bill for the purposes of the sinking fund and interest was accurate, and my answer, of course, was I did not know; that I had not made the computation, but I did not believe that it had ever been accurate, for the reason that the Secretary of the Treasury of the United States could not in advance say what bonds of the 3.65 denomination would be redeemed during the then next six months ahead of him. Some gentleman upon the floor, I do not recall just who it was, left the floor, went into the cloakroom and used the telephone, and called up the Treasurer of the United States, and asked him if the amount appropriated in the bill had always been accurate, and as to whether or not there was any deficit left from that appropriation, or whether it had ever been exceeded. The answer came back, I can not give the words, but in substance, that the appropriation had always been accurate. Since then the accountant authorized by this House, who is going over the accounts between the Federal Government and the District of Columbia, has gone into that subject.

I have in my hand now only a partial report. When this was given to me a day or two ago by the accountant he had not completed the investigation, but the partial report shows that thirty-seven times the amount appropriated by Congress was insufficient to pay this sinking-fund item. The Treasurer of the United States, for the fiscal year ending 1882, in going into the Treasury to get more money than had been appropriated with which to pay the interest on these bonds, states in print in his report that he relies upon section 4 of the act of June 11, 1878, in order to get that money, that section being that the Secretary of the Treasury is directed to pay this interest, or rather to advance the money with which to pay this interest, and then to recoup the Federal Treasury out of the appropriations made by Congress as a subsidy to the District of Columbia. As I said, this partial report which I have in my hand gives the ledger number, the page, the fiscal year, the date of warrant, and the amount in thirty-seven times——

Mr. GARNER. In 37 different years?

Mr. JOHNSON of Kentucky. Not 37 different years, because the interest is payable semiannually, but upon 37 different semiannual payments; and this is only a partial list, the Treasurer of the United States insisting that the authority was conveyed by the last appropriation act, which is exactly similar to this, and relied upon the act which I am relying upon, and he advanced the money to pay this interest.

Mr. COX. What is the variation in the amount?

Mr. JOHNSON of Kentucky. I will read the amounts beyond the appropriation bill in each instance to which the Treasurer went, and then I will insert the whole statement.

The statement is as follows:

Statement of appropriations raised for the purpose of paying interest on the 3.65 bonds (authority quoted, section 4, act June 11, 1878).

	Page.	Date of warrant.			No. of warrant.	Amount.	Total.
		Fiscal year.	Year.	Day of month.			
Ledger No. 17	431 and 433	1882	1881	July 29	2015	$1,838.68	
Do	431 and 433	1882	1882	Feb. 27	529	7,650.79	[1] 9,489.47
Ledger No. 18	436 and 437	1883	1882	July 25	1816	37.52	
Do	436 and 437	1883	1882	Nov. 3	2974	4,225.58	
Do	436 and 437	1883	1883	June 16	1692	2,290.40	6,543.80
Ledger No. 19	331 and 332	1884	1884	Mar. 21	798	2,586.00	
Do	331 and 332	1884	1884	Mar. 28	835	3,113.34	
Do	331 and 332	1884	1884	May 12	1248	396.52	
Do	331 and 332	1884	1884	June 28	1725	803.31	6,899.17
Ledger No. 20	36	1885	1884	Aug. 28	2249	545.00	
Do	36	1885	1884	Oct. 30	3309	579.60	
Do	36	1885	1884	Nov. 25	3835	241.52	
Do	36	1885	1884	Dec. 31	3945	148.08	
Do	36	1885	1885	Jan. 13	118	7,935.00	
Do	36	1885	1885	June 11	1876	48.87	9,468.07
Ledger No. 21	35, 36, and 42	1886	1885	July 3	2245	59.80	
Do	35, 36, and 42	1886	1885	Aug. 31	3085	229.95	
Do	35, 36, and 42	1886	1885	Sept. 16	3242	1,149.75	
Do	35, 36, and 42	1886	1885	Oct. 14	3539	5,154.21	6,593.71
Ledger No. 22	37 to 40 and 49	1887	1886	July 8	33	1,051.20	
Do	37 to 40 and 49	1887	1886	Sept. 2	743	36.74	
Do	37 to 40 and 49	1887	1887	Mar. 5	3454	239.25	1,327.19
Ledger No. 23	36 to 39	1888	1888	Apr. 2	3564	17,103.10	
Do	36 to 39	1888	1888	June 27	4599	3,620.63	20,723.73
Ledger No. 24	31 to 34	1889	1888	Nov. 1	742	7,779.06	
Do	31 to 34	1889	1888	Sept. 1	568	749.85	
Do	31 to 34	1889	1889	June 21	1615	573.40	9,102.31
Ledger No. 25	31 to 36	1890	1889	Oct. 5	1945	.....	13,499.52
Ledger No. 26	30 to 33	1891	1890	Dec. 6	3412	.....	25,286.12
Ledger No. 27	30 to 33	1892	1891	Aug. 21	887	2,667.28	
Do	30 to 33	1892	1891	Oct. 23	2282	14,591.99	17,259.27
Ledger No. 28	31 to 34	1893	1893	Mar. 8	5814	.....	1,181.68
Ledger No. 31	31 to 33	1896	1895	Dec. 2	1640	19,955.62	
Do	31 to 33	1896	1896	June 23	5409	4,876.20	24,831.82
Ledger No. 39	31 to 32	1904	1903	July 14	195	.....	3,305.22
Ledger No. 40	31 to 32	1905	1905	Mar. 31	4834	22,419.10	
Do	31 to 32	1905	1905	May 22	6093	2,555.00	24,974.10
Total							180,485.18

[1] Treasury ledger gives as authority U. S. Stat., vol. 21, 465, 466.

Treasurer's published report fiscal year ending 1882 relies upon sec. 4, act June 11, 1878.

As the gentleman sees, the total is $180,485.18.

Mr. BURKE of Pennsylvania. Were those semiannual?

Mr. JOHNSON of Kentucky. They were semiannual payments made by the Treasurer of the United States Government, following the directions contained in section 4 of the act of June 11, 1878, for the purpose of paying the interest on these bonds.

Mr. BURKE of Pennsylvania. As I understand, the amounts you have read are those paid by the Treasurer in excess of the authorization?

Mr. JOHNSON of Kentucky. In excess of the authorization, but not in excess of the real authorization. I contend he had a perfect right to do it. He carried it in excess of the amount contained in the appropriation bill, but not in excess of the original act directing him to pay it, and then to charge it back to the District of Columbia.

Mr. BURKE of Pennsylvania. How does the gentleman account, I would like to know, for the variation in the amounts? The excess on one occasion was $37 and on another occasion it was $24,000. The amounts due semiannually would be the same, presumably, would they not?

Mr. JOHNSON of Kentucky. No; there are some coupons on those bonds that have never been sent in.

Mr. BURKE of Pennsylvania. He pays them as the coupons are sent in?

Mr. JOHNSON of Kentucky. As the coupons are sent in, and there are coupons due for thirty-seven and odd years that have never been sent in.

Mr. MANN. Will the gentleman yield for a question?

The CHAIRMAN. Will the gentleman from Kentucky [Mr. JOHNSON] yield to the gentleman from Illinois [Mr. MANN]?

Mr. JOHNSON of Kentucky. I will.

Mr. MANN. What proportion of this is for interest and what proportion for the sinking fund in the appropriation?

Mr. JOHNSON of Kentucky. I do not know and have not the slightest idea.

Mr. MANN. These amounts that were advanced by the Government, as the gentleman states, were charged up to the District of Columbia?

Mr. JOHNSON of Kentucky. They have not been charged up to the District yet, all of which will be shown in a hearing upon which I will begin in the next few days.

Mr. MANN. Those amounts, as the gentleman believes, are simply paid out of the Treasury of the United States?

Mr. JOHNSON of Kentucky. They have been paid out of the Treasury of the United States upon a debt that they never owed.

Mr. MANN. Regardless of that part, I wanted to get at the facts if I could. We appropriate $975,408, one-half out of the District treasury and one-half out of the Federal Treasury; now, these excess amounts have been paid wholly out of the Federal Treasury?

Mr. JOHNSON of Kentucky. They have.

Mr. MANN. And not charged to the District at all?

Mr. JOHNSON of Kentucky. Not at all.

Mr. MANN. The gentleman advances this proposition as a construction of the Treasurer in this letter. I suppose the gentleman wants to go only halfway with the construction. Apparently, the Treasurer construed that he had the authority to pay it out of the Treasury and it did not require him to charge it up against the District?

Mr. JOHNSON of Kentucky. He did; and I am not here to criticize him for it.

Mr. MANN. It is a question of fact.

Mr. JOHNSON of Kentucky. I am inclined to the opinion that the Treasurer of the United States, without one word being said about it in this bill, can go and pay that interest. And I base that opinion upon what is done relative to the interest on the Government bonds. The Secretary of the Treasury, under general law, is directed to pay interest on the debt of the United States, and you can search all the appropriation bills and you can not find a specific appropriation made for that purpose.

Mr. OLMSTED. Will the gentleman yield?

Mr. JOHNSON of Kentucky. I will.

Mr. OLMSTED. If I correctly understand the gentleman from Kentucky, he says that by the general law, and without any authority to be contained in this bill, the Treasurer of the United States is authorized to pay the interest on these bonds?

Mr. JOHNSON of Kentucky. By general law the Treasurer of the United States is directed to advance the money and pay the interest on these bonds, and that direction carries with it a further clause, and that is, that in the adjustment of the account between the District and the Federal Government the amount so advanced shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia.

Mr. OLMSTED. What is the act?

Mr. JOHNSON of Kentucky. The act of June 28, 1874, which reads as follows:

> Hereafter the Secretary of the Treasury shall pay the interest on the 3.65 bonds of the District of Columbia issued in pursuance of the act of Congress approved June 28, 1874, when the same shall become due and payable, and all amounts so paid shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia as herein provided.

Now, Mr. Chairman, my point is this, and I not only wish the Chair to catch it but I wish the Members of the House to get it: That the provision now pending before the House for consideration has only the naked words—

> For interest and sinking fund on the funded debt, $975,408.

Now, that is a direct appropriation in equal parts from the treasury of the District as well as from the Federal Treasury. My contention is this, that there is no law to authorize that, but there is a law which authorizes that this interest shall be paid with the limitation placed upon it, that—

> The same shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia as herein provided.

I insist that that is the law and that when the Committee on Appropriations brings in here a clause expressed in a few words, leaving out the limitation that that money must be repaid by the District of Columbia to the Federal Government, the law has not been complied with. They have no authority, and I defy them to produce any authority, which authorizes the direct appropriation of Federal moneys to the payment of interest on this debt without the qualifying words that it shall be returned to the Federal Treasury to offset the appropriation made by Congress to the District of Columbia.

Mr. MANN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. JOHNSON of Kentucky. I do.

Mr. MANN. Suppose this item should go out of the bill and no appropriation should be made. Under the law which the gentleman cites, as I understand from him, the Treasurer would still be obliged to pay the interest. Whether he would be obliged to provide for the sinking fund I am not prepared to say.

Mr. JOHNSON of Kentucky. The law is as direct in the one case as in the other.

Mr. MANN. Then he would have to pay out of the Treasury this sum of $975,408, and probably some excess, with no means provided by law for getting it out of the District treasury into the Federal Treasury, or any part of it. Where will we be left if we make no appropriation?

Mr. JOHNSON of Kentucky. I announced a year ago, Mr. Chairman, and I repeat it now, that if this item should go out of the District bill now before us I will offer an amendment, to read as follows:

> Hereafter the Secretary of the Treasury shall pay the interest on the 3.65 bonds of the District of Columbia in pursuance of the act of Congress approved June 28, 1874, when the same shall become due and payable, and all amounts so paid shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia as herein provided for, and that the sum of $975,408 is hereby appropriated for that purpose.

Then, if the Treasurer fails to make that proper credit, the Attorney General has the right to recover it; and if he does not, we can do in this instance what we did when we found that the District of Columbia was indebted on account of the lunatic asylum to the Federal Government in the sum of $769,000. You can put it on any bill and compel the District to reimburse the Federal Treasury, just as there is an item in this bill now in part to reimburse the Federal Government on that item.

Mr. MANN. I suppose we can pass a law requiring that any sum of money shall be transferred from the District treasury to the Federal Treasury; and if that sum of money is there, it will be transferred. But without legislation nothing would be accomplished. Now, the gentleman refers to deducting this $975,408——

Mr. JOHNSON of Kentucky. I read the law.

Mr. MANN. Yes; the gentleman read the law and referred to it.

Mr. JOHNSON of Kentucky. Yes; both.

Mr. MANN. I do not know how the appropriation was made at that time, but this appropriation bill is not so made up that that is practicable, as it seems to me.

Mr. JOHNSON of Kentucky. Neither the gentleman nor I made it up.

Mr. MANN. I understand. I will say to the gentleman that I am trying to get information. If you should say that there should be $975,000 deducted from the half of the Government

carried in this bill, the natural inquiry would be, "From what items should it be deducted?"

Mr. JOHNSON of Kentucky. Oh, I have anticipated all that, and year after year I have seen the attempts made by gentlemen upon this committee to defeat a plain act of Congress, in order that this year nearly $500,000 may be given to the District of Columbia as a present. I have seen former attempts successfully made to make presents to the District of Columbia out of moneys belonging to the people of this Nation of considerably more than that for the same purpose, because the amount of interest is year by year growing smaller. At one time the interest on this debt in your annual appropriation bill was something like $1,300,000. Now upon this $15,000,000 worth of 3.65 bonds, issued to refund the old indebtedness of the District of Columbia, not one dollar of which the Federal Government owed, the Federal Government has been made to pay $22,000,000 in interest, and that upon a debt which was originally but $15,000,000.

Mr. BURKE of Pennsylvania. Suppose you strike out lines 24 and 25. That brings you back, then, to the act of 1874, under which, as I understand it, the gentleman admits that the treasurer has full authority to pay not only the amount due this year but the entire principal.

Mr. JOHNSON of Kentucky. It brings it back to the act of 1878, but it also brings it back to the act of 1879 relative to the sinking fund.

Mr. BURKE of Pennsylvania. Under which acts the treasurer has the absolute authority to pay not only the amount due this year, but the entire amount of the principal and interest for future years until the entire debt is liquidated. Now, how would you secure from the District of Columbia the amount that you claim should be converted into the Treasury of the United States, except by some special provision? What is the gentleman's suggestion on that line?

Mr. JOHNSON of Kentucky. I have not gone into that feature of the matter with the degree of carefulness that I should have, first to see that the law is complied with in this appropriation bill.

If we can ever get a ruling to the effect that the limitation must go with it, that limitation being that this money must be returned to the Federal Government, then I shall be most willing and anxious to cooperate with anybody to devise any means or measure by which the money can be gotten out with which to pay the interest when it is due, and also to provide for its being refunded to the Federal Government; and I want again to ask that my position be distinctly understood. I stand with the most extreme man here or anywhere else; I stand with the bondholder himself in saying that this is a sacred obligation upon the part of the United States, and that these bonds and interest must be paid; but in paying these bonds and interest I do raise my voice in protest against coming in here in this appropriation bill with a part of this act, and leaving out the qualifying clause that that money shall be refunded to the Federal Government.

Mr. BURKE of Pennsylvania. Does the gentleman contend, then, that the voluntary assumption by the United States Government of the payment of this particular amount without the limitation removes the right of the Government to recover ultimately from the District?

Mr. JOHNSON of Kentucky. I am of the opinion that every year when the appropriation bill reads just as it reads now, and there is no remedy to collect that which has been paid—a thing which has been repeated for many years—this proposition makes it a gift, when coupled with the first provision of the bill, which reads that the items hereafter set out in the bill shall be paid upon the half-and-half plan. Now, if the present interest and sinking fund item is taken in connection with the first provision of the bill, which is that all these items in the bill shall be paid upon the half-and-half plan, then the half of this $975,000 becomes a gift to the District of Columbia by the Federal Government, and there is where I contend there is no authority.

There is existing law which authorizes an appropriation to be made to pay this sinking fund and interest, but there is no law which authorizes this committee to bring in a bill leaving out the limitation, leaving out the qualification that this money must, when advanced by the Treasurer of the United States and paid for the District of Columbia, be repaid to the Government of the United States; that is, that the United States Government must have credit upon its appropriation made to the District of Columbia.

Mr. SHERWOOD. Will the gentleman yield?

Mr. JOHNSON of Kentucky. Certainly.

Mr. SHERWOOD. Did I understand the gentleman to say that the Government of the United States has paid $22,000,000 in interest?

Mr. JOHNSON of Kentucky. The Government of the United States has paid more than $22,000,000 interest upon this $15,000,000 debt, of which it never owed a cent.

Mr. BURKE of Pennsylvania. Does the gentleman know how much was paid in pursuance of authorizations similar to the one in this appropriation bill?

Mr. JOHNSON of Kentucky. My opinion is that the accountant who has been going over the matter will prove by their own bookkeeper that it has already been done to the extent of one and one-quarter million dollars; that there is now that much money unquestionably due from the District of Columbia to the Federal Government before this item that now appears in this appropriation bill ever appeared in any appropriation bill, including the amounts which I have just read, as overpayment on interest, and unauthorized by this bill.

Mr. BURKE of Pennsylvania. If there is one million and a quarter dollars due from the District—I do not quite catch the gentleman—how does he reconcile that with the statement that over $22,000,000 has been paid by the General Government?

Mr. JOHNSON of Kentucky. If this item that is now in this bill becomes the law, the half of $975,000 will be the interest payment as a present to the District of Columbia, and that will increase the twenty-two million to that extent.

Mr. BURKE of Pennsylvania. If the Federal Government has already paid $22,000,000, which the gentleman from Kentucky says it ought not to have paid, then the District of Columbia would owe more than a million and a quarter dollars to the Federal Government.

Mr. JOHNSON of Kentucky. The gentleman fails to understand me, or I fail to make myself quite clear. I will endeavor by repetition to concisely go over it again. I have just read a statement showing a payment of $180,000 more than is authorized in the bill. That one hundred and eighty-odd thousand dollars is unquestionably due from the District of Columbia to the Federal Government. Now, there are other amounts like that, but amounts paid, not under the direction as contained in the present bill, which will amount to a million and a quarter of dollars.

Mr. Chairman, a year ago I consumed the time of several hours in arguing this question. My argument now is addressed almost solely to the Chair. Having sent the CONGRESSIONAL RECORD to the Chair in advance, I suppose the Chair has examined it.

The CHAIRMAN. The Chair will state to the gentleman and to the committee that the Chair has examined the CONGRESSIONAL RECORD at the time the matter was presented, in 1896, when the gentleman from New York [Mr. PAYNE] was the Chairman, and the arguments and ruling of the Chair. He has also examined the very able and extensive arguments presented over a year ago by the gentleman from Ohio [Mr. TAYLOR] and others, and the arguments made a year ago by the gentleman from Kentucky [Mr. JOHNSON], the gentleman from Virginia, and the gentleman from Texas, and others, when this question arose on the last appropriation bill. He has also examined the persuasive ruling made at that time by the Chairman, the gentleman from Tennessee [Mr. GARRETT].

The Chair in the course of inquiry has also carefully examined, as he necessarily must, the acts of 1874, 1875, 1878, 1879, and the appropriation bills passed early after 1878, and some others. The Chair has given as diligent attention to the important questions involved as time in the last few days would permit. The Chair makes this statement, not to suggest an undue abbreviation of the discussion, but merely to let the gentleman from Kentucky, the gentleman from Texas, and other gentlemen understand that the Chair had given his attention to the subject, so that gentlemen who present arguments may do so with the knowledge that the Chair had looked into the statutes, rulings, and the arguments, and so forth. The point of order presents an important subject, and the Chair is disposed to hear gentlemen fully.

Mr. JOHNSON of Kentucky. Mr. Chairman, I shall invite the attention of the Chair particularly to the ruling made by the gentleman from New York [Mr. PAYNE], as well as to that made by the gentleman from Tennessee [Mr. GARRETT]. I ask that you take these two rulings, go through them carefully, with a view of ascertaining whether or not the ruling made by the gentleman from New York [Mr. PAYNE] does not thoroughly accord with my views. And further, for the purpose of ascertaining whether or not the gentleman from Tennessee [Mr. GARRETT], in making his ruling, did not leave the main question to one side and rather avoid or evade it, and render his opinion upon another subject entirely.

As I said, I have no desire to consume the valuable time of the House in repeating arguments of a year ago, which took several hours upon my part. In order to avoid that I have sent

the CONGRESSIONAL RECORD, with everybody's arguments in it, to the Chair, and the Chair having announced that he has read those things, unless some one wishes to ask me a question, I am ready to submit on the arguments heretofore made.

Mr. FOWLER. Mr. Chairman, I desire to ask the gentleman from Kentucky one or two questions.

Mr. JOHNSON of Kentucky. I will yield to the gentleman.

Mr. FOWLER. Does the gentleman contend that the Government should pay any part of this interest on these bonds?

Mr. JOHNSON of Kentucky. My contention is this, that the law does not make the Federal Government liable, as between the Federal Government and the District of Columbia, for 1 cent of either interest or principal of these bonds, and that this section of the bill of to-day is an attempt to appropriate money without authorization, to appropriate it without at the same time using the limitation set out in the law.

Mr. FOWLER. Then, if I understand the gentleman correctly, it was an original debt of the District?

Mr. JOHNSON of Kentucky. Nobody questions that.

Mr. FOWLER. And that the District is responsible for it, and all that the Government ever did on behalf of the District was to become guarantor for the payment of the bonds and interest.

Mr. JOHNSON of Kentucky. I will say to the gentleman that when these bonds were issued they sold as low as 30 cents on the dollar, but when Attorney Charles O'Conor, from New York, succeeded in having President Grant insert in his message the recommendation that the two words "do so" be added to the act, making it read that they should levy a tax to do so—to raise the revenue to pay these bonds—then those bonds went to par, and they have gone past par; they have gone as high as 128, and the sinking-fund commissioner, who is Treasurer of the United States, has retired those bonds at a premium of 128 with the law staring him in the face that none of these bonds shall be redeemed at more than par.

Mr. FOWLER. Then, if the Government does pay any part of this debt or interest, the gentleman thinks it ought to be chargeable to the District of Columbia?

Mr. JOHNSON of Kentucky. If the Government pays any part of it in accordance with law it must be refunded to the Federal Government by the District of Columbia, but if it is paid under this unlawful clause that is now before us, then one-half of it is a gift by the American people to the District of Columbia.

Mr. FOWLER. When did the Government become guarantor?

Mr. JOHNSON of Kentucky. On June 20, 1874, when these bonds were authorized. They are 50-year bonds and fall due in 1924.

Mr. FOWLER. I understand that there is a counter contention that the Government assumed to pay one-half of this debt and the interest thereon.

Mr. JOHNSON of Kentucky. The item in this bill does not disclose whether there is a counter contention or not. I do not believe that there is a legitimate counter contention claiming that the Federal Government, as between the Government and the District of Columbia, owes any part of these bonds, but there is year after year—and most usually it is successful—an attempt to give away half a million dollars of the public money without authorization of law.

Mr. FOWLER. If there is no legal authority for the Government to pay any part of this debt and the interest thereon, then this item of appropriation binds the Government to pay one half and the District the other half.

Mr. JOHNSON of Kentucky. And for that reason I have made a point of order, and I challenge any man to produce any law or any part of a law which authorizes the payment of 1 cent upon the part of the United States without carrying with it the qualification that that money shall be refunded to the Federal Government by the District of Columbia.

Mr. OLMSTED. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Kentucky. Yes.

Mr. OLMSTED. Mr. Chairman, if the Government, as between itself and the bondholders, is bound to pay the whole of this interest, then a simple proposition in an appropriation bill appropriating the full amount would be in order, would it not?

Mr. JOHNSON of Kentucky. I think so.

Mr. OLMSTED. Then is not an appropriation of one-half of it in order?

Mr. JOHNSON of Kentucky. No; the law and the good faith of the United States so solemnly pledged has not been complied with when that is done. The United States has guaranteed to pay the bondholders all of this interest, and when the United States has paid one-half of it it has broken good faith with the bondholders.

Mr. OLMSTED. Mr. Chairman, just one moment. For the purposes of what I shall say I am accepting the construction of law as placed upon this by the gentleman from Kentucky. He says that as between the Government and the bondholders the Government is bound to pay the whole sum, the interest and this money, to the sinking fund. Accepting that as the law—that is, the general law—it certainly authorizes an appropriation of this whole sum out of the Federal Treasury. If it authorizes the appropriation of the whole sum, then the general law clearly authorizes an appropriation for half that amount. This bill does not attempt to decide anything between the Government and the District of Columbia. It says, in the opening lines—

> That the half of the following sums named, respectively, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia.

In other words, so far as the Federal Treasury is concerned, it appropriates half of this interest and sinking-fund money. Now, if, as the gentleman from Kentucky contends——

Mr. JOHNSON of Kentucky. Will the gentleman pardon me just there for an interruption?

Mr. OLMSTED. Certainly.

Mr. JOHNSON of Kentucky. It appropriates it without the qualification and limitation that it must be returned by the District of Columbia to the Federal Government.

Mr. OLMSTED. I was just about to refer to that. Now, Mr. Chairman, if, as the gentleman says, there is a general law under which these bonds are issued requiring that the interest when paid by the Government shall be charged to and collected from the District of Columbia, it is not necessary to reiterate that general law once a year as long as the bonds are outstanding. That general law stands. We simply appropriate the money to be paid by the Treasurer. If, then, the general law requires him to charge that up to the District of Columbia this does not repeal or interfere with it; that law stands.

Mr. JOHNSON of Kentucky. If the gentleman will permit, this does repeal it, and if this clause of sinking fund and interest is taken in connection with the first provision of the bill which directs that it shall be paid upon the half-and-half plan, it repeals the original law, because the original law, as I again state, carries with it the qualification that this money must be returned to the Federal Government. This not only does away with the provision to return it, but makes it pay the half, and that part which comes from the Federal Treasury goes as a gift.

Mr. OLMSTED. That is the difference between the gentleman and myself. There is nothing in this bill making any gift. Instead of appropriating the whole money to pay the whole in the first instance out of the Federal Treasury we appropriate half of it and make the District of Columbia pay the other half in the first instance. If there is a law requiring the Secretary of the Treasury to charge up against the District of Columbia and collect from it whatever the Government pays, then he will have to collect from the District the half we pay under this bill. This bill attempts to decide nothing between the Government and the District of Columbia except as to the amount of this particular appropriation. One-half is appropriated out of any money in the Treasury. Now, if the law requires whatever is paid out of the Treasury for that purpose to be charged up against and collected from the District of Columbia, why, that will have to be collected in the way as pointed out by the law. This bill would not interfere with that at all, and therefore this appropriation is authorized by law and is in order.

Mr. SAUNDERS. Mr. Chairman, the gentleman from Kentucky [Mr. JOHNSON] has submitted a very extended argument in connection with the settlement of accounts that he has been making between the Government and the District. We are not concerned with that inquiry, and it can in no possible way be of aid to the Chair in the determination of the point of order. I submit that, assuming that the theory of the gentleman from Kentucky on the subject of reimbursement is correct, still even on that theory, as shown by the gentleman from Pennsylvania [Mr. OLMSTED], the provision in the pending bill is in order. This conclusion is in conformity with the ruling of a year ago, made by Mr. Chairman GARRETT on this identical point.

However, without discussing outside, and irrelevant matters, the committee insists that not only is it in order to appropriate for this sinking fund, as held by Mr. GARRETT, but that the authority is specifically given to appropriate for it on the half-and-half basis. Mr. GARRETT held that it was not necessary for him to rule on this proposition, in order to overrule the point of order. But we go further than his ruling and insist that the positive law commits the Government to the payment of one-half of the District debt. We are not concerned as a committee, with the wisdom or justice of the original assumption, but with the fact. If the assumption was made, the committee must appropriate accordingly, and this item is in order. It is also in order to move to strike it out. I therefore challenge the asser-

tion of the gentleman from Kentucky, that the Government has never assumed the payment of one-half of this District debt.

On the contrary I specifically assert, and intend to maintain, not only by the rulings of preceding occupants of the chair, but from the statute itself, and from the history of this legislation, the proposition that this Government deliberately assumed the burden of one-half of this indebtedness, principal as well as interest. We are not concerned for a moment with the question of the character of that indebtedness. It may, or it may not have been fraudulent. As to this I do not pause to inquire, for there are no sufficient available facts, on which to base an opinion. It is true that a charge to this effect was made by the gentleman from Kentucky, Mr. Blackburn, during a discussion on the merits of that provision of the act of 1879, which is now before the Chair, and upon which he is asked to rule. In fact Mr. Blackburn's opposition to the provision was avowedly due to the fact that in terms it proposed to charge the Government of the United States with the payment of one-half of a considerable debt which he insisted was largely fraudulent, and justly due to no one. Repeatedly Mr. Blackburn made the charge, and this charge emphasizes the meaning now imputed to this section. It is the same meaning imputed in the debate of 1879. The gentleman from Kentucky must admit that in this debate is nowhere found the suggestion that the Government would be reimbursed. If that is the meaning of the provision, then Mr. Blackburn's remarks were utterly lacking in force and point. A contract of reimbursement would have satisfied the gentleman from Kentucky [Mr. Blackburn], but to a contract of assumption which he declared this amendment to be, he was vehemently opposed.

During the elaborate discussion of the meaning and effect of the report of Mr. Atkins carrying the provision for the payment of one-half of the debt of the District, it was fully understood by both the friends, and opponents of the same, that if it was adopted, the Government would be charged with a new liability, and become immediately responsible for one-half of an alleged fraudulent indebtedness. That this is true, I will fully show by the RECORD.

The Chair has already adverted in another ruling to a principle to which I wish to call his attention in this connection, and that is, that when legislation of an ambiguous character, is enacted, the subsequent action of the Congress which enacts it, may furnish a clue to its meaning, and such action may be appropriately considered by the Chair when he comes to interpret the statute. In the act to which the former ruling related, Congress had legislated with reference to the police department, using language which, it was insisted in debate, charged the whole burden of that department upon the District. But the Chair called attention to the fact that immediately thereafter, Congress proceeded to appropriate for this department upon the half-and-half principle. Hence on this, and other grounds he overruled the point of order. Now the above is this case, only the present one is much stronger on the facts. Immediately subsequent to the act of 1879, Congress began to appropriate for the sinking fund, and has continued to do so in the same language ever since.

There are three acts relating to the half-and-half principle, the act of 1874, the act of 1878, and the act of 1879.

The provision assuming, on the part of the Government, one-half of the funded indebtedness of the District of Columbia is found in the sundry civil bill of 1879, and was fully debated at the time. In the absence of this contemporaneous debate, and without regard to the uniform action of Congress thereafter in appropriating for this sinking fund on the half-and-half basis, some question of difficulty might be presented in the terms of this amendment. The language in some respects is inapt and ambiguous. But in the interpretation of this language, the whole course of dealing between the District and the Government, as illustrated by the three acts of 1874, 1878, and 1879 must be kept in mind. After the body which finally approved the amendment had stamped it with the meaning which it was admitted to carry, it is too late after successive appropriations of over 30 years in strict conformity with this meaning, to challenge its correctness, or to insist that it bears a meaning other than the one imputed to it, when the statute was enacted.

Permit me to call the attention of the Chair to another principle in this connection. It is undoubtedly true that successive appropriations for a project clearly unwarranted by law, however long continued, give no authority for another appropriation. There is no difference of view over that proposition. But if a statute is ambiguous, and year after year, day in, as it were, and day out, the body charged with its interpretation, gives to that statute a definite meaning, as evidenced by the character of its appropriation, and even when it is challenged, refuses to change that appropriation, then such successive acts may be fairly considered in the determination of the true meaning of the provision under consideration. To say the least, it should have a very persuasive effect upon the Chair in arriving at that determination. In addition the Chair should look to any antecedent rulings that may have been made on the question under consideration.

Permit me to call the attention of the Chair to some of this contemporaneous debate. In this connection, I wish to say, that in that House of Representatives there was a division of opinion over the merits of the proposition submitted by the conference report but none over its meaning. Some Members of that body, like Mr. Blackburn, denied that there were any considerations of reason, or justice that justified Congress in assuming this burden. Others insisted that Congress should assume it. But one and all they agreed that if the conference report carrying this provision was adopted, a new obligation would be fastened upon the United States, and they would be required to pay one-half of this indebtedness.

I wish to call the attention of the Chair somewhat in detail to what occurred in the debate upon the sundry civil bill of 1879. This bill at that time carried the appropriations for the District, and the chairman in charge of the same was Mr. Atkins of Tennessee. Mr. Blackburn was asked as to the meaning of the provision under consideration, and replied as follows:

> Mr. BLACKBURN. I answer that this provision of the report of the committee on conference binds this Government in its own capacity to the payment of one-half of the debt.

Can language be plainer than this? The present contention, is that the Government is bound for one-half of the District debt, and Mr. Blackburn, though opposing the conference report insisted in the contemporaneous debate, that such would be the effect of its adoption. Nor is that all. In the course of the debate, which lasted for quite a while, a gentleman named Hendee, took a part. He said in part:

> I understand the Government of the United States is just as much bound by proportional appropriations and by the taxation of this District to take care of the sinking fund as it is to provide for the ultimate payment of this debt when it is due and as it is to provide for the interest. We have time and again, year after year, appropriated money from the Treasury of the United States to pay the interest on the 3.65 debt. We did so upon the ground that it was due as the plighted faith of this Government that this interest should be paid. Shall we go on and make no provision for the ultimate payment of the debt by a sinking fund or otherwise by means of taxation or appropriation until 50 years shall have elapsed, and let the whole burden then come at once on the Government? Is that the proposition?
>
> I say that would be not only bad faith but bad policy. I say the Government is bound to take charge of and pay a share of this sinking fund in order to pay off this debt of $13,000,000.

In this connection I must refer to the acts of 1874, and 1878 relating to the proportional payments to be made by the Government. These acts clearly commit the Government to the half-and-half principle, and explain the attitude of Mr. Hendee. He insisted that by these acts, apart from the act of 1879, the Government was bound to pay a proportional part of the debt, as well as interest. This proportional part had been fixed at one-half.

So that even then, Mr. Chairman, the contention was that the Government was bound for one-half of this debt without any suggestion of reimbursement. But the gentleman from Kentucky [Mr. JOHNSON], now insists that a provision for reimbursement should be inserted in this bill, claiming that the original undertaking contemplated such a reimbursement.

I quote further from Mr. Hendee:

> The United States are not only bound under that law to take care of the interest or see that it is paid, but we are also bound to take care that the principal is paid or provide a sinking fund for that purpose.

A little further another gentleman, Mr. Mayhem, took a hand in the discussion. Mr. Mayhem said:

> Now, Mr. Speaker, I do not understand that my distinguished friend the chairman of the Committee for the District of Columbia [Mr. Blackburn] makes any question as to the Federal Government being liable to make provision for the interest on the bonds, and under the plain language of the statute there can be no distinction made between providing for the payment of the interest and the bonds at maturity by the creation of a sinking fund. If the one is binding and obligatory on the Government, the other is equally so. * * *
>
> If the bonds have been issued, and that provision of the statute has been carried out by the officers of the Government, and on the face of that provision of law these bonds have been issued and gone into circulation, then by what principle of justice and good faith can it be said that the Government has to-day been relieved from the obligation of the statute?

Still further, the gentleman from Kentucky, Mr. Blackburn, who was on the District Committee, made this statement:

> All that this sundry civil bill does, is to say that out of the fund thus created, of which the United States Government has agreed to pay one-half, the pledge of the Government to establish a sinking fund shall be fulfilled.

I might multiply these citations; I might increase the number of these references, but to what end?

Mr. BURKE of Pennsylvania. What reply, if any, did the conferees in that case make?

Mr. SAUNDERS. Mr. Atkins, for the committee of conference, stated that he was opposed to that feature of the report which provided for the assumption of the debt, but he outlined what it was intended to accomplish, agreeing in that respect with Mr. Blackburn and others who were in opposition to the conference report. This was in 1879, not in 1878.

I wish to call the attention of the Chair to the answer of Mr. Atkins to queries proponded by two gentlemen relating to the provision for the sinking fund:

> I can answer both the question of the gentleman from Missouri [Mr. Franklin], and the question of the gentleman from Texas [Mr. Reagan], at the same time. The gentleman from Texas asks me to state what the bill provides in regard to the interest and sinking fund on the funded debt of the District. This provision is made: "For the interest and sinking fund on the funded debt, $1,155,583.55."

The last sentence of the above answer differs from the one found in the present bill only in the amount carried.

So you will note that at the very time that Congress incorporated into this bill the assumption of one-half of the principal of the funded debt, that body began to legislate in regard to its payment precisely as we are now proposing to legislate in respect of the same in the present bill. This item, save as to the amount, has been carried in the District bill in the same language for over 30 years.

Permit me to call your attention to another fact in this connection, and that is that Mr. Blackburn for some years after the act of 1879 was a Member of this body. Yet never thereafter during his service in this House, did he attempt to challenge the proposition that under the above act, the Government was liable for one-half of the District indebtedness. He was in charge of the District of Columbia appropriation bill that carried the first provision for this sinking fund. I am advised that this is the fact, by the gentleman to my right, but am not personally apprised that such is true.

Mr. Atkins also stated that:

> About $120,000 of that amount is designed to be a sinking fund, one half of which is to be paid by the District of Columbia and the other half by the United States Government.

The language used is most explicit. He continued:

> Now, Mr. Speaker, I state with perfect frankness to the House that I did not in conference committee favor that proposition. I would have preferred that that had not been put in this bill. But, sir, I was overruled by a majority of the House conferees, and I am not willing, it is equally frank for me to say, to defeat this bill simply because that feature is in the bill, although I was not in favor of it.

Mr. Blackburn, in a further discussion of this proposition, stated:

> This proposition of this section of the bill is to fasten upon the Government of the United States, for the first time, an obligation to pay one half of all funded debt—

Does the Chair note any suggestion on the part of the gentleman from Kentucky [Mr. Blackburn] that after assuming this obligation, the Government was to be reimbursed in whole, or in part? If he had this thought in mind, he certainly failed to give expression to the same. He added:

> And leave the people of the District of Columbia, already ground into the earth by taxation, to pay the other half of this debt. The law to-day does not require the Government to pay a dollar.

How is it possible to argue against language so plain as this, used, as I say, by the very men who were opposing this proposition, in the first instance?

How can the Members of this House contend that the section now under discussion, provides for reimbursement, when the body which adopted it, were agreed that a meaning of a very different character attached to the language used? Mr. Chairman, permit me to call your attention——

Mr. BURKE of Pennsylvania. If the gentleman will allow me, I agree with him entirely that his position would be very much more thoroughly fortified if the opponents of the measure admitted it.

Mr. SAUNDERS. They did admit it. They brought the meaning of this section to the attention of the House. Hence the debate. Mr. Atkins, the chairman of the Appropriations Committee, also brought the effect of this amendment clearly before the House, in explaining his report.

Mr. BURKE of Pennsylvania. And he himself was opposed to it, but admitted that that was the effect of it.

Mr. SAUNDERS. Yes.

Mr. BURKE of Pennsylvania. I agree with the gentleman.

Mr. SAUNDERS. The section was debated upon the theory that it imposed a new and unjust obligation on the Government. In spite of this contention the report was agreed to. From that day forward, the appropriation bill for the District has provided for the sinking fund in the same language, each bill differing from the preceding bill only in the amount provided. As time has flowed by, the debt has been reduced from year to year, and successively smaller amounts have been required.

Mr. Chairman, if you were called upon to pass on this section as a disconnected proposition, unrelated to its environment, and apart from this contemporaneous debate, you might have difficulty in its interpretation. It is not very aptly drawn. But be this as it may, it is a sound principle of interpretation that a body of related legislation must be construed with respect to the general intent, and that the meaning of an individual paragraph, must be sought in the context and in the general intent and purpose of the related legislation. It is also well to have in mind the meaning given to a paragraph or statute, by the persons charged with some duty thereunder. It is a familiar proposition of law that if a contract is ambiguous, and the parties thereto, and living under it, have given the same a meaning, such an interpretation shall bind the parties to the contract, and be taken as its real purport.

If the Congress of the United States passes an act, and that act is debated, and upon consideration all parties are agreed as to the meaning of a section, then they stamp that section with that meaning, when they pass the bill of which it is a part. Such action may be fairly looked to, especially in a case like this, when the discussion took so wide a range, showing most clearly that all parties concerned were acting with knowledge in the final passage of the act.

Certainly this debate, and the subsequent action of Congress in appropriating for the sinking fund, is persuasive authority supporting our contention that one-half of this funded debt was assumed by the Government, and the committee was thereby authorized to appropriate for its discharge.

I wish to call the attention of the Chair to the fact of record, that the first time this appropriation was challenged, was by the gentleman from Missouri [Mr. De Armond], who moved an amendment to the effect that all of this sinking fund should be paid exclusively from the revenues of the District of Columbia. The point of order was made to this amendment on the ground that it changed existing law. In substance the Chair admitted this contention for the amendment was sustained under the Holman rule which was in effect at that time. As a result of this rule, the point of order was overruled. The Chair will note that this ruling carries an implication that but for the Holman rule, the amendment would have been out of order. The amendment was put to the committee, and rejected. Two years later Mr. De Armond renewed his motion.

The gentleman from New York [Mr. SERENO E. PAYNE] ruling on this proposition, held that the De Armond amendment was out of order, the Holman rule having been repealed, or dropped out of the rules. So far from this ruling supporting the contention of the gentleman from Kentucky [Mr. JOHNSON], it is decisively opposed to that contention. In the proportional act, the amount to be paid by the Government was one-half in all those cases in which it was required to pay anything.

The motion of Judge De Armoud was as follows:

> Amend by adding the following at the end of line 25, page 31, "to be paid out of the revenues of the District of Columbia."

The point of order was made to that specific amendment, and sustained on the ground that it changed existing law. If the Government was entitled to be reimbursed under the original contract, the amendment was in order.

The CHAIRMAN. Let the Chair put a question to the gentleman from Virginia. If it had been the opinion of the Chair that under the law the United States Government was not primarily liable for any portion of the interest or principal, had that been the opinion of the Chair as to what the law was, would not the amendment of the gentleman from Missouri, Mr. De Armond, have been in order, so far as anything appears in the ruling of the Chair made at that time?

Mr. SAUNDERS. Without undertaking to pass upon the effect of that, suppose it was. The Chair however referred to provisions arranging for payments by the Government on the half-and-half basis.

The CHAIRMAN. The Chair held in that case that the Federal Treasury is chargeable on its own account for half of the interest and half of the principal. Now, of course, if that be the law and the Chairman at that time construed the law so to be, then, of course, the amendment of the gentleman from Missouri, Mr. De Armond, was not in order.

Mr. SAUNDERS. Undoubtedly; that is the very point I am making.

The CHAIRMAN. It involved no difficult parliamentary situation once the law was clear. Now, if the law made the entire interest and principal chargeable against the District, would not the amendment of the gentleman from Missouri have been in order?

Mr. SAUNDERS. If it was all chargeable against the District, and the gentleman moved that it should be directed to be

paid out of the District funds, of course the amendment would have been in order. Why not?

The CHAIRMAN. The Chair simply wanted to ascertain if the gentleman from Virginia could escape from the conclusion based upon this presumption.

Mr. SAUNDERS. No, I do not seek to escape from anything. If the District of Columbia is liable for all of this debt, and an amendment is to that effect, such an amendment might be a superfluity, but it would not be contrary to existing law. On the contrary it would be conformable to existing law. But if the Government was liable for one half of the debt, and the District the other half, and the gentleman from Missouri proposed to make the District pay all of it, then of course his amendment was out of order on the ground that it changed existing law. This is the only view it seems to me that you can take of the ruling made by the gentleman from New York [Mr. PAYNE].

So much then for the parliamentary precedents, two in number, exclusive of the ruling of Mr. GARRETT. If the Chair takes the view that the bill merely provides an appropriation to pay a debt for which the Government is directly liable, then the Chair will reach the conclusion of the gentleman from Tennessee [Mr. GARRETT], and will not find it necessary to go further in his investigations.

If the appropriation is made, and the official charged with the duty of interpreting the law, applies the fund contrary to its terms, he will be guilty of malversation. If his action in this respect is directly opposed to the requirements of the law, he will act at his peril. The Chair however will presume that an official charged with administering a fund will do his duty, and carry out the law. For that matter the Government may pay all of the debt principal and interest, before requiring any reimbursement. Even upon the theory of the gentleman from Kentucky that the Government is entitled to reimbursement, there is no time fixed when reimbursement may be demanded. If the Government is liable to pay all the debt, it can not complain, if one-half is paid by the District. The amount for which it might demand reimbursement is thereby diminished.

The CHAIRMAN. Then, may I inquire of the gentleman from Virginia, in that view of it, and if this appropriation bill passes as law just as it stands, does the gentleman know of any general law, the act of 1873 or 1879, that would authorize this appropriation now about to be expended, and the total expenditure thereof, the whole amount be charged against the District of Columbia revenues?

Mr. SAUNDERS. No, I deny there is any such law, or proposition of law as that. That is the issue between the committee, and the gentleman from Kentucky.

The CHAIRMAN. The Chair only wanted to asceratin if the gentleman from Virginia clearly understood the issue.

Mr. SAUNDERS. Yes, I think I understand it. Our contention is, that if we make an appropriation for a purpose for which the Government is required to appropriate, as for instance for the payment of bonds for which it is liable in the first instance, then such an appropriation is in order, and the matter of reimbursement can be settled thereafter by appropriate action on the part of the Government. The payment of the debt for which the Government is liable is one thing, the demand for reimbursement is another.

The CHAIRMAN. Nor is it a question for the Secretary of the Treasury to determine in any way, that it would justify him in charging the District of Columbia with anything in the bill.

Mr. SAUNDERS. Mr. Chairman, we are not concerned with that at all. These matters of settlement of accounts are not relevant in this connection. They are utterly foreign to this inquiry. If it is desired to add a provision for reimbursement, conceiving that such is the law, it is perfectly in order for the gentleman from Kentucky [Mr. JOHNSON] or any other Member on this floor to submit an amendment to that effect, and have it voted upon by this committee. Such an amendment would be in order, if we are entitled to reimbursement. But if we make an appropriation authorized by law, it is not error on our part to omit a provision for reimbursement. It is not required, even if the right exists, to incorporate such a provision in an appropriation for an existing liability. Our right to reimbursement is not lost by failure to make demand for it concurrently with the discharge of a portion of our obligation.

I do not wish to be understood as admitting that the statute of 1879 fairly construed, having reference to its history, its contemporaneous discussion, and the just interpretation of the statutes fixing the policy of the Government in its relation to the District, can reasonably bear the construction, for which the gentleman from Kentucky contends. I submit that the precedents, and the whole body of related statutes properly construed with reference to their general intent, having in mind also the contemporaneous discussion of the act of 1879, and the action of Congress thereafter, all support the action of the committee in providing for this sinking fund, and constrain the Chair to the conclusion that this point of order should be overruled. I submit that having in mind all of these things, not only is this provision of the bill in order, but ample authority is afforded for the contention that Congress deliberately assumed the payment of one-half of the indebtedness of the District of Columbia. We are not concerned to go into the merits of any ancient controversy at this time. Grant that it was charged that these bonds were fraudulent in part? How does that affect the pending situation? The facts are not before us, and if before us would not aid us in the present inquiry. We are only concerned to inquire, if the Government assumed to pay one-half of this indebtedness. If it did, then the item is in order. But the committee is not required to make the appropriation. It can refuse to do so. It can strike out the item.

Mr. BURKE of Pennsylvania. Suppose there were defaults on those bonds, the Federal Government would be liable, would it not?

Mr. SAUNDERS. Yes; in part certainly.

Mr. BURKE of Pennsylvania. It would be liable because of the acts of 1874, 1878, and 1879, taken in conjunction with each other.

Mr. SAUNDERS. Take all of these acts, and they are in pari materia, construe them in conformity with the general purpose running through them all, and it will be clear that the Government assumed to pay this indebtedness to the extent of one-half of the same.

Mr. BURKE of Pennsylvania. And because of the existence of that liability, as a consequence of these three enactments construed as one, the Government of the United States is bound to pay this money. The gentleman's contention, as I understand it, is, that being an obligation of a Government, it has the right and it is its duty to appropriate without any qualification whatsoever in the proper bill.

Mr. SAUNDERS. In other words, whatever may be the interpretation placed on these statutes, whether it be the interpretation of the gentleman from Kentucky, or that of the committee, the Government is under obligation, in fact is in duty bound, to make an appropriation for the discharge of this principal and interest.

Mr. BURKE of Pennsylvania. And any limitation that exists here is really a limitation upon the bookkeeping in the Treasury Department.

Mr. SAUNDERS. That is a matter with which we are not concerned at all.

Mr. BURKE of Pennsylvania. That really should have nothing to do with the Chair in determining this question.

Mr. SAUNDERS. Mr. Chairman, this matter is remitted to your decision.

Mr. JOHNSON of Kentucky. Mr. Chairman, I will ask the Chair to bear with me for just a few moments. I will say now as heretofore, the gentlemen who take the other side of this question undertake to avoid a discussion of the act itself, and you can not get them to come up to the proposition and take hold of it and discuss that provision of the law which authorizes an appropriation with a limitation and a qualification. They will not discuss it in any way except laying the limitation and the qualification aside. As to what contemporaneous discussion discloses the CONGRESSIONAL RECORD of May 6, 1878, Forty-fifth Congress, second session, page 3222, shows that this provision was under discussion, and the section which I will now read was discussed, and is, without the dotting of an "i" or the crossing of a "t," now embodied in the statute, and it reads as follows:

That until otherwise provided by law the Secretary of the Treasury shall pay the interest accruing on the 3.65 bonds of the District of Columbia as the same matures, and the amount so paid shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District as herein provided.

Now, while that was considered, what did Mr. Blackburn say—he has been quoted here extensively in discussing the bill as a whole. What does he say? Let us see.

Mr. SAUNDERS. What is the date of that?

Mr. JOHNSON of Kentucky. May 6, 1878. Mr. Blackburn says this:

I desire to say that if every Member of this House will read one other section of this bill he will see that this bill does not propose to make the Federal Government responsible for one dollar of the debt of the District or one dollar of the interest on that debt. It simply proposes to make the Government of the United States bear one-half of the current expenses of the District.

Continuing, Mr. Blackburn says:

Then it goes on further and provides that as the Federal Government is already bound to guarantee the payment of the interest on the

3.65 bonds of the District, every dollar that the Government of the United States pays as interest on that bonded debt of the District shall be accredited to it upon such portion of the current expenses as it assumes. This bill nowhere makes the Federal Treasury responsible for one dollar of the debt of the District, either of the principal or of the interest. But it does say that the Government of the United States shall pay 50 per cent of the current expenses of the District, and that it shall have credit on that payment for every dollar of interest it pays.

Mr. SAUNDERS. Mr. Chairman, you will observe the gentleman from Kentucky was reading from the debate of 1878, a debate of a different time, under different circumstances, and not related to the matter of the amendment contained in the act of 1879.

Mr. JOHNSON of Kentucky. But the gentleman will agree with me that he was discussing the 3.65 bond proposition and discussing the very proposition which became a part of the bill.

Mr. SAUNDERS. Not in the light of the amendment that appeared in the act of 1879, and that is the vital part of the pending proposition. My friend from Kentucky says we have not discussed the law of the case. On the contrary I have been discussing this law, and nothing else. The very paragraph which he undertakes to say carries one meaning, in our view carries a very different meaning. I have undertaken to show by the cotemporaneous debate upon this amendment that the debaters both pro and con were agreed on its meaning. Admittedly in that debate it was understood that by the passage of the act of 1879, the Government undertook to pay one-half of the debt of the District. In this connection I wish to read again from Mr. Blackburn's remarks in 1879.

Mr. BLACKBURN. I answer that this provision of the report of the committee on conference binds this Government in its own capacity to the payment of half the debt, and binds this Government in its own capacity.

For what? To assume the payment of the whole debt, with a provision for the reimbursement of the whole? Not all. Mr. Blackburn does not suggest anything to that effect. On the contrary he says:

It binds this Government in its own capacity to the payment of one-half the debt.

Then Mr. Mills asked—

How much is that?

And Mr. Blackburn replied—

I think about $22,000,000, in round numbers.

Mr. Blackburn stated further that in his judgment a good deal of that debt was not only not proper to be assumed by the Government, but was not justly due by anyone. So that in 1879 Mr. Blackburn when discussing the meaning of the Atkins' report, plainly declared that its adoption committed the Government to the payment of one-half of the municipal debt, not the interest for that had been already assumed, but the principal of the bonded indebtedness. When I am able to refer the Chair to an illuminating cotemporaneous debate like this, construing this particular subject matter, how can it be argued with any sort of plausibility, much less cogency that the Government did not assume the payment of one-half of this debt? It was agreed on all hands that this was exactly what they did undertake to do.

Mr. JOHNSON of Kentucky. I will say, Mr. Chairman, in 1913, just as Mr. Blackburn said in 1879, that if the law is today changed by this bill, then the Federal Government will have to pay one-half of this debt, whereas the law creating it never authorized it.

Mr. SAUNDERS. Well, Mr. Blackburn seemed to think that the effect of the act of 1879 would be to charge the United States with one-half of the funded debt of the District.

The CHAIRMAN. In the opinion of the Chair the question presented as raised by the point of order is more of a legal question than a parliamentary one. In fact, it is purely a legal question. Once the legal elements are properly assembled and composed the parliamentary construction is clear. The Chair has carefully considered the ruling of Mr. Chairman Payne, rendered on February 4, 1896, and fully set forth in Hinds' Precedents, section 3883, holding that the payment of this item was chargeable half and half to the United States and the District of Columbia.

The Chair has also with equal care examined the ruling of Mr. Chairman GARRETT holding that the Government of the United States was authorized to appropriate for the payment of the interest and sinking fund, and that it was the duty of the Treasury Department to see that the amount was credited according to the law. The Chair has the greatest respect for the opinion of both Chairmen, and dislikes to rule contrary to their decision, but the Chair, acting in a quasi judicial capacity, feels that it is his duty to rule in accordance with his views of the law.

The Chair is of the opinion that the act of June 11, 1878, and March 3, 1879, authorizes the United States to advance sufficient sums to pay the interest and sinking fund in the District of Columbia, but the entire amount is chargeable to the District of Columbia. In the opinion of the Chair all sums appropriated by the present bill are disbursed in accordance with the provisions of the bill and not in accordance with some other statute law.

The only bearing other acts can have on the question under consideration is whether or not there is law authorizing an appropriation to be made in this bill. Construing the half-and-half provision as it appears on the first page and in the first section of this bill in connection with the item against which the point of order is made, the Chair is forced to the legal conclusion that one-half of the amount would be charged to the United States and one-half to the District of Columbia; that is, that under this act, if it is passed, one-half is chargeable to the District revenues and one-half to the Federal Treasury, and that neither the Secretary of the Treasury nor any other administrative nor disbursing officer could apply it in any other way. The Chair is of the opinion that under the acts of 1878 and 1879 the entire amount is chargeable to the District, and, therefore, is of the opinion that there is no law authorizing the provision as incorporated in this bill. Therefore the Chair must sustain the point of order. The Chair has no sensitive pride of opinion and would be glad to entertain an appeal, so that the committee, composed largely, as it is, of able lawyers, may pass finally, if it may be so construed, upon the question.

Mr. JOHNSON of Kentucky. Mr. Chairman, I ask time in which to prepare an amendment.

Mr. BURLESON. Mr. Chairman, I respectfully appeal from the decision of the Chair, and I ask unanimous consent that action on the appeal may be withheld until the conclusion of the bill.

Mr. JOHNSON of Kentucky. I object, Mr. Chairman.

The CHAIRMAN. If there is no discussion, the question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken; and on a division (demanded by Mr. BURLESON) there were—ayes 21, noes 16.

Mr. BURLESON. Tellers, Mr. Chairman.

Tellers were refused.

Mr. BURLESON. I demand the other side.

The CHAIRMAN. A gentleman close to this vicinity advises the Chair there is no other side.

Mr. BURLESON. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] Seventy-one gentlemen are present, not a quorum. The Clerk will call the roll.

Mr. DYER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DYER. Will a vote on this indicate whether we sustain the Chair or not?

The CHAIRMAN. The vote on the roll call will be "present."

The roll was called, and the following Members failed to answer to their names:

Aiken, S. C.	Davis, W. Va.	Harris	McGillicuddy
Alney	De Forest	Harrison, N. Y.	McGuire, Okla.
Ames	Dent	Hart	McKellar
Andrus	Dickson, Miss.	Hartman	McKinley
Ansberry	Difenderfer	Hawley	Madden
Anthony	Dixon, Ind.	Hay	Martin, Colo.
Ashbrook	Doremus	Heald	Matthews
Austin	Doughton	Higgins	Merritt
Ayres	Draper	Hill	Mondell
Barchfeld	Driscoll, D. A.	Hinds	Moon, Pa.
Bartholdt	Driscoll, M. E.	Howell	Moore, Pa.
Bates	Ellerbe	Hughes, Ga.	Morse, Wis.
Blackmon	Estopinal	Hughes, W. Va.	Mott
Boehne	Fairchild	Hull	Needham
Bradley	Farr	Humphrey, Wash.	Nelson
Brantley	Ferris	Humphreys, Miss.	Norris
Broussard	Finley	Jackson	O'Shaunessy
Burgess	Floyd, Ark.	James	Padgett
Burke, Wis.	Focht	Kahn	Palmer
Burnett	Fornes	Kent	Parran
Byrnes, S. C.	Foss	Kitchin	Patton, Pa.
Campbell	French	Konig	Payne
Cantrill	Fuller	Kopp	Pepper
Carter	Gardner, Mass.	Korbly	Peters
Clark, Fla.	Gardner, N. J.	Lafean	Porter
Claypool	George	Lenroot	Pou
Clayton	Gillett	Levy	Prince
Collier	Goldfogle	Lewis	Pujo
Conry	Gould	Lindsay	Randell, Tex.
Copley	Gregg, Pa.	Littleton	Ransdell, La.
Cravens	Gudger	Longworth	Reyburn
Crumpacker	Guernsey	McCall	Richardson
Curry	Hamill	McCoy	Riordan
Dalzell	Hamilton, W. Va.	McCreary	Roberts, Mass.
Davidson	Hamlin	McDermott	Roberts, Nev.

Rodenberg	Sims	Thistlewood	Whitacre
Rucker, Colo.	Sisson	Tilson	White
Sabath	Stack	Turnbull	Wilder
Scully	Stanley	Tuttle	Wilson, Ill.
Shackleford	Stevens, Minn.	Underwood	Wilson, N. Y.
Sheppard	Talbott, Md.	Vreeland	Wood, N. J.
Simmons	Taylor, Ohio	Warburton	Young, Mich.

The committee rose; and the Speaker having resumed the chair, Mr. RODDENBERY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the District of Columbia appropriation bill and, finding itself without a quorum, he had caused the roll to be called, whereupon 213 Members answered to their names, a quorum, and he presented a list of the absentees.

The SPEAKER. The Chairman of the Committee of the Whole House on the state of the Union [Mr. RODDENBERY] reports that that committee having under consideration the District of Columbia appropriation bill, and finding itself without a quorum, he had caused the roll to be called, whereupon 213 Members, a quorum, had responded to their names, and he reports a list of the absentees. A quorum being present——

Mr. BURLESON. Mr. Speaker, I move that the House adjourn.

Mr. JOHNSON of Kentucky. I object.

The SPEAKER. The Chair thinks that is not in order.

Mr. FITZGERALD. That is the only motion that is in order, Mr. Speaker. I can cite a precedent for that, if the Chair wishes.

Mr. MANN. Mr. Speaker, it has been ruled on a number of occasions that a motion to adjourn was in order after the report of the Chairman had been stated by the Speaker and before the Speaker had resolved the House back into the Committee of the Whole. I think that has been the ruling on the question. I hope the House will not adjourn.

Mr. FITZGERALD. I was going to discuss whether the motion was in order.

The SPEAKER. Is that where a quorum developed or did not develop?

Mr. MANN. Where a quorum developed.

Mr. FITZGERALD. A motion to adjourn is in order, Mr. Speaker, and that is the only motion that is in order.

The SPEAKER. The gentleman from Texas [Mr. BURLESON] moves to adjourn. The question is on agreeing to that motion.

The question was taken, and the Speaker announced that the "noes" seemed to have it.

Mr. BURLESON. A division, Mr. Speaker.

The House divided; and there were—ayes 51, noes 81.

Mr. BURLESON. Tellers, Mr. Speaker.

The SPEAKER. The gentleman from Texas demands tellers.

Mr. BURLESON. Mr. Speaker, I demand the yeas and nays.

Mr. JOHNSON of Kentucky. Mr. Speaker, I am anxious to see the names of those who want to put their hands in the Treasury. I demand the yeas and nays myself.

The SPEAKER. The Chair will count. Those in favor of taking the vote by yeas and nays will rise and stand until they are counted. [After counting.] Twenty-seven gentlemen have arisen—not a sufficient number.

Mr. FITZGERALD. The other side, Mr. Speaker.

The SPEAKER. Those opposed to taking the vote by yeas and nays will rise and stand until they are counted. [After counting.] One hundred and four gentlemen have arisen in the negative. On this vote the ayes are 27 and the noes are 104. Twenty-seven are a sufficient number, and the yeas and nays are ordered. The Clerk will call the roll. Those in favor of adjourning will, when their names are called, answer "yea;" those opposed, will answer "nay."

The question was taken; and there were—yeas 87, nays 119, answered "present" 9, not voting 166, as follows:

YEAS—87.

Adair	Gallagher	Lee, Ga.	Sherley
Austin	Garrett	Lever	Slayden
Barnhart	Godwin, N. C.	McCoy	Small
Bartlett	Gocke	Maguire, Nebr.	Smith, J. M. C.
Bates	Goodwin, Ark.	Maher	Smith, Tex.
Beall, Tex.	Greene, Mass.	Moon, Tenn.	Speer
Bell, Ga.	Greene, Vt.	Moore, Pa.	Stedman
Burleson	Gregg, Tex.	Moore, Tex.	Stephens, Miss.
Butler	Hamilton, W. Va.	Morgan, La.	Stephens, Nebr.
Cannon	Hardwick	Morgan, Okla.	Sulloway
Caulin	Hardy	Moss, Ind.	Sweet
Clayton	Harrison, Miss.	Olmsted	Taggart
Covington	Hayden	Page	Talcott, N. Y.
Craigo	Hayes	Post	Thayer
Davenport	Henry, Tex.	Pray	Thomas
Denver	Holland	Ranch	Townsend
Doughton	Houston	Redfield	Underhill
Edwards	Humphrey, Wash.	Reilly	Watkins
Evans	Humphreys, Miss.	Rothermel	Weeks
Fitzgerald	Kindred	Russell	Wilson, Pa.
Flood, Va.	Kinkead, N. J.	Saunders	Young, Kans.
French	Konop	Sells	

NAYS—119.

Akin, N. Y.	Dodds	Howard	Powers
Alexander	Donohoe	Howland	Raker
Allen	Dupré	Jacoway	Rouse
Anderson	Dwight	James	Rubey
Ashbrook	Dyer	Johnson, Ky.	Rucker, Mo.
Ayres	Esch	Kennedy	Scott
Bathrick	Falson	Kinkaid, Nebr.	Shackleford
Berger	Farr	Knowland	Sherwood
Booher	Fergusson	Lafferty	Simmons
Borland	Fields	La Follette	Slemp
Brown	Floyd, Ark.	Lamb	Sloan
Buchanan	Foster	Langham	Smith, Saml. W.
Bulkley	Fowler	Langley	Smith, N. Y.
Burke, Pa.	Francis	Lee, Pa.	Steenerson
Burke, S. Dak.	Garner	Linthicum	Stephens, Cal.
Burnett	Glass	Lloyd	Stephens, Tex.
Byrns, Tenn.	Good	Lobeck	Sterling
Callaway	Graham	McKenzie	Stone
Candler	Gray	McKinney	Taylor, Ark.
Cantrill	Green, Iowa	McLaughlin	Taylor, Colo.
Cary	Griest	Macon	Towner
Cline	Hamilton, Mich.	Martin, S. Dak.	Tribble
Cooper	Hammond	Mays	Vare
Cox	Haugen	Murdock	Volstead
Curley	Heflin	Murray	Webb
Danforth	Helgesen	Neeley	Willis
Daugherty	Helm	Nelson	Witherspoon
Davis, Minn.	Henry, Conn.	Oldfield	Woods, Iowa
Dickinson	Hensley	Patton, Pa.	Young, Tex.
Dies	Hobson	Pickett	

ANSWERED "PRESENT"—9.

Adamson	Kendall	McMorran	Rainey
Browning	Lindbergh	Mann	Roddenbery
Fordney			

NOT VOTING—166.

Aiken, S. C.	Estopinal	Korbly	Prince
Ainey	Fairchild	Lafean	Prouty
Ames	Ferris	Lawrence	Pujo
Andrus	Finley	Lenroot	Randell, Tex.
Ansberry	Focht	Levy	Ransdell, La.
Anthony	Fornes	Lewis	Rees
Barchfeld	Foss	Lindsay	Reyburn
Bartholdt	Fuller	Littlepage	Richardson
Blackmon	Gardner, Mass.	Littleton	Riordan
Boehne	Gardner, N. J.	Longworth	Roberts, Mass.
Bradley	George	Loud	Roberts, Nev.
Brantley	Gill	McCall	Rodenberg
Broussard	Gillett	McCreary	Rucker, Colo.
Burgess	Goldfogle	McDermott	Sabath
Burke, Wis.	Gould	McGillicuddy	Scully
Byrnes, S. C.	Gregg, Pa.	McGuire, Okla.	Sharp
Calder	Gudger	McKellar	Sims
Campbell	Guernsey	McKinley	Sisson
Carter	Hamill	Madden	Sparkman
Clark, Fla.	Hamlin	Martin, Colo.	Stack
Claypool	Harris	Matthews	Stanley
Collier	Harrison, N. Y.	Merritt	Stevens, Minn.
Conry	Hart	Miller	Switzer
Copley	Hartman	Mondell	Talbott, Md.
Cravens	Hawley	Moon, Pa.	Taylor, Ala.
Crumpacker	Hay	Morrison	Taylor, Ohio
Cullop	Heald	Morse, Wis.	Thistlewood
Currier	Higgins	Mott	Tilson
Curry	Hill	Needham	Turnbull
Dalzell	Hinds	Norris	Tuttle
Davidson	Howell	Nye	Underwood
Davis, W. Va.	Hughes, Ga.	O'Shaunessy	Vreeland
De Forest	Hughes, W. Va.	Padgett	Warburton
Dent	Hull	Palmer	Whitacre
Dickson, Miss.	Jackson	Parran	White
Difenderfer	Johnson, S. C.	Patten, N. Y.	Wilder
Dixon, Ind.	Jones	Payne	Wilson, Ill.
Doremus	Kahn	Pepper	Wilson, N. Y.
Draper	Kent	Peters	Wood, N. J.
Driscoll, D. A.	Kitchin	Plumley	Young, Mich.
Driscoll, M. E.	Konig	Porter	
Ellerbe	Kopp	Pou	

So the motion to adjourn was rejected.

The Clerk announced the following pairs:

For the session:

Mr. SCULLY with Mr. BROWNING.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. RIORDAN with Mr. ANDRUS.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. FORNES with Mr. BRADLEY.

Mr. PALMER with Mr. HILL.

Mr. UNDERWOOD with Mr. MANN.

Until further notice:

Mr. KORBLY with Mr. PORTER.

Mr. LITTLEPAGE with Mr. YOUNG of Michigan.

Mr. WILSON of New York with Mr. WOOD of New Jersey.

Mr. WHITE with Mr. WILSON of Illinois.

Mr. WHITACRE with Mr. WILDER.

Mr. TUTTLE with Mr. VREELAND.

Mr. TURNBULL with Mr. TILSON.

Mr. TAYLOR of Alabama with Mr. SWITZER.

Mr. STANLEY with Mr. ROBERTS of Massachusetts.

Mr. SABATH with Mr. ROBERTS of Nevada.

Mr. RUCKER of Colorado with Mr. REES.

Mr. RANSDELL of Louisiana with Mr. RODENBERG.

Mr. RANDELL of Texas with Mr. PRINCE.

Mr. POU with Mr. PLUMLEY.

Mr. PETERS with Mr. NORRIS.

Mr. PEPPER with Mr. PROUTY.

Mr. PATTEN of New York with Mr. NYE.

Mr. PADGETT with Mr. MOTT.

Mr. O'SHAUNESSY with Mr. MOON of Pennsylvania.

Mr. MARTIN of Colorado with Mr. MONDELL.

Mr. MCKELLAR with Mr. MILLER.

Mr. MCGILLICUDDY with Mr. MATTHEWS.

Mr. LEWIS with Mr. MADDEN.

Mr. LEVY with Mr. MCKINLEY.

Mr. KONIG with Mr. LOUD.

Mr. JOHNSON of South Carolina with Mr. LONGWORTH.

Mr. HUGHES of Georgia with Mr. JACKSON.

Mr. HAY with Mr. KAHN.

Mr. HART with Mr. HUGHES of West Virginia.

Mr. HAMLIN with Mr. HOWELL.

Mr. HAMILL with Mr. HIGGINS.

Mr. GUDGER with Mr. HEALD.

Mr. GOLDFOGLE with Mr. HARTMAN.

Mr. GEORGE with Mr. HARRIS.

Mr. FERRIS with Mr. GUERNSEY.

Mr. ESTOPINAL with Mr. GILLETT.

Mr. DIXON of Indiana with Mr. GARDNER of New Jersey.

Mr. DIFENDERFER with Mr. MCCREARY.

Mr. DENT with Mr. FULLER.

Mr. DAVIS of West Virginia with Mr. FOSS.

Mr. FINLEY with Mr. CURRIER.

Mr. CONRY with Mr. FOCHT.

Mr. COLLIER with Mr. DALZELL.

Mr. CLAYPOOL with Mr. CURRY.

Mr. CLARK of Florida with Mr. CRUMPACKER.

Mr. BURKE of Wisconsin with Mr. COPLEY.

Mr. BYRNES of South Carolina with Mr. CAMPBELL.

Mr. BURGESS with Mr. MICHAEL E. DRISCOLL.

Mr. BROUSSARD with Mr. CALDER.

Mr. BRANTLEY with Mr. ANTHONY.

Mr. SISSON with Mr. KENDALL.

Mr. BOEHNE with Mr. AMES.

Mr. ANSBERRY with Mr. BARTHOLDT.

Mr. BLACKMON with Mr. AINEY.

Mr. AIKEN of South Carolina with Mr. BARCHFELD.

Mr. LITTLETON with Mr. FAIRCHILD.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. KITCHIN with Mr. FORDNEY.

Mr. HULL with Mr. NEEDHAM.

Mr. PUJO with Mr. MCMORRAN.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. RAINEY with Mr. MCCALL.

Mr. DANIEL A. DRISCOLL with Mr. MERRITT.

Mr. SIMS with Mr. DAVIS of Minnesota.

Mr. GOULD with Mr. HINDS.

Mr. RICHARDSON with Mr. THISTLEWOOD (either to be released when the other would vote the same way).

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. MCDERMOTT with Mr. HAWLEY.

Mr. STACK with Mr. DRAPER.

Mr. GREGG of Pennsylvania with Mr. KOPP.

Mr. LINDSAY with Mr. LAFEAN.

Mr. DICKSON of Mississippi with Mr. LAWRENCE.

For the remainder of this day:

Mr. MORRISON with Mr. DE FOREST.

Mr. SHARP with Mr. TAYLOR of Ohio.

Mr. MANN. Mr. Speaker, I voted "no," but I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote and to be recorded as "present."

Mr. FORDNEY. I voted "aye." I am paired with the gentleman from North Carolina, Mr. KITCHIN, and I wish to withdraw my vote and to be recorded as "present."

Mr. KENDALL. I am paired with the gentleman from Mississippi, Mr. SISSON. I voted "no" in the first instance, but I wish to withdraw my vote and to vote "present."

The result of the vote was announced as above recorded.

The SPEAKER. The House refuses to adjourn, and the Committee of the Whole House on the state of the Union will resume its sitting.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 28499) making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, with Mr. RODDENBERY in the chair.

Mr. BURLESON. Mr. Chairman, in order that the membership may know the issue before the committee, I ask unanimous consent that we may have 30 minutes on a side to discuss the ruling of the Chair, so that it may be thoroughly understood. As the Chair knows, this involves at least $30,000,000 if the decision is sustained. It is in effect repudiating the indebtedness of the Federal Government to the District of Columbia to the extent of $30,000,000. Inasmuch as the ruling of the Chair overturns the decision of two former Chairmen, and is in the face of the appropriations in various Congresses——

Mr. TRIBBLE. Mr. Chairman, I make a point of order.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order that the matter is not debatable.

The CHAIRMAN. The Chair would be glad to have the committee grant the gentleman's request. The gentleman from Texas asks unanimous consent that there be 30 minutes' debate on a side on the appeal from the decision of the Chair, 30 minutes to be controlled by the gentleman from Texas [Mr. BURLESON] and 30 minutes by the gentleman from Kentucky [Mr. JOHNSON]. Is there objection?

Mr. JOHNSON of Kentucky. Mr. Chairman, I object because the time is too long. I will not object to 15 minutes on a side.

Mr. MANN. Then, Mr. Chairman, I ask unanimous consent that debate may proceed for 30 minutes, 15 minutes to be controlled by the gentleman from Texas [Mr. BURLESON] and 15 minutes to be controlled by the gentleman from Kentucky [Mr. JOHNSON].

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that there be 30 minutes debate on the appeal, 15 minutes to be controlled by the gentleman from Texas [Mr. BURLESON] and 15 minutes by the gentleman from Kentucky [Mr. JOHNSON].

Mr. HARDWICK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HARDWICK. I desire to know if gentlemen have not, as a matter of right, the opportunity to discuss it?

The CHAIRMAN. The Chair would like to rule that such a right did exist.

Mr. MANN. But the Chair ought to be willing to hear gentlemen on that question before he rules.

The CHAIRMAN. The question has not been raised or presented to the Chair until it was presented by the gentleman from Georgia in the form of a parliamentary inquiry. There was nothing for the Chair to do except to answer the parliamentary inquiry.

Mr. MANN. But before the Chair answers the parliamentary inquiry, which would be a ruling by the Chair on the question, the situation ought to be understood. The House divided on the question of sustaining the Chair. The question comes up de novo, because the question of a quorum was raised and no quorum was ascertained to be present. There was no closing of debate. The proposition was open to debate, too. I take it that it is still open to debate under the limitations of the five-minute rule.

The CHAIRMAN. The Chair will call attention to section 5928 of Hinds' Precedents:

A division having commenced, debate is thereby precluded.

On January 20, 1891, the Speaker announced that the question was on the approval of the Journal; and the question being taken, the Speaker said "the ayes seem to have it."

Mr. Roger Q. Mills, of Texas, demanded a division.

The Speaker having announced that a division was demanded, Mr. Mills demanded the opportunity to debate.

The Speaker, Mr. Thomas B. Reed, of Maine, held that a division having commenced debate was thereby precluded.

Mr. MANN. What was the question before the House?

The CHAIRMAN. The approval of the Journal.

Mr. HARDWICK. The question of no quorum did not arise there.

Mr. MANN. And here the Chair sustained the point of no quorum, so that the whole proceeding was set aside in reference to the vote, and there was nothing left.

The CHAIRMAN. Did it vitiate the division?

Mr. MANN. Undoubtedly, it vitiated everything, because if it did not vitiate the division, then the vote would stand. A division was had, and the gentleman then demanded tellers, and he was refused tellers, and then made the point of no quorum. The point of no quorum was sustained and the whole proceeding on the vote was set aside under the practice and rulings of the House for a century.

Mr. SAUNDERS. I would like to suggest that within the last two weeks we have had two or three situations in which we resumed business and the matter came up de novo.

The CHAIRMAN. The Chair recalls that when the second session of the Sixty-second Congress adjourned there was pending an appropriation bill for certain Spanish War pensions, and a division was had. The question of a quorum was raised, and the House adjourned. The question went over and came up on the first Calendar Wednesday of the present session of the Sixty-second Congress.

The Speaker, Mr. CLARK, held when the matter arose that it was de novo and proceeded to put the question without debate;

and upon request for debate being proffered, he ruled that debate was not in order, and the vote was proceeded with. In that case it arose upon the question of the presence or absence of a quorum. There was no quorum present.

Mr. SAUNDERS. But if it is de novo, does not debate come up as a matter of right?

The CHAIRMAN. That is precisely the point that the present occupant of the chair undertook to have Mr. Speaker CLARK rule, because the gentleman now occupying the chair desired to be heard. The Speaker ruled that he could not be heard. In this instance the House was dividing, and while so dividing the question of a quorum was raised by the present occupant of the chair. A quorum was ascertained not to be present; a roll call to procure a quorum was being had when the House adjourned. When the matter again came up de novo debate was ruled not to be in order thereunder.

Mr. MANN. But was not the previous question ordered in that case? My recollection is that the previous question had been ordered.

The CHAIRMAN. The Chair can not state with certainty.

Mr. BURKE of Pennsylvania. Has not the Chair just reversed the rulings of the Chair for 30 years, and if the Chair is of opinion that the point raised by the gentleman is well taken——

The CHAIRMAN. The present occupant of the chair will not hesitate to reverse a ruling when he thinks it is wrong nor to sustain a decision when he thinks it is right.

Mr. BURKE of Pennsylvania. Then what purpose would be served by raising the point of no quorum if it did not vacate the proceedings in existence?

The CHAIRMAN. Has the gentleman any authority to submit upon that question? The gentleman from Illinois [Mr. MANN] asks unanimous consent that there be 30 minutes of debate, 15 minutes to be controlled by the gentleman from Texas [Mr. BURLESON] and 15 minutes by the gentleman from Kentucky [Mr. JOHNSON], and if the Chair may be permitted to say so, he would be very glad to have that request granted.

Mr. JOHNSON of Kentucky. Mr. Chairman, a few moments ago I was perfectly willing to consent to 15 minutes' debate on a side. I believe now that 5 minutes are sufficient. The House, I know, is impatient at this hour to get home.

Mr. BURLESON. Mr. Chairman, that was the reason I wanted to adjourn. I knew the House would not be willing to remain here and listen to a discussion of this matter. This is a matter of the gravest importance, and yet I knew the House would not be willing to remain here.

The CHAIRMAN. Is there objection?

Mr. MURDOCK. Mr. Chairman, I object.

Mr. JOHNSON of Kentucky. Mr. Chairman, I ask unanimous consent that debate proceed for 10 minutes—5 minutes on a side.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that debate of 10 minutes be had, 5 minutes to be controlled by himself and 5 minutes by the gentleman from Texas [Mr. BURLESON]. Is there objection?

Mr. MURDOCK. Mr. Chairman, I object.

Mr. BURLESON. Then, I ask unanimous consent that the Chair make a statement of the situation to the committee in order that the members of the committee may know exactly what has been done.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the Chair make a statement of the situation in order that the members now present may be apprised of what has been done. Is there objection. [After a pause.] The Chair hears none. The Chair will comply with the order of the committee and accordingly submits the following statement:

While the committee was engaged in consideration of the bill H. R. 28499—the District of Columbia appropriation bill—in the course of the reading of the bill the following paragraph on page 67 was reached in its order:

INTEREST AND SINKING FUND.

For interest and sinking fund on the funded debt, $975,408.

Against that paragraph the gentleman from Kentucky [Mr. JOHNSON] made a point of order, the point of order being that the paragraph was not authorized by existing law. Debate was had on the point of order, argument being made in favor of the point of order and against the point of order. The gentleman from Kentucky [Mr. JOHNSON] maintained that the District of Columbia was chargeable with the entire interest and sinking fund covered by this paragraph. The first paragraph of the pending bill provides as follows:

That the half of the following sums named, respectively, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia, in full for the purposes following.

The gentleman from Kentucky [Mr. JOHNSON] contended that in view of that paragraph the effect of the paragraph on page 67, which the Chair has already read, was to charge the District of Columbia with one half of the interest and sinking fund and the Treasury of the United States with the other half. That contention was not combated by the gentleman in charge of the bill, but it was contended by gentlemen in charge of the bill that the District of Columbia was liable for only 50 per cent of the interest and, finally, of the principal of the bonds, and that the Federal Government, under the law, was liable for the other half; and that therefore the point of order of the gentleman from Kentucky was not well taken. It was stated and contended by the gentlemen opposing the point of order that every appropriation bill since the act of 1878 had provided substantially as the present bill provides.

The gentleman from Virginia [Mr. SAUNDERS] read the debate taking place as early as 1879 in which it was contended that the District was chargeable with half of the interest and sinking-fund moneys and in which it was argued to the contrary. In 1896——

Mr. SAUNDERS. Will the Chair pardon me? There was nothing in the debate to the contrary; all admitted the fact that the amendment inserted in the bill in 1879 was to charge the Government with one-half of both the principal and interest.

The CHAIRMAN. The Chair stands corrected. It was in 1878, the Chair believes, submitted by the gentleman from Kentucky [Mr. JOHNSON], when the contrary position was taken.

Mr. BURLESON. That was before the act creating the government of the District of Columbia.

The CHAIRMAN. And not upon an appropriation?

Mr. JOHNSON of Kentucky. Upon that statement, Mr. Chairman, I must take issue.

The CHAIRMAN. It was contrary to the appropriation and——

Mr. JOHNSON of Kentucky. That is very foreign to me——

The CHAIRMAN. The Chair does not think the Chair or the committee misunderstands the statement in that regard. On February 4, 1896, the question again arose on a point of order. The paragraph appeared in the District appropriation bill that year as it does now. Mr. De Armond, of Missouri, moved to amend by providing that the entire amount for interest and sinking fund be charged to the District of Columbia. Mr. Chairman PAYNE, of New York, was presiding; debate was had, and, without taxing the committee with too great details, the gentleman from New York [Mr. PAYNE], the then Chairman, decided that, in his opinion, under the law the Federal Government was chargeable primarily and liable for one-half of the interest and one-half of the sinking fund, and the amendment, therefore, of the gentleman from Missouri [Mr. De Armond] was overruled. Thereafter, on January 25, 1912, the paragraph then being as the paragraph now is, the gentleman from Kentucky [Mr. JOHNSON] raised a point of order upon the same grounds as presented here to-day, which grounds have already been stated to the committee. The gentleman from Tennessee [Mr. GARRETT] was then presiding. Extended arguments were heard and a full decision rendered on that date by the gentleman from Tennessee [Mr. GARRETT].

The gentleman from Tennessee [Mr. GARRETT] in effect decided that the Government of the United States was authorized under the law to make an appropriation for the payment of the interest and sinking fund, and that he would not go into the question of the respective liability of the United States Government or the District, respectively, but that that remained for the administration of the appropriate department charged with carrying out the law. Accordingly, the point of order was again overruled. On to-day, when the same item—for interest and sinking fund—was reached, the gentleman from Kentucky [Mr. JOHNSON] renewed the same point of order——

Mr. FITZGERALD. Mr. Chairman, did the Chairman state what Mr. GARRETT's ruling was, and would he state it?

The CHAIRMAN. The Chair has stated the ruling.

Mr. MANN. I think the Chair did not state it.

The CHAIRMAN. The gentleman from Tennessee [Mr. GARRETT] overruled the point of order. As just stated, the point of order now for disposition by the committee was again made by the gentleman from Kentucky. Debate was had. The act of 1874 was submitted to-day by gentlemen in the debate. The act of 1878 and the act of 1879, with reference to the proportional appropriations covering both the interest and the sinking fund, were also submitted during the debate. After debate was had, participated in by several gentlemen, the Chair rendered the following decision, sustaining the point of order. It is due the committee for the Chair to state that the decision is not written in full, but was rendered from abbreviated notes, and the Chair will undertake now to repeat, as nearly as he can, the decision as it was made, from the notes.

"In the opinion of the Chair the question presented is more of a legal question than a parliamentary one. In fact, it is essentially a legal question. Once the legal aspect of the matter is determined, the parliamentary conclusion follows and is simple. The Chair has carefully considered the ruling of Mr. Chairman PAYNE, rendered February 4, 1896, as appears in full in Hinds' Precedents, section 3883, holding that the payment of this item was chargeable half and half to the United States and the District of Columbia. The Chair has also carefully examined the ruling of Mr. Chairman GARRETT, holding that the Government of the United States was authorized to appropriate for the payment of the interest and sinking fund, and that it was the duty of the Treasury Department to see that the amount was credited according to law. The Chair has the greatest respect for the opinion of both of these distinguished Chairmen, and dislikes to rule contrary to their decisions; but the Chair, acting in a quasi official capacity, feels it is his duty to rule in accordance with his views of what the law is.

"The Chair is of the opinion that the acts of June 11, 1878, and March 3, 1879, authorized the United States to advance sufficient sums to pay the interest and sinking fund of the District of Columbia, but the entire amount is chargeable to the District of Columbia, and, therefore, no part to the United States. In the opinion of the Chair, all sums appropriated by the present bill are disbursed in accordance with the provisions of the bill and not in accordance with some other law, unless specifically so provided in the bill. The only bearing other acts have on the question under consideration is whether or not there is law authorizing the appropriation to be made. Construing the half-and-half provision on the first page and in the first section of this bill, in connection with the item to which the point of order is made, the Chair is forced to the legal conclusion that one-half of the amount under the bill as provided would be charged to the United States and one-half to the District of Columbia. The Chair is of the opinion that under the acts of 1878 and 1879 the entire amount is chargeable to the District of Columbia, and, therefore, is of the opinion that there is no law authorizing the provision incorporated in the bill. Therefore the Chair must sustain the point of order.

"The Chair has no sensitive pride of opinion and would be glad to entertain an appeal so that the committee, composed largely as it is of many able lawyers, may pass finally upon the question."

The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. BURLESON. Division, Mr. Chairman.

The committee divided; and there were—ayes 97, noes 33.

Mr. BURLESON. Tellers, Mr. Chairman.

Tellers were refused.

The CHAIRMAN. The decision of the Chair is therefore made the judgment of the committee.

So the judgment of the Chair was sustained.

Mr. TRIBBLE. Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The gentleman from Georgia [Mr. TRIBBLE] moves that the committee do now rise.

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. TRIBBLE. Division, Mr. Chairman.

The committee divided; and there were—ayes 74, noes 49.

Mr. BURLESON. Tellers, Mr. Chairman.

Tellers were ordered, and Mr. BURLESON and Mr. JOHNSON of Kentucky took their places as tellers.

The committee again divided; and the tellers reported—ayes 61, noes 61.

So the motion was rejected.

Mr. JOHNSON of Kentucky. Mr. Chairman, while the vote was 61, here is a Member who came up to the tellers and demanded to be counted.

Mr. GARNER. Mr. Chairman, the vote had been announced.

The CHAIRMAN. Does the gentleman demand the regular order?

Mr. GARNER. I do.

The CHAIRMAN. The gentleman from Texas [Mr. GARNER] demands the regular order, and the Clerk will read the bill.

The Clerk read as follows:

Court of appeals building, District of Columbia: For the following force, necessary for the care and protection of the court of appeals building: Two watchmen, at $720 each; elevator operator, at $720; three laborers, at $480 each; mechanician (under the direction of the Superintendent of the Capitol Building and Grounds), $1,200: *Provided*, That the clerk of the court of appeals shall be the custodian of said building, under the direction and supervision of the justices of said court; in all, $4,800.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order against the paragraph, because there is legislation in it.

The CHAIRMAN. The gentleman from Kentucky [Mr. JOHNSON] makes a point of order against the first paragraph on page 69.

Mr. JOHNSON of Kentucky. There is new legislation in it, Mr. Chairman. My point is directed to the provision which reads as follows:

Provided, That the clerk of the court of appeals shall be the custodian of said building, under the direction and supervision of the justices of said court; in all, $4,800.

That, Mr. Chairman, is, in my opinion, a piece of legislation looking toward covering up a good many jobs down there in that courthouse.

Mr. MANN. The $4,800 is not for that position.

Mr. JOHNSON of Kentucky. He appoints all the gentlemen around the building.

Mr. BURLESON. The gentleman recognizes the fact that this is an item that has been carried in the bill for a good many years?

Mr. JOHNSON of Kentucky. We want to cut it out right now, as we are going to have a new administration.

Mr. BURLESON. I think this is not legislation. It is an item that has been carried in the bill for many, many years. Somebody must have the care and custody of this building, and this provision is carried in the bill for the purpose of imposing that duty upon a particular officer. In fact, there is no salary allowed here, but it simply imposes a duty upon a particular officer of having the care and responsibility of the building——

Mr. JOHNSON of Kentucky. Which, Mr. Chairman, would give him the right to appoint all the custodian's force there. Consequently it is legislation.

The CHAIRMAN. If this provision were not in there, the Chair asks the gentleman from Kentucky [Mr. JOHNSON], who would do the appointing?

Mr. JOHNSON of Kentucky. I do not know, and I do not care. This is legislation. It is creating a custodian.

Mr. BURLESON. It is permanent legislation.

The CHAIRMAN. It strikes the Chair as being purely a matter of detail in administration, and unless there is some authority to be submitted the Chair will overrule the point of order. The point of order is overruled, and the Clerk will read.

The Clerk read as follows:

CHARITIES AND CORRECTIONS.

Board of Charities: Secretary, $3,500; chief clerk, $1,350; stenographer, $1,300; messenger, $600; inspectors—one at $1,200, three at $1,000 each, two at $900 each, two at $840 each; drivers—one at $780, three at $720 each; hostler, $540; traveling expenses, including attendance on conventions, $400; in all, $18,310.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order against the paragraph, particularly against the salary of the secretary and of the chief clerk and of the stenographer. The act creating the Board of Charities is to be found in volume 31, page 664, Statutes at Large, and fixes the salary of the secretary at $3,000 a year. The salary of $1,350 for the chief clerk, set out at the beginning of line 13, has been raised from $1,200, and the stenographer's salary, in line 13, has been raised from $1,200 to $1,300. Against these three items, Mr. Chairman, I make a point of order.

Mr. BURLESON. I concede that the point of order is well taken, and I offer the following amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] concedes the point of order and offers an amendment.

Mr. BURLESON. After the word "secretary," in line 12, page 70, insert "$3,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

After the word "secretary," in line 12, page 70, insert "$3,000."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BURLESON. After the word "clerk," in line 12, insert the figures "$1,200."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 70, line 13, at the beginning of the line, insert the figures "$1,300."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BURLESON. After the word "stenographer," on page 70, line 13, insert the figures "$1,200."

Mr. FOSTER. Mr. Chairman, I make the point of order that that is not subject to a point of order. The law provides a salary of a secretary at $3,000 a year and for such other

clerks and employees as may be necessary, to be appropriated by Congress as it sees fit; and I do not think either one of those items is subject to a point of order.

Mr. JOHNSON of Kentucky. The first one is.

The CHAIRMAN. The Chair will state to the gentleman from Illinois [Mr. FOSTER] that the point of order has already been made against the items and conceded by the chairman of the subcommittee in charge of the District of Columbia appropriation bill, and ruled on by the Chair.

Mr. FOSTER. I think the Chair ruled that way on the statement of the gentleman from Texas.

Mr. JOHNSON of Kentucky. Mr. Chairman, if it will help straighten out matters, I will say I think I have been in error. The second and third items are not subject to a point of order.

Mr. BURLESON. As I understand, Mr. Chairman, in all these increases the Chair has been sustaining points of order.

Mr. FOSTER. If the gentleman will permit, the law provides:

The board shall elect a president and vice president from among its own members, and shall appoint a secretary, who shall receive a salary of $3,000 per annum; and a messenger, who shall receive a salary of $840 per annum; and may appoint such other officers, inspectors, and clerks as it may deem proper, and fix the number, duties, and compensation of such other officers, inspectors, and clerks, subject to appropriations of Congress.

The CHAIRMAN. The gentleman from Kentucky [Mr. JOHNSON], who originally made the point of order, having conceded that he finds on investigation that he made the point of order under a misapprehension, and the gentleman from Texas [Mr. BURLESON] having stated that he conceded the point of order under a misapprehension——

Mr. BURLESON. No; I do not concede that I admitted it was made under a misapprehension.

The CHAIRMAN. He originally conceded the point of order.

Mr. SAUNDERS. It was not under a misapprehension at all. While the original act did not put in any limitation, this is an increase over the last appropriation bill, and if a point of order is made on that ground there is nothing for us to do but to concede it.

Mr. FOWLER. Certainly.

The CHAIRMAN. Unless the ruling of the Chair is vacated by unanimous consent the matter is already concluded.

Mr. MANN. Regular order!

The CHAIRMAN. The point of order has been sustained and the items have gone out.

Mr. BURLESON. I move to insert, after the word "stenographer," the figures "$1,200."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 79, line 13, after the word "stenographer," insert the figures "$1,200."

The amendment was agreed to.

The Clerk read as follows:

In all, under Washington Asylum and Jail, $130,335.

Mr. DYER. Mr. Chairman, I should like to ask the gentleman from Texas [Mr. BURLESON] why it is that they continue to carry this institution under the name of Washington Asylum and Jail? This is a hospital. Nurses are trained there and graduate, and they get certificates as nurses graduated from Washington Asylum and Jail.

Mr. BURLESON. That is the name fixed by law. The District of Columbia Committee has jurisdiction to change the name.

Mr. DYER. I want to call the attention of the committee to the conditions there just for a moment. I do not want to take much of the time of the committee. Recently a subcommittee of the District of Columbia Committee made some inquiry into the Washington Asylum Hospital, and as a result of my own investigations and of the investigations and opinions of other gentlemen, I want to say that it is a shame and a disgrace to the Capital City of the Nation that such an institution is allowed to exist in the city of Washington for the care of the sick poor.

Let me quote from the testimony of the visiting physician of the Washington Asylum and Jail, Dr. D. Percy Hickling, to give you an idea of the conditions that exist there. It is from his testimony recently given before a subcommittee of the District of Columbia Committee of this House during an investigation of the Tuberculosis Hospital of this city. The Washington Asylum Hospital and Jail was brought indirectly into that investigation, due to the fact that it was discovered that a number of tuberculous patients were being treated at the Washington Asylum and Jail. The following questions and answers appear from the doctor's testimony in this connection:

Mr. DYER. Doctor, I notice in your report, included in the report of the Board of Charities of the District of Columbia for the year ending June 30, 1911, the following (p. 53): "During the year there have been 75 cases of pulmonary tuberculosis admitted into the hospital. Of these, 37 have been transferred to the Tuberculosis Hospital, 15 discharged, and 23 have died. These cases are at the present time treated in the general wards of the hospital, which is, in my judgment, a detriment to their own condition, as well as a menace to the other patients and the nurses with whom they are associated. I would therefore urgently recommend that proper provision be made for their care and treatment."

Mr. DYER. That is a part of your report?

Dr. HICKLING. It is.

[From Dr. Hickling's testimony.]

I think I have summarized them in the same way in this part of my report. In the body of my report, which is over my signature, I said (p. 57 of the 1910 report) that I desired to call special attention to the fact that during the year we have been required to take care of 105 cases of tuberculosis, a large percentage of whom were suffering from the disease in a communicable form. As a matter of fact, there have been few days during the year when that hospital has been free from this class of cases, and there seems nothing to do with them but to place them in the wards with the other cases. If we are to be required to admit these cases into the hospital, we should be given the proper means to care for them. That is from my report.

* * * * * * *

Now, then, to make that clear, I want to call your attention, on page 30 of the 1911 report, to the fact that the Washington Asylum Hospital, during that last fiscal year, received and cared for 2,916 patients out of a total of 12,221 indigent patients of the District of Columbia. You will see by that table that we took care of more than any other hospital in the city; that Freedmen's Hospital comes next, in caring for 2,746 patients; the other institutions, which appeared to be larger, only took care of less than 1,000 cases. Garfield Hospital taking care of only 905 cases, and that is the third largest, so far as utility in taking care of the indigent cases of the District of Columbia is concerned.

Now, then, another fact. That same table shows that at the Washington Asylum Hospital the average number of days that each patient stayed in the hospital was only 18.11. That is the lowest number of any hospital in the city, according to that table, except the Emergency Hospital, showing the activity of the work out there. It is not in any sense of the word that the name implies an asylum, but a very active hospital.

Now, then, we are forced to take care of every case that is sent to us. We can not refuse to admit a case, no matter what the trouble may be. We have got to take it in and care for it as best we can. We take in the insane, the alcoholics, the syphilitics, and we take in children, and the tuberculosis cases when they are sent to us. We have not a right to refuse to admit a case.

Now, another thing; that is, the crowded condition of the wards. I want to explain to you what that means. It means more than the word seems to indicate. It means that the nurses have to take care of more patients than they can take care of. It means that the patients are justly dissatisfied. It means that the bed accommodations, the food accommodations, service accommodations are all cramped when the wards are overcrowded.

Another thing, two wards especially there—the psychopathic and the basement, the annex—which you saw, where the colored men were, are badly overcrowded most all the year, and are badly adapted to the treatment of cases. They do not have sufficient air space. They do not have sufficient light or sufficient ventilation. Now, then, these insane conditions, the condition of the psychopathic wards, where the criminal as well as the insane are crowded together; the insane are crowded together there; the drunk and the sober, the criminal and the insane, the black and the white, and the sound mind are all crowded together there in rooms that they should not be crowded in; and, more than that, there is no means, such as they have in other institutions, for outdoor exercise. I have recommended that; I want to lay stress on that not only as a health measure but as a therapeutic measure, to permit the recovery of these insane, because they do not recover as well in dark, ill-ventilated rooms as they do when they can get out into the air; and a very little money sufficient to build a fence is all that would be necessary; and for two years we have tried to get out of our contingent fund a little money to build a fence, and let these human being out into the fresh air that they need, not only from the hygienic but from the therapeutic standpoint. I want to make this as emphatic as I can. The alcoholics down there waste their time after they sober up, and we have no opportunity to encourage them to be not only self-supporting but yielding an income for the time they are there.

Another point, the question of children, I regard with extreme interest. We have treated during the last year, according to this report just read, 81 children under 16 years of age. Now, we have no children's ward there. They are mixed in with the vilest kind of men and women, and it is not fair to subject them to those surroundings. If we have to take care of them, we should have a children's ward where they can be properly taken care of. I want to emphasize that as strongly as I can. It is a condition which should not be permitted to exist.

Now, about the remedy. We have been unfortunate in getting Congress to recognize the fact that they needed and must have a new hospital. It has resulted in not getting a new hospital and leaving conditions at the Washington Asylum a little worse than the previous year.

Mr. DYER. A positive disgrace to the city.

Dr. HICKLING. If the appropriation goes through now as it is planned, next year we will be in just the same condition as we were last year, only a little worse. You have not helped us a bit. Now, then, if you do give us a new hospital, which has been recommended and which we all pray for, then the condition is relieved. If you do not do that, do something for us. Anything is better than nothing.

Mr. DYER. So you favor a proper municipal hospital?

Dr. HICKLING. Of course. Every year that has been favored for 12 years and urged as strongly as human voice could urge it. Now, then, each year, because we have urged that, it has resulted in nothing but leaving the Washington Asylum a little bit worse off than it was the year before.

Mr. Chairman, that is the testimony of the visiting physician in charge of that institution. Not only do these conditions prevail in this institution, which consists of a lot of old shacks bundled together to take care of over 1,200 of the sick poor of this city, but they have children there, too. During the past year they have had 80 patients there under 16 years of age.

They have no ward there for children. These young boys are thrown in there with the drunks, the insane, and the criminal. That is one of the hospital conditions existing in this Capital City of the Nation. Besides that, in the investigations by the Committee on the District of Columbia, we found that they have numerous cases of contagious diseases brought there. We found that they have numerous cases of tuberculosis brought there.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DYER. I ask for two minutes more.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent that his time be extended two minutes. Is there objection?

There was no objection.

Mr. DYER. And, Mr. Chairman, let me invite the attention of the House further to the conditions at this so-called hospital as testified to at the hearing referred to by Col. F. N. Judson, one of the District Commissioners, as follows:

Mr. DYER. You are in favor of a municipal hospital?

Col. JUDSON. By all means, because we have one there now in name and as to patients, but we have no suitable accommodations for them. I do not think that place is suitable for patients at all. I have taken people there from other States, and they have said that in their community such a thing would not be tolerated, and that they could not imagine that in the Capital City of the Nation such a condition would be allowed to endure.

Mr. DYER. What is your suggestion, Mr. Commissioner, as to improvement?

Col. JUDSON. Well, a number of years ago there was purchased some 30 acres in a very suitable location for hospital purposes. The intention at the time of purchase was to build there a suitable hospital to care for indigent patients, and I think that plan should be carried forward as soon as possible.

Mr. CANNON. Will the gentleman yield?

Mr. DYER. Yes.

Mr. CANNON. Is there a bill pending to change this condition by legislation reported by the Committee on the District of Columbia?

Mr. DYER. Not so far as I know.

Mr. CANNON. Is the gentleman a member of that committee?

Mr. DYER. I am; and I will say that as one member——

Mr. CANNON. Does the gentleman oppose the appropriation in the absence of legislation?

Mr. DYER. No, Mr. Chairman; but I asked the gentleman from Texas [Mr. BURLESON] a question about these matters today, and he said that the House does not agree with the view that we take, which is that there should be in this city a municipal hospital to care for the sick poor, and not have this money thrown around piecemeal in different institutions.

Mr. BURLESON. The gentleman understands that we must provide for this institution as the law requires, and there is no authorization of law for a municipal hospital, and the only committee authorized to report legislation of that character is not the Committee on Appropriations but the gentleman's Committee on the District of Columbia.

Mr. DYER. I am glad to hear the gentleman say that, but what I wanted principally to find out was if the word "jail" had to stay there.

Mr. BURLESON. The word "jail" constitutes a part of the name of this institution fixed by law.

Mr. DYER. I should also like to ask why the nurses are not paid more than $10 or $12 a month? They have 17 nurses there to take care of an average of 200 patients.

Mr. BURLESON. They are pupil nurses, not graduates, and are there for the purpose of learning their profession.

Mr. DYER. That is the only kind you ever have there?

Mr. BURLESON. That is the only kind you can get to go there. We made such provision as was estimated for.

Mr. DYER. They will not stay there; they run away because the conditions are such that they will not stay. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

Home for the Aged and Infirm: Superintendent, $1,320; clerk, $900; matron, $600; chief cook, $720; baker, and laundryman, at $540 each; chief engineer, $1,000; assistant engineer, $720; physician and pharmacist, and second assistant engineer, at $480 each; 2 male attendants, and 2 nurses, at $360 each; 2 female attendants, 3 firemen, and assistant cook, at $300 each; assistant cook, $180; blacksmith and woodworker, and farmer, at $540 each; 3 farm hands, dairyman, and tailor, at $360 each; seamstress, laundress, hostler and driver, at $240 each; 3 servants, at $144 each; temporary labor, $1,000; in all, $15,752.

Mr. FOWLER. I desire to ask why the committee has increased the salary of the large-salaried officers and has not increased the salary of the low-salaried laborers, those that get $144 a year?

Mr. BURLESON. Because we regard the $144 as adequate for the services rendered and we did not regard the salary of $1,200 as adequate for the services rendered there. We made three increases in this bill.

Mr. FOWLER. I know that.

Mr. BURLESON. The superintendent, the cook, and the chief engineer. I have explained at great length the reason moving us to increase the engineer's salary. The cook's salary was increased because of the representation made to the committee that they could not retain the services of a competent person as a chief cook with the salary authorized.

Mr. FOWLER. Would the gentleman agree to an amendment making the $144 a year salary $300?

Mr. BURLESON. I would not; because that would be $160 more than the services are worth.

Mr. FOWLER. Mr. Chairman, I make a point of order against the increase of the superintendent's salary from $1,200 to $1,320.

Mr. BURLESON. Mr. Chairman, I concede the point of order is well taken.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BURLESON. Mr. Chairman, I move to insert the figures "$1,200."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 72, line 23, at the beginning of the line, insert the figures "$1,200."

The amendment was agreed to.

The Clerk read as follows:

In all, for Industrial Home School for Colored Children, $16,990: *Provided*, That all moneys received at said school as income from sale of products and from payment of board, of instruction, or otherwise, shall be paid over to the Commissioners of the District of Columbia to be expended by them in the support of the school during the fiscal year 1913.

Mr. DYER. Mr. Chairman, I move to strike out the last word. I want to ask the chairman of the committee if any recommendation was made for the increase of the salary of the superintendent or the resident physician?

Mr. BURLESON. We made no change in that item. We provide an increase of salary of one cook and three or four of the servants. Those are the only changes we have made.

Mr. DYER. There was no request made for an increase?

Mr. BURLESON. I think not.

Mr. DYER. I withdraw the pro forma amendment.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out the last word. I wish to ask if the word "thirteen," in line 7, page 79, should not be "fourteen."

Mr. BURLESON. I was just about to offer an amendment. I move to strike out the word "thirteen" and insert in lieu thereof the word "fourteen."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 79, line 7, strike out the word "thirteen" and insert the word "fourteen."

The amendment was agreed to.

The Clerk read as follows:

TEMPORARY HOMES.

Municipal lodging house and wood and stone yard, namely: Superintendent who shall also act as foreman, $900; cook, $360; night watchman for six months, at $25 per month, $150; maintenance, $1,820; in all, $3,230. Grand Army of the Republic, namely: Superintendent, $1,200; janitor, $360; cook, $360; maintenance, $4,000; in all, $5,920, to be expended under the direction of the Commissioners of the District of Columbia.

Mr. DYER. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

Mr. BURLESON. If the gentleman from Missouri will pardon me, I want to offer an amendment first. Before the word "Grand" insert the words "temporary home for ex-Union soldiers and sailors."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 80, line 11, before the word "Grand," insert "temporary home for ex-Union soldiers and sailors."

The amendment was agreed to.

Mr. DYER. Now, Mr. Chairman, I ask to have my amendment read.

The Clerk read as follows:

Page 80, line 11, strike out the words "Grand Army of the Republic" and insert in lieu thereof the words "ex-soldiers and sailors of the Civil War, Spanish War, and the Philippine insurrection."

Mr. BURLESON. To that I make a point of order.

Mr. DYER. Will the gentleman reserve the point of order?

Mr. BURLESON. I will reserve it for one minute.

Mr. DYER. Mr. Chairman, in the last appropriation bill the ex-Spanish War soldiers were taken out of this paragraph, and since that time the only ones who have been eligible are ex-Union soldiers of the Civil War. There has never been a sufficient demand to maintain a home for those alone. Many applications come from Spanish War soldiers, and the year pre-

ceding that, when it was open to both of these, the record shows that 235 were veterans of the Spanish War. There is more demand for those of the later war, and the later Philippine insurrection than from the Civil War. The veterans of the Civil War have all practically been granted pensions, and there are several homes for the old soldiers all over the country. If the home is to be maintained, it ought to be maintained for all those who need it, and I will ask the gentleman from Texas to withdraw his point of order.

Mr. MANN. Mr. Chairman, I desire to have the gentleman reserve his point for a little while.

Mr. BURLESON. I reserve the point of order.

Mr. MANN. Mr. Chairman, I wish to be heard on the proposition or on the point of order, I do not care which. I notice this paragraph provides for the maintenance of two lodging houses, one a municipal lodging house, which carries an appropriation of $1,820 for maintenance, and the other what purports to be a lodging house for ex-Union soldiers, and that carries for maintenance an appropriation of $4,000. Does anyone pretend to say that there are fewer people maintained at the municipal lodging house, where all the poor may go, than there are at the Grand Army lodging house, where, as a matter of fact, scarcely anyone goes?

Mr. BURLESON. Mr. Chairman, I will state to the gentleman from Illinois that I have but little confidence in either one of these institutions. In my deliberate judgment they are both fake institutions.

Mr. MANN. Mr. Chairman, it seems to me that in contemplation of the future and what is about to take place in the city of Washington, and the number of people who will be gathered together in Washington in about a month, who will find quarters first at the Willard Hotel, and then, afterwards, borrow money to get out of town before they get away, this ought to include not merely the ex-Union soldiers, the soldiers of the Spanish War, but, possibly, considering the situation in the country, the ex-Confederate soldiers.

Mr. BURLESON. As well as soldiers of fortune?

Mr. MANN. If it included soldiers of fortune it would require much more than $4,000 for maintenance.

Mr. HUMPHREYS of Mississippi. And ex-Congressmen, also.

Mr. FOWLER. Mr. Chairman, I desire to be heard on the point of order. The Chair will observe that the original heading of this paragraph is "Temporary home," without any limitation whatever. To that was appended by amendment the words "for ex-Union soldiers and sailors." I think that the amendment offered by the gentleman from Missouri [Mr. DYER] is not subject to a point of order, in the light of the amendment which has been offered by the chairman in charge of this bill. I think that the amendment is not only germane to the subject matter of this paragraph but that it deals with a question which, to my mind, ought to appeal to every man in the House, to wit, the care of the unfortunate soldiers who have been brave enough to offer their lives as a sacrifice upon the altar of their country. We all know, Mr. Chairman, that it is not the policy of America to take care of those who are able to care for themselves, but that it is the policy of America to care for the unfortunates. Even the almshouses of the townships in the country do that, and I think that if the policy of this country is to be indorsed in taking care of the unfortunate common citizens of the country, then it ought to be the policy of the country to take care of the unfortunate soldiers of the country. So I trust that the point of order will not be sustained and that the amendment offered by the gentleman from Missouri will be carried by every vote in this House.

I have been to the institution known as the Temporary Home of the ex-Union Soldiers, and I know that it is not a fake institution, but an institution founded upon the greatest charity for the purpose of taking care of those soldiers and sailors who are unfortunate. Mr. Chairman, these old soldiers who planned this home absolutely serve there as officers of that institution without money and without price, and they volunteer their services to look after the interests of this home in order that it may be maintained, and now the large sum of money—immense in its character, in its scope, and in its provisions, amounting to the tremendous sum of $5,920—is objected to here by some gentlemen on the floor of this House. What a wonderful drain one-half of that sum will be on the United States Treasury.

Mr. DYER. Mr. Chairman, addressing myself to the point of order, I just want to call the attention of the chairman to the fact that this is not subject to the point of order. It does not increase the expenditure in any way, and it is not new legislation. It simply states who are eligible to this home, and I will say to the Chair that in the previous appropriation bill it included everything I have mentioned, but it was left out of the current bill. I think it is not subject to a point of order. It does not take any more money from the funds of the Government, and if it is to be maintained I will say that the superintendent of the home and the officials of the institution are anxious to have it include the soldiers of the Spanish War as well as those of the Civil War and of the Philippine insurrection.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I would like to ask the chairman of the committee a question. In view of the action of the committee a short while ago striking out the provision for the half and half principle of the law——

Mr. BURLESON. Oh, the gentleman is mistaken about that; they simply repudiated the debt, that is all.

Mr. HUMPHREYS of Mississippi. Very well, express it as the gentleman desires, but the deed has been done.

Mr. BURLESON. For the time being.

Mr. HUMPHREYS of Mississippi. For the time being. In view of that fact will all of the expense of the maintenance of this temporary home fall on the taxpayers of the District of Columbia?

Mr. BURLESON. No; it falls one-half on the District of Columbia and one-half on the General Government.

Mr. HUMPHREYS of Mississippi. That is what I am trying to get at. The half and half provision will not affect this item at all.

Mr. BURLESON. Not at all; it will only affect the debt. Mr. Chairman, I do not think the Spanish-American soldiers are really seeking this, and I make the point of order.

The CHAIRMAN. The amendment provides for bringing into the act a class of persons now excluded, which makes it legislation, no authority appearing——

Mr. FOWLER. Mr. Chairman, one moment——

The CHAIRMAN. Just a moment—no authority of law for the inclusion of an additional class appearing, the Chair will sustain the point of order——

Mr. FOWLER. Just a moment, before the Chair rules.

The CHAIRMAN (continuing). Unless the gentleman from Illinois can submit some authority to the contrary.

Mr. FOWLER. The item for the Spanish-American soldiers was simply dropped out of the bill. It was carried prior to this time, but it was simply dropped out, and it is not an innovation upon permanent legislation.

The CHAIRMAN. The Chair is not officially apprised; he assumes, of course, the gentleman's statement of facts is correct——

Mr. FOWLER. That is the fact.

The CHAIRMAN. But the point of order is now made and the Chair could not change the ruling, and therefore the point of order under the rules must be sustained.

Mr. JOHNSON of Kentucky. Mr. Chairman, in view of what the chairman of the subcommittee has said, that this was a fake institution, I move to strike out the paragraph.

The CHAIRMAN. The gentleman from Kentucky moves to strike out the paragraph.

The question was taken, and the Chairman announced the "ayes" seemed to have it.

Mr. FOWLER. Division, Mr. Chairman.

Mr. JOHNSON of Kentucky. Mr. Chairman, just one minute. Does the motion to strike out the paragraph embrace between lines 7 and 14, both included? I want to move, if it is the proper time, to strike out from line 7 to line 14, both included.

Mr. BURLESON. Mr. Chairman, I make the point of order that the gentleman ought to have made it at the time, and I make the point of order that it comes too late.

Mr. JOHNSON of Kentucky. It may be too early, but it can not possibly be too late.

The CHAIRMAN. The question is on the motion of the gentleman from Kentucky to strike out the paragraph.

The question was taken, and the motion was rejected.

Mr. DYER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DYER. Mr. Chairman, where are we on the bill?

The CHAIRMAN. The Clerk has read the paragraph beginning on line 7 to line 14, inclusive, on page 86; a motion to strike out has been made and not agreed to.

Mr. DYER. I offer an amendment to strike out the following words, beginning on line 11, page 86, specifically referred to by the gentleman from Texas [Mr. BURLESON] as being, in his judgment, an item concerning a fake institution:

Grand Army of the Republic, namely: Superintendent, $1,200; janitor, $360; cook, $360; maintenance, $4,000; in all, $5,920.

I move to strike those words out.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. CANNON. Mr. Chairman, I would just like to say a word about it. As I understand it, this is the item that provides temporary shelter for soldiers of the United States, especially those of the Union Army, who are aged and indigent, and either through misinformation or on their own motion, as the case may be, come to Washington in the hope of getting relief from Congress, and are without shelter and without food temporarily. That is my understanding of it, and, if I am correct, I think the gentleman would hesitate to make the motion.

Mr. DYER. If the gentleman will yield, I will state to him that this provision here is for ex-Union soldiers and sailors of the Grand Army of the Republic. In other words, to be eligible to this home they have got to be members in good standing of the Grand Army of the Republic.

Mr. WILLIS. Is the gentleman opposed to the Grand Army of the Republic?

Mr. DYER. No. But, as I said a while ago, the gentleman from Texas makes a point of order against the Spanish War soldier and the Philippine soldiers, and leaves this home to the soldiers who are members of the Grand Army of the Republic.

I know, as a matter of fact, and I state it on authority, that not over 10 per cent of those who have been taken care of at the home during the past year were members of the Grand Army. There is no particular demand for the home by the members of the Grand Army of the Republic.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. CANNON] has expired.

Mr. DYER. I ask for five minutes more, Mr. Chairman.

Mr. WILLIS. Will the gentleman yield?

Mr. DYER. I will yield to the gentleman from Ohio [Mr. WILLIS].

Mr. WILLIS. I want to ask the gentleman whether he thinks it fair, simply because certain classes were not included whom he thinks ought to have been, to strike out the whole item and deprive the soldiers of this home?

Mr. DYER. That is not the principle. The principle is this: As the thing is now run under the present law it is a waste of public money to keep up and maintain this home. The amount paid out for services, rent, and fuel and gas is not in any way commensurate with the entire service rendered. Hardly ever a man applies there who is a member of the Grand Army of the Republic.

Mr. WILLIS. They are Union soldiers.

Mr. DYER. But this bill says "members of the Grand Army of the Republic."

Mr. WILLIS. But the gentleman says that, as a matter of fact, Union soldiers, some who are members of the Grand Army of the Republic and some who are not, are cared for here. Why does he want to strike out this item and deprive them of this benefit?

Mr. DYER. Because I do not feel there is any perceptible need for a home for the ex-Union soldiers. If they are eligible to the Grand Army, they belong to the Grand Army, and they are taken care of not only by the Government in many ways, but there are splendid homes all over this country for them. And it is a waste, Mr. Chairman, of public money to maintain and keep this home there for the good that it renders. If it could include all the veteran or Spanish War soldiers who want to go there for a week at a time I would say it should be kept up.

Mr. JOHNSON of Kentucky. It is kept up now principally for the officers of the concern.

Mr. DYER. It is kept up for no adequate good as it now exists and as the law now provides.

Mr. MANN. Mr. Chairman, I have made some little investigation of this home at two or three different times, and in my judgment you could put up and quarter at the New Willard Hotel, in a parlor suite, or even at the New Shoreham, at still higher prices, every old soldier who has applied at this home and keep him there for about as long as they are required in this bill to be kept at this home, or longer.

Here is a place where I might go down town and rent a house and say to Congress, "I am keeping a house for the indigent," and live in it, perhaps very comfortably, and sometimes take somebody in and keep him for a few days. That is all that has been done at this place for several years. There are practically no Grand Army men who apply there, and they have no occasion to apply there.

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. MANN. I will yield to my colleague.

Mr. FOWLER. Does my colleague know about the average number of soldiers who do lodge there daily?

Mr. MANN. I do not now recall; but last year I had the figures complete, here in the House, as to the number of people entertained there during the entire year, and the number of days, including everybody, counting a day, and the number was not very large.

Mr. FOWLER. I will say to the gentleman that before this home was open to Spanish-American War soldiers there were more than 360 Spanish-American War soldiers lodged there during the year.

Mr. MANN. That would be less than one a day. As I say, you could put them in a parlor suite at the Shoreham Hotel at less expense.

Mr. FOWLER. I desire to say to my colleague that I have been there on two occasions, and I have found an average from 15 to 20 unfortunate soldiers quartered there on each of my visits.

Mr. MANN. They must have known that my colleague was coming there and gathered them in. [Laughter.]

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman moves to strike out the last word.

Mr. DYER. Mr. Chairman, if the gentleman will permit, I suggest that this amendment be considered as pending and taken up at the end of the bill, when the bill has been finished otherwise.

Mr. BURLESON. I agree to that, Mr. Chairman.

Mr. FOWLER. Mr. Chairman, I desire to be heard.

The CHAIRMAN. The Chair will state that the gentleman, having addressed himself to the amendment for five minutes, can not under a motion now to strike out the last word address himself to the same amendment for five minutes.

Mr. FOWLER. There is a motion pending to strike out a certain portion of the paragraph.

Mr. MANN. I submit that my colleague has not spoken on the motion, unless it was in my time.

The CHAIRMAN. The Chair misunderstood the situation, and stands corrected. The gentleman from Illinois [Mr. FOWLER] can proceed.

Mr. FOWLER. Mr. Chairman, I am somewhat surprised at the statement of my colleague from Illinois [Mr. MANN] that the number of soldiers who are quartered in this temporary home could be cared for at an expensive price at one of our best hotels in this city for the amount which this appropriation carries. Indeed, Mr. Chairman, the amount is only $4,000.

Mr. MANN. It is $5,920.

Mr. FOWLER. Well, that is not for subsistence.

Mr. MANN. But that is for this home.

Mr. FOWLER. I know personally, Mr. Chairman, that the superintendent of this institution gives all of his time to the gathering in of unfortunate soldiers who are lodged there. I know, also, that his good wife, without one cent of pay, either directly or indirectly, absolutely devotes her time, and all of her time, during the year for the purpose of taking care of those unfortunate soldiers who are lodged in that temporary home. If the gentleman contends that it is charity on the part of the United States to contribute one-half of this appropriation, then I say it is double charity on the part of the good wife of the superintendent of this home to devote all of her time to this work without pay and without price.

To my way of thinking it is horrible to strike out this appropriation. Old soldiers who come to this city for the purpose of securing information regarding their pensions or their applications for pensions often become stranded financially and must either go upon the charity of the city or upon the charity provided by this home. That being the case, Mr. Chairman, this country ought to rise to such dignity of respect for its soldiers as to prepare such an almshouse or place of refuge as is needed for their protection in their unfortunate condition.

Mr. Chairman, I have a heart that beats warmly for every man who has offered his services in the defense of my country, and I never will be the man who will vote against a liberal and charitable provision for the care of such honored men.

Neither will I ever vote against any proposition to care for them under such conditions as this home provides. Indeed, Mr. Chairman, it is a question which appeals to the patriotism of every Member of this House, and I believe that the patriotism of all Members of this House is as great as the patriotism of any other class of people in this country. Let our patriotism be measured now by our vote on this proposition.

The CHAIRMAN. The time of the gentleman has expired. The question is on agreeing to the amendment.

The question being taken, on a division (demanded by Mr. DYER) there were—ayes 9, noes 17.

Accordingly the amendment was rejected.

The Clerk read as follows:

The reimbursement required to be made to the United States by the District of Columbia under the provisions of the sundry civil appropriation act approved August 24, 1912, on account of deficiencies in payments for the care and maintenance of the insane of said District during the fiscal years 1881 to 1911, inclusive, is hereby fixed at $719,536.09.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order against the paragraph, because it is legislation.

Mr. BURLESON. I will state to the gentleman from Kentucky that the purpose of this item is simply to correct a clerical error. The members of the subcommittee of the Committee on Appropriations dealing with the sundry civil bill last year, in ascertaining this amount, fixed it at $769,536.09, which was $50,000 in excess of what it should be.

There is no dispute whatever about the facts; no dispute between the Federal Government and the District government. It is simply that a clerical error was made, and this is to correct it.

Mr. JOHNSON of Kentucky. I believe I can throw some light on this subject.

Mr. MANN. Did I not make a point of order on this paragraph last year?

Mr. BURLESON. I think not.

Mr. MANN. Well, I did. I have forgotten how it got back into the bill, whether it was by a rule reported from the Committee on Rules or in some other way.

Mr. BURLESON. The gentleman made a point of order against the item carried in the sundry civil bill, but we did not deal with this subject in this bill last year.

Mr. MANN. You carried it in the sundry civil bill?

Mr. BURLESON. Yes.

Mr. MANN. That is the same thing. You say a mistake was made.

Mr. BURLESON. It became law.

Mr. MANN. I understand that it was subsequently inserted, and I said then that the committee was not prepared to state what the amount was. Now, the gentleman comes and says that the committee were mistaken, although he said then that they knew.

Mr. BURLESON. No; the committee was not mistaken. The committee ascertained the amount definitely, and it was $719,000, but in inserting it into the bill a clerical error was made.

Mr. MANN. And yet when the point of order was made, the committee assured us that the amount in the bill was correct. It may have been correct. I do not know. There was a dispute at that time as to the correctness of the item.

Mr. BURLESON. I will say to the gentleman from Illinois and the gentleman from Kentucky that this is simply to do substantial justice to the treasury of the District of Columbia. There may have been a dispute a year ago, but there is no dispute now, between the District of Columbia authorities and the Federal Government on the proposition that this is the amount due, and in order to have the bill carry the actual amount rather than attempt to impose on the District the burden of paying $50,000 in excess of what it should pay this item is embodied in the bill.

Mr. MANN. The gentleman admits that there was a mistake made last year?

Mr. BURLESON. There was a clerical error.

Mr. MANN. Oh, well, "clerical error" is a very good way to put it on the clerk, when the clerk of the Committee on Appropriations is the only one connected with the committee who ever makes a mistake. [Applause.]

Mr. JOHNSON of Kentucky. Mr. Chairman, there is more in this item than has been indicated.

The CHAIRMAN. The Chair is ready to rule.

Mr. JOHNSON of Kentucky. I prefer to say just a word, because I do not know how the Chair is going to rule.

Mr. KENDALL. He has indicated pretty clearly.

Mr. JOHNSON of Kentucky. The amount was ascertained by the Appropriations Committee to be $769,000. Now they come and state that that is a mistake. I say that the amount is several hundred thousand dollars more than $769,000, and the last line or two of this paragraph undertakes to fix it so that hereafter the real amount can never be gotten at. Now, I agree with the gentleman that in so far as the amount was ascertained when the matter was up for discussion last year he is correct.

But let me call his attention to one error in the books at the asylum that will more than offset the item of $50,000. An examination of their books shows that the superintendent of that asylum dropped at one time the names of 25 District patients upon his books, notwithstanding the patients were in the asylum and remained there for nine years. During those nine years the District was not charged with the maintenance of those 25 patients. After a lapse of nine years they were picked up by the superintendent and put on a charge against the District of Columbia, and were carried until they died or were discharged.

That error made by the superintendent of the asylum more than offset the $50,000. The accountant who is looking into the affairs between the District of Columbia and the Federal Government has located that item, with others, which will carry this item far beyond the $796,000 originally found to be due, and, of course, more than the $719,000, the amount provided for in this bill. This paragraph, if it becomes a law, will exclude the Federal Government from collecting from the District of Columbia the amount which may finally be found to be due and proven to be due, and therefore I make the point of order.

The CHAIRMAN. The point of order must be sustained; and the Chair sustains the point of order.

The Clerk read as follows:

For pay of troops, other than Government employees, to be disbanded under the authority and direction of the commanding general, $24,000.

Mr. BURLESON. Mr. Chairman, I move to amend, on page 85, line 20, by striking out the word "disbanded" and inserting the word "disbursed." It is an evident misprint.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 85, line 20, strike out the word "disbanded" and insert the word "disbursed."

The amendment was agreed to.

The Clerk read as follows:

In connection with said reclamation and development of the Anacostia River and Flats from the Anacostia Bridge to the District line the Commissioners of the District of Columbia are authorized and directed to institute in the Supreme Court of the District of Columbia, under and in accordance with the provisions of subchapter 1 of chapter 15 of the Code of Law for the District of Columbia, a proceeding in rem to condemn and acquire for highway and park purposes the fee simple and absolute title to the land along the Anacostia River described as follows, namely: All that land lying on the right bank of the Anacostia River beginning at the easterly side of the Anacostia Bridge, and extending to the northeast boundary line between the District of Columbia and the State of Maryland, comprised between the high-water line of the Anacostia River as determined by the United States Coast and Geodetic Survey and a line following approximately the contour of 10 feet elevation above mean low water at the United States navy yard as determined by the United States Coast and Geodetic Survey, which said line is indicated in red on the plan filed in the office of the engineer commissioner of the District of Columbia, and approved by the Commissioners of the District of Columbia; and also the land on the left bank of said Anacostia River from the easterly side of the Anacostia Bridge to the northeast boundary line between the District of Columbia and the State of Maryland, comprising all that land between the high-water line of the Anacostia River as determined by the United States Coast and Geodetic Survey and a line following approximately the contour of 10 feet elevation above mean low water at the United States navy yard as determined by the United States Coast and Geodetic Survey, which said line is indicated in green on the plan hereinbefore referred to; and also all land below the high-water lines on each side of said Anacostia River between the Anacostia Bridge and the northeast boundary line between the District of Columbia and the State of Maryland that is not now owned by the United States.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph on the ground that it is legislation.

Mr. BURLESON. Will not the gentleman reserve it?

Mr. JOHNSON of Kentucky. I will.

Mr. BURLESON. The purpose of the item is to authorize the District authorities to condemn a strip of land lying along the edge of the property owned by the abutting property owners on the Anacostia River. Under the law if this property is reclaimed the ownership is vested in the property owners, but by condemning a small strip of land as Government property on the edge of the property owned by the abutting owners of what is reclaimed, the part reclaimed becomes the property of the General Government.

Mr. JOHNSON of Kentucky. Mr. Chairman, I believe I am thoroughly familiar with the proposition, and finally I shall insist on my point of order. I find in this bill two very remarkable expressions, more remarkable still if they were prepared by an engineer. I find a provision requiring the real estate "on the right bank of the river" and "on the left bank of the river" to be condemned. It depends upon which way a man is facing whether it is the right or the left bank; it depends upon whether the man is facing upstream or downstream. I believe the whole thing is unjust to the people who live in that section, and I make the point of order.

The CHAIRMAN (Mr. GARRETT). Does the point of order go to the whole paragraph?

Mr. JOHNSON of Kentucky. Yes.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

There is appropriated out of the revenues of the District of Columbia an amount sufficient to pay necessary costs and expenses of the

condemnation proceedings taken pursuant hereto, the costs and expenses of the necessary surveys and preparation of plans, and for the payment of amounts awarded as damages for and in respect of the land taken under said proceedings, the amount assessed as benefits, when collected, to be covered into the Treasury of the United States to the credit of the revenues of the District of Columbia.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph.

Mr. BURLESON. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

The entire amount found to be due and awarded by the jury under said proceedings as damages for and in respect of the land to be condemned for said highway and park purposes, as provided herein, plus the costs and expenses of the proceedings hereunder and the cost and expenses of the necessary surveys and preparation of plans, shall be assessed by the jury as benefits against those lots, pieces, or parcels of land situate, lying, or being within an assessment area bounded as follows: Beginning at the point where the high-water line of the Anacostia River intersects the northeast boundary line between the District of Columbia and the State of Maryland, and running northwest along said boundary line to a point where the southerly building line of Rhode Island Avenue extended as projected would intersect said boundary line; thence along said southerly building line of Rhode Island Avenue to the easterly building line of New Jersey Avenue; thence following the easterly building line of said New Jersey Avenue to the Anacostia River at a point where said easterly building line if projected would intersect the high-water line of said Anacostia River; thence following the high-water line of said Anacostia River in a northeasterly direction to the easterly side of the Anacostia Bridge; thence extending along the easterly side of said bridge to the easterly building line of Nichols Avenue; thence along said easterly building line of Nichols Avenue and the easterly building line of Glesboro Road to the point where said easterly building line of Glesboro Road intersects the southeast boundary line between the District of Columbia and the State of Maryland; thence along said southeast boundary line in a northeast direction to the northeast boundary line between the District of Columbia and the State of Maryland, and following said northeast boundary line to the point of beginning.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph.

Mr. BURLESON. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

Under and in accordance with the provisions of subchapter 1 of chapter 15 of the Code of Law for the District of Columbia, the Commissioners of the District of Columbia are authorized and directed to institute in the Supreme Court of the District of Columbia a proceeding in rem to condemn the land that may be necessary for highway and park purposes to preserve the Klingle Road Valley, comprising approximately 26½ acres, as shown on plans filed in the office of the Engineer Commissioner of the District of Columbia: *Provided*, That the tract of land hereinafter described, containing about 2 acres, shall be excepted from condemnation for such park, viz, a detached portion of said described park lying at the extreme eastern end thereof, east of the east line of a proposed street 90 feet wide, said described land being land now assessed in the name of Thomas Armat.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph.

Mr. BURLESON. Mr. Chairman, it is subject to a point of order.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

There is appropriated an amount sufficient to pay the necessary costs and expenses of said condemnation proceedings taken pursuant hereto and for the payment of amounts awarded as damages: *Provided*, That of the amount found to be due and awarded by the jury in said condemnation proceedings as damages for and in respect of the land to be taken in the condemnation proceedings herein authorized, plus the costs and expenses of the proceedings, not less than one-third shall be assessed by the jury as benefits against those lots, pieces, or parcels of land situated, lying, or being within an assessment area hereby created, which assessment area shall embrace all of the area lying within the distance of 1 mile from any point of said park: *Provided further*, That all land owned by the United States or the District of Columbia lying within said assessment area shall be exempt from assessment, which benefits, when collected, shall be covered into the Treasury of the United States to the credit of the revenues of the District of Columbia and the United States in equal parts.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph.

Mr. BURLESON. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

PINEY BRANCH VALLEY PARK.

For grading and improving a low, level road from Beach Drive, in Rock Creek Park, running along the Piney Branch Valley to Sixteenth Street and beyond Sixteenth Street so far as it may be necessary to return to the elevation of Sixteenth Street south of the bridge over Piney Branch with a suitable grade, $24,000.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order against the paragraph.

Mr. BURLESON. Mr. Chairman, I would like to know upon what grounds?

Mr. JOHNSON of Kentucky. Mr. Chairman, it is very clear:

For grading and improving a low, level road from Beach Drive, in Rock Creek Park, running along the Piney Branch Valley to Sixteenth Street—

There is no objection to it up to that point. To continue—

and beyond Sixteenth Street so far as it may be necessary to return to the elevation of Sixteenth Street south of the bridge over Piney Branch with a suitable grade, $24,000.

As a matter of fact, Mr. Chairman, on the west side of Sixteenth Street the property is publicly owned and is a part of Rock Creek Park. It is known as Piney Branch Valley. The Government owns that strip 600 feet wide running from the west part east until Sixteenth Street is intersected. There the ownership stops and east of Sixteenth Street is property privately owned, and if the present occupant of the chair will read he will see further along in the bill a provision to condemn that. Everything taken in connection with it thus clearly shows that the property east of Sixteenth Street must be condemned before this road can be built there.

Mr. BURLESON. There is nothing in the paragraph to indicate any such state of fact.

Mr. JOHNSON of Kentucky. Yes; it says beyond Sixteenth Street, and if this has been so drafted to deceive the House, then it becomes a worse proposition than it appears to be on its face. But if the Chair desires to ascertain from this bill whether or not the Government or the District, or the two combined, owns property east of Sixteenth Street, he can read a little further and he will see. I will say to the Chair that there has been a bill in various shapes before this House for several years to do this very thing, and every time that bill has been up it has been defeated. There is now pending a bill under the innocent guise of widening Sixteenth Street at Piney Branch, which would accomplish the purpose sought here. I make the assertion, and if the Chair will look further along in the bill he will see that I am right, that not one foot of ground at that point is publicly owned east of Sixteenth Street.

The CHAIRMAN. The present occupant of the chair is occupying it only temporarily, and he wishes to ask the gentleman from Kentucky if the ruling which he now insists upon is a ruling that has been made heretofore by the occupant of the chair?

Mr. JOHNSON of Kentucky. No ruling has been made. We are now reaching it for the first time.

The CHAIRMAN. Is it in line with the decisions that have been made heretofore?

Mr. JOHNSON of Kentucky. I do not think there has been anything like it up before, Mr. Chairman. The Chair can read a little bit further along himself and see the proposal to condemn this land east of Sixteenth Street, thereby setting clear the fact that it is not publicly owned and verifying just what I say about it. I will say that the engineer commissioner told me that that was to be acquired for the purpose of establishing a Rotten Row at that place. I do not know the fact, but he said that in London they have a place called Rotten Row—Rotten Row is what he said—where the rich go to exhibit their handsome equipages, and that this was desired for that purpose.

Now, I do not know whether that is true or not, but I do know that not one foot of ground at that place is owned publicly east of Sixteenth Street, and this has been purposely, I should say, worded so as to deceive.

Mr. FOSTER. Let me say to the gentleman from Kentucky that two or three years ago I remember very distinctly there was a proposition to buy the ground, just as the gentleman says, east of this bridge.

Mr. JOHNSON of Kentucky. Yes.

Mr. FOSTER. And build a beautiful winding road there.

Mr. JOHNSON of Kentucky. A figure-of-eight road.

Mr. FOSTER. Costing about $35,000; and there is no question but what the gentleman is correct about that statement.

Mr. JOHNSON of Kentucky. I know I am correct.

Mr. BURLESON. Mr. Chairman, I want to say for the committee that the statement that we purposely framed this item——

Mr. JOHNSON of Kentucky. Well, Mr. Chairman, I will explain I did not intend to reflect upon the committee. I believe that the committee did not prepare the draft of it.

Mr. BURLESON. This was estimated for in the language that is carried in the bill.

Mr. JOHNSON of Kentucky. Yes; and therefore being estimated for in the language we might infer from that that it was prepared by at least one of the commissioners.

Mr. BURLESON. And we naturally took the estimates, but I think it is due to the committee to say that the item is for grading and improving of a certain road in the District of

Columbia, and undoubtedly there is authority of law for grading and improving roads in the District of Columbia. It may be that all the gentleman says is true, but the information is not carried in the particular item against which his point of order is directed.

Mr. JOHNSON of Kentucky. And that has been done. Mr. Chairman, for the purpose of deceiving is my honest opinion about it; and if the Chair can advise himself of the fact that there is no ground publicly owned east of Sixteenth Street at Piney Branch, if he will but read the succeeding page where he will see the appropriation is made to condemn the ground upon which this original Rotten Row or figure-of-eight road is to be built——

The CHAIRMAN. The Chair would like to ask the gentleman from Kentucky. Is this new law?

Mr. JOHNSON of Kentucky. Why, certainly it is new law to build a road past Sixteenth Street where we have no right to build except under condemnation proceedings, as set out in the next paragraph.

The CHAIRMAN. It is a law for which there is no authority in a general act of Congress?

Mr. JOHNSON of Kentucky. Certainly there is no authority for it. The commissioners can not condemn except for alleys. They can not condemn streets; they can condemn alleys under the existing law, but they can not condemn streets or a park without a law to authorize it; and this comprises here, if they get it, forty-odd acres. If the Chair will just read ahead, the whole proposition will become as clear as the noonday sun.

Mr. BURLESON. There is an item following this for the purpose of condemning land adjacent to this road for a park; but surely no one will contend that the District Government is without authority under the law to improve a road within the District of Columbia, and upon its face that is all this particular item proposes to do.

The CHAIRMAN. The Chair overrules the point of order.

Mr. JOHNSON of Kentucky. Mr. Chairman, I appeal from the decision of the Chair.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken, and the Chairman announced the noes seemed to have it.

Mr. BURLESON. Division, Mr. Chairman.

Mr. JOHNSON of Kentucky. Mr. Chairman, I withdraw the appeal.

The CHAIRMAN. The appeal is withdrawn.

The Clerk read as follows:

Under and in accordance with the provisions of subchapter 1 of chapter 15 of the Code of Law for the District of Columbia, the Commissioners of the District of Columbia are hereby authorized and directed to institute in the Supreme Court of the District of Columbia a proceeding in rem to condemn the land along and adjacent to the Piney Branch Valley and between Sixteenth Street and Fourteenth Street NW., and the land adjacent to the Municipal Hospital grounds between Fourteenth Street and Georgia Avenue NW., for park purposes, comprising in all approximately 42 acres of land, as shown on plans filed in the office of the Engineer Commissioner of the District of Columbia.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order that that is legislation.

Mr. BURLESON. I concede it.

The CHAIRMAN (Mr. BOOHER). The point of order is sustained.

The Clerk read as follows:

There is appropriated an amount sufficient to pay the necessary costs and expenses of said condemnation proceedings taken pursuant hereto and for the payment of the amounts awarded as damages: *Provided*, That of the amount found to be due and awarded by the jury in said proceedings as damages for and in respect of the land to be taken in the condemnation proceedings herein authorized, plus the costs and expenses of the proceedings, not less than one-third shall be assessed by the jury as benefits against those lots, pieces, or parcels of land situate, lying, or being within an assessment area hereby created, which assessment area shall embrace all of the area lying within the distance of 1 mile from any point of said park: *Provided further*, That all land owned by the United States or the District of Columbia lying within said assessment area shall be exempt from assessment, which benefits, when collected, shall be covered into the Treasury of the United States to the credit of the revenues of the District of Columbia and the United States in equal parts: *Provided further*, That the Commissioners of the District of Columbia are authorized to abandon for highway purposes any existing streets or parts of streets within the territory before described except Fourteenth Street: *Provided further*, That the Commissioners of the District of Columbia are authorized to prepare a new highway plan for that portion of the District of Columbia lying west of Fourteenth Street, south of Taylor Street, east of Rock Creek Park, and north of Newton Street NW., under the provisions contained in the act of Congress approved March 2, 1893, entitled "An act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities," and an amendment to said act approved June 28, 1898: *Provided*, That section 4 of said amendment shall not apply to the territory above described: *Provided further*, That under this authority Mount Pleasant Street may be extended with a minimum width of 45 feet; that Perry Place may be extended with a minimum width of 50 feet; and that Fourteenth Street Road may be established with a minimum width of 50 feet; that upon the completion and recording of said new highway plan it shall take the place of and stand for any previous plan for said portion of said District of Columbia.

Mr. BURLESON. That is all a part of the same item. It can all go out down to the top of page 94. It is all subject to a point of order, provided the gentleman from Kentucky [Mr. JOHNSON] makes it.

Mr. JOHNSON of Kentucky. I make the point of order.

Mr. BURLESON. I concede that it is subject to a point of order.

The Clerk read as follows:

SMALL PARKS.

For the condemnation of small park areas at the intersections of streets outside the limits of the original city of Washington, to be acquired from such areas shown on the map on file in the office of the Engineer Commissioner, in the discretion of the Commissioners of the District of Columbia, $15,000: *Provided*, That such condemnation shall be under and in accordance with the provisions of subchapter 1 of chapter 15 of the Code of Law for the District of Columbia: *Provided further*, That of the amount found to be due and awarded by the jury in any such proceeding as damages for and in respect of the land to be condemned for said parks, plus the costs and expenses of the proceeding thereunder, not less than one-half thereof shall be assessed by the jury as benefits, which, when collected, shall be covered into the Treasury of the United States, one-half to the credit of the United States and one-half to the credit of the District of Columbia. The public parks so acquired shall become a part of the park system of the District of Columbia and be under the control of the Chief of Engineers of the United States Army.

Mr. JOHNSON of Kentucky. I make a point of order against the paragraph. It is new legislation.

Mr. BURLESON. Will the gentleman reserve it for an explanation?

Mr. JOHNSON of Kentucky. Yes.

Mr. BURLESON. Under the original plan for the laying out and the building of Washington, certain triangles, circles, and other small plats of land of various geometrical shapes and sizes were set apart as public parks. There were 225 of these within the limits of the old municipality, with which the gentleman is thoroughly familiar. When the suburban district was laid out, following the same general plan, these little triangles, of course, were continued as private property and frequently they are seized upon by persons for the purpose of extorting money from those who owned the adjacent property. There is one case where a splendid church was erected.

Immediately in front was a small triangle. Under the law a certain part of this triangle was set apart as public parking, and there remained only 9 square feet in the center which could be improved. The person owning that triangle, or those 9 square feet, proposed to erect thereupon a superstructure that, of course, would disfigure very much the triangle and would be a great embarrassment to the splendid church edifice which was immediately across the street. He forced the people belonging to that church to pay an exorbitant sum for this little triangle, although it could be of no practical benefit to them. They were willing to pay this unreasonable sum in order that this structure might not be erected in front of their church.

Now, the purpose of this item is to give the District officials authority of law for condemning these small triangles and circles of the character I have indicated, and we are appropriating only $15,000. I think if the gentleman from Kentucky [Mr. JOHNSON] was thoroughly familiar with the situation he would not make this point of order.

Mr. BORLAND. Mr. Chairman, if the gentleman from Kentucky [Mr. JOHNSON] will withhold his point of order long enough for me to make a brief statement about the matter, I wish to say a few words concerning it. The amount appropriated here for these small parks is only $15,000.

Mr. JOHNSON of Kentucky. I withdraw the point of order.

Mr. BORLAND. Mr. Chairman, then I offer an amendment to the paragraph. On line 16 strike out the word "one-half" following the words "United States."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 94, line 16, strike out the word "one-half."

Mr. BORLAND. And then, Mr. Chairman, on lines 17 and 18, strike out the words "and one-half to the credit of the District of Columbia."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On lines 17 and 18 strike out the words "and one-half to the credit of the District of Columbia."

Mr. BORLAND. So that the sentence shall read:

Not less than one-half thereof shall be assessed by the jury as benefits, which, when collected, shall be covered into the Treasury of the United States to the credit of the United States.

Now, there is only $15,000 involved in this transaction, but, as the chairman of the subcommittee has explained, it is a

favorable opportunity to acquire small parks for light and air space in the outlying sections of the city. These sections are entitled to that advantage if they want it. I have always believed as to the system of private parks that we are constructing for the people of the District of Columbia that they ought to pay for the benefits like people of other cities. These are not public grounds of the United States, but they are for people in the neighborhood in which they happen to lie. And if they are wisely chosen, they ought to be an addition to the surrounding property. The cost ought to be absorbed in the increased value for residential purposes of the surrounding property. In that case the amount ought to be charged against the abutting property as benefits. It ought to be collected therefor. When it is returned to the Treasury of the United States it ought not to be one-half to the credit of the District of Columbia. All we have appropriated should be to the credit of the United States, although the fact is that one-half of it is expended out of the revenues of the District of Columbia.

That will make the District of Columbia itself as a whole pay for one-half of the cost of acquiring these parks, and the jury will have the right to assess the other one-half against the resident property owners of the District, and the result will be that none of the cost of these small parks will be assessed against the United States Treasury in the long run. The only result will be that the United States Treasury will temporarily advance the money while the work is in progress.

Mr. BURLESON. If the Federal Government advances half and the District advances half, then, when the benefits are finally assessed, does the gentleman believe that all should be paid back to the United States and none to the District of Columbia?

Mr. BORLAND. Yes.

Mr. BURLESON. Then the Federal Government would be getting one-half more than it has ever had heretofore.

Mr. BORLAND. The jury have the right to assess not more than one-half of the $15,000.

Mr. BURLESON. I think the gentleman is wholly in error about that.

Mr. BORLAND. No. The Federal Government is contributing $7,500, and the jury has the right to assess $7,500 on the property owners. That is the Government's half. That comes back, and that is all that does come back. It is the Government's half. The Government ought not to make anything on that proposition, but it ought to get back its half.

Mr. BURLESON. I think it would not be fair to require the District to pay one-half of this amount and then, when the benefits are assessed, receive no part of these benefits. For that reason I shall ask that the gentleman's amendment be voted down.

Mr. BORLAND. Does the gentleman understand that the Government is not going to make anything on this transaction?

Mr. BURLESON. No; and the District government is not going to make anything.

Mr. BORLAND. The District government pays one-half and the property owners pay one-half.

Mr. BURLESON. I hope the amendment will be voted down.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Missouri [Mr. BORLAND].

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. BORLAND. A division, Mr. Chairman.

The committee divided; and there were—ayes 6, noes 25.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Q STREET BRIDGE PARKWAY.

Under and in accordance with the provisions of subchapter 1 of chapter 15 of the Code of Law for the District of Columbia, the Commissioners of the District of Columbia are authorized and directed to institute in the Supreme Court of the District of Columbia a proceeding in rem to condemn the land that may be necessary to provide a parkway at the intersection of Twenty-sixth Street, Twenty-seventh Street, and Q Street NW., and a connecting highway from said parkway along the boundary of the Oak Hill Cemetery, across the north part of square 1284, to Twenty-ninth and R Streets, in the District of Columbia, as shown approximately on plan filed in the office of the Engineer Commissioner of the District of Columbia.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order against the paragraph.

Mr. BURLESON. I concede that it is subject to a point of order.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

There is appropriated an amount sufficient to pay the necessary costs and expenses of said condemnation proceedings taken pursuant hereto and for the payment of amounts awarded as damages: *Provided*, That of the amount found to be due and awarded by the jury in said condemnation proceedings as damages for and in respect of the land to be taken in said condemnation proceedings herein authorized, plus the costs and expenses of the proceedings, not less than one-half thereof shall be assessed by the jury as benefits against those lots, pieces, or parcels of land situate, lying, or being within an assessment area hereby created, which assessment area shall embrace all of the area lying within the distance of 1 mile from any point of said parkway and connecting highway: *Provided further*, That all land owned by the United States or the District of Columbia lying within said assessment area shall be exempt from assessment; which benefits, when collected, shall be covered into the Treasury of the United States to the credit of the revenues of the District of Columbia and the United States in equal parts.

Mr. BURLESON. Mr. Chairman, it is all subject to a point of order down to the water department.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order on everything that is in the bill down to the water department.

Mr. BURLESON. I concede the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. BURLESON. Now, Mr. Chairman, I move that the committee rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. BOOHER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28499) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 12813. An act to refund duties collected on lace-making and other machines and parts or accessories thereof imported subsequently to August 5, 1909, and prior to January 1, 1911.

SENATE BILLS AND RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bills and resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 118. An act granting an increase of pension to Harriet Pierson Porter; to the Committee on Invalid Pensions.

S. 1899. An act to repeal a portion of an act heretofore passed relating to the alienation of the title of the United States to land in the District of Columbia; to the Committee on the District of Columbia.

S. 4549. An act to place the name of Herman C. Fink upon the retired list created by an act approved March 2, 1907; to the Committee on Military Affairs.

S. 5169. An act authorizing the Ponca Tribe of Indians to intervene in the suit of the Omaha Indians in the Court of Claims, and for other purposes; to the Committee on Indian Affairs.

S. 6507. An act further to assure title to lands granted the several States, in place, in aid of public schools; to the Committee on the Public Lands.

S. 7488. An act for the relief of George L. Thomas; to the Committee on Claims.

S. 7622. An act for the relief of Stanley Mitchell; to the Committee on Naval Affairs.

S. 7772. An act to authorize the condemnation of land for a park at the intersection of Twenty-sixth Street, Twenty-seventh Street, and Q Street NW., and a highway from said park along the boundary of Oak Hill Cemetery and across the north part of square 1284 to Twenty-ninth and R Streets; to the Committee on the District of Columbia.

S. 7875. An act to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal.; to the Committee on the Public Lands.

S. 8058. An act providing for an increase of salary of the United States attorney for the district of Connecticut; to the Committee on the Judiciary.

S. 8272. An act regulating the constitution, composition, and jurisdiction of courts-martial in the Armies of the United States, and for other purposes; to the Committee on Military Affairs.

S. 8274. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain widows and dependent relatives of such soldiers and sailors; to the Committee on Invalid Pensions.

S. 8275. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; to the Committee on Pensions.

S. 8314. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain

widows and dependent relatives of such soldiers and sailors; to the Committee on Invalid Pensions.

Senate concurrent resolution 38.

Resolved by the Senate (the House of Representatives concurring), That there be printed 4,000 copies of the laws of the United States applicable to the Territory of Alaska, compiled by the Committee on Territories of the Senate and the Committee on Territories of the House of Representatives in compliance with public act No. 334, 1,500 copies of which shall be for the use of the Senate and 2,500 copies for the use of the House of Representatives—

to the Committee on Printing.

ADJOURNMENT.

Mr. BURLESON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 7 minutes p. m.) the House adjourned until to-morrow, Wednesday, February 5, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Acting Secretary of Commerce and Labor, transmitting list of useless papers on file in said department and recommending that they be destroyed (H. Doc. No. 1337); to the Committee on Disposition of Useless Executive Papers and ordered to be printed.

2. A letter from the Secretary of Commerce and Labor, transmitting, for the consideration of the House of Representatives, draft of a bill to authorize the Secretary of Commerce and Labor to sell such technical, scientific, statistical, and other publications issued by the department as he may deem best for the public interest (H. Doc. No. 1338); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on examination and survey of Fancy Bluff Creek, connecting Turtle River and Brunswick Harbor with Little Satilla River, Ga. (H. Doc. No. 1342); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

4. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on examination and survey of Raritan River, N. J., including a widening of the channel from the mill on Martins Creek to Martin's Dock on the north side (H. Doc. No. 1341); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. WEBB, from the Committee on the Judiciary, to which was referred the bill (H. R. 25781) to amend section 77 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, reported the same with amendment, accompanied by a report (No. 1436), which said bill and report were referred to the House Calendar.

Mr. EVANS, from the Committee on Military Affairs, to which was referred the bill (H. R. 28280) to authorize the use as a site for the United States immigration station and grounds at the port of Baltimore of a piece of land acquired by the United States about the year 1836 as part of an addition to Fort McHenry, in the State of Maryland, and which is now under the control of the War Department, and authorizing the Secretary of the Treasury to acquire an outlet therefrom to the city streets and to contract and arrange for necessary railroad facilities, reported the same without amendment, accompanied by a report (No. 1438), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DAVIS of West Virginia, from the Committee on the Judiciary, to which was referred the bill (S. 5382) to provide an exclusive remedy and compensation for accidental injuries, resulting in disability or death, to employees of common carriers by railroad engaged in interstate or foreign commerce, or in the District of Columbia, and for other purposes, reported the same with amendment, accompanied by a report (No. 1441), together with the minority views, which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. SMITH of Texas, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 29098) to authorize the construction of a bridge across the Sabine River at Orange, Tex., reported the same with amendment, accompanied by a report (No. 1439), which said bill and report were referred to the House Calendar.

Mr. GOEKE, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27837) to authorize the Buckhannon & Northern Railroad Co. to construct and operate a bridge across the Monongahela River in the State of West Virginia, reported the same with amendment, accompanied by a report (No. 1440), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. McKELLAR, from the Committee on Military Affairs, to which was referred the bill (S. 6877) to reinstate Robert N. Campbell as a first lieutenant in the Coast Artillery Corps, United States Army, reported the same with amendment, accompanied by a report (No. 1435), which said bill and report were referred to the Private Calendar.

Mr. ANTHONY, from the Committee on Military Affairs, to which was referred the bill (H. R. 2839) for the relief of William Hommelsberg, reported the same without amendment, accompanied by a report (No. 1437), together with the minority views, which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CLAYTON: A bill (H. R. 28614) giving powers to national banks in addition to the powers contained in section 5136 of the Revised Statutes; to the Committee on Banking and Currency.

By Mr. PUJO: A bill (H. R. 28615) to establish a fish-cultural station in the State of Louisiana; to the Committee on the Merchant Marine and Fisheries.

By Mr. GRIEST: A bill (H. R. 28616) to authorize the use of ordinary postage stamps on parcel-post packages; to the Committee on the Post Office and Post Roads.

By Mr. AUSTIN: A bill (H. R. 28617) to amend section 9 of the act entitled "An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," approved March 1, 1911; to the Committee on Agriculture.

By Mr. WATKINS: A bill (H. R. 28632) to authorize the construction of a bridge across Twelve Mile Bayou, in Caddo Parish, La.; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 28633) to amend the act approved January 27, 1912, entitled "An act to authorize the construction of a bridge across Caddo Lake, in Louisiana"; to the Committee on Interstate and Foreign Commerce.

By Mr. BROWN: Joint resolution (H. J. Res. 392) directing the Interstate Commerce Commission to investigate and report on the use of the Jennings combination railroad tie upon railroads engaged in interstate commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. AKIN of New York: Resolution (H. Res. 810) seeking report from Commissioners of the District of Columbia on telephone wires occupying public space; to the Committee on the District of Columbia.

By Mr. FERRIS: A memorial from the Legislature of Oklahoma, asking Congress to take action on the Oklahoma lease district claim in favor of the Choctaw and Chickasaw Tribes in Oklahoma; to the Committee on Indian Affairs.

Also, a memorial from the Legislature of Oklahoma, memorializing Congress to provide an amendment to the Federal Constitution providing for the election of Federal judges by popular vote; to the Committee on the Judiciary.

Also, a memorial from the Legislature of Oklahoma, protesting against the passage of the Aldrich central bank currency scheme; to the Committee on Banking and Currency.

By Mr. KINKAID of Nebraska: A memorial from the Legislature of Nebraska, favoring the enactment of a law placing on a pensionable status Nebraska Territorial Militia who served four months subduing hostile Indians, between 1862 and 1864; to the Committee on Invalid Pensions.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BATES: A bill (H. R. 28618) for the better payment of pensioners; to the Committee on Invalid Pensions.

By Mr. BATHRICK: A bill (H. R. 28619) granting a pension to Louisa L. Benedict; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28620) granting an increase of pension to George R. Huntley; to the Committee on Invalid Pensions.

By Mr. BUCHANAN: A bill (H. R. 28621) granting a pension to Felix Streyckmans; to the Committee on Invalid Pensions.

By Mr. FERRIS: A bill (H. R. 28622) granting an increase of pension to Mary Stice; to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 28623) granting a pension to Joseph McWilliams; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 28624) granting an increase of pension to George C. Stevens; to the Committee on Invalid Pensions.

By Mr. SLOAN: A bill (H. R. 28625) granting a pension to Thomas M. Carew Birmingham; to the Committee on Pensions.

By Mr. STEDMAN: A bill (H. R. 28626) to appoint Frederick H. Lemly a passed assistant paymaster on the active list of the United States Navy; to the Committee on Naval Affairs.

By Mr. AINEY: A bill (H. R. 28627) granting a pension to William H. Plunkett; to the Committee on Invalid Pensions.

By Mr. POWERS: A bill (H. R. 28628) for the relief of the heirs of Lidda Goff, deceased; to the Committee on War Claims.

Also, a bill (H. R. 28629) for the relief of the heirs of John Asher, deceased; to the Committee on War Claims.

By Mr. STERLING: A bill (H. R. 28630) granting an increase of pension to Francis M. Anderson; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 28631) granting a pension to Zachariah W. May; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 28634) for the relief of H. Clay McKee; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of the National Citizens' League of Columbus, Ohio, asking for a reform in the Federal banking laws; to the Committee on Banking and Currency.

By Mr. BATHRICK: Petition of Drs. Swan and Hertzog, of Chardon, Ohio; A. H. Symonds, of Conneaut, Ohio; G. C. Bushnell, Burghill, Ohio; and T. P. McCoy, Lockwood, Ohio, growers of ginseng, favoring an appropriation to sustain the further investigation of the diseases that are injuring that valuable plant; to the Committee on Agriculture.

By Mr. CARY: Petition of the Milwaukee Drug Co., opposing reduction of tariff duty on medicinals and fine chemicals; to the Committee on Ways and Means.

Also, resolutions of the California Club, of California, favoring the appropriation of $200,000 for use of the Attorney General in prosecuting violations of the white-slave law; to the Committee on Appropriations.

By Mr. DENVER: Letter from P. H. Flynn, Xenia, Ohio, setting forth facts for consideration in connection with the Oldfield bill; to the Committee on Patents.

By Mr. DYER: Petition of Leonard R. Woods, St. Louis, favoring the passage of the Prouty red-light bill for the District of Columbia; to the Committee on the District of Columbia.

By Mr. FITZGERALD: Resolutions of the Chamber of Commerce of Poughkeepsie, N. Y., favoring the movement to secure a Federal charter and incorporation for the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, resolutions of the Richmond Chamber of Commerce, relative to currency and banking reform; to the Committee on Banking and Currency.

Also, resolution of the Association of Eastern Foresters, of Trenton, N. J., protesting against any movement to transfer the national forests; to the Committee on the Public Lands.

Also, resolutions of the National Association of Shellfish Commissioners of Boston, Mass., urging an appropriation requisite for carrying on investigations and experiments urgently needed for the development of the shell fisheries; to the Committee on Appropriations.

Also, resolutions of the New York State Fruit Growers' Association indorsing Nelson bill (S. 7208); to the Committee on Interstate and Foreign Commerce.

Also, resolutions of the New York State legislative board, Brotherhood of Locomotive Engineers, favoring Federal workingmen's compensation bill; to the Committee on the Judiciary.

Also, resolutions of the Chamber of Commerce of the United States of America, indorsing the Page bill (S. 3) and urging its enactment; to the Committee on Agriculture.

Also, resolution of the Conservation Commission of New York, regarding Federal cooperation in forest-fire protection; to the Committee on Agriculture.

Also, resolutions of the Aero Club of Washington, urging that a national aeronautical laboratory, commensurate with the best in Europe, be established in Washington in charge of a permanent Government board, which shall supervise its work of developing the science of air craft and making instrumental tests thereof and other kindred investigations to subserve the needs of the Army, the Navy, and the United States; to the Committee on Naval Affairs.

Also, resolution of a number of citizens of Brooklyn, recommending the adoption of a continuing and consistent program of naval construction, to be determined by a council of national defense duly authorized by Congress; to the Committee on Naval Affairs.

By Mr. FULLER: Petition of Samuel Gompers, president of the American Federation of Labor, favoring the workman's compensation act; to the Committee on Labor.

Also, petition of the Nature Study Association, of Rockford, Ill., favoring the Weeks bill for the protection of migratory birds; to the Committee on Agriculture.

By Mr. GARNER: Petition of Clark Pease and other citizens of Corpus Christi, Tex., for the parole of Federal life prisoners as provided for in House bill 14925; to the Committee on the Judiciary.

By Mr. GRIEST: Petition of the members of the Columbia (Pa.) Ministerial Association, urging the enactment of the so-called Sheppard-Kenyon interstate-commerce liquor bill; to the Committee on the Judiciary.

By Mr. KAHN: Petition of the San Francisco Chamber of Commerce, indorsing exemption of American coastwise shipping from Panama Canal tolls; to the Committee on Interstate and Foreign Commerce.

By Mr. KNOWLAND: Resolution adopted by the San Francisco Labor Council, urging the national administration to recognize the Republic of China; to the Committee on Foreign Affairs.

Also, resolution passed by the San Francisco Chamber of Commerce, California, upholding the position taken by the Hon. Philander C. Knox, Secretary of State, in his reply to the protest of Great Britain against the exemption of American coastwise shipping from Panama Canal tolls; to the Committee on Interstate and Foreign Commerce.

By Mr. LA FOLLETTE: Resolutions of the Methow Valley District, Pomona No. 30, Patrons of Husbandry, indorsing vocational education and urging a national market bureau; to the Committee on Agriculture.

By Mr. LINDSAY: Petition of the American Federation of Labor and the Brotherhood of Locomotive Engineers, favoring employer's liability and workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of T. L. Kennedy, of Harvard University, favoring Page educational bill; to the Committee on Agriculture.

Also, petition of John Bodwell, Paxton, Ill., favoring House bill 1339, relative to maimed soldiers' pensions; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: Petition of the Association of Eastern Foresters, Trenton, N. J., opposing the transfer of the national forests to the several States; to the Committee on Agriculture.

Also, petition of the German-American Peace Society, New York, opposing the enactment of the militia pay bill (H. R. 8141) as tending toward militarism and a menace to liberty and peace; to the Committee on Military Affairs.

Also, petition of the New York State legislative board, Brotherhood of Locomotive Engineers, favoring the Federal workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of the Page agricultural and industrial education bill; to the Committee on Agriculture.

Also, resolutions of the Conservation Commission, Albert E. Hoyt, secretary, favoring the appropriation of a sufficient sum to be expended under the Weeks law for the protection of the headwaters of navigable streams; to the Committee on Appropriations.

Also, resolutions of Shellfish Commissioners, Boston, Mass., May 17, 1912, favoring appropriations to enable the Bureau of Fisheries to promote the shellfish industry; to the Committee on the Merchant Marine and Fisheries.

By Mr. POWERS: Affidavit of Letcher Sizemore, in support of the heirs of John Asher, deceased; to the Committee on War Claims.

Also, affidavit of T. C. Goff, to be filed with the Committee on War Claims in support of the bill just being introduced for the relief of the heirs of Lidda Goff, deceased; to the Committee on War Claims.

By Mr. PUJO: Papers to accompany bill (H. R. 28615) to establish a fish-cultural station in the State of Louisiana; to the Committee on the Merchant Marine and Fisheries.

By Mr. RAKER: Petition of the San Francisco Labor Council, favoring the recognition of China as a Republic; to the Committee on Foreign Affairs.

Also, letter from the California Retail Grocers and Merchants' Association, of San Francisco, Cal., opposing the Oldfield bill; to the Committee on Patents.

Also, telegram from the California State Audubon Society, Los Angeles, Cal., favoring the Weeks-McLean bill, giving Federal protection to migratory birds; to the Committee on Agriculture.

Also, letter from L. M. Davenport & Co., Los Angeles, Cal., and letter from the Klauber-Wangenheim Co., of San Diego, Cal., favoring the Weeks 1-cent postage bill; to the Committee on the Post Office and Post Roads.

By Mr. SCULLY: Petition of the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of the Page agricultural and industrial education bill (S. 3); to the Committee on Agriculture.

By Mr. STEPHENS of Texas: Petition of citizens of Hall County, Tex., in behalf of legislation for eradication of the Russian thistle in Texas; to the Committee on Agriculture.

By Mr. TOWNSEND: Petition of the New Jersey Historical Society, to secure suitable housing for the national archives; to the Committee on the Library.

By Mr. WILDER: Petition of Eliot School, Natick, Mass., in favor of law for protection of migratory birds; to the Committee on Agriculture.

Also, petition of Massachusetts citizens, favoring bills for the protection of migratory birds; to the Committee on Agriculture.

SENATE.

WEDNESDAY, *February 5, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

Mr. CHILTON. Mr. President, I rise to a question of personal privilege.

Mr. LA FOLLETTE. If the Senator from West Virginia will yield, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	La Follette	Sheppard
Bacon	Cullom	Lodge	Smith, Ariz.
Bankhead	Cummins	McCumber	Smith, Mich.
Borah	Curtis	Martin, Va.	Smoot
Bourne	Dillingham	Martine, N. J.	Stephenson
Brandegee	Fletcher	Nelson	Swanson
Brown	Gallinger	O'Gorman	Thomas
Bryan	Gronna	Oliver	Thornton
Burnham	Guggenheim	Overman	Tillman
Burton	Hitchcock	Page	Townsend
Catron	Johnson, Me.	Paynter	Webb
Chilton	Johnston, Ala.	Perkins	Wetmore
Clapp	Jones	Perky	Works
Clarke, Ark.	Kavanaugh	Poindexter	
Crane	Kenyon	Pomerene	

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. FOSTER] on account of illness in his family, and that he is paired with the junior Senator from Wyoming [Mr. WARREN]. I ask that this announcement may stand for the day.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 58 Senators have responded to their names. A quorum of the Senate is present. The Senator from West Virginia will proceed.

SENATORS FROM WEST VIRGINIA.

Mr. CHILTON. Mr. President, at the last session of Congress and on the last day of that session a certain memorial, signed by five citizens of West Virginia, one of whom is the governor of the State, was presented to the Senate. It had been understood that that session of Congress would adjourn on Saturday, the 24th of August, 1912. With that understanding, on account of illness, I obtained leave of the Senate for an absence for the rest of the session. For some reason the Senate did not adjourn on Saturday, but remained in session until Monday following, the 26th, and on that day of the session that memorial was filed. I deeply regret that two of the gentlemen who signed that memorial have since died.

Had I been present, Mr. President, or had my colleague [Mr. WATSON], who was away with a similar understanding as myself, been present, we would have asked then and there that the Senate take some kind of action which would do justice to that situation and relieve us of the suspicion which such a memorial brings upon any man against whom it may be lodged.

But we were not present, and I can never forget the kindly words then spoken and the dignified consideration with which the Senate received that paper. So far as we personally may be concerned, that sense of justice and propriety, always to be relied upon in the Senate, took care of the situation presented on August 26, 1912, probably much better than the Senators from West Virginia could have done if then present; and yet I shall always regret that we were not present and shall always feel that fate then tempted our enemies with a rare opportunity to strike under the belt. The men who signed it were all members of parties other than the one to which the two Senators from West Virginia belong. That fact may have influenced them or it may not; but it has little or no effect in this body, and I shall treat the subject as if their motives were lofty and as if the campaign then pressing did not guide the pen which wrote their names to the paper.

Afterwards, however, we went through a campaign in West Virginia in which those charges were more or less adverted to. While I do not want to go into the details, I wish to say to the Senate that it had no effect, so far as Senator WATSON was concerned, upon that result. His home county gave him a record-breaking majority, his congressional district gave his party a majority, and his senatorial district, for the first time in many years, went Democratic.

On account of illness in my family, and on account of the necessary and unavoidable absence of Senator WATSON during a great part of the present session, it has been impossible for me to give consideration to this matter, and indeed I supposed that the committee of the Senate having it in charge, which I believe to be fair, whose judgments I believe are never dictated from political considerations, would do whatever might be just and proper, and having had no opportunity to meet the thrust when it was delivered, I have allowed the days to pass in the knowledge that we were innocent and that no investigation could harm us. Having no fears, and the campaign being over, we felt no need of a grand-stand play and abided the result of the committee's work.

But recently I had information that the man who had made a statement against Senator WATSON and myself, or was said to have made a statement against us, had retracted that statement publicly, and privately as well. But I had no definite knowledge thereof, nor did Senator WATSON, till within the last few days.

I wish the Senate to know that not a human being who ever lived ever questioned upon his own responsibility my right or the right of my colleague to a seat in this body. No one ever did it in the Senate or in the House of West Virginia; no one has ever done it in the public press; no one has ever done it in any paper filed here; and no one has ever done it upon the floor of this Senate. Beyond what Shock may have said, this memorial is rumor and newspaper gossip, to which any public official may at any time become the victim.

This man Shock, about whose supposed statement all of this trouble has arisen, never voted for Senator WATSON and he never voted for me. He never made a statement to the West Virginia Legislature; he never signed a statement to the West Virginia Legislature. A statement alleged to have been written or rather to have been dictated by him was read, and, as is explained in a paper which I am going to ask to have read in a moment, all the circumstances surrounding that were known to the Legislature of West Virginia, which elected us to the Senate.

My colleague within the last four or five days received a letter from Mr. Shock, which I now present to the Senate, saying that the statement referred to in the memorial was based upon no fact that involved the Senators from West Virginia or their friends; that nobody ever tried to influence his vote for them; that he alone conceived the scheme in order to defeat us before the Democratic caucus. In other words, he has very recently confessed his error, and I am glad to say that he never either signed or swore to the statement in the memorial.

I wish to lay that statement before the Senate with a statement from Senator WATSON and myself. We have prepared it as an answer to the memorial. I ask that it be referred to the Committee on Privileges and Elections, and if that committee or any Senator here or the Senate wants an investigation it will meet with my unqualified approval, and with the approval of Senator WATSON. True his term will expire in a few days. It seems practically impossible to enter upon an investigation at this session or while he may be a Member of this body. At the next session the committees will be reorganized. But these considerations only make it the more important that the Senate and the country shall know that the whole foundation of the Shock incident has crumbled away; that we have never retarded the orderly investigation of this subject, and that the committee has reached the case in due course and is dealing with the matter justly and fairly. We think that our side should go to the committee through the Senate and in the same public way that the memorial went.

I wish to say to the Senate that my election is as clear, that there is as little blot upon it within my knowledge, as the election of any Senator now before me or who ever was elected to this body. My colleague makes the same claim, and I firmly believe that he was honestly nominated and elected. I do know that he is an honest man and a valued, respected citizen of West Virginia, without a blot upon his private or public life. If there is anything wrong connected with my nomination or that of Senator WATSON, or with our election, we know nothing about it. It is most gratifying to us that not a single human being who ever voted for us in the caucus of our party, now attacked, has ever had the integrity of that vote questioned in this or in any other presence.

Mr. President, whatever the Senate may do, it will meet with the approval of the Senators from West Virginia. They crave the fullest investigation. There is not one word of truth, to my knowledge, in any charge that has ever been made, or any alleged charge, or in any newspaper article that has ever attacked their election.

I now send to the desk and ask to have this statement of Senator WATSON and myself read and referred to the Committee of Privileges and Elections, and whatever that committee or the Senate may do to that I bow without question.

The PRESIDENT pro tempore. The paper will be read without objection.

The Secretary read as follows:

To the Senate of the United States:

For the information of your honorable body we desire to reply to a certain memorial now before your committee, signed by William E. Glasscock, William Seymour Edwards, H. C. Ogden, David B. Smith, and Frederick A. MacDonald, and in order to be as brief and as clear as possible we will answer according to the order in which the said memorial sets out the several matters.

The first allegation is the statement made by the Hon. Nelson C. Hubbard, a member of the West Virginia House of Delegates, to the joint session of the legislature before a ballot for United States Senator was taken, in which he gave his reason for refusing to vote for the nominees of the Democratic caucus.

An attentive reading of what Mr. Hubbard said, as stated in the memorial, will show that he does not predicate his charge of corruption upon any fact or upon the testimony of any witness, but made it purely upon his belief, for which he offers no sufficient reason. The memorial, however, deliberately suppresses that part of Mr. Hubbard's statement in which he admitted that he had no evidence of bribery, and for the information of your committee we call attention to that part of Mr. Hubbard's statement, the omission of which the memorial indicates by stars. The omitted part is as follows:

"I do not pretend to say that I have any more information which would justify anyone at the present time as a juror under the evidence to convict any man of bribery, and I do not say that I know any court that would.

When read in connection with what the memorial quotes from Mr. Hubbard's speech, it is thus made plain that he was simply willing to declare his belief in corrupt practices, though compelled in the same connection to admit that he had no evidence.

The second allegation of the memorial is the statement of Senator George W. Bland, which, outside of some vague and general insinuations that charges of bribery had been made throughout the State, was based upon a statement made by Mr. L. J. Shock, a member of the House of delegates. That statement was that one Hamrick had given Shock $1,000 and promised him an additional $1,500 to vote for Mr. WATSON and Mr. CHILTON, and two reputable citizens of West Virginia were called in to see Shock count down the $1,000. We do not question that Shock exhibited the $1,000 to Hon. John J. Davis and Hon. W. G. Bennett, but that he had been furnished with that money for the very purpose of exhibiting it to these honorable gentlemen we think the committee will not doubt when they have read this statement. It will be noted first that the so-called statement of Shock read by Senator Bland was not signed, and it is a further fact that though he was present at the joint session, as shown by its records, when Senator Bland read his statement he did not utter a word on that subject.

Subsequently and within a few days after Bland had read Shock's statement Shock was asked to produce the $1,000 which it was charged he had received, and he explained his inability to do so by saying that two men had taken the money away from him. He further stated that he had never seen either of these two men before they took the money from him and had never seen them since.

It is not pretended that Shock raised any outcry against the men who took the money from him or even related the circumstance to anyone until he was asked to produce the money.

Shock's explanation of why he was unable to produce the money which he was asked to do as a basis of an investigation which we had requested at the hands of the legislature was so ridiculously absurd that every sensible man in the legislature at once understood that Shock had been supplied with the $1,000 for the very purpose of creating a scandal, and that those who supplied him with it were not willing to trust him with the custody of it long enough to carry out the scheme.

It is not necessary for us, however, to argue that question or to ask the committee to accept our view of the episode, because Shock himself has admitted that his story of the attempt to bribe him was a pure invention in the following letter which he voluntarily sent to Senator WATSON, the original of which we file herewith.

BURNSVILLE, W. VA., *January 8, 1913.*

Hon. C. W. WATSON, *Washington, D. C.*

DEAR SIR: The time has come when you should know the truth about the so-called Shock statement. I never have signed any statement that was read before the legislature, and I never have been under oath. I have let the talking go on because I hated to be put in a wrong light. The truth is that I set up the whole business; nobody tried to buy my vote and would not swear that they did. I wanted to nominate McGraw and I thought if I got this thousand dollars and made this play it would hurt you and CHILTON. The trick failed to work and now you have the truth. I do not know you and am sending this to you because I want justice to be done. So far as I know your election and CHILTON'S was honest and fair, and it is wrong to have this report going around.

Very truly, yours,

L. J. SHOCK.

The third allegation is that a resolution to investigate the vague and indefinite charges of bribery was proposed in the Legislature of West Virginia and defeated.

While it is true that the joint session of the West Virginia Legislature refused, on a point of order, as under the Federal Statutes it was compelled to do, to postpone the election of a Senator, it is further true that the house of delegates, which was controlled by a Democratic majority of exactly 40, promptly and by a unanimous vote passed a resolution, offered by Hon. C. M. Seibert, who supported both of us in the Democratic caucus, ordering an investigation and sent it to the senate, which finally disposed of that resolution by tabling it, because in the meantime the absurd story of Mr. Shock about the money having been taken away from him by two unknown men had been made so public that it was known to all senators and representatives, and the charges of corruption which had been mainly based on it were then treated as an absurdity. This explanation which we make to the Senate is the same as was made to Seator CHILTON by Hon. D. E. French, a copy of which is attached and original of which we file. Mr. French was then a leading member of the State senate, and was unanimously nominated by the Democrats at the present session of the senate as their candidate for president of the senate. The allegation that we prevented the adoption of that resolution by the senate will be completely negatived when your committee reflects that the State senate was composed of 15 Democrats and 15 Republicans, which made it an easy matter for the investigation to have been ordered by a vote of the Republican senators, with the vote of even Senator Bland, and as there were several other Democratic senators active, aggressive, and even bitter opponents of the two nominees the investigation would have been ordered, except that every reasonable man in the senate was then thoroughly convinced that the charges were unfounded.

The committee will, of course, remember that the Legislature of West Virginia not only completed the regular session at which we were elected, but that it was subsequently convened in extraordinary session, which lasted 45 days; and during all that time, though we were in our seats at Washington, not even a suggestion that we were not entitled to our seats was made.

The fourth and last allegation in the memorial is that our election was brought about by a combination of the railroads and the Standard Oil Co. The committee will, of course, perceive by glancing at the memorial that this charge has no other or better foundation than the irresponsible comments of some newspapers, and we could well dismiss them as entitled only to the consideration which every Senator's experience warrants him in giving to them. The charge, however, is so contrary to the facts that we crave the indulgence of the committee while we show how thoroughly it is the reverse of true. In the first place the opponent of Senator WATSON was then and is now the general counsel in West Virginia of the Norfolk & Western Railroad, which was then and is now owned and controlled by the Pennsylvania Railroad, while Mr. McGraw, the opponent of Senator CHILTON, is the owner of the West Virginia Midland Railroad, which connects with the Baltimore & Ohio Railroad, and the attorney of Mr. McGraw's railroad, a member of the State senate at that time, is the same gentleman who prepared the statement of one L. J. Shock.

More than this, Mr. Hubbard, from whose speech the memorial makes a garbled quotation, was then and is now an attorney for one of the Pennsylvania Railroad lines in West Virginia.

The falsity of the charge that we were supported and elected by the Standard Oil Co. will appear to the Senate when they are told that this same Senator Bland, from whose statement at the joint session the memorial quotes so elaborately, was then and is now the attorney of the Hope Natural Gas Co., a subsidiary of the Standard Oil Co.

This statement makes it plain that we were opposed rather than supported by those special interests.

There is one statement made in these newspaper clippings to which we feel called upon to reply particularly. The memorial recites an editorial from the Monroe County Watchman, in which the editor of that paper quotes a letter from one of his correspondents, who is represented as saying, "We have positive information that $150,000 was expressed here last week for the purpose of corrupting the delegates. This information comes from such sources as render it absolutely reliable and proof is obtainable to a moral and legal certainty."

In reply to this assertion we state upon our honor as men and as Senators that neither $150,000 nor any other sum was expressed to us or to any of our friends for the purpose of corrupting the delegates or for any other purpose.

It can not be deemed inappropriate for us to say that the sinister purpose of this memorial is apparent from the fact that it was presented to the Senate on the last day of its last session when there could be no possible expectation of any action on it before the general election in November. Neither will it be out of place for us to say that after these charges, vague and indefinite as they are, have been circulated industriously throughout West Virginia for two years, Senator WATSON has been renominated by the unanimous vote of the Democratic caucus to succeed himself, thus expressing to the Senate and to

the world the judgment of the people who have the best opportunity and are in the best position to know the truth or falsity of them.

Reading this memorial in connection with our answer, we feel confident that your committee will promptly report to the Senate that no ground for an investigation has been shown. If any reasonable cause to challenge our election were before you, we would immediately demand an investigation as a matter of justice to the Senate, to the State of West Virginia, and to ourselves, but we do not believe that the time of the Senate ought to be wasted, the name of our State brought into question, and our attention diverted from our duties by a proceeding instigated by political revenge and supported by accusations which we have shown to be utterly unfounded.

C. W. WATSON.
W. E. CHILTON.

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BLUEFIELD, W. VA., *June 17, 1911.*

Hon. WM. E. CHILTON,
Washington, D. C.

MY DEAR SENATOR: Yours of the 15th instant in regard to the statements made by Delegate Shock, of Braxton County, last winter, at Charleston, in regard to the election of United States Senators, received.

The facts in regard to this matter, as I now recollect them, are as follows:

Shock in his statement which was read at the joint session of the legislature, in which yourself and Senator WATSON were elected, said that just prior to the Democratic caucus at which you and Senator WATSON were nominated as the Democratic candidates for United States Senators he had been paid $1,000 by a man—my recollection is Hambrick, from Clay—as a part consideration, that he, Shock, would vote in the Democratic caucus for yourself and WATSON, and that Shock took the money to Judge Bennett, who counted it. Afterwards Shock went into the said caucus, and without saying anything in the said caucus about the payment of the money to him, voted on every ballot against yourself and Senator WATSON, and did not make any public statement concerning said matter until the joint session of the legislature was held, at which United States Senators were elected, at which time the statement above referred to, which purported to have been made by Shock, was read. It was also publicly stated and generally discussed among the members of the legislature and others that after the said caucus Shock stated to various members of the legislature and other persons that two men whom he did not know, neither of them being the man who gave him the money, came to him and demanded the said $1,000, and that thereupon he, Shock, delivered the money to the said strangers, neither of whom he has ever seen since; that he did not know either of the said men and that he did not take their names. That Mr. Hambrick, the person whom Shock claims gave him the money, upon hearing of Shock's statement, came to Charleston and confronted Shock, and that Shock then stated that Hambrick was not the man who gave him the money and that he did not know who the man was. That he had understood that it was Hambrick, and for that reason had named him as the man who had given him the money. It was also commonly reported that Shock had stated that he proposed to trap and expose any efforts at corruption in the selection of United States Senators.

In view of this state of affairs, I felt at the time, and still feel, and think most of the other senators thought likewise, that an investigation was unnecessary and uncalled for, and that for the senate to undertake to investigate such flimsy charges would not have reflected credit upon the senate and would only have lent color to charges which in themselves contained nothing substantial or tangible upon which an investigation could properly be based. In fact, this entire matter, to my mind, bore the earmarks of a fabricated scheme in which Shock was simply made a tool of, perhaps innocently, by others, who in this way sought to raise a cry of corruption in the Democratic Party and thus to reflect discredit upon the party and the United States Senators which it elected.

I recollect distinctly the statement made by Senator WATSON before the joint session of the legislature which elected him to the United States Senate, that if anyone could produce reasonable proof of corruption on his part in connection with his election to the United States Senate he would resign the office, and that you on the same occasion publicly stated that you courted the fullest investigation that any person or body of men could make of these charges. So far as I know, neither yourself nor Senator WATSON ever expressed a wish or said anything to prevent or hinder an investigation of these matters.

It is my recollection that you went into the Democratic caucus with some thirty-odd votes affirmatively for you, and I know there were others who held you as their second choice. The fact that Col. McGraw, who was your opponent in the Democratic caucus, came from an adjoining county to Senator WATSON, and that he was not a candidate against WATSON for the short term, and the further fact that it was not probable that both United States Senators would be selected from the same section of the State is certainly a sufficient explanation of the fact that many of your friends voted for WATSON and his friends voted for you.

With best wishes, I beg to remain,
Yours, very sincerely, D. E. FRENCH.

The PRESIDENT pro tempore. The statement will be referred to the Committee on Privileges and Elections.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bill and joint resolution:

S. 3225. An act providing when patents shall issue to the purchaser or heirs of certain lands in the State of Oregon; and

S. J. Res. 156. Joint resolution to appoint George Gray a member of the Board of Regents of the Smithsonian Institution.

The message also announced that the House had passed the following bills, each with amendments, in which it requested the concurrence of the Senate:

S. 3843. An act granting to the coal-mining companies in the State of Oklahoma the right to acquire additional acreage adjoining their mine leases, and for other purposes; and

S. 3952. An act for the purpose of repealing so much of an act making appropriations for the current and contingent expenses of the Indian Department for fulfilling treaty stipulations with various Indians located in Kansas City, Kans., providing for the sale of a tract of land located in Kansas City, Kans., reserved for a public burial ground under a treaty made and concluded with the Wyandotte Tribe of Indians on the 31st day of January, 1885, said section of said act relating to the sale of said land be, and the same is hereby, repealed.

The message further announced that the House has passed the following bills, in which it requested the concurrence of the Senate:

H. R. 11478. An act to quiet title and possession with respect to a certain unconfirmed and located private land claim in Baldwin County, Ala., in so far as the records of the General Land Office show said claim to be free from conflict;

H. R. 27323. An act to provide for refund or abatement under certain conditions of penalty taxes imposed by section 38 of the act of August 5, 1909, known as the special excise corporation-tax law;

H. R. 27875. An act authorizing the President to convey certain land to the State of Texas;

H. R. 27879. An act providing authority for the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota;

H. R. 27986. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27987. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27988. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27944. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 28093. An act to amend the general pension act of May 11, 1912; and

H. R. 28094. An act to amend section 96, chapter 5, of the act of Congress of March 3, 1911, entitled "The Judicial Code."

The message also returned to the Senate, in compliance with its request, the bill (H. R. 17256) to fix the status of officers of the Army and Navy detailed for aviation duty, and to increase the efficiency of the aviation service.

The message further announced that the House had passed resolutions commemorative of the life and public services of Hon. ISIDOR RAYNER, late a Senator from the State of Maryland.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

H. R. 2359. An act to refund certain tonnage and light dues;

H. R. 8151. An act providing for the adjustment of the grant of lands in aid of the construction of the Corvallis and Yaquina Bay military wagon road and of conflicting claims to land within the limit of said grant;

H. R. 12813. An act to refund duties collected on lace-making and other machinery and parts or accessories thereof imported subsequently to August 5, 1909, and prior to January 1, 1911;

H. R. 15181. An act for the relief of Harry S. Wade;

H. R. 20385. An act to reimburse Charles S. Jackson;

H. R. 23351. An act to amend an act entitled "An act to provide for an enlarged homestead";

H. R. 24365. An act providing for the taking over by the United States Government of the Confederate cemetery at Little Rock, Ark.;

H. R. 25741. An act amending section 3392 of the Revised Statutes of the United States as amended by section 32 of the act of August 5, 1909;

H. R. 26549. An act to provide for the purchase or construction of a motor boat for customs service; and

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois.

CREDENTIALS.

Mr. NEWLANDS presented the credentials of KEY PITTMAN, chosen by the Legislature of Nevada a Senator from that State to fill the vacancy in the term ending March 4, 1917, occasioned by the death of George S. Nixon, which were read and ordered to be filed.

Mr. CLAPP presented the credentials of KNUTE NELSON, chosen by the Legislature of Minnesota a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. LODGE. I present resolutions adopted by the Board of Trade of North Attleboro, Mass., expressing their belief that

many improper classifications under the present tariff act, to the serious disadvantage of the jewelry and silverware industries, are due to the inclusion of the words "gold," "silver," and "platinum" in the final paragraph of the so-called metal schedule; and also expressing its disapproval of the inclusion of the words "gold," "silver," and "platinum" in the same paragraph with iron, steel, tin, lead, and so forth; and favoring a special paragraph either to precede or follow the paragraph referring to the cheaper metals, and in this new paragraph that the same rates be approved as are approved for the so-called jewelry paragraph. I move that the resolutions be referred to the Committee on Finance.

The motion was agreed to.

Mr. LODGE. I have a copy of resolutions adopted at a meeting of the Democratic town committee of Norton, Mass., a committee elected by the Democratic voters of that town to promote the best interests of the Democratic Party, expressing their disapproval of any reduction of the duty on jewelry, silverware, and kindred articles and urging upon Congress the necessity of maintaining the present rates of duty. I move that the resolutions be referred to the Committee on Finance.

The motion was agreed to.

Mr. LODGE. I present resolutions adopted by the Board of Selectmen of North Attleboro, Mass., favoring the present percentage of protective tariff on jewelry and silverware. I move that the resolutions be referred to the Committee on Finance.

The motion was agreed to.

Mr. POINDEXTER presented memorials of the congregations of the Seventh-day Adventist Churches of Fruitland, Friday Harbor, Elma, Tacoma, Walnut Grove, Centralia, Battleground, Hillyard, Carrollton, Aberdeen, Montesano, Puyallup, Walla Walla, Sara, and College Place, all in the State of Washington, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented a petition of Island Grange, No. 290, Patrons of Husbandry, of Arlington, Wash., praying that an investigation be made into the prosecution of the editors of the Appeal to Reason, published at Girard, Kans., which was referred to the Committee on the Judiciary.

Mr. OVERMAN presented a petition of the congregation of the West Market Street Methodist Episcopal Church, of Greensboro, N. C., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a memorial of the congregation of the Seventh-day Adventist Church of Albemarle, N. C., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. CULLOM. I present a large number of memorials, signed by four or five thousand citizens of my State, remonstrating against the passage of the so-called Owen health bill. I move that the memorials be received and lie on the table.

The motion was agreed to.

Mr. FLETCHER presented memorials of sundry citizens of St. Andrews and Pensacola, in the State of Florida, remonstrating against the enactment of legislation providing for the Federal regulation of pilotage and pilots, which were referred to the Committee on Commerce.

Mr. GALLINGER presented a petition of the congregation of the Methodist Episcopal Church of Keene, N. H., and a petition of the congregation of the Federated Church, of New Market, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of sundry citizens of Cleveland Park, D. C., praying that an appropriation be made for the paving of a portion of Macomb Street in the District of Columbia, which was referred to the Committee on Appropriations.

He also presented the memorial of Philip T. Hall, of Washington, D. C., remonstrating against the enactment of legislation regulating the hours of employment for women in the District, which was referred to the Committee on the District of Columbia.

Mr. SHIVELY. I have here brief resolutions in the nature of a petition adopted by the Supreme Temple of the Order of Larks, of Portland, Ind., favoring the calling of an international congress for bird protection. I ask that the resolutions lie on the table and be printed in the RECORD.

There being no objection, the resolutions were ordered to lie on the table and to be printed in the RECORD, as follows:

Resolutions of the Supreme Temple of the Order of Larks, supreme offices, Portland, Ind.

Whereas one of the corporate objects of this order is the discouragement of the killing of harmless birds and the use of their plumage for commercial purposes and the advancement of legislation to carry out said object; and

Whereas efforts are now being made by the National Association of Audubon Societies to secure the passage of tariff legislation which will practically bar the importation of plumage of rare birds; and

Whereas a resolution has recently been introduced in the Senate of the United States by Senator ROOT which authorizes the calling of an international congress for bird protection: Now therefore be it

Resolved by the Supreme Temple of the Order of Larks (comprising all of the subordinate temples of the order in the United States), That the said tariff legislation so proposed by the National Association of Audubon Societies be, and the same is hereby, indorsed and recommended to the Congress as to be in the interests of bird conservation and protection; and be it further

Resolved, That the resolution of Senator ROOT calling for an international congress for bird protection be, and the same is hereby, indorsed and recommended to the Congress for the same reasons; be it further

Resolved, That a copy of these resolutions be forwarded to one of the Senators from Indiana, with the request that the same be presented to the Congress as a petition asking for such legislation.

THE SUPREME TEMPLE OF THE ORDER OF LARKS,
By S. A. D. WHIPPLE, *Supreme Majesty.*

Attest:

MORTON N. HAWKINS,
Supreme Commissioner.

JANUARY 28, 1913.

Mr. SHIVELY presented the petition of John W. Sidener and 25 other members of the Young Men's Bible Class of the First Baptist Church of Crawfordsville, Ind., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. SUTHERLAND presented a petition of the congregation of the Seventh-day Adventist Church of Salt Lake City, Utah, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. NELSON presented a memorial of the congregations of the Seventh-day Adventist Churches of Baker, St. Cloud, and Sauk Center, all in the State of Minnesota, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. GRONNA. I present a telegram from the president of the Grand Forks District Medical Society, in my State, favoring the passage of the so-called Owen health bill. The telegram is very brief, and I ask that it lie on the table and be printed in the RECORD.

There being no objection, the telegram was ordered to lie on the table and to be printed in the RECORD, as follows:

GRAND FORKS, N. DAK., *February 4, 1913.*

Senator GRONNA, *Washington, D. C.:*

The Grand Forks District Medical Society, composed of the physicians practicing in Grand Forks, Walsh, Pembina, Cavalier, and Nelson Counties, favor the passage of the Owen bill. They hope you will give it your hearty support.

H. M. WHEELER, *President.*

Mr. GRONNA presented a petition of the congregation of the Rock Lake Church of North Dakota, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BROWN presented telegrams in the nature of petitions from sundry members of the medical societies of North Platte, Broken Bow, Grand Island, Omaha, and Pawnee City, and of sundry physicians of Madison, Gothenburg, Alliance, Falls City, and David City, all in the State of Nebraska, praying for the establishment of a national department of public health, which were ordered to lie on the table.

Mr. BURTON presented petitions of sundry citizens of Mansfield, Wooster, Nova, Burgoon, Crawford County, Hillsboro, Newark, Lancaster, and Dayton, all in the State of Ohio, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. LA FOLLETTE presented petitions of sundry citizens of Grand Rapids, Waupaca, Milwaukee, Delavan, and Green Bay, all in the State of Wisconsin, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. HITCHCOCK presented memorials of the Farmers' Educational and Cooperative Unions of Scribner, Logan, Nickerson, and Hooper, in the State of Nebraska, remonstrating against the adoption of the so-called Aldrich currency system, which were referred to the Committee on Finance.

Mr. PERKINS presented a petition of the Labor Council of San Francisco, Cal., praying for the recognition of the Republic of China by the United States Government, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Federated Trades Council of Sacramento, Cal., and a petition of the Trades and Labor Council of Vallejo, Cal., praying for the enactment of legislation providing for the inspection of locomotive boilers and safety appliances for railway equipment, which were referred to the Committee on Interstate Commerce.

Mr. ROOT presented petitions of sundry citizens of Albany and Cortland and of the congregation of the Olivet Presbyterian Church, all in the State of New York, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. TOWNSEND presented a memorial of Nelson Arbor, No. 165, Ancient Order of Gleaners, of Fremont, Mich., remonstrating against any reduction of the postage on first-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented petitions of the congregations of the Seventh-day Adventist Church of Reese, Mich., and a petition of the congregation of the Seventh-day Adventist Church of Fremont, Mich., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. JONES presented a telegram in the nature of a petition from Dr. S. T. Miller, of Wenatchee, Wash., and a telegram in the nature of a petition from Dr. J. H. Woodside, of Redmond, Wash., praying for the passage of the so-called Army veterinary bill, which were referred to the Committee on Military Affairs.

He also presented telegrams in the nature of petitions from the State commissioner of health, from E. L. Farnsworth, of Olympia, and from Dr. Henry D. Brown, secretary of the King County Medical Society, all in the State of Washington, praying for the passage of the so-called Owen health bill, which were ordered to lie on the table.

He also presented resolutions adopted by the Chamber of Commerce of Montesano, Wash., favoring the repeal of the parole law, which were referred to the Committee on the Judiciary.

He also presented resolutions adopted by the Chamber of Commerce of Montesano, Wash., favoring the repeal of the bankruptcy law, which were referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. LODGE, from the Committee on Foreign Relations, to which was referred the amendment submitted by Mr. BURTON on the 4th instant, proposing to appropriate $5,000 for the participation of the United States by official delegates at the international conference for the purpose of drawing up international rules and regulations for the assignment of load lines to merchant ships, etc., intended to be proposed to the diplomatic and consular appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

Mr. OLIVER, from the Committee on Claims, to which was referred the bill (S. 6691) to indemnify the State of Massachusetts for expenses incurred by it in defense of the United States, reported it with an amendment and submitted a report (No. 1188) thereon.

Mr. BROWN. From the Committee on Patents I report favorably, without amendment, the bill (H. R. 23568) to amend section 55 of "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, and I submit a report (No. 1187) thereon. I ask that the report of the House be made a part of the Senate report and that it be printed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MARTINE of New Jersey, from the Committee on Claims, to which was referred the bill (S. 7619) for the relief of Laetitia M. Robbins, reported adversely thereon, and the bill was postponed indefinitely.

Mr. NELSON, from the Committee on Public Lands, to which was referred the bill (S. 7845) relating to the adjudication of homestead entries in certain cases, reported it with an amendment and submitted a report (No. 1189) thereon.

Mr. MARTIN of Virginia, from the Committee on Commerce, to which was referred the bill (S. 8204) to authorize the Buckhannon & Northern Railroad Co. to construct and operate a bridge across the Monongahela River, in the State of West Virginia, reported it with an amendment and submitted a report (No. 1190) thereon.

Mr. POINDEXTER, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 5179) directing the Secretary of the Treasury to prepare designs and estimates for and report cost of a national archives building in the District of Columbia, reported it with amendments and submitted a report (No. 1191) thereon.

APPOINTMENTS IN THE DIPLOMATIC OR CONSULAR SERVICE.

Mr. BRYAN. From the Committee on Naval Affairs I report favorably the bill (S. 8082) to amend section 1440 of the Revised Statutes of the United States, and I ask unanimous consent for its present consideration.

The PRESIDENT pro tempore. The Senator from Florida asks for the present consideration of the bill just reported by him. Is there objection?

There being no objection, the bill was considered as in Committee of the Whole. It proposes to amend section 1440 of the Revised Statutes of the United States so as to read:

SEC. 1440. If any officer of the Navy on the active list accepts or holds an appointment in the Diplomatic or Consular Service of the Government he shall be considered as having resigned his place in the Navy, and it shall be filled as a vacancy.

Mr. ROOT. May I ask if unanimous consent has been given for the consideration of the bill?

The PRESIDENT pro tempore. The Chair did not put it in the form of a request for unanimous consent, but submitted it as a request, and announced that no objection had been heard.

Mr. ROOT. I do not wish to object, but I should like to know the reasons for further legislation at this time on this subject.

Mr. BRYAN. Section 1440 of the Revised Statutes, as it exists to-day, allows neither officers on the active list of the Navy nor officers on the retired list of the Navy to be appointed to positions in the Diplomatic or Consular Service. This bill is designed to allow officers on the retired list to be eligible for appointment in the Consular Service.

Mr. ROOT. I do not yet understand the object of the bill.

Mr. LODGE. If the Senator will allow me, the law that is sought to be amended is an old law that has been on the statute books since 1868, and it has led to a good deal of trouble, because the courts have construed it as covering both the active and the retired lists. This bill simply confines it to the active list.

Mr. ROOT. What does it confine to the active list?

Mr. LODGE. Appointments to the Consular or Diplomatic Service.

Mr. ROOT. May the bill be again read?

The Secretary again read the bill.

Mr. ROOT. Mr. President, as I understand, the bill allows officers of the Navy upon the retired list to be appointed to diplomatic positions.

Mr. BRANDEGEE. It cuts off those on the active list.

Mr. ROOT. Leaving the prohibition against those on the active list. I move to amend the bill by inserting, after the word "Navy," the words "or Army."

The PRESIDENT pro tempore. The Senator from New York proposes an amendment, which will be stated.

The SECRETARY. After the word "Navy," in line 6, it is proposed to insert the words "or Army."

The amendment was agreed to.

The PRESIDENT pro tempore. The Chair would suggest to the Senator from New York that a further amendment would be needed in line 9 so as to include the Army. The words "or Army, as the case may be," should be inserted.

Mr. ROOT. I should be glad to have that done.

The PRESIDENT pro tempore. The Secretary will state the proposed amendment.

The SECRETARY. In line 9, after the word "Navy," it is proposed to insert "or Army, as the case may be."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

STATUE OF JOHN MARSHALL.

Mr. SWANSON. From the Committee on the Library I report back favorably without amendment the bill (S. 7657) for the erection of a statue to John Marshall, and I submit a report (No. 1186) thereon. I ask for the immediate consideration of the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. CULBERSON. Let it be read.

Mr. SWANSON. Let the bill be read.

The PRESIDENT pro tempore. It will be read.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. BRISTOW. Is this a proposition for the Federal Government to erect a statue in a State building somewhere?

Mr. SWANSON. It is proposed to erect it in the Federal building at Richmond.

Mr. MARTIN of Virginia. I will say to the Senator from Kansas that the National Government has about completed a new building costing about $1,000,000 in the city of Richmond——

The PRESIDENT pro tempore. The question now is upon the consideration of the bill.

Mr. MARTIN of Virginia. It is proposed to place the statue in that building.

Mr. BRISTOW. I may want to offer some amendments to it. There are some statues which I should like to have erected out in Kansas. I ask that the bill may go over.

The PRESIDENT pro tempore. Under objection the bill will go over. It will be placed on the calendar.

LOREN W. GREENE.

Mr. THORNTON. From the Committee on Naval Affairs I report favorably, without amendment, the bill (S. 8236) for the relief of Loren W. Greene, and I call the attention of the Senator from Ohio [Mr. POMERENE] to the bill.

Mr. POMERENE. I ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. The Senator from Ohio asks unanimous consent for the present consideration of the bill. Is there objection?

Mr. GALLINGER. Let the bill be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It authorizes the President to appoint Loren W. Greene an ensign in the United States Navy on the retired list.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CLAIMS AGAINST MEXICO.

Mr. ROOT. From the Committee on Foreign Relations I report a concurrent resolution (S. Con. Res. 40), for which I ask present consideration. I call the attention of the Senator from Arizona [Mr. SMITH] to the resolution.

The PRESIDENT pro tempore. The concurrent resolution will be reported.

The Secretary read as follows:

Resolved by the Senate (the House of Representatives concurring), That the report of the Secretary of War, under the joint resolution directing the Secretary of War to investigate the claims of American citizens for damages suffered within American territory growing out of the late insurrection in Mexico, approved August 9, 1912, be transmitted to the President, who is hereby respectfully requested to cause a claim for the amount of the damages reported therein as suffered by American citizens within American territory to be presented to the Government of Mexico as a claim in behalf of the Government of the United States.

The PRESIDENT pro tempore. The Senator from New York asks for the present consideration of the resolution. Is there objection?

Mr. SMITH of Arizona. Mr. President——

The PRESIDENT pro tempore. The question is upon the request for present consideration. Is there objection?

Mr. SMITH of Arizona. Reserving simply the right to object, I wish to say——

The PRESIDENT pro tempore. The question first is on the present consideration of the concurrent resolution.

Mr. SMITH of Arizona. Have I the right to the floor, to say what I please?

The PRESIDENT pro tempore. By unanimous consent the Senator can proceed. No debate is in order, except by unanimous consent, until after the question of present consideration has been acted upon.

Mr. SMITH of Arizona. I do not want to object to the resolution. I want to understand it. Reserving the right to object, I thought I could then proceed, as was the custom in the other body where I have served.

Mr. GALLINGER. I ask unanimous consent, Mr. President.

The PRESIDENT pro tempore. The Senator is proceeding by unanimous consent.

Mr. SMITH of Arizona. Have I the floor by the unanimous consent of the Senate?

The PRESIDENT pro tempore. By unanimous consent, the Senator will proceed.

Mr. SMITH of Arizona. Mr. President, I thought I had it before proceeding to obtain the information I desire.

Being in order, then, at last, I wanted to say to the Senator from New York that I thought it had been understood that these claims for damages sustained by citizens of the United States on American soil occasioned by Mexican soldiery shooting across the international line were to be investigated by the commission under the resolution heretofore reported by the Senator from New York from the Committee on Foreign Relations; that those claims were to be presented to our own Congress for payment, and then that the United States would proceed in the order suggested in the resolution now before the Senate.

My interest in the whole matter is to make this claim first one against the Federal Government itself for damages to its own citizens, and then that the Government shall place before Mexico its claim for reimbursement for the money paid out in these cases.

The commission went to the city of El Paso, Tex., and to Douglas, Ariz. They made an investigation and a report fixing the amount that the commission thought should be paid to these people. I wish to suggest to the Senator from New York that if these people are to be relegated to trusting the department here to get that money from Mexico, they may as well quit right now. The conditions in Mexico are such that nobody can get payment of a claim from the Government of Mexico. Probably two billions of foreign capital are doing the business of Mexico. There is—from the best obtainable information—not less than $800,000,000 of American money invested there, and fully as much more by other nations. There is no earthly chance of these people getting their money during their lifetime if we are to proceed diplomatically with the collection of a claim against Mexico.

This has been such an outrage, such an insult to the Nation, that I never dreamed that any postponement would occur in the payment of these claims, further than that Congress would pass a law allowing these men the amounts found due in these cases and pay them out of our Treasury, and then that the United States Government would make its claim for reimbursement against the Republic of Mexico.

This reckless shooting of American citizens on our own soil by armed soldiers in Mexico was virtually an act of war on the part of Mexico, and our forbearance should have induced an immediate reparation by that Republic. Congress can do no less than pay the claims and look, as I have said, to Mexico for reimbursement.

Mr. ROOT. Mr. President——

The PRESIDENT pro tempore. The Senator from New York will also proceed by unanimous consent.

Mr. ROOT. I will say to the Senator from Arizona, in the first place, that I am in favor of paying these claims. I think the Government of the United States should pay them. We are, however, approaching the close of the short session. The bill providing for payment has not yet been reported. Whether they are paid or not the theory of obligation upon which the bill rests will necessarily lead to the making of a claim against Mexico in behalf of the United States.

Mr. SMITH of Arizona. I understand.

Mr. ROOT. The view upon which the resolution directing the Secretary of War to make an investigation and report was drafted and passed was that these Americans, never having gone into the territory of Mexico, but remaining upon the soil of their own country, could not be relegated to a claim against Mexico for redress for the injury they had suffered, and that the Government of the United States should make it a national matter and should itself take the burden of prosecuting their claim.

This was an alternative to a resolution which was offered in the Senate and which was voted down, conferring authority upon the President to use the military forces of the United States to secure redress and prevent further injuries. There was substituted an assumption by the Government of the United States of its responsibility, to be borne by the peaceful processes of diplomacy, impressing a claim of the Government for the warlike proposals upon the one side and the relegation of these weak individual citizens to their claims against Mexico on the other side.

Now, whether the claims be paid by the United States, as I think they ought to be, or not, the resolutions some time or other should be adopted, and it seemed to the Committee on Foreign Relations that there should be no delay about it.

I will call the attention of the Senator from Arizona further to the fact that the adoption of this resolution is the adoption of the principle of governmental responsibility.

Mr. SMITH of Arizona. Mr. President, I now understand more clearly than I did from hearing the resolution read the course which will be pursued ultimately, whether Congress passes the bill for relief or not. Its passage in no way will affect our action hereafter on a bill for the payment of these claims or tend to retard action when it shall come before the Senate. In this view of the matter, of course no objection should be made. I hope the resolution will pass.

The concurrent resolution was considered by unanimous consent and agreed to.

THE SENATE MANUAL.

Mr. WARREN, from the Committee on Rules, reported the following resolution (S. Res. 447), which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Rules be instructed to prepare a new edition of the Senate Manual, and that there be printed 4,500 copies of the same for the use of the committee, of which 250 copies shall be bound in full morocco and tagged as to contents.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PERKY:

A bill (S. 8376) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911 (with accompanying papers); to the Committee on the Judiciary.

By Mr. NELSON:

A bill (S. 8377) to authorize the Northern Pacific Railway Co., its successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Mississippi River in Minneapolis, Hennepin County, Minn.; to the Committee on Commerce.

By Mr. GALLINGER:

A bill (S. 8378) relating to private education in the District of Columbia; to the Committee on the District of Columbia.

By Mr. WORKS:

A bill (S. 8379) for the relief of Ellen B. Monahan; to the Committee on Claims.

By Mr. JONES:

A bill (S. 8380) directing the issuance of patent to John Russell; to the Committee on Public Lands.

By Mr. MARTINE of New Jersey:

A bill (S. 8381) to amend section 96, chapter 5, of the act of Congress of March 3, 1911, entitled "The Judicial Code"; to the Committee on the Judiciary.

By Mr. GRONNA:

A bill (S. 8382) to prohibit the interstate shipment of impure seeds; to the Committee on Agriculture and Forestry.

By Mr. BROWN (by request):

A bill (S. 8383) to authorize the Secretary of the Interior to cancel and set aside segregations of public lands under the Carey Act; to the Committee on Public Lands.

By Mr. OVERMAN:

A bill (S. 8384) to appoint Frederick H. Lemly a passed assistant paymaster on the active list of the United States Navy; to the Committee on Naval Affairs.

By Mr. DILLINGHAM:

A bill (S. 8385) granting an increase of pension to Asil N. Blanchard (with accompanying papers); to the Committee on Pensions.

By Mr. O'GORMAN:

A bill (S. 8386) for the relief of Nelson D. Dillon (with accompanying paper); to the Committee on Claims.

By Mr. BACON:

A bill (S. 8387) granting a pension to Mary E. Spraberry; to the Committee on Pensions.

By Mr. McCUMBER:

A bill (S. 8388) granting an increase of pension to Thomas L. Collins (with accompanying papers); to the Committee on Pensions.

By Mr. CRAWFORD:

A bill (S. 8389) to provide for an enlarged homestead; to the Committee on Public Lands.

REMOVAL OF CAUSES FROM FEDERAL TO STATE COURTS.

Mr. PERKY. I introduce a bill and I ask that it be read at length.

The bill (S. 8376) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, was read the first time by its title and the second time at length, as follows:

Be it enacted, etc., That section 28 of an act approved March 3, 1911, and entitled "An act to codify, revise, and amend the laws relating to the judiciary," be, and the same is hereby, amended by adding thereto the following: "*And provided further*, That no suit shall be removable solely upon the ground of diversity of citizenship by any party thereto who shall at the time of the institution of said suit have an established place of business within the State where said suit was originally instituted," so that said section shall read, when so amended, as follows:

"SEC. 28. Any suit of a civil nature at law or in equity arising under the Constitution or laws of the United States, or treaties made, or which shall be made, under their authority of which the district courts of the United States are given original jurisdiction by this title, which may now be pending or which may hereafter be brought in any State court, may be removed by the defendant or defendants therein to the district court of the United States for the proper district. Any other suit of a civil nature at law or in equity of which the district courts of the United States are given jurisdiction by this title, and which are now pending or which may hereafter be brought in any State court, may be removed into the district court of the United States for the proper district by the defendant or defendants therein, being nonresidents of that State. And when in any suit mentioned in this section there shall be a controversy which is wholly between citizens of different States and which can be fully determined as between them, then either one or more of the defendants actually interested in such controversy may remove said suit into the district court of the United States for the proper district. And where a suit is now pending or may hereafter be brought in any State court in which there is a controversy between a citizen of the State in which the suit is brought and a citizen of another State any defendant, being such citizen of another State, may remove such suit into the district court of the United States for the proper district at any time before the trial thereof, when it shall be made to appear to said district court that from prejudice or local influence he will not be able to obtain justice in such State court, or in any other State court to which the said defendant may under the laws of the State have the right, on account of such prejudice or local influence, to remove said cause: *Provided*, That if it further appear that said suit can be fully and justly determined as to the other defendants in the State court without being affected by such prejudice or local influence, and that no party to the suit will be prejudiced by a separation of the parties, said district court may direct the suit to be remanded, so far as it relates to such other defendants, to the State court to be proceeded with therein. At any time before the trial of any suit which is now pending in any district court, or may hereafter be entered therein, and which has been removed to said court from a State court on the affidavit of any party plaintiff that he had reason to believe and did believe that from prejudice or local influence he was unable to obtain justice in said State court, the district court shall, on application of the other party, examine into the truth of said affidavit and the grounds thereof, and unless it shall appear to the satisfaction of said court that said party will not be able to obtain justice in said State court it shall cause the same to be remanded thereto. Whenever any cause shall be removed from any State court into any district court of the United States and the district court shall decide that the cause was improperly removed and order the same to be remanded to the State court from whence it came, such remand shall be immediately carried into execution, and no appeal or writ of error from the decision of the district court so remanding such cause shall be allowed: *Provided*, That no cause arising under an act entitled 'An act relating to the liability of common carriers by railroad to their employees in certain cases,' approved April 22, 1908, or any amendment thereto and brought in any State court of competent jurisdiction shall be removed to any court of the United States: *And provided further*, That no suit shall be removable solely upon the ground of diversity of citizenship by any party thereto who shall at the time of the institution of said suit have an established place of business within the State where said suit was originally instituted."

SEC. 2. All acts or parts of acts in conflict herewith are, in so far as they are in conflict, hereby repealed.

Mr. PERKY. Before the bill is referred I should like to make a brief statement as to the purpose of the bill.

The bill just introduced is designed to correct the practice of removing causes from State to Federal courts where the application to remove is based solely upon the ground of diversity of citizenship between the parties to the suit or action.

The reasoning which sustains this measure is that a person or corporation which voluntarily comes into a State and deliberately establishes a place of business therein should be required to submit his or its controversies with citizens of such State to the determination of its courts where there is no showing of local prejudice against the applicant for removal or hostile local influence working against him of such a nature as to prevent such applicant from securing justice.

The abuses against which this bill is directed were ably presented in a communication appearing in the seventy-second Central Law Journal, page 218, written by Henry S. Johnston, of Perry, Okla., which I will not take the time to read, but which I desire to adopt as a portion of my remarks, and I ask leave that it be so printed and inserted at this portion of my remarks.

The PRESIDENT pro tempore. It will be so ordered, without objection.

The matter referred to is as follows:

PERRY, OKLA.

EDITOR CENTRAL LAW JOURNAL: I opened your publication of the 17th of February and read the article appearing on page 113 entitled "Disbarment—Using a sham corporation to create diversity of citizenship."

I want to commend you for this article. One of the crying outrages perpetrated by Congress upon a long-suffering people has been the vesting of corporations with the power to remove their causes to the Federal courts, irrespective of the nature of the cause of action.

An examination of the trial calendar of any of the circuit courts will disclose that the bulk of business there transacted is the result of foreign corporations securing removal of causes commenced in the State courts.

Not long ago I examined a court calendar containing three pages about the size of your law journal and on which appeared something like 100 cases set for trial; about 85 of them were suits commenced by private citizens in State courts to recover damages from foreign corporations.

Any domestic corporation must answer for its torts, breaches of contracts, bad faith, infractions of law, and any derelictions to the courts of the State. Every natural person must do the same thing, but the legislation authorizing removal of causes on account of diversity of citizenship is a very highly esteemed special privilege acquired and enjoyed by corporations, and the great carrier corporations of the country use this Federal statute as an open doorway from which to escape responsibility for their acts.

To fairly illustrate the effect of the present system: Let us suppose that a farmer is authorized to take up trespassing animals found upon his land at the place and time of the trespass. Next, let us suppose that the law made a provision that if the trespassing animal was owned by an individual not living in his school district, that in such case he must first turn the animal loose in an uninclosed wilderness, permit it to roam 20 miles from home, and then the law would give him permission to catch it if he could. The world would immediately point to the folly of such a statute as being ridiculous, dishonest, and unfair, and a discrimination in favor of the nonresident of his school district.

In the case of a domestic corporation or a private citizen relief is afforded where the party can be found and service obtained upon him or where the accident or injury occurs, and right there they sit down together and arbitrate or lock horns and go to battle with the home

court as their referee and the confines of their territory limited to the scope of a county with the right to take depositions and bring witnesses from all parts of the globe. But forsooth, it chances to be a foreign corporation, no longer is the right to apprehend the trespasser within the confines of this corral of the farmer's own community or bailiwick, but the corporation can jump the bounds of the county fences and go to a court with State wide or district wide meanderings and attend court 60 miles from home at the capital. Then he can attend the next session of court at some other court town 150 miles from home and the next time at 200 miles from home at another court town, and follow the judge around the circuit of his district. Leg weary, tired, worn, sleepless, and purse lean at last he gets trial to find the marginal boundaries of the State do not limit the resources of this foreign corporation, but he must follow his appeal to St. Louis, St. Paul, Washington, D. C., New York, or what not, and that his representatives in the personality of cowboys, lawyers, or whatsoever they may be, must ride to unfamiliar fields and strange roads where they so seldom practice and with which they are so little familiar, known as Federal practice, procedure, legal equitable, civil, special and peculiar, blended in part with the recognition of State law and the capacity to ignore and set the same aside at will, without responsibility to the very authority which it pretends and purports to recognize. As a matter of quasi comity, there is a pretense at enforcing and recognizing State laws, but Federal judges are not responsible to the State or to the powers of the State, to the people of the State or to State institutions for their authority, and when therefore they see fit to ignore State laws there is no responsibility attached thereto, and the world simply smiles and attributes the act to the general superiority of the Federal Government over the State; the right of powers that be to recognize or ignore the inferior branches of our sovereignty at the sweet will and pleasure of the particular judge who is trying the cause.

To illustrate: Not long ago a United States judge tried a case where two workmen on a hand car going along a high trestle about 200 yards long, adjoining a bridge of somewhat greater length, were run down by a fast-running engine and tender. Proof was available that the brake on the engine was out of order and the engine should have been in the repair shop; that the same could not possibly be controlled by the engineer in charge thereof. The accident had so sickened the engineer with the conduct of corporations generally and the cold-blooded manner in which they put their men to work with defective devices and let them take their chances that he quit the road entirely.

The Oklahoma constitution provides: "The defenses of contributory negligence or of assumption of risks shall in all cases whatsoever be a question of fact, and shall at all times be left to the jury."

The Federal judge who tried this case snapped his finger at our constitution and promptly proceeded to say that "the two employees on the hand car assumed the risk of being upon the track on a hand car, and that their death resulted from a risk which they had assumed."

It is true, the engineer did all he could to stop the engine. Had he not done so or had he not been watching, the courts must have said that the last clear chance to avert the injury lay in the hands of the engineer, and it was his duty to act, and so have let the case go to the jury, had the constitution of Oklahoma never been written; but the engineer must grimly grit his teeth and ride on to certain destruction, conscious of the grinding, grasping indifference of his corporation to the defective appliances and devices in use. But the corporation was right; it had but little to fear. The widows of the two deceased men must bring their action for $2,000 or less or run the additional hazard of being removed to the United States court. They brought their suits for a large amount. The cases were removed and the judge who tried it, after listening to the evidence, took the case from the jury, with the announcement that the parties upon the track took the chances, assumed the risks, and that no recovery could be had in the case, and it would be useless to permit it to go to a jury.

The books abound with decisions of the State courts one way and with Federal decisions stating that the same identical elements of the State law enforced in that State by public policy of the State, by the legislation of the State, by the constitutional provisions of the State will be enforced by the courts of the United States, yet, upon the other hand, when it comes to practical recognition through the working out of those principles the book equally abounds with decisions where the Federal judiciary perpetually and forever ignores the very laws it purports in another breath to honor and respect.

One more suggestion and then I wish to propose a remedy. The suggestion is that it is infinitely better that within the limits of a State the law be uniform in its application; that no matter in what forum the law is applied or where people go for their remedies the law should be the same, and that it shall be plain, speedy, prompt, and adequate, and meted out as nearly as practicable at the doorway of the party invoking its sanctions. It is of no consequence or very little consequence that the Federal decisions of New York are harmonious with those of Oklahoma upon questions of local application, but it is infinitely important that the Federal decisions upon question of local application should coincide with those of our own State courts.

And now for the remedy. The remedy lies in placing the differences and controversies between litigants back within the jurisdiction of the State courts; lay the ax in the root of the tree; let Congress repeal or at least modify this Federal policy. Some provision similar to the following would do the work:

"*Provided, however*, That the right of removal on account of diversity of citizenship shall not apply to corporations domiciled within a foreign State or which transacts business within such foreign State or for the commission of any tort within the jurisdiction of such foreign State or for the breach of any contract made or to be carried out in whole or in part within such foreign State."

My suggestion now to you is that since your paper has perceived the wrong and given it publicity as you have, the awakening of conscience and the conviction of judgment which you have experienced imposes upon you a duty, to wit, that of educating the bar and the judiciary, and thereby effectively reaching Congress with a universal, concentrated demand for remedial legislation touching this evil.

I regret to have taken so much of your time, as I necessarily do in writing this long letter, and yet I felt I could not escape the sense of duty my own knowledge carries with it.

Truly, yours,

HENRY S. JOHNSTON.

NOTE.—The letter of our correspondent is much appreciated. Congress, we believe, intended by the conformity act to indicate that nothing should interfere with the constitutional purpose merely to furnish a court free from local prejudice. Ever since Judge Story started the "general-law" heresy Federal courts have been assuming more and more to be independent of State interpretation. What ought to be done is for Congress to declare they have no jurisdiction but to enforce as State law what the State declares such to be and to enforce it as State courts enforce it. It is strange that Congressmen elected only by citizens of States should permit anything else. (Editor.)

Mr. PERKY. I have also prepared a brief dealing with the historical facts and the law relating to the subject covered by this bill, which I should like to have appear as part of my presentation of the merits of this measure, and I ask leave to have it printed at this stage of my remarks.

The PRESIDENT pro tempore. It will be so ordered, without objection.

The matter referred to is as follows:

[Memorandum of law in re removal of causes upon the ground of diverse citizenship.]

CONTENTS.

The language of the proposed amendment.
Relevant constitutional and statutory provisions.
Constitutional purpose preserved by proposed amendment.
Corporations as citizens for purposes of Federal jurisdiction.
Abuse of present removal privilege.

The intent of the proposed law as embodied in this bill is to amend section 28 of the Judicial Code so as to limit the right of removal of causes from State to Federal courts only in causes where it is claimed solely on the ground of diverse citizenship. To accomplish this purpose it is proposed by the terms of this bill to add to section 28 of the existing Judicial Code this language:

"*And provided further*, That no suit shall be removable solely upon the ground of diversity of citizenship by any party thereto who shall at the time of the institution of said suit have an established place of business within the State where said suit was originally instituted."

The proposed amendment makes no change in the law as it now stands in regard to removal upon the ground of a Federal question or upon the ground of prejudice or local influence.

In the amendment proposed the phrase "an established place of business within the State" is employed. This is the language used by the act of March 3, 1897, in providing where suits for infringement of patent may be brought, in which connection it has been construed by the courts. Having an established place of business in a particular district is thus recognized as justifying departure from the usual rule that a defendant shall be sued only in the district of which he is an inhabitant. By analogy it justifies the principle of the amendment, which is that a person or corporation having an established place of business within a State should submit to suit in the courts of that State.

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS.

The jurisdiction of the Federal courts in cases between citizens of different States, whether original or by removal, has its origin in the Constitution itself.

Article III, section 2, of the Constitution provides as follows:

"The judicial power shall extend * * * to controversies * * * between citizens of different States."

Article III, section 1, of the Constitution provides:

"The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish."

Article I, section 8, clause 9, of the Constitution provides:

"The Congress shall have power * * * to constitute tribunals inferior to the Supreme Court."

Under these constitutional provisions Congress may limit the jurisdiction of the inferior Federal courts which it may establish to any extent it deems proper. While it has power to confer jurisdiction upon the Federal courts, by removal or otherwise, over controversies between citizens of different States, it is not compelled to do so. In the absence of any sufficient reason or valuable purpose to be subserved, Congress is under no obligation to deprive the State courts of jurisdiction of controversies between citizens of different States, or if there is a reason why some of such controversies should be taken into the Federal courts, which reason does not apply to all such controversies, then Congress may properly limit the jurisdiction of the Federal courts in this class of cases to those controversies in which there is some reason why they should be tried in the Federal courts rather than in the State courts.

In Gaines v. Fuentes (92 U. S., 18) the Supreme Court said:

"The Constitution declares that the judicial power of the United States shall extend 'to controversies between citizens of different States' as well as to cases arising under the Constitution, treaties, and laws of the United States; but the conditions upon which the power shall be exercised, except so far as the original or appellate character of the jurisdiction is designated in the Constitution, are matters of legislative direction. * * * In cases where the judicial power of the United States can be applied only because they involve controversies between citizens of different States, it rests entirely with Congress to determine at what time the power may be invoked and upon what conditions—whether originally in the Federal court or after suit brought in the State court; and, in the latter case, at what stage of the proceedings—whether before issue or trial by removal to a Federal court or after judgment upon appeal or writ of error."

It is, of course, perfectly well settled that no State can in any way abridge or impair the jurisdiction of the Federal courts or in any way limit the right of removal of causes into the Federal courts. Any such limitation must be made, if at all, by Congress. (Barrow Steamship Co. v. Kane, 170 U. S., 111; Barron v. Burnside, 121 U. S., 197.)

From the very beginning, however, Congress has vested the Federal courts with jurisdiction of causes between citizens of different States and authorized the removal into the Federal court of such controversies if originally begun in a State court.

The original judiciary act of 1789 (1 Stat. L., 73) provides that a suit brought in a State court between citizens of different States may be removed into the Federal court. This provision, substantially unchanged, was carried forward into the Revised Statutes and appeared in section 639. It also appears in the judiciary act of 1875, section 2, as amended by the act of 1887–88 (25 Stat. L., 433, in Supp. Rev. Stat., 611). The present Judicial Code, act March 3, 1911, section 24, gives the Federal district court original jurisdiction "where the matter in controversy exceeds, exclusive of interests and costs, the sum or value of $3,000, and * * * is between citizens of different States." Section 28, which is the subject of the proposed amendment, confers the right of removal in such cases.

It is thus seen that the proposed amendment imposes a limitation upon the removal of causes, which is wholly new in Federal legislation.

CONSTITUTIONAL PURPOSE PRESERVED BY PROPOSED AMENDMENT.

In Whelan v. N. Y., etc., R. Co. (35 Fed., 858) the court said:

"The clause in the Constitution extending the judicial power of controversies 'between citizens of different States' was intended to secure the citizen against local prejudice, which might injure him if compelled to litigate his controversy with another in the tribunals of a State not his own. This object was the avowed purpose of the constitutional provision at the time of its adoption; and the Supreme Court so declared in Gordon v. Longest (16 Pet., 104), where it is said that 'one great object in the establishment of the courts of the United States and regulating their jurisdiction was to have a tribunal in each State presumed to be free from local influence, and to which all who were nonresidents or aliens might resort for legal redress.'"

It will be noted that the present removal act (Judicial Code, sec. 28) expressly provides that a suit involving a controversy between citizens of different States may be removed into the Federal district court "when it shall be made to appear to said district court that from prejudice or local influence he will not be able to obtain justice in such State court," etc.

The original judiciary act of 1789 made no express reference to prejudice or local influence as a ground for removal. This was first brought into the law by the act of July 27, 1866, as amended by the act of March 2, 1867 (14 Stat. L., 306, 558), and was codified in the Revised Statutes in section 639. It was carried forward by the act of 1875 as amended by the act of 1887–88.

As the sole purpose of the Constitution in extending Federal jurisdiction to controversies between citizens of different States was to provide an impartial court, free from prejudice and local influence, and as that purpose is expressly provided for in the present law, and the proposed amendment does not in any way take away the right of removal in cases where such prejudice or local influence exists, there is no longer any reason why other causes should be withdrawn from the jurisdiction of the State courts and removed into the Federal court merely because the parties are citizens of different States. There is only the historical basis for such a provision. It was in the first judiciary act and is therefore in the last. It seems not to have been noted that the constitutional purpose was fully carried out when express provision was made for the removal of causes upon the ground of prejudice or local influence. There being no longer any reason for preserving this broad right of removal in all cases where diverse citizenship exists, every argument showing the abuse which has been made of the right and the hardships which are thus without reason inflicted upon litigants should be given full weight.

The Supreme Court has held that Congress intended by its recent legislation to limit and contract the jurisdiction of the Federal courts:

"The recent acts of Congress have tended more and more to contract the jurisdiction of the courts of the United States which had been enlarged by intermediate acts, and to restrict it more nearly within the limits of the earlier statutes." (Wabash Western Ry. v. Brow, 164 U. S., 127.)

"The act of March 3, 1887, chapter 373, corrected by the act of August 13, 1888, chapter 866, was intended, as this court has often recognized, to contract the jurisdiction of the circuit courts of the United States, whether original over suits brought therein or by removal from the State courts." (Hanrick v. Hanrick, 153 U. S., 192.)

The proposed amendment is therefore exactly in line with the present purpose of Congress. Certainly no interest can be harmed by taking away a jurisdiction for which no reason exists and which has been greatly abused in practice.

As a further illustration of the tendency and purpose of Congress to restrict the Federal jurisdiction, attention may be called to the fact of the increase in the amount in controversy required as a condition of Federal jurisdiction. Under the judiciary act of 1789 and also under the act of 1875 and down to the act of 1887–88, jurisdiction was conferred upon the Federal courts, either originally or by removal, only where the amount in controversy exceeded the sum or value of $500. By the act of 1887–88 the amount in controversy was required to be $2,000, exclusive of interests and costs, in order to confer jurisdiction on the Federal courts. Under the present judicial code (sec. 24) the amount in controversy was again raised and required to be the sum or value of $3,000 as a condition of Federal jurisdiction, even in cases presenting a Federal question as well as in cases dependent upon the citizenship of the parties.

CORPORATIONS AS CITIZENS FOR PURPOSES OF FEDERAL JURISDICTION.

The legal status of corporations as citizens for the purpose of Federal jurisdiction rests almost entirely upon judge-made law. It is, however, now perfectly well settled that corporations are citizens of the State under whose laws they are created. (Barrow Steamship Co. v. Kane, 170 U. S., 103.)

The Federal courts have jurisdiction, either originally or by removal, of suits between citizens of one State and a corporation created by the laws of another State. A foreign corporation sued by a citizen of a State in which it is doing business may, under the existing law and as a matter of right, remove the cause into a Federal court. The vast majority of removals in modern times are cases of this class.

The Federal jurisdiction over suits against a foreign corporation upon the ground of diverse citizenship rests entirely upon a legal fiction. It rests upon a conclusive presumption created by judicial decisions. Thus the Supreme Court said:

"The jurisdiction of the circuit courts over suits between a citizen of one State and a corporation of another State was at first maintained upon the theory that the persons composing the corporation were suing or being sued in its name, and upon the presumption of fact that all those persons were citizens of the State by which the corporation had been created, but that this presumption might be rebutted by plea and proof and the jurisdiction thereby defeated. (Bank v. Deveaux, 5 Cranch, 61, 87, 88; Insurance Co. v. Boardman, id., 57; Bank v. Slocomb, 14 Pet., 60.)

"But the earlier cases were afterwards overruled, and it has become the settled law of this court that, for the purposes of suing and being sued in the courts of the United States, a corporation created by and doing business in a State is, although an artificial person, to be considered as a citizen of the State as much as a natural person; and there is a conclusive presumption of law that the persons composing the corporation are citizens of same State with the corporation." (Barrow v. Kane, 170 U. S., 103.)

Thus it appears that a legal fiction and a judge-made conclusive presumption, which presumption in 9 cases out of 10 is not in accordance with the actual facts, is the sole basis upon which foreign corporations are permitted to remove their controversies with citizens of a State into which they have voluntarily come for the purpose of doing business from the courts of that State into a Federal court, with all the resulting expense, inconvenience, and hardship which frequently exists.

Further, as already shown under a previous head, this abuse is permitted without the excuse of any worthy purpose to be subserved. The purpose of the proposed amendment is to put an end to just this thing. It is open to very serious doubt whether the framers of the Constitution contemplated that corporations might sue and be sued in the Federal courts, or remove suits thereto from State courts merely by reason of the locality of their incorporations or the citizenship of their stockholders. In an early case this jurisdiction was expressly denied, the court saying:

"The Constitution takes no notice of corporate bodies in enumerating the cases in which this court shall exercise jurisdiction upon circumstances of the persons. A corporation can not with propriety be denominated a citizen of any State, so that the right to sue in this court, under the Constitution, can only be extended to corporate bodies by a liberality of construction which we do not feel ourselves at liberty to exercise. (Bank of United States v. Deveaux, 2 Fed. Cas., No. 916, p. 692.)

The foregoing decision was reversed by the Supreme Court in Fifth Cranch, page 61, and Chief Justice Marshall wrote the opinion. This reversal was upon the ground that the suit should be deemed the suit of the stockholders of the corporation litigating in the name of the corporation, and that there was a prima facie presumption that these stockholders were citizens of the State where the corporation was incorporated. This presumption could be overcome by proof that such was not the fact, thereby defeating the Federal jurisdiction. Chief Justice Marshall said:

"A corporation aggregate is certainly not a citizen, and consequently can not sue or be sued in the courts of the United States, unless the rights of the members in this respect can be exercised in their corporate name."

The doctrine sustained by Chief Justice Marshall was that Federal jurisdiction did not exist unless diversity of citizenship exists as between the defendant and all the members of the corporation, and in this sense it was for a time followed by the Federal courts. (Commercial Bank v. Slocomb, 14 Pet. (U. S.), 60.)

This doctrine was subsequently overruled, and the law now is that the members of a corporation suing in its corporate name are, for the purposes of jurisdiction, conclusively presumed to be citizens of the State which created it. (Louisville, etc., v. Letson, 2 How., 497; National Steamship Co. v. Tuckman, 106 U. S., 118; Barrow Steamship Co. v. Kane, 170 U. S., 100.)

There would seem to be no substantial ground for objection to the proposed amendment, which aims to put an end to a legal fiction which is seldom, if ever, in accord with the actual facts, and which has no vital, useful purpose, but, on the contrary, has been made the means of grave abuses, often amounting to a denial of justice.

It may be added that corporations are certainly not citizens within the meaning of the constitutional definition of citizens, which is as follows:

"All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside."

FOURTEENTH AMENDMENT, SECTION 1.

As an illustration of the abuse of the privilege of removal accorded to foreign corporations, I call attention to the recent decision of the Supreme Court in the case of Southern Realty Investment Co. v. Walker (211 U. S., 603). In this case a foreign corporation was created for the very purpose of conferring jurisdiction upon the Federal court in controversies between citizens of the same State. The Supreme Court looked through the corporate organization, held it to be a sham, and remanded the case to the State courts, although all corporate formalities had been observed.

ABUSE OF PRESENT REMOVAL PRIVILEGE.

Every lawyer knows that the removal of a cause results in more or less expense, delay, and inconvenience to the complainant. Oftentimes where the districts are large and the distances great the expense and inconvenience is practically prohibitive, especially to poor litigants. The abuses along this line are graphically set forth in an article in the Central Law Journal for March 24, 1911. (72 Central Law Journal, p. 218.)

So long as mere diversity of citizenship is an independent ground for removal and may be availed of as a matter of right, defendants will avail themselves of it for the purpose of securing delay and imposing burdens upon the complainant, thus discouraging and often preventing the prosecution of meritorious suits. Where the price of justice is too high it may be foregone.

Another great abuse of the privilege of removal lies in the fact that the law administered in the Federal courts is often different to the law administered in the State courts as applicable to the same state of facts. When a person or a corporation voluntarily comes into a State to do business there with its citizens, it should be subject to the laws of the State as declared by the courts of that State and be subject to the same laws as are the citizens of that State. The nonresident should not have an option, as he now has in many cases, to abide by the State law and litigate in the State courts if it is to his advantage to do so, or to remove his case and have a different rule applied by the Federal courts if that course is most advantageous to his position.

Of course, under the United States Revised Statutes, section 721, it is provided that—

"The laws of the several States * * * shall be regarded as rules of decision in trials at common law in the courts of the United States in cases where they apply."

In theory this is quite satisfactory as far as it goes, but in practice it does not mean nearly what it says. In applying State statutes and constitutional provisions the Federal courts will follow the latest decision of the highest State court. The decisions of inferior State courts are not binding upon the Federal courts. Until a State statute has been authoritatively construed by the highest State court the Federal court will exercise its own independent judgment as to its construction and constitutionality. Moreover, in many cases where the Federal courts have adopted a construction of State laws they will cling to their own interpretation, notwithstanding that a different interpretation may thereafter be adopted by the State courts.

In equity cases the principles of equity jurisprudence are administered by the Federal courts uniformly throughout all the States, wholly unaffected by State laws and decisions, and this equity jurisdiction can not be impaired by the laws of any State. Most important of all on questions of general jurisprudence as distinguished from matters of

local law the Federal courts in the absence of express statutes exercise their own judgment, uncontrolled by the decisions of the State courts. The vast mass of litigated transactions falls under this head. (See article "United States courts," 22 Ency. of Pl. and Pr., pp. 324–336.)

The proposition that all persons doing business within a State should be subject to the laws of that State as enacted by the legislature of that State and construed by the courts of that State, except so far as such laws may deprive them of privileges secured to them by the Federal Constitution, does not seem open to doubt. That proposition, however, does not prevail to-day, and mainly because of the present removal privilege upon the ground of mere diversity of citizenship.

Mr. PERKY. As a practical illustration of the abuses at which this bill strikes, the United States court in Idaho holds its sessions at four points in the State—at Moscow and Coeur d'Alene, in northern Idaho; Boise, in southwestern Idaho; and Pocatello, in southeastern Idaho. A citizen of the State who thinks he has a meritorious cause of action seeks redress against some corporation organized under the laws of some sister State, which may have one or many places of business in the State, and practically all of whose stockholders may be residents of the State of Idaho. He files his suit in the ordinary way against his adversary, and if the amount in controversy is $3,000 or more, the corporation sued may remove the suit to the Federal court, which may sit 250 or more miles from the point where the plaintiff lives and where the controversy arose.

Under the practice and law of Idaho, as is the case in the majority of jurisdictions in the Union, the parties to the suit are obliged, when required by the witnesses, to advance fees and mileage. It often happens that litigants with cases entitling them to relief either advance these fees with great hardship or are in such circumstances as not to be able to do so at all. This often results in forced, unfair settlements, or the abandonment of suits, and often in the bringing of suits for amounts inadequate to compensate the plaintiff or redress his injuries, in order that the amount in controversy may be kept below the sum fixed by law permitting the removal of causes from State to Federal courts.

The law as it now stands fosters in many cases a partial or complete denial of justice, and thus tends to undermine society, to the extent that this practice of removal hampers our courts in the administration of their functions to redress wrongs.

The removal in most cases amounts to this, "that the nonresident gains not equality with but an advantage over his adversary."

Justice should be speedy. The method of securing redress should be as free and direct as orderly procedure will admit. The forum where it is administered should be convenient and easily accessible to litigants. This bill, I believe, is a long step in the right direction.

The PRESIDENT pro tempore. The bill and accompanying papers will be referred to the Committee on the Judiciary.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. GALLINGER submitted an amendment proposing to appropriate $66,000 to enable the Secretary of State to return to such contributors as may file their claims the money raised to pay the ransom for the release of Mrs. Ellen M. Stone, an American missionary to Turkey, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $66,000 to enable the Secretary of State to return to such contributors as may file their claims the money raised to pay the ransom for the relief of Miss Ellen M. Stone, and American missionary to Turkey, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. JONES submitted an amendment proposing to increase the appropriation for investigations of methods for wood distillation and for the preservative treatment of timber, etc., from $100,000 to $170,000, intended to be proposed by him to the Agriculture appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

He also submitted an amendment proposing to increase the appropriation to investigate and encourage the adoption of improved methods of farm management and farm practice, etc., from $375,000 to $600,000, intended to be proposed by him to the Agriculture appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

He also submitted an amendment authorizing the Secretary of Agriculture to sell at actual cost to homestead settlers and farmers for their domestic use mature dead and down timber in national forests, etc., intended to be proposed by him to the Agriculture appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. SMITH of Georgia. I offer an amendment intended to be proposed to the Post Office appropriation bill. The amendment is very brief, and I ask that it be read, printed, and referred to the Committee on Post Offices and Post Roads.

There being no objection, the amendment was read and referred to the Committee on Post Offices and Post Roads, as follows:

Amendment intended to be proposed by Mr. SMITH of Georgia to the bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, viz: On page 27, after line 12, insert the following:

That hereafter fourth-class mail matter shall embrace seeds, cuttings, bulbs, roots, scions, and plants, and the provision contained in the act approved August 24, 1912, continuing said articles under the provisions fixed by section 482 of the Postal Laws and Regulations is hereby repealed.

That hereafter books shall be carried as fourth-class mail.

Mr. SMITH of Georgia submitted an amendment proposing to appropriate $8,000 for improving Fancy Bluff Creek, Ga., connecting Turtle River and Brunswick Harbor with Little Satilla River, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. SWANSON submitted an amendment providing for the removal of the shoal at the mouth of the Blackwater River, Va., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $82,000 for dredging and widening the approach to the western branch of the Elizabeth River, Va., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. BANKHEAD submitted an amendment providing for a continuance of the personnel of the membership of committees and commissions created and provided for in sections 1 and 8 of the Post Office Appropriation act of June 30, 1913, etc., intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

Mr. SHIVELY submitted an amendment proposing to appropriate $1,000 to pay O. M. Enyart for moneys paid and expended by him for the purchase of the copyright of Ben: Perley Poore's Political Register and Congressional Directory of the United States of America, 1776 to 1878, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

CONNECTICUT RIVER DAM.

Mr. JONES. I submit an amendment intended to be proposed by me to the bill (S. 8033) known as the Connecticut River Dam bill, which I ask may lie on the table and be printed.

Mr. BRANDEGEE. I ask that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to lie on the table and to be printed in the RECORD, as follows:

Amendment intended to be proposed by Mr. JONES to the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut.

After the word "used," in line 23, on page 2, strike out down to and including the word "therewith," in line 25, and insert in lieu thereof the following:

"To reimburse the Government for the cost of surveys, inspection, and similar expenses, and for the purpose of protecting the navigation of the Connecticut River in the interests of the public."

PHYSICAL VALUATION OF RAILROADS.

Mr. CLAPP submitted the following resolution (S. Res. 449), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Whereas the Senate Committee on Interstate Commerce is considering H. R. 22593, an act to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors: Therefore be it

Resolved, That said Interstate Commerce Committee of the Senate is hereby authorized and directed to inquire into the matters embraced in said H. R. 22593 at the earliest practicable date, and for that purpose they are authorized to send for papers and persons, administer oaths, to summon and compel the attendance of witnesses, to conduct hearings and have reports of same printed for use, and in addition to the usual fees allowed witnesses to pay a reasonable compensation to experts appearing before the said committee; and any expenses in connection with such hearings shall be paid out of the contingent fund of the Senate upon vouchers to be approved by the chairman of the committee.

Mr. CLARKE of Arkansas subsequently, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred the foregoing resolution, reported it without amendment, and it was considered by unanimous consent and agreed to.

TREATIES, CONVENTIONS, ETC. (S. DOC. NO. 1063).

Mr. LODGE (for Mr. CULLOM) submitted the following resolution (S. Res. 448), which was read, considered by unanimous consent, and agreed to.

Resolved, That 500 copies additional of the supplement to the compilation entitled "Treaties, conventions, international acts, and protocols between the United States and other powers, 1776 to 1909," including treaties, conventions, important protocols, and international acts to which the United States may have been a party from January 1, 1910, to March 4, 1913, inclusive, be printed as a Senate document.

COMPENSATION OF SENATORS.

Mr. O'GORMAN submitted the following resolution (S. Res. 452), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay, from the contingent fund of the Senate, to the Hon. K. I. PERRY the sum of $267.12, being the compensation of a Senator of the United States for 13 days, January 25 to February 6, 1913, during which he served as Senator from the State of Idaho; to the Hon. NEWELL SANDERS the sum of $184.93, being the compensation of a Senator of the United States for 9 days, January 25 to February 2, 1913, during which he served as Senator from the State of Tennessee; and to Hon. R. M. JOHNSTON the sum of $82.19, being the compensation of a Senator of the United States for 4 days, January 30 to February 2, 1913, during which he served as Senator from the State of Texas.

MEMORIAL CEREMONIES FOR THE LATE VICE PRESIDENT.

Mr. ROOT submitted the following resolution (S. Res. 451), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Senate extend to the Speaker and the Members of the House of Representatives an invitation to attend the exercises in commemoration of the life, character, and public services of the late JAMES S. SHERMAN, Vice President of the United States and President of the Senate, to be held in the Senate Chamber on Saturday, the 15th day of February next at 12 o'clock noon.

MISSISSIPPI RIVER BRIDGES AT MINNEAPOLIS, MINN.

Mr. NELSON. I move to reconsider the votes by which the following bills were passed on the 3d instant:

A bill (S. 8248) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

A bill (S. 8249) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

A bill (S. 8250) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.; and

A bill (S. 8251) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.

The motion to reconsider was agreed to.

Mr. NELSON. I ask that the bills be placed on the calendar.

The PRESIDENT pro tempore. Without objection, the bills will be returned to the calendar.

INTERNATIONAL COMMISSION OF JURISTS (H. DOC. NO. 1343).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying paper, referred to the Committee on the Judiciary and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a letter from the Secretary of State inclosing a report, with accompanying papers, of the delegates of the United States to the International Commission of Jurists, which met at Rio de Janeiro in June last.

WM. H. TAFT.

THE WHITE HOUSE, *February 5, 1913.*

(Report of delegates accompanies the message to the House of Representatives.)

IMPORTS AND EXPORTS (H. DOC. NO. 1340).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read and referred to the Committee on Finance and ordered to be printed:

To the Senate and House of Representatives:

By joint action of the Department of Commerce and Labor and the Treasury Department, committees of those two departments have recently made a careful investigation of the methods of preparing the statistics of the imports and exports of the United States.

These committees have unanimously recommended that the laws relating to the preparation of shippers' manifests be amended in such manner as to compel the preparation by exporters of accurate and complete lists in regard to merchandise sent out of the United States. Without such amended laws these committees deem that it is impossible for the customs officers to obtain with accuracy the figures of our export trade. The existing law regarding statistical returns of exports by sea was enacted in 1821, and, naturally, fails to meet conditions existing at the present time, when methods of communication and transportation, classes of articles entering international commerce, places of production of such articles, and the demands of business for information in reference thereto have greatly changed. A large proportion of the merchandise now being exported originates in the interior of the country and is of such character and variety that a proper description thereof can not be made at the port of exportation. It is recommended, therefore, that a measure be enacted which will remedy the unsatisfactory conditions in our export statistics.

This new measure should provide that persons forwarding merchandise from interior points for exportation shall supply to the transportation company receiving such merchandise a manifest similar in general form to that required at the port of exportation, which manifest shall be conveyed by the transportation company to the port of exportation and delivered to the collector of customs.

For any omission from or incorrect description of the merchandise in any manifest, whether originating in the interior or at the port of exportation, as to kind, quantity, or value, the owner, shipper, or consignor, or agent of either, should be made liable to a fine of $50, unless it be shown that such omission was due to a mere clerical error.. If it be shown that the incorrect statement has been willfully or fraudulently made, the person responsible therefor should be deemed guilty of a misdemeanor and rendered liable to fine or imprisonment.

The bill should also provide a penalty for the failure of the transportation company to procure from the exporter, at the original place of shipment, the manifest noted above, and likewise a penalty for failure to transmit it to the collector of customs at the port of exportation, or for failure to deliver it to any other transportation company to which it may deliver the merchandise en route, and the company so receiving should be also required under penalty to forward to the collector of customs the said manifest.

The bill should prohibit, under penalty for violation, the disclosure by any officer, employee, or other representative of a common carrier of any information regarding the kind, quantity, value, destination, or consignee of any of the merchandise carried by it for exportation and described in the manifest above referred to.

It is believed that a measure embodying these suggestions into law would fully meet the objections now offered to the proposition that interior shippers shall supply manifests of the goods forwarded for exportation. The chief objection has been that information regarding their business might be disclosed by employees of the common carriers transporting the merchandise and receiving statements as to its character, valuation, destination, and the consignee. The plan, if carried into effect, would, it is believed, protect the original exporter against disclosure of his business, give to the customs officers at the port of exportation sufficient information to enable them to properly describe and value the merchandise, and also assure much greater accuracy as to the true value of the merchandise being exported.

I suggest, as equally important, an amendment to section 4197 of the Revised Statutes of the United States, making the law conform to the present practice by which vessels are permitted to file a supplementary manifest within four business days after the clearance of the vessel, a practice without authority of law but sanctioned by the Customs Regulations (art. 128).

The provisions of section 4197 of the Revised Statutes requiring the master of the vessel to file a complete manifest of the cargo before a clearance is granted, a measure enacted before the utilization of steam power in ocean traffic and prior to the transaction of business with the aid of telegrams, cablegrams, and telephonic communications, can not be carried out under present methods of commercial transactions. To demand a strict compliance with the requirements of the statute in this particular would congest traffic, delay travel and the transportation of the foreign mails, paralyze business, and jeopardize our international commerce. It is found that there has been no enforcement of this part of the statute at the larger ports of the United States for upward of 30 years. It is believed that the law for the clearance of vessels and filing the cargo manifests should be in harmony with the law requiring the presentation of shippers' manifests. The amendment proposed to the law would be justified by many years' experience and careful consideration of this important subject. It would add no burdens to the duties of steamship companies. Instead, it would simplify the preparation of the manifest and legalize the present custom of filing supplementary manifests. It should fix the same penalty ($500) for failure to file a manifest and obtain a clearance

for a vessel, and should provide a penalty of $50 for neglect of entering merchandise in the manifest. It should grant the same period for filing a supplementary manifest as the current practice under article 128 of the Customs Regulations.

The recommendations of this message have received the approval of the two departments whose work and functions will be most affected by them—the Treasury Department and the Department of Commerce and Labor.

If a bill or bills embodying the suggestions of this message would be useful to the Congress, or to any committees thereof considering the subject, they will be forwarded on request.

WM. H. TAFT.

THE WHITE HOUSE, *February 4, 1913.*

HURON PLACE CEMETERY, KANSAS CITY, KANS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 3952) for the purpose of repealing so much of an act making appropriations for the current and contingent expenses of the Indian department for fulfilling treaty stipulations with various Indians located in Kansas City, Kans., providing for the sale of a tract of land located in Kansas City, Kans., reserved for a public burial ground under a treaty made and concluded with the Wyandotte Tribe of Indians on the 31st day of January, 1855, said section of said act relating to the sale of said land be, and the same is hereby, repealed, which were, on page 2, line 2, after "six," strike out all down to and including "land" in line 7, and insert:

As reads as follows:

"That the Secretary of the Interior is hereby authorized to sell and convey, under such rules and regulations as he may prescribe, the tract of land located in Kansas City, Kans., reserved for a public burial ground under a treaty made and concluded with the Wyandotte Tribe of Indians on the 31st day of January, 1855. And authority is hereby conferred upon the Secretary of the Interior to provide for the removal of the remains of persons interred in said burial ground and their reinterment in the Wyandotte Cemetery at Quindaro, Kans., and to purchase and put in place appropriate monuments over the remains reinterred in the Quindaro Cemetery. And after the payment of the costs of such removal, as above specified, and the costs incident to the sale of said land, and also after the payment to any of the Wyandotte people, or their legal heirs, of claims for losses sustained by reason of the purchase of the alleged rights of the Wyandotte Tribe in a certain ferry named in said treaty, if, in the opinion of the Secretary of the Interior, such claims or any of them are just and equitable, without regard to the statutes of limitation, the residue of the money derived from said sale shall be paid per capita to the members of the Wyandotte Tribe of Indians who were parties to said treaty, their heirs, or legal representatives."

And to amend the title so as to read: "An act repealing the provision of the Indian appropriation act for the fiscal year ending June 30, 1907, authorizing the sale of a tract of land reserved for a burial ground for the Wyandotte Tribe of Indians in Kansas City, Kans."

Mr. CURTIS. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

HOUSE BILLS REFERRED.

H. R. 11478. An act to quiet title and possession with respect to a certain unconfirmed and located private land claim in Baldwin County, Ala., in so far as the records of the General Land Office show said claim to be free from conflict, was read twice by its title and referred to the Committee on Private Land Claims.

H. R. 27323. An act to provide for refund or abatement under certain conditions of penalty taxes imposed by section 38 of the act of August 5, 1909, known as the special excise corporation-tax law, was read twice by its title and referred to the Committee on Finance.

H. R. 27875. An act authorizing the President to convey certain land to the State of Texas was read twice by its title and referred to the Committee on Public Lands.

H. R. 28093. An act to amend the general pension act of May 11, 1912, was read twice by its title and referred to the Committee on Pensions.

H. R 28094. An act to amend section 96, chapter 5, of the act of Congress of March 3, 1911, entitled "The Judicial Code," was read twice by its title and referred to the Committee on the Judiciary.

CONNECTICUT RIVER DAM.

Mr. BRANDEGEE. Mr. President, I ask unanimous consent for the entering of the order which I send to the desk. I will say, before it is read, that the Senator from Idaho [Mr. BORAH], who objected to the unanimous-consent agreement of a similar character yesterday, told me this morning that he would consent to the date which I have now substituted, and it is at his suggestion that I send the order to the desk.

The PRESIDENT pro tempore. The request will be read.

The Secretary read as follows:

It is agreed by unanimous consent that on Tuesday, February 11, 1913, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of Senate bill 8033, calendar No. 1001, authorizing the construction of a dam across the Connecticut River, and before adjournment on that legislative day will vote upon any amendment that may be pending, all amendments that may be offered, and upon the bill through regular parliamentary stages to its final disposition.

This agreement shall not interfere with appropriation bills or conference reports, nor with the memorial services on Saturday, February 15, nor the meeting of the two Houses of Congress on February 12.

Mr. GALLINGER. What about the present unanimous-consent agreement?

Mr. BRANDEGEE. The Senator from New Hampshire now asks about the existing unanimous-consent agreement that is already upon the calendar. That will have expired before the time this one arrives.

Mr. GALLINGER. That is all right.

Mr. LODGE. I desire to ask the Senator from Connecticut if he would not put in an hour for voting, as was done in other cases, instead of "the legislative day"?

Mr. BRANDEGEE. What did the Senator ask—that the vote be taken on the calendar day?

Mr. LODGE. Yes; the calendar day.

Mr. BRANDEGEE. Well, there is objection to that.

Mr. LODGE. I see.

Mr. BRANDEGEE. Senators want more opportunity to discuss the measure.

Mr. ROOT. With all these exceptions, I think it will be impossible to fix an hour.

Mr. BRANDEGEE. I think it would be impossible, Mr. President.

The PRESIDENT pro tempore. Is there objection to the request for unanimous consent which has just been read from the desk?

Mr. JONES. I desire to ask if it is understood that the Senator from Ohio [Mr. BURTON] is to proceed to a discussion of the bill to-day?

Mr. BRANDEGEE. It is so understood by me, because the Senator from Ohio stated that he was going to make some remarks.

Mr. SMITH of Arizona. A parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator from Arizona will state it.

Mr. SMITH of Arizona. I want to know if this is a proceeding by unanimous consent? I have not heard unanimous consent given yet, but I have observed quite a number of interruptions.

The PRESIDENT pro tempore. It has not been.

Mr. JONES. I should like to ask the Senator from Ohio whether he intends to proceed to discuss the bill?

The PRESIDENT pro tempore. The Chair will state for the information of the Senator from Arizona that it is the general practice of the Senate whenever unanimous consent is asked by general acquiescence for reasons pro and con to be given.

Mr. SMITH of Arizona. I understand that. I only want to learn the rules. I tried to make a parliamentary inquiry, and I am on the floor yet for that purpose.

The PRESIDENT pro tempore. The Senator has not the floor, unless he rises to a point of order, except by consent of the Senator from Connecticut.

Mr. SMITH of Arizona. Then I rise to a point of order.

The PRESIDENT pro tempore. The Senator will state it.

Mr. SMITH of Arizona. I am trying to learn these technical rules.

The PRESIDENT pro tempore. That is not a point of order.

Mr. SMITH of Arizona. I want to see universal application of the rules, and when I understand them I will conform to them as best I can.

The PRESIDENT pro tempore. The Senator is not now rising to a point of order.

Mr. SMITH of Arizona. I am rising to a point of order.

The PRESIDENT pro tempore. The Senator will state it.

Mr. SMITH of Arizona. My point of order is that there is a debate proceeding without the request for unanimous consent having been objected to.

The PRESIDENT pro tempore. There is an application for unanimous consent pending.

Mr. SMITH of Arizona. Yes, sir; but you have not ruled on that; no one has objected to unanimous consent; debate is proceeding, and it is necessary to have the unanimous consent that the debate should proceed.

The PRESIDENT pro tempore. Does the Senator object?

Mr. SMITH of Arizona. I think the Chair does not catch my point of order.

The PRESIDENT pro tempore. What is the Senator's point of order?

Mr. SMITH of Arizona. The point of order is that we are proceeding out of order.

The PRESIDENT pro tempore. Does the Senator from Arizona call the Senator from Washington to order?

Mr. SMITH of Arizona. I call Senators to order under the ruling of the Chair. Unanimous consent should be granted or not granted before anything can be said about it.

The PRESIDENT pro tempore. Very well. The Senator's point of order is sustained. The question is upon agreeing to the proposed unanimous-consent agreement, which has been read.

Mr. JONES. I want to ask the Senator from Ohio if he expects to proceed to a discussion of the bill?

The PRESIDENT pro tempore. The Senator from Arizona objects to the Senator from Washington being heard.

Mr. BRANDEGEE. I ask unanimous consent that the Senator from Washington may be allowed to make a brief statement.

The PRESIDENT pro tempore. Is there objection to the Senator from Washington proceeding?

Mr. CLARKE of Arkansas. Mr. President, I think that we are about to get into a situation here that will trouble us hereafter in a way which will embarrass us. It is part of the right to ask for unanimous consent that those who favor it and those who object to it may have a right to state the reasons for and against it. That is just as much a part of the request as any other feature of it, and I would not want to have it understood that every time anything of that kind occurred it had to be by unanimous consent and that the entire situation might be disturbed by a single objection.

I think the point of order raised by my friend from Arizona [Mr. SMITH] was not well taken. I think when the Senator from Connecticut [Mr. BRANDEGEE] asked for unanimous consent that the very request involved a unanimous consent that the reasons for and against it might be given. I trust the ruling of the Chair will be such as will not put us at the mercy of a single Senator whenever a request for unanimous consent is made.

Mr. SMITH of Arizona. I certainly concur in that.

The PRESIDENT pro tempore. The Senator from Arizona has entirely mistaken the situation. The difference between the case now under consideration by the Senate and the situation when he formerly addressed the Chair is that the Senator from Arizona then undertook to discuss the case on the merits when the question was whether a resolution should be taken up for consideration, which is a very different matter.

Mr. CLARKE of Arkansas. I desire to say to the Chair that I did not have reference to any particular transaction which had preceded this instance.

The PRESIDENT pro tempore. The Chair will state that the rule of the Senate is that upon a motion to proceed to the consideration of any matter it shall be decided without debate; but the Chair did state that it was the universal practice of the Senate, whenever a question was submitted as to whether or not unanimous consent should be granted, that there should be an interchange of opinion, not on the merits of the question, but upon the particular request for the unanimous consent.

Mr. SMITH of Arizona. If the Chair will pardon me, I was not attempting to address the Senate on the merits. I was asking for what I got and what you can always get from the Senator from New York. I was seeking information, so that I would know whether or not I would object. When I found that it was impossible for me even to ask a question, I wanted to know if that was to be the rule of the Senate.

I am aware of the difficulty in which, as the Senator from Arkansas suggests, we would be thrown if a request for unanimous consent had to be determined on the mere presentation of the matter without Senators having knowledge on the subject, and, therefore, not knowing whether to object or not. It was for that reason I asked for information. That was the attitude I was assuming before the Chair at that time. That is all I have to say about it.

The PRESIDENT pro tempore. The Chair does not deem it proper for the Presiding Officer to enter into an argument with a Senator on the floor.

Mr. CLARKE of Arkansas. Mr. President, I merely want to put the matter into such attitude that the Senate can settle it, for I deem it a very material point. The Chair has made a ruling that when a request is made for unanimous consent nothing can be said concerning it except by another unanimous consent. I want to take an appeal from that ruling.

The PRESIDENT pro tempore. The Chair did not so rule. The Chair simply ruled that the objection of the Senator from Arizona was sufficient to prevent a discussion of the question. The Chair did suggest the fact, and repeats it, that the universal practice of the Senate, never before challenged within the knowledge of the Chair, has been for an exchange of views whenever an application for unanimous consent has been made.

Mr. CLARKE of Arkansas. That universal practice has become part of the rule; it is an interpretation of it. It is acted upon, and it is of itself a part of the rule that allows a Senator to ask for unanimous consent; and I think that we ought to maintain it as a part of the rule. I do not think that the right to explain the situation incident to a request for unanimous consent should only proceed by another unanimous consent; otherwise, we would never know why a unanimous-consent agreement is desirable; we would be compelled to vote in the dark, and it would defeat the very object that we have in making such requests.

If the Chair will permit me now to appeal from the ruling that he made on the point of order of the Senator from Arizona, I will enter that appeal. I think that we ought now to record the judgment of the Senate, that when a request is made for unanimous consent to fix a date to vote upon a certain proposition, for instance, the reasons why that consent should be given or withheld are within the request without an additional consent.

The PRESIDENT pro tempore. The Chair has stated that that has been the universal practice of the Senate.

Mr. CLARKE of Arkansas. Then, the point of order raised by the Senator from Arizona was not well taken; and the Senator from Connecticut and the Senator from Washington had each the right to state why he thought that consent should be given or withheld without appealing to the Senate for unanimous consent to do so.

I only want one of our most valuable rules preserved, because if the ruling of the Chair, as I understand it—to be sure, I am not imputing to the Chair a meaning that he did not intend to convey—but if the ruling stands as made, when a request is hereafter made for unanimous consent, for instance, to fix a date to vote upon an important public measure, no Senator will be permitted to say a word if a single Senator objects to debate, and we will then be forced to vote in the dark or forced to dispose of a matter of very great concern without the benefit of the enlightening course of debate, as it takes place here. I want it understood—and I think it is the judgment of the Senate that it shall be understood—that when a request for unanimous consent is made, the right to make such explanatory remarks as relate to that particular question, but not to the merits of the main proposition, shall be allowed as a matter of course.

Mr. LODGE. Mr. President, on the point of order that has been raised I think there can be no possible question that the universal practice has been as stated by the Chair. It is also obvious that it can only be a universal practice, because at this moment I have it in my power under the rules to put an end to the matter by demanding the regular order.

Mr. BRANDEGEE. Or by objecting.

Mr. LODGE. Or by objecting. So that the Senate is entirely protected against requests for unanimous consent being used as a means for protracting or delaying business. The protection is absolute, but the practice, when a unanimous-consent agreement is asked for, is as the Senator from Arkansas [Mr. CLARKE] has stated. We can not possibly agree to a request for unanimous consent to fix a time in the future to take a vote, which affects all the business of the Senate, without understanding its purpose and effect. I do not mean by that that we should discuss the merits of the question, for that is a different thing; but we ought to know the surrounding circumstances, if the consent is to be granted; and if not to be granted, it can be cut off by one objection.

The PRESIDENT pro tempore. The Chair thinks the view presented by the Senator from Arkansas [Mr. CLARKE] is the correct one, and, with the permission of the Senate, will withdraw the ruling. The Chair will state that the ruling was really made in the interest of time and to end discussion.

Mr. CLARKE of Arkansas. Then, we understand that the point of order raised by the Senator from Arizona is not well taken.

The PRESIDENT pro tempore. The point of order is not well taken. The Chair repeats that the Chair so ruled in the interest of time.

Mr. SMITH of Arizona. If the Chair will bear with me in patience, I want to indicate to the Chair that I have no feeling in this matter whatever——

The PRESIDENT pro tempore. The Chair of course so understands.

Mr. SMITH of Arizona. My only desire was to ascertain whether this was to be the rule or not, for in another parliamentary body in which I have served the common statement is, "Reserving the right to object, I should like to inquire," and so forth, so that information may be had as to what is the request. I thought that practice prevailed here, and that was the reason I made the point of order. I had no object and no feeling other than that.

The PRESIDENT pro tempore. The application of the Senator to address the Senate, reserving the right to object, was not made upon the question of granting a unanimous consent, but was made upon the question of present consideration of a proposed measure, which is an entirely different matter.

Mr. JONES. Mr. President——

The PRESIDENT pro tempore. The Senator from Washington.

Mr. JONES. I simply want to inquire of the Senator from Ohio if he expects to proceed with the discussion of the bill to-day?

Mr. BURTON. In answer to the interrogatory of the Senator from Washington, I will state that it is my desire to proceed with some remarks on this bill immediately after the disposition of the request for unanimous consent—that is, if I have opportunity.

Mr. JONES. With that understanding, I shall make no objection to the request.

Mr. CLARKE of Arkansas. Do I understand that the morning business has been closed?

The PRESIDENT pro tempore. It has not.

Mr. CLARKE of Arkansas. Is there anything before the Senate?

The PRESIDENT pro tempore. The Senator from Connecticut [Mr. BRANDEGEE] has presented an application for unanimous consent. Is there objection to the unanimous-consent request, which has been read from the desk? The Chair hears none, and it is so ordered.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. PAYNTER. Mr. President, I desire to give notice that to-morrow, February 6, 1913, after the conclusion of the routine morning business, I shall address the Senate on the so-called Kenyon bill relative to interstate commerce in intoxicating liquors.

CONNECTICUT RIVER DAM.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut.

Mr. BURTON. Mr. President, in pursuance of the notice given yesterday, I desire to address the Senate in favor of Senate bill 8033, Order of Business No. 1001.

There is much anxiety for the passage of this bill in the States of Massachusetts and Connecticut. It contemplates a public improvement which assumes national importance, relating to the development of navigation, and incidentally of water power, in the Connecticut River.

Mr. BANKHEAD. Mr. President, I rise to a point of order.

The PRESIDENT pro tempore. The Senator will state his point of order.

Mr. BANKHEAD. There is so much confusion in the Chamber that we are unable to hear the Senator from Ohio.

The PRESIDENT pro tempore. The point is well taken. The Senate will please be in order. The Senator from Ohio will proceed.

Mr. BURTON. I am satisfied that there would be no objection to the bill in the Senate except for the opinion of certain Senators that it creates a precedent which may be embarrassing to them. It contains two or three clauses which, as they allege, establish a rule which operates as an infringement on the rights of States and individuals and is a departure from the settled policy of the Government.

I shall endeavor to show, on the contrary, that the precedent established will not be embarrassing; that the bill does not infringe upon the rights of States or individuals; and that, so far from being a departure from the established policy of the Government, it is in line with it and confirms a salutary method of improving the rivers of the country. I shall also endeavor to show that, even conceding all this, exceptional circumstances exist in this case which differentiate it from other propositions here pending.

It is desirable at the very outset to explain the purpose and provisions of the bill. It gives authority to the Connecticut River Co. to construct a dam in the Connecticut River above Hartford. The river is now navigable for a distance of 52 miles, or, speaking exactly, 51.9 miles, from its mouth at Saybrook, on Long Island Sound, to the city of Hartford. On this stretch of the river there has existed for many years a very considerable traffic. It amounted in the last year to 683,000 tons. The freight carried had a value of $23,000,000. There is a regular passenger line from Hartford to New York, and the route is utilized to a very considerable extent by barges for the carriage of freight from New York and other localities to points on the Connecticut River.

Above Hartford there are obstructions. The first 10½ miles could be improved with comparative ease. At that point there are rapids extending for 5½ miles, which under the existing state of improvement interpose an effective barrier to its practical navigation for commercial purposes, though a canal with a lock of small dimensions permits the passage of boats of small draft. The traffic, however, is negligible.

Beyond these rapids there is a stretch of 18 miles, extending 11 miles to the city of Springfield and the near-by city of Chicopee, and then 7 miles farther to Holyoke. So the section below Hartford is 52 miles in length, and that above Hartford is 34 miles in length, in the midst of which, however, these rapids are found.

It is a familiar fact to the Senate that the cities mentioned are busy industrial centers. It is probable that the traffic would be doubled if navigation could be extended from Hartford to Holyoke past Springfield and Chicopee.

There has been agitation on behalf of this improvement for many years. It assumed active form in the year 1898. Since then several surveys have been made by the engineers of the Government. The improvement has been found to be practicable, but the expense has seemed to be prohibitive, and whenever any one of these surveys has been presented Congress has refused to make the necessary appropriation. This bill seeks to accomplish, by the utilization of water power in coordination with navigation, that which the Government has declined to do as an independent proposition.

The original grant by the State of Connecticut to the Connecticut River Co. was made in the year 1824. I will read briefly from the charter, from which it will appear that the object was the promotion of navigation.

The charter of the Connecticut River Co., passed in May, 1824, provided:

Resolved by this assembly, That John T. Peters, David Porter, Charles Sigourney, with all such persons as are or may be associated with them for the purpose of improving the boat navigation of Connecticut River, and their successors, be, and they are hereby, incorporated and made a body politic, by the name of the Connecticut River Co.

That corporation is still in existence, and under this authority constructed the lock and dam to which I have referred. The present proportions of both lock and dam and canal are so small, however, as to be utterly inadequate to satisfy modern demands for traffic. The use of water power by this company was altogether incidental, and not until the year 1909 was any authority given to develop hydroelectric power in connection with their works, though prior to that time they had sold the use of surplus water.

I may further say that during the life of this present Congress bills were introduced in the Senate both for the Connecticut River Co. and for another corporation known as the Northern Connecticut Power Co., seeking to accomplish practically the same object as the bill under consideration. Those bills were referred to the Committee on Commerce, and by its chairman referred to a subcommittee. The subcommittee held numerous hearings, giving careful consideration to them, and concluded that so long as these two corporations were at odds it was useless to grant any franchise. They have now come to an agreement, which agreement, however, lasts only until March 4, 1913. That fact impresses upon us the desirability, and in fact the necessity, of early action on this bill.

I will now review briefly the pending bill. It is entitled:

A bill to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut.

I may state, before going into the bill in detail, that it follows, in its general provisions, the so-called dam act of 1906, as amended in 1910.

The first section grants to the licensee the right to construct, maintain, and operate a relocated dam of larger size than the present one. There are three provisions in the first section which are not contained in the general dam act.

In the first place, the time for completing the dam may be extended by the Secretary of War, for good cause shown, for two years beyond the time prescribed in the general act. This is thought proper in view of the magnitude of the work. The general dam act authorizes the licensee to enjoy the privilege

granted provided he shall begin work within one year and complete it within three years.

The second provision is found in lines 15 to 18 of page 2 of the bill, a provision that the rights and privileges granted—

May not be assigned except upon the written authorization of the Secretary of War, or in pursuance of the decree of a court of competent jurisdiction.

Mr. President and Senators, I maintain that a condition of that kind is absolutely necessary to prevent monopoly in this very valuable asset of the Nation. Already there has been a very considerable degree of consolidation. The head of the Bureau of Corporations made a report some time since, in which he showed this tendency to concentration in the hands of a limited number of corporations, and that under this tendency a very large share of the water power of the country was falling under the control of certain corporations which have been alert and active in seeking to gain for themselves this very valuable privilege.

The third clause in which there is matter not included in the general dam act is found in lines 13 to 25 of the second page of the bill, and in lines 1 to 8 of page 3.

Mr. THOMAS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. BURTON. Certainly.

Mr. THOMAS. I should like to ask the Senator from Ohio whether the proviso just read by him would in any manner affect or prevent the assignment of the shares of stock of this company, or a majority of the shares of its stock, to some competing or other concern or individual?

Mr. BURTON. I presume not, Mr. President. As the Senator from Colorado will realize, we can adopt only regulations which will have a certain protective influence. Thus far in our legislation we have been content to place restrictions upon assignment to another organization. In time there may be a necessity, and, in fact, that necessity may exist now, to prevent common ownership. That was recommended in the report of the National Monetary Commission, in which there were very careful restrictions on common ownership of the stock of banks which should hold stock in the National Reserve Association.

The second portion of this bill, which is outside of the general dam act, reads as follows:

And provided further, That the Secretary of War, as a part of the conditions and stipulations referred to in said act, may, in his discretion, impose a reasonable annual charge or return, to be paid by the said corporation or its assigns to the United States, the proceeds thereof to be used for the development of navigation on the Connecticut River and the waters connected therewith. In fixing such charge, if any, the Secretary of War shall take into consideration the existing rights and property of said corporation and the amounts spent and required to be spent by it in improving the navigation of said river, and no charge shall be imposed which shall be such as to deprive the said corporation of a reasonable return on the fair value of such dam and appurtenant works and property, allowing for the cost of construction, maintenance, and renewal, and for depreciation charges.

Mr. CLARK of Wyoming. Mr. President——

The PRESIDENT pro tempore. Will the Senator from Ohio yield to the Senator from Wyoming?

Mr. BURTON. In just a moment.

It will be noted that this provision grants to the Secretary of War the right and the duty in certain cases to impose a charge to be deducted from the proceeds of the water power, the amount realized from that charge to be applied toward the improvement of the river and the waters connected therewith.

I now yield to the Senator from Wyoming.

Mr. CLARK of Wyoming. That is the exact point upon which I desired to interrogate the Senator. I understand from the public press that at least a tentative contract—an agreement upon which a contract shall be based—has been already entered into between the Secretary of War and this company. I will ask the Senator if he can furnish for the information of the Senate a copy of that contract which is proposed to be entered into under the terms of this section of the bill?

Mr. BURTON. Mr. President, I know of no such contract. I know of nothing outside the terms of this provision that is here before us. If it is in existence, I am entirely unaware of it.

Mr. BANKHEAD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Alabama?

Mr. BURTON. Certainly.

Mr. BANKHEAD. If it does not disturb the Senator from Ohio, I think there is one very important question involved here which should be understood now before he proceeds further with his discussion, and that is whether the Connecticut River Co. owns the site where this dam is proposed to be built or whether it is the property of the Government of the United States.

Mr. BURTON. I will come to that fully in a moment.

Section 2 of the bill contains a provision pertaining to location and provides for navigation. It will be seen that all through this bill the paramount object to be obtained is navigation. For instance, the officials of the Government have the right to control the flow of water. This section contains a provision to the effect that a certain quantity must at all times be allowed to pass by the dam. There is a provision for the height of the dam under which interference with rights acquired above this locality is prevented.

In answer to the question of the Senator from Alabama I will now take up section 4. It provides:

SEC. 4. That compensation shall be made by the said Connecticut River Co. to all persons or corporations whose lands or other property may be taken, overflowed, or otherwise damaged by the construction, maintenance, and operation of the said dam, lock, and appurtenant and accessory works, in accordance with the laws of the State where such lands or other property may be situated; but the United States shall not be held to have incurred any liability for such damages by the passage of this act.

Thus it will be seen, in answer to the question of the Senator from Alabama, that a most comprehensive provision is made that all private rights shall be acquired by this company, and that it shall be done without the United States incurring any obligation. It should be stated further in this connection that the licensee or grantee under this bill already owns a considerable share of the land abutting on the river at this point, though more land would have to be acquired.

Mr. CUMMINS. Will the Senator yield for a question?

Mr. BURTON. Certainly.

Mr. CUMMINS. The Senator has touched a question that is very interesting to me and which is somewhat agitated in my own State now. I suppose the Senator would not insist that the Government of the United States could give to the Connecticut River Dam Co. or Bridge Co., whatever it may be, the right of eminent domain in the State of Connecticut?

Mr. BURTON. The Government of the United States, by statute of Congress, has done something quite similar to that. Congress has passed an act providing that where land must be utilized for a Government work or is needed by the Government in connection with that work the district attorney in that locality, at the direction of the Secretary of War, may proceed to condemn it on proper indemnity being given to the Government against loss.

Mr. CUMMINS. I simply wanted to know whether the Senator from Ohio was of the opinion that Congress would give to a private company engaged in building a dam, even though it improved navigation, the right to take property in one of the States without the assent of the State.

Mr. BURTON. Such right could be by Congress if the property is to be used for a Federal purpose. Laws have been enacted with this object in view. In the case referred to the action would probably have to be by the Government on the initiative of the private company.

Mr. BORAH. And that for a specific and limited purpose, not by the general right of eminent domain to condemn.

Mr. BURTON. For Federal purposes.

Mr. CUMMINS. I wanted to get it clear as the Senator went along. Assuming the primary purpose of the grant is to create power which is to be sold for private profit, can the Government give such a company the right to go into the State and condemn private property as for public use?

Mr. BURTON. As I have already stated, the principal object of this bill, if any action is taken under it, is for the development of navigation. The water power is incidental to that object.

Mr. CUMMINS. May I ask the Senator from Ohio whether, assuming that is true, assuming that the motive, if you please, on the part of Senators who would vote for this bill, is to improve navigation, but assuming also that it is a private company, the chief purpose of which, so far as the company is concerned, is to create power for sale, could Congress in any way give to that company the right to condemn land in the State of Connecticut?

Mr. BURTON. Not for the creation of water power pure and simple, but that is not the case which is presented here. It is an improvement of navigation. The company takes the place of the Government in the improvement of navigation. The company already has the right to develop navigation, and such water power as it develops is incidental to it.

Mr. CUMMINS. Of course, my whole question leads up to this inquiry. Will the assent of the State be required before the proposition can be put into practical operation?

Mr. BURTON. I should question whether it would, under the statute passed, I believe, in 1906, although I have not recently examined it. I do not think, however, that question would be of much practical importance in this particular case,

because the corporation already has its charter and has its right to proceed under it.

Mr. CUMMINS. I do not know that it will be important in this case, but it will be important in a great many cases. It is very important in my own State at the present moment, where a private company is endeavoring to condemn the land of a private owner for the purpose of building a dam or for the purpose of being permitted to overflow lowlands. As I understand it, that company has never asked for any such power from the State of Iowa; it has never asked the consent of that State to exercise the privileges of eminent domain; and I was very anxious to get the exact view of the Senator from Ohio, who has been a deep student of the subject, because I think it is going to be a very important inquiry before very long.

Mr. BURTON. I will state to the Senator from Iowa that a case is reported in the Federal Reporter, volume 32, page 9, Stockton, Attorney General of New Jersey, against The Baltimore & New York Railroad Co. and others, in which that question is, I think, discussed very fully, as well as a number of other questions, particularly the ownership of the land under water, the right of the State to compensation, and the right of the State to prohibit the construction of the bridge. All those questions are there discussed. I do not think it best to go apart from the discussion I am now pursuing to enter at this time upon that phase of a subject somewhat related, but which I do not think is immediately involved.

Mr. NEWLANDS. Mr. President——

The PRESIDENT pro tempore. Will the Senator from Ohio yield to the Senator from Nevada?

Mr. BURTON. Certainly.

Mr. NEWLANDS. I would suggest to the Senator from Iowa that inasmuch as the National Government has sovereign power over interstate commerce and over navigation as a part of that commerce, and has the power to construct a dam in a river for the purpose of promoting that commerce, it has also the sovereign power to condemn without the consent of a State the land that is necessary for that structure; and that, if as an aid of such an enterprise, water power is developed, the sale of which would probably come within the control of the State, that fact would not in any way affect the right of the Nation as a sovereign to condemn such property to public use.

Mr. BURTON. I shall go into that subject quite fully, Mr. President.

Mr. CUMMINS. I did not express an opinion; I am simply a listener in this debate, and I was very anxious to know the view of the Senator from Ohio. I am glad now to know the view of the Senator from Nevada upon the subject. Of course, I have an opinion, which I will express later.

Mr. THOMAS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. BURTON. Certainly.

Mr. THOMAS. I understood the query of the Senator from Iowa to be whether this power could be transferred or delegated by the General Government to a private corporation having a contract to construct a public work, which is an entirely different proposition from that suggested by the Senator from Nevada.

Mr. CUMMINS. My inquiry was, When permission is granted to a private corporation that intended to build a dam, the chief purpose of which, so far as the corporation is concerned, was to furnish power to sell, whether the General Government could without the assent or action of the State give to such a corporation the right to enter the State and take lands under the principle of eminent domain?

Mr. THOMAS. That was my understanding of the Senator's question.

Mr. BURTON. Let me answer again in a word: The General Government can delegate to a private corporation the right to condemn land for the improvement of navigation, and neither Congress nor the courts would carefully scrutinize the dividing line between navigation and water power, though the fundamental reason must be the development of navigation.

Mr. BRANDEGEE. But is not the true reason because the Government constitutes the private corporation, its agent for that improvement, and it is not strictly a delegation of power?

Mr. BANKHEAD. I dislike very much to interrupt the Senator further, but there is one phase of this question to which I wish to call his attention, and I want him to elaborate it before he gets through. I should like to ask the Senator if he believes the Government of the United States can go into any State of the Union and condemn a site for any purpose except for navigation?

Mr. BURTON. That is a question which, if I were to answer yes or no, I would say no, in so far as the question relates to the development of navigable streams.

Mr. BANKHEAD. If they have no right to condemn it for any purpose except for navigation, then have they any right to dispose of an incident or a by-product that will result from that improvement?

Mr. BURTON. Most decidedly they have.

Mr. BANKHEAD. On that there is a difference of opinion. I think I will be able to show the Senate that they have not, according to all the decisions of all the courts which have passed upon that question.

Mr. BURTON. Indeed, I am rather surprised, Mr. President, that that question should be raised, for it is fundamental. I will come to it very soon.

Section 3 imposes the obligation on the company to—

build coincidentally with the construction of the said dam and appurtenances, at a location to be provided by said corporation and approved by the Secretary of War, and in accordance with plans approved by the Secretary of War and the Chief of Engineers, a lock of such kind and size, and with such equipment and appurtenances as shall conveniently and safely accommodate the present and prospective commerce of the river, and when the said lock and appurtenances shall have been completed the said corporation shall convey the same to the United States, free of cost, together with title to such land as may be required for approaches to said lock and such land as may be necessary to the United States for the maintenance and operation thereof, and the United States shall maintain and operate the said lock and appurtenances for the benefit of navigation, and the said corporation shall furnish to the United States, free of charge, water power, or power generated from water power, for operating and lighting the said constructions; and no tolls or charges of any kind shall be imposed or collected for the passage of any boat through the said lock or through any of the locks or canal of said corporation.

Section 5 is also new. It provides that the franchise shall continue 50 years, and at the expiration of that time the Federal Government may either take over the property itself or authorize the transfer of the franchise and property to another than the original licensee. In this respect the bill differs materially from existing legislation on the subject. I think I can prove to the satisfaction of Senators that some clause providing for compensation at the end of 50 years is altogether necessary. Three or four forms of franchise have been suggested, one a perpetual franchise. That, of course, is what the licensee would prefer, but in view of the possible development of water power, such a franchise is out of the question. We should be failing in our duty if we granted anything of the kind.

Another form of franchise is the so-called indeterminate one, in which no period is fixed. That kind of a grant is sometimes expressed as one giving rights during good behavior. The corporations seem to prefer that form of grant rather than one fixing a specific period, but there is such a degree of uncertainty attaching to it that it does not seem to be desirable. There is one practical objection to that class of franchises which is particularly potent in our cities. It constantly keeps the holders of the franchise in politics. They are seeking to elect men to the city council and to public office who will be favorable to their corporation and the rights under it. On the other hand, an indeterminate franchise is not without substantial dangers to those who possess them. In some wave of feeling officials may be elected who will endeavor to confiscate the rights granted under it.

We now come to the question between the 50 years without any provision as to the disposition of the property at the end of the time and 50 years with a provision for compensation.

It is evident that if the right be given for but 50 years, at the end of that period the utmost right which the licensee would have would be for the removal of his structures, and even that right is very doubtful. In such a case as this those structures are essential for navigation; they form part of a general plan for the navigation of the river, and if they can be removed navigation must fail.

But from the standpoint of the public there is another and more vital objection to a franchise which expires in 50 years, with no provision for renewal. A very large expense must be incurred in the construction of the dam, the lock, and appurtenances. If at the end of 50 years the licensee has no right in the structures erected and maintained, he would be compelled to establish a sinking fund to pay off the cost of those structures. That expense is usually represented by bonds, and the cost of creating a sinking fund to pay off the principal and interest of such bonds during the life of the franchise will be imposed upon the consumers. No public service commission could deny that right in case it were required to fix the charges; it would not be just to ignore the situation, and a court in reviewing an order of the commission would take into account the necessity for providing such a fund in fixing the rates. On the other hand, if provision is made for compensation at the

end of 50 years, in a case of assignment of the franchise to another, or its assumption by the Government, the consumer is relieved from that very material expense.

It is also provided here that a bonus—I hardly like to call it a bonus—of 10 per cent may be paid. That will be within the authority of Congress. The language of the clause is:

Allowance being made for deterioration, if any, of the existing structures in estimating such efficiency, together with the fair value of other properties herein defined—

That is, the dam, the lock, the transmission lines, and the generating apparatus—

to which not more than 10 per cent may be added to compensate for the expenditure of initial cost and experimentation charges and other proper expenditures in the cost of the plant which may not be represented in the replacement valuation herein provided.

In the provision for compensation great care is taken so that the licensee may claim nothing for the franchise value. It is merely for the value of the property on the basis of what it would cost to reproduce it at the time. The licensee then could not claim that he had a right to bring forward a long list of expenditures for equipment that was obsolete. Oftentimes in a progressive establishment structures are built and machinery is installed which in a short time have to be thrown upon the scrap heap. No claim for any expenditures of that nature could be made under this provision; it must be for the cost of replacing structures and in accordance with their value at the end of the time.

Mr. President, I have now pointed out the differences between this bill and existing legislation. The following statement is made in the minority report, page 21 of the document which is before us:

A majority of the committee in their report say:

"It appears to be a settled question that the Federal Government may impose a charge for the use of the surplus water not needed for navigation."

Then the minority report says:

We, the minority, deny that this question has been settled, and we challenge the majority to point to a single law on the statute books, or to a report of a single committee in Congress, or to a single decision of the Supreme Court which tends to establish their contention.

Mr. President, it seems to me that that is rather an extraordinary statement. It is refuted by an exceptional array of reports of committees, acts of Congress, acts of various officials of the Government, and by decisions of the Supreme Court of the United States.

I wish, in the first place, to call attention to the so-called Nelson report, made from the Judiciary Committee of the Senate. It is found on page 96 of the very document that has been prepared in relation to this bill.

Mr. BRANDEGEE. Will the Senator kindly indicate the title of that document?

Mr. BURTON. That document is entitled "Federal Control of Water Power"; papers submitted to the Committee on Commerce of the United States Senate. It comes from the printer for the use of the Committee on Commerce. It comes with no number. On page 96 of this report the following statement is made:

If for the purpose of improving the navigability of a stream carrying interstate commerce the Federal Government constructs and maintains a dam, with locks and gates, the Government has the undoubted right to establish and maintain, in connection with such dam, an electric-power plant for the purpose of furnishing motive power to operate such locks and gates. And the Federal Government has the right to sell, lease, or rent, for compensation, any surplus power that may arise from and be an incident to such an improvement of navigation. (Kaukauna Water Power Co. v. Green Bay & Mississippi Canal Co., 142 U. S., 254.)

Mr. CLARK of Wyoming. Of course the Senator does not cite that as the report of a committee.

Mr. BURTON. I had understood that it was.

Mr. CLARK of Wyoming. No; the Judiciary Committee has never made a report on this question. On the contrary, this is the individual view of a single member of the subcommittee of the Committee on the Judiciary.

Mr. BURTON. I stand corrected in that particular, then; I had supposed that the Judiciary Committee having had it under consideration a very long time, and having been asked by Congress or by the Senate to report on the subject, the request of the Senate found its compliance in this very able report.

Mr. CLARK of Wyoming. Not at all. The Judiciary Committee was, in fact, engaged for a long while upon this question and never arrived at a committee determination.

Mr. BURTON. May I ask the Senator from Wyoming how long they were on that question?

Mr. CLARK of Wyoming. Oh, I can not say how long, but we consumed a good many meetings in the discussion of it in an endeavor to embrace the entire country, starting on the Atlantic coast and, I believe, getting as far as the Hudson River. This is the report or at least the individual view of a single member of the subcommittee, I think.

Mr. BRANDEGEE. Mr. President——

Mr. NELSON. I will state that this is the report——

The PRESIDING OFFICER (Mr. KENYON in the chair). Does the Senator from Ohio yield, and to whom?

Mr. BURTON. I yield to the Senator from Minnesota.

Mr. NELSON. I will state it is the report of the subcommittee, consisting of the Senator from New York [Mr. ROOT], the Senator from West Virginia [Mr. CHILTON], and myself, to the full committee.

Mr. BURTON. I can only say in deference to those gentlemen that while it may not be the report of the committee, it certainly will carry very great weight from three very eminent men.

Mr. CLARK of Wyoming. It would be a very valuable legal opinion.

Mr. BRANDEGEE. Mr. President——

Mr. BURTON. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. I was about to observe that it appears on page 85 of the document to which the Senator has just referred, and that it purports to be the "Views of Senator NELSON on Senate resolution 44, Sixty-second Congress, second session." That was the resolution introduced by the senior Senator from Washington [Mr. JONES], requesting the views of the Judiciary Committee on these questions.

Mr. BANKHEAD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Alabama?

Mr. BURTON. Certainly.

Mr. BANKHEAD. I want to remind the Senator from Ohio that the case he cited here is not parallel to this one at all. The question of the Senator from Minnesota was as to where the Government itself was the riparian owner, where it owned the site itself, built the dam, and expended all of its own money in constructing the dam and preparation for navigation.

Mr. BURTON. While the Senator from Alabama is on his feet, I will read another quotation, two pages later, from that report.

Mr. BANKHEAD. I want the Senator to answer my present inquiry before he reads the extract.

Mr. BURTON. I will read; and it is an answer to your interrogatory.

Mr. BANKHEAD. Very well.

Mr. BURTON. It reads:

Responding to the second interrogatory, we are of the opinion, divorcing the question from riparian rights, that the Federal Government, in authorizing the construction and maintenance of a dam on a navigable stream by States, municipalities, or private parties, for the chief and primary purpose of improving the navigation of the stream, has the same right to prescribe the terms and compensation for the use of the surplus power, created as an incident to the main improvement, as the Government would have in case it had itself built the dam or made the improvement, and that the Government, having delegated the power of building such dam to private parties, might well confer upon them as compensation for the work thus undertaken the right to do what the Government itself could do in case it had itself constructed the work.

Mr. BANKHEAD. I ask the Senator from Ohio from what he reads?

Mr. BURTON. This is the same report, and I read from page 98.

Mr. BANKHEAD. I know it is the same report, but from whom does the Senator quote?

Mr. BURTON. From Senator NELSON's views.

Mr. BANKHEAD. I thought the Senator was quoting from the Secretary of War.

Mr. BURTON. Oh, no.

Mr. NELSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Minnesota?

Mr. BURTON. I yield to the Senator from Minnesota.

Mr. NELSON. Mr. President, the Senator from Ohio is not able to draw the proper conclusion from those two statements. In the one case, where the Government for the purpose of improving navigation constructs a dam and water power, that being the main purpose, though incidentally there is power created in connection with it, the Government, according to my opinion, has the right to charge compensation; but where the Government says to a private corporation, "We will give you permission"—and the permission only amounts to this, that we will consider the structure is not an impediment to navigation—where the Government says, "We will give you permission; we will put you in our place; you may build a dam with your own money if you will build it as prescribed by the Board of Engineers," in that case compensation for the use of the power belongs to the company that has put its money into the work, whereas in the other case it belongs to the Federal

Government, which has invested its money. It is exactly the same principle; the Government or the company that invests the money and makes the structure is entitled to the compensation.

Of course, when you come to compensation that a private company may exact, you are confronted by the question as to the rights of the State in the premises and the rights of the other riparian owners, which is a question divorced from this general proposition.

Mr. BURTON. Mr. President, let us see the position that the Senator from Minnesota takes. He says that the Government can authorize a private corporation to build a dam, and that dam shall be the property of the Government, the lock in connection with it shall be the property of the Government.

Mr. NELSON. Oh, no; I did not say that. I did not say that either the dam or the lock should be the property of the Government.

Mr. BURTON. It does not make any difference whether the Government has the ownership or merely the use for navigation. The Senator from Minnesota and every Senator who signed the minority report here agreed to the provisions in this bill—provisions that have been carried on the general dam act for years and included in a number of bills which Congress has passed. What are those conditions? That the Government——

Mr. JONES. Mr. President——

Mr. BURTON. I would like to proceed with my answer on this proposition. The minority concede that the Government may insist that the private corporation build the dam; it may insist that the private corporation build a lock, which has nothing whatever to do with the development of power, but is only for navigation; it may insist that it shall equip that lock and dam for navigation; it may insist that for all time power shall be furnished for the operation of that lock so that boats shall go through—all these are compensations for the right. But when it is asked that the company shall also pay a compensation, the minority say that can not be done. After having compelled the expenditure of some millions for the dam, half a million for the lock, after imposing on them the obligation for the maintenance of power, after having swallowed a camel, in fact three or four camels, you then strain at a gnat, and say you can not impose upon them the obligation to pay anything by way of rental when they have already agreed to expend millions for the privilege. As regards the few dollars that the company must pay from proceeds when the works are finished you come in here and say, "There you have got to jump off; you can not go any farther."

Mr. NELSON and Mr. BRANDEGEE addressed the Chair.

The PRESIDING OFFICER. To whom does the Senator from Ohio yield?

Mr. BURTON. I yield, first, to the Senator from Minnesota.

Mr. NELSON. There is no compulsion on the parties who desire to construct a dam and create a water power on a reach of a river that is not navigable. They could go to work under State law and construct that dam. In the olden times, when we had merely the country sawmill and the ordinary flour mill, hundreds of dams were constructed throughout the country in connection with them, and the Federal Government never thought of interfering.

Mr. BURTON. Yes; and in this particular instance——

Mr. NELSON. In these later days, when the construction of dams leads to the development of electrical power, it involves the employment of large capital. Bonds have to be issued to obtain money to build dams on a vast scale, and the men who furnish the capital say, "We want you to go to the Federal Government to get a license."

What is it the Federal Government grants in this case? It says to these owners, "If you construct this dam as we require, with locks and gates, and operate it for the ends of navigation, we will not consider it as an obstruction to commerce and navigation." That is all that license amounts to. The Federal Government does not create any other power, and the Federal Government does not compel these parties to build the dam. They come here and get that license, a license which, in effect, is that if they do so and so, if they build the dam in this manner, we will not consider it an impediment to navigation.

Mr. BURTON. It seems to me the Senator from Minnesota goes far astray from the nature of the transaction. The parties choose to come to the Federal Government for the permission. It is useless to say that they could go to the State of Connecticut and get this permission. This act, while the locus is in Connecticut, is of far more importance to Massachusetts than it is to Connecticut. What is it that is imposed upon the company? Certain conditions under which they enjoy that privilege. What is the theory of it? That the Government, as a requisite for the right to locate there at all, imposes certain obligations upon them—charge for the use of the water. If we tell them, "Instead of paying us the money for it you can build a dam if you will, and you may build the locks," those are all of them conditions under which they go in there and take possession. In principle there is no difference whatever between an annual license and the expenditure of a vastly larger amount of money, which is necessary for placing those structures there and making the stream navigable.

Mr. BRANDEGEE. Will the Senator from Ohio yield to me?

Mr. THOMAS. Mr. President——

Mr. BURTON. One at a time. I will first yield to the Senator from Connecticut.

Mr. BRANDEGEE. I wanted to emphasize, if I might, the point which I think the Senator from Ohio alluded to, that in this particular bill the payment by the company of money is simply in effect a payment to the Government as trustee, and must be used for the improvement of navigation in that very river, hence it is just as properly a part of the condition under which the license is granted as the construction of the lock itself.

Mr. BURTON. Certainly. I am coming to that later, to show the difference.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. BURTON. I yield to the Senator from Colorado.

Mr. THOMAS. Suppose that instead of providing that this fund to be raised was to be used for the improvement of the Connecticut River the proviso was that it should be used for the improvement of the Hudson River, would that be an exercise of a power that belongs to the Federal Government?

Mr. BRANDEGEE. Is the Senator from Colorado asking me that question?

Mr. THOMAS. Yes. If the purpose of this bill is within that power, why, then, can not the fund be also diverted to the Hudson River or to some other river in some other State?

Mr. BRANDEGEE. It could not, certainly, under the terms of this bill.

Mr. THOMAS. I am not speaking about that, but about the extent of the power if we admit it for any purpose.

Mr. BRANDEGEE. I understand the Senator's question; and I will say I do not believe anybody can certainly answer the question. It has occurred to me that it might be constitutional for the Government, in the issuing of these permits, to provide, for instance, for a national fund, into which these payments should go, to be used in the interest of navigation. If we have jurisdiction of navigation under the commerce clause of the Constitution, what the Supreme Court would say about the legality of such a law, such a policy, I am not prepared to state, but I think clearly in this case, where it is confined to a particular river and made a condition of a particular improvement, it would be valid.

Mr. THOMAS. Mr. President, my purpose in rising was to inquire of the Senator from Ohio whether the right which he claims the Government has in a matter of this kind and whether the report made by the Senator from Minnesota, from which he read an extract, does not necessarily involve as a condition of its existence the ownership by the Government either of the waters of the stream or of the force which is created by gravity in the improvement of the water?

Mr. BURTON. Not at all. I shall dwell on that subject somewhat later in the course of my argument.

Mr. THOMAS. I should like to hear the Senator discuss that question.

Mr. JONES. Mr. President, the Senator may have gotten away from the point to which I desired to call attention——

Mr. BURTON. If I have, we will try to get back to it.

Mr. JONES. The Senator read an extract from the views of the Senator from Minnesota to sustain his proposition that the Government would have the right to make a charge for the surplus water power when the dam was constructed by private parties. If he had read just a few sentences further, he would have seen the views of the Senator from Minnesota with reference to what that charge should be and for what it should be made. I desire to read that.

Mr. ROOT. What page?

Mr. JONES. Page 98.

Mr. BURTON. Before the Senator from Washington reads that, I want to call his attention to the fact that he is likely to fall into error there.

Mr. JONES. I want this in the RECORD in connection with what the Senator read from the report of the Senator from Minnesota, because I am afraid that his hearers may be led into an error from what he read——

Mr. BURTON. Not at all.

Mr. JONES. If they do not hear what he failed to read. Now I will read it:

And in such case the Government would be authorized to charge a nominal license fee for inspecting and passing upon the plans and for watching over the work to see that it conforms to the plans and is properly maintained; but the regulative power of the Government would not extend to the use of the water for other purposes than navigation and interstate commerce. In such a case it seems to us that the Federal Government has no water power to sell or charge compensation for, for it is only authorized by the Constitution to regulate interstate and foreign commerce, which in this case means navigation.

Mr. BURTON. The Senator from Washington left out a part of that paragraph that would change the sense as much as leaving out the word "not" in one of the Ten Commandments. He has left out this—the first portion of it pertains to navigable streams—then he goes on to say—and I will read what the Senator from Washington has omitted——

Mr. JONES. Well, Mr. President, I suggest to the Senator that he connect it with what he previously read.

Mr. BURTON. I will begin just where I left off.

Mr. NEWLANDS. On what page?

Mr. BURTON. Page 98. I have already read in the hearing of the Senate the portion which pertains to the improvement of navigable streams for the purpose of navigation with water power incidentally created.

Mr. JONES. Does the Senator contend that what I read does not relate to navigable streams?

Mr. BURTON. I will read it. That is the best way to answer that question.

Mr. JONES. Very well.

Mr. BURTON. It is as follows:

In this connection, and as a further response to the interrogatory, it must be noted that the mere grant by the Federal Government of authority to construct a dam in a navigable river, not for purposes of navigation, but really for the creation of a water power, is merely a license or permit, the effect of which is that if the dam is constructed and operated conformable to plans approved by the Government, it will not be deemed an obstruction or impediment to navigation.

I want to say to the Senator from Washington it is perfectly plain that the first portion of the paragraph pertains to an improvement for the purpose of navigation where water power is incidental, and the latter portion, in the distinctest language—and that is the sentence the Senator from Washington omitted—says:

Authority to construct a dam in a navigable river, not for purposes of navigation, but really for the creation of water power—

And so forth.

Mr. JONES. Well, Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield further to the Senator from Washington?

Mr. BURTON. Yes.

Mr. JONES. Of course I can see where there may be a difference of opinion with reference to the purposes of this bill, but the main purpose of this bill is not to aid navigation. The primary purpose is to develop water power. The grantee in this case is not getting this grant for the purpose of aiding navigation but is getting it for the purpose of building and constructing water power for private purposes. It has to get permission of the Government to operate in a navigable stream, and so it is proper that the Government should put in this bill the necessary restrictions and provisions for the protection of navigation. The purpose, however, of this company is not to promote navigation but to develop water power.

Mr. ROOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from New York?

Mr. BURTON. Certainly.

Mr. ROOT. I want to suggest to the Senator from Washington that there may be two purposes in this bill.

Mr. JONES. Oh, there are more than two.

Mr. ROOT. There may be a purpose of the company and there may be a purpose of the Government of the United States. The purpose of the Government of the United States may be to utilize the willingness of this company to construct this dam in order that the navigation of the Connecticut River may be improved.

Mr. JONES. Certainly.

Mr. ROOT. And the provisions upon which the contest as to the propriety and validity of this measure depend are provisions which relate to carrying out the purposes of the Government in respect of navigation.

Mr. JONES. There is not any doubt in my mind that the language used by the Senator from Minnesota in the report just quoted applies to the case that we have before the Senate now. I do not think there is any question about that at all.

Mr. BURTON. I must most materially differ with the Senator from Washington in regard to that. The reading of the whole paragraph will not enable anyone to come to that conclusion.

Mr. JONES. I am satisfied that the Senator from Minnesota would claim that that was the thought he had in mind when he used that language; and the case was exactly on all fours with the one we have before the Senate now.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from California?

Mr. BURTON. Certainly.

Mr. WORKS. I should like to ask the Senator from Ohio whether he understands that the power that is to be developed by the construction of this dam is for private use or whether it will become a public use?

Mr. BURTON. Well, there is no specification in regard to that.

Mr. WORKS. That is a very important matter to be considered.

Mr. BURTON. Does the Senator from California mean whether it is to be used for lighting or some public utility in some of the cities around or whether it is for power used for factories?

Mr. WORKS. I mean whether it is developed for the purpose of sale to others.

Mr. BURTON. It is so developed.

Mr. WORKS. If that be so, Mr. President, every additional burden that is placed upon the development of the water power must be paid ultimately by the consumer. In determining what rate shall be paid—and those rates certainly must be fixed by the State, and not by the National Government—the amount necessarily paid out by the corporation must be taken into account in determining the rate to be paid. In other words, if $100,000 is exacted by the Government for the use of this privilege, that is a part of the amount necessarily invested by the corporation, and the consumers must pay, in the first instance, interest upon that charge. That is a direct interference with the right of the State to control the water rights, and that is just what the people out in the West desire to avoid. I do not know how it may be in other States; water may be cheaper elsewhere than it is in California; but in southern California the item of cost of water for irrigation is a very important one, and we are not willing to see a policy established that will compel our people to pay an additional amount for the use of the water.

Mr. BURTON. Mr. President, we can not afford to blind our eyes to the fact that there are two interests represented here. One is the Federal Government, which must at great cost improve, and has at great cost improved, this river. It must incur expense in the future. The consumer also has his rights; but those rights are subject to the paramount authority of the Federal Government to maintain navigation in that river. The Senator from California virtually says if there is a facility or natural resource to be utilized anywhere, the consumers or the persons in the locality must have the full benefit of it. I want to answer that a little further on. But is it true that this proposed charge falls on the consumer? Theoretically that may be so; but the charge would not materialize until the consumer had had every opportunity to secure his rights. Under what circumstances would this charge be made? This company would erect its works—its generating apparatus, its transmission lines, and so forth—and then would come the State of Connecticut and fix the price that the company shall charge to the consumers. After that is done and the plant is in operation, it would be the right of the Government to impose or not impose a charge, as conditions might warrant. In this connection the bill provides:

In fixing such charge, if any, the Secretary of War shall take into consideration the existing rights and property of said corporation and the amounts spent and required to be spent by it in improving the navigation of said river, and no charge shall be imposed which shall be such as to deprive the said corporation of a reasonable return on the fair value of such dam and appurtenant works and property, allowing for the cost of construction, maintenance and renewal, and for depreciation charges.

It would come into operation as a check on exorbitant profits, not to be imposed until the rights of the consumer, the rights of the company, and the rights of the general public are fully protected.

Mr. WORKS. Mr. President, I think the Senator from Ohio is confusing the matter of the protection of navigation with the right to the use of the water itself, and the right on the part of the State to control that use. It may be——

Mr. BURTON. In due time I will come to that. Let me ask the Senator from California what rights do the States have? What right has the State of Connecticut in this case?

Mr. WORKS. I do not know anything about what the law may be in the State of Connecticut; I am not dealing with Connecticut, but with the State of California.

Mr. BURTON. In the State of the Senator from California water belongs to the State in a very different sense from what it does here.

Mr. WORKS. I do not know why it should be in any different sense.

Mr. BURTON. You do not have the same in regard to water in California, do you?

Mr. ROOT. You have a different system of laws there.

Mr. WORKS. Certainly; the system of laws is different, but the principle is precisely the same. The right to use the water belongs to the State in the first instance. Of course the old doctrine of riparian rights may exist, and probably does exist, in Connecticut. The riparian right exists in California, but, Mr. President, it is subject to the right of the State to fix the rates and control the amount of water that shall be taken out of the river. The objectionable feature of this measure is that the Government is interfering in such a way as to increase the amount necessary to be paid for the water. There is no escaping that fact. The Senator from Ohio may regard it as a merely nominal additional rate to be paid, but the exactions may be such as to increase the rate materially. Whether it does or not, however, the principle is precisely the same. The National Government is interfering with the right of the State to fix the rate and the right of the consumer to have the water at a reasonable rate, to be fixed in that way; and there is no escaping from it.

Mr. BURTON. But, Mr. President, the Federal Government is not interfering with the right of the State to fix the rate. Personally I think the time will come when there will have to be national supervision over these charges, similar to that exercised over railroads through the Interstate Commerce Commission; but I can not accept the idea that the different States are the pampered children of an indulgent parent and that in the case of a very valuable asset, such as this, States may appropriate it all for themselves, and that the Government must overcome the rapids, build locks and dams at enormous expense, and improve the navigation of a river when that improvement inures to the benefit of a particular locality and is demanded by that locality, and that such expenditure shall be without countervailing obligations on the other side.

Now, Mr. President, to resume my argument in regard to the reports of committees on this subject, I want to call the attention of the Senate to Senate bill 943 as reported with an amendment from the Committee on Commerce. It is an act to improve navigation on the Black Warrior River, in the State of Alabama. I read again the statement in the views of the minority on the pending bill. In answer to the statement in the majority report that—

It appears to be a settled question that the Federal Government may impose a charge for the use of the surplus water not needed for navigation.

The minority report says:

We, the minority, deny that this question has been settled, and we challenge the majority to point to a single law on the statute books, or to a report of a single committee in Congress, or to a single decision of the Supreme Court which tends to establish their contention.

The Black Warrior River is in the State of Alabama. The bill was reported by the Committee on Commerce. Let us see what the provisions of this bill are with reference to imposing a charge:

SEC. 4. That the Secretary of War is authorized and empowered to enter into a contract with the Birmingham Water, Light & Power Co., a corporation organized under the laws of the State of Alabama, its successors and assigns, for the purpose of carrying out the stipulations and performance herein mentioned. It shall be provided in said contract that the company, its successors and assigns, shall have the right to construct, maintain, own, and operate, at its own cost, in connection with Dams and Locks 16 and 17, for a period of 50 years from the time fixed in this act for completion of the works herein authorized, electrical power stations—

And so forth. It is not necessary to read all of the act.

Mr. BANKHEAD. Mr. President, if the Senator will permit me——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Alabama?

Mr. BURTON. Certainly.

Mr. BANKHEAD. The Senator can not fail to remember that when that bill went to conference it was distinctly stated on the floor of the Senate that, if the Senate would permit a report to be made, everything in the bill pertaining to power would be stricken out, and that the bill would come back to the Senate simply as a navigation proposition, and that that was done.

Mr. BURTON. It is a very singular thing for a committee of the Senate to go through the farce of bringing in a bill here with elaborate provisions, and approve it, with the idea that it is going to be meaningless and all stricken out. This is the form in which it was not only introduced in the Senate, but passed in the Senate, as I recall. Certainly it is a report of the Committee on Commerce.

Mr. BANKHEAD. I think if the Senator will examine the bill he will find those are House amendments. The RECORD so shows.

Mr. BURTON. Then it is a report of the Committee on Rivers and Harbors. It is possible I am in error in that regard, but I think not.

Mr. BANKHEAD. Yes; the Senator is in error.

Mr. BURTON. It is a report of the Committee on Rivers and Harbors?

Mr. BANKHEAD. One more moment, and then I will not interrupt the Senator any further, as the time will come, perhaps, when some of the rest of us will have an opportunity to discuss this question.

Mr. BURTON. I think some of you are discussing it now.

Mr. BANKHEAD. I do not want the Senate to be misled, because the Senate will remember, and the records will show, that every provision referred to by the Senator from Ohio was stricken out in conference.

Mr. BURTON. This bill passed, did it?

Mr. BANKHEAD. Yes, it passed, and it is in operation now simply as a navigation proposition, and the locks are almost complete.

Mr. BURTON. But this provision in regard to the leasing of power was not accepted.

Mr. BANKHEAD. That is not in the bill. We struck it out.

Mr. BURTON. Here is the report from the Committee on Rivers and Harbors of the House, or from the Committee on Commerce of the Senate:

The said contract shall further provide for the payment by the company to the Government of an annual rental for its use of the water power developed at Dams 16 and 17. For a period of 20 years the rental shall be at the rate of $1 per annum per horsepower developed, which rate shall be subject to readjustment by the Secretary of War at the end of that period and thereafter at the end of every 10-year period.

Mr. BANKHEAD. That was all stricken out of the bill. There is nothing of that sort in it.

Mr. BURTON. However, it is at least an absolute contradiction of the statement in the minority report that no committee of Congress has recommended anything of this kind. I am coming to some cases that are altogether stronger than these, but I give these merely with reference to the reports of committees.

I want to call attention next to a number of statutes——

Mr. BANKHEAD. Wait a moment; I want to get the Senator right. That is not the report of a committee of the House. That amendment was offered on the floor of the House by Mr. HUMPHREYS of Mississippi, and after two or three days the bill passed and came over here with that provision in it, and it was stricken out.

Mr. BURTON. It does not look that way in the copy I have here.

Mr. BANKHEAD. I do not know how it looks; but if the Senator will take the RECORD he will find it.

Mr. BURTON. The whole bill was passed by the Senate in that form. The Senator is in error in regard to that.

Mr. BANKHEAD. No; I am not.

Mr. BURTON. It is marked here: "Passed the Senate July 24, 1911."

Mr. JONES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Washington?

Mr. BURTON. Certainly.

Mr. JONES. I will ask the Senator to read from the report of the committee his views with reference to the matter, because the fact that the bill passed the House would not indicate whether any part of it was put on upon the floor of the House, or put on in committee and reported by the committee. The report of the committee of the Senate will show what the views of the committee were.

Mr. BURTON. I have somewhere a copy of that report. It is possible that I can turn to it before I am through with my remarks.

I want to call attention next to a great variety of statutes on the subject. They are of three classes. The first class comprises dams constructed by acts of Congress where surplus water, not needed for navigation, has been leased for water-power purposes. In a report of the Sixty-second Congress, first session, Document No. 57, there are a number of these. I wish to invite attention to the first class.

The earliest act, perhaps, was in the year 1888, which allowed power in the Muskingum River to be used for private purposes. By that act the Secretary of War is authorized and empowered

to grant leases or licenses for the use of the water powers at such rate and on such conditions and for such periods of time as may seem to him just, equitable, and expedient. Under that statute, passed now nearly 25 years ago, the authority to make charges for surplus water power has ever since been exercised. An advertisement was made just a few days ago for a lease of the power in connection with one of the dams for a period of 22 years.

The second instance is that of the Green and Barren Rivers of Kentucky. That act was passed September 19, 1890. Under it the Secretary of War is authorized and empowered to grant leases or licenses for the use of the water powers, at such rate and on such conditions and for such periods of time as may seem to him just, equitable, and expedient, with an added condition that the leases are not to extend beyond the period of 20 years.

Mr. President, I desire to have this document printed with my remarks, because it sets forth a large number of these instances.

The PRESIDING OFFICER. Without objection, it is so ordered.

The document referred to is as follows:

[Senate Document No. 57, Sixty-second Congress, first session.]

WATER-POWER PRIVILEGES.

Mr. BURTON presented the following memorandum from the Acting Chief of Engineers of the War Department relative to acts of Congress concerning power privileges at Government dams. June 29, 1911. Ordered to be printed.

Memorandum of acts of Congress concerning power privileges at Government dams.

Names of rivers.	Grantee.	Date of act.	Provisions of act.	By whom improvement made.
Muskingum, Ohio	General authorization	Aug. 11, 1888 (25 Stat., 417)	The Secretary of War authorized and empowered to grant leases or licenses for the use of the water powers, at such rate and on such conditions and for such periods of time as may seem to him just, equitable, and expedient.	United States.
Green and Barren, Ky	do	Sept. 19, 1890 (26 Stat., 447)	The Secretary of War authorized and empowered to grant leases or licenses for the use of the water powers, at such rate and on such conditions and for such periods of time as may seem to him just, equitable, and expedient, with added condition that leases are not to extend beyond the period of 20 years.	Do.
Cumberland, Tenn., at Lock No. 1.	do	June 13, 1902 (32 Stat., 408)	The Secretary of War authorized to grant leases or licenses for the use of the water power at such rate and on such conditions and for such periods of time as may seem to him expedient. (See also act of June 28, 1902.)	Do.
Tennessee River at Hales Bar.	City of Chattanooga or other private corporations.	Apr. 26, 1904 (33 Stat., 309)	Grantee to purchase necessary lands and deed same to United States, to construct lock and dam and give them to United States completed, free of all cost except expenses connected with preparation of plans, superintendence, cost of lock gates, etc., and to furnish United States free electric current for operating locks and for lighting. Grantee to have use of water power for 99 years.	Private.
Mississippi at Des Moines Rapids.	Keokuk & Hamilton Water Power Co.	Feb. 9, 1905 (33 Stat., 712)	Grantee to build a lock and dry dock and appurtenant works, and United States to have ownership of them. Grantee to provide suitable power plant for lighting and operating the lock, dry dock, and appurtenances, and to provide fishways.	Do.
Cumberland and tributaries.	Cumberland River Improvement Co.	Mar. 3, 1905 (33 Stat., 1132)	Right to collect tolls to cease at expiration of 40 years from date of completion of Lock and Dam No. 21, Cumberland River, and United States may then assume the possession, care, operation, maintenance, and management of the lock or locks constructed by the corporation but without in any way impairing the right or ownership of the water power and dams created by the corporation.	Do.
Coosa, Ala., at Lock No. 2	General authorization	May 9, 1906 (34 Stat., 183)	United States reserves right to control dams and pool level and to construct locks. Land for lock and approaches to be conveyed to United States free of charge, and United States to have free water power for building and operating locks. Fishways to be constructed.	Do.
White, Ark., at Lock No. 1	Batesville Power Co.	June 28, 1906 (34 Stat., 536)	The Secretary of War authorized and directed to fix from time to time reasonable charges to be paid for use of power.	Do.
Coosa, Ala., at Lock No. 12	Alabama Power Co.	Mar. 4, 1907 (34 Stat., 1288)	Dam to be built so that the United States may construct a lock in connection therewith. The grantee to have the right to use Government land necessary for the construction and maintenance of the dam and appurtenant works, to convey to the United States free of cost such suitable tract or tracts as may be selected by the Chief of Engineers and the Secretary of War for establishment of locks and approaches, and to furnish the necessary electric current to operate locks and for lighting grounds.	Do.
St. Marys, Mich	General authorization	Mar. 3, 1909 (35 Stat., 821)	Water power to be leased by the Secretary of War upon such terms and conditions as shall be best calculated, in his judgment, to insure the development thereof. A just and reasonable compensation to be paid for use.	United States.
Wabash, Ind., at Mount Carmel.	General authorization	Mar. 3, 1909 (35 Stat., 819)	Secretary of War authorized to grant leases or licenses for periods not exceeding 20 years at such rate and on such conditions as may seem to him just, equitable, and expedient.	Do.
Mississippi, from St. Paul to Minneapolis.	do	June 25, 1910 (36 Stat., 659)	A reasonable compensation for leases of water power shall be secured to the United States.	Do.
Coosa, Ala., at Lock No. 4	Ragland Water Power Co.	Feb. 27, 1911 (36 Stat., 939)	The dam to be property of the United States free of charge. Grantee to have water-power rights for 50 years. United States to have right to construct a lock and to have free electric current for operating and lighting. Grantee to raise height of dam at Lock No. 4 and to stop leaks. Beginning in 1925, grantee shall pay to United States $1 per 10-hour horsepower, with an increase if natural flowage is increased by storage reservoirs.	Private.
Wabash, at Mount Carmel, Ill.	Mount Carmel Development Co.	Feb. 14, 1889 (25 Stat., 670) Feb. 12, 1901 (31 Stat., 785)	Withdrawal of water shall be under the direction and control of the Secretary of War.	United States.
Rock River near Sterling	Sterling Hydraulic Co.	Mar. 2, 1907 (34 Stat., 1103)	Secretary of War authorized to permit erection of a power station in connection with United States dam. Grantee to waive certain claims against United States.	Do.
White, Ark., above Lock No. 3.	J. A. Omberg, jr	June 29, 1906 (34 Stat., 628)	Grantee to purchase lands, construct lock and dam, and give them to the United States free of charge and furnish United States electric current to operate locks, light grounds, etc. Grantee to have use of water power for 99 years.	Private.

Mr. BURTON. Further on in this class are some very recent ones. The act of June 28, 1906, is one, in which a grant was made to the Batesville Power Co., at Lock No. 1, White River, Ark. In that act the Secretary of War is authorized and directed to fix from time to time reasonable charges to be paid for the use of power. Another is at Wabash, Ind., at Mount Carmel. That is a very old improvement. The first act in relation to that improvement was passed in 1889; another act was passed in 1901, and another in 1909. Under the last act the Secretary of War is authorized to grant leases or licenses for periods not exceeding 20 years, at such rate and on such conditions as may seem to him just, equitable, and expedient. So not only has this power been exercised in numerous cases, but the discretion to fix the charges has been left to the Secretary

of War. Still another case is that of the Rock River, near Sterling; also the White River, Ark., above Lock No. 3.

There is a second class in which it has been provided that where dams, or dams and locks, are to be constructed in the future by the Government, the water power created incidentally thereto shall be leased under the direction of the Secretary of War. There is a very considerable number of these cases. I call attention to the provision in the river and harbor act of 1909, providing for the improvement of the St. Marys River. I call attention also to a provision in the act of 1907, in regard to a survey of a 14-foot waterway by way of Chicago to the Mississippi River:

The Secretary of War may appoint a board of five members, to be composed of three members of the Mississippi River Commission.

It goes on to say what that board shall report upon:

First. What depth of channel is it practicable to produce between St. Louis and Cairo at low water by means of regulation works?

Second. What depth will obtain in such regulated channel at the average stage of water for the year?

Third. For what average number of days annually will 14 feet of water obtain in such regulated channel?

The fourth and fifth provisions are immaterial.

Sixth. And the said board shall also report upon any water power which may be created in the portion herein directed to be surveyed, as well as in the proposed waterway from St. Louis to Chicago heretofore surveyed, and the value thereof, and what means should be taken in order that the Government of the United States may conserve the same or receive adequate compensation therefor.

Here, in this survey of a proposed 14-foot waterway, one of the vital points upon which the board was to report was what means should be taken to conserve the water power and to secure adequate compensation therefor.

I wish to call attention to another provision of law under which this very project in the Connecticut River was surveyed. It is a general provision in the river and harbor act of 1909. It is found on page 9 of that act. I wish Senators to give especial attention to this provision, to show how useless it is to deny that this has been a substantial feature in the policy of the Federal Government.

In the portion relating to the general rule in regard to surveys, that act says:

Provided, That every report submitted to Congress in pursuance of this section, in addition to full information regarding the present and prospective commercial importance of the project covered by the report and the benefit to commerce likely to result from any proposed plan of improvement, shall contain also such data as it may be practicable to secure regarding (first) the establishment of terminal and transfer facilities—

That provision does not apply in this case, but I read it so as to give the whole paragraph—

(second) the development and utilization of water power for industrial and commercial purposes, and (third) such other subjects as may be properly connected with such project: *Provided further*, That in the investigation and study of these questions consideration shall be given only to their bearing upon the improvement of navigation and to the possibility and desirability of their being coordinated in a logical and proper manner with improvements for navigation to lessen the cost of such improvements and to compensate the Government for expenditures made in the interest of navigation.

Thus, Mr. President, the very survey under which this project was reported was authorized in a bill that demanded of the engineers that they should report upon possible compensation to the Government for its expenditure in the interest of navigation; and the engineers reported, stating that there should be compensation in this instance. They made that recommendation in view of the fact that for years this project had been pending, and it had not been thought best to expend the money unless the water power could be utilized and the compensation applied on the cost of the improvement. When at last the time came that the water power could be developed coordinately and contemporaneously with the improvement of navigation, then, and not until then, did the Government approve this proposed improvement.

A third class comprises acts of Congress granting permission to lessees to construct dams in navigable streams subject to various conditions. These conditions vary all the way from a requirement that the lessee shall build the dam at its own expense, but allow the Government at its expense to construct in connection therewith locks and other works in the interest of navigation—that is one extreme—to conditions requiring the lessee at its own expense to build the dam and all works necessary for the protection and promotion of navigation, and convey to the Federal Government all such works as may be necessary free of cost, together with a stipulation that power shall be furnished to the Federal Government for operating and lighting such works. In some of these grants the Federal Government has imposed an additional charge either stipulated in the act or to be imposed in the discretion of the Secretary of War.

There are a large number of these cases. They are also given in this document. I want to call attention, however, to a few of them. Perhaps the most important act—the one which blazed the way for this class of legislation—was that authorizing a corporation to build a dam and lock at Hales Bar, just below the city of Chattanooga. Under it the grantee was to purchase the necessary lands and deed the same to the United States; also to construct a lock and dam and give them to the United States when completed free of all cost, except expenses connected with the preparation of plans, superintendence, cost of lock gates, and so forth; and to furnish the United States free electric current for lighting and operating locks, the grantee to have the use of the water power for 99 years. That authority was granted something more than 8 years ago; and the condition, as I can recall myself, would have been extended to the construction of the lock gates and to the completed lock and dam, except for the fact that the then Chief of Engineers thought it best that the Government itself should make the plans for the lock gates, and purchase them. Under that provision the company has been going ahead; and while there have been unusual delays, due to high water and other causes, the construction, as I understand, is nearly completed.

Another case of the same kind is that of the Mississippi River at the Des Moines Rapids. There the grantee was required to build a lock and dry dock and appurtenant works, ownership of them to be vested in the United States, the grantee to provide a suitable power plant for lighting and operating the lock, dry dock and appurtenances, and also to provide fishways.

The Cumberland River and tributaries is another case which I wish to cite. The Cumberland River Improvement Co., under an act of March 3, 1905, accepted a franchise under which the United States may assume the possession, care, operation, maintenance, and management of the lock or locks constructed by the corporation, but without in any way impairing the right or ownership of the water power and dams created by the corporation. There the conditions were a little less severe.

Then there is one in the Coosa River, Ala., at Lock 4, which certainly must have been consented to by the Senator from Alabama. In that case the dam was to be the property of the United States, free of charge; the grantee to have water-power rights for 50 years; the United States to have the right to construct a lock, and to have free electric current for operating and lighting; the grantee to raise the height of the dam and to stop leaks. Beginning in 1925, the grantee is required to pay to the United States $1 per 10-hour horsepower per year, with an increase if the natural flowage is increased by storage reservoirs.

Why, along through a stretch of years, through numerous river and harbor acts and other acts independent of river and harbor legislation, this principle of imposing conditions or imposing charges has been followed by the Federal Government, and there has been no question raised upon it in any court, so far as I know, to this day. The Muskingum River, the Green River, the Barren River, the Cumberland, the Coosa, the Tennessee, the great Mississippi itself, all have structures in which this rule has been followed.

Let me repeat again briefly, is there any difference between a condition which imposes upon the company the enormous expense of building the structures, building the cofferdams, and taking all the risks and uncertainties of the enterprise and one which provides in effect that when they are completed, after making due allowance for profits, for deterioration, and for the charges to consumers which are controlled by the State, the Government may, if there is a profit, impose certain charges for the improvement of the river in which that structure is located? The imposition of charges and the conditions requiring locks and dams to be constructed both rest on precisely the same principle, the fact that the Government, having the paramount right there, being responsible for providing navigation, may foster that navigation by any proper means of this nature.

Mr. THOMAS. May I ask the Senator a question?

Mr. BURTON. Certainly.

Mr. THOMAS. Suppose that instead of making a contract under the law now contemplated, the Government should assume to utilize the surplus power by constructing a power plant of its own and then selling power to consumers; could it do that?

Mr. BURTON. It might under some circumstances. Suppose it has provided an electrical plant at a lock and has a surplus of power to dispose of.

Mr. THOMAS. The Senator thinks the Government could do that?

Mr. BURTON. It would not naturally do it, because then it would be engaging in a line of business. But the surplus power belongs to the State or to the Government which creates the

main work. That is exactly what they are doing in these cases of the Muskingum and the Barren and other rivers. At Sault Ste. Marie it is provided that when that improvement is made——

Mr. THOMAS. The United States Government is constructing a plant of its own for the purpose of manufacturing or generating current and selling it.

Mr. BURTON. That is a question of policy, whether it will do it or not.

Mr. THOMAS. Simply a question of policy? Then let me ask whether the State would have any authority whatever to impose limitations upon the charges that the Government could make?

Mr. BURTON. That is a novel question. I am frank to say I had not thought of it before. I question whether it could. That is an ingenious question, I may say, and such a one as I anticipated the Senator was going to ask when he rose—whether the charges for power, which in the case of private corporations are fixed and uniform, could be imposed or compelled if the United States furnished the power. I am inclined to think they could not, but I do not feel quite ready to answer that question. At any rate, it does not arise in any case we have.

Mr. THOMAS. No; but we are considering the extent to which a given power may go if it exists at all. If the State has no power whatever, or only a limited power, if you please, to impose conditions upon the cost or charge of the General Government to the consumer and yet can impose those conditions upon all private concerns engaged in competition with it, may not the Government, by virtue of its freedom from all of those limitations, practically control the market first by underselling and afterwards by charging what the traffic will bear?

Mr. BURTON. In those things we have to rely ultimately on the wisdom of Congress. It is the thought of many that Congress does foolish things, but it is not probable that any situation would ever be created where any friction of that kind or any such troublesome question could exist. But the charge for transformed power created by the dam is the same in principle as the charge for the power that flows by the dam. We are now charging for the use of surplus water and fixing the rates. When that is transmuted into hydroelectrical power it would seem that the same principle would apply.

It is maintained—and a great deal of stress is laid upon this in the minority report—that something is confiscated by this act which belongs to the States. I think I can show the utter fallacy of that idea, Mr. President.

In the first place, I want to call attention to the difference between the laws of the older States and the laws of the newer or mountain States. We have certain rules and regulations, established by the courts and by statutes, in the Eastern States. The riparian owner has certain rights. The right of a riparian owner in the flow of the water is that he is entitled to have the stream remain in place and flow as nature directs, and to make such use of the flowing water as he can make without materially interfering with the equal rights of the owners above and below him on the stream. The boundaries of riparian lands are fixed according to three different rules. In some States, and Connecticut is one of them, the riparian owns to the high-water mark. In other States he owns to the low-water mark. In others, still, he owns to the center or thread of the stream. In the far Western States, however, the water belongs to the State or to the public, and is under its control.

In the State of Oregon, as I understand the law of prior appropriation which prevails in that State, the State may grant the privilege to a person who wishes to use water for a recognized beneficial purpose to go right in front of a man's farm and, upon payment of the proper compensation, put in his dam and equipment for the use or diversion of the water. When that is done the use of the water belongs to him under grant from the State. He is not compelled to recognize any riparian right—certainly none in the flow of the water.

It will appear from this that there is a very wide difference between these States and the State of Connecticut, in which no such rights are involved. I should be less than frank if I should not say to the Senate that I also believe in proper restrictions and conditions in case of Federal grants in the Western States; that is, where navigable streams or public lands are involved. But the two cases are very widely distinct.

What is the law in Connecticut? The State is said to own the bed of the stream. The riparian owner has certain rights. He can build out to the high-water mark, and he has the right of access to the stream, for his stock to drink, say. He can build out a wharf into the stream, so that he may utilize navigation facilities. Then, above all, is the paramount right of the Federal Government in the exercise of control over navigation.

What is confiscated here? First, the State of Connecticut by a grant to this company in 1824, confirmed in 1909, and by intermediate acts gave its rights to the grantee company, the Connecticut River Co. Those rights, in their most exaggerated form, are shadowy in their nature. What does the ownership of the bed of the stream mean to the State? It does not mean that you can authorize a person to go out there and build a blacksmith shop. It does not mean that you can authorize a construction out there as could a private owner on his own land. Indeed, in the very State of Connecticut the right of removing gravel from the bed of a stream by the State or under its authority without compensation to the riparian owner was denied.

In the bridge case to which I briefly referred in replying to a question of the Senator from Iowa, a railroad company desired to build a bridge from the mainland of New Jersey to Staten Island. The State of New Jersey came in and said: "We own the bed of that stream. We have passed a statute that no bridges shall be built across the Kill von Kull." The corporation, which was a private company, had been granted the right to build a bridge by the Federal Government. Justice Bradley—this is not a decision of the Supreme Court, but it is a decision by him on a circuit—decided that the right of the Federal Government was paramount; that the State of New Jersey could not stand in the way of the construction of that bridge. He decided, further, that the State of New Jersey owned the land under the river for the public; that it had no other ownership of it, and hence the railroad company could build its piers on the submerged land which nominally belonged to the State of New Jersey without asking leave. The builders of the bridge were not compelled to condemn the land in the bed of the stream. So, when we say the bed of the stream belongs to a State, what do we mean by it? We do not mean that it has a fee-simple title. We do not mean that it can be alienated or parceled out. We mean that the State owns it as a trust for the public use; not merely for the use of the State, but for all such uses as may be considered public in their nature.

This right, whatever it may be, of the State is not taken way from it by this bill. It did not amount to much, anyway; and what the State did have it has granted to this company under the charter authorizing it to improve the Connecticut River.

The riparian owner has cerain interests there. How about him? The bill provides with the most sedulous care that every right of the riparian owner—flowage, occupancy, everything—shall be acquired by this company before it can go ahead. It is made an absolute condition that they shall acquire all the abutting or riparian property, and this company is the riparian owner of a large share of it already. So there is not any confiscation there.

Now comes the Federal Government and says: "The Connecticut is a navigable stream. There are great communities above there awaiting to have access to the water that would become shippers of freight on a very large scale. We want that river improved. We do not think it is worth while to improve it independently as a problem of navigation; but if there can be proper compensation, not to the United States"—do not indulge in that delusion—"but to the public, it may be done." Everything that is done for navigation, whether it be the building of a dam or a lock or whatever it may be, or whether it be an amount paid annually in the way of a toll, is for the benefit of the public, for which the United States Government is a trustee. The Government says we will give this permission, provided certain things are done. For what? For the right to use the surplus water? Any right in the bed is gone; the right of the riparian owner is gone; the right of navigation remains. And that right of navigation is the paramount right. Flowing water is not tangible property; it is as free as the light of the sun or the air, you may say. Some talk about proprietary rights in the water power. What property is there in the form of water power until the dam is constructed and the appurtenant works are made? The water has been flowing down the Connecticut River ever since the days of Indian occupation, when the white settlers first went there, 280 years ago, practically unused. Are you going to stop progress? Are you going to stop the utilization of this water power? No; when that dam and that lock are constructed, then property is created. It is the utilization of that which has been running to waste from the very beginning of time.

Mr. NELSON. Who owns that property? Is it the United States or the company?

Mr. BURTON. Which property?

Mr. NELSON. Who creates that property when the dam on the Connecticut River is built? Whose property is that dam when it is built and ready for use?

Mr. BURTON. The bill states, in lines 22, 23, and 24, on page 4, after providing for the size of lock, and so forth:

> And when the said lock and appurtenances shall have been completed the said corporation shall convey the same—

The lock belongs to the Government and the dam to the company—

> And when the said lock and appurtenances shall have been completed the said corporation shall convey the same to the United States free of cost—

And so forth.

Mr. NELSON. Exactly. Those are the appurtenances of navigation. That is the property in the lock and gates, but the balance of the property, the dam and the dam power and the machinery and everything, belong to the company.

Now, I want to put one question to the Senator from Ohio, and I should like to hear him discuss it. Would not the effect of this legislation, if it was applied in every instance, be to put the control of every dam and water power under the War Department of the Government and absolutely divest the power of the States altogether?

Mr. BURTON. So far as any dams or locks have been built for the benefit of navigation, they are under the control of the War Department now.

Mr. NELSON. But I mean the water power created in the dam. I do not refer to the locks and gates; I mean the water power created by dams of this kind. Would not the effect of this principle be to put all the water power and the control of it and the compensation it shall pay all over the land under the Secretary of War, and give him the power to sell it and the power to regulate it and to say what should be paid for the use of that power by the company constructing the dam?

Mr. BURTON. Not necessarily so. There are many water powers, probably a majority that would not come under his control. I think much the greater portion of potential water power of the country would not come under the jurisdiction of the Secretary of War at all, because it will be developed in nonnavigable streams.

It is possible that there would be a qualified control over a portion of it by another Cabinet officer, the Secretary of the Interior, but I will come to that point later. We must have a degree of uniformity. The action of the Secretary of War, the action of the Secretary of the Interior, or any other Cabinet or executive officer is constantly under the control of Congress. If there is any danger of exaction or oppression or if his power is not properly applied, Congress at any session can absolutely change the law or take it away entirely.

Mr. NELSON. Will the Senator allow me a question right there?

Mr. BURTON. Certainly.

Mr. NELSON. Because of the fact that the Secretary of War is under the control of Congress, ought either Congress or the Secretary of War to destroy the rights of the States in this question?

Mr. BURTON. There is no right of the State to be destroyed in this case. The State organized this corporation and granted it such rights in the stream as it had power to grant. At considerable length I have shown what rights the States have in the beds of streams. This company must acquire the right of riparian proprietors. When you eliminate those rights there remains the right of navigation. I also tried to show that the property did not exist until you construct these works.

Mr. NELSON. Will the Senator allow me a question? In whom was this right to the water of the Connecticut River while Connecticut was a Colony, before it became one of the States of the Union? To whom did it belong?

Mr. BURTON. The right to its beneficial use belonged, I suppose, to King Charles the First, King Charles the Second, and later Kings of England.

Mr. NELSON. I mean before the Constitution of the United States was adopted or the independence of the Colonies?

Mr. BURTON. There were so many different situations that I do not like to express an opinion upon them, but I presume the Colony had rights similar to those now in the State.

Mr. NELSON. Now, will the Senator answer this question? Is it not true that that stream and the water in it was either the property of the State of Connecticut or of the riparian owner, or both combined, and that the Constitution of the United States gave the Federal Government only the right in that stream to the extent of navigation, and for no other purpose?

Mr. BURTON. It is a right, however, that was paramount and superior to all others, and to which the right to the bed of the stream and the riparian ownership, both of which have been acquired by the company which is the proposed licensee under this bill, are subordinate. A decision was rendered recently by the Supreme Court of Connecticut to the effect that where the course of a channel was modified, bringing it nearer to the shore and thereby interfering with an oyster bed, that, the change having been made under the authority of the Secretary of War and the Chief of Engineers, the party had no redress. That does not seem to show that the State of Connecticut has any right or desire to come in here with a complaint about the use of its waters by the Federal Government. On the contrary, probably every Senator here has received letters or telegrams from that locality most earnestly urging him to support this bill, even with such infirmities as it may have.

I shall now pass to another branch of the subject. The right to use the surplus water for power rests upon the fact that the development of power is an incident to the development of navigation. Every consideration of public policy demands that the two, power and navigation, should be developed together. An improvement which might not be profitable for navigation alone or for power alone can be made profitable if the two are combined. For the growth of the country it is essential that the two shall go together, and in the language of Judge Shiras, in his decision in One hundred and seventy-second United States, in such a situation "there can be no divided empire." Let us recognize the impossibility of having a divided ownership and control. Just as the Federal Government has the paramount jurisdiction over a river for purposes of navigation it has the paramount control over a lock and a dam in a navigable stream where it is erected for the sake of navigation.

Mr. O'GORMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from New York?

Mr. BURTON. Certainly.

Mr. O'GORMAN. The Senator from Ohio just referred to an opinion by Mr. Justice Shiras, reported in One hundred and seventy-second United States Reports. I ask the Senator whether he is referring to the case of the Green Bay Co. *v.* the Patten Paper Co.?

Mr. BURTON. Yes; that is the case.

Mr. O'GORMAN. The Senator, of course, is quite aware that in that case the commerce clause of the Constitution was not under consideration. The rights asserted by the Government were based upon a grant and did not grow out of the constitutional provision.

Mr. BURTON. The Senator is in error about that. At any rate the principle——

Mr. O'GORMAN. I state it as a fact which can be confirmed by the decision itself.

Mr. BURTON. Let me read from the beginning the fundamental facts at issue. This case was first before the Supreme Court in One hundred and forty-second United States and again in One hundred and seventy-second United States. The commerce clause was involved. To go back to the very beginning I must refer to an act of Congress of 1846. I am reading from volume 142, United States Reports. Perhaps I am anticipating my argument a little, but I think I can now answer the Senator from New York. This is found in volume 142, United States Reports, page 255:

> By an act approved August 8, 1846 (9 Stat., 83, c. 170), Congress granted certain lands to the State of Wisconsin upon its admission into the Union—

What for?

> for the purpose of improving the navigation of the Fox and Wisconsin Rivers, the former of which is one of the navigable rivers of the State, having an average flow of 150,000 cubic feet per minute.

At a later time, subsequent to the decision in volume 142, a decision was reported in volume 172, after this property had been acquired by the Federal Government from the State of Wisconsin under an act of Congress. Now, what is the basis for the action of the Federal Government in the premises? In the first place, under the Constitution Congress would have control over interstate and foreign commerce. It has control in that connection over the agencies which facilitate commerce, which make possible intercourse between the States by the movement of freight. In that development it may create agencies for traffic, for carrying freight from localities in one State to those in another.

The next point is that in furtherance of this policy it has engaged on a large scale in the improvement of rivers for navigation. In some cases the rivers flow through a level country, and in others through a broken or mountainous country. In the latter case slack-water navigation is necessary, which can be obtained only by the construction of locks and dams. In these cases water power is incidentally created. In one case there is a river that flows through a perfectly level country which can be improved with the utmost ease at a trivial expense; then in another section of the country there is a stream flowing through a mountainous area with a great descent between its

source and its mouth. The second class of rivers possess potential water power. Is it fair to the Federal Government and the people of the United States to put those two cases on just the same footing, to expend millions in one case against tens of thousands in the other, when connected with this expenditure of millions it is possible to create power which is of inestimable value?

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from New York?

Mr. BURTON. Yes; but I prefer to proceed with my argument for a little time.

Mr. O'GORMAN. I have no desire to interrupt, except that it might be desirable to have the fact accurately stated as to whether the commerce clause of the Constitution was involved in the case in question or whether the controversy grew out of a grant, as I asserted. I repeat, by reference to the decision which I hold in my hand, there is no single allusion to the constitutional provision, but, on the contrary, the opinion distinctly states that the controversy grew out of the grant, as it appears on page 62 of the One hundred and seventy-second Supreme Court Reports, as follows:

By an act approved March 23, 1871, by the Legislature of Wisconsin the directors of the Green Bay & Mississippi Canal Co. were authorized to sell and dispose of the rights and property of said company to the United States, and to cause to be made and executed all papers and writings necessary thereto as contemplated in the act of Congress.

And the subsequent controversy grew out of the rights secured by that grant; and not in the remotest way was the commerce clause of the Constitution involved in that case.

Mr. BURTON. May I ask the Senator from New York a question?

Mr. O'GORMAN. With pleasure.

Mr. BURTON. How can you authorize a dam in a navigable stream or legislate concerning a dam in a navigable stream without involving the interstate-commerce power under the Constitution?

Mr. O'GORMAN. I am asserting with respect to this particular case that that question was not involved.

Mr. BURTON. But how can you get rid of it?

Mr. O'GORMAN. The Senator cited the case, and I am calling his attention to the fact that the Supreme Court at no time in the case alluded to the commerce clause of the Constitution.

Mr. BURTON. That makes no difference; they took that for granted. What right would the Government of the United States have to improve a stream except for the purposes of navigation?

Mr. O'GORMAN. By a right which is contended for by the minority, or, rather, what appears to be now the majority of the Senator's own committee, namely, the Legislature of the State of Wisconsin, acting in its sovereign right, authorized a sale by one of its corporations of this franchise to the Federal Government, and among the rights secured by the franchise given by the State was the right to erect dams in one of the rivers of the State.

Mr. BURTON. For what purpose—for navigation?

Mr. O'GORMAN. Undoubtedly.

Mr. BURTON. How can you avoid the jurisdiction which belongs to Congress? Does the Senator from New York maintain for a minute that the Government of the United States could purchase rights along a waterway merely for the sake of the water power? What did all this transaction mean? Was the Government doing a vain thing?

Mr. O'GORMAN. I am glad to have the Senator from Ohio make the concession now that the Government has no right to engage in the purchase and sale and traffic of water power.

Mr. BURTON. As an independent proposition it does not have the power.

Mr. O'GORMAN. I assume that in the pending bill which the Senator is advocating the contrary principle is attempted to be recognized.

Mr. BURTON. Oh, not by any means. If you read the bill you can come to no other conclusion than that the object is navigation. The other is coordinate with it and incidental to it. There is no doubt of that.

The position taken by the Senator from New York would lead to this, that in a case in which there was a grant of land, a contract, as it were, made with the newly admitted State of Wisconsin for the express purpose of facilitating navigation, when statutes were passed for the development of navigation, when permission was given to build dams to facilitate navigation, when after the State had failed in its control and it was turned over to the Federal Government and the Federal Government appropriated millions for its improvement for purposes of navigation, the interstate clause of the Constitution was not involved at all. Certainly whether the court mentioned the fact or not they took it as elementary. It is not necessary to state, when you are dealing with a navigation problem, "We base our powers on the interstate-commerce clause." It was too well understood by everyone who was connected with it for that to be done. Based upon the commerce clause are, first, the control over interstate commerce; second, the right to provide the agencies for interstate commerce; and, third, in providing those agencies, the improvement of navigable streams, which has been done on a large scale. The Federal Government has a right to utilize those waters which it controls for the purposes of navigation in such a way as to subserve the public interest. The right to dispose of the surplus water for power purposes has been repeatedly maintained by decisions of the Federal and State courts. (See Kaukauna Water Power Co. v. Green Bay & Mississippi Canal, 142 U. S., p. 254.)

I fear the Senate is possibly a little weary, and I will not read at great length from these cases, as I had intended to.

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Will the Senator from Ohio yield to the Senator from New York?

Mr. BURTON. Certainly.

Mr. O'GORMAN. Just for a brief interruption by way of elucidating perhaps the principle involved in this controversy. In the Kaukauna Co. v. Green Bay (142 U. S.), just referred to by the Senator from Ohio, the commerce clause of the Constitution was not involved. That case involved a dispute between the State of Wisconsin and the riparian owner, and the rights which the court recognized in the State of Wisconsin have been regarded by some as indicating the rights that ought to be vested in the Federal Government, while the rights recognized in the State of Wisconsin were rights pertinent to the sovereignty of the State.

Mr. BURTON. It is expressly stated in this case that the State of Wisconsin could not authorize the appropriation of money for the creation of water power. They had no stronger rights than the United States in the improvement. A certain amount of fog sometimes arises in a study of this case because of its close association with the transactions of the State, but it is decided not on the particular circumstances but on the general facts. If the Senator from New York will allow me, and the Senate will bear with me, I want to read from the decision in this case somewhat at length.

It has been suggested, Mr. President, that the Senator from California [Mr. PERKINS] desires to call up the fortifications appropriation bill, and with the consent of the Senate I will suspend my argument. But I should like to ask if any notice has been given for to-morrow.

The PRESIDING OFFICER (Mr. KENYON in the chair). The Senator from Kentucky [Mr. PAYNTER] has given notice that he would address the Senate to-morrow on Senate bill 4043, to prohibit interstate commerce in intoxicating liquors in certain cases.

Mr. BURTON. Then, on the conclusion of the remarks of the Senator from Kentucky, I will again address the Senate.

Mr. CLARK of Wyoming. Will the Senator from California yield to me just a moment?

Mr. PERKINS. Certainly.

Mr. CLARK of Wyoming. I made an inquiry near the beginning of the remarks of the Senator from Ohio as to whether he knew of an agreement that had been arrived at between the Secretary of War and the Connecticut River Co. with reference to the subject matter of this bill. The reply was that he knew of none. I am definitely informed that such an agreement has been arrived at; that the terms of the agreement have been discussed and have been agreed to; and that the division of the profits arising from this water power as between the company and the Government of the United States has been settled upon.

I send to the Secretary's desk a resolution upon this subject seeking for information, for which resolution I ask immediate consideration in order that we may have the proposed contract, if such a contract exists, to consider in connection with the bill.

The PRESIDING OFFICER. The Secretary will read the resolution.

The resolution (S. Res. 450) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of War be directed to furnish to the Senate a copy of the contract or agreement proposed to be entered into by and with the Connecticut River Co. with reference to a dam across the Connecticut River, and the generation of power in connection therewith, as contemplated under the proposed terms of S. 8033, being a bill now pending in the Senate of the United States entitled "A bill to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut."

FORTIFICATIONS APPROPRIATION BILL.

Mr. PERKINS. I move that the Senate proceed to the consideration of House bill 28186, known as the fortifications appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 28186) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, which had been reported from the Committee on Appropriations with an amendment.

Mr. PERKINS. I ask that the formal reading of the bill be dispensed with, that the bill be read for amendment, and that the amendment of the committee be acted upon when it is reached.

The PRESIDENT pro tempore. The Senator from California asks that the formal reading of the bill be dispensed with and that the bill be read for action on the committee amendment. Is there objection? Without objection, it is so ordered.

The Secretary proceeded to read the bill.

The amendment of the committee was, on page 2, after line 12, to insert:

Hereafter estimates shall not be submitted to Congress for appropriations for construction of gun and mortar batteries, modernizing older emplacements, and other construction under the Engineer Department, in connection with fortifications, until after plans and estimates of cost shall have been prepared therefor.

The amendment was agreed to.

The reading of the bill was concluded.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

MISSOURI RIVER BRIDGE IN NORTH DAKOTA.

The bill (H. R. 27879) providing authority for the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota, was read twice by its title.

Mr. NELSON. I ask unanimous consent for the present consideration of that bill. It is identical with a Senate bill which has already been passed.

The PRESIDENT pro tempore. The Senator from Minnesota asks unanimous consent for the present consideration of the bill. Is there objection?

Mr. SMOOT. The Senator from Minnesota desires that it shall be passed in lieu of a similar Senate bill?

Mr. NELSON. I do. If the House bill shall pass, I shall move the indefinite postponement of the Senate bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. NELSON. I enter a motion to reconsider the vote by which the bill (S. 7855) to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota, was passed, and I ask that the Secretary be directed to request the return of the bill from the House of Representatives.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 13 minutes p. m.) the Senate adjourned until to-morrow, Thursday, February 6, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February 5, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father in heaven, stir the divinity within us that it may dominate our lives and bring us into a closer relationship with Thee and our fellow men in the furtherance of every good work, that our names may be written in the Book of Life and our souls filled with the peace which passeth understanding. In Jesus Christ our Lord. Amen

The Journal of the proceedings of yesterday was read and approved.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday.

Mr. FITZGERALD. I move to dispense with the business in order under the rule to-day.

The SPEAKER. The gentleman from New York moves to dispense with the business of Calendar Wednesday to-day; and on that motion each side has five minutes under the rule.

Mr. MANN. I make the point of order that there is no quorum present.

Mr. FITZGERALD. I move a call of the House.

The SPEAKER. Evidently there is no quorum present. The gentleman from New York [Mr. FITZGERALD] moves a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Aiken, S. C.	Goldfogle	Lawrence	Riordan
Ainey	Goodwin, Ark.	Levy	Roberts, Nev.
Ames	Green, Iowa	Lindsay	Scully
Andrus	Greene, Mass.	Littleton	Simmons
Ansberry	Gudger	Longworth	Smith, N. Y.
Barchfeld	Guernsey	McCall	Stack
Boehne	Hamill	Madden	Stanley
Bradley	Hammond	Maher	Stedman
Broussard	Harris	Martin, Colo.	Stevens, Minn.
Burgess	Harrison, N. Y.	Matthews	Taylor, Ala.
Brynes, S. C.	Hart	Merritt	Taylor, Ohio.
Callaway	Hartman	Moon, Pa.	Tilson
Conry	Hangen	Moore, Tex.	Townsend
Cravens	Hay	Morgan, Okla.	Turnbull
Davidson	Helgesen	Olmsted	Tuttle
De Forest	Higgins	O'Shaunessy	Volstead
Dickson, Miss.	Hinds	Palmer	Vreeland
Doremus	James	Peters	Warburton
Driscoll, D. A.	Kennedy	Porter	Weeks
Finley	Kindred	Pujo	Whitacre
Fornes	Kitchin	Rainey	Wilder
Gardner, N. J.	Konig	Randell, Tex.	Wilson, Ill.
George	Korbly	Ransdell, La.	Wilson, N. Y.
Gill	Lafean	Reyburn	Wood, N. J.
Glass	Lafferty	Richardson	

The SPEAKER. On this call 286 Members have answered to their names.

Mr. FITZGERALD and Mr. MANN moved to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. The gentleman from New York is entitled to five minutes on his motion to dispense with Calendar Wednesday.

Mr. FITZGERALD. Mr. Speaker, I made the motion to dispense with Calendar Wednesday because of the condition of the public business awaiting to be disposed of by the House. There are still to be considered seven appropriation bills—the agricultural, diplomatic and consular, Military Academy, naval, pension, sundry civil, and general deficiency.

In addition to that, the District of Columbia appropriation bill is now under consideration. From now until the 3d of March, inclusive, there are 27 days, and 4 of those days are Sundays. There are two Wednesdays—to-day and the next Wednesday. Next Wednesday is set aside by order of the two Houses for the count of the electoral votes. There are four Fridays. Thus far the House by its vote has refused to set aside special business in order on Friday and consider general public business. There are some bills of such a peculiar character that, in my opinion, the House when put in the position of choosing between appropriation bills and that business is likely to refuse to consider appropriation bills.

There are two Mondays upon which business is in order from the District Committee, and I assume that at least one day, or a part of a day, will be required by that committee. There are two Mondays set aside for business on the Unanimous Consent Calendar.

So that, even if the four Fridays set aside for business on the Private Calendar be devoted to appropriation bills, there remain but 16 days until the 3d of March which are available for public business.

It must be remembered that not only must the appropriation bills be passed within 16 days, but they must be sent to the Senate in time to enable the Senate to consider them. Moreover, conference reports will take up considerable time during the remaining days. Unless the House desires some of these appropriation bills to fail and to go over into the special session of Congress, it is necessary to set aside these days for particular classes of business in order that the public business may be transacted.

Mr. MANN. Did the gentleman from New York take into consideration the fact that Saturday, the 15th of this month, the House will be invited to participate in the memorial to the late Vice President, Mr. Sherman?

Mr. FITZGERALD. I had that on the list. Mr. Speaker, the 15th of February has been set aside by general order for memorial services on the life and character of the late Vice President of the United States, and the House is invited and I assume will attend the ceremony in the Senate.

Mr. Speaker, it is rarely that any of these appropriation bills can be passed in two days. Neither the agricultural bill, the naval, nor the sundry civil bill can be passed inside of four or five days, driving 12 and 14 hours a day. The responsibility for

the failure to transact this business must not be placed on any individual, or on any single committee, or any number of committees of the House. The appropriation bills are awaiting consideration on the calendar. Those not reported will be in shape when reached. I am asking the House to devote its time to the public business, and I shall ask the House to assume the responsibility either to proceed with the public business or to refuse to do so by taking up other business.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. HEFLIN. Mr. Speaker, I rise for the purpose of opposing the motion of the gentleman from New York, and I yield two minutes to the gentleman from Illinois [Mr. CANNON].

Mr. CANNON. Mr. Speaker, in the minority I am quite willing that the majority should control the business of the House, but I want to suggest that to sacrifice Calendar Wednesday, if the good intentions of the House become good intentions, will be in vain. We can get through in this House with the business providing the majority want to make the appropriations. If you want to make them in the next Congress, well and good; it is up to you. I am not in favor of sacrificing Calendar Wednesday to-day, and I want to say to you of the majority and to you of the minority that if we continue to waste the time of the House on unimportant matters—eating up time, burning time—the appropriations will not be made. [Applause.] It requires the presence of a quorum in the Committee of the Whole House and real attention to business instead of having a baker's dozen here to take up time in getting a quorum and in calling the rolls.

I do not charge you of the majority with anything like that, but I believe Calendar Wednesday, at least for this day, as it is probably the last one that we will have, should be devoted to business that is in order on Calendar Wednesday. [Applause.]

Mr. HEFLIN. Mr. Speaker, I realize that there is a great deal to be accomplished by this House between now and the 4th of March. We must soon have night sessions in order to get through with the business of the House. The committee of which I am chairman is next on the calendar. We have two very important measures to be considered by this House. They ought to be considered. A year ago Congress passed a resolution authorizing the President to invite the nations of the earth to join with us in the celebration of the completion of the Panama Canal. Twenty-five nations have accepted that invitation and have notified the State Department that they propose to participate in it. Many of them, I am informed, are ready now to begin the construction of buildings and the placing of exhibits there. They want a Government commission to deal with. The Government commission provided for in this bill is seven in number, the smallest ever provided for in any international exposition, and they are to be paid for by the Panama-Pacific International Exposition Co., just as New Orleans proposed to pay for them. That part of the bill is fashioned after the New Orleans bill. That involves no expense on the part of the Government. The Government of Japan, I am informed, has already appropriated $1,000,000 for her exhibit at this great celebration, and other nations will have exhibits, and the Government of the United States must participate in it. She has invited these people to come as nations to this great celebration. The question for the House to determine is whether we will have an exhibit at that place and have a commission to represent the dignity and honor of this, the greatest Government on the globe. [Applause.]

Mr. Speaker, I hope that the gentleman's motion will be voted down, and that this Calendar Wednesday, set apart for the business of the people of this Government, will be scrupulously observed. [Applause.]

The SPEAKER. The question is on dispensing with Calendar Wednesday for to-day.

The question was taken; and, on a division, at the suggestion of the Speaker, there were—ayes 85, noes 146.

Mr. FITZGERALD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 103, nays 182, answered "present" 6, not voting 91, as follows:

YEAS—103.

Adair	Callaway	Edwards	Garrett
Aiken, S. C.	Candler	Ellerbe	Gillett
Alexander	Cline	Faison	Godwin, N. C.
Ayres	Cox	Ferris	Gregg, Pa.
Bartlett	Curley	Fitzgerald	Gregg, Tex.
Bathrick	Daugherty	Flood, Va.	Hamlin
Booher	Dickinson	Floyd, Ark.	Hardwick
Borland	Dies	Foster	Hardy
Burleson	Dixon, Ind.	Gardner, Mass.	Harrison, Miss.
Byrns, Tenn.	Doughton	Garner	Helm
Henry, Conn.	Macon	Redfield	Smith, Tex.
Hensley	Maguire, Nebr.	Reilly	Stephens, Miss.
Houston	Mann	Roddenbery	Stephens, Nebr.
Howard	Mays	Rouse	Stephens, Tex.
Hull	Moon, Tenn.	Rucker, Mo.	Talbott, Md.
Humphreys, Miss.	Morrison	Russell	Taylor, Ark.
Jacoway	Morse, Wis.	Sabath	Taylor, Colo.
Johnson, S. C.	Moss, Ind.	Saunders	Thomas
Jones	Norris	Shackleford	Tribble
Kendall	Oldfield	Sharp	Webb
Kinkead, N. J.	Padgett	Sherley	Whitacre
Lamb	Page	Sherwood	White
Langham	Patten, N. Y.	Sims	Willis
Lever	Pepper	Sisson	Witherspoon.
Lewis	Pou	Slayden	Young, Tex.
Lloyd	Prouty	Small	

NAYS—182.

Akin, N. Y.	Denver	Hughes, W. Va.	Patton, Pa.
Allen	Diffenderfer	Humphrey, Wash.	Payne
Anderson	Dodds	Jackson.	Pickett
Anthony	Donohoe	James	Plumley
Ashbrook	Draper	Johnson, Ky.	Post
Austin	Driscoll, M. E.	Kahn	Powers
Barnhart	Dupré	Kennedy	Pray
Bartholdt	Dwight	Kent	Prince
Bates	Dyer	Kinkaid, Nebr.	Raker
Beall, Tex.	Esch	Knowland	Rees
Bell, Ga.	Estopinal	Konop	Roberts, Mass.
Berger	Fairchild	Kopp	Rodenberg
Blackmon	Farr	La Follette	Rothermel
Brown	Fergusson	Langley	Rubey
Buchanan	Fields	Lee, Ga.	Rucker, Colo.
Bulkley	Focht	Lee, Pa.	Scott
Burke, Pa.	Foss	Lenroot	Sells
Burke, S. Dak.	Fowler	Lindbergh	Simmons
Burke, Wis.	Francis	Lindquom	Slemp
Burnett	French	Littlepage	Sloan
Butler	Fuller	Lobeck	Smith, J. M. C.
Calder	Gallagher	Lowd	Smith, Saml. W.
Campbell	Goeke	McCoy	Steenerson
Cannon	Good	McDermott	Stephens, Cal.
Cantrill	Goodwin, Ark.	McGillicuddy	Sterling
Carlin	Gould	McGuire, Okla.	Stone
Carter	Graham	McKellar	Sulloway
Cary	Gray	McKenzie	Sweet
Clark, Fla.	Greene, Mass.	McKinley	Switzer
Claypool	Greene, Vt.	McKinney	Taggart
Clayton	Griest	McLaughlin	Talcott, N. Y.
Collier	Hamilton, Mich.	McMorran	Thayer
Cooper	Hamilton, W. Va.	Martin, S. Dak.	Towner
Copley	Hangen	Miller	Townsend
Covington	Hawley	Mondell	Underhill
Crago	Hayden	Moon, Pa.	Underwood
Crumpacker	Hayes	Moore, Pa.	Vare
Cullop	Heald	Morgan, La	Volstead
Currier	Hedin	Morgan, Okla.	Watkins
Curry	Helgesen	Mott	Weeks
Dalzell	Henry, Tex.	Murdock	Wilson, Pa.
Danforth	Hinds	Murray	Woods, Iowa
Davenport	Holland	Needham	Young, Kans.
Davis, Minn.	Howell	Nelson	Young, Mich.
Davis, W. Va.	Howland	Nye	
Dent	Hughes, Ga.	Parran	

ANSWERED "PRESENT"—6.

Adamson	Fordney	Sparkman	Thistlewood
Browning	Hill		

NOT VOTING—91.

Ainey	Gill	Lindsay	Richarlson
Ames	Glass	Littleton	Riordan
Andrus	Goldfogle	Longworth	Roberts, Nev.
Ansberry	Green, Iowa	McCall	Scully
Barchfeld	Gudger	McCreary	Smith, N. Y.
Boehne	Guernsey	Madden	Speer
Bradley	Hamill	Maher	Stack
Brantley	Hammond	Martin, Colo.	Stanley
Broussard	Harris	Matthews	Stedman
Burgess	Harrison, N. Y.	Merritt	Stevens, Minn.
Byrnes, S. C.	Hart	Moore, Tex.	Taylor, Ala.
Conry	Hartman	Neeley	Taylor, Ohio
Cravens	Hay	Olmsted	Tilson
Davidson	Higgins	O'Shaunessy	Turnbull
De Forest	Hobson	Palmer	Tuttle
Dickson, Miss.	Kindred	Peters	Vreeland
Doremus	Kitchin	Porter	Warburton
Driscoll, D. A.	Konig	Pujo	Wilder
Evans	Korbly	Rainey	Wilson, Ill.
Finley	Lafean	Randell, Tex.	Wilson, N. Y.
Fornes	Lafferty	Rauseell, La.	Wood, N. J.
Gardner, N. J.	Lawrence	Ranch	
George	Levy	Reyburn	

So, two-thirds not having voted therefor, the motion to dispense with Calendar Wednesday was rejected.

The Clerk announced the following pairs:

Until further notice:

Mr. RAINEY with Mr. MCCALL.

Mr. DANIEL A. DRISCOLL with Mr. MERRITT.

Mr. KITCHIN with Mr. FORDNEY.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. RICHARDSON with Mr. THISTLEWOOD. (Either to be released when the other would vote the same way.)

Mr. KORBLY with Mr. PORTER.

Mr. PUJO with Mr. DE FOREST.

Mr. ANSBERRY with Mr. BARCHFELD.

Mr. BOEHNE with Mr. AINEY.

Mr. BURGESS with Mr. GARDNER of New Jersey.

Mr. BRANTLEY with Mr. AMES.

Mr. BYRNES of South Carolina with Mr. GUERNSEY.

Mr. CONRY with Mr. GREEN of Iowa.

Mr. FINLEY with Mr. HARRIS.

Mr. GLASS with Mr. HARTMAN.

Mr. GOLDFOGLE with Mr. HIGGINS.

Mr. GUDGER with Mr. LAFEAN.

Mr. HARRISON of New York with Mr. LONGWORTH.

Mr. HART with Mr. LAFFERTY.

Mr. HAY with Mr. LAWRENCE.

Mr. HOBSON with Mr. MCCREARY.

Mr. KONIG with Mr. MADDEN.

Mr. LEVY with Mr. MATTHEWS.

Mr. LITTLETON with Mr. OLMSTED.

Mr. O'SHAUNESSY with Mr. REYBURN.

Mr. RANDELL of Texas with Mr. ROBERTS of Nebraska.

Mr. PETERS with Mr. TILSON.

Mr. SMITH of New York with Mr. SPEER.

Mr. STANLEY with Mr. TAYLOR of Ohio.

Mr. STEDMAN with Mr. WILDER.

Mr. TAYLOR of Alabama with Mr. VREELAND.

Mr. TURNBULL with Mr. WARBURTON.

Mr. TUTTLE with Mr. WILSON of Illinois.

Mr. WILSON of New York with Mr. WOOD of New Jersey.

For the session:

Mr. SCULLY with Mr. BROWNING.

Mr. PALMER with Mr. HILL.

Mr. FORNES with Mr. BRADLEY.

Mr. RIORDAN with Mr. ANDRUS.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. NEELEY. Mr. Speaker, I desire to vote.

The SPEAKER. Was the gentleman in the room, listening?

Mr. NEELEY. I came in just as my name was called, but the Clerk called the next name too quickly.

The SPEAKER. The gentleman does not bring himself under the rule.

The result of the vote was announced as above recorded.

WITHDRAWAL OF PAPERS.

By unanimous consent, Mr. HILL was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of George Rutherford (H. R. 20034, Fifty-ninth Congress), no adverse report having been made thereon.

Also, by unanimous consent, Mr. HILL was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Maude S. Sherry (H. R. 32197, Sixty-first Congress), no adverse report having been made thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendments bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 25002. An act to amend section 73 and section 76 of the act of August 27, 1894; and

H. R. 1332. An act regulating Indian allotments disposed of by will.

The message also announced that the President of the Senate pro tempore [Mr. BACON] had appointed Mr. CLARKE of Arkansas and Mr. BURNHAM members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Department of Commerce and Labor.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 25741. An act amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909;

H. R. 15181. An act for the relief of Harry S. Wade;

H. R. 26549. An act to provide for the purchase or construction of a motor boat for customs service;

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois;

H. R. 20885. An act to reimburse Charles S. Jackson;

H. R. 2359. An act to refund certain tonnage and light dues;

H. R. 24365. An act providing for the taking over by the United States Government of the Confederate cemetery at Little Rock, Ark.;

H. R. 8151. An act providing for the adjustment of the grant of lands in aid of the construction of the Corvallis and Yaquina Bay military wagon road and of conflicting claims to lands within the limit of said grant; and

H. R. 22351. An act to amend an act entitled "An act to provide for an enlarged homestead."

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries.

PERSONAL PRIVILEGE.

Mr. SIMS. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state his question of personal privilege.

Mr. SIMS. Mr. Speaker, in order to save time I desire to make a preliminary statement——

Mr. CANNON. Mr. Speaker, I would like to have the question of personal privilege presented.

Mr. SIMS. That is what I am expecting to do.

The SPEAKER. The gentleman from Tennessee will state his question of personal privilege.

Mr. SIMS. Yes, Mr. Speaker; I will state it.

The SPEAKER. That is a matter for the Chair to pass on.

Mr. SIMS. I will say, Mr. Speaker, that on the 25th day of January there was published in every paper of Washington, some of them marked as advertisements, a very long statement by Mr. Glover, of this city, in which my name was used from beginning to end. As that paper was read in part by every Member of the House, I hope to save the time of having it read. The gentleman from Kansas [Mr. CAMPBELL] told me a few days ago he was requested by a friend of Mr. Glover to have the article put in the RECORD, and asked me if I had any objection. I told him I had absolutely none, and he could put it in himself. My idea at this point was that he might comply with the request, and now submit a request that the article go in the RECORD and my statement follow.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting the article mentioned.

The SPEAKER. Is there objection?

Mr. HEFLIN. Mr. Speaker, reserving the right to object, I desire to say to the gentleman it has been so long since this article appeared—the 25th of January—that I desire to ask him if he can not let it go over until to-morrow or the next day?

Mr. SIMS. I want to say to the gentleman, I am not going to consume time under this right that I have to use the floor. I expect to submit a written statement.

Mr. HEFLIN. About how much time does the gentleman expect to use?

Mr. SIMS. Not over 5 or 10 minutes.

The SPEAKER. If a Member has a question of personal privilege he has the right to talk about it without asking anybody's consent, except the Chair has to pass on the question of whether he has a question of personal privilege or not.

Mr. SIMS. I am trying to avoid using too much time.

The SPEAKER. The gentleman from Kansas [Mr. CAMPBELL] asks unanimous consent to print this article of Mr. Glover in the CONGRESSIONAL RECORD. Is there objection?

Mr. SIMS. I hope there will be no objection.

Mr. MANN. Mr. Speaker, reserving the right to object, how can we tell——

Mr. SHERLEY. Mr. Speaker, I object.

The SPEAKER. The gentleman from Kentucky objects. Now the gentleman from Tennessee will state his question of privilege.

Mr. SIMS. Mr. Speaker, that would involve the reading of about a nine-column article in a newspaper, and I do not wish to use the time of the House. I will ask the gentleman from Kansas to send the article to the Clerk's desk and have it read.

Mr. CANNON. Mr. Speaker, I think the gentleman should be required to state, in his judgment, what constitutes the question of personal privilege.

The SPEAKER. That is exactly what the Chair is trying to get the gentleman to do. If the gentleman from Tennessee has a question of privilege, he will state it.

Mr. SIMS. Mr. Speaker, the article which I was trying to avoid reading, to save time, accuses me of having made several false statements in my representative capacity as a Member of this House.

The SPEAKER. Then you have a question of privilege.

Mr. SIMS. Certainly I have, but I am trying to prevent the use of time.

The SPEAKER. It is not necessary to read that nine-column article. The gentleman can read the parts of it which contain the charge.

Mr. CANNON. I will ask the gentleman if he is willing to wait until to-morrow.

Mr. FITZGERALD. I do not think the gentleman from Illinois should attempt to interfere with the day we have.

Mr. SIMS. I am in good faith in not wanting to use the time of the House, and if I can get unanimous consent to print the two statements I will not open my mouth.

Mr. SHERLEY. I have made the objection, and I made it for this reason: I have nothing to say as to the merits of the controversy. But here was an entire page of a metropolitan paper taken up by a gentleman to explain his position. It does not seem to me that the RECORD is the place in which to reprint that matter.

The SPEAKER. Does the gentleman object?

Mr. SHERLEY. I do.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the gentleman from Tennessee [Mr. SIMS] may have 15 minutes.

Mr. CANNON. Is not five minutes sufficient?

Mr. CAMPBELL. I object unless this article goes in, too, in the discussion of this matter.

The SPEAKER. The gentleman from Kansas objects.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the gentleman from Kansas [Mr. CAMPBELL] have leave to have the article inserted in the RECORD and the gentleman from Tennessee [Mr. SIMS] have 15 minutes in which to address the House and leave to extend his remarks.

Mr. CANNON. He only asks leave to print and couple the two together.

Mr. FITZGERALD. He can not get that leave.

Mr. HEFLIN. I want to ask the gentleman from Tennessee [Mr. SIMS] if he will not let it go over until to-morrow?

Mr. SIMS. The appropriation bill comes on to-morrow, which is just as important as the bill the gentleman wants to have considered now. I am trying to avoid the use of time, and the gentleman sees I am not able to do so.

Mr. HEFLIN. We have already consumed 1 hour and 20 minutes here.

Mr. SIMS. If they will only give me leave to print, I will not consume a minute.

The SPEAKER. The regular order is that the gentleman from Illinois [Mr. MANN] asks unanimous consent to print the article of Mr. Glover in the RECORD and that the gentleman from Tennessee [Mr. SIMS] have 15 minutes.

Mr. SHERLEY. I have objected to the printing of the article. I do not think the RECORD should be encumbered with matters so extraneous as that. To rise to a question of personal privilege is the highest right a Member has. The gentleman from Tennessee can state his position in a few moments without encumbering the RECORD with columns and columns of Mr. Glover's statement. I object.

Mr. SIMS. I will make my statement and make it as brief as possible. I have never tried to filibuster.

Mr. CANNON. Mr. Speaker, I make the point of order that this Calendar Wednesday should be devoted to the business of Calendar Wednesday, and it has been solemnly determined by this House that it can not be interrupted.

The SPEAKER. It has been solemnly determined time and again that a question of personal privilege is a matter of the highest privilege, and the Chair so rules.

Mr. SIMS. Mr. Speaker, on the 30th of December, before the District Committee of the House of Representatives, investigating questions pertaining to some matter of insurance and valuation of buildings in this District, Mr. Charles C. Glover went before that committee as a witness.

Mr. CAMPBELL. I raise a point of order on the question of privilege.

The SPEAKER. It is too late to do that. There is no point of order to be made against a question of personal privilege.

Mr. CAMPBELL. I make the point of order that the gentleman from Tennessee [Mr. SIMS] has not stated a question of personal privilege.

The SPEAKER. The Chair has already ruled on that. That is the last authority, unless an appeal is taken.

Mr. CANNON. In addition to that, Mr. Speaker, the gentleman is proceeding to make a speech.

Mr. FITZGERALD. He has the right to do that.

Mr. CANNON. Can he talk six hours or the balance of the session?

The SPEAKER. The Chair would be inclined to believe that the general rule of one hour would apply, although the Chair does not rule that. But as long as the gentleman from Tennessee restricts himself to the question of having been charged with falsehood by Mr. Glover he is adhering to the question of personal privilege. The Chair does not believe that Members have to submit to being called liars.

Mr. FITZGERALD. Mr. Speaker, I suggest to the gentleman from Illinois [Mr. CANNON] that he permit the gentleman from Tennessee [Mr. SIMS] to proceed and finish his remarks. The gentleman from Illinois has interrupted and delayed more than all the other Members of the House put together.

Mr. CANNON. We are at the mercy of the gentleman from Tennessee.

The SPEAKER. You are at the mercy of the Chair on this occasion.

Mr. MANN. Mr. Speaker, will the gentleman yield for a question?

Mr. SIMS. Yes.

Mr. MANN. Does not the gentleman think that on a question like this a quorum of the House ought to be present?

Mr. SIMS. Oh, there is a quorum present—all the quorum I want. [Laughter.] Let me finish. I shall not take much time.

Mr. MANN. I thought that might head off more interruptions.

The SPEAKER. The gentleman from Tennessee will proceed.

Mr. SIMS. Mr. Speaker, no one has a greater distaste for personal controversy than I. I have now about rounded out 16 years of continuous service in this great legislative body and have never had one unpleasant word with any Member of the House, whether in open sessions of the House or in committee service. In all these long years I have often become somewhat heated up and excited, but never intentionally said one unkind word of any Member or deliberately said anything to cast reflection upon any man in public or in private life. I realize, Mr. Speaker, that the man who often airs his supposed wrongs and personal injuries on this floor loses rather than gains the sympathy or respect of his colleagues. But, painful as it is to me, I must, in justice to myself as a Member of this body, again ask for patient attention to a matter that I have heretofore discussed, as a matter of personal privilege.

On the night of March 3, 1909, nearly four years ago, the gentleman from Michigan, Hon. SAMUEL W. SMITH, moved to suspend the rules and pass a bill, commonly called the Glover bill, to purchase about 100 acres of land as an addition to Rock Creek Park. I was not in the Chamber at the moment the motion was made, but came back into the Chamber just as the gentleman from New York, Mr. ANDRUS, was yielded five minutes' time in opposition to the motion. I listened attentively to what Mr. ANDRUS said, as he was a member of the Committee on Public Buildings and Grounds, which committee had considered this proposition. Naturally, I relied upon his statement of facts. He is known to all of us as one of the most conscientious and laborious Members of this body. Mr. Speaker, I do not hesitate to say that in the retirement of Mr. ANDRUS this House and the country sustains a most material loss.

In that debate Mr. ANDRUS said:

Mr. Speaker, the work of a session of Congress apparently is never completed until we have some little discussion in regard to an appropriation for the purchase of land in Rock Creek Park. My time is rather limited, but at the outset I want to state how I stand on parks. I am in favor of parks, as I am in favor of public schools, in favor of churches; churches to grow a better moral influence in the community, churches so that the children may acquire an education, and parks where the children can play and grow bone and muscle and nerve to help them bear the heavy burdens of life that will follow. I would like to give you just a hasty résumé of this matter for four years. On March 27, 1906, Senate bill 5289 called for $600,000. On the 27th of March a Senator wrote to the president of the District Commissioners asking certain information, and among the information asked for I find this.

I read from his report. It is Calendar No. 2811, near the bottom of the third page:

"The price named in the bill, $600,000, for about 437,000 square feet of land, or about $1.37 a square foot, is in excess of the estimated value of the land by the board of assessors, their value being $230,000."

Mr. Speaker, I have had some experience, having bought a few lots during my life, and I found the assessor's value, as a rule, a pretty good criterion on which to act. On March 30, 1906, evidently a conscience was pricked, and a bill, H. R. 5102, was introduced for $550,000—$50,000 less. On February 16, 1907, conferees of the House and the Senate came to an agreement of $475,000, but it was not satisfactory to the House Committee on Public Buildings and Grounds, and the matter was dropped with the expiration of the Fifty-ninth Congress.

The thing took on new life, and on January 27, 1908, the bill S. 4441—which I have here—was reported for $423,000, a gradual coming down. That bill went directly to one of the appropriation committees, and on May 26 last, under a suspension of the rules, it was defeated by a vote of 57 for and 164 against.

Mr. NORRIS. That was this same bill?

Mr. ANDRUS. This same bill that is brought up to-day. Now, what have the Government and the people lost in these three years? We are talking now about $423,000, as against $600,000 three years ago, a saving to some one of $177,000. The interest on $600,000 for three years at 2 per cent is $36,000. It makes a total of $213,000. It may be a small sum in this House, but, Mr. Chairman, there are 10,000 boys in my district who would be exceedingly happy if in a legitimate way they could make that money in three years. [Applause.]

The gentleman from Nebraska [Mr. NORRIS], who had control of the time in opposition, yielded me five minutes' time in which to oppose the bill. Having just heard Mr. ANDRUS make his statement above quoted, I said:

Mr. Speaker, when this identical bill, without the change of a letter, was voted on by yeas and nays in this House on the 26th day of May last, 164 noes were recorded as against 57 ayes. How many gentlemen

are going to change, and what reason are you going to give for your flop in so short a time? Now, there will be a yea-and-nay vote at this time on this bill, and you will have to explain some day why you changed in so short a time without any new evidence or any new reason given for the change. * * * They started in on this tract at $600,000 and now they have got it down to $435,000. * * *

It will thus be seen that neither I nor Mr. ANDRUS said that Mr. Glover had ever asked or tried to sell the 100 acres of land for a price higher than $420,000, for which he claimed he held an option from the owners of the several tracts constituting the 100 acres. As I said on the 15th of January last, that I had never been a member of any committee to which any bill had been referred embracing any proposition to acquire this land and knew nothing about the facts, except what had been stated on the floor in debate and what appeared from a statement of Mr. Glover in a hearing before a subcommittee of the Committee on Appropriations on the 15th day of May, 1908. I did not know but that the same land had been offered to the Government prior to the option of Mr. Glover. I never once intimated that he had ever asked for ir more than appeared in the bill. By a misprint or mistake of the stenographer I was quoted as saying $435,000, instead of $423,000. But notwithstanding the evident purpose and intention of both Mr. ANDRUS and myself to be accurate in our statements as to all material facts, Mr. Glover, on the 30th day of December, 1912, in a hearing before the District Committee, which was investigating the office of commissioner of insurance in the District of Columbia, went out of his way and made a lengthy detailed statement as to his connection with the attempt to secure the passage of Senate bill No. 4441, of the Fifty-ninth Congress. This statement was made on oath as a witness and published as part of the hearings, appearing on pages 420 and 421 and other pages following in part 4 of said hearings. After quoting what I have just read as part of the remarks of Mr. ANDRUS and myself, on the 3d day of March, 1909, he proceeds:

Mr. Chairman, the statement that I offered that property to the Congress of the United States at $600,000; that I was pricked by conscience and reduced the sum to $550,000; that it was embodied in any bill by my authority at $475,000, or, as Mr. SIMS says, it is now before this House at $435,000 is an absolute and unqualified falsehood.

Mr. Speaker, no graver charge could be made against a Member of this House than to charge that he had been guilty of uttering an absolute, unqualified falsehood in debate on the floor of this House. This statement of Mr. Glover was made voluntarily nearly four years after the 3d of March, 1909. A falsehood is a false statement made by a person who knew that it was false at the time he was making it.

The most casual reading of what was said by Mr. ANDRUS, as well as by myself, shows that neither of us said or intended to convey the impression that Mr. Glover had tried to palm off on the Government the land at a higher price than that mentioned in the bill, $423,000. Mr. Glover went out of his way to assume that we had said the things which he charges to have been an unqualified falsehood.

Mr. Speaker, I can not imagine why he wanted to try to injure either Mr. ANDRUS or myself in our representative capacities by putting things in our mouths which we had not said and then to indignantly charge falsehood to us. He manifested a most malignant spirit in doing so.

On page 420 of the same hearing, at the bottom of same, including one line at top of page 421, Mr. Glover said:

I endeavored to have this option renewed for another year, having failed within the two years to cause the passage of this bill. After much difficulty I succeeded in having it continued for another year, in writing. A short time ago somebody told me that I had better get the CONGRESSIONAL RECORD of 1909, of March 3; that I would probably find therein the cause of what I have been told has frequently occurred—a defense of my character by my friends before members of the House committees. Mr. Judson has told me that frequently he has had to defend me.

I read this RECORD for the first time about a week ago.

Of course, Mr. Speaker, I have no means of knowing whether he actually read the CONGRESSIONAL RECORD at the time of its issuance, but he was well aware of what occurred. As I said in my statement heretofore made, that I was in the Riggs Bank in November, 1909, and that Mr. Glover spoke to me about the matter, to the effect that the Government had lost the opportunity to get that splendid piece of land as an addition to Rock Creek Park by not accepting his option; that it was then gone forever. He then spoke of the fact that both Mr. ANDRUS and I in debate had made the statement that the land had been offered at $600,000, then at $550,000, then put in by the Senate at $475,000. He then pointed out to me that the land offered at those figures was the Meridian Hill tract and not the tract on which he had an option at $420,000. I then told him that I had simply followed Mr. ANDRUS, and that if anything had been said by me that did him an injustice that I would be glad to put anything in the RECORD that would set him right. In the same conversation he told me that a magazine article had been published using these statements I have just repeated, and that the magazine article had in substance charged that he had tried to sell the land to the Government at a higher price than called for in his option and had done him a great injustice. I then examined the RECORD and saw that neither I nor Mr. ANDRUS had stated that he had tried to sell the land for more than the option called for. I saw that the statement was that it had been offered for $600,000, and then for $550,000, but nothing in our statements charged even by implication that he had tried to sell the land at those figures. Hon. SAMUEL W. SMITH was present at least part of the time during this conversation.

But, Mr. Speaker, he did not have to read the RECORD of March 3, 1909, to know that such charges had been made as to a higher price having been asked for this identical land. My whole argument was that the land was not worth what was asked for it and that it was not rapidly rising in price, and all that I said was to justify that position. I had no purpose to injure Mr. Glover or to hurt him in any way, as anyone will see by reading the debate on the date of March 3, 1909. Mr. Glover knew that no such purpose was in my mind. Then, how unjust and how unfair and how malicious it was on his part, nearly four years afterwards, to say what he did of me in the hearing I have recited. He could have explained to that insurance investigating committee, a fact which he well knew, that Mr. ANDRUS, by a mistake easily made, in reading the report of the District Commissioners, which contained both tracts—Rock Creek and Meridian Hill—had read the part of the report referring to Meridian Hill and applied it to Rock Creek land. He could have said all that was necessary to set himself right and could have shown how the mistake had been made and no one would have been hurt or had any right to complain. But instead of doing that which would have been the decent thing to do, he falsely assumes that we had charged him with things that we did not charge, and calls my name specifically in connection with the charge that the statement was an absolute, unqualified falsehood. But in his anxious desire to injure Mr. ANDRUS and myself, not only with the Members of this House, but with all who read the papers here, he had placed his full, detailed statement in one of the Washington newspapers, for which, no doubt, he must have paid a good round sum of money, for no other purpose, that I can see, than to injure Mr. ANDRUS and myself. If he had not shown so much malice, I perhaps would not have made any reply, further than to state the bare facts connected with that particular transaction. In my statement on January 15 last I tried to be perfectly fair to Mr. Glover. I restrained my feelings and said nothing I did not feel fully warranted in saying. If anyone will read only so much of Mr. ANDRUS's speech and mine as Mr. Glover placed in the hearings before the District subcommittee on December 30, he will see that Mr. ANDRUS referred to bills by numbers and dates, and gave the correct date and number of the Senate report from which he read, which showed the tract of land offered first at $600,000 and afterwards at $550,000, and carried in a Senate amendment at $475,000, contained only 437,000 feet, which could not be, at most, much over 10 acres, while the Rock Creek Park tract, containing about 100 acres, when reduced to square feet would be more than 4,000,000 feet, or ten times as much land as the Meridian Hill tract.

All this was well known to Mr. Glover. He knew that Mr. ANDRUS had unintentionally made a mistake, and that I had accepted Mr. ANDRUS's statement in the best of faith. Mr. Speaker, a simple mistaken statement is not a falsehood of any kind, much less an absolute unqualified falsehood. Mr. Glover knew when he made the charge of falsehood that his charge was false, and the fact that he published that statement in the newspapers in Washington was conclusive evidence of a malicious purpose on his part to injure Mr. ANDRUS and myself. In my speech January 15 I did nothing but state simple facts, and all material facts are correctly stated. I may have made errors as to immaterial details. But I purposely refrained from making charges of bad conduct or bad faith upon the part of Mr. Glover. But notwithstanding my mild statement following such mean and unjust treatment on the part of Mr. Glover, he has since seen fit to publish in three of the newspapers in Washington of January 25, 1913, a most scurrilous and defamatory attack on me, for the publication of which he, no doubt, must have paid a large sum of money, establishing beyond doubt his malicious purpose to injure me. That publication makes this statement necessary. So I shall treat his newspaper attack somewhat in order.

First. As a justification for bringing into the hearing on the insurance investigation a matter in no way related to it he

made the statement that he had never read the CONGRESSIONAL RECORD of March 3, 1909, and that only a week prior to his appearance before that committee he had been told by some one—whose name he withholds, like he did the fact that a Member of Congress owned some of the land he was trying to put off on the Government—that he had better read the CONGRESSIONAL RECORD of March 3, 1909.

Mr. Glover in his latest newspaper article says that I defeated his bill on March 3, 1909, by the so-called false statements about him. Mr. Speaker, I did not kill that bill by anything I said on March 3, 1909. It was already as dead as an Egyptian mummy. On May 26, 1908, that same Senate bill, S. 4441, was under consideration by the House under a motion to suspend the rules and pass it, at which time I had absolutely nothing to do with it. I did not open my mouth about it at that time. The gentleman from Kentucky [Mr. SHERLEY] on that occasion demanded a second to the motion to suspend the rules, and under the rules acquired control of the 20 minutes' debate in opposition to the bill, and I now read from the CONGRESSIONAL RECORD what was said in debate on the bill at that time:

Mr. Speaker, in the debate on the Senate bill No. 4441, on the 26th day of May, 1908, on page 7000 of the CONGRESSIONAL RECORD, first session of the Sixtieth Congress, I read the following, while the gentleman from Missouri [Mr. BARTHOLDT] had the floor in opposition to the bill:

Mr. GAINES of West Virginia. What was the price then?
Mr. BARTHOLDT. The price was just the same as it is now.
Mr. GAINES of West Virginia. I have been told that several years ago, at least, the price was $600,000 against $450,000.
Mr. BARTHOLDT. That was many years ago.
Mr. RODENBERG. And it is cheaper now.

Mr. Speaker, in the same debate at the same time on the same page of the RECORD Mr. NORRIS, the gentleman from Nebraska, in debate on that bill, said:

Now, this matter has been before several committees. I was talking to-day to a Member, who was several years ago on the Committee on the District of Columbia, and he said that when he was on that committee this tract was offered for $600,000, a price then said to be very cheap, and they were urged to accept it before the option ran out.

While the bill was under consideration at that time Mr. Glover was sitting in the Members' gallery and distinctly heard every word that was said. He heard Mr. Gaines of West Virginia ask Dr. BARTHOLDT as to the fact of this land having been offered for $600,000. He heard Dr. BARTHOLDT reply "that was many years ago," thus admitting the fact that such a price had been at an earlier date asked. He heard Mr. Gaines use the words "and now offered at $450,000." He distinctly heard the speech of the gentleman from Nebraska [Mr. NORRIS] which I have just read. Why did he not fly into a rage, go into the press of the city and denounce all those honorable gentlemen as liars? I have my opinion as to why he did not do it. Although on a yea-and-nay vote the bill was defeated by a vote of more than three to one he still hoped that at some unwatched moment he might put that steal off on the Government. Now, will he claim that he did not know what was said in that debate, which he in person heard; that he did not read the RECORD, and that some friend has lately suggested to him to read the RECORD of that date?

Mr. Glover charges that it was the statements made by Mr. ANDRUS and myself, as to the land having been offered at a higher price than $425,000, that defeated the bill and deprived the Government of that beautiful piece of ground at much less than its value.

Mr. Speaker, he gives us entirely too much credit in this matter. That bill did not even have to be killed on March 3, 1909. It was already dead as Hector. The gentleman from Kentucky [Mr. SHERLEY] and the other gentlemen to whom he yielded time on May 26, 1908, are the gentlemen who are entitled to the credit of killing that odious bill. As I have stated, I took no part in the killing of the bill at the time it was actually killed, but when the attempt was made in the darkness of night on March 3, 1909, to resurrect that putrid corpse I used only five minutes in debate in an humble effort to show the House that it should not be resurrected.

Mr. Speaker, the only purpose in showing that the land had been offered at former periods at higher values was to meet the argument that the land was increasing or had increased in value. There was not the slightest intimation that Mr. Glover had tried to sell the land for a greater amount than named in his option. But with all these facts staring him in the face since the memorable fight, led by Mr. SHERLEY on May 26, 1908, Mr. Glover is pleased to charge that what Mr. ANDRUS and I said in the debate on the same bill on March 3, 1909, was an attack on him personally, and as an excuse for his belated and malicious charges against us, is that he did not know what had been said by us until about a week before he gave his mass of false statements to the investigation subcommittee of the District Committee on December 30, 1912. The only thing new that was brought out in the discussion on March 3, 1909, that was not fully discussed at the time Mr. SHERLEY made his successful onslaught on the bill in May, 1908, was the fact that I brought out then that a Member of the House at that time owned part of the land sought to be unloaded on the Government, which fact was unknown to me until a few days before the last attempt was made to pass the bill on March 3, 1909. Even this disclosure did not greatly strengthen the opposition to the bill. While this fact was unknown to the membership of this body when the bill was defeated in May, 1908, there were only 28 more votes cast against the measure on March 3, 1909, than on May 26, 1908, and only 26 fewer votes given for the bill on March 3 than on May 26, 1908. The vote for the bill May 26, 1908, was 57, against it 164. The vote for the bill March 3, 1909, being 31, and the vote against the bill was 192.

Mr. Speaker, in my remarks on January 15, 1913, I referred to the fact that the report made by the Appropriations Committee to accompany that bill in 1908 consisted of only four lines, and gave what I supposed was the reason for it, that the subject matter of the proposed legislation had been before the House before and was well known to Members. I had reference to the facts as to the land, its location, and the alleged reasons why we should purchase it.

I certainly did not mean to convey the idea that we knew all about the specific terms of the option claimed in favor of Mr. Glover, except what he had stated in a printed hearing before the Appropriations Committee. I never intended to be understood as meaning that the membership of the House knew anything about who the several owners of the land were. All we knew or could know was what had been stated by Mr. Glover in the hearing referred to and the report made to the Senate by the Commissioners of the District of Columbia.

Mr. Speaker, the Government has the undisputed right to condemn every foot of land in the District of Columbia for public uses. The Government by this power has an option on every foot of land in this District, and the only benefit that is possible for the Government to receive by an option is in the price. It might be that one private individual by withholding the fact that the Government wanted a certain piece of land could get an option from another private individual at a less price than if the landowner knew that the Government wanted the land. Where is the man, if he knew an option was wanted on his land by another man for the purpose of letting the Government have it, that would be fool enough to give an option on it for less than he thought he could get for it under condemnation proceedings?

On page 420, part 4, of the hearings before the District Committee I read the following statement of Mr. Glover under oath as to his so-called option:

Mr. JOHNSON. Mr. Glover, do you desire to make any other statement?

Mr. GLOVER. I would like you to indulge me for a moment in connection with a matter that has had some inquiry made in connection with the value of the property known as Massachusetts Avenue Heights. I would like to state very briefly my connection with that property.

In 1906, desiring to bring the Potomac Park and the Rock Creek Park together—that is, assuming that the Zoological Park is a part of Rock Creek Park—I got an option on 100 acres of this property for the sum of $420,000. In 1907 I caused to be introduced into the Senate and House a bill looking to the purchase of this property at the option named, but with $3,000 added by the Commissioners of the District of Columbia for expenses that might be incurred in acquiring it.

Mr. JOHNSON. Who introduced those measures?

Mr. GLOVER. A Member of the House and a Member of the Senate.

Mr. JOHNSON. Do you recall whom?

Mr. GLOVER. I do not at the present moment. I am not sure that the commissioners did not ask for the introduction of this bill. I took the bill to the then Commissioners of the District of Columbia and they thoroughly approved of the scheme.

My option was for two years, and for two sessions of Congress this property was offered at the price named—$420,000.

Mr. JOHNSON. How was the property described? Was there any particular name for it?

Mr. GLOVER. Yes; it was the property lying between Connecticut Avenue and Massachusetts Avenue Bridges, and ran out to the Protestant Episcopal Cathedral Foundation. There were also 3½ acres south of the Massachusetts Avenue Bridge. It was my intention to continue down Rock Creek until these parks were finally joined. As the panic had created a very extremely critical and serious condition in the money market—

Mr. JOHNSON. Which panic?

Mr. GLOVER. The panic of 1907, which ran well into 1908 and 1909. I endeavored to have this option renewed for another year, having failed within the two years to cause the passage of this bill. After much difficulty I succeeded in having it continued for another year, in writing. A short time ago somebody told me that I had better get the CONGRESSIONAL RECORD of 1909, of March 3; that I would probably find therein the cause of what I have been told has frequently occurred—a defense of my character by my friends before members of the House committees. Mr. Judson has told me that frequently he has had to defend me.

Mr. SISSON. Mr. Speaker, I think the gentleman from Tennessee is entitled to a quorum, and I make a point of no quorum.

Mr. SIMS. I do not want any quorum, and I hope the Democrats will not filibuster.

Mr. CANNON. Will the gentleman from Mississippi withhold his point for a moment to allow me to ask the gentleman from Tennessee one question?

Mr. SISSON. I will withhold it.

Mr. CANNON. Will the gentleman from Tennessee yield for a question?

Mr. SIMS. I will.

Mr. CANNON. Does not the gentleman, as a Representative of long service in this House, known throughout the country, think that he can afford to drop this matter by saying that he is not a liar and that the other fellow is? [Laughter.]

Mr. SIMS. All of which might be absolutely true; but inasmuch as Mr. Glover has published a long detailed statement occupying an entire page in the newspaper, I feel bound to go a little more into the details.

The SPEAKER. Does the gentleman from Mississippi insist upon his point of no quorum?

Mr. SISSON. I do.

The SPEAKER. The Chair will count. [After counting.] One hundred and fifteen Members present—not a quorum.

Mr. FITZGERALD. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The doorkeepers will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Alney	Fornes	Lafean	Roberts, Nev.
Andrus	Gardner, N. J.	Lafferty	Scully
Ansberry	George	Langley	Sharp
Ayres	Gill	Lawrence	Smith, N. Y.
Beehne	Goldfogle	Levy	Speer
Bradley	Gould	Lindsay	Stack
Broussard	Gregg, Pa.	Littlepage	Stanley
Burgess	Gregg, Tex.	Littleton	Stedman
Burleson	Griest	Longworth	Stevens, Minn.
Burnett	Gudger	McCall	Sulloway
Byrnes, S. C.	Guernsey	Maher	Talcott, N. Y.
Calder	Hamill	Martin, Colo.	Taylor, Ala.
Candler	Harris	Matthews	Taylor, Colo.
Claypool	Harrison, N. Y.	Merritt	Taylor, Ohio
Conry	Hart	Mott	Thistlewood
Copley	Hartman	Nelson	Tilson
Covington	Hay	Olmsted	Turnbull
Crago	Hayes	Palmer	Tuttle
Curry	Heald	Patton, Pa.	Vare
Davidson	Henry, Tex.	Payne	Vreeland
De Forest	Higgins	Peters	Warburton
Dixon, Ind.	Hill	Porter	Wilder
Doremus	Hobson	Pray	Wilson, N. Y.
Driscoll, D. A.	Jackson	Pujo	Wood, N. J.
Evans	Johnson, S. C.	Randell, Tex.	Young, Mich.
Fairchild	Kitchin	Reyburn	
Finley	Konig	Richardson	
Focht	Korbly	Riordan	

The SPEAKER. Two hundred and seventy-four Members have answered to their names—a quorum.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.

Mr. SIMS. Mr. Speaker, it appears that Mr. Glover under oath, at his own request for permission to do so, made the above statement, a part of which was that he had an option for two years on the land referred to, and for two sessions of Congress the property was offered at the price of $420,000. He further says:

I endeavored to have this option renewed for another year, having failed within the two years to cause the passage of this bill. After much difficulty I succeeded in having it continued for another year in writing.

Mr. Speaker, both these statements as to the length of time that the original and renewed options had to run before they expired, by specific terms, although made under the sanction of an oath before a committee of this House, are deliberate false statements, and known to be false when made. This fact I did not know when I made my statement on January 15, 1913, and never knew until the statement of Mr. Glover which appeared in the minutest detail in the Washington Post and several other papers on the 25th day of January, 1913, in which Mr. Glover publishes what he claims is a copy of his original option, which is as follows:

TEXT OF OPTION.

Articles of agreement made and concluded this 9th day of March, A. D. 1906, between the persons whose signatures are hereunto attached as owners of interests in the pieces or parcels of ground hereinafter described, constituting a part of what is known as the Thompson Syndicate property, title to which said property was vested in Charles J. Bell, Amos H. Plumb, and John Cassels by decree entered on the 15th day of April, 1903, in the Supreme Court of the District of Columbia, in equity cause No. 23345, parties of the first part, and Charles C. Glover, of the city of Washington, D. C., party of the second part:

Whereas the parties of the first part are the owners of the pieces and parcels of ground hereinafter described; and

Whereas the parties of the first part are willing that the said pieces and parcels of ground shall be made and shall become a public park upon the terms and conditions hereinafter stated; and

Whereas the party of the second part desires, without compensation, and in consideration of the public interests to be thereby promoted and subserved, to aid so far as he can properly do so to in having said pieces and parcels of ground made a public park on the terms and conditions hereinafter stated:

This agreement witnesseth, That the parties of the first part, each for himself or herself, and in respect of their several and respective interests each for himself and not one for the other, in consideration of the sum of $1 lawful money of the United States to each of them in hand paid by Charles C. Glover, before the signing and sealing of this agreement, the receipt whereof is hereby acknowledged, and in consideration of the other payments, and the performance of the conditions hereinafter specified, do hereby covenant, promise, and agree to and with the said Charles C. Glover to sell to the United States or the District of Columbia, for the purpose of a public park, for and in consideration and at the rate of $4,000 per acre and fraction of an acre, all those pieces and parcels of ground in the District of Columbia described as follows:

Parcel No. 1.—All that part of the aforesaid property lying to the south of the south building line of Massachusetts Avenue and to the east of the center line of Rock Creek Drive, as said drive is shown on the plan of the permanent system of highways in the District of Columbia, and containing 3½ acres, more or less.

Also parcel No. 2: All that part of the aforesaid property described as follows: Beginning at the center of Rock Creek Drive as shown on the said plan of the permanent system of highways, where said center line crosses the property line between the said property of the Thompson Syndicate and Woodley Park; thence southerly along said property line to the boundary of the said property of the Thompson Syndicate at or near Rock Creek; thence along said propertly line down Rock Creek to the north building line of Massachusetts Avenue; thence northwesterly along said building line of Massachusetts Avenue to the point where the property line of the said property of the Thompson Syndicate leaves said avenue; thence following said property line in a northerly and northwesterly direction to its intersection with the north building line of Observatory Circle; thence along said building line of said circle in a westerly direction to its intersection with the center line of Thirty-fourth Street, as said Thirty-fourth Street is shown on said plan of the permanent system of highways; thence due north along the center line of said Thirty-fourth Street to the center line of Garfield Street, as said Garfield Street is shown on said plan of the permanent system of highways; thence due east along the center line of Garfield Street to a point 325 feet distant at right angles from the center line of Cleveland Avenue, as said avenue is shown on said plan of the permanent system of highways; thence southeasterly and parallel to said center line of Cleveland Avenue and 325 feet distant therefrom to the point where said line intersects the center line of Twenty-ninth Street, as said Twenty-ninth Street is shown on said plan of the permanent system of highways—said line running parallel to Cleveland Avenue to be the center of a 90-foot street; thence southeasterly by a reversed curved line to the intersection of the center line of Rock Creek Drive, as said Rock Creek Drive is shown on said plan of the permanent system of highways—said reversed curved line to be the center of a 90-foot street; thence about 350 feet along the center line of said Rock Creek Drive to the point of beginning; and containing 84½ acres more or less; the pieces or parcels of land aforesaid containing together 88 acres of land more or less.

A further condition and consideration for the conveyance by the aforesaid trustees to the United States of the pieces or parcels of land above described is that that portion of Benton Street, as shown on said plan of the permanent system of highways shall be abandoned by the United States from where said Benton Street intersects the reversed curved line referred to in the aforesaid description of the land to be taken for a park eastwardly to the junction of said Benton Street with said Rock Creek Drive; the purpose of said abandonment being that the reversed curved street is to be the boundary of the park at this point and shall take the place of that portion of Benton Street proposed to be abandoned.

A further condition and consideration for the conveyance of the above-described pieces and parcels of land by the aforesaid trustees to the United States is, that wherever the park line follows the center of a street as now laid out on the said plan of the permanent system of highways, or a street to be laid out as provided herein, a strip of land 30 feet wide on each side of said center street line shall be dedicated for roadway and sidewalk purposes by the United States and the aforesaid trustees out of and from any piece or parcels of lands within said 30-foot strips owned or that may be owned by them severally.

The covenants hereby made and entered into are upon the express condition that they shall be executed in their entirety, and that all and not a portion of the pieces and parcels of land herein provided to be set apart and become a park shall be taken and paid for according to the terms herein set forth.

Upon the performance of the conditions herein prescribed and the full payment of the purchase money herein provided for to John Cassels, Charles J. Bell, and Amos H. Plumb, the trustees who hold the title to the above described property; the said trustees and the survivor or survivors of them shall and they are hereby directed to make, execute, and deliver proper conveyances, and to do and perform all acts necessary in their judgment to carry into effect the purposes of this agreement.

It is further agreed that this agreement shall continue in force until the end of the first session of the present Congress, the Fifty-ninth Congress, and shall then cease and determine and be of no effect, unless the legislation herein contemplated and specified be obtained and an appropriation made for the purchase money herein designated at said first session.

This agreement is to bind as well the heirs, executors, administrators, and assigns of the parties hereto as the parties themselves.

Executed in duplicate.

Witness the following signatures of owners.

[SEAL.] JOHN W. PILLING.
AMERICAN SECURITY & TRUST CO.,
Trustee Under the Will of John W. Thompson.
[SEAL.] C. J. BELL,
President and Trust Officer.

Witness:
WALTER J. PILLING.

Approved:
MARY IDA THOMPSON.
ROSS THOMPSON.

[SEAL.] HARVEY DURAND.
[SEAL.] JOHN T. GARVER.
[SEAL.] JOHN T. GARVER, *Assignee.*
[SEAL.] LAURA R. GREEN.
[SEAL.] CARRIE S. PLUMB.

Witness:
A. H. PLUMB.

Attest:
AMERICAN SECURITY & TRUST CO.,
C. J. BELL, *President.*
[SEAL.] ALDIS B. BROWNE,
Trustee of the Estate of A. T. Britton.

Witness:
JAMES F. HOOD, *Secretary.*

[SEAL.] WARNER MOORE.
[SEAL.] WARNER MOORE,
Executor and Trustee.
[SEAL.] WM. J. LOCKE,
Executor and Trustee Under Will of William A. Allison.

Witness:
MARY P. STEINLEIN.

[SEAL.] A. S. WORTHINGTON,
Per J. C. HEALD.
[SEAL.] J. C. HEALD.
[SEAL.] GEORGE W. WINGATE,
Per J. C. HEALD.

Witness:
C. J. BELL.

This option shows that it was given on the 9th day of March, 1906. Next to the last provision of this contract reads as follows:

It is further agreed that this agreement shall continue in force until the end of the first session of the present Congress, the Fifty-ninth Congress, and shall then cease and determine and be of no effect, unless the legislation herein contemplated and specified be obtained and an appropriation made for the purchase money herein designated at said first session.

Mr. Speaker, the first session of the Fifty-ninth Congress, mentioned in this bogus option, had been in existence at the date of this agreement since the first Monday in December, 1905, or more than three months, and under no conceivable circumstances could have continued for two years from that date, as sworn to by Mr. Glover. The first session of the Fifty-ninth Congress did in fact expire by adjournment June 30, 1906, and by the specific and definite provision of the option it expired on that date, as no legislation had been obtained and no appropriation made as provided during the first session of the Fifty-ninth Congress. So that this option became null and void within 3 months and 21 days from its date, instead of continuing for two years, as falsely stated by Mr. Glover.

The so-called renewal or extension of this defunct option, which Mr. Glover swore he had such hard work to secure, which he said was for one year and in writing, and made a part of Mr. Glover's statement in the Washington Post of January 25, 1913, is as follows:

OPTION WAS EXTENDED.

Articles of agreement made and concluded this 15th day of January, A. D. 1908, by and between Charles J. Bell, Ames H. Plumb, and John Cassels, trustees, under decree entered April 15, 1903, in the Supreme Court of the District of Columbia, in equity cause 23345, parties of the first part, and Charles C. Glover, of the city of Washington, party of the second part.

Whereas by an agreement bearing date the 9th day of March, 1906, an option was given to Charles C. Glover to purchase two certain parcels of land, a copy of which agreement is hereto attached and made a part hereof; and

Therefore it is hereby mutually agreed to and with each other that the said option shall be held and considered as continuing and being in full force, operation, and effect until the termination of the first session of the present Congress (the Sixtieth Congress) and for such time thereafter as may be necessary to obtain the payment of any sum or sums of money appropriated at said session of Congress, and shall then cease and determine and be of no effect.

Witness:
CHARLES J. BELL.

Witness:
A. H. PLUMB.

Witnesses:
J. DONALD CASSELS,
JOHN CASSELS, *Trustees.*

Approved.
AMERICAN SECURITY & TRUST CO.,
Trustee Estate of J. W. Thompson.
C. J. BELL, *President.*
CARRIE S. PLUMB,
By A. H. PLUMB.
MARY IDA THOMPSON.
ROSS THOMPSON.

So, Mr. Speaker, it appears from this extension or renewal option, entered into on the 15th day of January, 1908, that the option of March 9, 1906, was to be held and considered as continuing and being in full force, operation, and effect until the termination of the first session of the Sixtieth Congress and for such time thereafter as might be necessary to obtain the payment of any sums of money appropriated at said first session of the Sixtieth Congress, and should then cease and determine and be of no effect. At the date of this alleged renewal contract, or option, the first session of the Sixtieth Congress had been in existence since the first Monday in December, 1907, and actually terminated by final adjournment May 30, 1908. So at the expiration of 4 months and 15 days from the date of this bogus renewal contract the same had terminated and ceased to be of binding force and effect instead of being for one year from its date, as sworn to by Mr. Glover.

So, you see, Mr. Speaker, that the first or original option ceased to exist within 3 months and 21 days from its date instead of 2 years, and the renewal option became void 4 months and 15 days from its date instead of 1 year from its date. How is Mr. Glover going to excuse himself for swearing falsely in his statement of December 30, 1912, with both the original and renewal options in his possession?

Mr. Glover says in substance that I am somewhat reckless in my speeches. That may be true, but I have never been accused of being reckless when I am making statements under oath.

This copy of the original option contract and renewal of same, Mr. Speaker, bears all the earmarks of being bogus, as being mere framed-up counterfeit devices to be used by Mr. Glover in his efforts to get Congress to purchase the land covered by them. In the first place, both of them are dated after the regular sessions of the Fifty-ninth and Sixtieth Congresses were well advanced, and both provided that unless Congress acted and appropriated the money for the purchase of the lands during the then pending first sessions of the Fifty-ninth and Sixtieth Congresses that the options were to become void. All this was done, we are forced to believe, to enable Mr. Glover to urge hasty action by Congress under the spurious claim that the options could not be renewed and that the land was rapidly advancing in price. We all know that 1906 was the banner year of all the years since the War between the States for its record of prosperity and good times. This original option expired by the adjournment of Congress on June 30, 1906, so that the owners of the land had all of the eight months from June 30, 1906, to March 4, 1907, the most prosperous of any eight months in 40 years prior thereto, with no option on their lands in which to dispose of same to the best advantage. Then followed the remainder of the year 1907—the panic year—and until the 15th day of January, 1908, when this bogus option was continued, with no sale of this land. We see that this land had been free from any option from June 30, 1906, to January 15, 1908, a period of 1 year 6 months and 15 days.

On the 15th day of May, 1908, just four months after the bogus renewal contract had been made, a hearing was had before the subcommittee of the House Committee on Appropriations, presided over by Mr. Tawney, who was at that time chairman of the Committee on Appropriations of the House of Representatives, which hearings were printed. From a copy of the printed hearings I read the following:

The CHAIRMAN. At the same figure as was originally offered for any of them?

Mr. GLOVER. Mr. Tawney, it is needless for me to say that there are no commissions or charges or benefits to be had out of this transaction. It is purely for the benefit of the city.

The CHAIRMAN. The question may be asked if this bill is reported to the House, and in that event I wanted to be in a position to state the fact.

Mr. SMITH. The options run to you personally, and you would turn them over without profit?

Mr. GLOVER. Absolutely.

And now along that line I just want to say one word about the value of property in that location. I bought for the cathedral—I am one of the trustees, and I practically started the whole cathedral proposition—I bought the property to the westward of this tract several years ago, and we paid $8,000 an acre. The ground was exactly similar to this property that Senator Nixon has just purchased, and he bought it in the spring, and he bid $6,000 or $7,000 an acre for it—26 acres. The ground near these houses has been bought for $1 per square foot. We are getting some of the same kind of ground in this tract. There is not an acre of ground in this property that could be bought for less than $6,000 to $8,000 per acre.

Mr. Speaker, you will see from what I have read, as appears on the top of page 8 of the printed hearings, that Mr. Glover uses the words, referring to the lands embraced in his bogus option:

There is not an acre of ground in this property that could be bought for less than $6,000 to $8,000 per acre.

That statement covered each and every acre wherever situate, but it turns out to be a fact that about two years after the date of this reckless statement by Mr. Glover 17½ acres of this very land were given free to the District of Columbia for park purposes.

Mr. Speaker, in the same hearing, as appears on page 9 of the printed report of same, I read as follows:

The CHAIRMAN. How is it, Mr. Glover, with respect to the 88 or 98 acres; would it be possible for you to have the option renewed another year?

Mr. GLOVER. No, sir; that is out of the question, Mr. Tawney. They have assessed this ground at $7,500 an acre. The assessment has gone up tremendously.

Mr. FITZGERALD. The assessed valuation of it?

Mr. GLOVER. Yes; they have put it up enormously, and justly so. It is a pretty fine piece of ground. Bell told me the other day that they hardly knew what to do about this thing.

The CHAIRMAN. You think it would be impossible to renew the option?

Mr. GLOVER. Absolutely.

We see that Mr. Glover said at that time that the land had been assessed at $7,500; that the assessment had gone up tremendously, and, strange to state, for more than one year and a half, from June 30, 1906, to January 15, 1908, during all of which time this land was advancing in this skyrocket fashion, no sale of it had been made, and an old option, taken in 1906 at $4,000 an acre, was renewed at the same price, January 15, 1908. At the time Mr. Glover made this statement of the assessed value by adding one-half of assessed value to assessed value, we have the market value at that time of $11,250 per acre. If we can believe anything that Mr. Glover says about this matter, the very day he made this statement the 100 acres of land covered by his option at its market value was worth $1,125,000. The option by its terms expired May 30 of that year, 1908, being the day of adjournment of first session of Sixtieth Congress. From that day hence there was no option on that land or on any portion of it. But notwithstanding this fact, during the winter of 1908 and 1909, up to and including March 3, 1909, with no option of any kind on any of the land, Mr. Glover was wearing himself out and the Members of the House to a frazzle to induce the House to pass Senate bill 4441, providing for the purchase of this land for $400,000, when he had stated upon his honor before a committee of the House that there was not an acre that could be bought for less than six or eight thousand dollars; that it was assessed at $7,500 an acre, making the market value $11,250 an acre, or $1,125,000 for the 100 acres. How can anyone escape the conclusion that the option was all a bogus, fraudulent, trumped-up device to be used by Mr. Glover to cause Members of Congress to believe that if it was not taken advantage of during the two sessions mentioned that it would be too late?

There is other evidence of the fraudulent character of this make-believe option. The option on its face discloses the fact that the Government was to be the real purchaser and not Mr. Glover; that this fact was well known to the men who gave the option. I ask in all seriousness who was Charles J. Bell, that he had to have a go-between to aid him in persuading Congress to accept what we are asked to believe was in a large measure a donation to the Government of a large amount of money? Who was John Cassels that he needed anybody to enable him to get legislation through Congress? We all know that Mr. Bell is one of the best-known citizens in Washington; that he is president of the American Security & Trust Co.; that he is a man of large business affairs and wide experience and a good judge of real estate values in the District of Columbia. We all know that Mr. John Cassels was an attorney for the Pennsylvania Railroad Co., and often appeared before committees of Congress in favor of or in opposition to proposed legislation. Why did he need Mr. Glover's assistance in getting Congress to take land off his hands at a loss to him or those whom he represented?

Do we not all know that Mr. Bell, Mr. Cassels, Mr. Plumb, and the Member of Congress who gave this so-called option knew that they could have joined in a letter to the Speaker of the House, the Vice President, the chairmen of the proper committees of the two Houses of Congress offering to sell these lands for park purposes and that it would have been regarded with favor if the proposition had been a meritorious one? Why did these men want any lobbyist to press an honest proposition on Congress?

Mr. Speaker, is it possible to suppose that the owners of these lands and these trustees representing owners, after the option they had renewed January 15, 1908, had expired, and after the land had gone up, in the glowing language of Mr. Glover, "tremendously," with no obligation—legal, equitable, or moral—resting upon them, on March 3, 1909, would have conveyed these lands to the District or the Government at the alleged option price if the bill had passed March 3, 1909? Not on your life.

Will anybody believe that these honorable gentlemen would sit idly by knowing that Mr. Glover, with no sort of an agreement or option after May 30, 1908, was using all his wits, with a few extra smiles, to induce Congress to pass a bill to purchase a lot of land at a price named in a lapsed and void option, with no intention of accepting the price named in the bill? I have not the slightest doubt that if the bill under consideration March 3, 1909, had passed that the land would have been conveyed to the Government at the price named in the bill, not because of any valid, binding, then existing contract required them to do so, but because of the fact that the price was a good one and the sale to the Government a wise and profitable transaction.

Mr. Speaker, there are other reasons besides these I have enumerated appearing in the hearings, and in the face of the so-called option, that leads me to believe that it was a bogus device put into the hands of Mr. Glover to enable him to secure the passage of the bill, that the owners were anxious to sell the land at the price named, and if no option had ever been given they would have jumped at the opportunity to have disposed of the land at the price named. This conclusion is strengthened by the fact that after the owners found out by repeated failures of Mr. Glover to fool Congress, that Congress had gotten on to his lobbying curves, that they quit fooling with him and gave one-fifth of the 84½ acre tract, 17½ acres, to the District of Columbia without money and without price, after Mr. Glover had solemnly assured the Appropriations Committee that there was not an acre of the land embraced in the option that could be purchased for less than $6,000 or $8,000 per acre.

Mr. Speaker, I have confined this statement wholly to matters directly connected with the attempt to sell this 99.74 acres of land to the Government, covered by the so-called option of Mr. Glover. I pass over all other matters in both his statements before the District Committee in its insurance investigation and also in Mr. Glover's long statement published in the Washington papers of January 25, 1913, not that I admit or deny any of his statements as to other matters, but because I had no connection with the legislation concerning anything else except the 100 acres covered by the alleged option of Mr. Glover, dated March 9, 1906, and claimed to have been renewed January 15, 1908, and one of my reasons for not doing so is that I do not wish to add further to the mortification and humiliation of a dishonored, discredited, self-impeached man.

Mr. Speaker, I do not desire and will not longer take the time of the House when it has important and urgent business to transact.

In justice to Mr. Glover, I ask unanimous consent to print his entire article in connection with my remarks in the RECORD, and hope that nobody will object.

The SPEAKER. The gentleman from Tennessee asks unanimous consent to print the Glover article in connection with his remarks in the CONGRESSIONAL RECORD. Is there objection?

Mr. SHERLEY. Mr. Speaker, I object.

The SPEAKER. The gentleman from Kentucky objects.

INTERNATIONAL COMMISSION OF JURISTS (H. DOC. NO. 1343).

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Foreign Affairs:

To the Senate and House of Representatives:

I transmit herewith a letter from the Secretary of State inclosing a report, with accompanying papers, of the delegates of the United States to the International Commission of Jurists, which met at Rio de Janeiro in June last.

WM. H. TAFT.

THE WHITE HOUSE, *February 5, 1913.*

QUESTION OF A QUORUM.

Mr. HEFLIN. Mr. Speaker——

Mr. SISSON. Mr. Speaker——

The SPEAKER. The gentleman from Alabama.

Mr. SISSON. Mr. Speaker, I make the point of order there is no quorum present.

The SPEAKER. The Chair overrules the point of order on the ground that it is dilatory.

Mr. SAUNDERS. Mr. Speaker, in that connection——

Mr. HEFLIN. Mr. Speaker, the Committee on Industrial Arts and Expositions——

Mr. SAUNDERS. Mr. Speaker, in that connection, may I submit an authority to the Speaker?

The SPEAKER. Authority on what?

Mr. SAUNDERS. On the ruling which the Speaker has just made. In strict conformity with the precedents if it is evident

to the Speaker that there is no quorum present then the point of no quorum, even if dilatory, must be sustained. Such is the ruling of Mr. Speaker Reed, and the situation is not affected by the fact that a roll call has developed a quorum. If a roll call has developed the presence of a quorum and the point of no quorum is made, the Speaker being satisfied that a quorum is present, is justified in holding the motion to be dilatory, and is not required to count.

The SPEAKER. It has been the rule ever since the present occupant of the Chair has been in this House, 18 years, that when a roll call has been had and a quorum is developed, if within two or three minutes or something like that, three or four minutes, some gentleman raises the point again, it has been ruled out of order.

Mr. SAUNDERS. Mr. Speaker, I do not desire to take up the time of the Speaker or the House with a matter that has been definitely settled contrary to my contention. It is perfectly true that a recent roll call has shown the presence of a quorum, and if the Speaker is now satisfied, upon an inspection of the House, that a quorum is present, he is justified in holding the point of no quorum to be dilatory. But if the Speaker, and this is Mr. Reed's ruling, even if a roll call shows a quorum, is satisfied that a quorum is not present, a different situation is presented, and the point of order is well taken.

The SPEAKER. The Chair is not satisfied——

Mr. MANN. Will the Speaker permit a word to refresh his recollection? In a former Congress, when Mr. JOHN SHARP WILLIAMS was the minority leader, there was an election case on before the House and a roll call was had. Immediately after the roll call the Members on the Democratic side disappeared, having gone out to break a quorum. During the roll call Mr. DALZELL, of Pennsylvania, was in the chair and held, the point of no quorum being made, that the House having disclosed by a roll call that a quorum was present the Chair declined to count to see whether a quorum was present, although, as a matter of fact, there was a quorum present at the time, and the Speaker will remember that as a result of that ruling the gentleman from Missouri, now the Speaker, then a Member of the minority, following the leadership of Mr. JOHN SHARP WILLIAMS, helped out a filibuster during the entire balance of the session as a protest against that ruling.

The SPEAKER. The gentleman who occupies the chair is right now and was wrong then.

Mr. SAUNDERS. Mr. Speaker, I am not without authority, and I would not have consumed the time of the Chair for a moment——

The SPEAKER. The Chair will hear the gentleman.

Mr. SAUNDERS. Except for the following ruling:

The Chair does not feel quite certain that there is a quorum now. The fact that it is dilatory does not make any difference, if there is not a quorum present. (Hinds, sec. 5725.)

Now, the Chair has counted the House often, and looking over this House he can readily see that there is barely a quorum of the Committee of the Whole present, much less a quorum of the entire body of the House. If the Chair thinks there is a quorum present, of course the point of order should be overruled. But if it is apparent to him that a quorum is not present, then dilatory or not the point of order should be sustained.

The SPEAKER. No; the Chair holds the motion is dilatory.

Mr. CANNON. Regular order!

Mr. SISSON. Mr. Speaker, let me say a word, as I made the point of order. The Constitution requires, of course, for the transaction of all business that a quorum shall be present. Now, if it is doubtful in the mind of the Speaker whether a quorum is or is not present, under the Constitution it is the duty of the Speaker, I respectfully submit, to determine affirmatively that there is a quorum present. We are entitled under the Constitution to have a quorum present, and for that reason I demand that a quorum be present before we proceed to transact further business, and it is patent that there is no quorum present. The Chair can look over the House and count them, as I have done.

Mr. SAUNDERS. This proposition is like a call for the yeas and nays. It is a constitutional right. Even if it is made for a dilatory purpose, the call for the yeas and nays must be entertained. The Chair can rely upon a roll call recently made, and his own inspection of the House, to justify a belief that a quorum is present, and rule accordingly. But if his inspection satisfies him that a quorum is not present, the constitutional right to a quorum is presented, and the point of order is well taken.

Mr. HEFLIN. Mr. Speaker, it is clear to the Speaker, to others, and to myself that this is a filibuster. Three minutes have elapsed since it was disclosed by a roll call that a quorum was present, and I ask that the Speaker see to it that this filibuster stop now.

The SPEAKER. The Chair has not any power to squelch a filibuster.

Mr. CANNON. Regular order, Mr. Speaker.

The SPEAKER. And evidently there is not a quorum present. There are two constitutional rights that Members have—one is to have a quorum here, and the other is to have the yeas and nays if they can get sufficient Members to support the demand.

Mr. FITZGERALD. Does the Chair hold there is no quorum present?

The SPEAKER. The Speaker holds there is no quorum present.

Mr. FITZGERALD. Then I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The roll was called, and the following Members failed to answer to their names:

Adair	Ellerbe	Jackson	Redfield
Ainey	Fairchild	Kitchin	Reyburn
Ames	Finley	Konig	Richardson
Andrus	Focht	Korbly	Riordan
Ansberry	Fornes	Lafean	Roberts, Nev.
Ashbrook	Fowler	Lafferty	Scully
Austin	Gardner, N. J.	Lawrence	Sharp
Ayres	George	Lever	Sherwood
Boehne	Gill	Levy	Sloan
Broussard	Gillett	Lindsay	Small
Burgess	Goldfogle	Littleton	Smith, N. Y.
Burleson	Gregg, Pa.	Lobeck	Smith, Tex.
Burnett	Griest	Longworth	Speer
Byrnes, S. C.	Gudger	McCall	Stack
Cantrill	Guernsey	McCreary	Stanley
Clark, Fla.	Hamill	McGuire, Okla.	Stedman
Claypool	Hammond	Maher	Stevens, Minn.
Cline	Hardwick	Martin, Colo.	Taylor, Ala.
Conry	Hardy	Matthews	Taylor, Ohio
Copley	Harris	Merritt	Tilson
Covington	Harrison, Miss.	Morse	Turnbull
Crago	Harrison, N. Y.	Mott	Tuttle
Cravens	Hart	Olmsted	Underwood
Curry	Hartman	Peters	Vare
Davidson	Hay	Porter	Vreeland
Davis, Minn.	Hayes	Pou	Weeks
De Forest	Heald	Pujo	Wilder
Dixon, Ind.	Higgins	Rainey	Wilson, Ill.
Doremus	Hughes, W. Va.	Randell, Tex.	Wilson, N. Y.
Driscoll, D. A.	Hull	Rauch	Wood, N. J.

The SPEAKER. On this roll call there are 261 Members who have answered to their names—a quorum.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors, and the Clerk will call the committees.

PANAMA-PACIFIC INTERNATIONAL EXPOSITION.

Mr. HEFLIN (when the Committee on Industrial Arts and Exhibitions was called). Mr. Speaker, I desire to call up the bill (H. R. 27876) to provide for the participation of the United States in the Panama-Pacific International Exposition, Union Calendar No. 416, and ask for its consideration.

The SPEAKER. The gentleman from Alabama [Mr. HEFLIN] calls up the bill H. R. 27876, on the Union Calendar, and the House automatically resolves itself into Committee——

Mr. SISSON rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. SISSON. I make the point of order that there is no quorum present.

The SPEAKER. Evidently there is a quorum present, and the point of order is overruled.

Mr. HEFLIN. Mr. Speaker, pending that suggestion of going into the Committee of the Whole House on the state of the Union, I ask unanimous consent to limit debate to two hours, one hour to be controlled by me (the chairman of the committee) and one hour to be controlled by the gentleman from Mississippi [Mr. COLLIER].

Mr. MANN. Reserving the right to object, Mr. Speaker, does the gentleman mean general debate?

Mr. HEFLIN. I mean general debate.

Mr. MANN. If that should be agreed to, how much time will probably be allowed under the five-minute rule?

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Mr. HEFLIN. It is not a very long bill, I will say to the gentleman.

Mr. MANN. Well, it is quite a long bill, the gentleman's assertion to the contrary.

The SPEAKER. That matter would be in control of the Committee of the Whole.

Mr. MANN. Yes; but largely in the hands of the gentleman in charge of the bill.

The SPEAKER. The Chair understands that. Pending the going into the Committee of the Whole House on the state of the Union, the gentleman from Alabama [Mr. HEFLIN] asks unanimous consent that general debate shall be limited to two hours. Is there objection?

Mr. SISSON. I object, Mr. Speaker.

The SPEAKER. The gentleman from Mississippi objects. The House resolves itself automatically into the Committee of the Whole House on the state of the Union, with the gentleman from Kentucky [Mr. JAMES] in the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 27876) to provide for the participation of the United States in the Panama-Pacific International Exposition, with Mr. JAMES in the chair.

On assuming the chair Mr. JAMES was greeted with applause.

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The Clerk read the title of the bill, as follows:

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Mr. HEFLIN. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from Alabama [Mr. HEFLIN] asks unanimous consent to dispense with the first reading of the bill. Is there objection?

There was no objection.

Mr. HEFLIN. Now, Mr. Chairman, I desire to give notice, or rather suggest at the outset, that we consume 30 minutes' time to be controlled by myself in support of the bill and 30 minutes to be controlled by the gentleman from Mississippi [Mr. COLLIER] in opposition to the bill, and at the expiration of that hour I shall move that the committee rise and report the bill back to the House.

Mr. CANNON. The gentleman at any time, under the rules, can move, after general debate has been had, to rise and go back into the House, if he has a majority with him and moves to limit general debate. That is the only way it can be done, as I understand it. The gentleman could, after talking five minutes, if he chooses——

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Mr. HEFLIN. Unless we can agree.

Mr. CANNON. There has got to be an amicable agreement.

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The CHAIRMAN. The committee will be in order.

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Mr. HEFLIN. No. Is the gentleman opposed to the bill?

Mr. MANN. I am opposed to the bill.

Mr. HEFLIN. I shall not shut out any gentleman of the minority who wishes to have time in opposition to the bill or who is in favor of it. How much time does the gentleman from Mississippi [Mr. COLLIER] desire?

Mr. COLLIER. One hour will be enough.

Mr. FOSTER. Mr. Chairman, I should like to have some time.

Mr. HEFLIN. We can not agree on one hour, I will say to the gentleman from Mississippi.

Mr. BORLAND. Regular order, Mr. Chairman.

Mr. PAGE. Mr. Chairman, I make the point of order that there can be no limitation of time for general debate in the Committee of the Whole.

The CHAIRMAN. Except by unanimous consent.

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The CHAIRMAN. The gentleman from Alabama [Mr. HEFLIN] is recognized for one hour.

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Mr. BEALL of Texas. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Alabama yield to the gentleman from Texas?

Mr. HEFLIN. I had rather not be interrupted at this time.

Mr. BEALL of Texas. I simply call attention to a statement made by the former chairman of the committee over which you now preside, dealing with the subject of the statement you have just made.

Mr. HEFLIN. I would like to yield to my friend from Texas, but I prefer that the gentleman do not interrupt me at this time. The gentleman who was then chairman will have a chance to speak for himself.

Mr. BURKE of Pennsylvania. Will the gentleman yield for a suggestion?

Mr. HEFLIN. Yes; for a suggestion.

Mr. BURKE of Pennsylvania. It is perfectly manifest that all parliamentary privileges are going to be exercised against this bill. Why would it not be wise for the gentleman from Alabama, in charge of the bill, to move that the committee do now rise and go into the House for the purpose of fixing a limit on this debate? It can be done now, and I think that is the only way in which the gentleman can get this bill through this House on this Calendar Wednesday.

Mr. HEFLIN. In reply to that I desire to say to the gentleman that I think some Members need to be enlightened before we go back into the House, and I want to give both sides a chance to discuss it. I will take advantage of the opportunity at the proper time to move to go into the House to limit debate. I see some gentlemen present who would like to have the opportunity to make the point of no quorum the moment that we get back into the House. Some gentlemen are good at making points of no quorum when they have no argument of merit to make against a proposition and some are remarkably gifted for the performance of that important function in the House. [Laughter.] I never object to gentlemen making these points when they really want to transact business, but I never like to see filibustering of this kind. If gentlemen want to oppose this measure, let them do so in the open in the committee or in the House.

At the celebration to be held in San Francisco, on the shores of the mighty Pacific, in honor of the completion of the Panama Canal, I favor a Government exhibit. I favored a Government exhibit at New Orleans, and I will not now deny to San Francisco what I favored for New Orleans then. San Francisco has made great preparations, and I bid her and that western section of the Republic godspeed in that great celebration. [Applause.] The section that I represent does not want to hamper San Francisco in the least, but it wants to help her in holding this great exposition. [Applause.] The Senator, John T. Morgan, who represented my State for 30 years with distinction and great honor, is the father of the Isthmian Canal. [Applause.] He did not get this canal cut exactly where he wanted it, but for 30 years he advocated in the Senate a great Isthmian Canal, and before he died he realized in a sense his fond dream, for the Government took steps to open up that great canal, uniting the two oceans. [Applause.] The

to the Speaker that there is no quorum present then the point of no quorum, even if dilatory, must be sustained. Such is the ruling of Mr. Speaker Reed, and the situation is not affected by the fact that a roll call has developed a quorum. If a roll call has developed the presence of a quorum and the point of no quorum is made, the Speaker being satisfied that a quorum is present, is justified in holding the motion to be dilatory, and is not required to count.

The SPEAKER. It has been the rule ever since the present occupant of the Chair has been in this House, 18 years, that when a roll call has been had and a quorum is developed, if within two or three minutes or something like that, three or four minutes, some gentleman raises the point again, it has been ruled out of order.

Mr. SAUNDERS. Mr. Speaker, I do not desire to take up the time of the Speaker or the House with a matter that has been definitely settled contrary to my contention. It is perfectly true that a recent roll call has shown the presence of a quorum, and if the Speaker is now satisfied, upon an inspection of the House, that a quorum is present, he is justified in holding the point of no quorum to be dilatory. But if the Speaker, and this is Mr. Reed's ruling, even if a roll call shows a quorum, is satisfied that a quorum is not present, a different situation is presented, and the point of order is well taken.

The SPEAKER. The Chair is not satisfied——

Mr. MANN. Will the Speaker permit a word to refresh his recollection? In a former Congress, when Mr. JOHN SHARP WILLIAMS was the minority leader, there was an election case on before the House and a roll call was had. Immediately after the roll call the Members on the Democratic side disappeared, having gone out to break a quorum. During the roll call Mr. DALZELL, of Pennsylvania, was in the chair and held, the point of no quorum being made, that the House having disclosed by a roll call that a quorum was present the Chair declined to count to see whether a quorum was present, although, as a matter of fact, there was a quorum present at the time, and the Speaker will remember that as a result of that ruling the gentleman from Missouri, now the Speaker, then a Member of the minority, following the leadership of Mr. JOHN SHARP WILLIAMS, helped out a filibuster during the entire balance of the session as a protest against that ruling.

The SPEAKER. The gentleman who occupies the chair is right now and was wrong then.

Mr. SAUNDERS. Mr. Speaker, I am not without authority, and I would not have consumed the time of the Chair for a moment——

The SPEAKER. The Chair will hear the gentleman.

Mr. SAUNDERS. Except for the following ruling:

The Chair does not feel quite certain that there is a quorum now. The fact that it is dilatory does not make any difference, if there is not a quorum present. (Hinds, sec. 5725.)

Now, the Chair has counted the House often, and looking over this House he can readily see that there is barely a quorum of the Committee of the Whole present, much less a quorum of the entire body of the House. If the Chair thinks there is a quorum present, of course the point of order should be overruled. But if it is apparent to him that a quorum is not present, then dilatory or not the point of order should be sustained.

The SPEAKER. No; the Chair holds the motion is dilatory.

Mr. CANNON. Regular order!

Mr. SISSON. Mr. Speaker, let me say a word, as I made the point of order. The Constitution requires, of course, for the transaction of all business that a quorum shall be present. Now, if it is doubtful in the mind of the Speaker whether a quorum is or is not present, under the Constitution it is the duty of the Speaker, I respectfully submit, to determine affirmatively that there is a quorum present. We are entitled under the Constitution to have a quorum present, and for that reason I demand that a quorum be present before we proceed to transact further business, and it is patent that there is no quorum present. The Chair can look over the House and count them, as I have done.

Mr. SAUNDERS. This proposition is like a call for the yeas and nays. It is a constitutional right. Even if it is made for a dilatory purpose, the call for the yeas and nays must be entertained. The Chair can rely upon a roll call recently made, and his own inspection of the House, to justify a belief that a quorum is present, and rule accordingly. But if his inspection satisfies him that a quorum is not present, the constitutional right to a quorum is presented, and the point of order is well taken.

Mr. HEFLIN. Mr. Speaker, it is clear to the Speaker, to others, and to myself that this is a filibuster. Three minutes have elapsed since it was disclosed by a roll call that a quorum was present, and I ask that the Speaker see to it that this filibuster stop now.

The SPEAKER. The Chair has not any power to squelch a filibuster.

Mr. CANNON. Regular order, Mr. Speaker.

The SPEAKER. And evidently there is not a quorum present. There are two constitutional rights that Members have—one is to have a quorum here, and the other is to have the yeas and nays if they can get sufficient Members to support the demand.

Mr. FITZGERALD. Does the Chair hold there is no quorum present?

The SPEAKER. The Speaker holds there is no quorum present.

Mr. FITZGERALD. Then I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The roll was called, and the following Members failed to answer to their names:

Adair	Ellerbe	Jackson	Redfield
Ainey	Fairchild	Kitchin	Reyburn
Ames	Finley	Konig	Richardson
Andrus	Focht	Korbly	Riordan
Ansberry	Fornes	Lafean	Roberts, Nev.
Ashbrook	Fowler	Lafferty	Scully
Austin	Gardner, N. J.	Lawrence	Sharp
Ayres	George	Lever	Sherwood
Boehne	Gill	Levy	Sloan
Broussard	Gillett	Lindsay	Small
Burgess	Goldfogle	Littleton	Smith, N. Y.
Burleson	Gregg, Pa.	Lobeck	Smith, Tex.
Burnett	Griest	Longworth	Speer
Byrnes, S. C.	Gudger	McCall	Stack
Cantrill	Guernsey	McCreary	Stanley
Clark, Fla.	Hamill	McGuire, Okla.	Stedman
Claypool	Hammond	Maher	Stevens, Minn.
Cline	Hardwick	Martin, Colo.	Taylor, Ala.
Conry	Hardy	Matthews	Taylor, Ohio
Copley	Harris	Merritt	Tilson
Covington	Harrison, Miss.	Morse	Turnbull
Crago	Harrison, N. Y.	Mott	Tuttle
Cravens	Hart	Olmsted	Underwood
Curry	Hartman	Peters	Vare
Davidson	Hay	Porter	Vreeland
Davis, Minn.	Hayes	Pou	Weeks
De Forest	Heald	Pujo	Wilder
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The Clerk read the title of the bill, as follows:

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Mr. COLLIER. One hour will be enough.

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Mr. HEFLIN. We can not agree on one hour, I will say to the gentleman from Mississippi.

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Mr. PAGE. Mr. Chairman, I make the point of order that there can be no limitation of time for general debate in the Committee of the Whole.

The CHAIRMAN. Except by unanimous consent.

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Mr. HEFLIN. Mr. Chairman, gentlemen desiring to oppose the bill will have ample opportunity to do so. The Sixty-second Congress has gone upon record as favoring an exposition to be held at San Francisco. I espoused the cause of New Orleans when these two cities were asking for the privilege of holding that exposition. San Francisco was victorious on that occasion. She stated at that time, as I understand, that she would not ask for any aid from the Government. The position of New Orleans was the same, except that she stipulated in her bill an appropriation of a million or a million and a half dollars for a Government exhibit. San Francisco did not at that time ask for a Government exhibit. I never understood the friends of either place to say that they did not expect the Government to pay for its own exhibit. I favor a Government exhibit at an exposition like this, which will be in celebration of the greatest engineering feat in the history of the world. [Applause.]

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The CHAIRMAN. Does the gentleman from Alabama yield to the gentleman from Texas?

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completion of that canal will be of great benefit to the South and the whole country. [Applause.]

Mr. Chairman, the great dignity of this Government is now at stake. This Congress has gone upon record on this proposition. We have requested the President of the United States to issue invitations to foreign Governments to come and participate in the celebration of the completion of the Panama Canal.

Mr. Chairman, do Representatives here wish to see England, the mother country, come with her exhibits, costing a million or two million dollars, celebrating a great American project, and find our Government unrepresented there? Would gentlemen like to see our Government there with no exhibit demonstrating to the world our great industrial growth and development and showing to the nations of this earth our progress along all lines in the arts of peace and in war? I can not believe that gentlemen would have us invite foreign nations to come to this exposition and then not be there officially ourselves. I would not vote to give to San Francisco money as you gave it to St. Louis. When St. Louis held her exposition the Government appropriated $1,579,000 for a Government exhibit. That was in 1904. Eight years and more have elapsed. We have developed marvelously since that time and to-day we are the greatest country on earth, standing on a hill with our light shining that the nations may look upon it and be lifted up in the love of the liberty that we enjoy. [Applause.]

Five million dollars, as I recall, were given to the St. Louis Exposition—$5,000,000 besides a loan which St. Louis paid back. If these figures are correct the Government was out on account of the St. Louis Exposition six and a half million dollars. Mr. Chairman, we are now about to celebrate at San Francisco the completion of the great Panama Canal with the world as our guest.

The committee has reported a bill appropriating $2,000,000 providing for a Government exhibit. What else? Out of that appropriation must come the construction of buildings under the supervision and direction of Government officials. These buildings on the military reservation at San Francisco are to be used by the Government, and saving to the Government $72,000 a year for rent now being paid for the use of buildings there.

Mr. MANN. Will the gentleman yield?

Mr. HEFLIN. Certainly.

Mr. MANN. When the proposition was before the House as to which place we should have the exposition, did not the proposition for New Orleans carry an appropriation of $1,000,000 for a Government exhibit and a Government building, and the San Francisco proposition carry nothing? Did not the gentleman himself and other Members, in favor of San Francisco, all say that the San Francisco proposition meant no appropriation of any amount whatever?

Mr. HEFLIN. I have already stated that situation.

Mr. MANN. And the distinction between the two propositions was that New Orleans carried $1,000,000 for a Government exhibit, and San Francisco carried nothing for a Government exhibit?

Mr. HEFLIN. Mr. Chairman, the gentleman is correct, in part. San Francisco did not at that time ask for a Government exhibit. That was nearly three years ago, in the Sixty-first Congress. This is the Sixty-second Congress. Now, we are approaching the time when if there is to be a Government exhibit it is time to go to work on the grounds and get ready, and name a commission to act for the United States. Twenty-five nations have said they were coming to this Panama Exposition.

Mr. MANN. Will the gentleman yield for one more question?

Mr. HEFLIN. Yes.

Mr. MANN. Did not gentlemen speaking for San Francisco on the floor of the House at the time and did not the minority of the gentleman's Committee on Arts and Expositions, presenting minority views in favor of San Francisco, all state that there would be no money asked for in the future on behalf of San Francisco?

Mr. HEFLIN. I think that is correct. No money is now asked for San Francisco, except in the shape of a Government exhibit and buildings to belong to the Government for all time after the exposition. [Applause.]

New Orleans, as we stated, asked for an appropriation. New Orleans provided that the company should pay the salary of these commissioners. This bill provides the same, and San Francisco stands ready to carry out that part of the original program, as I understand it. There is no expense on the part of the Government. The Government is giving no money to help conduct the exposition in San Francisco. The Government is not asked to do as it did at St. Louis—making a gift of three million or four million or five million dollars—but two millions only to have a Government exhibit and have public buildings erected for the use and benefit of the Government after the exhibition is over. [Applause.]

I did not know, Mr. Chairman, that we were going to have such a hurrah over an exposition that looked toward the display of the physical evidence of the material growth and development of our great country.

Mr. Chairman, I do not believe that the Louisiana delegation will oppose this bill. They made a gallant fight for this exposition, and I stood with them in that fight, and, as I understood it then and understand it now, I would not vote to appropriate money for the use and benefit of San Francisco in carrying on the exposition except in the sense that it is really meant, namely, for only a Government exhibit; and that is what this bill has confined itself to. San Francisco pays the salary of the commissioners, and seven have been provided for, the lowest number ever provided for service at a great international exposition.

Mr. Chairman, it is high time that something were being done to let this commission get in action to communicate with the nations of the earth. Japan, I am informed, has already announced that she will use $1,000,000 in her exhibit at this exposition in America in helping to celebrate the completion of a great American engineering feat. Japan, we are told, proposes to come into the United States and give that much money, and then what? Donate the buildings to the United States when the exposition is over, showing her deep appreciation of the relations existing between the United States and Japan. [Applause.] And yet some gentlemen oppose the appropriation of $2,000,000 for us to have our own exhibit at this great exposition and construct buildings for the use of the Government.

Some of these gentlemen who think that their constituents want them to economize in this manner mistake the temper of their people. The Democratic Party is not the party to defeat projects that look to expanding our commerce and establishing more peaceful relations with the world at large. [Applause.] The Democratic Party is a constructive party and not a destructive party. [Applause on the Democratic side.] We are keeping abreast with the times. The Democratic Party in this Nation wants a proper exhibit made at that great exposition. The Democratic platform at Baltimore pledges every kindly aid to that project. [Applause.]

Mr. Chairman, I yield 20 minutes to the gentleman from Illinois [Mr. RODENBERG].

Mr. RODENBERG. Mr. Chairman, two years ago Congress passed a joint resolution authorizing the President to invite foreign nations to participate in the Panama-Pacific International Exposition, which is to be held in San Francisco in 1915, to commemorate the completion of the Panama Canal. In accordance with the provisions of that resolution the President has extended an invitation to all foreign nations to make an exhibit of their products and resources at this exposition. Something like 25 of the nations have accepted the invitation and have signified their intention to participate. Some of the larger countries of Europe, however, among them Great Britain, Germany, Austria, Russia, and Italy, have not yet indicated their acceptance, and their failure to do so is due to the fact that the Government of the United States, up to this time, has not made any provision for its own exhibit at this exposition. They are naturally anxious to know what we intend to do ourselves before they take final action. By the very terms of the resolution we have deliberately assumed the attitude of host to the nations of the earth, and up to this time we have neglected to perform the duties that devolve upon us as a host, and if we should persist in this neglect, if we should refuse to do that which our invited guests had a right to assume that we would do, we would not be justified in complaining if those nations should ignore our invitation or if, having accepted it, they should withdraw their acceptance.

Mr. Chairman, I take it that every American citizen, regardless of his individual preference as to the location of the exposition in the first instance, now that San Francisco has been selected as the place in which this great international event is to be celebrated, is sincerely and deeply desirous of making this exposition a success in every particular.

I believe that the great majority of the people of this country believe that the honor and the prestige and the dignity of our Nation are involved in making this exposition a success, and I do not believe that the American Congress will be so unmindful of its plain duty in the premises as to humiliate our country before the Nations of the earth. Mr. Chairman, there has been some criticism of San Francisco in regard to this exposition bill. I want to say here and now that I introduced this bill not at the solicitation of the gentleman from California, but

on my own initiative, because I believed it was absolutely right. I have never believed that this exposition would or could be a success so far as foreign exhibits are concerned unless our own Nation has performed its duty and made suitable provision for its own exhibit as an evidence of good faith and its belief in the international importance of this event. I believe that the United States should have an exhibit at San Francisco; and inasmuch as this is our own exposition, commemorating a most important event in our own history, I beleive that that exhibit should be the largest and most comprehensive of any nation that participates in that exposition. We claim, and justly so, that we are the greatest and the most advanced nation on earth, and I believe in giving the people a practical illustration of the truth of that claim. The patriotic citizens of San Francisco have raised the enormous sum of approximately $20,000,000 to insure the success of this great undertaking so far as they are concerned. They have more than done their duty, and they are entitled to the thanks of the American people for this wonderful exhibition of public spirit and civic pride. [Applause.] They have not received a single dollar of financial aid from the Government of the United States in the shape of a loan or a donation, and that is something that has never occurred before in the history of international expositions in this country. Heretofore Congress has always been called upon to make a loan or a donation to assist the citizens of a municipality that has undertaken the task of conducting a successful exposition of this kind. At Chicago in 1894 Congress appropriated $5,800,000 in support of the Columbian Exposition. At St. Louis, a little over 10 years ago, Congress made a donation of $5,000,000 outright in support of the Louisiana Purchase Exposition, and later on contributed $1,600,000 for our Government exhibit there, making a total of $6,600,000. Later on they loaned the exposition company $4,600,000, which they subsequently returned to the Treasury.

Mr. BEALL of Texas. Will the gentleman yield? Is it not a fact that the city of San Francisco does not ask and does not desire this appropriation?

Mr. RODENBERG. They desire it, of course, because they want to make this exposition a success. They have not asked for it, however. I regard it as a matter of absolute right, as a matter of justice, taking into consideration the great work that they have done, that they should have this appropriation. [Applause.]

Mr. BEALL of Texas. Will the gentleman yield in order that I may read him what the gentleman himself said on this subject in the last two years?

Mr. RODENBERG. The gentleman will have plenty of time after a while to be recognized in opposition to the bill. I decline to yield further.

The CHAIRMAN. The gentleman declines to yield.

Mr. RODENBERG. Mr. Chairman, the bill under consideration carries an appropriation of $2,000,000 for a Government building and a Government exhibit at San Francisco. It will be noticed also that the Government building to be erected there is to be of a permanent nature for the future use of the War Department in San Francisco. The exposition is being held at the Presidio, which is a national military reservation, and these buildings are to be used later on by the War Department. Figures were given to me to-day showing that this Government is to-day paying $72,000 annually in the shape of rent for the use of the War Department in that city. I regard this as a very wise and sensible provision, because it is a guaranty that all of the moneys expended in the building will not be wasted, but that the buildings will be put to practical use in the future, and this enormous rental will be saved to the Government. I do not consider an appropriation of $2,000,000 as at all excessive; on the contrary, I regard it as a very modest appropriation. Why, in 1900 the French Nation had an exposition at Paris. Congress appropriated $1,472,000 for our participation in that exposition; and I remember distinctly about five years ago that I had the honor to report a bill to this House, which was considered under unanimous consent and which was passed without a dissenting vote, appropriating $1,500,000 for the international exposition which was to be held in Tokyo, Japan, but which was subsequently abandoned by the Japanese Government. If we felt justified in making appropriations of this size for expositions in foreign countries, surely we should feel justified in appropriating $2,000,000 for the greatest exposition that will ever be held upon American soil, commemorating a most important event in American history—an event which should cause the heart of every American citizen to swell with pride. [Applause.]

This bill further provides for the appointment of a commission of seven members, whose salaries are to be paid by the exposition company and whose duties are clearly set forth in the bill itself. I have always regarded it as absolutely essential for the success of this exposition that a national commission representing the authority of the Government should be created. Every exposition ever held in this country or any other country has always made provision for a commission representing the authority of the Government under whose auspices the exposition is held, and that is responsible for the fact that some of the nations that have been corresponding with the State Department, with a view of participating in this celebration, have plainly intimated that they would prefer to deal with a commission representing the dignity and the authority of the Government itself rather than with a commission representing the authority of the municipality in which the exposition is to be held.

I believe it is a very wise provision, because we know that at celebrations of this kind questions of great import, involving international comity, are apt to arise, and those questions can only be settled satisfactorily by a commission which represents the authority of the Government itself. I have heard some criticism of the size of this commission. In reply to that criticism, I want to direct the attention of the House to the fact that in the original bill introduced in behalf of San Francisco there was a provision for nine commissioners. In the bill introduced by the friends of New Orleans there was exactly the same provision that is contained in this bill, namely, a commission of seven members, whose salaries were to be paid by the exposition company. At St. Louis, in 1904, we had a commission of nine members. At Chicago, in the first instance, we had a commission composed of 114 members, and they subsequently gave way to a joint board of control consisting of 16 members. In Paris, in 1900, the commission representing our Government was composed of a commissioner general, an assistant commissioner general, and 18 commissioners.

The chairman of this committee has well said that never in the history of international expositions in this or any other country has there been provision made for a smaller commission than has been provided for in this bill. The people of San Francisco, who are interested in the success of this exposition—who are most vitally concerned—are more than willing that this commission should consist of seven members, and they are more than willing to pay the expenses of this commission because they see the benefit that will accrue to them if every section of our common country is given representation upon it. And if they, in their judgment, after expending the enormous sum of $20,000,000, are satisfied with this arrangement, I do not believe the American Congress should interpose any objection. This exposition will open its doors in February two years hence. Two years is a very short time in the life of an exposition. There is much work to be done to prepare for the reception of the nations that will participate. It is desirous to get action at the very earliest possible moment as an inducement to all foreign nations to exhibit at San Francisco, and I therefore say that, in my judgment, in justice to ourselves, in justice to our country, in justice to the people of San Francisco, who have given to the world an exhibition of liberality unparalleled in the history of municipalities, this bill ought to pass, and there ought not to be a single vote cast against it. [Applause.]

Mr. HEFLIN. Mr. Chairman, I reserve the balance of my time.

Mr. RODENBERG. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Mississippi [Mr. COLLIER] is recognized for one hour.

Mr. COLLIER. Mr. Chairman, it is with a great deal of diffidence, for several reasons, that I rise to oppose this resolution in its present form. It is not pleasant to differ with the other members of your own committee. I sincerely trust that my motives in opposing this measure will not be attacked by anyone on the ground that some two years ago I was in favor of another place for holding this exposition. There was, it is true, a fight made at that time, a fight which occupied the entire attention of the country for some time, but that fight was made in the open. I supported New Orleans, believing it was the logical point; yet the membership of this House decided that San Francisco was the proper place. And it was my pleasure—and it is one of the pleasing reminiscences of my life here in Washington—to recall that on that night I went down to the Willard Hotel and there heartily congratulated the gentlemen who had won that fight for San Francisco. Now, I feel—and I know that each and every Member of the House feels as I do—that they hope that this exposition will be the greatest one ever held on American soil. We all admire San Francisco. We can all recall what a thrill of horror, what an electric shock, went through the entire country when the news came of that dreadful earthquake and still more dreadful fire which laid that beautiful city in ashes. And it is with a feeling of American

pride with each and every one of us, whether we were for that exposition or not, that San Francisco has so asserted herself that she, phenix-like, has arisen from her ashes and is a greater and better city than ever before.

But, my friends, I am here to oppose this bill in its present form in the interests of economy and consistency. There was a great fight some two years ago over two different propositions in the bills; one of them, the New Orleans bill, contending that the Government should pay for its exhibit $1,000,000; the other contending that they would ask no money from the Federal Government. And by reason of those contending opinions, by reason of that conflict, at least principally for that reason, did San Francisco secure this exposition.

Now, my friends, for the benefit of those Members who have come in in this Congress who were not in the Sixty-first Congress, I am going to ask this House to indulge me for a moment or two while I read a few extracts from that debate. I am going first to read from that distinguished Member from Massachusetts [Mr. GARDNER], who——

Mr. MANN. Would the gentleman yield?

Mr. COLLIER. With pleasure.

Mr. MANN. The gentleman from Massachusetts [Mr. GARDNER] to whom the gentleman now refers was the man who had charge on the floor of the House of the San Francisco proposition, was he not? He took charge; he was chairman of the Committee on Industrial Arts and Expositions.

Mr. COLLIER. No; Mr. RODENBERG of Illinois was chairman of the committee.

Mr. MANN. No; he had been chairman.

Mr. COLLIER. I believe the gentleman from Illinois is correct.

Mr. MANN. And on the floor of the House the resolution coming from the Committee on Foreign Affairs was turned over, so far as the San Francisco proposition was concerned, to the control of the gentleman from Massachusetts [Mr. GARDNER].

Mr. COLLIER. I recollect now. The gentleman from Illinois has correctly stated it.

Now, the gentleman from Massachusetts [Mr. GARDNER]—and I know I voice the opinion of everyone in this House when I say that his opinions on this and on all subjects is always given weight by this House—said:

By the terms of the New Orleans bill, through a commission appointed by the President, the United States is charged with the duty of rendering the final decision—

And so on. But here is the point:

Some declaimers were made in the bills which inaugurated the Chicago, the St. Louis, and the Jamestown Expositions. Yet they entirely failed to eradicate from men's minds the solemn belief that mere formalities can not relieve the United States from the payment of obligations incurred in its own undertakings.

Now listen to this:

On the other hand, I shall be glad to cast my vote for the San Francisco resolution. It violates no fundamental principle; it calls for no expense on the part of the Government; its sole effect is to permit the President of the United States to act as a medium for the transmission of an invitation to foreign countries.

I am now going to read from the remarks of the then distinguished chairman of the Committee on Ways and Means, Mr. PAYNE, who said in part:

And I also favor it—

Meaning San Francisco—

because San Francisco comes here with this magnificent capital, every dollar of which seems to be available, comes here asking no aid of Congress, asking none of those insidious words of invitation going to foreign countries and coming back to us again for an appropriation because unable to pay the premiums on the goods that come here for exhibit; and I can not see the possibility of the Government of the United States ever becoming responsible for a dollar for this exposition which they propose to have there.

I am now going to read from a Democratic Member from New York who favored this appropriation, Mr. Goulden, who stated on the floor of the House, as shown by the RECORD:

The claims of New Orleans and San Francisco have been well stated in the majority and minority report (No. 1989). The former city has raised the sum of $8,000,000 and the latter $17,500,000. New Orleans feels that the Government should erect its own buildings, at a cost of about $1,000,000, while San Francisco asserts that nothing will be asked nor expected.

Mr. GARDNER of Massachusetts. Mr. Chairman, will the gentleman yield for a few moments?

Mr. COLLIER. Yes, sir.

Mr. GARDNER of Massachusetts. It is true, is it not, that at the hearings it was reiterated in our ears again and again that San Francisco on no account would either ask or take an appropriation? The word "take" was not used, but my impression is that it was distinctly implied that they would not take any appropriation. At all events I am correct in saying that we were distinctly assured that they would not ask for any, am I not?

Mr. COLLIER. Such is absolutely my impression of what occurred.

Mr. MANN. Will the gentleman yield in that connection to permit me to read a little extract from the views of that side of the House which prevailed at that time, submitted as the minority views by G. P. Gardner, JOHN M. NELSON, George N. Southwick, HALVOR STEENERSON, MILES POINDEXTER, and Harry M. Maynard, in which these statements are made:

The people of California have thus initiated or created an exposition and have demonstrated their ability to carry it through to a successful conclusion, and to make it the greatest exposition that the world has ever seen, and without asking Congress for an appropriation of any character, or directly or impliedly committing the United States Government to any liability or responsibility.

And again—

We have an exposition already inaugurated by the people of California, with ample funds to make it a great success, asking nothing at the hands of the United States Government except the courtesy of an invitation to the people of the world to participate in the exposition.

That was the official statement upon which the House acted.

Mr. COLLIER. I am much obliged to the gentleman from Illinois for supplementing my remarks with so valuable a piece of information. I am going back now to my distinguished friend from Massachusetts [Mr. GARDNER] to show something that has been handed me, which I overlooked in the first instance. I do this, gentlemen, to show the condition that was in the minds of the Representatives in this body when the bill came up for action. The distinguished gentleman from Massachusetts [Mr. GARDNER] said:

If Congress passes the New Orleans bill now pending, it will be passed without my vote, for it violates in large part the fundamental principles which I have just stated. Moreover, it appropriates $1,000,000 for a Government exhibit. This, to my mind, is inadvisable for many reasons, although unfortunately by no means unprecedented.

Now, I am going to read from a distinguished gentleman on the other side of this Chamber from the State of Illinois, Mr. Foss, who said in part:

San Francisco comes forward and asks not one cent, but only the designation of her name as the place for this celebration. We all know that New Orleans at another time might perchance hold the center of the stage. There are special reasons why at this particular time San Francisco commands the admiration of the whole country.

And then he goes on to show the wonderful progress and advancement of that splendid city which we all cheerfully indorse.

I am now going to read from the remarks of an ex-Member of this House who now holds the responsible position of governor of the great Empire State of New York, ex-Congressman Sulzer. He stated in part:

The Government has aided financially every exposition of a national character ever held in this country. No Government aid is asked by San Francisco for this Panama Exposition. Not a dollar is sought directly or indirectly, only suitable recognition and the extension of an official invitation to all the world to come and see and to participate.

I will now read from the remarks of the gentleman from Minnesota [Mr. STEENERSON]. Here is what actuated him in voting for this proposition:

San Francisco and California have offered to give this celebration and to entertain the people of the world without cost to the Federal Government. They have raised seventeen and one-half million dollars for the purpose of satisfying the most critical that the affair will be made a great success. Under the circumstances I believe it wise to give it to them.

And now I am going to read from the remarks of the gentleman from South Carolina [Mr. FINLEY], and I am going to ask your especial attention to this reading because it is a very clear statement of the matter. In a part of his remarks he stated:

New Orleans is the greatest of the southern cities, situated where naturally almost every man in the South would be inclined to support an exposition; but they ask an appropriation of $1,000,000 from the National Government.

Mr. ESTOPINAL. Just for an exhibit.

Mr. FINLEY. I understand it was for an exhibit; yet, nevertheless, it was an appropriation out of the National Treasury, and no matter what the purpose was, the money would go out of the Treasury and would be paid by the Government for the purposes of the exhibition.

So, Mr. Speaker, when San Francisco came up and asked not one dollar of appropriation, and when her Representatives here upon this floor consistently advocate a resolution that only asks Congress to request the President of the United States to issue an invitation to the nations of the world, I could have but one choice between the two propositions. Yes, I voted for San Francisco, and for that reason—one exposition asking for an appropriation of $1,000,000 and the other not one cent.

Now, Mr. Chairman and gentlemen, it is always a very good rule to save the best for the last, and I am going now to ask your attention to some remarks of that distinguished and brilliant Member of this House, a member of the exposition committee, who lives in the State of California and represents so ably the city of San Francisco:

Mr. KAHN. Mr. Speaker, the question at issue here is whether the bill introduced by the gentleman from Louisiana [Mr. ESTOPINAL] or the resolution introduced by myself shall be considered by this House. The bill of the gentleman from Louisiana inaugurates an exposition by the Government of the United States, and it is that kind of a bill that

heretofore has always enabled a community that made a failure of its exposition to come to the Congress of the United States and ask for financial assistance. We of California do not propose at any time to come to the Congress for a single dollar of appropriation for this exposition. [Applause.] The legislature of our State on the 23d of January last unanimously passed a joint resolution pledging the honor of the people of California never to ask for a single dollar in aid of this international exposition [applause], and the people of California keep their faith. [Applause.]

Mr. DIES. Will the gentleman yield?

Mr. COLLIER. I will yield to the gentleman from Texas.

Mr. DIES. I think the gentleman has abundantly shown that it is understood by the House that there was a pledge on behalf of the city of San Francisco that no aid would be received or asked for at the hands of the Government. But does not the gentleman from Mississippi perceive that there has been a change in the relations of the parties; and the question that I wish to ask the gentleman is, Has there been a change in relation to the parties to this agreement or understanding? Are they in the same relation they were in when they had this assurance from San Francisco?

Mr. COLLIER. The gentleman means on behalf of the Representatives from California? I will let them speak for themselves.

Mr. MANN. Will the gentleman from Mississippi yield for another suggestion?

Mr. COLLIER. I will.

Mr. MANN. I want to call the gentleman's attention to page 1751 of the RECORD, where the gentleman from California [Mr. KAHN] said:

Therefore, in framing the resolution that is about to be passed upon by this House, we decided to leave out of this resolution any proposition that would enable anybody in California, at any time, to come to the Congress of the United States and ask for a single 5-cent piece in aid of this exposition.

Mr. COLLIER. The gentleman from Illinois continues to put me under obligations for his valuable addition to my remarks.

Now, Mr. Chairman, we hear so much that this appropriation of $2,000,000 ought to be made because $5,000,000 was appropriated to the St. Louis Exposition. I do not think that has anything to do with this question, and, as far as I am concerned, had I been here at that time, I would most heartily have opposed any $5,000,000 appropriation for St. Louis or anywhere else.

I want now to come to another feature of this bill, and that is the appointment of 7 commissioners for the 46 months at $7,500 a year and their expenses, with a secretary for 46 months at $4,000 per annum, and with a $5,000 stationery allowance per annum, the expenses of the commission to be paid by the city of San Francisco.

Mr. COOPER. Will the gentleman from Mississippi yield?

Mr. COLLIER. I will yield to the gentleman for a question.

Mr. COOPER. The gentleman has been reading excerpts from speeches made in the House two years ago when the bill to select a city in which to hold this exposition was before the House, in which gentlemen said that San Francisco would not ask for financial aid from the United States Government for the purposes of the exposition. But does not the gentleman see a clear distinction between asking financial aid for the exposition and appropriating money for a purely governmental exhibit at the exposition, particularly when every gentleman then on this floor knew that the United States Government in 1904 had donated $5,000,000 as an absolute gift to the St. Louis Exposition Co. and besides had appropriated $1,600,000 for a Government exhibit there? In that case $5,000,000 from the Government Treasury was donated to the company. Now, does not the gentleman see that these facts were what was really in the minds of gentlemen when they said that no money would be asked from the Government Treasury to help the San Francisco Co.?

As I am also informed, $2,000,000 was donated in 1893, in the form of Columbian silver half dollars, to aid the Columbian Exposition Co. at Chicago, and in addition to this gift the Government made a liberal appropriation for an exhibit of its own at that exposition.

In the bill before us San Francisco asks nothing to be donated from the Government Treasury to the exposition company nor to San Francisco.

Mr. FOSTER. Mr. Chairman, if the gentleman from Mississippi [Mr. COLLIER] will excuse me, may I say to the gentleman from Wisconsin [Mr. COOPER] that New Orleans did ask for $1,000,000 for a Government exhibit in the resolution that was presented for holding the exposition in that city, and the claim was made, I think, and generally understood upon the floor of the House at the time, that San Francisco did not ask anything, and as the gentleman from California said at that time they burned their bridges behind them and came here not asking for anything for San Francisco, not even a 5-cent piece.

Mr. MANN. And $1,000,000 was all that was provided for in the New Orleans resolution?

Mr. FOSTER. And that was all that was provided for, $1,000,000, for the Government exhibit in that city. That was one of the grounds upon which Members favored the location of this exposition in San Francisco—because they did not ask for any money.

Mr. MANN. That is absolutely right.

Mr. COOPER. But the gentleman surely sees a great distinction between contributing $5,000,000, which is to be disbursed——

Mr. FOSTER. Oh, I do; but I want to say to the gentleman that the difference is this: When they asked for the location of this exposition in San Francisco they said, we do not want a dollar directly or indirectly, and they were then answering the claim made by New Orleans that that city did want $1,000,000 for a Government exhibit—not for a loan, not for putting up their own buildings, not for a dollar to go into their own treasury, but merely for a Government exhibit.

Mr. COLLIER. Mr. Chairman, I would like to ask how much of my time has been consumed?

The CHAIRMAN. The gentleman has consumed 26 minutes.

Mr. GARDNER of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. Certainly.

Mr. GARDNER of Massachusetts. I just want to read from the speech of the chairman of the committee on this point, in which Mr. RODENBERG says:

In fact, the gentlemen who represented San Francisco at the hearings stated distinctly, emphatically, and repeatedly that they did not ask or expect the participation of the United States in their exposition. They said that they did not even want a Government exhibit, and they announced with emphasis and as a finality that at no future time would they ask Congress to pass any legislation of this kind in their behalf.

Mr. COLLIER. Mr. Chairman, I also thank the gentleman from Massachusetts for his contribution.

Mr. RODENBERG. And the gentleman should also state that the chairman of the committee at that time said that the position of San Francisco was a mistake and that the future would demonstrate that they would have to have a Government exhibit in order to make the exhibition a success and in order to have foreign nations exhibit there, and that is the practical question.

Mr. COLLIER. Mr. Chairman, coming back to the proposition of the commissioners, if the city of San Francisco wants 7 commissioners or 70 commissioners, and is willing to pay for them, I do not see that that is really much of our concern, but my information is that San Francisco or, at least, a great portion of the inhabitants of California who have paid those taxes which have been assessed against them for the purpose of carrying on this exposition are opposed to having this expense saddled upon them. Let me give you briefly what I believe this expense will be. The salary of one commissioner, at $7,500 a year for 46 months, is $28,750. The salary of the entire seven will be $201,250. The secretary gets $4,000 per annum and a stationery allowance of $5,000, making $9,000 for four years less two months, which will be $34,500, making a total of $235,750. Unless this commission is very different from other commissions that we have had, I think I am making a very liberal estimate when I say that their traveling expenses, and so forth, will amount to not less than $150,000, and I understand it is their purpose to travel a great deal, and that will make the expenses of this commission approaching $400,000.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. Yes.

Mr. RAKER. If San Francisco and its citizens have contributed $10,000,000, which does not affect the $5,000,000 that have been contributed by the States, because they are conducted by separate boards, would the gentleman ask the House to defeat the bill if those who have paid their money are willing to carry out a proper exposition, so foreigners who come there may have fair treatment in exhibits, and to avoid all complications? Is that any reason to ask the Members of the House to vote down the rest of the appropriation, simply because these people are willing to pay for these commissioners?

Mr. COLLIER. I stated at the outset that——

Mr. MANN. Before the gentleman answers that question, may I ask him another, which he may answer at the same time? Has the California Exposition Co. expressed any willingness to pay these expenses out of the treasury of that company?

Mr. SHERLEY. And I would like to ask another question in this connection. Does the gentleman think they are in a position to express their true view of the matter, inasmuch as they are asking some other favors at the same time?

Mr. MANN. They ought to know whether they have expressed their view, because possibly they could not retract in 24 hours what they were trying to get in 24 months.

Mr. COLLIER. California is a long ways from here, but my understanding of this matter, as far as I have been able to discover, is that there is a divided sentiment in that State upon this proposition; and my answer to the gentleman from California, if I wished to defeat the purpose of this exposition and this bill, is that I believe that seven commissioners are too many. I believe that for the purpose of examining, looking into, and superintending the Government exhibit that it does not take anything like seven commissioners. I believe three could do that work as well as seven could.

Mr. RAKER. Will the gentleman yield?

Mr. COLLIER. I do not feel justified myself in voting away other people's money when they were opposed to taxing themselves.

Mr. RAKER. Are they opposed, and is it not a fact that the House ought to know that after the legislation was passed the President did not issue the invitation because there might be a complication as to foreign exhibits, and therefore when the invitation was issued the exposition company filed a statement, and it is on record to-day in the office of the Secretary of State, that if Congress did not pay for the commission that the exposition company would pay all the money that Congress would ask to be paid for a commission to carry out these invitations.

Mr. COLLIER. I simply want to say, as I stated at the outset to this part of the question, that if San Francisco wants 7 commissioners or 17 commissioners or 700 commissioners and is willing to pay for them, why I suppose that would be their concern and they could do it; but I repeat to the gentleman that my understanding is that the people of San Francisco and California who have contributed toward this exposition do not want these commissioners.

Mr. RAKER. Is it not a fact that this written statement is on file, a national public document?

Mr. COLLIER. My attention has not been directed to it, but I assume it is, of course, as the gentleman says so.

Mr. MANN. Do they say they want to pay for it? They say they will pay for it if the Government does not pay for it.

Mr. COLLIER. If the Government does not pay for it; yes.

Mr. MANN. Will the gentleman from Mississippi refer to the fact that these commissioners under this law are to receive $7,500 a year, and the New Orleans exposition bill—how much were the commissioners under that bill to receive a year?

Mr. COLLIER. I ought to have it in my mind at the moment, but I have not.

Mr. RODENBERG. It was $7,500.

Mr. MANN. No; it was $5,000 at New Orleans. I happen to have the bill here; I do not trust my memory like my colleague does. That is the advantage I have of the gentleman.

Mr. RODENBERG. In the bill that was reported by the committee?

Mr. MANN. The bill reported by the committee, section 14 [laughter] provides:

That the commissioners appointed by the President under authority of this act shall receive as compensation for their services the sum of $5,000 each per annum and their actual and necessary expenses.

Look at it!

Mr. RODENBERG. This is the bill originally introduced by the gentleman from Louisiana [Mr. ESTOPINAL].

Mr. MANN. It is the committee amendment, reported in the House, that I refer to.

Mr. SHERLEY. I want to ask the gentleman from Mississippi [Mr. COLLIER] if he expects to discuss the proposition for the erection of permanent buildings?

Mr. COLLIER. In regard to that part of the bill which provides for a large appropriation for a permanent building, whether it was right or wrong, the wisdom of Congress for many years has been to place in the Committee on Public Buildings and Grounds the right and the power to look into and decide whether or not it is feasible and proper to erect public buildings at certain places, and I do not believe that a Committee on Industrial Arts and Expositions should usurp the functions of the Committee on Public Buildings and Grounds.

I do not see how a public building desired for the needs of an army, as I heard it was intended to be used, can be arranged suitably for that purpose and suitably for the purposes of an exposition without materially disarranging the purposes of either one or the other for which it is intended to be used. Now, my position is this: I accepted the ultimatum on that day when San Francisco carried the victory and won the exposition. I believe that a great majority of the Members of this House—a majority, anyway—agreed to give San Francisco the exposition on the terms that they asked for. I believe we should live strictly up to the proposition that was passed that day, and I am willing—and I believe that each and every Member who is opposed to the present bill in its arrangements is willing—that the proposition as extended by the people of San Francisco two years ago shall be carried out.

Now, Mr. Chairman, how much more time have I?

The CHAIRMAN. The gentleman has used 37 minutes.

Mr. SHERLEY. Mr. Chairman, I would like to ask the gentleman a few questions for information. Are there any hearings showing just the purposes that these buildings that are supposed to be permanent are to be used for subsequently?

Mr. COLLIER. We never had any hearings on that, save an informal meeting there.

Mr. SHERLEY. Does the gentleman know how much of the money is to be expended for the buildings?

Mr. COLLIER. We do not.

Mr. SHERLEY. Do you know what size they are to be or whether they are to be used exclusively for military purposes afterwards or not?

Mr. COLLIER. I will say to the gentleman that after attending the meeting of the committee and hearing the question discussed I do not know whether that building is intended to be used as a storeroom or a drill house or a mess hall.

Mr. SHERLEY. Is the gentleman aware that we have now several Government reservations in and around San Francisco? We have now before our committee estimates for large sums of money to be expended in providing certain warehouse and other facilities in connection with the military establishments at and near San Francisco. And I submit to the gentleman and the committee, with the gentleman's permission, that it may be really putting a burden and not a benefit upon the Government to provide for these buildings to be permanent in the absence of any knowledge of what we will have there.

Mr. COLLIER. I will say, in perfect fairness to the committee, that I think the bill provides that the Supervising Architect——

Mr. HEFLIN. I would like to say to my colleague on the committee that the bill provides in section 2:

SEC. 2. That the Secretary of the Treasury shall cause a suitable building or buildings to be erected within the Presidio Military Reservation on the site set apart for that purpose, and he is hereby authorized and directed to contract therefor in the same manner and under the same regulations as for other public buildings of the United States, the said building or buildings to be constructed from plans to be approved by the Secretary of War and said Government exhibit board.

And he might use the whole two millions if he chose under the power of this bill.

Mr. SHERLEY. If the gentleman will permit me right there, we have presented to us constantly plans by the Secretary of War for the construction of buildings for military purposes, and we do not agree always to them, because they are sometimes so extravagant that this Congress would not authorize them for an instant. Here you are giving power for buildings for military purposes—at least, that is the bait that is held out to us—when there is not a single line of testimony as to the character of the buildings or the purposes for which they are to be used.

Mr. HEFLIN. Mr. Chairman, when the bill was referred to a subcommittee this amendment was put into it:

Provided, That any one or all of the buildings hereby authorized to be erected shall be of a permanent and suitable character for the use of the Government on said military reservation.

Mr. KAHN. Will the gentleman yield?

Mr. COLLIER. I will say to the gentleman from California [Mr. KAHN] that I first promised to yield to the gentleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. I want to inquire of the gentleman if anywhere in this bill there is any provision for the confirmation of these appointments by the Senate of the United States or any other body?

Mr. COLLIER. I do not believe there is.

Mr. FERRIS. I will ask the gentleman as a matter of fact if the payment could not be made momentarily after this bill passes?

Mr. COLLIER. I think that it could. Now I will yield to the gentleman from California [Mr. KAHN].

Mr. KAHN. Mr. Chairman, I hope a little later on to get some time in my own right in which to discuss this matter. But in regard to the matter of buildings, let me call to the attention of the gentleman from Mississippi [Mr. COLLIER], and also to the attention of the gentleman from Kentucky [Mr. SHERLEY], that the War Department has frequently sent estimates to the Committee on Appropriations asking for an appropriation to house the executive officers of the War Department at San Francisco. Those officers are now in rented quarters. In fact, the Government pays $72,000 a year for

rent of quarters in San Francisco, approximately 4 per cent on an investment of $2,000,000.

Now, the Committee on Appropriations has never reported out a bill for the erection of a headquarters building, and I apprehend that the department proposes, if this bill passes, to put up such headquarters.

Mr. SHERLEY. If the gentleman will permit, do I understand that this is a scheme whereby the department will get what Congress has heretofore refused to give it?

Mr. KAHN. Oh, I do not think that Congress has refused to give it simply because they did not see the necessity for it. It was probably due to that fact that the money at that time was not available. I do not think it was ever submitted to the House; it was smothered in committee. But I apprehend that the gentleman from Kentucky does not feel that where the Government can put up its own building to house the officers of the Government the Government ought to pay $72,000 per annum for rental?

Mr. SHERLEY. That might depend on what it would cost to build the buildings.

Mr. COLLIER. Now, Mr. Chairman, I decline to yield further to the gentleman.

Mr. HELGESEN rose.

Mr. COLLIER. I will yield to the gentleman from North Dakota.

Mr. HELGESEN. Mr. Chairman, assuming that the gentleman's contention is entirely correct, and assuming that the San Francisco exposition people ought not to ask any money from the Government, in what position would that leave us? I followed carefully the gentleman's argument, and I do not think that he has even suggested that San Francisco is going to pay for a Government exhibit over there. They simply say they are not going to ask for any financial assistance. Would the gentleman go on record as being in favor of having no Government exhibit at San Francisco when all the foreign countries are going to have exhibits there? My State has appropriated $50,000 for an exhibit.

If you eliminate one-half of this for a public building that is to be permanent, that is equivalent to an appropriation of $12,000,000 by the Federal Government, and, putting it solely upon a business basis, we believe that it is good policy and good business for our State to have representation there, and I do not believe for one moment that the gentleman would contend that, with all the nations of the world represented at that exposition, if it were possible to conduct it without our taking part, it would be wise for this Nation simply as a business proposition not to be properly represented there. [Applause.]

Mr. COLLIER. I will say to the gentleman that I shall offer an amendment along that line, and I wish to say this, that I trust and hope that that exposition will prove to be the greatest exposition ever held upon American soil. I believe that every Member of this House is willing to support a reasonable bill allowing the city of San Francisco and the State of California to carry out the purpose that they intended and that they asked for in the bill two years ago.

Now, Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. ALEXANDER. Before the gentleman does that, will he yield to me a moment?

Mr. COLLIER. In one moment. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman from Mississippi has 14 minutes remaining.

Mr. COLLIER. Now I will yield to the gentleman from Missouri.

Mr. ALEXANDER. Does the gentleman from Mississippi think it desirable for the Government to have an exhibit at San Francisco?

Mr. COLLIER. Yes; I think the Government ought to have one.

Mr. ALEXANDER. Would the gentleman, then, want the citizens of San Francisco or of the State of California to pay for that exhibit?

Mr. COLLIER. I have read you what the gentlemen said they would do.

Mr. ALEXANDER. Assuming that what they said——

Mr. COLLIER. I am opposed, as I stated a moment ago, to the $2,000,000 appropriation asked for in this bill.

Mr. ALEXANDER. Assuming that what they said was said in good faith, does the gentleman think it would comport with the honor of this country to have the citizens of California or of San Francisco pay for that exhibit?

Mr. COLLIER. I will yield to the gentleman from Wisconsin [Mr. LENROOT] 10 minutes.

Mr. LENROOT. Mr. Chairman, I am opposed to certain sections of this bill or to provisions in those sections relating to the commission, and I desire to speak on that subject. But first I want to say just a word with reference to the proposition of an exhibit by the Government. I think it must be conceded that the representatives of San Francisco two years ago did say that they would not ask one penny from this Government, either directly or indirectly, for this exposition. But, Mr. Chairman, it is immaterial to me whether they did or not. The situation that we have before us to-day is that our Government has invited every other nation in the world to make an exhibit there, and for us to refuse to do that which we have invited other Governments to do would be a humiliation to the United States. [Applause.] And so I am in favor of an exhibit.

But, Mr. Chairman, so far as these provisions relating to a commission are concerned, I must say that these provisions come nearer to a piece of graft than anything that I have seen since I have been a Member of Congress.

It is true that it is represented that the exposition people are willing to pay this $400,000 that it is provided shall be paid to these commissioners and for their expenses. That may be true, Mr. Chairman, but if it is, every Member of this House knows that when they did agree to it it was a holdup, and that they agreed to it upon the theory that it is necessary to submit to this holdup in order to get the Government to make an exhibit at all. Either that, or else it is with the understanding and expectation that before this bill finally becomes a law, when the conference report shall finally be adopted, this $400,000 will be provided to be paid out of the Federal Treasury.

Now, I want to say to the gentleman from California [Mr. KAHN], who is a member of the committee, and who represents his city in this matter, that while he and his people may have entertained the opinion that to make this provision for commissioners may grease the wheels for the passage of this bill, if it is finally defeated this afternoon it will be because of those provisions that you have put in the bill.

Now, reference has been made to the fact that other expositions have had their commissioners; and reference has been made to the fact that the Louisiana Purchase Exposition had nine commissioners. It had. But compare the duties imposed upon the Louisiana Purchase Exposition commissioners and the duties imposed upon these commissioners. What are the duties imposed upon this commission? Read the section and see. Nothing in the world except to act as arbitrators when a dispute shall arise between foreign Governments and the exposition company. That is all they have to do.

Mr. MANN. Will the gentleman yield?

Mr. LENROOT. Briefly.

Mr. MANN. Is not the gentleman slightly mistaken? Under this section they have to force the exposition company to wine and dine and provide for the entertainment, care, and comfort of the representatives of all foreign countries—quite a delightful duty to perform.

Mr. LENROOT. I was just going to make the same observation myself that the gentleman from Illinois has made for me. Compare that with the duties imposed upon the Louisiana Purchase Exposition commissioners, of whom there were nine. And, by the way, those commissioners received only $5,000 a year, while it is proposed to give these commissioners $7,500. The Louisiana Purchase Exposition commissioners, in the act which I have before me, were given many duties; among other things, to select a site, approve of the allotment of space, approve the awarding of every premium, approve the plans of every building constructed, and report upon the financial condition of that exposition from month to month. In other words, that commission had supervisory control over the St. Louis Exposition, while the duty of these commissioners will be to draw their salaries at the end of the month and their living and traveling expenses.

Mr. Chairman, no friend of San Francisco can possibly in good faith vote for this proposition. At the most, three commissioners are all that anyone could claim would be necessary; and at the proper time, if I have the opportunity, I shall offer as an amendment to this section that there shall be one commissioner, to be detailed from the State Department or War or Navy Department. I do realize, Mr. Chairman, that under some circumstances there ought to be a representative of our Government present at that exposition, whenever our Government may properly be called upon by a foreign country to intervene, and we should have a man upon the ground there, duly authorized to speak for the Government and to settle any dispute that may arise. But further than that, Mr. Chairman, we have no right to impose any expense upon the exposition or upon the Federal Treasury. So far as my vote is concerned, I

do not believe I have any more right to rob the people of California than I have to rob the Federal Treasury. I shall gladly vote for this bill if these provisions with reference to a commission are eliminated; but if they shall remain in the bill, I shall be compelled to vote against it.

The CHAIRMAN. The gentleman has used 7 minutes of the 10. The gentleman from Mississippi has 6 minutes remaining. The Chair will recognize the gentleman from Indiana [Mr. CULLOP], a member of the committee.

Mr. CULLOP. Mr. Chairman, two years ago Congress adopted a resolution for a great exposition to be held celebrating the completion of the Panama Canal. It was the universal sentiment then that that celebration should be made a great success. It was also decided that the President of the United States should invite the other nations of the earth to participate in that great celebration. I believe that it is the sentiment of the people of this country now to make that exposition a great success, the greatest success of any exposition that has been held in the history of the world. [Applause.] It is celebrating the greatest engineering feat that has ever been accomplished in the world.

Now, the position of gentlemen on the floor who are opposing this measure to-day is that they ask the other nations of the earth to participate in this celebration but are unwilling to appropriate money for this great Government to make an exhibition at that great exposition. What would be the position of such an attitude as they assume to-day? They are inviting the people of the world to come to our shores to participate in an exhibition which they are asking this country to decline to take part in at all. Is it possible that gentlemen who take that attitude upon this measure believe for a single moment that they are representing the will of the people of this country? Do they mean by their position that San Francisco is to pay for the exhibition of the National Government? Did they not believe when they passed the resolution in Congress two years ago that this exposition was to be of advantage to the people of this country? And yet, after they have started the machinery in motion, after they have invited the Governments of other countries of the world to participate in that exhibition, they say now because it would cost this, the greatest Government of them all, $2,000,000, that we ought to withhold our Nation from participating in that great exhibition. [Applause.]

I do not believe their constituents would uphold the position they now take. I believe, as I believed two years ago, that the people of this country want that exposition to be made a great success. They knew then as well as they know now that it could not be a success without the expenditure of money and without our Government participating in that exposition.

We are to be the greatest beneficiary of that exposition of all of the countries of the earth, and it is to our advantage, meeting the other nations in the arts of peace, mechanics, and industry, that we make a greater display of our genius, of our productions, than any other country that will exhibit there. [Applause.]

Already some of the greatest nations of the earth are withholding their application to make exhibition, for the purpose of seeing what this Government will do at that great exposition in the way of display of its products and its arts. Now, what is the situation? Two million dollars, a large part of which is to be expended in the erection of public buildings which this Government requires now for use in the city of San Francisco.

The objection is made here to-day that these buildings may not be of suitable purpose for the use that the Government will require. Admit that to be true. How easily and how cheaply can alterations be made so that they will meet the requirements of the Government after the exposition is over. The permanent buildings will be there and changes can be made in the interior so as to adapt them to the requirements of permanent use, and the money then expended will be conserved.

Now, Mr. Chairman, this Government ought to make a great display at San Francisco. It ought to make a greater exhibition than any other Government that participates in that exposition. We are capable of doing it; we are advertising our products to the world; we are educating not only our own people but the peoples of other Governments as to our capacity and what our people can do. We boast that we can produce better and cheaper and more diversive products than any other people on the earth. This will be an opportunity to demonstrate the truth of our declaration upon that subject. We can show to the world the progress we are making in manufactures and in arts, in education, in all employments known to the human race. [Applause.]

Now is the time when this step should be taken in order that preparation can be made in ample time for the exhibition to open and our Government to make a display of its resources. I hope this measure will be passed by a decided vote, showing that the National Congress is ready to go upon record, and willing to do so, to declare that we are a Nation of progress and a Nation making good our boast of being greater in productions than any other nation on the earth, and that we will give evidence of that fact to all the world.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. CULLOP. Yes.

Mr. RAKER. The distinguished gentleman from Indiana has made the report here upon this bill, and I see that he has a list of foreign nations that are going to exhibit. Is it not a fact that practically all of the States in the Union are going to have separate buildings in the exposition?

Mr. CULLOP. Mr. Chairman, I am very much obliged to the gentleman from California for calling my attention to that fact. Thirty-five out of the forty-eight States in the American Union have already officially decided to make exhibitions at this exposition and the others are now taking the matter under consideration, and it is safe to predict that each of the 48 States in this Union will make exhibitions there and lend their efforts to make it a great success.

Mr. BYRNS of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. CULLOP. Certainly.

Mr. BYRNS of Tennessee. If that be true, will not everything that is American be shown at the exposition through these 35 States?

Mr. CULLOP. Mr. Chairman, I am very glad the gentleman called my attention to that fact. Here is the greatest Nation of all the nations of the earth having what is supposed to be the greatest exposition that has ever been held in the history of the world, and I ask the gentleman would he not hang his head in humiliation if this our Government did not make a great exhibit there, a national exhibit in keeping with its standing among the nations of the earth? If the States are willing to make appropriations for an exhibit of their products, why should any Member of this body be unwilling to have this Government make a national exhibit and do what it is inviting every other nation on earth to do?

Mr. BYRNS of Tennessee. The gentleman knows that the States constitute the Government, and that each State makes an exhibit of its own resources. It seems to me that everything American will be exhibited at San Francisco.

Mr. CULLOP. Why, certainly not. Let the National Government make an exhibit there of a national character, joining its sister nations of the world, and make a greater display, as it is capable of doing, and one that will fairly reflect our great industrial and governmental character.

Mr. BYRNS of Tennessee. Mr. Chairman, I will ask the gentleman to yield further. I do not want to break up the force of his argument along that line, but I desire to ask him with reference to another portion of the bill. This bill provides for seven commissioners.

Mr. CULLOP. Yes.

Mr. BYRNS of Tennessee. The gentleman from Mississippi [Mr. COLLIER] stated that the expense of this commission, including clerical services and expenses, would amount to probably $400,000. I want to know of the gentleman why it is necessary to have seven commissioners, at $7,500 a year each, to perform junketing trips over the country and really perform no duties, because I notice this bill does not specify anything in particular that they shall do, and they are to serve for four years?

Mr. CULLOP. Let me say the experience of every national exposition that we have ever had has clearly demonstrated the fact that a number as large as seven is absolutely required. We have never had an exhibition of any great importance with a number so small. Their duties will probably be such, judging from the experience of other expositions, they will have ample work to perform. Great responsibilities devolve upon them—great questions will arise to be settled; questions of a very important character—and therefore one man or two men would not care to assume the responsibility. Not only that, but it would be better that it have that number, as the responsibilities will require it. The work would be of such a character that no one man would want to take the responsibility of performing it, and, in addition to that, the exposition company is not objecting to that number nor to the payment of their salaries, and why should we be so much concerned about that part of the bill? This objection seems to be far-fetched.

Mr. BYRNS of Tennessee. If the gentleman will pardon me, the gentleman said something about the responsibility that will rest on these gentlemen. I have read the bill carefully, and I fail to see anything really that they will have to do. The

gentleman speaks of the fact the exposition proposes to pay for them. What guaranty has the gentleman or has Congress of the fact that the exposition company will pay for them or that it is willing to pay for them?

Mr. CULLOP. Well, the fact is Congress is not liable to pay them by the terms of this measure, but the gentleman has heard doubtless the statement made by the Member from California, Mr. RAKER, that they have already filed their statement in the office of the Secretary of State that they will pay them, and by the terms of this bill they must pay them or they will not have the services of the commissioners.

Mr. BYRNS of Tennessee. Is the gentleman absolutely certain that if the House passes this bill as it is written and it finally becomes a law it will not require the United States Government to pay the salaries and expenses of these commissioners?

Mr. CULLOP. I am, sir; I believe that the law means what it says, and this says what it means upon that point. No other construction can be placed on it.

Mr. BYRNS of Tennessee. But the gentleman knows that this bill will have to go through another body and possibly through a conference committee before it becomes a law.

Mr. CULLOP. I know that, but I do not understand that is any objection to this feature. Now, I can not understand what the gentleman from Tennessee means, with a great international exposition of this kind under consideration, if he wants to stand in the way of his Government showing to the nations of the earth the great progress it has made, its skill in the arts, in mechanics, in education, and in everything that builds up the character of a nation and a great government. Let it, I say, show to the world its great advantages.

Mr. BYRNS of Tennessee. Oh, the gentleman misunderstands me. I do not oppose for one moment this Government making an exposition of its resources and all that it has done and all that it hopes to do, but I do object to a proposition made to Congress which resulted in this exposition going to San Francisco upon the express assurance of the Members of Congress and those who voted for it that if it was passed they would not expect any financial aid or that the United States Government should expend a dollar on account of it.

Mr. CULLOP. I am very much obliged to the gentleman for mentioning that proposition. This bill is not giving to the State of California or the city of San Francisco any financial aid, none whatever; and when gentlemen are injecting that proposition into this controversy they are not warranted by the facts, but, on the contrary, this Government is making an exhibition there. It is making a display; and does any gentleman upon this floor contend for a single minute that this Government shall make that exhibition out of some other person's pockets? We are showing our own exhibit, just as other States and other countries, and we should pay the expenses thereof and reap the reward.

Mr. JOHNSON of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. CULLOP. Certainly.

Mr. JOHNSON of South Carolina. Have there been any Government officials before your committee estimating what the Government exhibit would cost and fixing it at $2,000,000?

Mr. CULLOP. The $2,000,000 was fixed in part by consultation with some members of, I think, the State Department and others, who have had much to do with Government exhibits and expositions. It was fixed upon the basis of what some of the other nations have already decided to make their exhibit cost—Japan, for instance, $1,000,000—and upon the basis of what the Government had done in other expositions in the way of expenditures for its exhibit, and it was arrived at through that means at a very conservative amount, as I contend. So the committee have fixed it at $2,000,000. Does not the gentleman want his Nation to make the best show of any nation with which it is brought in competition?

Mr. JOHNSON of South Carolina. Well, will the gentleman let me ask him another question? What is to be the nature of the Government exhibit?

Mr. CULLOP. If the gentleman will read the report he will find that it is stated there. It is to be the same nature of exhibits we have made at other expositions in which we have given a great deal more money to make the exhibit than we have proposed here.

Mr. JOHNSON of South Carolina. I will ask the gentleman this question: Does not the gentleman expect that the great corporations, firms, and individuals throughout the United States will have their exhibits at the exposition on their own account? The gentleman does not expect them to be exhibited in the Government buildings, does he?

Mr. CULLOP. I do expect this; and it was assumed that that would be the course of others, and if our Nation refuses to participate as a nation with such an exhibition in this exposition, then the citizens of this country engaged in manufacture and business would be very reluctant to go there and do what their Government was refusing to do. This would be the reasonable conclusion of such a course. We are celebrating the greatest engineering feat in the world, and we ought to make the greatest exhibition possible at the exposition. And now, what is $2,000,000 in the line of education such as this will be to us and to the nations of the earth? The benefits that will flow to our people will be an immense reward for the expenditure of such a sum as this on such an occasion as this is proposed to be. We all should rejoice that such an opportunity is afforded.

Mr. JOHNSON of South Carolina. I would like to ask the gentleman if he knows how much the Government has expended on its exhibits at other expositions?

Mr. CULLOP. That is set out in the report, and I hope the gentleman will not require me to do so. We have expended very large amounts. We put nearly $7,000,000 in the St. Louis Exposition.

Mr. JOHNSON of South Carolina. But that was a loan, was it not?

Mr. CULLOP. No, sir. Four million and six hundred thousand dollars we loaned it, and they paid it back; but nearly $6,000,000 was appropriated by Congress for the purpose of making the exposition a success. It was well expended.

Now, Mr. Chairman, how much time have I left?

The CHAIRMAN. The gentleman has 37 minutes remaining.

Mr. BARTLETT. May I ask the gentleman a question?

Mr. CULLOP. Certainly.

Mr. BARTLETT. Will he tell the committee how much this proposed building is to cost, and how much the cost of the administration, and of assembling and conveying exhibits to California will be? Or does the gentleman lump the sum of $2,000,000 without regard as to what the building is to cost, or has somebody submitted estimates to him?

Mr. CULLOP. We have no estimates, but we have lodged the matter in the discretion of the officers who are to have control of the matter, and in addition to that I desire to say to the gentleman that we have followed some illustrious examples of the Appropriations Committee on that subject.

Mr. BARTLETT. The gentleman is mistaken about that. The Committee on Appropriations makes no appropriations without an estimate, and the law requires every head of a department to submit an estimate. The gentleman is mistaken in making such a statement.

Mr. CULLOP. I have said in regard to the lump sum.

Mr. BARTLETT. We have not made any lump sum for buildings in carrying out a purpose of that sort.

Mr. PRINCE rose.

The CHAIRMAN. Does the gentleman from Indiana [Mr. CULLOP] yield to the gentleman from Illinois [Mr. PRINCE]?

Mr. CULLOP. After I yield to the gentleman from Georgia [Mr. BARTLETT] a little further.

Mr. BARTLETT. I understand the committee which reported this bill had no estimates either from the head of the department or in the hearings they had upon the bill.

Mr. CULLOP. They had not in the nature of hearings, but they had conferences with some of the departments, namely, the Departments of State and War, as to what would probably be the amount required.

Mr. BARTLETT. Then, can the gentleman give the committee an estimate of what this building is to cost?

Mr. CULLOP. No; I could not exactly give that estimate. It is built upon Government ground, upon a military reservation, where a building is required, and the erection of that building will save this Government $72,000 a year, which is now being paid for rent of offices in the city of San Francisco.

Mr. BARTLETT. But the gentleman can not tell whether it would be $400,000 or $500,000 or $600,000 or $1,000,000?

Mr. CULLOP. I suppose it would cost over $400,000 and less than a million. Such a building as that would meet the requirement of the Government. Now I yield to the gentleman from Illinois [Mr. PRINCE].

Mr. PRINCE. As I have understood from this debate, $2,000,000 is to be appropriated out of the Treasury for the purpose of inaugurating, installing, and maintaining said Government exhibition and for said Government building or buildings? This is a military reservation?

Mr. CULLOP. Yes, sir.

Mr. PRINCE. The Presidio is located on this military reservation? Have you any estimate or any statement from the War

Department, through the Quartermaster General, in regard to the buildings on this reservation and the probable cost of those buildings and the purposes for which they are to be used if they are to be made permanent?

Mr. CULLOP. I will leave that to be answered by the gentleman from California [Mr. KAHN], who is familiar with that situation.

Mr. KAHN. Does not the gentleman think the War Department, or rather the Treasury Department, in making plans would want to know how much money it has at its disposal before it undertakes to make its plans, and does not the gentleman from Indiana [Mr. CULLOP] think that to make the plans beforehand, before they know how much money they are going to have, would practically show that they did not know their business?

Mr. CULLOP. Now, Mr. Chairman, I desire to yield 15 minutes to the gentleman from California [Mr. KAHN].

The CHAIRMAN. The gentleman from California [Mr. KAHN] is recognized for 15 minutes.

Mr. KAHN. Mr. Chairman, I have been quoted upon this floor several times this afternoon, and I desire to state that I did say that the city of San Francisco would ask no financial aid at any time for this exposition.

Now, what is the situation here at this time? On the 10th of December, 1912, the President of the United States sent a message to Congress in which he used this language:

In conformity with a joint resolution of Congress, an Executive proclamation was issued last February, inviting the nations of the world to participate in the Panama-Pacific International Exposition to be held at San Francisco to celebrate the construction of the Panama Canal. A sympathetic response was immediately forthcoming, and several nations have already selected the sites for their buildings. In furtherance of my invitation, a special commission visited European countries during the past summer and received assurances of hearty cooperation in the task of bringing together a universal industrial, military, and naval display on an unprecedented scale. It is evident that the exposition will be an accurate mirror of the world's activities as they appear 400 years after the date of the discovery of the Pacific Ocean.

It is the duty of the United States to make the nations welcome at San Francisco and to facilitate such acquaintance between them and ourselves as will promote the expansion of commerce and familiarize the world with the new trade route through the Panama Canal. The action of the State governments and individuals assures a comprehensive exhibit of the resources of this country and of the progress of the people. This participation by States and individuals should be supplemented by an adequate showing of the varied and unique activities of the National Government. The United States can not with good grace invite foreign Governments to erect buildings and make expensive exhibits while itself refusing to participate. Nor would it be wise to forego the opportunity to join with other nations in the inspiring interchange of ideas tending to promote intercourse, friendship, and commerce. It is the duty of the Government to foster and build up commerce through the canal, just as it was the duty of the Government to construct it.

I earnestly recommend the appropriation at this session of such a sum as will enable the United States to construct a suitable building, install a governmental exhibit, and otherwise participate in the Panama-Pacific International Exposition in a manner commensurate with the dignity of a nation whose guests are to be the peoples of the world. I recommend also such legislation as will facilitate the entry of material intended for exhibition and protect foreign exhibitors against infringement of patents and the unauthorized copying of patterns and designs. All aliens sent to San Francisco to construct and care for foreign buildings and exhibits should be admitted without restraint or embarrassment.

That was the message of the President of the United States to the Congress of the United States.

Mr. KNOWLAND. Mr. Chairman, will the gentleman yield right there?

Mr. KAHN. Yes.

Mr. KNOWLAND. I want to call the gentleman's attention, as a supplement to the message of the President, to the platform of the National Democratic Party in convention at Baltimore, which declared:

We hereby express our deep interest in the great Panama Canal Exposition to be held in San Francisco in 1915 and favor such encouragement as can be properly given.

[Applause.]

Mr. KAHN. I thank my colleague for calling the matter to the attention of the House. Speaking for myself, Mr. Chairman, and I believe I am speaking for every Member of the California delegation on this floor when I say it, we had no knowledge of that provision in the President's message until it was delivered to this House and read from the Clerk's desk.

Mr. SLAYDEN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. KAHN. I have only 15 minutes, and I have a large ground to cover. If the gentleman will wait until I am through, and I have any time remaining, I shall be very glad to yield to him. I will try to yield time to the gentleman, but I want to make this statement first—I owe it to the House, I owe it to myself, and I owe it to my constituents: The recommendations contained in the President's message were referred to the various committees, I presume; but, at any rate, the gentleman from Illinois [Mr. RODENBERG], on his own initiative, introduced this bill. There was no demand from any Member of the California delegation for the introduction of a bill. It was introduced by the gentleman who led the fight against San Francisco as the location for the exposition.

I presume it was introduced by him, because he believed that this Government should be represented there. At any rate it was a most chivalrous act on his part. It has been said on this floor several times this afternoon that the people of California have raised $20,000,000 in that State for this exposition. The people of no other Commonwealth have ever done as much for themselves in such an undertaking. They feel they are called upon to represent the honor of the American people at that exposition, and they propose to make good in every particular. [Applause.] No Member of this House, no citizen of the United States will ever have occasion to blush for his country when the gates of the exposition swing open to the citizens of the world. The plan of the exposition has been completed and adopted. It is probably more comprehensive than any exposition that has ever been held, and it certainly has come to Congress with requests for legislation so trivial, so insignificant as compared with the legislation that has been asked for and given to other expositions that I am surprised that some of the gentlemen on this floor endeavor to make it appear as though San Francisco were demanding something that was outrageous and grossly exorbitant. And I assert again that this bill has not been introduced by any Member from the State of California. San Francisco proposes to entertain the world in a befitting manner. She hopes that the Government will be represented there. She hopes that the Government will make an exhibit. She hopes that all the resources of this Government will be shown at San Francisco. I believe the other nations of the world that have accepted our Government's invitation expect this Government to make an exhibit. But the Members of the California delegation on this floor have not been soliciting their colleagues and asking for assistance in this matter. They feel that whatever Congress will do in the matter will be satisfactory to them. If the Members of this House feel that San Francisco should play the host to the nations of the world, and that our own Government should not expend a dollar for a Government exhibit, the delegation from California will be content. We will have nothing to say; we will gracefully submit to the mandate of the majority of the membership of the House; but we believe, as a matter of fact, that there is enough of the spirit of fair play among the Members of this House to agree that there shall be a Government exhibit in view of the fact that the foreign Governments that are to be represented expect the United States Government to be represented. If, however, you decide that there shall be none, I assert that San Francisco will still endeavor to hold an exposition of which none of you will be ashamed.

When you think that the city of Chicago received $5,000,000 outright as a gift for her exposition, as well as additional sums for a Government exhibit; when you remember that the city of St. Louis received $5,000,000 outright as a gift, together with a loan of $4,600,000, and then on top of that had a Government exhibit at a cost of $1,579,000; when you consider that the Centennial Exposition had millions of dollars from the Government; and that the only thing that is asked of Congress in this bill is for a Government exhibit, I think the request of the gentleman from Alabama [Mr. HEFLIN], of the gentleman from Illinois [Mr. RODENBERG], and the gentleman from Indiana [Mr. CULLOP] is an exceedingly modest one. They are the sponsors for this bill, even though they were among the leading opponents of San Francisco as the exposition city.

In regard to the matter of a building in the Presidio, the latter is Government property. If this House will vote this sum I am confident that the building that will be constructed will be worthy of the Government. We are occupying rented quarters for the use of the Army all over San Francisco; there is one building that is badly needed out there, and that is a building to house the various departments of the Army.

Mr. SHERLEY. Will the gentleman yield for a question?

Mr. KAHN. Yes.

Mr. SHERLEY. Is it not true that they want that building at Fort Mason, because it is more central and more convenient, and does not the report show that?

Mr. KAHN. I do not know. I have not looked up the report, but I do know that for years they have been wanting a building out there to house all of the officers of the Government connected with the administration of Army affairs under one roof, and the Government has no such building there now. The officers are scattered all over the city at the present time, occupying rented offices.

In regard to the matter of a Government commission, we are exactly in the same position that I spoke of regarding the appropriation. Whatever this House does and whatever the Congress does will be satisfactory to the California delegation. We ourselves have asked you for nothing. The gentlemen who have charge of the bill have brought it in here with a favorable report after it was acted upon by the committee of the House that had jurisdiction over the subject matter.

I want to say, however, that I sent copies of the bill to the exposition officials after it had been printed, and to this day I have not had a protest from them against the provisions of the bill; I think that answers the statement of the gentleman from Mississippi [Mr. COLLIER]. I believe they have felt as the California delegation has felt, that they were willing to accept whatever the Congress would do in the matter. They will undoubtedly abide by any decision Congress may make in the premises.

It has been said that the proposed commission is too large. Personally I believe there should be seven commissioners, because I believe that the work will require a great deal of attention. No one man, in my judgment, would be able to accomplish it efficiently and satisfactorily. The suggestion for a commission came originally from a distinguished Senator who had been Secretary of State of the United States in a previous administration.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. CULLOP. I yield to the gentleman three minutes more.

Mr. KAHN. That Senator, who had been Secretary of State in a former administration, insisted upon a commission for the reason that there had been complaint among the foreign exhibitors at two of the previous expositions—serious complaint—in each case upon the score that they had not been properly treated by the exposition company. He proposed that so far as he could shape the matter there would be no recurrence of such complaints. I do not know whether the scope of work of the commissioners in the other bills was defined or not; but San Francisco happens to be noted for her hospitality. No man who ever came to that city in an official capacity, representing any State or any Government, has ever gone away from there dissatisfied with his treatment.

The exposition directors have taken it upon themselves time and again to entertain at their own expense and in a befitting manner the representatives of foreign Governments and of our sister States. Such representatives as have visited San Francisco to select sites for their respective countries have been delighted with what they have seen and with what they have learned. I know that it is the disposition of the directors of this exposition company, it is the disposition of the people of San Francisco and of the State of California to make every representative of a foreign or a State government exceedingly welcome.

But past experiences have shown that even with the best intentions of all parties concerned differences have arisen between exhibitors and the company which controls the exposition. Therefore it is deemed best that the commissioners who are to deal with the representatives of foreign Governments should be appointed by the Government of the United States in order that there might be no mistake, no misunderstanding, and no complaint that can possibly be avoided. In other words, this board of commissioners acts largely in the capacity of umpires or referees. [Applause.]

In conclusion, Mr. Chairman, I assert that it is unfair to the California delegation on this floor to place us in the attitude of demanding or even asking for this legislation. Even though we have but recently learned that the failure of this Government to participate may jeopardize the participation of foreign Governments, we have refrained from canvassing among the Members of this House for votes for this bill. As I said at the outset, this measure was introduced by the former chairman of the Committee on Industrial Arts and Expositions on his own initiative, after the President of the United States had sent a message to Congress asking that provisions be made for the participation of our Government at the Panama-Pacific International Exposition. The matter rests entirely in your hands, and whatever may be the ultimate verdict of the House the California delegation will have the satisfaction of knowing that that verdict was reached without importunings or solicitations by the members of that delegation.

Mr. CULLOP. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has 16 minutes.

Mr. CULLOP. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana, Gen. ESTOPINAL.

Mr. ESTOPINAL. Mr. Chairman, it is possible that if New Orleans had not asked for a million dollars appropriation for a national exhibit she would have been selected for the exposition site. It is possible that the California people did not go far enough at the time and come out squarely and ask for an appropriation for an exhibit. I do not believe, however, that this ought to be held out against them at this time.

It is not a question of San Francisco people that confronts us to-day; it is a question of a national exposition. We have agreed to hold a national exposition, we have invited foreign nations to participate, and we can not get out of it. [Applause.] It would be indeed belittling this great country to say that we are not going to exhibit at this exposition at San Francisco. [Applause.] It would be a disgrace to this country if we did not do so. I do not believe that the Congress of the United States is going to write itself down now against a proper exhibit of the great resources of this country. Therefore, I say that if there were any people to be resentful about the manner in which the exposition was secured by San Francisco, the Louisiana delegation would be the ones, but, I believe, I can speak for the whole delegation, we are perfectly willing that San Francisco should have a suitable exhibit by the National Government. What that exhibit is to cost is not a matter that we are concerned about. We believe that it should be sufficient to properly show the resources of this great country. Therefore, Mr. Chairman, I am in favor of this bill. [Applause.]

Mr. CULLOP. Mr. Chairman, I yield five minutes to the gentleman from Louisiana [Mr. BROUSSARD].

Mr. BROUSSARD. Mr. Chairman, it is well known to Members of this House that there was a serious, urgent, and ardent contest between San Francisco and New Orleans to secure the Panama Exposition in 1915. It is well known that every effort was made on the part of the contending cities to secure this exposition, and I need say nothing regarding that contest, because every Member in the House is aware of the seriousness and the earnestness of the contest that then went on. The gentleman who now presides over that committee was an ardent supporter of New Orleans. The gentleman who spoke awhile ago, the author of this bill, Mr. RODENBERG, of Illinois, was an ardent supporter of New Orleans. However the fight may have resulted, we in Louisiana feel that the question involved in this bill is not one in which either New Orleans or San Francisco are concerned, but one in which the American Republic has vital interest. I am not speaking now for myself in advocacy of this proposition, but I am speaking in behalf of the Louisiana delegation in the House and in the Senate as well, and I want to place on record the statement issued by myself a few days ago at the request and upon the vote of the Louisiana delegation in the House and in the Senate in behalf of that proposition. Here is the statement:

Unanimous consent was given by the Louisiana congressional delegation when it met to-day to the project to have the United States Government participate in the exposition at San Francisco in 1915.

The question of legislation along this line was taken up and discussed, and the Representatives and Senators from Louisiana, extending the good hand of fellowship to the California people, recorded themselves heartily in favor of the proposition.

Louisiana and California two years ago locked horns in a fierce struggle before Congress for governmental sanction for an exhibition to commemorate the opening of the Panama Canal. It was a masterful fight waged by both States. Victory, by a narrow margin, rested with the Californians.

The question of governmental participation has never been settled. President Taft has strongly recommended legislation along this line. It is fathered in the House of Representatives by W. A. RODENBERG, of Illinois, who led the fight for New Orleans. The proposition calls for a $2,000,000 Government exhibit, the building to house the Government's display to be of a permanent character for use by the Government when the exhibition closes. The measure has been unanimously reported by the House Committee on Industrial Arts and Expositions by Representative CULLOP, of Indiana, who was also a Louisiana sympathizer in the fight for the exposition site.

BROUSSARD, in discussing the action of the delegation, said: "We people of Louisiana know that it is absolutely necessary that the United States Government participate in this exposition. We waged a bully fight for the exposition location, but were worsted. California knew she had been in a scrap when we got through with her. We have no sore spots in the Louisiana character, and to-day we stand ready to aid California to the best of our ability to make her show the greatest the world has ever seen.

"The legislation asked for is necessary. The President, by congressional direction, has extended to all civilized nations an invitation to participate in the San Francisco show. Many of the nations have already signified their intention to participate by an exhibition illustrative of their resources.

"The people of Louisiana are in full sympathy with the patriotic desire to make this exposition the greatest and most successful ever held, and we, as its Representatives in the Senate and House of Representatives, to-day declared strongly for legislation at this session which will provide for a dignified and comprehensive Government exhibit."

Mr. CULLOP. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has seven minutes remaining.

Mr. CULLOP. Mr. Chairman, I yield the remainder of my time to the gentleman from Pennsylvania [Mr. BURKE].

Mr. BURKE of Pennsylvania. Mr. Chairman, I will reserve my time for the present.

Mr. MANN. Mr. Chairman, on December 14, 1910, the gentleman from Louisiana [Mr. ESTORINAL] introduced into the Sixty-first Congress a bill providing for a Panama exposition at New Orleans. The gentleman from California [Mr. KAHN], I believe, introduced a bill for an exposition at San Francisco. The Committee on Industrial Arts and Expositions had quite full hearings upon these bills, or upon the New Orleans exposition bill, because the gentlemen from California declined to prosecute their bill before their committee.

Mr. KAHN. I withdrew the bill.

Mr. MANN. The gentleman could not withdraw the bill.

Mr. KAHN. I asked that the committee should not consider it.

Mr. MANN. I understand. I have stated it fairly. That bill was reported to the House from the Committee on Industrial Arts and Expositions on January 24, 1911. I have not the date when the other resolution was reported.

Mr. KAHN. My resolution?

Mr. MANN. Yes. There was also a resolution then before the Committee on Foreign Affairs, proposed, I think, by the gentleman from California [Mr. KAHN], that resolution providing only for an invitation to the San Francisco exposition. These two propositions were pending before the House, one reported from a committee that had authority over expositions in favor of the New Orleans exposition, and the other from a committee that had no jurisdiction whatever over expositions, but had jurisdiction over a proposition to invite foreign countries, the Committee on Foreign Affairs. The two propositions were before the House. The New Orleans exposition bill did not ask for any Government aid—not one cent. It did provide, however, that $1,000,000 should be authorized to be appropriated for a Government exhibit and a Government building. No further Government aid was provided in that bill.

Mr. KAHN. Mr. Chairman, I think the gentleman wants to state the facts.

Mr. MANN. I am stating the facts correctly. If the gentleman wishes to correct any facts I yield for that purpose.

Mr. KAHN. At the same time that San Francisco introduced a resolution which went to the Committee on Foreign Affairs, New Orleans introduced a resolution of similar import, which also went to that committee. Both cities had hearings before that committee, and the committee reported out both resolutions.

Mr. MANN. That has nothing to do with this proposition. I was telling what was before the House and how it got there. The New Orleans bill asked no Government aid, I say, except the $1,000,000 for a Government exhibit and Government building. It provided for commissioners at $5,000 a year, who were to be paid by the New Orleans exposition and not out of the Federal Treasury.

There was nothing provided in the way of an appropriation for the New Orleans Exposition except the $1,000,000 for an exhibit and Government buildings, and in that situation the matter came before the House for a vote under a special rule. My district is in the South Side of the city of Chicago, through which the Illinois Central Railroad runs, and is filled every summer with visitors from New Orleans, who come to spend the summer in Chicago; and every winter my constituents, many of them, spend a portion of their winter in New Orleans, because they are so closely connected. I felt disposed to vote for the New Orleans bill and had intended to do so until the question was fairly presented to this House, New Orleans asking for a million dollars for a Government exhibit and buildings and nothing else, and San Francisco swearing by all that is sacred and holy that it would never ask for a cent for any purpose from the Government, a portion of which remarks have been called attention to by the distinguished gentleman from Mississippi [Mr. COLLIER]. The report that was made to the House on the New Orleans Exposition proposition contained with it the minority views to which I have referred, and in that report the minority called particular attention to this proposition. On the one side you have frequent invitations for Government exhibitions to which the Government contributes something for its exhibition or in some other way; on the other side we give authority to somebody to invite foreign countries to the exposition, where they will bear all the expense. On the one side the Government only exercises the function of inviting. On the other side it carries also an appropriation. The question was clearly stated by the minority in their minority views on the New Orleans Exposition bill, and attention was called in opposing that New Orleans bill to the fact that the California people asked for no appropriation; that they stood on the side of what the gentleman from Massachusetts [Mr. GARDNER] called the fundamental principle; they stood on the side of no appropriation from the Government for exhibits or for any other purpose, and the New Orleans Exposition, on the other side, asking for an appropriation, not for the aid of the exposition, but for a Government exhibit. And when the matter was presented to the House in that way I changed my mind and voted for San Francisco, because I thought then and think now that where two cities almost evenly balanced, with the argument presented in favor of one proposing a large Government appropriation and the other proposing to finance the matter by their own citizens, that I did not feel justified in helping to reach my hand into the Treasury in behalf of a city that wished the Government's money. And I feel now outraged by the proposition pending before the House. [Applause.] I feel as though gentlemen had played a confidence game upon me. This is not the only proposition that comes up. Only a few days ago the President of the United States sent a message to us calling attention to the fact that a year ago we directed him, or the State Department, to issue an invitation to the nations of the world to attend a hygiene congress at Buffalo.

When that resolution was pending before the House the question was asked whether that meant an appropriation, and the gentleman from Buffalo stated that it did not. Objection was made to the consideration of the resolution on the Unanimous Consent Calendar until that matter might be fairly adjusted, and subsequently, on the same day, the gentleman from Buffalo asked to have his resolution considered, stating that he would offer an amendment providing that no appropriation should be made hereafter by the Government. In the face of that the President of the United States sent a message to us the other day, asking us to make an appropriation for Buffalo, stating that he was opposed to Congress extending invitations without making appropriations. It is to the credit of the gentleman from Buffalo that up to the present time no one here in the House has proposed that he break his faith with the House, entered into when the original resolution was passed.

Mr. BATES. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. BATES. Can the gentleman inform us whether at the time the San Francisco-New Orleans question was before the House the subject of an exhibit was discussed or taken into consideration at all?

Mr. MANN. I can answer the gentleman that it was discussed—was taken into consideration. The whole issue was whether the Government would provide an exhibit at New Orleans and pay for the Government exhibit or provide for an exposition at San Francisco and not pay anything. [Applause.] It was discussed.

Mr. BATES. Does the gentleman recollect any promise on the part of California or anyone in their behalf which assured us that the Government exhibit would be prepared and furnished at the expense of the California people?

Mr. MANN. I remember very distinctly, and if I have time I will produce the record.

Mr. BATES. I heard the debate, and I do not remember anything of that kind. I do not remember that the Government exhibit was under consideration.

Mr. MANN. The gentleman does not remember much about the debate unless he has refreshed his recollection.

Mr. GARDNER of Massachusetts. Will the gentleman yield?

Mr. MANN. Not now. The report from the committee having indicated that the issue was simply the question between the two places, as to whether we would pay for the Government exhibit or not, Congress having taken the side against the Government exhibit, this resolution went to the Senate of the United States and was reported upon by that body.

In the report upon this resolution in the Senate, similar language to that used by the gentleman from Massachusetts here was used in the report there. The report was made by the Senator from Washington [Mr. JONES], formerly an esteemed Member of this House. It stated:

> The people of California have thus initiated or created the exposition and have demonstrated their ability to carry it through to a successful conclusion and to make it the greatest exposition that the world has ever seen, without asking the Congress for an appropriation of any character or directly or impliedly committing the United States Government to any liability or responsibility.

And it was on that report that the resolution was agreed to in the Senate.

My distinguished friend from California [Mr. KAHN], who has just recently addressed the House, is put in a most embarrassing position. On the one side is the House of Representatives, to whom he made his statement before; on the other side are his constituents, to whom he is not only under obligation, but to whom he owes the duty of representing them. He desires to keep faith with the House, and at the same time to keep faith with his constituents, and he is decidedly "between the devil and the deep sea" on that proposition.

The gentleman from Mississippi [Mr. COLLIER] and myself called attention to some of the statements made by the distinguished gentleman from California [Mr. KAHN] on the consideration of the resolution in the House. He said:

> The gentleman has made some reference to the possibility of our coming back to the Congress for an appropriation. I want to assure the gentleman that the people of California studied this question very carefully when they made the moves they have made. In talking over the matter of expositions with the Members of this House I soon found that there was a decided feeling against extending Government aid to any exposition. It was said that the people were practically "exposition sick," and I was assured by scores of the Members of this House that they would never vote for any exposition measure that carried with it a single dollar of Government appropriation. I reported the sentiment of the House to the directors of our exposition company, and they decided that we had the ability to finance this exposition without governmental aid.

Then he referred to the resolution that was passed concerning the Philadelphia exposition, originally contemplating no aid, and then coming back and getting Congress to grant them aid. And the gentleman from California intimated that he thought that that was a breach of good faith.

Mr. KAHN. Will the gentleman yield for a moment?

Mr. MANN. Certainly.

Mr. KAHN. That was aid to financing the exposition. This is entirely different.

Mr. MANN. Oh, the question pending before the House at the time was between San Francisco and New Orleans, and neither one was asking for any aid for the exposition. The only question was as between a Government exhibit in the way of an appropriation and not a Government exhibit.

New Orleans was not asking any Government aid to finance the exposition, and what the gentleman said and all that the other gentlemen said on the floor of the House about an appropriation referred to the distinction between California asking for nothing and New Orleans asking for a Government exhibit. And then the gentleman went further and said:

> San Francisco, realizing the latent possibility hidden in those sentences in the bill, decided that it would burn its bridges behind it and that it would never ask for a single dollar, either as a loan or as an appropriation.

Now, the gentleman says that he is not asking for an appropriation, and I am willing to admit that.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. MANN. For a question.

Mr. MARTIN of South Dakota. As the result of the debate and the proceedings at that time, did the gentleman from Illinois understand that the United States Government would not be expected to make any exhibition at San Francisco, or that it would make one and the expense be defrayed by the San Francisco people?

Mr. MANN. I will make my own speech, by the way.

Mr. MARTIN of South Dakota. I take it for granted; but that is a fair question.

Mr. STEENERSON. I will say to the gentleman from Illinois that that matter was discussed in the hearings, and I have them here.

Mr. MANN. All through. That was the question.

Now, gentlemen, the RECORD of the time is full of statements, some of which have been quoted by the gentleman from Mississippi [Mr. COLLIER] and others—the RECORD is full of statements, some made by the distinguished gentleman from Alabama [Mr. HEFLIN] and some made by my distinguished colleague from Illinois [Mr. RODENBERG]—all showing that the question at issue at that time was whether we preferred an exposition where we would be called upon to make no appropriations or an exposition where we were called upon to appropriate—notice—$1,000,000 for a Government exhibit and Government buildings; and as soon as the resolution is passed gentlemen interested in it start out with a propaganda to secure, not $1,000,000, not commissioners at $5,000 a year, but $2,000,000 and commissioners at $7,500 a year for the Government exhibit.

Mr. BATES. Mr. Chairman, will the gentleman yield for a question?

Mr. MANN. Yes; I will yield for a question.

Mr. BATES. Was it known or contemplated then that this was to be an international exposition, with 25 other nations participating?

Mr. MANN. Why, I will say to my distinguished friend from Pennsylvania, in the resolution then pending, upon which we voted, was a resolution directing the President of the United States to invite the nations of the world to participate in the exposition. Does not the gentleman think that constitutes an international exposition?

Mr. BATES. None of them had accepted at that time, had they? [Laughter.]

Mr. MANN. That is really the strongest argument that I have heard to-day on that side of the House. [Applause and laughter.] I compliment the gentleman upon his acumen.

Now, I yield to the gentleman from Massachusetts [Mr. GARDNER] for a moment.

Mr. GARDNER of Massachusetts. I expect that the gentleman from Illinois has already read the passage in the debate which I had intended to read. Does the gentleman wish to yield me time?

Mr. MANN. No; not yet.

Mr. GARDNER of Massachusetts. If not, I will not proceed.

Mr. MANN. Not yet.

Mr. RAKER. Mr. Chairman, will the gentleman yield for a question right here?

Mr. MANN. In just a moment.

Now, gentlemen have intimated that the question comes anew before the House, and of course the House has the power to do what it pleases at any time. I want to press home to the Members of the House the faith that was pledged to the House at the time concerning the exposition. In the views presented in behalf of the San Francisco exposition, in the only official statement that was made to the House on this subject, is found this statement; after referring to the fact that the California exposition was to carry no appropriation and that the New Orleans exposition was to have $1,000,000 for exhibit and buildings, this statement occurs:

> The Congress is therefore called upon to decide between two radically different plans or designs for holding an exposition for commemorating the opening of the canal.

What were these two radically different plans or designs? I will let any gentleman in favor of the California exposition take two minutes of my time to explain what the two radically different propositions were. Why, one was an exposition where we appropriated for a Government exhibit and buildings, and the other was an exposition where we invited foreign nations and the California people were to pay the expense. This is the official statement made to the House by the gentlemen on the committee favoring San Francisco. After referring to New Orleans the statement proceeds:

> We feel that but one choice can be made, and that is to recognize the generosity, the energy, and indomitable will of the people of San Francisco and the entire State of California by wishing them well in their vast undertaking and to convey their greetings to the people of the world, with a cordial invitation to journey to San Francisco and to unite with the people of our country in a general rejoicing over the completion of a new ocean highway.

At their expense. The pledge made by the gentlemen officially reporting to the House in favor of California was that it was to be done at their expense.

Now, gentlemen say, "Oh, well, in the enthusiasm of a contest, in the excitement of a conflict, gentlemen make statements that are overexuberant." That is undoubtedly true, and it may be that the Government ought in some way to provide its share in the California exposition. But that does not require this bill to be passed at all. There is no way in which $2,000,000 can be used on a Government exhibit at this exposition. And it is not the intention to use that sum of money in that way. The California Exposition Co. will provide the ordinary buildings for exhibits. That is where exhibitors exhibit. That is where the interest is. We may make an exhibit and send over some matter from the National Museum. We usually send some old cannon or something of the sort, and a few uniforms, and so on, from the Navy and War Departments. We send some exhibits from other branches, mainly, I think, as far as size is concerned, samples of essays or writings gathered up by the Commissioner of Education from the primary grades of the schools of the country, which no one ever looks at, although this exhibit makes a very good trysting place sometimes, because there is nobody there to bother you.

Mr. BATES. Has the gentleman tried it?

Mr. MANN. There is no method of using this sum of money and there is no way of constructing an exposition building that is any good as a permanent building, and there is no way of constructing a permanent building for the Army that is worth a tinker's dam for exposition purposes. [Applause.] Everybody knows that.

But what is the nigger in the woodpile? In the New Orleans bill there were seven commissioners provided. Under certain conditions they could appoint two of their number to act with two others as a board of arbitration. In case of disputes they were allowed to select a fifth arbitrator. That board of arbitration, I assume, would settle disputes between exhibitors and the exposition company. There were a great many other duties enumerated for the seven commissioners at the New Orleans exposition. Now we come to a proposition in this bill which provides for the appointment of seven commissioners at $7,500 a year, when there is nothing for them to do now, to be appointed by the President immediately, so that the appointment will not get away from President Taft. [Laughter.] There is nothing for them to do now. They are to settle disputes between exhibitors and the exposition company, and as far as exhibits are concerned there is no exhibit within a thousand miles of the exposition company now.

In addition to that they are to see that the foreign visitors are entertained, and this bill provides that all this is to be done and the salaries and expenses of the commissioners are to be paid by the California exposition. You have noticed the complacency with which our California friends have witnessed this attempt upon their pocketbooks. And yet it is an open secret all over the Capitol and the city of Washington that the reason $2,000,000 is carried in this bill is not because they need that sum of money for exhibits or for buildings, but if this bill passes this House they rely upon an amendment being made in another distinguished room in Washington which will divert one-half possibly, certainly more than one-quarter, of this $2,000,000 out of the Federal Treasury to pay the salaries and the expenses and the wining and dining of our own commissioners and the visitors whom we invite, which expenses the California people intended to pay. [Applause.]

The gentleman from Indiana [Mr. CULLOP] was asked if an estimate had been submitted in reference to the cost of these buildings. Not at all. Has any estimate been obtained as to the cost of making a Government exhibit? Not at all. We have been engaged for many years in making Government exhibits. You can telephone down here to the Smithsonian Institution or most of the other departments of the Government and get a reply by telephone telling what it will cost to make a reasonable Government exhibit. Yet the committee has declined to obtain this information, because it knew there was no way of absorbing $2,000,000 for this Government exhibit.

Mr. GARDNER of Massachusetts. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. GARDNER of Massachusetts. Is it not true that down at the Smithsonian Institution they have a sort of traveling Government exhibit packed up which they can ship at small expense all over the United States?

Mr. MANN. I believe they are prepared to furnish an exhibit at any time, to any exposition, at very small expense. They have enough duplicate things to keep some laid away for that purpose. And there are certain other branches of the Government where certain things are practically kept on hand for exhibition. Of course, the Government exhibit requires one little expense, the chief one that I know of—for the life-saving crew—probably the most interesting and entertaining exhibit which is made by the Government.

Why, Mr. Chairman, people do not go to these expositions to see the Government exhibits. They go to see the live exhibits of the country, made by the exhibitors and manufacturers and enterprising people of the country. Some people may desire to look at some old prints, or something of that sort, of a hundred years ago, but the people who go to California or any other exposition now will want to see the electrical exhibit. We can not make one, and it is not true that the success of an exposition depends upon the success of the Government exhibit.

It is a very nice thing for the States to have State buildings. They are gathering places for the people from the States, but the exhibits in those State buildings are practically nil. The same is mainly true of the buildings constructed by foreign nations.

I do not believe, Mr. Chairman, that this House has the right in morals to put upon the California company an expense of $500,000, which it will amount to, if not more, for a commission and the entertainment provided by this bill. Nor do I believe that we have the right, remembering the pledges which were made to us and the votes which were obtained from us by the promises which were made, to appropriate such a sum of money out of the Federal Treasury for useless officers and more useless entertaining. [Applause.] I now yield 10 minutes to the gentleman from Minnesota [Mr. STEENERSON].

Mr. STEENERSON. Mr. Chairman, I was a member of the Committee on Industrial Arts and Expositions at the time that report was made that has been referred to on the question whether San Francisco or New Orleans should be the place for this exposition. I want to say that the gentleman from Illinois [Mr. MANN] has very fairly stated the situation and the arguments that were made before the House. I can fortify that somewhat by reference to the printed hearings before the committee. The question before the committee was not only whether there was a difference between the bills, that the New Orleans bill required an appropriation of $1,000,000 and the San Francisco bill did not, but the matter was urged upon the committee that the Government did not need to have any exhibit at all, nor would they ask for any exhibit.

Representative HAYES, of California, who had charge of the speeches before the committee, made this statement, which will be found on page 100 of the hearings:

> The city of San Francisco ought to have that right. And yet, with the pluck which is characteristic of our people, they are not asking the National Government for one dollar. Our people are putting it all up, and we do not propose to ask for one dollar, notwithstanding the sneers of our friends from New Orleans, who believe that by and by we are going to come back and ask for a big appropriation. I am authorized to say that we shall not ask for one dollar from the Government of the United States, now nor in the future, and I speak for our whole delegation. The simple boon that we ask only is that the Government of the United States will give an invitation to the nations of the world to come and participate with us in celebrating a great historical event, in the city of San Francisco, in 1915.

That was reenforced by every Representative who spoke for San Francisco, and the question of a Government exhibit was directly discussed.

Mr. Scott, who represented San Francisco, was introduced by the gentleman from California [Mr. HAYES], and this is what he said:

> And what do we ask? Absolutely nothing but the courtesy of the United States, the honor of being designated the national host on this occasion. Mr. HAYES, our Congressman, has just pledged you his word that we shall ask for not one dollar, now or hereafter, and when we say that, gentlemen, we are business men and we mean business. We mean just what we say. We are not talking generalities; we are not talking about——

The CHAIRMAN. Mr. Scott, you expect to have a Government exhibit there, do you not?

> Mr. SCOTT. I will answer that in this way: As far as any Government exhibit made by the National Government by funds out of the National Treasury is concerned, San Francisco pledges herself now not to ask for one dollar from the National Government. If we have national exhibits, those exhibits will be made by the independent States of the United States, and many of them have signified their intention of coming there, but we say now and we will say at all times, as Congressman HAYES has said before me, that we shall not ask the United States for one dollar to install an exhibit or for any other purpose, and I wish to be absolutely clear and unmistaken on that subject.

Mr. LANGLEY. The National Government will pay for its own exhibit; of course, you do not expect the State of California to do that?

> Mr. SCOTT. I do not know what the National Government may want to do. But I do not want, by any implication or innuendo or by any misunderstanding, to be put into the position of sliding over this thing. Somebody has said, "They will come back later and say we want the Government to do so and so." If it were not for a feeling that it would be a presumption on our part, we would come to you as Congressmen and would say we would be delighted to build a Government building and to pay for the expense of installing a Government exhibit, because, gentlemen, the United States Government is sick and tired of expositions. Congress is sick and tired of appropriations for them. They have made them every year, and they are disgusted with them, and we do not want one cent now or in the future.

Mr. NELSON. What do you expect, Mr. Scott, the Government will do in this matter?

> Mr. SCOTT. As far as their representation—we have been to the State Department. We stated that we were even willing to pay for the expense of a Government representation, a Government commission, if necessary. We have offered to put aside enough for the entertainment purposes by which that commission shall come out there and officially entertain the representatives of the world, if the State Department considered it a diplomatic necessity.

Mr. CARTER. Will the gentleman yield?

Mr. STEENERSON. Yes.

Mr. CARTER. Who was the gentleman that made this speech saying that they would not ask for money even for a Government exhibit?

Mr. STEENERSON. I have read from Representative HAYES, and then the last I read from was a Mr. Scott, representing San Francisco.

Mr. CARTER. Was the California delegation present?

Mr. STEENERSON. Certainly.

Mr. CARTER. Did Mr. Scott speak for the California delegation?

Mr. STEENERSON. Yes. I continue to read from the hearings.

Now, further on is a statement made by Representative KAHN, on page 132 of the hearings:

> Now, if New Orleans were absolutely sincere in not asking for national aid she would do just as San Francisco has done, stand by her resolution of invitation, pure and simple. That accomplishes all that she now claims she is trying to accomplish. It authorizes the President of the United States to issue an invitation to foreign nations and it makes no provision whatever for Government supervision or Government control, nor does it inaugurate through the Government any exposition, and that is the crux of this entire proposition. You all know what the sentiment of the House is with respect to appropriations for expositions.

Mr. NELSON. I do not wish to interrupt your argument, but are you going to explain what San Francisco expects Congress to do with reference to buildings for the exposition?

Mr. KAHN. Her resolution speaks for itself; and the bill which is pending before this committee speaks for itself.

The CHAIRMAN. You mean San Francisco?

Mr. NELSON. I mean San Francisco.

Mr. KAHN. Yes, I will explain her position thoroughly; I will go into that very thoroughly in a few moments.

Mr. NELSON. All right.

Mr. KAHN. Now, as Mr. Bell so ably explained the other day to this committee, New Orleans, or her exposition company, can not collect a dollar of the money that would be raised under her bond issue unless the Congress of the United States inaugurates or creates her exposition. It is expressly nominated in the bond, and she can not get a dollar without congressional recognition. Now, this matter of Government aid for expositions is a pretty old one. When the first proposition came up in the Congress of the United States for the Centennial Exposition, if you will take the time to read the debates, you will discover that Members on the floor of both Houses were fearful that it was going to cost the Government a great deal of money.

Mr. WINGO. Then you stand by what you said on the 20th of December?

Mr. KAHN. I qualified it; I said that the directors of the exposition were giving the matter thorough investigation. And they did investigate it, and they came to the conclusion absolutely that they did not want a dollar, even for a Government exhibit. They submit it now. I said they would submit it later; I submit it to this committee here and now, and state emphatically that that is their position in the matter.

Mr. CULLOP. I would like to ask you a question. Do you propose, in view of your statement, for the Government to make an exhibit at the exposition if it is held at San Francisco?

Mr. KAHN. No, sir.

The CHAIRMAN. I wish you would elaborate that.

Mr. KAHN. We will ask the various States of the Union and the municipalities of this country to exhibit. There have been Government exhibits at practically every exposition held in this country; it is not a novelty. It is nothing new. It does not add much to the success or failure of an exposition. It is frequently asked for in order to get a big sum of money to help build up an exposition and make a showing. We have $17,500,000, as much as Chicago had to put up her exposition, and we do not need the Government exhibit to make ours a success.

I read further from the hearings:

> Mr. KAHN. Yes; I will explain it exactly. I said a moment ago that we will ask the States, and that we will ask the municipalities to make exhibits; we will appoint our commissioners to go to the various State legislatures and appear before the various city councils, and present our claims. We can do that without fear of being turned down, because whenever there has been an exposition in any section of this country and an appeal for a California display was made to our people, the people of California, through their legislature, have invariably appropriated large sums of money for a California display; thus we expended $300,000 at Chicago, $130,000 at St. Louis, $40,000 at Buffalo, and so on all the way down the line, even to $10,000 at New Orleans in 1885. And we feel assured that when the California commissioners go to the various States and the various municipalities their appeals will not be in vain. But we are taking the chances on that and we are willing to take them.

I will say that the gentleman from California [Mr. KAHN] was asked about a Government exhibit and whether it was not necessary to have a Government exhibit. On page 137 of the hearings before the committee he claimed that it was not necessary to have a Government exhibit. I want to make this suggestion before I conclude, as my time is limited, that there is a difference between a Government exhibit and an ordinary exhibit. As has been stated by the gentleman from Illinois [Mr. MANN], it is not necessary for the Government to have an exhibit to constitute a complete exposition, and when it is said here in argument that because we have invited the nations of the world we are in honor bound to exhibit ourselves—that is, that the United States Government is bound to exhibit—the argument does not hold true.

The resolution that we sent to the world is to the effect that the President of the United States be, and is hereby, authorized and respectfully requested by proclamation or in such manner as he may deem proper to invite all foreign countries to such proposed exposition, with the request that they, the people of those countries, participate therein. The countries are the ones that are invited through their Governments. It is not expected that the Government of every country that is invited will have an exhibit. They may not have any exhibit, and the majority probably will not. The States invited will not all have a State exhibit, because this is an industrial exposition, and it was ably explained by the gentleman from California that it was expected that these exhibits would have to be made by the different industries—by individuals engaged in industries. Therefore I submit that it is no argument whatever to claim that we have invited the nations of the world. That invitation was to the people of those nations and not to the Governments to make exhibits. The Governments were the channels through which the invitation was conveyed. The Governments of the world are not engaged in carrying on industrial activities only to a very limited extent. Neither is the Government of the United States.

The proposed exposition might be a complete success without a single foreign Government, as such, taking part or having any exhibit. That was the argument of our San Francisco friends two years ago, and it is as sound now as it was then, and they are bound by it.

There will be no embarrassment from the nonparticipation of the Federal Government in the exposition, so far as foreign nations are concerned. None of them are waiting to accept our invitation on that account.

One of them, Great Britain, probably has failed to accept the invitation on another ground, for which San Francisco is largely responsible. When the Pacific Coast States selfishly forced Congress to grant free tolls to our coastwise vessels, thereby discriminating against foreign vessels, they raised an issue with Great Britain, which as long as it remains unsettled will induce that nation to not only refuse to accept the invitation, but to boycott it altogether. San Francisco evidently believes that the American people have built this canal wholly for her benefit. She not only wants her ships to pass free, thereby depriving the Government of a revenue of a million dollars a year, but that we shall give her $2,000,000 in this bill to celebrate the event. When the United States, by taxing all the people, gives to the Pacific coast a free canal she ought not to be asked to spend $2,000,000 to celebrate the event. The celebration ought to be at the expense of those especially benefited:

Be that as it may, I hold that good faith on the part of the representatives of San Francisco now precludes them from asking for this bill. They are bound by the arguments they advanced two years ago, by which they carried the day over New Orleans. They were sound then and they are sound now. I am opposed to the bill.

Mr. MANN. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. Eight minutes.

Mr. MANN. Mr. Chairman, I yield three minutes of that to the gentleman from Pennsylvania [Mr. BURKE], who already has seven minutes to his credit, and after he is through I desire to be recognized for the remainder of my time.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 10 minutes.

Mr. BURKE of Pennsylvania. Mr. Chairman, the analysis made of this situation by the gentleman from Illinois [Mr. MANN] is one such as we would expect under the circumstances, clear and forceful as far as the facts justify; but, Mr. Chairman, we are delving down in the musty manuscripts of this House, I believe, without avail and without purpose. The issue is not what the gentleman from California [Mr. KAHN] did or what the gentleman from Massachusetts did or the gentleman from Mississippi said two years ago. The issue is, What are we going to do to-day? And I defy any man on this floor to bind me by any fugitive expression of two years ago as to what I shall do when it comes to performing my duty as a representative of the American people in this body to-day. [Applause.] Mr. Chairman, the situation is this: We have been treating this as a local and as a temporary matter. We have been trying gentlemen who happen to be members of certain committees because they made use of certain expressions instead of meeting the issue before this committee. I was one of those who originally favored New Orleans, but I came to look upon the matter in a broader way. I came to realize that this had something broader than a mere local character; that it was national in its scope and even international in its significance.

The whole original proposition was based upon the desire of the American people to celebrate the completion of the greatest engineering feat in the history of the civilized world. There was a question as to where that celebration should take place—in New Orleans or San Francisco—and there is no evidence before this committee to-day that if the million-dollar issue had not been injected into that discussion the bill would not have passed in its original form, and no one can convince me that the House of Representatives would not then have voted to hold this exposition in California in any event. Pursuant to that resolution what do we do? We invite the nations of the world to participate in an American celebration.

There are gentlemen on this floor at this hour who are probably invited out for dinner this evening in the city of Washington. What would be their notion of their host if, when they went there, they were met at the door by the butler, who notified them that they would dine alone; that the host, upon a reconsideration, had concluded that he did not have enough money to dine himself or had concluded not to lay a cover for himself for any other reason? We instructed and authorized the President of the United States to invite the nations of the world, and, pursuant to that instruction, he did his duty, with the result that 25 nations of the earth, from Cuba to Canada,

from China to Argentina, have accepted our invitation; and yet at this late and critical stage of the proceedings, when the Congress is asked whether or not we, who extended that invitation, shall be present ourselves, gentlemen say no; it is utterly preposterous that the United States should be present, because the gentleman from California at some time or the gentleman from Massachusetts at some time gave vent to some fugitive expression in the course of the former deliberations of this body.

Let me ask this question: If this exposition were to be held in the city of Toronto, just across the border, and $20,000,000 had been provided by the Canadian people for a world's exposition and 35 of the nations of the earth had agreed to participate, would the people of the United States feel justified in refraining from participating therein? But here is what took place: The people of California, in the shadow of one of the greatest disasters that ever overtook or afflicted a people, arose out of those ruins and pledged themselves to raise $20,000,000, and they made good that pledge, and they are here to-day asking nothing. The people of California are not suppliants or mendicants rapping at the doors of the United States Treasury. This proposition originated in the minds of men who do not live near the Golden Gate. The question is whether or not the people of the United States shall participate in this international exposition that is to illustrate the development of the skill and the genius of the civilized world and the progress we have made in the arts of peace and of war.

Now, would we be justified, Mr. Chairman, under any circumstances in ignoring that which is of our own creation?

Let us ask further if all of those nations, with one exception, Great Britain, which I see has made a qualified acceptance, if they all appeared and produced the things that proved the progress they have made in the arts and in the industries, in peace and in war, would it be fair and would not we become the laughing stock of the civilized world if we did not—instead of bickering over this invitation—knock at the door and demand admission to participate in that great exposition?

It is a great opportunity, and the American people, I believe, would demand, if they knew this discussion was in progress, that the American Congress should see to it that they should exercise their right to perform their duty by exhibiting the best we have produced and proving ourselves a worthy host to other nations. Otherwise, Mr. Chairman, the Congress is in the position of having humiliated the country before the nations of all the world, and when this exhibition of inventions that have marked the development of the nations of the world during the years since the last exposition was held, we will be in the position of having created it and then turning our back upon it because, perchance, there happens to be in this bill a provision that there shall be a commission appointed that might eat and drink and wear clothes. They might possibly take a glass of wine on their way to California; they might partake of the delicious products of the vineyards of the Golden Gate, and therefore because some man may eat a hearty meal, wear a decent coat upon his back we should kill this enterprise, and Uncle Sam should bow his head in humility and in shame before the people of the civilized world. I do not believe that any such history will ever be written by this Congress, but if it is, Mr. Chairman, I do not propose that my name shall be signed to any such pitiable chapter in the annals of this great Republic. [Applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. RUSSELL having taken the chair as Speaker pro tempore, a message was received from the Senate announcing that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 40.

Resolved by the Senate (the House of Representatives concurring), That the report of the Secretary of War, under the joint resolution directing the Secretary of War to investigate the claims of American citizens for damages suffered within American territory growing out of the late insurrection in Mexico, approved August 9, 1912, be transmitted to the President, who is hereby respectfully requested to cause a claim for the amount of the damages reported therein as suffered by American citizens within American territory to be presented to the Government of Mexico as a claim in behalf of the Government of the United States.

The message also announced that Mr. FOSTER, at his own request, had been excused from further service as a conferee upon the bill (H. R. 29680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, and Mr. OVERMAN had been appointed in his place.

PANAMA-PACIFIC INTERNATIONAL EXPOSITION.

The committee resumed its session.

Mr. MANN. Mr. Chairman, I yield the balance of my time to the gentleman from Massachusetts [Mr. GARDNER].

The CHAIRMAN. The gentleman from Illinois used five minutes.

Mr. GARDNER of Massachusetts. Mr. Chairman, it was no fugitive expression from the gentleman from Massachusetts. For years I have opposed every proposition for an exposition. As chairman of the Committee on Industrial Arts and Expositions, I made a dissenting report on the Alaska-Yukon Exposition bill for no other reason than that it contained a provision for a Government exhibit. It did not ask for a single cent except for that. When this San Francisco project was under consideration we were told in private—we were told by Mr. Scott, representing the exposition company, and others at the public hearings—that they would not ask for a Government exhibit and that they did not need a Government exhibit. We were told that very thing on the floor of this House. Mr. FINLEY, of South Carolina, and I both stated on the floor of this House—and we both voted for San Francisco—that we would not vote for any place that asked for a single dollar of expenditure for a Government exhibit. So much for the fugitive expression of opinion.

Now, those facts do not meet the main question, as the gentleman from Pennsylvania has said. They only show the bad faith of some one. Let us get to the main question. The gentleman says that we are in a trap; that we have got the elephant in the tent, and now we must feed him. Not a bit of it, gentlemen. These Californians told us before our committee they did not need a Government exhibit. Why, they have got an exhibit from most of the States in the Union, some of them, I venture to say, costing twice as much as any amount that any exhibit from any foreign country will cost. Oh, we are told that we must entertain these foreigners when they come. Why, Mr. Chairman, during the time that the debate two years ago was in progress the gentleman from Pennsylvania [Mr. BURKE] introduced an amendment providing for a commission after the vote was taken authorizing the exposition at San Francisco; I raised the point of order that he could not have an amendment pending in somebody else's time.

I said then what is equally true to-day, Mr. Chairman. I said this:

> If that amendment were to be incorporated in this bill I should vote against the San Francisco exposition. It does nothing more nor less than open the door for persons to come before Congress, as they have frequently done already, and say: "By the appointment of your commission to control our affairs you assumed the responsibility for the failure or success of our exposition. If you had given us our own way we might have made it a success. Now you are morally bound to liquidate any debt that may have been incurred."

It was exactly on such a plea that over and over again this Government has been called on to pay the expenses of unsuccessful expositions.

Mr. HEFLIN. I yield five minutes to the gentleman from Illinois [Mr. CANNON].

Mr. CANNON. Mr. Chairman, I have been compelled to be absent during the most of this debate. I heard the closing remarks of my honored colleague from Illinois [Mr. MANN]. Speaking respectfully of what I heard of his speech and what I heard of my honored colleague from Minnesota [Mr. STEENERSON] and of my friend from Massachusetts [Mr. GARDNER], it seems to me, however strong my colleague is and was, and however strong my friend from Minnesota is and was, and however strong the gentleman from Massachusetts is and was, that they are off the mark. The remarks of the gentleman from Illinois come with poor grace after that great exposition in Chicago and what she received in encouragement from the Federal Treasury. After all has been said, it is not a question of the gentleman from California [Mr. KAHN], nor is it a question of what any man said. It is not a question of what any man pledged in the heat of a great contest. By solemn enactment we have invited the nations of the world to celebrate—what? To celebrate in 1915 the completion of the canal; and, right or wrong, it is to be celebrated in San Francisco, and California has put her hand to the plow and done more than any other people have done. They pledged over $20,000,000, and the money is raised. And now, after foreign nations have accepted; now, after the people in the United States are looking toward the Golden Gate, getting ready for that great exposition after the completion of the great canal, gentlemen are haggling about the United States, after having invited everybody to go to San Francisco, and are saying that she will not participate.

There are 100,000,000 of people in the United States. Twenty-five cents apiece means $25,000,000. And yet, gentlemen protecting the Treasury haggle about giving the proper aid to make this exhibit. Great heavens! There is not a man, there is not a woman, there is not one of the 85,000,000 of the common people but would feel humiliated to see the United States refuse to make the exhibit and construct the building. [Applause.]

Now, that is the way I feel about it. I have stood for every exposition from Philadelphia on, and after we concluded to hold

them I have wanted to make them good exhibitions—Philadelphia, Chicago, New Orleans, Buffalo, St. Louis——

Mr. DYER. The best of all.

Mr. CANNON. The gentleman says the best of all. I trust, however much the watchdogs of the Treasury may seek to muddy the water, to seek to defeat this bill, as citizens of the United States and as Members of Congress representing the greatest and wealthiest people on the face of the earth, we will not now turn our backs. [Applause.]

Mr. HEFLIN. Is the gentleman from Washington [Mr. HUMPHREY] in the Hall?

The CHAIRMAN. The gentleman is not present.

Mr. HEFLIN. Mr. Chairman, the time has arrived when some action should be taken in this matter. Gentlemen of the opposition have had a long, long time in which to discuss this measure. I fear that some have taken advantage of the time that they have had in order to filibuster for one reason and another and to postpone action upon this measure. The gentleman from Massachusetts [Mr. GARDNER] opposed having an exposition at New Orleans. He opposed having an exposition at San Francisco. He is at least entirely consistent in this matter. I will say that for him. The gentleman from Illinois [Mr. MANN] felt very friendly, indeed, to New Orelans, but finally fell off the fence on the San Francisco side. He has voted as all gentlemen have, long since that contest was settled for San Francisco, to extend an invitation from this Government to the other nations of the earth to come and participate in the celebration of the completion of the Panama Canal.

At that time some gentleman from California spoke of asking for no financial aid. We have since that time extended an invitation for our Government to the Governments of the earth to come and expend their money to put up buildings on our soil and make exhibits to help us celebrate the completion of an American project; and yet some of you would see our Government with no exhibit there on that important occasion. Japan appropriating a million dollars for the purpose of aiding America in the celebration of the greatest engineering feat in the world, is it possible that these gentlemen will refuse to provide for a proper participation by our own Government? Public buildings for the use and benefit of our Government are to be erected there and paid for out of this appropriation. We are now paying rents for buildings out there, I am told, of $72,000 a year. So, Mr. Chairman, in 27 years we will have saved $2,000,000 in rents and we will still have the buildings. We shall have had a great Government exhibit, shall have entertained the great nations of the earth, and we shall have celebrated the completion of this great American project. [Applause.] Do gentlemen want to be placed in the position of opposing a proper Government exhibit at San Francisco when the Government, through Congress, has invited other nations to come and bring Government exhibits?

I want to say to my friends on this side of the House who hail, as I do, from the great South, you strove hard to get this exposition for New Orleans; you favored a proposition, every one of you, that carried a million dollars for a Government exhibit there, and I am glad that many of you believe now that if a Government exhibit was proper at New Orleans a Government exhibit is proper at San Francisco, and you have shown that you are willing to aid the great Northwest in making the celebration of the completion of the Panama Canal a great success. [Applause.] Some who voted for the New Orleans exposition voted for a bill carrying a million dollars for a Government exhibit there but, strange to say, oppose a Government exhibit at San Francisco.

Some do not want to give San Francisco a Government exhibit, because it is claimed that some gentleman from California said that he did not ask for financial aid. Other expositions have been held, and after they were over some of those interested have come back and asked for financial aid, and it was given to them. The representatives of the San Francisco exposition have said that San Francisco will not ask for financial aid, and I would oppose giving it if they did, and we have provided in this bill that she shall pay for seven commissioners, just as the New Orleans bill provided, and she stands ready to carry out that contract. This appropriation is only for a Government exhibit and for public buildings for the use and benefit of the Government of the United States. Mr. Chairman, since we have authorized the exposition and invited foreign nations to come and make exhibits there we ought to have an exhibit in keeping with the proprieties of the occasion and the honor and dignity of our country. I want to see every State in the Union represented there.

Let them bring an exhibit of the products of the soil, mines, and factories, and so forth. I want the South to have the greatest cotton exhibit there that the world has ever seen. [Applause.] I want the foreign countries to see what we produce from the soil of the South and I want them to know something of the multiplied uses to which cotton is put and the myriad blessings that come from the lavish use of it as wearing apparel and other purposes. I believe that that exposition will redound to our everlasting benefit by bringing about happier relations with foreign countries, help us commercially with the nations of the earth, and aid us to promote peace the world over. [Loud applause.]

Now, Mr. Chairman, I want to say that considerable time has been consumed in discussing this measure. Both sides have been heard, and in order that we may take the bill up for amendments under the five-minute rule it is necessary to close general debate. I therefore move that the committee do now rise.

The CHAIRMAN. The question is on the motion of the gentleman from Alabama [Mr. HEFLIN], that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. JAMES, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 27876) to provide for the participation of the United States in the Panama-Pacific International Exposition, and had come to no resolution thereon.

Mr. COLLIER and Mr. HEFLIN rose.

Mr. SISSON. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from Mississippi [Mr. SISSON] moves that the House do now adjourn.

Mr. HEFLIN. Mr. Speaker, I hope the gentleman will withdraw that motion.

The SPEAKER. The question is on agreeing to the motion to adjourn.

Mr. KAHN. Pending that, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Pending that, there is a motion to adjourn.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. HEFLIN. A division. Mr. Speaker.

The House divided; and there were—ayes 74, noes 66.

Mr. HEFLIN. Mr. Speaker, I demand tellers.

Tellers were ordered, and the Speaker appointed Mr. HEFLIN and Mr. SISSON.

The House again divided; and the tellers reported—ayes 79, noes 67.

Mr. CULLOP. The yeas and nays, Mr. Speaker.

The question being taken on ordering the yeas and nays, the Speaker, after counting, announced 23 ayes.

Mr. CULLOP. The other side.

The SPEAKER. The gentleman from Indiana demands the other side. [After counting.] Ninety-seven in the negative. On the demand for the yeas and nays the ayes are 23, the noes are 97—not a sufficient number seconding the demand—and the yeas and nays are refused.

Mr. KAHN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. KAHN. I ask unanimous consent that I may revise and extend my remarks in the RECORD.

The SPEAKER. The gentleman from California asks unanimous consent to revise and extend his remarks in the RECORD. Is there objection?

There was no objection.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 8151. An act providing for the adjustment of the grant of lands in aid of the construction of the Corvallis and Yaquina Bay military wagon road, and of conflicting claims to lands within the limits of said grant;

H. R. 12813. To refund duties collected on lace-making and other machines and parts or accessories thereof imported subsequently to August 5, 1909, and prior to January 1, 1911;

H. R. 25741. Amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909;

H. R. 26549. To provide for the construction or purchase of motor boat for customs service;

H. R. 15181. For the relief of Harry S. Wade;

H. R. 24365. Providing for taking over by the United States Government of the Confederate cemetery at Little Rock, Ark.;

H. R. 20385. To reimburse Charles S. Jackson;

H. R. 2359. To refund certain tonnage taxes and light dues;

H. R. 27157. Granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois; and

H. R. 23351. To amend an act entitled "An act to provide for an enlarged homestead."

ADJOURNMENT.

The SPEAKER. On the motion to adjourn, the ayes are 79, the noes are 66. The ayes have it.

Accordingly (at 6 o'clock and 35 minutes p. m.) the House adjourned until Thursday, February 6, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, a letter from the Secretary of the Treasury, transmitting copy of a communication from Col. Spencer Cosby, executive and disbursing officer, Lincoln Memorial Commission, submitting estimate of appropriation for commencing work for the erection of the Lincoln memorial (H. Doc. No. 1244), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. PALMER, from the Committee on Ways and Means, to which was referred the bill (H. R. 25283) to permit the manufacture of denatured alcohol by mixing domestic and wood alcohol while in process of distillation, reported the same without amendment, accompanied by a report (No. 1445), which said bill and report were referred to the House Calendar.

Mr. STEPHENS of Texas, from the Committee on Indian Affairs, to which was referred the bill (H. R. 28191) authorizing the extension of payments on certain town lots in the Kiowa, Comanche, and Apache ceded lands in Oklahoma, reported the same with amendment, accompanied by a report (No. 1444), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DYER, from the Committee on Industrial Arts and Expositions, to which was referred the resolution (H. Res. 799) providing for the appointment of a committee of the House of Representatives to attend and represent the House at the dedication and unveiling of a memorial statue to Thomas Jefferson at St. Louis, Mo., April 30, 1913, in commemoration of the acquisition of the Louisiana Territory, reported the same without amendment, accompanied by a report (No. 1442), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. KNOWLAND, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 3625) for the purchase or construction of a launch for the customs service at and in the vicinity of Los Angeles, Cal., reported the same with amendment, accompanied by a report (No. 1443), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. WOODS of Iowa: A bill (H. R. 28635) to amend section 81 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, and for other purposes; to the Committee on the Judiciary.

By Mr. SLAYDEN: A bill (H. R. 28641) to provide for a tax on high explosives, and for other purposes; to the Committee on Ways and Means.

By Mr. COVINGTON: A bill (H. R. 28642) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORE of Pennsylvania: A bill (H. R. 28643) to incorporate the Mothers' Day International Association; to the Committee on the Judiciary.

By Mr. HAYDEN: Resolution (H. Res. 811) referring the bill (H. R. 27001) authorizing the Shoshone Tribe of Indians residing on the Wind River Reservation in Wyoming to submit claims to the Court of Claims; to the Committee on Indian Affairs.

By Mr. DENVER: Resolution (H. Res. 812) authorizing the Clerk of the House, during the remainder of the present session, to employ such additional clerical help as may be needed in the enrolling room, to be paid out of the contingent fund; to the Committee on Accounts.

By Mr. KINDRED: Resolution (H. Res. 813) requesting the Secretary of State to furnish information relative to alleged atrocities in the rubber fields of Peru; to the Committee on Foreign Affairs.

By Mr. CLAYTON: Resolution (H. Res. 814) relative to consideration of House bill providing for compensation of clerks of United States district courts; to the Committee on Rules.

By Mr. CALDER: Joint resolution (H. J. Res. 393) authorizing and directing the President of the United States to issue medals to the survivors of the Battle of Gettysburg; to the Committee on Military Affairs.

By Mr. HAWLEY: Memorial from the Legislature of the State of Oregon, favoring House bill 14053, increasing the pensions of Indian war veterans from $8 to $30 per month; to the Committee on Pensions.

Also, a memorial from the Legislature of the State of Oregon, favoring the enactment of Senate bill 6109 of the Sixty-second Congress; to the Committee on Agriculture.

Also, a memorial from the Legislature of the State of Oregon, favoring the enactment of a Federal law for the protection of migratory birds; to the Committee on Agriculture.

Also, a memorial from the Legislature of the State of Oregon, making application to Congress under provisions of Article V of the Constitution of the United States for the calling of a convention to propose an amendment prohibiting polygamy in the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARTHOLDT: A bill (H. R. 28636) granting a pension to Elizabeth Maurer; to the Committee on Invalid Pensions.

By Mr. FIELDS: A bill (H. R. 28637) for the relief of the estate of Ann S. Jackson; to the Committee on War Claims.

By Mr. RAINEY: A bill (H. R. 28638) granting a pension to Sarah M. Sullens; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 28639) granting an increase of pension to Mary T. Frank; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 28640) for the relief of Frank Hodges; to the Committee on Claims.

By Mr. ANDRUS: A bill (H. R. 28644) for the relief of the estate of William Wheeler Hubbell; to the Committee on Claims.

By Mr. McKELLAR: A bill (H. R. 28645) for the relief of the deacons of the Missionary Baptist Church, of Toone, Tenn.; to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALEXANDER: Petition of the faculty and students of the William Jewell College, Liberty, Mo., favoring the passage of legislation providing sufficient funds for the suppression of the white-slave traffic; to the Committee on Appropriations.

By Mr. ASHBROOK: Petition of Nashville Grange, No. 1851, Lakeville, Ohio, protesting against the passage of House bill 20196, for removal of the tax on colored oleomargarine; to the Committee on Agriculture.

By Mr. BARTHOLDT: Petitions of W. A. Ferrell, of Webster Grove; J. C. Strauss, E. W. La Beaume, A. Hilton, R. E. McLaughlin, the Central Gun Club, J. T. H. Gunner, Herbert L. Gardner, Claude Kilpatrick, the Cuiove Island Club, W. E. Walker, Theodore G. Roeham, and 8 other citizens of St. Louis, all in the State of Missouri, favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the Campbell Glass & Paint Co., St. Louis, Mo., protesting against the passage of House bill 27492, relative to the branding of imitation articles or goods for sale; to the Committee on Interstate and Foreign Commerce.

Also, petition of Thineas Towne, St. Louis, Mo., favoring the passage of legislation granting pensions to the veterans of the various Indian wars; to the Committee on Pensions.

Also, petition of the Central Trades and Labor Union, St. Louis, Mo., praying for the passage of legislation for the investigation of the Philadelphia dynamite case; to the Committee on the Judiciary.

Also, petition of Henry A. Everett, Cleveland, Ohio, favoring the passage of House bill 26939, providing for the erection of a

pearl station at the Panama Canal; to the Committee on the Library.

Also, petition of Commander C. J. Jones, of St. Louis Camp of the National Indian War Veterans, of St. Louis, Mo., favoring the passage of legislation granting pensions to veterans of the various Indian wars; to the Committee on Pensions.

Also, petition of the Henry Heil Chemical Co., St. Louis, Mo., favoring the passage of legislation for removing the tariff on earthenware and clay crucibles; to the Committee on Ways and Means.

Also, petition of the Missouri Game and Fish League, St. Louis, Mo., favoring the passage of the Weeks bill (H. R. 36) for granting Federal protection to migratory birds; to the Committee on Agriculture.

Also, petition of J. F. Imbs, St. Louis, Mo., relative to the prejudiced effect of the present tariff on the milling industry; to the Committee on Ways and Means.

Also, petition of the Eddy & Eddy Manufacturing Co. and the Roth-Homeyer Coffee Co., St. Louis, Mo., protesting against the passage of legislation for a reduction of duty on spices; to the Committee on Ways and Means.

Also, petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Steamboat Managers' Association, St. Louis, Mo., favoring the passage of bills (H. R. 19405, 19406, 19407) providing for an increase of salary to the members of the Steamboat-Inspection Service; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Association of Master Plumbers, the Moore-Jones Metal & Brass Co., the Wesco Supply Co., the Reinhard Grocer Co., the Bascom Wire & Paper Co., and the Lungstras Dyeing & Cleaning Co., of St. Louis, Mo., and H. T. Abernathy, Kansas City, Mo., favoring the passage of House bill 27567, for a 1-cent letter postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the Farley Harvey Dry Goods Co., Boston, Mass.; Rev. T. N. Pelonbet, A. L. Goodrich, Horace Dutton, and Rev. William C. Gordon, Auburndale, Mass.; Olin F. Herrick, Boston, Mass.; and Arthur W. Kelly, Auburndale, Mass., all favoring the passage of House joint resolution 100—the anti-conquest resolution; to the Committee on Foreign Affairs.

By Mr. BATES: Petition of the Board of Trade of Erie, Pa., and School No. 17 of the school district of Erie, Pa., both favoring the passage of the McLean bill granting Federal protection to migratory birds; to the Committee on Agriculture.

Also, petition of L. E. White, A. W. McClintock, and James L. Swickard, Meadville, Pa., favoring the passage of the amended Kenyon bill for preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. DWIGHT: Petition of 3 citizens of Cortland, N. Y., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. DYER: Petition of the American Federation of Labor, Washington, D. C., favoring the passage of the Federal workingmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the Missouri House of Representatives, in favor of the passage of legislation for Federal aid in the building of roads; to the Committee on the Post Office and Post Roads.

Also, petition of the International Reform Bureau (Inc.), favoring the passage of an amended bill to close the Panama-Pacific International Exposition on Sunday; to the Committee on Appropriations.

By Mr. FULLER: Petition of 33 citizens of Rockford, Ill., favoring the passage of the Webb-Sheppard bill (H. R. 17593) preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. HAYES: Petition of M. S. Wildman, Stanford University, Cal., favoring the passage of the Crawford-Sulzer bill providing for the calling of an international conference on the high cost of living; to the Committee on Foreign Affairs.

Also, petition of J. P. Pryor, Pacific Grove, Cal., favoring the passage of House bill 1309, for the establishment of a council of national defense; to the Committee on Naval Affairs.

Also, petition of the General Federation of Women's Clubs, protesting against the passage of any legislation tending to destroy the present system of national forest preservation; to the Committee on Agriculture.

Also, petition of David A. Curry, John S. Washburn, William Sells, jr., Palo Alto, Cal., favoring the passage of legislation granting 10-year concessions for camp sites in the Yosemite Valley; to the Committee on the Public Lands.

Also, petition of the Associated Societies of California, Berkeley, Cal., favoring the passage of the McLean bill granting Federal protection to migratory birds; to the Committee on Agriculture.

By Mr. McKELLAR: Papers to accompany bill for the relief of the deacons of the Missionary Baptist Church, of Toone, Tenn.; to the Committee on War Claims.

By Mr. KINDRED: Petition of openers and packers of the United States appraiser's stores, port of New York, favoring the passage of legislation for the increase of salary for the openers and packers of the United States, port of New York; to the Committee on Appropriations.

Also, petition of the Allied Printing Trades Council of Greater New York, protesting against the adoption of the amendment of the Bourne parcel-post bill, making it optional whether user shall send by mail 2 cents per pound or by freight 1 cent; to the Committee on the Post Office and Post Roads.

By Mr. LINDSAY: Petition of James S. Monroe & Co., Boston, Mass., and the Pratt Institute, Brooklyn, N. Y., favoring the passage of Senate bill 3, for granting Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the California Club, San Francisco, Cal., favoring the passage of legislation making sufficient appropriation for the suppression of the white-slave traffic; to the Committee on Appropriations.

By Mr. MOORE of Pennsylvania: Petition of the West Branch of the Young Men's Christian Association of Pennsylvania, favoring the passage of the Kenyon red-light injunction bill, to clean up Washington for inauguration; to the Committee on the District of Columbia.

By Mr. O'SHAUNESSY: Petition of the Navy League of the United States, Washington, D. C., favoring the passage of House bill 1309, for the establishment of a council of national defense; to the Committee on Naval Affairs.

By Mr. PRINCE: Petition of Rev. W. H. Wetter and others, of Farmington, Ill., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. RAKER: Petition of Ernest T. Seton, Greenwich, Conn., favoring the passage of the McLean bill, for granting Federal protection to migratory birds; to the Committee on Agriculture.

By Mr. ROBERTS of Massachusetts: Petition of J. W. Hutchins and others, of Malden, Mass., favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of J. W. Hutchens and others, favoring the passage of the Kenyon red-light injunction bill, to clean up Washington for the inauguration; to the Committee on the District of Columbia.

SENATE.

THURSDAY, *February 6, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. PAYNTER. Mr. President, yesterday I made an announcement that I would address the Senate at the close of the routine morning business to-day on Senate bill 4043, to prohibit interstate commerce in intoxicating liquors in certain cases; but the Senator from Ohio [Mr. BURTON] did not complete his speech yesterday, so I give notice that I will address the Senate to-morrow at that time, and will give way to the Senator from Ohio to finish his remarks to-day.

SENATOR FROM IDAHO.

Mr. BORAH. Mr. President, I present the credentials of JAMES H. BRADY, chosen by the Legislature of the State of Idaho a Senator from that State, and ask that they be read.

The PRESIDENT pro tempore. The credentials will be read.

The credentials of JAMES H. BRADY, chosen by the Legislature of the State of Idaho a Senator from that State for the remaining portion of the term of Hon. WELDON B. HEYBURN, deceased, ending March 4, 1915, were read and ordered to be filed.

Mr. BORAH. The Senator elect is in the Chamber and ready to take the oath of office.

The PRESIDENT pro tempore. The Senator elect will present himself at the desk for that purpose.

Mr. BRADY was escorted to the Vice President's desk by Mr. BORAH, and the oath prescribed by law having been administered to him, he took his seat in the Senate.

SENATOR FROM RHODE ISLAND.

Mr. WETMORE. Mr. President, I present the credentials of LE BARON B. COLT, chosen by the General Assembly of the State of Rhode Island and Providence Plantations a Senator from that State for the term beginning March 4, 1913, and ask that they be read and filed.

The PRESIDENT pro tempore. The credentials will be read.

The credentials of LE BARON BRADFORD COLT, chosen by the Legislature of the State of Rhode Island a Senator from that State for the term beginning March 4, 1913, were read and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. NELSON presented a memorial of sundry students of the Maplewood Academy, Maple Plain, Minn. remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. BRISTOW presented a petition of sundry citizens of Windom, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. MYERS presented a memorial of the congregation of the Seventh-day Adventist Church of Hamilton, Mont., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. ASHURST presented a resolution adopted by the Chamber of Commerce of Prescott, Ariz., favoring a reduction of the rate of postage on first-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

Mr. ROOT presented a petition of the congregation of the Fifth Avenue Methodist Episcopal Church, of Troy, N. Y., and a petition of the Ministerial Circle of Classes of Rochester, N. Y., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. PERKINS presented resolutions adopted by the Chamber of Commerce of San Francisco, Cal., favoring the exemption from tolls of American coastwise ships passing through the Panama Canal, which were ordered to lie on the table.

He also presented a memorial of the congregation of the Seventh-day Adventist Church of California, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

REPORTS OF COMMITTEE ON PUBLIC LANDS.

Mr. JONES, from the Committee on Public Lands, to which was referred the bill (S. 2622) to authorize the city of Everett, Wash., to purchase certain lands for the securing, establishment, maintenance, and protection of a source of water supply for said city, reported it without amendment and submitted a report (No. 1192) thereon.

Mr. SMOOT, from the Committee on Public Lands, to which was referred the bill (S. 6402) to authorize the issuance of absolute and unqualified patents to public lands in certain cases, reported it without amendment and submitted a report (No. 1193) thereon.

He also, from the same committee, to which was referred the bill (S. 7752) for the relief of Joseph Hodges, reported it with an amendment and submitted a report (No. 1194) thereon.

EMPLOYMENT OF STENOGRAPHER.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred S. Res. 446, submitted by himself on the 3d instant, reported favorably thereon, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay for a stenographer to a Senator who is not chairman of a committee, at $1,200 per annum, from February 3, 1913, to be paid from the contingent fund of the Senate until expiration of the present Congress.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BRANDEGEE:

A bill (S. 8390) to provide for the erection of a public building at Seymour, in the State of Connecticut; to the Committee on Public Buildings and Grounds.

By Mr. SMITH of Michigan:

A bill (S. 8391) granting an honorable discharge to Henry S. Hunter; to the Committee on Military Affairs.

A bill (S. 8392) granting an increase of pension to Louisa M. Buchanan;

A bill (S. 8393) granting an increase of pension to Joseph Hadden;

A bill (S. 8394) granting a pension to Marcus W. Bates (with accompanying papers);

A bill (S. 8395) granting an increase of pension to Minerla Beeman (with accompanying papers); and

A bill (S. 8396) granting a pension to Isolina M. Forbes (with accompanying papers); to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 8397) granting an increase of pension to Otis Crawford (with accompanying papers); to the Committee on Pensions.

By Mr. NEWLANDS:

A bill (S. 8398) to amend an act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone," approved August 24, 1912; to the Committee on Interoceanic Canals.

A joint resolution (S. J. Res. 159) regarding the Panama Canal tolls; to the Committee on Interoceanic Canals.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. O'GORMAN submitted an amendment providing for the survey of the Upper Bay, with a view to improving the channel opposite anchorage grounds, New York Harbor, N. Y., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. FLETCHER submitted an amendment proposing to appropriate $10,000 to collect, collate, and publish statistics relating to the turpentine and rosin industry, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. MARTINE of New Jersey submitted an amendment proposing to appropriate $45,000 for the improvement of Absecon Inlet, N. J., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also (for Mr. BRIGGS) submitted an amendment providing for a survey of Raccoon Creek, N. J., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. LODGE submitted an amendment providing for a preliminary examination and survey of Salem Harbor, Mass., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. BANKHEAD submitted an amendment providing that harbors within municipalities along the Mississippi River and on watercourses in connection therewith shall be improved by the Mississippi River Commission upon such municipality or municipalities paying one-half of the cost thereof to the commission, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. JONES submitted an amendment proposing to appropriate $30,000 for paving with sheet asphalt K Street north, between Washington Circle and the bridge at Twenty-eighth Street west, intended to be proposed by him to the District of Columbia appropriation bill, which was ordered to be printed and, with the accompanying papers, referred to the Committee on Appropriations.

Mr. BACON submitted an amendment proposing to appropriate $8,000 for improving Fancy Bluff Creek, connecting Turtle River and Brunswick Harbor with Little Satilla River, Ga., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

DEPARTMENT OF LABOR.

Mr. BORAH. I desire to give notice that to-morrow after the close of the routine morning business I will ask the Senate to consider the bill (H. R. 22913) to create a department of labor.

COMMITTEE SERVICE.

Mr. GALLINGER submitted the following resolution, which was read, considered by unanimous consent, and agreed to:

Resolved, That Mr. BRADY be assigned to service on and to the chairmanship of the Committee on National Banks; and to service on the Committees on Agriculture and Forestry, Coast and Insular Survey, Expenditures in the Department of Commerce and Labor, and Military Affairs.

CHARLES H. ARBUCKLE AND BESSIE VON HARTEN.

Mr. BRISTOW submitted the following resolution (S. Res. 453), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay, out of the contingent fund of the Senate, to Charles H. Arbuckle, who served as clerk to the Hon. Kirtland I. Perky, Senator from Idaho, from January 25 to February 6, 1913, the sum of $66.67, being at the rate of compensation now paid to clerks to Senators, and to Bessie Von Harten, who served as stenographer to Senator Perky for the same period, the sum of $40, being at the rate of compensation now paid to stenographers to Senators.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

Mr. OVERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from North Carolina suggests the absence of a quorum. The Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	Lippitt	Smith, Ariz.
Bacon	Cummins	Lodge	Smith, Ga.
Bankhead	Curtis	McCumber	Smith, Mich.
Borah	Dillingham	Martin, Va.	Smith, S. C.
Bourne	Fletcher	Martine, N. J.	Smoot
Brady	Gallinger	Myers	Stephenson
Brandegee	Gamble	Nelson	Sutherland
Bristow	Gardner	O'Gorman	Thomas
Brown	Gronna	Oliver	Thornton
Burnham	Guggenheim	Overman	Tillman
Burton	Hitchcock	Page	Townsend
Catron	Jackson	Paynter	Webb
Chilton	Johnston, Ala.	Perkins	Wetmore
Clapp	Jones	Pomerene	Williams
Clark, Wyo.	Kavanaugh	Root	Works
Clarke, Ark.	Kenyon	Sheppard	
Crane	Lea	Simmons	

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. FOSTER] on account of serious illness in his family, and also that he is paired with the junior Senator from Wyoming [Mr. WARREN]. I ask that this announcement may stand for the day.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 66 Senators have responded to their names, and a quorum of the Senate is present. The Senator from Massachusetts moves that the Senate proceed to the consideration of executive business. [Putting the question.] The noes appear to have it.

Mr. McCUMBER and Mr. SMOOT called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. For the day I transfer that pair to the junior Senator from Nevada [Mr. MASSEY] and will vote. I vote "yea."

Mr. GALLINGER (when Mr. CULLOM's name was called). I beg to announce that the Senator from Illinois [Mr. CULLOM] is detained from the Chamber by illness.

Mr. SMITH of Michigan (when his name was called). I am paired with the junior Senator from Missouri [Mr. REED]. I transfer that pair to the Senator from New Mexico [Mr. FALL] and will vote. I vote "yea." I desire this announcement to stand for the day.

Mr. SMITH of South Carolina (when his name was called). I have a pair with the Senator from Delaware [Mr. RICHARDSON]. I transfer that pair to the Senator from Nevada [Mr. NEWLANDS] and will vote. I vote "nay."

Mr. WILLIAMS (when his name was called). I transfer my pair with the Senator from Pennsylvania [Mr. PENROSE] to the Senator from Oklahoma [Mr. GORE] and will vote. I vote "nay."

The roll call was concluded.

Mr. CHILTON. I desire to transfer my pair with the Senator from Illinois [Mr. CULLOM] to the Senator from Oklahoma [Mr. OWEN] and to vote. I vote "nay."

While I am on my feet I wish to announce the pair of my colleague [Mr. WATSON] with the Senator from New Jersey [Mr. BRIGGS]. I ask that this announcement may stand for the day.

Mr. CULBERSON. I inquire if the Senator from Delaware [Mr. DU PONT] has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not.

Mr. CULBERSON. I transfer my general pair with that Senator to the Senator from Maryland [Mr. SMITH] and will vote. I vote "nay."

Mr. HITCHCOCK. I desire to announce that the junior Senator from Indiana [Mr. KERN] is absent from the Chamber on public business, and is paired with the Senator from Kentucky [Mr. BRADLEY].

Mr. SMOOT. I desire to announce that the Senator from New York [Mr. ROOT] is paired with the Senator from Indiana [Mr. SHIVELY]. The Senator from New York is unavoidably detained from the Senate.

Mr. OLIVER (after having voted in the affirmative). I inquire if the junior Senator from Oregon [Mr. CHAMBERLAIN] has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not.

Mr. OLIVER. I have a general pair with that Senator, and I therefore withdraw my vote.

I wish to announce that my colleague [Mr. PENROSE] is detained from the Chamber on account of illness.

The result was announced—yeas 36, nays 34, as follows:

YEAS—36.

Borah	Clark, Wyo.	Guggenheim	Page
Bourne	Crane	Jackson	Perkins
Brady	Crawford	Jones	Smith, Mich.
Brandegee	Cummins	Kenyon	Smoot
Brown	Curtis	Lippitt	Stephenson
Burnham	Dillingham	Lodge	Sutherland
Burton	Gallinger	McCumber	Townsend
Catron	Gamble	McLean	Wetmore
Clapp	Gronna	Nelson	Works

NAYS—34.

Ashurst	Gardner	O'Gorman	Smith, S. C.
Bacon	Hitchcock	Overman	Swanson
Bankhead	Johnson, Me.	Paynter	Thomas
Bristow	Johnston, Ala.	Poindexter	Thornton
Bryan	Kavanaugh	Pomerene	Tillman
Chilton	Lea	Sheppard	Webb
Clarke, Ark.	Martin, Va.	Simmons	Williams
Culberson	Martine, N. J.	Smith, Ariz.	
Fletcher	Myers	Smith, Ga.	

NOT VOTING—25.

Bradley	Foster	Owen	Smith, Md.
Briggs	Gore	Penrose	Stone
Chamberlain	Kern	Percy	Warren
Cullom	La Follette	Reed	Watson
Dixon	Massey	Richardson	
du Pont	Newlands	Root	
Fall	Oliver	Shively	

So the motion was agreed to, and the Senate proceeded to the consideration of executive business. After four hours spent in executive session the doors were reopened, and (at 4 o'clock and 30 minutes p. m.) the Senate adjourned until to-morrow, Friday, February 7, 1913, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate February 6, 1913.

PROMOTION IN THE ARMY.

INFANTRY ARM.

Second Lieut. Edwin C. McNeil, Fourteenth Infantry, to be first lieutenant from February 4, 1913, vice First Lieut. Calvert L. Davenport, Nineteenth Infantry, retired from active service February 3, 1913.

APPOINTMENTS IN THE NAVY.

TO BE ASSISTANT SURGEONS IN THE MEDICAL RESERVE CORPS FROM THE DATES SET OPPOSITE THEIR NAMES.

J. Forrest Burnham, citizen of Massachusetts, January 23, 1913.

Adolphus B. Bennett, citizen of District of Columbia, January 25, 1913.

Charles A. Simpson, citizen of District of Columbia, January 25, 1913.

William S. Bainbridge, citizen of New York, January 25, 1913.

Homer G. Fuller, citizen of District of Columbia, January 27, 1913.

Louis C. Lehr, citizen of Maryland, January 27, 1913.

James J. Richardson, citizen of District of Columbia, January 31, 1913.

William G. Morgan, citizen of District of Columbia, January 31, 1913.

PROMOTIONS IN THE NAVY.

Pharmacist Oscar G. Ruge to be a chief pharmacist in the Navy from the 15th day of January, 1913, upon the completion of six years' service, in accordance with a provision contained in an act of Congress approved August 22, 1912.

Arthur H. Turner, a citizen of Pennsylvania, to be a second lieutenant in the Marine Corps from the 30th day of January, 1913, to fill a vacancy.

POSTMASTERS.

ALABAMA.

William Wagner to be postmaster at Atmore, Ala., in place of William Wagner. Incumbent's commission expired December 16, 1912.

CALIFORNIA.

George B. Hannahs to be postmaster at San Jacinto, Cal., in place of George B. Hannahs. Incumbent's commission expires February 20, 1913.

Peter J. McFarlane to be postmaster at Tehachapi, Cal., in place of Peter J. McFarlane. Incumbent's commission expired January 22, 1913.

DELAWARE.

John R. Black to be postmaster at Milton, Del., in place of John R. Black. Incumbent's commission expired December 17, 1912.

Irwin M. Chipman to be postmaster at Seaford, Del., in place of Irwin M. Chipman. Incumbent's commission expired January 18, 1913.

Frank F. Davis to be postmaster at Laurel, Del., in place of Frank F. Davis. Incumbent's commission expired December 16, 1912.

Thomas Jefferson to be postmaster at Smyrna, Del., in place of Thomas Jefferson. Incumbent's commission expired January 9, 1912.

George W. Vantine to be postmaster at New Castle, Del., in place of George W. Vantine. Incumbent's commission expired May 27, 1912.

IDAHO.

Ferdinand Beckman to be postmaster at Troy, Idaho, in place of Ferdinand Beckman. Incumbent's commission expired January 22, 1913.

ILLINOIS.

F. E. Herold to be postmaster at Hamilton, Ill., in place of F. E. Herold. Incumbent's commission expires February 9, 1913.

IOWA.

Levi M. Black to be postmaster at Ireton, Iowa, in place of Levi M. Black. Incumbent's commission expired January 24, 1909.

MISSISSIPPI.

R. D. Porter to be postmaster at Tupelo, Miss., in place of Dozier Anderson. Incumbent's commission expired December 16, 1912.

OHIO.

Elmer L. Godwin to be postmaster at West Mansfield, Ohio, in place of Elmer L. Godwin. Incumbent's commission expired May 16, 1912.

TEXAS.

Richard L. Coleman to be postmaster at Rusk, Tex., in place of Richard L. Coleman. Incumbent's commission expired January 27, 1913.

Charles M. Diller to be postmaster at Alto, Tex., in place of Charles M. Diller. Incumbent's commission expired January 27, 1913.

VERMONT.

Henry S. Webster to be postmaster at Orleans, Vt., in place of Henry S. Webster. Incumbent's commission expired January 11, 1913.

WEST VIRGINIA.

Joseph Williams to be postmaster at St. Marys, W. Va., in place of Joseph Williams. Incumbent's commission expired January 6, 1913.

WISCONSIN.

Thomas Gander to be postmaster at Soldiers Grove, Wis., in place of Thomas Gander. Incumbent's commission expires March 1, 1913.

James E. Harris to be postmaster at Prairie du Chien, Wis., in place of James E. Harris. Incumbent's commission expires March 2, 1913.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February 6, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Eternal God our heavenly Father, the same yesterday, to-day, and forever, help us with renewed confidence in Thee and in the gifts Thou hast bestowed upon us, to go forward to the tasks of the new day that we may work out our own salvation with fear and trembling, assured that it is God which worketh in us both to will and to do of His good pleasure. And Thine be the praise through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

COLORADO SPRINGS AND MANITOU WATER SUPPLY.

The SPEAKER laid before the House the bill H. R. 23293, an act for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., with Senate amendments.

The Senate amendments were read.

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent that the House disagree to the Senate amendments and ask for a conference.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER appointed as conferees on the part of the House Mr. FERRIS, Mr. GRAHAM, and Mr. VOLSTEAD.

AGRICULTURAL EXTENSION DEPARTMENTS.

The SPEAKER laid before the House the bill H. R. 22871, an act to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefit of an act of Congress approved July 2, 1862, and of acts supplementary thereto, with a Senate amendment.

Mr. LEVER. Mr. Speaker, I ask unanimous consent to disagree to the Senate amendment and ask for a conference.

The SPEAKER. The gentleman from South Carolina asks unanimous consent to disagree to the Senate amendment and ask for a conference. Is there objection?

There was no objection.

The SPEAKER appointed as conferees on the part of the House Mr. LAMB, Mr. LEVER, and Mr. HAUGEN.

COMBINATIONS IN RESTRAINT OF TRADE, WITH REFERENCE TO IMPORTATIONS.

The SPEAKER laid before the House the bill (H. R. 25602, an act to amend section 73 and section 76 of the act of August 27, 1894, with Senate amendments.

The Senate amendments were read.

Mr. NORRIS. Mr. Speaker, I move to concur in the Senate amendments.

The motion was agreed to.

HEIRS OF SAMUEL SCHIFFER.

The SPEAKER laid before the House the bill H. R. 8861, an act for the relief of the legal representatives of Samuel Schiffer, with a Senate amendment.

The Senate amendment was read.

The SPEAKER. Is there objection to the present consideration of the amendment?

Mr. SHERLEY. Mr. Speaker, I would like to have some explanation by the gentleman.

The SPEAKER. The gentleman from Kentucky reserves the right to object, and asks for an explanation.

Mr. MORSE of Wisconsin. Mr. Speaker, this is a bill for the relief of the heirs of Samuel Schiffer, passed by the House unanimously a little while ago. It comes from the Committee on War Claims. The Senate amended the bill. As it passed the House it carried a direct appropriation of $62,158.34. The Senate amended the bill by referring it to the Court of Claims and giving the court authority to try the case and enter judgment. Now I desire to move to concur in the Senate amendment with an amendment, and the amendment I propose is simply to provide that in no event shall the judgment rendered exceed the sum of $62,158.34, the amount in the House bill.

The SPEAKER. Is there objection?

Mr. ANTHONY. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman what committee that came from in the Senate?

Mr. MORSE of Wisconsin. The Senate Committee on Claims.

Mr. ANTHONY. Is it a fact that the Committee on Claims in the Senate is holding up bills sent over from the House?

Mr. MORSE of Wisconsin. This is a House bill.

Mr. ANTHONY. Are there any Senate bills included in it?

Mr. MORSE of Wisconsin. No; it is purely a House bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. MORSE of Wisconsin. Mr. Speaker, I move that the House concur in the Senate amendment with an amendment which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Add at the end of the Senate amendment the following: "*Provided, however*, That in no event shall the judgment rendered in said cause, if any, exceed the sum of $62,150.34, and the amount of such, if any, when paid to the claimants shall be received by them in full settlement and satisfaction of all claims."

The SPEAKER. The question is on the motion of the gentleman from Wisconsin to concur in the Senate amendment with the amendment which the Clerk has just reported.

The question was taken, and the motion was agreed to.

STANDING ROCK INDIAN RESERVATION, NORTH AND SOUTH DAKOTA.

Mr. STEPHENS of Texas. Mr. Speaker, I call up the conference report on the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriations and provisions to carry the same into effect, and I move to agree to the same. I ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. The gentleman from Texas calls up a conference report and asks unanimous consent that the statement be read in lieu of the report. Is there objection?

There was no objection.

The conference report is as follows:

CONFERENCE REPORT (NO. 1430).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with the following amendments:

Page 3 of the amendment, line 21, after the word "said" strike out the word "reservations" and insert in lieu thereof the word "reservation."

Page 6 of the amendment, line 4, after the word "entry" strike out the word "six" and insert in lieu thereof the word "five."

Page 6 of the amendment, line 8, strike out the first two words of said line, to wit, "four dollars," and insert in lieu thereof the words "three dollars and fifty cents," and the House agree to the same.

JNO. H. STEPHENS,
SCOTT FERRIS,
CHAS. H. BURKE,
Managers on the part of the House.

MOSES E. CLAPP,
PORTER J. MCCUMBER,
HENRY F. ASHURST,
Managers on the part of the Senate.

The Clerk read the statement as follows:

STATEMENT.

The amendments agreed to in conference are: Changing the word "reservations," in section 2 of the amendment, page 3, line 21, to "reservation"; and in section 4, page 6, line 4, the price of the land is reduced from $6 to $5 per acre; and in line 8 of same page, reducing the price of the land from $4 to $3.50 per acre.

JNO. H. STEPHENS,
SCOTT FERRIS,
CHAS. H. BURKE,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

FREDERICK H. FERRIS.

The SPEAKER laid before the House the bill (H. R. 21524) for the relief of Frederick H. Ferris, with a Senate amendment thereto.

The Clerk read the Senate amendment.

Mr. MANN. Mr. Speaker, at the request of my colleague [Mr. PRINCE], who has charge of the bill, I move to concur in the Senate amendment.

The motion was agreed to.

REPRINT OF A SPEECH.

Mr. SAUNDERS. Mr. Speaker, I ask unanimous consent that the remarks I have printed this morning in relation to the District bill be reprinted to-morrow, as the printer seems to have gotten the copy confused.

The SPEAKER. The gentleman from Virginia asks unanimous consent to have his speech on the District of Columbia bill reprinted and corrected. Is there objection?

There was no objection.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. BURLESON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 28499, the District of Columbia appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 28499, the District of Columbia appropriation bill, with Mr. RODDENBERY in the chair.

Mr. JOHNSON of Kentucky. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The CHAIRMAN. Will the gentleman from Kentucky please state to what page and line this amendment is offered?

Mr. JOHNSON of Kentucky. Mr. Chairman, it is not important to what page or line it is offered. It is relative to the sinking fund and interest. It might be well that the amendment go at the foot of page 67, where that item was stricken from the original bill.

Mr. BURLESON. Mr. Chairman, the amendment can be offered just as well on page 98, before line 1.

Mr. JOHNSON of Kentucky. Very well.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 98, by inserting before line 1 the following:

"INTEREST AND SINKING FUND.

"And there is hereby appropriated out of the proportional sum which the United States may contribute toward the expenses of the District of Columbia, in pursuance of the act of Congress approved June 11, 1878, for the fiscal year ending June 30, 1879, and annually thereafter, such sums as will, with the interest thereon at the rate of 3.65 per cent per annum, be sufficient to pay the principal of the 3.65 bonds of the District of Columbia issued under the act of Congress approved June 20, 1874, at maturity, which said sums the Secretary of the Treasury shall annually invest in said bonds at not exceeding the par value thereof, and all bonds so redeemed shall cease to bear interest and shall be canceled and destroyed in the same manner that United States bonds are canceled and destroyed. (Vol. 20, p. 410, U. S. Stat.)

"Hereafter the Secretary of the Treasury shall pay the interest on the 3.65 bonds of the District of Columbia issued in pursuance of the act of Congress approved June 20, 1874, when the same shall become due and payable, and all moneys so paid shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia as hereinbefore provided. (Vol. 20, p. 165, U. S. Stat.)

"For the purpose of meeting the payment of interest and for the purpose of providing for said sinking fund the sum of $975,408, or so much thereof as may be necessary, is hereby appropriated (from the respective funds described in the two acts of Congress above set out), to be charged against the revenues of the District of Columbia, derived from taxes levied and assessed upon the taxable property and privileges of the District of Columbia for the fiscal year ending June 30, 1914."

Mr. BURLESON. Mr. Chairman, upon the amendment I reserve the point of order.

The CHAIRMAN. The gentleman from Texas reserves a point of order upon the amendment offered by the gentleman from Kentucky.

Mr. JOHNSON of Kentucky. Mr. Chairman, I would like to discuss the amendment for just a moment.

The CHAIRMAN. The Chair will inquire of the gentleman from Kentucky if he has a copy of the amendment?

Mr. JOHNSON of Kentucky. No; I did not have one made; I wish I had. Mr. Chairman, the original bill——

The CHAIRMAN. The Chair may possibly exceed the customary exercise of authority that exists or does not exist, but he could not gather the full significance of the somewhat lengthy amendment as read by the gentleman. This is an important matter; a point of order is reserved against it, and if it could be temporarily passed until a copy can be made so members of the committee in charge of the bill and the Chair could have it before them at the time it is under discussion, it seems to the Chair that the Chair and the committee may possibly reach a more correct and speedy conclusion of the matter——

Mr. BURLESON. Mr. Chairman, I will ask unanimous consent that we may conclude the reading of the bill and take up the amendment offered by the gentleman from Kentucky later.

Mr. JOHNSON of Kentucky. Mr. Chairman, I can explain the matter in a very few minutes.

Mr. SAUNDERS. Mr. Chairman, I was going to suggest this in connection with the suggestion of the Chair, and that is instead of having one copy made several copies may be made, so that in connection with the argument on the amendment offered by the gentleman from Kentucky the Chair might have one copy, we might have one copy, and the gentleman from Kentucky one copy. It is only a matter of a few minutes.

Mr. JOHNSON of Kentucky. In a few minutes I can explain what the amendment is to the Chair and anybody else.

Mr. SAUNDERS. But the Chair can not have it, and we want it in connection with our argument.

The CHAIRMAN. The Chair desires to make no innovation, but the Chair is of the opinion that when an important, lengthy amendment is proposed and gentlemen are in doubt as to its wisdom, either as to being proper legislation or as to its being in order, if there is not some reason to the contrary, as a matter of expeditious practice Members of the House interested in it should have convenient access to the text of the matter. It prevents controversy which, we observe, continually arises on the floor of the House or the Committee of the Whole because gentlemen do not fully grasp what the propounders seek, nor can they at all times comprehend and grasp the argument. It tends to cause delay and may be calculated to produce an erroneous ruling thereon. The Chair not only takes the liberty of making this statement in reference to the pending amendment, but likewise to other amendments that are lengthy in their nature and important in their character. The Chair will entertain the request of the gentleman from Texas.

Mr. BURLESON. Mr. Chairman, I ask unanimous consent that we may conclude the reading of the bill and action on such other small amendments that we propose to offer to perfect the bill, and in the meantime the amendment offered by the gentleman from Kentucky may be considered as pending at the point at which it has been offered.

The CHAIRMAN. Is there objection?

Mr. JOHNSON of Kentucky. What is considered as offered?

Mr. MANN. The gentleman's amendment.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the amendment offered by the gentleman from Kentucky may be considered as pending.

Mr. MANN. And the point of order reserved.

The CHAIRMAN. The point of order being reserved thereon and that the same may be taken up for consideration when the reading of the bill shall have been completed. Is there objection?

Mr. BURLESON. And action on certain small amendments.

The CHAIRMAN. Is there objection? [After a pause.] It is so ordered, and the Clerk will read.

Mr. JOHNSON of Kentucky. Mr. Chairman, I believe the main object of the present unprecedented delay is to have some copies made of the amendment which I offered. I take it for granted that it is desired in order to facilitate matters that the clerical force of the House copy this and have it brought right up.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 7. That all laws and parts of laws to the extent that they are inconsistent with this act are repealed.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order upon section 7 of the bill because it is legislation.

Mr. BURLESON. Mr. Chairman, I will state to the gentleman from Kentucky that that section is placed there for the protection of the Government.

Mr. MANN. It ought to go out.

Mr. JOHNSON of Kentucky. Notwithstanding, Mr. Chairman, I make the point of order.

Mr. BURLESON. Well, it undoubtedly is legislation, although it has been carried in every appropriation act——

Mr. JOHNSON of Kentucky. It went out on the point of order last year.

Mr. BURLESON (continuing). With the exception of last year, for 30 years.

Mr. JOHNSON of Kentucky. Will the gentleman concede the point of order?

Mr. BURLESON. I concede it is subject to a point of order.

The CHAIRMAN. The gentleman from Kentucky [Mr. JOHNSON] makes a point of order on the paragraph, and the point of order is conceded by the gentleman from Texas [Mr. BURLESON], in charge of the bill, and therefore the point of order is sustained.

Mr. BURLESON. Mr. Chairman, I ask unanimous consent to return to page 19, for the purpose of offering an amendment.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to return to page 19 of the bill, for the purpose of offering an amendment. Is there objection?

Mr. MANN. Reserving the right to object, what is the amendment?

Mr. BURLESON. On page 19, line 6, after the second word, "materials," insert the words "other than fuel."

Mr. MANN. All right.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 19, line 6, by inserting after the word "material," where it occurs the second time, the words "other than fuel."

Mr. BURLESON. With a comma before the word "other."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BURLESON. Now, Mr. Chairman, I ask to return to page 31, for the purpose of offering an amendment to an item that was passed.

Mr. JOHNSON of Kentucky. Reserving the right to object, I wish to hear what it is.

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] asks unanimous consent to return to page 31 for the purpose of offering an amendment, and the gentleman from Kentucky [Mr. JOHNSON] reserves the right to object until the amendment is reported.

Mr. BURLESON. The amendment is to restore the lines at the top of page 31 that went out on a point of order, with this addition:

Provided, That there shall be paid to the United States from the revenues of the District of Columbia the value of said lands so transferred, and for that purpose the sum of $2,818.50 is appropriated, to be paid wholly out of the revenues of the District of Columbia.

Mr. JOHNSON of Kentucky. I do not object to that.

The CHAIRMAN. The Clerk will report the amendment.

Mr. MANN. The question is on getting permission to return.

Mr. BURLESON. I will state to the gentleman from Illinois that this is a plat of ground that was to be used as an abutment to the bridge that is provided for, and the gentleman from Kentucky [Mr. JOHNSON] said he would have no objection to it provided the District government paid for the plat of ground. I have in my hand a statement from the assessor showing the value of the ground.

Mr. MANN. Do pages 29 and 30 remain in the bill?

Mr. BURLESON. They remain in the bill.

Mr. MANN. I do not object.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Reinsert lines 1 to 6, inclusive, on page 31, as follows:

"And the Chief of Engineers, United States Army, is authorized and directed to transfer to the Commissioners of the District of Columbia the land under his jurisdiction in square 1194 which is necessary, in the judgment of said commissioners, for the construction of the aforesaid bridge and approaches."

With the following proviso:

Provided, That there shall be paid to the United States from the revenues of the District of Columbia the value of said lands so transferred, and for that purpose the sum of $2,818.50 is appropriated, to be paid wholly out of the revenues of the District of Columbia.

Mr. MANN. Mr. Chairman, I reserve a point of order on the amendment. As I understand now, the paragraph relating to the bridge, on pages 29 and 30, remains in the bill.

Mr. BURLESON. In the bill?

Mr. MANN. I understood a moment ago that they were stricken out.

Mr. BURLESON. No, sir; they remain in the bill.

Mr. JOHNSON of Kentucky. My understanding is that pages 29 and 30 went out on a point of order.

Mr. BURLESON. No; there was no point of order directed against those items.

Mr. JOHNSON of Kentucky. The gentleman is right about that. I intended to, and afterwards changed my mind in regard to it.

Mr. MANN. Now is it proposed to have the District to pay out of its own revenues the expense of acquiring the land for this abutment?

Mr. BURLESON. That is the proposition.

Mr. MANN. That is contrary to the half-and-half principle.

Mr. BURLESON. It is. But I want to say to the gentleman from Illinois [Mr. MANN] that we are dealing with this suggestion as we found it. This is the abutment for the bridge.

Mr. MANN. Yes.

Mr. BURLESON. It is a small matter. The entire cost of the two lots is $2,815.50.

Mr. MANN. But it goes along toward establishing a principle which is violative of what some of us believe ought to be maintained as the practice of the House to follow the organic act.

Mr. BURLESON. Oh, there are a number of items in the bill that are not in accordance with the organic act.

Mr. MANN. Oh, there are a few items in the bill, including the playgrounds item, although I was not willing to have it that way when it was established. I am not willing to put on the District of Columbia the entire payment of the cost of any portion of the construction of a bridge in the District of Columbia.

Mr. BURLESON. This is no part of the construction of the bridge.

Mr. MANN. I understand. It is to acquire land on which to place an abutment. I think that is part of the cost of the construction of the bridge; but it is neither here nor there which it is. I shall make the point of order.

Mr. BURLESON. That it is new legislation?

Mr. MANN. That it is legislation. It is all legislation.

Mr. BURLESON. I would state to the gentleman from Illinois that this plat of ground is absolutely necessary if the bridge is to be constructed.

Mr. MANN. I think the bridge ought to be constructed; I will assume that it ought to be constructed. I do not have knowledge on that subject. And I assume that for the construction of a bridge an abutment is necessary, and that for the construction of an abutment the land is necessary, just as necessary as to have police and fire protection in the District of Columbia.

The CHAIRMAN. The Chair desires to ask the gentleman from Illinois if he understood him correctly in maintaining that for the construction of a bridge the abutment is necessary, and for the construction of an abutment an authorization is necessary?

Mr. MANN. Yes. This is pure legislation, authorizing the transfer of land owned by the Government to the District of Columbia. It is clearly legislation.

Mr. BURLESON. I admit that it is legislation, but I sincerely hope that the gentleman from Illinois will not make the point, because it is very important and necessary that this bridge should be constructed.

Mr. MANN. Admitting that that is all true, it is also important that the Government should preserve its proper relation to the District of Columbia, and any expense that is necessary and required in the District of Columbia ought to be paid on the same principle. We need a fire department; we need a police department; we need many things in the District of Columbia. The gentleman might argue with equal force that they should be paid for wholly out of the revenues of the District of Columbia. I think it is to the interest of the Government to maintain the relationship under which we control, through Congress, the government of the District of Columbia, and pay one-half of the public expense of the maintenance of this city. Without that provision the city would not be respectable to live in nor would we have the same pride in it that we have now. I am not willing to assist toward the reversal of that policy by unanimous consent.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] makes the point of order against the amendment because it contains legislation not authorized by law. The Chair sustains the point of order.

Mr. BURLESON. I concede that the point of order is well taken.

Mr. Chairman, I ask unanimous consent to return to page 5 for the purpose of offering an amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] asks unanimous consent to return to page 5 for the purpose of offering an amendment. Is there objection?

Mr. JOHNSON of Kentucky. Reserving the right to object, Mr. Chairman, I wish to ascertain the purpose.

Mr. BURLESON. It was a matter that was passed by agreement, with a point of order pending against it, on account of the words "and $500 additional as chairman of the excise and personal-tax boards," beginning in line 1 of page 5. The point of order was reserved against that by the gentleman from Kentucky [Mr. JOHNSON], and we agreed to pass it over until we could make an investigation of the matter.

I concede that it is subject to a point of order, but I will say to the gentleman from Kentucky that after the duties of the assessor had been defined by certain acts of Congress additional burdens were imposed upon him when these two boards—the excise board and the personal-tax board—were created by law; and inasmuch as these duties were imposed upon the assessor the District commissioners recommended $500 additional compensation to cover his services in connection with his duties as chairman of these two boards. It has been carried in the bill for a number of years. It is true that there is no specific authorization of law for this compensation, yet the acts creating the excise board and the personal-tax board did not say that this service should be rendered without additional compensation. And inasmuch as the duties imposed upon him were onerous in their character we thought it was only just and proper that this additional compensation should be allowed him. For that reason, I ask the gentleman not to insist on the point of order.

Mr. JOHNSON of Kentucky. Mr. Chairman, when the assessor was made chairman of the excise board his duties were not increased. Instead, his duties were decreased, because the number of assessors was increased, and so was the number of clerks increased, to do the additional work. Heretofore, up to this time, I have reserved the point of order. I now make the point of order.

Mr. BURLESON. I will state that the gentleman is wholly mistaken about his facts.

Mr. CANNON. If this transaction was between him and myself and I was the party who opposed what is claimed to be the additional duties, does not the gentleman think he could recover under the common counts on a quantum merult against me?

Mr. JOHNSON of Kentucky. I do not think it amounts to that, Mr. Chairman. The fact still remains that when additional duties were imposed upon the board of assessors abundant help was given to them because of that additional imposition of duty. Therefore I now make the point of order.

Mr. BURLESON. But the gentleman overlooks the fact that there were certain duties imposed upon the assessor by reason of his connection with these boards. I concede that this is subject to the point of order.

Mr. DYER. Regular order!

The CHAIRMAN. The gentleman from Kentucky makes a point of order against the following words, on page 5, beginning in line 1:

And $500 additional as chairman of the excise and personal-tax board.

The point of order is conceded, and it is therefore sustained.

Mr. BURLESON. Mr. Chairman, I ask unanimous consent that the Clerk may be permitted to correct the totals where they are changed by the operation of points of order and any amendments that have been adopted to the bill.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the Clerk be allowed to correct the totals as they appear in the original bill, which totals have been altered by reason of divers and sundry rulings sustaining points of order and the adoption of amendments. Is there objection?

There was no objection.

Mr. BURLESON. On page 16, line 20, I move to strike out the word "of" and insert the word "or." It is a typographical error.

The CHAIRMAN. Which word "of"?

Mr. BURLESON. The first one, before the word "livery."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 16, line 20, by striking out the word "of," after the word "hire," and inserting the word "or."

Mr. MANN. It will then read "hire or livery"?

Mr. BURLESON. That is exactly what it is intended to be.

Mr. MANN. I think it means what is says—"hire of livery."

Mr. BURLESON. No; it is "hire or livery." It has been carried in the bill in that way for many years. You may hire a horse, or you may pay for the livery of a horse, and the latter is the purpose of it.

Mr. MANN. When you hire a horse you pay for the livery of it. I do not care how it is printed. It is correct as it is.

Mr. BURLESON. If the officer owns a horse and puts him in a stable, the Government intends to pay the livery charge. That is what is meant by the livery of a horse.

The amendment was agreed to.

Mr. BURLESON. That finishes the bill.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent to return to page 24, in order to ask that the gentleman from Kentucky [Mr. JOHNSON] withdraw his point of order against a paragraph changing the designation of a block on Twentieth Street.

The CHAIRMAN. The gentleman asks unanimous consent to recur to page 24 for the purpose stated. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Chairman, while the bill was under consideration a few days ago the gentleman from Kentucky made a point of order against lines 11 to 18, inclusive, on page 24. The language referred to changes the designation of two blocks on Twentieth Street. One of the blocks—3300, Twentieth

Street—is to be called Park Road. Block 2200 is to be called Walbridge Place. The last-named block is entirely unimproved. The first-named block is, in fact, the first block of Park Road. Its being called Twentieth Street probably resulted from the fact that for a considerable length of time the part of Park Road entering the park was not improved. When it came to be improved and slightly changed in locality for some reason or other, difficult to understand, it was not called Park Road but Twentieth Street. It is, in fact, the only part of this old road, nearly a mile long, that is not called Park Road. It is the first block of the street as it leaves the park from which it derives its name. I think the gentleman from Kentucky did not understand the situation when he made the point of order, and my understanding is that he desires to withdraw it.

Mr. JOHNSON of Kentucky. Mr. Chairman, I ask unanimous consent to return to page 24, lines 11 to 18, inclusive.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to recur to page 24, lines 11 to 18, inclusive. Is there objection?

There was no objection.

Mr. JOHNSON of Kentucky. Mr. Chairman, I ask unanimous consent to withdraw the point of order lodged against the provision in lines 11 to 18 in the bill.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. DYER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DYER. During the reading of the bill there was an amendment, which I offered, that was passed over by unanimous consent. It was an amendment to the paragraph on page 64, pertaining to the Tuberculosis Hospital. The gentleman from Texas reserved a point of order on the amendment, and I take it that we should return to it for the purpose of disposing of it.

Mr. BURLESON. I made the point of order.

Mr. DYER. I think the gentleman reserved it because the matter was passed over by unanimous consent.

Mr. BURLESON. The statement of the gentleman from Missouri does not accord with my recollection. As I recollect it, the gentleman from Missouri offered an amendment to which I made a point of order, and it was sustained by the Chair.

Mr. DYER. I think the gentleman is mistaken. It is an amendment to insert a provision with reference to the Tuberculosis Hospital at the end of the section on page 64, putting the hospital under the direction of the board of health, because of its being a contagious hospital.

The CHAIRMAN. What is the request of the gentleman from Missouri?

Mr. DYER. I make the motion that the amendment I presented be adopted.

Mr. BURLESON. According to my recollection, the point of order was made against the amendment and the point of order was sustained.

The CHAIRMAN. The Chair will state that before the motion can be entertained it is his impression that unanimous consent should be had to recur to the page to which the gentleman refers.

Mr. DYER. Then I ask unanimous consent.

Mr. MANN. But, Mr. Chairman, if the amendment was offered and the point of order was reserved and passed over by unanimous consent it would not require unanimous consent to return to it. But the gentlemen do not agree as to what the fact is.

The CHAIRMAN. The Chair will state that the following amendment was offered by the gentleman from Missouri when the bill was being read in its order:

Add, at the end of line 23, page 64, the following:
"*Provided*, That hereafter the Tuberculosis Hospital shall be under the direction and control of the health department."

I am advised by the reading clerk that a point of order was made against the amendment and the Chair sustained the point of order.

Mr. DYER. My recollection is that the point of order was not sustained.

The CHAIRMAN. The Chair will correct the statement he has just made. He is advised by the reading clerk that the point of order was made against the paragraph to which the amendment was offered, and that the point of order to the paragraph was sustained.

Mr. BURKE of Pennsylvania. Mr. Chairman, if the Chair will indulge me, the RECORD shows, on page 2551, the following:

Mr. DYER. Mr. Chairman, I desire to offer an amendment which I send to the Clerk's desk. First, I desire to submit a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DYER. While the point of order is pending here to this paragraph is it in order to offer this amendment?

The CHAIRMAN. It is in order to offer amendments and have them read and remain pending, subject to such disposition as may be made of the point of order.

Mr. DYER. Very well. I offer the amendment.

The Clerk read as follows:

"Add, at the end of line 23, page 64, the following: '*Provided*, That hereafter the Tuberculosis Hospital shall be under the direction and control of the health department.'"

Mr. BURLESON. Mr. Chairman, to that I reserve the point of order.

The CHAIRMAN. The gentleman from Texas reserves the point of order to the amendment, which will be pending, and the Clerk will read.

Then they proceeded to dispose of the other parts of the bill.

Mr. DYER. I think that is correct, Mr. Chairman. I do not think the point of order has ever been disposed of. I ask the gentleman from Texas to withdraw the point of order, because it is desired by the health department and Board of Charities, or at least one of them, that this hospital should be put under the health department because it is a contagious hospital, and the principal work of the board of health is in looking after contagious diseases.

Mr. Chairman, to support the amendment which I have offered, providing that the Tuberculosis Hospital of the city of Washington should be put under the management and control of the health commissioner instead of as at present under the Board of Charities, I cite the testimony of Dr. George M. Kober, himself a member at present of the Board of Charities. He was a witness before a subcommittee of the District of Columbia Committee during a recent investigation of the Tuberculosis Hospital. At this hearing Dr. Kober testified in part as follows:

Dr. KOBER. My opinion is that the Tuberculosis Hospital, for example, might well be under the supervision of the health officer, because tuberculosis is a contagious disease, and the health officer might be intrusted with the immediate supervisory powers of such an institution.

Mr. Chairman, this hospital—the tuberculosis of the District of Columbia—was established and opened to the public four years ago. Congress appropriated $100,000 for its erection and equipment. The building was designed for 130 persons, but the average number of patients that have been in the hospital since it was opened four years ago has been only 85.

Dr. John E. Lind testified before our committee on the 31st day of last May. Dr. Lind is in special charge of tuberculosis cases at the Washington Asylum Hospital and Jail. He stated that at that time there were five positive tuberculosis cases at the Washington Asylum Hospital and Jail, and that some of them had been reported as such to the Board of Charities for a month or more previous thereto, and yet were permitted to remain at the Washington Asylum Hospital to the great danger of other patients and attendants. He further testified that there were no facilities for the special treatment of such a disease at the Washington Asylum Hospital.

This all occurred while the Tuberculosis Hospital was not filled to its capacity. It is convincing, therefore, that the Washington Tuberculosis Hospital was not at that time, at least, meeting the requirements needed for such an institution in this city. Therefore there must be something radically wrong with the arrangements of the Tuberculosis Hospital or with its management, otherwise numerous cases of tuberculosis would not be at the Washington Asylum Hospital, but would be at the Tuberculosis Hospital, one especially equipped and built for the treatment of that dreadful disease. Other testimony elicited at this hearing, including that of the visiting physician at the Washington Asylum Hospital, Dr. D. Percy Hickling, showed that there were, on an average, from 75 to 100 tubercular cases treated at the Washington Asylum Hospital during the last several years, during all of which time the Tuberculosis Hospital has been in operation. For these reasons, and because I believe that this hospital should be under the care and management of the health commissioner, I submitted this amendment.

Prof. Irving Fisher, of Yale University, says that the cost of tuberculosis to the United States, aside from the losses to the victims themselves, amount annually to $570,000,000. This includes the depletion in earnings of those affected by the disease, and the loss of such earnings entirely through untimely deaths. Therefore, not only from a humane standpoint, but from a monetary one, should the Government of the United States use every means within its power to fight this dreadful plague. Whatever is needed in the way of money to make this hospital efficient and a credit to the Capital of the Nation should be readily voted by Congress.

Mr. Chairman, the sick poor should receive proper care and treatment from those in authority. Hospitals should be so conducted and managed that the best possible results can be obtained. Hospitals for contagious diseases should be scrupulously clean, and so conducted as to give the best scientific treatment to such diseases, as well as with due regard to preventing the spread thereof. The hospitals for the sick poor of

the District of Columbia should receive the careful consideration of Congress, and legislation should be enacted to the end that money that is appropriated for such purposes should bring the best results possible. At the present time the management, control, and supervision of these institutions are too much divided. The authority should be centered and responsibility fixed in one principal head, be it a health commissioner, a hospital commissioner, or a supervisor. I hope to see legislation enacted in the next Congress looking to this end.

Mr. BURLESON. Mr. Chairman, I make the point of order against it.

The CHAIRMAN. The gentleman from Missouri offers an amendment which the Clerk will report. Will the gentleman from Missouri state at what point and on what page of the bill he desires his amendment to be considered.

Mr. DYER. At the end of line 23, on page 64. That is where the amendment probably belongs, I think.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of line 23, page 64, add the following:
"*Provided*, That hereafter the Tuberculosis Hospital shall be under the direction and control of the health department."

Mr. BURLESON. Mr. Chairman, I make the point of order against it.

The CHAIRMAN. The Chair will state to the gentleman from Missouri that the entire paragraph between lines 3 and 23, inclusive, has gone out on a point of order. Does the gentleman still desire to offer his amendment in that form as a proviso?

Mr. DYER. No. I ask, then, that it be offered to the end of line 2, at the end of the paragraph having to do with the health department, on the same page—

For the installation of additional furnace at public crematory, $3,000.

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

Amend, page 64, by adding at the end of line 2, the following:
"*Provided*, That hereafter the Tuberculosis Hospital shall be under the direction and control of the health department."

Mr. BURLESON. Mr. Chairman, to that I make the point of order.

The CHAIRMAN. Does the gentleman from Missouri desire to be heard on the point of order?

Mr. DYER. Mr. Chairman, I think the point of order is well taken.

The CHAIRMAN. The point of order is sustained.

Mr. BURLESON. Mr. Chairman, if the gentleman desires to discuss this, I am perfectly willing to reserve the point of order.

Mr. DYER. Mr. Chairman, I do not desire to discuss it, but I ask unanimous consent to extend my remarks in the RECORD upon the Tuberculosis Hospital and the necessity for having it under the direction and control of the board of health.

Mr. BURLESON. The gentleman understands that I have no disposition to shut him off.

Mr. DYER. I understand that perfectly well.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to extend his remarks in the RECORD upon the subject indicated. Is there objection?

There was no objection.

Mr. BURLESON. Mr. Chairman, I believe that disposes of all matters in connection with the bill, save the point of order.

Mr. JOHNSON of Kentucky. Mr. Chairman, there is one other matter I wish to bring up. On page 33 of the bill that portion of it as brought in by the committee relative to the bathing beach went out on a point of order. I desire to offer an amendment to the bill in the exact language of the original bill, with the additional words, however:

All of which shall be paid from the revenues of the District of Columbia, derived from taxes and privileges.

The CHAIRMAN. The Chair will state that unanimous consent is required to return to that page.

Mr. JOHNSON of Kentucky. No; no unanimous consent is required to be obtained. There is no provision in the bill for a bathing beach. The law authorizes the establishment and maintenance of a bathing beach, provided the expenses of it are paid from the revenues of the District of Columbia, and that is what I propose to do.

The CHAIRMAN. But the Chair is inclined to the opinion that the gentleman from Kentucky can not offer an amendment on page 33, that page and section having been passed, unless a right to recur thereto is first obtained.

Mr. JOHNSON of Kentucky. But I do not wish to return to page 33 except for the purpose of getting the language therein contained. I do not care whether the amendment be offered at the last portion of the bill or not.

The CHAIRMAN. But the burden is upon the gentleman from Kentucky to designate the place in the bill so that the Clerk may know to what portion of the bill it is offered.

Mr. JOHNSON of Kentucky. Mr. Chairman, I offer the following amendment to the bill:

Bathing beach: For superintendent, $600; watchman, $400; temporary services, supplies, and maintenance, $2,250; for repairs to buildings, pools, and the upkeep of the grounds, $1,500, to be immediately available; in all, $4,850; of all which shall be paid out of the revenues of the District of Columbia derived from taxes and privileges.

Mr. BURLESON. Mr. Chairman, I make the point of order on that.

Mr. MANN. Mr. Chairman, I make the point of order on that if the amendment is considered to be before the House.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] makes the point of order against the amendment.

Mr. JOHNSON of Kentucky. Mr. Chairman, I made a point of order against the original provision in the bill because it provided that the bathing beach should be maintained, one half out of the revenues of the District of Columbia and the other half out of the money in the Federal Treasury. The Chair sustained the point of order, because there was no law authorizing the payment of one-half of it out of the Federal Treasury. An amendment, therefore, is in order, complying with the original bathing-beach act, and my amendment is in full compliance with that.

Mr. MANN. May I ask the gentleman from Kentucky——

The CHAIRMAN. If the gentleman from Illinois will pardon the Chair for just one moment, the Chair will state again that he is inclined to the opinion that this amendment can not be entertained unless some particular place in the bill is designated to which the amendment is offered.

Mr. JOHNSON of Kentucky. Mr. Chairman, if it comes as an addition to the bill, it comes immediately following that which has gone before; in other words, after the last word in the bill.

The CHAIRMAN. Does the gentleman offer it to be so considered?

Mr. JOHNSON of Kentucky. I offer the amendment to the bill, Mr. Chairman.

Mr. BURLESON. Where?

Mr. JOHNSON of Kentucky. It does not matter where. I do not care where it comes in. I am not very particular whether it comes in at all or not.

The CHAIRMAN. The amendment offered by the gentleman from Kentucky will be considered as having been offered at the end of the bill. The gentleman from Illinois.

Mr. MANN. Mr. Chairman, I make the point of order against the amendment. May I ask the gentleman from Kentucky—I was not in the Hall when the matter was disposed of on page 33—was there any law cited to the Chair at that time providing that the maintenance of the bathing beach should be paid wholly out of the revenues of the District of Columbia?

Mr. JOHNSON of Kentucky. Yes; the bathing-beach act was produced and discussed, and the Chair held that it was payable out of the revenues of the District.

Mr. BURLESON. Mr. Chairman, I reserve a point of order that the amendment was not offered at the proper place in the bill.

Mr. MANN. I reserved all points of order.

Mr. JOHNSON of Kentucky. Mr. Chairman, I think the gentleman from Texas has a very peculiar notion relative to this bill. Will the Chair please indulge me for just a moment? The gentleman from Texas has intimated that nobody but the committee can offer anything which may go into this bill, although it is authorized by law. Any Member upon the floor has a right to have incorporated in this bill any provision which is authorized by law and which has been left out of the bill. It is a fundamental principle which, carried to its last analysis, nobody can dispute that anything that is authorized by law to be put into this bill can be put into it by anybody, a majority of the House agreeing and voting with him.

Mr. MANN. Mr. Chairman, will the gentleman from Kentucky pardon me? I do not understand that there is any law authorizing the maintenance of the bathing beach wholly out of the revenues of the District of Columbia. I recall now reading in the RECORD, having my recollection refreshed by the statement made to me privately by the gentleman from Texas, the reasons on which the Chair based his reasons the other day, that the original provision in the bill providing for the creation of the bathing beach and expenses should be paid wholly out of the District of Columbia revenues. I can not see how that requires or authorizes the maintenance of the bathing beach payable wholly out of the revenues of the District of Columbia. Whether it authorizes it at all or not I do not undertake to say. I make the point of order.

The CHAIRMAN. The Chair is ready to rule. On a former day when the item of bathing beach was reached in the consideration of the bill a point of order was made against the paragraph by the gentleman from Kentucky [Mr. JOHNSON] on the ground that the provision charging the expense of upkeep, operation, and conduct of the beach on a half-and-half basis was not authorized by law. The original paragraph provided that the items covered by the paragraph should be paid half from the revenues of the District and half from the Federal Treasury. The Chair then ruled that the point of order should be sustained, because under the law no part of the expense was chargeable to the Government revenues. The gentleman from Kentucky now moves an amendment providing for the bathing-beach item, with a modification and proviso that all the expense of maintenance shall be paid out of the revenues of the District of Columbia derived from taxes and privileges. The gentleman from Illinois [Mr. MANN] makes the point of order against the paragraph upon the grounds as stated. The Chair finds in the CONGRESSIONAL RECORD, Fifty-first Congress, first session, the following:

FREE BATHING BEACH, WASHINGTON, D. C.

Mr. ATKINS of Pennsylvania. Mr. Speaker, I call up for consideration the bill (H. R. 7056) establishing a free bathing beach on the Potomac River near the Washington Monument.

The bill was read, as follows:

"*Be it enacted, etc.*"—

This is section 1, and is the same as already has been fully set out in the RECORD and upon which there is no controversy here—

"SEC. 2. That the sum of $3,000 is hereby appropriated from any unexpended moneys in the Treasury of the United States to be immediately available for the purposes of this bill."

It will be noted that the bill as reported from the appropriate committee provided that all the expenses should be paid from the Federal Treasury.

Immediately upon a completion of the reading of the bill and report by the Clerk, and before any debate was had, Mr. CANNON, of Illinois, was recognized.

The gentleman from Illinois [Mr. CANNON] moved to amend section 2 of the bill by striking out the clause making the appropriation payable wholly from the United States Treasury and providing that one-half of the expense should be charged against the revenues of the District of Columbia and one-half against the Federal Treasury. Thereafter Mr. Bliss, of Michigan, was recognized, and the following appears in the RECORD:

Mr. BLISS. Mr. Chairman, I have no objection to the District of Columbia having a public bathing house, but I have objections to the United States Government paying for it. I wish to offer an amendment as a substitute for that of the gentleman from Illinois. It is to strike out, in line 2 of section 2, the words "any unexpended moneys in the United States Treasury" and insert the words "the revenues of the District of Columbia," so that the section will read:

"That the sum of $3,000 is hereby appropriated from the revenues of the District of Columbia, to be immediately available, for the purposes of this bill."

It will be observed, then, that the amendment by way of substitute offered by the gentleman from Michigan, Mr. Bliss, was to provide that all the expense should be borne by and chargeable to the revenues of the District of Columbia. A vote, after debate, was had, as shown by the following language in the RECORD:

The CHAIRMAN. The question now is on agreeing to the substitute proposed by the gentleman from Michigan for the amendment of the gentleman from Illinois, which substitute will be read.

The Clerk read as follows:

"Strike out, in line 2 of section 2, the words 'any unexpended moneys in United States Treasury' and insert the following: 'That the sum of $3,000 is hereby appropriated from the revenues of the District of Columbia, to be immediately available for the purpose of this bill.'"

The substitute was adopted.

The amendment as amended was adopted.

That is the history, therefore, as it appears in the RECORD on the subject. Now, the question further arises on the point of order, as made by the gentleman from Illinois, that while that might be true, yet the act of continued maintenance of the bathing beach would not be necessarily covered by the language of the act as passed.

Therefore, for the purpose of ascertainment by the Chair as to what the intent of the law was and what the proper construction of the law is, the Chair made inquiry, and from the discussion had when the amendments were pending he finds the following:

Mr. ROGERS. Mr. Chairman, I have only a word to say. I suppose this will furnish a very pleasant sport for the youth of the District of Columbia, and perhaps some of the grown folks; and I commend it to the farmers' organizations of the country whose mortgages are being foreclosed as the relief tendered to them by the Fifty-first Congress, notwithstanding what was promised during the campaign, namely, the appropriation of public money for the purpose of furnishing a bathing place for the people of the District of Columbia.

* * * * * *

Mr. KEEN. * * * It does not seem to me that the people of the United States ought to be charged with the expense of keeping the people of Washington clean. I think they ought to furnish their own soap and everything necessary for that purpose, and the people living in other parts of the country ought not to be required to pay any portion of that expense.

In the early days of the Roman Empire the people of Rome took care of themselves. As the city declined and became more opulent and less patriotic, it was said by a Roman historian that they had declined so much in public virtue that their only aspiration was to be furnished with theaters and bread. I hope that is not the condition of the people of Washington City. I hope they have a little of the spirit which was spoken of by a distinguished gentleman, who afterwards became the candidate of the Democratic Party, Mr. Greeley, who said that "the most unfortunate day in a man's life was the day in which he made up his mind to get a dollar without earning it." I think the most unfortunate day for the city of Washington is the day in which its people ask for money without earning it, as other people in the country around them have to do.

* * * * * *

Mr. ROGERS. Mr. Chairman, I rose for the purpose of making the very statement just made by the gentleman from Indiana [Mr. HOLMAN]. I apprehend that they have built bathing places at Philadelphia, but I apprehend also that the Federal Government did not pay for them, but that they were paid by the city government; and I think if we are going to appropriate public money or enter into this business at all it ought to be in the shape of a bill authorizing the Commissioners of the District of Columbia to locate and pay for this establishment from the District funds.

I concede, sir, that we have the power to do it, for we can do what we please within the limits of the District of Columbia. We have exclusive authority here. But I do not believe it would be right for Congress to appropriate the money paid by my constituents to make bathing places for the people of this District. We had just as well appropriate money to build tennis grounds for the people of the District or baseball grounds or to erect ten-pin alleys, or anything else in the shape of amusement, as to appropriate the public funds for the purpose specified by this bill. All of these are sources of amusement and pleasure.

And the discussion went on, participated in by other gentlemen, and after the debate the amendment of the gentleman from Michigan, Mr. Bliss, was adopted as just above recorded, charging the entire expense against the District of Columbia. That being the law as it reads, and this being the discussion had at that time, the Chair is of the opinion that the amendment of the gentleman from Kentucky [Mr. JOHNSON] follows the only statute which authorizes an appropriation for the bathing beach to be made and is therefore in order. Accordingly the point of order is overruled.

Mr. BURLESON. But the decision of the Chair overlooked the point that that is disturbing the orderly arrangement of the bill, and that the amendment was offered after the reading of the bill had been completed and after we had asked unanimous consent to return to other items simply for the purpose of correcting clerical errors and omissions. The point of order is made now that the appropriate place in the bill for this amendment has been passed, and that the gentleman can not tack an amendment onto the end of the bill, even if it is authorized by law, because in that event there would never be any conclusion to the consideration or reading of the appropriation measures.

Mr. JOHNSON of Kentucky. Mr. Chairman, if the gentleman will pardon me, I am going on the assumption that this House can attach to an appropriation bill anything that is authorized by law.

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] does not dispute that proposition, as the Chair understands, but the Chair will add that the point that the gentleman from Texas makes is that it must be done orderly and in accordance with the rules governing the right to offer amendments.

Mr. BORLAND. I want to speak on that point of order, Mr. Chairman, and say that that question came up at this session in the consideration of the river and harbor bill. The gentleman from Illinois [Mr. FOWLER] had offered an amendment to improve the rivers of Illinois at a place in the bill where the rivers of Illinois were not mentioned. I raised the point of order that it would disturb the orderly procedure of that bill and that it should be offered at the place in the bill where the rivers of Illinois were classified. The chair then being occupied by the gentleman from Tennessee [Mr. MOON], he overruled that objection, and held that if the amendment were in order at any place in the bill the question of its place would not be important.

Mr. SAUNDERS. Mr. Chairman, that is not the question before the committee at the present time at all. When the end of the bill was reached it was not gainsaid that it would be in order to offer that particular amendment at that time, but that is not at all the situation presented by the gentleman from Missouri. If the amendment had been offered then it would have been in order.

The CHAIRMAN. The question, then, after all, resolves itself for the Chair to determine when the end of the bill was reached.

Mr. SAUNDERS. That is all.

The CHAIRMAN. After the reading of the bill was completed Members began to rise, and, not as a matter of right, but as a matter of unanimous consent, asked to recur to certain

pages of the bill, it being then a matter for the House to determine as to whether or not unanimous consent would be granted to recur to certain other pages in the bill. Nothing else save these requests for unanimous consent having been preferred and nothing else having occurred subsequent to the reaching of the end of the bill, the Chair is of the opinion that the amendment offered now by the gentleman from Kentucky [Mr. JOHNSON], at the end of the bill, would be in order. Therefore the point of order is overruled. The question is on agreeing to the amendment offered by the gentleman from Kentucky [Mr. JOHNSON].

Mr. BURKE of Pennsylvania. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. Is it an amendment to the amendment?

Mr. BURKE of Pennsylvania. Yes; to the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. BURKE] offers an amendment to the amendment offered by the gentleman from Kentucky [Mr. JOHNSON], and the Clerk will report it.

Mr. LLOYD rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. LLOYD. I ask unanimous consent that the amendment may be again read. Quite a number of us did not hear it.

The CHAIRMAN. The gentleman from Missouri [Mr. LLOYD] asks unanimous consent that the amendment of the gentleman from Kentucky [Mr. JOHNSON] be again reported. Without objection it is so ordered, and then the amendment of the gentleman from Pennsylvania [Mr. BURKE] will be read without further order.

There was no objection.

The Clerk again read the amendment offered by Mr. JOHNSON of Kentucky.

Mr. JOHNSON of Kentucky. Mr. Chairman, the correct amount is "$4,750." By changing "$480" in the original bill to "$400" the amount is changed to "$4,750."

The CHAIRMAN. Without objection, the figures will be changed accordingly.

There was no objection.

The CHAIRMAN. The Clerk will now report the amendment offered by the gentleman from Pennsylvania.

The Clerk read as follows:

Amend the amendment by striking out all after the figures "$4,750."

The CHAIRMAN. The gentleman from Pennsylvania [Mr. BURKE] offers an amendment. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania to the amendment offered by the gentleman from Kentucky [Mr. JOHNSON].

Mr. JOHNSON of Kentucky. Mr. Chairman, I make the point of order.

Mr. BURKE of Pennsylvania. Oh, no; the gentleman is too late. The original amendment has been declared in order, and, of course, my amendment is quite in order under the ruling of the Chair.

The CHAIRMAN. Does the gentleman from Pennsylvania insist that the point of order comes too late?

Mr. BURKE of Pennsylvania. I insist that the point of order comes too late.

The CHAIRMAN. The Chair so rules. The question is on agreeing to the amendment of the gentleman from Pennsylvania.

Mr. BURKE of Pennsylvania. Mr. Chairman, it seems to me that to make the departure that the original amendment seeks to enforce would be unfair, or at least very inconsistent.

The situation is this: The Congress of the United States has absolute control over this District and over this city. The people of this city are at the mercy of the American Congress. They are at our mercy, because in the creation and enforcement of the laws under the Constitution they can not escape it.

We have charge of the health and sanitation of the District of Columbia. It is our business, as the legislative body controlling this District, to see to it that the health of this community is preserved and promoted; and we have just as much right to invite and encourage the people of this, the capital city of the Nation, the one national city in the Union, to participate in the pastime and natural custom of bathing and keeping their bodies clean for the promotion of their health as we have to dig sewers to keep the streets clean and to erect hospitals for the care of the afflicted.

It has been suggested that somebody at some time in connection with this legislation said that Rome fell at a time when her people were indulging in the luxury of baths. That statement is a revelation to me, that Rome fell because she kept herself clean. My impression has always been that Rome fell because she became unclean, unclean morally, because she decayed mentally and decayed physically. There never has been in the history of the world a case pointed out where any nation fell because of the inclination of her people to keep their bodies clean. In the Office Buildings of the Senate and House of Representatives of the United States the Government provides and we use soap and water freely—at least I hope we all use them freely. One gentleman shakes his head [laughter], as if there were some doubt about that, but I hope that the rule is universal.

Mr. TAYLOR of Ohio. The opportunity is universal.

Mr. BURKE of Pennsylvania. The opportunity is universal at least, whether the practice is or not. But the bathing beach that we speak of is within the reach of the 500 Members of the Congress of the United States, and I know that many Members of this House have taken advantage of it in times past. It is within reach of the thousands of Government employees and their children, whether taxpayers or not, who reside in this District. Now, would it not be absurd to say that in a great appropriation bill of this kind the Congress of the United States made one exception, departed from the organic law of the District and general custom of the Government in only one case, and that in the case where they sought to discourage the men, women, and children of the Capital City of the greatest Nation in the world from keeping clean. I hope this committee will not indulge in any such absurd action, and I hope that the gentleman from Kentucky [Mr. JOHNSON], who now takes the floor, will agree with me and make the passage of this amendment as amended by me unanimous.

Let us encourage it in remaining what it is to-day, not only one of the cleanest in the world morally and physically, but the most attractive and beautiful on earth.

Mr. JOHNSON of Kentucky. Mr. Chairman, I thoroughly agree with the remarks of the distinguished gentleman just read by the Chairman of this Committee of the Whole when the original bill was under consideration. That is, that the people of the city of Washington ought to furnish their own soap and water to keep themselves clean, and not impose upon the taxpayers as far away as California to help them buy their own soap and water.

I do not believe, Mr. Chairman, that a body coming directly from the people as this has come desires to impose a tax upon the Nation throughout its length and breadth to keep the citizens of Washington clean. This has been referred to as coming under the "organic act." The gentleman from Pennsylvania [Mr. BURKE] has just made that reference. It does not come under the "organic act." It never has been under the "organic act," and if the gentleman had listened closely to the proceedings which took place at the time of the authorization of the bathing beach he would have been informed that it was at the expense of the people of the District of Columbia, the Congress then being unwilling to impose its maintenance upon the people at large.

Mr. BURKE of Pennsylvania. This bill itself in the first paragraph of it refers to the fact that all the amounts shall be equally divided under the organic act.

Mr. KAHN. Mr. Chairman, I hope the amendment offered by the gentleman from Pennsylvania to the amendment will be adopted. The city of Washington is made up of a population that comes from every section of the Nation. The rich people who reside here close up their homes in the summer. They go to the seashore or to Europe for their creature comfort. There are thousands of Government clerks living here who are accredited to the various States of the Union. They are not residents of Washington. Few of them are taxpayers here. They live in rented quarters. They represent, as I say, every State in the Union, including the State of California, and I want to say to the gentleman from Kentucky that the taxpayers of my State do not object to paying their small pro rata share included in this item for keeping the people who live here, and who have to remain in this humid climate all summer, absolutely clean. I sincerely hope the amendment of the gentleman from Pennsylvania will be adopted.

Mr. BURLESON. Mr. Chairman, the original appropriation used for the construction of the bathing beach was made from the treasury of the District of Columbia. Subsequently an appropriation of $5,000 was made jointly from the Treasury of the United States and the treasury of the District of Columbia for an addition. Then an appropriation of $7,000 was made for still further additions, one-half from the Treasury of the United States and one-half from the treasury of the District of Columbia. For many years the force necessary for supervision and control of the bathing beach has been paid for on the half-and-half plan. It is one of the useful services taken advantage of by the children of the District of Columbia, and your committee, acting in accordance with the spirit of the law as we understand it to be, embodied this provision

in the bill just as it will be if the amendment offered by the gentleman from Pennsylvania is agreed to. I sincerely hope the committee will adopt the amendment of the gentleman from Pennsylvania and not now, on an appropriation bill and in this way, overturn the plan which was adopted in 1878 for the support of the government of the District of Columbia. I ask that the amendment offered by the gentleman from Pennsylvania to the amendment be agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. BELL of Georgia having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bills and resolutions of the following titles, in which the concurrence of the House of Representatives was requested:

S. 8082. An act to amend section 1440 of the Revised Statutes of the United States;

S. 8230. An act for the relief of Loren W. Greene; and

Senate concurrent resolution 40.

Resolved by the Senate (the House of Representatives concurring), That the report of the Secretary of War, under the joint resolution directing the Secretary of War to investigate the claims of American citizens for damages suffered within American territory growing out of the late insurrection in Mexico, approved August 9, 1912, be transmitted to the President, who is hereby respectfully requested to cause a claim for the amount of the damages reported therein as suffered by American citizens within American territory to be presented to the Government of Mexico as a claim in behalf of the Government of the United States.

The message also announced that the Senate had passed with amendment bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 28186. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. 3952) for the purpose of repealing so much of an act making appropriations for the current and contingent expenses of the Indian department for fulfilling treaty stipulations with various Indians located in Kansas City, Kans., providing for the sale of a tract of land located in Kansas City, Kans., reserved for a public burial ground under a treaty made and concluded with the Wyandotte Tribe of Indians on the 31st day of January, 1855.

The message also announced that the Senate had passed the following resolutions:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 7855) to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota.

Also:

Senate resolution 451.

Resolved, That the Senate extend to the Speaker and the Members of the House of Representatives an invitation to attend the exercises in commemoration of the life, character, and public services of the late James S. Sherman, Vice President of the United States and President of the Senate, to be held in the Senate Chamber on Saturday, the 15th day of February next, at 12 o'clock noon.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 27879. An act providing authority for the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134, range 79 west, in the State of North Dakota.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN. The question is on the amendment to the amendment offered by the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. JOHNSON of Kentucky) there were 23 ayes and 19 noes.

So the amendment to the amendment was agreed to.

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order against the amendment.

Mr. BURLESON. And I make the point of order that that comes too late.

Mr. JOHNSON of Kentucky. And on that, Mr. Chairman, I want to be heard.

The CHAIRMAN. The gentleman from Kentucky makes the point of order against the amendment, and the gentleman from Texas makes the point of order that the point of order of the gentleman from Kentucky comes too late.

Mr. JOHNSON of Kentucky. Mr. Chairman, I introduced this provision on page 23 relative to the bathing beach. It went out on a point of order. The Chairman of the committee has just read at some length his reasons for sustaining that point of order. I offered an amendment which was in order; that amendment was in order for no other reason upon earth than because it had attached to it the imposition of its maintenance on the District of Columbia. Now, when that is stricken out then we recur to the original matter which was subject to the point of order. If it was subject to a point of order then, it is subject to a point of order now. Consequently we are now where we were before I introduced the amendment.

The CHAIRMAN. However harmoniously the Chair might agree with the statement of the gentleman from Kentucky relative to the bathing-beach proposition, that can have no bearing here as to whether or not the amendment as it now stands is in order. The gentleman from Kentucky is an able lawyer, and recognizes that there is such a term in the law as "res judicata" and a "day in court." The amendment is now in the control of the committee for adoption or rejection. The gentleman from Kentucky and all Members have had their day in court, and the matter of being in order is res judicata; the point of order of the gentleman from Texas is sustained, and therefore the point of order of the gentleman from Kentucky is overruled. The question is on agreeing to the amendment as amended.

The question was taken; and on a division (demanded by Mr. JOHNSON of Kentucky) the ayes were 41 and the noes were 15.

Mr. JOHNSON of Kentucky. Tellers, Mr. Chairman.

Tellers were ordered, and the Chair appointed as tellers Mr. JOHNSON of Kentucky and Mr. BURLESON.

The committee again divided; and the tellers reported that there were 69 ayes and 21 noes.

Mr. JOHNSON of Kentucky. I make the point of order, Mr. Chairman, that no quorum is present.

The CHAIRMAN. The gentleman from Kentucky makes the point of order that no quorum is present. The Chair will count. [After counting.] One hundred and three Members present—a quorum. The ayes have it, and the amendment as amended is agreed to.

Mr. JOHNSON of Kentucky. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Insert at the end of the bill the following:

"INTEREST AND SINKING FUND.

"And there is hereby appropriated out of the proportional sum which the United States may contribute toward the expenses of the District of Columbia, in pursuance of the act of Congress approved June 11, 1878, for the fiscal year ending June 30, 1879, and annually thereafter, such sums as will, with the interest thereon at the rate of 3.65 per cent per annum, be sufficient to pay the principal of the 3.65 bonds of the District of Columbia issued under the act of Congress approved June 20, 1874, at maturity, which said sums the Secretary of the Treasury shall annually invest in said bonds at not exceeding the par value thereof, and all bonds so redeemed shall cease to bear interest and shall be canceled and destroyed in the same manner that United States bonds are canceled and destroyed. (Vol. 20, p. 410, U. S. Stats.)

"Hereafter the Secretary of the Treasury shall pay the interest on the 3.65 bonds of the District of Columbia issued in pursuance of the act of Congress approved June 20, 1874, when the same shall become due and payable; and all amounts so paid shall be credited as a part of the appropriation for the year by United States toward the expenses of the District of Columbia, as hereinbefore provided. (Vol. 20, p. 105, U. S. Stats.)

"For the purpose of meeting the payment of interest and for the purpose of providing for said sinking fund the sum of $975,408, or as much thereof as may be necessary, is hereby appropriated (from the respective funds described in the two acts of Congress above set out), to be charged against the revenues of the District of Columbia, derived from taxes levied and assessed upon the taxable property and privileges of the District of Columbia for the fiscal year ending June 30, 1914."

Mr. MANN. Mr. Chairman, the Chair understands that the point of order is reserved upon the amendment?

The CHAIRMAN. The gentleman from Kentucky is recognized, the point of order being reserved. The language is, "All points of order are reserved against the paragraph."

Mr. MANN. The reason I asked that is because the amendment when originally offered was to go in ahead of line 1 on page 98, but as now reported by the Clerk it is offered to come in at the end of the bill.

Mr. JOHNSON of Kentucky. Mr. Chairman, I offer it to come in at the end of the bill.

The CHAIRMAN. The gentleman from Illinois and the gentleman from Texas reserve all points of order on the amendment.

Mr. JOHNSON of Kentucky. Mr. Chairman, in the bill as originally brought in by the committee there were just a few words under the heading "Sinking fund and interest." These were "to pay interest and sinking fund on funded debt, $975,408." To that provision I made a point of order upon the ground that as the item was then in the bill it required half of the sinking fund and interest to be paid out of the Federal Treasury. My contention was and is that the law requires all

of this sinking fund and interest to be paid by the District. The Chair in sustaining the point of order decided that the point of order was well taken, and in rendering that ruling stated that the law did require this amount to be paid out of the revenues of the District of Columbia. From that ruling an appeal was taken to the Committee of the Whole. The Committee of the Whole sustained the Chair and made his ruling its judgment that the whole of this amount was payable out of the revenues of the District of Columbia, and not half out of the revenues of the District of Columbia and the remainder out of the Treasury of the United States.

The act under which these bonds were issued pledged the faith of the United States to their payment. I have heretofore argued at some length—and I shall not do so again on this occasion—but shall simply state my position as briefly as it is possible for me to do so, and that is that the United States has pledged its faith that these bonds shall be paid. That plighted faith is obligatory on the part of the United States only as between the United States and the bondholder, that obligation between the United States and the bondholder in no sense relieving the District of Columbia from its original obligation. As I said, the Chair has thus ruled, sustaining my contention, and the Committee of the Whole House in sustaining the somewhat lengthy opinion of the Chair has passed judgment and has said that the Chair's ruling is the judgment of the committee.

Mr. Chairman, I have never been and am not now in favor of the repudiation of any sort of a debt. The United States has bound itself, has pledged her faith, rather, to see that this interest and debt are paid, and, as has been determined by the Chair and by the Committee of the Whole, this is a debt owing by the District of Columbia. I offer this amendment for the purpose of putting into execution that plighted faith of the United States to compel the District of Columbia not to repudiate but to pay this debt. Parliamentary rules permit the act itself to be reenacted, and in order that the whole matter may be before the House and before the executive officers when they finally come to determine the matter, I have incorporated the act relative to interest in my amendment, and I have also incorporated the act relative to the sinking fund in my amendment, those two acts making it clear to every man who wishes to read impartially that this is a debt of the District of Columbia. Then, carrying out the ruling made by the Chair, carrying out the judgment rendered by this House by a vote of nearly 3 to 1, I provide that that debt shall be paid by the District of Columbia. That, Mr. Chairman, I deem to be sufficient explanation of the matter.

Mr. SAUNDERS. Mr. Chairman, the point of order really brings up the same question that was presented to the Chair a few days ago, and having reference to the importance of the ruling, asked a little further argument, and some additional authorities in support of the position of the committee may not be amiss. A few moments ago the Chair in sustaining a point of order to the bathing-beach item, read copious extracts from contemporaneous debate to show the meaning that was attached at the time to the original act authorizing this beach, and appropriating therefor. This was entirely proper as a legitimate aid to the interpretation of an ambiguous section. But the same aid to interpretation is furnished in a more abundant and emphatic form in the debate upon the act in 1879. This act in part is reproduced in section 1 of the amendment of the gentleman from Kentucky, now pending. We insist again, that if this section is ambiguous, a flood of light is afforded as to its real meaning by the arguments of Mr. Blackburn, and others. The gentleman from Kentucky insists that this act is a contract of reimbusement. But in the contemporaneous debate it was admitted on all hands that it was a contract of assumption, and on that ground was vehemently opposed. If the Chair will look to section 1 of this amendment, which is the part of the act of 1879 with which we are concerned, he will find the following language:

> There is authorized to be appropriated out of the proportional sum which the United States may contribute toward the expense of the District of Columbia * * *.

The real meaning of this sentence must be sought not in this language standing apart and alone, but in its relation to other acts, and in the general attitude of the Government at that time toward the District of Columbia.

Looking to this entire body of legislation without reference even to the illuminating debate on the section under consideration it is palpable that Congress meant to say in substance that the appropriation for the sinking fund thereby authorized should be a part of the proportional sum contributed by the United States to the payment of the expenses of the District. That is to say the amount required for the sinking fund would be included in the first instance in the estimates for the expenses of the District, and the same amount, when paid by the Government, would be credited on the one-half of the total expenses for which it was liable. This was entirely proper. In other words, the United States having assumed to pay one-half of the expenses of the District by their antecedent legislation, did not propose to pay in addition one-half of the sinking fund, but intended to include the same as a portion of their proportional part of one-half. This intent might have been expressed differently. Any statute on the books might be expressed in other, and often in happier terms. It does not argue that a statute is incapable of satisfactory and coherent interpretation, because it is inaptly phrased. To say the least of it, the language used, if it imports an assumption of the whole debt, with a provision for reimbursement is not a clear and positive assumption. At best, whether the one view, or the other is taken of its meaning, the language used is somewhat ambiguous. What then? Shall we look to this section alone, and abandon the usual principles of interpretation? For the time being, I pass by the precedents in the form of parliamentary rulings on the meaning of this section, though these precedents are admittedly in our favor, and taking up the contemporaneous discussion of the act of 1879, I challenge any Member of this House to take issue with me, when I assert that from first to last, this section was discussed with an agreement on all hands, that if it was adopted, a new liability would be fastened upon the Government.

Concede that the act of 1879 was an assumption of the whole debt by the United States, with an accompanying contract of reimbursement, and the whole ground of Mr. Blackburn's vigorous antagonism is at once cut away. Upon this view of the section, he was making a foolish, as well as futile fight. Instead of opposing, he ought to have welcomed the amendment. So far from imposing a burden, it really afforded a protection, since it provided for the repayment in full of any money advanced by the United States for the discharge of the indebtedness of the District. Mr. Blackburn, as a rule, was not a debater to overlook any crevice in the armor of an adversary, but for the time being, he was more than purblind. Setting up a man of straw by virtue of his contention that this section would impose a liability upon the Government for one-half of an unjust debt, he proceeded to belabor this straw man in most terrific fashion. In his benighted condition he did not recognize a friend in disguise, and so far from applauding Mr. Atkins for the very handsome fashion in which his report protected the interests of the Government, he criticized this item in merciless fashion, again and again warning the Members of the House that if they adopted the amendment, they would saddle the Government with an outrageous and indefensible liability for one-half of a fraudulent debt.

At no time did it dawn upon Mr. Blackburn that should the House of Representatives adopt the section which he was urging it to reject, they would admit a friend within their gates, and so far from assuming a liability, would protect the Government against imposition. These foolish predecessors of ours consumed two or three days in the discussion of an amendment, under an entire misapprehension of its terms and effect. After all they builded better than they knew. Who were the real friends of the Government in this controversy? It is a curious inquiry. Blackburn in his desire to protect the Government, insisted that the House reject the amendment. The friends of the amendment agreeing that it would charge the Government with a new liability, urged its passage. Mr. Blackburn in the result is a winner, in spite of himself. After all of these years it is now ascertained that the friends of the amendment erred in supporting it, and the opponents of the same were sadly at fault in their rancorous antagonism to a proposition of real merit. Who is entitled to criticism for his part in that debate? Mr. Blackburn for approving a measure which he ought to have supported, or Mr. Haydee and others in advocating a measure which they ought to have opposed, since in the result, relief and protection has been afforded, when an obligation was intended? In the view now pressed upon the Chair, the Government, as a result of this act of 1879, has a valid claim for many millions upon the District. This is what Mr. Blackburn said in 1879, speaking to section 1 of the amendment of the gentleman from Kentucky:

> This report of the committee on conference binds this Government in its own capacity to the payment of one-half of the debt.

Further, he said:

> This proposition of this section of the bill is to fasten upon the Government of the United States for the first time an obligation to pay one-half of the funded debt.

To the same effect Mr. Atkins, and Mr. Hendee, and many others.

Mr. HAYES, Mr. SIMS, and Mr. MADDEN rose.

Mr. SAUNDERS. I have not concluded, Mr. Chairman. I thought the Chair was going to ask a question, and, therefore, I paused.

Mr. LLOYD. Mr. Chairman, as I understand the law, the Secretary of the Treasury of the United States is required to pay the interest and the sinking fund that is provided by law?

Mr. SAUNDERS. Yes.

Mr. LLOYD. And he is required to pay it, of course, out of the Treasury of the United States?

Mr. SAUNDERS. Yes.

Mr. LLOYD. Then the Secretary of the Treasury is required under the law to give the United States credit by the amount which has been paid?

Mr. SAUNDERS. Yes.

Mr. LLOYD. Would not that divide the amount that is paid equally between the District of Columbia and the United States?

Mr. SAUNDERS. I think it would, and I think that is where difficulty has arisen in minds of many who have construed this section as it was never intended to be construed. Because the law says the amount paid, shall be credited on the proportional liability of the United States, they have construed this to mean a reimbursement, when as a matter of fact if the amount needed for the sinking fund and interest, is included in the total estimate for expenses, the amount thereafter paid by the Government in this respect, that is for sinking fund and interest should be credited on the half for which the Government is liable. If this is done, the Government in the result will pay merely that one-half which it has assumed to pay. I append a statement to make this clear.

Whole expenses of the District including sinking fund and interest, payable half and half, say $4,000,000, proportional part to be paid by the United States $2,000,000, interest and sinking fund charge paid by United States and by law to be credited on the proportional part of one-half of whole expenses, $1,000,000. Balance to be paid by the United States $1,000,000. Total actually paid by the Government $2,000,000.

Mr. Chairman, the importance of this matter justifies a repetition of some of the points presented a few days ago. If the Chairman is still of the same mind, and if he is not aided by the clarifying debate of Mr. Blackburn and others to arrive at the true meaning of section 1, of the Johnson amendment, if he is able to differentiate this case, from the bathing-beach case, if he is mindful of, but not constrained by the precedents afforded in the rulings of Chairman GARRETT and others, why then as a matter of course, he will abide by his former ruling. But I hope that a different conclusion will be reached upon the merits. Is it possible that for so many years so many people have been in error in this matter?

Is it possible that all of the participants in the debate were at fault? Is it possible that in this gathering of distinguished men, Blackburn, and Hewitt, and Grout, and many others, there was no one acute enough to see the manifest meaning of this beneficent amendment now ascertained to be a shield and protection for the Government? So far from binding, this amendment unloosed, so far from entangling the Government in the meshes of a fraudulent debt, it is now insisted that by its very terms the cords of entanglement are cut away. The Committee on Appropriations has not been concerned to inquire into the righteousness of the half-and-half principle. It may be wholly wrong. We have been concerned merely to inquire whether this section authorized an appropriation for the sinking fund on the half-and-half basis. If so, we were required to make it, but it was competent for the committee to strike out the appropriation. The committee can refuse to appropriate for the discharge of this obligation, if it is so disposed, even if it agrees that the half-and-half obligation was explicitly assumed. But no such discretion was lodged in the Committee on Appropriations. Whether the assumption was righteous or unrighteous, conceding that it was actually undertaken, the committee must appropriate accordingly, and its action is not subject to a point of order.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. SAUNDERS. Certainly. I yield with pleasure, because I wish nothing better than to bring before this body not a controversy over the half-and-half principle, which is sought to be injected into the determination, of this controversy, but the merits of the point of order.

Mr. MARTIN of South Dakota. Would not that involve the question as to what the half-and-half division was to apply to?

Mr. SAUNDERS. Certainly.

Mr. MARTIN of South Dakota. I am referring to the act of 1878.

Mr. SAUNDERS. 1879. That is the one relating to the sinking fund.

Mr. MARTIN of South Dakota. Does the gentleman contend in either of those acts, where the items are enumerated, that the District is to pay half and the Government is to pay half, that the item of interest or sinking fund of the debt was enumerated?

Mr. SAUNDERS. The provision for the sinking fund does not come into existence until the act of 1879.

Mr. MARTIN of South Dakota. Is it not true that the particular items to which the half-and-half rule is to apply are enumerated in that act of 1878?

Mr. SAUNDERS. No.

Mr. MARTIN of South Dakota. Perhaps I am not able to read it right, then.

Mr. SAUNDERS. Let me answer this in my own way. I know what the gentleman is going to read. The provision for one-half payments was established, in 1874, and 1878. Before that time Congress had aided the District by varying appropriations. The acts of 1874, and 1878 were intended to establish, and did establish fully the half-and-half principle. The act provided that this principle should apply to the expenses of the District. Clearly the interest on the funded indebtedness for which the District was liable, was one of the expenses of the District. Interest is fairly included within the meaning of the word "expenses."

This is my answer to the gentleman from South Dakota. I will say further to my friend from South Dakota that in the debate in 1879 it was admitted on all hands that the antecedent acts committed the Government of the United States to the payment of one-half the interest, and that if they adopted the first section included in the pending amendment, such action would commit the United States Government to the payment of one-half of the principal.

Mr. MARTIN of South Dakota. The first one in the proposed amendment seems to be the substance of the item in the act of 1879.

Mr. SAUNDERS. It is the act of 1879.

Mr. MARTIN of South Dakota. And something of the same language is in the act of 1878, which reads as follows, if the gentleman will permit——

Mr. SAUNDERS. Certainly.

Mr. MARTIN of South Dakota. It reads this way:

> Hereafter the Secretary of the Treasury shall pay the interest on the 3.65 bonds of the District of Columbia issued in pursuance of the act of Congress approved June 28, 1874, when the same shall become due and payable, and all amounts so paid shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia as hereinbefore provided.

The provision thereinbefore enumerates the different items.

Mr. SAUNDERS. Yes.

Mr. MARTIN of South Dakota. How does the gentleman reconcile his present contention with the provision here, that if the Government pays the interest on these bonds it shall get credit for the amount as part of its proportion for general expenses, not for one-half, but credit for the whole amount paid?

Mr. SAUNDERS. That refers to the system of bookkeeping in vogue.

Mr. MARTIN of South Dakota. Oh, well, that——

Mr. SAUNDERS. Permit me to answer the gentleman's question. It may be that I will submit a very imperfect answer, but I desire to answer the gentleman's question as best I can. I have already argued that the language of that section, and the language of the other section, are not very apt, and require reference to other sections of the statute for their proper understanding. When this is done there is no real difficulty. I assert that when these sections were interpreted by the men who enacted the act of 1879, those gentlemen were not troubled by the suggestions that now trouble the gentleman from South Dakota. They interpreted these sections, just as the Committee on Appropriations has interpreted them. That interpretation was of great aid to us, and to every man who seeks to arrive at the real meaning of the language used.

If you segregate this section from the cognate body of legislation, segregate it from the general attitude at the time of the Federal Government toward the District of Columbia, you may find yourself in difficulty. But you must look to all of these aids. In the interpretation of a will, if you take one section by itself, apart from the balance of the will, and look to that section alone, you may find difficulties not easy of solution. Yet on the whole the will may be readily interpreted.

Mr. MARTIN of South Dakota. Well, I will say to the gentleman that perhaps the action of an administrative officer had not been questioned promptly enough to bring out what occurred at the time.

Mr. SAUNDERS. The meaning of the section was discussed by the very men who enacted it into law.

Mr. MARTIN of South Dakota. The gentleman is not allowing me to make a statement of what I had in mind.

Mr. SAUNDERS. I thought the gentleman asked a question.

Mr. MARTIN of South Dakota. I am seeking light on the question, and I am seeking it from the gentleman who is the source of light, but I can take a little time of my own later.

The gentleman from Virginia says that while the language of the bill under an ordinary construction of language would indicate a certain thing, the administrative officers of the Government have determined otherwise, and that probably they are better qualified to make the interpretation than we.

Mr. SAUNDERS. I made no such statement as that. I did not refer to the interpretation by the administrative officers. I did not refer to their interpretation.

Mr. MARTIN of South Dakota. I want to ask the gentleman a question as to the meaning of the language. Are we not obliged to interpret those provisions by the antecedent acts?

Mr. SAUNDERS. That is what I said.

Mr. MARTIN of South Dakota. If the Government is to get credit for the payment of the interest, is it not also safe to assume that it is to get credit for the payment of the whole amount?

Mr. SAUNDERS. No. I do not say that. On the contrary I have undertaken to show that the Government agreed to include the sinking fund and interest, in the expenses of the District, and to pay one half of the total. This is what it means by acts, crediting the amount paid on the proportional part.

I have said nothing about any interpretation of this act by ministerial officers. What I said was this, that it has been interpreted three times by chairmen of this committee. I said that it was interpreted by the body which passed the act of 1879, and in that body there was no contrariety of attitude as to what this section meant. I said further that the action of this body from 1879 forward, was a further interpretation of this act.

I said further that the very body which passed the act of 1879, when it came to appropriate for the sinking fund, appropriated precisely as we have continued to appropriate from that day to the present time. I have referred to all of these things as an aid to our interpretation. If the gentleman, or any Member of this body fastens his attention on one section of these acts without looking to the whole body of legislation, and to the rulings of antecedent Chairmen, one of whom was the gentleman from New York [Mr. PAYNE], why of course they may create difficulties, that a recourse to aids ready to hand, would easily resolve.

The CHAIRMAN. A moment ago the gentleman made reference to the act of 1879. To what act of 1879?

Mr. SAUNDERS. That section which the gentleman from Kentucky [Mr. JOHNSON] embodied in his amendment. I think that act is really not difficult of construction. I think that act could be construed without the aid of the contemporaneous debate, which I so fully cited a few days ago.

The CHAIRMAN. Will the gentleman direct the attention of the Chair to the particular act of 1879 which the amendment refers to?

Mr. SAUNDERS. Why, the amendment is the act itself. The amendment simply reproduces the section of the act of 1879, which affords the foundation for the appropriation originally contained in the bill.

The CHAIRMAN. Does the gentleman mean to say that the first paragraph and the second paragraph of the amendment are taken from the act of 1879?

Mr. SAUNDERS. No, not at all. The amendment before the Chair, reproduces in one case the act of 1879, and in the other the act of 1878.

The CHAIRMAN. Will the gentleman read to the Chair that part of the amendment where the act of 1879 appears?

Mr. SAUNDERS. It is all there:

> And there is hereby appropriated out of the proportional sum which the United States may contribute toward the expenses of the District of Columbia in pursuance of the act of Congress approved—

And so on, down to the reference to the act, volume 20.

That was the language contained in the conference report of Mr. Atkins, the chairman of the Committee on Appropriations——

The CHAIRMAN. On what bill?

Mr. SAUNDERS. On the bill of 1879.

The CHAIRMAN. On the sundry civil appropriation bill?

Mr. SAUNDERS. Why certainly. It has been understood all the time, that the appropriation for the District of Columbia for the year 1879 was made in the sundry civil bill. Section 1 of the amendment of the gentleman from Kentucky was brought before the House by a conference report. It was immediately attacked by Mr. Blackburn, then a Member of this body, afterwards United States Senator, upon the ground that it proposed to saddle the Government of the United States to the extent of one-half of the funded debt of the District. This was conceded to be its meaning and intent.

Mr. BURKE of Pennsylvania. Will the gentleman yield?

Mr. SAUNDERS. Certainly.

Mr. BURKE of Pennsylvania. Has there at any time from 1879 been either a bill or a report from any appropriation committee or any conference report or any interpretation placed by any administrative officer with reference to the application of this fund in line with the amendment now suggested by the gentleman from Kentucky?

Mr. SAUNDERS. No. On the contrary, whenever the attention of a presiding officer has heretofore been called to this contention, it has been overruled.

That is all, Mr. Chairman. This has been in a measure a repetition of some portions of the discussion of last Tuesday, but this is so important a subject that it deserves the fullest consideration. The point of order to this amendment raises anew, the question embraced and considered in the former ruling of the Chair. It is hoped that on further consideration the Chair may modify that ruling.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. BORLAND having taken the chair as Speaker pro tempore, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also announced that the President had, on February 5, 1913, approved and signed bill of the following title:

H. R. 24194. An act to create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

Mr. BORLAND and Mr. MARTIN of South Dakota rose.

Mr. MARTIN of South Dakota. Will the Chair hear me upon the point of order?

The CHAIRMAN. The Chair will state that he has recognized the gentleman from Missouri [Mr. BORLAND]; but the Chair will be glad later to recognize the gentleman from South Dakota.

Mr. BORLAND. Mr. Chairman, the amendment to which this point of order is raised is offered for the purpose, and has the effect, of making the law as decided by the Chair the other day apply to the appropriations in this appropriation bill. It has no other effect, and it is a proper item to go in. The interest and the sinking fund are amounts that should be appropriated for in this bill, but should be appropriated for in accordance with the law as it was determined under the discussion the other day. The argument of the gentleman from Virginia [Mr. SAUNDERS] is largely a repetition of the argument he used at that time. That matter is, as the Chair said a few moments ago, stare decisis—it has been adjudicated. The particular item in the bill was taken out and the point of order was sustained.

Under that ruling, under that stare decisis, this amendment becomes in order, because it complies with that ruling and with the law upon which the ruling was founded.

In order to refresh the recollection of the gentleman from Virginia and the Chair and the House as to the exact operation of this half-and-half principle, I want to refer to the language of the law of 1878. It is always stated in debate, was so stated a few minutes ago in reference to the bathing beach, and is stated in reference to all of these items, that some kind of a general contract or organic law exists between the Government of the United States and the District of Columbia by which the Government of the United States is obligated to pay one-half of all the expenditures, general and special, of the District of Columbia. That is not the law and never was the law; but that general assumption has enabled items from time to time to creep into appropriation bills to the disadvantage of the Treasury of the United States and to the advantage of the treasury of the District of Columbia. That general impression is cultivated and made universal through the constant appeal to the half-and-half principle as the organic law of the District of Columbia.

As a matter of fact, there can be no organic law of the District of Columbia. I will not stop to argue that question. The statute providing for the form of government for the District of Columbia and amended from time to time is an ordinary act, no different from any other act of Congress. As times and conditions change, as the District gets out of difficulties in which it then was involved, other situations present themselves,

and that law is subject to amendment from time to time as the wisdom of Congress may determine.

Mr. SAUNDERS. Will the gentleman yield?

Mr. BORLAND. Yes.

Mr. SAUNDERS. We are fully agreed as to that. We never contended that what was called the organic act, and which is a misnomer, is not capable of repeal or amendment at the pleasure of Congress at any time.

Mr. BORLAND. That being true, and no difference existing between us, that impression being removed, I hope, as far as it may have taken lodgment in the mind of any Member here, I want to refer Members and the Chair to what the half-and-half division originally was.

In the act of 1878, United States Statutes at Large, volume 20, page 104, it is said:

The said commissioners shall submit to the Secretary of the Treasury for the fiscal year ending June 30, 1879, and annually thereafter for his examination and approval, a statement showing in detail the work proposed to be undertaken by them during the fiscal year next ensuing and the estimated cost thereof.

There is one item, the work proposed to be undertaken and the estimated cost thereof.

The cost of constructing, repairing, and maintaining all bridges authorized by law across the Potomac River within the District of Columbia, and also all other streams in said District.

That is another item.

The cost of maintaining all public institutions of charity, reformatories, and prisons belonging to or controlled wholly or in part by the District of Columbia and which are now by law supported wholly or in part by the United States or District of Columbia.

That is another item.

The expenses of the Washington Aqueduct and its appurtenances.

That is another item.

An itemized statement and estimate of the amount necessary to defray the expenses of the government of the District of Columbia for the next fiscal year.

Mr. MADDEN. Will the gentleman yield?

Mr. BORLAND. I think I anticipate the gentleman's question, and if he will be patient I will answer it. I will yield later. Those are the items referred to in that law of 1878 which must be estimated for by the commissioners and submitted to the Secretary of the Treasury. Then the Secretary of the Treasury sends them to Congress, and the language of that same section continues in these words:

To the extent to which Congress shall approve of said estimates Congress shall appropriate the amount of 50 per cent thereof, and the remaining 50 per cent of such approved estimates shall be levied and assessed upon the taxable property and privilege in said District other than the property of the United States and of the District of Columbia; and all proceedings in the assessing, equalizing, and levying of said taxes, the collection thereof, the listing, return, and penalty for taxes in arrears, the advertising for sale and the sale of property for delinquent taxes, the redemption thereof, the proceedings to enforce the lien upon unredeemed property, and every other act and thing now required to be done in the premises shall be done and performed at the times and in the manner now provided by law, except in so far as is otherwise provided by this act.

So that those are the items and the only items to which the 50 per cent ever did apply by virtue of any so-called organic act. It is not contended that that includes the interest or the sinking fund.

Mr. SAUNDERS. It does. It was specifically contended in reply to the gentleman from South Dakota that it covered the interest and not the sinking fund.

Mr. MADDEN. Does the gentleman contend that the payment of interest and the payment of the annual proportion of the bonded debt is not a part of the Government expense?

Mr. BORLAND. Yes; and I will explain exactly why, because that is the question I anticipated the gentleman was going to ask. It is not contended that that language specifically designates the interest or the sinking fund. It certainly does not designate the sinking fund, and does not specify the interest. It is contended by the gentleman from Virginia [Mr. SAUNDERS] and by the gentleman from Illinois [Mr. MADDEN], possibly, that the interest is included under the term "expenses of the District of Columbia." That construction must be drawn, as the gentleman from Virginia has himself pointed out, from the entire act, if it is drawn at all. If that implication is drawn at all, it could only be drawn in the absence of some specific language in the act which made provision for the interest. Let us see if the language of the act itself does not make a specific provision for the interest. If the language of that act makes specific provision for the interest, then it is apparent that it dispels any implication that the interest was included in the general language in this estimate.

Mr. DALZELL. Mr. Chairman, will the gentleman yield?

Mr. BORLAND. Yes.

Mr. DALZELL. I am asking for information. As a matter of fact, have the estimates that have been submitted to Congress since 1879 included interest and payment of the sinking fund as part of the expenses of the District?

Mr. BORLAND. I believe so. To return to the proposition I made, this enumeration, not having included the interest in terms, if we want to extend that enumeration by implication to the interest, it must be in the absence of some language in the law which would otherwise take care of the interest. I do not think that would be a necessary implication if the language were entirely absent, because the interest is not a general expense of the District. It might be an expense and it might not be an expense, but it is not necessarily included in the general word "expense."

But this bill makes specific provision for the interest in these words:

Hereafter the Secretary of the Treasury shall pay the interest on the 3.65 bonds of the District of Columbia issued in pursuance of the act of Congress of June 20, 1874, when the same becomes due and payable—

The Secretary of the Treasury shall pay them, so that there is no question between the bondholder and the United States—

and all amounts so paid shall be credited as part of the appropriation for the year by the United States toward the expenses of the District of Columbia as hereinbefore provided.

The United States, as between the bondholder and the United States, pays the interest. Then, as a matter of bookkeeping, it charges that amount against the amount that it would have contributed in cash under the general appropriation bill for the District of Columbia. There is no other construction that can be placed upon that language. It is not necessary for the Secretary of the Treasury to estimate for the interest. He is given specific authority to pay it, and when he pays it, if Congress has contributed an amount equal to one-half of the general estimated expenses under that preceding section, the amount that Congress has appropriated out of the Treasury shall be credited with the amount it has already paid toward the interest coupons.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. BORLAND. Certainly.

Mr. LLOYD. Would not that make the United States pay the full amount of the interest?

Mr. BORLAND. No; I think not.

Mr. LLOYD. If it is paid by the Secretary of the Treasury out of the Treasury of the United States, and then credited to that part of the fund which is contributed under the District of Columbia appropriation bill, that would make the United States pay all of it.

Mr. BORLAND. No; the word "credited" means a subtraction and not an addition. It does not say in addition to the amount contributed. It says that it shall be credited on the amount contributed.

Mr. LLOYD. But would it not have the effect of requiring the United States Government to pay out of that part it is expected to pay of the District expenses the whole amount of interest?

Mr. BORLAND. I think not. I think it has exactly the reverse effect.

Mr. SHERLEY. Is not the gentleman's whole position predicated necessarily on the proposition that "expenses" do not include the interest?

Mr. BORLAND. Yes.

Mr. SHERLEY. Is not that begging the real question at issue? The matter at issue is whether it does or does not include it.

Mr. BORLAND. No; the argument was made by the gentleman from Virginia [Mr. SAUNDERS] that the general word "expenses" might be stretched to cover interest. The gentleman said there are cases where that might be true. I do not think it is necessarily true, but even the implication would not exist if specific appropriations were made in the same act for the interest and——

Mr. SHERLEY. If the gentleman will permit me, I am not now passing upon the question of whether the term "expenses" does include interest, but it seems to me the gentleman has not quite established the argument that it should not include interest, because provision was made in the same act for the taking care of interest. That very argument seems to fall to the ground because it is predicated on the idea that the interest so paid shall be charged—that is, credited—against the United States part of the "expenses," and there you are brought back to the original question whether "expenses" do or do not include interest. The language quoted was this:

And all amounts so paid shall be credited as a part of the appropriations for the year by the United States toward the expenses of the District of Columbia as hereinbefore provided.

What are those expenses, and do they include interest?

Mr. BORLAND. My view of that is this. I would say to the gentleman from Kentucky: If these estimates come in, as the law of 1878 requires the carrying of these estimates, then the United States Congress, so far as it approves the estimates, appropriates 50 per cent. Of course it is not bound to appropriate for any particular item only so far as it approves the item. Now the Secretary of the Treasury under authority of the same act is bound to credit the United States share whether they have included some items or no particular items in that estimate; he is bound to credit all he has paid for interest against what they have chosen to appropriate.

Mr. SHERLEY. If the gentleman will permit me there, that does not answer the contention because of the fact you have not determined the primary question whether expenses do or do not include interest.

Mr. BORLAND. Let me answer the question further in this way: If the estimates submitted by the Secretary of the Treasury do not include any interest and Congress appropriates under those estimates, as I believe is the intention of the law, and then the Secretary of the Treasury by virtue of the same act of 1878 had paid the interest in the meantime, the law would compel him to credit against the share the United States contributed toward these expenses what he has paid in the way of interest whether the United States had included the interest in the estimates or not. Now, if the United States has included the interest in its estimates, he goes through the same formula except that the result is that the interest that he credits is the same interest that has been estimated for and allowed, and therefore it nullifies the express wording of that statute because the wording would not be quoted there at all if that were the only result of it; that it should be estimated for by one officer and credited for by another officer would not require that express language in it.

Mr. LLOYD. Is not this true? If the money is paid by the Secretary of the Treasury out of the Treasury of the United States, as is now required by law, and the expense in the District of Columbia is divided equally between the District of Columbia and the United States, and then the amount of this interest account credited to the United States on that account, would not the effect be for the United States to pay one half and the District of Columbia the other half? It has paid the one half which it ought to pay under the equal distribution, and the other half it would get a credit for in its relation with the District account.

Mr. JOHNSON of Kentucky. Will the gentleman yield for just one moment in that connection? I think I can clear the mind of the gentleman——

Mr. BORLAND. I think I can clear it up.

Mr. JOHNSON of Kentucky (continuing). I think I can clear up the mind of the gentleman from Missouri a little bit. If he will take my amendment and read the first two lines of it, he will find it reads this way, and it is a copy of the law:

And there is hereby appropriated out of the proportional sum the United States may contribute toward the expenses of the District of Columbia.

Under that there is no provision for an appropriation out of the Treasury, but there is a provision for appropriating out of the proportional sum that is contributed by the District of Columbia.

Mr. LLOYD. And the proportional sum is half and half—50 per cent?

Mr. JOHNSON of Kentucky. That depends upon whether they contribute half or not.

But if they do contribute half, for the sake of argument, then the sinking fund must be created out of the amount that is appropriated by the Federal Government toward the District of Columbia.

Mr. LLOYD. But the proportional part that is referred to is the proportional part that is provided in the statute, and the proportional part that is provided in the statute is the 50 per cent base—50 per cent by the District of Columbia and 50 per cent by the United States. There is no other proportion, so far as I know, that is mentioned in any of these statutes. If there is, I would like to know what it is.

Mr. JOHNSON of Kentucky. And the gentleman can search all the statute books of the United States from the foundation of the Government until now, and he will find that the appropriation bills read:

That there is hereby appropriated out of any money in the Treasury not otherwise appropriated.

This is the only exception, and it says:

There is hereby appropriated out of the proportional sum which the United States may contribute to the District of Columbia for the purpose of sinking fund for the payment of its funded debt.

Mr. BURKE of Pennsylvania. I understand the gentleman from Missouri to answer the gentleman from Kentucky [Mr. JOHNSON] to the effect that the payment of interest on the funded debt of the District could not be properly considered expense of the District.

Mr. BORLAND. I said it was not necessarily included in the word "expenses."

Mr. BURKE of Pennsylvania. Will the gentleman answer this question: If the Secretary of the Treasury in the enforcement of the corporation-tax law should refuse to allow a corporation, as a matter of bookkeeping, for $100,000 interest on its bonded indebtedness, would the gentleman regard that as a fair proposition or as a legal one?

Mr. BORLAND. The gentleman must recollect that the corporation tax law specifically points out how interest shall be credited and how much interest. It says that the debt must not be larger than the total capital stock. It is specific on that subject. There is no analogy at all.

Mr. BURKE of Pennsylvania. Applying to any general business having a bonded indebtedness, are not the first items that are included in the list of fixed charges the interest on the funded debt?

Mr. BORLAND. Now, the gentleman and I may have come to a purely political question.

Mr. BURKE of Pennsylvania. No.

Mr. BORLAND. I have always contended that the amount of interest on capital that is in a business, public utility, or otherwise, borrowed on its bonds, is not generally a legitimate expense of the business. And to charge the consumer with a rate covering the interest on the bonded indebtedness is a proposition that is rapidly going out of the legislative mind of this country. It is even being dispelled from the judiciary mind that interest on the bonded indebtedness, fixed charges as they are called, are necessary elements of the expenses of the business. We all know now it is not true; that some businesses may have borrowed money in some amount; but, after all, it is capital, whether borrowed or unborrowed.

Mr. BURKE of Pennsylvania. Does not the gentleman think a corporation has a right to borrow?

Mr. BORLAND. Yes.

Mr. BURKE of Pennsylvania. And would it not be its duty to pay the interest on that debt?

Mr. BORLAND. Of course, on its contract.

Mr. BURKE of Pennsylvania. Would not that be a legitimate expense of its business?

Mr. BORLAND. Not at all. They might have borrowed $15,000 when they needed only $10,000. It is not a general expense of the business.

Mr. BURKE of Pennsylvania. There is no question that this particular loan we are discussing now is a legitimate one.

Mr. BORLAND. Oh, yes; there is a great deal of question.

Mr. BURKE of Pennsylvania. The gentleman is not discussing it from that standpoint.

Mr. BORLAND. I am not discussing that, because I did not want to go too far afield in this discussion.

Mr. BURKE of Pennsylvania. But you admit it was a properly acquired loan?

Mr. BORLAND. I do not admit anything, and that is not necessary to this argument.

Mr. BURKE of Pennsylvania. If it was not, the gentleman would repudiate the whole debt?

Mr. BORLAND. My point is that the existence of a loan is merely an incident and not a usual or necessary expense of the business. It is always specific in its obligation.

Mr. SAUNDERS. Let me ask one question. The language there is "expenses." Can you conceive of any situation in which a municipality, bound for municipal indebtedness and therefore under obligation to pay the interest on the same as it accrues, would not properly treat of interest incurred in that way as expense? Give me a case in which a city would be required to pay interest and at the same time say that the interest was not an expense.

Mr. BORLAND. In this case provision has been made specifically for interest and sinking fund of an indebtedness. I have known of very, very few cases, except when they are trying to fix the rates charged by a railroad, where the interest is figured in as a part of the general expense of the business. I never knew of a business man to do it in his own counting room, or in consultation with his attorney, or in a board of directors. I have never known it to be otherwise than a simple, clear-cut proposition of capital for the business itself, but not a necessary expense. I do not think the word "expense" includes interest as a general proposition.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. BORLAND. Yes.

Mr. MADDEN. Does the gentleman contend, although he claims that the borrowing of money and the payment of interest

on a loan is simply an incidental proposition to the conduct of the business, that after that proposition has been entered into it is not a legitimate part in the conduct of the business?

Mr. BORLAND. I do not think there is any misunderstanding about my position, and that is that the obligation to repay money is a mater of specific contract. It is not included in any general words at all.

Mr. MADDEN. Very true; but while the obligation exists, does the gentleman contend that whatever interest must be paid on the obligation is not a specific part of the legitimate annual expenses of conducting the business on which the loan is made?

Mr. BORLAND. Well, I do not know that it is necessary to repeat what I said a while ago. I did not know whether the gentleman was in here or not at that time.

Mr. MADDEN. Yes; I was here and listening to every word the gentleman said; and, as I understand now, the gentleman has worked his mind out to such an extent that he can say to the House that the payment of interest is not a legitimate part of the functions of the government of the District of Columbia.

Mr. BORLAND. I repeat that the payment of interest is not, in my view, either as a legal or a business proposition, included in the word "expense," but is a specific and separate matter in almost every case. There is no particular reason why interest should be an item of expense. Interest may exist or it may not exist. The loans may be too large or they may be too small or they may not exist at all. Now, the gentleman says that if a party is in debt, if the interest on that debt is not a part of the expenses of his business, what is it?

The only implication that interest could arise incident to this expense must be founded, as I presume, upon the absence of any other provision in the same law for the payment of such indebtedness, and if the same law makes other provision for the payment of the interest on the same indebtedness it would be presumed and argued in every court that that special item for interest would take it out of any implication in a general item.

Mr. MADDEN. The gentleman does not contend that the item of interest can be taken out of the category of expense, does he?

Mr. BORLAND. Yes. It does not make any difference to the gentleman from Illinois whether I owe $100 or $1,000, or pay interest on $100 or on $1,000. Neither one of those circumstances is an incident to my living in the District of Columbia, nor has it anything to do with my expenses.

Mr. BURKE of Pennsylvania. Suppose a man offered the gentleman from Missouri $1,000 worth of stock in a corporation, and the gentleman from Missouri purchases it on the strength of this statement, that "last year we made $15,000," and after he had acquired that stock and investigated the business, he found that in fact they had not made a cent, or had lost that much. Suppose the gentleman from Missouri accused the man of false pretense, and he said, "Oh, there is no false pretense about it. That $15,000 went to pay interest on the mortgage indebtedness." Would the gentleman from Missouri say he was deceived? Would the gentleman say the vendor had been guilty of false pretenses in that case?

Mr. BORLAND. Oh, no; but I do not see any application in that to this proposition. If the money was really made, the purpose for which it was used cuts no figure.

Mr. BURKE of Pennsylvania. If it was not used as a part of the expense of the concern it could not be so considered.

Mr. BORLAND. Let me ask the gentleman a question. He is a good lawyer. Suppose the gentleman wanted to go into a business that required $50,000 worth of capital, and he had the $50,000 worth of capital and put it into the business, and thereafter his earnings were $5,000 a year on that capital. He did not have any interest to pay at all. Now, suppose I was located adjoining him or across the street, and I had the same business, and the capital of my business was $50,000, but I had borrowed $25,000 from the gentleman from Kentucky [Mr. SHERLEY] and was paying interest on it. Now, when we come to figure out what were the relative expenses of the business, in the gentleman's case it would not include interest and in my case it would. Is it not evident that the interest is really a dividend or the return on the capital borrowed, just as much as on what the gentleman pays himself? The difference between interest and the running expenses of a business is always clear. That, however, is running far afield from this argument.

Mr. SAUNDERS. Mr. Chairman, may I suggest this to the gentleman in that connection, that in the one instance that the gentleman cites payment is made on a fund that is not related to the business at all. Of course it has no relation to the expense of the business; but suppose it was money paid and interest on a debt that was specifically chargeable on the business. Would not that be part of the expense of the business?

Mr. SHERLEY. I would like to ask the gentleman this question: What does he consider the capital of a city or municipality?

Mr. BORLAND. That is getting to be a pretty deep political question.

Mr. SHERLEY. Very well. Then where does it get its income for the payment of its expenses? It gets it through its taxing power, does it not?

Mr. BORLAND. The capital of a city is its aggregate taxable wealth.

Mr. SHERLEY. Its taxing power?

Mr. BORLAND. Yes.

Mr. SHERLEY. Now, if it is a solvent, going city, does it not have to levy sufficient taxes to pay the expenses of its government, and would it not have to consider a debt as a part of those expenses, or else repudiate it? Is that true or not?

Mr. BORLAND. It would either have to pay the debt or repudiate it.

Mr. SHERLEY. Yes. Then if it has to pay the debt, is it not an expense of the municipality?

Mr. BORLAND. No; it does not follow from that statement that it is an expense. It follows from that statement that it must comply with its contract, whatever it is.

Mr. SHERLEY. There is no contract, other than that the city owes certain money. Now, it has got to pay that.

Mr. BORLAND. It has got to pay that.

Mr. SHERLEY. The paying of that becomes an expense of the city, does it not?

Mr. BORLAND. The general word "expense" is broad enough to cover anything that anybody has to pay.

Mr. SHERLEY. Is there anything here that qualifies the "expense" to make it current?

Mr. BORLAND. I think so, and if we can get back to the law, I want to point out to the gentleman from Kentucky why I think so.

Mr. SHERLEY. That is just the point I want to hear you on.

Mr. JOHNSON of Kentucky. Will the gentleman from Missouri permit an interruption?

Mr. BORLAND. Yes.

Mr. JOHNSON of Kentucky. I will read just one little extract from a speech that I made upon this subject on the floor of this House a year ago, in which I said:

While section 7—

Of the act of 1878—

said that all classes of indebtedness set out in section 6 evidenced by board of audit certificates might be exchanged for the 3.65 bonds, the creditors saw all the "taxes, moneys, credits, securities, assets, and accounts" set aside by section 2 for the payment of "current expenses, schools, fire department, police, and debts secured by a pledge of the (District) securities."

In addition to that I called attention to another feature of this proposition when I said:

If the United States was to pay any part of the interest upon these bonds, why should such often-repeated expressions in the various acts of Congress relative to "reimbursing," "refunding," "credited as a part," and paid "out of the proportional appropriation," and other such expressions be used, when not one of these expressions of limitation is used in connection with any other appropriation?

This is the only expense, if you choose to call it such, of the District of Columbia that Congress at that time saw fit to attach any limitation or qualification. That limitation or qualification was that it should be paid out of the Federal Treasury and then returned to the Federal Treasury by the District of Columbia.

Mr. BORLAND. Now, while it is true, as I have no doubt, that the word "expense," being a word of very broad signification, may be broad enough in a great many cases to cover the payment of interest or the payment of any other charges, yet inasmuch as interest is usually specifically provided for in public acts, and even in the acts of private corporations it is usually classified by itself separately and specific provision made for it, I deny that there is any necessary implication from the word "expense" that would include interest; and if we find in the very same law a specific provision for the payment of interest, then we are entitled to assume, in fact we must assume, that it was not included in the general words which precede it. If it was included in the general words preceding it, the specific provision for its payment would not be necessary; and that is the fact concerning this law of 1878.

Mr. SAUNDERS. May I interrupt my friend a moment?

Mr. BORLAND. Yes.

Mr. SAUNDERS. John Sherman in his day was regarded as the foremost financier of that time. He was Secretary of the Treasury when the first estimates in this matter were submitted to him. He revised those estimates and returned them. Under the head of "General expenses of the District of Columbia" was included provision for the sinking fund and interest. Does

not my friend think that is pretty good authority for the proposition that even under that act these items were properly related to the heading "District expenses"?

Mr. BORLAND. That is a repetition of the same position which the gentleman from Virginia has assumed, that this having been acted upon contrary to the wording of the law, if it be contrary to the wording of the law, that that construction of the law is binding upon subsequent Congresses. Of course, that is not necessarily true. The half-and-half principle that has been so often spoken of here does not, according to the wording of the law and the four corners of the law of 1878, apply to interest or sinking fund. That was the ruling of the Chair the other day, and is still the contention of the gentleman who offers the amendment.

In 1874 and 1878 every municipality in the country was on the verge of bankruptcy. A very general period of depression, and we might say of corruption, had swept over the country, and every city was confronted with a large city indebtedness, and some of them had to go out of existence as municipal corporations because they could not meet their obligations.

What occurred in the District of Columbia, where a debt of $22,000,000 was confronting them? The United States stepped in and took the debt, some of which was in dispute, and reduced the interest to 3.65 per cent, or less than 4 per cent. At that time there was no municipality or private individual in the United States that could get money at such a price. If the District of Columbia got money for less than 4 per cent, it was getting at almost half the current rate paid by the public and municipalities. The District of Columbia, by reason of the guaranty the United States made that it would see that the bondholders were paid out of the appropriate revenues, was enabled to cut its interest bill in half, and the District for 30 years has enjoyed the fruits of that guaranty. Instead of its being in a worse condition, it is in a better situation than any county or municipal corporation or quasi municipal corporation in the United States that went through that familiar wholesale bond issue following the Civil War.

There is not a community in the United States that has been so favorably treated as the District of Columbia from that guaranty of the United States behind it. I do not know of a municipality in the country that would not be glad to have the United States step in and guarantee the interest on the bonded indebtedness and cut the interest down to less than 4 per cent.

Now, the District comes in after that favored treatment of nurturing and nursing that has gone on and after its taxable wealth has largely increased, when it has more taxable property per capita than any other city in the United States, when its taxing power is only used to one-third of its limit—more than two-thirds of the District of Columbia's wealth escapes taxation, where only the little fellows are taxed—I say it now comes in and says that some great hardship is being done and that the Federal Government should continue to pay half of its sinking fund and interest.

We say under these circumstances that unless the strict letter of the law, unless the very letter of the bond, calls for the pound of flesh, the pound of flesh ought not to be rendered. If the District of Columbia can show that either it or the bondholders has a legal enforceable right, a naked, bare, harsh right to demand payment from the Federal Treasury, let it insist on that legal obligation and stand upon its legal rights. But as to its having any moral right, it has no moral right at this time, and never did have a moral right. It was taken out of the slough of bankruptcy and has been started on a prosperous career. It has secured the refunding of its debt at a lower rate of interest than has ever prevailed in any municipal indebtedness of the United States. It has enjoyed the fruits of that statute which has increased its taxable wealth beyond all other cities of its size. It has no moral right at this time. If it has the bare legal right, that is bad enough. It has been decided here that it did not have a legal right to insist upon the continuation of the payment of one-half of the interest of the sinking fund. That being true and the point of order having been ruled upon and it being ruled that the payment of one-half by the United States was not authorized by law and therefore subject to a point of order, it necessarily follows that the amendment offered by the gentleman from Kentucky that the amount be put in and charged against the funds of the District is in order and must prevail.

The CHAIRMAN. The Chair is ready to rule, but recognizing the importance of the question, he will not decline to hear gentlemen further if they wish. But he will ask them to address their remarks to the point of order.

Mr. MADDEN. Mr. Chairman, I understand that no argument has been made as yet on the point of order.

Mr. SAUNDERS rose.

The CHAIRMAN. For what purpose does the gentleman from Virginia [Mr. SAUNDERS] rise?

Mr. SAUNDERS. Mr. Chairman, I ask for 5 minutes to submit a statement.

The CHAIRMAN. The gentleman from Virginia, a member of the committee, is recognized.

Mr. SAUNDERS. Mr. Chairman, as showing how widely gentlemen may differ and fairly so, with respect to the interpretation of the original acts, I will simply say that every citation which my friend from Missouri [Mr. BORLAND] has adduced this morning in support of his position, was adduced by me a year ago in an argument on this proposition to support an entirely different conclusion. This being so, it emphasizes the importance of the contention that the Chair should look to the contemporaneous discussion of these ambiguous statutes for their proper interpretation.

I desire to call the attention of the Chair to a portion of the language cited by the gentleman from Missouri, and to submit a brief argument showing that the use of this language was necessary, and strictly in harmony with the present contention that the Government assumed one-half of the interest on the funded debt as a portion of the debt of the District. The language cited is as follows:

Hereafter the Secretary of the Treasury shall pay the interest on the 3.65 bonds of the District of Columbia issued in pursuance of the act of Congress approved June 20, 1874, when the same shall become due and payable.

If the act had stopped at that point, it might have been argued that this payment was something additional to the one-half which it had already assumed. Therefore, it was necessary to add the language:

And all amounts so paid shall be credited as a part of the appropriation toward the expenses of the District, as hereinbefore provided.

The concluding words "as hereinbefore provided," relate back to the half-and-half principle which had been established. Permit me to illustrate by the statement of a hypothetical account between the Government and the District the inevitable effect of this requirement, and demonstrate that in the result the words merely serve to make the Government pay one-half of the interest and no more. Suppose that the expenses of the District of Columbia for the first year after the act of 1879 amounted to $4,000,000, those expenses including of course the sinking fund and interest. How much would the Government of the United States be liable for, under the act 1878. The answer is simple, $2,000,000. Now suppose that the Government proceeded to pay $1,000,000 on the sinking fund and interest. This amount would thereupon be credited on the amount of two million for which it was liable. This would leave the Government liable for one million more.

The aggregate amount therefore paid by the Government would be $2,000,000, the exact amount for which it would be liable, according to the statute, upon the assumption that in any one year, the amount of the aggregate expenses of the District was $4,000,000. So that the direct application of the requirements of this statute, to a settlement of accounts between the District, and the United States, compels the Government to pay one-half of the expenses, in a word the proportional part for which it is liable.

I submit a statement of an account illustrative of my contention:

Whole expenses, including sinking fund and interest, payable half and half	$4,000,000
Proportional part to be paid by the United States	2,000,000
Interest and sinking fund charge paid by United States, and by law to be credited on its proportional part or one-half of whole expenses	1,000,000
Balance to be paid by United States	1,000,000
Total actually paid by the Government	2,000,000

The CHAIRMAN. The gentleman from Illinois is recognized.

Mr. MADDEN. Mr. Chairman, the gentleman from Virginia [Mr. SAUNDERS] has said what I was going to say, but he has said it so much better than I could have said it that I will not detain the committee longer.

Mr. HAYES. Mr. Chairman, I understand the point of order is simply reserved and that all the gentlemen have been discussing the merits of the amendment. I do not understand that a point of order is pending.

The CHAIRMAN. The point of order has been made.

Mr. HAYES. Mr. Chairman, this discussion has taken a very wide range, not only to-day but previously, and I desire to submit some considerations, not upon the point of order but as to the merits of this amendment. I was present last Saturday when the gentleman from Kentucky [Mr. JOHNSON] made his point of order against the provision in the bill and discussed the proposition substantially now before the House. I was astonished when he made the point of order. I was still more

astonished at various statements which he made in the course of his remarks which he submitted in speaking to the point of order. I wish to call attention to one or two things that were stated in that discussion, and I ought to say in this connection that I am not desirous of criticizing the gentleman from Kentucky, and I am not implying in what I shall say that he has willfully made any misstatement, but I wish to call attention, among others, to the part of his statement which I read from the RECORD of last Saturday, February 1:

Tracts of land in the District of Columbia in the midst of primeval forests are opened up and laid out into town lots. Under that plan the District of Columbia calls upon the Federal Government to pay one-half of the expense of the streets that are opened and macadamized and paved through that, and the Federal Government does it.

Mr. Chairman, I was very much astonished at that statement, and it caused me to make a little investigation upon my own account. I want to say to the House that that statement is erroneous.

The law of 1893 provides that when new land is to be subdivided or platted in the District of Columbia the owner must dedicate the streets included in the plat in accordance with the District highway plan; and without a single exception since 1893, according to my investigation of subdivisions of land in the District of Columbia, the owners of all subdivisions of land have not only dedicated the streets without expense to the District, but they have, as a general rule, improved those streets at their own expense.

Other public improvements that are made in the undeveloped parts of the District of Columbia are generally paid for at private expense or are charged to the abutting or adjacent lands. This is not true of the improvement of the streets in the older part of the District where the District government pays for the expense of the improvement. It is also true that in the older parts of the city of Washington, when streets are opened, the universal practice of Congress has been to provide in every case that the total expenses shall be assessed to the neighborhood as benefits so as to cover the total cost of opening, and paying for the lands for those streets, and no part of the cost comes out of the Public Treasury. There are certain exceptions to this rule, notably Massachusetts Avenue extended and Sixteenth Street, where Congress has made appropriations on the usual basis for the opening, improvement, and macadamizing of these streets.

For example, in Massachusetts Avenue Heights subdivision, where improvements are now going on; on Connecticut Avenue, in Sanis's Addition; in Cleveland Park; in all of those subdivisions the District of Columbia has never paid for the improvement of the streets nor for any other public improvement. I think I am stating the fact, and I have been quite carefully investigating the matter——

Mr. CAMPBELL. If the gentleman will permit, I want to corroborate what the gentleman has stated. I know he has stated the fact, because the legislation providing for the opening of those streets provided that the property abutting should pay for the improvements.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HAYES. I ask manimous consent that I may proceed for five minutes. I have not taken up much of the time of this House.

The CHAIRMAN. The gentleman is recognized for five minutes.

Mr. HAYES. Now, Mr. Chairman, one more thing I think in justice to the District of Columbia should be stated, and that is this: That in every case the improvement of extending water or sewer connection to any part of the District is paid for by the abutting property. That is rather unusual, I think. I know that in most of the cities where I have lived the waterworks being owned by the cities which charge rental to the various property owners for the use of the water, thus having a revenue from its investment, the city puts in the mains, but in this city that is not the rule, although the city does charge the property owner for the use of the water.

Mr. LOBECK. It gets no rental from the sewers.

Mr. HAYES. Not from the sewers, but from the water. It gets a rental or charges the consumer for the use of the water, and yet the consumer is obliged also, under the laws of the District of Columbia and the practice here, to pay for putting in the mains along the streets upon which his property abuts.

Mr. CARY. I would like to say that in the city of Milwaukee, where it owns the waterworks, the laying of the mains is charged to the abutting property owners; they pay all of it.

Mr. HAYES. In the city of Madison, where I once chanced to be a part of the government, and in other cities where I have lived, that is not the rule. It seems to me an unjust rule——

Mr. LOBECK. In a majority of the cities it is the rule, except where storm sewers are constructed; the sanitary sewers that belong to the residents are paid for by the people.

Mr. HAYES. Of course, that is the rule in the city of Washington——

Mr. LOBECK. That is the rule in a majority of cases.

Mr. HAYES. I think the gentleman is mistaken. Now, Mr. Chairman, I criticize no Member of this House who regards it as his duty to attack the District of Columbia or its people, but I do think when a gentleman attacks the people of the District of Columbia, the Capital of the Nation, he ought at least to base his attack upon the facts. Statements were also made in the course of this discussion on Saturday, not only by the gentleman from Kentucky [Mr. JOHNSON], but by the gentleman from Iowa [Mr. PROUTY] and by the gentleman from New York [Mr. REDFIELD], that the city of Washington pays the lightest taxes of any city in the United States. Now, Mr. Chairman, I investigated that matter somewhat, and I have here a statement showing the taxes paid by some cities in the United States approaching the size of the city of Washington. That statement will bear me out in saying that the city of Washington is assessed, or at least it pays as high taxes as the average of the cities in the United States near its size.

That statement is as follows:

City.	Population.	Total assessment of real estate.	Tax on real estate.	Revenue from other sources.	Tax on real estate per capita.	Total tax per capita.
Philadelphia	1,549,000	$1,553,791,887	$14,528,028	$14,324,777	$9.38	$18.62
St. Louis	687,000	441,834,410	9,809,168	7,240,904	14.36	24.76
Boston, Mass	670,600	1,146,693,400	18,805,280	4,046,100	28.04	34.07
Buffalo, N. Y	423,700	325,489,250	8,066,318	2,412,815	19.04	24.72
Milwaukee, Wis	373,900	345,052,170	5,620,899	1,706,960	15.03	19.60
Cincinnati, Ohio	364,500	268,088,300	3,077,218	1,909,695	8.44	13.65
New Orleans, La	399,000	166,677,805	3,668,912	[1] 1,505,915 1,386,530	10.81	19.35
Washington, D. C	331,000	293,389,839	4,400,850	2,000,000	13.30	19.31
Indianapolis, Ind	233,650	153,336,255	3,296,728	902,925	13.87	17.73
Providence, R. I	224,300	194,910,730	3,216,027	2,528,500	14.33½	26.65
Rochester, N. Y	218,100	180,687,350	3,520,754	537,001	16.14	18.60
Portland, Oreg	207,200	224,050,420	5,466,830	143,245	26.38	27.07
Atlanta, Ga	154,800	135,101,491	1,688,768	3,428,782	10.80	36.34
Richmond, Va	127,600	83,604,275	.....	.....	.....	.....
Trenton, N. J	96,800	62,208,200	1,318,815	.....	13.62	.....

[1] Personal.

Mr. HAYES. An examination of the table will show that Buffalo and Providence pay higher taxes per capita than the city of Washington, while the taxes of the cities of Cincinnati and Indianapolis are much lower.

Now, the gentlemen I have referred to have gone upon the theory that because the city of Washington paid only 1½ per cent on a two-thirds valuation they could compare that with other cities which pay a higher rate per cent on their valuation, and because they found in other cities a lower rate have jumped to the conclusion that, therefore, Washington does not pay the taxes it should pay. Now, of course, the tax rate has nothing to do with the taxes a city pays. I have in mind a city where the total rate is 2¼ per cent on the valuation, but the valuation is only 40 per cent of the market value of the property, because that city is part of a county, and it not only has its city tax to pay, but State and county tax, and in order to put it on the same basis as the county and State the attempt is made by the assessor to put it on the same basis as to valuation, whereas in the city of Washington the valuation of the assessor is supposed to represent the value of the property.

I went over a list of the property reaching from the Mall to H Street and from the Capitol to the White House, and I find the valuation of the assessor is within 5 per cent of the market value of the property as indicated by the sales for the last five years of that property. I mean that the valuation of this property by the assessor is within 5 per cent of its market value.

As a further refutation it can be shown that during the years 1908 to 1912 there were some 200 sales between Ninth and Fifteenth Streets and B and H Streets NW. These sales aggregated over $13,000,000, and the basis of assessment for this property, which was examined and valued in 1910, is within 5 per cent of these sales. More than 90 of these sales were below the basis of the assessment, showing that the assessors had taken an average figure in making their appraisement, and it is generally conceded that a fair assessment should agree with the average sales of any section.

As an example of how property was valued I will state that the northwest corner of Fourteenth and H Streets was valued at $132,810 in 1910 and sold for $135,000 in 1912; 1409 H Street was valued at $70,335 in 1910 and was sold just before the valuation for $70,000; 1405 G Street was valued at $136,000 in 1910 and sold for $130,000 in 1911; 1407 and 1409 F Street were valued at $121,000 in 1910 and sold for $110,000 during that year; 1406 G Street was valued at exactly the amount of the sale. The southwest corner of Fourteenth and G Streets was valued at $553,000 in 1910 and sold in 1909 for $499,490. The Hall of the Ancients was valued at over $200,000 in 1910, and two years after that sold at auction at nearly 25 per cent less; No. 722 Thirteenth Street, $25,000 in 1910, sold at that figure in 1912; No. 609 Fourteenth Street, valued at about $76,000 in 1910, sold for a little over $72,000 in 1911; 1227 New York Avenue, valued at $16,762 in 1910, was sold at $17,500 in 1912; 719–21 Thirteenth Street, valued at $151,000 in 1910, sold at $150,000 during the same year.

The northwest corner of Twelfth and F, valued at $211,320 in 1910, has been offered for three years at $215,000, and was finally disposed of by a trade; 1229–1231 E Street, valued at $29,000 in 1910, had been sold the previous year for $28,000; 519 Thirteenth Street, valued at $28,000 in 1910, sold during that year for less than $22,000; 1216 F Street, valued at $124,000 in 1910, sold two years after for $120,000; 1215 to 1219 Pennsylvania Avenue, valued at $151,000, sold the year previous for $114,000; 1227 Pennsylvania Avenue, valued at $57,000 in 1910, sold the year previous for $52,000; 732 Eleventh Street, valued at $12,429 in 1910, sold for $11,000 in 1912; 726 Eleventh Street, valued in 1910 at $21,000, sold during that year at $18,000; 611 Twelfth Street, valued in 1910 at $46,845, sold two years after for $41,200; No. 708 Tenth Street, valued in 1910 at $13,450, sold for $13,300 in 1912; 1004 E Street, valued at over $17,000 in 1910, sold for less than $14,000 in 1912; 934 New York Avenue, valued at $13,000 in 1910, sold for a less amount in 1912; 922–924 F Street, valued at over $64,000 in 1910, sold the year after for about $10,000 less than the valuation. Many other sales can be shown through this section, illustrating the closeness of the assessment, one of the most recent sales on F Street between Ninth and Tenth being almost exactly on the basis of assessment. The same thing can be shown in the high-class residential portions of the northwest, for although sales have been cited to show an underassessment of high-class property, yet hundreds of sales can be given where the values are below the basis of assessment. For instance, just north of the Pinchot property on Massachusetts Avenue is a residence situated in the same way as the Pinchot property in reference to Scott Circle. This residence sold at about $10,000 less than the basis of the assessment and a majority of the sales for five years within a radius of a thousand feet of the Pinchot property have been less than the basis of assessment. Property values have been increasing along Sixteenth Street, Massachusetts Avenue, and Connecticut Avenue during the last three years, and I am informed that the new assessment will show a decided increase on this account.

It seems likely that the erroneous statements that the gentlemen have made, although really without much if any foundation in fact, have largely influenced the votes of many Members on this floor in this matter. Hence I have thought it best to correct them.

We have in this House a committee charged with the duty of representing and taking care of the interests of the District of Columbia. I am credibly informed that this Committee on the District of Columbia has had but one legal meeting since last April or May, and therefore the interests of the District have received no consideration at the hands of this committee, and no legislation, except a few bills that were reported by unanimous consent, has been reported by this committee to this House. I believe I am stating the fact. Yet the chairman of that committee seems to feel that it is his duty to get up here and object by raising a point of order to every provision in the interest of the District that another committee of this House felt called upon to place in the bill which is now under consideration.

If there was ever an emphatic argument for representation on this floor of every part of the United States, the way District business is handled in this House certainly affords it. The exhibition we have had here while this bill has been under consideration is a most pronounced illustration of the outrageous evils of taxation without representation. The people of the District of Columbia have no one on this floor whose duty it is to represent their interests and to speak for them. And so gentlemen who are full of spleen, from whatever cause, seem to feel called upon to vent it upon the people of the District, and upon the District of Columbia generally. I do not deny their right to do this, but I do say that when they do it they should be very sure that the facts on which they base their statements are real facts and not error generalities.

The CHAIRMAN. The time of the gentleman from California [Mr. HAYES] has expired.

The Chair is ready to rule. Substantially the same questions for ruling that are presented now were presented on Tuesday when the point of order was made against the interest and sinking fund paragraph in the bill. The Chair has indulged gentlemen at length in the argument to-day because the question determined on Tuesday, and to be again ruled on now, involves not only the exercise by Congress of the taxing power as it affects the District of Columbia, but it involves the exercise of the taxing power as it affects the people of the United States. And further, that if, may be, the Chair had not given sufficient attention and entertained full comprehension of the question on the first ruling, he is now given again an opportunity to correct any error he may have made or to correct any error the committee may have made when it voted the decision of the Chair to be the decision of the committee. Therefore, the Chair now rules somewhat further on the question, although it may be said that if the Chair and the committee were right on the former ruling, of course the point of order must now be overruled. Yet the question is of sufficient importance in view of the arguments presented, and particularly the able and researchful argument of the gentleman from Virginia [Mr. SAUNDERS], that a further and more extended ruling touching the interpretation and meaning of the act of 1878 and the act of 1879 perhaps should be made now.

The amendment as offered by the gentleman from Kentucky [Mr. JOHNSON], against which the point of order is made, consists of three paragraphs in its form, but not of three paragraphs by number. Therefore, for the purpose of orderly treatment and clearness of decision, the Chair will consider the first grammatical paragraph as "paragraph 1," the second grammatical paragraph as "paragraph 2," and the third grammatical paragraph as "paragraph 3." As between the contending opinions there is no doubt or difference on some points involved. A proposition that we all agree upon is that the Government of the United States, by the act of 1878, in some cases contributes a proportional sum to the support of the District of Columbia.

There is no disputing the fact that that proportional sum is 50 per cent, because the language of the statute itself says "50 per cent." In the light of this common ground let us examine the words of paragraph 1:

And there is hereby appropriated out of the proportional sum which the United States may contribute toward the expenses of the District of Columbia, in pursuance of the act of Congress approved June 11, 1878—

And so forth.

As stated, the proportional sum is 50 per cent, and there is no dispute on that. Then the act of 1879, if read to conform, would be:

And there is hereby appropriated out of the 50 per cent which the United States may contribute toward the expenses of the District of Columbia—

And so forth. If that be true, there can be neither duplicity, obscurity, nor ambiguity in the act of 1879 unless there is ambiguity in the plainest terms of the English language.

Consequently the Chair now rules that the act of 1879, by the plain terms of the act, provided and directed that that proportional sum, to wit, 50 per cent, should be ultimately chargeable to and borne by the District of Columbia. If so, is it not a palpable violation of law to otherwise appropriate for it?

So much for the act of 1879. The act of 1878, paragraph 2, reads:

All amounts so paid shall be credited as part of the appropriation for the year by the United States toward the expenses of the District of Columbia.

And so forth. By the literal language of law, if the Government appropriates anything from the Federal Treasury, it appropriates 50 per cent, and the express language of the act says it shall, when paid, be—

Credited as a part of the appropriation for the year by the United States—

And so forth. Then if, in fact, the money is paid or advanced from the Treasury it would, under the letter of the act, be credited to the proportional half that the Government may appropriate toward the support of the District of Columbia. If that be true, then the language—

Hereafter the Secretary of the Treasury shall pay the interest—

And so forth—

and all amounts so paid shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia—

Is clear.

Then there is no duplicity, there is no obscurity, and there is no ambiguity in the language of the act of 1878.

It is not contended that any authorization of appropriation, in any form provided for in this or any past bill, has stood for its foundation on any other law. Members of the committee will observe that the first and the second paragraphs of the amendment follow the exact language of the statute. The Chair now comes to rule on the question as to whether paragraph 3 of this amendment is in order. Paragraph 3 reads:

For the purpose of meeting the payment of interest and for the purpose of providing for said sinking fund the sum of $975,408, or so much thereof as may be necessary, is hereby appropriated—

From the respective funds described in the two acts of Congress above set out—

to be charged against the revenues of the District of Columbia derived from taxes—

And so forth, following the statute.

If the legal construction by the Chair of the first paragraph, being the act of 1879, is correct, and if the legal construction by the Chair of the second paragraph, being the act of 1878, is correct, then the third paragraph, in explicit language, provides that Congress by its annual appropriation shall give force and effect to existing law. The Chair is of the opinion that the ruling made on a former occasion and sustained by a vote of the committee was correct, for the reasons then stated, and for the further reasons, somewhat analytically, we hope, presented at this time to the committee.

This point of order raises, as already observed, a question of law, which the Chair is compelled, in the very nature of things, to reach and announce an opinion upon. After an earnest and careful consideration of the several acts it is the opinion of the Chair that the first two paragraphs of the proposed amendment correctly set out the appropriate law and that the interpretation given is the correct construction of that law. The last paragraph of the amendment, in fulfillment of this law, appropriates the money and directs its payment according to the construction announced. So the point of order lodged against the amendment is overruled.

Mr. BURLESON. Mr. Chairman, I offer a substitute for the amendment.

The CHAIRMAN. The gentleman from Texas offers a substitute, which the Clerk will report.

Mr. JOHNSON of Kentucky. Mr. Chairman, I reserve all points of order against the substitute.

The CHAIRMAN. The gentleman from Kentucky reserves all points of order against the substitute, which the Clerk will report.

The Clerk read as follows:

Substitute for the amendment:

"Interest and sinking fund: For interest and sinking fund on the funded debt, $975,408, which sum shall be paid out of funds and accounted for in accordance with the acts of Congress in relation thereto."

Mr. JOHNSON of Kentucky. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. Does the gentleman from Texas desire to be heard on the point of order?

Mr. BURLESON. I should like to know what the point of order is.

Mr. JOHNSON of Kentucky. That it is legislation, Mr. Chairman.

Mr. BURLESON. It says:

In accordance with the acts of Congress in relation thereto.

I will state to the Chair the purpose I have in mind. If this amendment is adopted, the question of the payment of this interest and sinking fund will be passed upon, under the Dockery Act, by the Comptroller of the Treasury. Under the terms of that act he is directed to settle the question. He can take the advice of the Attorney General of the United States, and if any citizen of the District of Columbia or any other interested person sees fit to test his ruling, the question can be decided in the courts.

I feel quite sure that there is no one in this committee who desires to repudiate any part of the debt of the District of Columbia, or relieve the General Government if the General Government is bound, or to impose this debt exclusively upon the District of Columbia if it should not be imposed exclusively upon the District of Columbia. The purpose of this substitute is to relieve us from passing on the legal questions involved; to impose the duty upon the Comptroller of the Treasury, who has the advice of the law officers of the Government, and to give an opportunity to test this question in the courts.

The CHAIRMAN. The Chair is ready to rule.

Mr. JOHNSON of Kentucky. Mr. Chairman, if the Chair will indulge me just a moment——

The CHAIRMAN. Yes.

Mr. JOHNSON of Kentucky. As far back as five years ago I sought diligently to get into this appropriation bill, under the item of sinking fund and interest, something more than the unqualified charge against the United States. In other words, I have endeavored to get out of that very item the direct mandatory language that it should be paid for upon the half-and-half principle. In all of my efforts I have been unsuccessful. A year ago I stood here for more than two weeks, and upon the presentation of every opportunity I sought to get into this bill either the law itself, or a construction of it by somebody else other than the committee.

On Tuesday, under a ruling of the Chair, and by a vote put to this House, my views were sustained. To-day, insisting that there shall be no repudiation of this debt, I offered the language of the statute itself as an amendment.

The language of the statute, incorporated into this bill, quoted verbatim, may be of no more value than the amendment which has just been offered by the gentleman from Texas. If the language of the statute, quoted word for word as I have offered it, were incorporated in the bill, then it would be subject to construction by the legal authorities of the United States. Now the gentleman from Texas himself has come to offer an amendment, without quoting the statute, which in substance and effect is just what I contended for in previous years.

If it is the law that the Federal Government is to pay half of this item, I have said repeatedly, and I repeat it now, that I wish it done. I have never believed it to be the law. When it has been passed upon by the highest legal officers of the Government, then I shall accept it. But I have believed all along, and I believe now, that nothing more horrible could happen to the Nation than to come in here and repudiate the faith of the United States, so solemnly pledged to see both principal and interest of this debt paid. It is unfortunately better that the States should pay their part wrongfully than that the people who have bought these bonds with that plighted faith of the United States behind them should have that plighted faith repudiated. I believe that the amendment offered by the gentleman from Texas [Mr. BURLESON] accomplishes what I have been contending for through these long years, and if my remarks of last year are taken, it will be found that hour after hour I stood here and contended for that much at least. It was denied then, but granted now, and I am glad that the bill with that amendment will contain no mandatory clause directing the payment of one-half by the United States.

Mr. MURDOCK. Will the gentleman yield?

Mr. JOHNSON of Kentucky. Yes.

Mr. MURDOCK. The upshot of this whole matter is, if the gentleman accepts the amendment of the gentleman from Texas and it is adopted and this becomes the law, that we shall have an opinion from the Attorney General to the administrative officer as to what this law means. Is that true?

Mr. JOHNSON of Kentucky. That may be true, or we may go into the courts. But if Congress does not wish to stand by the Attorney General's opinion in the matter, then another Congress almost immediately follows, and we can offer a bill and change the law.

Mr. MURDOCK. I will ask the gentleman if in past years an administrative officer of the Government has not interpreted the law, and if his interpretation did not have the support of an opinion by the Attorney General?

Mr. JOHNSON of Kentucky. The Comptroller of the Treasury has not interpreted all of the law. I believe now the law will be put before him just as it has been in this discussion, and I hope that he will see the law as this House has seen it and as this House adjudged it. If he does not, we can at least change the law. Now, I have never sought, and I challenge anybody to point out an instance where I have sought, to change existing law. My contention has been that the half-and-half act should

not be violated to the detriment of the Federal Government. Other people have been insisting that it should not be violated to the detriment of the District of Columbia.

Mr. MURDOCK. Has not the gentleman contended that the act has not been properly administered?

Mr. JOHNSON of Kentucky. No; it has not.

Mr. MURDOCK. And now the gentleman appeals to the executive branch of the Government for a new interpretation. Is not that exactly the gentleman's position?

Mr. JOHNSON of Kentucky. No. I will say that I would rather have my amendment setting out before the executive officers a copy of the law just as it is, but if it be couched in other language that the executive officers are to construe these two acts, I see but little difference. In the one instance the law would be in the present bill, while in the latter it will be in the statute books.

Mr. BURLESON. Mr. Chairman, I do not desire for this time to be consumed by a conversation between the gentleman from Kentucky and the gentleman from from Kansas.

Mr. JOHNSON of Kentucky. I think we ought to have a few minutes to discuss it.

Mr. BURLESON. Very well; I withdraw it.

Mr. JOHNSON of Kentucky. As I was about to say, the third paragraph of my amendment is mandatory that the District of Columbia pay it, and therefore I very greatly prefer it to the amendment offered by the gentleman from Texas [Mr. BURLESON]. I stood here last year and I not only argued but begged and pleaded for what is now conceded. If they had conceded it then, or if the House had adopted the amendment then, I would have been pleased.

Now those opposing my views have come to do that for which I begged and pleaded and argued as strenuously as I could a year ago and two years ago and three years ago. I must say, however, that I prefer my own amendment, because it is mandatory that it should be paid by the District of Columbia, but I have never been unwilling to leave the question to the courts as to whether I was correct or not.

I am not unwilling to do so now, although I prefer that my own version of it be taken and Congress declare, as it practically did on Tuesday, that it is the duty of the District of Columbia to pay this item out of the taxes and privileges levied by the District of Columbia.

Mr. DIES. Will the gentleman yield?

Mr. JOHNSON of Kentucky. Yes.

Mr. DIES. If the gentleman's amendment were adopted instead of the amendment of the gentleman from Texas, could not the officers of the law still rule as to whether or not the people of the United States were bound to pay half?

Mr. JOHNSON of Kentucky. No; in the third paragraph, if the amendment which I offered should be adopted, it is mandatory that the District pay it out of the revenues derived from taxation and privileges.

Mr. BURLESON. That is a statement that I desire to make, that under the gentleman's amendment there is a construction of the question to be determined. Under the substitute I offer it is left for the accounting officers of the law department to construe the law.

Mr. JOHNSON of Kentucky. Mr. Chairman, in conclusion I wish to modify what I first said, that I would accept the amendment. I can not do that because that is beyond my privilege. The amendment is the property of the House, but in so far as I am concerned, my modification is that I will not accept it, but I will be pleased to get either one of the amendments.

Mr. DIES. If the amendment which the gentleman [Mr. BURLESON] is contending for is adopted in good faith, does not that leave the situation just where we found it?

Mr. JOHNSON of Kentucky. Oh, no; where we found it was mandatory that it should be paid for on the half-and-half plan. My amendment is just as positive that it should be paid for out of the revenues of the District of Columbia. The amendment now offered by the gentleman from Texas [Mr. BURLESON] does not say it shall be paid upon the half-and-half plan, neither does it say that the District of Columbia shall pay it, but it leaves the plain law heretofore enacted to be followed.

Mr. DIES. Mr. Chairman, in order to have a ruling from the Chair upon the peculiar language of the amendment, I am going to make the point of order against it.

The CHAIRMAN. The point of order being reserved, the gentleman from Texas makes the point of order.

Mr. BORLAND. Mr. Chairman, I will ask the gentleman from Texas to reserve his point of order.

Mr. DIES. No; I make the point of order against the amendment of the gentleman from Texas.

Mr. JOHNSON of Kentucky. Mr. Chairman, I desire to put in just one single sentence in my remarks before concluding.

Mr. MARTIN of South Dakota. Mr. Chairman, I desire to ask the gentleman a question.

Mr. DIES. Mr. Chairman, I have no disposition to take the gentleman off his feet on a point of order. I reserve the point of order, to be made as soon as the statement is concluded.

The CHAIRMAN. If the point should be overruled it would leave both amendments open to debate.

Mr. MARTIN of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Kentucky. I do.

Mr. MARTIN of South Dakota. Mr. Chairman, I would like to ask the gentleman from Kentucky if it is not true that the officers of the law, under the act of 1878 and under the act of 1879, have uniformly charged one half of this interest, when paid by the Government, to the District and the other half to the United States Treasury?

Mr. JOHNSON of Kentucky. They have; and I will tell the gentleman why: Because all of the appropriation bills have embodied a direction that it shall be paid half-and-half, whereas I have been contending and fighting for five years to get that direction out of the bill.

Mr. MARTIN of South Dakota. Mr. Chairman, I call the gentleman's attention to the fact that the very first appropriation act of 1879, following this act of 1878, did not make such direction to charge it half-and-half.

Mr. JOHNSON of Kentucky. The gentleman is correct in that.

Mr. MARTIN of South Dakota. And, notwithstanding that fact, have not the law officers of the Treasury charged one-half to the District and one-half to the General Government?

Mr. JOHNSON of Kentucky. They have, because all the bills carried the item as a half and half since about 1879. But I wish to make this statement: The accountant who has been going through these items down there has found that the accounting officers did not give the credit under the act of 1879 they should have given, and I believe that if it were put up to this Congress, and I believe still more strongly when put up to the succeeding Congress, they will compel the District of Columbia to refund to the United States, just as the District of Columbia under the lunatic-asylum matter has been compelled to refund $769,000. I do not wish to be understood as advocating the amendment offered by the gentleman from Texas. I still advocate my own amendment, but if the amendment offered by the gentleman from Texas should prevail, then I shall have accomplished that for which I have been contending through these long five years, that the positive direction that this item should be paid on the half-and-half plan will not be in this bill.

Mr. DIES. Mr. Chairman, if the Chair overrules the point of order——

The CHAIRMAN. The Chair has not ruled, but the Chair is ready to rule.

Mr. MANN. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The Chair is ready to rule. When the "interest and sinking fund" paragraph was reached in its order on the bill on Tuesday the gentleman from Kentucky [Mr. JOHNSON] lodged against it a point of order upon the ground that by the terms of the bill half of the sum would be paid from the revenues of the District of Columbia and half from the Treasury of the United States. In order for the Chair to rule on the point of order as made it was necessary to announce his judgment of what was a proper construction of the effect of the interest and sinking fund paragraph in connection with the first paragraph of the bill, which contained the half-and-half clause. The Chair did so, and sustained the point of order. To-day the gentleman from Kentucky offers an amendment which directs that the entire sum be paid from the revenues of the District of Columbia. Thereupon the gentleman from Texas [Mr. BURLESON] made a point of order, upon the ground that the entire sum is not chargeable to the District of Columbia. Accordingly there was presented a question that again required that the Chair in his ruling must of necessity interpret what in his judgment, the several relevant statutes meant. Accordingly the Chair did announce his construction of the law and overruled the point of order.

The gentleman from Texas now offers an amendment by way of substitute in this language:

For interest and sinking fund on the bonded debt, $975,408, which sum shall be paid out of the funds and accounted for in accordance with the acts of Congress in relation thereto.

To that amendment the gentleman from Texas [Mr. DIES] makes the point of order. Now, the amendment of the gentleman from Texas [Mr. BURLESON] provides that the interest and sinking fund on the funded debt shall be paid out of funds, and accounted for, in accordance with the acts of Congress in relation thereto, which presents no question for the Chair to

determine or rule upon save whether or not the Congress is authorized to appropriate for the interest and sinking fund when such appropriation is unequivocally directed to be paid out and accounted for in accordance with the law authorizing such appropriations to be made. The amendment of the gentleman from Texas being framed and presented in such language, the Chair accordingly overrules the point of order.

Mr. MARTIN of South Dakota. Mr. Chairman, I desire to offer an amendment. I move to strike out the last word of the substitute. Mr. Chairman, for two full legislative days some of us in good faith have been following the leadership of the gentleman from Kentucky [Mr. JOHNSON] in his effort to demonstrate and have declared by a congressional interpretation of this House that the ruling of the Treasury Department as to what the existing law is upon the subject of the application of the half-and-half rule to interest payments was wrong. Now here is simply a horseplay by which we are throwing it back upon the Treasury, making it possible for them to continue to interpret it in their own way. If that is the effect of the amendment offered by the gentleman from Texas, we have certainly wasted a lot of very valuable time. What reason has the gentleman from Kentucky, or any other Member of this House, to suppose the Treasury Department will interpret the act of 1878 any differently from what they have——

Mr. SHERLEY. Will the gentleman yield?

Mr. MARTIN of South Dakota. I have only a short time.

Mr. SHERLEY. The gentleman has five minutes.

Mr. MARTIN of South Dakota. I can give the gentleman one minute of that time.

Mr. SHERLEY. Does the gentleman realize that under the Dockery Act it is in the power of a citizen to have the matter tested in the courts?

Mr. MARTIN of South Dakota. It is no more in the power of the citizen to have the matter tested in the courts than it has been in the last 30 years. The interpretation has been uniformly different from what some think it ought to have been——

Mr. SHERLEY. The gentleman is mistaken there, because in the first clause is the provision requiring it to be paid on the half-and-half basis, and therefore there was nothing to interpret.

Mr. MARTIN of South Dakota. The act of 1879 had no such provision, and yet the Treasury Department interpreted that half should be paid by the Government, and the present Treasury officials will take that interpretation of the act of 1879. The gentleman assumes that 30 years afterwards they will make a different interpretation from the one passed upon it in 1879. Gentlemen can vote upon this subject as they please, but they had better understand that we have thrown away this whole debate and our time has been wasted if this sort of an amendment offered by the gentleman from Texas prevails.

Mr. CAMPBELL. Has not Congress for 35 years, or such a matter, been giving an interpretation that it should be paid for on the half-and-half basis?

Mr. MARTIN of South Dakota. That goes to the merits of the question. I think it has, and I think it has wrongfully done so, and I shall keep my stand upon that question at least until the end of this closing short session of Congress. I think we are throwing away the whole fight made under the leadership of the gallant knight from Kentucky, who has now practically surrendered to the opposition all he has gained under the present legislative situation.

Mr. BURLESON. Mr. Chairman, I move that all debate on this amendment——

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The Chair will recognize the gentleman from Texas [Mr. DIES] who rose simultaneously with the gentleman from South Dakota.

Mr. DIES. Mr. Chairman, I was laboring under the apprehension that this question of law—for it was and is a question of law, as stated by the Chairman—was passed upon by the Chairman on yesterday, and an appeal having been had from the decision was passed upon by the House of Representatives. Now, Mr. Chairman, if the Chair was wrong in his interpretation of the law, if the House was wrong in sustaining the Chair upon that interpretation, then you are justified in marching back down the hill so suddenly as this proposes to do. If the Chair was right in his interpretation, the taxpayers of the United States are not bound to pay any part of this interest. If that is true, then the amendment of the gentleman from Texas ought not to be adopted because Congress, having said that no obligation lies against the Federal Government, we ought not to leave it in such a shape that any officer of the Government may impose an obligation where Congress says there is none.

Mr. Chairman, that seems so clear to me that to argue it almost insults the intelligence of the House. You say in one breath that no legal obligation rests, and in the next one we submit it to the officers of the law if a legal obligation does exist. For myself, Mr. Chairman——

Mr. CANNON. Will the gentleman allow me a question?

Mr. DIES. Indeed.

Mr. CANNON. What are the courts for except to construe the law?

Mr. DIES. Mr. Chairman, Congress made this law, if it is a law, and if it is a law, Congress can unmake it; and for myself I plant my feet on the ground here now that, if it is the law, the Government of the United States should pay half of all of these expenses, I want, as one Member of this body, to repeal that law. [Applause.]

Mr. BORLAND. Will the gentleman yield?

Mr. DIES. Certainly.

Mr. BORLAND. I agree with the gentleman thoroughly in his desire to repeal that if it be the law, but we have been contending that it is not the law, and have been seeking some way to determine it.

Mr. DIES. The House of Representatives passed on the question, as I understood, yesterday.

Mr. CANNON. Will the gentleman allow me another question?

Mr. DIES. With pleasure.

Mr. CANNON. If it is the law, and rights have accrued to creditors, citizens of the District, is it in the power of Congress to pass a provision that would forfeit those rights? Of course, we can legislate for the future.

Mr. DIES. I do not understand that any such proposition is before the House or was before the House. But I want to address myself just a moment to the equities of this whole question. I conceive that a patriotic man might want to make this Capital of the Nation the city beautiful. I conceive some justification for appropriations extraordinary, to be paid for by other people of the country to help make it a city beautiful, but a proposition which taxes the people of the United States six or seven million dollars a year toward the extension of streets far away from the center of the Capital, making improvements of all description, building up additions, laying out pavements far in advance of the foot of man, is no longer in line with building up a great and beautiful Capital in the District of Columbia. If those who believe that Congress should share the expense of improving the National Capital beautiful would confine their endeavors and their aspirations and ambitions to the Capital proper, there would be some little justification for this tremendous expenditure. But to tell the District of Columbia that you will give them a dollar every time they spend a dollar of their money, that you will make them a present of a dollar of the people every time they spend a dollar of their own money, is to invite them to do that which they have done. It is to invite them to enter upon a career of extravagance and of unnatural expansion. So it follows, Mr. Chairman, that you will see in this city that which you will not see in any other American city.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. BURLESON. Mr. Chairman, I move that all debate on the pending amendments and amendments thereto be closed in six minutes, five minutes to be controlled by the gentleman from Kentucky [Mr. JOHNSON] and one minute by either the gentleman from Virginia [Mr. SAUNDERS] or myself.

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] asks unanimous consent that all debate on these amendments and amendments pending thereto be closed in six minutes, five minutes of the time to be controlled by the gentleman from Kentucky [Mr. JOHNSON] and one minute of the time to be controlled by himself. Is there objection? [After a pause.] The Chair hears none. The gentleman from Kentucky [Mr. JOHNSON] is recognized for five minutes.

Mr. JOHNSON of Kentucky. Mr. Chairman, just as I have been saying, year after year the District appropriation bill was brought into the House with a provision in it affirmatively compelling the Federal Government to pay one-half of this interest and sinking fund. After a long fight, which started almost without hope of success, the subcommittee upon the appropriation bill has been driven at last from its untenable position that the Federal Government should by this bill be charged with the payment of one-half of the interest and sinking fund item of about a million dollars. It is a victory to which I have looked forward with gratification and hope during all these years. I am like the gentleman from Texas [Mr. DIES] and like the gentleman from Missouri [Mr. BORLAND], in that I believe the Federal Government should pay no part of it.

I am confident that the two sections of the law which I have incorporated in my amendment permit the Federal Government to pay no part of it. I further have sufficient confidence in the

courts to believe that when this matter is put to them they will say that these two provisions of the law forbid the imposition of any part of this debt upon the Federal Government.

Now, in reference to what the gentleman from South Dakota [Mr. MARTIN] has just said, I will say the department officials have placed no construction thus far upon this law.

Mr. MARTIN of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Kentucky. In a minute.

In the year 1879 they paid this interest and sinking fund, but thus far the succeeding officers have failed to reimburse the Federal Government upon that account; and since then those executive officers have had no right to speak, for the reason that the language in the bill has since then been mandatory that it should be paid on the half-and-half plan. At last I would be glad to see the amendment offered by the gentleman from Texas [Mr. BURLESON] defeated and that offered by myself adopted. But either amendment brings relief to the Federal Government, because either gets away from the positive direction that the Federal Government must pay half of this large sum.

Mr. MARTIN of South Dakota. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. JOHNSON of Kentucky. I do.

Mr. MARTIN of South Dakota. Did not the accounting officers of the Government, in paying the appropriation of this interest under the act of 1879, charge one-half of it to the Federal Government and one-half to the District?

Mr. JOHNSON of Kentucky. They did not. They simply advanced the money and paid it; and have not reimbursed the United States, as they should have done.

Mr. MARTIN of South Dakota. The expert of the Appropriations Committee, then, is not as well informed as the gentleman upon that subject?

Mr. JOHNSON of Kentucky. I do not think he is upon this subject.

Mr. MARTIN of South Dakota. It seems the gentleman has no hope of improving the condition in the Treasury Department.

Mr. JOHNSON of Kentucky. By either amendment, I say, we get rid of the positive direction that the District of Columbia must pay half. That is the thing I have been fighting. My amendment is far better than that of the gentleman from Texas [Mr. BURLESON]; but the gentleman from Texas, the head of the subcommittee on the appropriation bill, has at last conceded that for which I have been fighting.

Mr. BEALL of Texas. Mr. Chairman, will the gentleman allow me to ask him a question?

The CHAIRMAN. Does the gentleman yield?

Mr. JOHNSON of Kentucky. I yield.

Mr. BEALL of Texas. Is not the situation about this: If the amendment of my colleague is adopted, before any part of this appropriation shall come out of the Federal Treasury there will have to be some construction to that effect by some executive officer?

Mr. JOHNSON of Kentucky. It must be found that the United States is liable under the law as it exists, else the United States escapes.

Mr. BEALL of Texas. Now, under the amendment of the gentleman from Kentucky [Mr. JOHNSON], before anything can be done, before any money can be taken out of the Treasury of the United States, there will have to be a judgment of the court.

Mr. JOHNSON of Kentucky. No. Under my amendment the matter will never go to the court, for the reason that the third paragraph of my amendment is so certain and mandatory that it shall be paid out of the revenues of the District of Columbia that the executive officer will have to obey it and the court will have nothing to do in connection with it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURLESON. Mr. Chairman, under the terms of the substitute offered by me there will undoubtedly be a ruling on this much controverted question by the Comptroller of the Treasury, who will have the advice of the law officers of the Government.

I want to direct the attention of the committee to the further fact that we ought to be practical in our efforts to legislate. All of you gentlemen know that there is absolutely no hope of securing the passage of a District appropriation bill containing the amendment offered by the gentleman from Kentucky [Mr. JOHNSON]. There is a chance—and I am as anxious as anybody else to have this legal question determined—there is a chance, if this substitute offered by me is adopted, that it will be continued in the bill and that we will have an actual test of this question, just as was said by my colleague from Texas. Mr. BEALL. If the substitute I have offered goes through, there will be an opinion by the Comptroller of the Treasury and some of the law officers of the Government, whereas if the amendment that has been offered by the gentleman from Kentucky [Mr. JOHNSON] is adopted, even if that could get through the Senate, the money would never be paid until after a bitter lawsuit.

The CHAIRMAN. The question is on the amendment of the gentleman from Texas [Mr. BURLESON], in the nature of a substitute.

The question was taken, and the Chair being in doubt, a division was ordered; and there were—ayes 45, noes 50.

Mr. BURLESON. Tellers, Mr. Chairman.

Tellers were ordered, and the Chairman appointed Mr. JOHNSON of Kentucky and Mr. BURLESON.

The committee again divided; and the tellers reported—ayes 61, noes 58.

Accordingly the amendment in the nature of the substitute was agreed to.

The CHAIRMAN. The question is on the adoption of the substitute.

The substitute was agreed to.

Mr. BURLESON. Mr. Chairman, I move that the committee do now rise and report the bill with the amendments to the House, with the recommendation that the bill as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RODDENBERY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28499) making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, and had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. BURLESON. Mr. Speaker, I move the previous question on the bill and the amendments thereto to the final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. MANN. I ask for a separate vote on what is known as the Borland amendment.

The SPEAKER. Is there any other demand for a separate vote?

Mr. MARTIN of South Dakota. I demand a separate vote on the amendment in relation to the payment of interest on the funded debt.

The SPEAKER. The question is on agreeing to the other amendments.

The other amendments were agreed to.

The SPEAKER. The Clerk will report the Borland amendment.

The Clerk read as follows:

Page 31, after line 6, insert the following:

"That hereafter whenever, under appropriations made by Congress, the roadway of any street, avenue, or road in the District of Columbia is improved by laying a new pavement thereon or by resurfacing an existing pavement from curb to curb or from gutter to gutter, where the material used is sheet asphalt, asphalt block, asphaltic or bituminous macadam, concrete, or other fixed roadway pavement, such proportion of the total cost of the work, including the expenses of the assessment, to be made as hereinafter prescribed, shall be charged against and become a lien upon the abutting property, and assessments therefor shall be levied pro rata according to the linear frontage of said property on the street, avenue, or road or portion thereof upon the roadway of which said new pavement is laid or the existing roadway of which is resurfaced: *Provided, however*, That there shall be excepted from such assessment the cost of paving or resurfacing the roadway space included within the intersections of streets, avenues, and roads, as said intersections are included within building lines projected, and also the cost of paving the space within such roadways for which street railway companies are responsible under their charters or under law on streets, avenues, or roads where such railways have been or shall be constructed.

"The assessments hereinbefore provided for shall be levied in the following manner, viz: Where the average width of roadway is 32 feet or less between curbs, or between gutters where no curb exists, one-half the total cost of the work, including the expenses of the assessment, shall be assessed as hereinbefore provided; where the average width of roadway is greater than 32 feet between curbs, or between gutters where no curb exists, one-half of the proportion of the total cost of the work which the width of 32 feet bears to the total width of the roadway between curbs, or between gutters where no curbs exist, together with one-fourth of the proportion of the total cost of the work which the balance of the roadway width in excess of 32 feet bears to the total width of the roadway, including the expenses of the total assessment, shall be assessed as hereinbefore provided.

"Assessments levied under the provisions hereof shall be payable and collectible in the same manner and under the same penalty for nonpayment as is provided for assessments for improving sidewalks and alleys in the District of Columbia, as set forth on page 248 of volume 28, United States Statutes at Large: *Provided*, That the cost of publication of the notice of such assessment upon the failure to obtain per-

sonal service upon the owner of the property to be assessed therein provided for, and of the services of such notices, shall be paid out of the appropriation for the work, and such assessments when collected shall be deposited in the Treasury of the United States to the credit of the United States and the District of Columbia in equal parts."

The question being taken on agreeing to the amendment, on a division (demanded by Mr. MANN) there were—ayes 94, noes 35.

Accordingly the amendment was agreed to.

The SPEAKER. The Clerk will report the Burleson amendment.

The Clerk read as follows:

Insert at the end of the bill the following:

"Interest and sinking fund: For interest and sinking fund on the funded debt $975,408, which sum shall be paid out of funds and accounted for in accordance with the acts of Congress in relation thereto."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time.

Mr. MARTIN of South Dakota. Mr. Speaker, I desire to be recognized for the purpose of making a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. MARTIN of South Dakota. I am.

The SPEAKER. The gentleman will send up his motion.

Mr. MARTIN of South Dakota. I move to recommit the bill to the Committee on Appropriations, with instructions to strike out what is known as the Burleson amendment appropriating $975,408 for interest on the sinking fund, and to substitute the amendment which I now send to the Clerk's desk.

Mr. FITZGERALD. I make the point of order that the House just having adopted the matter described by the gentleman, the motion to strike it out and insert something in its place is not in order.

The SPEAKER. The point of order is sustained. The question is, Shall the bill pass?

The bill was passed.

On motion of Mr FITZGERALD, a motion to reconsider the last vote was laid on the table.

TERRITORY OF ALASKA (H. DOC. NO. 1346).

The SPEAKER laid before the House the following message from the President of the United States, which was read:

To the Senate and House of Representatives:

In accordance with the provisions of section 18 of an act of Congress (Public, 334) approved August 24, 1912, I appointed a commission—

to conduct an examination into the transportation question in the Territory of Alaska; to examine railroad routes from the seaboard to the coal fields and to the interior and navigable waterways; to secure surveys and other information with respect to railroads, including cost of construction and operation; to obtain information in respect to the coal fields and their proximity to railroad routes; and to make report of the facts to Congress on or before the 1st day of December, 1912, or as soon thereafter as may be practicable, together with their conclusions and recommendations in respect to the best and most available routes for railroads in Alaska which will develop the country and the resources thereof for the use of the people of the United States.

Under the requirements of the act, this commission consisted of—

an officer of the Engineer Corps of the United States Army, a geologist in charge of Alaska surveys, an officer in the Engineer Corps of the United States Navy, and a civil engineer who has had practical experience in railroad construction and has not been connected with any railroad enterprise in said Territory.

The date when the act was passed was late in the summer season, thus allowing a very limited time for the preparation of a report for presentation at the present session of Congress. Nevertheless, within a week after the act was approved, the commission had been appointed as follows:

Maj. Jay J. Morrow, Corps of Engineers, United States Army, chairman.

Alfred H. Brooks, geologist in charge of Division of Alaskan Mineral Resources, Geological Survey, vice chairman.

Civil Engineer Leonard M. Cox, United States Navy.

Colin M. Ingersoll, consulting railroad engineer, New York City.

This commission has transmitted to me a report, which is herewith submitted to Congress in accordance with the provisions of the act. An examination of this report discloses that the following are among the more important of the findings of the commission:

The Territory of Alaska contains large undeveloped mineral resources, extensive tracts of agricultural and grazing lands, and the climate of a large part of the Territory is favorable to permanent settlement and industrial development. The report contains much specific information and many interesting details with regard to these resources. It finds that they can be developed and utilized only by the construction of railways which shall connect tidewater on the Pacific Ocean with the two great inland waterways, the Yukon and the Kuskokwim Rivers. The resources of the inland region, and especially of these great river basins, are almost undeveloped because of lack of transportation facilities. The Yukon and Kuskokwim River systems include some 5,000 miles of navigable water, but these are open to commerce only about three months in the year. Moreover, the mouths of these two rivers on Bering Sea lie some 2,500 miles from Puget Sound, thus involving a long and circuitous route from the Pacific Coast States. The transportation of freight to the mouths of these rivers and thence upstream will always be so expensive and confined to so limited a season as to forbid any large industrial advancement for the great inland region now entirely dependent on these circuitous avenues of approach.

From these considerations the commission finds that railway connections with open ports on the Pacific are not only justified but imperative if the fertile regions of inland Alaska and its mineral resources are to be utilized, but that with such railway connections a large region will be opened up to the homesteader, the prospector, and the miner. So far as the limited time available has permitted, the commission has investigated and in its report describes all of the railway routes which have been suggested for reaching the interior, including the ocean terminals of these routes. The relative advantages and disadvantages of these routes are compared. The principal result of this comparison may be stated to be that railroad development in Alaska should proceed first by means of two independent railroad systems, hereafter to be connected and supplemented as may be justified by future development. One of these lines should connect the valley of the Yukon and its tributary, the Tanana, with tidewater, and the other should be devoted to the development and needs of the Kuskokwim and the Susitna.

The best available route for the first railway system is that which leads from Cordova by way of Chitina to Fairbanks; and the best available route for the second is that which leads from Seward around Cook Inlet to the Iditarod. The first should be connected with the Bering coal field and the second with the Matanuska coal field. Other routes and terminals are discussed, but are found not to have the importance or availability for the development of the Territory possessed by the two mentioned. Thus the route extending inland from Haines in southeastern Alaska has value for local development, though chiefly on the Canadian side of the boundary, but the distance to Fairbanks is found to be too great to permit of its being used as a trunk line to the Yukon waters. The route from Iliamna Bay also has value for local use, but is too far to the southwest to permit of its use as a trunk line into the interior. The proposed terminals at Katalla and Controller Bay are found to be very expensive, both as to construction and maintenance, besides furnishing very inferior harbors. The route inland from Valdez is at a disadvantage because it would not serve any of the coal fields, although, as hereafter noted, Valdez is regarded by the commission as an important alternative terminal in the possible future development of the Chitina-Fairbanks route.

The investigations of the commission indicate that the route from Cordova by way of Chitina to Fairbanks would furnish the best trunk line to the Yukon and Tanana waters: (1) Because Cordova has distinct advantages as a harbor; (2) because this route requires the shortest actual amount of construction, but chiefly (3) because the better grades possible on this route should give the lowest freight rates into the Tanana Valley. The Copper River & Northwestern Railroad is now constructed from Cordova to Chitina and thence up the Chitina River. The commission recommends the building of a railway from Chitina to Fairbanks—313 miles—estimated to cost $13,971,000, with the provision that if this railway is built by other interests than those controlling the Copper River & Northwestern Railroad, and if an equitable traffic arrangement can not be made with it, connection should be made with Valdez by the Thompson Pass route—101 miles—estimated to cost $6,101,479.

The commission finds that Cordova offers the best present ocean terminal for the Bering River coal. The commission also points out that it would not be economical to haul the Matanuska coal to either Valdez or Cordova, and that therefore the logical outlet for that field is Seward. If commercial development of these two fields should disclose that the quality of the coal is the same in both, the Bering River field would have the advantage of greater proximity to open tidewater. A branch line from the Copper River Railway to the Bering River field—a distance of 38 miles—at an estimated cost of $2,054,000, is recommended to afford an outlet for the coal on Prince William Sound and into the Copper River Valley and the region where there is at present the largest market for Alaska coal.

The commission finds that a railway from Chitina to Fairbanks will not solve the transportation problem of Alaska, because it will not give access to the Matanuska coal field, the fertile lands and mineral wealth of the lower Susitna, or the great Kuskokwim Basin. This province properly belongs to an independent railway system based on the harbor at Seward. The commission recommends a railway from Kern Creek, the present inland terminal of the Alaska Northern Railway, to the Susitna River—distance 115 miles; estimated cost $5,209,000—with a branch line to the Matanuska coal field—distance 38 miles; estimated cost $1,618,000—and an extension of the main line through the Alaska Range to the Kuskokwim River—distance 229 miles; estimated cost $12,760,000.

The entire railways thus recommended will constitute two independent systems involving 733 miles of new construction at a cost of $35,000,000. Eventually these systems will be tied together and there will be earlier demands for branch and local lines as the country develops. One of these systems will find an outlet to the coast over the Copper River & Northwestern Railroad, the other over the Alaska Northern. If these new lines are constructed by others than those financially interested in these two railroads, respectively, satisfactory traffic arrangements would have to be made with them. If the new railways recommended should be constructed by the Government, the question is necessarily presented as to whether the Government should acquire the whole or any part of the existing lines or either of them or should endeavor to make appropriate traffic agreements. Much would depend upon whether the Government would operate its own railroads or would make operating agreements with those operating existing lines. The commission has not discussed these questions for the reason pointed out in its report that the act of Congress omits questions of this sort from those upon which the commission was instructed to report.

The report of the commission contains the following statement:

Its instructions from Congress do not contemplate that any recommendation should be made as to how railroads in Alaska should be constructed—i. e., by private corporate ownership or by one of the many forms in use whereby Government assistance is rendered. The commission disavows any intention of making such recommendations, believing that Congress in its wisdom desired to reserve to itself the solution of that problem; but it has been impossible to form any estimates of costs of operation without some assumption as to the interest rate on the capital required for construction. This interest rate would obviously differ in two cases—construction by Government or bond guarantee and construction by private capital. Moreover, were construction carried on by private capital unassisted, the necessity of earning sufficient income to pay operating expenses and interest on bonded indebtedness might make it the duty of the directors of the corporation to impose rates on traffic that would seriously retard the development which the Territory so greatly needs.

The commission has therefore been forced to base its studies upon two hypotheses, viz, that the capital necessary for construction is obtained at 6 per cent interest, assumed as possible if construction is carried out by private corporate ownership unassisted, and that capital is obtained at 3 per cent interest, assumed as possible if the construction is done either by the Government itself or by private capital, with bonded indebtedness guaranteed both as to principal and interest.

On similar grounds the commission did not feel justified in discussing the use of the Panama Canal machinery and equipment or in including in its estimates the effect of such use, but a list of the machinery and equipment available at Panama is given in an appendix.

Upon the assumption that the railroad from Chitina to Fairbanks is built by private capital, eliminating promotion profit, but assuming the necessity of earning 6 per cent on the capital invested, it is the judgment of the commission that on estimated available traffic the road could be operated from Cordova to Fairbanks without loss at a passenger rate of 7 cents per mile and an average freight rate of 8 cents per ton-mile. This would mean a through freight rate of $36.94 per ton from Cordova to Fairbanks and a through passenger rate of $31.15. It is the opinion of the commission that—

an average freight rate exceeding 5 cents per ton-mile and passenger rate in excess of 6 cents per mile would defeat the immediate object of the railroad, namely, the expeditious development of the interior of Alaska, and, furthermore, would introduce the question as to whether or not the Seattle-Cordova Fairbanks freight route would be able to compete with the present all-water route via the Yukon River system, except on shipments in which the time element is of such importance as to warrant the payment of a higher freight rate.

To meet the requirements of expeditious development and water competition, the estimate of the commission involves a through freight rate from Cordova to Fairbanks at $22.25 per ton and a through passenger rate of $26.70. The report further says:

Were the road to be constructed by the Government, or by private corporate ownership with a Government guaranty of principal and interest on bonded indebtedness, the capital required should be obtained at a much lower rate of interest, thus materially reducing the annual expenditures.

Using 3 per cent on the investment as fixed charges, and omitting mileage tax of $100, on the assumption that this tax would not be levied in the case of a Government owned or aided road, the commission estimates that the road would pay on the basis of a passenger rate of 6 cents per mile, and a freight rate of 5.49 cents per ton-mile, making the average through freight rate from Cordova to Fairbanks $24.43 per ton and the through passenger rate $26.70. I give these figures as illustrations. The report contains similar estimates of freight and passenger rates and traffic for the road recommended from Seward to the Kuskokwim.

After recommending the construction of the two principal systems and their extensions already mentioned, the commission states, in conclusion, that it—

is unanimously of the opinion that this development should be undertaken at once, and prosecuted with vigor; that it can not be accomplished without providing the railroads herein recommended under some system which will insure low transportation charges and the consequent rapid settlement of this new land and the utilization of its great resources.

The necessary inference from the entire report is that in the judgment of the commission its recommendations can certainly be carried out only if the Government builds or guarantees the construction cost of the railroads recommended. If the Government is to guarantee the principal and interest of the construction bonds, it seems clear that it should own the roads, the cost of which it really pays. This is true whether the Government itself should operate the roads or should provide for their operation by lease or operating agreement. I am very much opposed to Government operation, but I believe that Government ownership with private operation under lease is the proper solution of the difficulties here presented.

I urge the prompt and earnest consideration of this report and its recommendations.

WM. H. TAFT.

THE WHITE HOUSE, *February 6, 1913.*

The SPEAKER. Evidently this message ought to be referred to the Committee on Territories. It is accompanied by many charts and a large number of documents. Unless there is some suggestion the Chair will order not only the message printed, but the other charts and documents.

Mr. MANN. I think, Mr. Speaker, that before the maps are printed some one should investigate as to how far they ought to be printed.

The SPEAKER. The Chair thinks so too.

Mr. FINLEY. Mr. Speaker, I suggest that the message be referred to the Committee on Territories and let the Committee on Printing examine the charts and maps before printing.

The SPEAKER. The message is ordered to be printed and referred to the Committee on Territories, together with the maps and documents, with the understanding that the Committee on Printing will examine into the maps and documents before they are printed.

BRIDGE ACROSS THE MISSOURI RIVER, N. DAK.

The SPEAKER laid before the House the following resolution of the Senate.

The Clerk read as follows:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 7855) to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River, in section 36, township 134 north, range 79 west, in the State of North Dakota.

The resolution was agreed to.

MEMORIAL EXERCISES TO THE LATE VICE PRESIDENT.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that the Speaker lay before the House the invitation of the Senate to attend the memorial exercises of the late Vice President.

The SPEAKER laid before the House the following resolution, which the Clerk read:

Senate resolution 451.

Resolved, That the Senate extend to the Speaker and the Members of the House of Representatives an invitation to attend the exercises in commemoration of the life, character, and public services of the late JAMES S. SHERMAN, Vice President of the United States and President of the Senate, to be held in the Senate Chamber on Saturday, the 15th day of February next, at 12 o'clock noon.

Mr. FITZGERALD. Mr. Speaker, I move that the invitation be accepted, and that the Clerk be directed to notify the Senate to that effect.

The SPEAKER. The gentleman from New York moves that the invitation of the Senate be accepted, and that the Clerk be directed to notify the Senate to that effect.

The question was taken, and the motion was agreed to.

The following resolution, submitted by Mr. FITZGERALD, was agreed to:

House resolution 817.

Resolved, That the House accept the invitation of the Senate extended to the Speaker and Members of the House of Representatives to

attend the exercises in commemoration of the life, character, and public services of the late JAMES S. SHERMAN, Vice President of the United States and President of the Senate, to be held in the Senate Chamber on Saturday, the 15th day of February next, at 12 o'clock noon.

WITHDRAWAL OF PAPERS.

Mr. RUCKER of Colorado, by unanimous consent, was given leave to withdraw from the files of the House, without leaving copies, papers in the case of Robert S. Risley (H. R. 20025, Sixty-second Congress, second session), no adverse report having been made thereon.

HOUR OF MEETING ON SATURDAY, FEBRUARY 15, 1913.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that when the House adjourns on February 14, 1913, it adjourn to meet at 11.30 a. m. on Saturday, February 15, 1913.

The SPEAKER. The gentleman from New York asks unanimous consent that when the House adjourns on the 14th of February, 1913, it adjourn to meet at 11.30 a. m. on Saturday, February 15, 1913. Is there objection?

There was no objection.

GUSSIE A. SWORDS.

Mr. LLOYD. Mr. Speaker, I call up privileged House resolution 787.

The Clerk read as follows:

House resolution 787 (H. Rept. 1457).

Resolved, That the Clerk of the House is hereby authorized to pay, out of the contingent fund, to Gussie A. Swords, widow of Charles L. Swords, late an employee in the folding room of the House, a sum equal to six months of his salary as such employee, and an additional amount, not exceeding $250, for the funeral expenses of said Charles L. Swords.

Mr. LLOYD. Mr. Speaker, this is the usual allowance made on the death of an employee of the House.

The resolution was agreed to.

ADDITIONAL CLERKS FOR COMMITTEE ON ENROLLED BILLS.

Mr. LLOYD. Mr. Speaker, I also call up privileged House resolution 805.

The Clerk read as follows:

House resolution 805 (H. Rept. 1458).

Resolved, That the chairman of the Committee on Enrolled Bills be, and he is hereby, authorized to appoint two additional clerks of said committee, who shall be paid out of the contingent fund of the House at the rate of $6 per day from and after the time they enter upon their duties, which shall be evidenced by the certification of said chairman.

Mr. LLOYD. Mr. Chairman, I offer the following amendments:

In line 3, strike out the word "two" and insert the word "one," and strike out the letter "s" in the word "clerks"; and in line 5 strike out the words "they entered upon their" and insert "shall have entered upon his."

The amendments were agreed to.

The resolution as amended was agreed to.

INDIAN ALLOTMENTS DISPOSED OF BY WILL.

The SPEAKER laid before the House the bill (H. R. 1332) regulating Indian allotments disposed of by will, with a Senate amendment thereto.

The Senate amendment was read.

Mr. STEPHENS of Texas. Mr. Speaker, I move to concur in the Senate amendment.

The motion was agreed to.

AGRICULTURAL APPROPRIATION BILL.

Mr. LAMB. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 28283) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914. Pending that motion, I will ask the gentleman from Iowa if we can agree upon a time for general debate. I suggest that we have an hour on a side, if that is agreeable to him.

Mr. HAUGEN. Mr. Speaker, there have been several requests for time, and I would very much like to have two hours on a side, though I appreciate the very great pressure for time.

Mr. LAMB. I will ask the gentleman if he will be satisfied with an hour and a half on a side?

Mr. HAUGEN. Very well.

Mr. LAMB. Mr. Speaker, I ask unanimous consent that three hours be devoted to general debate, one hour and a half on a side, one-half of the time to be in the control of the gentleman from Iowa [Mr. HAUGEN] and one-half in the control of myself.

The SPEAKER. Pending the motion to go into the Committee of the Whole House on the state of the Union, the gentleman from Virginia asks unanimous consent that general debate shall be limited to three hours, one hour and a half on each side, one half to be controlled by himself and the other half to be controlled by the gentleman from Iowa [Mr. HAUGEN]. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, can not we have some understanding now, while the Chamber is fairly well filled, whether or not the gentleman expects the House to meet earlier to-morrow than 12 o'clock?

Mr. LAMB. Yes; at 11 o'clock.

Mr. MANN. Why not make that request now?

Mr. LAMB. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. Is there objection to the request of the gentleman from Virginia that there be three hours of general debate, one-half to be controlled by himself and one-half by the gentleman from Iowa [Mr. HAUGEN]?

There was no objection.

The SPEAKER. The question now is on the motion of the gentleman from Virginia that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Agricultural appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the agricultural appropriation bill, with Mr. BEALL of Texas in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk reported the title of the bill.

Mr. LAMB. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LAMB. Mr. Chairman, I yield 15 minutes to the gentleman from Georgia [Mr. HUGHES].

Mr. HUGHES of Georgia. Mr. Chairman, I beg to return thanks to the gentleman from Virginia who has so kindly granted me time. Owing to the fact that I shall be absent for several days I was anxious to present my views on a bill which I reported on behalf of the Committee on Military Affairs on April 4, 1912. That bill is known as H. R. 11397, and is known generally as the Armes bill.

Mr. Chairman, it has been intimated that those who oppose that bill were determined that it should not appear before this House during this session. I do not know whether that be true or not; but if it be true, it clearly indicates the fact that they are not willing to trust to the wisdom of this House the passage of this bill.

Mr. Chairman, the Committee on Military Affairs, to whom was referred the bill (H. R. 11397) authorizing the appointment of Maj. George A. Armes, United States Army, retired, to the rank and grade of major general on the retired list of the Army, having considered the same, report thereon with a recommendation that it be amended as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the President be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, appoint George A. Armes, now a major on the retired list, a brigadier general in the United States Army and place him upon the retired list with the rank of brigadier general, and with the same pay he is now receiving, viz. that of a major on the retired list, to take rank from the date of the approval of this act, the retired list being increased for that purpose only.

Also amend the title so as to read: "A bill providing for the appointment of George A. Armes as a brigadier general in the United States Army and placing him upon the retired list."

As thus amended, the committee recommends the passage of this bill.

Mr. Chairman, the records of the War Department show that Maj. Armes was retired from active service on September 15, 1883; that he was on sick leave from September 12 to 15—three days.

The same officers and element which court martialed him still remained in the service, and your committee, after a full investigation of the records presented to them, are of the opinion that Maj. Armes should not have been retired from the service on September 15, 1883, but allowed to continue in the service, as his character and ability to command and do his duty as an officer of the Army was beyond question.

Mr. Chairman, I wish I had time to discuss this bill at length; but it is impossible for me to do so owing to the limited time granted, but I do wish to call the attention of the House to the following facts:

On October 10, 1882, Maj. Armes asked to appear before a retiring board, his health having been impaired by prosecutions and persecutions by maligners pregnant with revenge.

But whereas this is true, remember the record shows that within four days he withdrew this request, and asked that the

application be held for further notice from him. This application was never renewed or acted upon.

On April 14, 1883, he was ordered to move with his troop to meet and combat a desperate band of Indians who were committing murder and depredations upon the settlers.

This he did with such effect that he received high commendation and special mention from his superior officers.

On the 28th of June, 1883, Maj. Armes was ordered before a retiring board with the view to retire him from active service.

Now, on this board were two members who had been on previous courts-martial who had sentenced him to dismissals.

I wish to impress these facts, viz:

October 10, 1882, Maj. Armes asked to be retired. On October 14, 1882—within four days—he withdrew his request for retirement; on same day, request returned indorsed "No action taken."

I ask you to note that on April 14, 1883, six months after Maj. Armes had withdrawn his request for retirement and two and a half months after Maj. Armes had been ordered with his troop to fight the Indians, he was retired by a partisan board. He was at that time on the frontier, on active duty, scouting the country for Indians at the time he was ordered before a retiring board.

Maj. Armes protested at once by wire against his retirement, without avail. This gallant, brave officer, who had regained his health, was retired by this board without hearing or representation.

Under these facts I ask, Was Maj. Armes justly retired?

Mr. Chairman, Maj. Armes may have been at times indiscreet, and doubtless every Member of this Congress would have to plead to the same charge of guilt, but I wish to say this—that Maj. Armes possessed a characteristic which all true men admire. He never received an insult unchallenged whether tendered by an inferior or a superior. Mr. Chairman, Maj. Armes even as a boy was a boy of decision. In the war between the States he felt that it was his duty to follow the flag of the Union. Feeling that was his duty he dared to perform it under the protest of every member of his family and all of his neighbors. Mr. Chairman, he had a brother who was also a man of decision who followed the flag of the Confederacy; one wore the blue and the other wore the gray; one was on the staff of Gen. Hancock and the other upon the staff of Gen. Jeb Stuart. These two gallant brothers won honors worthy of two brave soldiers in their respective commands. Maj. Armes joined the Army when he was a mere lad, and was a member of the Union Army throughout that bloody struggle between the North and the South. He went in as a private and he retired at the end of the war as a captain, perhaps the youngest captain in the Army of the United States.

After the war Maj. Armes joined the Regular Army. He was sent to the frontier to combat and fight the Indians who were committing murder and robbing the citizens of the country. By his valiant deeds of daring and bravery he rose rapidly to the front over his superiors, and, Mr. Chairman and gentlemen of this House, here is where his troubles began. He was persecuted, he was prosecuted by robbers, thieves, assassins, and in one comprehensive term, cowards. They were led in their damnable purpose by rage from jealousy intensified by the blue vapors of vitriolic hate. They were determined to remove that gallant soldier from the Army, and they pursued him relentlessly until finally they accomplished their diabolical act. Mr. Chairman, some of his persecutors who had chained him to the vulture's rock fell from their high estate and some were sent to the penitentiary and others shot as highway robbers. Mr. Chairman and gentlemen of this House, should this bill come before this body I do not believe that this House will agree to condone such perfidy, but I do believe that they will give justice to this brave and gallant soldier who, as did that patriotic statesman and gallant warrior, John B. Gordon, of Georgia, wears all of his wounds in front. I sincerely hope that if this bill comes before this body it will give to this distinguished soldier justice and deserved honor by passing this bill. [Applause.]

Mr. LAMB. Mr. Chairman, I ask the gentleman from Iowa [Mr. HAUGEN] to use part of his time.

Mr. HAUGEN. Mr. Chairman, I yield to the gentleman from New York [Mr. AKIN].

Mr. AKIN of New York. Mr. Chairman, since I have been a Member of Congress I have never hired a man in my office to compose any letters for me. I have been the author of all my own correspondence. I have never hired a press agent to write my speeches or to write voluminous articles for the newspapers booming myself as well as trying to convince the reading public that I have been here in Washington attending to business while at the very time such letters went out I was a thousand miles away from Washington. With the exception of a few days, I have always been in attendance at roll calls and answered to my name. No press agent of mine having the privilege of the floor has ever instructed me when to vote and when not to vote, nor have they ever told me how to vote, and no man has ever been able to ride on my coattails while I was making an aeroplane flight from the floor of this House, for I never duck a vote. I did not come down here for that purpose. I have no excuses to offer nor any apologies to make for my conduct since I have been in Washington as the Representative of the people of my district. As far as I know and can recollect, I have kept every promise and every pledge I have made to the people of my district.

Mr. Chairman, the time has arrived—and I notice that those who do not intend to return to Congress are making their farewell speeches, sometimes known as swan songs. This will not be my swan song, Mr. Chairman.

There is a bird known as the laughing jackass. It is a cross between the swan and the gilli-gilli-galoo bird. The swan-song singers have misnamed their bird.

I intend to introduce a resolution in the House of Representatives touching on expert interbreeding of turkey buzzards and humming birds, which I incorporate as a part of my remarks. The resolution provides that—

The Secretary of Agriculture be, and he is hereby, authorized to expend not exceeding $1,000 in the purchase of 6 high-grade, thoroughbred male turkey buzzards and 99 thoroughbred humming birds, each to be passed upon by Dr. A. D. Melvin, Chief of the Bureau of Animal Industry, as to the soundness of limb and heart strength, in order that a test may be made as to the value of the offspring, be they gnats or fleas, for agricultural purposes, and to report to Congress whether the experiment is more valuable to the American farmer than the one now going on in this bureau, where thousands of dollars have been expended in buying zebras in Africa and transporting the same to the District of Columbia, where they are joined in wedlock to Missouri mules, the offspring of which seems to be a cross between a North Dakota jackrabbit and an Australian kangaroo; and the sum of $1,000, or so much thereof as may be necessary, is hereby appropriated out of the contingent fund of the House to carry out the purpose of this resolution.

I do not think that resolution goes far enough, Mr. Chairman. I think that the Government experts should investigate the feasibility of making crosses between the common sperm whale and the spitchcock. Would it not be well also for the Agricultural Department experts to investigate the feasibility of interbreeding the orang-utan and the goat with a view to producing a species of human being that could be used as experts in the Bureau of Animal Industry who would have no selfish ambitions, would be devoid of all grafting propensities, and whose highest ambitions would be to serve the people honestly and economically during their official tenure in the Agricultural Department?

The Washington Times of February 1—I include an editorial taken therefrom, which I desire to incorporate in my remarks—speaks beautifully of Elder McCabe:

VALE, M'CABE.

The Hon. George P. McCabe, too long—altogether too long—Solicitor of the Department of Agriculture, has resigned, to take effect March 4. In view of very excellent reasons for belief that the copper toe on the Wilson right boot was placed there with special reference to detailed plans for separating the Hon. McCabe from his solicitorship, we can but regard his resignation as a formality.

It is good to know that Mr. McCabe is going. It will be the most notable act of public service he has rendered since he became an ornament to the salary list and an obstacle to enforcement of the pure-food laws.

Further, it is pleasing to know that he will live hereafter in Portland, Oreg. That is about as far away from Washington as he could get.

With Ballinger in Seattle and McCabe in Portland, the division of honors between the two great rival cities of the Pacific Northwest will continue balanced to a nicety.

We have no doubt that Portland will be glad to have him, and at the same time his absence here will create a most joyful feeling in the hearts of every man who has a personal acquaintance with his official performances since he has been Solicitor—at one time for the Department of Agriculture and at another time solicitor to the Secretary of Agriculture. But I do not intend to make any further remarks in regard to the old father Neptune of the Agricultural Department; he is politically dead, and the least said about a dead man the better.

Mr. Chairman, in this bill Congress is appropriating almost $20,000,000, to which must be added $3,000,000 for meat inspection and other millions for various purposes, and all chargeable to the Agricultural Department. And we who are the guardians of the Public Treasury should have a care that in the expenditure of these vast sums of money the public is receiving its just deserts, and that extravagance and waste are not permitted to run riot through the various bureaus, either on account of ignorant and incompetent officials or because of favoritism to employees, officials, or sections of the country. Affairs may run smoothly for a while in all branches of the service, but if out of joint at any one place a slip of a cog may

expose the weak spot, and then complacency and standpatism give place to revolution and reform. New York City for years has boasted of her police force, but a cog slipped, and the population of Sing Sing is on the increase.

In many respects I am proud of the grand work performed by many employees in the Agricultural Department, and to all such I say, "Well done, thou good and faithful servant." But for the misdeeds and blunders, to speak mildly, of a few—a very few—officials in the Agricultural Department, who have been unworthy of the responsibility and salary given them, I hang my head in shame, for they have disgraced the service and brought ridicule and condemnation upon the Government which they agreed to faithfully serve. However, their days are numbered, for Woodrow Wilson will give them the toe of his boot, and their connection with the public service will end forever, and with them will go inefficiency, incompetency, and waste.

One of the extravagant items in this bill is $200,000 increase for the Bureau of Animal Industry, ostensibly for meat inspection, but as confessed in the report—for increase in salaries. The Government is already expending $3,000,000 for meat inspection, and all of this vast sum, save a trifle over $100,000, goes to salaries—the best paid labor for the services performed in the whole Government service. This appropriation is a lump sum, and the tyrannical methods of its disbursement, as is the case in the expenditure of all lump-sum appropriations, condemns this method of appropriating money.

Suppose John Doe is chief of a bureau and distributes a lump sum of $3,000,000 in salaries to those under him, what is to prevent him from having a cringing, sycophantic roll of employees doing his bidding, whether right or wrong, in order that increase in salary will always go to him who sticks closest to the heels of his master? I am opposed to lump-sum appropriations in the Government service. Let the laborer be worthy of his hire, place him upon the statutory roll at a wage commensurate with his work, and save a scandal that is already imminent. In lump-sum appropriations the temptation to annually increase it is always present, and the excuse given for such an increase is not always creditable to those who make the request. Only last year President Taft was imposed upon by the Department of Agriculture in this manner, but, thanks to Congress, no harm was done. Several years ago a good deal of money was expended by the Bureau of Animal Industry in examining, microscopically, pork to detect trichina. After a thorough test the bureau decided to discontinue the examination, both on account of the expense and its inefficiency. "Experience has shown that under practical conditions a reliable inspection for trichina is not possible," page 13 in Twenty-fourth Annual Report, Bureau of Animal Industry. Yet last year, when the minister from Switzerland compelled to our Government that inhabitant of Switzerland had died from the effects of eating American pork, the Department of Agriculture, in the face of its statement to the world that microscopic examination of pork failed to produce the result desired, prevailed upon President Taft to send a special message to Congress asking for a lump sum of $1,000,000 for this very purpose. The trick was discovered and the appropriation failed to materialize. Of course, that $1,000,000 was evidently intended to swell the salary list in the Bureau of Animal Industry. In this bill the mask is off and only $200,000 increase is requested, yet those who know claim that meat inspection could be handled by one-half the large force now employed and with better results. We respectfully refer this bureau to President Wilson for reformation and purification.

Another item in this bill attracts my attention. Almost one-third of a million dollars is appropriated for free seeds. We move to strike out the word "seeds" and insert in lieu thereof the word "bunk," for if there ever was a case of highway robbery this free-seed proposition belongs to that category. It is a species of cheap graft and generally used for campaign purposes. We are passing laws limiting the size of campaign contributions, yet Congress goes on year by year increasing the appropriation for free seeds in order that the statesman from Bunkville may grab a few more votes at public expense. If free seeds, why not free coal, free lumber, or free chickens? Why be parsimonious with Government money, when it can be so easily had in the name of agriculture? We have expended thousands of dollars through the Bureau of Animal Industry for zebras from Africa. Upon their arrival they are joined in wedlock to Missouri mules, and thus far we have not produced either a North Dakota jack rabbit or an Australian kangaroo. Then why waste the money? Possibly, if the money holds out, the department hopes to produce a new kind of automobile. Uncle Sam is rich; let the game go on.

I also note that a solicitor and a score and a half of law clerks are performing labor that properly belongs to the Department of Justice. Two full-grown lawyers and a stenographer could perform all the legal work that develops in the Agricultural Department, but we must have jobs, and Uncle Sam has the money, so why complain?

In time every bureau will have a solicitor; an editor, who is really a publicity agent bent on earning his salary by "booming" his bureau and its chief; a chief clerk; an architect; a carpenter; a dentist; and a cook. This situation is not peculiar to the Agricultural Department. We find it everywhere. This extravagance is only equaled by the money wasted in printing trash, which finds it way to cellars or bonfires. Annually the Government is wasting millions of dollars in printing, and the Agricultural Department is one of the chief offenders along this line. Reform in the civil service is badly needed, but not half so badly as in the printing business at Government expense. Some fool is liable to devise a method of printing thoughts as well as words if a halt is not soon called.

This bill is not all bad. In fact there is more good than evil in it, but when it is bad it is awful bad. As I said in the beginning, the Agricultural Department is full of intelligent, conscientious employees who are reflecting credit upon themselves and their country by the service they are giving the American farmer, and as a farmer I love to sing their praises. My only regret is that the few exceptions make the department malodorous.

Mr. HAUGEN. Mr. Chairman, I yield five minutes to the gentleman from Minnesota [Mr. LINDBERGH].

Mr. LINDBERGH. Mr. Chairman, the subject I have to consider will take a good deal more time than five minutes in order to treat it in the way I wish. I desire to extend some remarks in the RECORD concerning what I believe should be the policy of this Government in regard to authorizing the construction of dams across navigable rivers, and particularly the policy in regard to water powers, and I also wish to ask leave to extend some remarks in regard to the direct election by the people of Presidents of the United States; and also on the proposition of whether or not the President should be eligible to more than one term. On those two propositions—water powers and election of President—I ask leave to extend my remarks in the RECORD, each separately.

The CHAIRMAN. The gentleman from Minnesota [Mr. LINDBERGH] asks unanimous consent to extend his remarks in the RECORD on the subjects indicated by him. Is there objection?

There was no objection.

Mr. LINDBERGH. Mr. Chairman, the Connecticut River Power Co. seeks authority from Congress to dam the Connecticut River, and at an expense of $5,500,000 to develop one of the greatest powers in the country. It is proposed to give to the company the first 8 per cent profits and to divide the excess up to 9 per cent equally with the Government, and above 9 per cent give the Government an increasing ratio.

If this Congress permits the execution of such a contract, the people in the future would wonder what sort of statesmanship prevailed here. It would commit this Government to a policy that by its very laws would encumber the people with an unbearable burden. Consider this monstrosity for a moment.

The geometrical progression of accumulated dividends at the minimum, 8 per cent on $5,500,000 the first 100 years would be over $12,000,000,000. It is proposed to grant to the individuals the legal privilege to proceed to extort from the people on that basis. To be sure, it would have only a 50-year charter, but the policy is the same. But the proposition here is not to stop with the 8 per cent, for an inducement is held out to the corporation to extort more, so that it may divide the excess with the Government, while the latter supports the legalized robbery.

What do we understand by the government of the people? It is presumably a government by themselves for themselves. Why should they first permit a company to rob them of 8 per cent and then offer the company an inducement to rob them some more, if they will be permitted to divide in the robbery? Suppose the company and the Government should succeed in extorting from the people 12 per cent; the geometrical progression of accumulated dividends on that compounded annually, and that is the rule, would in 100 years consume the total present real and personal valuation of all the people more than three times over. That is the policy to which it is proposed to commit the Government.

I shall not assume that this is a temporary government. I assume that our fathers, who fought the Revolutionary and the Civil Wars, the test struggles of our national existence, did so with the purpose of making it as lasting as mankind. I would not knowingly commit the Government to any economic or social policy that can not be fairly carried from one generation to another as a principle.

I realize that some people will say that there will be no complete centralized accumulation of the dividends so as to have the rule of geometrical progression apply to the extent I have stated. They will claim, of course, that the profits will be scattered by those who get them. That would be true to a greater or lesser extent. There would be extravagance of one kind and another to prevent the complete accumulation; but the extravagance itself would be a tax upon us. The real point, however, that I make is that we would by passing Senate bill 5033 commit the Government to a policy which, if applied literally, according to the proposals of the Secretary of War, would become a burden that would in the end break down by its own weight.

I do not oppose granting the company the right to construct the improvements. The water power is there, going to waste, while it should be a service to humanity. Therefore, whenever any of the water powers may be utilized to the public advantage I am in favor of giving the right to make the improvements, and I am opposed to levying an extortion on the people for the service. Let us give the right with the power reserved to the Government to regulate from time to time the charges to be made for the service, but in doing so let it be reasonable and subject to revision by the reasonable construction of things measured by the common necessities. I am not in favor of making any charge against the company above that which is incidentally required to maintain proper regulation, and I will not consent to establishing a vested interest in any person or corporation to levy a toll on future generations. I would simply give assurance of protection to the parties who make the improvements that so long as they are reasonable they shall be entitled to operate them with such return as the general patronage entitles them. When men come to Congress to ask for privileges they must be content to trust the people, whose Congress this is, to treat them consistently, and they must expect that Congress will not pledge future generations to policies that can not be literally or practically carried out in the common interests of humanity. We of this time are operating under disadvantages that are the results of some of our predecessors' failures to look beyond the immediate necessities of the day of their service. Let us not commit such errors ourselves.

Mr. HUGHES of Georgia. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. HAUGEN. Mr. Chairman, I now yield to the gentleman from California [Mr. KNOWLAND].

Mr. KNOWLAND. Mr. Chairman, I ask unanimous consent to insert in the RECORD some resolutions and comments relative to the exemption of coastwise vessels from the payment of tolls through the Panama Canal.

The CHAIRMAN. Is there objection?

There was no objection.

The matter referred to above is as follows:

NEWSPAPER COMMENT AND RESOLUTIONS UPHOLDING THE POSITION OF THE UNITED STATES IN GRANTING FREE TOLLS THROUGH THE PANAMA CANAL TO AMERICAN SHIPS IN THE COASTWISE TRADE.

DECLARATION IN PLATFORM OF NATIONAL DEMOCRATIC PARTY UNANIMOUSLY APPROVED AT BALTIMORE ON JULY 2, 1912.

We favor the exemption from tolls of American ships engaged in coastwise trade passing through the Panama Canal. We also favor legislation forbidding the use of the Panama Canal by ships owned or controlled by railroad carriers engaged in transportation competitive with the canal.

DECLARATION IN PLATFORM OF NATIONAL PROGRESSIVE PARTY UNANIMOUSLY APPROVED IN CHICAGO ON AUGUST 7, 1912.

The Panama Canal, built and paid for by the American people, must be used primarily for their benefit. We demand that the canal shall be so operated as to break transportation monopoly now held and misused by the transcontinental railroads, by maintaining sea competition with them; that ships directly or indirectly owned or controlled by American railroad corporations shall not be permitted to use the canal, and that American ships engaged in coastwise trade shall pay no tolls.

[Extract from letter of Theodore Roosevelt in Outlook, January 18, 1913.]

I believe that the position of the United States is proper as regards this coastwise traffic. I think that we have the right to free bona fide coastwise traffic from tolls. I think that this does not interfere with the rights of any other nation, because no ships but our own can engage in coastwise traffic, so that there is no discrimination against other ships when we relieve the coastwise traffic from tolls. I believe that the only damage that would be done is the damage to the Canadian Pacific Railway. Moreover, I do not think that it sits well on the representatives of any foreign nation, even upon those of a power with which we are, and I hope and believe will always remain, on such good terms as Great Britain, to make any plea in reference to what we do with our own coastwise traffic, because we are benefiting the whole world by our action at Panama, and are doing this where every dollar of expense is paid by ourselves. In all history I do not believe you can find another instance where as great and expensive a work as the Panama Canal, undertaken not by a private corporation but by a nation, has ever been as generously put at the service of all the nations of mankind.

[From the Pittsburgh (Pa.) Press.]

KNOX'S REPLY TO ENGLISH GOVERNMENT.

American public opinion is so fully convinced that this country is in the right in the canal-tolls dispute with England, and has such well-grounded suspicions that the whole English contention is in the interest of the English stock and bond holders in the Canadian Pacific and other Pacific railroads, that popular interest in the notes exchanged between the foreign offices of the two countries is not keen.

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That will has been expressed by the act of Congress freeing American ships from tolls, and if "diplomacy" tries to veto that decision diplomacy will get a bad upset.

[From the Seattle (Wash.) Times.]

Secretary Knox, in presenting the American argument relative to Panama Canal tolls, has demolished some of the British contentions. It is a complete answer to the objections raised by those who think American coastwise vessels should be compelled to pay for using a waterway which Uncle Sam has built for their own convenience.

[From the Baltimore American.]

KNOX RIGHT; GREY WRONG.

Diplomacy should suffice to adjust the points of difference between this country and Great Britain in respect to the abrogation of tolls for American coastwise shipping. This is the underlying note of the Knox response to the objections entered by Sir Edward Grey in his note to this Government. The proclamation of President Taft so altered the situation as to have vitiated the British contention.

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There is no disposition to credit England with plotting to drive an entering wedge into the canal through its note of objection so as to force the way for interference in American domestic affairs. The precedent sought to be established would give recognition to further interference of Great Britain in other ways in case this country should supinely permit it to dictate modification of the laws and usages bearing upon the domestic coastwise traffic. Yet, while this view is not entertained, the fact exists that such would be the effect. A hundred years ago the United States and England definitely settled the matter for all time of British interference with American commerce, and that settlement can not be revamped at the present day, so that any course of arbitration would have to assume at the outset the full right of Americans to make any laws they see fit for their own shipping.

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Mr. Knox has made the American position irrefutable, and the Taft proclamation made this possible.

[From the Marine Journal, New York, N. Y.]

THE REAL OPPOSITION—INFLUENCES THAT ARE HOSTILE TO FREE CANAL TOLLS FOR AMERICAN SHIPPING.

The real opposition to this proposal is not likely to show its head in public at Washington. This opposition is made up in part of short-sighted officials of some of the transcontinental railroads—though to their credit be it said, many of the railroad managers are manfully accepting free tolls as a policy destined to benefit the entire country, and thereby the railroads themselves in the long run. Another element of opposition, powerful and sinister, is doubtless the influence of the European steamship corporations in the United States. Foreign ships are entirely barred from coastwise carrying through the canal, and the granting of free tolls to American ships in foreign trade would no more than put them on an equality with their foreign competitors.

But these European steamship corporations and their agents and attorneys hate and dread any form of national encouragement to American shipping.

These European companies, which control nine-tenths of our ocean carrying, are a fighting power all over the United States. There are many quiet ways in which they can make their influence felt. Some of their representatives are American citizens, and these men will usually be found lined up aggressively against every proposal to strengthen the national merchant marine.

They see in the Panama Canal a possibility of future growth of the coastwise shipping of the United States which might menace the ocean-going shipping of other countries. A great American coastwise fleet developed by the canal might gradually encroach upon the European monopoly of our over-seas carrying. This great coastwise fleet would constitute a valuable naval reserve for the United States.

[From the Statesman, Yonkers, N. Y.]

OUR SHIPS IN THE CANAL.

The foreign trade from American seaports will be greatly stimulated by the completion of the canal, but a provision exempting American vessels from toll is necessary if they are to engage in it, paying, as they must, the higher wages which sailors on American vessels demand and receive.

[From the Baltimore Sun.]

CONCERNING PANAMA CANAL TOLLS.

From an article by an Englishman in an English magazine we learn that under the treaty of 1815 between Great Britain and the United States no higher duties or charges may be imposed on United States vessels in British ports than are paid by British vessels in the same ports, notwithstanding which Great Britain has always discriminated in favor of her coastwise vessels.

[From the Detroit (Mich.) Free Press.]

PROPER ENOUGH BUT BADLY TIMED.

Senator Root's attempt to repeal the exemption clauses in the Panama Canal tolls act is badly timed and is practically certain of defeat by Congress. It comes into conflict with diplomatic argument of the Government. It can hardly fail to prejudice the position of the State Department in British relations and prove a difficult handicap to

Secretary Knox in his exchange of notes with the English foreign office over the protest against the American position.

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No other nation has any right to interfere in our treatment of our domestic shipping, and every true American must resent the effort by Great Britain to intrude in such a purely national matter. While the proper authority is rejecting the claims to such interference there should be no weakening of our attitude, and the legislative branch ought to be backing up the executive branch of the Government instead of interposing obstacles in patriotic effort. The Root bill should not have been presented at this time. Having been presented, it should be withdrawn by its author or overwhelmingly rejected by Congress.

[From the Lincoln (Nebr.) Star.]

It is not difficult to imagine that it is not so much the thought of Uncle Sam's bad faith as it is the thought that free tolls for American ships through the canal might provide competition for the big transcontinental railway combinations.

It is the men and the combinations who own the stock in these railroads who are appalled at the enormity of offense in this free-tolls proposition. They are not all in this country. Many of them are in England. Their presence there accounts for the protest entered by the English Government against this proposal of Uncle Sam to put life into his shipping industry by putting his ships into actual competition with the railroads between his east and west coasts.

It is the first time in history that anyone has discovered dishonor in a proposition of any government to provide encouragement to its own shipping, and the peculiar thing about it all is that those who profess to consider it a monstrously dishonorable proposition are the same ones who have for many years been clamoring for ship subsidies in the form of cash out of the people's Treasury.

Perhaps they do not like this plan because the ship-subsidy plan would be so much more profitable to them. But to the man who pays the freight—the historic "Jones, of Texas"—the free-tolls plan looks mighty good.

[From the Denver (Colo.) News.]

Whatever its faults, the Taft Congress must be given credit for courage. It means to die as it lived, disdaining any weak thing like a deathbed repentance. As if in very defiance of the public opinion that has crushed them, the Tories have decided to devote their remaining minutes to the service of the Railroad Trust in connection with the Panama Canal regulations.

The money of the American people bought the Canal Zone, that every cent of expense came out of the American Treasury, and that our investment in the great ditch approximates a half billion dollars.

England's "feelings" are hurt by the action of the United States in trying to encourage our shipping and our commerce by remitting the tolls on American ships engaged in coastwise trade. It is a discrimination against British ships that is in no manner justified by the fact that we bought the land and built the canal and own the whole business in fee simple.

There was a time, not so many years ago either, when the people might have been deceived by balderdash. But we have come to an appreciation of the intricacies of monopoly.

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They know that free tolls for American ships and the barring of railroad-owned vessels from the canal are at the bottom of sudden passion for arbitration. As long as these regulations obtain, the canal stands as an obstacle in the way of monopoly and insures competition in transportation rates.

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There is, of course, small chance of the bill's amendment or of its submission to any sort of arbitration. Even in the Senate there are not enough men sufficiently bold to defy the wrath of a Nation and to court infamy and disgrace.

[From the Nashville (Tenn.) Tennessean.]

PANAMA CANAL CONTROVERSY.

Reply to the protest of Great Britain regarding the proposition to exempt our coastwise shipping from Panama Canal tolls has been made by Secretary Knox.

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English expert opinion of the merits of the controversy is divided, as it is in this country, which will be a shock to those who roll up their trousers because it is raining in London, or who sneeze because the British King takes snuff. Two articles appeared in a recent number of the Law Magazine and Review, a London periodical, both bearing on the Panama Canal status. In summing up, one writer says:

"(a) That the United States can support its action on the precise words of the material articles of the Hay-Pauncefote treaty; that its case is strengthened by reference to the preamble and context; and that its case is difficult to challenge on grounds of general justice.

"(b) That there is no international obligation to submit the construction of its legislative act to any process of arbitration; and

"(c) That the aggrieved party has an appropriate, an impartial, and a competent tribunal in the Supreme Court of the United States."

The second writer expresses this view:

"The treaty could never have been intended to prevent the Federal Government from arranging and regulating its domestic or coastwise commerce and in the use and enjoyment of its own property as it saw fit."

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As the granting of free tolls to coastwise vessels is a part of the last Democratic platform the chances for the incoming Senate to recede from its present position do not appear to be flattering.

[From the Springfield (Mass.) Union.]

CANAL TOLLS AND OUR NATIONAL HONOR.

It strikes us that the hue and cry about our national honor being sullied by the tolls-exemption clause of the Panama Canal act is being a little overdone in some quarters. One is moved to wonder if the agitation proceeds in every case from motives as lofty and patriotic as appears. We would cast no general aspersion on those who insist that this clause should be repealed on that ground. But it is well to remember that there is an important interest in this country that has good reason, purely on private grounds, to foster this agitation. That interest consists of the great corporations engaged in transcontinental business. The tolls-exemption feature is expected to afford a new element of competition by which rates from one coast to the other may be substantially reduced. The same act which proposes to remit the tolls in the case of our coastwise shipping also prohibits railroad companies from owning steamships. Thus it is sought to deprive concerns engaged in the two fields of transportation between which competition is sought from combining in a manner to keep rates up and rob the public of the anticipated benefits of cheap water transportation.

[From the Washington (D. C.) Post.]

SETTING WILSON RIGHT.

The more conservative Democrats of the Senate and House are none too soon in making a concerted effort to offset the wrong impression which their ultraprogressive brethren have created as regards the Wilson program.

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The stereotyped method of misstating the President elect's attitude is for a speaker or an editor to assert that there are "excellent reasons for believing" that this or that diatribe represents Woodrow Wilson's views on the subject. Thus the spokesman for the Interstate Commerce Committee is emboldened to declare that the first thing Mr. Wilson will do upon coming to Washington will be to secure the repeal of the Panama Canal tolls law, as if the President would at once set out to repudiate his party's platform and his party in Congress.

[From the Denver (Colo.) News.]

MR. KNOX'S CRUSHING REPLY.

Secretary Knox's note in reply to the British request for arbitration of the Panama controversy throws a flood of light upon the matter. It shows that a state of facts exists quite different from the hypothetical situation imagined by Sir Edward Grey, and that upon this state of facts the United States is not discriminating against British shipping; that the Hay-Pauncefote treaty is not violated in letter or spirit, and, therefore, there is nothing to arbitrate. Mr. Knox makes the somewhat humorous suggestion that if there should be a dispute over the facts it might be well to refer the question to a commission of inquiry, in the manner provided for in the arbitration treaty of August 31, 1911.

[From the Oshkosh (Wis.) Northwestern.]

BASED ON SUSPICION.

The reply of Secretary of State Knox to the British protest against the exemption of American coastwise shipping from Panama Canal tolls furnishes a clear and comprehensive exposition of the American side of this dispute.

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As to the right of this Government to favor its coastwise shipping by a remission of canal tolls, this is a point the Secretary insists is beyond question. Nor should the British complain on this score, so long as American ships engaged in the foreign trade are placed on exactly the same basis as British ships, which is exactly what is proposed by the canal regulations already approved.

[From the Elmira (N. Y.) Advertiser.]

The British Government does not make as strong claims that the treaty is violated by the Panama act as do the American champions of this view on this side of the water. Most of the British objections are already answered by the schedule of tolls prescribed by President Taft and which the British foreign secretary had not seen when he wrote his note of protest. As for the rest, it is not the exemption of the coastwise vessels that he complains of so much as the possibility that this exemption may somehow be used surreptitiously to the disadvantage of British ships. When this occurs Great Britain will have a real cause of complaint, but until it does occur, it does not appear, according to the secretary's own showing, that his Government has any grievance whatever.

[From the Philadelphia Inquirer.]

AN AMERICAN ENTERPRISE.

The Panama Canal is an American canal—an American enterprise pure and simple.

And it is American in spite of the fact that there are some persons who appear to think that it is English.

There are the transcontinental railroads, for instance. They are a unit in arguing that the United States has no right to control its own property.

And there are the representatives of the railroad corporations in Congress. They quite agree with the railroads.

[From the Philadelphia (Pa.) Star.]

THE CANAL AND TOLLS.

While the fight continues in the Senate regarding the question of free passage for coastwise ships bearing our flag or of submission to the English idea that she has just as much right in the canal as we have Secretary Knox has made an important communication to the British foreign office.

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Mr. Knox points out to England that the United States regards as coastwise vessels those which ply from port to port of this country only and that it is only such as would be free from tolls in using the canal. That is to say, vessels flying our own flag and sailing from one part of the United States to another would not be obliged to pay toll in going through the canal.

Surely there can be no right on the part of any to object to such an arrangement as this. It is purely domestic, a matter relating to our own housekeeping, and it would seem to be utterly absurd that any outside party or country could be permitted to say what we shall or shall not do in such a relation.

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In addition to communicating these facts Secretary Knox has informed England that the exemption of such coastwise vessels as described will not make it necessary to increase the tolls charged to others. And this eliminates the last possible excuse for any sort of foreign intervention. It takes away the last possibility that this matter is the business of any country but our own. It is to be hoped that the matter will end there and that we shall soon hear no more about it.

[From the Mobile (Ala.) Register.]

COUNTING UNHATCHED CHICKENS.

The efforts of Great Britain to have the matter of free toll for American coastwise vessels through the Panama Canal submitted to arbitration have been neatly met by the reply of Secretary Knox. In effect he says that this is not a matter now germane to the issue. The admission of these vessels to free tolls is not yet a fact. There has been no law passed to that effect. It is yet in the making. What the United States may do in the future is not a subject for present arbitration.

Possibly it may be handled in diplomatic correspondence as to the merits or demerits of the idea as affecting existent treaty regulations. Possibly it may be proper to discuss it now with a view of getting a better understanding of the situation, but to submit it to arbitration now is not to be thought of, for there is nothing as yet to arbitrate.

When this law is a fact instead of a possibility, or probability as it is at present, there will be sufficient time in which to consider whether arbitration is the remedy for an apparent irreconcilability of viewpoint. Until that time has arrived it would be most foolish for the United States to submit a largely abstract question to a court composed of representatives of nations at one with the position of Great Britain, and from which court an adverse verdict to the United States is largely a foregone conclusion. Mr. Knox has neatly avoided a pitfall set for him by the wily Britishers.

[From the Navy, Washington, D. C.]

RECRUDESCENCE OF CANAL-TOLL DISCUSSION.

The formal British protest against the remission of Panama Canal tolls has aroused renewed discussion of that much thrashed over subject.

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To restate the present American contention:

The Hay-Pauncefote treaty was adopted when it was supposed that the canal was to be built in foreign territory. The acquisition of the Canal Zone from Panama rendered the treaty voidable, due to a radical change in the conditions existing at the time it was made. The contention that the treaty was thus rendered voidable is well supported by both English and American authorities on international law.

Mr. Hannis Taylor in a recent magazine article quotes from his work on International Law, as follows:

"A treaty may become voidable through subsequent events. After the validity of an international agreement has been firmly established by the concurrence of such antecedents it may become voidable through the operation of subsequent events which might not have such an effect in the case of private contract. So unstable are the conditions of international existence and so difficult is it to enforce a contract between States after the state of facts upon which it was formed has substantially changed that all such agreements are necessarily made subject to the general understanding that they shall cease to be obligatory so soon as the conditions upon which they were executed are essentially altered."

Mr. Hall, an English authority, thus states the case:

"Neither party to a contract can make its binding effect dependent at his will upon conditions other than those contemplated at the moment when the contract was entered into, and, on the other hand, a contract ceases to be binding so soon as anything which formed an implied condition of its obligatory force at the time of its conclusion is essentially altered. If this be true, and it will scarcely be contradicted, it is only necessary to determine under what implied conditions an international agreement is made. When these are found, the reasons for which a treaty may be disregarded will also be found."

When the authorities on international law of both Nations admit that the Hay-Pauncefote treaty is voidable, any protests by either party having for their object the enforcement of the terms of that treaty seem unnecessary. * * *

* * * The United States has built the canal at an expense of nearly $400,000,000, thereby opening new routes of commerce to the world. The canal tolls have been fixed by the President of the United States, in accordance with the Panama Canal act. These tolls will not pay interest on the cost of the canal for an indefinite period, if ever, which fact eliminates the claim made by owners of foreign shipping that their ships are called upon to pay an unjust proportion of the charges for the maintenance of the canal.

The root of these protests is the fear of English and other foreign shipowners that there will be an increase in American merchant marine, which will interfere more or less with foreign carrying business. Furthermore, it is questionable if it is thoroughly understood that tolls are remitted only to vessels engaged in a trade from which foreign vessels are barred. To summarize from an American standpoint:

The Hay-Pauncefote treaty has become voidable, owing to a radical change in the conditions existing at the time of its enactment.

The canal is built in American territory.

Its construction has cost the people of the United States $400,000,000.

The maintenance, neutrality, and defense of the canal is guaranteed by the United States.

Tolls will not for an indefinite period (if ever) pay for the maintenance of the canal and interest on the cost of construction.

As a slight encouragement to strictly domestic trade, tolls on ships engaged in coastwise trade are remitted.

[From the Bangor (Me.) Commercial.]

REPLY OF SECRETARY KNOX.

It is a strong reply that has been made by Secretary Knox in answer to the request of Great Britain for arbitration in regard to the controversy over the Panama Canal matter and will go far to correct a faulty idea of the situation that has existed in some quarters and which has led to assertions that the United States, by exempting our coastwise shipping from the payment of tolls, is violating a treaty.

The Commercial has taken the position that Congress has acted wisely in providing that the free-tolls provision should be extended to our ships in carrying out the principle of favoring coastwise trade carried in our own bottoms, and that any other position would be unfair to certain sections of our country—as, for example, a toll charge for coastwise shipping would discriminate against the great Pacific coast in its carrying trade with the Atlantic ports. As the Commercial has stated, the Pacific Coast States are taxed to pay for the canal, and it is not fair to say that American vessels from Pacific ports shall pay special charges to take a cargo to New Orleans or Galveston, for instance, when shipping from Boston or New York to those ports are not required to do so. Secretary Knox in his reply bears out the statement of the Commercial that a treaty with Great Britain does not repeal an act of Congress relating to coastwise shipping which has been long in force.

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There would be but scant opposition to the giving of free tolls to American coastwise shipping if it were not for the attitude of people in New York and elsewhere who are interested in the great transcontinental railroads. As has been remarked, if the coastwise shipping from the Pacific should be obliged to pay tolls, it would place a tax of $1.10 a ton on natural coarse products for the benefit of the transcontinental railroads, which would be enabled to add just that much more to their freight charges.

[From the Wichita (Kans.) Eagle.]

ENGLISH VIEWS OF THE CANAL TOLLS.

Certain English newspapers profess to be greatly disturbed over the plan to make American shipping free of tolls for use of the Panama Canal, and they complain that this would be a distinct violation of the Hay-Pauncefote treaty, which, as concluded between Great Britain and the United States, provides that the use of the canal shall be enjoyed on equal terms by all shipping.

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Incidentally, it might be asked what right Great Britain had to exact such terms. That country had no rights on the Isthmus and took no part in the construction of the canal. The waterway is a purely American enterprise, financed and owned by the United States, and subject to no other jurisdiction.

[From the Philadelphia Evening Bulletin.]

THE CANAL TOLL QUESTION.

The Panama route has been the basis for regulating the transcontinental traffic schedule and the Panama Railroad has been the determining factor in that rate. An all-water route from one coast to the other might afford a chance for real and disturbing competition. It will be hard to convince the country that this is not a pertinent reason for making the canal free to American ships. Certainly the public will not agree that the question of toll or of the rate per ton shall be determined on the basis of the transcontinental railroad interests.

[From the Toledo (Ohio) Blade.]

PANAMA TOLLS.

There is power in bluff, particularly when nations bluff. The stir raised in European courts over the proposal in the United States that American vessels be charged a lower toll than other vessels is based almost wholly upon the hope that a little snarling, a few protests, an imposing document or two, and the speech of a cabinet officer may cause this country to exact as large a sum from those who have helped to pay for the canal as from others.

The administration contends that the canal, having been built by the United States, ought to be used for our benefit. One benefit we should reap, if we possibly can, is the restoration of the American merchant marine. To open the canal to every nation upon the same plane would be to sacrifice an opportunity. It would amount to a gift over and above the great gift of a shortened waterway for the commerce of the world. It would also be a gift that Europe can not and surely does not expect, though taking a long chance at frightening us into granting it.

The Panama Canal is ours. Why should we not do what we wish with our own?

[From the Baltimore (Md.) Evening Star.]

AN UNFAIR REQUEST.

England's diplomats have known for months that the prevailing sentiment in this country, both in and out of Congress, is in favor of free passage through the canal for American ships, but reasonable tolls for foreign vessels using the new route.

[From the Knoxville (Tenn.) Sentinel.]

A TOLL-FREE CANAL.

During the last generation the United States Government has expended about half a billion dollars in the improvement of our rivers and harbors. By law we have adopted as a national policy that all our waterways shall be toll free. We are expending somewhat less than this on the Isthmian Canal. It will be a national waterway, a prolongation of our coast line. Why not free it of all tolls just as we have done all public canals, harbors, and other waterways? New York is now investing $120,000,000 in the Erie Canal. * * * It will be satisfied, it will feel itself more than repaid if the Erie Canal carries an abundance of traffic diverts freights from the St. Lawrence route, and keeps down railway freight rates. The commercial rôle of the Panama Canal should be the same as that of the Erie Canal. It will join two great bodies of water on which our coastwise traffic is carried. And in addition it will open to our Atlantic and Gulf ports all the harbors of the vast Pacific.

The Panama Canal was not undertaken as a money-making enterprise.

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The South is interested in a toll-free canal because it is interested in the widest possible use of the canal.

[From the Baltimore American.]

ENGLAND AND THE CANAL.

England is not more interested than any other country in the question of the abrogation of tolls for American ships. Under the treaty of 1903 it was, indeed, specifically agreed between the two countries that the canal should be free and open to the vessels of commerce and of war of all nations without discrimination with respect to charges of traffic or otherwise. The fact remains that in certain respects this agreement is found inapplicable. It does not apply to coastwise traffic, as this would be in the case of American shipping. Other considerations have left no doubt in the minds of American international lawyers as to the sound position of this country should it abrogate tolls for its vessels. This action would simply be a counter to the subsidies that are granted foreign vessels by their governments. The abrogation

of tolls is the only method by which the United States can equalize traffic advantages of its own ships. Great Britain seems bent upon assuming a captious stand.

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[From the Salt Lake City (Utah) Herald-Republican.]

YANKEE VESSELS SHOULD GO FREE.

If the provision in the canal treaty with the Republic of Panama guaranteeing the use of the waterway on equal terms by all nations means that American vessels shall pay whatever tolls are fixed for general observance, then Uncle Sam should arrange himself to pay those charges on American ships. It is a ridiculous absurdity that this Nation, after having gone to prodigious expense to construct this great artery of commerce and to maintain it, should assess tolls against ships of American register owned and operated by citizens of this country.

It is understood that the Spanish Government will assume the tolls for canal use by all vessels that fly the Spanish flag, and that Great Britain will undoubtedly perform the same office for English vessels. The Nation which built the canal can scarcely afford to be less alive to its own commercial interests. Such policy will not only encourage the use of American vessels by shippers, but it will stimulate American shipbuilding.

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[From the Brooklyn (N. Y.) Citizen.]

PANAMA CANAL TOLLS.

In spite what has been said on both sides regarding the British protest against the exemption of American coastwise vessels from tolls in the Panama Canal, there is no occasion for any hostile expression, still less for any hostile feeling on either side. Of the right of the United States to do as it will with its own there should not be dispute in any quarter. It owns the territory and the waterway through it.

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[From the Boston (Mass.) Post.]

TOLLS AT PANAMA.

Objections have been heard from the other side of the Atlantic to discrimination in tolls to be charged vessels passing through the Panama Canal—giving free passage to those sailing under the United States flag and requiring payment from all others. It is not likely that such a claim of equal privilege will be strenuously urged.

The basis of the representation, as alleged, is that such discrimination would do violence to the provisions of the Hay-Pauncefote treaty. This, however, does not seem to hold. By the terms of that convention the United States is bound to maintain uniformity and impartiality of treatment toward the shipping of all foreign nations. It by no means follows that we must not admit our own shipping to the enjoyment of larger and special privileges in the use of our own property, erected, paid for, and maintained at the expense of our people.

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[From the Pittsburgh Bulletin.]

THE PANAMA PROBLEM.

Basing her protest upon the provisions of the Hay-Pauncefote treaty, which guarantee that no discriminations shall be practiced against the ships of any nation in the administration of the canal, England has protested against the exemption planned. America's contention is that the terms of the treaty forbid discrimination only between foreign nations, while England insists that even America, the owner of the canal, may not be favored.

To the casual observer it would seem that America is right. Surely the owner of an international utility should be able to enforce whatever regulations, not incompatible with the just law of right and wrong between nations, it desires. The contentions of the two great Nations may result in some bitterness and some controversy, but there is little probability of anything more serious. England and America can be trusted to work their differences out amicably if heatedly. It is safe to predict that America will retain full control of the canal and at the same time satisfy the contentions of the empire across the seas.

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[From the Lowell (Mass.) Courier-Citizen.]

CANAL TOLLS.

The President is of opinion that the United States has ample power to remit the tolls that will be charged for use of the Panama Canal in the case of our own shipping. He points out that the canal is ours, was built by us at our own cost, and can certainly be made the subject of charges for use. He also points out that just as other nations subsidize shipping the United States may do the same, proportioning its subsidiary in this case to the amount due from the shipping for canal tolls. It has the look of a lawyer's device, but it is difficult to see any flaw in the reasoning. In essence, of course, no matter how we manage to do it, it amounts to giving our ships a freer use of the canal, whereas foreign vessels must pay the tolls without rebate. We can see no objection to the idea, in any case.

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[From the Philadelphia Inquirer.]

NO TOLLS FOR AMERICAN SHIPS.

Both of the great parties have expressed a desire to aid American shipping. We are about to put the Republicans and Democrats of the Senate to the test.

If we permit American ships to go through the Panama Canal free of tolls, we shall be giving the best of inducements for the building up of the merchant marine.

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We are expending something like $400,000,000 in the canal enterprise. Are we to get nothing out of it? Are we to hand it over to foreign nations? England takes the view that we must. But what do the American citizens connected with the United States Senate say?

We are obligated by treaty to treat all foreign ships alike. But with our own shall we not do as we like?

There will be Senators to say that we can not. But such Senators will be found to be among those who are opposed to the development of an American merchant marine.

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[From the Pittsburgh (Pa.) Chronicle-Telegraph.]

THE CANAL DISPUTE.

The protest of Great Britain is based on the contention that the proposed free transit of American vessels through the canal will be a violation of the Hay-Pauncefote treaty, under which the canal was built. On its face this objection is untenable, since the guarantee of no discrimination in tolls which the treaty embodies can not in reason be interpreted as requiring that our Government, which owns the canal, shall be placed on the same footing in regard to tolls as foreign Governments using our property.

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[From the Houston (Tex.) Post.]

PANAMA CANAL TOLLS.

In view of the fact that the canal is being constructed wholly with American money and on soil belonging exclusively to the United States, public sentiment in this country seems to be practically a unit in favor of fixing a system of tolls that will give the advantage to American shipping making use of the canal.

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Lagging, as the United States does, behind other countries in the extent of its shipping interests, Congress should leave nothing undone within the scope of its legitimate powers to insure that Americans derive the largest possible benefit from this great waterway constructed with their money.

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[From the Bridgeport (Conn.) Standard.]

The remonstrance of England in the matter of the Panama Canal tolls hinges on the clause in the canal treaty which provides that all rules shall apply equally to all users of the canal. That American coastwise shipping ought to be exempted from such a ruling will be the general feeling, we think, in this country.

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[From the Brooklyn (N. Y.) Citizen.]

PANAMA CANAL TOLLS.

It suits some people to speak of this exemption from tolls as a subsidy, but it is not worth while to define the difference between it and the appropriation called for to build ships. It is enough to know that the revenue to be derived from the canal is to be provided by the tolls to be charged on vessels belonging to nations which have borne none of the expense of constructing the waterway, and without the toll charge would bear none of the expense of its operation.

In that view of the matter it has seemed from the first utterly ridiculous for anybody to question the right of the owners of the canal to exempt their own vessels from tolls while charging them to others, provided the revenue derived from the same is what it should be. That, more than the competition of the Suez Canal or other routes, is the question for us to settle.

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[From the Brooklyn (N. Y.) Citizen.]

CANAL TOLLS.

As to the power and right of the Government to exempt American ships from payment of the canal tolls, in spite of treaties with other nations, that is a point that admits of no dispute. The canal and the territory it traverses belong absolutely to the United States, and the Nation has a perfect right to do as it will with its own.

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[From the Portland (Oreg.) Journal.]

Every State along the Great Lakes, every State along the Atlantic, every State along the Gulf, every State on the Pacific slope, has a direct and vital interest in free tolls. Every State within reach by a waterway or by easy rail haul of the Great Lakes, the Atlantic, the Gulf, or the Pacific has a direct and vital interest in free tolls for domestic commerce.

Every State in the Union has, if not a direct, a strong indirect interest in free tolls because of the beneficial effect free tolls will have in promoting American shipping and because of the powerful influence free tolls will have in the promotion of the commercial interests of a common country.

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[From the Lockport (N. Y.) Union Sun.]

NOTHING TO ARBITRATE.

Secretary of State Knox politely tells England there is nothing to arbitrate in the Panama Canal matter. In this respect he is right.

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The elementary proposition to the American people is the fact that they built the canal with their hundreds of millions and should have some say in its management, technical constructions on treaties notwithstanding.

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[From the Brooklyn (N. Y.) Times.]

PANAMA TOLLS.

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How about the livest question now on the international carpet? Have we a right to decide for ourselves whether or not our own ships shall be handicapped so badly that they have no chance of winning in a field that we had set forth originally for our own advantage, and for which we willingly paid more than $300,000,000? Was the Panama Canal solely a piece of Quixotic altruism, and are we compelled to be restrained by the dead hands of John Hay and Sir Julian Pauncefote from gaining any advantage to ourselves thereby? That is the nub of the contention between Great Britain and ourselves. The British, who speak for nine-tenths of The Hague tribunal, say it must be so; that we are bound hand and foot by the terms of the Hay-Pauncefote treaty and the folly of our own legislators, who would not permit us to encourage our ocean shipping, as other nations do, by paying them a bounty. Since that is so, says Great Britain, we dare not even relieve them of the canal tolls, and they and their agents here say we must submit the question to The Hague tribunal.

Perish the thought! We can stand a good deal in the interests of peace, but we can not permit a packed tribunal to dictate to us how we shall or shall not utilize a public convenience that we ourselves created.

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[From the Cumberland (Md.) Times.]

CANAL MONOPOLY AND TOLLS.

As to coastwise commerce, which is carried on solely in American ships, it should be free from canal tolls. Foreign ships can not engage in such commerce, and there is no good reason why American ships should be taxed while going from one American port to another. No tax is laid by the United States upon any shipping using the internal

waterways of the country, although more money has been spent upon improving these waterways than in the building of the Panama Canal. It is no discrimination against any other nation to exempt American shipping in the coastwise business, for no other nation can engage in it. No other nation has ever suggested that the United States has not a perfect right to pass its own coastwise shipping through the canal free of tolls.

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[From the Charleston (S. C.) News and Courier.]

MR. KNOX ANSWERS ENGLAND.

We scarcely expect that the reply of the Department of State to the British protest in the canal matter will influence public sentiment in this country materially, for very few of those who have been crying out about our "betrayal" of our treaty obligations know enough of the question to be able to follow Mr. Knox's argument intelligently. It is difficult, however, to see how the English Government will be able to sustain its position longer in the face of the clear exposition made by the Secretary of State of the groundlessness of the objections which England has raised. The showing made by Mr. Knox that the canal rates were really computed upon the basis of the inclusion of all American ships engaged in the coastwise trade as well as of all other vessels would seem to dispose effectively of the only argument upon which England could base even the semblance of a claim that she was being discriminated against. * * *

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[From the Newark (N. J.) Star.]

CANAL TOLLS AND SUBSIDY.

If an American coastwise vessel trading between New York City and San Francisco, and sailing the whole distance in American waters, is subsidized because it passes free through an American canal across American territory, then an American coastwise vessel trading between New York City and Galveston is subsidized. In both cases British and other foreign ships are discriminated against in favor of American ships, for they are forbidden to engage in the coastwise trade. Whether the American vessels pay tolls or not does not in the least affect the foreign vessel. If the Panama Canal was on foreign soil and not a part of our coast line, the same as the New Jersey coast is, and we had the administration of it for all the world, the claim of Great Britain under the Hay-Pauncefote treaty would be valid, and it might justly be said that free tolls was a subsidy. But nations do not subsidize their domestic commerce, and our coastwise trade is wholly domestic.

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The question should not be permitted to be befogged with the subsidy issue. The twaddle about the "national horror" has been made ridiculous. Let Congress see in the question simply the naked right of this country to regulate its domestic commerce without foreign dictation.

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[From the Birmingham (Ala.) Herald.]

TOLLS IN THE PANAMA CANAL.

The reply of Secretary Knox to the British protest against the exemption of American coastwise shipping from Panama Canal tolls, presented by Sir Edward Grey, foreign secretary of Great Britain, was given to the public just in time to answer at every point the effort of Senator ELIHU ROOT in behalf of the combined shipping companies and transcontinental railroad companies who desire to throttle the canal. These companies do not desire to pay tolls out of love for their country, but they do want a toll sheet that will keep tramp and occasional steamers and independent lines from interfering with rates from one ocean to another.

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[From the Wheeling (W. Va.) Intelligencer.]

PANAMA CANAL TREATY.

In his reply to the British protest against the exemption of American coastwise shipping from Panama Canal tolls, Secretary Knox says that domestic coastwise trade will not be permitted to extend into competitive fields and that increased tolls will not be laid on foreign shipping to balance the remission to American ships. Surely this is fair. It would seem that it is going too far. If the canal tolls as originally fixed do not pay expenses with the exemption of coastwise trade, then the tolls laid on foreign shipping should be increased to cover the deficit. By Secretary Knox's proposition a deficit could, and naturally would, be charged to the fact that American coastwise trade pays no tolls, but no increased tolls could be laid on foreign shipping to make up the deficit.

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[From the Detroit (Mich.) Free Press.]

PROGRESS OF THE CANAL DISPUTE.

The diplomatic contest over the Panama Canal tolls proceeds with reasonable speed. Secretary Knox has delivered his reply to the British protest and Senator ROOT has rid himself of the speech that has been accumulating in his system for some weeks, as the dispatches have been informing the public.

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Congressman DOBEMUS, who was prominently active in the adoption of the disputed exemptions, has very clearly pointed out in the Free Press certain vital and fatal flaws in Mr. ROOT'S position, and it will be unnecessary here to elaborate on what he has said. Most Americans, we think, will agree with him and differ with the Senator as to the international part of the argument and will, from natural instincts of patriotism, refuse to consider the possibility that a foreign nation can by any construction of a treaty secure the right to intrude upon such a matter as the treatment of American shipping by the American people in a canal constructed with American money by American skill and enterprise.

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[From the American Banker, New York.]

Is there any good reason why the United States should build a canal for the benefit of other countries? The cost of the isthmian waterway is so great that a substantial interest charge, together with sinking-fund payments, must be made each year, and it is simple justice that the burden of these payments should be placed upon the commerce of other countries which have contributed nothing toward the construction of the canal. This is a question wholly outside of the field of partisan discussion, and the proposal to make the canal free to American ships should have the hearty support of every Member of the Senate and the House of Representatives.

[From the San Francisco Call.]

NO CANAL TOLLS REPEAL WITHOUT A BATTLE ROYAL.

Say this for the transcontinental interests: They never quit trying. For years they fought against the building of the Panama Canal. Next they exhausted every resource of corporation power and ingenuity to nullify or minimize its effect upon their monopoly of domestic transportation and by adjustment of canal terms and tolls to preserve their control of the coastwise traffic borne by sea. Again they lost. Now they are busier than ever in Congress and throughout the country seeking to repeal the exemption of our coastwise shipping from canal tolls.

It is a shrewd fight, waged in masterly fashion. There is absolute silence about the provision of the canal bill excluding ships owned or controlled by the railroads. The issue is cunningly made one of national honor and international morals. Nothing is said about the plain commercial questions involved. The appeal is entirely to sentiment.

Thus it has been easy to enlist on the side of repeal the sentimentalists, but your sentimentalist is an uncertain ally. He can be depended upon to talk too much and go too far. That is happening now to the embarrassment of the interests laboring for the undoing of justice. The sentimentalists are trying to persuade the country that its future as a world power depends upon more and more intimate relation with Great Britain. They point to the menace of Germany on one ocean and of Japan on the other, and hint broadly at a defensive alliance—all this coupled with near-treasonous talk to the effect that we have not the right, under the Hay-Pauncefote treaty, to subsidize our own coastwise shipping by remission of its canal tolls.

But the battle does not seem to be going exactly as the British shipping interests, the Canadians, and the American railroads desire. It is suggested that to repeal the exemption clause is not really a backdown, but would put us in a position to negotiate with England. Thus, the Cleveland Plain Dealer:

"That there is at least basis for British dissatisfaction would probably be denied by very few Americans. Under the circumstances it would be no 'backdown' and no betrayal of national honor for Congress to pass the Root bill and postpone final action on the disputed issue till the international lawsuit has been decided."

But there is a sturdy opposition to any such construction of "national honor" as would permit Great Britain or any other nation to dictate the terms on which, if we choose, we shall subsidize our domestic commerce by sea and prescribe the manner in which we shall administer our canal, constructed with our money.

Senators O'GORMAN and NEWLANDS have answered Senator ROOT'S pro-British harangue in language that must appeal to the patriotism as well as the common sense of thoughtful Americans. In the House Mr. KNOWLAND, of California, whose efforts to protect our domestic shipping in canal legislation have been heroic and effective, is keeping up his good work.

There will be no repeal without a battle royal. And in that struggle we shall see the same railroad lobby at work that fought so bitterly last year against exemption; we shall hear some of the same Members of Congress that opposed preferential treatment for our own domestic shipping shouting for the preservation of the national honor by surrender of the Nation's greatest enterprise.

It is the same old fight waged from another angle.

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[From the Philadelphia Inquirer.]

NO BUSINESS OF ENGLAND'S.

England has no interest whatever in our coastwise trade. She, like all other foreign nations, is barred by law from participating in the coastwise steamship traffic of the United States.

This being the case, what possible interest can she have in the question of canal tolls which affect coastwise vessels only? To put it another way, what possible right has she to dictate to the United States regarding the control of the United States over American coastwise ships?

Secretary of State Knox, in his reply to England's argument, informs England in the polite language of diplomacy that it is none of her business what this Government does with its own ships.

And Secretary Knox is entirely right.

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[From the Manchester (England) Guardian.]

THE PANAMA CANAL BILL.

The amendment limiting the exemption from tolls to coastwise traffic is important for this reason: By the American navigation laws (as by all navigation laws) coastwise traffic is reserved to American registered ships. As none but American ships can make a voyage, say, between San Francisco and New York there can be no question of discrimination against other ships. This coastwise traffic was an American monopoly before the Hay-Pauncefote treaty, and a monopoly it remains, for no one has alleged that the treaty suspends the navigation laws. As America retains the monopoly, we fail to see how any question of discrimination can arise against a second party who does not exist, so far as coastwise traffic is concerned. The real grievance against the bill in its amended form is not against its morality, but something much narrower. It may with fairness be said that the American definition of coastwise traffic is so wide that it includes practically all American shipping. An American vessel may leave San Francisco, touch at Hawaii in the Pacific, double Cape Horn, call at Porto Rico, and finally discharge its cargo at New York without ever losing its coasting character. Our foreign office, when it concluded the Hay-Pauncefote treaty, should have foreseen this practical difficulty, and it could then with reason have pressed for the restriction of the American definitions of coastwise traffic to those limits which hold on European courts. There may still be a chance of so restricting the definition of coastwise traffic, and every effort should be made to use it. But if we are to hope for success we must at any rate give the United States Congress the credit for wanting to do the right thing. We must not begin to call names or stir up passion.

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[From the Washington Post.]

MR. KNOX'S CRUSHING REPLY.

Secretary Knox's note in reply to the British request for arbitration of the Panama Canal controversy throws a flood of light upon the matter. It shows that a state of facts exists quite different from the hypothetical situation imagined by Sir Edward Grey, and that upon this state of facts the United States is not discriminating against British shipping, that the Hay-Pauncefote treaty is not violated in letter or spirit, and therefore that there is nothing to arbitrate. Mr. Knox makes the somewhat humorous suggestion that if there should

be a dispute over the facts it might be well to refer the question to a commission of inquiry in the manner provided for in the unratified arbitration treaty of August 3, 4911.

* * * * * * *

Mr Knox's note is a crushing answer to those Americans who have jumped to the conclusion that this Government has deliberately violated a treaty, to the injury of a friendly nation, for the sake of favoring coastwise shipping, and has then refused to arbitrate the dispute. Sir Edward Grey, whose protest unquestionably was inspired by the Canadian railroads, is clearly shown to have protested against an injury that has not been committed and which he has no right to assume will ever be committed.

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[From the New York American.]

THE EIGHT REASONS AGAINST FREE CANAL PASSAGE FOR OUR COASTWISE TRADE.

The eight transcontinental railway lines—the Great Northern, the Northern Pacific, the Union Pacific, the Southern Pacific, the Missouri Pacific, the Santa Fe, the Canadian Pacific, and the Milwaukee & St. Paul.

They fought the canal during the period of its inception and growth. Now that it is built they are fighting its service to the people who built it.

Our coastwise vessels mean the carriage of our American products from one coast of our country to another—from one side to another side—from San Francisco and the West to New York and Boston and Philadelphia and the East. We can carry those products by water cheaply and economically, and the East and the West can sell cheaply to each other if each can transport cheaply what it raises and what the other wants. This is the great compelling reason why at an enormous cost we built the canal.

The transcontinental lines never carry cheaply unless competition compels them to do so. They do not dread competition with other continental lines, because they can combine to charge the rates they prescribe. What the transcontinental lines dread is water competition. Water competition, unless they own it, compels cheap rates. When the Government owns the vital link in water competition they can not combine with it to oppress the people. Therefore the transcontinental lines dread Government-owned water competition, and they fight it in each of the many ways they know how to fight.

They are fighting now with all their might the Government's proposition to allow its coastwise vessels to pass free through the Government's great canal.

As long as they can prevent the Government from giving the freight of our coastwise vessels this exemption of $1.25 a ton through the canal, just so long can the transcontinental lines impose this $1.25 a ton upon their freight across the continent. Is it plain?

The transcontinental lines under water competition carry freight cheaply from San Francisco and Portland and Seattle to New York. But these lines charge or have charged as much to carry freight to Denver, which is halfway across the continent and has no water competition, as they charge to carry it 1,500 miles farther on to New York.

Under water competition through the Lakes and the St. Lawrence the vertical continental lines carry freight from Chicago through Atlanta and 300 miles on to Jacksonville, Fla., cheaper than they carry it to Atlanta.

When the Government put a duty on lemons to protect the fruits of California, the transcontinental lines immediately added a freight charge exactly equal to this duty on lemons and thereby destroyed the Government's consideration for a struggling industry on the Pacific coast.

And to-day the transcontinental lines are fighting to make sure that through the canal the Government has built our coastwise vessels can not bring a cargo of California fruit any cheaper than England can bring a cargo of her Asiatic goods.

These are the eight reasons against passing our coastwise vessels free through the canal. These are the eight great obstacles that have laid themselves sheer across the canal to bar free passage to our ships. These are the eight opponents that are joining with England to thwart the purpose of the Government in this vast enterprise.

The transcontinental lines—their owners, their stockholders, their agents, their officials, and their gigantic lobbies—are making the greater part of the clamor that is opposing the people in the canal and the coastwise trade.

Every reason is a selfish reason. Every argument is a selfish argument. Every plea is tainted with self-interest and insincerity.

Corporations have more selfishness than soul. They think less of patriotism than of profit. They put profits above all things, and patriotism can come in if it can find a place.

Don't misunderstand the sentiment against the canal and our coastwise vessels. Don't fail to remember the source from which it comes. Don't fail to trace the eight reasons against the canal to the eight reasoners and their railway rates.

And don't fail to refute and rebuke them all at the ballot with the simple answer of patriotism and common sense.

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[From the Providence (R. I.) Tribune.]

GREAT BRITAIN AND THE CANAL.

The protest of Great Britain regarding Panama Canal legislation * * * is entitled, of course, to most respectful consideration. It is but natural that that great maritime country should desire to have a voice in the final arrangements for the administration of this important waterway.

The vital fact should be kept in mind that the canal is an exclusively American undertaking. It is being dug by our money under the direction of our citizens, and it is only reasonable that we should provide legislation safeguarding whatever advantage accruing from the piercing of the Isthmus can properly be secured to United States citizens.

The proposed exemption from tolls is not in favor of American shipping as such, but only in favor of shipping plying between American ports. If British vessels were engaged in traffic between American ports they would, by the proposed legislation, be just as much entitled to the exemption as American vessels were engaged in traffic between such traffic, and hence can not hope for the exemption, is because of a shipping law of ours a century old which embodies a national policy. Can we reasonably be asked to abandon that policy and repeal that law on account of the Panama Canal? What Great Britain is really asking is not protection against discrimination at Panama alone but admission into our coastwise traffic on terms of equality.

We may listen to the British appeal, of course, with due courtesy, but it does seem that what is really asked is rather extravagant. Indeed, it will very likely be found that Great Britain is more interested in the bills concerning railroad-owned ships.

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[From the Portland (Oreg.) Journal.]

FREE TOLLS.

It is possible that Congress may commit an unpardonable blunder with reference to canal tolls.

* * * * * * *

The canal is one national opportunity to benefit almost every State. The East wants Pacific coast lumber, fruit, and other products. It can not get them now at living prices, because the railroads can not afford to haul them at rates to justify their shipment.

The Pacific coast wants eastern manufactured products at prices that do not make them prohibitive. There is scarcely a section of the Union that will not profit in lowered freight rates if the canal tolls are made free to American coastwise shipping. There is scarcely a community in the Union that will not suffer if the tolls are placed so high as to make the canal noncompetitive.

The East, the North, the South, the Middle West, and the Pacific coast are all vitally interested in free tolls. Free tolls will be stimulus for a country-wide development of waterway commerce. They will favorably affect the Lake States, the Mississippi States, the Gulf States, the Atlantic States, and the Pacific States.

* * * * * * *

Public sentiment, voiced by public bodies and otherwise, should thunder at the doors of Congress. That body should not be permitted to make the paramount blunder of imposing tolls at Panama that will drive the remnant of our coastwise shipping from the ocean.

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[From the Salt Lake City (Utah) Tribune.]

PANAMA CANAL TOLLS.

The only workable point in the claim that the United States must make no discrimination as to tolls through the Panama Canal is in this, that it must make no discrimination as between the vessels of other nations, whatever it may do with regard to vessels of our own. That is all that the world is entitled to claim of us on any fair or businesslike basis. The notion that we can be barred from doing what we will with our own after an expenditure of $400,000,000 to construct that canal is both unreasonable and fantastic. It would, indeed, be a serious assault upon common sense for any nation to come forward with the plea that it had just as much right in the Panama Canal for its vessels as we have there ourselves for our own. It would seem as though the mere statement of the case ought to be enough to refute the claim of common use on equal terms by all the nations of the earth.

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[From the New Orleans (La.) Times-Democrat.]

CANAL TOLLS AND PLATFORMS.

Within the past few days, we are glad to note, the supporters of the Panama Canal act have been coming to its defense. For a month or more its opponents have been exceedingly busy. The clause exempting coastwise commerce from payment of canal tolls has been vigorously attacked in public addresses, in tracts, and by personal letters. Its enemies are well organized and their campaign seems to be well financed. Its defenders paid little attention to the attack until Senator ROOT delivered his philippic in the Senate and Representative ADAMSON journeyed to Trenton with the hope of winning over the President elect to the Root view.

Since then the discussion has not been so one-sided. Senators O'GORMAN and MARTINE made vigorous reply in the Senate to Mr. ROOT. Secretary Knox, in his note to the British Government, corrected the misstatements upon which the antiexemption propagandists have builded much of their argument. President Taft reiterated his belief that the exemption should be retained and is not a violation of the treaty.

* * * * * * *

It was Senator O'GORMAN, we believe, who called attention to the fact that the easement to coastwise commerce was a part of the Democratic Party's contract with the voters. The Baltimore platform specifically declared for "the exemption from tolls of American ships engaged in coastwise trade passing through the Panama Canal." So did the platform of the Progressives. The Republican platform was silent upon the issue. So far as the question has been submitted to the people, then, the popular expression has been overwhelmingly in favor of the exemption. There have been no new developments since that expression. The allegation that the exemption would be violative of the treaty was exhaustively discussed in both Houses. There is room for an honest difference of opinion on that point, but it is one to be dealt with for the present through diplomatic channels. Meanwhile it is pleasant to note that the effort of the antiexemption propagandists to stampede public opinion by extravagant speech and by parading mere expressions of opinion as facts is being met by careful and well-considered arguments from the champions of exemption.

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[From the Los Angeles (Cal.) Times.]

SENATOR ROOT ON THE TREATY.

The distinguished statesman-Senator from New York has deserved so well of his country and performed so many valuable services to it that much may be tolerated from him. But the Times regrets that he has taken very advanced ground and used very strong language in support of his demand that Congress shall either repeal the Panama Canal law or submit it for arbitration to The Hague tribunal.

The Senator is evidently carried away with his subject when he intimates that the United States is "false to its agreements and false to its pledged word," and is "astute, cunning, and slippery."

* * * * * * *

"On the representations made in the Hay-Pauncefote treaty," continued the Senator, "Great Britain relinquished her right to all control over the future of the Panama Canal."

"Her right." Where did she get any right to control over the future of the Panama Canal? What member of her foreign office ever negotiated with the United States of Colombia or the Republic of Panama with respect to the construction of a canal? What surveyor employed by her ever planted a theodolite in the swamps of Colon? Did she ever expend a shilling in a preliminary examination of a Panama route?

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Congress, it is to be hoped, will not repeal the Panama Canal law. President Taft, the Times trusts, will not undo what he has done, and

it is not believable that President Wilson will smite all the traditions of Democracy in the face and crouch at the feet of Sir Edward Grey. At all events the Times insists that it would be a piece of folly to submit the question to the arbitrament of The Hague—a jury packed against us. That would be self-stultification on our part, and self-reversal would be infinitely preferable. We can not arbitrate whatever we may do in this case.

—

[From the Wichita (Kans.) Eagle.]

The real competitors to American coastwise shippers are not British ships but American transcontinental railroads.

The whole United States has sanctioned and rejoiced in the enormous expense of building the Panama Canal on an idea that the west coast and the east coast would be united by a cheaper interchange of traffic than is being afforded by the transcontinental railroads.

Great Britain's mighty marine, built up by a subsidy, traverses the high seas of the world. But this coastwise traffic is of infinitely less concern to international traffic than it is to the movement of freight from one domestic border to another.

[From the Buffalo (N. Y.) Enquirer.]

MISDIRECTED FIRE.

If Sir Edward Grey can not think up all the points to offer in reply to Secretary Knox he can discover the remainder by studying the columns of sundry American newspapers. These journals supply all that Sir Edward's ingenuity and acumen may lack.

Instead of massing their argument behind the British foreign secretary, the American opponents of the exemption of American coastwise shipping from the payment of Panama Canal tolls would do better to concentrate on points more likely to have effect on Congress. Prating that the national honor will be sullied by running our own shipping in our own trade through our own canal in our own way will not have overwhelming effect on national policy.

The strong points are that the exemption is a subsidy, and that a new monopoly should not be created when the country is trying to extinguish monopoly. Congress is afraid of the subsidy and monopoly cries. It has little fear of clamor backing the proposition that any other nation can do as it pleases with its own affairs. Sentiment for the repeal of the exemption for our own purposes is easier to arouse than sentiment for yielding to British pressure to suit British purposes.

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[From the Pittsburgh (Pa.) Press.]

KNOX'S REPLY TO ENGLISH GOVERNMENT.

American public opinion is so fully convinced that this country is in the right in the canal-tolls dispute with England, and has such well-grounded suspicions that the whole English contention is in the interest of the English stock and bondholders in the Canadian Pacific and other Pacific railroads, that popular interest in the notes exchanged between the foreign offices of the two countries is not keen.

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[From the Pittsburgh (Pa.) Chronicle-Telegraph.]

CANAL LEGISLATION.

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In suggesting the repeal of the exemption clause in the canal bill Mr. ROOT asks something more than Congress can do without, in a measure, stultifying itself. The way out of the difficulty that has arisen is clearly through arbitration, and considering that our Government stands practically pledged to the arbitration principle, it will be strange if Congress should demur to this mode of settlement. The first consideration is to maintain the national prestige by making good a treaty obligation deliberately contracted. The time for discussing the advisability of undoing that obligation will come later on.

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[From the Scranton (Pa.) Times.]

NOTHING TO ARBITRATE.

Good for Philander Knox. Good Americans will agree with him he is right, in his reply to Sir Edward Grey in the matter of the Panama Canal tolls, in bluntly declaring our Government does not agree with the Grey interpretation of the Hay-Pauncefote or Clayton-Bulwer treaty.

* * * * * * *

We have had too much Tory toadyism and maudlin peace in the Panama Canal business. The canal is an American enterprise, built with American money and on American soil, and the American Republic proposes to rule and govern the canal without foreign advice or interference, as long as we stand within our rights and international law.

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[From the Washington Herald.]

SHOULD DISCUSS THE TREATY.

Of Secretary Knox's note replying to the British complaint that the Panama Canal act violates the Hay-Pauncefote treaty, the Pall Mall Gazette says:

"Coming from any other country than the United States Mr. Knox's reply would be deeply resented. We know, however, that American statesmen never have caught the trick of diplomatic courtesy as it is understood in Europe, so therefore we are indisposed to lay stress upon mere crudeness of language."

* * * * * * *

Another London newspaper, the Westminster Gazette, says, "Mr. Knox's reply does not bolt the door, but it scarcely can be said to be satisfactory."

Well, what would have been satisfactory? An admission by the American Secretary of State that the Panama Canal act does contravene the treaty and a promise forthwith to repeal it? Or immediate acceptance of the British proposal of arbitration without any effort to attain a diplomatic settlement? Apparently from the British standpoint only that is satisfactory which is favorable to Great Britain.

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[From the Portland (Oreg.) Oregonian.]

WHY ALL THIS HULLABALOO?

Secretary Knox's reply to the British protest against the Panama Canal law whittles the points in dispute down so small that one is inclined to exclaim, "Why all this hullabaloo?"

* * * * * * *

Had not the interests of Canadian railroads in poaching on American commerce been adversely affected there would have been no British protest. Had not American financiers seen that toll exemption would intensify water competition with transcontinental railroads they would not have backed the protest. The controversy is not really between the American and British Governments; it is between the American people on the one side and the railroads, Canadian and American, on the other, which are using the British Government to fight their battles.

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[From the Newark (N. J.) Evening Star.]

KNOX SETTLES THE PANAMA TOLLS.

Those newspapers that have been upholding the British and the American railroad idea of our national obligations at Panama have been laughably put out of countenance by the reply of Secretary Knox to the clumsy note of protest from the British foreign minister. The Secretary completely riddles the British pretensions, knocks the Root logic into smithereens, and takes all the starch out of the Tory newspapers. It is diverting to read their editorial comments on the Secretary's reply, which really leaves them nothing to say, for it exposes all their sham sentiment and convicts them either of imbecility or unpatriotic motive to sacrifice the national interests in the Panama Canal to foreign dictation and corporate greed at home. Secretary Knox's exposition of the case virtually settles it.

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Resolutions passed at meeting of the Savannah (Ga.) Cotton Exchange.

Whereas the building of the Panama Canal was undertaken by the people of the United States in pursuance of the great national policy, amongst other things, of providing for the national defense, of opening up the shortest possible water route between the respective coasts of the United States and foreign countries, to provide, through natural methods and to prevent monopoly of transportation, means for transportation between the various sections of the foreign nations, and, incidentally, to encourage the upbuilding of a now decadent merchant marine: Be it

Resolved, That it is the sense of this meeting that there should be no tolls charged through the canal to coastwise vessels flying the United States flag.

* * * * * * *

Be it finally resolved, That the Congress should make careful and thorough investigation for the purpose of extending, if possible, free tolls through the canal to all vessels flying the flag of the United States, whether engaged in coastwise or foreign commerce.

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J. J. GAUDEY,
Secretary and Superintendent.

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Resolution of Superior Commercial Club, of the city of Superior, Wis.

Resolved, That it is the sense of this club that American waterways and harbors continue to be free, and that American vessels engaged in coastwise traffic shall be entitled to passage through the Panama Canal free of tolls and charges.

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ROY B. LEWIS, *Secretary.*

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Resolution unanimously adopted by the board of directors of the San Francisco Chamber of Commerce.

Whereas on October 11, 1911, a conference of the Pacific Coast Chambers of Commerce and the Pacific Coast congressional delegation adopted a resolution indorsing the proposition that no tolls be charged through the Panama Canal to vessels coastwise flying the American flag; and

Whereas the board of directors of the San Francisco Chamber of Commerce, on December 8, 1911, approved the position taken by the conference and adopted the following resolution: "*Resolved*, That no tolls should be charged by the United States Government on vessels using the Panama Canal on voyages between the Atlantic and Pacific ports of the United States": Therefore be it

Resolved, That the San Francisco Chamber of Commerce hereby expresses itself as in full accord with the position taken by the Hon. Philander C. Knox, Secretary of State, in his reply to the protest of Great Britain against the exemption of American coastwise shipping from Panama Canal tolls.

I hereby certify that the above is a true and correct copy of resolution unanimously adopted by the board of directors of the San Francisco Chamber of Commerce on January 31, 1913.

D. M. KING,
Executive Secretary San Francisco Chamber of Commerce.

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Preamble and resolutions adopted by the Cincinnati Chamber of Commerce and Merchants Exchange.

Whereas the Cincinnati Chamber of Commerce, through its authorized representatives, has heretofore expressed the view that American ships engaged in coastwise commerce through the Panama Canal should be passed free of tolls; and

Whereas we believe that all of the waterways of the United States, including the canal, should be so managed as to provide and to assure the greatest possible advantage to the people of this Nation; and

Whereas the modern developments of transportation demand a complete coordination between the movements of freight by water and by land: Therefore be it

Resolved by the Cincinnati Chamber of Commerce and Merchants Exchange, That we hereby reaffirm our position in favor of permitting American vessels engaged in coastwise commerce to use the Panama Canal free of tolls.

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W. C. CELKINS,
Superintendent and Executive Secretary.

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Los Angeles Chamber of Commerce indorses Secretary Knox's position.

The Los Angeles Chamber of Commerce, after careful consideration by board of directors and subsequently almost unanimous post-card vote membership, is in favor of free tolls through Panama Canal for American shipping engaged in the coastwise trade, reiterates its position upon question, and approves position taken by Secretary of State

Knox in his reply to protest of Great Britain against exemption of American coastwise shipping from Panama Canal tolls.

LOS ANGELES CHAMBER OF COMMERCE.
H. Z. OSBORNE, *President.*

Resolutions adopted by New Orleans Progressive Union, February 9, 1912.

(1) The New Orleans Progressive Union indorses the proposition that American vessels engaged in coastwise trade shall pay no tolls in passing through the Panama Canal.

(2) Should it be found necessary that American ships engaged in foreign trade shall pay tollage, the United States Government, by drawback, rebate, or otherwise, shall refund amount to such American vessels.

Resolutions adopted by Central Labor Council of Portland, Oreg., October 10, 1911.

Resolved, That it is the sense of this meeting that there should be no tolls charged through the canal to vessels coastwise flying the American flag.

Resolutions adopted by the Merchants' Association of New York.

Whereas the United States, by act of Congress, passed in 1884, made the following declaration of policy regarding tolls or charges relative to waterways acquired or constructed by the Federal Government: "No tolls or operating charges shall be levied upon or collected from any vessel, dredge, or other water craft for passing through any lock, canal, canalized river, or other work for the use of and benefit of navigation now belonging to the United States, or that may be hereafter acquired or constructed"; and

Whereas, under that policy, which is still in operation, the United States has expended on local waterway developments nearly $700,000,000 at the general expense of the whole country; and

Whereas the Federal Government, in addition to its vast expenditures of public funds upon internal and seacoast waterways, for the use and benefit of all sections and of all the people, free from imposition of tolls or charges for the use thereof, has also made vast grants of public lands of incalculable present value to the transcontinental railways to promote their construction and the interests of the whole country, especially of the sections which they directly serve; and

Whereas the Panama Canal is constructed primarily because of the military and economic necessities of the entire United States, and when completed will be of direct commercial benefit to a larger area of the country than any other waterway ever constructed or improved by the Federal Government; and

Whereas the extension of the general policy of freedom from tolls to the domestic coastwise commerce of the United States passing through the Panama Canal can not create a discrimination against any other nation or its citizens or subjects in respect to the conditions or charges of traffic or otherwise because of the fact that no such nation has been or now is permitted by law to engage in such coastwise commerce, which law was in operation and contemplation at the time of the negotiation and ratification of the Hay-Pauncefote treaty; and

Whereas the provision of the Hay-Pauncefote treaty appears to relate to the avoidance of discriminations between the nations and therefore does not pertain to our domestic coastwise trade, in the treatment of which there can be no such discrimination as prohibited in said treaty: Now therefore be it

Resolved, That the report of the special committee on tolls on coastwise commerce passing through the Panama Canal, dated February 26, 1912, be, and hereby is, approved; and be it further

Resolved, That the Merchants' Association of New York opposes the proposition of imposing any tolls whatsoever upon the domestic coastwise commerce of the United States passing through the Panama Canal, unless it be determined by competent authority that the imposing of such tolls is required in fulfillment of our treaty obligations.

Resolutions adopted by the Maritime Association of the Port of New York, July 12, 1912.

Whereas from present indications the Panama Canal will be ready for use by merchant shipping in about two years' time; and

Whereas it is necessary that those contemplating the operation of vessels through the canal should be informed at the earliest possible moment regarding the regulations that will govern said operation, so that sufficient time will be given to conform with every requirement: Therefore be it

Resolved, That Congress be strongly urged to enact at this session such legislation as will enable the President to fix the tolls to be charged for the use of the canal, it being the consensus of opinion of this committee that in the fixing of said tolls American vessels should be exempted from all charges.

Resolutions adopted at the forty-second annual meeting of the National Board of Trade, Washington, D. C.

Whereas the Government of the United States is constructing, entirely at its own cost, the Panama Canal, for the benefit of its own people, as a military measure for the naval protection of either coast in time of war and for facilitating its domestic and foreign commerce, as well as for the furtherance of the commerce of the world;

Whereas the coastwise commerce between ports of the United States is confined by law to vessels registered under the American flag, so that regulations established by the Government of the United States for the use of the canal by such vessels will not conflict in any way with the treaty obligations of the United States with other nations;

Whereas there is a great and growing demand for cheaper and freer interchange of commodities between the States of the Pacific slope on the one hand and those bordering on and tributary to the Atlantic and Gulf coasts, including all the States along the Mississippi and its navigable branches, on the other;

Whereas the opening of the canal, through the continuous and direct water transportation it will afford, will give the people of this country opportunities to interchange commodities of the different districts to an extent heretofore found impossible, and thus will reduce the cost of a large number of articles of daily use and necessity:

Resolved, That the National Board of Trade urgently recommends that vessels engaged in domestic commerce between ports of the United States shall be granted preferential tolls in passing through the Panama Canal.

Resolution adopted by Philadelphia Chamber of Commerce.

Whereas the Government of the United States is constructing, entirely at its own cost, the Panama Canal for the benefit of its own people as a military measure for the naval protection of either coast in the time of war and for the facilitation of its domestic commerce as well as for the furtherance of the commerce of the world;

Whereas the coastwise commerce between the ports of the United States is confined by law to vessels registered under the American flag, so that regulations established by the Government of the United States for the use of the canal by such vessels will not conflict in any way with the treaty obligations of the United States with other nations;

Whereas there is a great and growing demand for cheaper and freer interchange of commodities between the States of the Pacific slope on the one hand and those bordering on and tributary to the Atlantic and Gulf coasts, including all the States along the Mississippi and its navigable branches, on the other;

Whereas the opening of the canal, through the continuous and direct water transportation it will afford, will give the people of this country opportunities to interchange commodities of the different districts to an extent never contemplated before, and thus will reduce the cost of a large number of articles of daily use and necessity;

Whereas ample precedents exist for exempting the domestic commerce of the United States from the payment of tolls for passage through the canal; and

Whereas the operation of the canal under this condition will greatly stimulate and increase American shipping:

Resolved, That the Philadelphia Chamber of Commerce urgently recommends that vessels engaged in domestic commerce between ports of the United States shall be granted free passage through the Panama Canal.

Resolutions adopted by commercial bodies of the State of Washington, November 3, 1911.

Whereas the building of the Panama Canal was undertaken by the people of the United States in pursuance of a great national policy, amongst other things to provide for the national defense; to open up the shortest possible water route between the ports of the United States and between the United States and foreign countries; to prevent monopoly of means of transportation between the various sections of the Union; and to provide such transportation to the people of the United States at the lowest possible cost; to build up and expand commerce with foreign nations; and, incidentally, to encourage the upbuilding of a now decadent merchant marine; and

Whereas it is of the utmost importance to the State of Washington, and to all the States bordering on the Pacific Ocean, that their products—lumber, shingles, salmon, fruits, hops, wool, and other products—be put to widest distribution at the least possible expense throughout the United States; Now therefore be it

Resolved by the following civic bodies of the State of Washington, viz: The New Seattle Chamber of Commerce, the Tacoma Commercial Club and Chamber of Commerce, the Olympia Chamber of Commerce, the Bellingham Chamber of Commerce, the Everett Chamber of Commerce, the Port Townsend Commercial Club, the Aberdeen Chamber of Commerce, the Hoquiam Chamber of Commerce, the Bremerton Commercial Club, the Raymond Commercial Club, through their representatives in conference assembled, That there should be no tolls charged through the Panama Canal to vessels flying the American flag engaged in coastwise traffic of the United States.

Resolution adopted by directors of Industrial Association of Keokuk, Iowa.

Whereas the American people are building the Panama Canal for the good of the Nation; therefore any toll levied on American domestic commerce passing through the canal would be a direct and unjust tax to be paid by the people on every pound of freight moving, whether by water or by rail, between the east and west portions of our country.

Resolutions of Junior Order United American Mechanics.

Hon. JOSEPH R. KNOWLAND,
House of Representatives, Washington, D. C.

DEAR SIR:

Whereas England, through her foreign minister, Sir Edward Grey, has presented a second formal note of protest against the Panama Canal act exempting coastwise ships from tolls, contending that the said exemptions would not comply with the stipulations of the Hay-Pauncefote treaty, that the canal should be open on terms of entire equality, and that the charges should be just and equitable; and

Whereas the foreign minister's note asks that the question be taken to The Hague for arbitration, and also suggests that the repeal of said American law would probably be even more expeditious; and

Whereas the said protest has created in certain quarters fresh opposition to the Panama Canal tolls law; and

Whereas the Panama Canal has been built by the United States, which owns and controls both the canal and adjacent territory; and

Whereas one of the cardinal principles of the Junior Order United American Mechanics is to bear true allegiance to the institutions, Constitution, and laws of the United States. Therefore be it

Resolved, That while we deplore the British point of view as to the interpretation of the Hay-Pauncefote treaty, we fervently believe and regard, far and above any treaty, the Constitution of the United States, which provides that Congress has exclusive and plenary power to regulate the interstate and foreign commerce of the United States, and that as American native-born citizens we would deem it incongruous and disastrous for the United States to agree to submit to arbitration a purely American problem to be passed upon by European judges; and be it further

Resolved, That we, members of General George A. Custer Council, No. 22, Junior Order United American Mechanics, of Oakland, Cal., urge our representatives in Congress to stand faithful and fast to the ground heretofore taken in the Panama Canal act; and that copies of these resolutions be forwarded to Senators GEORGE C. PERKINS and JOHN D. WORKS, and to our Congressman JOSEPH R. KNOWLAND.

The foregoing was unanimously adopted by Custer Council, No. 22, Junior Order United American Mechanics, in regular session January 7, 1913.

H. J. HAESLOOP, *Councilor.*
JAS. A. DE FOY, *Secretary,*
2010 Filbert Street.

Resolutions of Seattle (Wash.) Chamber of Commerce.

The trustees of the Seattle Chamber of Commerce, in special session, resolved that the chamber express itself as in full accord with position taken by Hon. Philander C. Knox, Secretary of State, in his reply

to protest of Great Britain against exemption of American coastwise shipping from Panama Canal tolls.

J. E. CHILBERG, *President.*

Resolutions adopted by the New York Board of Trade and Transportation, December 13, 1911.

Whereas the Panama Canal is being constructed by the United States Government and the people of the United States are paying the whole cost thereof, and will be obliged to pay the cost of maintenance and repairs, whether the revenues are adequate or not; and

Whereas the people of the United States have entered upon this great work chiefly for the benefit that it will be to our own commerce; and

Whereas the construction of the Panama Canal by the United States will not give to the American people the full measure of benefits they are entitled to if our commerce is compelled to pay the same tolls that other peoples are required to pay; Therefore

Resolved, That, having expended so large a sum in constructing the Panama Canal, the people of the United States are entitled to receive the fullest possible advantages therefrom; that other nations should be permitted to use the canal upon reasonable terms alike to all; that American vessels in the foreign trade should pay the same tolls as vessels of other nations, unless existing treaties would permit such American vessels to pass free; that the commerce of the United States passing between United States ports should be allowed free passage through the Panama Canal in all ships of American registry and should be regarded and regulated as coastwise commerce of the United States.

Resolved, That we petition the Government and Congress of the United States to give the most serious consideration to the enactment of laws declaring commerce between American ports passing through the Panama Canal as coastwise commerce of the United States and free of tolls, and if treaty provisions or commercial conventions which have provisions for termination by notice from either party will permit, to also consider the making of the Panama Canal free to all vessels of American registry.

Resolutions adopted by the resolutions committee of the Waterway Conference of the Southern Commercial Congress, and unanimously approved and adopted by the Southern Commercial Congress at its convention at Nashville, Tenn.

We favor the adoption of a law by Congress granting the use of the Panama Canal to American ships engaged in coastwise commerce free of toll and the prevention of the use of the canal by any steamship line owned or controlled by a railway or any monopolistic interest.

We favor such legislation as is necessary to induce the construction of a merchant marine for the United States and the carrying of American commerce in American ships under the American flag.

Resolutions passed at meeting of the Mobile (Ala.) Chamber of Commerce and Business League, held Monday, March 18, 1912.

Whereas the building of the Panama Canal was undertaken by the people of the United States in pursuance of the great national policy, amongst other things, of providing for the national defense; of opening up the shortest possible water route between the respective coasts of the United States and foreign countries; to provide, through natural methods and to prevent monopoly of transportation, means for transportation between the various sections of the foreign nations and incidentally to encourage the upbuilding of a now decadent merchant marine: Be it

Resolved, That it is the sense of this meeting that there should be no tolls charged through this canal to vessels coastwise flying the American flag.

Resolution adopted by Board of Trade of Tampa, Fla.

Whereas the Government of the United States has expended nearly $700,000,000 for the improvement of rivers and harbors and the construction of canals, and by act of Congress, passed 1884, declared as follows: "No tolls or operating charges shall be levied upon or collected from any vessel, dredge, or other water craft for passing through any lock, canal, canalized river, or other work for the use and benefit of navigation now belonging to the United States, or that may be hereafter acquired or constructed"; and

Whereas the Panama Canal was built by American money, American genius, and American enterprise, and with the understanding by the American people that the canal would be operated for their benefit, primarily because of the military and economic necessities of the entire United States and for commercial benefit of the whole country; and

Whereas the imposition of tolls or charges for the use thereof of American boats engaged in American commerce would in many instances prohibit the shipping of American products from coast to coast, the interchange of products of the Pacific and the Atlantic and the Gulf, therefore defeating the very ends for which the American people indorsed the tremendous project and the expenditure of nearly a half billion of American dollars in the building of the Panama Canal: Therefore be it

Resolved, That * * * preferential treatment may be accorded American vessels of commerce, or at least those engaged in the coastwise trade.

* * * * * * *

[SEAL.] F. C. BOWYER, *President.*
Attest:
W. B. RIVELL, *Secretary.*

Recommendations of Railroad Commission of California in re Panama Canal bill.

After a public hearing and a careful investigation into the law and the facts, the Railroad Commission of the State of California makes the following recommendations in the matter of the Panama Canal: * * *

We recommend that American shipping engaged in coastwise trade through the canal be exempt from the payment of tolls.

We recommend that American shipping engaged in foreign trade and using the Panama Canal be likewise exempted from the payment of tolls or that subsidies equivalent in amount, at least, to those paid by other Governments to their ships using the canal be provided by the United States.

Otherwise, the United States, which built the canal at a tremendous outlay, will be the only nation whose vessels are sailing through the canal without Government assistance. We do not believe that there is anything in the Hay-Pauncefote treaty to prevent such action on the part of the United States. The treaty provides that the rules of neutralization to govern the canal are to be substantially the same as those which govern the use of the Suez Canal. The vessels of Great Britain and other nations using the Suez Canal receive subsidies from their Governments, and no one has ever contended that the principle of equality in the use of the canal is thereby violated. In the same way the United States can clearly pay subsidies to her vessels using the Panama Canal, and what she can do directly by the payment of subsidies she certainly can do indirectly by the remission of tolls in the same amount.

We respectfully direct the attention of California's Representatives in Congress. * * *

JOHN M. ESHLEMAN,
H. D. LOVELAND,
ALEX GORDON,
MAX THELEN,
E. O. EDGERTON,
Railroad Commission of California.

Resolution of the Oakland (Cal.) Chamber of Commerce.

Resolved, That Oakland Chamber of Commerce urges upon Congress such laws as will exempt from canal tolls all ships sailing under American flag engaged in coastwise traffic.

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OAKLAND CHAMBER OF COMMERCE,
A. A. DENNISON, *Secretary.*

Resolution of the San Jose (Cal.) Chamber of Commerce.

The board of directors of the San Jose (Cal.) Chamber of Commerce unanimously passed the following resolution:

"*Resolved*, That this chamber of commerce * * * strongly urge upon the Senators and House of Representatives the enactment of laws that will exempt from canal tolls all ships sailing under the American flag engaged in coastwise traffic."

Yours, very respectfully,
JOS. T. BROOKS,
Secretary-Manager.

Resolutions unanimously adopted by the Lakes-to-the Gulf Deep Waterways Association.

The policy of free waterways is fundamental with the American people, and hence this association declares that this principle should be extended to our coastwise trade through the Panama Canal.

Resolutions unanimously adopted by the National Rivers and Harbors Congress, consisting of over 1,200 delegates, representing every State in the Union.

We submit that waterways improved or created by the Federal Government by the use of money contributed by the whole people of the United States should be free for the use of American ships in fair and open competition and on equal terms, without the payment of tolls, but we contend that a water carrier owned, controlled, or operated by a competing land carrier is unfair competition, and in order to preserve to the whole people the benefits of continued fair competition so that the beneficent influence of open waterways shall not be nullified by hostile interests, we recommend the enlargement of the powers of the Interstate Commerce Commission, to the end that the commission may more effectually regulate competing land and water carriers and competing water carriers and provide for the interchange of traffic.

Resolutions adopted by Boston Chamber of Commerce.

Whereas the Government of the United States is constructing, entirely at its own cost, the Panama Canal for the benefit of its own people as a military measure for the naval protection of either coast in time of war, and for the facilitation of its domestic commerce as well as for the furtherance of the commerce of the world;

Whereas the coastwise commerce between ports of the United States is confined by law to vessels registered under the American flag, so that regulations established by the Government of the United States for the use of the canal by such vessels will not conflict in any way with the treaty obligations of the United States with other nations, and particularly with Great Britain;

Whereas there is a great and growing demand for cheaper and freer interchange of commodities between the States of the Pacific slope, on the one hand, and those bordering on and tributary to the Atlantic and Gulf coasts, including all the States along the Mississippi and its navigable branches, on the other;

Whereas the opening of the canal, through the continuous and direct water transportation it will afford, will give the people of this country opportunities to interchange commodities of the different districts to an extent never dreamed of before, and thus will reduce the cost of a large number of articles of daily use and necessity to the consumer;

Whereas ample precedents exist for exempting the domestic commerce of the United States from the payment of tolls for passage through the canal; and

Whereas the operation of the canal under this condition will greatly stimulate and increase American shipping:

Resolved, That we urgently recommend that vessels engaged in domestic commerce between ports of the United States shall be granted free passage through the Panama Canal.

Resolutions passed by delegates representing the various chambers of commerce of the Pacific coast held in San Francisco, Cal.

Whereas the building of the Panama Canal was undertaken by the people of the United States in pursuance of a great national policy, amongst other things of providing for the national defense, of opening up the shortest possible water route between the respective coasts of the United States and foreign countries, to provide through natural methods and to prevent monopoly of transportation means for transportation between the various sections of the Union at the lowest possible cost, to build up and expand our commerce with foreign nations, and, incidentally, to encourage the upbuilding of a now decadent merchant marine: Be it

Resolved, That it is the sense of this meeting that there should be no tolls charged through the canal to vessels coastwise flying the American flag.

Mr. HAUGEN. Will the gentleman from Virginia [Mr. LAMB] yield some of his time?

Mr. LAMB. I yield 15 minutes to the gentleman from Texas [Mr. YOUNG].

Mr. YOUNG of Texas. Mr. Chairman, during the year 1912 the farm lands in every section of our glorious country have truly "blossomed as the rose." To use the language of Mr. Secretary Wilson, in his report for the year's activities, it has been the most productive of all years. Earth's greatest dividends have been yielded to us. The reward is a high general level of production. The man behind the plow has filled the Nation's larder, crammed the storehouses, and will send liberal supplies to foreign countries.

During the consideration of the supply bill for the Department of Agriculture, it seems to me right and proper that this Congress, acting for 96,000,000 of people, about one-third of whom reside on the farm, should at least devote a few hours of time in considering the farmer as our Nation's chief asset. In this connection, I call to the attention of this House some impressive figures taken from Mr. Secretary Wilson's report for the past year.

Based on the census item of wealth production on farms, the grand total for 1912 is estimated to be $9,532,000,000. Being an increase of more than twice the value of the wealth produced on farms in 1899, and about one-eighth more than the wealth produced in 1909. This is the record for some of the leading products of the farm for the year 1912:

Corn, 3,169,000,000 bushels, value $1,759,000,000; hay, 72,425,000 tons, value $861,000,000; cotton, including both lint and seed, estimated value $800,000,000; wheat, 720,333,000 bushels, estimated value $596,000,000.

Oats, 1,417,172,000 bushels, of the estimated value of $478,000,000.

Potatoes, 414,289,000 bushels, of the estimated value of $190,000,000.

Barley, 224,619,000 bushels, of the estimated value of $125,000,000.

Tobacco, 959,437,000 pounds, estimated value $97,000,000.

Flax seed, 29,755,000 bushels, estimated value $39,000,000.

Rye, 35,422,000 bushels, estimated value $24,000,000.

Rice of the estimated value of $20,900,000.

Buckwheat, 19,124,000 bushels, of the estimated value of over $12,000,000.

Hops, 44,500,000 bushels, of the estimated value of $11,000,000.

Beet sugar, cane sugar, molasses, maple sugar, etc., of the value of $117,000,000.

Dairy products, $830,000,000.

Poultry and eggs, $570,000,000.

Wool, 318,548,000 pounds, valued at $55,500,000.

Animals sold from the farm and slaughtered on the farm, 111,000,000 head, estimated farm value $1,930,000,000.

Mr. Chairman, these figures, as taken from the annual report of Mr. Secretary Wilson, are of such large proportions that the average mind can not grasp the full significance of the stupendous wealth that flows from the farm and that comes to bless our millions of people.

Truly, it would seem that we should congratulate ourselves that we are in a land of plenty—that verily flows with milk and honey.

Mr. Chairman, the farmer, being the Nation's chief asset, from whom comes the very basis of all our prosperity, has not fared so well at the hands of Congress as have those in other sections of our country and following other pursuits.

I want to say here, speaking as a man who comes from an agricultural district, and knowing how receptive the farmer is as to all matters of information that are sent to him from the Federal Government through bulletins and otherwise, I think there is no more appreciative citizen in this country of ours than the one on whom we must depend for our livelihood.

Do you know, Mr. Chairman, that as a new Member of Congress, I came here imbued with an idea gathered directly from the controlling sentiment of an agricultural community, that there ought to be economy in the administration of the affairs of the National Government; and I still adhere to that idea. In the short time that I have had the honor to serve on the Committee on Agriculture, being the only appropriation committee about which I know anything as to its practical workings, when an item has been increased here and there in the bill, I began at once to draw on the information which I had directly from the people, that we must cut down the expenses of the Government. I was slow in casting any vote that would increase an estimate or a former appropriation.

But what was my horror when I came to think of the thirty-odd millions of people constituting our agricultural class, who are the very base of the wealth and prosperity of this Nation, and to learn that the total appropriation given the Agricultural Department of this Government is less than the cost of one battleship. I say, Mr. Chairman, that in my judgment, while the expenses of the Government should be held in check, and we should not dissipate the funds that are placed in our hands as a trust fund, we should go to another truth, and that truth is to spend money wisely and where the best results can be obtained. Take the great agricultural section and see the magnificent crops that we had last year. It would be well to consider some of the means at command that brought about such wonderful results. The work in organizing the boys' and girls' corn clubs, whose memberships are receiving advanced ideas as to intensive farming and modern methods as to crop culture, and the practical application of these methods is an important movement well worthy of note. It a recent hearing before our committee, when a number of boys and girls from agricultural States were there, and in their own way made reports as to the acres they had cultivated and the methods used, it developed that on farm land that had heretofore yielded 25 to 30 bushels of corn to the acre, that by modern methods, land tilled by the average boy and girl was yielding from 100 to 212 bushels of corn to the acre. This was brought about, Mr. Chairman, by the information that goes out from the Agricultural Department, supplemented by the agricultural departments of the States of this Nation, and by local organizations where the spirit of pride has been stirred up in the breast of the young people by splendid prizes being offered for which they compete.

In the State of Texas—one of the greatest agricultural States in this Union, and I might say a State that can support the entire Nation with its agricultural wealth, if its acreage were developed—this last year $10,000 in prizes was put up by organizations of business men and others who were interested in farm development, and the yields made by the great number of people who took advantage of the opportunity presented by the contest were remarkable indeed. I believe that the United States Government, as well as the States of the Union, should promote agriculture and make every acre of land produce as much as it can produce. And whether my stay in Congress shall be long or short, my support shall always be cheerfully given to any legislation looking to a still greater development of our agricultural interests.

Mr. Chairman, one trouble with farm life is that people on the farm have not the conveniences that the city man has. The farmer has not the mail facilities that the city man has, yet he has been aided by the rural free delivery in the last few years. Many of the comforts that are enjoyed in the village and in the city are not vouchsafed to the farmer, and the farmer's boy, ambitious to do something in this world, gets discontented with his surroundings. His school opportunities frequently are limited, and yet we are building up along that line. And by reason of his surroundings the farmer's boy yearns to get into a more active sphere of life.

We can not blame him for that. But this Congress, if it acts wisely, will look to the condition of the farmer boy and make his conveniences and his surroundings such as that he will have a love for the old farm that gave him birth, and such as that he will have a desire to see that the acreage that has now dwindled down, where the briers have come in here and there, so that the farm is not as large as it once was, shall be redeemed and enlarged so that it will be made to yield what it can yield under modern improvements and modern methods. [Applause.]

Mr. Chairman, while this report that I make of last year's great earning power and the great wealth that has been turned loose from the soil would indicate that the farmers in every section of our country are indeed prosperous, I want to say to you that, while this great wealth has been yielded up, the farmers, as a matter of fact, are not as prosperous as the figures would indicate.

What is the trouble? One of the great difficulties that confront us as an agricultural people is the fact that the farmer does not get the price for his products that he ought to have in the markets of the world. He goes forth in the springtime; he bets his time and his energy and his ability against the seasons and the insects. He plants in faith, he cultivates in hope, and he reaps in grace. If he wins out with a great crop, it frequently happens that that crop brings in the markets of the world a less price than a crop half of that amount would bring. There is no reason for that except our modern system of marketing. I want to say that in a country as big as this, with 96,000,000 people to be fed, it is only fair to the man on the farm that he should receive 100 cents on the dollar for everything that he produces on that farm. [Applause.]

Does he get it? The figures will show, Mr. Chairman, that of the products of the farm, taking the markets for these products as a whole, where the products have gone out to the ultimate consumer, and when you trace them back to the farmer you find he gets only 46 per cent of what the consumer has had to pay for those products. I declare to this Congress that that kind of system is wrong. It is enough to discourage the farmer. It is enough to drive the boys from the farm into other walks of life, and it is so driving them as the days go by.

Mr. Chairman, in July, 1910, I noticed in an article published by Mr. B. F. Yoakum, known this country over, some figures on this subject that, were it not for the conservative source whence they came, might seem to be highly exaggerated. Among other things, Mr. Yoakum states in the article referred to: "After a careful investigation it is estimated that during the year (1909) the farmers received and the consumers of the city of New York paid for the following articles of food approximately the amounts respectively shown:

Article.	Paid to farmer.	Paid by consumer.
Eggs	$17,238,000	$28,730,000
Cabbage	1,825,000	9,125,000
Onions	821,000	8,212,000
Milk	22,912,000	48,880,000
Potatoes	8,437,000	60,000,000

Where is that exorbitant waste? Any system of marketing that would deny to the farmer a participation in the profits from the products he grows in this tremendous amount that is paid by the consumer, that system is wrong.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LAMB. I yield to the gentleman from Texas 5 minutes more.

Mr. YOUNG of Texas. Mr. Chairman, I beg to call attention to certain figures and statements recently made by Mr. Yoakum, and editorial comment thereon by the Washington Post, and commend same to the best thought of the membership of this House. I read:

A NATIONAL MARKET BUREAU.

In a letter to Senator HOKE SMITH, of Georgia, B. F. Yoakum, of the Frisco Railway system, has presented some facts and statistics that point the way to the solution of the problem of reducing the high cost of living, at least in part. Mr. Yoakum's plan vitalizes the parcel post and supplies the one thing necessary to make it an effective medium.

On the basis of a $9,000,000,000 crop, of which it is estimated that one-third remains on the farm, Mr. Yoakum gives figures which fairly represent the distribution of the profits. He points out that if the crop is worth $9,000,000,000 and one-third remains on the farm, $6,000,000,000 worth of products are actually sold by the farmer, the consumers paying $13,000,000,000, or more than twice as much as the farmer receives.

Using the estimate of the Department of Agriculture that farmers receive only 46 per cent of what the consumers pay, Mr. Yoakum asserts that the distribution of profits and expenses is about as follows:

"Received by the producers, $6,000,000,000, or 46.1 per cent.

"Allowing for a reasonable expense of selling and dealers' and retailers' profits, $4,945,000,000, or 38.1 per cent.

"Waste under existing methods, $1,560,000,000, or 12 per cent.

"Received by the railroads, $495,000,000, or 3.8 per cent.

"Total, $13,000,000,000."

It is true, as Mr. Yoakum says, that up to the present time the Government has done nothing in a practical way to aid in reducing the cost of distribution, although, conservatively estimated, there is an annual loss of about $1,500,000,000, which could be divided between the consumers and the producers.

The remedy suggested by the railroad man is a national market bureau under the Department of Agriculture, with an annual appropriation of $500,000 for the establishment of a system of market reports, cutting out unnecessary expenses between the producer and the consumer and cooperating with agricultural organizations. The bureau of markets should have offices in different agricultural States, where, through associations of agricultural bodies, market prices could be furnished to the farmers of the different localities daily during their respective shipping seasons.

The best part of Mr. Yoakum's plan is that it would enable farmers and consumers to take full advantage of the parcel post, each class being aware of the prices that should prevail. The ultimate outcome would be the elimination of the middleman. The reason why the consumer pays so much now is because farm products pass through so many hands, each grasping for profit, before the stuff reaches the consumer.

That is a part of the record that he submits, and other men of equal authority with Mr. Yoakum give like figures.

This leads me to this thought, Mr. Chairman. In this system that prevails there is a rotten waste somewhere, and it is the duty of this Government to help our farmers who are scattered through every State in the Union to find where this waste lies, and by educational methods help to avoid that waste.

There are in many cases too great freight charges; in many cases there are 5 middlemen between the farmer and the ultimate consumer. In the case of fruit, berries, and truck that are perishable, too frequently the case, the charges of railroad, icing, and express in transporting shipments from the farm to the markets are greater than proceeds of sale, and the farmer is drawn on to pay for the loss of the shipments, instead of getting a profit. How can you expect the farmer to have the courage to plant the same crop the succeeding year?

How long can we ask the boy to farm in conditions like these?

This bill, Mr. Chairman, reaches out in a limited way and provides $50,000 for a division of markets in the Department of Agriculture that information be obtained and disseminated that will lead to remedying the present market conditions. The farmer will be benefited in that he will get a better price for his product, and the consumer will be benefited in that he is put in closer touch with the producer.

In this connection, Mr. Chairman, I want to say this Congress has not hesitated to vote $40,000,000 for river and harbor improvements to carry the commerce of the world, that commerce being, in the main, the crops that come from the farms; we had better begin at the other end of the line and create that commerce by making the boys love the farm. [Applause.]

We can take it, Mr. Chairman, in all walks of life, the farmer is the backbone of our country. While you may have isms and schisms in politics in the congested centers, wild theories which if adopted would destroy our institutions, the great conservative force on the farm, the farmer living close to nature, and nature's God, has saved the Government in the past and will continue to save it in the future. He bears the burdens of tax in time of peace and answers to the call of Old Glory in time of war, and I ask in his name that this measure, carrying $50,000 for the initial expense for a division of markets, may be enacted into law. [Applause.]

Mr. LAMB. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. BEALL of Texas, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 28283, the agricultural appropriation bill, and had come to no resolution thereon.

SENATE CONCURRENT RESOLUTION AND BILLS REFERRED.

Under clause 2 of Rule XXIV, the following concurrent resolution and bills were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

Senate concurrent resolution 40.

Resolved by the Senate (the House of Representatives concurring), That the report of the Secretary of War, under the joint resolution directing the Secretary of War to investigate the claims of American citizens for damages suffered within American territory growing out of the late insurrection in Mexico, approved August 9, 1912, be transmitted to the President, who is hereby respectfully requested to cause a claim for the amount of the damages reported therein as suffered by American citizens within American territory to be presented to the Government of Mexico as a claim in behalf of the Government of the United States—

to the Committee on Foreign Affairs.

S. 8230. An act for the relief of Loren W. Greene; to the Committee on Naval Affairs.

S. 8082. An act to amend section 1440 of the Revised Statutes of the United States; to the Committee on Military Affairs.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills and a joint resolution of the following titles:

S. 3225. An act providing when patents shall issue to the purchaser or heirs of certain lands in the State of Oregon;

S. 3952. An act repealing the provision of the Indian appropriation act for the fiscal year ending June 30, 1907, authorizing the sale of a tract of land reserved for a burial ground for the Wyandotte Tribe of Indians in Kansas City, Kans.; and

S. J. Res. 156. Joint resolution to appoint George Gray a member of the Board of Regents of the Smithsonian Institution.

ADJOURNMENT.

Mr. LAMB. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 50 minutes p. m.) the House, under its previous order, adjourned until to-morrow, Friday, February 7, 1913, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Gloucester Harbor, Mass., with a view to removal of certain ledges in Harbor Cove and securing a depth of 15 feet (H. Doc. No. 1357); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Darien Harbor, Ga., with a view to securing best

channel to the sea (H. Doc. No. 1354); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Hughes River, W. Va. (H. Doc. No. 1355); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

4. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Northeast Cape Fear River, N. C., from its mouth to Hallsville (H. Doc. No. 1356); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

5. A letter from the Secretary of the Treasury, transmitting copy of communication from the Acting Secretary of the Navy reporting certain claims for damages for which the vessels of the Navy were found to be responsible (H. Doc. No. 1348); to the Committee on Appropriations and ordered to be printed.

6. A letter from the Commissioners of the District of Columbia, reporting expenses incurred in connection with the travel and attendance of Lieut. Col. Luther H. Reichelderfer, Medical Corps, National Guard District of Columbia, as delegate to the annual meeting of Association of Military Surgeons held in Baltimore, Md., October 1 to 4, 1912 (H. Doc. No. 1347); to the Committee on Appropriations and ordered to be printed.

7. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Yaquina Bay and bar entrance, Oreg. (H. Doc. No. 1358); to the Committee on Rivers and Harbors and ordered to be printed.

8. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Chula Lake, Miss. (H. Doc. No. 1353); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

9. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Port Orford Harbor at Grave Yard Point, Oreg. (H. Doc. No. 1351); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

10. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Tonawanda Creek at North Tonawanda, N. Y. (H. Doc. No. 1359); to the Committee on Rivers and Harbors and ordered to be printed.

11. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Port Orford Harbor, Oreg. (H. Doc. No. 1352); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

12. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of State calling attention to estimate of appropriation contained in House Document No. 1262 for the Permanent International Council for the Exploration of the Sea (H. Doc. No. 1349); to the Committee on Appropriations and ordered to be printed.

13. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of Commerce and Labor submitting estimate of appropriation for the purchase of a large testing machine for the Bureau of Standards (H. Doc. No. 1350); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. REDFIELD, from the Committee on the District of Columbia, to which was referred the bill (H. R. 28530) to provide for a warehouse for the receipt, care, and distribution of supplies for the use of the government of the District of Columbia, and for other purposes, reported the same with amendment, accompanied by a report (No. 1446), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BAKER, from the Committee on the Public Lands, to which was referred the bill (S. 5279) to amend an act approved October 1, 1890, entitled "An act to set apart certain tracts of land in the State of California as forest reservations," reported the same without amendment, accompanied by a report (No. 1447), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BEALL of Texas, from the Committee on the Judiciary, to which was referred the resolution (H. Res. 808) requesting the Attorney General to transmit to the House of Representatives certain information, reported the same with amendment, accompanied by a report (No. 1451), which said bill and report were referred to the House Calendar.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 28021) authorizing the Minneapolis, St. Paul & Sault Ste. Marie Railway Co. to build a bridge across the Yellowstone River in sections 15 and 16, township 151 north, range 104 west of the fifth principal meridian, in the State of North Dakota, reported the same with amendment, accompanied by a report (No. 1452), which said bill and report were referred to the House Calendar.

Mr. GOEKE, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 28187) to authorize the construction, maintenance, and operation of a bridge across and over the Great Kanawha River, and for other purposes, reported the same with amendment, accompanied by a report (No. 1454), which said bill and report were referred to the House Calendar.

Mr. CALDER, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 7461) construing the provisions of section 8 of the act entitled "An act to improve the efficiency of the personnel of the Revenue-Cutter Service," approved April 16, 1908, reported the same without amendment, accompanied by a report (No. 1453), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. PRAY, from the Committee on the Public Lands, to which was refered the bill (S. 7318) to accept the cession by the State of Montana of exclusive jurisdiction over the lands embraced within the Glacier National Park, and for other purposes, reported the same without amendment, accompanied by a report (No. 1456), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (S. 5138) authorizing the Secretary of the Interior to survey the lands of the abandoned Fort Assiniboine Military Reservation and open the same to settlement, reported the same with amendment, accompanied by a report (No. 1455), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. BRADLEY, from the Committee on Military Affairs, to which was referred the bill (S. 186) for the relief of Francis Grinstead, alias Francis M. Grinstead, reported the same without amendment, accompanied by a report (No. 1450), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FULLER: A bill (H. R. 28646) to increase the limit of cost of public building at La Salle, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. FORNES: A bill (H. R. 28647) providing for the grading and improving of Otis Street NE. from Twelfth Street to Fourteenth Street NE.; to the Committee on the District of Columbia.

By Mr. BAKER: A bill (H. R. 28648) to amend the act of June 23, 1910, entitled "An act providing that entrymen for homesteads within the reclamation projects may assign their entries upon satisfactory proof of residence, improvement, and cultivation for five years, the same as though said entry had been made under the original homestead act"; to the Committee on Irrigation of Arid Lands.

By Mr. RUCKER of Colorado: A bill (H. R. 28649) to establish the Rocky Mountain National Park, in the State of Colorado, and for other purposes; to the Committee on the Public Lands.

By Mr. STEPHENS of Texas: A bill (H. R. 28650) to provide for the disposition of land in the Cherokee, Choctaw, and Chickasaw Nations reserved for cemetery purposes; to the Committee on Indian Affairs.

By Mr. LOBECK: A bill (H. R. 28651) to regulate the pay of internal-revenue storekeepers, storekeeper-gaugers, and gaugers; to the Committee on Ways and Means.

By Mr. UNDERHILL: A bill (H. R. 28652) authorizing the Secretary of War to donate to the Grand Army of the Republic Association of Painted Post, in the State of New York, two bronze or brass fieldpieces or cannon, with their carriages and outfit of cannon balls, etc.; to the Committee on Military Affairs.

By Mr. STANLEY: A bill (H. R. 28653) to amend an act entitled "An act to regulate commerce, approved February 4, 1887, as amended June 18, 1910"; to the Committee on Interstate and Foreign Commerce.

By Mr. LENROOT: A bill (H. R. 28654) authorizing the Secretary of the Interior to dispose of the merchantable timber on the mallotted lands within the Bad River Indian Reservation, in the State of Wisconsin; to the Committee on Indian Affairs.

By Mr. SMITH of Texas: A bill (H. R. 28655) authorizing the payment of damages to persons for injuries inflicted by Mexican Federal or insurgent troops within the United States during the insurrection in Mexico in 1911, and making appropriation therefor; to the Committee on Interstate and Foreign Commerce.

By Mr. COVINGTON: A bill (H. R. 28656) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HEFLIN: Resolution (H. Res. 815) for consideration by the House of S. 6497; to the Committee on Rules.

By Mr. SLEMP: Resolution (H. Res. 816) creating a standing committee on post roads and amending Rules X and XI; to the Committee on Rules.

By Mr. LAFFERTY: Memorial from the Legislative Assembly of the State of Oregon, favoring the enactment of Senate bill 6109, providing for the setting aside of game refuges only where such action should be requested by the action of the several States affected thereby; to the Committee on the Public Lands.

Also, memorial from the Legislative Assembly of the State of Oregon, requesting that the pensions of Oregon Indian War veterans of 1847, 1848, 1855, and 1856 be increased to $30 per month; to the Committee on Pensions.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURLESON: A bill (H. R. 28657) granting an increase of pension to John N. Sessom; to the Committee on Pensions.

By Mr. CARLIN: A bill (H. R. 28658) for the relief of the estate of Murray Mason, deceased; to the Committee on War Claims.

By Mr. CLARK of Missouri: A bill (H. R. 28659) granting a pension to Sallie Clark; to the Committee on Invalid Pensions.

By Mr. FERGUSSON: A bill (H. R. 28660) for the relief of John F. Wilkinson; to the Committee on Military Affairs.

By Mr. FOWLER: A bill (H. R. 28661) granting a pension to Hannah Dukes; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 28662) granting an increase of pension to John A. Bounds; to the Committee on Pensions.

By Mr. LAMB: A bill (H. R. 28663) granting an increase of pension to Henrietta Lee Coulling; to the Committee on Invalid Pensions.

By Mr. McKINLEY: A bill (H. R. 28664) granting an increase of pension to James A. Fitzgerald; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 28665) granting a pension to Hattie E. Wallace; to the Committee on Invalid Pensions.

By Mr. PLUMLEY: A bill (H. R. 28666) granting a pension to Aaron P. Cutler; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 28667) granting an increase of pension to Jonathan N. Baker; to the Committee on Invalid Pensions.

By Mr. SMITH of Texas: A bill (H. R. 28668) granting an increase of pension to Benjamin N. Shropshire; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BARCHFELD: Petition of the Grain and Hay Exchange, Pittsburgh, Pa., favoring the passage of House bill 3010, for the regulation of the transmission, delivery, etc., of messages by telegraph and telephone; to the Committee on Interstate and Foreign Commerce.

By Mr. CALDER: Petition of the California Club, of San Francisco, Cal., favoring the passage of legislation making sufficient appropriation for the suppression of the white-slave traffic; to the Committee on Appropriations.

By Mr. CARY: Petition of A. E. Rowland, West Allis, Wis., favoring the passage of House bill 25685, providing for the labeling and tagging of all fabrics and articles for sale under interstate and foreign commerce; to the Committee on Interstate and Foreign Commerce.

Also, petition of the American Forestry Association, Washington, D. C., protesting against the passage of House bill 23293, for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., as amended and passed by the Senate; to the Committee on the Public Lands.

Also, petition of the Wisconsin Bankers' Association, New Richmond, Wis.; citizens of Milwaukee, Wis.; the Wisconsin Natural History Society, Milwaukee, Wis.; Ernest M. Seton, Mary I. Kirkland, and Josephine L. Kirkland, Milwaukee, Wis., favoring the passage of the McLean bill granting Federal protection to all migratory bills; to the Committee on Agriculture.

By Mr. DANFORTH: Petition of the Bastian Bros. Co., Rochester, N. Y., favoring the passage of legislation for a reduction of duty on compounds of pyroxyline; to the Committee on Ways and Means.

By Mr. DYER: Petitions of A. F. McMurry and wife, J. A. McMurry and wife, and W. M. McMurry and wife, residents of Washington, D. C., favoring the passage of the Kenyon "red-light" injunction bill, for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the Association of Master Plumbers, St. Louis, Mo., and the Commercial Club, of Kansas City, Mo., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. FERGUSSON: Petition of T. Edward Bradley and 36 other citizens of Hudson, N. Mex., praying for an amendment of the homestead law so that former entries may be completed under the provisions of the three-year term; to the Committee on the Public Lands.

By Mr. FORNES: Petition of the Remington Typewriter Co., New York, protesting against the passage of the Oldfield patent law substitute bill (H. R. 23417) relative to certain changes in the present patent laws; to the Committee on Patents.

Also, petition of M. S. Decker, commissioner of Public Service Commission, second district, Albany, N. Y., favoring the passage of Senate bill 6090, authorizing the Interstate Commerce Commission to prescribe a uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Thread Agency, New York, favoring the passage of House bill 16663, permitting corporations, joint-stock companies, etc., to file the annual returns at the close of their fiscal year; to the Committee on Ways and Means.

Also, petition of the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. FOSS: Petition of the St. Paul Evangelical Lutheran Church, Evanston, Ill., favoring the passage of the Webb-Kenyon bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. FULLER: Petition of the Chicago Hardware Co., of Chicago, Ill., favoring the passage of the bill (H. R. 27567) for 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of the Chicago Hardware Foundry Co., Chicago, Ill., favoring the passage of House bill 27567, for a 1-cent letter postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of W. E. Edens, of Illinois Bankers' Association, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of Syracuse (Ill.) Chapter, Daughters of the American Revolution, favoring the passage of legislation to prevent the desecration of the American flag; to the Committee on the Library.

Also, petition of Ernest Thompson Seton, Greenwich, Conn., favoring the passage of the McLean bill, granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. GOULD: Petition of the Chamber of Commerce of Houlton, Me., protesting against the passage of legislation reducing the present tariff on potato starch; to the Committee on Ways and Means.

Also, petition of the men's bible class of the First Baptist Church, Waterville, Me., favoring the passage of the Kenyon "red light" injunction bill, to clean up Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. HAMILTON of Michigan: Petition of citizens of Constantine, Mich., favoring the passage of the Kenyon-Sheppard

bill, for preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of citizens of Barry and Eaton Counties, Mich., favoring the passage of the McLean bill, granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. KINDRED: Petition of the Ford Motor Co., Detroit, Mich., and John Burroughs, New York, favoring the passage of the McLean bill, granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the Public Service Commission, second district, Albany, N. Y., favoring the passage of Senate bill 6099, authorizing the Interstate Commerce Commission to prescribe a uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Waterbury Felt Co., of Skaneateles, N. Y., and Rice & Adams, of Buffalo, N. Y., favoring the passage of the Weeks bill (H. R. 27567) for 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of the Brainerd Manufacturing Co., East Rochester, N. Y., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. KINKEAD of New Jersey: Petition of the common council of the city of Hoboken, favoring the passage of legislation granting pension to letter carriers who have grown old in the service; to the Committee on Pensions.

By Mr. LINDSAY: Petition of Ernest Thompson Seton, Greenwich, Conn., favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the American Forestry Association, Washington, D. C., protesting against the passage of the Senate amendment to House bill 23293, relative to the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo.; to the Committee on the Public Lands.

Also, petition of Ernest T. Seton, of Greenwich, Conn., favoring the passage of the McLean bill for protection of migratory birds; to the Committee on Agriculture.

By Mr. MOTT: Petition of the Dentist Supply Co., New York, favoring the passage of the amendment to the pharmacy law of the District of Columbia to regulate the sale of poisons and the practice of pharmacy; to the Committee on the District of Columbia.

Also, petition of the California Club of San Francisco, Cal., favoring the passage of legislation making sufficient appropriations for the suppression of the white-slave traffic; to the Committee on Appropriations.

By Mr. PAYNE: Petition of 75 citizens of Palmyra, N. Y., favoring the passage of the Kenyon-McCumber bill, for the preventing of the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. PORTER: Petition of sundry citizens of Ensworth, Avalon, Ben Avon, and Pittsburgh, Pa., and sundry citizens of the twenty-ninth congressional district, Pittsburgh, Pa., favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. RAKER: Petition of 500 citizens of Humboldt County, Cal., circulated by the club women of Humboldt County, favoring the passage of legislation for the establishment of a redwood national park; to the Committee on Agriculture.

Also, petition of the California Club of California Women, favoring the passage of legislation making an increase of appropriation for the suppression of the white-slave traffic; to the Committee on Appropriations.

Also, petition of the Western Forestry and Conservation Association, favoring an additional appropriation enabling Federal cooperation with the States in the protection of forested watersheds from fire; to the Committee on Agriculture.

Also, petition of Coffin Redington Co., San Francisco, Cal., protesting against the passage of any legislation for the reduction of tariff on chemicals; to the Committee on Ways and Means.

By Mr. ROTHERMEL: Petition of John Butlin Rothermel and other members of the Conrad Weiser Society, Children of the American Revolution, of Reading, Pa., favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. SCULLY: Petition of the California Club of San Francisco, Cal., favoring the passage of legislation making sufficient appropriations for the suppression of the white-slave traffic; to the Committee on Appropriations.

By Mr. SMITH of Michigan: Memorial of the First Methodist Episcopal Church, Albion, Mich., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. SPARKMAN: Petition of Mrs. H. B. Morse and others, favoring the passage of the Jones-Works bill for limiting the number of saloons in the District of Columbia; to the Committee on the District of Columbia.

By Mr. WEEKS: Petition of the Men's Class, First Baptist Church, Watertown, Mass., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. WILSON of New York: Petition of the American Flint Glass Workers' Union, Brooklyn, N. Y., and Local Union No. 69, of the American Flint and Glass Workers' Union, Woodhaven, N. Y., protesting against the passage of legislation for the reduction of tariff on imported glass wares; to the Committee on Ways and Means.

SENATE.

FRIDAY, *February 7, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Journal of yesterday's proceedings was read and approved.

RAILROADS IN ALASKA (H. DOC. NO. 1346).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read and referred to the Committee on Territories and ordered to be printed:

To the Senate and House of Representatives:

In accordance with the provisions of section 18 of an act of Congress (Public, No. 334) approved August 24, 1912, I appointed a commission—

to conduct an examination into the transportation question in the Territory of Alaska; to examine railroad routes from the seaboard to the coal fields and to the interior and navigable waterways; to secure surveys and other information with respect to railroads, including cost of construction and operation; to obtain information in respect to the coal fields and their proximity to railroad routes; and to make report of the facts to Congress on or before the 1st day of December, 1912, or as soon thereafter as may be practicable, together with their conclusions and recommendations in respect to the best and most available routes for railroads in Alaska which will develop the country and the resources thereof for the use of the people of the United States.

Under the requirements of the act, this commission consisted of—

an officer of the Engineer Corps of the United States Army, a geologist in charge of Alaska surveys, an officer in the Engineer Corps of the United States Navy, and a civil engineer who has had practical experience in railroad construction and has not been connected with any railroad enterprise in said Territory.

The date when the act was passed was late in the summer season, thus allowing a very limited time for the preparation of a report for presentation at the present session of Congress. Nevertheless, within a week after the act was approved the commission had been appointed, as follows:

Maj. Jay J. Morrow, Corps of Engineers, United States Army, chairman.

Alfred H. Brooks, geologist in charge of Division of Alaskan Mineral Resources, Geological Survey, vice chairman.

Civil Engineer Leonard M. Cox, United States Navy.

Colin M. Ingersoll, consulting railroad engineer, New York City.

This commission has transmitted to me a report, which is herewith submitted to Congress in accordance with the provisions of the act. An examination of this report discloses that the following are among the more important of the findings of the commission:

The Territory of Alaska contains large undeveloped mineral resources, extensive tracts of agricultural and grazing lands, and the climate of a large part of the Territory is favorable to permanent settlement and industrial development. The report contains much specific information and many interesting details with regard to these resources. It finds that they can be developed and utilized only by the construction of railways which shall connect tidewater on the Pacific Ocean with the two great inland waterways, the Yukon and the Kuskokwim Rivers. The resources of the inland region and especially of these great river basins are almost undeveloped because of lack of transportation facilities. The Yukon and Kuskokwim Rivers system include some 5,000 miles of navigable water, but these are open to commerce only about three months in the year. Moreover, the mouths of these two rivers on Bering Sea lie some 2,500 miles from Puget Sound, thus involving a long and circuitous route from the Pacific Coast States. The transportation of freight to the mouths of these rivers and thence upstream will always be so expensive and confined to

so limited a season as to forbid any large industrial advancement for the great inland region now entirely dependent on these circuitous avenues of approach.

From these considerations the commission finds that railway connections with open ports on the Pacific are not only justified, but imperative if the fertile regions of inland Alaska and its mineral resources are to be utilized; but that with such railway connections a large region will be opened up to the homesteader, the prospector, and the miner. So far as the limited time available has permitted the commission has investigated, and in its report describes all of the railway routes which have been suggested for reaching the interior, including the ocean terminals of these routes. The relative advantages and disadvantages of these routes are compared. The principal result of this comparison may be stated to be that railroad development in Alaska should proceed first by means of two independent railroad systems, hereafter to be connected and supplemented as may be justified by future development. One of these lines should connect the valley of the Yukon and its tributary, the Tanana, with tidewater; and the other should be devoted to the development and needs of the Kuskokwim and the Susitna.

The best available route for the first railway system is that which leads from Cordova by way of Chitina to Fairbanks; and the best available route for the second is that which leads from Seward around Cook Inlet to the Iditarod. The first should be connected with the Bering coal field and the second with the Matanuska coal field. Other routes and terminals are discussed, but are found not to have the importance or availability for the development of the Territory possessed by the two mentioned. Thus, the route extending inland from Haines, in southeastern Alaska, has value for local development, though chiefly on the Canadian side of the boundary, but the distance to Fairbanks is found to be too great to permit of its being used as a trunk line to the Yukon waters. The route from Iliamna Bay also has value for local use, but is too far to the southwest to permit of its use as a trunk line into the interior. The proposed terminals at Katalla and Controller Bay are found to be very expensive both as to construction and maintenance, besides furnishing very inferior harbors. The route inland from Valdez is at a disadvantage because it would not serve any of the coal fields, although as hereafter noted Valdez is regarded by the commission as an important alternative terminal in the possible future development of the Chitina-Fairbanks route.

The investigations of the commission indicate that the route from Cordova by way of Chitina to Fairbanks would furnish the best trunk line to the Yukon and Tanana waters: (1) Because Cordova has distinct advantages as a harbor; (2) because this route requires the shortest actual amount of construction, but chiefly (3) because the better grades possible on this route should give the lowest freight rates into the Tanana Valley. The Copper River & Northwestern Railroad is now constructed from Cordova to Chitina and thence up the Chitina River. The commission recommends the building of a railway from Chitina to Fairbanks, 313 miles, estimated to cost $13,971,000, with the provision that if this railway is built by other interests than those controlling the Copper River & Northwestern Railroad, and if an equitable traffic arrangement can not be made with it, connection should be made with Valdez by the Thompson Pass route, 101 miles, estimated to cost $6,101,479.

The commission finds that Cordova offers the best present ocean terminal for the Bering River coal. The commission also points out that it would not be economical to haul the Matanuska coal to either Valdez or Cordova, and that therefore the logical outlet for that field is Seward. If commercial development of these two fields should disclose that the quality of the coal is the same in both, the Bering River field would have the advantage of greater proximity to open tidewater. A branch line from the Copper River Railway to the Bering River field, a distance of 38 miles, at an estimated cost of $2,054,000, is recommended to afford an outlet for the coal on Prince William Sound and into the Copper River Valley and the region where there is at present the largest market for Alaska coal.

The commission finds that a railway from Chitina to Fairbanks will not solve the transportation problem of Alaska, because it will not give access to the Matanuska coal field, the fertile lands and mineral wealth of the lower Susitna, or the great Kuskokwim basin. This province properly belongs to an independent railway system based on the harbor at Seward. The commission recommends a railway from Kern Creek, the present inland terminal of the Alaska Northern Railway, to the Susitna River (distance, 115 miles; estimated cost, $5,209,000), with a branch line to the Matanuska coal field (distance, 38 miles; estimated cost, $1,618,000), and an extension of the main line through the Alaska Range to the Kuskokwim River (distance, 229 miles; estimated cost, $12,760,000).

The entire railways thus recommended will constitute two independent systems involving 733 miles of new construction at a cost of $35,000,000. Eventually these systems will be tied together and there will be earlier demands for branch and local lines as the country develops. One of these systems will find an outlet to the coast over the Copper River & Northwestern Railroad; the other over the Alaska Northern. If these new lines are constructed by others than those financially interested in these two railroads respectively, satisfactory traffic arrangements would have to be made with them. If the new railways recommended should be constructed by the Government, the question is necessarily presented as to whether the Government should acquire the whole or any part of the existing lines, or either of them, or should endeavor to make appropriate traffic agreements. Much would depend upon whether the Government would operate its own railroads or would make operating agreements with those operating existing lines. The commission has not discussed these questions for the reason pointed out in its report that the act of Congress omits questions of this sort from those upon which the commission was instructed to report.

The report of the commission contains the following statement:

Its instructions from Congress do not contemplate that any recommendation should be made as to how railroads in Alaska should be constructed, i. e., by private corporate ownership or by one of the many forms in use whereby Government assistance is rendered. The commission disavows any intention of making such recommendations, believing that Congress, in its wisdom, desired to reserve to itself the solution of that problem; but it has been impossible to form any estimates of costs of operation without some assumption as to the interest rate on the capital required for construction. This interest rate would obviously differ in two cases—construction by Government or bond guaranty, and construction by private capital. Moreover, were construction carried on by private capital unassisted, the necessity of earning sufficient income to pay operating expenses and interest on bonded indebtedness might make it the duty of the directors of the corporation to impose rates on traffic that would seriously retard the development which the Territory so greatly needs.

The commission has therefore been forced to base its studies upon two hypotheses, viz: That the capital necessary for construction is obtained at 6 per cent interest, assumed as possible if construction is carried out by private corporate ownership unassisted; and that capital is obtained at 3 per cent interest, assumed as possible if the construction is done either by the Government itself or by private capital with bonded indebtedness guaranteed both as to principal and interest.

On similar grounds the commission did not feel justified in discussing the use of the Panama Canal machinery and equipment or in including in its estimates the effect of such use; but a list of the machinery and equipment available at Panama is given in an appendix.

Upon the assumption that the railroad from Chitina to Fairbanks is built by private capital, eliminating promotion profit, but assuming the necessity of earning 6 per cent on the capital invested, it is the judgment of the commission that on estimated available traffic the road could be operated from Cordova to Fairbanks without loss at a passenger rate of 7 cents per mile and an average freight rate of 8 cents per ton-mile. This would mean a through freight rate of $36.94 per ton from Cordova to Fairbanks and a through passenger rate of $31.15. It is the opinion of the commission that—

an average freight rate exceeding 5 cents per ton-mile and passenger rate in excess of 6 cents per mile would defeat the immediate object of the railroad, namely, the expeditious development of the interior of Alaska, and, furthermore, would introduce the question as to whether or not the Seattle-Cordova-Fairbanks freight route would be able to compete with the present all-water route via the Yukon River system, except on shipments in which the time element is of such importance as to warrant the payment of a higher freight rate.

To meet the requirements of expeditious development and water competition the estimate of the commission involves a through freight rate from Cordova to Fairbanks at $22.25 per ton, and a through passenger rate of $26.70. The report further says:

Were the road to be constructed by the Government, or by private corporate ownership with a Government guaranty of principal and interest on bonded indebtedness, the capital required should be obtained at a much lower rate of interest, thus materially reducing the annual expenditures.

Using 3 per cent on the investment as fixed charges, and omitting mileage tax of $100, on the assumption that this tax would not be levied in the case of a Government owned or aided road, the commission estimates that the road would pay on the basis of a passenger rate of 6 cents per mile and a freight rate of 5.49 cents per ton-mile, making the average through freight rate from Cordova to Fairbanks $24.43 per ton and the through passenger rate $26.70. I give these figures as illustrations. The report contains similar estimates of freight and passenger

rates and traffic for the road recommended from Seward to the Kuskokwim.

After recommending the construction of the two principal systems and their extensions already mentioned, the commission states in conclusion that it—

is unanimously of the opinion that this development should be undertaken at once, and prosecuted with vigor; that it can not be accomplished without providing the railroads herein recommended under some system which will insure low transportation charges and the consequent rapid settlement of this new land and the utilization of its great resources.

The necessary inference from the entire report is that in the judgment of the commission its recommendations can certainly be carried out only if the Government builds or guarantees the construction cost of the railroads recommended. If the Government is to guarantee the principal and interest of the construction bonds, it seems clear that it should own the roads, the cost of which it really pays. This is true whether the Government itself should operate the roads or should provide for their operation by lease or operating agreement. I am very much opposed to Government operation, but I believe that Government ownership with private operation under lease is the proper solution of the difficulties here presented.

I urge the prompt and earnest consideration of this report and its recommendations.

WM. H. TAFT.

THE WHITE HOUSE, *February 6, 1913.*

MISSISSIPPI RIVER BRIDGES AT MINNEAPOLIS, MINN.

The PRESIDENT pro tempore. The Chair lays before the Senate sundry bills from the House of Representatives.

The bill (H. R. 27986) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn., was read the first time by its title.

Mr. NELSON. I ask unanimous consent for the present consideration of the bill. There is a similar Senate bill on the calendar.

There being no objection, the bill was read the second time at length and considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. NELSON. I move that a bill on the same subject upon the calendar, the bill (S. 8249) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn., be indefinitely postponed.

The motion was agreed to.

The bill (H. R. 27987) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn., was read the first time by its title.

Mr. NELSON. I ask for the present consideration of the bill.

There being no objection, the bill was read the second time at length and considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. NELSON. I move that the bill (S. 8248) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn., now on the calendar, be indefinitely postponed.

The motion was agreed to.

The bill (H. R. 27988) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn., was read the first time by its title.

Mr. NELSON. I ask for the present consideration of the bill.

There being no objection, the bill was read the second time at length and considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. NELSON. I move that a bill on the calendar upon the same subject, the bill (S. 8251) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn., be indefinitely postponed.

The motion was agreed to.

The bill (H. R. 27944) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn., was read the first time by its title.

Mr. NELSON. I ask for the present consideration of the bill.

There being no objection, the bill was read the second time at length and considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. NELSON. I move that the bill (S. 8250) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn., which is a bill on the same subject, be indefinitely postponed.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 21524) for the relief of Frederick H. Ferris.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. 25002) to amend section 73 and section 76 of the act of August 27, 1894.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H. R. 8861) for the relief of the legal representatives of Samuel Schiffer, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 109) authorizing the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 7160) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo.; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. FERRIS, Mr. GRAHAM, and Mr. VOLSTEAD managers at the conference on the part of the House.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. LAMB, Mr. LEVER, and Mr. HAUGEN managers at the conference on the part of the House.

The message further announced the return to the Senate, in compliance with its request, of the bill (S. 7855) to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the President pro tempore:

S. 3225. An act providing when patents shall issue to the purchaser or heirs of certain lands in the State of Oregon;

S. 3952. An act repealing the provision of the Indian appropriation act for the fiscal year ending June 30, 1907, authorizing the sale of a tract of land reserved for a burial ground for the Wyandotte Tribe of Indians in Kansas City, Kans.; and

S. J. Res. 156. Joint resolution to appoint George Gray a member of the Board of Regents of the Smithsonian Institution.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented a petition of Local Lodge No. 118, Independent Order of Grand Templars, of Center Conway, N. H., and a petition of the Minnesota Avenue Improvement Association of the District of Columbia, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented the petition of Rev. W. J. Tucker, D. D., of Hanover, N. H., praying for the enactment of legislation regulating the hours of employment of women in the District of Columbia, which was referred to the Committee on the District of Columbia.

He also presented a memorial of the Minnesota Avenue Improvement Association of Washington, D. C., remonstrating against an appropriation for the construction of a draw in the bridge across the Eastern Branch of the Potomac River, which was referred to the Committee on Appropriations.

He also presented a petition of the Minnesota Avenue Improvement Association, of the District of Columbia, praying for

the passage of the so-called Kenyon "red-light" injunction bill, which was ordered to lie on the table.

He also presented a petition of sundry citizens of Washington, D. C., praying that an appropriation be made for the grading of Otis Street NE., in the District of Columbia, which was referred to the Committee on Appropriations.

He also presented the petition of H. W. Coffin, of Washington, D. C., praying for the continuance of the so-called half-and-half principle in regard to appropriations for the District of Columbia, which was referred to the Committee on Appropriations.

Mr. WEBB presented resolutions adopted by the Farmers' Educational and Cooperative Union of Clay County, Tenn., favoring the adoption of certain amendments to the parcel-post law, which were referred to the Committee on Post Offices and Post Roads.

He also presented resolutions adopted by John C. Daley Council, No. 3, Independent Order Sons of Jonadab, of Washington, D. C., favoring the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. GRONNA. I present a telegram signed by a number of citizens of my State. It is very brief, and I ask that it lie on the table and be printed in the RECORD.

There being no objection, the telegram was ordered to lie on the table and to be printed in the RECORD, as follows:

FARGO, N. DAK., *February 6, 1913.*

Senator A. J. GRONNA,
Washington, D. C.:

We urge your support for the Kenyon-Webb interstate commerce bill. One of the things that has given our State its enviable position among the States of the Union has been its constitutional prohibition and our laws enforcing it. We believe our Representatives feel as we do and want you to know we are back of you in the support of this bill.

W. J. LANE.
H. A. MERGLAND.
W. J. CLAPP.
H. H. WHEELOCK.
A. W. MONAIR.
C. P. STINE.
TAYLOR CRUM.
GEORGE W. CROWE.
A. H. BAKER.

Mr. GRONNA presented a petition of the congregation of the McCabe Methodist Episcopal Church, of Bismarck, N. Dak., and a petition of sundry citizens of Hansboro, N. Dak., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BRYAN presented resolutions adopted by the Tampa Bay Pilots' Association, of Florida, and a memorial of sundry citizens of Pensacola, Fla., remonstrating against the enactment of legislation to further regulate pilotage and pilots, which were referred to the Committee on Commerce.

Mr. BRADY presented the petition of Charles B. Allen and sundry other citizens of Parma, Idaho, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. MYERS presented petitions of sundry citizens of Roundup, Huntley, Huntley Project, and Manhattan, and of members of the Union Sunday School of Hingham, all in the State of Montana, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. NELSON. I present a resolution adopted by the Legislature of Minnesota, which I ask may be printed in the RECORD and referred to the Committee on Finance.

There being no objection, the resolution was referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

Whereas there is now pending before the Federal Congress an amendment to present banking laws authorizing national banks to loan money upon farm-land mortgages; and

Whereas this would open up a new, substantial, and safe field for the investor, and would tend to make easier money for the development of farm lands in the Northwest, and make for stability rather than weakness in the financial institutions: Therefore be it

Resolved, That we earnestly request our Representatives in Congress to do all in their power to secure the adoption of this amendment.

Mr. KENYON presented a petition of sundry citizens of Adams, Ohio, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BRISTOW presented a petition of sundry citizens of Auburn, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BURTON. I present a joint resolution passed by the legislature of my State setting forth the necessity for construction and appropriation to build levees. I ask that the joint resolution be printed in the RECORD and referred to the Committee on Commerce.

There being no objection, the joint resolution was referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

Senate joint resolution 11.

Memorial to Congress for construction and appropriation to build levees.

Whereas the Ohio River is a waterway under the control of the Federal Government; and

Whereas the Congress of the United States makes large appropriations for the improvement of said waterway; and

Whereas the cities, towns, and villages along said waterway are yearly ravaged by the floods; and

Whereas there is a very large loss of property and life by reason of the annual floods; and

Whereas much sickness and disease follow in the wake of these overflows; and

Whereas it is feasible and practicable in nearly every case to protect by means of levees, embankments, or flood walls the cities, towns, and villages from the annual overflows and from the destruction of property; and

Whereas the prevailing conditions along the Ohio River necessitates a system of flood defenses; Therefore be it

Resolved by the Senate and the House of the Eightieth General Assembly of the State of Ohio, That we urge upon Congress of the United States the necessity of the early examination into the feasibility and practicability of the construction of the proper levees, embankments, or flood walls for the protection of the cities, towns, and villages, and that we also urge Congress to make the appropriations for such surveys and examinations. Be it further

Resolved, That the secretary of the state of Ohio is hereby instructed to forthwith transmit certified copies of this resolution to all Ohio Members of the Senate and House of Representatives of Congress of the United States and the Clerks of these respective bodies at Washington, D. C.

C. L. SWAIN,
Speaker of the House of Representatives.
HUGH L. NICHOLS,
President of the Senate.

Adopted, January 30, 1913.

UNITED STATES OF AMERICA, STATE OF OHIO,
Office of the Secretary of State.

I, Charles H. Graves, secretary of state of the State of Ohio, do hereby certify that the foregoing is an exemplified copy, carefully compared by me with the original rolls now on file in this office and in my official custody as secretary of state, and found to be true and correct, of a joint resolution adopted by the General Assembly of the State of Ohio on the 30th day of January, A. D. 1913, entitled "Joint-resolution memorial to Congress for construction and appropriation to build levees."

In testimony whereof I have hereunto subscribed my name and caused the great seal of the State of Ohio to be affixed at Columbus, Ohio, this 4th day of February, A. D. 1913.

[SEAL.]

CHAS. H. GRAVES,
Secretary of State.

Mr. BURTON presented a petition of the Ohio Association of Ginseng and Golden Seal Growers, praying that an appropriation be made for the investigation of the so-called ginseng disease, which was referred to the Committee on Agriculture and Forestry.

REPORTS OF COMMITTEES.

Mr. CURTIS, from the Committee on Pensions, submitted a report, accompanied by a bill (S. 8399) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, the bill being a substitute for the following Senate bills heretofore referred to that committee (S. Rept. 1195):

S. 1810. Leonard C. Wiswell.
S. 1555. Charles M. Gregory.
S. 3397. Frank Lytle.
S. 4704. Margaret R. Birchfield.
S. 5911. Amanda Woodcock.
S. 7321. Luther Thompson.
S. 7614. Fred F. Harris.
S. 7660. August T. Lillich.
S. 7663. Charles F. Miller.
S. 7783. George W. Hale.
S. 7907. Frank A. Hill.
S. 8036. George S. Pauer.
S. 8055. Gilbert J. Jackson.

Mr. CURTIS, from the Committee on Pensions, submitted a report, accompanied by a bill (S. 8400) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, the bill being a substitute for the following Senate bills heretofore referred to that committee (S. Rept. 1196):

S. 130. Charles J. Esty.
S. 713. Mary A. Price.
S. 806. Margaret Staton.
S. 915. Mary M. Hoxie.
S. 1007. Mary J. Bates.
S. 1031. Andrew Jackson.
S. 2273. Cordelia R. Bragg.
S. 2444. Catherine F. Edsall.
S. 2590. Manuel Jay.
S. 2803. Mary E. Harris.
S. 2989. Martha Summerhayes.

S. 3502. Hannah M. Dukes.
S. 3692. Francis E. Stevens.
S. 3739. William Lawson.
S. 3741. Israel Dunlap.
S. 3805. Hattie A. Vaughan.
S. 3999. Loomis Near.
S. 4000. Patie A. Downing.
S. 4083. Matilda Kidney.
S. 4196. Thomas Burk.
S. 4293. James M. P. Brookins.
S. 4703. Henry Thomas.
S. 4968. Samuel Oliver.
S. 5006. John Chambers.
S. 5158. Phebe E. Brittell.
S. 5298. John A. Barnhouse.
S. 5300. Emalina Chapin.
S. 5314. Sarah C. Burdick.
S. 5449. William Spotts.
S. 5498. Elvira J. Morton.
S. 5593. Elizabeth M. Lowe.
S. 5790. William D. Martin.
S. 6378. Albert Schroeder.
S. 6820. Maria C. Faulkner.
S. 6843. William M. Whittaker.
S. 6881. Hiram F. Stover.
S. 6884. Horace A. Hitchcock.
S. 6887. Mary C. Brown.
S. 6890. Enoch Medsker.
S. 6908. Hardy H. Hickman.
S. 7140. Abraham Miller.
S. 7148. Martha J. Curry.
S. 7223. Adam Ross.
S. 7271. William White.
S. 7397. Louisa J. Jackson.
S. 7443. Mary A. Fisher.
S. 7489. Solomon Riddell.
S. 7554. John Bailey.
S. 7584. Philander B. Sargent.
S. 7585. William L. McCormick.
S. 7586. Ivory Phillips.
S. 7654. Ann E. Newport.
S. 7684. Catharine T. Williams.
S. 7706. Martha E. S. Blodgett.
S. 7793. Benjamin F. Jay.
S. 7882. Mary J. Thomas.
S. 7916. Michael Kearns.
S. 7958. Benjamin Wentworth.
S. 8014. George W. Doan.
S. 8019. Nathaniel J. Smith.
S. 8061. George W. Vincent.
S. 8085. Martha Benner.
S. 8102. Edward Hearin.
S. 8107. Minnie A. Piety.
S. 8109. Anna M. Thomas.
S. 8123. Ellen Maher.
S. 8174. James W. New.
S. 8215. William H. Sumption.
S. 8224. Ida E. Carter.
S. 8243. Lavina G. Clark.
S. 8253. Ellen Beam.
S. 8257. Judson P. Adams.
S. 8276. Emily C. Thompson.
S. 8277. Emelia Branner.
S. 8295. Charles Shattuck.
S. 8297. Mary E. Spraberry.

Mr. MARTIN of Virginia, from the Committee on Commerce, to which were referred the following bills, reported them each with amendments and submitted reports thereon:

S. 8089. A bill permitting the building of a railroad bridge across the Yellowstone River from a point on the east bank in section 15 to a point on the west bank in section 16, township 151 north, of range 104 west, of the fifth principal meridian, in McKenzie County, N. Dak. (S. Rept. 1197); and

S. 8090. A bill permitting the building of a railroad bridge across the Missouri River from a point on the east bank in section 14, Mountrail County, N. Dak., to a point on the west bank of said river, in section 15, in McKenzie County, N. Dak., in township 152 north, range 93 west, of the fifth principal meridian (S. Rept. 1198).

OLD EXCHANGE BUILDING, CHARLESTON, S. C.

Mr. SWANSON. From the Committee on Public Buildings and Grounds I report back favorably without amendment the bill (S. 8269) authorizing the Secretary of the Treasury to give to the Order of Daughters of American Revolution the "Old Exchange" building in the city of Charleston, S. C. I call the attention of the senior Senator from South Carolina [Mr. TILLMAN] to the report (S. Rept. 1199).

Mr. TILLMAN. This is a local matter in which our people are deeply concerned, and I ask for the immediate consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to convey, by quitclaim deed, the building formerly used for post-office purposes and now known as the "Old Exchange," in the city of Charleston, S. C., to the Order of Daughters of the American Revolution in and of the State of South Carolina, to be held by it as a historical memorial in trust for such use, care, and occupation thereof by the Rebecca Motte Chapter of that order, resident in the city of Charleston, State aforesaid, as the chapter shall in its judgment deem to best subserve the preservation of the colonial building and promote the honorable and patriotic purpose for which the grant is requested.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. STONE (for Mr. REED):

A bill (S. 8401) granting an increase of pension to Sarah Ann Kelly; to the Committee on Pensions.

By Mr. STONE:

A bill (S. 8402) to establish a national aeronautical laboratory; to the Committee on the Library.

By Mr. THOMAS:

A bill (S. 8403) to establish the Rocky Mountain National Park in the State of Colorado, and for other purposes; to the Committee on Public Lands.

A bill (S. 8404) for the relief of Jeanie G. Lyles; to the Committee on Claims.

By Mr. WEBB:

A bill (S. 8405) granting a pension to Susan E. Rinks (with accompanying papers); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 8406) granting an increase of pension to Mary E. Dow; to the Committee on Pensions.

By Mr. KENYON:

A bill (S. 8407) granting an increase of pension to Cornelia F. Lintleman; and

A bill (S. 8408) granting an increase of pension to Thomas M. McKenry; to the Committee on Pensions.

By Mr. SMOOT:

A bill (S. 8409) to authorize the Secretary of Commerce and Labor to sell certain department publications and to provide for crediting the department's printing allotment with the proceeds; to the Committee on Printing.

By Mr. McCUMBER:

A bill (S. 8410) to authorize the sale of lands contained in the abandoned military reservation of Fort Hancock, near Bismarck, N. Dak. (with accompanying papers); to the Committee on Military Affairs.

By Mr. McLEAN:

A bill (S. 8411) granting an increase of pension to William Morrison (with accompanying papers);

A bill (S. 8412) granting an increase of pension to Emma F. Dimock (with accompanying papers); and

A bill (S. 8413) granting an increase of pension to Harriet A. C. Griggs (with accompanying papers); to the Committee on Pensions.

By Mr. TILLMAN:

A bill (S. 8414) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Appropriations.

By Mr. BRADLEY:

A bill (S. 8415) granting an increase of pension to Jacob H. Gabbard (with accompanying papers); and

A bill (S. 8416) granting an increase of pension to Ward Houchin (with accompanying papers); to the Committee on Pensions.

By Mr. FLETCHER:

A bill (S. 8417) to establish a fish-cultural station in the State of Florida; to the Committee on Fisheries.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MARTINE of New Jersey submitted an amendment proposing to appropriate $45,000 for improving Absecon Inlet, N. J., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. NELSON submitted an amendment authorizing the Secretary of War to enter into an agreement with the Municipal Electric Co., of Minnesota, for the purpose of utilizing the hydroelectric power developed by the surplus waters not needed for navigation by the dam described and provided for in House Document No. 741, Sixty-first Congress, second session, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. BURTON submitted an amendment providing for the construction of levees upon any part of the Ohio River between its mouth at Cairo, Ill., and Pittsburgh, Pa., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. SMITH of Michigan submitted an amendment proposing to appropriate $20,000 for improving the harbor at Arcadia, Mich., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. JOHNSON of Maine submitted an amendment providing for the improvement of Thomaston Harbor, Me., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. MARTIN of Virginia submitted an amendment proposing to appropriate $5,000,000 for the construction of a memorial bridge across the Potomac River, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. OVERMAN submitted an amendment providing that from March 4, 1913, the salary of the Secretary to the President of the United States shall be $7,500 per annum, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. JONES submitted an amendment proposing to increase the appropriation for improving the Columbia River between Bridgeport and Kettle Falls, Wash., from $25,000 to $40,000, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. BRADLEY submitted an amendment providing for the survey of Licking River, Ky., etc., intended to be proposed by him to the river and harbor appropriation bill, which was ordered to be printed and, with the accompanying papers, referred to the Committee on Commerce.

Mr. FLETCHER submitted an amendment proposing to appropriate $25,000 for the establishment of a fish-cultural station in the State of Florida, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. PERCY submitted an amendment relative to the improvement of the Mississippi River from Head of Passes to the mouth of the Ohio River, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment relative to the improvement of the mouth of the Yazoo River and harbor at Vicksburg, Miss., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

INTERSTATE SHIPMENT OF INTOXICATING LIQUORS.

Mr. HITCHCOCK. I submit an amendment intended to be proposed by me to the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases. I ask that the amendment be read and that it lie on the table and be printed.

There being no objection, the amendment was read and ordered to lie on the table, as follows:

Amendment intended to be proposed by Mr. HITCHCOCK to a bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases.

At the end of section 2 add: "*Provided, however*, That nothing in this act shall be held or construed to render illegal or subject to State control the interstate shipment of liquors or liquids above described into any State or Territory to an individual for his personal or family use."

REVOLUTION IN NICARAGUA.

Mr. SMITH of Michigan submitted the following resolution (S. Res. 454), which was read and referred to the Committee on Foreign Relations:

Whereas during the revolutionary uprising headed by Gen. Louis Mena, which occurred on July 20, 1912, in the Republic of Nicaragua, the armed forces of the United States were landed in Nicaraguan territory; and

Whereas said armed forces of the United States did actually occupy Nicaraguan territory and participate in an armed conflict with the revolutionary forces therein, in which several of the American marines lost their lives; and

Whereas said armed forces of the United States have continued to occupy Nicaraguan territory, exercising military authority thereover, and without the authority of Congress: Therefore

Resolved, That the President of the United States be requested, if not incompatible with the public interest, to send to the Senate such statement of facts and details regarding said occupation and military activity, specifically setting forth the causes which brought about such forcible occupation of the territory of a friendly nation and armed combat with its citizens; and further

Resolved, That the President be requested to inform the Senate whether American marines were placed in possession of the Government buildings or residence of the President of Nicaragua and have continued to occupy such buildings since said revolutionary uprising.

COMMITTEE SERVICE.

Mr. MARTIN of Virginia submitted the following resolution, which was read, considered by unanimous consent, and agreed to:

Resolved, That the following assignments of Senators to service on committees be made, namely:

Mr. MORRIS SHEPPARD, of Texas, to Immigration, Census, Fisheries, and Expenditures in the Department of Commerce and Labor.

Mr. C. S. THOMAS, of Colorado, to Public Lands, Private Land Claims, Indian Depredations, and Expenditures in the Department of the Interior.

Mr. WILLIAMS M. KAVANAUGH, of Arkansas, to Indian Affairs, Industrial Expositions, and National Banks.

Mr. W. R. WEBB, of Tennessee, to Education and Labor and Civil Service and Retrenchment.

COUNTING OF ELECTORAL VOTE.

Mr. DILLINGHAM submitted the following resolution (S. Res. 455), which was read, considered by unanimous consent, and agreed to:

Resolved, That at 10 minutes before 1 o'clock on Wednesday, February 12, 1913, the Senate proceed to the Hall of the House of Representatives to take part in the count of the electoral vote for President and Vice President of the United States.

PROHIBITION OF SMOKING IN THE SENATE CHAMBER.

Mr. TILLMAN. I send to the desk a resolution which I ask be referred to the Committee on Rules.

The resolution (S. Res. 456) was read and referred to the Committee on Rules, as follows:

As required by the standing rules of the Senate (Rule XL), notice is hereby given that I will introduce, Monday, February 10, an amendment to Rule XXXIV, as follows:

"*Resolved*, That Rule XXXIV be amended as follows: Strike out the period at the end of the first clause and insert a semicolon, and then add the following: 'no smoking shall be permitted at any time on the floor of the Senate, or lighted cigars be brought into the Chamber.'"

PANAMA CANAL TOLLS.

Mr. NEWLANDS. On yesterday I introduced a bill (S. 8398) to amend an act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone," approved August 24, 1912, which was read twice by its title and referred to the Committee on Interoceanic Canals. I ask that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

A bill (S. 8398) to amend an act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone," approved August 24, 1912.

Be it enacted, etc., That section 5 of the Panama Canal act approved August 24, 1912, be, and it is hereby, amended by inserting, after the words "no tolls shall be levied upon vessels engaged in the coastwise trade of the United States," the words "or upon vessels belonging to the United States. The tolls shall not exceed in the aggregate an amount sufficient to pay the United States the cost of operation, maintenance, protection, and a fair interest upon its expenditure in the construction of the canal, after deducting therefrom an amount equal to the tolls which, but for the foregoing provision, would be levied upon vessels engaged in the coastwise trade of the United States and vessels belonging to the United States. For the purpose of making such deduction an account shall be kept of the tonnage of such vessels passing through the canal."

Mr. NEWLANDS. On yesterday I introduced a joint resolution (S. J. Res. 159) regarding the Panama Canal tolls, which was read twice by its title and referred to the Committee on Interoceanic Canals. I ask that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

Joint resolution (S. J. Res. 159) regarding the Panama Canal tolls.

Resolved, etc., That in providing in the recent act for the opening of the Panama Canal, approved August 24, 1912, that "no tolls shall be levied upon vessels engaged in the coastwise trade of the United States," it was the purpose of Congress to subject the Panama Canal in its purely domestic relations, like all our domestic rivers, canals, and waterways, to the traditional policy of freedom from the imposition of tolls upon vessels engaged in domestic and coastwise transportation for expenditures made by the Government of the United States in their operation, maintenance, improvement, or construction, and that it was not the purpose of the Government of the United States to impose upon foreign and international tonnage any portion of the cost of operation, maintenance, and interest upon the expenditures of the United States

which would be properly assignable to the tonnage of vessels engaged in the coastwise trade.

SEC. 2. That in the opinion of Congress the tolls fixed by the President for the passage of vessels engaged in foreign and international trade through the Panama Canal will, not for many years yield such proportion of such cost of operation, maintenance, and interest as would be properly chargeable upon vessels passing through the canal engaged in foreign or international trade were such tolls levied upon all vessels passing through the canal, including those engaged in the coastwise trade of the United States, and therefore such tolls are reasonable and proportionate, and furnish no just ground of complaint to foreign countries.

SEC. 3. That in order to clear up any misapprehension upon this subject and to give assurance of the future, Congress hereby declares the intention of the Government of the United States to fix such tolls for the use of the Panama Canal as will pay to the United States only the cost of operation, maintenance, protection, and a fair interest upon its investment, and that the tolls to be charged against vessels passing through the canal engaged in foreign or international trade shall not exceed in the aggregate such proportion of such cost of operation, maintenance, protection, and interest as the tonnage of such vessels bears to the total tonnage of all vessels passing through the Panama Canal.

AGRICULTURAL EXTENSION DEPARTMENTS.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and acts supplementary thereto, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BURNHAM. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. PAGE, Mr. CRAWFORD, and Mr. SMITH of Georgia conferees on the part of the Senate.

Mr. BURNHAM. Mr. President, I desire to say, in reference to the appointment of the conferees on the part of the Senate on the disagreeing votes of the two Houses on the bill, that my own strong preference was not to serve upon the conference; other Senators who might have been named by reason of priority of rank on the Committee on Agriculture and Forestry were of the same mind, and all are agreed upon the conferees named.

The PRESIDENT pro tempore. The conferees named were suggested by the Senator from New Hampshire [Mr. BURNHAM], and his explanation accounts for their appointment by the Chair.

WATER SUPPLY IN COLORADO.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SMOOT. I move that the Senate insist upon its amendments and grant the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. SMOOT, Mr. GUGGENHEIM, and Mr. NEWLANDS conferees on the part of the Senate.

COAL MINING IN OKLAHOMA.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 3848) granting to the coal-mining companies in the State of Oklahoma the right to acquire additional acreage adjoining their mine leases, and for other purposes.

Mr. OWEN. I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. GAMBLE, Mr. CLAPP, and Mr. OWEN conferees on the part of the Senate.

SAMUEL SCHIFFER.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives agreeing to the amendment of the Senate to the bill (H. R. 8861) for the relief of the legal representatives of Samuel Schiffer, with an amendment, on page 2, line 8, of the Senate amendment, after "notwithstanding," to insert:

Provided, however, That in no event shall the judgment rendered in said cause, if any, exceed the sum of $62,150.34, and the amount of such judgment, if any, when paid to the claimants, shall be received by them in full settlement and satisfaction of all claims.

Mr. OLIVER. I move that the Senate concur in the amendment of the House to the amendment of the Senate.

The motion was agreed to.

MEMORIAL ADDRESSES ON THE LATE SENATOR HEYBURN.

Mr. BORAH. Mr. President, I desire to give notice that on Saturday, March 1, 1913, after the conclusion of the routine morning business, I shall ask the Senate to consider resolutions commemorative of the character and services of my late colleague, WELDON B. HEYBURN.

MEMORIAL ADDRESSES ON LATE REPRESENTATIVES FROM PENNSYLVANIA.

Mr. OLIVER. Mr. President, I desire to give notice that on Saturday, March 1, I will ask the Senate to consider resolutions commemorative of the lives and public services of HENRY H. BINGHAM, GEORGE W. KIPP, and JOHN G. MCHENRY, late Members of the House of Representatives from the State of Pennsylvania.

PENSIONS AND INCREASE OF PENSIONS.

Mr. McCUMBER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 7160, an act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 2, 5, and 8.

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, 4, 6, 7, and 9, and agree to the same.

P. J. McCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.
JOE J. RUSSELL,
J. A. M. ADAIR,
CHAS. E. FULLER,
Managers on the part of the House.

The report was agreed to.

Mr. McCUMBER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 8034, an act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 2, 5, 6, 7, 9, and 10.

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, 4, and 8, and agree to the same.

P. J. McCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.
JOE J. RUSSELL,
J. A. M. ADAIR,
CHAS. E. FULLER,
Managers on the part of the House.

The report was agreed to.

RIGHT OF WAY IN YELLOWSTONE NATIONAL PARK.

Mr. MYERS. I ask unanimous consent for the immediate consideration of the bill (S. 3130) to authorize the Secretary of the Interior to permit the Conrad-Stanford Co. to use certain lands.

The PRESIDENT pro tempore. The Senator from Montana asks unanimous consent for the present consideration of the bill named by him.

Mr. SMOOT. Mr. President, I observe that the Senator from Kentucky [Mr. PAYNTER] has given notice that he desires to address the Senate immediately after the conclusion of the routine business this morning. I am quite sure that this bill will lead to a lengthy debate, and I therefore object to its present consideration.

Mr. MYERS. Mr. President, I will say that I have no desire whatever to interfere with the Senator from Kentucky. I had, of course, supposed that probably this bill would be considered and voted on in half or three-quarters of an hour——

Mr. SMOOT. It will take a longer time than that, I am quite sure.

Mr. MYERS. But if there is any danger of interfering with the right of the Senator from Kentucky, I shall not now press the bill.

ANTIINJUNCTION LEGISLATION.

Mr. MARTIN of Virginia. Mr. President, on or about the 15th of May, 1912, the House of Representatives passed House bill No. 23635, ordinarily spoken of as the Clayton anti-injunction bill. That bill was referred to the Committee on the Judiciary of the Senate at that time. The committee have proceeded to have some hearings on the bill. On the 1st day of June last I inquired of the chairman of the committee when a report might be expected. While the assurances of the chairman were not very tangible, I did not at that time offer a motion to discharge the committee from the further consideration of the bill, but I did give notice that unless the committee reported that bill to the Senate for its consideration, I would, after a reasonable delay to enable the committee to give full consideration to the bill and to report it, ask that the committee be discharged from its further consideration.

The Senator from New Jersey [Mr. MARTINE] a little later—I think it was on the 12th day of June—made a similar inquiry and received similar latitudinarian suggestions as to the purpose of the committee to not unduly delay a report on the bill; and the matter has continued from that time until this time.

I think, Mr. President, the time has come when it is due to the Senate that the committee should report that bill, so that the Senate may consider it and vote on it; and, unless the chairman of the committee can give me to-day some tangible assurances that we are to have a report and an opportunity to vote on the bill I shall submit a motion to discharge the committee from its further consideration. I ask the chairman of the committee what the Senate may expect in this respect?

Mr. CLARK of Wyoming. Mr. President, I am unable to state what the Senate may expect or does expect, because I am not in the confidence of the expectations of individual Members of the Senate. I will say to the Senator from Virginia, however, that in this particular matter, at least, the Committee on the Judiciary has not been dilatory in the performance of its duty. Whatever delay has occurred in this matter has been delay caused by the friends of the bill, who have sought hearings and have not then appeared. Less than two weeks ago those who were most interested in the bill appeared before the subcommittee and had a considerable hearing. To-morrow is set for a hearing by the subcommittee on the bill.

I have no desire, as chairman of the committee or otherwise, to prevent the Senate from taking any action it pleases. If the Senate chooses to discharge the committee from the further consideration of the bill, I am sure neither the chairman nor any member of the committee will feel in the slightest degree irritated. But I want to assure the Senator that this bill and its companion bill have been receiving due, full, and prompt consideration, and whatever delay has occurred has been largely caused by the failure of the friends of the bill to appear at the times set for hearings at their request. Of course I can give the Senate no assurance as to when the action of the committee may be expected or what it may be.

Mr. MARTIN of Virginia. Mr. President, the Senator starts out by manifesting a little irritability because a very pertinent inquiry is made of him about a bill submitted to a committee of which he is chairman, and disclaiming any knowledge as to what the Senate expects in the matter. I can tell him that I, as one Senator, expect the committee to report that bill.

Mr. CLARK of Wyoming. If the Senator desires the committee to report this bill before it has had the consideration which the friends of the bill themselves insist upon, the Senator knows very well, under the rules, the course which he is at liberty to pursue. I assure the Senator again, as I assured him before, that the chairman of the committee and the subcommittee that has this matter in charge have been working with diligence upon the bill, and have not delayed it with the desire in any respect to prevent the Senate from taking action upon the bill but in order that it might be thoroughly considered, and in view of the repeated requests made for hearings and consideration by those who are friendly to the bill.

I make that statement to the Senator in all good faith, and I hope the Senator will so accept it. At the same time, as chairman of the committee, I do not want to hinder the Senator. I do not want to plead delay. I am perfectly willing, so far as I am individually concerned, that the Senate shall take up this matter at once, through the discharge of the committee, if the Senate believes such action is the best for the expedition of the bill.

Mr. MARTIN of Virginia. Mr. President, I do not think there is anything involved in this bill that requires such protracted hearings. The matters involved in the bill may be considered and acted upon by the Senate without any great array of testimony one way or the other in respect to them. We all know that the committee has the power to bring these hearings to a conclusion. We all know that the committee can require the appearance of those who desire to be heard, and if they do not appear they ought to be cut off from a hearing. We all know that this matter of hearings is a much-resorted-to method of indefinitely postponing measures that ought to be considered in Congress.

I should like to know from the chairman of the committee who it is that desires this hearing which he says will come up in a few days.

Mr. NELSON. Mr. President, the bill was referred to a subcommittee of which the senior Senator from New York [Mr. ROOT] is chairman. I am a member of that subcommittee. The bill came over to the Senate at the close of last session. We had not time to investigate it then. It effects a complete revolution in the law of preliminary injunctions and temporary restraining orders, and also in respect to final injunctions.

The bill went over until this session. We have had several hearings on it. Most of the hearings, I think, have been at the instance of the friends of the bill. I recall very well that Mr. Gompers occupied nearly all the time at two of our hearings.

The Senator from New York is not here. We are to have another hearing to-morrow, when we expect to dispose of the bill, as far as the subcommittee is concerned, and we expect to make some report to the full committee at the next session. This is all I can tell the Senator about it.

The measure is a very important one. As I said, it involves a complete change and an entire revolution in our law relating to what we call temporary restraining orders, preliminary injunctions, and final injunctions. It is a very important matter, because it is so far-reaching in its consequences, and the subcommittee, for which I am speaking, have felt that they ought to give the matter full consideration.

I want further to call the attention of the Senator to the fact that recently the Supreme Court of the United States has issued a new set of equity rules, covering, among other things, this matter of temporary restraining orders, preliminary injunctions, and final injunctions. Those rules, as I say, are new, and we are considering them in connection with this bill, to see whether or not any legislation is required in addition to what is proposed by the new equity rules of the Supreme Court of the United States.

I believe the Senator from Utah [Mr. SUTHERLAND] is a member of the subcomuittee with me, and he can speak for himself. I am in the attitude of the Senator from Wyoming; I am speaking only for myself, personally.

I want to add just one word. There is no disposition to delay the matter; but, owing to the great importance of the subject and the character of it, we have felt that we ought not to handle it in a sort of "whangdoodle" manner and throw it before the Senate in a reckless manner and go into it roughshod, as though we were passing an ordinary bill to pension John Jones.

Mr. MARTIN of Virginia. Mr. President, it seems to me time enough has elapsed since the 15th day of last May to enable the committee to handle this matter without handling it—I do not know that I got the word exactly right—in a "whangdoodle" manner. I do not know exactly what the Senator means by a "whangdoodle" manner, but I think the committee ought to handle it in some way. I do not dispute the importance of the bill. The rules adopted by the Supreme Court are simply rules of procedure, and very helpful rules on the general line of the purposes of this bill, but they do not go to the root of the evil aimed at in the bill. I think the bill has had very large consideration already.

Mr. SUTHERLAND. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Virginia yield to the Senator from Utah?

Mr. MARTIN of Virginia. I yield.

Mr. SUTHERLAND. The Senator from Virginia says the rules of the Supreme Court do not go to the root of the evil. In what respect does the Senator think the pending bill improves the situation over that provided for by the rules of the Supreme Court?

Mr. MARTIN of Virginia. I have not the slightest idea of going into a discussion of the merits of this bill with the Senator from Utah on a preliminary motion like this. It seems to me the disposition to filibuster on that side of the Chamber has gotten out of reasonable limits. The Senator, I am afraid, wants to filibuster against the consideration of this bill. He can not draw me into any such attitude as that.

Mr. SUTHERLAND. The Senator seems to think the rules of the Supreme Court are not sufficient to cover the evil. I have been giving somewhat diligent attention to this whole

question, and I should be glad to hear from the Senator from Virginia in what particular he thinks the rules of the Supreme Court do not cover the evil.

Mr. MARTIN of Virginia. At the proper time, Mr. President, I expect to say something in respect to that matter. But we all know that the Senator from Utah, an able lawyer and a very conservative, if not an ultraconservative Senator in respect to matters of this sort, does not look with very much favor upon this anti-injunction bill.

Mr. SUTHERLAND. The Senator has said that he intended to move to discharge the committee in order that the Senate itself might consider this question. Certainly before he proposes a radical motion of that kind he ought to be able to tell the Senate why he does it.

Mr. MARTIN of Virginia. I do it because the committee has delayed unreasonably its report on a very important bill. I gave that reason once; but I certainly am not called upon to go into a discussion of the merits of a bill when I move to discharge a committee from its consideration.

Mr. SUTHERLAND. The Senator from Minnesota has suggested that in all probability the rules recently adopted by the Supreme Court of the United States cover the situation. As I understand, the Senator from Virginia denies that, and I should be glad to have the Senator from Virginia tell us why he denies it.

Mr. MARTIN of Virginia. I say, I will not delay these proceedings and engage in a filibustering process to prevent a hearing of the matter which I am trying to get before the Senate by responding to any such invitation as that.

Mr. NELSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Virginia yield to the Senator from Minnesota?

Mr. MARTIN of Virginia. I do.

Mr. NELSON. There is one thing, Mr. President, that would tempt me to make rapid progress on this injunction bill, if it would have the effect of checking the other side of the Chamber from preventing the confirmation of nominations.

Mr. MARTIN of Virginia. I am very sorry the Senator from Minnesota wants to cooperate with this side of the Chamber to prevent the confirmation of nominations. This side of the Chamber expects to give due consideration to nominations at the proper time and at the proper place, and to dispose of them as it thinks will best promote the welfare of the country. But that is no part or parcel of a discussion of this motion—this suggestion of a discharge of the committee because of its exceeding great delay in reporting a matter of very great public concern.

Mr. OWEN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Virginia yield to the Senator from Oklahoma?

Mr. MARTIN of Virginia. I thought the Senator from Wyoming wished to say something; but I yield to the Senator.

Mr. OWEN. I merely wish to inquire how long the committee has had this bill under consideration.

Mr. MARTIN of Virginia. Since the 15th day of last May.

Mr. OWEN. And the extreme haste of the committee is now described as "whangdoodle" haste?

Mr. MARTIN of Virginia. I understood the Senator from Minnesota to say he objected to proceeding with any "whangdoodle" haste in the matter. The Senator from Mississippi [Mr. WILLIAMS], who is an authority on phrases, is not here; and I do not know what the meaning of this phrase "whangdoodle haste" is. But it looks to me as if there has been "whangdoodle" delay, and no haste of any sort whatever, when the bill has been held since the 15th day of last May, and we appear to be as far from a report now as we were then.

This bill has had careful consideration in the House of Representatives, Mr. President. It has had the consideration of one of the great political parties of this country. I think the time has come when the Members of the Senate ought to go on record with respect to it. If they are opposed to the bill, let them give their reasons for it, and record their votes. But I am not going to rest content to see the bill smothered in committee.

This matter of hearings may go on forever. I do not care whether the hearings are being given to so-called friends of the bill or to the opponents of the bill; but what I do insist upon is that the committee shall bring their hearings to an end and that they shall report the bill to the Senate. As I understand, the Senator from Minnesota says that the subcommittee will complete their investigations and reach their conclusions tomorrow.

Mr. NELSON. I meant to say that I hope so. The chairman of the subcommittee is absent, but a meeting is called for tomorrow, and I suppose we will be able to close it then.

There is one thing I want to say to the Senator from Virginia in all Christian spirit, and that is that I think this is a question that we never ought to consider from a party standpoint. It is not a question whether the Democratic Party favors it or whether the Republican Party favors it. It is too big and too broad a question to be a mere naked party question. We ought to consider it divorced from all party considerations, if any question at all is to be considered in that form in this Chamber.

Mr. MARTIN of Virginia. Mr. President, I will say to the Senator from Minnesota that I had not the slightest purpose of making it a political question. But I did say, and I repeat, that the great public importance of this bill and the demand for its prompt consideration are made manifest by the fact that it has been considered in the House of Representatives and has passed that body, and that it has been considered in the national convention of one of the great political parties of this country and has been approved in that convention. I refer to those things not for the purpose of making it a political question, but for the purpose of emphasizing the importance to the country at large, to people of all political parties, that this bill should be reported and should be passed upon by the Senate. If the Members of the Senate do not think the bill ought to be passed, let them say so by a vote recorded in their Journal. If they think the bill ought to be passed, let it be passed.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Virginia yield to the Senator from Idaho?

Mr. MARTIN of Virginia. I yield.

Mr. BORAH. Let us have the Senate say so. Suppose the Senator from Virginia make his motion to have a vote upon this matter.

Mr. MARTIN of Virginia. The Senator from Idaho is showing a very commendable zeal in facilitating this matter. I desired to secure some information about it and to proceed fairly and justly and considerately. As the Senator from Minnesota indicated that perhaps after to-morrow we would have a report, I felt indisposed to insist upon a vote. But I do enter the motion, Mr. President, to discharge the committee from the further consideration of this bill. Such a motion can be carried over for a day by any Senator, and I therefore do not expect to ask a vote on it to-day. But I desire to enter the motion and to say that I shall call it up within the next few days, giving an opportunity for this report to come in which the Senator from Minnesota says may possibly come after to-morrow. If it does not come in two or three days, I shall ask for a vote on my motion.

I enter the motion, and ask that it may lie on the table; and I give notice to the Senate that in a very few days, unless a report is forthcoming, I shall ask a vote of the Senate on that motion.

Mr. BORAH. Do I understand that the Senator has entered that motion?

Mr. MARTIN of Virginia. I have.

Mr. BORAH. I ask for its present consideration.

Mr. LODGE. Mr. President, under the rule it goes over, of course.

Mr. MARTIN of Virginia. I knew there would be objection. I am perfectly willing to have a vote on it now, but I knew it would be carried over.

Mr. CULBERSON. Mr. President, I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. CULBERSON. The Senator from Massachusetts said the motion went over under the rule. It does not go over unless it is objected to. Who objects?

Mr. LODGE. I asked that it go over, in the absence of the chairman of the subcommittee.

Mr. CULBERSON. Very well.

The PRESIDENT pro tempore. The Chair is informed that there is now a motion pending to that effect.

Mr. LODGE. When I said it went over under the rule, I meant it to go over under the rule, of course.

Mr. CULBERSON. I did not understand the Senator, and I wanted to know who objected.

Mr. LODGE. I objected to its being considered to-day, in the absence of the chairman of the subcommittee.

Mr. CULBERSON. Very well; that is satisfactory.

Mr. MARTIN of Virginia. I ask that my motion may be entered and lie on the table.

The PRESIDENT pro tempore. It will be so ordered.

DEPARTMENT OF LABOR.

Mr. BORAH. I gave notice yesterday that I would ask the Senate to-day to consider the bill (H. R. 22913) to create a department of labor, but in view of the fact that the Senator from Kentucky [Mr. PAYNTER] desires to address the Senate,

and also the Senator from Ohio [Mr. BURTON], I will say that I will attempt to have this bill considered as soon as those Senators shall have concluded their remarks.

SUSPENSION OF STATE STATUTES BY INJUNCTION.

Mr. CRAWFORD. Mr. President, because it is apropos to the discussion which has just occurred, but not with any desire whatever to create any impression that the Committee on the Judiciary has not been doing its full duty in the matter, I desire to call attention to the situation with reference to another pending bill, not so sweeping in its character but nevertheless a bill of very great importance, relating to temporary injunctions issued by Federal courts against the enforcement of statutes enacted by a State, and against the enforcement of orders promulgated by administrative boards of a State.

Last summer, when the bill was pending which made the annual appropriations for legislative, executive, and judicial expenses of the Government, an amendment was offered to that bill by the Senator from Iowa [Mr. CUMMINS] relating to injunctions issued against the Interstate Commerce Commission, and an amendment was offered by me relating to these injunctions against State administrative boards. There was some discussion here, and the amendments were incorporated into that bill and it passed the Senate.

The bill, it will be remembered, was vetoed because of the proposal to repeal the provision for the Court of Commerce. It came back into Congress as a new bill, containing exactly the same amendments, and a second time the bill was passed by both branches of Congress and met with the veto of the President. In the closing days of the session the necessity for passing a supply bill and keeping it strictly within the limits of that purpose made it necessary to drop the suggested amendments.

I introduced a bill some time ago in the present session providing for the same purpose, and I hope that the Senate Committee on the Judiciary will give it early consideration.

I wish to say in this connection, Mr. President, that in my State the use of the power of issuing preliminary injunctions without notice has been scandalously abused by the Federal court. It was one of the subjects dealt with in the annual message of our governor this year and covered several pages. Laws passed the legislature giving the commission the power to fix maximum rates on intrastate business, and they promulgated orders under it, and before papers could be presented to the State courts in the matter, within 15 minutes after the act passed the legislature and met the approval of the governor, by wire a temporary restraining order was made on certain officers of the State to prevent their entering into the execution of these solemn statutes of the State.

I say to Senators, if the present Congress refuses to consider a situation of that kind, you will simply leave it to the Congress that follows to consider it, because whether it is a political question or not I do not believe an American Congress is going to permit a situation of that kind to exist very long, where these inferior Federal courts by telegraph, within 15 minutes after a solemn State statute is enacted, tie up the officers of a State. That was done over two years ago with reference to passenger rates in my State. That proceeding is dragging its slow length along before a referee, and it will be years before the people of the State can have a final judgment on it.

The proceeding has been one of abuse, and you are surprised at this irritation which exists in these States. We have some timber in the Black Hills in the western part of my State. If we had a freight rate that was within the limits of reason the people out on those prairies could get lumber, produced within the limits of our own State, but from the Black Hills to the Missouri River the freight rate on lumber is almost as high as is the rate from the State of Washington to South Dakota, or from Georgia to South Dakota, and it is made practically prohibitory to the people on the prairies east of the Missouri River to use lumber that grows in the western borders of our State because of the extortion of the railways in that State, and because when the legislature has provided relief for the people there, a temporary injunction comes from an inferior Federal court, by telegraph, without any notice to the people of our State.

Now, we can delay and put these matters off and allow the irritation to grow, as it will grow, but I insist that this bill should receive serious consideration and it should not be the victim of undue delay.

INTERSTATE SHIPMENT OF LIQUORS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases.

Mr. PAYNTER. Mr. President, I am not unmindful of the fact, if I desired to act in a manner that would invite and receive popular approval, that I should pursue exactly the opposite course from that which I have marked out for myself with reference to the proposed legislation.

Thousands of good people, God-fearing men and women in Kentucky, are pleading for the enactment of this bill into law; they seek the legislation solely for what they conceive to be for their country's good. No ulterior or selfish motive influences their action. Every right-thinking man would like to have their respect and approval of his official acts. But if one must violate the Constitution which he has sworn to support and maintain, and thus suffer the prostitution and self-abasement consequent upon a violation of that oath, the price which he pays to obtain their approval is too great. When a Member of this body is charged with the duty of construing the Constitution, the question as to the effect his decision may have on his personal fortunes should not for one moment be considered. When such a thought enters his mind he should, with due haste, exclaim, "Get thee behind me, Satan!"

Occasionally I receive a letter from one who knows that I am a strict constructionist, believing that all rights not granted to the Federal Government were reserved by the States and to the people, in which he says that the proposed legislation is good State rights doctrine. What I have always supposed was meant by State rights were such rights as were not granted to the Federal Government. I have never supposed these words meant the usurpation of any of the rights granted to the Federal Government or the right to have redelegated to the States the rights which had been granted to the Federal Government. From another person I received a letter in which the writer says the bill is constitutional because it is right. I received another letter from a gentleman who seems to be one of intelligence, and among other things he said:

> It is probably your opinion that it is unconstitutional, and probably, too, it may be so declared.

Notwithstanding this, he insisted that I should vote for the bill. Of course I could not hope to make an argument against the bill which would in the slightest degree affect the opinions of those who thus reason.

If our dual system of government is to be perpetuated, we must preserve the constitutional authority of the Federal as well as that of the State governments. The Members of both branches of the Congress promise to support the Constitution; they are certainly not supporting that instrument when they attempt to surrender to the States the authority to regulate interstate commerce, when the States without qualification or reservation expressly granted that authority to the Federal Government.

The bill as reported from the committee reads as follows:

> SECTION 1. That the shipment or transportation in any manner or by any means whatsoever of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, including beer, ale or wine, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, enacted in the exercise of the police powers of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.
>
> SEC. 2. That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival within the boundaries of such State or Territory and before delivery to the consignee, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its reserved police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

Section 1 is immature, impracticable, and, if permissible, I would say impossible. The bill is an incoherent and inconsistent piece of patchwork. The prohibition is made to depend upon the intent of some one with an undefined interest in the intoxicating liquor, whether it be a property interest or a lively interest arising from a desire to consume some of it is not stated, and the further fact that the liquor is received or held for sale in dry territory.

The section is not a prohibition against shipping intoxicating liquors. No penalty is prescribed for its violation, and perhaps the reason for this failure is because of what has been reported to have been said by Chief Justice Brian:

> It is trite law that the thought of man is not triable, for even the devil does not know what the thought of man is.

I have not tried to verify the quotation. Whether the Chief Justice made the statement or not, the rule as stated is correct.

Section 2 is inconsistent with section 1, as this section allows intoxicating liquor to be seized upon arrival in a State, regard-

less of the question of intent of those who had a direct or indirect interest in it.

A question which I will simply state, not discuss, might arise in Kentucky growing out of a situation there. Local option, not prohibition, is provided for in the constitution of the State. As a result of a vote in most of the counties local option is in force, and it is unlawful to sell liquor as a beverage. There is a statute in Kentucky by the terms of which it is made unlawful to ship intoxicating liquors, either from within or without the State, into dry territory, although the State and Federal courts have since held the act invalid so far as it was intended to affect an interstate shipment. It is lawful to sell intoxicating liquors in Lexington, Frankfort, Newport, Covington, Louisville, Owensboro, Paducah, and other places. So Kentucky, under her code of laws, makes it lawful to manufacture intoxicating liquors and leave the sale of it optional with certain political subdivisions. Suppose a shipment of intoxicating liquors was made in Pennsylvania to Lexington, Ky., it would have to pass through Kentucky over some routes more than 100 miles, and over the shortest route nearly 100 miles. Under the terms of the bill the liquor could be seized on its arrival in the State and before a delivery to the consignee. I will not stop to speculate as to the question which this statement of facts presents.

In the commercial world and by the Congress intoxicating liquors have been recognized as legitimate articles of commerce; if anything can be clearly determined by adjudication, it is that such liquors are a legitimate subject of commerce. In support of that I cited the case of Leisy v. Hardin (135 U. S., 100) and the case of the Louisville & Nashville Railroad Co. v. Cook Brewing Co. (223 U. S., 90).

In Leisy against Hardin it was said:

> Ardent spirits, distilled liquors, ale, and beer are subjects of exchange, barter, and traffic, like any other commodity in which a right of traffic exists, and are so recognized by the usages of the commercial world, the laws of Congress, and the decisions of courts.

This question is so well settled I deem it unnecessary to further discuss it.

At this point it may be stated that by section 8, Article I, Constitution of the United States, the power "to regulate commerce with foreign nations and among the several States and with the Indian tribes" is given to Congress.

The purpose of the proposed legislation is to invest the States with authority to prevent the shipment of intoxicating liquors from one State into another by seizing them, by virtue of existing laws or such as may hereafter be enacted, before they reach the consignee, whether such liquors are imported for sale in violation of State laws or for the personal use of the consignee.

If this bill should become a law and is held valid, then no person could have shipped into a dry State or a dry territory in a State liquor for his personal use. Yet no State, so far as I am aware, has declared the use of intoxicating liquors unlawful. In this connection it may be stated that the proposed legislation does not attempt to regulate commerce. On the contrary, it proposes to give to every State the right to prevent an interstate shipment of liquor by giving it the right, under whatever conditions it sees proper to impose, to seize it before delivery, thus giving each State the right to regulate interstate shipments of liquor in whatever way it may choose.

Mr. KENYON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kentucky yield to the Senator from Iowa?

Mr. PAYNTER. I do.

Mr. KENYON. I do not want to interfere with the orderly course of the Senator's argument, but the statement which the Senator makes that this bill will stop the purchase for personal use of liquor is one that has been made a great deal, and is one that I absolutely deny. I wish the Senator would point out anything in the bill which warrants that assertion. I am willing to be convinced.

Mr. PAYNTER. If the Senator will bear with me in patience, I think I will show that the language of the bill does warrant the statement I have made.

Mr. KENYON. Does the Senator intend to discuss that question?

Mr. PAYNTER. I should like to say in that connection that if the Senator will simply read section 2 of the bill he will find that in express terms it does attempt to authorize a State to interrupt an interstate shipment of liquor when it arrives within its borders for use, consumption, sale, or storage.

Mr. KENYON. I have read section 2 a good many times, and, in my judgment, it does not.

Mr. PAYNTER. If that is true, and the Senator still entertains the opinion he has just stated, it is useless for the Senator and myself to discuss the question. So I would very much prefer, Mr. President, to go along in an orderly way and discuss the subject without going off on some question that I have considered perhaps in some other part of my speech.

Some general propositions may be stated which seem to me do not need the citation of authorities to support them. Some facts may be stated about which there is no controversy. I shall state some of them.

The police power exists in the States as it existed at the time the National Government was created, and it still remains in the States. The National Government can not add to or diminish the police power of the States. There is a limitation between the sovereign power of a State and the Federal power, and it may be stated as follows:

That which does not belong to commerce is within the jurisdiction of the police power of the State, and that which belongs to commerce is within the jurisdiction of the Federal Government.

Liquor can not be manufactured, sold, or used under the protection of the Federal Government in any State that has prohibited it. When the State authorizes the manufacture, sale, or use of liquors, the Congress is without power to destroy such authority.

If the State can determine the subjects which shall be regulated, then its power is greater than that of the Federal Government in the matter of the regulation of commerce between the States.

If such power is conceded to exist in the States, then they must triumph over the Federal Government in the struggle for supremacy.

If the Congress can surrender to the States a power which the Constitution provides it alone shall exercise, then it is competent for the Congress to utterly overthrow the Constitution and subvert all the rights which the framers of it sought to preserve by it.

If a State can enact a law which will enable it to intercept an interstate shipment of goods as it arrives within its borders, then the State, and not the Congress, can regulate interstate commerce.

If a State can intercept and prevent the consignee from receiving goods, then it can regulate interstate commerce and control the commerce which arises in another State, and thus nullify the clause of the Constitution providing that the Congress should regulate interstate commerce, thus destroying that clause of the Constitution which was regarded by those who framed it as essential to the proper conduct of the business of the country—in fact, this was the clause upon which the entire fabric was constructed. This is true because it was well known by those who brought into existence the Constitution that interstate commerce could only be regulated by the Congress, and that chaos would reign in business without it. Without that clause of the Constitution the growth and development of the country would be paralyzed, stagnation would exist, and the energies of the people be destroyed.

One of the great questions that brought the States together for the purpose of making a "more perfect Union" was to free commerce from State discrimination, not to transfer the power of restriction. As the States recognized that such regulation could only be had by national authority, they unreservedly surrendered that question to national sovereignty.

Notwithstanding that sovereignty should alone be exercised in the regulation of commerce, still it is proposed that the Congress shall redelegate such authority to the States. The essence of the proposition is to allow the States to do that which is at least doubtful that the Congress can do, to wit, prohibit the interstate shipment of a legitimate article of commerce.

When the Congress undertakes to authorize a State to seize a legitimate article of commerce before it reaches the consignee the Congress is attempting to redelegate to the State its power to regulate interstate commerce, and to allow the State, in effect, to prohibit the interstate shipment of a legitimate article of commerce. To restate the proposition, the Congress of the United States is in substance attempting to confer an authority upon the States which is not constitutionally vested in itself.

If a carrier can not deliver to a consignee goods which are the subject of an interstate shipment, then we have the equivalent of a denial to one desiring to ship goods of the right to deliver to the carrier goods for shipment.

If the Congress can authorize or permit a State to prevent the delivery of goods to the consignee, then the same right exists in the Congress to authorize or permit a State to prohibit the shipment of goods, although such goods are regarded by the State where situated, by the commercial world, by the Congress, and by the decisions of the courts as legitimate articles of commerce. As already stated, the denial of the right to deliver goods is the exact equivalent to denying the right of shipment, for if the article of commerce can not be delivered to the consignee, then interstate commerce to that extent is destroyed.

The proposed legislation would have the effect of giving to the laws of the several States extraterritorial operation. That is the necessary consequence of allowing a State law to prohibit interstate shipment of merchandise and would destroy the right to contract beyond the limits of the State for shipment.

The effect of the proposed legislation would be to allow every State to stop every train crossing its borders and discharge its freight, lest it carry within the State prohibited merchandise.

In Rhodes v. Iowa (170 U. S., 422) the court said:

> Undoubtedly the purpose of the act was to enable the laws of the several States to control the character of merchandise therein enumerated at an earlier date than would have been otherwise the case, but it is equally unquestionable that the act of Congress manifests no purpose to confer upon the States the power to give their statutes an extraterritorial operation, so as to subject persons and property beyond their borders to the restraints of their laws. If the act of Congress be construed as reaching the contract for interstate shipment made in another State, the necessary effect must be to give to the laws of the several States extraterritorial operation; for, as held in the Bowman case, the inevitable consequence of allowing a State law to forbid interstate shipments of merchandise would be to destroy the right to contract beyond the limits of the State for such shipments. If the construction claimed be upheld, it would be in the power of each State to compel every interstate-commerce train to stop before crossing its borders and discharge its freight, lest by cressing the line it might carry within the State merchandise of the character named, covered by the inhibitions of a State statute.

In Rhodes against Iowa, supra, at page 415, the court, in discussing the Bowman case, said:

> After great consideration it was held that the law of the State of Iowa, in so far as it affected interstate commerce, was repugnant to the interstate-commerce clause of the Constitution and was void. It was decided that the transportation of merchandise from one State into and across another was interstate commerce, and was protected from the operation of State laws from the moment of shipment whilst in transit and up to the ending of the journey by the delivery of the goods to the consignee at the place to which they were consigned.

In Bowman v. Railway Co. (125 U. S., 498, 490), the court said:

> It may be said, however, that the right of the State to restrict or prohibit sales of intoxicating liquor within its limits, conceded to exist as a part of its police power, implies the right to prohibit its importation, because the latter is necessary to the effectual exercise of the former. The argument is that a prohibition of the sale can not be made effective, except by preventing the introduction of the subject of the sale; that if its entrance into the State is permitted, the traffic in it can not be suppressed. But the right to prohibit sales, so far as conceded to the States, arises only after the act of transportation has terminated, because the sales which the State may forbid are of things within its jurisdiction. Its power over them does not begin to operate until they are brought within the territorial limits which circumscribe it. It might be very convenient and useful in the execution of the policy of prohibition within the State to extend the powers of the State beyond its territorial limits, but such extraterritorial powers can not be assumed upon such an implication. On the contrary the nature of the case contradicts their existence, for if they belong to one State they belong to all and can not be exercised severally and independently. The attempt would necessarily produce that conflict and confusion which it was the very purpose of the Constitution by its delegations of national power to prevent.

The Supreme Court also said, in Rhodes v. Iowa (170 U. S., 424):

> Whilst it is true that the right to sell free from State interference interstate-commerce merchandise was held in Leisy v. Hardin to be an essential incident to interstate commerce, it was yet but an incident, as the contract of sale within a State is, its nature was usually subject to the control of the legislative authority of the State.
>
> On the other hand, the right to contract for the transportation of merchandise from one State into or across another involved interstate commerce in its fundamental aspect and imported in its very essence a relation which necessarily must be governed by laws apart from the laws of the several States, since it embraced a contract which must come under the laws of more than one State.

The question involved here was ably discussed by Mr. Justice Catron in the License cases (5 How., 559-561), in which it is said:

> The law and the decision apply equally to foreign and to domestic spirits, as they must do on the principles assumed in support of the law. The assumption is that the police power was not touched by the Constitution, but left to the States as the Constitution found it. This is admitted; and wherever a thing from character or condition is of a description to be regulated by that power in the State then the regulation may be made by the State, and Congress can not interfere. But this must always depend on facts, subject to legal ascertainment, so that the injured may have redress. And the fact must find its support in this, whether the prohibited article belongs to and is subject to be regulated as part of foreign commerce or of commerce among the States. If from its nature it does not belong to commerce, or if its condition, from putrescence or other cause, is such when it is about to enter the State that it no longer belongs to commerce, or, in other words, is not a commercial article, then the State power may exclude its introduction. And as an incident to this power a State may use means to ascertain the fact. And here is the limit between the sovereign power of the State and the Federal power; that is to say, that which does not belong to commerce is within the jurisdiction of the police power of the State and that which does belong to commerce is within the jurisdiction of the United States. And to this limit must all the general views come, as I suppose, that were suggested in the reasoning of this court in the cases of Gibbons v. Ogden, Brown v. The State of Maryland, and New York v. Miln.

What, then, is the assumption of the State court? Undoubtedly in effect that the State had the power to declare what should be an article of lawful commerce in the particular State; and having declared that ardent spirits and wines were deleterious to morals and health, they ceased to be commercial commodities there, and that then the police power attached, and consequently the powers of Congress could not interfere. The exclusive State power is made to rest not on the fact of the state or condition of the article, nor that it is property usually passing by sale from hand to hand, but on the declaration found in the State laws and asserted as the State policy that it shall be excluded from commerce. And by this means the sovereign jurisdiction in the State is attempted to be created in a case where it did not previously exist.

If this be the true construction of the constitutional provision, then the paramount power of Congress to regulate commerce is subject to a very material limitation, for it takes from Congress and leaves with the States the power to determine the commodities or articles of property which are the subjects of lawful commerce. Commerce may regulate, but the States determine what shall or shall not be regulated.

Upon this theory the power to regulate commerce instead of being paramount over the subject would become subordinate to the State police power, for it is obvious that the power to determine the articles which may be the subjects of commerce, and thus to circumscribe its scope and operation, is in effect the controlling one. The police power would not only be a formidable rival but in a struggle must necessarily triumph over the commercial power, as the power to regulate is dependent upon the power to fix and determine upon the subjects to be regulated.

The same process of legislation and reasoning adopted by the State and its courts could bring within the police power any article of consumption that a State might wish to exclude, whether it belonged to that which was drank or to food and clothing, and the nearly equal claims to propriety, as malt liquors and the produce of fruits other than grapes stand on no higher grounds than the light wines of this and other countries excluded in effect by the law as it now stands. And it would be only another step to regulate real or supposed extravagance in food and clothing. And in this connection it may be proper to say that the three States whose laws are now before us had in view an entire prohibition from use of spirits and wines of every description, and that their main scope and object is to enforce exclusive temperance as a policy of State, under the belief that such a policy will best subserve the interests of society; and that to this end more than to any other has the sovereign power of these States been exerted, for it was admitted on the argument that no licenses are issued and that exclusion exists, so far as the laws can produce the result—at least in some of the States—and that this was the policy of the law. For these reasons, I think, the case can not depend on the reserved power in the State to regulate its own police.

In re Rahrer (140 U. S., 557) the Supreme Court spoke of the reasoning of Mr. Justice Catron as "sagacious observations," and quoted them with approval, and then said (p. 559):

> And the learned judge reached the conclusion that the law of New Hampshire, which particularly raised the question, might be sustained as a regulation of commerce, lawful because not repugnant to any actual exercise of the commercial power by Congress. In respect of this the opposite view has since prevailed, but the argument retains its force in its bearing upon the purview of the police power as not concurrent with and necessarily not superior to the commercial power.

The Committee on the Judiciary of the United States Senate, of which Hon. Philander C. Knox was a member, had under consideration bills somewhat like the one here presented for our consideration, and in discussing them the committee, through Mr. Knox, said:

> Those bills propose a plan to prevent the use of liquor through a regulation of interstate commerce by States that have no power over such commerce, permitted to do so by a Nation that has no jurisdiction over such use.
>
> The Nation is not asked to supplement any action of the States prohibiting the use of liquors, but to allow the States to prevent the use, not by legislating against it, but by seizing importations before they reach the consignee. A more complete perversion and reversing of national and State powers I can not imagine.

Mr. SUTHERLAND. Mr. President, I will remind the Senator from Kentucky that the bill which Senator Knox was discussing was almost identical with the second section of the bill now under consideration.

Mr. PAYNTER. I think perhaps there was more than one bill before the committee, but there was a bill which, I think, was substantially the same as section 2 of the bill under consideration.

I think that Mr. Knox's statement of the question is an admirable one. No better one can be made. It shows a keen comprehension of the respective powers of the Federal and State Governments and a great capacity for lucid and concise statement of constitutional principles.

As I have said, this bill does not purport to regulate commerce between the States. It might more properly be denominated a bill to aid the States in the enforcement of their police power, or, rather, extending the police power of the States. Thus it is an attempt to exercise a jurisdiction alone possessed by the States. In order to do this the Congress is asked to subvert the most valuable clause of the Federal Constitution.

The Supreme Court, in the case of In re Rahrer (140 U. S., 562), said:

> It does not admit of argument that Congress can neither delegate its own powers nor enlarge those of a State.

Therefore, Mr. President, when it is stated in the bill under consideration (or the Wilson bill) that an article at a certain time shall be subject to the police power of a State the Congress can not thereby add to the police power of the State.

Such a statement, if viewed from a Constitutional aspect, can not extend the police power of the State. It would be more accurate, I think, if Congress should say that the interstate shipment was terminated upon delivery of the article. Then there would be no reference made to the police power of the State and would not appear by words that Congress was endeavoring to add to the police power of the State. This would be better, as Congress can neither confer upon or diminish the police power of the State. In my opinion it is very inaccurate to make a declaration that at a certain period it shall be within the police power of the State, because when the shipment is terminated the police power of the State takes hold and control of the article that is shipped. So, as I say, it is very misleading to make a statement of that kind in the bill. It is not constitutionally accurate. It is not the province of Congress to define the police power of the States. It is the province of Congress to make uniform rules to regulate commerce; not, however, to confer such power upon the States.

Under the second section of the bill it is attempted to permit the State to seize liquors imported for personal use. Without discussing the question, I desire to quote from Vance v. Vandercook (170 U. S., 455), wherein the court said:

> The right of the citizen of another State to avail himself of interstate commerce can not be held to be subject to the issuing of a certificate by an officer of the State of South Carolina without admitting the power of that officer to control the exercise of the right. But the right arises from the Constitution of the United States; it exists wholly independent of the will of either the lawmaking or the executive power of the State; it takes its origin outside of the State of South Carolina, and finds its support in the Constitution of the United States. Whether or not it may be exercised depends solely upon the will of the person making the shipment, and can not be in advance controlled or limited by the action of the State in any department of its government.

It was said in Heyman v. Southern Railway (203 U. S., 274-275):

> The interstate-commerce clause of the Constitution guarantees the right to ship merchandise from one State into another, and protects it until the termination of the shipment by delivery at the place of consignment, and this right is wholly unaffected by the act of Congress, which allows State authority to attach to the original package before sale, but only after delivery. (Scott v. Donald and Rhodes v. The State of Iowa, supra.) It follows that under the Constitution of the United States every resident of South Carolina is free to receive for his own use liquor from other States, and that the inhibitions of a State statute do not operate to prevent liquors from other States from being shipped into such State on the order of a resident for his use.

In the case of Bowman v. Chicago & North Western Railway Co. (125 U. S., 493), discussing legislation similar to that which is here proposed, the court characterized the result that would flow therefrom as "commercial anarchy," and there said:

> Can it be supposed that by omitting any express declarations on the subject Congress has intended to submit to the several States the decision of the question in each locality of what shall and what shall not be articles of traffic in the interstate commerce of the country? If so, it has left to each State, according to its own caprice and arbitrary will, to discriminate for or against every article grown, produced, manufactured, or sold in any State and sought to be introduced as an article of commerce into any other. If the State of Iowa may prohibit the importation of intoxicating liquors from all other States, it may also include tobacco, or any other article, the use or abuse of which it may deem deleterious. It may not choose even to be governed by considerations growing out of the health, comfort, or peace of the community. Its policy may be directed to other ends. It may choose to establish a system directed to the promotion and benefit of its own agriculture, manufactures, or arts of any description, and prevent the introduction and sale within its limits of any or of all articles that it may select as coming into competition with those which it seeks to protect. The police power of the State would extend to such cases as well as to those in which it was sought to legislate in behalf of the health, peace, and morals of the people. In view of the commercial anarchy and confusion that would result from the diverse exertions of power by the several States of the Union, it can not be supposed that the Constitution or Congress have intended to limit the freedom of commercial intercourse among the people of the several States. "It can not be too strongly insisted upon," said this court in Wabash, etc., Railroad Co. v. Illinois (118 U. S., 557, 572), "that the right of continuous transportation from one end of the country to the other is essential in modern times to that freedom of commerce from the restraints which the States might choose to impose upon it, that the commerce clause was intended to secure. This clause giving to Congress the power to regulate commerce among the States and with foreign nations, as this court has said before, was among the most important of the subjects which prompted the formation of the Constitution." (Cook v. Pennsylvania, 97 U. S., 566, 574; Brown v. Maryland, 12 Wheat., 419, 446.) And it would be a very feeble and almost useless provision, but poorly adapted to secure the entire freedom of commerce among the States, which was deemed essential to a more perfect union by the framers of the Constitution, if at every stage of the transportation of goods and chattels through the country the State within whose limits a part of the transportation must be done could impose regulations concerning the price, compensation, or taxation, or any other restrictive regulation interfering with and seriously embarrassing this commerce.

UNIFORM SYSTEM.

To this point I have considered the effect of the commerce clause of the Constitution upon the proposed legislation. My opinion is, as appears from my discussion, that the proposed legislation is violative of that clause.

While it is not necessary for the purpose of my argument that I should do so, still it is my desire to call the attention of the Senate to another provision of the Constitution which I think has a bearing upon the question. However, I want it distinctly understood that I am of the opinion that it is not necessary for any Senator to agree with me in the suggestions I am about to make in order to reach the conclusion that he should vote against the bill. As the question under consideration is important, involving a constitutional question, I think it proper to make the suggestion which I purpose.

While the primary purpose of section 2, Article IV, was to be a restrictive power on the States, yet the language does not confine its restrictive effort to the States alone, for if there are no other provisions of the Constitution which would prevent Congress from doing the thing therein prohibited, that article would do so. It is a constitutional guaranty which the legislatures of States, Congress, and the courts should respect. If I am in error as to this, then most of the argument which I shall make with reference thereto is applicable to the question of the necessity for a uniform rule for the regulation of interstate commerce.

Federal laws affecting the citizens of the United States must be uniform in their application, for it is provided by section 2, Article IV, of the Constitution, that:

> The citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States.

This provision forbids Congress to enact a general law which gives citizens of one State privileges not given to those of another State. The Congress can not constitutionally impose restrictions upon the commerce of the citizens of one State that are not imposed on the citizens of another State.

If the Congress by legislation prevents citizens of one State from importing recognized articles of commerce, while by legislation such right is granted to the citizens of another State, the Constitution is violated. If the right to ship intoxicating liquors from Kentucky to Iowa is denied, then the right to ship the same kind of liquors from New York to Iowa must be denied. The Congress can not declare that intoxicating liquors are proper articles of commerce for the use of citizens of the United States residing in one State, and declare that the same kind of liquors are improper articles of commerce for the use of citizens of the United States residing in another State.

It is proposed by this bill, in effect, to do that very thing by attempting to give permission to some States to enact laws which recognize intoxicating liquors as proper articles of commerce for the consumption of their citizens, while other States may enact laws denying that intoxicating liquors are proper articles of commerce for the consumption of their citizens. This illustration shows that the Congress is asked to grant the States authority to enact laws which deny to the citizens of one State privileges which the laws of another State grant to citizens thereof. In other words, the Congress is asked to authorize the States to do that which is forbidden by the Constitution.

If it were conceded that the Congress has the power to prohibit the interstate shipment of liquors, I feel sure that no one would contend that an act would be valid which allowed Kentucky to ship liquors to the Eastern States while denying to the citizens of any other State the right to ship liquors to the Eastern or any other States of the Union.

To enact a law which allows a citizen and consignee in one State to receive an article of commerce by an interstate shipment and deny a citizen and consignee in another State the right to receive a like article of commerce is certainly a denial of privileges to the citizens of one State the privileges enjoyed by those of another State. This is entirely apart from the right of the State to legislate as to the disposition of the article after it has been delivered to the citizen and consignee.

If a rule or regulation of commerce can be said to be established by the bill, then it is only such as may be established by the States. If the States do not pass laws establishing a rule with relation to the interstate shipment of liquors, then no rule exists.

Therefore it is apparent that Congress has surrendered the power to make the rule to regulate commerce to the States. So it is reduced to this: No State legislation, no rule.

I am not unmindful of the fact that the Court in Bartemeyer v. Iowa (18 Wall., 136) has held that the right to sell a prohibited article can never be deemed one of the privileges and immunities of the citizen which are sought to be preserved by the fourteenth amendment.

That is certainly true, because the police power of the State is recognized under the Constitution, and it is not sought by the fourteenth amendment to diminish or affect the police power of the State; and, therefore, the State having the power to regulate or prohibit the sale of liquors, no one could successfully claim that the fourteenth amendment secures to him protection against the police power of the State.

An attempt is being made by the bill under consideration to surrender the power to regulate commerce, which is vested in the Congress. It is an attempt not only to surrender the power of Congress to regulate commerce but at the same time, by that act of Congress and an act of the legislature, to commit an additional violation on the Constitution by allowing some of the States to deprive the citizens of such States of the privileges which are enjoyed by the citizens of other States. It is an attempt to have both sovereignties combine to violate both provisions of the Constitution, to which I have called attention.

If a citizen of one State is deprived of the right as consignee to have delivered to him an interstate shipment of an article of commerce, and such right is recognized in a citizen of another State, certainly it is depriving the citizens of one State of a right that is enjoyed by the citizens of other States, and in doing this the commerce clause of the Constitution is disregarded as well as the provisions of section 2, Article IV.

So long as intoxicating liquors are legitimate articles of commerce their owners should enjoy the same right to have them transported as the owners of other articles of commerce, and therefore Congress must furnish the same protection to them until they reach the consignee as to other articles of commerce, and certainly they are entitled to the same protection under the Constitution as other articles of commerce.

I do not now recall any case in the Supreme Court involving the effect of legislation somewhat similar to that here proposed where the court expressly decided what relation section 2, Article IV, of the Constitution had to such question. In the dissenting opinion in the Lottery case delivered by Chief Justice Fuller, in which Justices Brewer, Shiras, and Peckham agreed, there is a general discussion of this clause of the Constitution. It is there said:

> Congress is forbidden to lay any tax or duty on articles exported from any State, and while that has been applied to exports to a foreign country, it seems to me that it was plainly intended to apply to interstate exportation as well. Congress is forbidden to give preference by any regulation of commerce or revenue to the ports of one State over those of another; and duties, imposts, and excises must be uniform throughout the United States.
>
> "The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." This clause of the second section of Article IV was taken from the fourth article of confederation, which provided that "the free inhabitants of each of these States * * * shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and egress to and from any other State and shall enjoy therein all the privileges of trade and commerce"; while other parts of the same article were also brought forward in Article IV of the Constitution.
>
> Mr. Justice Miller, in the Slaughterhouse cases (16 Wall., 36, 75), says that there can be but little question that the purpose of the fourth article of the Confederation and of this particular clause of the Constitution "is the same and that the privileges and immunities intended are the same in each."
>
> Thus it is seen that the right of passage of persons and property from one State to another can not be prohibited by Congress. But that does not challenge the legislative power of a sovereign nation to exclude foreign persons or commodities or place an embargo, perhaps not permanent, upon foreign ships or manufactures.

I have not discussed the question as to the power of Congress to prohibit the interstate shipment of liquors, because the proposed legislation does not go to that extent. If the power exists, the time for its exercise has not arrived, for it is said by the Supreme Court in Scott v. McDowell (165 U. S., 91) that—

> So long as the State legislation continues to recognize wines, beer, and spirituous liquors as articles of lawful consumption and commerce so long must continue the duty of the Federal courts to afford such use and commerce the same measure of protection under the Constitution and laws of the United States as is given to other articles.

I have not discussed the Lottery case, because the proposed legislation is entirely different from statute there under consideration.

To relieve ourselves of responsibility and criticism we should not improperly dump constitutional questions upon our Supreme Court, to have it assume unnecessary responsibility and receive, perchance, criticism. To do this is not fair or honorable and can not be justified, although the members of that court are not elected biennially or sexennially.

If we should have a doubt as to the constitutionality of a bill, whether such doubt arises from a careful study of the question or whether it be superinduced by a consideration of the consequences to us for our act, it is our duty to vote against the bill. The rule of action for government of the Congress is unlike the rule observed by the courts in determining the constitutionality of an act, for the court resolves all doubts in favor of its validity, while the lawmaking body must resolve all doubts as to its constitutionality against the passage of the bill. This doctrine is well stated by Mr. Cooley in his work on Constitutional Law, second edition, page 160, as follows:

> This course is the opposite to that which is required of the legislature in considering the question of passing a proposed law. Legislators have their authority measured by the Constitution; they are chosen to do what it permits and nothing more, and they take solemn oath to obey and support it. When they disregard its provisions, they usurp authority, abuse their trust, and violate the promise they have confirmed by an oath. To pass an act when they are in doubt whether it does not violate the Constitution is to treat as of no force the most imperative obligations any person can assume. A business agent who would deal in that manner with his principal's business would be treated as untrustworthy; a witness in court who would treat his oath thus lightly and affirm things concerning which he was in doubt would be held a criminal. Indeed, it is because the legislature has applied the judgment of its members to the question of its authority to pass the proposed law, and has only passed it after being satisfied of the authority, that the judiciary waive their own doubts and give it their support.

The Congress should be governed by this rule. If we are not, then we disregard a sane and safe rule. Courts resolve the doubts in favor of the validity of an act, because they credit members of the lawmaking branch of the Government with having passed the act believing it to be valid. When the Congress has solemnly proclaimed its belief in the validity of an act the courts when in doubt will not allow their doubts to cause them to adjudge invalid an act when the Congress has declared it a valid act.

If it becomes the rule of the Congress to resolve doubts in favor of the constitutionality of an act and the courts resolve all doubts in favor of its validity, then we have the spectacle of an act being adjudged valid when both the Congress and the courts doubt its validity. If such a rule is to prevail, what a humiliating and lamentable spectacle would be presented to the country and the world.

If the Congress should pass an act and add to it a clause expressing a doubt as to its constitutionality, would the courts in passing upon the question of its constitutionality resolve doubts in favor of the validity of the act? Certainly they would not do so, but on the contrary would announce the rule that all doubts under the circumstances of the case should be resolved against the validity of the act. If they did not do that we would have an enforceable act when both the Congress and the courts doubt its validity.

It is important that we should preserve the fundamental law of the land. It was made to secure our lives, liberty, and property, and as a guaranty of the same rights to those who are to follow us. We should preserve it, not violate it, because perchance in some particular case we would have it otherwise than it is. If those who have been honored with high public position, because of their supposed knowledge, patriotism, and integrity disregard the Constitution, then how can those who have trusted and honored them be expected to maintain their confidence in their public servants or reverence for our institutions? Why not preserve and uphold our Constitution, which was said by an illustrious man to be the greatest instrument ever stricken at one time from the brain of man? If it should be changed, let it be done in the manner prescribed by its terms; it is corrupt and hazardous to do it otherwise. In the farewell address, publicly read once each year in this Chamber, of him who was "First in war, first in peace, and first in the hearts of his countrymen," it is said:

> If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in a way which the Constitution designates. But let there be no change by usurpation; for, though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

If there are those here who believe that this bill is unconstitutional or who doubt its constitutionality, let them by their votes say they are willing to maintain the obligation which they took upon assuming official position. Let them present to the present and future generations a shining example of courage and devotion to duty. What greater achievement could a public servant desire than to merit and have placed upon the tablet erected to his memory these words:

> He discharged every public duty conscientiously and fearlessly, and in so doing enjoyed his own self-respect and merited that of his countrymen.

Did I take a selfish view of this matter, I would want to see this bill pass, for an early vindication of my position would surely come in the form of the judgment of the Supreme Court of the United States. If the bill fails to pass, my vindication will be postponed until a subsequent Congress passes a bill similar to the one under consideration.

Mr. POMERENE. I desire to give notice that at the close of the morning business on Monday I will, with the permission of the Senate, discuss briefly Senate bill 4043.

Mr. SUTHERLAND. I wish to give notice that at the conclusion of the remarks of the Senator from Ohio, of which he has just given notice, I shall desire to address the Senate upon the same measure.

Mr. KENYON. I call the attention of the Senator from Utah to the fact that there are a number of Senators, I think, who desire to speak on this bill, and as the vote is to be taken between 3 and 6 o'clock, it might be advisable if we could take up the bill at the close of the morning business on Monday.

Mr. SUTHERLAND. I understand that that is the effect of the notice given by the Senator from Ohio and by myself.

Mr. KENYON. The Senator from Ohio gave notice that he would speak at the close of the routine morning business?

Mr. POMERENE. I have just given that notice.

CONNECTICUT RIVER DAM.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River, above the village of Windsor Locks, in the State of Connecticut.

Mr. BURTON. Mr. President——

Mr. KENYON. I know there are a number of Senators who are desirous of being here when the Senator from Ohio speaks. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DILLINGHAM in the chair). The Senator from Iowa suggests the lack of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Clarke, Ark.	Kenyon	Sheppard
Bacon	Curtis	La Follette	Simmons
Bankhead	Dillingham	Lea	Smith, Ariz.
Bourne	Dixon	Lippitt	Smith, Ga.
Bradley	Fletcher	Lodge	Smith, Mich.
Brady	Gallinger	McCumber	Smith, S. C.
Brandegee	Gardner	McLean	Smoot
Briggs	Gore	Martine, N. J.	Stephenson
Brown	Gronna	Myers	Sutherland
Bryan	Hitchcock	Nelson	Swanson
Burnham	Jackson	O'Gorman	Thomas
Burton	Johnson, Me.	Page	Thornton
Catron	Johnston, Ala.	Percy	Tillman
Clapp	Jones	Perkins	Townsend
Clark, Wyo.	Kavanaugh	Pomerene	Webb

Mr. THORNTON. I should like to announce the necessary absence of my colleague [Mr. FOSTER] from the Chamber on account of illness in his family and that he is paired with the junior Senator from Wyoming [Mr. WARREN]. I ask that this announcement may stand for the day.

Mr. SMOOT. I wish to announce the unavoidable absence of the Senator from New York [Mr. ROOT]. He has a general pair with the Senator from Indiana [Mr. SHIVELY].

I was also requested to announce the necessary absence of the Senator from Wyoming [Mr. WARREN] and the Senator from Rhode Island [Mr. WETMORE], as they are on Appropriations Committee work.

Mr. HITCHCOCK. I desire to announce the absence on public business of the junior Senator from Indiana [Mr. KERN].

The PRESIDING OFFICER. On the call of the roll 60 Senators have answered to their names and a quorum is present. The Senator from Ohio will proceed.

Mr. BURTON. Mr. President, at the close of my remarks on Wednesday I was about to quote from two decisions of the United States Supreme Court relating to the use of surplus water. Those decisions sustain the contention that the right exists to appropriate and dispose of surplus water power in case an improvement has been made for the promotion of navigation. These two leading cases arose from circumstances relating to an improvement in the Fox River in the State of Wisconsin. The first is reported in One hundred and forty-second United States, page 254. The other, arising under somewhat different circumstances but relating to the same improvement, is reported in One hundred and seventy-second United States, page 68.

I especially desire while reading from these cases that there may be no interruption. The cases speak for themselves, and the material included in them covers almost every phase of this subject, and will make it, I think, much clearer to the Senate than could be derived from any interlocutory discussion.

In the year 1846, in which the State of Wisconsin was admitted to the Union, Congress granted certain lands to the State for the purpose of improving the navigation of the Fox and Wisconsin Rivers. The legislature, by an act approved in 1848, accepted the grant, and by a subsequent act (p. 256), entitled "An act to provide for the improvement of the Fox and Wisconsin Rivers, and connect the same by a canal," created a board of public works to superintend the construction of the improvement. It was provided by this act that the water power created by the erection of a dam should belong to the State, subject to the future action of the legislature. The board was limited in their expenditures to the proceeds of the sale of the land granted by Congress. A contract was made soon after with private parties for the improvement.

In the year 1853 the State, finding it embarrassing to proceed with the improvement, created a corporation, known as the Fox & Wisconsin Improvement Co., the object of which was to relieve the State from indebtedness and at the same time to secure the prosecution of the work. A contract was made with this company, under which all the dams, locks, water power, and so forth, were vested in it.

The company built a dam and provided for the utilization of the water power, and, in the belief that it owned the hydraulic power, bought lands adjacent to the canal for the purpose of rendering the power available. This company met with embarrassment, and under the foreclosure of a mortgage its property was sold. In the meantime, the Federal Government was requested to take over the improvement. Action was taken looking to that end about the year 1870. A few years later the Federal Government again assumed control and built another dam distinct from the first, which was completed in the year 1876. In the meantime the Green Bay & Mississippi Canal Co. had been incorporated and became vested under the foreclosure with all rights in the water power. A conveyance was made by this company to the Government of the United States in which it reserved the water power.

I am thoroughly aware, Mr. President, that the argument will be made that this creates an exceptional situation; that the State could grant rights to this Green Bay & Mississippi Canal Co. under which it could utilize water power; and that those rights are the basis of its contention in the litigation which occurred. A careful examination of the decision utterly disproves that contention, however. In the first instance, it was conceded in the argument of counsel, who denied the right to use this surplus power, that the State could not make expenditures or appropriations for the development of water power.

Throughout the whole opinion the reasoning of the court is based upon general principles relating to the right of the agency or State which controls the navigation to utilize the surplus water power. Again, the decision in One hundred and seventy-second United States is based upon circumstances under which the Government had taken control of the improvement, had changed the locality of the dam, and was prosecuting the work itself.

In the meantime a rival company, known as the Kaukauna Power Co., gained possession of the three lots abutting upon this improvement alongside the pond which had been created by the dam and extending below the dam. It sought to construct a diversion canal through its lands. The Green Bay Co. applied to the court in Wisconsin for an injunction preventing the power company from interfering with its right to enjoy the surplus water.

The circuit court, the lower court in the State of Wisconsin, dismissed the petition, but the plaintiffs appealed to the Supreme Court of Wisconsin, in which forum the judgment below was reversed. An injunction was granted against the Kaukauna Co., the one owning the abutting lots, and it was held that the right to utilize the power belonged to the Green Bay Co. From that decision an appeal was taken to the Supreme Court of the United States.

I wish to read, Mr. President, briefly from the argument of the counsel for the plaintiffs in error, those who opposed the claim that the surplus power belonged to the one who had the navigation. Their contention was overruled by the Supreme Court of the United States.

> The plaintiffs in error admit that it was of vital interest to the State and to those intrusted with the preservation and maintenance of the improvement that they should have the entire control of the dam, embankments, canals, and all appliances necessary for the purposes of navigation, as well as of the waters necessary for navigation in the pond created by the dam. But they deny that the absolute control of such water involves the ownership or the right to the use of the surplus over and above what is necessary for the purposes of navigation. They deny that the surplus water power is either necessary or convenient for the purposes of navigation.

I am quoting from page 265, and I quote from this to show what the contention was which was overruled. The Supreme Court by Mr. Justice Brown says on page 271—I read this to give the facts relied upon:

> After the building of said new dam by the United States, as aforesaid, it, the said United States, constructed and extended the said embankment along the southerly shore of said Fox River, on said lot 5, from the said old dam downstream to, and joined and terminated the same upon, its said new dam, as the same is now in use; and these defendants state, upon information and belief, that neither the United States or any other party ever by purchase, condemnation, dedication, or in any other way acquired of or from the owner of said lot 5 the right to so construct or abut said new dam upon said lot 5, or to so lengthen or construct said new part of said embankment thereupon, etc.

I read, however, especially from pages 272 and 274. This goes into the subject so thoroughly that I will read these pages at length:

> The case of the plaintiff canal company depends primarily, as stated above, upon the legality of the legislative act of 1848, whereby the State assumed to reserve to itself any water power which should be created by the erection of the dam across the river at this point. No question is made of the power of the State to construct or authorize the construction of this improvement and to devote to it the proceeds of the land grant of the United States. The improvement of the navigation of a river is a public purpose, and the sequestration or appropriation of land or other property, therefore, for such purpose is doubtless a proper exercise of the authority of the State under its power of eminent domain. Upon the other hand, it is probably true that it is beyond the competency of the State to appropriate to itself the property of individuals for the sole purpose of creating a water power to be leased for manufacturing purposes. This would be a case of taking the property of one man for the benefit of another, which is not a constitutional exercise of the right of eminent domain. But if, in the erection of a public dam for a recognized public purpose, there is necessarily produced a surplus of water which may properly be used for manufacturing purposes there is no sound reason why the State may not retain to itself the power of controlling or disposing of such water as an incident of its right to make such improvement. Indeed, it might become very necessary to retain the disposition of it in its own hands in order to preserve at all times a sufficient supply for the purposes of navigation. If the riparian owners were allowed to tap the pond at different places and draw off the water for their own use, serious consequences might arise not only in connection with the public demand for the purposes of navigation, but between the riparian owners themselves as to the proper proportion each was entitled to draw—controversies which could only be avoided by the State reserving to itself the immediate supervision of the entire supply. As there is no need of the surplus running to waste, there was nothing objectionable in permitting the State to let out the use of it to private parties and thus reimburse itself for the expenses of the improvement.
>
> The value of this water power created by the dam was much greater than that of the river in its unimproved state, in the hands of the riparian proprietors who had not the means to make it available. These proprietors lost nothing that was useful to them, except the technical right to have the water flow as it had been accustomed and the possibility of their being able sometime to improve it. If the State could condemn this use of the water with the other property of the riparian owner it might raise a revenue from it sufficient to complete the work which might otherwise fail. There was every reason why a water power thus created should belong to the public rather than to the riparian owners. Indeed, it seems to have been the practice, not only in New York, but in Ohio, in Wisconsin, and perhaps in other States in authorizing the erection of dams for the purpose of navigation or other public improvement, to reserve the surplus of water thereby created to be leased to private parties under the authority of the State; and where the surplus thus created was a mere incident to securing an adequate amount of water for the public improvement, such legislation, it is believed, has been uniformly sustained. Thus, in Cooper v. Williams (4 Ohio, 253), the law authorizing the construction of the Miami Canal, from Dayton to Cincinnati, empowered the canal commissioners to dispose of the surplus water power of the feeder for the benefit of the State, and their action in so disposing of the water was justified. The ruling was repeated in the same case, Fifth Ohio, 391.

I think it is unnecessary for me to read these other cases, but I may remark incidentally that this is similar to a power that is exercised by numerous counties in the various States. They build courthouses. In their construction there is an amount of extra space. That extra space is leased to lawyers for a compensation, just as a private owner would lease his property. It has been held by the courts, and very properly no doubt, that when the general public use fails, the incidental use fails with it. For instance, in the State of Massachusetts there is a decision by Chief Justice Shaw to the effect that, although in the building of a market house it is perfectly proper to construct an auditorium in the upper portion, which may be leased and a revenue derived from it, yet if the use for a market house fails or is abandoned the right to lease the incidental portion also fails with it.

Again, on page 275, the court says:

> The true distinction seems to be between cases where the dam is erected for the express or apparent purpose of obtaining a water power to lease to private individuals, or where in building a dam for a public improvement a wholly unnecessary excess of water is created, and cases where the surplus is a mere incident to the public improvement and a reasonable provision for securing an adequate supply of water at all times for such improvement.

Then, further, on page 276, it is said:

> So long as the dam was erected for the bona fide purpose of furnishing an adequate supply of water for the canal, and was not a colorable device for creating a water power, the agents of the State are entitled to great latitude of discretion in regard to the height of the dam and the head of water to be created, and while the surplus in this case may be unnecessarily large there does not seem to have been any bad faith or abuse of discretion on the part of those charged with the construction of the improvement. Courts should not scan too jealously their conduct in this connection if there be no reason to doubt that they were animated solely by a desire to promote the public interests, nor can they undertake to measure with nicety the exact amount of water required for the purposes of the public improvement. Under the circumstances of this case we think it within the power of the State to retain within its immediate control such surplus as might incidentally be created by the erection of the dam.

Again, on page 281, I find the following:

> The dam was built for a public purpose, and the act provided that if, in its construction, any water power was incidentally created it should belong to the State, and might be sold or leased in order that the proceeds of such sale or lease might assist in defraying the expenses of the improvement. A ruling which would allow a single riparian owner upon the pond created by this dam to take to himself one-half of the surplus water without having contributed anything toward the creation of such surplus or to the public improvement, would savor strongly of an appropriation of public property for private use. If any such water power were incidentally created by the erection of a dam it was obviously intended that it should belong to the public and be used for their benefit, and not for the emolument of a private riparian proprietor.

I read also from volume 172. The case begins on page 58. It will be noticed that in the earlier decision the word "State" is very generally used, while in the later the term "United States" is very generally employed. The first seems to relate more to State ownership and control during the continuance of that control, and the other decision to the changed conditions created when the United States took over the improvements. I read from the bottom of page 68:

> Whether the water power, incidentally created by the erection and maintenance of the dam and canal for the purpose of navigation in Fox River, is subject to control and appropriation by the United States, owning and operating those public works, or by the State of Wisconsin, within whose limits Fox River lies, is the decisive question in this case.
>
> Upon the undisputed facts contained in the record, we think it clear that the canal company—

That was a case where the lessee leased from the Government of the United States—

> We think it is clear that the canal company is possessed of whatever rights to the use of this incidental water power that could be validly granted by the United States.

It goes on to say that the Fox River is a navigable stream, and quotes a familiar decision in the case of *The Montello*, Twentieth Wallace, and states that the Supreme Court reversed the decision of the lower court, finding this was not a navigable stream, and held that the Fox River is a stream of a national character, and that steamboats navigating its waters are subject to governmental regulation.

I also wish to read from this decision, on pages 80, 81, and 82, beginning on page 80:

> The substantial meaning of the transaction was—

And I wish to call especial attention to this part of it, because of its bearing upon the question of whether this was a privilege derived from the United States.

> The substantial meaning of the transaction was that the United States granted to the canal company the right to continue in the possession and enjoyment of the water powers and the lots appurtenant thereto, subject to the rights and control of the United States as owning and operating the public works.

A little later it is stated:

> The method by which this arrangement was effected, namely, by a reservation in the deed, was an apt one and quite as efficacious as if the entire property had been conveyed to the United States by one deed and the reserved properties had been reconveyed to the canal company by another.

That is, it is the same as if the United States had possessed it all and then conveyed the water power to the Green Bay & Mississippi Canal Co. To continue:

> So far therefore as the water powers and appurtenant lots are regarded as property, it is plain that the title of the canal company thereto can not be controverted, and we think it is equally plain that the mode and extent of the use and enjoyment of such property by the canal company fall within the sole control of the United States. At what points in the dam and canal the water for power may be withdrawn and the quantity which can be treated as surplus with due regard to navigation must be determined by the authority which owns and controls that navigation.

Not the State of Wisconsin, but "the authority which owns and controls that navigation," which was in this case the Government of the United States.

Mr. O'GORMAN. Mr. President——

Mr. BURTON. I should prefer to proceed. This is all connected. I will be glad to yield to the Senator from New York later.

Mr. O'GORMAN. If the Senator will pardon a question at that point, do I understand the Senator from Ohio to claim that the United States owns the navigation under the commerce clause of the Constitution?

Mr. BURTON. Of course whether it owns or does not own it has little bearing on this subject. It has that control which is the incident of trusteeship, and you may almost say of ownership.

> Which owns and controls that navigation—

Is the language of the decision.

What use is there here of talking about ownership? Who is in control of the navigation? Who owns the navigation if it has any owner? The United States of America under its paramount power.

> In such matters there can be no divided empire.

That is, you can not put the control of the navigation in one hand and put the control of the water power there generated

in another. You must keep them together. That is the sound expression not only of law but of fundamental policy and, I might add, of good business as well. From page 81 I quote this:

Several cases are cited in the briefs for the defendants in error, wherein it has been decided by State supreme courts of high authority that whatever remains of the stream, beyond what is wanted for the public improvement, and which continues to flow over the dam and down the original channel of the river, belongs to riparian owners upon the stream in the same manner as if the State dam had not been erected.

The court goes on to say:

Our examination of the cases so cited has not enabled us to perceive that they are applicable to the present subject. In none of them have we found that, by the State legislation, was there a fund created out of the use of the surplus water to be expended in the completion and maintenance of the public improvement.

That brushes aside all these cases as not analogous either to the one under consideration or to the proposed project which we now have before us.

As we have seen, the entire legislation, State and Federal, in the present instance has had in view the dedication of the water powers incidentally created by the dams and canal to raising a fund to aid in the direction, completion, and maintenance of the public works—

Just exactly this case—

and, as we have further seen, provision was made in the Federal act of 1875 for the ascertainment and payment of damages, in respect to which this court said—

Arrangement is made here for the ascertainment and payment of damages. That responsibility is imposed upon the Connecticut River Co. They are compelled to secure the riparian rights. In the last paragraph the court says:

Our conclusion, then, is that, as by the judgment of the Supreme Court of Wisconsin there was drawn into question the validity of an authority exercised under the United States—

Let those who say this was an authority exercised by the State of Wisconsin bear in mind that the court in the very last paragraph gives us the reason for taking jurisdiction of the case, namely, that—

Our conclusion, then, is that, as by the judgment of the Supreme Court of Wisconsin there was drawn into question the validity of an authority exercised under the United States, to wit, the granting of the said water powers and easement, and the decision was against the validity of such authority, thereby depriving the plaintiff in error of property without due process of law, the judgment of that court must be, and is hereby, reversed.

This case was again before the court on an application for a rehearing, and the Supreme Court again said, in volume 173, page 190:

While the courts of the State may legitimately take cognizance of controversies between the riparian owners concerning the use and apportionment of the waters flowing in the nonnavigable parts of the stream, they can not interfere by mandatory injunction or otherwise with the control of the surplus water power incidentally created by the dam and canal now owned and operated by the United States.

At any rate, the works are owned by the United States; whether the water was owned or not is utterly immaterial, because the absolute control belongs to the United States.

Next, Mr. President, I want to lay down the proposition that that which the Government may do directly it may do indirectly in such a case as this. I do not think I need go beyond a single quotation from the United States Supreme Court Reports found in volume 127, at page 1. This was in reference to the building, I believe, of the Pacific Railroad:

Congress has authority in the exercise of its power to regulate commerce among the several States to construct, or authorize individuals or corporations to construct, railroads across the States and Territories of the United States.

That is, the Government of the United States may go into the Connecticut River and make this improvement directly, or it may authorize a corporation or individual to carry out the same great purpose, namely, the promotion of navigation.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Florida?

Mr. FLETCHER. Just at that point, before proceeding with a different phase of his argument——

Mr. BURTON. I yield to the Senator.

Mr. FLETCHER. Do I understand that this river is navigable throughout its length?

Mr. BURTON. The Senators from Vermont can tell better than I. I fancy it is not navigable up in Vermont; but, in answer to the question of the Senator from Florida, it is sufficient to say that it is navigable both above and below the location of the proposed dam. I gave the figures in my remarks on Wednesday.

Mr. FLETCHER. Now, if the Senator will allow me, I should like to call his attention to a decision of the Supreme Court of Florida with which he might want to deal in this discussion. Our supreme court, in the case of State v. Gebring (56 Fla., 603)—I will not take the time to read any extensive portions of the opinion——

Mr. BURTON. What is the point in it?

Mr. FLETCHER. I will only read one or two of the headnotes. The court says:

6. For the purpose of aiding navigation or commerce, or of encouraging new industries and the development of natural or artificial resources in the interest of all the people, the State may grant reasonable and limited rights and privileges to individuals in the use of lands under navigable waters in the State, but such privileges should not unreasonably impair the rights of the whole people of the State in the use of the waters or the lands thereunder for the purposes implied by law, nor relieve the State of the control and regulation of the uses afforded by the lands and the waters thereon.

Another headnote says:

4. The State can not abdicate general control over the lands under navigable waters within the State, since such abdication would be inconsistent with the implied legal duty of the State to preserve and control such lands and the waters thereon and the use of them for the public good.

Another headnote is to the same effect.

Mr. BURTON. I take it that is good law, but it seems to refer, however, to a nonnavigable stream.

Mr. FLETCHER. No; it refers to lands under navigable waters, the lands——

Mr. BURTON. I have already discussed that at considerable length. Does the Senator contend that the State of Florida has any such rights in the bed of a stream that it could authorize the construction of a building or a factory by a private individual there?

Mr. FLETCHER. So long as it did not interfere with the general use of the water for navigation purposes and for such purposes as the public itself had an interest in.

Mr. BURTON. Does the Senator from Florida maintain that, as against the United States Government, the State could withhold a portion of the bed of a stream from occupancy, say, for building a pier or a bridge or anything of that kind?

Mr. FLETCHER. I claim that the State itself owns the land under the navigable waters and the lands up to and including low and high water, and that the State not only owns the land but that it also owns the right to the use of the waters so long as it does not interfere with the general use for navigation purposes.

Mr. BURTON. What is meant by "the general use"?

Mr. FLETCHER. The public have a right, of course, to the navigable waters; that they shall remain navigable, and that they shall be unobstructed for navigation purposes; but, beyond that, it seems to me that the General Government has no power or control. I will read on that point the fifth headnote of this decision. It is as follows:

5. The rights of the people of the State in the navigable waters and the lands thereunder, including the shores or spaces between ordinary high and low water marks, are designed for the public welfare, and the State may regulate such rights and the uses of the waters and the lands thereunder for the benefit of the whole people of the State as circumstances may demand subject, of course, to the powers of Congress in the premises.

Mr. BURTON. Subject to the power of Congress, of course. I have discussed at considerable length the question of what was the right of the State in the bed of a stream. It is not really of any importance in this particular case because, as long ago as 1824, the State of Connecticut granted to this Connecticut River Co. the right to improve that stream for the purpose of navigation. I also called attention to the fact that a court in the State of Connecticut itself had held that where, under the authority of the Secretary of War and the Chief of Engineers, a new channel was dug along the shore which interfered with the enjoyment of oyster beds—which, of course, are substantive property—the owners of the oyster beds were not entitled to compensation.

I think I can clear this situation as to the right of a State as opposed to that of the United States by reading a sentence or two from the syllabus of an opinion in Stockton, Attorney General of New Jersey, against The Baltimore & New York Railroad Co. and others. It was decided as a circuit-court case in New Jersey in 1887. The decision was rendered by Justice Bradley, of the Supreme Court. It is true the case was never taken to the Supreme Court, but in the case of Luxton against North River Bridge Co., in One hundred and fifty-third United States, the Supreme Court refers to Judge Bradley's opinion with approval. This is the case to which I have already referred briefly. The State of New Jersey had passed a law forbidding the building of any bridge between New Jersey and Staten Island. The State of New Jersey had all the rights of the old English sovereigns in the bed of the stream—the ground under the water—the same as in the Florida case. Congress granted the right to build a bridge across the water between New Jersey and Staten Island, and an attempt was made to enjoin the

bridge company on the ground that the State of New Jersey had passed a statute forbidding the building of any bridge there, and also because in the location of the bridge piers the foundations would be placed under water upon this land which belonged to the State of New Jersey. Justice Bradley decided against both contentions; and this is the syllabus as regards the right to build the bridge:

The power of Congress in this respect—

That is, to authorize the building of bridges in such cases—

being supreme, and the act in plain terms granting authority to build the bridge, the privilege is not promissory in its character, and may be exercised without the consent or concurrence of the State in which the structure is authorized by the act to be placed.

Again, as regards the land under water:

The shore and lands under water in the navigable streams and waters of New Jersey, which, prior to the Revolution, belonged to the King of Great Britain, as part of the jura regalia of the crown, passed to the State at the close of that war—

Now, here is the principle—

but the State succeeded to them as trustee of the people at large, and, the right of the State therein not being such property as is susceptible of pecuniary compensation, it is not "private property," within the meaning of the Constitution of the United States, amendment 5, providing that private property shall not be taken for public use without just compensation.

I should hesitate a long while to agree to the contention that the State has a fee-simple title in those States in which the bed of stream is said to belong to the State. There may be some such a rule as that under the Spanish law, but certainly not under the common law. This is perhaps something of a digression, Mr. President, but it is of interest in the discussion of this subject. Clearly no such rule would afford any objection here, because the bed of the stream has been acquired by the company which seeks the franchise.

Another general basis for these provisions is the right of the Government, or the power that grants any privilege, to impose reasonable conditions. In arguing in support of that doctrine some have sought to justify provisions which are harsh and so repugnant to the established rules of right between man and man as to make them offensive. But there can be no question but that, in the granting of such privileges as this, reasonable conditions may be imposed. For instance, when the United States authorizes a company to build a bridge across a stream it has reserved the right to control the charges for its use. The strongest case on that subject is one in the Federal Reporter, where the privilege was granted both by the Dominion of Canada or the Province of Ontario—it is immaterial which—and by the State of New York to build the International Bridge across the Niagara River.

Under the privilege granted by the Governments involved the bridge company seemed to have the broadest rights to regulate charges. The Government of the United States, through its courts, asserted the right to control those prices, though the company had the full privilege from both the Province of Ontario and the State of New York, the court stating that the bridge could not have been built there without the consent of the United States, even though it only controlled the water in common with Canada, and hence it was authorized to impose conditions. In the building of bridges the condition has often been imposed that troops and munitions of war of the United States may cross free. It is frequently conditioned that other railway companies may cross the bridge on terms to be equitably adjusted.

Of course, I should say that where the condition is imposed that other railroads may cross the proposed bridge, a further object is to prevent a multiplicity of bridges. But this all arises from the power of the Government when granting a privilege to impose reasonable conditions for the public welfare.

Two cases are quoted in support of this doctrine, which, while they apply, I would not altogether rely upon in support of the right to impose conditions. In the State of Wisconsin a certain insurance company was doing business. It had numerous agencies and had expended a considerable amount of money for establishing its business there. The State passed a law to the effect that no foreign insurance company doing business within its borders should remove a case to the United States court.

The company was sued in the State court, and sought to remove the case to the United States court. Although it is not a substantial or essential part of the case, as I recall it, the suit was prosecuted to judgment in the State court, and then was appealed to the United States Supreme Court. In any event, the Supreme Court of the United States sustained the right of the insurance company, notwithstanding it had accepted the condition that it would not remove its case to the United States court, to resort to the Federal tribunal, and based its decision on the ground that no man can barter away his constitutional rights; that in case there is a difference of residence every man has the right to resort to the United States court, and that even if he signs an agreement to the effect that he will not avail himself of the privilege, he does not disable himself from doing so.

Mr. BRANDEGEE. That is on the ground of public policy.

Mr. BURTON. Yes. There was another development in the controversy, however. The State thereupon peremptorily revoked the right of the company to do business in the State of Wisconsin. The Supreme Court of the United States, upon consideration of the case, sustained the right of the State of Wisconsin to revoke the license of the company to do business, notwithstanding the company had simply availed itself of a privilege of which the court asserted it could not divest itself. That case is reported in Ninety-fourth United States. On reconsideration of the same question in Two hundred and second United States, in a similar case, the case of Insurance Company against Prewitt, the Supreme Court recently held, two judges dissenting, that where a rule was laid down that if a nonresident insurance company removed its case to the United States courts its license should be revoked, it could resort to the United States court, but the State could, however, revoke its license.

There are numerous cases on this subject, and I think it will be admitted as a principle of elementary law that when a corporation or an individual takes advantage of a privilege granted in a franchise and obtains a benefit therefrom it is estopped from refusing to comply with the conditions imposed. Another case on this subject is one in which a large claim of the State of Maryland against the United States was in question. An attorney or attorneys were employed to prosecute that claim. Congress passed an act appropriating $375,000, I believe, for the payment of the claim, but imposed as a condition of its payment that no part of it should be paid to any attorney. What the object was it is unnecessary to state. Very likely it was intended to discourage the prosecution of claims against the Government, but that condition was contained in the appropriation. It went to the Supreme Court of the United States eventually, and was decided in the case of Walles v. Smith (156 U. S., p. 271), in an opinion rendered by Mr. Justice White before he was appointed Chief Justice, in which it was held that the money having been accepted under an act that imposed that condition no one could collect any attorney's fees from the amount that was to be paid.

In this connection, Senators, I want to call attention a little further to what I have already said in regard to reports of committees in this body. I made the statement that a bill relating to the Black Warrior River contained a provision that compensation was to be paid to the United States. That was in contradiction of the statement in the minority report. The minority report very boldly contradicted the statement of the majority report. This is the quotation:

A majority of the committee in their report say:

"It appears to be a settled question that the Federal Government may impose a charge for the use of the surplus water not needed for navigation."

We, the minority, deny that this question has been settled, and we challenge the majority to point to a single law on the statute books, or to a report of a single committee in Congress, or to a single decision of the Supreme Court which tends to establish their contention.

I think I cited a sufficient number of instances the other day, but I want to refer to this special case, because it is in the State of Alabama, and the statement which I made on Wednesday was denied by the Senator from Alabama. I could have made the statement even stronger than I did. The very bill, as introduced by Mr. JOHNSTON of Alabama, Senate bill 943, April 13, 1911, contained, on page 4, these conditions:

Provided, That the company—

The company was the Birmingham Water, Light & Power Co. They sought the privilege of using the surplus power—

Provided, That the company shall furnish, free of charge to the Government, at Locks 16 and 17, all power necessary for the operation of said locks, gates, and valves, and for the lighting of the Government stations and houses situated at said locks. And the said contract shall further provide for the payment by the company to the Government of an annual rental for its use of the water power at Dams and Locks 16 and 17 at the rate of $1 per annum per horsepower realized and developed from the water wheels delivering a minimum of not less than 80 per cent of the theoretical horsepower from the natural flowage of the river.

Mr. BANKHEAD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Alabama?

Mr. BURTON. Yes.

Mr. BANKHEAD. I should like to ask the Senator from Ohio if he thinks the Connecticut River dam bill, which we are

now considering, is at all parallel to the case of the Black Warrior River dam bill?

Mr. BURTON. It is in the matter of imposing a charge.

Mr. BANKHEAD. No.

Mr. BURTON. Quite decidedly.

Mr. BANKHEAD. Mr. President, the Government of the United States is building the lock and dam at Lock 17, on the Black Warrior River. It is the riparian owner. It owns all the property in connection with it. In this case there are private owners.

Mr. BURTON. In which case—the case of the Connecticut River?

Mr. BANKHEAD. The case of the Connecticut River. Private owners own the property. Private owners are building the dam. What the minority of the committee intended in this assertion was that no report, no bill, no law, no decision of the Supreme Court had ever recognized the right or the policy of imposing this tax—because it is a tax, and nothing more than a tax—upon a corporation situated as this corporation is in Connecticut, where they are the owners of the property, where they undertake to construct all the works in connection therewith. That is what the minority of the committee intended when it said that no report, no law, no decision of the Supreme Court had authorized any such contention; and we maintain that proposition to this moment. There is no comparison or parallel between the cases the Senator from Ohio has cited and this case of the Connecticut River dam. They are not in the same class at all.

Mr. BURTON. In the first place, Mr. President, I have quoted, and there will be inserted in my remarks——

Mr. BANKHEAD. Excuse me one minute further. I happened to be away from the Senate when this bill introduced by my colleague was passed, and I had overlooked it. It had entirely escaped my notice. The Senator from Ohio was correct in stating the provisions of that bill. I overlooked it, and to that extent we were in error in the statement in the minority report. But, Mr. President, all that provision of the bill authorizing the toll or levying a tax was stricken out of the bill here in the Senate.

Mr. BURTON. Oh, the Senator from Alabama is again in error in regard to that.

Mr. BANKHEAD. I mean when the conference report came in; that is when it was stricken out.

Mr. BURTON. When the conference report came in these provisions for compensation and, in fact, all of them had been so modified in the House; they had so piled Ossa on Pelion that the parties felt they could not accept it, and the whole idea of leasing it to a private party at all was abandoned. They were not satisfied in the House with the mere reservation of compensation. They wanted a number of other things.

Mr. BANKHEAD. I want to say to the Senator from Ohio that if I had been in the Senate when this bill was reported and passed, I should have made the same objection to it that I am making now to the Connecticut River bill.

Mr. BURTON. May I ask the Senator from Alabama, now that he is on his feet, if he had anything to do with the franchise to the Ragland Power Co., included in the river and harbor act of 1911?

Mr. BANKHEAD. Mr. President, that is another exactly parallel case. The Government owned the site, and the Government built the lock and dam.

Mr. BURTON. Oh, did it?

Mr. BANKHEAD. Why, of course it did. All the Ragland Power Co. does is to receive authority to put on a flashboard and make, perhaps, some addition to the height of the dam, so as to create a conduit.

Mr. BURTON. I will ask the Senator from Alabama again, while he is on his feet, if it is not a fact that in his report he agrees to this bill in its entirety except two provisions, and recommends that with the striking out of those two provisions the bills do pass?

Mr. BANKHEAD. Yes.

Mr. BURTON. That is to say, the Senator is in favor of it, except the provision against assignment, and the provision providing for the levying of a charge.

Mr. BANKHEAD. I have no objection to it if it satisfies the people of Connecticut.

Mr. BURTON. With those two provisions out, the Senator agrees to the bill? He is in favor of it?

Mr. BANKHEAD. I should not vote against the bill if they were out. I do not pretend to say that I approve all the provisions of the bill; but with those provisions stricken out I should not resist its passage.

Mr. BURTON. Mr. President, I went over this subject very fully a few days ago——

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Utah?

Mr. BURTON. Kindly allow me to treat of this matter first. Then where does the argument of the Senator from Alabama lead him? It leads him to the conclusion that if the Government builds a dam it may charge for the surplus water.

Mr. BANKHEAD. No, Mr. President; I never have admitted that and I do not admit it now. What I do say is that if the Government builds the dam and the lock and creates power and surplus water, and the corporation wants to use it, the Government might say: "We have built this lock at large expense, and if you will pay us a certain percentage on our investment for the use of the structure you may use it." But I never have agreed that you could charge directly for the use of the water, because the Government does not own the water. It has no control over the water; it has no interest in it except for navigation. I doubt whether the Government could go into the courts and collect the charge that it might levy even where it had built the structure.

Mr. BURTON. What is it that the company developing the power is utilizing? It is not bricks and mortar in the dam. It is the use of the water, flowing water. What is it that the company is paying for? It is the use of the water. It seems to me a decided departure from the actual facts of the case to say that the person who has the privilege is not paying for the use of the water. What else is he paying for?

Mr. BANKHEAD. I will answer the Senator. He is paying for the structure, the cost of the structure; and without the structure, of course, there would be no power.

Mr. BURTON. Why do you not appraise the structure, then, and pay for it in that form?

Mr. BANKHEAD. I have no objection in the world to the Government charging a fair percentage for the use of this structure, if they want to do it. It is a matter of contract, and if the power company does not want to accept it, it need not do it.

Mr. BURTON. Then why is it that in every bill on this subject the basis for compensation is an appraisement not of the value of the structure, not of any work which stands out tangibly there, but of the water power that is created?

Mr. BANKHEAD. That is exactly what I am objecting to in this bill—the appraisement of the water power.

Mr. BURTON. Further than that, the Senator from Alabama says he does not object to this bill when these provisions are taken out.

Mr. BANKHEAD. No; I did not say that either. I said I would not carry my objection to the extent of voting against the bill if the gentlemen up there who are directly interested in it want to accept it.

Mr. BURTON. This is what was said in the minority report, on page 4:

> We recommend the passage of the bill with the amendments suggested.

Mr. BANKHEAD. Yes.

Mr. BURTON. That is about as strong a statement as you can have. Those two amendments are, first, the provision against assignment without the consent of the Secretary of War or a court of competent jurisdiction; second, the provision for imposing a certain charge.

Let us see just what this bill is. I shall have to repeat what I said day before yesterday. The bill demands of the parties that they shall build the dam at their own expense. It demands that they shall build a lock and transfer that lock to the Government free of cost. It demands that they shall acquire all the flowage rights and save the Government harmless from any damage. It requires that they shall furnish to the Government permanently electrical power for the operation of the locks and for facilitating the passage of boats.

How can you draw any line between those requirements for construction, which is exceedingly expensive, and a provision that they shall pay a certain amount for the developed water power? Here all these conditions are imposed. Some of them may be said to be in the past, such as the building; others in the future, such as the furnishing of power for the operation of the locks and this annual rental which is to be paid.

Mr. President, there is not a particle of difference in principle between the two. It all rests upon the right to impose conditions and charges, to compel the grantee or licensee to bear certain burdens as the condition of his obtaining the right. Indeed, the last charge is the fairest of them all, and I will tell you why, Mr. President:

When you build the dam, it is in some degree an experiment as to what power you can develop. When you build the lock, it is not for the use of the water-power company at all. It is for the use of navigation, pure and simple. But when you know how much water power you are going to develop and whether the enterprise is profitable or not, that is the proper

time for the Government to impose a charge—where actual results are achieved by the completion of the works and placing them in operation.

Mr. SUTHERLAND. Mr. President, I shall not ask the Senator to yield to me unless he feels quite willing, but I should like to ask him a question for my own information.

Mr. BURTON. Certainly.

Mr. SUTHERLAND. A moment ago the Senator was speaking about the so-called Black Warrior bill. As I recall the terms of that bill the Government of the United States in reality was building the works in aid of navigation. Am I correct about that?

Mr. BURTON. Yes.

Mr. SUTHERLAND. In the case of the Connecticut River bill, on the other hand, the Government is not building the works in aid of navigation.

Mr. BURTON. Oh, yes; those are the only terms on which it has anything to do with it.

Mr. SUTHERLAND. No; the Government of the United States in that case is overseeing the building of a dam for private purposes in order that navigation may not be interfered with, and as it seems to me there is a very clear distinction between the two classes of cases.

Mr. BURTON. Not at all.

Mr. SUTHERLAND. If the Senator will bear with me, in the Black Warrior case the Government of the United States, in pursuance of an undoubted power under the Constitution—namely, the power to regulate commerce—is constructing works to improve the navigability of a stream. Having in pursuance of its undoubted power constructed a dam or other works, it has incidentally created property. True, it is property that was potentially in the stream to begin with, but it had no practical existence until the dam was constructed which raised the level of the water. By raising the level of the water it created a property which belonged to somebody. As it seems to me, the Government which created it, the Government of the United States, would have the same right to sell that property or to dispose of it that it would have to sell supplies that it had acquired for the use of the Army and the Navy and that were no longer required for those particular purposes.

In the case of the Connecticut River bill, that condition of things does not exist. The Government permits the construction of this dam, but the dam belongs to the private owner; and when, by raising the level of the water, power is created and thus property is created, the property belongs to the owner of the dam. How can the Government in that case insist that the owner of this property shall pay it something?

Mr. BURTON. On the general rule that whenever anyone enjoys a privilege which he obtains from the United States compensation may be required for it.

I think the Senator from Utah does not exactly understand the situation. He speaks of the Connecticut River case as one where the Government is overseeing the construction of works for the purpose of preventing obstacles to navigation. That is not the case at all. The lock and dam are just as much required in the Connecticut River as they are in the Black Warrior River, and probably would minister to a very considerably greater traffic. It is a situation where there are rapids 5½ miles long, cutting in two the navigable portions of the river.

Mr. SUTHERLAND. May I ask the Senator why the Connecticut River Co. is constructing this dam? Is it for commercial purposes, for their own uses, in order to make profit from it, or is it to improve the navigability of the river?

Mr. BURTON. So far as their own immediate purposes are concerned, it is no doubt for commercial purposes, although the company was organized in 1824 and has enjoyed a charter since then for navigation. That was the original object of the company—the promotion of navigation in the Connecticut River. Now, what is the difference? Here is a navigable stream. Would the Senator from Utah say that as a condition of allowing the construction of a dam in a navigable stream Congress may not impose the restriction that they must build with that dam a lock as well, so that boats can pass through it?

Mr. SUTHERLAND. Certainly Congress may do that. That is to prevent the obstruction of the navigability of the river.

Mr. BURTON. What good does that lock do to the licensee? What is that except the exercise of the authority of the Government in imposing a restriction or condition?

Mr. SUTHERLAND. It does the licensee no good whatever.

Mr. BURTON. In this case it costs him $470,000.

Mr. SUTHERLAND. But the power of the Government, as I understand, is to preserve the navigability of the stream.

Mr. BURTON. Yes.

Mr. SUTHERLAND. When any citizen undertakes to interfere with the stream, the power of the Government is to see that the conditions are such that he does not interfere with the navigability of that stream. When the Government has imposed that condition and has required the construction of the dam or other structure in such a way that navigability is preserved, its power has ended. As I understand, it has not any power to do anything except either affirmatively to improve the navigability of the stream or negatively to prevent the destruction of its navigability.

Mr. THOMAS. Or injury to it.

Mr. SUTHERLAND. Yes. Having done that, its constitutional power has ended; and it has no business to say, in addition to the condition that the navigability shall not be interfered with or injured or destroyed, that as a consideration for its permission to construct the dam in a certain way it shall pay the Government a certain amount.

Mr. BURTON. Suppose the Government, instead of asking these parties to do this, had said, "We will build the lock, and we will charge you $470,000 for it." Would that have been a proper exercise of Federal power?

Mr. SUTHERLAND. I will ask the Senator to repeat that question. I did not quite catch it.

Mr. BURTON. Suppose the Government, instead of imposing upon this licensee the obligation of building the lock, had concluded to build the lock itself and had said to the licensee, "We will let you put in the dam there, but we will charge you $470,000 for the privilege." Would that have been an illegal exercise of power?

Mr. SUTHERLAND. Does the Senator mean the Government should say, "Instead of permitting you to build it, we will build it for you and we will charge you what it costs"?

Mr. BURTON. It is not building it for them at all. It is of no interest to them. It is of interest only to the Government.

Mr. SUTHERLAND. It is building it for them, because the Government has imposed the condition upon them that it shall be built in order to preserve the rights of the Government.

Mr. BURTON. Suppose $470,000 is estimated as the cost of the lock. The Government says we are going to build it and charge you $470,000 for it. Would that be an illegal requirement?

Mr. SUTHERLAND. That is the cost of what the Government has done.

Mr. BURTON. The cost of what the Government is going to do—could that be charged as a condition for the privilege of building the dam?

Mr. SUTHERLAND. And what the Government has done inures to the benefit of the private company, because, if the Government were not to do it, the private individual would be compelled to do it.

Mr. BURTON. The private individual would not be compelled to do it at all except to promote navigation there and furnish a way of getting through.

Mr. SUTHERLAND. The Government of the United States imposes this condition in order to preserve the navigability of the stream.

Mr. BURTON. Let me ask the Senator from Utah another question. Suppose the stream has to be improved above and below this dam and can not be made navigable except by dredging. This licensee comes and seeks a very valuable privilege there. Does the Senator from Utah maintain that the Government would be debarred from imposing upon that licensee the duty of improving the river both above and below the dam to make it navigable?

Mr. SUTHERLAND. The Senator from Utah simply says that the only power of the Government in connection with a matter of that kind is to insist that the structures in navigable streams shall be constructed in such a way as not to interfere with or destroy or injure navigability. If what the Senator from Ohio now suggests to be done is necessary for that purpose it may be required.

Mr. BURTON. Suppose it has no connection whatever with the construction of the dam, but there is a place both above and below, and we want to make it navigable, could the Government impose no condition so that the licensees must make a contribution to improve the approaches to that dam?

Mr. SUTHERLAND. Would the Senator add, to that that the erection of the dam has imposed an obstruction and in part destroyed the navigability?

Mr. BURTON. This is not that case. There, I think, is the fundamental error of the Senator from Utah. It is not an error, but we do not exactly understand each other. This is not preventing obstruction to navigation. It is creating navigation. Here are considerable rapids over which you can not go unless there is a means of passing from a higher to a lower level and from a lower and higher level as well. Some one observes a very valuable water power there. The Government says to him: "We will impose on you as a condition of enjoying it that you help out in the improvement of the navigation of that river."

Mr. SUTHERLAND. Does the Senator mean to impose a tax to help the navigability of the river in a way that has not been affected by the structure which the company puts up for its own purposes?

Mr. BURTON. You can not separate that structure from the rest of the stream, because it creates an integral part of the navigation of the whole river.

Mr. SUTHERLAND. If the Senator will permit me, that, to my mind, is the whole question. If the construction of the dam interferes in any way with the navigability of the river, the Government of the United States may require the private company as a condition to putting up a dam to construct other works, if they are necessary, to restore the navigable condition. But if the improvement of the navigation of the river had no connection with the building of the dam, then it seems to me that the Government would have no right to do it. In other words, if the Senator will bear with me——

Mr. BURTON. Certainly.

Mr. SUTHERLAND. The Government of the United States would have no right to say to this company, "Because we grant you the privilege to build a dam at this point as a condition for that you shall go up the stream and remove obstructions to navigation which are in no manner affected by the dam which we give you permission to construct." The two must bear relation to each other.

Mr. BURTON. In other words, this is the contention. A corporation comes along with a proposal for improvement in that locality, and we say to them we shall not impose any obligation on you whatever except the mere creation of structures, although the privilege is of great value. That would lead to a system of favoritism and the loss to the public of valuable rights. What does the Senator from Utah say to this, which I mentioned a little while ago? When a bridge is built across a navigable stream and troops and munitions of war of the United States must be carried over that bridge. What does that have to do with constructing it?

Mr. SUTHERLAND. It has nothing to do with the stream.

Mr. BURTON. Does the Senator maintain that such a restriction is not valid?

Mr. SUTHERLAND. I will say frankly that I have never given any thought to the precise case to which the Senator refers.

Mr. BURTON. If that is not a valid restriction, then Congress has sinned very many times; but I think it has sinned in the line of doing something for the promotion of the public good.

Mr. SUTHERLAND. I will say to the Senator, without concluding myself upon the question, I would doubt very much whether the Government of the United States in authorizing the building of a bridge, simply that it may be built in such a way as not to interfere with navigation, could impose a condition such as the Senator suggests. I am not familiar with the legislation to which the Senator calls attention.

Mr. BURTON. The important point on which the Senator from Utah and myself differ is on the right to impose conditions in such a case as that, and what may be the nature of those conditions. I maintain the absolute right exists in such a case to impose conditions in the interest of the general welfare. That is the very price of all franchises, and we are imposing it every day.

When a privilege is exercised we may regulate the charges as we have done in regard to bridges across navigable streams, and we can compel them to share with other corporations the right to go across. Such a valuable privilege should not be given away, nor should these water powers of such enormous value to the country be granted without any quid pro quo.

Now, I want to dwell somewhat further on what was said by the Senator from Alabama [Mr. BANKHEAD].

Mr. SUTHERLAND. Will the Senator indulge me in one remark?

Mr. BURTON. Certainly.

Mr. SUTHERLAND. The powers to which the Senator calls attention are not powers controlled by or owned by the Government of the United States. That is a species of property wholly controlled by the State. The Government of the United States, therefore, in granting a right to build the dam does not grant the right to create a power; it simply permits the construction of a dam and keeps the control of that subject wholly with reference to its power over navigation and not at all with reference to the creation of a property right by the erection of the dam.

Mr. BURTON. Of course, the two go inseparably together. The Government of the United States has taken a large responsibility in the way of improving that river. I have forgotten the exact amount which it has expended; I think, perhaps, some $600,000. Here is this privilege. Those who are seeking it are willing, and indeed anxious, to accept on the terms proposed.

Mr. THOMAS. May I ask the Senator a question there?

Mr. BURTON. I yield to the Senator from Colorado.

Mr. THOMAS. Is it not a fact that the Connecticut River Co. in making application to Congress for the right which is embodied in the bill is practically using or expecting to use the Government's power to control navigation merely as an incident to an enterprise the principal object of which is to generate power for commercial purposes?

Mr. BURTON. The action of Congress is based on navigability. The aim of the company is to develop water power. The two are coordinate. One may have one object and another may have another object. Our object is to extend the navigation of the Connecticut River past those rapids at Springfield and Holyoke, a thing we have been asked to do for, lo, these 20 years, and we have not felt that we could afford the expenditure. The object here is to bring about that result, and, in bringing it about, to utilize the water.

Mr. THOMAS. But the Senator has said that this company is not only anxious but eager to submit to the conditions of the bill. It must be true, therefore, that the company is seeking to utilize the power of the Government over navigation merely as an agency to enable it to obtain a very valuable property right.

Mr. BURTON. I would not say that. I would say that this company has already certain riparian lands and it has been seeking to develop navigation and power. They wish still further to develop that power, but as a condition they must obtain the consent of the Federal Government. I do not see how they are seeking to utilize Federal power in the matter. They are coming here and ask permission to be given that without which they can do nothing. I think that differs quite materially from the statement as made by the Senator from Colorado.

A moment ago I was talking, Mr. President, about the Black Warrior bill. The first one was introduced in the Senate April 13, 1911, and it had the provision that the company shall pay to the Government a rental of $1 per annum, and beginning with the year 1920 shall pay to the Government an additional rental or royalty of 50 cents per horsepower. They are also compelled to obtain flowage rights. This case here is distinguished from the other in principle, because they are compelled not only to pay the money but they are compelled to acquire a part of that which the Government would acquire, namely, the flowage rights.

This bill was reported on the 19th of June, 1911, by the Senator from Minnesota [Mr. NELSON] with all these provisions in it for compensation. Later the Senator from Alabama [Mr. JOHNSTON] introduced an amendment in which he included provision for flowage rights. This bill passed the Senate the 24th of July, 1911, containing all these provisions for compensation. It went to the House and was very materially changed by the Committee on Rivers and Harbors, but the provision for compensation was still retained. Then on the passage of the bill still further conditions were inserted.

Mr. President, there is another bill, one pertaining to the Ragland Water Power Co.—or, to be exact, a part of a river and harbor bill—which, it seems to me, comes very near to the principle enunciated in this bill. The Senator from Alabama, if I recollect aright, introduced the amendment providing for this item. It relates to Dam No. 4 in the Coosa River. The company contracts to complete the dam. Bear in mind what this is. At Lock No. 4 in the Coosa River there was an uncompleted dam, and this company came here and desired the privilege of improving that locality and developing water power. What difference is there in principle between constructing half a dam and constructing the whole of it?

In the very bill which the Senator from Alabama introduced the company contracts to complete the dam, furnish all materials and labor, and convey the same to the Federal Government free of cost, claims, or any charges whatsoever—that is, an incomplete dam was to be finished.

They agreed to complete the work within three years.

To fully safeguard the interests of navigation, under such provisions for the operation of the dam and lock as the Secretary of War may prescribe.

To furnish to the United States free of cost electric current for operating and lighting the property.

To execute a bond for the faithful fulfillment of the contract.

To pay the cost of Government inspection.

To submit to any change in the specifications that the Secretary of War may make.

Here is another agreement that is a part of the construction:

To raise the height of the dam 3 feet and stop all leaks in the Government work already constructed.

To pay all damages to riparian owners for flowage rights.

To pay $1 per 10-hour horsepower year for the power due to natural flowage.

To pay from $1 to $3 for each 10-hour horsepower year produced by storage.

The Secretary of War may in his discretion readjust rates of compensation at periods of 10 years.

Having submitted to all these conditions, the company get the 50-year franchise, expressly subject to amendment or revocation, with no provision for compensation for the property.

Mr. President, the conditions here altogether surpass those in this Connecticut River bill. They are on the same plane, because in this very measure which the Senator from Alabama presented the obligation is imposed upon the licensee to finish the dam, stop all leaks in it, erect flashboards, and raise the height 3 feet. What is the difference between that and the original privilege? It is very much more severe in comparison with the franchise in this pending measure. The licensee in the Alabama bill like one who having been knocked down and kicked and cuffed around, is compelled to pay and then fight for the privilege of being thrown out of the window.

I will not repeat in full what I said day before yesterday, but I will again refer to the document to be printed herewith giving the three classes of permits under which private parties have used water. First, where the Government has already built a dam and afterwards leases it. Second, where the Government contemplates itself building a dam and makes provision for charge or compensation. Our recent river and harbor bills, beginning with 1909, including the provisions for a survey of a 14-foot waterway, provide that a report shall be made as to what will be fair in the way of compensation. In this very Connecticut case the report was made that there should be certain compensation to the Government in case structures producing water power should be built.

The third class is the one under which this bill is introduced, where the privilege to construct the lock and dam or the dam is given with conditions attached. We have passed a number of those statutes imposing all sorts of conditions. There is hardly a Senator here who has not been on the floor when bills like this one have been passed, in which the most stringent conditions are imposed in granting the right to develop water power in navigable streams.

Mr. BANKHEAD. Mr. President——

The PRESIDING OFFICER (Mr. O'GORMAN in the chair). Does the Senator from Ohio yield to the Senator from Alabama?

Mr. BURTON. Yes; I yield.

Mr. BANKHEAD. Can the Senator from Ohio cite us to a single bill on all fours with this where the riparian owner constructs the dam and pays all the expenses necessary to provide for navigation? Can the Senator point to a single bill where anything is imposed except merely to operate the lock?

Mr. BURTON. There has been no case in which there has been so specific a statement as this of the amount paid.

Mr. BANKHEAD. I am not talking about specific amounts. I am asking the Senator if he can point to a single act upon the statute book on all fours with this, where the corporation built the lock and dam at its own expense, and where they own the site, and any charge has been imposed except such as is necessary to operate the lock. That is my question.

Mr. BURTON. The Coosa Dam act provided that the licensee should finish the dam and pay a fee besides.

Mr. BANKHEAD. The Government there is the owner, and it built and nearly completed it. It lacked only a little of completing it.

Mr. BURTON. I argued that at great length earlier in the discussion. There is no difference in principle in any of those impositions—the building of a dam, the building of a lock, the furnishing of power—from that involved in this case. They all rest on one principle, the right of the Government, when it is improving navigation and finds valuable water power, to impose conditions upon the one who is granted the privilege.

Mr. BANKHEAD. That is where we part company. There is where we differ.

Mr. BURTON. Mr. President, I am conscious that I have detained the Senate longer than I had intended and necessarily have repeated the same material, but I wish to make some general remarks on the subject of conservation. We have vast potential water power that has been withheld from utilization for years past which would have been utilized if the policy embodied in this bill were adopted.

It has already been adopted in the case of Hale's bar below Chattanooga and in a half dozen other cases. It is not fair to the people of this country to ask them to improve a river where the improvement would be as expensive as that of the Connecticut and allow a water-power right there which is inseparably connected with the obstacle to navigation to go to a private individual corporation without contributing to that expense. It is especially not the right course for us to pursue when the parties appear and are willing to submit to all these conditions and the whole neighborhood is anxious to have the work done in the manner proposed.

Conservation does not mean reservation. It never did mean permanent reservation, at least in the minds of its more judicious advocates. It does mean, however, that the resources of the country, its great natural wealth, shall neither be wasted nor shall they fall into the hands of a favored few. It means that such policies should be adopted that the public domain and all its varied treasures shall be so utilized as to secure the maximum of benefit and at the same time afford the maximum equality of opportunity. It recognizes that in the past we have made serious errors in granting lands and in allowing concentrated ownership in the hands of agressive exploiters.

All this is but a part of the haste in development which is characteristic of American life and which has resulted from a lack of foresight. Neither Congress nor the executive department has fully realized the rapidity with which the possessions which are necessary for the very life of the people have been exhausted. Conservation does not mean that we of the present should be debarred from the enjoyment of the wealth which belongs to us, nor does it seek, as was stated by the deceased Senator from Colorado, Mr. Hughes, to make "mollycoddles" of those who come after us.

The experience of past ages has shown that as one class of materials is exhausted invention and new discoveries will supply substitutes. This has been true of the partial substitution of iron and steel for wood in construction, of coal for wood for domestic purposes, and may be true in the future in the substitution of concrete for iron and other material. The future generations, in the realization of objects which minister to the necessities and conveniences of life, must solve its problems as well as the present, and must face its difficulties in appropriating the forces of nature and the treasures of the earth. The policy both of President Roosevelt and President Taft, and in a less degree of their predecessors, was to reserve certain portions of the public domain. This was not with a view to their indefinite withdrawal, but was prompted by the desire to prevent land grabbers and the so-called "timber thieves" from gaining an undue share of the public lands or public property. This policy was especially prompted by a desire to keep in abeyance the distribution of the remaining portions of the public domain until Congress shall have adopted a comprehensive, rational, and just policy for the utilization of natural resources. Such a policy should place no obstacle in the way of continued development of the country, but should secure with the utmost pains the prevention of monopoly and the repression of all efforts of the strong or unscrupulous to obtain an advantage over others.

Water power, a resource of enormous value, is running to waste. I gave some figures on this subject——

Mr. CLARK of Wyoming. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Wyoming?

Mr. BURTON. With pleasure.

Mr. CLARK of Wyoming. I should like to ask the Senator from Ohio what is the significance of the remark that water power is running to waste?

Mr. BURTON. Because so large a share of it is not utilized.

Mr. CLARK of Wyoming. But does the Senator mean that water power is wasted because it is not used to-day?

Mr. BURTON. I am referring, Mr. President, to the present use. That will appear as I go on.

Over 30,000,000 primary horsepower, it is estimated, can be developed in the streams of this country. The amount already utilized is about five million and a half. The total aggregate of horsepower, generated by all kinds of prime movers, now utilized in the country is about 26,000,000, of which five and a half million is water power, and the balance chiefly steam power. There are mined 500,000,000 tons of coal annually, and a very large share of this amount might either be saved or utilized for other purposes if the water power of the country could be utilized in a proper manner.

Unlike timber or material, it is not exhaustible, but will last for all time. With more perfect means for development and utilization it will show increased efficiency and become of far greater value. If the aim of conservation, in so far as it seeks to prevent waste, does not fully apply here, the prevention of monopoly and the prevention or adequate regulation of con-

centrated ownership does apply with unusual force. It is of the utmost importance that the benefits of its utilization should not be regarded as the prerogative of an individual or of a corporation, not of a community or even of a sovereign State, but of a nation of nearly 100,000,000 people, whose reliance upon it in the future must be greatly increased. The problem is thus a national one. Modern progress has already made it possible to distribute electrical power from one source over an area of 125,000 square miles, an area greater than that of any of the States of the Union except three—Texas, California, and Montana. In saying all this it is not meant to convey the impression that the States are not to have very large powers in disposing of and regulating the use of water power, but by reason of the wide area over which this power may be transmitted and used the national scope of the problem becomes apparent. Like all enterprises which become interstate in character, the powers of the States may prove insufficient and control may eventually be left to the Federal Government. This is especially true when, as in the present case, the use of the power is inseparably bound up with the development of navigation. In the building of locks and dams for navigation there can be no separate control of water power without confusion and the insuperable difficulties which result from a divided control of that which should be inseparable.

Mr. President, I have sought to establish the following propositions, though, in view of the questions asked, there have been many digressions:

First, that whenever an improvement is made which promotes navigation and in such improvement, whether by locks or dams or otherwise, a water power is created, that water power is an incident to the principal fact, and it belongs to the State or Government which seeks to promote navigation. Second, that as a matter of public policy there should, in the language of the Supreme Court, be no divided empire between the two; they are inseparably bound together. The coordination of the two makes possible the development both of navigation and of water power, which otherwise would be unprofitable and in fact wasteful. Third, that contrary to the statement in the minority report, the settled policy of Congress as well as of the executive department for now nearly a quarter of a century has been to dispose of such water power, whether created by works already constructed or to be created by works owned by the Government thereafter to be constructed, or, in the third place, when created by works constructed by private companies which undertake an improvement in a navigable stream under a grant of Congress.

The right of the Government to collect compensation depends upon the fact that it has the responsibility for the improvement of navigable streams, and in carrying out plans of such improvements it may employ all means which are plainly adapted to that end and are consistent with the spirit of the Constitution.

Right in that connection I want to say that I think the proposition ought to be accepted that if the Government can go into the Connecticut River, build a dam, create water power, and sell the surplus, you can not deny that it may say, in the exercise of the right to regulate commerce and delegate that power to others, "we will give that right to construct those dams to another, and the profit which we might have derived from the building of that dam shall still remain with us, although another constructs the work."

Conditions requiring construction of dams, or of dams and locks, the acquisition of flowage rights, the furnishing of electrical power, the payment of an annual charge for the value of water power, either established by congressional enactment or left to the discretion of the Secretary of War, have been the invariable rule, without a single objection being raised in the courts.

The circumstances of this particular case are exceptional in that the proposed improvement not only extends navigation in a river where already there is a large and growing traffic, but in that the improvement is located in a busy industrial section where power can be immediately utilized to great commercial advantage. If there is any case which has come before us in which the imposition of conditions would be reasonable, it is here. It should again be noted that in this case the Federal Government is not confronted by any opposition or unwillingness either on the part of those who propose to make the improvement or those who will pay for the service.

Mr. President, I want to make a suggestion right here. Suppose you are to make it a rule that under no circumstances shall any amount be paid by one of these companies after it has developed water—that all conditions must be finished when you merely require the building of the dams and locks. Now, let us see how great the injustice would be. There might be water power in a part of the country where there was no market for its product whatever, where the mere imposition of the obligation to build a dam would be a very severe requirement. On the other hand, there might be a case, as this is, right in the midst of a busy industrial section, where the person who utilized the power could well afford to build a dam and lock, buy flowage rights, and pay a large amount besides. If you want to enforce any hard and fast rule here, just see where you would land. You would have to treat all such cases virtually alike, at least up to the finishing of the structure; you could make no distinction between a very profitable franchise and one which has little or no value. The result would be that not only the general public would suffer, but there would be very serious obstacles in the way of development.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Utah?

Mr. BURTON. I do.

Mr. SUTHERLAND. Is not the Senator from Ohio overlooking the power of the State in the matter? The State would have the authority to step in and exact, through taxation or otherwise, proper charges. Such a company would be a public-utility corporation, and the State would have the right to regulate its charges.

Mr. BURTON. In that case, however, you would have as great a variety of regulations as there are States—forty-eight. Then, again, as I have already stated, the sufficient answer to that is that this is a privilege which is granted by the National Government. The National Government, which represents the whole people and which is improving the channels of rivers for the purpose of promoting navigation, in improving those rivers ought to be fair toward all localities, not paying from general taxation for an improvement that is unduly expensive in one region and giving away a right that goes with it for nothing. That is what it would lead to.

I want to say in this connection, Mr. President, that while I was connected with the Rivers and Harbors Committee of the other House I knew of cases where the building of locks and dams was advocated under the guise of improving navigation, when the real object, after the dam had been constructed, was to obtain water power. It was not merely conjecture; but it is a fact that persons made use of agitation among commercial bodies and others, who came here and advocated improvements of the most expensive nature in rivers, saying, "We want water communication," when what they really desired was water power.

On the other hand, there is the greatest earnestness on the part of all those in the locality to have this improvement made on the terms proposed in this bill, and no theoretical objection, no possible fear of establishing a precedent should be allowed to defeat the plainly expressed desire of the people of Connecticut and Massachusetts, who so manifestly wish that this bill should pass. It is necessary, Senators, that we should look at this matter from a broad national standpoint. The doctrine of State rights should be a shield, not a sword; we should not stand in the way of the development of the country. We must recognize that States and communities can not control this problem as well as the National Government.

I do not say that of every case. I do say this, however, if I may digress just a moment, that there is no line of industrial activity in which there are so many reasons for consolidation as in the case of the production of water power; and in the future I think this is inevitable. In the first place, a single water power may supply a very large area. In the next place, in one part of the country, in one watershed, the supply may be abundant at one time but slack at another time, and it is very desirable that they should tie up plants located on different watersheds so that one may aid and, as it were, piece out the other. Again, there is no business in which the advantages of economies can be better secured than in the case of the development and utilization of water power. So probably more and more these different water-power sites will be utilized together. I should look with the utmost apprehension upon their control by any one great corporation or organization or, indeed, upon consolidation in any form, unless the most careful regulation went with it. By reason, first, of the fact that in some instances a single water power will supply more than one State, and, second, that the advantages and economies of combination are so great—for these two reasons the national control is likely to be more and more asserted. The problem is assuming greater proportions than ever before, and in the future water power must be one of the chief assets not of any particular locality but of the Nation. I appeal to the Senators to pass this bill in the form in which it has been introduced by the Senator from Connecticut [Mr. BRANDEGEE].

Mr. THORNTON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Louisiana?

Mr. BURTON. I do.

Mr. THORNTON. Before the Senator from Ohio takes his seat I wish to ask a question that I would not ask before, because I did not wish to interrupot his argument, in spite of his well-known willingness to submit to interruptions. Twice during his argument he said that the grantee in this case was perfectly willing to accept the conditions imposed by the grantor, which is the Government of the United States. The inference that I drew from that was that that being the case, the Senate should not object. Does the Senator from Ohio take the position that because the grantee—the corporation—is perfectly willing and anxious, even, to accept a condition imposed by the Government, a Senator who should believe that the Government in imposing such condition is transcending its powers or possibly usurping the powers that belong to the State should not object to the passage of the bill?

Mr. BURTON. Oh, no; by no means. I presume I did not make myself altogether clear to the Senator from Louisiana. Of course, the franchise they would have liked would not have contained the conditions this contains; but after long consultation they have consented to this, and they are now anxious to have it carried through.

Mr. THORNTON. Yes; Mr. President, I thoroughly understand that the corporation is anxious; but the question I asked was, Does the Senator say that because of that reason a Senator should not object?

Mr. BURTON. Oh, no; not at all. It is because the people who are in the locality desire it most earnestly; and this corporation has been found, which is willing to carry on the work.

Mr. BANKHEAD. I should like to ask the Senator a question along that line.

Mr. BURTON. Very well.

Mr. BANKHEAD. I should like to ask the Senator if it is not a fact that when that corporation came here to seek this franchise they were told, "Unless you accept this provision your bill will be vetoed"?

Mr. BURTON. I do not know what was stated to them, but I presume that is a fact.

Mr. BANKHEAD. There is no doubt about that being the fact.

Mr. BURTON. Perhaps there was something in the form of a prior veto of a bill relative to the Coosa River.

Mr. BANKHEAD. Now, Mr. President, I desire to ask the Secretary to read a short paragraph from the report——

Mr. BURTON. From what page does the Senator ask the Secretary to read?

Mr. BANKHEAD. From page 86 of the final report of the National Waterways Commission, signed by the Senator from Ohio as chairman. It is interesting reading in connection with this discussion. I ask the Secretary to read the portion I have marked.

The PRESIDING OFFICER. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

The commission is of the opinion that the Federal Government has no proprietary right or interest in navigable waters which would authorize the collection of tolls. The right, if it exists at all, rests upon either the second or third theory stated. As regards the second theory, it should be said that the imposition of tolls, unless based upon a more substantial foundation than the mere authority to grant or withhold consent—an authority arising solely from the control of the Federal Government for the purposes of navigation—does not commend itself to the commission, and it is to be doubted whether, even in case a bill should be passed or other action taken by Congress for granting this permission, with a provision for charging tolls, such tolls could be collected. Regarding the third theory stated, it should be noted that under the exercise of the taxing power Congress can levy taxes for general revenue purposes upon all classes of water power, whether in navigable or nonnavigable streams, and if charges are to be imposed it would seem that this is the normal method. It should further be borne in mind that a requirement for the imposition of tolls where the right to construct dams is hereafter granted would cause a discrimination between water power to be utilized under future permits and those already enjoyed, which are subject to no such charge. It must, of course, be remembered that whenever the privilege of constructing dams is granted in a navigable stream there is an undoubted right to impose charges sufficient to pay the expenses of examination and supervision and to secure the Government against cost by reason of obstacles to navigation created by the erection of dams; but this rests upon an entirely different principle from the proposal to charge tolls.

Mr. BURTON. I do not deny, Mr. President, that I have in some degree changed my mind during the last three years about this matter. I was chairman of that commission, and the magnitude of this problem in connection with the proper method of utilization has very much grown upon me since that report was signed. It should be borne in mind that the whole report should be taken together.

Mr. CLARK of Wyoming. Mr. President, before the Senator from Ohio finally concludes, he has given such a clear statement of his views upon the matter that I hesitate to ask him any of the questions I have in mind, but I think they go to the foundation of this whole question.

Mr. BURTON. I will be very glad to answer the Senator, if I can.

Mr. CLARK of Wyoming. Of course, the Senator understands that the Senate is not now really considering the question of the Connecticut River Co., but the Senate is considering a proposition as to the relative rights of individuals, the States, and the General Government in this basic proposition. I want to ask the Senator, in his opinion, who, if anyone, owns the water in the Connecticut River?

Mr. BURTON. Is that the question?

Mr. CLARK of Wyoming. I have three questions which I desire to ask, that being the first. The second is, Who, if anyone, owns the land under the water in the Connecticut River? The third one is, Whether or not, if the Government can dispose of the power generated at this dam, it can use it for any purpose which it chooses? I will make a little further explanation of that. If the Government can dispose of this water for a fixed charge for the purpose of running a manufacturing plant, can the Government itself run a manufacturing plant; or, if the Government can dispose of this power to a company for the purpose of running a trolley line, can the Government itself also use that power for running a trolley line? Those are the questions upon which I want to get the views of the Senator.

Mr. BURTON. Mr. President, I have already dealt at considerable length upon the first two of those questions. Who owns the water? It is not the property of anyone. We say in a vague way it is the property of the public; but, save for three rights, it is as free as light or air.

Mr. BORAH. Mr. President——

Mr. BURTON. The first right is the right of the owner of the bed of the stream——

Mr. CLARK of Wyoming. If the Senator will pardon me just a moment, I want to say to him that my purpose in asking these questions and getting his views is that they might perhaps form the basis of future discussion upon this or other bills.

Mr. BORAH. Mr. President——

Mr. BURTON. If the Senator from Idaho will kindly let me answer these questions I will yield to him later. The right of the owner to the bed of the stream is not an unqualified right. In some States it belongs to the State; in others the abutting proprietor owns to the center of the stream; sometimes his property is bounded by the low-water mark and sometimes by the high-water mark.

Now, if the bed of the stream belongs to the State, it must be utilized for a public purpose. I think there is a considerable difference in the States as to just what right inheres in the ownership of the bed of the stream. I should question whether in any State it went as far as a fee-simple right, so that the Commonwealth could sell it out to a private individual for such purposes as that individual desired to use it—to part with the title, and thereby deprive the public of the use of it.

The second right in that water, which is a qualification of its free use, is the riparian right in its flow, which involves its reasonable beneficial use, provided it does not interfere with the rights of riparians above or below. The third right is that of navigation, the control of which belongs to the Government of the United States, and is a right paramount to all. In the Western States there is a very different rule in regard to water. I am only speaking of the Eastern States. The Senator from Wyoming is no doubt very much better informed with respect to the conditions in the Western States than I am. There different conditions arising from the business of mining and the demands of agriculture necessarily make water a much more valuable asset than it is here in the East, and, in fact, generally speaking, the supply in the West is much scarcer than it is in the East.

As to surplus water available for power, can the Government use it for its own purposes? Why, yes; if it is for the carrying on of any public purpose and is connected with navigation. For instance, if there should be an armory or an arsenal where power was required, and there should be a Government work constructed there for the sake of navigation, and surplus power was created, I have no doubt that that water could be used for turning the lathes in that armory or arsenal; but, as a general proposition, I should say "no." If the Government is operating a trolley to carry its men from one portion of a navy yard or one portion of a camp to another, surplus water power above

that required for navigation could be applied as a propelling power for that purpose.

Mr. CLARK of Wyoming. I think probably there is no question about that in either the Senator's mind or in my own.

Mr. BURTON. I was going to say one thing further a little in the line of the question asked by the Senator from Colorado [Mr. THOMAS] a few days ago. If there is surplus water in a navigable stream and a plant is erected to utilize that surplus water for running locks, and there is more than is required for running the locks, I am inclined to think the Government could dispose of the surplus.

Mr. CLARK of Wyoming. Of course, my question was—and it seems to me as though the greater would involve the less—if the Government has authority for hire to dispose of, as under the terms of this bill, the power that is generated, could it itself use it along the same lines in which it is used by the lessee or the grantee?

Mr. BURTON. Maybe it could. It could sell the surplus water. The Senator's question is, Could it build a hydroelectric plant and sell the power?

Mr. CLARK of Wyoming. Exactly so. That is my question.

Mr. SMITH of Arizona. Or hitch it to machinery and sell the product of a factory?

Mr. BURTON. That is a different thing; that goes further. I never like to express an opinion on a question of this kind.

Mr. CLARK of Wyoming. I was seeking to find out just where the Senator's most clear and logical argument might lead us.

Mr. BURTON. I would be inclined not to favor any proposition that went that far; but the question of whether in their ownership of surplus power, the Government can not devise means to dispose of that surplus power in a profitable manner is a different matter.

Mr. NEWLANDS. Mr President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Nevada?

Mr. BURTON. I believe the Senator from Idaho [Mr. BORAH] first rose.

Mr. BORAH. I was not desirous of interrupting the Senator; I thought the Senator had concluded; and I had some matters of legislation I wanted to bring up.

Mr. NEWLANDS. I wish to ask the Senator from Ohio whether he regards the dam which the grantee in this case proposes to erect as a structure belonging to navigation?

Mr. BURTON. I should say it was a structure erected in aid of navigation; yes.

Mr. NEWLANDS. It is a structure that the Nation itself could build in aid of interstate commerce?

Mr. BURTON. Yes.

Mr. NEWLANDS. And it is a structure the use of which for other purposes the Nation, if it constructed it, could turn over to others for a consideration, is it not?

Mr. BURTON. Well, that would depend somewhat on the purpose to which it was to be applied.

Mr. NEWLANDS. Very well, take this case: If this structure, created in aid of navigation, is capable of a use which will result in the development of water power, can the United States Government, as a means of lessening the cost of that navigation, get profit from that use?

Mr. BURTON. I would say it could get an income from the surplus power. I do not know that I understood the question of the Senator from Nevada. I understood him to ask if it could sell the structure of the dam.

Mr. NEWLANDS. I will state very briefly, then, my contention, which is entirely in harmony, I believe, with that of the Senator from Ohio; but I have not been here this afternoon and have not had the advantage of the Senator's argument. As I understand, the Senator's contention is that this dam is constructed in aid of navigation?

Mr. BURTON. Yes.

Mr. NEWLANDS. That is, the Nation itself, under the interstate commerce power, could construct it?

Mr. BURTON. Yes.

Mr. NEWLANDS. And that, having constructed it, it could allow that structure to be put to some other profitable use which would diminish, of course, to the Nation, the cost of the enterprise in aid of navigation?

Mr. BURTON. Not unless that other use was in conjunction with its use for navigation. For instance, if a dam and lock were constructed in a stream which it was intended to abandon for navigation, the Government would have the right to sell the structure, but it could not sell the right to utilize the water power with it. When the Federal purpose for which it was constructed ceases, then the incidental purpose of the development of water power would cease with it. The best illustration is the one I gave about the building of a market house, having an auditorium above it. When its use as a market house is abandoned the municipality was held not to have the right to maintain an auditorium.

Mr. NEWLANDS. Well, Mr. President, if the Senator has concluded his remarks, I should like to say a few words upon that subject.

Mr. BURTON. I am through.

Mr. NEWLANDS. Mr. President, my view of this matter, based simply upon a casual study of it, is that the structure in question may be regarded as a structure in aid of navigation, and therefore it can be erected by the National Government under the power to regulate commerce between the States. It is a dam which is intended to raise the height of the stream above the dam in such a way as to prevent the rapids from impeding navigation. The purpose is to create a pool behind this dam, through which ships and vessels can proceed to the upper reaches of the river, and for that purpose locks are put at the side of the dam, with a view to enabling vessels to be raised or lowered, as occasion may require, in order to go up or down the river.

The National Government has the right to make that structure for that purpose, and in making it it necessarily creates a head of water which can be put to a profitable use in the development of power.

Doubtless the National Government itself, having constructed this structure, can make use of that structure in such a way as to develop this power. It does not claim, necessarily, any property right in the water. That is an elusive thing, as elusive as air itself, slipping from the upper reaches of the river down into the lower reaches and thence into the sound. It therefore may possibly have no property right in the water, but it has a property right in the structure, and the passage of that water over or through the structure creates a power of which the National Government is necessarily the owner.

Being the owner of that power, the National Government can part with it; and it would be a wise thing for it to part with it in a profitable way, for by so doing it would diminish the cost of the structure for purposes of navigation, and thus make feasible a navigation enterprise which otherwise would be entirely unfeasible because of the cost.

Having that power, the National Government can select an agent for the execution of that power. It can select an agent and authorize that agent to do what it can do—obstruct the stream by a dam for the purposes of navigation and construct the locks essential to navigation. The agent will then be in the same position as the principal, in the possession of a dam useful for two purposes—the promotion of navigation and the development of water power.

If, then, the principal has the power to select an agent to create a structure which the principal can construct, and if the principal has the right to every profitable use of that structure if it constructs it itself, it can make terms with the agent with reference to the compensation which the principal shall receive for the exercise by the agent of a privilege which it could not exercise at all without the license of the principal, particularly when that compensation is to be expended in the regulation of the river itself, a regulation essential to navigation and power development.

So, Mr. President, this legislation does not involve in any degree the ownership of water. Water flowing in a stream is no more the subject of ownership than a bird flying in the air. Reduce the bird to possession and it is your property, but so long as it flies in the air it is not. So it is with the water; reduce it to absolute possession, put it in a pail, and it is yours; but so long as it flows from its source to the Sound, subject only to temporary artificial obstructions, it is not the property of anyone.

In this case the Government deals simply with the structure and the use of the structure; not with the water or the use of the water. Having the right to rear the structure, and having the right also to select an agent to rear that structure, it can in law attach any condition it chooses to the use by that agent of the structure which it creates.

Mr. President, this illustrates the kind of legislation with which the Congress of the United States has been amusing itself for a hundred years or more regarding our navigable rivers. I say "amusing itself," for our legislation has lacked effectiveness, lacked efficiency. We have been trifling with this great question of the development of our rivers, and we have been trifling while we have been engaging in the Senate and in the House in endless discussion over the respective powers, rights, and jurisdictions of the Nation and of the States.

The Connecticut River furnishes an illustration of the futility of our efforts to reach any comprehensive results. That river affects the interests of four or five States. Taking its source

in Vermont and New Hampshire, it proceeds through Massachusetts and Connecticut into Long Island Sound. It is useful for two purposes there only. It is probably not useful for irrigation, as our western streams are, because of the humidity of the climate.

It is not, perhaps, to be regulated as many of our southern rivers are, in the interest of the reclamation of our swamp lands. The uses which are to be regulated on that river are the uses of its waters for navigation and the development of water power. That river is subject to the jurisdiction of four State sovereignties and one national sovereignty, the jurisdiction of each being clear and distinct, but each of these sovereignties having an interest in the river. It never has occurred to Congress, apparently, so far as action is concerned, although many of us have been debating it for years, that it would be a wise thing for these sovereigns, each having an interest in this river, to get together, confer through representatives with each other, and agree upon comprehensive plans under which each sovereign can itself or through agents do the part that belongs to its jurisdiction, so that the works will dovetail into each other and thus bring about the highest efficiency of the river itself for every purpose of civilization.

Mr. CLARK of Wyoming. Mr. President, will the Senator permit a question?

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Wyoming?

Mr. NEWLANDS. I only want to speak for a few moments.

Mr. CLARK of Wyoming. Just at that point I wanted to ask a question of the Senator, but I will not do it if he prefers that I should not. It is right on that particular line.

Mr. NEWLANDS. I will answer the question, then.

Mr. CLARK of Wyoming. The Senator was speaking of an agreement between the States themselves and the General Government. I should like to ask the Senator if any agreement could be made that would add to or take from the rights which the States and the General Government would have before that agreement was entered into?

Mr. NEWLANDS. None whatever; and I was careful to say that these plans would involve simply the exercise of the jurisdiction that belongs to each sovereign, and that each would accomplish its work within its jurisdiction, but under plans that would enable their works to dovetail with each other in such a way as to create the highest efficiency of the river for the uses of civilization.

We have no ambassadors, no ministers plenipotentiary, which the Nation can send to the States in order to confer with them regarding matters of joint interest. But will it be contended for a moment that no machinery can be created by which the Nation can talk to the States and the States can talk to the Nation, and that no machinery can be created by which each will exercise its admitted jurisdiction in such a way as to benefit instead of injuring the other? That is what we require—that simple machinery, through a national board meeting with boards appointed by the respective States, and, with the aid of engineers and experts, formulating plans which will permit of the harmonious and complete and comprehensive development of the waterways of the country without impairing in any degree the jurisdiction or the powers of each sovereign.

The Senator from Ohio—and I am sorry he is not here—served with me some years ago on an inland waterway commission created by President Roosevelt in the exercise of his power of recommendation to Congress, without statutory authority. On that commission we served with men distinguished in engineering and otherwise, with a view to presenting a plan under which the Nation and the States could coordinate in this great work. We made a report covering every contention which I have made, and Congress turned aside from the report. A bill which I had reported from the Committee on Commerce embracing the essentials was sandbagged on the floor of the Senate by the representatives of both parties, two of those representatives being from the Southern States, the section which will be more developed by this method of treatment than any other section of the country. Ever since then some of us have been making strenuous efforts, in committee and upon the floor of the Senate, to have this simple process of accommodation between the sovereigns accomplished through legislation. Thus far our efforts have been unavailing.

It is often said that some of us are 10 years ahead of our time. The trouble is that Congress is 10 years behind the times. This is demonstrated by the action of every waterway convention that has met in the country of late years, by the declarations of commercial bodies throughout the country, all of which have declared for cooperation between the Nation and the States in this important work, and by the declarations of the political parties of the country, all of which in the last campaign and, I think, all of them in the preceding campaign have demanded most emphatically the cooperation and the coordination of the Nation and the States in these important works.

Mr. President, I referred to the action of the Inland Waterways Commission. I was impatient to end the work of that commission, because it was a commission of legislative deliberation, and I wished to substitute a commission of action. When that report was presented to Congress, what did it do? It organized another commission—not of action, but of deliberation—the National Waterways Commission, of which my friend the Senator from Ohio was the chairman. It sat for two or three years upon these questions, and finally presented findings almost identical with those established by the Inland Waterways Commission organized by President Roosevelt, and of which my friend the honored Senator from Alabama [Mr. BANKHEAD] was one of the members.

So we have been wasting years in deliberation, meanwhile permitting this old spoils system, this patronage system of developing our waterways, to continue, under which individual Senators and individual Congressmen have been accustomed to present to Congress projects for individual constructions and individual dredgings here and there, and then bear back to their constituencies the evidence of their triumphant efforts—triumphant only in inefficiency; triumphant only in the careless expenditure of public money without adequate plans.

Mr. President, this is another of these cases of sporadic legislation regarding our waterways. Fortunately, it can be commended much more highly than the individual and scattered projects that usually present themselves, for it is an intelligent conception regarding a river of rather limited length, and whose uses have been well ascertained. The problem has been well thought out. I am disposed to support this bill, not because I like these individual cases of legislation when we ought to engage in general legislation involving all the waterways of the country, but because I think it has a merit; because I do not think it means simply the prestige of the individual Congressman or the individual Senator; because I do not believe it is a part of the spoils system which has prevailed in this country in projects both on our rivers and in our public buildings, just as it has existed in office.

I should much prefer if in this bill we would organize a commission of engineers, and authorize that commission to meet with similar commissions from the States of Vermont, New Hampshire, Massachusetts, and Connecticut, and have them work out broad, comprehensive plans relating to the full development of this river for every useful purpose.

I would much prefer to have them come with such broad and comprehensive plans and indicate that this is the part which the National Government is called upon to do, and this is the part that corporations or individuals are called upon to do under the laws of Vermont or New Hampshire or Massachusetts or Connecticut, thus involving a great work of utilization of the entire river for every useful purpose.

Coming as it does, having merit as it has, I am disposed to sustain this bill. I make these few remarks only with a view to calling the attention of the Senate of the United States to the fact that all the political parties have demanded that we should take up the question of waterway development in a comprehensive way; that that involves the regulation of the flow of the rivers, reducing the crest of the flood, and raising the height of the ebb flow; it involves bank protection, levee building, storage for irrigation above, intermediate storage for the development of water power, the control of the waters so as to promote the reclamation of swamp lands, every process of arresting the flood waters of the rivers as they fall from the heavens, in such a way as that they shall not within a few days or a few weeks be precipitated upon the weakest portion and perhaps the richest portion of our country and devastate its cultivable area; it involves treating the river as a highway of commerce, with terminals, transfer sites, and facilities, and facilities for coordinating with railways. In this great work we should unite under comprehensive plans the functions and powers of every sovereignty affected, and thus establish team work in the place of this eternal contention over questions of jurisdiction and sovereignty. We can thus turn every river from an instrumentality of destruction into an instrumentality of benefaction and create in every section of the country the largest prosperity and wealth.

Mr. BRANDEGEE. Mr. President, I do not care to enter into any argument on the merits of this question at this late hour of the afternoon. As Senators know, the bill will be taken up under the unanimous-consent agreement next Tuesday, and then I may address the Senate briefly upon it. But some remarks have been made here this afternoon which lead me to put into the RECORD a short statement of what I claim is the constitutional authority of the Government to impose a con-

dition of a money nature upon the granting of a license to construct a dam.

Most of the questions that are being discussed, it seems to me, apply to other bills and other propositions. There are many questions of a speculative and a somewhat obscure nature concerning the physical ownership of water, the ownership of the title lands in the different States, the uses that the water can be put to for the development of electrical power, what sort of property the power generated is, and whether the Government or the State has the right to sell it, which are interesting and must be solved at some time, either, as the Senator from Nevada [Mr. NEWLANDS] says, in a national policy of broad scope or by particular legislation.

I apprehend that the only part of this bill that will cause any serious discussion is the provision beginning at line 19 of page 2 of Senate bill 8033, as follows:

And provided further, That the Secretary of War, as a part of the conditions and stipulations referred to in said act, may, in his discretion, impose a reasonable annual charge or return, to be paid by the said corporation or its assigns to the United States, the proceeds thereof to be used for the development of navigation on the Connecticut River and the waters connected therewith.

Under the power to regulate commerce among the States, the Congress may, in my opinion, in consenting to the construction of a dam across a navigable stream, impose a condition that the licensee shall pay a reasonable sum of money to be used for the improvement of navigation, and it is not necessary that the money so paid should be expended at the immediate site of the dam. If the only power of Congress in the case of the Connecticut River dam is to require the licensee not to obstruct navigation, but to leave it in as good condition as formerly, Congress never could have required the licensee to construct a lock at Windsor Locks, because the river was not navigable at that point before the dam was built.

I do not care to discuss the question further. I have said that simply because, if I remember correctly, the Senator from Utah [Mr. SUTHERLAND], for whose legal judgment I have the highest respect, took the ground in answering the Senator from Ohio [Mr. BURTON] that possibly Congress could exact the money if it was to be spent in the improvement of navigation immediately at the site of the dam for which it was granting the license. I take the view that if it can provide, as a condition of issuing a license for a dam across a navigable river, that a lock must be built in aid of navigation and paid for by the licensee, it can equally consistently exact a money payment for the promotion of navigation under the clause of the Constitution which authorizes us to regulate commerce among the States; and I am quite certain that if it is expended anywhere on the river for the improvement of commerce among the States, as represented by river navigation, it would be sustained by the Supreme Court.

I will say further, Mr. President, if that question should ever be presented to the Supreme Court and my view of it should be declared to be not the correct one, very little damage would be done to anybody. I do not see how we are ever going to arrive at a solution of a question like this, which affects simply one part of the country and is of no interest to other parts of the country, unless it is to be made a precedent or a pattern for legislation of a similar character in particular States, to which they may object, or unless we pass something and let somebody, some stockholder, perhaps, refuse to pay the compensation provided for and take it to the Supreme Court and find out what we can do and what we can not do in these cases. Perhaps half the lawyers in the Senate think one way and the other half the other on this question; perhaps the court itself may divide; but we certainly can never arrive anywhere in the development of our water power, which is now running to waste all over the country, by having the Chief Executive veto all the bills that we pass which do not contain a provision for some sort of compensation and by having one House or the other block their passage if they do contain it.

After this bill has been properly discussed for as many days as Senators want to discuss it, I see no better way than to pass the bill and test that question. But when we get to the bill I am going to talk on the provisions of the bill as much as I can. While I have views on these interesting subjects that are discussed here—the general questions of water power throughout the country, which, as I said, are sometimes obscure and intricate—I hope after Senators have obtained all the information from each other on those very interesting subjects they will not allow the information so acquired to prejudice them against this particular bill unless it conflicts with some serious constitutional view which they may entertain.

SUPPLEMENTAL PATENTS TO ENTRYMEN.

Mr. GRONNA. I wish to call up Senate bill 6402, a measure that will take only a minute or two to pass and to which there can be no possible objection. I believe it will lead to no discussion. I ask the Senate to proceed to the consideration of the bill (S. 6402) to authorize the issuance of absolute and unqualified patents to public lands in certain cases.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Dakota?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Interior, in cases where patents for public lands have been issued to entrymen under the provisions of the acts of Congress approved March 3, 1909, and June 22, 1910, reserving to the United States all coal deposits therein, and lands so patented are subsequently classified as noncoal in character, to issue new or supplemental patents to such entrymen, conveying to them the absolute and unqualified title to the lands so previously entered, patented, and thereafter classified as noncoal.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

INDIGENT PERSONS IN ALASKA.

Mr. SMITH of Michigan. From the Committee on Territories I report back the amendments of the House to the bill (S. 267) providing for assisting indigent persons, other than natives, in the District of Alaska, which were referred to that committee on May 9, 1912. I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Presiding Officer appointed Mr. NELSON, Mr. BURNHAM, and Mr. CHAMBERLAIN conferees on the part of the Senate.

DEPARTMENT OF LABOR.

Mr. BORAH. I ask unanimous consent to call up the bill (H. R. 22913) to create a department of labor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Idaho?

Mr. PAGE. I should like to know what the bill is before I give my consent.

Mr. GALLINGER. I assume the Senator is not going to press the bill for consideration to-day.

Mr. BORAH. Not for final consideration. I wish, if I can, to dispose of the committee amendments to-day. I do not think there are any amendments which any Senator would care to discuss; they are mostly formal. I will not ask for a final vote to-day.

Mr. SMOOT. If there is any objection to an amendment, the Senator will ask to have it go over?

Mr. BORAH. I will.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole, and it was read.

The bill was reported from the Committee on Education and Labor with amendments in section 3, page 3, line 11, after the word "Immigration," where it occurs the second time, to insert "and Naturalization"; in line 12, after the word "Information," to insert "the Division of Naturalization"; and in line 24, after the words "Labor Statistics," to insert "and the administration of the act of May 30, 1908, granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment," so as to make the section read:

SEC. 3. That the following-named officers, bureaus, divisions, and branches of the public service now and heretofore under the jurisdiction of the Department of Commerce and Labor, and all that pertains to the same, known as the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, the Division of Information, the Division of Naturalization, and the Immigration Service at large, the Bureau of Labor, and the Commissioner of Labor, be, and the same hereby are, transferred from the Department of Commerce and Labor to the Department of Labor, and the same shall hereafter remain under the jurisdiction and supervision of the last-named department. The Bureau of Labor shall hereafter be known as the Bureau of Labor Statistics, and the Commissioner of the Bureau of Labor shall hereafter be known as the Commissioner of Labor Statistics; and all the powers and duties heretofore possessed by the Commissioner of Labor shall be retained and exercised by the Commissioner of Labor Statistics; and the administration of the act of May 30, 1908, granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

The amendments were agreed to.

Mr. BORAH. As that disposes of the committee amendments and it is late, and several Senators who are not here——

The PRESIDING OFFICER. The Senator from Idaho possibly overlooked that the bill specifies it shall go into effect October 1, 1912.

Mr. BORAH. At the proper time I will offer an amendment on that line.

Mr. SMOOT. I should like to ask the Senator if all the committee amendments have been disposed of?

Mr. BORAH. Those are all the amendments that I desire to have considered at this time.

Mr. SMOOT. I wish to have a little bill passed.

Mr. BORAH. In just a moment I will yield. I ask to have the bill reprinted with the committee amendments included.

The PRESIDING OFFICER. If there is no objection, it will be so ordered.

Mr. BORAH. I now ask that the bill be temporarily laid aside.

The PRESIDING OFFICER. It will be so ordered.

JOSEPH HODGES.

Mr. SMOOT. I ask unanimous consent for the present consideration of the bill (S. 7754) for the relief of Joseph Hodges.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Lands with an amendment, to add to the end of the bill the following proviso: "*Provided*, That upon the reconveyance of the surrendered lands they will become a part of the Cache National Forest," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized to issue a patent to Joseph Hodges for the following-described lands: The southwest quarter of the northeast quarter and the south half of the northwest quarter of section 29; the south half of the northeast quarter and the southeast quarter of the northwest quarter of section 30; the west half of the southeast quarter and the west half of the northeast quarter of section 15; the southwest quarter of the southeast quarter of section 10, all in township 13 north, range 5 east, of Salt Lake meridian, upon the transfer by the said Joseph Hodges to the United States of the northeast quarter of the southeast quarter of section 3; the southwest quarter of the southwest quarter of section 26; the southwest quarter of the southwest quarter of section 27; the south half of section 16, all in township 14 north, range 4 east, of Salt Lake meridian, situate in the Cache National Forest: *Provided*, That upon the reconveyance of the surrendered lands they will become a part of the Cache National Forest.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 28499) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the House accepts the invitation of the Senate extended to the Speaker and Members of the House of Representatives to attend the exercises in commemoration of the life, character, and public services of the late JAMES S. SHERMAN, Vice President of the United States and President of the Senate, to be held in the Senate Chamber on Saturday, the 15th day of February next, at 12 o'clock noon.

HOUSE BILL REFERRED.

H. R. 28499. An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

Mr. SMOOT. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Saturday, February 8, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February 7, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We bless Thee, our Father in heaven, for this new day with all its hopes and promises. Thou hast created us for action and inspired us with high ideals. Illumine our minds and quicken within us the highest and best impulses, that we may add as individuals to our parts and strive to better the conditions of our fellow men; to the honor and glory of Thy holy name. Amen.

The Journal of the proceedings of yesterday was read and approved.

INDICTMENTS, NORTHERN DISTRICT OF TEXAS.

Mr. GARNER. Mr. Speaker, I call up a privileged resolution (H. Res. 808) which is on the House Calendar.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 808.

Resolved, That the Attorney General of the United States be, and he is hereby, requested to transmit to the House of Representatives at the earliest practical date all letters, briefs of evidence, documents, and written opinions on file in the Department of Justice relating to or having any connection with the indictment returned in the United States District Court for the Northern District of Texas against C. N. Payne, John D. Archbold, Henry C. Folger, W. C. Teagle, A. C. Bible, E. R. Brown, John Sealy, Standard Oil Co. of New York, Standard Oil Co. of New Jersey, and Magnolia Petroleum Co. of Texas, charging them with conspiring to restrain interstate trade and commerce of the Pierce-Fordyce Oil Association in violation of the criminal provisions of the Sherman Act, or relating in any way to the order of the Attorney General of the United States directing the United States marshal for the southern district of New York not to execute bench warrants for the arrest of John D. Archbold, W. C. Teagle, and H. C. Folger, jr., issued on said indictment.

Mr. GARNER. Mr. Speaker, there are some committee amendments.

The SPEAKER. The Clerk will report the committee amendments.

The Clerk read as follows:

Page 1, line 2, strike out "requested" and insert "directed, if not incompatible with the public interest."

The amendment was agreed to.

Mr. GARNER. There are one or two other amendments.

The SPEAKER. The Clerk will report the amendments.

The Clerk read as follows:

Page 1, line 9, after the word "Folger," insert the word "junior."

The amendment was agreed to.

The Clerk read as follows:

Page 2, line 7, strike out the capital letter "H" and insert the word "Henry."

The amendment was agreed to.

Mr. MURDOCK. Mr. Speaker, I should like to ask the gentleman about the substitution of the word "request" for the word "direct." Is this the case where a Federal judge in Texas issued subpœnas for certain Standard Oil people in New York City and the Department of Justice refused to serve the warrants?

Mr. GARNER. It is. It was not a subpœna. It was a capias.

Mr. MURDOCK. Issued by the judge?

Mr. GARNER. Issued by the court on a grand jury indictment.

Mr. MURDOCK. Has any explanation ever been made by the Department of Justice why they did not serve these papers?

Mr. GARNER. The Department of Justice——

Mr. MURDOCK. I would like to ask the gentleman——

Mr. GARNER. I would like an opportunity to answer the gentleman's question.

Mr. MURDOCK. I will get at it in this way: The resolution as introduced into this House directed the Attorney General to explain to the House why these warrants were not served.

Mr. GARNER. When was that?

Mr. MURDOCK. As I understand it, that was it.

Mr. GARNER. No; this resolution——

Mr. MURDOCK. It must have been introduced, because the committee now brings in a resolution with an amendment changing the word "directed" to the word "requested."

Mr. GARNER. No; it is just the reverse of that, changing the word "requested" to "directed."

Mr. MURDOCK. So the resolution as it now stands is more mandatory than the original resolution?

Mr. GARNER. It certainly is.

Mr. MURDOCK. I am glad of that.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I desire to call up the conference report on Senate bill 7160, an act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and to certain widows and dependent relatives of such soldiers and sailors.

The SPEAKER. The Clerk will read the report.

The Clerk read as follows:

CONFERENCE REPORT (NO. 1448).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 7160, an act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to rec-

ommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 2, 5, and 8.

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, 4, 6, 7, and 9, and agree to the same.

JOE J. RUSSELL,
J. A. M. ADAIR,
CHAS. E. FULLER,
Managers on the part of the House.
P. J. MCCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

Amendment No. 1, the case of Susannah Roberts (S. 449): In this case the widow is not badly disabled and hence the item was stricken from the bill, and the Senate recedes from its disagreement.

Amendment No. 2, the case of Lamond Partridge (S. 2978): This case was stricken from the bill on the ground that soldier's condition did not warrant further relief. Further investigation shows him to be helpless, and the House recedes.

Amendment No. 3, Gustav A. Kindblade (S. 3786): In this case the House reduced the rate from $50 to $40 on the ground that soldier was not totally helpless, and the Senate recedes.

Amendment No. 4, the case of Martin Parker (S. 4063): In this case the item was stricken from the bill on the ground that the evidence did not warrant further increase, and the Senate recedes from its disagreement.

Amendment No. 5, the case of Benjamin F. Adams (S. 4072): This item was stricken from the bill by the House, but on further investigation it is believed the increase is warranted, and the House recedes.

Amendment No. 6, the case of Mary Byrne (S. 4187): In this case the amount allowed was reduced by the House from $30 to $20, and the Senate recedes from its disagreement.

Amendment No. 7, the case of Alice O. Lord (S. 5509): In this case the widow did not marry until 1895, and hence the House struck the item from the bill. The Senate recedes.

Amendment No. 8, the case of Julius T. Morse (S. 5590): In this case the House reduced the amount from $40 to $36, but on further investigation it is found that $40 has been allowed in similar cases, and the House recedes.

Amendment No. 9, the case of James V. D. Ten Eyck (S. 6660): In this case the House reduced the rate from $40 to $36 to accord to amounts allowed in similar cases, and the Senate recedes from its disagreement.

JOE J. RUSSELL,
J. A. M. ADAIR,
CHAS. E. FULLER,
Managers on the part of the House.

The conference report was agreed to.

Mr. RUSSELL. Mr. Speaker, I call up the conference report on Senate bill 8034, an act granting pensions to certain soldiers and sailors of the Civil War and to certain widows and dependent relatives of such soldiers and sailors.

The SPEAKER. The Clerk will read the conference report.

The Clerk read as follows:

CONFERENCE REPORT (NO. 1449).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 8034, an act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 2, 5, 6, 7, 9, and 10.

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, 4, and 8, and agree to the same.

JOE J. RUSSELL,
J. A. M. ADAIR,
CHAS. E. FULLER,
Managers on the part of the House.
P. J. MCCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

Amendment No. 1 is the case of Thomas W. Dickey (S. 300): The man was never regularly mustered into the service of the Government, and hence the item was stricken from the bill; and the Senate recedes from its disagreement.

Amendment No. 2, the case of Addie Roof (S. 2379): In this case the widow married the soldier in 1892, a short time after the passage of the 1890 law, and was stricken from the bill on those grounds. The House recedes from this amendment, as a number of similar cases have since been passed.

Amendment No. 3, the case of Andrew King (S. 5657): In this case the Senate allowed a rate of $30; the House reduced the amount to $24; and the Senate recedes from its disagreement.

Amendment No. 4, the case of James Luther Justice (S. 6968): In this case the Senate allowed $30, and the House $24. The Senate recedes from its disagreement.

Amendment No. 5, the case of Martha J. Stephenson (S. 7025): The Senate allowed this at $30, and the House reduced it to $20. On reviewing, it is believed that the $30 is just; and the House recedes.

Amendment No. 6, the case of Mate Fulkerson (S. 7084): The House struck this item from the bill on the grounds that widow did not marry until after 1890, but recedes from the amendment for the reason that since other bills of like character have been passed.

Amendment No. 7, Lydia M. Jacobs (S. 7173): This was stricken from the bill on account of date of marriage, but the House recedes for the same reasons as the preceding case.

Amendment No. 8: Strikes out the case of John Cook (S. 7214), who has died since the bill passed the Senate; and the Senate recedes.

Amendment No. 9, Sarah McLaury (S. 7363): This is another case where the widow married shortly after 1890; and the House recedes.

Amendment No. 10, Delphine R. Burritt (S. 7805): In this case the House reduced the amount from $40 to $30, but further evidence shows total helplessness physically and mentally; and the House recedes.

JOE J. RUSSELL,
J. A. M. ADAIR,
CHAS. E. FULLER,
Managers on the part of the House.

The conference report was agreed to.

BILLS ON THE PRIVATE CALENDAR.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of the following order, which I send to the desk and ask to have read.

The Clerk read as follows:

House order 76.

Ordered, That on next Monday, February 10, the House shall stand in recess from the hour of 5 o'clock p. m., until the hour of 8 o'clock p. m., at which time it shall be in order to consider, only in the House as in Committee of the Whole, bills on the Private Calendar which are not objected to.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the order.

The question was taken, and the order was agreed to.

AGRICULTURE APPROPRIATION BILL.

Mr. LAMB. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 28283) making appropriation for the Department of Agriculture for the fiscal year ending June 30, 1914.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the Agriculture appropriation bill, with Mr. BEALL of Texas in the chair.

Mr. HAUGEN. Mr. Chairman, I yield five minutes to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. MOORE of Pennsylvania. Mr. Chairman, upon confirmation of reports that the hull of the frigate *Philadelphia* has been located under water in the harbor of Tripoli, I introduced a bill, which has the approval of the Department of the Navy,

for a small appropriation for a survey to recover the hull or such portions thereof, including guns and other equipment, as may seem to the Secretary of the Navy desirable. The Government has recently spent large sums in recovering and disposing of the wreck of the *Maine* in Havana Harbor and has just completed the appropriate service of transporting the remains of the illustrious John Paul Jones to their last resting place at Annapolis, so that if authority is given in this instance to recover such relics of the *Philadelphia* as may be worthy of preservation, it will be in line with precedent and will tend to rekindle in the United States a spirit of patriotism of most wholesome import.

The age in which we live is one of commercialism, when it is difficult for the Department of the Navy to secure recruits for that service upon the high seas, which in times of war is so essential. With a declining merchant marine on the one hand and the rearing of great battleships on the other, it is refreshing to recall the incidents leading up to the American invasion of the Mediterranean Sea and the suppression of piracy along the Barbary coast.

So intimately connected with this earlier history was the frigate *Philadelphia* that a discussion of the bill making an appropriation for her recovery not only invites comparison of our maritime prowess and enterprise of more than a century ago, but readily reveals one of the most interesting chapters in our naval annals. It is both helpful and inspiring.

DONATED BY THE MERCHANTS.

Built 114 years ago, the vessel was commonly regarded as one of the bugest warships afloat. A description of her, taken from memoranda in the Navy Department, shows her to have been a frigate of 1,240 tons, with 36 guns—elsewhere reported as 44—and 307 men. She appears to have been not more than 200 feet long—about one-third the length of a modern battleship—and of 40 feet beam. She was built at Philadelphia in 1799 by subscriptions of the merchants of that city, and cost $179,349. All the details of design and construction are not available, but one of those who superintended her building in the summer of 1799 was Capt. Thomas Robinson, appointed captain in the Navy September 24, 1799, and who served until discharged by the Peace-Establishment act, September 26, 1801. The frigate was launched Thursday, November 28, 1799, as shown by the following announcement taken from the Philadelphia Gazette and Universal Daily Advertiser of Friday, November 29, 1799:

"THE LAUNCH.

"Frigate 'City of Philadelphia.'

"At half past 2 o'clock yesterday afternoon this elegant ship was safely launched into the Delaware, accompanied by the acclamations of thousands of spectators who lined the shore. As soon as she was afloat salutes were fired from the *Augusta* and *Richmond*, armed brigs laying at anchor in the cove.

"The tide serving at an earlier hour than was expected, owing to a strong wind from the southeast, the launch took place sooner than was intended, by which a great number of people who promised themselves the pleasure of viewing this beautiful operation were disappointed, but who were, however, much gratified by afterwards seeing one of the finest ships ever built in this country safely moored.

"The *City of Philadelphia* is an evidence of the patriotism of the merchants of the city after which she is named, being built by their subscriptions; will carry 44 heavy guns and be commanded by Capt. Decatur, formerly of the *Delaware*, sloop of war."

FRIGATE MADE MANY CAPTURES.

In the Navy lists the ship was entered as *Philadelphia*. She sailed from her home city on a cruise to the West Indies in 1800 as flagship of a squadron of 13 vessels under command of Capt. Stephen Decatur, senior. During this cruise she captured 5 vessels from the French.

Her second cruise, 1801–2, was in the Mediterranean under command of Capt. Samuel Barron.

July 28, 1803, she sailed from Philadelphia on her third and last cruise, commanded by Capt. William Bainbridge.

August 26, 1803, shortly after she had reached the Mediterranean, she captured, near Cape de Gatt, the Tripolitan ship *Meshboha*, or *Murboka*, and recaptured from her the American brig *Cecelia*, of Boston.

TEMPORIZING WITH THE PIRATES.

Up to this time the record of the *Philadelphia* had been one of unvarying successes, and she had come to be regarded as a terror of the seas. It was her business, along with others of the fleet, to protect American merchantmen against privateers and pirates, and the Mediterranean expedition was in the nature of a notice to the Emperor of Morocco and the Arabian beys, who were demanding tribute of the United States, that the American Navy was a power to be reckoned with.

The official reports of the time indicate that the United States under President Jefferson had a great deal of trouble satisfying these mercenary cormorants, who insisted upon the payment of fixed stipends for allowing merchantmen to do business in the Mediterranean. The diplomatic negotiations were of such a nature as to be almost amusing, as we would now view them, because of the strangely worded memorials addressed to the various barbarian rulers with the hope of appeasing their dignity as well as their appetite for tribute. So unbearable had their exactions become, however, that Commodore Preble was finally sent to meet the situation squarely, and the *Philadelphia* being of his squadron, had tremendous influence in alleviating it.

LURED UPON THE ROCKS.

The consternation following the capture of the *Philadelphia* by the Tripolitans may, therefore, well be imagined. And the incident was all the more distressing because it gave no opportunity to Capt. Bainbridge and his men to fight their way out of captivity. While chasing a Tripolitan ship, on October 31, 1803, the *Philadelphia* ran on an uncharted rock in the harbor of Tripoli. It was commonly asserted, and the Tripolitans sometimes boasted of it, that the *Philadelphia* had been lured to her fate. Be that as it may, every effort was at once made to get her off. In the endeavor to lighten her three anchors were thrown from the bows, the water in the hold started, and guns were hove overboard, except some abaft retained to defend the ship against the gunboats which surrounded her. For four hours Capt. Bainbridge withstood the fire of the Tripolitan ships, gunboats, and the fire from the shore batteries, but seeing that reenforcements were coming out, he decided to strike his flag rather than further endanger the lives of his brave men.

THE NATIVES IN POSSESSION.

The Tripolitans took possession of the frigate shortly after sunset. The officers and a few of the men were taken to the house of the American consul, Mr. Catheart, ashore, and were quartered there for the night. Next morning, the consul becoming their guaranty to the bashaw for the officers, they were paroled. Forty-three officers and men were placed in the consulate for the time, and 264 men and boys were quartered in the bashaw's palace.

The aggravation resulting from the capture of the *Philadelphia* and the imprisonment of Capt. Bainbridge and his men, was heightened by the refitting of the *Philadelphia* after she was taken from the rocks for the cruising purposes of the Tripolitans. Thus this most formidable champion of the American Navy was made to do service as an enemy of her country, and her hostile flag was flaunted in the very faces of the American captives behind the walls of the bashaw's castle.

The depressing effects of the capture of the Philadelphia were felt throughout the United States and by all the foreign countries that had been paying liberal tribute to the Tripolitans; but it was left for Lieut. Stephen Decatur, son of the first commander of the *Philadelphia*, who brother's life was given to the service in one of these Mediterranean Sea fights, to propose and to organize the expedition which was not only to be eminently successful, but destined to make the name Decatur a synonym for physical courage and bravery the world over.

DECATUR RECAPTURES THE FRIGATE.

Securing the approval of Commodore Preble, Lieut. Decatur, detached from the frigate *Siren*, started out on the night of February 16, 1804, in the captured ketch, renamed the *Intrepid*. Accompanied by 11 officers and 62 men, with an Italian pilot, he sailed into the harbor of Tripoli, boarded the *Philadelphia*, took possession of her after a desperate encounter, set fire to her, and returned to the ketch without the loss of a single man. Twenty of the Tripolitans on the *Philadelphia* were killed, a large boatload escaped, many jumped overboard and were drowned, and one was taken prisoner. Throughout the encounter on the *Philadelphia*, and particularly after the alarm had been sounded and the flames were eating into the rigging, Decatur and his comrades were subjected to the fire of Tripolitan cruisers, gunboats, and batteries on the shore. In an extract from the report of this brilliant and daring exploit it is stated that the guns on the frigate at the time Decatur boarded her were mounted and charged. Whether any of those guns went down with the *Philadelphia* and are still in a state capable of preservation remains to be seen. It is said, however, that the burning of the *Philadelphia* had the most salutary effect upon the pirates and stimulated the officers and men of the American Navy as nothing had done before.

REASON FOR BURNING THE VESSEL.

That Decatur did not save the *Philadelphia*, after driving the pirates off, was due to his literal observance of the orders given

by Commodore Preble. The enterprise was regarded as of so hazardous a nature as to be dubious of execution, and the commodore, fearing that any attempt at capture would result in failure, directed the destruction of the ship. He wanted to make sure, at least, of the effectiveness of American arms.

It would be entertaining in a high degree to recall the testimony of those who accompanied Decatur on his perilous expedition; to describe the sensations of the American captives behind the walls of Tripoli as the fire of the *Philadelphia* illuminated the skies, or to recount the manifestations of delight and approval upon the return of the *Intrepid* to the American squadron; but all that may be passed for the present. The roll of those who acclaimed the heroic deed of Decatur and his men included the Prebles, the Stewarts, the Dales, the Bainbridges, the Porters, the Lawrences, the Perrys, the Smiths, the McDonoughs, and many other glorious names of this most thrilling period of America's naval history.

JEFFERSON'S MESSAGE TO CONGRESS.

In a message to Congress, March 20, 1804, President Jefferson transmitted the letter of Capt. Bainbridge, announcing the loss of the frigate *Philadelphia*. It was dated Tripoli, November 1, 1803, and was addressed to the Hon. R. Smith, Secretary of the Navy. "Misfortune necessitates me to make a communication the most distressing of my life," Capt. Bainbridge began, and then he proceeded to tell in detail the chase after the Tripolitan cruiser and the rounding up upon the rocks. "We have lost everything but what was on our backs," he concluded, "and even part of that was taken off." In a postscript he added: "Notwithstanding our parole, we are not permitted to leave the house, or go on the top of it, and they have closed our view of the sea." The lament of Capt. Bainbridge was shared by David Porter, then a lieutenant, and others of the captives, who afterwards achieved distinction in naval affairs. In the court-martial proceedings, presided over by Capt. James Barron, it was shown among other things that Capt. Bainbridge had destroyed the signal books of the *Philadelphia* and had, with "great coolness and deliberation," taken other steps to minimize the effect of the loss of the ship to the Tripolitans. The court found that Capt. Bainbridge "acted with fortitude," and "that no degree of censure should attach itself to him."

DECATUR'S ORDERS FROM PREBLE.

Such was the plight of the Navy when the project of the younger Decatur was laid before Commodore Preble. What Decatur was expected to do is shown in the following orders from his commodore:

UNITED STATES FRIGATE "CONSTITUTION,"
Syracuse Harbor, January 31, 1804.

SIR: You are hereby ordered to take command of the prize ketch, which I have named the *Intrepid*, and prepare her with all possible despatch for a cruise of thirty days, with full allowance of water, provisions, &c., for seventy-five men. I shall send you five midshipmen from the *Constitution*, and you will take seventy men, including officers, from the *Enterprise*, if that number can be found ready to volunteer their services for *boarding and burning the Philadelphia* in the harbor of Tripoli; if not, report to me, and I will furnish you with men to complete your complement. It is expected you will be ready to sail tomorrow evening, or some hours sooner, if the signal is made for that purpose.

It is my orders that you proceed to Tripoli, in company with the *Syren*, Lieutenant Stewart, enter the harbor in the night, *board the Philadelphia, burn her*, and make good your retreat, with the *Intrepid*, if possible, unless you can make her the means of destroying the enemy's vessels in the harbor, by converting her into a fireship, for that purpose, and retreating in your boats and those of the *Syren*. You must take fixed ammunition and apparatus for the frigate's 18-pounders, and if you can, without risking too much, you may endeavor to make them the instruments of destruction to the shipping and Bashaw's castle. You will provide all the necessary combustibles for burning and destroying ships. *The destruction of the Philadelphia is an object of great importance*, and I rely with confidence on your intrepidity and enterprise to effect it. Lieutenant Stewart will support you with the boats of the *Syren*, and cover your retreat with that vessel. Be sure and set fire in the gun-room births, cockpit, store-rooms forward, and births on the birth-deck.

After the ship is well on fire, point two of the 18-pounders, shotted, down the main hatch, and blow her bottom out. I enclose you a memorandum of the articles, arms, ammunition, fireworks, &c., necessary, and which you are to take with you. Return to this place as soon as possible, and report to me your proceedings. On boarding the frigate, it is probable you may meet with resistance—It will be well, in order *to prevent alarm, to carry all by the sword*. May God prosper and succeed you in this enterprise.

I have the honor to be, sir, your obedient serv't,

EDWARD PREBLE.

Lieut. Commandant DECATUR,

THE WORK DONE AS ORDERED.

How well the work of destroying the *Philadelphia* was executed is shown by Lieut. Commandant S. Decatur's report to Commodore Preble. It was as follows:

ON BOARD THE KETCH "INTREPID," AT SEA,
February 17, 1804.

SIR: I have the honor to inform you, that in pursuance to your orders of the 31st ultimo, to proceed with this ketch off the harbor of Tripoli, there to endeavor to effect the destruction of the late United States' frigate *Philadelphia*, I arrived there in company with the United States' brig *Syren*, lieutenant-commandant Stewart, on the 7th, but owing to the badness of the weather, was unable to effect any thing until last evening, when we had a light breeze from the N. E. At 7 o'clock I entered the harbor with the *Intrepid*, the *Syren* having gained her station without the harbor, in a situation to support us in our retreat. At half past 9 o'clock, laid her alongside of the *Philadelphia*, boarded, *and after a short contest, carried her*. I immediately fired her in the store-rooms, gun-room, cock-pit, and birth-deck, and remained on board until the flames had issued from the spar-deck, hatchways, and ports, and before I had got from alongside, the fire had communicated to the rigging and tops. Previous to our boarding, they had got their tompions out, and hailed several times, but not a gun fired.

The noise occasioned by boarding and contending for possession, although no fire-arms were used, gave a general alarm on shore, and on board their cruisers, which lay about a cable and a half's length from us, and many boats filled with men lay around, but from whom we received no annoyance. They commenced a fire on us from all their batteries on shore, but with no other effect than one shot passing through our top-gallant sail.

The frigate was moored within *half-gunshot* of the Bashaw's castle, and of their principal battery—two of their cruisers lay within two cables' length on the starboard quarter, and their gun-boats within half gunshot on the starboard bow. She had all her guns mounted and loaded, which, as they became hot went off. As she lay with her broadside to the town, I have no doubt but some damage has been done by them. Before I had got out of the harbor, her cables had burnt off, and she had drifted in under the castle, where she was consumed. *I can form no judgment as to the number of men on board, but there were twenty killed. A large boat full got off, and many leapt into the sea.* We have made one prisoner, and I fear from the number of bad wounds he has received he will not recover, although every assistance and comfort has been given him.

I boarded *with sixty men and officers*, leaving a guard on board the ketch for her defence, and it is with the greatest pleasure I inform you, *I had not a man killed in this affair, and but one slightly wounded*. Every support that could be given I received from my officers, and as the conduct of each was highly meritorious, I beg leave to enclose you a list of their names. Permit me also, sir, to speak of the brave fellows I have the honor to command, whose coolness and intrepidity was such as I trust will ever characterise the American tars.

It would be injustice in me, were I to pass over the important services rendered by Mr. Salvadore [Catalano], the pilot, on whose good conduct the success of the enterprise in the greatest degree depended. He gave me entire satisfaction.

I have the honor to be, sir, &c.,

STEPHEN DECATUR.

Com. EDWARD PREBLE,
Com. U. S. Squadron in the Mediterranean.

EXTRACTS FROM PREBLE'S OFFICIAL DESPATCHES.

Reporting the work of Decatur to the department at Washington, Commodore Preble said:

UNITED STATES' SHIP "CONSTITUTION,"
Syracuse Harbor, 19th of February, 1804.

SIR: I have the honor to inform you that the United States' brig *Syren*, lieutenant-commander Stewart, and ketch *Intrepid*, of four guns, lieutenant commandant Decatur, arrived here last evening from a cruise. They left this port the 3d instant, with my orders to proceed to Tripoli, and *burn the frigate*, late the United States' frigate *Philadelphia*, at anchor in that harbor. I was well informed that her situation was such as to render it impossible to bring her out, and her destruction being absolutely necessary to favor my intended operations against

that city, I determined the attempt should be made. I enclose you copies of my orders on this occasion, which have been executed in the most gallant and officer-like manner by lieutenant commandant Decatur, assisted by the brave officers and crew of the little ketch *Intrepid*, under his command. Their conduct in the performance of the dangerous service assigned them, cannot be sufficiently estimated. It is beyond all praise. Had lieutenant Decatur delayed one-half hour for the boats of the *Syren* to have joined him, he would have failed in the main object, as a gale commenced immediately after the frigate was on fire, and it was with difficulty the ketch was got out of the harbor. The *Syren*, owing to the lightness of the breeze in the evening, was obliged to anchor at a considerable distance from the city, which prevented her boats from rendering such assistance as they might have done, had they entered the harbor earlier.

Lieutenant Stewart took the best position without the harbor to cover the retreat of the *Intrepid*, that the lightness of the breeze would admit of; his conduct through the expedition has been judicious and highly meritorious. But few of the officers of the squadron could be gratified by sharing in the danger and honor of the enterprise.

In justice to them, I beg leave to observe, that they all offered to volunteer their services on the occasion, and I am confident, whenever an opportunity offers to distinguish themselves, that they will do honor to the service. I enclose you lieutenant commandants Stewart and Decatur's official communications, with names of the officers on board the ketch.

With the highest respect, I have the honor to be, sir, your most obedient humble servant.

EDWARD PREBLE.

A STATEMENT OF THE ENEMY'S STRENGTH.

The *Philadelphia* at the time she was destroyed was lying in the harbor of Tripoli, protected not only by her own guns and a considerable number of Turks on board, but by a number of batteries on shore, gunboats, galleys, etc., viz:

	Guns.
Fort English, mounting	7
American	7
Palace	10
Between Palace and Molehead	14
Molehead Crown battery	19
Fort Way	11
Two small batteries	9
Malta battery	9
Half-moon battery	10
West Diamond battery	9
Battery with arched embrasures	3
Western battery	7
Of heavy caliber	115

19 gunboats.
2 galleys.
2 schooners of 8 guns each and one brig of 10 guns.

All the batteries and vessels were fully manned; the whole number of troops estimated at 25,000 Arabs, etc. The whole naval force of the United States in the Mediterranean at that period was 1 frigate, 3 brigs, 3 schooners, 2 bombs, and 6 gunboats, manned by 1,060 men. Before the *Philadelphia* was taken by the Tripolitans the demand of the bashaw of Tripoli for peace was $200,000 and the repayment of all his expenses during the war. After her destruction he agreed to make peace on our terms, viz, exchange of prisoners, man for man, and $60,000 for the surplus in his possession. The bey of Tunis had frequently threatened war, but was deterred, no doubt, by the impression produced by the energy of our squadron.

Commodore Preble, to the Secretary of the Navy, February 3, 1804, estimates the American captives in Tripoli at 300; the Tripolitan captives, 60; balance of prisoners in favor of Tripoli, 240.

So much for a better understanding of the importance and effectiveness of Decatur's work. It terrified the pirates and brought them to terms.

THE LOG OF THE SLOOP "SIREN."

Amongst the tomes of the Navy Department is still preserved the original log of the U. S. sloop of war *Siren* (spelled Siren in the log, spelled Syren elsewhere—J. H. M.) of 18 guns, then under the command of Lieut. Charles Stewart, afterwards a famous commodore, and from it I have been permitted to make the following extract, which tells in the language of the sailor the story of Decatur's wonderful adventure:

"THURSDAY, 16TH FEBRUARY, 1804.

"Commences with fresh breeze, clear X pleas' weather, the *Intrepid* in co: At ½ past 2 made the land on our lee bow, haul'd up the main sail took 1 reef in the topsails & bent the stream cable. At ½ past 3 backed the main topsail for the *Intrepid* to come up. At 4 lower'd down the cutter & sent 9 men on board the *Intrepid* with cutlasses, pistoles, musquets, &c., &c. At ½ past 4 the boat return'd hoisted her up & made sail for the land. At ½ past 5 mountain Togura 6 or 8 miles to the Ed. of Tripoli bore S.S.W. town of Tripoli S.W. At 6 tack'd to the N.W. At ½ past 7 boarded main tack. At ½ p' 9 tk'd to the S.W. set stay sails & jib. At 10 call'd all hands to quarters & run out the guns, haul'd down stay sails & jib & haul'd up square main sail, brail'd up after main sail. At ½ past 10 spoke the *Intrepid*. At 11 back'd the main topsail sounded and got no bottom. Midnight moderate and clear, lost sight of the *Intrepid*, haul'd up the fore sail & back'd main top sail sounded in 35 fathoms & fill'd away. At 1 sounded in 14, 12 & 9 fathoms /from 1 to 4 standing off & on the shore, showing lights for the *Intrepid*/ which were answered/ At 1 call'd all hands to quarters, run in the guns & secur'd them. Shipp'd the ports, wore and stood off shore, made sail, the *Intrepid* on our lee bow. At 8 the high land near Tripoli bore S.W. by W. 7 leagues. At 11 the *Intrepid* tk^{d} to the S^{d} and E^{d} Meridian wore to the S^{d} and W^{d} Handed square main sail, reef'd the fore sail & set after main sail moderate breezes & pleas' the *Intrepid* bearing S. ½ E 8 miles dis^{t} Latt: Obs. 33° 21'."

THE "INTREPID" RETURNS TO THE "SIREN."

"REMARKS ON BOARD,
"*Friday 17th Feb: 1804.*

"Commences with fine breezes & pleas^{t} weather the *Intrepid* in co: At ½ past 1 set jib & main top mast stay sail. ½ past 2 haul'd them down. At 4 made the town of Tripoli at ½ past 5 it bore S.W. by S. ½ S. English castle S.S.W. 12 miles dis^{t} At ½ past 6 back'd main top sail & hoisted out barge & launch. At 7 turn'd the reef out of the topsails & sounded in 38 fathoms, small irregular stones, small shells & red & white coral, the town of Tripoli bearing S.S.W. 9 miles. At ½ past 7 sounded in 33 fathoms, set jib & after main sail. 8 sounded in 26 fathoms, fine yellowish coral, small shells & gravel. Tripoli bore S.S.W. 5 miles dis^{t} At ½ past 8 sounded in 20 fathoms, haul'd up the fore sail, down jib, brail'd after main sail. At 9 came too with the stream anchor in 22 fathoms, small yellow coral & fine sand. Tripoli bearing S.W. by S. 1 mile distant inclin'g to calm, sent off to Lieu^{t} Decatur reinforcements in the boats. Lieu^{t} Caldwell & Jno. Dorsey mids^{n} with 20 men /in the launch/ Mr. Brooke & Mr. Budd with 8 men /in the Barge/ At ½ past 10 Lieu^{t} Decatur made the signal for a reinforcement of officers & men in boats, answer'd it, about ten minutes after which the Frigate *Philadelphia* in the harbour of Tripoli burst into a flame fore & aft, the castle & Batteries then commenc'd the fire on the *Intrepid*, all around the frigate & in every direction. Midnight, gentle breezes & pleas^{t} weather. Weigh'd and stood to the N^{d} & E^{d} under easy sail. At ½ past midnight the launch and barge return'd and were welcomed with repeated cheers /hoisted in boats/ At 1 a. m. spoke the *Intrepid* & took her in tow, when Lieu^{t} Decatur came on board got top gall^{t} masts on end & made sail. Town of Tripoli bearing S.S.W. dis^{t} 2 leagues. At 4 hous'd the guns and shipp'd the ports. At 9 haul'd down main top mast stay sail & brail'd up after main sail, stiff gales from the S.S.E. At ½ past 9 set main top mast stay sail. At 10 run out the jib boom bent the standing jib & set it, at ½ past 11 double reef'd after main sail & set it.

"N. B. About midnight the frigate burnt her cables & drifted ashore she was then burnt down to the water's edge. Latt: Obs. 34 25."

A BORN SAILOR AND FIGHTER.

At the time of his great achievement Stephen Decatur was 25 years of age. He was a born sailor and fighter, having been recognized throughout the Navy as one of the most gallant and intrepid of leaders. He had been in active service long before the Tripoli affair, and continued in the service after his promotion two grades, and about 10 years in recognition of it, until 1820, when on March 22, in a duel with Commodore Barron at Bladensburg he lost his life. The duel was one of those deplorable tragedies, due largely to the false chivalry characteristic of the times. The death of Decatur was universally deplored. He was buried at Kalorama, in the District of Columbia; but having, in connection with his proposed participation in the management of the congressional burial ground at Washington, expressed a desire to be buried near the tomb of his parents, at St. Peter's Church, in Philadelphia, his body was subsequently removed to that place. It was received at Philadelphia with military and civic honors, and a popular movement was at once instituted to erect a monument befitting his life and character. On each return of his birthday, January 5, the ladies of the Stephen Decatur Chapter of the Daughters of 1812 are accustomed to visit and decorate the grave. The monument consists of an ionic column, surmounded by an American eagle.

THE MONUMENT AT OLD ST. PETERS.

The inscriptions upon the sides of the column are as follows:

STEPHEN DECATUR
Born January 5th, 1779
Entered the Navy of the United States
as Midshipman
April 3rd, 1798
Became Lieutenant
June 3rd, 1799
Made Captain
For Distinguished Merit
Passing over the Rank of Commander
February 16th, 1804
Died
March 22nd, 1820

—

Devoted to His Country
By a
Patriotic Father
He Cherished in His Heart
and Sustained by His
Intrepid Action
The Inspiring Sentiment
"Our Country! Right or Wrong"
A Nation
Gave Him in Return
Its Applause and Gratitude

—

The Gallant Officer
Whose Prompt and Active Valor
Always on the Watch
Was Guided By a Wisdom
And Supported by a Firmness
Which Never Tired
Whose Efforts in Arms
Reflected
The Daring Fictions of
Romance and Chivalry

—

A Name
Brilliant from a series of
Heroic Deeds
On the Coast of Barbary
and Illustrious
By Achievements Against
More Disciplined Enemies
The Pride of the Navy
The Glory of the
Republic.

EFFORTS TO LOCATE THE WRECK.

Mr. Chairman, several efforts have been made since the death of Decatur to locate the wreck of the *Philadelphia*. In June, 1905, Charles Wellington Furlong made an examination of the Barbary coast at Tripoli through the courtesy of Muchia Redjed Pasha, commander in chief of the Turkish forces in Tripoli. In that inspection, in which he was aided by marine divers, Mr. Furlong discovered the location of the wreck and managed to recover a cannon ball from her timbers in addition to some copper nails. His investigation, however, did not result in any steps being taken to recover the hull. After the Turks were driven out of Tripoli in the recent war with Italy, Mr. Harold Sherwood Spencer, who was attached to one of the New York newspapers, interested himself in the matter, consulting the American consul at Tripoli, in Barbary, and the American ambassador to Italy, as appears from the following correspondence:

TRIPOLI, BARBARY, *October 10, 1912.*

MY DEAR MR. O'BRIEN: Within a very few weeks the Italians, in their work of improving the harbor, will reach the site of the wreck of our famous frigate *Philadelphia*.

Although the wreck is at present in a good state of preservation, and only in 10 feet of water, the proposed harbor improvements will tear up the old ship piecemeal, burying part of it under a breakwater.

To me, and I hope you feel likewise, a ship of such a glorious past as our *Philadelphia* should be raised and buried at sea. At least the keel and some of her old cannon might be taken to Annapolis or Washington as relics.

* * * * * * *

It seems fit that our ambassador to Italy should recover our ship from what are now Italian waters. If you are interested will you please wire me, care of the consul here.

Respectfully,

HAROLD SHERWOOD SPENCER.

STATE AND NAVY DEPARTMENTS INTERESTED.

NOVEMBER 23, 1912.

The honorable the SECRETARY OF THE NAVY.

SIR: I have the honor to acknowledge the receipt of the letter of November 19 (3809/315:1) in which, referring to this department's letter of the 13th instant, you advise me that the naval attaché at Rome has been instructed by telegraph to proceed to Tripoli and investigate the possibility of raising the wreck of the *Philadelphia* from the harbor at that port.

As of possible interest in this connection, I take occasion to inclose herewith a copy of a dispatch on this subject which has now been received from the American consul at Tripoli.

I have the honor to be, sir, your obedient servant,

HUNTINGTON WILSON,
Acting Secretary of State.

AMERICAN CONSULATE,
Tripoli-in-Barbary, October 16, 1912.

The honorable the SECRETARY OF STATE,
Washington.

SIR: I have the honor to report to the department that Mr. Harold Sherwood Spencer is desirous of making an effort to rescue the remains of the old U. S. S. frigate *Philadelphia*, which was wrecked off the harbor of Tripoli October 31, 1803, captured by the Tripoli pirates with whom we were at war and brought into port, and in February, 1804, destroyed by burning through the daring and famous exploit of Lieut. Decatur.

Mr. Spencer was a student at Annapolis for several years, but resigned in the latter part of 1910 for the purpose of preparing to enter the diplomatic service. He has, however, since then been engaged in newspaper and literary work, and was sent here last November by Mr. Bennett as special war correspondent of the New York Herald. He left Tripoli in December and returned to New York in June of this year, where he has a temporary residence at the Vanderbilt Hotel.

Mr. Spencer desires to present the remains of the *Philadelphia* to the Naval Institute, of which he is a member, or to the museum of the Naval Academy at Annapolis.

Believing this project to be a most worthy enterprise, I presented Mr. Spencer to Governor General Ragni and requested permission for him to raise the *Philadelphia*. The request was most graciously accorded by His Excellency, who displayed much interest in the enterprise. Later he asked us to go on the terrace of the castle for the purpose of having pointed out the precise location of the wreck, which lies in about 10 feet of water very near the Spanish fort. The governor general also stated that he would be pleased to assist Mr. Spencer in his efforts.

Preliminary surveys are being made to determine what part of the wreck can be rescued and the approximate cost of the work.

I have the honor to be, sir, your obedient servant,

JOHN Q. WOOD,
American Consul.

DECEMBER —, 1912.

The honorable the SECRETARY OF THE NAVY.

SIR: Referring to previous correspondence concerning project for raising the wreck of the U. S. frigate *Philadelphia* from the harbor of Tripoli, I have the honor to inclose herewith for your information a copy of a report on this subject from the American consul at Tripoli, under date of the 30th ultimo.

I have the honor to be, sir, your obedient servant,

P. C. KNOX.

NAVAL ATTACHÉ MAKES ESTIMATE.

AMERICAN CONSULATE.
Tripoli in Barbary, November 30, 1912.

The honorable the SECRETARY OF STATE,
Washington.

SIR: I have the honor to report the arrival of our naval attaché at Rome, Lieut. Richard Drace White, in pursuance of orders from the Navy Department, to examine and report on the project of raising the U. S. frigate *Philadelphia*. Commander White was received most cordially by Gov. Gen. Ragni and has been given every possible assistance. The command of the port has been placed at his disposition, and during the examination of the wreck, on the 29th instant, the day after arrival, the gasoline launch of the governor general was sent to Commander White, with instructions to the officer in charge to report to him for orders.

It has been possible to locate the wreck, and the firm of Almagia, now engaged on the port works, has given an estimate

of the cost of raising the remains of the old frigate. It has appeared to me to be very excessive, although I confess to a lack of experience in such matters, and therefore would not care to advance an opinion as to a reasonable cost of successfully carrying out such a project.

I would state that the arrival of Commander White has created a great local interest in the history of our naval and military operations in this country, and especially in the outcome of the inspection and report that will be sent to the Navy Department by our naval attaché. A copy of La Nuova Italia is herewith inclosed, containing an article on the *Philadelphia*, which may be of some interest, although several of the facts are not accurate. On account of lack of time it has been impossible to make a translation.

I have the honor to be, sir, your obedient servant,

JOHN Q. WOOD,
American Consul.

ITALIAN OFFICIALS AND NEWSPAPERS FRIENDLY.

Along with the correspondence just quoted is a translation of the article from La Nuova Italia, of Tripoli, Africa, dated November 29, 1912, which, under the heading "A glorious page of American history rises from the bottom of the Libian Sea," reviews in eloquent terms the gallantry of Decatur and his crew and bespeaks the utmost courtesy on the part of Gen. Ragni, the Italian commander, should the American Government desire to take steps in the matter. In addition I have a letter from the Assistant Secretary of the Navy, who has expressed his approval of an appropriation for the raising of the *Philadelphia*, in which he transmits, at my request, a copy of the report of the naval attaché who recently undertook an inspection of the hull of the *Philadelphia* and who was instructed to report as to the conditions surrounding it. This report, which is appended in full, indicates clearly that the hull and such relics as may remain in it can be recovered for twelve or fifteen thousand dollars, provided the recovery is attempted before the Italian Government proceeds with the construction work which may obliterate the wreck forever.

EXISTING CONDITIONS SURROUNDING THE HULL.

ROME, *December 9, 1912.*

From: Naval attaché, Rome and Vienna.
To: Director of Naval Intelligence.
Subject: Proposed salving of the wreck of the U. S. S. *Philadelphia* in the harbor of Tripoli, in Barbary.
Reference: O. N. I. telegram of November 16, 1912.

1. I have proceeded according to the instructions contained in the reference.

2. In the work of investigating the wreck, the commander in chief of the naval force in Tripoli, the governor, and the commanding general of the military force have been extremely courteous and have facilitated the work. I have been greatly aided by the American consul, Mr. John Q. Wood, and by Mr. Harold S. Spencer, who had very thoroughly investigated the wreck previous to my arrival. These two gentlemen devoted all their time to helping and advising me while I was engaged in this work. I was also greatly aided by Mr. William S. Riley, an Englishman resident in Tripoli for 25 years, who has become interested in the work.

BURIED IN TWO AND A HALF FATHOMS.

3. I find that the wreck lies in about 2½ fathoms of water on the bearings indicated in the inclosure marked "B." This part of the bay is soon to be filled in and warehouses, railways, etc., built thereon. No excavations are to be made here, however, as was at first reported.

4. It appears that she lies on her side (thought to be starboard, though this is uncertain), her keel in a line approximately northeast and southwest. She is entirely covered by sand, except for a portion approximately 35 feet in length on the above-mentioned bearing and 15 feet in width, in which space portions are visible in places projecting above the sand bottom in some cases as much as 1½ feet.

WHAT THE DIVERS DISCOVERED.

5. There are three or four projections visible, which appear to be ribs or frames of the hull. These appear to curve upward, which leads me to believe that they are situated near the bow or the stern. This is, however, only a surmise, as the curvature may only be apparent. There are several planks which extend in a northeasterly direction and end abruptly. Beyond their end is a rectangular piece lying at right angles to the lengthwise direction of the planks.

6. The divers who investigated the wreck report that the whole wreck is imbedded in sand in the form of a mound, which slopes off in all directions from the wreck. They sawed off portions and found the planking covered with copper in a state of partial decomposition, and also found the remains of nails now corroded so that they are nothing but hardened rust.

7. The divers who made the examination; the engineer in charge of the divers, Mr. Spencer; Mr. Riley; the American consul, Mr. John Q. Wood; and I are agreed in the opinion that the part visible is the remains of the ribs and skin of the ship. The planking which ends so abruptly we believe to have sprung loose, or been pried loose, from the frames and to have straightened out more or less. We conclude that the ship sunk on the original bottom of the harbor, which slopes away abruptly to the northeast, with one end much lower than the other, and that the sand which now covers her has sifted in, making the harbor at this point much shallower than it was at the time she sank.

8. Granting that the ship was 40 feet in beam and 200 feet long, she must extend in the sand to a depth of approximately 40 feet, and for a length of approximately 200 feet.

9. When Mr. Spencer, in his letter to the American ambassador to Rome, dated October 10, suggested raising her, he was of the opinion that the ship rested on an approximately even keel and did not extend deep into the sand, and his idea was that she could be scooped out and lifted with shears and got on shore intact. The belief that she lies on her side, however, and must extend deep into the sand bottom makes that project appear impracticable, and it is now believed that the best way to attempt to raise her is to dredge around her and inside her as much as practicable and then raise her with floats and chains, if practicable, intact; otherwise, in sections cut adrift before being lifted.

LOCAL COMPANY COULD DO THE WORK.

10. In this connection the lack of facilities available at Tripoli for work of this character has been considered. There is a floating crane of 75 (I am told) tons capacity. There are some small lighters; there are some small cranes on shore. That is practically all. There is also to be considered the weather, which is very bad at this season, and the fact that a company is under contract to fill in the space where the wreck lies within a certain period and with perfect right to interfere with any operations which would delay them in their work.

11. This company, viz, Ditta Almagia, have, at my request, made an estimate as to what they would charge to raise her. Their estimate is $12,000 to raise her entirely, and put her on the beach. The project is to raise her intact, but this may become impracticable, in which case it would be necessary to raise her piece by piece. Their estimate is based on the assumption that there would be 4,000 cubic meters to excavate, at a cost of $2.50 per cubic meter, and that the cost of raising her and putting her ashore would be $2,000. They also estimate that they could raise a section 45 feet in length along the part now projecting above the water for $5,000. And I am of the opinion that for $2,000 that part projecting above the bottom and a considerable portion adjacent thereto could be raised.

12. In addition to the cost above enumerated there would be the cost of conveying the material recovered to the United States. The local agencies could give me no data on this problem, but I am in communication with agents in Malta and Naples and will make this question subject of future report.

ITALIAN GOVERNMENT WOULD APPROVE.

13. I am of the opinion that, if it is the department's wish to raise her, or any part of her, it can best be done by contract with the above-mentioned firm. They are, so far as I can learn, the only company there with facilities necessary to undertake it. They can take care of such parts as are recovered until such time as they can be shipped to the United States, and above all they can interfere and forbid the work being carried on by any other company on the strength of the fact that they are under contract to fill in that part of the harbor where the wreck lies, and may commence at that spot whenever they choose.

14. As a matter of fact, they will not, in the ordinary course of events, reach the spot where the *Philadelphia* lies for a long time, and if they take the contract to raise her, they would not undertake it until next February, because in this season of storms the work would surely be interfered with and most likely would prove to be impracticable. Once started on the work, they estimate that it would require two weeks to raise the whole wreck, and a less time for a less part.

15. In case it is wished to attempt to raise the wreck, there will be, I believe, practically no difficulty in obtaining the necessary permission from the Italian Government. In fact, the idea of our raising her has produced a very favorable impression not only at Tripoli, but throughout Italy.

16. I await instructions before proceeding further in the matter.

R. DRACE WHITE.

HEROISM AND GALLANTRY VERSUS MATERIALISM.

The remains of Stephen Decatur repose in the old third district of Pennsylvania, which I have the honor to represent in Congress. I have often stood by the monument reared in his honor by the citizens of Philadelphia, and upon which the garlands of admiration and esteem are annually laid by the patriotic women of the Stephen Decatur Chapter, Daughters of 1812, and have wondered if succeeding generations have fully appreciated the value of the life and services of this brave man. He was one of those heroes around whose memory cluster the hallowed traditions which lift us above the field of materialism. Indeed, the story of his life and that of the frigate *Philadelphia* tend to renew our faith in the American Navy and in the patriotism and fighting qualities of our officers and enlisted men. It does us good to preach the heroism of Stephen Decatur. It aids us to a better understanding of the purposes of those who engage their services in the dangerous work of the Army or the Navy. And when we consider it in relation to more recent heroes of the Navy of the United States it helps us to forget that the world of peace is selfish and overdone in money getting.

CUSHING AND HOBSON IN DECATUR CLASS.

The century just closed gave us three heroes of the Decatur type—Decatur himself, Cushing, and Hobson. There have been many others, participants in the various wars in which our country engaged from 1800 to 1900, but in no three particulars are the exploits of heroism so easily comparable as in the instances of Decatur, Cushing, and Hobson. With respect to personal daring and bravery, in the execution of well-conceived but hazardous plans, there is very little difference between Decatur's burning of the *Philadelphia* in 1804, Cushing's blowing up of the *Albemarle* in 1864, and Hobson's sinking of the *Merrimac* in 1898. Each invaded hostile territory and shared personally the perils of the brave handful of men who accompanied the expedition. Each succeeded in his undertaking, and thus added to the honor and glory of American arms.

It would seem, Mr. Chairman, that if we can freshen the American mind and fire the American heart by the recovery of relics of the historic frigate *Philadelphia* it would amply repay the small expenditure that is contemplated. The bringing back to America of whatever may be found of this famous old fighting craft would add to our respect for the flag of our common country and intensify our appreciation of and regard for its fighting men. If the recovery of no more than one of the 44 original cannon is effected, it will be worth all the money that is asked for the purpose.

Mr. HAUGEN. Mr. Chairman, I yield 45 minutes to the gentleman from Oklahoma [Mr. MORGAN].

Mr. MORGAN of Oklahoma. Mr. Chairman, Oklahoma bears burden of the Nation in the loss of school lands, in the insignificant amount received from the percentage on sale of public lands and in enormous loss of revenue by reason of vast area of nontaxable Indian lands. To remove this burden from the people of Oklahoma I have introduced three bills, to which I wish to call the attention of the House at this time.

Each one of these bills provides for a large appropriation to the State of Oklahoma. These appropriations are to pay to the State of Oklahoma certain amounts which I maintain are justly due the State on account of matters growing out of the terms and conditions under which Oklahoma was admitted as a State into the Union. At the outset, I will state that I do not charge that Congress intentionally did an injustice to Oklahoma. Nothing I shall say will be intended as a criticism upon the Committee on Territories in 1906, that had the Oklahoma Enabling Act in charge, and especially nothing I say must be regarded as, in any way, a criticism upon the gentleman from Michigan, the Hon. EDWARD L. HAMILTON, the chairman of the Committee on Territories at the time. The people of Oklahoma are greatly indebted to him for services rendered, and our people hold him in the highest esteem. And finally nothing I say is intended as a reflection upon the work of my colleague, Mr. MCGUIRE, who was the delegate from Oklahoma Territory, at the time the Oklahoma Statehood bill was passed. Rather would I praise him for his splendid work in connection with Oklahoma's statehood act.

THIRTY-ONE MILLION ASKED FOR.

The three bills which I have introduced carry a total appropriation to the State of Oklahoma of over $31,000,000. This is a large sum of money. I have not introduced these bills hastily. I have given the matter the most careful consideration. I have acted only after I concluded that each of the claims have real merit, and that as a Representative from the State of Oklahoma my duty to the people and the taxpayers of that State demanded that I should introduce these bills, and with whatever ability I may have press them for favorable consideration before the Congress of the United States, the only tribunal that has jurisdiction to pass upon these claims.

GENERAL STATEMENT.

In the act approved June 16, 1906, which provided for the admission of Oklahoma as a State into the Union, Congress appropriated $5,000,000 to the State of Oklahoma for public-school purposes, in lieu of sections 16 and 36 in each township in the Indian Territory, which had been conveyed to certain Indian Tribes and were not therefore available as a grant to the State for public-school purposes. In round numbers, sections 16 and 36 in the Indian Territory comprised about 1,100,000 acres of land. Congress allowed the State about $4.60 per acre for these lands. This, I contend, was only about one-third their value. The amount of the appropriation should have been equal to the value of these lands. I maintain, therefore, that the people of Oklahoma have a just claim against the United States for the difference between the $5,000,000 and the real value of these lands, which I estimate was about $16,000,000, or $15 per acre. This, in brief, is the basis for my bill (H. R. 27950), which directs the Secretary of the Treasury to pay Oklahoma $11,000,000, and makes appropriation therefor.

PER CENT OF PROCEEDS OF SALES OF PUBLIC LANDS.

Beginning with the act of Congress passed in 1802, which provided for the admission of the State of Ohio into the Union, Congress has granted to all the public-land States an amount equal to 5 per cent on the net proceeds of the sales of public lands lying within the State. With the exception of Oklahoma, all these public-land States were admitted, early in their history, when the population was small and when only a small part of the public lands lying within the States had been entered. While the percentage, except as to Nebraska and Arizona, was granted on sales subsequent to statehood, in effect the States received a percentage on practically all the lands within the States, as prior to statehood comparatively few of the lands had been entered.

Not so with Oklahoma. In the first place, Congress had conveyed all the public lands in the Indian Territory to the Indians, constituting about half the area of the State. This reduced by half the amount which Oklahoma would have otherwise received. In the second place, at the time of statehood, in what was formerly Oklahoma Territory, nearly all the public lands had been entered and final proof made thereon. As a result, this grant to Oklahoma of an amount equal to 5 per cent on the sales of public lands is insignificant compared with the amount received by the 28 other public-land States. To correct this injustice, I have introduced H. R. 28669, which provides in substance that Oklahoma shall have 5 per cent on sales of public lands lying within the State, sold either prior or subsequent to date of statehood.

NONTAXABLE INDIAN LANDS.

The most important of all these three bills is H. R. 28670, which provides for an appropriation of $20,000,000 to the State of Oklahoma, payable in 16 annual payments of $1,250,000 each.

This claim is based upon the proposition that the Indian lands in Oklahoma are nontaxable by virtue of stipulations in treaties made by the United States with the Indians; that the Federal Government has no power or authority to exempt from taxation land within a State, after the United States had sold or disposed of the lands, except by consent of the State, and except on terms and conditions prescribed by the State and upon payment of such consideration as shall be satisfactory to the Sate; and, finally, that to provide the Indians with nontaxable lands is a duty belonging to the Federal and not the State government, and that whatever it costs to provide nontaxable lands for the Indians should be paid by the National Government and not by the people of the State governments. The object of this $20,000,000 appropriation is, in a measure at least, to pay to the State of Oklahoma and the various county, township, and school district governments for loss in revenue from nontaxable Indian lands.

SCHOOL LANDS APPROPRIATED FOR NATIONAL USE.

It is important that we first clearly comprehend the fact that the Federal Government used the public lands in the Indian Territory for a national purpose. To all intents and purposes these lands were used by the Government to pay a national debt. The United States in effect sold these lands to the Indians, and received a valuable consideration therefor. The Indians secured these lands through contract, agreement, and treaty. The Indians paid a consideration therefor, they released title to other lands, they relinquished homes elsewhere, or otherwise made concessions which were valuable to the Nation.

But, leaving out the question of consideration, in dealing with the Indian the United States had a duty to perform, an obligation to discharge, a responsibility to meet. In discharging what was clearly a national duty, a national obligation, a national responsibility, the public lands in the Indian Territory were conveyed to the Indians.

The public school lands in the Indian Territory, solemnly dedicated to the sacred purpose of promoting education among the people of the State, were diverted from this great purpose and converted by the United States to another and entirely different purpose. These lands belonged to the State; they were used by the Nation. Dedicated solely to the use of the people of the State, they were appropriated for the use and benefit of all the people of the United States. Deprived of these lands, the people of the State have the right to expect full compensation therefor. If full compensation is not made to the people of the State for the loss of these lands then the Federal Government will be compelling the people of Oklahoma to pay, as a price for statehood, a debt that clearly belonged to the Nation and should have been paid by all the 93,000,000 people of the United States.

THREE GENERAL PROPOSITIONS.

The arguments in support of the bill (H. R. 27950) to appropriate $11,000,000 to compensate the State of Oklahoma for difference between the value of school lands in the Indian Territory and the $5,000,000 appropriated, I will present under three general propositions.

First. By virtue of what might be called the common law of the country—a law established by more than a century of precedent, custom, and usage, reenforced by a well-defined national policy—the people of Oklahoma were entitled to sections 16 and 36 in each township in the Indian Territory for public school purposes, or in lieu thereof an amount of money equal to their reasonable value at date of statehood.

Second. Other public-land States, in the number of acres granted to them for public school purposes, and in the per capita grant to such States, based upon population in 1910, and also in the per capita grant based upon school population, received vastly larger grants of land for public school purposes than did Oklahoma.

Third. The 1,100,000 acres of public school lands in the Indian Territory were reasonably worth about $15 per acre—or in the aggregate about $16,000,000—or about $11,000,000 more than the $5,000,000 granted in the enabling act.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. MORGAN of Oklahoma. Certainly.

Mr. MURDOCK. Now, does the gentleman, in referring to lost school lands, mean by that sections 16 and 36 in the Indian Territory part of Oklahoma.

Mr. MORGAN of Oklahoma. I do.

Mr. MURDOCK. Of course, to Oklahoma, as distinct from the Indian Territory, sections 16 and 36 were given, were they not?

Mr. MORGAN of Oklahoma. They were.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. MORGAN of Oklahoma. Certainly.

Mr. BURKE of South Dakota. Did not Oklahoma Territory get a greater quantity of land than two sections in a township?

Mr. MORGAN of Oklahoma. Not for public-school purposes.

Mr. BURKE of South Dakota. What was it for?

Mr. MORGAN of Oklahoma. Oklahoma received certain grants for the higher educational institutions, certain grants for the public-building fund.

Mr. BURKE of South Dakota. Were not some of those grants made upon the express condition or because of the fact that Oklahoma would not receive sections 16 and 36 in what was the Indian Territory?

Mr. MORGAN of Oklahoma. I think not.

Mr. CARTER. Will the gentleman yield?

Mr. MORGAN of Oklahoma. For a question, certainly.

Mr. CARTER. For a short statement. These land grants, as I remember, were made prior to the time when the enabling act was passed.

Mr. MORGAN of Oklahoma. Do you mean the grants to the Indians?

Mr. CARTER. The land grants to the State for all kinds of school purposes were made prior to the time the enabling act was passed.

Mr. MORGAN of Oklahoma. When the lands were opened to settlement the school lands were reserved. The actual grant—the legal conveyance—was by grant in the statehood act.

Mr. CARTER. The point I want to make is this: The grant of each of these sections was made for school purposes to the Territory of Oklahoma prior to the time of statehood. The grants were made, in other words, when the opening of the reservations came about. Now—just a moment, if the gentleman will permit me—at the time these openings were had no one could say that Indian Territory was to be any part of the new State of Oklahoma; in fact, a very strong effort was being made to make separate States of Indian Territory and Oklahoma, so any land grants which might have been made at that time to Oklahoma Territory could not have been given in lieu of any conditions that existed in the Indian Territory prior to statehood.

Mr. MURDOCK. That is correct.

Mr. CARTER. Is not that correct, I will ask my friend from Oklahoma?

Mr. MORGAN of Oklahoma. That is correct; yes.

Mr. CARTER rose.

Mr. MORGAN of Oklahoma. I would like to yield to my colleague, but it will take all my time to go over the ground I wish to cover.

Mr. CARTER. Just a question. I desire to ask the gentleman if he arrived at the acreage and figures given by calculating sections 16 and 36?

Mr. MORGAN of Oklahoma. Yes; I estimate the number of acres comprised in sections 16 and 36 in the Indian Territory.

Mr. MILLER. Will the gentleman yield?

Mr. MORGAN of Oklahoma. For just a moment.

Mr. MILLER. Will the gentleman state what disposition the State of Oklahoma made of this $5,000,000? Did it go to the public-school fund?

Mr. MORGAN of Oklahoma. It went to the public-school fund.

Mr. MILLER. Will the gentleman state whether or not he has made any inquiry to ascertain the average price the other States received for their public-school lands?

Mr. MORGAN of Oklahoma. I will come to that after a while.

Mr. MURDOCK. How about Kansas?

Mr. MORGAN of Oklahoma. Kansas received 2,876,124 acres.

Mr. MURDOCK. However, we did not get the $5,000,000.

Mr. MORGAN of Oklahoma. Kansas received 500,000 acres of public lands for internal improvements, which I think went to your school fund. Your State also received other large grants, which I shall later refer to.

Mr. MURDOCK. Can the gentleman make a comparison between the school funds resulting from the Government gratuity?

Mr. MORGAN of Oklahoma. Oh, Mr. Chairman, I expected that question to arise. Some of the States have lost much of their school funds. There are instances of mismanagement. But should the grant to Oklahoma for public-school purposes be measured by mistakes made by the people or public officers of the older States? Certainly not. Oklahoma is entitled to the grant of the regular school lands given to other States, or their equivalent in cash. The mistakes of others should be a warning to the people of Oklahoma, but should not be used as an excuse for limiting the grant, either in lands or in money.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MORGAN of Oklahoma. Yes; I will yield to the gentleman.

Mr. CARTER. The State of Kansas was not brought into the Union with one-half of its lands nontaxable?

Mr. MORGAN of Oklahoma. No. I will come to that directly.

USAGE AND PRECEDENT SUPPORT CLAIM.

Oklahoma's claim to school lands in the Indian Territory is sustained by a full century of precedent, practice, usage, and custom.

The precedent for granting certain lands in each township for public-school purposes antedates the adoption of the Constitution and the organization of the Federal Government thereunder. In 1785 the Congress adopted an ordinance providing for the survey of the territory northwest of the Ohio River. This ordinance declared that lot 16 should be reserved for public-school purposes. In 1787, two years later, Congress passed another ordinance providing for the government of the Northwest Territory. This ordinance designated certain articles therein which should be regarded as articles of compact between the Original States and the State and the people of the Northwest Territory, which articles should remain unalterable except by common consent. One of these articles declared that—

> Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Thus our forefathers, 128 years ago—before the adoption of the Constitution—before the organization of the Government thereunder—established a precedent and inaugurated a national

policy which have been followed ever since, and which have been potent factors in the spread of knowledge, in the promotion of education, in the enlightenment of our citizenship, and in adding strength, greatness, and glory to our country.

In 1802 Congress passed an act for the admission of Ohio as a State into the Union. This act granted section 16 in each township for public-school purposes.

From 1802 to 1848—a period of 46 years—in admitting public-land State Congress uniformly granted to the States section 16 in each township for public-school purposes.

In 1848 a new precedent was established—a new policy was adopted. The grant for public schools was enlarged. In that year the State of Oregon was admitted to the Union under an enabling act which granted both sections 16 and 36 in each township for the use of public schools.

The Oregon enabling act became a model for subsequent statehood acts. For from 1848 down to 1913—two-thirds of a century—in admitting public-land States into the Union Congress has followed the Oregon act and granted to the new States sections 16 and 36 in each township for public-school purposes, except that Utah, Arizona, and New Mexico were granted four sections in each township for public schools.

OKLAHOMA RECEIVES LESS THAN OTHER STATES.

The number of acres of land granted to Oklahoma for public-school purposes is not one-third the average number of acres granted to the various States admitted to the Union since 1848.

I have prepared a table showing the number of acres of land granted to the public-land States admitted since 1848 for public-school purposes. This table shows the population of these States in 1910, with the per capita grant to these States. The table is as follows:

Table showing number of acres the several States received from sections 16 and 36, and Utah, Arizona, and New Mexico with sections 2, 16, 32, and 36, with population of States in 1910, and number of acres per capita.

State.	Acres.	Population.	Per capita.
Utah	6,007,182	373,351	16
Montana	5,102,107	376,053	13.5
New Mexico	4,309,369	327,301	13.4
Arizona	4,060,346	204,354	28.8
Nevada	3,985,422	81,875	48.6
Colorado	3,715,555	799,024	4.6
Oregon	3,387,520	672,765	5.03
Wyoming	3,368,924	145,965	23.6
Idaho	3,063,271	325,594	9.4
Kansas	2,876,124	1,690,949	1.7
South Dakota	2,813,511	583,888	4.8
Nebraska	2,637,155	1,192,214	2.2
North Dakota	2,531,200	577,056	4.3
Washington	2,488,675	1,141,990	2.1
Oklahoma	1,276,204	1,657,155	.77
Total number of acres	51,572,565		

Average acres for each State, 3,438,171.
Acres granted to Oklahoma, 1,276,204.

Utah received 6,007,128 acres; Montana received 5,102,107 acres. Arizona and New Mexico each received over 4,000,000 acres. Colorado, Idaho, Nevada, Oregon, and Wyoming each received over 3,000,000 acres; Kansas received 2,876,124 acres; South Dakota, 2,813,511 acres; Nebraska, 2,637,155; North Dakota, 2,531,100; and Washington, 2,488,675 acres. Oklahoma received 1,276,520 acres.

Utah received the largest acreage for public-school purposes, Oklahoma the smallest. In acreage Utah's grant was more than four times that of Oklahoma. The average acreage granted to these States was 3,438,171 acres, three times the acreage received by Oklahoma.

PER CAPITA GRANT.

The number of acres per capita granted to the people of Oklahoma for common-school purposes is only one-sixteenth the per capita grant to the people of the other States for the same purpose.

The per capita grant for common-school purposes to the various States is as follows:

Nevada, 48.6 acres; Arizona, 28.8 acres; Wyoming, 23.6 acres; Utah, 16 acres; Montana, 13.5 acres; New Mexico, 13.4 acres; Idaho, 9.4 acres; Oregon, 5.03 acres; South Dakota, 4.8 acres; Colorado, 4.6 acres; North Dakota, 4.3 acres; Nebraska, 2.2 acres; Washington, 2.1 acres; Kansas, 1.7 acres; and Oklahoma, only 0.7 of an acre.

Nevada received the largest per capita grant, 48.6 acres. Oklahoma received the smallest per capita grant, seven-tenths of an acre. The per capita grant to Nevada was 70 times the per capita grant to Oklahoma. The average per capita grant to the various States was 11.2 acres. The average per capita grant to these States was 16 times the per capita acreage granted to Oklahoma.

If this is fair and equitable, then you must say that 1 acre of land in Oklahoma is worth 16 acres of average land in 14 of the best States west of the Mississippi River.

PER CAPITA GRANT BASED ON SCHOOL POPULATION.

The number of acres per capita granted to Oklahoma, based upon the number of persons of school age in 1910, is only one twenty-fourth the per capita grant to the other 14 States based upon school population.

I have prepared a table showing the number of acres of land granted for public-school purposes, the school population based upon the census of 1910, and the per capita grant to each State based upon the number of persons of school age in said States in 1910.

The table is as follows:

Table showing grant per capita according to the number of persons of school age in certain States in 1910.

States.	Acres.	School population.	Per capita.
Utah	6,007,182	121,016	49.6
Montana	5,102,107	93,771	54.4
New Mexico	4,309,369	105,301	40.8
Arizona	4,060,346	58,897	71
Nevada	3,985,422	16,132	247
Colorado	3,715,555	215,940	17.2
Oregon	3,387,520	175,386	19.3
Wyoming	3,368,924	35,776	94.1
Idaho	3,063,271	96,819	31.6
Kansas	2,876,124	515,156	5.5
South Dakota	2,813,511	183,979	15.2
Nebraska	2,637,155	373,868	7
North Dakota	2,531,200	183,336	13.8
Washington	2,448,675	293,478	8.3
Oklahoma	1,276,204	566,323	2.2

Average grant per capita on school population, excluding Oklahoma, 48.2.
Per capita grant to school children in Oklahoma, 2.2.

Nevada leads the list of States with 247 acres for each person of school age in the State in 1910. Oklahoma is at the bottom of the list with only 2.2 acres to each person of school age in the State in 1910. Wyoming follows Nevada with 94.1 acres for every child of school age. Arizona has 71 acres per capita for her children of school age. Montana has 54.4 acres for every one of her school children. Utah comes next with 49.6 acres to each school child. New Mexico has a per capita acreage for every one of her school children of 40.8 acres. Idaho has for each school child in the State 31.6 acres. For every school child Oregon has 19.3 acres; Colorado, 17.2 acres; South Dakota, 15.2 acres; North Dakota, 13.8 acres; Washington, 8.3 acres; Nebraska, 7 acres; and Kansas, 5.5 acres.

The average grant per capita to the 15 States in this list, excluding Oklahoma, based upon the school population, is 48.2. The average per capita grant to these 15 States, based upon the school population in 1910, was 24 times the per capita grant to Oklahoma.

$5,000,000 LESS THAN ONE-THIRD VALUE OF LANDS.

The $5,000,000 in cash granted the State of Oklahoma in lieu of sections 16 and 36 in the Indian Territory was not more than one-third the value of these lands.

What were these lands worth? What gives value to land? Soil, climate, season, transportation facilities, markets, society, schools, and churches.

These lands were located in an excellent climate. The soil was rich, fertile, and productive. The seasons were favorable, the normal rainfall was ample.

These lands were not in an unpopulated country remote from society, civilization, commerce, trade, and business. Six hundred and eighteen thousand one hundred and fifteen people were already in the Territory. Twelve of the States in 1910 had a less number of inhabitants. The two Territories in 1907 had a population of nearly 1,500,000 people.

Railroads were already built, markets were accessible, the cost of transportation reasonable. Flourishing towns and villages dotted the land. There were many thriving cities with populations ranging from one to fifteen thousand.

School privileges were very inadequate in the country, but the towns and cities had established creditable public schools; other institutions of learning had been founded; churches had been built; charitable and fraternal orders had been organized; and already the people had laid well the foundation for the highest type of society and civilization.

Great material progress had been made. Agriculture, mining, manufacturing, trade, transportation, and commerce were flourishing.

The Territory was surrounded by great, populous, wealthy States that had attained a high degree of development. On the south was Texas, on the east Arkansas, on the north Kansas, and on the west the best developed part of Oklahoma Territory, when lands were selling on the market at from $20 to $50 per acre.

The Territory was rich in minerals. Nowhere was there a better prospect for industrial development, for growth in its towns and cities, for increase in population, and wealth, and for rapid rise in the value of lands.

Who will say that these fertile lands thus situated and surrounded—located in the very heart of civilization, with markets, transportation, industry, population, schools, and churches—were worth only $4.62 per acre?

The assessor of Oklahoma in 1909 placed a value on these lands. They assessed Oklahoma lands for taxation in 1909 at $12.38 per acre. This meant that in their judgment these lands were worth from $18 to $25 per acre.

The United States through its Census Bureau valued the lands in Oklahoma at $22.49 per acre.

In 1889 and 1890 Congress placed an estimate upon the school lands in a number of the Western States. The enabling acts admitting North Dakota, South Dakota, Montana, and Washington, in 1889, and Idaho and Wyoming, in 1890, granted these States sections 16 and 36. In this act Congress placed a limitation on the grant, prohibiting these States from selling any of these lands, even the poorest section, at less than $10 per acre. This was equivalent to saying to the people of these States, "The poorest of these lands are worth to you $10 per acre, and Congress, for the protection of the taxpayers and school children of the State, prohibits you from selling any of your lands at less than their value, and $10 per acre shall be the minimum price at which any of these lands shall be sold."

But, lo, and behold! When Congress a few years later came to compensate Oklahoma for school lands which the Nation had appropriated for another purpose—a national purpose—Congress said to the people of Oklahoma, "Your lands are worth only $4.62 per acre."

If it were unwise for the people of North Dakota, South Dakota, Montana, Washington, Idaho, and Wyoming to sell their school lands for less than $10 per acre as the minimum price, certainly the people of Oklahoma ought not to accept $4.62 per acre for her school lands without a protest and without an appeal to the National Congress for justice in a matter that vitally affects her people.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MORGAN of Oklahoma. I will yield to the gentleman for a question.

Mr. MONDELL. The gentleman does not think, as a matter of fact, that the school lands in the States he refers to are actually worth anything like $10 an acre, does he?

Mr. MORGAN of Oklahoma. Well, I am only stating what the judgment of Congress was as to the value of those lands.

Mr. HELGESEN. Let me tell the gentleman that in North Dakota they are worth vastly more than $10 an acre, and they have sold for more.

Mr. MORGAN of Oklahoma. I am glad to have the testimony of the gentleman from North Dakota as to the value of school lands in that State.

Mr. BURKE of South Dakota. But the gentleman from Oklahoma [Mr. MORGAN] is talking about the value at the time of the grant. Will the gentleman yield?

Mr. MORGAN of Oklahoma. Yes; I will yield.

Mr. BURKE of South Dakota. The gentleman says that the United States Census Bureau estimated the value of lands in Oklahoma at the time Oklahoma came into the Union at something over $22 an acre.

Mr. MORGAN of Oklahoma. No; I said in 1910.

Mr. BURKE of South Dakota. Well, in 1910. Can the gentleman state what was the value of the land in some of the other States that he has mentioned at the time they were admitted; for instance, Nevada, Wyoming, and Montana?

Mr. MORGAN of Oklahoma. I did not look this up. I do not suppose the land in those States on the average is worth as much as land in some other States.

Mr. BURKE of South Dakota. Do you not think that at the time they were admitted $4.60 an acre would have been a pretty good price?

Mr. MORGAN of Oklahoma. I am candid in answering this question in the negative. These Oklahoma lands at that time could have been sold wholesale to a syndicate or corporation for $15 an acre. Why, Mr. Chairman, not only was the surface of these lands worth that, but it was known that these lands were rich in mineral. It was known that the new State would develop rapidly.

PER CENT ON PROCEEDS OF SALE OF PUBLIC LANDS.

The second bill which I have introduced and to which I desire to call the attention of the House is H. R. 28669. This bill carries an appropriation of $500,000, or so much as may be necessary. This bill authorizes the payment to the State of Oklahoma of an amount of money equal to 5 per cent of the proceeds of the sale of public lands lying within what was formerly Oklahoma Territory on sales made between April 22, 1889, the date the first lands were opened to entry, and November 16, 1907, the date Oklahoma became a State in the Union.

The object of this bill is to equalize the amount received by the State of Oklahoma from a percentage on the proceeds of the sale of public lands with an amount received by 28 of the States of the Union under a similar provision.

OKLAHOMA'S GRANT INSIGNIFICANT.

The amount received by Oklahoma from the grant of 5 per cent on the net proceeds of the sales of public lands lying within the State is only one-eighth the average amount received by 28 other States under a similar grant.

I have prepared a table showing the States which have received this grant, the amount received by each State for the fiscal year 1912, and the total amount received by each State up to that time.

The table is as follows:

Amounts accrued and paid to States for purposes of education, or of making public roads and improvements, on account of grants of 2, 3, and 5 per cent of net proceeds of sales of public lands lying within said States.

State.	Total to June 30, 1911.	Fiscal year 1912.	Aggregate to June 30, 1912, inclusive.
Alabama	$1,077,505.32	$599.40	$1,077,904.72
Arizona		1,652.99	1,652.99
Arkansas	323,897.84	1,013.16	324,911.00
California	1,062,698.44	17,354.82	1,080,053.26
Colorado	445,398.06	15,355.24	460,748.30
Florida	133,159.79	4,176.27	137,336.06
Idaho	231,342.01	10,541.35	241,883.36
Illinois	1,187,908.89		1,187,908.89
Indiana	1,040,255.26		1,040,255.26
Iowa	633,638.10		633,638.10
Kansas	1,122,353.55	3,116.86	1,125,469.41
Louisiana	467,852.06	325.83	468,177.89
Michigan	586,783.64	284.88	587,068.52
Minnesota	586,036.69	2,246.39	588,283.08
Mississippi	1,009,843.91	82.71	1,009,926.62
Missouri	1,059,760.74	669.87	1,060,430.61
Montana	366,647.00	37,598.88	404,245.88
Nebraska	551,388.13	8,006.32	559,394.45
Nevada	29,518.81	2,605.77	32,124.58
New Mexico	110,453.47	10,587.31	121,040.78
North Dakota	505,262.75	23,764.36	529,027.11
Ohio	999,353.01		999,353.01
Oklahoma	55,986.06	3,161.83	59,147.89
Oregon	701,687.81	15,328.30	717,016.11
South Dakota	263,485.30	44,582.90	308,068.20
Utah	75,860.78	5,834.00	81,694.78
Washington	390,903.57	6,026.78	396,930.35
Wisconsin	586,304.10	104.48	586,408.58
Wyoming	189,517.57	23,870.07	213,387.64
Total	15,854,577.66	238,889.77	16,093,467.43

Seven of these States, viz, Alabama, California, Illinois, Indiana, Kansas, Mississippi, and Missouri, have each received from this fund in excess of $1,000,000. Ohio has received $999,351.01. Oregon has received $715,016.11. Wisconsin, North Dakota, Nebraska, Minnesota, and Iowa have received in excess of $500,000. Montana and Louisiana have each received $400,000. Washington, South Dakota, and Arkansas have each received over $300,000.

In comparison with these large amounts received by the various States, ranging from $300,000 to over $1,000,000, Oklahoma has received the insignificant sum of $59,117.89. This sum can never be materially increased, because the public lands in Oklahoma have been exhausted, final proofs have been made, and patents issued on practically all of our public lands. On the lands not yet patented there will be very few sales; the most of our settlers will acquire title under the three and five year law. Under this grant, as construed by the department, Oklahoma will never receive to exceed $75,000.

Each of the 28 States have received under this grant an average of $572,655. In round numbers, each of the States have received 10 times the amount received by Oklahoma. Many of the States in the list will receive under this grant large sums in the future, because large tracts of public lands in the State are still unentered.

The per capita grant received by the 14 public-land States that have been admitted since 1848, excluding Arizona, which

has just been admitted, based upon the population of 1910, is as follows: Wyoming, $1.44; Oregon, $1.06; Montana, $1.06; North Dakota, 91 cents; Idaho, 74 cents; Kansas, 66 cents; South Dakota, 58 cents; Colorado, 57 cents; Nebraska, 47 cents; Nevada, 39 cents; New Mexico, 36 cents; Washington, 33 cents; Utah, 22 cents; and Oklahoma, 3 cents.

The largest amount per capita is $1.44, received by the people of Wyoming. The smallest amount per capita was 3 cents, received by the people of Oklahoma.

The average amount received per capita by these 14 States, excluding Oklahoma, is 62 cents. In other words, the average amount per capita received by the people of these 13 States is 20 times the amount per capita received by the people of Oklahoma.

Taking these same 13 public-land States, which have been admitted since 1848, excluding Arizona, the amount received per capita, based upon the number of persons of school age according to the census of 1910, is as follows: Wyoming, $5.96; Montana, $4.31; Oregon, $4.08; North Dakota, $2.87; Idaho, $2.49; Kansas, $2.18; Colorado, $2.16; Nevada, $1.99; Nebraska, $1.41; Washington, $1.35; New Mexico, $1.14; South Dakota, $1.13; Utah, 97 cents; and Oklahoma, 10 cents.

The largest amount received by any State from the percentage on the proceeds of the sale of public lands was Wyoming, $5.96. The smallest amount was received by Oklahoma, 10 cents per capita. The average per capita received by these 13 States was $2.44.

In other words the average amount received by these States per capita is 24 times the amount received per capita by the people of Oklahoma from this grant.

The discrimination against Oklahoma in this grant is also seen in the amount received from each State for the fiscal year ending June 30, 1912. For that year South Dakota received $44,582.90, Montana received $37,598.88, Wyoming received $23,870.07, North Dakota received $23,564.36, California received $17,354.82, Colorado received $15,355.24, and Oregon received $15,328.30, but Oklahoma received from this fund during that year only $3,161.83.

The amount received by the State of Oklahoma compared with the total amount received, or the per capita amount, according to the population of 1910, or based upon the school population of the various States, is so insignificantly small as to make the grant to Oklahoma practically no grant at all.

What is the explanation of this? In the first place, Congress conveyed practically one-half of all the public lands in Oklahoma to the various Indian tribes of the Indian Territory. In theory the National Government received a consideration for these lands, but under the grant Oklahoma, of course, receives no percentage thereon. Secondly, before statehood the public lands lying within the State had been largely already patented. Thirdly, as a rule the settlers of Oklahoma did not purchase their land under the commutation act, but acquired title after a five years' residence.

The department has construed the provision in the Oklahoma enabling act providing for this grant to apply only to lands sold subsequent to statehood. The bill which I have introduced (H. R. 28669) grants to the State a sum equal to 5 per cent of the net proceeds on all sales from public lands from April 22, 1889, to November 16, 1907, the day Oklahoma became a State. In effect my bill grants to the State a sum equal to 5 per cent on the sale of public lands lying within the State sold either before or subsequent to statehood.

In all the 29 States receiving this grant the provision in the enabling act states specifically either that the per cent shall apply only to lands sold subsequent to statehood or a definite date is fixed on or about statehood from which the State should receive a percentage on the proceeds of all sales. The Nebraska enabling act is an exception, in this, that it grants the per cent of sales of public land both "prior and subsequent" to statehood. New Mexico was also granted this percentage on sales made while a Territory.

The Oklahoma enabling act is an exception to all the others. The language is indefinite and uncertain. It provides that there shall be paid to the State "an amount equal to 5 per cent of the proceeds of the sale of public lands lying within the State." The department has construed this language to limit the grant to sales of public lands made subsequent to statehood. The department, I think, is wrong in this construction. The grant was philanthropic in its nature, and should be construed liberally in favor of Oklahoma.

It may be suggested that Oklahoma is too late; that the people have slept on their rights. Not so. Congress itself has made a precedent for correcting a mistake or injustice relating to such a grant.

California was admitted into the Union by an act approved September 9, 1850. The act made no grant to the State of any percentage on the proceeds of the sale of its public lands. Fifty-six years passed away. Finally, by an act approved June 27, 1906 (34 Stat. L., 518), Congress granted to California 5 per cent of the net proceeds of the sales of public lands from date of statehood. Under this act California has received already $1,080,053.26, and from the sales of land in 1912 received $17,354.82.

Congress has been just and generous to California. I have faith that Congress will treat Oklahoma with the same degree of justice and generosity, and make an appropriation which will, in a measure at least, equalize the amount received by Oklahoma under this grant with the money that has been received by 28 States of this Union under a similar grant.

Mr. HELGESEN. How far back did it go in California?

Mr. MORGAN of Oklahoma. It went back to the time that it was admitted into the Union as a State.

Mr. HELGESEN. Five per cent on the lands from the beginning?

Mr. MORGAN of Oklahoma. Went back to the sale of lands from the beginning—from the admission of the State in 1850.

Mr. MURDOCK. Mr. Chairman, the California proposition is very interesting. Will the gentleman explain to the House whether the California payment went through Congress as a separate measure, or was it on some appropriation bill?

Mr. MORGAN of Oklahoma. That California bill went through as a separate measure, considered by itself, which showed it had the due consideration of the House.

Mr. MILLER. Can the gentleman state to the House what Oklahoma has done with its school lands in what was old Oklahoma Territory? I understand there is something about a million——

Mr. MORGAN of Oklahoma. Most of those lands have not been sold, but they are under lease.

Mr. MILLER. And still remain intact?

Mr. MORGAN of Oklahoma. They still remain intact. The common-school lands have not been sold.

Mr. McGUIRE of Oklahoma. A portion of them have been sold and a portion have not been sold.

Mr. MILLER. Have arrangements been made to put them into a permanent fund?

Mr. McGUIRE of Oklahoma. Yes, sir.

COMPENSATION FOR NONTAXABLE LANDS.

Mr. MORGAN of Oklahoma. The third bill which I have introduced, to which I wish to call the attention of the House at this time, is H. R. 28670.

The bill is entitled "A bill to pay the State of Oklahoma $20,000,000 in lieu of taxes on lands and other property within the State, sold and disposed of by the United States under terms and conditions prohibiting the State from taxing the same."

The National Government, through treaty stipulations, has placed a large portion of the lands in Oklahoma in a position of being exempt from taxation. I have reached the conclusion that the State is entitled to compensation for loss of revenue occasioned thereby, and that no adequate compensation has been made. The object of this bill is to require the National Government to make such appropriation as will at least in a fair measure compensate the State and its various civil subdivisions for loss of taxes upon nontaxable Indian lands. The bill appropriates $20,000,000, payable in 16 annual installments, to be distributed to the State, counties, and school districts, as their interests may appear, based upon loss of revenue.

OKLAHOMA BEARS NATIONAL BURDEN.

The United States in asking Oklahoma to provide nontaxable homes for more than one-third of the Indians of the United States is placing upon the 1,700,000 people of the State of Oklahoma a duty, an obligation, a responsibility, a burden, that belongs to all the 93,000,000 people of the United States.

Under the Constitution of the United States the Federal Government has no right, power, or authority, without the consent of the State and except upon such terms and conditions as shall be prescribed by the State, and except upon the payment to the State of such consideration as may be agreed to by the State, to exempt from taxation, for any period of time, any lands which have been sold or disposed of by the National Government.

Cooley, in his work on "Taxation" (third edition, p. 136), discussing the exemption of public lands from State taxation, says:

> The disability remains effective until the United States shall have made sale or other disposition of the lands, but it then terminates, notwithstanding the title may not have passed by the actual execution and delivery of a patent.

In the Ohio enabling act Congress made three grants to the State—section 16 for schools, certain salt springs with contiguous land, and a per cent on net sales of public lands. Following these grants was this proviso:

> *Provided always*, That three foregoing propositions herein offered are on the conditions that the convention of the said State shall provide, by an ordinance irrevocable without the consent of the United States, that every and each tract of land sold by Congress from and after the 30th day of June next shall be, and remain, exempt from any tax laid by order or under authority of the State, whether for State, county, township, or any other purpose whatever, for the term of five years from and after the day of sale.

The Indiana enabling act, passed in 1816, made certain grants to the State on the express condition that the State would not tax lands which the United States had sold for a period of five years after date of sale. Four grants were made to Illinois on the express condition that the State would exempt from taxation lands sold by the United States for a period of five years, and exempt certain bounty lands granted to soldiers while the same should be held by the patentees or their heirs.

The enabling acts admitting Iowa, Alabama, Arkansas, and other States contain similar provisions.

Indeed, this proviso requiring the States to exempt from taxation, for a definite period of time, certain lands which the United States had sold or disposed of was inserted in all the enabling acts of those States in which there were lands which the United States desired should be exempt from taxation after statehood.

The grant to the States of 5 per cent on the sales of public lands apparently was intended as a special consideration to the States and the civil subdivisions thereof for loss of revenue on lands which had been disposed of by the United States and which the National Government desired should be exempt from taxation. In admitting Oklahoma Congress apparently gave no consideration to the question of compensating the State for exempting from taxation lands which the Government had conveyed to the Indians. Certainly there is nothing in the enabling act specifically referring thereto. There is nothing in the enabling act—no grant, gratuity, gift, or donation to the State—that may fairly be construed as a consideration to the people of the State for loss of revenue from lands no longer the property of the United States, but which had been made exempt from taxation by stipulations in treaties made by the Federal Government with the Indians.

In other words, the Federal Government has never claimed the right to exempt from State taxation property which it had disposed of.

The Federal Government has always conceded the right of the State to demand a consideration for exempting from taxation any lands or other property sold or disposed of by the United States.

The State therefore has the right to demand a full consideration for exempting from taxation property which has been made nontaxable by law, treaty, or other act of the United States.

I frankly admit the the people of Oklahoma in their constitution have by express terms exempted from taxation "such property as may be exempt by reasons of treaty stipulations existing between the Indians and the United States Government or by Federal laws during the force and effect of such treaties or Federal laws."

This provision is mere surplusage. Without such a provision in the State constitution the State of Oklahoma could not have taxed the lands which were exempt from taxation by reason of treaties made between the Indians and the United States. The people of Oklahoma might any day repeal this provision in their constitution. Still the State could not tax these Indian lands. The Supreme Court of the United States has decided that these lands were exempt from taxation and alienation by virtue of treaty stipulations, and that Congress itself was powerless by any statute to subject the property to taxation.

There is no specific provision in the enabling act requiring the people of Oklahoma to waive the right to tax lands belonging to the Indians. There is not a word in the enabling act expressing any special consideration to the people of Oklahoma for waiver of power to tax Indian property. The enabling act contains nothing which may be regarded as a consideration or compensation to the State for loss of revenue from nontaxable Indian property.

The State of Oklahoma received only such grants and gratuities as had been given to all the public-land States. Indeed, I have shown that, on the whole, the grants to Oklahoma, all things considered, have not been commensurate with grants to other States.

Yet Oklahoma is the only State where Indian property exempt from taxation is a matter which to any great degree seriously embarrasses the State and local governments.

It is clear, therefore, that the people of Oklahoma have received no consideration for exempting Indian property from taxation, and that the United States has not compensated the people of Oklahoma for loss in revenue by reason of such exempt property.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MORGAN of Oklahoma. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has 14 minutes.

Mr. MORGAN of Oklahoma. I yield to the gentleman from Oklahoma.

Mr. CARTER. Mr. Chairman, I want to make the suggestion that at the time Oklahoma was admitted into the Union the Curtis Act of April 26, 1906, which provided that all lands from which restrictions were removed should become taxable, had been passed 18 months. Since that time we have had the decision in the case of Choate versus Trapp and others, which takes us back to the old agreement of 1902 and provides that some of the lands shall not be taxable until they are transferred and others nontaxable in perpetuity. So at the time we voted on our constitution the validity of the Curtis Act had not been questioned, and we very naturally expected we would have sufficient taxable values for the necessary governmental expenses.

Mr. MORGAN of Oklahoma. Yes.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. MORGAN of Oklahoma. Yes.

Mr. BURKE of South Dakota. Will the gentleman state how much the taxes are that are levied now in the State of Oklahoma—what they aggregate?

Mr. MORGAN of Oklahoma. The total amount?

Mr. BURKE of South Dakota. Yes.

Mr. MORGAN of Oklahoma. Well, it is sufficient.

Mr. BURKE of South Dakota. Are they as much as fifteen or sixteen millions of dollars?

Mr. MORGAN of Oklahoma. I could not say exactly now; but I am not referring simply to State taxes—to expense of running the State—I am referring to State, county, township, and school districts; to losses sustained by all these governments.

Mr. BURKE of South Dakota. This is one fourth of the land, and if that would produce $4,000,000 in taxation they must have a large tax down there and a large amount of revenue.

Mr. MORGAN of Oklahoma. I am simply giving you a fair estimate of the value of property that is exempt from taxation. Certainly one-third of all our lands are exempt from taxation. One-fourth of all our property is exempt from taxation. I have not the information as to the total amount expended annually by all our governments—State, county, township, and school district—but the State tax is not large compared with the total amount of taxes.

Mr. CAMPBELL. Will the gentleman yield?

Mr. MORGAN of Oklahoma. For a question.

Mr. CAMPBELL. Does the gentleman from Oklahoma believe that in good conscience the Government of the United States or the State of Oklahoma should tax Indian lands in the State of Oklahoma?

Mr. MORGAN of Oklahoma. Mr. Chairman, I do not. I believe it is the duty of the National Government, it is the duty of the people of this great Nation, to provide that the uneducated, the incompetent, the uncivilized Indian shall have his land and his home free from taxation as long as that condition exists; but, Mr. Chairman, whose duty is it to provide these untaxable homes for the wards of the Nation? Where does the obligation lie; who is responsible for the care and protection, the education and enlightenment of these wards of the Nation? Not Kansas, not New York, not Oklahoma, not any other State. That is a duty, a responsibility, an obligation, a burden which rests upon the United States of America—upon the 93,000,000 people of the United States and not upon the 1,600,000 people of Oklahoma, or upon the people of any other State.

Mr. CAMPBELL. May I ask, Did not these 1,600,000 people go into the State of Oklahoma knowing that they were encroaching upon the last home of the American Indian?

Mr. MORGAN of Oklahoma. Ah, Mr. Chairman, the people of Oklahoma went into that State just like we come to Congress, just like men go to other States. They went there at the invitation of the United States, and the United States had the power and authority to have kept every white man out of that country. We are there to-day as citizens of the United States and as citizens of the State of Oklahoma. We have our own problems to solve, our own burdens to bear. We cheerfully bear our full share of national responsibilities. But we shall not without protest and without appeal for relief bear alone a

burden that belongs to the Nation. Mr. Chairman, just yesterday we passed a bill through this House appropriating $7,000,000 for the support of the District of Columbia. Why do we appropriate that large sum—why do we bear half the expense of running the government here for 350,000 people of the city of Washington? One great reason is because here in the National Capital the United States Government has a large amount of property that is exempt from taxation. If we may pay $7,000,000 a year in compensation to these 350,000 people in Washington, D. C., for the exemption of the United States property from taxation, why should not the people of Oklahoma be compensated for loss of revenue occasioned by the exemption from taxation of $200,000,000 worth of property that belong to the Indians, who are the children of the Nation?

Mr. McGUIRE of Oklahoma. Will the gentleman yield?

Mr. MORGAN of Oklahoma. Certainly.

Mr. McGUIRE of Oklahoma. I do not know whether I fully understood the gentleman, but as I understand him, his statement is that one-fourth of the taxable land in Oklahoma is nontaxable. I am anxious to get this before the House with its full force, and the gentleman, as usual, states things conservatively. Is it not a fact that in the east end of the State, in what is known as the Five Civilized Tribes country, at the time of statehood a section of country as large as the State of Indiana had not one foot of taxable land outside of the cities?

Mr. MORGAN of Oklahoma. That is true.

Mr. HELGESEN. Is it not also true the Government has removed the restrictions from a great many of these Indians, made them citizens, and made it possible for them to impose burdens upon the white people that they themselves do not share?

Mr. MORGAN of Oklahoma. The Indians are citizens—may vote and exercise all the privileges of citizenship in our State, and nobody in Oklahoma objects to that.

Mr. BURKE of South Dakota. Mr. Chairman, the gentleman is discussing a very interesting subject, and I want to say that I am in full accord with his proposition as to the obligation of the Government toward some of the States where very large Indian tracts are not taxable; and I would like for the gentleman, if he can, to suggest any remedy that is practicable at this time. In other words, we have a condition confronting us; but is it not too late in those States that are in the position of Oklahoma to receive what perhaps they ought to have had originally?

Mr. MORGAN of Oklahoma. Mr. Chairman, it is never too late to do right; it is never too late to do justice. Why should South Dakota and Montana and Arizona and New Mexico and the other Northwestern States which have large amounts of Indian property exempt from taxation bear an undue share of the burden which comes from providing incompetent Indians with homes free from taxation?

AMOUNT OF PROPERTY EXEMPT FROM TAXATION.

Few people realize the enormous value of Indian property in Oklahoma which is exempt from taxation, and it is almost impossible to comprehend the immense loss in revenue thereby occasioned to the State, county, township, and school district governments.

I present a table showing Indian population. The table is as follows:

Table showing Indian population of the United States, exclusive of Alaska, June 30, 1911.

Grand total		322,715
Five Civilized Tribes, including freemen and intermarried whites		101,287
By blood	75,360	
By intermarriage	2,582	
Freedmen	23,345	
Exclusive of Five Civilized Tribes		221,428

BY STATES AND TERRITORIES.

Alabama	909
Arizona	39,216
Arkansas	460
California	16,371
Colorado	841
Connecticut	152
Delaware	5
District of Columbia	68
Florida	446
Georgia	95
Idaho	3,791
Illinois	188
Indiana	279
Iowa	369
Kansas	1,309
Kentucky	234
Louisiana	780
Maine	892
Maryland	55
Massachusetts	688
Michigan	7,519
Minnesota	10,711
Mississippi	1,253
Missouri	313
Montana	10,814
Nebraska	3,809
Nevada	5,240
New Hampshire	34
New Jersey	168
New Mexico	21,121
New York	6,046
North Carolina	7,851
North Dakota	8,253
Ohio	127
Oklahoma (includes 23,345 freedmen and 2,582 intermarried whites)	117,247
Oregon	6,403
Rhode Island	284
South Carolina	331
South Dakota	20,352
Tennessee	216
Texas	762
Utah	3,121
Vermont	26
Virginia	539
Washington	10,997
West Virginia	36
Wisconsin	10,309
Wyoming	1,691

FIVE CIVILIZED TRIBES.

Full bloods	26,686
Mixed blood, over one-half Indian blood	10,298
Mixed blood, but less than one-half Indian blood	64,255

There are in the United States 322,715 Indians; 117,247 of this number are in Oklahoma. We have within our State over one-third of the entire Indian population of the United States; 101,287 of this number belong to the Five Civilized Tribes; 15,960 belong to other tribes. The latter are Indians located in the western half of the State in what was formerly Oklahoma Territory.

Twenty-seven of the States have less than 1,000 Indians; 21 have less than 500 Indians; 7 of the States have less than 100 Indians. The total Indian population of 41 States of the Union is less than the Indian population of Oklahoma. In the amount of its Indian population Oklahoma stands absolutely in a class by itself.

I present table showing distribution of Indian property in the various States. The table is as follows:

Table showing value of Indian property, both private and individual, June 30, 1911.

Oklahoma, Five Civilized Tribes, $191,946,070.34; other tribes, $75,057,040.73	$267,003,111.07
Arizona	36,915,162.10
California	41,921,651.53
Colorado	1,963,800.28
Florida	13,788.00
Idaho	14,573,608.60
Iowa	686,607.95
Kansas	4,272,008.35
Michigan	211,709.66
Minnesota	32,167,618.42
Montana	64,193,008.59
Nebraska	10,215,043.92
Nevada	1,204,426.38
New Mexico	16,916,569.69
New York	185,271.20
North Carolina	629,161.42
North Dakota	22,746,339.49
Oregon	36,645,098.06
Pennsylvania	50,175.22
South Dakota	41,015,792.65
Utah	3,055,275.84
Washington	52,086,258.37
Wisconsin	26,930,516.31
Wyoming	2,212,148.68
Grand total	678,564,253.08

In what was formerly the Indian Territory the allotted and unallotted Indian lands comprise 19,134,214 acres. About three-fourths of this vast area is untaxable for a long period of years. In what was formerly Oklahoma Territory there are 3,602,259 acres of untaxable Indian lands. In the entire State about 18,000,000 acres of Indian lands are not taxable. At $15 per acre these lands are worth $270,000,000. This vast estate, made untaxable by laws and treaties of the United States, is equal to about one-fourth of all the taxable property of the State of Oklahoma.

The Bureau of Indian Affairs has made an estimate of the value of all the Indian property in the United States. According to this estimate the Indian property in the United States amounts to $678,564,253. The Indian Bureau values the Indian property in the State of Oklahoma at $267,003,111. Two-fifths of all the Indian property of the United States is in Oklahoma. All the Indian property in 41 States of the Union does not equal the amount of Indian property in the one State of Oklahoma.

If this property were taxed for State, county, township, and school-district purposes at 1½ per cent, it would bring to the State and its various civil subdivisions annually over $4,000,000. At this rate, in the five years which have elapsed since statehood the people have lost in revenue from nontaxable Indian property more than $20,000,000. Congress granted to the people of the State $5,000,000 cash in lieu of public-school lands in the Indian Territory. At 5 per cent annual interest this would bring the State an annual revenue of $250,000. In the meantime the State and its various civil municipalities loses annually $4,000,000 in revenue. They are losing $16 in revenue from nontaxable Indian lands for every dollar in interest they receive from the $5,000,000 cash appropriation. This must go on until the lands may be taxed. The loss which the people of Oklahoma will sustain by reason of nontaxable Indian lands can not, of course, be accurately measured, but the loss will be enormous. In my judgment, when a final accounting is had in the matter of nontaxable Indian lands the people of the State will have lost in revenue above $50,000,000.

We all agree that the lands of the incompetent, uneducated, and uncivilized Indians should be exempted from taxation, but some one must pay for this exemption. To relieve one piece of property from taxation is equivalent to increasing the tax upon all other property. To exempt Indian lands from taxation adds additional taxes to all other lands. Revenue lost from exempted Indian property must be made up by revenue from other property. There is no escape from these conclusions, unless the people submit to an inefficient government and inadequate educational facilities.

This 276,000,000 acres of property in Oklahoma that is exempt from taxation belongs to the Indians. The Indians are wards of the Federal Government—they are the children of the Nation. The care of Indians is a national duty. To provide them with nontaxable property is an obligation that rests upon the National Government. It is the business of the Nation to provide the Indians with nontaxable property. The cost of providing this nontaxable property is a debt the Nation owes and a debt the Nation should pay. The cost of exempting the Indian from any of the ordinary duties, obligations, and responsibilities of citizenship in the State in which he lives should be paid by all the 93,000,000 people of the United States. It is unjust, it is unfair, it is inequitable, it is indefensible for the people of this great Nation to ask the people of one State to bear an undue and an extraordinary proportion of a burden that in justice belongs to all the people of the Union.

Mr. LAMB. Mr. Chairman, I yield five minutes to the gentleman from Arizona [Mr. HAYDEN].

[Mr. HAYDEN addressed the committee. See Appendix.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. CLARK of Florida having taken the chair as Speaker pro tempore, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries.

AGRICULTURE APPROPRIATION BILL.

The committee resumed its session.

Mr. LAMB. Mr. Chairman, I yield two minutes to the gentleman from Ohio [Mr. ALLEN].

[Mr. ALLEN addressed the committee. See Appendix.]

Mr. LAMB. Mr. Chairman, I yield five minutes to another gentleman from Ohio [Mr. BATHRICK].

Mr. BATHRICK. Mr. Chairman, in connection with the consideration of this bill, I think it appropriate to discuss the question of farm credits and the important relation which that topic bears not alone to the interests of the farmers of this country, but to the food supply of the whole people.

Before the next Congress shall have expired there will be brought before it not only the matter of education for our agriculturists, but a consideration of the means of doing things which they know how to do.

The project of bettering the farmer's facilities for borrowing money in Europe has almost wholly been carried on by educating the farmer to help himself. The farmers have been taught to help themselves there by combinations of scattered, small units of the citizens, who organize small banks. A sort of investigation at the present time has been started in several different directions—a partial review of which was contained in the President's message upon that subject—for the purpose of ascertaining how they borrow money and what rate they pay in Europe. I anticipate that the next move may be an attempt to adapt European conditions to American conditions. I warn gentlemen of this House that it will be wholly impracticable. The plan must take other forms.

Attempting to work out this problem, I have introduced a bill which proposes to utilize the credit of the United States Government, without cost to it, and thereby materially lessen the interest burden now carried by the American farmer, and make it possible for him to borrow for legitimate needs at lower rates.

Mr. NORRIS. Will the gentleman yield?

Mr. BATHRICK. I will.

Mr. NORRIS. I wish the gentleman would give the House the number of his bill. I should like to examine it.

Mr. BATHRICK. The number of my bill is H. R. 27661.

In most foreign countries farm-credit systems did not become an established factor in agriculture until the governments had assisted by advancing funds for the purpose of establishing farm-credit organizations. Various associations had been organized for many years, but nearly all of them had gone by the way and were lost sight of and had done very little good to the agriculture of France.

The profit from farm products received by the farmer can not stand 6 or 8 per cent interest on his debts. That is the reason why so large a proportion of the farms are mortgaged to-day and will remain mortgaged in the future unless something is done to change this condition.

Mr. Herbert Williams, in a statement before the Senate Finance Committee in 1910, made it plain that our farm population sold each year less than $300 per capita of farm products. A business of this character will not attract, but rather will repel investors, if money cost is too high. No business man will borrow money at a rate in excess of the net profit that he is getting in his business. If he does, he will stay in debt.

Mr. RUCKER of Colorado. Will the gentleman yield?

Mr. BATHRICK. Certainly.

Mr. RUCKER of Colorado. Does the gentleman remember that about 20 years ago this same matter was before the American people?

Mr. BATHRICK. Yes; it has been before the American people periodically a good many times, but nothing has been done.

Mr. RUCKER of Colorado. I want to say to the gentleman that I am in entire sympathy, and hope to furnish him with a resolution which I introduced in the farmers' congress on the same line about 20 years ago, and I am going to vote for his bill when it comes up.

Mr. BATHRICK. I thank the gentleman; and many others will do the same, I think.

Mr. MADDEN. Will the gentleman from Ohio yield?

Mr. BATHRICK. I will yield to the gentleman from Illinois.

Mr. MADDEN. I understood the gentleman to say that a man in business would not borrow money at a rate in excess of the average net profit of his business.

Mr. BATHRICK. Not in excess of the profit on goods he expected to move by borrowing.

Mr. MADDEN. Does the gentleman mean to say that a man that does not make any money never borrows money?

Mr. BATHRICK. Oh, yes; a man sometimes borrows money to get himself out of a hole that he got into by borrowing.

Mr. MADDEN. Does the gentleman know of any way to force loans to the farmer?

Mr. BATHRICK. No. I know none of the loan sharks of the West will loan the farmer at a less rate of interest than 8 per cent, and you can not make them do it except by offering a lower rate elsewhere.

Mr. MADDEN. I am not speaking of the loan sharks of the West, but anybody.

Mr. BATHRICK. This is not a question of forcing anyone to lend; it is a question of relieving the farmers of this excessive burden which in the last analysis must be borne by the people who consume the food.

Mr. CAMPBELL. Will the gentleman allow me?

Mr. BATHRICK. Yes.

Mr. CAMPBELL. I want to say to the gentleman that I know farmers who are loaning money to business men at a rate of interest of 6 per cent.

Mr. BATHRICK. I am glad to hear this, but I am not talking about the farmers who have got out from under and are lending money. I am referring to the farmer who is obliged to borrow money, and prosperous farmers who know the road through debt on a farm will have sympathy for this movement. Besides, even the farmer who is now out of debt may desire to borrow money. No doubt many of them would do so and increase their acreage or otherwise better their facilities for producing crops if the interest rate were lower.

Mr. BURKE of South Dakota. Will the gentleman from Ohio yield?

Mr. BATHRICK. I will.

Mr. BURKE of South Dakota. I would like the gentleman to tell us the rate of interest paid by the farmers of Ohio on money that they borrow secured by mortgage.

Mr. BATHRICK. About 6 per cent; but there are schemers who seek to get more than the usual or fair rate everywhere. Even in this House some of we poorer Members are obliged to borrow money on the security of our salaries, and we pay nearly 8 per cent for it. I will say, however, that this seems to be no fault of the Sergeant at Arms.

Mr. KINDRED. Mr. Chairman, will the gentleman yield?

Mr. BATHRICK. Certainly.

Mr. KINDRED. Mr. Chairman, the question that I desire to ask would perhaps be more apropo had it been put at the time the gentleman was reciting the details. I would like to add to the gentleman's suggestion that the farmer sometimes is asked to pay graft to certain directors of the bank, is he not, in order to pay a bonus on the loan?

Mr. BATHRICK. I suppose there are such cases. I do not think that is the rule, however. I believe the bankers of this country are on the average very honest and public-spirited people, and they are doing their banking business in a legitimate way. But that is not the subject. The subject is to do something to give the farmer better financial connection and lower his interest rate.

Mr. LAMB. The Farmers' Cooperative Bank is the principle of the thing, is it not?

Mr. BATHRICK. Oh, I beg to partially differ with the gentleman. I do not in any sense oppose any cooperative system among the farmers for the purpose of securing credit for themselves. My bill refers particularly to the question of lending money upon mortgages and the farm-land mortgage interest burden of the country. It does not refer specifically to the small loans, although I can see in the future relief in that direction by such a measure. If the farmers of this country should choose to organize somewhat in the manner of those in Europe, I believe it will be a good thing for them, but the system of lending money by cooperative banking societies in Europe does not particularly include the question of taking care of the farm-mortgage indebtedness in the United States. The trouble with the European cooperative system—it is too slow. We will all be dead before we get any relief. I do not want to wait until people die before doing anything to relieve them.

Mr. KINDRED. Mr. Chairman, will the gentleman yield?

Mr. BATHRICK. Yes.

Mr. KINDRED. Mr. Chairman, does the gentleman from Ohio believe that the loans that are so much needed by the farmer, as well as by other classes of people in business, would be facilitated if the national banking and currency law was so amended as to allow the national banks to make loans on real estate?

Mr. BATHRICK. I think they would, but I do not know how a national bank could safely lend money on real estate. The national bank takes deposits that are subject to demand at any time, and I do not see how such a bank can safely take over any great amount of land mortgages, because they are not sufficiently liquid to provide for withdrawals. Besides, this plan would not reduce the rate.

Mr. KINDRED. Mr. Chairman, could not the difficulty to which the gentleman refers be overcome by having the mortgage which is to secure the loan to the national bank issued in another form and underwritten by the bank, as a coupon bond, thereby constituting liquid security, which would be a liquid asset of the national bank?

Mr. BATHRICK. That is about the way it is done by the Crédit Foncier, of France. The Crédit Foncier issues a bond, or, more properly, a debenture. Those debentures have received a large sale, but I think mainly because they have a lottery feature connected with them that gives a premium to people who happen to draw the lucky debenture. You can not ingraft on the American system any lottery plan, and unless you do that I fear these debentures would be so far below par that people would not buy them.

Mr. Chairman, I ask to continue my statement without interruption.

I am pleased to note that the Agricultural bill carries so liberal an amount of the people's money for the purpose mainly of investigation and education looking to improvement in farm production. The farms of this country are really the storehouses of the people's food supply, and food is the last-ditch necessity. It has been the history of all nations that in times of peace and in the struggles of war the strongest support for prosperity and success is the prosperity of agriculture. I sometimes think that the people in the city are not fully alive to these facts. The population in this country has gone on increasing year after year until consumption is rapidly outrunning production of food. Statistics indicate the falling off of the exportation of these products, and, while it may be as far distant as two generations before production falls below consumption and we are obliged to import part of our food, I deem it good statesmanship that we take up this question pertaining to the improvement of agriculture and its relation to the necessities of the whole people and forestall any possibility of the direful results of a short food supply. We have been annually expending large sums to teach the farmer how to produce more and produce better, but we must now show him how to get the money to do it with.

Germany took up the question of helping the farmer to procure money with which to produce his crops at a time when famine stared that country in the face. We will not wait for any such exigency, but will confer upon our posterity, at least, and possibly upon ourselves living in this generation, the great good of supplying the last link to the chain of assistance to agriculture which we have so long been welding. In other words, knowing that farming is a business proposition and that business propositions can not be conducted without money, we will attempt to bring the farmer, now removed from financial facilities, into contact with means of a more ready procurement of loans. Minus these facilities the farmers of this country have been burdened with an enormous interest rate which has been a clog upon their efforts and an obstacle to the development of our agricultural resources.

The average rate of cost for farm loans in this country, as near as it can be ascertained, has been placed by careful investigators at about 8½ per cent. I use the word "cost" as distinguished from interest inasmuch as fees, bonuses, and other expenses have in the newer States to a great degree and in the older States to a smaller degree, but nevertheless surely, contributed to the cost of hiring money. It is estimated that the total interest burden upon farm debts is annually about $510,000,000. At the December price in 1911 the entire wheat crop of this country was valued at a little over $543,000,000, showing that it requires nearly the entire value of the wheat crop to pay our annual farm interest. The addition of this cost to the food consumed by all of us, whether we live in the city or country, is inevitable. Something can not be taken from nothing, and some one must pay. It can not therefore be considered class legislation if the Federal Government should do something to relieve this situation. We have expended large sums and taken long chances for the purpose of development in various directions. We have guaranteed railroad bonds, given away vast areas of land to encourage the building of transportation facilities, and done many other things which at first appearance seem for the benefit of private enterprise, but in effect reach out to enliven commerce, encourage competition, employ labor, and by this means benefit all the people.

It is a startling fact that farm interest, in the last generation, has consumed the total increase of all farm-land values. Every 12 years interest absorbs the value of all our farm buildings. Every 9 years it absorbs the value of all our live stock. Every 2½ years it absorbs the value of all our farm implements and machinery. Of all business enterprises the average profit upon agriculture is least compatible with a high rate of interest, and yet agriculture has been obliged to bear the heaviest rate of all.

The population of this country is but a few generations removed from foreign ancestry and many European customs and systems have therefore been naturally applied to our needs, and it is not surprising that in consideration of this subject we are liable to inquire into the method employed by European countries in coping with this question. Nonofficial and semi-official investigations have been made by societies, ambassadors, and individuals into the foreign plan. The information on this subject though quite extensive, is in many respects incomplete, but sufficient to suggest to us methods by which we may partly direct our efforts. We can not, however, expect to take European plans, formulated and operated upon the groundwork of a national and individual character very different from our own, and adapt them without change to our needs. How nearly we may go astray if we attempt this for this particular purpose is illustrated in our parcel-post law. There was no particular reason or warrant why we should limit the weight of our parcels to 11 pounds. The present Postmaster General has stated that he could as well operate it on a 60-pound basis. We simply took up the 11 pounds because Europe stipulated that weight.

This is the United States, and the Government belongs to all the people, and all the people certainly can do those things they want done for themselves. That, at least, is the theoretical assumption, and if we evolve some better plan than that employed by European countries there is no reason why we can not put it into force. There is no reason if the people know in which direction to start. In every movement of this kind there is always a confusion of ways and means, and the motive

of those who lead is often concealed, but I will trust the farmers of this country to quickly detect any intention of special interests to profit by any farm credit plan that may be offered.

Without entering into a concise history of the European cooperative agricultural banks or their land-mortgage banks it is worth noting that France first instituted cooperative credit in 1857. Austria and Hungary adopted it in 1851; Italy and Belgium in 1864; Russia in 1861; and these were founded, to a great degree, upon the original movement in 1848, and known, respectively, as the Schulz-Delitzch and Raiffeisen systems of Germany. Thus it is quite apparent that the long tedious wait that elapsed before these systems reached their present, only partial, adoption, would scarcely be satisfactory to the more progressive spirit of the American people. Another illustration worth noting is that after an investigation of a committee which traveled throughout Europe, giving the matter their careful attention, Ireland adopted a cooperative plan in 1894. After about 15 years of operation the total amount loaned was only about $275,000, which is about equivalent to a tear dropped in the ocean of our necessities.

Although Great Britain has been flooded with a propaganda of education, and she has been contiguous to the countries where this credit scheme had been developed, the result is still a charge of 6 per cent interest, and there are less than 100 of the societies in operation with a total outstanding loan of less than $50,000.

In consideration of the new banking system which this House will take up shortly, it is worth while noting that one prominent writer states that nearly all the private banking companies of Europe use these cooperative credit societies as auxiliaries and handle a large portion of their funds. It should also be noted that the success so far attained in Europe seems to rest almost exclusively upon the willingness of all members of these credit societies to pledge their united liability for the loans to its members. In other words, if a man is a member of the credit society he must become surety for those who do borrow, even though he borrows nothing himself. It is evidently considered by all writers a fundamental necessity that the members of these cooperative credit societies pledge their combined resources for the debts of those who borrow.

I think it is palpable that the average American farmer has developed too much initiative and good business sense to make himself liable for other than his own debts. The European cooperative credit societies limit their membership to a small number, and these being each a surety for the other's obligation, institute a character of neighborhood espionage which would be entirely distasteful, and, I believe, impossible, to the average American farmer. Naturally, the farmer who was surety for his neighbor's debt watched his conduct.

It is not possible in my limited time to enter into all the details and reasons why the European method will not apply to America, but having pointed out a few facts why we need some kind of farm credit reform, I propose to briefly outline my own views as to a plan to bring it about.

As heretofore referred to, I have introduced a bill which, while not letter perfect and open to minor objections, perhaps, enunciates a principle which I believe to be entirely sound. This bill more nearly conforms, if the comparison is desired, with what is known in some other countries as the Landschaften or the Crédit Foncier. It is designed primarily to take care of a large portion of our $6,040,000,000 farm debt, and would reduce the interest rate to not more than 4½ per cent. It contemplates the establishment of a bureau which I am pleased to call the farm-loan bureau, to be under the control and direction of the Secretary of the Treasury. The purpose of the bureau is to inquire into the value of farm land offered as security for the loans and the validity of title of the same. After the bureau shall have been satisfied upon these two items the Treasurer of the United States shall issue the amount of the loan to the applicant upon a receipt of the mortgage properly executed to him on behalf of the United States Government, but loans are not to be in excess of 60 per cent of the value of the property. The Secretary of the Treasury is directed to issue bonds of the United States bearing not in excess of 4½ per cent interest. The sum due upon the farm loans and payable upon the bonds shall bear as close a relation to each other as possible, that there may not be at any time a considerable balance upon one side or the other. Applicants and appraisers will be made subject to severe fine and imprisonment for fraud. Control of other detail of operation is to be left largely to the discretion of the Secretary of the Treasury. This discretion is quite necessary, as it would be impossible to draw a bill that would anticipate all of the details.

Given the final day when the Government of the United States under this proposed measure had taken over all the farm-land mortgages of the United States, and what would be the result? It is noted that the interest received from the farmers is not to exceed 4½ per cent and that the bonds sold are not to bear interest in excess of 4 per cent. I am quite confident that both of these maximum rates can be materially reduced and be entirely workable, but in any event there should be a margin of one-half of 1 per cent to the Government on these loans. The result would be a surplus, accumulated from the difference in the rate of interest which we pay on bonds and receive on mortgages, approximately of $10,000,000 to $25,000,000 per year in the hands of the farm-loan department. This would be utilized to cover possible losses, to pay operating expenses, or to reduce the taxes of the whole people. I can see no reason why an amortization plan could not be adopted and put in workable form as one of the details in the operation of this bill. The Government can borrow money on long time at a low rate of interest, and amortization tables could be worked out wherein the mortgagor, paying a small percentage of the debt above the interest rate, would be constantly reducing the principal, until at the end of his term he would be out of debt.

Regulations could be instituted covering cases whereby farm boys and farm tenants could be assisted in purchasing farms of their own. Farmers who now hesitate to borrow at the present rate of interest would see profit in enlarging their acreage and increasing their facilities for producing larger crops. A $5,000 mortgage on a $10,000 or $12,000 farm, at the present average rate of interest, will in many cases consume nearly the entire profit. There is consequently little reason for the farmer boy to remain at home for the discouraging purpose of merely keeping even with the debt. Many commercial businesses are sufficiently profitable to carry the present rate of interest, but the average farm business can not carry it, with the result that the cry of "back to the farm" chokes in our throats at sight of this heart-eating interest rate.

Debt on the farm is a cloud blacker than night hovering over the farmer's rounded shoulders, and the "merry farmer's boy" stops whistling at sight of it and dreams of the city. Profit will keep the boy on the farm competing there instead of with overcrowded labor in town. A 1½ to 4 per cent difference on the annual farm interest debt will often make the difference between a satisfied farm boy and one going out the front gate with a valise, bound for town to stay.

A very large proportion of all our commerce in this country is conducted upon credit, but the cost of credit is normally regulated by the profit of commerce. Those few avocations of commerce which are not sufficiently profitable to use credit at a cost set by those which lead can only struggle on without this advantage. Agriculture has long been in this class, and, minus the greater margins of profit, it has thereby been oftener put to the necessity of borrowing, and the necessity of borrowing has made it a prey to all kinds of pound-of-flesh lenders. It may be possible that we can dispense with the weaker brethren of these lines of commerce which provide us with some necessities of life, but we can not dispense with the farm. The preservation of our food supply, looking ahead with only reasonable precaution, is all-sufficient excuse for legislation that can not help but be beneficial to the man in the city as well as the man on the farm.

This bill does not contemplate the entrance of the Government in the field of banking. It only contemplates on the part of the Government the guaranty of a farm mortgage. We have guaranteed railroad bonds and we are now lending money to the banks at 2½ per cent. Who can contend that guaranteeing a farm mortgage is less safe than guaranteeing a railroad bond? Who can contend that it is class legislation to lend money to the farmer upon security of the earth itself at 4½ per cent when we are now lending money at 2½ per cent on security of municipal or county bonds?

The bonds issued by the Government under this proposition would have behind them not only the taxing power of the people but they would have behind them also the individual property and value of the land upon which the bonds are, in effect, predicated. It would not be inflation, because it would be merely a transfer of a debt due one class of lenders to a debt due another class. France is the most prosperous nation on the earth to-day, and yet she has four times the national debt, in outstanding bonds, of the United States, notwithstanding that our resources are much greater than hers.

The function of lending money to farmers on land mortgages might be given under Government control to a private company, but why do that if the Government must control the private company? The control would be as surely the exercise of Government function in the matter as it would be for the Government to do the work itself, with the disadvantage of turning whatever profit there was in the business over to the individuals

of the private company instead of back into the pockets of the people through the National Treasury. No bureau could be established for the purpose of handling money that could be less open to possibilities of the malfeasance of public officials than this. Its operation could not be attended by any of the acts of official dishonesty which are brought out as arguments against Government ownership of public utilities and little technical knowledge would be required by the commissioners.

There are those who fear every move that appears in any way or sense an innovation. They cling tenaciously to ancient history and shudder at the making of new history. We are not bound to do all things as Europe does. We are a progressive Nation, and it is our purpose to do things better than Europe does. We have grown to a mighty Nation because of innovation and because of the development of new institutions, and if we can by Federal legislation cure the ills with which this subject deals in six months or a year, why wait for the dilatory results of the half century that has been required to partly cure them in the European way? [Applause.]

Mr. LAMB. Mr. Chairman, I will ask the gentleman from Iowa to use the balance of his time.

Mr. HAUGEN. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. WILLIS].

Mr. WILLIS. Mr. Chairman, I desire to indorse what my colleague [Mr. BATHRICK] has said in reference to the importance of legislation looking to the establishment of farm credit cooperative concerns, however much difference of opinion there may be as to the form of the legislation. There are few subjects that can engage the attention of the House that are of more importance to the country at large than that one, and he is to be commended for his zeal in going into that subject. However, Mr. Chairman, I wish to address myself more especially to the bill under consideration. This bill carries some $17,000,000, and I will say that there is no appropriation made by the House of Representatives which brings larger returns to the American people [applause] than the returns made by the appropriation passed for the Department of Agriculture. In that bill there is no item that will bring larger return than the item that relates to the farm-management work, of which I wish especially to speak. In the report of the committee on the last year's bill an appropriation of $186,000 was provided for that bureau. It will be remembered that there was something of a contest in the House, and as a result of that contest the appropriation was increased to $250,000. When that bill went to the Senate that appropriation was increased still more to the sum of $300,000, and in that form the bill of last year finally passed. In the committee report of this year $375,000 are allowed. That, however, is not the amount that is asked for by the department. As I understand, the head of the bureau, with the approval of the Secretary of Agriculture, has asked for $435,000; and to me it is a matter of regret that the committee did not feel justified in allowing even this enlarged appropriation, because I am sure that it is an appropriation that means much, not simply to the farmers of the country but to all the people of the country. As we come to ask an enlarged appropriation for the farm-management work, it is but proper that there be a sort of invoice to see what has been done and see what has been accomplished with the money we appropriated last year.

I invite attention to the fact, in the first place, that as a result of the increased appropriation made last year the work of the Farm Management Bureau has already been organized in 60 counties of the United States. That is to say, an expert from the Agricultural Department has been assigned to those counties, and the work is already organized and going on successfully. I have before me here a statement which I shall insert in the RECORD, showing the present status of the work.

The statement is as follows:

COUNTIES IN WHICH COUNTY AGENTS ARE EMPLOYED.

Colorado: Conejos, Costilla, Rio Grande, Saguache (one man); El Paso, Logan.
Idaho: Bonner.
Illinois: Kankakee.
Indiana: Laporte, Montgomery.
Iowa: Blackhawk, Clinton, Montgomery, Scott.
Kansas: Leavenworth.
Kentucky: Henderson.
Michigan: Alpena, Montmorency, Presque Isle (one man); Iron, Kalamazoo, Kent.
Minnesota: Bigstone, Grant, Otter Tail, Pope, Stevens, Swift, Traverse.
Missouri: Cape Girardeau, Pettis.
Nebraska: Gage, Merrick.
New Jersey: Mercer, Sussex.
New York: Broome, Chemung, Clinton, Herkimer, Jefferson, Oneida.
Ohio: Portage.
Oregon: Marion, Wallowa.
Pennsylvania: Bedford, Blair, Butler, Mercer, Montgomery, Washington.
South Dakota: Brown.
Vermont: Bennington, Windsor.
Washington: Wahkiakum.
West Virginia: Kanawha, Wood.
Wisconsin: Barron, Eau Claire, Oneida, Price.
Total number of counties in above list, 60.

COUNTIES WHERE THE BUREAU OF FARM MANAGEMENT HAS ALLOTTED FUNDS AND THAT ARE ABOUT READY TO EMPLOY A COUNTY AGENT.

Illinois: Champaign, Livingston, McHenry.
Indiana: Parke, St. Joseph.
Iowa: Clay, Muscatine, Polk.
Kentucky: Warren.
Maryland: Baltimore.
Michigan: Allegan, Branch, Macomb, Saginaw.
Missouri: Andrain, Buchanan, Marion.
New York: Cortland, Franklin, Lawrence, Niagara.
Vermont: Caledonia, Orange.
Total number where the bureau has allotted funds, 23.

COUNTIES WHICH WILL PROBABLY HAVE LOCAL FUNDS RAISED SOON.

Illinois: Fulton, Knox, Peoria, Tazewell, Will.
Indiana: Steuben.
Iowa: Audubon, Cass, Cerro Gordo, Marion, Monona, Page, Pottawattamie, Wapello, Woodbury, Van Buren.
Kansas: Harvey.
Kentucky: Christian.
Michigan: Berrien, Calhoun, Charlevoix, Genesee, Hillsdale, Jackson, Lapeer, Newaygo, St. Joseph, Shiawassee, Oakland.
Missouri: St. Louis.
New Hampshire: Coos, Merrimack.
New York: Cayuga, Chautauqua, Chenango, Erie, Lewis, Monroe, Onondaga, Orange, Rensselaer, Tompkins, Washington, Wyoming.
Ohio: Columbiana, Greene, Knox, Highland, Washington.
Pennsylvania: Bradford, Chester, Clearfield, Cumberland, Dauphin, Fayette, Lackawanna, Lancaster, Lawrence, Lycoming, Tioga, Warren.
South Dakota: Edmunds, Spink.
Vermont: Windham.
Washington: Benton.
Total number of counties in the foregoing list, 65.

Up to date there have been 186 inquiries from counties all over the country relative to this cooperative work, in addition to the lists shown above.

Mr. WILLIS. For example, in the State of Minnesota an expert, an "agricultural soil doctor," if I may so characterize him, has been assigned to seven counties in that State. In New York six men have been assigned to six counties and are at work in those counties. In Iowa they have been assigned to four counties, in Michigan to six, in Pennsylvania to six, Wisconsin four, Ohio one, and so on in the different States of the Union, making a total of 60 counties in which the work is now organized and being carried on successfully.

Mr. SAMUEL W. SMITH. I will ask the gentleman if he is not mistaken in that it is 78 instead of 60 counties?

Mr. WILLIS. I got the figures from the Department of Agriculture a few days ago.

Mr. SAMUEL W. SMITH. I got my information from the Secretary of Agriculture, and he gave me 78.

Mr. WILLIS. I said the Department of Agriculture gave me the figures only a few days ago, but very likely the gentleman is correct, and he suggests now that the organization has been perfected in 78 counties; if so, it simply enforces the point I am seeking to make, that under this appropriation the work is going on and is going on rapidly and successfully. At the time I had this statement prepared there were 23 counties in the United States in which the funds had already been allotted, and they were ready to commence, simply awaiting the assignment of men from the Agricultural Department. In the State of Illinois there were 3, Michigan there were 4, Iowa there were 3, New York 4, and so on through the various States, making a total of 23. Now, in addition to that, when this report was made out there were 65 additional counties, besides those I have already named, in which the people were organizing and raising their funds and in which they expected to be able to apply at a very early date for the assignment of men.

In the State of New York there were 12 counties; in Iowa, 10; in Ohio, 5; Pennsylvania, 12; Michigan, 11; and so on in the various States, making 65 in all. So that, counting those in which the work is already organized and those in which the funds have been allotted and those in which the funds are now in process of collection, there are 148 counties in the United States in which this work is well under way, and in addition to that there were some 186 others that were making their plans, making the total at the time this table was prepared of 334 counties in which the work had been organized or was in process of organization since the appropriation bill of last year passed.

I notice in the hearings, pages 28 and 30, that a very detailed account of the work is given by the head of the bureau, and at this time I ask leave to insert in the RECORD a certain part from the hearings and from the bulletin of the Ohio Experiment Station.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. WILLIS. At page 30 of the hearings, where the committee is making inquiry concerning the duties of county agents, the following statements occur:

Mr. LEVER. Just what does this man do?

Mr. SPILLMAN. Well, his work is so large and so diverse that I can not answer that in just a sentence. There are four general types of work for him to do. The first thing we instruct him to do is this: We realize that there are already farmers in that county who know more about farming on their farms than anybody else knows. We instruct him to hunt up all of those highly successful farmers and learn all they know. After a man has made a study of hundreds of farms in one county, if he is the right kind of man, he will know more about farming in that county than any one man, because he has gotten to know so many of them. We say, "We know there are lots of men in this county who know a great deal more than we know about certain phases of farming here, and we want to get that and make it public property—give it to the other farmer who does not know—and we are going about now to learn." Well, the farmers take that as a compliment to them, as it is intended and as it is deserved. Then, after a man has made a study of hundreds of the best farms in the county, he becomes a welcome visitor on any farm in that county, and we find the more advanced and progressive a farmer is the more eager he is to have these men visit his farm.

Mr. LEVER. Now, then, does he establish a series of farms in the shape of a circuit, which he visits from time to time?

Mr. SPILLMAN. In some cases he does that. We have, for instance, one man in Bedford County, Pa., who has been there for some time; you see, we have only started most of these men in this year, but that man we have had at work three years, and he has this year 1,700 farms growing some crop under his direction.

Mr. LEVER. How does he manage to visit those crops and see that they are growing according to his directions?

Mr. SPILLMAN. He has what the farmers of the county call a manure spreader, a little automobile; he gets over that county and he can visit about 20 men a day with that automobile, and sometimes, if they are close together, he can visit more than that, and frequently he will get 40 or 50 of them together at a schoolhouse and talk with all of them, and in one hour he will get the situation before these farmers.

Mr. CANDLER. You say he has 1,700 demonstrations in one county?

Mr. SPILLMAN. Yes. The farmers call his automobile the manure spreader, and when we asked them why they called it that they said, because it had increased the yield of crops all over that county. Now, to show you the effect of this work, I will take that county where we have been at work the longest time. It is a county up in the mountains, where apple trees do very well. The farmers have had apple orchards there ever since they have been there, but they had never taken any special care of those orchards. They had never done any spraying; they knew nothing about pruning; and they knew nothing about packing, sorting, or marketing the apples; they would simply take everything off the trees they could get—good, bad, and indifferent—and put the apples in barrels and sell to the local buyers. Three years ago he interested a few men in pruning and spraying their orchards; that fall he got them to form a little organization, and built a packing shed alongside the railroad; he helped them grade their apples; and that fall those men shipped out three carloads of especially fine apples. They got a net price of 85 cents a bushel for them, while those who sold locally got from 25 cents to 50 cents. Now, the next year more farmers came into this organization, and they shipped 42 carloads of apples last year from that one county. The year before was the first time a carload had ever been shipped by the farmers, but for this year I have not had a report. I do not know how many carloads were shipped this year, but I am sure more than last year.

The farm-management work proper was first provided for in the appropriation bill of 1904. At the same time the Knapp work in the South was commenced. As a matter of fact, but little was done in the Northern States for many years outside of investigation. Dr. Spillman, of the Department of Agriculture, now at the head of the Farm Management Bureau, had charge of all the investigation. Dr. Knapp had charge of the cooperative demonstration work in the South. Large appropriations were made to exterminate the boll weevil, but it was found out that there was no way to head off the ravages of this insect, and, as a matter of fact, the appropriations which were made presumably to exterminate the boll weevil have been used very largely in teaching the poorer class of farmers in the South the elements of agriculture. They have been taught the benefits of diversification of industry, crop rotation, soil fertility, and so forth. I commend to the Members of the House the statement made by Dr. Knapp on page 41 of the hearings. The statement of Dr. Knapp is as follows:

Now, what we do with this money is to put county demonstration agents at work, who take up with the farmers the problem of how to produce cotton under boll-weevil conditions, and at the same time show them how they can grow their own meat, grow their own forage, and grow their own corn, and, as they say in the South, live at home. Where we strike a territory in the South, as you gentlemen from the South know, in which cotton has been raised for years and years under old conditions, it has been the custom of every renter, every tenant, and practically every farmer, even where he owned his own farm, to go to his merchant or to his banker and get his advance for the next year. The entire cotton crop was raised on credit. When the boll weevil came along the bankers lost faith in the ability of the people to produce cotton; they got frightened and withdrew credit from the farmers; the merchants withdrew credit, and they could not get credit from their bankers, or from the commission men in New Orleans, Atlanta, or other central places. And when credit goes down, as happened in Mississippi, labor, when it can not get an advance, simply gives up and leaves the country, and it comes back very slowly; in fact, a good deal of that labor will never come back to the territory it left, the result being abandoned houses, abandoned farms, fields lying idle, distress, and everything of that sort. Now, under those circumstances we must teach those people to grow their own stuff so they will not have to have that amount of credit, and that we can do if we have men teaching them how to raise corn, forage, peanuts, and other things. By doing that work we save farms from being abandoned, because we put them on their feet and teach them how to farm successfully. And those who follow the directions of the Government in raising cotton continue to raise cotton year in and year out successfully, even with the boll weevil there.

For example, it is quite clear that as a result of the work of this single bureau, the corn crop of the sunny South has been increased almost 200,000,000 bushels in a single year. So it has come about that the Southland has come to be one of the great corn-producing sections of the country, in regions where, before this work was commenced, practically no corn was raised.

When this work commenced the farmers of the South were dependent almost entirely upon their single crop of cotton. They bought their meat, and their flour, and substantially everything they used. When the cotton crop failed they were completely broken financially. The object of the Knapp work has been to teach them the great advantage of the diversification of industry, and, as is well known, the work has been marvelously successful. All this time but comparatively little has been done in the North, as I undertook to show in my remarks when the agricultural appropriation bill of 1912 and the Lever extension bill were pending in the House. But in recent years a great impetus has been given to the farm-management work. The object of this work is to study the farm as a whole. It is not merely a scientific investigation of this crop or that crop, but the idea of the work is that a man shall go from the department directly to the farmer, study the farm as a unit, find out whether the farm is paying, and, if not, why not. The experts sent out by the department help the farmer in solving his practical problems. There is no bureau in the Government that is doing more for the betterment of the people than the Farm Management Bureau.

They are helping in the solution of the problem of the high cost of living. In my judgment the solution they are proposing, viz, greater and more economical production, is the only one possible. Their appropriation two years ago was $150,000. As the result of the contest in the House and the liberality of the Senate the appropriation last year was increased to $300,000. The work that is being accomplished with this money is wonderful. Sixty counties in the United States already have county men—that is to say, a man is assigned to the county. He is given $1,200 by the department. The rest of his expenses, office rent, and so forth, are provided for by the county. In most cases the county furnishes this officer with a little runabout, so that he can reach all parts of the county readily. The idea is eventually to have a "soil doctor," or agricultural doctor, so called, in every county. This officer is sort of a councilor, who may be consulted by any farmer at will. Sixty counties already have the work fully organized and the men at their posts; 23 more counties have their arrangements all made and are awaiting the detail of the men; 250 more counties have made application for detail of men; so that it can be seen that the idea is spreading over the country like wildfire.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. WILLIS] has expired.

Mr. HAUGEN. Mr. Chairman, I yield five minutes more to the gentleman.

Mr. WILLIS. Thank you.

Now, Mr. Chairman, I wish to call attention to an analysis of the work that is being undertaken in my own State of Ohio, and for this analysis I am very largely indebted to Experiment Station Bulletin No. 127, prepared by Mr. L. H. Goddard, of the Ohio Experiment Station. In a word, the plan of the work, as we are undertaking to carry it on in our State, is this: At the head of the organization is a State leader, who is responsible not only to the department, but also to the State. The State is cooperating in this work and is paying liberally for carrying it on. A statement appears in the hearings showing the amount contributed by each State, and I believe that the State of Ohio is contributing more, perhaps, than any State in the Union to this particular branch of the work. As is shown by the hearings (p. 35), the State of Ohio is contributing $11,760 per annum to this important work. According to the table given in the hearings no other State in the Union is contributing so liberally.

Under the State law there are seven district supervisors, and then beneath those it is required that there shall be a county agent, a "soil doctor" or "agricultural doctor," for each county, assigned to that county and within the reach of the farmer. We have been collecting a vast amount of scientific information in the Agricultural Department, but the trouble has been to get that information to the actual farmer, so that he may solve his actual practical problems.

Now, I think, Mr. Chairman, that the work of the Farm Management Bureau comes nearer to bringing this scientific

information right to the doors of the farmer, so that he can apply it practically to his own problems, than does any other agency of the Government. The prime purpose of the farm management, field studies, and demonstration work in Ohio is to bring to each farmer on his own farm, and interpret for his farm, the results of the years of experimental investigation that have been made by the experiment stations of the Department of Agriculture of this and other countries, and to combine these results of scientific investigations with the successful farm practices worked out by the best farmers of the country. In short, it is a plan to help combine the science of the farmer with practice on his own farm.

But it may be said, Why this concern and solicitude for the farmer? It may be said that because of the high cost of living, about which we hear so much, the farmer is already making immense profits.

But I want to invite attention to this fact, that although prices are good for the farmer's products—and they are a whole lot better than they will be when, under threatened tariff reduction, substantially everything that the farmer produces is put on the free list—yet even now, with the high rate of prices, the farmer is not making the profit that many people suppose he is making. A great portion of the high consumer's cost goes to pay the high cost of transportation and the high cost of distribution, so that in many instances the farmer gets only 20 or 30 or 40 per cent of the price actually paid for the article by the consumer.

I have before me a very interesting table that was prepared by the agricultural experiment station of the State of Ohio. An investigation was made to find out what the farmer was actually making as compared with the wages of hired men. It was found in the area investigated that the average wage of the hired man on the farm was $360 a year. The experts said, "We wonder whether the men who are hiring these people are actually making more than the hired men are making. Is it more profitable to be a farmer or his hired man?"

Here is the result of the investigation: There were 5.4 per cent of the farmers that were making more than $500 more than the hired man was making per year. There were 3.8 per cent who were making between $400 and $500 more than the hired man was making. There were also 3.8 per cent that were making between $300 and $400 more than the hired man was making. There were 4 per cent receiving from $200 to $300 more than the hired man was receiving. There were 8 per cent receiving from $100 to $200 in excess of what the hired man was making. There were 9 per cent who were receiving from $1 to $100 more than the hired man was making; and, note this, Mr. Chairman, there were 66 per cent of the farmers in that great section of my native State of Ohio that actually were making less than the hired man was making. So that the farmer is not making these immense profits which he is supposed to be making. Let us give him this increased appropriation. He deserves it and the welfare of the country demands it. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. WILLIS. I desire to add certain statements from Bulletin 127 of the Ohio Experiment Station, by L. H. Goddard. The statements are as follows:

The following is the outline of a plan which has been adopted by the Ohio Experiment Station, department of cooperation, and the United States Department of Agriculture, Office of Farm Management of the Bureau of Plant Industry, for reorganizing the extension work which has previously been conducted by the former institution. In the execution of this plan there will be required:

1. A State leader to be employed jointly by the two institutions who, as the representative of both, will have charge of all their work of this character in the State.

2. Seven district supervisors to be employed in the same manner as the State leader, to be responsible directly to the State leader, each to have charge of the farm management field studies and demonstration work which may be conducted in an assigned district of from 10 to 15 counties.

3. County agents to be installed by the State leader at the request of the counties interested, to be under the direction of the supervisor of the district in which that county is situated, and to be supported jointly by the Ohio Experiment Station, the United States Department of Agriculture, and the people of that county, and possibly by other organizations interested in the work. These county agents are to have charge of the field studies and demonstration work which may be conducted in the county to which they have been assigned.

Township assistance will be afforded temporarily by each district supervisor in a single township of his district in which special interest is shown in demonstration work.

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District supervisors and county agents should be men who have had training in our best agricultural colleges, who are therefore familiar with the advanced theories of agricultural production and who have also had practical experience on the farm as boys and for several years after leaving college.

When these county agents are placed in a community, it will be their duty first of all to study the local farming conditions. They must get acquainted with the farmers and learn what is being done in the way of crops grown, cultural practices, means taken to keep up the production of the farm, the usual enterprises of the farm, how these are organized into a farm system; in short, what the actual farm problems of the community are, and then to cooperate with each farmer in helping him to place his cultural operations and farming system on a better paying basis. Such a man will not be able to reach conclusions nor revolutionize agriculture in a day, but if he is aggressive and farmers will make use of him in the same way they do a doctor or a lawyer he will prove of great helpfulness in any agricultural community.

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But having this information, just how shall we take it to the farmer on his own farm? It would be highly desirable if a district supervisor could do this himself, but he can not investigate and demonstrate at the same time. We must keep a staff of investigators constantly at work if we wish our demonstrations to be of value. To be entirely frank, our experience in Ohio teaches us that the greatest danger which to-day confronts agricultural extension work in a progressive section is the inability of the extension workers to state to the individual farmer much of anything with definite assurance. While the scientist has developed a vast amount of valuable information, this must be adapted to individual farm conditions if it is to be of value to the farmer. If it is not so adapted, the demonstrator is just as apt to be discredited as is the doctor who prescribes medicine without having first diagnosed the condition of his patient.

While we believe firmly in the value of cooperative experiments, we also believe that these experiments will be very much more effective if their use is directed by a county agent who can give his attention constantly to a single county. Each experiment ought to be planned specially for the conditions existing on the farm on which it is to be made, and, if possible, its execution should be carefully supervised. Many farmers will doubtless be able to determine from the published reports of the district supervisors what is best for their farms, especially if the conditions are not too intricate, just as many of us go with freedom and assurance to our medicine shelf for relief from the minor ailments. But just as most of us reach the time, sooner or later, when we are willing to call in the doctor, most farmers will at times be glad to call in the county agent, who, in the light of his previous training, instruction by his district supervisor, and experience with similar cases, can speak with some assurance as to what should be done under existing conditions.

On the other hand, too much must not be expected of the county agent. It is necessary that we crawl before we walk and walk before we run. If we are to secure permanent results, it will be necessary to build slowly and securely and to avoid spectacular work. At first thought it might be supposed that a trained man could determine off hand just what it would be wise for the farmers of any section to do. On the contrary, however, we have observed that almost every farm has some conditions which are peculiar unto itself, and not the least of these peculiarities are the likes and dislikes of the manager, which manifestly are of paramount importance. Therefore the first step of the county agent is to make a study of the local conditions, just as a doctor should diagnose carefully his patient's trouble before prescribing medicine.

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Thus far the only kind of extension work to which special reference has been made is that associated with farm practice, which considers only the selection and arrangement of the operations in connection with individual farm crops or farm enterprises to enable the production of maximum yields. While large yields are certainly very important, maximum yields and the most successful farming do not necessarily go hand in hand. The only basis on which the success of a farm can really be judged is that of net income from the whole farm, providing the productive capacity of the farm has not been impaired.

Farm management considers, among other things, what enterprises—crops, kind of livestock, etc.—shall be undertaken on any given farm, how they shall be arranged, and how in detail they shall be conducted in order to fit into this arrangement. The selection of each enterprise depends upon many things, such as adaptability of soil, climate, available labor, and possible market. It is useless to undertake to introduce enterprises on a farm which will not produce well under the conditions existing thereon, or for which there will not be sufficient available labor, or from which the products can not readily be marketed at satisfactory prices.

In the absence of a local condition which makes available transient labor of satisfactory quality at reasonable prices, it is necessary to try to select enterprises that will use the same amount of labor all the year round. In doing this it may be necessary to select two crops which conflict to a certain extent in their labor requirements, thus forcing the yield of one or both to be lowered materially for want of attention at the proper time. It may even be wise to grow a crop which produces little if any profit, merely to keep the labor employed continuously.

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While these supervisors and agents can not be everywhere and do everything—indeed, if their work is to be fruitful they must give most of their attention to a few things at a time—yet with the proper spirit, which we shall hope to develop in each and every one of them, they can wield a wonderful influence toward making rural Ohio one of the best places in the world in which to live, and toward maintaining, or even improving, our present high standard of citizenship. Unless the signs of the times are misleading there are stranger things possible than that the rural teachers and the rural preachers, together with the leaders of many other rural organizations, will become very able lieutenants in connection with this great extension movement. Let us hope that the signs indicate truly, for 1 man to 3,000 farms, which would be the best that could be hoped for when an agent has been installed in every county of the State, would be but a drop in the bucket. He would have to visit 10 farms every day in order to get around once a year.

In conclusion, then, farm management field studies and demonstration work, as they are now being launched in Ohio, contemplate not only the improvement of the crop yields of the State but also the production of a greater net income for each farm of the State and the establishment on these farms of better homes, situated in better rural communities.

Mr. HAUGEN. Mr. Chairman, I yield one minute to the gentleman from Oklahoma [Mr. MORGAN].

Mr. MORGAN. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD—the remarks that I made this morning.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

[Mr. HAWLEY addressed the committee. See Appendix.]

Mr. HAUGEN. Mr. Chairman, the gentleman from Virginia [Mr. LAMB] has kindly yielded three minutes of his time to me, and I now yield the balance of my time to the gentleman from Wyoming [Mr. MONDELL].

The CHAIRMAN. The gentleman from Wyoming is recognized for 25 minutes.

Mr. MONDELL. Mr. Chairman, we live in the midst of revolution—revolution proposed and revolution threatened. It is true there are few open avowals of revolutionary intent; no armed forces hostile to our form of government and to our institutions thunder at our gates or threaten our liberties. On the contrary, the forces of revolution, though they have among their leaders many supremely selfish and inordinately ambitious and some thoroughly irresponsible and consciousless men, are in the main composed of entirely well-meaning people, who, carried away by their enthusiasm or by the claims and sophistries of others, fail utterly to realize that they are the advocates and supporters of a revolutionary cause.

Our forefathers came to these shores to escape persecution—social, religious, political. They came to get away from too much government. They fled from pestiferous interference with their local and personal affairs, by authorities with whom they had little influence and over whom they had no control, quite as much as from flagrant acts of tyranny and persecution. In fact, all history teaches us that the petty annoyances, indignities, and injustices inflicted by the irresponsible agents of a centralized government have in all times been more intolerable than the atrocious but generally infrequent persecution and tyranny of despots. Beaurocracy, the agent of centralization, has made more anarchists than all the overt acts of tyranny.

Our forefathers sought to establish a government under which the affairs and conditions of daily life, of men's association with each other, should be directly controlled locally by the people themselves. No doubt they realized that such a government must, in the nature of things, be at times less forceful and effective in certain respects than a government directed and exercised from a distance, and thus free from the faults which purely local interests sometimes develop in a locally governed community. No doubt they realized that there would be times when, under the stress of local excitement, the pressure of local interest, the temporary lapse of local virtue, the machinery of government, and of law enforcement would be temporarily enfeebled, palsied, or paralyzed; and yet realizing all these things, profiting by their own experience, by their intimate knowledge of the history of mankind, they deliberately chose a form of government in which most of the authority of the people was exercised locally.

Critically analyzed, some of the complaints of our forefathers of over-sea interference with local rights seem trivial, and in a sense they were, but they were of tremendous importance in the principles they involved. So important were they held to be that they led to a declaration of independent sovereignty and to a separation through revolution. On the foundation of the Colonies and the Colonial Governments was established our Government, in which the people reserved unto themselves, to be exercised within the States and their subdivisions, the major elements of their sovereignty.

This is the Government we are sworn to uphold. The portion of the sovereignty of the people which they have surrendered, or, rather, agreed to exercise jointly under a National Government, is set out in the Constitution in language reasonably clear and explicit; and that is the instrument we are sworn to uphold and defend against all enemies, foreign and domestic, which includes well-meaning enemies as well as willfully wicked ones.

We realize that such a government has its faults, its weaknesses, along certain lines and in certain directions. It is scarcely to be hoped that such a government will be as constantly forcefully effective and as uniform in the enforcement of all the laws as it is conceivable a centralized power might be. We must admit that at infrequent times and in various localities the local arm of the law under our system is weak and ineffective and temporarily fails to adequately protect life or property, and we realize that one can imagine a centralized government comparatively free from such temporary local inefficiency. But, nevertheless and notwithstanding, we still adhere to the view that as eternal vigilance is the price of liberty, so local responsibility and local exercise of authority is the price of that interest in and aptitude for government, among the masses of the people, which arms and supports them in the exercise of that vigilance which perpetuates liberty.

What I have just said is not intended as the opening of a Fourth of July oration or of a dissertation on American Government. It is preliminary to some observations which I shall make with respect to what, I regret to say, seems to be a very live issue. On May 9 last Mr. LEE of Georgia reported from the Committee on Agriculture a bill entitled "A bill for the protection of migratory and insectivorous game birds of the United States." A short time before that, namely, on April 26, 1912, Senator MCLEAN reported from the Senate Committee on Forest Reservations and the Protection of Game a bill entitled "A bill to protect migratory game and insectivorous birds in the United States." On January 22, 1913, the said bill passed the Senate without any real debate and practically by unanimous consent. This bill was referred to the Committee on Agriculture, was ordered reported, and is, I believe, now on the calendar.

If to-morrow morning all the people of the United States were to realize that their sovereignty and control over a very important matter had been wiped out or attempted to be abrogated, that all of the statutes on all of the statute books of all the States on an important subject had been repealed or attempted to be made nugatory by an act of Congress; if they knew that Congress was proposing an army of Federal officials, armed with power to make arrests anywhere within the States for trifling offenses the nature and character of which neither they nor their immediate or their more distant representatives had any hand in defining or had any control in modifying; if they could realize, for instance, that under this proposed legislation a barefoot boy in any State in the Union might be arrested, taken before a Federal judge hundreds of miles from his home, sentenced to pay a heavy fine and to imprisonment for shooting a blackbird he found digging up his garden patch; if they were aware that a farmer, who in attempting to protect his field of young corn from the invasion of a colony of crows had shot one of them, might be put to all the expense and subjected to all the annoyance and disgrace incident to a trial in a Federal court, fined, and imprisoned for an act which was not in violation of any local statute or contrary to any local or State-wide opinion as to the thing done being in any wise improper; if people could fully understand these things, and could further realize what such an extension or attempted extension of Federal police power means and what it inevitably leads to, instead of there being a general acquiescence in this legislation and few protests against it, there would be such a cloud of protest as we have not heard in a generation.

It is 18 years since the beginning of my service here. In all that time there has been no legislation reported that has approached this in its revolutionary character.

It is urged on the ground of necessity. It is claimed that some clerk in the Department of Agriculture a number of years ago, without responsibility, probably with little information, but with much imagination, said that insects were destroying $800,000,000 worth of agricultural products per annum. How much of pure imagination there was in that no one knows; certainly not the man who wrote it. How much of such destruction is avoidable if the country were covered with insect-destroying birds nobody knows. The probability is that the guess was a tremendously exaggerated one, born of that desire which burns in the heart of every bureau chief to increase his appropriations and enhance his power and authority. [Applause.]

The question as to whether this damage, large or small, could be to any extent minimized if all the wild feathered creatures in the world were protected from destruction by human agencies forevermore nobody knows. The probability is that such protection would have comparatively little effect.

But admitting for the sake of argument that there is little exaggeration in the eight hundred millions, that it is largely avoidable, shall we change the character of the Government that our fathers gave us because of the hope in the breasts of some gentlemen that we may be able to partly stop this destruction? Oh, but gentlemen say "there is no considerable extension of Federal authority." On the contrary, it is the first irrevocable step toward the ultimate, complete extension of Federal police authority and the extinction of local authority. Enact this legislation and there is no justification for a stand against the most extreme assertion of Federal police power in the States of the Union.

As a people, it is said to our discredit that of all civilized peoples we least effectively protect human life, the most sacred of all things. I presume that is exaggerated, but it is a generally accepted statement. At any rate homicides are, God knows, too common. Lynchings, burnings, assaults are common, and no one section can point the finger of scorn at another and charge it as being more guilty than all others in these things.

The newspapers recently gave us, in all their horrid and gruesome details, the story of the burning of a human being charged

with the crime of murder. We were informed that the mob of men and boys who chained this poor unfortunate to an iron pump in the front yard of a building dedicated to the administration of law and the dispensation of justice, covered him with tar and applied the torch, was the same mob which a few hours before had similarly tortured and murdered an innocent man for the same crime. So frequently as to bring down upon us the merited reproach of civilized men everywhere are these outbreaks of organized violence, holdups, assaults, murders, and lynchings, and yet do we hear any suggestion of invoking the strong and effective arm of the National Government to protect human life and punish those who wantonly, vengefully, and cruelly take it?

And why not? Because under our form of government the duty and the power to protect and punish rests with the people locally. If it were proposed that the Central Government be called upon to protect human life and punish its taking, what a chorus of protests there would be against it on the ground of its unconstitutionality. But because the people in some of the States have failed somewhat in properly protecting bird life, because some gentlemen want the hunting improved for their benefit, because in some States gentlemen desire to place on the Federal Government the burden and expense of protecting game birds they propose, and many good people approve, an extension of Federal authority which would not be sanctioned for the protection of human life.

A year or two ago local conditions in a great State of the Union noted for its general enforcement of the law, so broke down local government as to lead to the unchecked and unpunished destruction of millions of dollars' worth of property, the burning of barns and tobacco warehouses. Has anyone proposed in this admitted temporary failure of local government, in its protection of property, the strong arm of the Federal Government should be invoked? No; and why? Because we realize that while the arm of the centralized power might furnish better protection in such cases than the temporarily weak and inefficient local arm——

Mr. SLAYDEN. Why should it?

Mr. MONDELL. It would possibly be free from local influences; that is the verdict of history; but—and there is the rub—in the long run tyranny would be established and the liberties of the people taken from them in the hope of establishing more stable and effective enforcement of law.

But I suppose we are expected to adopt the view that the birds, to those who love them—and no one loves them more than I—are more valuable than human life, and that we may change our Government and its institutions fundamentally for their protection when no one would suggest it for the protection of property or human life.

Much is said in official reports as to the destruction of insect-destroying birds and the consequent increase of insect life, but when we come to the hearings and the arguments made before the committee we find that certain gentlemen are disturbed because the ducks and geese are not as plentiful as they used to be and shooting is not quite so good on private preserves as they would like to have. No one is so foolish as to imagine that the multiplication of water fowl would in any appreciable degree lead to the destruction of insects, for these creatures do not to any considerable extent live upon crop-destroying insects.

As a boy I lived in northern Iowa. The air in the spring and fall was filled with the flying millions of geese and brant and swan and ducks of every hue and name and kind. The uplands and lowlands were vibrant and vocal with bird life, and for five years all of our crops were destroyed by grasshoppers. [Laughter.] One report has it that the grasshopper invasion was due to the destruction of birds. Why, bless your soul, in that great dry Northwest, where those creatures under favorable conditions breed mightily, there was practically no population save a few arrow-bearing savages, and in the territory which they devastated bird life was gloriously plentiful.

In the native habitat of the grasshopper the seasons were for several years dry and free from frost in the period of hatching. They were favorable for years to the increasing hordes of locusts; but, under other conditions in the regions they migrated to and devastated, nature finally weakened them and parasites attacked them. The same nature which in its favorable mood and aspect favored their increase, through rain and frost and parasites wiped them from the face of the earth and they were seen no more; they were destroyed save in diminished numbers in their native habitat, where they now sometimes so increase as to be locally destructive.

I shall not at length discuss the constitutionality of this legislation. I will leave that for the lawyers. I could not do it without expressing an opinion of the views of gentlemen who favor it from a constitutional standpoint, which I think no Member should express in regard to a colleague. [Laughter.] Some of them claim that a bird is interstate commerce. I have never heard of the consignee or the consignor of the blackbird or the crow or the brant that wings its flight across the blue vault of heaven.

Mr. BARTLETT. Mr. Chairman, the gentleman is speaking about live birds.

Mr. MONDELL. Dead birds are property, and if they get into interstate trade they are interstate commerce and under control of the Federal Government.

Some say that as migratory birds are sometimes in one State and sometimes in another they are the property of the United States, and therefore subject to its protection. I confess I am utterly unable to grasp this refinement of alleged logic; but if we admit that game, by crossing a State line, can become property and the property of the United States, we are then no nearer a constitutional excuse for the legislation than before, for the Federal Government has no police power in the States in the protection of its property not on Federal ground. It must depend upon the States for such protection.

The fact is that the most ingenious torturing of the Federal Constitution can not develop the shadow of an excuse for such legislation as is proposed. The birds referred to are game. The Supreme Court has declared the sovereign power of the State over them, and no flight can change their character.

But I should not support the legislation, even though devilish ingenuity might devise so devious an argument as to seem to bring it within the powers of the Federal Government, for it proposes a plan and scheme in direct conflict with the plan of self-government under which we live.

Under this legislation, if it could become effective, practically every flying thing in the State I represent here, save, perhaps, the grouse and a few owls and bats and butterflies, would be under the control of the Federal Government. What is worse, the nature and character of the offenses for which the people I represent could be indicted by a Federal grand jury, summoned before a Federal court, and fined and imprisoned, would be determined by a bureau chief in the Department of Agriculture. It is true that the Secretary of Agriculture is supposed to have something to say about it; that the President, in the midst of his multitudinous duties, is supposed to sign the edict prepared in the Bureau of Biology; but our experience of the workings of bureau government teaches us that the real lawmaker would be a civil-service bureau official in no wise responsible to the people affected by his edicts.

Under the proposed legislation a bureau of the Agricultural Department would constitute crimes, punishable by fine and imprisonment in a Federal prison, a multitude of acts involving no moral turpitude and of a relatively trifling and harmless character. Not only might the killing, capturing, or taking of a wild bird or fowl at any season of the year be prohibited, but the destruction of the nest of the most insignificant member of the bird family by a mischievous boy might subject him to all the penalties I have referred to. The possession of a blackbird's wing, the wearing of a bit of bird plumage, would no doubt be held prima facie evidence of heinous crimes. Even our duck hunters in the North and quail hunters in the South, so anxious to have Uncle Sam insure them good hunting, might not be so happy if the lawmaker in the bureau concluded it would be a good idea to take advantage of this law to prohibit all killing of such birds.

Of course, gentlemen who support such a measure could, if it became a law, meet the angry protests of their outraged constituents by insisting that they were not responsible for the abuse of Federal power under it, because they do not define, except in the most general terms, the acts to be prohibited and punished. They can tell their constituents that all they did was to turn them over to the tender mercies of a Federal bureau to admonish and punish as it saw fit.

The opportunities for Federal expenditure under the bill are limitless. It places all feathered things, with few exceptions, under the protection of the Federal Government; that means, of course, that the States are prohibited from doing anything for bird protection unless they see fit to trail along after the bureau and enforce its sovereign decrees. The Federal Government would therefore be under obligation to have enough sleuths, spies, agents, and marshals in every nook and corner of the land to see that no hungry citizen shot a snipe, no small boy trapped a crow, and that no country maiden wore a bobolink's wing in her hat.

Of course, such sleuths could also be employed for the highly uplifting purpose of guarding private preserves until such time as, under the rules of an obliging bureau, a favored few were given an opportunity to kill to their heart's content. In our boyhood days we read with throbbing pulses of the mighty hunts and drives on the great game preserves of hereditary princes; all such performances pale into insignificance in the light of the glorious possibilities of gaming privileges which might be enjoyed under the regulations authorized by this act. Regulations they call them; regulations that rob every State of its sovereignty and place every citizen in jeopardy of trial, far from home, and fine and imprisonment for trifling offenses.

And what is it all about? The protection of insect-destroying birds is put forward as the foremost excuse, but read the appeals made on behalf of the law and you will find that the hunter of feathered game is the one most anxious for the legislation. The voice is the voice of Jacob, but the hand is the hand of Esau. In some parts of the South the negroes are killing the game birds and rendering them scarce, so they tell us, and they want Uncle Sam to restrain them. The declaration by Uncle Sam of a closed season for colored men might be objected to as unconstitutional, but a Federally declared and enforced closed season for the feathered game the black man seeks is desired.

Too many ducks are killed in Louisiana and Mississippi and Florida, we are told, and in Texas it is claimed they allow the wholesale killing of robins; that appeals to me, for I love robins, but I have not so despaired of Texas and her sense of decency and obligation as a member of the sisterhood of States that I feel it is necessary to jeopardize our liberties and change our form of government in order to attempt to protect the robins there. We are gravely assured that our bird life will become extinct if we do not do this particular thing, and the extinction of the passenger pigeon is repeatedly held up as a fearful example of what will happen.

The extinction of the passenger pigeon is to be regretted, but no one has given us any evidence that this peculiar bird ever performed any very useful service to mankind. Its habits rendered it valueless as an insect destroyer of any particular efficiency. In large numbers it was a nuisance and it suddenly disappeared, just how or why no one knows. That the last remnant of the tribe perished at the hand of man is not at all likely. It could not adapt itself to even slightly modified environment and passed away a considerable sentimental but no great practical loss.

The passing of the great auk is another one of the awful examples of the passing of bird life which it is sought to prevent. As the great auk never came south of the Arctic Circle and never ate the bugs and insects which annoy us, our people are hardly chargeable with its destruction, or our insect pests increased thereby. We should, of course, protect bird life; but the duck and geese hunters who imagine that the Federal Government can or will restore the condition which existed before our swamps were drained and our country settled will be disappointed. Our insect-destroying birds merit and demand our protection for the useful service they render.

The value of that service has unquestionably been exaggerated; but, making due allowance for these exaggerations, they are of great value though coupled with their protection of our crops is their destruction of our grain and fruit. Our song birds should above all be protected, for they are not only insect destroyers but they add greatly to our enjoyment; they cheer and stimulate us with their songs. A considerable reduction of their numbers would be a serious loss both from a practical and sentimental standpoint.

But all these can be protected without overthrowing or defacing the Constitution, without any dangerous and unnecessary extension of Federal authority, without invasion of the domain of local government, without the creation of an army of Federal spies and agents, without delegating to a bureau of the Government the power to harrass, annoy, fine, and imprison our people for trifling offenses.

In most of the States of the Union there is a healthy and growing public sentiment favorable to the protection of bird life. In fact, the testimony is that most of the States are reasonably protecting bird life. I have faith that if the attention of the legislatures of the few States claimed to be derelict in their duty, such as the Gulf States, are appealed to they can be depended upon to pass laws which will adequately protect not only the birds temporarily sojourning there but all other birds. I refuse to believe that the people of any State in the Union are so inordinately selfish as to take advantage of their peculiar situation and condition as to slaughter birds, to the great harm and injury of other sections of the Union.

Many of the illustrations of diminishing bird life used to excuse the passage of this legislation relate to birds of the grouse family, to sage hens, prairie chickens, and quail. If there is any considerable class of birds whose protection is not made the duty of the Federal Government under the legislation in question, it is these birds. They are not in the generally accepted sense of the term migratory. Their care and protection is necessarily a local matter. They could not be legally cared for by the Federal Government under the proposed legislation, though unquestionably an effort would be made to so construe the legislation as to justify placing upon the Federal Government the cost of protecting these localized birds.

In conclusion, I have only to say that I have great faith in the capacity of the American people for self-government. I have great faith in the disposition and ability of the people in our Commonwealths to do their duty not only to their own citizens but to the entire citizenship of the Nation. There is a way to protect bird life without invoking bureaucratic Federal rule. The various States are now proceeding along these lines; and enlightened public sentiment, properly directed, can be depended upon to extend and enlarge the scope of local protection until it meets every reasonable demand and requirement of the situation.

The bill referred to is as follows:

S. 6497. An act to protect migratory game and insectivorous birds in the United States.

Be it enacted, etc., That all wild geese, wild swans, brant, wild ducks, snipe, plover, woodcock, rail, wild pigeons, and all other migratory game and insectivorous birds which in their northern and southern migrations pass through or do not remain permanently the entire year within the borders of any State or Territory, shall hereafter be deemed to be within the custody and protection of the Government of the United States, and shall not be destroyed or taken contrary to regulations hereinafter provided therefor.

SEC. 2. That the Department of Agriculture is hereby authorized to adopt suitable regulations to give effect to the previous section by prescribing and fixing closed seasons, having due regard to the zones of temperature, breeding habits, and times and line of migratory flights, thereby enabling the department to select and designate suitable districts for different portions of the country within which said closed seasons it shall not be lawful to shoot or by any device kill or seize and capture migratory birds within the protection of this law, and by declaring penalties by fine of not more than $100 or imprisonment for 90 days, or both, for violations of such regulations.

SEC. 3. That the Department of Agriculture, after the preparation of said regulations, shall cause the same to be made public, and shall allow a period of three months in which said regulations may be examined and considered before final adoption, permitting, when deemed proper, public hearings thereon, and after final adoption to cause same to be engrossed and submitted to the President of the United States for approval: *Provided, however*, That nothing herein contained shall be deemed to affect or interfere with the local laws of the States and Territories for the protection of nonmigratory game or other birds resident and breeding within their borders, nor to prevent the States and Territories from enacting laws and regulations to promote and render efficient the regulations of the Department of Agriculture provided under this statute.

SEC. 4. That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of carrying out the provisions of this act, the sum of $10,000.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FOSTER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

H. R. 27944. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27986. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27987. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.; and

H. R. 27988. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 3843) granting to the coal-mining companies in the State of Oklahoma the right to acquire additional acreage adjoining their mine leases, and for other purposes, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. GAMBLE, Mr. CLAPP, and Mr. OWEN as the conferees on the part of the Senate.

The message also announced that the Senate had insisted upon its amendment to the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PAGE, Mr. CRAWFORD, and Mr. SMITH of Georgia as the said conferees on the part of the Senate.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. SMOOT, Mr. GUGGENHEIM, and Mr. NEWLANDS as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the amend-

ment of the Senate to the bill (H. R. 8861) for the relief of the legal representatives of Samuel Schiffer.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bill (S. 8634) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bill (S. 7160) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the Senate had passed the following resolution:

Resolved, That at 10 minutes before 1 o'clock on Wednesday, February 12, 1913, the Senate proceed to the Hall of the House of Representatives to take part in the count of the electoral votes for President and Vice President of the United States.

AGRICULTURE APPROPRIATION BILL.

The committee resumed its session.

Mr. LAMB. Mr. Chairman, I yield to the gentleman from New York [Mr. KINDRED].

[Mr. KINDRED addressed the committee. See Appendix.]

Mr. LAMB. Mr. Chairman, I yield 25 minutes to the gentleman from Alabama [Mr. HEFLIN].

The CHAIRMAN. The gentleman from Virginia has only 24 minutes remaining.

Mr. LAMB. Then I yield 24 minutes to the gentleman from Alabama.

Mr. HEFLIN. Mr. Chairman and gentlemen of the committee, no bill comes before the American Congress that is of more general interest and far-reaching importance than the Agricultural appropriation bill. Never before in the history of the country have the farmers taken the interest in their own affairs that they are taking now. They are becoming genuinely aroused to the importance of their work in the fields of agriculture. [Applause.]

In the brief time that I shall address the House to-day I will not undertake to discuss the various subjects enumerated in this Agricultural appropriation bill. I want to discuss this morning one of the most important, if not the most important, agricultural products of our country, and that is the subject of cotton. R. G. Dun & Co. in their annual report say truly that cotton has proven itself to be one of the country's most valuable assets. We export millions of dollars' worth of agricultural products every year, but it remains for cotton to give to America the balance of trade. Besides being useful in various ways amongst our own people, it occupies first place in our trade with foreign countries. I insist, Mr. Chairman, in the light of these facts, that the section of country that produces nearly two-thirds of the world's cotton supply, whose product brings to America the balance of trade, is entitled to be represented in the Diplomatic and Consular Service in the cotton-using countries of the earth by men who know something about cotton, its uses and benefits, and who could in their representative capacity exploit cotton and cotton goods to the advantage of the producer, the manufacturer, and the country at large. [Applause.]

Mr. BARTLETT. I would like to say to my friend that the day is coming pretty soon when a Democratic President will appoint men from the South in that service.

Mr. HEFLIN. Yes; and it is my purpose to call his attention to the situation and to urge upon him the importance of appointing competent men from the cotton-producing section, and I believe that he will do so. I want to say in this connection that the consular reports on trade conditions abroad and the information regarding the desire of various sections of procuring American products have been of great value and have increased our trade with foreign countries along many lines. I am sorry to say, however, that the cotton industry of the United States has not been and is not now represented in the Diplomatic and Consular Service.

Mr. RUCKER of Colorado. Mr. Chairman, will the gentleman yield?

Mr. HEFLIN. Certainly.

Mr. RUCKER of Colorado. Do they raise cotton in Cuba?

Mr. HEFLIN. I am not quite sure; but I do not think they do. I want Cuba to buy her cotton and cotton goods from us, and I want some good man under the Wilson administration to represent us at Cuba, and the gentleman from Colorado, who is himself a southerner, would fill that position well. [Applause.]

Judge HULL, of Tennessee, in a magnificent speech delivered in this House February 11, 1910, called attention to a bulletin issued by the Census Bureau regarding the importance of cotton.

I wish to read briefly from that bulletin:

As two-thirds of our raw material is utilized by European manufacturers in the production of goods, which are generally of a finer quality than that of the goods made here, the value of the manufactures made from the average American cotton crop is estimated at not less than $2,000,000,000.

Mr. Chairman, I want to say just here that, in view of the facts stated in the bulletin read by Judge HULL on that occasion, the people that produce such an important product as cotton is ought never to receive less than 15 cents per pound for cotton. Judge HULL, commenting upon the Consular Service as conducted to-day, said:

We have about 57 consuls general, and none are selected from cotton States to positions in countries that buy American cotton. Only three—one from Virginia and two from Missouri—are from the cotton section, and they are appointed in the lower classes of the service and to minor and unimportant stations outside of the cotton-purchasing countries.

Continuing, he said:

This Government has 241 consuls stationed in the various foreign countries. They are divided into nine classes, according to salary and importance of station to which appointed. From this entire number of consuls only five stations in European countries are filled by appointments from cotton States, and with one or two exceptions these stations are of trifling commercial importance.

I want to read here, Mr. Chairman, an article that Judge HULL read on the occasion referred to. The article was written by Mr. R. H. Watkins, a representative of the press in Washington.

There are 12 Southern States—Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia—whose cotton exports alone enable the United States to maintain a comfortable balance of trade with the world.

In all the great cotton-buying countries of Europe there is not in any diplomatic or consular position of importance and respectability a single man from a cotton-growing State representing the United States Government.

Great Britain—

He says—

buys 40 per cent of the cotton we export, yet nowhere in all the vast domain of the British Empire, weaving our cotton into fabrics for the hundreds of millions of the inhabitants of her possessions, there is not one consul from a Southern State representing the United States.

In China, where we have great hopes for development of our cotton trade, the eight consuls are from New York, Massachusetts, California, Minnesota, Indiana, and Ohio.

There are 333 Americans in the Consular Service, and of these 31 are from Southern States.

In the Diplomatic Service in positions of responsibility the number employed is 108, of which there are 13 from the Southern States.

Mr. Chairman, these facts disclose a deplorable situation. Just think of it. If a considerable per cent of these men were selected from the cotton-growing section of the country, how much value they would be not only to those who produce this great article of commerce, but to the United States in extending and expanding its trade in cotton. Let me in this connection read from Judge HULL's speech:

Mr. Chairman, it may be remarked that the great Empire of Japan, as much as it consumes, never purchased any material quantity of cotton from the United States until 1898, when a traveling representative of American agriculture visited the buyers there and familiarized them with our cotton-trade conditions. Yet Japan used a great deal of American cotton, but it was purchased from the English dealers in London. The United Kingdom, France, and Germany purchase three-fourths of our cotton exports. Still our people who raise and sell it are, and for years have been, denied the great advantage of intelligent and efficient representation in those countries through our Consular Service.

Mr. Chairman, it is in the interest of fair play and good business sense that I demand that the South be represented in the Diplomatic and Consular Service of the United States, and I believe that the great Democrat who is soon to become President of the United States will give the South fair and due representation in the great Diplomatic and Consular Service of our country. [Applause.]

Mr. Chairman, the man who produces cotton in the United States renders a great service to his country and to the world, and yet he is greatly imposed upon by conditions that could be but have not yet been prevented by law. For instance, the gambling exchange, without regard to the size of the crop, uses the word "cotton" in selling two or three hundred million bales in a season. As I have said before in this House, they do not

own cotton and they do not have to deliver cotton on contracts. There is an endless chain of buying and selling and settling the differences between the party buying and the party selling with money, and hence no demand is made on the cotton producer for cotton with which to fill the contract. This kind of dealing hinders the full and free operation of the law of supply and demand, and injures the price of real cotton. [Applause.] I have always contended that these gamblers on the exchange have no right to sell in unlimited quantities a fictitious stuff whose name represents the farmers' produce and never call on him for the real produce while they are fixing the market price without his aid or consent. Not only is this fictitious stuff called cotton handled in unlimited amounts, but the bear speculators send out broadcast false reports regarding the productive prospects of the crop and conditions surrounding the sale of the manufactured product. If it rains too much and the crop is damaged, the bears circulate the report that crop prospects were never better; if the farmer reduces his cotton acreage, they declare that he has planted more ground in cotton than ever before; if the drought comes and the blooms and squares parch and fall upon the ground, the bear predicts a bumper crop. These are some of the evils, Mr. Chairman, that lurk in the dark places of the exchange. If all men who are interested in cotton were compelled to deal in real cotton and to call on the cotton producer for cotton, the law of supply and demand would regulate the price, and the producer would then exercise a right that belongs to him—that of doing something toward fixing the price of his own product.

Mr. Chairman, a cotton exchange ought to be a place where real cotton is bought and sold or cotton in the process of production, where the delivery of real cotton is expected to be had; but a cotton exchange that substitutes the word "cotton" for real cotton serves no legitimate purpose. It does not help distribute the crop. It works injury to the producer and is inexcusable and indefensible. For a long time I have advocated laws looking to the regulation of the cotton exchanges of the United States, and I have contributed toward the passage of two bills through this House looking to the regulation of these exchanges; but I am sorry to say, Mr. Chairman, that the Senate permitted both of these bills to die. In the Agricultural appropriation bill we have provided for the institution of a bureau of markets in the Department of Agriculture. This bureau will gather information regarding the price and demand for farm products, and this information will be printed and distributed throughout the country. Our newspapers will have access to this information, and by publishing it day after day and week after week the farmers of the South, the North, the East, and the West will be informed as to the demand for their products in the various sections of the country and the price that their produce would bring in those markets. In my judgment the work that will be done by this bureau of markets will encourage the building and operating of spot-cotton exchanges in the cotton belt. The information will be reliable information so different from the kind we get now from the bear speculators, who write their reports for the purpose of beating down the price and not for the purpose of acquainting the public with the truth of the market situation.

Mr. Chairman, there is another evil connected with the cotton exchange that I desire briefly to discuss, and that is the injury done the cotton producer by what is called the revision committee of the New York Cotton Exchange. On February 6 the Washington Star published this special from New York:

The fact that the revision committee had made no change in spot-cotton differences at the meeting last night had added somewhat to the confidence of early buyers.

Mr. Chairman, just think of it, a committee of perhaps a half dozen men on the New York exchange have it in their power to fix the difference in the price of different grades of cotton, having the bears waiting on the one hand and the bulls anxious on the other for them to announce their decision as to how many points of difference there are in the price between one grade of cotton and another.

No cotton producer is on that committee. What does this committee on fixed differences do? Why, it fixes of its own motion without regard to commercial value or fitness for spinning purposes the difference between 22 different imaginary grades of cotton. For instance, it has the power to say that a certain grade shall sell for 40 points lower than a certain other grade, and so on down, and by the action of that committee the cotton farmer is robbed of $2.20 on a bale of cotton, and on a crop of 14,000,000 bales he is robbed of more than $28,000,000. It is horrible to think of. The power to take that much money from the producer on the fixed difference between two grades of cotton is lodged in the hands of the committee on fixed differences on the New York Cotton Exchange. Just think of the robbery and plunder that is going on through this farcical process of fixed differences between 22 different grades of cotton. [Applause.] If a man buys a popular grade and wants to hold it for a better price, and thus by his holding makes it hard for the bear gambler to beat down the price, the committee on fixed differences can meet and outlaw the grade that he has bought and is holding by declaring it to be of less value than it formerly was.

Then, Mr. Chairman, they impose on the producer in another way. They have set up for their peculiar speculating purposes 22 different grades of cotton, when the fact is there are only 4 grades of cotton commonly used in buying and selling cotton in the spot markets of the country. These grades are: Good ordinary, strict good ordinary, middling, and strict middling. These 4 grades cover the grades of cotton produced on the farm, but it takes 22 imaginary grades to cover the fictitious stuff handled on the New York Cotton Exchange.

Mr. Chairman, I submit that if there is to be a committee on fixed differences of cotton grades anywhere it should be composed of expert graders and classifiers from the ranks of the cotton producers and cotton spinners of the United States, and that committee could represent the Government in the bureau of markets. I do not mean that that committee should have the power to say that this grade is worth 20 points more or less than that grade, but simply to say that this sample of cotton does or does not belong to a certain grade and not change that decision every few days. This committee on fixed differences on the New York Cotton Exchange works untold injury to the cotton producer every year.

There is another evil in connection with the cotton industry of the United States, and that is in connection with the Government report of cotton ginned. The reports now published by the Census Bureau read:

Number of bales of cotton ginned from the growth of 1912.

Mr. Chairman, that report includes linters. This ought not to be. The cotton used by the spinner in the manufacture of cloth is the fiber cut from the seed at the first ginning and is properly called cotton. It can be used and is used for any and all kinds of spinning purposes, but linters is not cotton. It is the fuzzy covering of the seed and will not come off with the cotton fiber when the cotton is ginned. It occupies the same relation to cotton that seconds and shorts occupy to flour. It requires a different kind of gin to shave this close, clinging, fuzzy stuff from the seed. It is not used as real cotton is used, and it ought not to be counted in the ginner's report of cotton to be used for spinning purposes. It is used to make cheap mattresses, and is used as wood pulp is used, a great deal of it, in making paper, and is the finest paper material in the world. It ought to be reported as a separate and distinct item and not counted in with cotton ginned. It is misleading and confusing.

Now, the ginner's report simply says so many bales, including linters, have been ginned up to a certain time. Mr. Chairman, thousands of people, yes, millions of people do not know what linters mean, and the impression is made that it is all cotton. This impression works injury to the farmer, for linters sell for 2 or 3 cents per pound when cotton is bringing 12 cents and more per pound, and yet bear speculators use linters in their efforts to make the public believe that the ginner's report means all cotton when such is not the case. Let me illustrate: The ginner's report up to January 16, 1913, says that 13,000,000 bales have been ginned. This report is misleading and injures the cotton producer, because it leads the cotton-using world to believe that the report means 13,000,000 bales of spinnable cotton, when the fact is that nearly 400,000 of these counted as cotton bales are linters.

Take the bales of linters from the bales of real cotton and we have, up to January 16, ginned only 12,600,000 bales of spinnable cotton instead of 13,000,000 bales, as the report leads the cotton-using world to believe. Mr. Chairman, I mention this matter now for the purpose of calling the attention of the House and the country to the injustice done the cotton producer by permitting these two reports to come under the report of cotton ginned. During the next Congress I am going to try to separate these reports and let the report of spinnable cotton ginned stand in a column to itself. I want the report of cotton ginned up to a given time to mean cotton, so that the world may know that it means spinnable cotton and not linters. Now, Mr. Chairman, if we can separate cotton from linters and do away with the committee on fixed differences and regulate the cotton exchanges so that real cotton will figure in the transactions of the exchange and compel real delivery on contracts, the exchange will be a help and not a hindrance, a blessing and not a curse to the cotton producer. [Applause.]

Mr. RUCKER of Colorado. What has become of the gentleman's bill on that subject? What is the status of that bill now?

Mr. HEFLIN. I introduced a bill on the subject, so did other gentlemen from the cotton-growing States, and we made up a bill representing our views and that is the bill I referred to a moment ago. We passed that bill through the House, but it died in the Senate. We also passed a bill during the Sixty-first Congress that met the same fate in the Senate. I wish to express the belief that during the next Congress we will enact into law provisions that will strike down the evils of the gambling exchange and make all the cotton exchanges of the country legitimate, helpful agencies in the cotton world. I want to say in this connection that I do not want to put out of business any cotton exchange that is conducted on honest business principles.

Mr. HARRISON of Mississippi. Will the gentleman yield?

Mr. HEFLIN. I will.

Mr. HARRISON of Mississippi. The gentleman said some time ago that the bills regulating cotton exchanges which were passed by the House died in the Senate. Were they ever reported out of the Committee on Agriculture in the Senate?

Mr. HEFLIN. I do not think that they were.

Mr. HARRISON of Mississippi. They are still in the Committee on Agriculture in the Senate?

Mr. HEFLIN. That is my understanding, and when I say that they died in the Senate I mean that no action was taken upon them by that body.

Now, Mr. Chairman, a word about the crop of 1911. That was really a record-breaking crop. The South produced more cotton that year than ever was produced in the cotton belt before. The crop of 1912 is a short crop compared to the crop of 1911. The farmers all through the cotton belt reduced their cotton acreage, and the crop grown last year, when the tale is finally told, will be about 3,000,000 bales short of the crop of 1911. The season for gathering the crop was never better than the fall of 1912. Cotton opened rapidly throughout the cotton belt and the crop was gathered before Christmas, and the ginner's report for the 16th of January, subtracting the linters therefrom leaving 12,600,000 bales, has come within about 400,000 bales of spinable cotton of telling the tale of cotton production for the year 1912. In this connection, Mr. Chairman, I want to read a letter that I sent out to different men in the cotton belt November 27, 1912:

LAFAYETTE, ALA., *November 27, 1912.*

MY DEAR SIR: The estimate of the cotton crop of 1912 will be announced by the Department of Agriculture December 12, and I want to have all the information possible on the subject. Please give me your estimate of the reduction in cotton acreage in your State, your opinion as to the amount of cotton that will be produced in your State, and how much cotton remains to be picked and ginned. And counting the cost of production, etc., I want your opinion as to what price you think the farmer should receive for this crop.

Please write me at Washington, D. C., House of Representatives.

With best wishes, I am,

Yours, very truly,

J. THOMAS HEFLIN.

I desire now to read a letter from Hon. E. J. Watson, commissioner of agriculture of the State of South Carolina, as characteristic of the other letters that I received from Mississippi, Oklahoma, Georgia, Texas, Alabama, and North Carolina:

COLUMBIA, S. C., *December 4, 1912.*

Hon. THOMAS HEFLIN,
United States Representative, Washington, D. C.

DEAR SIR: Your letter of November 27 has been received.

I note carefully the several requests made and beg to reply, after most careful consideration, as follows:

The cotton acreage in this State in the year 1911 was 2,705,000. This year there was a reduction of at least 10 per cent in this acreage.

The production of South Carolina this year will not, in my opinion, exceed 1,300,000 running bales, and I doubt very much if it will reach that figure.

Up to December 1 more than 90 per cent of the crop had been picked and practically all of that picked had been ginned. Indeed, practically the entire crop had been harvested and sent to the gin.

Taking carefully into consideration everything relating to the cost of production and marketing, in my opinion the producer of cotton is entitled to and ought to receive at least 15 cents per pound for this year's crop.

Trusting that the above is the information desired, believe me,

Very truly, yours,

E. J. WATSON, *Commissioner.*

There was 10 per cent reduction in cotton acreage in Mississippi, 25 per cent in Oklahoma, 10 per cent in South Carolina, 15 per cent in Georgia, 2 per cent in Texas, 20 per cent in Alabama, and 15 per cent in North Carolina. In spite of these facts the bear speculators all during the year circulated reports to the effect that cotton acreage had been increased and that we would make another big crop like that of 1911. Mr. Chairman, but for the false reports circulated by bear gamblers on the exchanges and the fictitious stuff they are allowed to handle and call cotton, the law of supply and demand would have operated through this selling season and the cotton producers would have gotten a cent and a half or two cents a pound more than they received for this crop. The spindles of this and other countries have been operating full time and the cotton-goods trade has been good everywhere, and the price that has obtained for cotton goods justify these gentlemen who have written to me from all over the cotton belt and justify me in the demand for 15 cents per pound for cotton. [Applause.] I want to educate the country to the fact that the cost of production is so great that the cotton producer can not realize a fair and reasonable profit unless he does receive 15 cents per pound. The men who produce this product that brings to America the balance of trade are entitled to fair treatment at the hands of the American Congress, and the House has manifested its desire to see justice done to the cotton producer. It has gone on record voting for a law that would protect him from the evils of the gambling exchange, and I thank you gentleman for that great body of men who produce cotton, men who simply want a fair deal, reasonable prices, and living profits. [Loud applause.]

The CHAIRMAN. All time for general debate has expired, and the Clerk will read.

Mr. LAMB. Now, Mr. Chairman, that we are through with eloquence, poetry, and State rights, I ask that the bill be read for amendment. [Laughter.]

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Salaries, office of the Secretary of Agriculture: Secretary of Agriculture, $12,000; Assistant Secretary of Agriculture, $5,000; solicitor, $5,000; chief clerk, $3,000, and $500 additional as custodian of buildings; private secretary to the Secretary of Agriculture, $2,500; stenographer and executive clerk to the Secretary of Agriculture, $2,250; private secretary to the Assistant Secretary of Agriculture, $1,600; stenographer to the Assistant Secretary of Agriculture, $1,400; 1 appointment clerk, $2,000; 1 Chief of Supply Division, $2,000; 1 inspector, $2,750; 1 law clerk, $3,000; 2 law clerks, at $2,500 each; 1 law clerk, $2,200; 10 law clerks, at $2,000 each; 8 law clerks, at $1,800 each; 3 law clerks, at $1,600 each; 1 special agent on exhibits, $3,000; 1 telegraph and telephone operator, $1,600; 2 clerks, class 4; 6 clerks, class 3; 10 clerks, class 2; 18 clerks, class 1; 8 clerks, at $1,000 each; 6 clerks, at $900 each; 1 clerk, $840; 14 messengers or laborers, at $840 each; 10 assistant messengers or laborers, at $720 each; 1 chief engineer, who shall be captain of the watch, $2,000; 1 assistant chief engineer, $1,400; 1 assistant engineer, $1,200; 2 assistant engineers, at $1,000 each; 7 firemen, at $720 each; 8 elevator conductors, at $720 each; 1 construction inspector, $1,400; 5 cabinetmakers or carpenters, at $1,200 each; 2 cabinetmakers or carpenters, at $1,100 each; 8 cabinetmakers or carpenters, at $1,020 each; 2 cabinetmakers or carpenters, at $900 each; 1 electrician, $1,100; 1 electrical wireman, $1,000; 1 electrical wireman, $900; 2 electrician's helpers, at $720 each; 2 painters, at $1,000 each; 2 painters, at $900 each; 5 plumbers or steam fitters, at $1,020 each; 1 plumber's helper, $840; 2 plumber's helpers, at $720 each; 1 blacksmith, $900; 1 lieutenant of the watch, $1,000; 34 watchmen, at $720 each; 5 mechanics, at $1,200 each; 2 skilled laborers, at $960 each; 1 janitor, $900; 18 assistant messengers, messenger boys, or laborers, at $600 each; 21 laborers, messenger boys, or charwomen, at $480 each; 1 charwoman, $540; 8 charwomen, at $240 each; for extra labor and emergency employments, $14,000.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against this paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] reserves a point of order against the paragraph.

Mr. FOWLER. I desire to ask the chairman of the Committee on Agriculture why it is that a solicitor at $5,000 is carried in the paragraph, and also a chief clerk carried at $3,000, with an additional salary of $500, making $3,500 as a total salary for the chief clerk?

Mr. LAMB. That has been the custom for the last four or five Congresses and has been enacted into law.

Mr. FOWLER. I will ask the gentleman if it is not a fact that his bill last year, when he brought it in, carried a salary of $4,500 for the solicitor?

Mr. LAMB. I think $500 was put on in the Senate last year and agreed to in conference.

Mr. FOWLER. Mr. Chairman, I make a point of order against the solicitor and the salary carried therefor. Does the gentleman from Virginia desire——

Mr. LAMB. I will ask the gentleman to reserve the point of order. I do not think this salary is subject to a point of order at all. It is the current law.

Mr. FOWLER. My point of order in brief is——

Mr. LAMB. There is no change from last year at all in this, and I do not think the point of order will lie.

Mr. FOWLER. Mr. Chairman, the solicitor in this bill had been carried in rather a loose way without any authority of law. By the act of 1910, which was a general appropriation bill, it was provided that hereafter certain duties should be discharged by the solicitor. In the last appropriation bill as it was reported to the House his salary was carried at $4,500. A point of order was made against this solicitor, not as to the salary, but as to the authority to carry a solicitor therein, the point being made by the gentleman from Florida [Mr. CLARK]. It was ably argued here upon the floor of the House, and Mr. BORLAND, at that time being in the chair, ruled that

the law of 1910, which was a general appropriation bill containing the word "hereafter" and providing that certain duties should "hereafter" be performed by a solicitor, authorized the office of solicitor, but the question as to the salary was not raised at all.

I make the point of order against that part of the paragraph because it carries more than the law carried in 1910 for this place when it had some kind of authority in permanent law for its existence as a portion of the paragraph.

Mr. LAMB. If my colleague will allow me to interrupt right there, I think I can save time by stating that this whole matter of the solicitorship was discussed here last year, and the authority to appoint him at all was challenged. The discussion to which he has referred, on the point of order made by the gentleman from Florida [Mr. CLARK], was thrashed out here, and it was plainly shown that not only did the law authorize the creating of this office, but that the very act creating a Department of Agriculture authorized the appointment of this solicitor. Section 523 of the statutes places it absolutely beyond question. So there is nothing in the point of order, and I hope the gentleman will withdraw it.

Mr. FOWLER. Mr. Chairman, I am not making a point of order here for the purpose of consuming time, but I am making it because there is a foundation for it. I repeat that the bill as reported from the committee to the House last year carried only $4,500. I assert that the bill in 1910, which carried with it some authority for creating a solicitor, carried with it only a salary of $4,500. I have a quotation from the law as passed then. The salary of the solicitor at that time carried in the act of 1910, volume 36, page 416, was $4,500.

Mr. BARTLETT. May I ask the gentleman a question?

Mr. FOWLER. I yield to the gentleman from Georgia.

Mr. BARTLETT. Does the gentleman state that there is any statute fixing in so many words the salary of the solicitor of the Agricultural Department, or is his appointment left to the Secretary of Agriculture at such salary as Congress may appropriate for?

Mr. FOWLER. Mr. Chairman, there is no law creating the office of solicitor and fixing the salary.

Mr. BARTLETT. That is what I thought.

Mr. FOWLER. If it were left to the Secretary of Agriculture to make the appointment, there is a limitation upon his power which is fixed by permanent law, prohibiting him from fixing a salary, for any office that he may create, above $3,000.

So, Mr. Chairman, I repeat that in the act of 1910, reported in the Statutes at Large, volume 36, page 416, there was a clause saying that certain duties hereafter shall be performed by a solicitor. Chairman BORLAND considered that to mean that the office of solicitor was created. At that time the bill carried a salary of $4,500. In harmony with that law the honorable Committee on Agriculture reported its bill during the last session of Congress for a solicitor at $4,500.

Mr. Chairman, it has been the universal ruling of the Chair, so far as I have been able to understand, that when an office has been created, or where it has been carried in an appropriation bill and the salary fixed therein, there can be no change thereafter, however many times it may have been in the current law, because of the fact that if it were permitted to increase these salaries indiscriminately there would be no end to the increase of salaries at the caprice of any who might see fit to favor his friend or to favor an individual.

Mr. Chairman, I have the ruling and the debate on this question before me, and if there is any question as to the correctness of my statement, I desire to read the report of the proceedings of the last session of this Congress upon this identical question, wherein the burden of contention was upon the right of the committee to provide for a solicitor and not upon the question of the salary. The Senate, after the bill passed the House, increased the salary from $4,500 to $5,000.

Mr. LAMB. That increase was made in the Senate last year. It was inserted by the conferees. Now, if I understand the gentleman right, it was not challenging the position of solicitor, but the question of our right to give him $5,000, and makes a point of order on that.

Mr. FOWLER. My position is not against the provision for the solicitor, but against the authority to increase salaries.

Mr. LAMB. The same authority applies to the solicitor as to any other officer. We were asked to increase the salaries of all of them, but we refused to do it.

Mr. FOWLER. When the office was created the salary was $4,500. Now you seek to increase it by making it $5,000

Mr. LAMB. It was $5,000 last year.

Mr. FOWLER. You are trying to change existing law.

Mr. LAMB. Not at all.

Mr. FOWLER. I do not know whether I have made myself clear, Mr. Chairman. The Chair was investigating the subject while I was discussing it. I desire to say that there was, in 1910, according to the ruling of the Chair, a permanent law passed creating the officer of Solicitor at a salary of $4,500. This is an increase of a salary; it is changing permanent law, which I say this committee can not do.

Mr. LAMB. Mr. Chairman, this same question was discussed here last year. We relied partially, but not wholly, upon section 523, which says:

SEC. 523. The Commissioner of Agriculture shall appoint a chief clerk, and he shall appoint such other employees as Congress may from time to time provide, with salaries corresponding to the salaries of similar officers in other departments of the Government; and he shall, as Congress may from time to time provide, employ other persons for such time as their services may be needed, including chemists, botanists, and other persons skilled in the natural sciences pertaining to agriculture.

We lodged our contention last year not entirely on this section, but in conjunction with the word "hereafter." There is nothing in the argument of the gentleman from Illinois as to the increase of salary to $5,000, for we find that last year, and we continued the salary, as we had a right to do. I ask for a ruling.

Mr. FOWLER. But the Commissioner of Agriculture has not fixed this salary nor created the office. This Congress created the office in 1910 and fixed the salary at $4,500, and the committee is trying to increase it now in defiance of existing law.

Mr. LAMB. Congress changed the amount of salary last year.

Mr. FOWLER. That is current law and not permanent law.

Mr. COX. Will the gentleman yield?

Mr. FOWLER. Certainly.

Mr. COX. If I understand correctly, the office never was created until 1910?

Mr. FOWLER. That is according to the ruling of the Chair.

Mr. COX. And it fixed the salary at $4,500?

Mr. FOWLER. Yes.

Mr. COX. The gentleman's point of order is against the increase of the salary from $4,500 to $5,000?

Mr. FOWLER. Yes.

Mr. COX. I think the gentleman from Illinois is right.

The CHAIRMAN. The Chair remembers the controversy which took place in the House on the consideration of the agricultural bill last year. The gentleman from Florida [Mr. CLARK] directed a point of order against this item in the bill. Those supporting the item predicated that support upon the original act creating the Department of Agriculture, which authorized the head of that department to do certain things, and upon a statute that gave certain authority to various heads of departments; also upon the language contained in the agricultural appropriation act of 1910. That language is this:

Solicitor, $4,500; hereafter the legal work of the Department of Agriculture shall be performed under the supervision and direction of the solicitor.

The recollection of the Chair is that the gentleman from Missouri [Mr. BORLAND] presided over the committee at that time and held that the point of order was not well taken, and suggested that even if the original act, or the provision of the statute to which I have referred, was not sufficient to authorize the provision, that the appropriation act of 1910 was in itself sufficient, because while it was an appropriation act still there was legislation on it, and the provision with respect to the solicitor was not limited to that particular year, but contained the word "hereafter."

The Chair reads from section 3687 of Hinds' Precedents, volume 4:

In the absence of a general law fixing a salary the amount appropriated in the last appropriation bill has been held to be the legal salary, although in violation of the general rule that the appropriation bill makes law only for the year.

If this position had been created by a separate and distinct statute establishing the position and fixing a definite salary for it, that salary would govern, and if a committee in the preparation of an appropriation bill should increase the salary or the allowance for that salary at any subsequent time and a point of order should be made against it, the point of order would be good. But as the Chair understands the language of the appropriation act of 1910, it did not attempt to fix a definite salary for the position of solicitor, and under the precedent that the Chair has cited, inasmuch as Congress in its last appropriation bill fixed the salary at $5,000, it is the opinion of the Chair that that would be the law with respect to the salary, and, therefore, the point of order is overruled.

Mr. FOWLER. Mr. Chairman, I desire to say to the Chair that it has been repeatedly held that where a salary has been carried in an appropriation bill without specific law therefor, it

does not fix the salary at all, and that the one objecting to the salary may go back to the time when the office was first created and date from the salary fixed at that time.

The CHAIRMAN. The Chair will state to the gentleman from Illinois that would be true if there existed some specific, separate statute that created that position and fixed a certain definite salary for it, but as the Chair understands the situation that condition does not prevail. The Chair overrules the point of order.

Mr. FOWLER. Mr. Chairman, as to the chief clerk, there is an effort to change his salary from a fixed law of $2,000 to $3,500. I make the point of order against the salary of the chief clerk. In the creation of the Department of Agriculture there was a provision for one chief clerk at a salary of $2,000. The revision of the statute has gone on from time to time up to 1874, and has on each occasion in the revision carried a salary of $2,000.

Mr. MADDEN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MADDEN. A point of order was pending against the salary of the solicitor, which the Chair overruled. After the Chair had rendered his decision upon that question the gentleman from Illinois began to argue upon the same question, and after he had argued for a moment or two he made another point of order against the salary of the chief clerk of the department. I make the point of order that he can not raise a point of order after a discussion has been had upon the question.

Mr. FOWLER. Mr. Chairman, I reserved a point of order in the first instance against the entire paragraph, as the record will show.

Mr. MADDEN. Very well.

The CHAIRMAN. In the opinion of the Chair, the point of order of the gentleman is in order.

Mr. LAMB. Mr. Chairman, the gentleman is correct in that, and I would like to answer his point of order on the salary of the clerk. That has been carried for the last 10 years in the appropriation bill.

The CHAIRMAN. The Chair will ask the gentleman from Virginia a question. Was provision made for a chief clerk in the general law?

Mr. FOWLER. Yes, Mr. Chairman; and I have that law before me. I read now from the Revised Statutes of the United States, section 521:

> The Department of Agriculture shall be under the charge of a Commissioner of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled, etc. There shall be one chief clerk at a salary of $2,000 a year.

The CHAIRMAN. The Chair will ask the gentleman from Virginia if there has been any change by law in the amount of that salary?

Mr. LAMB. It has been carried in the appropriation bill for the last 10 years.

The CHAIRMAN. But the gentleman understands that where there is a law fixing a definite amount for a salary, the mere fact that it has been carried at a different sum in an appropriation bill will not sustain it if a point of order is made against it.

Mr. LEVER. Mr. Chairman, I insist that the $500 additional as the custodian of the building is subject to a point of order, but the $3,000, of course, is not.

The CHAIRMAN. Can the gentleman from South Carolina refer the Chair to any statute changing the salary of this chief clerk?

Mr. LEVER. No; I can not.

The CHAIRMAN. Does the gentleman from South Carolina know that there has been such a change?

Mr. LEVER. No; the gentleman does not know that.

The CHAIRMAN. Unless the attention of the Chair is directed to a change in the law increasing the salary [a pause] the point of order is sustained.

Mr. FOWLER. Mr. Chairman, I desire to make the point of order now against "one special agent on exhibits, $3,000."

Mr. LAMB. Mr. Chairman, will the gentleman reserve his point of order and let me give an explanation which will satisfy the gentleman?

Mr. FOWLER. Yes; I will reserve the point of order.

Mr. LAMB. This is a new place, I admit. There is need of an employee to care for and prepare the department's exhibit for national and international expositions and for State fairs. A man not only possessing executive ability but also trained professionally as an agrostologist is required in this instance. It was necessary to offer the salary indicated to retain the services of such an employee. The salary of the official now performing these duties is met by several bureaus. They have had this agent all the while and it has been divided between the Bureaus of Animal Industry, Forestry, Chemistry, and the Secretary's office, and they together have paid this man's salary. Now that is consolidated in the office of the Secretary, and the salary of this new official now performing these duties is paid by the Secretary's office under this appropriation instead of by these other three.

Mr. HAUGEN. Mr. Chairman, in other words it is not a new place; it is simply a change of title. It changes the title from that of agrostologist.

Mr. LEVER. Mr. Chairman, I would like to be heard upon the point of order. This is a new place, and yet a new place authorized by law. I desire to call the attention of the Chair to section 523, which has already been read to the Chair, in which the Commissioner of Agriculture is authorized, as Congress may from time to time provide, to employ employees with salaries of similar offices in other departments of the Government; and he shall, as Congress may from time to time provide, employ other persons for such time as their services may be needed, and in addition to that I would like to call the attention of the Chair to section 169 of the Revised Statutes:

> Each head of a department is authorized to employ in his department such number of clerks of the several classes recognized by law, or such messengers, assistant messengers, copyists, watchmen, laborers, and other employees, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

The Chair has uniformly held on that proposition that Congress had the right under section 169 of the Revised Statutes to employ men to do the work in the various executive departments of the Government. I might cite the Chair to a ruling on December 6, 1912, third session Sixty-second Congress, where Chairman GARNER ruled as follows:

> It seems to the Chair that the first question for the Chair to ascertain is whether or not section 169 of the Revised Statutes authorizes these clerks or whether or not the head of a department has the right to employ those five clerks. In 1906 Mr. Hull of Iowa was in the chair, and this identical question came up and was decided by him on a point of order made by Mr. Tawney upon clerks of a similar nature in the War Department. Mr. Hull held at that time, quoting section 169, that where the statute had authorized the heads of departments to employ clerks and other laborers, that it was in order, and he overruled the point of order. He used this language:
>
> "The first question is, What law authorizes this appropriation? The only law referred to is that contained in section 169 of the Revised Statutes, which is as follows:"
>
> Here he quotes the statute. This is a similar case, where the gentleman from New York [Mr. FITZGERALD] cites the statute, 169, as authority for this legislation.

It has been held time and time again, Mr. Chairman, that under the broad language of section 169 the heads of the various executive departments of the Government have the right to employ such number of clerks and other employees as Congress may from time to time provide. I therefore contend that this provision is not subject to the point of order.

The CHAIRMAN. In the opinion of the Chair the precedents are almost uniform to the effect that, under the authority of the act creating the Department of Agriculture, as well as under the authority of the article of the statute which has been read here, it is within the province of this committee to consider any item on an appropriation bill to create and care for such an employee as this, and therefore the Chair overrules the point of order.

Mr. LAMB. Mr. Chairman, I move that the secretary be authorized to correct the totals.

The CHAIRMAN. The Chair will call the attention of the gentleman from Virginia to the fact that in this first paragraph there is no appropriation made for a chief clerk at all.

Mr. FOWLER. Mr. Chairman, that is what I want recognition for now.

I desire to amend this paragraph, page 2, lines 1 and 2, by inserting in place of that which is stricken out:

> Chief clerk, $2,000.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amend, page 2, line 2, by inserting "$2,000."

Mr. FOWLER. So that it will read:

> Chief clerk, $2,000; private secretary of the Secretary of Agriculture—

And so forth.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. LEVER. I ask that the amendment be reported again, and I ask also for order. It is absolutely impossible to hear.

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

> Page 2, line 2, insert "$2,000."

Mr. LEVER. Mr. Chairman, I move to amend that by making it $3,000.

Mr. FOWLER. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The point of order is sustained. The question is on the amendment offered by the gentleman from Illinois [Mr. FOWLER] fixing the salary of the chief clerk at $2,000.

The amendment was agreed to.

The Clerk read as follows:

> Salaries, Weather Bureau: One chief of bureau, $6,000; 1 assistant chief of bureau, $3,250; 1 chief clerk and executive assistant, $3,000; 1 chief of printing division, $2,500; 2 chiefs of division, at $2,000 each; 8 clerks, class 4; 9 clerks, class 3; 21 clerks, class 2; 30 clerks, class 1; 22 clerks, at $1,000 each; 9 clerks, at $900 each; 5 copyists or typewriters, at $900 each; 1 telegraph operator, $1,200; 2 assistant foremen of division, at $1,600 each; 1 lithographer, $1,500; 3 lithographers, at $1,200 each; 6 compositors, at $1,250 each; 14 printers, at $1,200 each; 11 printers, at $1,000 each; 4 folders and feeders, at $720 each; 1 chief mechanic, $1,400; 5 skilled mechanics, at $1,200 each; 7 skilled mechanics, at $1,000 each; 1 skilled mechanic, $840; 1 skilled mechanic, $720; 6 skilled artisans, at $840 each; 1 engineer, $1,300; 1 fireman and steam fitter, $840; 6 firemen, at $720 each; 1 captain of the watch, $1,000; 1 electrician, $1,200; 1 gardener, $840; 2 repairmen, at $840 each; 8 repairmen, at $720 each; 4 watchmen, at $720 each; 17 messengers, messenger boys, or laborers, at $720 each; 6 messengers, messenger boys, or laborers, at $660 each; 27 messengers, messenger boys, or laborers, at $600 each; 87 messengers, messenger boys, or laborers, at $480 each; 5 messengers, messenger boys, or laborers, at $450 each; 27 messenger boys, at $360 each; 1 charwoman, $360; 3 charwomen, at $240 each; in all, $323,260.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph. I make the point of order against the salary of the chief of bureau, $6,000, and also one assistant chief of bureau at $3,250, and one chief clerk at $3,000, and also one chief of printing division, $2,500.

Mr. Chairman, in 1891 there was a permanent act passed, on March 3 of that year, creating the Chief of the Weather Bureau at a salary of $4,500. I desire to make a point of order against the Chief of the Weather Bureau at the salary of $6,000.

The CHAIRMAN. Has the gentleman from Illinois the statute at hand?

Mr. FOWLER. I have reference to the act of March 3, 1891, $4,500.

The CHAIRMAN. The Chair will ask the gentleman from Virginia [Mr. LAMB] if he knows there has been any change in that salary as fixed in the act of 1891?

Mr. LAMB. Not a thing that I know of. I do not think so.

Mr. LEVER. I would like to have the gentleman from Illinois read the act.

Mr. LAMB. Section 4 uses this language:

> That the Weather Bureau shall hereafter consist of one Chief of Weather Bureau and such civilian employees as Congress may annually provide for and as may be necessary to properly perform the duties devolving upon said bureau by law, and the chief of said bureau shall receive an annual compensation and be appointed by the President by and with the advice and consent of the Senate.

The CHAIRMAN. What is the date of that act?

Mr. LAMB. It does not give the date. It is Twenty-sixth Statutes at Large, section 653.

Mr. FOWLER. Mr. Chairman, I will state that I made a thorough investigation of the statute last night and this morning, in connection with the librarian, and we were unable to find any section which changed the salary from $4,500.

Mr. LAMB. It does not fix any salary.

The CHAIRMAN. Can the gentleman from Illinois refer the Chairman to the law that fixes the salary of this officer to $4,500?

Mr. FOWLER. It creates a salary of the Chief of the Weather Bureau, and fixes the salary of four captains and four lieutenants. I am reading my notes as taken from the statute.

Mr. LEVER. Will the gentleman read from the statute?

Mr. FOWLER. It is the act of March 3, 1891, creating a Chief of the Weather Bureau and his assistants.

Mr. Chairman, if there is any doubt in the minds of the gentlemen of the committee or the Chair, I am perfectly willing that this point should be passed with the point of order pending.

Mr. LAMB. What is the request of the gentleman?

The CHAIRMAN. Let the Chair understand the request of the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. I say, Mr. Chairman, that if there is any doubt about the permanent law, as I have indicated, I am perfectly willing to let the point of order be passed and be considered as pending until gentlemen of the committee can satisfy themselves.

Mr. MANN. May I ask the gentleman to what his point of order is directed? How far does it go?

Mr. FOWLER. I think I shall confine it only to the salary of the Chief of the Weather Bureau, although there are many other changes.

Mr. MANN. Is that the request of the gentleman—that the point of order as to the salary of the Chief of the Weather Bureau be passed over temporarily, the other points of order not being pressed?

Mr. FOWLER. Yes.

Mr. MANN. I accept that, Mr. Chairman.

The CHAIRMAN. The Chair understands the request of the gentleman from Illinois [Mr. FOWLER] with respect to the particular item of the Chief of the Weather Bureau is that it be passed over temporarily, and that the other points of order reserved by him are withdrawn.

Mr. FOWLER. Yes.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

> Contingent expenses, Weather Bureau: For fuel, lights, repairs, and other expenses for the care and preservation of the public buildings and grounds and the improvement of the existing public buildings of the Weather Bureau in the city of Washington; for stationery and blank books, furniture and repairs to same, and freight and express charges; for subsistence, care, and purchase of horses and vehicles, and repairs of harness, for official purposes only; for advertising, dry goods, twine, mats, oils, paints, glass, lumber, hardware, ice, washing towels, and other miscellaneous supplies and expenses not otherwise provided for in the city of Washington, $25,000.

Mr. SAMUEL W. SMITH. Mr. Chairman, I want to ask the gentleman a question. I see the total carried by the bill this year is $17,593,275. How does this compare with the last year's bill of a similar nature?

Mr. MANN. This is an increase of about $900,000 over the bill of last year.

Mr. SAMUEL W. SMITH. I thank the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

> General expenses, Weather Bureau: For carrying into effect in the District of Columbia and elsewhere in the United States, in the West Indies or on adjacent coasts, in the Hawaiian Islands, and in Bermuda, the provisions of an act approved October 1, 1890, so far as they relate to the weather service transferred thereby to the Department of Agriculture, and for every expenditure requisite for and incident to the establishment, equipment, and maintenance of meteorological observation stations, including cooperation with other bureaus of the Government and societies and institutions of learning for the dissemination of meteorological information, as follows:
>
> For the employment of professors of meteorology, inspectors, district forecasters, local forecasters, section directors, research observers, observers, assistant observers, operators, skilled mechanics, repairmen, station agents, messengers, messenger boys, laborers, and other necessary employees, $585,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] moves to strike out the last word.

Mr. MANN. Gentlemen will notice that in the paragraph just read provision is made for the weather service, based partly upon observations in the United States, in the West Indies or adjacent coasts, in the Hawaiian Islands, and in Bermuda.

We have had our attention called in recent days to Bermuda, and for the first time in the history of the country we, probably, most of us, have learned some notion with reference to where Bermuda is. This side of the House, the Republican side of the House, has come to have great respect for Bermuda [applause], and I dare say we have learned enough about it to have learned how to spell it. But it seems the Democratic side of the House has so little interest in Bermuda and in the gentleman who has been sojourning there that they have not even learned how the word is spelled. [Laughter.]

Mr. LAMB. Mr. Chairman, it was a Republican printer who did that. [Laughter and applause.]

Mr. MANN. It was a Republican printer who knew how to follow copy, and it was a Democratic committee that did not know how to spell the word in preparing the copy. [Laughter.]

I waited until after the item had been passed in the House, with no suggestion coming from the Democratic side of the House to change the spelling, because they had not yet learned how Bermuda is spelled. When Bermuda attracted their attention in the prints, they did not notice the word; they were so engaged in hoping that the gentleman then sojourning in Bermuda would provide jobs for them hereafter that they forgot how it was spelled. [Laughter.]

Mr. LAMB. It is to be hoped, Mr. Chairman, that when the Democrats have had the experience that the Republicans have had they will not only be better spellers, but they will be able to do other things better, too. [Laughter.]

Mr. MANN. Well, it is to be hoped that they will be better spellers, at least.

Mr. HILL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MANN. In a moment. I can not yield now. I hope that some one will learn that they have spelled Bermuda "B-u-r-

m-u-d-a," and it has passed the House that way, although now——

Mr. HAWLEY. Let the Senate amend it——

Mr. MANN. Having learned that this is spelled wrong in the bill, the gentlemen can send out and get a gazetteer and learn how it is spelled, or the Republican Senate can do what they have often had to do before—correct it. [Laughter.]

Mr. HILL. If the gentlemen of the House desire to know how "Bermuda" is spelled, they can undoubtedly find out by referring to the tariff hearings, because I believe that for the second time in the history of the United States Government representatives both of Bermuda and of the Bahamas—foreign countries—instead of coming before the State Department, have come now directly, as they came at the time of the hearings on the Wilson bill, from their own parliaments to a committee of the House of Representatives to advocate their interests in the tariff revision, and in the tariff hearings gentlemen will find the spelling both as to Bermuda and the Bahamas. [Laughter and applause on the Republican side.]

Mr. FOSTER. Mr. Chairman, I move to strike out the last two words.

Mr. HILL. Mr. Chairman, I object to having my last two words stricken out. [Laughter.]

Mr. FOSTER. Then I will make it three. I wanted to suggest, Mr. Chairman, to the gentleman from Connecticut [Mr. HILL] that if these gentlemen that he has referred to have been before the Committee on Ways and Means their evidence is in print, and the whole world can know what they have said to the committee. In former times, however, when the gentleman's party was revising the tariff, secret meetings were held and these men were able to fix up a tariff bill to suit themselves.

And so if the Democrats have done what the gentleman from Connecticut [Mr. HILL] now sees fit to find fault with, it has been done in the open and in public. [Applause on the Democratic side.] And I want to say that I refer my friend from Connecticut to the transaction that took place in another body as recorded and stated by the late Senator from Iowa, Mr. Dolliver, when he made some remarks upon the bill in the Senate.

Mr. HILL. I want to refer the gentleman, in answer to his own statement, to the remarks of the gentleman from Pennsylvania [Mr. PALMER] in the last session, in which he stated, in regard to the manner of making up the bills which were then pending, that nearly a thousand private interviews had been given. [Applause on the Republican side.] At the same time public hearings with reference to these pending bills were absolutely refused.

Mr. FOSTER. Yes; but the difference between the two is this: That the private hearings before the Democratic committee were not written into the bill, but it is shown that the private hearings before the Republican committee resulted in the writing of a part of the Republican bill by men who were doing it in the interest of their own pockets. [Applause on the Democratic side.]

Mr. FITZGERALD. Will the gentleman yield?

Mr. FOSTER. Yes.

Mr. FITZGERALD. Did anybody ever charge the gentleman from Connecticut [Mr. HILL] with having taken a very active part in any of those matters?

Mr. FOSTER. I do not know whether they have or not.

Mr. LAMB. Mr. Chairman, I must insist that this discussion is out of order, as the time of the gentleman has expired, and I demand the regular order.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For the acquisition of sites outside of the District of Columbia and the erection thereon of two buildings for use as Weather Bureau observatories, to be constructed under the supervision of the Chief of the Weather Bureau, plans and specifications to be approved by the Secretary of Agriculture, and for all necessary labor, materials, and expenses connected with this work, $40,000.

Mr. COOPER. Mr. Chairman, I should like to ask the chairman of the committee about the meaning of the language on the top of page 7:

For the acquisition of sites outside of the District of Columbia.

Does that mean anywhere in the world outside of the District of Columbia?

Mr. LAMB. It is for the erection of additional Weather Bureau observatories outside of the District of Columbia.

Mr. COOPER. But where outside of the District of Columbia? Those words might mean anywhere in the world.

Mr. LAMB. Wherever the Secretary of Agriculture or the Weather Bureau shall conclude to erect the buildings, at the most advantageous places. There are 8 or 10 places in competition. From the evidence before our committee it seems as if five or six were needed, but we did not think that at this session of Congress we could create more than two.

Mr. COOPER. Where are those to be?

Mr. LAMB. It is not decided positively, but we think, perhaps, the most important are Sandy Hook, N. Y., and Cincinnati, Ohio.

Mr. Chairman, I ask to return to line 9, page 5, to correct the spelling of the word "Bermuda." It is spelled in the bill with a "u" in the first syllable and it should be an "e."

The CHAIRMAN. If there be no objection, the Clerk will make the correction.

The Clerk read as follows:

And hereafter officials and employees of the Weather Bureau may be transferred from the field service to service in the same bureau in the District of Columbia without regard to the civil-service rule of apportionment; and officials and employees of the Weather Bureau, when transferred from one station to another for official duty, shall be allowed all traveling expenses authorized by existing laws applicable to said bureau, notwithstanding any changes in appointments that may be required by such transfers.

Mr. COX. I reserve a point of order on that. I think it is rather peculiar.

Mr. LAMB. Mr. Chairman, let me explain. This paragraph has been inserted to cover the exchange of employees between the city of Washington and the field, and the payment of traveling expenses of employees transferred from one station to another. The work carried on by the Weather Bureau is of such a character as to render it desirable that its officials and employees at the central office be fully familiar with the work performed at the field stations, and vice versa. Under the application of existing civil-service rules there is no difficulty about transferring employees from the city of Washington to the field, but under existing laws and regulations the transfer from the field force to the city of Washington is rendered difficult and is often impossible. Under the present ruling of the Comptroller of the Treasury an employee transferred from one State to another with either promotion or reduction in salary, or whose status or designation is changed without any change in salary, can not be paid his traveling expenses after the new appointment is issued to him, as such appointment is held to create a new position, and the employee is required to report for duty at his new station without expense to the Government. Changes in salary or status are often necessary incidents to the transfer of employees from one State to another, and the application of this ruling is highly embarrassing to the official administration of the bureau. The proposed paragraph will be a great gain toward efficiency in the operation of the Weather Bureau. I think that explanation, which is the one furnished by the department, ought to be satisfactory to my friend.

Mr. COX. The sum and substance of the whole matter is that you propose to change and completely break down the law governing the civil service without regard to the rules of apportionment. That will be the effect of it; it simply destroys the whole apportionment now existing under the civil-service law. Mr. Chairman, I make the point of order.

Mr. LAMB. I concede the point of order.

The CHAIRMAN. The point of order is sustained. The Chair will call attention to section 4 of chapter 1266 of the laws of 1899, which reads as follows:

SEC. 4. That the Weather Bureau shall hereafter consist of one chief of the Weather Bureau and such civilian employees as Congress may annually provide for and as may be necessary to properly perform the duties devolving on said bureau by law, and the chief of said bureau shall receive an annual compensation of $4,500, and be appointed by the President, by and with the advice and consent of the Senate.

Unless the gentleman from Virginia or some other gentleman can show that there has been some amendment of this statute, the Chair is ready to rule.

Mr. LEVER. As far as I have been able to examine, Mr. Chairman, I have no law except the current appropriation bill.

The CHAIRMAN. The point of order is sustained.

Mr. LEVER. Now, Mr. Chairman, I offer an amendment making the salary $4,500.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 3, by inserting after the word "bureau," in line 16, the figures "$4,500."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

BUREAU OF ANIMAL INDUSTRY.

Salaries, Bureau of Animal Industry: One chief of bureau, $5,000; 1 chief clerk, $2,500; 1 editor and compiler, $2,250; 6 clerks, class 4; 1 clerk, $1,680; 12 clerks, class 3; 2 clerks, at $1,500 each; 22 clerks, class 2; 2 clerks, at $1,380 each; 3 clerks, at $1,320 each; 1 clerk, $1,300; 1 clerk, $1,260; 29 clerks, class 1; 1 clerk, $1,160; 1 clerk, $1,080; 50 clerks, at $1,000 each; 2 clerks, at $960 each; 64 clerks, at

$900 each; 1 architect, $2,000; 1 architect, $900; 1 illustrator, $1,400; 4 inspector's assistants, at $1,000 each; 12 inspector's assistants, at $840 each; 1 laboratory assistant, $1,200; 2 laboratory assistants, at $960 each; 1 laboratory helper, $1,020; 2 laboratory helpers, at $840 each; 1 laboratory helper, $720; 1 laboratory helper, $600; 1 laboratory helper, $480; 1 instrument maker, $1,200; 1 carpenter, $1,100; 2 carpenters, at $1,000 each; 1 messenger and custodian, $1,200; 1 messenger and custodian, $1,000; 9 messengers, skilled laborers, or laborers, at $840 each; 10 messengers, skilled laborers, or laborers, at $720 each; 23 messengers, messenger boys, or laborers, at $480 each; 6 messengers or messenger boys, at $360 each; 1 skilled laborer, $1,000; 33 skilled laborers, at $900 each; 2 skilled laborers, at $840 each; 7 skilled laborers, at $720 each; 1 skilled laborer or laborer, $780; 2 laborers or messengers, at $660 each; 9 laborers, messengers, or messenger boys, at $600 each; 3 laborers, messengers, or messenger boys, at $540 each; 1 watchman, $720; 1 charwoman, $600; 1 charwoman, $540; 11 charwomen, at $480 each; 4 charwomen, at $360 each; 1 charwoman, $300; 2 charwomen, at $240 each; in all, $859,250.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph. The salary of the chief of bureau is fixed at $5,000, which is an attempt to change existing law. Also the salary of one chief clerk at $2,500, which is another effort to change existing law. The act of May 29, 1884, created a chief of this bureau at a salary of $3,000 and a chief clerk at a salary of $1,500. The act of 1889, after the Agriculture Department was put under the head of a Secretary, carried these salaries, to wit: One chief, at a salary of $3,000, and one chief clerk, at a salary of $1,500. I submit the statute, Mr. Chairman, as to the correctness of my statement.

Mr. LAMB. The same law applies as to all the others.

Mr. FOWLER. The act of February 2, 1889, carries the same provision.

Mr. LAMB. I concede the point of order, Mr. Chairman.

The CHAIRMAN. The point of order is sustained.

Mr. LAMB. I will offer amendments restoring the old salaries.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amend, page 7, line 21, by inserting, after the word "bureau," the figures "$3,000."

The amendment was agreed to.

The Clerk read as follows:

Amend, page 7, line 21, by inserting, after the word "clerk," the figures "$1,500."

The amendment was agreed to.

The Clerk read as follows:

For inspection and quarantine work, including all necessary expenses for the eradication of scabies in sheep and cattle, the inspection of southern cattle, the supervision of the transportation of live stock and the inspection of vessels, the execution of the 28-hour law, the inspection and quarantine of imported animals, including the establishment and maintenance of quarantine stations and the alteration of buildings thereon, the inspection work relative to the existence of contagious diseases and the tuberculin and mallein testing of animals, $620,000.

Mr. GOOD. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Strike out, in line 12, page 11, the figures "$620,000" and insert in lieu thereof the figures "$820,000."

Mr. GOOD. Mr. Chairman, the item that follows this one reads:

For all necessary expenses for the eradication of southern cattle ticks, $325,000.

According to the testimony of Dr. Melvin the total loss last year by cattle in the United States from this disease, by depreciation through sickness and loss, was in the neighborhood of $25,000 or $40,000; and this committee proposes to appropriate $325,000 to eradicate this disease.

Mr. LAMB. If the gentleman will allow me, I think he has dropped a figure. I think he means two hundred and fifty or three hundred and fifty thousand dollars.

Mr. GOOD. I call attention to the testimony before the Committee on Expenditures in the Department of Agriculture. Last year the total loss in the United States, according to the testimony of Dr. Melvin, of hogs by cholera was to the value of $42,042,000; yet there is not a single penny appropriated in this bill for the prevention and eradication of hog cholera. I have read with deepest interest the hearings before the Committee on Expenditures in the Department of Agriculture with regard to the efforts of the department to prevent and eradicate hog cholera and to stamp out that disease. I was amazed to find that while, according to the testimony of Dr. Melvin, there is a perfect serum which will absolutely prevent hog cholera, not a single penny is here appropriated to prevent or to stamp out this disease. Dr. Melvin testified before that committee as follows:

Mr. SLOAN. What, if any, appropriation is there that could be used in extending and increasing these demonstrations? Is there any such fund as that?

Dr. MELVIN. There is a fund, but the estimates as submitted to the committee were only sufficient to provide for work which we now have on hand and not for increasing this demonstration work. We would not be able to conduct or increase this demonstration work without a considerable increase in those funds.

Mr. SLOAN. If an increase in appropriations should be made, is your bureau so organized that it has or could have available competent men who could be sent to different points in the several States to make these demonstrations?

Dr. MELVIN. Yes, sir.

Mr. SLOAN. If such funds were provided and such competent persons sent, in your opinion would it be wisely spent money looking toward the reduction of this very large annual loss which you have recited to the committee?

Dr. MELVIN. I think undoubtedly it would. I think that if we were provided with funds, so we go into several States and take up a considerable section, involving three or four counties in a block, and there demonstrate that losses from cholera need not necessarily exist, that it would be of immense value to the country. I think we could demonstrate to the States that by careful organization and the use of an efficient serum that the cholera could be reduced to a minimum and probably eventually eradicated.

Mr. KINDRED. Mr. Chairman, will the gentleman yield there?

Mr. GOOD. Yes.

Mr. KINDRED. Mr. Chairman, I am interested to know if there is other testimony corroborative of that of Dr. Melvin which goes to show that this serum really cures or prevents hog cholera. I am interested to know.

Mr. GOOD. I think Dr. Dorsett's testimony corroborates that of Dr. Melvin. I understand that there are men outside of this chamber who do not want a single penny expended by the Government to prevent hog cholera. While there were $42,000,000 worth of hogs lost last year by cholera, that does not measure the loss to the farmers. I suppose the farmers who raise hogs expended $10,000,000 more in buying patent medicines that were useless, and the patent-medicine manufacturers do not want a single penny appropriated that this disease may be effectually stamped out. If we are going to do something for the farmers of States like Illinois, where they lost last year $8,000,000 because of hog cholera; of States like Iowa, where they lost $7,000,000 through cholera, we ought to begin now. I can appreciate that some of the gentlemen on that side are not interested in these matters, and why? Let us take the State of Virginia, for instance. If my recollection serves me right, only 3.6 per cent of the hogs of Virginia were lost by cholera, while in Illinois 20 per cent were lost by cholera.

Mr. LAMB. Oh, the State of Virginia takes better care of its hogs.

Mr. MANN. Oh, no; hog cholera could never overtake one of those razorbacks. [Laughter.]

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. GOOD. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

Mr. LAMB. Mr. Chairman, it looks as though a personal explanation would be good at this point. I will state that I lost 200 hogs on one farm—Berkshires, and not razorbacks.

Mr. MANN. That is because the gentleman raises good hogs.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. KINDRED. Mr. Chairman, in no spirit of controversy, I would like to know if the gentleman does not concede that the serum for the hog-cholera cure is still in a very experimental stage.

Mr. GOOD. Mr. Chairman, I will concede that it is no more in experimental stage than is the cure for southern cattle ticks in an experimental stage, and I will refer the gentleman from New York [Mr. KINDRED] to the page of the hearings with regard to the loss by cattle ticks. On page 8, Dr. Melvin says that the loss through cattle-tick fever has been variously estimated at from twenty-five to forty million dollars, while the loss from hog cholera last year was $42,000,000. I hope the gentleman who is chairman of this great committee will be as generous to the raisers of hogs as he is to the raisers of southern cattle in this regard. If he wants to do something to reduce the high cost of living, let him appropriate a small sum—a mere drop in the bucket as compared with the great loss in the country—in order that we may prevent this great loss of live stock by hog cholera.

Mr. Chairman, I ask unanimous consent to insert as a part of my remarks the statement of Dr. Melvin with regard to the loss of hogs by cholera and the results of the experiments in treating hogs with this anticholera serum.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent to extend his remarks in the RECORD by including a part of the hearings referred to. Is there objection?

There was no objection.

The statement referred to is as follows:

Estimate of losses from hog cholera for the year ending Mar. 31, 1912.

[Based on data compiled by Bureau of Statistics, Department of Agriculture.]

State.	Number hogs estimated in State Jan. 1, 1912.	Number of hogs lost by hog cholera.	Percentage lost due to hog cholera.	Total value hogs in State Jan. 1, 1912.	Value of hogs lost by hog cholera.
Maine	101,000	1,363	1.35	$1,162,000	$15,700
New Hampshire	53,000	954	1.80	556,000	10,000
Vermont	111,000	3,996	3.60	1,110,000	40,000
Massachusetts	117,000	3,685	3.15	1,322,000	45,000
Rhode Island	16,000	259	1.61	192,000	3,100
Connecticut	60,000	2,592	4.32	696,000	30,700
New York	777,000	20,279	2.61	7,925,000	206,900
New Jersey	165,000	5,940	3.60	1,864,000	67,100
Pennsylvania	1,141,000	37,965	3.33	11,410,000	380,000
Delaware	59,000	4,048	6.74	425,000	29,200
Maryland	345,000	23,284	6.74	2,760,000	186,300
Virginia	880,000	31,680	3.60	5,444,000	199,000
West Virginia	393,000	13,394	3.60	2,432,000	89,600
North Carolina	1,466,000	55,638	3.95	10,397,000	401,700
South Carolina	797,000	43,038	5.40	6,376,000	344,300
Georgia	2,098,000	109,938	3.95	14,057,000	1,138,600
Florida	954,000	85,860	9.00	4,961,000	446,500
Ohio	3,578,000	225,414	6.30	29,340,000	1,848,400
Indiana	4,631,000	485,487	11.25	31,039,000	3,491,900
Illinois	4,640,000	897,840	20.35	40,832,000	7,901,000
Michigan	1,382,000	49,752	3.60	11,747,000	422,800
Wisconsin	2,051,000	51,686	2.52	19,690,000	496,300
Minnesota	1,702,000	47,440	2.79	17,701,000	493,400
Iowa	9,089,000	697,798	7.29	94,952,000	6,837,600
Missouri	4,491,000	646,704	14.40	31,437,000	4,527,000
North Dakota	359,000	4,846	1.35	3,770,000	50,900
South Dakota	1,104,000	37,756	3.42	9,826,000	336,000
Nebraska	4,267,000	230,418	5.40	37,550,000	2,027,700
Kansas	2,408,000	333,500	11.88	22,183,000	2,635,300
Kentucky	1,724,000	108,612	6.30	9,310,000	586,500
Tennessee	1,574,000	99,162	6.30	9,601,000	604,800
Alabama	1,533,000	89,680	5.85	9,964,000	583,000
Mississippi	1,577,000	106,447	6.75	10,250,000	692,000
Louisiana	1,642,000	147,780	9.00	9,524,000	857,100
Texas	2,544,000	77,846	3.06	16,027,000	485,500
Oklahoma	1,410,000	184,005	13.05	7,755,000	1,012,000
Arkansas	1,738,000	218,988	12.60	9,385,000	1,182,500
Montana	143,000	2,445	1.70	1,416,000	24,200
Wyoming	43,000	464	1.08	370,000	3,900
Colorado	211,000	3,738	1.80	1,688,000	30,400
New Mexico	50,000	720	1.44	410,000	5,900
Arizona	22,000	237	1.08	231,000	2,500
Utah	79,000	1,137	1.44	711,000	10,200
Nevada	30,000	648	2.16	315,000	6,800
Idaho	212,000	2,671	1.25	1,696,000	21,300
Washington	248,000	4,870	1.98	2,337,000	46,200
Oregon	238,000	3,715	1.40	2,190,000	31,500
California	830,000	18,675	2.25	6,889,000	155,000
United States	65,410,000	5,251,010	8.02	523,328,000	42,042,900

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF ANIMAL INDUSTRY,
Washington, D. C., January 24, 1913.

PARTIAL SUMMARY OF RESULTS OBTAINED FROM APPLICATION OF BUREAU OF ANIMAL INDUSTRY'S ANTICHOLERA SERUM.

[All animals were kept under ordinary farm conditions.]

October 19, 1908 (Michigan): Infected herd. When visited 1 hog had died, 7 were sick, and 21 apparently well. Treated, 23 (3 of which were sick). Untreated, 5.

Results: Treated, survived, 22 or approximately 96 per cent; untreated, survived, none.

October 20, 1908 (Michigan): Herd slightly infected. Treated, 11; untreated, 4.

Results: Treated, all remained well; untreated, all died.

July 15, 1909 (Maryland): Experiment. Owner had lost nearly all of his herd. He bought 11 pigs and agreed to have some of these treated by the serum simultaneous method and others inoculated with virus alone to serve as checks. Treated, 7; virus alone, 3.

Results: All treated animals remained well; all virus-alone animals died.

August 25, 1909 (Virginia): Data incomplete on account of remoteness of the herd, but reported that all treated animals remained well, while all untreated ones died.

September 15, 1909 (Virginia): Data incomplete. All treated animals remained well; all untreated animals died.

December 6, 1909 (Virginia Agricultural Experiment Station): Herd infected. Treated 43, many of which were sick; untreated, none.

Results: Survived, 29, or approximately 68 per cent; died, 14, or approximately 32 per cent.

December 21–22, 1909 (Virginia): Herd very badly infected. About 35 animals had died, and practically all of the survivors were showing symptoms of hog cholera to a greater or less degree. Treated, 113, many of which were sick; untreated, 179.

Results: Treated, survived, 79, or approximately 69.91 per cent; treated, died, 34, or approximately 30 per cent; untreated, survived, 111, or approximately 62 per cent; untreated, died, 68, or approximately 38 per cent.

This data is incomplete, as at last report some of the untreated animals were said to have been "looking badly."

February 18, 1910 (West Virginia Hospital for Insane): Herd infected. Treated, 47 (many of which showed early symptoms of disease); untreated, 52.

Results: Treated, survived, 36, or approximately 76 per cent; treated, died, 11, or approximately 24 per cent; untreated, died, 52, or 100 per cent.

April 16, 1910 (Maryland): Disease just beginning. Treated, 34; untreated, 16.

Results: Final report stated that all treated animals remained well. No mention was made as to the untreated ones.

April 16, 1910 (second herd, Maryland): Data incomplete; no detailed final report. Only the general statement received that all treated animals remained well.

July 9, 1910 (Iowa): Owner had lost the greater portion of his herd and had procured 14 pigs from one of his neighbors for this experiment. The simultaneous method was employed. Treated by, 11; virus alone, 3.

Results: Treated, survived, 8 or approximately 73 per cent; treated, died, 3, or approximately 27 per cent. All virus-alone animals died.

July 21, 1910 (Nebraska): Infected herd. Data incomplete. The final report was to the effect that nearly all treated animals survived. No statement as to the untreated ones.

November 12, 1910 (Washington, D. C., jail): Herd badly infected. Treated, 18; untreated, exact number not known.

Results: Treated, survived, 14, or approximately 78 per cent; treated, died, 4 or approximately 22 per cent; untreated, no exact data. Received only the statement that all untreated animals died.

December 2, 1910 (Maryland): Disease just beginning; 4 animals had died. Treated, 82; untreated, 34.

Results: Treated, survived, 73, or approximately 90 per cent; treated, died, 9, or approximately 10 per cent.

(The report on the untreated hogs is incomplete, but as near as could be determined 73 per cent died and 27 per cent survived.)

March 3, 1911 (Maryland Agricultural Experiment Station): Herd slightly infected. Treated, 42 (3 of which showed the early symptoms of hog cholera); untreated, none.

Results: Treated, survived, 41, or approximately 98 per cent; treated, died, 1, or approximately 2 per cent. (This animal was one of those which were sick when treated.)

March 16, 1911 (Virginia): Herd badly infected. Treated, 24; untreated, 9.

Results: Treated, survived, 18, or 75 per cent; treated, died, 6, or 25 per cent; untreated, died, 9, or 100 per cent.

December 20, 1911 (North Carolina): Herd not infected. Treated, 4; untreated, none.

Results: All animals remained well.

December 8, 1911 (Virginia): Herd infected. Treated, 8; untreated, 4.

Results: Treated, survived, 6, or 75 per cent; treated, died, 2, or 25 per cent; untreated, survived, 1, or 25 per cent; untreated, died, 3, or 75 per cent.

December —, 1911 (Maryland): Herd badly infected. Approximately 200 hogs had died. This herd is a very valuable one, being composed of pure-bred Duroc-Jerseys. Treated, 6; untreated, approximately 40.

Results: All treated animals survived. No accurate figures given as to the untreated animals, only the general statement was received that "a large number had died."

January 2, 1913 (Bureau of Animal Industry, Division of Animal Husbandry): Healthy herd, and was treated by the serum simultaneous method. Treated, 60; untreated, none.

Results: All animals remained well.

January 22, 1912 (Maryland): Herd infected. One animal had died and 3 were sick. Treated, 5 (3 of which were sick when treated). Untreated, none.

Results: Three, or 60 per cent, of these animals died (sick when treated); 2, or 40 per cent, of these animals survived (well when treated).

January 25, 1912 (Columbia Hospital for Deaf): Herd badly infected. Treated, 4. Number of untreated animals could not be ascertained.

Results: All treated animals survived. Reliable data concerning the untreated ones could not be obtained.

January 26, 1912 (Fort Hunt, Va.): Herd infected. Treated, 14; untreated, 18.

Results: Treated, survived, 13, or approximately 93 per cent; died, 1, or approximately 7 per cent. Untreated, survived, 8, or approximately 45 per cent; died, 10, or approximately 55 per cent.

February 27 and April 20, 1912 (Government Hospital for Insane, District of Columbia): This herd was infected and kept under poor hygienic conditions. Treated, 129; untreated, 44.

Results: Treated, survived, 118, or approximately 98 per cent; died, 2, or approximately 2 per cent. Untreated—no exact figures could be ascertained concerning these hogs, but the asylum veterinarian placed it at approximately 90 per cent.

November —, 1912 (Iowa Agricultural College): Disease just beginning. One or two hogs not eating well. Treated, 24; untreated, 3.

Results: Treated, survived, 24; untreated, died, 3.

December 14, 1912 (Virginia): Herd infected. Treated, 4; untreated, 4.

Results: Treated, survived, 4, or 100 per cent; untreated, survived, 1, or 25 per cent; untreated, died, 3, or 75 per cent.

July, 1908, Kansas City, Kans. Experiment. Thirty-five young sheats were purchased from a farm where hog cholera had not existed. These pigs, having been carried to the Kansas City stockyards, and being in charge of a committee appointed by the exchange, were treated as follows: Twenty-two were injected with anti-hog-cholera serum prepared by the bureau. Four were injected with virulent hog-cholera blood. Nine were not treated in any manner. All were placed in a pen together. As was expected, the 4 pigs inoculated with the virulent blood contracted hog cholera within a short time and all died. The 9 "checks" contracted hog cholera from those which were inoculated with hog-cholera blood, and they also died. The 22 pigs treated with the serum remained well, with the exception of one or two, which were slightly affected on one or two days. It is not certain, however, that the trouble with the treated hogs was hog cholera, as none died. All of the autopsies on the check animals showed typical lesions of hog cholera.

August, 1910 (South Omaha, Nebr.): Experiment. This experiment was undertaken at the request of State officials and the Nebraska Swine Breeders' Association. The Union Stock Yards Co., of South Omaha, also offered to cooperate and to bear the expense incident to the purchase and care of hogs used in the experiment. Thirty pigs, weighing from 40 to 60 pounds, were purchased from a farm which had been free from hog cholera for several years. These hogs were carried to the stockyards and, on July 23, 1910, four of them were injected with blood from hogs sick of hog cholera. These injected pigs, which were placed in a pen by themselves, became sick on the 28th of July, at which time 18 of the remaining pigs were given one dose of the serum, while the other 8 pigs were not treated in any way. The 18 serum-treated pigs and the 8 untreated pigs were then placed in the same pen with the 4

pigs which had been made sick of hog cholera. The four pigs which were inoculated with hog cholera all died. The eight untreated check pigs all contracted hog cholera from the four inoculated ones. The 18 pigs which were given serum and which were confined in the same pen with the 4 original sick pigs and with the 8 untreated pigs, which became sick, remained perfectly well and were finally turned over to the officials of the stockyards company upon the completion of the experiment on September 17, 1910.

In conclusion, the total number of hogs treated by both the serum-alone and the serum-simultaneous methods in the above demonstrations was 744, of which 613, or approximately 82 per cent, survived, while of the untreated hogs, which numbered 362, 228, or approximately 65 per cent, died. The figures given showing the percentage of the untreated animals which died are not absolutely correct in that in the case of two herds the report was to the effect that a large number of untreated hogs died, while in four herds it was reported that all untreated animals died. As we had no definite data as to the number of untreated animals in these herds, they were not considered in figuring the percentage.

NOTE.—In addition to the above-described demonstration experiments, a number of similar experiments have been carried out; but the records of these tests are not immediately available. If the committee desires, they will be secured and furnished later.

Mr. MOSS of Indiana. Mr. Chairman, I move to strike out the last word. Before I commence to speak upon this amendment I wish to call the attention of the gentleman from Iowa [Mr. GOOD] to the fact that his own State has only spent $2,500, according to the official statement upon page 29 of the hearings, in attempting to control hog cholera. While the States of the Union are spending $200,000 annually in combating hog cholera the great State of Iowa has spent only the amount of $2,500 during the past year. Now that is a fact, gentlemen——

Mr. GOOD. Will the gentleman yield?

Mr. MOSS of Indiana. Yes; with pleasure.

Mr. GOOD. In making these appropriations is it the theory that the States are to expend the money for eradicating and preventing this disease?

Mr. MOSS of Indiana. I will come to that in a moment. I want to emphasize the fact that while other States of the Union are spending $200,000 that Iowa is only spending $2,500. Now, hog cholera comes under the class of diseases for which the United States Government has worked out a formula. This formula has been patented by Dr. Dorsett and given for the free use of our people. Serum is not claimed to be a cure of hog cholera but a preventive, and having worked out this formula, they have turned it over to the States of the Union and they have asked State authorities to apply it in each individual case. This is precisely what the National Government ought to do. The National Government having perfected what it claims to be an absolute preventive of hog cholera, the National Government called in all the experiment stations of the different States of the Union and gave public demonstration of how to produce the serum and how to apply it properly. They then gave this important work over to the different States of the Union. In taking this action the National Government has in a very proper way proceeded to the carrying of applied science to the agricultural sections of the United States. I am glad to see the new interest in this project, and I claim some credit for my committee that we have given through our hearings the information which has stimulated this activity on this floor to-day. The real ground for complaint is that the Department of Agriculture has never yet given sufficient public demonstrations to prove conclusively the fact that serum is a hog cholera preventive. That is the only question to be demonstrated. They have made only two public demonstrations, one involving the use of only 30 hogs and the other the use of only 35 hogs during these years since 1906. It is not sufficient proof to rest the reputation of this remedy on two public demonstrations using only 65 hogs. We have had this remedy since 1906, and the fact is that the loss by hog cholera has not diminished but has actually increased. Now this creates a legitimate field for valuable demonstration work; it is a call to the Agricultural Department to go out among the farmers and to the different States and demonstrate the efficacy of this remedy; to prove whether the States are or are not carrying out the work in the proper manner and whether the serum is or is not a reliable preventive. But that work can not possibly take $200,000. There is no question about that. To appropriate $200,000 for such a purpose would be a gross extravagance. I come from the fourth hog-growing State in the Union, and I am proud of it.

Indiana is the fourth greatest hog-growing State in the Union, but our farmers will condemn as gross extravagance the use of $200,000 to demonstrate the efficiency of hog serum. The amount of money we are spending to eradicate the cattle tick has nothing to do with this question. I hope to have something to say upon that later on. I understand that the Committee on Agriculture at the proper time is prepared to present an amendment appropriating $45,000 for demonstration work in cholera. According to the testimony in the hearings this will carry the work to four centers, or organize this work in four different States of the Union through the Department of Animal Industry to demonstrate the fact whether the hog cholera serum is a preventive or not, and when that amendment comes on the floor of the House I propose to support it. The States of the Union themselves are spending $200,000 per year at least to demonstrate the serum remedy. In Indiana our State experiment station manufactures hog-cholera serum and supplies it at cost to our farmers. I am proud of the fact that my State is one of the pioneers in this work, and while our experiment station is furnishing serum to the farmers of my State, in the great State of Iowa, according to the official statement, they are only expending $2,500 in this work, so I do not think it is fair for a representative of that State to insist that $200,000 be given to this work by the National Government. The great losses from hog cholera justify every effort to prove that these losses may be prevented and the very best methods of securing these results. The appropriation of $45,000 will secure these ends as surely as will the larger one of $200,000, and I trust that the committee will act in a conservative manner.

Mr. LAMB. Mr. Chairman, I thank the gentleman for his statement, and it will cause me to make my remarks shorter than they otherwise would be. I want to say to the committee that this matter particularly was not presented to the committee until the bill was made up, and then some gentleman came in and presented this subject. I sent for Dr. Melvin and had a conversation with him touching the matter, and after consultation with him the committee agreed to offer the amendment referred to here, giving $45,000 for investigation along this line, furnishing the States with the information so that the States could do this work. And my colleague here was authorized to draw the amendment, and I ask him now to present the substitute——

Mr. HAMILTON of Michigan. May I ask the gentleman a question? Where does the gentleman propose to have this amendment introduced?

Mr. LAMB. Right here at the end of this paragraph.

Mr. HAMILTON of Michigan. How much does he propose?

Mr. LAMB. Forty-five thousand dollars.

Mr. HAMILTON of Michigan. To be devoted to what?

Mr. LAMB. To this serum work.

Mr. HAMILTON of Michigan. Does he think that will be enough?

Mr. LAMB. That is what Dr. Melvin thinks, and Mr. Moss also agrees with me.

Mr. HAMILTON of Michigan. How many States would this demonstration reach?

Mr. MOSS of Indiana. Three centers, with four counties to a center.

Mr. HAMILTON of Michigan. Does the gentleman think that is enough?

Mr. MOSS of Indiana. Enough to determine whether it is safe, or whether we have agricultural experiments in every State in the Union, and the moment we can demonstrate the methods employed are sufficient, the States may take up the work.

Mr. HAMILTON of Michigan. Let me make a suggestion to the gentleman. I have just been reading the testimony before the gentleman's committee, and I judge from Dr. Melvin's statement that as a preventive this serum which is being developed is absolutely reliable. I think the gentleman will agree with me that that is his testimony.

Mr. MOSS of Indiana. That is his testimony, but I will not agree that the testimony is correct. I do not believe it is reliable.

Mr. HAMILTON of Michigan. Dr. Melvin testified that it is absolutely reliable. There is one thing in that connection——

The CHAIRMAN. The time of the gentleman from Indiana [Mr. MOSS] has expired.

Mr. HAMILTON of Michigan. I move to strike out the last two words.

Mr. MADDEN. Mr. Chairman, I have the floor.

I think the amendment offered by the gentleman from Iowa [Mr. GOOD] is a very reasonable one. It deals with a very important subject. If it is worth while to appropriate $325,000 to eradicate cattle tick in the Southern States, it ought to be worth while to appropriate $200,000 to eradicate hog cholera. The hog values of the Nation are almost equal to the cattle values.

I think the annual value of beef cattle raised in this country is about $790,000,000, while the average annual value of the hogs raised in the country is about $528,000,000. No dollar of public money has been expended in an attempt to eradicate hog cholera, and the time has come when the States of the Union ought to

demand of the Federal Government some recognition of this great industry.

It has been said that no serum has yet been discovered which is efficacious in the eradication of hog cholera, but the testimony of men who are qualified to speak is to the effect that a serum has been discovered which is effective. Two hundred thousand dollars is not a large sum for so important an object.

Mr. LAMB. If the gentleman will permit me, I will say that Dr. Melvin has stated that $45,000 will do.

Mr. MADDEN. If Dr. Melvin said that $45,000 is sufficient, why does Dr. Melvin and those connected with the Department of Agriculture think it is necessary to expend $325,000 for an object not more important than hog raising?

Mr. MOSS of Indiana. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MADDEN. Certainly.

Mr. MOSS of Indiana. Does the gentleman mean $200,000 to eradicate hog cholera by a cure, or $200,000 to demonstrate the proper method of applying the serum? What does the gentleman mean by the expenditure of $200,000?

Mr. MADDEN. What I mean by the expenditure of $200,000 from the Federal Treasury is to use that money for every legitimate purpose, with the end in view of eradicating the hog cholera, and thereby enabling the men who are engaged in the industry of raising hogs to get the best possible percentage of hogs which can be grown and sold to the people of the United States.

Mr. MOSS of Indiana. Mr. Chairman, will the gentleman again yield for a question?

Mr. MADDEN. Yes.

Mr. MOSS of Indiana. Does the gentleman believe that with $200,000 the Department of Agriculture can go into all parts of the United States and make such a demonstration as the gentleman is talking about?

Mr. MADDEN. I believe the Agricultural Department of the United States should go into every part of the United States where it is necessary to go in order to demonstrate to the people who are engaged in the business of raising hogs how they can successfully raise them, and how hog cholera can be successfully eradicated.

Mr. MOSS of Indiana. That is not the question that I asked of the gentleman. What I asked the gentleman was if he believed he could take $200,000 and do that work?

Mr. MADDEN. I think so; and after they have made the experiment and it is discovered that more than $200,000 is needed, then I think it will become the duty of the United States to make any further appropriation that may be needed to accomplish the object in view.

Mr. MOSS of Indiana. I believe with the gentleman there, but I want to ask the gentleman another question.

Mr. MADDEN. Very well.

Mr. MOSS of Indiana. Is it not a fact that with $45,000 it will be demonstrated whether or not the serum is an effective preventive against hog cholera, just as certainly as it would be with an appropriation of $200,000?

Mr. MADDEN. I can not say that that will be so, because with an expenditure of $45,000 the department will be limited in its experiments to one or two or three experimental stations, and I believe that experiment stations should be established in every section of the country.

Mr. MOSS of Indiana. I know that the gentleman is thoroughly familiar with the testimony, because he was present at the hearings when the testimony was taken by the committee. Now, Dr. Melvin claimed that the appropriation should be made in multiples of $15,000, and therefore if $45,000 were appropriated they would have experiments going on at three different points. If $200,000 were appropriated, experiments could be conducted at 13 different points. The only difference between the $45,000 proposed and the $200,000 suggested by the gentleman would be the difference between conducting experiments at 3 stations and conducting them at 13 stations.

Mr. MADDEN. Yes; and experiments should be conducted within the territory embraced between the 13 stations.

Mr. MOSS of Indiana. It will be the difference between 3 points and 13 points?

Mr. MADDEN. Yes; but there is no more reason why the experiments should be conducted at 3 points than there is that they should be conducted at 13 points. The fact is that every section of the Union is entitled to exactly the same treatment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HAMILTON of Michigan. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The gentleman from Michigan [Mr. HAMILTON] moves to strike out the last two words.

Mr. HAMILTON of Michigan. I think there is some misunderstanding as to the amount recommended by Dr. Melvin, and I therefore call attention to the testimony of Dr. Melvin before the committee of which the gentleman from Indiana [Mr. Moss] is chairman. Mr. SLOAN asked him this question:

For the ensuing year, what reasonable amount of funds might prudently and effectively be used along the lines you suggest?

Dr. MELVIN. Of course, in demonstration work of this character the committee would consider that estimates that we made might materially be decreased later, as when the methods were put into practical operation by States, and we would have to, in making any estimates, figure on the maximum expenses rather than on the minimum expenses, because we would not care to undertake an experiment of this sort without being able to put it through successfully. I think that in taking a block of counties of, say, four in a State, considering the maximum number of men that we would require and the maximum amount of serum that we would require, and all that, it would be an item of probably $15,000 for that block of counties.

Now the question is, How many blocks of counties would be needed in the experiment? The gentleman's suggestion of an amendment is based upon the idea that there should be only three experimental stations. Now, I have doubt about three being enough. This is a question involving the meat supply of the United States. In the last 10 years, according to information furnished by the last census and according to figures of the Agricultural Department, our population increased 21 per cent. Milch cows increased 20 per cent; beef and other cattle, if I have the figures correctly in mind, decreased 18 per cent; sheep decreased 14 per cent; and hogs decreased 7 per cent. There is nothing more devastating among farm animals than hog cholera. Therefore there is nothing of more material interest as involving the food supply of the country than this very question of hog cholera. So it seems to me we ought to consider very carefully the amount of the appropriation. I would not advocate an excessive appropriation, but I would advocate an appropriation that would be sufficient to put this serum into as many hands as possible for effective use.

Mr. MOSS of Indiana. In the first place, take Dr. Melvin's testimony that the appropriation ought to be in multiples of $15,000.

Mr. HAMILTON of Michigan. Yes.

Mr. MOSS of Indiana. The gentleman is also aware that the different States are also experimenting with the serum cure.

Mr. HAMILTON of Michigan. I understand they are; but I understand that some of the serums put forth by the various States are not efficient. I get that from Dr. Melvin's testimony. Is not that the gentleman's understanding also?

Mr. MOSS of Indiana. I think the gentleman is mistaken. It is not the serum from the States, but some of this serum is also being manufactured by private parties and being sold, and it is that serum which is being manufactured from private sources that he says is inefficient. I do not understand that Dr. Melvin challenges any serum that is being put out from State sources.

Mr. HAMILTON of Michigan. It may be that the gentleman is right, but I understood that it was from State sources, and I understood that it was because of inefficient manufacture or production of the serum.

Mr. MOSS of Indiana. I think the gentleman is aware of the fact that in Indiana we have a station supported by the State, where they manufacture the serum under the formula of the National Government, and it is supplied to any farmer in the State at cost through a veterinarian. The experiment is going on in all parts of Indiana. The same thing is done in practically every hog State. The question is: Why are not the ravages of hog cholera being checked? And on the part of those people who originally brought this question to the attention of Congress the contention is that the National Government ought to go out on a campaign of education, taking this serum and making public demonstrations sufficient to prove to the people of the United States the proper method of its use.

Mr. HOBSON rose.

Mr. LAMB. Mr. Chairman, I hope the committee may be heard on this proposition.

Mr. MANN. Can you not fix a time to close debate?

Mr. LAMB. If the Members of the House will turn to page 10, they will find that this $620,000 in a lump sum provides for the purchase in open market of samples of all tubercular serums and analogous products of foreign and domestic manufacture which are sold in the United States for the prevention, protection, treatment, and cure of diseases of domestic animals. In addition to that I have from Dr. Melvin in private conversation information as to the amount of money that will be necessary. I know nothing about the hearings before the Committee on Expenditures in the Agricultural Department, but I am surprised to find that the views of the gentleman from Indiana [Mr. Moss] coincide so much with mine. I want to say to gentlemen that an amendment will be offered covering the

whole thing and give you sufficient money to test these matters. You are not going into the States to tell the people what to do, as you do in the cattle-tick business. The States have to buy the serum after the Department of Agriculture ascertains what will destroy the cholera and do the work. I am informed by the gentleman from Illinois [Mr. FOSTER] that the State of Illinois is now doing that.

Mr. HAMILTON of Michigan. What is the State doing?

Mr. FOSTER. The State of Illinois is furnishing a serum; they have established a laboratory.

Mr. HAMILTON of Michigan. So has Michigan, but not efficiently nor effectively.

Mr. FOSTER. I do not know how much they furnish. Originally the National Government helped the State to establish a laboratory. For instance, they would have to have an old immune hog. I am informed by the gentleman from Indiana [Mr. Moss] that the State of Illinois spends $22,500 in this work.

Mr. MANN. The State of Illinois raises more fat hogs and loses more by cholera than any other State in the Nation.

Mr. FOSTER. Yes; the great trouble with Illinois has been in shipping hogs from some other State into our State.

Mr. HAMILTON of Michigan. The stockyards at Chicago make that record?

Mr. FOSTER. Oh, no.

Mr. HAMILTON of Michigan. You lose a great many hogs in the stockyards.

Mr. HOBSON rose.

Mr. LAMB. I will yield to the gentleman from Alabama for a question.

The CHAIRMAN. The gentleman from Alabama.

Mr. HOBSON. Mr. Chairman, am I recognized simply to ask the gentleman from Virginia a question, or am I recognized for five minutes?

Mr. LAMB. I will yield the floor to the gentleman from Alabama.

Mr. HOBSON. Mr. Chairman, I move to strike out the last word. It is a question whether this work that is proposed to be done with the money carried by this amendment is available or not, or whether it should be available for more than simply demonstration purposes as to its present efficiency so as to cover further experimentation and develop greater efficiency, both for curative as well as for demonstration purposes.

Mr. LAMB. We propose to divert $45,000 especially for that work.

Mr. HOBSON. I do not believe we ought to be limited. If they need more money that money ought to be provided, so that the field covered should not simply be an ocular demonstration to the people of localities of the effectiveness of existing serum, but to the manufacture of serum, now in an experimental stage, and the Government can very properly encourage investigations as to that manufacture.

Mr. MOSS of Indiana. It is in the experimental stage.

Mr. GOOD. Mr. Chairman, I would like to call the attention of the gentleman from Alabama to the fact that since 1908 an almost perfect serum for the prevention of hog cholera has been in use by the Government. The testimony of Dr. Melvin is that he can not push out this serum so it will be of benefit to thousands of farmers who are losing hogs by cholera because of the insufficiency of the fund—that it would take a great deal of money. If the gentleman from Alabama would yield long enough I would like to read to gentlemen from Dr. Melvin's statement on how perfect that serum is.

Mr. HOBSON. I think I agree with the gentleman from Iowa, and that the great need of the whole Government is that its available information should be taken down to the people for actual practical use. But the fact remains that the question of serum has not passed beyond the experimental stage. If I did not go further I could quote many statements by gentlemen that in many cases the manufacture of this serum is not as perfect as could be wished. Take my own district. We have been calling on the Government to make a demonstration. Yesterday we had an appeal that cholera had sprung up in a peculiar way, and they wanted the Government to send down and test 300 hogs, and actually the United States Government did not have enough serum to inoculate 100 hogs, and they would have to go to Ames, Iowa, and see if perhaps they could not get them to work some kind of a manufacturing process to supply serum for 200 hogs for a special purpose.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. GREEN of Iowa. Mr. Chairman, I do not believe the committee understand the importance of this question. It is not alone in the interest of the farmers, but it is in the interest of the public at large, and especially the laboring man. I represent a district which is one of the largest producers of swine in this country. I have had some practical experience in raising these animals myself. Hogs are now quoted in the Chicago market at 8 to 9 cents a pound, live weight. I have no hesitation in saying, from actual experience, that if hog cholera could be stamped out hogs could be produced in Iowa so that they could and would be sold in the Chicago market for 4 to 5 cents a pound.

They could be produced there at a profit at the latter price if there was no cholera. We can not do anything more in this House to reduce the cost of living to the poor man than to give him what was formerly his cheap meat, and to do that we will have to make some substantial provision for stamping out all hog cholera. That is what we need here more than anything else to reduce the cost of living. I know, from experiments in my own district, that the Government serum has been fairly successful, but the only trouble has been, as the gentleman from Alabama [Mr. HOBSON] has stated, that the Government did not have enough of it to use in any substantial quantity.

Mr. HOBSON. And until you can get a sufficient quantity you can not standardize the manufacture. It is now made in such an infinitesimal scale that it can not be made efficient and effective.

Mr. GREEN of Iowa. The gentleman is absolutely correct. We have found also that the serum furnished by the State is not effective and has not been of advantage to the users.

Mr. MOSS of Indiana. On what does the gentleman base his statement that the serum produced by the State is not effective?

Mr. GREEN of Iowa. Because people who are reliable have written me to that effect, and I believe their statements.

Mr. MOSS of Indiana. Then the gentleman is basing it on the statement of some one whose hogs were vaccinated with it and failed to escape from the ravages of cholera?

Mr. GREEN of Iowa. What better authority could I have?

Mr. MOSS of Indiana. I just wanted to know.

Mr. GREEN of Iowa. I have taken it from actual experiments and workings of the use of the serum, and I have taken the effect of the Government serum from the same source. If this House wants to reduce the cost of living, it can do it in no more effective way than to give a liberal appropriation for the purpose of stamping out hog cholera.

Mr. GOOD. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Iowa. Certainly.

Mr. GOOD. Mr. Chairman, to show that the serum that has been manufactured by the Government is a little beyond the stages of experiment, I want to read from the testimony of Dr. Melvin, who says of one experiment:

July, 1908, Kansas City experiment. Thirty-five young shoats were purchased from a farm where hog cholera had not existed. These pigs, having been carried to Kansas City stockyards and being in charge of a committee appointed by the exchange, were treated as follows: Twenty-two were injected with antihog-cholera serum prepared by the bureau; 4 were injected with virulent hog-cholera blood; 9 were not treated in any manner. All were placed in the pen together. As was expected, the 4 pigs inoculated by virulent blood contracted hog cholera within a short time and died. The 9 checks contracted hog cholera from those which were inoculated with hog-cholera blood, and they also died. The 22 pigs treated with the serum remained well, with the exception of 1 or 2 which were slightly affected on one or two days. It is not certain, however, that the trouble with the treated hogs was hog cholera, as none died.

Mr. Chairman, if that does not show that the serum manufactured by the Government is away beyond the stage of experiment, then I do not understand the English language.

Mr. HOBSON. The trouble is with the manufacture of it.

Mr. GOOD. The trouble has been with the manufacturers of patent medicines. They have never wanted the Government to manufacture serum that was worth anything. The manufacturers of worthless patent medicines have stood as a bar to giving to the people of this country an effective hog-cholera remedy.

Mr. MANN. Mr. Chairman, can not we have some agreement by unanimous consent with reference to the time that this debate shall run?

Mr. LAMB. Mr. Chairman, I will try to do that presently.

Mr. HAUGEN. Mr. Chairman, the question which concerns the House the most at this time is not as to the number of hogs that die from cholera but what will we do with the serum, what is its merit? Will the serum when properly applied protect hogs from hog cholera? Will it cure, will it prevent hog cholera? Is it of practical value? And as to that I think it is safe and well for us to accept the statement of Dr. Melvin, who claims the credit of having discovered this serum. I will read from his letter of September 25, 1907, to the Secretary. He says:

The result obtained shows quite clearly that a comparatively certain method of protecting hogs from hog cholera has been discovered.

In Bulletins Nos. 72 and 102 we find that extensive experiments have been made, with splendid results; in fact, all the bulletins and Government reports printed on the subject corroborated Dr. Melvin's statement that the serum is a comparatively

certain method, not as a cure nor a certain preventative, but a comparatively certain method of preventing hogs from hog cholera. On the other hand, we find a number of people skeptical as to its practical value. I hold in my hand a clipping from an Iowa daily. The editorial therein comments on the Iowa State Legislature's dealing with the problem. It states that the State legislature is stumped and afraid to tackle the proposition. Its special Des Moines correspondent calls attention to a letter written by Park, Davis & Co., a company which I believe is, if not the largest, one of the largest manufacturers of drugs and medicines, reliable and, I believe, in high standing. The letter, purported to be written by the firm, states that the firm has for 20 years been experimenting on the subject of hog cholera and proper methods of treatment, and has investigated a great many proposed remedies for the control of this disease, but thus far it has not been sufficiently impressed with any product that it has investigated to warrant the firm's recommending it or putting it on the market. They add that they have spent considerable money in investigating this particular hog-cholera serum, and after so doing they come to the conclusion not to embark in the manufacture of this product, because it was altogether too uncertain in its action to warrant their doing so. They call attention to the National Live Stock Sanitary Association, which met in Chicago in December, including our own State veterinary, taking strong exception to the product; also to the fact that Canadian newspaper clippings, of recent date, go to show that the Canadian Government at Ottawa has become so skeptical regarding this serum that they have prohibited its being imported into Canadian territory.

Mr. BOOHER. Mr. Chairman, will the gentleman yield there for a question?

Mr. HAUGEN. Certainly.

Mr. BOOHER. If the Government has discovered a formula for the prevention of hog cholera, what is there to prevent the Government authorities from making that known to the State and county authorities?

Mr. HAUGEN. That is exactly what the department did. The department claims that it has made a discovery which has merit, and others claim that it has no merit and that it is of no practical value. We have been trying to force this onto the States. The department maintains a station in our State within a mile of the gentleman's district, a few miles from his home. This station has been maintained at Government expense with a scientist in charge to demonstrate to the people of Iowa and the country that this discovery, the serum, is of value, not as a cure, but a preventative of hog cholera.

Mr. McKENZIE. How much money was expended last year for the purpose of eradicating hog cholera?

Mr. HAUGEN. In the State of Iowa?

Mr. McKENZIE. No; by the United States Agriculture Department.

Mr. HAUGEN. My understanding is that the department expended about $10,000 last year, besides the States appropriated large sums of money for the purpose of advancing the serum treatment, as, for instance—

Ohio appropriated	$40,000
Pennsylvania appropriated	25,000
Missouri appropriated	25,000
Illinois appropriated	22,500
Nebraska appropriated	15,000
Minnesota appropriated	6,000
Iowa appropriated	2,500

In all, more than 25 States have appropriated money for the purpose.

The department and the committee have been criticized for not expending more money. One gentleman says that the department does not keep enough serum on hand to supply the demand. Well, let us see about that. Congress appropriated $600,000 for the current year and the committee has recommended $620,000 for the coming year for the lump sum under consideration. If only $10,000 of that amount was used for providing the people with the serum and demonstrating the best method of preventing cholera, it is not the fault of Congress, as every dollar of the $600,000 was available for that one purpose, and I further submit that if the department used only $10,000 out of the $600,000 appropriation for this purpose, and if the department got all the money it asked for, then that is evidence that the $10,000 was all that it deemed necessary to expend, and that the department adhered to the plan suggested in its report and bulletin; that is, that after the department had made the discovery of the serum and had demonstrated its value the States should carry out the work.

Now, a word about lump-sum appropriation. In this bill, as in many other bills, we necessarily make lump-sum appropriation for a number of projects and leave it to the discretion and judgment of the department as to how and for what project or projects it is to be expended, as it is impossible for Congress to determine in advance the amount necessary for each project, for it can not foresee the emergencies that may arise. Furthermore, if appropriations are made for specific projects, the work of an employee whose salary is paid out of this one specific fund must be confined to that one project, and it is often necessary to send a number of men to the same place to carry on different and other lines of work, whereas one employee, if paid from the lump-sum appropriation, may work on a number of projects and thereby save expense to the Government. Hence it seems wise in many instances to appropriate lump sum for several items and leave it to the department to determine how and for what project or projects the money shall be expended. That is what we have in this case; and, Mr. Chairman, with a man at the head of the department who has always taken deep interest in matters of this kind, it seemed safe at the time the appropriation was made for Congress to trust to the judgment of the department to apportion the lump-sum appropriation between the projects; and considering it all, if Congress could not trust the department with apportioning that lump sum, what department could be trusted with apportioning lump sums appropriated? Now, this is quite different. A question has been raised as to the practical value of the serum, and the committee, after consideration, decided to recommend that the appropriation for the current year of $600,000 be increased to $620,000, with a proviso that not less than $45,000 should be set aside for demonstrating the best methods of preventing hog cholera.

If the amendment agreed to by the committee is adopted, then the department must set aside $45,000 for that purpose, and the $45,000 can not be used for any other purpose. If other amendments proposed to simply increase the lump-sum appropriations are adopted, the department is left to do as it pleases, whether it will use a dollar for the purpose or not, and in all probability it will use the same amount used heretofore. The purpose sought by the committee is to compel the department to demonstrate and settle the question whether the serum has any practical value or not. The committee thought that inasmuch as its merit had been questioned it is due that the department should demonstrate as to its practical value; and if, after it has been given a thorough trial and its value is determined, and if found of value Congress can then appropriate or turn it over to the State as suggested and as was done by the department. In short, first ascertain its value, then appropriate and apply the remedy. That is what an ordinary business man would do, and it seems to me that that would be the proper thing for Congress to do, and I trust that the proposed amendments to simply increase the lump-sum appropriation, without a proviso instructing the department in the matter, which may defeat the purpose sought by the committee, will not be agreed to.

Mr. Chairman, inasmuch as there is difference of opinion as to the practical value of the serum, for the benefit of those who may care to have the information given in the reports, bulletins, and clippings which I have referred to, and without expressing any opinion as to its merit, I send to the Clerk's desk bulletins, reports, and clippings referred to and ask that extracts of same be read and printed in the RECORD.

The CHAIRMAN. It will be read in the gentleman's time.

Mr. GOOD. Will the gentleman yield?

Mr. HAUGEN. I yield, but I would prefer to have this article read first.

Mr. GOOD. Who is the author of this article about to be read?

Mr. HAUGEN. It will explain itself.

Mr. GOOD. I would like to know——

Mr. HAUGEN. I say it is an editorial from a daily paper and from a special correspondent of this paper, and it will explain itself.

The Clerk read as follows:

HOG-CHOLERA CURE.

The Iowa Legislature, with the facilities within her borders for fighting hog cholera, seems to be stumped and afraid to tackle the proposition. * * *

Dr. W. B. Niles, of Ames, an animal-husbandry man working for the United States Government, is the scientist who has perfected the cure. Dr. Niles is not connected in any way with the State agricultural college. His work is entirely independent of the work of the State institution. His laboratory was established there because Ames was his home. The Ames College has made no effort toward working out a cure except to follow the directions of Dr. Niles.

The following from the Times special Des Moines correspondent says:

"A note of discord in the movement to have the State of Iowa go somewhat deeper into the manufacture of serum for the treatment of hog cholera appeared when Representative Grout, of Blackhawk, showed members a letter he has received on the subject that will be of very great interest to all stockmen. He had written the firm of Parke, Davis & Co., Detroit, to see if it would be possible to secure from a reputable firm of manufacturing pharmacists a supply of serum for use in Iowa in case it is not possible to get the right legislation for a State laboratory. In the reply this well-established firm said:

"'From your letter we judge that you have in mind the serum or sera recommended by the Bureau of Animal Industry of the Department of Agriculture, Washington. We may state that we have for something over 20 years been experimenting on the subject of hog cholera and the proper method of treatment. We have investigated a great many proposed remedies for the control of this disease. Thus far we have not been sufficiently impressed with any product that we have investigated to warrant us in the belief that we could place it on the market with the assurance that it would be affording a sufficient measure of success, either as a prophylactic or curative agent, to warrant our doing so.

"'Referring specifically to the so-called "hog-cholera serum," after spending considerable money in investigating the question, we came to the conclusion about a year ago that we did not wish to embark in the manufacture of these products, chiefly because we felt they were altogether too uncertain in their action to warrant our doing so. We see no reason for changing our attitude at the present time. Particularly does this conclusion seem wise in view of the recent criticisms that have been offered against these products at the last meeting of the National Live Stock Sanitary Association, which met in Chicago in December. Your own State veterinarian, if we are not mistaken, took very strong exception to the products. We learn from a Canadian newspaper clipping of recent date that the Canadian Government at Ottawa has become so skeptical regarding the value of these serums that they have prohibited their being imported into Canadian territory.

"'To sum the matter up, we do not feel warranted in making any provision at this time for the manufacture of the so-called "hog-cholera serums," and do not anticipate placing them on the market. We regret very much that it is necessary for us to come to this conclusion, especially as we realize the great commercial possibilities of a successful agent for controlling hog cholera, but in view of our knowledge up to the present time and our own experience we are forced to the conclusion that we can not render sufficiently valuable service to the farming community to warrant our placing the products on the market.'

"This is taken by members not to mean that no good can come from the manufacture of the serums, but that great care should be taken in the matter, and, in fact, that there should be no administering of a serum except under the direction of a veterinarian. About all the success in heading off hog cholera in Iowa has come from the homemade medicine, while it is asserted that importation of stuff has been only to make matters worse."

THE CONTROL OF HOG CHOLERA BY SERUM IMMUNIZATION.

[By A. D. Melvin, D. V. S., Chief of the Bureau of Animal Industry.—Annual Report of the Bureau of Animal Industry, 1908.]

FACTS ON WHICH TREATMENT IS BASED.

As a result of experimental work conducted by the Biochemic Division of the Bureau of Animal Industry and recorded in Circular 43 and in Bulletin 72 of this bureau the conclusion was reached that the so-called hog-cholera bacillus is not the true cause of hog cholera, but that this organism plays the part of a secondary invader, the true cause of the disease being a virus which is present in the blood of hogs affected with hog cholera, and which, under certain conditions of filtration, is capable of passing through the finest porcelain filters. Up to the present time this filterable virus has resisted all attempts at artificial cultivation, and we know of its presence only through the effect upon hogs when fluids from sick animals, free from all known bacteria, are injected into susceptible animals. It is a well-known fact that hogs which have recovered from an attack of hog cholera are completely immune when subsequently exposed to the same disease.

These two facts—the presence of the filterable virus in the blood of hogs sick of hog cholera and the immunity in hogs which have recovered from an attack of that disease—form the basis for the preparation of the serum which we have used successfully in immunizing hogs against cholera.

METHOD OF SECURING IMMUNE SERUM.

Without attempting to go into the method of producing this serum in detail, it will be sufficient to say that the protective serum is produced by a process of hyperimmunization carried out as follows:

An immune hog is injected with large amounts of blood from hogs sick of hog cholera. These injections will not produce more than a transitory effect upon the health of the immune, although they would prove certainly fatal to a susceptible hog. This treatment of immune hogs with large amounts of virulent blood is known as hyperimmunization, and gives to the blood of the immune the power to protect susceptible hogs from hog cholera. After a week or so, when the immune has recovered from the effects of this treatment, blood is drawn from that animal by cutting off the end of the tail. The blood drawing is repeated three or four times at intervals of a week, after which the immune is usually bled to death from the carotid artery. After each drawing from the immune the blood obtained is defibrinated and mixed with a suitable antiseptic. If preserved in sterile bottles, this defibrinated blood, or serum, as it is called, will retain its potency for years.

The protective serum having been obtained from an immune hog in the manner indicated, the potency of this serum is determined by injecting susceptible pigs with varying amounts, and at the same time exposing them to hog cholera along with untreated control animals. In practice it will, of course, be found best first to collect large quantities of serum and to mix this before testing. A standard serum will thus be secured at a minimum cost.

METHOD OF PROTECTING SUSCEPTIBLE HOGS.

A standard serum of known potency having been secured, either of two methods may be used for protecting susceptible pigs. These are known as (1) the "simultaneous" method and (2) the "serum-alone" method, or simply the serum method.

The first of these, which is to be recommended for use especially in herds which have not been exposed to hog cholera, consists in injecting subcutaneously on one side of the body of the pig to be vaccinated a suitable quantity of serum, and simultaneously on the other side of the body a small quantity of virulent blood taken from a hog sick of hog cholera. Experiments have shown that by this method pigs are given a firm immunity, lasting at least six months and probably longer.

The serum-alone method, which consists simply in the injection of the protective serum without the simultaneous use of virulent blood, appears to confer only a temporary immunity upon the treated pigs, unless they are exposed to hog cholera a short time after receiving the serum, in which case they also acquire a lasting immunity. For these reasons this method is admirably adapted to the treatment of hogs in a herd where hog cholera has already broken out but which have not themselves shown visible symptoms of disease.

The experiments which are being carried out to determine the curative properties of the serum are not yet complete, but from the results thus far obtained we know that serum in the doses used for immunization can not be depended upon to cure hogs which already show visible symptoms of hog cholera. Further work along this line is needed. Neither the simultaneous nor the serum-alone method, when properly applied, appears to injure the hog in any way.

COST OF THE SERUM.

In order to determine the cost of producing serum for practical use every item of cost would, of course, have to be taken into account and allowance made for all sources of revenue. Owing to the conditions under which the work of the bureau has been carried on—that is, manufacturing serum for experimental use only and utilizing the same force for the production of the serum and for carrying on varied experiments—it is impossible to determine the exact cost of the serum thus far produced. Sufficient work has been done, however, for an estimate to be made. With the dose of serum at 20 cubic centimeters and with the production carried out with strict economy, it seems likely that the cost per dose can be brought within 25 cents. This estimate is based upon the supposition that each hyperimmunized immune will furnish 150 to 200 doses of serum, and that the carcass of the immune after final bleeding will be utilized for food. There seems to be no objection to the use of such a carcass for food purposes, provided the post-mortem examination discloses no reason for rejecting it.

* * * * * * *

RESULTS OF PRACTICAL TESTS OF THE SERUM.

The statements made above concerning the protective power of serum from hyperimmunized immunes are based upon tests on several thousand hogs. These tests were carried out not only in small experiment pens, but in great part upon farms under practical conditions. During the fall of 1907 approximately 2,000 hogs were treated on 50 different farms, a considerable proportion of untreated hogs being left in all cases as a control on the action of the serum. Both methods of treatment were used, and the herd conditions varied widely. * * *

* * In the herds where hog cholera appeared subsequent to treatment practically all of the treated hogs remained well, while more than 65 per cent of the checks died. In the herds which had been exposed but were apparently well at the time of treatment 4 per cent of the treated animals died, while approximately 90 per cent of the checks succumbed. In the herds where disease existed at the time of treatment, and where very great success was not expected, 13 per cent of the treated animals were lost, whereas 75 per cent of the checks died.

These successful field trials, confirming as they do numerous tests carried out under experimental conditions, have convinced us of the efficiency of this method of dealing with hog cholera, and although improvements will undoubtedly be made in many of the details of producing the serum, the method is believed to be now in such condition as to make the practical use of it entirely feasible.

CONFERENCES OF FEDERAL AND STATE REPRESENTATIVES.

In order that the States most concerned in this subject might be brought into closer relation with the work, and also for the purpose of discussing plans for effective coordination of State and Federal work in dealing with hog cholera, 25 of the chief hog-raising States were requested to send representatives to Ames, Iowa, where the Bureau of Animal Industry maintains a farm devoted to experiments with hog cholera. In response to this invitation representatives from 20 different States visited Ames and were shown the details of the serum production.

A general discussion at these conferences developed the practically unanimous opinion on the part of State and Federal representatives that the serum should be prepared by each of the States for distribution to the hog raisers, and all State representatives expressed their intention to undertake the work as soon as funds could be secured. At the present time a number of States have actually begun work. If the serum is prepared in sufficient quantities there seems to be no doubt that a great saving can be effected simply by treating animals in exposed herds or in herds in which the disease has just appeared.

A PLAN FOR CONTROLLING AND ERADICATING HOG CHOLERA BY SERUM IMMUNIZATION.

* * * * * * *

It has already been stated that the serum from hyperimmunized hogs can be used to protect hogs from hog cholera and that a large saving can be effected if the serum is applied promptly after the disease appears in a herd. Why, then, should not this serum be used as an agent for the eradication of hog cholera? It seems reasonable to believe that it can be used successfully for this purpose, but complete success can not be expected without proper organization and the direction of the work by health authorites.

In order that the possibilities of well-directed work along these lines may be brought to the attention of those who may in the future have this work to perform, the following plan for combating hog cholera through serum immunization is submitted:

1. The serum should be prepared by the State experiment stations or by State live-stock sanitary boards which are properly equipped with laboratory facilities, the efficacy of all serum to be determined by such laboratories before distribution.

2. The field application of the serum should be in the hands of the State live-stock sanitary board or State veterinarian.

3. The State should be organized into districts, each in charge of a deputy State veterinarian or a deputy appointed by the live-stock sanitary board. These districts should be small enough to permit the deputy to exercise close watch over them.

4. The deputy State veterinarian should keep a supply of serum on hand, so that prompt action may be taken when infection appears.

5. Hog raisers generally throughout the State should be informed when the serum is available for distribution, and if necessary compulsory notification of the presence of disease in a herd should be imposed.

6. Upon notification to the State live-stock sanitary board or State veterinarian that hog cholera has appeared in a certain neighborhood, the diseased herd or herds should be immediately quarantined, the premises disinfected as thoroughly as possible, and all hogs on the farm which have been exposed or which are not visibly ill should be treated with serum alone. All hogs on the farm which have not been exposed should be treated by the simultaneous method, and of course the prompt removal of dead animals should be enforced. At the same time all hogs on surrounding farms should be treated by the simultaneous method.

Prompt action of this kind should result in confining the disease to the first herd where disease appeared, though we must admit the possibility of infection being carried beyond the vaccinated belt by birds. If this should occur, the procedure should be the same as in the first

case of disease, though the probability of dissemination by birds will not be great, owing to the comparatively small size of the infected area.

With a well-organized live-stock sanitary board and an efficient corps of deputies throughout the State, there seems to be no reason why hog cholera should not be kept well under control and perhaps in time eradicated by proceeding in the way indicated. By starting the work in early spring or summer the task would probably be much simplified and the cost reduced to a minimum.

Aside from the eradication of hog cholera, it seems that an important saving to swine breeders and to the hog industry in general can be accomplished through the protective inoculation of pure-bred hogs. Some of these hogs represent years of patient effort on the part of breeders, and their loss is a loss to the swine industry in general, which depends for its success in great measure upon the development and preservation of the superior characters possessed by these pure-bred animals.

There is no doubt that the hog raisers would gladly cooperate with the State authorities and that as a rule any outbreak of disease would be promptly reported, as the farmer would have everything to gain and nothing to lose by so doing.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HAUGEN. May I have another minute?

Mr. LAMB. Mr. Chairman, I move that all debate on this paragraph and all amendments thereto close in 20 minutes.

The CHAIRMAN. The gentleman from Virginia moves that all debate on this paragraph and all amendments relating thereto be closed in 20 minutes.

Mr. SLOAN. Mr. Chairman, I ask for some little time on this. I would like that it be made 30 minutes so that I can have some time. I have made a careful study of this matter, and the bill was introduced by myself over a year ago after careful study of what the Government had been doing and what the governments of the different States had been doing.

The CHAIRMAN. The Chair will state that the gentleman is out of order——

Mr. LAMB. Mr. Chairman, I would like to change my motion to 30 minutes. That will give full time for the gentleman to discuss this question.

The CHAIRMAN. The gentleman from Virginia now moves that all debate on the paragraph and all amendments thereto be closed in 30 minutes.

Mr. BOOHER. Mr. Chairman, I do not want to be in the attitude of objecting to closing this debate, but I think——

Mr. LAMB. We desire to put this bill through here and we rarely give on any one paragraph as much time as this. [Cries of "Regular order!"]

Mr. BOOHER. Mr. Chairman, I was discussing the motion.

The CHAIRMAN. But the motion is not debatable. The gentleman from Virginia moves that all debate on the pending paragraph and all amendments thereto be closed in 30 minutes.

The question was taken, and the motion was agreed to.

Mr. MAGUIRE of Nebraska. Mr. Chairman, I offer the following amendment as an amendment to the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the amendment offered by the gentleman from Iowa, as follows: "At the end of line 12 strike out the semicolon and insert a colon, and add the following: '*Provided*, That of this sum not less than $45,000 shall be set aside for demonstrating the best method of preventing hog cholera.'"

Mr. MAGUIRE of Nebraska. Mr. Chairman, this is a committee amendment. When the committee acted upon this bill we did not have available information that we now have upon this subject. After making some investigation we find that there is considerable loss due to hog cholera. About 90 per cent of the loss of hogs is due to this disease. It creates the greatest ravage among farm animals of any disease known to farm animals except the cattle tick. At this time there seems to be something like, according to the report of the Bureau of Statistics, $18,000,000 a year loss due to hog cholera. Now, this is a direct loss to the producer and to the farmer and it is also an indirect loss to the consumer and to the whole country. The officials of the Department were brought before some of the committees of the House to find out what investigation they had made.

For some years back the department made some investigations for a curative remedy, but after some progress the experts dropped that and looked for some preventive. In 1906 they secured what they thought was a preventive in the nature of a serum that would, when applied, prevent more than 90 per cent of all cases. That is the evidence of the department itself, furnished to the committee.

Mr. BOOHER. Will the gentleman permit a question right there?

Mr. MAGUIRE of Nebraska. Yes.

Mr. BOOHER. If the department has discovered this remedy and knows it will prevent from 90 to 95 per cent of the loss, why does not the department make it known in the form of a bulletin so that it can be used? That is a thing I do not understand in this connection.

Mr. MAGUIRE of Nebraska. The department has attempted from time to time to bring this information to the public and to the several States, and information has been brought to the several States, but there seems to be some lack of confidence of the public in the belief that this serum will act as a preventive.

Mr. BOOHER. If the public has no confidence in it, why appropriate a large sum of money to get them to have confidence in it? How are you going to do it that way?

Mr. MAGUIRE of Nebraska. The effort here is to bring this information to the public by way of demonstration. Now, this information has been sent out to organizations, and to some extent through the men of the department, but there has been very little demonstration concerning it.

Mr. BOOHER. Does the gentleman think we ought to pursue this as we have the cattle tick, and appropriate more and more every year for it? After you find the remedy, why not let the people use it?

Mr. MAGUIRE of Nebraska. That is the intention, but we want this remedy brought to the public by way of effective demonstration by the department.

Mr. MANN. What could you take this $45,000 away from in the bill? You brought in $620,000 for things that are already enumerated. Now you propose to take $45,000 away from that. What can you take it away from?

Mr. LAMB. Read the tenth page——

Mr. MANN. I have read the bill. Which do you do, admit that your bill was $45,000 too much or that you are going to take away $45,000 from something that needs it?

Mr. LAMB. We do not admit it is too much; but we made estimates according to the Secretary's suggestion. And when we asked Dr. Melvin if he could use some of this money in the serum matter and in the investigations, he said he could. That is all I knew about it.

Mr. MANN. But our friend from Nebraska [Mr. MAGUIRE] said the amount in the bill was not intended to cover this when you made that report—$620,000. If you diverted $45,000 from that, was the $620,000 too much when you brought it in, or are you going to take it from something else; and if so, what?

Mr. MAGUIRE of Nebraska. There is some $9,000 carried on last year's bill for hog cholera.

Mr. MANN. That leaves $36,000.

Mr. MAGUIRE of Nebraska. All that we are attempting to do here is, that the department has used its judgment in distributing this lump sum——

Mr. MANN. The gentleman understands I am not criticizing the committee about it.

Mr. MAGUIRE of Nebraska. All that we insist on now is that the Bureau of Animal Industry set aside not less than a certain specific amount for this work. He realizes that the testimony shows that it is necessary. He goes even further in his testimony here, and I will read a part of it——

Mr. MANN. What else can lose it? That is what I am trying to get at. What will you take it from? The gentleman does not desire to cripple some other service?

Mr. MAGUIRE of Nebraska. Perhaps some of this other work may be finished.

Mr. MANN. You propose an appropriation of $620,000, which was an increase of $20,000 without including this $40,000 item, and I assumed you knew what you were doing. What will you take that from without crippling the service?

Mr. LAMB. I asked Dr. Melvin if he could take care of this serum for hog cholera, provided we authorized him to do so in the bill, and he replied that he could.

Mr. MANN. That is an admission that you do not know what you can take it from without crippling the service.

Mr. SLOAN. Mr. Chairman, last August I introduced a bill to appropriate a hundred thousand dollars for this purpose. I did not do that until I had learned what the different States had done. I find there is error in the statement to-day made of what the different States have done in this way. The sums appropriated by the States amount to over $200,000. A list of the appropriations I shall submit for the RECORD. I did not ask it until I consulted with Dr. Melvin, the head of the Bureau of Animal Industry, and Dr. Dorset, the man who discovered this serum, and they stated and put the reputation of their bureau and division behind the proposition, that they had found not a cure, but had found a preventive remedy. And the illustration they used was that it was as efficacious as was the treatment they were giving in cooperation with the various States and individuals in exterminating the southern cattle tick.

Now, I do not refer to the southern cattle tick by way of invidious comparison. I only want to state that the department has said, including Secretary Wilson, Dr. Melvin, and Dr. Dorset, that they have an efficacious and effective remedy

in the form of a preventive. I want to state this fact, too, that it is not a sectional request, because in the 10 States of this Union where the cattle tick is prevalent and where this $325,000 is to be expended, 20 per cent of the value of the hogs of this country now exists. Over $98,000,000 worth of hogs is in the 10 States, so that it is not sectional in any respect.

I asked for $100,000 at that time, because the States had already appropriated $200,000. The committee graciously granted $45,000. I am not discussing the matter of values. But we have this serum, and we know this is true, that although it has been known since 1906—inasmuch as in that year it was patented, and patented in the interest of the American people—it has not been brought home to those who need it.

Now, I shall submit as a part of my remarks a record showing in part what the department has done by way of testing this remedy. There are numerous tests that have been made. Most of them have been conducted on farms, much as the cattle-tick tests have been made, and in every case, or nearly every case, the evidence seems clear that a beneficent effect followed the application of the serum. Especially was it true in the two large tests, one made at Omaha and the other made at Kansas City.

I shall not undertake, as I have not the time, to state fully in regard to it, but I shall invite attention to a reading of the results of this test. Here seems to be the large trouble about this remedy: It is being manufactured by various concerns. It is a vital remedy, a remedy that involves the use not only of hogs that have become immune through having had the disease and recovered, but it involves also the purchase of other hogs that must be rendered immune before the serum can be produced to any large extent.

Now, this remedy can be carried by the department to the various sections of this country, and the public has a great deal more confidence in that which the Government stands behind than in that which any individual manufacturer or any State will produce.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. LAMB. Mr. Chairman, I would like just one minute in which to answer more directly the question of the gentleman from Illinois. In apportioning this sum I notice that for the control and eradication of animal diseases they propose $620,000. Now, we propose in this amendment to devote 7½ per cent of that to this purpose.

Mr. SLOAN. I did not understand, Mr. Chairman, that my time had expired. I want to make a statement about the loss by the cattle tick.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SLOAN. Mr. Chairman, I ask two minutes in which to make my statement.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. SLOAN. In these "piping times of peace," when the economies of the Nation relate most largely to raiment and food for the present and reasonable assurance for the future, the Department of Agriculture easily commands and is entitled to a larger share of the public's interest than does any other department.

Of the two great bureaus relating to production in this department that of Animal Industry perhaps is more interesting than that of Plant Industry. One large reason for this is that the development of animal industry along proper lines is the strong guaranty that our soils may not be exhausted and the production of profitable plant life thereby become reduced and difficult.

The Department of Agriculture in 1910 issued a number of maps graphically locating in the various States classes of domestic animals used for food—cattle (other than milch cows), sheep, swine.

It will be noted that of that portion of the United States, North and South, thickly populated, and where game has ceased to be a large food factor, swine is the most uniformly distributed of the various food-producing animals.

The estimated values of these three classes for 1912 was—

Cattle, other than milch cows	$790,064,000
Swine	528,228,000
Sheep	181,170,000

When we recall the fact that this capital in hogs is turned about twice, while turned but once in cattle, and, further, when we remember that most landholders, large and limited, produce swine for home consumption and the market, and since swine products are served on more tables and on an average greater number of meals at each table than any other meat, not only in America, but in the world, the relative importance of our swine will become apparent.

Further, the readiness and steadiness of market for swine products, stretching back through a number of decades, with increasing readiness and steadiness at present, further emphasizes the importance of this branch of our animal industry.

While tick, mange, scabies, fever, black leg, and foot and mouth diseases have attacked and afflicted the cud-chewing domestic animals for the last 50 years, and thus worried the consumer and veterinary alike, there has been practically but one serious disease attacking our swine, and that is the so-called hog cholera.

It is estimated that through a long stretch of years, 5 per cent of our swine die of natural causes. Of that 5 per cent, 90 per cent die of cholera. This estimate is too low. A record of all the States for the last 27 years show the average loss from diseases of hogs in the United States has been 7.4 per cent, 90 per cent of which would be about 6.6 per cent, which would represent the deaths caused by cholera. The following, Table A, submitted by the Bureau of Animal Industry, shows the result of hog cholera for a 10-year period, beginning with 1903 and ending with 1912:

A.—*Hogs and hog cholera, 10-year period, 1903–1912.*

Average annual number of hogs in United States	53,700,000
Average total losses by disease ... per cent	5.1
Estimated average losses by hog cholera ... do	4.5
Average annual loss by hog cholera ... number	2,417,000
Average annual farm value per hog	$7.36
Average total loss from hog cholera	$17,789,120

The following, Table B, shows an estimate for the various States of numerical and financial loss from hog cholera in the several States for the year ending March 31, 1912.

B.—*Estimate of losses from hog cholera for the year ending Mar. 31, 1912.*

[Based on data compiled by Bureau of Statistics, Department of Agriculture.]

State.	Number hogs estimated in State Jan. 1, 1912.	Number of hogs lost by hog cholera.	Percentage lost due to hog cholera.	Total value hogs in State Jan. 1, 1912.	Value of hogs lost by hog cholera.
Maine	101,000	1,363	1.35	$1,162,000	$15,700
New Hampshire	53,000	954	1.80	556,000	10,000
Vermont	111,000	3,996	3.60	1,110,000	40,000
Massachusetts	117,000	3,685	3.15	1,322,000	45,000
Rhode Island	16,000	259	1.61	192,000	3,100
Connecticut	60,000	2,592	4.32	696,000	30,700
New York	777,000	20,279	2.61	7,925,000	206,900
New Jersey	165,000	5,940	3.60	1,864,000	67,100
Pennsylvania	1,141,000	37,995	3.33	11,410,000	380,000
Delaware	59,000	4,048	6.74	425,000	29,200
Maryland	345,000	23,284	6.74	2,760,000	186,300
Virginia	880,000	31,680	3.60	5,544,000	199,600
West Virginia	363,000	13,394	3.69	2,432,000	89,600
North Carolina	1,495,000	55,638	3.96	10,397,000	401,700
South Carolina	797,000	43,038	5.40	6,376,000	344,300
Georgia	2,098,000	169,938	8.06	14,057,000	1,138,600
Florida	954,000	85,860	9.00	4,961,000	446,500
Ohio	3,578,000	225,414	6.30	29,340,000	1,848,400
Indiana	4,031,000	453,487	11.25	31,039,000	3,491,900
Illinois	4,640,000	897,940	20.35	40,832,000	7,901,000
Michigan	1,382,000	49,752	3.60	11,747,000	422,800
Wisconsin	2,051,000	51,686	2.52	19,690,000	496,200
Minnesota	1,702,000	47,440	2.70	17,701,000	493,400
Iowa	9,689,000	697,708	7.20	94,952,000	6,837,600
Missouri	4,491,000	646,704	14.40	31,437,000	4,527,000
North Dakota	359,000	4,846	1.35	3,770,000	50,900
South Dakota	1,104,000	37,756	3.42	9,936,000	336,000
Nebraska	4,267,000	230,418	5.40	37,550,000	2,027,700
Kansas	2,808,000	333,590	11.88	22,183,000	2,635,300
Kentucky	1,724,000	108,612	6.30	9,310,000	586,500
Tennessee	1,574,000	99,162	6.30	9,691,000	604,900
Alabama	1,533,000	89,680	5.85	9,994,000	583,000
Mississippi	1,577,000	106,447	6.75	10,250,000	692,000
Louisiana	1,642,000	147,780	9.00	9,524,000	857,100
Texas	2,544,000	77,846	3.06	16,027,000	485,900
Oklahoma	1,410,000	184,605	13.05	7,758,000	1,012,000
Arkansas	1,738,000	218,988	12.60	9,385,000	1,182,500
Montana	143,000	2,445	1.70	1,416,000	24,200
Wyoming	43,000	464	1.08	370,000	3,900
Colorado	211,000	3,798	1.80	1,688,000	30,400
New Mexico	50,000	720	1.44	410,000	5,900
Arizona	22,000	237	1.08	231,000	2,500
Utah	79,000	1,137	1.44	711,000	10,200
Nevada	30,000	648	2.16	315,000	6,800
Idaho	212,000	2,671	1.25	1,696,000	21,300
Washington	246,000	4,870	1.98	2,337,000	46,200
Oregon	258,000	3,715	1.49	2,193,000	31,500
California	830,000	18,675	2.25	6,889,000	155,000
United States	65,410,000	5,251,010	8.02	523,328,000	42,042,900

The following, Table C, represents the record of loss for the last 27 years; it will be noted that the loss above includes all diseases of swine, 90 per cent contributed by hog cholera.

C.—*Swine, number per 1,000, died from disease, years ending Mar. 31, 1884 to 1912.*

State or Territory.	1884	1885	1886	1887	1888	1889	1890	1891	1892	1893	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912
Maine	30	40	50	40	14	13	22	17	14	16	8	34	20	23	13	18	13	15	9	14	10	12	12	10	11	15	21	20	15
N. Hampshire	30	40	30	40	20	18	20	20	16	22	34	34	22	23	24	20	20	14	19	12	15	22	20	14	15	14	17	20	20
Vermont	40	30	30	50	18	15	22	17	18	33	15	51	18	24	17	25	18	24	20	24	15	18	17	14	15	14	24	19	30
Massachusetts	30	40	40	40	23	13	20	20	14	23	30	22	16	18	16	19	22	16	21	25	23	20	18	25	22	21	15	21	35
Rhode Island	30	30	30	30	13	15	18	16	17	16	27	18	21	23	27	31	18	24	19	24	25	22	19	19	23	20	22	22	18
Connecticut	40	30	30	50	20	14	18	25	23	37	47	43	10	25	16	19	17	19	24	30	28	23	20	18	23	21	22	28	48
New York	30	40	40	45	22	25	25	30	19	31	28	38	32	32	25	24	20	19	19	18	33	17	19	21	18	19	23	25	29
New Jersey	30	70	20	50	16	30	20	24	18	14	14	42	45	33	40	43	27	25	29	31	32	22	22	28	24	28	35	30	40
Pennsylvania	40	60	40	90	30	23	30	27	20	28	21	30	36	31	30	32	26	24	32	36	27	23	23	28	27	27	30	36	37
Delaware	40	60	80	65	37	100	70	50	40	31	.....	.....	49	53	59	47	57	27	37	58	101	43	30	30	28	33	36	31	30
Maryland	60	100	130	200	73	41	64	45	35	23	23	45	35	58	71	42	37	47	33	32	31	43	35	30	29	33	30	32	75
Virginia	100	100	120	270	74	50	75	55	53	65	30	44	65	75	78	37	45	43	46	61	55	43	40	45	46	42	39	35	40
West Virginia	100	50	50	100	67	48	56	45	50	28	22	23	50	70	70	60	49	31	28	36	35	30	31	33	25	30	23	25	41
North Carolina	100	100	130	200	80	63	100	72	70	95	61	81	110	98	91	61	65	49	80	68	98	97	55	65	60	40	40	40	44
South Carolina	90	130	140	130	74	75	85	50	62	72	85	100	110	91	75	82	73	61	52	66	75	85	50	55	57	51	50	47	60
Georgia	130	110	130	150	75	130	90	85	97	105	76	102	115	126	108	90	94	103	89	118	89	51	53	50	44	55	52	57	90
Florida	90	120	250	130	90	125	107	110	75	200	81	138	130	108	140	85	118	91	104	113	72	82	75	68	73	72	60	75	100
Ohio	70	50	50	80	57	38	54	60	40	34	33	50	32	108	72	65	46	55	41	50	50	38	50	40	35	35	37	34	70
Indiana	80	60	70	110	90	65	95	94	60	50	30	73	148	238	74	115	69	56	41	73	73	54	60	58	52	52	63	62	125
Illinois	90	70	150	180	80	60	70	85	75	53	39	145	242	145	104	104	68	77	47	74	58	46	60	48	70	45	41	60	215
Michigan	40	30	50	50	61	23	40	35	53	26	17	21	38	35	33	39	29	38	29	30	37	25	22	31	30	29	27	35	40
Wisconsin	50	40	40	50	57	46	32	42	41	40	32	40	41	31	50	49	31	103	31	25	27	22	20	24	23	21	25	21	28
Minnesota	50	50	30	40	20	34	30	24	40	26	20	36	53	92	180	79	81	94	35	39	50	21	30	33	30	34	30	29	31
Iowa	60	80	130	100	82	50	75	82	53	84	42	193	207	329	173	174	77	90	48	53	55	42	45	50	60	54	53	43	87
Missouri	90	90	160	180	95	67	80	120	50	54	58	118	200	167	110	90	70	48	44	67	77	74	65	54	64	65	59	48	159
North Dakota	50	80	80	60	47	34	75	45	32	38	12	22	20	48	20	18	22	24	14	20	34	13	11	16	11	25	17	17	13
South Dakota	.....	.....	80	60	47	34	75	45	29	35	40	71	90	144	229	62	39	100	52	68	54	23	95	61	45	60	51	42	38
Nebraska	40	150	170	100	85	55	85	145	40	46	56	123	138	159	128	98	74	140	65	77	57	46	88	75	70	75	47	36	60
Kansas	30	70	150	150	77	55	58	100	37	40	43	78	130	178	70	60	60	50	33	35	30	34	31	37	40	66	40	40	132
Kentucky	100	80	90	120	80	63	95	98	42	55	60	142	105	159	100	85	81	67	49	50	71	63	55	52	52	58	57	59	70
Tennessee	110	100	130	190	117	97	93	100	73	50	71	162	120	138	93	96	92	90	61	64	79	73	47	53	55	52	47	47	70
Alabama	150	140	200	170	80	110	103	82	80	120	69	116	130	140	79	73	78	94	69	71	82	57	60	55	56	70	48	41	65
Mississippi	130	150	180	200	90	80	115	82	86	90	58	88	120	132	86	79	54	85	57	41	81	69	60	57	75	65	50	52	75
Louisiana	180	160	150	180	95	90	97	94	53	106	62	94	115	275	155	114	101	75	99	116	85	113	120	80	85	75	65	68	100
Texas	140	150	200	130	75	55	75	75	37	59	47	60	80	116	56	39	39	59	61	43	37	55	42	40	50	35	30	30	34
Oklahoma	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	23	54	48	47	5	(105 46	81 27	103 25	78 24	160 23	53 23	43 50	40	60	50	32	145
Arkansas	120	150	220	200	125	105	106	110	86	123	83	112	180	210	128	108	122	123	87	70	108	122	80	75	91	85	80	68	145
Montana	60	80	50	80	30	25	60	30	20	15	14	35	8	43	8	24	8	9	9	17	9	11	44	20	19	22	25	15	19
Wyoming	.....	50	30	50	35	25	50	40	15	10	10	30	17	8	4	5	3	5	11	17	34	11	4	23	20	13	30	10	11
Colorado	40	50	30	50	40	20	50	22	18	12	15	30	60	27	18	9	17	16	30	23	15	21	25	20	31	18	20	15	27
New Mexico	70	70	60	60	80	62	50	43	37	12	10	17	26	58	4	2	9	30	10	20	8	18	15	17	15	17	38	25	10
Arizona	50	70	30	50	40	25	60	30	30	15	.....	32	13	90	1	2	8	21	22	22	53	94	20	15	10	23	13	19	12
Utah	30	60	40	40	51	35	54	40	15	23	11	32	20	30	13	12	9	11	5	20	10	14	40	6	42	19	20	17	16
Nevada	50	60	50	80	30	20	35	25	32	35	50	0	23	15	2	6	47	19	10	18	18	21	20	40	30	30	8	22	24
Idaho	50	70	50	50	37	30	60	32	30	30	.....	7	30	41	3	38	15	23	24	25	28	11	15	13	11	12	15	19	14
Washington	50	50	50	40	27	26	58	25	25	10	24	21	30	36	11	11	33	23	24	18	20	16	13	18	15	23	22	17	22
Oregon	60	60	30	50	30	23	67	23	24	37	10	12	22	35	18	15	22	30	27	27	13	15	12	10	16	30	20	18	16
California	50	70	50	100	40	25	59	48	31	29	18	49	80	82	33	56	28	53	61	57	45	33	32	50	25	31	38	33	25
United States	86	91	130	134	78	62	76	84	54	63	49	92	127	141	93	83	64	75	52	58	58	51	51	49	52	51	45.1	41.8	89.1

Estimated 90 per cent of loss due to hog cholera.

This loss would equal a very liberal income on the capital invested.

It was but to be expected that our great Secretary of Agriculture, who is now rounding his career of 16 years' continuous service in the presidential Cabinets of three Presidents, thus surpassing the record of all the Americans, should early and persistently direct the scientific experts of his department toward discovery of a cure for this disease, or a preventive remedy, which, if it would not cure, would check its spread.

The investigation of the scientists in the Department of Agriculture extended for a number of years toward finding a cure. In this the department was not and does not claim to have been successful. The testimony of Dr. Melvin, Chief of the Bureau of Animal Industry, and of Dr. Dorset, head of the Biochemic Division of that bureau, before the Committee on Expenditures in the Department of Agriculture developed the following facts: Along the line of investigation and experiment, beginning 1903, a serum was sought which would serve as a preventive of hog cholera, and under the direction of Dr. Dorset, in 1905, was produced and administered by the department as an effective preventive. It is the theory of the scientists—

That the disease is caused by an invisible organism that is so small that it passes through the finest porcelain filters and is not discernible with microscopes of the highest power. The method, generally speaking, of production is to take the hog which has recovered from the cholera, or is for any other cause immune, and inoculate it with a sufficient amount of blood taken from a sick hog. The effect of that injection is to heighten the immunity of the immune so that its blood will contain protective substances in such amount that comparatively small portions of this treated immune serum will protect the treated hogs from cholera.

It is confidently asserted by not only the discoverer of this preventive remedy, but by the head of the bureau and the Secretary himself, that as a preventive the serum is absolutely effective.

It was resonably considered that this preventive remedy being discovered, the process made known free to the American people, would prompt its early general production and application, but individuals, content with no attack being made upon their herds, looked to the States and the States looked to the General Government to advance its use until the ravages of the cholera, which moves in cycles and sections, comes home to the herd owner, and then it is too late to go through the process of production and application, each of which requires knowledge, skill, and care. The result, therefore, has been that although this discovery was complete in 1905, the campaign against hog cholera has not become general and effective enough even to stay the general high rate of mortality among hogs, but the losses have actually increased, so that the estimated loss for 1912 was $42,000,000.

The magnitude of this loss appears in the figures, but it must be understood that it does not fall entirely upon the swine owner. The loss ultimately falls not only upon the producer, but upon the consumer; and then, of course, the larger question of health to the consumer, while sometimes appearing only in the background, should challenge consideration.

Of the three great diseases attacking our meat-producing animals, hog cholera, southern cattle tick, and tuberculosis, probably rank in the order named.

The actual annual loss through death from cholera is estimated from eighteen to forty million dollars. The estimated loss for the cattle tick from four to eight million. I can not state definite satisfactory figures of the loss by tuberculosis. Of course the loss or damage arising out of lack of growth, deterioration of meats, hides, and so forth, would increase these figures in each class, more particularly perhaps in the second.

The work of aiding the meat producers of the country is well under way in those States where the southern cattle tick is prevalent. The department has cleared a large territory, which if grouped, would equal the States of Georgia, Alabama, and Mississippi. This is done by the Government's first discovery of a remedy; and, second, through cooperating with the States, and individuals, bringing home the demonstrations of the process to the small producer as well as large producer, so that it once being demonstrated in a community, its efficacy shown, the individuals are encouraged to use the process to their own advantage and to the ultimate advantage of the general consumers. The committee has, in a limited way, recommended this general method toward eradication of the hog cholera. The different States have collectively appropriated something over $200,000 for the production of serum and a demonstration of its manner of application.

A great deal of good can be accomplished by the Government making demonstrations throughout the different sections of the country of the efficacy of its process. If its preventive remedy is what the department claims for it, it would be money well spent to encourage and stimulate its use through every State in the Union. If it is not effective, then it should be known and the department should continue its efforts toward discovering other methods of treatment.

The department has made a number of semiprivate demonstrations and two notable public demonstrations of the manner of application with the serum treatment. I submit a part of the evidence given by Dr. Melvin, found on pages 16, 17, and 18 of his testimony before the Committee on Expenditures. The Kansas City and Omaha experiments, of course, were the most representative and hence most conclusive.

The statement is as follows:

The CHAIRMAN. Please furnish specific incidents of those six years where you have sent the agents of your department to centers of hog-cholera infection and demonstrated your work.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF ANIMAL INDUSTRY,
Washington, D. C., January 24, 1913.

PARTIAL SUMMARY OF RESULTS OBTAINED FROM APPLICATION OF BUREAU OF ANIMAL INDUSTRY'S ANTICHOLERA SERUM.

[All animals were kept under ordinary farm conditions.]

October 19, 1908 (Michigan): Infected herd. When visited 1 hog had died, 7 were sick, and 21 apparently well. Treated, 23 (3 of which were sick). Untreated, 5.

Results: Treated, survived, 22, or approximately 96 per cent; untreated, survived, none.

October 20, 1908 (Michigan): Herd slightly infected. Treated, 11; untreated, 4.

Results: Treated, all remained well; untreated, all died.

July 15, 1909 (Maryland): Experiment. Owner had lost nearly all of his herd. He bought 11 pigs and agreed to have some of these treated by the serum simultaneous method and others inoculated with virus alone to serve as checks. Treated, 7; virus alone, 3.

Results: All treated animals remained well; all virus-alone animals died.

August 25, 1909 (Virginia): Data incomplete on account of remoteness of the herd, but reported that all treated animals remained well, while all untreated ones died.

September 15, 1909 (Virginia): Data incomplete. All treated animals remained well; all untreated animals died.

December 6, 1909 (Virginia Agricultural Experiment Station): Herd infected. Treated, 43, many of which were sick; untreated, none.

Results: Survived, 29, or approximately 68 per cent; died, 14, or approximately 32 per cent.

December 21–22, 1909 (Virginia): Herd very badly infected. About 35 animals had died, and practically all of the survivors were showing symptoms of hog cholera to a greater or less degree. Treated, 113, many of which were sick; untreated, 179.

Results: Treated, survived, 79, or approximately 69.91 per cent; treated, died, 34, or approximately 30 per cent; untreated, survived, 111, or approximately 62 per cent; untreated, died, 68, or approximately 38 per cent.

These data are incomplete, as at last report some of the untreated animals were said to have been "looking badly."

February 18, 1910 (West Virginia Hospital for Insane): Herd infected. Treated, 47, many of which showed early symptoms of disease; untreated, 52.

Results: Treated, survived, 36, or approximately 76 per cent; treated, died, 11, or approximately 24 per cent; untreated, died, 52, or 100 per cent.

April 16, 1910 (Maryland): Disease just beginning. Treated, 34; untreated, 16.

Results: Final report stated that all treated animals remained well. No mention was made as to the untreated ones.

April 16, 1910 (second herd, Maryland): Data incomplete; no detailed final report. Only the general statement received that all treated animals remained well.

July 9, 1910 (Iowa): Owner had lost the greater portion of his herd and had procured 14 pigs from one of his neighbors for this experiment. The simultaneous method was employed. Treated by, 11; virus alone, 3.

Results: Treated, survived, 8, or approximately 73 per cent; treated, died, 3, or approximately 27 per cent. All virus-alone animals died.

July 21, 1910 (Nebraska): Infected herd. Data incomplete. The final report was to the effect that nearly all treated animals survived. No statement as to the untreated ones.

November 12, 1910 (Washington, D. C., Jail): Herd badly infected. Treated, 18; untreated, exact number not known.

Results: Treated, survived, 14, or approximately 78 per cent; treated, died, 4, or approximately 22 per cent; untreated, no exact data. Received only the statement that all untreated animals died.

December 2, 1910 (Maryland): Disease just beginning; 4 animals had died. Treated, 82; untreated, 34.

Results: Treated, survived, 73, or approximately 90 per cent; treated, died, 9, or approximately 10 per cent.

(The report on the untreated hogs is incomplete, but as near as could be determined 73 per cent died and 27 per cent survived.)

March 3, 1911 (Maryland Agricultural Experiment Station): Herd slightly infected. Treated, 42, 3 of which showed the early symptoms of hog cholera; untreated, 0.

Results: Treated, survived, 41, or approximately 98 per cent; treated, died, 1, or approximately 2 per cent. (This animal was one of those which were sick when treated.)

March 16, 1911 (Virginia): Herd badly infected. Treated, 24; untreated, 9.

Results: Treated, survived, 18, or 75 per cent; treated, died, 6, or 25 per cent; untreated, died, 9, or 100 per cent.

December 20, 1911 (North Carolina): Herd not infected. Treated, 4; untreated, 0.

Results: All animals remained well.

December 8, 1911 (Virginia): Herd infected. Treated, 8; untreated, 4.

Results: Treated, survived, 6, or 75 per cent; treated, died, 2, or 25 per cent; untreated, survived, 1, or 25 per cent; untreated, died, 3, or 75 per cent.

December —, 1911 (Maryland): Herd badly infected. Approximately 200 hogs had died. This herd is a very valuable one, being composed of pure-bred Duroc-Jerseys. Treated, 6; untreated, approximately, 40.

Results: All treated animals survived. No accurate figures given as to the untreated animals; only the general statement was received that "a large number had died."

January 2, 1913 (Bureau of Animal Industry, Division of Animal Husbandry): Healthy herd, and was treated by the serum simultaneous method. Treated, 60; untreated, none.

Results: All animals remained well.

January 22, 1912 (Maryland): Herd infected. One animal had died and 3 were sick. Treated, 5, 3 of which were sick when treated. Untreated, none.

Results: Three, or 60 per cent, of these animals died (sick when treated); 2, or 40 per cent, of these animals survived (well when treated).

January 25, 1912 (Columbia Hospital for Deaf): Herd badly infected. Treated, 4. Number of untreated animals could not be ascertained.

Results: All treated animals survived. Reliable data concerning the untreated ones could not be obtained.

January 26, 1912 (Fort Hunt, Va.): Herd infected. Treated, 14; untreated, 18.

Results: Treated, survived, 13, or approximately 93 per cent; died, 1, or approximately 7 per cent. Untreated, survived, 8, or approximately 45 per cent; died, 10, or approximately 55 per cent.

February 27 and April 20, 1912 (Government Hospital for Insane, D. C.): This herd was infected and kept under poor hygienic conditions. Treated, 120; untreated, 44.

Results: Treated, survived, 118, or approximately 98 per cent; died, 2, or approximately 2 per cent. Untreated, no exact figures could be ascertained concerning these hogs, but the asylum veterinarian placed it at approximately 90 per cent.

November —, 1912 (Iowa Agricultural College): Disease just beginning. One or two hogs not eating well. Treated, 24; untreated, 3.

Results: Treated, survived, 24; untreated, died, 3.

December 14, 1912 (Virginia): Herd infected. Treated, 4; untreated, 4.

Results: Treated, survived, 4, or 100 per cent; untreated, survived, 1, or 25 per cent; untreated, died, 3, or 75 per cent.

July, 1908 (Kansas City, Kans.): Experiment. Thirty-five young shoats were purchased from a farm where hog cholera had not existed. These pigs, having been carried to the Kansas City stockyards and being in charge of a committee appointed by the exchange, were treated as follows: Twenty-two were injected with anthog-cholera serum prepared by the bureau. Four were injected with virulent hog-cholera blood. Nine were not treated in any manner. All were placed in a pen together. As was expected, the 4 pigs inoculated with the virulent blood contracted hog cholera within a short time and all died. The 9 "checks" contracted hog cholera from those which were inoculated with hog-cholera blood, and they also died. The 22 pigs treated with the serum remained well with the exception of one or two, which were slightly affected on one or two days. It is not certain, however, that the trouble with the treated hogs was hog cholera, as none died. All of the autopsies on the check animals showed typical lesions of hog cholera.

August, 1910 (South Omaha, Nebr.): Experiment. This experiment was undertaken at the request of State officials and the Nebraska Swine Breeders' Association. The Union Stock Yards Co., of South Omaha, also offered to cooperate and to bear the expense incident to the purchase and care of hogs used in the experiment. Thirty pigs, weighing from 40 to 60 pounds, were purchased from a farm which had been free from hog cholera for several years. These hogs were carried to the stockyards and, on July 23, 1910, 4 of them were injected with blood from hogs sick of hog cholera. These injected pigs, which were placed in a pen by themselves, became sick on the 28th of July, at which time 18 of the remaining pigs were given one dose of the serum, while the other 8 pigs were not treated in any way. The 18 serum-treated pigs and the 8 untreated pigs were then placed in the same pen with the 4 pigs which had been made sick of hog cholera. The 4 pigs which were inoculated with hog cholera all died. The 8 untreated check pigs all contracted hog cholera from the 4 inoculated ones. The 18 pigs which were given serum and which were confined in the same pen with the 4 original sick pigs and with the 8 untreated pigs, which became sick, remained perfectly well and were finally turned over to the officials of the stockyards company upon the completion of the experiment on September 17, 1910.

In conclusion, the total number of hogs treated by both the serum-alone and the serum-simultaneous methods in the above demonstrations was 744, of which 613, or approximately 82 per cent, survived, while of the untreated hogs, which numbered 362, 228, or approximately 65 per cent, died. The figures given showing the percentage of the untreated animals which died are not absolutely correct in that in the case of two herds the report was to the effect that a large number of untreated hogs died, while in four herds it was reported that all untreated animals died. As we had no definite data as to the number of untreated animals in these herds, they were not considered in figuring the percentage.

Mr. SLOAN. The various States have appropriated for the purpose of advancing the serum treatment as follows:

Ohio	$40,000
Pennsylvania	25,000
Missouri	25,000
Illinois	22,500
Nebraska	15,000
Kentucky	$10,000 to 15,000
California	8,000
Minnesota	6,000
Georgia	5,000
Maryland	5,000
Mississippi	5,000
Oklahoma	3,750
North Dakota	3,000
Kansas	3,000
Virginia	3,000
Iowa	2,500
Arkansas	2,000
Michigan	1,500
North Carolina	1,500
South Carolina	1,500
Wisconsin	600

The following States have either very small or indefinite funds provided: Delaware, Indiana, New York, South Dakota, and Louisiana.

I believe that any reasonable sum appropriated and prudently spent by the Government in forwarding this work will be returned to the people of the country, who are paying very high prices for their meats many hundredfold.

If even a fair measure of success should follow the extended use of this serum or other treatment that the department may find efficacious, there would be practical encouragement given to the States and individuals for the passage and enforcement of reasonable quarantine measures looking toward the more effective check of this disease between localities where the hog raiser is careful and enterprising and those communities where the owners are indifferent and shortsighted. It is known that the cholera is easily spread from one animal to another and readily carried from one community to another. The lack of known remedy or preventive, and the disastrous results following the infection of a herd, have heretofore prompted the swine owner at the first outbreak of the disease to hasten to market those apparently not infected or least infected. In that way, in the passing from farm to shipping point and being shipped in the various stock cars through the State and into other States, establishes highways for the carriage of this disease to every slaughtering point or yards where stock hogs may be purchased and distributed.

Dr. Melvin says:

In many outbreaks of cholera the disease is subacute, and in this form an owner could ship his apparently well hogs from some Western State to a live-stock center, such as Chicago, and without the disease having been developed sufficiently at the time of their arrival at Chicago to cause suspicion. These hogs might then be bought, and frequently are bought, for shipment to eastern markets, such as Buffalo, New York, or points in Massachusetts. Under the provisions of the 28-hour law these hogs would either have to be fed, watered, and rested in the cars or unloaded in stockyards en route for feed, water, and rest. In the latter case, we would be very apt to have several centers of infection established at these unloading yards between Chicago and this eastern point. Following this, it would be quite a common matter for some farmer or stock raiser in one of these intermediate States to bring in some stock hogs, unload them in these infected pens, and distribute them among his neighbors, and thus have a number of centers of infection established. This same thing would apply to hogs which might be shipped out of a State through one of these infected railroad yards. On account of the prevalence of cholera the department does not now permit the shipping out from any of the large stockyard centers of hogs for breeding or feeding purposes, because these yards are considered as being constantly infected with cholera.

Perhaps half of our swine for slaughter are carried into interstate commerce. Cooperation in quarantining with the best results should be between the States and the Government. With the large losses confronting the producers in every State, quarantine regulations for swine shipped for slaughter have been absolutely nil or, at least, not strict. There is a decided lack of uniformity. To show this lack of uniformity, speaking roundly, the States may be placed in the following classification:

First. Those that have some general quarantining provisions.

Second. Those whose quarantine provisions of law apply only to shipments of hogs for exhibition or breeding purposes, or both.

Third. States having no quarantine regulations for hogs.

There are in the first class: Alabama, Arizona, Arkansas, California, Iowa, Louisiana, Maryland, Minnesota, Mississippi, North Dakota, Pennsylvania, South Dakota, Utah, Wyoming.

In the second class: Indiana, Montana, Nebraska, North Carolina, Oklahoma, Oregon, South Carolina, Tennessee, Texas, and Washington.

In the third class: Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Kansas, Kentucky, Maine, Michigan, Massachusetts, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin.

The production of meat for America and the world has been an important problem. To produce it at a reasonable price for the United States alone seems the future problem. The Department of Agriculture, disposing of this problem which we have discussed, has one of the most important problems of meat-food supply. Fortunately this does not relate to any particular locality or section of the United States. While some States are materially in advance of the others, yet there is no assurance that they will remain so long. A recent visit to the South, and an attendance at the National Corn Show at Columbia, S. C., where hundreds of boys were who had been raising from 100 to 200 or more bushels of corn per acre in the various States—Jerry Moore, South Carolina, 228¾ bushels, at cost of 16¾ cents per bushel; James A. Leach, 196¼ bushels, at cost of 10 cents per bushel. This brought home the reflection that, with the increased yield of corn and other cereals in that great and fertile section, the enterprising citizens would be meeting the next important problem after production; that is, transportation. Wise and bold is the legislator who will seek to compel the great common carriers to adjust to an equitable basis transportation charges, but wiser still and more valuable to his community is he who will attempt to solve that transportation question by concentration of that product, so that the transportation company, instead of having the opportunity of hauling corn worth a cent a pound, he must ship swine worth from 5 to 10 cents a pound, reducing in that way the relative percentage of expense to value for transportation charges.

Some years ago a man whom I regard as one of the best financiers of my own State, discussing freight-rate problems, said:

> Railway commissions and legislative maximum freight rates are all right, but that is not the way to beat the transportation company.
>
> Our people are simply raising corn; it takes nearly 2 bushels of corn at this time to get the third bushel of corn to market. Feed it to your hogs, concentrate your product, your transportation burden will be relatively decreased; or feed your corn to your cattle and bring about a similar result; or, instead of shipping the beef, you may concentrate your product further, so that instead of shipping corn that will not pay its own way, ship butter, 1 pound of which will ship 15 of its kind.

This was many years ago; the large concentration of products in saving transportation costs has been doubled and in many cases trebled under the present rates and prices.

I see in the increased impetus of corn raising an increased impetus in swine producing and swine care. I believe that the Government will be doing no more than its economic duty if from time to time it shall, through liberal appropriations and zealous propaganda, teach the swine producers the use of the remedy in which the department has such faith, to the end that the loss to the producer of this property so generally owned may be reduced to a minimum, the high price of this important food be measurably reduced to the consumer, and the health of the public less seriously menaced.

The United States has more than one-third of the hogs of the world. It has less than one-sixth of the cattle and less than one-tenth of the sheep, so that the relative importance of the swine industry may be readily seen. The total value of cattle, including milch cows and beef-producing animals, in the 10 States—10 leading tick States, named in the order of their cattle interests: Texas, Oklahoma, Georgia, Mississippi, Arkansas, Alabama, Louisiana, North Carolina, Florida, and South Carolina—where the southern cattle tick operates is $287,914,000. The value of the hogs in those States amounts to $98,636,000, which is more than one-third of the cattle value. The value of the beef animals in those States is $162,361,000, so that as meat producers the hogs of those 10 States equal 60 per cent of their beef production. The value of the swine in the 10 leading swine-producing States—Iowa, Illinois, Nebraska, Missouri, Indiana, Ohio, Kansas, Wisconsin, Minnesota, and Michigan—not including any of the southern tick States, is $336,471,000.

As an economic factor the hog is entitled to the best of treatment. While not at any time appealing to the aesthetic or ever having been canonized, as a type of dignity he has usually "delivered the goods." He has that which many desire, and even Congressmen, having or desiring rivers and harbors, hover round his repository, "the barrel." This measure is calculated to fill the pork barrel instead of emptying it. He knows no State lines, and has not that regard to altitude, latitude, and longitude for which other meat animals are sticklers. Like a wealthy relative, he becomes most valuable when he dies a sudden and unnatural death. He has aided the pioneer to develop every State, has paid more store debts, bought more land, built more homes, lifted more mortgages, paid more freight, swelled more bank accounts, aided in the erection of more schools and churches, sent more young people to college, has been carried to more markets of the world, satisfied the hunger of more poor, tickled the palates of more rich, and regaled the tastes of more princes than any other meat-producing animal.

It can not be said of him that "he wants but little here below." He wants much; but he wants that not for long.

Remove the menace of cholera and he will become a mint for the free coinage of gold. He is more valuable than all the precious minerals of the mountains, because his veins are reliable and his stock being sold is no imposition upon the buyer.

Demonstrations by the Bureau of Animal Industry in cooperation with States and individuals to test thoroughly the Government's preventive remedy will be money and energy well spent, because if the Government has not an effective remedy, then one should be discovered and used.

The two most damaging diseases to meat animals in this country are hog cholera and the cattle tick. The loss from hog cholera is estimated at from fifteen million to forty-two million

dollars annually for a period of years. I shall submit the figures for a long period of time. Then the loss from the cattle tick by death is estimated at from four to eight millions. That statement of $25,000,000 was inclusive of speculative losses. The estimates of Dr. Melvin for death losses are from four to eight millions. The other estimate, I repeat, is based on speculative losses, which reduce it to the basis of from four to eight millions. That is the rank of the two great diseases which reduce our general meat supply.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. SLOAN. Yes.

Mr. HOBSON. How does the gentleman differentiate between speculative and actual losses?

Mr. SLOAN. When the animal dies the loss is complete; but there is an additional loss through the lack of growth and deterioration. That is speculative.

Mr. HOBSON. I can tell the gentleman that it is more than speculative. In one county where we eradicated the cattle tick we more than doubled the average value of all the cattle in that county.

Mr. SLOAN. It is still speculative, but the speculation approximates a certainty.

Mr. HOBSON. You ought to give an estimate, and I do not think the gentleman ought to count only the death loss, because the death loss is the smallest part of it. All the cattle in my district except that one county are infected with the cattle tick, and all the cattle in that county were infected until they eradicated it.

Mr. SLOAN. I want to say that on that same basis the Government, cooperating in these 10 States, has cleared a territory as great as the States of Georgia, Alabama, and Mississippi, and what was done in that work can be done throughout the United States with the hog cholera.

Mr. HOBSON. I do not question that.

Mr. SLOAN. I ask unanimous consent to extend my remarks in the RECORD.

There was no objection.

Mr. LEVER. Mr. Chairman, it seems to me the committee ought to understand this situation thoroughly before it agrees to increase this appropriation by $200,000. The situation is this: The item in the bill carries an appropriation now of $620,000. The current law carries an appropriation of $600,000. The committee increased that amount $20,000, and I want the committee to know that every dollar of the $620,000 carried in this bill is available for the use of demonstrating the best methods of preventing hog cholera. There can not be any doubt about that proposition, and the fact that this money has not been used in that direction heretofore is not a criticism of the Committee on Agriculture. It is not an evidence of the fact that we have overlooked the great hog industry of the country. It is hardly a criticism of the officials of the Agricultural Department. The fact is that the department, since 1903, has been sending out its bulletins on the prevention of hog cholera, and sending the serums out so that now 30 of the States are working on this very problem, through the serum idea.

Mr. GOOD. It is equally true that all of this $620,000 could be expended for one of a dozen different things, and not a penny of it spent for the eradication of hog cholera.

Mr. LEVER. That is very true, and that is exactly the point I was trying to bring out. It is a question that we must leave to the good judgment of the officials who execute the laws.

Now, some suggestion has been made in reference to the cattle-tick appropriation of $325,000. I want to call the attention of gentlemen to the fact that this work has been in operation in the South for about eight years, but the first appropriation for the purpose of demonstrating the method of eradicating the cattle tick was only $50,000, and not $325,000. We are not certain that the $45,000 that the committee are willing to give will bring the result that we hope to have it bring, but we are willing to spend $45,000 in trying out the method, in trying to ascertain if the serums are, in fact, preventives. But I do not think this Congress ought to be asked to spend $200,000 to try out a proposition which may or may not be good. It seems to me the committee has acted wisely in the fact that it desired to start this work on a conservative basis. If it proves efficacious, if next year we have found a way of demonstrating that serum is a preventive of hog cholera, then I am sure this committee will give you every penny that the Department of Agriculture estimates for this great work. That is the sensible view for us to take. Try out the method; if it is efficient, give sufficient means to carry it to the people.

Mr. HELM. Will the gentleman yield for a question?

Mr. LEVER. Yes.

Mr. HELM. How large a force has the department available to put into the field to guarantee the execution of this work?

Mr. LEVER. In answer to the suggestion of the gentleman, I will say that I do not know how many men they have. I do not know that the department knows. Hence the committee took the sensible course and appropriated a small sum, in order that we might go at this work in a conservative rather than an extravagant manner. We are giving them nearly four times the amount that they have heretofore been using for this purpose.

Mr. HELM. So that if the committee were to vote the $200,000, you do not know whether the department could utilize that sum or not?

Mr. LEVER. Absolutely not; and the gentleman from Iowa [Mr. TOWNER] does not know it. Nobody knows how they would use it, or if they used it whether it would be beneficial to the country in doing what is sought to be done by this amendment. Let us be wise and start at this in a small way, and if it proves good this Congress will do the wise thing and make all appropriations necessary to give the Department of Agriculture sufficient means to carry on the work sought to be done.

Mr. TOWNER. I hope it will not be understood—it certainly is not so intended—that those who favor this additional appropriation intend thereby to cast any reflection or criticism upon the committee. On the contrary, I think the committee is remarkably responsive to the reasonable demands that are made. I am quite sure if this proposition had been originally urged before the committee an adequate appropriation would have been reported. When all the circumstances are known, this proposition ought to appeal to everyone. In the first place, it must not be understood that this serum is a cure for hog cholera. That is a mistake that not only Members of this House make, but many of the farmers of the United States have been making. It is not a cure, but it is an efficacious preventive of hog cholera. We can easily understand how much more difficult it is to get a man who has a herd of hogs that is not affected to use a preventive than it would be to get him to use a cure if his herd was affected. The work, therefore, must largely and must necessarily be a method of demonstration, a method of education, a method of taking into these communities where they raise hogs not only the serum itself, but the method of using it, and the necessity for using it, and a demonstration that its use is efficacious.

When it is understood that every State in the Union is a hog-raising State, when it is understood that interest in the prevention of this deadly plague must be universal throughout the United States, when it is understood that this work must be nation wide if it shall be carried on efficaciously, it seems to me that it must be apparent that this demonstration of the effective prevention of hog cholera must take an amount of work that will not be covered by an appropriation of $45,000. In my judgment $200,000 is a very small amount, and I venture to say that the next bill that will be brought in will contain an appropriation for this purpose very much larger than $200,000.

Mr. NYE. Will the gentleman yield?

Mr. TOWNER. Certainly.

Mr. NYE. Does the gentleman say that this is exclusively a preventive?

Mr. TOWNER. Yes.

Mr. NYE. And should every man that raises hogs get this serum to prevent hog cholera?

Mr. TOWNER. I do not know exactly what is in the gentleman's mind.

Mr. NYE. I mean, if it is a preventive, must all farmers use it as a preventive?

Mr. TOWNER. That is not it. The idea is that when cholera breaks out those in the vicinity whose hogs are not affected ought to know how they can prevent their herds from being affected. The Government ought to be ready to send a man whenever there is an epidemic, so that they can take the serum there and demonstrate its use and educate these farmers who have herds in the immediate neighborhood how they can prevent loss from the epidemic.

Mr. HELM. Will the gentleman yield?

Mr. TOWNER. I will.

Mr. HELM. I am anxious to know how many hog doctors the Agricultural Department has available to use this $200,000?

Mr. TOWNER. It is not that. The Government of the United States can secure, if they have the funds, men in every State from the agricultural colleges who will do this without sending out men directly from the department. But the United States can not do it unless they have the money to pay for it, and unless they have the serum manufactured and made available.

Mr. COX. Will the gentleman yield?

Mr. TOWNER. I will.

Mr. COX. Does the gentleman believe that the Government should go any further than to simply demonstrate work in this particular?

Mr. TOWNER. I do; because the Government ought especially to furnish the serum, for the reason that patent medicine men—the frauds all over the country, who are seeking to prey on the credulous farmer—finding that the use of a serum is considered effective, will assert that their private serum is better than any other, and thus sell the farmers worthless nostrums. They ought not to be put in a position where they can deceive the farmer.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COX. I ask unanimous consent that he have two minutes more.

Mr. LAMB. I call for the regular order.

The CHAIRMAN. The demand for the regular order is equivalent to an objection.

Mr. EDWARDS. Mr. Chairman, in discussing this matter it is not my purpose to in any way reflect on the committee. On the contrary, I have only the greatest praise for the committee because I think they are doing a noble work, a work that means much to the country. This is an important matter. I heartily favor the $200,000 appropriation, and I hope the amendment will prevail. I hope, too, in the passage of the amendment, language will be employed that will restrict the expenditure of this money for this very important purpose.

In 1912 hog cholera cost the farmers of the Government $42,042,000. That presents a serious situation. It is not only a loss to the farmers but it is a loss to the whole country, and if we can secure a remedy against it it will save to the people of the country this enormous sum of money, which is quite worth while.

Mr. HOBSON. Will the gentleman allow me to ask him a sympathetic question?

Mr. EDWARDS. I will, with pleasure.

Mr. HOBSON. Under the present condition of manufacture it costs 90 cents to get serum enough to inoculate a hundred-pound hog. That is ridiculously high, but if you standardize and systematize it it ought not to be half that amount.

Mr. EDWARDS. Mr. Chairman, I quite agree with the gentleman from Alabama [Mr. HOBSON]. I think the work of standardizing and systematizing it should be undertaken.

Mr. MOSS of Indiana. Mr. Chairman, will the gentleman yield for a question?

Mr. EDWARDS. Not just now. I have only five minutes. I believe this important work can best be done through the Department of Agriculture here. In Georgia, the State is undertaking to manufacture and furnish cholera serum to the farmers. I do not know just what the amount is that is being expended there, but it is not a very large amount. I am in favor of getting results, and I believe those results can best be gotten through the National Department of Agriculture, which can work in conjunction and cooperate with the various departments of agriculture in the several States.

As I was about to remark when the gentleman from Alabama [Mr. HOBSON] interrupted me, in 1912 Georgia raised 2,038,000 hogs. Of that number 169,938 died from cholera. That amounted to a little more than 8 per cent of the total number of hogs raised in that State for 1912. The total value of the hogs raised in Georgia in 1912 amounted to $14,057,000. The total amount of loss through cholera in the State of Georgia in 1912 was $1,138,000. I appreciate what the State of Georgia has undertaken to do for the farmers in protecting the hogs against cholera, but I do not think it has gone far enough, and I do not think any of the States of the Union have gone far enough in this matter; and, with all due respect to this important committee, I do not believe this bill goes far enough in the matter. I hope the amendment making the appropriation will prevail.

As has been remarked by the gentleman from Iowa, the serum is not a cure. No more is it a cure for cholera than is vaccination a cure for smallpox, but it is a preventive. If it is used in time, it will prevent the cholera getting among the hogs, just as vaccination will prevent smallpox among people. It is my impression that the cost is about 90 cents for inoculating a hog.

Mr. HOBSON. That is a 100-pound hog?

Mr. EDWARDS. I do not understand that it makes any difference as to the weight.

Mr. HOBSON. Yes; it does vary with the weight.

Mr. EDWARDS. Then, it costs many times what it ought to cost, and I would welcome legislation and action that would not only make certain this remedy but give it to the people at a greatly reduced cost.

The CHAIRMAN. The time of the gentleman from Georgia has expired. All time for debate has expired. The Clerk will report the amendment offered by the gentleman from Nebraska and the amendment to the amendment offered by the gentleman from Iowa.

The Clerk read as follows:

Amendment to the amendment offered by the gentleman from Iowa: Amend, at the end of line 12. Strike out the semicolon and insert a colon, and add the following:

"*Provided*, That of this sum not less than $45,000 shall be set aside for demonstrating the best method of preventing hog cholera."

Mr. HOBSON. Mr. Chairman, I make the point of order against the amendment at this juncture.

Mr. MANN. Why, it has been discussed here for half an hour.

Mr. MAGUIRE of Nebraska. It comes too late.

Mr. HOBSON. Mr. Chairman, I wish to offer an amendment to the amendment, or a substitute for the amendment as amended.

The CHAIRMAN. Does the gentleman offer a substitute for the entire amendment?

Mr. HOBSON. Yes.

Mr. MANN. Mr. Chairman, I demand the regular order.

Mr. LAMB. I demand the regular order.

The CHAIRMAN. The regular order is to vote on the amendment.

Mr. HOBSON. Mr. Chairman, I wish to offer a substitute.

The CHAIRMAN. The gentleman from Alabama will send it up.

Mr. HOBSON. The substitute is to strike out of the amendment the words "eight hundred and twenty thousand" and insert "seven hundred and ten thousand," thus cutting down the increase from $200,000 to $90,000.

Mr. MANN. Mr. Chairman, I submit that if the gentleman will offer an amendment to the amendment of the gentleman from Iowa it would be in order, because the amendment offered by the gentleman from Nebraska is not an amendment except by way of a substitute.

Mr. HOBSON. Then I will make it an amendment to the amendment. I have no objection to that.

The CHAIRMAN. There is already an amendment pending.

Mr. HOBSON. Then, Mr. Chairman, I offer it as a substitute to the entire amendment as amended.

The CHAIRMAN. The question is on the substitute.

Mr. MAGUIRE of Nebraska. Mr. Chairman, I have some doubt whether my amendment is in order properly to the amendment and I ask unanimous consent to withdraw the amendment in the hope that the other amendment will be voted down and then I will offer this amendment following that.

Mr. HOBSON. Then, Mr. Chairman, I offer also an amendment to the amendment of the gentleman from Iowa.

The CHAIRMAN. The gentleman from Nebraska can not withdraw his amendment except by unanimous consent. Does the Chair understand the gentleman asks unanimous consent?

Mr. MAGUIRE of Nebraska. I ask unanimous consent.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. HOBSON. Mr. Chairman, I offer an amendment to strike out the figures "$820,000" and substitute therefor the figures "$710,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the amendment by striking out "$820,000" and insert in lieu thereof "$710,000."

Mr. LEVER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LEVER. I would like to ask the Chair whether this amendment carries any direction to the Secretary of Agriculture as to how this money shall be used?

The CHAIRMAN. The Chair can not state——

Mr. HOBSON. I make the point of order it does not matter how it is used. The gentleman has not reserved any point of order against the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama.

The question was taken, and the Chairman announced the noes appeared to have it.

On a division (demanded by Mr. MANN), there were—ayes 19, noes 43.

So the amendment to the amendment was rejected.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Iowa.

The question was taken, and the Chairman announced that the noes seemed to have it.

On a division (demanded by Mr. GOOD), there were—ayes 31, noes 35.

Mr. GOOD. Tellers, Mr. Chairman.

Tellers were ordered.

The committee again divided; and the tellers (Mr. GOOD and Mr. LAMB) reported that there were—ayes 45, noes 52.

So the amendment was rejected.

Mr. MAGUIRE of Nebraska. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 11, at the end of line 12, by striking out the semicolon and inserting a colon and add the following: "*Provided*, That of this sum not less than $45,000 shall be set aside for demonstrating the best method of preventing hog cholera."

Mr. GOOD. I move to amend the amendment by striking out the figures "$45,000" and inserting "$100,000" in lieu thereof.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the amendment by striking out the figures "$45,000" and inserting in lieu thereof "$100,000."

The CHAIRMAN. The question is on the amendment to the amendment.

The question was taken, and the Chairman announced the noes seemed to have it.

On a division (demanded by Mr. GOOD), there were—ayes 35, noes 47.

So the amendment to the amendment was rejected.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Nebraska.

The question was taken, and the amendment was agreed to.

Mr. LEWIS. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On line 12, page 11, after the figures "$720,000," amend by adding: "Not more than $30,000 of which sum may be applied to indemnifying the owners of milch cows condemned under section 2 of the act of Congress approved March 2, 1895, and the regulations of the District of Columbia in relation thereto."

Mr. LEVER. Mr. Chairman, I reserve a point of order on the amendment.

Mr. MANN. I make the point of order.

Mr. LAMB. I ask unanimous consent that this may go over without prejudice until to-morrow.

Mr. MANN. Mr. Chairman, I make the point of order against the amendment.

The CHAIRMAN. What is the point of order of the gentleman from Illinois?

Mr. MANN. That there is no authority of law for paying for these cattle that are condemned. It has been ruled here year after year.

The CHAIRMAN. The Chair remembers last year the exact point was up, and the Chair sustains the point of order.

Mr. LEWIS. Mr. Chairman, I have not been heard, I submit, on the point of order.

Mr. LAMB. I ask unanimous consent that it go over until to-morrow, without prejudice.

Mr. McLAUGHLIN. Mr. Chairman, I object.

Mr. LEWIS. I understand the matter goes over until to-morrow——

Mr. MADDEN. I object.

Mr. McLAUGHLIN. I object.

The CHAIRMAN. Objection is made.

Mr. LEWIS. I can not hear the Chair.

The CHAIRMAN. It was the understanding of the Chair when the gentleman from Maryland [Mr. LEWIS] made that request that objections were heard.

Mr. LEWIS. I wanted to discuss it. Now, I think I have a point that the Chair might wish to consider in that connection.

The CHAIRMAN. The Chair will hear the gentleman from Maryland.

Mr. LEWIS. I thank the Chairman for his courtesy.

I call the attention of the committee to the fact that this amendment makes no new appropriation. The section of the bill as already framed, as it has already passed through many Congresses, makes an appropriation for specific purposes, because it clothes the Secretary of Agriculture with the power to make applications of this appropriation in the line of the amendment, and he has made applications of the appropriation in that way.

The amendment does not, therefore, consist of an appropriation or new legislation, but consists of a limitation upon an appropriation, for under the statute as it is now, under the paragraph as at present framed, the whole $620,000 might be applied to this object, and the amendment restricts the appropriation to not more than $30,000, and I submit is therefore not subject to the point of order which has been made. The case is so wholly peculiar that the Chair ought to thoroughly understand these facts before making a renewed ruling.

Mr. MADDEN. Will the gentleman yield?

Mr. LEWIS. In regard to the point of order?

Mr. MADDEN. I was going to ask if it was not the custom of States to pay for cattle so afflicted?

Mr. LEWIS. The whole sum is appropriated for that purpose now, if the Secretary of Agriculture chose to so regard it, and the amendment amounts to a limitation upon an appropriation and not to an appropriation itself.

Mr. HOBSON. Will the gentleman yield for a question bearing on that point? In what line of the paragraph does he find authority to use that appropriation for indemnifying owners of condemned tubercular cattle?

Mr. LEWIS. I will ask the chairman of the committee to reply to that question. There is no question of the power of the Secretary of Agriculture to apply the money in that way, and it is now applied in that way in the city of Washington.

Mr. LAMB. In view of this, as well as other matters relating to it, I ask unanimous consent that this paragraph go over until to-morrow without prejudice, when one of my colleagues from Virginia will be here who can not be here to-day.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that this paragraph go over without prejudice.

Mr. MADDEN. Mr. Chairman, I object.

Mr. MANN. I ask for the regular order. Does the Chair desire to hear anything further on the point of order?

The CHAIRMAN. The Chair will be glad to hear from the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, the amendment offered by the gentleman directs the Secretary of Agriculture to use the amount named in the amendment, $620,000, for a certain purpose, and even if it be true that the Secretary of Agriculture might in his discretion use the entire sum carried in the bill for the same purpose, it would still be a change of law to require him to use a specified portion of that sum for that purpose.

Mr. LEWIS. The amendment does not do so. He is expending now money for that purpose. This amendment restricts the amount to which he might otherwise be unrestricted, and which he might expend, to $30,000.

Mr. MANN. That is not how I heard the amendment read.

Mr. LEWIS. That is the purpose.

Mr. MANN. I ask to have the amendment reported again.

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

On line 12, page 11, after the words "six hundred and twenty thousand dollars," amend by adding:

"Not more than $30,000 of which sum may be applied to indemnifying the owners of milch cows condemned under section 2 of the act of Congress approved March 2, 1895, and the regulations of the District of Columbia in relation thereto."

Mr. MANN. That, of course, does not come in the proper place, but that is a matter easily corrected. The same question was up a year ago. While this, as the gentleman stated, does not authorize the Secretary to use it, it authorizes the Secretary to use it for a certain purpose affecting any discretion he has now, although I do not think the Secretary has any authority under the provisions of this act to pay for these milch cows.

Mr. LEWIS. It is conceded by the committee that he has, and he has acted upon it in the past.

Mr. LEVER. Mr. Chairman, I do not think it is quite fair to say that it is conceded by the committee. It may be conceded by some. For one I take the position of the gentleman from Illinois [Mr. MANN] that there is no authority of law by which condemned cattle may be paid for except as they might be entering into interstate commerce. I will read, if the gentleman will permit:

The Secretary of Agriculture has the power to expend any part of this sum in the purchase and destruction of diseased or exposed animals and the quarantine of the same whenever in his judgment it is essential to prevent the spread of pleuropneumonia——

And so forth.

Now, the proposition of the gentleman from Maryland is to condemn these dairy cattle in the State of Virginia and in the State of Maryland and pay for them there regardless of the fact that they are about to enter into interstate commerce and thereby spread this disease from one State to another.

Mr. LEWIS. May I ask the gentleman from Illinois whether it is not a fact that part of this appropriation has been expended in the District of Columbia in payment for condemned animals?

Mr. MANN. Yes; but that is only in consequence of the department's construction.

Mr. LEVER. I believe that is simply a matter of construction.

Mr. MANN. If the Chair thinks there is no authority in the law, the Chair does not bother with the question as to whether somebody has expended the money improperly in one of the departments. The matter has been up on several occasions and has been thrashed out thoroughly both before and since the

gentleman from Maryland [Mr. LEWIS] came into the House, and the ruling always has been that there was no authority in the law for the Secretary of Agriculture to pay for cattle condemned in Virginia or Maryland or other States having no relation to interstate commerce.

But the amendment of the gentleman from Maryland [Mr. LEWIS] would authorize it, and it is for that purpose that it is intended. It would authorize the Secretary of Agriculture, when one of the inspectors goes into an adjoining State and finds something the matter with the cattle, to pay for those cattle, and if that is to be the policy of the Government, the same rule should be applied to payment for hogs that have been condemned on account of hog cholera under the provisions of this act. It has already been stated that that amounts to many, many millions of dollars a year.

Mr. LEWIS. Does the gentleman from Illinois think it quite fair to argue the supposed merits of this matter when the point of order is up and the argument should be confined to the point of order and not be upon the merits?

Mr. MANN. I am not arguing the supposed merits. I am arguing the point of order, pure and simple, as to what the effect of the ruling would be holding a provision of this sort in order.

Mr. LEVER. Mr. Chairman, is the Chair ready to rule?

The CHAIRMAN. The Chair is ready to rule, but the Chair will hear the gentleman from South Carolina if he desires to be heard.

Mr. LEVER. I was about to suggest, Mr. Chairman, that the statement of fact made by the gentleman from Maryland [Mr. LEWIS] as to the Department of Agriculture having paid for cattle condemned in the District of Columbia is no doubt correct. There is no question about that. But I doubt the authority of the Secretary of Agriculture to do that, although I have some recollection that he got his authority from an act relating to the District of Columbia, but there certainly can be found nowhere in any of the acts touching the establishment of the Bureau of Animal Industry or in legislation since its establishment which gives the Secretary of Agriculture the right to indemnify the owners of cattle that are killed, unless to prevent them from spreading from one State to another through the channels of interstate commerce, and the authority for that I read to the Chair a moment ago.

The CHAIRMAN. The Chair will ask the gentleman from Maryland [Mr. LEWIS] if he knows any authority of law for the payment of that except that portion of the statute which the gentleman from South Carolina has read?

Mr. LEWIS. And the departmental construction that has been given to it.

The CHAIRMAN. The recollection of the Chair is that this exact matter has been before the committee some two or three times, and——

Mr. LEWIS. Does the Chair notice the expression here "to purchase diseased and exposed animals," and so on, in this last paragraph?

The CHAIRMAN. No point of order is made against that, although it might be subject to it, but a point of order is made against this.

Mr. MANN. I know that the gentleman from Maryland does not intend to mislead the Chair, but that expressly provides in relation to animals going from one State to another.

The CHAIRMAN. The recollection of the Chair is that the other item referred to is substantially in the language of the law quoted by the gentleman from South Carolina. It is the opinion of the Chair that the amendment is not in order, and therefore the Chair sustains the point of order to it. The Clerk will read.

The Clerk read as follows:

For all necessary expenses for the eradication of southern cattle ticks, $325,000.

Mr. BOOHER. Mr. Chairman, I move to strike out the paragraph.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Missouri [Mr. BOOHER].

The Clerk read as follows:

Page 11, strike out the paragraph included in lines 13 and 14.

Mr. BOOHER. Mr. Chairman, I am opposed to certain provisions in this bill because I am opposed to paternalism of any kind, and there is more paternalism in this bill than in any other that can possibly come before Congress. It is hardly possible to so frame the Agriculture appropriation bill that all paternalism can be avoided. The best we can do is to reduce it to a minimum.

The paragraph we are now considering appropriates $325,000 for the purpose of eradicating cattle ticks. This matter refers to one section of the country, but is of national importance, and is defensible only on this account. In 1907 Congress began appropriating for the eradication of the cattle tick. They appropriated first $82,500. Next year they appropriated $150,000. For each year since then they have appropriated $250,000, and this year $325,000 is carried in this bill. Already there has been appropriated the sum of $1,232,500.

Mr. HOBSON. I want to ask the gentleman whether he makes a distinction between tick eradication, which, by the way, I want to tell him, is going on very successfully in my district—whether he makes any distinction between that and the various other processes that are usually termed "quarantine," as, for instance, the extinction of yellow fever or the checking of cholera or any other scourge that is brought from abroad or from State to State; not in any locality, but as an interstate matter? I wish to know whether he regards this particular work as distinguished from the other work of saving the public at large from a scourge?

Mr. BOOHER. The gentleman's question is a very elaborate one, and I really have not the time in my five minutes to answer it; but I do not discover any similarity between a quarantine law preventing the spread of cholera from one State to another, or the smallpox from one country to another, and the eradication of the cattle tick. When they have smallpox in my community, and people are quarantined, the man who has smallpox pays the doctor if he is able, and if not the county pays the bill.

Mr. HOBSON. The gentleman realizes that all of this is based on quarantine?

Mr. BOOHER. I know. The eradication of the cattle tick has come down to be so simple that the man who has no brains at all can get rid of the ticks on his cattle. I can prove that from the hearings before the Committee on Agriculture. I am going to read from these hearings just what each State veterinarian who was before that committee said about it.

I want the committee to remember that it is the simplest thing in the world to eradicate the cattle tick. All a man has to do is to drive his cattle through a vat that contains the dip, and the ticks are gone. Yet by this bill you are appropriating $325,000 to help people help themselves. I have no objection to the Government spending money to find remedies for these things. I believe the Government ought to find the remedy, and after it finds the remedy I believe it ought to furnish it to the people, but I do not believe the Government ought to go over this country telling men how they must do everything, as this bill provides. Why not let the people depend somewhat upon their own intelligence?

Let us see about this. Let us take first the testimony of Dr. Dalrymple, State veterinarian of Louisiana. This is what Dr. Dalrymple said before the committee:

This tick eradication work is the simplest thing possible.

That is what the State veterinarian of Louisiana says. Then he goes on to say:

This dipping-vat process, with the standard arsenical solution, is absolutely the thing to do it with.

Now, you have a formula provided by the Government. It costs on an average $35 to build a vat and put your liquid in. You can fill it full and dip two or three hundred cattle. Yet you want $325,000 to enable you to do it.

How much has Louisiana appropriated to carry on this work? Five thousand dollars a year. Yet they say their loss in Louisiana is from $3,000,000 to $5,000,000 a year. That State, in the face of that fact, appropriates only $5,000 each year to carry on that work.

Dr. Dalrymple goes on to say:

Our loss is from $3,000,000 to $5,000,000 on acount of this cattle-tick business.

If it is true that you have so simple a remedy as Dr. Dalrymple says it is, I want to know why the people can not use it instead of asking Congress to do it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BOOHER. I ask unanimous consent to proceed for 10 minutes.

Mr. LAMB. I hate to object, but we must get on with this bill.

Mr. SIMS. Oh, we have not heard such a speech as this in a long time.

Mr. MANN. Can not the gentleman secure an agreement to close debate on this paragraph and amendments?

Mr. LAMB. I am willing to yield to the gentleman from Missouri [Mr. BOOHER] five minutes.

Mr. BOOHER. No. I want to say to the committee that I tried to get time before the general debate closed to discuss this proposition, and I could not get it.

Mr. LAMB. Mr. Chairman, I move that all debate on this paragraph and amendments thereto close in 15 minutes.

Mr. MANN. I suggest to the gentleman that he allow 10 minutes on a side.

Mr. LAMB. Then, I will make it 20 minutes, 10 minutes on a side.

The CHAIRMAN. The gentleman from Virginia moves that all debate on this paragraph and amendments thereto close in 20 minutes.

Mr. MANN. I ask unanimous consent that debate on the pending paragraph be closed in 20 minutes, of which the gentleman from Missouri [Mr. BOOHER] shall have 10 minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that all debate on the paragraph and amendments thereto be closed in 20 minutes, of which the gentleman from Missouri [Mr. BOOHER] shall have 10 minutes.

Mr. McLAUGHLIN. I will not object if I can have two minutes, for I want to offer an amendment and wish to say a word or two upon it.

Mr. MANN. The gentleman can have five minutes if he gets recognition from the Chair, as I do not want any time.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. BOOHER. Now, I want to read further:

The CHAIRMAN. May I inquire what amount of money your State appropriated?

Dr. DALRYMPLE. We have been appropriating $5,000 a year for the last seven years, but then our counties or our parishes, as we call them, have been giving money, and they are providing means in the way of building the dipping vats to be used in this work. I can not give the exact figures—I have not got them—but that is the amount of State money.

Mr. HAWLEY. Is the dipping compulsory?

Dr. DALRYMPLE. It is; yes.

Mr. HAWLEY. Over what portion of the State?

Dr. DALRYMPLE. In our State it is compulsory in three of the northern parishes; it started on the northern tier of parishes, but we have carried the work forward in some of the interior parishes, and the local people are expending the money for vats in order to educate the people in the value of the work.

Mr. HAWLEY. How soon do you expect this whole State to be covered by this compulsory dipping law?

Dr. DALRYMPLE. We want more Federal men, we want five more, I believe, now. The estimates for the Department of Agriculture were made up in September before the real facts in this case were known, I believe. Some of these gentlemen, I think, will be able to show you that a great many more men will be required than were thought necessary at that time. It is not a question of any department of the Government wanting this. We want it, the people of the South want it.

There you have got the State law in Louisiana, a compulsory law, compelling the people to dip their cattle. Why does the Government want to appropriate money when the State law has taken charge of them and compelled them to do their dipping? Now, I will turn to Dr. White, State veterinarian of Tennessee:

Mr. McLAUGHLIN. Just one other question. You say you found the method of eradicating the ticks successful, and that it now is just a question of men and money?

Mr. WHITE. That is all there is to it.

Mr. McLAUGHLIN. There is quite a strong feeling prevailing that when the Government has demonstrated the method of eradicating the ticks and has shown the people just how it can be done, and that it is reducible to a question of time and money, that it is then up to the local people to do the work themselves.

Mr. WHITE. That is for you people to say.

Mr. McLAUGHLIN. What do you think of it?

Mr. WHITE. I do not think anything of it at all. I believe you folks ought to stay behind us and help us until we get out of it.

Mr. LEVER. Is it not a fact that the Government put you into it?

Mr. WHITE. They put us into it, and we want them to help us out.

Mr. McLAUGHLIN. Who put you in?

Mr. WHITE. The Federal Government put us in quarantine.

And now they want what? After dipping their cattle to destroy the ticks, and the Government has spent $1,230,000, they want $325,000 again, an increase of $75,000 this year. The thing goes on, and every witness testifies along the same line, that it is a simple matter and that it can be done by the people.

In the State of Georgia they have a law, as stated in this hearing, fining every man who refuses to dip his cattle, and the evidence before the committee was that the law was enforced compelling the people to dip their cattle. If it is a good law in Georgia, it ought to be a good law in every State. It seems to me that if the people are furnished with the remedy for the disease, they ought to use it themselves.

Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. BOOHER. Certainly.

Mr. BYRNS of Tennessee. The gentleman speaks of the matter as if the appropriation was intended for one or two States in particular.

Mr. BOOHER. Oh, no; I did not mean to be so understood.

Mr. BYRNS of Tennessee. I understood the gentleman so in his reference to Tennessee and Louisiana. I want to ask if the Government experimented in other States?

Mr. BOOHER. I referred to the State of Georgia especially, where they have a law that compels them to dip their cattle, and other States might well follow the example of Georgia.

Mr. RODDENBERY. Will the gentleman yield?

Mr. BOOHER. I will.

Mr. RODDENBERY. I do not want to intrude on the gentleman, but perhaps his authority is incorrect, or the gentleman has by some lapsus designated Georgia instead of some other State. Whatever the witness may have said, there is no such law in Georgia. I do not mean to say that I do not think it would be a good law, but there is no such law there. The penal law applies only to the counties in Georgia now under quarantine, 14 in number, I believe. The other one hundred and thirty-odd counties are open to the ravages of the tick, and nothing done except on the volition of the cattle owners and no compulsory dipping law.

Mr. BOOHER. I will read what Dr. Bahnsen says:

Mr. LEVER. With this appropriation you are asking for, if the committee should allow it and Congress should allow it, how long would it take you to clean up this infested territory?

Mr. BAHNSEN. That was well stated by Dr. Dalrymple. If we get sufficient cooperation so we can extend this work, then there would be no need of prolonging the work of tick eradication. Under such cooperation the fever ticks ought to be eradicated from the entire country in less than five years, if we get after it as we should. It is merely a question of men and money.

Mr. HAWLEY. Have you the power, under the laws of the State of Georgia, to compel people to dip their cattle?

Mr. BAHNSEN. Yes, sir.

Mr. HAWLEY. Suppose they do not dip, do you dip at their expense and charge it to them or do you destroy the cattle?

Mr. BAHNSEN. Our law gives us authority to quarantine their cattle and for compulsory dipping. If they fail to dip, we prosecute them for a misdemeanor, and I want to say that the courts have backed us up in each of the instances. Whenever we get a man before the courts for a violation of the quarantine law they never fail to fine him. Of course, the fines are merely nominal—$10, $15, or $25, and costs—but we find in every instance it is sufficient to make them come right up.

Mr. HAWLEY. The people fined, then, have their cattle dipped?

Mr. BAHNSEN. Either that or they remove them without receiving a permit.

Mr. HAWLEY. I mean after you have prosecuted a man for not dipping his cattle and then he is fined, does he then dip his cattle?

Mr. BAHNSEN. Yes, sir; they do not fail to do it after they have been through court once.

Mr. RODDENBERY. That is just what I want to bring out. We are under Federal statute and regulation; we are not under any State law. The Government authorities are authorized to fix the cattle-tick zone. Now, the extreme northeastern part of the State is in the cattle-tick zone. I apprehend that Dr. Bahnsen, in his testimony, had reference only to the counties in Georgia now under Government surveillance. The prosecution results from the Federal legislation or regulation that authorizes them to fix the tick quarantine zone. Seven-eighths, at least, of the State of Georgia is not within the tick-treatment zone, and very little dipping and no prosecutions in other parts of the State, presumably because it is not yet under Federal jurisdiction. I hope to see this appropriation made and the work extended.

Mr. BOOHER. I am reading from the testimony before the committee. Dr. Bahnsen says that they have a law in Georgia, and that it is enforced. If they have not got it, the witness made a mistake.

Mr. RODDENBERY. He is correct, but his statement, without explanation, is susceptible of a misconstruction.

Mr. BOOHER. Mr. Chairman, I want to show the difference between what the people down there do and what the people do in other localities for the same thing. In Kansas the people are threatened with a destruction of their wheat crops from chinch bugs. They did not come to Washington to get an appropriation from Congress to sprinkle something on the wheat. What did they do? Let me read. I took this from a newspaper. This is dated at Wichita, January 4:

A committee of grain men and millers was appointed here to-day to organize the farmers of the Southwest to prevent the destruction of the 1913 crop by chinch bugs. Fields are to be burned over to kill the bugs. The weather has been so warm that the bugs are alive in the grassland and stubble fields.

The people of Kansas ought to have come to Congress and gotten an appropriation; they should have secured some expert from the department to go down there and teach them how to burn over their stubble fields. Mr. Chairman, the people ought to protect themselves. The Government has expended $1,232,000 finding a means for destroying the ticks. They have furnished it to the people where these infected districts are. Two of the States have compulsory laws to compel dipping. Why do not the others have those laws. Take the sheep quarantine as an example. There is a quarantine against the western sheep. When they come into the stockyards of the country and you go there to buy your sheep, to take them out and feed them, you can not get them out of the stockyards without dipping, and what do you have to do? The man who buys the sheep is compelled to have them dipped in the presence of an expert, either from the State or from the Federal Government, and he has to pay for the dipping himself, at the rate of 3 cents a head.

Mr. TAGGART. Mr. Chairman, will the gentleman yield?

Mr. BOOHER. Yes.

Mr. TAGGART. I want to ask if the gentleman does not misunderstand the theory of this appropriation. It is rather for the protection of those regions where the tick is unknown than for the extirpation of the tick directly——

Mr. BOOHER. Oh, no.

Mr. TAGGART. Inasmuch as cattle infested with that tick will cause certain death to other cattle just as soon as the tick leaves them and goes onto the sound cattle.

Mr. BOOHER. My friend from Kansas knows that they have a quarantine against these cattle and they can not get them to market in certain seasons without complying with the quarantine laws.

Mr. TAGGART. Rather than run the risk of that, we are willing to pay our share of this, if we can extirpate the tick.

Mr. BOOHER. Then we ought to pay our share for eradicating every disease that is known to man and animals alike, and then we ought to make an appropriation for everything that somebody imagines is the matter with him, and we ought to make an appropriation of a million dollars for hog cholera. That is just as important as this matter, and more so. The loss from that, largely, is more than from the cattle tick. Yet when they discover means to prevent hog cholera or a cure for it, if I were in Congress I would vote against an appropriation of a single dollar to send men out to do the work the farmer should do for himself. When the remedy is furnished by the Government let the farmer follow directions and do it himself. A few years ago in my country they had an epidemic of blackleg among young cattle. They did not appeal to the Government for experts to go there and doctor their cattle. The Government found a serum that would cure it and furnished it to the States, and the cattle raisers bought it and used it themselves, without the benefit or advice of any expert. I hope this appropriation will be stricken from the bill.

Mr. YOUNG of Texas. Mr. Chairman, I have listened with some interest to the remarks of the gentleman from Missouri, but the fact remains that the Government has at its expense found a remedy that will destroy the cattle ticks that not only infest the Southern States but that threaten to infest other States if these cattle are shipped to them. The Government knows this and it has quarantined the tick-infected section of the country against the shipment of their cattle. Now, to say that the Government shall stop its aid in cooperation with the States toward the destruction of the cattle tick in that section of the country will simply be saying to us keep your cattle on that side of the line, you can not ship them into other sections of this great country. I want to say that the Government will not take that backward step. This section will keep up this operation until the cattle tick is wiped off the face of the map. One hundred and sixty-five thousand square miles have already been relieved of the cattle tick by means of the dipping process brought to us by the Federal Government. Understand, it is not the Southern States alone who are interested in this great proposition, but you can take every State in this Union where the people are now denied meat for their table because of the exorbitant price that must be paid for it, and it is in the interest of the great mass of American people that we plead for this appropriation that the great breeding grounds of the South may be used to graze cattle that may go into every market in the world.

Mr. GOOD. Will the gentleman yield?

Mr. YOUNG of Texas. I have not the time—only five minutes.

Mr. GOOD. Just for a question.

Mr. YOUNG of Texas. Go ahead.

Mr. GOOD. The gentleman just voted against the proposition to appropriate $200,000 additional for the prevention of hog cholera.

Mr. YOUNG of Texas. I want to say to the gentleman that when the Government gets beyond the experimental stage in the matter of the hog-cholera proposition and has reached the successful remedy, as in the cattle-tick proposition, I will vote $200,000 and even $325,000. [Applause.] I am for something that has already been proven. I voted for the $45,000 that we may advance the work on hog cholera, as the cattle-tick work has passed beyond experiment to a demonstrated fact. I want to say, Mr. Chairman, that in my State a part of it is above the quarantine line and a part of it below the quarantine line, and the people of my own State are spending of their own funds hundreds of dollars making these dipping vats, and I have seen thousands of head of cattle in my own county driven through them that the tick might be eradicated, as it is eradicated. When we come with the proposition that the Government has entered on this work so successfully now, shall we take a backward step? As is shown by the hearings read here, the western country, from where the cattle used to come in great herds, are going into agricultural interests. In my own State it is going into agricultural interests, and we must have breeding grounds for our cattle. What better breeding grounds can we find, so far as the soil, the climate, than in that section of the country where the boll weevil has increased? And what greater work can be done in those Southern States than to continue this successful work till the cattle tick shall be a thing of ancient history? We must wipe it out, and why not wipe it out at one fell swoop, as our committee thought we could do by this appropriation? [Applause.] Think of it, Mr. Chairman! Within the past six years there has been a decrease of 10,000,000 head in our cattle supply. No wonder the high price of our meat products. It is suicidal not to conserve this great industry, and Congress ought not to be guilty of the folly of striking the one fatal blow that of necessity further adds to the shortage of this great source of wealth. This appropriation should remain intact.

Mr. McLAUGHLIN. Mr. Chairman, the motion made by the gentleman from Missouri [Mr. BOOHER] to strike out the paragraph ought not to prevail. I agree with him heartily in part in what he has said to the effect that after the Government has experimented and learned the means and methods by which the disease may be prevented or cured, and it comes merely to the question of men and money, the local people ought to bear all or a large part of the expense. I have offered an amendment—it is in the hands of the reading clerk to be read—which I think will perfect this section and make it unobjectionable. This paragraph calls for $325,000. My amendment would forbid the use of any portion of that money in the purchase of materials for or in the construction of dipping vats upon land the title of which is not in the United States, except at fairs or expositions where the Department of Agriculture makes an exhibit or a demonstration; and that no part of this money shall be used in the purchase of material for the mixture used in the vats, except when used for the purpose of experimenting or demonstration under the charge or direction of the Bureau of Animal Industry. Now, it seems to me that with the adoption of that amendment, with the qualification and limitation of the department in the use of this money, the objection made by the gentleman from Missouri [Mr. BOOHER] would be overcome. A portion of this money has been used in an objectionable way in the building of vats upon private property, a work that ought to be done by the private individual, an expense that ought to be borne entirely by him.

Mr. BOOHER. Does not the gentleman think if his amendment prevails that the amount carried by the bill ought to be reduced?

Mr. McLAUGHLIN. I do not know; I am not well enough informed about that; but gentlemen in charge of the bill can tell of the work to be done by the bureau under this appropriation. As has been said by the gentleman from Texas [Mr. YOUNG], large sections of the country have been quarantined and no shipment of cattle from them to other sections is permitted. There must be inspection; agents of the bureau are required for that. When these sections are released certificates have to be issued. There is considerable work and a considerable expense in that line, but, in my judgment, money should be spent only for that purpose and for giving instruction where it has not already been given.

Mr. BOOHER. Will the gentleman yield?

Mr. McLAUGHLIN. I think the limitation my amendment would place on the use of this money would make the paragraph proper; we can fix the amount later.

Mr. BOOHER. The gentleman does not think, does he, that you can use it for anything else than eradicating the southern cattle tick? You can not use it for quarantine purposes?

Mr. McLAUGHLIN. I think it can be so used. I think a part of the money heretofore appropriated is used for inspection and quarantining and the issuing of certificates for releasing territory that has been freed from the pest.

Mr. BOOHER. Is there not a provision for cattle inspectors for the express purpose of inspecting the cattle?

Mr. McLAUGHLIN. Yes. But part of this money is used for that purpose too.

Mr. BOOHER. I do not think you can divert that money from the purposes mentioned in the bill.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. McLAUGHLIN] has expired. All time has expired.

Mr. McLAUGHLIN. Mr. Chairman, I ask unanimous consent that my amendment be read and be pending before the committee while the other amendment is under consideration.

The CHAIRMAN. Is there objection?

There was no objection.

The amendment was again read.

The CHAIRMAN. The Chair will state that the only amendment before the committee is the amendment of the gentleman

from Missouri [Mr. BOOHER] to strike out the paragraph. The vote is on that amendment.

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. BOOHER. Division, Mr. Chairman.

The committee divided; and there were—ayes 4, noes 38.

So the amendment was rejected.

Mr. McLAUGHLIN. I now offer my amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. McLAUGHLIN] offers an amendment which the Clerk will report.

The Clerk read as follows:

Amend, page 11, at the end of line 14, by inserting the following: "*Provided, however*, That no part of this appropriation shall be used in the purchase of materials for or in the construction of dipping vats upon land not owned solely by the United States, except at fairs or expositions where the Department of Agriculture makes exhibits or demonstrations; nor shall any part of this appropriation be used in the purchase of materials or mixtures for use in dipping vats except in experimental or demonstration work carried on by the officials or agents of the Bureau of Animal Industry.

Mr. LAMB. That is already a part of the law, I think. I will not object to it.

The CHAIRMAN. The Chair understands that all debate on the paragraph and the amendment thereto has been closed.

The question is on the amendment offered by the gentleman from Michigan [Mr. McLAUGHLIN].

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

For all necessary expenses for scientific investigations in diseases of animals, including the maintenance and improvement of the bureau experiment station at Bethesda, Md., and the necessary alterations of buildings thereon, and the necessary expenses for investigations of tuberculin, serums, antitoxins, and analogous products, $78,080.

Mr. COX. Mr. Chairman, I move to strike out the last word.

I do not find anything in the hearings relating to this paragraph or I did not succeed in getting the hearings relating to it. How many acres in this farm at Bethesda, Md.?

Mr. LAMB. This is an experimental farm out here of about 60 or 70 acres, possibly more——

Mr. COX. It seems that $78,080 is a tremendous amount of money to be expended on a farm of that size.

Mr. LAMB. There is where they develop the serum; there is where they experiment with it, and a good deal of this appropriation is for burning up buildings that have been infected or diseased by cattle. This experimental work in diseases of hogs and cattle is carried on at this farm.

Mr. COX. You say that there are 60 or 70 acres in that farm?

Mr. LAMB. Yes.

Mr. COX. What becomes of this tremendous sum of money—$78,080? How is that expended? In the way of salaries?

Mr. LAMB. Salaries constitute a good deal of it—indeed, the largest part of the appropriation.

Mr. COX. In that connection I would like to ask the gentleman if a large amount of this $78,000 in this item does not go for increases of salary?

Mr. LAMB. I will look up the salary account, but I would like to say to my friend in the meantime, by way of parenthesis, that if he will take a car and go there and look at it he will see exactly what it is.

Mr. COX. I have not got the time to go out there at this time to see about it. I want to know the general character of the work. I find on the next page an item for $16,500 for the construction of a building down there, making a total of over $95,000 to be expended in the coming year on that farm.

Mr. LAMB. I will give the gentleman an itemized account of it. I have it here among my papers.

Mr. LEVER. Mr. Chairman, while the gentleman from Virginia [Mr. LAMB] is looking up the exact appropriations for the different lines of work at that experiment station I desire to say to the gentleman from Indiana [Mr. COX] that under this item the work at Bethesda, Md., is carried on. They own something like 60 acres of land out there, and they are carrying on the work of studying the various diseases that afflict the various species of farm animals of the country. They are engaged in preparing serums, toxins, tuberculin and other remedies that are designed to prevent the spread of contagious diseases among farm animals.

Most of this money, I will say to the gentleman, is being expended in the way of salaries and in the way of alteration of buildings, the fumigation of buildings, and sometimes the tearing down of buildings that have become infected and the construction of other buildings in which to take care of the animals upon which they are experimenting. It is one of the most interesting places near the city of Washington, and I would be glad if sometime my friend would go out there and see the enormous amount of scientific and investigational work that they are doing.

They are studying the problem of tuberculosis in cattle, with a view of developing whether milk or butter or cream will convey the tuberculosis germ from the cow to the human family. They are studying hog cholera and chicken cholera. They are studying the problem of inbreeding and a number of other problems connected with animal husbandry in the country.

Mr. COX. Do I understand the gentleman to say that they go out and buy animals for this purpose and experiment with them?

Mr. LEVER. Undoubtedly. They must have animals to experiment with; for instance, they take a hog and inject into it cholera virus, and give the hog a good case of cholera; or they will take a cow and infect it with cattle tick and see if they can obtain a remedy for that disease. It is all work done for the benefit of human kind. It is one of the most important branches of the work done by the Department of Agriculture.

Mr. COX. What is the connection between Bethesda farm, in Maryland, and that at Beltsville?

Mr. LEVER. The Beltsville farm is a piece of land of about 400 acres, about 14 miles from the Capitol, out in Maryland.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COX. Mr. Chairman, I ask for two minutes more for the purpose of getting information about this 100-acre farm.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. COX. What do they do at the Beltsville farm?

Mr. LAMB. Let us take up one farm at a time.

Mr. LEVER. If my friend from Virginia will permit me, I will say to the gentleman that I took a trip up to Beltsville not long since. They are studying at Beltsville the problems of dairying, largely. They are making an effort to find a model farm for the average dairyman in the United States. They are studying the problem of milk. They are studying the problem of silos, whether they should be built out of wood or built out of cement. They are studying the proper kind of food for their cattle and their calves. They are studying the entire problem of dairying with a view at some time in the future of issuing a bulletin to the dairy farmers in the United States which will give them information as to the best and most practical and profitable kind of dairy that they can run.

Mr. COX. Do they produce any revenue to the Government from this work?

Mr. LEVER. Yes.

Mr. COX. Can the gentleman give us any idea of how much this farm produced last year?

Mr. LEVER. I can not give the exact amount that is produced there, but I know that the health department here is receiving milk from the Beltsville dairy. In addition to that, they are studying the problem of poultry breeding, and hog breeding, and all the various problems connected with the farm, including problems relating to cattle. Everything that is killed or can be sold there is sold, and the revenues therefrom are turned into the Federal Treasury.

Mr. COX. It is nothing like self-sustaining, is it?

Mr. LEVER. Oh, of course not. You can not expect any scientific investigation to be self-sustaining. It is not intended to be such.

Mr. COX. Is any part of this appropriation here used for the purpose of increasing salaries?

Mr. LEVER. I think not.

Mr. LAMB. There is a statement of salaries, and I will say to the gentleman that on pages 24 and 25 you will find an itemized account of everything that is expended there.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. LEVER. Mr. Chairman, I ask for three minutes more. This is an important subject.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. LEVER. I read from the hearings before the Committee on Expenditures in the Department of Agriculture. I want to say that committee is doing fine work. This is a statement, made before that committee, of the manner in which this appropriation is expended:

Expended from the lump-fund appropriation "General expenses, Bureau of Animal Industry, 1912 (diseases of animals)," during the period between July 1, 1911, and June 30, 1912.

For investigations and experiments in the study of animal diseases, with a view of developing methods for the eradication and control thereof	$12,858.20
For experiments and investigations in the study of hog cholera, and for conducting experiments concerning the practical application of antihog cholera serum for combating hog cholera	9,172.73

For experiments and investigations in cooperation with the Pennsylvania Live Stock Sanitary Board in the study of milk hygiene	$1,387.40
For miscellaneous investigations and experiments in studying infectious animal diseases	3,742.55
For investigations of the frozen and desiccated egg industries, with special reference to the bacterial content of the finished products and the sources of contamination	1,939.52
For miscellaneous experiments and investigations in the study of roundworms, gid, and tapeworms in sheep, parasites of hogs, and measles of sheep and cattle, and the treatment of cattle mange	10,245.77
For repairs, improvements, and general maintenance of the Experiment Station, Bethesda, Md., and for conducting experiments and investigations there concerning the study of tuberculosis, Texas fever, and other diseases of animals	30,691.57
Total expenditures under the appropriation for diseases of animals	70,037.74

Mr. COX. That was last year's appropriation.

Mr. LEVER. That was last year's appropriation; and this appropriation is like last year's appropriation.

Mr. LAMB. Now, let me say in reply to the question that was asked a while ago, the whole increase of salaries in this bureau amounts to $280—that is, outside of the inspection of cattle and hogs.

The Clerk read as follows:

For general administrative work, including traveling expenses and salaries of employees engaged in such work, rent outside of the District of Columbia, office fixtures and supplies, express, freight, telegraph, telephone, and other necessary expenses, $40,186.

Mr. HAYDEN. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amend, after line 8, page 12, by inserting a new paragraph, as follows:

"For all necessary expenses for experiment in the feeding and breeding of ostriches and for investigations and experiments in the study of the ostrich industry, $2,500."

Mr. LAMB. I reserve the point of order on that.

[Mr. HAYDEN addressed the committee. See Appendix.]

The CHAIRMAN. The Chair would like to know what the point of order of the gentleman from Virginia is.

Mr. LAMB. I make the point of order that it is new legislation.

The CHAIRMAN. The point of order is overruled. The question is on the amendment offered by the gentleman from Arizona.

The question was taken; and on a division (demanded by Mr. LAMB) there were—ayes 25, noes 17.

So the amendment was agreed to.

The Clerk read as follows:

Meat inspection, Bureau of Animal Industry: For additional expenses in carrying out the provisions of the meat-inspection act of June 30, 1906 (34 Stat. L., p. 674), there is hereby appropriated for the fiscal year ending June 30, 1914, the sum of $200,000.

Mr. COX. Mr. Chairman, I reserve the point of order on the paragraph and would like to know the necessity for it.

Mr. LAMB. Mr. Chairman, this is a new item—an increase of $200,000. The increase is needed to efficiently carry on meat inspection, not only because the work is expanding, but also because with the sum now provided, $3,000,000, proper increases in salaries can not be made to experienced employees. The total number of employees is about 2,400. The average salary is low. It is impossible to properly conduct the inspection without retaining in the service these experienced and, therefore, most valuable employees. Unless promotions are made many of these employees will leave the service, and their places will necessarily be filled by others, inexperienced and more or less inefficient. If the gentleman will examine the hearings on this matter, he will find that we interrogated Dr. Melvin and his assistant about it. They stated the number of men that were employed, and that it was necessary in order to carry on this work that this increase should be made. I want to say that we cut the sum down from the amount estimated.

Mr. COX. Mr. Chairman, I read the hearings, and I do not know whether the position taken by Dr. Melvin is correct. That is to say, that this money is needed in order to hold these employees.

Mr. LAMB. That is a part of it.

Mr. COX. How much of this $200,000 will go to increase the salary of employees? As a matter of fact, does not practically all of it go there?

Mr. LAMB. The bulk of it, I think, will, because that is what it is for. They have 2,400 employees. They have a brigade of men employed in this important work that touches the homes of so many people.

Mr. COX. Does not 90 per cent of it go to increase the salaries of the employees?

Mr. LAMB. I think so.

Mr. COX. Does the gentleman contend that there is any law on which to base this appropriation?

Mr. LAMB. There is law for the $3,000,000 to carry on the work, and the same authority that made the $3,000,000 to do this work can add $200,000 to it.

Mr. COX. But I ask the gentleman if there is any law for this increase?

Mr. LAMB. No particular law for the increase; no.

Mr. MANN. There is the law providing for the inspection.

Mr. LAMB. That is the law creating the department, and we are the lawmaking body, and we can make the law.

Mr. COX. How many new places are to be made with this $200,000 appropriation?

Mr. LAMB. I can not tell the gentleman.

Mr. McDERMOTT. Very few.

Mr. COX. Can the gentleman give us any idea how many new places will be created?

Mr. LAMB. I did not ask Dr. Melvin. I trust him, and I think this House can trust him.

Mr. COX. I do not remember Dr. Melvin being asked that question.

Mr. LAMB. We did not ask him.

Mr. LEVER. Mr. Chairman, if the gentleman from Virginia [Mr. LAMB] will permit, Dr. Melvin's testimony does not appear in the printed hearings. When the committee reached his bureau in its order in taking up the estimates, Dr. Melvin was in the West, and Dr. Farrington, the next in rank, appeared before the committee. Later on, however, the subcommittee took up the whole proposition with Dr. Melvin. That testimony was not taken stenographically. My recollection of his testimony is that there were some eight or ten or perhaps a dozen packing houses to which he desired to extend the meat-inspection service, and that would take probably 25 per cent of the appropriation asked for.

Mr. COX. That is the extension work.

Mr. LEVER. And the appropriation asked for was $300,000. The committee allowed only $200,000. I take it that something like $150,000 of the $200,000 appropriated here will be used in the promotion of employees in the inspection service.

Mr. COX. And in the increase of salaries?

Mr. LEVER. In the promotion and increase of the salaries at the top of the line in order that men at the bottom of the line may be moved up and given a reasonable salary.

Mr. COX. And the other $50,000 for the extension of the work?

Mr. LEVER. I give that as an estimate, from my recollection of the testimony.

Mr. HAUGEN. If the gentleman will permit, I will state that Dr. Melvin stated there were now 940 packing houses and 8 or 10 new packing houses asking for this service, and he said it required about $100,000 to meet the requirements of this extension work, and $200,000 was intended for the increase, which makes $100,000 available for increase of salaries and $100,000 for taking care of this work.

Mr. LAMB. And probably Dr. Melvin was expending the money upon that basis.

Mr. LEVER. I regard this as a very meritorious proposition. The gentleman from Indiana knows, of course, that the meat-inspection law carries a total appropriation of $3,000,000. That is a permanent law. They have run that appropriation the past fiscal year within $20,000. That is skating on thin ice to keep men out of the penitentiary. No promotions have been made in the last six years, I believe. No examinations have been held for any inspectors in the last six years. These men work down there standing in blood half knee deep, and go through the horrid process of examining these animals from day to day and hour to hour, working 10 and 14 hours a day, and I believe they are entitled to some promotion and some consideration from this House.

Mr. COX. Let me ask this question there. Is not there some way of incorporating in this bill some time in the future this compensation and salaries so that Members of the House could get at it? Now, here is a lump-sum appropriation of practically $3,000,000 from which these employees are paid. I would like to see it in the bill itself. It would not make the bill very cumbersome.

Mr. LAMB. Get the Book of Estimates and look and see for yourself, and I will say to the gentleman that all of this money is used for the salaries and traveling expenses, and that is the sum total of this whole thing.

Mr. COX. I quite agree with the gentleman in that, so far as traveling expenses are concerned, because the travel is $358,000 for the Bureau of Animal Industry alone.

Mr. MANN. It is not necessary to get the Book of Estimates, because under the law the Secretary of Agriculture is required to make a report annually, which he does——

Mr. COX. I quite agree with the gentleman.

Mr. MANN. Giving in detail the expenditures and salaries.

Mr. LEVER. And that is in the report of the committee——

Mr. BOOHER. May I ask the gentleman a question? Now, as I understand, the intention is that this amount is to be applied wholly to promotions?

Mr. LEVER. No; the intention is that it is to be applied, part to the additional service and part to the increase in the salaries of employees.

Mr. BOOHER. What proportion do you estimate will be applied to promotions and paying better salaries?

Mr. LAMB. I do not understand that over $50,000 or $75,000, but my friend from Iowa disagrees and thinks about $100,000 will be used for the purpose of extending the service and $100,000 for the promotion of employees.

Mr. HAUGEN. That is the statement made by Dr. Melvin before the committee.

Mr. LAMB. I think the gentleman is correct about that.

Mr. BOOHER. Will these promotions be made from the lower grades?

Mr. LEVER. These promotions are to be made from the lower grades. It is a meritorious proposition, and I hope nobody will make the point of order.

Mr. MANN. If the gentleman will permit me just a second. A large number of these employees entered the service some years ago under a schedule which was announced by the Secretary of the Department of Agriculture stating that certain increases of salary would be made after a certain length of service.

Men went into the service with the statement from the Department of Agriculture that under the $3,000,000 appropriation, after a year or two years or different years, that promotions would be made and increases of salaries would be made. And that could be done under the $3,000,000 appropriation if there had not been such an extension of the service made necessary by the new packing houses throughout the country. In order to give the service to the packing houses, the Secretary was unable to carry out the pledge that was made to these employees for any increase. They are now threatened with a wholesale resignation of employees, and probably it would be an impossibility at present to obtain men with sufficient knowledge to do this work.

Mr. LAMB. They lost 200 last year, I will say.

Mr. MANN. Many of these men are required to be expert veterinarians, having passed an examination as veterinary surgeons after going through veterinary colleges; and the salaries are very small, in any event.

Mr. LEVER. If the gentleman will permit, the only way we can extend this service on the one hand and give these men who have been working at a low salary for six years any increase at all is to allow the appropriation in this bill to stand.

Mr. COX. In this extension work they only propose to extend it, do they not, in factories where commodities enter into interstate commerce?

Mr. LEVER. Undoubtedly. There are some 8 or 10 of those where they desire to extend the service.

Mr. TAGGART. Mr. Chairman, I want to ask most earnestly that the point of order be withdrawn and the objection waived. There is an impression that these men are all employed in one or two places. Let me call your attention to the fact that there are now in the employ of the Government 2,374 of these employees. They are performing their duties in 940 different establishments, that are located in 259 different towns and cities, and that the highest wages paid to an ordinary meat inspector is $100 a month; that an assistant meat inspector is paid $1,000 a year, as the highest wages, but the great bulk of them are working at $840 a year. The figures show that but 282 of these inspectors are getting $1,200, 31 are getting $1,100, and some 644 are receiving $1,000 a year. Three hundred and thirteen of them are working for $840 per annum. They are really in charge of one of the most important duties that is performed by this Government. It is their duty to see to it that unwholesome meats that might communicate diseases to one-half of the people of the United States that now use and consume the meats which are inspected by these men do not enter into interstate commerce. Of course, no institution that does not do interstate commerce can be inspected by the Government. There is a demand by the people for this inspection, and it is difficult to get men of intelligence and character who will stay there in the blood and in the horrible surroundings of a meat inspector from day to day for less wages than are ordinarily paid for scientific work. The majority of men could not stand it. It is a great injustice to require men to work for $840 a year at such work as that. All of this appropriation will not be used——

Mr. COX. How many hours a day do they work?

Mr. TAGGART. They work indefinitely. It depends on the work in hand.

Mr. COX. How many days leave of absence do they have in a year?

Mr. TAGGART. Fifteen, I think; perhaps 30.

Mr. COX. Do they have any sick leave?

Mr. TAGGART. Yes; if a man is too sick to work.

Mr. COX. Do they have any sick leave for which they are paid?

Mr. TAGGART. No; I do not think so.

Mr. COX. How many days do they put in?

Mr. TAGGART. They put in as many days as the establishment works.

Mr. COX. They are not required to work on Sunday?

Mr. TAGGART. Not ordinarily. I do not think they do any work on Sunday.

Mr. COX. They put in 313 days less their leave of absence, whatever that might amount to?

Mr. LEVER. Fifteen days as against 30 days here in Washington.

Mr. TAGGART. One of those inspectors working in one of those great packing houses going at its full capacity will inspect a beef in 48 seconds. That is one of the reasons the service ought to be extended. A beef is slaughtered every 48 seconds in one of those great packing houses.

Mr. MURDOCK. Mr. Chairman, as a matter of fact, I have watched these men in the packing houses and, as I recollect, they stand right at the point of slaughter, do they not?

Mr. TAGGART. Yes; they do.

Mr. MURDOCK. It is a very disagreeable job, and as I watched them it struck me that they not only had to be very agile, but also very expert, as the carcass goes along, to detect tuberculosis.

Mr. TAGGART. Mr. Chairman, let no man understand that they are a rough class of men who have that work to perform. They pass a civil-service examination, and a large number of them are very intelligent young men.

Mr. COX. Are there any eligibles on the waiting list for those jobs at the present time?

Mr. TAGGART. There is no examination except the civil-service examination which they have to undergo.

Mr. COX. Somebody said that some of these men have quit. I want to know if the Government has had any trouble in filling the vacancies.

Mr. TAGGART. They fill the vacancies that occur with such men as they can get.

Mr. LEVER. There is no more trouble in filling vacancies there than there would be in filling vacancies in Congress, I will say to the gentleman.

Mr. MOSS of Indiana. Is it not true that these men not only have to pass an examination but they have to be graduates of certain colleges before they can take the examination?

Mr. LAMB. That is the case with the veterinarians. They have to do that.

Mr. MADDEN. Mr. Chairman, I think that unless this $200,000 appropriation is allowed, long-delayed justice will be withheld from a class of men who have been giving the Government a service that is far in excess of the compensation they have received. There is no work in the Government service more arduous or where more painstaking care must be had than in this service.

In the great packing houses of Chicago the men employed as Government meat inspectors work from 12 to 16 hours a day. There is no regulation as to what number of hours they shall be employed. Before they go into the service in many cases they must have been graduated as veterinary surgeons, and those who are now in the lower grades in this great service have been in the service at the same rate of pay for more than six years.

For $840 per annum the men in this service are doing a work that is paid almost double that amount by private enterprise. There is no reason why the Government of the United States should not be as good an employer as a private employer is.

These men are high-class men. They are educated for the particular work that they are called upon to do. They devote a number of years of their lives to learning the business in which they are about to engage, and what they learn is of no use whatever to them if they leave the Government service, whereas a man who learns a trade and engages in private employment can find a number of places where he can get a job if he is turned out of work by any one concern. So that it seems

to me there is more reason than ever before for giving due consideration to these men.

If you make a point of order against this provision in the bill, it would not only do a great injustice to a worthy class of men, but it would retard in a large sense the extension of the inspection service to the new houses that have been constructed since the last appropriation bill was passed.

The CHAIRMAN. Will the gentleman from Illinois permit me to ask him a question there?

Mr. MADDEN. Certainly.

The CHAIRMAN. Does the gentleman from Illinois concede that there is no authority of law for this?

Mr. MADDEN. No; on the contrary, I believe there is authority of law for it. In the first place, the Congress of the United States, when the inspection law was enacted, made a permanent appropriation of $3,000,000.

The CHAIRMAN. Is there anything in that law that will prohibit Congress from making an additional appropriation?

Mr. MADDEN. No. On the contrary, I believe that the law then gave ample power to Congress to increase the appropriation from time to time to meet the growing needs of the service.

The CHAIRMAN. There is nothing pending before the committee; simply a point of order has been reserved.

Mr. COX. Mr. Chairman, I entertain no doubt that the item is subject to a point of order, under the facts elicited by the answers of the members of the committee reporting the bill, to the questions which have been propounded to them.

I do not want to do these employees or any other employees any injustice. While it has been disclosed that a large number of them, 200 or 230 of them, have quit within the last year, that fact does not appeal to me, because I have always clung to the idea throughout my life, and I think I will to the end, that a man is to a large extent the architect of his own fortune and can choose his own profession and calling in life. I do not know why these men quit this employment, but the chances are that they sought out better and more remunerative employment, and quit for that reason. We have no assurance whatever that if this appropriation is permitted to stand and these employees go ahead and become more and more efficient and useful to the Government as inspectors, that private employment in the course of another year will not take them from the Government of the United States. I know of no rule and no law that Congress could pass that could ever prohibit that. We have that to contend with practically in every department of this Government, and always will have it to contend with, that the wage earner will seek the place where he can get the most for his labor. So, as I say, that argument does not appeal to me.

Neither do some other arguments appeal to me, because I take it that the Government is easily able to fill these places. I have nothing to base this statement upon, other than facts which have come to my notice heretofore, but I undertake to say that now there are a large number of men waiting upon the eligible list to take these places.

But for fear that I might do an injustice to some deserving employees, and for the further reason that it might cripple the Government in this extension work, I will withdraw my point of order at this time. [Applause.]

Mr. FOWLER. Mr. Chairman, I desire further to reserve the point of order.

The CHAIRMAN. The Chair is ready to rule.

Mr. FOWLER. I desire to be heard for a moment.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. FOWLER. If there is any subject that is of interest to mankind, which needs a thorough, scientific investigation, I think it is the meat that is offered for sale in the American market. I do not know what is the cause, neither have I been able to learn why the inspection has not revealed the reason the meats on our markets to-day are in such a deplorable and, I say, unwholesome condition. You can scarcely go to the market and buy a cured ham but what it looks you in the face and tells you that it is your deadly enemy as soon as you place it on the table. If these men who have been inspecting the meats of this country are not scientific men, then I say the Government ought to replace them with a good corps of experts. If their salaries are inadequate to enable them to discharge that high and most necessary duty of inspecting the meats of this country, their salaries ought to be increased so that they may devote their time solely to this most important subject.

While I am on the floor I desire to ask my friend who has just made a speech upon this question, my colleague, the gentleman from Chicago, Mr. MADDEN, if these inspectors inspect any other kind of meat than the live animal, to see whether it is diseased just before slaughter.

Mr. MADDEN. They inspect both before and after killing.

Mr. FOWLER. Do they inspect the methods of curing and packing?

Mr. MADDEN. They inspect the whole thing from start to finish.

Mr. FOWLER. Do they inspect the storage of meat in cold-storage houses in the great centers?

Mr. MADDEN. I am not sure about that.

Mr. FOWLER. I would like to see the greatest experts in this or any other country put on the heels of these cold-storage people.

Mr. JACKSON. The gentleman from Illinois [Mr. FOWLER] is usually correct in his statements of fact which he makes here upon this floor, but I would like to have some authority for the statement he makes that the meats which are sent out by this country are diseased. I do not believe the statement is correct.

Mr. FOWLER. I state what I do know from personal experience. I do not believe that there is a cured ham in the city of Washington or on the American market but what is injured by chemicals which have been injected into it, unless it has been cured on the farm by the old common-sense method of smoking it with sassafras and hickory.

Mr. HAMILTON of West Virginia. Or with corncobs.

Mr. FOWLER. Yes; and with corncobs.

Mr. JACKSON. I assume that the gentleman is an eater of ham, and yet he looks healthy.

Mr. FOWLER. I have taken a small portion within the last day, and it is from this experience that I am talking on the ham question now.

Mr. JACKSON. The gentleman does not mean to have us infer that his statement comes from indigestion?

Mr. FOWLER. Not at all; but I repeat that if there is a subject that I would go further in making appropriations of money it is on the subject of the inspection of meats in this country. For this reason, Mr. Chairman, I withdraw the point of order.

Mr. SLOAN. Mr. Chairman, I desire to say that the statement of the gentleman from Illinois ought not to go unchallenged.

The CHAIRMAN. The gentleman from Nebraska is proceeding by unanimous consent.

Mr. SLOAN. I reserve the point of order.

Mr. LEVER. I make a point of order that that comes too late.

Mr. SLOAN. Then, I ask unanimous consent to make a statement of two or three minutes.

Mr. LEVER. I ask unanimous consent that the gentleman may proceed for three minutes.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent that the gentleman from Nebraska may proceed for three minutes. Is there objection?

There was no objection.

Mr. SLOAN. Mr. Chairman, I rise to ask the privilege of making a statement, so that the statement of the gentleman from Illinois [Mr. FOWLER] shall not go unchallenged. He practically charged that the meat products of our farms throughout the United States are unhealthful and unmarketable. I challenge the correctness of that statement, and the gentleman ought not to have made it.

Mr. FOWLER. Will the gentleman yield?

Mr. SLOAN. I do not yield.

Mr. FOWLER. I desire to say to the gentleman he ought to be fair.

Mr. SLOAN. I do not desire a lecture from the gentleman from Illinois. I am talking of a subject here that is important to the American people, because the products of our farms are largely reduced to meats, and we depend on the markets of America and the world to effect good sales. I think before the gentleman from Illinois says that our hams or meats, or anything else, are diseased, unclean, or anything of that kind, he should have made use of the information which was within his reach, and is within the reach of every Member of the House. The Committee on Expenditures in the Agricultural Department of this House during the last session took evidence day in and day out on the subject, and the evidence is there, clear and unmistakable, so that he who runs may read, that the meat inspection in this country is practically efficient, and that the large bulk of our beef and pork products, going to every part of the United States and the world, is pure, healthful, and fit to be put upon any market in any city or country in the world. [Applause.] It ill becomes a Member of this House to slander the products of America's greatest industry in the way that the gentleman has done. [Applause.]

Mr. FOWLER. Mr. Chairman, I ask for two and a half minutes.

The CHAIRMAN. The gentleman from Illinois asks to proceed for two and a half minutes. Is there objection?

There was no objection.

Mr. FOWLER. Mr. Chairman, the gentleman from Nebraska [Mr. SLOAN] certainly was asleep while I made my statement. All of the meats that come from the farm were alluded to by the "gentleman from Illinois" as being wholesome, because they had smelt the smoke of the corncobs, the sassafras, and the hickory wood. [Applause.] It is the method which is known as "the quick method" of curing meats in this country and the long ages meats are kept in cold storage that I allude to as being unwholesome. I charge now that such methods are unwholesome and stand in need of the severest and most scrutinizing inspection.

I dare say if the gentleman has smelled the odor from the beef, the birds, and other meats coming from cold storage and has not been in the attitude of leaving the table to keep from holding his nose, he is the only man I know of who has not had such experience.

The gentleman talks about the meats of this country being wholesome in the packing house, and yet he stands here and asks for an appropriation of $200,000 to get a more efficient inspection of our meats. Ah, "consistency, thou art a jewel." [Laughter and applause.]

Mr. SLOAN. Mr. Chairman, I desire to say that the gentleman from Nebraska never asked for $200,000 appropriation, and the gentleman from Illinois knows it. I have not been asleep. I admit that the gentleman's speeches are the greatest anesthetic known, surpassing ether and chloroform, but he did not put me to sleep this afternoon. [Laughter.]

The Clerk read as follows:

Total for Bureau of Animal Industry, $1,969,696.

Mr. MANN. Mr. Chairman, I move to strike out the last word. My distinguished friend from Illinois [Mr. FOWLER] just stated that when beefsteak was put on the table in his experience he had to hold his nose.

Mr. FOWLER. I do not eat any of it—no.

Mr. MANN. I am very glad to say that I do not find that experience at my boarding house. I think that the gentleman, instead of casting aspersion upon the meat of the country, to be sent out broadcast over the world, better change his boarding house. [Laughter.]

Mr. FOWLER. Mr. Chairman, I desire to ask the gentleman a question before he concludes.

The CHAIRMAN. Does the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. FOWLER. I desire to ask the gentleman if he knows that I am living at home in Washington [laughter], and that it might be unprofitable for me to leave my home?

Mr. MANN. Mr. Chairman, I am very glad that the gentleman is living at home, for his statement that he is living at home is a refutation of his former statement that he had to hold his nose at the table.

Mr. FOWLER. Mr. Chairman, I desire to ask the gentleman if it is not a fact that birds and meats are put on the table which are so nauseating that a man is loath to eat them and more anxious to hold his nose than to eat?

Mr. MANN. Mr. Chairman, I will put myself up as an object lesson, being fairly fat and eating well, dining out and in, at the boarding house and everywhere, as against my colleague from Illinois. I never found that experience. I regret that my friend from Illinois constantly goes to places where they give him something to eat which is not fit to eat. I do not have that experience.

Mr. FOWLER. Mr. Chairman, I desire to say to my colleague that on the train only a few months ago——

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. LAMB. Mr. Chairman, I demand the regular order.

Mr. FOWLER. That there was served——

The CHAIRMAN. The time of the gentleman has expired, and the Clerk will read.

The Clerk read as follows:

BUREAU OF PLANT INDUSTRY.

Salaries, Bureau of Plant Industry: One plant physiologist and pathologist, who shall be chief of bureau, $5,000; 1 chief clerk, $2,500; 1 executive assistant in seed distribution, $2,250; 1 officer in charge of publications, $2,200; 1 landscape gardener, $1,800; 1 officer in charge of records, $2,100; 1 superintendent of seed weighing and mailing, $2,000; 1 executive clerk, $2,250; 3 executive clerks, at $1,980 each; 1 assistant superintendent of seed warehouse, $1,400; 1 seed inspector, $1,000; 9 clerks, class 4; 11 clerks, class 3; 2 clerks, at $1,500 each; 17 clerks, class 2; 49 clerks, class 1; 1 clerk, $1,080; 9 clerks, at $1,020 each; 31 clerks, at $1,000 each; 51 clerks, at $900 each; 24 clerks, at $840 each; 15 clerks, at $720 each; 36 messengers, gardeners, or laborers, at $720 each; 11 messengers, messenger boys, or laborers, at $660 each; 20 messengers, messenger boys, or laborers, at $600 each; 1 artist, $1,620; 1 clerk or artist, $1,200; 1 assistant in illustrations, $840; 1 photographer, $1,400; 1 photographer, $1,200; 1 photographer, $900; 1 laboratory aid, $1,440; 1 laboratory aid, $1,380; 3 laboratory aids, at $1,200 each; 1 laboratory aid, $1,080; 2 laboratory aids, at $1,020 each; 5 laboratory aids, at $840 each; 8 laboratory aids, at $720 each; 6 laboratory aids, at $660 each; 1 laboratory apprentice, $720; 2 map tracers, at $720 each; 1 map tracer, $660; 1 gardener, $1,440; 2 gardeners, at $1,200 each; 1 gardener, $1,100; 2 gardeners or assistants, at $1,000 each; 7 gardeners, at $900 each; 4 gardeners, at $840 each; 4 gardeners, at $780 each; 8 gardeners, at $720 each; 5 gardeners, at $660 each; 2 gardeners, at $600 each; 1 skilled laborer, $960; 1 skilled laborer, $900; 4 skilled laborers or gardeners, at $840 each; 1 assistant in technology, $1,400; 1 assistant in technology, $1,380; 1 mechanical assistant, $1,200; 1 blacksmith, $900; 1 carpenter, $900; 1 painter, $900; 1 teamster, $840; 1 teamster, $600; 19 laborers, at $540 each; 24 laborers, messengers, or messenger boys, at $480 each; 5 laborers or charwomen, at $480 each; 2 laborers or charwomen, at $360 each; 2 laborers, at $420 each; 8 charwomen, at $240 each; 8 messenger boys, at $360 each; 3 messenger boys, at $300 each; in all, $418,920.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illinois reserves all points of order.

Mr. FOWLER. Mr. Chairman, I desire to ask the chairman of the committee why it is that the salary of the chief of the bureau has been increased?

Mr. LAMB. Since when, does the gentleman mean? We did not increase any salaries.

Mr. FOWLER. Is the gentleman aware of the fact that the salary of the chief of that bureau was originally fixed at $3,000?

Mr. LAMB. I do not know. That is further back than I have gone.

Mr. FOWLER. And that the chief clerk's salary was fixed at $2,000?

Mr. LAMB. I do not know. The gentleman seems to have been looking into ancient history. Let us know.

Mr. FOWLER. I am asking for the reason for the increase.

Mr. LAMB. It is because we think the laborer is worthy of his hire.

Mr. FOWLER. Then why did you not increase the salaries of some of these laboring people who are getting as low as $360 a year?

Mr. LAMB. Last year we increased 158 of them.

Mr. FOWLER. And I see in the bill—in the paragraph—provision is made for laborers at $240 a year—charwomen.

Mr. LAMB. Well, they are charwomen who go there part of the day, just like charwomen in the office buildings. I presume the gentleman heard the discussion on the floor the other day with reference to that.

Mr. FOWLER. They told me they worked four or five hours a day. These women waited on me recently and told me they worked four or five hours a day.

Mr. EDWARDS. Which women are those?

Mr. FOWLER. The charwomen. Why did you increase the salaries of these big offices and fail to increase the little ones?

Mr. LAMB. Because of the difference in the work of a charwoman and the work of the chief of a division of the Department of Agriculture; for the same reason that the gentleman does not increase his employees at home in proportion to his salary here; because the gentleman is worth so much more than they are.

Mr. FOWLER. The gentleman is speaking from imagination, I assume.

Mr. LAMB. No; the fact is you are here and you are getting a $7,500 salary, whereas your man at home probably gets $25 a month.

Mr. FOWLER. I desire to ask the gentleman why he has increased the salary of the officer in charge of publications from $2,000 to $2,200?

Mr. LAMB. This is a promotion of $200 for an officer who handles all the publications of the bureau, prepares all manuscript for transmission to the Division of Publications, where they are officially revised before being sent to the Government Printer, and so forth. We could give a whole lot of reasons. He has not had a promotion in seven years.

Mr. FOWLER. I see the officer in charge of records has been increased from $2,000 to $2,100.

Mr. LAMB. This is an increase of $100 in the salary of this officer, who handles all financial matters of the bureau and who directs the handling of a sum aggregating over two and a quarter million dollars, and sees that 35 or 36 officers are regularly informed as to the status of their funds.

Mr. FOWLER. How many hours a day do these people put in?

Mr. LAMB. I suppose about eight or nine.

Mr. FOWLER. Do they not put in seven?

Mr. LAMB. Men like these, charged with the responsibility of this sort, work like Congressmen, until 7 or 8 o'clock at night.

Mr. FOWLER. I will ask if it is not a fact they only put in about seven hours a day?

Mr. LAMB. It is not, I think.

Mr. FOWLER. Has the gentleman information upon this question?

Mr. LAMB. Yes; I have been there and seen them at all hours of the day. I spent a month down there once from early in the morning until dewy eve.

Mr. RODDENBERY. Will not my colleague from Illinois take into consideration the fact that the volume of work turned out by this office has increased very largely on account of the increased demands of agriculture——

Mr. FOWLER. That is true.

Mr. RODDENBERY. Which annually puts more work under them? Now, the individual employee does not have to do any more work, but the manager or superintendent of this division, who must measure the energies and activities to meet the growth of it——

Mr. FOWLER. If the gentleman has read this paragraph, he must have seen the wonderful increase in the number of people who have been added to this great force for the purpose of meeting the increased demands on this department.

Mr. RODDENBERY. That is the very point I wanted to make to my colleague, that the superintendent of the division in charge of it has increased not only his responsibility and the details of the work which are a charge against——

Mr. FOWLER. He has subordinates to look after those.

Mr. RODDENBERY. That is quite true. I know my colleague knows that the superintendent here gives his personal supervision, and the more it increases the more he has to supervise both the subordinates and the employees. I merely wanted to impress upon my colleague that fact, because I know he is in earnest.

Mr. LAMB. Mr. Chairman, in this Bureau of Plant Industry there are 500 projects, and the work of this department increases every year just to the proportion of the increase of population. They asked for an increase of $400,000 in this very bureau, and we carefully went over it and cut this item down to $200,000, and that is about the increase to this bureau. I think that the gentleman, who knows so much about ancient history and the cure of hams—and, by the way, if he comes down in Virginia we will show him exactly how to cure a Smithfield ham—might trust Dr. Galloway and the people in this bureau to a greater extent than he seems to do. I hope he will not make these captious objections. In any point of order upon any large matter here we will consider it patiently and hear him patiently; but if he will excuse me, it looks to me like this is frivolous to make these captious objections, as he has been making them. I hope he will excuse me for being earnest in this matter.

I do not waste time here. We want to get this bill through in the proper time.

Mr. RODDENBERY. Will the gentleman from Illinois yield to me just a moment?

Mr. FOWLER. I am willing to allow the following salaries to pass with the points of order I have mentioned pending, namely, the salary of the chief of bureau, the chief clerk, the officer in charge of publications, and the officer in charge of records. If any of these gentlemen are not satisfied that there are increases in these salaries——

Mr. LAMB. You make a point of order?

Mr. FOWLER. I say I desire to pass it and let the point of order be pending until to-morrow morning, in order to give you an opportunity to make the examination.

Mr. LEVER. Mr. Chairman, I would like to suggest that I have not been able, so far as I have examined into the statutes, to find that there is any law anywhere fixing the salary of the Chief of the Bureau of Plant Industry, and if the gentleman from Illinois [Mr. FOWLER] has that, and the salary has been fixed by law, then of course it is necessarily subject to a point of order, and the gentleman might as well make it. We will concede it, and will go on attending to business here.

Mr. RODDENBERY. Will my colleague yield, inasmuch as he has reserved a point of order in this connection?

Mr. FOWLER. Yes.

Mr. RODDENBERY. I do not quite agree with the distinguished chairman of the committee that even this objection would be a captious objection if my colleague would make it, nor do I think he is given to making trivial and captious objections. I think it is a question that should be discussed and resolved on its merits. What I want to address to the attention of my colleague is a statement made a few moments ago that the heads of the subordinates here are increased; that the actual clerical force is increased; and he knows that the demands of our correspondence from our constituents, which goes into this department, is increased on all lines. Our country is growing. When we send these requests down we want them attended to accurately and properly, and with immediate dispatch. It is very important to have at the head of a department of this character men of capacity and qualifications for that purpose, and if we do have them, I want to suggest to my colleague that this increase, if an increase it is, is a very moderate one, and if you take the aggregate of the compensation, it is entirely reasonable for men of that capacity and ability.

Mr. LAMB. Let me answer right there, in reply to the suggestion made, that the increase in this Bureau of Plant Industry is only $1,600.

Mr. LEVER. Mr. Chairman, I believe I have the floor. I hope the gentleman from Georgia [Mr. RODDENBERY] did not understand me to raise a criticism that my friend from Illinois [Mr. FOWLER] was making captious suggestions. I made no such statement, nor have I intended to do it. The gentleman, of course, has a perfect right to make these objections. But I want to say that this Bureau of Plant Industry is the only bureau that devotes its entire attention to the agriculture of the country. It is conducting scientific research work relative to crop growing; it is conducting farm demonstration work in the South and farm demonstration work in the North. It is doing the greatest work, in my judgment, of any bureau in the Department of Agriculture or of any bureau in the Government service. There is not a more competent man anywhere, there is not a man who gives closer attention to the service, there is not a man who is more efficient in the service, than Dr. Galloway, the man at the head of this bureau. And I do hope my friend from Illinois [Mr. FOWLER] will not make a point of order against these men. Dr. Galloway has been drawing this salary of $5,000 for a number of years. Of these few men whose salaries we have increased one or two hundred dollars a year one has not had an increase of salary for seven years and one has not had an increase for four or five years, and we can not keep our best men in these lines of technical and scientific work unless we are willing to give them a reasonable salary. The fact is, Mr. Chairman, that the man who acted as temporary Chief of the Bureau of Plant Industry, Dr. Powell, a few years ago left the department and went to California and entered another work at a salary of $12,000 a year. A lot of these men at the head of these bureaus are really working at a sacrifice to themselves and their families. I hope my friend will not press this point.

Mr. MANN. Mr. Chairman, I ask for the regular order.

Mr. CANDLER. Mr. Chairman, just a moment, please.

Mr. MANN. I ask for the regular order.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] asks unanimous consent——

Mr. MANN. I ask for the regular order, Mr. Chairman.

Mr. LEVER. The regular order is a decision on the point of order.

The CHAIRMAN. The Chair did not know that the unanimous-consent request had been made at all. Does the gentleman from Illinois [Mr. FOWLER] make his point of order?

Mr. FOWLER. Mr. Chairman, I ask unanimous consent that the paragraph may be passed with the points of order pending against the three salaries.

The CHAIRMAN. The gentleman's colleague [Mr. MANN] has just asked for the regular order, which is equivalent to an objection.

Mr. LEVER. Mr. Chairman, the regular order is the deciding of the point of order. Is that right?

The CHAIRMAN. The regular order is for the gentleman from Illinois [Mr. FOWLER] either to make the point of order or withdraw it.

Mr. FOWLER. Mr. Chairman, I submit once more for unanimous consent that the paragraph may be passed with the points of order pending against the four salaries mentioned.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] asks that his request for unanimous consent be again presented.

Mr. MANN. Mr. Chairman, reserving the right to object, I want to say that we have been all day upon this bill and are now upon page 13. There are 64 pages to this bill, and unless we settle something as we go on there is no possibility of passing the appropriation bills at this session except under suspension of the rules, if it can be done in that way. Therefore I ask for the regular order.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] objects. Does the gentleman from Illinois [Mr. FOWLER] make the point of order?

Mr. FOWLER. I make the point of order.

The CHAIRMAN. Has the gentleman before him the statute limiting the salary to $3,500?

Mr. FOWLER. I have not the statute before me.

The CHAIRMAN. Is the gentleman certain that that is the statute at the present time?

Mr. FOWLER. I have made a thorough examination of the statutes and I am of the opinion, from the information I can get, that the salary was originally fixed at $2,000, and then carried by increases in appropriation bills. That was the reason, Mr. Chairman, why I was willing to let it pass, so that there might be a certainty. I do not desire to press the point of order unless the statute justifies it.

Mr. LEVER. Mr. Chairman, if the gentleman is through, I desire to submit to the Chair that I have read a digest of the laws applicable to the Department of Agriculture, prepared by the solicitor of the department some years ago, and I have failed to find where the salary of the Chief of the Bureau of Plant Industry is fixed by any statute whatever. The Bureau of Plant Industry differs from the Weather Bureau or from the Bureau of Animal Industry, in that the Bureau of Plant Industry has been created upon an appropriation bill and not by any statute setting out its limitations or fixing the salary.

Mr. FOWLER. I have indicated to the Chair my best information concerning the matter, that the statute first enacted upon this subject, fixing the salary, was in 1862, as I recollect, and that subsequently there have been some amendments made thereto; but the salary as to this first office was fixed at $2,000. That is my best information.

The CHAIRMAN. If the gentleman from Illinois [Mr. FOWLER] will state that he knows as a matter of fact that the salary of this chief of bureau is fixed by law at a sum different from that which is carried in this bill, the Chair will sustain the point of order.

Mr. FOWLER. I can not do that, Mr. Chairman, because I desire to be fair.

The CHAIRMAN. Then the Chair overrules the point of order, on the assumption that the amount carried in the appropriation bill is authorized by law.

Mr. FOWLER. That is, for the chief of the bureau?

The CHAIRMAN. For the chief of the bureau.

Mr. FOWLER. Now, the chief clerk will be in the same condition, Mr. Chairman, as the chief of the bureau.

The CHAIRMAN. Has the gentleman any definite information on that?

Mr. FOWLER. Only, as I say, I have read the statute upon this question fixing the salary, and my recollection is that when it first came in it was fixed at $2,000, although I do not desire at all to say to the Chair that I am positive about the matter.

The CHAIRMAN. In the absence of a positive statement from some Member that the salary provided in this bill is different from the salary provided by law, the Chair will overrule the point of order.

Mr. MANN. Mr. Chairman, nearly all of these divisions in the Agricultural Department were provided, as they now are, in the agricultural appropriation bill a few years ago, since I have been a Member of the House. The only fixing of salaries, as I recall it, was by making the appropriation. I do not think there is any law outside of the appropriation bill except the organic law of the department.

The CHAIRMAN. The Chair overrules the point of order.

Mr. FOWLER. There is an organic law of 1862, fixing the salaries of a number of officers and public places in this department.

The other item to which I make the point of order is the salary of the officer in charge of publications, $2,200, an increase of $200.

The CHAIRMAN. The Chair sustains that point of order.

Mr. FOWLER. One officer in charge of records, in line 7, page 13, increased from $2,000 to $2,100.

The CHAIRMAN. An increase of $100 above the last appropriation bill?

Mr. FOWLER. The Chair sustains the point of order?

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. As the bill now stands, do the words in lines 5 and 6, "one officer in charge of publications," remain in the bill?

The CHAIRMAN. Yes. The salary is stricken out.

Mr. MANN. There is a blank there now?

The CHAIRMAN. Yes.

Mr. MANN. Well, I would leave it blank.

Mr. LAMB. I will ask the Clerk to insert the old amount, $2,000, in line 6, page 13.

The CHAIRMAN. The Chair will call the attention of the gentleman from Virginia to the fact that the Clerk can not do that. It requires an amendment by the committee to make that change.

Mr. LAMB. Then I offer the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 13, line 6, at the beginning of the line, insert "$2,000."

The amendment was agreed to.

Mr. LAMB. And in line 7, page 13, I move to insert "$2,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 13, line 7, insert "$2,000."

The amendment was agreed to.

The Clerk read as follows:

For investigations of plant diseases and pathological collections, $25,000.

Mr. McLAUGHLIN. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Michigan offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 15, line 12, after the word "diseases," by inserting "including diseases of ginseng," and in line 13, strike out "$25,000" and insert "$30,000," so that the paragraph will read:

"For investigations of plant diseases, including ginseng, and pathological collections, $30,000."

Mr. LEVER. I reserve a point of order on that amendment.

Mr. McLAUGHLIN. Mr. Chairman, I offer this amendment at the request of the gentleman from Wisconsin [Mr. MORSE], who was not able to remain here. The gentleman from Wisconsin [Mr. MORSE] is very much interested in this subject. He has investigated it carefully and is of the opinion that the money is necessary. Diseases of the ginseng have developed, and the growers of it have not been able to deal with them. They feel that they need help, and they ask for this modest, moderate appropriation of $5,000.

Mr. CANNON. Will the gentleman allow me to ask him a question?

Mr. McLAUGHLIN. Certainly.

Mr. CANNON. This paragraph is for investigations of plant diseases?

Mr. McLAUGHLIN. Yes.

Mr. CANNON. Is ginseng a plant?

Mr. McLAUGHLIN. No doubt it is.

Mr. CANNON. Then what is the use of the amendment?

Mr. MANN. It carries an appropriation of an additional $5,000.

Mr. McLAUGHLIN. There is an additional appropriation.

Mr. CANNON. I did not hear that part of it.

Mr. LEVER. Will my colleague permit a question?

Mr. McLAUGHLIN. Yes.

Mr. LEVER. I wonder if my colleague knows that the Department of Agriculture on April 30, 1912, issued a bulletin of 44 pages on the Diseases of the Ginseng and Their Control, which pamphlet I hold in my hand?

Mr. McLAUGHLIN. I did not know about that.

Mr. LAMB. I have a letter from the Secretary touching that very matter, saying substantially that they are doing this work now.

Mr. MANN. I have read the bulletin issued by the Agricultural Department on ginseng and another one formerly issued by the department. The gentleman from Wisconsin, on whose behalf the amendment is offered, raises ginseng and is very familiar with the trade in this country. Ginseng is a plant that grows here and is exported to China as a sort of medicine. The plant is subject to diseases. The gentleman from Wisconsin knows the subject thoroughly and has given a great deal of attention to it. This plant is attacked by diseases which ought to be investigated by the department. The gentleman from Wisconsin has been a Member of this House for a long time. During the last session of Congress he worked day and night for months in connection with the gentleman from Tennessee [Mr. SIMS], going over the reports and the findings of the Court of Claims on these war-claims propositions, and on his statement and the statement of the gentleman from Tennessee the House passed the war-claims bill. The gentleman from Wisconsin after doing all this work is now about to retire from Congress. He knows the subject of ginseng, and I think we can afford to take his judgment for $5,000 on this proposition when this side of the House has taken it on a million dollars of war claims.

Mr. SIMS. Over a million and a half dollars. And while I am on my feet I want to ask if there is any more profitable thing grown in this country, if it can be protected against disease, than ginseng? It is worth $6 a pound, and when I used to dig it as a boy I sold it for 30 and 40 cents a pound.

Mr. CANNON. If the gentleman will pardon me, there is now available for the study of plants $25,000, and it is moved to increase the amount by $5,000.

Mr. MANN. The purpose of the amendment is to give the department an opportunity, if it will, to use all or a part of the $5,000 by increasing the amount for the investigation of ginseng. The department is not now engaged in the study of the subject of ginseng by actual experiment.

Mr. CANNON. I will ask my colleague could any or all of this $5,000, under the law, be used for the employment of any person?

Mr. MANN. I suppose that is what it will be used for; that is the way they will study it; they will have somebody go out where they are raising it and study these diseases.

Mr. CANNON. And this $5,000, neither in whole nor in part, is contemplated for the employment of our colleague?

Mr. MANN. Oh, not at all. I am glad my colleague asked that question; but there will be no large salaries paid out of it. The gentleman from Wisconsin is not looking for and is not to have the job.

Mr. CANNON. I am very glad the gentleman said that, because of the very valuable services rendered by the gentleman in connection with the gentleman from Tennessee an evil-minded person might gather that this was to be given to him.

Mr. MANN. I suppose some one might have inferred it from my remarks, but that is not the case.

Mr. LAMB. I think the Government has given some attention to this, but with the great reverence I have for the minority I am willing to yield to the request.

Mr. SIMS. I want to say that there was an experiment made in raising ginseng right close to my own home. The gentleman cleared the land, put in the ginseng, and it did well for two or three years, and then through some insect or some disease it was entirely destroyed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

For investigating the physiology of crop plants and for testing and breeding varieties thereof, $30,380.

Mr. HAYDEN. Mr. Chairman, I move to strike out the last word. I notice that this appropriation is the same as it was last year, and yet the department in its estimate asked for $6,200 additional, and gave as a reason that they wanted to enlarge the scope of investigations of dates and figs and work on cotton with the Indians. I made some remarks this morning in regard to the Egyptian cotton industry and that language caught my eye. If anything can be done to assist the Indians in the cultivation of a high grade of long-staple cotton, I think the additional money would be well expended. Figs and dates can be grown in Arizona and California, and I am of the opinion that the cultivation of such fruits ought to be encouraged.

Mr. LAMB. The gentleman seems to know what the chief of the Bureau said and that is all I know about it.

Mr. HAYDEN. But the committee declined to give the increase. It seems to me that this work has great merit.

Mr. LAMB. We had to trim down some of these estimates; we could not give everything they asked.

Mr. HAYDEN. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

For acclimatization and adaptation investigations of cotton, corn, and other crops introduced from tropical regions, and for the improvement of cotton by cultural methods, breeding, and selection, $33,300.

Mr. HAYDEN. Mr. Chairman, I move to strike out the last word for the same reason that I did before. In the estimates the department has asked for $10,000 additional, giving as a reason that they desire to properly carry out important work which has been inaugurated in the improvement of cotton and the development of community work in cotton growing, and that this is of vital importance to the cotton interests of the South.

Mr. LAMB. We think that we have given them enough.

Mr. HAYDEN. The committee allowed the same amount as last year.

Mr. LAMB. Yes.

The Clerk read as follows:

For studying and testing commercial seeds, including the testing of samples of seeds of grasses, clover, or alfalfa secured in the open market, and where such samples are found to be adulterated or misbranded the results of the tests shall be published, together with the names of the persons by whom the seeds were offered for sale, $26,000.

Mr. MANN. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 16, line 18, at the beginning of the line, insert the words "and lawn-grass seed."

Mr. RODDENBERY. Mr. Chairman, will the gentleman object to adding to his amendment "and Bermuda"?

Mr. MANN. Bermuda is already covered by the bill.

Mr. RODDENBERY. Does not "seeds of grasses" cover lawn seed also?

Mr. MANN. Lawn seed is the proper term, although I have made it lawn-grass seed. It is usually a mixture of seed. A lot of seed houses have gotten into the habit of mixing seed containing mainly the seed of weeds. I want them to feel that if they continue that they are in danger of having their names published. I want the practice stopped.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

For the investigation and improvement of cereals and methods of cereal production, and the study of cereal diseases, and for the investigation of the cultivation and breeding of flax for seed purposes, including a study of flax diseases, $104,925.

Mr. MOSS of Indiana. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 16, after line 26, add the following:

"*Provided*, That not less than $30,000 shall be set aside for the study of corn improvement and methods of corn production."

Mr. MOSS of Indiana. Mr. Chairman, I understand that this amendment is agreeable to the committee. If so, I will not take up the time of the House in discussing it.

Mr. LEVER. Mr. Chairman, speaking for the committee, I will say that the amendment is agreeable to the committee.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Indiana.

The amendment was agreed to.

The Clerk read as follows:

To investigate and encourage the adoption of improved methods of farm management and farm practice, and for farm demonstration work, $375,000: *Provided*, That of the amount hereby appropriated the sum of $8,800 may be used in the investigation and utilization of cacti and other dry-land plants as food for stock.

[Mr. LEVER addressed the committee. See Appendix.]

The Clerk read as follows:

For investigations in connection with western irrigation agriculture, the utilization of lands reclaimed under the reclamation act, and other areas in the arid and semiarid regions, $73,000.

Mr. HAYDEN. Mr. Chairman, I move to strike out the last word. I notice in this case that the committee did not allow the amount asked for by the department, and in reading the justification in the Book of Estimates it says that they need this extra money, some $3,600, on account of the extension of important work on cotton production in the Southwest, especially Egyptian cotton. The committee did not feel they could possibly allow what the department wanted for this particular work?

Mr. LAMB. We thought they could get on with what they had.

Mr. HAYDEN. And allowed the amount they had last year?

Mr. LAMB. Yes.

Mr. HAYDEN. I withdraw the pro forma amendment.

The Clerk read as follows:

For the investigation and improvement of fruits, and the methods of fruit growing, harvesting, packing, storing, handling, and shipping, and for experimental shipments of fruits within the United States and to foreign countries, $92,000.

Mr. HARRISON of Mississippi. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, at the end of line 17, on page 18, after "$92,000," by adding the following: "*Provided*, That $5,000 of the amount hereby appropriated may be set aside and used in the investigation and improvement of the pecan industry."

Mr. HARRISON of Mississippi. Mr. Chairman, I am in hopes that the committee will agree to this amendment. The Government has done very little toward the encouragement of the pecan industry in this country. In my section it is an industry that is growing very rapidly. It was not until recently, if at all, that the Government issued a bulletin with respect to the pecan industry.

Mr. MANN. Oh, yes; many years ago.

Mr. HARRISON of Mississippi. I have been unable to find it on the list. I have had several calls for it, and you can not get it. I know that recently there was in the course of

preparation a bulletin on the pecan industry, but I do not think it has as yet been issued.

Mr. MANN. They issued a very handsome book on the pecan industry.

Mr. HARRISON of Mississippi. It has not been my good fortune to see that.

Mr. MANN. I expect it is out of print.

Mr. LAMB. Why did not the gentleman ask the department about this?

Mr. HARRISON of Mississippi. I called up the department; Mr. Galloway was not there, and I talked with Mr. Jones, his assistant. He said some work had been done along this line, but he did not think very much. I am not asking by this amendment any additional amount of money. I am asking that only a small part of this total appropriation be used for this purpose—$5,000. I have had several letters with reference to this, and the people in our section are very much interested in it.

Mr. RODDENBERY. If the Chairman will permit—I do not know but what it might throw light on the subject—the Government is engaged, and has been, I know personally, for over three years, in sending out agents for the investigation of the diseases of the pecan; I do not know what appropriation it comes under, but looking to the proper treatment of the disease of blight and worm in the pecan, and so forth.

For more than three years they have been doing that, and have been inspecting orchards all through the pecan belt to ascertain what fruit turned out the best, which was bearing the best, and so forth. This has come under my personal observation, and the bulletin the gentleman [Mr. HARRISON] refers to, when it is published, I know from personal observation, with the information they are acquiring it will not be conjecture, but it will be a statement of actual facts.

Mr. HARRISON of Mississippi. Has that bulletin been published yet?

Mr. RODDENBERY. It has not, but I think it is in press, or in course of preparation.

Mr. HARRISON of Mississippi. Mr. Chairman, the Government, in my opinion, has not gone into this subject as much as the growth of the industry demands, and I think they should be allowed to go into it more fully. Now, as to whether there is sufficient appropriation or whether it comes out of this item I can not say.

Mr. MANN. Will the gentleman yield? Is the gentleman aware this item is expended in the matter of shipping fruit?

Mr. HARRISON of Mississippi. I called up the department and asked under which of these paragraphs would this item come, and they told me this would be the paragraph under which the pecan industry would come.

Mr. MANN. I think it has in the past mainly been used in connection with the packing and shipping of citrus fruits and apples not only in this country but abroad. I do not think it would have anything to do, in the main, with growing pecans.

Mr. HARRISON of Mississippi. Under this amendment there would be no question about it, because it says that $5,000 of the amount may be used for the purpose of investigating and improving the pecan industry.

Mr. CANDLER. This amendment only provides that the department may have discretion in this matter, and this industry is growing in importance. I have recently had inquiries in reference to it from our section of the country myself, and other sections of the United States. This is a matter the department can well investigate, and they can use this amount if they see fit to do so, and I hope it will be agreed to.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Purchase and distribution of valuable seeds: For purchase, propagation, testing, and distribution of valuable seeds, bulbs, trees, shrubs, vines, cuttings, and plants; all necessary office fixtures and supplies, fuel, transportation, paper, twine, gum, postal cards, gas, electric current, rent outside of the District of Columbia, official traveling expenses, and all necessary material and repairs for putting up and distributing the same; for repairs and the employment of local and special agents, clerks, assistants, and other labor required in the city of Washington and elsewhere, $296,000, of which amount not less than $257,000 shall be allotted for congressional distribution. And the Secretary of Agriculture is hereby directed to expend the said sum, as nearly as practicable, in the purchase, testing, and distribution of such valuable seeds, bulbs, shrubs, vines, cuttings, and plants, the best he can obtain at public or private sale, and such as shall be suitable for the respective localities to which the same are to be apportioned, and in which same are to be distributed as hereinafter stated, and such seeds so purchased shall include a variety of vegetable and flower seeds suitable for planting and culture in the various sections of the United States: *Provided*, That the Secretary of Agriculture, after due advertisement and on competitive bids, is authorized to award the contract for the supplying of printed packets and envelopes and the packeting, assembling, and mailing of the seeds, bulbs, shrubs, vines, cuttings, and plants, or any part thereof, for a period of not more than five years nor less than one year, if by such action he can best protect the interests of the United States. An equal proportion of five-sixths of all seeds, bulbs, shrubs, vines, cuttings, and plants shall, upon their request, after due notification by the Secretary of Agriculture that the allotment to their respective districts is ready for distribution, be supplied to Senators, Representatives, and Delegates in Congress for distribution among their constituents, or mailed by the department upon the receipt of their addressed franks, in packages of such weight as the Secretary of Agriculture and the Postmaster General may jointly determine: *Provided, however*, That upon such envelope or wrapper containing packages of seeds the contents thereof shall be plainly indicated and the Secretary shall not distribute to any Senator, Representative, or Delegate seeds entirely unfit for the climate and locality he represents, but shall distribute the same so that each Member may have seeds of equal value, as near as may be, and the best adapted to the locality he represents: *Provided, also*, That the seeds allotted to Senators and Representatives for distribution in the districts embraced within the twenty-fifth and thirty-fourth parallels of latitude shall be ready for delivery not later than the 10th day of January: *Provided, also*, That any portion of the allotments to Senators, Representatives, and Delegates in Congress remaining uncalled for on the 1st day of April shall be distributed by the Secretary of Agriculture, giving preference to those persons whose names and addresses have been furnished by Senators and Representatives in Congress and who have not before during the same season been supplied by the department: *And provided also*, That the Secretary shall report, as provided in this act, the place, quantity, and price of seeds purchased, and the date of purchase; but nothing in this paragraph shall be construed to prevent the Secretary of Agriculture from sending seeds to those who apply for the same. And the amount herein appropriated shall not be diverted or used for any other purpose but for the purchase, testing, propagation, and distribution of valuable seeds, bulbs, mulberry and other rare and valuable trees, shrubs, vines, cuttings, and plants: *Provided further*, That $50,000 of which sum, or so much thereof as the Secretary of Agriculture shall direct, may be used for the purchase and distribution of drought-resistant field seeds through the Great Plains area and other dry-land sections of the United States.

Mr. COX. Mr. Chairman, I move to strike out the paragraph beginning on line 22, page 19, down to and including line 17, on page 22.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out the paragraph beginning on line 22, page 19, down to and including line 17, on page 22.

Mr. LAMB. Mr. Chairman, on that I ask for a vote.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. COX. Wait a minute, Mr. Chairman. I will say to the chairman now that we will not conclude this paragraph this evening, because I am not going to let a vote go on this unless a quorum is present.

Mr. LAMB. Before the gentleman does that, I ask permission to turn to page 21, line 10, and strike out the word "such" and insert the word "each."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 21, line 10, strike out the word "such" and insert in lieu thereof the word "each."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LAMB. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to; and the Speaker having resumed the chair, Mr. BEALL of Texas, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 28283, the Agricultural appropriation bill, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 27987. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27944. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27988. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27986. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27879. An act providing authority for the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota.;

H. R. 25002. An act to amend section 73 and section 76 of the act of August 27, 1894, entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes";

H. R. 21524. An act for the relief of Frederick H. Ferris; and

H. R. 1332. An act regulating Indian allotments disposed of by will.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 109. An act to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect.

CLAIMS.

Mr. SIMS. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House from the further consideration of the bill H. R. 19115, an act making appropriations for payment of certain claims in accordance with the findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, disagree to the Senate amendments, and agree to the conference asked for by the Senate.

The SPEAKER. The gentleman from Tennessee [Mr. SIMS] asks unanimous consent to discharge the Committee of the Whole House from the further consideration of the bill H. R. 19115, disagree to the Senate amendments, and agree to the conference asked for by the Senate. Is there objection?

There was no objection.

The SPEAKER announced the following conferees: Mr. SIMS, Mr. LEE of Georgia, and Mr. MORSE of Wisconsin.

SLAVERY IN PERU (H. DOC. 1366).

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with the accompanying documents, referred to the Committee on Foreign Affairs and ordered to be printed:

To the House of Representatives:

I transmit a report of the Secretary of State, with accompanying papers, in response to the resolution adopted by the House of Representatives on August 1, 1912, calling upon the Secretary of State, "if not incompatible with the public interest," for "all information in the possession of his department concerning the alleged existence of slavery in Peru, and especially all information tending to show the truth or falsity of the following statement made in an editorial in the London Times of July 15, 1912: 'The bluebook shows that in an immense territory which Peru professes to govern the worst evils of the plantation slavery which our forefathers labored to suppress are at this moment equaled or surpassed. They are so horrible that they might seem incredible were their existence supported by less trustworthy evidence.'"

WM. H. TAFT.

THE WHITE HOUSE, *February 7, 1913.*

HOUR OF MEETING TO-MORROW.

Mr. LAMB. Mr. Chairman, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 10.30 a. m. to-morrow.

The SPEAKER. The gentleman from Virginia [Mr. LAMB] asks unanimous consent that when the House adjourns to-day it adjourn to meet at 10.30 a. m. to-morrow. Is there objection?

Mr. MANN. Reserving the right to object, does the gentleman expect to go ahead at 10.30 a. m., or does the Committee on Rules intend to report a rule at 10.30 a. m., if the House meets at that time?

Mr. LAMB. We were planning to go on. I did not know anything about the Committee on Rules.

Mr. MANN. I think everyone in the House understands that the House is going to do other business. I do not care how they work it, if they work it at all. The gentleman from Tennessee [Mr. GARRETT] might know, I thought.

Mr. GARRETT. Mr. Speaker, there is no objection to the House meeting at 10.30 a. m.

Mr. MANN. There is no objection on the gentleman's part. But does the gentleman know, if the House meets at 10.30 a. m., that we will go ahead with the Agriculture appropriation bill or that the Committee on Rules will report at that time?

Mr. GARRETT. The Committee on Rules has adopted a rule which it proposes to ask consideration for to-morrow.

Mr. MANN. Are they likely to come in at 10.30 a. m.?

Mr. GARRETT. They are likely to come in at the first opportunity they have to present a privileged resolution.

Mr. MANN. I have no objection.

The SPEAKER. Is there objection?

There was no objection.

TRANSPORTATION IN ALASKA (H. DOC. NO. 1346).

Mr. BOOHER. Mr. Speaker, I am directed by the Committee on the Territories to ask unanimous consent to offer the following resolution and ask its adoption.

The SPEAKER. The gentleman from Missouri [Mr. BOOHER] asks unanimous consent to offer a resolution and have it immediately considered. The Clerk will report it.

The Clerk read as follows:

House resolution 820.

Resolved, That the message of the President, transmitting the report of the commission appointed to conduct an examination into the transportation question in the Territory of Alaska, together with the report of the commission, and accompanying papers and illustrations, be printed as a document.

The SPEAKER. Is there objection to the request for unanimous consent?

There was no objection.

The SPEAKER. The question is on agreeing to the resolution.

Mr. MANN. Mr. Speaker, I would suggest to the gentleman from Missouri that it should be printed as a House document.

Mr. BOOHER. Yes. I move that that amendment be made.

The SPEAKER. Without objection, the amendment will be made.

There was no objection.

The SPEAKER. The question is on agreeing to the amended resolution.

The resolution as amended was agreed to.

ADJOURNMENT.

Mr. LAMB. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 22 minutes p. m.) the House, in accordance with the order previously adopted, adjourned until to-morrow, Saturday, February 8, 1913, at 10.30 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Mille Lacs Lake and Onamia Lake, Minn. (H. Doc. No. 1364); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Red River near Fulton, Ark. (H. Doc. No. 1363); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Bennett River, N. C. (H. Doc. No. 1362); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

4. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Postmaster General submitting a deficiency estimate of appropriation for the Post Office Department on account of the parcel post act, etc. (H. Doc. No. 1360); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Interior submitting estimate of appropriation for improvement, extension, and survey of certain roads in Mount Rainier National Park, Wash. (H. Doc. No. 1361); to the Committee on Appropriations and ordered to be printed.

6. A letter from the Secretary of the Treasury, submitting estimates of appropriations required by the several departments of the Government to complete the service for the current fiscal year and for prior years (H. Doc. No. 1365); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. WEBB, from the Committee on the Judiciary, to which was referred the bill (H. R. 17593) to divest intoxicating liquors of their interstate-commerce character in certain cases, reported the same with amendment, accompanied by a report (No. 1461), which said bill and report were referred to the House Calendar.

Mr. STEPHENS of Nebraska, from the Committee on Indian Affairs, to which was referred the bill (H. R. 28409) to empower the United States District Court for the District of Minnesota to establish the status of the allottees on the White Earth Indian Reservation in said State, reported the same with amendment, accompanied by a report (No. 1459), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FERGUSSON, from the Committee on the Public Lands, to which was referred the bill (S. 6781) in reference to the issuance of patents and copies of surveys of private land claims, reported the same with amendment, accompanied by a report (No. 1473), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (S. 7875) to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal., reported the same with amendment, accompanied by a report (No. 1474), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HIGGINS, from the Committee on the Judiciary, to which was referred the bill (S. 8058) providing for an increase of salary of the United States attorney for the district of Connecticut, reported the same without amendment, accompanied by a report (No. 1462), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. SWEET, from the Committee on Military Affairs, to which was referred the bill (H. R. 24296) for the relief of Alonzo D. Cadwallader, reported the same without amendment, accompanied by a report (No. 1476), which said bill and report were referred to the Private Calendar.

Mr. HUGHES of Georgia, from the Committee on Military Affairs, to which was referred the bill (H. R. 18217) for the relief of Sylvester W. Barnes, reported the same without amendment, accompanied by a report (No. 1477), which said bill and report were referred to the Private Calendar.

Mr. ANTHONY, from the Committee on Military Affairs, to which was referred the bill (H. R. 6793) for the relief of Charles A. Bess, reported the same without amendment, accompanied by a report (No. 1466), which said bill and report were referred to the Private Calendar.

Mr. McKELLAR, from the Committee on Military Affairs, to which was referred the bill (H. R. 18727) for the relief of Lewis Wood, reported the same without amendment, accompanied by a report (No. 1464), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 8921) to correct the military record of William H. Seward, reported the same with amendment, accompanied by a report (No. 1465), which said bill and report were referred to the Private Calendar.

Mr. FARR, from the Committee on Claims, to which was referred the bill (S. 4309) for the relief of Dommick Taheny and John W. Mortimer, reported the same without amendment, accompanied by a report (No. 1467), which said bill and report were referred to the Private Calendar.

Mr. McKELLAR, from the Committee on Military Affairs, to which was referred the bill (H. R. 12173) to donate to the city of St. Augustine, Fla., for park purposes the tract of land known as the "powder-house lot," reported the same without amendment, accompanied by a report (No. 1463), which said bill and report were referred to the Private Calendar.

Mr. POU, from the Committee on Claims, to which was referred the bill (H. R. 28261) for the relief of G. O. Nolan, reported the same without amendment, accompanied by a report (No. 1470), which said bill and report were referred to the Private Calendar.

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (H. R. 19906) for the relief of Cornell Riveland, reported the same with amendment, accompanied by a report (No. 1469), which said bill and report were referred to the Private Calendar.

Mr. DENT, from the Committee on Military Affairs, to which was referred the bill (S. 8139) for the relief of William W. Prude, reported the same without amendment, accompanied by a report (No. 1475), which said bill and report were referred to the Private Calendar.

Mr. POU, from the Committee on Claims, to which was referred the bill (H. R. 26915) to reimburse the postmaster at Seaside, Oreg., for the loss by fire of postal savings cards and stamps, reported the same with amendment, accompanied by a report (No. 1471), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 27979) for the relief of Ed. P. Ambrose, reported the same without amendment, accompanied by a report (No. 1472), which said bill and report were referred to the Private Calendar.

Mr. FARR, from the Committee on Claims, to which was referred the bill (S. 1911) for the relief of James R. Brown, reported the same without amendment, accompanied by a report (No. 1468), which said bill and report were referred to the Private Calendar.

Mr. GRAY, from the Committee on Pensions, to which was referred sundry bills, reported in lieu thereof the bill (H. R. 28672) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, accompanied by a report (No. 1460), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MORGAN of Oklahoma: A bill (H. R. 28669) to authorize the payment to the State of Oklahoma of an amount of money equal to 5 per cent of the proceeds of the sales of public lands lying within what was formerly Oklahoma Territory, on sales made between April 22, 1889, and November 16, 1907, inclusive, and for other purposes; to the Committee on Appropriations.

Also, a bill (H. R. 28670) to pay the State of Oklahoma $20,000,000 in lieu of taxes on lands and other property within the State sold and disposed of by the United States under terms and conditions prohibiting the State from taxing the same, and for other purposes; to the Committee on Appropriations.

By Mr. GRIEST: A bill (H. R. 28671) for a specially designed postage stamp in commemoration of the one hundredth anniversary of the signing of the treaty of Ghent; to the Committee on the Post Office and Post Roads.

By Mr. GRAY: A bill (H. R. 28672) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and to widows of such soldiers and sailors; to the Committee of the Whole House.

By Mr. STEENERSON: A bill (H. R. 28673) to authorize the construction of a bridge across the Mississippi River in Beltrami County, in the State of Minnesota; to the Committee on Interstate and Foreign Commerce.

By Mr. CLINE: A bill (H. R. 28674) for the control and regulation of the waters of the Niagara River above the Falls of Niagara, and for other purposes; to the Committee on Foreign Affairs.

By Mr. STEPHENS of Texas: A bill (H. R. 28675) to enable the chairmen of the House and Senate Committees on Indian Affairs to investigate and secure information directly from the Indians of any tribe or band as to the status of their affairs; to the Committee on Indian Affairs.

By Mr. BRANTLEY: A bill (H. R. 28676) to amend section 914 of the Revised Statutes; to the Committee on the Judiciary.

Also, a bill (H. R. 28677) to amend section 4197 of the Revised Statutes; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 28678) to amend the laws relating to shippers' manifests of merchandise for exportation; to the Committee on Interstate and Foreign Commerce.

By Mr. PETERS: A bill (H. R. 28679) to establish a national aeronautical laboratory; to the Committee on the Library.

By Mr. BRADLEY: A bill (H. R. 28680) granting two condemned cannon to the municipality of Goshen, N. Y.; to the Committee on Military Affairs.

By Mr. EDWARDS: A bill (H. R. 28681) to authorize the Secretary of War to donate two condemned brass or bronze cannons and cannon balls to the city of Pembroke, Bryan County, Ga.; to the Committee on Military Affairs.

By Mr. DODDS: A bill (H. R. 28696) to authorize use of additional sum in the erection of a public building on the site now owned by the Government in Big Rapids, in the State of Michigan; to the Committee on Public Buildings and Grounds.

By Mr. WEBB: Resolution (H. Res. 818) providing for the consideration of H. R. 17593; to the Committee on Rules.

By Mr. LOBECK: Resolution (H. Res. 819) authorizing the Committee on the District of Columbia of the House of Representatives to make an investigation into the affairs of the Washington Gas Light Co.; to the Committee on the District of Columbia.

By Mr. STEPHENS of Texas (by request): Joint resolution (H. J. Res. 394) requesting the President to communicate with Great Britain with a view to the appointment of a commission

to investigate the feasibility of a plan to rectify the boundary of southeastern Alaska; to the Committee on Foreign Affairs.

By Mr. ANSBERRY: Memorial from the General Assembly of the State of Ohio, urging the necessity of a system of levees or flood walls along the Ohio River; to the Committee on Rivers and Harbors.

By Mr. MOTT: Memorial from the Legislature of New Mexico, protesting against settling the Fort Sill Indians on the Mescalero-Apache Reservation; to the Committee on Indian Affairs.

By Mr. WILLIS: Memorial from the General Assembly of the State of Ohio, urging appropriations to provide for the construction of a system of levees along the Ohio River; to the Committee on Rivers and Harbors.

By Mr. POST: Memorial from the General Assembly of the State of Ohio, urging appropriations to provide for the construction of a system of levees along the Ohio River; to the Committee on Rivers and Harbors.

By Mr. HAMMOND: Memorial from the Legislature of the State of Minnesota, favoring amendment of the national banking laws, authorizing national banks to loan money upon farm-land mortgages; to the Committee on Banking and Currency.

By Mr. ALLEN: Memorial adopted by the Ohio Legislature, urging Congress to make an appropriation for survey and examination into the feasibility of constructing levees or flood walls for the protection of cities and villages along the Ohio River; to the Committee on Rivers and Harbors.

By Mr. BURKE of South Dakota: Memorial from the Legislature of South Dakota, requesting Congress to make Fort Meade, S. Dak., a brigade post, with permanent brick or stone barracks, officers' quarters, and other buildings; to the Committee on Military Affairs.

Also, memorial adopted by the Legislature of South Dakota, asking Congress to limit the jurisdiction of the district court of the United States; to the Committee on the Judiciary.

Also, memorial adopted by the Legislature of South Dakota, praying Congress to enact a presidential preferential primary act; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, memorial adopted by the Legislature of South Dakota requesting the Congress of the United States to pass the New-lands bill relating to river regulation; to the Committee on Rivers and Harbors.

By Mr. FRANCIS: Memorial adopted by the General Assembly of Ohio, urging upon Congress to make an appropriation for survey and examination into the feasibility of constructing levees or flood walls for the protection of cities and villages along the Ohio River; to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DRAPER: A bill (H. R. 28682) granting an increase of pension to Walter L. Messer; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 28683) for the relief of the heirs of Simeon Burke, deceased; to the Committee on War Claims.

By Mr. FITZGERALD: A bill (H. R. 28684) for the relief of Maurice Edgar Rose; to the Committee on Naval Affairs.

Also, a bill (H. R. 28685) granting an increase of pension to Anne Darcy; to the Committee on Invalid Pensions.

By Mr. FLOYD of Arkansas: A bill (H. R. 28686) granting a pension to Charlotte A. Stone; to the Committee on Invalid Pensions.

By Mr. LEE of Georgia: A bill (H. R. 28687) for the relief of the trustees of Pea Vine Academy, Walker County, Ga.; to the Committee on War Claims.

Also, a bill (H. R. 28688) for the relief of the trustees of Pea Vine Church, Walker County, Ga.; to the Committee on War Claims.

By Mr. LOBECK: A bill (H. R. 28689) granting an increase of pension to Charles Britton; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 28690) granting a pension to Delila Peterman; to the Committee on Invalid Pensions.

By Mr. MURRAY: A bill (H. R. 28691) for the relief of Martha Cutts Almy and others; to the Committee on Claims.

By Mr. REILLY: A bill (H. R. 28692) granting an increase of pension to George H. Thomas; to the Committee on Invalid Pensions.

By Mr. SMALL: A bill (H. R. 28693) for the relief of the estate of George D. Pool, sr.; to the Committee on War Claims.

By Mr. SWEET: A bill (H. R. 28694) for the relief of Gerhard Heyboer; to the Committee on Military Affairs.

By Mr. VREELAND: A bill (H. R. 28695) granting an increase of pension to Sylvanus Balcom; to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 28697) granting an increase of pension to Jennie Domingos; to the Committee on Invalid Pensions.

By Mr. NEELEY: A bill (H. R. 28698) granting a pension to Thomas Keeler; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Petition of the Ohio State Board of Agriculture, favoring the passage of legislation to appropriate funds for the relief of hog cholera; to the Committee on Agriculture.

By Mr. ASHBROOK: Petition of Leona Griffith, teacher, and 23 pupils, Granville, Ohio, favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of C. E. Jacob and 23 citizens of Pataskala, Licking County, Ohio, favoring the passage of Kenyon-McCumber bill to withdraw from interstate-commerce protection liquors imported into dry territory for illegal use; to the Committee on the Judiciary.

By Mr. BATHRICK: Petition of growers of ginseng of the State of Ohio, favoring the passage of legislation making appropriations for further investigations of the diseases peculiar to ginseng; to the Committee on Agriculture.

By Mr. CALDER: Petition of Williams & Stevenson, New York, N. Y., and Ernest Thompson Seton, Greenwich, Conn., favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of W. H. Limbie, Brooklyn, N. Y., favoring the passage of the Page bill for granting Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of J. C. Williams, deputy collector of the United States customs service, port of New York, favoring the passage of House bill 25635, providing for the labeling and tagging of all fabrics and articles of clothing intended for sale under interstate and foreign commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER: Petition of the Osage National Council, Pawhuska, Okla., favoring the passage of Senate bill 5675, relative to revising, amending, etc., the penal laws of the United States referring to all cases of bribery of representatives of Indians; to the Committee on Indian Affairs.

By Mr. CURRIER: Petition of Members of Montcalm Grange and pupils of the schools of Enfield Center, N. H., favoring the passage of the McLean bill for Federal protection of migratory birds; to the Committee on Agriculture.

By Mr. DODDS: Petition of citizens of Big Rapids, Mich., favoring the passage of the Kenyon "red light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. DRAPER: Petition of the American Wood Preservers' Association, Baltimore, Md., protesting against the passage of legislation for the removal of creosote oils from the free list; to the Committee on Ways and Means.

By Mr. ESCH: Petition of the American Wood Preservers' Association, Baltimore, Md., protesting against the passage of legislation for the removal of creosote oil from the free list; to the Committee on Ways and Means.

By Mr. FULLER: Petition of the American Wood Preservers' Association, Baltimore, Md., protesting against the passage of legislation for placing a duty on creosote oil; to the Committee on Ways and Means.

Also, petition of the American Forestry Association, Washington, D. C., protesting against the passage of House bill 23293, for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., as amended and passed in the Senate; to the Committee on the Public Lands.

Also, petition of the Farmers' National Congress, Chicago, Ill., favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. GOLDFOGLE: Petition of the Chamber of Commerce of the State of New York, protesting against the passage of Senate bill 7208, proposing radical changes in law relating to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Chamber of Commerce of the United States of America, Washington, D. C.; James B. Munroe, Boston, Mass.; F. L. Kennedy, Cambridge, Mass.; and W. H. Gimble, Brooklyn, N. Y., favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. HAMMOND: Petition of the Scandinavian Temperance Union, of Fergus Falls, Minn., favoring the passage of the Kenyon-Sheppard bill for preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. HAYES: Petition of Mary E. Anderson and Maude P. Boynton, San Jose, Cal., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington during the inauguration; to the Committee on the District of Columbia.

Also, petition of Palo Alto Chapter, Daughters of the American Revolution, favoring the passage of House bill 26167; to the Committee on the Judiciary.

Also, petition of the National League of Government Employees, Washington, D. C., and the American Federation of Labor, Washington, D. C., both favoring the passage of the workmen's compensation act; to the Committee on the Judiciary.

Also, petition of the Western Forestry and Conservation Association, Portland, Oreg., and Frederick J. Koster, San Francisco, Cal., favoring the passage of legislation making further appropriation for the control of forest fires at the heads of navigable streams; to the Committee on Agriculture.

Also, petition of the Thomas Mercantile Co., Gilroy, Cal.; the L. M. Davenport Co., Los Angeles, Cal.; and the Endgear-Merle Co., San Francisco, Cal., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the San Francisco Labor Council, San Francisco, Cal., favoring the passage of legislation for the recognition of the Chinese Republic by the United States; to the Committee on Foreign Affairs.

Also, petition of T. B. Anderson, San Francisco, Cal., favoring the passage of House bill 1309, for the establishment of a council of national defense; to the Committee on Naval Affairs.

Also, petition of the California Club, of San Francisco, Cal., favoring the passage of legislation making appropriation for the suppression of the white-slave traffic; to the Committee on Appropriations.

Also, petition of the Cooper Ornithological Club, Hollywood, Cal.; Ernest Thompson Seton, Greenwich, Conn.; and the California State Audubon Society, Los Angeles, Cal., favoring the passage of the McLean bill, granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. HOWELL of Utah: Petition of the Ogden Trades and Labor Assembly, Ogden, Utah, asking the repeal of the Dick military law, which requires that the militia shall consist of all able-bodied male citizens of the respective States, etc.; to the Committee on Military Affairs.

By Mr. KINKEAD of New Jersey: Petition of the Forest Park Reservation Commission of New Jersey, Trenton, N. J., favoring the passage of legislation making further appropriations for protecting the forests at the head of navigable streams from fire; to the Committee on Agriculture.

By Mr. KONOP: Petition of sundry citizens of Appleton, Wis., favoring the passage of the Kenyon-McCumber bill, to withdraw from interstate-commerce protection liquors imported into dry territory for illegal use; to the Committee on the Judiciary.

By Mr. LAFFERTY: Petition of District Council No. 24, Brotherhood of Painters, Decorators, and Paper Hangers of America, Portland, Oreg., protesting against the Dick military law, requiring all able-bodied male citizens to belong to the militia, and asking the repeal of same; to the Committee on Military Affairs.

Also, petition of the Astoria Chamber of Commerce, Astoria, Oreg., favoring the passage of legislation ceding title to Sand Island to the State of Oregon; to the Committee on the Public Lands.

By Mr. LINDSAY: Petition of the American Wood Preservers' Association, Baltimore, Md., protesting against the passage of legislation removing creosote oil from the free list; to the Committee on Ways and Means.

Also, petition of Brooklyn Branch, Navy Young Men's Christian Association, New York, N. Y., favoring the passage of the Webb bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. McCOY: Petition of citizens of East Orange and Newark; the Woman's Christian Temperance Union of Irvington; Union Street Church and the Newark Social Union, Newark; citizens and members of the Methodist Church, Irvington, N. J., favoring the passage of the Kenyon-McCumber bill, preventing the shipment of liquor into dry territory; to the Committee on the Territories.

By Mr. MOTT: Petition of the American Wood Preservers' Association, protesting against the passage of legislation for removing creosote oil from the free list; to the Committee on Ways and Means.

By Mr. MURRAY: Petition for the relief of Martha Cutts Almez and to pay for overtime work in the navy yards at Portsmouth, N. H., Boston, Mass., and Mare Island, Cal.; to the Committee on Claims.

By Mr. RAKER: Petition of the Brotherhood of Locomotive Firemen and Enginemen, Los Angeles, Cal., favoring the passage of House bill 27016, equipping all locomotives with electric headlights; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Chamber of Commerce of Oakland, Cal., favoring passage of legislation, making Oakland, Cal. the terminal for the proposed national highway; to the Committee on Agriculture.

Also, petition of the American Wood Preservers' Association, Baltimore, Md., protesting against the passage of legislation removing creosote oil from the free list; to the Committee on Ways and Means.

Also, petition of Kirk, Geary & Co., Sacramento, Cal., protesting against the passage of legislation reducing the tariff on chemicals; to the Committee on Ways and Means.

Also, petition of Prof. Charles A. Kofold, University of California, Berkeley, Cal., favoring the passage of legislation repealing the law prohibiting the killing of male fur seals; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the California Associated Societies for the Conservation of Wild Life, favoring the passage of the Weeks-McLean bill for the Federal protection of migratory birds; to the Committee on Agriculture.

By Mr. REILLY: Petition of the Connecticut Public Library Committee, Hartford, Conn., favoring an amendment to the present parcel-post system giving books sent to or from a public library parcel-post rates; to the Committee on the Post Office and Post Roads.

By Mr. SABATH: Petition of the Richmond Chamber of Commerce, Richmond, Va., favoring the passage of legislation for a reform in the present banking system of the United States; to the Committee on Banking and Currency.

Also, petition of the California Club, San Francisco, Cal., favoring the passage of legislation making appropriations for the suppression of the white-slave traffic; to the Committee on Appropriations.

Also, petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the American Wood Preservers' Association, Baltimore, Md., protesting against the passage of legislation for the removal of creosote oil from the free list; to the Committee on Ways and Means.

By Mr. SCULLY: Petition of the American Wood Preservers' Association, Baltimore, Md., protesting against the passage of legislation for the removal of creosote oil from the free list; to the Committee on Ways and Means.

Also, petition of the Forest Park Reservation Commission of New Jersey, Trenton, N. J., favoring the passage of legislation making further appropriations for the protection of the forests at the head of navigable streams from fires; to the Committee on Agriculture.

Also, petition of the American Forestry Association, Washington, D. C., protesting against the passage of House bill 23293, for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., as amended by the Senate; to the Committee on the Public Lands.

By Mr. TUTTLE: Petition of sundry citizens of Summit, Ridgewood, Plainfield, Boonton, Mendham, Morristown, Morris County, N. J.; the Morristown Prohibition Alliance, Morristown, N. J.; the St. James Methodist Episcopal Church, Elizabeth, N. J.; Irvington Methodist Episcopal Church, Irvington, N. J.; and the Methodist Episcopal Church of Mendham, N. J., favoring the passage of the Kenyon-McCumber bill to withdraw from interstate-commerce protection liquors imported into dry territory for illegal use; to the Committee on the Judiciary.

Also, petition of the Woman's Christian Temperance Union of Succasunna and Ledgewood, N. J., favoring the passage of the Kenyon "red-light" injunction bill, for the cleaning up of

Washington, D. C., for the inauguration; to the Committee on the District of Columbia.

Also, petition of the Woman's Christian Temperance Union and sundry citizens of Washington, N. J., favoring the passage of the Kenyon-Sheppard bill for preventing the shipment of liquor into dry territory and the Prouty red-light bill; to the Committee on the Judiciary.

By Mr. WILLIS: Petition of the Ohio State Board of Agriculture, favoring the passage of legislation making an appropriation for the extermination of hog cholera; to the Committee on Appropriations.

By Mr. WOODS of Iowa: Petition of citizens of Bode, Iowa, protesting against the passage of any legislation changing the present tariff on sugar so that it will injuriously affect the sugar-beet industry; to the Committee on Ways and Means.

SENATE.

SATURDAY, *February 8, 1913.*

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the following prayer:

Eternal God, our heavenly Father, as we stand before Thee on this day of precious memory we thank Thee that life is not so short that we can not for a time lay aside our customary labors and yield ourselves to the tender and holy influences of this hour. As here we stand in Thy presence, we would take the shoes from off our feet, knowing that where Thy servants have faithfully and truly sought to do Thy will there indeed is holy ground. Here manifest Thyself unto our waiting spirits, we pray Thee, and fulfill unto us Thy promise that where Thy children are gathered together in Thy name there Thou wilt be in their midst.

O Thou who art God, not of the dead but of the living, seeing that all souls live unto Thee, we thank Thee, not as we would but as we are able, for the blessed privilege of having known and labored with him whom we this day commemorate. Inspire our hearts, quicken our memories, and direct our thoughts, that the life which we would now honor may stand before us with all its power and in all its beauty. That life was Thine, our Father, and Thine it is. We yield Thee all praise, O Holy One, for the priceless heritage of the memory of him whose life is now hid with Christ in Thee.

We pray Thee to be near to those to whom this life was most dear and to comfort those whose tender sorrow is too great for words and too deep for tears. Uphold them with Thy heavenly power and let Thy grace be sufficient for them until we, too, stand in Thy nearer presence, where we shall know even as we have been known.

And unto Thee, our God, who hast loved us with an everlasting love and hast called us into Thine eternal kingdom in Christ, unto Thee who hast given us eternal comfort and good hope through the Gospel, be all glory and praise on earth and in heaven, now and forevermore. Amen.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

CANCELLATION OF HOMESTEAD ENTRIES (S. DOC. NO. 1064).

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the Secretary of the Interior, transmitting, in response to a resolution of the 27th ultimo, certain information relative to whether or not the department contemplates the cancellation of certain homestead entries upon any of the United States reclamation projects in the State of Idaho because of the failure of entrymen to make payment covering the operation and maintenance charges, etc., which was referred to the Committee on Public Lands and ordered to be printed.

DISPOSITION OF USELESS PAPERS.

The PRESIDENT pro tempore. The Chair lays before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, schedules of useless papers, books, etc., on the files of the department no longer needed in the transaction of the public business and having no permanent or historical value. The communication and accompanying papers will be referred to Joint Select Committee on the Disposition of Useless Papers in the Executive Departments, and the Chair appoints, as the committee on the part of the Senate, the Senator from Arkansas [Mr. CLARKE] and the Senator from New Hampshire [Mr. BURNHAM]. The Secretary will notify the House of Representatives of the appointment of the committee on the part of the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a concurrent resolution passed by the Legislature of Iowa, which was ordered to lie on the table and to be printed in the RECORD, as follows:

Concurrent resolution memorializing Congress to pass the Kenyon-Sheppard bill relating to the interstate transportation of intoxicating liquors.

Whereas for a number of years last past the sale of intoxicating liquors as a beverage has been prohibited by law in a large number of the cities and counties of the State of Iowa; and

Whereas under the protection of the commerce clause of the Federal Constitution a large quantity of liquor is shipped from without the State to points within the State and disposed of in violation of law; and

Whereas these interstate shipments of liquor and the illegal disposition of the same result in drunkenness, prosecutions, expensive litigation, the commission of crime, and the pauperizing of individuals and families: Now therefore be it

Resolved by the House of Representatives of the State of Iowa (the Senate concurring), That the Congress of the United States be, and it is hereby, memorialized to pass the Kenyon-Sheppard bill now pending before Congress, looking to the correction of these evils, and that the Representatives in Congress and the United States Senators from Iowa be, and they are hereby, requested to use all honorable means to secure the passage of said act; and

Resolved further, That a copy of this resolution be forwarded by the secretary of the senate and the clerk of the house to the Speaker of the House and the President of the Senate of the United States and to the Representatives in Congress from Iowa, and to the President of the United States.

January 25, 1913, introduced in the house by Bliss, of Ringgold.
January 27, 1913, adopted by the house.
January 28, 1913, received by the senate.
January 30, 1913, adopted by the senate.

A. C. GUSTAFSON,
Chief Clerk of the House.
JOS. E. MEYER,
Secretary of the Senate.
EDWARD H. CUNNINGHAM,
Speaker of the House.
W. T. HARDING,
President of the Senate.

I hereby certify that this concurrent resolution originated in the house of the representatives of the thirty-fifth general assembly.

A. C. GUSTAFSON,
Chief Clerk of the House.

The PRESIDENT pro tempore presented a concurrent resolution adopted by the Legislature of North Dakota, which was ordered to lie on the table and to be printed in the RECORD, as follows:

Concurrent resolution.

House concurrent resolution memorializing the Congress of the United States to pass the measure now pending in the Senate known as the Kenyon-Sheppard bill.

Whereas there is now on the statutes of the State a law forbidding the sale or transportation of intoxicating liquors in the State of North Dakota; and

Whereas the interstate common carriers are bringing into our State large quantities of intoxicating liquors to be sold in open violation of our State laws and to the great injury of the people of the State; and

Whereas there is now pending in the Congress of the United States a measure known as the Kenyon-Sheppard bill, which has for its purpose the prevention of interstate shipments of liquors into States where the laws of the State forbid the sale of same: Therefore be it

Resolved by the House of Representatives of the State of North Dakota (the Senate concurring), That the Congress of the United States be, and the same is hereby, earnestly memorialized and requested to pass the Kenyon-Sheppard bill at the earliest date possible and without amendment; be it further

Resolved, That a copy of these resolutions, properly certified, be forwarded at once to our Senators and Representatives in Congress and to the Speaker of the House of Representatives and to the President of the Senate.

Mr. GALLINGER presented petitions of sundry ministers of Keene, N. H., and of the congregation of the St. Paul's Methodist Episcopal Church, of Manchester, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. HITCHCOCK presented a memorial of the congregation of the Seventh-day Adventist Church of Broken Bow, Nebr., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

He also presented a memorial of the Farmers' Educational and Cooperative Union, of Fremont, Nebr., remonstrating against the adoption of the so-called Aldrich currency plan, which was referred to the Committee on Finance.

He also presented petitions of 400 citizens of Laurel, Nebr., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. STONE presented petitions of the Citizens Protective League, of Niangua; of sundry citizens of Chesapeake; of the faculty of the Central Wesleyan College, of Warrenton; of the members of the Methodist Episcopal Church of Jasper; of the Minnie Steele Woman's Christian Temperance Union, of Perry County; of the Woman's Christian Temperance Union of Kahoka; of citizens and voters of Laclede County; of the Southern Methodist Church Epworth League, of Piedmont; of sundry citizens and voters of Liberty; of sundry citizens of Medford; and of the congregation of the Francis Street Methodist Church South Epworth League, of St. Joseph, all in the State of Missouri, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. McCUMBER. I present a concurrent resolution adopted by the Legislature of North Dakota, which I ask may lie on the table and be printed in the RECORD.

The PRESIDENT pro tempore. The resolution will lie on the table. A duplicate of the resolution was presented by the Chair and ordered to be printed in the RECORD.

Mr. McCUMBER presented a memorial of the congregation of the Seventh-day Adventist Church of Gackle, N. Dak., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

He also presented a petition of sundry citizens of Milnor, N. Dak., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. CRAWFORD. I present a joint resolution passed by the Legislature of the State of South Dakota relating to the subject to which I called the attention of the Senate yesterday—the issuing of interlocutory injunctions out of the Federal courts against State officers in the enforcement of orders by State administrative boards. As the matter is one of great importance and the resolution comes under the seal of the secretary of state of South Dakota, I ask that it be read and printed in the RECORD.

The PRESIDENT pro tempore. The joint resolution will be read.

The resolution was read, and referred to the Committee on the Judiciary, as follows:

STATE OF SOUTH DAKOTA,
Department of State.

UNITED STATES OF AMERICA,
State of South Dakota, ss:

I, Frank Glasner, secretary of state of the State of South Dakota, do hereby certify that the annexed bill, to wit, senate joint resolution No. 7 was duly passed by the 1913 session of the Legislature of the State of South Dakota and is now in full force and effect.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota this 4th day of February, A. D. 1913.

[SEAL.]

FRANK GLASNER,
Secretary of State.
By J. T. NELSON,
Assistant Secretary of State.

Joint resolution memorializing Congress to limit the jurisdiction of the district courts of the United States.

Be it resolved by the Senate of the State of South Dakota (the House of Representatives concurring):

SECTION 1. That the Congress of the United States be, and it is hereby, memorialized to immediately enact legislation restricting the jurisdiction of the district courts of the United States and withdrawing from such courts jurisdiction of action or proceedings for the purpose of enjoining or restraining any State officer or State board from enforcing any State statute or administrative order made by any administrative board, and particularly affecting the constitutionality of State statutes and of orders made by administrative boards in the regulation of public-service corporations and of rates of fare for the transportation of persons and property to the end that all litigation involving the validity of such statutes and orders and the reasonableness of such rates of fare for the transportation of passengers and property may be tried out in the State courts, saving only to the parties feeling aggrieved thereby the right to review the record by a writ of error or appeal sued out to the Supreme Court of the United States from the final determination or judgment of the highest appellate court of the State.

Mr. CRAWFORD. I present a joint resolution passed by the Legislature of South Dakota, which I ask may be printed in the RECORD and referred to the Committee on Commerce.

There being no objection, the resolution was referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

STATE OF SOUTH DAKOTA,
Department of State.

UNITED STATES OF AMERICA,
State of South Dakota, ss:

I, Frank Glasner, secretary of state of the State of South Dakota, do hereby certify that the annexed bill, to wit, senate joint resolution No. 14, was duly passed by the 1913 session of the Legislature of the State of South Dakota and is now in full force and effect.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota this 4th day of February, A. D. 1913.

[SEAL.]

FRANK GLASNER,
Secretary of State.
By J. T. NELSON,
Assistant Secretary of State.

Joint resolution and memorial requesting the Congress of the United States to pass the Newlands bill, relating to river regulation.

Be it enacted by the Senate of the State of South Dakota (the House of Representatives concurring):

SECTION 1. That the Congress of the United States is hereby memorialized to enact during the present session the Newlands bill, providing for the creation of a board of river regulation and for the control and beneficial use of flood waters, and we urge our Senators and Representatives in Congress to employ their best efforts to accomplish this end.

Mr. CRAWFORD. I present a joint resolution passed by the Legislature of South Dakota, which I ask may be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objection, the resolution was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

STATE OF SOUTH DAKOTA,
Department of State.

UNITED STATES OF AMERICA,
State of South Dakota, ss:

I, Frank Glasner, secretary of state of the State of South Dakota, do hereby certify that the annexed bill, to wit, senate joint resolution No. 4, was duly passed by the 1913 session of the Legislature of the State of South Dakota and is now in full force and effect.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota this 4th day of February, A. D. 1913.

[SEAL.]

FRANK GLASNER,
Secretary of State.
By J. T. NELSON,
Assistant Secretary of State.

Joint resolution and memorial requesting the Congress of the United States to make Fort Meade, S. Dak., a brigade post, with permanent brick or stone barracks, officers' quarters, and other buildings.

Be it resolved by the Senate of South Dakota (the House concurring):

SECTION 1—

Whereas Fort Meade is centrally located with reference to all Indian reservations in North and South Dakota, Montana, and Wyoming upon which there are quartered about 40,000 Indians; and

Whereas Fort Meade is the only military post in South Dakota, and the only post in the whole Northwest possessing the required strategic advantages to exercise surveillance over the Indians and afford proper protection to the property and people of this rich and rapidly developing country; and

Whereas the lines of railroad now in operation offer transportation facilities over four lines in four different directions, forming a basis for military movements, enabling troops to quickly reach any point of trouble; and

Whereas Fort Meade has a larger timber reservation, with the Black Hills Forest Reserve, where there is pine timber and an abundant supply of mountain spring water and also a military reservation, 2 miles by 6 miles in area, containing 21,000 acres, with all available adjoining land needed for the requirements of a brigade post, which collectively would include the rolling prairie, open and wooded streams of water, bluffs and brakes, bare hills and timbered mountains, offering all practicable varieties of country for maneuvers; and

Whereas the hospital records show that the pure, malaria-free, bracing climate renders Fort Meade the healthiest post garrisoned in America; and

Whereas Fort Meade has been built as a two-squadron Cavalry post, there having been built in the past six years brick and stone barracks for eight troops, hospital, post exchange, line and field officers' quarters, noncommissioned officers' quarters, bakery, powder magazine, stables, fire station, water system and concrete reservoir, sewer drain and stable drain, macadamized roads and cement walks, electric-light wiring, and other permanent improvements modern and up to date, costing over $600,000; Therefore be it

Resolved, That we favor and earnestly urge the Congress of the United States by proper enactment to designate Fore Meade as a brigade post and provide for the erection of additional barracks, quarters, and other structures ample and suitable for the proper garrison thereof; and be it further

Resolved, That we request our Senators and Representatives in Congress to employ their best efforts to compass this end.

Mr. CRAWFORD. I present a joint resolution passed by the Legislature of South Dakota, which I ask may be printed in the RECORD and referred to the Committee on the Judiciary.

There being no objection, the resolution was referred to the Committee on the Judiciary and ordered to be printed in the RECORD, as follows:

Joint resolution praying Congress to enact a presidential preferential primary act.

Be it resolved by the Senate of South Dakota (the House of Representatives concurring). That the Congress of the United States is hereby memorialized to enact a general statute for the nomination of presidential candidates by direct vote of the party electors, that said election be held in the several States on the same day.

That a copy hereof be transmitted to the Secretary of the Interior, and to each of the Senators and Representatives in Congress from the State of South Dakota.

STATE OF SOUTH DAKOTA,
Department of State.

UNITED STATES OF AMERICA,
State of South Dakota, ss:

I, Frank Glasner, secretary of state of the State of South Dakota, do hereby certify that the annexed bill, to wit, senate joint resolution No. 12, was duly passed by the 1913 session of the Legislature of the State of South Dakota and is now in full force and effect.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota, this 4th day of February, A. D. 1913.

[SEAL.]

FRANK GLASNER,
Secretary of State.
By J. T. NELSON,
Assistant Secretary of State.

Mr. GAMBLE presented petitions of D. L. Anderson, Centerville; of S. M. Braun, secretary of the Springfield Business Men's Association; of Orlan P. Cook, of Clear Lake; of Rev. Glen H. Shaw, of Kadoka; of D. O. Anderson, of Big Springs; of O. S. Jones, of Clear Lake; of Thomas Simpson, of Clark;

of W. B. Pinkerton, of Rosebud; and of the secretary of the Woman's Club of Fort Pierre, all in the State or South Dakota, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of the Business Men's Association of Springfield, S. Dak., praying for a reduction to 1 cent of the postage on first-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented a joint resolution passed by the Legislature of South Dakota, memorializing Congress to limit the jurisdiction of the district courts of the United States, which was referred to the Committee on the Judiciary.

He also presented a joint resolution passed by the Legislature of South Dakota, favoring the enactment of a presidential preferential primary law, which was referred to the Committee on the Judiciary.

He also presented a joint resolution passed by the Legislature of South Dakota, favoring the enactment of the so-called Newlands bill relating to river regulations, which was referred to the Committee on Commerce.

He also presented a joint resolution passed by the Legislature of South Dakota, favoring the enactment of legislation making Fort Meade, S. Dak., a brigade post, which was referred to the Committee on Military Affairs.

Mr. OWEN (for Mr. CHAMBERLAIN) presented petitions of sundry citizens of Newberg, Oreg., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. SMITH of Georgia. I present one of many petitions that I have received from citizens of Georgia favoring the passage of the Kenyon-McCumber bill to withdraw from interstate-commerce protection liquors imported into "dry" territory for illegal use. I ask that the petition lie on the table and be printed in the RECORD.

There being no objection, the petition was ordered to lie on the table and to be printed in the RECORD, as follows:

To the UNITED STATES SENATE.

Care of Hon. Hoke Smith, Washington, D. C.

Undersigned earnestly petition for the speedy passage of the Kenyon-McCumber interstate liquor bill (S. 4043 or S. 2310) to withdraw from interstate commerce protection liquors imported into "dry" territory for illegal purposes.

The above petition was adopted by Pike County Teachers' Association, of Zebulon, Ga., February 1, 1913, and undersigned was authorized to so attest.

BUENA VISTA BROOK, *Presiding.*

To the UNITED STATES SENATE.

Care of Hon. Hoke Smith, Washington, D. C.:

We, the undersigned citizens of Pike County, State of Georgia, earnestly petition for the speedy passage of the Kenyon-McCumber interstate liquor bill (S. 4043 or S. 2310), to withdraw from interstate-commerce protection liquors imported into "dry" territory for illegal purposes.

G. Ben Ridley, county superintendent of schools, Zebulon, Ga.; R. Y. Beckham, justice of the peace, Zebulon, Ga.; C. J. Dickson, Zebulon, Ga.; W. J. Franklin, merchant, Zebulon, Ga.; J. W. Means, ordinary, Zebulon, Ga.; D. G. Dunn, assistant cashier Bank of Zebulon, Zebulon, Ga.; J. M. Means, merchant, Zebulon, Ga.; E. F. Dupree, judge city court of Zebulon; C. R. George, cashier Bank of Zebulon, Ga.; J. R. Wood, Zebulon, Ga.; J. E. Thornton, D. D. S., Zebulon, Ga.; W. J. Reeves, merchant, Zebulon, Ga.; E. H. Baker, farmer, Zebulon, Ga.; H. Hammond, druggist, Zebulon, Ga.; A. A. Howell, merchant, Zebulon Ga.; J. J. Slade, Zebulon, Ga.; J. L. Milner, Zebulon, Ga.; J. R. Chapman, Zebulon, Ga.; W. J. Slade, Zebulon, Ga.; P. M. Sullivan, merchant, Zebulon, Ga.; W. W. Bush, farmer, Zebulon, Ga.; L. H. Rawls, salesman, Zebulon, Ga.; R. W. Devine, farmer, Zebulon, Ga.; J. S. Ruker, Zebulon, Ga.; M. G. Harrison, farmer, Zebulon, Ga.; Wm. S. Branham, minister of gospel, Zebulon, Ga.; W. W. Edwards, teacher, Williamson, Ga.; J. E. Eppinger, merchant, Zebulon, Ga.; Frank L. Adams, lawyer, Zebulon, Ga.; G. D. Dominick, Attorney, Zebulon, Ga.; R. C. Mathews, clerk superior court; W. S. Slade, sheriff Pike County, Zebulon, Ga.; J. W. R. Jenkins, minister of the gospel, Zebulon, Ga.

Mr. LODGE presented resolutions adopted by the Democratic town committee of Attleboro, Mass., expressing its disapproval of any reduction of duty upon jewelry, silverware, and kindred articles, and urging upon Congress the necessity of maintaining the present rates of duty, which were referred to the Committee on Finance.

He also presented resolutions adopted by the Democratic town committee of North Attleboro, Mass., expressing its disapproval of any reduction of duty upon jewelry, silverware, and kindred articles, which were referred to the Committee on Finance.

He also presented resolutions adopted by the Democratic voters of North Attleboro, Mass., remonstrating against any reduction of the duty upon jewelry, silverware, and kindred productions, which were referred to the Committee on Finance.

He also presented resolutions adopted by the Board of Trade of North Attleboro, Mass., expressing its disapproval of any reduction in the rates of duty upon jewelry, silverware, and kindred articles, and of the inclusion of the words "gold," "silver," and "platinum" in the same paragraph with iron, steel, tin, lead, etc., which were referred to the Committee on Finance.

He also presented resolutions adopted by members of the Massachusetts Medical Society, favoring the passage of the bill to create a department of public health, which were ordered to lie on the table.

Mr. SMITH of Michigan presented a petition of sundry voters of the fourth congressional district of Michigan, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. WARREN presented resolutions adopted at a meeting of the settlers and water users on the Umatilla Government irrigation project, held at Hermiston, Oreg., January 4, 1913, relative to the extension of time for payment of assessments, etc., which were referred to the Committee on Irrigation and Reclamation of Arid Lands.

He also presented a petition of sundry citizens of Lusk and Buffalo, in the State of Wyoming, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a memorial of the congregation of the Seventh-day Adventist Church of Sheridan, Wyo., and a memorial of the congregation of the Seventh-day Adventist Church of Buffalo, Wyo., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. ROOT presented memorials of the congregations of the Seventh-day Adventist Churches of Hornell, West Valley, Mount Vernon, Poughkeepsie, and Darien Center, all in the State of New York, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented memorials of sundry citizens of New York City and Newburgh, in the State of New York, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of sundry citizens of Rochester, Phoenix, Syracuse, Port Jefferson, Weedsport, Gloversville, Brooklyn, and Geneva; of the Men's Bible Class of the First Methodist Episcopal Church of Gloversville; and of the congregation of the Ash Groove Church of Albany, all in the State of New York, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. STEPHENSON presented memorials of the congregations of the Seventh-day Adventist Churches of Moon, Grand Rapids, Chippewa Falls, Milton Junction, Marshfield, Mill Creek, Royalton, and Stevens Point, all in the State of Wisconsin, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented petitions of the united congregations of the First Congregational Churches of Baraboo, of the congregation of the First Presbyterian Church of Green Bay, and of sundry citizens of Milwaukee, Wanwatosa, Madison, Mineral Point, Kenosha, and Deleran, all in the State of Wisconsin, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a memorial of sundry citizens of Milwaukee, Wis., remonstrating against the enactment of legislation providing for the employment of a greater number of seamen in the navigation of vessels, particularly on the Great Lakes, which was referred to the Committee on Commerce.

He also presented a petition of members of the Commercial Club of Antigo, Wis., praying for the passage of the so-called agricultural extension bill, which was ordered to lie on the table.

He also presented a memorial of sundry citizens of Antigo, Wis., remonstrating against the parole of Federal life prisoners, which was ordered to lie on the table.

He also presented resolutions adopted by the State Board of Forestry of Wisconsin, favoring the enactment of legislation providing for Federal and State cooperation in protecting the forests from fire, which were referred to the Committee on Agriculture and Forestry.

He also presented resolutions adopted by the Chamber of Commerce of Milwaukee, Wis., favoring the granting of a Federal charter to the National Chamber of Commerce, which were referred to the Committee on the Judiciary.

MINOR MERIWETHER, JR.

Mr. PERKINS. From the Committee on Naval Affairs I report back favorably without amendment the bill (S. 8348) waiving the age limit for admission to the Pay Corps of the United States Navy in the case of Minor Meriwether, jr., and I submit a report (No. 1200) thereon. I call the attention of the junior Senator from Louisiana [Mr. THORNTON] to the bill.

Mr. THORNTON. I ask unanimous consent for the present consideration of the bill. It has the cordial approval of the department. A report accompanies it.

The PRESIDENT pro tempore. The Senator from Louisiana asks for the present consideration of the bill just reported by the Senator from California.

Mr. GALLINGER. Let it be read for information.

The PRESIDENT pro tempore. The Secretary will read the bill.

The Secretary read the bill, as follows:

Be it enacted, etc., That the age limit for admission to the Pay Corps of the United States Navy be, and it is hereby, waived in the case of Minor Meriwether, jr., in consideration of his previous naval service.

Mr. GALLINGER. I will ask the Senator from Louisiana how many years are waived in this particular case?

Mr. THORNTON. I would answer the Senator by saying that there is a full report from the department in connection with the matter. I will ask the Secretary to read the report of the committee.

Mr. GALLINGER. Could the Senator state even approximately how many years? I do not care to take the time to have the report read.

Mr. THORNTON. I think about six years, perhaps.

Mr. GALLINGER. And the department recommends it?

Mr. THORNTON. Yes, sir; urgently.

Mr. GALLINGER. I have had a little experience in trying to get a waiver in cases somewhat similar, but I have not had very good success. However, I do not object.

Mr. THORNTON. I would not have asked for the passage of the bill unless the department had recommended it.

Mr. GALLINGER. I do not object.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PERKINS. I ask that the report be printed in the RECORD.

There being no objection, the report submitted by Mr. PERKINS was ordered to be printed in the RECORD, as follows:

Mr. PERKINS, from the Committee on Naval Affairs, submitted the following report to accompany bill S. 8348:

The Committee on Naval Affairs, to whom was referred the bill (S. 8348) waiving the age limit for admission to the Pay Corps of the United States Navy in the case of Minor Meriwether, jr., having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the Navy Department, as will appear by the following communication:

DEPARTMENT OF THE NAVY,
Washington, February 7, 1913.

The CHAIRMAN COMMITTEE ON NAVAL AFFAIRS,
United States Senate.

MY DEAR MR. CHAIRMAN: Replying to the letter from your committee transmitting a bill (S. 8348) waiving the age limit for admission to the Pay Corps of the United States Navy in the case of Minor Meriwether, jr., I have the honor to inform you that the department recommends favorable action upon this measure.

This bill (S. 8348) is identical with a House bill (H. R. 28535) in its provisions. In regard to the latter bill, the Bureau of Navigation of this department, which has general supervision of the personnel of the Navy, reported as follows:

"Minor Meriwether, jr., was born January 6, 1886, and is at present one year and two months over the maximum age limit for appointees to the Pay Corps of the Navy. He was appointed a midshipman in the Navy May 10, 1904, but did not complete the course, offering his resignation after two years, which was accepted March 29, 1906. His record there would warrant his being accepted for further service as an officer in the Navy."

In view of his having had two years' naval training, and not being long over age, the bureau recommends the department's approval of the bill (H. R. 28535).

Faithfully, yours,

GEO. VON L. MEYER.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LEA:

A bill (S. 8418) for the relief of the heirs of Cynthia Milligan, deceased;

A bill (S. 8419) for the relief of the estates of Yandell Wood and J. L. Wood, deceased;

A bill (S. 8420) for the relief of the heirs or estate of John A. Dunaway, deceased;

A bill (S. 8421) for the relief of the heirs of Harvey Clark;

A bill (S. 8422) for the relief of the heirs of Joseph A. Mabry;

A bill (S. 8423) for the relief of Alvis A. Perry (with accompanying paper); and

A bill (S. 8424) for the relief of S. A. Wilson (with accompanying paper); to the Committee on Claims.

A bill (S. 8425) granting a pension to George McPherson; to the Committee on Pensions.

By Mr. JACKSON:

A bill (S. 8426) for the erection of an addition to and the improvement of the Federal building at Hagerstown, Md.; to the Committee on Public Buildings and Grounds.

By Mr. SMITH of Michigan:

A bill (S. 8427) for the relief of William H. Southwell; to the Committee on Military Affairs.

By Mr. GAMBLE:

A bill (S. 8428) granting a pension to Robert L. Finley (with accompanying papers); to the Committee on Pensions.

By Mr. WORKS:

A bill (S. 8429) to create a board of local inspectors, Steamboat-Inspection Service, for the port of Los Angeles, Cal. (with accompanying paper); to the Committee on Commerce.

Mr. SMITH of Georgia. I introduce a bill which I ask may be read at length.

The bill (S. 8430) to amend section 5137 of the Compiled Statutes of the United States, 1901, so as to authorize and empower national banks to take and hold mortgages, deeds of trust, and other conveyances of real estate as security for loans made by said banks, was read the first time by its title and the second time at length, as follows:

A bill (S. 8430) to amend section 5137 of the Compiled Statutes of the United States, 1901, so as to authorize and empower national banks to take and hold mortgages, deeds of trust, and other conveyances of real estate as security for loans made by said banks.

Be it enacted, etc., That section 5137 of the Compiled Statutes of the United States, 1901, with reference to the power of national banks to hold real property be, and the same is hereby, amended by adding and inserting, immediately following the paragraph designated as "Fourth," the following, to wit:

"Fifth. Such as shall be conveyed to it by mortgage, deed of trust, or other conveyance as security for loans made by it at the time of making said loans."

SEC. 2. *Be it further enacted*, That all laws and parts of laws in conflict with this act be, and the same are hereby, repealed.

The PRESIDENT pro tempore. To what committee does the Senator wish to have the bill referred?

Mr. SMITH of Georgia. I suppose to the Finance Committee.

The PRESIDENT pro tempore. The bill will be referred to the Committee on Finance.

By Mr. KAVANAUGH:

A bill (S. 8431) to provide for the purchase of a site and the erection of a public building at Little Rock, Ark.; to the Committee on Public Buildings and Grounds.

By Mr. WARREN:

A bill (S. 8432) granting an increase of pension to Frances P. O'Reilly (with accompanying papers); to the Committee on Pensions.

By Mr. STONE:

A bill (S. 8433) granting an increase of pension to T. C. Lyon; to the Committee on Pensions.

By Mr. WILLIAMS:

A bill (S. 8434) granting an increase of pension to John F. Davis; and

A bill (S. 8435) granting an increase of pension to Agnes E. Brown; to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 8436) granting a pension to Mary A. Limback (with accompanying papers); and

A bill (S. 8437) granting an increase of pension to Lewis L. Daniel (with accompanying papers); to the Committee on Pensions.

By Mr. DU PONT:

A bill (S. 8438) granting an increase of pension to Annie G. Hawkins; to the Committee on Pensions.

By Mr. GAMBLE:

A joint resolution (S. J. Res. 160) to enable the Secretary of the Interior to legally fix and determine the ownership of and title to the firm-alarm system and appliances, apparatus, and connections heretofore placed and installed in the Government buildings of the Government Hospital for the Insane, and to determine such other questions; to the Committee on Public Buildings and Grounds.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CUMMINS submitted an amendment proposing to appropriate $100,000 to enable the Department of Agriculture to undertake the suppression and eradication of the swine disease commonly called hog cholera, etc., intended to be proposed by him to the agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. SMITH of Michigan submitted an amendment proposing to appropriate $100,000 for improving the Saginaw River, Mich., up to the mouth of the Tittabawassee River, etc., intended to be proposed by him to the river and harbor appropriation bill,

which was referred to the Committee on Commerce and ordered to be printed.

Mr. MARTIN of Virginia submitted an amendment proposing to appropriate $400,000 for the construction of a national highway beginning at some point on the south bank of the Potomac River at or near Arlington Cemetery and extending to or near Mount Vernon, Fairfax County, Va., etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. GALLINGER submitted an amendment authorizing the widening and extension of Spring Road NW., in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. SMOOT submitted an amendment proposing to appropriate $25,000 for the establishment of a fish-cultural station in the State of Utah, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. PERKINS submitted an amendment providing for a survey of San Leandro Bay, Cal., with a view to establishing at West San Leandro a deep-water channel to San Francisco Bay, intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. WETMORE submitted an amendment proposing to appropriate $25,000 for the establishment of a fish-cultural station at some suitable point in the State of Rhode Island, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

CONNECTICUT RIVER DAM.

Mr. BORAH. I submit an amendment intended to be proposed by me to the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut. The amendment is short, and I ask that it be read and lie on the table.

There being no objection, the amendment was read and ordered to lie on the table, as follows:

Amendment intended to be proposed by Mr. BORAH to the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks in the State of Connecticut, to wit:

Strike out all after the word "further," in line 19, upon page 2, including the word "charges," in line 8, upon page 3, and insert in lieu thereof the following:

"That the provisions of the act entitled 'An act to regulate commerce,' passed and approved on the 4th day of February, 1887, together with the amendments thereto, shall apply to any corporation or any person or persons engaged in transmitting hydroelectric power or electricity from one State, Territory, or District of the United States to any State, Territory, or District of the United States, or from one place in a Territory to another place in the same Territory, or to any foreign country, and that the term 'common carrier' as used in said act and the amendments thereto shall include companies engaged in transmitting hydroelectric power or electricity as aforesaid: *Provided*, That said act shall not apply to the transmission of hydroelectric power or electricity wholly within one State and not transmitted to or from a foreign country, from or to any State or Territory as aforesaid; that the rules prescribed in said act as to just and reasonable charges or rates and the procedure relative to other common carriers in so far as applicable shall apply to such company, person, or persons transmitting hydroelectric power or electricity as aforesaid, and to the fixing and establishing of just and reasonable charges or rates fully and completely."

SOLDIERS' HOME AT SANTA MONICA, CAL.

Mr. JONES. I ask unanimous consent for the present consideration of the bill (S. 8297) to transfer the Pacific Branch of the National Home for Disabled Volunteer Soldiers to the War Department.

The PRESIDENT pro tempore. The Senator from Washington asks unanimous consent for the present consideration of the bill named by him. Is there objection?

Mr. SMOOT. Let the bill be read.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to transfer the Pacific Branch of the National Home for Disabled Volunteer Soldiers, located at Santa Monica, Cal., together with all property, including furniture and the records pertaining exclusively to that branch home, to the War Department, the transfer to be effective July 1, 1913; and provides that on and after that date the branch home shall be under the jurisdiction and control of the Secretary of War, and that all appropriations therefor shall be expended under his direction and accounted for as other appropriations for the War Department.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MEMORIAL ADDRESSES ON THE LATE SENATOR ROBERT LOVE TAYLOR.

Mr. LEA. Mr. President, out of respect to the memory of my late colleague, Hon. ROBERT LOVE TAYLOR, I offer the resolutions which I send to the desk, and ask unanimous consent for their immediate consideration.

The PRESIDENT pro tempore (Mr. BACON). The resolutions submitted by the Senator from Tennessee will be read.

The resolutions (S. Res. 457) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow of the death of the Hon. ROBERT LOVE TAYLOR, late a Senator from the State of Tennessee.

Resolved, That as a mark of respect to the memory of the deceased the business of the Senate be now suspended to enable his associates to pay proper tribute to his high character and distinguished services.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Mr. LEA. Mr. President, ROBERT LOVE TAYLOR was born on July 31, 1850, at Happy Valley, in Carter County, Tenn. He was a son of Nathaniel G. Taylor, a Member of Congress from Tennessee and Commissioner of Indian Affairs. His mother, Emily Haynes, was a sister of Landon C. Haynes, a Senator in the Confederate Congress. He claimed public life and statecraft as a common inheritance, and in the enjoyment of this legacy represented the people of Tennessee in the House of Representatives, three times as governor of the State, and for nearly one term as Senator of the United States.

Tennessee has had many representatives and executives who have served her people as faithfully and as intelligently as did BOB TAYLOR, but none who were more free even from a suspicion of wrongdoing or the breath of scandal, or whose heart beat in keener sympathy with the humble and lowly of humanity.

It is not the purpose of these remarks to comment upon Senator TAYLOR'S life and career as a public official. His splendid record as three times governor of Tennessee is already a part of the history of that proud Commonwealth. His distinguished services in the House of Representatives and in this body are embodied in the permanent record of achievement of our country.

In passing, let it be remembered that no critic, however harsh or unfriendly, can point to any act of BOB TAYLOR'S, as a Member of either House of Congress or as governor, that was ever dictated save by what he believed to be the best interests of the people he represented and loved.

His life was well worth the living; his death a loss. His mission on earth was to inspire smiles that would dry the tears on the faces of the disappointed, to quicken laughter that would stifle the sobs of the distressed, to brighten the way of those who were groping in darkness, to light the beacons of hope to those despairing.

Office and public service were but the vehicles in which he traveled along life's highways, spreading sunshine and dispelling gloom as he performed deeds that were unequaled in bestowing happiness upon all who were fortunate enough to come in contact with his great, loving, and much-beloved heart.

He was coming into possession of this rare and wondrous power at a time when the South, his native land, was harrowed by sorrow, when mourning marked her homes, when scars served as medals for her heroes, when hunger and want taught her children the lesson of self-denial, when patience and suffering were the only jewels that adorned her womanhood. In his blood mingled the humanitarianism of the triumphant Unionists and the loyalty of the proud but defeated Secessionists, blending in him a perfect sympathy and understanding of mankind, and forming a character whose ambition was to heal where others wounded, to soothe where others pained, to substitute love for hatred, to place happiness upon the brow of despair, and to give a greater measure of contentment to all.

The general wins eternal fame by defending his own country or invading an enemy's, but the price of his renown is bloodshed and death, suffering and pain, ruin and want to as many thousands as, benefited by his success, applaud his achievements.

The conquest of the statesman in the public forum is marred by the disappointed ambition of the antagonist, the extent of whose discomfiture measures the greatness of his successful rival's triumph.

These victories are but meager and fleeting, often the result of accident and chance; while the triumphs of ameliorating the woes of humanity and of adding to the sum total of happiness is immortal and vouchsafed to only a few as it was given to BOB TAYLOR.

ROBERT LOVE TAYLOR, publicist, lecturer, and statesman was born, lived, and died in Happy Valley, for he ever lived in valleys whose harvests were happiness for all who, passing out of the shadows of selfishness into the warm rays of his great, generous heart, reaped where he had sown.

He was a soldier whose musket was loaded only with raillery, the keenness of whose sword was only laughter, whose bayonet stabbed naught but gloom; a soldier whose only charges were against despair, who slew only unhappiness, and whose greatest victory was the siege and capture of the heart of humanity.

When he shall die,
Take him and cut him out in little stars,
And he will make the face of heaven so fine
That all the world will be in love with night
And pay no worship to the garish sun.

Mr. President, I ask unanimous consent to be allowed to conclude my remarks with a tribute which was paid to the late Senator TAYLOR by his lifelong friend, Mr. De Long Rice.

The PRESIDENT pro tempore. In the absence of objection, permission to do so will be granted.

The tribute referred to is as follows:

A TRIBUTE BY HON. DE LONG RICE, OF NASHVILLE, TENN., A LIFELONG FRIEND, ASSOCIATE, AND ADMIRER OF THE LATE SENATOR ROBERT LOVE TAYLOR.

"Sweet as honey flowed his stream of speech.

"For 20 years ROBERT LOVE TAYLOR was the most successful lecturer on the American platform. If all of his audiences could be gathered together they would make a multitude of millions of people.

"This estimate includes the tour in 1895-96 with his brother, Hon. Alfred A. Taylor, in their joint lecture, 'Yankee Doodle and Dixie,' which, in its splendid balance and reciprocal beauty, was one of the most unique and sensationally successful attractions ever presented in America. Differing widely in manner and style, each served as a foil to develop the brilliancy of the other.

"A careful estimate shows the gross earnings of Senator TAYLOR'S lectures to have run far into the hundreds of thousands of dollars—a sum which, had he hoarded and invested it, might have easily made him a millionaire. But BOB TAYLOR'S riches were of the soul.

"You ask: What became of his money? It went through the sieve of his great generous heart for the happiness of those he loved, for the betterment of mankind, and the advancement of civilization. Some of it has crossed the oceans to spread the light of religion; some of it is crooning above the cradles of orphan asylums; some of it is ministering to the sick in hospitals; some of it is built into the walls of libraries; much of it is standing in bronze and marble grace throughout the South to perpetuate the glory of the Confederate soldier, and still more of it is pointing toward heaven in the gleaming spires of churches; not one dollar of it was spent to serve a sordid purpose.

"No more appropriate epitaph could be carved upon the tomb of ROBERT L. TAYLOR than this: 'He loved everybody and everything except money.'

"That he was an extraordinary man is a fact which will pass into history. As the viewpoints of those who knew him differ, so will their opinions differ as to the extent of his greatness and the fineness of his genius. In the effort to correctly focus the eyes of the future upon him, truth must inevitably wrangle with error, and though truth shall prevail, the written page can never do him justice; no analysis can clearly define him. Not even a Shakespeare or a Milton can paint the flavor of a peach or picture the odor of a rose. Poets may sing forever of moonlit rivers, but unless you have looked upon their shimmering silver flowing through hours that belong to dreams you are a stranger to their beauty.

"Only those who have seen and heard BOB TAYLOR can enjoy anything approaching a true conception of the man. Like all remarkable men, he followed no guide and walked no beaten road. His success mocked all precedents and defied all rules. Though he occupied for 30 years the throne of fame, his severest dignity was the simplicity of his nature, and love was the sword of his strength. His perennial humor was only the tinsel draping of his power like the sun-embroidered shawl of mist that wraps Niagara's mighty shoulders.

"This man of marvelous personality was a veritable human magnet. Wherever he chose to cast the zone of his influence the multitudes were drawn to him by the unseen chords of his fascination. An incomparable stump speaker, a brilliant young Congressman, a splendid governor, he nevertheless soared above these accomplishments and left them far below, for it was on the lecture platform that he found the true destiny of his talents and reached the noon of his glory.

"It was in October of 1891 that he determined to leave the harbor of political achievement and set forth on a strange sea. Contemplating its inhospitable waters, he gathered no assurance of certain success, for he remembered that beneath its treacherous tides were the sunken hopes of many a statesman. But with the buoyant heart of an adventurous mariner he prepared for the first voyage. He built a ship of wondrous beauty and christened her 'The Fiddle and the Bow.' His foreman was inspiration and the muses were his carpenters. Softly moved their invisible planes and saws and silently fell their hammers of fancy. The master whose mind conceived this phantom craft wrought with dubious care, for he knew that she must travel the dead waters of indifference, breast the green waves of envy, and meet the fierce tempests of criticism. Her timbers were as light as the foam of a fairy ocean, and her frame was shaped to the grace of a swan. Her rigging was roped with moonbeams and her sails were set to catch the winds from a thousand islands of laughter and song. She flew the flag of universal love. Her gunners were cupids, and her guns were cupid's bows. On her deck of sentiment skipped and strolled the spirit of mirth and the soul of pathos, while o'er her keel was spilled the mellow wine of long ago.

"'The Fiddle and the Bow' was launched in the cold gloom of a December evening in 1891, and when she sailed back home amid the melting ice of March she was blazoned with victory and freighted with gold.

"BOB TAYLOR'S other ships that were launched in the years that followed were masterpieces. All were the bearers of visions as voluptuous and fair as e'er floated in the festivals of Cleopatra above the dozy currents of the Nile; all returned with cargoes of wealth to their builder, and all are monuments to his memory; but no vessel ever sailed from the port of his dreams which so completely explored and conquered the vast deep of human emotions as did the first-born of his genius.

"Having glanced at BOB TAYLOR'S successful advent into the lyceum world, and having briefly studied, by suggestion and allegory, the mold and fiber of his first lecture, let us consider for a moment the temper of the public toward lecturers and the difficulties which confront them.

"The purely educational lecture is the one which was originally intended for the platform, but at the time the lyceum idea began to assert itself in the United States that class of lecture was far more of a necessity than it is to-day. This is the age of printed literature. Because a man can pursue the classics at his own fireside and learn from the periodicals of the day the most advanced theories on all current questions he finds it less necessary and less desirable to spend his money for instructions from the platform.

"But still less attractive is the lecture which lives only from lips to ear and dies within the hour of its delivery, which leaves no lesson, imparts no knowledge, and gives no stimulus to the nobility of our natures. It is the strong drink of the platform which buoys us into the garden of false fancy for an instant and then leaves us in dullness and remorse when its temporary effect has flown.

"Behold the two dangers of the platformist! Unsweetened facts and unilluminated figures on the one hand and superficial nonsense on the other. Happy is the man, and rare indeed, who can steer his course clear and true between the deadly Scylla of statistical dry dust and the fatal Charybdis of verbal froth. 'Tis in this narrow, though bright and sunny, strait that the jewel of success is found.

"He who would win must be able to interest and fascinate while giving delightful and substantial nourishment to the intellect. He must know how to gem the dullest fact with pleasing luster and point the most frivolous joke with lofty purpose. To be a savant is not sufficient. Scholarly attainments are only his raw materials. Though there be folded within his brain the countless pages of a Carnegie library, the voice of his knowledge may rasp the air with discord and the words of his learning may fall from a tuneless tongue. And even with scholarship and the music of speech he may fail without that other and greatest essential—that quality which in our ignorance we sometimes call individuality, sometimes magnetism, sometimes personality, always genius. Wherever we meet it we bow before its scepter, but when we seek to comprehend it it flees from us like the wraith of a myth. It is as evasive, as intangible, and indescribable as the power of electricity which holds the universe in its unseen clutch. It sometimes shows itself in a glance of the eye or flits before us on the wings of a smile. Unapproachable as a spirit, it is the divine bower of an immortal; it is the copyright of a soul.

"It is this bewitching force that weaves the laurels and molds the crowns of history. It was this mysterious power, softened with love and seasoned with humor, which made BOB TAYLOR king of the American platform for 20 years.

"It seems but an hour since the sun of his life went down. While yet we linger in the twilight of recollection, before the night of forgetfulness blurs the picture of memory, let us, in imagination, look at him again. We will erect a great audi-

terium in the realm of the mind, people it with the phantom forms of those who loved him, and encore him from the silence of death to speak to us once more.

"There he is in the dressing room impatiently waiting to begin, absent-minded, and uncommunicative to those who have the bad judgment to persist in talking to him while he is massing his faculties for his effort. The glow of intense interest is in his face. He is a general preparing to send his troops to victory. Observing him, a man near by asks if his lecture is to be extemporaneous. Oh, foolish question! It would be as sensible to ask if Napoleon manufactured powder on the thundering field of Marengo or molded cannon balls amid the roaring guns of Austerlitz.

"Now the curtain rises on fluttering fans and radiant faces, the eager expectants of a joyous hour. The droning murmur of the multitude is hushed and many a conversation dies on the lips of whispering lovers. This is the most dangerous moment that comes to the speaker, and the keen sense of our orator feels it. He learns, with a look of satisfaction, that the useless introductory speech is to be omitted and that he is to appear unannounced. He does not slouch to the front with that unembarrassed awkwardness and insolent brass so common among successful speakers. Straightening himself to his full height with a quick and springing grace, he advances to the footlights with military precision of step. A gentle wave of applause rolls through the audience, but he gives it no acknowledgment. He does not smile; he does not bow; only stands still and waits for quiet. In the extreme straightness of his posture he appears to lean back a little above the waistline. His face is slightly uplifted and his left hand is raised to rest lightly over his heart. Though perfectly calm, he is not careless. Every nerve of concentration is on duty. He does not persecute us with a prelude or bore us with a preamble. The music of his discourse starts with his first word, and his opening sentence thrills us as when a master sweeps the strings of his harp in the full flow of its melody. He is no solemn-browed teacher, vexing us with major premise and minor premise and assailing us with logical conclusions. Such matters are left to Socrates and Plato and Aristotle, the crystal fountains of philosophy. He is telling us of things we already know, though we have never known them as we see them now. He opens the doors of an endless picture gallery, and when we step into its enchanted halls, lo, it is only the old familiar earth through which we have walked with unseeing eyes. Yonder, where we have looked upon ragged cliffs and crags, he shows us the towering mountains subdued and toned in their gigantic grandeur by the poetic haze of Indian summer. The hills up which we have toiled and the valleys where we have labored are all adorned with new-found charms. We learn that the gold of harvest fields is more than a promise of biscuits and pies, and that the foaming beauty of cascade and cataract will quench the thirst of our souls.

"Lashing us to the pinions of his mind, he leaves the picture gallery of earth and soars aloft to where worlds are born, reveals our weakness, and unveils the power of God in the light of wheeling suns.

"Now, on the easy wings of his daring art, he descends from boundless tracts of stars to a thicket of jabbering apes, and sings a simian love song under a coconut tree.

"Fresh from zones of comets and astral climes, we are convulsed with laughter. He smiles at us while waiting for the storm of mirth to pass, and then leads us back to the happy land of childhood, becomes a boy himself, reacts the reckless deeds of barefoot days, and convicts us of forgotten crimes, besieges forbidden orchards, and throws headlong courage against the red-hot bayonets of charging hornets. He plunders pantries and boots cupboards, and while we laugh and laugh again he wipes his cherry-stained lips upon his ragged sleeve.

"Deftly he closes the gates of the realm of yesterday and the eyes of merriment are dimmed with tears.

"Ere we are aware of it he wafts us into a new kingdom, where every melodious sound is the fragment of an anthem. In the deep forest, cool with shadows and morning dew, he coaxes from the golden throats of wild birds the sweet concord of bands and chords; and where the dusk of evening falls on meadow and grove and stream he marshals the voices of the night in grand rehearsal. With master baton he conducts a chorus of crickets and katydids, of beetles and bullfrogs, and all the countless creatures of chirping throats and whirring wings.

"The end of the lecture is near; he leaves the scenes of grandeur and of levity, takes us into the purple chamber of his heart, and talks to us of the intimate things of life; divines with eyes of love the dimpling dreams of little babes, and counts the striped marbles of our children, hallows the faces of father and mother, and consecrates the home. Eighty minutes have swiftly flown while he has swept the keys and chords of human sentiment. Applause is clamoring for more, but his finishing note has been struck. He bows and walks rapidly off the stage and the curtain falls, while laughter sighs and pathos smiles.

"Oh, unique character among men. We salute thee ere we say farewell. No mind could soar in beauty's skies with freer flight. Who but thee could drop with grace from flying planets to grimacing monkeys? Who but thee could hold us spellbound with discourse on such little things as beetles and frogs and butterflies? Only Shakespeare in all the pages of literature; and in this particular art thou didst outdo him, for in the endless scale of thy matchless voice were all the mimic sounds of forest and field and flowing waters, and thou couldst glorify or distort thy noble face to impersonate whatsoever thou wouldst. In thee speechless nature found a voice and thou didst become the tongue of dumb beauty. Thy like shall not appear; the centuries shall sigh in vain for thy duplicate. Would that we could hold and fix thee here in the fullness of thy wonted power as a lasting legacy to millions yet to be; but barren is our wish, for while broken-hearted music sobbed in sacred song above thy open grave, we saw all that earth can claim of thee sink to everlasting rest beneath sheaves and shocks of roses."

Mr. FLETCHER. Mr. President, it was fitting that there should come out of Happy Valley, in the Volunteer State, one whose life would furnish an example of sincere worship of God, service to his fellow man, and to his country.

It was fitting, too, that this life should be so spent that he who lived it should deserve the title of "the apostle of sunshine."

Near Happy Valley, the home of his childhood, and near Robin Roost, the home of his later years, when that life was ended on earth, his remains were laid to rest in Old Gray Cemetery, at Knoxville, April 5, 1912, amidst a field of floral tributes and in the presence of thousands of sorrowing friends.

Without exception, old and young, male and female, white and black, all who knew him—and they were legions—felt and manifested a grief they could not express and a loss they could not compensate.

That he was loved and honored in his home city and throughout his State with rare fidelity and unanimity was made plain to all who witnessed the outpouring of the people at every station through which the funeral train passed. On the faces of those people could be read the genuine affection they felt for him and the evidence of personal bereavement they suffered.

At Nashville and Knoxville particularly, where the remains lay in state, this sentiment and feeling were impressively shown.

In the sacred soil of his native State, which holds all mortal of such illustrious men as Andrew Jackson, James K. Polk, Andrew Johnson, Isham G. Harris, and William B. Bate, there sleeps none more loved, none closer to the hearts of his people, none more honored, none whose memory will be sweeter and more cherished and more enduring than Senator ROBERT LOVE TAYLOR.

That he possessed the true religious spirit and nature is beautifully shown in the eloquent funeral sermon delivered by his pastor, Dr. Neighbors.

That this spirit caused him to feel and disseminate the joy which the righteous experience here and now was illustrated in his daily life. He inwardly protested, I am sure, against the wording of that good old song "There is a happy land far, far away," and he would have it read, "There is a happy land wherever we may be." To be joyous here, to be happy now, does not militate against but rather presages joy and happiness beyond the grave. If there is any better way to honor the Creator, any saner manner of showing reverence to the Author of our being, any higher evidence of earnest and sincere worship, "in spirit and in truth," than to prize life, value its blessings, spread the gospel of good will and cheerfulness, see the beauties in all nature, laugh with the rippling waters and romping children, sing with the birds, smile with the stars, glow with the sunlight, join in the music of the spheres, it is difficult to perceive or understand.

In all the relations of life he carried with him this disposition. He did not keep it to himself, but, like the whirling dynamo, he generated it constantly and threw it out so that it affected all within his reach.

Dr. Neighbors well said:

> If I had to state any one thing as the great secret of his great power, I would say it was his great heart—a heart that overflowed all bounds and actuated every movement of his life and made him absolutely invincible before humanity.

In private life, on the lecture platform, in official station, his deep concern was for the happiness and the welfare of his fellow man.

In the splendid tribute referred to, Dr. Neighbors, who knew him intimately and his promptings and nature, well said that it "was never any part of his program to wrong any human being, or harm anything God has ever made"; that his "great nature was too large to be little and too good to be mean."

Just a month before he died he had gone to Tennessee as an ambassador of peace. Men whom he had known for years were at variance with each other, having differences which were driving them further apart, animosities were being engendered, and in the hope that he might bring them together in amity and united purpose, he left Washington, with the olive branch in his hand and love in his bosom, in an effort to compose those differences, heal up any wounds, and promote harmony and good will among his people. He wished for their happiness and contentment, and he desired to see them prosper and direct their energies toward the common good.

So he felt toward his countrymen everywhere.

As governor of his State, as Senator of the United States, he stood for equality before the law, justice, and the ideals that make for progress and greatness.

He had seen his own Southland in ashes and in the throes of despair, and this touched him. At the same time he bore no bitterness. In the last speech he delivered in the Senate he made this characteristic utterance:

> Mr. President, I despise sectional jealousy. I abhor sectional animosity, but I do believe in sectional pride and sectional patriotism. I do not fall out with the East for believing that the aurora borealis is the reflection of the fires of eastern furnaces and factories, nor with the West for believing the sunset glow is the reflection of western fields of grain; and why should they fall out with me for entertaining the opinion that the Milky Way is only the picture on the sky of the rice and cotton fields of Dixie?

In more serious vein he displayed the broad vision, the sound reasoning, and the wisdom of the statesman.

Merely remarking, without elaboration, the gentle manners, and pervading good humor of the man, the grace and eloquence of the orator, the inimitable powers of the raconteur, the sweetness of his home life, the tenderness and breadth of his affections, which drew to him a wealth of friendship, I may illustrate his statesmanlike grasp of national questions by quoting the concluding sentences of the speech last mentioned, to wit:

> I do not believe that the United States will ever reach the high tide of its glory until we apply the golden rule and deal justly not only with our own people at home, but with the people of other nations. We can not hope to defend the principles of free government and to exemplify the blessings which they bring until we apply them impartially under our own flag. We can not hope to lead all the nations of the earth in commerce and trade until we are willing to buy as well as to sell. We can not hope to perpetuate our free institutions and to hand them down to posterity as a priceless heritage until we wipe from our statute books the last vestige of unequal and unjust taxation, the great destroyer of nations.

As governor he gave his State three honest, efficient, and tranquil administrations. As Senator he illustrated the highest and best qualities of her people in a manner most creditable and in consonance with her glorious history. He lived up to that command pronounced by the Master in reply to the lawyer's inquiry, which furnished the supreme direction for the guidance of human society. Saying this much is equivalent to expressing the conviction that the spirit of our friend, whom we all loved, is to-day in the enjoyment of those blessings guaranteed to "the pure in heart."

Mr. OWEN. Mr. President, on behalf of Oklahoma and the great West, where he has tens of thousands of friends and lovers, on behalf of the special and very affectionate personal regard which I so long have entertained for him, I come to present a tribute of love to the memory of my dear friend, ROBERT LOVE TAYLOR.

His friends loved to call him "BOB TAYLOR," because of the sympathetic good fellowship that radiated from him as light flows from the noonday sun; and he loved to be called by that familiar name, because he much preferred the title given by human sympathy and human affection to any of the public titles and dignities with which his fellow countrymen had delighted to honor him.

No man has been more greatly missed from the United States Senate by his colleagues than this genial, delightful southern friend, this brother-like man, who hailed from Happy Valley on the beautiful Watauga of eastern Tennessee.

He was a most valuable statesman and useful public servant; a wonderful orator, he moved his fellow men to laughter and to tears.

He was an everlasting fountain of wit, of good humor, and of innocent fun, as well as full of wise counsel and of sound judgment. He was a lover of music. He loved to play the violin and to sing, and charmed thousands with "the fiddle and the bow" and with the sweet old songs of long ago. He was a poet in sentiment, in the dreaming of exquisite and beautiful dreams, in building "castles in the air." He was an apostle of happiness. Listen to his beautiful appreciation of music:

> The spirit of music, like an archangel, presides over mankind and all visible creation. Her afflatus, divinely sweet, divinely powerful, is breathed on every human heart and inspires every soul to some nobler sentiment, some higher thought, some greater action.
>
> O music, sweetest, sublimest ideal of Omniscience, first born of God, fairest and loftiest seraph of the celestial hierarchy, muse of the beautiful, daughter of the universe!
>
> In the morning of eternity when the stars were young, her first grand oratorio burst upon raptured Diety and thrilled the wondering angels; all heaven shouted; ten thousand times ten thousand jeweled harps, ten thousand times ten thousand angel tongues caught up the song; and ever since, through all the golden cycles its breathing melodies, old as eternity, yet ever new as the flitting hours, have floated on the air of heaven.

He was a lover of children and sympathized with the thoughts of children and his own heart sang in sympathy with the heart of a child. Listen to him describe a child—and the old black mammy:

> I saw a cottage among the elms and oaks, and a little curly head toddled at the door. He toddled under the trees, prattling to the birds and playing with the ripening apples that fell on the ground. He toddled among the roses and plucked their leaves as he would have plucked an angel's wings, strewing their glory upon the green grass at his feet. He chased the butterflies from flower to flower and shouted with glee as they eluded his grasp and sailed away on the summer air. Here I thought his childish fancy had built a paradise and peopled it with dainty seraphim and made himself its Adam. He saw the sunlight of Eden glint on every leaf and beam in every petal. The flitting honeybee, the whirling June bug, the fluttering breeze, the silvery pulse beat of the dashing brook, sounded in his ears notes of its swelling music. The iris-winged humming bird, darting like a sunbeam to kiss the pouting lips of the upturned flowers, was to him the impersonation of its beauty. And I said: "Truly, childhood is the nearest approach in this world to the paradise of long ago."
>
> Then I saw him skulking like a culprit in the shrubbery, his face downcast with guilt, his skirts bedraggled and soiled. He had waded the Atlantic Ocean in the mud puddle and stirred up the Mediterranean Sea in the water bucket. He had shipwrecked the young ducks, capsized the goslings, and drowned the kitten, which he imagined a whale. And I said, "There is the old original Adam coming to the surface."
>
> "Lawd bless my soul, jis' look at dat chile. Look at dat face an' dem han's, all kivered wid mud an' mulberry juice. You'se a'gwine to ketch it. Jis' 'zackly like yo' pa—always gittin' into some scrape or nudder, always breakin' into some kind uv debliment. Gwine ter break into Congress some uv dese days sho'. Dey can't keep you out'n it. Come along wid me dis instinct to de baff tub. I'se a'gwine ter wash dat face uv yo'n an' lucidate some uv dat dirt off'n dem han's an' dem clo'es, you triflin' rascal, you." And, so saying, she carried him away, kicking and screaming like a young savage in open rebellion.
>
> And I said, "There is some more of the original Adam." Then I saw him come forth again, washed and dressed in spotless white, like a young butterfly fresh from its chrysalis, and when he got a chance, I saw him slip on his tiptoes into the pantry, and there was the clink of glassware as though a mouse were playing there among the jam pots and preserves. There two little dimpled hands made trip after trip to a rose-colored mouth, bearing burdens of mingling sweets that dripped from cheek and chin and skirt and shoes, subduing the snowy white with the amber of the peach and the purple of the raspberry as he ate of the forbidden fruit.

BOB TAYLOR moved the hearts of men to respond to the tender sentiment of love for the child, the home, and to laugh aloud with honest fun and good humor.

BOB TAYLOR not only had in his heart the love of childhood and of women and of men, but he showed it in his official life. Bob TAYLOR, the lovable, loved men; he knew their weaknesses and their frailties; he knew their innate goodness as well, and did not forget it when men, through some misfortune, came to grief and fell under the iron hand of the law. And he used the pardoning power freely. He "felt the stings of criticism for the liberal use of the pardoning power." Who that realizes human suffering and sorrow and the divine spark of goodness that always remains in the culprit would blame the gentle-hearted BOB TAYLOR? Listen to his defense:

> But I saw old mothers with their white locks and wrinkled brows swoon at the governor's feet every day. I saw old fathers with broken hearts and tear-stained faces, and heard them plead by the hour for their wayward boys. I saw a wife and seven children, clad in tatters and rags and barefooted in winter, fall down upon their knees around him who held the pardoning power. I saw a little girl climb upon the governor's knee and put her little arms around his neck, and I heard her ask him if he had little girls; and then I saw her sob upon his bosom as though her little heart would break, and heard her plead for mercy for her poor, miserable, wretched, convict father. I saw want and woe and anguish unutterable pass before the gubernatorial door, and I said, "Let this heartless world condemn, let the critics frown and rail, but he who hath power and doth not temper justice with mercy will cry in vain himself for mercy on that great day when God shall judge the merciful and the unmerciful."

Mr. President, the beloved BOB TAYLOR was born in Happy Valley, east Tennessee, and has made thousands weep with delight describing Happy Valley. He has made Happy Valley, on the beautiful Watauga, immortal.

For 33 years—as Congressman, as three-times governor, as Senator, or in other positions of distinction—he faithfully served his country.

I knew him intimately and always was delighted to be in his genial and charming company. He was so broad minded, so generous in his sympathies, putting his arms around men and teaching them the better things of life. He was so kind and

gentle and lovable. I never heard him speak an unkind word of any human being. He has been a blessing to Tennessee. He has been a shining light in every place in life. He probably had the personal affection of more people than any other man in the United States. He has done great honor to Tennessee, to the South, and to human nature. I rejoice in the opportunity of paying my tribute of love to him.

If every soul to whose happiness he has directly contributed should bring a flower and lay it in loving memory upon his grave, his monument would be a wilderness of blooms and a pyramid of flowers filling the earth with perfume.

He was an apostle of love, of laughter, good humor, and song. He was a lover of the beautiful, of sentiment, and of story. He was indeed a son of the Most High, a son of the King of kings. Let him speak the last word in this tribute of memory:

I am a king. I dwell in the palace of love, by the brawling brook of laughter, on the brink of the river of song. And so are all the sons and daughters of Adam equal kings and queens with me whose hearts beat time to nature's music and whose souls are in love with the beautiful. There is a crown of sunshine for every brow by day, a coronet of stars by night. The angels of light hover above us all, and arch the heavens with the rainbow of hope for all, and bring from the vapory vineyards of the clouds the sparkling champagne of pure crystal water to bless the lips of all. All the delightful dreams that spread their wings above the horizon of the heart, all the glorious thoughts that fly out from the heaven of the brain, all the jubilees of joy that crowd the circling hours of mortal life, are the regal gifts of God to mankind—the royal heritage of all. There are songs sweeter than were ever sung; there is beauty which defies even the brush of the Raphael for you and for me and for us all.

Let men not grieve for Bob TAYLOR. He is with the King of kings, dwelling "in the palace of love," listening to and singing "songs sweeter than were ever sung," delighting in the "beauty which defies even the brush of the Raphael" in the ineffable glory of God, which he foresaw and often exquisitely portrayed.

Mr. O'GORMAN. Mr. President, to-day we honor the memory of a beloved colleague who died in the service of the Nation. In paying tribute to the memory of ROBERT LOVE TAYLOR we find abundant thought for memorial eulogy.

Senators have dwelt upon his rare eloquence, his scholarly attainments, his devotion to every worthy cause, and his distinguished service to his State and to the Nation. We have been reminded of notable instances in his illustrious public career. The life of the late Senator from Tennessee was rich in achievement. He occupied high station with honor to himself and usefulness to his country. He never faltered in a public or a private duty, and to-day his loss is mourned and his fame treasured by a grateful people, not alone in the Commonwealth whose citizenship he adorned, but throughout the length and breadth of the Republic, whose interests he served in the Senate of the United States with conspicuous ability and fidelity.

Mr. President, I shall touch upon a single phase of his extraordinary personality. Notwithstanding his record of accomplishment, the impression which his life's work made and the memory of his deeds that linger is that of the poet, the orator, the genius of good humor, the dreamer, the idealist. Brave and courageous though he was, his courage and bravery were chastened and glorified by a kindness and gentleness of spirit that banished hatred and malice and created about him an atmosphere of genial warmth, in which blossomed and thrived the beautiful flowers of friendship, love, and affection.

My acquaintance with ROBERT LOVE TAYLOR in this Chamber was all too brief—aye, measured by the span of life, but a moment—and yet a moment of life, whose rejuvenating radiance is undimmed and the cheering influence of which I shall cherish through all the passing years.

Throughout his varied and interesting career he bore upon his shield a message of good will and encouragement to his fellow men. His most effective weapon was laughter, his invincible armor the pure gold of a generous and loyal fraternity.

'Tis well in our all too serious workaday world to pause to pay homage to one whose life was a rebuke to selfishness and an appeal to the better angels of our nature.

Who shall say that the austere statesman or the unyielding warrior does more for the betterment and uplift of mankind than one who leads the children of men into the paths of poesy and laughter, and, turning away from the frown of a Napoleon, seeks inspiration in the sunshine of Tom Moore and Bobby Burns?

It would seem to have been more than a coincidence that the birthplace of Senator TAYLOR was the town of Happy Valley, for to him and to those blest with his companionship the world was a valley of happiness, and if earnest prayers are answered, if fond hopes are realized, he passed through the shadow of death into the Happy Valley of eternal peace.

I deem it a privilege to have this opportunity to add my humble tribute of affectionate esteem and admiration to those of the thousands of men and women whose lives were brightened and whose days were gladdened by the brilliant mind and honest heart and faithful service of this smiling child of nature from Sunny Tennessee.

Mr. CHILTON. Mr. President, many years before ROBERT LOVE TAYLOR became a Member of this body I met him in the State of West Virginia, a strong, active man, and he then told me that if he could ever get a primary to settle who should be the nominee of his party for United States Senator he would come to the Senate. Afterwards, either by action of the committee of his party or the laws of his State, a primary for this office was held in the State of Tennessee and he was nominated and elected to the Senate.

This incident illustrates the character of the man. No one ever had a firmer faith in the people of his State, and no one ever had better reason for that faith. During the many years of his active life in politics one had only to cross the line into Tennessee and to talk with the people in any of the walks of life to comprehend that Mr. TAYLOR had the confidence of the great body of the people of the State, and, conditions being normal, could command their votes. In any discussion with him of politics in his State it could be easily observed that he never doubted that his only source of power lay in his ability to reach the heart and the intelligence of the constituency of his State.

The acquaintance which I formed on the occasion mentioned lasted until his death. When I came to the Senate I found him here, loved and respected by every Member of the body. I renewed the acquaintance that I had formed in West Virginia, and I found him here in public life as I had found him in West Virginia in private life, a frank, open-hearted, kindly, lovable man, always ready to do something for others.

My years of acquaintance justify me in saying that, if his wishes could be observed, this occasion should be given up to absolute frankness in everything that is to be said of his life and services. Undeserved praise he did not want; indeed he shrank at commendation justly earned and honestly bestowed; and I think that he would have his friends now speak from the heart, so that the people of the State which he served, honored, and loved would see in the pictures here the same man, the same governor, the same Senator who made an enviable reputation on the public platform from one end of the country to the other. His name may not be connected with any of the great acts of constructive legislation because of the shortness of his service in this body and the condition of his health during the latter part of his service; and yet everyone associated with him on committees and in the work of the Senate will testify that he was always prompt and ever useful in the work assigned to him. He had the faculty to listen patiently, to do justice to all sides of a question, and then to come to a reasonable and just conclusion that he would express in a few homely words. He had courage to do a thing solely because it was right and because it appealed to his judgment, and while he did not always take the time to disclose the processes through which his mind had passed in coming to a conclusion, yet that conclusion, when expressed, showed that he had mastered the subject and that he had weighed every argument which had been adduced on the question. He was a useful, honest, capable Member of this body, and never failed to rise to any occasion which demanded the best of his thought or the best of his well-recognized oratorical ability. As an orator he was unique. It has been said of him that if every voter in Tennessee could hear him speak in a campaign he would be invincible in that State. When on his feet on the stump or on the lecture platform he swayed the audience from laughter to tears without apparent effort.

I have seen an audience convulsed with laughter and moved to tears by his eloquence within a quarter of an hour, and I have seen him rise to flights of oratory unsurpassed by anyone whom I have ever had the pleasure of hearing. The secret of this power over an audience lay in the depths of his sentiment, of his power to picture any incident or any sentiment in pure Anglo-Saxon and in his unaffected simplicity. He knew and comprehended, as few public men have, the life of the farmer, the wage earner, and the business man of this country. His great heart took in the struggles of labor and the hardships of the farmer. He could see life as they saw it, and then he had the power to make a picture of that life and in words could fairly spread it upon a canvas before his audience. He could show the solemn side of laughter and at the same time could smile upon the most poignant sorrow of life. His heart was in sympathy with the life of the people, and he seemed to grasp intuitively the strength and the weakness of the audience which he was addressing. If by an orator is meant a man who can present his own thoughts to an audience and make the audience feel and think as he feels, then Mr. TAYLOR was a

prince among orators. He not only loved the State of Tennessee, but he loved the people of Tennessee. In his public discourse and in his private conversation he dwelt upon his boyhood life in that State and the early struggles of those pioneers who went over the mountains and formed that great Commonwealth. Truly, his loyalty to his State and his devotion to his people caused him to see the world through the eyes of Tennessee. He cared nothing for money or for wealth. Business did not interest him. He loved the mountains, the rivers, flowers, music, poetry, and the people. Although he had decided musical talent, he never attempted to cultivate it beyond the songs and tunes of his native mountains. He played the fiddle, not the violin, and his touch upon the strings of that instrument was as sweet as his voice when it went out to a native audience upon a pleasant subject. But he played only the tunes of Tennessee, and his fiddling and his oratory were both pitched for his beloved Tennesseeans.

Truly, he died too soon. He was just entering upon a field of usefulness to his State in this body. The great battles of constructive legislation which must concern his party in the near future would have found in him a man with sound judgment, and these important questions would have found in him a champion whose life had been devoted to their solution. He was loved as a friend by every Member of this body, and there is probably not a man in public life here who does not sincerely regret his loss.

The thousands of West Virginians who knew him and loved him truly mourn with Tennessee and his family the death of this great and good man.

Mr. BRADLEY. Mr. President, Death did a cruel thing when he took him from our midst. Bob TAYLOR was a rare combination of humor, pathos, and sunshine. His hand was ever open and his heart ever in sympathy with the poor. When he entered the humblest habitation of sorrow, darkness was dispelled by the light of his winsome smile and cheering voice. He was naturally a poet and musician, and had he centered his attention on either would have become famous. But he preferred the political theater, and in that he was an eminent success. His very name seemed to carry with it an irresistible force in Tennessee. Time and again he was elevated to place and power, but through all he was the same plain, unassuming gentleman. I am proud to say that he was my friend and that we loved each other with all the strong affection which it is possible for man to entertain for man. To me his death was a source not only of profound but personal grief. However, it is painful to dwell on these personal relations, for they only cause the waves of sorrow which have receded to return with overpowering force.

I shall not deal at length with his public services, for these are a part of the country's history and known to all. Suffice it to say, he was faithful, efficient, and honorable.

No man ever loved his State and people with more idolatrous devotion. To them he was always loyal and true. To him the Tennessee mountains had a fascination, and from them he drew the inspiration of his wonderful success.

In this body he was loved and respected by all, and his death was to us the source of the greatest sorrow.

What we say here counts for little. We can not remove the pangs of distress that afflict his loved ones. We may be able to brush away a tear, but we can not supplant it with a smile. All we can do is to record our love and appreciation for the man and from our heart of hearts express a word of sympathy to those who stagger beneath the fearful blow that has fallen upon him. But we can and do express the hope and belief that he has been gathered as a rich sheaf to the harvest home, where in company with the angels he joins in heavenly music, and that he shall partake of all the joys of immortality.

To him we alter our salutation from "Good morning" to "Farewell," but we shall cherish his memory and feel and know that each of us is better for having known him.

Mr. WEBB. Mr. President, Senator ROBERT L. TAYLOR, though poor in early life in things of financial value, was rich, indeed, in the truest sense in the great multitude of his friends. His friends stood the test. They never deserted him. He gripped them with a power that was stronger than steel. No man ever had friends in greater multitude. Senator TAYLOR did not seek friendship for the hope of reward, but for the enjoyment, as Cicero said, "which is found in love itself." Senator TAYLOR'S platform for life was "All men are neighbors."

Cicero says:

> There is no true life which does not find the restful pleasure that proceeds from the mutual affection of friends. What can be sweeter than to have a friend to whom one may venture to confide all things as to one's self? What enjoyment would there be in success unless one had a friend to rejoice in that success even as himself? And finally all other subjects of human endeavor are suited only to particular ends; wealth for use, power to acquire prestige, pleasures to enjoy, good health that one may be free from pain and perform the functions of the body. But friendship, on the other hand, combines many advantages. Whichever way you turn, it is an ever-present aid; from no place is it barred; never is it unseasonable; never a cause of annoyance. And so to compare it with what are commonly termed the necessities of life, we find friendship of more general advantage than water and fire.

To be denied water and fire was to be banished from home. Home is where friends are—

> For friendship renders prosperity more delightful and lightens adversity by dividing and sharing our sorrows.

ROBERT L. TAYLOR, when a young man, was elected governor of Tennessee. He naturally desired a second term. His nomination was bitterly contested. I was a delegate to the convention which was authorized to nominate his successor. It was perhaps the longest political convention on record. I with his other friends voted every time for ROBERT L. TAYLOR. His opponents pitted many candidates older and longer in the service and of greater reputation against him. Gov. TAYLOR held his delegates intact to the close of the sixth day. All this time he had a majority of the delegates, but not the two-thirds that the party rules required. I have never seen such fidelity. He loved the people and they loved him. His delegates, most of them from the rural districts, remained in the city of Nashville at a heavy expense to themselves and had no second choice. His nomination and triumphant election created immense enthusiasm in the State and greatly increased his popularity.

ROBERT L. TAYLOR will go down in history as "the apostle of sunshine." He lived for the happiness of others. He made everybody about him have a good time. His perpetual good humor was contagious. There was joy and gladness wherever he was. During his first term as governor the young man was very much criticized for going against his party platform in advocating Federal aid to education. My county was against him. I invited him to lecture to my school and said to him:

> When the roll of counties is called at the approaching convention, Bedford County will stand alphabetically almost at the top of the roll.

He delivered a great speech on that occasion on "The cabins of Tennessee," and with great eloquence showed what education could do for the poor boy. He never afterwards lost a Bedford County delegation. It was marvelous how he could move the people with his good-humored eloquence. His love for the people was sincere.

The children never forgot his visits to a home, and always lined up with him when old enough to vote. His visits to my home were green spots in the children's memory. At night after his inimitable lectures he would assemble the schoolboys around him, and they would enjoy his splendid social entertainment till the wee small hours, greeting his fine wit and unique anecdotes with shouts of merry laughter. He brought—

> Jest and youthful jollity,
> Quips and cranks * * *
> Nods and becks and wreathed smiles,
> Sport that wrinkled care derides
> And laughter holding both his sides.

Gov. TAYLOR was criticized for his number of pardons. He said to me, when the papers were full of censure: "WEBB, I asked the Tennessee Legislature to make proper provision for youthful convicts; not to send them to the penitentiary, to that school of crime with hardened villains. They would not grant my request. They shall not send the boys to that school of crime as long as I am governor of Tennessee."

It was that splendid stand of Gov. TAYLOR that called the attention of the people to this great need in favor of proper provision for those guilty of the indiscretions of youth, and needing reformatories for education and training into good citizenship and not a penitentiary at hard labor in the company of those older and more vicious incorrigibles that could not be reformed and made good citizens. This was right and required great force of character and strong conviction to stem the tide of adverse criticism. The papers never gave him credit for the list of young people pardoned—just the number. It looked large. Gov. TAYLOR in that same interview said to me: "WEBB, what would you do if a lovely little country girl were to nestle down in your lap, put her arms around your neck, and ask you to give her her father for a Christmas gift, and tell you that she did not even know her father—that he did kill the man, but was drunk and did not know what he was doing? WEBB, she took him home. I could not help it."

At this recital on the train Gov. TAYLOR'S eyes were wet with tears. Oh, that splendid sympathy—that great big heart was Tennessee's greatest pride. We were obliged to love him. What nobler act of man than to show tenderness, and love, and sympathy, and mercy? What is finer in man than to comfort the brokenhearted? Where did Gov. TAYLOR learn those

splendid traits except from Him who gave us the greatest parable, the Good Samaritan, and from Him who said:

Come unto Me all ye who are weary and heavy laden.

I came to Washington unexpectedly to fill the unexpired term of Senator TAYLOR. Every minute has been in demand. I had no time to investigate with sufficient care his political record that covered a whole generation. My tribute to him is confined to my own personal experience. His political record is history and is read by all men. I desire to put the man, the neighbor, the friend, with his great charm, into the record.

When my former pupil, Senator Edward Ward Carmack, the gifted genius and brilliant statesman, and Senator ROBERT L. TAYLOR, the great "apostle of sunshine," as he loved to be called, both my friends and both standing for progressive measures in the interest of the rising generation as they saw them, competed for the honor of a seat in this Chamber, and I had supported Senator Carmack, I could never detect that the greeting thereafter of my greatly esteemed friend, Senator TAYLOR, was less cordial or his handshake less hearty. Little men can not understand this. Big-hearted and big-brained and well-rounded men like ROBERT L. TAYLOR can differ with his friends and still esteem and love them. He never impugned the motives of those who differed with him.

Senator ROBERT L. TAYLOR's contributions to churches and charitable institutions all over the State were on a most magnificent scale. His wonderful drawing power as a lecturer would have given him a princely income if he had utilized it for selfish ends. I have seen him again and again in rural districts with vast multitudes of delighted people at a pay lecture given for the benefit of a church or some worthy charity. He not only invested his money, but, what was much better, he invested himself with all his varied and charming accomplishments in all enterprises that had for their ends the betterment of his fellow man.

Tennesseans all loved Senator ROBERT L. TAYLOR as they never loved another. He was an optimist after my own heart:

One who never turned his back, but marched breast forward,
Never doubted clouds would break,
Never dreamed tho' right were worsted, wrong would triumph;
Held we fall to rise, are baffled to fight better, sleep to wake.

Mr. President, I ask leave to incorporate as a part of my address the great sermon preached by Rev. W. S. Neighbors, D. D., of Bristol, Tenn., at Senator TAYLOR's funeral in Knoxville April 5, 1912.

The PRESIDENT pro tempore. Without objection, permission to do so will be granted.

The sermon referred to is as follows:

THE FUNERAL ORATION AT THE BIER OF SENATOR ROBERT L. TAYLOR.

(By Rev. W. S. Neighbors.)

"Of the public life of Senator TAYLOR I shall not try to speak, except incidentally. I am in nowise furnished for such a duty, and, besides, the Nation has spoken. Almost every State in the Union has spoken. Every railroad station from Washington to Nashville and back to Knoxville has spoken. Every great daily newspaper has spoken, and most wisely, of Senator TAYLOR's public career.

"I wish I were fully able to unfold to you the secrets of Senator TAYLOR's marvelous power over men. When, years ago, I knew him less intimately than when he died, if I had been asked for these wonderful secrets I would have given them without hesitation and perhaps quite dogmatically.

"First of all, I would have said that the secret of his power over men was his unbounded friendship for all sorts and conditions of humanity, reaching its climax in that proverb, 'He who would have friends must show himself friendly.' I still hold to this as a general proposition, but what is friendship? It is not a baseless fabric. It must be founded on something that makes it secure.

"In the second place, I would have years ago told you that the secret of this man's power was in the beautiful songs and stories that he sang and told all over his native State—songs and stories that touched every chord in every human heart. But then songs and stories are not in themselves complete. There must be something back of them to give them point and pathos and pungency and power. I might have sung all of his songs and told all of his stories to all of his audiences and yet have won no heart.

"In the third place, I would have said that the secret of his power over men was due to the simple way in which he uttered his thoughts. I still hold to that as a reasonable trite proposition, but what is simplicity? It is not shallowness—the mere play upon the surface of things. It is not a natural or a common product belonging to men in general. Only the greatest men can be simple; only the great men are capable of going to the very heart of things, bringing up the hidden depths and making them transparent.

"Fourth, I made the statement years ago that his power with an audience was due to the fact that his soul was full of music; that in every other human being there are musical chords slumbering in the hidden recesses of their nature, waiting only for the touch of a master hand to respond. But what made it a master hand? I used to have little enough musical sense to believe that if a score of persons were playing upon the same kind of instruments, all tuned alike and playing the same piece, that there would be the same results, but I very recently learned that that is not true. A number were playing upon pianos. They were all tuned alike. The players were playing the same piece, and yet as I walked through the campus I could easily pick out some players from others. Somehow or other there was something within their very souls going into their instruments and bringing forth strains of music that were mellow, full of pathos and sentiment, winning all hearts who heard them that day.

"Senator TAYLOR had that indescribable combination of rare gifts and graces that made him a master before all sorts and conditions of humanity. If I had to state any one thing as the secret of his great power, I would say it was his great heart—a heart that overflowed all bounds and actuated every movement of his life and made him absolutely invincible before humanity. I have said it before, and I say it again; if Senator TAYLOR had moved to any other State in this Union and they had given him his citizenship in 15 minutes after he arrived, he could have run for the highest honor in the gift of that State and under all reasonable conditions would have won out over any man pitted against him.

"Some have been so ungrateful or unthoughtful as to hint that Senator TAYLOR was not a deep nor a strong man in the affairs of state. I am sure that those who knew him best never made such a statement. He was always deep enough to get to the bottom of things, and that is deep enough. He was always strong enough to tear down the fortifications of all of his opponents and carry the day, and that was strong enough.

"I have seen him when whole multitudes came floating into port upon the tears that flowed down his manly cheeks; I have seen him with a mere wave of his hand silence or stir the crowds just as he willed. I have seen the mere twinkle of his eye change the whole atmosphere of the listening crowds. I have seen the pucker of his lips make his hearers laugh or cry.

"But it is of the humbler things in his life that I wish to speak to-day. He was a complete exception to the old rule. 'A prophet is not without honor save in his own country.' He was most highly honored at home. The people believed in him and followed him. Again and again I have seen him step off of the train at his home town after weeks of absence, and his way was literally blocked by people of all grades and distinctions; even the negro and the little children followed him. Anxious though he was to get home, the crowds about him often exacted a speech before they would let him go. I have seen his family play a trick on the town people by sending a closed carriage to some secret place and notify him to get off on the opposite side, slip to his carriage, and steal away to his home.

"His relation to the negroes was remarkable. In his dealings with them there was that same open and frank and tender interest. With him there was no ax to grind. He simply cared for them, and they responded graciously to his great spirit. In some of his great lectures, where he mentions the name of 'Rastus' and 'Ephraham,' you may have thought those were fancy names, but they were the real names of the real negroes that belonged to the Senator's father before the war. In one of his lectures he tells at length the story of 'Uncle Rufus,' and how he had come to his home from time to time, and how that one afternoon he stayed with him in his yard and talked of the days 'before the war' till in memory the boy was again upon the old negro's back, riding along the banks of the beautiful Watauga. But, as he tells it, when the evening shadows were lengthening Uncle Rufus grew serious and said:

"'Bon, my boy, I'se not gwine to be heah much longer. I'se already had two visions of the chariot of de Lord, and when it comes de third time I'se agwine to step in and go hom'.' And sure enough in just a few days after that afternoon the chariot of the Lord descended for the third time, and Uncle Rufus went home. He tells you this in one of his lectures, but there is another part of that story his personal modesty would not allow him to tell. I tell it to you to-day. When the old darkey died, 'Bon' TAYLOR bought his shroud and casket, and chartered a whole train to take the darkeys and all of the white people who wished to go back to Happy Valley, the burying ground of the Taylor family. As they put the remains of the old darkey away

close beside his master, TAYLOR stood at his grave and wept, as on another day he stood at his father's grave and wept.

"Here is another story setting forth his tender relationship to his father's old darkeys. Returning from one of his lecture tours, he said to me: 'I have had the greatest trip of my life this time. Over in Arkansas I found that I had a few days to spare between my lecture engagements, and I found that I was within a few miles of some of my father's old darkeys, who moved away to that State after the war, whom I had not seen for 30 years. I gave Rice, my manager, the dodge and went to spend the time with these old negroes. When I got to the community and told them that I was Bon TAYLOR, they gathered around me in a circle and looked me in the face and cried out in unison, "Is dat you, Bon?" and I said, "This is Bon." They fell back and laughed. They gathered around me again and more excitedly said, "Is dat you, Bon?" and I said, "This is Bon TAYLOR." Then they cried and said, "Bon, we are mighty glad to see you. We haven't seed you since you's a boy back at the old hom'." One of them said, "Bon, my son Jim's been gone for three years, but if anybody was to ask me which I'd rudder see, Bon TAYLOR or my son Jim, I swear 'fore the Lord I could not tell."'

"If you never knew Senator TAYLOR in his home, much of the best and most remarkable in him you never knew. No one set of words can adequately describe him here. He was the liveliest of the lively, the greatest of the great, the saddest of the sad, and the sickest of the sick, according to the conditions that obtained at home. If every member of his family was happy and strong, he was the jolliest boy there—into every kind of mischief and playing every kind of prank, a perfect child among the children—but if any member of his family was sick the whole scene was changed. He was the sickest of the sick. I have seen the dear, sensitive soul walk the floor in agony, face all pinched and drawn, over the sufferings of any member of his household. I have seen him again, when the doctor said that the patient was out of danger, stir the whole household with laughter almost before the tears of grief were gone from his face.

"Happy Valley, the home of his childhood, and Robin's Roost, the home of his later years, were not poetic fancies with him. They were to him the best of all he held sacred and dear. As a statesman he held lofty aspirations, but these were mere vision dreams that attracted only the paradise of fools as compared with his home. Only a few weeks ago it was my pleasure to spend a day with him in Sullivan County. I was sent for to dedicate a schoolhouse. Senator TAYLOR was sent for to make the occasion a great day for those honest sons of toil. He made it. There were no Republicans there that day. Whatever they were elsewhere and on other days they were all blended into a great brotherhood that day. The Senator reached his climax when he urged the boys to stay on the farm, build up good homes, and be true to 'Sallie and the babies.'

"To him the church was a very sacred place. It was verily the house of God and never a place for merriment or even the lightest things with him. He was never quite willing to give any of his lectures in the church, though they were as pure as the snow. 'No, no,' he would say. 'Let me speak in a warehouse or a barn, or out under the spreading oaks, but not there. That is the house of God.'

"When home from his public duties you could count on his being at church every Sunday, and he was always reverend and responsive. The hardest work I ever had with him as his pastor was to control him in his gifts to charity. I have held for years that this thing of charity is often a very doubtful proposition; that the only charity worth the name is to help people help themselves; but Senator TAYLOR's heart frequently got the upper hand of his head and the upper hand of me. His great, tender soul made him so acute to the sufferings of others that it seemed he could hear a little child's cry of want clear across the city, and the murmur of hunger stirred him so completely that he would give all he had and ask no questions. I used to almost wish I could send him away at Christmas time. I found that designing people, the professional tramp, and beggars had found out his nature and were preying upon him. He would not stop at buying apples by the barrel for the poor and to make them happy, but would buy whole wagonloads and give them out to all grades and distinctions of human beings, white or black, it made no difference to him.

"Senator TAYLOR had a large religious nature, and the last time I ever talked with him on the subject of religion was out there in front of the church. He and I had driven over to hear Bishop Hendrix preach. When we got here a love feast was going on. The doors were closed and locked. A large crowd on the outside was trying to get in. He turned to me, and with a pathetic expression on his face, said: 'Neighbors, that reminds me of the final judgment, with many getting there too late and finding the door locked. I hope that when my little day is done I will not get there too late, and somehow, through God's infinite mercy, He will let me in.'

"A friend of his and mine said to me just a few days ago, 'Senator TAYLOR was in my home recently; my children gathered around him and asked him to sing for them. He sang several little songs that amused them very much, but finally he said, "Children, I want to sing you one more song." He then beautifully and tenderly sang, "Jesus, lover of my soul, let me to Thy bosom fly."'

"Friends, I hasten to a close. Senator TAYLOR would not allow me to pronounce him faultless if he could speak. He would say in his own inimitable way, 'Neighbors, you know me. You know I am just like a human being, with limitations like other men, full of mistakes and blunders'; but I would be compelled to say, 'Yes, Senator TAYLOR, I know that, and I will be true to your wishes, but you must allow me to say another thing upon my own responsibility; this: It was never any part of your program to wrong any human being or harm anything that God has ever made. Senator, as I have seen you and known you, allow me to say most gently, your great nature was too large to be little and too good to be mean.'

"When Dickens was bringing out his Old Curiosity Shop by chapters the readers appealed to him, 'Do not let Little Nell die; it's a life so beautiful'; but Dickens replied: 'I have to let her die; I can't help it. She must die to complete the story and her life work.'

"When Senator TAYLOR was reported seriously ill, hearts from all over Tennessee and this Nation went up, 'O God, do not let him die'; but God had to let him die; die to complete his life story, die to bury out of sight all little human defects and blemishes, and lift him into that sublimer light and life where men are blended into such a brotherhood as to remember what is only good and true.

"And this his epitaph shall be
When ended are his days:
None knew him but to love him,
None named him but to praise.

"Like a dream floating from out the far way there comes to me a story: A long and doubtful conflict had been raging between contending armies. A regiment of one of the armies determined one day to dislodge the enemy fortified on yonder summit; said that was the key of victory. Early in the day they made a desperate charge, and were repulsed. They rallied and charged again. The standard bearer fell, pierced by a cruel shot. They were about to retreat, when an Irish lad seized the flag, bravely rallied and led the regiment in the final charge, and won the day, but just as the day was won the Irish lad fell mortally wounded. Some days afterwards the regiment was marching through a stretch of country, and coming near a village, Bridget, as by intuition knowing whose regiment it was, seized her broom and went forth to meet it. When she got there she straightened herself, shouldered her broom, and fell into line. A jeer swept down the line. The colonel said sternly: 'By what right dare you march in this regiment?' Looking up through her tears, she jabbered: 'Me Jaimie's regiment; me Jaimie's regiment.' A hush close akin to the sacred and holy swept down the line; every man stood at attention. The colonel said in subdued tones: 'Madam, do you mean to say that you are the mother of the Irish lad that fell at yonder summit the other day?' She jabbered back: 'Me boy; me boy.' Then said the colonel: 'A mother who can present to the world such a son as that has a right to march in this regiment. Fall in! Forward march!'

"Senator TAYLOR, this State's standard bearer, fell in the thick of the fight the other day with his face to the foe. O Tennessee! thou who didst give to the Nation such a gifted son hast the right to march in the front rank of States; and surely the life of such a noble brother will inspire 10,000 younger brothers to fall in line and march to the Nation's strength and glory."

MEMORIAL ADDRESSES ON THE LATE SENATOR GEORGE S. NIXON.

Mr. NEWLANDS. Mr. President, I ask unanimous consent for the present consideration of the resolutions which I send to the desk.

The PRESIDENT pro tempore (Mr. BACON). The resolutions submitted by the Senator from Nevada will be read.

The resolutions (S. Res. 458) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with deep sorrow of the death of the Hon. GEORGE S. NIXON, late a Senator from the State of Nevada.

Resolved, That as a mark of respect to the memory of the deceased the business of the Senate be now suspended to enable his associates to

pay proper tribute to his high character and distinguished public services.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and transmit a copy therof to the family of the deceased.

Mr. NEWLANDS. Mr. President, Senator GEORGE S. NIXON was born in Placer County, Cal., April 2, 1860, of pioneer parents from Tennessee who were part of the great migratory movement to the West in the early fifties. They were probably caught, like hundreds of others, by the glamor of tales that opened to their young fancy vast possibilities for the venturesome. The irridescent hopes that lured them so far must have lacked realization or, like many others, they may have won and lost. Be that as it may, Senator NIXON's parents were unable to give their boy the advantages of education usually enjoyed by most of our American boys as a heaven-born right, and his training in the public schools ended at an early age.

In youth he lived the life of the usual farmer lad. To gain a little money he availed himself of his great skill in shooting, and wandered over the California hills seeking game. It was a hard life, but he was strong, young, and happy. He loved nature and had a passion for flowers and all growing things—tastes that were stimulated by this roving life.

I never heard him complain or seek sympathy for any hard luck, and he had his disappointments like other men. It is not unlikely that his youth was colored with much talk of his parents' wanderings, descriptions of all they had endured in their search after fortune, their journey over the Plains, sacrifices made, and possibly good claims lost. In mining one often reaps what another sows, and it is hard to find any western life in the early fifties free from the wreckage of human hopes. He was proud of his pioneer parents. In an address he made in his last campaign I was impressed by the vibrant quality he put into the simple phrase of "I was nursed at the breast of a pioneer woman." It was like a shout of triumph.

He made his way through forty-odd years of effort, with the moderate rewards achieved by the average man; but in middle life, at the first whispering of a possible treasure in the desert at Tonopah, the pioneer blood asserted itself, and NIXON was among the first in the camp.

He had in his earlier years a varied experience as telegraph operator, station and express agent in remote stations in Nevada; he entered a bank at Reno and soon made himself indispensable to his employers. Later on he organized a bank at Winnemucca, Nev., and became its cashier, and during this time he was elected to the State legislature as a candidate of the Republican Party. In 1892, like many others, he drifted from the political moorings of a lifetime and identified himself with those who, under various political names, were struggling to relieve the energies of the country from the evil effects of the contracting gold volume. Though I belonged to a different party, we drifted politically together during this period, and regardless of party we identified ourselves with the bimetallic movement through which, by the full restoration of silver as a money metal, it was hoped to end the era of diminishing values and contracting energies. At that time barely sufficient gold was produced to satisfy the demands of the world's dentistry and the arts, and none understood better than Senator NIXON the quantitative theory of money and the effect of the quantity of the circulating medium upon values.

The extraordinary and unanticipated increase in the production of gold put an end to this movement, and we both drifted back to our original parties; but the close intimacy of this association gave me a clear insight into the quickness of his perception and the clearness and vigor of his intellect. I formed a friendship for him which strengthened, notwithstanding our political opposition. I could not feel that we were in antagonism, and felt assured that we would some time drift again together by a mutual process into political accord.

For many years after this he pursued the active life of a banker, identifying himself with most of the activities of Nevada, until finally, as a result of his helpfulness to others, he became the associate of George Wingfield in a mining enterprise in the desert region of Tonopah. Considerable fortune was realized in this, and later on their energies expanded in every form of mining enterprise and embraced the famous Goldfield mine, which was conducted by them with extraordinary judgment, skill, and integrity, and from which both realized large fortunes.

During this period, although the State seemed overwhelmingly Democratic, with characteristic quickness of perception and judgment, he threw himself upon the crest of the wave of Roosevelt's popularity and in a campaign against apparently hopeless odds, supported by an acquaintance and popularity that were widespread, he was swept into the United States Senate. There with rare wisdom he concluded to abandon the active pursuit of money-making and to devote himself to his public work and at the same time to secure to himself the pleasures of friendship and of social life which ease of circumstances presented to him.

He was able to invest his holdings in some of the State's requirements, and the community in which he lived received a direct benefit from his prosperity. He established a chain of banks, and in the panic of 1907 maintained their prestige by his courage and promptitude. He built an opera house in Reno and gave a theater to Winnemucca, controlled more by the desire to put pleasure into the lives of Nevada people than to obtain personal gain. He was one of the few men whose success was shared by many. There was a general satisfaction when he won. His sympathetic kindliness and courage were recognized by all.

In such radical changes of fortune a man is apt to make enemies; the contrast is too great; old companions are sometimes hurt and slip away, and there are the disappointed, envious of one who wins where others fail, but with NIXON it was different. He had a cheerful, sympathetic way about him that put all at ease. Though he always spoke to me as "NEWLANDS," I found myself calling him again and again "George," for he was George—our GEORGE NIXON to all the State of Nevada. He had the rare wisdom of realizing when he had enough and was not willing to allow his faculties to be absorbed in the mere greed of getting.

He became the devoted supporter of every measure that would benefit the State and the section which he loved, and at the same time took a broad and catholic view of all matters tending to the advancement of the entire country. He became chairman of the Committee on Irrigation and a member of the important Committee on Appropriations. His social qualities endeared him to his colleagues, and his acute and accurate judgment, rarely displayed in public speech, was always at the service of the committees to which he belonged and of his friends, whom he delighted to assist.

Disdaining the crowded life of the city, he purchased an extensive suburban place on one of the most commanding hills near Washington, from which there stretched an expanding view of the Potomac and of Washington, and there built a home of rare beauty and taste. He built a similar home on the bank of the Truckee River, near Reno, a sparkling stream, making its way from the incomparable Lake Tahoe and stretching through a valley surrounded by noble and effort-defying mountains—a scene embracing a view of rare grandeur; and upon the banks of Lake Tahoe he built a modest cottage, in which some of the most satisfactory hours were spent. In these several places, which demonstrated the nicety of his taste and the delicacy of his nature, he was glad to share with his friends the delights of his possessions. Only a year or so before his death he was reelected, showing his confidence in the strength of his popular support by voluntarily submitting his election to a direct primary.

Gratified by his reelection, confident of the affectionate regard of his constituency, he was looking forward to a further realization of satisfaction in a sane, kindly, and philosophic life, unvexed either by ambition or avarice, when a neglected complaint necessitated a surgical operation which prematurely ended his life at the age of 52.

Having reached the decision that an operation was necessary, he quickly met the issue, at a time when his devoted wife and son were away, and his friends had hardly heard of the crisis when his death was announced.

I recall the sadness with which I made my way to the hospital where his spirit had taken flight, and the sympathetic consideration with which I found Vice President SHERMAN attending to every detail of the last sad ministrations. Mr. SHERMAN, though then in every appearance of health, well knew that his own days were numbered, and yet there was nothing to indicate the exigencies of his own condition in the calmness and considerateness of his demeanor. Attending with a sorrowing Senate the final ceremonies, his was the last face that I saw at the railway station as we departed with the remains of our dear friend on the sorrowful journey westward. Bearing to the afflicted wife a tender letter of sympathy from the Chief Magistrate of the Nation, who knew and valued Senator NIXON, the funeral cortege made its way to the mountains of Nevada, and there was met by a remarkable gathering from all parts of the State of men in every class and condition of life, who sought to mark their respect and regard for their Senator; and there the body of our dead friend, seized untimely from a life of serenity and affection, was consigned to its last resting place.

Mr. DIXON. Mr. President—

> Whether at Naishapur or Babylon,
> Whether the cup with sweet or bitter run,
> The wine of life keeps oozing drop by drop,
> The flowers of life keep falling one by one.

The mutations of time work a mighty havoc in the affairs of men.

Of the 90 men who constituted the Senate of the United States when I entered this body six years ago, 23 have since died, not including the Vice President—more than one-fourth of the entire membership.

Of the 90 men then constituting its membership but 40 now remain, and after the 4th day of March there will be left but 26 of the men who made up its membership on March 4, 1907.

One year ago, looking around this Chamber, the ordinary man would have said that GEORGE NIXON's hold on life was probably as good as any Member of this body, and in all human probability better than the overwhelming majority of us. I thought so. Then in the very prime of his physical manhood, the picture of robust health, congenial, vivacious, of a most happy disposition, who would have prophesied that he of all of us would not have lived out and beyond the allotted three score years and ten?

I was not in Washington at the time of his death, and when I read the news of his sudden demise I could scarcely credit its truthfulness. That GEORGE NIXON was dead did not seem possible.

We who knew him in the intimate daily association that comes with service in this body, in the open Senate, in the committee, and in the more intimate association of the cloakroom, the office, and the home, will each bear sincere testimony of his good-fellowship, integrity, level headedness, and kindliness of purpose in all his relations with his fellow men.

GEORGE NIXON's life had been a broad life in the best meaning of the term. He had seen and faced life from almost every angle.

He knew men and he knew the conditions under which his fellow men and women live. He himself had felt the depression of poverty and he had known the joy that comes from successful contest with men and affairs of moment. His own success had not estranged him from his less fortunate fellows.

He had after long years of struggle reached the top round of what the world calls success. In his own State, in banking, farming, mining, stock raising, and other forms of business activity he had taken first place and had twice received from the people of Nevada the highest testimonial of their trust and confidence by two successive elections to the Senate of the United States.

I am glad to have known GEORGE NIXON in a somewhat intimate personal relation.

His overflowing good nature, his cheery laugh, and friendly greeting betokened the kindliness of heart and sincere good-fellowship that permeated his whole life.

Not with formal words and phrases, but from a genuine appreciation of him and of his friendship, I pause to lay a wreath of real affection upon his bier.

Mr. WARREN. Mr. President, it is upon occasions such as this, when we are called upon to pause in our feverish rush and hurry in the active affairs of life and to take note of those things which have passed by forever, that there comes to us a realization of the uncertainty of life and the certainty of death.

To those of us who have been Members of this body for any extended period the backward-turning thoughts upon these memorial days bring sad visions of many great statesmen—genial companions, firm friends—once here, who passed into the mysteries of another existence. As their forms and faces, their efforts and achievements, their failures and successes, their pleasures and sorrows are recalled to us in these quiet, memorial hours we realize, with the tent-maker poet—

> Whether the cup with sweet or bitter run,
> The wine of life keeps oozing drop by drop,
> The leaves of life keep falling one by one.

Others have ably placed before the Senate the incidents of the useful and successful, but all too short career of our friend and colleague, the late junior Senator from Nevada, GEORGE STUART NIXON; and in joining in these memorial services I wish simply to testify to his sterling worth as a man, his loyalty as a friend, and his success as a useful representative of his State in the Congress of the United States.

The career of Senator NIXON reads like a page from the Arabian Nights, so rapidly did he rise from the position of a poorly paid telegraph operator at a remote railway station to a successful business man, mine owner, and banker, and to a place in this body—all of this being accomplished in a little more than 20 years. He rubbed the lamp of industry and—presto! Success opened her doors to him. His successful career not only is an evidence of his own industry and ability, but typifies the opportunities which our country offers to those who are prepared to grasp them. The same chances which enabled Senator NIXON to achieve success 10 to 15 years ago exist to-day in this country, and particularly in the Western States, where industry, honesty, and ability are as certain to bring rewards now as then. Hidden away in the vast mountain ranges of the West there are more Comstocks, more Leadvilles, more Cripple Creeks, more Goldfields to be discovered, and in plainer sight there are rich returns awaiting those who have the industry and the patience to seek them.

GEORGE S. NIXON was preeminently the business man in politics in the best sense of the term. Those who served with him in committees and were closely associated with him in his senatorial duties could well understand why he was a successful man. His word was as good as his bond. He came of that type of western man who would make bargains running into hundreds of thousands of dollars without the scratch of a pen and would then live up to them as religiously as if they were signed, sealed, and delivered.

He was genial and affable in his dealings with all who came in contact with him, whether below or above him in political rank. He was known to all his friends as the embodiment of good cheer, sunshine, and optimism. His jovial, bright smile has put out of the mind of many a man some trivial and vexatious thing, such as comes so often in our busy lives to harry or, possibly, to discipline us.

The fact that Mr. NIXON was a successful man in the financial affairs of the day made him none the less democratic in his dealings with his fellow men. He was extremely popular in his own State; and those interested in the political affairs of Nevada, of his own and of other political parties, have freely predicted that, had he lived, he would have been again returned to his seat in the Senate—Nevada following her custom of many years of retaining in office for long periods those who serve her.

Senator NIXON in a way was a representative of Wyoming, because for some years he held financial interests in that State. He was active in the support of every measure tending toward the welfare of Wyoming, as well as that of other far-western States.

He has gone from us and we have left only the sweet memory of a loyal, powerful, and big-hearted friend; a gracious and beloved comrade.

Mr. JONES. Mr. President, the popular impression of the work of a Member of the Senate does an injustice to many a valuable Senator. To be able to speak eloquently is a splendid qualification, but it is not a fundamental or essential qualification of a good and valuable legislator. The eloquent man may attract attention, he may gain the popular applause, he may get the credit for efficient work on behalf of the people, and yet the real legislative work is done in the seclusion of the committee room, where the quiet abilities are brought into play in the construction of legislation for the people's benefit. Hours of work and study in the office are spent in preparation for the consideration of measures in the committee and many of our most industrious, able, and faithful Senators seldom speak on this floor. The people may never really know their worth or their work, but their colleagues do.

Such a Senator was GEORGE NIXON. Seldom heard on this floor, his influence was potent in committee work. He was regular and prompt in attendance and his knowledge of the subjects under consideration showed the painstaking care he had given them. His judgment was excellent, his experience varied, and his honesty of thought and purpose evident to all. His counsel was wise and conservative. He was a modest man and courageous. His biography in the Congressional Directory was characteristic of his modesty and his action upon all public questions in committee and on the floor of the Senate showed his courage. He was a safe, honest, wise, careful, industrious legislator and guarded with scrupulous fidelity the interests of his State and Nation.

His life and success are another inspiration to our youth to aspire to great things. No greater opportunities came to him than come to the boys of to-day. He had no asset when he began life's battle that any young man may not have now. Industry, energy, frugality, honesty, and faithfulness brought him success as they will to the young men of to-day.

I had the good fortune a short time ago to talk with one who knew him years ago, when he was a telegraph operator, and

It was good to hear him tell of his early struggles and triumphs. The same qualities that made him a good, wise, and faithful legislator made him a valued employee. He did his work as a telegraph operator well and faithfully. His employer's interest was his interest and as a result he passed from one position of trust to another, and by the judicious investment of his savings he soon became a most successful business man. With all his successes he was the same true, loyal friend as of old. Neither wealth nor position caused him to shun or forget the friends of his early struggles, and many of them bless him for his kindly aid to them or theirs when prosperity blessed him with its abundance. We admire his success in business, are proud of his achievements as a legislator, but our sweetest memory comes from our personal association and contact with those personal qualities which endeared him to all who knew him. He was kind, sympathetic, and considerate. He had a bright and cheery smile for everyone. His daily greetings reminded me of a few lines like these:

He always said, "Good morning,"
And emphasized the "good."
As if he'd make it happy
For each one, if he could.
I often think and say,
That one of his "Good mornings"
Clung to you all the day,
And made you always cheerful
Just thinking of the sound:
It was always "Good morning"
'Long as he was around.

This little poem—not a classic but the simple expression of a feeling that comes to us from a kindly greeting—illustrates something of his beautiful inner nature which he expressed in action toward all those who came in contact with him. He saw and emphasized the good in all things; he tried to fill life with sweetness; he spoke approving, cheering words to the humblest as well as to the greatest. Nature gave him much of strength and those fair qualities of heart and mind which make a man beloved by his fellow men.

His life's work is ended. It was well done. Whether at humble tasks or lofty endeavor he was faithful and put forth his utmost ability. We treasure his memory as a precious heritage and his successes stimulate us to higher and loftier aims.

Mr. THOMAS. Mr. President, by the irony of fate, at once strange and inscrutable, it seems to have been ordained that my first words upon the floor of this Chamber shall be uttered in eulogy of GEORGE S. NIXON. This is perhaps the more remarkable in that the last words he said to me on the occasion of our last meeting breathed the hope that at some time I might occupy a seat in this exalted body.

I do not shirk the task. On the contrary, I regard it as a duty that I owe to the memory of my departed friend, for I am conscious of the fact that he would gladly, if there can be joy in such a task, have spoken in my behalf had our conditions been reversed.

I can speak of Senator NIXON only as I knew him. My acquaintance with him was occasional, and yet very close. He was my friend. The currents of our lives flowed in the same channel once or twice, and again became widely divergent.

The Senator from Nevada [Mr. NEWLANDS] has given a brief account of Senator NIXON'S identification with what was generally known as the free-silver movement—the cause of bimetallism, as it was called by its friends. It was the activity of that great movement which first brought us in conjunction during the earlier period of the nineties, at which time the entire West, as one man, and regardless of party lines, entertained the abiding conviction that the cause was the embodiment of much that was absolutely essential to the welfare and permanent prosperity of this great Nation. I was one of the apostles of that movement, in the integrity of which I have believed as firmly in the days of its defeat as when it was a militant question in American politics. I speak of this because his convictions were the same, and they were always expressed with that earnestness and vigor which always characterizes sincerity and candor.

I met Senator NIXON in conventions and in conference rooms during what I may call the crisis of this great movement, and during all the stages of it which led up to that crisis. He was always at the front, a crusader in the cause, contributing to it of his time and of his means as freely as though it concerned him, merely as an individual. But with the defeat of that movement, and its acceptance as an accomplished condition by those who advocated it, our lines of life were no longer identical.

Then arose the great mining excitement in southern Nevada, beginning with Tonopah, and still continuing its activities in several portions of the State. In 1896 I was summoned, in the capacity of counsel by Senator NIXON and by his associate, to look after some of their legal affairs in the great camp of Goldfield. This employment again brought me into close and intimate contact with Senator NIXON, a relation which continued until the close of the year 1908. It was during these years that I learned to know him well and to respect and love him more as a friend than a client.

Mr. President, there is no more severe test of a man's capacities or the lack of them than that which is applied by the rough-and-tumble civilization of a frontier mining camp. What a man is, whence he comes, whether he can boast a long line of ancestors, or is a mere waif upon the tides of humanity, all these count for nothing. Every man, indeed every human being, in these suddenly summoned aggregations of people is inspired by the desire to take advantage of the immediate occasion to secure as much as possible of that hidden wealth which has called them together. In that mad struggle every man stands for himself. Wealth counts only as it may give to its possessor an advantage over those who have it not; and the man who emerges successfully from these turbulent, exciting, exacting but just conditions must be a man indeed.

Senator NIXON has stood that test, has been tried by the crucible fires of that experience, not once but many, many times, and has risen triumphant upon the crest of each successive occasion. He was fortunate in that he was allied with a man—Mr. George Wingfield—destitute of the ordinary advantages which come to the American boy, but possessed of a native genius and talent that easily made him a master of men, a man of action as well as a man of affairs; a man of resolute determination and indomitable courage, whose characteristics so dovetailed into those of Senator NIXON as to make them an invincible team in the development of the mining affairs of the great State of Nevada. Such a copartnership should be sundered only by the hand of death.

I need mention only one incident in the career of Mr. Wingfield to indicate how truly he was entitled to the confidence and affection of Senator NIXON, whose long-time partner and associate he was. He was tendered the position of United States Senator as the successor of Senator NIXON by the governor of Nevada, but declined it because of his allegiance to those interests and business which had been confided to his keeping by friends and associates, and which might have been neglected had he accepted an appointment to that exalted position. He therefore declined it. Together they accumulated a great fortune, but they used it as great fortunes should be used, largely in the development of their native State, largely in assisting their local communities, and privately in extending aid to those needing and deserving it.

If it be true, Mr. President, that he who makes two blades of grass grow where but one grew before is a benefactor of humanity, then it must indeed be true that Senator NIXON was such a benefactor, for he performed this task manyfold, and the multiplied blades of grass that have sprung behind his pathway from obscurity to prominence and material success are many times multiplied beyond the accepted standards of man's experience.

His directness in matters of business always appealed to me. On one occasion he requested an opinion upon a matter involving hundreds of thousands of dollars. I spent much time and labor in preparing the opinion which he desired, but when presented he merely glanced at its conclusion. "That alone is what I am interested in," he said; "you are concerned with the reasons leading up to it; I accept the responsibility because you tell me that I am safe in doing so. If it should transpire that this is not true or that its truth should be challenged, yours then becomes the responsibility. I am too busy a man to concern myself with your reasons." That was a type of GEORGE S. NIXON.

In very truth a self-made man, born among the humbler ranks of the people, and rising through his own unaided efforts, step by step, to a seat in the Senate of the United States, he presents a most inspiring example, Mr. President, to the youth of this country.

I know nothing of the deceased Senator's domestic affairs except that his life in all things was clean and above reproach. On earth he was enlisted in the army of the industrial militants. To-day he is enrolled with the hosts triumphant.

Mr. TOWNSEND. Mr. President, it is a pleasure for me to add a brief but sincere tribute of respect and esteem to the memory of our late colleague, the Hon. GEORGE S. NIXON.

I was not acquainted with him prior to my entering the Senate in March, 1911, but upon coming here I was assigned to the Committee on Interstate Commerce, of which he was a member. In the work of that committee I came into quite close and intimate relations with him. I also saw much of him in this Capitol on the floor and in the lobbies.

Association with a member in committee gives a fairly just and correct idea of his ability and character as a legislator. It is there that his business qualities are demonstrated. His point of view, his insight into the nature and effect of proposed measures are discovered. There he is unembarrassed by the public gaze and uninfluenced by the thought of reporters or of criticizing colleagues. He is himself, and in the semiprivacy of the committee room he speaks and acts with freedom.

In the lobby we see the social and human side of Senators. There the student of human nature can discover the secret springs which move to action. Generosity, kindness, magnanimity, littleness, selfishness, envy, and the other characteristics of humans show forth in all their beauty or ugliness, and a lounging room is necessary to a right understanding of public men.

In the committee room I found Senator NIXON a clear-headed, far-sighted man. His varied and phenomenal business career gave him an experience which enabled him to comprehend broadly and quickly some of the great questions which were presented for consideration, and though diffident on the floor of the Senate, he did not hesitate in expressing his views before the committee, and his colleagues gave him careful attention.

In the lobby he radiated friendliness and good cheer. He despised hypocrisy and could vigorously express his disapproval. Modest himself, he could not endure the Pharisee, but he was always willing to award just credit where it was due. He was not envious.

I do not recall that I was ever formally introduced to him, but it seems to me that I knew him and felt his friendship from the very beginning of my service in the Senate.

The life of Senator NIXON shows the possibilities of the American boy. His short and modest biography in the Congressional Directory indicates that he lived and worked upon a farm in California until he was 19 years of age. His schooling was confined to the public schools near his home. At the age of 19 he entered the employ of a railroad company, where he learned telegraphy. In 1881 his company transferred him to Nevada, where he served as agent and telegraph operator for three years, at the end of which time he accepted a position as clerk in a Reno bank. In 1891 he was chosen a member of the Nevada Legislature, and in 1905 he was elected to the United States Senate from that State, and in 1911 he was reelected under the Oregon plan for another term of six years.

I knew but little of his early life, but I assume that he was a poor boy and that his school education was limited, but I know his knowledge of men and affairs was great and that his varied experience fitted him to win the success, financial and political, which he achieved.

If I were called upon to give in detail a definition of a superior Senator I would be troubled to frame it. I could not say that it was the most eloquent one, neither would it be he who makes the most copy for the RECORD, nor would it always or generally be the man whose picture appears oftenest in the columns of the public press. On the other hand, silence and reticence are not unmistakable evidence either of wisdom or goodness, but it seems to me that the best legislator is the honest, practically intelligent man who is deeply impressed with the great responsibilities of service resting upon him and who fearlessly and conscientiously goes about his work having in mind his country's good and careless of his own.

I do not claim for Senator NIXON what he would not claim for himself, viz, that he was a great Senator. There are very few of such, many fewer than some Senators will admit. But he was a useful legislator, a true friend, and an honest man. His environment shut out some of the modern notions of political reforms, but according to his lights he performed his duty well, and his death took from this body a good Senator and from its Members a loyal friend.

Mr. MYERS. Mr. President, we meet to honor the memory of a departed associate, and in so doing we honor ourselves. Death is the most momentous of all earthly affairs. Birth, marriage, riches, fame, eminence, domestic affairs, business success, worldly honors, all the splendor, pomp, and glory of the world pale into utter insignificance beside the one short second when death lays hold on the mortal frame.

Alexander the Great conquered the world. Napoleon Bonaparte devastated nations. Julius Cæsar crossed the Rubicon. Christopher Columbus discovered a continent. The greatest of these achievements was as naught to the moment when the achiever's life fled. Xerxes at Thermopylæ, seated upon an eminence, viewing his glittering legions of infantry and chariots, forming in array of battle on the plain below, wept at the thought that all the glory and power there represented must so soon pass away and he and his ambition for conquest slak forever into oblivion.

Therefore great as was our departed associate, the late Senator NIXON, in generosity of heart, nobility of impulse, integrity of purpose, strength of character, devotion to principle; great as were his achievements in the commercial world and political circles; splendid as are the heights he attained; lovely as he was in all that goes to make a manly man; we are assembled here to-day on account of the most momentous phase of his physical existence—its termination. Death is always a grave matter, but the gravity thereof is brought to bear upon us with more impending weight and sterner reality than ever when we lose one whom we love and honor as friend and associate. I believe we do not fully realize the worth of those with whom we associate until they are gone.

In the short time that I was favored with the personal acquaintance of Senator NIXON, I did not have the honor of becoming an intimate friend and associate of his, but I learned greatly to admire and respect him. He was a most kindly disposed man. The generosity of his heart was striking. The kindliness of his disposition was unusual. The benevolence of his character was extraordinary. He was full of sympathy for his fellow beings. Ever ready to assist another, he always lent a kindly ear to those who appealed to him. Accommodating and affable, his store of help for human kind was inexhaustible. My association with him was most pleasant to me, and I feel that I am a better man for having known him. His temperament was typical of the broad and boundless West, of which he was an honored resident. Early in life identified with the West, he was imbued with lavish endowments of the heart analogous to the lavish endowments that favored section enjoys at the hands of nature. His rugged character was typified by the solid mountains based on the everlasting rocks. His loftiness of purpose was analogous to the towering peaks that pierce the clouds. His generosity of heart was as free as the dashing waterfall that courses down the mountain side. His greeting was as cordial as the kiss with which the morning sunbeam greets the smiling vale. His breadth of mind was like unto the broad and sweeping plains of his beloved West. We miss him here, but this body is better for his service in it. I enjoyed courtesies at his hands, and, while I probably did not, during his lifetime, as fully acknowledge them as they deserved, I take this occasion to pay a tribute, to the extent of my humble ability, to him and his worth.

The great French soldier, La Tour D'Auvergne, was the hero of many battles, but of his own choice he remained in the ranks. Napoleon Bonaparte gave him a sword and the official title of "First among the grenadiers of France." When he was killed the Emperor of France ordered that his heart be intrusted to the keeping of his regiment; that his name be called at every roll call, and that his next comrade each time answer: "Dead upon the field of honor." Thus we may regard our departed associate. His name will no more be called on the roll call of this body, but whenever it is called in our hearts we can answer:

Dead upon the field of honor.

Mr. WORKS. Mr. President, I have not prepared any formal eulogy upon the life and character of Senator NIXON, but I feel moved to express in unstudied words my appreciation of him as a man and a public servant, and in simple terms to pay the tribute to his memory that he deserves.

My personal acquaintance with Senator NIXON was comparatively brief; but I had known him for a long time, not only as a man in the public eye, but through mutual friends. When I came into the Senate I had the good fortune to be given a seat next to him in this Chamber. We had many things in common. He was a native of my adopted State. He loved California. He was interested in everything that was done in the interest of his native State. He was ready always to assist me as a new Senator in my efforts to represent the interests of the State that we both loved so much.

Shortly before his death I had the pleasure of visiting his home, and in that splendid home of his, furnished with all the luxuries that money could afford, and surrounded by the transcendent beauties of nature, he told us on that day the simple story of his early life. It was a life of privation and toil. It was an experience that taught him the valuable lessons of frugality, energy, and perseverance, which later on brought him fortune and fame.

One morning, very soon after that occurrence, he came into the Senate and said to me, "I am going to the hospital tomorrow." I expressed my surprise, for I regarded him as a

man in perfect health, and I inquired what was the trouble. "Oh," he said, laughingly, "it is only a slight operation that I have to undergo." A very few days after that time I stood at his bedside in a little room in one of the hospitals of this city. He was unconscious and dying. His beloved wife was speeding to his bedside from their far western home; but she was too late. She met the remains of her husband at Chicago, and returned with them to deposit his body in his adopted State and among his friends.

His was a useful life. It was a life that might furnish a worthy example to every young man in this country. He was successful as a business man. He came into the Senate of the United States with a trained business mind. He was a capable, earnest, and sincere public servant. He was possessed of a genial, sunny, happy disposition that carried good cheer wherever he went.

Mr. President, a life like that is worth more to humanity than the ability to make and accumulate money. I believe that no one realized that fact more fully than Senator NIXON himself. With all his wealth he was a simple, kindly, loving man. I think he cared much less for the money that he had been able to accumulate through his energy, perseverance, and wisdom than he did for the good will and love of his fellow men.

He was a man who had accomplished much in a material way. His services here in the Senate were intelligent, wise, and honest. We may very well say in memory of him that he was a good citizen, a kind and loving husband and father, and an honest and capable public servant.

MEMORIAL ADDRESSES ON THE LATE REPRESENTATIVE EDMOND H. MADISON.

Mr. CURTIS. Mr. President, I ask the Chair to lay before the Senate resolutions from the House of Representatives on the death of the late Representative MADISON.

The PRESIDING OFFICER (Mr. MCLEAN in the chair). The Chair lays before the Senate resolutions from the House of Representatives, which will be read.

The Secretary read the resolutions, as follows:

IN THE HOUSE OF REPRESENTATIVES,
April 14, 1912.

Resolved, That the business of the House be now suspended, that opportunity may be given for tributes to the memory of Hon. EDMOND H. MADISON, late a Member of this House from the State of Kansas.

Resolved, That as a particular mark of respect to the memory of the deceased, and in recognition of his distinguished public career, the House, at the conclusion of these exercises, shall stand adjourned.

Resolved, That the Clerk communicate these resolutions to the Senate.

Resolved, That the Clerk send a copy of these resolutions to the family of the deceased.

Mr. CURTIS. Mr. President, I offer the resolutions which I send to the desk and ask for their adoption.

The PRESIDING OFFICER. The Senator from Kansas offers resolutions which will be read.

The resolutions (S. Res. 459) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with deep sorrow of the death of Hon. EDMOND H. MADISON, late a Member of the House of Representatives from the State of Kansas.

Resolved, That as a mark of respect to the memory of the deceased, the business of the Senate be suspended in order that proper tribute may be paid his high character and distinguished public services.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

Mr. CURTIS. Mr. President, one year ago it was my sad duty to make formal announcement here of the death of Hon. E. H. MADISON. He was elected to Congress from the seventh Kansas district in November, 1906. In his service he won the hearts of his colleagues and was rapidly gaining high place among the leaders of the greatest legislative body in the world, the House of Representatives. He did not gauge legislation from the standpoint of a lawyer, but settled questions more as a judge, trying always to harmonize any differences which might exist. This fact arose from his experience upon the bench. He was recognized as one of the most fair and just judges who ever graced the bench in the district courts of Kansas.

He was born at Plymouth, Ill., December 18, 1865; was educated in the common schools of Illinois, and at the age of 18 years began teaching school; in 1885 moved to Wichita, Kans., and began the study of law in the office of G. W. C. Jones, and was admitted to practice in 1888; in the same year was elected county attorney of Ford County, Kans., and served two terms; was appointed judge of the thirty-first judicial district of Kansas January 1, 1900, which position he held until September 17, 1906, when he resigned to become a candidate for Congress; was married December 12, 1900, to Miss Lou Vance.

Mr. MADISON was a profound student of all questions before the people and, while he was a Republican, he could not be considered as radical. He was independent in his convictions and believed differences could be harmonized without resort to extremes. He was loved by those who knew him and there were thousands who mourned his death. Among his friends—and he had many—he was affectionately known as and called "Ed.," and he seemed to enjoy such informal recognition from those who were close to him. In his home life he was at his best and most tender and considerate in his family relations.

It was with the deepest satisfaction that Mr. MADISON entered upon the duties of his congressional office. I need not tell you of his able service in the House. His work speaks for itself. His death was unexpected and a shock to his family, friends, and neighbors. He had just returned to his home at Dodge City, Kans., and had spent but a day or two among his acquaintances, when he was suddenly stricken. His life went out, but he left us an example of how well we should live, for his character was too strong to yield to the allurements and weaknesses or over-indulgences of luxury or wealth.

In the light of the life and example of Mr. MADISON, we refute any assertion to the effect that the days of honesty, of honor, of high ideals are over, and we may further assert that he has given us proof that the underlying moral firmness of character among our people assures the future welfare of the Republic.

Mr. JONES. Mr. President, we stand on the bank of life's river and watch the mystic bark take from our shore its passengers on a voyage from which there is no return, and we are lost in speculation. The wisdom that takes the strong and leaves the weak, that takes the wise and leaves the foolish, that takes the pure and leaves the vile, that takes the good and leaves the bad, that takes the young and leaves the old is beyond our ken. The passengers have no choice. The why, the wherefore they are taken comes only at the end of the voyage. Those behind gaze upon a solemn mystery which each must solve alone with the dreaded boatman.

Judge MADISON was one of earth's choicest spirits. He was strong in body, brilliant in intellect, noble in character, great in high aims and lofty purposes. He was logical in thought, clear in expression, and courageous in following his convictions. Responsive to the popular will, he was nevertheless honest with himself and true to his settled convictions of duty. He loved his country with an intense love, and the welfare of its people was his highest aim. He was an ideal Representative, loyal to his people, faithful to his trust, able and fearless in expressing and advocating his views, and devoted to those policies which he believed to be for the good of all.

Taken in his prime at the very threshold of his usefulness by an all-wise Providence, perchance to a grander, nobler life, more suited to his great abilities and lofty ambitions, he has left to those who knew him an inspiration to greater and better things, and his life and achievements should stimulate the youth of the land to lofty endeavor and noble purpose. To have known him is a precious memory, to emulate him a nobler ambition.

"He belongs to the ages," thus wisely one said,
As they wept by his form when the spirit had fled.
Then the ages grew richer with treasure untold,
As the scroll of their pages before him unrolled,
And he lives in their life, an immortal subline,
While the tides of eternity roll upon time.

Mr. BRISTOW. Mr. President, EDMOND H. MADISON was born on December 18, 1865, at Plymouth, Ill., and moved to Kansas in 1885. In his early life he was a school-teacher. While teaching school he studied law, and in 1888 was admitted to the bar at Wichita, Kans., and moved to Dodge City later in that year. Because of his unusual ability and admirable personal qualities he was elected the same year to the office of county attorney of Ford County, which was an unusual thing to occur in local politics. At that time he was only 23 years of age; it was the first year of his residence within the county and the first year of the practice of his profession. He filled the office with entire satisfaction, and two years thereafter was nominated and elected for a second term.

In the early days of his career he was known throughout the southwestern part of Kansas as the "boy orator." He had great personal popularity as well as fine oratorical talent, and was in great demand as a public speaker at all kinds of gatherings and especially in political campaigns. On January 1, 1900, he was appointed by Gov. Stanley to a vacancy on the district bench, which position he held until September 17, 1906. That year a redistricting of the State had resulted in the division of the seventh congressional district, and Congressman MURDOCK

was taken out of the seventh district, which he then represented, and placed in the new eighth district, leaving a vacancy in the seventh. MADISON was easily the choice of the Republicans of this district for Congress, and was nominated and triumphantly elected. He was reelected in 1908 and 1910, and would still be representing that district in Congress if it had not been for his untimely death.

He was not only an able lawyer, but a wise legislator. He believed in the people and had a deep interest in their welfare. With a strong and brilliant mind he also possessed a warm heart. Nothing touched him more deeply than the struggles which the western Kansas farmer had gone through to reclaim the desert and transform its parched plains into fruitful fields. He could entertain his friends for hours telling stories of the struggles of different men whom he had known in the days of the early settlement in the southwestern part of our State. It was the highest ambition of his life to do something that would help these men and make life for them more successful and less burdensome.

In legislation he always sought to do that which he felt was right, and was also exceedingly eager to please his constituents. He felt keenly their criticism, and while the fear of it would not swerve him from what he believed to be his line of duty, yet it pained him very much to have any of them think that he had done the wrong thing. He was sensitive to the good opinions of his fellow men, but he would not sacrifice his conscience to obtain them. It seems to me that such qualities are of the highest order, and go to make up the ideal representative of a district of freemen in a legislative assembly.

He had brilliant intellectual qualities, clear and cool judgment, fine discriminating ability, and a sensitive conscience, and was possessed with a general affection for mankind. These very admirable traits of character made his duties at times burdensome and painful, yet they resulted in giving a direction to his official life that was wise and patriotic.

"ED." MADISON, as he was familiarly known, was a favorite in every community in his district. The people were always delighted to see him, and would assemble in large numbers at any place and upon any occasion where he was to speak.

The most conspicuous service that he rendered his country was in the Ballinger investigation. In that trying experience of his official life he discharged his duty with independence and without bias. He would not permit fear of political punishment or hope of reward to change his attitude on a matter of public concern, and during the months of heated factional strife which that investigation produced he held an even and steady course, and after the controversy was over his report was accepted by the country as an accurate portrayal of the facts and conditions in the case. It in truth determined the ultimate results of the controversy, and in this investigation he rendered a service of great value to his country.

He was one of my warmest political friends, and I feel very deeply his loss. His father was a Methodist minister and so was mine. Our boyhood days were cast in a similar environment and such experiences knit men closely together. I shall never forget the day of his funeral. The winds that swept the prairies seemed to mourn his loss. Cut off without warning in the prime of a brilliant and useful life, he left a sorrowing district, and the thousands that gathered to pay their last respect to their departed friend was the most effective evidence of the high esteem in which he was held.

MEMORIAL ADDRESSES ON THE LATE REPRESENTATIVE ALEXANDER C. MITCHELL.

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). The Chair lays before the Senate resolutions from the House of Representatives, which will be read.

The Secretary read the resolutions, as follows:

IN THE HOUSE OF REPRESENTATIVES,
April 21, 1912.

Resolved, That the business of the House be now suspended that opportunity may be given for tributes to the memory of Hon. ALEXANDER C. MITCHELL, late a Member of the House from the State of Kansas.

Resolved, That as a particular mark of respect to the memory of the deceased and in recognition of his distinguished public career the House, at the conclusion of these exercises, shall stand adjourned.

Resolved, That the Clerk communicate these resolutions to the Senate.

Resolved, That the Clerk send a copy of these resolutions to the family of the deceased.

Mr. CURTIS. Mr. President, I offer the resolutions which I send to the desk.

The PRESIDING OFFICER. The resolutions will be read.

The resolutions (S. Res. 460) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate expresses its profound sorrow on account of the death of Hon. ALEXANDER C. MITCHELL, late a Member of the House of Representatives from the State of Kansas.

Resolved, That the business of the Senate be now suspended in order that fitting tribute may be paid his high character and distinguished public services.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

Mr. CURTIS. Mr. President, we are met here at this hour in respect to the memory of the late Hon. ALEXANDER C. MITCHELL, of the second district of Kansas, whose death occurred soon after he entered upon his duties as a Member of the Sixty-second Congress. In fact, his health was such that many of his friends thought it unwise for him to come to Washington to assume his office, but he had been elected and felt that his place was here, and came to do his part, and he did it faithfully to the end.

He was born at Cincinnati, Ohio, October 11, 1860; was educated in the common schools and the University of Kansas, graduating in June, 1889, with the degree of LL. B.; engaged in the practice of law at Lawrence, Kans.; was county attorney of Douglas County, Kans., for four years; member of the Kansas Legislature for four years and of the State board of law examiners three years; married Miss Helen M. Baldwin July, 1890.

His service in the House was too brief to give those who did not know him a view of his talents and his abilities. The earnest study which he gave to the great subjects of national legislation, the independence of view with which he surveyed the entire field, and the wisdom of his conclusions evidenced that with experience he would have been a valuable servant for the people who had so recently honored him at the polls. He was an able lawyer and had won an enviable position at the bar of Kansas. He had been a member of the legislature and had forged to the front as a leader, and it can be justly said that his public service previous to his entrance into the sphere of national legislation had been most useful and distinguished.

He of whom I speak was ever ready to battle strenuously for the things he thought to be right, yet always ready and willing to meet more than halfway those who disagreed with him and to settle questions for the best interest of all concerned. Mr. MITCHELL'S private life was clean, wholesome, honorable. His home life was ideal, happy, and pleasant, and with his death there has passed from his family, his friends, and the public a man of unblemished and noble character, a man of varied and marked abilities. He accomplished a great work in less than the full span of human life. In the State of Kansas, where his honors were won, his demise is universally regretted and deplored.

Mr. BRISTOW. Mr. President, an able lawyer, an experienced and useful legislator, successful in the administration of important and varied public duties, frugal and generous in business affairs, spotless in private character, a citizen of high standing and commanding influence in his community; at the age of 50 chosen to represent his congressional district in the National House of Representatives, and at the very threshold of a promising congressional career stricken with a fatal disease he passed away.

This briefly tells the story of the attainments of ALEXANDER CLARK MITCHELL. Why one so well equipped to serve, possessing character, industry, intelligence of a high order, and superb moral worth should be taken, while millions who do not possess such a combination of noble attributes are left, is one of the inexplicable mysteries of human existence.

Mr. MITCHELL was elected to represent the second Kansas district in Congress in November, 1910. He received a large majority for that district, much larger than was usually given to the Republican candidate. He enjoyed in a high degree the confidence of the people. They believed in his integrity and had faith in his ability. They loved him and trusted him. He was permitted to serve them but a short time, yet those of us who knew him well can fully realize the great loss they sustained in his death.

He was born in Cincinnati, Ohio, in October, 1860, came to Kansas when a young man, and began life in his adopted State as a farm hand. By his own efforts he acquired a good education, graduating from our State university in June, 1889. He began the practice of law in Lawrence the same year and soon became one of the leaders at the bar and continued to hold a high position in his profession until his death. He was honored by the people of his county by being elected as their county attorney for two terms, was chosen twice to represent his district in the State legislature, served as regent of the State university for six years, and was a member of the State board of law examiners for three years. In 1890 he was married to Miss Helen M. Baldwin, and she and three children mourn the loss of a devoted husband and a kind father. While no plummet line of sympathy can fathom the depths of

their grief, yet thousands of friends yearn to help them bear their burden. With a deep and abiding sorrow I bow with them in their great affliction, for the death of "ALEC" MITCHELL was to me a personal bereavement. He was my intimate friend. We were about the same age and started our political life together in the same community. When I was elected to a seat in this body he presented my name to the Kansas Legislature. The mutual joy which that day brought us both no fitting phrase can properly express. I knew him well for 25 years. For a quarter of a century we worked side by side in the fierce political conflict that was waged in Kansas for better government. In that struggle he was always on the firing line. Able in counsel, cool in judgment, and vigorous in action, he bore well his part in every battle.

I feel his death more deeply than words can express. When he passed away I lost a beloved friend and a wise counselor whose place can not be filled. But not only was his death a great loss to his intimate personal friends, but a disaster to his district, from which it will not recover for years to come. We loved him, we mourn his loss, and with fortitude submit to the inexorable decree of an all-wise Providence whose judgments are good, and though we can not now understand them we know that they are wise, and we patiently wait for the unfolding of the years to reveal His purpose in visiting upon us this great affliction.

Mr. CURTIS. Mr. President, I offer the resolution which I send to the desk.

The PRESIDING OFFICER. The resolution will be read.

The Secretary read the resolution (S. Res. 461), as follows:

Resolved, That as a further mark of respect to the memory of the deceased Senators ROBERT LOVE TAYLOR and GEORGE S. NIXON and deceased Representatives EDMOND H. MADISON and ALEXANDER C. MITCHELL the Senate do now adjourn.

The resolution was unanimously agreed to; and (at 2 o'clock and 47 minutes p. m.) the Senate adjourned until Monday, February 10, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February 8, 1913.*

The House met at 10.30 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou, who holdest the stars to their courses and fillest the earth with glory and maketh it yield abundantly to the labor of Thy children, guide us, we beseech Thee, as a people, by the light of Thy wisdom, the strength of Thy might, the justice of Thy judgment, the purity of Thy holiness, the benevolence and kindness of Thy love, that peace, prosperity, and good will may reign supreme; to the honor and glory of Thy holy name. Amen.

The Journal of the proceedings of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. POU. Mr. Speaker, I offer a privileged resolution from the Committee on Rules.

The SPEAKER. The gentleman from North Carolina offers a privileged resolution from the Committee on Rules, which will be reported by the Clerk.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The point of order is well taken.

Mr. FITZGERALD. Mr. Speaker, I move a call of the House.

Mr. HARDWICK. Mr. Speaker, I move a call of the House.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] moves a call of the House.

The question being taken, a call of the House was ordered.

The SPEAKER. The Doorkeeper will lock the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Adair	Broussard	De Forest	Fordney
Aiken, S. C.	Brown	Dickinson, Mo.	Fornes
Ainey	Burke, Pa.	Dickson, Miss.	Foss
Ames	Burleson	Difenderfer	Francis
Andrus	Byrnes, S. C.	Dixon, Ind.	French
Ansberry	Calder	Donohoe	George
Anthony	Conry	Draper	Gill
Barchfeld	Copley	Driscoll, D. A.	Gillett
Bartholdt	Cravens	Dwight	Glass
Bates	Crumpacker	Fairchild	Goldfogle
Bochne	Curley	Farr	Greene, Mass.
Booher	Danforth	Finley	Gregg, Tex.
Bradley	Davidson	Flood, Va.	Griest
Brantley	Davis, Minn.	Focht	Gudger
Hammond	Lawrence	Olmsted	Simmons
Harris	Lenroot	O'Shaunessy	Smith, S. W.
Harrison, Miss.	Levy	Palmer	Smith, N. Y.
Harrison, N. Y.	Lindsay	Parran	Stack
Hart	Linthicum	Patten, N. Y.	Stanley
Hartman	Littleton	Patton, Pa.	Stevens, Minn.
Hayes	Longworth	Payne	Talbott, Md.
Heald	Loud	Peters	Taylor, Colo.
Henry, Conn.	McCreary	Pray	Taylor, Ohio
Higgins	McGuire, Okla.	Prince	Thistlewood
Hill	McKinley	Prouty	Thomas
Howell	McMorran	Pujo	Tilson
Howland	Madden	Rainey	Townsend
Hughes, W. Va.	Maher	Randell, Tex.	Turnbull
Hull	Martin, Colo.	Ransdell, La.	Underhill
Johnson, S. C.	Matthews	Redfield	Underwood
Kent	Merritt	Reilburn	Vare
Kitchin	Mondell	Richardson	Volstead
Knowland	Moon, Pa.	Roberts, Mass.	Vreeland
Konig	Moore, Pa.	Roberts, Nev.	Watkins
Korbly	Moore, Tex.	Rodenberg	Weeks
Lafean	Morrison	Ruhey	Whitacre
Lafferty	Mott	Rucker, Colo.	Wilder
La Follette	Murdock	Rucker, Mo.	Wilson, Ill.
Langham	Needham	Scully	Wilson, N. Y.
Langley	Nye	Shackleford	Wood, N. J.

The SPEAKER. Two hundred and twenty Members have answered to their names. A quorum is present.

Mr. HENRY of Texas. Mr. Speaker, I move to dispense with further proceedings under the call.

The SPEAKER. The gentleman from Texas moves to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors.

DIRECT ELECTION OF UNITED STATES SENATORS.

The SPEAKER laid before the House the following communication from the secretary of state of the State of Michigan:

FEBRUARY 6, 1913.

To the SPEAKER OF THE HOUSE OF REPRESENTATIVES,
Washington, D. C.

DEAR SIR: I am inclosing herewith a certified copy of senate concurrent resolution No. 2, approving the concurrent resolution of Congress of the United States relative to an amendment to the Constitution providing for the direct election of United States Senators.

Very respectfully,

FREDK. C. MARTINDALE,
Secretary of State.

MILITARY ACADEMY BILL.

Mr. HAY, chairman of the Committee on Military Affairs, by direction of that committee, reported the bill (H. R. 28699) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1914, and for other purposes, which was read the first and second times and, with the accompanying papers, was ordered printed and referred to the Committee of the Whole House on the state of the Union. (H. Rept. 1478.)

Mr. MANN reserved all points of order on the bill.

ORDER OF BUSINESS.

The SPEAKER. The Clerk will report the resolution offered by the gentleman from North Carolina [Mr. POU].

The Clerk read as follows:

House resolution 818.

Resolved, That immediately upon the adoption of this resolution the House shall proceed to consider H. R. 17593 with committee amendments reported from the Judiciary Committee. That the bill shall be read and the Speaker recognize Members to offer amendments to the bill allowable under the rules of the House, and amendments so offered shall be considered pending. That there shall be three hours general debate on said bill, one-half of the time to be used by those favoring the bill and the remainder by those opposed to the bill; that at the expiration of this time the previous question shall be considered as ordered on the bill and all amendments to final passage, and the House shall proceed to vote without intervening motion on the amendments, if any, and the bill to final passage, except one motion to recommit, as provided by Rule XVI, paragraph 4.

Mr. POU. Mr. Speaker, I demand the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question now is on agreeing to the resolution.

Mr. DALZELL. Mr. Speaker, are we not entitled to 40 minutes' debate?

The SPEAKER. If anybody wishes to debate it; but the Chair did not see any gentleman rise. There will be 40 minutes' debate, 20 minutes to be under the control of the gentleman from North Carolina [Mr. POU] and 20 minutes under the control of the gentleman from Pennsylvania [Mr. DALZELL].

Mr. POU. Mr. Speaker, the subject matter of the bill H. R. 17593 is well known to every Member of this House. This session is drawing to a close, and the Committee on Rules felt that the time had come when it should act and that the House should be given an opportunity to vote on this important measure. For that reason House resolution 818 was reported from the Committee on Rules. The committee has sought to be fair with respect to this resolution; it has given reasonable time to debate and has not sought to cut off amendment.

The Committee on Rules felt that unless some resolution of this kind was reported there would be no opportunity for consideration of this important measure during the session of Congress. That is the reason the committee offers for bringing in the rule—a reason which the committee thinks entirely sufficient.

Mr. SHERLEY. Before the gentleman takes his seat I would like to ask him when was this bill reported?

Mr. POU. From the Judiciary Committee, I think, within the last day or so.

Mr. SHERLEY. Was it not reported yesterday?

Mr. POU. I think it was.

Mr. SHERLEY. Does the gentleman know when the report of the majority was available?

Mr. POU. I think yesterday.

Mr. SHERLEY. At what time?

Mr. POU. Perhaps about midday.

Mr. SHERLEY. I was not able at that time to get a copy of it. Does the gentleman know whether there is now available a report of the minority? There has been quite a diversity of views over this bill, and does not the gentleman think the House ought to have a little time to read and study the views of the majority touching the constitutionality of the proposed measure?

Mr. POU. My answer to that is that, speaking for myself, I believe that every Member of this House is in a position at this time to vote on this rule and within the next day to vote on the House bill 17593. The gentleman from Kentucky is well aware of the fact that this matter has been pending in Congress for a long time—that it has been discussed throughout the country and in the newspapers.

Mr. SHERLEY. I would suggest to the gentleman that the discussion in the newspapers throughout the country would not be very enlightening as to the purely legal aspects of the case. I have given a great deal of time to the subject, which is one of a great deal of difficulty. I should have liked an opportunity to study the report of the committee, and I say that in perfect good faith.

Mr. POU. Mr. Speaker, I reserve the balance of my time.

Mr. DALZELL. Mr. Speaker, I do not propose at this time to discuss the merits of the bill referred to in the resolution reported by the Committee on Rules, but I would like to make some observations with respect to the parliamentary situation and as to the zeal and efficiency of the Democratic majority in control of the business of this House.

This is the 8th day of February, and the Congress will expire by limitation of law on the 4th day of March. If I have counted correctly, there are between this and the expiration of the session 23 days. Of those 23 days 4 are Sundays, and unless the House contemplates carrying on business on Sunday that reduces the working days to 19. There are two days mortgaged for special business in the intervening time, one of them Wednesday next for the counting of the electoral vote, by concurrent resolution of the House and Senate, and the following Saturday for the memorial services of the late Vice President SHERMAN. That reduces the working days to 17. There will be one intervening Monday which is mortgaged for unanimous consent and suspension of the rules business. That reduces the working days to 16. The last six days of the session are devoted not alone to motions to suspend the rules, as they were previously under the rules of the Republican Congresses, but they are mortgaged to the consideration of the Unanimous Consent Calendar as well as to suspension of the rules. Deducting those 6 days you have 10 days left—10 working days of this session in which to complete the business of this House!

What is that business? In the first place, there is not a single, solitary conference report on any of the appropriation bills that has been passed upon by this House. All the conference reports on all the appropriation bills that this House and the Senate may be able to pass in the intervening time will have to receive the consideration of the House. There is a public-building bill to be considered, if we may give credence to popular rumor. There are remaining to be considered by this House the following great appropriation bills: The agricultural bill, the diplomatic bill, the Military Academy bill, the naval appropriation bill, the pension bill, the deficiency bill, and the sundry civil appropriation bill—all to be considered within the limit of 10 days.

I had made for me yesterday a statement of the time occupied in the consideration of these bills in the last session of Congress, and I find that the agricultural bill was taken up on the 27th day of February and finished on the 12th of March, the diplomatic bill was taken up on March 26 and finished March 28, the Military Academy bill on May 28 and finished May 31, the naval appropriation bill on May 23 and finished on May 28, the pension bill on January 30 and finished on February 2, and the sundry civil bill took from June 4 to June 21; in all, 42 days.

I do not contend that all of those 42 days were occupied in the consideration of these bills, because there was intervening business, but there will be intervening business in the consideration of these remaining seven bills now, and as against those 42 days occupied in the consideration of the bills you have left for their consideration in the remainder of this session 10 days.

How comes it, Mr. Speaker, that we have this great moral spasm at this juncture of the session? How comes it that this bill, which the gentleman from North Carolina [Mr. POU] says in no new matter relates to a subject that has been pending in this Congress and in previous Congresses, must needs be taken up at this time? How comes it that no report came from the Committee on the Judiciary on that bill until yesterday? Why, Mr. Speaker, the Committee on Rules adopted this rule before the bill reported by the Committee on the Judiciary had been printed and before the report of the Judiciary Committee had been printed, before the minority of the committee had had an opportunity to file their views. I say, how comes it that we have this great moral spasm at this juncture of the dying Congress? How much glory does it reflect upon the efficiency of a Democratic majority to conduct the business of this House? If we are going to have legislation by special rule, which shall take away the time that ought to be occupied in the consideration of appropriation bills, I ask is this the most important bill as to which we should have a special rule? There was introduced into this House on the 8th day of May, 1912, nine months ago, a bill that had been considered, deliberated upon, and passed by the Senate and which has been reported to this House, which is of most pressing importance to a great body of the people of this country, that is deserving, in my judgment, if not of more, at least of equal consideration by the membership of this House. I refer to what is known as the workmen's compensation act. Yet the Committee on Rules has steadfastly refused to report any rule not only with respect to that bill but with respect to any bill to which its attention has been called during the last two weeks of this session. There was currently reported and published in the public press a statement of the chairman of the Committee on Rules that no legislation would be authorized by that committee by way of special rule until the appropriation bills had been disposed of. Do you intend to dispose of the appropriation bills at this session, or do you intend to let them go over until the special session, to be disposed of then by the House controlled by your great majority, and thus to interfere with that great reform for which the country is so anxious—the revision downward of the tariff?

I submit, first, that there is no justification for a special rule for any legislation at this time outside of the appropriation bills; and, second, that if there be such justification, there is other legislation, there are other bills calling for enactment on the calendar that ought to take precedence or at least be put on an equality with this bill. And I submit that this is only another evidence of the fact that when history comes to record the story of this Congress it will pronounce this the most incompetent and useless Congress that ever sat under the dome of the Capitol. [Applause on the Republican side.] I reserve the balance of my time.

Mr. POU. Mr. Speaker, I yield four minutes to the gentleman from Alabama [Mr. CLAYTON].

Mr. CLAYTON. Mr. Speaker, there is nothing surprising in this proposed legislation and, I take it, but little surprising in this rule. This proposed legislation has been discussed in the public press by the constituents of every Member of this House and by the Members themselves. Not only that, Mr. Speaker, but it has been before the House and before the Congress in one form and another repeatedly for about the last 20 years, and therefore I am warranted in saying that there is nothing which should astonish the gentleman who opposes this measure. Elaborate hearings were given on bills affecting the interstate shipment of alcoholic liquors by the Committee on the Judiciary of the House of Representatives of last spring and summer. Every man who had any views to express had an opportunity then to appear and give his views. The committee has given much consideration to this subject, and the result of that consideration is what is known as the amended Webb bill. The Webb bill is the Sheppard-Kenyon bill improved in phraseology and improved, I think, in the matter of constitutionality. The Webb bill differs from the Sheppard-Kenyon bill, so called, in that it does not undertake to destroy property rights in alcoholic liquors as the Sheppard-Kenyon bill did.

Now, Mr. Speaker, the gentleman from Pennsylvania [Mr. DALZELL] said that this rule was brought in here shortly after

the bill was reported. That is true, but up to that time, Mr. Speaker, I have heard no complaint from any member of the Committee on the Judiciary on that account. They seem to have acquiesced in the belief that the minority had ample opportunity to present their views, at least they have made no complaint, and it remained for the gentleman from Pennsylvania to register that complaint.

I think the minority of the Committee on the Judiciary can take care of their views and their wishes in this or any other matter, and therefore, Mr. Speaker, unless the minority members of that committee should have asked for further time to prepare and present their views, I see no occasion for delay in this matter at this time. The committee has been burdened by communications for and against this measure. The mail of every member of the committee has been burdened with petitions, letters, and protests, and I think that sufficient consideration has been given to this measure. I agree with the gentleman from Texas that the matter having been considered, the time has arrived for action, and the particular phases of the question bearing upon its constitutionality can be discussed in the time fixed by the resolution.

The SPEAKER. The time of the gentleman has expired.

Mr. DALZELL. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Speaker, I am opposed to this special rule, and I am opposed to special rules setting aside any portion of the remaining days of this session for the consideration of business other than the appropriation bills until the appropriation bills are finally disposed of. The gentleman from Pennsylvania [Mr. DALZELL] has reviewed the number of days remaining to be devoted to public business and the bills to be considered in that time. Six general appropriation bills have passed the House; seven still remain to be disposed of in the 12 days available for work. It must be remembered that while about 12 days remain, 12 days do not remain for consideration of these bills by the House. They must be sent to the Senate sufficiently early to enable the Senate to consider and to dispose of them and to permit the managers representing both Houses to adjust the differences between the two Houses. The responsibility, Mr. Speaker, for the failure of the appropriation bills at this session will fall upon this side of the House; it can not be shirked. I do not know what the intention of the majority is. Last Wednesday, after a careful analysis of the situation, I moved to dispense with business in order on Calendar Wednesday. I did so because I was aware that there was a purpose to call up for consideration a bill that everybody realized had absolutely no chance of passing this House; that the so-called Panama or San Francisco Exposition, or lame-duck, bill could not pass this House once it was explained to the Members. It was a day wasted.

Every member of the majority who has charge of an appropriation bill, with the exception of one gentleman who was absent attending the marriage of one of his children, voted for that motion. The gentleman from Texas [Mr. HENRY], the chairman of the Committee on Rules, and the gentleman from Alabama [Mr. UNDERWOOD], the chairman of the Committee on Ways and Means and the responsible leader of this House, voted against the motion. Everybody realized how pressed we were for time.

Mr. Speaker, I do not know if there be any understanding or arrangement or disposition among those high in the councils and in the control of the party to defer the passage of the appropriation bills until the extra session, but I do say that in justice to myself and to the men who have the drudgery of preparing these bills, and who sit long hours in session with the House attempting to pass them, often to the impairment of their health—if there be any such disposition or understanding or arrangement, we should at least be notified of it. It is unfair to ask us to spend 10 hours a day in committee, to work at night, and be required to watch the business of the House at the same time, and then not have the support in our efforts to transact public business of the men whom this side of the House have placed in positions of responsibility.

Mr. HAMILTON of Michigan. Will the gentleman yield?

Mr. FITZGERALD. I will not yield.

The SPEAKER. The time of the gentleman from New York [Mr. FITZGERALD] has expired.

Mr. FITZGERALD. I would like but one minute more, if the gentleman from Pennsylvania [Mr. DALZELL] will yield.

Mr. DALZELL. I yield one minute more to the gentleman.

Mr. FITZGERALD. No one expects this bill to become a law. Why not be frank about it? Nobody dreams it will be enacted into law at this session of Congress, but in order to give men an opportunity to mislead the country into the belief that we want it to become a law, the day is to be wasted.

Mr. HOBSON. Will the gentleman yield for a question?

Mr. FITZGERALD. I will not.

The work is being piled up so as to make it physically impossible for the business of the country to be properly transacted. The naval bill, with all the great questions involved in it; the sundry civil bill; the deficiency bill, aggregating twenty to twenty-four millions of dollars; the diplomatic bill; the Agriculture bill; the pension appropriation bill, carrying $180,000,000, all wait to be considered by this House, and yet one day is squandered upon an exposition bill to take care of men who are, at the desire of their constituents, preparing to retire to private life, and one day is to be devoted to this bill, which everybody here knows can not receive consideration in the Senate before the expiration of this session.

The SPEAKER. The time of the gentleman has expired.

Mr. FITZGERALD. And I appeal to Members on this side who want to do business and who do not wish to fool the public to vote down this resolution.

Mr. POU. Mr. Speaker, I yield four minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Speaker, I want to join with the request of the gentleman from New York [Mr. FITZGERALD] that this House proceed to do business and not indulge in squandering time and fooling the public. We are in condition where the calendars are badly clogged, but the reason for it, and the only reason for it, is the grossest mismanagement of appropriation bills on the part of the majority in this House. [Applause on the Republican side.] The gentleman from New York [Mr. FITZGERALD] said that he moved last Wednesday to dispense with Calendar Wednesday, and he did, but if the gentleman was so anxious to conserve time, why was it that afterwards, when the agricultural bill was reported, unanimous consent was given for three hours of general debate upon the bill, and, with the exception of one speech, not one word was said in that general debate on the merits of the bill? Was that any effort to conserve the time of the House and expedite business?

Mr. FITZGERALD. The request for time came from the other side of the House, in trying to accommodate minority men.

Mr. LENROOT. But the gentleman made no objection. In the last three appropriation bills we have had seven and one-half hours of general debate, and everything has been discussed in that general debate except provisions of the appropriation bills. Further, Mr. Speaker, in the consideration of the appropriation bills under the five-minute rule there has been the grossest waste and mismanagement of time. We all remember on the District bill, only two or three days ago, that we consumed two whole legislative days on one proposition, and at the end of the two days' debate the House found it had traveled in a circle and reached a point exactly where it commenced two days before.

Now, Mr. Speaker, if this House is to take the position that at short sessions of Congress we shall have no general legislation except such as the Committee on Appropriations chooses shall be considered, then we might as well make up our minds that at short sessions of Congress we will consider nothing but appropriation bills.

I am for this rule, because by my vote I want to serve notice upon the Committee on Appropriations and upon the Democratic majority that they must, if they want their appropriation bills to go through, conduct these matters in some sort of business fashion, instead of in the way they have been doing in the past. [Applause.] And, Mr. Speaker, if they will do that we will have ample opportunity not only to consider this bill, but to consider other bills of great importance to the country.

I know, Mr. Speaker, and every other Member of this House knows, that there are bills upon the calendar now that the country is very much more interested in than they are in extended discussions over some little hundred-dollar item in an appropriation bill. We all know that hour after hour has been wasted upon very trivial matters, and now they say that because of that waste of time we have not time to consider bills of great national importance. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. DALZELL. Mr. Speaker, I have four minutes remaining, as I understand it.

The SPEAKER. Yes.

Mr. DALZELL. Is the gentleman from North Carolina [Mr. POU] going to have more than one speech over there?

Mr. POU. We have just two short speeches on this side.

Mr. DALZELL. Only one gentleman over here wants to speak.

Mr. POU. Then, Mr. Speaker, I yield three minutes to the gentleman from Tennessee [Mr. GARRETT].

The SPEAKER. The gentleman from Tennessee [Mr. GARRETT] is recognized for three minutes.

[Mr. GARRETT addressed the House. See Appendix.]

The SPEAKER. The time of the gentleman from Tennessee has expired. The gentleman from Pennsylvania [Mr. DALZELL] is recognized for four minutes.

Mr. DALZELL. Mr. Speaker, I will say to the gentleman from North Carolina [Mr. POU] that since I spoke to him a moment ago a gentleman on this side wants a minute, and I yield to him. I yield to the gentleman from New Jersey [Mr. MCCOY] one minute.

Mr. POU. The gentleman has only one speaker after that?

Mr. DALZELL. Yes.

The SPEAKER. The gentleman from New Jersey [Mr. MCCOY] is recognized for one minute.

Mr. MCCOY. Mr. Speaker, I do not want to be considered as speaking in opposition to this rule necessarily, but I do want the House to know this one fact: The chairman of the committee said that the minority of the Committee on the Judiciary who joined in a minority report had made no complaint. Our minority report is printed, but has only just now come into the hands of the Members of the House. We were given to understand that we might have 10 days' time, if we chose to take it, in which to submit our report before this bill should be brought up for consideration, but our time was shortened by the action of the Rules Committee.

Mr. POU. Mr. Speaker, I will say to the gentleman, if he will yield——

The SPEAKER. Does the gentleman yield?

Mr. MCCOY. Yes.

Mr. POU. I will say to the gentleman that I hold a copy of the minority report in my hand, so that it is apparent that it has already been printed.

Mr. MCCOY. Is that the report bearing the name of Mr. DAVIS?

Mr. POU. It is.

Mr. MCCOY. Then that contains the minority report, but has only just been received by the House.

The SPEAKER. The time of the gentleman from New Jersey has expired. The gentleman from Pennsylvania [Mr. DALZELL] is recognized for three minutes.

Mr. DALZELL. Mr. Speaker, I yield that time to the gentleman from Illinois [Mr. MANN].

The SPEAKER. The gentleman from Illinois [Mr. MANN] is recognized for three minutes.

Mr. MANN. Mr. Speaker, this is part of a flimflam game that is being played upon an unsuspecting public. [Laughter.] A bill only becomes a law when the bill passes both the House and the Senate. This bill is a House bill. It may pass the House this afternoon.

It is within the knowledge of every Member here that the Senate by unanimous consent has fixed for consideration on Monday next a Senate bill on the same subject. The House can pass the House bill, the Senate can pass the Senate bill, and Members of both bodies can go home and say, "We voted for our bill"; the Members of the House laying the blame on the Senate for not passing the House bill, and the Members of the Senate laying the blame on the House for not passing the Senate bill. [Laughter.] If gentlemen really wanted to pass the bill into a law, they would wait with their order until they could provide consideration of the Senate bill in the House after it had passed the Senate, and gentlemen all well know it.

Mr. Speaker, the gentleman from Pennsylvania [Mr. DALZELL] has already called attention to the condition of the appropriation bills. The distinguished gentleman from Texas [Mr. HENRY], chairman of the Committee on Rules, Attorney General in the next Cabinet [applause], special representative of the President elect on the floor of the House, is, as it seems to me, doing everything he can, probably inspired from the source of authority, to prevent the appropriation bills becoming laws at this session of Congress, in order that they may be taken up at the special session of Congress. Everyone knows that without special celerity these appropriation bills can not now become laws. Yet the gentleman proposes through the Committee on Rules to use up the time of the House, endeavoring to flimflam and fool the public, in order to take up time to prevent the appropriation bills becoming laws, knowing that this bill will not become a law. [Applause on the Republican side.]

Mr. POU. I yield the remainder of my time to the gentleman from Texas [Mr. HENRY].

The SPEAKER. The gentleman from Texas [Mr. HENRY] is recognized for four minutes.

Mr. HENRY of Texas. Mr. Speaker, it is indeed pathetic to see the attitude of the gentleman from New York [Mr. FITZGERALD] in regard to the appropriation bills. There is no doubt that every appropriation bill will be passed at this session under his wise leadership. But, Mr. Speaker, I maintain that the question of controlling and regulating the liquor traffic is as important as any appropriation bill. [Applause.] Permit me to assert to-day it is as vital and important as the life of the Republic itself.

No gentleman is surprised in regard to this legislation. The bill only proposes that liquors "*intended to be shipped into States in violation of the laws of those States shall be prohibited.*" In other words, the States of the Union may exercise their sovereign power, the power they never surrendered. They retained the right to control the liquor traffic and to all matters of domestic concern and within the scope of police powers.

After long and exhaustive investigation it seems to me there is not the slightest doubt about the validity of this statute under the Constitution. Let me say to gentlemen on the other side of the aisle, many of you coming from Northern States, that years ago you appealed to Congress to allow you to refuse to surrender fugitive slaves and permit you to exercise the functions and rights of sovereign States. To-day we appeal to you to maintain the integrity of State laws, State governments, and the right of local self-government, "*to let the people of every State control the liquor traffic as they see proper.*" [Applause.] That is the question involved here, and the rule only provides for the consideration of the bill. It is thrown open to amendment, with three hours for general debate, and I predict that the measure will pass this House practically unamended, because it is meritorious and justifiable from beginning to end.

The gentleman talks about "flimflamming the public." We do not intend to deceive anyone about the question. Ah, the gentleman from New Jersey [Mr. MCCOY] says that those who are opposed to the bill have not had time to file their minority views. And yet I hold in my hand the views of the minority, signed by the gentleman from New Jersey [Mr. MCCOY]. There is nothing to justify surprise here to anyone.

Mr. Speaker, that is all there is involved in the question. Shall we allow the States to exercise their reserved powers and jurisdiction? Standing for State rights, the supremacy of the law, local self-government, and the integrity of the people's rule, I shall stand for this rule and the most righteous measure here proposed.

The SPEAKER. The time of the gentleman from Texas has expired. The question is on agreeing to the resolution.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were 157 ayes and 3 noes.

Mr. FITZGERALD. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 211, nays 60, answered "present" 9, not voting 101, as follows:

YEAS—211.

Adair	Fergusson	Hobson	Morgan, La.
Adamson	Ferris	Holland	Morgan, Okla.
Aiken, S. C.	Fields	Houston	Morse, Wis.
Akin, N. Y.	Finley	Howard	Moss, Ind.
Alexander	Floyd, Ark.	Howell	Mott
Anderson	Foss	Howland	Murdock
Ashbrook	Foster	Hughes, Ga.	Neeley
Austin	Fowler	Hull	Nelson
Ayres	French	Humphrey, Wash.	Norris
Barnhart	Fuller	Humphreys, Miss.	Nye
Beall, Tex.	Gardner, Mass.	Jackson	Oldfield
Bell, Ga.	Gardner, N. J.	Jacoway	O'Shaunessy
Borland	Garner	Johnson, Ky.	Padgett
Burgess	Garrett	Jones	Page
Burke, S. Dak.	Gillett	Kendall	Payne
Burnett	Glass	Kennedy	Pepper
Butler	Godwin, N. C.	Kent	Pickett
Byrns, Tenn.	Good	Kinkaid, Nebr.	Plumley
Callaway	Goodwin, Ark.	Kitchin	Porter
Campbell	Gould	Kopp	Post
Candler	Graham	Lamb	Pou
Carlin	Gray	Langley	Powers
Carter	Green, Iowa	Lawrence	Pray
Clark, Fla.	Greene, Mass.	Lee, Ga.	Rainey
Claypool	Greene, Vt.	Lenroot	Raker
Clayton	Gregg, Tex.	Lever	Rauch
Cline	Guernsey	Lewis	Rees
Collier	Hamilton, Mich.	Lindbergh	Richardson
Covington	Hamilton, W. Va.	Linthicum	Roberts, Mass.
Cox	Hamlin	Littlepage	Rodenberg
Cullop	Hammond	Lloyd	Ruby
Currier	Hardy	Lobeck	Rucker, Mo.
Curry	Harrison, N. Y.	McCall	Russell
Daugherty	Haugen	McGillicuddy	Saunders
Davenport	Hawley	McKenzie	Scott
Davis, W. Va.	Hay	McKinney	Sells
Denver	Hayden	McLaughlin	Sharp
Dickinson	Heflin	Macon	Sims
Dies	Helgesen	Maguire, Nebr.	Sisson
Dixon, Ind.	Helm	Martin, Colo.	Slayden
Dodds	Henry, Conn.	Martin, S. Dak.	Slemp
Doughton	Henry, Tex.	Mays	Sloan
Edwards	Hensley	Miller	Small
Ellerbe	Higgins	Mondell	Smith, J. M. C.
Falson	Hinds	Moore, Tex.	Smith, Saml. W.

Smith, Tex.	Stone	Tribble	Willis
Stedman	Sweet	Tuttle	Wilson, Ill.
Steenerson	Taggart	Warburton	Wilson, Pa.
Stephens, Cal.	Taylor, Ala.	Watkins	Witherspoon
Stephens, Miss.	Taylor, Ark.	Webb	Young, Kans.
Stephens, Nebr.	Taylor, Colo.	Whitacre	Young, Mich.
Stephens, Tex.	Thayer	White	Young, Tex.
Sterling	Towner	Wilder	

NAYS—60.

Allen	Crago	Goeke	Madden
Bartholdt	Curley	Gregg, Pa.	Murray
Bartlett	Dalzell	Hamill	Reilly
Bathrick	Danforth	Hardwick	Rodenberg
Berger	Dent	Hayes	Rothermel
Blackmon	Doremus	James	Rouse
Booher	Dupré	Kahn	Sabath
Broussard	Dwight	Kinkead, N. J.	Sherley
Buchanan	Dyer	Knowland	Sherwood
Bulkley	Esch	Konop	Speer
Burke, Wis.	Estopinal	Lee, Pa.	Stevens, Minn.
Cannon	Evans	Longworth	Switzer
Cantrill	Fitzgerald	McCoy	Talcott, N. Y.
Cary	Gallagher	McDermott	Thistlewood
Cooper	Gill	McKellar	Townsend

ANSWERED "PRESENT"—9.

Browning	McMorran	Needham	Sparkman
Driscoll, M. E.	Mann	Riordan	Talbott, Md.
Hill			

NOT VOTING—101.

Ainey	Driscoll, D. A.	Levy	Reyburn
Ames	Fairchild	Lindsay	Roberts, Nev.
Andrus	Farr	Littleton	Rucker, Colo.
Ansberry	Flood, Va.	Loud	Scully
Anthony	Focht	McCreary	Shackleford
Barchfeld	Fordney	McGuire, Okla.	Simmons
Bates	Fornes	McKinley	Smith, N. Y.
Boehne	Francis	Maher	Stack
Bradley	George	Matthews	Stanley
Brantley	Goldfogle	Merritt	Sulloway
Brown	Griest	Moon, Pa.	Taylor, Ohio
Burke, Pa.	Gudger	Moon, Tenn.	Thomas
Burleson	Harris	Moore, Pa.	Tilson
Byrnes, S. C.	Harrison, Miss.	Morrison	Turnbull
Calder	Hart	Olmsted	Underhill
Conry	Hartman	Palmer	Underwood
Copley	Heald	Parran	Vare
Cravens	Hughes, W. Va.	Patten, N. Y.	Volstead
Crumpacker	Johnson, S. C.	Patton, Pa.	Vreeland
Davidson	Kindred	Peters	Weeks
Davis, Minn.	Konig	Prince	Wilson, N. Y.
De Forest	Korbly	Prouty	Wood, N. J.
Dickson, Miss.	Lafean	Pujo	Woods, Iowa
Diffenderfer	Lafferty	Randell, Tex.	
Donohoe	La Follette	Ransdell, La.	
Draper	Langham	Redfield	

So the resolution was agreed to.

The following pairs were announced:

For the session:

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. RIORDAN with Mr. ANDRUS.

Mr. FORNES with Mr. BRADLEY.

Mr. SCULLY with Mr. BROWNING.

Mr. UNDERWOOD with Mr. MANN.

Mr. PALMER with Mr. HILL, commencing January 8.

Until further notice:

Mr. STACK with Mr. WOODS of Iowa.

Mr. RANSDELL of Louisiana with Mr. WEEKS.

Mr. DICKSON of Mississippi with Mr. REYBURN.

Mr. CRAVENS with Mr. WOOD of New Jersey.

Mr. TURNBULL with Mr. VARE.

Mr. WILSON of New York with Mr. VREELAND.

Mr. THOMAS with Mr. TILSON.

Mr. STANLEY with Mr. TAYLOR of Ohio.

Mr. SMITH of New York with Mr. SULLOWAY.

Mr. SHACKLEFORD with Mr. PROUTY.

Mr. RUCKER of Colorado with Mr. PRINCE.

Mr. REDFIELD with Mr. OLMSTED.

Mr. RANDELL of Texas with Mr. MOORE of Pennsylvania.

Mr. PETERS with Mr. NEEDHAM.

Mr. MOON of Tennessee with Mr. MOON of Pennsylvania.

Mr. MAHER with Mr. MCKINLEY.

Mr. LEVY with Mr. MCGUIRE of Oklahoma.

Mr. KORBLY with Mr. MCCREARY.

Mr. KINDRED with Mr. LA FOLLETTE.

Mr. JOHNSON of South Carolina with Mr. HUGHES of West Virginia.

Mr. HART with Mr. LAFFERTY.

Mr. HARRISON of Mississippi with Mr. HEALD.

Mr. GUDGER with Mr. HARTMAN.

Mr. GEORGE with Mr. GRIEST.

Mr. FRANCIS with Mr. FOCHT.

Mr. LITTLETON with Mr. FAIRCHILD.

Mr. DIFFENDERFER with Mr. DRAPER.

Mr. CONRY with Mr. SIMMONS.

Mr. BYRNES of South Carolina with Mr. DAVIS of Minnesota.

Mr. BURLESON with Mr. CALDER.

Mr. BROWN with Mr. BURKE of Pennsylvania.

Mr. BRANTLEY with Mr. ANTHONY.

Mr. BOEHNE with Mr. AMES.

Mr. ANSBERRY with Mr. MERRITT.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. KITCHIN with Mr FORDNEY

Mr. PUJO with Mr. MCMORRAN.

Mr. FLOOD of Virginia with Mr. DE FOREST.

Mr. DANIEL A. DRISCOLL with Mr. MICHAEL E. DRISCOLL.

Mr. UNDERHILL with Mr. FARR, commencing February 7.

Mr. MORRISON (for the bill) with Mr. GOLDFOGLE (against).

Mr. AINEY (for the rule) with Mr. COPLEY (against).

Mr. PATTON of Pennsylvania (for the rule) with Mr. DONOHOE (against).

Mr. LANGHAM (for the rule) with Mr. LAFEAN (against).

Mr. HARRIS (for the rule) with Mr. BARCHFELD (against).

Mr. BOEHNE (for the rule) with Mr. PATTEN of New York (against).

Mr. HILL. Mr. Speaker, I voted "aye." I am paired with the gentleman from Pennsylvania, Mr. PALMER, and I desire to withdraw my vote and answer "present." It is only fair to say that I do not know how Mr. PALMER would vote if he was here.

Mr. MANN. Mr. Speaker, I voted "no." I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and desire to withdraw my vote and answer "present."

Mr. SPARKMAN. Mr. Speaker, I voted "aye." I find I am paired with the gentleman from Wisconsin, Mr. DAVIDSON, and I wish to withdraw my vote and answer "present."

Mr. TALBOTT of Maryland. Mr. Speaker, has my colleague, Mr. PARRAN, voted?

The SPEAKER. He has not.

Mr. TALBOTT of Maryland. If he was present, I would vote "aye."

Mr. RANSDELL of Louisiana. Mr. Speaker, if I am entitled to vote I would like to vote "aye," but I was not here until the roll was nearly completed.

The SPEAKER. The gentleman does not bring himself within the rule.

The result of the vote was then announced as above recorded.

INTERSTATE SHIPMENT OF INTOXICATING LIQUORS.

Mr. DAVIS of West Virginia. Mr. Speaker, I desire to offer a proposed amendment to the pending bill, under the rule just adopted.

The SPEAKER. The Chair will state that he does not think it is yet time to do that.

Mr. CLAYTON. Mr. Speaker, I ask unanimous consent that the time provided by the rule for debate shall be equally divided; that I control one-half of it in favor of the bill and that the gentleman from Pennsylvania [Mr. MOON], the writer of the minority views, control the half in opposition to the bill.

Mr. CANNON. Mr. Speaker, I would state that the gentleman from Pennsylvania is not here to-day.

Mr. CLAYTON. Then, Mr. Speaker, the gentleman from Pennsylvania not being present, I will ask that the time in opposition to the bill be controlled by the gentleman from New Jersey [Mr. MCCOY].

Mr. CANNON. The gentleman is opposed to the bill?

Mr. CLAYTON. Mr. Speaker, Mr. MCCOY signed his name to the minority views, of which Judge MOON is the author.

The SPEAKER. The gentleman from Alabama asks unanimous consent that he control the time, one hour and a half, in favor of the bill, and that the gentleman from New Jersey [Mr. MCCOY], who joined in the minority views, control the other hour and a half against the bill. Is there objection?

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT. Mr. Speaker, under this rule all amendments will have to be discussed during the three hours, will they not?

The SPEAKER. That is true.

Mr. MANN. If they are discussed at all.

The SPEAKER. The Chair will state that he will direct the bill to be read, at the conclusion of which any gentleman who desires to offer an amendment may offer it before the debate begins.

Mr. BARTLETT. Mr. Speaker, another parliamentary inquiry. The bill, then, will not be read a second time for amendment?

The SPEAKER. Under the rule the bill must be read immediately.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Mr. Speaker, under the rule, as I take it, after the bill is read, it is in order to offer amendments, but is it required under the rule that all amendments shall be offered

at that time? May not a Member obtain the floor to offer an amendment at any time?

The SPEAKER. Of course; but in order to shorten the proceedings the Chair invites all gentlemen who have amendments to offer them as soon as the bill is read; but if any gentleman desires to defer offering his amendment until some other time, he has that right.

Is there objection to the request of the gentleman from Alabama? [After a pause.] The Chair hears none, and it is so ordered. The Clerk will read the bill.

The Clerk read as follows:

Be it enacted, etc., That the shipment or transportation, in any manner or by any means whatsoever, of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, including beer, ale, or wine, from one State, Territory, or District of the United States, or place noncontinuous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, enacted in the exercise of the police powers of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited; and any and all contracts pertaining to such transactions are hereby declared to be null and void, and no suit or action shall be maintained in any court of the United States upon any such contract or contracts, or for the enforcement of protection of any alleged right based upon or growing out of such contract or contracts, or for the protection in any manner whatsoever of such prohibited transactions.

The SPEAKER. The Chair desires to state that after the three hours of debate have been exhausted no one can then offer amendments, because the rule provides that the vote shall be taken at once.

Mr. MANN. Mr. Speaker, ought not the committee amendments to be read at this time?

Mr. GARRETT. Mr. Speaker, I think they ought to be read now.

The SPEAKER. The Clerk will report the committee amendments.

The Clerk read as follows:

Page 1, lines 5 and 6, strike out the words "including beer, ale, or wine."

The SPEAKER. The question is on agreeing to the committee amendment.

Mr. SHERLEY. Mr. Speaker, I suggest that it is not now in order to vote upon the committee amendments; that the rule adopted provides that amendments shall be considered as pending, with three hours of debate, and that then all amendments shall be voted upon.

The SPEAKER. The gentleman is eminently correct, and the Chair holds that that is an objection to voting on these amendments at this time.

Mr. SHERLEY. But not to reading them. It is perfectly proper that they should be read; but there would be no need of discussion if they are to be adopted in advance.

The SPEAKER. The Clerk will report the committee amendments.

The Clerk read as follows:

Second committee amendment: Page 1, line 7, strike out the word "noncontinuous" and insert the word "noncontiguous."

Mr. NORRIS. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. NORRIS. I rise for the purpose of calling attention to the fact that the Clerk has made a mistake. This is on page 1, instead of page 2.

The SPEAKER. The Clerk read the amendment correctly. The gentleman from Nebraska did not hear correctly. This is the second amendment, instead of the second page, which the Clerk read. The Clerk will report the next amendment.

The Clerk read as follows:

Page 2, lines 3 and 4, strike out the words "directly or indirectly, or in any manner connected with the transaction."

Mr. BARTHOLDT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTHOLDT. Do I understand the first committee amendment to have been adopted?

The SPEAKER. No; none of the amendments have been adopted. There has been no vote taken upon any amendment.

Mr. BARTHOLDT. I thought the Speaker was putting the question.

The SPEAKER. The Clerk is reading these committee amendments for the instruction of the House.

The Clerk read as follows:

Page 2, line 5, strike out the words "or kept" and insert in lieu thereof the word "sold."

Page 2, line 9, strike out the following: "enacted in the exercise of the police powers of such State, Territory, or District of the United States, and place noncontiguous to but subject to the jurisdiction thereof."

Page 2, line 12, strike out the semicolon after the word "prohibited" and insert a period and strike out all the rest of the paragraph.

Mr. BLACKMON. Mr. Speaker, I desire to offer an amendment.

The SPEAKER. The gentleman offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, line 12, page 2, by striking out the period and adding "*Provided*, That nothing contained in this bill shall be so construed as to prevent any citizen of the United States from purchasing, ordering, or having shipped, or to prevent any common carrier or agent thereof from accepting, receiving, transporting, or delivering spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind in reasonable quantities when the same is plainly marked on the outside of the package 'For personal use': *Provided further*, That no common carrier or agent thereof shall make such delivery to any person, whether marked 'For personal use' or not, if the person ordering the same has been convicted of violating the prohibition laws of any county, State, or municipality, if the fact of such conviction appears of record in the courts of record in the county or parish where such shipment is to be delivered by the common carrier or agent thereof; or to any person who holds or possesses a Federal license or tax to retail spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind; or if the courts of record of any such county or parish show that the person ordering such spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind has been convicted of public drunkenness."

The SPEAKER. The Clerk will mark that "Amendment No. 1."

Mr. DAVIS of West Virginia. Mr. Speaker, I send up an amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend by adding, on page 2, line 12, after the word "prohibited," the following:

"And whoever shall knowingly ship, transport, or deliver to any common carrier for shipment or transportation, or shall knowingly cause, induce, or procure to be shipped, transported, or delivered to any common carrier for shipment or transportation from one State, Territory, or District of the United States or place noncontinguous to but subject to the jurisdiction thereof, to any other State, Territory, or District of the United States or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States or place noncontiguous to but subject to the jurisdiction thereof, any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, with intent to receive, possess, sell, or use the same therein, or to cause, induce, or procure the same to be received, possessed, sold, or used therein, either in the original package or otherwise, in violation of the laws of such State, Territory, or District of the United States or place noncontiguous to but subject to the jurisdiction thereof, shall be fined not less than $100 nor more than $5,000 or imprisoned not less than 30 days nor more than 2 years, or both."

Mr. MANN. Mr. Speaker, I reserve a point of order on the amendment.

The SPEAKER. The gentleman from Illinois [Mr. MANN] reserves a point of order on the amendment.

Mr. SHERLEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SHERLEY. We are going to be called upon to vote, at the conclusion of a certain length of time, upon all amendments pending. I think the House is entitled to know in advance of the discussion what the amendments are, and therefore I ask if the points of order that are reserved must not now be made?

The SPEAKER. Is the query of the gentleman whether they must be made or reserved?

Mr. SHERLEY. Whether a point of order can be reserved. Otherwise we may have discussion on a lot of matters pending and then they may go out on a point of order. If this is a serious attempt to debate a really great proposition, it ought to be so the House can consider it.

The SPEAKER. The Chair is under the impression that it has been the universal practice for any Member to do exactly what the gentleman from Illinois [Mr. MANN] did.

Mr. SHERLEY. Mr. Speaker, I make the point of order that it is not in order to reserve a point of order on an amendment.

Mr. MANN. I think if the gentleman demands the regular order the point of order would have to be disposed of, Mr. Speaker, although I had hoped to have an opportunity to debate it.

The SPEAKER. The Chair is of that impression, too.

Mr. CLAYTON. Mr. Speaker, may I say that I hope the gentleman from Kentucky will not insist upon that, and that it is my purpose to allow a vote on these particular amendments? I agree with the suggestion made by the Chair a while ago that the amendments be offered and that any gentleman who wants to make a point of order against an amendment may have an opportunity to do so when the amendment is before the House for action.

Mr. SHERLEY. Mr. Speaker, unfortunately, perhaps, the gentleman from Alabama [Mr. CLAYTON] is unable to control the action of the House touching points of order. I do not feel that

this House at this time in the year ought to undertake to discuss matters that may not come before it in a legislative way; and, without desiring in any way to embarrass matters, I submit to the candor of gentlemen that we ought not to have a lot of amendments pending here and have them discussed in good faith on the theory that they may be voted on and then have them ruled out on a point of order.

Mr. MANN. I suggest to the gentleman from Kentucky [Mr. SHERLEY] in all candor that when an amendment is reported from the floor in the House we ought to have an opportunity to examine it under this rule before it is determined whether it is subject to a point of order or not.

Mr. SHERLEY. I agree with the gentleman. I had nothing to do with this arrangement.

The SPEAKER. If the gentleman from Kentucky [Mr. SHERLEY] demands the regular order, the Chair rules these amendments have got to be passed on at the time or that there has to be a point of order made.

Mr. SHERLEY. I do insist that points of order shall be considered when made.

Mr. MANN. Mr. Speaker, I make the point of order against the amendment offered by the gentleman from West Virginia on the ground that it is not germane to the pending bill. It is a bill which undertakes to confer certain rights and jurisdictions upon the various States of the Union, and does not in any wise provide for any penalty inflicted by the United States. It only purports to provide that when liquor is shipped from one State to another it shall be subject, in general language, to the laws of the State where it is found. Now, it does not seem to me that adding a penalty to be inflicted by the United States is germane to that proposition at all, but is an entirely different proposition.

Mr. DAVIS of West Virginia. Mr. Speaker——

The SPEAKER. The Chair will hear the gentleman from West Virginia [Mr. DAVIS].

Mr. DAVIS of West Virginia. Mr. Speaker, I am constrained, from the expression of the gentleman from Illinois [Mr. MANN], to conclude that he has not read my amendment, which is printed with the views of those who favor it, for this bill, regardless of whatever name may be ascribed to it, and regardless of whatever force gentlemen may think it will have, purports on its face to be a declaration by Congress that certain things shall not be done. In its original form, as it came to the committee, there was attached as the penalty for so doing the nullification of certain contracts. The committee struck out that penalty, believing it to be utterly impossible in law, and the amendment proposed is to insert a penalty, in the customary form, which will make effective the prohibition Congress is asked to declare. I submit, Mr. Speaker, it is entirely germane to the purpose, object, and language of the bill.

Mr. MANN. Mr. Speaker, while I am perfectly clear in my own mind that the amendment offered by the gentleman is not germane to the bill, and certainly not germane to that portion of the bill that undertakes to provide that contracts shall not be enforceable, and while I am clearly of the opinion that it is not a practical provision to be enforced by the United States, yet in order that the matter may be submitted to the House I will withdraw the point of order.

The SPEAKER. The gentleman withdraws his point of order.

Mr. DAVIS of West Virginia. Mr. Speaker, I offer a second amendment.

Mr. NORRIS. Mr. Speaker, I renew the point of order.

The SPEAKER. The gentleman from Nebraska [Mr. NORRIS] renews the point of order.

Mr. SHERLEY. On the point of order, Mr. Speaker, I would like to be heard. This bill undertakes briefly to declare that a shipment made in interstate commerce when the intention of anyone connected with that shipment is to violate a State law shall be prohibited. Now, as was well said by the gentleman from West Virginia [Mr. DAVIS], that is a declaration of policy on the part of the Federal Government. It is by this bill announcing that it proposes to prevent the interstate shipment of alcoholic liquors wherever anyone connected with it intends to violate a State law.

Now, personally I am opposed to that legislation. But if it is to be passed, if the United States Government is to lay down a rule, manifestly it is in the power of the Government, and it is within the legislative power of this House, to attach to that provision a penalty for its violation. Can it be said that when we provide—and that is in substance what the amendment of the gentleman from West Virginia does provide—that whoever does violate this act shall be punished, that that is not germane to the act proposed.

The language proposed by the gentleman from West Virginia seems intricate because of the necessity of defining what is interstate commerce by describing it as commerce between one State and another or Territory, and so forth. But the amendment is simply a proviso that anyone who violates the body of the act shall be punished.

The SPEAKER. The Chair is ready to rule on this point of order. There is no question whatever in the mind of the Chair but that this amendment is germane to this bill. The point of order is overruled.

Mr. DAVIS of West Virginia. Mr. Speaker, I offered another amendment.

Mr. BARTLETT. Mr. Speaker, I offer an amendment, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the amendment offered by the gentleman from Georgia [Mr. BARTLETT].

Mr. DAVIS of West Virginia. Mr. Speaker, was I not recognized on my second amendment at the time the point of order was made? I sent to the desk a second amendment, and understood I was recognized by the Chair for that purpose. The amendment is now in the Clerk's hands.

The SPEAKER. The gentleman was recognized for one amendment.

Mr. DAVIS of West Virginia. I know; but a point of order intervened.

The SPEAKER. It is impossible to be recognized on two amendments at the same time.

Mr. DAVIS of West Virginia. I understand that.

The SPEAKER. The Clerk will report the amendment offered by the gentleman from Georgia [Mr. BARTLETT].

Mr. MURDOCK. Mr. Speaker, the gentleman from Alabama [Mr. BLACKMON] offered an amendment to be known as No. 1. Are we to understand that the Davis amendment is to be No. 2?

The SPEAKER. Yes; and this Bartlett amendment is to be known as No. 3, unless it is ruled out of order. The Clerk will report the amendment offered by the gentleman from Georgia [Mr. BARTLETT].

The Clerk read as follows:

Add, at the end of the bill, on page 2, the following: "*Provided, however*, That nothing in this act shall be held or construed to render illegal or subject to State control the interstate shipment of liquors herein defined into any State or Territory or District to anyone for his personal or family use."

Mr. DAVIS of West Virginia. Mr. Speaker, I offer a second amendment.

The SPEAKER. The Clerk will report the second amendment offered by the gentleman from West Virginia [Mr. DAVIS].

The Clerk read as follows:

Amend by adding at the end of the bill the following: "But nothing in this act contained shall be construed to forbid the shipment or transportation of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind intended for sacramental purposes or for the personal use or consumption of the owner or consignee thereof."

Mr. SAUNDERS. Mr. Speaker, I desire to offer an amendment to that amendment.

The SPEAKER. The gentleman from Virginia [Mr. SAUNDERS] offers an amendment to the second Davis amendment. The Clerk will report it.

The Clerk read as follows:

At the end of the Davis amendment add the following:
"Unless such shipment or transportation is contrary to the local law of the place of delivery."

Mr. JACKSON. Mr. Speaker, I desire to offer an amendment.

The SPEAKER. The gentleman from Kansas offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 2, line 8, add at the end thereof the following:
"*Provided*, That the courts of the United States shall have no jurisdiction to issue any injunction or restraining order against any State or county officer acting under the color of his office, or in any suit in which the good faith of any act of such officer is challenged."

Mr. MANN. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Where is that amendment offered to come in?

Mr. JACKSON. On page 2, line 8, at the end thereof, as stated in the amendment.

Mr. MANN. That is in the middle of a sentence.

Mr. CLAYTON. I suggest that the gentleman put it at the end of the bill.

Mr. JACKSON. I thought the intervening matter was stricken out.

Mr. HELGESEN. Mr. Speaker, I desire to offer an amendment.

The SPEAKER. The Clerk will report the Helgesen amendment.

The Clerk read as follows:

Amend by striking out everything after the enacting clause and substituting the following:

"That the shipment or transportation in any manner or by any means whatsoever of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, including beer, ale, or wine, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, enacted in the exercise of the police powers of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.

"SEC. 2. That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival within the boundaries of such State or Territory and before delivery to the consignee, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its reserved police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise."

The SPEAKER. The Chair recognizes the gentleman from Alabama [Mr. CLAYTON] for an hour and a half; but before he begins the Chair desires to state that at the conclusion of this three hours' debate no amendment will be in order. The Chair does not want anybody to complain or say that a snap judgment was taken on him.

Mr. MANN. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Is not any Member of the House at any time, under the rule, before the end of the three hours' debate, entitled to recognition for the purpose of offering an amendment?

The SPEAKER. That is true; but at the end of the three hours the vote will be taken.

Mr. SHERLEY. I desire to offer an amendment.

The SPEAKER. The gentleman will send it up.

Mr. SHERLEY. I desire to move to amend by striking out, on page 1, lines 4 and 5, the words "any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind" and substitute therefor "any article of commerce"; and on page 2, lines 1 and 2, strike out the words "spirituous, vinous, malted, fermented, or other intoxicating liquor" and substitute therefor the words "article of commerce."

The SPEAKER. The Clerk will report the Sherley amendment.

The Clerk read as follows:

Page 1, lines 4 and 5, strike out the words "any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind" and insert in lieu thereof "any article of commerce."

Mr. HOBSON. Mr. Speaker, I reserve a point of order against that amendment.

The SPEAKER. The gentleman can not reserve a point of order. He can make it. If the gentleman from Alabama wants to make a point of order, he must make it now.

Mr. HOBSON. I retire in favor of the gentleman in charge of the time, the chairman of the committee, the gentleman from Alabama [Mr. CLAYTON].

Mr. CLAYTON. Mr. Speaker, I have not made a point of order against this or the other amendments, because I thought that under the parliamentary situation if I made a parliamentary proposition it would prolong the discussion before we got into the merits of the bill, and I want the House to have the opportunity to consider any amendment that may be offered at the proper time.

The SPEAKER. The Chair will state to the gentleman from Alabama that anyone who wants to talk about these amendments must do it in this three hours' debate under this special rule.

Mr. CLAYTON. Then, Mr. Speaker, I will make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CLAYTON. At the end of the debate, when an amendment is submitted, will it then be in order to make a point of order against it?

The SPEAKER. You will have to make it now, unless you get unanimous consent then.

Mr. MANN. It is too late to make it now, after discussing it, is it not?

Mr. CLAYTON. It is not too late.

The SPEAKER. The Chair will hold that it is not too late.

Mr. HOBSON. Mr. Chairman, I make the point of order against all amendments at this time.

The SPEAKER. The gentleman can not do that. If either gentleman from Alabama wishes to make a point of order against this amendment, he must do it now or hold his peace.

Mr. SHERLEY. Mr. Speaker, I would like to know what the point of order is, and then I would like to be heard.

Mr. NORRIS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. NORRIS. Is it not true that the Clerk has not completed the reading of the Sherley amendment?

The SPEAKER. It is true, and the Clerk will proceed and complete the reading of the amendment.

The Clerk read as follows:

Page 2, lines 1 and 2, strike out the words "spirituous, vinous, malted, fermented, or other intoxicating liquors" and insert in lieu thereof the words "article of commerce."

The SPEAKER. And against that the gentleman from Alabama makes the point of order.

Mr. RODDENBERY. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. Is the time consumed on these points of order to be taken out of the three hours' general debate?

The SPEAKER. It is not. The Chair will hear the gentleman from Kentucky.

Mr. SHERLEY. I can not discuss it, Mr. Speaker, until I know what the point of order is.

Mr. HOBSON. I make several points of order, Mr. Speaker, and the first is that it is dilatory.

The SPEAKER. The Chair will overrule that point of order.

Mr. HOBSON. I will make another point of order, that it is not germane. I do not desire to enter into a discussion, but I do mean to say that the question of forbidding interstate commerce generally under these conditions has no legitimate bearing on the question as to commodities generally that are not in the prohibitory class under the laws of individual States; that the injection of that into this bill where States have laws against liquor shipments is not germane.

Mr. RODDENBERY. Mr. Speaker, I do not desire to argue the point of order at length, but if the gentleman from Kentucky will indulge me in order that the gentleman from Kentucky may have all the points before him, I would like to submit a brief addition to the point of order as stated by the gentleman from Alabama.

The SPEAKER. The Chair will give the gentleman a chance if he does not rule that way after the gentleman from Kentucky has got through.

Mr. SHERLEY. Mr. Speaker, as far as I can translate the statement of the gentleman from Alabama, his objection that the amendment is not germane is based upon the ground that the bill is dealing with a particular subject and I am undertaking to introduce other subjects.

Mr. HOBSON. Will the gentleman permit an interruption?

Mr. SHERLEY. Certainly.

Mr. HOBSON. The gentleman is introducing other matter that is not in the same class as the matter in question. He is introducing matter that is not prohibited by law, when we are dealing with matters that are prohibited by law.

Mr. SHERLEY. To that the answer is that it is not so. I am not doing anything of the kind. To treat the gentleman's point of order seriously, Mr. Speaker, the bill that is before the House undertakes to prohibit the shipment of "spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind," when the intention of anyone to the transaction is to violate the State law. The amendment offered by myself undertakes to substitute for the designation of various kinds of liquors the words "any article of commerce."

Now, my amendment, if it should be adopted into the bill, would have the effect of prohibiting the interstate shipment of any article where the intent is to violate a State law. In order that the Chair may fully understand the purport of it, let me illustrate by a concrete case. Suppose, as happens in a good many States, it is against the law to sell cigarettes; the effect of this amendment, if adopted, would be to prevent anyone through the medium of interstate commerce violating any State law by the interstate shipment of cigarettes. If the State law was the same in regard to the sale of pistols, the effect would be to prevent a violation of that law through the medium of interstate commerce. I know what will be suggested by those who are really familiar with the rules touching parliamentary practice, and that is that it is not possible where a matter deals with a given subject to bring in other subjects, but the point that I submit to the Chair is that this bill does not deal with a particular subject. It does not deal with whisky alone, it does not deal with beer alone, it does not deal with wine alone, but it deals with various articles of interstate commerce.

The SPEAKER. The Chair will ask the gentleman from Kentucky this question: Is not the whole subject matter of this bill the interstate shipment of intoxicating liquor, whether it be called whisky, beer, or what?

Mr. HOBSON. A beverage containing alcohol, if the gentleman will permit.

Mr. SHERLEY. Answering the Speaker's inquiry, I must say both yes and no. It does in the sense that I think every enumerated class here is a class of intoxicating liquors, but in the sense that the Chair suggests that it is one article of commerce, distinctly no. Whisky is an article of commerce distinct from beer, and not even a legislative determination can make them the same. Wine is an article of commerce distinct from whisky. I submit the rule has always been that when you are dealing with two classes it is proper to bring in a third.

The SPEAKER. Yes.

Mr. SHERLEY. And where you are dealing with only one class you can not bring in a second.

The SPEAKER. Yes; you may bring in absinthe or anything that would make a man drunk.

Mr. SHERLEY. In my judgment there is not a word that would warrant the statement that this is simply limited to one subject. It says "spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind," but there are many kinds, and to limit it and to say that we are dealing with only one subject matter, when the bill says we are dealing with four or five articles of commerce, is not tenable.

The SPEAKER. The Chair will ask the gentleman if the subject matter of this bill is not the interstate shipment of intoxicating liquors—that is, the intoxicating liquors that are mentioned in the bill?

Mr. SHERLEY. Yes; I think that is true, but I do not think it is true in the sense the Chair wants me to say it is true, that it is only one article. I think there are many articles.

Mr. CLAYTON. Mr. Speaker, may I interrupt the gentleman?

Mr. SHERLEY. Certainly.

Mr. CLAYTON. Mr. Speaker, I have great respect for the parliamentary learning and for the ability of the gentleman from Kentucky, but I desire to call his attention to the fact that this question has been settled by the present occupant of the chair. The Chair will remember that when the cotton-gambling bill was up for consideration, to prohibit gambling in cotton futures, it was sought then to add grain to that bill, and the Chair distinctly ruled then that the subject matter being gambling in cotton futures the addition of grain or other commodities to it was not germane to the original purpose of the bill, and did not allow the amendment. I say here that there is but one commodity dealt with in this bill and that commodity is in the language of the bill, "or other intoxicating liquor." It deals with nothing except intoxicating liquor in one form or another, and I may say that——

Mr. SHERLEY. Is this still a question?

Mr. CLAYTON. I beg the gentleman's pardon.

Mr. SHERLEY. That is all right, but I just want a chance to answer the gentleman's question. I am obliged to the gentleman for the illustration he uses, because nothing could better clarify the matter. That was a case where the law dealt with a specific thing, cotton. It did not deal with cotton and wool, things that go to make clothing. If this bill dealt with a particular thing like beer, the case would be entirely on all fours; but it deals with beer and whisky, which go to make intoxication, just as wool and cotton might go to make clothing. The illustration that the gentleman uses, instead of sustaining his position sustains the position that I have taken, that we are dealing with several subjects. The gentleman says that the bill is as if the only words in it were "other intoxicating liquor." I can not believe that, because I can not believe that the great Judiciary Committee would have reported a lot of useless words in the bill, and evidently they felt there was some need of the specification of all the classes; and for fear they might overlook a class, after enumerating every one they could think of—vinous, spirituous, malt, fermented—then they took a general hold and said "other intoxicating liquor." But for us to legislatively declare that we are dealing with but one subject is to deny what every man's own knowledge tells him, and that is that those are different articles of commerce.

Mr. HOBSON. Mr. Speaker, I do not desire——

The SPEAKER. The Chair will not bother the gentleman from Alabama.

Mr. HOBSON (continuing). I will simply say, Mr. Speaker, I did not go into an elaboration on this point.

The SPEAKER. The gentleman need not go into it now. It is clear as crystal to the mind of the occupant of the chair that the whole subject matter of this bill is to prevent the interstate shipment of anything that will make a man drunk into dry territory where it is prohibited by the local law, and it treats of no other subject. They might go on and enumerate more kinds of intoxicants, although any one of these words in here are superfluous about "spirituous, vinous, malted, and fermented liquors," provided you retain the words "intoxicating liquors" in it. But the gentlemen who drew the bill chose to put in certain specific sorts of intoxicants. It would be perfectly competent to amend this bill, although it would be superfluous, by putting in absinthe or pulque, or any other stuff that will make a man drunk. The point of order is sustained.

Mr. SABATH. Mr. Speaker, I offer the following amendment.

The SPEAKER. The Clerk will report the Sabath amendment.

The Clerk read as follows:

Strike out, after the word "spirituous," in line 4, page 1, the following words: "Vinous, malted, fermented, or other intoxicating" so that it will read: "That the shipment or transportation in any manner or by any means whatsoever of spirituous liquor of any kind from a State or Territory," etc.

On page 2, line 1, strike out, after the word "spirituous," the words "vinous, malted, fermented, or other."

Mr. RODDENBERY. Mr. Speaker, I make the point of order on the amendment offered by the gentleman from Illinois.

The SPEAKER. What point of order does the gentleman make?

Mr. RODDENBERY. The point of order is that the amendment is not germane to the purposes of the bill, the purpose of the bill being to divest intoxicating liquors of an interstate-commerce character in certain cases. If the amendment is in order, it destroys the purpose for which the legislation is proposed in that all "intoxicating liquors" is a more comprehensive and inclusive term than "spirituous liquors," and all spirituous liquor is but one of a class of intoxicating liquors.

The SPEAKER. The point of order is overruled.

Mr. MANN. Mr. Speaker, I offer an amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. MANN: Strike out the word "intoxicating" wherever it appears before the word "liquor."

Mr. CLAYTON. Mr. Speaker, I would like to have the amendment again reported.

The SPEAKER. The Clerk will again report the amendment.

The amendment was again reported.

Mr. CLAYTON. Mr. Speaker, I do not think that is subject to a point of order, but, of course, I hope the House will not agree to it.

Mr. MANN. Well, I make the point of order that the gentleman has no right to discuss this amendment until he takes the floor.

The SPEAKER. That is absolutely true, and the gentleman was not discussing——

Mr. MANN. Oh, yes; he was discussing it before he took the floor.

The SPEAKER. If he was doing anything at all with reference to it, he was sustaining the gentleman.

Mr. MANN. He was discussing the amendment and hoped the House would not agree to it.

The SPEAKER. Well, that is finished.

Mr. CLAYTON. I am sorry to have offended the gentleman.

The SPEAKER. The gentleman from Alabama is recognized for an hour and a half.

Mr. CLAYTON. Mr. Speaker, this bill, if it be amended in accordance with the suggestion of the Committee on the Judiciary, will read:

That the shipment of any spirituous * * * or other intoxicating liquor of any kind from one State * * * into any other State, * * * which said spirituous * * * or other intoxicating liquor is intended by any person interested therein to be received, possessed, or sold, or in any manner used either in the original package or otherwise, in violation of any law of such State * * * is hereby prohibited.

I have quoted the substance of the bill, omitting words which are unnecessary for the remarks which I desire to make to the House.

An examination of this bill shows that it has for its purpose the simple object of preventing persons, liquor dealers, if you please, and others from promoting the violation of State laws restricting the use or prohibiting the sale of intoxicants. If the contrary of what is asserted in this bill was suggested in any form, there is not a man here who would agree to it. Suppose the bill were to say that any man shall have the right to ship into any State liquor for the purpose of violating the State law; it would have no defender here.

By this bill it is sought to remove an impediment against the enforcement of the State law. That is all this bill seeks to accomplish. It is in behalf of the right of a State to enforce its own laws, and seeks to take from any person engaging in unlawful traffic in liquor the protection which is now afforded him by the commerce clause of the Constitution.

The friends of this bill have never claimed that it proposes to deny to any man the right to have liquor sent to him for his own use, because no State has prohibited the personal use of intoxicating liquors, nor has any State forbidden the use of wine for sacramental purposes. Therefore it seems that liquor shipped for these two purposes can not be said to be—

intended * * * to be received, possessed, or sold, or in any manner used * * * in violation of any law of such State.

Mr. SHERLEY. Will the gentleman yield for a question?

Mr. CLAYTON. I will.

Mr. SHERLEY. Does the gentleman think there are some State laws under which it would be legal to ship liquor into certain territory, no matter for what use?

Mr. CLAYTON. I am inclined to agree with the gentleman's view of that. If it is for his personal use, I am inclined to think it is so.

Mr. SHERLEY. The express law of my State already prohibits the shipment from a "wet" county to a "dry" county.

Mr. CLAYTON. Perhaps so; and if that be so, that argument can be made, Mr. Speaker, by referring it to the sovereign State of Kentucky to manage the situation.

Mr. SHERLEY. If the gentleman will permit, I also understand it is the law of Alabama now. If the gentleman does not desire to prohibit shipment for personal use, would the gentleman have any objection to an amendment provided it also had the amendment of the gentleman from West Virginia, that it should not be a violation of the local laws?

Mr. CLAYTON. I will say in reference to that, the committee considered that quite carefully and rejected it, and the committee was of the opinion that this bill in its present form ought to pass as we have presented it to the House, with the committee amendments, and that it was unnecessary for us to agree to any further amendments. And, standing here in charge of this bill and speaking for the committee, I shall insist in behalf of the committee on the passage of this bill as it came from the committee, without any amendment except the amendments proposed by the committee and referred to in the report which has been read. [Applause.]

I do not think the gentleman from Kentucky ought to complain because some of us desire to put "dry" counties in other States upon an equality with "dry" counties in Kentucky. If the Legislature of Kentucky does not want whisky made in a "wet" county in Kentucky sold in a "dry" county in Kentucky, why should whisky distillers or dealers in Kentucky claim the right to ship their whisky, made in Kentucky, into a "dry" county in another State?

Let me repeat that no State has denied to its citizens the right to have intoxicating liquors for their own personal use and consumption. The Supreme Court of the United States in Vance v. Vandercook (170 U. S., 452) said:

But the right of persons in one State to ship liquor into another State to a resident for his own use is derived from the Constitution of the United States and does not rest on the grant of the State law. Either the conditions attached by the State law unlawfully restrain the right or they do not. If they do, and we shall hereafter examine this condition, then they are void. If they do not, then there is no lawful ground of complaint on the subject.

Associate Justice White, now Chief Justice, said, in Pabst Brewing Co. v. Crenshaw (198 U. S., 17):

In so far, however, as the State law imposed burdens on the right to ship liquor from another State to a resident of South Carolina intended for his own use and not for sale within the State, the law was held to be repugnant to the Constitution, because the Wilson Act, whilst it delegated to the State plenary power to regulate the sale of liquors in South Carolina shipped into the State from other States, did not recognize the right of a State to prevent an individual from ordering liquors from outside of the State of his residence for his own consumption and not for sale.

Mr. Caldwell, the lawyer who was the first to suggest the form of this bill, said in the hearings before the Committee on the Judiciary of the House:

I contend in the same way Congress might so regulate commerce as to take away this right for personal use. But, speaking for Oklahoma, I say to you that we are not asking that, because down there we are prohibitionists of this sort—we are prohibitionists because we are opposed to the traffic and the institution of the saloon. We do not berate the man just because he uses, in a decent way, intoxicating liquor, although, speaking for myself, I am a total abstainer. But we believe that if the use of intoxicating liquor had at all times been confined to the home—personal use in the home—there never would have been the question of prohibition.

So that primarily we prohibit the sale of those things in order to strike down that traffic—the open saloon and its attendant and kindred evils. If the time should ever come when, in order to protect the morals and the public welfare of the State of Oklahoma, it should, in the opinion of the legislative power of the State, become necessary to prohibit the personal use of intoxicating liquor, who ought to have the right to exercise that power—the Congress of the United States or the State of Oklahoma? We say that Congress has nothing to do with that question, and that it is none of Congress's business whether the people in the State of Oklahoma shall drink liquor, have it in their homes for their personal use, or whether they shall sell it.

Of course, Mr. Speaker, it is not the business of Congress whether the people of Oklahoma or any other State shall possess or not possess liquor in their homes for their own personal use or have it for eucharistic celebrations.

I now quote what was said by Rev. E. C. Dinwiddie, the legislative representative of the Anti-Saloon League, before the Committee on the Judiciary of the Senate:

Mr. DINWIDDIE. Now, I will say to the doctor, for his information, along the line of the point that the court has said that that is a constitutional right—and he and I will not have any argument about that—that it is a constitutional right for a man in one State to have shipped to him alcoholic liquors from another State. It is his right to receive those liquors. The Wilson law simply has the effect of preventing his selling them in unbroken packages if the law of his State forbids it. But that constitutional right that Dr. BARTHOLDT speaks of is the same constitutional right the Supreme Court held in the Bowman case and the Leisy v. Hardin case—was the right not only to receive in the original unbroken package, but the right to sell in the original unbroken package, the State law to the contrary notwithstanding. They used the same language then, saying it was a constitutional right. Congress took away by direct legislation the constitutional right the man had to sell liquor in the original package, if he received it through the channels of interstate or foreign commerce. That is a correct statement, which I am ready to rest upon before any committee of lawyers or anybody else.

Representative BARTHOLDT. Not at all. That was not a constitutional right at all——

Mr. DINWIDDIE. The Supreme Court said so.

Representative BARTHOLDT. Under the decison of the Supreme Court it was decided to be a constitutional right to receive an interstate shipment. In other words, an interstate shipment is not delivered until it is delivered to the hands of the consignee. But the very moment it leaves the hands of the consignee the State law goes into effect, and that is why I have always argued that this legislation is unnecessary, for the reason that as soon as a consignee receives a shipment of liquor and tries to dispose of it by sale or otherwise the State law is in effect, and you can prevent him from doing it without any law enacted by Congress.

Mr. DINWIDDIE. I am free to say that if the constituents of the doctor and those who buy their products for sale were men who would absolutely obey the laws of their States we would probably not need this legislation; but the keepers of blind tigers and speak-easies all over the country, at whom exclusively this legislation is aimed, do not always respect the law—and I rest on the language of the bills for this statement. I say that a plain, careful reading of that bill can not give anybody the impression that we are trying to prevent by congressional legislation the importation or use of intoxicating liquors for family or personal use.

Mr. HUGHES of West Virginia. Will the gentleman yield?

The SPEAKER pro tempore (Mr. MCKELLAR in the chair). Will the gentleman from Alabama yield to the gentleman from West Virginia?

Mr. CLAYTON. I will.

Mr. HUGHES of West Virginia. I want to ask the gentleman from Alabama if he does not think the amendment offered by my colleague [Mr. DAVIS] should be adopted, making a penalty for the violation of this law?

Mr. CLAYTON. I do not think it should be adopted at this time. I have told you plainly that I do not think it wise to agree to any amendment other than those agreed upon by the committee.

Mr. NORRIS. I would like to ask the gentleman a question right in line with the one that has been asked.

Mr. CLAYTON. Certainly.

Mr. NORRIS. Does not the gentleman think if what is known as the "Davis amendment," providing that a penalty is to be put on, making it a tax on the shipper of intoxicating liquor, that it would practically kill this legislation?

Mr. CLAYTON. I am afraid it would, Mr. Speaker. It would hazard the passage of this bill, and I do not think it is wise to weigh this bill down with such provisions as that. We have brought here a single proposition. Some of these bills introduced heretofore on this subject have stated that the liquor shall be subject to the State laws when it shall have arrived within the boundaries of the States. This bill proposes a positive law saying that any liquor shipped into a State to be used in violation of a law of the State is prohibited. I am indoctrinated somewhat with the old State rights idea, and I believe, when the police power of the State and the commerce power of Congress come in collision in that narrow field where sometimes it is difficult to determine whether one falls under the police power or under the commerce power, that it is a part of wisdom on the part of Congress to concede the power of the State or remove the impediment to the exercise of the police power of the State, especially when the State says that laws it has enacted in the interest of public health and public morals are being violated by the protection afforded by the commerce clause of the Constitution.

Mr. JACKSON. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. CLAYTON. I do.

Mr. JACKSON. I want to ask the gentleman relative to the matter that is covered by my own amendment, as I will not have a chance to discuss it.

Mr. CLAYTON. I hope the gentleman will be brief, as I have allotted to others most of my time.

Mr. JACKSON. I want to ask the gentleman if he thinks, if this law is passed—and I am going to vote for it that way—the Federal courts will have jurisdiction to enjoin State officers attempting to do their duty under the local law?

The gentleman is aware, of course, that it was thought necessary to put a provision similar to the one that I have offered in the interstate-commerce law to prevent that sort of thing. I have had some experience in these matters myself, and I see no reason why the litigants could not go into the Federal court and get a blanket injunction against the county attorney or sheriff's attorney, even after the passage of this law, and that is the reason why I offered my amendment. I want to know what the gentleman thinks about that proposition.

Mr. CLAYTON. I may say, Mr. Speaker, that that proposition was never called to the attention of the committee, either by the friends or the opponents of this bill. I have but one matured opinion upon this subject, and that is I want to pass this bill, word for word, as the committee has reported it, without adding anything to it or subtracting anything from it. The friends of the measure want it in this form, and it has been considered and debated in the committee and in the hearings, and we do not wish to hazard its enactment into law by the addition of anything else. Perhaps it may become apparent hereafter that this is not perfect legislation. If so, it then will be the time for Congress to go further. But at this time I would not favor any amendment.

Mr. BARTHOLDT. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. CLAYTON. I will yield for one question.

Mr. BARTHOLDT. The gentleman has stated that he is in favor of State rights. Does not the gentleman think that if the prohibition States would use their rights in the direction of the enforcement of their laws this legislation would be absolutely unnecessary?

Mr. CLAYTON. Well, I think not. I think that if they were to do their best you would still find the "blind tiger" and the "bootlegger" doing business under the protection that is afforded to them by the commerce clause of the Constitution. We want to remove that impediment as far as we can, and that is the object of this legislation.

Mr. BARTHOLDT. And is it not true, Mr. Speaker, that as soon as a shipment is delivered into the hands of the consignee, the moment the consignee attempts to dispose of it by sale or otherwise the State law goes into effect?

Mr. CLAYTON. Oh, I hope the gentleman will take his own time. The gentleman on this side [Mr. McCOY] will give him time. That is a perfectly legitimate argument, if the gentleman sees fit to use it, but it can have no persuasive force on me, and none, I think, on the friends of this measure. Perhaps when the gentleman takes the lecture platform he can discuss that phase of the question. [Laughter.] In any case where liquor is intended to be sold in violation of the State law, it is desired that the State shall have the unhampered power to seize such liquor before it is delivered to the consignee.

Mr. Speaker, I shall reserve a few minutes to close the debate on this measure. In the meantime I shall accord to several gentlemen brief time to advocate this bill. I shall avail myself of the opportunity of extending my remarks by having printed in the RECORD a part of the report which I had the honor to make for the Committee on the Judiciary on what was then known as the Hepburn-Dolliver bill in the Fifty-eighth Congress, second session. It will be remembered that the Hepburn-Dolliver bill passed the House of Representatives in the Fifty-seventh Congress, but failed in the Senate. I voted for that measure. It will also be remembered that the Littlefield form of the Hepburn-Dolliver bill was favorably reported to the House in the Fifty-ninth Congress, but those of us who voted to report that measure, including the gentleman from Maine, Mr. LITTLEFIELD, the gentleman from Texas [Mr. HENRY], and myself, were unable to have that bill considered in the House.

I quote from the report which I presented in the Fifty-eighth Congress, April 8, 1904, as follows:

Now let us consider the real purpose of this bill, the step which it takes in advance of the act of August 8, 1890, namely, the removal of the impediment to the subjection of intoxicating liquors transported from one State into another to the police regulations of the latter State upon arrival within its boundaries before and after delivery of such liquors.

It is worth while to review briefly as may be some of the decisions of the Supreme Court of the United States construing the commerce clause of the Constitution—"the Congress shall have the power to regulate commerce with foreign nations and among the several States and with the Indian tribes."

It may be noted that every argument made in behalf of the exclusive power of Congress over interstate commerce, in cases where there is apparently the slightest conflict between untrammeled interstate commerce and the police regulations of a State, recites or assumes the well-established fact that one of the most potent inducements which led to the formation of the Constitution was the commercial confusion that existed in the country when the States were separate and independent.

While this historical fact is admitted there is another historical fact that ought not to be forgotten, and that is that the police power of the States is older than the commerce clause of the Constitution, and was never surrendered by the States to the Federal Government, but was reserved to the States by the very nature of the Constitution, and afterwards declared by the adoption of the tenth amendment to have been reserved because not granted away.

There has not been a more perplexing problem presented to the Supreme Court of the United States from time to time than the question of what a State may do or may not do in given cases affecting interstate commerce more or less. The police power of the State is limited to the jurisdiction of the State; but within such jurisdiction and for State or local purposes it is a plenary power.

The control of Congress over commerce, essentially foreign or interstate, is exclusive. The first case in which it is claimed that there was a conflict between this reserved power of the State on the one hand and this exclusive power of the Congress on the other hand is the case of Gibbons v. Ogden (9 Wheat., 1), but this decision there went no further than to declare that a State regulation of foreign or interstate commerce in conflict with the Federal statute was void.

It was decided in Brown v. Maryland (12 Wheat., 419) that the statute of Maryland requiring importers of foreign goods to pay a license tax for the sale of such goods was invalid because repugnant to the provision of the Constitution which denies to the States the power to lay a tax on imports or exports, and also because such a tax was hostile to the commerce clause.

In Wilson v. Blackbird Creek Marsh Co. (2 Pet., 245) the State law authorized the company to construct and maintain a dam across Blackbird Creek, a navigable stream. The law was attacked upon the ground that it was in hostility to the commerce clause. It was upheld upon the ground that Congress had not "passed any act which bore upon the case; any act in execution of the power to regulate commerce."

In New York v. Miln (11 Pet., 102) a State law was held to be valid which required every master of a vessel arriving in the port of New York from any port of another State or a nation to make a report to the mayor of the name, place of birth, and last legal settlement, age, and occupation of every person brought as a passenger by the vessel on her last voyage. This law was held to be the rightful exercise of the police power of the State.

In the License cases (5 How., 504) the constitutionality of the liquor laws of certain States was involved. In one case Pierce had been convicted in New Hampshire for selling liquor without the license required by that State, and the liquor was a barrel of gin bought in Massachusetts, brought coastwise into New Hampshire, and there sold in the original package. These State license laws were held to be constitutional.

In this case Chief Justice Taney said:

"Upon the whole, therefore, the law of New Hampshire is, in my judgment, a valid one. For although the gin sold was an import from another State and Congress have clearly the power to regulate such importations under the grant of power to regulate commerce among the several States, yet as Congress has made no regulation on the subject the traffic in the article may be lawfully regulated by the State as soon as it is landed in its territory, and a tax imposed upon it, or a license required, or the sale altogether prohibited, according to the policy which the State may suppose to be its interest or duty to pursue." [46 U. S., p. 585.]

In the Passenger cases (7 Howard, 283) the laws of the States of Massachusetts and New York, requiring masters of vessels to pay to the health officers of the State courts a certain sum for each passenger landed, were condemned for the reason that they were regulations of foreign and interstate commerce and conflicted with the exclusive power of Congress over the subject.

In Cooly v. Board of Wardens (12 Howard, 299) the law of Pennsylvania regulating pilots and pilotage for the Philadelphia Harbor was considered and held to be constitutional. It was there said:

"Whatever subjects of this power [the power of Congress over foreign and interstate commerce] are in their nature national or admit only of one uniform system or plan of regulation may justly be said to be of such a nature as to require exclusive legislation by Congress."

And it was held, further, that in case of pilotage, until Congress should exercise its power, it was left to the States for regulation, and—

"That it is local and not national, that it is likely to be best provided for, not by one system or plan of regulation, but by as many as the legislative discretion of the several States should deem applicable to the local peculiarities of the ports within their limits."

In Bowman v. Railway Co. (125 U. S., 465) it was held that the law of Iowa forbidding common carriers to bring intoxicating liquors into the State from any other State or Territory without being first furnished with a certificate under the seal of a certain designated officer, certifying that the consignee or person to whom it is to be transported or delivered is authorized to sell liquor, was essentially a regulation of commerce among the States, affecting interstate commerce in an essential part, and not having been sanctioned by the authority, expressed or implied, of Congress, was repugnant to the Constitution of the United States.

In Leisy v. Hardin (135 U. S., 100) the case of Pierce v. New Hampshire was expressly overruled. It was held that the law of Iowa prohibiting the sale of intoxicating liquors, except for pharmaceutical and other specified purposes under a license, was unconstitutional when applied to a sale by the importer of liquor in the original package, such liquors having been manufactured in and brought from another State. This case overturned the doctrine in Pierce v. New Hampshire, which had been supposed for 50 years to be the law. Prior to the decision in this case no one believed that the consignee had the right to sell intoxicating liquors shipped from one State into another State in violation of the police regulations of the State to which they were shipped.

But in this case it was held that a citizen of one State had the right, under the commerce clause of the Constitution, to import intoxicating liquors into another State and to sell the same in the original packages, and that without the consent of Congress the State into which such liquors were imported was without authority to prohibit or regulate the sale of such liquors while they remained in the original packages. The State having a high-license law, a local-option law, a dispensary law, or a prohibition law was powerless to enforce the same in the case of the sale of liquors in the original packages.

In Leisy v. Hardin, Mr. Chief Justice Fuller, quoting from Bowman v. The Railway, said:

"For the purpose of protecting its people against the evils of intemperance, it (the State) has the right to prohibit the manufacture within its limits of intoxicating liquors. It may also prohibit all domestic commerce in them between its own inhabitants, whether the articles are introduced from other States or from foreign countries; it may punish those who sell them in violation of its laws; it may adopt any measure tending, even indirectly and remotely, to make the policy effective until it passes the line of power delegated to Congress under the Constitution. It can not, without the consent of Congress, express or implied, regulate commerce between its people and those of the other States of the Union in order to effect its end, however desirable such a regulation might be."

Again the Chief Justice quotes from the License cases (5 Howard, 504), as follows:

"It has indeed been suggested that if a State deems the traffic in ardent spirits to be injurious to its citizens and calculated to introduce immorality, vice, and pauperism into the State, it may constitutionally refuse to permit its importation, notwithstanding the laws of Congress; and that a State may do this upon the same principles that it may resist and prevent the introduction of disease, pestilence, or pauperism from abroad. But it must be remembered that disease, pestilence, and pauperism are not subjects of commerce, although sometimes among its attendant evils. They are not things to be regulated and trafficked in, but to be prevented as far as human foresight or human means can guard against them. But spirits and distilled liquor are universally admitted to be subjects of ownership and property, and are therefore subjects of exchange, barter, and traffic, like any other commodity in which a right of property exists. And Congress, under its general power to regulate commerce with foreign nations, may prescribe what article of merchandise shall be admitted and what excluded, and may, therefore, admit or not, as it shall deem best, the importation of ardent spirits. And inasmuch as the laws of Congress authorize their importation no State has a right to prohibit their introduction."

The Chief Justice in the same case, in Leisy v. Hardin, says further:

"Hence, inasmuch as interstate commerce, consisting in the transportation, purchase, sale, and exchange of commodities, is national in its character and must be governed by a uniform system, so long as Congress does not pass any law to regulate it, or allowing the States so to do, it thereby indicates its will that such commerce shall be free and untrammeled. * * * The conclusion follows that as the grant of the power to regulate commerce among the States, so far as one system is required, is exclusive, the States can not exercise that power without the assent of Congress."

To avoid the effect of this decision and to remove an obstacle resulting from the exclusive control of Congress over commerce among the States, preventing the full operation and effect of the police regulations of the States in regard to intoxicating liquors, Congress passed the act of August 8, 1890, which is hereinbefore set out in this report. It was enacted—using the language of Chief Justice Fuller—"simply to remove an impediment to the enforcement of the State laws in respect to imported packages in the original condition created by the absence of a specific utterance on the part of Congress." In other words, this act is in pursuance of the power of Congress to regulate interstate commerce, and was held not to be a delegation of this power to the States, but the exercise by Congress of a power confided to Congress. It is not disputed that Congress can not delegate such a power for any purpose whatsoever, and it is equally well established that any act of Congress which invades the reserved province of the police power of the State under a mere pretext that interstate commerce is in some sort affected is without constitutional authority and void.

In Gibbons v. Ogden, Chief Justice Marshall declared in substance that although Congress can not enable a State to legislate, it may adopt the provisions of a State on any subject, such as pilotage and the like. It has done this in the case of a State system for the regulation of pilots. And Congress has passed laws requiring the Federal courts to conform in practice and procedure to the rules of the State courts. Further illustration is perhaps unnecessary.

The Wilson law, which we have set out, was held to be constitutional in the case of In re Rahrer (140 U. S., 545). In the opinion in this case Chief Justice Fuller states:

"The laws of Iowa under consideration in Bowman v. Railway Co. (125 U. S., 465), and Leisy v. Hardin (135 U. S., 100), were enacted in the exercise of the police power of the State, and not at all as regulations of commerce with foreign nations and among the States, but as they inhibited the receipt of an imported commodity, or its disposition before it had ceased to become an article of trade between one State and another, or another country and this, they amounted in effect to a regulation of such commerce.

"Hence it was held that, inasmuch as interstate commerce, consisting in the transportation, purchase, sale, and exchange of commodities, is national in its character and must be governed by a uniform system, so long as Congress did not pass any law to regulate it specifically, or in such way as to allow the laws of the State to operate upon it, Congress thereby indicated its will that such commerce should be free and untrammeled, and therefore that the laws of Iowa, referred to, were inoperative, in so far as they amounted to regulations of foreign or interstate commerce, in inhibiting the reception of such articles within the State, or their sale upon arrival, in the form in which they were imported there from a foreign country or another State. It followed, as a corollary, that when Congress acted at all, the result of its action must be to operate as a restraint upon that perfect freedom which its silence insured.

"Congress has now spoken and declared that imported liquors or liquids shall, upon arrival in a State, fall within the category of domestic articles of a similar nature. Is the law open to constitutional objection?

"By the first clause of section 10 of Article I of the Constitution certain powers are enumerated which the States are forbidden to exercise in any event, and by clauses 2 and 3 certain others which may be exercised with the consent of Congress. As to those in the first class, Congress can not relieve from the positive restriction imposed. As to those in the second, their exercise may be authorized, and they include the collection of the revenue from imposts and duties on imports and exports by State enactments, subject to the revision and control of Congress, and a tonnage duty, to the exaction of which only the consent of Congress is required. Beyond this Congress is not empowered to enable the State to go in this direction. Nor can Congress transfer legislative powers to a State nor sanction a State law in violation of the Constitution; and if it can adopt a State law as its own, it must be one that would be competent for it to enact itself and not a law passed in the exercise of the police power. (Cooley v. Port Wardens of Philadelphia, 12 How., 299; Gunn v. Barry, 15 Wall., 610, 623; United States v. Dewitt, 9 Wall., 41.)

"It does not admit of argument that Congress can neither delegate its own powers nor enlarge those of a State. This being so, it is urged that the act of Congress can not be sustained as a regulation of commerce, because the Constitution, in the matter of interstate commerce, operates ex proprio vigore as a restraint upon the power of Congress to so regulate it as to bring any of its subjects within the grasp of the police power of the State. In other words, it is earnestly contended that the Constitution guarantees freedom of commerce among the States in all things, and that not only may intoxicating liquors be imported from one State into another without being subject to regulation under the laws of the latter, but that Congress is powerless to obviate that result.

"Thus the grant to the General Government of a power designed to prevent embarrassing restrictions upon interstate commerce by any State would be made to forbid any restraint whatever. We do not concur in this view. In surrendering their own power over external commerce the States did not secure absolute freedom in such commerce, but only the protection from encroachment afforded by confiding its regulation exclusively to Congress.

"By the adoption of the Constitution the ability of the several States to act upon the matter solely in accordance with their own will was extinguished, and the legislative will of the General Government substituted. No affirmative guaranty was thereby given to any State of the right to demand as between it and the others what it could not have obtained before, while the object was undoubtedly sought to be attained of preventing commercial regulations partial in their character or contrary to the common interests. And the magnificent growth and prosperity of the country attest the success which has attended the accomplishment of that object. But this furnishes no support to the position that Congress could not, in the exercise of the discretion reposed in it, concluding that the common interests did not require entire freedom in the traffic in ardent spirits, enact the law in question. In so doing Congress has not attempted to delegate the power to regulate commerce, or to exercise any power reserved to the States, or to grant a power not possessed by the States, or to adopt State laws. It has taken its own course and made its own regulation, applying to these subjects of interstate commerce one common rule, whose uniformity is not affected by variations in State laws in dealing with such property.

"The principle upon which local-option laws, so called, have been sustained is that, while the legislature can not delegate its powers to make a law, it can make a law which leaves it to municipalities or the people to determine some fact or state of things upon which the action of the law may depend, but we do not rest the validity of the act of Congress on this analogy. The power over interstate commerce is too vital to the integrity of the Nation to be qualified by any refinement of reasoning. The power to regulate is solely in the General Government, and it is an essential part of that regulation to prescribe the regular means for accomplishing the introduction and incorporation of articles into and with the mass of property in the country or State (12 Wheat., 448).

"No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so.

"The differences of opinion which have existed in this tribunal in many leading cases upon this subject have arisen not from a denial of the power of Congress when exercised, but upon the question whether the inaction of Congress was in itself equivalent to the affirmative interposition of a bar to the operation of an undisputed power possessed by the States.

"We recall no decision giving color to the idea that when Congress acted its action would be less potent than when it kept silent. The framers of the Constitution never intended that the legislative power of the Nation should find itself incapable of disposing of a subject matter specifically committed to its charge. The manner of that disposition brought into determination upon this record involves no ground for adjudging the act of Congress inoperative and void."

Notwithstanding the fact that the act of August 8, 1890, was held to be constitutional, the purpose of the act and the efficacy of the police powers of the State were at least greatly impaired by the decision in Rhodes v. Iowa (170 U. S., 415). The statute of Iowa made it unlawful to bring intoxicating liquors into that State except when accompanied with a specified certificate to the effect that the consignee was at the time authorized to sell such intoxicating liquors in the county where it was to be delivered, which certificate the Iowa law provided should be granted under particular and exceptional conditions. It will be observed that the act of August 8, 1890, subjected such liquor to the State law upon arrival in such State.

The liquor shipped in the Rhodes case, and for which certificate was demanded, was shipped from Dallas, in the State of Illinois, to Brighton, in the State of Iowa; and it may be further observed that this law of Iowa in regard to such certificate was held to be repugnant to the Constitution of the United States. In this case, in defining the scope of this act, the court held that under its provisions liquors transported from one State into another remained under the protection of the interstate commerce laws until they were delivered to the consignee and that, therefore, the State law was inoperative to reach them until after they were delivered by the common carrier to the person to whom they were consigned. As we have said, the effect of this decision was largely to emasculate the act of August 8, 1890, so far as the transportation and delivery of intoxicating liquors within the State was concerned.

Under the law, as thus construed, dealers in intoxicating liquors located in some of the States established agencies in other States, and sent out their soliciting agents, who traveled over and canvassed the country, and solicited sales and took orders for intoxicating liquors to be shipped in by the principal, consigned to the subscribers—sometimes to be sent to them direct, and in other cases to be sent to them in care of the soliciting agent.

By this method the business of selling intoxicating liquors by the foreign dealer has been kept up in many of the States with impunity and in defiance of the laws of the State and community where the liquors are delivered. Under this system and the existing congressional action the States are entirely powerless to exercise any control or regulation over such sales. They can not even impose a license or any restrictions whatever on the business carried on in this manner.

To summarize, we may say that Leisy v. Hardin held that the State could not interfere with liquor shipped into it from another State as long as it remained in the original package. The act of August 8, 1890, above cited, was a regulation or assent by Congress that the

laws of the States might operate in specified cases or upon particular articles of commerce earlier than the State laws could have operated without such regulation or assent of Congress. The constitutionality of this law was upheld, as we have said, in the case of In re Rahrer. The Rhodes case held that the laws of Iowa could not operate upon the liquor shipped from Illinois until it had gone into the State of Iowa, and even not then, in the absence of congressional legislation, until the goods had been delivered to the consignee in Iowa. We quote from the case as follows:

"The claim is, however, and it is upon this ground that the court below rested its judgment, that under and by virtue of the provisions of the act of Congress of August 8, 1890 (ch. 728, 26 Stat. L., 313), the ruling in the Bowman case is no longer apposite, as the effect of the act of Congress in question was to confer upon the State of Iowa the power to subject to its statutory regulations merchandise shipped from another State the moment it reaches the line of the State of Iowa, and before the consummation of the contract of shipment by arrival at its destination and delivery there to the consignee. And it is to this question that the discussion at bar has mainly related, and upon which a decision of the cause really depends.

"It is not gainsaid that the effect of the act of Congress was to deprive the receiver of goods shipped from another State of all power to sell the same in the State of Iowa in violation of its laws, but while it is thus conceded that the act of Congress has allowed the Iowa law to attach to the property when brought into the State before sale, when otherwise would not have done so until after sale, on the other hand, it is contended that the act of Congress in no way provides that the laws of Iowa should apply before the consummation by delivery of the interstate-commerce transaction. To otherwise construe the act of Congress, it is claimed, would cause it to give to the statutes of Iowa extraterritorial operation, and would render the act of Congress repugnant to the Constitution of the United States. It has been settled that the effect of the act of Congress is to allow the statutes of the several States to operate upon packages of imported liquor before sale." (In re Rahrer, 140 U. S., 545.)

For the purpose of this report it is perhaps not necessary to review the decisions, other than those we have mentioned, or to endeavor to reconcile conflicting theories that have been discussed in the determination of particular cases. To students of the history of our jurisprudence there is no more interesting field than the opinions and dissenting opinions rendered in the numerous cases construing the commerce clause of the Constitution. Perhaps we may properly, in the consideration of this bill, remit the question of the exclusive power of Congress over interstate commerce and the concurrent power of Congress and the State in certain cases, affecting in some degree interstate commerce, to academic discussion. Your committee is of the opinion that the constitutionality of this bill can be rested upon principle and the lately adjudicated cases. We find that in Bowman v. Railway Co. it is stated:

"So far as these regulations" (certain acts of Congress concerning transportation) "made by Congress extend, they are certainly indications of its intention that the transportation of commodities between the States shall be free, except where it is positively restricted by Congress itself or by the States in particular cases by the express permission of Congress. * * * It" (a State) "can not without the consent of Congress, express or implied, regulate commerce between its people and those of the other States of the Union," etc.

In Leisy v. Hardin it was said:

"Hence, inasmuch as interstate commerce, consisting in the transportation, purchase, sale, and exchange of commodities, is national in its character, and must be governed by a uniform system, so long as Congress does not pass any law to regulate it, or allowing the States so to do, it thereby indicates its will that such commerce shall be free and untrammeled. * * The conclusion follows that as the grant of the power to regulate commerce among the States, so far as one system is required, is exclusive, the States can not exercise the power without the assent of Congress."

In reviewing the cases of County of Mobile v. Kimball (102 U. S., 691), Escanaba Co. v. Chicago (107 U. S., 678), Mugler v. Kansas (123 U. S., 623), and other cases, including Ellenbecker v. District Court of Plymouth County (134 U. S., 31, 40), mentioned in Leisy v. Hardin, Mr. Chief Justice Fuller said:

"These decisions rest upon the undoubted right of the States of the Union to control their purely internal affairs. In doing which they exercise powers not surrendered to the National Government; but whenever the law of the State amounts essentially to a regulation of commerce with foreign nations or among the States, as it does when it inhibits, directly or indirectly, the receipt of an imported commodity or its disposition before it has ceased to become an article of trade between one State and another, or another country and this, it comes in conflict with a power which, in this particular, has been exclusively vested in the General Government, and is therefore void."

And again, in the same opinion, the Chief Justice says:

"Undoubtedly it is for the legislative branch of the State governments to determine whether the manufacture of particular articles of traffic, or the sale of such articles, will injuriously affect the public, and it is not for Congress to determine what measures a State may properly adopt as appropriate or needful for the protection of the public morals, the public health, or the public safety; but notwithstanding it is not vested with supervisory power over matters of local administration, the responsibility is upon Congress, so far as the regulation of interstate commerce is concerned, to remove the restriction upon the State in dealing with imported articles of trade within its limits, which have not been mingled with the common mass of property therein. If in its judgment the end to be secured justifies and requires such action."

And in the same opinion it is further said:

"The plaintiffs in error are citizens of Illinois, are not pharmacists, and have no permit, but import into Iowa beer, which they sell in original packages, as described. Under our decision in Bowman v. Chicago Railway Co. (supra), they had the right to import this beer into that State, and in the view which we have expressed they had the right to sell it, by which act alone it would become mingled in the common mass of property within the State. Up to that point or time we hold that in the absence of congressional permission to do so the State had no power to interfere by seizure or any other action in prohibition of importation and sale by the foreign or nonresident importer. Whatever our individual views may be as to the deleterious or dangerous qualities of particular articles, we can not hold that any articles which Congress recognizes as subjects of interstate commerce are not such or that whatever are thus recognized can be controlled by State laws amounting to regulations while they retain that character, although at the same time, if directly dangerous in themselves, the State may take appropriate measures to guard against injury before it obtains complete jurisdiction over them.

"To concede to a State the power to exclude, directly or indirectly, articles so situated, without congressional permission, is to concede to a majority of the people of a State, represented in the State legislature, the power to regulate commercial intercourse between the States by determining what shall be its subjects, when that power was distinctly granted to be exercised by the people of the United States, represented in Congress, and its possession by the latter was considered essential to that more perfect Union which the Constitution was adopted to create. Undoubtedly there is a difficulty in drawing the line between the municipal powers of the one government and the commercial powers of the other, but when that line is determined, in the particular instance, accommodation to it, without serious inconvenience, may readily be found, to use the language of Mr. Justice Johnson, in Gibbons v. Ogden (9 Wheat., 1, 238), in 'a frank and candid cooperation for the general good.'"

And in the Rahrer case it is said that—

"No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so.

* * * * * * *

"The framers of the Constitution never intended that the legislative power of the Nation should find itself incapable of disposing of a subject matter specifically committed to its charge. The manner of that disposition brought into determination upon this record involves no ground for adjudging the act of Congress inoperative and void."

Now, this bill is a presentation, as we have endeavored to show, of the conclusion derived from a just construction of constitutional law and a study of adjudged cases that an act passed in pursuance of the power of Congress to regulate commerce can authorize the operation of the internal laws of the State sooner than these laws could have operated without this legislation. That is the case here.

As we have shown, in the Rahrer case it was held that the sale in Kansas of intoxicating liquors transported from the State of Missouri could be prevented by the State, although such liquors were in the original package. It was held in that case that the act of Congress allowed the police regulations of the State governing intoxicating liquors to become operative sooner than would have been the case had Congress remained silent on the subject.

The proposition here is that it is entirely competent for Congress to go a step further and allow such State regulation to become operative upon the arrival of such liquors within the boundaries of the State, before and after delivery, provided that such regulation shall not interfere with liquors being transported through the State to points beyond its limits, and shall not interfere with the right of the citizen to have transported into the State from another State liquors for his own use. It is upon this theory that this bill is predicated, and with the belief that the courts will uphold its constitutionality.

The development of congressional and judicial thought on the line that the State has, within its boundaries, the right to regulate the traffic in intoxicating liquors, whether produced within or brought from without its boundaries, culminating in the act of August 8, 1890, and the decisions referred to, is the foundation for the belief that this bill will stand the test of judicial scrutiny. Whether the Wilson law is in effect a legislative declaration that the decisions in New York v. Miln and in Pierce v. New Hampshire, and other like cases, correctly interpreted the power of Congress and the power of the State, or whether it is congressional assent to the operation of State laws upon articles of commerce when once brought into the State sooner than would have been the case in the absence of congressional action, we need not stop to discuss. The constitutionality of the law, we believe, has been, at all events, established. This view is enough to meet the requirements of local self-government in the States, and still it does not, we think, militate against the idea that the control of interstate commerce is an exclusive and plenary power of Congress.

* * * * * * *

The purpose of this proposed law, and its sole purpose, is to allow each State to carry out its own domestic or internal policy in regard to the control of intoxicating beverages within the boundaries of the State.

The sole effect will be to permit the State, if it so wills, to circumscribe the sale of intoxicating beverages within its boundaries to the full extent that it may desire to *restrain such traffic or to regulate the* sale of the same through the medium of its own laws, including local-option laws, high-license laws, or dispensary laws. * * *

Mr. Speaker, in view of the assaults made upon the constitutionality of the pending bill, I think it but fair to have printed the argument made by Mr. Fred S. Caldwell, of Oklahoma City, Okla., who made the first draft of this bill. His argument was before the Committee on the Judiciary, and is as follows:

Mr. CALDWELL. Mr. Chairman and gentlemen of the committee, I have here a list of citations to authorities, to which I will refer in the course of my argument. Some of them, perhaps, in the limited time I will make no reference to. But, if there is no objection, I will hand this list to the reporter and ask that it be incorporated into the record at this time in order that the committee may have before them references to those cases, if they should desire to refer to them afterwards.

The CHAIRMAN. There is no objection, and the list will be incorporated in the remarks at this point.

The list referred to is as follows:

CITATION OF AUTHORITIES IN SUPPORT OF ARGUMENT BY FRED S. CALDWELL.

Bowman v. Chicago & N. W. R. Co. (125 U. S., 465; 8 Sup. Ct., 689; 31 L. Ed., 700).
Leisy v. Hardin (135 U. S., 100; 10 Sup. Ct., 681; 34 Law Ed., 128).
Scott v. Donald (165 U. S., 58; 17 Sup. Ct., 265; 41 Law Ed., 632).
Mugler v. Kansas, 123 U. S., 661; 8 Sup. Ct., 273; 31 Law Ed., 210).
Rhodes v. Iowa (170 U. S., 412; 18 Sup. Ct., 664; 42 Law Ed., 1096).
Vance v. Vandercook Co. (170 U. S., 439; 18 Sup. Ct., 676; 42 Law Ed., 1102).
In re Rahrer (140 U. S., 545; 11 Sup. Ct., 865; 35 Law Ed., 572).
Heyman v. Southern Ry. Co. (203 U. S., 217; 27 Sup. Ct., 104; 51 Law Ed., 178).
American Express Co. v. Iowa (196 U. S., 133; 25 Sup. Ct., 182; 49 Law Ed., 417).
Adams Express Co. v. Iowa (196 U. S., 147; 25 Sup. Ct., 185; 49 Law Ed., 424).
Pabst Brewing Co. v. Crenshaw (198 U. S., 17; 25 Sup. Ct., 552; 42 Law Ed., 925).

Delamater v. South Dakota (205 U. S., 93; 27 Sup. Ct., 447; 51 Law Ed., 724).
Foppiano v. Speed (199 U. S., 501; 26 Sup. Ct., 138; 50 Law Ed., 288).
Commonwealth v. Intoxicating Liquors (107 Mass., 399; U. S.).
United States v. Brig Malock Adhel (2 How., 210).
Smith v. State of Maryland (18 How., 71).
Dobbins Distillery v. United States (95 U. S., 400; 24 Law Ed., 638).
J. B. Mullen & Co. v. Moseley (90 Pac., 986).
Fisher v. McGirr (1 Gray (Mass.), 1; 61 Amer. Dec., 381).
State v. 18 Casks of Beer (104 Pac., 1093).
Kalloch v. Newbert (Me., 72; Atl., 736).
State v. Intoxicating Liquors (71 Atl. (Me.), 758).
Gulf, Colorado & Santa Fe R. R. Co. v. State ex rel. Caldwell (Okla., 116; Pac., 176).
Ex parte Oklahoma (U. S.; 55 Law Ed., 431).
The Vessel Abby Dodge v. United States (U. S., No. 41, October term, 1911).
Louisville & Nashville R. R. Co. v. F. W. Cook Brewing Co. (U. S., No. 64, October term, 1911).
Adams Express Co. v. Kentucky (214 U. S., 218; 53 Law Ed., 972; 29 Sup. Ct., 633).
Graves v. Johnson (156 Mass., 211; 30 N. E., 818; 32 Am. St., 446; L. R. A., 834).
Church v. Proctor (13 C. C. A., 426; 66 Fed., 240).
Plumley v. Massachusetts (155 U. S., 461).
In re Scheitlin (99 Fed., 272).
Crossman et al. v. Lurman et al. (192 U. S., 189; 24 Sup. Ct., 234).
American Express Co. v. Mullins (29 Sup. Ct., 381).
State ex rel. v. Hooker (Okla., 98; Pac., 964).
Schwedes v. State (Okla., 98; Pac., 804).
Champion v. Ames (Lottery case; 188 U. S., 321).

"The Congress shall have power * * * to regulate commerce with foreign nations, among the several States, and with the Indian tribes." (Constitution, Art. 1, sec. 8, cl. 3.)

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." (Constitution, Art. 1, sec. 8, cl. 18.)

Mr. CALDWELL. My argument will be, in a measure, in answer to the learned gentleman who discussed this matter before you this morning, and will be directed to the report of House bills 17593 and 16214. So far as the interests for which I speak are concerned, either bill will, in our opinion, give the relief, and as Mr. Webb has stated to the committee, they are practically the same, as the committee undoubtedly have found themselves.

The question was raised this morning that Congress can not pass either of these bills, because to do so would mean to delegate certain power to the several States, which power, by the commerce clause of the Constitution of the United States, has been vested exclusively in Congress. In order that we may get at the question that is before us perhaps it will be well to really put the matter specifically before the committee. I will undertake to do that briefly by making specific reference to the laws of the State of Oklahoma, with which I happen to be somewhat familiar.

Oklahoma, as certain members of this committee undoubtedly know, was born into the Union a prohibition State, and perhaps not altogether voluntarily. At least one-half of the State, in area, was that portion of the present State which was occupied by the Five Civilized Tribes, and Congress—or the United States, rather—was bound by Indian treaties to keep liquor out of that country and away from the Indians. I suppose, pursuant to the obligation of those Indian treaties, by ordinance irrevocable, write into its constitution, its fundamental law, prohibition for the Indian Territory side for 21 years. We did that. At the same time—we submitted a separate amendment to the people which would provide for statewide prohibition. It was adopted by a majority of something more than 18,000. Last fall, under a proposed amendment to the constitution, a resubmission, as we call it, of that issue—Statewide prohibition—was reaffirmed by something more than 20,000 majority.

The situation in Oklahoma is this: The first legislature gave life to the constitutional prohibition which, in itself, according to the decisions of our courts, was self-executing, by passing what we called, or what act. Among other things that act provides that it shall be a crime to sell, barter, give away, etc., or otherwise furnish certain liquors, or to have the possession of any such liquor with the intent to violate any of the provisions of that act. One of the provisions of the act is that liquor can not be sold, so that if A B has a case of whisky in his possession with the intent to sell any of it A B is a criminal. The liquor is a nuisance; it can be seized, tried, condemned, and destroyed.

At this point I want to refer to a statement made by that eminent jurist, Chief Justice Shaw, of Massachusetts, something like 50 years ago, when he was construing an act of that State with reference to intoxicating liquors which made a similar provision—that is, it provided for search and seizure process and trial of the liquor, and the liquor's condemnation provided the unlawful intent was found to exist. I have cited the case in the list which I have given the reporter. It is Commonwealth against Intoxicating Liquors (107 Mass., 399). It is said in that case:

"The seizure of liquors under the statute of 1869, chapter 415, because they are kept for sale illegally, is a proceeding in rem"—an action against the offending thing—"which regards such liquors as a nuisance. The statute permits the keeper or any other person to come and claim them as his property, and if they appear to be his they are delivered to him, unless they are so kept as to constitute what the statute regards as a nuisance."

In another Massachusetts case, Fisher against McGirr (1 Gray (Mass.), 1), the courts say:

"To see whether any trial is provided for, we must first ask what is to be tried."

I will state to the committee that in the case of Fisher against McGirr the question of due process of law was before the court, and in that case they held that particular law unconstitutional and void, in that it did not provide for a trial which would satisfy the due process of law provision of the Constitution.

"The case supposes that the keeping of spirituous liquors intended for sale is made unlawful by the statute; that the illegality consists in the intent of selling; that the intent qualifies the act of keeping and impresses on the property illegally kept the character of a nuisance."

The case of whisky, in Oklahoma, kept with intent to violate any of the liquor laws of Oklahoma, is by that intent impressed with the character of a nuisance. We proceed against it by an action in rem, just as the learned justice says. How do we do that? By the fourteenth amendment of the Constitution of the United States it is provided that no person shall be deprived of life, liberty, or property except by due process of law. Our constitution provides that anyone whose property is to be tried and condemned has a right to a hearing. I would like to state also that a search and seizure warrant can not issue except upon probable cause having been shown by affidavit or affirmation before some judicial officer. The liquor, we will say, is in Oklahoma, and we will eliminate the question of interstate commerce. There is no question of interstate commerce in this case. There is the case of liquor. No officer in the State of Oklahoma can summarily go and seize that liquor, or destroy it, or do anything with it, unless he actually sees the person selling it. In other words, our law—and I think it is not unusual—provides this, that an officer may, without process, arrest a man if he takes him in commission of the criminal act.

The CHAIRMAN. He catches him in flagrante delicto?

Mr. CALDWELL. Yes, sir. But he must immediately take him before a proper tribunal and there swear to the complaint against him, and then the writ is issued which holds him for trial. The liquor is perfectly safe until the machinery of the law is set in motion against it, and that is done in this way: A, B, or C, or whoever has knowledge of the fact which supports the belief that the liquor is there, kept with the intent to violate the law, goes before some judicial tribunal of Oklahoma. He may go before a justice of the peace; he may go before a county judge, and the county courts of Oklahoma are courts of record; he may go before the superior court, and the superior courts of Oklahoma are courts of record; or he may go before the judge of the district court, and they are courts of record, any one of those judicial tribunals; and he makes affidavit to the facts, and the judicial officer passes upon those facts, supported by oath or affirmation, and he determines the existence or nonexistence of probable cause for believing that the nuisance exists. If, in his opinion, in the exercise of his judicial power, probable cause exists, he so finds, and he issues his warrant, directed to the constable or the sheriff, the executive officer of the court. That warrant is issued in the name of the State of Oklahoma, commanding that officer to go to the place, search, and, if he finds, seize the liquor; and do what? Arrest it, simply arrest it, and bring it into court. The law provides that the officer must make a return to that writ within three days of the time it is issued, and the return must show what the officer did. Suppose he found a case of whisky. He makes his return, which says, "I received this writ on such a day, and I executed it by going to the place and searching, and there finding and seizing a case of whisky," which he turns over to the court. Upon that return the court must set a hearing, not less than 10 days nor more than 30 days, so that they can not take snap judgment, neither can they keep the man's property if he had it for personal use, which is not barred by our law, tied up indefinitely. That hearing must be held in not less than 10 days nor more than 30 days later. What is tried? The status of that case of whisky. They may have a trial to a jury. You will find all this matter settled and the constitutionality of the law sustained by an opinion of the Supreme Court of Oklahoma in State, ex rel., v. Hooker (Okla.; 98 Pac., 964), which is among the citations I have given. If the fact be found that the liquor was kept or possessed by any person with the intent to violate the law, then judgment is pronounced, and the judgment is forfeiture, and the liquors are destroyed.

But an appeal can be had, and even to the Supreme Court of Oklahoma; and if, in the proceeding, any Federal question be introduced—if it should be claimed that the party had rights under the Constitution of the United States or any act of Congress—a writ of error could be prosecuted to the Supreme Court of the United States, even though it were only a case of liquor. It is regular, it is orderly, it is a judicial proceeding according to the due process of law provision.

That answers us abundantly and perfectly well in so far as liquors are concerned which are not in the channels of interstate commerce. But suppose there is a case of liquor—a barrel of liquor—yes, 10 barrels of liquor, each one, say, weighing five or six hundred pounds. I am not up on those matters as I was two or three years ago, but I remember that it was not uncommon to find shipments, before the penal code provisions went into effect, of a box of liquor of 450 pounds, which meant that a barrel of liquor was incased in a box and shipped into Oklahoma. We will say there are 10 barrels of whisky at the Santa Fe depot in Oklahoma City, and they have been purchased in Kansas City by John Doe, who is a well-known joint keeper in Oklahoma City. He has paid the special tax required by the United States of liquor dealers, which, under the laws of Oklahoma, is prima facie evidence of his intent to violate the liquor laws of Oklahoma. Why should any man in Oklahoma pay $25 to the United States Government unless he intends to violate the liquor laws or sell liquor? That nuisance—at least, that thing—is there; it is in Oklahoma. He intends to violate the law with it. But what happens? Oklahoma can not touch it. He can say openly, "Yes; I intend to sell it. I intend to violate the laws of Oklahoma; but you can not touch it. It has not been delivered to me under the contract of interstate shipment at the point of destination." Well, suppose we are exasperated to the extent of seizing it anyhow. It comes into court in the same process I have outlined, and he comes into court and says, "It makes no difference about my intent. I concede that; I admit that. But the liquor was not delivered."

The CHAIRMAN. Let me ask you, if it will not disturb your argument, you say the man avows that he is going to sell that liquor in violation of the laws of Oklahoma. He receives the barrel of whisky from the railroad company after having made that statement. Then could not the State authority seize the liquor after it is in his possession?

Mr. CALDWELL. That is not an open question. It would not be necessary, Mr. Chairman, for anyone to come before this committee to contend for a proposition so thoroughly and so completely settled as that. But just as clearly and conclusively is it settled that until that delivery is made we can not seize it.

Mr. MOON. Let me ask you a question upon that point. I do not understand that to be the law at all. It is only while that liquor is in transit. When that liquor arrives at its destination it is either to be delivered or it is held by the railroad company in a warehouse, and being held in a warehouse, according to my conception of the law, would subject it to the operation of the laws of Oklahoma; it is not in transit.

Mr. CALDWELL. Then the gentleman differs with the Supreme Court of the United States and with the Supreme Court of Oklahoma. The Supreme Court of the United States did say this, in the case of Heyman v. Southern Railway Co. (203 U. S., 217)—they leave it an open question as to how long the carrier could keep it in the warehouse for delivery. They did not say that 5 days would be an unreasonable time or that 30 days would be an unreasonable time.

Mr. MOON. But they did draw a distinction between liquor in transit and that in a warehouse?

Mr. CALDWELL. Yes, sir; they also said that the rule would not apply which, as between individuals, the consignee and the carrier, would make the carrier a warehouseman and not a carrier. You understand that as to interstate commerce—if a commodity is shipped to me from Kansas City to Oklahoma City the carrier has it there for delivery and notifies me, and I am given a reasonable time to come there and receive it. Then the carrier's liability as a carrier, which is greater than the carrier's liability as warehouseman, ceases, and after that time they are warehousemen and not carriers. The Supreme Court of the United States, in the Heyman case, said that rule is not the test with reference to liquor.

Mr. MOON. But they did say, however, that it was not within the protection of interstate commerce if it was held by the carrier as a warehouseman and not as a carrier.

Mr. CALDWELL. It would be held by the carrier as warehouseman as between the carrier and the shipper; but it would not be held as warehouseman as between the State and the shipper.

Mr. MOON. If there is any imperfection in the laws of Oklahoma or in the construction by its courts, that is another question.

Mr. CALDWELL. Now, if the chairman will permit me, I will proceed. This is departing somewhat from the first proposition, but digressions seem to be in order. Suppose some one, A, B, or C, or all three of them, go before the county court, a court of record, and make affidavit to the fact that at the Santa Fe Depot in Oklahoma City are certain liquors, describing them; that they are kept and intended to be used in violation of the laws of Oklahoma; and the county judge, from an examination of those facts, finds that probable cause exists, and he issues the warrant, and the officer proceeds to the station, arrests the liquor, and brings it into court. A trial is had, and what happens? The claimant comes in. If he is a local bootlegger who is well known, he will not come directly; he will have the shipper, the Kansas City wholesale house, come in. But they come in and make this claim: "Those 10 barrels of whisky were purchased in Kansas City; they were delivered to the Santa Fe Railroad Co. for transportation to Oklahoma City; and they had not been delivered under the contract of interstate shipment at the time this seizure was made. Therefore they were interstate commerce, it makes no difference what the man intended to do with them, and we demand a return." There is only one thing for the court to do, and that is to return them.

Mr. CARLIN. Who is hurt by that transaction?

Mr. CALDWELL. The State of Oklahoma; and I will tell you why. Suppose they are returned; and then, when the officers are not standing on picket, under the cover of darkness or otherwise—and many deliveries are made clandestinely, let me tell you—anyhow, the delivery is made. Here is the carrier, the Santa Fe Railroad Co. [indicating], here is the liquor, and here is the consignee, and the delivery is made. What happens? Instantly the consignee who receives the possession of the liquor becomes a criminal, because he has 10 barrels of whisky in his possession with intent to violate the law. Instantly the liquors are not property, but a public nuisance, and every time the Santa Fe Railroad makes a delivery of that sort in the State of Oklahoma it creates a public nuisance in the State of Oklahoma, and the consignee is a criminal.

Mr. CARLIN. But I am speaking of the case where the liquor was returned, sent back.

Mr. CALDWELL. They do not send it back; they simply return it to the Santa Fe Railroad Co. and put it there in the station. They do not have to return it. It is interstate commerce, and under the present commerce laws they have a right to ship it in there.

The CHAIRMAN. You restore the status as it was before the seizure was made.

Mr. CARLIN. They restore it to the carrier?

Mr. CALDWELL. Yes; and then the carrier can make the delivery under the interstate contract of shipment.

Mr. CARLIN. I understood you to say they returned it to the consignor.

Mr. CALDWELL. No; I say he can make claim, but they deliver it back to the carrier, who then holds it under the contract of interstate shipment until he can make the delivery under the contract of interstate shipment. Let me show you about the carrier shipping it back. The Supreme Court of the United States, in the case of Louisville & Nashville Railroad Co. v. The F. W. Cook Brewing Co., hold that the liquor dealer can make the carrier take it in there.

Mr. DAVIS. That is a late case?

Mr. CALDWELL. Yes; that is a late case, No. 64, October term, 1911. There are some interesting statements in that case by Justice Lurton. Mind you, the Kentucky law prohibits the transportation of liquor from a wet county into a dry county; that is intrastate. The violator of the law in the dry county, then, can not buy liquor in a wet county of Kentucky and take it into a dry county. So he goes over into Ohio, or Tennessee, or Missouri, and the railroad company—or at least this railroad company did, the Louisville & Nashville Railroad Co.—says, "We will not carry that into the dry county." He says, "I will see whether you do or not." So he went into court to mandamus the carrier to take the liquor from the wet State for delivery into the dry county, when the carrier could not take liquor from the wet county into a dry county; and the Supreme Court of the United States sustained that and said the carrier has to take it, and not only that, but they say the law of Kentucky is commendable which prohibits the carrying of the liquor from the wet county into the dry county. They do not say how commendable is the law of the United States which makes the railroad company carry it from a wet State into that dry county. I read the language of the court:

"Valid as the Kentucky legislation undoubtedly was as a regulation in respect to intrastate shipments of such articles, it was most obviously never an effective enactment in so far as it undertook to regulate interstate shipments to dry points. Pending this very litigation, the Kentucky Court of Appeals, upon the authority of the line of cases above cited, reached the same conclusion.

"The obligation of the railroad company to conform to the requirements of the Kentucky law, so far as that law prohibited intrastate shipments, is clear, and to this extent its circular notification was commendable. But the duty of this company, as an interstate common carrier for hire, to receive for transportation to consignees upon its line in Kentucky from consignors in other States any commodity which is an ordinary subject of interstate commerce, and such transportation could not be prohibited by any law of the State of such consignee, inasmuch as any law would be an unlawful regulation of interstate commerce not authorized by the police power of the State. It is obvious, therefore, that in so far as the Kentucky statute was an illegal regulation of interstate commerce, it neither imposed an obligation to obey nor affords an excuse for refusal to perform the general duty of the railroad company as a common carrier of freight."

The CHAIRMAN. That opinion was merely a restatement of principles heretofore decided by the court in other cases, do you not think?

Mr. CALDWELL. Undoubtedly so; but it emphasizes the unfortunate situation with reference to interstate commerce in intoxicating liquors.

Mr. CARLIN. The court uses the word "duty" of the railroad company. Do you think the duty referred to there is the constitutional duty?

Mr. CALDWELL. As long as the thing is interstate commerce, then it is a constitutional duty in this sense, that the commerce clause of the Constitution of the United States requires that it be done.

The CHAIRMAN. If it would not interrupt you, right at this point I want to reply to the suggestion that was made a while ago in a colloquy with Judge MOON, and cite from this decision from which you read:

"The Wilson Act, which subjects such liquors to State regulation, although still in the original packages, does not apply before actual delivery to such consignee where the shipment is interstate. Some of the many later cases in which these matters have been so determined and the Wilson Act construed are: Rhodes v. Iowa (170 U. S., 412); Vance v. Vandercook Co. (170 U. S., 438); Heyman v. Southern Railway (203 U. S., 270); Adams Express Co. v. Kentucky (214 U. S., 218)."

Mr. CALDWELL. Yes; all those cases, and many others cited.

Mr. MOON. It has also been said by the Supreme Court that it is a delivery to the consignee, and the railroad company holds it as warehouseman, as the agent of that consignee, after a certain time.

Mr. CALDWELL. But that certain time is a very indefinite thing. The railroad companies in Oklahoma—in prohibition States it is a constant conflict between the traffic department and the operating department over intoxicating liquors. The operating department, which really includes the legal department, are worried to death by claims with reference to these shipments, and the difficulties they get into; but inevitably upon the carrier imposing a restriction or limitation which will relieve them against that, the brewers and the big distillers go to the traffic department and they say, "Here, you are shipping lots of stuff into the wet States," and they suggest that they will divert the traffic if they do not extend to them the privileges that they are demanding. The carriers, so far as they can all agree, can make a regulation. They had a 15-day limitation at one time, and at one time a 5-day limitation, that if the shipment was not delivered within 5 days they would return it. But suppose they did return it? Then they got into a controversy with the shipper for the freight on the return shipment. It simply forces the carrier to act as the supply agent for the bootlegger and the joint keeper, and you can not get away from it. That is just, in simple terms, exactly what it does.

Coming, now, to the gentleman's argument, he says that Congress can not so regulate commerce as to avoid that thing. It is an unfortunate situation if that can not be done. If the Federal courts, on the one hand, must, under the commerce clause of the Constitution, compel the carrier to perform that duty to the bootlegger and the joint keeper and the speak-easy and the blind tiger in the dry territory of the country, it is an unfortunate thing.

Mr. MOON. I might say that I did not understand Mr. Maxwell to state that. He said we could not do it in this way. I do not think he assumed or stated that Congress could not regulate it.

Mr. CALDWELL. You will agree that he did not suggest any means by which it could be done, and I take it—

Mr. MOON. No; he was here speaking to this bill.

Mr. CALDWELL. I take it he would oppose any bill.

Mr. MAXWELL. Why do you not shut up your speak-easy?

Mr. CALDWELL. I will tell you exactly why. We had picket that particular station where those 10 casks of whisky are for a while and after they ran out of a supply it would be shut up; the sign would be up, "Boys, nothing doing." But if we do not happen to have police officers enough to patrol every inch of railroad in the State of Oklahoma, at some point or some place that thing would be slipped out, and then they would be away with it, like a rat in a hole, and you have to dig for it; as Mr. Baker, I think, suggested an experience they had in Ohio about going after it. An ounce of prevention is worth a pound of cure; there is no question about that. If Congress will so regulate interstate commerce that the liquor in the hands of the carrier, which is intended to be used in violation of the laws of the State, is not interstate commerce, then we will stop it, because we will take those 10 casks of whisky and throw them in the ditch. It will be easy; it will be simple. I think that the learned gentleman and his clients fully appreciate how easily it could then be done.

Mr. MOON. Suppose we meet that situation by saying that if the common carrier holds liquor shipped to a consignee more than 15 days it shall amount to a constructive delivery?

Mr. CALDWELL. It would not meet it at all, because that is the law now.

Mr. MOON. I understood you to say it was not.

Mr. CALDWELL. No, sir. The only way you can meet it is to take intoxicating liquor intended to be used in violation of the laws of the State out of interstate commerce. And why should it not be taken out? Why should it be interstate commerce? Let us differentiate a minute. I think you will all agree that a thing is not necessarily interstate commerce just because it is in the channels of interstate commerce.

Mr. CARLIN. Do you mean to say that Congress ought to declare that intoxicating liquor should not be the subject of interstate commerce?

Mr. CALDWELL. I did not say that, Mr. Carlin. I said that Congress should say that liquor intended to be used in violation of the laws of a State should not be interstate commerce.

The CHAIRMAN. Practically, then, how can you determine that fact until that liquor is shipped?

Mr. CALDWELL. Why is it necessary to determine it before it is shipped? It never gets into the channels of interstate commerce until it is shipped.

The CHAIRMAN. At the initial point, then.

Mr. CALDWELL. We do not care what they do at the initial point outside of the State of Oklahoma.

The CHAIRMAN. Under this law the common carrier, it seems to me, ought to know whether he is engaged in a matter in violation of law or not.

Mr. CALDWELL. That is true.

The CHAIRMAN. It will concern him very much to know whether he is going on in violation of law or not.

Mr. CALDWELL. And that is why these bills are so drafted as not to make it a violation on the part of the carrier. It ought not to be.

Mr. DAVIS. But you deprive him of all compensation for the shipment.

Mr. CALDWELL. No. He can demand his compensation in advance.

Mr. DAVIS. If he does it as to the liquor shipment, must he do it as to all shipments?

Mr. CALDWELL. No; and I will tell you why. At the present time—I do not know about the railroad companies in this part of the Union—I know in Oklahoma and kindred States you can not ship household goods without paying the freight in advance. The poor emigrant who goes from Missouri into Oklahoma, or, if he should happen to be starving

out in the western part of Oklahoma or in the Panhandle of Texas, and wants to go to his relatives in Missouri, can not move his household goods until he pays the freight in advance.

Mr. NORRIS. Do they not apply that rule to Congressmen, too? I have had to do that. [Laughter.]

Mr. CALDWELL. Yes; I suppose so. We in Oklahoma see no reason why Mr. Pabst and Mr. Schlitz and the great brewing interests and the liquor interests should not be required to pay in advance freight on their shipments, if the poor householder is required to pay in advance freight on his household goods. Furthermore, they simply do it for their own protection. Gentlemen, I am not willing to concede that it is even required. I remember not many years ago I had a client in Oklahoma City who represented a local wholesale seed house, one of the largest seed houses of the West. He was a Dane, a rather obstreperous sort of fellow. He was always in controversy with the local freight agents about his shipments. If any thing came in a little short, he was going to have that shortage, and the controversy between him and the representative of the Rock Island Railroad Co. developed to the point where they would not deliver one of his cars and would not set a car in for him unless he paid the freight on it in advance. I looked the matter up somewhat for him, and I may be wrong, but I reached this conclusion, that the railroad company could not be compelled to extend credit to anybody if they did not want to. That is, they had a right to determine for themselves whether or not the shipper was entitled to credit. If he was a pauper, or if for any reason, in the exercise of their judgment in the carrying on of their business, they thought he was unworthy of credit, I knew of no law, and found none, that compelled them to extend him credit. So I say, in answer to Mr. Davis's question, I know of no law which would be violated by the railroad company if they should say that the freight on liquor shipped into dry territory must be paid in advance.

Mr. WEBB. Telegraph companies require senders of telegrams to pay in advance, when they do not know the senders.

Mr. CALDWELL. Yes, sir.

Mr. WEBB. They do not require me to pay in advance.

Mr. CALDWELL. But if you were to go to San Francisco, where you were not very well known, and wanted to send a telegram home, you would have to pay for it in advance.

Mr. WEBB. Certainly.

The CHAIRMAN. I think his face would entitle him to send it. [Laughter.]

Mr. CALDWELL. You could not say that of all the liquor dealers. [Renewed laughter.]

Is it a delegation of power? I have written out here that famous commerce clause of the Constitution of the United States. And I say that not in any disparaging sense, because I believe that, so far as the country as a whole is concerned and the development of the Nation that was then building is concerned, there is not another part of the Constitution of the United States into which so much is injected in the same space.

"Congress shall have power to regulate commerce with foreign nations, among the several States, and with the Indian tribes."

It is no longer an open question as to what Congress can do with reference to commerce with the Indian tribes, especially in intoxicating liquors. They can absolutely prohibit it, and have done it. It is a fixed policy. It is no longer an open question as to what Congress can do under that language of the Constitution with reference to foreign commerce. They can prohibit it absolutely. The Supreme Court at this term reaffirmed that in the case of the vessel *Abby Dodge*, No. 41 at the present term, and they cite the old case. They say it is settled law. So far as the language of that provision goes, they can do all to commerce among the States that they can do to foreign commerce or commerce with the Indian tribes. So, if there are limitations, they must be found in some other provision of the Constitution.

Furthermore, in this same section, at the end of it, is this:

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers"—among which is the power to regulate interstate commerce. This is a dual form of government. They must work together, but each in its separate sphere is supreme—the States in theirs, the Federal Government in its. The States exercise the police powers; no regulation of intrastate commerce; Congress regulates interstate commerce, and has all the power that is necessary to regulate interstate commerce expressly conferred by the Constitution, not implied, but expressly conferred.

We may, I think, agree on this: That if Congress can so regulate interstate commerce as to avoid a conflict between the exercise of the police powers of the State and interstate commerce, it ought to be done. This has not been done in the past; those conflicts have occurred until this is the settled law. It was not so in the beginning; it was a great question. The Supreme Court of the United States cleavage was not well marked. But finally this has been settled as the law: That where the power of Congress to regulate interstate commerce and the power of the State over its internal affairs, the police powers of the State, conflict, the power of Congress to regulate commerce is supreme.

It is impossible to have two irresistible bodies, I believe, moving in opposite directions against each other at the same time. One has to be supreme, and the power of Congress is supreme. This power of Congress, then, to regulate interstate commerce is not a weakling if it is so strong and so powerful that it stands above the police powers of the State.

In Mugler v. Kansas (123 U. S., 661) the Supreme Court of the United States said that it was within the police power of a State to prohibit the manufacture of liquor for the personal use of the manufacturer. Likewise, even though he intended to sell the product through the channels of interstate commerce beyond the State, So the police power is pretty well defined. I think at the last term of court the Supreme Court of the United States decided the case of Noble State Bank v. Haskell, a case that went up from Oklahoma involving the constitutionality of the bank-guaranty law. Mr. Justice Holmes, in the discussion there, very tersely says that with regard to the police power of a State the lines are pricked out by the decisions first on the one side and then on the other, but, suffice it to say, that the bank-guaranty law is well within the police power of the State. There is the banking business, and under that decision a man can not engage in the banking business in Oklahoma on the theory that it is a vested right and that he has a right to carry on that business. He must comply with the State laws and guarantee his depositors.

Mr. CARLIN. What would you do with this language used by Mr. Justice Shiras in the case of Vance v. Vandercook Co.:

"The conceded purpose of protecting commerce from hostile action between the States would be defeated if Congress withdraw from the exercise of its power in such matters and turn them over to the legislatures of the States."

Mr. CALDWELL. From what case did you read that?

Mr. CARLIN. From Vance v. Vandercook.

Mr. CALDWELL. By Mr. Justice Shiras?

Mr. CARLIN. He was delivering the dissenting opinion there.

Mr. CALDWELL. Yes; I wanted to bring that point out; that is from the dissenting opinion.

Mr. CARLIN. The opinion of the court sustained the same idea; but he was giving his reasons for that.

Mr. CALDWELL. According to Mr. Justice Shiras, the opinion of the court did not sustain just that idea. He dissented on that ground. But I will answer the question, which is very pertinent. My answer to it is this: That if Congress, in the exercise of its power to regulate interstate commerce, takes a thing out of interstate commerce, then it is absolutely immaterial what the State does with it, because it is not interstate commerce. That is exactly what this bill will do with reference to intoxicating liquor that is intended to be used in violation of the laws of the State into which it is to be introduced. It is taken out of interstate commerce; it is not interstate commerce any more than rags infected with yellow fever or diseased meat.

Mr. DAVIS. What is it that determines whether or not it shall be taken out of interstate commerce?

Mr. CALDWELL. That intent. For instance, as Chief Justice Shaw said in a Massachusetts case, the thing that determines whether or not the liquor is a nuisance or is property is the intent of the possessor. He says that intent impresses upon it the character of a nuisance. If it does, what is the effect? You divest it of all property rights and you destroy it. Here is a case of liquor and A B possesses it. He intends it for his own personal use; that does not violate the law. It is then property. Nobody can interfere with it; it is his property. But he changes his mind. He intends to use it in violation of law, to sell it; it is no longer property. His intent—and I take Chief Justice Shaw for it, and it is well settled by a long line of decisions—impresses upon that case of liquor the character of a nuisance, and it is not property.

Mr. MOON. By virtue of a State law?

Mr. CALDWELL. By virtue of a State law.

Mr. CARLIN. Right there let me call your attention to this, and ask ask your view of it.

Mr. CALDWELL. One at a time, gentlemen.

Mr. CARLIN. It involves the same thing; it will enable you to answer that question—that is, if you can in view of this language, quoting from a majority opinion in that case.

Mr. CALDWELL. Vance v. Vandercook?

Mr. CARLIN. Yes. Justice White made this statement:

"Conceding, without deciding, the power of the State where it has placed the control of the sale of all liquor within the State in charge of its own officers to provide for an inspection of liquors shipped into a State by residents of other States for use by residents within the State, it is clear that such a law, to be valid, must not substantially hamper or burden the constitutional right on the one hand to make and on the other hand to receive such shipment."

Mr. CALDWELL. Yes, sir. Do you want to get my interpretation of that language?

Mr. CARLIN. Yes. What effect does this have when you apply that language to it?

Mr. CALDWELL. It has exactly the same effect that the Wilson Act had on the liquor which was intended to be sold in the original package.

Mr. CARLIN. I am speaking of the constitutional right of the individual.

Mr. CALDWELL. The right to resell in the original package was, before the passage of the Wilson Act, a constitutional right.

Mr. CARLIN. And the right of Congress, even if it intended to delegate that constitutional right to the State.

Mr. CALDWELL. You have a double question now. The last question is not pertinent to the main question. Before the Wilson Act was passed you must remember that in that same sense there was the constitutional right to resell in the original package.

I shall not be impatient with the members of the committee if they do not at first all agree with me in this proposition, because I confess that to a legal mind it seems to me that you are using improper language when you speak of a constitutional right and then say that Congress can take away that constitutional right. But the term is not well chosen in that sense. It was a constitutional right in that they said it was conferred by the commerce clause of the Constitution, but not absolutely fixed until Congress had spoken.

Mr. CARLIN. Justice Shiras takes the other view of that.

Mr. CALDWELL. The majority of the court did not agree with Justice Shiras.

Mr. CARLIN. I am showing you the two are not very far apart, so far as the language is concerned.

Mr. CALDWELL. I had not finished, Mr. Carlin. The Supreme Court held in the Rahrer case that that right to resell in the original package, which had been sustained in Leisy v. Hardin, as a part of the interstate commerce, could, by an act of Congress passed in the exercise of its power to regulate commerce, be taken away. I contend in the same way Congress might so regulate commerce as to take away this right for personal use. But, speaking for Oklahoma, I say to you that we are not asking that, because down there we are prohibitionists of this sort—we are prohibitionists because we are opposed to the traffic and the institution of the saloon. We do not berate the man just because he uses, in a decent way, intoxicating liquor, although, speaking for myself, I am a total abstainer. But we believe that if the use of intoxicating liquor had at all times been confined to the home—personal use in the home—there never would have been the question of prohibition.

So that primarily we prohibit the sale of those things in order to strike down that traffic—the open saloon and its attendant and kindred evils. If the time should ever come when, in order to protect the morals and the public welfare of the State of Oklahoma, it should, in the opinion of the legislative power of the State, become necessary to prohibit the personal use of intoxicating liquor, who ought to have the right to exercise that power, the Congress of the United States or the State of Oklahoma? We say that Congress has nothing to do with that question, and that it is none of Congress's business whether the people in the State of Oklahoma shall drink liquor, have it in their homes for their personal use, or whether they shall sell it.

Mr. DAVIS. I understood you to contend yesterday, Mr. Caldwell, in the informal colloquy we had about it, that the State did not have the power to forbid the use to its citizens, because the right to use was a necessary incident of the right to ship and purchase interstate.

Mr. CALDWELL. I added this to that: I said until Congress should further regulate as to interstate commerce, go further than Congress did go in the Wilson Act, and I think the record will bear me out in that.

I will read you a statement of the Supreme Court of Oklahoma in a case which I have cited here—the Schwedes case—on this personal-use

proposition, and then refer specifically to decisions of the Supreme Court of the United States, principally Vance v. Vandercook, as authority:

"Under subdivision 3, paragraph 8, Article I, of the Constitution of the United States, commonly referred to as the interstate-commerce clause of the Constitution, a resident of one State has the right to have shipped to him from another State alcoholic liquors when ordered by him for his and his family's use, and to keep the same for such use; and the State can not, under its police power, enact laws so as to substantially hamper or burden such constitutional right to have such shipment made and to receive and retain the same for personal use."

Vance v. Vandercook is quoted there as read by Mr. Carlin, and I want to call your attention at this time to a statement in Pabst Brewing Co. v. Crenshaw, to the same effect. This is not my interpretation of Vance v. Vandercook; it is not the interpretation of the Supreme Court of Oklahoma of Vance v. Vandercook, but it is the interpretation of the Supreme Court of the United States of Vance v. Vandercook, and it is given in the case of Pabst Brewing Co. v. Crenshaw. I read from the opinion this excerpt:

"In Vance v. W. A. Vandercook Co. (170 U. S., 438; 42 L. ed., 1100; 18 Supt. Ct. Rep., 674) the operation of a liquor law of South Carolina was considered. By the act in question the State of South Carolina took exclusive charge of the sale of liquor within the State, appointed its agents to sell the same, and empowered them to purchase the liquor, which was to be brought into the State for sale. The fact was that by the act in question the State of South Carolina, instead of forbidding the traffic in liquor, authorized it and engaged in the liquor business for its own account, using it as a source of revenue. The act, in addition, affixed prerequisite conditions to the shipment into South Carolina from other States of liquor to a consumer who had purchased it for his own use and not for sale. Considering the Wilson Act and the previous decisions applying it, it was decided that the South Carolina law, in so far as it took charge in behalf of the State of the sale of liquor within the State, and made such sale a source of revenue, was not an interference with interstate commerce. In so far, however, as the State law imposed burdens on the right to ship liquor from another State to a resident of South Carolina intended for his own use, and not for sale within the State, the law was held to be repugnant to the Constitution, because the Wilson Act, whilst it delegated"—

Mr. Maxwell, I am sure, will take exception to that; and I do, too. But as late as this—and that case is decided in 198 United States Reports—the Supreme Court used the term "delegated."

Mr. MOON. Delegate what?

Mr. CALDWELL. It says:

"Whilst it (the Wilson Act) delegated to the States plenary powers to regulate the sale of liquors in South Carolina."

The Wilson Act did not delegate the power. If it had delegated power it would have been unconstitutional.

Mr. MOON. "Relegate," he means, I guess.

Mr. CALDWELL. No; it is "delegate." I did not discover it just here.

Mr. CARLIN. If it had delegated the powers, it would have been unconstitutional.

Mr. CALDWELL. Yes. I only refer to it to show that the Supreme Court of the United States does not always speak technically correctly. In substance, I think their decisions, the construction of the Wilson Act in the Rahrer case, the Rhodes case, and all the others are good law.

Mr. MOON. Is that the original?

Mr. CALDWELL. No; it is not the original.

Mr. MOON. That is a republication?

Mr. CALDWELL. Yes.

Mr. MOON. I expect, if you examine the opinion, you will find the word "relegated."

Mr. CALDWELL. I did not go back and proof read it. But in working up that proposition, and in reviewing the hearings of four years ago, I ran across this statement, and I thought it was extraordinary that they used it that way.

Mr. MOON. Did you compare it?

Mr. CALDWELL. No; I have not yet. It could not "relegate" to the States plenary powers very well. I think it would have to delegate to the States plenary power, if it did anything.

Mr. FLOYD. The State already had it.

Mr. CALDWELL. Exactly so. Here is the proposition, as I see it, with reference to the Wilson Act. Until the resale in the original package, or the original package was opened, the liquor was still in the field of interstate commerce, and the States could not touch it. What Congress did by the Wilson Act was simply to provide that the liquor should fall into other field of operation upon the delivery to the consignee, and before resale in the original package. It was not, accurately speaking, a letting down of the bars and letting the State into the field of interstate commerce. It was taking the liquor up and throwing it over the fence into that field which was not interstate commerce, and, of course, then the police power of the State attached to it.

Mr. DAVIS. Complete that quotation there.

Mr. CALDWELL. The quotation is this:

"In so far, however, as the State law imposed burdens on the right to ship liquor from another State to a resident of South Carolina intended for his own use, and not for sale within the State, the law was held to be repugnant to the Constitution, because the Wilson Act, whilst it delegated to the State plenary power to regulate the sale of liquors in South Carolina shipped into the State from other States, did not recognize the right of a State to prevent an individual from ordering liquors from outside of the State of his residence for his own consumption, and not for sale."

The Wilson Act did not take that right away. Not that Congress could not have taken it away by proper act, but the Wilson Act did not take it away.

The CHAIRMAN. The Wilson Act I have here before me, and it reads:

"That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein, for use, consumption, sale, or storage therein, shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State or Territory."

The Supreme Court seems to have practically nullified that by holding that the liquors had not arrived until delivered to the consignee, as I understand it.

Mr. CALDWELL. I agree with Mr. Maxwell that the Supreme Court of the United States, in the case of Rhodes v. Iowa, decided as they did to sustain the constitutionality of the law. If you read the Rhodes case, I think you will find in it this language, that Congress did not intend to prohibit; not that they could not, but they did not intend to absolutely prohibit interstate commerce in intoxicating liquors, because they used this language, "That upon arrival within the State it shall become subject to the police powers of the State," and the court said if they had intended to prohibit intoxicating liquor absolutely from interstate commerce they would have said so.

Mr. MOON. The Supreme Court went further in its reasoning, and said Congress did not intend to do that because they had no constitutional power to do it.

Mr. CALDWELL. I do not agree with that.

Mr. CARLIN. Here is the case in which the idea that Congress had delegated its powers was sustained. I am reading from the Pabst Brewing Co. case. Justice White says:

"In so far, however, as the State law imposed burdens on the right to ship liquor from another State to a resident of South Carolina intended for his own use, and not for sale within the State, the law was held to be repugnant to the Constitution, because the Wilson Act, whilst it delegated to the State plenary power to regulate the sale of liquors in South Carolina shipped into the State from other States, did not recognize the right of a State to prevent an individual from ordering liquors from outside of the State of his residence for his own consumption, and not for sale."

Mr. CALDWELL. That is exactly as I have it here.

Mr. CARLIN. The delegation of power was held unconstitutional.

Mr. CALDWELL. I can not read it so. Read it again, Mr. CARLIN. It says, "repugnant to the Constitution"—I have compared mine with your reading, and mine is exactly like yours. It says "repugnant to the Constitution, because the Wilson Act, whilst it delegated to the State plenary power to regulate the sale of liquors in South Carolina shipped into the State from other States, did not recognize"—and, you might say, did not delegate—"the right of a State to prevent an individual from ordering liquors from outside of the State of his residence for his own consumption, and not for sale."

Mr. CARLIN. That is the very thing the court said Congress could not have done.

Mr. CALDWELL. I can not read it that way.

Mr. CARLIN. Is not that the very thing the court says Congress could not have done?

Mr. CALDWELL. No; it did not say that. They say that is what Congress did not do in the Wilson Act.

Mr. CARLIN. Yes; but it says if it had done it, it would have been unconstitutional. That is what it says in plain terms:

"In so far, however, as the State law imposed burdens on the right to ship liquor from another State to a resident of South Carolina intended for his own use, and not for sale within the State, the law was held to be repugnant to the Constitution."

Mr. CALDWELL. It tells why it was. They do not say it was because Congress could not pass any such law. They do not say that.

Mr. CARLIN. Congress could not pass it if it is repugnant to the Constitution. That is a self-evident fact.

Mr. CALDWELL. That is true. And I pointed that out a moment ago.

Mr. CARLIN. It is fundamental that if it is repugnant to the Constitution, Congress has no control over it.

Mr. CALDWELL. And that is why it is not accurate to say, as the Supreme Court has said, that the Wilson Act took away somebody's constitutional right. It did not. The Constitution gives Congress power to regulate commerce; but Congress does not speak, and its silence means that commerce shall be free, the courts say. All right. Brown v. Maryland said that foreign commerce meant this: The purchase of the article in the foreign jurisdiction, its shipment, its receipt, and the breaking of the original package, or resale in the original package. Until Congress spoke that was interstate commerce.

Mr. MOON. Not under the Constitution.

Mr. CALDWELL. Yes; under the Constitution.

Mr. MOON. No; it did not say that. It said under the construction of Congress they had absolute control over interstate commerce; and as long as there was no legislation on the subject it was a naked declaration by Congress that the channels of interstate commerce should be free, and that the original act of commerce involved all those things. It does not say they were constitutional.

Mr. CALDWELL. Because the commerce clause of the Constitution conferred absolutely upon Congress the power to regulate interstate and foreign commerce.

Mr. CARLIN. Do you think, then, Congress could prevent a shipment for personal use?

Mr. CALDWELL. I think they could; but I do not think Congress ought to do that or do anything about personal use, because I do not think it is any of their business to speak upon that. I think that the personal use, just as the right to sell, to maintain a saloon, or otherwise, is a matter that falls within the police power of the several States; and, as I said before, so far as the people of Oklahoma are concerned, they in their sovereign power should have the right to say whether or not liquor shall be used for personal use.

Mr. CARLIN. You say you think Congress could prevent these shipments for personal use?

Mr. CALDWELL. Yes; I think they could prohibit it absolutely.

Mr. CARLIN. But I am talking now about personal use, to prevent one citizen from sending into a State for the use of another citizen liquor of any sort or kind or quantity.

Mr. CALDWELL. That would depend on the regulation, the language of the act. If they would do this—if they would say that, where liquor is intended to be used in violation of the laws of the State into which it is to be introduced, interstate commerce in it is prohibited, then there will be no interstate commerce in that; and if you will pardon me at this time, I would like to read a quotation——

Mr. CARLIN. You do not agree, then, with Justice Shiras?

Mr. CALDWELL. The majority of the court did not.

Mr. CARLIN. The majority of the court did agree with him in reference to that. If you read the opinion here, you will see it says he dissented only in part. He states distinctly here that Congress has no power to prevent the shipment of liquors for personal use, and if it did so it would take away from the citizen a constitutional right.

Mr. CALDWELL. Yes; but that is contrary to the doctrine read us yesterday laid down in re Rahrer, because the Wilson Act did take away a right which, prior to the passing of the Wilson Act, the citizens of the States had under the commerce clause of the Constitution of the United States.

Mr. CARLIN. Not for personal use.

Mr. CALDWELL. What is the difference?

Mr. CARLIN. That is the ground; that they could not take that into consideration.

Mr. CALDWELL. I do not so consider it. I consider that decision differently; and Justice Shiras's opinion is the authority opinion and not the opinion of the court, and, in my mind, logically I can see no difference between Congress passing a law which takes away the right to resell in the original package—which, prior to this time, existed because of the commerce clause of the Constitution of the United States—and Congress passing a law which would take away the right to ship

for personal use, which right now exists under the commerce clause of the Constitution of the United States.

Mr. LITTLETON. Do you think if Congress undertook to do so they could prohibit the absolute sending of liquors through the channels of interstate commerce, regardless of any other question of policy?

Mr. CALDWELL. Yes, sir; I think so. I will answer that question before I take up the other proposition, because I do not want to overlook it. I think that for this reason, and I think Mr. Justice Harlan, speaking for the court in the majority opinion in the Lottery case, gives the reason why. I confess that when studying this proposition I was first confronted by the suggestion, Can Congress, in its power to regulate commerce, prohibit the shipment of wheat from Minnesota into Kansas or to New York? I was not clear what those limitations were. But I believe the Supreme Court of the United States has settled that in the Lottery case, and I will read that portion of the decision which, to my mind, settles it. Before doing so, however, let me make this additional suggestion. The States, as to their internal affairs, have full, complete, and absolute power to regulate intrastate commerce. They have the police power, and they can so legislate as to absolutely prohibit commerce in intoxicating liquors. I do not believe they could so legislate as to prohibit commerce—I mean intrastate commerce—in foodstuffs, medicines, and things which do not fall within that indefinable sphere of the police power. But intoxicating liquors do come within that field of opertion, and they can absolutely prohibit them. Under the decision of the Supreme Court of the United States in Champion v. Ames I think we might, by way of analogy, say that it blazed the way and is the guide to Congress in its regulation of commerce when it comes to the question as to what they can prohibit absolutely and what they can prohibit upon condition, and what those conditions shall be. I read then from the Supreme Court of the United States, in the Lottery case, say exactly this:

"If a State, when considering legislation for the suppression of lotteries within its own limits, may properly take into view the evils that inhere in the raising of money in that mode, why may not Congress, invested with the power to regulate commerce among the several States, provide that such commerce shall not be polluted by the carrying of lottery tickets from one State to another?"

The CHAIRMAN. Do you think it was possible for Congress upon this theory to have said, "We will regulate the carrying of lottery tickets; not the transmission into a State where there is a law against the lottery, but that no Other States it shall be perfectly legitimate"?

Mr. CALDWELL. Yes; I think perhaps they could; not in just that way. But I think Congress could have said, "Interstate commerce in lottery tickets is hereby prohibited as to all those transactions where the tickets are to be introduced into a State in violation of the laws of such State."

The CHAIRMAN. I differ absolutely from you there. They say it was a pollution of commerce. It was inherently upon the same basis as diseased cattle or as rags infected with yellow fever. It was inherently a polluted article. We might do that in regard to liquor.

Mr. CALDWELL. Take the cattle case. Cattle may be perfectly healthful. The quarantine line runs through my State, and you know that Congress, in its interstate-commerce quarantine regulations, cooperates with the States. There is no conflict in the quarantine laws. They are so made that there shall be harmony, but they are not uniform. Different States may have different quarantine laws and regulations, but they articulate together, and there is no friction. Suppose there is a car of Texas cattle south of the quarantine line in Oklahoma and they are perfectly healthful. If you were to litigate the question in a court, it could be proven beyond doubt that they are perfectly free from Texas fever or otherwise. The regulation is that before they cross that line they must be dipped, which puts one to trouble and expense. They can not be introduced into interstate commerce across that line until they are dipped. Suppose that presents undipped cattle, no matter how healthful they are, from entering interstate commerce.

Mr. MOON. It is a uniform regulation?

Mr. CALDWELL. Yes.

Mr. DAVIS. There is a distinction that that is a preservative regulation and not a prohibition.

Mr. CALDWELL. Exactly so; just as this is. In other words, we take into consideration that the dipping of cattle has some relation to the prevention of the spreading of disease. Suppose the regulation was that they could not be shipped in interstate commerce unless a string were tied around the neck of each one. That would be unconstitutional; that would be void, because it could not have any possible connection with the prevention of the spread of disease; and that is the limitation, as I take it, upon the police power, and that is the thing that Congress can very properly look to in the regulation of interstate commerce. I think I understood the gentleman from Pennsylvania to say this morning something about Congress doing a particular thing in the exercise of its police power.

Mr. MOON. I was about to say, so far as the interstate commerce is concerned, that power in the United States Congress is absolutely plenary; it is all gone out of the States, including the police power. Congress possesses the only power—I do not know that I should put it this way—but the police power is in Congress respecting interstate commerce. Judge Johnson said it was in Congress just as absolutely as though we were not a dual government, but we were one government; that the States had reserved nothing respecting interstate commerce.

Mr. CALDWELL. I think we would, perhaps, get to the same place; but, as a matter of constitutional law, I can not agree that the States delegated any of their police powers, or that, strictly speaking, Congress has any police powers.

Mr. CARLIN. Did not the Supreme Court say in the Lottery case that when the States delegated their powers over interstate commerce to Congress they necessarily delegated with it the police power over commerce that the States had previously possessed?

Mr. CALDWELL. I think not. I think, in effect, that may be so.

Mr. CARLIN. That is exactly the language of the court. Have you the opinion there?

Mr. CALDWELL. I have not the full opinion. But Congress can take that into consideration.

Mr. CARLIN. It will not do to say that that is so, in the face of the opinion.

Mr. CALDWELL. If they say that I have no objection to it, it supports my case.

Mr. FLOYD. Will you permit me to interrupt you right on that point?

Mr. CALDWELL. Certainly.

Mr. FLOYD. If the States did not delegate to Congress a portion of their police powers, then what is to prevent the State, in the exercise of its police power, from interfering with interstate commerce?

Mr. CALDWELL. Because the Supreme Court of the United States has said that where the power of Congress to regulate interstate commerce comes in conflict with a police power of the State, the power of Congress to regulate commerce is supreme. If the States delegated all that power there could not be any conflict.

Mr. CARLIN. I was trying to get into your mind what I have in mind in reference to the Lottery case—that the Supreme Court there based its decision upon the idea that a police regulation was necessary, and then it took up the question as to whether they had the power to hold that, as the States had delegated to Congress all their powers over interstate commerce, it necessarily carried with it the police power of the States over that particular subject of interstate commerce.

Mr. CALDWELL. It is a question of nomenclature, is it not? If they have the power, what more would you want?

Mr. MOON. I think it is a very vital question.

Mr. CARLIN. It may be helpful to you in your view of the case——

Mr. CALDWELL. I do not think we have to go so far as to say that Congress has police powers. I think the Federal Government's power is a delegated power. But the power over interstate commerce was all conferred. I say that the State can so regulate interstate commerce as to absolutely prohibit commerce in intoxicating liquors. Therefore, by way of analogy, I see no reason why Congress can not so regulate interstate commerce, where it has all the power, as to absolutely prohibit commerce in intoxicating liquor. But this bill does not go that far. This bill does not undertake to strike down a legitimate transaction; it only strikes down an illegitimate transaction.

Mr. LITTLETON. I take the position that if it will come to the point where every State in the Union will take action—I do not mean every State, but substantially all the States—until there are only one or two States where liquor can be sold. As it begins gradually to increase, the contraband character of this part of interstate commerce continues; and, finally, the question would be reached, sooner or later, as to what the final, ultimate power of Congress was over the prohibition of the entry of intoxicating liquor into the channels of trade.

Mr. CALDWELL. As fast as the States legislate, yes; and the States can go as fast as they please. That brings us, perhaps, to the illustration which was attributed to Mr. Dinwiddie by Mr. Maxwell, that this thing will expand and contract as the States legislate. But that reminds me of a little story that I read when I was studying German in college, I think "Der Fluch der Schoenheit"—the Curse of Beauty. Mr. Maxwell seems to think the beauty about this law is going to be a curse upon it and in some way destroy it. I trust it will not be so bad as that.

Mr. LITTLETON. I was going to follow the first question I asked you by a second one. I asked you if you thought Congress had the power to absolutely prohibit any interstate traffic in liquors, and you have answered plainly that you think so.

Mr. CALDWELL. Yes, sir.

Mr. LITTLETON. But you say this bill does not go that far; and that is true. You say the object of this bill is to prohibit interstate traffic in liquor where the use of the liquor intended is an unlawful use in the State to which it is sent.

Mr. CALDWELL. Yes, sir.

Mr. LITTLETON. Can you describe the accompanying attributes of that kind of commerce which would be sufficient to enable Congress to intelligently legislate, so that it would have a foundation upon which to legislate? Do you think the mere naked intent in the hidden domain of the motive of the consignor or consignee, or either, would be sufficient upon which to predicate a regulation or prohibition in any particular instance?

Mr. CALDWELL. I think that is pretty well settled law in this respect. Take this question of abating the nuisance. It is property, unless it is kept or possessed with intent to violate the law. But suppose a stranger has appropriated my case of whisky and he intends to sell it in violation of law. If it is seized in his hands, if he has wrongfully taken possession of my case of whisky, my property ought not to be confiscated to punish him, he being a wrongdoer in the first instance. So I think that it is settled law that, if I came into court at the hearing and showed that, I would be entitled to the return of my property. But suppose he is my servant, and I say to him, "Here, George, take my case of whisky up to the house," but, instead of obeying my order, George dodges down the alley here, or sends somebody else out, and goes peddling out my case of whisky, and the officer comes along and takes George and my case of whisky. I will not attempt to cite the authorities, but the law is settled—I make that statement without fear of successful contradiction—that in that case, having intrusted my liquor with my servant, and he having violated the law with it, his unlawful use of it and his unlawful intent would impress it with the character of a nuisance, and I would lose my case of whisky. So with the shipper. The liquor is shipped, say, under this law, and I see no reason to differentiate. That is, it has been suggested what must the vendor do? To be safe he must get his money in advance, and I see no objection to that. Furthermore, the carrier to be safe must get its pay in advance.

But I have here a quotation from Bowman v. Chicago & North Western Railway Co. (125 U. S., 465), a case cited by Mr. Maxwell this morning; and also quoting a "sagacious" statement by Mr. Justice Catron in the License cases, which I think settles exactly what the procedure would be.

The CHAIRMAN. Mr. Caldwell, just one minute. I call the attention of the committee to the fact that Mr. Caldwell has exceeded by 12 minutes the time occupied by Mr. Maxwell by 12 minutes. Perhaps we have interrupted him a little more than we did Mr. Maxwell.

Mr. MOON. I think we ought to permit the gentleman to conclude.

The CHAIRMAN. I agree with that; but what I want to say is that as soon as you conclude the point you are now on I would like to have you come back and discuss more fully than you have the proposition advanced by Mr. Maxwell that this is a delegation of power.

Mr. CALDWELL. I shall be glad to give the committee all the assistance I can, and I realize how you are pressed for time. I shall endeavor to be as brief as I can.

The CHAIRMAN. I will say to you in this connection that we are likely to be called back to the House at any time, judging from the experience of the last several days. About this time in the evening they may have a roll call or something that may take us back there.

Mr. CALDWELL. The committee, I think, will appreciate that there are many minds working against my ideas here, but, of course, I will try to be as brief as I can.

The CHAIRMAN. The committee has treated you exactly as it has others, Mr. Caldwell, and perhaps with a little more deference than it has most attorneys. It has had attorneys here on other bills who have hardly been allowed to make 10 minutes' talk uninterrupted. We have shot them to pieces with questions. [Laughter.]

Mr. CALDWELL. I did not mean that as a criticism. I appreciate questions from the committee, because while I do not wish to even assume that I know all there is to be known about this, I did come

from Oklahoma to Washington hoping that, at least, I could give the committee the view that the people in Oklahoma have of this question; and I can not do that unless you question me.

The CHAIRMAN. I may say that your address so far has been very instructive and illuminating and interesting to the committee.

Mr. CALDWELL. I shall understand, then, that if it becomes necessary for the committee to adjourn, the chairman will simply say so, and I will proceed until the suggestion is made by the chairman.

I think the point I was discussing was directed more particularly to the operation of this bill should it be incorporated into law. I quote now from Bowman v. Chicago & North Western Railway Co.:

"Doubtless the States have power to provide by law suitable measures to prevent the introduction into the State of articles of trade which, on account of their existing condition, would bring in and spread disease, pestilence, and death, such as rags or other substances infected with the germs of yellow fever or the virus of smallpox, or cattle or meat or other provisions that are diseased or decayed, or otherwise, from their condition and quality, unfit for human use or consumption. Such articles are not merchantable; they are not legitimate subjects of trade and commerce. They may be rightly outlawed as intrinsically and directly the immediate sources and causes of destruction to human health and life. The self-protecting power of each State therefore may be rightfully exerted against their introduction, and such exercises of power can not be considered regulations of commerce prohibited by the Constitution. Upon this point the observations of Mr. Justice Catron in the License cases (46 U. S.: 5 How., 504, 599; 12: 256, 299) are very much to the point. Speaking of the police power, as reserved to the States and its relation to the power granted to Congress over commerce, he said: 'The assumption is that the police power was not touched by the Constitution'—if that is so, it is still with the States—"'but left to the States, as the Constitution found it. This is admitted; and whenever a thing, from character or condition, is of a description to be regulated by that power in the State, then the regulation may be made by the State, and Congress can not interfere. But this must always depend on facts subject to legal ascertainment, so that the injured may have redress. And the fact must find its support in this: Whether the prohibited article belongs to and is subject to be regulated as a part of foreign commerce or of commerce among the States. If from its nature, it does not belong to commerce, or if its condition, from putrescence or other cause, is such when it is about to enter the State that it no longer belongs to commerce or, in other words, is not a commercial article, then the State power may exclude its introduction. And as an incident to this power, a State may use means to ascertain the fact.'"

Mr. WEBB. That is as regards national legislation?

Mr. CALDWELL. Yes; if Congress shall say, in the exercise of its power to regulate commerce, that liquor intended to be used in violation of the laws of the State into which it is being introduced is not interstate commerce, although it may be in the channels of interstate commerce; in other words, liquor so intended is not a legitimate article of commerce any more than drugs adulterated or misbranded since the food and drugs act, then I take it the State has power to do with them as they please, not because Congress has delegated any power to the State, but because Congress has said those things are not interstate commerce, and not being interstate commerce, naturally they fall in the field of the State police power and not in the field of interstate commerce.

Mr. LITTLETON. Just there, the State, in the cases you put here, has branded liquor as being unworthy of a place in its commerce, and it is the opinion of the State that attaches to the liquor that makes it objectionable to its commerce in your State, and that opinion is expressed by your State laws. In the case of the diseased or putrescent articles of which you spoke, no State branded them, no government proscribed them; the disease and infirmity inhered in the article, and therefore, because of that, they were subject to the general regulative power of Congress. In the case you put, could Congress, because the State in its opinion has branded an article thus and so, reject it out of the channels of interstate commerce without any opinion of its own denouncing it as unfit for interstate commerce?

Mr. CALDWELL. It certainly can—intoxicating liquor. I want to finish this application. Suppose this law is passed and the liquor arrives at the Santa Fe station in Oklahoma City—I use my original illustration—and a warrant is sworn out. Get away from this idea that I find throughout the hearings that the minute they come across the State line some officer, some goblin, is going to be there to board the train and summarily take them and destroy them. Due process of law prohibits all that. The State machinery can not move against that liquor except in accordance with due process of law. No search warrant can issue in Oklahoma except upon affidavit, supported by affirmation or oath, so that some one must go before a magistrate and swear out a warrant, swear to facts which show that the liquors are there and somebody intends to use them in violation of the law. Justice Catron said—which remark was quoted in the Rahrer case with approval—that if the fact exists which excludes things from interstate commerce, the State has power to use means to ascertain that fact. If the intention to use them in violation of the laws of the State excludes them from interstate commerce, the State may issue a warrant, may arrest the liquor and bring it into the State tribunal and try it, and if it is found it is intended to be used in violation of the law it is not interstate commerce. They can not then come in and say that "we intend to use that in violation of the law," because if they do that they confess their whole case under this law.

The only defense they could have is, "We did not intend, this liquor for use in violation of any of the laws of the State of Oklahoma"; and if they did not intend to use it in violation of the laws of the State of Oklahoma it would not be a nuisance. But they say, "We have this liquor; it was in the channels of interstate commerce." We say, "Yes; but Congress, in the exercise of its power to regulate interstate commerce, has said there shall be no interstate commerce in liquor intended to be used in violation of the laws of the State into which it is introduced."

I cite in these cases a case from Maine, which I think is good law and which is analogous. The food and drugs act prohibits from interstate commerce food or drugs that are misbranded within the meaning of that law. A quantity of liquor was shipped from Boston to some place in Maine and seized in the hands of the carrier. In other words, they were arrested and brought into court, and it was asked that they be delivered back to the carrier because they were interstate commerce; that is, they were in the channels of interstate commerce. They had not been delivered to the consignee under the contract of interstate shipment. But the State traversed that claim by saying, "These liquors are not interstate commerce, because they are adulterated and misbranded in violation of the food and drugs act, and therefore Congress has said they can not be interstate commerce." The issue being found that they were adulterated and misbranded, all of those liquors which were adulterated and misbranded were forfeited, even though the seizures were made in the hands of the carrier.

Mr. MOON. For an inherent infirmity in the article in question.

Mr. CALDWELL. But not so inherent that they could have done that if Congress had not passed the food and drugs act.

Mr. MOON. No.

Mr. CALDWELL. So far as the inherent power to do damage, to corrupt morals, and injure the public welfare are concerned, it is well established by the decisions of the Supreme Court of the United States that that applies to all interstate commerce. And therefore I say that Congress, so far as intoxicating liquor is concerned, can make regulations respecting liquor in interstate commerce.

More directly answering your question, Mr. LITTLETON, it has been suggested here—and I want to add just one or two things to it—that section 242 of the game law is directly in point. I must take issue with the learned gentleman, who stated here this morning that there is no such thing as property in wild game, even though reduced to possession, at common law. You gentlemen are all lawyers, and you can judge between us. I have not the authorities here, but I make this statement, that at common law if I go upon the chase and I am fortunate enough to kill a deer, and I bring that deer home and dress it and put the venison in my smokehouse, and some one comes at night and steals the venison out of my smokehouse, he has stolen my property, and at common law he can be prosecuted for larceny.

Another illustration: I go upon the chase; I kill a fox, and take his pelt and make it into a rug and put it upon my floor. It is my property because I have converted it to possession. I say the limitation is this, that if I capture wild animals and keep them as pets or for curiosities in their wild state, as deer in my park or animals in my zoological garden, if I might have one, at common law, although I have them in captivity, yet in life they are not property. That is the limitation. This law applies to the dead bodies of animals, to the venison and quail, after they are killed. I have in mind a case that went up from Oklahoma, from Blaine County, where the agent of a railroad company was indicted, tried, and convicted because he shipped through interstate commerce, billed out, certain egg cases, which contained quail, and he knew nothing about the contents of the cases.

Talk about drastic regulation; you gentlemen will remember—those of you who were here when the game bill was passed—those provisions were up—how, in every one of those provisions that related to intoxicating liquor, they were limited by "knowingly." No express agent, no railroad company, no carrier, can violate those provisions about shipping or misbranding liquor unless it is done "knowingly," and you read section 242 and find if that limitation is in there.

"It shall be unlawful for any person to deliver to any common carrier for transportation, or for any common carrier to transport from any State, Territory, etc., any dead bodies."

Not "knowingly transport." We are not asking that you go to the extremes to which you have gone with reference to the game laws. There are men being prosecuted frequently for violation of that statute, and put into Federal jails and penitentiaries. If this law is unconstitutional, I respectfully submit that the report recommending that these bills do not pass because they are unconstitutional carry with it a bill repealing these laws, because they are also unconstitutional, and men are being sent to jail every month for violating them.

I refer to section 245. In its language it is nearer to—I think quite in point with—the language of these bills.

"Whoever shall bring or cause to be brought into the United States or any place subject to the jurisdiction thereof"—

That is not the part I had in mind.

Mr. DENWIDDIE. The middle part of that contains the interstate reference.

Mr. CALDWELL. "Or shall knowingly deposit or cause to be deposited with any express company or other common carrier, for carriage from one State"—this applies to the shipper—"from one State, Territory, or District of the United States to another State, District, etc., any drug, medicine, article, or thing designed, adapted, or intended for immoral uses"—and then it winds up by saying—"or immoral use."

Whoever delivers to a carrier for transportation from one State to another State any thing or article, I do not care whether it is essentially or inherently vicious and bad, it may have many legal, lawful, and legitimate uses, but which is intended for an immoral use in the State into which it is sought to be introduced, it is a crime to send it through interstate commerce.

Mr. WEBB. The white-slave law, passed three or four years ago, punishes a man for intent.

Mr. CALDWELL. That is because the article is intended for an immoral use in the State into which it is sought to be introduced.

Mr. DAVIS. Are the laws of that State the criterion of the immorality?

Mr. CALDWELL. No; it might not be a violation of the law of the State.

Mr. DAVIS. Does not the act there denounce it as a Federal denunciation, and not leave the law of the State as the sole criterion of the legality or the illegality of it?

Mr. CALDWELL. That comes to the other proposition, which, perhaps, we would just as well take up now. For example, take section 289, with reference to crimes, acts committed in places within a State which are exclusively within the jurisdiction of the Federal Government—the Federal buildings, for example. Those sites are condemned and the buildings are built there and thus come under the Federal jurisdiction. The State can not tax them and the State can not operate on them. Let us see section 289:

"Whoever within the territorial limits of any State, organized Territory, or District, but within or upon any of the places now existing or hereafter reserved or acquired, described in section 272 of this act, shall do or omit the doing of any act or thing which is not made penal by any law of Congress, but which if committed or omitted within the jurisdiction of the State, Territory, or District in which such place is situated, by the laws thereof now in force would be penal, shall be deemed guilty."

Mr. CARLIN. That says "the laws thereof now in force."

Mr. CALDWELL. Yes.

Mr. CARLIN. That does not allow for any repeal or amendment; and is not that in effect the enactment of those laws into a Federal statute?

Mr. CALDWELL. There could be no logical distinction, I think. My suggestion is this, that a Federal building now being erected in Oklahoma City, the site having been condemned, is Federal property; it is under Federal jurisdiction. A man might go into that Federal building, when completed, and sell intoxicating liquor, and he would be guilty of a crime, because the laws of Oklahoma make it a crime to sell intoxicating liquor.

Mr. MOON. No; you are mistaken. He could not be punished because the law of Oklahoma made that a crime, except the act of Congress writes that into law. The Supreme Court has absolutely said that by

that section we write into our Federal penal laws all the laws of the several States.

Mr. CALDWELL. If that be done, then all you are doing by this act is to write into the Federal laws the penal laws of Oklahoma.

Mr. CARLIN. That act says laws in existence now; that makes a different enactment. It does not leave anything for the future action of the States.

Mr. CALDWELL. Do you think it would be objectionable if it did?

Mr. CARLIN. I am not saying what I think; I am trying to get your view.

Mr. CALDWELL. I will say I think it would make no difference if we did.

Mr. MOON. Did what?

Mr. CALDWELL. If we changed laws that had been passed.

Mr. MOON. It has been so said by the Supreme Court about four times. The Supreme Court has declared a similar section unconstitutional, one of them because they attempted to revise the laws of the State after the original law was adopted by Congress. The Supreme Court says that is impossible. We can not delegate to the States the right to the exercise of the criminal laws. Understand, that is territorial jurisdiction wholly; it has nothing to do with these conceded and surrendered powers of Congress. It is the territorial jurisdiction of the United States.

Mr. CALDWELL. I think the case might be distinguished there.

Mr. HOUSTON. That difficulty could be obviated by making it apply to the laws now in existence.

Mr. CALDWELL. I do not think it is necessary, because section 289 is a penal Federal law, a violation of which must be prosecuted and the punishment imposed in the Federal courts. The Webb bill is a regulation of commerce merely; it provides no penalty.

Mr. MOON. You are right. There is no analogy between the two cases at all.

Mr. CALDWELL. I am not ready to say there is no analogy. I think there is analogy in this, that on all these points in this dual form of government the Federal jurisdiction is meeting the State jurisdiction, and they are seeking to work out a system whereby they can punish all offenders, prohibit all wrongdoing, work to the general common welfare, and articulate together without conflict. In the liquor laws that has not been reached, and, so far as prohibition States are concerned, all they are asking is that Congress so regulate interstate commerce as to arrive at the situation where there will not be a conflict in jurisdiction, and if liquor, which is intended to be used in violation of the laws of the State into which it is to be introduced, is taken out of interstate commerce, conflict will no longer arise.

The question asked a moment ago and the suggestion made, as to what effect this law would have on liquor in transit through a prohibition State. I say absolutely none at all. It would have none at all, and the most that could ever happen would be that some one, either mistakenly or by willfully perjuring himself, should go before a magistrate and swear out a warrant, and that the magistrate, being thus imposed upon, should issue a warrant commanding the officer to search an express car, or a train, and that in that search he should take liquor which was in transit through the State. But what would be the result upon the hearing? The liquor was intended for and was a shipment from one State through this State to another State, so it could not possibly be intended for violation of the laws of the State of jurisdiction, and it would not come within the law. Furthermore, one State never enforces the penal laws of another State. Suppose it is going from Missouri through Kansas into Texas; and imagine that Texas is dry, as it will be. It makes no difference, so far as Oklahoma is concerned, what they are intending to do with it down in Texas. Oklahoma does not enforce the penal laws of Texas. In the case of Wisconsin v. Insurance Co. a foreign insurance company did business in the State of Wisconsin in violation of the laws of Wisconsin, thereby subjecting itself to a penalty. The State of Wisconsin brought suit and got a judgment for the penalty. Then the insurance company, having withdrawn from the State, the State of Wisconsin sought to enforce that judgment through the Federal courts, and the Supreme Court of the United States, applying the rule that one jurisdiction never enforces the penal laws of another jurisdiction, said they had no jurisdiction of the case, and that they would even look behind the judgment obtained by Wisconsin to determine that that judgment was for the recovery of a penalty. So that there is no possibility of any trouble about the shipment that is going entirely through the State.

But there ought to be no exception along that line, because this would happen. In Indian Territory, before statehood, it was a felony to introduce liquor into the Indian Territory—the Five Civilized Tribes—but that was done, and done repeatedly. Liquor would be billed from Gainesville, Tex., or from Fort Worth, Tex., through to a point in Kansas; or from Missouri to a point in Kansas, and the information would be given out. They would be all ready. The information would be given out, and before the train arrived the liquor dealer, the violater of the law, the criminal, would go into the Federal court and swear out a writ of replevin, and the officer would meet the train at the depot with a writ of replevin, and go into the car and replevy the liquor. Nobody had introduced it. The man who had shipped it intended it to go to Texas, and the railroad company received it for shipment to Texas. That is the way they did it frequently, and, of course, if they had a chance under this bill they would do it again. Now, what has happened in Oklahoma? The circuit court of appeals a short time ago held that the laws of Congress, Federal laws, are still in force as to all that part of Oklahoma which was Indian country before statehood, and that it is still a crime against the Federal Government to introduce liquor into that Indian Territory part of it. So some one showed me just the other day a press notice from an Oklahoma paper, since I left home, with a big headline, where they did exactly that thing at Muskogee. The express company, the railroad company, will not now receive shipments into those parts of Oklahoma which were Indian country before statehood. Here is the press notice:

"CARS OF LIQUOR ROUTED THROUGH OKLAHOMA ARE EMPTIED AT ICING DEPOTS.

"INTERSTATE COMMERCE LAW BECOMES FIRST AID OF SCHEMING MERCHANTS IN EVADING FEDERAL COURT RULE FORBIDDING SHIPMENTS.

"MUSKOGEE, OKLA., *February 24*.

"The decision of the United States Circuit Court of Appeals of St. Louis forbidding the introduction of intoxicating liquors for any purpose into what formerly was Indian Territory, now the east half of Oklahoma, and the home of the Five Civilized Tribes, has developed ingenious schemes to evade the law. An odd one was lately discovered by the agents of a railroad.

"A carload of liquor, billed from Fort Smith, Ark., to Kansas City, Mo., was routed in a roundabout way and delivered by one railroad to another at Arkansas City, Kans. The car was hauled to Kansas City firmly sealed, but when delivery to the consignee was attemped the car was empty; not even a cork was in sight.

"The railroad agent was puzzled and prepared for a demand for damages from the consignee. The agents delivered the freight bill with the explanation that as the car was empty it would be proper to file a claim for the loss. To the agent's surprise, the consignee gave him a check for the full amount of freight and told him that there would be no claim for shortage.

"The railroad company, in the meantime, had asigned one of its best detectives to the task of learning what had become of the carload of liquor. Before he reported, a second car of liquor—also empty—was received and the freight bill paid without protest. A third car came before the detective reported.

"When the detective returned he told an unusual story. He had learned that the waybill issued at Fort Smith had been marked 'Stop at Muskogee for ice.' The liquor was intact when the car reached Muskogee; it is thought to have been missing when it left that city.

"The cleverness of the trick lies in the fact that the consignment to Kansas City, according to law, is an interstate shipment and can not be molested by Oklahoma officers during transit through this State. Nor was there prohibition of the car being stopped for icing. As an interstate shipment, the liquor could not be refused by the railroad company, though it would be in violation of law to carry liquor to points in old Indian Territory.

"There is humor in the fact that when the shipments were made Kansas City with icing instruction blizzard weather prevailed in Oklahoma."

Mr. CARLIN. I want to direct your attention to this idea, which is in the minds of a good many members of the committee: I think we will probably agree that Congress has the right to regulate interstate commerce, and some would go so far, at least as to some articles, as to say that Congress has the right to prohibit interstate commerce. But the question is, Does this bill of itself do either? Does it regulate or prohibit? Does it not depend upon the action of the State to give this bill force and vitality, and not upon the act of Congress itself?

Mr. FLOYD. Not only that, not only upon the action of the State, but also upon the intention of the party who is to receive the liquor, in addition to the action of the State.

Mr. CALDWELL. It certainly depends upon the intention of the party, and I see no objection to that.

Mr. MCCOY. With Mr. Caldwell's consent, I would like to put this proposition to him: You say if this liquor is taken out of interstate commerce—in other words, if Congress says it is not an article of interstate commerce—the State can handle the proposition. Now, is not the very question which we are to decide, in the constitutional aspect of it, whether or not Congress can say that it is not a legitimate article of interstate commerce. Is not that the very question at issue?

Mr. CALDWELL. That is one question, and virtually the three questions go to the same point.

Mr. CARLIN. My question is this, whether, if we pass this act, there is anything in the act itself that would either regulate or prohibit the interstate shipment of liquor?

Mr. HOUSTON. Or, in other words, does it delegate to the State power to make a regulation?

Mr. CARLIN. Does the act derive its vitality from the State? We have not been able to get you to discuss that. We want to get your idea on that.

Mr. CALDWELL. Let me try it now. The State does not give it life and effect. It is clearly a regulation by Congress, because Congress speaks. And what do they speak? They say that the power to regulate commerce under the Constitution of the United States is full, complete, and absolute. Now, if it is, Congress has the power to keep the channels of interstate commerce clean. They have got the power to keep out of the channels of interstate commerce anything which, for the public welfare, for the common good, ought to be kept out.

Mr. CARLIN. We are admitting the power of Congress, for the sake of this question, to regulate and prohibit and do all these things which you say it has the power to do. But where in this bill does Congress attempt to make out a regulation or prohibition which is not dependent upon the action of some other legislative authority?

Mr. CALDWELL. Why can not Congress lay down a regulation which is dependent upon the action of the States? What is the objection to that?

Mr. HOUSTON. That is the point, right there. Is that a delegation of the power to the States?

Mr. CALDWELL. No.

Mr. HOUSTON. That is the point I want to get at.

Mr. CALDWELL. No; because Congress can say for that reason it shall not be interstate commerce. True, as the Supreme Court said in Mugler v. Kansas, that is always subject to review.

Mr. CARLIN. The Webb bill does not say that.

Mr. CALDWELL. Yes; it does.

Mr. CARLIN. "The shipment or transportation, in any manner," etc., is prohibited. The second clause of the Sheppard bill does go as far as you are intimating you would like to go now. The Sheppard bill has a second section.

Mr. CALDWELL. Yes; it has a second section.

Mr. CARLIN. The Webb bill has not.

Mr. CALDWELL. I think the title of the Webb bill is misleading and not logical, because it says, "To divest intoxicating liquors of their interstate-commerce character in certain cases." The title of the other bill states what is sought to be accomplished. The Sheppard bill says, "To prohibit interstate commerce in intoxicating liquors in certain cases"—not absolutely.

That which is sought to be accomplished is to prohibit interstate traffic in certain cases. What are the cases? What are the limitations that Congress is imposing? The limitation is this: It is liquor that is intended by the person introducing it to be used in violation of the laws of the State into which it is being introduced. What objection is there? That does not delegate anything to the State. It simply says that you shall not, through the channels of interstate commerce, carry into a State a thing which you intend, or any other person connected with you in the transaction intends, to use in violation of the laws of that State.

Mr. CARLIN. Then, suppose the States adopted regulations; is it not your idea that this bill would make those regulations applicable; such as one providing for seizure, for instance?

Mr. CALDWELL. Here would be the test: It would be interstate commerce or it would not be interstate commerce just as it was intended or was not intended to violate a State law with it.

Mr. CARLIN. But the test is whether it is State regulation or interstate regulation.

Mr. CALDWELL. The State has nothing to do with it. The State is not required to pass any law; only, if the State has a valid law, we

simply say that inasmuch as the power to regulate commerce is supreme to the police powers of the several States, therefore in the regulation of interstate commerce we will so regulate it as not to infringe upon or interfere with those police powers.

Mr. MOON. Suppose a large order comes to a liquor house in the city of Philadelphia; they are asked to ship several barrels of liquor. They must say, "Where is it going?" "It is going to Oklahoma." "Well, the laws of the State of Oklahoma will not permit a shipment to that State, at all."

Here is another order that is going to the State of Illinois. "What is the law of the State of Illinois?" "The law of the State of Illinois does not attempt to make it a criminal offense or a penal offense, or does not attempt to sacrifice that whisky if it is going to be sold, and therefore we can ship it into the State of Illinois. We can not ship it into the State of Oklahoma."

In other words, venders must look to the laws of the various States, and the laws of the various States absolutely regulate the power of shipment in interstate commerce. I do not see how you can get away from that. You said a moment ago that the laws of the States had nothing to do with it. I say they absolutely control it. I do not pretend to say what the consequence of that is; I am only inquiring about that fact.

Mr. CALDWELL. If there are no objectionable consequences, I do not see the objection.

Mr. MOON. To my mind the objectionable consequences are not only objectionable but absolutely fatal. It is absolutely unthinkable.

Mr. CALDWELL. Let us take the case of Graves v. Johnson, the opinion in which was written by Mr. Justice Holmes before he was appointed to the Supreme Court of the United States, in which a liquor vender in Massachusetts sold liquor to a party—and this is the finding of the court—"with a view to being used in violation of the laws of the State of Maine." That was the extent of the participation on the part of the vender. Suit was brought in a Massachusetts court for the purchase price of the liquor. The defense was the illegality of the contract, and Mr. Justice Holmes held that the liquor vender could not recover, and he quoted from Pollock on Contracts. I think there is a difference between the rule in this country and in England, and the rule goes further there than in this country, but it is well-settled law in England, and the court announced this rule, that where a contract is made with a view to violating the laws of another State, that contract is absolutely void.

This sale was made with a view that the liquor should be resold in violation of the laws of the State of Maine.

Mr. CARLIN. We are trying to get right down to the very inside of this question. You do not contend that there is any power in Congress to transfer to a State the duty which is imposed upon it by the Constitution, do you?

Mr. CALDWELL. Not at all.

Mr. CARLIN. We do know that the Constitution imposes upon Congress not only the privilege but the duty of regulating interstate commerce.

Mr. CALDWELL. Yes.

Mr. CARLIN. Therefore it is not the duty or the business of anybody else to have anything to do with that?

Mr. CALDWELL. Not at all.

Mr. CARLIN. Therefore if this legislation does have anything to do with that, and Congress undertakes by this bill to place the responsibility of that duty upon anybody else, it will be in violation of that constitutional provision?

Mr. CALDWELL. Yes.

Mr. CARLIN. That is what I think Mr. MOON was driving at; that if Congress is vesting in a State a part of that function which belongs to Congress, then it is doing it in violation of the Constitution.

Mr. CALDWELL. But that is the very question.

Mr. CARLIN. That is the very question.

Mr. CALDWELL. Congress is saying this, that liquor, intended to be used in violation of the laws of the State into which it is sought to be introduced through the channels of interstate commerce, is prohibited from interstate commerce.

Mr. CARLIN. Would this action of Congress be subject to the future laws of the State, laws enacted after the law of Congress? Suppose your State is a prohibition State, and the shipment of liquor there under the State act, taken in connection with this statute, would be impossible; then if you repealed your State act shipments under this statute would be possible?

Mr. CALDWELL. I suppose so; that is exactly true.

Mr. CARLIN. Would this act be susceptible to the future acts of the various States?

Mr. CALDWELL. It would be affected by them. But why is that not desirable?

Mr. CARLIN. That is not the question, whether it is desirable. Everybody may want it to be so; but the question is, How does that get to be constitutional?

Mr. CALDWELL. Because if Congress has the power to regulate commerce among the States, then Congress can speak with reference to interstate commerce transactions.

Mr. CARLIN. We all agree to that, if it is not prohibited.

Mr. CALDWELL. Here Congress is speaking, and Congress says this may go and that may go, and then say anything with reference to intoxicating liquors may go except those liquors which are intended to be used in violation of the laws of the State into which they are introduced.

These States are not foreign countries. They do not stand in that relation to the Federal Government. This is one Government of 48 States, and those 48 States, if you please, are not simply local municipalities that exist or not by reason of the power of Congress, but they exist as sovereign States. The truth of the matter is, that the Federal Government exists because of the grant of the sovereign power that is vested in those States. Now, this Congress deals with those States, and it says this—a treaty, if you please—"We will so regulate interstate commerce".

Mr. CARLIN. You do not mean to contend by that argument that there is any power left in the States to legislate with reference to interstate commerce?

Mr. CALDWELL. I do not think that the argument infers that. If it does, I am saying that which is foreign to my mind. I have been sort of going around and around here, but I hope that I have not gotten so far that my remarks are as illogical as that.

What I meant to say was this: That if Congress has the power, an absolute power, to regulate interstate commerce, then, to my mind, there are not any limitations upon that absolute power, and now—and this, of course, does go to the object to be sought—shall we or shall we not regulate interstate commerce so as to keep out of the channels of interstate commerce liquor which is expressly intended to be used in violation of the laws of the State into which it is introduced?

Mr. CARLIN. Exactly. Now, would you contend that although Congress has the absolute power which it has to regulate interstate commerce, that would include the power to delegate that to some other legislative authority?

Mr. CALDWELL. But your question assumes something that is not in the case, because where do you get that delegation?

Mr. CARLIN. That is the very fact we are discussing here—whether this act of itself means anything, whether it regulates or prohibits anything, whether it does not require——

Mr. HOUSTON. The argument was made before the committee this morning that this was a delegation of power to the States to enact a prohibitory law.

Mr. CALDWELL. That statement was made?

Mr. HOUSTON. That statement was made.

Mr. CALDWELL. But it was not pointed out to the committee how or wherein it was a delegation of power.

Mr. WEBB. It seems to me that if the bird law, which was indorsed by my friend Judge MOON, a good lawyer, is constitutional, this proposed law is constitutional, too. Suppose no State had any laws against killing birds; then this proposed law would be a mere nullity, because it would regulate nothing. The vitality of the law will depend on the fact whether the law has any force in regulation. North Carolina may have an open and a closed season for shooting birds, and her legislature may meet next year and change that entire season; and if it does the Federal law that is in effect makes it felony to violate that law made next year.

Mr. DAVIS. Has the bird law been confirmed?

Mr. WEBB. It has been to the circuit court of appeals twice and has not been attacked as unconstitutional.

Mr. CALDWELL. Of course, statements can be made, and you can say, "Why is not this a delegation of power?" or, "Why is it a delegation of power?" To say that it is of that it is not does not get anywhere. I have said what it is in its nature, I think.

If it is a delegation of power, I think we should discover that it is by inquiring into how it will operate, what it will do, and the effect of it. I think, as Mr. WEBB says, it operates exactly as the bird law does. If the game is killed in an open season and the State law does not prohibit its being shipped out of the State, then it can be shipped; but if the State of Oklahoma prohibits it it can not be shipped, although the State of Missouri might not prohibit it. I see no objection to its depending on the State law, and I see no delegation of power there. It seems to me that is so because Congress has said it is so; not because the State does anything, but because Congress has so regulated commerce that these things follow from that regulation, and at any time the bill is repealed then the reverse will be so because Congress has spoken.

Mr. CARLIN. This bill of itself would not stop shipments into Oklahoma.

Mr. CALDWELL. Certainly.

Mr. CARLIN. It would not do it, would it? This bill itself does not even attempt to regulate interstate shipments into Oklahoma, does it?

Mr. CALDWELL. Now, I think I catch your point, and you have used the term "interstate shipment," which is not a correct expression. It is interstate commerce.

Mr. CARLIN. I might have an interstate shipment of putrid meat, but it would not be interstate commerce. So that if this law is passed by Congress there might be an interstate shipment——

Mr. CARLIN. I refer to the interstate shipment of the subject matter which is also interstate commerce.

Mr. CALDWELL. No.

Mr. CARLIN. Liquor is now interstate commerce.

Mr. CALDWELL. It is now.

Mr. CARLIN. Yes. Then, if you ship it from one State to another it is a shipment of interstate commerce.

Mr. CALDWELL. Not if Congress says it shall not be interstate commerce if it is intended for use in violation of the laws of the State to which it is shipped.

Mr. CARLIN. No.

Mr. CALDWELL. Now, I think we are getting down to your question. Suppose Congress passes this law, and liquor is shipped from some State into the State of Oklahoma which is intended to be used in violation of the laws of Oklahoma. That is not interstate commerce. It is an interstate shipment; it is in the channels of interstate commerce, but it is an outlaw.

Mr. CARLIN. But you contend that Congress can speak with reference to laws not in existence or thought of.

Mr. CALDWELL. I can see no reason why Congress should not speak with reference to what the States, in the exercise of their police power, might do.

Mr. CARLIN. Congress would have to be speaking with prophetic vision of future enactments.

Mr. CALDWELL. Not at all with prophetic vision. They simply say, "This is not interstate commerce if it is intended to be used in violation of law." I think you will agree with me that it is impossible to subject to interstate-commerce law anything if the thing which you are subjecting is not interstate commerce. If Congress has said that it shall not be interstate commerce, then you are not delegating anything, because it is not interstate commerce. And let me suggest that I think that is exactly the logic of the case of Rhodes against Iowa. They said that Congress did not mean to prohibit intoxicating liquors from channels of interstate commerce absolutely because they did not say so, and they said that what they did do was simply to provide that upon arrival at the point of destination and delivery to the consignee the thing should cease to be interstate commerce. Then the police power of the State attached, not because Congress delegated to the States power to do something that they could not do, but because Congress said, "This thing is no longer interstate commerce in Oklahoma. Congress would be saying, but it would be interstate commerce in Illinois.

Mr. CALDWELL. Why? Because Congress has expressed itself.

Mr. LITTLETON. In other words, your position is that if Congress finds a certain condition in certain portions of the country and deals with that by withdrawing the article from the channels of interstate commerce, if that condition diminishes or increases the whole condition goes together. But Congress is dealing with certain specific conditions in certain States of the Union.

Mr. RUCKER. Is that true?

Mr. CALDWELL. It is.

Mr. RUCKER. Would not this bill be applicable to every State?

Mr. LITTLETON. It would be applicable, but there would be no condition upon which it could operate. As I understand him, he says that Congress finds a certain condition in different States, and, finding that condition, it deals with the condition by saying that a certain article shall be prohibited from entering that particular place as interstate commerce.

Mr. CALDWELL. No; it does not say that. It so legislates that all the States can bring themselves in or not. But as you are legislating to-day

you are only dealing with certain States, because all the States have not brought themselves in.

Mr. WEBB. Yes; all the States have laws against the sale of liquor.

Mr. HOUSTON. You are dealing with the violation of the law. The point is that you ship it to the place where it is to be used in violation of law.

Mr. LITTLETON. Now he brings himself down to the point whether regulation of interstate commerce has got to be uniform.

Mr. CALDWELL. I think Mr. CARLIN got pretty close to the proposition that way, and I think the Wilson Act is exactly analogous. The Wilson Act went into effect in August, 1890, and there were States prohibiting the sale of liquor in the original package. Suppose there was a State without any liquor law at all, or that liquor could be shipped into that State and sold in original packages, and there were other States, like Kansas, where it could not be sold. It could be shipped into the State of Kansas, but it could not be sold. Under the Wilson Act it ceased to be interstate commerce upon delivery, although it remained in the original package; and since it was no longer interstate commerce the State of Kansas could prohibit the sale of it in the original package.

I know the early decisions of the court are confusing, and you must remember that it was a suggestion made by the Supreme Court of the United States, in the case of Leisy against Hardin, that suggested the idea of passing the Wilson law. But the court was confused in the beginning. They have gotten the law down now where I think this is settled, that you can not delegate power to the States. Congress can not do that, but Congress can regulate commerce, and Congress can say, if this thing is intended to be used in violation of the laws of any State into which it is sought to be introduced, then it is not interstate commerce. It may become an interstate shipment, but it is not interstate commerce, and it has no right in interstate commerce; and that is so because Congress has spoken, and not because Congress has delegated any power anywhere. It is because Congress has said that is not interstate commerce.

Mr. DINWIDDIE. May I ask a brief question of Mr. Caldwell?

The CHAIRMAN. You may.

Mr. CARLIN. If the question does not provoke a long argument.

Mr. DINWIDDIE. It bears exactly on the point you have all been interrogating him.

Mr. CARLIN. All right.

Mr. DINWIDDIE. Is there not this further thing to be said along that line, that this enactment is a direct enactment by Congress full and complete in itself, and not depending at all upon the legislation of any State for its vitality. In that Congress does settle the rule of interstate commerce; and if it passes this bill and makes the rule—that is, that intoxicating liquor shipped in interstate commerce, the object of which is the violation of the laws of the State into which it is shipped, shall be prohibited, that is the rule of Congress; it depends upon no act of any State; and the fact that some States may not have legislation that pertains to any intoxicating liquor does not affect the vitality of the law?

The CHAIRMAN. I thought you were going to ask a question.

Mr. DINWIDDIE. I am asking it and explaining it as I ask it. [Laughter.]

Mr. CARLIN. Will you answer that question?

Mr. DINWIDDIE. Furthermore——

The CHAIRMAN. I think the committee had better adjourn.

Mr. DINWIDDIE. I will ask this, if you will allow me. Is not this to be compared with the local-option enactment of a State, which is a complete, full enactment by the legislature, but whose enforcement and application is dependent upon a state of facts determined by a subsequent vote of the people?

Mr. MOON. May I ask you a question?

Mr. CALDWELL. May I answer this question?

The CHAIRMAN. I think Mr. Caldwell is entitled to answer that question, if he can unwind it.

Mr. CARLIN. If you can unscramble that egg you can answer it. [Laughter.]

Mr. CALDWELL. I think the Webb bill and the Sheppard bill are both clear regulations of interstate commerce by Congress. I think that they delegate nothing to the States, and that with the reason and the policy of the law the courts have nothing to do; and they have said so many times. Congress speaks; and the act, if passed, will have just that force and effect which the language of the act means and conveys. Congress is acting. Then it will be a question, Is this interstate commerce; and if not, why not? Because Congress has said that a thing so situated as this thing is situated shall not constitute interstate commerce. Liquor so situated, then, I say, is not property, but a nuisance.

Mr. MOON. What, then, becomes of Mr. Dinwiddie's beautiful theory that it expands and contracts with the laws of the States?

Mr. CALDWELL. That, as Chief Justice White says of Chief Justice Marshall's opinion in Brown v. Maryland, is one of the "incidents" of the legislation.

Mr. CLAYTON. Mr. Speaker, because several Members have requested me to do so, I now have printed in the RECORD the report made by the gentleman from North Carolina [Mr. WEBB] on the pending bill:

[House Report No. 1461, Sixty-second Congress, third session.]

DIVESTING INTOXICATING LIQUORS OF THEIR INTERSTATE CHARACTER IN CERTAIN CASES.

Mr. WEBB, from the Committee on the Judiciary, submitted the following report, to accompany H. R. 17593:

The Committee on the Judiciary, to which was referred the bill (H. R. 17593) entitled "An act to divest intoxicating liquors of their interstate-commerce character in certain cases" have considered the same and report thereon with the recommendation that the bill be passed with the following amendments:

Page 1, lines 5 and 6, strike out the words "including beer, ale, or wine."

Page 1, line 7, strike out the word "noncontinuous" and insert the word "noncontiguous."

Page 2, lines 1 and 2, strike out the words "directly or indirectly, or in any manner connected with the transaction."

Page 2, line 2, at the end of said line, strike out the word "or" and the word "kept" in the beginning of line 3, and insert in lieu thereof the word "sold."

Page 2, lines 6, 7, 8, and 9, strike out the words "enacted in the exercise of the police powers of such States, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof."

Page 2, line 9, after the word "prohibited," strike out the semicolon and insert a period, and after the word "prohibited," in line 9, strike out the remainder of line 9 and all of lines 10, 11, 12, 13, 14, 15, and 16.

This bill is intended to withdraw the protecting hand of interstate commerce from intoxicating liquors transported into a State or Territory and intended to be used therein in violation of the laws of such State or Territory. Few words will suffice to justify the policy of such a bill. Before the Wilson Act of 1890, any person had the right, not only to have intoxicating liquors transported to him from without the State, but also to sell such liquors in the original package. The decision of the court in Leisy v. Hardin (135 U. S., 100) held that the consignee of such liquor had the right to sell it in the original package under the interstate-commerce clause of the Constitution. The Supreme Court held in the case of Rhodes v. Iowa that the Wilson law deprived the consignee of such liquor of the right to sell it in the original package, or otherwise, in violation of the law of the State.

Therefore, under the present law and decisions, no State can interfere with the interstate shipment of liquor until it has been actually delivered to the consignee, and because of this present state of the law no State official is permitted to touch any interstate shipment of liquor consigned to a "blind tiger," "bootlegger," or "speak-easy" until after it has been delivered to such violator of the State law.

To illustrate, some time ago there were three packages of liquor shipped into a town in a near-by State, consigned to individuals of doubtful character, one of whom had previously been convicted of selling liquor in violation of the law of the State.

One of the packages was a barrel containing 500 half-pint bottles of liquor, another was a barrel containing 250 pint bottles of liquor, and the third was a barrel containing 140 quarts of liquor. Owing to the character of the packages and the reputation of the consignees, the civil authorities were morally certain that these three packages of liquor were going to be used in violation of the State laws as soon as the consignees received them. This liquor was in the territory of a sovereign State and within the jurisdiction of its sovereign laws, and yet not one of her officers dared touch the liquor while it remained in the express office and undelivered. The sacred law of interstate commerce protected these shipments of "blind-tiger" liquor from molestation by State officers, not only while in transit, not only while they remained in the express office or depot, but also until they were actually delivered to those who intended to violate the State laws.

This bill, if enacted into law, would permit the State officers, under such circumstances, to seize such liquor under a proper warrant and try it upon the question of whether it was intended to be used in violation of the laws of the State, and if the jury should find that it was so intended the delivery to the consignee would be prevented and the liquor confiscated. Surely there can be no objection to such a law. This bill might well be styled a local-option act to give the various States the power to control the liquor traffic as to them may seem best. It would remove the shackles of interstate-commerce law from the action of the States and discontinue the handicap under which they now labor, in enforcing their police regulations, and leave them freer to break up the "blind tigers" and "bootleggers" that infest many "dry" States.

Congress has the power to enact this bill into law. The regulation of commerce with foreign nations, among the several States, and with Indian tribes is completely reposed in the Congress of the United States by article 1, section 8, clause 3 of the Constitution. The power to regulate includes the power to prohibit, as is shown by a long line of decisions of the Supreme Court and by a long line of Federal laws which have never been attacked. In Gibbons v. Ogden (9 Wheat., 189) Chief Justice Marshall, in discussing the power of Congress over commerce, says:

"It is the power to regulate—that is, to prescribe the rule by which commerce is governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution. If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to these objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of its power as found in the Constitution of the United States."

In the case of United States v. Marigold (9 How., 560) Justice Daniel makes it clear that the power to regulate commerce includes the power to prohibit. He says:

"Under the commerce clause every subject falling within the legitimate sphere of commercial regulation may be partially or wholly excluded. The power of exclusion may operate on any and every subject of commerce to which the legislative expression may apply."

The same plenary power which Congress has over foreign commerce, by reason of the commerce clause of the Constitution, is given Congress over commerce with the Indian tribes, as was held in the case of United States v. 43 Gallons of Whisky (93 U. S., 188), construing a statute prohibiting the shipment of whisky into the county of Polk, in the State of Minnesota.

The court in this case says:

"Congress, under its constitutional power to regulate commerce with the Indian tribes, may not only prohibit the unlicensed introduction and sale of spirituous liquors in the Indian country, but extend such prohibition to territory in proximity to that occupied by the Indians."

Congress now has the exclusive and absolute power to regulate commerce with the Indian tribes.

"It would be strange indeed," says Judge Davis in this opinion, "if the commercial power lodged solely with Congress, and unrestrained as it is by State lines, did not extend to the exclusion of spirituous liquors intended to corrupt the Indians, not only from the existing Indian country, but from that which has ceased to be so."

(See also the case of United States v. Brigantine Williams, decided in 1808.)

In the Rahrer case Chief Justice Fuller says:

"By the adoption of the Constitution the ability of the several States to act upon the matter solely in accordance with their own will was extinguished and the legislative will of the General Government substituted. No affirmative guaranty was hereby given to any State of the right to demand, as between it and the others, what it could not have obtained before; while the object was undoubtedly sought to be attained of preventing commercial regulations partial in their character or contrary to the common interests. And the magnificent growth and prosperity of the country attest the success which has attended the accomplishment of that object. But this furnishes no support to the

position that Congress could not, in the exercise of the discretion reposed in it, concluding that the common interests did not require entire freedom in the traffic in ardent spirits, enact the law in question."

In the Addison Pipe Co. case (175 U. S.), involving the antitrust law, the court says:

"The reasons which might have caused the framers of the Constitution to repose the power to regulate interstate commerce in Congress do not, however, offset or limit the extent of the power itself. In Gibbons v. Ogden the power was declared to be complete in itself and to acknowledge no limitations other than are prescribed by the Constitution."

In 1895 Congress enacted a law prohibiting the transmission in interstate commerce of all lottery tickets, and the Supreme Court upheld the validity of such law. The court says:

"We are of the opinion that lottery tickets are subjects of traffic and, therefore, are subjects of commerce, and the regulation of the carriage of such tickets, from State to State, at least by independent carriers, is a regulation of commerce among the several States.

"But it is said that the statute in question does not 'regulate' the carrying of lottery tickets from State to State, but by punishing those who cause them to be so carried Congress, in effect, prohibits such carrying.

"It is said in effect (by Congress) that it would not permit the declared policy of the States which sought to protect their people against the mischiefs of the lottery business to be overthrown or disregarded by the agency of interstate commerce. Congress alone has the power to occupy by legislation the whole field of interstate commerce. What was said by this court on a former occasion may well be here repeated.

"The framers of the Constitution never intended that the legislative power of the Nation should find itself incapable of disposing of the subject matter specifically committed to its charge. (In re Rahrer, 140 U. S., 545.)

"That regulation may sometimes appropriately assume the form of prohibition is also illustrated by the case of diseased cattle transported from one State to another. Such cattle may have, notwithstanding their condition, a value in money for some purposes, and yet it can not be doubted that Congress, under its power to regulate commerce, may either provide for their being inspected before transportation begins or, in its discretion, may prohibit their being transported from one State to another."

Chief Justice Marshall, in Gibbons v. Ogden, says that Congress has the same power to regulate interstate as foreign commerce. He says:

"If this be the admitted meaning of the word in its application to foreign nations, it must carry the same meaning throughout the sentence and remain a unit, unless there be some plain, intelligible cause which alters it."

In the case of Cruthers v. Kentucky (141 U. S., 58) the court uses this language:

"It has frequently been laid down by this court that the power of Congress over interstate commerce is as absolute as it is over foreign commerce. And the same thing is exactly true with regard to interstate commerce as it is with regard to foreign commerce. No difference is perceivable between the two."

In Brown v. Houston (114 U. S., 630), the court says:

"The power to regulate commerce among the several States is granted to Congress in terms as absolute as is the power to regulate the commerce with foreign nations."

In Butfield's case (192 U. S., 470) the court held that Congress, under the commerce power, could prohibit importation of articles from foreign countries. Of course this is well-settled law.

In Stockton v. Baltimore (32 Fed Rep., 9) Judge Bradley, who later became a justice of the Supreme Court of the United States, said:

"We think the power of Congress is supreme over the whole subject, unhampered and unembarrassed by State lines or State laws. That in this matter the country is one and the work to be accomplished is national, and that State interests, State jealousies, and State prejudices do not require to be consulted. In matters of foreign and interstate commerce there are no States."

Congress has power to prohibit the transportation of all intoxicating liquors in interstate commerce. The cases cited above abundantly establish this contention.

Hon. John W. Yerkes, representing several large distilleries, spoke before the Judiciary Committee of the Senate on January 25, 1908, in opposition to the then pending bill, and in the course of his argument said that in his opinion Congress had this power. At the same hearing and on the same day Senator Knox, a member of the committee, made this statement:

"Mr. Crane, who appeared here for the brewing company, said he thought Congress had that power. He thought it could absolutely prohibit the transportation of any such intoxicating liquors."

If Congress can arbitrarily prohibit the interstate transportation of all intoxicating liquors, then most certainly can Congress prohibit the shipment of any less portion of liquor or of any kind or class of liquor for whatever reason it chooses to assign or without giving any reason whatever. The larger power necessarily includes the smaller. This bill does not undertake, however, to prohibit the shipment of all liquor in interstate commerce, but only that which is intended to be used in violating a law of a sovereign State.

Congress has the power to refer to the orderly tribunals of the States the right and power to ascertain whether or not the liquor is intended to be used in violation of the State law, and if such tribunal, which might be considered the agent of Congress, finds that the liquor is intended to be used in violating the laws of the State, then on instant such liquor, although in commerce, is taken out of the legitimate sphere of interstate commerce and ceases to be a legitimate article of interstate commerce, and in law never was a lawful article of commerce.

Referring to an agent the power or duty of ascertaining some fact before a law shall take effect is neither novel nor unusual in the legislative history of our country. In many States the local-option laws do not take effect until the people in certain specified districts vote "wet" or "dry," as the case may be.

Only last summer Congress passed a law providing that when the President should find that a state of war existed in any American country and issued his proclamation to this effect then it should be unlawful to ship arms from the United States to such country. This law was intended to apply to the Mexican situation. The law was drawn by Senator ROOT, and its constitutionality so far has not been attacked. Why can not Congress refer to the orderly tribunals of the sovereign States the power to determine whether a shipment of liquor is intended to be used in violation of the laws of such States and after the fact is determined immediately the law become effective as to such shipment? The statute books carry many laws placing it in the power of the President and the various heads of the departments to ascertain certain facts before such laws may take effect.

The intent with which a thing is done is oftimes the principal element in the crime.

Section 240, Criminal Code of the United States, makes anyone guilty of a crime who builds or fits out a vessel or sends it away for the purpose of procuring any person from any foreign country to be transported to any place to be sold, etc.

Section 253 of the Criminal Code of the United States provides that whoever builds or fits out a ship, intending that the same shall be employed in slave trade, shall forfeit the vessel and pay a fine of $2,000. Under this section the vessel shall be forfeited, if the builder intends to use it in the slave trade, whether such vessel ever engaged in slave trade or not.

Section 271 makes it a crime to bring a person into the United States with the intent to hold such person in confinement. There are many other sections of the Criminal Code in which intent is the chief element of crime.

If this bill should become a law, the State courts would therefore ascertain the fact of intent as they ascertain any other fact involving the question of intent.

No attempt in this bill is made to reach abstract intent, but only that intent which is "connected with the overt act of making or receiving any interstate shipment of liquor accompanied by the intent. Certainly there is nothing new about penal statutes which prohibit some specific act provided it be coupled with some specified intent. By way of illustration, forgery and obtaining by false pretenses are not, in themselves, made punishable. Whether they be so depends upon whether the act is done with intent to defraud."

Harmonizing congressional enactments with State laws is not unusual. The act of May 25, 1900, as contained in section 242 of the Criminal Code, makes it a crime to transport dead birds or wild animals in interstate commerce when such birds have been killed or shipped in violation of the laws of the State or district in which the same were killed or from which the same were shipped.

Congress passed a law while Jefferson was President forbidding the importation of free negroes from one State into any other State where they were not permitted by the laws of such State to reside.

Section 229 of the United States Criminal Code adopts the laws of the States for furnishing certain wrongful acts committed upon any lands reserved for the exclusive use of the United States or purchased by consent of the legislature, etc.

The act of August 19, 1911, providing for publicity of campaign contributions conforms to the laws of the various States in these words:

"No candidate for Representative in Congress or for Senator of the United States shall give, contribute, expend, use, promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination and election, any sum in the aggregate in excess of the amount which he may lawfully give, contribute, expend, or promise under the laws of the State in which he resides."

It will be seen that it is not necessary for a congressional act to be uniform throughout the United States, unless it is a law levying duties, imposts, and excises.

The pure-food law allows the export of any article when no substance is used in its preparation in conflict with the laws of a foreign country to which said article is intended to be shipped. The same law provides that condemned goods shall not be sold contrary to the laws of the State in which the sale is made. Congress has adopted the States as agents for supplying the procedure in the various Federal courts.

Congress has conformed its bankruptcy laws to the various State laws in the matter of exemptions, dower, priority of payments, etc. Delegating this power, or making the laws correspond to the State laws, does not invalidate the bankruptcy act, although Congress has the power of establishing "uniform laws" on the subject of bankruptcy, but uniformity is not required under the commerce clause.

Congress has enacted a law making the competency of a witness to testify in the United States courts depend upon the laws of the State in which the court is held.

Congress has left, by legal enactment, the qualifications and exemptions of jurors to State laws, and Colorado has recently qualified women as jurors.

Mr. CLAYTON. My request is that all gentlemen who speak on this bill may have five legislative days in which to extend their remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. CLAYTON] asks unanimous consent that all gentlemen who speak on this bill may have five legislative days in which to extend their remarks in the RECORD. Is there objection?

Mr. LANGLEY. Reserving the right to object, Mr. Speaker, I desire to ask the gentleman——

Mr. CLAYTON. Oh, Mr. Speaker, I hope that this will not come out of my time. I will have to withdraw my request if it is going to be objected to.

Mr. LANGLEY. I wanted to ask the Chairman whether under that form of request anyone who was recognized by the Chair for the purpose of asking the privilege of extending his remarks would be excluded?

Mr. CLAYTON. It would not exclude him.

Mr. MURDOCK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is made.

Mr. CLAYTON. Now, Mr. Speaker, I yield 30 minutes to the gentleman from North Carolina [Mr. WEBB].

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. WEBB] is recognized for 30 minutes.

Mr. WEBB. Mr. Speaker, before proceeding further, I want to ask those who favor this class of legislation to join us in opposing the amendments which have been offered to this bill. It may seem strange to some Members when I ask you to oppose the penalty-clause amendment, for instance, offered by the gentleman from West Virginia [Mr. DAVIS]. The advocates of this bill have always taken the position that prohibition laws are local laws enacted by the States, and therefore the States

ought to execute their own police regulations, and that they ought not to call on the Congress of the United States to execute such laws for them. Therefore, if you adopt this penal provision, you ask the Congress of the United States to execute the local State laws by criminal proceedings. I believe in the right of the States to control absolutely the entire liquor question. The Supreme Court has decided over and over again that it is solely within the police power of a State to forbid, license, and control the manufacture, sale, or other disposition of spirituous and intoxicating liquors within its borders. Therefore we feel that we should not ask Congress to do something that the States ought to do, to wit, enforce their prohibition laws. What we do ask is that Congress, through its power over interstate commerce, shall remove the restrictions which now bind the action of the States in their efforts to honestly enforce their lawful prohibition enactments. That, gentlemen, is in brief why we feel that we should oppose this criminal or penal clause which has been offered here as an amendment.

Most certainly we oppose the personal-use clause offered by the gentleman from Alabama [Mr. BLACKMON] and by Mr. DAVIS of West Virginia. I hope no Democrat and no Republican Member will affront his State by voting for such a proposition. If the States have the right, in the first place, to prohibit the personal use or receipt of liquor, this Congress has no power to take that right away from the States. On the other hand, if the State has no power under its own constitution or the Constitution of the United States to deprive a man of the right of the personal use of liquor, then this law is harmless as to such right, because the State can never take that right from him.

I can conceive of a great injustice that you may do your own State, wet States as well as dry, if you undertake to force upon the States this personal-use amendment. If you adopt it, then the State will be powerless to prohibit what every State now prohibits, viz, the reception of liquor by a minor under the age of 16 years. The State would be powerless to prevent the delivery of liquor to a man who has been convicted of a violation of her laws in selling liquor. A State would be powerless to prevent the delivery of liquor to a habitual drunkard or an inebriate, and every State in this Union where the liquor traffic is licensed even has laws prohibiting a barkeeper from selling to that class of people. But now you propose to enact into a law of the United States a provision which will compel the States to allow that very class of people to receive the liquor, although their own citizens are not permitted to sell it to such persons, and the States will be compelled to allow it to go into the hands of these prohibited classes. A saloon keeper in Boston is forbidden by State law to sell liquor to a minor or to a habitual drunkard, but if you adopt this amendment, then a saloon keeper in another State will have the right to sell to this class of persons and have the liquor delivered to them in Boston, which is giving the outside saloon keeper a right which is denied the local dealer.

Senator Knox, who has given this class of legislation a great deal of study, filed a very learned report on the bills then pending before the Senate in 1909, and on the question of whether or not Congress should insert in such legislation the personal-use clause says:

"Congressional expression in favor of personal use would be an expression upon a subject with which Congress has nothing to do, and upon it all sorts of confusing questions would arise."

I realize that many would like to have this Congress pass a law prohibiting the shipment of all liquor into dry territory. No State has gone that far, and I do not want Congress to go further than the States have gone. I do not want Congress to make Kentucky dry, and I do not want Congress to make North Carolina wet, but I do want what this bill provides—that the State of Kentucky be allowed to control the whole matter as she deems best and allow my State to do the same thing. This bill will do that.

Strictly speaking, this law is not a prohibition law. It is a local-option measure to give to the States what they have always been entitled to under our interpretation of the Constitution—the right to control this troublesome question for themselves.

I take it that no States at present will absolutely prohibit the individual legitimate personal use of whisky. If they do and it is constitutional for them to do so, why should Congress attempt to take this constitutional right away from them by this amendment? Leave it to the State, and to the State alone, as the Supreme Court has often said, to settle these questions in their own way and work out their own salvation. Therefore, I shall ask the friends of this class of legislation to vote down these amendments, because they will load down the bill and make its passage that much more difficult and uncertain, which is the desire of the opponents of the pending measure.

Now, gentlemen, just a moment on the policy of this measure. Some gentlemen have said, and the gentleman from Missouri [Mr. BARTHOLDT] intimated, that the States now, under the present situation and condition of the law, have all the power they need to execute their prohibition laws. I take issue with my friend. I declare to him that the statement is not correct, and if I can not show him that it is not correct I shall not ask him to vote for the bill.

In the decision of Leisy v. Hardin (125 U. S.), it was declared that a man had not only the right to import liquor, but also to sell it in the original package, in spite of any State law forbidding such sale. People everywhere grew restive under that sort of decision. I can not understand the reasoning of the court in that case. There were dissenting opinions, but it was declared the law that a man had the right to import liquor and to sell it in the original package in violation of the laws of the State.

Mr. SAUNDERS. That is, in the original package.

Mr. WEBB. In the original package, I so stated. That shocks the average man, whether he is a State rights Democrat or a State rights Republican, or the contrary. No man outside of my State ought to have a superior right to the citizen within my State. There is no guarantee in the Constitution that gives the outsider a personal right to sell liquor in my State or ship it into my State if my State prohibits such sale in the State. The Supreme Court has said that often. If a man has not a right in my State to sell liquor, then certainly a citizen living in the District of Columbia ought not to have a superior right to enable him to sell it inside my State.

After that opinion was rendered public sentiment grew in favor of enacting a law which would remedy it. Senator Wilson, of Iowa, was the father of the Wilson law which was passed in 1890 and aimed to meet this decision. It provided—I am not quoting the law but only the substance of it—that whenever intoxicating liquors should arrive within a State they should immediately become subject to the police laws of that State. Now, the object of the men who passed the bill in 1890 was to put all intoxicating liquors, immediately upon arrival of the liquors within the borders of a sovereign State, under the control of the police laws of that State. No man who reads the bill and the debates that occurred at that time will deny it.

When that law came before the Supreme Court in 1897, in the case of Rhodes against Iowa, the court said the law is constitutional, but Congress did not mean to say that you could seize the liquor before it reached the consignee; it meant by the words "arrival in the State" delivery to the consignee, and therefore you can not touch the liquor until it is delivered to the consignee, although it does take away the right of the consignee to sell it in the original package in violation of State laws.

Ever since that decision any individual has had a right to have liquor shipped to him and delivered to him, and not until it is actually delivered to him does it become subject to the laws of the State. So the right to the delivery of the liquor to the consignee is still sacred under the commerce clause of the Constitution under the decision of the Supreme Court of the United States in Rhodes against Iowa.

Now, what the people of the United States, or a large portion, representing 2,000,000 square miles of territory, want is to give the States, if they can, the power to seize the liquors, which are intended to be used in violation of their laws, before the liquors get into the hands of the consignee—into the hands of blind tigers, bootleggers, speak-easies, and other law violators.

Mr. SHERLEY. Will the gentleman permit a question?

Mr. WEBB. If it is brief; my time is short.

Mr. SHERLEY. I am not trying to embarrass the gentleman.

Mr. WEBB. Oh, certainly not; I realize that. The gentleman may ask a question, but let it be brief.

Mr. SHERLEY. Under this law, assuming its constitutionality, would it not be possible for them to seize every shipment that came into a State, and then would not the consignee have to prove that he did not intend to violate the law?

Mr. WEBB. Absolutely not. If my friend has thus understood this bill, I am surprised, for the burden of proving unlawful intent is upon the man who alleges it.

Mr. SHERLEY. Will the gentleman permit another question?

Mr. WEBB. Yes; a brief question.

Mr. SHERLEY. Would it not be within their power to seize it and then undertake to prove the intent?

Mr. WEBB. Yes; but in further answer to that I can say it is within the power of any man in this city to cause the arrest of the gentleman from Kentucky as he goes from this Hall to his home to-night upon a charge of murder or other crime. Any law can be abused. The liquor law can be abused as well as any other law, but we have no right to assume that it will be

abused. The gentleman may be arrested at any time for some offense that he never thought of. The man who arrests a consignment of liquor under this bill must prove that it is intended to be used in violation of the law of the State, and he has to prove it in an orderly tribunal, and after it is proven, then, eo instanti, the liquor is taken out of interstate commerce and becomes subject to the laws of the State, because in law it never was legitimate interstate commerce.

Mr. SHERLEY. It practically means that when the authorities desire it, you have to have a lawsuit to get an interstate shipment. I just want the House to understand the scope of the bill.

Mr. WEBB. Yes; that is a fact, but that is true of every other thing that is litigated in life. If I want a lawsuit, I can get it out of the gentleman in 25 minutes. I can sue the gentleman on a note that he never made. I can have him arrested upon a charge of which he is not guilty, but men do not enjoy this kind of litigation, for costs and damage follow.

Mr. HUGHES of West Virginia. And every other law on the statute book is subject to the same objection.

Mr. WEBB. Certainly.

Mr. McCOY. Mr. Speaker, will the gentleman yield?

Mr. WEBB. Certainly.

Mr. McCOY. Is it not a fact that in some States the mere possession of a certain quantity of liquor raises a presumption that the person who has it in his possession intends to violate the law?

Mr. WEBB. Yes; that is with reference to the State law.

Mr. McCOY. Then, in those cases, for the quantity mentioned, coming into the State in interstate commerce, could it not be seized, and would the burden not be on the consignee to prove or at least proceed with the evidence to show that he was not intending to violate the law?

Mr. WEBB. No. The man who alleges violation of the statute has to prove it.

Mr. McCOY. But prima facie the possession proves it, does it not?

Mr. WEBB. No; certainly not. You could not well prove an intent to have an intent.

Mr. McCOY. Under some of the laws?

Mr. WEBB. To give you a practical illustration of the working of this bill I set it out in the report of the committee. A few months ago in an adjoining State there were three or four barrels of liquor delivered to an express office in a certain town. One of the barrels contained 500 half-pint bottles of liquor, another contained 400 half-pint bottles, and another contained 140 quart bottles of liquor. Two of those consignments went to men of doubtful character, and one to a colored man, who had been convicted in that jurisdiction of "blind tigering," if I may use the term. That liquor sat in the express office, within the jurisdiction of the State, on her soil, for weeks, and it may be for months, and although every civil officer of that town was morally satisfied that that liquor was intended to be used to violate the laws of the State, they were powerless to touch the liquor until after it was actually delivered into the hands of the man who intended to violate the law with it.

I say, Mr. Speaker, that there is a hiatus between the arrival of such liquor in the express office and the delivery to the consignee over which the State ought to have control. It would be a horrible thought that a man could start a shipment of nitroglycerine to the capital of a State, with the avowed intention of blowing up the capital as soon as he got possession of the explosive, and that there was no power in the State to arrest or seize that nitroglycerine after it landed within the State and before it was delivered to the dynamiter.

Now, who can oppose this sort of a proposition? What is the objection to it? Is there anybody here who wants to stand up and say he favors violating the laws of any State of the Union? I am not in favor of violating the laws of Kentucky, New Hampshire, or any other State, and I hope there is no man among you who wants to aid or abet the violation of the laws of my State.

Mr. SHERLEY. Will the gentleman permit me another question?

Mr. WEBB. I have only 10 minutes—if the gentleman will make it brief.

Mr. SHERLEY. Am I to understand the gentleman will favor a law prohibiting the shipment of any article of commerce that was in violation——

Mr. WEBB. Oh, no; I know that a certain class of men in the United States have been trying hard ever since this Government has gradually been outlawing liquor, to make liquor as respectable as other articles of commerce, but it can not be done. This Congress has driven it out of the Capitol of the Nation; this Congress has driven it out of the mails of the United States; this Congress has made a man incapable of holding a civil-service job who is addicted to drinking the stuff; this Congress has gradually outlawed it, and there is no living man but knows that intoxicating liquors in this country ought not to have the same standing as other articles of interstate commerce. They stand in a condemned class by themselves. The Supreme Court of the United States in many great decisions have declared it a source of crime and sorrow throughout the United States, and I know that this Congress of the United States ought not to put liquor in the same class with other respectable articles of commerce. I for one will not do that.

Mr. Speaker, the courts of the United States, both State and Federal, have taken judicial notice of the evils of liquor. Mr. Justice Field, of the United States Supreme Court, in the case of Crowley v. Christensen (137 U. S., 90-91), says:

"It is urged that as the liquors are used as a beverage, and the injury following them, if taken in excess, is voluntarily inflicted and is confined to the party offending, their sale should be without restrictions, the contention being that what a man shall drink, equally with what he shall eat, is not properly matter for legislation.

"There is in this position an assumption of a fact which does not exist, that when the liquors are taken in excess the injuries are confined to the party offending. The injury, it is true, first falls upon him in his health, which the habit undermines; in his morals, which it weakens; and in the self-abasement which it creates. But, as it leads to neglect of business and waste of property and general demoralization, it affects those who are immediately connected with and dependent upon him. By the general concurrence of opinion of every civilized and Christian community, there are few sources of crime and misery to society equal to the dramshop, where intoxicating liquors in small quantities, to be drunk at the time, are sold indiscriminately to all parties applying. The statistics of every State show a greater amount of crime and misery attributable to the use of ardent spirits obtained at these retail liquor saloons than to any other source. There is no inherent right in a citizen to thus sell intoxicating liquors by retail; it is not a privilege of a citizen of the State or of a citizen of the United States. As it is a business attended with danger to the community, it may, as already said, be entirely prohibited, or be permitted under such conditions as will limit to the utmost its evils."

And again, Mr. Speaker, in the great case of Mugler v. Kansas (123 U. S.), Judge Harlan, delivering the opinion of the court, among other things, says:

"We can not shut out of view the fact, within the knowledge of all, that the public health, the public morals, and the public safety may be endangered by the general use of intoxicating drinks, nor the fact, established by statistics accessible to everyone, that the idleness, disorder, pauperism, and crime existing in the country are in some degree at least traceable to this evil."

Mr. SHERLEY. I thought the gentleman was arguing on the point of violating the State law; and, if that was true, no matter what the article was, you did not want to violate the State law.

Mr. WEBB. I am perfectly willing to put liquor and cigarettes in the same class.

Mr. SHERLEY. Is not the gentleman willing to prevent the violation of any State law, or does the gentleman's State virtue only go to certain laws?

Mr. WEBB. My State law does not prohibit the interstate shipment of many things——

Mr. SHERLEY. It does not touch this.

Mr. WEBB. I want public sentiment to gradually develop before Congress takes hold of all these questions. Take the question of lotteries. The time may come when——

Mr. SHERLEY. The gentleman does not want his virtue to run ahead of public opinion?

Mr. WEBB. I do not, if you want to put it that way; public opinion often makes virtue, and it is often a virtue to abide by such opinion. You can execute no law successfully except public opinion be back of it.

Mr. MANN. Will the gentleman yield? I do not desire to interrupt the gentleman.

Mr. WEBB. Yes, briefly.

Mr. MANN. Ought not we also to prohibit the transportation in interstate commerce of diseased or tuberculous milk, which kills more infants than liquor kills adults?

Mr. WEBB. Yes; I will support such a law.

Mr. MANN. Then the gentleman will vote for my amendment, which will improve this law?

Mr. WEBB. It is not germane to this bill, and will not help the passage of it. If the gentleman will bring it out of the

Committee on Interstate and Foreign Commerce, I will vote for it.

Mr. MANN. This amendment that I have offered is to strike out the word "intoxicating," so as to make the bill apply to milk and save the infants.

Mr. WEBB. Mr. Speaker, one word as to the constitutionality of the bill. I have tried very briefly, and I know imperfectly, to discuss the policy of the bill. I do not think there is a doubt in the mind of any lawyer in this House that the Congress of the United States, through the power lodged in it by Article I, section 8, clause 3, of the Constitution, has the right to exclude all liquors from interstate commerce, just as we have excluded lottery tickets from interstate commerce. When the States joined themselves together they gave up all their sovereign rights to deal with commerce going on between the several States and transmitted that power to the Congress of the United States under the commerce clause, and now Congress has the absolute sovereign power to control all the commerce between all the States, all the foreign nations, and with the Indian tribes.

The Supreme Court has often held that the power to regulate commerce includes the power to exclude articles from commerce. They have also held that the power of controlling commerce with foreign nations is the same as controlling commerce among the States and with the Indian tribes. They have held that you can exclude many things from interstate commerce, even to the prohibition of a lottery ticket, and the power is supreme in our hands under the first article of the Constitution. Therefore, if we choose so to do, we can exclude all liquor from interstate commerce; but this bill does not do that.

It will not be amiss to cite a few Supreme Court decisions along this line. I call attention first to the case of Gibbons v. Ogden (9 Wheat., 189), in which the great Chief Justice Marshall, in discussing the question of the power of Congress over commerce with reference to the embargo act, said:

"They (people who are opposed to the passage of such laws) deny that the particular law in question was made in pursuance of the Constitution, not because the power could not act directly on vessels, but because a partial embargo was the annihilation and not the regulation of commerce."

The Chief Justice, in answering this argument, said:

"It is the power to regulate; that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution. If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single Government having in its constitution the same restrictions on the exercise of the power as found in the Constitution of the United States."

And again, in the case of United States v. Marigold (9 How., 560), Justice Daniel made it clear that the power to regulate included the power to prohibit, in this language:

"Congress by the Constitution is vested with the power to regulate commerce with foreign nations; and, however at periods of high excitement an application of the terms to 'regulate commerce,' such as would embrace absolute prohibition, may have been questioned, yet since the passage of the embargo and nonintercourse laws and the repeated judicial sanctions those statutes have received it can scarcely at this day be open to doubt that every subject falling within the legitimate sphere of commercial regulation may be partially or wholly excluded when either measure shall be demanded by the safety or by the important interests of the entire Nation. Such exclusion can not be limited to particular classes or descriptions of commercial subjects; it may embrace manufactures, bullion, coin, or any other thing. The power once conceded, it may operate on any and every subject of commerce to which the legislative discretion may apply it."

The foregoing cases apply to foreign commerce. Let us see how it is applied to the Indian tribes, which power is given in the same clause as that among the States and foreign nations.

In the case of the United States v. 43 Gallons of Whisky (93 U. S., 188) the court construed a statute prohibiting the shipment of liquor into the county of Polk, in the State of Minnesota, which county was not within the Indian reservation. It had no more to do with the Indians than the District of Columbia, and the court, upholding the constitutionality of this statute, said:

"Congress, under its constitutional power to regulate commerce among the Indian tribes, may not only prohibit the unlicensed introduction and sale of spirituous liquors in the Indian country, but extend such prohibition to territory in proximity to that occupied by Indians. Under the Articles of Confederation the United States had the power of regulating the trade and managing all affairs with the Indians not members of any of the States, provided that the legislative rights of a State within its own limits be not infringed or violated. Of necessity these limitations rendered the power of no practical value. This was seen by the convention which framed the Constitution, and Congress now has the exclusive and absolute power to regulate commerce with the Indian tribes—a power as broad and as free from restrictions as that to regulate commerce with foreign nations." "In view of this changed condition," says Judge Davis in this opinion, "it would be strange indeed if the commercial power lodged solely with Congress and unrestricted, as it is, by State lines did not extend to the exclusion of spirituous liquors intended to corrupt the Indians not only from existing Indian country but from that which has ceased to be so by reason of its cession to the United States."

In the Rahrer case Chief Justice Fuller used this language:

"By the adoption of the Constitution the ability of the several States to act upon the matter solely in accordance with their own will was extinguished and the legislative will of the General Government substituted. No affirmative guaranty was hereby given to any State of the right to demand as between it and the others what it could not have obtained before, while the object was undoubtedly sought to be attained by preventing commercial regulations partial in their character or contrary to their common interests. And the magnificent growth and prosperity of the country attest the success which has attended the accomplishment of that object. But this furnishes no support to the position that Congress could not in the exercise of the discretion reposed in it, concluding that the common interests did not require entire freedom in the traffic in ardent spirits, enact the law in question."

In 1808 the case of the United States against William was decided, involving the embargo laws, and the law was sustained not under the taxing power but entirely under the commerce clause. The court in this case says:

"Congress shall have power to regulate commerce with foreign nations, among the several States, and with the Indian tribes. Such is the declaration in the Constitution. Stress has been laid in the argument on the word 'regulate' as implying in itself a limitation. Power to regulate, it is said, can not be understood to give a power to annihilate. To this may be replied that the acts under consideration, though of very ample extent, do not operate as a prohibition of all foreign commerce. It will be admitted that partial prohibitions are authorized by the expression, and how shall the degree or extent of the prohibition be adjusted but by the discretion of the National Government, to whom the subject appears to be committed? Let this be admitted, and are they not at liberty also to consider the present prohibition as necessary and proper to an eventual beneficial regulation? I say nothing of the policy of the expedient. It is not within my province, but in the abstract question of the constitutional power I see nothing to prohibit or restrain the measure. It was perceived that, under the power of regulating commerce, Congress would be authorized to abridge it in favor of the great principles of humanity and justice. It has been said in the argument that the large commercial States, such as New York and Massachusetts, would never have consented to the grant of power relative to commerce if supposed capable of the extent now claimed. On this point it is believed there was no misunderstanding. The necessity of a competent National Government was manifest. Its essential characteristics were considered and were understood, and all intelligent men perceived that a power to advance and protect the national interests necessarily involved a power that might be abused."

In the Addyston Pipe Co. case (175 U. S.), involving the anti-trust law, the court said:

"The reasons which may have caused the framers of the Constitution to repose the power to regulate interstate commerce in Congress do not, however, affect or limit the extent of the power itself. In Gibbon against Ogden the power was declared to be complete within itself and to acknowledge no limitations other than are prescribed by the Constitution."

We now come to the Lottery case which decided the point completely. The Congress in 1895 enacted a law prohibiting the transmission in interstate commerce of all lottery tickets, and the constitutionality of the law was bitterly and powerfully attacked. In this decision these tickets were declared to be commerce, otherwise Congress could not act upon them.

Here is what the court says on this point:

"We are of the opinion that lottery tickets are subjects of traffic and therefore are subjects of commerce, and the regulation of carriage of such tickets from State to State, at least by independent carriers, is a regulation of commerce among the several States.

"But it is said that the statute in question does not 'regulate' the carrying of lottery tickets from State to State, but by punishing those who cause them to be so carried Congress, in effect, prohibits such carrying. That in respect to the carrying from one State to another of articles or other things that are, in fact or according to usage in business, the subjects of commerce.

"It is said, in effect, by Congress that it would not permit the declared policy of the States, which sought to protect their people against the mischiefs of the lottery business, to be overthrown or disregarded by the agency of interstate commerce. Congress alone has the power to occupy by legislation the whole field of interstate commerce. What was said by this court on a former occasion may well be here repeated.

"'The framers of the Constitution never intended that the legislative power of the Nation should find itself incapable of disposing of the subject matter specifically committed to its charge.' (In re Rahrer case, 140 U. S., 545.)

"That regulation may sometimes appropriately assume the form of prohibition is also illustrated by the case of diseased cattle transported from one State to another. Such cattle may have, notwithstanding their condition, a value in money for some purposes, and yet it can not be doubted that Congress, under its power to regulate commerce, may either provide for their being inspected before transportation begins, or, in its discretion, may prohibit their being transported from one State to another.

"The act of July 2, 1890, known as the Sherman Antitrust Act, and which is based on the power of Congress to regulate commerce among the States, is an illustration of the proposition that regulation may take the form of prohibition. That regulation may sometimes take the form or have the effect of prohibition is also illustrated in the case of re Rahrer.

"We decide that, under its power to regulate commerce among the several States, Congress, subject to the limitations imposed by the Constitution upon the exercise of the power granted, has plenary authority over such commerce and may prohibit the carriage of such tickets from State to State."

Chief Justice Marshall, in Gibbon v. Ogden, says that the Congress has the same power to regulate interstate as foreign commerce. Here is his language:

"If this be the admitted meaning of the word in its application to foreign nations, it must carry the same meaning throughout the sentence and remain a unit, unless there be some plain, intelligible cause which alters it."

In the case of Cruthers v. Kentucky (141 U. S., 57 and 58), the Supreme Court used the following language:

"It has frequently been laid down by this court that the power of Congress over interstate commerce is as absolute as it is over foreign commerce. And the same thing is exactly true with regard to interstate commerce as it is with regard to foreign commerce. No difference is perceivable between the two."

"The power to regulate commerce among the several States is granted to Congress in terms as absolute as is the power to regulate the commerce with foreign nations." (Brown v. Houston, 114 U. S., 622.)

In Stockton v. Baltimore (32 Fed. Rep., 9) in 1887, Judge Bradley, who later became a Supreme Court judge, said:

"We think that the power of Congress is supreme over the whole subject, unimpeded and unembarrassed by State lines or State laws. That in this matter the country is one, and the work to be accomplished is national, and that State interests, State jealousies, and State prejudices do not require to be consulted. In matters of foreign and interstate commerce there are no States."

If Congress can arbitrarily prohibit the interstate transportation of all intoxicating liquors, then most certainly can Congress prohibit the shipment of any less portion of liquor or of any kind or class of liquor for whatever reason it chooses to assign or without giving any reason whatever. The larger power necessarily includes the smaller. This bill does not undertake, however, to prohibit the shipment of all liquor in interstate commerce, but only that which is intended to be used in violating a law of a sovereign State.

Congress has often exercised its power over commerce by absolutely excluding certain articles from commerce altogether.

The act of March 2, 1895, prohibits any ship to clear which has on board fresh, salted, canned, or packed beef, unless the owner of the ship shall have from an inspector a certificate that said cattle are free from disease, and so forth.

The act of May 30, 1908, prohibits the transportation of nitroglycerine on any vessel or vehicle of any description operated by a common carrier in the transportation of passengers or articles of commerce by land or water.

The act of March 31, 1900, prohibits the transportation of explosive materials in any vessel or vehicle in interstate commerce.

The Congress many years ago passed the embargo laws. The Congress prohibited the importation of slaves. The Congress has prohibited the importation of counterfeit coins. The Congress prohibited importation of all convict-made goods.

The act of July, 1902, prohibits the introduction or sale of food products falsely labeled or branded.

The act of February 21, 1905, prohibits the transportation of gold or silver goods bearing the words "United States assay" or any similar words, or falsely branded.

The act of March 3, 1905, prohibits the transportation of loose hay or other highly inflammable materials on passenger steamers.

The act of February 21, 1905, prohibits the transportation of obscene books, notwithstanding that the Constitution guarantees freedom of speech, and it has been held that printing is as much speech as spoken words.

The act of March 3, 1905, prohibits the transportation of quarantined cattle. The act of March 3, 1905, prohibits the transportation of certain insects, including the boll weevil. If we can prohibit the transportation of insects, the transportation of convict-made goods, the transportation of gold and silver because it has three words stamped on it, the transportation of cattle whether diseased or healthy, then with how much more force can we argue that the Government has the right to prohibit the transportation of liquor which is intended to be sold in violation of the law of the sovereign State.

The act of June 25, 1910, prohibits the transportation or assistance in transportation of any woman or girl for the purpose of debauchery or for other immoral purposes or with intent, and so forth.

The act of June 29, 1906, prohibits any interstate carrier from giving any free ticket, pass, or transportation to certain persons and permits free transportation to certain other persons.

The act of May 25, 1900, makes it unlawful for any person to transport certain foreign animals or birds the importation of which is prohibited, and prohibits the transportation of dead bodies or parts thereof of any wild animals or birds where such animals or birds have been killed in violation of the laws of the State in which the same were killed, and provides that the transportation of dead birds, and so forth, may be had during the season when the same may be lawfully captured, and the export of which is not prohibited by law in the State in which the same were killed.

The act of May 23, 1887: Importation of opium by Chinamen prohibited, and such shall be forfeited, and no citizen of the United States shall transport opium to open ports of China.

The act of March 4, 1909, prohibits selling or transporting to any native of the Pacific Isles any liquor or opium. (Sec. 308.)

Congress has taken out of the sphere of legitimate commerce colored oleomargarine, misbranded liquors, C. O. D. shipments of liquors, and certain property owned by common carriers.

Unlawful to hunt, trap, kill, and so forth, any birds or animals or take eggs on any lands set apart or reserved as breeding grounds for birds, by any law, proclamation, or Executive order, except under rules from time to time prescribed by the Secretary of Agriculture—fine or imprisonment for violating provision of act. (June 28, 1906, 34 Stat. L., pp. 536, 538.)

Oleomargarine subject to State laws. (May 9, 1902, 32 Stat. L., p. 193.)

President authorized to designate such areas in Wichita Forest Reserve as in his opinion should be set aside for breeding places for birds, animals, and so forth, and then trapping, hunting, and so forth, in such places are unlawful, except under such regulations as the Secretary of Agriculture may from time to time prescribe. One thousand dollars fine or one year's imprisonment. (Jan. 24, 1905, 33 Stat. L., p. 614.)

Can not ship gypsy moth, and so forth, into States, and Secretary of Agriculture makes rules for shipping for scientific purposes and States give authority to further prohibit. (Mar. 3, 1905, 33 U. S. Stat. L., p. 1269.)

Rights of way for construction of dams, reservoirs, tunnels, flumes, and so forth, across and within United States forest reserves granted to citizens, and so forth, under such rules as the Secretary of Agriculture may make and subject to the laws of Territories and States in which reserves are situated. (Feb. 1, 1905, 33 U. S. Stat. L., p. 628.)

Any person violating act or any rules and regulations in pursuance thereof made by the Secretary of Interior guilty of misdemeanor and fines not over $500 or imprisonment not over six months. (Act June 3, 1878, 20 U. S. Stat. L., p. 89.)

Whoever violates or permits violation of any rule, regulation, or order made pursuant to foregoing act, such vessel may be prohibited from again carrying cattle from any port of the United States for such length of time, not exceeding one year, as the Secretary of Agriculture may direct. (Act Mar. 3, 1891, 26 Stat. L., p. 833.)

Anyone who forges or counterfeits, and so forth, or uses without authority any marks, stamps, or devices provided for in the regulations of the Secretary of Agriculture, guilty of misdemeanor, $1,000 fine or imprisonment not exceeding one year. (Mar. 2, 1895, 28 Stat. L., p. 732.)

Anyone violating rules and regulations which Secretary of Interior may make to preserve forests, and so forth, guilty of misdemeanor, and so forth. (Act June 4, 1897, 30 Stat. L., p. 35.)

Secretary of Agriculture prescribes rules for killing game in Alaska, and violations a misdemeanor. (Act June 7, 1902, 32 Stat. L., p. 327.)

Mr. DYER. Will the gentleman yield?

The SPEAKER pro tempore. Will the gentleman yield to the gentleman from Missouri?

Mr. WEBB. I have not the time to yield. I want to be courteous, but I have not the time.

Mr. SABATH. Will the gentleman yield for just a short question?

Mr. WEBB. I have but 10 minutes, and I am laboring under difficulty in making this argument in that time. My position is, therefore, Mr. Speaker, that if Congress has such power to prohibit arbitrarily the shipment of whisky in interstate commerce, that it has the power to prohibit the shipment of any lesser quantity or lesser portion for whatever reason it pleases, or to assign no reason at all. If a man has the right to cut down an entire tree, he has the right to remove a few limbs. This law prohibits the liquor being shipped in interstate commerce, if it is intended to be used in violation of the law of the State into which it is shipped. If liquor should be shipped for that purpose and it should be seized, and the fact established by proper proof, if this bill becomes a law, then that kind of liquor is taken out of the legitimate sphere of commerce, and in contemplation of law never was lawful commerce, and becomes subject to the law of the State, because the laws of commerce protect it no further if it is determined that it is to be used to violate the laws of a sovereign State.

The State courts may determine whether such liquor is intended to be used in violation of the law of such State, and if the question is answered "Yes" by the jury, then automatically this proposed law takes effect, and such liquor is eo instanti taken out of the realm of legitimate commerce. Surely Congress, which has plenary power over this whole subject of commerce, can leave to the orderly tribunals of the various States the right to determine whether or not the liquor is intended to be used in violation of their law.

The delegation of the duty or power to an individual of finding some fact before a congressional act takes effect is neither new nor novel. We have often enacted such laws. Only last summer Congress passed a law providing that when the President should find that a state of war existed in any American country and issued his proclamation to this effect, then it should be unlawful to ship arms from the United States to such country. This law was intended to apply to the Mexican situation. The law was drawn by Senator Root, and its constitutionality so far has not been attacked. Why can not Congress refer to the orderly tribunals of the sovereign States the power to determine whether a shipment of liquor is intended to be used in violation of the laws of such States, and after the fact is determined immediately the law becomes effective as to such shipment? The statute books carry many laws placing it in the power of the President and the various heads of the departments to ascertain certain facts before such laws may take effect. The finding of the fact by the President does not destroy the congressional power, but the act only depends upon his finding to take effect. He only acts as an agent to ascertain a fact before the act takes effect.

Harmonizing congressional enactments with State laws is not unusual. The act of May 25, 1900, as contained in section 242 of the Criminal Code, makes it a crime to transport dead birds or wild animals in interstate commerce when such birds have been shipped or killed in violation of the laws of the State or district in which the same were killed or from which the same were shipped.

Congress passed a law while Jefferson was President forbidding the importation of free negroes from one State into any other State where they were not permitted by the laws of such State to reside.

Section 229 of the United States Criminal Code adopts the laws of the States for punishing certain wrongful acts committed upon any lands reserved for the exclusive use of the United States or purchased by consent of the legislatures, and so forth.

The act of August 19, 1911, providing for publicity of campaign contributions conforms to the laws of the various States in these words:

"No candidate for Representative in Congress or for Senator of the United States shall give, contribute, expend, use, promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination or election, any sum in the aggregate in excess of the amount which he may lawfully give, contribute, expend, or promise under the laws of the State in which he resides."

It will be seen that it is not necessary for a congressional act to be uniform throughout the United States unless it is a law levying duties, imposts, and excises.

The pure-food law allows the export of any article when no substance is used in its preparation in conflict with the laws of a foreign country to which said article is intended to be shipped. The same law provides that condemned goods shall not be sold contrary to the laws of the State in which the sale is made. Congress has adopted the States as agents for supplying the procedure in the various Federal courts.

Congress has conformed its bankruptcy laws to the various State laws in the matter of exemptions, dower, priority of payments, and so forth. Delegating this power or making the laws correspond to the State laws does not invalidate the bankruptcy act, although Congress has the power of establishing "uniform laws" on the subject of bankruptcy, but uniformity is not required under the commerce clause.

Congress has enacted a law making the competency of a witness to testify in the United States courts depend upon the laws of the State in which the court is held.

Congress has left, by legal enactment, the qualifications and exemptions of jurors to State laws, and Colorado has recently qualified women as jurors.

I say that it is nothing new to make our law conform to State laws. We did it in 1900 when we made it a crime for any person or corporation or transportation company to ship birds or the dead bodies of birds out of a State where the birds were killed in violation of the laws of that State. There we made our State laws a criterion for our Federal act, and the violation of those State laws was made a crime against the United States as well as a crime against the State itself.

Some one has said there is difficulty about proving intent. Somebody asked, "How are you going to prove that a man intends to violate the law of his State?" Why, gentlemen, you prove that just as you prove any other offense or crime where intent is the chief ingredient or the chief element. Ninety crimes out of every one hundred denounced by law involve intent. False pretense is not a crime unless you prove intent. Forgery is not a crime unless you prove intent. In a case of this sort the proof of the intent may indeed be difficult, but opponents of this measure can not complain of that. You who oppose this bill need not worry about the difficulty of enforcing it. Let those who advocate it enforce the law, and if difficulty lies in the enforcement of the law, then it will be much to your pleasure, no doubt. The intent with which a thing is done is ofttimes the principal element in the crime.

Section 249 of the Criminal Code of the United States makes anyone guilty of a crime who builds or fits out a vessel or sends it away for the purpose of procuring any person from any foreign country to be transported to any place to be sold, and so forth.

Section 235 of the Criminal Code of the United States provides that whoever builds or fits out a ship, intending that the same shall be employed in slave trade, shall forfeit the vessel and pay a fine of $2,000. Under this section the vessel shall be forfeited if the builder intends to use it in the slave trade, whether such vessel ever engaged in the slave trade or not.

Section 271 makes it a crime to bring a person into the United States with the intent to hold such person in confinement. There are many other sections of the Criminal Code in which intent is the chief element of crime.

If this bill should become a law the State courts would therefore ascertain the fact of intent as they ascertain any other fact involving the question of intent.

No attempt in this bill is made to reach abstract intent but only that intent which is "connected with the overt act of making or receiving any interstate shipment of liquor accompanied by the intent. Certainly there is nothing new about penal statutes which prohibit some specific act, provided it be

coupled with some specified intent. By way of illustration, forgery and obtaining by false pretenses are not in themselves made punishable. Whether they be so depends upon whether the act is done with intent to defraud."

If liquor is sent in my State to a "blind tiger" or to a man who is known to be a violator of the laws of the State, and if the liquor is put up in 500 pint bottles, I have the right to assume, knowing the character of the liquor packages and knowing the character of the man to whom it is consigned, that he is going to violate the State laws, and I have a right to prevent it, as I would have the right to prevent the threatened violation of any other law in my State. And when you bring such a person before the court, or when you take the liquor into court—and that is what you would do; the bill only provides for an action in rem; you seize the liquor—you determine whether it was intended to be used or sold in violation of the law. And if the verdict is found against the liquor, the liquor may be confiscated, because it is taken out of interstate commerce and becomes subject to the laws of the States in their sovereign capacity.

Mr. Speaker, this is a just bill. It applies to all States, "wet" and "dry" alike, because every State in the Union has laws against the unrestricted sale of liquor, and this bill would protect the "wet" States whose laws are to be violated in the use or sale of liquor as well as it would protect the "dry" States under the same circumstances. It is a State rights measure. Surely the sovereign States of this Union, which have in their keeping the life, liberty, and property of their citizens, can be fully trusted with the less important power of controlling the liquor traffic in all of its phases. The bill we have before us, which I introduced into this Congress on the 10th of April, 1911, is intended to withdraw the protecting hand of interstate commerce from intoxicating liquors transported into any State or Territory, whether that State be "wet" or "dry," and intended to be used therein in violation of the law of such State or Territory. This bill if enacted into law will permit State officers to seize such liquor under a proper warrant and have the question tried as to whether the liquor is intended to be used in violation of the State law. Who can fairly object to such a provision? This bill might well be styled a local option act to give the various States power to control the liquor traffic as to them might seem best. It would remove the shackles of interstate-commerce law from the action of the States, and discontinue the handicap under which they now labor in enforcing their police regulations, and leave them freer to break up "blind tigers" and "bootleggers" that infest many States, and prevent other uses of liquor in violation of their sovereign laws.

The retail liquor dealers of the United States who are doing business under licenses properly granted by State and local authorities are not fighting this bill. The wholesale liquor dealers, who sell it to retailers who are permitted to do business lawfully, are not opposed to this legislation. The only opponents of the policy of this measure are largely the bootleggers, blind tigers, and speak-easy keepers who operate in prohibition territory, together with that class of brewers, distillers, and wholesale liquor dealers who sell to bootleggers and speak-easy keepers in "dry" territory, who violate the laws of their States and who have little or no regard for the laws of other States, and some who claim it unconstitutional.

On the other hand, Mr. Speaker, there are thousands and tens of thousands of the best women and men throughout this broad land who are to-day praying for the passage of this bill. They have no pecuniary interest in the matter. They are actuated by high and noble motives in behalf of mankind. The following will give the House an idea of the widespread sentiment in favor of temperance and prohibition:

No-license area in the United States, 2,120,388 square miles, or 71 per cent.

Population living under no license in the United States, 46,991,098, or 50 per cent plus.

States under prohibition: Georgia, Kansas, Maine, Mississippi, North Carolina, North Dakota, Oklahoma, Tennessee, and West Virginia.

Total population under State-wide prohibition, 14,685,961.

States in which 50 per cent of the population live under no license: Alabama, Arkansas, Colorado, Florida, Idaho, Indiana, Iowa, Kentucky, Louisiana, Nebraska, Minnesota, New Hampshire, Vermont, and Virginia.

Total population of States not under prohibition, but which have at least 50 per cent of the population living under no license, 26,573,611.

States in which 25 per cent or less than 50 per cent of the population is under no license: California, Delaware, Illinois, Maryland, Massachusetts, Michigan, Missouri, Ohio, Oregon, Washington, Utah, Wisconsin, and Wyoming.

Total population of States in which 25 per cent or less than 50 per cent is under no license, 24,418,784.

The other States have more or less territory where no local-option laws or other provisions for restricting the sale of intoxicating liquors for beverage purposes exist.

The following classes of people are begging this Congress for the legislation we are now considering:

The church people, regardless of denomination; the Anti-Saloon League of America; Woman's Christian Temperance Union; International Order of Good Templars; Independent Order of Rechabites; Sons of Temperance; the Templars of Honor and Temperance; National Temperance Society and Publication House; Scientific Temperance Federation; International Reform Bureau; Federal Council of Churches of Christ in America; temperance committees of practically every denomination represented in the Federal Council of Churches; National Inter-Church Temperance Federation, and other temperance and reform organizations. These bodies easily represent a constituency of more than 35,000,000. In addition to these forces, all organizations and individuals who are favorable to law enforcement and who stand for law and order are favorable to this legislation.

I have just received the following telegram, which explains itself:

BOSTON, MASS., *February 7, 1913.*

Hon. E. Y. WEBB,
Washington, D. C.:

At a public meeting held in Tremont Temple, Boston, Mass., on Friday evening, February 7, 1913, the following resolution was passed unanimously:

"*Resolved*, That the Baptists of Boston and vicinity earnestly request Congress to pass at once the bill entitled 'A bill to prohibit the shipping of liquor from one State into prohibition territory of another'; that we request the Hon. E. Y. WEBB, M. C. the author of said bill, to make known to Congress the wishes of this meeting."

Rev. HERBERT HANDEL, *Chairman.*

Mr. Speaker, why is it that the cause of prohibition and temperance has grown so rapidly in this country within the last 20 years? One who has seen all around him the wrecks, the destruction of character and manhood caused by the excessive use of liquor can easily answer this question. The American people have become aroused upon this subject as never before, because they have awakened to the fact that liquor is the greatest destroyer of happiness, of the home, and of life that we have among us. People are now ready to agree with Ingersoll when he said:

"I do not believe that anybody can contemplate the object without being prejudiced against the liquor crime. All we have to do is to think of the wrecks on either bank of the stream of death, of the suicides, of the insanity, of the ignorance, of the destitution, of the little children tugging at the faded and withered breasts of the weeping and despairing mothers, of the wives asking for bread, of the men of genius it has wrecked, of men struggling with imaginary serpents, produced by this devilish thing; and when you think of the jails, of the almshouses, of the asylums, of the prisons, of the scaffolds on either bank, I do not wonder that every thoughtful man is prejudiced against this damned stuff called alcohol."

It has been argued by some that strict enforcement of this law will diminish the revenues of the Government. What a sordid argument! Surely patriotic men will not let such argument move them when they know that the decreased consumption of liquor means the increased happiness of mothers and better preservation of the home and the wider conservation of human health and life. In the great opinion in the License cases (46 U. S., 632) it is said:

"If a loss of revenue shall accrue to the United States from the diminished consumption of ardent spirits, she will be the gainer a thousandfold in the health, wealth, and happiness of the people."

At this point, Mr. Speaker, I want to insert an article by Dr. W. S. Rankin, secretary of the North Carolina State Board of Health, on the "Relative importance of different causes of death," which shows the shocking mortality produced by the intemperate use of liquor:

"Until within the last two years one could have stated on the authority of such unbiased students of the liquor problem and such prominent members of the committee of fifty as Dr. John S. Billings and Mr. John Koren, that there was no acceptable estimate of the number of deaths occurring annually in the United States attributable to alcoholic intemperance. Fortunately, we now have the work of Mr. Edward Burnell Phelps, a trained statistician with unprejudiced mind, dealing with the mortality of alcohol. Mr. Phelps's work and estimate

will certainly be that accepted by scientific men and unbiased students of this great economic, health, and moral problem as authoritative.

"All estimates of mortality rates must rest upon the authority of the Bureau of the Census of the United States Government. According to our census there are one and a half million deaths every year in the United States. In addition to collecting the reports of these deaths, it is the business of the Bureau of the Census to hold a kind of inquest in the court of public opinion over these dead, by collecting, classifying, tabulating, and publishing, for general information, the principal circumstances connected with their deaths. Such information is most important, as from it the living may learn what are the most important causes of death, and by studying such causes learn how to circumscribe their effects.

"In a general way the comparative importance of the different causes of death may be determined by the relative number of deaths with which each cause is charged. This statement should be qualified, for this general rule will hold only for those causes of death which are closely and directly connected with fatalities; for example, the approximate number of deaths from tuberculosis, typhoid fever, and gunshot wounds gives us a fairly accurate idea of the comparative importance of these causes of death. But our general rule does not hold for those causes of death indirectly and remotely connected with fatalities; for example, malaria, hookworm disease, and alcoholic intemperance are important exceptions to the general rule above stated. The number of deaths set down opposite these and similar causes in the death-rate tables do not represent the complete nor even the major part of their life-destroying power. The greater part of the evil effect of such indirect causes of death is wrought through their destructive action on body defenses, making possible the entrance of other more fatal diseases like those mentioned in the first group, that complete the fatal work which the milder disease instigated.

"Now, to compare the importance of diseases remotely connected with fatalities, such as malaria and alcoholic intemperance, with diseases closely connected with fatalities, it is necessary to reduce the widely distributed effect of the former to its equivalent in total deaths, and then, balancing total deaths that are the direct effect of one disease with total deaths that are the indirect effect of another disease, reach a satisfactory conclusion as to the relative importance of the two diseases.

"If these estimates are to have weight with minds that do their own thinking, they must be made by a trained statistician, and each detail entering into the estimate must be carefully stated, so that each step in the calculation may be subject to review by those who are interested in the subject. As to the reliability of statistical conclusions we wish to quote from Dr. John S. Billings, himself an expert statistician: 'Where the chances are equally good that an observation may differ either on one side or the other from the exact truth it is possible that in the mass the errors on opposite sides will balance each other. The individual bricks turned out from a kiln might differ considerably among themselves, yet one wall of 100 courses of bricks will differ with the same number of courses but very little. A careless writer will sometimes put five words in a line, sometimes ten, yet the number of words in a hundred lines will vary little.'

Certainly no question of greater importance or interest could be raised in regard to the liquor problem than as to the number of deaths occurring annually in the United States which may be traced to its combined direct and indirect effects. Mr. Phelps's book on the "Mortality of Alcohol" is an answer to this question, and the balance of this article purports to be nothing more than a review of that book. The book can be obtained from the Thrift Publishing Co., New York City, for the price of $2 and can be assimilated in six or eight hours' reading:

METHOD ADOPTED BY MR. PHELPS OF ESTIMATING THE NUMBER OF DEATHS TRACEABLE TO LIQUOR.

"Mr. Phelps began by excluding from the 187 causes of death under which the deaths occurring in the United States are tabulated by the Bureau of the Census those causes in which alcohol could not be suspected of having even a remote effect. The excluded list of causes embraced 54 causes of death which are limited in their effect to women and children. Women were excluded from consideration in order that the estimate might be simplified by limiting it to men only, and after reaching satisfactory conclusions in regard to the number of male deaths attributable to alcohol an estimate of the female deaths resulting from alcoholic intemperance could be arrived at with fewer complicating factors. After having excluded 54 causes we have left 133 causes in which to consider the effects of liquor; of the 133 remaining causes 27 were again excluded as not being even in a remote degree the result of the use of liquor. We have left, therefore, 106 causes of deaths in which to study alcohol as a factor in male deaths. Furthermore, as the deaths under the age of 20 and over the age of 74 form such a very small part of male deaths attributable to liquor we may confine our estimate to the study of male deaths between the above ages as possible results of the use of alcohol.

"Three eminently qualified medical experts, with statistical training, were selected, and to each of them, independently, the list of 106 causes of death were submitted, and they were requested to write opposite each cause of death the percentage of deaths listed under that cause for which, in their opinion, liquor was responsible. The three independent estimates were then added, divided by 3, and the average accepted as the percentage of the total number of deaths listed under each particular cause for which alcohol was responsible. Without going into wearisome detail we may say that Mr. Phelps advances good reasons for believing that the average of the three experts would not be altered to any appreciable extent if the average opinion of the entire medical profession on the same facts were obtained.

"To illustrate: It is a well-known fact among medical men that liquor plays an important rôle in the causation of Bright's disease. The three judges, who we may refer to here as X, Y, and Z, stated, respectively, that liquor was responsible for 30 40, and 20 per cent of the total deaths from Bright's disease. As the census had charged Bright's disease with 22,222 deaths between the twentieth and seventy-fourth years of age, 30 per cent, would be 5,254 of these deaths for which liquor was responsible. In like manner the percentage of deaths from the other 105 causes were calculated. To show how complete the list of 106 causes covered all deaths traceable to liquor Mr. Phelps calls attention to the fact that for 31 of these causes one or other of the three medical experts 'considered the possible alcoholic connection so extremely remote as to justify him in declining to make any estimate.'

THE VERDICT OF STATISTICAL AND MEDICAL EXPERTS AS TO THE ANNUAL NUMBER OF AMERICAN LIVES DESTROYED BY LIQUOR.

"The registration area of the United States has a system for reporting deaths with the cause of death, etc., and comprises 51.8 per cent of our national population. In 1908 there were 320,130 male deaths reported in the registration area; 198,858 of these deaths occurred between the ages of 20 and 74. According to the estimate of the medical and statistical experts, it was found that 10.3 per cent of all male deaths and 13.2 of all adult male deaths were chargeable to liquor. These percentages give us in round numbers for the registration area 32,855 male deaths a year as the result of liquor.

"We must now try to arrive at some conclusion as to the effect of liquor on American women. In New York City only one-fifth as many women died from acute alcoholic poisons, delirium tremens, as died in London from the same cause; moreover, in an investigation by the London police as to the number of women visiting the saloons it was found that 39,541 women entered London saloons in four hours' time. The presence of women in American saloons is comparatively rare. With these facts in mind and after consultation with statisticians and health officers, Mr. Phelps concludes that the women of this country do not use more than 20 per cent as much liquor as is used by men. We would therefore estimate the effect of liquor on our female population as being only one-fifth as severe as is its effect on the male population; therefore, if 13.2 per cent of all male deaths above the age of 20 result from the use of liquor, 2.6 per cent of all female deaths above the age of 20 would be the result of liquor. Now, there were 209,049 female deaths above 20 years of age in the registration area of the United States in 1908; 2.6 per cent of this number would give us 5,435 as the alcoholic female mortality of the registration area."

"Adding the male and female deaths occurring in the registration area we find a total of 38,288 deaths to be the annual harvest of human life in the registration area resulting from alcoholic intemperance.

"The next question is: If 38,288 deaths occur in 51.8 per cent of our national population from alcoholic intemperance, how many deaths occur for the whole population for this cause? After making the necessary corrections for the greater fatality of alcohol on urban than on rural populations, and for the difference in the proportion of rural and urban populations in the registration and nonregistration area of the United States, it is found that the alcoholic mortality of the nonregistration area is 27,609. This figure, added to the 38,288 deaths occurring in the registration area, makes a total of 65,897 deaths occurring each year in the United States that are chargeable to alcoholic intemperance.

"The economic value of the average adult life is estimated by political economists at $4,000. The 65,897 lives destroyed annually by liquor, at $4,000 apiece, amounts to an annual monetary loss of $263,588,000.

"It has been shown that for every unnecessary death there are 700 days of unnecessary sickness. On that estimate alcoholic intemperance produces, in addition to the 65,897 deaths, 46,127,900 days, or 126,377 years, of individual sickness every year in this country.

"Liquor is to blame for 1 out of 12 adult deaths.

"Liquor is to blame for 1 out of 10 male deaths.

"Liquor is to blame for 1 out of 7.5 adult male deaths.

"Liquor is to blame for twice as many deaths a year as are caused by typhoid fever.

"Liquor is to blame for more deaths in four years than were destroyed in the four years of the Civil War.

"The liquor problem is a public-health problem."

Indeed, Mr. Speaker, the liquor problem is a public-health problem, a public-wealth problem, a home problem, a happiness problem: it is a problem that should weigh upon the hearts of men until the use of liquor as a beverage shall be stamped out forever. Let us pass this pending bill and thus show our country and the world that we, the Representatives in the greatest Congress of the greatest Nation on earth, are willing to aid and encourage the good men and the godly women throughout the various States of the Union in settling aright this troublesome and perplexing problem. [Applause.]

Mr. CLAYTON. Mr. Speaker, I ask that the gentleman from New Jersey will use the 40 minutes' time allotted to him.

Mr. McCOY. Mr. Speaker, I yield 10 minutes to the gentleman from Wisconsin [Mr. BERGER].

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. BERGER] is recognized for 10 minutes.

Mr. BERGER. Mr. Chairman and gentlemen, I surely hold no brief to defend the liquor dealers. The saloon keepers and the liquor dealers—and I wish the gentleman from Alabama [Mr. HOBSON] would also do me the honor to listen to my simple statement—the saloon keepers and the liquor dealers of Milwaukee are as a rule my opponents and the worst enemies of our cause. The liquor dealers are opposing the cause of Socialism in every city, so far as I know. Among the 2,800 saloon keepers and liquor dealers in Milwaukee I do not believe there are 28 who are members of our party. I do not believe we get one liquor dealer in a hundred. Practically all the liquor dealers are patriotic Republicans or Democrats—in Milwaukee they are both at the same time.

The liquor dealers have no reason to love the Socialists. We do not spend one cent for liquor during elections. We had been in power hardly 10 weeks when we closed up 114 saloons, more than had been closed up in Milwaukee by the Democrats and Republicans combined in the 65 years of Milwaukee's existence.

I repeat, I hold no brief for the saloon keepers. They were one of the most powerful factors in defeating me for reelection. And, moreover, I have always held that liquor is one of the most dangerous enemies of the working class. [Applause.]

Therefore it is only natural that I should reiterate on the floor of this House my belief that liquor is one of the most dangerous enemies of the working class. [Applause.] It is particularly one of the worst foes of the Socialist movement. We can not reason with a drunken man. Socialists must appeal to the man's intellect. A man must be sober when he hears us. He must be a thinking man in order to be able to understand us. A man who drinks to excess can, therefore, never become a good Socialist. He must stay a Republican or a Democrat, though he occasionally may be a Progressive. [Laughter.]

Mr. MARTIN of South Dakota. He is sometimes a sociable Democrat.

Mr. BERGER. Yes; he may be occasionally a sociable Democrat, but never a Social Democrat. [Laughter.] Moreover, we appeal to the better nature of the workingman—to his ambition, to his pride. We want to make him dissatisfied with his degraded condition, but a drunken man has no ambition; a drunken man is satisfied. He is a natural slave of his master as he is a slave of his appetite. That is the reason why the Socialist Parties the world over are virtually the greatest temperance organizations in existence. The Social Democratic Party of Germany has decreased the consumption of alcoholic beverages in that country 50 per cent in a single year. Socialists have even decreased the consumption of beer in Munich considerably, which is going some. [Laughter.]

The Socialist Parties the world over—in Germany, in Belgium, in Austria, in France—start voluntary abstinence societies and temperance circles, the leaders setting the example.

I have said that they are great abstainers and great temperance men, but they are not prohibitionists. Prohibition is bad in principle. It infringes upon personal liberty. It is inquisitorial. It is an extreme measure and therefore bound to fail when it becomes the rule.

Moreover, prohibition does not prohibit. It can not control appetite. If a man wants to get intoxicated, he will find ways and means to satisfy his craving. He can get intoxicated on morphine, on cocaine, or on opium. He does not have to get alcohol. If one wants to forget his misery, or if one has some illness that seems to demand intoxication, one can get the toxin in some drug store, and by having prohibition of liquor you simply foster the drug habit. Furthermore, experience has shown that prohibition makes lawbreakers—it makes lawbreaking popular. It seems to be born in man to oppose and violate oppressing laws. Why, in a little town in Michigan I have seen more lawbreakers of that kind in a week than you can see in the whole State of Wisconsin in a year. There are no such laws in Wisconsin and therefore they can not be broken. [Laughter.]

Mr. HAMILTON of Michigan. In what part of Michigan?

Mr. BERGER. It was in the dry desert of Michigan, where many camels live. Some of them get thirsty. [Laughter.]

Wherever prohibition is not upheld by public opinion—and, as a matter of fact, it is not upheld by public opinion anywhere, not even down South, where, I am told, almost every able-bodied gentleman carries a pocket saloon with him—wherever an oppressive sumptuary law is not upheld by public opinion, it is bound to make lawbreakers. In Maine, Massachusetts, Vermont, Kansas, and Minnesota a man who really wants to get liquor can get it. I have not traveled down South very much, but I was given to understand by my good friends who live there that in the South a white man can get anything he wants. [Laughter.]

In Milwaukee, of course, we have no prohibition. Our saloons keep open every day in the year, and some of them even every night of the year—at least that was the case until lately—but you can see more drunkards in a little town in Maine in a day than you can see in the great city of Milwaukee in a week.

Now, I say again that I do not like the saloons as an institution, but the saloon, like many other ills of society, is the outcome of the miserable economic conditions. It is the result of the profit system. And all methods of dealing with the liquor question which do not at the same time elevate the social conditions of the masses of the people and do not involve the elimination of private profit are bound to fail. Better social conditions will also strengthen the man physically.

Mr. LOUD. How about Michigan?

Mr. BERGER. That also holds good in Michigan.

The man with an empty stomach or a man who is ill nourished will get drunk on a glass of beer or a little glass of whisky. Moreover, he is seeking forgetfulness in intoxication. Imagine a man working 10 or 12 hours a day for $1.75, coming home in the evening to a miserable hovel, to his wife and six or seven children. His poor little home may be cold and is uncomfortable. His wife, tired and disagreeable, is finding fault and complaining to him as soon as he gets in, his children look dirty and are quarrelsome. The man has worked hard all day, and he wants to have recreation somewhere for an hour. Are we to be surprised that he goes to the saloon. Some of them go to the saloon even before they go home so as to be prepared for the reception. Gentlemen, if I had to live, with a wife and six or seven children, on $1.75 a day, I do not know but what I might take to drink myself, although I have never been under the influence of liquor in my life.

It is economic conditions that make drunkards, and not drunkards the economic conditions. [Applause.]

The saloon is a mighty poor substitute for a clubhouse, but it is the only clubhouse the capitalist system has provided for the workingman. Before you take away the saloon give him something better. You have no right to take away the saloon unless you provide for him a better place of amusement.

I say the saloon and all its concomitant evils are the outcome of present economic conditions, just as malaria and yellow fever are the outcome of swamps that breed a certain kind of mosquitoes. If we want to do away with malaria and yellow fever, we must drain these swamps—then there will be no mosquitoes to carry the disease. We can not make human beings goods by law as long as we keep up rotten economic conditions and miserable conditions by our laws.

This bill does not look dangerous. It does not seem to have any teeth, and contains no penalty clause. It leaves the punishment to the States. But it is a sneaky, dangerous proposition because it outlaws the liquor trade and makes no exception in favor of beer and wine. It has a tendency to make a moral and legal outlaw of every man who buys or sells a glass of beer in so-called dry territory, and after all is said and done, beer and wine are the best promoters of true temperance—the natural substitutes for whisky, brandy, and other alcoholic liquors. [Applause.]

Society is concerned only with the abuse, not with the use of intoxicants. You have no right to punish men as long as they stay sober. That is what prohibition is doing. That is what this bill is proposing to do in a sort of roundabout way.

Moderate drinking seems to be helpful—not harmful. All nations that have greatly contributed to the civilization of the world have been moderate drinkers. Look at the English, German, French, and Italian and compare them with the Hindus or the Chinese, who are almost teetotallers.

I do not know of a great man in the world's history who was a prohibitionist unless he was great as a prohibitionist.

Washington, Jefferson, Grant, Nepoleon, Bismarck were moderate drinkers. Shakespeare, Goethe, Schiller, Byron, Shelley drank wine and beer whenever they wanted to drink, and their mentality was not impaired thereby.

I am against this bill, gentlemen, from every point of view. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has expired.

Mr. BERGER. I would like two minutes more.

Mr. McCOY. I am sorry; but my time is all promised.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the gentleman from Wisconsin may have two minutes more.

Mr. CLAYTON. Mr. Speaker, I would like to accommodate the gentleman, but the rule fixes the time.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that the gentleman from Wisconsin have two minutes more. Is there objection?

Mr. CLAYTON. If it is to be subtracted from the time fixed by the House, I shall have to object.

The SPEAKER pro tempore. The gentleman from Alabama objects.

Mr. McCOY. Mr. Speaker. I now yield 10 minutes to the gentleman from Alabama [Mr. BLACKMON].

Mr. BLACKMON. Mr. Speaker, I do not indorse all the statements made by the gentleman who has just preceded me—the gentleman from Wisconsin [Mr. BERGER]. There are important questions involved in this bill. The first question is. Do you gentlemen want to prohibit an honest, law-abiding citizen of the United States in a lawful way from ordering whisky for his personal use? If that is your purpose, then your bill is well drawn. I do not want the Congress of the United States to be sailing under false colors. I am not going to discuss the legal phases involved in this matter, but I want the country to know what the attitude of gentlemen supporting this measure is on the question. You have gone before the people with a proposition that your purpose was to do away with the saloon and that you had no idea of interfering with the private rights of the citizen.

Now, in good faith a large number of our people in this country joined hands with you to vote out the saloon. They acted in good faith. Now you come by this bill with a proposition to the people who joined hands with you in good faith in voting out the saloons and say to them that, having done this, we now propose to enact a law so that you can not order whisky for your own personal use. Now, I want to say to you gentlemen who think that you are sailing under a popular issue that, if you are sincere in your statement that this bill will not deprive a citizen of the United States in a lawful manner from ordering whisky for his own personal use, then what objection can you have to the amendment which I submit? When you say to the American people that this bill will not prevent a citizen from ordering and receiving whisky for his personal use you are mistaken, in my judgment, as to the intelligence of the people.

You say in this bill that no shipment shall be made where the secret intention of any party to the contract is to violate the law of the State where the shipment is to be delivered. Why do you believe that you could go into the remotest part of this country and deceive an intelligent man when you pass such a law by saying to him that we have not interfered with his private rights? He will know in a moment that a man selling whisky in another State would not take the chances of being prosecuted or becoming involved on account of the secret intention of the consignee. You all know, and the people all know, and all my good friends hiding behind the cloak of public sentiment ought to know, that the people are intelligent enough to know that the great carriers of this country, the railroads and express companies, are not going to run the risk of being involved in a prosecution on account of the secret intention of a man living in another State whom they do not know, simply for the purpose of collecting a small revenue of 40 cents.

When this law is passed, if the liquor dealer is willing to ship to a bona fide citizen, if he is willing to take the chance, do you suppose that the carrier will say, "I will accept this package and I will ship it to Georgia" or some other point for a charge of 40 cents and involve itself with the secret intention of the man who sent the order?

Why, gentlemen, you can not fool the people with that idea. You say this bill does not mean that a private citizen can not order for his private use. You might as well meet the question. Come out into the open and say to the people, "We have driven by your aid whisky out of the saloons and now we propose, having accepted your aid in good faith, to drive it out of your homes." That is what this bill means; and, in my judgment, those that are most actively behind this measure know that the ultimate effect of this bill will be to drive whisky in any form out of the homes of the law-abiding citizens of this country.

If you want to go that far, well and good, but if you want to be fair with the people of the United States who have stood by you in voting out the saloons, then you ought to adopt this amendment:

Amend, line 12, page 2, by striking out the period and adding "*Provided*, That nothing contained in this bill shall be so construed as to prevent any citizen of the United States from purchasing, ordering, or having shipped, or to prevent any common carrier or agent thereof from accepting, receiving, transporting, or delivering spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind in reasonable quantities when the same is plainly marked on the outside of the package 'For personal use': *Provided further*, That no common carrier or agent thereof shall make such delivery to any person, whether marked 'For personal use' or not, if the person ordering the same has been convicted of violating the prohibition laws of any county, State, or municipality, if the fact of such conviction appears of record in the courts of record in the county or parish where such shipment is to be delivered by the common carrier or agent thereof; or to any person who holds or possesses a Federal license or tax to retail spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind; or if the courts of record of any such county or parish show that the person ordering such spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind has been convicted of public drunkenness."

Mr. HOBSON. Mr. Speaker, will the gentleman yield?

Mr. BLACKMON. I have only 10 minutes.

Mr. HOBSON. It is merely to ask whether the gentleman thinks that that would not be an object devoutly to be desired in the end.

Mr. BLACKMON. Mr. Speaker, I do not believe that the great masses of the American people will ever stand for any such proposition, whether it affects liquor or not. Shall the Members of Congress say that they will regulate the personal habits of the people? [Applause.]

It will never happen, and it will never happen by my vote, especially coming from the State that I do, when in good faith for 10 years in the Alabama State Senate I helped the prohibitionists, so called, to enact every law that they asked me to vote for until we reached the constitutional amendment, and I voted against it, and my people in that State, by a majority of 29,000 votes, voted down that gag proposition, which was not one-half so injurious to the rights of the people as is this bill. Twenty-nine thousand majority of my people agreed with me on my proposition, and my judgment is that if there be gentlemen who believe that the great masses of the American people can be deceived by such a bill, they are going to be very much mistaken. Whatever the result may be, for myself I propose to support the amendment which I have offered that protects that class which the proponents of this bill say they are trying to protect. I prevent the delivery of whisky to a man who has been convicted of violating the prohibition law. I prevent the delivery of whisky to a man who has been convicted of public drunkenness. I prevent the delivery of whisky to a man who holds a Federal license, or Federal tax, more properly speaking, in prohibited territory. How much further do you want to go? Why, you want to dodge behind the proposition that you are not interfering with the rights of the private citizen. Gentlemen, I predict to-day that you will not be able to do it. [Applause.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BERGER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Wisconsin asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. CLAYTON. Mr. Speaker, reserving the right to object, I ask unanimous consent that all gentlemen who speak on this bill may have the same privilege. I was on my feet ready to interpose an objection unless the privilege is enjoyed by all gentlemen who speak on the bill.

Mr. BERGER. Mr. Speaker, I am perfectly willing to accept that amendment.

The SPEAKER pro tempore. The gentleman from Alabama asks unanimous consent that all gentlemen who speak on the pending measure shall have the right to extend their remarks in the RECORD. Is there objection?

Mr. LINTHICUM. Mr. Speaker, I suggest as a substitute for that that all Members be given that right.

Mr. BERGER. Mr. Speaker, I am perfectly willing to accept that.

Mr. MURRAY. Mr. Speaker, reserving the right to object, may I ask if this is the same request that the gentleman from Alabama preferred a few moments ago?

Mr. CLAYTON. It is, as I amended the proposition of the gentleman from Wisconsin. It did not comprehend the proposition advanced by the gentleman from Maryland [Mr. LINTHICUM].

The SPEAKER pro tempore. It is all a matter of unanimous consent. Is there objection?

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RODDENBERY. Mr. Speaker, has not the unanimous consent now being proffered already been ordered by the House?

The SPEAKER pro tempore. It has not. It was refused.

Mr. SHERLEY. Mr. Speaker, what is the request?

Mr. MURRAY. Mr. Speaker, I suggest that the gentleman from Kansas [Mr. MURDOCK] objected to this same request a few moments ago, and that the matter ought to be put in his presence rather than his absence.

Mr. LONGWORTH. But I suggest to the gentleman from Massachusetts that this is not the proposition of the gentleman from Kansas.

Mr. CLAYTON. Mr. Speaker, out of whose time does this come—not out of mine?

The SPEAKER pro tempore. The gentleman from Alabama asks unanimous consent that all gentlemen who speak on the pending measure be allowed to extend their remarks in the RECORD. Is there objection?

Mr. MURRAY. Mr. Speaker, I suggest to the gentleman from Alabama that that request be made in the presence of the gentleman from Kansas [Mr. MURDOCK].

The SPEAKER pro tempore. Does the gentleman from Massachusetts object?

Mr. MURRAY. I object for the present.

The SPEAKER pro tempore. Objection is heard.

Mr. HEFLIN. Mr. Speaker, I demand the regular order.

Mr. McCOY. Mr. Speaker, I yield 20 minutes to the gentleman from Missouri [Mr. BARTHOLDT].

Mr. BARTHOLDT. Mr. Speaker, it is about 12 years ago that legislation to prohibit the interstate shipment of liquor into dry territory was first attempted in this House. It was shortly after the decision of the Supreme Court on the Wilson law when the first bill of this character made its appearance in the Committee on the Judiciary, and from that time to this I have carefully listened to all the arguments for and against not only this measure but all other bills of similar purport. Speaking from experience and a somewhat intimate knowledge of the questions involved I dare say it is preposterous as well as unjust to the membership of the House to undertake the disposal of this bill after a limited discussion of only three hours. It could hardly be considered in all its phases in three days.

Outside of the constitutional question, there are questions of policy and of the merits and effect of the legislation involved, and I am sure, if the members generally understood its far-reaching consequences and the dangerous precedent to be established by it, many of them who are now favorably disposed to the bill would hesitate to give it their support. This is exactly what happened to the members of five different Judiciary Committees, which, as is well known, persistently declined to report the bill. In every Congress during the last 12 years a majority of the Judiciary Committee at first favored the bill, but after listening to the arguments against it shrunk from reporting it out. Why? Because their consciences would not permit them to violate the oath they had made to uphold the Constitution. If there was sufficient time for discussion, no doubt the same thing would happen in this House.

But it is plain that the bill is to be railroaded through to-day. The Democracy is in the saddle, and, feeling its oats, that party is bent on riding roughshod over all the caution and sagacity which kept Republican Congresses for, lo, these many years from doing violence to vested rights and to the fundamental law of the country. The responsibility rests on the party which is now in control of this House.

While I represent one of the largest beer-producing districts of the country, I hold no brief from either the brewers or the retailers. But two years ago the people of my State voted on the question of prohibition and buried it under a majority of 217,000 votes, my own district leading this prohibition funeral with over 70,000 majority. So I hold a brief from the people whom I have the honor to represent which commands me to oppose this bill because it commits Congress to the folly of prohibition through the tender of its aid to prop up State prohibitory laws.

By the passage of this bill prohibition will be invested with the dignity of a great national issue, and I speak on behalf of millions of liberal-minded American citizens when I say we are ready to meet this issue. The friends of personal liberty have been comparatively quiet and silent all these years, but now that Congress for the first time in its history is about to go on record in favor of an attempt to tyrannize the people in matters of personal conduct they will be aroused to feverish activity and the fight for the preservation of individual rights will begin in earnest. It is silly to think that it will merely be a fight between the temperance forces on one side and the liquor interests on the other. Liberty-loving Americans have realized long ago that what confronts them is a clash of two different currents of thought, a struggle, in fact, of two civilizations, the Puritan and the Germanic, the one reveling in human misery, the other rejoicing in human happiness, the one bending people downward to the grave, the other turning their heads upward to the sun of heaven. This struggle between the powers of darkness and the powers of light, between moroseness and self-castigation one one side and good cheer, sociability, and happy laughter on the other is as old as the world, but as to the final outcome there can be no doubt.

Liberty and voluntary temperance will triumph over coercion and prohibition. The first organization to enlist in the cause of personal freedom will be the German-American alliance, 2,000,000 strong, but there are others. Let me read to you a letter which I have recently received in relation to the pending bill from the Missouri State branch of that great organization. It is as follows:

Hon. RICHARD BARTHOLDT,
Washington, D. C.

DEAR SIR: The National German-American Alliance of Missouri, comprising over 160 societies of various kinds and embracing more than 68,000 citizens of the United States, respectfully request you not to vote for any bill such as S. 4043, as previously reported by the Committee on the Judiciary of the Senate or any bills with similar tendency now pending in Congress undertaking to exercise police power in furthering prohibition in any State, as if within the purview of the interstate-commerce law.

As citizens of this country we claim to be second to none in our devotion to the cause of true temperance and to all that makes for the sanctity and purity of the home, and decency and order in the State; but we are bitterly opposed to the passage of any law that destroys our purely personal rights, and for the protection of these rights we stand united as one body. As free and sovereign members of free and sovereign people, we claim the right to regulate our lives and our homes as we see fit, in so far as we do not injure others. The right to drink wine or beer, and to bring them into our homes, we consider as absolute an attribute of human liberty as is the right to buy food. The enactment of such laws would cause this inalienable right of each person to pursue his own happiness in his own way, so long as he does not injure anyone, to be sacrificed to the fanaticism of those who regard the manufacture of or traffic in any alcoholic beverage as a crime and the partaker as a criminal.

We German-Americans have never allowed our love for food and drink to degenerate into intemperance or to interfere with the good of the community, and we regard these bills as an unjustifiable invasion of our manhood rights and of human freedom and as misleading and iniquitous measures, because tending to encourage drunkenness through clandestine tippling and thereby causing evasion of and contempt for the law of the land.

We therefore respectfully but earnestly pray for the defeat of all measures having the deleterious tendencies above referred to, such as Senate bill No. 4043.

THE NATIONAL GERMAN-AMERICAN ALLIANCE,
STATE DIVISION MISSOURI,
DR. CHAS. H. WEINSBERG, *President*,
GEO. WITHUM, *Secretary*,
AUG. H. HOFFMANN, *Treasurer*,
WM. C. F. LENZ, *National Representative*.

And right in line with this earnest and dignified protest permit me to quote from an argument made by the president of the National German-American Alliance, Dr. C. J. Hexamer, before the Judiciary Committee of the Senate on this bill on March 9, 1912. He said:

In every crisis, in colonial times as well as during our national existence, the German element in our land has stood for order and good common sense, and has always counseled well. As early as 1688 our forefathers at Germantown passed the first of all protests against slavery. What misery would have been averted had their advice then been heeded. Their declaration for independence at Philadelphia antedates that of Jefferson; they fed and clothed the army of Washington at Valley Forge; they gave the cause of liberty a De Kalb, Steuben, "the Father of the American Army," a Herkimer, and a Muhlenberg. A Stricker and an Armistead defended and saved Baltimore in 1814; about 200,000 of them fought and bled that not one star should be torn from the field of blue of our glorious banner; and when the flat-money craze spread over the country, they, regardless of party, stood as one man for national honor and honesty, voting for sound money. We plead again to-day, because we honestly believe that the passage of this bill would be a grievous mistake, creating a precedent the final outcome of which can not now be foreseen, and because we feel that it would be an irreparable blow to individual liberty and the sacred institutions of our country.

In the words of that great American jurist, Hon. James C. Carter: "Any legislation which bears the characteristics of tyranny, as I have defined that term, is vicious in theory, and has never yet succeeded, and never will succeed, in gaining its avowed end, or in having any other than an injurious effect; and I venture to add that if the zeal and labors which have been employed by what are called the better classes

of society in efforts to enact and enforce laws repressive of liberty had been expended in kindly and sympathetic efforts to change and elevate the thoughts and desires of those less fortunate than themselves a benefit would have been reaped in the diminution of misery and crime, which compulsory laws could never accomplish. Moral ends can never be gained except by moral means. All the advances in civilization and morality which society has thus far made are due to the cultivation and development of those moral sympathies which find their activity in cooperation and mutual aid."

Now, Mr. Speaker, let me briefly discuss the constitutional question involved in this bill. A mere cursory examination will show that it is in direct conflict with the Constitution of the United States. It will be noted that while the bill forbids the shipment of liquors into prohibition States, it provides no penalty for the violation of the law by a railway company, steamship line, or other transportation agency. A bill providing that certain actions shall be prohibited, but imposing no penalties for violations of the law, is so absurd that it at once suggests the question: "Why is no penalty prescribed?" The answer is that the interests behind these bills know that it would be impossible to punish infringements of the law, as Congress has no power to enact such a measure. Besides to inflict a penalty would, in the opinion of the Anti-Saloon League, break down the prohibition movement and make prohibition "unpopular and ridiculous."

By various decisions of the Supreme Court of the United States, notably Leisy *v.* Hardin (135 U. S., 100) and American Express Co. *v.* State of Iowa (195 U. S., 133), it has been held that a citizen of one State has the right to import liquor from another State. It has also been uniformly held by that court that the regulation of commerce between the States or between foreign countries and the States is wholly confided to Congress by the Constitution. The various kinds of liquors whose transportation it is proposed to prohibit have been held by the Supreme Court to be articles of commerce in which a right of traffic exists, and they are so recognized by the usages of the commercial world and the laws of Congress.

In regard to the transportation of liquors imported from foreign countries, it has been held by the Supreme Court that the right to import carries with it the right to transportation into any State without regard to the laws of such State. In the case of Brown against State of Maryland, decided in 1827, it was held that the absence of a law by Congress as to the importation of any article of commerce is equivalent to a declaration that the importation of that article into the States is unrestricted; and that any article whose importation into the United States is permitted has the right to enter the interior of any State.

In the case of Vance *v.* Vandercook Co. (170 U. S., 438) it was held by the Supreme Court, in an opinion delivered by the present Chief Justice, that—

The right of persons in one State to ship into another State to a resident for his own use is derived from the Constitution of the United States and does not rest on the grant of the State law.

The only possible conclusion to be drawn from these various decisions is: That so long as the laws of Congress permit the importation of liquors into the United States a law prohibiting their transportation into certain States would be void, as the transportation of articles of commerce to their destination is a necessary right attaching to their importation. It follows that the proposed law is wholly ineffectual in so far as it aims to prevent the shipment into prohibition States of liquors brought from a foreign country into the United States.

But even though it is possible to recognize the right of foreign alcoholic liquors to interstate commerce, and at the same time to take away such right from domestic liquors intended for shipment into States which have enacted prohibitory laws, these decisions show very clearly that Congress can not discriminate between domestic liquors shipped from a State permitting the manufacture and sale of alcoholic beverages into another State where a like permission is granted, and the shipment of such liquors into a State which has enacted prohibitory laws. Congress must either totally deny the right of domestic liquors to interstate commerce or permit their shipment into all the States, irrespective of the fact that some of the States may have enacted prohibitory laws. Or, in other words, if the right which exists to-day to ship whisky, beer, etc., from the State of Kentucky to the State of Kansas is to be denied, then the right to ship whisky and beer from New York to Connecticut must be denied. Congress can not declare that whisky and beer are proper articles of commerce for consumption by citizens of the United States resident in the State of New York and improper articles of commerce for consumption by citizens of the United States resident in the State of Kansas. While Congress can not interfere with the exercise by a State of the police power as affecting the people who reside therein, Congress has the power, as shown by these decisions, to insist that no class of citizens of the United States shall be denied the right to purchase articles which other classes can purchase, through the admission by Congress of such articles to interstate commerce. If the right to purchase and transport recognized articles of commerce is denied to citizens of the United States resident in one State, then it must be denied to the citizens of the United States resident in all the States.

Section 2 of Article IV of the Constitution of the United States provides that—

The citizens of each State shall be entitled to all privileges and immunities of citizens of the several States.

The plain construction of this article is that laws enacted by Congress affecting the citizens of the United States must be uniform in their application, and that Congress can not by a general law give citizens of the United States residing in one State privileges not accorded to citizens residing in other States, or impose restrictions on the commerce of citizens of the United States residing in one State that are not imposed on citizens residing in other States. The proposition to take by Federal legislation from the citizens of certain States the right to import recognized articles of commerce, while permitting citizens of other States to import such articles, is in direct violation of the right guaranteed by the Constitution to equal privileges and immunities for all citizens of each State.

The Kenyon bill embodies a special grant of powers not hitherto possessed by the States, but reserved to the Federal Government by express requirement of the Federal Constitution. Should Congress permit the States to erect trade barriers with reference to a single article of lawful commerce, the whole power of the Federal Government to prevent that division of the States into warring, commercial sections would be surrendered. And the theory that Congress may and should perform such an act of violence to the Constitution and the Federal Government itself and leave it to the courts to right any wrong, is one of the most dangerous propositions ever submitted to a legislative body sworn to support the Constitution. It is an assumption that the courts and not Congress are to support and enforce the Constitution, and that Congress is a mere clerical body bound to enact into law the whims of persons who, unmindful of the true nature of our Government and the just limitations of State powers, seek their own ends.

The pending bill is absurd, economically ruinous, and destructive of the great fabric of the Federal compact. Congress has no right to take the property of any citizen by legislation and without some form of redress or compensation, and can not delegate such power to States or organized bodies or individual citizens. If Congress abdicate and also authorize States to despoil the commerce of their neighbors and erect trade barriers, the Union will have been destroyed by act of Congress. For Congress has no graver duty than to obey the letter and spirit of the Constitution and prevent that very tragedy of a great Nation.

At one period of the Civil War, when the Federal forces had penetrated the cotton-growing States, vast quantities of garnered cotton were seized and sold as a war measure. Some years after peace was restored, Congress provided means for paying many of those who had thus suffered loss of property. Final justice was done even in a matter arising in the heat of conflict. It is well to recall, briefly, this history of a past that is not very far away, but which may have been forgotten by those now proposing a grant of the power of spoliation of lawful property to States without redress in time of peace.

In our history as a Nation, there have been many threatening movements and episodes, but none has been more threatening or baseless than that for spoliation by the States and consequent commercial disunion. How long can political union exist when commercial disunion is enacted by Congress?

So much for that. Having demonstrated that this bill contemplates a wanton attack on the Federal Constitution, now let me show you how completely unnecessary this legislation is in order to accomplish the purpose which it seeks to accomplish. That purpose is to prevent people living in prohibition States from securing liquor from outside of the State. It is true that under the Constitution and the decisions of the Supreme Court an interstate shipment can not be interfered with until it is delivered to the consignee, but it is also true that the moment the consignee attempts to dispose of it, by sale or otherwise, it becomes subject to the State prohibitory law and, consequently, to seizure and destruction. Hence, if the State authorities did their duty in enforcing the State prohibition law, the very object of the bill under consideration would be attained without any aid from Congress whatsoever. It may be argued that an enormous police force would be necessary to watch violations, but that is the penalty of trying to enact and enforce Russian statutes. The cry for help which comes to Con-

gress from the prohibition States is really a humiliating confession that these States either will not or can not enforce their own laws. If they fail to exhaust their own powers, they do not come here with clean hands, and their appeals are, consequently, not entitled to a hearing; and if, on the other hand, they can not enforce prohibition, even with the exercise of due diligence, then Congress should regard this as convincing proof that all prohibitory legislation is absolutely futile. In either case there is not a shadow of an excuse for interference by the law-making power of the Federal Government. I say again, if the State authorities can not furnish to Congress complete proof of its inability to suppress the traffic and of its entire good faith in the exercise to the utmost limit of its powers to that end, then I claim they have no moral right to invoke the power of Congress. And if, on the other hand, practical experience has demonstrated all honest attempts at suppression to have been futile, simply because of the inefficiency of all law in preventing people from obtaining what they desire, then, I say, it is absolutely useless to provide additional legal machinery for that purpose, because to do so would have no other effect than to undermine and destroy the authority and dignity of national law in the eyes of the people. Is there within the reach of my voice an advocate of the pending bill who can refute or break down this logic?

And is it not the duty of Congress, when it enters upon the field of sumptuary legislation, to inquire whether such legislation is backed by public opinion sufficiently to render it capable of enforcement? On that score I am able to give you some interesting facts and figures. There were relatively more arrests and more crimes in dry States than in wet States, and when I say dry I mean officially dry, for there is no real dry State in the Union. The milder beverages are consumed to a much larger extent in wet States than in dry ones, while, vice versa, strong drinks are more in demand in dry than in wet territory. The direct effect of prohibition legislation has been to increase the consumption of ardent spirits and to decrease that of beer and wine, and the figures of the Internal Revenue Office show that in no period of our history has the consumption of whisky increased more rapidly than during the last 10 years, the time of the greatest prohibition agitation; in fact a comparison between the increase of liquor consumption and population shows such a disproportion in favor of the former as to alarm the true friends of temperance and to stamp the whole prohibition agitation as an utter and miserable failure. Certainly, if the professional prohibition lobbyists, who have their headquarters here in Washington and are waxing fat as a result of their agitation, had been advance agents of liquor houses they could not have been more successful. But that is not all, Mr. Speaker. We also learn from the official reports that during the last fiscal year not less than 2,488 illicit stills were suppressed by the agents of the Government, and the majority of these were located in dry territory. And how many may there be still in operation? When we consider that there are only 924 legitimate distilleries in the whole country we can form a faint idea of the extent to which "moonshining" is now carried on, and as Government-taxed, legitimate liquor interferes with their business we are not surprised to learn that the "moonshiners" are making common cause with the prohibitionists to keep liquor out of their territory, as they are reported to have done in West Virginia. I am sure there is not a single "moonshiner" in the country who does not favor the very bill we are now considering.

These facts, Mr. Speaker, will give us an inkling of what will happen when this bill is put upon the statute books. For temperance purposes it will be absolutely nugatory, because if spirituous and malt liquors for which the Government tax has been paid is kept out of the prohibition States the demand will simply be supplied by the "moonshiners," and, besides, an expenditure of a few dollars will suffice to enable every farmer to produce himself all the liquor he may require, and in this way we are turning every farm and every home into a private distillery. Does any sane man believe that we could employ a sufficient force of Government agents to cope with this situation? You may pass a hundred laws like the one under consideration, and you will not thereby be able to promote the cause of temperance, simply because you can no more make a man temperate or abstemious by law than you can make him honest by law, and for this reason prohibition, whether backed by State or National law, or by both, will always and everywhere be an ignominious failure.

In conclusion, Mr. Speaker, I wish to quote here the opinions of some representative newspapers regarding the pending bill. Under the headline "Lobbying for Tyranny," the New York World of December 18, 1912, said:

In the various prohibition States it is a crime to manufacture, sell, or give away intoxicants. It is a crime to have liquor in the house. It is a crime for a traveler passing through dry territory to take a drink from a pocket flask.

Because some of these offenses happen every day, those who are more intent upon regulating the habits of the people than upon enforcing the law want Congress by the exercise of its great powers to come to their assistance. They want a Federal law prohibiting interstate shipments in such cases. They want the Nation to make their State laws effective. They want to say what their neighbors shall and shall not drink, and then they would like to turn the whole matter over to the United States Government for administration.

The right of a State to outlaw commodities and practices elsewhere perfectly lawful must be conceded, but the responsibility for the execution of the policy is its own. If most of its people offend and its jails are not commodious enough to accommodate them, there is the best of evidence that public opinion is either hostile or hypocritical. In any event, there are excellent reasons why the central Government should not exercise a tyranny over the people.

And under date of December 17, 1912, the Washington Post says:

THE KENYON BILL.

Enough was developed in the debate in the Senate yesterday on the Kenyon interstate shipping bill, wherein it is sought to legislate on the shipment of intoxicating liquors from "wet" into "dry" territory, to establish the doubtful wisdom of the passage of such a measure.

In the first place the inquiries made by the strongest lawyers in the Senate of those Senators who advocated the bill clearly show that, in the judgment of these lawyers, there is grave doubt as to the constitutional power of Congress to delegate its control of interstate commerce to the laws of the States and the whim and caprice of State officials.

When the advocates of the measure were forced to concede through these inquiries that the second section of the Kenyon bill is of doubtful constitutionality, they made the practical concession that the bill in its entirety is unconstitutional, for section 1 of the proposed bill makes the laws of the States, whatever they may be, the rule by which interstate shipments are to be controlled.

That this is dangerous and pernicious legislation is best shown by the fact that if the inviolability of interstate commerce from State interference is once jeopardized with respect to one article of interstate commerce, it establishes a precedent that may arise to plague the makers of our laws upon other articles of legitimate commerce at the behest of agitators in one or more of the States.

Of the 48 States now in the Union but 8 States have State-wide laws prohibiting the manufacture and sale of liquors. Others have county, municipal, parish, or township prohibition of manufacture and sale. No State prohibits the use of liquors or their possession for personal use. Nearly all States have search and seizure laws. It looks as if, aside from the constitutional validity of a measure delegating to the States the regulation of interstate shipments of liquor, the advocates of the Kenyon bill should devote their energies to the enforcement of State laws of unquestioned validity. Strict enforcement of State laws would accomplish all that the advocates of the Kenyon bill assert they are seeking.

The Kenyon bill, aside from its verbiage, proposes to subject interstate shipments of liquors to the operation of State laws before the interstate shipment is completed by delivery to the consignee.

If further congressional regulation of interstate liquor shipments is desired beyond the criminal-code provisions with respect to marking the kind and quantity of liquor and the name of the consignor on the package, it would appear preferable to have the regulation contained in an act of Congress which would furnish a national rule, and not to subject foreign and interstate shipments of liquor to as many different interstate regulations as there are States in the Union.

Mr. BARTHOLDT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

Mr. BERGER. Mr. Speaker, I would also like unanimous consent for the same purpose.

The SPEAKER. Is there objection?

There was no objection.

Mr. LANGLEY. Mr. Speaker, I would also like to have unanimous consent.

The SPEAKER. The gentleman from Kentucky also asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. DAVIS of West Virginia. Mr. Speaker, as a member of the Committee on the Judiciary, I joined in reporting to this House the pending bill in order that the House might express its opinion on the questions, both of law and of policy involved; having voted for the bill in committee, I shall vote for it here, but I was not then, and am not now, content with the form in which it appears before this body. In conjunction with some of my colleagues on the committee, I have filed a report suggesting to the House certain amendments and have offered the same to be read from the Clerk's desk. One of these amendments declares it not to be the purpose of the bill to prohibit shipments for sacramental purposes or for the personal use or consumption of the owner or consignee. The other provides what penalty shall be incurred by those who persist in making the sort of shipments which the bill forbids. These amendments are in the judgment of myself and my colleagues not only important but absolutely vital, since, as we see it, the bill without them is of doubtful virtue to accomplish any purpose, good or bad.

I would have been content, Mr. Speaker, to stand upon the brief exposition of our views set forth in the memorandum we have already filed, if it were not that there seems to have been a more or less deliberate effort to spread abroad the impression that our amendments were not offered in good faith or from the standpoint of friendship to this measure. I perceive that already this effort has so far succeeded that gentleman on this floor who approve both the language and the purpose of these amendments are disposed not to support them for fear that they may be suspected of hostility to the objects of the bill.

I can understand how those who are against the bill in any form can oppose these amendments because of a natural desire to leave the bill as imperfect and as powerless as possible, but I can not for the life of me understand why the friends of the measure should oppose an amendment as to sacramental and personal use, which will bring the bill into harmony with the law as laid down by the Supreme Court of the United States, or an amendment imposing a penalty, which will give to the bill all the vitality and force of which it is capable and furnish whatever defense is possible to the constitutional objections urged against it.

As the bill stands it simply declares that shipments of intoxicating liquor intended to be used in violation of State laws is prohibited; and having so said, it is silent. As I shall seek to point out, this is, in my judgment, simply equivalent to a resolution that the Members of Congress do not approve of the illicit traffic in liquors; only this and nothing more.

With such a declaration no reasonable man can disagree; certainly I do not. Each State has the undoubted right to determine for itself the manner in which the sale of intoxicants shall be regulated or the terms on which it shall be permitted, if at all. Whether it adopts the policy of license or the dispensary system, the prohibition of manufacture and sale, or prohibition in any other form, the law ought to be respected and enforced to the letter. My own State of West Virginia last fall, by an overwhelming majority, declared in favor of the constitutional prohibition of the manufacture and sale of intoxicants. I have no doubt that in due course legislation will be enacted to carry this constitutional declaration into effect, and it is my earnest hope that when enacted it will be enforced with vigor and sincerity. The principle involved goes beyond the mere question of intoxicating liquors and involves the supremacy of all written law. Speaking for myself, I shall support, as a Member of Congress, within the bounds of the Constitution and the limits of good reason, any and all legislation which will assist in the enforcement of whatever law my State or any other State shall adopt. I have no sympathy with the "bootlegger" or "speak-easy" keeper, whether he operates in a prohibition State, a license State, or a dispensary State, and he ought to be put out of business in one just as quickly as in another. Neither have I any sympathy with a man outside the State who knowingly and intentionally assists him to violate the law. I should be only too glad to believe that this bill in its present form would put them both under the ban of the law.

But these questions are not involved here. This bill, like every other, must be judged by its own language and effect and not by the praiseworthy purpose of any of its advocates.

PERSONAL AND SACRAMENTAL USE.

I have suggested as an amendment that there be added to the bill this clause:

That nothing in this act contained shall be construed to forbid the shipment or transportation of any spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind intended for sacramental purposes or for the personal use or consumption of the owner or consignee thereof.

In presenting this amendment I am defending a principle approved by the Supreme Court of the United States itself, and I am thus saving the bill from a construction which would destroy it, and putting into language too plain to be misunderstood the expressed purpose of the author and proponents of the bill themselves.

It must be remembered that no State has forbidden to its citizens the right to possess intoxicating liquors for their own personal use and consumption.

In Vance v. Vandercook (170 U. S., 452) the Supreme Court said:

But the right of persons in one State to ship liquor into another State to a resident for his own use is derived from the Constitution of the United States and does not rest on the grant of the State law. Either the conditions attached by the State law unlawfully restrain the right or they do not. If they do, and we shall hereafter examine this condition, then they are void. If they do not, then there is no lawful ground of complaint on the subject.

And again, in the case of Pabst Brewing Co. v. Crenshaw (198 U. S., 17) Justice White said:

In so far, however, as the State law imposed burdens on the right to ship liquor from another State to a resident of South Carolina intended for his own use and not for sale within the State, the law was held to be repugnant to the Constitution, because the Wilson Act, whilst it delegated to the State plenary power to regulate the sale of liquors in South Carolina shipped into the State from other States, did not recognize the right of a State to prevent an individual from ordering liquors from outside of the State of his residence for his own consumption and not for sale.

What did the author of this bill intend on this subject? It is an open secret, Mr. Speaker, that this bill was drafted by a lawyer of some distinction in the State of Oklahoma—certainly by a gentleman of intelligence, as shown by his testimony before committees of this Congress. Let me read here his language before the Judiciary Committee of the House on the 5th day of March last.

He said:

I contend in the same way Congress might so regulate commerce as to take away this right for personal use. But, speaking for Oklahoma, I say to you that we are not asking that, because down there we are prohibitionists of this sort—we are prohibitionists because we are opposed to the traffic and the institution of the saloon. We do not legate the man just because he uses, in a decent way, intoxicating liquor, although, speaking for myself, I am a total abstainer. But we believe that if the use of intoxicating liquor had at all times been confined to the home—personal use in the home—there never would have been the question of prohibition.

So that primarily we prohibit the sale of those things in order to strike down that traffic—the open saloon and its attendant and kindred evils. If the time should ever come when, in order to protect the morals and the public welfare of the State of Oklahoma, it should, in the opinion of the legislative power of the State, become necessary to prohibit the personal use of intoxicating liquor, who ought to have the right to exercise that power—the Congress of the United States or the State of Oklahoma? We say that Congress has nothing to do with that question, and that it is none of Congress's business whether the people in the State of Oklahoma shall drink liquor, have it in their homes for their personal use, or whether they shall sell it.

For myself, I concur in his statement that it is not the business of Congress whether the people of Oklahoma or any other State shall have liquor in their homes for their personal use or shall use it for sacramental purposes; and I insist that this law shall be so defined as to accord with that principle and with the decisions of the Supreme Court.

Mr. J. M. C. SMITH. Will the gentleman state whose testimony it was from which he was just reading?

Mr. DAVIS of West Virginia. That was the statement of Mr. Fred S. Caldwell, of Oklahoma City, draftsman of this bill.

I read again from the published hearings had before a subcommittee of the Committee on the Judiciary of the United States Senate, on the 17th day of February last, the following statement from the Rev. E. C. Dinwiddie, legislative representative of the Antisaloon League:

Mr. DINWIDDIE. Now, I will say to the doctor, for his information, along the line of the point that the court has said that that is a constitutional right—and he and I will not have any argument about that—that it is a constitutional right for a man in one State to have shipped to him alcoholic liquors from another State. It is his right to receive these liquors. The Wilson law simply has the effect of preventing his selling them in unbroken packages if the law of his State forbids it. But that constitutional right that Dr. BARTHOLDT speaks of is the same constitutional right the Supreme Court held in the Bowman case and the Delsey v. Hardin case—was the right not only to receive in the original unbroken package, but the right to sell in the original unbroken package, the State law to the contrary notwithstanding. They used the same language then, saying it was a constitutional right. Congress took away by direct legislation the constitutional right the man had to sell liquor in the original package. If he received it through the channels of interstate or foreign commerce. That is a correct statement, which I am ready to rest upon before any committee of lawyers or anybody else.

Representative BARTHOLDT. Not at all. That was not a constitutional right at all——

Mr. DINWIDDIE. The Supreme Court said so.

Representative BARTHOLDT. Under the decision of the Supreme Court it was decided to be a constitutional right to receive an interstate shipment. In other words, an interstate shipment is not delivered until it is delivered to the hands of the consignee. But the very moment it leaves the hands of the consignee the State law goes into effect, and that is why I have always argued that this legislation is unnecessary, for the reason that as soon as a consignee receives a shipment of liquor and tries to dispose of it by sale or otherwise the State law is in effect, and you can prevent him from doing it without any law enacted by Congress.

Mr. DINWIDDIE. I am free to say that if the constituents of the doctor and those who buy their products for sale were men who would absolutely obey the laws of their States we would probably not need this legislation; but the keepers of blind tigers and speak-easies all over the country, at whom exclusively this legislation is aimed, do not always respect the law—and I rest on the language of the bills for this statement. I say that a plain, careful reading of that bill can not give anybody the impression that we are trying to prevent by congressional legislation the importation or use of intoxicating liquors for family or personal use.

This would certainly seem to be plain enough, and yet, Mr. Speaker, I received in my mail this morning a letter, a copy of which I suppose was received by every other Member of the House, upon stationery headed "The Anti-Saloon League of America" and signed by Edwin C. Dinwiddie, its "legislative superintendent." The right of that organization to promote this or similar legislation and the right of that gentleman as its representative to do what he legitimately can to bring about its passage, I do not for one moment challenge. I ask only the right to compare a portion of that letter with his testimony which I have just read. He says in his letter:

Besides an attempt to put on a penalty clause, our friends are asked to be on guard against the effort to attach a provision to exempt liquors imported for personal use. We contend this is purely a State matter. Such a clause is against the real policy and underlying principle of the bill. It will shackle and hobble the States while the whole intent of the measure is to unfetter them. It will legalize the introduction of liquors for personal use when that whole question should properly be left to State control.

We earnestly urge the friends of this legislation to resist to the very last any effort to attach a "personal use" clause to the bill, a plan which the liquor interests have been urging for 10 years past, whenever this legislation has been seriously feared by them.

I do not know, Mr. Speaker, what has been urged in years past; I do not know what may be urged by others now, but I deny with emphasis that in urging this particular amendment, I speak as a friend of the liquor interests or for or in their behalf.

Of course, the suggestion made in this letter that this bill would "legalize" everything it may not directly prohibit, is too ridiculous and absurd for serious consideration. The bill, of course, "legalizes" nothing. It does pretend to render certain things which are named unlawful.

Before the Senate committee we are told that—

A plain, careful reading of that bill can not give anybody the impression that we are trying to prevent by congressional legislation the importation or use of intoxicating liquors for family or personal use.

And yet, when we undertake to make the bill read to that effect in plain, unmistakable, honest, straightforward English, we are told this morning by letter from the same hand that—

Such a clause is against the real policy and underlying principle of the bill.

Others may reconcile these statements if they can; I can not. Further comment upon them and upon the bald contradiction between them is superfluous.

PENALTY CLAUSE.

I propose as another amendment to the bill that there shall be added a clause substantially as follows:

And whoever shall knowingly ship, transport, or deliver to any common carrier for shipment or transportation, or shall knowingly cause induce, or procure to be shipped, transported, or delivered to any common carrier for shipment or transportation from one State, Territory, or District of the United States or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States or place noncontiguous to but subject to the jurisdiction thereof, any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, with intent to receive, possess, sell, or use the same therein, or to cause, induce, or procure the same to be received, possessed, sold, or used therein, either in the original package or otherwise, in violation of the laws of such State, Territory, or District of the United States or place noncontiguous to but subject to the jurisdiction thereof, shall be fined not less than $100 nor more than $5,000 or imprisoned not less than 30 days nor more than 2 years, or both.

This bill undertakes to strike out on a new line. I can not agree with my distinguished friend from Missouri [Mr. BARTHOLDT], who contends that it is similar in character with bills which have been urged from the same source in years gone by. In order that I may be clearly understood, it is necessary to call attention to the difference between this bill and bills in relation to the interstate shipment of intoxicating liquors which have been proposed in previous Congresses.

As is well known, after the Supreme Court had decided the case of Leisy v. Hardin (135 U. S., 100), Congress, on August 8, 1890, passed the Wilson Act to the effect that:

All fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein, shall upon arrival in such State or Territory be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

Subsequently, in the cases of In re Rahrer (140 U. S., 545) and Rhodes v. Iowa (170 U. S., 412), the Supreme Court declared this act constitutional, but held, however, that the words "upon arrival in such State or Territory" meant arrival at the point of destination and delivery to the consignee.

In each succeeding Congress bills were introduced proposing, in effect, to amend the Wilson Act by inserting after the words "upon arrival" the words "within the boundary of the State" and "before delivery to the consignee," the intent of such amendment being to subject intoxicating liquors to State or Territorial laws at any time after they had crossed the geographical boundary of the State or Territory. Such a bill was pending in the Sixtieth Congress and was exhaustively considered.

In a report which emanated from the Judiciary Committee of the United States Senate Senator Knox summarized the objections to such a bill as follows:

My conclusions are:

1. Interstate shipments are not completed until they reach the consignee.
2. An interruption or interference with interstate shipments before they reach the consignee constitutes a regulation of commerce.
3. Regulating interstate-commerce shipments is an exclusive function of Congress.
4. Congress can not delegate any part of its exclusive power to the States.
5. To remove the bar or impediment of exclusive Federal power which shuts the States out of Federal domain, and thereby allow them to enter that domain, is to permit or sanction a State law in violation of the Constitution and, in effect, to delegate a Federal function to the States. (See S. Doc. No. 146, 61st Cong., 1st sess.)

These conclusions I regard as being in accord with the decisions of the Supreme Court and their logic to be unanswerable; in fact, they are axiomatic.

In Louisville & Nashville Railroad Co. v. Cook Brewing Co. (223 U. S.), decided on the 22d of January, 1912, and one of the latest deliverances on this subject, the Supreme Court says it is "indisputably determined"—

(a) That beer and other intoxicating liquors are a recognized and legitimate subject of interstate commerce.
(b) That it is not competent for any State to forbid any common carrier to transport such articles from a consignor in one State to a consignee in another.
(c) That until such transportation is completed by delivery to the consignee such commodities do not become subject to State regulation restraining their sale or disposition.

The proponents of the present bill, H. R. 17593, endeavor to avoid these objections by calling upon Congress itself to regulate the traffic in intoxicating liquors instead of asking it to surrender this regulation to the States at some point along the line of transit and before delivery. The earlier bills proposed may be characterized as merely negative or passive legislation by which the Federal power would withdraw from a field that it had formerly occupied. This bill, on the other hand, purports to be an affirmative and active exercise of the Federal power within the whole field of its constitutional operation.

I do not doubt the exclusive power of Congress to regulate interstate commerce in intoxicating liquors as in other articles, up to and including the moment of delivery to the consignee. It would seem also to be clear that this regulation may, in appropriate cases, take the form of prohibition and exclusion from the channels of commerce; thus, by section 240 of the Criminal Code, the shipment of intoxicants not so marked as to plainly show the name of the consignee, the nature of its contents, and the quantity contained therein, is forbidden; and as also, under the food and drugs act, is the shipment of adulterated or misbranded liquors.

By this bill it is now sought to exclude from interstate commerce all liquors shipped with unlawful intent. This is asserted to be a rule propounded by Congress alone, which is uniform in character, and which, after the language of Gibbons against Ogden, regulates commerce in intoxicating liquors by prescribing a rule by which it shall be governed.

As against this, it is urged that when the unlawful intent is to be tested solely by the laws of various States which are or may be violated, these laws and not the law of Congress become ipso facto the determining factors; that since it would be unlawful, for instance, to ship intoxicating liquors into the State of Pennsylvania to be sold to a minor, into the State of Ohio to be sold on Sunday, into the State of Kentucky to be sold after closing hours, into the State of Oklahoma to be sold at all, the uniformity of the attempted rule at once disappears, and the laws of the States are given extraterritorial effect. Indeed, a shipment made with intent to sell might be legal when consigned to a license county and illegal when consigned to a no-license county, both in the same State.

The question, therefore, is not whether Congress can forbid the transportation, with unlawful intent, of intoxicating liquors, or any other commodity, but whether it can, without delegating or surrendering its constitutional power, adopt as the criterion, the test, of that unlawfulness a purpose to violate the law of any other sovereignty.

Now, it is all very well for gentlemen to rise on this floor or elsewhere and say that there is no doubt about the power of Congress to pass legislation of this character. There is doubt about it, and everybody knows it. And I observe that those who are most confident on the subject are usually those who have given it least thought. Confidence seems to exist in inverse ratio to the amount of study that has been actually bestowed. In this particular I commend the frankness of the chief advocate of a similar bill pending elsewhere, who says:

Now, I think no lawyer who is honest with himself and perfectly frank will deny that there are very close constitutional questions involved in this bill, and especially as to section 2.

It is indeed a close question, but it is perfectly clear to me that if this bill is to stand at all it must stand as a congressional declaration of a congressional policy and not as an attempt on the part of Congress to surrender or redelegate to the States the power which the States solemnly lodged in the Federal Government. Congress has no power to so amend or constrict the Constitution. For myself, I do not believe that this bill will give to the officers of the States engaged in enforcing State laws any powers which they do not now possess.

I am aware that some of the advocates of the bill contend that it will enlarge by indirection the power of the States over

intoxicants in transit, and will render possible, under search and seizure laws, the entering of trains and other vehicles in which the forbidden liquors might be transported, either alone or in common with other legitimate articles of commerce; but this argument necessarily assumes that the bill is in fact, though not in language, a surrender or delegation of authority to the States which they have not heretofore enjoyed, and thus defeats its own purpose by exposing the bill to all the fatal objections which were urged against its predecessors.

But the bill, as I have said, professes to be an active exercise of congressional power. It is that or it is nothing. Congress is asked to declare that certain things shall not be done, and yet the gentlemen who say they favor such legislation want to stay our hands when we seek to punish those who do them. Is it not clear that if Congress has no right to punish it has no power to forbid; and, conversely, if it has the power to forbid, it is its duty to punish? Has it ever been seriously suggested before in the American Congress that we may create a crime but not punish it; that we shall have the will to denounce an offense but not the courage to punish the offender? [Applause.] What does the declaration by Congress that a certain thing shall not be done amount to if we go no further? What sanctity or sanction is there attached to a proclamation of that character? Is it any more than a resolution adopted by an assembly of worthy gentlemen to the effect that certain things do not meet with their approval? What are you going to do with a man who says, "I differ from you in your judgment, and I propose to continue to do this thing which you do not like"? How lame and impotent does that make the legislative branch of the Government appear? What a potent evasion of responsibility. What cowardice to say that Congress has the constitutional right to forbid a thing but not the constitutional courage to attach a penalty to its prohibition. [Applause.] Mr. Bishop, in the first volume of his work on "Criminal Law," section 6, says:

By law, as the word is here used, is meant not merely the precept, but the penalty also. Indeed, law without punishment for its violation is in the nature of things impossible. It is as though we were to speak of an earth without matter, an atmosphere without air, an existence without existence.

The draftsman of this law recognized that principle. He knew that a law without sanctions and penalty was a mere all contracts made with reference to these shipments and not the declaration of legislative will; and therefore to this bill as originally presented he attached what he conceived to be appropriate penalties, by denouncing as null and void brutum fulmen, a mere declaration of legislative opinion and by depriving the article itself of its inherent property characteristics. I need not pause to discuss these suggested penalties, for it is enough to say that both friends and foes of the bill have united without dissent in striking them out as wholly impossible. The regulation of commerce by prohibiting the transportation of certain articles is no longer a novel exercise of congressional power. Laws are already on the statute books forbidding either entirely or on certain conditions the transportation of numerous articles, among them the following:

Slaves, explosives, lottery tickets; obscene books and other like articles; diseased and infected cattle; the mongoose, English sparrow, and other pests and game killed out of season; renovated or unstamped butter; unmarked or unlicensed virus and serum; gypsy moth, boll weevil, and insect pests; spuriously or falsely marked articles of gold and silver or their alloys; uninspected meats; adulterated and misbranded food and drugs; opium imported contrary to law; and, latest of all, the white slave traffic act.

To each of these laws Congress attached as a matter of course the sanction of a criminal penalty and imposed appropriate fines or imprisonments or both for their violation. Can any advocate of this bill assign a reason why a man should be punished for violating a law of Congress against the transportation of English sparrows and go free of punishment for the violation of a law of equal dignity forbidding the transportation of intoxicants for unlawful use?

If in violation of the revenue laws of the United States a man should sell intoxicating liquors at retail without having paid the special tax required by law, he may be fined not less than $100 nor more than $5,000, or imprisoned not less than 30 days nor more than 2 years, or both. Is there any reason why he should not suffer a similar penalty if, under this law, he knowingly ships intoxicating liquors for illicit use? Why should one law be given the sanction of criminal enforcement and the other left as an essay on the subject?

I insist that it is essential both to the validity and vitality of this proposed statute that either the penalties I suggest or some others shall be added thereto.

FEDERAL AID TO THE STATES.

Just one thing more, Mr. Speaker, which I feel it a solemn public duty to say. In the discussion of this bill the suggestion has been too frequently made that in some way the Federal Government is unfriendly to the States and is opposed to their enforcement of their own laws with reference to the manufacture and sale of intoxicating liquors. We hear talk about "partnership" between the Federal Government and the bootlegger, of the Federal Government "forcing intoxicating liquors on unwilling communities," and so on.

Oh, it is a very easy thing for local officers who, through indolence, inefficiency, or worse, do not want to execute local laws to unload the blame on the Federal Government or anybody else. It is quite natural, too, that such expressions should fall from the lips of those who make a business of appealing to passion rather than to reason and who wish to make their statements striking by the use of exaggerated language; but, unfortunately, this sort of talk is not confined to these classes; it comes from the lips of those who know better, and is not even a stranger in the halls of the Capitol itself.

I have no patience with it. It is not true in any sense, and those who indulge in it are helping to create a false impression in the public mind and stirring up animosities that may not be so easily laid.

The States or the people of the States created the Federal Government and gave it certain powers, which they can either take away or enlarge at pleasure; but they can not expect it to do things which they never gave it the power to do, and they ought not to be persuaded to look upon it as an enemy.

Congress has already declared that from the very instant when intoxicating liquors are delivered to the consignee they shall be subject to all the laws of the State in which they are delivered. It has further provided that no officer, agent, or employee of any railroad company, express company, or other common carrier shall deliver intoxicating liquors to any person other than the person to whom it has been consigned, or upon his written order, nor to any fictitious person or any person under a fictitious name. It has required all intoxicating liquors when shipped to be so labeled on the outside cover as to plainly show the name of the consignee, the nature of its contents, and the quantity contained therein. And it has forbidden any railroad company, express company, or other common carrier to collect the purchase price or to act in any way as the agent of the buyer or seller, thus putting an end to all C. O. D. shipments.

This is the law to-day. I do not believe the general public understand it. If they did, they would be less charitable toward those State officers who say they can not enforce State laws because the Federal law stands in the way.

But this is not all. A special tax is required to be paid to the United States by every person who desires to sell intoxicating liquors at retail, and while this is often spoken of as a "Government license," it is not, of course, a license in any sense, and gives to the party who pays the tax no right whatever to sell in violation of the law of the State. In fact, the law itself expressly provides that:

The payment of any tax imposed by the internal-revenue laws for carrying on any trade or business shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on the same within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in a place prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business for the State or other purposes.

In order to collect this tax the Federal Government keeps in the field its force of marshals, collectors, and secret-service agents making constant war on illicit distilleries and illegal sales. Its revenue collectors are required by law to keep publicly posted and to furnish to State authorities lists of those who have paid the special tax. The States have the right, and many of them exercise it, to make the payment of this special tax prima facie proof of an intent to violate the law; and thus this internal-revenue system instead of encouraging violation of State laws works in harmony with the State as its most effective aid.

In order to make this assistance as full as possible we have just reported favorably from the Judiciary Committee a bill directing the internal-revenue collectors to furnish upon request to the State officers not only a list of those who have paid this internal-revenue tax, but a certified copy of the application which is required to be made by the retailer to the internal-revenue collector's office.

All this, Mr. Speaker, demonstrates beyond question that instead of antagonism between the State and Federal Governments on this subject there is cooperation and active assistance.

For myself, I am willing to go as much further as we legally can along the line of this cooperation, but I do protest against the false and unfounded clamor that the Federal Government is blocking the moral progress of the States.

It was just this sort of thing which 50 years ago aroused human passion to a point where sober thought was no longer possible and drenched this land in blood. The Union was saved in vain if its citizens are to be taught now that it is a hateful and a foreign thing. The tears and blood that effort cost were a useless sacrifice if the system of government saved does not work as a harmonious whole. Instead of joining in such an outcry against it, will we not better serve the duty of the hour by raising our voices in its support. Must we not point out to the country that the State and Federal Governments are not hostile and contending forces but agents and servants of the same great people?

Above all, let us cause them to remember that no laws are automatic, and though we fill the shelves of all our libraries with new statutes on this and every other question, they will amount to nothing unless men are found who will enforce them. Now as always the first need the country over—in State, Nation, county, and city—is the genuine enforcement of the laws we have.

Mr. CLAYTON. Mr. Speaker, how much time has been consumed by those in advocacy of the bill?

The SPEAKER pro tempore. The gentleman from Alabama has 31 minutes remaining, and the gentleman from New Jersey has 49 minutes remaining.

Mr. McCOY. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois [Mr. CANNON].

Mr. CANNON. Mr. Speaker, in 10 minutes' time it is, of course, impossible to discuss this question from a legal standpoint, even if I was capable of discussing it. I want to refer to it, and I would be glad to have the privilege of extending my remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD.

Mr. CLAYTON. Mr. Speaker, I ask to modify that by including all gentlemen who have spoken.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. CLAYTON. Mr. Speaker, I was on my feet to object, unless it included all gentlemen who have spoken.

The SPEAKER pro tempore. Unanimous consent is asked, and unless a Member objects consent is given.

Mr. CLAYTON. I was on my feet to object.

The SPEAKER. Is there objection?

Mr. CLAYTON. Well, Mr. Speaker, if I must object now, I will object.

The SPEAKER pro tempore. Objection is made.

Mr. CANNON. Mr. Speaker, after unanimous consent has been given to three Members within 20 minutes to extend their remarks, the gentleman from Alabama, exercising his power as a Member of the House, has objected to further unanimous consent, making fish of one and fowl of another, just as this proposed legislation will do in this country. [Applause.]

To make myself clear in the outset, I will say that I am not going to vote for this bill, but for many reasons I shall vote against it. I hold in my hand—and, as I have not unanimous consent to extend my remarks, I will read from—the decision of the Supreme Court of the United States in the case of the Louisville & Nashville Railroad against Cook Brewing Co., a very recent decision, reported in Two hundred and twenty-third United States, page 70. In my judgment that decision covers this matter. I read from that decision, as follows:

> That beer and other intoxicating liquors are a recognized and legitimate subject of interstate commerce.
>
> That it is not competent for any State to forbid any common carrier to transport such articles from a consignor in one State to a consignee in another.
>
> That until such transportation is concluded by delivery to the consignee, such commodities do not become subject to State regulation restraining their sale or disposition.

That is the unanimous decision of the Supreme Court, and yet we have this performance here to-day. Our power to regulate commerce among the States and with foreign nations is the one power we have in the premises, all other power being reserved to the States. I take it that under the power to regulate commerce, even if it were possible for Congress to prohibit commerce in a given article that had been declared to be a legitimate article of commerce, yet Congress can not delegate its power to regulate interstate commerce to any State.

If this bill should be enacted into law, thereby establishing a precedent for legislation of this kind, where would it lead us? Let us hark back to the Civil War for a moment. The fugitive slave law was constitutionally enacted, but some States nullified that law and some communities set it at defiance. If at that time they could have invoked such a precedent as is sought to be established by the enactment of the pending bill, certainly the law might have been absolutely destroyed.

Let me take another illustration. There are in this country a great number of people affiliated with organized labor. I do not disparage organized labor. I agree that labor ought to organize, but always obeying the law and not interfering with the rights of others. Let us say that 2,000,000 voters belong to the ranks of organized labor, and suppose that Congress should enact legislation providing that an article produced in one State where there was no restriction as to hours of labor should not be the subject of interstate commerce in entering a State which had by law decreed that no article produced by labor working more than six hours or eight hours per day could enter its markets, that would place the regulation of interstate commerce absolutely in the respective States.

Odium theologicum! A proclamation from the pulpit; a cross proclamation from another pulpit. We have freedom and religious liberty in this country under the Constitution, and yet many of us have seen—I have time and again—such conditions and circumstances that if one State could control there would be but one church or one creed in that State.

Let me tell you what I think. In the various States there is any amount of law, but we lack enforcement; we lack a sound public sentiment which enforces the law. In many instances it is not enforced because it is against public sentiment. Nevertheless there is a disposition on the part of people who agitate, some from principle and some for a living, to demand more legislation. The mere abundance of law does not aid enforcement.

Mr. Speaker, for a number of years I was a prosecuting officer in the State of Illinois, and do you know I found that frequently in the attempt to enforce the antiliquor law the most active and ardent and apparently enthusiastic opponents of the liquor traffic were the hardest to get to testify. Many of them shouted in season and out of season, but when the time came to enforce the law they were found wanting. Frequently they would decline jury service, saying, "Oh, excuse me; I have not time," "It would hurt my business," and so forth. I have seen good men, scores of them, commit perjury touching the suppression of the liquor traffic.

I say again it is enforcement of the law that counts. Several years ago I went into the State of Maine. God bless the State of Maine. A splendid people live there. For 50 years they have had prohibition. The State has been "dry" for all that time; but what did I find? I found that, notwithstanding the prohibition feature of the constitution and laws of that State, public sentiment in the cities was such that a candidate for the office of sheriff—an officer charged with the duty of enforcing the law—was elected on a pledge of nonenforcement. I have campaigned somewhat in many States, but I tell you that liquor seemed to be more abundant, more accessible, and offered more freely in the State of Maine than in the wettest of the wet States.

My friend from North Carolina desires national legislation on this question. How many moonshiners are there in his State deliberately violating the revenue laws, pursuing their business in the nighttime, and aided by a lenient public sentiment and protected by perjury selling the illicit stuff?

Mr. WEBB. Mr. Speaker, may I answer that question?

Mr. CANNON. In order to enforce the law it is necessary that there should be a public sentiment in favor of it. What is true of North Carolina is true everywhere. Yet the cry goes up for more law. The good prohibitionist, raising his hands to heaven, prays, "O God, inspire our legislators to give us more law"; but I am almost constrained to suspect that in some cases accompanying the prayer is the mental reservation "but I am agin its enforcement." [Laughter.]

Mr. WEBB. May I answer the gentleman's question?

Mr. CANNON. Oh, I can not yield in my 10 minutes.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. CANNON. Mr. Speaker, I am sorry, and I will again ask that along these lines, observing the rules of the House—and I think I know what the rules of the House are—I may be granted unanimous consent to briefly extend my remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. CLAYTON. Mr. Speaker, I hope the gentleman will enlarge that request so as to include all who have spoken.

Mr. CANNON. When this is granted, then I will enlarge the request.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent that all gentlemen who speak on the pending measure shall have the right to extend their remarks in the RECORD.

Mr. CLAYTON. Within five legislative days.

The SPEAKER pro tempore. Is there objection?

Mr. LINTHICUM. Mr. Speaker, I ask as a substitute for that that all Members be allowed to extend their remarks in the RECORD.

Mr. CANNON. Why not?

Mr. JAMES. Some gentlemen were given the right to extend their remarks in the RECORD a short time ago, and what is the objection to allowing the gentleman from Illinois the same right? He is the oldest Member on the floor.

The SPEAKER pro tempore. Is there objection to the request?

Mr. LINTHICUM. What is the request?

The SPEAKER pro tempore. It is the request of the gentleman from Illinois that unanimous consent be granted to gentlemen who speak on the pending measure to extend their remarks in the RECORD for five legislative days.

Mr. LINTHICUM. That applies alone to the gentleman from Illinois?

The SPEAKER pro tempore. All gentlemen who speak.

Mr. LINTHICUM. I have a substitute for that.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. LINTHICUM. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman's objection comes too late, the request having already been granted.

Mr. JAMES. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois shall be allowed five days in which to extend his remarks in the RECORD upon this question upon which he has just spoken.

The SPEAKER pro tempore. The Chair will state to the gentleman from Kentucky that the gentleman from Illinois has already made that request for himself and others.

Mr. JAMES. No; and that is what I wanted to direct the attention of the Chair to.

The SPEAKER pro tempore. Then the Chair misunderstood the gentleman.

Mr. JAMES. He did not include the others.

Mr. CLAYTON. The Chair has already announced that the request preferred by the gentleman from Illinois has been agreed to?

The SPEAKER pro tempore. The Chair so stated.

Mr. JAMES. That is all right.

Mr. BLACKMON. Mr. Speaker, I make a similar request.

The SPEAKER pro tempore. It has been already granted.

Mr. CLAYTON. Now, I ask that the gentleman from New Jersey may consume some more of his time.

Mr. McCOY. Mr. Chairman, I yield seven minutes to the gentleman from Alabama [Mr. DENT]. [Applause.]

Mr. DENT. Mr. Speaker, I have so many objections to the passage of this bill that even with my little ability it would be impossible for me to state them within the time that is given to me. In 1908 I was nominated by a Democratic primary in the State of Alabama, and in that primary the antisaloon league directed to each candidate the question as to whether or not each would vote for this legislation. I very promptly answered that if I became a Member of Congress from the second congressional district of Alabama I would not vote for any such legislation. [Applause.] I was nominated in the Democratic primary at that time, and was renominated and reelected twice since that time [applause], so, Mr. Speaker, I feel that I hold a commission from the people of the second congressional district of Alabama, "the cradle of the Confederacy and the cradle of home rule," to vote aganst any such proposition as this. [Applause.] I could not, in the little time that is given me, show the great objections that I have to this bill. It is the most peculiar and the most remarkable measure that I believe ever came from a great committee of the Congress of the United States. Why, Mr. Speaker, this bill declares that the transportation mentioned in the bill shall be prohibited. I shall not undertake to discuss the question as to whether or not the absence of a penalty makes the law absolutely nugatory. Is the Congress of the United States to declare a thing prohibited and then not fix a penalty for its violation? What does the law mean? Does it mean, Mr. Speaker, that the Congress of the United States relieves itself of the power which it has under the Federal instrument to regulate commerce between the States?

I notice that the title of the bill seems to indicate that its object is to divest intoxicating liquors of an interstate character in certain cases, and the bill says that they shall be prohibited. There might be some reason for contending that the Congress of the United States can delegate the power given it by the Constitution, to vest it in the States, but the title of this act declares one thing and the body of the act declares another. Every lawyer who has ever practiced criminal law knows that you can not make a crime by merely declaring it a crime. Every lawyer who has ever practiced in any court in this land knows that you can not by declaring a prohibition without adding a penalty make it a crime or an offense.

How would you enforce this act? I will ask that of the distinguished advocates of this bill. I repeat, How would you enforce this law, so far as the Federal Government is concerned, if it were adopted? There is, however, this insidious idea in the whole proposition, and gentlemen who want to vote for this bill ought to remember it: This bill makes it a prohibition on the part of the common carrier to accept a shipment of liquors. Now, suppose that the common carrier says that he will not accept it until it is decided whether or not he is violating the law. Then what? Every consignor and every consignee must go into the courts and ask for a writ of mandamus to compel the carrier to accept the shipment, and that notwithstanding the fact that in this bill you have no penalty whatever for a violation of the law. Now, Mr. Speaker, I have not time to go further into this discussion, but I do want to say——

The SPEAKER. The time of the gentleman has expired.

Mr. DENT. I do want to say that I am deeply regretful that the States of the South—and I come from the cradle of the Confederacy—should be willing to ask the Federal Government to aid them in enforcing their domestic regulations. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. CLAYTON. Mr. Speaker, I now yield five minutes to the gentleman from Tennessee [Mr. HOUSTON].

Mr. HOUSTON. Mr. Speaker, we do not come with this measure and ask the Federal Congress to enforce the laws of any of the States of this Union. That is not the object of the bill. The object of this measure is to establish the right and the power for each State to enforce its own temperance laws in whatever form they may be enacted by the different States. The States should have this right. It belongs to State rights, to the sovereignty of the States, to control in these affairs, and the States could exercise that right and power but for the fact that the Constitution of the United States says that Congress shall regulate interstate commerce.

But for that utterance in the Constitution and for that fixing of the power to regulate interstate commerce in Congress, the States could regulate this matter, and all that the friends of this measure ask and contend for is that the hand of the Federal Government by act of Congress shall be lifted from this interstate commerce and let the States in their sovereign capacity and in the exercise of their State rights enact laws and enforce those laws as best they can. I admit there is great difficulty in enforcing laws upon this subject. We have all seen that. And I want to say right here and now that the penal clause suggested by my colleague from West Virginia [Mr. DAVIS] would perhaps give more force and vitality to the suppression of the illegal traffic of liquor, and especially to the enforcement of this law, but when he did that it would carry into the domain of the Federal court the enforcement of the prohibition laws of every State in the Union.

And that is exactly what we do not want to do. We do not ask the Federal Government to come and enforce the laws of Tennessee or any other State. We only ask that the hands of the Federal Government shall be lifted so that the State can exercise its own right and have the proper power to enact and carry out its own laws. You know very well if that penal clause were inserted in this bill, forthwith the enforcement of this law would go to the Federal courts. We would have the Federal Government interfering in matters that had best be left to the State. And I know the States experience great difficulty in enforcing this, but give them the benefit of this aid, this power, to do all they can in regulating this illegal traffic. Then, we believe, the question could be solved in the best and most legitimate way in which to solve this question.

Now, then, much has been said in regard to the personal-use clause. There is no occasion for the insertion of that clause in this bill, because the bill does not interfere with personal use. It does not deal with that. It deals only with one proposition, and that is that inoxicating liquors of every kind shall not be shipped into any State when they are shipped for the purpose of violating the law of that State.

Mr. WEBB. Will the gentleman allow me to interrupt him right there?

The SPEAKER. Does the gentleman from Tennessee [Mr. HOUSTON] yield to the gentleman from North Carolina [Mr. WEBB]?

Mr. HOUSTON. Certainly.

Mr. WEBB. Here is what Senator Knox said with reference to the personal-use clause:

> Congressional expression in favor of personal use would be an expression upon a subject with which Congress has nothing to do, and upon it all sorts of confusing questions would arise. The same evidence required to defeat the claim of importation for personal use would give the State the right to follow up and seize the goods under any existing State law covering the subject.

Mr. HOUSTON. That is exactly right, Mr. Speaker, and I agree with that doctrine fully. We do not ask Congress to deal with questions of that kind. The bill does not deal with a question of that kind. It only proposes to prohibit the shipment of intoxicating liquors into any State when said liquor is intended to be used in violation of the laws of that State. It would not interfere with the shipping of any liquors into any States that were intended to be used in compliance with the laws of that State. The States have not prohibited the personal use of liquor or the right to possess liquor, but many of the States have passed laws prohibiting its sale and manufacture. If a State in its sovereign capacity determines to enact laws to suppress the sale of whisky, it is a question for that State's own determination, and the State should have full opportunity and power to enforce its own regulations upon this question; and if Congress has the power to lift a barrier in the way of the States enforcing their own law, Congress should certainly do that thing. By refusing to do this Congress is aiding and abetting the illegal traffic of this article and is furnishing the means of nullifying the law of the State and promoting the illegal sales that have been so much decried by gentlemen on this floor in discussing this measure.

The passage of this law furnishes the opportunity for the States to control in this matter, or at least will aid in State control and in home rule. It is but aiding local option, with the State as the unit, and I think that all agree that the control of the liquor traffic belongs to the States and that the State in its exercise of its police power in local self-government should be aided as much as it is possible for Congress to aid it.

We all know that laws prohibiting the sale of whisky are difficult to enforce. We know that there has been and there will be in the future the "blind tiger," the "bootlegger" and the moonshiner. No law is enforced perfectly, much less a law of this character, yet we must realize that the more difficult it is to obtain liquor, the less will be obtained; the more difficult it is for the "blind tiger" to get supplies, the less he will get. And this is the class of offenders, these men who sell whisky in soft-drink establishments and other clandestine ways, which will be interfered with; and much can be done toward suppressing them when you place it out of their power to get their supplies shipped to them from another State, and I think this is the greatest good that will come from this measure. It will enable the State, by the exercise of its police power to enact laws, if they have not such laws, by which they can make it impossible or very difficult for this class of offenders to ply their illegal traffic.

As to the constitutionality of this measure, none of the decisions referred to go to the extent of holding that the provisions of this bill are unconstitutional. I can not understand why, when Congress is given the power by the Constitution to regulate interstate commerce, and the control thus being in Congress, that Congress can not by enactment give power to the States to deal with an outlawed article of commerce when carried into the States. When Congress says that liquor intended to be used in violation of law shall not be transported, then such liquor is no longer an article of interstate commerce and is out of the domain of interstate commerce, and the States can deal with it.

Mr. Speaker, much has been said in this discussion about this measure being futile and ineffective. If so, why such determined opposition to it by those representing the liquor organizations of the land? It may not accomplish the good that its supporters desire, but it is a step in the direction of aiding the States to enforce their laws to suppress the illegal sale of liquor, and I give my hearty support to a measure for that purpose. This measure has been berated as a "flimflam" measure and its supporters as being demagogues and hypocrites. This argument is unworthy of dignified reply and unworthy of the men who make it on this floor. They assume to themselves all virtue and all the candor and courage of conviction. Mr. Speaker, any cause may have the support of some demagogues and hypocrites, and it is quite as possible that this bill may have the opposition of some who are equally insincere and lacking in moral courage.

Whether a man believes in prohibition or not he should support this measure because it only gives the States the power more perfectly, more fully, more amply to enforce its laws. Whether you agree to the wisdom of a State passing prohibitory laws, every believer in American institutions and our theory of government should be willing to let each State determine that question for itself and aid the State in carrying out local government and home rule, and I have expressed the sentiment before on the floor of this House, that to say we can not enforce a law that meets the approval of the enlightened judgment and conscience of the people, who, through their Representatives, enacted these laws, is contrary to the spirit of the fathers who laid the foundations of this Government and who believed that the people were capable of self-government and would be able to enforce the laws that their wisdom and judgment approved.

Mr. CLAYTON. Mr. Speaker, may I ask how much time each side has consumed?

The SPEAKER. The gentleman from Alabama has 26 minutes remaining, and the gentleman from New Jersey [Mr. McCOY] 32 minutes.

Mr. CLAYTON. Mr. Speaker, I yield five minutes to my colleague from Alabama [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I have noticed many remarkable things here to-day. At one moment the gentleman from Alabama [Mr. BLACKMON] opposed the bill with great earnestness, in the firm belief that it would interfere completely with the shipment of alcoholic beverages into dry territory for individual use, as heretofore, and then a few moments later the gentleman from West Virginia [Mr. DAVIS] was equally as earnest and even more certain that unless his amendment was adopted the same measure would have no effect whatsoever upon these shipments. Which of them is correct?

Another remarkable thing is the repeated announcement by the opponents of this bill that prohibition does not prohibit; that there is a greater consumption of alcoholic beverages in dry territory than wet territory; and yet they spoke in the interest of great brewers and great distillers whose sole object in life is to increase the consumption of their products. It is very remarkable that such a stupendous effort should be made on the part of these interests to defeat this measure if the result would be to increase the consumption of their goods. It is equally remarkable to hear rational men propound the self-evident contradictory theory that drinking beer reduces the drinking of distilled spirits. As a matter of fact, the vast bulk of all liquor drinking originated in the drinking of beer and other fermented drinks. It seems extraordinary to hear men on this floor plead for personal liberty as spokesmen of an agent that undermines the moral fiber of the Nation, lowers its average standard of character, and overthrows the foundation of all liberty. It is particularly singular to hear discourses in the interest of law observance from those who are the agents of those who are the source of most of the lawlessness of the land. It is singular to hear Members pleading for the sanctity of the home when the agent for whom they plead is the greatest enemy of the home. But the most remarkable thing of all is the gusto with which the gentleman from Illinois [Mr. CANNON] announced that he could get liquor in unusual abundance and with unusual ease in the dry State of Maine, and to hear colleagues of his applaud and rejoice at this grewsome fact—the violation of the laws of a great State.

As a matter of fact, Mr. Speaker, prohibition does prohibit, though it does not stop drinking. In the State of Maine the collections of the Commissioner of Internal Revenue are only about one-ninth of what they would be if Maine furnished its pro rata share of the internal revenue when prorated according to population. Of course, the gentleman from Illinois [Mr. CANNON] could find in Bangor, Portland, and other cities this one-ninth, but the great traffic has been blighted in that State. Upon the same proportion the State of Kansas ought to supply eleven times as much as it actually supplies. The State of Oklahoma ought to supply nineteen times as much as it actually does supply, and the State of North Dakota ought to supply twenty-nine times as much as it does actually supply. But, Mr. Speaker, it is a source not only of astonishment, but of sadness, that the violation of law that does go on in dry territory should be the source of jest and delight on the part of good citizens from any party or any section. It is impossible to escape the fact that the liquor interests who are opposing this measure are themselves the source of the very existence and continuance of all the blind tigers, bootleggers, and various others who violate the law in dry territory. No further argument is needed than the spectacle we have had for months and months where the stupendous interests representing the liquor business of two and one-half billions annually have been moving heaven and earth in trying to reserve to themselves the profits that accrue to them from the violation of their country's laws. However, there should be no surprise on the part of those who have investigated the real nature of alcohol and its effect upon the individual and upon society. I do not wish to split hairs about the Constitution.

No one can doubt the complete power of the individual State for the exercise of its police power to control its commodities within its borders. This bill does not add to that power, but simply makes it more effective, and it does not surrender any interstate right over any commodity. But in the light of the nature of alcohol the general-welfare clause in the Constitution would be eminently applicable. I do not believe there is a gentleman on the floor who would question the statement that liquor drinking is a menace to the general welfare of any community in which it operates. In fact, deep beneath all other rights is the right of self-preservation. The community has this right, the State has this right, the United States has this right, and anything that threatens the perpetuity of the existence of any one of these political entities must be assumed to be contained in the rights of the community to succeed to their suppression.

Indeed, Mr. Speaker, this question is no longer open to argument. Alcohol as to its real nature has been proven to be a poison and has been so proven by scientific investigations. As the poison in diphtheria comes from the toxin or excretion of the diphtheria bacillus, so the poison in alcohol comes from the toxin or excretion of the yeast or ferment germ. Alcohol is thus a toxin and as such comes within the family of toxic poisons. The universal law of biology is that the toxin of one form of life is a poison to all forms of a higher order. The yeast germ is killed by the alcohol it produces when it reaches 12 per cent concentrate. It is a single-cell germ and is below all organisms and is below most of the plants, so that it is a poison to everything that is protoplasmic. Oxides of the hydrocarbons, belladonna, morphia, strychnia, and other drugs have what is called an affinity for a particular tissue. While they attack all tissues, the attack is more deadly on a particular one. In the case of strychnine, the affinity is for the spinal cord, and people die from strychnine as from convulsions. Alcohol has been found to have an affinity of the cells that are in line with evolution. In the case of a plant, alcohol will cause the line of its development to be checked, and even reversed, and brings the plant back to its wild state. The Indian will want his tomahawk; the black man will be put back from his state of civilization to a state of savagery, and the white man will be degenerated in a similar degree and is reduced to a state of semi-civilization and finally down toward the brute.

This is readily understood when it is realized that alcohol is absorbed in the nerves and attacks the nerve tissue proper, and that the line of evolution of man is the nervous system, and alcohol attacks the nerve itself. The part of the nervous system most in line is the gray matter on the surface of the convolutions in the part of the brain called the cerebrum, where are found to be the seat of the centers of inhibition. It is the seat of the moral sense; here self-control is exercised in keeping with the conception of right and wrong and of duty. These cells are rapidly degenerated and are in the end actually wiped out through the process of degeneracy.

An insight into this widespread degeneracy can be understood when it is realized that there are about 3,000 murders each year where men actually murder their own wives and about 2,500 where they kill their own children and about 16,000 cases where they desert their little children. Doing violence to natural instincts, committing deeds that an animal would not be guilty of, this creature man, just a little lower than the angels, in the image of his Maker, has thus degenerated until he ends in actually being below the brute. Mr. Speaker, our character is the line of human evolution, and alcohol is a specific for degeneracy, the tearing down of character. The institutions of progress, of liberty, must be founded upon the average standard of character of the Nation. The widespread dissemination of this specific for degeneracy is producing already a large degenerate vote. Having no centers of inhibition, no sense of patriotism behind them, these votes are bought and sold by political machinery, and through them sinister interests are wont to attack the people through franchises and monopolies and are able to control elections.

If the degenerate votes continue to multiply, sinister interests will soon control the legislative and judicial branches of our Government and liberty will be undermined and our Constitution will perish. In vain can we appeal to our Constitution if the average standard of character of our people is thus undermined. Indeed, Mr. Speaker, the Nation's very existence is at stake in checking and ultimately destroying this great evil. Nature is helpless before degeneracy. When degeneracy begins then nature undertakes to exterminate it. It is true she uses natural agencies, but they are only the more effective because slow and accumulative. In the case of every drinking man, alcohol makes an attack upon the tissues of his body. The man does not realize how it is attacking the tissues, because it has already attacked the nerves and no message of pain is sent to the brain. The tissue under operation, as it were, is under anæsthesia. Alcohol is its own anæsthetic and deadens the pain it would otherwise produce, the pain being felt chiefly when the victim comes out from under the anæsthetic, and then he seeks to be relieved of the pain and to go back under the anæsthetic. Alcohol coursing through the veins and tissues partially paralyzes the white blood corpuscles that must destroy disease germs in order to produce health and life.

This army of defense can not meet the enemy invading when it is paralyzed. Figures go to show that the death rate for the population at large is 1,000 deaths per year out of every 61.215 of the population and that the death rate of total abstainers is 560 per cent out of the same number, and for liquor dealers, 1,642 deaths per year out of the same number. These figures resulting from many millions of cases can be taken as accurate. They show that 440 deaths out of every 1,000 deaths, nearly one-half the deaths that occur, are due to alcohol. Applied to this country, over 680,000 deaths per year in continental United States, or over 725,000 per year in the United States and its possessions. In other words, alcohol is killing out people at the rate of nearly 2,000 men a day every day in the year.

The Army War College at Washington made an investigation of the destructiveness of war. Taking all the wars of the world, from the Russo-Japanese War back to 500 B. C., the War College found that the total number of killed and wounded in battle amounts to about 2,800,000, of which it is estimated that about 700,000 were killed and something over 2,000,000 wounded.

The comparative figures show the appalling fact that alcohol is killing off as many Americans every year as all the wars of the world have killed in battle in 2,300 years.

Applied to the whole white race, we find that alcohol is killing 3,500,000 white men every year, five times as many as have been killed in war in 2,300 years; so that, stated mathematically, alcohol is 10,000 times more destructive than all wars combined. No wonder the Governments investigating the subject have found that war has been only a secondary cause of national decline, and that alcohol has been the real destroyer that has overthrown all the great nations of the past and is now undermining the great nations of to-day.

The figures of the British Government and English life insurance companies as to the effect of drinking on longevity are stated as follows:

> If a young man at the age of 20 is a total abstainer and remains a total abstainer, his prospect of life is 44 years, and he will live to the average age of 64; but if he is a temperate regular drinker his prospect of life will be 31 years, and he will live to the average age of 51, after losing 13 years out of his life. If he is a heavy drinker, his prospect of life is 15 years, and he will die at the average age of 35, after losing 29 years out of his life. Conservative estimates place the number of confirmed drunkards in the United States at something over 1,000,000, of whom 300,000 die every year; the heavy drinkers at over 4,000,000; and temperate regular drinkers at over 20,000,000. A soldier wounded in battle and losing 10 years of his life as a consequence would be classed as seriously wounded. The confirmed drunkards and heavy drinkers together, 5,000,000 in number, must be looked upon as mortally wounded and the temperate regular drinkers as seriously wounded, making a total of over 25,000,000 Americans wounded by alcohol to-day—more than ten times as many as wounded in all the battles of the world since the dawn of history. The estimates for the white race make over 125,000,000 white men to-day wounded by alcohol.

If a great military power were to declare war on unprepared America to-day, every patriotic heart would be filled with anxiety. I know the full significance of war, especially when a nation is unprepared. But if I had the choice of having alcohol continue its deadly ravages with the Nation at peace or of having it wiped off the face of the land with a declaration of war by all the nations of the earth, I would not hesitate for a moment; I would take sober, undegenerate America and face the combined world in arms.

Dr. Demme says that if children are divided into two groups, those born of total abstainers and those born of drinkers, that five times as many will die among those in the second group than from an equal number of the first group. If this is true, and Dr. Demme says it is, as a scientific man, then there are 200,000 deaths of little children every year from wounds inflicted upon them before they are born. This is readily understood from experiments at Cornell, that show that the human embryo is exceedingly sensitive to alcohol. The figures show that one-tenth of 1 per cent, or 1 part out of 1,000 parts, attacks this embryo and erodes it so that if it should live it would never be normal, while a solution of one-half or 1 per cent, 1 part in 200 parts—as a matter of fact, only a very small solution—of alcohol will kill the human embryo. The form that the erosion

takes can be readily discerned from the lives of those who survive. Taking the two extreme cases, if both parents are alcoholic, one child in five becomes incurable and one child in three becomes epileptic.

Mr. CLAYTON. Mr. Speaker, I will ask the gentleman from New Jersey [Mr. McCOY] to occupy some of his time now.

Mr. McCOY. Mr. Speaker, I yield 10 minutes to the gentleman from Georgia, Judge BRANTLEY. [Applause.]

The SPEAKER. The gentleman from Georgia [Mr. BRANTLEY] is recognized for 10 minutes.

Mr. BRANTLEY. Mr. Speaker, I decline to discuss the question of prohibition or the evils of intemperance, because I decline to recognize the power of Congress to legislate on these subjects for the several States. [Applause.] These are matters for the police power of the State and not for Congress.

I want to submit a few objections to the pending bill based on constitutional lines. The remarkable character of the legislation proposed will be disclosed if we consider for a moment what the effect would be if we added to it the penal clause that has been suggested. This bill prohibits the "shipment or transportation" in interstate commerce of liquors under certain conditions. If we add a penal clause, what would the law be? The Supreme Court long ago held that—

laws which create crimes ought to be so explicit that all men subject to their penalties may know what acts it is their duty to avoid. (139 U. S., 288.)

And again:

Every man should be able to know with certainty when he is committing a crime. (92 U. S., 214.)

The language of the pending bill is:

That the shipment or transportation * * * of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind from one State * * * into any State * * * which said * * * liquor is intended by any person interested therein to be received, possessed, sold, or in any manner used either in the original package or otherwise, in violation of any law of such State * * * is hereby prohibited.

The thing prohibited is the shipment and the transportation. A penal clause would punish the shipper and the transportation company for shipping or transporting, and yet neither the shipper nor the transportation company could read the law and know what acts should be avoided to make the transaction legal; and neither one could possibly know with certainty or otherwise when he was violating the law. With a penal clause added to the bill, we would have, should the bill become a law, a penal statute embracing by reference and without description the laws of all the States and punishing one man for the bare intention, and it undisclosed, of some other man to violate some one of these undescribed laws.

No man could know when he was violating the law, and such a law would be in the teeth of the sixth amendment to the Constitution. The friends of the measure did well to omit the penal clause, but they did not thereby save the constitutionality of the bill. It is true that no penalty, in the technical sense of that term, is imposed by the bill for a violation of its terms, but the entire bill is simply a penalty. It is nothing but a penalty, for the only thing it does is to penalize the shipper and the transportation company by denying to them the right under certain conditions to engage in interstate commerce. The right to engage in interstate commerce is a constitutional right, guaranteed to every citizen, and yet this bill proposes to deny to the shipper the right to ship his goods in interstate commerce and to the transportation company the right to transport them because some man in some other State unknown to either of them has an undisclosed intention to violate a State law in connection with the goods being shipped or transported. The punishment inflicted is not upon the man who has the intention to violate the law, but upon the innocent man, the man guiltless of either act or intention in violation of any law.

I do not care what the purpose of those framing this legislation may be declared to be, I take their bill as they have written it and I find that by its very letter the thing it does and the only thing it does is to take from certain of our citizens their constitutional right to engage in interstate commerce because of the undisclosed intentions of certain other of our citizens. For my own part, I can not stand for that kind of legislation. [Applause.]

It would be a travesty upon law to call this a regulation of commerce. It is not a regulation but a prohibition of commerce and a prohibition that can not be defended upon any known principle of law. The power of Congress to regulate commerce is a power uniformly and universally held to be limited to such regulations as are reasonable in character.

Can any man say that a regulation of commerce is reasonable in character when it lays down as the condition upon which the right of interstate commerce can be enjoyed that the shipper must know the police laws of all the States and, in addition, must know the unuttered thoughts with reference to these laws of people he has never seen? The same reasoning and the same justice that would make void a penal law of that indefinite and uncertain character will surely make void also the same law enacted in the guise of a regulation of commerce.

The recent act of Congress requiring liquors shipped in interstate commerce to be plainly marked as liquors is a regulation of commerce easily understood and easily complied with, but not so the so-called regulation in the pending bill. The one is a reasonable regulation, the other an unreasonble one.

Mr. Speaker, while sympathizing heartily with the purpose of the promoters of this particular legislation, so far as that purpose may be to produce temperance and morality in this country, I am opposed to this particular legislation because it is not only unreasonable but is also a direct invasion of State sovereignty.

Let me lay down this proposition: The police power of a State is entirely separate and apart from the power of Congress under the commerce clause. The right of the State to enact police regulations is an exclusive right. The right of Congress to regulate commerce is also an exclusive right. Neither sovereignty can infringe upon the jurisdiction of the other. It is true that we sometimes have difficulty in knowing just where the right or power of one sovereignty ends and the power of the other begins. We have been told about a "twilight zone"; but, so far as the regulation of the sale of liquor is concerned, all are agreed that it comes within the police power of the States and that Congress has no jurisdiction and no power over it. I ask my friends if they would maintain as valid a law of Congress undertaking to regulate the sale of liquor in the different States of this country? I dare say they would say no. I ask them, then, if Congress has the power to adopt the police regulations of the States and make them laws of Congress? Are not the two propositions one and the same? We know that when Congress adopts the law of a State the law when adopted becomes effective not because the State enacted it but because Congress enacted it. It is said that this bill is a regulation of commerce by Congress. I deny it. If this bill becomes a law and no State shall enact legislation of any kind, what would be your regulation? None. There is no regulation unless the State acts, and the regulation that is effective is the regulation of the State and not of Congress.

Now, if Congress can not enact police regulations for the States, it can not adopt such regulations when enacted by the States. It can not adopt a part of them. If it can adopt a part, it can adopt all. The thing that is made unlawful in this bill is the intent to violate a State law. The bill is the adoption by Congress of a part of the police regulations of a State. The State law must exist before the intent to violate it can exist. Under this bill Congress enters upon the domain of State legislation. There is no principle better settled than that Congress can not do this. Section 3243 of the Revised Statutes distinctly says that the payment of an internal-revenue tax shall not be held—

in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State.

The Supreme Court in Fifth Wallace, page 471, in speaking of the domestic or internal trade of a State, said:

Over this commerce and trade Congress has no power of regulation nor any direct control.

In Judge Cooley's Constitutional Limitations, page 574, the author says:

In the American constitutional system the power to establish the ordinary regulations of police has been left with the individual States and can not be assumed by the National Government.

In Seventy-sixth United States, page 42, the Supreme Court held the act of March 2, 1867, making it a misdemeanor punishable by fine and imprisonment to mix for sale certain oils of less than a certain temperature to be void, because, in fact, nothing more than a police regulation relating exclusively to the internal trade of the States. The Supreme Court said:

That Congress has power to regulate commerce with foreign nations and among the several States and with the Indian tribes the Constitution expressly declares. But this express grant of power to regulate commerce among the States has always been understood as limited by its terms, and as a virtual denial of any power to interfere with the internal trade and business of the separate States except, indeed, as a necessary and proper means for carrying into execution some other power expressly granted or vested.

Despite the fundamental principle thus set forth in statute and judicial opinion that Congress can not enact police regulations, here is a bill that proposes, if it proposes anything, that Congress shall enact by adoption certain of the police regulations of the States, by which regulations interstate commerce shall be variously regulated in the different States.

I submit that this can not be done. But, Mr. Speaker, if it could be done—if Congress has any such power—I would, as a friend of State sovereignty, shrink from its exercise in the way proposed, because if we concede that Congress may enter the domain of State sovereignty for the purpose of prohibiting the sale of liquor, we must concede, further, that Congress can also so enter for the purpose of permitting the sale of liquor. If Congress has jurisdiction at all, its jurisdiction is as complete to permit as it is to prohibit.

But, going a step farther, this bill is an invasion of State sovereignty because it is the exalting of the sovereignty of one State by degrading the sovereignty of another State. [Applause.] The States are equal in sovereignty, and neither one is supreme or superior to another. If this bill becomes a law there will be one State where under the Constitution a contract will be made—a valid legal contract—to purchase and deliver intoxicating liquors and ship them in interstate commerce; yet another State, with no greater sovereignty, will be permitted to annul that contract and prevent its enforcement because Congress has adopted the law of the State that contains the prohibition.

Mr. WEBB. May I interrupt the gentleman there?

Mr. BRANTLEY. I have but a moment.

The SPEAKER. Does the gentleman from Georgia yield to the gentleman from North Carolina?

Mr. BRANTLEY. I have no time, Mr. Speaker.

The SPEAKER. The gentleman declines to yield.

Mr. BRANTLEY. We would thus, by this legislation, bring about a conflict that I do not know how you would settle nor how it would be settled. One sovereign State would demand the right to have its valid contracts enforced and another State would demand the right to prevent their enforcement and deny the sovereignty of the other State to sanction the contract. It was to avoid that very situation that our Constitution was framed and that the commerce clause was put into the Constitution of the United States.

Mr. Speaker, in my judgment, this legislation would not only be invalid if enacted, but it would accomplish no results, because in the end, if it could be enforced at all, it would have to be enforced by the same machinery that is now in existence, and which our friends tell us now fails to enforce the laws we already have. [Applause.]

Not only does the bill fail to include any provision for its enforcement, but being based solely on an intent and an intent that must exist in advance of any act or attempt toward carrying it into effect, how can the law be enforced? How can such an intent be proven? The law must fail because of no judicial power to ascertain the existence of or to decree against such an intent.

The friends of the measure seem to have the idea that the States will enforce the law by denying the admission into their territory of certain liquors. But can that be possible?

No State will have any greater power after the passage of this bill than it had before. The States can not now, nor can they after the passage of this bill, regulate interstate commerce. This is so, not because of the will of Congress but because of the command of the Constitution.

After the passage of this bill, as now, an interstate shipment must be allowed to proceed to delivery to the consignee, for it is so written in the Constitution and so construed by the Supreme Court.

Neither the right to interstate commerce nor the interstate-commerce character of any lawful article of commerce can be determined or denied by the police regulation of any State. The protection that an interstate shipment of liquor has until delivery to the consignee is a protection granted by the Constitution, and it is as much beyond the power of Congress to alter or repeal the Constitution as it is beyond the power of the State so to do. A legitimate article of commerce will not and can not cease to be such because of an intent in the mind of some man to use it in some way in violation of a State police regulation. Its interstate-commerce character can not be tested by any such rule, for to permit such a rule would be to repeal the commerce clause of the Constitution and to transfer from Congress to the States the power to regulate interstate commerce.

This bill is but the old Hepburn-Dolliver and the old Littlefield bills stated in another way. In those and similar bills Congress has been asked for several years to say that if any State so willed interstate commerce should cease to be interstate commerce when it reached the boundary line of such State. Congress was asked in those bills to say in terms that the police power of the State should attach to intoxicating liquors the moment they entered the State. There was no question here as to what the promoters of this class of legislation sought. They were open and candid in their demands, and in terms they asked that the regulating power of Congress over commerce be subordinated to the police power of the State. In the pending bill they are not so open and candid. They say now they are asking a regulation by Congress. But are they? The regulation sought is a regulation in name only, so far as Congress is concerned. They seek now, as before, to subordinate the power of Congress to the power of the State. They would have Congress adopt the police regulations of the State, and then permit the State to enforce these regulations as applied to interstate commerce. The thing sought now is identically the thing that was sought before. The end to be reached, to wit, State control of interstate commerce in liquors, is the same now as it was before.

Congress has heretofore in its wisdom denied the appeals for such legislation because beyond the power of Congress to grant. Congress has no greater power now than it has heretofore had.

Gentlemen, in their advocacy of this measure, fail to tell us that the States in the exercise of their police power have never sought to go further in dealing with intoxicating liquors than to prohibit their sale. The personal use, consumption, and possession of liquors has not been interdicted. Intoxicating liquors have not in and of themselves been legislatively declared to be detrimental to the health, peace, or morality of any State. The thing that has been condemned is the selling of them. It has been the business of the dealer and not the consumption by the individual that has been condemned. So far as the sale of liquors is concerned, the power of the States is now ample to control and prohibit it.

The supreme power over the sale now vests in the State. There is no State in the Union where intoxicating liquors, no matter from where they come, can be lawfully sold except in obedience to the laws of such State. If in any State liquors are to-day being unlawfully sold, it is because the officials of such State are failing to do their duty. If it is the purpose of gentlemen advocating this legislation to prevent the use and consumption of liquors, they are appealing to the wrong sovereignty. The place to go is the legislatures of their respective States. Congress has no power for that purpose, and I might say that it will be time enough to ask Congress to deny the right of interstate commerce to all liquors when the States have outlawed their use, consumption, and possession.

In 1890 Congress enacted the Wilson law, which is now of force. This law provides that—

* * * Intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

This reads very much like what is now being proposed in the way of legislation. The language of the present law "upon arrival in such State" is broad enough to cover a shipment the moment it crosses the State line, for at that point it has "arrived in such State," but the Supreme Court held that these words meant and necessarily meant arrival at place of destination and delivery to the consignee, for until that time the shipment constitutes interstate commerce, control over which Congress could not delegate to the States. This law and the repeated adjudications of the Supreme Court thereon foreclose the subject with me. I shall stand upon the Constitution as the fathers wrote it and as the courts have expounded it.

Congress has already legislated in so far as it can do so to enable the States to control all sales of all liquors being or coming within their respective domains, and the power of the States in that regard is full and complete. Congress has gone further than mere sales of liquor, for in the law just quoted it has declared that, no matter from where liquors come, when they reach the consignee their use, consumption, or storage, as well as their sale, shall be subject to the police power of the State. Under the Constitution a man is entitled to ship and to receive liquors in interstate commerce, but after receiving them he holds them subject to the police power of his State, and can make no lawful use of them save in compliance with the laws of his State.

Mr. Speaker, to my way of thinking there is abroad in our country what seems to me a most dangerous sentiment. For my own part I am not concerned as to what the courts may do with this bill if it becomes a law, but I am concerned as to what I do with it under my oath of office. [Applause.]

The sentiment abroad, and which I regard as the most dangerous to-day in our Republic, is the sentiment that there are no guardians and no keepers of the Constitution save the judges of the courts of our land, and that if public sentiment seems to demand certain legislation Congress must enact it and leave to the courts to say whether or not it complies with the Constitution.

When I realize and know that there to-day exists no more obligation upon the part of the Chief Justice or any of the Associate Justices of the Supreme Court to uphold the Constitution than has been incurred by me, because the same oath to support the Constitution they have taken I have taken, I refuse to subscribe to the proposition that I must abdicate my power and my duty as a legislator of first passing upon constitutional questions.

Mr. Speaker, if this tendency or this sentiment persists, what must be the result in the end? If it persists, one of two things must happen. Either the courts must abdicate their duty and violate their obligations or else some day the people, led by the criminal indifference and cowardice of their legislators to believe themselves an outraged people, will rise up and hurl the courts from power, and in either event constitutional government will be gone. [Applause.]

I believe that important as it may be and important as it is to enforce prohibition or temperance, important as it is to have enacted this reform and that reform, I believe it is more important to each and all of us to preserve the Constitution under which we live. [Applause.]

Mr. McCOY. Mr. Speaker, how much time is there remaining?

The SPEAKER. The gentleman from New Jersey has 18 minutes and the gentleman from Alabama 21 minutes.

Mr. CLAYTON. Mr. Speaker, I yield five minutes to the gentleman from Missouri [Mr. RUCKER].

Mr. RUCKER of Missouri. Mr. Speaker, I would not trespass upon the patience of the House this morning to discuss this measure, as my attitude is well known, if it had not been that my colleague from the other side of the aisle [Mr. BARTHOLDT] undertook to speak for the people of that great Commonwealth lying just west of the Mississippi in which he and I live. I challenge his statement that he speaks in behalf of the majority of the people of Missouri. I say to him that I and those who cooperate with me speak for the liberty-loving, home-loving, law-abiding, righteous, moral element of the people of that great State. [Applause.] He speaks, as he has often spoken, in behalf of those in his district and elsewhere who have accumulated vast fortunes, aggregating many millions of dollars, built upon the wrecked homes of thousands of good people throughout this land. I speak for those whose homes have been devastated, whose manhood has been corrupted, whose happiness has been destroyed, whose rights have been trampled under foot by those he speaks for.

Mr. BARTHOLDT. Mr. Speaker, will the gentleman yield?

Mr. RUCKER of Missouri. Certainly.

Mr. BARTHOLDT. Is it not true that two years ago the people of the gentleman's State and my State voted——

Mr. RUCKER of Missouri. Yes; it is true.

Mr. BARTHOLDT. But I have not yet finished my question.

Mr. RUCKER of Missouri. I know what the gentleman is going to ask, and, in reply, I answer, the question then involved was State-wide prohibition, not local option; but, may I say, I have reason to believe and do believe that those you speak for imported cheap voters from other States in order to secure a majority against State prohibition in Missouri.

Mr. BARTHOLDT. Oh, the gentleman knows that is not true, and a Democratic legislature has admitted that it is not true, and officials appointed by the governor have admitted that it is not true, but Missouri by a majority of 217,000 votes defeated prohibition.

Mr. RUCKER of Missouri. Mr. Speaker, I do not want to discuss that matter, as it is in nowise involved here, but I will say that just after that election sadness was depicted in the faces of some of my good friends across the aisle who lost votes enough in their districts to enable the people to send Democrats in their places, because those represented by my esteemed colleague [Mr. BARTHOLDT] brought in every voter they could from far and near to vote against prohibition in Missouri, and I think the gentleman knows it.

Mr. BARTHOLDT. Oh, there is not one word of truth in that.

Mr. RUCKER of Missouri. I say there is.

The SPEAKER. Does the gentleman from Missouri yield to the other gentleman from Missouri?

Mr. RUCKER of Missouri. At any time and in any place.

Mr. BARTHOLDT. Will the gentleman yield?

Mr. RUCKER of Missouri. I will, but make your question short.

Mr. BARTHOLDT. Just a word. The legislature appointed a committee to investigate that condition of affairs. That committee was Democratic in its majority and it reported that there was no importation of voters from outside.

Mr. RUCKER of Missouri. I can not yield further.

The SPEAKER. The gentleman declines to yield further.

Mr. RUCKER of Missouri. Mr. Speaker, the gentleman provokes me to say that from one disreputable house in St. Louis there were voted several hundred alleged voters who did not live in St. Louis.

Mr. BARTHOLDT rose.

Mr. RUCKER of Missouri. Oh, I am not going to further discuss that matter with the gentleman.

The SPEAKER. The gentleman declines to yield.

Mr. RUCKER of Missouri. I want to say, in conclusion, that I am glad that the Congress of the United States, in response to a demand widespread and intelligent, not fanatical, as some gentlemen have denounced it, but a moral sentiment which comes from ocean to ocean, is to-day responding to that appeal and by an overwhelming vote will send this bill to the other end of the Capitol for its enactment into law.

Mr. Speaker, it is said that the passage of this bill may dissolve the Union and destroy the Constitution. Let me appeal to those gentlemen who are afraid the Constitution is going to be wrecked because we say to dealers in liquor that they can not ship their goods into States where its sale is prohibited by law, to be sold in violation of local law, to be of good cheer. The Constitution does not depend upon a whisky bottle for its perpetuity and its safety. It rests upon and depends upon——

The SPEAKER. The time of the gentleman from Missouri has expired.

Mr. RUCKER of Missouri. Mr. Speaker, I was just getting to the interesting point in my speech, but I yield.

Mr. McCOY. Mr. Speaker, I yield three minutes to the gentleman from Illinois [Mr. GALLAGHER].

Mr. GALLAGHER. Mr. Speaker, I have listened with a great deal of attention to-day to the arguments made for and against the passage of this bill. They are made by lawyers, principally upon its constitutionality, and from the wide difference of opinion that is manifest, I am reminded of what President Taft once stated, that great constitutional lawyers are those that have given up the practice of law and gone into politics.

Being a business man, I prefer to speak from a business standpoint, because I believe the passage of such a law as this would interfere very materially with the business and commercial welfare of the country. I have very grave doubts about the bill doing what is intended by it, and do not hesitate to say that I believe there will be liquor, and lots of it, sold in the States that you are now legislating to keep it out of, after the law is passed. I am not much of a prohibitionist when it comes to passing legislation of this kind. I have never been in any section of the country where prohibition prohibits, because it is hard to prevent the sale of intoxicating liquors when public sentiment is against it. I am not reflecting on those who advocate prohibition, nor am I finding fault with those who condemn liquor because of its ill effects. If one-half the effort were made to regulate the sale of liquor that is made to prohibit its use, we would accomplish more of a benefit to humanity.

The business world to-day is doing more for the cause of temperance than many of the reformers. It is fast becoming apparent that men who drink to excess can not occupy places of responsibility or trust in the commercial or industrial world. I doubt whether anybody who has given serious thought to the subject will contend that you can regulate men's appetites by law. You hear a great deal about dry territory. Where is it? I have been in many of the so-called dry States, but never was in one where you could not get as much whisky as you wanted to pay for. I do not believe there is any dry territory, and there are many here more certain of that fact than I am.

I feel sorry for men who have formed an uncontrollable habit for liquor, and have seen the misery and crime that come from it in my many years of city life. Many consider it more of a disease than a habit. If an effort were made to treat it as such, great good would be accomplished.

If this law is intended as a bluff to stop the railroads from transporting liquor, it will not accomplish its purpose. Railroads will handle just as much liquor as they did before. They will haul it to out-of-the-way places along State lines, and it will be carried into so-called dry territory just the same. I am sorry for many Representatives to-day who will be compelled to vote for this bill. I know there are many who want to see this bill defeated. There are men here who will vote for this measure who drink more whisky in a day than I do in a year. [Laughter and applause.]

I do not wish to deprive any person by law of a privilege that I would like to enjoy myself. I hate hypocrisy. I want to be honest with the people I represent. There is no general demand, so far as I know, by the people for this kind of legislation. I am not speaking in the interest of nor do I represent anyone connected with the liquor trade, but as a business man I do believe that the business side of the question should be considered when laws of this kind are to be passed.

In 1909 Illinois, the State I in part have the honor to represent, ranked first in the United States in the manufacture of distilled liquors. The value of the production of distilled spirits in my State for the year was $55,200,000, or 27 per cent of the total for the United States. Of the total value of products of this industry in the State in 1909, more than three-fourths ($42,758,000) represents the Federal internal-revenue tax. Illinois was first for the fiscal year 1912 in the collection of internal-revenue taxes, amounting to $52,614,483.95. Of the 67 collection districts subject to internal-revenue laws, the fifth district of Illinois reported the largest collections—$29,868,439.32. It also had the largest output of distilled spirits during the past fiscal year—28,928,567 gallons. No industry is so heavily taxed. What would support the Government should this revenue be shut off? Will the tax dodgers furnish it? Of fermented liquors my State produced 6,263,862 barrels, and the first Illinois district produced 5,321,342 barrels. In the city of Chicago, where I live, the receipts from saloon licenses is about $7,252,687 annually. The total tax otherwise collected from the liquor industry in Illinois, I believe, exceeds the amount of internal-revenue taxes paid the Federal Government.

Some idea of the wine industry of this country will be understood by a reference to a single State of the Union, to say nothing of the other great States engaged in the cultivation of the grape. It is the third largest industry in the State of California, and in the wine section, where a few years ago nothing could be seen but cactus and sagebrush along the foothills, now can be seen beautiful and prosperous settlements, with miles and miles of vineyards.

The amount of capital invested in this industry in the State is over $150,000,000, and 60,000 people, mostly small farmers, are engaged in the cultivation of these numerous vineyards.

The production of fermented liquors during the fiscal year ended June 3, 1912, was 62,176,694 barrels, or a decrease of 1,106,429 barrels, as compared with the highest record, for the year 1911. The number of breweries operated during the year was 1,461, a decrease of 31 breweries, as compared with 1911. Some idea of business conditions in the country will be noted from the following:

The total ordinary receipts of the Government for the year 1912 were $691,778,465.37.

Of this, $321,615,894.69 was collected from internal sources through the Bureau of Internal Revenue. Of this amount $149,933,706.53 was collected on distilled spirits, $62,108,633.39 on fermented malt liquors, and $7,001,967.70 from special taxes, case stamps on bottled-in-bond goods, and so forth, a total of $219,044,307.62 from the traffic in liquor.

For the four years from 1909 to 1912, inclusive, the distilled spirits withdrawn tax paid was as follows.

	Gallons.
1909	114,693,578.2
1910	126,384,726.1
1911	134,706,213.9
1912	135,913,479.6

showing total withdrawals in 1912 of 21,219,901.4 gallons in excess of 1909, notwithstanding the spread of prohibition.

During the same period the fermented malt liquors withdrawn tax paid were as follows.

	Barrels.
1909	56,303,497
1910	59,485,117
1911	63,216,851
1912	62,176,694

The above figures show that while there has been a heavy increase in the output of distilled spirits the production of beer has been practically at a standstill, leading unavoidably to the conclusion that the effect of prohibition is to increase the consumption of spirituous liquors, which can be easily handled and, owing to their very much smaller bulk, are infinitely more easily concealed than beer can be. It will be seen from this statement that prohibition causes an increase in the sale of spirituous liquors. The law will prevent wine and malt liquors from being received in prohibition States. Owing to the size of the package, it is easy to detect and the law officers can find it. People who want liquor will be supplied with vile whisky, and instead of reducing drunkenness it will encourage a lawless class, anxious to make money, to resort to the most extreme measures in order to defeat the law and rob the public.

I now call your attention to figures I have collected showing the number of illicit distilleries that were seized, as follows:

1909	1,743
1910	1,911
1911	2,471
1912	2,466

Of the whole number seized in 1912, 2,466, 1,407 were seized in the States of Alabama, Georgia, North Carolina, South Carolina, Tennessee, and Virginia, all of which States are understood to be nearly, if not quite, dry territory.

Illicit distilling and "bootlegging" continue without sign of abatement. During the past fiscal year practically the same number of illicit plants were seized and destroyed as during the previous fiscal year. It appears that in some sections of the country where local officers make some effort to enforce local prohibitory laws there is an increasingly greater demand for illicit whisky, and as the prices go up more persons are willing to run the risk of violating the law. When you take into consideration the number of plants running which the officers are unable to locate the taxes on the entire amount of illicit spirits so manufactured represent a large amount of revenue that is lost to the Government. It also represents and is responsible for a tremendously large disturbing element which is a promoter of lawlessness and crime in the communities where these plants are located.

This indicates conclusively that the demand for liquors is such that, where the supply is cut off by law, the resulting high prices which men are willing to pay in order to get something to satisfy their appetites afford a powerful inducement to supply that demand illegally. It would seem, therefore, that the result of legislation to prohibit the shipment of liquors into any given territory would inevitably cause an enormous increase in crimes against the revenue laws and a supplying of the demand for liquors from illicit stills. From this source the Government derives no tax.

The number of persons who paid special taxes as liquor dealers during the year 1912 in territory where the business is wholly or largely prohibited by law is as follows:

Alabama	1,304
Georgia	1,517
Iowa	3,051
Kansas	598
Kentucky	3,223
Maine	924
Nebraska	2,440
North Carolina	619
North Dakota	679
Oklahoma	1,104
South Carolina	1,040
South Dakota	1,238
Tennessee	2,078
Virginia	1,413

In conclusion, I draw the deduction from these figures and facts that prohibition does not prohibit; that the exclusion of liquors as contemplated by this act will have the opposite result to that which those seeking this legislation desire; that the users of malt liquors will hereafter drink spirit liquors, and the latter will be manufactured regardless of its quality or its effect on the human body. A premium will be offered to the "moonshiners" and others engaged in this lawless traffic. The vineyards of this country will be destroyed. The great property interests and the vast amount of capital invested in the liquor trade will be irreparably injured. The nature and the effect of this character of legislation would be to confiscate property by process of law. The Nation, the States, and the municipalities will suffer the loss of the income from which these governments derive their principal support. No substitute revenue is offered. This bill, if enacted into law, will mean ruin to the millions and millions of dollars invested in great legitimate enterprises. It would place in the list of unemployed an army of many hundreds of thousands who would be affected directly or indirectly by this legislation. No President can sign such a bill; no President will. I am opposed to the passage of any such law. [Applause.]

Mr. CLAYTON. Mr. Speaker, I yield two minutes to the gentleman from Colorado [Mr. RUCKER].

Mr. RUCKER of Colorado. Mr. Speaker, if there is any trepidation in my nature, it would have removed me from this seat after hearing the argument of the gentleman from Georgia and the other gentleman who succeeded him just as quickly as my constituents removed me from this Hall. Mr. Speaker, I was a practitioner of the bars in the early days of my life. I had occasion to go out many times and cuss the court deciding the case and very many times to go out from the other bar and cuss the proprietor for serving such bad whisky [laughter], going away with a headache in one case and disgruntled in the other. But, Mr. Speaker, I am in favor of this bill be-

cause it makes all of us, severally and individually, our own barkeepers; and since I am compelled to go back to one or both of these bars [laughter], I am going to go along the lines of least resistance and vote for the bill. I would not refer to this fact except in connection with an editorial printed in the Commoner on the 17th of January, by the great commoner, statesman, and advocate of moral uplift, and I read just one sentence from that editorial:

What Democrat——

The SPEAKER. The time of the gentleman has expired.

Mr. RUCKER of Colorado. I will ask leave to extend my remarks in the RECORD and also include another editorial that is due on the desks of all Members elaborating this subject.

The SPEAKER. The gentleman has that right already.

The editorial referred to is as follows:

A GOOD DEMOCRATIC MEASURE.

A measure pending in Congress and giving to the States absolute power over the shipment of liquor is good and ought to be enacted into law. It is called the Kenyon-Sheppard bill and proceeds upon sound Democratic theory. Long ago Mr. Bryan favored such a measure, and in the Commoner, April 22, 1910, he wrote an editorial, in which he said: "Interstate commerce is used to override State laws. What Democrat is willing to put himself on record against the proposition that the right of the people of a State to control the liquor traffic is more sacred than the right of liquor dealers to dispose of their product in dry territory and in violation of the law? Mr. Bryan believes that Congress should pass a law recognizing the right of each State to prescribe the conditions upon which intoxicating liquors can be transported, sold, and used within its borders. He also believes that the Federal Government should dissolve partnership with lawbreakers and no longer issue licenses for the sale of liquor in communities where local laws prohibit its sale. If it is thought unconstitutional to discriminate in the issue of licenses between different communities, the same end can be reached by reducing the license to a nominal figure and requiring the applicant for a Federal license to give written notice to the local authorities and newspaper notice to the local public of his intention to apply for a license. Now let those who oppose these propositions meet them with arguments."

Mr. CLAYTON. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER. Fourteen minutes.

Mr. CLAYTON. How much time has the gentleman from New Jersey?

The SPEAKER. Fifteen minutes.

Mr. CLAYTON. Mr. Speaker, I yield to the gentleman from Tennessee [Mr. SIMS]. [Applause.]

Mr. SIMS. Mr. Speaker, I rise to express my sympathy for those great constitutional lawyers who wear the Constitution as a hobble skirt and fall down every time they try to go forward and fall down every time they try to go to the right or to the left, who can only stand still where they are until they shrivel up or turn to a pillar of salt like Lot's wife. [Laughter and applause.] I want to ask every Member of this House who wants to accomplish the purposes for which this bill is intended, or anything like it, to vote for it without amendment. I ask you to vote every one of these amendments down. This is a battle that is being fought under the command of a general, under the command of the chairman of this great Committee on the Judiciary, and we can not here on the spur of the moment undertake to change the plan of battle and hope to win. Let us follow our gallant leaders who have given this matter nearly two years' continuous investigation and study and we can not fail to win. [Applause.]

Mr. Speaker, it is always noticeable that no plan can be suggested to control any evil, where profit is to flow from its pursuit, that those engaged in it do not flee to the Constitution for shelter and protection. We can hardly propose any kind of control or regulation of the liquor traffic, by either State or National legislation, that we are not immediately warned by those engaged in the traffic that we are violating the Constitution. They become immediately the stout defenders and protectors of the organic law. Written constitutions are nothing more than statutory enactments in general terms made difficult to repeal. But we do not find our friends who are engaged in the liquor business crying out for the observance of ordinary statutory enactments or for the enforcement of ordinary laws and police regulations.

They are vigorous in their demand for the observance of constitutional limitations by legislative bodies, whenever these bodies have under consideration any proposed legislation looking to the better control and regulation of their business; but when it comes to complying with statutory limitations upon the conduct of their business, in the interest of public health and public morals, they cry out oppression and coercion and refuse to obey the laws, and denounce them as arbitrary and despotic, and that we are trying to legislate the bad habits and bad appetites out of men and to legislate good habits and good morals into them.

Mr. Speaker, such arguments have no effect on me in determining how I shall vote on this bill, not because I do not feel the binding force of constitutional restrictions upon our power to legislate on this as well as on all other questions coming before us. I have never known an attempt to control by legislation any kind or character of business that would, in the opinion of those engaged in it, make it less profitable that the unconstitutionality of the measure was not immediately charged in opposition to its enactment.

Mr. Speaker, when we had before this House a few years ago a bill to prohibit the white-slave traffic, some of the best men and best lawyers in this body at that time opposed its passage on the ground that we had no constitutional power to enact such legislation under the commerce clause of the Constitution, that the white-slave traffic was not commerce, in the sense used in the Constitution. These same gentlemen were as anxious as any of us to prevent the white-slave traffic, but felt constrained by the Constitution and voted against the bill. I said in argument in support of that measure that I did not know how the courts would hold on the question of the constitutionality of the law; that I did not believe the bill was unconstitutional; and that the white-slave traffic could not be successfully dealt with by the States and that when I was in doubt, I would solve the doubt in favor of the best interest of the public and voted for that bill, and I intend to do so on this occasion. The white-slave law has been very successfully enforced ever since its enactment and no court has held it unconstitutional in any respect.

Mr. Speaker, I hope I may be excused for indulging in a few observations even at the risk of it being charged that they do not pertain to the bill under consideration at this time.

The question of governmental control and regulation of the liquor traffic is not new, either in this or foreign countries, and at this late day it seems to remain an unsolved problem.

We hear much said about taking the liquor business out of politics and keeping it out. Nothing would please me more than to see this done; but I want to ask our ardent and zealous friends of such a proposition, How is it going to be accomplished? I used to hear a great deal said along the same line about keeping the railroads out of politics, and after studying the question for quite a while I decided that the only way to keep the railroads out of politics was to keep politics out of the railroads; in other words, to cease to legislate concerning railroads. But I had to admit to myself that while my remedy would certainly take the railroads out of politics, it was impossible to cease legislating concerning railroads. So, Mr. Speaker, as I see it now, I never expect to see the railroads out of politics.

But to recur to my inquiry as to how we are going to take the liquor business out of politics, I have reached the same conclusion—that we must first take politics out of the liquor business. The Government is not in the railroad business and does not share in the profits derived in the pursuit of such business. Can it be thus said of the liquor business?

The Federal Government taxes the manufacture of whisky in a sum equal to several hundred per cent of its total value as a manufactured product. I am not informed as to the actual value of whisky untaxed, but I am told that it is about 25 or 30 cents per gallon, while the Government tax is $1.10 per gallon. Is there any other article of manufacture that bears anything like so heavy a tax as does whisky? Such a tax on almost any other article of manufacture would be absolutely prohibitive. The amount of this tax is strongly suggestive of the purpose being prohibition rather than revenue production. If the intention was prohibition, it is a failure; if revenue was the only object and purpose, it is excessive and unjust.

Mr. Speaker, practical prohibition by the United States Government can be brought about by levying a tax on intoxicating liquors so high as to become prohibitive without any amendment to the Federal Constitution.

There is no law of Congress that I am aware of that forbids the issuance of notes to circulate as money by State banks, but there is a Federal tax upon such notes equal to 10 per cent of face value, which does most effectually prohibit the issuance of such notes. A tax levied upon whisky, wine, and beer by the Federal Government large enough would most effectually prevent the manufacture and sale of such liquors in every State in the Union and in all Districts and Territories under the jurisdiction of the United States without supplementary legislation by any State or Territory, and such a law could and would be enforced. Such a law of Congress would most effectually take the liquor business out of politics for the plain and simple reason that there would be no liquor business to go into politics. Now, Mr. Speaker, if we want universal, Nation-wide prohibition we know how to get it, by congressional action and remove most effectually every manufacturer, wholesaler, retailer, and saloonkeeper in the United States from participation in politics.

But, on the other hand, if national prohibition is not desired nor intended, why retain a rate of taxation on the liquor business by the Federal, State, county, and municipal governments

that not only permits but drives every man engaged in the manufacture and sale of intoxicating liquors into city, county, State, and National politics?

Under the existing high-license and high-tax systems prevailing in the United States, the Federal, State, county, and municipal governments are actual profit-sharing copartners with the manufacturers and dealers in intoxicating liquors. How can we denounce a traffic as immoral, as destructive of public health, and as a producer or promoter of almost every crime under the sun while sharing the profits of that traffic? If our Federal tax is intended to prohibit the traffic, then make it effective by making it high enough to accomplish that purpose. But, on the other hand, if it is intended simply to produce revenue, reduce the tax to a revenue basis. If the taxation imposed on the manufacture and sale of intoxicating liquors was no higher than is imposed on so-called legitimate business, then the liquor maker and liquor seller would have no greater interest in politics than those engaged in other lines of business.

I know it is a policy of our people to tax luxuries higher than the necessaries of life, and that liquors and tobacco are classed, for purposes of taxation, as luxuries. But a tax upon intoxicating liquors out of all proportion to commodity value has made it more profitable to dodge these heavy taxes and thus secure a higher money return on a smaller amount of the commodity dealt in than by paying the tax and thus securing a much smaller money return on a much larger volume of the commodity handled. This condition naturally breeds the bootlegger, the illicit distiller, the smuggler, the license dodger, and law violators generally that this bill is intended to reach.

This system of high license and high taxation has brought into all our political units, from the smallest city ward to the wide domain of the Nation itself, all persons interested in the manufacture and sale of intoxicating liquors, or who are making money by violating the laws of State and Nation regulating and controlling this traffic, and it is useless and a waste of time to talk about removing this influence from politics while the cause and inducement for this active participation remains.

Mr. Speaker, millions of dollars are expended annually by the liquor traffic in all its phases in controlling ward meetings, village meetings, city meetings, county and State conventions, city, county, and State primaries, and even national conventions, all for the purpose of protecting the money profits of this business. No such a burden is necessary to the life of any other business in our country. Besides these things, the liquor business is often laid under tribute by municipal officers as a compensation for lax enforcement of the laws. Just as long as it is profitable for those engaged in the liquor business to spend their money in controlling conventions, primaries, and legislative bodies, just so long will their money be so used, and all attempts to prevent it by simple regulatory statutes will be unavailing. We must either make the tax prohibitive or so reduce it that it will not be profitable to evade it or dodge it or to expend vast sums of money in seeking to control politics and legislation.

Mr. Speaker, I am not addressing myself to the effect such legislation as I am discussing will have upon the use of intoxicating liquors. As a general rule, the more difficult it is to get intoxicating liquors the less such liquors are used. I am addressing myself alone to the effect that our present system of high license and high taxation of the liquor traffic has upon legislation and politics.

If the tax was either removed altogether or so reduced that it would not be profitable to use so much time and personal effort and to expend vast sums of money in the control or attempt to control the politics of ward, county, State, and Nation, I think it would be much easier to enact and to enforce prohibition laws in the States, counties, cities, and wards than it is now. If the high taxes and high licenses were removed or greatly reduced, the competition in manufacture and sale would be so sharp that the profits of the business would be so small that it would not pay to spend such vast sums of money in controlling or attempting to control politics and legislation. It does not follow that because competition in manufacture would be greatly increased by removal of these heavy, discriminating taxes that it would lessen the desire or reduce the demand for prohibition State laws or local-option laws. But it would make it much easier to both pass and enforce such laws.

It would require no great effort to enforce a State law against the manufacture and sale of soda water, although to do so would be as much of an infraction of the personal liberty of the citizen as if it was a law to prohibit the manufacture and sale of whisky. But the profits of the soda-water business would not be such as to make it profitable to expend the large sums of money necessary to thwart the will of the people.

If there was no Federal tax, or a very small revenue tax, on the manufacture and sale of whisky, we would have no Whisky Trust.

Mr. Speaker, the revenue necessities of the Government are not such, nor can they ever be such, as to justify its practical partnership in the whisky business, if that business is the cause of all the crime, misery, and poverty that is laid at its door.

If we impose a prohibitive tax on the traffic, it will end it and make prohibition complete and effective in every State in the Union. If we remove or reduce the tax, the control of legislation and politics by the use of money in shaping legislation in the States and subdivisions thereof will cease and then prohibitive legislation in the States can and will be enforced.

Mr. Speaker, if all the crime, misery, and poverty that is charged up against the liquor traffic is a true and just accusation, how can we justify ourselves in voting a tax upon such a source of evil simply because our salaries and other Government expenses are paid in part from the fund arising from the imposition of such a tax?

Shall we tolerate the existence of a public evil simply because that evil is willing to turn into the Public Treasury a part of its profits as the price of its existence?

Mr. Speaker, on February 21, 1743, 170 years ago, while a bill was pending before the House of Lords in the Parliament of England for the purpose of licensing and taxing the sale of gin, Lord Chesterfield delivered a notable speech bearing on the question of accepting tax money for the permission to sell gin, an intoxicating liquor. As bearing on what I have just said, I will now read that speech in my time as part of my remarks:

"To desire therefore, my Lords, that this bill may be considered in a committee is only to desire that it may gain one step without opposition; that it may proceed through the forms of the house by stealth, and that the consideration of it may be delayed till the exigencies of the Government shall be so great as not to allow time for raising the supplies by any other method.

"By this artifice, gross as it is, the patrons of this wonderful bill hope to obstruct a plain and open detection of its tendency. They hope, my Lords, that the bill shall operate in the same manner with the liquor which it is intended to bring into more general use; and that as those who drink spirits are drunk before they are well aware that they are drinking, the effects of this law shall be perceived before we know that we have made it. Their intent is to give us a dram of policy which is to be swallowed before it is tasted and which, when once it is swallowed, will turn our heads.

"But, my Lords, I hope we shall be so cautious as to examine the draft which these state empirics have thought proper to offer us, and I am confident that a very little examination will convince us of the pernicious qualities of their new preparation and show that it can have no other effect than that of poisoning the public.

"The law before us, my Lords, seems to be the effect of that practice of which it is intended likewise to be the cause and to be dictated by the liquor of which it so effectually promotes the use, for surely it never before was conceived by any man intrusted with the administration of public affairs to raise taxes by the destruction of the people.

"Nothing, my Lords, but the destruction of all the most laborious and useful part of the nation can be expected from the license which is now proposed to be given not only to drunkenness but to drunkenness of the most detestable and dangerous kind, to the abuse not only of intoxicating but of poisonous liquors.

"Nothing, my Lords, is more absurd than to assert that the use of spirits will be hindered by the bill now before us, or, indeed, that it will not be in a very great degree promoted by it. For what produces all kind of wickedness but the prospect of impunity on the one part or the solicitation of opportunity on the other? Either of these have too frequently been sufficient to overpower the sense of morality and even of religion, and what is not to be feared from them when they shall unite their force and operate together, when temptations shall be increased and terror taken away?

"It is allowed by those who have hitherto disputed on either side of this question that the people appear obstinately enamored of this new liquor; it is allowed on both parts that this liquor corrupts the mind and enervates the body and destroys vigor and virtue at the same time that it makes those who drink it too idle and too feeble for work, and while it impoverishes them by the present expense, disables them from retrieving its ill consequences by subsequent industry.

"It might be imagined, my Lords, that those who had thus far agreed would not easily find any occasions of dispute, nor

would any man unacquainted with the motives by which parliamentary debates are too often influenced suspect that after the pernicious qualities of this liquor and the general inclination among the people to the immoderate use of it had been generally admitted it could be afterwards inquired whether it ought to be made more common, whether this universal thirst for poison ought to be encouraged by the legislature, and whether a new statute ought to be made to secure drunkards in the gratification of their appetites.

"To pretend, my Lords, that the design of this bill is to prevent or diminish the use of spirits is to trample upon common sense and to violate the rules of decency as well as of reason. For when did any man hear that a commodity was prohibited by licensing its sale or that to offer and refuse is the same action?

"It is indeed pleaded that it will be made dearer by the tax which is proposed, and that the increase of the price will diminish the number of the purchasers; but it is at the same time expected that this tax shall supply the expense of a war on the Continent. It is asserted therefore that the consumption of spirits will be hindered, and yet that it will be such as may be expected to furnish, from a very small tax, a revenue sufficient for the support of armies, for the reestablishment of the Austrian family, and the repressing of the attempts of France.

"Surely, my Lords, these expectations are not very consistent, nor can it be imagined that they are both formed in the same head, though they may be expressed by the same mouth. It is, however, some recommendation of a statesman when, of his assertions, one can be found reasonable or true; and in this praise can not be denied to our present ministers, for though it is undoubtedly false that this tax will lessen the consumption of spirits, it is certainly true that it will produce a very large revenue, a revenue that will not fail but with the people from whose debaucheries it arises.

"Our ministers will therefore have the same honor with their predecessors of having given rise to a new fund, not, indeed, for the payment of our debts but for much more valuable purposes—for the cheering of our hearts under oppression and for the ready support of those debts which we have lost hopes of paying. They are resolved, my Lords, that the nation, which no endeavors can make wise, shall while they are at its head at least be merry; and since public happiness is the end of government, they seem to imagine that they shall deserve applause by an expedient which will enable every man to lay his cares asleep, to drown sorrow, and lose in the delights of drunkenness both the public miseries and his own.

"Luxury, my Lords, is to be taxed, but vice prohibited, let the difficulties in executing the law be what they will. Would you lay a tax upon a breach of the Ten Commandments? Would not such a tax be wicked and scandalous, because it would imply an indulgence to all those who could pay the tax? Is not this a reproach most justly thrown by Protestants upon the Church of Rome? Was it not the chief cause of the Reformation? And will you follow a precedent which brought reproach and ruin upon those that introduced it? This is the very case now before us. You are going to lay a tax, and consequently to indulge a sort of drunkenness which almost necessarily produces a breach of every one of the Ten Commandments. Can you expect the reverend bench will approve of this? I am convinced they will not, and therefore I wish I had seen it full upon this occasion. I am sure I have seen it much fuller upon some other occasions, in which religion had no such deep concern.

"We have already, my Lords, several sorts of funds in this nation, so many that a man must have a good deal of learning to be master of them. Thanks to His Majesty, we have now amongst us the most learned man of the nation in this way. I wish he would rise up and tell us what name we are to give to this new fund. We have already the civil-list fund, the sinking fund, the aggregate fund, the South Sea fund, and God knows how many others. What name we are to give to this new fund I know not, unless we are to call it the drinking fund. It may perhaps enable the people of a certain foreign territory to drink claret, but it will disable the people of this Kingdom from drinking anything else but gin, for when a man has by gin drinking rendered himself unfit for labor or business he can purchase nothing else, and then the best thing he can do is to drink on till he dies.

"Surely, my Lords, men of such unbounded benevolence as our present ministers deserve such honors as were never paid before; they deserve to bestride a butt upon every signpost in the city or to have their figures exhibited as tokens where this liquor is to be sold by the license which they have procured. They must be at least remembered to future ages as the happy politicians, who after all expedients for raising taxes had been employed discovered a new method of draining the last relics of the public wealth and added a new revenue to the Government, nor will those who shall hereafter enumerate the several funds now established among us forget among the benefactors to their country the illustrious authors of the drinkin; fund.

"May I be allowed, my Lords, to congratulate my countrymen and fellow subjects upon the happy times which are now approaching, in which no man will be disqualified from the privilege of being drunk, when all discontent and disloyalty shall be forgotten, and the people, though now considered by the ministry as enemies, shall acknowledge the lenity of that government under which all restraints are taken away?

"But to a bill for such desirable purposes it would be proper, my Lords, to prefix a preamble, in which the kindness of our intentions should be more fully explained; that the nation may not mistake our indulgence for cruelty, nor consider their benefactors as their persecutors. If, therefore, this bill be considered and amended—for why else should it be considered?—in a committee, I shall humbly propose that it shall be introduced in this manner:

"'Whereas the designs of the present ministry, whatever they are, can not be executed without a great number of mercenaries, which mercenaries can not be hired without money; and whereas the present disposition of this nation to drunkenness inclines us to believe that they will pay more cheerfully for the undisturbed enjoyment of distilled liquors than for any other concession that can be made by the Government; be it enacted by the King's most excellent majesty that no man shall hereafter be denied the right of being drunk on the following conditions.'

"This, my Lords, to trifle no longer, is the proper preamble to this bill, which contains only the conditions on which the people of this Kingdom are to be allowed henceforward to riot in debauchery—in debauchery licensed by law and countenanced by the magistrates; for there is no doubt but those on whom the inventors of this tax shall confer authority will be directed to assist their masters in their design to encourage the consumption of that liquor from which such large revenues are expected and to multiply without end those licenses which are to pay a yearly tribute to the Crown.

"By this unbounded license, my Lords, that price will be lessened from the increase of which the expectations of the efficacy of this law are pretended, for the number of retailers will lessen the value, as in all other cases, and lessen it more than this tax will increase it. Besides, it is to be considered that at present the retailer expects to be paid for the danger which he incurs by an unlawful trade, and will not trust his reputation or his purse to the mercy of his customer without a profit proportioned to the hazard; but when once the restraint shall be taken away he will sell for common gain, and it can hardly be imagined that at present he subjects himself to informations and penalties for less than 6 pence a gallon.

"The specious pretense on which this bill is founded—and indeed, the only pretense that deserves to be termed specious—is the propriety of taxing vice, but this maxim of government has on this occasion been either mistaken or perverted. Vice, my Lords, is not properly to be taxed but suppressed, and heavy taxes are sometimes the only means by which that suppression can be attained. Luxury, my Lords, or the excess of that which is pernicious only by its excess, may very properly be taxed, that such excess, though not strictly unlawful, may be made more difficult. But the use of those things which are simply hurtful—hurtful in their own nature and in every degree—is to be prohibited. None, my Lords, ever heard in any nation of a tax upon theft or adultery, because a tax implies a license granted for the use of that which is taxed to all who shall be willing to pay it.

"Drunkenness, my Lords, is universally and in all circumstances an evil, and, therefore, ought not to be taxed but punished, and the means of it not to be made easy by a slight impost, which none can feel, but to be removed out of the reach of the people and secured by the heaviest taxes, levied with the utmost rigor. I hope those to whose care the religion of the nation is particularly consigned will unanimously join with me in maintaining the necessity not of taxing vice but suppressing it, and unite for the rejection of a bill by which the future as well as present happiness of thousands must be destroyed."

Mr. CLAYTON. I will ask the gentleman to use some of his time.

Mr. McCOY. I yield to the gentleman from Georgia [Mr. BARTLETT].

[Mr. BARTLETT addressed the House. See Appendix.]

Mr. CLAYTON. Mr. Speaker, I yield to the gentleman from West Virginia [Mr. HUGHES].

Mr. HUGHES of West Virginia. Mr. Speaker, it is my intention to record my vote in favor of this bill, and in doing so I feel that the dry States are entitled to this protection. This bill does not interfere with or prohibit the shipment of liquor from wet States into wet States, but it will prohibit the shipment of liquor from wet States into dry States. The fight for such legislation has been going on for many years, and each year the necessity for this legislation becomes more marked. The gentleman from Kentucky [Mr. SHERLEY], who opposes this bill, and claims the States should control in this matter, can easily realize, if he knew the situation that now exists, that the States can not control. My district being on the border of Ohio, Kentucky, and Virginia, makes it more marked how this law is being violated. Take, for instance, the State law of Kentucky prohibits the shipment of liquors from wet counties into dry counties, and in order to evade this law the people who are engaged in the liquor business in Kentucky bring their shipments just over the line into West Virginia, and then ship it to any county in Kentucky, and thus evade the State law of Kentucky. Now, I think interstate-commerce restrictions should be so amended that this could not be done, and I, for one, am not willing to longer postpone action on this measure. It is my intention to vote for the amendment offered by Congressman DAVIS, from West Virginia, a member of the Judiciary Committee, as I feel there should be a penalty more severe than the Webb bill now provides. Some have said, however, that this will make this bill unconstitutional. I do not believe this, and if I did I would not vote for his amendment; but I hope that his amendment will be adopted and that the bill will pass.

There are other injustices which I feel are being done, and I have introduced a bill to try to remedy them. The Commissioner of Internal Revenue issues what he calls a "special tax stamp." I feel that the people should be protected by prohibiting the use of this "special tax stamp" where the State and county authorities prohibit the sale of liquor. To show the position the Commissioner of Internal Revenue has taken with reference to this legislation, I am going to ask that a letter from him addressed to me be printed as a part of my remarks, but I want to say now that the argument which he uses, that the present law aids the enforcement of local-option laws in the counties, I do not agree with. For some good reason the violators of the law are more afraid of revenue officers than they are of the local authorities, and if they did not feel that the Federal Government was behind them in a way, for the reason that they have issued to them this license, or "special tax stamp" as they may call it, they would not violate the law as they do now, and instead of its helping out the cause, as suggested by the honorable commissioner, it allows them to carry on this traffic when they would not otherwise do so:

TREASURY DEPARTMENT,
Washington, December 12, 1912.

Hon. JAMES A. HUGHES,
House of Representatives, Washington, D. C.

MY DEAR MR. HUGHES: Referring to your personal call this morning with respect to information furnished some of your constituents relative to the "issuing by the United States Government of licenses to persons to retail liquors in prohibition territory," I have the honor to state that the persons addressing such inquiries to you are evidently under somewhat of a misapprehension as to the position of the National Government.

The National Government issues no licenses of any kind to sell liquors, but it taxes the business of selling liquors, and, as specifically required by Congress, a special stamp is issued as a receipt for the payment of such tax. Section 3232, Revised Statutes, in connection with section 3244 as amended, provides as follows:

"No person shall be engaged in or carry on any trade or business hereinafter mentioned until he has paid a special tax therefor in the manner hereinafter provided * * *."

"That retail dealers in liquors shall pay $25.

"That every person who sells or offers for sale foreign or domestic distilled spirits, wines, or malt liquors, otherwise than as hereinafter provided, in less quantities than 5 wine gallons at the same time, shall be regarded as a retail dealer in liquors."

The tax paid is represented by a stamp, and section 3183, Revised Statutes, prohibits a collector from issuing any receipt in lieu thereof. Furthermore, section 3243 provides that—

"The payment of any tax imposed by the internal-revenue laws for carrying on any trade or business shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on the same within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; * * *."

There are numerous other statutory provisions, and almost every clause of these statutes has been construed in the Federal courts. The Constitution of the United States provides that all taxes shall be uniform throughout the United States. The laws above referred to are general laws applicable to the entire United States, and the President of the United States would have no more right to nullify the laws in a so-called "dry" territory than he would in a so-called "wet" territory. Undoubtedly the spirit of comity to which you refer in your letter is very desirable, but, with respect to the sale of alcoholic beverages, the Federal laws and certain local laws are in direct conflict, so that complete comity is more or less an impossibility. Under the Federal statutes and the decisions of the Supreme Court alcoholic beverages constitute a legitimate article of commerce, and the occupation of selling alcoholic beverages, under Federal statutes, is a legitimate occupation, for the prosecution of which the Federal statutes impose a Federal tax. So far as the Federal laws are concerned the place of transacting this business is entirely immaterial. If a person engages in the selling of alcoholic beverages in the District of Columbia, the Federal tax is collected; if he engages in business in the State of New York, the same tax is collected; if in California, Georgia, Tennessee, or West Virginia, the same tax is collected.

There is no authority vested in any administrative officer from the President down to waive the tax or to decline to collect it when liability therefor is shown. It is entirely within the province of the State, in the exercise of its police powers, to prevent the occupation being followed, but if, without regarding local laws, a person does engage in this occupation, that does not relieve him from his liability to the Federal statutes. The only way in which the Government could fail to collect this tax in West Virginia would be for the Congress to repeal this tax provision all through the United States. Then, of course, the Federal Government would have no interest in the matter at all and would withdraw its officers and tax collectors from this branch of work all through the United States. It would appear to this office that this action would be the worst blow that could befall the persons who are sincerely desirous of enforcing local prohibitory or semiprohibitory laws.

Section 3240, Revised Statutes, provides that each collector shall keep conspicuously in his office for public inspection a list of all persons who have paid special taxes, with the place and business for which the tax was paid. Information received in this office indicates that this is one of the greatest aids in the enforcement of local laws. Of course, if no Federal tax was collected the Federal Government would have no occasion to collect such data or to be interested in any way in the local transactions of liquor dealers.

A number of bills have been introduced with a view of having the Federal Government collect the tax in some sections of the country and not in other sections of the country, or to restrict the tax collections in various ways, all of which bills appear to this office to be unconstitutional. As above stated, however, a very simple way to handle the situation would be to repeal the taxing law on liquor dealers all over the United States, and this appears to be to this office the only way that the matter could be handled.

Very respectfully,

R. E. CABELL, *Commissioner.*

Mr. CLAYTON. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. SMALL].

Mr. SMALL. Mr. Speaker, stripped of its legal verbiage this bill seeks to prohibit the shipment of intoxicating liquors from one State into another State, where the consignee has the intent to use the article in violation of the laws of the State into which it is shipped. The language of the pending bill is as follows:

That the shipment or transportation * * * of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind from one State * * * into any State * * * which said * * * liquor is intended by any person interested therein to be received, possessed, sold, or in any manner used either in the original package or otherwise, in violation of any law of such State * * * is hereby prohibited.

In my representative capacity I shall vote for this bill because I am advised that a majority of my constituents wish me to do so, and I am willing on that account to forego any objections which I have for the purpose of executing their will. However, I would not feel content if I did not express some of my views regarding this legislation, and I shall do so very briefly.

In my judgment, its constitutionality is a debatable question, although I have not reached such a firm conclusion upon this point as would constrain me under my oath of office to oppose it on that ground. The act which is prohibited is the shipment and transportation of intoxicating liquors under certain conditions, and to this extent it is a prohibition and not a regulation of interstate commerce. Under the express terms of the Constitution Congress alone has the power to regulate commerce among the several States. It will be observed that no penalty is attached to the violation of this prohibition against the shipment and transportation of intoxicating liquors, and, by the declaration of its sponsors, it was not deemed advisable to provide any penalty for a violation of this prohibition. They have even gone so far as to say that the discussion of a penalty indicated opposition to the spirit of this bill, and that its real friends had no desire to punish any shipper or common carrier for its violation. Probably the real reason is attributable to the fear that the penalty could not be enforced, because of its uncertainty and indefiniteness. To inflict punishment upon a citizen for an alleged violation of a law when he could only ascertain that the act complained of was prohibited because of an undisclosed intent upon the part of the citizen of another State to violate the laws of that State would certainly contravene the basic proposition that a man shall know with reasonable certainty what law he is violating and the manner in which he is violating it at the time of his offense. Substantially, then, it may be said that shipments of intoxicating liquors from one State into another may proceed just as they have in the past. About the only effect will be to induce the shipper to require payment in advance and to impair the credit of the consignee. If the consignment may be seized under the laws of the State before it reaches the consignee, or after it is delivered,

then the shipper may decide to relieve himself of all doubt as to receiving payment and may refuse to extend credit.

The proposed inhibition against shipment and transportation is based upon an intent existing and undisclosed in the mind of the consignee to use the intoxicating liquor in a manner contrary to the law of the State. This is a nebulous premise upon which to base the conduct of another citizen as to whether this other citizen is or is not violating the law. Certainly it will not control the shipper or the common carrier, but it is said that the authorities of the State in the enforcement of its own law will be able to determine this intent, not by positive evidence but by attendant circumstances, such as the general character of the consignee, and the quantity of intoxicating liquor which has been shipped to him. If intoxicating liquor is property in the eye of the law, and if the owner of the property is entitled to the possession of this liquor for his own use, then it would be rather an unusual extension of the law to take this property from him upon the ground that he intended to use it in violation of the law. None of the States which have enacted prohibition laws applicable either to the entire State or to subdivisions thereof have attempted to go further than to prohibit the manufacture and sale of intoxicating liquor. They have not interdicted the possession of liquor for personal consumption, nor have they attempted to prohibit its temperate use.

What is the real purpose of this law? It is admitted that the States possess exclusively the police power to regulate intoxicating liquors and to enact and enforce all other laws affecting the life, health, peace, or property of its citizens. It is difficult to conceive a limit which might be placed upon the police power of a State to control the manufacture, sale, or consumption of intoxicating liquors. Referring to those States or subdivisions which have prohibited the manufacture and sale of this article, it is contended that the enforcement of such laws are impaired or made difficult because of interstate shipments. The purpose of all prohibition laws is to curtail or prevent the use of intoxicating liquors, and it is said that this purpose is thwarted because of the interstate-commerce privilege. If citizens desire to further prevent the use and consumption of liquor, they should not appeal to Congress, which has no jurisdiction, but they should appeal to the legislatures of their States, which possess exclusive police powers to deal with the subject.

Again, it is asserted that the main purpose of this bill is to deprive interstate consignments of liquor of their protection as interstate commerce immediately after crossing the boundary line of the State, or at any rate before delivery to the consignee. Under the Constitution and the laws as now construed, I am unable to see how this purpose can be accomplished. After the opinion of the Supreme Court of the United States in Leisy v. Harding (135 U. S., 100), which substantially held that the consignee of intoxicating liquors could sell the same in the original package, notwithstanding the law of the State prohibiting such sale, Congress, on August 8, 1890, passed what was known as the Wilson bill, which it may be well to quote here:

All fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State or Territory, enacted in the exercise of its police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

In construing this statute the Supreme Court in two cases—One hundred and fortieth United States, page 545, and in Rhodes v. Iowa (170 U. S., 412)—held that the words "upon arrival in said State or Territory" meant arrival at the point of destination and delivery to the consignee. With reference to the pending bill, it is difficult to understand upon what theory the court will hold differently. I am of the opinion that if the present bill becomes a law interstate shipments, under the Constitution, will be protected by the commerce clause until actually delivered. If my contention be correct, then the proposed law would be futile and would not enlarge the power of the States to enforce their own police laws.

Having pointed out in a brief way some of the difficulties which surround this legislation, I will direct inquiry as to its constitutionality. I have not the time or the inclination to discuss this important question fully. I will present only one phase. The Constitution confers upon Congress the exclusive power to regulate commerce among the States. Just as each State possesses plenary police powers, so does Congress possess the exclusive power to regulate interstate commerce. It is here attempted to prohibit interstate commerce in liquor upon a certain condition.

The condition is that intoxicating liquors shall not be shipped into another State where the person to whom it is shipped intends to use it in violation of the law of that State. If there should be no law of the State regulating the use of liquor, then, admittedly, the inhibition against this interstate commerce would not attach. Therefore the question of the prohibition of this commerce depends for its vitality upon the law of the State, and we are driven to the conclusion that the State, by its action or nonaction, controls interstate commerce. Congress may not delegate this exclusive Federal function to any State. Further, this inhibition of commerce is not predicated upon an existing fact which may be determined, but merely upon an intent to do an act which might create an existing fact. I felt that justice to myself and my desire for truth rendered it necessary for me to make these comments upon the proposed law. If what I have said finds justification, either under the Constitution and laws or in consideration of wise policy, then they only illustrate the difficulties involved in the problem of total prohibition in the traffic and use of intoxicating liquors. Regardless of what my individual views may be as to the best and wisest methods of promoting temperance and abating the recognized evils from the intemperate use of intoxicating liquors, I sincerely espouse the cause of temperance, sobriety, and good morals. Whether local option or State-wide prohibition is the better remedy every good citizen must sympathize with the militant crusade against intemperance. There are many who believe that laws, rigidly regulating the traffic in and the consumption of intoxicating liquors, proceed along saner and wiser lines, and will result in better enforcement of the laws and will also preserve greater respect for the laws. All these questions are not for Congress to determine. We are confronted with a single question, whether under the Constitution this proposed law is valid, and if so, whether it will accomplish the purpose intended. Personally I hope that both queries may be answered in the affirmative, but I felt that I must preserve my intellectual integrity and express my best judgment upon both propositions.

Mr. CLAYTON. Mr. Speaker, I yield to the gentleman from Georgia [Mr. RODDENBERY].

Mr. RODDENBERY. Mr. Speaker, the title of the bill we are about to vote upon is in these words: "A bill to divest intoxicating liquors of their interstate-commerce character in certain cases." Under the protection of this interstate-commerce clause foreign whisky houses defy the laws of the States, furnish the vile alcoholic concoctions upon which "blind tigers" and "speakeasies" flourish and lead men into the temptation of "moonshine" stilling. All of which the liquor lobbyist and his agents hypocritically protest against. This day's vote will put them to the test. The essence of this bill makes it against Federal law for any person to ship or any person to receive intoxicating liquors in a prohibition State where such liquor is intended to be sold or used contrary to the laws of the State into which it is shipped. It does not interfere with the shipment or reception of liquors for lawful personal consumption or for any purpose not prohibited by State law. So it will be seen that it is not the purpose and object of this bill that the Government shall enforce State temperance laws nor interfere with the enforcement of prohibition laws, but it simply and only leaves and remits to each State complete power and control over interstate shipments or purchase of intoxicating liquors for any and all purposes. It expressly concedes to Georgia and the other States the exclusive authority to exercise their sovereign powers without hindrance by Federal authority as to the regulation or prohibition of the liquor traffic. No Democrat and no man who believes in the rule of the people can object to this legislation. Whoever is opposed to local State government may well oppose this bill, but no one else can. Personally I prefer making the bill more sweeping in some of its provisions, but being anxious for some wholesome legislation now, I accept this bill as reported by the committee and approved, so far as I am advised, by the temperance organizations of the country.

Speaking for myself, I should like to see the Government in partnership with the States for the enforcement of penal laws against the whisky traffic as it is in partnership with the State for enforcement of many other criminal laws. This course is evidently now not ripe for action. The measure, however, which we are about to pass is not offered as a panacea for all obstacles to temperance-law enforcement, nor is it the finality of legislation on this subject. The bill now before the House goes only so far as to withdraw the Government and its powers from direct partnership with the nefarious intoxicating liquor business and the "blind tiger" traffic. Let not the enemies of any legislation on this question load it down with such amendments as at present we know will mean its death in the Senate or in conference. I fear even now at this stage of the Sixty-second Congress, with but a few days remaining, that the final

realization of our hopes may be deferred. Complication of amendments, however salutory they may be, are but calculated to increase the grounds for this fear and augment the dangers ahead.

Mr. Speaker, able gentlemen have risen on this floor to propound the dangers that are in the constitutional questions involved. They need not have done that. For months every Member's mail has been flooded by the voluminous briefs, which I now hold in my hand, of the Wholesale Liquor Dealers' Association, the Model License League, the Liberty League, and every organization engaged in the liquor business of this country, expounding and interpreting the Constitution of our country and warning us that this legislation is unconstitutional. Great God! has the time come when honorable Members rise on the floor and engage in partnership with the views of the liquor traffic of this country and their legal hirelings in their interpretation of the fundamental law of our fathers? The ravenous buzzard, with his morbid talons buried in the decaying flesh of his rotting victim, with his gluttonous beak smeared and dripping with the putrid vitals of his lifeless carcass, is a noble animal by comparison with that merciless flock of human buzzards who, under the guise of interstate commerce, for sordid gain and enriched coffers, defy public sentiment, respect the law of no sovereign State, in order that they may grow fat on the lifeblood of their unfortunate fellow men [applause]; who, like demons of perdition, claw out the disconsolate hearts of tens of thousands of tortured, pleading women; who remorselessly hurl into the bottomless pits of bitterness, hopelessness, and despair the starving, naked, wailing, alcohol-orphanized childhood of this land.

A vote for this bill, if nothing more, will be a rebuke to, and solemn declaration of independence of, that aggregation of human vultures denominating themselves by such titles as the Brewers of America, the Wholesale Liquor Distillers, the Wholesale and Retail Liquor Dealers' Association of the United States, the Model License League, the Personal Liberty League, and so forth.

I thank God to have lived to see this day, when the Representatives of the American people will answer on the roll call with their votes the entreaties and imploring prayers of millions of country-serving, God-fearing, home-loving men and women. This day, O men, we who hold high station can dedicate one vote to liberty, country, God, and home, and rededicate the Constitution to the people, withdrawing it forever as a bulwark for that conglomeration of cormorants who, in defiance of the States, debauch manhood, slaughter womanhood, butcher childhood, and crucify babyhood on the accursed cross of alcohol. [Applause.]

Mr. McCOY. Mr. Speaker, I yield three minutes to the gentleman from Kentucky [Mr. CANTRILL].

Mr. CANTRILL. Mr. Speaker, in the three minutes that I have, I desire to make but two observations. The first is that it is admitted by the Antisaloon League of America, in asking for this legislation, that the great mass of legislation that they have spread upon the statute books in the various States is an absolute failure in carrying out what they intended to carry out. I want to make the further observation that this sham and pretense of a prohibition law is about to be written upon the statute books of this Nation because the leaders of the Antisaloon League have so decreed. This House stands ready, if they will give the word, to write upon the statute books of this country a real prohibition law. Some of the Democratic leaders upon this side of the House, before the election, thought that this was a very dangerous question to discuss in the American Congress, but since the election they have seen fit to lead us into the Prohibition Party. And, as a real Democrat, in order that the real sincere temperance people of this Nation may write upon the statute books of this country what they have been told that this law means, I propose to vote for the Davis amendment, so that there can be real temperance prohibition legislation in the country. And I also say that the failure of this legislation is because the leaders of the Antisaloon League of America have deceived the people back home, and have come here to the American Congress and asked the Representatives to write a sham and a pretense of prohibition upon the statute books of the Nation. [Applause.]

I yield back the balance of my time.

The SPEAKER. The gentleman yields back one minute.

Mr. McCOY. Mr. Speaker, I yield to the gentleman from California [Mr. KAHN].

Mr. KAHN. Mr. Speaker, while those in favor of this bill honestly believe that they are doing something in the cause of prohibition, yet, as a matter of fact, legislation of this character generally leads to human ills compared to which drunkenness is nothing. [Applause.]

Overindulgence in anything is bad for whomsoever is guilty of the practice. One can overeat himself just as easily as one can overdrink himself. Thousands of people die annually on account of overindulgence in eating. Every doctor will tell you that that is a fact. The efforts to curb human appetite have been many. I doubt whether they have always resulted in benefit to the human race.

Physicians tell us that the drug evil in this country is growing by leaps and bounds. Personally, I firmly believe that legislation of this character is largely responsible for it. You find thousands of young men and young women all over this land who have become morphine fiends, opium fiends, and cocaine fiends largely because the right to take less harmful stimulants has been denied them by legislation. There are hundreds of thousands of good men and women, many of whom belong to strong temperance organizations, who partake of drugs that contain infinitely more alcohol than is contained in beer, wine, cider, and even whisky. This is by no means an overstatement of the case. Many of the patent medicines that are sold to the public for certain ailments contain large percentages of alcohol, and the use of these remedies is sometimes much more harmful than would be indulgence in malt and vinous liquors.

The Government has passed stringent laws against the importation of opium. What has been the consequence? It is constantly being smuggled into the country, and I doubt whether there has been any diminution in the vice of opium smoking.

The abolition of the Army canteen has brought greater evils to the soldiers of this country than were ever visited upon them in the days when they were able to procure light wine and beer in their canteens. [Applause.] On January 9, 1913, the Committee on Military Affairs of the House of Representatives had a hearing upon a bill to restore the Army canteen in the Army. There appeared before that committee urging its restoration the Secretary of War, the Surgeon General of the United States Army, the statistician in the office of the Surgeon General of the Army, the Chief of Staff of the Army, and other prominent officers who have had much experience in the military establishment of our Government both before and since the abolition of the canteen. Among the latter was Brig. Gen. Clarence R. Edwards, who stated that there is just getting into the service in a slight degree the use of cocaine. He said that he was much surprised to find a few cases of it in the service and that it was growing; that the man who becomes addicted to the disease generally gets his soldier pal likewise to participate in it.

Here is the statement of Gen. W. W. Wotherspoon, of the General Staff Corps, found on pages 15 and 16 of the hearings before the Committee on Military Affairs:

Mr. WOTHERSPOON. My statement before the committee will have to be very brief. I think all the points have been thoroughly covered by the Secretary of War, Gen. Wood, and the Surgeon General. The only thing that may be of interest to the committee is that I was one of the originators of the canteen system in the Army. In 1878 the first canteen that I knew of was established by the Twelfth Infantry in Arizona on a petition by the enlisted men for the officers to give them an opportunity to get amusement away from the town of Prescott, Ariz., where hard liquor and all those other inducements to get away with the money of the men predominated to such an extent that the men wanted their clubs at the post. The first effort was to have the canteen without beer. They had little oyster suppers and sandwiches and coffee and billiards and various amusements, and we found that attracted a large class of the men, reduced the trials by court-martial very materially, and improved the discipline. But there was a residue of the men we could not control in that way. It was too mild for them, and it appeared they still wanted to go to saloons. So on the petition of the men and after a meeting of the noncommissioned officers of the regiments we, with great hesitation, introduced beer.

In connection with the spread of disease in the Army as a result of the abolition of the canteen, my experience was pretty large at one of the largest western posts. I had occasion—several occasions—to make a very careful investigation of the offenses committed by the men, and that brought me into direct contact with the class of dives and brothels that have been referred to here. I never have seen in my life anything so disgusting, so depraved, as those were. Among the men this class of dives was divided into two groups—the red and the green light. The red light was a place where liquor alone was sold of very vile character, but compared to the other place, the green-light district, it was a gentleman's club. At those places there was a barroom in front where the men believe they get knockout drops almost with the first drink. There were stalls in an extension of the building, where women, mostly negroes of the vilest type, had their habitations and extended their grasp over the soldiers. A man would go down after pay day and get into one of those green-light places. He would remember he had one or two drinks, also that he started in with $40 or $60 in his pockets, and he would be out in the hands of the police at the end of three days. He was generally found in some freight car.

It is exceedingly interesting and ought to commend itself to the consideration of every Member of this House who believes in true temperance: Prohibition has never yet made for temperance. On the contrary, it creates sneaks and liars and hypocrites. I said that the abolition of the Army canteen has brought greater evils to the soldiers of this country than were

ever visited upon them in the days when they were able to procure light wine and beer in the canteens.

So-called social diseases are more numerous in the Army and the Navy of the United States than in any of the other armies of the world. Our country is practically the only one in the world which does not have the canteen or something of a corresponding nature. The presence of these diseases to such a great extent is a most appalling condition of affairs. Some of these diseases are transmitted even to the third and fourth generation, when the soldier marries. Paresis and locomotor ataxia are directly attributed to one of the loathsome forms of these diseases. I had a most distressing case called to my attention only a few weeks ago. A soldier had contracted this loathsome disease and subsequently married. He became the father of two beautiful children. About six years ago, which was some years after the disease had been contracted prior to his marriage, he was suddenly stricken with paresis. He left his wife and children absolutely helpless. The War Department refused to give him a pensionable status on the ground that his disease was contracted outside the line of his duty. And I dare say there are hundreds of similar cases throughout the country.

In the old days, before Congress abolished the canteen, soldiers were permitted to have beer and light wine in the canteen building. Overindulgence was never permitted. The soldiers, looking upon the canteen as a sort of a club for social enjoyment, would be content to remain at the military post practically all the time.

It has been testified to by many officers that since Congress passed the law to abolish the canteen the soldiers take leaves of absence and visit the lowest brothels in the vicinity of the post. Does anyone believe that any real good has been accomplished by the congressional enactment which abolished the canteen? Even the wives of officers appeared before the Military Committee urging that that institution be restored.

I call attention to the matter merely to show that legislation of the character that is now pending before the House frequently does greater damage than good.

In my own State the wine industry is a very considerable one. It represents an investment of $150,000,000; 350,000 acres of land are devoted to grape culture in that State; 60,000 people are engaged in the business, most of whom are small farmers. It is the third largest agricultural industry in the State of California.

I believe that the moderate use of wine leads to true temperance. In the wine-growing countries of Europe, where the people indulge moderately in the fermented juice of the grape, there is comparatively little drunkenness. In the beer-drinking countries of Europe there is comparatively little drunkenness.

The true way to minimize the evils of intemperance is to begin with the education of the children. The evils of drunkenness should be pointed out to them in the home or even in the schools. I think that would be a much more effective remedy in the cause of true temperance than legislation of this character, and, so believing, I shall vote against this bill.

Mr. McCOY. Mr. Speaker, I yield to the gentleman from Illinois [Mr. SABATH].

The SPEAKER. The gentleman from Illinois [Mr. SABATH] is recognized.

Mr. SABATH. Mr. Speaker, for years and years a certain few States, and in the last few years a few others, have endeavored to stop the use and sale of liquor in the respective Commonwealths, and now, after these many years, they admit that they have been unable to do so, and are here to-day demanding that the Federal Government assist in enforcing this unreasonable and unwise State legislation.

Mr. Speaker, I never have, neither do I now, favor any special or sumptuary legislation. I do not believe in legislating for any especial district or any especial State; our duty is to legislate for this entire country of ours. Some people wonder why it is that these States have been unable to enforce their prohibition laws; to me it is plain, as it should be to anyone who recognizes the fact that you can not by law govern human nature and the tastes and inclinations of the individual.

You can no more legislate sobriety into a man than you can legislate good morals into him. These States have failed signally in the enforcement of their laws, the same as any other States would fail, for such laws are impossible of enforcement.

As for myself, I desire to say that, even were it possible to enforce prohibition, it would be unfair and unjust, because a majority should never be permitted to deprive the minority of the people of their personal rights and personal privileges, as these rights were given them by our Constitution. If an oppressive majority had the right to say how a man should live and what he should drink, they would also have the right to prescribe what he should eat, what he should wear, what church he should attend, or how many hours he might sleep.

We are to-day asked to legislate to aid these seven or eight so-called "prohibition" States in enforcing their laws, and some gentlemen coming from these States have endeavored to make us believe that this demand is country wide, yet anyone who studies the conditions will easily ascertain that this demand comes only from a few sections and from a few rabid, misguided, professional prohibitionists. I say, without fear of successful contradiction, that the demand for this legislation has been artificially created by false statistics and untruthful literature, and I deny that drunkenness is responsible for misery and want, and assert that the reverse is true; that misery, want, misfortune, and the unnatural conditions brought about by prohibition are conducive to drunkenness. This legislation is not demanded by the majority of our people nor by those people who have given this question careful consideration. The truth is that some honest and well-meaning individuals, who are nevertheless narrow-minded and prejudiced, have become unduly alarmed over this problem and are seeking to force their views and beliefs upon this country as a whole and endeavoring to compel the great majority of the people to view the question and its solution as they do.

Mr. Speaker, we are asked to enact this legislation on the ground that the prohibitory laws passed by the various States have failed of their intended effect because of the shipment of alcoholic liquors into those States. The police powers of the States have been reserved to them, and it is manifestly the duty of every State to exercise the powers it has to stop the use of liquor before calling for Federal aid. The reason for the failure of these prohibition States to enforce their laws is that they do not really wish to enforce them.

Mr. Speaker, I am not unmindful of the fact that a wave of prohibition seems to be rolling over certain States, yet I am bold enough to assert that this fact does not constitute an argument for the legislation by Congress at which this bill aims. Waves of alleged reform have heretofore swept communities, whole countries even, and after uprooting industries and impoverishing thousands, have vanished, leaving to saner influences the resuscitation of the things they have sought to destroy. There is a class of reform, so called, which in the last analysis is nothing but persecution. Its nomenclature varies with the period of its existence. In the days of Philip II of Spain reform found its advocates in the Alvas and the Torquemadas, who sought to reform all that were not of their faith by putting them to the sword or burning them at the stake. In our own country, up in New England, where prohibition has found a strong lodgment in the State of Maine, and with results not at all in keeping with the efforts put forth, it was a pleasant pastime a century or two ago to attempt reform by drowning those who were not in sympathy with the views of those in control. I merely cite these instances in order to show to what extremes reformers may go when they attempt to force their ideas upon those who do not agree with them.

We should beware how we bow to the present outbreak of intemperate assault upon vested law, for it involves a far greater menace to constitutional liberty than does the use of alcoholic drinks to society. In the one instance the danger is voluntary; to attempt to cure the evil by the commission of a greater wrong is futile in the extreme.

Mr. Speaker, it is a known fact that prohibition does not prohibit; in fact not only does it not prohibit, but it creates conditions that are responsible for many violations of the law and it breeds disregard for our entire judicial system. Statistics will show that there is more drunkenness in so-called "prohibition" States than in the States which have reasonable regulations. The statistics also show that there are many more illicit distilleries in those few States which have enacted prohibition legislation than in all those others which seek not to prevent its sale but to properly regulate it. To prove my contention I wish to read and insert as a part of my remarks extracts from the report of the Internal-Revenue Commissioner for the years 1911 and 1912. In his report for 1911 he said:

> A large number of the field force have been used during the year in detecting illicit distilling, which practice has increased steadily, especially in those States in which prohibitory laws have been enacted.

Please notice that he states that illicit distilling has increased steadily, "especially in those States in which prohibitory laws have been enacted." Is not this sufficient proof that these laws have not had the effect of prohibiting the use of liquor, but instead been the direct cause of increased disregard of the law?

Then, again, in this gentleman's report for 1912, he says:

> Illicit distilling and "bootlegging" continue without sign of abatement. * * * It appears in some sections of the country, where local prohibitory officers make some effort to enforce local prohibitory laws, there is a correspondingly greater demand for illicit whisky, and as the price goes up more persons are willing to run the risk in violating the law. The tax on the entire amount of spirits aggregates a large amount of revenue that is lost to the Government, and represents a tremendous disturbing element and a great amount of lawlessness in communities, many of which are otherwise law-abiding and respecting.

Once again I wish to direct the attention of the gentlemen who are supporting this Webb bill and other prohibition measures that this State legislation has not been successful in prohibiting the use of liquor, but has instead encouraged illicit distilling.

Let me cite right here an instance of prohibition of another kind. In the State of Indiana a few years ago a law was passed prohibiting the sale of cigarettes. I have been informed, and I believe what I have been told, that the use of cigarettes in that particular Commonwealth has been not at all lessened by virtue of this prohibitory legislation. Unless I am greatly mistaken, similar attempts to prohibit the sale of these little "coffin nails" have been made elsewhere, but I have not learned that they have been attended with any better success.

Mr. Speaker, I never have been, and am not now, a believer in the excessive use of liquor, and I deplore as much as anyone the fact that some individuals are not at all times capable of curbing their desires, but at the same time I say that it is absolutely impossible to enact legislation which will make men abstain from the use of liquor in some form or other. What I favor is the enactment of strict legislation governing its sale, the imposition of heavy penalties for the violation of these regulations, the reservation to the States, counties, and municipalities, of complete control over the business as well as over the individuals conducting it, and providing for the immediate revocation of the licenses or permits of any individuals who violate the law. I feel confident that if these prohibition States would enact such legislation and would elect or select officials who would honestly exert reasonable efforts to see that such laws were enforced, that they would reduce drunkenness to a minimum, and also save their citizens the disgrace of perjuring themselves whenever they desire to secure a sip of liquor, as is now a common occurrence.

Then let us consider for a minute what would be the effect were we to close all the saloons throughout the United States, legislate out of existence all the breweries and all the distilleries that may exist there, and give the respective States jurisdiction over interstate commerce. Should this be done it would mean that illicit stills will spring up like mushrooms, "blind pigs" will flourish, bootlegging will be rampant, and those individuals desiring liquor will procure it in large quantities and drink a great deal more than they do when it can be purchased openly and legitimately. Surely we ought to take a lesson from the experience of our Army. Every officer bears witness to the fact that since the abolition of the post canteen drunkenness among the soldiers has increased tremendously, and with it all the attendant evils of disease, deterioration of discipline, and desertion. Have we the right to expect better results from those individuals who are not under military control?

There is another aspect of this question which I desire to have you consider. Millions of dollars are invested in the industries of brewing and distilling; what compensation will the Government hold out to those whose fortune is thus swept away, and what further compensation will Congress hold out to the thousands who have found employment in these industries and in this business, and the support of whose families is dependent upon their continuance therein? It is easily seen that the economic ramifications involved in the enactment of such legislation as is urged in this and similar bills is endless, and no man can foresee its ultimate effect.

Mr. Speaker, I presume no one, not even the most rabid prohibitionist, will deny the fundamental right of a person to take a glass of beer, a glass of wine, or a glass of whisky, or, in fact, any beverage which he may choose to enjoy, nor will anyone deny that the harm lies not in the use of this right but in its abuse. If these prohibition advocates would address themselves to finding a remedy for the immoderate use of stimulants, they would enlist under their banners hundreds of thousands of men in this country who now oppose them.

If Federal interference can regulate the drinking habits, not only of a community, but of the individual, what is there to prevent some future Congress, in which there may possibly be a large number of vegetarians, from passing a law forbidding the transportation of meat, for the advocates of a vegetarian diet assert that meat is most harmful, and that it tends to brutalize those indulging in it? Then, again, why not legislation prohibiting the use of teas and coffee? It is admitted that the stimulating qualities of these beverages are such as to render them very injurious when indulged in excessively. Then, too, if you pass a bill prohibiting the transportation of liquor you will shortly be implored to pass similar legislation having for its object the restriction of the use and transportation of tobacco. In fact, think of the precedent that would be set by the passage of this measure. This body would immediately be overwhelmed with demands for the passage of every conceivable kind of sumptuary legislation.

Mr. Speaker, I dislike very much to bring up the question of unconstitutionality, but I can not refrain from directing the attention of the Members of this House to the following ruling of the Supreme Court in the case of In re Rahrer (140 U. S., 562), where it was held that—

> It does not admit of argument that Congress can neither delegate its own powers nor enlarge those of a State.

And also the cases of Leisey v. Hardin (135 U. S., 100), and American Express Co. v. State of Iowa (195 U. S. 133), where it was held that the citizen of one State has the right to import liquor from another State.

I also desire to call the attention of my colleagues to the opinion of Joel Prentiss Bishop, one of America's greatest law writers, who, in his book on "Statutory crimes," has the following to say with regard to the constitutionality of such legislation:

> Now, as everyone is aware, while large classes of people hold that alcohol as a beverage is detrimental, others do not. And it is reasonable to inquire whether, when they of the affirmative become the majority of a State, it is within the rightful province of legislation to punish the men who furnish to the minority what they deem essential to their health and happiness. * * * Assuming all the worst things said against intoxicating drinks to be true, it is still the natural and inalienable right of every sane and capable person arrived at majority to procure them. * * * The drinks which a minority of the people deem essential, however pernicious we assume them to be in fact and however condemned by the majority, can not be altogether thrust by law beyond the practical reach of those who desire them without violating fundamental and indispensible principles of legislation.

Now, any comment that I might make on the above could add nothing to it, but I submit the words of this eminent authority as deserving of the most profound consideration.

Mr. Speaker, are we to now abandon the Constitution or to inaugurate a gradual process of disintegration by which this instrument is to be destroyed? Are we to distrust liberty and inaugurate governmental supervision of the citizens?

I feel that I have but imperfectly pointed out the dangers that lie concealed in this bill and other similar measures, but I trust that my efforts have been of some avail, and that my colleagues in this House will show their disapproval of legislation of this character by decisively defeating the measure now under consideration.

Mr. CLAYTON. Mr. Speaker, may I inquire how much time I have?

The SPEAKER. The gentleman has 10 minutes remaining.

Mr. McCOY. And I, Mr. Speaker—how much time have I?

The SPEAKER. Eight minutes.

Mr. CLAYTON. I yield half a minute, Mr. Speaker, to the gentleman from Wyoming [Mr. MONDELL].

The SPEAKER. The gentleman from Wyoming [Mr. MONDELL] is recognized for half a minute.

Mr. MONDELL. Mr. Speaker, I believe this bill is constitutional. I believe it is wise. It does not diminish the authority of the Federal Government. It does enlarge local control, and I shall vote for it. [Applause.]

I shall support the legislation because I am in sympathy with the object sought to be accomplished, to wit: To remove as far as possible the obstacles which the interstate shipment of intoxicating liquor present in the enforcement of State laws regulating or prohibiting the liquor traffic, and because, in my opinion, it is in harmony with our plan of government under the Constitution. The control of Congress over interstate commerce is complete and may extend to actual prohibition, at least within certain limits, as is illustrated by the antilottery legislation and has frequently been declared by the courts, but I do not think it is necessary to go to the extreme of holding that this power is complete to the point of prohibition in all cases to defend this legislation as being constitutional. What the legislation does is to subject certain articles in interstate commerce to the police power of the State in order that the State authorities may determine whether they are to be received, possessed, sold, or in any manner used in violation of the law of the State.

This may be said to be a relinquishment by Congress of a portion of its control over interstate commerce. Taking that view of it, I do not think it can be successfully maintained that Congress has not a right to do so if it deems wise. The full

control could, of course, be asserted at any time. What Congress really does in this legislation, however, is to authorize the use of the machinery of a State for the purpose of determining whether an article shipped into a State is, in fact, a legitimate article of interstate commerce. If the article proves to be contraband under the laws of the State, the protection of interstate commerce is denied it. We have many legislative enactments the force and efficiency of which are dependent upon their harmonious relation to State statutes. The act providing for the publicity of campaign contributions, certain provisions of the pure-food laws, and of the bankruptcy laws, recognizing and relating to State statutes, are cases in point.

This legislation ought to be—I believe will be—helpful in enabling the States in enforcing their laws regulating the liquor traffic. I am glad that a way has been found to accomplish this worthy purpose entirely in harmony with our plan of government. It particularly appeals to me, because it gives a wider opportunity for the exercise of local authority without encroaching upon the proper domain of Federal authority. [Applause.]

Mr. CLAYTON. Mr. Speaker, I yield to the gentleman from Mississippi [Mr. HARRISON].

The SPEAKER. The gentleman from Mississippi [Mr. HARRISON] is recognized.

Mr. HARRISON of Mississippi. Mr. Speaker, I have listened to this debate with much interest and some curiosity. I have seen in the course of it distinguished Members of this House who are opposed to the passage of the bill dress their arguments in every kind of garb. Some oppose it, saying that it is unconstitutional; others, that it destroys "individual liberty"; others, that it allows the prohibition States to dictate to the wet States as to what they shall or shall not do; and still others say that it will prevent wines being brought into the prohibition States for sacramental purposes.

No doubt some of these arguments are made in good faith. I can understand how lawyers may differ as to its constitutionality. In my opinion that is the only argument that can be reasonably advanced and that demands serious consideration. There is always a close question of law when we try to legislate within the limits of the indistinct twilight zone that separates the jurisdiction of the Federal Government, under the interstate-commerce clause of the Constitution, and the jurisdiction of the States. And in this instance, while I may have some doubt as to the constitutionality of the bill and some uncertainty as to its being upheld by the courts, I shall certainly resolve that doubt in behalf of those States the desire and will of whose people cry out for this legislation.

It was indeed interesting to listen to some of the arguments presented by the distinguished apostles of individual liberty—some coming from the hop-scented atmosphere of St. Louis, where Anheuser-Busch brews and flourishes—while others from that great prohibition city of Milwaukee, made famous by Messrs. Pabst, Schlitz, Gatz, Blatz, and socialism—say that individual liberty is destroyed and that State sovereignty is impaired by the passage of this bill. And they are so extremely solicitous about the welfare of the moral people in the prohibition States that they fear the passage of this bill will prevent the Christian people in those States from observing the holy sacrament hereafter.

O, Mr. Speaker, the people know who are the champions of the antiprohibition movement in this country and its defenders in this House. They know, too, that to-day on the final vote, those champions and defenders will, under the guise of strengthening the bill, vote for the passage of many amendments which on their face may appear just and right, but behind which dynamite has been placed with a lighted fuse to explode and destroy the whole bill. The advocates of this bill will not take orders from its opponents, but prefer to follow the beaten path that its framers have made.

There is no question of individual liberty involved in the passage of this bill. It will not prevent liquors from being brought into prohibition States and being used for lawful purposes. There is nothing in this bill that will prevent the good Christian people of the prohibition States from getting all the wine they desire and using it for sacramental purposes, and no one knows this better than the gentlemen who say it destroys individual liberty and impairs sacramental privileges.

This is not a prohibition question. If I were not in favor of prohibition, there is one great principle of free government involved that would cause me to vote for the passage of this bill. Nine States have declared by a majority of the people living in them that intoxicating liquors in those State shall not be sold or used in violation of the law in those States. Laws, when made, should be enforced or repealed, and every arm of the State government should be used in the enforcement of the people's laws; and the Federal Government should never give countenance and sanction to the violation of the laws of any State. Certainly no man on this floor would say that if the people of Maine desire prohibition that they should not be permitted to have it. If Missouri wants liquor distilled and sold there, then they should be allowed to have it. If that be true, then certainly you will agree with me that the people of Missouri ought not desire to violate the laws of Maine, but on the contrary, every law-abiding citizen of that State should prefer to encourage the people of Maine in the execution of their laws. The Representatives of the people of Missouri and every other State in the Union that legalizes the sale and use of intoxicating liquors can certainly assist the people of the prohibition States in the enforcement of their laws by voting for this bill, which will gurantee to those States the control of this matter and the exclusive right to execute its own laws.

This bill does not express a radical idea. It is not extreme. But, Mr. Speaker, the gentlemen of the Judiciary Committee, and those who have framed this legislation and looked into it thoroughly, tell us that under the decisions of the courts construing former acts of Congress on the subject and the limitation of the Federal Constitution, that it is the best we can do and as far as we can go.

Strange is the argument used by some against this bill. Why, they say "that it will do no good," that "it will accomplish no purpose." If that be true, why, then, do they oppose it? In my opinion, it will do a great deal of good. It is not for the purpose of getting the Federal Government to assist the States in the enforcement of their laws, as some contend, but it will answer the purposes for which it was intended, and that is, to give the States the unhampered, unimpeded, and exclusive power to enforce their own liquor laws.

When our fathers framed this Government the most enthusiastic and earnest proponents of a strongly centralized Government would not have contended that each State should not be free to regulate and execute its own police powers. They never dreamed that the champions of the liquor interests would ever hide behind the interstate-commerce clause and thereby let the Federal Government encroach upon the police powers of a State. And, Mr. Speaker, if any of those gentlemen in the Constitutional Convention, in their wildest dreams of imagination could have suggested or even hinted, that ever in the future, the interstate-commerce clause could be used to obstruct justice in the enforcement of laws by any State or to limit the morals of the people of any State or hinder the full exercise of the will of the people of a sovereign State, then the interstate-commerce clause would never have been written into the Constitution without a proviso making clear the intention of its draftsmen. I do not doubt that the framers knew what they were about, but I do doubt that they ever dreamed that new nationalism, centralization, and Federal encroachment would so expand and the Constitution be so construed as to bring about such conditions as would prevent the States from the enforcement of their police powers.

I represent in part a State the great majority of whose people believe in prohibiting the sale and unlawful use of intoxicating liquors. The sentiments of these people are behind the movement. The best liquor laws of which I have any knowledge are on the statute books of my State. The juries indict and convict the violators of those laws quicker when proven guilty than for any other crime, yet, Mr. Speaker, I have seen justice thwarted, permitting notorious blind tigers to infest a law-abiding community, not because the officers of the law were not doing all in their power to run the blind tigers down, but because they were protected by the Federal Government, which allowed them to have their liquors consigned to them in the depot to remain in safety until the darkness and stillness of the night when they could procure their large consignment and convey it to their den of vice and immorality. If this bill passes, the officers of the States can seize the liquors before they are delivered to the blind tiger and thereby prevent the deadly poison from infesting the community, from making sad homes and hungry children. I have seen, Mr. Speaker, in my own city, the officers watch the express offices and freight offices for days and nights trying to catch and seize a great quantity of liquor, which they knew was not for personal use, but for sale after it had been delivered to the consignee by the interstate carrier, but the bootlegger and blind tiger are always too cunningly alert and immorally smart. They know every policeman and detective, and the sentiments of every man in the community—their sympathizers and their enemies—and they wait their time with patience, sometimes until the wee hours of the morning in order to obtain their liquors from these offices. If this law be passed the express and freight offices can be watched, and these liquors, when brought into prohibition

States for illegal purposes, can be immediately seized and destroyed, and the community will be blessed thereby.

When we ask this right, who should oppose it? The people of a State have a right to demand that their laws be enforced. Good citizens of every State will sympathize with their brethren in other States in the enforcement of their laws.

If the liquors are received for personal use they will not be destroyed, and only the lawbreakers, bootleggers, blind tigers, and their sympathizers in my State and other prohibition States can possibly find objection to the passage of this bill, and only the distillers, liquor sellers, brewers, and their sympathizers in other parts of the country will oppose it.

The gentleman from Milwaukee [Mr. BERGER] says that the violation of the law has increased in the South since the advent of prohibition. I interrupted the gentleman for a question when he made that statement, but he declined to yield. Surely he does not desire to do the prohibition States of the South an injustice, and I am sure that this statement was made because of his ignorance of the conditions there rather than a desire on his part to misrepresent the condition there. I will not attempt to speak on this question of an increase in crime since the advent of prohibition in the other States of the South, but coming, as I do, from Mississippi, a State that has within the last 10 years seen the open saloon and its effect and statutory prohibition and its influence, I feel that I can truly depict to this House the conditions in that State before and since the enactment of a State-wide prohibition law.

I served for two years as district attorney in one of the districts of my State where three of the counties had open saloons and legally sold liquors. I served for three years in the same district with those three counties under the statutory prohibition law and when the open saloon had been abolished—for five years in the courts of those counties, two years of which there were saloons and three years of which we had prohibition—and during that time I came directly in touch with the character and extent of crime that followed the open saloon and prohibition. During the two years that these three counties legalized the sale of liquor, Mr. Speaker, the criminal dockets were so congested that it was impossible to try all of the cases thereon, and necessitated not only holding the courts for their full terms, but often forced the circuit judge to call special terms to relieve the dockets. After prohibition came into those counties and was fairly tried out the dockets were no longer congested, special terms of court no longer were known, and the full length of the terms assigned for holding of those courts were no longer required. And what I have described relative to the extent of crime in those counties under the open saloon and prohibition holds good in practically the same proportion with respect to the character of crime.

Murder, poverty, unhappy homes, divorces, and broken hearts follow as a natural consequence the open saloon, while prohibition lessens murders, alleviates poverty, restores sunshine in unhappy homes, mends broken hearts, diminishes divorces, elevates and enlightens a people, and only by the presence of the bootlegger and the blind tiger does prohibition cause a violation of the law.

Where a reasonable majority, backed by public sentiment, are for prohibiting the sale of intoxicating liquors, prohibition should prevail. If the minority of the people of a State, backed by no sentiment for prohibition, should desire to place it upon the people of a State, it should not prevail. No law can be enforced unless a reasonable majority of the people of the State are in favor of it and it is backed by the sentiment of the people. But when the people of a State, as in my State, favor overwhelmingly the prohibition of the sale of intoxicating liquors, it is unfair to them that the Federal Government should allow the interstate-commerce clause of the Constitution to be invoked and used as an instrument to hinder them in the enforcement of their laws.

I hope this bill will pass and that the hand of the Federal Government will be removed from the throats of some of the States, so that they may be permitted to enforce the will of their people in their own way, unmolested, unhindered, and unobstructed.

Mr. CLAYTON. Mr. Speaker, I yield to the gentleman from Mississippi [Mr. HUMPHREYS].

The SPEAKER. The gentleman from Mississippi [Mr. HUMPHREYS] is recognized.

Mr. HUMPHREYS of Mississippi. Mr. Speaker, I shall favor this bill and vote against all except committee amendments which may be proposed. I do this not because I believe the bill as reported is entirely perfect, but because I know that the effect of any amendment will be to delay all legislation on the subject and possibly defeat the bill. The bill is a very simple one. Nobody can possibly misunderstand or misinterpret its plain and manifest meaning. It provides simply that intoxicating liquors shall not be transported from one State to another where the intention of anybody connected with the transaction is to use or possess the liquor so transported, in violation of the laws of the State into which the liquor is shipped. The contention that the advocates of the bill are endeavoring to induce the Federal Government to enact prohibition legislation is, with all due respect to those who make it, mere twaddle. Nobody believes that the Federal Government has any power to enact prohibition laws for the States, and nobody desires the Federal Government to undertake the exercise of any such power. The question of the sale and use of intoxicating liquors is a matter that should be dealt with exclusively by the States. This bill recognizes that principle and has for its purpose nothing else. It leaves the burden of regulating the liquor traffic entirely and exclusively with the legislatures of the several States, and says for the Federal Government simply that such liquors shall loose their character as interstate commerce. This is done for the sole and only reason that the State authorities may not be hampered in the enforcement of their police regulations by reason of these liquors being part of interstate commerce and as such beyond the power of the State's control.

If any State should desire, through its authorized agents, the lawmaking branch of its Government, to outlaw the possession of intoxicating liquors within its borders, this is certainly a matter that would not and could not concern the Federal Government. It would be none of our business; and "in that spirit of harmony and conciliation which"—to use the words of the Supreme Court of the United States—"ought always to characterize the conduct of governments, standing in the relation which that of the Union and those of the several States bear to each other," we ought to enact such laws as will aid in the enforcement of State laws, if that can be done under the Constitution. Gentlemen hark back to "the better days of the Republic," and in the name of the fathers who framed our Constitution call upon us not to ask the Federal Government to invade the sanctity of State sovereignty. We are told that we are departing from the principles which inspired those who framed our dual system of government and that it is humiliating now to see these great States acknowledging their inability to conduct their own affairs and calling upon the Federal Government for aid. This is mere buncombe. We are doing no more in this bill than has been done from time to time since the foundation of the Republic. As far back as 1796 Congress enacted—

That the President of the United States be, and he is hereby, authorized to direct the revenue officers and the officers commanding forts and revenue cutters to aid in the execution of quarantine and also in the execution of the health laws of the States, respectively, in such manner as may to him appear necessary. (Stat. L., Vol. I, p. 474.)

This act was approved by George Washington himself. But we are sometimes told that Washington was a Federalist, so lest some may insist in a spirit of partisanship that a Democrat may overlook such a precedent, I read from volume 2 of the Statutes at Large, page 205:

An act to prevent the importation of certain persons into certain States where, by the laws thereof, their admission is prohibited.

This statute was enacted in 1803 and was approved by Thomas Jefferson. I think these citations are sufficient answer to the suggestion that we are departing from the faith of the fathers here to-day. But whatever opinion may have been held of the constitutionality of these old statutes which I have just read, the one signed by Washington and the other signed by Jefferson, the Supreme Court of the United States long ago upheld them both in the great case of Gibbons against Ogden, decided in 1824. These statutes were assailed as unconstitutional. Gentlemen here to-day insist with great earnestness that this bill is an attempt to delegate to the States the right to regulate interstate commerce. This identical contention was urged against the very statutes that I have read. In passing upon that subject the greatest judge who ever sat upon any bench in any country in the tide of time said (9 Wheat., 205):

The acts of Congress passed in 1796 and 1799 (U. S. Stat., 474, 619), empowering and directing the officers of the General Government to conform to and assist in the execution of the quarantine and health laws of a State, proceed, it is said, upon the idea that these laws are constitutional. It is undoubtedly true that they do proceed upon that idea; and the constitutionality of such laws has never, so far as we are informed, been denied. But they do not imply an acknowledgment that a State may rightfully regulate commerce with foreign nations, or among the States; for they do not imply that such laws are an exercise of that power or enacted with a view to it. On the contrary, they are treated as quarantine and health laws, are so denominated in the acts of Congress, and are considered as flowing from the acknowledged power of a State, to provide for the health of its citizens. But as it was apparent that some of the provisions made for this purpose, and in virtue of this power, might interfere with and be affected by the laws of the United States, made for the regulation of commerce, Congress, in that spirit of harmony and conciliation which ought always

to characterize the conduct of governments standing in the relation which that of the Union and those of the States bear to each other, has directed its officers to aid in the execution of these laws; and has in some measure adapted its own legislation to this object by making provisions in aid of those of the States.

Under the ordinance relating to the slave trade the States had the right to prohibit "the migration or importation of such persons as they might think proper," and it is contended that the act of 1803, which Jefferson signed and which I have just quoted, was upheld on that theory. Very well; so be it; but I quote the statute to show that Congress believed then, at that early day, that the Federal Government had the power and that it was its duty to assist the States in the execution of such laws as the State itself had power to enact, and I invite your attention to the last section of this act of 1803, which is as follows:

SEC. 3. *And be it further enacted*, That it shall be the duty of the collectors and other officers of the customs, and all other officers of the revenue of the United States, in the several ports or places situated as aforesaid, to notice and be governed by the provisions of the laws now existing of the several States prohibiting the importation of any negro, mulatto, or other person of color, as aforesaid. And they are hereby enjoined vigilantly to carry into effect the said laws of said States conformably to the provisions of this act, any law of the United States to the contrary notwithstanding.

The whole purpose of this bill is, as expressed in its title, "to divest intoxicating liquors of their interstate-commerce character in certain cases" and to subject them to the police power of the States whenever they are shipped into a State with the criminal intention of violating its laws.

The rights of the so-called wet States are in no way infringed. They may manufacture, sell, possess, and consume intoxicating liquors to their hearts' content, but they can no longer claim protection of the commerce clause of the Constitution when they are brought to the bar of justice in another State into which they have shipped such liquors for the purpose and with the wicked intention of violating the laws of such State. Just how any Democrat who believes in local self-government and the right of every State under the Constitution to regulate its domestic affairs in accordance with its own will and judgment can vote against this measure passes my understanding. The merits of the contention of the prohibitionists or of the anti-prohibitionists are not an element in the consideration of this bill. It is none of our concern, and we are not undertaking to pass upon the wisdom or the unwisdom of prohibition law. It is not the propriety of the legislation but the right of the States to enact it that we are recognizing here to-day. We propose that the Federal Government shall, in the exercise of the powers conferred on Congress under the Constitution, be decent enough to withhold hereafter from all who wish to violate the laws of any State the right to use the vehicles of interstate commerce for that unholy purpose. Simply this and nothing more.

Mr. CLAYTON. Mr. Speaker, I yield half a minute to the gentleman from Iowa [Mr. TOWNER].

The SPEAKER. The gentleman from Iowa [Mr. TOWNER] is recognized for half a minute.

Mr. TOWNER. Mr. Speaker, I desired to speak on the legal aspects of this question, and manifestly I can not do that in the time that has been allotted to me. Therefore I shall only say this, that I hope the amendments that have been offered to this bill will be voted down.

I have no doubt whatever as to the constitutionality of this law, and I shall vote for it, not as the exercise of an unjust power on the part of the Federal Government, but only as an acknowledgment of the power that the States should have to control their own affairs in the interests of their people. [Applause.]

Mr. CLAYTON. Mr. Speaker, I yield to the gentleman from Missouri [Mr. DICKINSON].

The SPEAKER. The gentleman from Missouri [Mr. DICKINSON] is recognized.

Mr. DICKINSON. Mr. Speaker, the pending Webb bill I shall vote for, and shall vote against all amendments thereto, seeking thereby to aid in the passage of said bill, which seeks to divest intoxicating liquors of their interstate-commerce character in certain cases. This bill, as reported from the Judiciary Committee of the House, reads as follows:

Be it enacted, etc., That the shipment or transportation, in any manner or by any means whatsoever, of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.

I shall not discuss its constitutionality. Let the courts pass upon that question. The principle sought to be embodied in the bill I have long favored. I am an advocate of the right of the States to control their own domestic affairs and to regulate the sale of intoxicating liquors unhampered by Federal laws, and I am opposed to all restraint or license on the part of Federal authority that would tend to break down the laws of the State seeking to control or regulate the sale of intoxicating liquors.

Being opposed to the Federal Government licensing or issuing permits for sale of intoxicating liquors except to persons authorized under the laws of the State to sell, I introduced into this House a bill which reads as follows:

A bill (H. R. 2891) concerning permits to sell intoxicating liquors.

Be it enacted, etc., That no Federal authorization or permit to sell any intoxicating liquor in a State shall be given until it shall be satisfactorily shown that the applicant therefor may sell such liquor at the place designated for the sale thereof without violating any law of such State applicable to such place and sale, and no such authorization or permit shall extend to any sale not made openly, at the designated place of business of the applicant, and every such authorization or permit hereafter given shall contain suitable recitals showing compliance with the requirements of this act, and shall at all times be subject to the inspection of any Federal, State, county, or municipal officer; and every person guilty of a violation of this act shall be fined not less than $100 or be imprisoned not more than one year, or both.

This bill is now pending in committee, and I hope will be reported out, so it can be voted on in the House and become a law. It seeks to prevent the blind tiger and the bootlegger from selling with the consent of the Federal Government. The passage of this bill and the Webb bill will go a long way toward enabling the State to prevent illegal sales of liquor. These bills do not interfere with those authorized to sell under the laws of the State nor the collection of revenue by the Federal Government from those so licensed. The United States Government should aid in the preservation of the laws of the States rather than in their violation.

Mr. CLAYTON. I ask that the gentleman from New Jersey [Mr. MCCOY] shall use all of his time.

Mr. MCCOY. How many more gentlemen are to speak on that side?

Mr. CLAYTON. Only two more. Mr. Speaker, I think I have only about eight minutes left.

The SPEAKER. The gentleman has seven and one-half minutes.

Mr. CLAYTON. That was a pretty good guess.

Mr. MCCOY. Mr. Speaker, I yield to the gentleman from Maryland [Mr. LINTHICUM].

The SPEAKER. The gentleman from Maryland [Mr. LINTHICUM] is recognized.

[Mr. LINTHICUM addressed the House. See Appendix.]

Mr. MCCOY. I yield five minutes to the gentleman from Kentucky [Mr. SHERLEY].

Mr. SHERLEY. Mr. Speaker, notwithstanding the denunciation of those temperate gentlemen who speak for temperance, I am one of those Members of this House who are opposed to this bill. I am opposed to it because I do not believe in such legislation; but I am opposed to it for the higher reason that I believe it fatally unconstitutional. And I am reminded by what the gentleman from Tennessee [Mr. SIMS] has said, that I find usually the denunciation of those who believe in supporting their oath touching the Constitution comes from those who know least of that document. [Applause.] There is an old saying that we resent that which we do not understand; and so it comes very easy to some to taunt others and tell them they are hobble-skirting themselves. I have no apology, however, for considering the question of constitutionality, and until the distinguished gentleman from Texas [Mr. HENRY] said there was no doubt, I had not found any good lawyer who said he did not think the subject was one of grave doubt. When the gentleman from Texas spoke I was reminded of the situation of the lawyer before the court, who, making a statement of law, was interrupted by the court, who said, "That is not the law." The lawyer replied, "It was until your honor spoke." And so, until the distinguished gentleman told us that there was no doubt as to the constitutionality of this law, all of us, even those who favored it, as well as those who opposed it, had grave doubts.

Within the three minutes granted me I shall not attempt to deal with the legal phases of a question that goes to the very vitals of the Constitution. I took occasion some eight years ago to discuss at length nearly every important decision that at that time had been rendered by the Supreme Court touching interstate shipments of alcoholic liquors. While I may not attempt to go into that subject at this time, I submit to you these, to me, fundamental propositions:

First, that the power over interstate commerce rests with the Federal Government, and an article does not lose its interstate character until delivered to a consignee.

Second, no power that the Federal Government has can be delegated to any State.

Third. It is not a Federal regulation of interstate commerce to prohibit it on the ground of an intent by any person party to the transaction to violate a State law as it may exist from time to time.

Man after man has stood on the floor here saying, "This bill is simply to give to the State additional power of control." I say to you that whatever power a State has over any subject within its domain is not because of the Constitution of the United States, and no act of Congress can grant any power to it that it does not already have. We live under a government of delegated powers. Certain powers have been delegated to the States, certain to the Nation, and certain reserved to the people, and delegated neither to the State nor to the Nation. The power that the Federal Government has over interstate commerce is plenary. It is absolute within the limits of the Constitution, and Congress can not by all the declarations under the sun convey to any single State the slightest power that that State does not now have. A State now has the power the moment a shipment has reached the hands of the consignee to deal with it the same as if it originated there. That ought to be of itself an ample power to enable the States properly to enforce every law that has back of it a united public opinion; and you will never enforce completely any law that does not have back of it a united public opinion.

Still they tell us that the effect of this is to give the State added control. What does the bill say? Does it even attempt to say that? It says the shipment is prohibited when the intent is to violate a State law. Let us suppose the shipment is made. What happens then? Does it lose its interstate character because you have said it should not be made in certain cases? By no process of reasoning am I able to bring myself to any such conclusion.

This law if passed will not, in my judgment, give to a single State the right to seize—though they will attempt to do it and will do it—any interstate shipment until it reaches the hands of the consignee.

Now, just one other word and I am through. I offered an amendment here in good faith to strike out the language that limited this bill to intoxicating liquors and make it apply to all articles of commerce; and assuming the proposed act to be constitutional, I defy any man to give a reason, if he plants himself on the ground that we ought not to enable anyone to violate a State law, why we ought not to make the law apply to any violation of any State law touching any article of commerce. I offered that amendment for another reason. I had hoped that we might have this matter considered as it ought to be considered, according to the legal questions that it presents. This bill does not become a constitutional or an unconstitutional bill because it relates to alcoholic liquors; and yet I could talk here until the crack of doom, and because it does relate to that subject I could not get a consideration of the constitutional question that every man under his oath of office promises to give to every subject that comes before this body. [Applause.]

Under the leave to extend my remarks I print a speech made by me before the Committee on the Judiciary in the Fifty-eighth Congress touching what was then known as the Hepburn-Dolliver bill—a bill which sought to amend the Wilson Act by adding the words "before or after delivery," so as to enable a State to seize an interstate shipment before delivery to a consignee. Much then said applies directly to the Webb bill. I also add the statements of Hon. Lawrence E. Maxwell, a former Solicitor General of the United States, touching the Webb bill, made before the present Committee on the Judiciary, also the statement of Mr. Edgar H. Gaus, an attorney of Baltimore, Md., touching an identical Senate bill made before the Senate Committee on the Judiciary.

These arguments supplement mine of eight years ago, and upon their soundness I submit the question of the constitutionality of the Webb bill.

The speech of mine above referred to is as follows:

"Mr. SHERLEY. Mr. Chairman and gentlemen of the committee, I want to be perfectly frank in saying that my attention to this bill and my original opposition to the bill grew out of the fact that I represent a district that is largely engaged in the manufacture and exportation of distilled spirits. Perhaps my congressional district is the largest district, in some respects, in the country. Certainly the Louisville market is the chief market of the world in regard to whiskies. But I would be equally unfair to myself and equally unfair to this committee if I was to base my opposition to this bill solely upon the ground that it affects alcoholic liquors.

"In my judgment, there is involved in this bill a proposition as fundamental and as far-reaching in regard to the organic nature of our Government, National and State, as any possible legislation, and this committee would not deserve its title of Judiciary Committee if it declined to consider, not simply the question of the advisability of a law of this kind, but the further and more fundamental question of the power of Congress to pass the law.

"It is an interesting fact that our present Government owes its existence largely to the trouble that grew up in the days of the old confederation in regard to interstate commerce. The Philadelphia convention, which adopted the present Constitution, was called into existence as a result of the labors of the Annapolis convention, which had itself been brought about by the original convention called by Maryland and Virginia to formulate some plan relative to commerce between those two States, and the provision giving Congress power over interstate and foreign commerce was put into the Constitution without practically any discussion, so apparent was the need of national control of commerce.

"Yet, strangely enough, from the beginning of the present Government down to this good hour there have been differences of opinion as to the power that was given to the National Government under that provision which says that Congress may regulate commerce with foreign nations, with the Indian tribes, and among the several States.

"One contention has been that the power of Congress was exclusive and left no power in the State. The other position has been that the power of Congress was not necessarily exclusive of the power in the States, and in the arguments and opinions dealing with these conflicting theories there has been an unfortunate use of a phrase, and that phrase is 'concurrent power.' There never has been, there never could be, such a thing as the concurrent power of the States and the Nation in regard to interstate commerce, and the decisions will amply bear out that statement. There has been, as to some subjects of interstate commerce, a subservient power in the State which was free to act until Congress did act itself. But if the powers were concurrent it would mean that the State power should not bow any more to the National power than the National power should bow to the State power. If there was such a thing as a concurrent power, the doctrine of the silence of Congress, which I shall come to in a moment, could have no force, because it would not matter whether Congress expressed its will or did not express its will. If the State's power was concurrent, it would follow that it was coequal and that both the State and the Nation could legislate and each would have the right to maintain that its law was to be enforced.

"The real contention and the real result of all the decisions, when you look not simply to what was said but to what was actually decided, is this: That where the question is one of a national nature, then the power of Congress is exclusive, but where the question is simply of a local nature, then there is power in the State to act, provided Congress has not by its own act governed the matter. In other words, when it comes to a question like pilotage or harbor regulations, then the State can go ahead and pass its law, and that law will be enforced until Congress undertakes to regulate in regard to such matters, and then the State law, even as to them, must bow to the national law, in accordance with that provision which makes a law passed in pursuance of the Constitution of the United States the supreme law of the land.

"I want to review very briefly a few of the cases decided by the Supreme Court to show, in a measure, just what was decided and what may be said to be the conclusions of the court at present.

"If I should undertake to read the decisions themselves, I would have to read some thousand pages, because there is at least that much printed matter on the specific questions involved in this case, without referring to the cases in regard to interstate commerce that had no relation to alcoholic liquors.

"In Gibbons against Ogden, which was the first case, and perhaps the most famous case of them all, the court decided this: That a State regulation of foreign or interstate commerce actually in conflict with a law of Congress is void.

"It was argued by Mr. Webster, and by all the counsel who were against the constitutionality of the State law, that the law would be void whether Congress had acted or not, and the reasoning of Chief Justice Marshall goes to the extent of saying that since the power of Congress over interstate commerce is an exclusive power, that therefore the State law must be unconstitutional, irrespective of its conflict with a specific Federal law. But the exact point decided was not that. He said that it was not necessary to decide that point, because here was a case

where the National Government had acted anyway and the State law was in conflict with the National law, and therefore there could be no doubt but that the State law was unconstitutional.

"In the case of Brown v. Maryland (12 Wheat., 419), the court decided that a State law imposing a license to sell on an importer was unconstitutional, being in conflict with the Federal law. In that case also the reasoning of the court points to the inevitable and logical conclusion that the power of Congress is exclusive, and that the action of the State is necessarily unconstitutional; but in that case, as in the Gibbons against Ogden case, the exact point decided was that a law passed by a State actually in conflict with a law passed by Congress was unconstitutional and went no further. The dicta of both of those cases seems to be unanswerable in its logic that the power of Congress is exclusive, but I want to present what was decided and not what was said.

"The next case was the case of Willson v. Blackbird Creek Marsh Co. (2 Pet., 245), and there, apparently, the Supreme Court reversed itself. It did not reverse itself in regard to the actual decisions, but the reasoning in that case is somewhat in conflict with the reasoning of the two former cases. There was a State law passed authorizing the erection of a dam across a navigable stream, and the advocates of the exclusive theory contended that that law was unconstitutional. The Supreme Court held that it was constitutional, on this ground: That the law related to that feature of interstate commerce which was not national in its character and which did not require a uniform rule, but which might be dealt with locally, and that in so far as Congress had not said anything, the State had the right to legislate; and right here I want to make this point plain. That the right of the State to so legislate is not owing to any right to regulate interstate commerce, but is the right that it has in other matters to legislate in regard to the territory over which its sovereignty extends; and the absence of national legislation simply leaves the State completely free to legislate as to the things within its domain, not by virtue of any power it has over interstate commerce, because it has none, but because of its other powers. In this particular case the legislation was upheld because relating to commerce only in its local aspects and not in conflict with any existing Federal law.

"Mr. LITTLEFIELD. What justice delivered that opinion?

"Mr. SHERLEY. That decision was rendered by Justice Marshall, and, as I have said, was apparently a decision the reasoning of which was somewhat in conflict with the reasoning in the two former cases of Gibbons v. Ogden and Brown v. Maryland.

"Mr. LITTLEFIELD. Were the other cases referred to, discussed, distinguished, and criticized?

"Mr. SHERLEY. They were distinguished. Commerce in this case was affected but locally and in the other cases fundamentally, and they were cases where Congress had acted; but the logic of those opinions, if carried out, perhaps might have suggested a different decision in the Blackbird Creek case.

"Then came the case of New York v. Miln (11 Pet., 102), which held that a law requiring masters of vessels to make a report of the name, place of birth, etc., of every person brought as a passenger unto the State of New York from other States or foreign countries, was constitutional, being the exercise of police power and not in any way regulating commerce. The court practically said in its dicta that the police power in the State is not limited or confined by the power of the National Government in regard to interstate commerce, but the facts of that case were simply this:

"The law required that masters should make a report of the passengers that came in as to who they were, so that the State might have some record in regard to immigration and might protect itself against pauper immigration, and the judges in deciding that case held—and it seems to me rightfully—that the act in question was in no way an interference with interstate commerce nor could be considered to really touch interstate commerce at all; that it was simply a regulation of a matter local entirely and not interstate or foreign.

"Then came the License cases (5 How., 504). In the License cases it was held that certain regulations of the States of New Hampshire, Massachusetts, and Rhode Island requiring a license to sell liquors imported from another State were valid. Each of the judges concurring in the judgment rendered delivered a separate opinion, and the reasons in support of the conclusion of the court are widely divergent. The chief question concerning which the judges differed was as to whether the regulations involved in that case were really regulations of interstate commerce or not. And it is to be noted that, in the opinion of several of the judges, the distinction is clearly drawn between a prohibition to import and a prohibition to sell after importation. Mr. Justice Woodbury, in his opinion, among other things, said:

"It is manifest, also, whether as an abstract proposition or practical measure, that a prohibition to import is one thing, while a prohibition to sell without license is another and entirely different. The first would operate upon foreign commerce on the voyage.

"The latter affects only the internal business of the State after the foreign importation is completed and on shore. The subject of buying and selling within the State is one as exclusively belonging to the power of the State over its internal trade as that to regulate foreign commerce is with the General Government under the broadest construction of that power. The idea, too, that a prohibition to sell would be tantamount to a prohibition to import does not seem to me either logical or founded in fact, for even under a prohibition to sell a person could import, as he often does, for his own consumption and that of his family and plantation, and, also, a merchant extensively engaged in commerce often does import articles with no view of selling them here, but of storing them for a higher or more suitable market in another State or abroad.

"He then states that the licenses involved in those cases were neither regulations of interstate commerce nor of foreign commerce, and holds that whether such laws are to be classed as police measures or as regulations of the internal commerce of the States, or as taxation merely, is immaterial so long as they do not affect interstate or foreign commerce until after the subject matter of that commerce touches the soil or waters within the limit of the State.

"I have called attention expressly to these views because the License cases in what they actually decide go perhaps as far as any case in the rights that they give to the State government to pass laws affecting interstate commerce, and yet it is apparent that there was noted a clear line of distinction between the right to sell and the right to import, a distinction that in my judgment is vital in considering the constitutionality of the proposed law. Some of the opinions, however, in the license cases are directly opposed in their reasoning to that set forth in Gibbons v. Ogden, and Brown v. Maryland.

"Mr. LITTLEFIELD. Were those cases discussed and distinguished?

"Mr. SHERLEY. They were discussed in some three or four hundred pages, and a man can find an expression in these different cases as to any proposition in regard to interstate-commerce law that you want. I could take the time of this committee for hours reading an expression by one judge, who has reached the conclusion that the State had reached all of its powers, and another who has reached the conclusion that the National Government had stripped the State of every power; but it is not what the judges have said, but what they have decided, which constitutes the law of the land.

"Very shortly after the decision in the License cases came the Passenger cases (7 How., 283), which presented the question of the constitutionality of laws of the States of Massachusetts and New York requiring masters of vessels to pay to the health officers of the State board a certain sum for each passenger landed. The court held such laws unconstitutional and abandoned in a large measure the ruling laid down in the License cases and apparently adopted the doctrine of exclusive power of the National Government.

"Then came the case of Cooley v. Board of Wardens (12, How., 299), and this case is apparently a compromise between the position of those advocating exclusive national power and those advocating the reserved power of the States. The question presented was the constitutionality of the law of Pennsylvania establishing regulations of pilots and pilotage for the harbor of Philadelphia. The court sustained the validity of the State law and laid down this rule, which I believe to be a safe rule to follow to-day.

"When the nature of a power like this is spoken of, when it is said that the nature of the power requires that it should be exercised exclusively by Congress, it must be intended to refer to the subjects of that power and to say that they are of such a nature as to require exclusive legislation by Congress. Now, the power to regulate commerce embraces a vast field, containing not only many but exceedingly various subjects quite unlike in their nature, some imperatively demanding a single uniform rule, operating equally on the commerce of the United States in every port, and some, like the subject now in question, as imperatively demanding that diversity which alone can meet the local necessities of navigation. Either absolutely to affirm or deny that the nature of this power requires exclusive legislation by Congress is to lose sight of the nature of the subjects of this power and to assert concerning all of them what is really applicable but to a part. Whatever subjects of this power are in their nature national, or admit only of one uniform system or plan of regulation, may justly be said to be of such a nature as to require exclusive legislation by Congress.

"If this rule is borne in mind and applied right on down through the various cases, you will find that a great deal of the difficulty caused by reason of the dicta of the court vanishes and is lost sight of. After that case was decided the old controversy was in a measure dropped, and the question that the court came to consider was as to the nature of the interstate commerce that the particular law affected, and if it was national they held that the State law could not be held to be constitutional, and if it was local they held that the State law was a valid exercise of the powers of the State.

"Then came the case of Bowman v. Railway Co. (125 U. S., 465), which expressly decided this question: That the shipment of alcoholic liquors from one State into another State could not be prevented by a State law. That was followed by the case of Leisly v. Hardin (135 U. S., 100), which went a step further

and followed up the doctrine which always had been the law in regard to foreign commerce, but which had expressly not been the law in regard to interstate commerce, that the right to import carried with it the right to sell. The Bowman case decided that you had the right to import and that the State could not interfere with it. Of course, at that time there was no national legislation warranting the State to interfere. You had the silence of Congress, and they held that the silence of Congress as to a national matter indicated that that commerce should remain free, whereas the silence of Congress as to a local matter indicated the will of Congress that the State might legislate. In other words, they gave just opposite meanings to the inaction of Congress according as the law involved related to a subject, local or national. The Bowman case decided expressly that the shipment of alcoholic liquor from one State to another could not be prevented by a State law, and then the Leisly case decided that not only could the importation not be prevented but that the sale could not be prevented.

"Mr. LITTLEFIELD. In the original package?

"Mr. SHERLEY. Yes, sir; and in deciding that they overruled the Pierce v. New Hampshire case, which was one of the License cases, and in that case the court, as I have just shown, held that the right to sell was not an inherent part of the right to introduce goods from one State into another. The Pierce case was directly opposed to the Brown v. Maryland case. The Brown case related simply to foreign commerce, whereas the Pierce case related to commerce between the States.

"The Leisly case held that commerce between the States was upon the exact same ground that foreign commerce was, and permitted not only the importation of but also the sale the first time in the original package. That decision, in my judgment, is open to severe criticism, and it did cause a great deal of criticism because of its failure to recognize the distinction between the right to sell and the right to import. I do not believe that it follows as a matter of logic, certainly in regard to interstate commerce, however it might be in regard to foreign commerce, that the right to import carries with it the right to sell. In foreign commerce that might be so, because the importer not having any reason to bring things into the country except for the purpose of selling them, his right to import would be practically annulled if you did not give him the right to sell, but in regard to interstate commerce that is not necessarily so.

"A man may want to import into a State for his own use without regard to his right to sell, and it seems to me that the right to sell is an incident and not a fundamental aspect of interstate commerce; and again I wish to say that if this committee will bear that in mind, that distinction between selling and the right of importation, they will come to the one point that, it seems to me, the whole proposed present law turns upon.

"The court, unfortunately, in those cases went to talking, and the judges said a good many things outside of what they decided. They decided exactly what I have said, but in deciding that, they intimated that Congress could break its silence and by an affirmative statement permit the State to do that which they had just decided it could not do before, an absolutely illogical position, because if the power of Congress was exclusive as to interstate commerce where the subject was national, it follows that by the very meaning of the word 'exclusive' there is carried the idea of an absence of power in the States; and Congress, as we all know, can not create power in the States. They may remove obstacles from the State rights to exercise another power, but they can not create a power in the State, and that has been decided repeatedly and needs no argument. The court however, said Congress could give permission, and Congress very quickly took advantage of that suggestion and passed the Wilson law.

"The Wilson law came up for construction as to its constitutionality and as to the constitutionality of the Iowa law in the Rahrer case, and the court in that case said a great deal, but did not decide very much. It decided this proposition: That Congress had the power to rob interstate commerce of its interstate character before the sale instead of allowing it to have that interstate character until after the sale. In other words, the effect of the Wilson bill was simply to put the law back where it was in regard to interstate commerce before the Leisly decision, that decision, as I have stated, having held as to interstate commerce that the right to import carried the right to sell. Congress, by the Wilson bill, put the law as to interstate commerce back where it was before that case was decided and said that the right to import did not carry the right to sell.

"Now, this law came up again before the Supreme Court in the Rhodes case, and there it was contended that the law not only prohibited the right to sell, but prohibited the right to import, and the Supreme Court decided that a proper construction of the words of the act limited it to the right to sell and did not touch the other right to import, and in deciding that case the court not only expressed the idea that it had not decided the constitutional question of whether if it had gone to the extent contended for it would have been constitutional, showing in the mind of the judge rendering that decision that there was a serious question as to such power being possessed by Congress, but it also makes a distinction which is very pertinent. It speaks of the right of sale as being an incident of interstate commerce, but not being one of the fundamental aspects of interstate commerce, the distinction that I made a few moments ago.

"In other words, it may be that Congress can say that we will, by affirmative legislation, decide that goods going into a State shall become intermingled with the rest of the property of the State so as to be subject to the State law at an earlier period than would happen ordinarily, but to say that Congress can say further that a State by its law shall be given the power to reach out into an adjoining State and prevent the goods of such State coming within its borders, and that a contract which has been made there shall not be enforced, is an entirely different proposition, and that is the proposition you are confronted with by the proposed law. That bill changes the present law to this extent, that it uses the words 'the boundary of' and then 'before and after delivery.' Those six or seven words are the only changes between the Wilson law as it now stands and this proposed law, excluding the second section, which is largely declaratory of the first.

"In other words, this is an effort to make the Wilson law mean what the advocates of the prohibition laws of Iowa contended it meant in the Supreme Court and what the Supreme Court decided it did not mean. What will be the effect of this law if passed? Of course one effect of the law, as has been stated by the gentleman who preceded me, would be to transfer the storm center from Washington to the various State capitals.

"Mr. THOMAS. Is it your contention that Congress has not the constitutional power to prohibit the transportation of intoxicating liquors from one State into another?

"Mr. SHERLEY. No, sir. I do not say that, because the Supreme Court has expressly decided the contrary in the Lottery case. The Supreme Court held that lottery tickets were articles of commerce, rather an unusual decision, but it is the law. They declared that a lottery ticket was an article of commerce, and, being such, the power of Congress to regulate included the power to prohibit; and I contend right here and frankly admit that you can write a national law which will prohibit the transportation of liquors; but that is not what you are trying to do under this bill. You are undertaking to lift the ban that is placed upon the States in regard to interstate commerce and permit them to legislate as to interstate commerce. If that be not the purpose of this bill, there is no use of passing it, because, under the law as it now stands and as construed in the Rahrer case, any State has the power the moment imported alcoholic liquors are delivered to the original consignee to treat them the same as if they had been manufactured in the State and not shipped in.

"In other words, they can say to the consignee, 'You shall not consume it; you shall not sell it; you shall not give it away.' They have all the power they can possibly have over any subject the moment it reaches the hand of the consignee under the present law, and I believe there are plenty of ways by which the States to-day can make effective their laws without undertaking to go out of the province of State sovereignty into that of national sovereignty and to give their laws extraterritorial effect. When whisky comes into the State of Iowa the State of Iowa gets absolute jurisdiction and the National Government loses absolute control over it; then the State can do as it pleases, and can make its prohibition effective if it wants to.

"Mr. LITTLEFIELD. Those practical difficulties do not exist?

"Mr. SHERLEY. I do not say they do not exist, but I do not consider that the practical difficulties in a case have the right to make this body undertake to disregard that great line of cleavage between what control belongs to the Nation and what to the State. You are making a precedent that is most dangerous.

"Mr. LITTLEFIELD. It was held in the Leisly case that the original package was an essential feature of interstate commerce?

"Mr. SHERLEY. That was based on the principle of the right to sell in the original package.

"Mr. LITTLEFIELD. That involves the original-package proposition?

"Mr. SHERLEY. No; the original-package proposition was involved in the Bowman case, which held that you had the right to import in the original package.

"Mr. LITTLEFIELD. The Leisly-Hardin decision held that the right to sell was an essential feature of interstate commerce?

"Mr. SHERLEY. Yes, sir.

"Mr. LITTLEFIELD. And for that reason no State law could prohibit the sale?

"Mr. SHERLEY. Yes, sir; but I contend that they have the power now to prevent the sale.

"Mr. LITTLEFIELD. If you can eliminate one element of interstate commerce by transportation, what is the matter with the other elements?

"Mr. SHERLEY. The element you are eliminating in regard to the sale is not a real element, but only an incident of interstate commerce. There can be interstate commerce without the power in the consignee to sell, but there can not be interstate commerce without the power to import. One goes to an incident of interstate commerce and the other goes to the commerce itself, and my position is that Congress can not legislate so as to give to the States the power to regulate interstate commerce, however much they may be able to lift the restrictions now on the States so as to make a subject of interstate commerce lose its interstate character at an earlier period than it would otherwise. That point is clearly shown in the wording of the decision in the Rahrer case. The Rahrer case in effect says: 'We do not create any rights in the State; we simply lift the ban of the National Government which it has by virtue of its regulation of interstate commerce and permit the State laws to operate.'

"Mr. LITTLEFIELD. As to an element of interstate commerce?

"Mr. SHERLEY. As to an incident.

"Mr. LITTLEFIELD. Did the decision call it an incident rather than an element of interstate commerce?

"Mr. SHERLEY. The Rhodes case, in reviewing the Rahrer case, did. The court used this exact language:

"While it is true that the right to sell free from State interference interstate-commerce merchandise was held in Leisly v. Hardin to be an essential incident to interstate commerce, it was yet but an incident, as the contract of sale within a State in its nature was usually subject to the control of the legislative authority of the State.

"On the other hand, the right to contract for the transportation of merchandise from one State into or across another involved interstate commerce in its fundamental aspect, and imported in its very essence a relation which necessarily must be governed by laws apart from the laws of the several States, since it embraced a contract which must come under the laws of more than one State. The purpose of Congress to submit the incidental power to sell to the dominion of State authority should not, without the clearest implication, be held to imply the purpose of subjecting to State laws a contract which in its very object and nature was not susceptible of such regulation even if the constitutional right to do so existed, as to which no opinion is expressed. (170 U. S., p. 424.)

"The question here asked by the court and left undecided must, in my humble judgment, be answered in the negative.

"While Congress can lift its arm from the State so as to give to it the free exercise of the power it would naturally have within its State lines, it can not give to the State the power to go out beyond the State limits and regulate interstate commerce, and I believe that to be the true distinction, the distinction that is so strongly intimated in the Rhodes decision.

"Of course this is a very close question, and I am free to confess that it is one concerning which there can be readily differences of opinion. The point that I make is this: That the Wilson law says, as construed by the Supreme Court, that the interstate character of alcoholic liquors shall be lost before instead of after the sale.

"It did not go to the vital aspect of interstate commerce. That aspect of it which is vital and fundamental is the right of importation from one State to another, and it does not seem to me that the right of importation necessarily carries with it the right to sell, although it was so declared back in the Leisly case in regard to interstate commerce and in regard to foreign commerce in the case of Brown v. Maryland. What you are asked to do here is to absolutely prevent interstate commerce not by a national law but by permission to the State to prevent it. The State has no power over the fundamental aspects of interstate commerce.

"It has power over those things which are incident to it, which are local to it. You can not make any regulations in regard to pilotage; you can not make any regulations in regard to any sort of tax or fee, or anything else, without in some way affecting interstate commerce; that is, if it applies to anything outside the State at all. There is a vast distinction, however, between affecting interstate commerce in that sense and affecting it in the sense of absolutely preventing its existence. Congress itself can prevent its existence, and Congress should do it if it wants to, be honest and believes it ought to be done.

"Mr. SMITH. Does not the sale of an article imported into a State bear about the same relation to interstate commerce that the manufacture of the article does?

"Mr. SHERLEY. In this connection it certainly does.

"Mr. CLAYTON. That was decided in the Sugar case?

"Mr. SHERLEY. Yes, sir.

"Mr. LITTLEFIELD. What is the right to import without the right to sell?

"Mr. SHERLEY. It is a very considerable right, for you may have the right to sell in the State where the goods are made. I live, for instance, in the State of Iowa, and I go into the State of Kentucky, where, as I have heard it said, the whisky is so good that intemperance becomes a virtue, and I conclude that I want to get some of that whisky and carry it back to Iowa. I make a contract in the city of Louisville by which the manufacturer is to ship to me, in the State of Iowa, some whisky. That is a very valuable right to me, even if it does not carry with it the right to sell the whisky in Iowa.

"Mr. LITTLEFIELD. But, as a business proposition, is the right of import of any substantial value without the right to sell?

"Mr. SHERLEY. Unquestionably, without the right to sell in the place where imported, because the right to import may be exercised after the sale has already been made in another State. In other words, you make your contract of sale in the State of Kentucky and you carry out your importation by sending it over to the State of Iowa.

"Mr. LITTLEFIELD. You carry it through the State of Iowa?

"Mr. SHERLEY. Into the State. The mistake you make is in supposing that the only sale that can be made is one made after delivery. Now, the import sale, the sale that really gives commercial value to the commodity, is the sale that is made before delivery. A person may contract in another State for the purchase of any particular commodity, and it becomes interstate commerce afterwards. Of course there would be no value in the right to import if you could not buy and sell at either end of the line.

"Mr. LITTLEFIELD. The sale takes place at that point quite largely, although purchased for shipment into another State?

"Mr. SHERLEY. Yes, sir; the sale becomes completed, for instance, in Kentucky, and if this proposed law is passed and is constitutional the effect of it will be to say that while you can buy if you want to in another State, one of the incidents of the contract—that it shall be shipped to you into the State of Iowa—shall not be carried out, and then you have the beautiful spectacle of one State absolutely annulling the law of another State, and that is what I mean by saying that this law gives an extra territorial effect to the laws of the States.

"Mr. LITTLEFIELD. Does not the law substantially do that now? I understand your illustration, which is entirely sound; although liquor is sold in Kentucky to be delivered in Iowa, the sale takes place in Kentucky. Now, does not the law that deprives the consignee in Iowa of the right to sell in original packages impair the commercial value?

"Mr. SHERLEY. Yes, sir; but does not destroy it.

"Mr. LITTLEFIELD. Do you contend, as a commercial proposition, that the main purpose of the transportation from Kentucky into Iowa is not that it may be sold, and that when the law prevents it from being sold the main purpose of the consignee is not defeated?

"Mr. SHERLEY. If your premises were true, these people would not be here advocating this present law. They think there is a distinction. They think it interferes very materially with interstate commerce, and if they did not think so they would not be here advocating a proposition that goes further than any proposition ever submitted to the national legislative body.

"Mr. PARKER. Have you considered the effect of the Wilson law on such a case as this? Suppose the Iowa law was in New York City, where there are large jobbing houses and where a jobbing house purchases a large quantity of liquor and then ships it to another State; what about that second sale to be exported somewhere else?

"Mr. SHERLEY. I am inclined to think, without having looked at that specific point, that it would be treated as a separate transaction, so that the jobber sending on his goods into other States would be considered as beginning a new interstate transaction which would be entitled to the same privileges as if there had been one transaction, provided, of course, the laws of New York permitted the jobber to hold the liquor received from another State and did not immediately confiscate it after receipt by the jobber.

"Mr. PARKER. Does your argument go so far as to say that the State law can not prevent a purchase in one State to be carried into another and then shipped into a third State?

"Mr. SHERLEY. I am inclined to believe that, for instance, alcoholic liquors—to make the case specific—bought in Kentucky and brought into Iowa and delivered to an Iowa consignee, could by the law of Iowa be prevented from being exported out of Iowa into another State.

"Mr. PARKER. You think it would?

"Mr. SHERLEY. Yes, sir; for this reason, that the very moment the interstate journey is ended, that moment the property passes from under the protection of the national law obtained by that provision giving Congress power to regulate commerce and becomes a part of the general property within the State. But this question might come up, as to whether one State could prevent the exportation of articles of commerce to another State, but that would be under an entirely different provision of the Constitution.

"But laying aside that question, which has no bearing here, I am inclined to think that the moment whisky came in there and became absolutely a part of the rest of the wealth of the State, that then the laws of the State could seize it and absolutely prevent its use or sale or consumption in any way.

"Mr. PALMER. What are your clients' fears based on, that Congress will violate the Constitution?

"Mr. SHERLEY. I have no clients. I am a Member of Congress doing my duty, as I think, to uphold the Constitution of the United States.

"Mr. PALMER. Your constituents, then, because you stated that you represented one of the largest distilling districts in Kentucky.

"Mr. SHERLEY. My constituents object to this law naturally, that is, my whisky and beer constituents, because it does interfere with their trade. The National Government recognizes that trade and raises a tremendous revenue out of it, and it ought to have the courage and honesty to stand in the open and either legislate so as to prevent alcoholic liquors being made at all, by putting the tax so high as to be prohibitory, or it ought to have the courage to protect the men engaged in that pursuit, in ordinary common fairness.

"That is my position aside from the question of the legal right. But this committee must determine and has no right to shirk the responsibility as to whether a law is constitutional and what is going to be the effect if you pass it. If you establish this precedent Congress can have the same power as to any article of interstate commerce. Take, for instance, tobacco, why should not Congress pass a law prohibiting practically the importation of tobacco from one State to another? You know the cry that goes out in regard to cigarettes, and in regard to smoking generally. There are people who believe just as strongly in regard to the destruction of the Nation from cigarette smoking as from alcoholic liquor drinking. Why should not Congress pass a law to give the States absolute power to prevent interstate commerce in regard to tobacco, and then, when you have gotten through with tobacco, why should you not take up a number of other things?

"There are a great many people in this country who believe that the trusts are going to absolutely destroy America. We all know that the State of New Jersey has a little habit of incorporating trusts and giving them the power to do whatever they want in any State but New Jersey. We have suffered from it. Why should not this great body pass a law which will say to the States that they may prohibit trust-made goods coming into the State, the same as they may now prohibit trust-made goods being manufactured in the States?

"Mr. LITTLEFIELD. Why do you not do that in Kentucky now and drive such corporations out of Kentucky?

"Mr. SHERLEY. Kentucky can prohibit them doing business but it can not prohibit their goods coming in. If you are going to legislate this power, give us the power to prevent trust goods coming in, and the State of Kentucky will be able to take care of the matter.

"Mr. LITTLEFIELD. What good would there be in sending commodities into Kentucky if they could not be disposed of? They might export them out.

"Mr. SHERLEY. There would be this particular good, that they would have the right to make the sale in advance and send direct to the consumer, and until you pass a law as to commodities other than alcoholic liquors, going so far as the Wilson law already has gone, they would have the power to sell them within the State.

"Now, in regard to alcoholic liquors, it seems to me that the logic of this case is simply to say this, we will let the States go back into that condition of commerce that existed prior to the formation of the National Government, and let them under the police powers, by their desire to do what they think necessary or convenient, so legislate so to prevent free intercourse between the States. But the precedent that would be established would doubtless lead to legislation affecting other articles of interstate commerce. It would simply become a question of the strength of any particular State in the National Congress to obtain legislation affecting any other commodity that it might desire.

"And while the Vance case, which was decided at the same time as the Rhodes case, holds that no State might directly discriminate against the products of another State it would be practicable to indirectly discriminate; for instance, a State not manufacturing a lard product made out of cottonseed oil might decide to prevent such product of a sister State being brought into competition with the lard manufactured within its own borders from animal fat. If it was powerful enough to obtain from Congress a law permitting it to treat lard made from cottonseed oil shipped into the State the same as if created there, it could then by a sufficient tax practically prevent the shipment, or could entirely prohibit it on the ground that such product was injurious to health, and could thereby create a monopoly for the lard made from animal fat.

"This is but a crude illustration, but it does illustrate what is possible to be done by the States should Congress decide to follow the dangerous precedent set forth in this case, having in mind that in the course of time every precedent, even though established for a good purpose, is taken advantage of for some less worthy object."

STATEMENT OF HON. LAWRENCE MAXWELL, JR.

"Mr. CARLIN. Mr. Maxwell, I think you said you wanted to be heard.

"Mr. MAXWELL. Mr. Chairman and gentlemen of the committee, I do not think the bill before the committee involves consideration of the question of the general power of Congress to prohibit the transportation of intoxicating liquor in interstate commerce, because any such provision would necessarily involve a complete revolution in the great body of the laws of the United States and in its fiscal system. I understand that the total revenue of the Federal Government for the fiscal year 1910, raised by taxation, amounted to $675,000,000, and that of that revenue $252,000,000 was derived from the tax on intoxicating liquor. So that if the transportation of these liquors in interstate commerce is to be considered by Congress, it must be in connection with an entire change of policy as to the fiscal affairs of the Government and its taxation.

"Mr. NORRIS. Could I ask you a question there? Can you give us any information as to how much of that tax is derived from the intoxicating liquors used illegally or sold illegally?

"Mr. MAXWELL. How can you ascertain that?

"Mr. NORRIS. Well, I do not know; I was trying to get information from you.

"Mr. MAXWELL. That could not be ascertained. You might ascertain what liquor was transported into the States that have regulating laws, but how much of that, if any, was used illegally or transported for the purpose of being used illegally, of course, could not be ascertained. I am told that in the Internal Revenue Department the greatest violation of the internal-revenue laws with respect to the manufacture of distilled spirits occurs in the States where prohibitory laws are in force, and those statistics the committee can easily get from the Commissioner of Internal Revenue. I understand that the work of the Department of Justice in punishing violations of the internal-revenue laws is largely in States where the traffic in intoxicating liquor is wholly prohibited.

"Mr. NORRIS. This law would not apply to this, as I understand it. That would not be interstate commerce.

"Mr. MAXWELL. That would not be interstate commerce; no.

"On the question of the general and absolute prohibition of transportation of intoxicating liquors in interstate commerce you would have to consider whether Congress, under the power given to it by the Constitution to regulate, could prohibit the transportation of an article which by the commercial usages of the world and the laws of the United States is an article of commerce. You would also with respect to the particular method of prohibition suggested by this bill have to consider some fundamental principles established by the Constitution of the United States. For instance, in the case of Adair v. United States (208 U. S., 162) the court held that Congress had no power to make it a criminal offense against the United States for a carrier engaged in interstate commerce to discharge an employee simply because of membership in a labor organization, and that a provision to that effect in an act of Congress concerning interstate commerce was a violation of personal liberty as well as of the right of property created by the fifth amendment to the Constitution of the United States. That was an act passed under the authority of Congress to regulate interstate commerce, and the Supreme Court struck down that provision because the power of Congress was limited in respect to regulation of interstate commerce by other fundamental provisions in the Constitution of the United States.

"Take another case, the case United States v. Fox (95 U. S., 670). The court decided that section 5132 of the Revised Stat-

utes, which declare that every person respecting whom proceedings in bankruptcy are commenced, who, within three months before their commencement obtains goods upon false pretenses with intent to defraud, shall be punished by imprisonment, was inoperative to render the act an offense, because its criminal character was to be determined by a subsequent proceeding. The act was criminal if within three months there should be proceedings in bankruptcy. It was not criminal if the proceedings were commenced in three months and a day. The Supreme Court held it was in violation of the Constitution of the United States. Why? Justice Field, in the course of his opinion, did not refer to any specific provision of the Constitution, but decided that an act which is not an offense at the time it is committed can not become such by any subsequent independent act of the party with which it has no connection. The criminal intent must exist when the act complained of is done; it can not be imputed from a subsequent independent transaction. And there are other decisions of the Supreme Court of the United States and in State courts suggesting the same principle.

"Mr. MOON. Take a simple illustration. Suppose we passed a law requiring railroads to carry everybody at a rate of 1 cent a mile. That is regulation of interstate commerce.

"Mr. MAXWELL. Yes.

"Mr. MOON. Where anything of that kind has been attempted it has been at once said that it is confiscatory. Therefore the powers of Congress are subject to all the other limitations placed in the Constitution of the United States.

"Mr. MAXWELL. They must be; that has been decided frequently by the Supreme Court.

"Now, with respect to this particular bill. It says that the transaction is prohibited and the contract is declared to be void if one of the parties, unknown to the other, intends to violate any law of a State. That is an attempt to declare a transaction invalid because one of the parties to the transaction, unknown to the other, intends to violate in the future, when he gets the goods, some law of the State. Suppose he does have that intent in his mind when the goods are ordered. Suppose he abandons that intention before the goods are delivered to the carrier or after they are delivered to the carrier and before they are delivered to him. Nevertheless, that intent which he had at the time he purchased the goods, and at any time before the goods are delivered to him, renders the whole transaction invalid.

"Mr. WEBB. Mr. Maxwell, if you agree that Congress could prohibit entirely that shipment without assigning cause, don't you admit that it could limit it?

"Mr. MAXWELL. Certainly Congress could not do that. But by this bill Congress is asked to say that a transaction is invalid if one of the parties to that transaction has the intent at any time, undisclosed to the other, to violate some law of the State.

"Mr. NORRIS. Mr. Maxwell, if this bill were changed so that the intent were confined to one person, would it, in your judgment, change the status of the thing?

"Mr. MAXWELL. No; it would not. The right of transportation in interstate commerce is a right of the consignor, of the vendor, as well as the consignee, and that right can not be affected so as to render the contract invalid as against the seller because of the undisclosed purpose or intent of the buyer to violate the law.

"Mr. NORRIS. The point I wanted to make is this: In your argument you have repeatedly said that this law would apply if the intent of any of the persons was to use it illegally, that intent being unknown to any of the other persons. Then your judgment would be that the law would be just as bad if the intent were confined entirely to one person in the transportation.

"Mr. MAXWELL. Yes; and for what reason? You can not have an interstate transaction without the cooperation of two or more, and it is not within the power of Congress or any legislature under a constitutional government to declare a contract, which requires the cooperation of two or more persons, invalid because one of those persons has the intent to commit a crime.

"Mr. MCGILLICUDDY. Do you concede that Congress has the constitutional power to prohibit interstate commerce in intoxicating liquors altogether?

"Mr. MAXWELL. I do not; I do not concede that power.

"Mr. MOON. Do you concede the second proposition, that even supposing they had, it gives them the right to discriminate?

"Mr. MAXWELL. Not at all.

"Mr. MOON. They have a right to say that diseased cattle shall not go into interstate commerce, and thereby absolutely outlaw them, but they have not a right—if they do not outlaw—to discriminate between the different States as to the shipment.

"Mr. MAXWELL. They have not; no, sir. That means, to use the language of Mr. Justice Matthews in the case of Bowman v. Railway Co., commercial anarchy. The very purpose of the interstate-commerce clause of the Constitution was to prevent commercial anarchy and to have interstate commerce subject, and subject only, to uniform rules established by the Congress of the United States, so that when any man in a foreign country or in this country wishes to engage in interstate commerce the only law that he has to consult is the law of the United States. On the other hand, under this bill no man in London, Paris, or New York, or Philadelphia could engage in interstate commerce in this commodity without consulting the law of the State to which the goods are to go. He can not find out whether an interstate transaction is regulated, or to what extent, by making an exhaustive search of the laws of the United States. He would not get a start there, because immediately he would be referred to the various laws of the States. That is just what the commerce clause was intended to prevent. Under the commerce clause a man who wants to engage in interstate commerce or foreign commerce is required to consult, and to consult only, the laws of the United States.

"Mr. CARLIN. A great deal of stress has been laid on the fact that Congress has recognized in the way of statutes the shipment of birds. What have you to say about that?

"Mr. MAXWELL. I am very glad to have an opportunity to say a word about that. What I have said just now about the prohibition of interstate traffic or the power of Congress to absolutely prohibit the transportation of intoxicating liquors in interstate commerce is, in my opinion, quite aside from the question that you have before you in this bill. The fundamental objection to this bill, the objection which is vital and can not be overcome, is the objection that this bill undertakes to delegate to the States whatever regulation of interstate commerce is to be accomplished by the bill, and, as the chairman of the subcommittee so clearly pointed out, this law itself discloses no regulation; it has no vitality except as State laws come in. The power to regulate is the power to prescribe the rules under which interstate commerce shall be conducted, and there are no rules in this bill. The rules exist only when the State acts and to the extent that the State acts, and when the State repeals the law there is no rule, and when the State amends the law the rule is modified.

"Now, it is said, 'Does that delegate the power to the States?' There is no magic in the word 'delegate.' The objection is that Congress undertakes to regulate commerce among the States, not by any rule which it prescribes, but by a rule which it leaves the States to prescribe.

"Has Congress any policy—because the regulation of interstate commerce must evidence some public policy—has Congress any policy about the transportation of intoxicating liquors in interstate commerce? None whatever by this bill. Whatever is the policy of any particular State is the policy adopted by this bill. Congress has no policy. Congress by this law leaves the regulation, whatever it is, the expression of public policy, entirely to the State and dependent upon the State.

"In that connection, if the committee will allow me, I would like to quote a passage from the opinion of Chief Justice Marshall in Gibbons v. Ogden. On page 206 he says:

"The act of 1803 (3 U. S. L., 529) prohibiting the importation of slaves into any State which shall itself prohibit their importation implies, it is said, an admission that the States possessed the power to exclude or admit them, from which it is inferred that they possess the same power with respect to other articles.

"If this inference were correct; if this power was exercised not under any particular clause in the Constitution but in virtue of a general right over the subject of commerce, to exist as long as the Constitution itself, it might now be exercised. Any State might now import African slaves into its own territory. But it is obvious that the power of the States over this subject previous to the year 1808 constitutes an exception to the power of Congress to regulate commerce, and the exception is expressed in such words as to manifest clearly the intention to continue the preexisting right of the States to admit or exclude for a limited period. The words are: 'The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808.' The whole object of the exception is to preserve the power to those States which might be disposed to exercise it; and its language seems to the court to convey this idea unequivocally. The possession of this particular power, then, during the time limited in the Constitution can not be admitted to prove the possession of any other similar power.

"Now, Mr. Caldwell could not, of course, fail to appreciate the vital importance of the objection which we urge to this bill; and, so far as possible, I have refrained from discussing any other objection. What is the good of considering other objections to a bill which is clearly repugnant to the Constitution of the United States because it delegates to the States a power which rests exclusively in Congress? And Mr. Caldwell, fine lawyer as he is, thoroughly appreciative of the significance of that objection, argued here for two hours without ever touching the point, and then, when his attention was called late in the afternoon to that objection, he referred to the Lottery case. But the act of Congress involved in that case did not leave anything to the States. It prohibited absolutely the interstate

transportation of lottery tickets. It delegated no power to the States and was not dependent on any State law.

"Another illustration used by Mr. Caldwell was that of obscene books, being section 245 of the Criminal Code of the United States. Congress does not say they are prohibited between States which provide that obscene books and pictures shall not be received. Congress declares its own rule, and says that obscene books shall not be transported in the mails or carried in interstate commerce. There is no delegation of power to the States.

"Then, with respect to the adoption or enactment of criminal laws of the States, in territory within the States subject to the jurisdiction of the United States, being section 289 of the Criminal Code, Congress left nothing to the States. Congress said that the laws in existence were enacted by it and that they should remain in force, so far as the United States are concerned, notwithstanding any subsequent repeal or amendment thereof by the State. There was no delegation of power to the State.

"Then they cite the Lacey Act of 1900, now section 242 of the Criminal Code, which makes it unlawful to transport in interstate commerce the dead bodies of wild animals or birds killed in violation of the law of the State in which they were killed or from which they were shipped, and Mr. Caldwell says that statute is an instance of the power of Congress to regulate interstate commerce, dependent upon action by the State. What Congress did by that statute was to make it illegal to transport in interstate commerce certain animals, or the dead bodies of certain animals, which are by the common law feræ naturæ, which belong to the sovereign, and which can not become private property or an article of commerce except with the sovereign's consent. Whether wild animals and birds are property depends entirely upon the law of the State in which they are killed. There is no other law that can govern the subject. What Congress did was to say that, since wild animals and birds killed in violation of law are not articles of commerce, they shall not be transported in interstate commerce. They are not property at all.

"The statute has been before the courts in two cases. In United States v. Smith (115 Fed., 423), which was an indictment under the statute before Archbald, in the District Court of the United States for the Middle District of Pennsylvania in 1902, he sustained a demurrer to the indictment on the ground that it did not state an offense.

"Mr. WEBB. In that it failed to set up the State law.

"Mr. MAXWELL. The indictment was not sustained, because it was not a good indictment. Here is what he said in his opinion, at page 428, in answer to the argument that the statute was unconstitutional:

"According to the views so expressed, I am therefore clearly of the opinion that no evasion or violation of the act is disclosed in the indictment, and that the demurrer must be sustained. The larger question whether the act is a legitimate exercise of the power given to Congress by the Constitution to legislate with regard to interstate commerce, or is merely, as charged, a national game law, thinly disguised, which it had no authority to pass, although fully discussed at the argument, I do not feel called upon to decide. Neither do I the further question whether—assuming the act to be valid—dead game carried in the hands, or as part of the personal luggage of the party who has killed it, must be regarded as falling within the terms of the act when transported under such conditions from State to State.

"Mr. CARLIN. Did he hold that the dead game was property?

"Mr. MAXWELL. He did not. United States v. Thompson (147 Fed., 637) is the other case in which the statute has been before the courts. A demurrer to the indictment was sustained in that case. The question of the validity of the statute was not discussed or passed upon.

"Mr. WEBB. Mr. Maxwell, may I make this suggestion? Have you read the report of the Interstate and Foreign Commerce Committee that reported this game-law bill?

"Mr. MAXWELL. I have not.

"Mr. WEBB. It was written by Mr. Sherman, who is now Vice President, and I wish to say that the reason for passing the law suggested by you was never even hinted at by the gentleman who made the report. I have never heard it asserted in this country that if a man takes wild game in his own possession it is not property. I am quite sure you will find Congress did not undertake to exercise its power based on that supposition.

"Mr. MAXWELL. That is not a supposition; that is as old and as certain as any principle of law can be that the power to appropriate animals which are feræ naturæ as private property depends wholly upon the consent of the sovereign. They are the property of the sovereign, and no man can acquire a right of private property in them except with the consent of the sovereign. Who is the sovereign? The sovereign is the State in which the animals are. Therefore, when the State has prohibited the killing or reduction to possession of those animals by killing, it says there can be no private property in them. That is as old as English law, and all that Congress has done, therefore, is to say that an article which is not the subject of private property, and which is therefore not essentially an article of commerce, shall not be transported.[1]

[1] "'The point is settled by the case of Greer v. State of Connecticut (161 U. S., 519). A statute of Connecticut, while providing an open season for the killing of birds, made it an offense to have the birds in possession with intention to procure their transportation beyond the limits of the State. The offense with which Greer was charged was the possession of game birds for the purpose of transporting them beyond the State, although they had been lawfully killed within the State. The Supreme Court of Connecticut sustained the conviction, and the case was carried to the Supreme Court of the United States upon the claim that the Connecticut statute was repugnant to the commerce clause of the Constitution of the United States. In stating the case, Mr. Justice White said that the sole question was whether the State of Connecticut had "the power to regulate the killing of game within her borders so as to confine its use to the limits of the State and forbid its transmission outside of the State" (161 U. S., 522).

"He said (p. 522):

"'The solution of the question involves a consideration of the nature of the property in game and the authority which the State had a right lawfully to exercise in relation thereto. From the earliest traditions the right to reduce animals feræ naturæ to possession has been subject to the control of the law-giving powers.'

"The learned justice then examines the law of Greece, Rome, France, Germany, and England. At page 527 he says:

"'The practice of the Government of England from the earliest time to the present has put into execution the authority to control and regulate the taking of game.'

"This authority, he says, passed to the Colonies, and then to the States. Citing many American cases, he says, at page 528:

"'The adjudicated cases recognizing the right of the State to control and regulate the common property in game are numerous.'

"At page 529 he says:

"'The common ownership and its resulting responsibility in the State are thus stated in a well-considered opinion of the Supreme Court of California: "The wild game within a State belongs to the people in their collective sovereign capacity. It is not the subject of private ownership, except in so far as the people may elect to make it so, and they may, if they see fit, absolutely prohibit the taking of it or any traffic and commerce in it if deemed necessary for its protection or preservation or the public good."'

"At page 530 he says:

"'In view of the authority of the State to affix conditions to the killing and sale of game, predicated as is this power on the peculiar nature of such property and its common ownership by all the citizens of the State, it may well be doubted whether commerce is created by an authority given by a State to reduce game within its borders to possession, provided such game be not taken, when killed, without the jurisdiction of the State. The common ownership imports the right to keep the property, if the sovereign so chooses, always within its jurisdiction for every purpose. The qualification which forbids its removal from the State necessarily entered into and formed part of every transaction on the subject and deprived the mere sale or exchange of these articles of that element of freedom of contract and of full ownership which is an essential attribute of commerce.'

"At page 532 he says:

"'The power of the State to control the killing of and ownership in game being admitted, the commerce in game, which the State law permitted, was necessarily only internal commerce, since the restriction that it should not become the subject of external commerce went along with the grant and was a part of it. All ownership in game killed within the State came under this condition, which the State had the lawful authority to impose, and no contracts made in relation to such property were exempt from the law of the State consenting that such contracts be made, provided only they were confined to internal and did not extend to external commerce.'

"The point of the decision is emphasized in the dissenting opinions of Mr. Justice Field and Mr. Justice Harlan, who were of opinion that the game was property and, therefore, an article of commerce because it had been lawfully killed. The decision of the court proceeded upon the ground that the game was not property and, therefore, not an article of commerce and the statute of the State forbidding its transportation beyond the State was, consequently, not repugnant to the commerce clause of the Constitution of the United States.

"On the same ground the court, in New York ex rel. Silz v. Hesterberg (211 U. S., 31), held that a statute of New York making it an offense to have possession of game within the State during the closed season, although it had been lawfully taken in foreign countries during the open season there, was not repugnant to the Constitution of the United States. Geer v. Connecticut, supra, was followed and applied. In concluding his opinion, Mr. Justice Day said, at page 43:

"'The New York Court of Appeals further held that the so-called Lacey Act (31 Stat., 187, chap. 553, U. S. Comp. Stat., 1901, p. 290) relieved the regulation of the objection in question because of the consent of Congress to the passage of such laws concerning such commerce, interstate and foreign, within the principles upon which the Wilson Act was sustained by this court. Re Rahrer (Wilkinson v. Rahrer, 140 U. S., 545.)

"'In the aspect in which the game law of New York is now before this court we think it was a valid exertion of the police power, independent of any authorization thereof by the Lacey Act, and we shall therefore not stop to examine the provisions of that act.'

"In Rupert v. United States (181 Fed., 87), in the Circuit Court of Appeals for the Eighth Circuit, decided March 5, 1910, a conviction under the Lacey Act was sustained, the court saying at page 90:

"'Quail belong to the State or Territory, or rather to the people collectively thereof, and are subject to the local laws as to killing and the times therefor and the shipment. These propositions have been put at rest by the Supreme Court. (Geer v. Connecticut, 161 U. S., 519; Lawton v. Steele, 152 U. S., 133.) It is for the State legislature to say when quail may be killed. It may provide that they shall not be killed at any time. It may provide that they may be killed for use at home only and not killed for shipment out of the State, which, if allowed, would result in the extinguishment locally of such game. And no one doubts the validity of game laws which prohibits killing of game on the lands of another. It is quite likely that every State of the Union has such laws, and such was the common law. The individual having no ownership in the game and allowed at certain times, if at all, to kill the same at certain places for particular uses only, it does not become the general subject of commerce free from all inhibitions.'"

"Mr. NORRIS. In that case you would have to look to something besides the Federal statute to see——

"Mr. MAXWELL. To see what? To see whether the article offered for transportation is in fact an article of commerce, and that can be determined only by the law of the State, which has the sole right to say whether its wild animals and birds may be appropriated as private property.

"Mr. NORRIS. You would have to look to the State statute in order to see whether your Federal law applied.

"Mr. MAXWELL. You would have to look to the State statute to see whether it was an article of commerce at all; in other words, whether it was property.

"Mr. WEBB. And whether the Federal statute had been violated.

"Mr. MAXWELL. No; not whether it had been violated, but whether the thing offered for transportation is in fact an object of commerce by the law of the State, which is the only law that can make it an article of commerce. But when you deal with spirits, wine, ale, and beer, which are recognized by the commercial usages of the world as articles of commerce, you do not have to go to any State law to see whether they are in fact articles of commerce.

"Mr. WEBB. But in the open season the Federal Congress makes these birds an article of commerce and permits their transportation, because the various States which have these State laws permit the killing of them and their transportation.

"Mr. MAXWELL. Congress does not make them articles of commerce at all.

"Mr. CARLIN. The birds do not seem to have had friends enough to raise the question. That has never been passed upon?

"Mr. MAXWELL. The constitutionality of the statute has not been passed upon by the Supreme Court. But why should we get involved in a discussion as to the constitutionality of the Lacey law. The question before the committee is whether the Webb bill is constitutional. The two are not the same or similar. One relates to wild animals and birds over which the States have exclusive control; the other to spirits, wine, ale, and beer, which "are a recognized and legitimate subject of interstate commerce," to use the words of the Supreme Court in its latest decision announced only a month or so ago in L. & N. R. R. Co. *v.* F. W. Cook Brewing Co.

"Mr. WEBB. Let me suggest this: You are aware, of course, that the Supreme Court of the United States has said that no citizen of the United States or any State has any inherent right to manufacture or sell intoxicating liquors. In that particular case liquor stands almost alone. You could not say that as to raising wheat and corn. The United States Government has put whisky on a different basis, and we contend that no man has a right to make it or sell it, but there is no power in Congress to limit its transportation.

"Mr. MAXWELL. The State, in the exercise of its police power, may say that intoxicating liquors shall not be manufactured, that they shall not be possessed, perhaps that they shall not be used by the individual for his personal use, and that they shall not be subject to bargain and sale. Now, that is essentially a State matter, a local matter, upon which the power of the State is ample and complete. There is no law of the United States that interferes in the slightest degree with the full exertion of the police power of the State in respect to the use of or traffic in intoxicating liquors within the State. Now, what is the purpose of this bill? Is it to enlarge the police powers of the State? Of course, if it is, it is invalid. Is it to assist the State in the enforcement of its police power?

"Mr. WEBB. Right there I want to ask you this question: There is a period of time between the arrival of a consignment of whisky in the express office and its delivery during which the State can not take any action with reference to it. In other words, a package of whisky that arrives in a town, say, to-day, may remain in that express office or depot two days, three days, or a week, and the State has not power to touch it until it is delivered to the consignee.

"Mr. MAXWELL. Until it is delivered to the consignee, or until the carrier holds it as warehouseman for the consignee.

"Mr. WEBB. He has got to hold it a reasonable time. Now, can you suggest—I realize you are a great lawyer—can you suggest any way by which the State might have some right with reference to that whisky if it is shown it is intended to be used in violation of its laws where it rests within her territory and within her jurisdiction?

"Mr. MAXWELL. Not prior to the delivery to the consignee, so long as the Constitution of the United States and the commerce clause of the Constitution stand and are enforced.

"Mr. WEBB. Congress can not enforce it?

"Mr. MAXWELL. Congress can not——

"Mr. WEBB. Then there is no sovereign power anywhere to control liquor?

"Mr. MAXWELL. What you were asking was with respect to the power of the State. I do not mean to say that the Federal Congress has no power.

"Mr. WEBB. You say the Federal Congress can not prohibit the interstate shipment of whisky——

"Mr. MAXWELL. My opinion is—but that question is not involved here, and I would prefer to be excused from discussing it, because I have come to discuss a particular bill and an objection that is fundamental under the Constitution. But I do say that no State, consistently with the Constitution of the United States, can exercise any police power over an interstate shipment prior to its delivery to the consignee. The delivery to the consignee may be by delivering it to the person or to his agent, or it may be by retaining it for him in a warehouse. The fundamental objection is that consistently with the Constitution of the United States no such police power can be exerted by the State, even with the consent of Congress. That is reenforced in such clear and explicit terms by Mr. Justice Lurton in the case of Louisville & Nashville Railroad Co. against F. W. Cook Brewing Co., in an opinion rendered January 22, 1912, that I would like the permission of the chairman or Mr. WEBB to read what he says on that subject. A member of the committee has suggested that this decision does not add anything to prior decisions. That may be true, but it states clearly the principles which had been established by the decisions:

"By a long line of decisions, beginning even prior to Leisy *v.* Hardin (135 U. S., 100), it has been indisputably determined:

"(a) That beer and other intoxicating liquors are a recognized and legitimate subject of interstate commerce.

"(b) That it is not competent for any State to forbid any common carrier to transport such articles from a consignor in one State to a consignee in another.

"(c) That until such transportation is concluded by delivery to the consignee, such commodities do not become subject to State regulation restraining their sale or disposition.

"The Wilson Act, which subjects such liquors to State regulation, although still in the original packages, does not apply before actual delivery to such consignee where the shipment is interstate. Some of the many later cases in which these matters have been so determined and the Wilson Act construed are: Rhodes *v.* Iowa (170 U. S., 412); Vance *v.* Vandercook Co. (170 U. S., 438); Heyman *v.* Southern Railway (203 U. S., 270); Adams Express Co. *v.* Kentucky (214 U. S., 218).

"Valid as the Kentucky legislation undoubtedly was as a regulation in respect to intrastate shipments of such articles, it was most obviously never an effective enactment in so far as it undertook to regulate interstate shipments to dry points. Pending this very litigation, the Kentucky Court of Appeals, upon the authority of the line of cases above cited, reached the same conclusion. (C. & N. O. Ry. *v.* Kentucky, 126 Ky., 563.)

"The obligation of the railroad company to conform to the requirements of the Kentucky law, so far as that law prohibited intrastate shipments, is clear, and to this extent its circular notification was commendable. But the duty of this company, as an interstate common carrier for hire, is to receive for transportation to consignees upon its line in Kentucky from consignors in other States any commodity which is an ordinary subject of interstate commerce, and such transportation could not be prohibited by any law of the State of such consignee, inasmuch as any such law would be an unlawful regulation of interstate commerce not authorized by the police power of the State.

"Mr. WEBB. I think we all agree that that is the law.

"Mr. MAXWELL. What is sought to be accomplished by this bill? Are you trying to enlarge the police power of the States? That you can not do. Are you trying to have that police power exerted before the interstate transaction in its fundamental aspect is completed? That you can not do. You are trying to do nothing that is within the power of Congress. Absolutely nothing.

"Now, if the committee please, the suggestion is made that if this bill is of doubtful constitutionality put it up to the Supreme Court.

"Mr. WEBB. I want to say that I have made no such suggestion.

"Mr. MAXWELL. I know you have not, and I do not believe you would concur in that. I am a lawyer and nothing else. I want the courts preserved for the administration of justice. It is essential under our system of government that the Supreme Court of the United States should be vested with authority to pass upon the constitutionality of statutes, but it is desirable that that jurisdiction should be invoked as little as possible. The common cry when the court declares an act unconstitutional is that it is usurping the functions of the legislature. The pity is that that cry is used to impair the influence and usefulness of the courts for the primary purpose for which they are formed, to wit, the administration of justice between man and man. Therefore I deplore the presentation of constitutional cases to the court unnecessarily, and I am sure this committee, recognizing the duty resting upon it to maintain and preserve the Constitution, would hesitate to recommend a bill of doubtful validity with the idea of putting it up to the Supreme Court. That is something Congress should carefully refrain from doing, and therefore it is, if the committee please, that I have come here to offer the objections which seem to me to be fatal to this bill. What I have said is just what I would

say if the bill were for argument before the Supreme Court of the United States in a case involving its constitutionality.

"Senator Knox, in stating his views relative to the constitutionality of bills to regulate interstate commerce in intoxicating liquors, which were before the Judiciary Committee of the Senate and reported upon adversely by it in 1909, said (S. Doc. No. 146, p. 9, 61st Cong., 1st sess.):

"My conclusions are:

"First. Interstate shipments are not completed until they reach the consignee.

"Second. An interruption or interference with interstate shipments before they reach the consignee constitutes a regulation of commerce.

"Third. Regulating interstate shipments is an exclusive function of Congress.

"Fourth. Congress can not delegate any part of its exclusive power to the States.

"Fifth. To remove the bar or impediment of exclusive Federal power which shuts the States out of the Federal domain and thereby allows them to enter that domain is to permit or sanction a State law in violation of the Constitution and in effect to delegate a Federal function to the States.

"For these and other reasons assigned I am constrained to vote against the bills we have been considering.

ARGUMENT OF EDGAR H. GANS, ESQ.

"Mr. GANS. Mr. Chairman and gentlemen of the committee, it seems to me that the difficulty, if there is any, about this subject, arises out of misconceptions of certain fundamental distinctions. It shall be my effort to make these distinctions clear.

"Senator Rayner put his hand on the real question when he asked my colleague, Mr. Maxwell, how this proposed bill differed, in its constitutional aspect, from the bills that had heretofore been declared unconstitutional by the Judiciary Committee of the Senate.

"Those bills were introduced in the Sixtieth Congress, and their fundamental purpose was to submit intoxicating liquors transported into any State or Territory for delivery therein or remaining therein for use, consumption, sale, or storage, to the police powers of the State immediately upon arrival within the boundary of the State, before and after delivery, in the same manner as though such articles had been produced in the State.

"The question, therefore, was whether Congress could withdraw its power over a shipment at the State line or at some point before the goods were delivered to the consignee and leave it to be regulated or prohibited by the police power of the State.

"On this question Senator Knox, who was chairman of the subcommittee on the Judiciary, said:

"My conclusions are:

"First. Interstate shipments are not completed until they reach the consignee.

"Second. An interruption or interference with interstate shipments before they reach the consignee constitutes a regulation of commerce.

"Third. Regulating interstate shipments is an exclusive function of Congress.

"Fourth. Congress can not delegate any part of its exclusive power to the States.

"Fifth. To remove the bar or impediment of exclusive Federal power which shuts the States out of the Federal domain, and thereby allow them to enter that domain, is to permit or sanction a State law in violation of the Constitution and in effect to delegate a Federal function to the States. (Doc. No. 146, 61st Cong., 1st sess., pp. ix, x.)

"Senator Rayner and Senator Fulton, in separate opinions, expressed substantially the same views, and the views of these three Senators were adopted by the Senate Committee on the Judiciary.

"In other words, when you are considering the transportation of commodities from one State to another, interstate commerce per se, or in its fundamental aspect, begins with the consignor and ends with delivery to the consignee, and Congress has no power to permit a State to regulate or prohibit any part of such interstate commerce.

"In the Kenyon bill now presented it is not proposed to divide the act of interstate commmerce so as to leave a part, even though it be the larger part, within the control of Congress and a lesser part under the control of the police power of the State.

"That is not the question here. This bill affects the whole shipment. It prohibits the shipment of intoxicating liquors from one State to another when the liquors are intended by any person interested therein, directly or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such other State enacted in the exercise of its police powers.

"Now, the only cases thus far decided by the Federal courts justifying acts of Congress which prohibited shipments of merchandise from one State to another are those which deal with 'contrabrands of commerce' or 'outlaws of commerce,' or things which are not fully the subjects of commerce.

"In his argument before this committee, Mr. Caldwell, the draftsman of this proposed law, frankly admitted that his idea was to get around the decision of the Senate Judiciary Committee already referred to by making the shipment a nuisance. His argument is that intoxicating liquors shipped from one State into another, when the intention of anybody concerned is to violate the law of such other State, is a nuisance, and can be constitutionally prohibited by Congress under the line of cases just adverted to. Is this argument sound?

"This argument makes it necessary for us to examine the line of cases concerning 'outlaws of commerce,' or, as it is sometimes called, 'illicit commerce,' and also those cases dealing with things not 'subjects' of commerce, because not possessing in the eyes of the law all the characteristics of property, and to understand the fundamental principles upon which such cases rest. When we fully understand these principles, we can then see whether, under them, the present proposed law can be justified.

"These principles are as follows:

"1. Anything is an 'outlaw' of commerce or 'not a subject' of commerce when it is so in its own nature as applied to all the people of the United States as one nation.

"2. They can therefore, under the national power of regulation of commerce, be denied by Congress the facilities of interstate commerce.

"3. They can also, because they are 'outlaws' of commerce or 'not subjects' of commerce be prohibited from being shipped out of or into the States by the States themselves.

"The leading case is that of Champion *v.* Ames (188 U. S., 321), commonly known as the Lottery case.

"The question there was whether Congress could prevent the transportation from State to State of lottery tickets. It was decided by five judges, four dissenting, that Congress had the power. The real ground of the decision was that lotteries were injurious to all the people, and of this the court could take judicial notice—that being so injurious to all the people, they could, in the interest of all the people, be denied the facilities of interstate commerce as 'outlaws' of commerce. The court, says, page 355 (italics ours):

"We have said that the carrying from State to State of lottery tickets constitutes interstate commerce and that the regulation of such commerce is within the power of Congress under the Constitution. Are we prepared to say that a provision which is in effect a prohibition of the carriage of *such articles* from State to State is not a fit or appropriate mode for the regulation of *that particular kind of commerce?* If lottery traffic, carried on through interstate commerce, is a matter of which Congress may take cognizance and over which its power may be exerted, can it be possible that it must tolerate the traffic and simply regulate the manner in which it may be carried on? Or may not Congress, *for the protection of the people of all of the States*, and under the power to regulate commerce, devise such means, within the scope of the Constitution, and not prohibited by it, *as will drive that traffic out of commerce among the States?* * * *"

"(P. 357.) Besides, Congress by that act does not assume to interfere with traffic or commerce in lottery tickets carried on exclusively within the limits of any State, but has in view only commerce of that kind among the several States. It has not assumed to interfere with the completely internal affairs of any State and *has only legislated in respect of a matter which concerns the people of the United States.* As a State may, *for the purpose of guarding the morals of its own people*, forbid all sales of lottery tickets within its limits, so Congress, *for the purpose of guarding the people of the United States* against the 'widespread pestilence' of lotteries *and protect the commerce which concerns all the States*, may prohibit the carrying of lottery tickets from one State to another."

"Again, page 358:

"If the carrying of lottery tickets from one State to another be interstate commerce, and if Congress is of the opinion that an effective regulation for the suppression of lotteries, carried on through such commerce, is to make it a criminal offense to cause lottery tickets to be carried from one State to another, we know of no authority in the courts to hold that the means thus devised are not appropriate and necessary *to protect the country at large against a species of interstate commerce which*, though in general use and somewhat favored in both National and State legislation in the early history of the country, *has grown into disrepute and has become offensive to the entire people of the Nation.*

"The same principle is announced in the case of Hippolite Egg Co. *v.* United States (220 U. S., 51) in construing the pure food and drug act of 1906 (ch. 3915, 34 Stat., 768), whose object is to keep adulterated articles out of the channels of interstate commerce or, if they enter such commerce, to condemn them while in transit or in original or unbroken packages after reaching destination.

"The question was whether certain cases of preserved whole eggs, which had been shipped from Missouri to Illinois, could be seized as adulterated in violation of the act in the original package in the hands of the consignee, even though they had not been shipped for sale but to be used by the consignee in manufacturing purposes. It was contended that the court had no jurisdiction in rem, because at the time of the seizure the eggs had passed into the general mass of property in the State and out of the field covered by interstate commerce.

"The court said (italics ours), page 57:

"We are dealing, it must be remembered, with *illicit articles*, articles which the law seeks to keep out of commerce, because they are de-

based by adulteration, and which law punishes them (if we may so express ourselves) and the shipper of them. There is no denial that such is the purpose of the law, and the only limitation of the power to execute such purpose which is urged is that the articles must be apprehended in transit or before they have become a part of the general mass of property of the State. In other words, the contention attempts to apply to *articles of illegitimate commerce* the rule which marks the line between the exercise of Federal power and State power *over articles of legitimate commerce*. The contention misses the question in the case. There is here no conflict of jurisdiction over *property legally articles of trade*. The question here is whether *articles which are outlaws of commerce* may be seized wherever found, and it certainly will not be contended that they are outside the jurisdiction of the National Government when they are within the borders of a State. The question in the case therefore is, What power has Congress over *such articles?* Can they escape the consequences of their illegal transportation by being mingled at the place of destination with other property? To give them such immunity would defeat in many cases the provision for their confiscation, and their confiscation or destruction is the especial concern of the law. The power to do so is certainly appropriate to the right to *bar them from interstate commerce* and completes its purpose, which is not to prevent merely the physical movement of adulterated articles *but the use of them*, or rather to prevent trade in them between the States by denying to them the facilities of interstate commerce.

"From the above case it is clear that the powers of Congress over 'illicit' commerce is governed by different rules than those which determine and fix the powers of Congress over legitimate commerce. In legitimate commerce the line between State and Federal authority becomes important. In 'illicit' commerce no such question arises, for, as we have just seen, the National Government, acting for the Nation, can pursue adulterated articles even after they have gotten into the general mass of the property of the State, and, as we shall see presently, the State may itself forbid the importation into its boundaries of such articles.

"Upon the principles of these cases it is of course within the power of Congress to prohibit transportation companies from carrying from one State into another obscene books, pictures, or writings, or other matter of an indecent character, or any drug or article intended for producing abortion, or for any indecent or immoral use, as was done by act of 1900 (ch. 553, s. 4, Federal Penal Code of 1910, sec. 245). All these things—e. g., lottery tickets, adulterated food, indecent articles—all are inherently detrimental in themselves to all the people of the United States. If the thing involves a moral question, it is wrong to the moral conscience of the whole United States as a nation, not a malum prohibitum set up by one State against another State. If it is a question of health, it affects everybody in the same way. Therefore they are prohibited and denied the facilities of interstate commerce. These characteristics are not created by Congress, because they exist in themselves, but they are taken notice of by Congress just as the courts take judicial cognizance of the universal character of their dangerous and harmful tendencies.

"I make this assertion without fear of contradiction: The United States Supreme Court has never decided that the carriage of any article as contraband of commerce could be constitutionally prohibited which article was not, by the substantially universal consent of the whole Nation, contraband of commerce, and is therefore marked out, cut off, and declared to be something that can not be carried from State to State.

"So, again, an article that is not a subject of commerce may be prohibited from being carried from State to State, but that is precisely because it is not a subject of commerce.

"Thus Congress, by what is known as the Lacey Act (1900, ch. 553, sec. 2, Federal Penal Code of 1910, sec. 242), prohibited the transportation of the dead bodies of wild animals or birds when they are killed or offered for shipment in violation of the law of the State where they were killed or offered for shipment. This act was declared constitutional in the case of Rupert *v.* United States (181 Fed., 87, 90), but that was only because the dead bodies of wild animals and birds killed or offered for shipment against the laws of the State are not the subjects of property in the usual sense, but are under the control of the State where they are killed or from which they are to be shipped. They are therefore, under these circumstances, not subjects of commerce at all. The court bases its decision on the case of Geer *v.* Connecticut (161 U. S., 519, followed in Oklahoma *v.* Kansas Nat. Gas Co., 221 U. S., 223), where the whole subject is elaborately discussed by the then Mr. Justice White.

"The other characteristics of 'outlaws of commerce' or 'contrabands of commerce' or things 'not subjects of commerce' is even more striking. That is that the States can prohibit their being carried from or into the borders of the State, something which can never be done by the States as to any objects of legitimate commerce.

"The authorities are full and conclusive on this question. To cite a few—

"In the case of Plumley *v.* Commonwealth of Massachusetts (155 U. S., 461) the law of Massachusetts was sustained which forbade the sale of oleomargarine, colored in imitation of yellow butter, even though the article was imported into the State and sold in the original package; that such a sale was not a violation of the commercial clause of the Constitution.

"The court says (italics ours), page 468:

"He (the importer) is only forbidden to practice in such matters a fraud upon the *general public*. The statute seeks to prevent false pretenses and to promote fair dealing in the sale of an article of food. It compels the sale of oleomargarine for what it really is by preventing its sale for what it is not. Can it be that the Constitution of the United States secures to anyone the privilege of manufacturing and selling an article of food in such manner as to induce *the mass of the people* to believe that they are buying something which, in fact, is something wholly different from that which is offered for sale? * * *

"Page 479:

"The Constitution of the United States does not secure to anyone the privilege of defrauding the public. The deception against which the statute of Massachusetts is aimed is an *offense against society*; and the States are as competent to protect their people *against such offenses or wrongs* as they are to protect them against crimes or wrongs of more serious character.

"But in the case of Schollenberger *v.* Pennsylvania (171 U. S., 1) the Supreme Court of the United States held that a State could not prohibit the importation and sale of pure oleomargarine not deceptively colored, as this was a legitimate article of commerce.

"The Supreme Court, therefore, says to the States: 'You may keep out oleomargarine deceptively colored.' Why? Is it not an article of commerce? Yes; it is if it is pure and not deceptively colored. It is then an article of legitimate commerce, and you can not keep it out no matter what your local policy may be. But if it is colored for purposes of deception you can keep it out. Here you are dealing with fraud. It is fundamental that no man has the right to cheat another. It is not a local policy, but general—it is inherently wrong. Therefore, you can make oleomargarine 'contraband of commerce,' or an 'outlaw of commerce,' where it is put into such a condition as to deceive the people into thinking that it is butter, and such action on the part of the State will not contravene the commerce clause of the Constitution.

"The whole matter is summed up in the case of Bowman *v.* Chicago & North Western Co. (125 U. S.), where the Supreme Court says (p. 489):

"Doubtless the States have power to provide by law suitable measures to prevent the introduction into the States of articles of trade which, on account of their existing condition, would bring in and spread disease, pestilence, and death, such as rags or other substances infected with the germs of yellow fever or the virus of smallpox, or cattle or meat or other provisions that are diseased or decayed or otherwise, from their condition and quality, unfit for human use or consumption. Such articles are not merchantable; they are not legitimate subjects of trade and commerce. *They may be rightly outlawed as intrinsically and directly the immediate sources and causes of destruction to human health and life.* The self-protecting power of each State, therefore, may be rightfully exerted against their introduction, and such exercises of power can not be considered regulations of commerce prohibited by the Constitution. * * *

"(P. 490.) If *from its nature* it does not belong to commerce, or if its condition from putrescence or other cause is such, when it is about to enter a State, *that it no longer belongs to commerce*, or, in other words, *is not a commercial article*, then the State power may exclude its introduction.

"The same principles apply as to things that are not fully the subjects of property rights.

"Thus in Greer *v.* Connecticut (161 U. S., 519) it was held that the State has the right to prohibit the transportation of birds or game lawfully killed in the State, because these articles are feræ naturæ, subject only to such ownership as the State permits.

"From these authorities and others which could be cited it is clear that 'outlaws of commerce' are distinguished by sharp characteristics which never fail, and you can distinguish them as certainly as you tell a white man from a black man. If Congress is to prohibit their transportation they must be inherently wrong, as a shipment of deceitfully colored oleomargarine or a lottery ticket, and wrong quo ad the Nation as a whole.

"If it is an 'outlaw' of commerce, then it is not a thing with respect to which you can say to a State, 'You shall not forbid that thing to come within your borders,' or 'You shall not forbid it to go out.' You can do both, because it is not legitimate commerce, and not being legitimate commerce, the Constitution is not violated by such action.

"Now, coming back to this bill, wherein does it receive any support from the principles just enunciated as to 'outlaws of commerce.' Is intoxicating liquor an article of legitimate commerce, or is it outside of commerce? Do you not know that in every distillery in the United States there is a Government officer who watches everything that is done from the time of the buying of the grain until the distilled liquor is put into barrels—that the barrels are under the custody of a Government officer in a warehouse until the tax is paid? Do you not all

know that a great part of our internal revenue taxes come from distilled spirits?

"Oleomargarine was decided to be an article of commerce, inter alia, because its manufacture was recognized by Congress and it was made the subject of Federal taxation. (Schollenberger *v.* Pennsylvania, 171 U. S., 9.)

"So as to tobacco. The Supreme Court of the United States, speaking of tobacco, in Austin *v.* Tennessee (179 U. S., 345), says (italics ours), page 345:

"Whatever product has, from time immemorial, been recognized by custom or law as a fit subject for barter and sale, *particularly if its manufacture has been made the subject of Federal regulation and taxation*, must, we think, be recognized as a legitimate article of commerce, although it may, to a certain extent, be within the police power of the States. Of this class of cases is tobacco.

"As to intoxicating liquors, the effect of a long line of decisions is summed up by the Supreme Court of the United States in Louisville & Nashville Railroad Co. *v.* Cook Brewing Co., decided January 22, 1912, where the court says it has been indisputably determined—

"(a) That beer and other intoxicating liquors are a recognized and legitimate subject of interstate commerce.

"(b) That it is not competent for any State to forbid any commerce carrier to transport such articles from a consignor in one State to a consignee in another.

"(c) That until such transportation is concluded by delivery to the consignee, such commodities do not become subject to State regulation restraining their sale or disposition.

"If, therefore, intoxicating liquors are a recognized and legitimate subject of interstate commerce; if the States can not exclude the shipment of such liquors from another State, then it is clear that the present bill can not be supported upon the theory that intoxicating liquors are 'outlaws' of commerce, nor can its validity be founded upon any of the cases cited above. Not only is this true, but the present bill does not itself purport to make intoxicating liquors 'outlaws' of commerce. It does not undertake to have Congress say that the use of intoxicating liquors is wrong in itself, or that such use is deleterious to all the citizens of the United States, or that such liquors shall be denied the facilities of interstate commerce. There is no attempt to repeal the internal-revenue laws taxing liquors and regulating distilleries. There is no withdrawal contemplated of the recognition by Congress of liquors being in themselves legitimate subjects of foreign and interstate commerce. Nothing of this sort is attempted. It is therefore only a subterfuge to try to show that the bill can be supported upon the theory that liquor shall be regarded as a 'nuisance' or an 'outlaw' of commerce.

"The bill on its face is evidently an attempt to have Congress assist some States in the enforcement of their police regulations of the liquor traffic as against the interests of other States which authorize the manufacture of liquors and desire as wide a market for them as possible.

"The question has been asked whether Congress could not make intoxicating liquors "outlaws of commerce" and prohibit their transportation from State to State.

"A complete answer, so far as this discussion is concerned, would be that this question does not now arise. The present bill does not pretend to really accomplish this purpose.

"But waiving this objection, let us try to frankly answer the question.

"Let it be remembered that Congress can not arbitrarily prevent interstate commerce in things which are in their own nature the subject of legitimate commerce. The power as to legitimate commerce is to regulate, not to prohibit. Congress could not prohibit commerce in wholesome meat or bread. This is conceded. So when Congress comes to consider things that may be classed as illegitimate commerce, it does not merely put articles in that class of its own arbitrary will, but recognizes the existence of characteristics in the article which in the common opinion of the country render it harmful or deleterious, just as the Supreme Court of the United States, in passing upon the validity of acts of the legislature dealing with such articles, takes judicial cognizance of their characteristics in determining whether the legislative act is arbitrary or not.

"Thus the Supreme Court of Tennessee decided that cigarettes were not legitimate articles of commerce because wholly noxious and deleterious to health and their use inherently bad and bad only, but the Supreme Court of the United States held that this was not so in such a way as to make them 'outlaws of commerce.' (Austin *v.* Tennessee, 179 U. S., 350, 367.)

"The difficulty of dealing with the question of the wholesale prohibition of interstate commerce in liquors is that it is difficult to realize the atmosphere under which such a question would come to be practical. The Lottery case furnishes an illustration. In early times in this country lotteries were not looked upon with disfavor. Churches and public buildings were built with their proceeds. They were fully authorized by the legislatures, but with the passing of time there came to be a complete revolution in sentiment, so that they were bad to the moral conscience of the whole country. And therefore the Supreme Court, taking judicial cognizance of this situation, said that lottery tickets were contraband of commerce, because everybody agreed that they were hurtful to everybody in the United States who indulged in their use—that lotteries were a widespread pestilence, going into every home and working harm.

"But this is not true as to the use of intoxicating liquors. There is no belief, shared by substantially the whole people of the United States, including the Government, that the use of intoxicating liquors is so inherently wrong and deleterious to the whole people that it should be prohibited or suppressed as lottery tickets are prohibited or suppressed.

"We know that its use is freely permitted among all the civilized people in the world; that its prohibition in countries like England, France, Germany, or Italy would be regarded as simply ridiculous; that foreign traffic in them is enormous and has been since the beginning of the Government; that even in this country, though it is subjected to numerous restrictions under the police power of the States, still its prohibition is attempted only in a part of the country. We know, further, that it is still recognized by the Government of the United States as a legitimate subject of commerce; that its distillation is regulated by the Government and that it is heavily taxed by the Government; that the real situation in this country is that a great majority of the people are in favor of its use, but its temperate use, whilst a large number of earnest and zealous people are in favor of its prohibition.

"If the sentiment as to the use of liquor ever grows, as did the sentiment as to lottery tickets, to such an extent that substantially the whole country will believe that the use of intoxicating liquor in any form as a beverage is inherently wrong and deleterious to the whole people—a state of things which I regard as wholly impossible in the very nature of things—then such a state of facts would justify Congress in recognizing it and passing a law excluding liquor from interstate commerce on the theory of the Lottery case. But it is scarcely practical for us to be considering now what Congress might legally do on an impossible state of facts. Of course, Congress could not declare liquor an 'outlaw of commerce' and still regulate its manufacture and tax it. All the internal-revenue laws relating to intoxicating liquors would, of course, have to be repealed.

"This bill does not purport to 'outlaw' intoxicating liquor. It is really an attempt to aid one State to enforce its police power at the expense of other States.

"This bill undertakes to say to Maryland, 'Your whisky is outlawed because it is going to be used in violation of the prohibition laws of another State.' What does that mean, gentlemen? It means that here you have two States with conflicting interests, does it not? Take two States, for illustration, one a prohibition State and one where whisky is manufactured. Here you have two States which are interested in different things, and interested in different ways about a thing which is a subject of commerce. One State wants it and the other does not want it. What was the interstate-commerce law passed for? Was not the interstate-commerce law passed for the very reason that there were conflicts of interest between this State and that State as to commerce—as to the interchange of commodities? And is it not a fundamental and final answer to this question to say that when you are dealing with interstate commerce, the interstate-commerce clause requires you not to deal simply with the idea of helping one State in its interest, in what it thinks is its interest, against the interests of another State? I think my brother who talked just before me was very frank about it, that the only way that this conclusive argument can be gotten around at all is to attempt to make this not a regulation of interstate commerce, but to make it contraband of commerce. Now, that, I say, is conclusively shown, can not be done in this case.

"Now, I deny the power of Congress under the interstate-commerce clause to use the great power of the Government of the United States to aid one State as to its local police matters against another State. There is no authority that I know of, properly understood, that contains that principle.

"In one of the most recent cases in the Supreme Court of the United States the true principle of the interstate-commerce clause was stated.

"In Oklahoma *v.* The National Gas Co. (221 U. S., 229), the court says (italics ours), page 235:

"And yet we have said that in matters of foreign and interstate commerce there are no State lines. *In such commerce, instead of the States, a new power appears and a new welfare, a welfare which transcends that of any State. But rather let us say that it is constituted of the welfare of all the States.* * * *

"Here is involved simply an attempt to have Congress say to one State, 'Now, you have a prohibition law; you have been trying to enforce it and you do not succeed entirely. Why do you not succeed? Because here come in some goods from abroad, or from another State.' Now, Congress says, 'We will help that; we will take up that situation and we will endeavor, under the commerce clause, to so hedge things about that you can more perfectly enforce your law.' Where, under any section of the Constitution, does Congress get the right to supplement or aid or take the place of the purely police powers of the State? Because that is all it amounts to; and my brother Caldwell is perfectly right when he says it is not even that, it is not even a regulation of commerce, because, as you will see upon looking at these cases in the Supreme Court, that the power is exclusive, and there must be some uniform rule. Why? Because, in interstate commerce Congress deals as a nation; and, dealing as a nation, it deals as a unit; and, dealing as a unit, when it regulates it must be a uniform regulation, and therefore it must be something in the power of Congress to do. Congress can not adopt the police laws of the States.

"In the case of Rahrer (140 U. S., 545), the case you have already been over, it is said, page 562:

"Nor can Congress transfer legislative powers to a State, nor sanction a State law, in violation of the Constitution; and if it can adopt a State law as its own, it must be one that it would be competent for it to enact itself, and not a law passed in the exercise of the police power. * * * It does not admit of argument that Congress can neither delegate its own powers, nor enlarge those of a State.

"Congress can not take up a law of the State and enact it as its own law unless it is the kind of law it could have enacted without referring to the State. These things, in other words, are so different, the police power dealing with the internal affairs of the State and interstate commerce dealing with this great Nation as a nation, these ideas are so disparate in a law that Congress can not, acting as a nation, acting as a unit, take up and pass a law by adopting a State law if that State law justifies itself only under the police powers of the State.

"Then, again, speaking now of the object of the interstate-commerce law of the Constitution, the same decision says that the object was undoubtedly to prevent 'commercial regulations partial in their character or contrary to the common interests.'

"'Common interests,' and 'common interests' in the language of the Supreme Court in that case, means the interests of the people of the United States as a Nation under the commerce clause. That is what it means.

"Gentlemen, that is about the view I wish to emphasize, and I want to reiterate, as earnestly as I possibly can, that this law can not be justified, constitutionally, under the contraband idea, of putting the thing out of commerce; nor can I see that it can possibly be a regulation of commerce, when it simply undertakes to help one State against another in its police regulations, taking something which that other State may pass, which Congress could not pass itself, and which is therefore contrary to the very decision which I have read.

"Senator NELSON. I want to call your attention to the Wilson law and point out that it is exactly on the lines of this bill. Before the Wilson law was passed the Supreme Court held that interstate commerce went to the extent of allowing the sale of the unbroken package, did it not?

"Mr. GANS. Yes, sir.

"Senator NELSON. Here is the Wilson law, and let us see how this bill follows it:

"*Be it enacted, etc.*, That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

"Mr. GANS. Yes, sir.

"Senator NELSON. That is exactly what this bill says. It says that when liquor comes into any State it shall be subject to the laws of that State. Here is an exact model.

"Here the Federal Government relinquished its power over interstate commerce to the extent of allowing selling in the unbroken package. In this bill we propose to relinquish a little more of that power. This bill—I do not refer to the contract part of it, because that does not meet with my approval—the first part of the bill is identically in the language of the Wilson law, and this law meets fully the argument that this is a delegation of legislative authority. If it is a delegation of legislative authority in this case, it was also a delegation of authority to leave it to the laws of the State or Territory in reference to the disposing of it in the unbroken package. If there is a delegation of legislative authority in this case, there was also in the Wilson law.

"Mr. GANS. Now, will you allow me to answer that?

"Senator NELSON. Yes.

"Mr. GANS. Or try to answer it, I mean; because, to my mind, the answer is very clear, although you all may not think so. The answer is this, and it is fundamental: It is just exactly like it was with Shylock; it is not so hard to surrender your little finger, but when it comes to taking a slice out of your heart, it is different, is it not? In dealing with this question, the Wilson bill, as you have suggested, the court said what? Let me give the situation. Before the Wilson bill was passed there was the case of Leisy *v.* Hardin, in which they held that the power of Congress over interstate commerce extended not only from the time the consignor began to ship the goods to the time of its delivery to the consignee, but that it followed the sale in the original package by the consignee. This was the case of Leisy *v.* Hardin. The act of 1890 had this effect: It let go the power of Congress, so far as the sale in the unbroken package was concerned.

"Now, take the language of the Wilson law. By the language itself you could read it to mean that as soon as liquor got into the State it must be subject to the law of the State, but the Supreme Court of the United States took it up and said:

"It can not be. If you construe the language to mean that, then you are interfering with interstate commerce in its fundamental aspect; you are interfering with the transportation of goods from the consignor to the consignee. But when you let go the power over the sale in the original package you are not dealing with interstate commerce, per se, you are not dealing with a thing over which Congress has exclusive jurisdiction; you are dealing with an incident of interstate commerce, a thing like a wharf, or a warehouse, over which the State has police power, unless Congress interferes. In other words, the jurisdiction over the original package being in the State under its police power, unless Congress prevents it, and if Congress takes off its hand, then what is restored? Does Congress give the State power to sell in the original package? No; Congress can not give the State anything. Congress simply takes off its concurrent supervisory jurisdiction, and the State police power, ex propria vigore, governs the sale of the package. That is the ground upon which they put it.

"Senator NELSON. No; they put it upon the ground that the liquor had not arrived in the State. They used the term 'arrival.' They said it had not arrived in the State until it had been delivered to the consignee.

"Mr. GANS. Yes.

"Senator NELSON. That was the real gist of the case.

"Mr. GANS. I have the language. It is Rhodes *v.* Iowa (170 U. S., p. 424):

"Whilst it is true that the right to sell, free from State interference, interstate-commerce merchandise was held in Leisy *v.* Hardin to be an essential incident to interstate commerce, it was yet but an incident, as the contract of sale within a State in its nature was usually subject to the control of the legislative authority of the State. On the other hand, the power to contract for the transportation of merchandise from one State into or across another involved interstate commerce in its fundamental aspect and imported in its very essence a regulation which necessarily must be governed by laws apart from the laws of the several States, since it embraced a contract which must come under the laws of more than one State.

"Now, if that means anything it means that interstate commerce per se, going from the consignor to the consignee, is pure interstate commerce, with respect to which Congress has exclusive jurisdiction under the Constitution, and you all know perfectly well that if Congress is given by the Constitution exclusive power over that kind of interstate commerce (Southern Ry. *v.* King, 217 U. S., 531) it could not give any part of it to the State. If the power is in the State, where did the State get it? It never had it, and it can not be given it by Congress. But the authorities do say this, that when it comes to incidents of interstate commerce, such as selling in the original package, you have a thing which may be under the State or under Congress, as Congress chooses. That is all there is to it.

"Senator BORAH. In other words, if they had held that the Wilson law meant, by the word 'arrival,' when it physically entered the State, they would have made the law unconstitutional?

"Mr. GANS. Yes.

"Senator BORAH. And they held that it meant when the transaction was closed?

"Mr. GANS. Yes. They held that the sale in the original package was something that could be left to the State or not, at the option of Congress.

"Senator NELSON. Excuse me for having interrupted you.

"Mr. GANS. Certainly. I rather like it than otherwise. Now, I have only one other thing to say, and that is in respect to the delegation of power. The discussion which I have just made leads up to this, and therefore I regard it as supplemental to the very able discussion made by Mr. Maxwell.

"The point is that it is really not a regulation by Congress at all, but it is really delegating to the State the power to do something. It must be that, in essence, because Congress can not take up and adopt a law of the State when the thing which

it does is something that Congress could not do itself. It therefore amounts to simply a regulation by the State and not by Congress.

"But look at the absurdity of the bill—I mean the legal absurdity, of course. Here is a case, and I will not read the language, where there is a shipment of liquor from one State to another, where the liquor is 'intended'—intended by whom? Intended when? "Intended by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States.' Intended by anybody connected, directly or indirectly, at any time, with the transaction, to violate the law of any State, with respect to which intention there is nothing in the bill—and they do not want it there—which connects knowledge of that intention with the consignor. Now, I ask you, gentlemen, as lawyers, all of you experienced lawyers, who have been dealing with weighty affairs all through your lives, did you, up to the time of reading this bill, ever hear of a proposition which fundamentally is so opposed to all principles of inherent justice as taking from me property in transit with respect to which I am entirely innocent on account of the fact that somebody, at some time, directly or indirectly connected with the transaction, may intend to violate the laws, no matter what the laws are, in regard to ale, in the original package or not, of another State; did anybody ever hear of anything like that?

"There are States, as you know perfectly well, where some counties are wet and some dry, and if the consignee lives in a city which is wet, to which the consignment goes, and if that consignee, without the knowledge of the consignor, intends to send some of that liquor to the dry counties, he intends to violate the law, and I am to be punished for that, although I have no way of finding out. Even though I asked him and he lied to me I would have forfeited my property.

"Then, if I sell to a consignee and he says that he intended or intends—in order to escape paying the bill when the bill comes in for the goods—to sell on Sunday, or after 12 o'clock at night, or to sell to a minor, or within a certain distance of a schoolhouse, or to do any one of those things which may be prohibited by the laws of his State, I am to be held to forfeit all my goods. Moreover, a thing can not be contraband of commerce unless it is contraband before it starts. Before it starts it must be a thing which is not a subject of commerce before it is put on the cars, because a thing would very rarely get to be contraband of commerce while it is going on the train.

"Here is a thing put on the train innocently by the consignor, an article manufactured under the laws of his State and recognized by the United States by its taxation and the policy of regulation as being an article of commerce, and yet because somebody intends, after it gets there, to violate the law of the State to which it is shipped it has been contraband of commerce from the beginning, under the rules I have indicated, and can be seized even in transit or seized at the other end. Now, with very great respect, that is supremely ridiculous, from my point of view. I do not believe there is a man who has any inherent sense of right who could believe that a consignor should be deprived of his property under these circumstances; and yet that is what is intended here.

"Senator DILLINGHAM. How would this law differ in principle from one that was framed in the same manner and made to apply to the ordinary poisons that are used among druggists, and to opiates, and to firearms, and to things of that kind that might be used legally or might be used illegally?

"Mr. GANS. I think that the State, under its police power, can pass laws relative to the use of dangerous things.

"Senator NELSON. We have a law governing the shipment of dynamite.

"Mr. GANS. Yes; but that comes under danger in transportation.

"Senator DILLINGHAM. Yes; but if Congress had power to pass this law, would they have the power to pass laws in relation to these other things?

"Mr. GANS. Yes; Congress could under that theory go into the whole matter and pass police regulations in regard to anything alleged to be dangerous in its use. This is a sort of entering wedge, by which Congress, under the interstate-commerce power, would take police jurisdiction. I do not see where it is to stop. All that they have to do is to have some reason for saying that the thing which you are going to ship is going to do harm to the people where you ship it, under their legal ideas or their traditions, and you could grasp and hold, therefore, in the Government of the United States a vast area of power which is now exclusively in the States.

"Mr. CALDWELL. Might I ask you a question?

"Mr. GANS. Certainly.

"Mr. CALDWELL. Is it not true that under the law as it now is an original package might be seized in the hands of the consignee immediately after delivery, at the point of destination, and confiscated if the consignee intends to use it in violation of the law, and all that notwithstanding whether the liquor had been sold on credit or not?

"Mr. GANS. That is true.

"Mr. CALDWELL. And the innocence of the vender?

"Mr. GANS. Yes.

"Mr. CALDWELL. So that this simply moves it up to the delivery prior to the point of destination; that is all, is it not?

"Mr. GANS. That is all, because it is everything. It moves along an impossible path; that is all. The only reason why the package you represent could be seized in the hands of the consignee is that when it gets there, under the law of 1890, it is under the control of the State, and the State has control of it inherently and originally. The United States has a right to take that control away; but if it leaves its hands off, then the State has control; but the State has no control, and never did have any control, over goods in transit."

Mr. CLAYTON. Mr. Speaker, I yield five minutes to the gentleman from Texas [Mr. HENRY].

Mr. HENRY of Texas. Mr. Speaker, I did state that in my opinion this bill is constitutional, and I did not have much doubt on the question. That was true until I heard the distinguished gentleman from Kentucky [Mr. SHERLEY] say it is of doubtful constitutional authority; but now I do not know whether my assertion should stand, because I infer Mr. SHERLEY is a great lawyer and will admit it himself upon the slightest provocation. [Laughter.] Mr. Speaker, this bill shall receive my support as it came from the Committee on the Judiciary, and not a single one of these amendments shall have my support, because in my judgment they do not come from the friends of the legislation and are not necessary or proper.

I believe we have the constitutional right to pass this measure, and all the refinement of logic in the world can not convince me that Congress with plenary power to regulate interstate commerce can not regulate the liquor traffic as we are undertaking to do this day. Ah, but gentlemen say you ought to insert a penalty in this act. Why do you want a penalty and thus throw this matter into the Federal courts? Why not remand subject to the State courts and inforce the law there?

Here is the analysis: Let anyone undertake to ship liquor into a State or locality where is prohibition, and then let it be established that it is shipped to such locality with an intention to violate the law, and in the State court no man can plead in defense that it is interstate commerce and that the State is interfering with interstate commerce, because the prosecuting attorney will say, "We have established that you have shipped this liquor with a guilty intention and you have no right to that defense, because the Federal Government has put an embargo on this character of liquor traffic and you can not violate the laws of the State or a prohibition locality.

How can any Democrat refuse to vote for such a doctrine? How can any gentleman who believes in local self-government, no matter to what party he may belong, fail to vote for it? Ah, the distinguished ex-Speaker of the House, Mr. CANNON, said there are more saloons in Maine and more liquor in that State than in any other State he ever visited. Yes; but if you will pass this law there will no longer be bootleggers there to violate the law by pleading the interstate-commerce defense. That defense will be taken away by congressional enactment, and that is precisely what we propose to-day.

If you are going to amend it, let the friends of the measure offer the amendments. Therefore, I shall vote against the personal-use amendment also, because if there is a right under the Constitution to ship liquor into any locality for personal use or consumption, and not for sale, then this bill does not take that right away from any person. If they have the right to do it under the Constitution the United States Supreme Court has said that Congress can not take that privilege away. Therefore my vote shall be recorded for the act unimpaired, as presented by the Judiciary Committee. [Applause.]

Mr. McCOY. Mr. Speaker, I am one of those who believe that more men drink because they are miserable than are miserable because they drink. [Laughter and applause.] The failure to recognize that fact has been the cause of more legislation which will retard the progress of the temperance movement than anything else that has happened in this country, because it is aimed at the effect and not at the cause.

I want to show from the testimony of the Antisaloon League representatives that the principal trouble which now exists is due to the fact that the States will not enforce their own laws.

I want to point out that in countries like Italy the United States consuls say that they seldom see anybody in a drunken condition because the people are taught to use and not to abuse liquor—they are not forbidden to use it.

I want to discuss the constitutional question, and, more than all, I want to quote at this time a statement made by Mr. Anderson, the representative of the Antisaloon League of Maryland; and I wish that those who have any doubt about the constitutionality of this proposed law would listen to his statement.

Mr. Anderson, who appeared before the Judiciary Committee on the hearings upon this bill, representing the Antisaloon League of Maryland, said this:

I think no Member of the legislative body ought to yield to mere clamor and pass something that he is morally certain is not constitutional. I should say, very frankly, it would be cowardly to pass something that a man knew was unconstitutional and put the responsibility on somebody else.

THE CONSTITUTIONAL QUESTION.

My views as to the constitutional question are set forth in the minority report signed by the gentleman from Pennsylvania [Mr. MOON] and by the gentleman from Louisiana [Mr. DUPRÉ] and myself, which reads as follows:

Minority views. To accompany H. R. 17593.

Being unable to agree with the views expressed by the majority members of the Committee on the Judiciary, to whom was referred the bill H. R. 17593, intended to divest intoxicating liquors of their interstate-commerce character in certain cases, which bill has been favorably reported with amendments, we beg leave to submit herewith our views in opposition to the enactment of said measure.

The effect of the bill proposed, if enacted into law, will be to divest intoxicating liquors of their interstate character whenever they are intended by any person interested therein to be in any manner used in violation of any law of any State or Territory to which they may be shipped, and their transportation in interstate commerce is therefore absolutely prohibited.

In the consideration of this bill a few fundamental and well-established principles of law should be kept in mind.

1. Ardent spirits, distilled liquors, ale, and beer are subjects of exchange, barter, and traffic like any other commodity in which a right of traffic exists, and are so recognized by the usages of the commercial world, the laws of Congress, by our treaties with foreign nations, and by the decisions of the courts. (Leisy v. Harden, 135 U. S., 100.)

2. The power to regulate interstate commerce is vested exclusively in Congress by Article I of section 8 of the Constitution of the United States, and that Congress can neither delegate this power nor enlarge the power of the States in reference thereto. (In re Rahrer, 140 U. S. 562.)

3. This constitutional protection of Congress over interstate shipments can not be divested until the goods have been delivered into the hands of the consignee, and until such delivery they can not be subjected to the operation of State laws. (Rhodes v. Iowa, 170 U. S., 412.)

This bill if enacted into law contravenes every one of these organic and vital principles, the establishment of which was one of the chief causes leading to the adoption of the Constitution. Under the guise of a congressional regulation it makes alcoholic liquors contraband in certain specified cases; it creates a distinction between legal and illegal shipments based upon the varying laws of the different States, thereby delegating to the States the power of regulating interstate commerce, and it strikes down the constitutional protection to a commodity that is the legitimate subject of interstate commerce, prevents its delivery to the consignee, and subjects it to the operation of a State law as soon as it crosses the border of a State.

This bill and others of similar import are unlike any other bills that have heretofore sought to accomplish this purpose. Bills have been introduced seeking to outlaw all traffic in intoxicating liquors by the exercise of the police power which Congress may possess under its plenary powers over interstate commerce. Bills have been introduced expressly declaring that the dominion of Congress over interstate shipments of liquor should cease upon its arrival within the borders of a State and before delivery to the consignee. These propositions which openly and squarely present to Congress the economic and legal questions involved have not been pressed for obvious reasons. In the first case, if Congress had the power and should declare all liquors contraband, it would do so at the cost of $250,000,000 yearly revenue which it receives from the manufacture and sale of this product. In the second case, the attempt by Congress to relinquish control over interstate shipments before delivery to the consignee is such an abandonment of its constitutional power over interstate commerce in its fundamental aspect as to render it unconstitutional.

The bill, in our judgment, seeks to accomplish both of these purposes by indirection and to avoid the inevitable consequences that attach to the direct method above referred to. Let us examine it carefully and see if it can be successfully done.

Its proponents say:

"The bill does not exclude alcoholic liquor from interstate commerce; that it is a regulation made by Congress itself; that the restrictions imposed are all to be found within the bill; that it is uniform in its operation; that it does not subject interstate shipments to the operation of State laws, but that it divests them of their constitutional protection only when some one or more of the parties interested therein intend to violate a State law."

In order to understand the application of the bill let us take a concrete, practical illustration of its operation. A dealer or a manufacturer in Philadelphia has in his possession and for sale in bulk alcoholic liquors. He receives an order from a wholesaler in the State of Pennsylvania, and his commodity is without question and without restrictions transported in intrastate commerce. By the same mail he receives an order for the same goods from another State, and this same commodity, which is the subject of barter and sale by all the civilized nations of the earth, by the acts of Congress and the decisions of the Supreme Court, is given a new status; it is permitted transportation only upon the condition that all the parties interested in the transaction intend to obey the laws of the State to which the consignment is made. The merchant or manufacturer in this case, and the railroads and other interstate transportation companies, are by this bill denied the usual and ordinary presumptions of law that every man intends to do his duty and to obey the laws of the land, but they must, at their peril, ascertain the actual undisclosed intent of the consignee respecting his intention to violate the laws of the State to which shipment is to be made. That actual intention can be legally determined only by a judicial trial in which a consideration of the question, "What are the laws of the State the intention to violate which is alleged?" must be a primary inquiry, because the intention to violate could be deduced only from the provisions of the law itself.

In Pennsylvania, where every licensed dealer has a right to vend liquors freely, the intent to violate would consist of an intention to sell without a license; in Iowa or in Oklahoma, where the sale of liquor is absolutely prohibited, it might be deduced from the mere possession of liquor. If some State in the future should prohibit the personal use of intoxicating liquor, as well as the sale and traffic therein, the mere giving of the order for shipment might be conclusive evidence of intention to violate. So that it must be apparent to every thoughtful mind that the controlling factors in determining the status of intoxicating liquors ordered by mail from the merchant or manufacturer before alluded to are the rigor or liberality, the restrictions or the absence thereof, in the laws of the various States to which the consignments are to be made, to which may be added the vagaries of the trier of the fact as to intention, and that the State law therefore regulates.

The distinction sought to be drawn by the proponents of this bill between its provisions and the provisions of a bill which would in terms submit interstate shipments of liquor to the States as soon as it crosses their borders, is, in our judgment, a thinly veiled sophistry and totally unsound. In the one case the commodity would be in terms subjected to the laws of the State immediately. By this bill the application of the State law would be postponed one stage and the commodity would be submitted to it immediately; that is, when these laws are crystallized into definite form by having influenced the intention of the consignee or other person.

All laws are but the abstract regulation of conduct. They take concrete form, and punishment is inflicted only when the intention to violate the law has been established. In themselves they are rules of conduct. The intent to violate is the offense, and the punishment for the violation is but the enforcement of the law. Therefore, to interdict interstate commerce in a legitimate commodity as a penalty for the intention to disobey a State law is, in legal effect, clearly an attempt to enforce a State law in the regulation of interstate commerce.

The application of this law will also be influenced by future State legislation. The character of State laws respecting the liquor traffic will change from year to year. A "dry" State to-day may be a "wet" State to-morrow. The converse of that proposition is equally true. A "wet" State may in the future absolutely prohibit the sale of liquor, or may even go to the point of prohibiting its personal use. The temptation and incentive of the consignee of intoxicating liquors to intend to violate a State law will therefore vary from year to year, as the attitude of the State law shall vary in its regulation of the traffic.

We have confined ourselves to the consideration of one aspect of the bill only. That it is open to many other insuperable legal objections, we are well aware. The attempt to make the action of A illegal and to inflict upon him a penalty because of this undisclosed and undiscoverable intent of other parties is a startling novelty in legislation—so violative of all of the principles and traditions of the common law from which we have drawn our jurisprudence and so fundamentally dangerous in its application, that it challenges the very foundations of justice itself. But we leave the enlargement and discussion of this to others, contenting ourselves with demonstrating the lack of power on the part of Congress for obvious constitutional reasons to pass the bill.

R. O. MOON,
H. GARLAND DUPRÉ,
WALTER I. MCCOY.

The statement of Mr. Maxwell, an attorney who appeared before the Judiciary Committee, is the clearest exposition of the fundamental constitutional objections to the Webb bill, and his position was successfully maintained under the fire not only of members of the committee, but also of the advocates of the bill present when he offered his views. I can not easily summarize his statement, so give it in full. It is as follows:

In other words, this proposed statute prohibits the transportation from any foreign country or from any State into any State or Territory or District of the United States of ardent spirits, beer, ale, or wine which are intended by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of the State, Territory, or District to which the liquor is to be transported, enacted in the exercise of the police powers of such State, Territory, or District, and any and all contracts pertaining to such transactions are declared to be null and void.

We submit that this bill is unconstitutional because it delegates to the States the power to regulate interstate commerce in its fundamental aspect. The power to regulate interstate commerce, as the Supreme Court has said, is the power to prescribe the rules by which such commerce is to be governed. This bill attempts, of course, a regulation of interstate commerce; otherwise it would not be within the power of Congress to pass it. How does it regulate interstate commerce? By any rule which Congress itself establishes? Not at all, but by a rule which the State establishes. If there is no State law, there is no regulation. If there is a State law, the regulation is determined by that State law. The repeal of that State law repeals the regulation. The amendment of the State law amends the regulation. In the absence of a State law there is no regulation whatever. The extent and measure and duration of the regulation is dependent entirely upon the law of the State. Therefore, this proposed bill undertakes to delegate the regulation of interstate commerce to the laws of the State; to leave it to the State to say when spirits may be carried in interstate commerce, to what extent they may be carried in interstate commerce, and the various limitations which the States may impose upon the transportation of spirits in interstate commerce.

Mr. WEBB. May I ask you a question?

Mr. MAXWELL. Yes, sir.

Mr. WEBB. Do you think that Congress has power under the interstate-commerce clause of the Constitution to prohibit the shipment of all whisky in interstate commerce, if it chooses to do so?

Mr. MAXWELL. That question is not here. That is a difficult question, and one which is not involved at all in this bill, because Congress does not by this bill undertake to prohibit the transportation in interstate commerce of ardent spirits.

Mr. WEBB. It would be involved to this effect: If Congress has the plenary power to prohibit the shipment of all whisky in interstate commerce, having that plenary power, it could do anything which involved a lesser exercise of power; that is, it could prohibit any kind of whisky for any sort of reason. Now, if it could prohibit all whisky without any reason, then it certainly follows that the lesser power is included in the larger, and Congress could prohibit the shipment of any sort of whisky, for any sort of purpose, in violation of any sort of law, rule, or regulation.

Mr. MAXWELL. Which Congress itself prescribes.

Mr. WEBB. I did not see that——

Mr. MAXWELL. But Congress can not fix the rule by which any article of commerce shall be transported in interstate commerce solely with reference to some rule which the State may enact.

Mr. WEBB. I was going to say, though, if Congress has the power to prohibit its shipment entirely and arbitrarily, without assigning any reason at all, it can certainly prohibit any part of this commerce for any reason it pleases to assign, because all of those reasons apply to the exercise of a smaller power and the smaller power is included in the larger one.

Mr. MAXWELL. But Congress must prescribe. If Congress wants to impose regulation, Congress must determine for itself what the regulation shall be, so that the extent and duration of that regulation shall be discovered from the declaration of Congress, and not by the declaration of the State. By this bill Congress does not undertake to say that the transportation of wine, beer, or spirits in interstate commerce is prohibited, or when it shall be prohibited according to any rule prescribed by Congress. Congress is asked by this bill to leave to the various States the enactment of the law which gives vitality to the act of Congress.

Mr. WEBB. In that line, may I suggest this: That in 1900 Congress passed a law, and such men as Judge De Armond, who once graced this committee, voted for it, providing that it should be unlawful to ship in interstate commerce any dead birds or the bodies of animals killed in violation of the laws of the States.

Mr. MAXWELL. Yes.

Mr. WEBB. But permitting the shipment in interstate commerce of the bodies of such dead birds and animals provided the State law permitted the shipment. That statute has been in existence since 1900. It was passed by both Houses. Such men as Senator Bailey and Judge De Armond and other great lawyers voted for it, thereby saying that it was constitutional. On the call of the roll in the House it passed by a vote of 37 to 130. I just suggest that there Congress undertook to predicate legislation upon State law, and that law has been to the circuit court twice in the last 12 years and has not been declared unconstitutional.

Mr. MAXWELL. I am glad you called my attention to that statute. There is a striking difference between the statute now proposed and this statute to which you refer. That prohibited the transportation from a State, in interstate commerce, of what? Of an article which was not an article of commerce. The wild animals and birds which are the subject of that statute are ferae naturae, in which there is no right of property, even after capture, except by the authority and the permission of the State. That game existed as property by virtue of the law of the State in which it was, and if by the law of that State it was denied the right of property, that being within the undoubted power of the State, it then could be treated by Congress as something which was not an article of commerce. What Congress did by that law was simply to say that articles which are not the subject of property—there could be no larceny of such articles at common law—shall not be carried in interstate commerce. That is the whole of that law.

Mr. WEBB. You do not mean to say that birds and animals are not articles of commerce? If they were not, Congress would have no power over them. The first question the court must decide is, Is this thing the subject of interstate commerce? As you will remember, that was the great discussion that they had in the Lottery case. Some of the judges held that lottery tickets were not interstate commerce, and the court held that they must be subjects of interstate commerce before Congress could act at all. The argument you make was never made in the discussion of that same bill on the floor of the House. The court holds that birds are subjects of interstate commerce and subject to the control of Congress. If they were not subject to the control of Congress, Congress would have nothing to do with them.

Mr. MAXWELL. Congress had the right to prohibit the transportation in interstate commerce by a rule which it prescribes. It would not depend at all upon the law of any State except the law of the State in which the wild animals or birds were, a law which in the exercise of the power of that State declared them not to be articles of commerce. They were not property. But as to ardent spirits, I quote from the words of Chief Justice Fuller, in the case of Leisy v. Hardin:

"Ardent spirits, distilled liquors, ale, and beer are subjects of exchange, barter, and traffic, like any other commodity in which a right of traffic exists, and are so recognized by the usages of the commercial world, the laws of Congress, and the decisions of courts."

Mr. MOON. Is it not true that the only way that Congress could ever eliminate the transportation of liquor through interstate commerce is to be governed. This bill attempts, of course, a regulation of interstate commerce; otherwise it would not be within the power of Congress to pass it. How does it regulate interstate commerce? By any rule which Congress itself establishes? Not at all, but by a rule which the State establishes. If there is no State law, there is no regulation. If there is a State law, the regulation is determined by that State law. The repeal of that State law repeals the regulation. The amendment of the State law amends the regulation. In the absence of a State law there is no regulation whatever. The extent and measure and duration of the regulation is dependent entirely upon the law of the State. Therefore, this proposed bill undertakes to delegate the regulation of interstate commerce to the laws of the State; to leave it to the State to say when spirits may be carried in interstate commerce, to what extent they may be carried in interstate commerce, and the various limitations which the States may impose upon the transportation of spirits in interstate commerce.

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Mr. MAXWELL. I am glad you called my attention to that statute. There is a striking difference between the statute now proposed and this statute to which you refer. That prohibited the transportation from a State, in interstate commerce, of what? Of an article which was not an article of commerce. The wild animals and birds which are the subject of that statute are ferae naturae, in which there is no right of property, even after capture, except by the authority and the permission of the State. That game existed as property by virtue of the law of the State in which it was, and if by the law of that State it was denied the right of property, that being within the undoubted power of the State, it then could be treated by Congress as something which was not an article of commerce. What Congress did by that law was simply to say that articles which are not the subject of property—there could be no larceny of such articles at common law—shall not be carried in interstate commerce. That is the whole of that law.

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Mr. MAXWELL. Congress had the right to prohibit the transportation in interstate commerce by a rule which it prescribes. It would not depend at all upon the law of any State except the law of the State in which the wild animals or birds were, a law which in the exercise of the power of that State declared them not to be articles of commerce. They were not property. But as to ardent spirits, I quote from the words of Chief Justice Fuller, in the case of Leisy v. Hardin:

"Ardent spirits, distilled liquors, ale, and beer are subjects of exchange, barter, and traffic, like any other commodity in which a right of traffic exists, and are so recognized by the usages of the commercial world, the laws of Congress, and the decisions of courts."

Mr. MOON. Is it not true that the only way that Congress could ever eliminate the transportation of liquor through interstate commerce is to be declaring that it is not an article of commerce?

Mr. MAXWELL. That is the only way.

Mr. MOON. Like diseased cattle?

Mr. MAXWELL. Diseased cattle are not an article of commerce. Congress may declare, but it declares by its own rule, and can not delegate to any State the power to say what is an article of commerce, if it is a commodity which, by the recognized usages of the commercial world, and by the acts of Congress, is an article of commerce.

Mr. WEBB. Do you think that Congress can arbitrarily declare what is and what is not interstate commerce?

Mr. MAXWELL. Probably not. Congress is doubtless limited by other provisions of the Constitution. In the Lottery case we are not confronted with any question of a delegation of power by Congress. Congress did not prohibit the transportation of lottery tickets to or from States according to whether the States declared such transportation to be illegal. Congress declared its own rule. Congress provided that the transportation of lottery tickets should be forbidden.

Mr. MOON. Mr. Maxwell, in answer to that question, is not this true: That if there was a preponderant public sentiment throughout this country that intoxicating liquors were inimical to the best interests of the country, under the exercise of the police power of Congress they could declare liquor to be not a legitimate subject of commerce?

Mr. MAXWELL. That is a very strong presentation of the question. I am not prepared to dispute that.

Mr. CARLIN. In the Lottery case, is it not a fact that the Supreme Court based its decision upon this ground, that the States having delegated to Congress the power to regulate and control interstate commerce, they at the same time delegated over interstate commerce the police power; and is it not a fact that the Lottery case was upheld upon the ground that that was an exercise of the police power of Congress?

Mr. MAXWELL. I so understand the case, and the exercise of the police power might perhaps extend to the declaration by Congress that ardent spirits should not be transported in interstate commerce.

Mr. CARLIN. In other words, your contention is that Congress could perhaps altogether prohibit the transportation of liquors in interstate commerce, or Congress could regulate it, but that this is neither prohibition nor regulation, as it is dependent upon the action of the State law to make it either?

Mr. MAXWELL. Wholly. Suppose there is no State law; this bill is a dead letter. It accomplishes nothing; it does not regulate. Suppose the State law prohibits absolutely the use of intoxicating liquors, and the possession of intoxicating liquors, as well as traffic in intoxicating liquors, as the State perhaps might do; then the regulation of interstate commerce becomes, solely by virtue of that legislation of the State, a regulation against its transportation into the State for use by the individual, or for possession by the individual, as well as for sale by the individual. Suppose the legislature abolishes that law; then the regulation of interstate commerce is abolished. Suppose the legislature, in the exercise of its police power, regulates by reposing authority in a municipal body, in the council of a city, in selectmen, or in the voters of a residential district of a city, as we have it in Ohio; then the regulation of interstate commerce is measured by the rule which the State adopts. If that rule is repealed, the regulation is gone. If that rule is modified, the regulation is modified. The fundamental objection to this bill, the objection to which I address myself, the objection which to me is insurmountable, is that Congress by this bill is asked to delegate to the States the regulation of interstate commerce.

Mr. MOON. Would not the interpretation of this very bill be different in two different States?

Mr. MAXWELL. Absolutely, and there might be different interpretations in the same State, according to the decisions of the courts of that State.

Mr. WEBB. There would be differences of law, too, because some States have no laws against killing birds, and some States have laws against the shipment of game birds, and nobody can ship them.

Mr. MAXWELL. Then if the bird is property, which it may or may not be, according to the law of the State in which it is killed, Congress does not prohibit its transportation. If it is not property by the law of that State it is not an article of commerce at all, and Congress for that reason prohibits its transportation. The bill now under consideration is entirely different. It deals with commodities which are admitted articles of commerce. In L. & N. R. R. Co. v. F. W. Cook Brewing Co., decided by the Supreme Court on January 22, 1912, the court said:

"By a long line of decisions, beginning even prior to Leisy v. Hardin (135 U. S., 100), it has been indisputably determined that beer and other intoxicating liquors are a recognized and legitimate subject of interstate commerce."

This bill has no force, no effect, no vitality, no significance, except as it attempts to delegate to the States the power to regulate interstate shipments of commodities which, as the Supreme Court says, "are a recognized and legitimate subject of interstate commerce."

Mr. WEBB. Is not that the exercise of a smaller power than the prohibition of all interstate shipment of whisky?

Mr. MAXWELL. No; it is nothing in the world but the delegation by Congress to the State of the power to regulate interstate commerce.

Mr. WEBB. I think it is only regulating commerce; making it depends upon the regulation of the State.

Mr. MAXWELL. That is, leaving it to the State to say whether the interstate transportation of ardent spirits, wine, ale, or beer shall be prohibited or regulate; leaving it to the State to say whether it shall be, and, if it shall be, to what extent. How can you get away from the plain proposition that in the absence of State legislation this law has no vitality or effect?

Mr. WEBB. Do you think we could prohibit the shipment of whisky into any State that prohibits the importation of whisky?

Mr. MAXWELL. Not at all; because you take away from Congress the regulation and delegate that power to the State.

Mr. WEBB. That argument strikes me in this way: Conceding that Congress has a right to destroy the entire body, it has no right to cut off a finger or a toe or a foot. It has the right to destroy the entire commerce in whisky, and yet we can not destroy the commerce in the States where they say it shall not be sold. If Congress has the exclusive power to destroy the entire commerce in whisky, it strikes me it has the power to destroy any part of it for any reason it may assign.

Mr. MAXWELL. Not by the rule, or for any reason you assign. Congress has nothing to do with that statute except to pass it. But, then, whether it is regulation, or what is the extent of the regulation, depends wholly upon a rule which the State prescribes.

Mr. WEBB. Then we say if whisky is being imported in violation of the law of these sovereign States, laws such as these sovereign States have a right to make, then Congress prohibits the importation?

Mr. MAXWELL. True, Congress prohibits the importation; but the States say that it shall be prohibited.

Mr. WEBB. That is right.

Mr. MAXWELL. Only to the extent that the States say. The moment that the State law is repealed the regulation is gone. The minute the State law is modified the regulation is modified. It is a regulation which has no force or vitality except as it is given life or affected by the varying laws of the States.

I have before me the case of In re Rahrer, from which I ask leave to read this short passage from the opinion of the Chief Justice in 140 U. S., page 562:

"It does not admit of argument that Congress can neither delegate its own powers nor enlarge those of a State."

The various forms of regulations which would be engrafted upon interstate commerce by this bill are as many as the various modes of regulation which have been and may be adopted by the States. The regulation may extend to prohibition; it may extend to possession; it may extend to use—for the personal use of the person who

receives it. It may be county regulation; it may be township regulation; it may be city regulation; it may be regulation of a residential district in a city; it may be regulation that is imposed for the purpose of providing a monopoly in the commodity, general or special; and if this bill becomes a law, instead of a uniform rule prescribed by Congress, you will have as many different rules as there may be methods of regulation adopted by the various States. It may be a regulation which rests in some State officer, some county officer, some township officer, some municipal officer, some ward officer.

The lottery case is not subject to the objection which is urged to this bill. Section 242 of the criminal code, prohibiting the transportation in interstate commerce of game which, by the law of the State where it is killed, is not property, is not subject to the objections that are urged to this bill.

Attention was also called at one of the hearings to section 289 of the criminal code. Notice the difference between that section and the bill which is here proposed. Section 289 adopted the laws of the States for punishing acts committed within the territorial limits of the States, but within or upon places now existing or hereafter reserved or acquired by the United States. That was simply adopting the criminal laws of the States then in existence.

Mr. MOON. Let me interrupt you there. That is not adopting the criminal laws of the States?

Mr. MAXWELL. No.

Mr. MOON. It is reenacting the criminal laws of the States and making them Federal laws. We can not adopt State laws.

Mr. MAXWELL. No; Congress can not adopt State laws; it can reenact them.

But does that section allow these laws to be changed or varied by the action of the State? That section expressly provides, "by the laws thereof now in force, and every such State, Territorial, or District law shall, for the purposes of this section, continue in force notwithstanding any subsequent repeal or amendment thereof, by any such State, Territory, or District."

So that Congress itself, by that section, adopted a law. It did not leave it to the States to vary that law.

Mr. MOON. And it adopted it because the Supreme Court of the United States had expressly declared that it could not permit a State to legislate for it.

Mr. MAXWELL. That was the reason which led to the adoption. But when Congress passed this section it adopted the rule of law which Congress then determined should be adopted, and it provided that that rule of law should remain in force notwithstanding any repeal or modification of the State law by the State.

Mr. WEBB. And in every State they came to there might have been different criminal laws; in some no criminal laws with reference to action on this.

Mr. MAXWELL. Congress determined what criminal law should be in force. Congress did not leave it to any State. It examined the criminal laws of the States, and by adoption enacted them, and expressly provided that any repeal of those laws by the States should not affect their existence as laws of the United States by virtue of that section.

Mr. WEBB. And there are as many different criminal laws in the various States as there are States?

Mr. MAXWELL. That is because Congress itself declared the rule. It has not delegated any power. It has expressly provided that the statute shall not be treated as a delegation of power. The statute is the statute that Congress passed, and the rule is the rule that Congress determined upon.

Mr. CARLIN. To make that applicable to this bill, your contention is that the States having already enacted laws pertaining to this particular subject, Congress could reenact them into Federal statutes, but could not leave it open to the States themselves to enact, under a general provision of this sort?

Mr. MAXWELL. Exactly so.

Mr. MOON. No; that does not follow. Bear in mind that that relates to property only over which Congress has exclusive jurisdiction, which happens to be situated in the States. They could not exercise power over any property but that—

Mr. CARLIN. Over which Congress has territorial jurisdiction.

Mr. MOON. Yes; territorial jurisdiction.

Mr. MAXWELL. Territorial jurisdiction.

Mr. MOON. Congress has exclusive jurisdiction over interstate commerce.

Mr. MAXWELL. Congress has exclusive jurisdiction over interstate commerce. Whether Congress should exercise that jurisdiction by enacting a regulation or uniform law which should be applicable to all of the States alike is not a question which is involved here. It may be, perhaps, that Congress, in the exercise of its exclusive jurisdiction over interstate commerce, might say that no ardent spirits shall be transported into Oklahoma or into North Carolina or into some other State. Assuming that Congress would have the authority to pass a bill regulating interstate commerce which should not be uniform in its operation, but be directed against the introduction of ardent spirits into particular States, it would be the act of Congress which determined the regulation; and that regulation would endure because Congress enacted it, and would last as long as Congress maintained that regulation, and the regulation would not be dependent upon the action of the State of Oklahoma or of the State of North Carolina. You come back, every turn you take, to the fundamental objection, and as I contend, the fundamental and insurmountable objection to this bill, that it imposes a regulation upon interstate commerce by leaving the regulation wholly to the States, by delegating to the States the power to regulate interstate commerce, which is a power that can not be delegated by Congress.

Mr. MOON. Do you concede that Congress has the power to adopt regulations of interstate commerce which shall not be uniform?

Mr. MAXWELL. I do not. I presented that illustration simply for the purpose of showing the difference between a rule that is prescribed by Congress itself and one which is prescribed by a State. If Congress has the authority to say that wine, beer, and other liquors shall not be transported into the State of Oklahoma, then Congress acts. If Congress says that ardent spirits shall not be transported into the State of Oklahoma, provided the State of Oklahoma says they shall not be, then Congress delegates to the State of Oklahoma the regulation of interstate commerce by that State.

Mr. HOUSTON. What if Congress should provide that liquor should not be shipped in violation of the laws in the States now in existence?

Mr. MAXWELL. Laws now in existence?

Mr. HOUSTON. Which is intended to be used in violation of laws now in existence in the States, just as it is in the Territories, as you referred to in reference to the criminal code.

Mr. MAXWELL. That would present only the objection to the act as not being a uniform regulation of interstate commerce; but it would not be subject to the objection which this bill presents. If Congress should pass the act which you have just suggested, then the prohibition of the transportation of ardent spirits in interstate commerce into the State would be because Congress had itself adopted the rule by referring to the rule now in existence. The rule would be measured by the laws now in existence in the State. The rule would endure, although those laws might be repealed. The rule would be the same, notwithstanding any modification of those laws by the States, and the rule would not be applied to any future laws of the States or to any States in which laws should be enacted in the future.

Mr. HOUSTON. Now, upon the question of uniformity, you will see that there could not be uniformity between the criminal laws of Territories over which the United States had jurisdiction and the laws of contiguous States.

Mr. MAXWELL. Yes.

Mr. HOUSTON. That difficulty exists there, of course?

Mr. MAXWELL. Yes; but, then, that is a law which is passed not in the exercise of the power of Congress to regulate interstate commerce, but in the exercise of the power of Congress to legislate for territory belonging to the United States.

Mr. DAVIS. Congress has jurisdiction over a Territory of the United States.

Mr. MAXWELL. It has as to its code and form of government.

Mr. DAVIS. The legislation of Congress as to its Territories has not been uniform in many respects.

Mr. MAXWELL. No; it has not been. It has never been supposed that the regulation of the affairs of a State or Territory must be by a uniform rule. It must necessarily be with respect to the local conditions and circumstances. But with respect to interstate commerce the constitutional provision was for the very purpose——

Mr. MOON. I have no recollection of any criminal law that was ever passed for the Territories that was not uniform throughout the Territories. We organize the Territories under the act of Congress, and give them the power of passing local laws; but when Congress has passed a law for a Territory I think you will find it has been uniform with the law throughout all the other Territories. Laws have been passed for all the Territories, uniform throughout all the Territories.

Mr. HOUSTON. Suppose so; but when Congress provides that a law shall be uniform in accordance with the laws of the States contiguous thereto, that might not produce uniformity, of course.

Mr. MOON. No; I know of but one provision of the Constitution that requires uniformity, and that is in the levying of import duties. The Wilson Act of 1890 offended against the rule laid down. There the legislation with reference to whisky clearly does not apply to anything else in the United States except liquors that have been shipped in violation of the laws of the State. There they took away what one great Chief Justice said was the right to sell in commerce after it left the hands of the original consignee. That applies to whisky and does not apply to any other goods that I know of.

Mr. HOUSTON. Would you say that the regulation of interstate commerce must be uniform throughout the States?

Mr. MAXWELL. I am not prepared to say that. That question is not involved in this bill.

Mr. HOUSTON. Well, but it relates to the objection you are making to this bill.

Mr. MAXWELL. No; the objection to this bill is not that Congress might not undertake to prescribe by its own rules the regulation of interstate commerce. My objection to this bill is that the regulation is committed entirely to the States.

Mr. LITTLETON. Suppose it was a fixed condition in the State and not a changing condition, and suppose that applied to one-half of the States, do you think that Congress would have the right of its own power to prescribe a rule governing one half of the States which did not apply to the other half of the States?

Mr. MAXWELL. I do not think Congress would ever think of adopting that sort of a rule.

Mr. LITTLETON. No; but I am speaking of the question of law.

Mr. MAXWELL. No; I think not. The very purpose of adopting the interstate-commerce clause of the Constitution was to have Congress regulate it by a uniform rule, made by Congress itself, without reference to the varying rules of the States. Now, the Wilson bill did what?

The CHAIRMAN. That is the act of 1890 which you referred to?

Mr. MAXWELL. That was the act of 1890. The first in the history of the cases on this general subject were the License cases. They were decided upon the ground that the act of New Hampshire, although it was considered to be a regulation of interstate commerce, was valid because Congress had not acted. The Supreme Court of the United States took the view, which was adhered to for a long time in respect of interstate commerce, that the States might act if Congress had not acted. But that rule is now completely repudiated, and the rule is that no State shall adopt any rule which directly regulates interstate commerce; that the failure of Congress to pass a law on the subject does not confer upon the State power to pass a law.

Mr. MOON. In other words, the failure of Congress to act means that it is the opinion of Congress that commerce shall remain free?

Mr. MAXWELL. Yes; that commerce shall remain free.

Mr. CARLIN. Before we come to the discussion of the Wilson bill let me ask you this: Would it be your interpretation of this bill that it might affect the shipment in interstate commerce of this commodity through a dry State to another State that was not dry?

Mr. MAXWELL. It might.

Mr. THOMAS. Would it affect it in transit, do you mean?

Mr. CARLIN. Yes; affect the shipment of it by seizure. If, for instance, Virginia was dry and had a statute that no liquor should be shipped into it, would that law prevent liquor being shipped through that State into North Carolina as interstate commerce from New York, we will say, or Pennsylvania?

Mr. MAXWELL. That I understand to be the result, upon a fair construction of this bill.

Mr. WEBB. How? Just point out how?

Mr. MAXWELL. Because it declares that the transaction is invalid; from the beginning it is invalid.

Mr. WEBB. Yes; but the man who seizes it has got to prove it.

Mr. NORRIS. It is only invalid when the intention is to violate the law of the State into which it is shipped. That would not apply to the case where it is going through the State. There is no intention to violate the law of that State and sell it there.

Mr. MAXWELL. But the transportation is illegal, no matter through what State it passes, if any party to the transaction interested therein, directly or indirectly, intends to receive or use it in the State to which it is destined, in violation of the laws of that State. The transaction

then is invalid, from the moment it is received by the carrier, even in the State where the contract is made, and it is invalid at every moment subsequent to that time, from that moment passing through any other State.

Mr. HOUSTON. It is with reference to liquors shipped from a certain territory to another specified place.

Mr. MAXWELL. Yes.

Mr. HOUSTON. It could not be construed to be subject to the effect of this law in any State through which it might pass, because that would not be in the spirit or the commodity intended to be affected by this law.

Mr. MAXWELL. That is very true; but in passing through that State the carrier is engaged in an illegal transaction. In taking it out of the State where it was held the carrier is engaged in an illegal transaction.

Mr. HOUSTON. Not unless he was going to ship it to a specified place.

Mr. MAXWELL. That is true. But if he gets in Ohio the package of liquor which may be lawfully sold there, the contract for which is lawful in that State, but which is intended by any person interested therein, in the State of Georgia, to which it is to be transported, to be received or used there in violation of the law of the State of Georgia, the contract of the carrier in carrying it, and its act of carrying, are made illegal from the moment that the carrier receives the goods in Ohio, during their transportation across the States of Kentucky and Tennessee and Georgia. The carrier from the beginning has been engaged in a transaction which is prohibited by law.

Mr. NORRIS. Mr. Maxwell, even assuming that to be all true, the practical result, if it was enacted, would be that no prosecutions would be had along the lines which you are now speaking of, would it not? The prosecutions would take place in the vicinities in the States, in the localities, to which the liquor was consigned.

Mr. MAXWELL. They might take place anywhere along the line——

Mr. NORRIS. Oh, yes——

Mr. MAXWELL. Where the transportation met with the disposition on the part of the officers of a community or particular section of a community to impede the commerce in liquor.

Mr. NORRIS. That might be true; but the person who undertook to bring about this prosecution would have to prove the intent with which the liquor was shipped; and inasmuch as that could only, unless in some exceptional cases, be done by evidence in the locality to which it was consigned, I think that while your construction might be true it would have no practical application for the reason that prosecutions of that kind would be very difficult, in the first place, much more difficult than they would be if they were had in the vicinity where the liquor was delivered to the consignee; so that even if it were true in theory, as a matter of practice it would hardly be done.

Mr. MAXWELL. I suppose, as a matter of practice, the enactment of this law, until its validity was determined by the Supreme Court, would substantially destroy traffic in intoxicating liquors, because the ground upon which the act or transaction is declared to be invalid, and the means for enforcing it, would involve everyone connected with the transaction, although they were acting in good faith.

Mr. NORRIS. Suppose that the man who shipped the liquor was acting in good faith, where would he be in any danger?

Mr. MAXWELL. Because the man who received it might transport it to another State where its sale would be entirely legal, and he might nevertheless say, "I intended to violate the laws of this State," so that you would whistle for your money.

Mr. NORRIS. The vendor would probably get his money before he shipped the liquor.

Mr. MAXWELL. Of course the result would be that no commerce could be conducted with safety except by payment in advance of shipment.

Mr. NORRIS. Oh, yes.

Mr. MAXWELL. That would be required for safety not only to the seller but to the carrier, because the carrier has no right of recovery, and all that is necessary for anybody to do under this statute is to say that he intended to violate the laws of the State, and when he says that, that is proved, and immediately the entire transaction becomes from the beginning invalid and illegal. No action can be maintained by the seller against the purchaser. No action can be maintained by the carrier against either seller or purchaser. No contract with respect to any part of the transaction, the sale or transportation, can be enforced in any State of the United States.

Mr. DAVIS. Taking the case of the carrier, you suggest that the shipper could protect himself from loss by demanding payment in advance?

Mr. MAXWELL. Yes.

Mr. DAVIS. I suppose the carrier could do the same thing by demanding payment in advance; and if the carrier demanded payment in advance from the shippers of liquor the carrier would have to demand payment in advance, under the interstate commerce act, from all other shippers?

Mr. MAXWELL. He would have to demand payment in advance from all other shippers; otherwise he would be guilty of discrimination, under the interstate commerce act.

Mr. DAVIS. The result would be to put all freight business on a cash basis?

Mr. MAXWELL. On a cash basis, and the result would be to destroy interstate commerce not only in this commodity, which is the object and purpose of those who are promoting this bill, but to destroy interstate commerce in all commodities.

Mr. NORRIS. Would not the only effect be, so far as the seller is concerned, that he would get his money in advance instead of selling on time; and is it not also true that under present conditions, under the present law, all such liquor shipped into States where it is illegally sold is paid for in advance before the shipment is made?

Mr. WEBB. You can not ship it C. O. D. at all now.

Mr. MAXWELL. You can not ship it C. O. D.; no.

Mr. NORRIS. No.

Mr. MAXWELL. But you can ship according to the ordinary rules of commerce, with a bill of lading attached, or upon the credit of the consignee. But here you are proposing by an act of Congress to make the entire transaction invalid because of an intent on the part of one of the parties to that transaction uncommunicated to the other.

Mr. NORRIS. I think that is right, Mr. Maxwell; but the point I wanted to bring out was that the danger, so far as the shipper was concerned, was practically nil, as I see it, and the danger of liquor being seized in a State through which it must pass to reach its ultimate destination would be practically none, because the evidence of the transaction depending on the intent of some one connected with the transaction, that evidence would necessarily be in the locality where the liquor was finally used illegally, if it was used illegally. That is where you would have to go to get your evidence. That is where prosecutions would occur, if any occurred.

Mr. MAXWELL. But suppose the law of the particular State declared a rule of evidence that possession was prima facie evidence of intention and purpose to use illegally?

Mr. MOON. Suppose it became a question of construction before the Supreme Court of the United States; is it not the cardinal rule that all laws are to be construed according to their possible and not according to their probable effect?

Mr. MAXWELL. That is the rule of construction, and it is doubtless the purpose of this law to invoke that rule of construction for the purpose of embarrassing the transportation of liquor. The extent to which the adoption of this rule would interfere with the trade is not a subject which I propose to discuss. Practical men can tell the committee about that, and whether the liquor could be seized in the State through which it was passing to its destination is not a question which involves the constitutionality of this act, and the suggestions on these subjects are all quite aside from the single objection which I wish to present to this committee, which is that no matter whether its construction be one way or the other upon the various points that are now suggested, this bill is beyond the power of Congress, because it is a delegation by Congress to the State of the regulation of interstate commerce and the regulation of interstate commerce in its fundamental aspect.

In the case of Bowman *v.* Chicago & Northwestern Railroad Co., reported in 125 U. S., which was decided in 1888, there was involved the question whether the railroad company was liable in damages for refusing, in Illinois, to receive for transportation to Iowa intoxicating liquors. It was lawful in the State of Illinois to sell and transport. It was unlawful in the State of Iowa to sell or transport. The railroad company defended the action on the ground that it was not compelled to receive the liquor, and was not liable in damages for failure to do so, because by the law of Iowa it was forbidden; and the question before the Supreme Court was whether that was a valid defense, and the question was whether the law of Iowa could affect the duty of the railway company, as an interstate carrier, to receive and transport the liquors. Mr. Justice Matthews, in delivering the opinion in that case, said, at page 493:

"Can it be supposed that by omitting any express declarations on the subject, Congress has intended to leave to the several States the decision of the question in each locality of what shall and what shall not be articles of traffic in the interstate commerce of the country? If so, it has left to each State, according to its own caprice and arbitrary will, to discriminate for or against every article grown, produced, manufactured, or sold in any State and sought to be introduced as an article of commerce into any other. If the State of Iowa may prohibit the importation of intoxicating liquors from all other States, it may also include tobacco or any other article the use or abuse of which it may deem deleterious. It may not choose even to be governed by considerations growing out of the health, comfort, or peace of the community. Its policy may be directed to other ends. It may choose to establish a system directed to the promotion and benefit of its own agriculture, manufactures, or arts of any description and prevent the introduction and sale within its limits of any or of all articles that it may select as coming into competition with those which it seeks to protect. The police power of the State would extend to such cases, as well as to those in which it was sought to legislate in behalf of the health, peace, and morals of the people. In view of the commercial anarchy and confusion that would result from the diverse exertions of power by the several States of the Union it can not be supposed that the Constitution or Congress have intended to limit the freedom of commercial intercourse among the people of the several States. 'It can not be too strongly insisted upon,' said this court in Wabash, etc., Railway Co. *v.* Illinois (118 U. S., 557, 572), 'that the right of continuous transportation from one end of the country to the other is essential in modern times to that freedom of commerce from the restraints which the States might choose to impose upon it that the commerce clause was intended to secure. This clause giving to Congress the power to regulate commerce among the States and with foreign nations, as this court has said before, was among the most important of the subjects which prompted the formation of the Constitution.' (Cook *v.* Pennsylvania, 97 U. S., 566, 574; Brown *v.* Maryland, 12 Wheat., 419, 446.) And it would be a very feeble and almost useless provision, but poorly adapted to secure the entire freedom of commerce among the States, which was deemed essential to a more perfect union by the framers of the Constitution if, at every stage of the transportation of goods and chattels through the country, the State within whose limits a part of the transportation must be done could impose regulations concerning the price, compensation, or taxation, or any other restrictive regulation interfering with and seriously embarrassing this commerce."

That was said by one of the greatest justices who has sat in the Supreme Court, by a man whose surroundings and associations disconnected him as far as possible from traffic in intoxicating liquors. He was a churchman, an elder in the Presbyterian Church; a man distinguished for his piety as well as for his learning and character. But he sat there as a judge; just as this committee must sit in this case, free from all suggestions that overlook the fundamental limitations upon the power of Congress, which must consider only—not only with respect to this particular commodity, for it is a rule that must apply to all commodities—the provision of the Constitution which places the regulation of interstate commerce in Congress, and exclusively in Congress.

The court did not, in that case, have occasion to determine whether or not the liquor, after being received in the State of destination, might be subject to the local rule with respect to its disposition. Manifestly there is a distinction between the transportation and the disposition of the goods after they have been received by the consignee. The transportation is a national matter and includes the receipt and carriage and delivery to the consignee. After the goods have been delivered and have become a part of the mass of the property of the State, then the State may deal with them, because that becomes a subject of local regulation, and Congress has, by the Wilson bill, expressly authorized the State to deal with subjects of interstate commerce, with intoxicating liquor which has been transported in interstate commerce into a State, after it has been delivered to the consignee and has thereby become a part of the mass of the property of the State.

Mr. WEBB. You would have argued that law unconstitutional, too, would you not, Mr. Maxwell? Would you not have argued that that was unconstitutional—any attempt to take away from the consignee the right not only to receive it but to sell it?

Mr. MAXWELL. The validity of that law was, of course, argued before the Supreme Court of the United States in the case of In re Rahrer.

Mr. WEBB. Yes.

Mr. MAXWELL. Which was the first case in the Supreme Court involving the construction and validity of that act, and there the Supreme Court held that the power to sell after the goods had been delivered to the consignee and had become a part of the mass of the property in the State was not an essential incident of interstate commerce.

Mr. WEBB. But it had been held an essential incident in other cases, had it not?

Mr. MAXWELL. It had been.

Mr. WEBB. Yes.

Mr. MAXWELL. But the Supreme Court of the United States declared in that case that the right of the consignee to sell in the original package was not an essential incident of interstate commerce. When the case of Rhodes v. Iowa came up, which is reported in 170 U. S., page 412, the question was whether under the Wilson Act it was competent for the State, in the exercise of its power, to deal with the property or impose its regulations, the particular State regulation there involved comprehending the seizure prior to the delivery of the property to the consignee, and the Supreme Court of the United States decided, without passing upon the constitutional question, that under the Wilson Act the power of the State could not be exerted until the essentially interstate-commerce transaction was ended; in other words, until the commodity had been delivered to the consignee.

Mr. WEBB. Did they not say in that same case that, if Congress chose to do so, it might subject these intoxicating liquors to the police power of the State at an earlier period?

Mr. MAXWELL. No; they did not say that; the case was decided upon a construction of the Wilson Act, which was necessary in order to make that statute constitutional. That is obvious. I have the case before me. Mr. Justice White, now the Chief Justice of the Supreme Court, said, at page 424:

"Whilst it is true that the right to sell free from State interference interstate-commerce merchandise was held in Leisy v. Hardin to be an essential incident to interstate commerce, it was yet but an incident, as the contract of sale within a State in its nature was usually subject to the control of the legislative authority of the State. On the other hand, the right to contract for the transportation of merchandise from one State into or across another involved interstate commerce in its fundamental aspect, and imported in its very essence a relation which necessarily must be governed by laws apart from the laws of the several States, since it embraced a contract which must come under the laws of more than one State. The purpose of Congress to submit the incidental power to sell to the dominion of State authority should not without the clearest implication be held to imply the purpose of subjecting to State laws a contract which in its very object and nature was not susceptible of such regulation even if the constitutional right to do so existed, as to which no opinion is expressed."

Mr. MOON. In other words, he complimented Congress in construing that act by saying that they would not attempt to do so ridiculous a thing as to assert the right of the State to interfere with interstate commerce. They would not construe it that Congress meant that, because they gave Congress the credit of not attempting to commit an absurdity; was that it?

Mr. MAXWELL. That is it. They construed that act so that it should be constitutional; and out of deference of the judicial department to the legislative department they said they would not assume that Congress undertook to regulate a transaction which, in its very nature, was not susceptible of regulation in that way.

Mr. WEBB. They complimented Congress, not for refusing to prohibit the shipment of all whisky in interstate commerce, but simply because they did not delegate this interstate-commerce power to the States. There is no compliment on the whisky side of it.

Mr. MAXWELL. Oh no.

Mr. WEBB. I understood you that the compliment was because they did not exclude all whisky.

Mr. MOON. They said that Congress did not mean to interfere with its interstate shipment. When you come to read the language of the act, I am not so sure about it, and never was; but the court simply said that Congress could not do that. They knew that would be contrary to the Constitution, and they said, "We know that you would not attempt to do so ridiculous a thing." That is about what the court said.

Mr. MAXWELL. Yes.

Mr. MOON. You read the language of the Wilson Act, and I think you will come to the conclusion that Congress did intend to surrender that of the police power of the State.

Mr. WEBB. Then there is no compliment to Congress.

Mr. MOON. They dug that out of it. [Laughter.]

Mr. MAXWELL. The Supreme Court of the United States did in that case what it is the duty of every court to do—to construe the act, if possible, so that it will be constitutional; and so construing it they took occasion to point out that they could not impute to Congress the intention to leave to the various States a rule which, in respect of interstate commerce in its fundamental aspect, could only be prescribed by a national body.

What is the purpose of this bill? The sole purpose of this bill is to put into the power of the State the authority to interfere with an interstate-commerce transaction in its fundamental aspect by seizing the liquor before the interstate-commerce transaction is ended, to wit, before delivery to the consignee.

Mr. CARLIN. Have you before you the criminal code? I have on my notes a reference to sections 242, 249, and 255.

Mr. MAXWELL. I have here section 242; that is the game law.

Mr. CARLIN. What is section 249?

Mr. MAXWELL. That is with reference to equipping vessels for the slave trade.

Mr. CARLIN. Section 255 has been cited here as bearing on this situation.

Mr. MAXWELL. That has nothing to do with interstate commerce. That was cited, as I understand it, on the subject of intent. Congress prohibited the equipment of vessels in the slave trade, and, being a criminal statute, made it one of the conditions of the criminal act that it should be done with intent to accomplish the criminal purpose.

Mr. Chairman and gentlemen, I am very much obliged to you for the time which you have given me, which I have already transgressed.

The CHAIRMAN. I suppose you intend to revise your remarks, and the committee regrets that it can not give you more time to-day; so that, if you desire it, you may submit to the committee a brief, which will be printed as a part of the hearings.

Mr. MAXWELL. I shall be glad to do that.

The CHAIRMAN. And in that brief I am sure the committee would be very glad to have you review all the decisions in these cases. You started to do that in your argument. You took the case of Bowman v. Chicago & Northwestern Railway Co., and then you started to review the history of the Wilson law, the act of August 8, 1890.

Mr. MAXWELL. That was passed as the result of the decision in the case of Leisy v. Hardin.

The CHAIRMAN. The case of Leisy v. Hardin was decided April 28, 1890.

Mr. MAXWELL. Yes.

The CHAIRMAN. Following that, the Rhodes case came. We would like for you to review that, and the Rahrer case, and then the case of Vance v. Vandercook, the South Carolina case.

Mr. MAXWELL. Yes.

The CHAIRMAN. There is an expression used in that latter case on which we would like to have your views. I believe I can give you what it is. It refers to the personal use. Mr. Justice White, in the case of Vance v. Vandercook, used this language, and I quote from one hundred and seventieth United States, page 452. They first say the distinction between the right to transport intoxicating liquors into the States for personal use and the legal restriction imposed by the State on liquors for sale or storage is clearly shown. The statute of South Carolina involving the question of personal consumption was considered, and the right was upheld. It appears to have been upheld. Mr. Justice White, on behalf of the court, said:

"Indeed, the law of the State here under review does not purport to forbid the shipment into the State from other States of intoxicating liquors for the use of a resident, and if it did so, it would upon principle and under the ruling in Scott v. Donald, to that extent be in conflict with the Constitution of the United States. It is argued that the foregoing considerations are inapplicable, since the State law now before us, whilst it recognizes the right of residents of other States to ship liquor into South Carolina for the use of residents therein, attaches to the exercise of that right such restrictions as virtually destroy it.

"But the right of persons in one State to ship liquor into another State to a resident for his own use is derived from the Constitution of the United States, and does not rest on the grant of the State law. Either the conditions attached by the State law unlawfully restrain the right or they do not. If they do—and we shall hereafter examine this contention—then they are void. If they do not, then there is no lawful ground of complaint on the subject."

Then, further along, he says:

"Conceding, without deciding, the power of the State where it has placed the control of the sale of all liquor with the State in charge of its own officers to provide for an inspection of liquors shipped into a State by residents of other States for use by residents within the State, it is clear that such a law, to be valid, must not substantially hamper or burden the constitutional right on the one hand to make, and on the other to receive, such shipment."

I call your attention to that, and to the other cases I have referred to; and also, Mr. Maxwell, we would like to have you get hold of several reports that have gone from this committee, dealing with this question. You will find that a report was made from this committee on April 8, 1904, reviewing the Wilson law, and reporting a bill to do away, as far as Congress could do so, with the effect of the decisions which militated against the effectiveness of the Wilson law.

Then you will find, again, that on January 24, 1907, Mr. Littlefield reported on behalf of this committee a bill to the House on this subject, somewhat after the form of the Wilson law, and he undertook in that report to review all these decisions; and I want to say for the members of the committee that most of us who have been on the committee for a long time have heard all of these decisions reviewed quite frequently before, but we would like for you to review them in connection with this particular bill.

Mr. MAXWELL. That I shall be glad to do. In my argument I intended to say something about many of them, but I have exhausted the time allotted to me. I speak with diffidence before this committee, whose familiarity with the subject is much more intimate than mine. I suppose that I was asked to speak here because I have had occasion to argue some cases in the Supreme Court of the United States involving the application of State laws to interstate commerce, including the cases that came up from Iowa and some that came up from Kentucky.

The purpose of this law, the effect of it, is nowhere more aptly stated than it was in the proceedings before this committee on January 30, where Mr. Dinwiddie said:

"The beauty about this law, as Mr. WEBB expressed it to me the other day, is that it expands or contracts with the legislation of the State."

That is the whole of this law. That is the beauty of it; that is the purpose of it—to have regulation if the State imposes it, to have regulation to the extent that the State imposes it, to have regulation stop when the State says so.

The CHAIRMAN. You think that beauty is, then, fatal to its constitutionality?

Mr. MAXWELL. That beauty, which is the object of attraction to its advocates, is the beauty which makes it unconstitutional. It is the beauty which removes the regulation as a regulation of commerce and commits it to the States. It expands or contracts, not as Congress determines in its wisdom, but as the States determine, for any of the many purposes which, as Mr. Justice Mathews pointed out, would be included in the exercise of their police power.

I had also proposed to say something on the subject of the invalidity of this bill on the ground that it denies fundamental rights by destroying the validity of a contract because of the intent of one of the parties not communicated to the other, and to call the attention of the committee to the observation of Mr. Justice Holmes in one of the cases before the Supreme Court, where he said that commerce among the States is a practical conception. To make the intent of the consignee the test of interstate commerce is even a more visionary contention than one drawn from the witty diversities of the law of sales.

Chief Justice Brian, in an early case, as quoted by Lord Blackburn in a later case in the House of Lords, said: "It is trite law that the thought of man is not triable, for even the devil does not know what the thought of man is."

Under this section a contract made by one of the parties in good faith immediately becomes invalid because of the uncommunicated and unknown intent of the other party.

The CHAIRMAN. I would like for you to discuss that more elaborately in your brief than you have had the opportunity of discussing it here. Of course Congress has regulated to an extent that practically amounts to the prohibition of the transportation of diseased cattle in interstate commerce, but there the diseased nature of the cattle was an inherent characteristic of the property entering into interstate commerce. So, also, has it regulated the matter of the shipment of explosives; but there the dangerous nature of the explosives was an inherent characteristic of the commodity. Here the idea is that the purpose for which the consignee intends to use the liquor shall relate back to

the initial transaction of the shipment and affect that. I would like to hear from you on that in your brief.

Mr. MAXWELL. I shall be glad to treat that. We submit that that feature of the law is absolutely repugnant to fundamental principles underlying all law and to the Constitution of the United States.

With respect to the shipment of putrescent food and articles which of themselves would be a danger to interstate commerce, such as explosives, I shall have printed in my brief what the court in the case of In re Rahrer refers to as the sagacious observations of Mr. Justice Catron in the license cases, where he points out the difference between forbidding the shipment of such articles in interstate commerce and the regulation of interstate commerce by the State, upon the ground that those articles are not subjects of interstate commerce at all, and may be so declared, and are so declared by the act of Congress.

Mr. WEBB. On that line, let me suggest these laws to you, to show you that Congress has never followed out any such line as that. In the Dingley law they prohibited absolutely the importation of any goods or merchandise made in whole or in part by convict labor. There the goods were just as fine and as wholesome and as sanitary as any other goods. A little later they passed a law prohibiting the shipment or transportation in any vessel of any loose hay. Loose hay is just as good as any other hay. Congress gets the power to do these things from the constitutional provision giving it control over interstate commerce. A little later, for the benefit of a few New York manufacturers of silver and gold, they prohibited the shipment in interstate commerce of gold and silver with three words on it, "U. S. Assay," and if it did not bear the correct amount of gold and silver in it. There was nothing hurtful about the gold and silver; there was nothing hurtful about it if it had the "U. S. Assay" on it; but Congress absolutely prohibited in commerce those things. Congress further prohibits, if you will notice, the transporting in interstate commerce of meats, whether diseased or not, unless they are inspected by an inspector. That meat may be perfectly wholesome, but unless it has the stamp of the inspector upon it, it can not be shipped in interstate commerce, and although the cattle were just as healthy as any in the world and the meat is perfectly sound, it is condemned; and that is not confiscation.

Mr. CARLIN. But the right to prohibit is not involved, under your argument.

Mr. MAXWELL. Not at all.

Mr. CARLIN. The question here is whether Congress does anything else than delegate the power to some one else to prohibit.

Mr. MAXWELL. And nothing is more pertinent, in that connection, than the sagacious observations of Mr. Justice Catron quoted by Chief Justice Fuller in In re Rahrer, the case in which the Wilson Act was held to be constitutional:

"The exclusive State power is made to rest, not on the fact of the state or condition of the article, nor that it is property usually passing by sale from hand to hand, but on the declaration found in the State laws, and asserted as the State policy, that it shall be excluded from commerce. And by this means the sovereign jurisdiction in the State is attempted to be created, in a case where it did not previously exist. If this be the true construction of the constitutional provision, then the paramount power of Congress to regulate commerce is subject to a very material limitation; for it takes from Congress, and leaves with the States, the power to determine the commodities, or articles of property, which are the subjects of lawful commerce. Congress may regulate, but the States determine what shall or shall not be regulated. Upon this theory, the power to regulate commerce, instead of being paramount over the subject, would become subordinate to the State policy power; for it is obvious that the power to determine the articles which may be the subjects of commerce, and thus to circumscribe its scope and operation, is, in effect, the controlling one."

And so it is here. Congress is not asked by this bill to declare a national policy or to prescribe a uniform regulation, but to provide that whatever the different States from time to time declare by varying rules not to be the subject of interstate commerce shall not be carried in interstate commerce.

Mr. CARLIN. Mr. Maxwell, I think you said you wanted to be heard.

Mr. MAXWELL. Mr. Chairman and gentlemen of the committee, I do not think the bill before the committee involves consideration of the question of the general power of Congress to prohibit the transportation of intoxicating liquor in interstate commerce, because any such provision would necessarily involve a complete revolution in the great body of the laws of the United States and in its fiscal system. I understand that the total revenue of the Federal Government for the fiscal year 1910, raised by taxation, amounted to $675,000,000, and that of that revenue $252,000,000 was derived from the tax on intoxicating liquor. So that if the transportation of these liquors in interstate commerce is to be considered by Congress, it must be in connection with an entire change of policy as to the fiscal affairs of the Government and its taxation.

Mr. NORRIS. Could I ask you a question there? Can you give us any information as to how much of that tax is derived from the intoxicating liquors used illegally or sold illegally?

Mr. MAXWELL. How can you ascertain that?

Mr. NORRIS. Well, I do not know; I was trying to get information from you.

Mr. MAXWELL. That could not be ascertained. You might ascertain what liquor was transported into the States that have regulating laws, but how much of that, if any, was used illegally or transported for the purpose of being used illegally, of course, could not be ascertained. I am informed in the Internal Revenue Department the greatest violation of the internal-revenue laws with respect to the manufacture of distilled spirits occurs in the States where prohibitory laws are in force, and those statistics the committee can easily get from the Commissioner of Internal Revenue. I understand that the work of the Department of Justice in punishing violations of the internal-revenue laws is largely in States where the traffic in intoxicating liquor is wholly prohibited.

Mr. NORRIS. This law would not apply to this, as I understand it. That would not be interstate commerce.

Mr. MAXWELL. That would not be interstate commerce; no.

On the question of the general and absolute prohibition of transportation of intoxicating liquors in interstate commerce you would have to consider whether Congress, under the power given to it by the Constitution to regulate, could prohibit the transportation of an article which by the commercial usages of the world and the laws of the United States is an article of commerce. You would also with respect to the particular method of prohibition suggested by this bill have to consider some fundamental principles established by the Constitution of the United States. For instance, in the case of Adair v. United States (208 U. S., 162), the court held that Congress had no power to make it a criminal offense against the United States for a carrier engaged in interstate commerce to discharge an employee simply because of membership in a labor organization, and that a provision to that effect in an act of Congress concerning interstate commerce was a violation of personal liberty as well as of the right of property created by the fifth amendment to the Constitution of the United States. That was an act passed under the authority of Congress to regulate interstate commerce, and the Supreme Court struck down that provision because the power of Congress was limited in respect to regulation of interstate commerce by other fundamental provisions in the Constitution of the United States.

Take another case, the case United States v. Fox (95 U. S., 670). The court decided that section 5132 of the Revised Statutes, which declares that every person respecting whom proceedings in bankruptcy are commenced, who, within three months before their commencement obtains goods upon false pretenses with intent to defraud, shall be punished by imprisonment, was inoperative to render the act an offense because its criminal character was to be determined by a subsequent proceeding. The act was criminal if within three months there should be proceedings in bankruptcy. It was not criminal if the proceedings were commenced in three months and a day. The Supreme Court held it was in violation of the Constitution of the United States. Why? Justice Field, in the course of his opinion, did not refer to any specific provision of the Constitution, but decided that an act which is not an offense at the time it is committed can not become such by any subsequent independent act of the party with which it has no connection. The criminal intent must exist when the act complained of is done; it can not be imputed from a subsequent independent transaction. And there are other decisions of the Supreme Court of the United States and in State courts suggesting the same principle.

Mr. MOON. Take a simple illustration. Suppose we passed a law requiring railroads to carry everybody at a rate of 1 cent a mile. That is regulation of interstate commerce.

Mr. MAXWELL. Yes.

Mr. MOON. Where anything of that kind has been attempted it has been at once said that it is confiscatory. Therefore the powers of Congress are subject to all the other limitations placed in the Constitution of the United States.

Mr. MAXWELL. They must be; that has been decided frequently by the Supreme Court.

Now, with respect to this particular bill. It says that the transaction is prohibited and the contract is declared to be void if one of the parties, unknown to the other, intends to violate any law of a State. That is an attempt to declare a transaction invalid because one of the parties to the transaction, unknown to the other, intends to violate in the future, when he gets the goods, some law of the State. Suppose he does have that intent in his mind when the goods are ordered. Suppose he abandons that intention before the goods are delivered to the carrier, or after they are delivered to the carrier and before they are delivered to him. Nevertheless, that intent which he had at the time he purchased the goods, and at any time before the goods are delivered to him, renders the whole transaction invalid.

Mr. WEBB. Mr. Maxwell, if you agree that Congress could prohibit entirely that shipment without assigning cause, don't you admit that it could limit it?

Mr. MAXWELL. Certainly, Congress could not do that. But by this bill Congress is asked to say that a transaction is invalid if one of the parties to that transaction has the intent at any time, undisclosed to the other, to violate some law of the State.

Mr. NORRIS. Mr. Maxwell, if this bill were changed so that the intent were confined to one person, would it in your judgment change the status of the thing?

Mr. MAXWELL. No; it would not. The right of transportation in interstate commerce is a right of the consignor, of the vendor, as well as the consignee, and that right can not be affected so as to render the contract invalid as against the seller because of the undisclosed purpose or intent of the buyer to violate the law.

Mr. NORRIS. The point I wanted to make is this: In your argument you have repeatedly said that this law would apply if the intent of any of the persons was to use it illegally, that intent being unknown to any of the other persons. Then your judgment would be that the law would be just as bad if the intent were confined entirely to one person in the transportation.

Mr. MAXWELL. Yes; and for what reason? You can not have an interstate transaction without the cooperation of two or more, and it is not within the power of Congress or any legislature under a constitutional government to declare a contract, which requires the cooperation of two or more persons, invalid because one of those persons has the intent to commit a crime.

Mr. MCGILLICUDDY. Do you concede that Congress has the constitutional power to prohibit interstate commerce in intoxicating liquors altogether?

Mr. MAXWELL. I do not; I do not concede that power.

Mr. MOON. Do you concede the second proposition, that even supposing they had, it gives them the right to discriminate?

Mr. MAXWELL. Not at all.

Mr. MOON. They have a right to say that diseased cattle shall not go into interstate commerce, and thereby absolutely outlaw them, but they have not a right—if they do not outlaw—to discriminate between the different States as to the shipment.

Mr. MAXWELL. They have not; no sir. That means, to use the language of Mr. Justice Matthews in the case of Bowman v. Railway Company, commercial anarchy. The very purpose of the interstate-commerce clause of the Constitution was to prevent commercial anarchy and to have interstate commerce subject, and subject only, to uniform rules established by the Congress of the United States, so that when any man in a foreign country or in this country wishes to engage in interstate commerce the only law that he has to consult is the law of the United States. On the other hand, under this bill no man in London, Paris, or New York, or Philadelphia could engage in interstate commerce in this commodity without consulting the law of the State to which the goods are to go. He can not find out whether an interstate transaction is regulated, or to what extent, by making an exhaustive search of the laws of the United States. He would not get a start there, because immediately he would be referred to the various laws of the States. That is just what the commerce clause was intended to prevent. Under the commerce clause a man who wants to engage in interstate commerce or foreign commerce is required to consult, and to consult only, the laws of the United States.

Mr. CARLIN. A great deal of stress has been laid on the fact that Congress has recognized in the way of statutes the shipment of birds. What have you to say about that?

Mr. MAXWELL. I am very glad to have an opportunity to say a word about that. What I have said just now about the prohibition of

interstate traffic or the power of Congress to absolutely prohibit the transportation of intoxicating liquors in interstate commerce is, in my opinion, quite aside from the question that you have before you in this bill. The fundamental objection to this bill, the objection which is vital and can not be overcome, is the objection that this bill undertakes to delegate to the States whatever regulation of interstate commerce is to be accomplished by the bill, and, as the chairman of the subcommittee so clearly pointed out, this law itself discloses no regulation; it has no vitality except as State laws come in. The power to regulate is the power to prescribe the rules under which interstate commerce shall be conducted, and there are no rules in this bill. The rules exist only when the State acts and to the extent that the State acts, and when the State repeals the law there is no rule, and when the State amends the law the rule is modified.

Now, it is said, "Does that delegate the power to the State?" There is no magic in the word "delegate." The objection is that Congress undertakes to regulate commerce among the States, not by any rule which it prescribes, but by a rule which it leaves the States to prescribe.

Has Congress any policy—because the regulation of interstate commerce must evidence some public policy—has Congress any policy about the transportation of intoxicating liquors in interstate commerce? None whatever by this bill. Whatever is the policy of any particular State is the policy adopted by this bill. Congress has no policy. Congress by this law leaves the regulation, whatever it is, the expression of public policy, entirely to the State and dependent upon the State.

In that connection, if the committee will allow me, I would like to quote a passage from the opinion of Chief Justice Marshall in Gibbons v. Ogden. On page 206 he says:

"The act of 1803 (3 U. S. L., 529) prohibiting the importation of slaves into any State which shall itself prohibit their importation implies, it is said, an admission that the States possessed the power to exclude or admit them; from which it is inferred that they possess the same power with respect to other articles.

"If this inference were correct; if this power was exercised, not under any particular clause in the Constitution, but in virtue of a general right over the subject of commerce, to exist as long as the Constitution itself, it might now be exercised. Any State might now import African slaves into its own territory. But it is obvious that the power of the States over this subject previous to the year 1808 constitutes an exception to the power of Congress to regulate commerce, and the exception is expressed in such words as to manifest clearly the intention to continue the preexisting right of the States to admit or exclude for a limited period. The words are: "The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808." The whole object of the exception is to preserve the power to those States which might be disposed to exercise it; and its language seems to the court to convey this idea unequivocally. The possession of this particular power, then, during the time limited in the Constitution can not be admitted to prove the possession of any other similar power."

Now, Mr. Caldwell could not, of course, fail to appreciate the vital importance of the objection which we urge to this bill; and, so far as possible, I have refrained from discussing any other objection. What is the good of considering other objections to a bill which is clearly repugnant to the Constitution of the United States because it delegates to the States a power which rests exclusively in Congress? And Mr. Caldwell, fine lawyer as he is, thoroughly appreciative of the significance of that objection, argued here for two hours without ever touching the point, and then, when his attention was called late in the afternoon to that objection, he referred to the Lottery case. But the act of Congress involved in that case did not leave anything to the States. It prohibited absolutely the interstate transportation of lottery tickets. It delegated no power to the States and was not dependent on any State law.

Another illustration used by Mr. Caldwell was that of obscene books, being section 245 of the criminal code of the United States. Congress does not say they are prohibited between States which provide that obscene books and pictures shall not be received. Congress declares its own rule, and says that obscene books shall not be transported in the mails or carried in interstate commerce. There is no delegation of power to the States.

Then, with respect to the adoption or enactment of criminal laws of the States, in territory within the States subject to the jurisdiction of the United States, being section 289 of the criminal code, Congress left nothing to the States. Congress said that the laws in existence were enacted by it and that they should remain in force, so far as the United States are concerned, notwithstanding any subsequent repeal or amendment thereof by the State. There was no delegation of power to the State.

Then they cite the Lacey Act of 1900, now section 242 of the criminal code, which makes it unlawful to transport in interstate commerce the dead bodies of wild animals or birds killed in violation of the law of the State in which they were killed or from which they were shipped, and Mr. Caldwell says that statute is an instance of the power of Congress to regulate interstate commerce, dependent upon action by the State. What Congress did by that statute was to make it illegal to transport in interstate commerce certain animals, or the dead bodies of certain animals, which are by the common law feræ naturæ, which belong to the sovereign, and which can not become private property or an article of commerce except with the sovereign's consent. Whether wild animals and birds are property depends entirely upon the law of the State in which they are killed. There is no other law that can govern the subject. What Congress did was to say that, since wild animals and birds killed in violation of law are not articles of commerce, they shall not be transported in interstate commerce. They are not property at all.

The statute has been before the courts in two cases. In United States v. Smith (115 Fed., 423), which was an indictment under the statute before Archbald, in the District Court of the United States for the Middle District of Pennsylvania in 1902, he sustained a demurrer to the indictment on the ground that it did not state an offense.

Mr. WEBB. In that it failed to set up the State law.

Mr. MAXWELL. The indictment was not sustained because it was not a good indictment. Here is what he said in his opinion, at page 428, in answer to the argument that the statute was unconstitutional:

"According to the views so expressed, I am therefor clearly of the opinion that no evasion or violation of the act is disclosed in the indictment, and that the demurrer must be sustained. The larger question whether the act is a legitimate exercise of the power given to Congress by the Constitution to legislate with regard to interstate commerce, or is merely, as charged, a national game law, thinly disguised, which it had no authority to pass, although fully discussed at the argument, I do not feel called upon to decide. Neither do I the further question whether—assuming the act to be valid—dead game carried in the hands, or as part of the personal luggage of the party who has killed it, must be regarded as falling within the terms of the act when transported under such conditions from State to State."

Mr. CARLIN. Did he hold that the dead game was property?

Mr. MAXWELL. He did not. United States v. Thompson (147 Fed., 637) is the other case in which the statute has been before the courts. A demurrer to the indictment was sustained in that case. The question of the validity of the statute was not discussed or passed upon.

Mr. WEBB. Mr. Maxwell, may I make this suggestion: Have you read the report of the Interstate and Foreign Committee that reported this game-law bill?

Mr. MAXWELL. I have not.

Mr. WEBB. It was written by Mr. Sherman, who is now Vice President, and I wish to say that the reason for passing the law suggested by you was never even hinted at by the gentleman who made the report. I have never heard it asserted in this country that if a man takes wild game in his own possession it is not property. I am quite sure you will find Congress did not undertake to exercise its power based on that supposition.

Mr. MAXWELL. That is not a supposition; that is as old and as certain as any principle of law can be that the power to appropriate animals which are feræ naturæ as private property depends wholly upon the consent of the sovereign. They are the property of the sovereign and no man can acquire a right of private property in them except with the consent of the sovereign. Who is the sovereign? The sovereign is the State in which the animals are. Therefore, when the State has prohibited the killing or reduction to possession of those animals by killing, it says there can be no private property in them. That is as old as English law, and all that Congress has done, therefore, is to say that an article which is not the subject of private property and which is therefore not essentially an article of commerce shall not be transported.

The point is settled by the case of Geer v. State of Connecticut (161 U. S., 519). A statute of Connecticut, while providing an open season for the killing of birds, made it an offense to have the birds in possession with the intention to procure their transportation beyond the limits of the State. The offense with which Geer was charged was the possession of game birds for the purpose of transporting them beyond the State, although they had been lawfully killed within the State. The Supreme Court of Connecticut sustained the conviction, and the case was carried to the Supreme Court of the United States upon the claim that the Connecticut statute was repugnant to the commerce clause of the Constitution of the United States. In stating the case, Mr. Justice White said that the sole question was whether the State of Connecticut had "the power to regulate the killing of game within her borders so as to confine its use to the limits of the State and forbid its transmission outside of the State" (161 U. S., 522).

He said (p. 522):

"The solution of the question involves a consideration of the nature of the property in game and the authority which the State had a right lawfully to exercise in relation thereto. From the earliest traditions the right to reduce animals feræ naturæ to possession has been subject to the control of the law-giving power."

The learned Justice then examines the law of Greece, Rome, France, Germany, and England. At page 527 he says:

"The practice of the Government of England from the earliest time to the present has put into execution the authority to control and regulate the taking of game."

This authority, he says, passed to the Colonies, and then to the States. Citing many American cases, he says, at page 528:

"The adjudicated cases recognizing the right of the State to control and regulate the common property in game are numerous."

At page 529 he says:

"The common ownership, and its resulting responsibility in the State are thus stated in a well-considered opinion of the Supreme Court of California: 'The wild game within a State belongs to the people in their collective sovereign capacity. It is not the subject of private ownership, except in so far as the people may elect to make it so; and they may, if they see fit, absolutely prohibit the taking of it or any traffic and commerce in it if deemed necessary for its protection or preservation or the public good.'"

At page 530 he says:

"In view of the authority of the State to affix conditions to the killing and sale of game, predicated as is this power on the peculiar nature of such property and its common ownership by all the citizens of the State, it may well be doubted whether commerce is created by an authority given by a State to reduce game within its borders to possession, provided such game be not taken, when killed, without the jurisdiction of the State. The common ownership imports the right to keep the property, if the sovereign so chooses, always within its jurisdiction for every purpose. The qualification which forbids its removal from the State necessarily entered into and formed part of every transaction on the subject, and deprived the mere sale or exchange of these articles of that element of freedom of contract and of full ownership which is an essential attribute of commerce."

At page 532 he says:

"The power of the State to control the killing of and ownership in game being admitted, the commerce in game, which the State law permitted, was necessarily only internal commerce since the restriction that it should not become the subject of external commerce went along with the grant and was a part of it. All ownership in game killed within the State came under this condition, which the State had the lawful authority to impose, and no contracts made in relation to such property were exempt from the law of the State consenting that such contracts be made, provided only they were confined to internal and did not extend to external commerce."

Mr. NORRIS. In that case you would have to look to something besides the Federal statute to see—

Mr. MAXWELL. To see what? To see whether the article offered for transportation is in fact an article of commerce, and that can be determined only by the law of the State, which has the sole right to say whether its wild animals and birds may be appropriated as private property.

Mr. NORRIS. You would have to look to the State statute in order to see whether your Federal law applied.

Mr. MAXWELL. You would have to look to the State statute to see whether it was an article of commerce at all; in other words, whether it was property.

Mr. WEBB. And whether the Federal statute had been violated.

Mr. MAXWELL. No; not whether it had been violated, but whether the thing offered for transportation is in fact an object of commerce by the law of the State, which is the only law that can make it an

article of commerce. But when you deal with spirits, wine, ale, and beer, which are recognized by the commercial usages of the world as articles of commerce, you do not have to go to any State law to see whether they are in fact articles of commerce.

Mr. WEBB. But in the open season the Federal Congress makes these birds an article of commerce and permits their transportation, because the various States which have these State laws permit the killing of them and their transportation.

Mr. MAXWELL. Congress does not make them articles of commerce at all.

Mr. CARLIN. The birds do not seem to have had friends enough to raise the question. That has never been passed upon?

Mr. MAXWELL. The constitutionality of the statute has not been passed upon by the Supreme Court. But why should we get involved in a discussion as to the constitutionality of the Lacey law. The question before the committee is whether the Webb bill is constitutional. The two are not the same or similar. One relates to wild animals and birds over which the States have exclusive control; the other to spirits, wine, ale, and beer, which "are a recognized and legitimate subject of interstate commerce," to use the words of the Supreme Court in its latest decision announced only a month or so ago in L. & N. R. R. Co. v. F. W. Cook Brewing Co.

Mr. WEBB. Let me suggest this: You are aware, of course, that the Supreme Court of the United States has said that no citizen of the United States or any State has any inherent right to manufacture or sell intoxicating liquors. In that particular case liquor stands almost alone. You could not say that as to raising wheat and corn. The United States Government has put whisky on a different basis, and we contend that no man has a right to make it or sell it, but there is no power in Congress to limit its transportation.

Mr. MAXWELL. The State, in the exercise of its police power, may say that intoxicating liquors shall not be manufactured, that they shall not be possessed, perhaps that they shall not be used by the individual for his personal use, and that they shall not be subject to bargain and sale. Now, that is essentially a State matter, a local matter, upon which the power of the State is ample and complete. There is no law of the United States that interferes in the slightest degree with the full exertion of the police power of the State in respect to the use of or traffic in intoxicating liquors within the State. Now, what is the purpose of this bill? Is it to enlarge the police powers of the State? Of course, if it is, it is invalid. Is it to assist the State in the enforcement of its police power?

Mr. WEBB. Right there I want to ask you this question: There is a period of time between the arrival of a consignment of whisky in the express office and its delivery during which the State can not take any action with reference to it. In other words, a package of whisky that arrives in a town, say, to-day may remain in that express office or depot two days, three days, or a week, and the State has not power to touch it until it is delivered to the consignee.

Mr. MAXWELL. Until it is delivered to the consignee, or until the carrier holds it as warehouseman for the consignee.

Mr. WEBB. He has got to hold it a reasonable time. Now, can you suggest—I realize you are a great lawyer—can you suggest any way by which the State might have some right with reference to that whisky if it is shown it is intended to be used in violation of its laws where it rests within her territory and within her jurisdiction?

Mr. MAXWELL. Not prior to the delivery to the consignee, so long as the Constitution of the United States and the commerce clause of the Constitution stand and are enforced.

Mr. WEBB. Congress can not enforce it?

Mr. MAXWELL. Congress can not——

Mr. WEBB. Then there is no sovereign power anywhere to control liquor?

Mr. MAXWELL. What you were asking was with respect to the power of the State. I do not mean to say that the Federal Congress has no power.

Mr. WEBB. You say the Federal Congress can not prohibit the interstate shipment of whisky——

Mr. MAXWELL. My opinion is—but that question is not involved here, and I would prefer to be excused from discussing it, because I have come to discuss a particular bill and an objection that is fundamental under the Constitution. But I do say that no State, consistently with the Constitution of the United States, can exercise any police power over an interstate shipment prior to its delivery to the consignee. The delivery to the consignee may be by delivering it to the person or to his agent, or it may be by retaining it for him in a warehouse. The fundamental objection is that consistently with the Constitution of the United States no such police power can be exerted by the State, even with the consent of Congress. That is reenforced in such clear and explicit terms by Mr. Justice Lurton in the case of Louisville & Nashville Railroad Co. v. F. W. Cook Brewing Co., in an opinion rendered January 22, 1912, that I would like the permission of the chairman or Mr. WEBB to read what he says on that subject. A member of the committee has suggested that this decision does not add anything to prior decisions. That may be true, but it states clearly the principles which had been established by the decisions:

"By a long line of decisions, beginning even prior to Leisy v. Hardin (135 U. S., 100), it has been indisputably determined:

"(a) That beer and other intoxicating liquors are a recognized and legitimate subject of interstate commerce.

"(b) That it is not competent for any State to forbid any common carrier to transport such articles from a consignor in one State to a consignee in another.

"(c) That until such transportation is concluded by delivery to the consignee, such commodities do not become subject to State regulation restraining their sale or disposition.

"The Wilson Act, which subjects such liquors to State regulation, although still in the original packages, does not apply before actual delivery to such consignee where the shipment is interstate. Some of the many later cases in which these matters have been so determined and the Wilson Act construed are: Rhodes v. Iowa (170 U. S., 412); Vance v. Vandercook Co. (170 U. S., 438); Heyman v. Southern Railway (203 U. S., 270); Adams Express Co. v. Kentucky (214 U. S., 218).

"Valid as the Kentucky legislation undoubtedly was as a regulation in respect to intrastate shipments of such articles, it was most obviously never an effective enactment in so far as it undertook to regulate interstate shipments to dry points. Pending this very litigation, the Kentucky Court of Appeals, upon the authority of the line of cases above cited, reached the same conclusion. (C. & N. O. Ry. v. Kentucky, 126 Ky., 563.)

"The obligation of the railroad company to conform to the requirements of the Kentucky law, so far as that law prohibited intrastate shipments, is clear, and to this extent its circular notification was commendable. But the duty of this company as an interstate common carrier for hire, to receive for transportation to consignees upon its line in Kentucky from consignors in other States any commodity which is an ordinary subject of interstate commerce, and such transportation could not be prohibited by any law of the State of such consignee, inasmuch as any such law would be an unlawful regulation of interstate commerce not authorized by the police power of the State."

Mr. WEBB. I think we all agree that that is the law.

Mr. MAXWELL. What is sought to be accomplished by this bill? Are you trying to enlarge the police power of the States? That you can not do. Are you trying to have that police power exerted before the interstate transaction in its fundamental aspect is completed? That you can not do. You are trying to do nothing that is within the power of Congress. Absolutely nothing.

Now, if the committee please, the suggestion is made that if this bill is of doubtful constitutionality put it up to the Supreme Court.

Mr. WEBB. I want to say that I have made no such suggestion.

Mr. MAXWELL. I know you have not, and I do not believe you would concur in that. I am a lawyer and nothing else. I want the courts preserved for the administration of justice. It is essential under our system of government that the Supreme Court of the United States should be vested with authority to pass upon the constitutionality of statutes, but it is desirable that that jurisdiction should be invoked as little as possible. The common cry when the court declares an act unconstitutional is that it is usurping the functions of the legislature. The pity is that that cry is used to impair the influence and usefulness of the courts for the primary purpose for which they are formed, to wit, the administration of justice between man and man. Therefore I deplore the presentation of constitutional cases to the court unnecessarily, and I am sure this committee, recognizing the duty resting upon it to maintain and preserve the Constitution, would hesitate to recommend a bill of doubtful validity with the idea of putting it up to the Supreme Court. That is something Congress should carefully refrain from doing, and therefore it is, if the committee please, that I have come here to offer the objections which seem to me to be fatal to this bill. What I have said is just what I would say if the bill were for argument before the Supreme Court of the United States in a case involving its constitutionality.

Senator Knox, in stating his views relative to the constitutionality of bills to regulate interstate commerce in intoxicating liquors, which were before the Judiciary Committee of the Senate and reported upon adversely by it in 1909, said (S. Doc. No. 146, p. 9, 61st Cong., 1st sess.):

"My conclusions are:

"First. Interstate shipments are not completed until they reach the consignee.

"Second. An interruption or interference with interstate shipments before they reach the consignee constitutes a regulation of commerce.

"Third. Regulating interstate shipments is an exclusive function of Congress.

"Fourth. Congress can not delegate any part of its exclusive power to the States.

"Fifth. To remove the bar or impediment of exclusive Federal power which shuts the States out of the Federal domain and thereby allows them to enter that domain is to permit or sanction a State law in violation of the Constitution and in effect to delegate a Federal function to the States.

"For these and other reasons assigned I am constrained to vote against the bills we have been considering."

STATE RIGHTS.

It is a pity that we do not hear more of State obligations. There is no right without a correlative obligation. No State has the right to ask for a Federal statute of more than doubtful constitutionality unless it has rigidly enforced its own laws in relation to the matter in regard to which it seeks legislation.

The proponents of this bill have utterly failed in substantially every instance to show anything approaching a proper enforcement of the laws of the different States referred to in the hearings.

Dr. Berry, superintendent of the Maine Civic League, said:

Mr. BERRY. Mr. Chairman, our laws in Maine forbid the transportation of alcoholic beverages intended for illegal purposes, and make them seizable at any point. Our laws make it a crime for any person or corporation to transport them, but the interpretation that is put upon the interstate-commerce law makes those laws inoperative. Our troubles are due to outside influences. The only liquors that come to Maine are those that are forced into Maine under the operation of the interstate-commerce law. Our sheriff in York County seized some liquor in a freight car at the Biddeford Station, and he was obliged to restore it, because it had not been constructively delivered. More, the wholesale liquor houses in Massachusetts sued the sheriffs in our State for interfering with the transportation of liquors. Our sheriff was defended by the State attorney general and had to expend $300 of his own money in protecting himself.

Mr. CARLIN. What is the condition there with reference to the sale of intoxicating liquors?

Mr. BERRY. Liquor is being sold there in eight of the counties because of arrangements made with outside liquor houses.

Mr. CARLIN. I wanted to get at that condition.

Mr. BERRY. Eight counties have complete enforcement.

Mr. CARLIN. They have eight counties there in which you say liquor is sold? You mean at retail?

Mr. BERRY. Yes, sir.

Mr. CARLIN. Isn't that in violation of your State law?

Mr. BERRY. The situation is this: A sheriff is hired by a wholesale liquor house outside the State to permit the importation of its liquor, and is paid on beer $1 a barrel. Now, we can not deal with the sheriff except it is done by impeachment, and we can not impeach.

Mr. CARLIN. Do you mean to say you have legal proof of contracts of that sort?

Mr. BERRY. Yes, sir. We have no possible way of removing the sheriff.

Mr. MOON. I live in Maine in the summer, and I saw statements in the Boston World that in Portland there were 50 places where liquor was being sold openly.

Mr. BERRY. Because of the reasons I have just stated.

Mr. MOON. Why can not that man be indicted? Why can not they indict him and send him to jail?

Mr. BERRY. For the simple reason that the officers are in collusion with them, and all exercise of legal authority has to be through the officers.

Mr. MOON. You can indict the man.

Mr. BERRY. On what grounds can we indict him?

Mr. MOON. For violation of the law.

Mr. BERRY. On what evidence?

Mr. MOON. I have gone right to the station there, and I have seen beer drunk as openly as in Washington. I do not drink it myself, and I do not visit these places, but I am told they are just as open, bold, and flagrant there as they are here.

Mr. BERRY. That is not true, sir——

Mr. MOON. I am inclined to think that it is absolutely true that the places are right there.

Mr. BERRY. Liquor is sold there, but a man stands on watch outside with a press button in his hand to notify the persons within if an officer comes.

Mr. MCCOY. Why don't they elect another sheriff? Is there nobody in Portland who would enforce the law?

Mr. BERRY. We work by parties, you know—political manipulations. Why don't they enforce the brothel law in Washington? You have your red-light district; why don't you take care of it?

Mr. MCCOY. I think it ought to be taken care of, but that has nothing to do with your failure to enforce the law in Maine.

The fact is that in parts of Maine the voters are absolutely opposed to the prohibition law, and no one who had pledged himself to the enforcement of that law could succeed as a candidate for office.

Let us see what the conditions are in Tennessee, where they have practically a prohibition law. Mr. Carre, president of the Tennessee Anti-Saloon League, described the conditions in his State in part as follows:

That brings on the condition which I desire, in a measure, to indicate to you. I feel sure it will be a rather startling proposition. We have, for example, in Knoxville anywhere from 25 to 50 Federal licensed, open saloons. We have in Chattanooga anywhere from 50 to 100. We had in the city of Nashville until recently——

Mr. CARLIN. You mean within 4 miles of the schoolhouse?

Mr. CARRE. Yes, sir. We had in the city of Nashville until a few months ago over 400 Federal licenses and open saloons—the same saloons that operated before the law went into effect, and operating exactly in the same way; and in the city of Memphis we have anywhere from 500 to 800 Federal licenses.

It is this condition of lawlessness, gentlemen, that I want to bring to your attention from the State of Tennessee. The mayor of our city, the police force, the sheriff, the judge of our criminal court, and the prosecuting attorney are all impervious to any appeal whatever from the citizens to give them relief from such a condition. The mayor, in his first campaign, stated, by his own signature, that if elected he would enforce that law. After two years, having become emboldened in the art of misrule, he declared openly that if he were elected he would not enforce this State law.

Hence the State of Tennessee is powerless at the present to enforce the law under these conditions, and the governor of the State, on Thanksgiving Day, called a conference of citizens from all quarters of the State. There were from 300 to 500 men present to consider what could be done. He appointed a legal commission of 15 men, and that commission has reported that the governor is without power to enforce the laws of the State, and they furthermore say that the constitution——

Mr. CARLIN. They did not report that the local Commonwealth attorneys did not have the power to enforce the laws?

Mr. CARRE. I beg your pardon.

Mr. CARLIN. They did not report that the local Commonwealth attorneys did not have the power to enforce the laws, did they?

Mr. CARRE. Not that they did not have the power, but that they were not doing it, and the commission has said that the constitution has not contemplated such a condition as we now have and has not vested the governor with such power, and that the legislature has not confronted or has not presupposed these conditions. The point I want to bring to your attention—and then I am about through—is that we pray for some relief from these intolerable conditions. Our people want this law, but the conditions are such that many of them are discouraged, and our courts are being debauched, our officials are becoming perjured—I might almost use the word—well, I will not use it; they are perjured men, and we to-day are suffering under these intolerable conditions.

Mr. HOWLAND. How is the Federal Government to blame for that?

Mr. CARRE. How is that?

Mr. HOWLAND. How is the Federal Government to blame for that?

Mr. CARRE. The conditions depicted in the indictment of the two railroads that I referred to, I think, answer your question—if it were not for those interstate shipments. We have forbidden the manufacture of the liquor; we have forbidden the sale of the liquor; but it is imported into our territory from without and sold.

Mr. CARLIN. How many moonshiners have been indicted in Tennessee?

Mr. CARRE. I can not give you the number; not many.

Mr. CARLIN. This bill will not reach them, and if you have that condition existing among your public officials, it seems to me almost unbelievable.

Mr. CARRE. It is.

Mr. CARLIN. It must be because public sentiment there is justifying it.

Mr. CARRE. No, sir; it is not.

Mr. CARLIN. It is not the fault of the law, because you have enacted sufficient statutes.

Mr. CARRE. Yes, sir.

Mr. CARLIN. And your people elect the officials?

Mr. CARRE. I will answer your first question with reference to the "wild-cat" distillers, that they do not trouble us one particle. They just have little places up in the mountains which are very small, which do a 1-gallon business.

Now I come to the answer of your second question. It is not the fact that our people are not interested in this question, but that the liquor forces are concentrating their wealth in our State at every election and are forcing into office by unprincipled methods officials who will do their bidding after they get into office.

Mr. CARLIN. They could only do that by the votes of your own people.

Mr. CARRE. That is true, by the purchased vote; and at the last municipal election it is understood that at least $8,000 was spent in the city of Nashville in the settlement of poll taxes alone by the liquor people.

You will say it is our business to correct that evil, and I grant you that; but I also contend that it is unfair on the part of the Federal Government to force us to such extraordinary legislation and almost impossible effort to accomplish this result against unmeasured wealth which confronts us in these elections. If the Federal Government throws that challenge down to us, if the Federal Government, having been apprised of these facts, says to a struggling State like Tennessee, "Sink or swim," we will have to meet the issue, gentlemen.

Mr. CARLIN. Let me ask you this question: If this legislation you are asking for should prove to be constitutional and operative, would it not have to be enforced by the very officials of whom you are complaining?

Mr. CARRE. That is true, but——

Mr. CARLIN. And if you have that condition existing among your officials, men who have sworn to execute the laws and who will not do it, this statute may not give you any relief.

Mr. CARRE. I will answer that question this way: It will give us an objective, in the first place, toward which to work. As it has already been brought out in these hearings, there are many citizens who feel that if we had the protection of the Federal Government we could move on to the completion of this work.

Mr. CARLIN. The only protection asked for here is that the State laws may be operative——

Mr. CARRE. I understand.

Mr. CARLIN. So far as interstate shipments are concerned——

Mr. CARRE. I understand.

Mr. CARLIN. The right of seizure would be in the hands not of the Federal officials, but in the hands of the State officers—in the hands of the very men you are complaining of.

Mr. DODDS. Would you get any more with this law in effect than with your State law?

Mr. CARRE. I think we would; and that is the second point I want to come to, and that is by extra effort we could begin to make encroachments upon these officials, and as soon as the law began to be operative we would begin to that extent to cut off the revenue from the outside distillers and brewers of the United States, and their interest in Tennessee would be that much diminished, and their slush fund would eventually be cut off, and if the slush fund from the brewers and distillers were cut off we could handle the elections and put in officers who would enforce the law.

Mr. CARLIN. Do your grand juries indict these men?

Mr. CARRE. No, sir; they will not. We have had citizens—professors, doctors, lawyers—all leading citizens of the city, 20 or 30 or 40, who went out and bought liquor and went before the grand jury, and the grand jury turned the whole thing down. We had 60 or 70 warrants sworn out; we had the testimony taken down stenographically and turned in to the grand jury, and it has never been heard from to this day; and that grand jury, I want to call your attention, gentlemen, is appointed man by man by the judge himself, and he can remove every last one of them if he so desires.

Mr. CARLIN. If you changed your laws so that your grand juries were drawn as they are in many other States—from the citizens promiscuously—would not that, at least, give you the opportunity for a grand jury that would indict?

Mr. CARRE. It would not, because we have that law everywhere else in the State except Nashville, and the conditions are worse at Memphis than they are there.

Mr. CARLIN. Do you mean to say that you have not drawn even by accident a grand jury that will indict?

Mr. CARRE. No, sir; a few cases have been indicted in Chattanooga, but by one method and another those men have been kept off of the "road" thus far.

Mr. CARLIN. You can not get trial except through indictment?

Mr. CARRE. That is what we know.

Mr. CARLIN. And your primary trouble is that the grand jury, which is composed entirely of your own citizens, will not indict?

Mr. CARRE. That is made up that way.

Mr. CARLIN. In those cases where it is not made up, but is drawn from the citizens?

Mr. CARRE. I am not an expert in the making of juries.

Mr. DAVIS. Is your judge an elective officer?

Mr. CARRE. Yes; he is. In this instance he was not elected, but he was appointed by Gov. Patterson to fill out an unexpired term. He comes up for election by primary on the 14th of this month.

Mr. DODDS. How long has this condition of affairs existed?

Mr. CARRE. How is that?

Mr. DODDS. How long has this condition of affairs existed?

Mr. CARRE. Since the 14th of July.

Mr. DINWIDDIE. Mr. Chairman and gentlemen of the committee, just as a passing remark I want to say that I have not had any opportunity to ascertain conditions such as Dr. Carre mentioned here.

Mr. CARLIN. I do state that it is startling—certainly it is to me, and I did not think such a condition existed anywhere in this country.

Mr. DINWIDDIE. There are many places to be found in this country where there is difficulty in getting officers of the law to do their full duty with respect to the liquor traffic where it exists illegally within their own jurisdiction, because of the fact that whenever interstate shipments are involved they are absolutely powerless to get control of the liquors prior to their unlawful sale, except by the very hard operations that have been named here this morning—clandestine operations.

Mr. CARLIN. In this case saloons seem to be in open operation on the public highway in violation of the law.

Mr. DINWIDDIE. That I do not contend for at all; that is a matter, in my judgment, absolutely within the purview of the State authority, and I think that a State that permits those kind of conditions has to suffer the consequences.

Of course Mr. Carre was inaccurate in speaking of "Federal licenses." The Federal Government does not license anybody to sell liquor, but merely imposes an excise tax on the occupation of selling—only the States grant licenses.

Witnesses from other States admitted a condition of nonenforcement rather than one of inability to enforce.

Illicit distilling is on the increase, particularly in many of those States from which the agitators for this sort of legislation come, States that are supposed to be wholly or partially "dry." Here are the figures.

The number of illicit distilleries seized by the Federal officials was:

1909	1,743
1910	1,911
1911	2,471
1912	2,466

Of the whole number seized in 1912—2,466—1,407 were seized in the States of Alabama, Georgia, North Carolina, South Carolina, Tennessee, and Virginia.

CHARACTER BUILDING, NOT PROHIBITION, IS THE SOLUTION OF THE PROBLEM.

With those who believe that the use of alcoholic liquor as a beverage is morally wrong there can be no controversy. One who sincerely entertains such views is entitled to have them respected and given proper consideration, provided always that such person is willing to respect different views sincerely held.

The situation is otherwise, however, with regard to those who do not object to the proper use of alcoholic liquors by others, and especially if they are themselves users of it. With such persons it is proper to argue that prohibition does not prohibit, that it leads to worse conditions than does a regulated traffic in such liquors, and that a more certain and permanent—in fact, the only certain and permanent—eradication of the evils resulting from the indulgence in alcoholic stimulants—if indeed they ever can be entirely eradicated—will come from personal education in regard to the evils complained of, an education that shall convince the individual that he is harmed. When such an individual is convinced that he is harmed and ceases to use alcoholic liquor entirely or becomes a moderate user of it, a result has been achieved that no prohibition law can ever bring about. The experience of the ages proves this.

Let us see what some of the results are where people are taught to use wine in moderation.

Mr. Sbarboro representing the grape growers and the Italian-Swiss colony of California appeared before the committee in opposition to the bill and placed in the record letters from United States consuls in regard to conditions in several foreign countries. Here are some of them:

AMERICAN EMBASSY,
Rome, October 21, 1908.

CAV. ANDREA SBARBORO,
President Manufacturers' and Producers' Association, of California, Rome.

DEAR SIR: In reply to your request for my observations as to drunkenness among the people of Italy, and of the city of Rome in particular, I have pleasure in stating that during my residence in Italy I have seen very few cases of drunkenness.

The people, as a whole, are accustomed to drink wine at their meals, which perhaps prevents them from having a craving for stronger intoxicants.

I am, dear sir, your obedient servant, LLOYD C. GRISCOM.

AMERICAN CONSULAR SERVICE,
Florence, Italy, December 26, 1908.

CAV. ANDREA SBARBORO,
Hotel Baglioni, Florence.

DEAR SIR: Replying to your inquiry relating to the prevalence of drunkenness in Florence, I can say that I have seen but two or three intoxicated men during my four years' residence here.

Wine is in almost universal use by all classes. At the Gambrinus, a popular café, hundreds gather in the evenings—men, women, and children—drink the light wine and beer of the country, and spend the evenings in a pleasant manner and without disorder, and many of the lunch baskets prepared for little children attending school are provided with a small flask of wine.

Yours, truly, JEROME A. QUAY, *Consul.*

AMERICAN CONSULAR SERVICE,
Naples, Italy, October 9, 1908.

CAV. ANDREA SBARBORO,
Hotel de Londres, Naples.

DEAR SIR: Replying to your verbal inquiry of this morning, I am happy to be able to tell you that drunkenness is almost unknown here. In this great city of 600,000 inhabitants one very seldom sees a person the worse for drink. Wine is taken freely among all classes; most workmen drink from a pint to a quart every day, but there is almost no use of strong liquor.

I have lived nearly eight years in Italy and have seen very few drunken men during that time.

Very truly, yours, C. S. CROWNINSHIELD,
American Consul.

AMERICAN CONSULAR SERVICE,
Milano, Italy, October 28, 1908.

CAV. ANDREA SBARBORO,
President Manufacturers' and Producers' Association, California, Hotel Cavour, Milan.

MY DEAR MR. SBARBORO: With reference to your interesting booklet and to the conversation which I enjoyed with you at the Hotel Cavour to-day, I take great pleasure in saying to you in writing what I at that time said by word of mouth. In the four years I have been stationed here I have seen but two cases of intoxication in the streets of Milan; both of these were on holidays, and neither case exhibited anything more than a slightly accentuated good nature. It would be entirely within my conception of the truth to say that drunkenness is unknown in Milan.

Yours, very truly, JAMES E. DUNNING,
Consul of the United States.

AMERICAN CONSULATE,
Palermo, Italy, December 18, 1908.

CAV. ANDREA SBARBORO,
Hotel Trinacria, Palermo.

DEAR SIR: Referring to our conversation of this morning, I have to say that my experience of many years in Italy and southern France, where the native wines form a regular part of the repasts of the inhabitants, is that drunkenness in these countries is of most rare occurrence. The use of such wines would seem to fill the need felt by many for a light stimulating, or fortifying, beverage and not to lead to a craving for alcohol or to other baneful extremes. Here in Sicily, while the people no doubt have their faults, it is a pleasure to witness their general temperate habits. Even the usual place where drinks are publicly sold is most often a pasticceria, cake shop, or a pleasant café, which the most respectable persons, including ladies and children, may freely enter. There are no screens put up, there is no concealment of the interior or the inmates, for nothing takes place there requiring concealment. The drinking saloon, in an offensive sense, can hardly be said to exist at all.

I beg to remain, very truly, yours,

WILLIAM HENRY BISHOP.

AMERICAN CONSULAR SERVICE,
Kehl, Baden, Germany, December 19, 1908.

GRAPE GROWERS OF CALIFORNIA,
460 Montgomery Street, San Francisco, Cal.

DEAR SIR: I am in receipt of your letter of December 1 and willingly place at your disposal the results of my observation of the wine-drinking habits of this part of Germany.

As you are aware Alsace-Lorraine is by far the most important wine producing portion of the German Empire, and naturally wine is the universal drink of the people. This is not so markedly the case in Strassburg, the capital, where the population includes very many Germans—therefore beer drinkers—as well as the native Alsatians. Even in Strassburg, however, wine may be described as the daily drink of the people; even the poorest house has its cask of red wine in the cellar. I have no statistics at hand, but I can say that drunkenness is here a rare offense.

Outside of this city the consumption of beer is trifling and wine is the invariable accompaniment of the midday and evening meals. The wine flask is quite as familiar a feature of the table in Alsace-Lorraine as the water bottle is in the United States. At hotels and boarding houses a half pint of wine is usually supplied without extra charge. In the cafés and restaurants, between meals and in the evenings, wine is constantly drunk, costing only about 10 cents per quart. It is a matter of common knowledge that the people of Alsace-Lorraine are a careful, industrious, and particularly sober community. The spectacle of a person overcome with liquor is so unusual as to excite amusement rather than the disgust which is aroused where such exhibitions are unhappily familiar.

The foregoing remarks apply in a lesser degree to Baden, where much wine is grown and much consumed.

I am, yours, very truly, CARL W. SMITH,
American Vice Consul (in charge).

AMERICAN CONSULAR SERVICE,
Algiers, Algeria, April 15, 1909.

H. F. STOLL, Esq.,
Secretary Grape Growers of California, San Francisco.

DEAR SIR: I am in receipt of your letter of March 20, 1909, and have pleasure in adding my testimony to that of your other correspondents, as to the beneficial effects from a temperance point of view of the regular consumption of light wine as a beverage.

In this colony everyone, from the child just weaned, drinks wine at every meal, and drunkenness is practically unknown. Of course an exception must be made for a large port like Algiers, but even here it is quite a rare event to see a man the worse for liquor.

Very truly, yours, JAMES JOHNSTON,
American Consul.

AMERICAN CONSULAR SERVICE,
Teneriffe, February 10, 1909.

H. F. STOLL, Esq.,
Secretary Grape Growers of California, 460 Montgomery Street, San Francisco, Cal.

DEAR SIR: In reply to yours of the 14th ultimo, requesting me to inform you about wine drinking and other conditions in re to wine, I have the pleasure to give you my personal knowledge and observation about the universal drinking of wine in the Canary Islands. During my nine years (although myself being an abstainer) I have not seen more than a dozen under the influence of wine or liquor. All saloons, cafés, restaurants, and hotels are open Sundays and every other day; other business is prohibited on Sundays.

The Canary Islands have been known for many centuries for their excellent wine. In 1679 King Charles II issued a proclamation, giving the selling price of wine in England, among which is mentioned Canary Sack; for this wine the highest price was obtained.

In this country, on account of the food not having enough substance and the greater part of the inhabitants being "Anemicos," all the doctors recommend wine to be taken with all meals, more especially foreigners. The children receive wine with their food, of course, this mixed with water, according to the age of the children. I give my own children, ages 4 and 6 years, every noon meal a quarter of a glass of wine mixed with three-quarters water, to give them blood, and myself, although an abstainer, have been ordered at present time by my doctor to drink a glass of wine at every meal, as my blood was becoming too thin, and since I have been taking same I find a great improvement in my health.

As to your request for reports, I respectfully refer you to the Department of State—a report that I transmitted from here on May 27, 1907, headed "The wine trade in Teneriffe." The same has been published, and on application, no doubt, copies will be furnished to you. I would kindly request that you send me a copy, as the one I had has gone astray.

Hoping these few remarks will be satisfactory to you, I am,

Yours, very truly, SOLOMON BERLINER,
American Consul.

AMERICAN CONSULAR SERVICE,
Madrid, Spain, February 5, 1909.

H. F. STOLL, Esq.,
Secretary Grape Growers of California,
460 Montgomery Street, San Francisco, Cal.

DEAR SIR: Replying to your favor of the 15th ultimo, I am to-day mailing a copy of the "Estadistica de las producciones viticola y elevaera," which may interest you.

The drinking of wine at meals here is universal, and, like France, Germany, and Italy, there is practically no drunkenness.

I am, respectfully, yours,

R. W. BARTKEMMANN,
American Consul.

—

AMERICAN CONSULAR SERVICE,
Marseille, February 4, 1909.

THE GRAPE GROWERS OF CALIFORNIA,
460 Montgomery Street, San Francisco, Cal.

GENTLEMEN: I have received your letter of the 16th instant, and am of the opinion that you would receive information more of the nature that you are seeking from one of the wine-growing centers of France than from Marseille. In fact, a letter from this point would not at all meet your wishes, as Marseille is a large seaport town, with a very mixed population, and the number of drinking bars where strong liquors are sold, perhaps as much as wine, is a fact that is not infrequently commented on. Without hesitation, however, I may say that in sections of France which I have visited, which are distinctly wine-producing sections, the sight of an intoxicated person is infrequent.

I am sending your letter to our consul at Bordeaux, as the conditions of that center of wine industry are much nearer those regarding which your inquiry is made.

Respectfully,

HORACE LEE WASHINGTON,
American Consul.

—

AMERICAN CONSULATE,
Seville, Spain, February 20, 1909.

H. F. STOLL, Esq.,
Grape Growers of California,
460 Montgomery Street, San Francisco, Cal.

SIR: I take pleasure in acknowledging your letter of January 15, 1909, with cutting of your article from the San Francisco Chronicle and prospectus of the grape growers of California, both of which I have read with interest. I note also your questions regarding wine drinking, etc., and think that these can perhaps best be answered separately, as follows:

(1) The extent of the vineyards in the Province of Seville may be gathered from the fact that they consist of some 15,000 hectares (1 hectare is equal to 2.471 acres) of vines, all of the white grape. A considerable amount of damage has been done by the Phylloxera, but this is being rectified with American vine stocks.

(2) There is a very extensive treatise on the growing of grapes and making wines in Spain, entitled "Enciclopedia de Viticultura y Vinicultura."

(3) Wine drinking may be considered as a universal habit through Spain, or certainly Andalusia.

(4) Drunkenness does not exist on any great scale; on the contrary, it may be regarded as distinctly limited in its range. This may be attributed to the fact that wine is the ordinary beverage instead of spirits and the like, the effects of wine drinking being much less harmful. It may be also remarked that those who drink nothing but wine, even in the cases of drunkards, are long lived and do not contract those diseases which are associated with other forms of alcohol drinking.

Trusting that you will find this information of service to you,

I am, dear sir, yours, very truly,

LOUIS J. ROSENBERG,
American Consul.

—

AMERICAN CONSULAR SERVICE,
Genoa, Italy, November 4, 1908.

CAV. ANDREA SBARBORO,
Presidente Banca Italo-Americana,
Hotel Bristol, San Francisco, Cal.

SIR: Referring to our very pleasant conversation this morning, in which you requested an expression of my opinion as to the prevalence of drunkenness in Italy, I do not hesitate to say that a 10 years' experience in this country, and a careful observation of the habits of the people, has convinced me that drunkenness is exceedingly rare. So much so is this the case that I do not remember to have seen a dozen Italians who were obviously intoxicated during all the time I have lived in Italy. This condition prevails in spite of the fact that the very large majority of Italians habitually drink the light wines of their country at their meals. Accustomed to wine from early childhood, the Italians use it moderately as a mildly stimulating beverage. So used, I can not discover that it produces harmful results.

I remain, respectfully,

JAS. A. SMITH, *Consul General.*

—

HIS BRITANNIC MAJESTY'S CONSULATE,
Venice, December 29, 1908.

DEAR SIR: With reference to the conversation which has passed between you and me this morning, I have the pleasure to state that cases of intoxication are very rare in this district, as the people generally drink the light wine of the country.

Believe me to be, yours, very truly,

EDW. DE ZUCCATO.

Here is some additional evidence offered by Mr. Sbarboro:

133 EAST THIRTY-FIFTH STREET,
March 12, 1908.

MY DEAR SIR: Although I believe in temperance, I try to be temperate in my belief and sufficiently radical not to defeat the ends of my conservatism. I am warmly in sympathy with you in the attitude which you take in regard to wine as a substitute for whisky. Judging from what I see in this country and from what I know of the conditions of things in Europe, which I have visited 25 times, I am decidedly of the opinion that the more wine there is produced in this country and the more freely it is transported from State to State, the less whisky will be used and the smaller the amount of drunkenness. If the proposed bill is passed, I earnestly trust that exception will be made of beverages containing less than a certain fixed maximum of alcohol.

Wishing you the largest success in your propagation of the views which you so interestingly and persuasively expressed to me a couple of days since, I am,

Yours, very sincerely,

C. H. PARKHURST.

CAV. ANDREA SBARBORO,
Waldorf Astoria, New York City.

—

CALIFORNIA STATE BOARD OF HEALTH,
San Francisco, Cal., November 22, 1905.

Mr. A. SBARBORO,
460 Montgomery Street.

MY DEAR MR. SBARBORO: In your paper entitled "Wine or tea, that is the question," you expressed sentiments which I have been advocating for years. If the people of this country were educated from babyhood up to drink wine, alcoholism would be a rare disease, as has been proven in wine-drinking countries. It is the forbidden fruit that tempts. In my experience in families where the wine flows freely drunkards are the exception, whereas many of the offspring of teetotalers and wine abhorrers who have not tasted alcoholics until they almost have grown to be men become drunkards. It would be interesting to compare the statistics of drunkards in wine and beer drinking countries with those of England and America. Hoping that you will further pursue this question and that I may be able to assist you in an humble way,

I remain, truly, yours, MARTIN REGENSBURGER.

William R. Wheeler, formerly Labor Commissioner of the United States, wrote Mr. Sbarboro as follows:

ALPINE, CAL., *May 12, 1903.*

Mr. A. SBARBORO,
Italian-American Bank, San Francisco.

MY DEAR MR. SBARBORO: I am particularly grateful to you for having inclosed your very able article on the subject of "True temperance," upon which I had already read so many favorable comments. I well recall your request that while in Italy I make particular effort to spy out drunken men. I am glad to state that, much to my surprise, during the entire month which I spent there I did not see one drunken man, notwithstanding the fact that wine is the national beverage and universally consumed. This confirmed the opinion previously conceived, that Italy is, in truth, a temperance country. I myself am a strong believer in, and practitioner of, temperance, but not prohibition. The great trouble with many well-meaning people in our country is that they do not discriminate between the two. I assure you, my dear Mr. Sbarboro, that you shall at all times have my cooperation in your good work of preaching "the gospel of the grape."

Very sincerely, yours, WM. R. WHEELER.

Mr. Sbarboro said, among other things:

Let me tell you this about the mayor of London. I was very much impressed with the recent statement of Sir Thomas Boor Crosby, the lord mayor of London, who, when he presided at a conference of the National Temperance League, insisted strongly upon moderation in the use of alcoholic drinks. He stated that compulsory abstinence was not the way to win the world to the side of temperance. Although he is in his eighty-second year, he says he takes a moderate amount of alcohol every day, and he calls that "temperance."

I am, myself, over 72 years of age. I have been drinking wine at my meals since I was a baby. I do not know what intoxication is, and, as you see, wine has not affected my health very much.

To prove to you further, gentlemen, that I practice what I preach, I will tell you also that I am the father of five children, all born in San Francisco, and that every one of them as soon as they could sit at the table in their baby chair was given a little wine and water by their mother. These children are now grown up. The three boys are employed in important financial institutions, and the two girls are married and have children of their own, who are being brought up in the same manner. My children and grandchildren have used wine at their meals every day of their lives, except in sickness. They do not know what intoxication is, and if they live as long as Methuselah, I assure you that they never will. What a great blessing it would be to the American people if they all could say the same of their children.

The gentleman from Wisconsin [Mr. BERGER] in his speech to-day went to the bottom of the matter. The principal cause of the evils connected with use of alcoholic liquor is the bad social conditions existing in this country. If the money spent and the efforts expended in the agitation that has been carried on in favor of so-called prohibition laws and against the saloon had been spent and expended in a persistent effort to improve social conditions this country would be a vastly better one than it is now, and we should not now be considering the Webb bill.

Mr. CLAYTON. Mr. Speaker, I can not, of course, in the limited time remaining for debate add much to the discussion which has been had. But in closing the debate on this bill I desire to say that some gentlemen mistake the purpose of this legislation. The purpose is to take the protecting arm of the Federal Government, by virtue of the interstate-commerce clause of the Constitution, from around the illicit dealers in liquors, and is to allow the States which have passed police regulations restricting or forbidding the sale of liquor to better enforce those regulations. If any man should ask how this bill can contribute to that end, let me answer by saying it will permit the State to seize such liquor intended to be sold or otherwise used in violation of law before it reaches the hands of the consignee. In Leisy *v.* Hardin (135 U. S., 100) the case of Pierce *v.* New Hampshire (5 How., 554) was expressly overruled. It was held that the law of Iowa prohibiting the sale of intoxicating liquors except for pharmaceutical purposes, under a license, was unconstitutional when applied to the sale by the importer of liquor in the original package, such liquors having been manufactured in and brought from another State. This case overturned the doctrine in Pierce against New Hampshire, which

had been supposed for 50 years to be the law. Prior to the decision in Leisy against Hardin, no one believed that the consignee had the right to sell intoxicating liquors shipped from one State into another in violation of the police regulations of the State to which they were shipped. To avoid the effect of the decision in that case and to remove the obstacle resulting from the exclusive control of Congress over commerce among the States preventing the full operation and effect of police regulations of the States in regard to intoxicating liquors, Congress passed the Wilson law, the act of August 8, 1890. It was there enacted, using the language of Chief Justice Fuller in Leisy against Hardin, "simply to remove an impediment to the enforcement of the State laws in respect to imported packages in the original condition, created by the absence of a specific utterance on the part of Congress"; in other words, this act was in pursuance of the power of Congress to regulate interstate commerce and was held not to be a delegation of power to the States, but the exercise by Congress of the power confided to Congress by the Constitution. It is not disputed that Congress can not delegate a power to the States, and it is well established that any act of Congress which invades the reserved police power of the State under a mere pretext that interstate commerce may in some way be affected, is without constitutional authority and void.

In Gibbons *v.* Ogden (9 Wheat., 1) Chief Justice Marshall declared in substance that while Congress can not enable a State to legislate, it may even go so far as to adopt the provision of a State on any subject, such as pilotage and the like.

Congress has passed laws requiring the Federal courts to conform in practice and procedure to the rules of the State courts.

In the United States *v.* Forty-three Gallons of Whisky (93 U. S., 188) the Supreme Court declared:

> Congress, under its constitutional power to regulate commerce with the Indian tribes, may not only prohibit the unlicensed introduction and sale of spirituous liquors in the Indian country, but extend such prohibition to territory in proximity to that occupied by the Indians.
>
> It would be strange indeed if the commercial power lodged solely with Congress, and unrestrained as it is by State lines, did not extend to the exclusion of spirituous liquors intended to corrupt the Indians, not only from the existing Indian country, but from that which has ceased to be so.

In the Rahrer case, Chief Justice Fuller says:

> "By the adoption of the Constitution the ability of the several States to act upon the matter solely in accordance with their own will was extinguished, and the legislative will of the General Government substituted. No affirmative guaranty was hereby given to any State of the right to demand, as between it and the others, what it could not have obtained before; while the object was undoubtedly sought to be attained of preventing commercial regulations partial in their character or contrary to the common interests. And the magnificent growth and prosperity of the country attest the success which has attended the accomplishment of that object. But this furnishes no support to the position that Congress could not, in the exercise of the discretion reposed in it, concluding that the common interests did not require entire freedom in the traffic in ardent spirits, enact the law in question."
>
> * * * * * * *

In 1895 Congress enacted a law prohibiting the transmission in interstate commerce of all lottery tickets, and the Supreme Court upheld the validity of such law. The court says:

> "We are of the opinion that lottery tickets are subjects of traffic and, therefore, are subjects of commerce, and the regulation of the carriage of such tickets, from State to State, at least by independent carriers, is a regulation of commerce among the several States.
>
> "But it is said that the statute in question does not 'regulate' the carrying of lottery tickets from State to State, but by punishing those who cause them to be so carried Congress, in effect, prohibits such carrying.
>
> "It is said in effect (by Congress) that it would not permit the declared policy of the States which sought to protect their people against the mischiefs of the lottery business to be overthrown or disregarded by the agency of interstate commerce. Congress alone has the power to occupy by legislation the whole field of interstate commerce. What was said by this court on a former occasion may well be here repeated.
>
> "The framers of the Constitution never intended that the legislative power of the Nation should find itself incapable of disposing of the subject matter specifically committed to its charge. (In re Rahrer, 140 U. S., 545.)
>
> "That regulation may sometimes appropriately assume the form of prohibition is also illustrated by the case of diseased cattle transported from one State to another. Such cattle may have, notwithstanding their condition, a value in money for some purposes, and yet it can not be doubted that Congress, under its power to regulate commerce, may either provide for their being inspected before transportation begins, or in its discretion may prohibit their being transported from one State to another."

In referring to the License case (5 How., 504), Chief Justice Fuller, in Leisy against Hardin, quoted, along with other language, the following:

> Congress, under its general power to regulate commerce with foreign nations, may prescribe what article of merchandise shall be admitted and what excluded, and may therefore admit or not, as it shall deem best, the importation of ardent spirits. And, inasmuch as the laws of Congress authorize their importation, no State has a right to prohibit their introduction.

The opponents of this measure have made an attack on it upon the ground that it is lacking in uniformity, because, they say, that the laws of the different States prohibiting or regulating the sale of intoxicants are unalike. I think they derived a confused notion because of the taxing power of the Federal Government. The Constitution says:

> The Congress shall have power to lay and collect taxes, duties, imposts, and excises, * * * but all duties, imposts, and excises shall be uniform throughout the United States.

Of course this has always been held to be a geographical uniformity in the matter of taxation. The taxing power is quite a different power from the commercial power of Congress. The commerce clause is in this language:

> The Congress shall have the power * * * to regulate commerce with foreign nations and among the several States and with the Indian tribes.

Could not the same objection of nonuniformity have been urged against the Wilson law, the constitutionality of which was upheld? It will be remembered that the Wilson law is in the following language:

> That all fermented, distilled, or other intoxicating liquors or liquids transported *into any State* or Territory or remaining therein for use, consumption, sale, or storage therein, shall upon arrival in *such State* or Territory be subject to the operation and effect of the laws of *such State* or Territory enacted *in the exercise of its police powers*, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

Let me repeat what Chief Justice Fuller said about the Wilson law of 1890, and that is that its purpose was—

> simply to remove an impediment to the enforcement of State laws with respect to imported packages in the original condition in the absence of specific utterances on the part of Congress.

And to this let me add that this particular measure is simply further to "remove the impediment to the enforcement of the State laws in respect to imported packages in the original condition in the absence of specific utterances on the part of Congress" by now making a specific utterance that the importation of liquor into a State for illegal purposes is prohibited. Let those who believe that each State has a right to regulate its domestic affairs, to carry out its own internal policy, cast their vote for this measure, whereby the Federal Government is to take its protection away from those engaging in the wrongful traffic of selling liquor contrary to law.

The SPEAKER. The time of the gentleman from Alabama has expired. All time has expired. The previous question is ordered on the bill and all amendments to final passage. The Clerk will report the first committee amendment.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that the vote be taken on the committee amendments en grosse.

The SPEAKER. The gentleman from New York asks unanimous consent that the committee amendments be voted on en grosse. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the committee amendments.

The question was taken, and the committee amendments were agreed to.

The SPEAKER. The Clerk will report the first amendment, submitted by the gentleman from Alabama [Mr. BLACKMON].

The Clerk read as follows:

> Amend, line 12, page 2, by striking out the period and adding:
>
> "*Provided*, That nothing contained in this bill shall be so construed as to prevent any citizen of the United States from purchasing, ordering, or having shipped, or to prevent any common carrier or agent thereof from accepting, receiving, transporting, or delivering spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind in reasonable quantities, when the same is plainly marked on the outside of the package 'for personal use': *Provided further*, That no common carrier or agent thereof shall make such delivery to any person, whether marked 'for personal use' or not, if the person ordering the same has been convicted of violating the prohibition laws of any county, State, or municipality, if the fact of such conviction appears of record in the courts of record in the county or parish where such shipment is to be delivered by the common carrier or agent thereof; or to any person who holds or possesses a Federal license or tax to retail spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind; or if the courts of record of such county or parish show that the person ordering such spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind has been convicted of public drunkenness."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken; and on a division (demanded by Mr. BLACKMON) there were—ayes 55, noes 149.

Mr. BLACKMON. Mr. Speaker, I demand the yeas and nays on the amendment.

The SPEAKER. The gentleman from Alabama demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] Thirty-nine gentlemen have risen; not a sufficient number.

Mr. HEFLIN. Mr. Speaker, I demand the other side.

The SPEAKER. Those opposed to taking the vote by the yeas and nays will rise and stand until counted. [After counting.] One hundred and fifty-nine gentlemen have risen.

Mr. BLACKMON. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. Oh, there is evidently a quorum present. The count shows a quorum. Not a sufficient number have risen to order the yeas and nays. The vote on the amendment was—ayes 55, noes 149.

Mr. BLACKMON. Mr. Speaker, I demand tellers.

The SPEAKER. The gentleman from Alabama demands tellers. As many as favor taking the vote by tellers will rise and stand until counted. [After counting.] Twenty-seven gentlemen have risen, not a sufficient number, and tellers are refused.

So the amendment was rejected.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amendment No. 2 by Mr. DAVIS of West Virginia: Amend by adding, on page 2, line 12, after the word "prohibited," the following:

"And whoever shall knowingly ship, transport, or deliver to any common carrier for shipment or transportation or shall knowingly cause, induce, or procure to be shipped, transported, or delivered to any common carrier for shipment or transportation from one State, Territory, or District of the United States, or place noncontiguous to, but subject to, the jurisdiction thereof to any other State, Territory, or District of the United States, or place noncontiguous to, but subject to, the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to, but subject to, the jurisdiction thereof any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, with intent to receive, possess, sell, or use the same therein, or to cause, induce, or promise the same to be received, possessed, sold, or used therein, either in the original package or otherwise, in violation of the laws of such State, Territory, or District of the United States, or place noncontiguous to, but subject to, the jurisdiction thereof, shall be fined not less than $100 nor more than $5,000, or imprisoned not less than 30 days nor more than 2 years or both."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the Speaker announced the noes seemed to have it.

Mr. DAVIS of West Virginia. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 79, nays 214, answered "present" 6, not voting 82, as follows:

YEAS—79.

Ashbrook	Dent	Higgins	Reilly
Barchfeld	Denver	Howland	Rodenberg
Bartholdt	Doremus	Hughes, W. Va.	Rothermel
Bartlett	Dwight	Jacoway	Rouse
Bathrick	Edwards	James	Sabath
Blackmon	Estopinal	Kahn	Sells
Brantley	Evans	Kinkead, N. J.	Sherley
Broussard	Fields	Konop	Sherwood
Buchanan	Fitzgerald	Langley	Slayden
Bulkley	Floyd, Ark.	Lee, Pa.	Small
Burke, Wis.	Francis	Littlepage	Speer
Burleson	Gallagher	Lobeck	Stephens, Miss.
Cantrill	Garner	McCoy	Stevens, Minn.
Cary	Gill	McDermott	Talcott, N. Y.
Clark, Fla.	Gocke	McGillicuddy	Thayer
Claypool	Graham	McKellar	Thistlewood
Cooper	Hamill	Moss, Ind.	Townsend
Crago	Hamilton, W. Va.	O'Shaunessy	Whitacre
Curley	Hardwick	Powers	White
Davis, W. Va.	Heflin	Redfield	

NAYS—214.

Adair	Davenport	Guernsey	Lafferty
Adamson	Davis, Minn.	Hamilton, Mich.	La Follette
Aiken, S. C.	Dickinson	Hamlin	Lamb
Akin, N. Y.	Dickson, Miss.	Hardy	Lawrence
Alexander	Dies	Harrison, Miss.	Lee, Ga.
Allen	Dodds	Hart	Lenroot
Anderson	Doughton	Haugen	Lever
Anthony	Dupré	Hawley	Lewis
Austin	Dyer	Hay	Lindbergh
Barnhart	Ellerbe	Hayden	Linthicum
Bates	Esch	Hayes	Lloyd
Beall, Tex.	Falson	Helgesen	Longworth
Bell, Ga.	Fergusson	Helm	Loud
Berger	Ferris	Henry, Conn.	McCall
Booher	Finley	Henry, Tex.	McGuire, Okla.
Borland	Flood, Va.	Hensley	McKenzie
Burgess	Focht	Hill	McKinley
Burke, S. Dak.	Foss	Hinds	McKinney
Burnett	Foster	Hobson	McLaughlin
Butler	Fowler	Holland	McMorran
Byrns, Tenn.	French	Houston	Macon
Callaway	Fuller	Howard	Madden
Campbell	Gardner, Mass.	Howell	Maguire, Nebr.
Candler	Gardner, N. J.	Hughes, Ga.	Martin, Colo.
Cannon	Garrett	Humphrey, Wash.	Martin, S. Dak.
Carlin	Gillett	Humphreys, Miss.	Mays
Clayton	Glass	Jackson	Miller
Cline	Godwin, N. C.	Johnson, Ky.	Mondell
Collier	Good	Johnson, S. C.	Moore, Tex.
Covington	Goodwin, Ark.	Jones	Morgan, Okla.
Cox	Gould	Kendall	Morrison
Cravens	Gray	Kennedy	Morse, Wis.
Cullop	Green, Iowa	Kent	Mott
Curry	Greene, Mass.	Kinkaid, Nebr.	Murdock
Dalzell	Greene, Vt.	Knowland	Murray
Danforth	Gregg, Pa.	Konig	Neeley
Daugherty	Gregg, Tex.	Kopp	Nelson
Norris	Rauch	Stedman	Tuttle
Nye	Rees	Steenerson	Volstead
Oldfield	Richardson	Stephens, Cal.	Warburton
Padgett	Roberts, Mass.	Stephens, Nebr.	Watkins
Page	Roddenbery	Stephens, Tex.	Webb
Parran	Rucker, Mo.	Sterling	Weeks
Payne	Russell	Stone	Wilder
Pepper	Saunders	Sweet	Willis
Pickett	Scott	Switzer	Wilson, Ill.
Plumley	Shackleford	Taggart	Wilson, Pa.
Porter	Sharp	Talbott, Md.	Witherspoon
Post	Sims	Taylor, Ala.	Woods, Iowa.
Pou	Sisson	Taylor, Ark.	Young, Kans.
Pray	Sloan	Taylor, Colo.	Young, Mich.
Prince	Smith, J. M. C.	Taylor, Ohio	Young, Tex.
Raker	Smith, Saml. W.	Towner	
Ransdell, La.	Smith, Tex.	Tribble	

ANSWERED "PRESENT"—6.

Bradley	Driscoll, M. E.	Needham	Sparkman
Browning	Mann		

NOT VOTING—82.

Ainey	Driscoll, D. A.	Lindsay	Roberts, Nev.
Ames	Fairchild	Littleton	Robey
Andrus	Farr	McCreary	Rucker, Colo.
Ansberry	Fordney	Maher	Scully
Ayres	Fornes	Matthews	Simmons
Boehne	George	Merritt	Slemp
Brown	Goldfogle	Moon, Pa.	Smith, N. Y.
Burke, Pa.	Griest	Moon, Tenn.	Stack
Byrnes, S. C.	Gudger	Moore, Pa.	Stanley
Calder	Hammond	Morgan, La.	Sulloway
Carter	Harris	Olmsted	Thomas
Conry	Harrison, N. Y.	Palmer	Tilson
Copley	Hartman	Patten, N. Y.	Turnbull
Crumpacker	Heald	Patton, Pa.	Underhill
Currier	Hull	Peters	Underwood
Davidson	Kindred	Prouty	Vare
De Forest	Kitchin	Pujo	Vreeland
Difenderfer	Korbly	Rainey	Wilson, N. Y.
Dixon, Ind.	Lafean	Randell, Tex.	Wood, N. J.
Donohoe	Langham	Reyburn	
Draper	Levy	Riordan	

So the amendment was rejected.

The Clerk announced the following additional pairs:

On this vote:

Mr. MAHER (for the Davis amendment) with Mr. SLEMP (against).

Mr. DONOHOE (for the Davis amendment) with Mr. PATTON of Pennsylvania (against).

Mr. COPLEY (for the Davis amendment) with Mr. AINEY (against).

Mr. GOLDFOGLE (for the Davis amendment) with Mr. MORRISON (against).

Mr. WILSON of New York (for the Davis amendment) with Mr. PALMER (against).

Mr. LAFEAN (for the Davis amendment) with Mr. LANGHAM (against).

Mr. PATTEN of New York (for the Davis amendment) with Mr. BOEHNE (against).

Until further notice:

Mr. AYRES with Mr. CALDER.

Mr. BYRNES of South Carolina with Mr. DE FOREST.

Mr. CARTER with Mr. REYBURN.

Mr. RUBEY with Mr. CURRIER.

Mr. DIXON of Indiana with Mr. HEALD.

Mr. HARRISON of New York with Mr. OLMSTED.

Mr. HULL with Mr. MATTHEWS.

Mr. MORGAN of Louisiana with Mr. ROBERTS of Nevada.

Mr. PUJO with Mr. PROUTY.

Mr. RAINEY with Mr. VREELAND.

Mr. STANLEY with Mr. WOOD of New Jersey.

Mr. MANN. Mr. Speaker, I voted "no." I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote and to be recorded as "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. MANN was called, and he answered "Present."

Mr. SPARKMAN. Mr. Speaker, I am paired with Mr. DAVIDSON. As he has not voted, I desire to withdraw my vote of "no" and answer "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. SPARKMAN was called, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amendment No. 3, by Mr. BARTLETT: Add at the end of the bill, on page 2, the following:

"*Provided, however*, That nothing in this act shall be held or construed to render illegal or subject to State control the interstate shipment of liquors, herein defined, into any State or Territory or District to anyone for his personal or family use.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. BARTLETT. Division, Mr. Speaker.

The House divided; and there were—ayes 64, noes 167.

Mr. BARTLETT. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. Those in favor of ordering the yeas and nays will please rise and stand until counted. [After counting.] Forty-six gentlemen have risen in the affirmative—not a sufficient number.

Mr. BARTLETT. The other side, Mr. Speaker.

The SPEAKER. The gentleman from Georgia [Mr. BARTLETT] demands the other side. Those opposed to ordering the yeas and nays will rise and stand until they are counted. [After counting.] One hundred and ninety-nine gentlemen have risen. On this vote the ayes are 46 and the noes are 199—not a sufficient number—and the yeas and nays are refused.

So the amendment was rejected.

The SPEAKER. The Clerk will first report the next amendment, and then the amendment to the amendment.

The Clerk read as follows:

Amendment No. 4, by Mr. DAVIS of West Virginia: Amend by adding at the end of the bill the following:

"But nothing in this act contained shall be construed to forbid the shipment or transportation of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind intended for sacramental purposes or for the personal use or consumption of the owner or consignee thereof."

The Clerk read the amendment to the amendment, by Mr. SAUNDERS, as follows:

Unless such shipment or transportation is contrary to the local law of the place of delivery.

The SPEAKER. The question is on agreeing to the amendment of the gentleman from Virginia [Mr. SAUNDERS] to the amendment offered by the gentleman from West Virginia [Mr. DAVIS].

The question was taken, and the amendment to the amendment was rejected.

The SPEAKER. The question is on the amendment of the gentleman from West Virginia [Mr. DAVIS].

The question was taken, and the amendment was rejected.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amendment No. 5, by Mr. JACKSON: On page 2, line 12, add at the end of the bill:

"*Provided*, That the courts of the United States shall have no jurisdiction to issue any injunction or restraining order against any State or county officer acting under the color of his office, or in any suit in which the good faith of any act of such officer is challenged."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The SPEAKER. The Clerk will report the next amendment. The Chair desires to say that the rule is that any gentleman desiring a division shall rise and address the Chair. A gentleman sitting in his seat and demanding a division puts the Chair to a disadvantage. He can not tell who makes the demand, or anything about it, and besides, it is not permissible under the rules. The Clerk will report the next amendment.

The Clerk read as follows:

Amend by striking out everything after the enacting clause and substituting the following:

"That the shipment or transportation in any manner or by any means whatsoever of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, including beer, ale, or wine, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, enacted in the exercise of the police powers of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.

"SEC. 2. That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival within the boundaries of such State or Territory and before delivery to the consignee, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its reserved police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise."

The SPEAKER. The question is on agreeing to the substitute.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. CURLEY. Division, Mr. Speaker.

Mr. HELGESEN. I demand the yeas and nays.

The yeas and nays were refused.

So the substitute was rejected.

The SPEAKER. It turns out that there are two more amendments here that ought to have been voted upon before that substitute was considered. The Chair did not know that they were here. The Clerk will report the first one.

The Clerk read as follows:

Amendment No. 7, by Mr. SABATH:

Strike out, after the word "spirituous," on line 4, page 1, the following words: "Vinous, malted, fermented, or other intoxicating," so that it would read: "That the shipment or transportation, in any manner or by any means whatsoever, of any spirituous liquor of any kind from one State"; and on page 2, line 1, strike out, after the word "spirituous," the words "vinous, malted, fermented, or other."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was rejected.

The SPEAKER. The Clerk will report the next one.

The Clerk read as follows:

Amendment No. 8, by Mr. MANN:

Strike out the word "intoxicating" wherever it appears before the word "liquor."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was rejected.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is, Shall the bill pass?

Mr. CLAYTON. Mr. Speaker, I demand the yeas and nays.

Mr. LANGLEY. So do I, Mr. Speaker.

The yeas and nays were ordered.

The SPEAKER. The Clerk will call the roll. Those in favor of this bill will vote "yea" when their names are called, and those opposed will vote "nay."

The question was taken; and there were—yeas 239, nays 64, answered "present" 5, not voting 73, as follows:

YEAS—239.

Adair	Francis	Kitchin	Rauch
Adamson	French	Knowland	Rees
Aiken, S. C.	Fuller	Kopp	Richardson
Akin, N. Y.	Gardner, Mass.	Lafferty	Roberts, Mass.
Alexander	Gardner, N. J.	La Follette	Roddenbery
Anderson	Garner	Lamb	Rubey
Anthony	Garrett	Langley	Rucker, Colo.
Ashbrook	Gillett	Lawrence	Rucker, Mo.
Austin	Glass	Lee, Ga.	Russell
Ayres	Godwin, N. C.	Lenroot	Saunders
Barnhart	Good	Lever	Scott
Bates	Goodwin, Ark.	Lewis	Sells
Beall, Tex.	Gould	Lindbergh	Shackleford
Bell, Ga.	Graham	Linthicum	Sharp
Booher	Gray	Littlepage	Sims
Borland	Green, Iowa	Lloyd	Sisson
Burke, S. Dak.	Greene, Mass.	Loud	Sloan
Burnett	Greene, Vt.	McCall	Small
Butler	Gregg, Pa.	McGillicuddy	Smith, J. M. C.
Byrns, Tenn.	Gregg, Tex.	McGuire, Okla.	Smith, Saml. W.
Callaway	Guernsey	McKenzie	Smith, Tex.
Campbell	Hamilton, Mich.	McKinley	Sparkman
Candler	Hamilton, W. Va.	McKinney	Speer
Carlin	Hamlin	McLaughlin	Stedman
Carter	Hammond	McMorran	Steenerson
Clark, Fla.	Hardy	Macon	Stephens, Cal.
Claypool	Harrison, Miss.	Maguire, Nebr.	Stephens, Miss.
Clayton	Haugen	Mann	Stephens, Nebr.
Cline	Hawley	Martin, Colo.	Stephens, Tex.
Collier	Hay	Martin, S. Dak.	Sterling
Covington	Hayden	Mays	Stone
Cox	Hayes	Miller	Sweet
Crago	Helgesen	Mondell	Taggart
Cullop	Helm	Morgan, Okla.	Talbott, Md.
Curry	Henry, Conn.	Morse, Wis.	Taylor, Ala.
Daugherty	Henry, Tex.	Moss, Ind.	Taylor, Ark.
Davenport	Hensley	Mott	Taylor, Colo.
Davis, Minn.	Higgins	Murdock	Thayer
Davis, W. Va.	Hill	Neeley	Thistlewood
Denver	Hinds	Nelson	Towner
Dickinson	Hobson	Norris	Tribble
Dickson, Miss.	Holland	Nye	Tuttle
Dies	Houston	Oldfield	Underwood
Dixon, Ind.	Howard	O'Shaunessy	Volstead
Dodds	Howell	Padgett	Warburton
Doremus	Howland	Page	Watkins
Doughton	Hughes, Ga.	Parran	Webb
Edwards	Hughes, W. Va.	Payne	Weeks
Ellerbe	Hull	Pepper	Whitacre
Falson	Humphrey, Wash.	Pickett	White
Fergusson	Humphreys, Miss.	Plumley	Wilder
Ferris	Jackson	Porter	Willis
Fields	Jackoway	Post	Wilson, Ill.
Finley	Johnson, Ky.	Pou	Wilson, Pa.
Flood, Va.	Johnson, S. C.	Powers	Witherspoon
Floyd, Ark.	Jones	Pray	Woods, Iowa
Focht	Kendall	Prince	Young, Kans.
Foss	Kennedy	Rainey	Young, Mich.
Foster	Kent	Raker	Young, Tex.
Fowler	Kinkaid, Nebr.	Ransdell, La.	

NAYS—64.

Allen	Cary	Goeke	Moore, Tex.
Barchfeld	Cooper	Hamill	Murray
Bartholdt	Cravens	Hardwick	Redfield
Barthott	Curley	Hart	Reilly
Bathrick	Dalzell	James	Rodenberg
Berger	Danforth	Kahn	Rothermel
Blackmon	Dent	Kinkead, N. J.	Rouse
Bramley	Dupré	Konig	Sabath
Broussard	Dwight	Konop	Sherley
Buchanan	Dyer	Lee, Pa.	Sherwood
Bulkley	Esch	Lobeck	Slayden
Burgess	Estopinal	Longworth	Stevens, Minn.
Burke, Wis.	Evans	McCoy	Switzer
Burleson	Fitzgerald	McDermott	Talcott, N. Y.
Cannon	Gallagher	McKellar	Taylor, Ohio
Cantrill	Gill	Madden	Townsend

ANSWERED "PRESENT"—5.

Bradley	Driscoll, M. E.	Heflin	Needham
Browning			

NOT VOTING—73.

Ainey	Fairchild	McCreary	Roberts, Nev.
Ames	Farr	Maher	Scully
Andrus	Fordney	Matthews	Simmons
Ansberry	Fornes	Merritt	Slemp
Bochne	George	Moon, Pa.	Smith, N. Y.
Brown	Goldfogle	Moon, Tenn.	Stack
Burke, Pa.	Griest	Moore, Pa.	Stanley
Byrnes, S. C.	Gudger	Morgan, La.	Sulloway
Calder	Harris	Morrison	Thomas
Conry	Harrison, N. Y.	Olmsted	Tilson
Copley	Hartman	Palmer	Turnbull
Crumpacker	Heald	Patten, N. Y.	Underhill
Currier	Kindred	Patton, Pa.	Vare
Davidson	Korbly	Peters	Vreeland
De Forest	Lafean	Prouty	Wilson, N. Y.
Difenderfer	Langham	Pujo	Wood, N. J.
Donohoe	Levy	Randell, Tex.	
Draper	Lindsay	Reyburn	
Driscoll, D. A.	Littleton	Riordan	

So the bill was passed.

The Clerk announced the following additional pairs:

Until further notice:

Mr. LEVY with Mr. FORDNEY.

Mr. BOEHNE with Mr. DAVIDSON.

Mr. STACK with Mr. CURRIER.

Mr. LINDSAY with Mr. CALDER.

Mr. HEFLIN with Mr. VREELAND.

On this vote:

Mr. MORRISON (in favor) with Mr. GOLDFOGLE (against).

Mr. AINEY (in favor) with Mr. COPLEY (against).

Mr. PATTON of Pennsylvania (in favor) with Mr. DONOHOE (against).

Mr. LANGHAM (in favor) with Mr. LAFEAN (against).

Mr. SLEMP (in favor) with Mr. MAHER (against).

Mr. PALMER (in favor) with Mr. WILSON of New York (against).

Mr. DIFENDERFER (in favor) with Mr. LINDSAY (against).

Mr. BOEHNE (in favor) with Mr. PATTEN of New York (against).

The result of the vote was announced as above recorded.

On motion of Mr. CLAYTON, a motion to reconsider the last vote was laid on the table.

VISITORS TO THE NAVAL ACADEMY.

The SPEAKER announced the appointment as visitors to the Naval Academy Messrs. TALBOTT of Maryland, WITHERSPOON, and ROBERTS of Massachusetts.

INDIGENT PERSONS IN ALASKA.

Mr. HUMPHREYS of Mississippi. Mr. Speaker, I move to take from the Speaker's table the bill (S. 267) providing for assisting indigent persons other than natives in the District of Alaska, and I move that the House insist on its amendments and agree to the conference asked by the Senate.

The SPEAKER. The Chair lays that bill before the House. The gentleman from Mississippi moves that the House insist on its amendments and agree to the conference.

The motion was agreed to, and the Speaker appointed as conferees on the part of the House Mr. HUMPHREYS of Mississippi, Mr. HARDY, and Mr. LANGHAM.

LEAVE TO EXTEND REMARKS.

Mr. GARRETT. Mr. Speaker, I addressed the House on the rule to-day. I ask unanimous consent to extend my remarks.

The SPEAKER. The gentleman from Tennessee asks unanimous consent to extend his remarks on the rule. Is there objection?

Mr. GARRETT. I want it understood that I may perhaps touch upon the subject matter of the bill, although my remarks in the House to-day were on the subject of the rule.

The SPEAKER. Is there objection?

There was no objection.

SIMON NAGER.

The SPEAKER laid before the House the bill (H. R. 18425) to remove the charge of desertion from the military record of Simon Nager, with a Senate amendment.

Mr. HAY. Mr. Speaker, I move to concur in the Senate amendment.

The motion was agreed to.

MEXICAN CLAIMS.

The SPEAKER. The Chair lays before the House the following request for a change of reference of a bill.

The Clerk read as follows:

The Committee on Interstate and Foreign Commerce is discharged from the further consideration of the bill (H. R. 28655) authorizing the payment of damages to persons for injuries inflicted by Mexican Federal or insurgent troops within the United States during the insurrection in Mexico in 1911, and making an appropriation therefor, and the same is hereby referred to the Committee on Foreign Affairs.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, as I understand that bill is in the nature of a private bill concerning claims growing out of the trouble in Mexico. Under the rules of the House neither the Committee on Interstate and Foreign Commerce nor the Committee on Foreign Affairs has any authority to report a private claims bill.

The SPEAKER. Except by unanimous consent.

Mr. MANN. That is a private bill, and the rules provide that such a bill can be sent to the proper committee without bringing it before the House.

Mr. COOPER. If the gentleman will permit, is that a bill to provide for payment of damages to the persons who were shot in Texas?

Mr. MANN. I believe that is the case.

Mr. COOPER. The Committee on Foreign Affairs has already considered a bill of this character, and some of the claims included in it have been referred by the chairman of that committee to a subcommittee.

Mr. MANN. That may all be, but the committee can not report it under the rules of the House.

Mr. COOPER. It has already agreed to report a considerable number of exactly similar claims, and the remainder are now being considered by a subcommittee.

Mr. MANN. The Committee on Foreign Affairs has no jurisdiction to report a private claim.

Mr. COOPER. If the gentleman will permit me, these are not what is ordinarily understood as private claims. They are claims, in effect, against Mexico, and which involve our relations with that country, and they can not in any way properly be brought to the attention of the Mexican Government except by the presentation of the claims to that Government by our State Department after they have been paid by the United States. If the Mexican Government then agrees to accept as just the aggregate that we have paid the claimants, it will, on principles of comity, I presume, as is customary in such cases, vote to reimburse the United States Treasury by the same amount; but if the Mexican Government should not so agree, then there will be an opportunity for it to ask that the matter be sent to The Hague tribunal. It is plain that the Committee on Foreign Affairs is the proper committee to which to refer matters of this character.

The SPEAKER. The Chair will read the rule upon this subject:

No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following-named committees, viz: To the Committee on Invalid Pensions, to the Committee on Pensions, to the Committee on Claims, to the Committee on War Claims, to the Committee on Private Land Claims, and to the Committee on Accounts.

Mr. KENDALL. I think the controversy arose through certain injuries that were inflicted on persons on the Mexican border. The State Department took cognizance of it and undertook to negotiate through the diplomatic sources, and then a resolution was passed by the Senate appointing a tribunal to investigate the circumstances, and that tribunal has made its report.

Mr. MANN. Where is the report?

Mr. KENDALL. It was referred to the Committee on Foreign Affairs.

Mr. MANN. It was referred to the Committee on Claims in the House.

Mr. KENDALL. It has been before the Committee on Foreign Affairs, whether legitimately or not I do not know. The Committee on Foreign Affairs have been taking testimony and examining into the matter, with such light from the State Department as it could acquire.

Mr. MANN. The Committee on Foreign Affairs would have jurisdiction on a matter that related to a claim against Mexico, but the Committee on Foreign Affairs has no jurisdiction to consider claims against the United States, and ought not to have.

The SPEAKER. The Chair will ask the gentleman from Illinois if he thinks this claim stands on the ordinary plane?

Mr. MANN. The Committee on Claims has frequently reported claims in behalf of foreign citizens, recommending payment by the United States.

The SPEAKER. But this is the claim of a foreign Government.

Mr. MANN. Against the United States.

Mr. KENDALL. To be presented against Mexico.

Mr. COOPER. It is primarily against Mexico and not the United States. Neither the Government of the United States nor any of its citizens injured these persons or permitted them to be injured.

The SPEAKER. One thing is clear about it, and that is that the Committee on Interstate and Foreign Commerce has no business with it.

Mr. MANN. The rules provide how a private bill wrongfully referred shall be changed, and it does not require action by the House.

Mr. COOPER. The whole question is whether it has been erroneously referred. The gentleman is mistaken in saying that this is a claim against the United States. The bullets were Mexican bullets fired across the border, killing and wounding persons on our soil. Primarily the claims are against Mexico, but the only way to get them before the Mexican Government is for our Government to ascertain what damage was done, pay for it, and then, through the State Department, present to Mexico a diplomatic request for reimbursement.

The SPEAKER. The Chair will have to examine the bill to see what is in it and form his opinion about it. One thing is certain, and that is the Committee on Interstate and Foreign Commerce has no jurisdiction over it.

Mr. FLOOD of Virginia. Mr. Speaker, I rise to a parliamentary question. I have just come in and I would like to know what the question is before the House.

The SPEAKER. The question is upon taking the bill from the Committee on Interstate and Foreign Commerce and referring it to the Committee on Foreign Affairs. It was erroneously referred to the Committee on Interstate and Foreign Commerce, and now the gentleman from Illinois [Mr. MANN] claims that it would be equally erroneous to refer it to the Committee on Foreign Affairs. Two or three members of the Committee on Foreign Affairs claim that that committee has a right to it.

Mr. COOPER. I say that, properly speaking, this is not a claim against the United States. After the amount has been paid to the claimant by the United States the State Department will present it to Mexico and Mexico will reimburse our Treasury, so that at last the United States will not really have paid anything.

Mr. MANN. It must first be a claim against the United States before it is paid by Mexico.

Mr. COOPER. No. It is a claim against Mexico, the amount of which is first ascertained and paid by the United States, in order that a proper demand may be made upon Mexico.

Mr. MANN. The determination of several resolutions that have been introduced would be to fix the liability upon the United States, and I do not think it ought to be so fixed.

The SPEAKER. How can they fix a claim upon the United States for damage done by Mexico?

Mr. MANN. That is the purpose of the bill, to have the United States pay the claim, and that makes it a claim against the United States. Then we may whistle for the money, perhaps, as far as Mexico is concerned.

The SPEAKER. Does the gentleman from Illinois claim that this is a private bill?

Mr. MANN. Certainly.

Mr. FLOOD of Virginia. When was the bill introduced?

The SPEAKER. The Chair will ask that this matter go over until next Monday.

Mr. MANN. For the present, Mr. Speaker, I will object to the request to change the reference to the Committee on Foreign Affairs.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

Mr. MANN. Upon what subject?

Mr. RAKER. Upon the bill that has just been passed.

Mr. MANN. I shall object to the extension of any remarks upon the bill that was passed to-day.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Curtiss, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 6402. An act to authorize the issuance of absolute and unqualified patents to public lands in certain cases;

S. 7754. An act for the relief of Joseph Hodges; and

S. 8369. An act authorizing the Secretary of the Treasury to give to the Order of Daughters of the American Revolution the "Old Exchange" Building in the city of Charleston, S. C.

The message also announced that the Senate had disagreed to the bill (S. 267) providing for assisting indigent persons, other than natives, in the District of Alaska, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. NELSON, Mr. BURNHAM, and Mr. CHAMBERLAIN as the conferees on the part of the Senate.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 6402. An act to authorize the issuance of absolute and unqualified patents to public lands in certain cases; to the Committee on the Public Lands.

S. 7754. An act for the relief of Joseph Hodges; to the Committee on the Public Lands.

S. 8369. An act authorizing the Secretary of the Treasury to give to the Order of Daughters of the American Revolution the "Old Exchange" Building in the city of Charleston, S. C.; to the Committee on Public Buildings and Grounds.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 8034. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 7160. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. RUBEY, for six days, on account of death of his secretary.

To Mr. DAVENPORT, for one week, on account of important business.

To Mr. FLOOD of Virginia, indefinitely, on account of sickness.

To Mr. SCULLY, for one week, on account of illness in his family.

TO PUNISH UNLAWFUL BREAKING OF SEALS OF RAILROAD CARS, ETC.

Mr. CARLIN. Mr. Speaker, I ask to take from the Speaker's table the bill H. R. 16450, and move to concur in the Senate amendments. They are immaterial amendments to a House bill.

The SPEAKER laid before the House the following House bill with Senate amendments.

The Clerk read as follows:

H. R. 16450. An act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles therefrom in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious reception or possession of the same.

The Senate amendments were read.

Mr. CARLIN. Mr. Speaker, I move to concur in the Senate amendments.

The question was taken, and the Senate amendments were concurred in.

HOUR OF MEETING ON MONDAY.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent that when the House adjourns to-morrow it adjourn to meet at half past 10 on Monday morning.

The SPEAKER. The gentleman from Alabama asks unanimous consent that when the House adjourns to-morrow it adjourn to meet at 10.30 a. m. on Monday. Is there objection? [After a pause.] The Chair hears none.

SPEAKER PRO TEMPORE FOR SUNDAY, FEBRUARY 9, 1913.

The SPEAKER designated Mr. PEPPER, of Iowa, to preside at the eulogies in the House to-morrow, Sunday, February 9, 1913.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 55 minutes p. m.) the House adjourned to meet to-morrow, Sunday, February 9, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of harbor at Spring Bay, on the Illinois River, between Copperas Creek and La Salle, Ill. (H. Doc. No. 1371); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on examination of Wessaweskeag River, South Thomaston, Me. (H. Doc. No. 1370); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

3. A letter from the Secretary of War, transmitting, with letter from the Chief of Engineers, report of examination and survey of Providence River and Harbor, R. I. (H. Doc. No. 1369); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

4. A letter from the Secretary of the Treasury, submitting estimate of appropriation for the Federal building at Pittsburgh, Pa. (H. Doc. No. 1368); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of the Interior, transmitting list of useless papers on file in the department and requesting that they be destroyed (H. Doc. No. 1367); to the Committee on Disposition of Useless Executive Papers and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HAY, from the Committee on Military Affairs, to which was referred the bill (H. R. 1330) to protect the monuments already erected on the battlefields of Bull Run, Va., and other monuments that may be there erected, reported the same with amendment, accompanied by a report (No. 1479), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FRAY, from the Committee on the Public Lands, to which was referred the bill (S. 4958) to accept the cession by the State of Washington of exclusive jurisdiction over the lands embraced within the Mount Rainier National Park, and for other purposes, reported the same with amendment, accompanied by a report (No. 1480), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. O'SHAUNESSY, from the Committee on the District of Columbia, to which was referred the bill (H. R. 20500) to authorize and direct the Commissioners of the District of Columbia to cause to be removed all obstructions from West Virginia Avenue, in the city of Washington, in the District of Columbia, reported the same with amendment, accompanied by a report (No. 1482), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. JONES, from the Committee on Insular Affairs, to which was referred the bill (S. 313) relative to the exchange of certain properties between the insular government of Porto Rico and the War Department, reported the same without amendment, accompanied by a report (No. 1484), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. STEPHENS of California, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill (H. R. 28524) to create a board of local inspectors, Steamboat-Inspection Service, for the port of Los Angeles, Cal., reported the same without amendment, accompanied by a report (No. 1489), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CLINE, from the Committee on Foreign Affairs, to which was referred the bill (H. R. 28674) for the control and regulation of the waters of the Niagara River above the Falls of Niagara, and for other purposes, reported the same without amendment, accompanied by a report (No. 1488), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FLOOD of Virginia, from the Committee on Foreign Affairs, to which was referred the bill (H. R. 28408) authorizing the payment of damages to persons for injuries inflicted by Mexican federal or insurgent troops within the United States during the insurrection in Mexico in 1911, making appropriation therefor, and authorizing and directing the Secretary of State to proceed in conformity with diplomatic usage and international law to secure reimbursement therefor from Mexico, reported the same with amendment, accompanied by a report (No. 1485), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. PEPPER, from the Committee on Military Affairs, to which was referred the bill (S. 6798) authorizing the Secretary of War to grant permission for the erection of a hotel on the Fort Huachuca Military Reservation, in Arizona, reported the same without amendment, accompanied by a report (No. 1490), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. KAHN, from the Committee on the District of Columbia, to which was referred the bill (S. 2504) to provide for the extension of New Hampshire Avenue, in the District of Columbia, on a straight line, and for other purposes, reported the same without amendment, accompanied by a report (No. 1487), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 5948) to prohibit in the District of Columbia the intermarriage of whites with negroes or Mongolians, reported the same with amendments, accompanied by a report (No. 1486), which said bill and report were referred to the House Calendar.

Mr. RUCKER of Missouri, from the Committee on the Judiciary, to which was referred the bill (H. R. 27489) to amend section 3240 of chapter 3 of the Revised Statutes of the United States, as amended by act approved June 21, 1906, so as to provide for furnishing certain records or certified copies thereof, and for other purposes, reported the same with amendment, accompanied by a report (No. 1481), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HAY: A bill (H. R. 28699) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1914, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. HARDWICK: A bill (H. R. 28700) to authorize the purchase or acquisition of an aviation field at Augusta, Ga., for aviation and other military purposes; to the Committee on Military Affairs.

By Mr. MARTIN of South Dakota: A bill (H. R. 28701) to provide an enlarged homestead; to the Committee on the Public Lands.

By Mr. McCALL: A bill (H. R. 28702) for the acquisition of a site and the erection thereon of a public building at Winchester, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. JACOWAY: A bill (H. R. 28703) for the purchase of a site and the erection of a public building at Little Rock, Ark.; to the Committee on Public Buildings and Grounds.

By Mr. KENT: A bill (H. R. 28714) authorizing the purchase and erection of four electroliers in front of the Government building in the city of Sacramento, Cal.; to the Committee on Public Buildings and Grounds.

By Mr. AKIN of New York: Resolution (H. Res. 821) to authorize the Secretary of Agriculture to purchase 6 thoroughbred turkey buzzards and 99 thoroughbred humming birds for breeding purposes; to the Committee on Agriculture.

By the SPEAKER (by request): Memorial from the Legislative Assembly of the State of North Dakota, memorializing Congress to pass the Kenyon-Sheppard bill at the earliest possible date and without amendment; to the Committee on the Judiciary.

Also (by request), memorial from the General Assembly of the State of Iowa, memorializing Congress to pass the Kenyon-Sheppard bill; to the Committee on the Judiciary.

By Mr. MARTIN of South Dakota: Memorial from the Legislature of the State of South Dakota memorializing the Congress of the United States to enact during the present session the Newlands bill providing for the creation of a board of river regulation; to the Committee on Rivers and Harbors.

Also, memorial from the Legislature of the State of South Dakota, urging Congress by proper enactment to designate Fort Meade as a brigade post and provide suitable barracks and quarters for the garrison thereof; to the Committee on Military Affairs.

Also, memorial from the Legislature of South Dakota, memorializing Congress to immediately enact legislation restricting the jurisdiction of the district courts of the United States in the matter of enjoining State officers, etc.; to the Committee on the Judiciary.

Also, memorial from the Legislature of the State of South Dakota, memorializing Congress to enact a general statute for the nomination of presidential candidates by direct vote of the party electors; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. NYE: Memorial from the Legislature of the State of Minnesota, favoring bill to authorize national banks to loan money on farm mortgages, etc.; to the Committee on Banking and Currency.

By Mr. GOOD: Memorial from the General Assembly of the State of Iowa, memorializing Congress to pass the Kenyon-Sheppard bill; to the Committee on the Judiciary.

By Mr. STEVENS of Minnesota: Memorial from the Legislature of the State of Minnesota, requesting legislation authorizing Federal banks to loan money on farm-land mortgages; to the Committee on Banking and Currency.

By Mr. LEVY: Memorial from the Legislature of the State of New Mexico, protesting against transferring Fort Sill Indians, known as Geronimo's Band, to the Mescalero Apache Indian Reservation or to any other reservation in New Mexico; to the Committee on Indian Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AIKEN of South Carolina: A bill (H. R. 28704) for the relief of the heirs of Catherine Norris, deceased; to the Committee on War Claims.

By Mr. CARLIN: A bill (H. R. 28705) for the relief of the heirs of Frederick A. Holden, deceased; to the Committee on War Claims.

By Mr. MICHAEL E. DRISCOLL: A bill (H. R. 28706) granting an increase of pension to Robert F. Thorn; to the Committee on Invalid Pensions.

By Mr. POWERS: A bill (H. R. 28707) for the relief of Thomas J. Smith; to the Committee on War Claims.

By Mr. RIORDAN: A bill (H. R. 28708) granting an increase of pension to James F. Conway; to the Committee on Invalid Pensions.

By Mr. SHARP: A bill (H. R. 28709) to restore the name of John O. Wilkins, deceased, to the rolls of Company G, One hundred and twenty-first Regiment Ohio Volunteer Infantry; to the Committee on Military Affairs.

By Mr. TAGGART: A bill (H. R. 28710) granting an increase of pension to Samuel J. Smock; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28711) granting an increase of pension to Mary Bailey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28712) granting an increase of pension to Robert Hird; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28713) granting a pension to Mary H. Bisbey; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANSBERRY: Petition of the United Mine Workers of America, Columbus, Ohio, favoring the passage of the Wilson resolution, for the investigation of the present conditions of the miners of West Virginia; to the Committee on Labor.

By Mr. ASHBROOK: Petition of the United Mine Workers of America, favoring the passage of the Wilson resolution, for an investigation of the West Virginia miners' strike; to the Committee on Labor.

By Mr. BROWNING: Petition of 15 citizens of Merchantville and the Trinity Methodist Episcopal Church, of Merchantville, N. J., favoring the passage of the Kenyon-McCumber bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. DYER: Petition of E. O. Moore and W. J. Edwards, St. Louis, Mo., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Antisaloon League of America, Washington, D. C., favoring the passage of the Webb bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Missouri Library Association, Jefferson City, Mo., favoring the passage of an amendment giving the books from public libraries the same rates as merchandise under the parcel-post system; to the Committee on the Post Office and Post Roads.

Also, petition of Phil Bardenheimer & Co., Bauer Mueller Distilling Co., and 42 other companies of St. Louis, Mo., protesting against any action on the Webb bill by the House until the Senate has acted on the Kenyon liquor bill; to the Committee on the Judiciary.

By Mr. FRENCH: Petition of the Women's Christian Temperance Union, of Parma, Idaho, favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. GOOD: Petition of the Johnson Gas Appliance Co. employees, Cedar Rapids, Iowa, favoring the passage of House bill 25685, providing for the labeling and tagging of all fabrics and articles of clothing intended for sale under interstate commerce; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Tama Methodist Episcopal Official Board, Tama, Iowa, favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. HARRISON of New York: Petition of citizens of New York, favoring the passage of the McLean bill, granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. LEE of Pennsylvania: Petition of the System Federation of the Harriman Lines, Los Angeles, Cal., favoring the passage of legislation for the enforcing of the inspection of locomotive boilers and safety appliances for railway equipment; to the Committee on Interstate and Foreign Commerce.

By Mr. LEVY: Petition of T. L. Kennedy, professor mechanical engineering, Harvard University, favoring the passage of the Page bill, granting Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the American Wood Preservers' Association, Baltimore, Md., protesting against the passage of legislation for the removal of creosote oil from the free list; to the Committee on Ways and Means.

Also, petition of Ernest Thompson Seton, Greenwich, Conn., favoring the passage of the McLean bill, granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of Rice & Adams, Buffalo, N. Y., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Offices and Post Roads.

Also, petition of the California Club, of San Francisco, Cal., favoring the passage of legislation making further appropriations for the suppression of the white-slave traffic; to the Committee on Appropriations.

By Mr. LINDSAY: Petition of the Downtown Taxpayers' Association, Brooklyn, N. Y., favoring the placing of a clause in this year's naval appropriation bill providing for the building of one of the new battleships in a Government navy yard; to the Committee on Naval Affairs.

By Mr. McKENZIE: Petition of citizens of Pearl City and the Lutheran Churches of Pearl City and Kent, Ill., all favoring the passage of the Webb-Kenyon bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. MOTT: Petition of the Downtown Taxpayers' Association, of Brooklyn, N. Y., favoring the passage of an amendment for the construction of one battleship at a Government navy yard; to the Committee on Naval Affairs.

By Mr. NELSON: Petition of the Epworth League and congregation of the First Methodist Episcopal Church, Madison, Wis., favoring the passage of the Kenyon-McCumber bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. POWERS: Papers to accompany bill for the relief of Thomas J. Smith, for property taken during Civil War; to the Committee on Naval Affairs.

By Mr. RAKER: Petition of the World Peace Foundation School, Boston, Mass., protesting against the passage of legislation for the building of two battleships per year; to the Committee on Naval Affairs.

Also, petition of the California Wine Association, New York, protesting against the passage of the Webb bill, preventing the

shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Rudgear Merle Co., San Francisco, Cal., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the Downtown Taxpayers' Association, Brooklyn, N. Y., favoring the passage of legislation providing for the building of one of the two battleships in a Government navy yard; to the Committee on Naval Affairs.

By Mr. SCULLY: Petition of citizens of Monmouth County, State of New Jersey, favoring the passage of the Kenyon-McCumber bill, to withdraw from interstate-commerce protection liquors imported into dry territory for illegal use; to the Committee on the Judiciary.

Also, petition of the First Methodist Episcopal Churches of Highlands, Toms River, West Long Branch, and Sea Bright; citizens of Metuchen, Toms River, and Cranbury; Old First Methodist Episcopal Church, of West Long Branch; and Presbyterian Church of Atlantic Highlands, State of New Jersey, favoring the passage of the Kenyon-McCumber bill, to withdraw from interstate-commerce protection liquors imported into dry territory for illegal use; to the Committee on the Judiciary.

By Mr. SMITH of Michigan: Petition of Taylor Bros. Co., Battle Creek, Mich., favoring the passage of legislation for the removal of duty on almonds, walnuts, and filberts; to the Committee on Ways and Means.

Also, petition of the Woman's Historical Club, Detroit, Mich., protesting against the passage of any legislation tending to destroy the present national system of forest preservation; to the Committee on Agriculture.

By Mr. STEPHENS of California: Petition of members of the Lake Avenue Methodist Episcopal Church, Pasadena, Cal., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. WILLIS: Petition of the United Mine Workers of America, District No. 6, Columbus, Ohio, favoring the passage of legislation for the investigation of the West Virginia coal strike; to the Committee on Labor.

By Mr. WOOD of New Jersey: Petition of citizens of the fourth congressional district of New Jersey, favoring the passage of the Kenyon-McCumber bill, to withdraw from interstate-commerce protection liquors imported into dry territory for illegal use; to the Committee on the Judiciary.

HOUSE OF REPRESENTATIVES.

SUNDAY, *February 9, 1913.*

The House met at 12 o'clock noon, and was called to order by the Speaker pro tempore [Mr. PEPPER].

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Eternal God, our heavenly Father, in whose all-encircling love we dwell, through whose never-failing ministrations our existence is continued moment by moment, hour by hour, guide us, we beseech Thee, by the Holy Spirit of Truth to do Thy will, that we may build each for himself a character which shall be an everlasting memorial to Thee. We are here in memory of three great men whose lives have become a part of the Nation's history. We can not add to or detract from their glory, but we may exalt ourselves by recording faithfully their service to State and Nation. Comfort, we pray Thee, their friends, colleagues, and those near and dear to them by the bonds of kinship with the blessed hope of the immortality of the soul.

Not enjoyment, and not sorrow,
Is our destined end or way;
But to act that each to-morrow
Find us farther than to-day.

Inspire us with courage, zeal, and fidelity that we may be worthy and pass on to the reward of those who, true to themselves, reflect in thought, word, and deed the character of Him who taught us to pray: Our Father which art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done in earth, as it is in Heaven. Give us this day our daily bread. And forgive us our debts, as we forgive our debtors. And lead us not into temptation, but deliver us from evil. For Thine is the kingdom, and the power, and the glory, forever. Amen.

The SPEAKER pro tempore. The Clerk will read the Journal.

Mr. KENDALL. Mr. Speaker, I ask unanimous consent that the reading of the Journal may be dispensed with.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. Without objection, the Journal will be approved.

There was no objection.

THE LATE REPRESENTATIVE HUBBARD, OF IOWA.

The SPEAKER pro tempore. The Clerk will report the special order of to-day.

The Clerk read as follows:

Ordered, That Sunday, February 9, 1913, at 12 o'clock m., be set apart for addresses upon the life, character, and public services of Hon. ELBERT H. HUBBARD, late a Representative from the State of Iowa.

Mr. HAUGEN. Mr. Speaker, I offer the following resolution, which I send to the Clerk's desk.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 822.

Resolved, That in pursuance of the special order heretofore adopted the House proceed to pay tribute to the memory of the Hon. ELBERT HAMILTON HUBBARD, late a Representative in Congress from the State of Iowa.

Resolved, That as a further mark of respect to the memory of the deceased and in recognition of his public career the House at the conclusion of the memorial proceedings of this day shall stand adjourned.

Resolved, That the Clerk of the House communicate these resolutions to the Senate.

Resolved, That the Clerk of the House be, and he is hereby, instructed to send a copy of these resolutions to the family of the deceased.

The question was taken, and the resolution was unanimously agreed to.

Mr. SCOTT. Mr. Speaker, I rise with deep feeling of trepidation on this occasion; a feeling due to consciousness of my inability to speak fittingly and adequately of the life and character of the man to whose memory we are all anxious to pay tribute of honor. My want of confidence at this time is not attributable to the absence of knowledge on my part of his splendid faculties, accomplishments, and attainments, or want of familiarity with his admirable character and lovable disposition. An acquaintance extending over a score of years, during which period I was privileged to come in frequent contact with him as a neighbor, as an honorable public servant, and as a brother at the bar, gave ample opportunity for me to discern and appreciate both his unusual faculties of mind and his noble impulses of heart. It is rather realization upon my part of his deserving and commendable qualities that forces acknowledgment of my want of command of language to fittingly describe them.

I am also deeply impressed with a sense of recollection of the almost tragic circumstance of his untimely taking off. After nearly eight years of service in this House, and when the time had again recurred for the people to pass judgment upon the faithfulness of his stewardship, by popular vote he was accorded a fifth nomination—a distinction never before conferred upon any man by the electors of his district. With the closing of the polls at the popular primary election on the 3d of last June he repaired to his home apparently in good health and without outward evidence of concern touching the result of the ballot. Indeed, he seemed inspired with a confidence wholly unaffected by any sense of apprehension.

I had been his opponent in the contest then at a close, and I shall always treasure with deep feeling of satisfaction his expression of gratification made just before retiring to his home over the fact that our campaign had been one of the utmost good feeling and wholly devoid of any circumstance calculated to cause regret.

After returning home and partaking of his evening meal he walked down the street a short distance to spend the evening with a neighbor almost directly across the way from my own home. After conversing with his friend a few moments he was taken suddenly ill of acute indigestion. He grew rapidly worse, and the seriousness of his condition was soon apparent. He lingered through the night, and in the early morning expired in the arms of his son.

Appalled by the force and suddenness of the shock the whole community gave over to lamentation and sense of deepest sorrow. The passing of ELBERT HAMILTON HUBBARD affected with a sense of personal bereavement his fellow citizens far beyond the circle of his immediate friends. Coming to the young city of his father's adoption when but a child, he became fused with the personality of its earliest generation, and his life was contemporary with its entire history. His personality was striking, bearing immediate evidence of distinctive character; his impulses were so high and generous, his sympathies so broad, and his mind so tolerant as to challenge the admiration and affection of all who were privileged to know him. Endowed with such qualities, though modest almost to a degree of diffidence, he never wanted for friends to speak in his behalf.

Mr. HUBBARD was peculiarly a product of his home city. Born at Rushville, in the State of Indiana, August 19, 1849, he came a few years later as a small boy to Sioux City, where his father

had settled as one of its earliest pioneers. His preparatory education was completed in the Sioux City public schools, and at the age of 19 he entered Yale College for the completion of his general education. From that institution he was graduated with the class of 1872, and, returning to Sioux City, took up the study of the law. In due time he completed his course and entered upon the practice of his chosen profession. For 30 years before entering this House he maintained high position at the Iowa bar. The discharge of his professional duties was characterized by marked ability; and while vigorous and persistent in maintaining the cause of his client, he never disregarded the established ethics of his profession. His conduct at the bar was not only marked by a recognition of that high respect due to the court, but that gentlemanly courtesy to his brother lawyers which graces the orderly management of judicial proceedings.

During the period of his professional career there were a number of intervals when he put aside his private affairs in response to the call of his fellow citizens to perform important public service. As early as 1882 he served as a member of the House of Representatives of the Iowa Legislature, and again in 1899 in the Iowa Senate. His public service in the legislature of his State, as in this House, was always characterized by that marked ability and fidelity by which he secured and held the respect and gratitude of his fellow citizens.

Were I to assign preeminent distinction to any of Mr. HUBBARD's lovable traits of character, it would be to that code of manners observed by him in his relation to the members of his family. From him wife and children always received that solicitous consideration, that anxious desire for convenience and comfort, that deep sincerity of love and affection which will constitute a lasting heritage of loving memory. But with all this there was no mark of selfishness; his kindly demeanor was not reserved for those who were near and dear; to all with whom he came in contact he gave that consideration of kindly respect which marked the refined gentleman. To the poor—to those who toil—he was most generous in his regard; and all those whose privilege it has been to know his character will gratefully acknowledge his fraternal nature.

Yea, brother of all the brave millions that toil;
Brave brother in patience and silent endeavor,
Rest on, as the harvester rich from the soil,
Rest you, and rest you for ever and ever.

Mr. KENDALL. Mr. Speaker, standing by the open grave into which the remains of his only brother were about to be committed, the most persuasive orator of our day, perhaps of any day, solaced the agony of his tortured heart with this philosophy:

Yet, after all, it may be best, just in the happiest, sunniest hour of all the voyage, when eager winds are kissing every sail, to dash against the unseen rock, and in an instant hear the billows roar over a sunken ship.

The mortality record of the Sixty-second Congress has been unprecedented in the parliamentary history of the Republic. Six Senators and 19 Representatives have responded to the final roll call in this Capitol, and have been transferred to augment the uncounted quorum in the world invisible. The passing of these colleagues has been of especial significance to me, because within the year circumstances personal to myself have made me understand, as I never understood before, that "the night cometh," and that "no man knoweth the day nor the hour."

The death of HUBBARD was certainly unexpected, but we can not be sure that it was untimely. He was so completely equipped to live that he was perfectly prepared to die. The inexorable messenger who can not be denied beckoned him apart just when the inducements to life were most alluring, just when the possibilities of service were most expansive, just when the approval of friends was most unmistakable. The entire community was profoundly shocked by the suddenness of the summons, but we can not presume to challenge the dispensations of a Providence which orders with infinite wisdom all the destinies of men. For our sufficient consolation we must realize that the "Almighty has His own purposes," and that "the judgments of the Lord are true and righteous altogether."

I first became acquainted with our departed friend when we were elected, he to the senate and I to the house in the Twenty-eighth General Assembly of Iowa. The personnel of that legislature was exceptional in ability and experience, and many of its membership have since been elevated to positions of responsibility and eminence in the State. It was a company of men earnest of conviction, vigorous of intellect, resolute of individuality, and only the fittest might be ambitious to survive. HUBBARD early assumed a leadership which he maintained unquestioned until the session was dissolved by adjournment. In that more limited arena he developed the qualities which commanded his promotion to this wider theater of endeavor, and here I was privileged to resume relations with him when I entered the Sixty-first Congress in 1909. I loved him from our introduction in Des Moines with an affection which deepened and intensified as the advancing years revealed the genuine nobility of his admirable character.

He was a courageous man. He denounced the intolerance of the régime which formerly dominated the House majority, even at the peril of exclusion from party fellowship. He attacked the prerogative which then attached to the Speakership when it was inevitable that his independence would be punished by the autocracy he antagonized. He sustained the President in his program for reciprocity with Canada when all his Republican colleagues from Iowa rejected the proposition; and he repudiated the Payne-Aldrich bill as a betrayal of party pledges, although it had the unqualified indorsement of a powerful Executive.

He was the proprietor of his own convictions. He would not accept a measure simply because it was proposed by the organization, nor resist it simply because it was favored by the opposition. It is not difficult to define the political creed to which he subscribed. He was a Republican, but always with him partisanship was subordinated to patriotism. He was determined that his party should become and continue the progressive party of the Nation. He knew that it was instituted not to make men rich, but to make men free, and he insisted that it must never renounce the exalted impulse which Abraham Lincoln lived and died to communicate to it. In any conflict between men and money, between people and property, his voice and his vote were for humanity. He believed in the direct election of Senators and in a graduated income tax. He believed in the initiative, the referendum, and the recall, accompanied by appropriate restrictions. He believed in protection as a cardinal policy, but always with tariff duties so adjusted that prosperity for the producer should go hand in hand with competition for the consumer.

He believed that in this democracy equality of opportunity must be sacredly preserved. He believed that the people of this country, white and black, rich and poor, great and small, must control it absolutely in all its departments. He believed that in the adoption or abrogation of organic compacts, in the enactment or repeal of statutes, in the designation or displacement of officials, the electors themselves must be the ultimate authority. He believed that in this age of arrogance and wealth the helplessness of the weak must be protected against the aggressions of the strong. He believed that every citizen in the land must be assured an untrammeled ballot for the nomination of his party candidates, so that the real preference of the rank and file of the voters shall be reflected in the results. He believed that the Constitution must be made a potential force in governmental life, cheerfully recognized and universally respected, by the removal of every unnecessary impediment which interposes between the people and its amendment after fair deliberation. He believed that the dangers of combination and monopoly must be overcome by restoring to the market place that unhampered independence and reasonable rivalry which alone can countervail the abuses of industrial, commercial, and financial concentration. He demanded that the course of the Republic be so directed that the disinterested intelligence of the many rather than the selfish genius of the few shall sound the dominant note in the national strain. These were the principles he espoused. Many of them were unpopular when he embraced them. Most of them are now applauded everywhere.

His life was open, unconcealed, obvious. He intended no evil, and he was therefore reluctant to impute evil even to those who willfully misrepresented him. He endured the criticism, much of it misinformed, some of it malignant, which all successful men are compelled to encounter; but it never aroused his animosity or disturbed his composure. He never provoked a controversy, but he never surrendered a conviction. The opinions he entertained were formulated for his own government after serious consideration, and while he never attempted to impose them upon his associates, he would not relinquish them no matter how bitterly they were assailed.

He was a man of extraordinary modesty. His political career was signalized by singular prosperity, but with vanity he was wholly unacquainted. He enjoyed the unbounded confidence of his electorate, and he had been commissioned and recommissioned as the representative of a sovereign Commonwealth in the most distinguished legislative assembly in the world. But he always esteemed the distinctions conferred upon him as opportunities for useful achievement in the public interest, and he remained throughout what he was originally—a simple, sincere, unaffected gentleman. And he was a natural gentleman. I knew him intimately for a dozen years, in public station and in private life, in his office and in mine, in his home and in mine,

and our intercourse was informal, even familiar. I never heard him utter a word in conversation that would be offensive to sensibilities the most fastidious, and I believe he never conceived a thought that might not have been published, without impropriety, in any presence.

He had no partiality for public life, because he comprehended how capricious is the approbation of men and how puerile are the preferments which the most fortunate can secure. He was devoted to wife and children and fireside and friends, and he contemplated early retirement to his home, and to his library, and to his profession.

He had a fine appreciation of art, whether expressed on canvas or in marble. He would stand for hours engrossed in Saint Gaudens's marvelous representation of "Grief" in Rock Creek Cemetery, and he once confided to me that, after all the pictures in the Corcoran Gallery, he returned instinctively again and again to view with awe and reverence Vela's majestic statue of Napoleon, in the upper corridor, and Michaelangelo's wonderfully impressive figure of the Pieta, near the entrance.

His literary discrimination was acute, cultivated, critical. Shakespeare he knew and cherished as a friend. Kipling was often in his hand. Browning was always on his table. Dickens was like one of the family. Tennyson was a constant companion, and the last time I saw him in Washington he concluded our interview by reciting with dramatic effect from that solemn masterpiece, "Crossing the Bar":

Sunset and evening star,
And one clear call for me.
And may there be no moaning of the bar
When I put out to sea.

Twilight and evening bell,
And after that the dark.
And may there be no sadness of farewell
When I embark.

For tho' from out our bourne of Time and Place
The flood may bear me far,
I hope to see my Pilot face to face
When I have crost the bar.

I can not suppose that he had a premonition of the approaching end, but as he finished there was the shadow of a tear in his eye and the suggestion of a tremor in his tone. He paused a moment, abstracted in reverie, and then began repeating that immortal poem of Leigh Hunt's:

Abou Ben Adhem (may his tribe increase!)
Awoke one night from a deep dream of peace,
And saw, within the moonlight in his room,
Making it rich, and like a lily in bloom,
An angel writing in a book of gold;
Exceeding peace had made Ben Adhem bold,
And to the Presence in the room he said,
"What writest thou?" The vision raised its head,
And with a look made all of sweet accord,
Answered, "The names of those who love the Lord."
"And is mine one?" said Abou. "Nay, not so,"
Replied the angel. Abou spake more low,
But cheerily still, and said, "I pray thee, then,
Write me as one who loves his fellow men."
The angel wrote and vanished. The next night
It came again with great awakening light,
And showed the names whom love of God had blest,
And lo! Ben Adhem's name led all the rest.

He finished, and we clasped hands in a final farewell. I shall remember him always as he appeared that last afternoon—gentle, serene, hopeful, courteous, radiating the delightful urbanity which endeared him to all. Within the month he had "crossed the bar," had seen "his pilot face to face," and had been written "as one who loves his fellow men."

The foremost poet of Bible time, possibly of all time, in the anguish of his spirit exclaimed, "If a man die, shall he live again?" The answer has arisen for centuries spontaneously from the human heart. We can not know when or where or how, but we do know that sometime, somewhere, somehow, if we are worthy to be numbered with the good, the just, and the true, we shall be permitted again to meet and greet our friend for whom we mourn to-day.

Mr. LLOYD. Mr. Speaker, more frequently than heretofore we are called upon to engage in these memorial exercises. The mortality of this body seems to grow greater with each recurring year. One year ago it would not have been expected that during this Congress it would be necessary to show our evidence of respect for the memory of Mr. E. H. HUBBARD. He was then in the apparent enjoyment of excellent health, with as good chance for a long life as any of us. But his fate was that of many others; he was called hence when it was least expected. Mr. HUBBARD was an exemplary man—but few are found whose lives are more so. He was a man who was slow to make personal friends, but everyone who knew him testifies to his personal worth. He lacked the element of personality which advertises and makes conspicuous. He was retiring and modest in demeanor. He had a long tenure of service here and showed at times superior ability but without demonstration. Men learned to know him for what he was, for he was entirely devoid of pretense and never paraded his superior ability. He was not brilliant in speech, but was convincing in statement. In Congress he made few addresses, and those he did make were on the merits of measures before the House. He never sought popular applause by trying to reach the galleries, but was contented to address himself to his colleagues on this floor. He was a man of splendid natural ability and had made himself a student of public questions. He was a man of strong convictions and was conscientious in the advocacy of what he believed to be right. He was an honest man and a useful citizen, and his life was an incentive to better things.

Mr. Speaker, this good man has gone into the beyond. His body so carefully consigned to earth may crumble into dust, but his spirit lives now and shall ever live. The philosophy of life is in death. Man's origin and development may be shrouded in mystery; his habitation and dominion in point of time may be unknown; his destination may be more of speculation than knowledge; man may not be able to explain the phenomena of life or the effect of dissolution; men may not agree as to the meaning of death or man's fate beyond it, but the certainty of its coming can not be doubted. The Bible story of man—his purpose and his future—presents the only solution of his existence. Here he may be to-day in the enjoyment of health and strength, to-morrow he may be cold and lifeless. Why this change? Humanity can but demonstrate the fact of what has happened; only infinity can explain it. Our friend, in the enjoyment of health, was cut down in the twinkling of an eye in the zenith of his power and before his mind and body had begun to weaken. Why this extraordinary condition? Why this irony of fate? A few months ago he sat in yonder seat, but never again will he answer an earthly roll call nor rise at the signal of the Speaker's gavel.

What of it all? Is life worth living? Is man's short stay amongst men compensation for the sorrow of separation? Ask wife and child was Mr. HUBBARD's life worth its cost in pain, anguish, and heartache, and you can be sure of the quick response, "A thousand times, yes." Ask the mother who bore him, and whose anxious heart beat over his little form, who nurtured him until he was wholly grown, "Was Mr. HUBBARD's life worth the cost," and she would promptly answer, "It was." I ask his friends, at home and here, what of Mr. HUBBARD's life? Was it for good or ill, for sunshine or for sorrow, for uplift or injury? Can it be said that his life was in vain, or was it a benefaction? I feel I can safely say there comes this response from all: "His life was worth the living."

What is the measure of human greatness? Is it in strict integrity, honesty of purpose, fidelity to truth, good training in mind and morals, devotion to duty as one sees it, splendid integrity, observation of filial, marital, and moral obligations? Then Mr. HUBBARD may be classed amongst the great men of earth. Here we know men by the little things they do—by their actions in committees, their conduct on this floor, and their personal demeanor elsewhere. We say of this man, "He is honest;" of that one, "He is brilliant;" and of another that he possesses a splendid character, applying almost as many descriptions as there are men; but, so far as I have ever heard, Mr. HUBBARD was regarded as a man of superior intelligence, good judgment, and strict integrity.

Another forceful example is here presented of the uncertain tenure of life and a splendid warning to us to be prepared when our summons comes. None of us knows when the call may be made. Let us hope that every individual here—the loved ones of Mr. HUBBARD and his friends generally—in thinking upon his life may receive inspiration from his good deeds and splendid example, and may all be encouraged to better living by reason of their association with him.

Mr. LENROOT. Mr. Speaker, when I became a Member of the Sixty-first Congress one of the first men with whom I became acquainted was E. H. HUBBARD. We immediately became friends, and from that time to the day of his death were very intimate. We both belonged to that wing of the Republican Party first called "Insurgent" and later "Progressive," and therefore upon public questions of great moment were thoroughly in accord.

Of his early life and career others have spoken. I only desire to briefly give expression to my opinion of him as a legislator and affection for him as a man. I need not say to any Member of this House that he was a man of marked ability and power, for they all know that to be the case. When he arose to speak there was immediate attention and Members

came in from the corridors. Everyone knew that when he arose he had something to say and that his speech would be profitable to listen to.

Being a profound lawyer with a deep sense of practical justice, scorning technicalities, he was at his best when discussing legal principles and their application to legislation. He was especially well equipped to distinguish between provisions of law and court procedure which aimed to secure justice and those which resulted in its obstruction. The first he always defended and sought to extend. The latter were his implacable foe.

He was a modest man; one of the most modest that I ever knew. He never sought to push himself forward and very often yielded to others to give expression to views and policies that he had been largely instrumental in formulating. This was especially marked in the consideration of the bill amending the interstate-commerce law enacted in 1910.

Members of the Sixty-first Congress will remember that the bill was the subject of very extended discussion. It was the habit of a group of Members, of which he was one, to meet nearly every evening in my office to prepare and consider amendments to the bill. His ripe experience and great ability were invaluable upon those occasions; but when it came to the presentation of these matters upon the floor he insisted that some other Member should take the lead. He was always ready and prepared, however, to assist and speak whenever the occasion seemed to require it. As illustrating this great modesty, I remember an occasion upon another bill when he and I discussed some features of it and found our views as to certain amendments to be in accord. I urged him to speak upon them, feeling certain that he could convince the House as to the correctness of our position. He said he would consider it. I saw him go up to the Speaker. In a few moments he returned, came over to my desk, and said: "Mr. LENROOT, the Chair has just promised me to recognize you next, and I want you to present the matter."

He was a Republican; but in every act and in every vote in this House he considered his duty to his country higher than his duty to his party. Upon any matter that arose there was but one question in his mind. That question was not whether it was a Republican measure or a Democratic measure, not who favored it or opposed it, but the sole question was whether it was right and in the interest of the people that it pass; and if his conscience answered "yes," he would vote for it, even though he stood alone.

That, Mr. Speaker, is the highest type of American citizen. That is the type of men that we increasingly need here, and the example and influence of our friend as a Member of this House has done much to create higher standards of thought and action in the deliberations of this body.

He was my friend. He was the friend of every Member with whom he came in contact. Of him it can be truly said:

None knew him but to love him,
None named him but to praise.

Mr. POWERS. Mr. Speaker, it was not long after the opening of the extraordinary session of Congress, nearly two years ago, that I had the pleasure of meeting for the first time our departed friend and colleague, Mr. HUBBARD. I was not intimately acquainted with him, although I had the pleasure of his association and company on quite a number of occasions, and had not only been more or less observant of his work in Congress but of his characteristics as a man as well.

There are others here much more familiar with the achievements of his long and honorable public career than I, as well as the inborn qualities that made that career possible, and I shall therefore leave a discussion of these matters, in the main, to those better able to do justice to them. His father before him was a distinguished jurist and an honorable Member of this House; and it is said that the son, as it was but natural for him to do, experienced peculiar pleasure and pride in following his father's footsteps to the halls of national legislation. For the fourth time he was elected and for the fifth time nominated by a critical and discerning constituency to a seat in this body—the greatest of its kind on earth. When after eight years of continuous service a Representative here has been renominated for two more years by the political party largely responsible for his former elections, that of itself is very convincing, if not conclusive, proof not only of his ability as a national legislator but also of his unswerving fidelity to that trust.

Mr. HUBBARD was originally sent from and continually returned to Congress by the district in which he had been born and reared, and by the constituents who knew his life and character best. In the eyes of the world a man may have a good reputation or a bad reputation, and whether good or bad it may be wrong. The place to get at what a man really is, the place to discover a man's true character, is from those among whom he has lived and mixed and mingled—those with whom he has been thrown in daily contact. They are the best judges of what a man really is.

They are the only true judges, and judged from that standard the life and character of ELBERT H. HUBBARD is above reproach. He was repeatedly trusted and honored by those who knew him best, and he was ever faithful to the trust imposed. He was independent in thought, independent in action. He put patriotism above party; the welfare of his constituency above his own. The truth is strikingly exemplified by the votes he cast contrary to the wishes and will of his constituency at the time, but which later proved to be for their permanent good. He was inherently honest. He voted not to please but to benefit. He was willing to take the consequence of every honest and honorable act, whether at the time understood or misunderstood, and leave it to time to vindicate him and his motives. But he is now with us no more. As a superb specimen of physical manhood, moving with poise and deliberation among his fellow men, bravely doing the duties and cheerfully meeting the responsibilities of life, he is no more. He is dead. But how little of the good and great that can die? He will live forever in the minds of all who knew him and in the hearts of a grateful constituency.

Peace and death's beauty to his heart to-day, who is not dead, but only gone away to sleep a little, as a child who goes when twilight frees the petal of the rose.

Mr. LOBECK. Mr. Speaker, the State of Iowa is noted for its great agricultural resources, second to none in the Union. The Creator, in His infinite wisdom, created within its boundaries a magnificent land, a country bounded by great rivers. Throughout its confines flow mighty streams, boundless prairies meet the eye, and splendid groves are interspersed to make the scenery beautiful to mankind.

No wonder, then, that the early settlers who came to the Territory and State of Iowa said: "This is the land for me and my family."

They saw this land, its fertile soil, its splendid streams, its magnificent resources, and they realized that it would become a veritable garden, an earthly paradise.

The struggles of these pioneers is the story repeated over and over again of the people who have converted by dauntless courage, integrity, and energy the virgin soil of the West into the fairest and best-producing agricultural lands of our country.

These pioneers brought with them the Bible, the spelling book, and the reader. They established churches, schools, and colleges.

As they developed and tilled the farms, built towns, cities, and constructed roads, they did not forget that education of their children was as necessary as the gaining of wealth, and they remembered to give their loved ones the priceless privilege of becoming educated, esteeming the value of education higher than the mere gaining of wealth.

As a youth I took an humble part in the development of Iowa, coming to the State in May, 1869, and remaining in Iowa until 1880, when I removed to my adopted and beloved State, Nebraska.

I knew personally some of its growth, especially west of the Des Moines River, then in its new development. I saw the virgin soil turned to the sun, the crops planted, the harvests gathered, the towns and cities built, with their churches and schoolhouses, railroads constructed, and the region become an empire of splendid homes.

At that time the district, a part of which was represented by Congressman HUBBARD, was known as the sixth, "the big sixth," comprising what is now known as the tenth and eleventh districts, a vast domain in extent, a mighty land to improve. To this district there came young men who have made their names famous and have rendered useful service to the State and Nation.

Iowa has been the home of great men from its earliest history; its men have been foremost in every line of activity and usefulness; its educators are widely known; its editors have achieved national fame; its clergymen have taken leading places amongst the divines of the land; its warriors have been mighty in battle; and its statesmen have ranked with the foremost in the high councils of the Nation.

When I came to Iowa, Senator Harlan was in the zenith of his influence; Senator Grimes's memory was still fresh in the minds of the people on account of his distinguished services in the Senate of the United States. And in the House of Representatives Iowa was represented by Allison, Kasson, Wilson of Fairfield, Price, Grinnell, and Hubbard (the father of the man whose memory we commemorate to-day). These were familiar household names in Iowa and the Nation. They

were great men, leaders of thought, and they rendered distinguished service for their country. During these days Governors Kirkwood and Carpenter, now gone to their final reward, were the Republican leaders of Iowa.

It was Congressman HUBBARD's privilege to see his beloved State develop into an empire. He took a prominent part in its growth and development. Living his life within its boundaries, he knew its resources better than most men. He not only knew, but helped develop, helped to make its history, and assisted in making its laws. Keeping close to the wishes of the common people, he became highly respected for his great ability, and they loved him for his usefulness.

I became acquainted with Congressman HUBBARD first at Sioux City, at a waterways convention. The Congressman believed that the great Missouri River should and could carry on its waters great fleets to transport the commerce and agricultural products of the Missouri Valley. He believed that the Missouri River could be made a mighty factor in transportation matters and lent his great influence to attain this most worthy object.

In this and other conventions I saw the great strength of his character. I noted his common sense, his method of doing things. Then, later, meeting him here in Congress, I observed his attentive manner, his close application to duties. I do not wonder that his people believed in him, elected him, time and time again, to represent them in legislative halls, both in his State and in Congress.

When the history of Iowa is fully written it will be related that in the northwestern part of the State there have been able and faithful men serving in Congress. Among the names of men who served in this body I recall Pomeroy, Orr, Oliver, Holmes, men who served their State and district faithfully, all of whom I had the honor to know personally. Judge HUBBARD was a worthy successor of these men and, like his predecessors, a man of the common people, strong, able, and conscientious. He was of the rugged type; growing to manhood among the pioneers of Iowa, he shared their joys and their sorrows, he knew their difficulties, and he lived to share their triumphs and success. In a word, "He made good."

The large attendance of the best citizenship of Iowa, the vast concourse of neighbors and people who attended the funeral of Judge HUBBARD to render their tribute of affection to his worth, attested the high esteem in which he was held by his people.

The life work of Congressman HUBBARD is ended, but the memory of his usefulness to his State and his country will live, and—

> To live in hearts we leave behind
> Is not to die.

His was a useful life. He gave his best to his people; for this they loved him.

With loving hands they laid him away in a beautiful resting place close to the scenes of his life's labors, near the city he loved and where he had been such an important factor in its growth and citizenship.

> There is no death; the stars go down
> To rise upon some fairer shore.
> And bright in heaven's jeweled crown
> They shine forever more.

Mr. WOODS of Iowa. Mr. Speaker, there is something necessary more than mere ability, riches, or personal achievement to perpetuate a man's memory. Though nature may bestow talents that are unusual, though energy and industry may compel passing recognition, though position has been attained that has lent power, and good fortune carried him to the highest pinnacle of fame, yet, if such a one lack human sympathy and a fellow feeling for mankind, the memory of his triumphs and successes will soon pass into oblivion. But when a man is found who possesses as a foundation to his talents a generous nature, a willingness to assist his fellow beings, a combination of heart and intellect, it forms a personality that leaves an indelible mark on those he comes in contact with and the world at large recognizes his true worth that his personal modesty can not hide and the malignity of a jealous, selfish world can not obscure.

ELBERT H. HUBBARD possessed a nature that was lovable, a kind and courteous disposition, and a quiet, unobtrusive manner. He had a faculty of making friendships that were lasting. A thorough student, he was careful and painstaking with any problem confronting him. He was cool and logical in debate, and in presenting an argument in favor of his position never became offensive, though earnest and aggressive. He took great pride in everything he did. He was proud of the principles he advocated and never allowed personal ambition or the fear of criticism to swerve him from what he considered right. Mr. HUBBARD was always loyal to his friends and ever ready to assist in a good cause. He was successful in his profession, was a credit to his district and to the country in his capacity as a lawmaker. He had a pure heart, a loving disposition, a generous appreciation of others, and a modest opinion of self. His chief concern was for the common people, and he gave of his time and talent to the end that the Government by the people, of the people, and for the people shall endure. His untimely death was indeed a loss to the Nation and a personal bereavement to every Member of this House, but the memory of his tender kindness and beautiful character will be one of our dearest recollections.

Mr. PICKETT. Mr. Speaker, how often we are called upon to pay our tributes of love and respect to the memory of departed associates. During this Congress alone 18 Representatives and 4 Senators have answered the final summons. Death has indeed laid a heavy toll on our membership. Their tenure of service has varied from a few months to many years. Some, just entering on this wider sphere of activity, were pressing forward with ambitious hope to greater usefulness. Others, privileged to serve for a period of years, had become identified with both the membership and the work of the House, and left their impress on our national affairs. Others had climbed high up the ladder of fame and were in the very zenith of their power, with great possibilities still before them. They have come from the various elements which go to make up the composite whole, each contributing in his own way to the finished product of legislation under which the greatest Nation in the world has been moving forward.

But no matter what their place here, or the distance of the horizon that bounds their name or fame; no matter how poignant the sorrow, or how deeply felt the loss; as each and all have passed away, the ranks have closed and Congress moved on. Great men have died at every period in our history, but no matter how great or beloved or potential, the Government does not pause. The legislative powers of our ninety millions of people are, under the Constitution, vested in Congress. Individual Congresses may adjourn or recess, but the Congress of the United States lives on. Its work is never completed. There will always be unfinished business before it.

Others who were associated for a longer period in this body with Mr. HUBBARD have spoken of his distinguished services here, and recounted his participation in the important contemporaneous legislation. I do not know that I can add anything to their tributes to his worth and service as a legislator. It is said that Cromwell selected his "Ironsides" from "such men as had some conscience in what they did." All will bear testimony that Mr. HUBBARD was a conscientious man. This trait was displayed in everything he did or said. He was guided by deep emotions, earnest convictions, and a sincere desire to serve the people. He had high ideals and a pure and lofty conception of the trust imposed upon a public servant.

His rise was steady rather than meteoric, which reflects the esteem in which he was held by those who knew him best. A lawyer by profession, through ability and work he made an honored place for himself among the bar of his State. Called to represent the constituents of his home county in the house of representatives in Iowa, his service in that body was such that he was later chosen to the senate of his State, where his services were so preeminent as to merit the wider responsibility of election to represent his district in Congress—a district comprising 13 counties with a population of approximately 250,000 people. He was elected to Congress four different times, and on the day of the evening on which he died had been renominated by his party as their candidate for another term. These continued and repeated evidences of confidence and esteem by a quarter of a million of people to whom he was known so well and with whom he had been closely associated for many years of his life are the highest tribute to his worth and character.

A few years ago, when an assassin's bullet struck down our lamented McKinley, beautiful indeed were the tributes of love and respect which came from a shocked and loving people. He had held many positions of trust and discharged them with fidelity and ability. His name had been associated and identified with policies and measures prominently recorded in the history of our country. And yet I recall how all of his achievements on the field of honor, in the halls of legislation, in the public forum, in the Chief Executive's chair seemed to have been set aside as the public mind turned instinctively to the sweetness and beauty of his home life. What was true of McKinley is equally true of the departed friend and associate whom we commemorate to-day.

Mr. HUBBARD was devoted to his family. His home life was ideal. He was fond of history, poetry, music, and art. His

home was the center of culture and there he found his greatest happiness. He enjoyed the society of his friends and liked to have them gather at his home. There his true qualities of mind and heart were shown to best advantage. He was gentle, affable, and kindly in his ways, sincere in his feelings, inspiring in his ideals. He was genuine. He will long be missed by those who were privileged to dwell within his hospitable friendship, and his memory will be a priceless heritage to his family.

> His life was gentle, and the elements
> So mix'd in him, that Nature might stand up
> And say to all the world, "This was a man."

Mr. GREEN of Iowa. Mr. Speaker, my acquaintance with Mr. HUBBARD was limited. I had not known him until the first session of this Congress. Short as it was, this acquaintance was sufficient to impress upon my mind the worth of the man and the force of his character.

We are living in an age devoted to the accumulation of wealth and a constant desire for the spectacular. The homely virtues of right living, of thorough integrity, and a consideration for others are too often forgotten unless so paraded before the public as to lose much of their value.

Mr. HUBBARD's life was in itself a sermon and a creed, yet he never preached or talked. A gentleman in the highest sense, he was kindly to others, considerate to all, and showed malice to none. His private life was without a blemish and his integrity unquestioned. The splendid prizes of the financial world had no allurements for him. He had an extensive practice as a lawyer and long service as a public official. As an attorney he had frequent opportunities to enrich himself in a manner that would have brought no reproach, but in professional and official life it was not sufficient for him to satisfy the law or accord with custom. The rule which he adopted was controlled by his conscience.

He who simply treads the path of duty is not likely in the ordinary course of events to have his merits fully known by the public. Mr. HUBBARD was unpretentious and led no vainglorious life. While his career was not dazzling it was infinitely more useful than many another which has been loudly acclaimed by the public and the press. His work was done faithfully with no loud-sounding advertisements and no flourish of trumpets. The busy world does not, can not, understand the loss it has sustained when such a man passes away. It is therefore most fitting, Mr. Speaker, that we should meet here to commemorate his virtues. Some time, when those who later read the history of the worthy men of our State, examine the record which we have made here, they will say: "This was a just man; a patriotic citizen; a faithful legislator; a man of large heart, of generous mind, of broad views; who lived, not for himself alone, but for all mankind."

Mr. SISSON. Mr. Speaker, I was not so fortunate as many of those who have spoken upon this occasion as to have a very intimate personal acquaintanceship with Mr. HUBBARD. When I came to Congress I recollect meeting him among the early days of the special session. I recollect with a great deal of pleasure the absolute independence of thought on the part of this distinguished man. My nearly four years of service in this House has made me very much less of a partisan than when I came. I fully realize that there are Representatives on the other side of the aisle from that upon which I sit whose patriotism is just as great, whose devotion to the country is just as great, as any of those gentlemen sitting upon this side of the aisle.

It seems to me that we are now reaching a period in our country's history when the party lines are being greatly shattered, and, being an optimist, I feel that whatever may occur to the political parties as they now exist, that out of it all the American people and this Republic will emerge brighter and stronger. I do not believe that any man living, when he attempts to measure the success of his life by what he has accumulated, can say that his life is a success. There is, there can be but one successful life, and that is a life of service. I do not care what field of labor one may occupy. I care not whether his avocation be one that is considered in the eyes of men a high and great avocation or not. If he devotes his life unselfishly to the betterment of humanity his life is a success. The hod carrier who devotes himself to unremitting toil, with a full determination that in this line of work he shall succeed and shall endeavor to make mankind better, is as glorious a success as though he occupied a position in the mind's eye of the world.

Mr. HUBBARD always impressed me when he came to consider a public question that he could and did lay aside all of his partisanship; and while he was a Republican, he never permitted a Republican organization or Republican leaders to do his thinking for him. And his example to me and others here has had an influence not only on that side of the aisle but on this side of the aisle, and I desire to indorse from my knowledge of him all that his friends from Iowa have said of him. And I believe that in their description of him as a man and individual at home they have not exaggerated his good qualities and his good character, because the earnest I saw of him here justifies me in the conviction that they have not overdrawn the picture.

Mankind worships at the cross of Christ because his was a life of service. Just as a man can pattern his life by that life it is a success. When the spirit of altruism shall fill the hearts and minds of people at both ends of this Capitol, and of all of those who shall occupy offices of trust in this Nation, and can have their ideas and their minds thus unselfishly directed to public questions and filled with that spirit of the Master, we will be able then, and not until then, to properly solve all the great matters of State.

I believe that the ethics of a people should always be in advance of the laws and the legislation of a people. I believe that when a people reach that point where their ethics are not in advance of their business and legislative code, that people have reached a point where they will not rapidly make advancement. And the ethical code of the distinguished Member of this House upon whose bier I would lay a flower was high. It rose above all the partisan strife, not only in his own State and in the Nation, but above the parties and strife in this House.

Courage is not only displayed on the field of battle, amid martial music, rattling musketry, and belching cannon. It requires more courage on the floor of this House to submit to the jeers of your party leaders and submit to the criticisms of a partisan press than it does to die on the field of battle. Mr. HUBBARD had this sort of courage. He was willing to submit to criticism in order that he might submit to the dictates of his own conscience. I believe he was an ideal Member in this respect. And in paying to him this tribute, with a full knowledge of his seven years' service, I know that he was all that I say he was. And I would to God that every Member on both sides of the center aisle would voice their consciences and their judgments with the same courage, with the same convictions, with the same patriotism, and with the same full consideration of the public welfare that Mr. HUBBARD did.

Mr. GOOD. Mr. Speaker, ELBERT H. HUBBARD was born at Rushville, Ind., on August 19, 1849. With his parents he removed to Iowa in 1857. His early education was obtained in the common schools of Sioux City. At the age of 23 he was graduated from Yale College.

His father, Asahel W. Hubbard, was prominently identified with the beginnings of Sioux City. He built the first hotel and organized the first railroad company in that vicinity. He was a lawyer by profession, and was elected judge of the circuit court, which position he filled with distinction. From 1862 to 1869 he represented the Sioux City district in this House. It was a source of great satisfaction to ELBERT H. HUBBARD to represent the district in the Congress of the United States where he had lived practically all his life, and which had previously been ably represented by his distinguished father. He was a boy of 8 years when he became a resident of Iowa, and from that time to the date of his death his interests and sympathies were always closely associated with the building up and development of that part of the country.

Mr. HUBBARD loved his country and rejoiced in her victories and mourned in her defeats. He was but a boy in his teens when the wires flashed the news over the country of Lee's surrender, and it is related of him that in the demonstration that followed young HUBBARD joined in the celebration by mounting the tower of the Methodist Church and ringing the old church bell. Throughout his entire life he was moved to action by the noble and patriotic impulses of his nature.

Mr. HUBBARD's legislative experience was not confined to his labors in this House. He was a member of the House of Representatives of the General Assembly of Iowa. Later he was elected to the State senate, where he served in the twenty-seventh and twenty-eighth general assemblies. He was a member of the house when the liquor question was decided by the Legislature of Iowa. He was again called to the service of his State when the great problem of the control of railways and corporations was before the Iowa Legislature. In Congress he took a prominent part in the fight to liberalize the rules of the House. It is thus seen that throughout his legislative career his tenure in each of the legislative bodies in which he served was at a time when his party was divided by internal strife. He was an able legislator, and in that capacity he served his State and country with credit and distinction. In every legis-

lative act party ties were made subservient to the national welfare. A lawyer by profession, he occupied an enviable position at the bar of the State.

It is worthy of note that the great financial panic of 1893 had its beginnings with the disastrous failure of the Union Trust Co. of Sioux City. For several years the Union Trust Co. had been floating stocks, bonds, and other securities which it guaranteed. The notes of this concern and the securities which it guaranteed had been sold in practically every part of the country. When the crash came in April, 1893, banks in 24 States of the Union held the promissory notes of this company, aggregating over $7,000,000. In addition to this, stocks and bonds guaranteed by this company had been sold in excess of $50,000,000 more. The object of the Union Trust Co. was to build a city where there was none, and in a marked degree it succeeded. Practically every great interest in Sioux City was allied in some way with the Union Trust Co. Most of its great enterprises were started by it, while to others it gave financial aid and backing. It built and aided in the building of railroads, street railways, manufacturing establishments, packing plants, stockyards, and elevators. It platted additions, erected buildings, and in a large way handled real estate, and did everything that a big corporation could do in the way of building up the city. It was a stupendous undertaking. The failure of this institution spelled bankruptcy to dozens of the financial organizations of Sioux City. It was a gloomy day for that thriving metropolis. When the crash came the trust company and its creditors alike looked for some one who had the confidence of the community and who, at the same time, had the ability to straighten out the legal and financial tangles. ELBERT H. HUBBARD was united upon as that man. He was appointed receiver for the Union Trust Co. and wound up its affairs with marked ability.

It was in connection with litigation growing out of this great failure that the present Attorney General, Hon. George W. Wickersham, became acquainted with Mr. HUBBARD, and from that day to the time of Mr. HUBBARD's death there existed a very close, intimate relationship between the two men. On more than one occasion I have heard the Attorney General speak in terms of highest praise of the legal ability and honorable conduct of Mr. HUBBARD.

For several years previous to his death Mr. HUBBARD was a member of one of the great committees of this House, the Committee on Insular Affairs. He took a great interest in all the legislation coming before this committee, and was a deep student of every question referred to it. He rarely participated in debate on the floor of the House, but he was a good listener, and no member of the House was, as a rule, better informed as to the merits of a bill after it had been discussed on the floor than he. When the time for action came there was never any question in his mind what his duty was. For him to know his duty was to perform it.

He loved nature and spent most of his spare time in strolling through the woods. He was a familiar figure in Rock Creek Park. He took a lively interest in everything that he saw or heard during these walks in the woods. How frequently have I heard him tell of the good times he had had in his long walks in the park. Who of his close friends have not heard him say of these tramps in the woods, "Great fun"? His home life was ideal. He was essentially a home man. Club life had no charms for him. He was an idealist, a dreamer of dreams. His idle moments were spent in communion with nature or in the companionship of his charming family. Surrounded by loved ones at home, his everyday life was most beautiful. The Almighty gave our lamented colleague a big heart. His was an affectionate nature, and his heart was always in the right place. We miss his counsel and advice. We miss his pleasant smile, his cheerful and cordial greeting, his brotherly companionship.

O for the touch of a vanish'd hand,
And the sound of a voice that is still.

Mr. NORRIS. Mr. Speaker, again we have met to pay the last tribute to one we loved. Again we are assembled around the open grave of one of our own number. We have met in blessed memory of a friend and brother who but yesterday, in the possession of all the faculties of a vigorous manhood, stood out among us as a model worthy of the emulation of the best. We can not think of him, we can not read of him, we can not remember him, we can not emulate him without improvement. Judge HUBBARD was one of God's noblemen. The elements of manhood were so intermingled in his make-up that his very life will always remain an inspiration to all those who knew him. He was vigorous and determined, he was unflinching and courageous, and through it all he was gentle, modest, and true. He never betrayed a friend and never took advantage of an enemy. As measured by the span of the ordinary life his work was far from completed. At a time when his usefulness was the greatest the awful summons came. Many years of still greater achievement, it seemed to his friends, lay before him; and yet, without notice and without warning, he was stricken down while the sun was in its zenith. And oh, how does his sudden taking off remind us of others of our number who were called before. Before their work has been completed they have been compelled to lay their burdens down and obey the sudden and solemn call. When humanity needed them most they have been called to answer the final summons. Before their grateful fellow citizens had learned to appreciate their work and their worth and give to them the honor and the reward that their work and their labors had entitled them to receive, eternity's gates swung open and we were deprived of their wisdom, their leadership, and their counsel. In this respect Iowa's loss has been greater than any other State. It seems but yesterday that Dolliver was called, and now to-day HUBBARD is gone—both summoned in the same way, while in the prime of their manly vigor and strength. Such instances almost cause us to doubt the wisdom and the justice of Providence, and, if this life were the end of it all, such doubt would be resolved into a certainty. But to me it is another reason for my faith that beyond this world of pain and grief there is a brighter, happier life, where the wrongs of earth will be righted, where tears of sorrow will never flow, where broken hearts will never bleed, where—

No grief shall gnaw the heart
And never shall a tender tie be broken.

And what of that life beyond? Is it a place where punishment shall be meted out to weakened mortal man for sins committed here?

Will death change me so
That I shall sit among the saints,
Turning a deaf ear to the sore complaints
Of souls that suffer?
Methinks, God pardon if the thought be sin,
That a world of pain were better, if therein
One's heart might still be human, and desires
Of human pity drop upon its fires
Some cooling tears.

We have it in Holy Writ, spoken through the lips of the Master himself, that the Kingdom of God is not meat and drink, but peace, love, and joy. It is beyond the power of the human mind to solve the mystery of death. In the awful shadow of its wing man stands helpless and appalled. No mortal eye can see, no mortal tongue can tell what lies beyond, and yet we have a satisfied, abiding faith that beyond it all there is a future life for man. And when the awful summons comes to us it will be with that faith, with that hope, with that belief—aye, with that conviction that, with unfaltering step and without a shudder or a fear, we can enter the mist, the darkened cloud that conceals from mortal eye the peace, the joy, the love, the blessings of eternity.

Mr. LINDBERGH. Mr. Speaker, soon after my first arrival in Washington it was my good fortune to meet the late Judge ELBERT H. HUBBARD. Immediately I knew him to be a sincere man of strong character. After I became better acquainted with him I came to know him as an excellent and able counselor. There are many problems that arise in the performance of the duties of office upon which a new Member needs the advice of one who is tried and experienced. I quickly recognized in Judge HUBBARD a man of the character that one could absolutely rely upon. On several occasions I went to his office in order to consult with him, and found him to be most judicious in passing his opinion on subjects requiring consideration.

Judge HUBBARD was progressive in the true sense of progressiveness. He knew the limitations of men and was practically and not radically progressive. He stood for those things that aid toward the betterment of conditions that affect mankind. He possessed the judgment that makes of men true statesmen.

The saddest that I have felt on seeing the draped desk of a departed Member was on the day when I saw it draped for Judge HUBBARD. It was the first information that had come to me of the closing of his life's valuable service to his country. But there was still left to his country the good of his past services. Perhaps a personal incident that I recall will give light on that statement. Those of us who try hard to meet the demands placed upon us get but little chance to make close personal acquaintances here. But occasionally we get a glimpse into the souls of our colleagues. One evening I called on Judge HUBBARD, and he was reading a poem written by J. K. Bangs. After he completed its reading he handed it to me. It was:

That part of me that from the earth hath come,
Let earth take back again when comes the hour
That makes of my achievement the full sum
And sets the limit to my feeble power.

I grudge no bit of it—the loan of clay
That from her breast I've ta'en I shall return,
And have no slight reluctance to repay,
Nor ever think the debt incurred to spurn.

But that which of the spirit is in me
Let no earth-creditor of me demand;
To earth give earth's, to immortality
The gift divine from the Immortal Hand.

Judge HUBBARD has given back to earth the clay. The results of his work as a statesman live on for the betterment of mankind—"the gift divine to the Immortal Hand."

Mr. TOWNER. Mr. Speaker, ELBERT HAMILTON HUBBARD was born in 1849. He was 62 years old when he died. He was a graduate of Yale College and a lawyer by profession. He early settled in Iowa and served both as a representative and as a senator in the general assembly. He was elected as a Representative in Congress in 1904 and served about seven years and until his death.

He was a man of the cleanest character and most exemplary life. There are those we know whose character is always challenged, who must struggle to maintain it, and who keep it only at the sword's point. Not so with his. No one ever challenged it; no one ever impugned it; no one ever doubted it. He was inherently, instinctively, temperamentally clean and pure. He was honest without effort, personally and politically.

I knew him personally only two years, but during that time our association was quite close. Although we often differed, I learned to greatly admire his fine character and high ideals. If I were asked to name his most distinguishing characteristic I think I should say simplicity and candor.

There is no more admirable trait in man that a noble simplicity. In this age when the character of many is so enigmatic that their original elements can not be divined, it is refreshing to find a simple nature, clear and transparent as a limpid streamlet. The greatest truths are the simplest, and so are the greatest men. Emerson said:

Nothing is more simple than greatness; indeed, to be simple is to be great.

This fine trait ELBERT HUBBARD possessed. He was simple and unaffected as a child. He had no thought of obscuring an issue or of concealing a thought. He did not desire to mystify, but to clarify. He was not a lover of darkness, but of light. He stood in the clear sunlight himself, and for the dragons of the caves he had neither admiration nor fear.

Closely allied to this is another most admirable trait of character, candor. Candor is the seal of a noble mind. A small mind or a dishonest one can not be candid. Dissimulation ever marks the swindler and the scoundrel. Deceit is the desire of little minds, the defense of the depraved, and the most useful weapon of the wicked. But candor is the mark of purity, for only the pure can be candid. This most admirable trait was marked in ELBERT HUBBARD. It did not need to be affirmed of him, because it was apparent. It shone from his eye, and—on his unembarrassed brow nature had written "gentleman."

I do not think ELBERT HUBBARD was ambitious, certainly not in the selfish sense. He was only desirous of doing his duty and being of service. If in doing this, distinction came, it was welcome. But he had no thought nor desire to force the issue, to press forward—

Treading the thorny road
Which leads through toil and hate to fame's serene abode.

His was the contemplative mind. He did not seize a thought and hurl it rough and ponderous toward its goal. Rather with patient care he sought it out with meditation, and with utmost pains he fashioned it, and then with steadfast purpose sent it speeding toward its goal. He loved the old themes and the old books.

The past's incalculable hoard,
Mellowed by scutcheoned panes in cloisters old,
Seclusions ivy-hushed and pavements sweet
With immemorial list of musing feet.

It would be thought that with these characteristics he would have been out of tune with this pushing, radical, inconoclastic age. But he was keenly and ardently abreast of the foremost thought, alive and sympathetic to the changing temper of the times. A strange combination this, a conservative radical. Ideally that is what we all should be: keeping abreast of the progress of the age and bearing our part in its onward march, and yet holding fast to the treasured richness of the past and never yielding judgment to passion or to impulse.

Most of this virtuous and blameless life is hidden from us in modest privacy. But that which is revealed gives token of the richness and the worth reserved for those who knew and loved him best. We speak of the news of unexpected death as a stroke. And so it is. Out of the unseen comes the arrow of death, and out of the unseen comes the flash of a sad intelligence that smites the heart sometimes with sorrow deeper than the dart of death. To those who knew him best no news of death could have been more unexpected. He was seemingly so well, so happily alive, so glad in the very hour of political victory that when the news came of his death it came with double force. But there is a consolation, if not a blessing, in sudden death. To those who knew him best he will not be recalled as a saddened, suffering figure, but he will stand forever in the halls of memory as he stood in life, vigorous and strong in the maturity of manhood; a fine type of that which is best in American life.

Peace, Peace! he is not dead, he doth not sleep—
He hath awakened from the dream of life—
'Tis we who, lost in stormy visions, keep
With phantoms an unprofitable strife,
And in mad trance strike with our spirit's knife
Invulnerable nothings. We decay
Like corpses in a charnel; fear and grief
Convulse us and consume us day by day
And cold hopes swarm like worms within our living clay.

He has outsoared the shadow of our night;
Envy and calumny and hate and pain,
And that unrest which men miscall delight
Can touch him not and torture not again.
From the contagion of the world's slow stain
He is secure, and now can never mourn
A heart grown cold, a head grown gray in vain;
Not when the spirit's self has ceased to burn
With sparkless ashes load an unlamented urn.

Mr. HAUGEN. Mr. Speaker, ELBERT HAMILTON HUBBARD's neighbor, Mr. SCOTT, and friends who knew him longer and better than I did have related in detail his life story and commanding incidents of his private and public career; hence in my brief tribute to his memory I shall not undertake to particularize, but to speak of him as I knew him in our brief personal acquaintance—not as a function or formal duty, but out of a heartfelt affection for that noble man. Though I knew him intimately for only a few years, yet having lived in the same house with him for a year, and here in Washington where our duties brought us in frequent contact, I had an opportunity to know and study his grand life, his splendid character, his noble qualities and purposes so manifest in every walk of life, both public and private. Like in most great and good men, we had in Mr. HUBBARD, generally known here as Judge HUBBARD, a plain, simple, unassuming, unpretentious, and unselfish man. "Simplicity belongs to greatness." A man of sterling qualities, of loving disposition, eminently sociable, pleasant, courteous, obliging, loyal to his friends, with a character founded on integrity, with a will to work his way honestly and bravely, endowed with lofty ideals, fortified with wealth of learning, pursuing his duty with industry, fidelity, unyielding courage and fixity of purpose, always shunning deceit and cunning practice. The better I knew him the more I adored him, the more I loved and realized why his constituents trusted him, and why he was held in such high esteem by his many friends. His neighbor and lifelong friend, the Hon. John C. Kelly, recently, in a letter to me, said:

As time passes here there is coming to be universal agreement that he was a sounder, safer, and stronger man than his political friends or enemies could appreciate when they were measuring him by an ideal.

In our State Judge HUBBARD occupied a position in the foremost ranks of his profession. Noted as a counsel, as an advocate with an unfailing fidelity to his clients, as a legislator with unfaltering faith in rectitude of purpose, dominated by lofty ideals, naturally through his fidelity to his clients, his constituents, and his State he gained distinction and popularity. Coming to Congress as he did, with his genial disposition, keen intellect, noble character, and experience in legislative work, coupled with his patriotic, active, and effective public service, his unswerving and unusual devotion to truth, to the best interest of his State and Nation, always evident in his performance of public duty, naturally won him distinction and many friends. Few Members of Congress have gone to their graves more universally loved and mourned by their colleagues than our worthy friend, Judge HUBBARD. I had the honor to be a member of the committee which attended his burial services in his home city. I was deeply impressed by the regard evidenced by the great number of sympathetic friends who came for the last time to look upon the face of that departed friend. In his departure his excellent family sustain the loss of a loving husband and devoted father. The State of Iowa and the Nation lost a most worthy, respected, and patriotic citizen.

While I realize that it is not in my power to utter words that will fully allay the great sorrow experienced by the members of his family, yet it is comforting in this hour to point to a life so bright, a character so pure, and to one with such noble qualities, splendid career, and record as a statesman and citizen; to say that while he has departed from the world of sickness, pain, sorrow, and adversity, we sincerely

believe that he has gone to one of happiness, brightness, and peace, and to know that his grand life has made the world better and added to its happiness.

Mr. AYRES. Mr. Speaker, never will I forget the scene in the great church at Sioux City last June at the funeral of ELBERT HUBBARD. Every foot of room in that spacious building was crowded by those who came to do honor to his memory, and outside were hundreds of others who could not gain admittance. All sorts of folk were there—the rich, the poor, politicians and philanthropists, business friends and social friends, the cultured and the ignorant, youths and old men. Everywhere were flowers heaped by willing hands, roses and lilies, violets and forest leaves, woodland blossoms, tender and fragile, and immortelles. The music of the great organ rose and fell, the voices of singers relieved the hushed expectancy. And as I looked about at that great and mixed assemblage the thought came, this truly was a man of the people.

This is how ELBERT HUBBARD always appealed to me—a man of the people. A true representative of the prosperous, intelligent men and women among whom he lived and among whom he died in so unexpected, so dramatic a fashion. What more can be said of him, what higher tribute can be paid to him, than that he typified the virtues, the hopes, the affections, the ideals, aye, the failings, of that numerous and sensible class of Americans who are the real makers and owners of this great Republic, and in whose continuance abides the hope of its future.

The people of his district should raise a shaft—a granite shaft—to mark his grave, and on it should be inscribed: "He was one of us."

Mr. PEPPER. Mr. Speaker, I do not desire to allow this occasion to pass without adding a brief tribute to the memory of ELBERT H. HUBBARD.

My acquaintance with our friend and colleague, ELBERT H. HUBBARD, dated from my entrance to this House two years ago. From that time until his sudden and untimely death I learned to admire and respect him as a courageous and independent public servant and as a genial, kindly friend.

One trait of his character impressed me from the first; that was his unqualified devotion to what he conceived to be his duty. It seemed to me he was remarkably free from partisan bias and prejudice. When it came to voting in the House of Representatives I was struck oftentimes with his complete independence and abandonment of party regularity.

I think in his later life he had reached an attitude of mind where he felt unwilling to allow any partisan thoughts whatever to enter into consideration in connection with his public work.

I think during the time I served with him in the House, although we were on opposite sides of the big aisle, our votes were recorded together oftener than otherwise.

To my mind Mr. HUBBARD was a true progressive. He saw with a vision remarkably clear the present condition of the public mind. He realized at the time the unrest and dissatisfaction of the people with conditions as they have existed for some time.

He was a profound student, a deep thinker, a philosopher. He hated sham and pretense and was a lover of truth.

To these attributes I should add those of frankness, reliability, sincerity, straightforwardness, plain dealing, all modes in which truth, a divine attribute, develops itself.

I do not recall of hearing Mr. HUBBARD speak except very briefly on one or two occasions. At these times, however, he spoke with force and convincing power.

I sometimes think it is rare to find a man who can speak out the simple truth that is in him honestly and frankly without fear or favor. But with Mr. HUBBARD, either in private conversation or in public discourse, his speech conveyed to me always a conviction of absolute sincerity.

His public career covered a period of 13 years—6 years in the State Legislature of Iowa and 7 years in the Congress of the United States. At the time of his death he had just been triumphantly renominated for the fifth time as a candidate for Congress.

He had reached that period in his congressional career when his influence was felt in every matter to which he gave attention.

I am glad to have known Mr. HUBBARD. His life and public record have been and are an inspiration to me.

LEAVE TO PRINT.

Mr. HAUGEN. Mr. Speaker, I ask unanimous consent that Members who may desire to do so have leave to print for the next five legislative days.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. HAUGEN. Mr. Speaker, in order that the RECORD may further show the esteem entertained for Judge HUBBARD by his many friends, I ask unanimous consent to have printed in the RECORD extracts from the Sioux City Tribune of June 7, 1912, and the Sioux City Journal of June 8, 1912, and also the address at the funeral of ELBERT HAMILTON HUBBARD at the First Presbyterian Church, Sioux City, Iowa, by the pastor, Wallace M. Hamilton, D. D.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Following are the extracts and the address referred to:

[From the Sioux City Tribune, June 7, 1912.]

VAST NUMBERS PAY LAST RESPECTS TO CONGRESSMAN—FLOWERS BANKED HIGH NEARLY HIDE THE BIER OF ELBERT HAMILTON HUBBARD.

Like a shadow,
Softly and sweetly thrown from a passing cloud,
Death fell upon him.

Ringing clear, like a tone from a silver bell, these words from the lips of Rev. Wallace M. Hamilton, pastor of the First Presbyterian Church, Sixth and Nebraska Streets, fell upon the ears of hundreds of friends, nation wide, who gathered this afternoon for the final rites over the bier of Congressman ELBERT HAMILTON HUBBARD.

Scarcely distinguishable in the midst of a luxuriance of roses, lilies of the valley, smilax, ferns, and carnations, the minister pronounced the words so that they could be heard distinctly from the farthest corner of the church auditorium.

To the solemn tones of Beethoven's funeral march, played by Prof. O. A. Morse, organist, the casket was borne to its place directly before the pulpit. The Hubbard family, including relatives, occupied the small choir room at the right, while the first five rows in the auditorium proper were reserved for the congressional delegation and the Woodbury County and Sioux City Bar Associations.

FLOWERS PILED HIGH.

To the right of the pulpit stood a colossal crown and base of American Beauties, sweet peas, and Easter lilies, the gift of the official congressional committee. On the left was a large anchor of roses, Easter lilies, and carnations, given by the two local bar associations, while heaped about the altar and inset about the platform rail were cut flowers of every description sent in by organizations and friends. The pulpit was wrapped about with white rosebuds given by Sioux City friends. An immense box of cut pink and white carnations and American Beauty roses was received from the Iowa delegation in Congress. The Commercial Club, local merchants, and lodges about the city were also represented in a wealth of floral grandeur heaped about the altar. The Erodelphian Society of the high school sent in a design of pink and white carnations.

During the service the Presbyterian Church choir sang "Rock of ages" and "Lead, kindly light." At the close, Chopin's funeral march was played by the organist.

The first five carriages in the procession to Floyd Cemetery were occupied by the family and relatives, the next three by pallbearers, and the following three by the congressional delegation. Immediate friends followed.

A. B. FUNK PAYS HIGH TRIBUTE TO DEPARTED LEADER.

SPIRIT LAKE, *June 5, 1912.*

Hon. JNO. C. KELLY,
Sioux City, Iowa.

MY DEAR MR. KELLY: I am stunned by the death of the noble HUBBARD.

You and others may have known such thing might be, but I had not seen him since I was in Washington, some months since, and was wholly unprepared.

He had fought a good fight and kept the faith. The old district had just grandly sustained him in his fidelity to lofty political ideals. The State and country needed him in his clear conviction, high courage, and undaunted conscience. "Take him for all in all, we shall not look upon his like again."

His death is to me a personal loss, but knowing how you two were bound by many ties, I know few friends are so much wounded as yourself. And my heart bleeds for his devoted family. Like "the shelter of the rock in the weary land" was his great heart to those nearest and dearest. I have not communicated with Mrs. Hubbard. May I ask you to assure her of my deep and abiding sympathy? Am very sorry I am not able to be at the funeral Friday.

Sincerely, yours, A. B. FUNK.

[From the Sioux City Journal, June 8, 1912.]

COUNTRY HONORS HUBBARD.

Sioux City, Iowa, and the Nation yesterday paid final honor to Congressman ELBERT H. HUBBARD, deceased.

National respect for the late Congressman was extended by a delegation from the United States Senate and House.

The condolence of Iowa was expressed by the attendance at the funeral ceremony of nearly all the State colleagues of the late Mr. HUBBARD in the House, and by the presence of political and personal friends from various parts of the State.

Sioux City indicated sympathy to a marked degree, the auditorium of the First Presbyterian Church, where the ceremony was held, being packed to overflowing by friends and neighbors.

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The long procession to the Floyd Cemetery began at 3.15 o'clock. Headed by the pallbearers and hearse, it was composed in order by the immediate relatives of the late Congressman, the members of the delegation from Washington, D. C., the members of the Sioux City and Woodbury County Bar Associations, and the friends of the family.

* * * * * * *

Active pallbearers were T. A. Black, F. L. Eaton, W. N. Ford, George S. Parker, William Gordon, and Judge William Hutchinson. The honorary pallbearers, chosen by the bar association yesterday, were Craig L. Wright, C. R. Marks, E. B. Spalding, J. L. Kennedy, T. G. Henderson, and Judge David Mould.

Congressman HUBBARD died about 5.30 o'clock Tuesday morning of heart disease, just as returns were beginning to come in which showed conclusively he had won the honor of the fifth consecutive nomination to Congress from the eleventh district. He was at the home of John C. Kelly, an old friend. His younger son, Lyle Hubbard, was with him at the end. Mrs. Hubbard was en route to Sioux City from Washington.

Address at the funeral of Hon. ELBERT HAMILTON HUBBARD, M. C., at the First Presbyterian Church, Sioux City, Iowa, by Wallace M. Hamilton, D. D.

Again we are reminded that all roads lead toward the cemetery. Thither have gone little children, the household idols; thither the playmates of earlier years; thither the aged and the infirm; and now one in the fullness of life. The Providence emphasizes the need more strongly than words "that our days should be numbered and our hearts applied unto wisdom."

When, on the morning of Tuesday, June 4, the spirit of Hon. E. H. HUBBARD took its flight, we were bereft of one of our most respected and useful citizens. The most admiring and loving friend could wish for his memory no higher tribute than a true portrayal of his life and character. And while the general facts of his life are well known to all of you, and will not be repeated here, yet it is natural and right at the close of every noble life that we place the flower on the casket, that we break the "alabaster box," that we recall the noblest and best of the qualities of the departed.

The simple tastes and quiet demeanor of our friend would exclude any unnecessary parade or eulogy from this service. Keeping in mind what would be his desire, we would indicate some truths that we should ever retain in our hearts. The stability of the conspicuous traits of his character suggested that they were inherited. The inference was supported by the concurrent testimony of those who had opportunity to know the virtues of his ancestors. With a good inheritance, and the opportunity of a college training, the success and honor which distinguished his career were due to a happy concurrence of favorable conditions. His mind was vigorous; his heart was true to humanity; his innate honor directed him. He was philanthropic in his impulses and was thus delivered from the temptation of the merely technical and saved to be a lover of justice and righteousness. These conspicuous traits of character, together with the ample development of his natural gifts, secured for him a position of leadership and of lasting and tender regard in the hearts of his friends. If intelligence, integrity, and courage are the pillars that support the State, then our community has had a good representative in the halls of legislation.

His home life was ideal; among his family and friends he was full of kindness and sympathy. My impression is that he was a member of no lodge or organization of men, but belonged to the community. Faithful in his profession and to the general public, but when his day's work was over he found his home the place of refuge and joy.

In political life he necessarily differed with many of his fellow men, but so far as I have been able to detect in conversation with him it was without malice or personal animosity.

His death, coming at the close of a successful campaign for renomination, was inexpressibly sad. The announcement cast a gloom over our entire city. Men in every walk of life felt they had lost a friend. His devotion to his family, his friends, and the public service was limited only by the boundaries of his life. He was human, and so there was weakness, but he has left the memory of a brave, honest man.

Like a shadow,
Softly and sweetly thrown from a passing cloud,
Death fell upon him.

God does not thus equip a life for these few years. We live in a world of reason. Our hearts and minds need another summertime for their unfolding. In certain conditions our minds may drive out at the door our belief in immortality, but when we do lose that belief it will come in again through the window of our hearts with the assurance that this is not the end. To deny the soul's survival is to charge folly upon nature and God. Mr. Emerson said, at the close of his life, "What I have seen of God's work in this world leads me to trust for that I have not seen; and whatever He has in reserve for us it must be something beautiful and in the grand style of His work." Sir Walter Scott, anticipating his death, and to comfort his children, placed as his last words in his journal: "And on the next morning—" and then the line broke off. He knew that dying was no "All hail and farewell," but rather "All hail and good morning." So we turn with confidence to the Bible, for it is the key that fits the lock and opens the future with fullness of light and assurance. Immortality is here no unemphatic assertion; it is here as a glorious vision; it is here as a conclusive argument; it is here as a revelation in the tangible embodiment in the grand personality of the risen and ascended Christ. He is now our way to an immortal hope. Before He lived and died, tombs faced the west. After Christ, tombs faced the east, for the sun had disappeared to stand upon the horizon again, clothed with untroubled splendor. There is a chamber in the catacombs, used about the time of Julius Cæsar, and every tomb has emblems of the skull and crossbones. Near by is another chamber of a later generation, and, lo, Christ's teachings have carved upon each stone a lily, eloquent of immortal hope. To-day our hearts are sad because of the loss of a friend, but our assurance is of eternal life. With gratitude for his useful life, and with deep sympathy, we reverently bow our hearts and heads and commend his bereaved family to the God of all comfort in this their hour of need.

THE LATE SENATOR WILLIAM P. FRYE.

Mr. GOULD assumed the chair as Speaker pro tempore.

The SPEAKER pro tempore. The Clerk will report the special order.

The Clerk read as follows:

On motion of Mr. GUERNSEY, by unanimous consent,

Ordered, That Sunday, February 9, 1913, be set apart for addresses upon the life, character, and public services of Hon. WILLIAM P. FRYE, late a Senator from the State of Maine.

Mr. GUERNSEY. Mr. Speaker, I send the following resolution to the desk, and ask that it be read.

The SPEAKER pro tempore. The Clerk will report the resolution.

House resolution 823.

Resolved, That the business of the House be now suspended that opportunity may be given for the tributes to the memory of Hon. WILLIAM P. FRYE, late a Senator from the State of Maine.

Resolved, That as a particular mark of respect to the memory of the deceased, and in recognition of his distinguished public career, the House, at the conclusion of memorial exercises of the day, shall stand adjourned.

Resolved, That the Clerk communicate these resolutions to the Senate.

Resolved, That the Clerk send a copy of these resolutions to the family of the deceased.

The SPEAKER pro tempore. The question is on agreeing to the resolution.

The resolution was unanimously agreed to.

Mr. MCGILLICUDDY. Mr. Speaker, the career of Senator FRYE is not only eminent, but in many respects unexampled. For 40 consecutive years he was a conspicuous Member of the American Congress—10 years in the House and 30 years in the Senate. This is a length of service equaled only twice in the whole history of our country.

For 10 years before coming to Congress Mr. FRYE was a notable figure in the public life of his State. Commencing in 1861, he was elected for three terms as a member of the State Legislature of Maine; twice elected mayor of Lewiston, his native city; and for two terms filled the high office of attorney general, where his abilities as a lawyer won him renown.

I have said that his career in many respects was unexampled; so it was. It is well known that during Senator FRYE's public career there were strong men in his party in Maine who were active in the sphere of political life. High and important offices did not go unsolicited; yet in all the 50 years of his political activity, and notwithstanding the many high and important offices he filled, he never was obliged to make a contest for a nomination in his party for any position he ever held.

Another remarkable fact is that in his long career he never lost his hold, even temporarily, upon the confidence of the people of his State. Fifty years is a long period of political activity. In that time he saw his party in the political vicissitudes of the times meet with downfall and defeat. But the people never faltered in their loyalty and devotion to him, even to his dying day.

Furthermore, in these days of modern political machinery, it is worthy of note that Senator FRYE never depended upon a political machine, so called, for his personal political supremacy. He appealed directly to the people, placed his whole confidence in the people, and they in turn rewarded him with theirs.

Another remarkable feature of his public career was its pleasantness and freedom from bitterness. Enemies he had none; calumny never assailed him; envy and malice never threw their blighting shadows across his pathway. In the lengthening years of his life it was his great satisfaction to contemplate this feature of his career. It made him an optimist of the best type, with faith in his fellow man and hope and confidence in the future of his country.

He was intensely an American. His public life began with the breaking out of the Civil War in 1861 and spanned a succeeding period of 50 years—probably the most exciting, strenuous, and important period of our country's history. New problems of tremendous import were presented for solution. The period brought forth American statesmen of the highest type. Foremost among them was Senator WILLIAM P. FRYE, prominently identified with every great public question of his time. In the legislative hall and committees an indefatigable workers, and on the stump—the great educational forum of American politics—the irresistible orator.

As a platform speaker in a political campaign Senator FRYE had no superiors and few equals in his time. He had a wonderful power of taking a dry and intricate question like the tariff and making it interesting and clear to the average man. He could place himself in the sympathies of his audience quicker and more thoroughly than any man I ever saw, and at his will he could, by bursts of real eloquence, arouse his hearers to the highest pitch of enthusiasm.

The great public knew the Senator as an orator and statesman. But as a citizen, neighbor, and friend he was at his best to those who were fortunate enough to be included in the circle of his intimate acquaintance.

There was an unaffected plainness and cordial sincerity about the man that had a peculiar charm. And yet there was a natural dignity about him that commanded respect and marked him as the cultured gentleman. All in all, he was one of nature's great men.

Maine has given many eminent statesmen to the service of the country. Her citizens have been proud to honor them.

High upon her roll of fame posterity will write the name of the Hon. WILLIAM PIERCE FRYE, the matchless orator, the pure statesman, the wise diplomat, and patriotic lover of his country and mankind.

Mr. GUERNSEY. Mr. Speaker, as a member of the delegation from the State of Maine on this floor I desire to offer a few remarks on the life work of one of the best types of American statesmen that has appeared in our national life. Others for a time have occupied more conspicuous places in the public mind only to have their lives blighted by disappointment, defeat, or death.

The statesman that I refer to, broadly speaking, never knew disappointment; he never knew defeat, and death overtook him only after he had long passed the time allotted to man. Such was the remarkable career of a remarkable man—WILLIAM PIERCE FRYE, United States Senator from Maine, who died at his home in Lewiston, Me., on the banks of the Androscoggin, August 8, 1911, aged 80 years.

For more than 40 years WILLIAM PIERCE FRYE was a commanding figure in the State of Maine and the councils of the Nation. For 10 consecutive years he was a Member of this House, and for more than 30 years represented his State in the United States Senate. Throughout his long public career at Washington he enjoyed to an extent almost without a parallel in American public life the constant, sustained support and ever-increasing confidence and respect of the people of his State. His personal strength with the people of Maine was universal. Brilliant as were the careers of those sons of Maine, the great Secretary of State Blaine and the great Speaker Reed, neither can compare for complete success with the life work of Senator FRYE.

Years ago, as a boy, I knew of him as a great political orator who charmed audiences from ocean to ocean. I heard him speak, and read his speeches with absorbing interest. In later years, when I better understood the great national questions he advocated and the strength of his position on public matters, I found myself in full accord with his views. As time passed on I became a member of our State legislature and had the opportunity to cast my vote in his favor on the occasion of his fourth return to the United States Senate.

When I became a Member of the National House of Representatives I went to him for counsel and aid, and not only did I receive the counsel and aid sought, such as could only be given and extended by a man in Senator FRYE's high position and unlimited experience, but he often extended unsought his helping hand not alone in acts of kindness, but often in matters of great public importance to me as a Representative and to my district.

When I called upon him for the last time, less than two years ago at his hotel in the city, I saw that the heavy hand of time was laid upon him and that his day had reached its twilight; yet even then he was the same kind-hearted, dignified, and determined man, looking straight into the future with no thought of looking back, even though his physical strength was fast vanishing.

Senator FRYE was born September 2, 1830, at Lewiston, Me., the son of Col. John M. Frye, a prominent and influential man in the early development of the present city of Lewiston. His great-great-grandfather, Joseph Frye, was a general under Washington in the War of the Revolution.

Senator FRYE was educated in the public schools of his home town, and at the age of 15 he entered Bowdoin College and graduated four years later in the class of 1850. He read law with William Pitt Fessenden, practiced law for a time at Rockland, Me., but later returned to Lewiston and became a partner of Thomas A. B. Fessenden. On the death of Mr. Fessenden Senator FRYE formed a partnership with John B. Cotton, who was afterwards Assistant Attorney General during the administration of President Harrison.

At the bar in his State Senator FRYE achieved success as a lawyer and soon became one of its acknowledged leaders. He soon, however, was called to broader fields, and in 1861–62 and 1867 was chosen to represent his city in the State legislature, serving also as mayor of Lewiston in 1866 and 1867. Political preferment seemed to crowd upon him and in 1867, while he was still mayor and representative in the legislature, he was chosen attorney general of Maine, and during the years 1867–1869 he conducted the important office with signal ability, winning a country-wide reputation in the trial of capital cases. In 1864 he was chosen as presidential elector. In 1872, 1876, and 1880 he was a member of the national committee from his State, and in 1880 succeeded James G. Blaine as chairman of the Republican State committee of Maine.

He entered the National Congress in 1871 as a Representative from what was then the second congressional district of Maine.

In the Forty-second Congress he had as colleagues James G. Blaine, Eugene Hale, John Lynch, and John A. Peters, while in the Senate there were Hannibal Hamlin and Lot M. Morrill. Five times he was chosen to succeed himself as a Representative from his district, and served, in addition to the Forty-second Congress, in the Forty-third, Forty-fourth, Forty-fifth, Forty-sixth, and Forty-seventh Congresses, and undoubtedly would have been chosen Speaker in the Forty-seventh Congress had it not been for his promotion to the United States Senate.

In 1881 James G. Blaine resigned his seat in the Senate to enter the Cabinet of James A. Garfield as Secretary of State, and Representative FRYE was elected to the United States Senate to fill the vacancy caused by the resignation of Senator Blaine.

In the United States Senate, as the successor of James G. Blaine, he fulfilled the highest expectations of his State and maintained his position on a par with that of his most illustrious predecessors. In 1883 he was chosen as his own successor for a full term by the State legislature, and likewise in 1888, 1895, 1901, and 1907. On the occasion of each legislative election the unanimity of choice in his favor was so complete that no voice, so far as I am able to learn, was ever raised against his candidacy within his own party.

The wonderful ease with which Senator FRYE continued in public favor until the day of his death was one of the striking features of his public life. On one occasion I am told that not long ago a prominent statesman asked the Senator if he were to live his life over whether he would follow the professional career in which he had been so eminently successful before coming to Congress or that of a public man such as he had been since he entered Congress, and the aged Senator replied that he would choose by all means the public service if he could be assured in advance of as comfortable time as he had always experienced so far as effort to hold his position was concerned.

Senator FRYE never had his time consumed or his position embarrassed by seeking for riches. Opportunities undoubtedly were presented to him whereby he could have advanced his fortune legitimately, but he is said to have remarked that he much preferred to put aside such opportunities that came to him through others, as he could not tell how soon return of favors might be suggested and which would embarrass him as to some public act that he should perform.

The service of Senator FRYE in the United States Senate is a record of devotion to duty to his State and Nation, it was brilliant and able. He served on the Committee on Foreign Relations, and for years was chairman of the Committee on Commerce. He became conspicuous in diplomatic matters, and one of the most prominent supporters of measures to increase and upbuild our domestic and foreign commerce.

On February 7, 1896, he was elected President pro tempore of the Senate, and reelected to that position March 7, 1901, and held the same until within a few months of his death, resigning from the position on account of failing health. In 1898 he was appointed a member of the peace commision which met at Paris to settle the final differences between this country and Spain growing out of the Spanish-American War.

During the long life of Senator FRYE he witnessed the making of a large portion of the history of this Republic, as well as taking part in making much of it.

He was born during the administration of Andrew Jackson—first term—and he became a voter during the administration of Fillmore. As a member of the Legislature of Maine in 1861 and 1862 his voice and vote were always in favor of upholding the Federal Government in its struggle to continue its life during those dark days in the early part of the Rebellion.

After he entered Congress he saw the administrations of Grant, Hayes, Garfield, Arthur, Cleveland, Harrison, McKinley, Roosevelt rise, develop great governmental policies, and pass into history, and lived long enough to take part during a large portion of the present administration of President Taft.

As a member of the peace commission at the close of the Spanish-American War he favored the acquisition of the Philippine Islands, believing it was the duty of this Government to continue its control over those islands which had been captured in war, and that it would be cowardly for our Government to desert them, and, further, he believed that this Government was destined to grow and become a great world power. With William McKinley he was an empire builder.

Senator FRYE came near having presidential greatness thrust upon him, not once but twice. In the national convention of 1880 pressure was brought to bear for him to accept the nomination for Vice President. It was proposed to him before it was to Mr. Arthur. Had he accepted, the tragic death of President Garfield would have placed him in the highest office in

the land, but he refused to allow his name to be used and Mr. Arthur was chosen in his stead.

In 1900 President William McKinley urged Senator FRYE to accept the nomination for Vice President on the Republican ticket with him, but the Senator was firm in his decision not to accept such position. At the time it is related that Senator FRYE said to the President, "Why, what if anything should happen to you?" The President replied, "Then you would be President, and no man is better fitted to be President than yourself." Thereupon Senator FRYE said that he would not accept the Presidency even if it were tendered to him on a plate of gold.

President McKinley, like President Garfield, met his death at the hand of an assassin and Theodore Roosevelt was elevated from the Vice Presidency to the Presidency. Thus twice did Senator FRYE put aside the possibility of being President of the United States. To him the most desirable position in this Republic was a United States Senatorship, and he wished to continue in his position as a Senator from his native State.

Senator FRYE's long service of 30 years in the United States Senate is a record that has been surpassed by but three Senators and equaled only by six. His former colleague from Maine, ex-Senator Hale, served for 30 years. They entered the Senate at practically the same time, and during their 30 years of service in that body through their joint efforts gave Maine influence in the Senate all out of proportions to our State's wealth and population.

Senator FRYE was a tireless worker and a debater without a peer, and Senator Hale, as Senator FRYE once stated in my presence, was the ablest legislator in the United States. Fortunate, indeed, was the State of Maine when she was served in the highest legislative branch of our Government by such men.

It can be said of Senator FRYE that he was as considerate of the opinions of others as he was strong in his own convictions. A determined but nevertheless a fair fighter, unsparing in his assaults in debate, but always courteous, firm in attitude yet gentle in his personal manner, as careful in his public acts as he was in his private affairs, he was true to his constituents and to his country. He was loyal to the former and patriotic for the latter. He was as diligent in the search of the facts of a case as he was gifted in presenting them with convincing logic and eloquence.

His personal interests throughout his long career were overshadowed by his sense of public duty, and his public service was preeminently conspicuous. Such was his life work; and as long as the history of the Nation is preserved on its pages will appear the written evidence of the unblemished record and the splendid character of WILLIAM PIERCE FRYE.

Mr. Speaker, inasmuch as there are undoubtedly others who would like to add a tribute, but are unavoidably absent, I move that a period of 20 days be allowed them in which to extend their remarks in the RECORD.

The SPEAKER pro tempore. Is there objection to the gentleman's request? [After a pause.] The Chair hears none, and it is so ordered.

At this point Mr. GUERNSEY assumed the chair as Speaker pro tempore.

Mr. STEVENS of Minnesota. Mr. Speaker, the sentiments and ideals which impress youth have a lasting influence throughout its future. That man is a benefactor among his fellows who appreciates and utilizes his own advantages for a useful and honored career; and, in addition, by example and by precept, awakens enthusiasm and devotion among the younger generation, which knew and believed in him.

One of the strongest and most cherished recollections of my boyhood was a political speech which I heard delivered by then Representative in Congress WILLIAM P. FRYE, at Rockland, Me., among his friends, in the political campaign of 1872, when he urged the reelection of President Grant, Gov. Chamberlain, and the Republican ticket. He was at that time some over 40 years of age, at the height of his manly vigor and attractiveness, with a voice and manner singularly winsome and forceful; and with a method and style for the treatment of his subject which appealed powerfully to his hearers. Of course, in those days the questions arising from the Civil War and reconstruction were uppermost, and always the theme of the political orator; and I remember so well, and to my youthful astonishment, that he discussed them with vigor and forcefulness, and yet with no bitterness or rancor toward the people or States of the South. The ordinary partisan orator of that period depended upon fanning the prejudices and creating apprehension among his hearers.

Mr. FRYE never descended to that, even though at the time to do so would easily win applause and approbation. Probably my youthful imagination was chiefly stirred by his peroration, in which he used the beautiful legend of St. Christopher to exemplify the mission of the Republican Party to preserve our Nation and its institutions. I was reared in the Republican faith, and so probably needed no particular monition to keep steadfast; and yet to this day there recurs to me the impression then made by his fervid and splendid oratory, his unexpected fairness and broadmindedness, his wealth of information and illustration, his clearness and good sense, and especially by his moral sincerity and lofty patriotism, with its call to us to stand by that party which had preserved our country and its blessed institutions. It is such a lesson as that, ground into one's fiber, which keeps us firm in the faith, and continuously striving to preserve and purify and strengthen the ideals and institutions of our Nation for ourselves and for the millions of our countrymen who will follow us.

This personal experience is only related to illustrate one of the great missions of the long and very useful life of Senator FRYE. He was one of the most potent and influential platform, political, and parliamentary orators of his time; surpassed by none in his attractiveness, in his popularity, and his capabilities. When I came to know him well I told him of the impressions caused by his speech, and he stated that probably up to the time he was talking to me he had made more political speeches and over a larger territory than any political speaker in the country. That was probably true at that date, but since then several of the leading political orators of both parties have surpassed his record.

His career in Congress, in both the House and Senate, was distinguished and extremely useful and patriotic. The same qualities which made him so charming and powerful upon the public platform were immensely more potential amid the exactions and in the complex and constantly increasing burdens of public service. As a parliamentarian he excelled, and the certainty, capability, precision, and eminent fairness of his guidance as a presiding officer made him one of the most sought and notable in the country.

The great subject which laid nearest to his heart was the development of the resources of his country and the advancement of its commerce and influence for the blessing of our own people. He served upon the most important committees of the House and Senate, and contributed to their work the vigor, industry, training, and splendid ability of a master in his own sphere. But through it all, in his practical, keen, incisive, but thoroughly upright way, he ever sought to advance the interests and welfare of his countrymen in the fields of commerce; since he believed that with increasingly prosperous conditions as a foundation there would surely follow in our citizenship the attributes which the highest character, culture, and civilization would bring to such a people in a land blessed like ours.

As a member of the peace commission to bring to a conclusion the Spanish War his services were extremely useful and in the broadest way. He foresaw the necessity for the United States to preserve and extend its influence throughout the world, not for trade and commerce merely, which should redound to the material advantage of our people, but he believed that the extension of our influence and institutions among the nations of the earth would have a reflex action for good among our own people in their daily rush for personal advantage, helping them to adequately appreciate what blessings they have, and compelling them to realize that in their own actions they should stand as exemplars before the peoples of the world, and that it always would be incumbent upon them to maintain and truly deserve their prestige.

The strength of his character which made his so sincere, so respected among his fellows, so influential among his countrymen, was a heritage from a New England ancestry which conferred upon him the best it had. It has been fortunate for our Nation that such as he and such qualities as his have been dedicated to the public service throughout our history. His aptitude for such duties was so well recognized, and his constituents had such entire confidence in and admiration for him, that opposition to his reelections became almost useless in his State.

The people of a great State can receive and deserve no higher encomium for their intelligence, their integrity, steadfastness, and patriotism than by their continued and hearty support of such a man as Senator FRYE for more than half a century of such public service. He earned and received and appreciated it, and the people reaped their full reward by the dedication of a rare life solely to their public work and to their public welfare. The peaceful and natural close of such a long, happy, useful, sweet, and honored life could not arouse the poignant sorrow except as one would sincerely mourn that such a de-

parture is the divine dispensation and that such a friend has finally left us.

I do not know to whose memory could be more fittingly applied this tribute to a moral hero:

He never failed to march breast forward,
Never doubted clouds would break;
Never thought though right were worsted
Wrong would triumph;
Held we fall to rise, are beaten to fight harder,
Sleep to wake.

Mr. GOULD. Mr. Speaker, for more than half a century during the lifetime of Senator WILLIAM P. FRYE the people of his State honored him with their love and confidence by electing him to State and Federal offices. For more than 40 years in the two Houses of Congress he stood out in bold relief as a national figure, a leader in all that made for the welfare of his country and fellow man. It was not my privilege to know him intimately or to be classed among his personal friends, as he entered public life while I was but a boy in my teens. My first knowledge of this man, who was destined afterwards to ripen and develop into one of the most influential statesmen of his time, was while he was serving his State in the high office of attorney general. He was then in the full flush and vigor of his early manhood, strong, ardent, masterful in all those elements and qualities that go to make up a great lawyer, and one who by force of character and personal magnetism must inevitably become a leader among men. As an advocate at the bar, an orator and a public speaker, Senator FRYE had few equals anywhere. His services as a campaign speaker were eagerly and widely sought. His keen sense of wit, his eloquence and his perfect command of language were always a source of pleasure and satisfaction to those of his hearers who were in sympathy with his views, and the subtle sarcasm with which he could ridicule his opponents was a corresponding discomfort to them. His broad and liberal education, his vast and varied knowledge upon public questions, and his resourceful mind made him always a powerful friend and a dangerous opponent. That he held public office longer than any other man from his State is the strongest evidence of the regard and esteem in which his fellow citizens held him. He served the people of his home city, his State, and his country at large, the latter at home and abroad, and in all these places of public trust as the servant of his people he served with that degree of fidelity and distinction of which they were always justly proud. Senator FRYE was loved and respected by all those who knew him from the time he entered upon that long life of service and worth, until in the fullness of time he was called to take up the boatman's oar and cross the dark river to the great beyond, from which no traveler has ever yet returned, out into that life beyond the grave, into which no human eye has ever seen, into that life there of which no living man can ever know; and history will bear his name down through the generations that shall follow, and picture him as a vital and forceful part of the Nation during his time. Not the least, however, of importance was the example he gave to young men of this country, of one who by force of his own efforts and sterling character rose from the people and climbed step by step the ladder until he reached that goal, the zenith of the ambition of many and attained by few, a seat in the highest legislative body of the world—the Senate of the United States. His home was always on the banks of the river upon which he was born and where he died, and as the waters of that river flow out into the boundless ocean, so will the precepts and examples given by him flow out into the great sea of human toil and endeavor, and make the world better because he has lived. We all regret and mourn his loss as national in character, and pay this our humble but feeling tribute of respect to his memory.

THE LATE REPRESENTATIVE UTTER, OF RHODE ISLAND.

The SPEAKER pro tempore. The Clerk will report the next order.

The Clerk read as follows:

On motion of Mr. O'SHAUNESSY, by unanimous consent,

Ordered, That Sunday, February 9, 1913, be set apart for addresses upon the life, character, and public services of Hon. GEORGE H. UTTER, late a Representative from the State of Rhode Island.

Mr. O'SHAUNESSY. Mr. Speaker, I present the following resolution, which I send to the Clerk's desk.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 824.

Resolved, That, in pursuance of the special order heretofore adopted, the House proceed to pay tribute to the memory of the Hon. GEORGE HERBERT UTTER, late a Representative in Congress from the State of Rhode Island.

Resolved, That as a further mark of respect to the memory of the deceased, and in recognition of his distinguished career and his great service to his country as a Representative in Congress, the House, at the conclusion of the memorial proceedings of this day, shall stand adjourned.

Resolved, That the Clerk of the House communicate these resolutions to the Senate.

Resolved, That the Clerk of the House be, and he is hereby, instructed to send a copy of these resolutions to the family of the deceased.

The resolution was unanimously agreed to.

Mr. O'SHAUNESSY. Mr. Speaker, death, the great reaper whose sickle never dulls and whose arm never falters, has reaped a rich harvest in the Sixty-second Congress. My colleague and friend, GEORGE HERBERT UTTER, was the eighteenth in its necrological roll. More have been added since his soul winged its way to that immortal home where all of earth's grandeur pales into insignificance in comparison with the riches our Heavenly Father has stored up for his faithful children.

Coming to Westerly, R. I., in 1861, from Plainfield, N. J., where he was born, July 24, 1854, he resided in that community continuously until his death, which took place on Sunday, November 3, 1912, two days prior to the general election. He had given freely of his splendid oratorical powers to the Republican national committee during the campaign and had stumped for his party in his usual effective fashion in the New England States, and, no doubt, by his unremitting endeavors hastened the end which was to be the climax of the malignant disease which gripped him. He was equipped for the masterful rôle he was to play in the business and political world at Alfred (N. Y.) Academy, in Westerly High School, and at Amherst College, from which he graduated in 1877. For years and until his death he was the publisher of the Westerly Sun, which steadily reflected the views of its owner, who was always ready with moral admonitions as applied to current events.

Congressman UTTER was a man of simple tastes and hardy virtues; in debate he manifested the spirit born of true conviction and in council gave abundant evidence of that indefinable something which generates and inspires confidence. He was a man of deep religious feeling, and his unfaltering devotion to the sect of which he was so conspicuous a member, the Seventh-day Baptists, found him ready for the summons which must come to all. No doubt perplexed him when, surrounded by his loving family at his home in Westerly, he passed away, comforted by the presence of devoted hearts and sustained by a State-wide approving sentiment of his private and public life. He was prepared for the fulfillment of the Savior's words, "I am the Resurrection and the Life." The sect to which he gave such rigorous devotion is small in numbers and makes Saturday its Sabbath Day. The sturdy observance of this habit alone marked him as an unusual man, as one who differed with millions, but differed conscientiously, manifesting at the same time a broad religious tolerance.

But there are deeds that should not pass away,
And names that must not wither.

His deeds, so characteristic of the man, shall not pass away, and his name shall be remembered wherever meritorious action and endeavor have left an impress upon the memory of man. It is related of him that, when governor of Rhode Island, he declined to attend a celebration in the city of Washington and delegated the lieutenant governor to take his place, because the exercises were to be held on Saturday. And in the performance of his duties in this great Chamber, only the most pressing necessity, the consideration of some very vital question, would cause his presence here on the day that he had dedicated as his Sabbath. He had the courage of his convictions, content with the approbation of his conscience. In political life he loved the truth, and dared speak it, even though in some cases it spelled defeat for some cherished ambition.

He had a distinguished and honorable public career. He was elected four times a member of the Rhode Island House of Representatives, and during one of those terms was speaker of the house. He was twice chosen as senator from his home town, and thereafter he filled, to the satisfaction of the public, the exalted posts of secretary of state, lieutenant governor, and governor of Rhode Island. And withal he remained the same genial, unassuming, charitably disposed Christian gentleman, magnanimous in his consideration of others, and never failing to find deep down in the other man's heart something to admire and approve. His oratorical ability, coupled with his unfailing, invaluable advice and meaty suggestion for high moral endeavor, made him a favorite at public gatherings, and I am sure that his cheering words will long be remembered by the many Bible classes, Young Men's Christian Associations, and commercial bodies that had the pleasure and satisfaction of hearing him. His was a conservative nature that held to old traditions and found little comfort in the new political dispensation. He had a reverent regard for American institutions, and a profound trust that, unchanged, they could and would work out a nation's destiny. With his tenacity of belief there was always coupled a bourgeoning hope that every political problem would be solved for the good of all the people, but his caution dispelled rash methods, and his nature quailed instinctively at quick transitions in the methods of government.

He brought an optimism to his work; his buoyant spirit was nowhere better shown than in his favorite poem:

"HOW DID YOU DIE?"

Did you tackle that trouble that came your way,
With a resolute heart and cheerful?
Or hide your face from the light of day
With a craven soul and fearful?
Oh, a trouble's a ton, or a trouble's an ounce,
Or a trouble is what you make it,
And it isn't the fact that you're hurt that counts,
But only how did you take it?

You are beaten to earth? Well, well, what's that?
Come up with a smiling face.
It's nothing against you to fall down flat,
But to lie there—that's disgrace.
The harder you're thrown, why the higher you bounce;
Be proud of your blackened eye.
It isn't the fact that you're licked that counts,
It's how did you fight—and why?

And though you be done to the death, what then?
If you battled the best you could,
If you played your part in the world of men,
Why, the critic will call you good.
Death comes with a crawl, or comes with a pounce,
And whether he's slow or spry,
It isn't the fact that you're dead that counts,
But only how did you die?

And here in this House, where his services were characterized by an unfailing sense of modesty and untiring zeal, we honor his memory. I can hardly reconcile myself to the knowledge that my cheerful and helpful colleague has passed away. How often he spoke to me in this Chamber in his kindly and fatherly way, little thinking that his useful, well-spent, highly moral life was so soon to end. He has gone, but he will live in the affections of a grieved domestic circle, in the respect of the State he loved and honored, in the memory of his services, and in the loving testimony of those whose good fortune it was to meet him here, to associate with him, and to work with him.

Mr. GREENE of Massachusetts. Mr. Speaker, the Sixty-second Congress has been depleted by the hand of death to a greater extent than it has been my experience to witness since I have been a Member of the House of Representatives. Many of these deaths have been sudden and unexpected, and I am sure none more so than that of the late Member from the second district of Rhode Island, Hon. GEORGE H. UTTER.

His activities seemed to be at their height of usefulness when the second session of this Congress was concluded, and I am sure no one imagined when the parting good-bys were exchanged and we departed to our respective homes that we had parted forever in this life from our late associate. His program for active campaigning in the presidential contest in behalf of the party to which he owed allegiance, and from whose membership he had often been honored, seemed to promise fulfillment of the work which he enjoyed and his return to the scene of his activities and friendships here. But while man proposes and plans for the future there is an unerring destiny which overrules our purposes and shapes our ends.

Mr. UTTER was a resident of Westerly, R. I., from early boyhood, and was active in promoting the interests and shaping the public improvements of the town of his adoption. His natural ability was improved by education in the public schools and by academic and college training. He was a newspaper publisher, and as such and as a public-spirited citizen he had a marked influence among his fellow townsmen. He was an honored member of the Rhode Island House of Representatives for several terms and speaker of that body. He was also a member of the Rhode Island Senate, secretary of state, lieutenant governor, and governor of that State. Upon the death of the late Congressman Capron he was elected a Member of this body.

Mr. UTTER was a ready debater and an eloquent advocate of the policy of protection to American industries and American labor, under which the State of Rhode Island had marvelously grown and prospered until it became one of the most complete and varied industrial centers of growth and activity in New England. But not alone to political lines were his activities limited. He was frequently called upon to speak in different parts of the country in behalf of the extension of the work of the Young Men's Christian Association and also in addressing religious and other public assemblages. He was an eloquent and forceful speaker, and was always sure to have an appreciative audience whenever the announcement was made that he was to deliver an address. He was suddenly stricken with disease while actively engaged in the campaign for the Republican Party, and was compelled to submit to an operation, from which he did not recover.

I was assigned to membership of the committee which attended his funeral services at his home in Westerly, R. I. There was a large attendance at the exercises, of many persons prominent in public life from all over the State, and also his associates in Congress from Rhode Island, Connecticut, and Massachusetts. The places of business in Westerly were closed, and general evidence of respect to his memory were displayed by the citizens of the community, and thus the last tribute of respect and affection was paid to his memory on the day following the national election of 1912. The town, the State, and the Nation have been deprived of the services of a useful and worthy citizen and able legislator, but his words and his accomplishments will be recorded in the pages of history, and his example and worth may well be an inspiration to the generations who may contemplate his career in public and private life.

Mr. PLUMLEY. I enter these precincts to-day with laggard and hesitant steps. A funeral pall is over this Chamber, and shadowy forms, the ethereal essence of them whom we commemorate, walk by my side. A solemn hush is here where yesterday there was strenuous strife, and we who were partisans then are now one in that union of soul which awaits on common sorrow.

It was a brief acquaintance I had with the late Hon. GEORGE HERBERT UTTER, a little less than a year, but during that period it became close and intimate. During the political campaign of 1912 he spoke in Vermont, at my request, and in my own town, where he charmed all with his wit, his wisdom, his method, manner, and matter.

When we dwell upon his career we deal with a character which was excellent, rich, and rare; with a life that was clean, exalted, and noble; with garnered results which are worthy of study and emulation. There beat in his breast a heart large, warm, and true. He possessed a personality which attracted friends and held them. He loved and was beloved. He had faith in others and was himself trusted implicitly. For the greater part of his adult life he was a public servant, living in the limelight of official service, yet beyond reproach and without scandal. He was honest because it was right to be honest; he served to the best of his ability those who trusted him, because such service was their due. He lived a high-minded, whole-souled Christian gentleman and patriot, and at his death there is bereavement and lamentation.

In his life and in his death he verified the words of Scripture:

The highway of the upright is to depart from evil; he that keepeth his way preserveth his soul.

It is indeed most gratifying that at this hour we can recount the virtues of our dead with naught to extenuate, naught to conceal; that as a precious privilege we can name him as our friend, and in honoring him do honor to ourselves. When cut down he was in the full tide of honor and usefulness. "His death was untimely and his brethren mourn."

[Mr. REES addressed the House. See Appendix.]

Mr. PICKETT. Mr. Speaker, James A. Garfield once said:

There is no place on earth where a man will more certainly or more speedily reach his true level than in the House of Representatives.

GEORGE HERBERT UTTER illustrates the force of this observation. Elected to the Sixty-second Congress, he was permitted to serve only through two sessions—the extra session in 1911 and the regular session commencing December, 1911. Yet in this brief period he established himself in the esteem of his associates and left his impress on the legislation of this body. He laid the foundation for a career of usefulness and distinction. Genial and courteous in his manner, attentive to his duties, industrious in his work, bringing to his assistance a rare natural ability, supplemented by years of training and experience in the public service, he was admirably equipped to take a distinguished place in this high forum of national legislation.

There is an old Roman legend—

Let what each man thinks of the Republic be written on his brow.

There was written on the brow and displayed in the words and acts of GEORGE HERBERT UTTER a high conception of our Republic, an abiding faith in the fundamental principles on which our institutions rest, and a prophetic vision of its grander possibilities yet to come. While not omitting the details necessary to a legislator, he seemed to have a broad and comprehensive grasp of public questions. Emerson has said something

about noting what "the hours are saying to the centuries." Ours is a great Nation, 48 separate sovereign States; 90,000,000 people; vast territory. It requires breadth of vision to grasp those great problems which involve the life and the future of our Republic. Frequently the human mind is so absorbed with the localized aspect of questions that it fails to reach out and encompass, so to speak, the national viewpoint. He had this faculty in a rare degree.

He had another character trait—intellectual courage. He did not fear to act on his judgment. He stood square shouldered to his duty as a public servant. He did not propound the interrogatory, "Is this measure policy?" He always appeared to be self-questioned by "Is this right?"

Small of stature, there was yet in his bearing the signet of command—command of himself and therefore command of others; which, united, forms leadership. Amid the storms and passions which frequently beset the pathway of public men he stood erect, unshaken as Atlas—

> While storms and tempests thunder on its brow,
> And oceans break their billows at its feet.

He was a firm believer in constitutional government. His love of constituted authority, reverence for the wisdom of our fathers, and deep convictions in fundamentals of our Government, together with an exalted patriotism and a lofty ambition for the destiny of our Nation, recalled to my mind the hope expressed by Lord Coke—

> Of living always under the protection of the law and in the gladsome light of jurisprudence.

Great memories are in themselves great leaders. The memory of those who have wrought for the Nation's good is in itself an education for those who follow. The memory of GEORGE HERBERT UTTER may well be preserved to the youth of our land, that they may emulate his example, that it may stimulate them to do their duty toward preserving the institutions he loved so well and to which his life was so nobly devoted.

Mr. MURRAY. Mr. Speaker, these are memorial exercises for one whom I never knew till I met him here as a Representative from Rhode Island, but whom I came to know with such respect and admiration that I felt a personal loss when he died. Mr. UTTER was a positive man, with real ideas about men and things, with courage and capacity to express those ideas. There was force in his manner and method of expression, but it was a charming kind of force that directed itself against policies and principles rather than against persons.

I do not remember any time when we were in active disagreement on any matter in debate, but I am sure that we could have differed frequently in that way without any present memory of bitterness that might have been caused by his remarks. The memory would not be here, because the bitterness never was there when Mr. UTTER spoke.

He spoke sometimes, but he wrote constantly, for he was the editor of a newspaper. I have reflected lately on the influence he must have exerted during his lifetime as an editor; not the kind of influence that might cause men to vote in a given way, at a given time, but the kind of influence, unknown to him and not realized by his reader, that shapes the mind and helps to form the thought that may be the cause of action long after the reading may have been forgotten.

I am sure that Mr. UTTER wrote editorials and articles of real value, because he said things of that sort. I remember well, for instance, a talk that he gave me one day when he stopped here at my seat on his way to the reference library in the rear of this section. It was a simple talk about present-day conditions of American life, in which Mr. UTTER developed to me his idea that most of the disturbance we noticed last spring was social in its nature rather than political. He showed me clearly that a large part of the price of present-day success is the loss of friendships and associations we truly enjoyed in earlier and humbler days. He proved from his experience and from mine that many men who used to be friends are not now friendly, and that the change in relations seemed to be because we had been singled out from our fellows for something of distinction.

I wish that I could set forth in this memorial the details of that talk, but I can not do so any more than I can ever erase from my mind and leave out of my life the effect of it. I am sure that Mr. UTTER wrote frequently in the columns of his newspaper just as he talked that day to me. I am also sure that those writings left a lasting impression on the minds of his readers, just as that talk left a lasting impression on me.

I remember well a newspaper editorial that I read many months ago written under the caption, "Creditors of humanity." It told something of the life story of a Massachusetts man who was secretary of the Interstate Commerce Commission and had just died. It made the point that humanity keeps books with all who are given opportunity to serve. On one side of the ledger there is written down everything that comes to a man in the way of public position and office that presents opportunity; on the opposite side is a detailed statement of the things given back to humanity in return for these opportunities.

I know little, if anything, of the details of service rendered by Mr. UTTER before he came to Congress. I believe on what I know of him as a Representative here, however, that he was indeed of the few who are "creditors of humanity."

Mr. REILLY. Mr. Speaker, as editor of the Westerly Sun, as governor of Rhode Island, and Representative in Congress GEORGE HERBERT UTTER was a success. Under his direct management his newspaper had for a number of years been a power for good in Rhode Island, and its field of usefulness and influence was constantly growing. It is a clean newspaper in the fullest sense of that phrase, because its editorial direction and business management were clean, because Editor and Business Manager UTTER was a clean man. His newspaper reflected the high moral standard that he had set for his life work, and its tone was never lowered. As governor of the State of Rhode Island he conducted the affairs of that Commonwealth along the same lines as he did his private business. He inaugurated reforms in State affairs that had long been needed, but which required a high degree of moral courage, in view of certain powerful influences, to put into effect. That the measures were of much benefit to the State and the people thereof is evidenced by the fact that they are still effective, and there has been no desire, at least no ability, to change them. While he was a stanch Republican, he was not the sort of partisan who stood for everything his party did. He went with his party so long as he believed it to be right, at least in a moral sense, and when it ceased to be that he did not follow it.

In every position, either of private or public character, Gov. UTTER gave to the duties of the position the best advice that was in him, and invariably it was of a high order.

He was well fitted for congressional life. His newspaper training and his service for his State gave him a firm grasp on national affairs, and he was certain to become one of the most influential Members of his party in this body.

He was of a retiring nature, but that did not mean that he shirked responsibility or duty. He was always ready to stand in the front rank for what he considered right. He was a ready speaker as well as writer, and not only in political campaigns, but on the lecture platform, was he in much demand. He was a religious man and truly devoted to his faith. He had the fullest courage of his conviction, but was in no sense bigoted or narrow. He accorded to everyone the right to worship as he pleased, but had no patience with those who did not believe in any worship.

His home life was ideal, and there his loss is felt the keenest. Though of a serious turn of mind as distinct from the frivolous, yet he was no grouch. He felt that the man who scattered flowers in the pathway of the poor and unfortunate and let the sunshine of human happiness into the dark places of life was following in the footsteps of the Master. And so he lived and died, beloved of all who knew him and mourned the most by those who knew him best.

Mr. LA FOLLETTE. Mr. Speaker, my acquaintance with the late GEORGE H. UTTER was necessarily very brief, we both being at the time we first met new Members serving our first term, he representing a constituency of a State bordering on the Atlantic, I from a State touching the Pacific.

We were fellow members of the Committee on Coinage, Weights, and Measures, and it was in attendance on committee meetings that my attention was first directed to him particularly. His desire for accurate information, his insistence on a plain understanding of all measures discussed in that committee, caused me to give more than ordinary thought to and created a desire for knowledge of the man, and, upon looking up his biography, I was not surprised to learn that he had been a member and speaker of the House of Representatives of the State of Rhode Island, member of its State senate, secretary of state, lieutenant governor, and governor, respectively.

In noting his achievements and successful career, I was reminded of a little speech made by President Lincoln to a regiment of soldiers he was reviewing in front of the White House during the Civil War. President Lincoln said:

> I happen temporarily to occupy this big White House. I am a living witness that any one of your children may look to come here as my father's child has. It is in order that each one of you may have, through this free government which we have enjoyed, an open field and a fair chance that the struggle should be maintained that we may not lose our birthright.

As President Lincoln was a living witness to the opportunities opened up to the children of the most humble householder, so was Congressman UTTER a living example of the possibilities that are open to the laborer, the artisan, and the tradesman of our great country, if they only have the determination, the stamina, and ability to take advantage of the golden opportunities ever opening at their feet.

Congressman UTTER was a printer by trade, and a printer and publisher by occupation. He served his county and State in many capacities, each time establishing his worth. He was successively elevated in position and in opportunity to serve in greater things, and we can but mourn his sudden demise while yet in the perfection of his manhood and in the heyday of his success.

I feel that his life and achievements should be an inspiration to the youth of his own State and of our common country.

A kindly, courteous gentleman. Long shall we cherish his memory.

Mr. CRAGO. Mr. Speaker, it was my privilege to have been closely associated with GEORGE HERBERT UTTER, late a Representative from the State of Rhode Island, in much of his congressional labors. We were members of the same committee and at times were brought into close contact by reason of work on subcommittees. His very unexpected death was to me a great personal loss, and to this service, in honor of his memory, I bring words of sorrow, feeble though they may be, yet too deep and real to measure by any standard other than of friendship for the man and a deep appreciation of the many virtues his life exemplified.

I shall leave to others the recital of the events of his life prior to the convening of the special session of the Sixty-second Congress, as my personal acquaintance with him began at that time.

A brief reading of his biography discloses the fact that his former work and training in public life had well fitted him for his duties as a Member of this body, and we see the result of that training reflected in his work.

In his committees and on the floor of this House he took an active part and interest. He thought for himself, and his judgment on public questions was formed only after mature deliberation and was always founded on a knowledge of the facts and reasoned out by a mind trained to measure men and apply principles.

As a Republican Gov. UTTER was loyal to his party and the theory of government for which it stands, yet higher than the good of party he ever placed the common welfare of the Nation, and only those measures which appealed to him as right and just received his support.

His services in this legislative body was brief, yet he impressed his individuality on all with whom he came in contact, and had it been given him to serve even for a few years his ability, his loyalty to duty, his zeal for the public good would undoubtedly have commanded general recognition, and his real worth would have given him a prominent place in the councils of this body.

Born in the year 1854, he was but a child when, in 1861, the War between the States began, and so he could not have a part in that great struggle which called to the field the young manhood of this Nation. When in 1898 the call to arms was again sounded he had reached that age in life when, until the Government was in greater need of men, he could not follow the flag to the front and participate in that brief but brilliant feat of arms. And so his fame is linked not to any martial epoch of our history, but is the product of an era of peace, yet his love and veneration for the men who bore arms in defense of our country was intense and sincere.

His fame rests not on titles, but his titles came to him by reason of the true greatness of the man.

In the closing days of a great political campaign, a campaign in which sane principles of self-government, by the people, were being assailed as never before, when all about him were the sounds of conflict, a conflict in which, from a sense of duty, he had enlisted with heart and soul on the side of law and order as he saw it, he must needs answer the higher call. His body, weakened by disease, refused longer to hold the life which struggled so hard to gain the victory.

This life is grand and good and noble, yet it is a battle, a struggle from the cradle to the grave.

The physical man, in order that he may feel and know the pleasurable sensations, must be subject to pain and decay; the soul of man, in order that it may soar to heights divine, has within it the possibilities of sinking into depths of low desire.

To war against pain and death, to struggle against that which would drag one to a lower level, physical, mental, and moral, is the challenge nature gives her children and impartially awaits our action.

The life of the departed shows him victor in this conflict. He had his days of sorrow and disappointment, but there was always the bright to-morrow—to-morrow with all its joys, its possibilities, and its pleasures. May we enter our to-morrow with a new realization that we are all agents of a great power in a mighty purpose; the manner of accomplishing that purpose we may not know, but if our work is good, if our lives are filled with good deeds, we shall have fulfilled the highest purpose of the Creator.

Gov. UTTER has reached the end of all human endeavor, and in that spirit land of life eternal has found what mortal man can never know—perfect happiness.

Peace to his soul, reverence for his memory, love for a life filled with good deeds—a life once ours, for evermore a part of the Infinite.

Mr. O'SHAUNESSY. Mr. Speaker, I ask that unanimous consent be given to those who are unavoidably absent to extend their remarks and make them a part of the proceedings of this day.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

ADJOURNMENT.

The SPEAKER pro tempore. In accordance with the resolution heretofore adopted and as a further mark of respect to the deceased the House will now stand adjourned until 10 o'clock and 30 minutes a. m. to-morrow.

Accordingly (at 2 o'clock and 52 minutes p. m.) the House adjourned to meet to-morrow, Monday, February 10, 1913, at 10.30 a. m.

SENATE.

MONDAY, *February 10, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Journal of the proceedings of Saturday last was read and approved.

CONNECTICUT RIVER DAM (S. DOC. NO. 1067).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 5th instant, certain information relative to the contracts or agreements to be entered into by and with the Connecticut River Co. with reference to a dam across the Connecticut River and the generation of power in connection therewith, which was ordered to lie on the table and to be printed.

DISTRICT ELECTRIC RAILWAY COMMISSION (S. DOC. NO. 1068).

The PRESIDENT pro tempore laid before the Senate a communication from the Interstate Commerce Commission, transmitting, pursuant to law, the fifth annual report of the District Electric Railway Commission respecting the enforcement of the act of Congress governing street railways in the District of Columbia, which, with the accompanying paper, was referred to the Committee on the District of Columbia and ordered to be printed.

FIRST PRESBYTERIAN CHURCH OF NEWBERN, N. C. (S. DOC. NO. 1069).

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of the Deacons of the First Presbyterian Church of Newbern, N. C., *v.* United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts; agrees to the conference asked for by the Senate on the disagreeing

votes of the two Houses thereon, and has appointed Mr. SIMS, Mr. LEE of Georgia, and Mr. MORSE of Wisconsin managers at the conference on the part of the House.

The message also announced that the House had agreed to the amendments of the Senate to the following bills:

H. R. 1332. An act regulating Indian allotments disposed of by will;

H. R. 16450. An act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States and the felonious possession or reception of the same;

H. R. 18425. An act to remove the charge of desertion from the military record of Simon Nager; and

H. R. 28186. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the House insists upon its amendments to the bill (S. 267) providing for assisting indigent persons, other than natives, in the District of Alaska, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HUMPHREYS of Mississippi, Mr. HARDY, and Mr. LANGHAM managers at the conference on the part of the House.

The message further announced that the House had passed a bill (H. R. 17593) to divest intoxicating liquors of their interstate commerce character in certain cases, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

S. 109. An act to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect;

S. 7160. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 8034. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

H. R. 1332. An act regulating Indian allotments disposed of by will;

H. R. 8861. An act for the relief of the legal representatives of Samuel Schiffer;

H. R. 21524. An act for the relief of Frederick H. Ferris;

H. R. 25002. An act to amend section 73 and section 76 of the act of August 27, 1894, entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes";

H. R. 27879. An act providing authority for the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota;

H. R. 27944. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27986. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27987. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.; and

H. R. 27988. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.

CREDENTIALS.

Mr. CLARK of Wyoming presented the credentials of FRANCIS E. WARREN, chosen by the Legislature of the State of Wyoming a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

Mr. KAVANAUGH presented the credentials of JOSEPH T. ROBINSON, chosen by the Legislature of the State of Arkansas a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented resolutions adopted by the Cigar Makers' International Union, favoring the enactment of legislation granting the right of citizenship to the people of Porto Rico, which were referred to the Committee on Pacific Islands and Porto Rico.

He also presented a petition of members of the State Commandery, Military Order of the Loyal Legion of the United States, of Milwaukee, Wis., praying that a pension be granted to the widow of the late Lieut. Gen. Arthur MacArthur, United States Army, which was referred to the Committee on Pensions.

Mr. GALLINGER presented a petition of the Ministers' Conference in Roanoke, Va., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented the petition of John D. Sullivan, of Washington, D. C., praying that an appropriation be made for the purchase of ground at College Park, Md., to be used by the Government as an aviation field, which was referred to the Committee on Military Affairs.

Mr. CULLOM presented petitions of sundry citizens of Deer Grove, Homer, Hillsboro, Manville, Peoria, Rockford, Enfield, Wheaton, Evanston, Watseka, Chicago, Galesburg, Grayville, Sparta, Marshall, Jacksonville, Rock Island, Steward, Biggsville, Sterling, Reno, Charleston, Onarga, Rantoul, Prophetstown, Olney, Joliet, Apple River, Urbana, Paris, Towanda, Farmington, Harvard, Danville, Macomb, Kampsville, Gilman, Detroit, Edgewater, Pearl City, Good Hope, Mattoon, Quincy, Champaign, Tolono, Thompsonville, Aurora, Moweaqua, Cerro Gordo, Eldorado, Paxton, Pekin, Downers Grove, Makanda, Decatur, Bloomington, Kewanee, Harrisburg, Normal, Pontiac, Brimfield, Centralia, Peoria, Carbondale, Pana, Alton, Waukegan, Freeport, Morgan Park, Annawan, Concord, Shelbyville, Ridge Farm, Farina, Coultersville, Elgin, and Dwight, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of sundry citizens of Chicago, Ottawa, and Alton, all in the State of Illinois, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of Moline Chapter, General John Stark Chapter, and George Rogers Clark Chapter, Daughters of the American Revolution, all in the State of Illinois, praying for the enactment of legislation to prohibit the desecration of the American flag, which were referred to the Committee on the Judiciary.

He also presented a petition of Waldron-Murphy Camp, No. 29, United Spanish War Veterans, of Chicago, Ill., and a petition of the J. M. Joplin Camp, No. 66, United Spanish War Veterans, of Benton, Ill., praying for the enactment of legislation providing for the pensioning of the widows and orphans of the soldiers of the Spanish-American War, which were referred to the Committee on Pensions.

He also presented a memorial of Moline Chapter, Daughters of the American Revolution, of Moline, Ill., and a memorial of Fort Armstrong Chapter, Daughters of the American Revolution, of Rock Island, Ill., remonstrating against the enactment of legislation transferring the control of the national forests to the several States, which were referred to the Committee on Forest Reservations and the Protection of Game.

Mr. CRAWFORD presented petitions of sundry citizens of Wessington Springs, Ashton, Redfield, Waubay, Corona, White Rock, Andover, Hecla, Bath, Mellette, West Port, Sisseton, Frederick, Langford, Brookings, White, Pierre, Conde, Selby, Cresbard, Claremont, Groton, Watertown, Clark, Aberdeen, Yankton, and Volin, all in the State of South Dakota, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a memorial of the congregation of the Seventh-day Adventist Church of Leola, S. Dak., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. BRISTOW presented petitions of sundry citizens of Topeka, of members of the Adult Bible Class Federation of Garden City, of sundry students of the Agricultural College of Manhattan, of members of the Woman's Christian Temperance Union of Bunker Hill, of members of the Young Men's Christian Association of the Kansas State Agricultural College of Manhattan, all in the State of Kansas, and of members of the Anti-Saloon League of Washington, D. C., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of sundry citizens of Toledo, Kans., praying for the passage of the so-called Kenyon "red light" injunction bill, which was ordered to lie on the table.

Mr. CURTIS presented petitions of the congregations of the First Presbyterian Church of Highland; of the First Methodist Church of Rosedale; of the Adult Bible Class Federation of Garden City; of the students of the Kansas Agricultural College of Manhattan; and of sundry citizens of Moran, Topeka, and Meade, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. STONE presented a petition of sundry citizens of Roscoe, Mo., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. WORKS presented a petition of the California State Board of Forestry, praying that an additional appropriation be made for the protection of forested watersheds of navigable streams, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Woman's Christian Temperance Union and of sundry citizens of Visalia, Cal., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BURNHAM presented petitions of sundry citizens of Whitefield, Nashua, Lakeport, Concord, Manchester, Bristol, Franklin, and Rochester, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. WARREN presented petitions of the congregation of the Congregational Church of Douglas and of sundry citizens of Douglas and Jackson, all in the State of Wyoming, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. SMITH of South Carolina. I present a concurrent resolution adopted by the General Assembly of the State of South Carolina, which I ask may be printed in the RECORD and referred to the Committee on Post Offices and Post Roads.

There being no objection, the concurrent resolution was referred to the Committee on Post Offices and Post Roads and ordered to be printed in the RECORD, as follows:

Concurrent resolution memorializing Congress to appropriate $100,000 for use in repair of public roads on which Rural Free Delivery mail routes are established.

Be it resolved by the house of representatives (the senate concurring):

SECTION 1. That our Senators and Representatives in Congress be, and they are hereby, requested to endeavor to secure an appropriation by Congress of $100,000 to be used in the State of South Carolina for repairing public roads over which Rural Free Delivery mail routes are established.

SEC. 2. That a copy of this resolution be sent to our Senators and Representatives in Congress.

IN THE HOUSE,
Columbia, S. C., January 31, 1913.

The house agrees to the resolution and orders that it be sent to the senate for concurrence.

By order of the house.

JAS. A. HOYT,
Clerk of the House.

IN THE SENATE,
Columbia, S. C., January 31, 1913.

The senate agrees to the resolution and orders that it be returned to the house with concurrence.

By order of the senate.

M. M. MANN,
Clerk of the Senate.

Mr. SMITH of South Carolina presented a petition of sundry citizens of Marion County, S. C., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

Mr. GRONNA. I present a concurrent resolution passed by the Legislature of North Dakota, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the concurrent resolution was ordered to lie on the table and be printed in the RECORD, as follows:

House concurrent resolution memorializing the Congress of the United States to pass the measure now pending in the Senate known as the Kenyon-Sheppard bill.

Whereas there is now on the statutes of the State a law forbidding the sale or transportation of intoxicating liquors in the State of North Dakota; and

Whereas the interstate common carriers are bringing into our State large quantities of intoxicating liquors to be sold in open violation of our State laws and to the great injury of the people of the State; and

Whereas there is now pending in the Congress of the United States a measure known as the Kenyon-Sheppard bill, which has for its purpose the prevention of interstate shipments of liquors into States where the laws of the State forbid the sale of same; Therefore be it

Resolved by the House of Representatives of the State of North Dakota (the Senate concurring), That the Congress of the United States be, and the same is hereby, earnestly memorialized and requested to pass the Kenyon-Sheppard bill at the earliest date possible and without amendment; be it further

Resolved, That a copy of these resolutions, properly certified, be forwarded at once to our Senators and Representatives in Congress and to the Speaker of the House of Representatives and to the President of the Senate.

Mr. GRONNA presented telegrams in the nature of petitions from the Woman's Christian Temperance Unions of Cass, Traill, and Steele Counties, of the State Woman's Christian Temperance Union of North Dakota, and of sundry citizens of Devils Lake, Fargo, and Park River, all in the State of North Dakota, and of the Ministers' Conference in Roanoke, Va., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BURTON presented petitions of sundry citizens of Beech Grove, Newark, Rawson, Wilmington, Poplar Grove, Gratis, Napoleon, Union, Fort McKinley, Troy, Dayton, Wakeman, Leesburg, Sidney, Ashland, Graham County, Venedocia, Toledo, Columbus, Blanchester, Oakland, Mark Center, Deenville, Kenton, Mingo Junction, Athens County, Steubenville, Painter Creek, Oxford, Springfield, Manchester, New Waterford, Miami County, Marion County, Tiffin, Dayton, and Marietta, all in the State of Ohio, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. CUMMINS. I present a concurrent resolution adopted by the Legislature of Iowa, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the concurrent resolution was ordered to lie on the table and be printed in the RECORD, as follows:

Concurrent resolution memorializing Congress to pass the Kenyon-Sheppard bill relating to the interstate transportation of intoxicating liquors.

Whereas for a number of years last past the sale of intoxicating liquors as a beverage has been prohibited by law in a large number of the cities and counties of the State of Iowa; and

Whereas under the protection of the commerce clause of the Federal Constitution a large quantity of liquor is shipped from without the State to points within the State and disposed of in violation of law; and

Whereas these interstate shipments of liquor and the illegal disposition of the same result in drunkenness, prosecutions, expensive litigation, the commission of crime, and the pauperizing of individuals and families: Now therefore

Be it resolved by the House of Representatives of the State of Iowa (the Senate concurring), That the Congress of the United States be, and it is hereby, memorialized to pass the Kenyon-Sheppard bill, now pending before Congress, looking to the correction of these evils, and that the Representatives in Congress and the United States Senators from Iowa be, and they are hereby, requested to use all honorable means to secure the passage of said act; and

Resolved further, That a copy of this resolution be forwarded by the secretary of the senate and the clerk of the house to the Speaker of the House and the President of the Senate of the United States, and to the Representatives in Congres from Iowa, and to the President of the United States.

January 25, 1913, introduced in the house by Bliss of Ringgold.
January 27, 1913, adopted by the house.
January 28, 1913, received by the senate.
January 30, 1913, adopted by the senate.

A. C. GUSTAFSON,
Chief Clerk of the House.
JOS. E. MEYER,
Secretary of the Senate.
EDWARD H. CUNNINGHAM,
Speaker of the House.
W. T. HARDING,
President of the Senate.

I hereby certify that this concurrent resolution originated in the House of Representatives of the Thirty-fifth General Assembly of the State of Iowa.

A. C. GUSTAFSON,
Chief Clerk of the House.

Mr. MYERS presented petitions of sundry citizens of Eureka, Cut Bank, Moore, Inverness, and Glendive, and of the congregation of the First Presbyterian Church of Philipsburg, all in the State of Montana, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. MARTINE of New Jersey presented petitions of Local Grange No. 190, Patrons of Husbandry, of Englishtown, and of sundry citizens of Newark, Jersey City, Flemington, Garfield, Elizabeth, New Monmouth, Mountain View, Union Hill, Cranbury, Morristown, Bridgeton, Roselle, Keyport, Lakewood, Marlton, Shiloh, Montclair, Pleasantville, Blairstown, Belleville, White House, Merchantville, Toms River, Newton, Freehold, Hightstown, Highlands, Trenton, Atlantic Highlands, Mendham, Hamburg, Preakness, Palmyra, Irvington, Frenchtown, Plainfield, Ridgewood, Mount Holly, Millville, Red Bank, Peapack, Gladstone, East Orange, Monmouth County, Boonton, Metuchen, Long Branch, Lambertville, Pointville, Wrightstown, Readington, Bound Brook, Pennington, Bloomfield, Summit, Caldwell, Englishtown, and Burlington, all in the State of New Jersey,

praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. MARTINE of New Jersey (for Mr. BRIGGS) presented petitions of sundry citizens of Moorestown, East Orange, Boonton, Bloomfield, Ocean port, Hampton, Caldwell, Montclair, Newark, Highlands, Keyport, Metuchen, Palmyra, Pleasantville, Readington, Plainfield, Ocean Grove, Hillsdale, Princeton, Hamburg, Burlington, Pennington, Mount Holly, Blairstown, Trenton, West Long Branch, Eatontown, Marlton, Bound Brook, Lambertville, Asbury Park, Englishtown, Atco, Elizabeth, Morristown, Orange, Freehold, Upper Montclair, Woodstown, and Basking Ridge, all in the State of New Jersey, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. PERKINS presented a memorial of the congregation of the Seventh-day Adventist Church of Arroyo Grande, Cal., and a memorial of the congregations of the Seventh-day Adventist Churches of the State of California, remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. SMITH of Maryland presented a petition of the Park View Citizens' Association of the District of Columbia, praying that an appropriation of $128,000 be made for the construction of a school building west of Soldiers' Home and south of Rock Creek Road in the District, which was referred to the Committee on Appropriations.

Mr. ROOT presented memorials of sundry citizens of Watertown, N. Y., remonstrating against the passage of the so-called Owen health bill, which were ordered to lie on the table.

He also presented petitions of the Men's Association of the First Baptist Church of Hoosick Falls; of the Men's Bible Class of Herkimer; of the congregation of the Methodist Episcopal Church of Waterloo, and of sundry citizens of Waterloo, Auburn, Hornell, Poughkeepsie, Seneca Falls, North Tonawanda, Freeport, Syracuse, Perryville, Long Lake, Cornwall, and Orrs Mills, all in the State of New York, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of sundry citizens of New York, N. Y., praying for the passage of the so-called Nelson bill, amending the Harter Act relating to the liability of shipowners, which was referred to the Committee on Commerce.

Mr. BROWN presented petitions of members of the Commercial Club of Grand Island, the State Medical Society, and of the medical societies of Cedar, Dixon, Thurston, and Wayne Counties, all in the State of Nebraska, praying for the passage of the so-called Owen health bill, which were ordered to lie on the table.

He also presented memorials of sundry citizens of McCook, Beatrice, and Gotheuburg, all in the State of Nebraska, remonstrating against the passage of the so-called Owen health bill, which were ordered to lie on the table.

He also presented a memorial of the Wholesale Liquor Dealers' Association of Nebraska and a memorial of the Willow Spring Distillery Co., of Omaha, Nebr., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a memorial of the Farmers' Education and Cooperative Union, of Dodge County, Nebr., remonstrating against the passage of the so-called agricultural extension bill, which was ordered to lie on the table.

He also presented petitions of sundry citizens of Gordon, Laurel, Lincoln, Cherry County, Seward County, Collegeview, Table Rock, and Omaha, all in the State of Nebraska, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. DU PONT presented petitions of sundry citizens of Wilmington, Del., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. SHIVELY presented petitions of the Woman's Christian Temperance Union of Greencastle, of members of the Woman's Home Missionary Society of South Bend, of members of the German-American Christian Civic League of Indianapolis, of members of the Young Men's Christian Band of Manchester College of North Manchester, of members of the Brotherhood of the First Baptist Church of Goshen, of members of the Bourbon Township Sunday School Association, of members of the First Baptist Church of Fort Wayne, of members of the West Richmond Friends Church and Sunday School of Richmond, of the temperance committee of West Richmond Friends of Richmond, of members of the Friends Church of Charlottesville, of John Wilkinson and 37 other citizens of Carroll County, of William S. Coffey and 12 other citizens of Brown County, of Edmon G. Hall and 8 other citizens of Fowler, of J. Turner Johnson and 39 other citizens of Newburg, of O. N. Huff and 14 other citizens of Wayne County, of Mrs. H. W. Simmons and 7 other citizens of Jeffersonville, and of Ward Marshall and 21 other citizens of Muncie, all in the State of Indiana, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. TOWNSEND presented a memorial of the congregation of the Seventh-day Adventist Church of Adrian, Mich., and a memorial of the congregation of the Seventh-day Adventist Church of Bloomingdale, Mich., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented a petition of the congregation of the First United Brethren Church of Grand Rapids, Mich., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. SMITH of Michigan. I send to the clerk's desk a concurrent resolution of the Legislature of Michigan ratifying the constitutional amendment providing for the direct election of Senators by the people, together with the certificate of the governor of Michigan to the effect that this has been done. I ask that the concurrent resolution lie on the table and be printed in the RECORD.

There being no objection, the concurrent resolution was ordered to lie on the table and to be printed in the RECORD, as follows:

Senate concurrent resolution 2.

A concurrent resolution ratifying the proposed amendment to the Constitution of the United States providing that Senators shall be elected by the people of the several States.

Whereas the Congress of the United States, after solemn and mature deliberation therein, has, by a vote of two-thirds of both Houses, passed a concurrent resolution submitting to the legislatures of the several States a proposition to amend the Constitution of the United States, which resolution is in the following words:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That in lieu of the first paragraph of section 3 of Article I of the Constitution of the United States, and in lieu of so much of paragraph 2 of the same section as relates to the filling of vacancies, the following be proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States:

"The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

"When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

"This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution."

Resolved by the Senate of the State of Michigan (the House of Representatives concurring), That in the name and behalf of the people of this State, we do hereby ratify, approve, and assent to the said amendment.

Resolved further, That a copy of this assent and ratification, engrossed on parchment, be transmitted by his excellency the governor to the Senate and House of Representatives of the United States in Congress assembled and to the Secretary of State of the United States.

I do hereby certify that the foregoing resolution was adopted by the senate, by a two-thirds vote of all the senators elect, on the 22d day of January, 1913.

DENNIS E. ALWARD,
Secretary of the Senate.

I do hereby certify that the foregoing resolution was adopted by the house of representatives, by a two-thrids vote of all the members-elect, on the 28th day of January, 1913.

CHARLES S. PIERCE,
Clerk of the House of Representatives.

To the President of the Senate of the United States:

This is to certify that the foregoing is a true and compared copy of senate concurrent resolution No. 2 of the State of Michigan, ratifying, approving, and assenting to the concurrent resolution of the Congress of the United States relative to an amendment to the Constitution of the United States providing for the direct election by the people of United States Senators.

In witness whereof I have caused the great seal of the State to be affixed hereto.

Given under my hand, at Lansing, this 3d day of February, 1913.

WOODBRIDGE N. FERRIS,
Governor.

[SEAL.]

By the governor:

FREDERICK C. MARTINDALE,
Secretary of State.

By D. H. NIELS,
Deputy Secretary of State.

Mr. LA FOLLETTE presented petitions of sundry citizens of Fond du Lac and Grand Rapids: of the Woman's Christian Temperance Union of Mineral Point; and of the congregations of the Welsh Presbyterian Churches of Jerusalem and Bethesda; and the Methodist and Congregational Churches of Hartford, all in the State of Wisconsin, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of members of the Washington Secular League, of Washington, D. C., and of sundry citizens of the District of Columbia, praying for the enactment of legislation to regulate the hours of employment of women in the District of Columbia, which were referred to the Committee on the District of Columbia.

Mr. TILLMAN. I present a petition signed by a large number of citizens of Marion County, S. C., praying for the enactment of the Kenyon-Sanders bill relative to the interstate shipment of alcoholic liquors in prohibition districts. I ask that the body of the petition be printed in the RECORD, omitting the signatures, and that it lie on the table.

There being no objection, the petition was ordered to lie on the table and the body of the petition was ordered to be printed in the RECORD, omitting the signatures, as follows:

Hon. B. R. TILLMAN,
United States Senate, Washington, D. C.

We, the undersigned citizens of Marion County, State of South Carolina, do hereby respectfully petition you, as our Representative, to use your influence to the enactment of the Kenyon-Sanders bill, now pending, relative to the shipment of alcoholic liquors in prohibition districts. We feel that this bill, if passed, will be of untold benefit to those communities that have already voted prohibition for themselves.

We pray your earnest attention to this matter at once.

Signed by 84 citizens of Marion County, S. C.

Mr. TILLMAN presented a concurrent resolution passed by the General Assembly of the State of South Carolina, praying that an appropriation of $100,000 be made for use in repairing the public roads on which rural free-delivery mail routes are established, which was referred to the Committee on Post Offices and Post Roads.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. ASHURST. Mr. President, I present two petitions signed by citizens of Graham County, Ariz., earnestly petitioning in behalf of the early passage of the Kenyon-Sheppard bill. I ask that the petitions, including the names thereon, be printed in full in the RECORD.

The PRESIDENT pro tempore. The Senator from Arizona asks that the petitions, the nature of which he has stated, be printed in full in the RECORD. Is there objection?

Mr. GALLINGER. I will ask the Senator if the list of names is a very long list? We have heretofore, as a rule, not printed the names of petitioners, but the body of the petition itself.

Mr. ASHURST. There are about 45 or 50 names on each petition, and there are two petitions.

Mr. GALLINGER. As no one here would know those parties simply because their names are printed, would not the Senator be willing to have the petitions printed without the names?

Mr. ASHURST. No, sir; I regret that I would not be willing. I request that the names be printed, because they comprise some of the most honorable, the most respectable, and the most virtuous citizens of Arizona.

Mr. GALLINGER. Mr. President, I feel constrained to object to the printing of the names.

The PRESIDENT pro tempore. The Senator from New Hampshire objects.

Mr. ASHURST. I move that the names as well as the petitions be printed in the RECORD.

The PRESIDENT pro tempore. The Senator from Arizona moves that the body of the petitions and the names attached thereto be printed in the RECORD.

Mr. ASHURST. Mr. President, I make this motion in order to accentuate that there are two rules in this body, one rule for one Senator and another rule for another Senator. Last week several petitions were presented and the names of the petitioners appeared in the RECORD. Surely if that was an improper proceeding the objection should have been made at that time as well as against the petitions which I now have the honor to present.

The PRESIDENT pro tempore. The Senator from Arizona moves that the body of the two petitions, with the names attached thereto, be printed in the RECORD.

Mr. ASHURST. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BRISTOW. I should like to inquire what has been the custom in regard to these private petitions. I have received hundreds of them from the people of my State. I have filed them and I have never asked that the names be printed or the petitions except it was a memorial from the legislature.

Mr. GALLINGER. That is right.

Mr. BRISTOW. If it is customary for such petitions to be printed in the RECORD, of course every Senator ought to have that privilege when the request is made. But if it is not customary then no one ought to have the privilege. The same rule ought to apply to all. I am anxious to know what the practice has been before I vote upon this question.

Mr. ASHURST. Mr. President, I would request Senators to turn to page 2768 of the CONGRESSIONAL RECORD for Saturday, February 8, 1913, and in the lower left-hand column they will observe that a petition was presented by the distinguished junior Senator from Georgia [Mr. SMITH] upon identically the same subject and practically in the same wording as the petitions which I now present, and the names appended to that petition are printed in the RECORD.

So, I say, if in good faith Senators desire to see that rule enforced, why do they not object to another Senator presenting petitions of an exactly similar character and having them printed in the RECORD with the names attached?

I shall always proceed upon the idea that every Senator here is the equal of every other Senator, and so long as I have the honor to represent in part the State of Arizona here I shall never consent that a rule shall be relaxed in favor of one Senator and then restricted as against another Senator.

I again ask Senators to look at the lower left-hand column of the CONGRESSIONAL RECORD, page 2768, Saturday, February 8.

Mr. LODGE. Mr. President, as is well known to the Senate, under an order adopted by the Senate as far back as the Forty-ninth Congress it was provided—

That when petitions and memorials are ordered printed in the CONGRESSIONAL RECORD the order shall be deemed to apply to the body of the petition only, and the names attached to said petition or memorial shall not be printed unless specially ordered by the Senate.

I think the names are very rarely printed. In my experience I have very seldom known it to be done. It certainly can not be done except by unanimous consent. I doubt very much whether we can change a rule on motion. This is a rule, because it has been adopted by a majority of the Senate.

Mr. CULBERSON. Mr. President, I call the attention of the Senator from Massachusetts to the order which he read. It says that the names shall not be printed "unless specially ordered by the Senate," which would be by motion.

Mr. LODGE. Certainly; but no order of the Senate can be passed on the day on which it is offered.

Mr. CULBERSON. I am not so sure about that.

Mr. LODGE. If an objection is made, it goes over under the rule.

Mr. CULBERSON. No objection has been made.

Mr. LODGE. I am making no objection; I am only calling attention to it. I say I am very sure all Senators here are aware that the practice in that respect has been very uniform and that names are very rarely printed, because if we opened the RECORD to the printing of names we should have columns and columns filled with nothing but names of petitioners. My own experience is that that rule has been very strictly enforced. When there are only a few names on a petition permission has been given to print them, but I think it is extremely exceptional.

Mr. ROOT. Mr. President, I wish to say that I should be very sorry that the Senator from Arizona should rest under an impression that there is any discrimination. I want to say to him that I have received, I think it is no exaggeration to say, 10,000 names affixed to petitions and memorials from my constituency, which I have never considered that I was at liberty to have printed in the RECORD. I would have loaded the RECORD so that it would be difficult to find anything in it except names. My understanding was that I was not at liberty to ask to have them printed.

I am quite sure that if it appears a petition was printed with the names it was rather through inadvertence or because the bulk of it was not sufficient to make it a matter of any particular consequence.

Mr. SMITH of Georgia. Mr. President, the petition which was printed last Saturday was printed at my request. I had received many thousand names of a similar character, and many, many petitions of the same character. It was not my purpose to take part in the debate upon the subject, and I asked the consent of the Senate to print the petition, which was very short, and the short list of names attached to it, simply to occupy space enough in the RECORD to emphasize my interest in the subject. I suppose I have in my office a large drawer full of similar petitions, with the signatures attached, and I thought that that short list of names was not improper to go with the petition just as a sample of what I had received.

I certainly hope that the Senator from Arizona shall receive every privilege that I have received. I will gladly vote for his motion.

Mr. SMOOT. I notice that in the request made by the Senator from Georgia [Mr. SMITH], in presenting the petition to which he referred, he did not ask that the names of the petitioners be printed in the RECORD, but simply requested that the petition lie on the table and be printed in the RECORD.

Such requests are made every day when the Senate is in session. If the Senator from Georgia had asked that the petition be printed, and also that the names of the petitioners be inserted in the RECORD, there is no question but that there would have been objection, because we have petitions here, as has been stated, with tens of thousands of names, and it has been the universal rule in the Senate that the names signed to such petitions be not printed. I have not the least objection to the names of petitioners being known, if it were necessary, but I want to say to the Senator from Arizona [Mr. ASHURST] that it would make his case no stronger to have the names printed; it would merely encumber the RECORD, and therefore I hope that he will not insist that the names be printed in the RECORD. I will call his attention to the fact that he may scan the RECORD for years and years back, and he will find very few cases where the names of petitioners have been so printed.

Mr. GALLINGER. Mr. President, as I made the objection, and in view of some observations on the part of the Senator from Arizona [Mr. ASHURST], I wish to say that I am sure the Senator from Arizona will acquit me of any purpose of discrimination in matters of this kind.

Mr. ASHURST. I cheerfully do so.

Mr. GALLINGER. I certainly have endeavored always to see that the Senator from Arizona should have his due in this body, that he should have proper recognition, and that his State should also have due and proper recognition. I have never during my term of service here asked that names attached to petitions be printed in the RECORD. I have had petitions with thousands of names signed to them sent to me, but, remembering the rule of the Senate, I have refrained from asking that they be printed in the RECORD.

I hope the Senator from Arizona will not feel that there is a purpose to discriminate against him individually or against his State in the objection I have raised. I think, after the Senator has been here a while, he will see the necessity for this rule and the propriety of it. While it has not, perhaps, heretofore been observed with absolute strictness in certain instances, such as that which occurred a few days ago when the request was not made to print the names but where they went into the RECORD, I trust that the Senator will not feel that that establishes a precedent which ought to be controlling.

I think, upon reflection, the Senator from Arizona will realize that his statement that these are the names of distinguished men in his State will carry just as much weight as though they were printed in the RECORD, and I hope that he will not insist on the motion that he has made, but that he will withdraw it.

Mr. MYERS. Mr. President, I have very great respect for the Senator from New Hampshire [Mr. GALLINGER]. He has been very kind to me since I have been here. I respect his judgment, his knowledge, his experience, and his motives in all matters, and I am satisfied that his motive in this instance is a good one and fair-minded; but I believe in this particular case we could well afford to waive the rule, if it be one, allow these names to be printed, and let some Senator who is chairman of the Committee on Rules or of the Commitee on Printing, or whoever might have jurisdiction, give notice that henceforth he would object to such requests, demand the enforcement of the rule, and treat all alike. I do not suppose there are above 75 or 100 of the names of these petitioners, and I do not suppose the cost to print them in the RECORD will be 5 cents. I am sure that Arizona is proud to be in the Union. She was trying to get in for a long time. I am sure that her citizens will take pride in letting others know that they are now citizens of the United States, and I am sure that we are all proud to have Arizona in the Union. Who is there here who is not proud to have her in the Union?

Mr. GALLINGER. Mr. President, if my good friend from Montana will permit a word, he will remember that no Senator in the body commenced earlier to insist that Arizona ought to come into the Union than myself.

Mr. MYERS. I give the Senator from New Hampshire great credit for that and all due credit in other matters. I have great respect for the Senator, but I think——

Mr. ASHURST. Mr. President——

Mr. MYERS. I should like to finish.

Mr. ASHURST. Very well.

Mr. MYERS. I think we might well vote without objection, without delay, and without any disrespect to anybody, or to the rules, for that matter, to let these names be printed in the RECORD, and then if any Senator wants to invoke the inviolability of the rule hereafter on all alike, let it be known that it will be done; but as long as the names of petitioners from other States have been printed—and each State is supposed to be on an equal footing here—I believe in this one instance we might well permit these names to be printed. So I hope that the motion of the Senator from Arizona will prevail. I think it is nothing but fair and right and just.

Mr. ASHURST. Mr. President——

Mr. GALLINGER. Mr. President, will the Senator from Arizona permit me a moment?

The PRESIDENT pro tempore. Does the Senator from Arizona yield to the Senator from New Hampshire?

Mr. ASHURST. Certainly.

Mr. GALLINGER. Mr. President, in view of the statement made by the Senator from Montana [Mr. MYERS] that this will not be construed as a precedent and that at least some of us in the future will have the privilege, without being called in question, to invoke the rule, I propose, so far as I am concerned, to withdraw objection to the printing of the names in the RECORD.

Mr. ASHURST. Mr. President, I thank the distinguished Senator from New Hampshire [Mr. GALLINGER], and before I resume my seat will say that no Senator can serve here long without cultivating a deep affection for him. So far as the State of Arizona is concerned, that State does not forget that when my colleague [Mr. SMITH], who is now an honored Senator upon this floor, was a Delegate in the House the Senator from New Hampshire was one of the Senators who always stood by the Territory, now the State, of Arizona. I am very grateful to the Senator for withdrawing his objection. I have not questioned, and must not be understood as questioning, his motives in objecting to the names of the signers of these petitions being printed in the RECORD. I withdraw, if I may, the demand for the yeas and nays.

The PRESIDENT pro tempore. Does the Senator ask for the revocation of the order for the yeas and nays?

Mr. ASHURST. I do, Mr. President.

Mr. CLAPP. Before that is disposed of, Mr. President, I should like to say a word. I do not know that it will do any good, but I wish to state that some years ago the Senate adopted a rule whereby petitions, pension bills, claims bills, and private bills of all kinds should be filed with the Secretary to appear in the RECORD as introduced by the Senators presenting them, so as to avoid unnecessary delay of the Senate in the morning hour and taking the time of the Senate in presenting such matters. It seems to me that that rule ought to be observed.

Mr. GALLINGER. Regular order, Mr. President.

The PRESIDENT pro tempore. The Senator from Arizona asks unanimous consent for the revocation of the order for the yeas and nays. Without objection, it will be so ordered, and the petitions, together with the signatures, will be printed in the RECORD as requested.

The petitions are as follows:

To the UNITED STATES SENATE.

Care of the Hon. Henry F. Ashurst, Washington, D. C.:

We, the undersigned citizens of Graham County, State of Arizona, earnestly petition for the speedy passage of the Kenyon-McCumber interstate liquor bill, S. 4043 or S. 2319, to withdraw from interstate-commerce protection liquors imported into "dry" territory for illegal purposes.

J. R. Welker, Safford, Ariz.; C. C. Rickman, Safford, Ariz.; C. M. Layton, Thatcher, Ariz.; Andrew Kimball, Thatcher, Ariz.; G. R. Young, Safford, Ariz.; J. T. Owens, Safford, Ariz.; P. J. Jacobson, Safford, Ariz.; George H. Crosby, jr., Safford, Ariz.; L. R. Pace, Thatcher, Ariz.; Louie A. Nelson, Thatcher, Ariz.; F. B. Jacobson, Safford, Ariz.; A. E. Welker, Safford, Ariz.; J. T. Brown, Thatcher, Ariz.; S. N. Higgins, Safford, Ariz.; J. T. Childers, Thatcher, Ariz.; Orlando Jolley, Thatcher, Ariz.; S. A. Merrill, Safford, Ariz.; R. G. Layton, Safford, Ariz.; A. H. Layton, Thatcher, Ariz.; Frank Tyler, Thatcher, Ariz.; John N. Morris, Safford, Ariz.; David W. Birdno, Safford, Ariz.; Willie M. Birdno, Safford, Ariz.; Amelia Evans, Safford, Ariz.; Austin Evans, Safford, Ariz.; Geo. A. Zundel, Safford, Ariz.; T. B. Reed, Safford, Ariz.; John West, Safford, Ariz.; Wm. Morris, Safford, Ariz.; B. W. Wright, Safford, Ariz.; Heber Higgins, Artisa, Ariz.; Alvin Warner, Safford, Ariz.; U. J. Paxton, Safford, Ariz.; Charles Boggs, Safford, Ariz.; A. C. Peterson, Thatcher, Ariz.; D. L. Ridgway, Safford, Ariz.; T. C. Shaeffer, Safford, Ariz.; C. T. Reynolds, Safford, Ariz.; J. H. Larson, Thatcher, Ariz.; Sam J. Paxton, Safford, Ariz.; G. L. Young, Safford, Ariz.; John M. Barnhart, Globe, Ariz.; J. J. Chamberlain, Safford, Ariz.; M. J. E. Ringer, Safford, Ariz.; J. H. Carlton, Thatcher, Ariz.; Lee Carlton, Safford, Ariz.; Geo. S. Huarus, Safford, Ariz.; Ezra Madsen, Safford, Ariz.; M. E. O'Bryan, Safford, Ariz.; Geo. Catlett, Safford, Ariz.; C. W. B. Link, Safford, Ariz.; Geo. A. Hoopes, Thatcher, Ariz.; G. F. Houck, Safford, Ariz.; O. P. Merrill, Safford, Ariz.; M. M. Crandall, Safford, Ariz.; M. R. Crandall, Safford, Ariz.; R. H. Freestone, Safford, Ariz.; Albert Norris, Safford, Ariz.; W. F. Scarlett, Safford, Ariz.; C. W. Scarlett, Safford, Ariz.; W. R. Chambers, Safford, Ariz.; Elam Olsen, Safford, Ariz.; Robt. L. Nash, Safford, Ariz.; L. A. John, Safford, Ariz.; Frank Nelson, Safford, Ariz.; Geo. Goodman, Safford, Ariz.; D. R. Williams, Safford, Ariz.; Hartley Thomas, Safford, Ariz.; H. W. Brown, Safford, Ariz.

REPORTS OF COMMITTEES.

Mr. ROOT, from the Committee on the Library, to which was referred the bill (S. 6062) for the preparation of a plan for the erection of a foundation and pedestal on ground belonging to the United States Government, in the city of Washington, upon which to place a memorial or statue, to be furnished by the State of Pennsylvania, of Maj. Gen. George Gordon Meade, reported it with amendments and submitted a report (No. 1202) thereon.

Mr. WARREN, from the Committee on Appropriations, to which was referred the bill (S. 8414) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes, asked to be discharged from its further consideration and that it be referred to the Committee on Commerce, which was agreed to.

Mr. CURTIS, from the Committee on the District of Columbia, to which was referred the bill (H. R. 6083) to amend an act entitled "An act for the widening of Benning Road, and for other purposes," approved May 16, 1908, reported it with amendments and submitted a report (No. 1203) thereon.

THE FRANCIS GIRARD GRANT.

Mr. THORNTON. From the Committee on Private Land Claims I report favorably without amendment the bill (H. R. 11478) to quiet title and possession with respect to a certain unconfirmed and located private land claim in Baldwin County, Ala., in so far as the records of the General Land Office show said claim to be free from conflict, and I submit a report (No. 1201) thereon. I call the attention of the Senator from Alabama [Mr. JOHNSTON] to the bill.

Mr. JOHNSTON of Alabama. This is a local measure which has been passed by the House, and I ask unanimous consent for its present consideration.

Mr. SMOOT. I should like to ask the Senator from what committee the bill was reported.

Mr. JOHNSTON of Alabama. The Committee on Private Land Claims.

Mr. GALLINGER. Let the bill be read for the information of the Senate.

Mr. SUTHERLAND. Mr. President, I dislike very much to object to the consideration of this or any other bill, but the Senator from Ohio [Mr. POMERENE] has given notice that he will address the Senate this morning on the Kenyon interstate liquor bill, which must be voted upon not later than 6 o'clock. A number of Senators desire to be heard upon that bill, and the time is barely sufficient.

Mr. JOHNSTON of Alabama. It will take only a few moments to pass this local bill.

Mr. SUTHERLAND. I do not know; it may take a good many moments. I have seen some of these matters that we were promised would take only a few moments take a long time. I therefore feel constrained to object.

The PRESIDENT pro tempore. Objection is made, and the bill will be placed on the calendar.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CRAWFORD:

A bill (S. 8439) restricting the issuance of interlocutory injunctions to suspend the enforcement of the statute of a State or of an order made by an administrative board or commission created by and acting under the statute of a State; to the Committee on the Judiciary.

By Mr. WETMORE:

A bill (S. 8440) for the enlargement of the site and the erection of a new public building at Newport, R. I.; to the Committee on Public Buildings and Grounds.

By Mr. CHILTON:

A bill (S. 8441) authorizing the President to appoint Andrew Summers Rowan to be a colonel in the Army; to the Committee on Military Affairs.

A bill (S. 8442) granting a pension to Charles McCarthy; to the Committee on Pensions.

By Mr. STONE:

A bill (S. 8443) to authorize the St. Louis-Kansas City Electric Railway Co. to construct a bridge across the Missouri River at or near the town of Weldon Springs Landing, Mo.; to the Committee on Commerce.

By Mr. JONES:

A bill (S. 8444) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1899, and for other purposes," approved July 1, 1898; to the Committee on Public Lands.

By Mr. CRANE:

A bill (S. 8445) for the acquisition of a site and the erection thereon of a public building at Winchester, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. BRADLEY:

A bill (S. 8446) granting an increase of pension to W. C. Jones (with accompanying papers); to the Committee on Pensions.

By Mr. BURNHAM:

A bill (S. 8447) for the relief of Martha Cutts Alny, and others; to the Committee on Claims.

A bill (S. 8448) granting an increase of pension to Joseph Cook; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8449) granting an increase of pension to Katharina Britsch (with accompanying papers); to the Committee on Pensions.

By Mr. SMOOT:

A bill (S. 8450) granting an increase of pension to Kate Hoyberger; to the Committee on Pensions.

By Mr. CLARK of Wyoming (for Mr. CLAPP):

A bill (S. 8451) to amend section 235 of the Criminal Code, act of March 4, 1909 (with accompanying papers); to the Committee on the Judiciary.

By Mr. SMITH of Michigan:

A bill (S. 8452) granting an increase of pension to Margaret W. Goodwin; to the Committee on Pensions.

By Mr. CLAPP:

A bill (S. 8453) granting a pension to Caroline Fust (with accompanying paper); to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. ROOT submitted an amendment proposing to appropriate $53,800 to pay the allowances made to the Malambo fire claimants under article 6 of the treaty of November 18, 1903, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. BRISTOW submitted an amendment proposing to appropriate $9,000 for the completion of the addition to the post office and courthouse at Salina, Kans., intended to be proposed by him to the sundry civil appropriation bill, which was ordered to be printed, and, with accompanying paper, referred to the Committee on Public Buildings and Grounds.

Mr. NEWLANDS submitted an amendment proposing to increase the appropriation for general repairs and improvements at the Indian school at Carson City, Nev., from $6,000 to $20,000, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $26,952 for grading and improving Sixteenth Street from Montague Street to the Military Road, etc., intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. JONES submitted an amendment proposing to extend the act approved August 24, 1912, so as to apply to the Reclamation Service under the act known as the reclamation act of June 17, 1912, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. BOURNE submitted an amendment proposing to appropriate $150,000 for continuing the construction of a wagon road and necessary bridges through Crater Lake National Park, Oreg., etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. WETMORE submitted an amendment proposing to appropriate $256,500 for the completion of the harbor of refuge at Point Judith, R. I., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. CULBERSON submitted an amendment proposing to appropriate $1,185,000 for the construction and extension of a sea wall on land adjoining Fort San Jacinto, Galveston, Tex., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $700,000 for improving the channel from Galveston Harbor to Texas City, Tex., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. CRAWFORD submitted an amendment proposing to appropriate $20,000 to enable the President to propose and to invite foreign Governments to participate in an international conference for the purpose of considering plans for an international inquiry into the high cost of living, etc., intended to be proposed by him to the diplomatic and consular appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. STEPHENSON submitted an amendment authorizing the Secretary of the Treasury to place upon the books of the Treasury, to the credit of the portion of the Wisconsin Band of Pottawatomie Indians now residing in the States of Wisconsin and Michigan, the sum of $447,339, being the proportionate share of these Indians in annuities and moneys of the Pottawatomie Tribe, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. LIPPITT submitted an amendment proposing to appropriate $150,000 for improving the Providence River and Harbor, R. I., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. FLETCHER submitted an amendment proposing to appropriate $600,000 for technical and clerical services in the purchase of equipment and supplies for collecting, maintaining, and making available to Federal, State, municipal, and hospital authorities and institutions of learning plans and descriptive matter of hospitals, asylums, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. MARTINE of New Jersey submitted an amendment proposing to appropriate $6,000 for the instruction and employment of the blind of the Columbia Polytechnic Institute who are actual residents of the District of Columbia, etc., intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

LEGISLATIVE, ETC., APPROPRIATION BILL (S. DOC. NO. 1065).

Mr. WARREN. I present a conference report, it being a partial agreement of the conferees on the legislative, executive, and judicial appropriation bill.

The PRESIDENT pro tempore. The report will be read.

The Secretary read as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 31, 32, 33, 34, 35, 36, 40, 48, 51, 52, 70, 99, 100, 104, 105, 117, 118, 119, 125, 126, 127, 128, 132, 133, 141, 157, 158, 159, 175, 197, 198, 199, 202, 206, 207, 218, 219, 220, 221, 236, 241, and 242.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 6, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 28, 29, 30, 41, 42, 43, 46, 47, 49, 50, 54, 55, 56, 57, 58, 62, 63, 64, 65, 66, 67, 69, 71, 72, 73, 74, 75, 91, 92, 96, 97, 101, 102, 103, 107, 108, 109, 110, 111, 112, 120, 121, 122, 123, 124, 129, 130, 131, 134, 135, 136, 143, 144, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 176, 203, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 222, 227, 228, 229, 230, 231, 232, 233, 234, 237, and 238, and agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows: In line 8 of the matter inserted by said amendment strike out "$3,500" and insert in lieu thereof the following: "$2,000, or so much thereof as may be necessary"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$74,525"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment as follows: At the end of the matter inserted by said amendment insert the following: ": *Provided*, That no person shall be employed hereunder at a compensation in excess of $4,000 per annum"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$87,990"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$4,000"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$16,120"; and the Senate agree to the same.

Amendment numbered 98: That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "For legislative expenses, namely: Salaries of Members, $216,000; mileage of Members, $6,500; salaries of employees, $5,160; printing of laws, $3,500; rent of legislative halls and committee rooms, $2,000; stationery, supplies, printing of bills, reports, and so forth, $3,500; in all, $242,260, to be immediately available"; and the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$166,358"; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$840"; and the Senate agree to the same.

Amendment numbered 114: That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$17,640"; and the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$840"; and the Senate agree to the same.

Amendment numbered 116: That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$15,960"; and the Senate agree to the same.

Amendment numbered 137: That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment as follows: In lines 3 and 8 of said amendment strike out "$31,200" and insert in lieu thereof "$30,000"; and the Senate agree to the same.

Amendment numbered 138: That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$1,375"; and the Senate agree to the same.

Amendment numbered 140: That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$2,500"; and the Senate agree to the same.

Amendment numbered 142: That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$275,820"; and the Senate agree to the same.

Amendment numbered 145: That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "one at $2,400"; and the Senate agree to the same.

Amendment numbered 146: That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$631,250"; and the Senate agree to the same.

Amendment numbered 174: That the House recede from its disagreement to the amendment of the Senate numbered 174, and agree to the same with an amendment as follows: In line 8 of the matter inserted by said amendment, before the word

"to," insert the following: "or so much thereof as may be necessary"; and the Senate agree to the same.

Amendment numbered 200: That the House recede from its disagreement to the amendment of the Senate numbered 200, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$30,000"; and the Senate agree to the same.

Amendment numbered 201: That the House recede from its disagreement to the amendment of the Senate numbered 201, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$36,000"; and the Senate agree to the same.

Amendment numbered 204: That the House recede from its disagreement to the amendment of the Senate numbered 204, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$25,000"; and the Senate agree to the same.

Amendment numbered 205: That the House recede from its disagreement to the amendment of the Senate numbered 205, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$7,000"; and the Senate agree to the same.

Amendment numbered 223: That the House recede from its disagreement to the amendment of the Senate numbered 223, and agree to the same with an amendment as follows: In lieu of the number proposed insert "eleven"; and the Senate agree to the same.

Amendment numbered 224: That the House recede from its disagreement to the amendment of the Senate numbered 224, and agree to the same with an amendment as follows: In lieu of the number proposed insert "twelve"; and the Senate agree to the same.

Amendment numbered 225: That the House recede from its disagreement to the amendment of the Senate numbered 225, and agree to the same with an amendment as follows: In lieu of the number proposed insert "nine"; and the Senate agree to the same.

Amendment numbered 226: That the House recede from its disagreement to the amendment of the Senate numbered 226, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$73,260"; and the Senate agree to the same.

Amendment numbered 239: That the House recede from its disagreement to the amendment of the Senate numbered 239, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$56,680"; and the Senate agree to the same.

Amendment numbered 240: That the House recede from its disagreement to the amendment of the Senate numbered 240, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$7,000"; and the Senate agree to the same.

On amendments numbered 2, 7, 8, 11, 23, 24, 25, 26, 27, 37, 38, 39, 61, 68, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 93, 94, 95, 139, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 160, 161, 162, 163, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, and 235 the committee of conference have been unable to agree.

F. E. WARREN,
GEO. PEABODY WETMORE,
LEE S. OVERMAN,
Managers on the part of the Senate.

J. T. JOHNSON,
A. S. BURLESON,
FREDK. H. GILLETT,
Managers on the part of the House.

Mr. WARREN. Mr. President, regarding the conference report, which has just been read, I ought to say to the Senate that it is only a partial agreement. There are numerous matters undecided, such as the Senate amendments concerning assay offices, surveyor general's offices, Indian matters, certain employees of the Senate, the police force of the Senate and House, and some other minor matters.

Mr. OVERMAN. And the Commerce Court.

Mr. WARREN. Yes; and the Commerce Court. Unless there is some other disposition proposed, I shall move that the Senate insist upon its amendments in disagreement and ask for a further conference with the House of Representatives.

The PRESIDENT pro tempore. The Chair will inquire of the Senator from Wyoming if it is his desire that the Senate shall now take action upon the report as presented?

Mr. WARREN. Yes.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

Mr. CRAWFORD. Mr. President, I have no doubt that this form of conference report is one that has been established and followed for a long time, but I must say that it is unsatisfactory to a Senator when a conference report comes in, to find the only reference made is that the conferees have agreed on amendments numbered 1, 2, 3, 4, 5, 6, 7, and so forth; have not agreed on amendments numbered 16, 17, 18, and 19; and have agreed on amendments numbered 23, 24, 25 and 26 with certain amendments. I am not criticizing the committee in this particular instance, but I am very much interested in this conference report, vitally interested in some portions of it, and I want to keep in touch with it. I want to know what the stage of the proceeding is, so that I can be on guard. I do not like to have a conference report adopted here as to amendments numbered 1, 2, 3, 4, 5, 6, and 7, and then skipping over amendments 12, 13, 14, and 15, and confirming amendments numbered 25, 26, and 29. I do not believe the average Member of the Senate, when he votes to confirm that kind of a report, knows very much about what he is doing.

Mr. WARREN. Mr. President, I will say to the Senator that we are proceeding in the course that has been followed for a great many years—more than a score of years. I do not consider that any report is finally and fully settled until the last item is settled, but it is sometimes of great assistance to the managers of the conference to have their work checked up so far as they have agreed and then endeavor to obtain agreements as to items left in disagreement.

Mr. CRAWFORD. Mr. President, I simply desire to give notice now that the attempt to close offices and interfere with necessary public business carried on for the public welfare in points throughout the West is not going to be confirmed here in the form of a conference report without a few remarks from one of the Senators from South Dakota, and they may take some time. I do not want a conference report perpetrating that kind of an injury to all of the northwest section of this country to be confirmed here as an agreement or disagreement to amendments numbered 1, 2, 3, 4, 5, and so forth.

Mr. CLARK of Wyoming. Mr. President, I should like to ask my colleague, the chairman of the committee, whether it has been the custom of the Senate to print partial reports, so that Senators may be advised as to what items have been disposed of in conference?

Mr. WARREN. The report as read will go into the RECORD, so that on to-morrow morning it will be before every Senator, and, in connection with it, he can consult the bill itself.

Mr. CLARK of Wyoming. Can we secure a copy of the bill with the amendments numbered, so that we may be able to understand exactly what has been agreed to?

Mr. WARREN. They can be furnished to the Senators from the desk.

Mr. SUTHERLAND. Mr. President, will not the Senator from Wyoming consent to let the matter go over until to-morrow morning?

Mr. WARREN. I am not holding it.

Mr. SUTHERLAND. I thought the Senator had moved to agree to the conference report.

Mr. WARREN. I will say to the Senator from Utah that if the report should be agreed to so far as it goes I should then ask that the Senate insist upon its amendments still in disagreement and ask for a further conference; but we have not yet arrived at that stage.

Mr. SUTHERLAND. But not to assent to the agreements already made?

Mr. WARREN. Well, Mr. President, that is a question for the Senate to decide. I think we are making more of a point on this matter, probably, than is necessary. The bill can not become a law until it is completed; and the acceptance of the report, so far as it goes, is simply one of the parliamentary stages.

Mr. SUTHERLAND. Some of us are very much interested in the report which has been made, and desire to be heard upon it. We have a special order assigned for to-day on a very important bill that ought to be discussed, and the time which is allowed for discussion on that measure is not sufficient. I hope, therefore, the Senator from Wyoming will permit this matter to go over until to-morrow morning, when we shall have time to discuss it.

Mr. LODGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Massachusetts?

Mr. SUTHERLAND. I do, if I have the floor.

Mr. LODGE. Mr. President, I only want to say to the Senator that I think he is proceeding under a slight misapprehension as to the effect of agreeing to this report. Partial agreements of conferees do not bind. If we disagree to their report, we

can not amend it; we disagree to the whole report, and it goes back to conference, where the whole subject is open. Even if the conferees have agreed on everything but one item, they may come back on that item in order to get the instruction of the Houses. I do not understand that the partial agreements which we have been in the habit of presenting here in the least prevent their being discussed when the final report is made.

Mr. CLARK of Wyoming. No, Mr. President; that is not the point. The point is whether or not by agreeing to this partial report we do not give the conferees to understand that, so far as that part of the report is concerned, they have the consent of the Senate.

Mr. LODGE. Undoubtedly that is true.

Mr. CLARK of Wyoming. Yes.

Mr. LODGE. Though technically it does not bind.

Mr. CLARK of Wyoming. I know; but in reality it does.

Mr. LODGE. In that sense it undoubtedly gives the conferees the right to say that the Senate favors those items, and that has been the practice.

Mr. SUTHERLAND. Mr. President, that is the thing to which I object. I think Senators should be heard upon these matters before the conferees have any understanding on the subject.

Mr. LODGE. They will be just as open after the final report as they are now.

Mr. WARREN. Mr. President, if the Senator will permit me, I have not counted the amendments in this bill. Last year in the similar bill there were something over 500 of them. They are largely matters of a clerk more or less here and there, or one or two or three hundred dollars more or less here and there as to salary, and are hardly matters that the Senate in Committee of the Whole would care to take up.

If the Senator will permit me, I will state exactly what is still in disagreement. I think it ought to go into the RECORD, so that if it comes up to-morrow or at any other time we will know more about it.

Beginning at the opening of the bill, the first disagreement is upon inserting the name of Woodbury Pulsifer as one of the employees.

The second matter is that of increased pay for two employees, Loeffler and Keller.

The third is that of the Capitol police force, which the House has seen fit to cut in two. It allows only one-half of the force that is now employed under the joint management of the Sergeants at Arms of the House and of the Senate.

The next matter is that of the insertion of the name of George H. Carter, the printing clerk. Objection is made to naming him.

The next is the payment of $300 to a lady, Miss Etta J. Giffin.

The next matter is that of the employment of an $1,800 clerk that we proposed, in addition to what the House proposed, in the copyright office of the Library of Congress.

The next item is the freight on bullion and coin, for which the House allowed only $15,000 instead of $75,000 or $100,000 as formerly, and which the Senate increased to $40,000.

The next matter is the number of internal-revenue collection districts, which we reduced by four last year. Such a reduction has not seemed to be satisfactory, and we seek to put them back to the former number. That is in disagreement.

Then there is the entire list of mints and assay offices, which the House cut out, taking out all of the assay offices but one in the Northwest. Those are still in disagreement.

Then there is the matter of $5,000 for the National Aerodynamical Laboratory Commission.

There is a disagreement of about $18,000 in regard to clerks for the Indian office, which the Senate seeks to provide for the examination of titles and distribution of amounts due to the heirs of deceased Indians. It is part of the Indian service which the department says is necessary.

The next is the small matter of two or three employees in the Patent Office.

Then comes the matter of surveyors general and their clerks. The House has sought to do away with one of the offices of the surveyors general, and to cut down very largely from the estimates for all the others. The Senate has put in, in most cases, the amount estimated for, but has never exceeded the amount called for by the estimates, and has put back the one office which the department states is as necessary as any surveyor general's office in the United States—the one which is for South Dakota and Nebraska jointly.

Then comes the matter of the Commerce Court. I think it is generally conceded that the Commerce Court must be provided for until the end of the fiscal year. I think it is more a question of whether it shall be taken care of in this bill or in a deficiency bill. But since it was estimated for in this bill, and has been provided for, we introduced it here and the Senate indorsed it. So the managers of the conference on the part of the Senate have felt that they should maintain it.

Those are the items in disagreement, and all the items.

Mr. BRISTOW. Mr. President, the Senator has given the items which are in disagreement; but what are the items that we are agreeing to? That is what I am interested in. I am not so much interested in what the conferees have not yet agreed upon as what we are now ratifying.

Mr. WARREN. I hardly think the Senator would want me to go into those generally, because there are perhaps a couple of hundred of them. The bill itself will show the Senator what they are.

Mr. BRISTOW. Why should it not be printed, and then go over, and be taken up to-morrow morning?

Mr. WARREN. I have no objection whatever to that course.

Mr. CRAWFORD. Let us have it printed.

Mr. WARREN. Mr. President, since there seems to be a general wish that the report should be printed, and that we should proceed no further upon it at the present time, I shall not make the motion which I indicated I desired to make, for a further conference, but shall let the matter go over and take it up to-morrow morning.

The PRESIDENT pro tempore. The report will be printed.

Mr. CRAWFORD. Does it follow as a matter of course, then, that it will be printed?

Mr. WARREN. Oh, yes.

The PRESIDENT pro tempore. The Chair has just announced that it will be printed.

DEPOSIT OF PUBLIC MONEYS IN NATIONAL BANKS.

Mr. POINDEXTER. I offer a resolution, which I ask may be read.

The Secretary read the resolution (S. Res. 462), as follows:

Resolved by the Senate of the United States, That the Secretary of the Treasury be, and he hereby is, directed to transmit to the Senate any information in his possession touching his authority to make the order for the disposition, custody, and disbursement of the public moneys embodied in Department Circular No. 5, issued by said Secretary of the Treasury on January 9, 1913. Also to transmit to the Senate any information in his possession touching the effect of said order upon the system and mode of receiving, caring for, handling, and disbursing said public moneys in effect prior to the issuance of said order, and especially what change in said system was effected by said order; also any information in his possession as to the manner and in what proportion the public moneys specified in said order are distributed among the several national banks therein referred to, and to designate what, if any, additional banks have been designated as Government depositories on account of the change in the custody of the public moneys specified in said order, and where the same are located; also the amount of daily receipts of the Government which have been deposited in banks since said order went into effect, and what, if any, security therefor or interest thereon has been required by said Secretary of the Treasury from the said banks, and what amount or proportion of said daily receipts has been deposited in banks in New York City; also to state the monthly average amount of all funds in the custody of disbursing officers which said order requires to be deposited in banks, but which prior thereto were deposited with the Treasurer or an Assistant Treasurer of the United States; also what is the average monthly amount of United States disbursing officers' accounts in New York City.

Mr. POINDEXTER. I desire to make a brief statement in regard to the resolution.

The PRESIDENT pro tempore. The Senator from Washington will proceed.

Mr. POINDEXTER. The statement of the United States Treasury at the close of business February 7, 1913, shows that the customs receipts of the United States for that day amounted to $1,076,175. This order, designated as circular No. 5, changes the mode of caring and keeping and the place of deposit of these daily receipts and will change the place of deposit of public moneys during the present fiscal year, ending June 30, 1913, according to the report of the Treasury, to the amount of $201,551,299.

This order was made without any legislation authorizing or directing it. From statements in the public press I have noticed that the Secretary of the Treasury claims that it is authorized by law. It is my judgment that it was not authorized by law. There has been no change in the law in that regard for a great many years. If it is authorized by law, and if the Secretary of the Treasury, in his discretion, can control and direct the place of deposit, as between the Public Treasury or subtreasury of the United States and a private bank, of public moneys amounting to over $200,000,000 a year, the law ought to be changed; and the Senate ought to have full information from the Secretary of the Treasury as to his motives and purposes in making such an order.

On the other hand, if the law does not authorize this order, which has created a great deal of comment throughout the country and more or less astonishment, then it is perfectly obvious that it is a matter of the most serious import, and one upon which the Senate should be immediately informed and

which undoubtedly would call for some action of a pronounced character by Congress.

I will detain the Senate for only a few moments. The order in substance is contained in the first paragraph of the so-called circular No. 5, which is as follows:

For the purpose of bringing the ordinary fiscal transactions of the Federal Government more nearly into harmony with present business practices, it has been determined that the daily receipts of the Government shall be placed with the national-bank depositaries to the credit of the Treasurer of the United States. Disbursements will be made by warrant or check drawn on the Treasurer, but payable by national-bank depositaries, as well as by the Treasury and subtreasuries, in accordance with the following regulations.

It proceeds to set out certain regulations as to accounts, the manner of issuing checks and warrants by which these moneys shall be disbursed.

Mr. President, the statutes of the United States expressly require that the customs receipts shall be deposited with the Treasurer of the United States or with a subtreasurer. The statute also requires that moneys intrusted to the disbursing officers shall be kept with the Treasurer of the United States or in a subtreasury, or, in places where there is no subtreasury, may be deposited in a national bank depositary.

So far as I am informed, and I think that I am informed upon the subject, there is no subsequent statute which has changed the law which I have just stated and which has been in effect for almost a hundred years.

The National City Bank, of New York City, issued a circular dated February, 1913, commenting upon this order of the Secretary of the Treasury. It was prepared no doubt by a financial expert connected with the National City Bank, which is one of the Standard Oil banks. This circular, which has been published throughout the country, says:

When the Treasury Department was established 124 years ago it was made the duty of the Secretary of the Treasury to superintend the collection of the revenues. Nearly 60 years later it was made a felony for any officer of the United States to deposit in any bank any portion of the public moneys intrusted to him. This drastic legislation, which had as its foundation the unfortunate experience of the Government with the banking business, was partially repealed by the national currency act and the national bank acts of 1863 and 1864, by permitting internal-revenue receipts to be deposited in banks. It was not until 1907 that Congress permitted customs receipts to be so deposited. One of the important features of Secretary MacVeagh's plan now is to take advantage of this act.

I think that a search of the banking and currency act of 1907 will fail to disclose that there is a word or syllable in it which amends or repeals the laws existing prior to that time as to the deposit of public moneys in the hands of the disbursing officers or as to the deposits of money received from customs.

It is evident that some contention is made by the Secretary of the Treasury that the law of 1907 authorized this change. I want briefly to call attention to the manner and the form in which the order is made and in which the business is transacted for the purpose of showing that the Secretary of the Treasury knows that the law is still in force which requires these funds to be deposited in the Treasury or a subtreasury, and that it is simply a sham system of keeping accounts by which under the name of keeping accounts with the Treasurer of the United States in fact the accounts are kept with private banks. There is one peculiar statement contained in the circular of the National City Bank which I have just read. I will read some of the preceding sentences:

The method of making disbursements which has just been adopted also marks the passing of the old order as to expenditures.

There are two separate and distinct propositions involved in this circular. One of them is as to the place of deposit of the customs receipts; the other, a distinct matter, is the place of deposit of the funds intrusted to and under the custody of the disbursing officers:

For nearly 50 years the Treasury Department has been operating under a statute requiring disbursing officers to keep their accounts with the Treasurer of the United States, an assistant treasurer, and in places where there is no treasurer or assistant treasurer with a national-bank depository. This has been strictly construed to prevent a disbursing officer from having an account with a national-bank depository in a city where there is a subtreasury.

This is the interesting statement, in connection with the preceding, contained in the circular issued by the National City Bank:

It is interesting to note—

The circular says—

that the change which has been made is sustained by the same section of law which was supposed to prohibit just what is now being done.

Mr. SUTHERLAND. Mr. President, will the Senator permit me to interrupt him? Some little time ago I objected to the consideration of a bill presented by the Senator from Alabama upon the ground which I then stated. I did not know that the resolution which the Senator has proposed would lead to debate or I should have asked that it go over under the rule.

I call the attention of the Senator to the fact that at 6 o'clock to-day we are obliged to vote upon the pending measure, and there have been notices given already that Senators would address the Senate upon that matter. Unless it can be taken up within a reasonable time some of those who desire to be heard will be denied the privilege. I hope under those circumstances the Senator will permit the resolution to lie over.

Mr. POINDEXTER. I do not anticipate—I trust, at least—that there will not be any objection to the resolution. The statement which I wish to make is very brief. I would have concluded it in five minutes.

Mr. SUTHERLAND. In order to be consistent with the Senator from Alabama, I am obliged to ask that the resolution shall lie over under the rule.

The PRESIDENT pro tempore. Under objection, it necessarily does so.

Mr. POINDEXTER. I give notice, then, that I shall call it up to-morrow, and complete my remarks at that time.

The PRESIDENT pro tempore. The resolution will go over under the rule.

MEMORIAL ADDRESSES ON THE LATE REPRESENTATIVE SYLVESTER CLARK SMITH.

Mr. PERKINS. I desire to give notice that on Saturday, March 1, 1913, I shall ask the Senate to consider resolutions commemorative of the life and character of Hon. SYLVESTER CLARK SMITH, late a Member of the House from California.

MEMORIAL ADDRESSES ON THE LATE REPRESENTATIVE ELBERT H. HUBBARD.

Mr. CUMMINS. I give notice that on Saturday, March 1, 1913, I shall call up the resolutions commemorative of the life and character of Hon. ELBERT H. HUBBARD, late a Member of the House from Iowa.

BUREAU OF NATIONAL PARKS.

Mr. SMOOT. I desire to give notice that I will address the Senate on Thursday, the 13th, after the routine morning business, upon the bill (S. 3463) to establish a bureau of national parks, and for other purposes.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. GALLINGER. I ask that House bill 17593 be laid before the Senate.

The bill (H. R. 17593) to divest intoxicating liquors of their interstate commerce character in certain cases was read twice by its title.

Mr. GALLINGER. Mr. President, this bill is very similar in its nature to the so-called Kenyon bill, and I venture to ask unanimous consent that it be now considered.

Mr. SUTHERLAND. I object, Mr. President.

The PRESIDENT pro tempore. The Senator from Utah objects.

Mr. GALLINGER. Let it be referred to the committee, then.

The PRESIDENT pro tempore. The bill will be referred to the Committee on the Judiciary.

Mr. GALLINGER subsequently said: When House bill 17593 was laid before the Senate I suggested that it be referred to the Committee on the Judiciary. I ask unanimous consent that the action of the Senate be rescinded and that the bill be allowed to lie on the table for the present.

The PRESIDENT pro tempore. The Senator from New Hampshire asks unanimous consent that the bill indicated by him, which was previously referred to the Judiciary Committee, may now lie on the table. Is there objection? It will be so ordered, without objection.

REGULATION OF PLACES OF AMUSEMENTS—VETO MESSAGE (S. DOC. NO. 1066).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on the District of Columbia and ordered to be printed:

To the Senate:

I return herewith, without approval, Senate bill 2600, entitled "An act to authorize the Commissioners of the District of Columbia to prevent the exhibition of obscene, lewd, indecent, or vulgar pictures in public places of amusement in the District of Columbia."

Upon inquiry I find that the requirement of section 2, that all picture films shall be submitted to the District Commissioners for investigation and approval before exhibition, is, under present conditions, not only unnecessary but incapable of enforcement without unduly encroaching upon the services of

the police force of the District. In this connection I wish to call your attention to the accompanying letter to the Attorney General on the subject from the District Commissioners, dated February 3, 1913.

I beg to suggest that the purpose of this bill may be accomplished by a statute merely prohibiting, under a penalty, the exhibition of objectionable pictures, without the requirement of prior investigation and approval by the commissioners before exhibition, and to recommend the passage of such a measure.

WM. H. TAFT.

THE WHITE HOUSE, *February 10, 1913.*

The PRESIDENT pro tempore. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. GALLINGER. Mr. President, that bill which the President has vetoed was introduced and earnestly favored by me, and it passed both Houses of Congress. The Commissioners of the District of Columbia gave their approval of the bill. It seems to me that the suggestion of the Attorney General is not a wise one, and yet it is proper that the committee should give it consideration.

I regret that the bill has been vetoed, inasmuch as I believe the proposed law would have done much toward protecting the youth of Washington from witnessing pictures that are certainly not calculated to improve their morals or to contribute to their education along sound lines. No instrumentality can be imagined that is better calculated to corrupt the morals of the young than indecent pictures, and the bill was intended to protect them from that danger.

I move that the veto message and the accompanying bill be referred to the Committee on the District of Columbia.

The motion was agreed to.

RIGHT OF WAY IN YELLOWSTONE NATIONAL PARK.

Mr. MYERS. Mr. President, I had intended at this time to ask unanimous consent for the immediate consideration of the bill (S. 3130) to authorize the Secretary of the Interior to permit the Conrad-Stanford Co. to use certain lands, but I understand——

Mr. SUTHERLAND. Mr. President, I object.

Mr. MYERS. I have not asked for the consideration of the bill, Mr. President.

Mr. SUTHERLAND. Oh, I beg pardon.

Mr. MYERS. I said I had intended to ask it, but the Senator from Utah [Mr. SUTHERLAND] stated awhile ago that a number of Senators desire to speak immediately after the close of the morning business on the Kenyon bill. I had observed that it was set down to be taken up at 3 o'clock; but I am told that there are a number of Senators who desire to speak on it before that time. I have no wish whatever to interfere with the desire of any Senator to address the Senate on that or any other subject, but I ask at this time unanimous consent that an order be made that Senate bill 3130 be taken up for consideration immediately after the final disposition of Senate bill 8033, the Connecticut River dam bill, which comes up to-morrow.

Mr. SMOOT. I simply desire to state to the Senator from Montana that there are so many unanimous-consent agreements now given we can hardly tell where they are going to lead; that there is not a single appropriation bill which has passed both Houses and been agreed upon by the conferees; and I certainly shall object at present to any unanimous-consent agreement for consideration of a bill, unless it is provided it shall not interfere with appropriation bills and conference reports.

Mr. MYERS. Mr. President, I will add that qualification to my request, providing that it shall not interfere with the consideration of appropriation bills or conference reports.

Mr. GALLINGER. Or a previous unanimous-consent agreement.

Mr. SWANSON. And I should like——

Mr. SUTHERLAND. For the present I object to the request.

The PRESIDENT pro tempore. Objection is made.

Mr. MYERS. I have been trying for a long time to get up this bill. It is manifest that I can not get it up in any other way. It is on the calendar, but whenever it is called on the calendar for objected bills there is objection made, which is all right. It is the privilege of any Senator to object, of course. The calendar is never called so that the bill can be reached on its own right, and I know of no other way of getting the bill before the Senate.

Therefore I move that, notwithstanding the objection, an order be made now that the bill be taken up for consideration immediately after the final disposition of Senate bill 8033, providing that it shall not interfere with the consideration of appropriation bills or conference reports.

Mr. SMOOT. Is that motion in order?

The PRESIDENT pro tempore. The Chair will state that it would require a two-thirds vote. The Senate can make a special order at any time, but a special order requires a two-thirds vote.

Mr. MYERS. It requires only a majority vote to consider it, does it not?

The PRESIDENT pro tempore. But to make a special order requires a two-thirds vote.

Mr. MYERS. The bill was introduced nearly two years ago, in the summer of 1911, and I am about despairing of ever getting it to a vote. I will withdraw the motion.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. CURTIS. Mr. President, I had expected to submit some remarks in favor of the Kenyon-Sheppard bill, but on account of an important committee meeting on an appropriation bill it will be impossible for me to remain during the discussion and to submit remarks. I therefore ask unanimous consent to print the following excerpts from the Central Christian Advocate, which give strong reasons for the passage of the bill.

The PRESIDENT pro tempore. Is there objection to printing in the RECORD the matter indicated by the Senator from Kansas? The Chair hears none.

The matter referred to is as follows:

[Excerpts from the Central Christian Advocate, published at Kansas City, Mo., Claudius B. Spencer, D. D., editor, December 25, 1912.]

INTERSTATE COMMERCE IN INTOXICATING LIQUORS.

To the people of Kansas:

"For your altars and your firesides." It has ever been the sentiment of humanity that the most sacred treasures are the altars and firesides of the people. This it is which has written the most sublime chapters of history. For their altars and firesides men have willingly shed their blood. The sentiment is the fountain of patriotism; it is the basis of laws. To stand by and see their altars and firesides jeopardized is an act unworthy of real men.

Citizens of Kansas, the interstate-commerce laws shield men—of that grade of character capable of doing it—in shipping into your borders intoxicating liquors which is prohibited, under the most severe penalties, by your laws. This Federal shelter you feel to be not only a nullification of yours laws, but also an attack upon your firesides and altars. And, citizens of Kansas, you believe the Kenyon-Sheppard bill, Senate No. 4043, will give you relief from such Federal protection of men who in your own State are branded as criminals and punished by sentence to State prison.

NULLIFYING THE STATE LAWS.

We call your attention, citizens of Kansas, to the action taken by the Southern Sociological Congress, held a little time ago in Nashville, Tenn. The question of this nullification of State laws relating to the prohibition of the sale of intoxicating liquors was under consideration. The following action was taken without a dissenting voice:

"Throughout the Southern States determined opposition to this traffic has resulted in the enactment of laws by which five entire States and approximately 90 per cent of the territory of the remaining States of our southland now forbid the sale of intoxicating liquors.

"Under the present Federal law the States are powerless to prevent the importation of intoxicating liquors from other States, even when consigned to notorious violators of law and for the avowed purpose of sale contrary to the laws of the State. Under our system of government a citizen of one State should not be given privileges and opportunities under the protection of interstate commerce which the people have wisely denied to their own citizenship within the State.

"Therefore, in view of all these things, be it

"*Resolved*, That it is unjust to States having prohibited the liquor traffic, in whole or in part, for the Federal Government to permit people in other States to ship these States alcoholic liquors intended to be used in violation of their laws; and we call upon Congress to pass promptly the Kenyon-Sheppard Webb-McCumber bill, which will permit the States to enforce their own laws by preventing the introduction of liquors from other States into their territory for unlawful purposes.

"We insist that the present situation is both anomalous and intolerable. The fact that outside and irresponsible citizens of other States should, under the guise and protection of interstate commerce, have the power to furnish the bootlegger and the blind tiger with their supplies of liquors by means of which they carry on their unlawful traffic is repugnant to every sentiment of justice and of fair dealing between the Federal Government, under its delegated commercial power, and the States, under their inherent powers of police. We insist that no political issue transcends this in importance, going directly, as it does, to that relationship of equality and comity which should be established and maintained between them under our dual system of government."

The Southern Sociological Congress then unanimously passed this resolution:

"We therefore urge Senators and Representatives in Congress to support, both with their influence and votes, the pending bill above named and vigorously to oppose the efforts of the liquor interests of the country to delay and defeat it."

ANALYSIS OF KENYON-SHEPPARD BILL.

Citizens of Kansas, lest it may have escaped you, we beg to ask you, What is this Kenyon-Sheppard bill, S. 4043? Stripped of its verbiage, to use the summary of Senator SANDERS of Tennessee, it is:

"*Be it enacted, etc.*, That the shipment of intoxicating liquors from one State into any other State by any person to be received or used in violation of any law of such State, is hereby prohibited."

The bill is not a prohibition bill. We might wish it were; but it is not. It does not prevent a man from drinking intoxicating liquor. It has no penalties. It simply lifts the shelter which the Federal Government has placed around men of such character as to ship to men in prohibition States intoxicating liquors to be sold contrary to and in defiance of State laws.

Precisely what the bill is intended to stop is set forth in this circular sent into Idaho, a dry State, by a liquor firm in Salt Lake City. In his speech in the Senate, December 17, Senator KENYON, author of the bill, held aloft the circular; it was illuminated with pictures of Uncle

Sam, some ten in number, in various poses, and at the top was this announcement, "Uncle Sam our partner." The circular was then read by Senator KENYON. We reproduce the circular:

"UNCLE SAM IS OUR PARTNER.

"THE FRED J. KIESEL CO., OGDEN, UTAH.

"*Mail Order Liquor Department.*

"To meet the surprisingly increasing demand from dry Idaho counties and other dry sections we have increased our bottled in bond and blended whisky stock and are ready to supply all demands from the thirsty, be they bankers, merchants, tradesmen, laborers, ministers, bootleggers, or even politicians, from the governor down to the least official.

"Our list includes the following well-known brands: Sunny Brook, Old Crow, Old Kissel, Hermitage, Our Joe, Guckenheimer, Paul Jones, and Chicken Cock.

"Pabst Blue Ribbon, 'the Beer of Quality.' Idan-ha, the monarch of table and medicinal waters; also finest of wines and brandies from our own winery at Sacramento, Cal.

"Price lists furnished on application. Address all communications to the Fred J. Kiesel Co., Mail Order Department, Ogden, Utah."

This circular exactly sets forth what "partnership" it is the Kenyon-Sheppard bill is intended to dissolve.

CONDITIONS DEMANDING THE KENYON-SHEPPARD BILL.

We wish to leave no stone unturned to show the people of the West that this statement of the Salt Lake dealers of the Idaho laws is correct. We may be permitted to quote from some remarks of the senior Senator from Georgia upon this subject:

"Briefly stated, the conditions which demand the passage of this or some similar bill are these: Every State in which the traffic in liquors has been prohibited by law is deluged with whisky sent in by people from other States under the shelter of the interstate-commerce law. There are daily trainloads of liquors in bottles, jugs, and other packages sent into the State consigned to persons, real and fictitious, and every railway station and every express company office in the State are converted into the most extensive and active whisky shops, from which whisky is openly distributed in great quantities. Liquor dealers in other States secure the names of all persons in a community, and through the mails flood them with advertisements of whisky, with the most liberal and attractive propositions for the sale and shipment of the same. Freed from the expense of the middleman, the distiller or dealer in other States is enabled to sell to the individual in the prohibition State at a less price than the purchaser formerly paid to the domestic whisky dealer. It is evident that under such circumstances the prohibition law of a State is practically nullified, and intoxicating liquors are imposed upon its people against the will of the majority."

CHARACTER OF COMMODITY AIMED AT.

There is another phase: What is the character of the business such States as Kansas, Oklahoma, North Dakota, Tennessee have driven from the ranks of respectable and permissible occupations? We will make no appeal to sentiment. We will accept the definitions made by the Supreme Court of the United States, a tribunal incapable of being swerved by rhetoric or sentimentality—the Supreme Court of the United States, in a number of cases, with reference to this. In the case of Welsh *v.* State (126 Ind., 72) the court says that—

"The license law treats the traffic as dangerous, as dangerous to public and private morals, and as dangerous to the public peace and the good order of society."

In The State *v.* Gerhardt (145 Ind., 439) the court says:

"The unrestricted traffic in intoxicating liquors has been found by sad experience to be fraught with great evil and to result in the most demoralizing influence upon private morals and the peace and safety of the public."

In Mugler *v.* Kansas (123 U. S., 623, 685-662) the Supreme Court of the United States said:

"It is not necessary for the sake of justifying the State legislation now under consideration to array the appalling statistics of misery, pauperism, and crime which have their origin in the use or abuse of ardent spirits. * * * For we can not shut out of view the fact within the knowledge of all that the public health, the public morals, and the public safety may be endangered by the general use of intoxicating drinks; nor the fact established by statistics acceptable to everyone that the idleness, disorder, pauperism, and crime existing in the country are in some degree at least traceable to this evil."

Again, the Supreme Court of the United States, in Crowley *v.* Christensen (137 U. S., 86), says:

"By the general concurrence of opinion of every civilized and Christian community there are few sources of crime and misery to society equal to the dramshop, where intoxicating liquors in small quantities, to be drunk at the time, are sold. Every State shows a greater amount of crime and misery attributable to the use of ardent spirits obtained at these retail liquor saloons than to any other source."

This is the business which the States of Kansas and Oklahoma and others have had the moral courage to rise up and abolish. It is abhorred by the people. To engage in it is punishable by sentence to State's prison and the striped clothes of a convict. And this is the business which is defiantly carried on under the protection of Federal decisions as to interstate commerce, the only requisite being that a man shall ship his goods from a point outside of the State, he then being free to laugh at the State laws, which would send him to State's prison, to scorn, seeing "Uncle Sam is his partner," by such protection. The Kenyon-Sheppard bill deprives the shipper of that impenetrable partnership.

THE LIQUOR PEOPLE AND THE BILL.

How the liquor people regard this bill may be seen from the following:

[From Bonforts Wine and Spirit Circular, Nov. 25, 1912.]

"Congress convenes December 2. On December 16 the Kenyon bill (S. 4043) will be made the special order of business. This bill is the most dangerous measure ever aimed at the liquor traffic. What have you done to defeat it? Your Senator and your Congressman are your representatives and must listen to your protest. This bill must be killed. It will not die unless Senators and Congressmen are made aware of the strong opposition to it. You can do a great deal to help defeat this bill. The passage of the Kenyon bill will be the biggest victory ever won by the Anti-Saloon League. What are you going to do about it?"

[Circular being sent out to liquor dealers by David Wise & Co., distillers and wholesale liquor dealers of Chicago.]

"EXTREMELY IMPORTANT.

"On December 16 next there will come up in the United States Senate at Washington, D. C., a bill known as the 'amended Kenyon bill,' No. 4043. This bill would take liquors out of interstate commerce. This means that you could not have whisky, wines, beer, or other liquor shipped to you, either by freight or express, if you live in a territory where the sale of liquor is forbidden.

"Please act quickly. Get as many well-known and prominent citizens as you can to write to your United States Senators, protesting against the passage of this bill. Letters of protest should go to Washington between December 1 and 12."

KANSAS CITY AND ST. LOUIS OPPONENTS OF THE BILL.

And now, citizens of Kansas, and, for that matter, of Oklahoma, all this is written to awaken you to the necessity of immediately petitioning the Senate to liberate you from the coils of the python which this "partnership" has fastened about you. And why?

You would think, citizens of Kansas and Oklahoma, that the Senate would be more than ready to give you this relief. It is your altars and firesides that are at stake. President-elect Woodrow Wilson, April 2, 1912, in vetoing a bill passed by the New Jersey Legislature, spoke concerning the attitude of the Federal Government on this question. He said: "It is a mistaken and hurtful Federal policy." The people of Kansas and Oklahoma know in bitterness it is a hurtful and a mistaken policy.

Beyond doubt this Federal protection of the intershipment of prohibited intoxicating liquors would be dissolved were it not for the pressure of the liquor trade which is fattening on this defiance of the State laws and for the added strength of those who for some reason are petitioning the Senate not to lift the Federal shelter from those thus nullifying the State laws.

WHY THOSE SIGNATURES?

The CONGRESSIONAL RECORD for December 16 contains the information of petitions remonstrating against the passage of the Kenyon-Sheppard bill 4043, which strips the liquor trade of its Federal protection in defying the laws of prohibition States. Among the petitioners were Local Union No. 43, Beer Drivers and Stablemen, International Union of United Brewery Workmen of America; Local Unions Nos. 237, 246, and 279, International Union of United Brewery Workmen of America, all of St. Louis; the Trade Assembly of Joplin, all in the State of Missouri; and the National German-American Alliance of Missouri, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill.

Also, sundry telegrams in the nature of memorials from Strandberg, McGreery & Co., the Southwestern National Bank of Commerce, the Densmore Hotel Co., Edward J. McMahan, the Bauer Machine Works, the Commerce Trust Co., the Niles & Moser Cigar Co., the First National Bank, the Kumpfs Insurance Agency, the Hodes Planing Mill, the A. J. Shirk Roofing Co., the Kupper Hotel Co., Charles Campbell, the Central Brass Works Co., Rothenberg & Schloss, the C. C. Yost Pie Co., and the Ridley Machine Works Co., all of Kansas City, Mo., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill.

What can not fail to impress the citizenship of the western and southwestern country is the presence among these signatures not only of the "beer drivers and stablemen" and brewery roustabouts but of the Southwestern National Bank of Commerce, the Commerce Trust, and the First National Bank, of Kansas City. In behalf of the citizens of Kansas and Oklahoma we must ask, Why?

One thing we believe, so long as Kansas stands the sight of an advertisement, document, bill, draft, check, or other matter relating to the signers of the above appeal against what the people of Kansas believe and know to be an absolutely essential safeguard of their altars and firesides will call up a definite recollection of the attitude of these parties toward this relief. And this we regret. Possibly they will also.

Mr. POMERENE. Mr. President, I can not vote for this bill for the following reasons:

First. It is clearly unconstitutional. This is not a question of the prohibition of the liquor traffic by Congress nor is it a question of regulation by Congress. The purpose is to have Congress delegate the power to the several general assemblies of the country to make such police regulations as to them may seem proper relative to the inspection and seizure of intoxicating liquors in interstate trade. Congress is given full power to regulate interstate commerce. None of it is reserved to the States. Congress only has such powers as are conferred upon it by the Constitution. In no respect is it authorized to transfer this responsibility or power to the general assemblies.

Second. Waiving the question of the constitutionality of the bill, it is unfair and unjust, because the validity of an interstate shipment may depend wholly upon the bad faith of the vendee or of somebody directly or indirectly connected with the transaction, and the property may be seized by the State authorities and confiscated before it reaches the consignee, though the consignor was acting in the best of faith.

Ours is a dual form of government. The powers of sovereignty have been divided. Part of them are retained by the State and part are delegated to the Federal Government. All powers not delegated to the Federal Government, and not prohibited to the States, remain with the States and with the people. And it must follow that all powers which are delegated to the Federal Government are not retained by the people, unless they are so reserved to be exercised concurrently.

"It does not admit of argument," says Chief Justice Fuller (In re Rahrer, 140 U. S., 560), "that Congress can neither delegate its own powers nor enlarge those of a State."

Section 8 of Article I of the Constitution gave to Congress the power—

To regulate commerce with foreign nations and among the several States and with the Indian tribes.

Nowhere is any part of this power retained by the States or the people.

The police power rests with the States. The power to regulate commerce among the States is vested in Congress. Any student of this subject recognizes the fact that there may be and often

is a twilight zone where it is difficult to say what acts of sovereignty relate to the commerce power and what to the police power. But wherever this difficulty arises the Constitution has not left it unsolved, because by Article VI it provides that—

> This Constitution and the laws of the United States, which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land.

It necessarily follows if there is any conflict of jurisdiction between the commerce power of the Federal Government and the police power of the States the former must prevail.

Chief Justice Fuller, in In re Raher (140 U. S., 555), says:

> The power of Congress to regulate commerce among the several States, when the subjects of that power are national in their nature, is also exclusive. The Constitution does not provide that interstate commerce shall be free, but by the grant of this exclusive power to regulate it it was left free, except as Congress might impose restraint. Therefore it has been determined that the failure of Congress to exercise this exclusive power in any case is an expression of its will that the subject shall be free from restrictions or impositions upon it by the several States. (Robbins v. Shelby Taxing Dist., 120 U. S., 489.) And if a law passed by a State in the exercise of its acknowledged powers comes into conflict with that will, the Congress and the State can not occupy the position of equal opposing sovereignties, because the Constitution declares its supremacy and that of the laws passed in pursuance thereof. (Gibbons v. Ogden, 9 Wheat., 1, 210.) That which is not supreme must yield to that which is supreme. (Brown v. Maryland, 12 Wheat., 419, 448.)

What is it proposed to do by the Kenyon bill, so called? Section 1, as reported by the committee, reads:

> That the *shipment or transportation* in any manner or by any means whatsoever of any *spirituous, vinous,* malted, fermented, or other intoxicating liquor of any kind, including beer, ale, or wine, *from* one State, Territory, or District of the United States or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said *spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise,* in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, enacted in the exercise of the police powers of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, *is hereby prohibited.*

Section 2 reads:

> That all *fermented, distilled, or other intoxicating liquors or liquids transported into any State* or Territory, *or remaining therein for use, consumption, sale, or storage therein,* shall, upon arrival within the boundaries of such State or Territory and before delivery to the consignee, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its reserved police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

Stripped of its legal verbiage this bill in section 1 declares that the shipment or transportation in any manner or by any means of any intoxicating liquor from one State to another, which intoxicating liquor is "intended by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, to be in violation of the law of such State," is prohibited.

And section 2 provides that all such intoxicating liquor, when transported into any State or remaining therein for use, consumption, sale, or storage therein, upon arrival within the boundaries of such State, *and before delivery to the consignee,* shall be subject to the operation and effect of the laws of such State enacted in the exercise of its reserved police powers to the extent and in the same manner as though such liquor had been produced in such State.

A careful analysis of this bill shows:

First. That if any person, whether he be seller or purchaser or transportation company or any person directly or indirectly interested therein, or in any manner connected with the transaction, intends to receive or possess or keep or in any manner use said liquor in violation of law, then the transportation is prohibited. In other words, if the vender in one State should sell intoxicating liquor in good faith to a vendee in dry territory in another State under the representations by the vendee that it was to be used for medicinal, chemical, pharmaceutical, or sacramental purposes, or if the common carrier in good faith transported the liquor to be used for such purposes, and, in fact, the vendee did not intend to use it for any of those purposes, but intended to use it in violation of the law of the State or of the county or of the township or of the municipality or of the residential district in which the consignee lived, the property could be seized by the officers of the State immediately upon its crossing the border line of the State and before it reached the consignee and could be confiscated, if the State by its law would so declare.

Second. It is also apparent that if the vendor living in one State should contract to sell and transport liquor to a vendee in another State for lawful use, consumption, sale, or storage, and the contract should seemingly be made in the best of good faith by both parties thereto, and the liquor was afterwards shipped, the vendee could refuse to pay for it, because he could say, "I did not at the time of the purchase intend to use, consume, sell, or store this liquor legally, but I intended to use it in violation of law."

Third. An examination of this bill further discloses, if it becomes a law, that Congress does not have any fixed policy with respect to either the transportation, the use, consumption, sale, or storage of liquors. It is an attempt to relieve the Federal Government from all responsibility. It is an effort to delegate or, if not to delegate, to abdicate the power which the people gave to the Federal Government over interstate commerce and leave it subject to the will of the several States and localities therein.

Fourth. In the State of Ohio we have county local option, township local option, municipal local option, residential district local option, and municipalities are clothed with authority to prohibit by ordinance the sale of liquor within their limits.

Elections can be had on this subject every three years in counties and every two years in townships and municipalities, and petitions may be presented and hearings may be had to determine the question every two years in residential districts.

There are 1,379 townships in the State of Ohio. Under the Kenyon bill, if enacted, the shipment of liquor from another State to any of these counties, townships, municipalities, or residential districts would be legal or illegal as they were wet or dry, and subject to change every three years in the counties and every two years in the other political divisions. Purchasers might live in dry territory and do business in wet territory and have their point of shipment either in wet or dry territory. The liquor which is ordered by the purchaser may be for legal use in the township where he does business or for illegal use in the township in which he lives.

Under the Kenyon bill, if an illegal use, or consumption, or sale, or storage, or transportation is intended by anyone directly or indirectly connected with the transaction, the liquor is subject to search and seizure and even confiscation at the State line. A train which is carrying passengers and merchandise may be stopped, if the State legislature should authorize, at the Pennsylvania line, in order to search for liquor intended for an illegal purpose by some consignee living near the Indiana border. And it is worthy of thought to consider just how an official is to determine whether this liquor is intended to be used legally or illegally.

Whether this legislation is right or wrong, whether it is politic or impolitic, I am not now going to consider further. I call attention to these facts especially in order to determine what the effect is going to be upon interstate commerce. Clearly, if this bill is constitutional, it would confer upon the several States the power to do the things which I have just described. And if the State did any of these things, would it not be placing a burden upon interstate commerce? Would it not directly hamper and interfere with the transportation of passengers and of all classes of commodities as well as of liquor when on an interstate train? Would it not embarrass traffic to have this train stopped at the Pennsylvania line in order to search for some liquor which it was thought was intended for illegal use in Cincinnati, Dayton, Columbus, or Toledo? Would it not interfere with the right of contract by the citizens of one State with citizens of another? Surely these acts would be burdensome to interstate traffic. In other words, such legislation would be a direct interference with the regulation of interstate commerce.

I think, therefore, that it is clear:

First. That the power to regulate interstate commerce was surrendered by the States and vested in Congress;

Secondly. That if it is vested in Congress, it does not remain with the States; and

Thirdly. That if Congress has the power to permit the States to make any such regulations as I have referred to, it must be found in the Constitution.

Congress has no power of legislation save that which the Constitution gives it. Where, in the Constitution, is the authority given to the Congress whereby it can redeed—if I may use the term—this power back to the States from whence it came? Clearly it is not expressly given. In what clause of the Constitution is it impliedly given? This bill does not say "Congress is hereby regulating." It does say, in effect, "We grant permission to the States and to the several localities in those States to control interstate commerce, and they are to say whether interstate transportation is lawful or unlawful." In

other words, 48 States may have 48 different policies respecting interstate shipments of liquor, and in each political subdivision of the State the manufacture or sale or use of liquor may be legal or illegal, depending upon the choice of each and upon the authority given to each by the general assemblies in the States in which it may be located.

Each locality ought to have the right to determine this matter for itself so far as it can consistent with constitutional authority.

I do not believe, sir, that it was ever the intention of the fathers, when the Federal Constitution was adopted, that this power over interstate commerce was to be shifted from State to Nation, and then from Nation back to State. If it was so intended, somewhere within the limits of the Constitution there would be some hint that such was the purpose.

The fact that this bill is presented is a concession that the States do not have the power to control the shipment from another State of intoxicating liquors or to search an interstate agency and seize the liquor prior to the delivery to the consignee.

It must therefore remain in Congress. If Congress can delegate this power to the States, it must be because Congress possesses that power under some provision of the Constitution. As the power to regulate commerce is clearly given to Congress, how can it be given back to the States? Where is the provision in the Constitution authorizing Congress to delegate this power back to the States, either by direction or by indirection? If there is no such power anywhere contained in the Constitution, then it seems to me that it is clear there is no authority under which this bill can be legally passed.

A transportation line leading from one State into another is an agency for interstate commerce. As an agency of interstate commerce, it is within the power of Congress to control it, and, being within the power of Congress to control it, though a portion of the line is within a State, it is, so far as the power of regulation is concerned, as much foreign to the State as is the territory beyond the boundaries of the State. The State can not regulate commerce which is beyond its boundaries, and neither, in my judgment, can it control or regulate the commerce which is conducted by an agency within the State so long as it is an interstate agency.

It is suggested with much plausibility that if the legislature can forbid or control the sale of liquor within the State, and can not control or regulate the sale of liquor therein by a man without the State, it is giving the man outside the State greater privileges than has the man within the State. This may be so, but, if so, it addresses itself only as to the question of what the law ought to be and not as to the question of what it is or can be made constitutionally.

Let us take the other horn of the dilemma. Assume for the sake of argument that the legislature has the power to forbid the sale and delivery by some one outside of the State to some one within the State, then we are conferring upon the legislature of a State the power to control the interstate commerce by a man without the State. In other words, the legislative power of the State is extending beyond the State and over a man who is not subject to its jurisdiction. From the standpoint of a citizen within the State present conditions may seem unfair, but no more unfair than is the legislation of the proposed character to the citizen of another State in the second instance just cited. All of this argument shows the wisdom of the fathers in leaving interstate commerce to the jurisdiction and control of Congress. And if we are not content with present conditions, we must change the form of our Government by amending the Federal Constitution. There is no escape from it.

In United States v. E. C. Knight Co. (156 U. S., 1, 13) the Supreme Court says:

> It is vital that the independence of the commercial power and of the police power, and the delimitation between them, however sometimes perplexing, should always be recognized and observed, for while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the States as required by our dual form of government; and acknowledged evils, however grave and urgent they may appear to be, had better be borne than the risk be run in the effort to suppress them of more serious consequences by resort to expedients of even doubtful constitutionality.

ADJUDICATIONS.

Let us now turn to some of the adjudications bearing upon the subject of interstate commerce in liquors to ascertain what light, if any, we can find upon the subject of the pending bill touching the power of the Congress and of the States.

In Bowman v. Chicago & North Western Railway Co. (125 U. S., 46) the question was the effect of a statute of the State of Iowa on the interstate shipment of liquors which forbade common carriers bringing into that State from any other State intoxicating liquors without first being furnished with a certificate of the auditor of the county to which it was to be transferred to the effect that the consignee was authorized to sell intoxicating liquors in that county. The defendant was sued as a common carrier in the State of Illinois for breach of duty in refusing to transport from Illinois to Iowa a shipment of liquor. The railroad interposed as a defense the Iowa State law. The court said (p. 486):

> Has the law of Iowa any extra-territorial force which does not belong to the law of the State of Illinois? If the law of Iowa forbids the delivery and the law of Illinois requires the transportation, which of the two shall prevail? How can the former make void the latter?

On page 485 the court quotes from Twelfth Howard, page 299, the following:

> The subjects, indeed, upon which Congress can act under this power are of infinite variety, requiring for their successful management different plans or modes of treatment. Some of them are national in their character and admit and require uniformity of regulation affecting alike all the States. Others are local or are mere aids to commerce and can only be properly regulated by provisions adapted to their special circumstances and localities. *Of the former class may be mentioned all that portion of commerce with foreign countries or between the States which consists in the transportation, purchase, sale, and exchange of commodities.* Here there can of necessity be only one system or plan of regulations, and that Congress alone can prescribe. Its action in such cases with respect to any particular commodity or mode of transportation is a declaration of its purpose that the commodity or by that means of transportation shall be free. *There would otherwise be no security against conflicting regulations of different States, each discriminating in favor of its own products and against the products of citizens of other States.* And it is a matter of public history that the object of vesting in Congress the power to regulate commerce with foreign nations and among the States was to insure uniformity of regulation against conflicting and discriminating State legislation.

Again, on page 489, in the Bowman case, the court quotes approvingly from Hall v. De Cuir (95 U. S., 488):

> But we think it may safely be said that State legislation which seeks to impose a direct burden upon interstate commerce or to interfere directly with its freedom does encroach upon the exclusive power of Congress.

The court concluded:

> That the statute of Iowa, the validity of which is drawn in question in this case, does not fall within this enumeration of legitimate exercise of the police power. It is not an exercise of the jurisdiction of the State over persons and property within its limits. On the contrary, it is an attempt to exert that jurisdiction over persons and property within the limits of other States. It seeks to prohibit and stop their passage and importation into its own limits and is designated as a regulation for the conduct of commerce before the merchandise is brought to its border. * * * It is therefore a regulation of that character which constitutes an unauthorized interference with the power given to Congress over the subject.

In Leisy v. Hardin (135 U. S., 100) the court held:

> A statute of the State of Iowa prohibiting the sale of any intoxicating liquors, except for pharmaceutical, medicinal, chemical, or sacramental purposes and under a license from a county court of the State, is, as applied to a sale by the importer and in the original packages or kegs, unbroken and unopened, of such liquors manufactured in and brought from another State, unconstitutional and void as repugnant to the clause of the Constitution granting to Congress the power to regulate commerce with foreign nations and among the several States.

This rule was later modified by the Wilson Act.

Chief Justice Fuller (p. 108), in the case just referred to, says:

> The power vested in Congress "to regulate commerce with foreign nations and among the several States and with the Indian tribes" is the power to prescribe the rule by which that commerce is to be governed and is a power complete in itself, acknowledging no limitations other than those prescribed in the Constitution. It is coextensive with the subject on which it acts and can not be stopped at the external boundary of a State, but must enter its interior and must be capable of authorizing the disposition of those articles which it introduces, so that they may become mingled with the common mass of property within the territory entered. (Gibbons v. Ogden, 9 Wheat., 1; Brown v. Maryland, 12 Wheat., 419.)

On August 8, 1890, Congress passed the Wilson Act. It provided:

> That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall, *upon arrival in such State or Territory,* be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

This statute came up for consideration in In re Rahrer (140 U. S., 545), and was sustained by the court. The question involved therein was as to whether liquors in the original packages could be sold in the State of Kansas under a law of the State forbidding its manufacture or sale. It will be noted that the only question before the court was the validity of a sale within the State. It did not involve the validity of the act of interstate transportation.

In Rhodes v. Iowa (170 U. S., 412) the Wilson Act again came before the Supreme Court. The Iowa statute forbade any common carrier or person transporting from one place to another in the State any intoxicating liquors without first being furnished with a certificate from the county auditor to the effect that the consignee was authorized to sell intoxicating

liquors in that county. The question in the case was, Does the Iowa statute apply to a shipment made in Illinois for delivery to the consignee in Iowa?

The liquor was seized by the constable shortly after it was removed from the train to the freight house, and was condemned and there destroyed. It had been held in the Bowman case that the transportation of merchandise from one State into and across another was interstate commerce, and was protected from the operation of the State laws from the moment of shipment whilst in transit and up to the ending of the journey by the delivery of the goods to the consignee at the place to which they were consigned.

And in the Rhodes case (170 U. S., 412), to which I shall hereafter refer, Mr. Justice White, in discussing the Bowman case, said:

> The fundamental right which the decision in the Bowman case held to be protected from the operation of State laws by the Constitution of the United States was the continuity of shipment of goods coming from one State into another from the point of transmission to the point of consignment, and the accomplishment there of the delivery covered by the contract. This protection of the Constitution of the United States is plainly denied by the statute now under review, as its provisions are interpreted by the court below. The power which it was held in the Bowman case the State did not possess was that of stopping interstate shipments at the State line by breaking their continuity and intercepting their course from the point of origin to the point of consummation.

In Rhodes v. Iowa (170 U. S., 412) it was contended that the words in the Wilson Act "upon arrival in such State" meant "arrival at the State line." The court held that this meant *at the place of consignment in the State.*

The language of the learned justice shows how careful the court was to protect the power of the Federal Government over interstate commerce.

On page 421 the court says:

> But to uphold the meaning of the word "arrival," which is necessary to support the State law as construed below, forces the conclusion that the act of Congress in question authorized State laws to forbid the bringing into the State at all. This follows from the fact that if arrival means crossing the line, then the act of crossing into the State would be a violation of the State law, and hence necessarily the operation of the law is to forbid crossing the line and to compel remaining beyond the same. Thus, if the construction of the word "arrival" be that which is claimed for it, it must be held that the State statute attached and operated beyond the State line confessedly before the time when it was intended by the act of Congress it should take effect.

And if it was true in the case of the Iowa statute that the construction contended for by the State authorities would have the effect of extending its operation beyond the State, certainly the Kenyon bill would have a like effect and would operate upon the interstate commerce beyond the State line.

In the earlier adjudications upon this subject the Supreme Court took the extreme view of holding that goods in transit from a foreign country to a State of the Union or from one State or Territory to another continue to be interstate commerce and under the control of Congress after they were delivered to the consignee and so long as they remained in the original package. I believe that this was an extreme position to take, because the original package in which the goods were shipped was a mere incident of commerce, and after it was delivered to the consignee it became thereby commingled with the goods and property of the State and ought to be subject to the control of the State, for this reason if for no other, that the consignee is a resident of the State and is not primarily an interstate agency. His act in selling to a fellow citizen of the State is a State and not an interstate transaction. The railroad or other transportation company which extends its lines and its business from one State into another is essentially and primarily an agency of interstate commerce. If we are to permit the interstate transportation companies to be subject to the legislation of the several States through which they may pass, we will at once destroy commerce among the States and defeat the very purpose for which the third paragraph of section 8 of Article I of the Federal Constitution was adopted. If the police power of the States can adopt the regulations provided for in the pending bill while spirits are recognized as articles of interstate commerce, they can apply these same or similar regulations to any other article of commerce, and the effect would be to make the State the supreme law of the land instead of the Federal Constitution, with the laws and treaties made in pursuance thereof, as declared by the Constitution itself.

If I may be pardoned for so saying, I never had much sympathy with the doctrine laid down in the earlier cases that merchandise retained its interstate character so long as it remained in the "original packages." It seems to me that the interstate character of a shipment from one State to another continued only up to the time of delivery to the consignee, at which time the contract between the consignor and consignee is complete, and to say that it continued so long as the merchandise remained in the original package, even though it came into the hands of other parties by purchase, is carrying the doctrine too far. But, however that may be, the Supreme Court has repeatedly said that the original package was only an incident of interstate commerce.

I speak of this because the Wilson Act is sometimes referred to as a precedent for the Kenyon bill. Instead of its being a precedent for the Kenyon bill it seems to me that a careful consideration of the decisions based upon the act make it a precedent against the constitutionality of this bill, because of the narrow construction which was given to the phraseology of the Wilson Act by the court in the Rhodes case limiting the meaning of the words "upon arrival" as heretofore pointed out.

Can it now be said that because Congress sought to change the original-package rule, that this is a precedent for giving to the State the entire police regulation of all interstate business, or, to limit it to this particular class of goods, to the transportation of liquors by interstate agencies immediately upon their arrival across the boundary line of the State? Is the control of an incident of interstate business to be a precedent for the control of the very essence of the business?

That we must not so conclude clearly appears from what Mr. Justice White says in the Rhodes case, on page 422:

> If the act of Congress be construed as reaching the contract for interstate shipment made in another State, the necessary effect must be to give to the laws of the several States extraterritorial operation, for, as held in the Bowman case, the inevitable consequence of allowing a State law to forbid interstate shipments of merchandise would be to destroy the right to contract beyond the limits of the State for such shipments. If the construction claimed be upheld, it would be in the power of each State to compel every interstate-commerce train to stop before crossing its borders and discharge its freight, lest by crossing the line it might carry within the State merchandise of the character named covered by the inhibitions of a State statute.

In further discussing this branch of the subject the learned justice, on page 424, says:

> The purpose of Congress to submit the incidental power to sell to the dominion of State authority should not without the clearest implication be held to imply the purpose of subjecting to State laws a contract which in its very object and nature was not susceptible of such regulation even if the constitutional right to do so existed, as to which no opinion is expressed.

In Vance v. W. A. Vandercook Co. (170 U. S., 438) the court was considering the validity of an act of the State of South Carolina and its effect upon interstate commerce. In the discussion of that case Mr. Justice White, on page 444, says:

> In the inception it is necessary to bear in mind a few elementary propositions which are so entirely concluded by the previous adjudications of this court that they need only be briefly recapitulated:
>
> (a) Beyond dispute the respective States have plenary power to regulate the sale of intoxicating liquors within their borders, and the scope and extent of such regulations depend solely on the judgment of the lawmaking power of the States, provided always they do not transcend the limits of State authority by invading rights which are secured by the Constitution of the United States, and provided further that the regulations as adopted do not operate a discrimination against the rights of residents or citizens of other States of the Union.
>
> (b) Equally well established is the proposition that the right to send liquors from one State into another, and the act of sending the same, is interstate commerce, the regulation whereof has been committed by the Constitution of the United States to Congress, and hence that a State law which denies such a right, or substantially interferes with or hampers the same, is in conflict with the Constitution of the United States.

On page 452 Mr. Justice White says:

> But the right of persons in one State to ship liquor into another State to a resident for his own use is derived from the Constitution of the United States and does not rest on the grant of the State law. Either the conditions attached by the State law unlawfully restrain the right or they do not. If they do—and we shall hereafter examine this contention—then they are void. If they do not, then there is no lawful ground of complaint on the subject.

I will not stop now to read the South Carolina statute. After quoting it, Mr. Justice White says—page 455:

> The regulation, then, compels the resident of the State who desires to order for his own use to first communicate his purpose to a State chemist. It moreover deprives any nonresident of the right to ship by means of interstate commerce any liquor into South Carolina unless previous authority is obtained from the officers of the State of South Carolina. On the face of these regulations it is clear that they subject the constitutional right of the nonresident to ship into the State and of the resident in the State to receive for his own use to conditions which are wholly incompatible with and repugnant to the existence of the right which the statute itself acknowledges. The right of the citizen of another State to avail himself of interstate commerce can not be held to be subject to the issuing of a certificate by an officer of the State of South Carolina without admitting the power of that officer to control the exercise of the right. But the right arises from the Constitution of the United States; it exists wholly independent of the will of either the lawmaking or the executive power of the State; it takes its origin outside of the State of South Carolina and finds its support in the Constitution of the United States. Whether or not it may be exercised depends solely upon the will of the person making the shipment and can not be in advance controlled or limited by the action of the State in any department of its government.

I shall only take the time of the Senate to cite one further decision of the United States Supreme Court bearing upon this

branch of the question. It is the case of the Louisville & Nashville Railway against Cook Brewing Co. (223 U. S., 70).

The Legislature of the State of Kentucky, on March 21, 1906, passed an act by which it was made "unlawful for any common carrier to transport beer or any intoxicating liquor to any consignee in any locality within the State where the sale of said liquors has been prohibited by vote of the people under the local-option law."

The Louisville & Nashville Railway Co. took the position that this applied to interstate as well as to intrastate transportation, and refused to receive for shipment beer consigned by the Cook Brewing Co., at Evansville, Ind., to points in Kentucky where the local-option law was in force.

The Kentucky statute was sustained by the court so far as it related to intrastate shipments, but was held ineffective as to interstate shipments.

On page 82 Mr. Justice Lurton, delivering the unanimous opinion of the court, says:

> By a long line of decisions beginning even prior to Leisy v. Hardin (135 U. S., 100) it has been indisputably determined:
>
> (a) That beer and other intoxicating liquors are a recognized and legitimate subject of interstate commerce.
>
> (b) That it is not competent for any State to forbid any common carrier to transport such articles from a consignor in one State to a consignee in another.
>
> (c) That until such transportation is concluded by delivery to the consignee such commodities do not become subject to State regulation, restraining their sale or disposition.

The Wilson Act, which subjects such liquors to State regulation, although still in the original packages, does not apply before actual delivery to such consignee where the shipment is interstate. Some of the many later cases in which these matters have been so determined and the Wilson Act construed are Rhodes v. Iowa (170 U. S., 412); Vance v. Vandercook Co. (170 U. S., 438); Heyman v. Southern Railway (203 U. S., 270); Adams Express Co. v. Kentucky (214 U. S., 218).

If, then, intoxicating liquors are a recognized and legitimate subject of interstate commerce, if it is not competent for any State to forbid a common carrier to transport such articles from a consignor in one State to a consignee in another, if such commodities do not become subject to State regulation until the act of transportation is concluded, as held by Mr. Justice Lurton in the decision just referred to as well as in the other cases I have cited, and if, as Mr. Chief Justice Fuller said in In re Rahrer, it does not admit of argument that Congress can not redelegate its own powers to the State, nor enlarge those of the State, how can the friends of the Kenyon bill hope to have its constitutionality sustained when the very purpose of the bill is to declare unlawful the shipment or the transportation of intoxicating liquors from one State into any locality in another State where they are to be received, possessed, or kept, or in any manner used in violation of the law of such State by anyone directly or indirectly interested therein, or in any manner connected with the transaction?

I recognize the fact that the liquor regulations are not enforced as they ought to be. It is not right that sales should be made in localities which have voted dry. Constant defiance of the law by many of those engaged in the traffic have rightly aroused public sentiment. The remedy, however, is not to be found in more legislation, but in more vigorous enforcement of present legislation. Every locality has its police authorities clothed with ample power. If they are supported by public sentiment and perform their duties, there will be no cause for complaint. If they are not supported by public sentiment or they do not perform their duties, the remedy for existing wrongs is not additional Federal legislation, unconstitutional in character, but the creation of a proper public sentiment and the securing of officers who will perform their duties.

Congress some years ago gave, and properly gave, aid to the States in the administration of their police authority when sections 238, 239, and 240 of the Criminal Code of the United States were enacted.

Section 238 prevents any common carrier or employee from knowingly delivering or causing to be delivered to any person other than the consignee, except upon written order, any interstate shipment of liquor.

Section 239 prevents the common carrier from collecting the purchase price of interstate shipments of intoxicating liquors or to act as the agent of the buyer or seller of the liquor for the purpose of buying or selling or completing the sale thereof save only in the actual transportation and delivery of the same.

Section 240 requires that all packages shall be labeled on the outside cover so as to plainly show the name of the consignee, the nature of their contents, and the quantity thereof.

By this means the local police authorities can easily ascertain whether liquor is being delivered in their localities and to whom. In every hamlet and township the means of detection are at hand without attempting, by the pending legislation, to embarrass and burden the great avenues and agencies of commerce.

If the Kenyon bill is the sine qua non for law and order, it must be first authorized by an amendment to the interstate-commerce clause of the Federal Constitution. All localities have at their very doors the same opportunities for search and seizure and confiscation after the delivery to the consignee that they could have at the gateways of commerce on the border lines of the State. If, in the opinion of the friends of this measure, the fathers made a mistake by conferring upon the Federal Government the power to regulate commerce between the States there is a lawful way to correct it, and that is by an amendment to the Constitution in the manner therein provided.

Mr. SUTHERLAND. Mr. President——

Mr. POMERENE. Will the Senator from Utah yield to me?

Mr. SUTHERLAND. I yield to the Senator from Ohio.

Mr. POMERENE. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSON of Maine in the chair). The Senator from Ohio suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	Lea	Sheppard
Bacon	Cummins	Lodge	Simmons
Borah	Curtis	McCumber	Smith, Ariz.
Bourne	Dillingham	Martin, Va.	Smith, Mich.
Bradley	Dixon	Martine, N. J.	Smith, S. C.
Brandegee	du Pont	Nelson	Smoot
Bristow	Foster	Newlands	Stephenson
Brown	Gallinger	O'Gorman	Stone
Bryan	Gamble	Oliver	Sutherland
Burnham	Gronna	Overman	Thomas
Burton	Hitchcock	Page	Thornton
Chamberlain	Jackson	Paynter	Townsend
Clapp	Johnson, Me.	Percy	Webb
Clark, Wyo.	Johnston, Ala.	Perkins	Williams
Clarke, Ark.	Jones	Pomerene	
Crane	Kavanaugh	Richardson	
Crawford	Kenyon	Root	

Mr. OLIVER. I wish to state that my colleague [Mr. PENROSE] is absent on account of illness. I will allow this announcement to stand for the day.

The PRESIDING OFFICER. Sixty-five Senators have answered to their names. A quorum of the Senate is present. The Senator from Utah will proceed.

Mr. SUTHERLAND. Mr. President, it is no part of my purpose to enter upon a discussion of the merits of this proposed legislation. In what I shall have to say I shall confine myself to the question of its legality.

I sympathize, I think, quite as much as the proponents of this measure with all practicable efforts which have for their object the curtailment or the prevention of the evils which we all concede follow from the use of intoxicating liquors. If I had the power to do so by my single pronouncement I would consign every drop of intoxicating liquor to the bottom of the ocean, because I believe that humanity would be far better off without it.

But, Mr. President, it is necessary not only that a proposed piece of legislation should be wise and just, but under our form of government it is necessary that it should be in harmony with the Constitution of the United States.

The bill which is now under consideration consists of two sections. By the first it is provided, in substance, that the shipment or transportation of intoxicating liquor from one State into any other, or from any foreign country into any State, which liquor is intended by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, in violation of any law of such State, is prohibited.

The second section provides that any such intoxicating liquor transported into any State, or remaining therein for use, consumption, sale, or storage shall, upon arrival within the boundaries of such State, and before delivery to the consignee, be subject to the operation and effect of the laws of such State enacted in the exercise of its reserved police powers, to the same extent and in the same manner as though such liquor had been produced in such State.

The purpose sought to be accomplished by each of these sections is precisely the same, namely, to allow the State jurisdiction over intoxicating liquors to attach upon the instant that such liquors, being carried in interstate transportation, cross the boundary line of the State to which they are consigned. It seems to be conceded, as indeed it must be conceded, that in the absence of the proposed congressional legislation any interference upon the part of a State, by statute or otherwise, with an interstate shipment of intoxicating liquor prior to its delivery would be void as constituting a regulation of interstate commerce, a subject committed by the Constitution to the sole jurisdiction of Congress. The proposed bill therefore consti-

tutes an attempt upon the part of Congress to enable a State to deal with intoxicating liquors in a manner which and at a time when it would be utterly precluded from doing in the absence of any such legislation. Is not its effect, then, clearly to confer upon a State a power which it does not now possess? In the course of what I shall have to say I shall endeavor to establish the following propositions:

I. The purpose in giving to Congress the power to regulate interstate commerce was to secure commerce among the States against conflicting and discriminating State regulations and to insure a free interchange of all legitimate articles of interstate commerce among the citizens of the several States.

II. Intoxicating liquor is a legitimate article of commerce, and so long as it is recognized as such it can not be denied the right of interstate transportation.

III. Regulation may take the form of prohibition only where the article in question has been outlawed, not by a few of the States, but substantially by the people of the Nation.

IV. In this respect the power of Congress over interstate commerce is not as extensive as it is over foreign commerce. In the latter case the Nation deals in its sovereign capacity and may prohibit importation from foreign countries altogether. And I may add it may prohibit importation from foreign countries altogether of any and every article. In dealing with the several States it can not altogether forbid the interchange of legitimate commodities.

V. Congress can not add to or take from the powers of a State. It can not by its silence or by any affirmative or permissive act enable a State to do anything which by the Constitution it is inhibited from doing.

VI. The State can not by statute, or otherwise, substantially interfere with interstate transportation, because such interference would be a regulation of interstate commerce. This is so, not because such action on the part of the State is opposed to the will of Congress, or to any act of Congress, but because it is opposed to the Constitution. Being opposed to the Constitution, it is self-evident that Congress can not by any form of legislation authorize the State to do what the Constitution forbids it from doing.

VII. The bill in question, if upheld, would necessarily result in a multitude of differing and conflicting systems of regulation, and this would subvert the whole intent, spirit, and purpose of the commerce clause, which is essentially to establish a uniform system and consequently forbid the establishment of a multitude of differing systems.

Mr. President, before I begin the discussion of the various propositions which I have laid down, I desire to call attention to some of the legislation which is now upon the statute books.

The legislation which has special reference to this subject now in force is, first, the so-called Wilson law. Under the provisions of that law, which was enacted in 1890, it is provided that intoxicating liquors shall, upon arrival in a State, become subject to the State laws enacted in the exercise of the police power.

This law, although comprehensive in terms, has been so limited by the decisions of the Supreme Court that it applies only to interstate shipments of liquor after they have been delivered to the consignee; that is, it permits the State, after the liquor has been delivered to the consignee, and therefore after the interstate transportation has ended, to be governed by the State law.

Second. Sections 238, 239, and 240 of the Penal Code forbid under a penalty (1) delivery of intoxicating liquor to any person other than the consignee, unless upon his written order, or to any fictitious person; (2) the collection of the purchase price of intoxicating liquor by any common carrier or acting as agent of buyer or seller; (3) the shipment of any liquor unless labeled on the outside to show name of consignee, nature of contents, and quantity contained.

Under this legislation the State has full power to seize and confiscate liquor after it reaches the hands of the consignee, and the sections of the penal code, by requiring delivery to an actual consignee and the plain marking of every package with the name of consignee and the quantity and kind of liquor contained, furnishes information which will enable the State to act.

The proposed bill attempts to go entirely beyond this legislation. The first section of that bill, I repeat, provides in substance that shipment or transportation of intoxicating liquor from one State to another, or from any foreign country into any State, is prohibited if the same "is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, * * * in violation of any law of the State enacted in the exercise of its police power."

Section 2 provides that all intoxicating liquor shall upon arrival within the boundaries of the State, and before delivery to the consignee—in express terms going beyond the Wilson law—be subject to the operation and effect of the police laws of the State to the same extent—mark you—and in the same manner as though such liquors had been produced in such State. In other words, that interstate commerce in this article shall be subject to the State laws just as intrastate commerce is subject to those laws.

Section 2 is an attempt on the part of Congress to allow any State to deal as it shall see fit with the interstate shipment of liquor immediately after it crosses the boundary line of the State. It therefore gives to the State the power to regulate and control an interstate shipment of liquor before the interstate transportation has ended, and constitutes, therefore, a clear delegation of the power of Congress to regulate interstate commerce.

Section 1 seeks to do precisely the same thing by legislation so worded as to obscure its real intent; in other words, section 2 does directly what section 1 does indirectly. In both cases Congress itself does not undertake to prescribe the rule which shall govern the interstate transaction, but leaves it to be prescribed wholly by the State.

Now, not only does this proposed legislation seek to turn over to the States the power to thus regulate *interstate* commerce, but it gives identically the same power to each State to regulate *foreign* commerce. We have by our laws in the plainest terms invited foreign nations to make shipments of all kinds of intoxicating liquors to us upon complying with our laws with reference to the payment of duties, so that the foreigner in Paris or in any other part of Europe, looking at the Federal law, finds that he may ship to the United States and to any and every part of it wines or liquors of any description upon complying with those conditions. We now propose by this legislation to inject into the whole system an element which can but result in the utmost confusion. The merchant in Paris then must inquire, not only what is the law of the United States, but he must inquire what is the law of Kansas, what is the law of Iowa, and of the others of the 48 States. Even then his inquiry is not ended. He will find that in some States the sale of liquor has been altogether prohibited; in other States he will find that it has been left to various communities to determine the question. So he must inquire further. If his shipment is destined for county A in Indiana, he must ascertain whether a vote of the people has been recently taken and, as a result of the vote, whether the sale of liquor in that county has been forbidden. He may ascertain one thing or the other. Indeed, he may begin the shipment of his consignment of liquor to county A, relying upon the vote of the people in favor of the regulated saloon, and find, before his shipment has reached New York, that the people have reversed themselves and have voted in favor of excluding the regulated saloon and of absolute prohibition.

If the foreigner sends a shipment of liquor to Kansas, it may be held in the office of the collector in Topeka, and the State at that period—because the bill proposes no limitation upon the power of the State—may seize the consignment. It seems to me, without elaborating further upon the question, that this proposed legislation must of necessity, so far as it affects foreign commerce, result in indescribable confusion in the administration of our tariff laws.

It is conceded that Congress may not delegate to any State its authority over any subject committed to it by the Constitution. The people in framing the Government selected Congress as one of its agents, and empowered that agent among other things to regulate interstate and foreign commerce. The effect of conferring this power upon Congress was to deny it to the several States. The rule is fundamental that an agent can not delegate his authority. The question therefore arises whether the proposed legislation attempts this delegation. If it does, it is absolutely void. A correct solution of this question involves an inquiry into the extent and character of the commerce power as embodied in the commerce clause of the Constitution.

Let me say, before I come to that, that section 1 of this proposed legislation is absolutely unique. So far as my investigation goes it has not a parallel anywhere in the civilized world. What are the consequences to follow the violation of section 1? An act of legislation which the citizen is at perfect liberty to violate, or the violation of which produces no consequences whatever, may be wise and friendly counsel, but it certainly is not law, for law presumes a rule of conduct which the citizen must obey or suffer the consequences. So far as the Government of the United States is concerned, no penalty whatever is prescribed for its violation. Every consequence which will follow a violation will be imposed by a State law. How can Congress pass a law leaving each State to prescribe the effect which shall follow its disobedience? Moreover, we do not even author-

ize the State by statute to regulate finally; but, in the last analysis, by this section we permit the undisclosed intent of some unnamed and undesignated individual to regulate interstate commerce.

I. WHAT WAS THE PURPOSE IN GIVING TO CONGRESS THE POWER TO REGULATE INTERSTATE COMMERCE?

To ascertain this will reflect light upon the meaning of the provision, since the grant of the power must be interpreted with a view to the accomplishment of the end sought. The controlling purpose was to secure commerce among the States against conflicting and discriminating State regulations.

In Mobile v. Kimball (102 U. S., 691, 697), the Supreme Court said:

It is a matter of public history that the object of vesting in Congress the power to regulate commerce with foreign nations and among the States was to insure uniformity of regulation against conflicting and discriminating State legislation.

In Western Union Telegraph Co. v. Pendleton (122 U. S., 347, 358), the court, after quoting preceding cases, said:

The supreme authority of Congress over the subject of commerce by the telegraph with foreign countries or among the States is affirmed, whenever that body chooses to exert its power; and it is also held that the States can impose no impediments to the freedom of that commerce.

And again, on the same page:

The object of vesting the power to regulate commerce in Congress was to secure, with reference to its subjects, uniform regulations, where such uniformity is practicable, against conflicting State legislation.

In Steamship Co. v. Port Wardens (6 Wall., 31, 33), the court said:

And it was thus given, so far as it relates to commerce between the States, with the obvious intent to place that commerce beyond interruption or embarrassment arising from the conflicting or hostile State regulations.

In Inman Steamship Co. v. Tinker (94 U. S., 238, 245), the court said:

The commerce clauses of the Constitution had their origin in a wise and salutory policy. They give to Congress the entire control of the foreign and interstate commerce of the country. They were intended to secure harmony and uniformity in the regulations by which they should be governed. Wherever such commerce goes the power of the Nation accompanies it, ready and competent, as far as possible, to promote its prosperity and redress the wrongs and evils to which it may be subjected.

In Leisy v. Hardin (135 U. S., 100, 112), the court said:

But the transportation of merchandise from one State to another is in its nature national, admitting of but one regulating power; and it was to guard against the possibility of commercial embarrassments which would result if one State could directly or indirectly tax persons or property passing through it, or prohibit particular property from entrance into the State, that the power of regulating commerce among the States was conferred upon the Federal Government.

In the case of Bowman v. Chicago & Northwestern Railway Co. (125 U. S., 465, 508), Mr. Justice Field said:

It is a matter of history that one of the great objects of the formation of the Constitution was to secure uniformity of commercial regulations and thus put an end to restrictive and hostile discriminations by one State against the products of other States and against their importation and sale.

"It may be doubted," says Chief Justice Marshall, "whether any of the evils proceeding from the feebleness of the Federal Government contributed more to that great revolution which introduced the present system than the deep and general conviction that commerce ought to be regulated by Congress. It is not, therefore, matter of surprise that the grant should be as extensive as the mischief, and should comprehend all foreign commerce and all commerce among the States. To construe the power so as to impair its efficacy would tend to defeat an object, in the attainment of which the American Government took, and justly took, that strong interest which arose from a full conviction of its necessity" (p. 508).

And on page 484 the court said, quoting from Railroad Company v. Richmond (19 Wall., 584):

The power to regulate commerce among the several States was vested in Congress in order to secure equality and freedom in commercial intercourse against discriminating State legislation.

And on page 481 the court said, quoting from another decision:

It is of national importance that over that subject there should be but one regulating power.

Mr. Justice Miller, in his lectures on the Constitution, says:

You would scarcely imagine, and I am sure you do not know unless you have given some consideration to the subject, how very important is that little sentence in the Constitution. It was the want of any power to regulate commerce as between the States themselves and with foreign nations which as much, and I am not sure but I am justified in saying more, than any one thing forced the States to form the present Constitution in lieu of the Articles of Confederation under which they had won their freedom and established their independence. It is difficult now for us to fully appreciate how strong was the tendency to separate, to quarrel, and to bring their adverse interests into collision, which grew out of the want of any general power in the Federal Government, as it then existed, to control the commercial relations of the States with each other (p. 433).

Hamilton said:

The competitions of commerce would be another fruitful source of contention. The States less favorably circumstanced would be desirous of escaping from the disadvantages of local situation and of sharing in the advantages of their more fortunate neighbors. Each State or separate confederacy would pursue a system of commercial polity peculiar to itself. This would occasion distinctions, preferences, and exclusions, which would beget discontent. The habits of intercourse, on the basis of equal privileges, to which we have been accustomed from the earliest settlement of the country, would give a keener edge to those causes of discontent than they would naturally have independent of this circumstance. * * * The opportunities which some States would have of rendering others tributary to them by commercial regulations would be impatiently submitted to by the tributary States.

And, quoting further from Hamilton:

The interfering and unneighborly regulations of some States, contrary to the true spirit of the Union, have in different instances given just cause of umbrage and complaint to others; and it is to be feared that examples of this nature, if not restrained by a national control, would be multiplied and extended till they became not less serious sources of animosity and discord than injurious impediments to the intercourse between the different parts of the Confederacy.

Mr. Justice Matthews, speaking for the court, said in Bowman v. C. & N. W. Ry. Co. (125 U. S., 465-493):

Can it be supposed that by omitting any express declarations on the subject Congress has intended to submit to the several States the decision of the question in each locality of what shall and what shall not be articles of traffic in the interstate commerce of the country? If so, it has left to each State, according to its own caprice and arbitrary will, to discriminate for or against every article grown, produced, manufactured, or sold in any State and sought to be introduced as an article of commerce into any other. If the State of Iowa may prohibit the importation of intoxicating liquors from all other States, it may also include tobacco or any other article the use or abuse of which it may deem deleterious. It may not choose even to be governed by considerations growing out of the health, comfort, or peace of the community. Its policy may be directed to other ends. It may choose to establish a system directed to the promotion and benefit of its own agriculture, manufactures, or arts of any description, and prevent the introduction and sale within its limits of any or of all articles that it may select as coming into competition with those which it seeks to protect. The police power of the State would extend to such cases as well as to those in which it was sought to legislate in behalf of the health, peace, and morals of the people. In view of the commercial anarchy and confusion that would result from the diverse exertions of power by the several States of the Union, it can not be supposed that the Constitution or Congress have intended to limit the freedom of commercial intercourse among the people of the several States. "It can not be too strongly insisted upon," said this court in Wabash, etc., Ry. Co. v. Illinois (118 U. S., 557-572), "that the right of continuous transportation from one end of the country to the other is essential in modern times to that freedom of commerce from the restraints which the States might choose to impose upon it that the commerce clause was intended to secure." This clause giving to Congress the power to regulate commerce among the States and with foreign nations, as this court has said before, was among the most important of the subjects which prompted the formation of the Constitution. (Cook v. Pennsylvania, 97 U. S., 566-574; Brown v. Maryland, 12 Wheat., 419-446.)

And it would be a very feeble and almost useless provision, but poorly adapted to secure the entire freedom of commerce among the States which was deemed essential to a more perfect union by the framers of the Constitution, if, at every stage of the transportation of goods and chattels through the country, a State within whose limits a part of the transportation must be done could impose regulations concerning the price, compensation, or taxation or any other restrictive regulation interfering with and seriously embarrassing this commerce.

That the danger sought to be avoided by conferring upon Congress the power to regulate interstate commerce was not fanciful is shown by the attempts which have been made from time to time by the various States to enact discriminating legislation affecting interstate commerce.

I need not remind the Senate that one of the earliest cases in which the interstate-commerce clause was interpreted by the Supreme Court was a case of that character, where the State of New York had undertaken by its legislation to monopolize the navigable waters of that State. In the great case of Gibbons against Ogden the rule was clearly announced that that was not admissible; that that was a matter which belonged to the National Government; and that no State could be permitted, under the Constitution, to regulate commerce, because that would be to permit what had been done in that very case, namely, to enact hostile and discriminating legislation which would operate against the other States.

We have that trouble going on now in the United States. Congress has held, for example, that insurance does not fall within the operation of the commerce clause. Many of the States have therefore passed laws in effect discriminating against insurance companies of sister States and in favor of their own. It is well known that the necessity of uniform commercial regulation among the States was the principal cause which led to the framing of the Constitution.

If the doctrine should be established that this power, in whole or in part, could be surrendered to the States, we should witness not only conflicts among the legislatures of the several States but between the several States and Congress as well; and, as said by Mr. Justice McLean in Cooley v. Board of Wardens, etc. (12 How., 325):

From this race of legislation between Congress and the States, and between the States, if this principle be maintained, will arise a conflict similar to that which existed before the adoption of the Constitution.

If the proposed legislation should be adopted and be held valid, a single shipment of liquor, instead of being subject to one control, namely, that of Congress, might, and undoubtedly would to a large extent, become subject to two conflicting rules. Part of the journey it would be a legitimate article of com-

merce, freely accorded all the rights of protection afforded to other articles, and a part of the journey before the interstate transportation had become complete it would become an illegitimate article, possessing no right of transportation whatever.

A contract between a citizen of Illinois and a citizen of Iowa, by which the former agreed to sell and ship a quantity of liquor to the latter, perfectly valid by the law and enforceable in the courts of Illinois, would be invalidated by the law of Iowa.

II. DIFFERENCE BETWEEN FOREIGN AND INTERSTATE COMMERCE.

It is sometimes loosely said that Congress has the same authority to deal with interstate commerce that it has over foreign commerce, and that inasmuch as the power of Congress to prohibit the importation of articles from foreign countries into the United States is sustained, it has the same power to prohibit transportation from one State to another. It is true that the language of the Constitution conferring the power upon Congress in the two cases is identical; but the objects to which the language refers is altogether different. The Government of the United States in dealing with a foreign government deals with it in its sovereign capacity. Indeed, it does not need the commerce clause to enable it to regulate commerce with foreign nations; it does not need the commerce clause to enable it to forbid transportation altogether from foreign lands to this country. Congress may do in that respect whatever any other sovereign nation may do. We have passed embargo acts, prohibiting absolutely and altogether articles coming from foreign countries into this country. Does anybody pretend that we would have that power in dealing between the State of Pennsylvania and the State of California or between any other two States of the Union? We have no power, as the Supreme Court has said, to place an embargo wholly or partially upon legitimate articles of commerce passing from one State to another. In construing language we must not only pay attention to the words that are used, but we must pay attention to the objects upon which the words operate. If I say, for example, "you have control over your property and your children," I use precisely the same words with reference to both subjects, but I mean different things. Under your control of your property you may sell it, but under the control of your children you may not sell them.

In Groves *v.* Slaughter (15 Pet., 449, 505) the court said:

> The power to regulate commerce among the several States is given in the same section and in the same language, but it does not follow that the power may be exercised to the same extent. * * * The United States are considered as a unit in all regulations of foreign commerce, but this can not be the case where the regulations are to operate among the several States. The law must be equal and general in its provisions. Congress can not pass a nonintercourse law, as among the several States, nor impose an embargo that shall affect only a part of them.

And, yet, what is this legislation but an attempt to impose an embargo, so far as the State of Iowa is concerned or the State of Kansas is concerned or the State of Maine is concerned, against certain articles of commerce being sent from New York or Pennsylvania or Kentucky or some other State?

III. WHEN MAY REGULATION TAKE THE FORM OF PROHIBITION?

It has been urged by some that Congress under its power to regulate commerce may prohibit the transportation of certain articles from one State to another, and if it may do this, it may stop at any point short of absolute prohibition. An examination of the cases, however, will disclose that the power to prohibit has never been sustained except as to things which have been outlawed by the common opinion of the people or by reason of their impurity or diseased condition or misbranding, and so on, are not legitimate articles of commerce.

In the Lottery case—which is the case to which the proponents of this measure themselves refer—(188 U. S., 321) the Supreme Court sustained a law of the first character as—

> necessary to protect the country at large against a species of interstate commerce which, although in general use and somewhat favored in both National and State legislation in the early history of the country, has grown into disrepute and has become offensive to the *entire people of the Nation* (p. 358).

And in that case the court was careful to limit its decision to the article of lottery tickets alone, as though precluding anybody from using it as a precedent for prohibiting any other class of property from being transported. At page 363 the court said:

> We decide nothing more in the present case than that lottery tickets are subjects of traffic among those who choose to sell or buy them; that the carriage of such tickets by independent carriers from one State to another is therefore interstate commerce; that under its power to regulate commerce among the several States Congress, subject to the limitations imposed by the Constitution upon the exercise of the powers granted, has plenary authority over such commerce and may prohibit the carriage of such tickets from State to State.

Therefore, by the express language of the Supreme Court itself in that case, we are precluded from using it as a precedent for prohibiting the carriage of articles from one State to another, unless they are lottery tickets.

Mr. KENYON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Iowa?

Mr. SUTHERLAND. I do.

Mr. KENYON. I wish to ask the Senator from Utah one question right on that point. What is the opinion of the Senator from Utah as to whether Congress could, if it so desired, prohibit the transportation of all intoxicating liquors in interstate commerce?

Mr. SUTHERLAND. Mr. President, I intend to discuss that question a little later along, although I may now say to the Senator from Iowa that that question is not involved in this controversy. This is not an attempt upon the part of Congress to prohibit the transportation of intoxicating liquors. Therefore the question is not material to that which we are discussing, but I think whenever intoxicating liquors occupy the same condition in this country which lottery tickets did, there could be no question about the power of Congress then to absolutely prohibit their transportation.

Mr. KENYON. I desire to ask the Senator another question——

Mr. SUTHERLAND. But, I think, until that time comes there is, to say the least, an exceedingly grave doubt as to whether Congress has any such power.

Mr. BORAH. Mr. President, there are more States in the Union in which there is a better crystallized public opinion against the use of liquor than there were against the use of the lottery ticket.

Mr. SUTHERLAND. There are 8 States in the Union which have passed laws prohibiting the sale of intoxicating liquors. There are 40 States under whose laws the sale of intoxicating liquors, under some circumstances, is legitimate and proper, but there is no State in the Union that has thus far undertaken to forbid the purchase or the use of intoxicating liquors.

Mr. BORAH. Not for personal use, and I am not aware of any State that ever prohibited a man having a lottery ticket for his own personal use.

Mr. SUTHERLAND. In the last analysis I rather think that all liquor is for personal use.

Beginning with the assumption that Congress may have power to forbid all interstate transportation of liquors, it is argued that the bill under consideration is a partial exercise of that power and is therefore legal because the whole embraces the parts.

It may be first replied that Congress does not by the proposed act prohibit anything. Congress does not attempt to forbid transportation of intoxicating liquors at all, but, on the contrary, permits unrestricted transportation in all intoxicating liquors, so far as the declarations of Congress are concerned, unless in particular instances there is a State law upon the subject of the use, sale, or possession of intoxicating liquor which somebody connected with the transportation intends to violate. By the proposed act Congress does not attempt to regulate the transportation at all. The shipper will look at the act of Congress in vain for any rule governing his right to ship into another State. He must find his authority not in the law of Congress but in the act of the State legislature, and even there he does not find any definite rule, but in the last analysis his right to ship can only be determined by ascertaining the intention of the consignee or some other person connected with the transaction, which intention may be entirely undisclosed.

But in the face of this condition it is gravely urged that no delegation of authority is made to any State. The fallacy of this contention is so obvious that one can but marvel at the credulity or the assurance of those who proclaim it. To regulate commerce, as said by Chief Justice Marshall in the case of Gibbons against Ogden, is to "prescribe the rule by which commerce is governed." Under the proposed legislation who prescribes this rule? Manifestly not Congress, because that body prescribes no rule whatsoever, but refers to rules to be prescribed by the various States, which rules may be as varied and as numerous as the States themselves.

Mr. McCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from North Dakota?

Mr. SUTHERLAND. I yield to the Senator.

Mr. McCUMBER. I think the Senator has indicated that in his opinion section 2 is unconstitutional as a delegation of authority to the State legislatures or to State laws.

Mr. SUTHERLAND. I have been trying to indicate that.

Mr. McCUMBER. I should like to ask the Senator whether or not, in his opinion, it would be any delegation of authority if that section were so amended that it simply declared, first,

that intoxicating liquors themselves were of such a nature as to be dangerous to public morals and public health, and then provided that they might be introduced into interstate commerce only on condition that they should lose their interstate commerce character the moment they crossed a State line? In that case, the way I put it, the State law is not referred to in any way. All that Congress would say would be: "We let go of this subject, and therefore it falls within the powers of the State itself the moment it crosses the State line."

Mr. SUTHERLAND. Mr. President, I dislike very much to express an opinion upon any matter which, as it seems to me, is not involved in the pending question.

Mr. McCUMBER. I want to say to the Senator that it undoubtedly will be involved before we get through with the matter, and that is the reason I desired his opinion.

Mr. SUTHERLAND. I should like to consider it when it is presented. I doubt very much whether that would help the matter at all, because, after all, we are to determine the substance of this thing. I do not think we can cover it up under any form of words and make that constitutional, by some form of expression or by some legislative argument, which in its essence is unconstitutional.

Mr. McCUMBER. The real point is, Can Congress divest that article of its interstate character the moment it crosses a State line and let go of it at that time?

Mr. SUTHERLAND. I do no think so, Mr. President. I think, so long as intoxicating liquor is recognized by the laws of Congress and by the common consent of the majority of the States of the Union, it can not be declared illegal. In other words, Congress can not in one breath say that a thing is legitimate and then in another breath that it is illegitimate.

But conceding, for the sake of argument, the power of Congress to entirely forbid the shipment of liquor in interstate commerce, it does not follow that it may partially forbid it. If it prohibits, it must do so upon the ground that intoxicating liquor is not a legitimate article of interstate commerce. It would seem to be self-evident that Congress could not, by the same act of legislation, declare a thing to be a legitimate article and also an illegitimate article of commerce, and yet this is precisely what partial prohibition does, since the effect of it is to permit the article to move among some of the States and to forbid it to move among others. In the Lottery case the prohibition against the transportation of lottery tickets was absolute and complete. The rule was uniform. The decision of the Supreme Court would undoubtedly have been otherwise if Congress had provided that lottery tickets might be transported among some of the States and forbidden transportation among others. Whether a given thing is a legitimate article of commerce surely must depend upon the character of the thing itself and not upon the secret purpose which may be entertained by somebody as to its use.

The commodity clause of the Hepburn Act is also cited as illustrating the power of Congress to prohibit, but that was a regulation of an instrumentality of commerce. Congress did not prohibit the transportation of coal, but only prohibited the interstate carrier which produced the coal from itself transporting it. This was purely a regulation of interstate commerce.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Idaho?

Mr. SUTHERLAND. I do.

Mr. BORAH. There was no difference between the two classes of coal in so far as the intrinsic quality of the commodity was concerned. One of them was impressed with the personal ownership, which was the same ownership as that of the carrier, and the other was not. In one instance Congress prohibited the carrying, and in the other instance it did not.

Mr. SUTHERLAND. Yes.

Mr. BORAH. That was because of the impress upon the article of the relationship of the parties to the particular article. Why may we not say that when liquor is to be used in a specific way and for a specific purpose, it shall bear that imprint, and pass out of the channels of interstate trade?

Mr. SUTHERLAND. I have been undertaking to say all along why we can not do it. To my mind, the two cases are entirely different. A railroad company engaged in interstate commerce is an instrumentality of interstate commerce which Congress may regulate. It may not only regulate the articles which are carried in interstate commerce, but it may regulate the instrumentality by which they are carried. In that particular case it does not undertake to regulate the article; it does not attempt to prohibit its being transported; but it says: "You, an instrumentality entirely under the control of Congress so far as regulation is concerned, if you produce this article, must not carry it."

Mr. BORAH. Then that falls back upon the proposition that it was not excluded because of any intrinsic quality of the article, but because of a certain relationship of other parties to the article.

Mr. SUTHERLAND. The *article* was not excluded at all. The *instrumentality* was excluded from carrying it.

Mr. BORAH. We do not exclude the liquor except because of its relationship to certain parties.

Mr. SUTHERLAND. I understand perfectly the position of the Senator from Idaho; but there we were regulating the instrumentality. We may say that certain railroad companies which bear a certain relation to a particular article can not themselves carry it, for reasons of public policy; but that would not prevent the article itself being carried by somebody else.

The Lacey law, which has been referred to, dealt with animals fera naturæ, which have always been held to belong to the State and not subjects of private ownership except with the consent of the State. The effect of the Lacey law therefore is simply to forbid the transportation of an article which is not property and therefore not the subject of commerce.

Reference has been made to the provisions of section 289 of the penal code. By this section Congress adopted for certain purposes the laws of the States in force at the time of the passage of the congressional act. It was as though the law of each State had been set forth in terms in the act of Congress. Instead of doing this the law is indicated by reference instead of by recital, but the law adopted becomes a law of Congress and is not enforced as a law of the State. The section recognizes in the plainest way that Congress would have no power to permit a State to legislate for the Federal Government by providing that these adopted laws should continue in force notwithstanding any subsequent repeal or amendment by the States.

In other words, Congress simply found certain laws upon the statute books of the States which it thought applicable to certain conditions, and by its legislation it said: "We will adopt those laws as laws of Congress." The effect is the same as though it had set them out in full and had said: "This is the law of Congress." But it could not, by any sort of legislation, as has been recognized over and over again, say: "We will adopt any law upon this subject which the States may hereafter adopt," because that would be to delegate the power of Congress. It could not even continue the law in force in an amended condition, because to amend the law is to legislate quite as much as to make it originally. Congress, in the clearest way, has shown that it considers that it has no power to adopt the legislation of a State thereafter to be enacted.

INTOXICATING LIQUOR IS A LEGITIMATE ARTICLE OF COMMERCE.

The next proposition which I desire to discuss very briefly is that intoxicating liquor is a legitimate article of commerce, and so long as this is recognized it can not be denied the right of interstate transportation.

It may be conceded that if the time shall ever come when intoxicating liquor is outlawed by substantially the whole people of the United States, as lottery tickets were outlawed, that Congress may then forbid its transportation upon the ground that it would in that event no longer be a legitimate article of commerce. But this is not the case. To the contrary, it has always been recognized and still is recognized as a legitimate article of commerce, entitled to the protection of the Federal Government the same as any other article.

Mr. GALLINGER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from New Hampshire?

Mr. SUTHERLAND. I yield to the Senator.

Mr. GALLINGER. I am interested in the Senator's discussion, as we all are interested in it. I should like to have the Senator restate his view, if he pleases, that a law must be uniform, or its application must be uniform, in all the States. Is that the Senator's position?

Mr. SUTHERLAND. Not quite that. If the Senator will be patient, I have, later along, some authorities to quote upon that precise question; and I intend to discuss it in that connection.

Mr. GALLINGER. I wanted, at this point, to suggest that in the pure-food law we provided that condemned goods might be excluded from any State where the State laws were against them.

Mr. SUTHERLAND. Oh, yes.

Mr. GALLINGER. And that it did not cover the broad proposition that I thought the Senator was arguing.

Mr. SUTHERLAND. Impure food might be excluded by the State itself. The State has done that. Diseased meats or

impure food can be excluded by the State without any law of Congress.

Mr. GALLINGER. And because of that fact they could not be transported to that State through the medium of interstate commerce?

Mr. SUTHERLAND. Yes; because they are impure foods; and being impure, they are not legitimate articles of commerce.

Mr. GALLINGER. We think liquors are worse than impure. [Applause in the galleries.]

Mr. SUTHERLAND. I agree with the Senator. The Senator can not get up any argument with me about that.

The PRESIDENT pro tempore. It is against the rules of the Senate for any manifestations of approval or disapproval to be had in the Chamber, especially in the galleries. The Chair admonishes the galleries that if it is repeated, the Senate will have to take action to prevent its recurrence.

Mr. SUTHERLAND. Mr. President, I hope very much that a great piece of legislation like this will not be passed by the Senate of the United States in a spirit of mere emotion. There are some pretty grave questions involved in this matter, and I am undertaking to discuss them; and I am undertaking to discuss them under my oath as a Senator.

What I had said when the Senator from New Hampshire interrupted me is borne out by the decisions. In Bowman v. Chicago & Northwestern Railway Co. (125 U. S., 465, 501) the court uses this language:

> What is an article of commerce is determinable by the usages of the commercial world and does not depend upon the declaration of any State. The State possesses the power to prescribe all such regulations with respect to the possession, use, and sale of property within its limits as may be necessary to protect the health, lives, and morals of its people, and that power may be applied to all kinds of property, even that which in its nature is harmless. But the power of regulation for that purpose is one thing and the power to exclude an article from commerce by a declaration that it shall not thenceforth be the subject of use and sale is another and very different thing. If the State could thus take an article from commerce, its power over interstate commerce would be superior to that of Congress, where the Constitution has vested it.

In the License cases (5 How., 504, 599) Mr. Justice Catron said:

> If from its nature it does not belong to commerce, or if its condition from putrescence or other cause is such when it is about to enter the State that it no longer belongs to commerce, or, in other words, is not a commercial article, then the State power may exclude its introduction. And, as an incident to this power, a State may use means to ascertain the fact. And here is the limit between the sovereign power of the State and the Federal power. That is to say, that which does not belong to commerce is within the jurisdiction of the police power of the State, and that which does belong to commerce is within the jurisdiction of the United States. And to this limit must all the general views come, as I suppose, that were suggested in the reasoning of this court in the cases of Gibbons v. Ogden, Brown v. The State of Maryland, and New York v. Miln. What, then, is the assumption of the State court? Undoubtedly, in effect, that the State had the power to declare what should be an article of lawful commerce in the particular State, and, having declared that ardent spirits and wines were deleterious to morals and health, they ceased to be commercial commodities there, and that then the police power attached, and consequently the powers of Congress could not interfere. The exclusive State power is made to rest, not on the fact of the state or condition of the article nor that it is property usually passing by sale from hand to hand, but on the declaration found in the State laws and asserted as the State policy that it shall be excluded from commerce. And by this means the sovereign jurisdiction in the State is attempted to be created in a case where it did not previously exist. If this be the true construction of the constitutional provision, then the paramount power of Congress to regulate commerce is subject to a very material limitation, for it takes from Congress and leaves with the States the power to determine the commodities or articles of property which are the subjects of lawful commerce. Congress may regulate, but the States determine what shall or shall not be regulated. Upon this theory the power to regulate commerce instead of being paramount over the subject would become subordinate to the State police power, for it is obvious that the power to determine the articles which may be the subjects of commerce, and thus to circumscribe its scope and operation is, in effect, the controlling one. The police power would not only be a formidable rival, but in a struggle must necessarily triumph over the commercial power, as the power to regulate is dependent upon the power to fix and determine upon the subjects to be regulated. The same process of legislation and reasoning adopted by the State and its courts could bring within the police power any article of consumption that a State might wish to exclude whether it belonged to that which was drank or to food and clothing, and, with nearly equal claims to propriety, as malt liquors and the produce of fruits other than grapes stand on no higher ground than the light wines of this and other countries, excluded, in effect, by the law as it now stands. And it would be only another step to regulate real or supposed extravagance in food and clothing.

Not only are intoxicating liquors recognized by the usages of the civilized world to be legitimate articles of commerce, but Congress has itself repeatedly emphasized their character in this respect by legislation which has been in force since the foundation of the Government and still remains upon the statute books. It collects millions of dollars annually upon the manufacture and sale of intoxicating liquors. It provides for the supervision of their manufacture and their inspection. It levies duties upon all kinds of intoxicating liquor when imported from foreign countries and thereby invites their importation into the United States.

In Shollenberger v. Pennsylvania (171 U. S., 1, 7), the Supreme Court, speaking of oleomargarine, said:

> In the examination of this subject the first question to be considered is whether oleomargarine is an article of commerce. No affirmative evidence from witnesses called to the stand and speaking directly to that subject is found in the record. We must determine the question with reference to those facts which are so well and universally known that courts will take notice of them without particular proof being adduced in regard to them, and also by reference to those dealings of the commercial world which are of like notoriety.
>
> Any legislation of Congress upon the subject must, of course, be regarded by this court as a fact of the first importance. If Congress has affirmatively pronounced an article to be a proper subject of commerce, we should rightly be influenced by that declaration.

The court then proceeds to refer to the various statutes passed by Congress, as, for example, the act imposing a tax and regulating the manufacture and sale, importation, and exportation of oleomargarine and other goods of the same character, and at page 9 it is said:

> This act shows that Congress at the time of its passage in 1886 recognized the article as a proper subject of taxation, and as one which was the subject of traffic and of exportation to foreign countries, and of importation from such countries. Its manufacture was recognized as a lawful pursuit, and taxation was levied upon the manufacture of the article, upon the wholesale and retail dealers therein, and also upon the article itself.

The court also refers to the fact that the reports of the Secretary of the Treasury show that tax receipts from this source during the nine years beginning with the year 1887 amounted to over $10,000,000, and at page 12, summing up, the court concludes:

> Upon all these facts we think it apparent that oleomargarine has become a proper subject of commerce among the States and with foreign nations.

And the court adds:

> The general rule to be deduced from the decisions of this court is that a lawful article of commerce can not be wholly excluded from importation into a State from another State where it was manufactured or grown. A State has power to regulate the introduction of any article, including a food product, so as to insure purity of the article imported, but such police power does not include the total exclusion even of an article of food.

The same rule has been recognized with reference to intoxicating liquors by repeated decisions of the Supreme Court, the last expression of the court being found in the case of Louisville & Nashville Railway Co. v. Cook Brewing Co. (223 U. S., 70). Mr. Justice Lurton, speaking for the court, said:

> By a long line of decisions, beginning even prior to Leisy v. Hardin (135 U. S., 100), it has been indisputably determined:
>
> *a.* That beer and other intoxicating liquors are a recognized and legitimate subject of interstate commerce.
>
> *b.* That it is not competent for any State to forbid any common carrier to transport such articles from a consignor in one State to a consignee in another.
>
> *c.* That until such transportation is concluded by delivery to the consignee such commodities do not become subject to State regulation restraining their sale or disposition.

It is therefore no longer an open question that intoxicating liquors are legitimate articles of interstate commerce which are entitled to the protection of the Federal authority to the same extent and under the same conditions as other commodities. Indeed, the bill under consideration itself recognizes the general legitimacy of this species of property as an article of commerce. If the article is outlawed in any particular instance under the provisions of this proposed law, it will not be by the will of Congress but by the will of the particular State or States. In particular instances the interstate shipment of intoxicating liquors will be forbidden not because Congress has declared or intimated in the slightest degree that they are noxious, but because, and only because, somebody intends to violate a State law.

It has been repeatedly determined that although the several States possess their undiminished powers of police, that no law, although otherwise a proper exercise of the police power, is valid if the effect of such law is to substantially regulate interstate commerce. The Constitution is declared to be the supreme law of the land. This supreme law confers the power to regulate commerce upon Congress, and thereby withdraws it from the States. If, therefore, a State law which has the effect of regulating commerce be upheld, immediately that law becomes superior to the Constitution. In the absence of permissive legislation by Congress, it is perfectly clear that no State has the power to regulate in any degree interstate commerce, and the reason is that this power has been vested in Congress. Hence a State law of this character is void not because it is opposed to any congressional law, not because it is opposed to the will of Congress, not because it has not been permitted by Congress, but because, and only because, it is in violation of the Constitution of the United States. It would seem to be self-evident that if the action of a State is void because in conflict with the Constitution, that no act of Congress, which is the mere creature of the Constitution, either by affirmative action, by removing

obstacles, or by declaration of any character, could render the State action valid. To concede such a proposition would be to admit an astounding paradox, namely, that while Congress may not itself violate the Constitution, it may in some manner justify or absolve a State in doing so. No sort of specious reasoning can establish the proposition that any department of the Federal Government, or that all of them combined, by any proceeding, can change that which is opposed to the Constitution so as to be in harmony with the Constitution, and yet it is to this conclusion that the proponents of the pending measure are inevitably driven.

Mr. Justice Catron in the License cases pointed out the distinction between the police power of the State and the commerce power of the United States in the following language:

> And here is the limit between the sovereign power of the State and the Federal power. That is to say, that which does not belong to commerce is within the jurisdiction of the police power of the State, and that which does belong to commerce is within the jurisdiction of the United States.

It must be conceded that any State law now in existence attempting to interfere with the interstate transportation of intoxicating liquor before such transportation is completed by delivery would be unconstitutional. Upon what theory can Congress pass legislation which will make an unconstitutional enactment constitutional? And yet it is gravely asserted that upon the passage of this bill State statutes concededly unconstitutional will become valid and operative.

Mr. Chief Justice Taney, in the License cases (5 How., 580), said:

> But it is equally clear that as to all future laws by the States, if the Constitution deprive them of the power of making any regulations on the subject, an act of Congress could not restore it.
>
> For it will hardly be contended that an act of Congress can alter the Constitution and confer upon a State a power which the Constitution declares it shall not possess. And if the grant of power to the United States to make regulations of commerce is a prohibition to the States to make any regulation upon the subject, Congress could no more restore to the States the power of which they were thus deprived than it could authorize them to coin money, or make paper money a tender in the payment of debts, or to do any other act forbidden to them by the Constitution.

In the case of Hanley v. Kansas City Southern Railway Co. (187 U. S., 617) the Supreme Court said:

> Transportation for others, as an independent business, is commerce, irrespective of the purpose to sell or retain the goods which the owner may entertain with regard to them after they shall have been delivered.

That being so, any law whose primary effect is to interfere with the transportation of an article of commerce from one State to another before the delivery to the consignee, no matter what the consignee or anybody else may intend to do with it, is a regulation of interstate commerce. The contract of transportation is to carry from the consignor in one State to the consignee in another. This transportation is a single, indivisible thing, and, as said in the case of Gibbons v. Ogden, "the power must be exclusive. It can reside but in one potentate, and hence the grant of this power carries with it the whole subject, leaving nothing for the State to act upon." Until delivery to the consignee there is no place where you can stop and say, thus far it is interstate transportation and thereafter intrastate transportation. As expressed in the same great case, "the word 'among' means intermingled with. A thing which is among others is intermingled with them. Commerce among the States can not stop at the external boundary line of each State, but may be introduced into the interior."

If we may surrender to one State the authority to interfere with a shipment of goods from another State the moment it crosses the boundary line of the former, it logically follows that we may likewise surrender the power to the latter State to interfere with the shipment until it reaches the boundary line, and this would be equivalent to a total surrender of the whole power. The State in which the shipment originates being permitted to deal with the matter until it reached the boundary line and the State to which the shipment is destined being permitted to deal with it afterwards, the effect would be to prevent the shipment altogether, not by the exercise of the regulative power of Congress, but by the exercise of that power by the several States, and thus a power which the people have affirmatively devolved upon Congress would be delegated to other and distinct governments.

V. DELEGATION OF POWER UNDER BOTH SECTIONS.

I have perhaps already sufficiently discussed the proposition that the pending bill constitutes an attempt to delegate the power of Congress over interstate commerce to the States. That this is beyond the power of Congress no citation of authorities is necessary to establish. The Supreme Court has repeatedly so declared.

In determining the validity of a statute we must have regard to its substance rather than its form. No matter in what terms the statute may be written, if its natural and reasonable effect is to accomplish an unconstitutional result it is void; or, as stated by the Supreme Court in the case of Reid v. Colorado (187 U. S., 137, 150):

> * * * The purpose of a statute, in whatever language it may be framed, must be determined by its natural and reasonable effect.

In the case of Mugler v. Kansas (123 U. S., 623) Mr. Justice Harlan said:

> The courts are not bound by mere forms nor are they to be misled by mere pretense. They are at liberty—indeed they are under a solemn duty—to look at the substance of things whenever they enter upon inquiry whether the legislature has transcended the limits of its authority.

However artful the language, however cunning the hand of the draftsman, this effect, when discovered, determines the validity or invalidity of the act. A moment's reflection, it seems to me, will convince any candid mind that the effect of this proposed legislation is to give vitality and validity to an act of a State government which, in the absence of the proposed legislation, would be unconstitutional and void.

Congress can neither take from nor add to the powers of the States. It has been claimed that the validity of the pending measure is sustained by the Supreme Court in upholding the Wilson Act, but the Supreme Court has been careful to say in several cases, notably in Rhodes v. Iowa (170 U. S., 412), that the effect of the Wilson Act was only to permit the State jurisdiction to attach after the delivery of the consignment to the consignee, so as to permit the State to regulate and control the sale of the article, whether in the original package or not, after such delivery, and that this right of sale was only an incident of interstate commerce, and not such commerce in its fundamental aspect. In other words, the substantive transportation of a commodity from one State to another ended upon delivery to the consignee. The right of the consignee to sell in the unbroken package was not a fundamental part of the interstate transaction but was a mere incident resulting therefrom.

It is urged, however, that this bill does not permit the State to legislate with reference to interstate commerce, but does nothing more than remove an impediment to the operation of the police power of the State. But it does more than this. In the absence of the proposed legislation by Congress the police power is inoperative because it conflicts with the superior authority of the commerce clause of the Constitution. This bill therefore seeks to give vitality to the law of a State which has none in its absence, and however we may endeavor to reach a contrary result by forms of words or devious methods of reasoning, we are at last always confronted with the same conclusion, namely, that the effect of the legislation is to permit the State to do something which the Constitution forbids.

Under section 1 of the bill no rule governing the interstate transaction is prescribed by Congress. In every instance we must determine whether a particular shipment may be made, not by reference to any regulation prescribed by Congress but by reference to a law of the State. As accurately said by one of the proponents of this measure:

> The beauty about this law is that it expands and contracts with the legislation of the State.

In other words, the State by its legislation may admit the article or forbid its admission. It may admit it this year and prohibit its admission next year. It may admit it under some circumstances to-day and under totally different circumstances to-morrow.

Whether intoxicating liquor shall or shall not be an article of lawful commerce depends wholly upon the will of the State. That the power to prescribe what shall constitute a lawful article of commerce is the power to regulate commerce is clearly shown by Mr. Justice Catron in the License cases (5 How., 599), where that distinguished justice said:

> What, then, is the assumption of the State court? Undoubtedly, in effect, that the State had the power to declare what should be an article of lawful commerce in the particular State; and having declared that ardent spirits and wines were deleterious to morals and health, they ceased to be commercial commodities there, and that then the police-power attached, and consequently the powers of Congress could not interfere. The exclusive State power is made to rest not on the fact of the state or condition of the article nor that it is property usually passing by sale from hand to hand, but on the declaration found in the State laws and asserted as the State policy that it shall be excluded from commerce. And by this means the sovereign jurisdiction in the State is attempted to be created in a case where it did not previously exist.
>
> If this be the true construction of the constitutional provision, then the paramount power of Congress to regulate commerce is subject to a very material limitation; for it takes from Congress and leaves with the States the power to determine the commodities or articles of property which are the subjects of lawful commerce. Congress may regulate, but the States determine what shall or shall not be regulated. Upon this theory the power to regulate commerce, instead of being paramount over the subject, would become subordinate to the State police power, for it is obvious that the power to determine the articles which may be the subjects of commerce, and thus to circumscribe its scope and operation, is in effect the controlling one. The police power would

not only be a formidable rival, but in a struggle must necessarily triumph over the commercial power, as the power to regulate is dependent upon the power to fix and determine upon the subjects to be regulated.

The same process of legislation and reasoning adopted by the State and its courts could bring within the police power any article of consumption that a State might wish to exclude, whether it belonged to that which was drank or to food and clothing; and with nearly equal claims to propriety, as malt liquors and the produce of fruits other than grapes stand on no higher grounds than the light wines of this and other countries, excluded, in effect, by the law as it now stands. And it would be only another step to regulate real or supposed extravagances in food and clothing. * * * For these reasons I think the case can not depend on the reserved power in the State to regulate its own police.

Speaking of the Wilson Act, in Rhodes v. Iowa (170 U. S., 412, 422), the court said:

If the act of Congress be construed as reaching the contract for interstate shipment made in another State, the necessary effect must be to give to the laws of the several States extraterritorial operation; for, as held in the Bowman case, the inevitable consequence of allowing a State law to forbid interstate shipments of merchandise would be to destroy the right to contract beyond the limits of the State for such shipments. If the construction claimed be upheld, it would be in the power of each State to compel every interstate-commerce train to stop before crossing its borders and discharge its freight, lest by crossing the line it might carry within the State merchandise of the character named covered by the inhibitions of a State statute.

And further on, at page 424, the court said that while the right to sell free from State interference interstate commerce merchandise was held—

to be an essential incident to interstate commerce, it was yet but an incident, as the contract of sale within a State in its nature was usually subject to the control of the legislative authority of the State. On the other hand, the right to contract for the transportation of merchandise from one State into or across another involved interstate commerce in its fundamental aspect, and imported in its very essence a relation which necessarily must be governed by laws apart from the laws of the several States, since it embraced a contract which must come under the laws of more than one State.

In the Bowman case it was said:

Has the law of Iowa any extraterritorial force which does not belong to the State of Illinois? If the law of Iowa forbids the delivery and the law of Illinois requires the transportation, which of the two shall prevail? How can the former make void the latter?

In American Express Co. v. Iowa (196 U. S., 133, 143) the Supreme Court, after referring to the preceding cases, says:

Those cases rested upon the broad principle of the freedom of commerce between the States and of the right of a citizen of one State to freely contract to receive merchandise from another State, and of the equal right of the citizen of a State to contract to send merchandise into other States. They rested also on the obvious want of power of one State to destroy contracts concerning interstate commerce valid in the States where made.

In Vance v. Vandercook (170 U. S., 438, 452) the court said:

The right of persons in one State—

And I invite particular attention to this case—

The right of persons in one State to ship liquor into another State to a resident for his own use is derived from the Constitution of the United States, and does not rest on the grant of the State law.

And again Mr. Justice White said:

The right of the citizen of another State to avail himself of interstate commerce can not be held to be subject to the issuing of a certificate by an officer of the State of South Carolina without admitting the power of that officer to control the exercise of the right. But the right arises from the Constitution of the United States; it exists wholly independent of the will of either the law-making or the executive power of the State; it takes it origin outside of the State of South Carolina and finds its support in the Constitution of the United States.

And at page 446:

In the inception it is necessary to bear in mind a few elementary propositions which are so entirely concluded by the previous adjudications of this court that they need be only briefly recapitulated. * * *

(b) Equally well established is the proposition that the right to send liquors from one State into another, and the act of sending same is interstate commerce, the regulation whereof has been committed by the Constitution of the United States to Congress, and hence that a State law which denies such a right, or substantially interferes with or hampers the same, *is in conflict with the Constitution of the United States.*

How can a right derived from the Constitution be taken away by an act of Congress or by an act of the State, or by the combined acts of both Congress and the State? The right of a citizen of one State to contract with a citizen of another State for the sale and delivery of any legitimate article of commerce is equally derived from the Constitution and not from the grant of any State law. Upon what principle, therefore, can a State law prevent the execution of this contract, the right to enter into which is derived from the Constitution? And if a State law attempting to do so be void as an interference with interstate commerce in its fundamental aspect, upon what theory may Congress vitalize it? To ask the question is to answer it.

The sale of an article in the unbroken package is an incident of commerce, but it is not a necessary and fundamental part of it, for interstate commerce may be complete without any sale—and very often is where goods are imported for personal use—but without delivery to the consignee the interstate transaction has failed of fulfillment altogether.

Mr. Justice Woodbury, in the License cases, said (5 How., 619):

And what power or measure of the General Government would a prohibition of sale within a State conflict with if it consisted merely in regulations of the police or internal commerce of the State itself? There is no contract, expressed or implied, in any act of Congress that the owners of property, whether importers or purchasers from them, shall sell their articles in such quantities or at such times as they please within the respective States. Nor can they expect to sell on any other or better terms than are allowed by each State to all its citizens, or in a manner different from what has comported with the policy of most of the old States, as well before as since the Constitution was adopted. Any other view would not accord with the usages of the country, or the fitness of things, or the unquestioned powers of all sovereign States, and, as is admitted, even of those in this Union, to regulate both their internal commerce and general police. The idea, too, that a prohibition to sell would be tantamount to a prohibition to import, does not seem to me either logical or founded in fact. For, even under a prohibition to sell, a person could import, as he often does, for his own consumption and that of his family and plantations.

Now I come to the question which the Senator from New Hampshire [Mr. GALLINGER] suggested a few moments ago.

VI. THE POWER TO REGULATE INTERSTATE COMMERCE IS ESSENTIALLY A UNIT AND NOT SUBJECT TO A MULTITUDE OF SYSTEMS.

Since the purpose of conferring authority to regulate interstate commerce upon Congress was to prevent a multiplicity of diverse and conflicting rules made by the separate States, it would seem to follow that the regulation of any given article must be uniform in character, and that varying regulations could not be justified upon the varying desires or opinions of the several States. If this were not so the evils which the consolidation of this power in Congress was intended to prevent would still exist.

In Robbins v. Shelby Taxing District (120 U. S., 489, 494) the Supreme Court said:

In a word, it may be said that in the matter of interstate commerce the United States are but one country, and are and must be subject to one system of regulations and not to a multitude of systems. The doctrine of the freedom of that commerce, except as regulated by Congress, is so firmly established that it is unnecessary to enlarge further upon the subject.

In United States v. E. C. Knight Co. (156 U. S., 1, 32) Mr. Justice Harlan in a dissenting opinion said:

Commerce among the States, as this court has declared, is a unit, and in respect of that commerce this is one country and we are one people. It may be regulated by rules applicable to every part of the United States, and State lines and State jurisdiction can not interfere with the enforcement of such rules. The jurisdiction of the General Government extends over every foot of territory within the United States. Under the power with which it is invested Congress may remove unlawful obstructions, of whatever kind, to the free course of trade among the States. In so doing it would not interfere with the "autonomy of the States," because the power thus to protect interstate commerce is expressly given by the people of all the States. Interstate intercourse, trade, and traffic are absolutely free, except as such intercourse, trade, or traffic may be *incidentally* or *indirectly* affected by the exercise by the States of their reserved police powers.

In Groves v. Slaughter (15 Pet., 505) this language was used:

The law must be equal and general in its provisions. Congress can not pass a nonintercourse law as among the several States nor impose an embargo that shall affect only a part of them.

In Oregon Steam Navigation Co. v. Winsor (20 Wall., 67) the court said:

This country is substantially one country, especially in all matters of trade and business.

In Hall v. De Cuir (95 U. S., 485, 507) the Supreme Court said:

Commerce among the several States as well as commerce with foreign nations requires uniformity of regulation; and that power is by the Constitution vested exclusively in Congress, as appears by the Constitution itself and by an unbroken course of the decisions of this court, covering a period of more than half a century.

In Walling v. Michigan (116 U. S., 446, 455), the court said:

We have so often held that the power given to Congress to regulate commerce with foreign nations, among the several States and with the Indian tribes is exclusive in all matters which require or only admit of general and uniform rules, and especially as regards any impediment or restriction upon such commerce that we deem it necessary merely to refer to our previous decisions on the subject, the most important of which are collected in Brown v. Houston (114 U. S., 622, 631) and need not be cited here.

And on page 456, quoting from Mobile v. Kimball (102 U. S., 691, 697), the court, speaking of the subjects of interstate commerce which are subject only to the exclusive regulation of Congress, said:

Some of them are national in their character and admit and require uniformity of regulation, affecting alike all of the States; others are local or are mere aids to commerce and can only be properly regulated by provisions adapted to their special circumstances and localities. Of the former class may be mentioned all that portion of commerce with foreign countries or between the States which consists in the transportation, purchase, sale, and exchange of commodities. Here there can of necessity be only one system or plan of regulation, and that Congress alone can prescribe. Its nonaction in such cases with

respect to any particular commodity or mode of transportation is a declaration of its purpose that the commerce in that commodity or by that means of transportation shall be free. There would otherwise be no security against conflicting regulations of different States, each discriminating in favor of its own products or citizens and against the products and citizens of other States. And it is a matter of public history that the object of vesting in Congress the power to regulate commerce with foreign nations and among the States was to insure uniformity of regulation against conflicting and discriminating State legislation.

Suppose the proposed bill should be enacted. In the course of time somebody violates it. What follows? So far as the United States is concerned, nothing whatever. No penalty is prescribed by way of fine or imprisonment or forfeiture of goods or otherwise. So far as the Federal Government is concerned, the enactment will not be in any real sense a law at all, but only a piece of gratuitous and more or less irrelevant advice, and this having been given Congress simply washes its hands of the whole affair and retires permanently from the field. But the State of Kansas, for example, having by its law prohibited the sale of intoxicating liquors and authorized a seizure and confiscation of such liquors within the State stops an interstate train at the State line and seizes a shipment of beer which it is suspected is being imported for the purpose of sale in violation of the State law. In the proceedings which follow the consignor, the consignee, or the railway company whose interstate operations have been interrupted challenges the action of the State as constituting a regulation of interstate commerce and therefore beyond the power of the State. What, then, must be the concession and contention of the State?

Obviously it must put in a plea analogous to a plea of confession and avoidance. It must obviously concede that its statutes and proceedings do constitute a regulation of interstate commerce, and one therefore prima facie beyond the authority of the State, but that this want of power on the part of the State has been supplied by the authorization or the permission of Congress. In the last analysis, the legality of the State action must rest wholly and alone upon the Federal statute, and whether we call it a grant or a concession or a permission, or by any other name, or by no name at all, in substance and effect a State power has been created or amplified by an act of Congress.

Over and over again we have been assured that this is not an attempt to delegate any congressional power to the State or to add to the power of a State, neither of which, it is admitted, can be done, but that the effect of the legislation is only to remove a little impediment which now exists to the exercise of the State power. Let it be conceded. What then? The pertinent inquiry suggests itself. What is this impediment which stands in the way of the State now doing what it will be permitted to do hereafter by virtue of this act of Congress? Is it a Federal statute which Congress may modify or repeal at pleasure? No. Is it some form of manacle which, Congress having forged, Congress may loose; some restraint which, having been imposed by Congress or some inferior authority, may be removed by Congress? No. Senators may delude themselves by ingenious phrases and plausible forms of lip logic into the belief that they are following straight paths, but always, like bewildered travelers lost in the woods, they must come back to the same point again and again, and that point is that the impediment which they seek to remove is one imposed by the Constitution of the United States, to prevail against which Congress is as helpless as the States themselves. Approached from whatsoever angle we please, this little impediment to be brushed aside so unceremoniously always reveals itself as the Constitution, which stands at the gate like the "flaming sword, which turned every way to keep the way of the tree of life." The conclusion is irresistible that we are by this legislation attempting to enable a State to exercise a power under and by force of an act of Congress which the State has no authority to exercise under the Constitution, and if our act be valid we shall have succeeded in making a Federal statute superior to the Federal Constitution.

There has never been a time in all our history when the necessity of adhering to the limitations of the Federal Constitution was more imperious than to-day. Constitutional principles must be made with reference to the generality of cases and not to exceptions. General rules sometimes of necessity operate harshly in occasional instances, and the temptation is always great to ignore or violate these principles whenever we come into contact with one of these exceptional cases. The danger, however—and it is a very real and grave one—is that if we violate the Constitution in order to bring about a good result, or what we fancy to be a good result, we have opened the door of opportunity for future violations where the result may be neither good nor wise.

As said by the Supreme Court in Scott v. Donald (165 U. S., 58, 91):

The evils attending the vice of intemperance in the use of spirituous liquors are so great that a natural reluctance is felt in appearing to interfere, even on constitutional grounds, with any law whose avowed purpose is to restrict or prevent the mischief.

But, as said by Chief Justice Fuller in the Knight case (156 U. S., 1, 13):

It is vital that the independence of the commercial power and of the police power and the delimitation between them, however sometimes perplexing, should always be recognized and observed, for while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the States as required by our dual form of government—

And then follow these words of wisdom and of warning—

and acknowledged evils, however grave and urgent they may appear to be, had better be borne than the risk be run, in the effort to suppress them, of more serious consequences by resort to expedients of even doubtful constitutionality.

I have never subscribed to the doctrine that the end justifies the means. The step from virtuous necessity to doubtful expediency is very short and easily taken. We should be extremely careful not to do a forbidden thing upon the plea that good will result, lest we thereby establish a precedent for doing the forbidden thing to the undesired end that evil may follow. Whenever we violate the Constitution an example is set which is quite likely to come back sooner or later to vex us. It was Portia, I think, who said:

'Twill be recorded for a precedent,
And many an error by the same example
Will rush into the State.

Mr. President, I do not for one moment doubt the honesty of purpose of the good men and good women of the country who are urging upon Congress the adoption of this legislation. The sincerity of their belief in its wisdom and its legality I do not question. I sympathize with the purpose that they have in view, namely, to reduce the evils of intemperance; but, sir, that is not the end of the matter. Superior to my own desires and superior to the wishes of any part of the people stand the sovereign commands of all the people, which they have embodied in their Constitution, and these do not admit of disobedience or evasion upon any pretext. Honest legislators may differ, and frequently do differ, as to the interpretation and application of these commands, but no man who, after study and reflection, has reached a definite and settled conclusion as to the meaning of one of these commands may act in opposition to it without breaking faith with his own conscience.

If a man is guilty of an overt act of dishonesty, he may be compelled to suffer the penalty of the law and the scorn of mankind. What he does may be seen by others than himself, but into the secret chamber of his own intellect no eye save his own may penetrate. In that domain each of us is his own advocate and finally his own sole judge. If he be guilty of intellectual dishonesty his debasement, if he so wills, can be known only to himself, but while he pays no outward penalty he pays, nevertheless, in the uneasy and unhappy consciousness that he has betrayed himself. To be mistaken in one's judgment is a common and comparatively trivial fault; to deliberately violate one's honest judgment is as indefensible and contemptible an act as any man can commit. Everyone of necessity spends more time with himself than with anybody else, and he ought to so conduct himself that he may feel in decent company the major part of the time. The people of the country who are urging this legislation are not sworn to uphold and defend the Constitution. I am. The duty and responsibility of keeping the oath is mine, not theirs.

I am willing to go as far as any man ought to go in a liberal and broad construction of the Constitution in the interest of beneficent legislation. I am not willing to violate the plain terms of that great charter for the advancement of any cause, however near it may lie to my own heart or the hearts of others.

During the delivery of Mr. SUTHERLAND'S speech,

Mr. GALLINGER. Mr. President, I rise to ask that the unanimous-consent agreement may be read from the desk.

The PRESIDENT pro tempore. The hour of 3 o'clock having arrived, the Secretary will read the unanimous-consent agreement.

The Secretary read as follows:

It is agreed by unanimous consent that on Monday, February 10, 1913, at 3 o'clock, p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases be taken up for consideration, not to interfere with appropriation bills, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself, not later than the hour of 6 o'clock on that day.

The PRESIDENT pro tempore. The Chair will now formally lay the bill before the Senate. The title will be stated.

The SECRETARY. A bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

After the conclusion of Mr. SUTHERLAND'S speech,

Mr. THORNTON. Mr. President, I presume that other Senators have had a common experience with myself in the matter of receiving requests to vote against the pending bill, generally known as the Kenyon-Sheppard bill and generally understood to have for its object the prohibition of the shipment of liquor from a State in which it is lawful to sell it, to a State in which its sale is not legalized; an understanding based on a popular error, for the bill does not prohibit such shipment, but does subject it to the authority of the police power of the other State when it enters its jurisdiction and before it reaches the consignee, provided it had been purchased for the purpose of violating the laws of the State.

Powerful political influences from my own State, which is not a prohibition State except in spots, have been brought to bear on me by those who have been my personal as well as political friends, in the effort to have me vote against the passage of the bill, the parties generally basing their opposition on the two-fold ground that it was unconstitutional and a violation of the right of personal liberty.

To all I have answered that I could not do so consistently with my views of the rights of the respective States of the Union.

If either of these objections appeared to me well founded, I would vote against the bill, for I have taken an oath to obey the Constitution of the United States and I am now, as I have ever been, a strong believer in the right of the personal liberty of the individual citizen.

But while there may be a doubt in my mind as to the constitutionality of the bill, that doubt is not sufficiently strong to make me vote against its passage, for I can not justify myself in taking the position that unless a legislator was absolutely sure of the constitutionality of an act submitted to him it is his duty to vote against it, even though he thought the motive for its inception was proper and the result of its passage would be beneficial.

I hold, rather, that I have no right in such a case to attempt to block what I considered proper legislation, but that it would be my duty to assist in its passage and let the courts pass on the mooted question.

And so in this storm the safe harbor of unconstitutionality is not open to me for entrance.

So much for that part of the question.

As for the second part of the proposition, it will not be disputed that the right of the personal liberty of the individual citizen is subordinated to the greater right of the State to control that liberty within such bounds as are considered proper with reference to the well-being of the community at large.

The right of a State in the exercise of its police powers to regulate the liquor traffic within its boundaries or to suppress such traffic entirely will not be denied.

This bill permits the States to exercise the same police power over liquor shipped into its territory from another State that it could exercise over it if the shipment originated within its territory, a power that can not be exercised except for the purpose of preventing the violation of its own laws.

The effect of its passage will be to prevent the General Government from lending the force of its laws, either to assist the citizens of one State to violate the laws of another or to assist the citizens of the other State to violate the laws of their own.

I believe that while the General Government should be supreme in the exercise of the authority conferred on it by the Constitution, the States composing it should be supreme in the exercise of the authority reserved to them by the Constitution.

I believe further that it is the duty of the States to stand ready to assist the General Government in the exercise of its constitutionally conferred powers and that it is equally the duty of the General Government to stand ready to assist the States in the exercise of their constitutionally reserved powers to the extent not only of refraining from enacting laws that may tend to obstruct the proper State authority, but also of amending or repealing any existing laws that may have such a tendency.

Holding such views, I can not vote against the pending bill, but must vote for its passage.

Mr. WEBB. Mr. President, the liquor evil has been before the world since the beginning of history. The history of the Jews, the Greeks, and the Romans, the three ancient civilizations best known to us, show the different methods of approach to this great question. A referendum to the citizens of Rome, the imperial city that ruled the world, on the banishment of the temples of Bacchus, as saloons were then called, notwithstanding their protection of a god, resulted in Rome going dry. Rome went dry on the political slogan that the temples of Bacchus were headquarters of the demoralization of youth and the white-slave traffic. The saloon still maintains its ancient reputation, and in our time it has eliminated none of its evils, but has added others unknown to the ancient civilizations.

Bacchus, a god of great power, was not, I am glad to say, infinite in his attributes nor universal in his jurisdiction.

Bacchus was a riotous god. His birth was a tragedy amid thunder and lightning. His mother was consumed by the lightning and immediately on his birth departed to Hades. Hence the epithet, fireborn. The orphaned Bacchus was never mothered. He was put in charge of Persephone, the infernal goddess of death, daughter of the Styx and wife of Pluto and mother of the furies, whose reputation lies chiefly in the fact that she was abducted by Pluto and made queen of Hades. His nurses became insane, and the little kid was changed into a ram and brought up in the dark recesses of a cave. When he was grown he became insane and became a hobo. He compelled his female worshippers to leave their homes. In their frenzy mothers mistook their children for animals and tore them in pieces. The people, and particularly mothers, opposed his entrance to many countries. Ships that carried him had their masts and oars changed to serpents and Bacchus changed himself into a lion, and ivy surrounded the ship. The sailors were seized with madness and leaped into the sea. Homer calls him the "drunken god." He was the god of the tragic art. In the beginning of his career the Graces were his companions. Time wrought great changes in his companions, who were Bacchantic women, raging with madness, in vehement motions, their heads thrown backward, with disheveled hair, carrying in their hand cymbals, swords or serpents. Satyrs and centaurs, monstrosities slightly human in face, brutes in body, were his chums. Sacred to him were poisonous shrubbery, and among animals sacred to him were the serpent, tiger, lynx, and panther. The expression of his countenance in art is languid and shows a kind of dreamy longing, his head, with a wreath of vine or ivy leaves, somewhat on one side, his attitude is easy, like that of a man who is absorbed in sweet thoughts or slightly intoxicated. He is often seen leaning on his companions or riding on a panther or ass, tiger, or lion. On coins he is represented with the horns of a ram or a bull. The above forceful description of Bacchus, as given in the poets of Greece and Rome, and taken from the classical dictionary is so easy of interpretation that I will not apply it.

To regulate interstate commerce. What does "regulate" mean? It means to prescribe rules for, and to prescribe rules means primarily to restrict. Unrestricted commerce is not regulated. It is free and unrestrained and has no regulation whatever. The derivation of the word "regulate" is from "rego," which primarily means to keep straight (a very suggestive meaning in connection with this bill). The verb "reign" contains the primary meaning and Webster's first definition is to possess or exercise sovereign power or authority; to exercise government as a king or emperor; to hold supreme power. Webster gives the third meaning to have superior or uncontrolled dominion. The first meaning of regulate in the Century Dictionary is to adjust by rule, method, or established mode, to govern by or subject to certain rules or restrictions. To regulate a machine is to adjust the governor so as to restrict or confine its movements, to increase or lessen the power as occasion demands. To regulate a clock or a watch is to restrict its movements by a pendulum or compensating spring. Our forefathers in making our great Constitution used the word "regulate" in its ordinary use. They never intended to surrender the right of protecting their descendants from the greatest evil known to man. They pledged their fortunes as well as their sacred honor to guard the happiness of the people and not the interests of the saloon and the stillhouse and the lawbreaker. Our forefathers, who made our great Constitution, were great scholars and used words with great accuracy. They used "regulate," in my humble opinion, to mean that the power to restrict interstate commerce was in their hands to be used as the needs of the people required.

You, yourselves, Senators, gave that interpretation to the word when you prohibited the consignment of liquor to the Indian tribes. Later, when the Indian Territory became a part of the sovereign State of Oklahoma, the Supreme Court of the United States decreed that under your law consignments of liquor could not be transported to that part of Oklahoma which was formerly the Indian Territory. Have not we in Tennessee, in our father's house, a right to expect that you do as well for us and our children as you do for others? We simply ask for equal justice. We do not ask you to even help us execute our anti-liquor laws or delegate to us any power we do not possess. We simply ask you "to deprive liquors intended for unlawful purposes of interstate-commerce character, and let us deal with such imported liquors as we would with liquors of domestic production intended for the same unlawful purposes."

Your laws regulate nitroglycerine and its products. That means they restrict—they prescribe conditions. They prohibit entirely from the whole Union absinthe simply because it intoxicates, but another intoxicant is said to have the right of way even over the sovereign power of States and the Nation itself. I have been myself denied by quarantine the privilege of crossing into my own State to my own home because I did not have with me a health certificate, and I had not been in contact with any contagion. Cattle, sheep, horses, hogs, and plants of every description are stopped, regardless of loss to the owners, because of anticipated disease. To regulate, then, is evidently to restrict. It seems that the only commodity known to man that can not be restricted is intoxicating liquors. If disease of animals and plants constitutes the difference, intoxicating liquors are responsible for more diseases of the body than all other causes combined and in addition they send great multitudes to the madhouse, to suicides' graves; they destroy the will power, which alone constitutes true manhood. They undermine love and destroy homes. This great destroyer, the greatest evil known to man, seems to be in the estimation of great lawyers the only disease-breeding commodity that can have no restriction put upon it.

They had trouble in ancient times to regulate this same commodity, personified into Bacchus with such unusual power that he overcame all restraints by changing men that stood in his way into fowls, fish, or animals, according to his whim. Modern sovereignty, it seems to me, works the same trick by changing the meaning of very simple words. Even statesmen and chemists of the United States can't tell what whisky is. In my boyhood whisky had no restriction upon it whatever. It was sold at 10 cents a gallon anywhere—on the public highway, at camp meetings—and any illiterate plowboy could tell what whiskey was. Now that whisky is so disguised with Indian hemp, buckeye, mountain ivy, poison oak, sulphuric acid, chloral, and other poisons, I don't wonder that its definition involves problems too complex for great statesmen and chemists.

While our temperance laws in Tennessee are reasonably enforced in at least 80 per cent of the population and 95 per cent of the area, we are greatly hampered by the action of the Federal Government in protecting under the interstate-commerce law the shipment of liquor. We do not ask the Government to assist us in the enforcement of our temperance laws, but we do ask that when the liquor crosses the State line, that it shall become subject to the laws of our own Commonwealth. We do ask that you leave in our hands consignments of liquor after they come within our boundaries. The State of Tennessee has long passed her majority and is clothed and in her right mind. She thinks she, on the ground, knows her people after more than a century of acquaintance better than the General Government can know them, and asks that her discretion on this great question be supreme. She will be wise in the use of this discretion. She can discriminate between a proper consignment and one that is designed for a lawless purpose.

Mr. President, it is wrong for this great Government, the strongest in the world, to force this Pandora's box on our people.

Tennessee's yeomanry in the days of the Revolution, at King's Mountain, living on parched corn, turned the tide of disaster and made this great Government a possibility. Our incomparable Andrew Jackson, with a Tennessee army at New Orleans in the War of 1812, won imperishable glory for this Nation. In the Civil War, Tennessee furnished a great army on the side of the Union. The Republican Party of our State, largely composed of old Federal soldiers and their descendants, have united hands and hearts with the old Confederate veterans and their descendants, who constitute the very backbone of democracy, in support of this bill, and ask you simply to withdraw your protection from interstate consignments of liquor. We simply ask you not to give your protection to that lawless gang who, armed with your license, nullify the laws of the great State of Tennessee. Andrew Jackson, of Tennessee, twice President of the United States, has some reputation on nullification. When he was your Executive, he did not allow your laws to be nullified. We ask you to-day to pass this Kenyon-Sheppard bill that you, the Senators of the United States may not by your votes nullify the laws of the great Commonwealth of Tennessee, the home of Andrew Jackson.

In reaching the conclusion that it was easier for people to do right without than with saloons Tennesseeans were following illustrious precedents. Many States of this great country preceded them in adopting this policy. North Carolina, her mother, had set the example. Tennesseeans, proud of their ancestry, love to follow where her mother leads.

This body of Senators, the greatest lawgivers in history, with the cooperation of the other House, preceded us. Every refreshment known to man, except intoxicating beverages, can be purchased in this Capitol. You said to the civilized world, by excluding liquor from the Capitol of this great country, it is easier to be efficient legislators without than with intoxicating liquors easily accessible to you.

If you Senators can do your work better without an easily accessible drink stand, how about indiscreet youth and the great masses of the plain laborers of our country? Tennessee congratulates you on this right course in this Capitol and would not force upon you a different policy if she could. Is it not in good form in this Chamber to quote from Him who is the truth, the life, the way of nations as well as individuals, from Him who is the author of all good, and whose precepts lie at the very foundation of all progressive civilization, on whose birth history pivots itself, "Do unto others as ye would that others do unto you"? If mankind could only even approach this ideal, it would solve the most complex problems of modern civilization, both national and individual.

Do not protect by your law of interstate commerce those who violate our laws. It is wrong to force this upon us. We are following your illustrious example, Senators. You taught us the way to make it easier to do right. It is wrong to thrust us back when we are simply walking in your footsteps. To give our State control of consignments of liquor when they cross the State line to within our jurisdiction is no precedent for other consignments of other commodities. You yourselves have set the example of making liquor different from other commodities. You have excluded liquor, and liquor alone, from this great Capitol. This in your estimation set it apart as different from other commodities. Your method of taxation has set it apart as different from all other commodities. The producer of liquor is not permitted by law to control or even have access to his own product except in the presence of your officers. No other product of man has such a brand of distrust upon it and its producer. It is a positive wrong and a positive discourtesy for you by your licenses and your protection of liquor to nullify our laws by your method of regulating interstate commerce.

Your quarantine stations in protecting the people against contagious diseases confine the citizens themselves regardless of their convenience, liberties, or comfort, and exclude them from access to their own homes and loved ones to prevent disease. You are right in this. Liquor kills more people than all wars and pestilences and famines and earthquakes combined. Yet this commodity, more deadly than all diseases combined, has right of way into the heart of a sovereign State in spite of the wishes of its people.

I am greatly gratified to-day that I stand on State rights with the Senators of Kansas. Kansas has made a heroic fight against the greatest evil known to man. Her leadership thrills my soul. I am proud to follow on this, the greatest problem of civilization, where Kansas leads. I have not always stood with Kansas on State rights. I bear on my body scars, but none on my heart, because 50 years ago I differed with Kansas on this great question. It is a happy omen that the bill bears the joint names of Senator KENYON, of Iowa, and Senator SHEPPARD, of Texas—North and South standing together for State rights.

My widowed mother, in sight of the smoke of distilleries, told me on her knee that it was wrong to make and sell liquor. I never went to a teacher from infancy to my graduation in a university who did not teach me it was wrong to handle, touch, or taste liquor. As a soldier boy in my teens I heard the general order of Gen. Robert E. Lee read at dress parade that liquor brought to his army should be in sealed packages, put in charge of the surgeons, and that the seal should not be broken till the wounded were actually on hand. It was a sober army that made him the most famous commander in history and put his statue in Statuary Hall by the side of the Father of His Country. My Father in heaven was good to me to give me such a mother and such teachers and such a commander. I reverence their memory.

I have tried as a father, as a grandfather, as a teacher, as a citizen to transmit this great lesson to those who are to come after me. I am glad to-day, as a Senator of the United States, that I have an opportunity to make a record on this, the greatest problem before the civilized world. I am not a lawyer; I can not meet the legal arguments of those learned lawyers on the other side. I have the greatest respect for their learning and ability; I covet to-day their equipment. I can say, and I do say, that if the Constitution of the United States stands in

the way of this great reform the Constitution ought to be changed.

Pardon me for a personal allusion. I have spent more than 60 years in a boarding school for boys. No man can tell what a little carrot-haired, hatchet-heeled boy will develop into. In my boyhood at the Bingham School at the Oaks, in a remote part of Orange County, N. C., my roommate, a 12-year-old lad, later became the governor of his State. A college friend, Walter Clarke, has been for many years and is now chief justice of North Carolina. God has allowed me to live to see my own little student boys develop into such a splendid manhood as to worthily occupy seats in this Chamber and in the House of Representatives at the other end of this Capitol. Senator Edward Ward Carmack, a former pupil, was an honor to the Senate of the United States. He was a genius and a statesman and a martyr to the cause I represent.

I have seen others of these little boys later on the supreme bench of their State, and many of them learned judges of other courts. I have seen them wearing Episcopal robes and filling great metropolitan pulpits. I have seen them great authors, presidents, deans and professors in great colleges and universities and the headmasters of great schools. I have seen them great lawyers, great surgeons and physicans, great soldiers and manufacturers, and farmers. I have seen many of them in business become millionaires.

To see these boys make this splendid development is the loveliest scene that God and angels look down upon. Such development makes happy fathers and makes a bird sing in mothers' hearts.

Oh! I wish I could be spared the contemplation of the other side that makes the devil and his emissaries rejoice and feel that they have come into possession of their very own. I have accompanied them to the madhouse for a living death while still in the flesh. I have accompanied them to suicides' graves, and seen them entangled in divorce suits—all love gone. I have seen them in dishonor in convict garb, their fathers ashamed and their mothers broken hearted, in each case a tragedy infinitely greater than the loss of the *Titanic*, that brought an investigation from this august body and also from the Parliament of England. Liquor did it every time. Having spent my life in the rural districts with the knee-breeches boys about me, I, like other men, dreamed dreams, but I never once dreamed that my name would ever be even considered for this great honor; but among those little boys the question of government may have been unique and not dignified enough to be even mentioned in this Chamber. But my conception of the proper function of government agrees with Gladstone, the prime minister of England and the greatest lawgiver of the last century, that government's proper function is to make it easier for people to do right. Tennessee, in three great contests, has said to you that it is easier for her people to do right without than with saloons. No intoxicating beverage can now be legally sold in Tennessee.

I am an optimist. The world is getting better every day. I saw in my boyhood liquor absolutely without restriction. It is now restricted in a thousand ways; I saw gambling untrammeled and indulged in everywhere, even on the public highway. It has been driven into guarded dens. I saw public betting on horse races—now a thing of the past. Lotteries in my boyhood used the mails. Their agents were everywhere. Dueling was common. A gentleman allowed himself to be punctured by bullets into a pepperbox to show that he was brave and a man of honor. Senators, America is aroused on the liquor question. Anglo-Saxons have won every reform that once caught the ear of the people. Liquor has got to go. God grant that I may help it go.

The world is stirred on this question. Children now live who will have to explain to their children what a saloon was, and why their ancestors tolerated such a deadly evil. But for the money invested in it it would already have been a thing of the past. Toleration of the saloon puts the dollar above the man.

Miss Frances E. Willard, the lovely and charming queen of womanhood, has the great honor of a statue in Statuary Hall in this Capitol. No honor has ever been bestowed more worthily. It was her work for temperance that made this bill a possibility. In her name and in the name of millions of charming white-ribboned women all over this great American Nation; in the name of the white-ribboned hosts of Tennessee, under the leadership of Mrs. Silena Holman, a mother and grandmother of a noble family, who for years, with womanly dignity and charm, has done more than anybody else in cultivating public sentiment in Tennessee in favor of lofty ideals of citizenship, and who, if usefulness to her people is the correct measure of statesmanship, is Tennessee's greatest statesman; in the name of all the fathers and grandfathers and mothers and grandmothers of this great Nation, who wish a clean environment in which to rear their offspring, in whom they have invested their very lives; in the name of all the schoolmasters of America, whose greatest ambition in life is to train a citizenship worthy of this the greatest Nation in history; in the name of all the Christian churches of America, who labor and sacrifice that all the people may have a right attitude to God and to man; in the name of all the boys and girls on whose ideals formed in youth and not on material prosperity, which you have so nobly fostered, the future glory and usefulness of this great Nation depends; in the name of our Father in Heaven, who said that righteousness and not material prosperity exalteth a nation.

When we come to you asking for a fish, do not give us a serpent that stings, that mars, that destroys, whose coil is in the stillhouse. [Applause in the galleries.]

The PRESIDENT pro tempore. If applause in the galleries be repeated the Chair will certainly direct the Sergeant at Arms to clear the galleries. The Chair hopes that the occupants of the galleries will consider that this notice is given in the utmost good faith and sincerity, and that this offense against the rules of the Senate will not be repeated.

Mr. GALLINGER. Mr. President, after listening to the eloquent speech of a new Senator I am moved to make a request, which is that by unanimous consent the rules of the Senate be so far suspended that the Senate may substitute for consideration the bill on the same subject passed by the House of Representatives for the bill now under consideration.

Mr. MARTINE of New Jersey. I object.

The PRESIDENT pro tempore. The Senator from New Jersey objects.

Mr. ROOT. Mr. President, I have been urged by a great many people, whom I respect very much, to vote for this bill. I can not vote for it, however, because I have come to a perfectly clear and definite conclusion in my own mind that the bill is not within the constitutional power of Congress, and with that opinion I can not with self-respect vote for the bill; I can not vote for it consistently with the obligation that I have taken to maintain the Constitution.

Nowadays, sir, when I say that a measure which is popular and which many of our citizens desire is unconstitutional I feel as if I were doing an injury to an old friend and subjecting that friend to obloquy, to censure, and to possible disaster; but, sir, it is only by observance of the rules of the Constitution that we can maintain the government of law as against that government of men which means the destruction of individual liberty. The maintenance of the government of law, the observance of declared principles and rules of action, is far more important than the fate of any bill regarding any specific subject that can be submitted to Congress; and, sir, I can not reconcile it with my idea of what is wise for the country and what is right for a representative in the Senate to cast a vote for a measure which seems to me to be unconstitutional in order to throw upon the courts the burden of declaring it to be unconstitutional. I believe, sir, that the effect of passing this bill—and I understand that it probably will pass—will be that the courts of the United States will have to say that it is beyond the constitutional power of Congress. I think they will have to say that or stultify themselves, and when they say that they will concentrate upon themselves a measure of unpopularity, of public censure, and of public impatience with the judicial establishment which we will have shifted from our shoulders when we vote for the bill believing it to be unconstitutional. I think I shall be the better satisfied to take that burden on my own shoulders, and therefore I shall vote against the bill, because I think it is not permitted by the Constitution.

The bill has two sections. The last one is a simple and direct section which provides that all intoxicating liquors upon arriving within the boundaries of a State shall be subject to the police laws of the State. I think the friends of the bill have practically conceded that that is not constitutional. I think they are right. I do not see how they can avoid that conclusion. Still, in my judgment, it is much the least objectionable of the two sections of the bill.

The other section provides that the shipment or transportation in any manner or by any means of any intoxicating liquor into any State, whether from a foreign country or from any other State, is prohibited if the intoxicating liquor—

> is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, * * * enacted in the exercise of the police powers of such State—

And so on.

Mr. President, that provision seems to me to be open to a number of objections, which I shall proceed to state.

In the first place, it undertakes to charge the citizens of every State and the citizens of all foreign countries engaged in commerce with the United States with a knowledge of all the laws of every other State. I doubt whether we can, by law, charge a citizen of the State of Louisiana with knowledge of the laws of the State of New York. If the effect is not, as a matter of law, to charge that knowledge upon the citizens of each State, then it is to require what is impossible, that the citizens of each State shall become familiar with all the laws and all the facts upon which laws operate and receive effect in all the other States. If they do not know all the laws and do not know all the facts upon which those laws operate, such as the issue of licenses, the fulfillment of conditions, and so on, then they are penalized for their ignorance by having their contracts prohibited.

In the second place, the provision undertakes to invalidate the contracts of the people of each State by reason of the intention of some one else in regard to future conduct under the laws of other States. The laws of a given State require a common carrier to accept and carry an invoice of goods. The contract is obligatory. The contract is made. But under this provision, if it is effective at all, the contract is invalidated because some one besides the carrier, and it may be some one besides the shipper, has an undisclosed intention to violate, after the transaction of transportation is over, an unknown law in a different State. I do not think it is competent for us to invalidate contracts in that way.

I can not quite agree with the proposition that this law means nothing because it carries no penalty. I think the law, if it be effective, makes contracts made under it invalid and unenforceable. That is the general rule of law—that a contract made in violation of law is an illegal contract, an invalid contract, outlawed, and incapable of compulsion or of being made the basis of remedy in the courts. That rule of law is maintained as strictly and as clearly by the Supreme Court of the United States as it is in any jurisdiction.

A third objection to this provision is that it is simply and plainly a surrender on the part of the General Government of the power of regulating this interstate commerce and a delegation of that power to the government of the State in which the transaction ends.

The Supreme Court has described the origin and the operation of this rule by which the Government of the United States is to regulate interstate commerce as being a regulation by the Federal Government of a transaction which can not be regulated by the States because the transaction is in part within the jurisdiction of one State and in part within the jurisdiction of another State; and this rule, around which our Union has been built up, was established to prevent the conflict of rules in the State where the transaction begins with rules in the State where the transaction ends.

Sir, I say that the provisions of this first section abandon that rule and vest in the State in which the transaction is to end the power to regulate and control the transaction. It is not letting go of the transaction and leaving it subject to the police power of the State. It is letting go of the regulation of that commerce and putting it in the hands of the government of the State where the transaction ends.

There would be a different situation, sir, if we were undertaking to legislate about a known law of a State; if we were undertaking to say that goods transported into the State of Michigan in violation of a certain named law of Michigan should be subject to the penalties of that law. That is not what we do here, however. We make all transportation of this article of commerce subject to whatever laws may be hereafter passed by any State. And what is that, sir? Some States undertake to regulate the traffic in liquors by means of high licenses and make it illegal to sell without a license. Some undertake to regulate it by local option and make it legal to sell in one place and illegal to sell in another. Some prescribe the purposes for which the sale may be made and prescribe conditions of receiving certificates or evidences of authority to sell or to buy for the particular purposes. There is a great variety of provisions declaring when and how and under what circumstances and upon what conditions this traffic, the possession, the transportation, the sale, and the use of these articles shall be lawful.

The effect of this provision, if it takes effect at all, is that each State shall be empowered to say when and how and under what circumstances and upon what conditions this liquor may be transported into the territory of the State. The States can do that, because they can say that under any other conditions it shall be unlawful. Under this, sir, a State may by law permit the manufacture of distilled spirits within its territory and by law make it unlawful to have in possession distilled spirits manufactured out of its territory. There is no limit upon the regulation by every State of this kind of interstate traffic under the authority conferred by this bill. It is not giving up the regulation and allowing police law to take its place. It is handing over the power of regulation to the State into which the transportation goes.

Mr. President, one great trouble about this whole subject is that the States themselves have been unwilling to outlaw these commodities. We should have a much simpler situation if there were a State which made it unlawful to manufacture or sell or have in possession or use intoxicating liquors. That State, so far as it was within its power, would have declared that intoxicating liquors were not the subject of commerce. But so long as a State permits them to be manufactured in some way and in some places, to be sold in some way and in some places, to be held in possession for some purposes, to be used for some purposes, so long it still regards these commodities as the subjects of commerce.

What is proposed in this bill is that the Government of the United States shall hand over to the government of each State the right to say how and when and under what conditions interstate commerce in these articles of commerce, so treated and regarded by all the States, shall be had.

There is another objection, sir. That is, that this bill does not merely hand over to the State which is the terminus ad quem of this transportation the power to regulate interstate commerce within its borders, but it undertakes by Federal law to enforce in each State the laws of the other States. I beg Senators to observe the real significance of that. Let us say that the State of Iowa, which has stringent laws, is empowered by this statute, if it is passed, to declare the circumstances under which beer may be imported from St. Louis, in the State of Missouri. If the beer is carried in in accordance with the laws of the State of Iowa, it is a good transaction. If it is carried in in violation of those laws, with intent to sell without a license, with intent to sell in a "dry" town rather than a "wet" town, with intent to sell for one purpose rather than another, then it is a bad transaction, and the contract made in the State of Missouri is a void contract, made void by the law of Iowa.

So, sir, we are not merely delegating to the legislature of a State the power to regulate interstate commerce within its borders, which the Constitution prohibits to the legislatures of the States and vests in Congress, we are not merely abdicating our authority and refusing the performance of our duty to say when and how and in what manner this thing shall be done, but we are undertaking by Federal law to enforce in the State of Missouri the laws of the State of Iowa, by putting upon those laws, whatever they may be, whenever they may be enacted, the imprimatur of Federal authority, and we are stretching out the arm of Federal power over the State of Missouri, to say that no matter what laws she may make, if they are in contradiction of the laws of the State of Iowa, they are void and ineffective.

Sir, I should be very glad if there were some way in accordance with the Constitution in which we could help stop this traffic. Public opinion upon the subject has grown very rapidly within recent years. The time may come, and I shall be glad to see it, when the people of the United States will be ready to act as a whole in the suppression of this traffic. But until they are ready, until this process of education and enlightenment which has been going on in these past years in regard to this kind of traffic has come to the point where the people of the United States, whom we represent and who made the Constitution that governs us, are ready to act as a whole, we are bound to maintain the provisions of that Constitution and to perform the duties it has imposed upon us; and the people of every State are bound, in loyalty to their country, to do the best they can to enforce their own laws in subordination to the directions of that Constitution.

If I may say one thing more, sir, the real trouble in the enforcement of these laws comes from the fact that they do not prohibit this traffic. If they did, it would be easy to enforce them. It is because they make discriminations and allow the traffic to be legal here though illegal there, to be legal in this way though illegal in that way, to be legal upon one condition though illegal upon another, because when a man has liquor in his possession he is entitled to the presumption under the laws of the State that he is going to use it lawfully, that it is so difficult to enforce these laws. Instead of impressing the prohibition upon the traffic in general, everywhere and under all circumstances in the State, they are seeking to transfer the difficulty of making the discrimination and of enforcing discriminating and partial laws from the officers within the State to the people of other States through the prohibition of our statutes.

Mr. STONE obtained the floor.

Mr. BORAH. I should like to ask the Senator from New York a question before he sits down.

The PRESIDENT pro tempore. Does the Senator from Missouri yield for that purpose?

Mr. STONE. I do; for that purpose.

Mr. BORAH. I wanted to have the opinion of the Senator from New York as to whether or not it is within the power of Congress, should Congress see fit to do it, to absolutely prohibit the shipment of liquor in interstate commerce?

Mr. ROOT. Mr. President, my impression is that it is within that power; but, of course, it is a subject which is not up for discussion, and upon which examination might well change my views. I have not examined the subject. It is but the general impression that a lawyer carries on a subject that he has not examined with special reference to the particular question. My impression is that it would be competent for the United States to do that thing.

Mr. BORAH. Just one more question. If it is within the power of Congress to absolutely prohibit the shipment of liquor in interstate commerce, is it not also within the power of Congress to prohibit the shipment of any part of that commodity which it may designate as a particular class?

Mr. ROOT. Not necessarily, Mr. President.

Mr. BORAH. Does not the whole include the part?

Mr. ROOT. Oh, yes; but the reason why I think Congress could prohibit the traffic in alcoholic spirits is the injurious effect upon the people of the country, the same reason that operates upon the States in enacting their prohibition laws; and that reason is a reason that must be followed. You can not say that Distiller A may have his product treated as part of interstate commerce and Distiller B may not have his product treated as part of interstate commerce. You must follow the reason; and you can not hand over to the legislature of a State the power to say what part may be admitted to interstate commerce and what part may be excluded.

Mr. BORAH. I agree with that proposition; but those of us who believe that Congress is not handing it over to the State, who believe that Congress has identified a particular class of that commerce and is itself excluding it from commerce, have no trouble in arriving at the conclusion that if you may exclude the whole you may exclude a part of the whole.

For instance, if the Senator from Missouri will yield just a moment further, in Kentucky a law was passed "to regulate the carrying, moving, delivering, transferring, or distribution of intoxicating liquors in local-option districts." That law prohibited its transportation entirely. The Supreme Court said:

> Valid as the Kentucky legislation undoubtedly was as a regulation in respect to intrastate shipments of such articles, it was most obviously never an effective enactment in so far as it undertook to regulate interstate shipments to dry points.

If a State may absolutely prohibit the shipment of all liquor and all commerce in liquor, may not the Congress of the United States, having the same power with reference to interstate commerce, its power being equally plenary, prohibit the shipment of all liquor in interstate commerce? Has the State any power over liquor in intrastate shipment that Congress has not over interstate liquor?

Mr. ROOT. I think it may. Yes; I think it may. I have already answered the question of the Senator. I have said that it is my impression that the Government of the United States would have the power to exclude all intoxicating liquors from interstate commerce. I do not think, however, that it can exclude intoxicating liquors from interstate commerce between two particular States. I do not think it can say that the State of Idaho can exclude intoxicating liquors from interstate commerce between Idaho and another State. I think Congress itself must make the rule. The question whether the United States can exclude all intoxicating liquors from interstate commerce must depend upon the question whether intoxicating liquors are to be classified with flour, vegetables, wheat, the things which are necessary or useful to life, or whether they can be classified among the substances that are so injurious that they can be treated like putrid meat, injurious to health or dangerous to life.

If they are to be classified on that side, then they must be excluded, but they must be all excluded. You can not take a halfway step. You must declare them to be injurious to health and dangerous to life, or that in substance, so that they will be excluded as a whole. You can not exclude half and let in another half, because then you lose the reason in which you are justified in any exclusion.

Mr. BORAH. I will not delay the Senator from Missouri further.

Mr. STONE. Mr. President, I want about 15 minutes of the time of the Senate to say what I have to say respecting the pending bill. I do not wish to occupy more time than that, because I doubt whether it is in the best good taste, under the circumstances, on an occasion like this, when only three or four hours are provided for under the order of the Senate for any Senator to occupy a half or a third of that time. I believe other Senators should be given a chance briefly to state their views and to offer amendments and have them considered. I think it is a practice much abused for Senators, when an order such as this is made, with only a short period for them to speak, to defer their opportunity, which might have been taken advantage of on almost any day of many days previously, and to exploit their views at great length when the order is operating. I shall take but a few moments of the time of the Senate, out of deference to this view which I have expressed.

Mr. President, whenever a State determines to deal in a restrictive way with what is called the "liquor traffic" there are ordinarily two principal ways of treating the subject. One of these ways is to prohibit the manufacture and sale of intoxicating liquors in the State as a whole, or it may be to authorize municipalities within the State, such as counties or cities, to prohibit the sale of liquors within municipal limits whenever the people of any such municipality shall, in accordance with law, determine upon that policy; this latter plan is commonly known as "local option."

The other usual way of dealing with this question is to regulate the traffic by statute instead of prohibiting it. Ordinarily when this plan is resorted to the statute provides for licensing those who engage as retailers in the business, prescribing the form of the licenses and the terms upon which they may be allowed, and fixing penalties for violations of the law.

Generally speaking, I have always believed that the liquor traffic could be best controlled and the best results obtained, especially in populous centers, by imposing license taxes upon those authorized to engage in the business, and to subject the business to statutory and police regulations. I have in my State always and consistently opposed the policy of State-wide prohibition, believing that it would be practically impossible to effectively enforce a prohibitory law in communities, especially in large communities, when in fact the dominant, all-prevailing sentiment was hostile to that policy. I have always believed that any attempt to force a policy of that kind on an unwilling people would be received sullenly and resentfully, and that it would lead to constant violations of the law, either covertly or openly. I have felt that such a situation was calculated to bring disrespect of law and public authority, and that it would lead to more or less public disorder. Hence, I say, I have always maintained, and still believe, that State-wide prohibition, especially in populous States like Missouri, would not be a wise policy for the State to adopt—less wise and less effective than a well-ordered regulatory system. At the same time I have for years consistently supported the policy of so-called local option—that is, the right of each local community or municipality to choose for itself whether it would have prohibition or a regulated licensed system within its borders. I have felt that the policy to be established in each municipal community, whether the one policy or the other, should be buttressed alone upon the expressed will and well-considered public sentiment of the community immediately affected, and not upon the will or public opinion of some other community. I have seen nothing in the course of my observation and experience to shake my faith in the soundness of these views.

In 1910, about three years ago, a constitutional amendment was pending before the voters of my State establishing absolute prohibition as the policy of the State, and State wide in its operation and effect. I opposed the adoption of that amendment. In published interviews and in public speeches I declared my belief that it would be unwise for more reasons than one to incorporate the proposed amendment in the constitution of the State. The amendment was defeated by a large majority. In my addresses to the people during that campaign I said, among other things, that I did not believe that the people residing in a so-called "dry" county should undertake, or be authorized by law to attempt, to impose their standard of morality or habit with respect to the use of wines and liquors upon the people of another county where a totally different public sentiment on that subject prevailed; and that equally would I suppose the right, or claim of right, of people residing in a so-called "wet" county imposing their standard upon the people of some other county having a totally different view and desiring a totally different policy. I contended that all this should be left to the people of each separate municipality, and that that would be infinitely better in every way than the plan proposed by the then pending constitutional amendment. During that campaign I conversed with scores of Missouri electors, living in dry counties, who told me that in the main

they concurred in my view of the subject. They said that in their own counties they were, for various reasons, strenuously opposed to licensing or authorizing by law the carrying on of a liquor-selling business, but that if the people in other counties or sections held a different view they were willing for that people to settle that question for themselves. Undoubtedly that was the attitude of large numbers of men who voted against the adoption of the constitutional amendment for State-wide prohibition.

Now, Mr. President, I am receiving numerous letters from gentlemen for whom I have high respect, scattered over my State, reminding me of the position I took in the prohibition campaign of 1910, and with which they sympathized, asking me whether under my view of this whole subject, as often expressed, I did not think that I ought to support the bill now before the Senate. Frankly, I think I ought to support it, and I intend to vote for it.

Under the law as it now stands a State has the power to regulate the liquor traffic when it is carried on wholly within the State. For example, a State can by law forbid the shipment of liquors intended for sale from a point within the State to another point within the State which would be within so-called "dry" territory, and the State can, within this limitation, prescribe such penalties and devise such remedies as may be deemed necessary to punish or prevent a violation of the law. The State can control the business as long as the business is confined wholly to the State. But under the Federal law a citizen of one State may ship liquors into another State, and the consignment can not be interfered with by State authority while in transit nor until it is actually delivered into the possession of the consignee at the point of destination, and this even though the point of destination may be within dry territory. In other words, the State could, if it desired, forbid a liquor merchant in St. Louis, Mo., shipping a package of intoxicating liquors intended for sale to a dry county in that State; but a citizen of East St. Louis, Ill., could ship the same consignment to the same person at the same place without incurring the penalties of the Missouri statute and without fear of having the cargo interrupted or interfered with until it had been actually delivered to the consignee.

This would give to the outside shipper an advantage over the inside shipper, and at the same time would put the people and authorities of the dry county at a disadvantage in dealing with the outside shipper that they would not be subject to in dealing with the inside shipper. It seems to me to be both fair and right that whenever the people of a county of my State, upon mature deliberation, adopt the policy of local option they are as much entitled to protection against men outside of Missouri who have no respect for the law or public policy governing the community, as they are entitled to be protected against men living within the State who might wantonly intrude themselves and trample the law under their feet.

I think Congress has the constitutional right to so amend laws governing interstate commerce as to put intoxicating liquors outside the pale of that protection now thrown about them by Federal law, and thus subject them, upon arrival, to the law of the State to which they are shipped for unlawful use. Aside from my conviction that Congress has this constitutional right, I feel that the moral strength of the argument is in favor of the enactment of such legislation.

The pending bill, if enacted, would not be a criminal statute; it would not create a crime nor prescribe a penalty. It would not even forbid a shipment from one State into another. It would in effect merely strip these particular commodities of their character as articles of interstate commerce, and thus withdraw from them the protection the Federal law now throws over them against the law and police regulations of the State. It would merely put the shipper outside of Missouri or Iowa or Arkansas upon a level, that is upon terms of equality, so far as State law and regulation go, with the shipper within the State. I confess I am unable to see that any essential principle of sound constitutional law or any just claim of public or private right would be violated by the enactment of a statute of this character.

Such a law would not be violative of the Federal Constitution, but it would better enable the State to enforce its own internal policy, and thus at the same time promote that comity that ought in such cases and within proper limits to prevail between the States and the General Government.

It is a settled doctrine now that each State, acting in its sovereign capacity, can, generally speaking, establish its own internal policy with respect to the manufacture and sale of intoxicants, and I can see no good reason, founded either in morals or public or private right, why the Federal Government should enact or perpetuate laws that militate against the assertion of the established public policy of the local sovereignty. With respect to prohibition I have never believed in the wisdom of a policy too extreme or drastic.

I have already said I have opposed State-wide prohibition in Missouri; but also I have favored local option. Mr. President, the liquor traffic has been brought into disrepute by abuse. Doggeries, joints, bootleggers—men who run their business without regard to public decency or public opinion—are the men who arouse, and justly arouse, a sentiment against the whole traffic that leads on to absolute prohibition. Men even of broad-minded and liberal views, who believe in the largest personal liberty consistent with public decency and order, halt when they see shameful things, and they will not tolerate situations that the moral sense of mankind condemn as bad and indefensible. Men engaged in the liquor traffic should themselves purge the business of disreputable establishments and practices, and should themselves have high regard for the law and public opinion. Otherwise they need not be surprised to see public sentiment against the business grow and spread in every direction. Personally I believe in the largest measure of liberty in personal habit and conduct consonant with public order; but that, Mr. President, is about the limit of personal liberty.

License to do something according to law does not confer liberty upon the licensee to do something else in violation of law. I am a strenuous advocate of personal liberty. I do not like the idea of any other man or set of men telling me what I shall drink or eat or wear or think. With respect to all these I not only prefer but I insist upon the right to follow my own judgment. This is fundamental. I resent any pretense of right put forward by any other man to regulate my personal habits so long as my habits are decent, orderly, and lawful. If one man does not desire wine at his table or to indulge in a social drink, that is his privilege. I would not dare to question the wisdom of what he does in this behalf for his own guidance. On the contrary, I would say he ought best to know his own limitations and what is good for himself; and in any event I would insist that he should be left free to determine all such questions for himself. But if another prefers to serve wine at his board or to indulge in a social libation, I am equally unwilling that any spirit or policy of intolerance should circumscribe his right.

Generally speaking, I believe in a broad view of this question, and in liberality of conduct and opinion with respect to it. Nevertheless the regulation of the liquor traffic is inevitable and necessary. How it shall be regulated is a question each State should determine for itself, and I think the Federal Government, instead of putting any serious obstacle in the way, should cooperate with the State in this behalf. With respect to this matter I have nothing to do with the local policy of other States; but with respect to Missouri, being long a citizen of that Commonwealth, I have not only an immediate interest in the subject but I have a right to express to my fellow citizens the opinions I hold as to what will best promote the general welfare of that great sovereignty. The people of Missouri may or may not follow my advice, and the people of your several States may or may not follow your advice, but when the people of our several States speak we should all of us accept the verdict. Salus populi suprema lex esto is the motto of my State.

Mr. President, with this I close what I have to say on this subject. In many of its aspects it is a most interesting subject of more or less wide import, and it would require more time than I have taken to elaborate it if I felt disposed to enter upon the discussion with the idea of amplifying it at length. However, I am satisfied to state within the briefest possible compass, as I have attempted to do, some of the reasons that influence my judgment and will determine my course in supporting this measure, and leave it at that.

Mr. GALLINGER obtained the floor.

Mr. SHEPPARD. Mr. President——

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Does the Senator from New Hampshire yield to the Senator from Texas?

Mr. GALLINGER. I yield to the Senator from Texas.

Mr. SHEPPARD. I want to renew the request that the rules be so far suspended that House bill 17593 be substituted for the pending bill.

Mr. MARTINE of New Jersey. I object.

The PRESIDING OFFICER. Objection is made.

Mr. GALLINGER. Mr. President, the State that I in part represent had on its statute books for a great many years a prohibition law, but, through the influence and active work of the liquor interests of New Hampshire, that law was repealed a few years ago, and a local-option law took its place. Under that local-option law it was a question for the people of the several cities and towns to determine for themselves by a vote

at stated times whether or not liquor should be permitted under license to be sold in those municipalities. A very large proportion of the State voted against licensing the traffic, when immediately the cities and towns that voted in favor of license flooded the nonlicense towns with liquor to an extent that became a scandal. The result was that the New Hampshire Legislature, at its earliest opportunity, passed a law preventing the sending of liquor into those no-license communities.

The action of New Hampshire in that particular is very similar to what is proposed in this bill; that is to say, this bill proposes that the States that prohibit the selling of liquor shall not be invaded by the States that do not prohibit it and which, for gain, send liquor into prohibition territory.

Mr. President, I am not even going to suggest whether or not this bill is constitutional, because I am not a constitutional lawyer; but a very distinguished member of the legal profession has made a suggestion to me that impressed me, and I want to put it in the form of an interrogatory to the Senator from Utah [Mr. SUTHERLAND], who is recognized as one of the best lawyers in this body. It is this: Is it not a fact that the power of Congress to regulate interstate commerce carries with it the power to define what shall constitute an interstate transaction and at what point the transaction ceases to be interstate? I ask that question.

Mr. SUTHERLAND. No, Mr. President; as the question is put, I will say not. Will the Senator let me have the paper from which he is reading?

Mr. GALLINGER. Certainly.

Mr. SUTHERLAND. The latter part of the question is "at what point the transaction ceases to be interstate"? Congress can not declare a thing to be not interstate which is interstate any more than it can declare that a white man is a black man.

Mr. GALLINGER. The question refers to interstate commerce. The word "commerce" was left out.

Mr. SUTHERLAND. Well, "interstate commerce." It amounts to the same thing.

Mr. GALLINGER. Will the Senator answer directly the question? That is all I desire the Senator to do. I will read the question again:

Is it not a fact that the power of Congress to regulate interstate commerce carries with it the power to define what shall constitute an interstate transaction and at what point the transaction ceases to be interstate commerce?

Mr. SUTHERLAND. Within limits, perhaps, yes, Mr. President; but if I were to give a categorical answer to the question I should say no, because what constitutes an interstate transaction is to be determined by the nature of the transaction itself. As I have already said, Congress can not say that a white man is a black man, when he obviously is not; and interstate transportation, of its own nature, begins when the article is delivered to the carrier and ends when the carrier has delivered it to the consignee.

Mr. GALLINGER. Well, Mr. President, I think the Senator from Utah will be somewhat troubled to sustain that position in view of our legislation in the pure-food law. I called the Senator's attention a little while ago to the fact that, under the pure-food law, we did prohibit interstate commerce in certain articles, and the Senator said, "Yes; impure articles," and cited tainted meats as an illustration, but the law goes much further than that, and I want to read one section of it:

SEC. 10. That any article of food, drug, or liquor that is adulterated or misbranded within the meaning of this act, and is being transported from one State, Territory, District, or insular possession to another for sale, or, having been transported, remains unloaded, unsold, or in original unbroken packages, or if it be sold or offered for sale in the District of Columbia or the Territories, or insular possessions of the United States, or if it be imported from a foreign country for sale, or if it is intended for export to a foreign country, shall be liable to be proceeded against in any district court of the United States within the district where the same is found, and seized for confiscation by a process of libel for condemnation. And if such article is condemned as being adulterated or misbranded, or of a poisonous or deleterious character, within the meaning of this act, the same shall be disposed of by destruction or sale, as the said court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States.

Mr. President, that applies to drugs which are defined to be below the standard as established by the Pharmacopœia of the United States and other well-known medical publications; it applies to the misbranding or the adulteration of certain articles, so that we halt those under the pure-food law, confiscate them, condemn them, and sell them. Now, I want to ask the Senator if that section does not contravene the claim that the moment an article enters into interstate commerce it can not be arrested and disposed of according to the law of the State, thus balking interstate commerce to that extent?

Mr. SUTHERLAND. Mr. President, I have made no such claim and no such suggestion. What I have said is that we, under the same law, might stop the transportation of intoxicating liquors if they are misbranded or if they are impure; but it is based upon the proposition that they are impure and upon the proposition that they are misbranded, as the law says, and when they are misbranded that constitutes an attempt to perpetrate a fraud upon the people to whom they are to be transported; and the courts have recognized that distinction.

Mr. GALLINGER. Mr. President——

Mr. POINDEXTER. I should like to ask the Senator from Utah merely one question.

Mr. GALLINGER. I have but a few moments' time, but I yield for a question.

Mr. POINDEXTER. I understand the Senator from Utah—I am not personally clear as to the position he takes in that regard—to contend that Congress would not have the power to prohibit interstate shipments of intoxicating liquors unless they were misbranded.

Mr. SUTHERLAND. No. Mr. President——

Mr. POINDEXTER. In other words, does the Senator contend that Congress has not the power to prohibit the shipping of intoxicating liquors simply as such?

Mr. SUTHERLAND. Mr. President, I undertook in the course of my remarks to state exactly what my position about that was. In the first place, I undertook to show that that question was not involved in this case. I further undertook to show that I had no doubt, whenever liquors should be substantially outlawed by the people of the United States, that Congress then could forbid their transportation; but I had some doubt as to the power until that had been done, and particularly so long as it continued by its other laws to recognize liquors as legitimate articles of commerce.

Mr. POINDEXTER. I think it is involved in the bill.

Mr. GALLINGER. Mr. President, I am to occupy but a few minutes, and I will hasten, so as to give way to other friends of the bill. I have no doubt in my own mind that Congress in its plenary power can declare intoxicating liquors detrimental to the public health and public morals and can keep that commodity out of interstate commerce for that reason.

The Senator from Utah, Mr. President, in his very eloquent address compared the Constitution to a flaming sword which turned in all directions to protect the tree of life. Mr. President, it seems to me we are invoking the Constitution of the United States to-day to perform the functions of a flaming sword turning in all directions to protect the most destructive, the most disastrous, and the most terrible curse of our age and civilization; and it is worth while for us to take a little risk about this matter; it is worth while for us, even though there is a difference of opinion as to the constitutionality of this proposed law, to test it in the courts, if necessary, so as to have the matter settled once and for all. If there is any ground for believing that the law is unconstitutional, the liquor interests of this country, who are strong, wealthy, resourceful, and arrogant, will see that it goes to the courts for determination. There is no doubt about that. They will see to it that the Constitution shall not be violated at their expense, and no effort on their part will be withheld to have this law declared unconstitutional; but if, perchance, Mr. President, it shall prove to be a constitutional law, I submit to the Senate and to the country that the work we shall do to-day in passing the bill will have been work well performed, and the Senate will deserve the gratitude and applause of such of our people as believe that the liquor interests ought to be restricted in every possible, legal, and constitutional manner.

I have asked twice to-day, Mr. President, to have the bill that passed the House of Representatives on Saturday last—a bill similar in its general terms to the bill under consideration—acted upon at the present time. Unfortunately, under the rules of the Senate, that can not be done to-day except by unanimous consent. The junior Senator from Texas [Mr. SHEPPARD] has made a similar request, and in each instance objection has been made. So there is nothing left for us to do to-day but to pass a Senate bill and submit that for the consideration and the judgment of the other House of Congress.

I am of opinion at the present moment that when the vote comes upon the bill which is now under consideration I shall offer the bill that has come from the House of Representatives as a substitute for the Senate bill. If I do so, I shall do it in the hope and the belief that it will more likely become a law than if we send the Senate bill to the House as a separate and independent measure, couched in different language from that which is employed in the House bill.

Mr. President, I do not know how far the Constitution of the United States may prevent the individual State from being protected from interstate business in the carriage of intoxicating liquors, but I want to make one suggestion, and then I am done.

Suppose 47 States of the American Union adopted prohibition laws and the great State of New York alone remained anti-prohibition. Is it conceivable that those 47 States would allow the State of New York to dot its valleys and its hills with breweries and distilleries and send broadcast into the 47 other States a commodity that had been outlawed by those 47 States? I apprehend that if that situation ever could be brought about the people of the United States would find a speedy way to protect themselves from the sale and use of intoxicating drinks that had been brought into their communities from the one State that had refused to adopt the laws that the 47 other States had enacted.

So I say to-day that if any State in the American Union, representing the majority sentiment of the people of that State, sees fit to legislate outlawing the liquor traffic, it has a right to demand that it be protected by the Constitution and the laws of the United States from having that law nullified by the interstate transportation of liquor from other States into that community; and I shall esteem it one of the special privileges that has come to me as a Member of this great body to vote to protect those communities against what I deem, and what they deem, to be a great wrong, against which they ought to be protected.

I trust and I believe, Mr. President, that this great body, always desirous of promoting the best interests of the people of our country, will to-day register its verdict in a manner that will be fully understood and that will not be liable to misinterpretation—a verdict in favor of restraining this disastrous and demoralizing traffic in intoxicants to the least possible limits.

I have reason to believe, and I rejoice in the fact, that the verdict of the Senate will be such as to bring joy and happiness to thousands and thousands of homes and to millions of people in all parts of our country, many of whom are to-day in trial, tribulation, and sorrow because of the evils and the disastrous results of the sale and use of intoxicating liquor.

Mr. BORAH. Mr. President, manifestly at this late hour it is impossible to discuss the bill before us at length. I am going, therefore, to confine myself to very general statements. While this is not a desirable way to discuss constitutional questions, I am compelled through want of time to do so.

My object in the first place was to discuss principally the second section of the bill. I do not believe the second section of the bill is constitutional. I believe it establishes a different rule and involves a different principle from that which is involved in the first section, and it was my purpose to state why I entertain that view. I shall not do so, however, in view of the fact that I understand the parties in charge of the bill are going to offer as a substitute for this bill the one that passed the house known as the Webb bill, and which is in effect the first section of this bill.

Assuming that probably the substitute will prevail, I am not going to take time to state why it seems to me the second section is inhibited by the provisions of the Constitution. I could not and shall not vote for this section in any event—entertaining the view which I do as to its unconstitutionality. But I want to say, while I am on my feet, just a word in regard to the first section, and why I think in a general way it is not subject to the inhibition of the Constitution. It may not be and perhaps it is not wholly free from doubt, but I think the doubt should be resolved in favor of the bill in view of the fact that it promotes wholesome legislation. In fact if it were not for certain decisions of the Supreme Court I might have arrived at a conclusion that it would also be unconstitutional. But in view of those decisions I feel constrained to resolve any doubt I entertain in favor of the bill.

This section provides:

That the shipment or transportation in any manner or by any means whatsoever of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, including beer, ale, or wine, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, enacted in the exercise of the police powers of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.

As I view it, Mr. President, Congress sees fit by this act to take a certain commodity, impressed with a certain quality or condition, and put it in a class by itself, and itself fix absolutely the rule for the carrying of that commodity or for its prohibition.

In my opinion, Congress has the power to say that no liquor shall be shipped or passed through the chanels of interstate trade if Congress sees fit to do so. I do not agree with the proposition that it is necessary to see how high public opinion shall rise in order that we may exercise that power or that our possession of it is dependent upon that fact.

I understood the Senator from Utah [Mr. SUTHERLAND] to say that if the time should come when the people almost universally came to the conclusion that this ought to be done, we would then have the power to prohibit the shipment of liquor in interstate trade. I do not think I am mistaken about what he said. In my opinion, that would have nothing to do with the power of Congress to pass the law; neither would it extend, amplify, or limit the provision of the Constitution itself. If we have the power under the Constitution it is because of the provisions of the Constitution and not because of public opinion.

If, for any reason, substantial and basic, Congress concludes that any article of commerce in its shipment through channels of interstate trade is inimical to the public interests, Congress may prohibit its shipment. If it is an article or commodity which can fairly be said to be injurious to public morals to the welfare of society, Congress may take it out of the channels of interstate trade. It occurs to me that that proposition has been pretty well settled; and instead of relying upon original argument, I want to cite, as I can only have time to cite, a few extracts from one opinion.

In the Lottery case it was said, referring to the decisions which were there reviewed:

They also show that the power to regulate commerce among the several States is vested in Congress as absolutely as it would be in a single government, having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States.

Further on they say:

If lottery traffic, carried on through interstate commerce, is a matter of which Congress may take cognizance and over which its power may be exerted, can it be possible that it must tolerate the traffic and simply regulate the manner in which it may be carried on? Or may not Congress, for the protection of the people of all the States and under the power to regulate interstate commerce, devise such means, within the scope of the Constitution and not prohibited by it, as will drive that traffic out of commerce among the States?

If Congress comes to the conclusion that the shipment of liquor in interstate commerce, to be used in violation of the laws of the State, is inimical to the morals and the interests of the people of the United States, may not Congress take that particular class of commodities and inhibit its transportation in interstate commerce? May not Congress take into consideration in establishing a rule that the commodity is on its errand of law violation? May not Congress say, and with substantial reason say, we think any commodity which is being used in violation of law ought not to pass through the channels of interstate trade? Congress does not have to say that, but in determining the immoral and injurious effect of shipping a commodity, may not Congress take into consideration in addition to the general baneful effect of liquor that this particular liquor is being taken through the channels of interstate trade for the purpose of violating the law of a State?

The court says, further:

If a State, when considering legislation for the suppression of lotteries within its own limits, may properly take into view the evils that inhere in the raising of money in that mode, why may not Congress, invested with the power to regulate commerce among the several States, provide that such commerce shall not be polluted by the carrying of lottery tickets from one State to another? In this connection it must not be forgotten that the power of Congress to regulate commerce among the States is plenary, is complete in itself, and is subject to no limitations except such as may be found in the Constitution. What provision in that instrument can be regarded as limiting the exercise of the power granted? What clause can be cited which, in any degree, countenances the suggestion that one may, of right, carry or cause to be carried from one State to another that which will harm the public morals?

What provision of the Constitution has been pointed out to us or what principle is found in that instrument which protects a man in or gives him the right to ship liquor into a State in violation of the laws of that State? What inherent right belongs to an individual to take an article of commerce and to send it in violation of law among a certain community or among a certain people? Is it unconstitutional for Congress to say that we believe it tends to good morals and the public welfare that the laws of the States be obeyed and we will not furnish aid in their violation?

We can not think of any clause of that instrument that could possibly be invoked by those who assert their right to send lottery tickets from State to State except the one providing that no person shall be deprived of his liberty without due process of law. We have said that

the liberty protected by the Constitution embraces the right to be free in the enjoyment of one's faculties, "to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation, and for that purpose to enter into all contracts that may be proper." But surely it will not be said to be a part of anyone's liberty, as recognized by the supreme law of the land, that he shall be allowed to introduce into commerce among the States an element that will be confessedly injurious to the public morals.

It was said by the Senator from New York, in distinguishing this proposition, that we could absolutely prohibit the shipment of liquor of all kinds; but it was his opinion, as I understood his argument, that we could not take a part of that commodity which was being shipped under certain conditions and for certain purposes and single it out.

Mr. President, we fix the rule in this act of Congress. Congress does not leave it to the Sates to fix the rule. Congress fixes the rule, and says that whenever liquor is being shipped in violation of the law of a State, it itself declares that it shall be prohibited. In other words, it establishes the rule, although the operation of the rule depends upon certain conditions. When those conditions exist, the rule operates and applies to all shipments coming within that rule. Congress itself, however, selects the condition which must exist, and Congress classifies the commodity and Congress itself establishes the rule.

As a State may, for the purpose of guarding the morals of its own people, forbid all sales of lottery tickets within its limits, so Congress, for the purpose of guarding the people of the United States against the "widespread pestilence of lotteries," and to protect the commerce which concerns all the States, may prohibit the carrying of lottery tickets from one State to another. In legislating upon the subject of the traffic in lottery tickets, as carried on through interstate commerce, Congress only supplemented the action of those States—perhaps all of them—which, for the protection of the public morals, prohibit the drawing of lotteries, as well as the sale or circulation of lottery tickets within their respective limits.

Congress was confessedly here, as stated by the learned justice, simply supplementing and making effective that which the States in their respective capacities had undertaken to do, but which they were unable to do. They could prohibit the shipping of lottery tickets within their own boundaries; they could drive them from commerce within the State; but they were unable to take them out of commerce as between the States. Therefore Congress proceeded to do that which the States could not do—supplement their action and make them contraband of commerce in the territory of the United States as an entirety.

May not we, therefore, in view of the way in which liquor is regarded, the evil consequences which flow from its use, the misery and crime which follow its consumption, take that article and prohibit it from interstate commerce, not only in its entirety, but to such an extent as in our judgment we think will promote the public morals?

In regulating commerce, are we limited to the exercise of this power in its fullest extent or not at all? If we may prohibit entirely, may we not prohibit partly? May we not exercise our judgment as to what will interfere with the morals of the people and what will not? It seems to me that having the power in its completeness, we may exercise it in its fullness, or we may limit our exercise.

It said, in effect, that it would not permit the declared policy of the States, which sought to protect their people against the mischiefs of the lottery business, to be overthrown or disregarded by the agency of interstate commerce. We should hesitate long before adjudging that an evil of such appalling character, carried on through interstate commerce, can not be met and crushed by the only power competent to that end.

And finally:

It is a kind of traffic which no one can be entitled to pursue as of right.

I undertake to say that it has been established too long in this country to be contradicted that the traffic in liquor is not one that a man can have as a matter of absolute right. From the time the article "issues from the coiled copper-colored worm in the distillery until it empties into the hell of death, dishonor, and crime" it is regulated and controlled. No man can deal in it as a matter of absolute right. He can do so only as either we, the Congress of the United States, when it is interstate commerce, or as the States, when it is intrastate commerce, say he may deal with it. He can not deal with it with unrestraint, he can not begin to deal with it other than as the public may by law decide is safe. It is looked upon as a baneful, injurious, exceptional commodity, and any man who sells must do so by permission. We may say that he may not send it through interstate commerce at all, or we may say he may send it upon certain terms or conditions, and it is not for the citizens to question the limitation which we put upon that act, which he has no right, except by our consent, to do at all.

Mr. KENYON. Mr. President, a bill was passed in the House known as the Webb bill. An attempt has been made to substitute that bill to-day for what is commonly known as the Kenyon-Sheppard bill. That has not been successful, but a motion will be made by the Senator from New Hampshire [Mr. GALLINGER] to strike out all after the enacting clause and insert in lieu thereof the words of the Webb bill. I very much hope that that motion may prevail.

The PRESIDENT pro tempore. The hour of 6 o'clock having arrived, under the unanimous-consent agreement the time has arrived for voting upon the bill and amendments which may be offered thereto.

Mr. GALLINGER. Mr. President, I move to strike out all after the enacting clause and to substitute House bill 17593.

Mr. PAYNTER. Mr. President——

The PRESIDENT pro tempore. The Senator from New Hampshire moves to strike out all after the enacting clause and insert what will be read.

Mr. PAYNTER. May I rise to a point of order?

The PRESIDENT pro tempore. The Senator may, of course.

Mr. PAYNTER. I would like very much to have the Chair direct that the order under which we are proceeding shall be read and determine whether or not we have any right to take any action at all at this time.

The PRESIDENT pro tempore. The motion that is made is simply to amend the bill. It is not for the purpose of substituting the House bill.

Mr. PAYNTER. I understand that, but is it proper for me to make an inquiry of the Chair with reference to the effect of the order?

The PRESIDENT pro tempore. Undoubtedly.

Mr. PAYNTER. That is what I am doing. I call the attention of the Chair to the language of the order.

The PRESIDENT pro tempore. The Chair will have the order read.

Mr. PAYNTER. I do not urge my view about it at all. I simply want the Chair to express its opinion.

The PRESIDENT pro tempore. The Secretary will read the order.

The Secretary read as follows:

It is agreed by unanimous consent that on Monday, February 10, 1913, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases be taken up for consideration, not to interfere with appropriation bills, and that the vote be taken on all amendments pending and amendments to be offered and upon the bill itself not later than the hour of 6 o'clock on that day.

The PRESIDENT pro tempore. The bill before the Senate has an amendment which was reported by the Judiciary Committee. That is the pending amendment. The Senator from New Hampshire [Mr. GALLINGER] now offers a distinct amendment.

Mr. PAYNTER. I have not made myself understood, Mr. President. I was trying to ascertain from the Chair whether, when the rule provides that the bill and amendment shall be voted upon not later than 6 o'clock, we can proceed after that hour.

The PRESIDENT pro tempore. The Chair would undoubtedly construe the order to mean that the Senate shall begin to vote at 6 o'clock. It would be impracticable to do otherwise.

Mr. GALLINGER. Let my amendment be read.

The PRESIDENT pro tempore. The Senator from New Hampshire moves to strike out all after the enacting clause and to insert as a substitute the language which will now be read to the Senate by the Secretary.

The SECRETARY. It is proposed to strike out all after the enacting clause of the bill and to insert:

That the shipment or transportation, in any manner or by any means whatsoever, of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.

Mr. O'GORMAN. Mr. President, I offer an amendment to the amendment offered by the Senator from New Hampshire.

Mr. CLARKE of Arkansas. Mr. President, I make the point of order that no substitute provision can be entertained until the friends of the original bill have had an opportunity to perfect it. The amendment proposed by the Committee on the Judiciary, it seems to me, would be the pending amendment. For myself, I think that is the only constitutional and effective way to deal with this question. If I had supposed that any such movement as this would take place it would have been my duty, holding the views I do, to have submitted my reasons for believing that the amendment proposed by the Judiciary

Committee is the only effective way in which this great question can be dealt with.

I make the point of order now that we are entitled to a vote upon the proposition to amend the original bill before a counter proposition that goes to the life of it can be submitted to the Senate.

Mr. GALLINGER. Under our rules it is clearly in the province of the Senate to amend either the original bill or the substitute. They are to be considered as separate questions.

The PRESIDENT pro tempore. The Chair will state that the view taken by the Senator from Arkansas is correct and does not conflict with the view expressed by the Senator from New Hampshire. The Chair was going to submit to the Senate first amendments to the original proposition. It is proper, however, that the substitute and amendments thereto should be submitted to the Senate, but not voted upon until after the friends of the original measure have had an opportunity to perfect the same. After that has been done, the friends of the substitute will have a like opportunity to perfect that measure, and when each has been perfected by its friends the Senate will be in a position to judge and choose between the two. Upon that suggestion the Chair will state that the first question will be upon the amendment now pending, reported by the Judiciary Committee, to the original bill.

Mr. O'GORMAN. Let the amendment I offered to the amendment of the Senator from New Hampshire be read.

The PRESIDENT pro tempore. The Secretary will read the amendment which has been offered by the Senator from New York to the substitute.

The SECRETARY. It is proposed to add at the end of the amendment offered by the Senator from New Hampshire the following words:

But nothing in this act shall be construed to forbid the interstate shipment of liquors herein defined into any State, Territory, or District where the same are intended for sacramental purposes, or for the personal use of the owner or consignee thereof, or for the members of his family.

The PRESIDENT pro tempore. The question now is upon the amendment reported by the Judiciary Committee.

Mr. HITCHCOCK. I should like to inquire whether it would be proper at this time for me to offer an amendment to the bill, to follow the amendment of the committee.

The PRESIDENT pro tempore. It can now be received and read for information. If it were an amendment to that amendment, it would be now in order, but if it is a substantive amendment it will be voted upon afterwards.

Mr. HITCHCOCK. It is to be added to the amendment of the committee.

The PRESIDENT pro tempore. It will be in order after that amendment has been acted upon by the Senate. The Secretary will read the amendment reported by the Judiciary Committee.

The SECRETARY. The committee report, on page 2, line 12, after the word "prohibited," to strike out the semicolon and the remainder of the bill and to insert a new section, to be known as section 2, to read as follows:

SEC. 2. That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival within the boundaries of such State or Territory and before delivery to the consignee, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its reserved police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

The PRESIDENT pro tempore. The Chair will inquire of the Senator from Nebraska whether the amendment proposed by him proposes to change the amendment of the committee or is simply to add to it?

Mr. HITCHCOCK. It will be an addition to that paragraph, and it would somewhat change it. I think it is an amendment properly to it.

The PRESIDENT pro tempore. That being so, the Secretary will read that first.

The SECRETARY. It is proposed to add at the end of section 2 reported by the committee the following proviso:

Provided, however, That nothing in this act shall be held or construed to render illegal or subject to State control the interstate shipment of liquors or liquids above described into any State or Territory to an individual for his personal or family use.

Mr. McCUMBER. I do not know that I heard that distinctly and correctly. I ask that it be read again, so that I may understand whether it allows shipments into another State for the personal use of a drunkard or a minor,

The PRESIDENT pro tempore. The Secretary will again read the amendment to the amendment.

The Secretary again read Mr. HITCHCOCK's amendment to the amendment.

The PRESIDENT pro tempore. The question is upon the adoption of the amendment offered by the Senator from Nebraska [Mr. HITCHCOCK] to the amendment reported by the Judiciary Committee.

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question recurs upon the adoption of the amendment reported by the Judiciary Committee.

Mr. McCUMBER. I offer the following amendment, to be inserted after the enacting clause, without taking anything from the bill.

The PRESIDENT pro tempore. That would not now be in order. It will be subsequently in order, but unless it is an amendment to the pending amendment it would not now be in order.

Mr. McCUMBER. It is an amendment to the pending amendment.

The PRESIDENT pro tempore. The Senator stated that it was to come in after the enacting clause. The Chair does not know what it is. The Secretary will read the amendment to the amendment.

Mr. McCUMBER. Let it came in prior, then, to section 2 of the bill.

The PRESIDENT pro tempore. That will be in order later, but it is not an amendment to the pending amendment. The Chair is of the opinion that it is an independent amendment and not an amendment to the pending amendment. It will be in order after the pending amendment has been acted upon.

Mr. CULBERSON. I ask that the amendment may be read.

The PRESIDENT pro tempore. The Secretary will read the amendment submitted by the Senator from North Dakota.

The Secretary read as follows:

That all fermented, distilled, or other intoxicating liquors or liquids, being commodities in their nature dangerous to public health and good morals, their shipment from one State, Territory, or the District of Columbia into another State, Territory, or the District of Columbia is hereby authorized and allowed only on condition that their interstate-commerce character shall cease immediately upon their arrival within the boundaries of the State, Territory, or the District of Columbia to which they are consigned; and they shall thereupon be divested of their interstate-commerce character.

The PRESIDENT pro tempore. The Chair will state that if the Senator moves that as a substitute for the pending amendment it will now be in order.

Mr. McCUMBER. I do not intend it as a substitute, but I want to have it inserted in connection with the amendment of the committee.

The PRESIDENT pro tempore. It will be in order after the amendment of the committee has been acted upon. The question is on agreeing to the amendment reported by the Judiciary Committee which has been read to the Senate.

Mr. CLARKE of Arkansas. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GALLINGER. I will ask that the amendment be again stated. I think there is a misapprehension about it.

The PRESIDENT pro tempore. The amendment will be again read.

The SECRETARY. On page 2, beginning in line 12, after the word "prohibited," the Committee on the Judiciary report to strike out the semicolon and the remainder of the bill and to insert:

SEC. 2. That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival within the boundaries of such State or Territory and before delivery to the consignee, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its reserved police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

The PRESIDENT pro tempore. The question is upon the adoption of this amendment and the yeas and nays were ordered thereon.

Mr. STONE. That is the committee amendment.

The PRESIDENT pro tempore. It is the amendment reported by the Judiciary Committee. The Secretary will proceed to call the roll.

The Secretary proceeded to call the roll.

Mr. BRADLEY (when his name was called). I transfer my pair with the Senator from Indiana [Mr. KERN] to the senior Senator from Pennsylvania [Mr. PENROSE] and vote "nay."

Mr. CHILTON (when his name was called). I have a general pair with the Senator from Illinois [Mr. CULLOM]. I understand from him, however, that he is for this bill and he has given me permission to vote. I vote "yea."

Mr. SMITH of Michigan (when his name was called). I have a pair with the junior Senator from Missouri [Mr. REED]. In his absence I transfer that pair to the junior Senator from New Mexico [Mr. FALL] and vote. I vote "yea."

Mr. CHILTON (when Mr. WATSON's name was called). My colleague [Mr. WATSON] has a general pair with the senior Senator from New Jersey [Mr. BRIGGS]. If my colleague were present, he would vote "yea."

Mr. WILLIAMS (when his name was called). I vote "yea." To explain my vote I will state that I have a pair with the Senator from Pennsylvania [Mr. PENROSE], but I transfer that pair to the Senator from Indiana [Mr. KERN]. Therefore I voted "yea."

The roll call was concluded.

Mr. FOSTER (after having voted in the negative). I wish to inquire if the junior Senator from Wyoming [Mr. WARREN] has voted.

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. FOSTER. Not knowing how that Senator would vote on this question and having a general pair with him, I withdraw my vote.

Mr. HITCHCOCK. I will state that the junior Senator from Indiana [Mr. KERN] is absent on public business.

Mr. STONE. I desire to state that my colleague [Mr. REED] is absent, and detained by reason of serious illness in his family.

The result was announced—yeas 61, nays 23, as follows:

YEAS—61.

Ashurst	Dixon	Lodge	Smith, Md.
Bacon	Fletcher	McCumber	Smith, Mich.
Bourne	Gardner	McLean	Smith, S. C.
Brady	Gore	Martin, Va.	Stone
Bristow	Gronna	Myers	Swanson
Brown	Guggenheim	Nelson	Thomas
Bryan	Hitchcock	Newlands	Thornton
Chamberlain	Jackson	Oliver	Tillman
Chilton	Johnson, Me.	Overman	Townsend
Clapp	Johnston, Ala.	Perkins	Webb
Clark, Wyo.	Jones	Poindexter	Wetmore
Clarke, Ark.	Kavanaugh	Richardson	Williams
Crawford	Kenyon	Sheppard	Works
Culberson	La Follette	Simmons	
Cummins	Lea	Smith, Ariz.	
Curtis	Lippitt	Smith, Ga.	

NAYS—23.

Bankhead	Catron	Martine, N. J.	Pomerene
Borah	Crane	O'Gorman	Root
Bradley	Dillingham	Owen	Smoot
Brandegee	du Pont	Page	Stephenson
Burnham	Gallinger	Paynter	Sutherland
Burton	Gamble	Percy	

NOT VOTING—11.

Briggs	Foster	Penrose	Warren
Cullom	Kern	Reed	Watson
Fall	Massey	Shively	

So the amendment of the committee was agreed to.

Mr. KENYON. Mr. President, I desire to offer an amendment to section 1 of the bill. Is that now in order?

The PRESIDENT pro tempore. It is.

Mr. McCUMBER. I should like to ask if my amendment is not now in order?

The PRESIDENT pro tempore. The Chair was about to call attention to the fact that the amendment offered by the Senator from North Dakota is first in order, unless the amendment offered by the Senator from Iowa is an amendment to that.

Mr. KENYON. It is not.

The PRESIDENT pro tempore. The Chair understands it is not. Then, the amendment now pending is the one offered by the Senator from North Dakota [Mr. McCUMBER], which will be read.

Mr. CRAWFORD. I ask that it be read.

Mr. WILLIAMS. I should like to have the amendment again read.

The PRESIDENT pro tempore. The amendment will be again read. The Chair has just directed that it be read.

Mr. McCUMBER. I should like to ask the Chair to state that the amendment is intended to be inserted after the enacting clause and before the remainder of the amendment.

The PRESIDENT pro tempore. As a distinct section. The proposition is to insert as a distinct section the amendment now to be read, without interfering with the other parts of the bill.

Mr. STONE. Mr. President, if it is a proper parliamentary inquiry—and I doubt it—I should like the Chair to state whether the amendment now proposed would not, in substance, displace the amendment of the committee just agreed to?

The PRESIDENT pro tempore. It is perfectly competent for the Senate to adopt an independent amendment, and the question of its consistency or inconsistency is not a parliamentary question.

Mr. STONE. But it is well enough to call the attention of the Senate to it.

Mr. McCUMBER. I should like to have the amendment again read.

The PRESIDENT pro tempore. The Secretary will again read the amendment.

The SECRETARY. After the enacting clause it is proposed to insert:

> That all fermented, distilled, or other intoxicating liquors or liquids being commodities in their nature dangerous to public health and good morals, their shipment from one State, Territory, or the District of Columbia into another State, Territory, or the District of Columbia is hereby authorized and allowed only on condition that their interstate-commerce character shall cease immediately upon their arrival within the boundaries of the State, Territory, or the District of Columbia to which they are consigned, and they shall thereupon be divested of their interstate-commerce character.

The PRESIDENT pro tempore. The question is upon the adoption of the amendment.

Mr. WILLIAMS. I wish to ask the Senator a question. I think the Senator has forgotten or pretermitted something. This would not prevent any liquor being sold to Porto Rico?

The PRESIDENT pro tempore. The Chair is unable to hear the Senator from Mississippi or to decide whether he is in order.

Mr. WILLIAMS. I was merely suggesting the propriety of an amendment to the amendment of the Senator from North Dakota.

The PRESIDENT pro tempore. The question is upon the adoption of the amendment just read, to be inserted as an independent section.

The amendment was rejected.

Mr. O'GORMAN. I offer at this time the amendment which I send to the desk.

The PRESIDENT pro tempore. Is the amendment offered to the original bill?

Mr. O'GORMAN. Yes.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. It is proposed to amend by adding at the end of the bill the following:

> But nothing in this act shall be construed to forbid the interstate shipment of liquors herein defined into any State, Territory, or District where the same are intended for sacramental purposes or for the personal use of the owner or consignee thereof or for the members of his family.

The PRESIDENT pro tempore. The question is on the adoption of the amendment just offered by the Senator from New York as an independent section to the original bill.

Mr. O'GORMAN. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. OWEN. Let the amendment be again stated.

The PRESIDENT pro tempore. The amendment will be again read.

The Secretary again read the amendment proposed by Mr. O'GORMAN.

Mr. McCUMBER. A parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator will state it.

Mr. McCUMBER. Is not that exactly the same amendment which was offered by the Senator from Nebraska [Mr. HITCHCOCK] and voted down?

The PRESIDENT pro tempore. It is not.

Mr. LODGE. This is offered to the House bill, as I understand.

The PRESIDENT pro tempore. It is not the same amendment in words.

Mr. CLARKE of Arkansas. Mr. President, I want to submit another point after the Chair has disposed of that one. I did not intend to interrupt the Chair.

The PRESIDENT pro tempore. The Chair has disposed of it.

Mr. CLARKE of Arkansas. I make the point of order that the amendment is not germane to any provision of the bill, since neither the bill nor the amendment proposed by the Judiciary Committee deals with the question of transmitting liquor in interstate commerce, but simply to divest a certain commodity of that character at the pleasure of the several States of the Union. It does not undertake to exclude by the exercise of national power liquor intended for any use, but leaves that matter exclusively to be determined by the States after the liquor shall have reached the State boundaries. I therefore make the point of order that the amendment is not germane to the provisions to which it is sought to be added as an amendment.

Mr. O'GORMAN. Mr. President, if everyone were to construe the amendment offered by the Senate committee as the Senator from Arkansas [Mr. CLARKE] construes it, there would be no need for this amendment, but others will not construe it as the Senator from Arkansas construes it. Therefore I urge the necessity of the amendment.

Mr. GALLINGER. Regular order, Mr. President.

Mr. O'GORMAN. Those who violate this law——

Mr. GALLINGER. Regular order!

Mr. O'GORMAN. Those who advocate this enactment profess to throw no restriction upon the personal use of intoxicants. I want that to be declared by the statute.

The PRESIDENT pro tempore. Under the rule, the point of order made that a certain amendment is not germane must be submitted to the Senate; it is not a question for the decision of the Chair. The Chair will, therefore, submit to the Senate the question of whether or not the amendment is germane. Is the amendment submitted by the Senator from New York germane to the bill? [Putting the question.] The Chair is in doubt.

Mr. O'GORMAN. I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I again announce my pair with the senior Senator from Illinois [Mr. CULLOM] and withhold my vote.

Mr. FOSTER (when his name was called). I again announce my pair with the Senator from Wyoming [Mr. WARREN]. I will state that, if I were permitted to vote, I should vote "yea."

Mr. CHILTON (when Mr. WATSON's name was called). My colleague [Mr. WATSON] is paired with the senior Senator from New Jersey [Mr. BRIGGS]. I do not know how my colleague would vote on this question if he were present.

Mr. WILLIAMS (when his name was called). Upon this particular matter, not knowing how either the Senator from Pennsylvania [Mr. PENROSE] or the Senator from Indiana [Mr. KERN] would vote if they were present, I shall observe my pair with the Senator from Pennsylvania [Mr. PENROSE]. If he were present and I were privileged to vote, I should vote "no."

The roll call was concluded.

The result was announced—yeas 41 nays 41, as follows:

YEAS—41.

Bacon	Fletcher	O'Gorman	Smoot
Bankhead	Gamble	Oliver	Stephenson
Bradley	Guggenheim	Owen	Stone
Brandegee	Hitchcock	Page	Sutherland
Burton	Johnson, Me.	Paynter	Thomas
Catron	Kavanaugh	Percy	Thornton
Clark, Wyo.	La Follette	Perkins	Tillman
Crane	Lippitt	Pomerene	Wetmore
Culberson	Lodge	Richardson	
Dillingham	McLean	Root	
du Pont	Martine, N. J.	Smith, Ga.	

NAYS—41.

Ashurst	Crawford	Kenyon	Smith, Ariz.
Borah	Cummins	Lea	Smith, Md.
Bourne	Curtis	McCumber	Smith, Mich.
Brady	Dixon	Martin, Va.	Smith, S. C.
Bristow	Gallinger	Myers	Swanson
Brown	Gardner	Nelson	Townsend
Bryan	Gore	Newlands	Webb
Burnham	Gronna	Overman	Works
Chamberlain	Jackson	Poindexter	
Clapp	Johnston, Ala.	Sheppard	
Clarke, Ark.	Jones	Simmons	

NOT VOTING—13.

Briggs	Foster	Reed	Williams
Chilton	Kern	Shively	
Cullom	Massey	Warren	
Fall	Penrose	Watson	

The PRESIDENT pro tempore. On the question of the adoption of the amendment the yeas are 41 and the nays are 41, so the amendment is not adopted.

Mr. SMITH of Georgia. Mr. President, the vote was not upon the adoption of the amendment, but upon the question of its being germane.

The PRESIDENT pro tempore. The Chair in stating the result was in error.

Mr. GALLINGER. Regular order!

Mr. CULBERSON. Mr. President, I presume the Senator from New York desires now to present the amendment.

The PRESIDENT pro tempore. The Chair is of the opinion that the question was really upon the point of order, and the point of order is not sustained upon a tie vote.

Mr. CLARKE of Arkansas. Mr. President, in my humble opinion that is not the question. The rule provides that upon the question of germaneness being raised the proposition shall be submitted to the Senate.

The PRESIDENT pro tempore. Yes.

Mr. CLARKE of Arkansas. It would require affirmative action of the Chair to decide that an amendment is in order, and it would therefore require the affirmative action of the Senate to decide that it is germane.

Mr. STONE. The Chair can not decide the question of germaneness, and, therefore, the Chair submitted the question to the Senate to decide, as a point of order, whether or not it was germane.

The PRESIDENT pro tempore. If the point of order had been submitted without any provision in the rules which required its submission to the Senate, it would have been a question of sustaining the point of order. The rule of the Senate simply goes to the extent that instead of the Chair deciding it as a point of order it shall be decided by the Senate. The question really is whether the point of order is well taken.

Mr. CLARKE of Arkansas. That is not what the rule says. I should be glad if the Chair would have the rule read to the Senate.

The PRESIDENT pro tempore. The Chair will have it read.

Mr. McCUMBER. Mr. President, I rise to a point of order.

The PRESIDENT pro tempore. The Senator will state it.

Mr. McCUMBER. Did not the Chair put to the Senate the question, "Is this amendment germane?"

The PRESIDENT pro tempore. Yes; but the Chair considers that——

Mr. McCUMBER. And the vote did not sustain the fact that it was germane?

Mr. GALLINGER. That is right.

Mr. O'GORMAN. Mr. President, I asked for the yeas and nays on the original amendment which I proposed, and that seems to be the regular order.

The PRESIDENT pro tempore. The Chair desires to make the final ruling, and then it will be competent to appeal from the decision of the Chair if it is thought to be wrong. In the opinion of the Chair it was really a submission of the question of the point of order, and in the absence of an affirmative vote it is the opinion of the Chair that the point of order fails.

Mr. CLARKE of Arkansas. Mr. President, I shall not prosecute an appeal at this late hour; but I do not want the occasion to pass without saying that, if the hour were not so late and we were not so anxious to dispose of this matter, I should ask the judgment of the Senate on that question.

The PRESIDENT pro tempore. The Chair may be in error, but that is the opinion of the Chair.

Mr. WORKS. Mr. President, the trouble about it, I think, is not in the present ruling of the Chair, but the fact that the question was erroneously put in the beginning.

The PRESIDENT pro tempore. Possibly that is the case. The Chair recognizes that to be so.

Mr. WORKS. The Chair very clearly stated that the question was whether or not the amendment was germane, and I voted upon that understanding. Now, upon the ruling of the Chair, my vote is simply reversed.

The PRESIDENT pro tempore. In the opinion of the Chair, it is simply a point of order.

Mr. CRAWFORD. Mr. President——

Mr. STONE, Mr. LODGE, and others. Regular order!

The PRESIDENT pro tempore. The regular order is demanded.

Mr. CRAWFORD. Has this matter been disposed of?

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from New York [Mr. O'GORMAN].

Mr. O'GORMAN. Upon that I ask for the yeas and nays.

Mr. HITCHCOCK. Mr. President, the yeas and nays have already been ordered on the amendment of the Senator from New York.

The PRESIDENT pro tempore. The Senator from Nebraska is correct.

Mr. O'GORMAN. Mr. President, I ask that the Secretary again read the amendment for the information of the Senate.

The PRESIDENT pro tempore. The Secretary will again read the amendment.

The SECRETARY. It is proposed to add at the end of the bill the following:

> But nothing in this act shall be construed to forbid the interstate shipment of liquors herein defined into any State, Territory, or District where the same are intended for sacramental purposes or for the personal use of the owner or consignee thereof or for the members of his family.

Mr. McCUMBER. Mr. President, is not that subject to amendment?

The PRESIDENT pro tempore. It certainly is.

Mr. McCUMBER. I move to strike out all of the amendment after the words "sacramental purposes."

The PRESIDENT pro tempore. The question is on the amendment of the Senator from North Dakota to the amendment proposed by the Senator from New York to strike out all of the proposed amendment following the words "sacramental purposes." [Putting the question.] By the sound the "noes" appear to have it.

Mr. McCUMBER. I ask for the yeas and nays.

The PRESIDENT pro tempore. The yeas and nays are called for.

Mr. McCUMBER. I withdraw the request.

The PRESIDENT pro tempore. The Senator from North Dakota withdraws his request for the yeas and nays. The amendment to the amendment is rejected.

The question now is upon the amendment proposed by the Senator from New York upon which the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I again announce my pair with the senior Senator from Illinois [Mr. CULLOM]. Not knowing how he would vote if present, I withhold my vote.

Mr. FOSTER (when his name was called). I again announce the absence of my pair, the senior Senator from Wyoming [Mr. WARREN] and state that if I were at liberty to vote I should vote "yea."

Mr. WILLIAMS (when his name was called). I have a general pair with the senior Senator from Pennsylvania [Mr. PENROSE], but I am reliably informed that if he were present he would vote "yea." I therefore desire to vote. I vote "yea."

The roll call was concluded.

Mr. CHAMBERLAIN. I am requested to announce the pair of the senior Senator from West Virginia [Mr. WATSON] with the senior Senator from New Jersey [Mr. BRIGGS].

The result was announced—yeas 31, nays 50, as follows:

YEAS—31.

Bacon	Guggenheim	Martine, N. J.	Stephenson
Bankhead	Hitchcock	O'Gorman	Stone
Bradley	Johnson, Me.	Oliver	Sutherland
Brandegee	Johnston, Ala.	Pagnter	Thomas
Burton	Kavanaugh	Perkins	Tillman
Catron	La Follette	Pomerene	Wetmore
du Pont	Lodge	Richardson	Williams
Crane	McLean	Root	

NAYS—50.

Ashurst	Culberson	Kenyon	Simmons
Borah	Cummins	Lea	Smith, Ariz.
Bourne	Curtis	Lippitt	Smith, Ga.
Brady	Dillingham	McCumber	Smith, Md.
Bristow	Dixon	Martin, Va.	Smith, Mich.
Brown	Fletcher	Myers	Smith, S. C.
Bryan	Gallinger	Nelson	Swanson
Burnham	Gamble	Newlands	Thornton
Chamberlain	Gardner	Overman	Townsend
Clapp	Gore	Owen	Webb
Clark, Wyo.	Gronna	Page	Works
Clarke, Ark.	Jackson	Poindexter	
Crawford	Jones	Sheppard	

NOT VOTING—14.

Briggs	Foster	Percy	Warren
Chilton	Kern	Reed	Watson.
Cullom	Massey	Shively	
Fall	Penrose	Smoot	

So Mr. O'GORMAN'S amendment was rejected.

Mr. KENYON. Mr. President, I offered an amendment prior to the amendment of the Senator from New York [Mr. O'GORMAN], which I ask to have stated.

The PRESIDENT pro tempore. The amendment will now be read.

The SECRETARY. On page 2, lines 3, 4, and 5, it is proposed to strike out the words "by any person interested therein, directly or indirectly, or in any manner connected with the transaction," and to insert in lieu thereof the following: "Either by the consignor or consignee, or the agent of either thereof."

The PRESIDENT pro tempore. The question is upon the adoption of the amendment of the Senator from Iowa.

Mr. STONE. I should like to have the section read as it is proposed to be amended.

The PRESIDENT pro tempore. The section as proposed to be amended will be read.

The Secretary read as follows:

Be it enacted, etc., That the shipment or transportation in any manner or by any means whatsoever of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, including beer, ale, or wine, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, either by the consignor or consignee, or the agent of either thereof, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, enacted in the exercise of the police powers of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.

The PRESIDENT pro tempore. The question is upon the adoption of the amendment offered by the Senator from Iowa to strike out and insert as read by the Secretary.

The amendment was agreed to.

Mr. KENYON. Mr. President, I offer the amendment which I send to the desk, to be known as section 3.

The PRESIDENT pro tempore. The proposed amendment will be stated.

The SECRETARY. It is proposed to add a new section at the end of the bill, as follows:

SEC. 3. This act shall be in full force and effect on and after the 1st day of July, 1913.

The PRESIDENT pro tempore. The question is upon the adoption of the amendment just read.

The amendment was agreed to.

The PRESIDENT pro tempore. If there be no further amendments to the original bill, the substitute is now before the Senate, with the amendment which has been offered to it. The Chair understands that the amendment voted upon the original bill is identical with this, and therefore it will not be submitted to the Senate. The question is upon the adoption of the substitute offered by the Senator from New Hampshire [Mr. GALLINGER] to strike out all after the enacting clause and insert in lieu thereof the language of the amendment which has been already read. It will be read again if desired. The question is upon the adoption of the amendment to strike out and insert.

The amendment was agreed to.

The PRESIDENT pro tempore. If there are no further amendments to be offered as in Committee of the Whole, the bill will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

On motion of Mr. GALLINGER, the title was amended so as to read: "A bill divesting intoxicating liquors of their interstate character in certain cases."

The bill as passed by the Senate is as follows:

A bill (S. 4043) divesting intoxicating liquors of their interstate character in certain cases.

Be it enacted, etc., That the shipment or transportation in any manner or by any means whatsoever of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended by any person interested therein to be received, possessed, sold, or in any manner used either in the original package or otherwise in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 58 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, February 11, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

MONDAY, *February 10, 1913.*

The House met at 10.30 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almightly Father, author and finisher of our faith, renew our confidence in Thee that we may go forward with unfaltering footsteps to the work of the hour, with an increasing consciousness of Thy presence to uphold, sustain, and guide us in right thinking and in right living, that we may walk worthy of the vocation whereunto we are called. In the spirit of the Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

AMERICAN IMPORTERS OF MANILA HEMP.

Mr. HARDWICK. Mr. Speaker, I desire to present a privileged resolution.

Mr. BOOHER. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Missouri [Mr. BOOHER] rise?

Mr. BOOHER. To call the attention of the Speaker to the fact that there are 20 Members of Congress in this Hall, and therefore I make a point of no quorum.

The SPEAKER. Will the gentleman withhold it until we get through with these routine matters?

Mr. HARDWICK. Mr. Speaker, I move to discharge the Committee on Ways and Means from the further consideration of House resolution 779, which I send to the Clerk's desk, and ask that the House do pass the same.

The SPEAKER. The gentleman from Georgia [Mr. HARDWICK] moves to discharge the Committee on Ways and Means

from further consideration of House resolution 779, and to pass the same. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 779.

Resolved, That the President of the United States be, and he is hereby, requested to advise the House, if in his judgment not incompatible with the public interest, as to the facts regarding the exemption of American importers of manila hemp from payment of the export tax thereon, stating as nearly as may be practicable what amounts of money have been refunded to such importers by virtue of said exemption since the act of Congress of March 8, 1902, known as the Philippine tariff act, up to the present time, and to whom said amounts have been refunded.

The SPEAKER. The gentleman from Georgia [Mr. HARDWICK] moves to discharge the Committee on Ways and Means from further consideration of the resolution.

Mr. FITZGERALD. I want to inquire of the gentleman if this matter has been called to the attention of the Committee on Ways and Means?

Mr. HARDWICK. It has; but not on the resolution in this precise form. I think I had best make a brief explanation.

Mr. FITZGERALD. The members of that committee are engaged at present, and none of them is here.

Mr. HARDWICK. This motion is made with the knowledge and concurrence of the gentleman from Alabama [Mr. UNDERWOOD] and the gentleman from Georgia [Mr. BRANTLEY], who reported a similar resolution.

The SPEAKER. The question is on agreeing to the resolution.

Mr. HARDWICK. Mr. Speaker, I thought I was recognized.

The SPEAKER. The gentleman is recognized.

Mr. HARDWICK. Mr. Speaker, on January 8, 1913, the gentleman from Virginia [Mr. JONES] introduced a resolution involving precisely the same question as the resolution I now present. It was not, however, privileged under the rules of the House, because of certain statements of fact contained in the preamble and because the resolution as introduced by the gentleman from Virginia called upon the President, not simply for information, but also for certain conclusions. On January 16, 1913, the Ways and Means Committee unanimously reported favorably the resolution of the gentleman from Virginia, after amending it by striking out the preamble.

In that form it was reported from the Ways and Means Committee by my colleague, the gentleman from Georgia [Mr. BRANTLEY]. When the Ways and Means Committee was reached on the last call of committees, on February 3, 1913, my colleague [Mr. BRANTLEY] endeavored to secure consideration of the resolution, but as the call was proceeding under unanimous consent he was unable to do so because of objection then interposed by the gentleman from Illinois [Mr. MANN].

In the meantime I had, on January 18, 1913, introduced a resolution embodying the same proposition as that involved in the resolution of the gentleman from Virginia [Mr. JONES], but with the preamble omitted, and simply calling on the President for certain information, without asking him for any conclusions. In this form the resolution is privileged, and it was my right to call it up at any time after the expiration of seven legislative days, if the committee failed to report it. Before exercising that right, however, I conferred fully with both the gentleman from Alabama [Mr. UNDERWOOD] and the gentleman from Georgia [Mr. BRANTLEY] and not only gave them notice of my intention to so call it up to-day, but also obtained their concurrence therein, as I have just stated to the gentleman from New York [Mr. FITZGERALD] and to the House.

Mr. Speaker, the resolution, in terms, merely calls upon the President to give to the House—

the facts regarding the exemption of American importers of manila hemp from payment of the export tax thereon, stating, as nearly as may be practicable, what amounts of money have been refunded to such importers by virtue of said exemption since the act of Congress of March 8, 1902, known as the Philippine tariff act, up to the present time, and to whom said amounts have been refunded.

Mr. Speaker, I freely confess that I do not know what the facts are about this most important question. If I did, I should not ask for the passage of this resolution; but I do know that in a book entitled "The American Occupation of the Philippines from 1898 to 1912," recently published by a distinguished citizen of my own State, Mr. James H. Blount, who was for two years an officer of the volunteer forces of the United States in the Philippines, and for four years a judge of the court of first instance in the Philippines, it is charged that the International Harvester Co. and other American importers of manila hemp have in the last 10 years collected more than $4,000,000 in refund of export taxes on manila hemp, under the rebate system authorized by the Philippine tariff act of 1902 and the Payne Tariff Act of 1909, and that these amounts so refunded are, in effect, a free gift or subsidy to the International Harvester Co. and other American importers of manila hemp.

Ordinarily, Mr. Speaker, I should not care to base a resolution of inquiry, addressed to the President, upon mere statements contained in some book, but in this case I know the author so well and am so well acquainted with his high character and his splendid opportunities for accurate knowledge of conditions in the Philippines that I think his statements in reference thereto ought to receive attention and consideration. Besides, this House is entitled to know, and ought to know, just exactly what the facts are in reference to this hemp tax—whom it burdens and how much, whom it benefits and how much. We are entitled to accurate information on these questions for two reasons; first, in order that we may understand what has happened in the past and why, and, second, in order that we may know how we should legislate in the future. If it be true that this rebate of the export tax on manila hemp has had the effect of giving to one of our great American trusts practical control of the manila hemp market, to the injury of the people of the Philippine Islands, and a subsidy of several million dollars, the sooner we know the facts, and know them accurately and officially, the sooner will we be able to apply the remedy. It seems to me the resolution ought to pass without a dissenting vote. I now yield to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, there was an original House resolution, No. 767, on this same subject practically, making a charge directly against the International Harvester Co. I made inquiry of the International Harvester Co. with reference to the facts in the matter when the original resolution, No. 767, was reported. This resolution relates to the same matter, although making no special charge against the International Harvester Co. I have no objection to its passage, nor would I have now to the passage of the original resolution, so far as they are concerned.

I ask to have read in my time a letter from the International Harvester Co. in reference to the matter, and, Mr. Speaker, I ask in reading the letter that the table of figures be omitted from the reading, but inserted in the RECORD.

The SPEAKER. Without objection, the Clerk will read.

Following is the letter referred to:

INTERNATIONAL HARVESTER CO.,
OFFICE OF THE GENERAL MANAGER.
Chicago, February 7, 1913.

Hon. JAMES R. MANN,
House of Representatives, Washington, D. C.

MY DEAR MR. MANN: On my return from California my attention has been directed to a copy of House resolution No. 767, relating to the exemption of American importers from the payment of the export duty on manila hemp. The resolution requests certain information of the President, and asks him to what extent the rebate of duty has operated unjustly and "who have been the beneficiaries of such injustice." I note, too, that the resolution as originally introduced practically charged the International Harvester Co. with being the principal beneficiary under the act and that the refund of the export duty amounted to a free gift or subsidy.

As a manufacturer of twine, the International Harvester Co. has no interest whatever in either the repeal, modification, or continuance of this refunding of the export duty on manila hemp. Our price quotations on binder twine which we manufacture from this manila hemp are based on the net cost of the fiber, and the rebate is always deducted from that cost the same as any other discount. This being the basis of our cost calculations, our customers, the consumers, secure the benefit of the refund. The wholesale prices of binder twine f. o. b. factory and here quoted covering 10 years are official and are taken from the Cordage Trade Journal:

	Sisal.	Standard sisal.	Standard manila.	Manila.	Pure manila.
1902	11	11	12½	13½	15
1903	10½	10½	11½	12	13
1904	10½	10½	11½	12½	13½
1905	10	10	11	12	13½
1906	10	10	11	12	13
1907	9⅝	9⅝	.....	12½	14
1908	8½	8½	.....	11½	13
1909	7½	7½	.....	8½	10
1910	7½	7½	7½	8½	9
1911	6½	6½	.....	7½	8½

The prices above quoted for 1902 are based on raw material purchased in 1901, before the act went into effect. Note the drop in 1903, when the first manila purchased under the act entered into the trade.

The original act on this subject was passed November 15, 1901, prior to the formation of this company. It levied an export duty on manila hemp of 75 cents per 100 kilos, or about three-eighths of a cent per pound. This payment was credited up to the exporter by the Manila customs upon the shipment of the fiber. Fiber that went direct to the United States in one vessel and which was consumed in the United States was entitled to the above rebate. It applies to all American users, including the seven State prisons that are manufacturing twine. The operation of the law has served to increase the importance of New York as a market for manila fiber and has reduced the price to the American twine consumer.

In spite of the alleged advantages of this rebate the company's use of manila fiber has steadily decreased since 1902. In 1903 we purchased 89,000 bales, or 8.87 per cent of the total amount exported. In 1911 we purchased 67,000 bales, or 4.56 per cent of the total.

The raw materials from which binder twine is manufactured—sisal from Yucatan and manila from the Philippines—are the only raw materials this company consumes that are produced wholly outside of the United States. Prices and production of these are entirely in stranger hands and the material is bought in a fluctuating market. This is a condition which this company earnestly sought to cure.

The straw from American-grown flax is a waste product. It seemed to possess the essential characteristics necessary for a binder twine. If it could be utilized for that purpose, $20,000,000 per annum might be kept at home and paid to the American farmer for this waste product, and the price of binder twine could be materially reduced. In spite of this "free gift or subsidy" this company made every effort to cure this condition and has spent the sum of $1,000,000 in experimental work in this vain quest. A twine was produced, but no commercial process could be found by chemists or laboratory experts that would render the twine free from the attacks of insects.

This letter is sent you for the purpose of clearly defining this company's position. We have steadily declined to participate on one side or the other of this controversy. The continuance of the rebate is, as I have said, of no financial advantage to the International Harvester Co., except in so far as it may benefit our patrons, the farmers, nor do I believe that it has been of any financial advantage to any American cordage company in its domestic trade.

Yours, very truly, C. S. FUNK,
General Manager.

Mr. BOOHER. Mr. Speaker, if the gentleman proposes to enter into a debate I shall insist upon my point of no quorum.

Mr. HARDWICK. There is to be no debate, Mr. Speaker. The gentleman from Illinois [Mr. MANN] just wants to make a short statement. I do not want to debate the matter.

Mr. MANN. It appears in this letter that in part, owing to the rebate on manila hemp, the price of binding twine in this country has decreased from 13 cents a pound 10 or 12 years ago to the neighborhood of 6 or 7 or 8 cents a pound at the present time, a decrease to go wholly to the benefit of the consumer of binding twine. Probably it is the strongest argument we have yet seen in reference to free trade in raw materials.

The SPEAKER. The gentleman from Georgia [Mr. HARDWICK] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken; and the Speaker announced that the "ayes" seemed to have it.

Mr. BOOHER. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 23, noes 3.

Mr. BOOHER. Mr. Speaker, I make the point of no quorum.

The SPEAKER. Evidently there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll. Those in favor of the resolution will, when their names are called, answer "yea"; those opposed will answer "nay."

The question was taken; and there were—yeas 214, nays 0, answered "present" 13, not voting 155, as follows:

YEAS—214.

Adair	Ellerbe	Jacoway	Pou
Akin, N. Y.	Esch	Johnson, Ky.	Powers
Alexander	Estopinal	Kahn	Prince
Allen	Fairchild	Kendall	Pujo
Anderson	Falson	Kennedy	Raker
Ashbrook	Fergusson	Kinkaid, Nebr.	Rauch
Austin	Ferris	Kinkead, N. J.	Redfield
Ayres	Fields	Konop	Rees
Barnhart	Fitzgerald	Kopp	Richardson
Bartlett	Floyd, Ark.	La Follette	Roberts, Mass.
Bates	Foss	Lamb	Roddenbery
Bathrick	Foster	Lawrence	Rodenberg
Beall, Tex.	Fowler	Lee, Pa.	Rothermel
Bell, Ga.	Francis	Lever	Rouse
Blackmon	French	Levy	Rucker, Mo.
Borland	Fuller	Lindbergh	Russell
Broussard	Gallagher	Linthicum	Saunders
Buchanan	Gardner, Mass.	Littlepage	Sells
Bulkley	Garner	Lloyd	Sherley
Burgess	Garrett	Loud	Sherwood
Burke, S. Dak.	Gill	McCall	Sims
Burke, Wis.	Godwin, N. C.	McGillicuddy	Sisson
Burleson	Goodwin, Ark.	McKellar	Slayden
Burnett	Graham	McKenzie	Smith, J. M. C.
Butler	Gray	McKinley	Smith, Tex.
Byrnes, S. C.	Greene, Mass.	McKinney	Stanley
Byrns, Tenn.	Gregg, Tex.	McLaughlin	Steenerson
Callaway	Guernsey	McMorran	Stephens, Cal.
Campbell	Hamill	Macon	Stephens, Miss.
Candler	Hamilton, Mich.	Madden	Stephens, Nebr.
Cantrill	Hamlin	Maguire, Nebr.	Stephens, Tex.
Carter	Hardwick	Mann	Sterling
Clark, Fla.	Hardy	Martin, S. Dak.	Stone
Claypool	Harrison, Miss.	Miller	Sulloway
Cline	Hart	Mondell	Sweet
Collier	Hawley	Moon, Tenn.	Switzer
Copley	Hay	Moore, Pa.	Talcott, N. Y.
Cox	Hayden	Morgan, Okla.	Taylor, Ala.
Cravens	Heflin	Morrison	Taylor, Ark.
Crumpacker	Helgesen	Moss, Ind.	Taylor, Colo.
Cullop	Helm	Mott	Thistlewood
Curley	Henry, Tex.	Murdock	Townsend
Dalzell	Hensley	Neeley	Tribble
Daugherty	Higgins	Nelson	Tuttle
De Forest	Hobson	Norris	Webb
Dent	Holland	Oldfield	Whitacre
Denver	Houston	O'Shaunessy	White
Dickinson	Howard	Padgett	Willis
Dies	Howell	Page	Wilson, Pa.
Donohoe	Howland	Patton, Pa.	Witherspoon
Doremus	Hughes, W. Va.	Pepper	Woods, Iowa
Doughton	Humphrey, Wash.	Pickett	Young, Tex.
Dupré	Humphreys, Miss.	Plumley	
Edwards	Jackson	Post	

NAYS—0.

ANSWERED "PRESENT"—13.

Adamson	Browning	Hill	Talbott, Md.
Berger	Currier	Kent	
Booher	Driscoll, M. E.	Payne	
Bradley	Dwight	Sparkman	

NOT VOTING—154.

Aiken, S. C.	Fordney	Lee, Ga.	Rucker, Colo.
Ainey	Fornes	Lenroot	Sabath
Ames	Gardner, N. J.	Lewis	Scott
Andrus	George	Lindsay	Scully
Ansberry	Gillett	Littleton	Shackleford
Anthony	Glass	Lobeck	Sharp
Barchfeld	Goeke	Longworth	Simmons
Bartholdt	Goldfogle	McCoy	Slemp
Boehne	Good	McCreary	Sloan
Brantley	Gould	McDermott	Small
Brown	Green, Iowa	McGuire, Okla.	Smith, Saml. W.
Burke, Pa.	Greene, Vt.	Maher	Smith, N. Y.
Calder	Gregg, Pa.	Martin, Colo.	Speer
Cannon	Griest	Matthews	Stack
Carlin	Gudger	Mays	Stedman
Cary	Hamilton, W. Va.	Merritt	Stevens, Minn.
Clayton	Hammond	Moon, Pa.	Taggart
Conry	Harris	Moore, Tex.	Taylor, Ohio
Cooper	Harrison, N. Y.	Morgan, La.	Thayer
Covington	Hartman	Morse, Wis.	Thomas
Crago	Haugen	Murray	Tilson
Curry	Hayes	Needham	Towner
Danforth	Heald	Nye	Turnbull
Davenport	Henry, Conn.	Olmsted	Underhill
Davidson	Hinds	Palmer	Underwood
Davis, Minn.	Hughes, Ga.	Parran	Vare
Davis, W. Va.	Hull	Patten, N. Y.	Volstead
Dickson, Miss.	James	Peters	Vreeland
Difenderfer	Johnson, S. C.	Porter	Warburton
Dixon, Ind.	Jones	Pray	Watkins
Dodds	Kindred	Prouty	Weeks
Draper	Kitchin	Rainey	Wilder
Driscoll, D. A.	Knowland	Randell, Tex.	Wilson, Ill.
Dyer	Konig	Ransdell, La.	Wilson, N. Y.
Evans	Korbly	Reilly	Wood, N. J.
Farr	Lafean	Reyburn	Young, Kans.
Finley	Lafferty	Riordan	Young, Mich.
Flood, Va.	Langham	Roberts, Nev.	
Focht	Langley	Rubey	

So the resolution was agreed to.

The Clerk announced the following pairs:

For this session:

Mr. PALMER with Mr. HILL.

Mr. SCULLY with Mr. BROWNING.

Mr. FORNES with Mr. BRADLEY.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. RIORDAN with Mr. ANDRUS.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. LITTLETON with Mr. DWIGHT.

Until further notice:

Mr. JONES with Mr. OLMSTED.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. KITCHIN with Mr. FORDNEY.

Mr. FINLEY with Mr. CURRIER.

Mr. GLASS with Mr. SLEMP.

Mr. SMALL with Mr. SLOAN.

Mr. SMITH of New York with Mr. TAYLOR of Ohio.

Mr. STACK with Mr. VOLSTEAD.

Mr. THOMAS with Mr. SAMUEL W. SMITH.

Mr. TURNBULL with Mr. SPEER.

Mr. WATKINS with Mr. VARE.

Mr. WILSON of New York with Mr. TOWNER.

Mr. LOBECK with Mr. VREELAND.

Mr. MCDERMOTT with Mr. WILSON of Illinois.

Mr. MAHER with Mr. WILDER.

Mr. LINDSAY with Mr. YOUNG of Michigan.

Mr. MARTIN of Colorado with Mr. WOOD of New Jersey.

Mr. SABATH with Mr. CARY.

Mr. SHACKLEFORD with Mr. SIMMONS.

Mr. SHARP with Mr. SCOTT.

Mr. RUCKER of Colorado with Mr. ROBERTS of Nevada.

Mr. RUBEY with Mr. PROUTY.

Mr. REILLY with Mr. PRAY.

Mr. RANSDELL of Louisiana with Mr. PORTER.

Mr. RANDELL of Texas with Mr. MOON of Pennsylvania.

Mr. RAINEY with Mr. WEEKS.

Mr. PATTEN of New York with Mr. MERRITT.

Mr. UNDERWOOD with Mr. TILSON.

Mr. MURRAY with Mr. HARRIS.

Mr. MORGAN of Louisiana with Mr. MATTHEWS.

Mr. HULL with Mr. NEEDHAM.

Mr. AIKEN of South Carolina with Mr. CALDER.

Mr. ANSBERRY with Mr. BURKE of Pennsylvania.

Mr. BOEHNE with Mr. AINEY.

Mr. BRANTLEY with Mr. CANNON.

Mr. BROWN with Mr. ANTHONY.

Mr. CARLIN with Mr. COOPER.

Mr. CONRY with Mr. BARCHFELD.

Mr. CLAYTON with Mr. BARTHOLDT.

Mr. DAVENPORT with Mr. CRAGO.

Mr. MOORE of Texas with Mr. MCGUIRE of Oklahoma.

Mr. MAYS with Mr. MCCREARY.

Mr. MCCOY with Mr. LONGWORTH.

Mr. LEWIS with Mr. LENROOT.

Mr. LEE of Georgia with Mr. LANGLEY.

Mr. KORBLY with Mr. LANGHAM.

Mr. KONIG with Mr. LAFEAN.

Mr. KINDRED with Mr. KNOWLAND.

Mr. JOHNSON of South Carolina with Mr. HENRY of Connecticut.

Mr. JAMES with Mr. HEALD.

Mr. HUGHES of Georgia with Mr. HAUGEN.

Mr. HAMMOND with Mr. HARTMAN.

Mr. HARRISON of New York with Mr. HAYES.

Mr. HAMILTON of West Virginia with Mr. GRIEST.

Mr. GUDGER with Mr. GREENE of Vermont.

Mr. GREGG of Pennsylvania with Mr. GREEN of Iowa.

Mr. GOULD with Mr. HINDS.

Mr. GOLDFOGLE with Mr. GOOD.

Mr. GOEKE with Mr. GILLETT.

Mr. GEORGE with Mr. GARDNER of New Jersey.

Mr. GLASS with Mr. SLEMP.

Mr. FLOOD of Virginia with Mr. FOCHT.

Mr. UNDERHILL with Mr. FARR.

Mr. EVANS with Mr. DYER.

Mr. DANIEL A. DRISCOLL with Mr. MICHAEL E. DRISCOLL.

Mr. DIXON of Indiana with Mr. DRAPER.

Mr. DICKSON of Mississippi with Mr. DODDS.

Mr. DIFENDERFER with Mr. DAVIS of Minnesota.

Mr. DAVIS of West Virginia with Mr. DANFORTH.

Mr. CURRIER. Mr. Speaker, did the gentleman from South Carolina, Mr. FINLEY, vote?

The SPEAKER. He did not vote.

Mr. CURRIER. I wish to withdraw my vote in the affirmative, and to vote "present."

Mr. MANN. I votes! "aye." I have a general pair with the gentleman from Alabama, Mr. UNDERWOOD, but I understand he and I would vote the same way on this question. Therefore I do not withdraw my vote.

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present. The Doorkeeper will unlock the doors.

THE BUSINESS OF THE HOUSE.

The SPEAKER. The Chair asks unanimous consent to address the House for two minutes.

The Speaker does not believe that a majority of the Members of the House realize in what a serious condition the business of this House is. Not more than half the appropriation bills have passed the House. In the very nature of things they have to be passed long enough before the 4th of March to get them over to the Senate, let the Senate consider them, and then go through with the conference reports. If you will count out the days that are segregated, so to speak, Mondays, Wednesdays, and Fridays for particular classes of business, there are only about 11 days of this session left which, in the natural order of things, can be devoted to appropriation bills, with half the appropriation bills still on the hooks. The Chair does not want to see these appropriation bills go over to the extraordinary session of Congress; neither does any other Member. The only way to get these bills through—and the Chair hates to say a word about it at all, because somebody will make the claim that he is trying to set up as a boss, but it is the duty of the Chair to state it—is for Members to stay in their places in this House.

Another thing. While nobody wants to curtail the right of debate in the House, we can not get these bills through if every Members persists in trying to relieve his mind of all the thoughts he has. [Applause.] The Chair sat here this morning and watched at least 25 Members who rushed in and answered to their names, rushed out again, without even stopping to take their overcoats off. They simply answered to their names and rushed right out and back over to their offices again. [Applause.] The Chair is not criticizing these gentlemen. He is not complaining of them. They are all busily engaged in transacting some species of the public business over in their offices, and the Chair recognizes as fully as it is possible for any human being to recognize the tremendous pressure of letter writing at this particular juncture, especially upon the Democratic Members of the House. [Laughter.] But here we have wasted 30 minutes this morning in a roll call. We might just as well have began at 11 o'clock instead of half past 10.

At any time any gentleman has the constitutional right to raise the point of no quorum. Some Members think the Chair ought to look around and count a quorum without reference to the number present. The Chair is not going to do anything of the sort. He is not going to rule contrary to the evidence and his own senses, and he has pretty good eyes, too. [Laughter.] To have a quorum is a constitutional right, and if gentlemen do not want the business delayed, if they do not want to be criticized for these appropriation bills going over to the next session they must stay here, not only when they have been brought here after a waste of 30 minutes in a call of the House, but they must sit down and stay. Time and time again the Chair has seen the gentlemen managing these appropriation bills give way and yield to let in an amendment, taking money out of the Treasury which they knew ought not to go in and was not in order, simply because they looked around and saw no quorum present and did not want to waste the time to get a quorum.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. HUGHES of Georgia, for three weeks, on account of official business, inspecting fortifications at Panama.

To Mr. MORGAN of Louisiana, for 10 days, on account of important business.

To Mr. WARBURTON, for four days, on account of important business.

To Mr. BROWN, for one week, on account of death in family.

To Mr. SAMUEL W. SMITH, for four days, on account of important business.

FORTIFICATION APPROPRIATION BILL.

Mr. SHERLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 28186, an act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and sevice, and for other purposes, with a Senate amendment, and agree to the same.

The SPEAKER. Is there objection to the present consideration?

There was no objection.

The Senate amendment was read.

Mr. MANN. Will the gentleman from Kentucky yield a minute to me?

Mr. SHERLEY. Certainly.

Mr. MANN. I would like to congratulate the able gentleman from Kentucky on being able to get one appropriation bill finally passed through both Houses.

The SPEAKER. The Chair congratulates him, too.

The Senate amendment was concurred in.

WORKMEN'S COMPENSATION ACT.

Mr. PEPPER. Mr. Speaker, I ask unanimous consent to have printed as a House document a very carefully prepared article on the workmen's compensation act, prepared by the State Historical Society of Iowa.

Mr. HARDWICK. I object.

PENSIONS.

Mr. RICHARDSON. Mr. Speaker, I call up the conference report on the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, which was printed in the RECORD on Saturday, February 8.

The conference report was read, as follows:

CONFERENCE REPORT (NO. 1483).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, and 6, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same with an amendment as follows: In lieu of the matter stricken out by the House insert:

"The name of Thomas M. F. Delaney, late of Company G, Fourth Regiment Wisconsin Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving."

That the Senate recede from its disagreement to the amendment of the House numbered 4, and agree to the same with an amendment as follows: In lieu of the matter stricken out by the House insert:

"The name of John J. Ledford, late of Company F, Fourth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $16 per month."

That the Senate recede from its disagreement to the amendment of the House numbered 5 and agree to the same with an amendment as follows: In lieu of the matter stricken out by the House insert:

"The name of John F. Burton, late of Company B, Fifth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving."

That the Senate recede from its disagreement to the amendment of the House numbered 7, and agree to the same with an amendment as follows: In lieu of the matter stricken out by the House insert:

"The name of Carl W. Carlson, late of Company B, Third Regiment United States Volunteer Cavalry, War with Spain, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving."

And the House agree to the same.

WILLIAM RICHARDSON,
IRA W. WOOD,
WM. A. DICKSON,
Managers on the part of the House.
P. J. MCCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

Amendment No. 1, the case of Arthur F. Shepard, S. 2465: In this case the item was stricken from the bill by the House on the ground that the soldier's condition is not due to service, the principal disability having come on later. The Senate recedes from its disagreement.

Amendment No. 2, the case of Thomas M. F. Delaney, S. 4691: The Senate passed this bill, increasing the pension to $24 per month. The House struck the item from the bill on the ground that it is an excessive rate. Your conferees recommend that the item be restored at $12 per month.

Amendment No. 3, the case of George G. Thirlby, S. 6276: The Senate passed this at $24 per month. The House reduced the rate to $16 per month and the Senate recedes from its disagreement to the amendment.

Amendment No. 4, John L. Ledford, S. 6898: The Senate passed this at $24 per month. The House struck the item from the bill on the ground that the evidence of injury incurred in the service did not warrant such a high rating. The man is badly disabled, and your conferees recommend that the item be restored to the bill at a rate of $16 per month.

Amendment No. 5, John F. Burton, S. 7036: The Senate passed this at $16 per month. The House struck the item from the bill on the ground that the disability did not warrant that rate. Your conferees recommend that the item be restored at a rate of $12 per month, as part of the disability is due to service and the soldier is now receiving a pension of $6.

Amendment No. 6, Otto Weber, S. 7368: The Senate passed this at $16 per month. The House struck the item from the bill on the ground that if soldier's disability had increased he should apply at the bureau. He has not applied for increase for nearly six years. The Senate recedes from its disagreement.

Amendment No. 7, Carl W. Carlson, S. 7466: The soldier is pensioned now at $10 per month. The Senate passed the bill to increase it to $20 per month. The House struck the item from the bill on the ground that if pensionable disability had increased the soldier should be able to get relief at the bureau. The soldier is badly disabled, and your conferees recommend that the item be restored at a rate of $16 per month.

WILLIAM RICHARDSON,
IRA W. WOOD,
WM. A. DICKSON,
Managers on the part of the House.

The conference report was agreed to.

CONTRACTS FOR TRANSFERRING FOREIGN MAIL.

Mr. TUTTLE. Mr. Speaker, I ask unanimous consent to take up House resolution 778, directing the Committee on the Post Office and Post Roads to institute and carry forward an investigation into the letting of contracts, and so forth.

The SPEAKER. This is not a privileged resolution.

Mr. TUTTLE. It is not technically privileged, but I ask unanimous consent to take it up.

The SPEAKER. The Chair is not permitted under the rule to put that question. The Chair thinks it is better to maintain the rule except where there is an extraordinary situation.

Mr. TUTTLE. I think this is an extraordinary case.

Mr. MANN. Mr. Speaker, I object; it has no business to come before the House now.

The SPEAKER. That is absolutely true. This is District of Columbia day.

Mr. JOHNSON of Kentucky. Mr. Speaker, I call up the bill H. R. 22643, to amend subchapter 2, chapter 19 of the Code of Law for the District of Columbia, by providing a penalty for willful omission to return library property in the District of Columbia, and I ask to substitute therefor Senate bill 6096.

The SPEAKER. The gentleman from Kentucky asks unanimous consent to discharge the Committee on the District of Columbia from further consideration of the bill S. 6096 and substitute it for the House bill. Is there objection?

Mr. MANN. Reserving the right to object, I would like to have the House bill reported.

The SPEAKER. The Clerk will report the House bill.

The Clerk read as follows:

Be it enacted, etc., That subchapter 2, of chapter 19, of the Code of Law for the District of Columbia is hereby amended by adding thereto an additional section, to be known as section 849 a, as follows:

"SEC. 849 a. Whoever willfully detains any book, newspaper, magazine, pamphlet, manuscript, or other property belonging to or in the custody or control of the Library of Congress, or any public or incorporated library in the District of Columbia, for 30 days after notice in writing to return the same, such notice to contain a copy of this section, and to be given after the expiration of the time which, by the rules of such library, such book or other property may be kept, shall be punished by a fine of not less than $1 nor more than $25, or by imprisonment for not less than one month nor more than six months. Prosecutions under this section shall be brought in the name of the District of Columbia by information filed by the corporation counsel or one of his assistants: *Provided*, That the penalties provided by this section shall be in addition to any penalties lawfully imposed by the trustees of any public or incorporated library in the District of Columbia, and shall be applicable when the offense is not otherwise punishable by some statute of the United States."

Mr. MANN. Reserving the right to object, may I ask the gentleman from Kentucky whether the bill as it passed the Senate struck out the word "willfully"?

Mr. JOHNSON of Kentucky. Yes; the word "willfully" is in the House bill, but not in the Senate bill.

Mr. MANN. If the Senate bill is taken up, what is the gentleman's intention?

Mr. JOHNSON of Kentucky. I have no intention; I do not care whether the word is in or out; it is a matter for the House to determine.

Mr. MANN. It may not make much difference what the gentleman from Kentucky will do, but it makes considerable difference what the House will do.

Mr. JOHNSON of Kentucky. If the Senate bill be taken up, the word "willfully" not being in it, it would pass that way or amended with the insertion of the word "willfully." I would not care to offer the amendment.

Mr. MANN. Mr. Speaker, as I understand this bill, if a Member of Congress has sent to his rooms or to his office a book from the Congressional Library and it is lost, or even if he returns it and they do not find it, and say that he lost it, he is liable to an imprisonment of six months.

Mr. HUGHES of West Virginia. Mr. Speaker, I want to object to the consideration of this bill.

Mr. MANN. It is not a question of the consideration of the bill; it is a question of the substitution of the Senate bill for the House bill.

The SPEAKER. The gentleman can not object to the consideration of the bill. The Chair will state the situation. The engrossed copy of the Senate bill is not here, and, unless the House intends to give unanimous consent to consider it, it is not in order.

Mr. MANN. Mr. Speaker, if the engrossed copy of the Senate bill is not here we can not consider it.

Mr. JOHNSON of Kentucky. Mr. Speaker, I will say to the gentleman that it has disappeared from the District Committee room, as has a number of other bills.

Mr. MANN. And if this bill were in force as to an engrossed copy of a bill, the gentleman would be liable to a fine and imprisonment because he had lost it, and I am sure that no one in the House would charge the gentleman with negligent or willful loss of the engrossed copy, or anything of the sort. Yet that is what the Senate bill provides with reference to a book coming from the Congressional Library.

Mr. HUGHES of West Virginia. Mr. Speaker, I object to the substitution of the Senate bill.

The SPEAKER. The gentleman has a perfect right to do that.

Mr. JOHNSON of Kentucky. Then, Mr. Speaker, I will withdraw the consideration of the bill.

The SPEAKER. Does the gentleman withdraw the House bill?

Mr. JOHNSON of Kentucky. Yes; I withdraw the motion to consider either the House or the Senate bill.

EMBEZZLEMENT OF EVIDENCE OF DEBT—DISTRICT CODE.

Mr. JOHNSON of Kentucky. Mr. Speaker, I call up the bill (H. R. 21709) to amend section 851a of chapter 19 of subchapter 2 of the Code of Law for the District of Columbia, which I send to the desk and ask to have read.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Code of Law for the District of Columbia be amended by adding to subchapter 2 of chapter 19 the following section:

"SEC. 851a. Whoever shall be guilty of any offense defined in sections 834, 835, 836, 837, and 838 of the Code of Law for the District of Columbia shall, where the thing, evidence of debt, property, proceeds or profits be of the value of not more than $35, be punished by imprisonment for not more than one year or a fine of not more than $500, or both."

SEC. 2. That this act shall take effect upon its passage.

Mr. JOHNSON of Kentucky. Mr. Speaker, this is a bill prepared by United States District Attorney Wilson, and upon his recommendation of it the committee has reported it out. I will say, however, that the title to the bill is not correct, and if the bill passes I shall make a motion to amend the title.

Mr. BARTLETT. To what sort of an offense does this section refer?

Mr. JOHNSON of Kentucky. It is an addition to section 849, which deals with embezzlement by agent, attorney, clerk, or servant.

Mr. BARTLETT. Is it to regulate the punishment with reference to the amount of money embezzled?

Mr. JOHNSON of Kentucky. Yes.

Mr. BARTLETT. What is the present law?

Mr. JOHNSON of Kentucky. I do not know. This is the creation of additional offenses.

Mr. MANN. The present law provides for a fine not exceeding $1,000 or imprisonment of not more than 10 years, or both, as to embezzlement by agent, attorney, clerk, or servant.

Mr. BARTLETT. That refers to embezzlement without regard to money?

Mr. MANN. No; that is not the law with reference to section 851.

Mr. JOHNSON of Kentucky. This is with reference to the embezzlement of any paper which evidences indebtedness. There is no statute against it, and the district attorney wishes this bill passed. I will read from the bill:

SEC. 851a. Whoever shall be guilty of any offense defined in sections 834, 835, 836, 837, and 838 of the Code of Law for the District of Columbia shall, where the thing, evidence of debt, property, proceeds or profits be of the value of not more than $35, be punished by imprisonment for not more than one year or a fine of not more than $500, or both.

Mr. BARTLETT. Both, then, are made felonies. The embezzlement of $35 under this act is made a felony, as I understand it. It would be imprisonment in the penitentiary for one year, I apprehend, though it does not say so.

Mr. JOHNSON of Kentucky. Mr. Speaker, I will say to the gentleman that I thought the House met at 12 o'clock this morning, and I have not had time to run over these bills and be as familiar with them as I would like to be. I am relying largely upon the fact that District Attorney Wilson has prepared this bill and sent it over here.

Mr. BARTLETT. I do not desire to embarrass the gentleman.

Mr. JOHNSON of Kentucky. It is no embarrassment to me. I do not care whether the bill passes or not.

Mr. MARTIN of South Dakota. Mr. Speaker, I would like to inquire whether the gentleman does not think the House ought to be informed as to what the present penalties are before making changes in them?

Mr. JOHNSON of Kentucky. The sections to be amended are:

SEC. 834. Embezzlement by agent, attorney, clerk, or servant: If any agent, attorney, clerk, or servant of a private person or copartnership, or any officer, attorney, agent, clerk, or servant of any association or incorporated company shall wrongfully convert to his own use, or fraudulently take, make away with, or secrete, with intent to convert to his own use, anything of value which shall come into his possession or under his care by virtue of his employment or office, whether the thing so converted be the property of his master or employer or that of any other person, copartnership, association, or corporation, he shall be deemed guilty of embezzlement and shall be punished by a fine not exceeding $1,000 or by imprisonment for not more than 10 years, or both.

Mr. BARTLETT. May I suggest to the gentleman that the effect of this bill is to reduce the penalty where the amount does not exceed $35? That is the whole purpose.

Mr. JOHNSON of Kentucky. It clearly states that.

Mr. BARTLETT. So that instead of increasing the penalty or making a new penalty it decreases the penalty.

Mr. JOHNSON of Kentucky. I understand it makes some penalty——

The SPEAKER. Does the gentleman from Kentucky yield to the gentleman from Illinois?

Mr. JOHNSON of Kentucky. Certainly.

Mr. MANN. Mr. Speaker, the gentleman from Georgia called attention to what I was going to ask.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill (H. R. 21709) to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia."

AMENDING SUBCHAPTER 2 OF CHAPTER 19, CODE OF LAW FOR THE DISTRICT OF COLUMBIA.

Mr. JOHNSON of Kentucky. Mr. Speaker, I call up the bill H. R. 21714, a bill to amend section 851b of chapter 19 of subchapter 2 of the Code of Law for the District of Columbia.

The Clerk read as follows:

A bill (H. R. 21714) to amend section 851b of chapter 19 of subchapter 2 of the Code of Law for the District of Columbia.

Be it enacted, etc., That the Code of Law for the District of Columbia be amended by adding to subchapter 2 of chapter 19 the following section:

"SEC. 851b. That if any person entrusted with the possession of anything of value, including things savoring of the realty, for the purpose of applying the same for the use and benefit of the owner or person so delivering it, shall fraudulently convert the same to his own use he shall, where the value of the thing so converted is $35 or more, be punished by imprisonment for not less than 1 nor more than 10 years, or by a fine of not more than $1,000, or both; and where the value of the thing so converted is less than $35 he shall be punished by imprisonment for not more than one year or by a fine of not more than $500, or both: *Provided*, That nothing contained in this section shall be construed to alter or repeal the foregoing sections contained in subchapter 2 of chapter 19 of this code."

SEC. 2. That this act shall take effect upon its passage.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill (H. R. 21714) to amend subchapter 2 of chapter 19 of the Code of Law of the District of Columbia."

INTERMARRIAGE OF WHITES WITH NEGROES OR MONGOLIANS IN THE DISTRICT OF COLUMBIA.

Mr. JOHNSON of Kentucky. Mr. Speaker, I call up the bill H. R. 5948.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 5948) to prohibit in the District of Columbia the intermarriage of whites with negroes or Mongolians.

Be it enacted, etc., That in the District of Columbia it shall be unlawful for any person of the Caucasian blood, or their descendants, to intermarry with an African, commonly called negro, or the descendants of an African, or with a Mongolian, or with the descendants of a Mongolian; and should any person as aforesaid violate the provisions of this act such marriage shall be null and void and the parties so offending shall be prosecuted for a felony, and if convicted shall be imprisoned not less than two years nor fined not more than $500, or both, at the discretion of the court.

SEC. 2. That any attempt to evade this statute by marrying out of the District of Columbia and returning into it shall be within its meaning, and such marriage shall likewise be null and void, and the offending parties shall be prosecuted as aforesaid.

SEC. 3. That this act shall take effect and be of force from its passage.

The committee amendments were read, as follows:

On line 4, page 1, strike out the words "blood, or their descendants" and insert in lieu thereof the words "or white race."

On line 5, after the word "with," strike out the rest of the line, all of line 6, and all of line 7, down to and including the word "Mongolian," and insert in lieu thereof the following: "any person of the Ethiopian or black race, Malay or brown race, or Mongolian or yellow race."

The question was taken, and the committee amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 92, noes 12.

So the bill was passed.

The title was amended so as to read: "To prohibit in the District of Columbia the intermarriage of whites with Ethiopians, Malays, or Mongolians."

WAREHOUSE FOR THE DISTRICT OF COLUMBIA.

Mr. JOHNSON of Kentucky. Mr. Speaker, I call up the bill H. R. 28530 and ask unanimous consent to consider it in the House as in Committee of the Whole House on the state of the Union.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 28530) to provide for a warehouse for the receipt, care, and distribution of supplies for the use of the government of the District of Columbia, and for other purposes.

The SPEAKER. The gentleman from Kentucky asks unanimous consent to consider this bill in the House as in Committee

of the Whole House on the state of the Union. Is there objection?

Mr. MANN. Mr. Speaker, I object.

Mr. JOHNSON of Kentucky. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering District legislation.

The question was taken; and the Speaker announced the ayes seemed to have it.

Mr. FOSTER. Division, Mr. Speaker.

The House divided; and there were—ayes 56, noes 47.

Mr. MANN. Mr. Speaker, I ask for tellers.

Tellers were ordered.

Mr. JOHNSON of Kentucky and Mr. MANN took their places as tellers.

The House again divided; and there were—ayes 20, noes 80.

So the motion to go into the Committee of the Whole House on the state of the Union was rejected.

AGRICULTURE APPROPRIATION BILL.

Mr. LAMB. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the Agriculture appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 28283) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914, with Mr. BEALL of Texas in the chair.

Mr. LAMB. Mr. Chairman, I ask to return to page 17, line 16, of the bill.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 17, line 18, by striking out "$375,000" and inserting "$435,000."

Mr. LAMB. Mr. Chairman, before proceeding further, I ask that only 20 minutes be used in debate on this proposition, 10 minutes on a side.

The motion was agreed to.

Mr. McLAUGHLIN. Mr. Chairman, a year ago a substantial increase in this appropriation was made, and the only objection urged against it was that there was doubt as to whether the department was able properly to use the money asked for. When the increase of appropriation was made, the department increased its organization, added to its force, and is now able properly to use the money asked for. In my judgment, no better work is carried on by the department than by the branch of the service called "Farm Management and Farm Demonstration."

Mr. MADDEN. Will the gentleman let me ask him a question?

Mr. McLAUGHLIN. Yes.

Mr. MADDEN. What is the particular work done under so-called farm management and demonstration?

Mr. McLAUGHLIN. The employment of experts to go out and meet farmers right on the farms, to give them instructions, and assist them in understanding and applying new methods suggested by the department and its experts.

Many years ago substantial assistance was given by the Federal Government to the agricultural colleges of the States, but every law providing money for colleges forbade its use outside of the colleges except for the publication of bulletins or for the holding of institutes where lectures might be given. It has been found that information as to secrets of the soil and new methods of agriculture have not reached the farmer. The bulletins are skillfully drawn, and it would seem as if they might be understood, but the ordinary farmer does not apply them. Gentlemen who appeared before the Committee on Agriculture urging these appropriations—presidents of agricultural colleges and gentlemen high in the Department of Agriculture—told us that if the work of the Agricultural Department, the secrets they have discovered, the new methods that they could put into operation, could be taken to the farmers of the country in such a way as to be understood and readily applied in their work, agriculture could be revolutionized in this country. The department now is organized so that it can use the amount of money my amendment would provide. I have talked with the officials there.

Mr. McKENZIE. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Michigan [Mr. McLAUGHLIN] yield to the gentleman from Illinois [Mr. McKENZIE]?

Mr. McLAUGHLIN. Yes.

Mr. McKENZIE. Is it not the policy of the Government to use this money in cooperating with the respective States in the Union?

Mr. McLAUGHLIN. In most of the States work is done by cooperating with the officials of agricultural colleges. It is found that is the best way to carry on this work.

Mr. McKENZIE. Do they not require the county or the community which gets one of these demonstrators to put up a part of the expense?

Mr. McLAUGHLIN. In almost every case that plan is followed, and the officials of the department tell me there is such a demand for this kind of work—so many ways of cooperation and so many offers of contributions of money—that it is evident that the work so far carried on is successful; it is very popular, and the department needs more money than is now carried in this bill in order to enable it properly to carry on the work. The Secretary of Agriculture has said in my hearing over and over again that he considers this as the most important work that his department is doing.

This work was first carried on largely in the South under another appropriation, "To meet the ravages of the boll weevil." It has been very successful there. The increase of this appropriation would take nothing, of course, from the appropriation available for work in the South and would in no way curtail that or interfere with it. This appropriation would simply extend to the North work similar to that carried on so successfully in the South. It was my privilege a few days ago——

The CHAIRMAN. The time of the gentleman has expired.

Mr. HAMILTON of Michigan. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. McLAUGHLIN. I was about to say, Mr. Chairman, that it was my privilege a few days ago to visit the South—the city of Columbia, S. C., where the annual corn exposition was held—and while there I learned a little better than I knew before the result of the efforts the Department of Agriculture has made in bringing about better methods of agriculture.

Mr. HAMILTON of Michigan. Mr. Chairman, would the gentleman permit me to ask him a question?

Mr. McLAUGHLIN. Yes.

Mr. HAMILTON of Michigan. The gentleman spoke, if I understood him correctly, about the use of this appropriation to repair the ravages of the boll weevil in the South. I was wondering whether, under the appropriation, they undertook to repair the ravages of the boll weevil in the South before the boll weevil had committed any ravages; and if so, how?

Mr. McLAUGHLIN. Mr. Chairman, if I used the word "repair" I used the wrong word.

Mr. HAMILTON of Michigan. The gentleman understands what I am trying to get at, does he not?

Mr. McLAUGHLIN. Yes. There is a feeling that this money is not used exactly to meet the ravages of the boll weevil, but the money is properly used. I make no criticism of the way it has been used, and I believe the appropriation ought to be continued.

Mr. COX. Mr. Chairman, will the gentleman yield for a question right there?

The CHAIRMAN. Does the gentleman yield?

Mr. McLAUGHLIN. I do.

Mr. COX. Do not the hearings before the gentleman's committee disclose the fact that up to this hour they have been unable to find anything that would meet the ravages of the boll weevil?

Mr. McLAUGHLIN. Not exactly that. The testimony before the committee is to the effect that they have no way of exterminating the boll weevil. This, however, is not the boll-weevil appropriation. I was diverted by the question of the gentleman from Michigan.

Mr. YOUNG of Texas. Mr. Chairman, will the gentleman allow me in that connection to make an answer for him?

Mr. McLAUGHLIN. Yes.

Mr. YOUNG of Texas. Mr. Chairman, I will state that——

Mr. McLAUGHLIN. I object to the gentleman making a statement in my time. I thought at first he wanted simply to ask a question.

Mr. HAMILTON of Michigan. I may be misinformed about this, and I should be inclined to think that the practice is all right if it actually exists, but I understand the practice is to anticipate the effect of the boll weevil by farm instruction in territory far in advance of its appearance there, and that much of the work is in anticipation of what the boll weevil might do if it should arrive.

Mr. McLAUGHLIN. It is in anticipation, Mr. Chairman; but the boll weevil's progress has not been stopped in any respect or in any measure. Its march is steady, and it is absolutely necessary for the people of the Southern States, where cotton is grown or has been grown exclusively, to learn some

other lines of agriculture, and it is in the effort to teach those people and induce them to engage in other lines so as to overcome the effect of the boll weevil or be able to meet it when it comes that this money is used, and it is properly used.

But I do not wish to be diverted into talk of the boll-weevil appropriation. I make no criticism of it. Instead of criticizing it, I am in favor of it. I have never questioned the propriety of making that appropriation. I have sometimes questioned the language that was used, but never the amount of money appropriated or the use made of it.

I was attracted by the wonderful results produced by the agents of the Department of Agriculture with the boll-weevil money, and have wished to see that work carried on in the North. It is begun. The department is organized. It is doing splendid work. Requests are coming from every State in the North, and I might say from almost every county, with offers of money for cooperation. The department can use every dollar of this amount, $435,000, and use it profitably in its work, and my amendment would appropriate that amount. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. LAMB. Mr. Chairman, the department asked for $407,000 for this work. We carefully considered it, and, in the judgment of the committee, the $375,000 that we have allowed is amply sufficient to carry on this demonstration work in the part of the country designated for it. In all frankness, candor, and earnestness, I am very much surprised that this motion should come from a member of the committee who was himself on the subcommittee and agreed to this and then in the full committee ratified it.

Mr. McLAUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. LAMB. For a question.

Mr. McLAUGHLIN. Is it not true that I moved to make this $435,000, and that I used every effort in that committee to induce them to accept that amendment?

Mr. LAMB. I do not recall it. I think the gentleman is mistaken.

Mr. McLAUGHLIN. The gentleman's memory is not as good as it ought to be.

Mr. LAMB. I thought it was a peculiar position for a member of the committee to take after we had discussed this matter in the subcommittee and in the full committee. We think the $375,000 that we allow is ample to carry on this work. We gave exactly the same amount that you will find in the paragraph below for the demonstration work in the Southern States, supposed to be for the eradication of the boll weevil. That money is used, of course, for just the same purposes that this is. We feel that this amount is all that they can use properly and with good judgment, and we hope the Committee of the Whole will stand by the Committee on Agriculture in the matter of this appropriation.

Mr. MANN. Will the gentleman yield for a question?

Mr. LAMB. Yes.

Mr. MANN. If the Lever bill, which is now in conference, becomes a law at this session of Congress, will it not provide a considerable sum for this same work in addition to the amount carried in this bill?

Mr. LAMB. Yes; it will carry an appropriation for the agricultural colleges that will do the same work.

Mr. MANN. I understand the theory of the Lever bill is to carry on extension work.

Mr. LAMB. Yes.

Mr. MANN. You provide in the Lever bill an appropriation the first year of $300,000 or $400,000, anyhow.

Mr. LEVER. We provide for $480,000.

Mr. MANN. Four hundred and eighty thousand dollars for the first year?

Mr. LEVER. Yes.

Mr. MANN. Practically to do this same class of work, as I understand.

Mr. LAMB. Yes.

Mr. McLAUGHLIN. Will the gentleman yield?

Mr. LAMB. Yes.

Mr. McLAUGHLIN. Does not the Lever bill contain a clause providing that the appropriation thereby made shall not in any respect interfere with farm-demonstration work or farm-management work?

Mr. LAMB. I think that is correct.

Mr. MOSS of Indiana. Mr. Chairman, I am opposed to this amendment. First, I desire to call attention to a statement which was made before the committee in relation to the purposes of this appropriation. I asked this question of Dr. Galloway:

> Is there any part of this six hundred and some odd thousand dollars that is available under farm-management work and the farmers' cooperative work that is now being actually expended for original scientific work by experts in the department looking toward the improvement of any of the great farm products and a solution of any of the purely scientific phases of agricultural work?
>
> Dr. GALLOWAY. No, sir.
>
> The CHAIRMAN. None whatever?
>
> Dr. GALLOWAY. No, sir.

So that the appropriation of this money does not in any manner advance the position of agricultural science or help to solve the great problems confronting the farmers in their efforts to feed and clothe our Nation.

I have here a statement of how this $300,000 is expended for the current year. Of the total sum only $171,291 was allotted for farm demonstration work. Now, this amendment proposes to increase the appropriation more than $100,000, ostensibly to stimulate farm demonstration work. Yet of the $300,000 carried in current law there was but $171,291 allotted for farm-demonstration work. There was $55,980 spent on the study of farm economics, cost account, farm management surveys, history of farm management, marketing farm products, farm equipment, and farm credits. The subject of farm credits means a study of the European system of farm credits, which has absolutely no relation to the development of agricultural science or to the germane work of the Agricultural Department.

There was $37,161 appropriated for the study of tenant farming in relation to farm management, making and utilization of hay, sugar-beet growing, and so forth. The full list of these subjects is as follows:

Farm management investigations.

GROUP PROJECT NO. 310, OFFICE ADMINISTRATION AND RECORDS.

Project No.—	Name.	Location of work.	Leader.
310-A	Library and files	Washington	C. L. Feldkamp.
310-B	Photographic records	do	A. Runk.
310-C	Manuscripts	do	E. A. Boeger.
310-D	Finances	do	R. R. Whittleton.
Group project No. 311	Farm economics	do	E. H. Thomson.
311-A	Cost accounting	do	C. M. Bennett.
311-B	Farm management surveys	General	H. M. Dixon.
311-C	History of farm management	Office	L. G. Connor.
311-D	Marketing farm products	New Jersey	H. W. Gilbertson.
311-E	Farm equipment	General	H. H. Mowry.
311-F	Farm credit and farm insurance	Washington, D. C.	J. W. Froley.
Group project No. 312	Special studies	General	D. A. Brodie.
312-A	Tenant farming in relation to farm management	do	J. W. Froley.
312-B	Weeds and tillage	do	H. R. Cox.
312-C	Making and utilization of hay	do	H. B. McClure.
312-D	Utilization and maintenance of pastures	do	J. S. Cotton.
312-E	Sugar-beet growing in relation to farm management	At present inactive	
312-F	Relation of farm practice to farm yields	General	J. L. Fidler.
312-G	Relation of geographical to farm enterprises	do	O. E. Baker.
Group project No. 313	Field studies and demonstrations	do	C. B. Smith.
313-A	North Central States		J. C. McDowell.
313-B	South Atlantic and South Central States		C. L. Goodrich.
313-C	Western division		
Group project No. 320	Utilization of cacti and dry-land plants	General	D. Griffiths.
320-A	Cactus investigations	Southwest	Do.
320-B	Grazing-land investigations	do	E. O. Wooton.
Group project No. 360	Clearing and utilization of logged-off lands	General	H. Thompson.

NOTE.—Project No. 313-A consisted originally of the North Central and the North Atlantic States. It has been found advisable to divide this into the North Central and the North Atlantic, making a new project number of the latter, the number to be decided by the project committee. Mr. L. A. Clinton is in charge; salary, $3,000.

Thus the department did not seek to use the sum of $300,000 for farm demonstration work, but used only $171,291 for this purpose. Then why seek to make this very large increase?

This work has been advanced so rapidly by large appropriations that the department could not get from the civil service enough persons to fill the positions so as to organize this work within the classified service, but appointed persons without examination. It is not good policy to command the department to extend scientific work more rapidly than a corps of teachers can be organized under usual methods and to increase the number of employees when competency is not guaranteed. I will put in the RECORD a statement showing every person appointed under this appropriation, which will indicate those secured under civil service and those appointed without such examination. It will be observed that 82 of such persons were not taken from the classified list.

Furthermore, I will insert in the RECORD the number of communities which are profiting by this work. Under the plan of the Department of Agriculture 25 per cent of the total expense of this demonstration work is to be contributed by the National Government, 25 per cent by the State experiment station, and 50 per cent by the localities to be benefited. In Vermont there were only four counties that contributed, and thus inaugurated this work in their communities. There is scarcely a State in the Union where a half dozen counties cooperated with the National Government. It will require time to develop this complex cooperation between the department, the State experiment station, and the community. This amendment is a proposition to appropriate money where the communities have not had sufficient time to become interested enough to take up their part of the work or to provide funds to meet their pro rata of expense.

Mr. CAMPBELL. Will the gentleman yield?

Mr. MOSS of Indiana. Certainly.

Mr. CAMPBELL. The question is new, or was a year ago, and I would like to call the gentleman's attention to the fact that last now in nearly every weekly paper which I have received I see that the farmers have organized in the several communities for the purpose of having demonstrated to them the value of the expert farmer.

Mr. MOSS of Indiana. In answer to that I will take my own State for an illustration. We have there farm demonstration work organized as well as in any State in the Union. We have a thousand organizations for farm demonstration work, and yet in the State of Indiana only 4 counties out of 92 contributed money to inaugurate this work and thereby participate in this appropriation. The new work of the department ought to be carefully estimated for and considered before Congress appropriates public funds. Any other course is not only extravagant, but it will surely result in waste of public moneys. During the last five years Congress has forced appropriations on the Department of Agriculture. In many items their estimates have been reduced, while in many other directions the appropriations have been largely increased without any consultation with the heads of departments. I will insert the following extracts from the hearings and table showing the increase each year of the appropriation over the estimate. It will be observed that in 1913 the per cent of increase not estimated for was 116.

The CHAIRMAN. So that sometimes there does not come any estimate either from the chief of the bureau or the Department of Agriculture? For instance, at times, through the action of the House, Congress takes the initiative in that matter?

Dr. GALLOWAY. Yes. I may say, Mr. Chairman, that, speaking generally, 60 per cent of our increases are not estimated for at all.

Total of appropriations for Bureau of Plant Industry.

[Includes statutory salaries.]

Fiscal year.	Estimate submitted.	Appropriation allowed.	Estimated increase.	Increase allowed by Congress.	Increase allowed over estimate.	Per cent of total increase not estimated for.
1909	$1,167,676	$1,341,676	$115,446	$289,446	$174,000	60
1910	1,540,676	1,709,296	218,960	367,580	148,630	40
1911	1,698,206	1,758,206	11,060	48,940	60,000	121
1912	1,979,326	2,061,686	221,120	303,480	82,360	27
1913	2,099,060	2,323,580	37,374	261,891	[1] 304,520	116
Average per cent of increase						56

[1] Includes chestnut-blight work and investigations of potatoes and sugar beets under irrigation.

Memorandum showing names of persons other than clerks, messengers, and others on the statutory roll, employed in connection with the farm-management work, showing the method of each person's entering the service.

Name.	Entered department.	Present status. Within civil service.	Present status. Outside civil service.	How appointed.
Wm. J. Spillman	Feb. 12,1901	Agriculturist in charge of farm management, $4,000.		Through civil service.
David A. Brodie	July 16,1904	Agriculturist, $3,000		Do.
Lewis A. Clinton	Dec. 1,1912	....do		Do.
David Griffiths	June 23,1900	Agriculturist, $2,780		Do.
Clarence B. Smith	Apr. 3,1899	Agriculturist, $2,700		Do.
Oscar E. Benson	Feb. 1,1911	Assistant agriculturist, $2,520		Do.
Levi Chubbuck	Apr. 29,1887	Agriculturist, $2,520		Do.
E. H. Thomson	July 1,1909	....do		Do.
Chas. L. Goodrich	Jan. 1,1908	Agriculturist, $2,460		Do.
John W. Froley	Mar. 21,1907	Agriculturist, $2,400		Do.
John C. McDowell	Apr. 1,1908	....do		Do.
Elmer D. Wooten	July 1,1911	Assistant curator, $2,280		Do.
Geo. A. Billings	Jan. 25,1908	Agriculturist, $2,220		Do.
Byron Hunter	July 1,1902	....do		Do.
Albert D. McNair	Dec. 16,1907	....do		Do.
Alfred G. Smith	Jan. 20,1909	....do		Do.
John S. Cotton	Feb. 1,1902	Agriculturist, $2,100		Do.
Herbert R. Cox	Oct. 7,1907	....do		Do.
Matt A. Crosby	July 1,1902	....do		Do.
Lawrence G. Dodge	July 1,1905	....do		Do.
J. Allen Drake	Apr. 1,1903	....do		Do.
Henry A. Miller	June 1,1902	Agriculturist, $2,040		Do.
Jacob H. Arnold	Aug. 1,1909	Agriculturist, $2,000		Do.
Harry Thompson	May 1,1912	....do		Do.
W. A. Etherton	Dec. 1,1912		Farm architect, $2,000	Civil-service sanction.
James M. Johnson	Feb. 15,1912	Agriculturist, $2,000		Through civil service.
Harry B. McClure	July 16,1906	Assistant agriculturist, $2,000		Do.
Samuel M. Tracy	Mar. 13,1891	....do		Do.
Daniel W. Working	May 1,1911	Agriculturist, $2,000		Do.
Herbert H. Mowry	Jan. 16,1905	Assistant in dry-land agriculture, $1,980		Do.
Ernest A. Boeger	Oct. 10,1911	Assistant, $1,800		Do.
C. M. Hennis	July 15,1910	Assistant agriculturist, $1,800		Do.
Charles P. Reed	Oct. 1,1912	....do		Do.
F. D. Stevens	Sept. 1,1911	....do		Do.
M. J. Thompson	Apr. 1,1912		Agent, $1,800	Civil-service sanction; exceptal from examination.
Rex E. Willard	Nov. 1,1912	Assistant agriculturist, $1,800		Through civil service.
Louis G. Connor	June 1,1909	Assistant agriculturist, $1,740		Do.
C. Morris Bennett	July 16,1909	Assistant agriculturist, $1,620		Do.
Lillian Church	Nov. 7,1904	Assistant in farm cost accounting, $1,620		Do.
Chas. E. Hoke	June 6,1907	Assistant agriculturist, $1,620		Do.
Abram B. Ross	Mar. 1,1910	....do		Do.
Howard A. Turner	Sept. 25,1912		Scientific assistant in tenant farming, $1,500.	Civil-service sanction.
Oliver E. Baker	June 1,1910	Assistant in farm management, $1,440		Through civil service.
James S. Ball	Oct. 19,1909	Assistant in farm accounting, $1,440		Do.

Memorandum showing names of persons other than clerks, messengers, and others on the statutory roll employed in connection with the farm-management work, showing the method of each person's entering the service—Continued.

Name.	Entered department.	Present status. Within civil service.	Present status. Outside civil service.	How appointed.
Henry R. Cates	Sept. 4,1912	Scientific assistant in farm management, $1,440		Through civil service.
Morton O. Cooper	Oct. 1,1912	Assistant in farm cost accounting, $1,440		Do.
Harrison M. Dixon	Nov. 1,1911	Scientific assistant in farm economics, $1,440		Do.
Lee W. Flaherty	Apr. 1,1911	Assistant agriculturist, $1,440		Do.
H. N. Humphrey	....do	Scientific assistant in farm equipment, $1,440		Do.
W. R. Humphries	May 18,1908	Assistant in farm-cost accounting, $1,440		Do.
Oscar Juve	May 16,1911	Scientific assistant in farm economics, $1,440		Do.
Kenneth H. Atwood	Aug. 12,1912		Special agent, $1,440	Civil-service sanction; exceptal from examination.
Geo. H. Miller	Mar. 1,1912	Assistant in farm-cost accounting, $1,440		Through civil service.
Harlan B. Munger	Aug. 16,1912	....do		Do.
Olin S. Rayner	Mar. 1,1912	....do		Do.
Max B. Oates	Oct. 1,1912	Scientific assistant in farm management, $1,440		Do.
Hobart F. Williams	Feb. 1,1911	....do		Do.
Arnold P. Yerkes	May 29,1912	Scientific assistant in agronomy, $1,440		Do.
Hena M. Bailey	July 11,1912		Agent, $1,200	Civil-service sanction; exceptal from examination.
Martin R. Cooper	Aug. 12,1912	Assistant in farm cost accounting, $1,200		Through civil service.
Louis C. C. Krieger	Dec. 20,1911	Botanical artist, $1,200		Do.
Cora L. Feldkamp	Feb. 1,1908	Library assistant in farm management, $1,200		Do.
John L. Fidler	Sept. 1,1912	Scientific assistant in farm management, $1,200		Do.
Alvin K. Rothenberger	July 1,1912	....do		Do.
Harrison G. Strait	Aug. 12,1912	Assistant in farm cost accounting, $1,200		Do.
Don G. Magruder	Nov. 16,1909		Special agent, $1,000	Civil-service sanction; exceptel from examination.
John L. Sherman	Oct. 1,1912	Scientific assistant in farm management, $1,200		Through civil service.
Eugene Tucker, jr	Dec. 11,1911	Assistant photographer, $900		Do.
Ben. H. Harvin	Mar. 1,1912		Agent, $30 per month	Civil-service sanction; exceptel from examination.
Geo. E. Monroe	Mar. 8,1909	Assistant agriculturist, at $5 per diem when actually employed, not to exceed $915 in any one year.		Through civil service.

NOTE.—By the term "Civil Service sanction" is meant that in the case of agents who have been selected as field men to represent the department in its work they are first appointed by the department and then their special qualifications for the work in hand are submitted to the Civil Service Commission for sanction. If their fitness as outlined by the department is approved by the commission, their appointments are made permanent under Schedule A of the civil-service rules respecting positions exceptel from examination. In the case of the farm architect and the scientific assistant in tenant farming, prior authority for their appointment was obtained from the Civil Service Commission, there being no eligibles for such positions on the civil-service lists at the time their services were needed.

Memorandum showing agents and others employed in farm-management work whose salaries are paid partly by the department and partly by outside agencies.

Name.	Entered department.	Total salary.	Amount paid by department.	Amount paid by outside agency. Salary.	Amount paid by outside agency. Travel.	Nature of agency.
H. S. Adams	Sept. 1,1912	$1,500	$1,100	$400	$900	Butler County, Pa.
A. D. Anderson	Nov. 1,1912	1,500	780	720	700	Pope County, Minn.
A. E. Anderson	....do	1,500	1,200	300	900	State of Nebraska.
Geo. J. Baker	Oct. 16,1912	2,200	1,500	700	800	State of Minnesota.
H. J. Baker	Sept. 1,1912	1,400	.....	1,400	.....	Massachusetts.[1]
D. C. Bascom	Oct. 1,1912	1,200	600	600	600	Logan County, Colo.
E. C. Bishop	Aug. 16,1912	2,000	1,300	700	600	State of Iowa.
G. R. Bliss	Oct. 1,1912	2,000	1,200	800	800	Scott County, Iowa.
A. E. Bowman	Jan. 1,1913	1,500	1,500	300	900	State of Wyoming.
M. O. Bugby	Aug. 16,1912	1,600	770	830	900	Ohio Experiment Station.
A. A. Burger	Jan. 1,1913	2,000	1,200	800	800	Blackhawk County (Iowa) Improvement Association.
*Geo. W. Bush	Nov. 1,1912	2,400	1,500	900	800	Oneida County and State of New York.
Alfred Carlsted	....do	1,500	780	720	700	Swift County, Mo.
L. J. Chapin	Sept. 1,1912	1,800	1,275	525	800	Salem (Oreg.) Board of Trade.
Floyd Rader	....do	1,800	1,275	525	700	Oregon State Agricultural College.
Ralph A. Chitty	Jan. 1,1913	1,500	1,200	300	700	Purdue University, Indiana.
Carl Christopher	....do	1,500	750	750	400	State of Delaware.
M. E. Chubbuck	Dec. 1,1912	1,600	900	700	700	Herkimer County (N. Y.) Farm Improvement Association.
L. B. Clore	Oct. 1,1912	1,800	600	1,200	1,200	Lafayette County, Ind.
J. S. Collier	Nov. 1,1912	2,500	1,200	1,300	1,200	Kankakee County (Ill.) Soil Improvement Association.
J. E. Converse or successor.		1,600	800	800	800	Warren County (Ky.) Crop Improvement Association.
W. M. Cook	Aug. 16,1912	1,500	770	730	700	Ohio Experiment Station.
*Jay Coryell	Dec. 10,1912	1,600	1,200	400	700	Windsor County (Vt.) Farm Association.

[1] The State of Massachusetts carries him approximately half the time and is paying his salary at the present time.

Memorandum showing agents and others employed in farm-management work whose salaries are paid partly by the department and partly by outside agencies—Contd.

Name.	Entered department.	Total salary.	Amount paid by department.	Amount paid by outside agency. Salary.	Amount paid by outside agency. Travel.	Nature of agency.
J. W. Coverdale	Dec. 1,1912	$2,500	$1,650	$850	$850	State of Iowa.
R. J. Davidson	Dec. 16,1912	1,600	1,200	400	700	Montgomery County Agricultural Association, Iowa.
D. H. Doane	Jan. 1,1913	2,400	1,200	[1]1,200	400	State of Missouri.
R. B. Dunlap	Sept. 1,1912	1,320	1,100	220	700	Altoona (Pa.) Chamber of Commerce.
W. L. Elser	....do	1,440	1,200	240	800	State of Ohio.
R. J. Evans	Jan. 1,1913	1,800	1,200	600	900	State of Utah.
B. B. Ezell	Aug. 12,1912	1,500	1,050	450	700	Charleston (W. Va.) Chamber of Commerce.
E. H. Forristall	Jan. 1,1913	2,400	1,200	1,200	1,200	D., L. & W. R. R., and Cortland Chamber of Commerce, N. Y.
L. H. Goddard	Aug. 16,1912	2,500	825	1,675	800	State of Ohio.
*H. W. Gilbertson	July 1,1911	2,000	900	1,100	700	Lackawanna R. R. and Sussex County, N. J.
Earl C. Hall	Aug. 19,1912	1,200	1,080	120	800	State of Idaho.
J. H. Hankinson	Nov. 1,1912	1,800	900	900	900	New Jersey Experiment Station and Mercer County.
K. L. Hatch	Jan. 1,1913	3,000	1,000	2,000	.....	Wisconsin University.
F. D. Hawk	Nov. 1,1912	1,500	780	720	700	Stevens County, Minn.
H. W. Hawthorne	....do	1,200	1,080	120	800	State of Ohio.
E. K. Hibshman	Aug. 19,1912	2,000	1,700	300	.....	Pennsylvania.[2]
A. L. Higgins	Jan. 1,1913	1,600	1,200	400	800	State of Ohio.
R. G. Hoopingarner	Sept. 1,1912	1,800	800	1,000	600	Iron County, Mich.
G. R. Ingalls	Jan. 1,1913	1,600	800	800	600	University of Wisconsin.
C. D. Jarvis	Jan. 13,1913	2,500	1,500	1,000	600	State of Connecticut.
F. R. Johnson	Dec. 4,1912	1,500	780	720	700	Ottertail County, Minn., and Sears & Roebuck.
O. M. Johnson	Sept. 1,1912	2,000	800	1,200	600	University of West Virginia.
S. M. Jordan	Dec. 1,1912	3,000	750	2,250	700	Missouri station and Pettis County, Mo.

[1] $400 travel.

[2] As soon as State funds are available, the State of Pennsylvania will bear an equal share of the salary and expenses of Mr. Hibshman.

Memorandum showing agents and others employed in farm-management work whose salaries are paid partly by the department and partly by outside agencies—Contd.

Name.	Entered department.	Total salary.	Amount paid by department.	Amount paid by outside agency. Salary.	Amount paid by outside agency. Travel.	Nature of agency.
H. G. Knight	Nov. 16, 1912	$3,000	$720	$2,280	.....	State of Wyoming.
Alden Lathrop	Nov. 1, 1912	1,500	780	720	$700	Big Stone County, Minn.
*W. H. Lauck	Oct. 16, 1912	1,800	1,200	600	600	El Paso County, Colo.
O. G. Lloyd	Aug. 10, 1912	1,400	1,100	300	700	State of Iowa.
*W. A. Lloyd	Aug. 16, 1912	1,700	1,680	20	800	State of Ohio.
E. L. Luther	Jan. 1, 1913	1,500	600	1,000	600	University of Wisconsin.
C. G. McBride	Oct. 1, 1912	2,700	[1] 1,500	1,200	300	Pennsylvania and Mercer County, Pa.
J. M. McKee	Aug. 16, 1912	1,600	1,200	400	700	Pennsylvania and Washington County, Pa.
C. M. McWilliams	Jan. 1, 1912	2,000	500	1,500	.....	Missouri and Cape Girardeau County, Mo.
C. A. Mahan	Oct. 1, 1912	1,400	600	800	600	Henderson County (Ky.) Crop Improvement Association.
F. F. Marshall	Nov. 1, 1912	2,000	780	1,220	.....	State of Minnesota and Traverse County.
G. B. Maynadier	....do.....	1,400	1,050	350	700	State of Ohio.
F. N. Meeker	....do.....	1,600	1,050	550	700	Do.
H. P. Miller	Jan. 20, 1913	2,500	900	1,600	900	Ohio, Portage County Improvement Association.
C. W. Montgomery.	Aug. 16, 1912	1,500	770	1,030	700	State of Ohio.
Frank Montgomery.	....do.....	1,400	725	675	400	Berea College, Kentucky, Kentucky University.
M. L. Mosher	Oct. 1, 1912	2,000	1,200	800	700	Clinton County Commercial Club, Iowa.
Eben Mumford	....do.....	2,300	1,500	800	700	State of Michigan.
Fred Mutchler	....do.....	2,400	1,600	800	800	West Kentucky Normal School.
Geo. A. Nelson	Nov. 1, 1912	1,600	1,440	160	600	Wahklakum County, Wash.
A. L. Norling	....do.....	1,500	780	720	700	Grant County, Minn.
F. D. Otis	Jan. 1, 1913	1,500	800	700	700	University of Wisconsin.
F. W. Peck	....do.....	2,000	1,000	1,000	600	State of Minnesota.
H. F. Patterson	Oct. 1, 1912	2,500	1,200	1,300	800	South Dakota Better Farming Association.
Griffith Richards	Feb. 15, 1913	1,500	800	700	.....	University of Wisconsin.
*F. E. Robertson	Apr. 16, 1912	1,620	1,020	600	800	Watertown (N. Y.) Chamber of Commerce.
*A. K. Rothenberger.	July 1, 1912	1,600	1,200	400	800	Perkomen Seminary, Grange of Berks and Montgomery Counties, Pa.
Huldah Peterson	Dec. 1, 1912	1,200	1,000	200	800	Nebraska Experiment Station.
Earl W. Sheets	Sept. 1, 1912	1,400	1,100	300	800	West Virginia.
J. H. Skinner	Sept. 16, 1912	1,800	1,300	500	800	Grand Rapids (Mich.) Chamber of Commerce.
H. G. Smith	July 1, 1912	1,200	1,100	100	1,000	Alpena Chamber of Commerce, and Presque Isle, Montgomery, and Alpena Counties, Mich.
Z. M. Smith	Sept. 1, 1912	1,600	1,200	400	800	State of Indiana.
C. B. Tillson	Nov. 16, 1912	2,000	1,200	800	800	Plattsburgh (N. Y.) Chamber of Commerce, New York State, and county supervisors of Clinton County.
H. S. Vandervort.	Dec. 1, 1912	1,500	540	960	600	Parkersburg (W. Va.) Chamber of Commerce.
L. M. Winsor	....do.....	1,800	1,200	600	600	San Luis (Colo.) Commercial Association, and Colorado Agricultural College.
Jason Woodman.	Nov. 1, 1912	1,800	1,200	600	600	Kalamazoo County, Mich.

[1] $300 travel.

Of the above 75 are agents excepted from examination, while the 7 before whose names is placed a star [*] were appointed through examination.

The CHAIRMAN. I would like to have you place in the record the States and the number of centers in each State where the work has been inaugurated without any contributions of local funds; then the States and the centers in each that have contributed one-fourth; the States and centers in each that have contributed one-half; and the States and the centers in each that have contributed one-third.

FARM MANAGEMENT, FIELD STUDIES, AND DEMONSTRATIONS.

In all the counties in which this work has been inaugurated the local organizations and the States are contributing one-half or more, with but three or four exceptions. One of these is Bedford County, Pa., which was started three years ago, where the bureau is contributing all but $100 of the expense. Another county is Wahkiakum County, Wash., where the bureau is contributing $960 and the county $500 as well as office room. In Mercer County, Pa., the bureau is paying practically all of the cost of the work. The following statement indicates the present condition of the work (Jan. 21, 1913). Much of the work has not yet been definitely arranged.

Proposed expenditures during fiscal year ending June 30, 1913.

	Allotments. Bureau of Plant Industry.	County or other sources.	State institution.
General work:			
Salaries and traveling expenses of general leaders.	$6,900	.....	.....
Boys' and girls' club work	6,618	.....	.....
North Atlantic States, division leaders	2,445	.....	.....
New England States, district leader	2,900	.....	.....
Maine, general State work	720	.....	.....
Vermont—			
Bennington County	800	$800	.....
Orange County	600	600	.....
Windsor County	600	600	.....
Caledonia County	600	600	.....
	2,600	2,600	.....
New York, New Jersey, and Pennsylvania	3,000	.....	.....
New York:			
General work—			
Tompkins County	1,400	.....	.....
Broome County	900	1,800	.....
Chemung County	1,137	2,650	.....
Jefferson County	1,020	1,680	.....
Clinton County	750	1,000	.....
Herkimer County	700	1,200	.....
Oneida County	1,000	1,000	.....
Franklin County	400	800	.....
St. Lawrence County	600	800	.....
Niagara County	400	800	.....
Cortland County	1,200	2,400	.....
One extra county	450	.....	.....
	9,957	14,130	.....
New Jersey:			
Essex County	900	1,800	.....
Mercer County	675	1,250	.....
Special survey work	350	350	.....
	1,925	3,500	.....
Pennsylvania:			
State leader	2,287	.....	$213
Bedford County	2,800	.....	100
Blair County	916	900	100
Washington County	1,000	1,000	100
Butler County	916	1,000	100
Mercer County	1,350	200	100
Montgomery County	900	900	100
	10,169	4,000	813
North Central States, division leader	4,273	.....	.....
Ohio:			
State leader	825	.....	2,375
Supervisor district 1	800	.....	1,200
Supervisor district 2	770	.....	1,630
Supervisor district 3	800	.....	1,000
Supervisor district 4	770	.....	1,630
Supervisor district 5	770	.....	1,530
Supervisor district 6	800	.....	1,200
Supervisor district 7	1,200	2,000	.....
Portage County	7,635	2,000	11,760
Historical survey	770	.....	.....
	8,305	2,000	.....
Indiana:			
General State work	1,500	.....	1,000
Boys and girls' club work	1,300	.....	1,300
Laporte County	450	1,800	.....
Montgomery County	600	1,000	.....
St. Joseph County	600	1,000	.....
Steuben County	600	1,000	.....
	5,050	4,800	.....
Illinois:			
General State work	1,500	.....	.....
Kankakee County	800	1,600	.....
Livingston County	600	1,200	.....
McHenry County	600	1,200	.....
	3,500	4,000	.....

Proposed expenditures during fiscal year ending June 30, 1913—Continued.

	Allotments. Bureau of Plant Industry.	County or other sources.	State institution.
Michigan:			
General State work	$1,000	.....	$1,000
Corn club work	500	.....	500
Northwest Michigan supervisor	2,700	.....	.....
North central Michigan supervisor	1,800	.....	.....
Northeast Michigan supervisor	1,650	$650	.....
South central Michigan supervisor	1,800	.....	.....
Kalamazoo County	800	800	.....
Kent County	1,050	900	.....
Iron County	800	1,200	.....
Branch County	600	800	.....
Saginaw County	600	800	.....
Allegan County	600	800	.....
	13,900	5,950	1,500
Wisconsin:			
General State work	1,000	.....	1,000
Eau Claire County	400	.....	1,000
Oneida County	400	.....	1,000
Barron County	400	.....	1,000
Clark County	400	.....	1,000
Research work	500	.....	.....
	3,100	.....	5,000
Minnesota:			
General State work	1,062	.....	1,062
Stevens County	520	880	.....
Pope County	520	880	.....
Grant County	520	880	.....
Traverse County	520	880	.....
Bigstone County	520	880	.....
Swift County	520	880	.....
Ottertail County	520	880	.....
	4,702	6,160	1,062
North Dakota:			
General State work	2,600	.....	.....
Ransom County	150	1,000	.....
Barnes County	150	1,000	.....
Grand Forks County	150	1,000	.....
Cavalier County	150	1,000	.....
Bottineau County	150	1,000	.....
Adams County	150	1,000	.....
	3,500	6,000	.....
South Dakota:			
General State work	1	.....	500
Brown County	900	2,100	.....
	901	2,100	500
Iowa:			
General State work	800	.....	800
Corn Club work	1,300	.....	1,700
Scott County	900	1,500	.....
Clinton County	900	1,500	.....
Muscatine County	600	900	.....
Clay County	600	900	.....
Montgomery County	600	900	.....
Blackhawk County	600	900	.....
Polk County	600	900	.....
	6,900	7,500	2,500
Missouri:			
General State work	3,000	.....	800
Pettis County	700	2,000	.....
Cape Girardeau	600	1,000	.....
Nodaway	600	1,000	.....
	4,900	4,000	800
Nebraska:			
General State work	800	.....	800
Club work	500	.....	500
Jefferson County	600	800	.....
Gage County	600	800	.....
Butler County	600	800	.....
	3,100	2,400	1,300
Kansas:			
General State work	600	.....	600
Three counties (not selected)	1,800	1,800	.....
	2,400	1,800	600
Western States:			
Division leader	1,200	.....	.....
District leader for Colorado, Wyoming, and Utah	2,900	.....	.....
	4,100	.....	.....
Colorado:			
General State work	150	.....	1,000
El Paso County	1,000	1,000	.....
Logan County	600	1,200	.....
Rio Grande County	700	800	.....
Saguache County			
Costillo County			
Conejos County			
	2,450	3,000	1,000

Proposed expenditures during fiscal year ending June 30, 1913—Continued.

	Allotments. Bureau of Plant Industry.	County or other sources.	State institution.
Wyoming, general State work	$3,000	.....	$1,500
Utah, general State work	750	.....	750
District leader for Oregon, Washington, Montana, and Idaho	5,000	.....	.....
Montana, general State work	988	.....	600
Idaho, Bonner County	1,000	.....	1,000
Washington, Wahkiakum County	960	$500	.....
Oregon:			
Polk County	1,062	1,050	.....
Marion County			
Wallowa County			
Union County	1,062	1,050	.....
Umatilla County			
Baker County			
	2,124	2,100	.....
Southern States, division leader	4,434	.....	.....
District leader for Maryland, Delaware, and Virginia	2,600	.....	.....
District leader for West Virginia, Kentucky, and Tennessee	2,800	.....	.....
Maryland, Baltimore County	600	800	.....
Delaware, general State work	600	.....	600
West Virginia:			
General State work	800	.....	800
Corn Club work	1,100	.....	1,100
Kanawha County	950	1,000	.....
Wood County	315	1,000	.....
	3,165	2,000	1,900
Kentucky:			
General State work	1	.....	500
Corn Club work	1,000	1,000	.....
Henderson County	500	1,000	.....
Madison County	725	725	.....
Jefferson County	600	1,000	.....
Other counties	1,250	.....	.....
	4,576	4,325	500
Investigational work (no demonstrations).			
(Demonstration work carried on by office of farmers' cooperative demonstration work.)			
North Carolina	2,800	.....	.....
South Carolina	3,750	.....	.....
Georgia and Florida	1,200	.....	.....
Alabama	2,967	.....	.....
Mississippi	2,700	.....	.....
Louisiana	3,100	.....	.....
Arkansas	1,800	.....	.....
Texas	1,650	.....	.....
Oklahoma	2,725	.....	.....
	22,692	.....	.....
Influence survey in North	1,440	.....	.....
	24,132	.....	.....
Grand total	175,924	.....	.....

Mr. LEVER. Mr. Chairman, I would like the committee to understand what we are doing. Last year we increased the appropriation in this item $156,000. This is the first year that this particular division of the Bureau of Plant Industry has been doing this work. The Secretary of Agriculture recommended in his estimate an appropriation of $435,000 for the next fiscal year. The committee allowed $75,000 of that amount. We did it in the belief that they could not economically and wisely in the second year of their work expend $435,000. We felt that a $75,000 increase and a total appropriation of $375,000 for a work only two years old, good as it is, was a liberal appropriation and ought to be considered as a liberal appropriation of the whole committee for this work. I sincerely trust that the gentlemen on this side, at least, will not be frightened into voting for this increase of $60,000 asked by the gentleman from Michigan on the theory that a vote against it will be considered a vote against the farmer. I want to say to you that the farmer is a sensible fellow and he wants his business carried on in a sensible way.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WILLIS. Mr. Chairman, I ask for three minutes.

The CHAIRMAN. All debate has been exhausted, but the gentleman from Ohio asks unanimous consent to address the House for three minutes. Is there objection?

There was no objection.

Mr. WILLIS. Mr. Chairman, I hope this amendment will be agreed to. I want to call attention to one or two facts in connection therewith. As has been correctly stated by the gentleman from South Carolina, the appropriation was increased last

year, and I tried to show in some remarks I made in general debate when this bill first came up that under that appropriation the Bureau of Farm Management was doing a splendid work. It is hampered because it does not have sufficient funds. The gentleman from Indiana stated, as I understood him, that 116 per cent of the increases in the agricultural bill had been made last year where they were not asked for. I do not quite understand his arithmetic, but be that as it may, the fact is the department is straining every nerve to get these men to the different localities that are seeking to get their services, but it is hampered because it does not have sufficient funds, and so it is asking for this increased appropriation of $435,000, for the benefit of the farmers of the North and West.

Gentlemen say this simply puts it on a parity with the appropriation for the boll-weevil work or cooperative demonstration work in the South. I am entirely in favor of that appropriation. The Knapp work is splendid work and has accomplished great good, but I am here in the name of the farmers of the great North and West asking that you give us the same advantages that you have been giving the farmers of the South ever since 1904.

Mr. LAMB. Let me say to the gentleman that we are doing that now.

Mr. WILLIS. Mr. Chairman, I do not think that is quite correct. The fact is this appropriation for Knapp work in the South has been in the bill since 1904, and the farm-management work we are trying to get established for the benefit of the farmers of the North and West is a new thing. This appropriation would offset the Knapp work appropriation these many years back, and we need this money to bring up the farm-management work to a standard and parity with the cooperative demonstration work in the South. This is a fair amendment, and I hope it will be adopted.

Mr. RODDENBERY. Mr. Chairman, I offer the following amendment to the amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend the amendment by striking out "$435,000" and inserting "$400,000."

Mr. RODDENBERY. Mr. Chairman, this strikes out $435,000, as offered by the gentleman from Michigan, and inserts $400,000, which would be a reduction of $35,000 and an increase of $25,000.

The CHAIRMAN. The question is on the amendment to the amendment offered by the gentleman from Georgia.

The question was taken, and the amendment to the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Michigan.

The question was taken; and on a division (demanded by Mr. McLAUGHLIN) there were—ayes 38, noes 41.

So the amendment was rejected.

Mr. LEVER. Mr. Chairman, I call the attention of the Chair to the fact that we have not yet read the next paragraph or the next item, on page 17, which was passed over without prejudice.

The CHAIRMAN. The gentleman is correct, and the Clerk will read that paragraph.

The Clerk read as follows:

For farmers' cooperative demonstrations and for the study and demonstration of the best methods of meeting the ravages of the cotton-boll weevil, $375,000.

Mr. BOOHER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Strike out all beginning with the word "and," in line 22, down to and including the word "weevil," in line 24, so that the paragraph will read:

"For farmers' cooperative demonstrations, $375,000."

Mr. LEVER. Mr. Chairman, I would suggest to the gentleman from Missouri the following change in the language. Make the paragraph read:

For farmers' cooperative demonstration work, $375,000.

Mr. BOOHER. Mr. Chairman, I have no objection to that.

Mr. LEVER. Then, Mr. Chairman, I offer that as an amendment to the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the amendment so that it will read:
"For farmers' cooperative demonstration work, $375,000."

Mr. LEVER. I have no objection to the amendment.

Mr. RODDENBERY. Mr. Chairman, may I ask the gentleman from South Carolina a question? This amendment offered by the gentleman from Missouri and accepted by the committee is not intended to do away with the study and demonstration of the best methods of meeting the ravages of the boll weevil? That work is not to be discontinued or abated?

Mr. LEVER. Not at all. The idea of the committee in accepting the amendment is that the work is really demonstration work, and it ought more properly be called demonstration work.

Mr. RODDENBERY. It is the understanding of the committee that striking out these lines in no way abridges the authority of the Agricultural Department to continue this work—enlarge or decrease it as the good of the country may demand.

Mr. MANN. Not at all.

The CHAIRMAN. The Chair will ask the gentleman a question. Does the Chair understand the gentleman's amendment to be to strike out the word "demonstrations" and insert "demonstration work"?

Mr. LEVER. Yes.

Mr. MANN. Mr. Chairman, the gentleman from Georgia [Mr. RODDENBERY] asked what would be the effect of this, and my friend from South Carolina says that after you strike this language out it means the same that it does before it is stricken out.

But that is not a proper construction. If this language is stricken out of the bill the department is no longer given authority to study the best method of meeting the ravages of the cotton-boll weevil. There must be no other object on the part of the gentleman from Missouri in striking the language out except to strike out that authority. Now, when the department reads the language after it is out they read only authority for farmers' cooperative demonstration work, and, if then they turn from the language of the appropriation bill to the proceedings in the House, they find that the House has stricken out of the bill that part of it which authorizes the department to study the best method of meeting the ravages of the cotton-boll weevil, and no department of the Government would be warranted under such conditions in continuing that study, so what is the object in striking it out?

Mr. BOOHER rose.

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Missouri?

Mr. MANN. I understood the gentleman desired to ask a question.

Mr. BOOHER. No; I thought the gentleman had finished. Mr. Chairman, my object in introducing this amendment was simply to place this sum of money in the hands of the department to use where it pleases in this work. Now, you turn to the hearings before the Committee on Agriculture, and you will find that the department expert said in the hearings that they only used $10,000 last year of the sum of money that was appropriated for the study of the boll weevil, and they had come to the conclusion now, and it is a settled fact with the department, that there is no cure for boll weevil except the early planting of cotton and intensified farming, and it is demonstration work along that line entirely that this amendment is offered that it may be so used. Now, let us see what the testimony was.

Mr. MANN. Will the gentleman yield?

Mr. BOOHER. Certainly.

Mr. MANN. If out of the appropriations of last year they only used $10,000 for farmers' cooperative demonstration work the gentleman does not fear they have got authority to use all they want of that——

Mr. BOOHER. No; I think whenever an appropriation is made the department will use any sum they have; we never see them turning any of it back. The appropriation last year was $332,960 for this purpose, and only $10,000 was used to eradicate the boll weevil. Not a cent of the balance was turned back to the Treasury.

Mr. MANN. They can use all they want out of this appropriation for that purpose.

Mr. BOOHER. Here is the testimony, and now let us see. Dr. Howard was on the stand, and Mr. McLAUGHLIN asked him this question:

Have you considered the advisability of stopping your work and using the appropriation given Dr. Knapp in assisting the farmers?

Dr. HOWARD. That has been suggested, but we are spending only about $10,000 on the weevil.

Mr. LAMB. Now, the gentleman is getting the wrong horse.

Mr. BOOHER. No, I am not. I am reading from the testimony before the gentleman's committee, and the gentleman was present at the hearing.

Mr. LAMB. Dr. Howard is chief of the Bureau of Entomology.

Mr. BOOHER. But this whole question of the boll weevil is divided——

Mr. LAMB. They get $45,000 for this work.

Mr. BOOHER. You have three paragraphs under which the study of the boll weevil can be continued without this large sum.

Mr. LAMB. That is right.

Mr. BOOHER. So this amendment is simply taking the boll-weevil provision out of this bill and permitting the use of the sum appropriated to be used in farmers' cooperative demonstration work. I want to read a little further from the hearings to show the House that the department has absolutely quit trying to kill and destroy the boll weevil:

Mr. HAWLEY. Have you given up the problem of attempting to find a spray that will kill the boll weevil?

Dr. HOWARD. Practically so.

Mr. HAWLEY. You think it will not be possible to kill it with a spray?

Dr. HOWARD. No, sir.

What is the use of continuing? Why spend large sums of money and accomplish nothing? You have got three paragraphs carrying over $84,000 in this bill already adopted that gives this department the right to pursue the study of the boll weevil, and you have increased this item something like $60,000 over last year. I want the department to have all the money they need, but I do not want this Committee of the Whole House to vote any money under false pretenses of this boll-weevil business, because they tell you they can not kill it. They tell you that the only thing that the farmer can do to wipe out the boll weevil is by changing crops and planting cotton earlier. You do not need any outside demonstration work to teach the farmers that; treat the farmers like men, not as a lot of children.

Mr. HAUGEN. The gentleman claims they have authority under other sections of the bill if they desire to do this?

Mr. BOOHER. Certainly. If they want to pursue the study of boll weevil, or any other thing that attacks crops in the South, they have the right to do it under three paragraphs we have already adopted which carry $84,000 for that purpose. I think that language ought to go out.

Mr. LAMB. I ask for a vote.

Mr. RODDENBERY. I would like to be heard briefly.

Mr. BOOHER. Just a moment. I want to call the attention of my friends from the cotton-growing regions to Bulletin 519 of the Department of Agriculture. It gives the experience of an old negro cotton raiser in the South. It shows that, without any assistance from anybody, without a word from a department expert, without anybody to show him anything—and I understand he is in the district of my friend from Alabama [Mr. HEFLIN]—that old negro, named Sam McCall, took an old, run-down piece of land, where you could not raise more than two or three hundred pounds of cotton to the acre, and worked it until now he raises from three to five bales to the acre.

Mr. LAMB. He has been educated in the best of schools—the school of experience.

Mr. BOOHER. What a negro cotton raiser can do a white cotton raiser in the South can do, I imagine. I want to recommend to my friends from the cotton-growing regions that they get a number of those bulletins and send them to every cotton raiser in their districts.

Mr. HAMILTON of Michigan. I infer from what the gentleman says that this old darkey has found out more about growing cotton than the department experts have.

Mr. BOOHER. I agree with the gentleman from Michigan.

Mr. HAMILTON of Michigan. Why not hire him?

Mr. BOOHER. I am going to ask unanimous consent to print this bulletin in the RECORD. It is written entirely on the experience of this man. It is illustrated. I am going to ask that it be put in the RECORD, illustrations and all, in order that the readers of the RECORD may see just what has been done.

Mr. LAMB. If you put it in the RECORD, they will never see it. The bulletin is the place for it.

Mr. SIMS. Does the bulletin say that he raised from three to five bales of cotton on an acre?

Mr. BOOHER. Yes.

Mr. MANN. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Did the gentleman from Missouri [Mr. BOOHER] ask unanimous consent to print a farmers' bulletin in the RECORD or not?

Mr. BOOHER. I want to make the request to print it in the RECORD, with the illustrations.

Mr. MANN. I shall object.

Mr. BOOHER. I make the request now.

Mr. MANN. I object to printing public documents in the RECORD.

Mr. BOOHER. I am very sorry the gentleman objected. The bulletin, if read by the cotton raisers, would save to the Government the large sums we appropriate every year under the pretense that it is in aid of the farmer and the planter.

Mr. RODDENBERY. Mr. Chairman, permit me to call the committee's attention to the language of the paragraph which my friend from Missouri [Mr. BOOHER] seeks to amend:

For farmers' cooperative demonstrations and for the study and demonstration of the best methods of meeting the ravages of the cotton boll weevil, $375,000.

Now, under the language of the paragraph it is not incumbent on the department to expend all of the $375,000 for studying or checking the ravages of the boll weevel, but only so much of it as they see fit. Under the first clause of the paragraph, "for farmers' cooperative demonstrations," they may expend such amount as in their judgment is proper for other demonstrations.

Mr. LEVER. Will my friend withhold for a moment? The language in this item means this, that on account of the criticism, such as the gentleman from Missouri [Mr. BOOHER] offers and the gentleman from Michigan [Mr. McLAUGHLIN] has so often offered in the committee, as to the character of the work being done under the language in the item, which used to read:

For the study and demonstration of the best methods of meeting the ravages of the cotton boll weevil.

It was decided in conference last year to add:

For farmers' cooperative demonstrations and for the study and demonstration of the best methods of meeting the ravages of the cotton boll weevil.

Now, I am confident in my own mind that the department, under the language proposed by the gentleman from Missouri [Mr. BOOHER] and amended by my amendment, "for farmers' cooperative demonstration work," will have all the authority it wants to use that money in the best way they can for the benefit of the work. And if to do farmers' cooperative demonstration work, combating the boll weevil is considered by the department the best use of this money, they will expend it in that way.

Mr. RODDENBERY. My friend from South Carolina [Mr. LEVER] well knows the significance of the statement just made by the gentleman from Illinois [Mr. MANN] if "striking out" this amendment should be adopted, because the vote of the House will show, in the face of his statement, that the item authorizing study and work for meeting the ravages of the boll weevil was stricken out. I fear this will leave the department stripped of authority to continue this work. I know my friend from South Carolina does not desire that result to follow.

Now, if that is the purpose of my colleague from Missouri, not to discontinue this boll-weevil investigation and work, why not accept this substitute, "For farmers' cooperative demonstration work," and so forth?

Provided, That the department may expend so much of this sum as it sees fit for the study and demonstration of the best methods of meeting the ravages of the cotton-boll weevil.

Now, although the department has exerted its highest endeavors faithfully, I am not infatuated with the success that it has had in effecting an eradication of the cotton-boll weevil, nor am I especially out of accord with some of the views of my colleague from Missouri. But in my judgment this change should not be made—and I hope gentlemen will take note of the significance of it—without at least letting the paragraph carry some clause that will negative the idea that the department no longer has authority to do this work if it sees fit.

Now, look at the paragraph just before, carrying $375,000: "*Provided*, That of the amount hereby appropriated" a certain sum may be used in a certain way.

Mr. LEVER. Mr. Chairman, I will say to my friend from Georgia that I have absolutely no objection to his substitute. The only reason the committee accepted the proposition of the gentleman from Missouri [Mr. BOOHER] was that by accepting it we would be enabled to go on and gain time, believing that it would not affect the work of the department. But I am willing to accept the gentleman's substitute.

Mr. MANN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. RODDENBERY. I do.

Mr. MANN. What is the difference between "farm demonstration work" in the preceding item and "farmers' cooperative demonstrations" as carried in this item?

Mr. LEVER. In practice, none.

Mr. MANN. But the department must assume a difference. They otherwise would have to assume that Congress is childish.

Mr. RODDENBERY. I take no issue with the gentleman on that proposition.

Mr. HEFLIN. Mr. Chairman, the gentleman from Missouri [Mr. BOOHER] is needlessly excited, it seems to me, about the productivity of an acre or two of ground in my district. There we sometimes produce a bale of cotton on 1 acre of ground

in my district, and this old negro man McCall that he has referred to was taught by his master how to produce cotton. He was a slave, and his master taught him how to produce cotton on a large scale. It is said, I believe, that he remained on the old plantation after the emancipation and raised cotton on the same ground that he raised it on when his master was alive.

Mr. BOOHER. No; not on that land at all. He bought another farm.

Mr. HEFLIN. But the secret of his success is the fact that he has employed the very methods taught by the bulletins distributed by Members of Congress. I have sent these bulletins into my district for eight years. Here is what this bulletin says, speaking of this old negro:

During the last few years, having heard something of the advantages of crop rotation as a means of increasing the yield, McCall has been diversifying his crops, making corn and oats in addition to cotton, hoping in this way to refresh his land and to increase the productiveness of his land so as to enable him to produce the standard nine bales of cotton on 1 acre.

He has been doing the very thing that the Department of Agriculture has been teaching—the diversification of crops. Therein lies the secret. He does not have to read the bulletins himself. I doubt whether he can read. But he sees and talks with farmers cultivating their ground around him, who do read the bulletins, and he hears it from them. That is why this negro produced so much on this 1 or 2 acres of ground. He has not and will not ever produce nine bales of cotton on 1 acre of ground.

Mr. LAMB. Mr. Chairman, this is all very interesting. It is true, but I ask for a vote.

Mr. HAMILTON of Michigan. The gentleman's time has not expired.

Mr. LAMB. Oh, I beg the gentleman's pardon. I thought he was through.

Mr. HAMILTON of Michigan. I would like to ask the gentleman from Alabama a question.

Mr. HEFLIN. Very well.

Mr. HAMILTON of Michigan. The gentleman said that the success of this old negro was due to the fact that he had studied in the school of cotton experience under his master. Now, I want to know why his surviving master or the children of his master, who may also be assumed to have studied in the same school, can not go on with the same measure of success that the old negro has had?

Mr. HEFLIN. The character of the soil has a great deal to do with it. Soil of one character will produce a great deal more cotton than soil of another character.

Mr. HAMILTON of Michigan. There is glory enough for all. Why not give that old man his share of it?

Mr. HEFLIN. That is what I want him to have. I simply want to show that this old negro learned from the farmers around him who do read the bulletins.

Mr. HAMILTON of Michigan. Yes; but the farmers around him have not been intelligent enough to know what he knows.

Mr. TALCOTT of New York. I want to ask the gentleman from Alabama if the territory invaded by the boll weevil is not constantly increasing?

Mr. HEFLIN. That is true.

Mr. TALCOTT of New York. Has it not reached the gentleman's own State?

Mr. HEFLIN. It has.

Mr. TALCOTT of New York. And this demonstration work is necessary for that reason.

Mr. HEFLIN. That is true. The boll weevil has now reached my State and the State of Georgia.

Mr. LAMB. Mr. Chairman, I move that all debate on this paragraph and the amendments thereto close in five minutes.

The CHAIRMAN. The gentleman from Virginia moves that all debate on this paragraph and the amendments thereto close in five minutes.

The motion was agreed to.

Mr. BOOHER. Mr. Chairman, in reply to my friend from Alabama [Mr. HEFLIN] I want to say that he read from the bulletin the experience of this old colored man after he had been raising from 3 to 5 bales of cotton to the acre. He did not state where the old man got his information in the first place or the condition his land was in when he began. Let me read that to you. Here is what he said. Here is what Dr. Galloway says he did:

McCall began working such portions of his land as were tillable and grew cotton and corn, the crops common to that section. After working along this line for 15 years he arrived at the conclusion that a man with a limited equipment who was doing practically all his own work could obtain better results by concentrating his efforts on a small area of land.

No one gave McCall instructions about cultivating his land—no expert to tell him how to proceed. It is not a fact that anyone ever read him a bulletin or gave him advice. How did he know anything about it? He dug it out of his own head, went to work and improved his land so that it has become very productive.

He accordingly selected 2 acres near his cabin and for the last 21 years has devoted his time and energies to increasing the producing capacity of his small area. These 2 acres were in a little higher state of fertility than the other tillable portions of his land, producing on an average one-third to one-fifth of a bale of cotton to the acre.

Now, without anybody ever reading to him a bulletin, without anybody telling him how to kill the boll weevil, he raises from 3 to 5 bales to the acre. Why, the cotton-boll weevil has been a blessing to the cotton raiser. That may sound strange, but you raise more cotton every year as the years come and go, and if it was not for the cotton-boll weevil you would raise such a tremendous crop that, if our theory of prices is right, the supply would far exceed the demand, and the price of cotton would go down to a place where you could not afford to raise it.

Mr. HEFLIN. I wish to correct the gentleman. The cotton crop of 1911 was more than 2,000,000 bales greater than the crop of 1912.

Mr. BOOHER. Either the gentleman is mistaken or else the bureau reports are wrong—one or the other.

Mr. HEFLIN. The department does not claim that the crop of 1912 is within 2,000,000 bales as great as the crop of 1911.

Mr. BOOHER. This Congress has appropriated for killing the boll weevil two million and a quarter dollars, and I will put into the RECORD a letter giving the amount for each year that you have been appropriating for the eradication of the boll weevil, only to learn there is no remedy:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, December 14, 1912.

Hon. CHARLES F. BOOHER,
House of Representatives.

MY DEAR MR. BOOHER: In compliance with your letter, I have the honor to advise you that the following sums have been appropriated for the suppression of the boll weevil in the cotton States, viz:

Fiscal year:

1905	$250,000
1906	190,000
1907	220,000
1908	150,000
1909	144,000
1910	225,000
1911	250,155
1912	350,000
1913	332,960
Total	2,122,115

In connection with the above figures, Congress made specific appropriations for "Cotton-boll weevil investigations" for the fiscal years 1905 to 1908, inclusive. For the years 1909 to 1913, inclusive, the amounts represented were appropriated for farmers' cooperative demonstrations and for the study and demonstration of the best methods of meeting the ravages of the cotton-boll weevil.

Very respectfully,

JAMES WILSON, *Secretary.*

During this time the crop of cotton had increased from year to year. There may have been one year when there was less raised, just as has happened to the corn crop and the wheat crop and other crops. But it is true that they continue to raise greater and greater crops in spite of the tremendous ravages of the boll weevil. The boll weevil, like other farm pests, come and go, and after we have so generously appropriated money to eradicate them, and the experts tell us that there is no known remedy that will destroy the pest, it occurs to me that we are not justified in spending this large sum, $375,000, in further prosecution of these useless experiments. Let us be generous in furnishing money for farm-demonstration work, but not for a special purpose, when it has been demonstrated that further expenditure along that line will be productive of no good results.

Mr. HAMILTON of Michigan. Will the gentleman yield for a question?

Mr. BOOHER. Yes.

Mr. HAMILTON of Michigan. Does not the gentleman think it would be a good idea to make an appropriation to send some Agricultural Department experts to study the methods used by this old colored man?

Mr. BOOHER. I think it would. They absolutely go on in this bulletin and say that this old fellow raises such a class of cotton seed, that is known as McCall's cotton seed, and brings a large price in the market; this, too, without the aid of an expert or an appropriation.

Mr. HARDY. Has the gentleman from Missouri seen statements that somebody raised 300 bushels of corn to the acre?

Mr. BOOHER. I have heard a gentleman say that he saw an acre of corn that yielded 300 bushels to the acre, and I think he told the truth; I think that can be done.

Mr. HARDY. Does the gentleman mean to say that you can pile 9 bales of cotton on an acre of land and leave any room for the stalks?

Mr. BOOHER. Oh, the old man says he is going to raise that amount before he dies, and if he succeeds as well in the future as he has in the past no doubt he will do so.

Mr. HARDY. My capacity for accepting statements of that sort is limited.

Mr. BOOHER. I am not responsible for the gentleman's limited capacity?

Mr. HEFLIN. Will the gentleman state how much he did make on 1 acre of ground?

Mr. BOOHER. Three to five bales, weighing 505, 506, and 510 pounds, on 1 acre, 50 bushels of oats and 50 bushels of corn and 1 bale of cotton on the other acre.

Mr. HARDY. That is altogether out of proportion.

Mr. BOOHER. I have nothing to do with the proportion; I am telling you what is in the bulletin. It came under the observation of the expert who wrote it.

Mr. RODDENBERY. Mr. Chairman, I desire to offer an amendment, which I think the chairman of the committee and the chairman of the subcommittee will accept.

The CHAIRMAN. Is it an amendment offered to the amendment offered by the gentleman from Missouri? The Clerk will report the amendment.

The Clerk read as follows:

FOR FARMERS' DEMONSTRATION WORK.

Provided, That of the amount hereby appropriated such sum may be used for the study and demonstration of the best method of meeting the ravages of the cotton-boll weevil as may be deemed necessary, $375,000.

The CHAIRMAN. The question is on the substitute.

Mr. MANN. Is not that a substitute for the paragraph? Does not the amendment to the paragraph come first?

The CHAIRMAN. The gentleman from Georgia stated that it was a substitute for the amendment as proposed to be amended, but it appears to the Chair that it is a substitute for the paragraph. The question is on the amendment offered by the gentleman from South Carolina.

The question was taken, and the amendment was rejected.

The CHAIRMAN. Now the question is on the amendment offered by the gentleman from Missouri.

Mr. RODDENBERY. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. RODDENBERY. After a vote is taken on the amendment of the gentleman from Missouri, will my amendment be in order?

The CHAIRMAN. The amendment of the gentleman from Georgia as a substitute will be in order.

Mr. LEVER. Mr. Chairman, if the amendment of the gentleman from Missouri is voted down, will a vote then be taken on my amendment?

The CHAIRMAN. The Chair will call the gentleman's attention to the fact that his amendment to the amendment was defeated.

Mr. LEVER. If the amendment of the gentleman from Missouri is voted down, then the language of the bill will stand.

The CHAIRMAN. The gentleman from Georgia has a substitute for the paragraph.

Mr. LEVER. If the gentleman from Georgia would withdraw that, we can go on with the language in the bill for the farmers' cooperative demonstration work, $375,000.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

The question was taken; and on a division (demanded by Mr. BOOHER) there were 19 ayes and 45 noes.

So the amendment was lost.

Mr. RODDENBERY. Mr. Chairman, I ask unanimous consent to withdraw the substitute which I offered.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to withdraw his amendment in the way of a substitute. Is there objection?

Mr. BOOHER. I object.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia as a substitute.

The question was taken, and the amendment was rejected.

Mr. STEPHENS of Texas. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 17, line 24, after the word "weevil," add "and destroying the Russian thistle."

Mr. HAUGEN. Mr. Chairman, I offer an amendment to add "the Canadian thistle."

Mr. STEPHENS of Texas. I will accept that amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas, which the Clerk will report.

The Clerk read as follows:

Page 17, line 24, after the word "weevil," add "and to destroy the Russian thistle."

Mr. MONDELL. Mr. Chairman, I desire to offer an amendment.

Mr. MANN. No other amendment can be in order.

Mr. STEPHENS of Texas. I accept the amendment offered by the gentleman from Iowa [Mr. HAUGEN].

Mr. MANN. The gentleman can not accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa to the amendment offered by the gentleman from Texas.

The question was taken, and the amendment to the amendment was rejected.

Mr. MONDELL. Mr. Chairman, I move to amend the amendment of the gentleman from Texas by inserting the words "loco weed."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the amendment by inserting the words "loco weed."

The CHAIRMAN. The question is on the amendment to the amendment.

The amendment to the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Texas [Mr. STEPHENS].

The amendment was rejected.

Mr. MARTIN of South Dakota. Mr. Chairman, I move to strike out the last word of the paragraph last read on page 22, and I do this for the purpose of explaining an amendment which I desire to offer.

The CHAIRMAN. The Chair would state to the gentleman that all debate on this paragraph is exhausted.

Mr. MARTIN of South Dakota. Mr. Chairman, I do not so understand the proceedings. The motion was to limit debate on the paragraph then under consideration, which was a paragraph to which we had returned. Debate has not been closed nor has amendment been closed on the paragraph on page 22.

The CHAIRMAN. The gentleman is correct. The Chair was in error.

Mr. COX. Mr. Chairman, I have an amendment that I desire to offer.

Mr. LAMB. Mr. Chairman, I think the gentleman from South Dakota is right.

The CHAIRMAN. The gentleman's amendment is to strike out the last word?

Mr. MARTIN of South Dakota. Mr. Chairman, the amendment which I desire to offer at this point, or if I can get unanimous consent to return to page 19, line 14, which would be a more appropriate place, is as follows:

Of which sum the amount of $10,000, or so much thereof as the Secretary of Agriculture shall direct, may be used for the purpose of making further investigations of the hardy and drought-resisting alfalfas of Siberia, and to obtain further seeds and plants thereof.

Evidently it would be in order at this point, but it is a question in my mind whether it would not be more appropriate as an amendment to the new section or new paragraph which the committee has inserted on page 19, beginning with line 9 and terminating with line 14. I would like to have the view of the gentleman in charge of the bill.

Mr. LAMB. Mr. Chairman, I would say that I think the Secretary has full authority now under this bill to do all of that, and I think he is doing it.

Mr. MARTIN of South Dakota. Quite true; but I want to make that perfectly clear, and it can either be offered on page 22 or to line 14 on page 19. I ask unanimous consent to return to that page.

Mr. LAMB. Provided that the Secretary can do this work, and he is doing it now.

Mr. MARTIN of South Dakota. If there be no objection to unanimous consent to return to page 19, line 14, I will ask for that. The committee has made a rearrangement of this appropriation and has inserted that paragraph as a new paragraph. It provides for the investigation of foreign seeds and probably would belong there.

Mr. LAMB. Mr. Chairman, I object.

Mr. MARTIN of South Dakota. Then, Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Amend, by adding to line 17, page 22, "of which sum the amount of $10,000, or so much thereof as the Secretary of Agriculture shall direct, may be used for the purpose of making further investigations of the hardy drought-resisting alfalfas of Siberia, and to obtain further seeds and plants thereof."

Mr. LAMB. Mr. Chairman, I would say to my friend that under the general provisions of this bill the Secretary of Agriculture has been doing and can do all of this work.

Mr. MARTIN of South Dakota. Mr. Chairman, I think there is some little doubt about that. It is only for the purpose of making certain that there is such authority that I offer the amendment. I want to say just a word or two because I am in entire sympathy with the desire of the committee to proceed with the bill.

Mr. MOSS of Indiana. Is it not a fact that this House on a former occasion appropriated $40,000 for that particular purpose?

Mr. MANN. Oh, no.

Mr. MOSS of Indiana. And did not the Government buy more than 80,000 pounds of alfalfa which was especially drought-resisting?

Mr. MARTIN of South Dakota. There was no special appropriation of that kind covering this item.

Mr. MOSS of Indiana. Does the gentleman say there is no appropriation for alfalfa that is drought resisting?

Mr. MARTIN of South Dakota. I think there is; but this appropriation does not interfere with that, and this does specifically say that a certain part of the amount may be used for the purpose of further investigating and obtaining other seeds of hardy alfalfas of northern Siberia. Now, I want to explain just in a word the present status of that investigation.

Mr. LAMB. Mr. Chairman, I think debate is unnecessary. Let the gentleman refer to page 22, line 12. It says:

Provided further, That $39,000 of which sum, or so much thereof as the Secretary of Agriculture shall direct.

Mr. MARTIN of South Dakota. Certainly; I am simply adding that as an amendment to the paragraph.

Mr. LEVER. Will the gentleman yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. LEVER. Gentlemen are speaking at cross-purposes here. There is not any doubt in the world but that the Secretary of Agriculture now has authority, if he has the money, to do all the work the gentleman seeks to have done in his amendment. I think you will find, on page 19, lines 9 to 14, "for investigation in foreign seed and plant introduction."

Mr. MARTIN of South Dakota. I just asked the committee for the privilege of returning to offer this amendment to that item.

Mr. LEVER. I am confident, however, that the language of that item gives the gentleman all the authority that he wants, and I know that the Secretary of Agriculture is sending his experts abroad to introduce into these countries these foreign plants.

Mr. MARTIN of South Dakota. This does not make it any more binding than that item and does call on the department——

Mr. MANN. Will the gentleman yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. MANN. I believe there is no doubt that the Department of Agriculture is now doing this work. They have a man or more abroad now in various places in Asia making this investigation. There is no question about that.

Mr. MARTIN of South Dakota. Well, I am not certain whether there is anyone abroad now or not.

Mr. MANN. I know there is some one abroad now. They are abroad under this authority in the existing appropriation bill—a current appropriation bill—

To collect, purchase, propagate, test, and experiment with seeds of interest to agriculture—

And so forth.

Now, the item in that form is left out of this bill, but it is inserted in this way on page 19:

For investigations in foreign seeds and plant introduction, including the collection, study, purchase, testing, propagation, and distribution of rare and valuable seeds—

And so forth.

While the word is changed from "collect" to "collection," it means the same thing, and the Secretary now exercising the authority has kept Mr. Myers abroad, and will have the authority under the item in this year's bill, except that the amount this year is $83,000, whereas last year it was $52,000.

Mr. BARTLETT. The Secretary, in his report, on page 19, said:

The whole alfalfa question in the United States has been put on a new basis by the introduction of the Turkestan, Siberian, Arabian, and Peruvian alfalfas and the development of the hardy hybrid strains which grow in the Southwest throughout the winter.

Mr. MANN. They keep a man abroad working on this practically all the time.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

Mr. MANN. I ask that the gentleman be given five minutes additional.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. MARTIN of South Dakota. Now, I will ask the committee whether the amount available for this sort of work has been increased in this item on page 19?

Mr. LAMB. Increased $40,000 over last year.

Mr. MARTIN of South Dakota. As near as I can figure the items of the committee in their present form, there was an increase of about $10,000 for the two items together. Now, do I understand the gentlemen in charge of the bill claim this item which is covered by my amendment and for which some additional appropriation apparently has been made can be carried on by the Secretary under the bill as now drawn?

Mr. LEVER. Undoubtedly; and he is now doing work which the gentleman seeks to have done.

Mr. MARTIN of South Dakota. Then, what is the objection to this amendment?

Mr. LEVER. We do not desire to load the bill down with new language.

Mr. MANN. If the gentleman will yield there, I can give an objection that will be perfectly apparent to him. If the gentleman's item would go in, the agent abroad would have to be paid out of some item to pass the auditor's office, and he would have to confine his work, if he is paid out of the alfalfa item, as the gentleman proposes, to the study of alfalfa abroad, whereas now he is given authority to study all plants abroad, and he is paid out of the general item, and there is no trouble at the auditor's office.

Mr. MARTIN of South Dakota. Mr. Chairman, just a word or two before I yield the floor.

There is no subject of greater importance to all of that plains country between the Panhandle of Texas and our northern boundary lines than the procuring of these hardy alfalfa seeds from northern Siberia. It has come under my observation from what has occurred in the past. Dr. Hansen, of the Agricultural College of South Dakota, was sent to Siberia in 1897, 1906, and 1908 to obtain these plants. Some very important and hardy alfalfas were found on the trip of 1906. In 1908 a limited quantity of the seeds and plants was brought to the United States and used for experimental purposes by the farmers in South Dakota and other parts of the Great Plains area during the last year or two with very encouraging results. The field, however, was not entirely covered, and I may say in the correspondence which I have had, seeking some information or light upon this subject. I have a letter from Dr. Hansen, who made the exploration, which took him 1,000 miles away from the railroad, into a country where these plants grow wild and in their native state, and where the rainfall is only 9 inches a year. In seeking information from Dr. Hansen recently I have the following statement:

Briefly, the campaign is one for a more abundant meat supply by increasing the forage-producing capacity of the dry uplands extending from the Pan Handle of Texas to our northern boundaries. Some of these alfalfas are native of a region where the climatic extremes range from 44 degrees below zero in winter to about 122 degrees heat in summer, with a rainfall as low as 9 inches.

In my 1906 tour the Siberian alfalfas were first discovered. In 1908 I had the job to cover Siberia from east to west to locate fields where the tallest and best strains were to be found, but it was too big a job for one summer, inasmuch as traveling a thousand miles from railway, more or less, is slow work.

Now, Mr. Chairman, in the face of the apparent fact that the amount of appropriation for this general work of investigation of new and important seed plants has been increased, and with the assurance of the committee that the bill in its present form would cover an extension of this class of investigation of these particularly important plants which we need in the West, I will not insist upon my amendment, but I will ask leave to print as a part of my remarks some correspondence which I have had with the explorer who made these original trips.

The CHAIRMAN. The gentleman from South Dakota [Mr. MARTIN] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The following are the letters referred to:

SOUTH DAKOTA AGRICULTURAL EXPERIMENT STATION,
Brookings, January 14, 1913.

Hon. E. W. MARTIN, *Washington, D. C.*

DEAR SIR: I am very busy preparing a bulletin on the alfalfas which I found growing wild in Siberia in 1906 and 1908. Upward of 1,500 farmers are cooperating with me in this work of testing the few plants,

and many report remarkable results showing drouth resistance and ability to endure severe cold without snow cover. Efforts will be made to get a State appropriation for extending the work by field demonstrations, so that an abundance of seed may be raised for local distribution, especially in the western part of the State.

It is very expensive going 1,000 miles from railway with a fully equipped expedition of men and horses, which is the only way of getting this seed. A small congressional appropriation, say of $5,000, would help greatly, but it would not be a good plan unless it be distinctly specified that it was for the purpose of my finishing alfalfa investigations which I have already started by my three trips to Siberia in 1897, 1906, and 1908, as I have had to learn the work from the very beginning. A new man would have to learn it all over again.

Cordially, yours,

N. E. HANSEN.

SIBERIAN ALFALFA IN STANLEY COUNTY, S. DAK.

Upward of 1,500 farmers are cooperating with me in testing the alfalfas which were found growing wild in Siberia in 1906 and 1908. The following letter is a sample. After inspecting some of the plants I sent in spring 1911 to Henry L. Jeffries, Sansarc, S. Dak.; John W. Horning, of Hayes, S. Dak.; wrote a letter under date of August 3, 1912, from which the following are extracts:

"* * * Seeing Mr. Jeffries's plants and knowing what the plants you left are doing is prima facie evidence that your new Siberian alfalfas will find an adapted home here, and that the development of this country will now depend upon the same. This has proven another very unfavorable season for the settlers here, and they are leaving every day, many never to return. The ones that are determined to stay and try to develop the country are doing so at a sacrifice. My people and I are determined to stay, and have hopes in the cultivation of your alfalfa. * * *

"You will find the country far more depopulated than when you were here. The settlers had to go, as they were at the limit of their means, and many are staying now hoping for better conditions in the future, and who are in very adverse circumstances.

"I am sure you appreciate the true sense of this letter and, knowing that you are interested with me in the development of this country, I feel certain that you will give this your most careful consideration. * * *"

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, January 2, 1913.

Prof. N. E. HANSEN, *Brookings, S. Dak.*

DEAR PROF. HANSEN: I am pleased to notice by your letter of December 28 that the theories we had with regard to getting hardy plants from countries colder and drier than South Dakota west of the Missouri River have been justified by developments. I think the Siberian alfalfas and plants coming from Africa, together will eventually reclaim our dry-land belt running from the Gulf of Mexico up to our northern line. Every State having a dry belt, and they all have in the territory I have described, should use all possible effort to get these plants propagated and disseminated among the people. I will speak to Dr. Galloway, who is in charge of our explorers, of the benefit that would come by sending you out again to these northern Asiatic regions to bring us more of those plants or the seed of them. It would be one of the wisest investments the State of South Dakota could make to encourage the getting of these plants for the people. My time in the Department of Agriculture will cease on the 4th of March, when I retire to private life. I will not have the authority to select explorers after that time, but the necessity for this work is pretty well understood by the scientists of the department. South Dakota can afford to act for itself if the Federal Government does not do all you think it should do.

I hope you will complete that bulletin that we have been discussing. I would like to have it before I retire, so that I could have it printed and distributed.

Very truly, yours,

JAMES WILSON, *Secretary.*

REPORT OF THE SECRETARY OF AGRICULTURE, 1912.

SIBERIAN ALFALFAS.

Our dry-land problems will be measurably solved through alfalfas From Siberia and nonsaccharine sorghums from Africa (p. 10).

The whole alfalfa question in the United States has been put on a new basis by the introduction of the Turkestan, Siberian, Arabian, and Peruvian alfalfas and the development of the hardy hybrid strains which grow in the Southwest throughout the winter (p. 119).

During the past year an agricultural explorer was sent through the steppe regions of western Siberia, south of Omsk, to make a detailed study of the behavior of the yellow-flowered, hardy alfalfa on the cattle ranches there, and he made contracts with the peasants for all the possible seed for special experimental tests of this plant in the Northwest (p. 120).

A number of wild forage legumes from the Siberian steppes have been located and are now being secured in quantities for distribution and testing in the years to come (p. 120).

During the past year marked advance has been made in the work with the hardy and drought-resistent alfalfas introduced from Europe and Asia. The crossing of the yellow-flowered form with the common species has resulted in some very promising hybrids, adapted to use both as hay and for grazing in the Great Plains region. The value of the new alfalfa for hybridizing can scarcely be overestimated (p. 121).

ALASKA.

Plants of alfalfa obtained by Prof. N. E. Hansen in Siberia and northern Europe have been given trial and have proved hardy for two winters at Rampart. These are being propagated as rapidly as possible, to extend their use for forage and to increase the nitrogen of the soil, most Alaskan soils being deficient in this important element (p. 103).

RAMPART, ALASKA.

Siberian alfalfas have been successfully introduced and have withstood the winter climate for two years (p. 218).

SOUTH DAKOTA AGRICULTURAL EXPERIMENT STATION,
Brookings, January 27, 1913.

Hon. E. W. MARTIN, M. C.,
Washington, D. C.

MY DEAR SIR: In reply to yours of the 18th instant, a bulletin covering this Siberian alfalfa work is already in the hands of the printer, and I trust will be out in time so that I can send you a copy to post you in full. I am leaving to-night for the Conservation and Development Congress at Pierre, which will be held January 28, 29, and 30. As soon as I get back I will answer your letter more in detail. Briefly, the campaign is one for a more abundant meat supply by increasing the forage-producing capacity of the dry uplands, extending from the Panhandle of Texas to our northern boundaries. Some of these alfalfas are native of a region where the climatic extremes range from 44° below zero in winter to about 122° heat in summer, with a rainfall as low as 9 inches.

In my 1906 tour the Siberian alfalfa was first discovered. In 1908 I had the job to cover Siberia from east to west to locate fields where the tallest and best strains were to be found, but it was too big a job for one summer, inasmuch as traveling a thousand miles from railway, more or less, is slow work.

My plan would be to get seed in quantity of some of the best of these, and some additional varieties, I think, can be secured, especially where the Siberian and Turkestan alfalfas overlap.

I mentioned the figure $5,000, as I thought that could be obtained readily, and with the hope that the State legislature would grant a small appropriation to eke that out. But if the exploration is to be an extensive one for hundreds of people hunting for seed over many square miles, the expense will be greater—nearer $15,000 than $5,000. In time, I think, much more will be granted for the purpose. Such things come slowly. It is an effort, not to replace the common alfalfa wherever that does well, but to extend the alfalfa fields to our driest and highest uplands. My machine-transplanting method will hasten all this work some 50 years. Last spring I adapted a tobacco planter for alfalfa, so that we put in the plants at the rate of 6,000 per hour.

Yours, truly,

N. E. HANSEN.

Mr. EDWARDS. Mr. Chairman, I wish to ask unanimous consent to revise and extend in the RECORD the remarks which I made on this bill on the 6th and 7th instant.

Mr. MANN. Mr. Chairman, I shall not object to the gentleman extending his remarks in the RECORD. I am going to object, however, to gentlemen having the privilege of revising their remarks in the RECORD. Gentlemen now have the privilege of making all corrections of any remarks which they submit, but ought not to have permission of the House to strike out anything which they have said in the House.

Mr. EDWARDS. I will say that I do not care to revise my remarks but to extend them in the RECORD.

The CHAIRMAN. The gentleman from Georgia [Mr. EDWARDS] asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. Mr. Chairman, I move to strike out the last two words. I am glad the gentleman from South Dakota [Mr. MARTIN] withdrew his amendment, because, being in hearty sympathy with what he desires to accomplish, I believe the amendment would have been an unfortunate one. I want to congratulate the committee on having segregated these two items—the one on page 19 and the one on page 22. The provision on page 19 is one for the investigation, testing, propagation, and so forth, and refers generally to those plants that we seek abroad, of course including alfalfa. The item on page 22 specifically provides for the purchase and distribution of seeds, and under that item we hope a considerable portion of the $39,000 will be used for the purchase and distribution of alfalfa. We have been endeavoring for quite a number of years to secure sufficient of the drought and cold resisting alfalfas to have them thoroughly tested in the West, but we have been unable to secure any considerable quantity from the department until this year. The amount now furnished, while much larger than they have been able to furnish in the past, is still rather inadequate to meet the demands. I am in hopes that under the item now in the bill we will secure a sufficient amount of these alfalfa and other seeds to have them introduced in the country in which they are needed.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. MARTIN of South Dakota. Does the gentleman know whether, under this purchasing clause, page 22, the hardy alfalfa seed can be purchased? Are they available?

Mr. MONDELL. I think that is true.

Mr. MARTIN of South Dakota. Where can they be found?

Mr. MONDELL. Several varieties are now grown in various parts of the country, and the department is securing them, but under the other item they will continue to propagate, so that, I think, under the two items, the one clearly providing for investigation and collection and propagation and the other for the purchase of the seed, we will be able to secure more of these seeds than we have.

Mr. MARTIN of South Dakota. I think with the gentleman that the committee had done right in separating these items. It is a logical classification, and I congratulate the committee upon the new arrangement.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Dakota [Mr. MARTIN].

Mr. LAMB. Mr. Chairman, I ask unanimous consent that all debate on this paragraph and all amendments thereto shall close in 20 minutes.

The CHAIRMAN. The gentleman from Virginia [Mr. LAMB] asks unanimous consent that all debate on this paragraph and all amendments thereto close in 20 minutes. Is there objection?

There was no objection.

Mr. COX. Mr. Chairman, I believe that the amendment that I offered on Friday evening is now pending before the committee.

My amendment, Mr. Chairman, proposed to strike out the item on page 19, beginning with line 22, and following up to strike out page 20 and page 21 and down to line 17 of page 22. I do not desire, Mr. Chairman, to consume very much time in the discussion of this question.

Mr. MANN. Mr. Chairman, does the gentleman yield for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. COX. I do.

Mr. MANN. Does the gentleman desire to strike out the entire paragraph and leave out the item of $39,000 for the purchase and distribution of drought-resistant field seeds, and so forth?

Mr. COX. I will say to the gentleman that I have an amendment to offer later on to save that in the event this paragraph should go out.

Mr. MANN. I asked that question for the information of the House.

Mr. COX. Now, Mr. Chairman, I would be the last man on the floor of this House who would deny any benefit to the farmers of this country or strike a blow at their interests.

Mr. CANDLER. Mr. Chairman, is it understood that the gentleman from Indiana has 10 minutes in opposition?

The CHAIRMAN. The gentleman has five minutes.

Mr. COX. I do not want it taken out of my time.

Mr. Chairman, I say I would be the last Member of this House who would for a moment strike a blow at the farming interests of the country, because I believe that the farmers of the country form the very basis of all our prosperity. I believe when the farming community is prosperous the Nation as a whole is prosperous. But it does seem to me that we have gone the limit in this bill. Indeed, it seems to me we have gone beyond the limit in this bill, and this is one of the items which, so far as I am personally concerned, I can not entertain.

We are proposing in this paragraph to expend $296,000 for the purchase of seeds for free distribution to the farmers of this country.

I called up the Post Office Department a few days ago with a view to seeing or getting at as near as I could what the cost would be to the people of this country on account of this item. I found that the agricultural appropriation bill of last year carried an item of $285,000 for this same purpose. Gen. Stewart, the Second Assistant Postmaster General, estimated that it would cost $283,643 to send that amount of seed through the mails. I called up Dr. Galloway, and I found out from him that in addition to the $285,000 expended for this purpose last year there was an item of $27,000 which went to the payment of salaries, traveling expenses, and so forth, making a showing of fact, on this item last year of $285,000, of an actual cost to the people of this country of $596,323 upon the seed distribution.

This year the item carries the amount of $296,000, and, of course, Mr. Chairman, it will cost more than $600,000 to the taxpayers of this country before this seed finally reaches its destination.

I have always had an idea that the people imagined in some way or in some manner or somehow that this seed was not bought and paid for by them. I have had an idea in my mind, and I have it yet, that the people believe that these seeds, as a rule, are grown and propagated by the Department of Agriculture upon its experimental farms in the country.

I wonder whether or not they would stand for it if they actually knew the fact that they were being assessed more than $300,000 to buy $300,000 worth of seed. I wonder whether or not they would stand for it if they realized that they were paying a salary roll of $27,000 a year and were assessed that much in the department for the purpose of collecting these seeds to be distributed free.

I find in the Book of Estimates this year an estimate of $1,000 or $4,400 for traveling expenses, to be saddled on the people next year for somebody traveling over this country or over the world, wherever the travel might be required, for the purpose of buying seeds for free distribution to the people of this country. I believe, Mr. Chairman, if the people only knew the fact, the exact truth of the situation, and knew that they were being assessed and being taxed each year $600,000 for the sole purpose of getting to them the small amount of $300,000 worth of seeds, they would not stand it.

Besides, Mr. Chairman, the whole thing is unfair. It is absolutely unjust. It is inequitable. The amount allotted to each Member is 18,000 or 20,000 packages. I have upward of 50,000 voters in my district, enabling me to send a package of seed to about one-third of the voters of my district. It is called free seeds, and this idea of being free is somewhat catchy to the people, but when the facts are found out that for every dollar we are actually expending for seeds we are spending more than a dollar to get that dollar's worth of seeds to the people.

This extra dollar goes to the railroad and transportation companies, for salaries, and so forth. In other words, we are expending $296,000 for the purchase of seeds, and then spending more than $300,000 to get the seeds to the people. From a business standpoint it is a losing game. Instead of being free to the people, the truth is they are paying twice as much for these seeds as the same would cost them at home. And the seeds are no better than the seeds which can be bought at home. In fact, in many instances the seeds are the same, bought and purchased by the department from the seed houses in the open market.

I firmly believe that if the farmers throughout the country only knew how they were being hoodwinked in this "free" seed distribution they would not stand for it one minute.

As an illustration, I have in my district approximately 50,000 voters. My district is largely an agricultural community. I believe my allotment of seeds is between 18,000 and 20,000 packages. As a matter of fact, it is impossible for me to treat all of my constituents equally and justly. Therefore, by reason of the small amount of the appropriation I am unable to give more than one-third of my constituents a small package of garden seeds each.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HEFLIN. Mr. Chairman, I want to say a few words in reply to the gentleman from Indiana [Mr. Cox]. Every time this agricultural appropriation bill comes up for consideration in this House some gentleman picks out the farmer as the individual upon whom to practice economy. Some gentlemen begrudge the small package of seed that now goes annually to him from the Department of Agriculture. It costs only one-third as much to secure these seed and send them to the farmers of the country as you expend now annually for pneumatic-tube service in the cities. The gentleman speaks about the Government buying these seeds on the outside. I want to say to the gentleman that we do get these seed from men who give attention to producing choice seed for this very purpose. Care is now exercised in the selection of these seed. Dr. Galloway refuses tons and tons of seed every year because they are faulty and unfit for distribution. [Applause.] They no longer palm off on the farmer the character of seeds that used to go out from the department, but we now have men to select seeds, and the very best seeds are selected for this annual distribution. [Applause.]

Mr. COX. Will the gentleman yield for a question?

Mr. HEFLIN. Certainly.

Mr. COX. Is it not a fact that the Government itself purchases these seeds?

Mr. HEFLIN. Yes.

Mr. COX. Does it purchase them in the open market, in competition?

Mr. HEFLIN. The fact that the Government does purchase these seed gives somebody an opportunity to sell seeds and to grow good seeds for the purpose of distribution. [Applause.] But I will tell you where the nigger in the woodpile is. Seed interests outside are sore because Dr. Galloway condemns carloads of seed as unfit for distribution amongst the people, and they have trouble selling these condemned seed that the Government would not use. It works well in both ways, you see.

Mr. COX. Will the gentleman yield?

Mr. HEFLIN. I have no further time. It gives the department an opportunity to find the very best seeds that it is possible to find in the United States, and to send them out amongst the people, that they may have the opportunity to get the very best seed in the world.

Mr. Chairman, I suggest to these gentlemen that if they want to give their views on economy to possess their souls in patience and try their hands on battleships or something else. Let the farmer get his little package of seeds from Uncle Sam. They are of value to him. I beg my sharpshooting friends not to shoot into this provision of the bill. [Applause.]

Mr. CANDLER. Mr. Chairman, I had not intended to say anything in reference to this very important matter, but, in view of the fact that it has assumed gigantic proportions and has been under investigation not only by the Agricultural Department, but by the Post Office Department, I have thought it proper to submit a few remarks.

Everybody will admit that the greatest department of this Government is the Agricultural Department, because it reaches more people and accomplishes more good than any other department of this great Government.

As was suggested by the gentleman from Alabama [Mr. HEFLIN] a moment ago, it is an important matter to send something directly from the Government of the United States to the farmer himself at least once a year. The truth of it is that the only direct communication between the Government, supported by the farmer, and the farmer himself is that which is found in the message carried to him once a year by the distribution of seeds, and the record shows that the benefits that have been derived from this, the greatest department of the Government, are directly traceable to the distribution of seeds, because the establishment of the department itself was brought about by reason of the fact that the disposition of seeds was begun way back in the commencement of this great Republic.

Mr. BOOHER. Will the gentleman yield?

Mr. CANDLER. Yes; briefly.

Mr. BOOHER. Does not the gentleman think that if the Government furnishes the seeds it should also furnish one of these experts to show them how to plant and cultivate them?

Mr. CANDLER. The expert is furnished to tell them how to plant and cultivate them through the bulletins that my friend from Alabama [Mr. HEFLIN] has referred to. Furthermore, on the package of seeds itself there is carried a message telling them what they are and how to plant and cultivate them.

Now, Mr. Chairman, these seed, as was said by the gentleman from Alabama, are the very best that can be obtained. They are not all purchased in the open market, but a great many of them are, and every year there is submitted to the Department of Agriculture 200 or more competitive bids from which the seed are selected. They are required to come up to the highest type, they are required to germinate a certain high per cent, they must be true to type, and the very best seed that can be obtained from the growers, not only by competitive bids, are obtained, but some considerable part of them are produced under the direct supervision of the Government experts.

Mr. BARTLETT. Will the gentleman yield for a suggestion?

Mr. CANDLER. Yes; with pleasure.

Mr. BARTLETT. Is it not a fact that there is no complaint made by the real farmer about the distribution and value of the seed, but the complaints come from people who would very rarely raise a crop from any kind of seed?

Mr. CANDLER. That may be true.

Mr. COX. That is not true in the third district of Indiana.

Mr. CANDLER. I have heard no complaints from anybody to whom the seed has been sent. The only complaints I have had were from people who said they did not get the seed, but had been overlooked. No longer ago than this morning I received a letter from a man who said that I had overlooked him. I want to say that the seed will go to him before the sun goes down to-night, as I am always glad to respond to all requests from my constituents, and do so promptly. [Applause.]

Mr. Chairman, I am not willing to take away from the farmers of this country a single solitary thing they now receive unless you furnish them with a better substitute for it.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. CANDLER. I ask for two minutes more.

The CHAIRMAN. The gentleman from Mississippi asks for two minutes more. Is there objection?

There was no objection.

Mr. HAUGEN. I want to suggest to the gentleman that the expense of sending out these seeds is only one dollar out of forty carried in the bill, and only one dollar out of over two thousand dollars expended by Congress.

Mr. CANDLER. I am obliged to the gentleman for the information. As I was saying Mr. Chairman, I am not willing to take away from the farmers of this country anything they now receive unless they are furnished with something better in lieu of it. When the farmer, as is demonstrated by facts and figures furnished by the Government of the United States itself, is largely supporting the Government and maintaining its prosperity and carrying it on to greater achievement and more glorious development, I am not going to turn and take away from him even one little package of seed. But for their help to-day this Government would be a Nation indebted to the other nations of the world, but by reason of the fact that they have come to the rescue of the Government itself and of the people of this Nation, we are to-day a creditor nation having the balance of trade upon our side, and other nations are indebted to us by billions of dollars, whereas it would have been millions of dollars against us but for them. When they have discharged this great and patriotic duty and are standing up like men for the credit and prosperity of the Nation, contributing to its resources, welfare, and prosperity, I say it would not only be unjust, but in my opinion ungenerous, to take anything away from them which they are now receiving, and so far as I can prevent it it shall never be done, unless you give them something better. The people are my friends and I shall stand for their interests at all times as God gives me light to see the right. [Applause.]

Mr. MOSS of Indiana. Mr. Chairman, I congratulate my colleague from Indiana [Mr. Cox] on making this motion, although I am aware that it will not probably prevail. I wish to say that the valid objection is not so much, in my opinion, in the making of a present to the farmer, to be paid for by public funds, as the fact that this present must come through a Member of Congress. The very terms of this appropriation bill are that the seeds must be distributed on the order of the Congressmen, and no man from my district can write to the Secretary of Agriculture and get his order filled without an indorsement from me; and that is true of every other congressional district.

Mr. RODDENBERY. Oh, no; there is this provision in the bill:

And provided also, That the Secretary shall report, as provided in this act, the place, quantity, and price of seeds purchased, and the date of purchase; but nothing in this paragraph shall be construed to prevent the Secretary of Agriculture from sending seeds to those who apply for the same.

Mr. MOSS of Indiana. Mr. Chairman, I am speaking from my own information and stating the facts as they exist under the procedure of the department. I went to the department and asked the reason why seeds were not sent direct to all applicants. I found that not only were these requests denied, but that the Department of Agriculture has a card prepared, which they send to every applicant for seeds, stating that the application must be sent to their Congressman; so that there can be no question about it. You are making an appropriation for a distribution of seeds, and then you attach to it a condition that nobody can secure any benefit except he applies to you as a Member of Congress. And if this provision were to be eliminated from the free-seed distribution the appropriation, in my opinion, would soon disappear from the bill.

We may as well be frank to the people of this country. It is not necessary to mislead the people as to what they receive when they are sent congressional seeds. The department does not buy new and rare varieties of seeds. As a matter of fact, the men who buy these seeds say they buy the commonest kind, so that they can get a large quantity for the money and thus make the distribution more general; and more than that, they purchase from the seedsmen of this country seeds that are two years old. Of course, they have to germinate or to meet a germination test; but of those seeds that are sold by retail over this country the packets which remain unsold at the close of the season are re-collected and are then sold to the Government of the United States for distribution under the congressional seed appropriation during the following year.

Mr. CANDLER. Mr. Chairman, in the report it says that the Secretary's quota for distribution direct to miscellaneous applicants, including State agricultural experiment stations, schools, hospitals, Army posts, crop reporters, cooperators, and American citizens in foreign countries was 1,000,000 packages of vegetable seed and 150,000 of flower seed.

Mr. MOSS of Indiana. Mr. Chairman, I have not the time to go into that. These were given by the Secretary to special classes as rewards for special services. They do not apply to the citizen of a district who applies for seeds in the ordinary way. So that you are not distributing any new kind of seeds, but the commonest kinds that can be obtained.

Another thing. The Department of Agriculture itself has never recommended that this distribution be made or continued. I challenge any gentleman on the floor of this House belonging to the Agricultural Committee to produce any estimate or any recommendation from the department within the last 10 years, asking that this congressional seed distribution be continued. As a matter of fact, under Mr. Cleveland's administration, the Secretary of Agriculture refused to send the seeds out after the money was appropriated, and there was a special vote of Congress compelling him to recognize the terms of law and purchase the seeds. There never has been from that time to this a recommendation by the Department of Agriculture in favor of this practice. It is kept up purely by congressional authority as a kind of exclusive patronage to be dispensed by the Members themselves.

One other matter about the demand. All agricultural organizations are on record opposing it, and the people themselves are not in favor of it. Since I have been a Member of Con-

gress, excepting this year. I have placed a notice in every paper published in the fifth district of Indiana, saying that I would send a package of seed to every person in the district who desired it, and I have never yet gotten requests from one-third enough constituents to take up the seeds that are furnished to me. After having continued this advertising custom three years and after having filled every request which came in response, I was able last year to give to gentlemen from the South who came to me whole sackfuls of seed in order that they might send them down to the overflowed section of the Mississippi Valley to be used for replanting the gardens which had been destroyed. This year I have just sent out a notice, in order to get rid of them, to every school-teacher in the fifth district that I will be glad to send seeds to every scholar in the public schools. If there is any justification for this expenditure, it is in being able to supply the public schools with seeds for experimentation, and thereby possibly interesting the young in agricultural and horticultural pursuits.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. COX].

The question was taken; and on a division (demanded by Mr. COX) there were—ayes 13, noes 47.

So the amendment was rejected.

Mr. COX. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, beginning with line 22, page 19, and strike out all down to the bottom of pages 19, 20, 21, and 22 down to line 17, and insert the following:

"Purchase and distribution of rare and valuable seeds and plants: For purchase, propagation, testing, and distribution of rare and valuable seeds and bulbs, trees, shrubs, vines, cuttings, and plants from foreign countries or from our possessions for experimenting with reference to their introduction into and cultivation in this country, and same shall be used for experimental test, to be carried on with the cooperation of the agricultural experimental stations, $39,000."

Mr. LEVER. Mr. Chairman, I make the point of order on that.

Mr. COX. Mr. Chairman, I do not think it is subject to a point of order.

Mr. LEVER. Mr. Chairman, I will withdraw the point of order and ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The amendment was rejected.

The Clerk read as follows:

Total for Bureau of Plant Industry, $2,607,165.

Mr. BYRNS of Tennessee. Mr. Chairman, I move to strike out the last word. Before we leave this section of the bill, I desire to ask the gentleman from Virginia a question in regard to an item to which my attention has been directed by letter. That is on line 11, page 16, the item for investigating the handling, grading, and transportation of grain, $65,000. I desire to ask the gentleman if, in his opinion, and in the opinion of the committee, a sufficient amount of money has been allowed to pursue the work of standardization of grain, without delay or in any way jeopardizing the work now being done by the department as along that line.

Mr. LAMB. I think we increased that a little.

Mr. LEE of Georgia. Mr. Chairman, we increased that something over $9,000.

Mr. LAMB. They asked for an increase of that paragraph, and we, after discussing it and hearing the department, gave them $8,000 more, and I think I can answer the gentleman's question by saying it is ample for the purposes of fixing grades on grain, etc.

Mr. BYRNS of Tennessee. It is stated to me that the department is now engaged in standardizing corn, or rather establishing standard grades for corn, and it was hoped that sufficient money would be allowed to complete this work, so as not to delay the work of standardizing grades for wheat and oats. Has that been done?

Mr. LAMB. Well, we gave them all they asked; that is all I can say to the gentleman.

Mr. BYRNS of Tennessee. Mr. Chairman, I do not care to say anything on the subject myself, except to say that this is a matter of extreme importance to the grain trade. The grain trade of this country, as I understand it, is practically up in the air because of the failure to standardize grain. The grain trade is in a very unsettled condition, and it is exceedingly important that this standardization be carried on just as rapidly as possible, in order that the grain interests of the country may understand the condition, and also that the necessary laws may be passed in order to enforce these standards or grades that may be fixed by the department; and, without consuming the time of the committee further, I want to read a letter which I have received from Mr. Charles D. Jones, of Nashville, Tenn., who is president of the Grain Dealers' National Association, and who presents the matter in the clearest and most forcible manner. I offer that for the information of the committee and ask unanimous consent to insert it in the RECORD as a part of my remarks.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none. The time of the gentleman has expired.

The letter is as follows:

GRAIN DEALERS' NATIONAL ASSOCIATION,
Nashville, Tenn., February 6, 1913.

Hon. JOSEPH W. BYRNS,
Washington, D. C.

MY DEAR MR. BYRNS: There is a matter before Congress in which the grain trade of this country is most vitally interested. As you are no doubt aware, the question for standards of grain has agitated the grain trade of this country for a good many years.

There have been bills introduced, both in the House and Senate, attempting to place in the hands of the Government the inspection of grain. This, the grain men of the country have as a class opposed, but we have asked the Government to standardize the grades and then pass such laws as will enforce those standards on all markets. To this end the Agricultural Department has been working in a scientific manner, Dr. J. W. F. Duvel having been in active charge of this work. Dr. Duvel has almost completed his investigations regarding the corn, and will, in a short time, be prepared to pass on what he considers the proper standards for corn; that is, provided an appropriation is made which will enable him to continue his investigations. At the present time all this work has been stopped, or practically so, on account of the lack of funds to prosecute the work. I understand that in the present agricultural appropriation bill the Secretary has requested an increased appropriation of $20,000, a part of which was to be used for fixing standards for corn, the remainder to be used in establishing a laboratory on the Pacific coast, which will be necessary before the Government will be able to successfully pass on the standards for wheat and oats such as are produced on the Pacific coast and Intermountain area.

This bill has been referred to the House committee with an increase of only a little over $9,000. If that bill goes through the House and the Senate, it will certainly jeopardize the movement for grain standardization, as it would delay the corn grades for another year and prolong the wheat and oat grades almost indefinitely, neither of which would be acceptable to the grain dealers or producers of this country.

There are few questions before the National Government to-day of such great importance as this grain standardization, and as president of this association, as well as a southern grain man, I want to ask you to use your influence in getting this appropriation sufficiently large to enable this work to be prosecuted to an early conclusion. As it is now, the grain trade is up in the air, so to speak. We are needing these standards badly. If an amendment could be offered in the House increasing this appropriation to forty or fifty thousand dollars to enable such work to be rapidly pushed, it certainly would be money well spent in a good cause, and whoever succeeds in doing that will be forever cherished as a friend to the grain trade. Where a large interest, like the grain trade of this country, is operating in such an unsettled state as it is to-day, nothing should be left undone to pass the necessary laws to give the business the required stability. The entire grain trade of this country is looking to the Government for an early settlement of this question. It is vital to the interest, and I hope that if any retrenchments in the way of appropriation will be necessary that it will not be at the expense of this grain standardization.

Assuring you of my official and personal appreciation of the efforts which I am sure you will make, I am,

Very truly, yours,

CHAS D. JONES,
President.

Mr. MADDEN. Mr. Chairman, I move to strike out the last word for the purpose of asking the gentleman in charge of this bill a question or two. Just what does the Agriculture Department do in the matter of fixing grain standards?

Mr. LAMB. I will state what they say in asking for this increase of $10,000 for investigating, handling, grading, and transportation of grain and fixing definite standards thereof. The Bureau of Plant Industry is just about ready to standardize corn, and additional funds will be required for that purpose. It is intended to encourage and instruct special agencies in the matter of not only standardizing grain, but to now effect uniform standards throughout the country. Commercial organizations and agencies are anxious to have it done. They are continually expressing the desire that these standards be fixed as soon as possible. What they have in mind is unless that is done there may be a step in one way or another to have Federal inspection of grain, and that is something that the majority of the grain people in the country seem to avoid.

Mr. BARTLETT. Which Congress has refused to do time and time again.

Mr. MADDEN. The information which I wish to obtain is, how many grades of wheat, for example, has the Agriculture Department established?

Mr. LAMB. I could not tell you.

Mr. MADDEN. Where do they have their inspection headquarters?

Mr. LAMB. In different localities—one at New Orleans, one at Baltimore, and one at Chicago.

Mr. MADDEN. What effect does the standard fixed by the Agriculture Department have on the value of the grain?

Mr. LAMB. Now, I can not stand that civil-service examination. [Laughter.]

Mr. MADDEN. What is the purpose of establishing the standards if nothing is to be gained by it, and if nobody knows

anything about the reason for the establishment of the bureau fixing the standards, why should we make an appropriation? That is what I want to know.

Mr. LAMB. If the gentleman will look on page 18 of the hearings by Dr. Galloway, he will find there is right much on that subject. I do not believe the gentleman would like to take the time of the committee by reading the hearings before that committee, because it is not a practical question on which we can reach a result right now, and I am satisfied that the gentleman is anxious, as I am, to proceed with this bill.

Mr. MADDEN. I assume this is a very practical question or the Committee on Agriculture, as careful as they are in the expenditure of other people's money, would not offer to make an appropriation, because if there are not any results to be obtained and there is not anything practicable about it, then we ought not to appropriate.

Mr. LAMB. Do not understand me to mean that. I stated I did not care to go into a discussion of this question, as I did not think we could reach any result about it, so far as the bill is concerned.

The CHAIRMAN. The time of the gentleman has expired. All time on this amendment has expired.

Mr. MOSS of Indiana. Mr. Chairman, I would like to ask unanimous consent to submit a word here. I think it should be very well understood that the Agricultural Department is not trying to fix a standard for grain and have it adopted by law. I understand the department is not attempting to fix the definite grades to the extent of having them adopted by law, but only studying the conditions which go to make up the grades—the things that enter into grain that fix different grades. Now, I would like to have the chairman of the Committee on Agriculture to say whether or not it is the purpose to have the Federal Government fix a standard for grain, such as No. 1 red and No. 2 red, and so forth.

Mr. LAMB. Here is what Dr. Galloway says about it, and I will read it, if I may have the indulgence of the committee for a short time. He says:

Mr. WHITACRE. Speaking about the standardization or grading of corn or wheat, have you been doing some work along that line?

Dr. GALLOWAY. Yes, sir.

Mr. WHITACRE. For how many years?

Dr. GALLOWAY. We have been working now on these standards—of course, this is all in connection with the marketing—for about six years.

Mr. WHITACRE. How many years more will it take to find out how or four more years for wheat.

Dr. GALLOWAY. We are ready to standardize corn now; the fundamentals for that have been worked out, and it will probably take three or four more years for wheat.

Mr. WHITACRE. Why has it taken you such a great length of time to find out how many different grades of wheat there are?

Dr. GALLOWAY. It is a question of what should enter into the grades. The interested parties are not agreed whether we should consider the milling quality or moisture content; and if the moisture content is finally agreed upon, as it has been in corn, then we must work out specific methods for readily determining the moisture content.

Mr. MOSS of Indiana. Then, Mr. Chairman, that accords with my own understanding about this. We have laboratories in six of the principal States of the Union, but they in no sense commit the Agricultural Department to fix the grades of grain for the purpose of having them adopted by law. If they did I would ask to have it stricken out.

Mr. MANN. It is not in order to strike it out. But I ask for the regular order.

The Clerk read as follows:

Chugach National Forest, Alaska, $22,530.

Mr. HUMPHREY of Washington. Mr. Chairman, I wish to offer an amendment. First, a parliamentary inquiry: Should I wait until the end of the paragraph, or is this the proper place?

The CHAIRMAN (Mr. HAY). The Chair thinks each line of this is a paragraph. If the gentleman wishes to offer an amendment he had best offer it now.

Mr. HUMPHREY of Washington. I want to offer an amendment on line 20, page 27.

The CHAIRMAN. The gentleman will send up his amendment.

Mr. HUMPHREY of Washington. I move to strike out all of line 20.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 27, line 20, strike out all of the line.

Mr. LAMB. Is it the gentleman's intention to destroy that forest by leaving it uncared for?

Mr. HUMPHREY of Washington. Yes; that is the intention of it.

Mr. MONDELL. The gentleman does not intend to destroy the forest?

Mr. HUMPHREY of Washington. No; but I want to destroy the appropriation. That is what I thought the gentleman from Virginia [Mr. LAMB] meant.

Mr. LAMB. I understand the gentleman's facetiousness, but I want to know——

Mr. HUMPHREY of Washington. I want to ask for some information. What is the purpose of having the forest reserve?

Mr. LAMB. What is the purpose of having any of them? I will answer the question by asking another.

Mr. HUMPHREY of Washington. In the first place, the forest reserve is supposed to preserve or protect a forest. But you have no forest here.

Mr. LAMB. I have never been in this forest. I do not know how much land is there or how many trees. But Mr. Graves, the Forester, has been given authority to make these units of forest, and he has apportioned a lump sum to all of these forests, according to his best judgment in the matter, and I do not think it would be proper to strike out one any more than all of them.

Mr. HUMPHREY of Washington. If they are all like this one, they ought all to be stricken out.

Mr. FERRIS. What are the facts about this?

Mr. HUMPHREY of Washington. The facts in regard to this forest reserve are, in the first place, that there is only about 10 per cent of that forest reserve that has timber on it. In the next place, it needs no protection from fire, because they have 140 inches of rainfall there annually, and you could not burn it if you desired. It is not to protect water power or stream flow, and I do not know of any reason why that forest reserve is there except to give employment to somebody.

Mr. MADDEN. How much land does this cover?

Mr. HUMPHREY of Washington. Something like 800,000 acres.

Mr. FERRIS. When was this created?

Mr. HUMPHREY of Washington. It was created by Executive order——

Mr. FERRIS. How long has that been in existence?

Mr. HUMPHREY of Washington. I do not know.

Mr. FERRIS. About how long? I do not care for the particular date.

Mr. HUMPHREY of Washington. It was created by Executive order dated the 23d of July, 1907. Now, I would like to know what has been——

Mr. FERRIS. I wanted to proceed a little further. It was created in 1907 by Executive order and embodies 800,000 acres?

Mr. HUMPHREY of Washington. I think it has probably been added to since then. There were 850,000 acres in the first instance.

Mr. FERRIS. What proportion of it is covered by timber?

Mr. HUMPHREY of Washington. From the best information I can get it is about 10 per cent.

Mr. FERRIS. Is it agricultural in character, and would it have any value if not in a forest reserve?

Mr. HUMPHREY of Washington. No; I think not.

Mr. FERRIS. What is the use of subjecting it to the ordeal of having the timber cut off?

Mr. HUMPHREY of Washington. I am not able to understand why Congress should pay out $22,000 a year for men to watch this reserve.

Now, you have been looking for some place to economize, and I congratulate the majority on that position. But I would like some one to tell me some reason why you are going to pay $22,000 a year for the care of this forest reserve.

Mr. LAMB. I will say, Mr. Chairman, that if the gentleman from Washington had come before our committee we would have taken his views into consideration.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUMPHREY of Washington. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Washington asks unanimous consent to proceed for five minutes more. Is there objection?

Mr. LAMB. I do not like to object, Mr. Chairman, but can the gentleman give us any further information about this forest reserve—this particular one?

Mr. HUMPHREY of Washington. Yes; I will if the gentleman does not have any information; I will try to give the House some that I have.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. HUMPHREY of Washington. Now, of this forest reserve, as I have said, only about one-tenth of its area has timber. Most of what timber there is on it is utterly unfit for

any merchantable purpose. There is no reason for having a reserve up there to protect this forest from fire. There is no other reason that I have ever been able to discover for this great expense except to give some one a job.

Why not get rid of this expense? The only purpose that I know, so far as this forest reserve is concerned, is to feed some of the parasites representing the Government who are playing spies on the people. They create trouble, but they do protect the forests.

Mr. LAMB. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. HUMPHREY of Washington. Yes.

Mr. LAMB. What percentage of it can be converted into homesteads?

Mr. HUMPHREY of Washington. I do not know that any of it can be; very little, at most. You take all of Alaska that is accessible and put it into a forest reserve and then pay employees, whose only purpose is to make trouble, to stay there under pretense that they are protecting the forests.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. HUMPHREY of Washington. Yes.

Mr. FERRIS. If there are 800,000 acres in the forest reserve and practically only 10 per cent of it is in timber, why should not the President eliminate 90 per cent of it and reserve the timber on the remaining 10 per cent? It ought not to be subject to entry if it is clearly timberland.

Mr. LEVER. How long has it been since the gentleman from Washington got the information he has about this forest reserve?

Mr. HUMPHREY of Washington. I have known it for some time and I took occasion yesterday to look it up particularly, to see about it a little more definitely, and I looked at your report, and I did not find any information about it there.

Mr. LEVER. There is not any Member of Congress, and I do not believe there is anybody on top of the earth, who knows much about the national forests. We have got to take somebody's word about them. I was wondering whether the gentleman had visited this place himself and had special information concerning it.

Mr. HUMPHREY of Washington. No; but there is no reason why you should hire some one to stay on that forest reserve. What are these men doing?

Mr. LEVER. This, Mr. Chairman, is an attempt, is it, to get some forest-reserve lands out from the possession of the Government, so that somebody may get coal claims up there?

The CHAIRMAN. The time of the gentleman has again expired.

Mr. HUMPHREY of Washington. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Washington asks unanimous consent for five minutes more. Is there objection?

Mr. LAMB. I object, Mr. Chairman. I think we have had enough on this.

Mr. HUMPHREY of Washington. I would like some one to give me some information about this forest reserve—to tell me what these men do that we are paying $22,000 to annually.

The CHAIRMAN. Objection is made to the request of the gentleman from Washington.

Mr. HUMPHREY of Washington. Mr. Chairman, did anyone object?

The CHAIRMAN. The Chair understood the gentleman from Virginia [Mr. LAMB] to object.

Mr. HUMPHREY of Washington. I will say to the gentleman that he is not going to save time by objecting. This is an important question. Most of the time that has been allotted to me has been taken up by questions.

Mr. FERRIS. Mr. Chairman——

The CHAIRMAN. The gentleman from Oklahoma [Mr. FERRIS] is recognized. Does the gentleman from Virginia object?

Mr. LAMB. Yes: I object.

Mr. HUMPHREY of Washington. Then, Mr. Chairman, I will make the point of no quorum.

The CHAIRMAN. The point of no quorum is made.

Mr. HUMPHREY of Washington. And the gentlemen will have to keep a quorum here during the consideration of this bill if they deny my request for five minutes' extension of time.

The CHAIRMAN. The Chair will count. The gentleman from Washington will be in order.

Mr. LAMB. Mr. Chairman, I will agree that the gentleman may have five minutes more. I ask unanimous consent for that.

Mr. MANN. Let the gentleman from Washington withdraw his point of no quorum.

Mr. HUMPHREY of Washington. I will withdraw the point of no quorum, Mr. Chairman. I have no desire to delay the consideration of this bill, but I do desire to speak for five minutes.

The CHAIRMAN. Does the gentleman from Washington withdraw the point of order?

Mr. HUMPHREY of Washington. Yes.

The CHAIRMAN. The gentleman from Virginia [Mr. LAMB] asks unanimous consent that the gentleman from Washington [Mr. HUMPHREY] proceed for five minutes. Is there objection?

There was no objection.

Mr. HUMPHREY of Washington. Now, I hope I shall not be interrupted for a moment or two. If these gentlemen on the Committee on Agriculture have no information upon this subject, I shall try to give them a little.

In the first place, as I said, Mr. Chairman, according to information I have received, there is only 10 per cent of this forest reserve that has timber on it. They have 140 inches of rainfall a year on at least part of it and a large amount on all of it. There is no reason for a forest reserve up there and no reason for having men up there to watch it. There is no purpose in keeping men up there; none whatever, except to furnish them with jobs.

Here is where you could economize and really benefit the Government. You ought to strike this appropriation out. By so doing you are not going to do injustice to anybody. You are paying here $22,000 for services that are of absolutely no value to anyone

Mr. HAUGEN. I would like to have the gentleman tell us in what respect this differs from other forest reserves.

Mr. HUMPHREY of Washington. In this particular: There is no necessity of protecting it from fire. There is no reason that I know of why it ever was created. It costs a great deal more to take care of it than the Government gets out of it, according to the figures I have examined. It costs the Government twice as much as they get from the sale of timber. If anyone wants to use that timber, most of it unmerchantable, why not let them do it? Otherwise it will rot in the forests.

Mr. FERRIS. Will the gentleman yield?

Mr. HUMPHREY of Washington. Yes.

Mr. FERRIS. Does not the gentleman think, under his own statement, which is in substance that there are 800,000 acres in all and that 10 per cent is timbered, that to strike out $22,530 and insert in lieu thereof $2,000 so that a man could be kept there until the President could determine whether it was necessary by Executive order to eliminate the other nine-tenths, would be wise?

Mr. HUMPHREY of Washington. If there is any duty for a man to perform up there I would not object, but I have not been able to ascertain that there is.

Mr. FERRIS. If it is really timbered land and belongs to the Federal Government, if you vacate it it will become open to homestead entry and you will have the same trouble that we had before.

Mr. LEVER. Mr. Chairman, I hold in my hand a statement entitled "Detailed estimates for forest reserves," and I find that the area as given by the Forester himself, instead of being 800,000 acres, as the gentleman from Washington stated, is 11,267,850 acres. The gentleman from Washington himself says that 10 per cent of this land is timbered. So approximately there are over 1,000,000 acres of forest land that are being administered for $22,000. It seems to me that that is pretty cheap administration.

Mr. HUMPHREY of Washington. I do not think the gentleman means to misrepresent or misquote me. I said that I thought there had been additions made to it.

Mr. LEVER. I did not intend to misquote the gentleman.

Mr. HUMPHREY of Washington. My statement was that the original proclamation set aside about 850,000 acres.

Mr. LEVER. Let me ask the gentleman from Washington when I call attention to the fact that there are over 11,000,000 acres and, according to his own statement, that 10 per cent is forest area, then there must be over 1,000,000 acres in forestry, which have been administered for $22,000—does he not think that is about as cheap administration as is possible?

Mr. HUMPHREY of Washington. What do they do?

Mr. LEVER. What do they do in any national-forest reserve? They protect it against fire, they protect it against trespassers, they see to it that the grazing permits and timber permits are given out in accordance with law, and they do all these same services that I imagine they do on every national-forest reserve.

Mr. HUMPHREY of Washington. The gentleman is very much mistaken. In my State you have to protect it from fire and you have some sale of timber, but in Alaska there is no need of protection from fire and sales do not amount to sufficient to pay expenses.

Mr. MANN. Does not fire burn in Alaska?

Mr. HUMPHREY of Washington. Not on this timber.

Mr. MANN. Why not?

Mr. HUMPHREY of Washington. Because it is always wet.

Mr. MANN. Oh, there is no place where the timber is always wet.

Mr. HUMPHREY of Washington. The Delegate from Alaska stated that if this forest was saturated with coal oil you could not burn it.

Mr. MANN. Probably one statement is just as correct as the other.

Mr. HUMPHREY of Washington. You do not have to protect the forests of Alaska from fire, and no one pretends that you do who knows the facts.

Mr. LEVER. It seems to me that we have got land up there that belongs to the United States, and we ought to protect it, and it strikes me from the statement I have just made that this area costs less money for protection than any forest reserve in the United States.

Mr. HUMPHREY of Washington. You have a total of over 27,761,000 acres in Alaska. Is not the very purpose of putting aside such a tremendous area to show that it is very cheap, according to acreage, to protect it? Is not that one of the main purposes of these vast forest reserves in Alaska?

Mr. LEVER. The gentleman has not been in control of the Government, and he does not know what the purpose is.

Mr. MONDELL. Mr. Chairman, the gentleman from Washington [Mr. HUMPHREY] propounded the interrogatory, Why was this reserve created? I have some opinions on that subject, and have heretofore expressed some of them. My opinion is that the Chugach and other reserves in Alaska were originally created in perfect good faith; whether in wisdom or not is a question. When created they covered comparatively small acreages of the more or less forested lands adjacent to the coast in southeast Alaska. Several years ago the service desired to increase its appropriations and it brought before the committee a request for an increase of about $200,000 on the basis of increased area of the forest reserves in Alaska. I said at that time that it was my opinion, and it is still my opinion, that those reserves were extended beyond all reason at that time, partly for the purpose of laying a foundation on which to ask Congress to appropriate $200,000 more, which was done, not for the administration of these Alaska reserves so increased, but for the administration of reserves within the continental boundaries of the United States. In other words, this was the extraordinary condition to which I called the attention of the House at that time, that we were asked to add $200,000 to the appropriations for the care of forest reserves within the continental boundaries of the United States because we had increased the area of the reserves in Alaska. Whatever your opinion may be, the fact remains that these Alaska reserves were increased, and immediately following the increase, which included millions of acres of lands containing no forest whatever, we were asked to increase and did increase the appropriation for the management of the reserves in the United States, based on increased acreage in Alaska. In my opinion that is one of the reasons why these reserves were increased.

There was another reason. These vast reserves are a part of the general policy of bottling up Alaska. Eleven million acres were taken in this reserve, and in all 25,000,000 acres in southeast Alaska mostly, taking in a large part of that portion of the Territory. Placing these lands in the forest reserve takes them from under the land laws and the right-of-way acts except those limited acts which apply in forest reserves. In other words, by the simple process of a presidential proclamation declaring that land containing no forest is forest, you can repeal all of the land laws and repeal all of the right-of-way acts except to the limited extent to which land and right-of-way acts, entirely within the discretionary power of the Secretary of Agriculture, apply within forest reserves.

[The time of Mr. MONDELL having expired, by unanimous consent it was extended five minutes.]

Under these acts no rights of way can be secured which are not revocable in the discretion of the Secretary granting them, except for a very few purposes. Therefore, through this process of extending forest reserves over vast areas in Alaska, the land laws cease to operate, and the right-of-way acts cease to operate except in this very limited way. Men desiring to secure locations for business find it practically impossible to do so except under leases revocable at will.

Mr. LAMB. May I ask my colleague if he is in favor of the amendment to strike this out?

Mr. MONDELL. I think it is more or less immaterial whether you strike it out or not. I agree with the gentleman from Washington [Mr. HUMPHREY] that there is not any reason why we should pay salaries to protect areas that contain no forests; or so far as they do, contain forests of a character that ought to be opened to the use of the people of the community for their local needs. There is not any reason on earth why this forest reserve should be maintained, and in my opinion it never would have been enlarged except that it first gave an excuse for increasing the appropriations elsewhere, and second—and perhaps that is the more compelling reason—that it practically bottled up all of the resources of this enormous area, larger than many of the States of the Union.

Mr. LAMB. Does the gentleman happen to know whether or not in this area there are any mines or minerals or anything valuable under the ground?

Mr. MONDELL. So far as mines are concerned, so far as they exist, their exploration can be carried on, somewhat hampered, but it can be carried on. It does not make so much difference to the miner, except it makes it more difficult for him to secure timber for his mines and more difficult to secure title. Other than that, men seeking location for themselves—men seeking rights of various sorts for industrial purposes and for development—are greatly hampered.

Mr. LAMB. But the evidence of the gentleman from Washington [Mr. HUMPHREY] is that the whole thing is not worth 25 cents or a button.

Mr. MONDELL. Oh, I take it that somewhere on this great domain some one some time might want to do something, and if they do—and I have no doubt they will—they will find themselves hampered by a law which does in fact repeal the land laws and does repeal all of the right-of-way acts except those limited acts which apply within forest reserves.

Mr. LAMB. What would be the effect directly of the approval of this amendment and the striking out of this forest?

Mr. MONDELL. The thing to do is to get your new administration to wipe out this forest reserve.

The CHAIRMAN. The time of the gentleman from Montana has expired. The question is on the amendment offered by the gentleman from Washington.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

St. Joe National Forest, Idaho, $45,324.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee why a large increase over the appropriation of last year is carried in this paragraph. I refer to the St. Joe National Forest, Nev. There was appropriated last year $27,624, and this year there is an appropriation of $45,324.

Mr. LAMB. Mr. Chairman, I will give the gentleman what the Forester says. He says that larger timber sales are now in progress in this forest than in any other forest in this district. The heavy cut is practically all in fire-killed timber, which must be removed within the next year or two if it is to be salvaged. Especially good men are needed in the administration of these sales because of defects resulting from the fire. Both this year and last it was necessary to secure the Secretary's approval for an increase to this forest exceeding the limitations of the appropriation plus 10 per cent. Of the above increase about $10,000 will be required for the wages of scalers. The timber cut on this forest is expected to reach its maximum next year, probably 50,000,000 feet of lumber. The remainder of the increase is needed for future sales. They are selling great quantities of lumber in that forest.

Mr. FOWLER. Do the men in charge of this forest have charge of the inspection and the sale of the lumber?

Mr. LAMB. Yes.

Mr. FOWLER. And the measurement thereof?

Mr. LAMB. Yes; and he says $10,000 will be required for the wages of scalers who measure this lumber.

Mr. FOWLER. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

Wichita National Forest, Okla., $3,800.

Mr. FERRIS. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

After the semicolon, at the end of line 17, on page 33, add the following:

"And not to exceed $2,000 may be expended in the erection of a headquarters building."

Mr. MANN. Mr. Chairman, on that I reserve the point of order.

Mr. LAMB. Mr. Chairman, I reserve the point of order.

Mr. FERRIS. Mr. Chairman, I think both gentlemen are entirely within their rights as far as this being subject to a point of order is concerned, but I think the facts will appeal to them in such a way that they will let it be allowed, notwithstanding.

I can not do better than to read a short letter from the department, although I am entirely familiar with the facts myself. I read a letter of February 10 from the Forest Service:

SUPERVISION APPROPRIATION, 1914.
UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, February 10, 1913.

Hon. SCOTT FERRIS,
House of Representatives.

DEAR MR. FERRIS: You letter of February 10 is received.

In reply to your inquiry, I am glad to give you the following information from the records in this office regarding the need for a headquarters building on the Wichita National Forest. The building now occupied by Acting Supervisor Rush is an old log house of one room with a small lean-to attachment. This building is in such a dilapidated condition as to be unfit for habitation, and because of the decayed condition of the material of which it is constructed it would be a waste of money to attempt any substantial repairs. During the last year the district forester planned to replace the present building with a new one, but was unable to construct the necessary building within the $650 limitation imposed by existing legislation. It would be possible to erect this building during the next fiscal year without increasing the amount carried by the bill making appropriations for the Forest Service, but it can not be done until the $650 restriction is removed. The Forest Service will be very glad to secure authority for the construction of a building out of the regular appropriation at a cost not to exceed $2,000. This would permit the construction on the site of the present building of a substantial six-room structure, which will be sufficient for present and future needs.

The need for a building costing more than the average ranger cabin is due to the unusual character of this forest, in which is included the Wichita National Game Preserve. As you are aware from personal observation on the ground, the need for these headquarters is somewhat greater than on other forests, owing to the fact that there is in the immediate vicinity of the headquarters a large herd of buffalo, maintained under special authority of Congress, together with other varieties of game, such as elk, deer, and wild turkeys. The location of the supervisor close to these animals is absolutely necessary. This attraction brings to the headquarters a very large number of visitors, who desire to view the buffalo and other animals. Congress has already provided a large amount of money for the erection of fences and other buildings on the Wichita National Forest for the necessary care and protection of these animals, and the construction of the permanent headquarters is simply a necessary addition to the equipment for their maintenance.

Very truly, yours,
H. S. GRAVES, *Forester.*

Mr. Chairman, the letter and the facts in substance amount to this: There is a game preserve and a forest reserve on 58,000 acres of land in my own home county in Oklahoma. I go there oftentimes every summer. I am familiar with the forest and the status of things out there. The forester lives in a little one-roomed log cabin, and the logs are rotted off at the corners. The Forestry Service has been trying for two or three years to build a house to serve the purpose out there and you can not do it, where you have to haul the lumber 25 miles and take carpenters out and board them, for $650.

Mr. MANN. Will the gentleman yield?

Mr. FERRIS. Certainly.

Mr. MANN. Is there anything to prevent the man from building another log house where the ends are not rotted off?

Mr. FERRIS. No; but I think the gentleman will agree in the face of existing circumstances that it will be hardly the thing to do to build another log house in this day and age since we have also made it a game preserve. I hope the chairman will let the amendment pass; it does not increase the bill at all, but merely allows this to be taken from the amount which is now in the bill. It, in fact, only relaxes a harsh rule of limitation of $650 per house.

Mr. LAMB. I would be very glad to relieve the situation and let my colleague from Oklahoma have his amendment if I could possibly do so, and I think if the gentleman had come before the committee and made the suggestion we would have found some remedy for this evil, but now we are bound to insist on the point of order. I think we will find a remedy hereafter.

Mr. FERRIS. I hope the gentleman will not make the point of order.

The CHAIRMAN. The point of order is sustained, and the Clerk will read.

The Clerk read as follows:

Wyoming National Forest, Wyo., $7,170.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the committee how the total for the care of these forest reserves compares with the total of the bill of last year?

Mr. LAMB. I do not think there is any increase; I am satisfied it is the same as last year. The total lump sum is apportioned among these different forests by the Forester himself.

Mr. MONDELL. The appropriation this year for this purpose is not totaled in the bill, but, if I am correct in a rather hurried addition and subtraction, it is less than it was last year. In other words, the service has modified these items, and in modifying them has brought about a reduction in the total of the expenditures on the forest reserves. In doing that there have been some increases and a considerable number of decreases, necessarily, in order to bring about the net decrease, and I am very glad that no gentleman having reserves in his State has felt called upon to question the reduction in the cost of the service on such reserves, because we must admit, it seems to me, that the Forest Service in making these estimates of the necessary expenditure for superintendents, for rangers, and all that sort of thing, has carefully gone into all of the questions of the needs of the service and that they have wisely decided what is needed. On the forest reserves in my State there is a reduction. Some items have been increased, some have been reduced, and I am assuming that those increases and reductions have been wisely made. The chairman will recall that I called his attention to the fact of these changes before the committee took up the bill for consideration and asked that they investigate the matter fully and determine so far as they could the wisdom and propriety of these changes. I think the fact that changes have been made in practically every one of these cases indicates that the service and the committee have carefully considered the needs of the service and are endeavoring to keep the expenditures as low as possible consistent with the good of the service. I trust they have not made the sums too low in any case. We must and do depend on them in the matter.

Mr. LAMB. I am very much obliged to the gentleman, and he must allow me to thank him.

The Clerk read as follows:

Zuni National Forest, N. Mex. and Ariz., $6,734.

Mr. RAKER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Provided, That it is hereby made one of the duties of each officer under the Forest Service while working in the field to make investigations for ferreting out and prevention of offenses committed against the property of permittees within the national forests and make full report thereof to the forest supervisor of the district.

Mr. LAMB. Mr. Chairman, I make the point of order.

Mr. RAKER. I wish the gentleman would withhold that.

Mr. LAMB. I make the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. RAKER. I move to strike out the last word.

The CHAIRMAN. That can only be done after the reading of the next paragraph.

The Clerk read as follows:

Additional national forests created or to be created under section 11 of the act of March 1, 1911 (36 Stat., 963), and lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted for the purposes of said act, $57,590.

Mr. RAKER. Mr. Chairman, I move to strike out the last word.

Mr. LAMB. Would the gentleman object to coming closer? We can not hear the gentleman.

Mr. RAKER. I will permit him to hear before I get through if I have the time. In regard to the last amendment, it is one which seems to me ought to go into this bill at some place. The permittees for these various national forests are paying large sums of money for the purpose of running their stock upon the ranges.

And the various forest rangers, while doing their work over the range, on horseback, afoot, or otherwise, ought to be required to observe the strangers and interlopers in these forests, to the end that they should report strange men and strange conditions to the supervisors, and in turn to the local authorities, so that these people paying this rent might have some knowledge and information and some protection against those who are driving their horses and cattle away. It is nothing but fair and right that such protection should be given.

Now, Mr. Chairman, I introduced on December 12, 1912, H. R. 27145, covering this subject, which was referred to the Secretary of Agriculture, and I hold in my hand a copy of the resolution of the Alturas Stock Association of the Modoc Forest Reserve in relation to that matter, showing the need and necessity for some action that would require and compel joint action in regard to the forest officers as to reserves.

And I ask, therefore, Mr. Chairman, unanimous consent to insert in the RECORD this letter, together with the resolutions of the stock association.

The CHAIRMAN. The gentleman from California asks unanimous consent to extend his remarks in the RECORD as indicated. Is there objection?

There was no objection.

The following are the resolutions and letters referred to:

Resolutions of the Alturas Stock Association.

Whereas the Hon JOHN E. RAKER, Member of Congress, has introduced a bill (H. R. 27142) in the House of Representatives, appropriating the sum of $5,000 to be used for determining the best methods

of ferreting out offenses committed against the property of permittees within the national forests, and for other purposes; and

Whereas the Hon. James Wilson, Secretary of Agriculture, has written a letter to the Hon. JOHN LAMB, of the Committee on Agriculture, a copy of which is attached to these resolutions, denouncing the bill as useless, in that the ground covered by the said bill is already covered by law of ample scope, and that the duty of protecting private property, even upon the said forests, properly falls within the province of the State, and for other reasons herein set out and answered below; and

Whereas it appears that the honorable Secretary of Agriculture, and the various officers serving under him intrusted with the management and government of the said national forests, have failed to grasp the purport of the said bill, and the contention of the old Modoc County Stock Association referred to in the letter, in that it appears that the said officers seem to have conceived the idea that the said bill contemplates, and the said stock association desired, that the officers of the Forest Service should assume the duties of the State or county constabulary and sheriffs, or other executive officers, in the enforcement of the said laws; and

Whereas the said stock association had in view only that the duties of the Forest Service should be extended to include the detection of the theft of live stock, and the securing of evidence to be turned over to the local county or State officers for their use in enforcing the local laws sufficient to convict the thieves upon the national forests, and that special officers peculiarly fitted for the work should be employed for the purpose, and no other; and the bill referred to has for its object an inquiry to determine to what extent the theft of live stock exists upon the national forests; to what extent, if it does so exist, local officers of the national forests are assisting in its detection; to determine if it is practicable for them to do more; and if so, to determine the best way for the service to proceed to give such assistance in the detection of the theft of live stock upon the national forests; and

Whereas it is not the duty of any county or State officer to go into the lonely recesses of the ranges and there to act as a detective in the ferreting out of a crime, the existence of which is suspected but not known, either within or without the national forests located within the respective county or State, his prescribed duties, in the main, being the arresting and trying of accused persons upon warrants sworn to and evidence furnished by others; and

Whereas the Forest Service through its present organization for managing and caring for grazing within the respective forests is better equipped for handling successfully the detection of the crime of the theft of live stock within the national forests than would be any organization that the county or State may ever hope to effect for the purpose; and

Whereas the honorable Secretary makes the technical assertion in the above-mentioned letter that "the duty of preventing crimes against private property falls properly within the province of the States, and I question whether the Federal Government should endeavor to assume a part or all of the duty," and a little farther along in his letter, after quoting a Federal law to sustain him, he says, "Under this law forest officers have been directed to cooperate freely with the local officials in the enforcement of the laws of each of the States and the local regulations promulgated under authority of such laws." In the one paragraph he questions his right to do a thing, and in the other he says that he has done it under warrant of law. He further says that "the present plan of" Federal "cooperation" with State or county officials "has been almost uniformly harmonious, and has been productive of excellent results." Further along in his letter he says "The loss of stock by theft within the national forests has been so reduced by the watchfulness and the cooperation of the local forest officers that it is much less than the loss occurring upon the unreserved public lands outside of the boundaries of the national forests." It appears to us that the honorable Secretary himself, in so far as the theft of live stock upon the national forests is concerned, has answered that part of his letter in which he asserts that the "duty of preventing crimes against private property falls properly within the province of the State." The part that the forest officers are now taking in the detection of the crime of theft of live stock upon the national forests, whatever that may be, has worked well, and the honorable Secretary is pleased with it and appears to be satisfied to stop short right where he is, notwithstanding that he admits in his letter that the thieving of live stock still continues upon the national forests. He says that it has only been reduced, and from the tone of his letter one would be led to believe that the theft of live stock within the national forests before the cooperation which he refers to was of very common occurrence, which we feel to be the case. Then, if the cooperation has worked well as far as it has gone—and the honorable Secretary says that it has—what is to hinder its working better if it should go a step further? We naturally wonder if the department pulled back at the initial step.

The bill under discussion aims at an investigation having for its object the preventing of theft upon the national forests. At the same time that the honorable Secretary states that the theft of live stock has been much reduced, he admits that it still exists, for he says that it has only been reduced. Surely he does not want to be understood as opposing a measure having for its object the finding of a means for further reducing, or stopping altogether, such thefts. What harm can possibly come from an independent investigation representing the side of the permittees of the national forests? Much good may come. The cooperation has worked well as far as it has gone. The honorable Secretary has said so. He also says that it should go no further. Why? The stockmen would like to be heard upon that point also. They represent one side of the issue, and it appears to us that the bill in question will afford them the best possible means to be heard. It appears to us that the honorable Secretary may be getting his information through persons that do not want to have further duties added to those that they already have. An ex-ranger of the Modoc National Forest says that it is wrong to require rangers to assist in the protection of live stock from theft within the national forest, because a thief that he may detect in the act of stealing, and report, would waylay and assassinate such a ranger. It is current report that a ranger on the Modoc National Forest last summer, during the month of July or August, saw a man thereon whom he supposed to be in the act of stealing horses. The supposed thief was driving a band of horses in a run with every indication that he was trying to avoid being seen. He and the horses soon disappeared in the brush and were not seen or heard of again. The incident was not reported until some time after, when it was too late to do anything. These incidents are mentioned to show the probable bias of the honorable Secretary's information, as well as to point out the necessity of the investigation proposed in the above-mentioned bill. If Federal cooperation has worked well, will it not work better under an organization that will furnish men for the purpose that are not afraid of performing their duty because of the danger of assassination? Should this situation not be investigated? If the Forest Service has a right to do a thing at all it certainly has the right to do it well.

Have we made it clear? Have we made the thing that we want so clear that the argument that the National Government has no right to punish those guilty of crimes committed within a national forest within a State against the permittees thereof, will ever be made to us again, for we have heard it more than once? There certainly can be no law against the National Government's pointing the finger of guilt and evidence at the one guilty of committing an offense, any offense, against the property of permittees, or otherwise, within or without the national forests. A foreigner visiting our lands for the first time has that right. That is all that the permittees want. Point the offender out and name the evidence, and then the county and State laws and the machinery for their enforcement are ample. That is where the gap lies—to find the thief and his crime. The county and State laws fall down at that point. They provide no machinery for detecting the crime of the sneaking, prowling thief that commits his crimes on the lonely and secluded ranges of the national forests away from the habitation of man.

The honorable Secretary has said that such assistance is now given; that the finger of guilt is now pointed by the employees of the Forest Service. One of the purposes of this bill is to find out to just what extent the finger is pointed, and to what extent the pointing is makebelief. Observe the incidents quoted above. Is it wrong and useless for the people to inquire into the acts of the Forest Service to see if the service can not be improved for their benefit?

There is no especial provision in any of the rules and regulations governing the management of the national forests, that we are aware of, that makes it an especial duty of anyone to point the finger. The employee in the service is only expected to point the finger when, in the daily routine of his other duties, he unexpectedly happens upon an offender in the act of committing an offense. Even seeing the evidence of the offense without the offender it is no part of his duty to trace the crime to the offender. We, therefore, believe that the finger is not pointed nearly as often as it should be; and for proof we point to the fact that many of the men formerly engaged in the live-stock industry and using the summer ranges within the Modoc National Forest for their stock have either entirely quit the business or reduced their stock to a minimum, they claiming that so many of their stock were lost during the outside summer grazing season that there was no profit in the business.

The statement of the honorable Secretary, quoted above, that "The loss of stock by theft within the national forests is much less than the loss occurring upon the unreserved public lands outside of the boundaries of the national forests," indicates very plainly that the officers of the Forest Service whose duties it is to patrol the national forests are in a better position for the detection and prevention of the theft of live stock upon the national forests than the permittees thereof, or the State and county officers intrusted with the enforcement of the local laws. If the forest officers are better organized and in a better position for the work, and those duties come within the meaning of the law, as the honorable Secretary says that they already do, why not make the detection of the theft of live stock upon the national forests one of their specific duties instead of an optional duty as it now seems to be? The law quoted says that they are to do these things whenever it is practicable. Who decides when it is practicable and when it is not practicable? Naturally, it appears to us that it is the man on the ground. Who else could it be? Who but the man who sees or knows in person of the acts of thievery? It appears that it is all left to him. The law and the instructions of the department, as set out in the letter of the honorable Secretary, tell him, virtually, "If you see a thief in the act of stealing upon the national forests, you may prevent him or you may leave him alone, just as you feel about it." If you are afraid, you may run. If you think best, you need not mention the incident at all. You are only to go as far as practicable, and it is up to you to decide when it is practicable, and when it is not practicable, to interfere with thievery that comes under your observation. In connection with this we call attention to the incidents quoted above. The Secretary says that the theft of live stock upon the ranges of the forests is less than it is upon the adjacent ranges outside of the forests, and we are convinced that this statement is correct. But is it from any active part that the rangers and the patrol of the Forest Service take in the suppression of the theft of live stock upon the forests, or is it from the mere fact that their presence upon the forests, in the performance of their daily duties, makes the secrecy of thieving a little more uncertain and thereby scares out the more timid in the vocation that the loss of live stock from that source is reduced?

The law says that the officials of the Forest Service may prevent the theft of live stock upon the national forests; the Secretary of Agriculture tells them so, too; but who tells them that they must? Who knows how much more good might be done if the detection of the theft of live stock upon the national forests was made a specific duty of the forest officials instead of an optional duty? Who knows to what greater extent the thieving of live stock might be stopped if at least one patrol skilled in the detection of the theft of live stock, whose sole duties are to look after its live-stock interests, were placed upon the national forests? The object of the bill under discussion is to make an impartial investigation that will settle these points as they should be rightfully settled. And yet we are told that there is no occasion for it.

The honorable Secretary further says that, naturally, there are occasional requests from permittees for protection from losses by theft; but only upon one national forest has there been any concerted demand for more rigid enforcement of State laws by local forest officers. This does not argue that there is not a great need in all of the forests for a better way for the detection of the theft of live stock upon such forests. He only says that the demand was not made. More than likely the permittees in other forests than the Modoc thought that there was no use, and therefore did not urge the matter. The nature of the correspondence of the Forest Service upon these matters, while courteous, was not such as to encourage the presentation of such matters to it a second time. Probably the thickness of its skin accounts for the persistence of the old Modoc County Association and its successor, the Alturas Stock Association. Any requests at all from permittees for protection from losses by theft upon the national forests indicate that the theft exists there, but it does not indicate to what extent it exists.

In answer to the latter part of the letter, will say that it is not a question of the adequacy of the laws, either county or national, that is needed to stop the theft of live stock upon the national forests. The law is ample. It is the catching of the thief with evidence sufficient

to convict; that is the point. The next best thing to catching him is to make him think that he will be caught and convicted if he commits the thefts, and thereby scare him out.

The honorable Secretary, in closing, says: "I feel that the present plan of cooperation, which has worked out so satisfactorily upon other national forests, should be equally adequate with the Modoc Forest, and that the present instructions mark the limit to which the Federal officers should go in the enforcement of State laws for the protection of private property." The attention of the honorable Secretary is called to the fact that he bases his statement of the fact that the plan of cooperation has worked out so satisfactorily upon other national forests than the Modoc upon the fact that not many permittees upon other forests than the Modoc have asked for special patrol to operate against stock thieves upon the national forests. May we ask what opportunity have such permittees had to express themselves upon the matter? We feel that we have fully answered these final statements in the letter of the Secretary in answering other parts of his letter, and to answer them here would be but to repeat.

Resolutions relating to the grazing of live stock upon the Modoc National Forest and the need of special patrol thereof, adopted by the advisory board of the Alturas Stock Association on February 28, 1912, and afterwards approved by the association, are attached to and made a part of these resolutions. Now, therefore,

Resolved, That, for the reasons herein above set out, it is the unqualified belief of this executive board of the Alturas Stock Association that the said bill is asking for an investigation that is necessary, and that, if vigorously carried out, should prepare the way for filling an existing gap which is proving unusually difficult to bridge in the execution of the laws in regard to the theft of live stock upon the national forests, and should lead to much good: And be it further

Resolved, That we hereby extend to the Hon. JOHN E. RAKER, Member of Congress, our earnest approval of his efforts in behalf of the interests of the permittees of the national forests holding grazing privileges thereon, and ask that he vigorously and as incessantly as decency will permit urge the passage of the said bill.

Adopted by the executive board of the Alturas Stock Association on this 23d day of January, in the year 1913.

W. J. DORRIS, *President*.

Attest:

W. E. ARMSTRONG, *Secretary*.

Resolutions by the advisory board of the Alturas Stock Association.

Whereas the live-stock industry of Modoc County, by reason of its valleys, which provide winter quarters and are surrounded by large summer grazing areas that are rocky, broken, precipitous, and mountainous, and suited to no other uses, and never will be, than that of grazing and of timber, is the principal source of its revenues; and

Whereas the grazing lands lying within the national forest of the county are of greater permanent value to its citizens than the forests lying within the same, adding, as they do, a steady annual revenue to the resources of the county, which will continue for untold ages to come; and

Whereas the fees for the grazing of live stock upon the Modoc National Forest amounted to about 86 per cent of its total revenues in the year 1911, a very small part of which was expended by the service in protecting the grazing interests of its permittees and enforcing the rules and regulations established by law and the Forest Service for the proper management and control of the grazing areas lying within the said national forest; and

Whereas the officers and employees of the said Modoc National Forest do not seem to have the time necessary to look after the grazing interests therein, to protect the permittees in their rights, and to enforce the laws, rules, and regulations established for the management and control of the grazing areas thereof to give equal justice alike to all holders of grazing permits; and

Whereas the service does not, and can not, properly regulate grazing within the said Modoc National Forest, and protect the ranges therein from trespass and usurpation by large stock owners who can get a permit to range thereon only a portion of their stock and graze, or are expected to graze, the remainder on ranges adjacent thereto; by stockmen who do not hold permits and manage to slip their stock onto the reserve at remote and unfrequented places; by men who have no stock upon the reserves, but ride the ranges thereon and drive stock therefrom for the purpose of theft, without men in the employ of the service, during the summer grazing season, whose sole duty is to look after the grazing and handling of livestock upon the said national forest, and nothing else; and

Whereas the average loss of stock on the summer ranges should not exceed 2 per cent of the total number turned thereon, the real loss amounts, in many instances, to as much as 10 per cent, for which reason many of the smaller stockmen have quit the business; and

Whereas the principal infractions complained of above occur during the months of July, August, and September, at which time the stockmen generally are busy taking care of their crops, and the routine work of the forest rangers does not take them onto that part of the range within the reserve where the above unlawful acts complained of are committed, they being off, in many instances, patrolling the forests to detect and put out fires. Now, therefore, be it

Resolved, That, for the reasons hereinabove set out, it is the sense of the advisory board of the Alturas Stock Association that the Forest Service should furnish an adequate number of rangers during the summer grazing season, whose sole duty is to look after grazing on the Modoc National Forest, and nothing else, to put a stop to the trespasses and wrongs above set out and complained of; and

Resolved, That it appears to this board that the members of this association holding grazing permits on the reserve are not getting value received for the money that they pay for such permits, in that a large part of the money paid for such permits is used for other purposes while the things needed to be done to protect and promote the grazing interests of the reserve above set out are left undone; and

Resolved, That it appears to us that the authority to put a stop to the things above complained of does not lie with the permittees, but with those intrusted with the enforcement of the regulations and laws made for the management of the reserves, an important branch of which, the grazing of live stock, is given but little attention in the field, apparently being attended to only when the rangers can be spared from the doing of other things.

Resolution approved and adopted by the advisory board of the Alturas Stock Association February 28, 1912.

P. S. DORRIS, *Chairman*.

Attest:

THEODORE LEE, *Acting Secretary*.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, December 28, 1912.

Hon. JOHN LAMB,
Committee on Agriculture, House of Representatives.

DEAR CAPT. LAMB: I have the honor to acknowledge the receipt of your letter of December 17, inclosing a copy of the bill (H. R. 27142) to make an appropriation for experiments and investigations and determining methods for the ferreting out and preventing of offenses committed against the property of permittees within the national forests, and for other purposes. The bill also provides that the money to be appropriated shall be used from the funds collected from the permits granted to permittees within the national forests.

I know of no reason why it is necessary for Congress to appropriate $5,000 for the purposes specified in this bill. The United States Government has ample means and ample authority of law to prevent crimes against the property of the United States Government, both within the national forests and outside, and for this purpose no further legislation now appears to be necessary. The duty of preventing crimes against private property falls properly within the province of the State, and I question whether the Federal Government should endeavor to assume a part or all of the duty, except in rare instances where its assistance is required by the State. In so far as the protection of private property within the national forests is concerned, there is no State which requires the assistance of the United States Government beyond the extent to which such assistance is now rendered. In the appropriation act of May 23, 1908 (35 Stat., 259), Congress provided that—

"Hereafter officials of the Forest Service designated by the Secretary of Agriculture shall in all ways that are practicable aid in the enforcement of the laws of the States or Territories with regard to stock" * * *.

Under this law forest officers have been directed to cooperate freely with the local officials in the enforcement of the laws of each of the States and the local regulations promulgated under authority of such laws. The present plan of cooperation has been almost uniformly harmonious and has been productive of excellent results.

The loss of stock by theft within the national forests has been so reduced by the watchfulness and the cooperation of the local forest officers that it is much less than the loss occurring upon the unreserved public lands outside of the boundaries of the national forests, and realizing this fact, the majority of the permittees have not expressed any desire for the further extension of authority now possessed by the forest officers. Naturally there are occasional requests from permittees for protection from losses by theft, but the records of the Forest Office show that upon only one national forest has there been any concerted demand for the more rigid enforcement of State laws by local forest officers. This demand arises within the Modoc National Forest, which is situated in the extreme northern end of the State of California. A number of petitions and communications have been received from permittees within that forest, which expresses the belief that since the Government charges a fee for the grazing of cattle upon the forest lands, it is incumbent upon the Government to protect the cattle from theft during the period that they occupy the forest lands under permit. It is the understanding that the State laws and local regulations effective within the Modoc Forest are fully as adequate to protect the owners of livestock from losses by theft as the laws and regulations effective within the remainder of the national forests. I feel that the present plan of cooperation, which has worked out so satisfactorily upon other national forests, should be equally adequate within the Modoc Forest, and that the present instructions mark the limit to which Federal officers should go in the enforcement of State laws for the protection of private property.

For the reasons given above, I do not favor the passage of the bill.

Very sincerely, yours,

JAMES WILSON, *Secretary*.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. GARNER having taken the chair as Speaker pro tempore, a message from the Senate was read, announcing that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 8297. An act to transfer the Pacific Branch of the National Home for Disabled Volunteer Soldiers to the War Department; and

S. 8348. An act waiving the age limit for admission to the Pay Corps of the United States Navy in the case of Minor Merriwether, jr.

The message also announced that the President of the Senate pro tempore (Mr. BACON) had appointed Mr. CLARKE of Arkansas and Mr. BURNHAM members of the Joint Select Committee on the part of the Senate, as provided for in the act of February 10, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Department of the Interior.

The message also announced that the Senate had passed the following resolutions:

Resolved, That the Senate has heard with deep sorrow of the death of Hon. EDMOND H. MADISON, late a Member of the House of Representatives from the State of Kansas.

Resolved, That as a mark of respect to the memory of the deceased, the business of the Senate be suspended in order that proper tribute may be paid his high character and distinguished public services.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

Resolved, That the Senate expresses its profound sorrow on account of the death of Hon. ALEXANDER C. MITCHELL, late a Member of the House of Representatives from the State of Kansas.

Resolved, That the business of the Senate be now suspended in order that fitting tribute may be paid to his high character and distinguished public services.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

Resolved, That the Senate has heard with profound sorrow of the death of the Hon. ROBERT LOVE TAYLOR, late a Senator from the State of Tennessee.

Resolved, That as a mark of respect to the memory of the deceased the business of the Senate be now suspended to enable his associates to pay proper tribute to his high character and distinguished services.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

The message also announced that the Senate had passed the following resolution:

Resolved, That as a further mark of respect to the memory of the deceased Senators, ROBERT LOVE TAYLOR and GEORGE S. DIXON, and deceased Representatives, EDMOND H. MADISON and ALEXANDER C. MITCHELL, the Senate do now adjourn.

AGRICULTURE APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

That the Secretary of Agriculture is hereby directed and required to select, classify, and segregate, as soon as practicable, all lands within the boundaries of national forests that may be opened to settlement and entry under the homestead laws applicable to the national forests, and the sum of $100,000 is hereby appropriated for the purposes aforesaid: *Provided*, That not to exceed $35,000 of this sum may be expended under the direction of the Secretary of Agriculture for the examination, survey, and platting of certain lands now listed or to be listed within national forests chiefly valuable for agriculture and describing such lands by metes and bounds, as required by the act of June 11, 1906 (34 Stat., p. 233), and the act of March 3, 1909 (30 Stat., p. 1095), and hereafter such surveys, and the plats and field notes thereof, shall be made by employees of the Forest Service, to be designated by the United States surveyor general, and such surveys and the plats and field notes thereof shall be approved by the United States surveyor general.

Mr. MARTIN of South Dakota. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The gentleman from South Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by adding, after the word "general," line 20, page 34, the following:

"*Provided further*, That any unexpended balance of an appropriation of $35,000 to be expended under the direction of the Secretary of Agriculture for survey and lease of lands within the forest reserves, chiefly valuable for agriculture, and describing the same by metes and bounds or otherwise, etc., provided by the act of August 10, 1912, entitled 'An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1913,' be, and the same is hereby, continued and made available for and during the fiscal year ending June 30, 1914, for the purpose of this appropriation."

Mr. LAMB. I accept that. It is all right.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota [Mr. MARTIN].

The question was taken, and the amendment was agreed to.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. I desire to ask the gentleman in charge of the bill how long the Secretary of Agriculture has been segregating these national forests?

Mr. MANN. That item, as it stands, appears in the current law for the first time.

Mr. LAMB. It came in the bill last year by conference with the Senate, I think. It was put in by the Senate, and we agreed to it in conference.

Mr. FOWLER. The last bill carried an appropriation of $25,000 for this purpose.

Mr. MANN. Thirty-five thousand dollars.

Mr. FOWLER. No; $25,000.

Mr. LEVER. The gentleman is right. It is $25,000.

Mr. LAMB. While this is apparently a new item, it is the same in amount and substantially the same in language as provided in the current law for the proper execution of the acts of June 11, 1906, and March 3, 1909, and has been combined with this subappropriation for the convenience of administration. The appropriation will give the Forest Service authority to make the first survey when the land is located for the settler, and which, when approved by the surveyor general, will avoid a second survey. The actual increase is only $40,000.

Mr. FOWLER. The bill last year carried an appropriation of $25,000, as is carried after the proviso in this bill. Now, in addition to that, there is $100,000 carried in this bill.

Mr. LAMB. I think the gentleman is mistaken about that.

Mr. FOWLER. For the purpose of segregating, this bill carries $75,000 more than was carried last year.

Mr. MANN. I just explained that. There was an increase for the purpose of carrying out that law. The actual increase is only $40,000.

Mr. FOWLER. The actual increase, as I understand, is $75,000.

Mr. MANN. The proviso takes the place of an omitted item in the bill.

Mr. FOWLER. I do not understand why there should be a larger appropriation this year than was made last year.

Mr. MANN. That is an increase of only $40,000.

Mr. LEVER. The appropriation last year was only $60,000, and we have increased it to $100,000.

Mr. FOWLER. What appears to be the necessity for this additional $40,000?

Mr. LEVER. The department is very anxious, indeed, and I think the people of the country are very anxious, to have these agricultural lands segregated in order that they may be thrown open to homestead entry. Rather than bottling them up in the national forests, we want to make progress in selecting agricultural lands and then opening them up according to law.

Mr. FOWLER. The main object of this appropriaton is to segregate the agricultural land from that which is not subject to agriculture?

Mr. LEVER. Exactly.

Mr. FOWLER. In order to open it up for homestead settlement?

Mr. LEVER. Yes; to homestead entry.

Mr. FOWLER. For those who have no homes?

Mr. LEVER. Yes.

Mr. HAWLEY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. FOWLER. Yes.

Mr. HAWLEY. The sum inserted in the last year was a tentative sum, and since that time they have been examining the magnitude of the problem, and they have come to the conclusion that it would be more economical to make a large one and have it all done as soon as possible.

Mr. FOWLER. Mr. Chairman, I withdraw my pro forma amendment.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

For the purchase and maintenance of necessary field, office, and laboratory supplies, instruments, and equipment, $155,000.

Mr. RAKER. I offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from California [Mr. RAKER].

The Clerk read as follows:

Add, as a new paragraph, after line 25, page 34:

"For experiments and investigations and determining methods for the ferreting out and prevention of offenses committed against the property of permittees within the national forests, $5,000: *Provided*, That the money hereby appropriated shall be used from the funds collected from the permits granted to permittees within the national forests."

Mr. LAMB. Mr. Chairman, I make the point of order against that.

The CHAIRMAN. The gentleman from Virginia [Mr. LAMB] makes a point of order against the amendment. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

For investigations of methods for wood distillation and for the preservative treatment of timber, for timber testing, and the testing of such woods as may require test to ascertain if they be suitable for making paper, and for other investigations and experiments to promote economy in the use of forest products, $100,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] moves to strike out the last word.

Mr. MANN. This item in the current law carried $170,000. It is reduced in the present bill to $100,000. I appreciate the reasons which actuated the committee in making the reduction; but this item covers the expenditure for the study of wood in the making of paper, particularly print paper, and I am informed that if the item remains at $100,000 it means the abandonment of the laboratory at Wausau, Wis., where the Government has been carrying on these experiments.

In this country we are now in that condition where, being dependent upon the supply of spruce wood for the manufacture of print paper, our supply is decreasing annually, and the manufacturers of paper are going over to Canada and establishing their mills there, where the spruce supply is practically unlimited. We are threatened with a removal by the manufacturers of the print paper mills in this country to the other side of the line.

The laboratory at Wausau, Wis., is doing effective work, and has shown that it is practicable to make news print paper out of other kinds of wood, such as jack pine and other varieties that are adapted to that purpose. They are making interesting experiments, but those experiments are not yet complete.

I desire to read to the committee a letter from Mr. John Norris, who is the chairman of the committee on paper of the American Newspaper Publishers' Association, and who, from his point of view, representing his side, is undoubtedly the best-posted man in the country on the subject. I asked him a short

time ago, after this bill was reported, to investigate this matter and see whether, from the point of view of the publishers of newspapers, they thought it was desirable to continue these experiments, because they have to pay for the paper in the end. I hold in my hand this letter from Mr. Norris:

AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION,
OFFICE OF THE COMMITTEE ON PAPER,
New York, January 24, 1913.

Hon. JAMES R. MANN,
House of Representatives, Washington, D. C.

DEAR MR. MANN: In the matter of Wausau Laboratory, I visited Mr. LAMB, Chairman of the Committee on Agriculture, and Mr. Graves, Chief of the Forestry Service. The expenses of maintaining the Wausau experiments range from $15,000 to $20,000 a year payment by the United States Government. The committee on Agriculture has reduced the lump item for testing purposes from $170,000 to $100,000. The anticipation of the Forestry Service is that, if the appropriation is kept at $100,000, the experimental work at Wausau will be discontinued.

I have received a copy of a report of Mr. Thickens, in charge of the experimental work at Wausau, entitled "Experiments with jack pine and hemlock for mechanical pulp," issued June 11, 1912, in the Forest Products Laboratory series. I have read Mr. Thickens's report carefully and I fail to find much encouragement for a commercial substitute for spruce. However, I expect to visit Wausau next week and will advise you further with respect to that situation.

Yours, truly,

JOHN NORRIS,
Chairman of Committee on Paper.

Then I asked him to go to Wausau, which he proposes to do. He communicated with me again, but I do not have his letter here, urging that these experiments be continued. The question now arising is in the main a question as to color. They find that after their experiments they are able to make cheaper paper out of white pine by the ground-wood process, but the color is off.

They find that after their experiment they are able to make cheap paper out of jack pine by the ground-wood process. But the color is off. I am satisfied that if these experiments can be continued a few years longer we will be able to use a large amount of the soft woods, which are now practically valueless, for the making of the news print paper, instead of in the end being compelled to buy from Canada. I hope that the gentleman will not oppose an amendment which I offer, to make the sum $120,000 instead of $100,000.

The CHAIRMAN. The gentleman from Illinois withdraws the pro forma amendment and offers an amendment, which the Clerk will report:

The Clerk read as follows:

Page 35, line 6, strike out "$100,000" and insert in lieu thereof "$120,000."

Mr. LAMB. Mr. Chairman, to show that the Committee on Agriculture had this matter carefully in hand, when we had Mr. Graves before us I asked him this question on this appropriation of $170,000:

The CHAIRMAN. Right there, Mr. Graves, may I ask this question: This is in great part technical and scientific, and when we have found out how this distillation of Douglas fir and other western fir timber, and so forth, can be done, is there an end to that? Is there not a time when that sort of thing should reach its ultimate result?

Mr. GRAVES. There are such a multitude of problems of the better utilization of the products of our forests that it will be a long time before we have them all solved. We will solve one after another. Take, for instance, the question of the drying of lumber. There is an enormous waste to-day through imperfect drying of lumber, and we have developed a new dry kiln, which through experiments so far is showing a large reduction in that waste. When we have perfected that about all that is necessary for us to do on that particular line of work will have been done; but I could not say that we are going to exhaust the field of things necessary to find out for the best use of what our forests produce.

The CHAIRMAN. Where do you do this work—where is this $170,000 expended?

Mr. GRAVES. The headquarters of this is at Madison, Wis., where the laboratory is established.

The CHAIRMAN. Is the bulk of this money spent right there?

Mr. GRAVES. The bulk of this money is spent there. We have some of the work in Washington, and a representative of the branch is here to assist me in the direction of the work, and then we have men in the field; we have representatives of that branch assisting in our national forest timber sales.

Now, Mr. Chairman, in 1909 these appropriations for general expenses in this department were all in a lump sum and embraced $3,986,000. The appropriation of that year, when the segregation was made for this work, was $129,420. When we increased it the next year to $170,000 I, as ranking member of the minority on that occasion, urged that it should stand as it was and insisted that it should, but it was increased to $170,000. This year there came a recommendation from the department for $170,000. We considered it carefully, and thought, in view of the fact that some of these experiments were purely technical and that an end ought to come at some time, we would reduce the amount; but in view of the fact that the first appropriation was $129,000, and as the gentleman from Illinois seems to have investigated this subject, I am willing to agree to the amendment asked for by the gentleman from Illinois.

Mr. MANN. With the understanding that the $20,000 is for the purpose of continuing these experiments?

Mr. LAMB. Exactly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. MANN].

The amendment was agreed to.

The Clerk read as follows.

For experiments and investigations of range conditions within national forests, and of methods for improving the range by reseeding, regulation of grazing, and other means, $20,180.

Mr. RAKER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from California offers an amendment which the Clerk will report.

The Clerk read as follows:

Add after the word "forests," in line 8, page 35, the following: "Experiments and investigations and determining methods for the ferreting out and prevention of offenses committed against the property of permittees within the national forests."

Mr. LAMB. I make a point of order on that amendment.

Mr. RAKER. I desire to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman from California.

Mr. RAKER. After reading the provision you will notice that the matter beginning in line 7 relates to general range conditions. It is—

For experiments and investigations of range conditions.

That is general.

To direct the officers to do certain things would be germane under that section. Again, "the regulation of grazing is in that section and other means." The object of the amendment is to specify what some of those other means are relative to the range conditions in a national forest. I believe, without going into the merits of the amendment, that the amendment is not subject to a point of order under this particular paragraph.

Mr. LEVER. Mr. Chairman, not having examined the amendment closely, but from listening to it, I think it must be apparent to the Chair that it is new legislation. It seems to me that the gentleman is trying to write a criminal statute into this bill, and I think it is clearly subject to a point of order.

Mr. RAKER. Mr. Chairman, it is as far from being a criminal statute as any language can be. The forest supervisor has control of the ranges. He is making an investigation and experiment as to the conditions, as to the regulation of grazing and other means; and I call your attention to the fact that if a man is within the forest reserve with stock for which he has no permit, whether he is only driving them across or not, one of the duties is or ought to be, relating to the condition of that range, to try and find out what that man is doing. The only purpose of this amendment is to have a supervisor of the rangers report these men that are using the range without permission. Here is an extent of territory 40 miles square. They have control of it. These rangers know who have permits on that range, and if they see a strange man, with cattle or horses 10 or 15 or 20 in number, they ought to report to the Forest Service. They do not report, saying it is none of their business, as a letter from the Secretary of Agriculture will show. They do not report because they are afraid of the men that are driving the cattle there.

When they come into the supervisors to make their report, and in turn for the supervisor to report to the legal authorities, these men should be directed to report to the supervisor. These permittees have been complaining, and they have a right to complain. They have been paying their money; they are willing and ready to pay it, but they believe the officers of the range ought to make the report; but, as I say, the reason that they do not make it is because they are afraid of the fellows on the range. That is all we ask.

Mr. LEVER. Mr. Chairman, without discussing the merits of the proposition, I desire to call the Chair's attention to the language of the bill:

For experiments and investigations of range conditions within national forests, and of methods for improving the range by reseeding, regulation of grazing, and other means.

It seems to me that the latter part of the item sets out very clearly what is intended to be done, and certainly the amendment of the gentleman from California is a change of the item to such an extent as to make it subject to a point of order as new legislation.

Mr. MONDELL. Mr. Chairman, it seems to me that the gentleman from California has shown that he has forestry officers that ought to be discharged.

Mr. RAKER. Not at all.

Mr. MONDELL. The legislation that he proposes is clearly new, radical, and revolutionary and would not necessarily cure the condition that he has in mind. The reading of the amendment as I caught it would authorize the Agricultural Department to ferret out any sort of offense committed against permittees. As the gentleman from South Carolina has well said, they are proposing to enact a criminal statute or to give authority to investigate any sort of a crime or misdemeanor occurring on forest reserves provided it is perpetrated against permittees.

Mr. RAKER. Will the gentleman yield? I know the gentleman wants to be fair. This amendment relates to the property of the permittee and for which he has a permit.

Mr. MONDELL. It is certainly new legislation, and places the Forestry Service officials under obligation to pursue a man who might commit a larceny of the property of the permittee, where some one might steal his sheep dog or drive off a calf. It provides that the forestry officers shall ferret out all offenses against the property of the permittee. A man might set fire to his house and, under the amendment, the forestry officers would be compelled to find out who committed the crime. It would not only be new legislation but unwise legislation. The protection which the gentleman desires permittees to have, they now have. I have had some little experience in forestry matters, and this is the first time I ever heard it suggested that the Forestry Service did not protect the permittee in use of the range. The complaint usually is that they are a little bit too drastic in their operations in protecting him against those unauthorized on the reserve.

The CHAIRMAN. The Chair is ready to rule. This amendment by the gentleman from California [Mr. RAKER] is to authorize a portion of the appropriation contained in this paragraph to be used for the purpose of—

ferreting out and prevention of offenses committed against the property of permittees within the national forests.

It appears to the Chair that it is certainly not authorized by any existing law and will be entirely new legislation, and in addition to that would not be germane to this particular paragraph. The Chair therefore sustains the point of order.

The Clerk read as follows:

For the purchase of tree seed, cones, and nursery stock, for seeding and tree planting within national forests, and for experiments and investigations necessary for such seeding and tree planting, $165,640: *Provided*, That the Secretary of Agriculture may procure such seed, cones, and nursery stock by open purchase without advertisements for proposals, whenever in his discretion such method is most economical and in the public interest, and when the cost thereof will not exceed $500.

Mr. RAKER. Mr. Chairman, I move to strike out the last word. Has the chairman any statement in the hearings where they have planted any of these seed in California?

Mr. LAMB. Mr. Chairman, I think not. I will tell the gentleman directly. It is the same amount that was carried last year.

Mr. RAKER. Where were they planted? Does the report show?

Mr. LAMB. They cover about 30,000 acres a year.

Mr. RAKER. Where?

Mr. LAMB. In the different forests. I do not know that the report shows where.

Mr. RAKER. I am very much interested in the conservation of these barren hills. I have been going over a good deal of the Western States, and some of my friends have asked me if I could not send them the information where these trees were planted. I thought I would be able to get the information here, so that they would know that their money was being properly expended.

Mr. LEVER. Mr. Chairman, I do not know that I can tell the gentleman just where this replanting is going on, but this appropriation is primarily for the reforestation of denuded lands in the national forests. It furnishes a large part of the cost of maintaining 31 nurseries and collecting and purchasing 75,000 pounds of tree seed and planting from 20 to 30 acres annually.

Mr. RAKER. Then, presumably, for the present they are using the larger part in getting the nurseries in shape so they can set the trees out later.

Mr. LEVER. That is true, and they are reforesting the denuded lands.

The Clerk read as follows:

For silvicultural, dendrological, and other experiments and investigations independently or in cooperation with other branches of the Federal Government, with States, and with individuals, to determine the best methods for the conservative management of forests and forest lands, $83,728.

Mr. RUCKER of Colorado. Mr. Chairman, I move to strike out the figures "$83,728" and insert in lieu thereof "$100,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 35, line 24, by striking out "$83,728" and inserting "$100,000."

Mr. LAMB. Mr. Chairman, this is the same appropriation as we carried last year, the same wording, and the same amount asked for by the department.

Mr. RUCKER of Colorado. Mr. Chairman, I want to say to the chairman that that sum is not sufficient. For illustration, in Colorado it cost $360,000 last year to administer the forest reserves. They obtained from the grazing privilege and sale of timber only $210,000, or $90,000 short of expenses. Therefore, we ought to have an additional appropriation in order to make our State even up with the others on the matter of expenditure. I was in doubt whether to ask for a decrease or an increase, but as soon as I ran across the figures that we are running behind $90,000 a year in Colorado alone, to say nothing about the other States, I hoped to awaken sympathy on the part of this House against this forest reserve policy. We, in Colorado, believe that not a tree should be removed from our forests. They are necessary for the proper conservation of our water supply. Our trees only grow three months in the year and only six hours in a day. I will ask in this connection to have printed in the RECORD an article from the Rocky Mountain News, printed a few days ago on this identical subject, and which gives the official figures. In the same connection, as long as I see that the news zephyrs are ladened with a conservatism concerning this conservation policy coming eastward from the West, I desire to put in the RECORD an editorial from the Washington Post of this morning.

The CHAIRMAN. The gentleman from Colorado asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

The newspaper clippings referred to are as follows:

FIGHT LAUNCHED ON LAND POLICY—AMMONS LEADS PROTEST AGAINST ORDER TO CHARGE HOMESTEADERS FOR RESERVE TIMBER—COMMERCIAL BODIES TO AID—ORGANIZATIONS THROUGHOUT STATE ARE ASKED TO OPPOSE PINCHOT CONSERVATION SYSTEM.

Gov. Ammons and several anti-Pinchot conservation policy advocates decided yesterday to urge every commercial body in the State to get into the fight against the order of the Forestry Department to charge homesteaders for timber from the forestry reserves.

The order says that settlers will be charged for timber just enough to cover the cost of supervision, but is taken by Coloradoans opposed to the Pinchot policy to mean that settlers necessarily must pay more for such timber than the market prices for lumber in cities and towns with transportation facilities.

"The forestry department makes a virtue of every necessity; and it has never granted a single concession except at the end of a fight," declared Gov. Ammons in a meeting in the capitol yesterday.

The Government's figures show that under the old order the cost of supervision in Colorado in the last fiscal year ran more than $300,000, while the income from the sale of timber and leasing of forest lands was only $210,000. Homesteaders under the new order, it is declared, will be expected to make up such deficits. Originally settlers were given a certain amount of timber gratis; later the permit system was adopted, granting each settler $20 worth of timber.

Commercial bodies throughout the State will be urged to back up the victory gained by Ammons and his associates after years of fighting in forcing the Government to throw open for settlement 85,000 acres of land in the White River Reserve.

The releasing of this land, it is declared, indicates that some factor, probably the election of Wilson, has caused the Forestry Department to recognize the West's viewpoint on conservation.

THE CONSERVATION QUESTION.

No appointment that President-elect Wilson can make will be more vital to the interests of the United States than the selection of a Secretary of the Interior. The people of the country who have watched the departure of so-called conservationists from the true conservation doctrine, which certainly is not confiscation, will await with interest the first announcement from Mr. Wilson as to the policy he will pursue with reference to the development of the Nation's natural resources.

There has grown up in recent years a bureaucratic sentiment in Washington which has been working gradually toward the complete destruction of the old Democratic theory of State's rights, and it will be interesting to see whether Mr. Wilson shall lend moral support to this movement. In New Jersey he has not hesitated to grapple with problems which should be handled by a governor and not by the President of the United States, and it will be strange indeed if he should change his program when he comes to Washington. As governor he has not tried to interfere with national functions. By the same token it is probable that he will impress upon his supporters when he comes to Washington that there should be no interference by the Federal Government in matters which are within the jurisdiction of the States.

The effect of the bureaucratic proclivities which have been manifest within recent years would be to seize all the State and private rights in the waterways of this country by confiscating the property of the riparian owners and usurping the rights of the States. All the power rightfully exercised by the Federal Government was conferred by the States. The States did not endow the Federal Government with control of streams, except as to navigation.

The theory of the "conservationists" is that the natural resources are being preserved for posterity. The practical result, however, is simply stagnation. The Government itself will not build dams and sell the power because of the expense, and if it will not permit private capital to do the work, progress will be at an end.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado.

The amendment was rejected.

The Clerk read as follows:

For market and other miscellaneous forest investigations, and for collating, digesting, recording, illustrating, and distributing the results of the experiments and investigations herein provided for, $40,160.

Mr. SHERLEY. Mr. Chairman, I move to strike out the last word. I desire to ask the gentleman why there is an increase in this item of nearly $9,000 over that of last year?

Mr. LAMB. The increase of $8,800 has been made to cover the expense of temporary draftsmen in preparing maps and atlas sheets, the result of grazing recognizance and additional map work incident to the acquisition of lands under act of March 1, 1911.

Mr. SHERLEY. That does not tell us very much. Last year they had $31,000. How much of this was expended for map work? What were the balances?

Mr. LEVER. Mr. Chairman, under the old appropriation of $40,160, which the committee reduced in the current law, they spent for information, $3,620; for publication, $9,300; for forest atlas, $27,240; making a total of $40,160. That was the law when we took charge of it last year, and we reduced it last year by the difference between $40,000 and $31,000.

Mr. SHERLEY. Does it cost three times as much to make it available as it does to get the information that they obtained under this item?

Mr. LEVER. Well, a good deal of the cost here, of course, is making the forest atlas.

Mr. SHERLEY. I understand; but your first item was that they spent $3,000 in getting the information and $9,000 in making it available.

Mr. LEVER. The making up of the forest atlas would come, necessarily, from the information obtained under this item and under all the items of the Forest Service.

Mr. SHERLEY. I understand that; but that is not what the gentleman stated. The gentleman segregated the item of $40,000 into three classes—$3,000 was for getting the information, $9,000 for making that information available, and the balance was for the atlas.

Mr. LAMB. Here is what Mr. Graves said:

This $40,000 appropriation is, in the first place, for working at the investigations in the office. It provides for the Forest Atlas and it pays for the preparation of maps, photographic work connected with it, and the drafting. This particular item in this appropriation is estimated at $27,240 of the entire $40,000.

Mr. SHERLEY. Last year you cut it $9,000, practically. This year you give it back to them. Now, if you ought to have cut it last year, why should you increase it this year?

Mr. LAMB. Because of the increase of the work; that is what they tell us.

Mr. SHERLEY. How will they make out with their appropriation this year? Are they going to have any deficit?

Mr. LAMB. Well, I do not know whether they will or not.

Mr. LEVER. We think not.

Mr. SHERLEY. Then why increase it?

Mr. LEVER. The gentleman himself, I think, in his own bill made some increases, perhaps, over the current law; did he or did he not?

Mr. SHERLEY. Sometimes, and I sometimes try to give a reason for it. I do not know whether this is a right increase or not, and that is what I am trying to get at.

Mr. LAMB. They have increased the domain of the forest reserves, and on account of the administration of it they are urging that very strongly as a justification for a slight increase.

Mr. SHERLEY. If it is a complete one, there is no need of having anything to do except to pass their estimate.

Mr. LAMB. I will make this observation in passing: A good deal of this will be employed in connection with the eastern portion, where we are buying new forests all the time.

Mr. SHERLEY. My experience has been that the increases that they most strongly urge are increases connected with publication and office work.

Mr. LAMB. We are buying new farms and have to map them. The gentleman from Oregon is on the committee, and perhaps he can give some information.

Mr. HAWLEY. I remember in the testimony before the committee the Forester said there was a congested condition of the work; that he had not been able to keep up with the office work with the amount of the appropriation they had. There is a congestion in the office, and they ask an additional appropriation that they may work up that congested material.

Mr. SHERLEY. What I did not understand is how, if they are in such a congested state in the office, this very wise committee last year should have cut the appropriation $9,000, and you now propose to increase it.

Mr. LAMB. Because we have I do not know how many thousand acres of new land.

Mr. HAWLEY. Several hundred thousand.

Mr. SHERLEY. Mr. Chairman, I move to strike out "$40,160" and to substitute "$31,360."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 36, line 4, by striking out "$40,160" and inserting "$31,360."

Mr. RODDENBERY. Mr. Chairman, I desire to be heard against the amendment.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. RODDENBERY. Mr. Chairman and gentlemen, this paragraph to which the gentleman from Kentucky [Mr. SHERLEY] offers an amendment is a general paragraph for miscellaneous forest investigation, and on the preceding page we have passed a paragraph for special study and ascertainment of woods that are suitable for making paper. I examined some months ago with a little care several volumes on wood-pulp and print-paper investigation, which were published when the Payne bill was under consideration, and to which the gentleman from Illinois [Mr. MANN] gave so much attention. In examining those reports, it showed that the forests of New England and of the West had been looked to for furnishing sufficient wood for print paper. I am heartily in accord with the committee touching the first paragraph, and I think there should be no decrease in this item. I think a careful investigation of the forests of the Northeast and Northwest was very opportune, but I doubt if the department has gone far enough in the southern timber range in its investigation for woods adapted for manufacture of wood pulp for high-grade paper. The bay, the poplar, the pine, are by reason of climatic conditions more tense in their tissue, more compact and strong in their fiber in the higher latitudes. As you go to the forests of southern Louisiana, southern Alabama, southern Georgia, southern Mississippi, and northern Florida, you find the bay, the poplar, and the black pine, the latter as contradistinguished from the yellow, long-leaf pine, which is a resinous pine. They are of soft texture, porous, and coarse in fiber. The tops and butt ends are thrown away in sawmill manufacture, and if this department of the Government would investigate, they would, I apprehend, ascertain that millions of feet of wood are being destroyed that would occupy the same place now as the wood that we go to Canada to obtain. Vast forests of it now grow in that area. I know they have made some investigations, but they have never, with sufficient persistence, gone there, and, on the ground, in elaborate way, tested the various types and forms of these woods. This is directed not so much to this committee as to the appropriate department of the Government charged with expending wisely these appropriations.

Mr. CAMPBELL. Will the gentleman yield?

Mr. RODDENBERY. I yield.

Mr. CAMPBELL. The gentleman spoke of much timber that is being wasted in certain States which I have heretofore regarded as States in which the people thought they could manage their own affairs very well. Does the gentleman think the Government ought to go down there and tell them how to prepare the timber they are wasting?

Mr. RODDENBERY. No, sir. I was suggesting that the department might do in the southern forests what the reports on these various appropriations show they have done in New England and in the Northwest. I want to be distinctly understood as ratifying and thoroughly approving precisely what they have done in New England and precisely what they have done in the Northwest. And it was with no purpose to undertake to make the impression that any section had by design or intentional discrimination been neglected, but I think perhaps it is because the conditions have not been brought to the department's attention.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LEVER. Mr. Chairman, in order that the committee may get the right viewpoint, I would like to read from the hearings on page 52, as follows:

This $40,000 appropriation is, in the first place, for working at investigations in the office. It provides for our forest atlas. It pays for the preparation of maps, the photographic work connected with that, and the drafting. That is the principal item in this appropriation, estimated at $27,240 of the entire $40,000. All of Mr. Plummer's statistical work in the compilation and maintenance of our statistics and maps comes under this item. We are asking for an increase of that, because the examination of these eastern forests involves a great deal of additional map work. We are concentrating our map work as far as we can in the head offices rather than having it done in the field, because we have got the machinery for it, and this procedure is a great deal more economical, and the extra map work due with the new purchases of land is adding an additional burden, and we did not have money enough—we will not have money enough for next year's work under the present appropriation.

Now, then, that we may not get our appropriations mixed, the statement of Mr. Graves before the committee is to the effect that on account of the fact that we have brought under control under the Weeks law about 340,000 acres of additional land which must be mapped this increase is asked; and that is all there is to it. I hope the amendment of the gentleman from Kentucky [Mr. SHERLEY] will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. SHERLEY].

Mr. MANN. Mr. Chairman, just a word. I am always interested in anything that my distinguished friend from Georgia [Mr. RODDENBERY] says, and hence I desire to help correct him as to his viewpoint on the subject of manufacture of paper.

The woods which grow in the South are not in the main adapted to the manufacture of ground wood pulp, which is the article used to produce news print paper or cheap book paper, such as schoolbook paper. But there is a large amount of wood in the South which is now used for the manufacture of what is called chemical pulp or soda pulp, used in the manufacture of book paper, and the hardwoods nowhere can be used for the manufacture of ground wood. It is a process of tearing the fiber apart on a grindstone. Very few woods except the spruce are easily adapted to it, although they are trying to find methods by using different speeds and different roughness and different processes to utilize other kinds of softwood for the same purpose.

This laboratory that the gentleman refers to at Wausau, Wis., was located there, by the way, because the department secured the cooperation of the manufacturers of ground wood, who paid most of the expense, and the benefits are extended to anybody who wants to avail of them. There is much wood that goes to waste, and on the other hand there is much wood now in the way of tops and branches used in the manufacture of soda pulp. But that is an expensive paper compared with that made from the ground wood, from which you make the news print paper.

Mr. SHERLEY. Mr. Chairman, it is evident that very little of this $40,000 is expended for investigation. Only about $3,000 of it is expended for that. A year ago this committee, the Committee on Agriculture, of its own initiative, evidently considered that the tendency that we find prevalent in all the departments—that of adding to the office force in Washington and having as much money spent here as possible, instead of in the field—had been in operation in connection with this item, and accordingly they reduced the item themselves. This year, however, without any reason to show that the money was not sufficient which they on their own judgment last year said would be sufficient, they come back and return the old sum. Their economy was of short life; it does not seem to have lasted very long.

Now, so much of the speech of the gentleman from Georgia [Mr. RODDENBERY] as relates to this item may be answered by saying that only $3,000 of this has been used for experimental purposes. There is no reason why the previous amount which we have increased should not be used in the South as in the East or in the West. But why this item should be increased for the purpose of simply adding to the clerical force here in Washington in this connection I do not see.

Mr. LAMB. Mr. Chairman, it seems evident that the gentleman from Kentucky [Mr. SHERLEY] has failed to understand the explanation that has been given, although the explanation of Mr. Graves has been read twice, first by myself and then by the gentleman from South Carolina [Mr. LEVER], giving his reasons, which were that the purchase of lands under the Appalachian bill necessitated the making of these maps.

Mr. SHERLEY. Were not most of these additional lands purchased last year?

Mr. LAMB. No. The purchases have been made since then.

Mr. SHERLEY. What authority has the gentleman for that statement?

Mr. LAMB. I know from a man in my own town, a lawyer, who examines these titles, and the land was bought after the titles were perfected, and most of it purchased recently.

Mr. LEVER. Forty thousand acres were bought in the last few weeks.

Mr. SHERLEY. It has all been surveyed, so as to need to be mapped now?

Mr. LEVER. Yes; it has been surveyed so as to be mapped out of this fund.

Mr. LEE of Georgia. Mr. Chairman, if the gentleman will permit, I want to make a statement as to the purchases that have been made, so that the gentleman from Kentucky [Mr. SHERLEY] will understand.

Mr. SHERLEY. I understand the purchases, but not a word has been said that shows the necessity for more money for map purposes. Statements such as that which the gentleman has made are made before our committee repeatedly. There is not an item involving clerical force which the department officials do not support by saying that they are going to have additional work and therefore will require additional clerical force. It never seems to dawn on them that there is a necessity for actually doing more work.

Mr. LEE of Georgia. Here is a summary of work that has been done under the Weeks law by the Forest Service:

Summary of work under Weeks law by Forest Service.

1. Total area offered (Dec. 1, 1912), 2,796,919 acres.
2. Total area examined (Dec. 1, 1912), 1,137,821 acres.
3. Total area approved by N. F. R. C. (Feb. 1, 1913), 346,533 acres.
4. Location of tracts approved for purchase:

Name of area.	State.	Watershed.	Acres.	Average price per acre.
Georgia	Georgia	Tennessee	31,876	$7.00
Massanutten	Virginia	Potomac	19,322	1.24
Mount Mitchell	North Carolina	Catawba	26,170	5.27
Nantahala	do	Tennessee	27,815	9.32
Natural Bridge	Virginia	James	24,900	6.80
Savannah	Georgia and South Carolina.	Savannah	44,757	6.38
Smoky Mountain	Tennessee	Tennessee	59,213	4.31
White Mountains	New Hampshire	Androscoggin Connecticut Merrimac Saco	81,352	6.07
White Top	Tennessee and Virginia.	Tennessee and Kanawha	36,917	3.95
Average			352,322	5.66

5. Total amount needed to purchase lands approved by N. F. R. C., $1,994,939.68.
6. Total force, 97.
   (a) Washington, 7.
   (b) Field, 90.
7. Total cost fiscal year 1912:
   (a) Forest Service fund, $8,858.60.
   (b) Weeks law fund, $81,628.19.
   Total, $90,486.79.

Mr. SHERLEY. How much of that has been surveyed?

Mr. LEE of Georgia. More than a million acres have been surveyed.

Mr. SHERLEY. Then, why did you gentlemen cut the fund so much last year?

Mr. LAMB. I will say to the gentleman that last year we pared it down to the very bone; perhaps too much.

Mr. LEE of Georgia. More than a million acres have been surveyed.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Kentucky [Mr. SHERLEY].

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For the construction and maintenance of roads, trails, bridges, fire lanes, telephone lines, cabins, fences, and other improvements necessary for the proper and economical administration, protection, and development of the national forests, $400,000: *Provided*, That hereafter the Secretary of Agriculture, whenever he may deem it necessary for the protection of the national forests from fire, may permit the use of timber free of charge for the construction of telephone lines: *Provided further*, That no part of the money herein appropriated shall be used to pay the transportation or traveling expenses of any forest officer or agent except he be traveling on business directly connected with the Forest Service and in furtherance of the works, aims, and objects specified and authorized in and by this appropriation: *And provided also*, That no part of this appropriation shall be paid or used for the purpose of paying for, in whole or in part, the preparation or publication of any newspaper or magazine article, but this shall not prevent the giving out to all persons without discrimination, including newspaper and magazine writers and publishers, of any facts or official information of value to the public.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph. I desire to know why it is that $400,000 is annually appropriated here for building these roads, trails, and telephone lines? Does it take that amount of money to keep them up?

Mr. LAMB. We have been carrying that appropriation every year. It assists in the prevention of forest fires and conserves the property.

Mr. FOWLER. When will you get done building roads in these forests?

Mr. LAMB. About the time that Gabriel blows his trumpet.

Mr. FOWLER. You are going to ask for $400,000 annually until that time, are you?

Mr. LAMB. I rather think so—as long as the forests remain or until the roads are built. Then you must maintain them. Some people appear to forget this maintenance feature entirely.

Mr. HAWLEY. Will the gentleman yield to me?

Mr. FOWLER. Yes.

Mr. HAWLEY. In the State of Oregon there is one forest that has over 3,000,000 acres in it. It comprises the backbone of the Cascade Mountains. It is a vast area, and has a great deal of ripe timber in it. Roads and trails have never

been built in there since the Indians left the country, except in scattered portions of it.

Mr. FOWLER. Is that a new forest?

Mr. HAWLEY. It was created several years ago, I think.

Mr. FOWLER. And no roads have been built there yet?

Mr. HAWLEY. Only just in the outer edges of it.

Mr. FOWLER. How have they protected it from fire so far?

Mr. HAWLEY. They have not protected it from fire.

Mr. FOWLER. Has much timber been destroyed there?

Mr. HAWLEY. In the year 1911 there were several hundreds of millions of feet of timber destroyed in the State of Oregon by fire.

Mr. FOWLER. In this forest?

Mr. HAWLEY. Part of it in this forest. They are extending the roads and trails as fast as they can every year along the main lines of the mountains, so that they can rush in men and supplies whenever a fire breaks out, so as to subdue the fire at the earliest possible moment.

Mr. FOWLER. Do you think it will take $400,000 annually to keep up these roads?

Mr. HAWLEY. It may for a time. I think in time they will have the roads and trails constructed.

Mr. LAMB. Oh, no; it will take an appropriation to maintain them.

Mr. HAWLEY. The forest reserves of the United States are of immense area. There are 16,000,000 acres in the State of Oregon alone.

Mr. FOWLER. Can you give us any idea as to how long you are going to require an annual appropriation of $400,000?

Mr. MANN. Long after you are dead.

Mr. HAWLEY. I do not know how long.

Mr. FOSTER. As long as you stay here at least.

Mr. HAWLEY. I am not specially interested in this item. I am simply stating facts that I have observed.

Mr. FOWLER. How much of the $400,000 appropriated last year was spent for this purpose?

Mr. HAWLEY. I suppose it has not all been exhausted yet, because the limit of time has not yet expired, but practically all will be expended.

Mr. FOWLER. How long have you been appropriating $400,000 annually?

Mr. HAWLEY. The appropriation was about that amount when I came on the committee, as I now recall.

Mr. FOWLER. Has it been increasing?

Mr. LAMB. I can say to the gentleman that according to the best calculation I can make these forests in about five or six years will become self-sustaining. When the railroads get into this timberland we will then receive as much from the forests as this bill amounts to, and then the gentleman will have no objection to the appropriation.

The CHAIRMAN. Does the gentleman from Illinois make the point of order?

Mr. FOWLER. I am trying to find out whether it is necessary to make this appropriation. If it is, I do not want to make a point of order against it.

The CHAIRMAN. The Chair is prepared to rule.

Mr. FOWLER. It is subject to a point of order.

The CHAIRMAN (Mr. BEALL of Texas). If the paragraph did not contain this language, beginning on line 9, page 36—

Provided, That hereafter the Secretary of Agriculture, whenever he may deem it necessary for the protection of the national forests from fire, may permit the use of timber free of charge for the construction of telephone lines—

the Chair would overrule the point of order.

Mr. FOWLER. It would not then be subject to the point of order.

The CHAIRMAN. In the opinion of the Chair, that is new legislation, and the point of order being directed against the whole paragraph, it is subject to the point of order.

Mr. LEVER. I hope the gentleman will permit an explanation as to why this $400,000 is necessary.

Mr. FOWLER. That is what I am after. My point of order is reserved against the paragraph for the purpose of getting information as to the necessity of appropriating $400,000 annually for the purposes contained in this paragraph.

Now, the part of the paragraph that is subject to a point of order the Chair has pointed out. I understand, Mr. Chairman, that the Government now uses Government timber for the purpose of constructing telephone lines, and that part of this paragraph does not give any additional advantage, because for the Government to pay for its own timber is like taking the money out of one pocket and putting it into the other.

Mr. HAWLEY. The gentleman is in error.

Mr. FOWLER. Under the circumstances, Mr. Chairman, I do not desire to press the point of order, because I am not familiar enough with the demand for this $400,000. Were I familiar enough with it to know that it was not necessary, as I do believe, I might insist on the point of order, but I do not feel that I ought to take the responsibility to cut out that part of the appropriation, and therefore I withdraw the point of order.

Mr. FOSTER. Mr. Chairman, I renew the point of order as to the word "hereafter."

The CHAIRMAN. The point of order is sustained.

Mr. LEVER. Then, Mr. Chairman, I offer the following amendment: On line 9, page 36, insert, after the word "*Provided*," the words "That the Secretary of Agriculture, whenever he may deem it necessary for the protection of the national forest from fire, may permit the use of timber free of charge for the construction of telephone lines."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 36, line 9, by inserting, after the word "*Provided*," the words "That hereafter the Secretary of Agriculture, whenever he may deem it necessary for the protection of the national forests from fire, may permit the use of timber free of charge for the construction of telephone lines."

Mr. FOSTER. I reserve a point of order to that.

Mr. HAWLEY. I think I can satisfy the gentleman who made the point of order with this explanation: All through the forests there are settlers who have built telephone lines from the outside. The shortest way frequently to get a line into settlers' homes is across the forest land. If they have to carry the poles from their own land to the forest land, it is going to cost a great deal of money and a great deal of labor. In every instance the settlers allow the Forestry Service not only to use their own lines and the telephones in their houses, but to connect with their private lines and extend them farther into the mountains. The Forestry Service really gets the service of these telephone lines without cost and the settlers maintain the lines. In exchange the settlers are to get this small amount of timber necessary to make the poles. I think it is a great benefit to the Forestry Service to have that provision.

Mr. MANN. Under this provision the Secretary might grant free poles to any telephone company in that part of the country.

Mr. HAWLEY. He might.

Mr. MANN. He would be asked to, would he not?

Mr. LAMB. He would not do it, save to conserve the best interest of the forest.

Mr. MANN. I think I would, if I was Secretary of Agriculture, because communication all through that country is desirable, as far as fighting fire is concerned. It is desirable to have communication 100 miles, perhaps. Does not the gentleman think there ought to be some limitation on the value of these poles?

Mr. LAMB. It is limited to the forest reserves.

Mr. MANN. It is not limited in its language to the use of telephone poles inside of the forest reserves.

Mr. LAMB. In some cases these forest reserves cover a third of the whole State. The provision gives the Secretary authority to dispose of the timber needed for these poles in the interest of the forests.

Mr. MANN. Then it would lap over into the adjoining State.

Mr. HAWLEY. The purpose of this is to furnish poles only when the system is carried across the forest land or lands intervening between forest lands; to allow them to cut down suitable trees as they go along to make poles to attach the wires to.

Mr. MANN. Then it is poorly expressed, because this is what it says:

May permit the use of timber free of charge for the construction of telephone lines—

not in the forest reserve, but anywhere when he may deem it necessary for the protection of the national forests from fire. Now, it is very essential, in the opinion of many forest supervisors, to communicate with people all about the country in a time of fire. Do I understand it is the purpose to furnish poles for everybody who wants to build a line in that part of the country?

Mr. MARTIN of South Dakota. The gentleman has not overlooked the qualification that whenever the Secretary may deem it necessary for the protection of forests from fire.

Mr. MANN. But this communication with adjoining towns is desirable.

Mr. MARTIN of South Dakota. Then it is only when it is necessary.

Mr. LEVER. And necessary for a certain purpose.

Mr. MONDELL. Mr. Chairman, is it the gentleman's opinion that the right to furnish these poles should be limited to cases where the lines are to be built on forest reserves?

Mr. LAMB. That is what I think.

Mr. MONDELL. Then the committee should add to their amendment the words "on forest reserves" at the end of the amendment. That would make it clear.

Mr. MANN. That would be all right, if that would be done.

Mr. RAKER. The gentleman certainly would not want to put that limitation on. There are many places where forests are served, where at different places the line crosses public lands and public roads that are not in the reserve, and certainly this is a wise and just provision, where they construct those local telephone lines. They are used whenever the Government wants them for the purpose of assisting in fighting fire by calling in men. You certainly ought to give us the right to cut the poles and use them for building such lines.

Mr. HAWLEY. I do not think there will be multiplication of telephone lines. All the settlers will get will be a few poles of no special value as they stand in the forest, and they will have to furnish the wire and the insulators and all the instruments, and do all the work, and the Government gets the advantage of that.

Mr. RAKER. Is not every line that is put up an addition and an advantage to the Government?

Mr. HAWLEY. Yes.

Mr. LAMB. The Government gets the protection of the national forests by the use of these telephone lines, put from one forest to another by these private companies.

Mr. HAWLEY. Yes. Out in the forest in Oregon I have made some investigation. Settlers will carry the lines many miles into the mountains and then the Forest Service attaches to the nearest line and carries it back to their lookout stations or cabins.

Mr. FOSTER. Mr. Chairman, I make the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. The gentleman from Illinois very properly asked why we need $400,000 for the building of roads, trails, bridges, fire lanes, telephone lines cabins, fences, and other necessary improvements on the forest reserves. I should offer an amendment increasing this item $100,000 if I thought there was any possibility of securing the increase. Gentlemen will recall that the forest reserves of the United States are an area a little over five times the size of the great State of Illinois. I refer now to the forest reserves in continental United States, exclusive of Alaska. They are largely rough, broken, mountainous country. The protection of the timber from fire requires the cutting of fire lanes, and the great loss referred to a moment ago in Oregon, Idaho, and Washington two years ago was largely due to the fact that there were no fire lanes or that they were infrequent. In addition to that, telephone, trail, and road communications through the reserves is essential, not only to the utilization of the reserves themselves but for the benefit and comfort of the people who live in the locality, who must travel across the reserves. It is necessary to build cabins for the forest rangers, and it is necessary to fence their little pastures. It is necessary to do a thousand and one things to make these reserves available for use; and when you consider that you are covering a territory of 165,000,000 acres, which is over five times the area of Illinois, if I recollect the area of that imperial Commonwealth, and that it is a new country, mountainous, that it has many rivers, canyons, and heavy timber, the amount carried is altogether too small. It ought to be a million dollars.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. MANN. The gentleman does not pretend that this $400,000 is all that is carried in the bill for that purpose?

Mr. MONDELL. Nearly all.

Mr. MANN. Oh, no.

Mr. MONDELL. There is another little item of 10 per cent.

Mr. MANN. A very large item.

Mr. MONDELL. It is not a very large item. That item is not as large as it ought to be, and the Forest Service could economically use annually a million dollars for the next five years and still not build all of the roads and trails and not cut all of the fire lanes that ought to be built and cut. If we had made this appropriation larger four or five years ago we might have saved a loss of millions of dollars in forest fires two years ago. It is true that this last year we have had a very favorable season. The rains have fallen and it has been possible to protect the forests, but when we have another like the season of two years ago we are likely to again discover what poor economy it was not to appropriate more than we do for these purposes. I do not complain of the committee—the committee has given all that the department asked. The department has been altogether too modest. The department does not realize the necessity of the situation from the standpoint of fire lanes and of means of communication.

Mr. LAMB. If the gentleman was on the committee he would not think the department was modest.

Mr. MONDELL. They were not so modest in some other matters. They did very well in the matter of investigating the boll weevil and cattle tick and some other things that trouble the brethren in the sunny South, but we are glad that they take a broad view of their duties and responsibilities in those things, and we only regret they do not take as broad a view of their duties and responsibilities touching these great areas of reserve, which do contain, as I said a moment ago, some very valuable timber.

The CHAIRMAN. The time of the gentleman has expired.

The Clerk read as follows:

That an additional 10 per cent of all moneys received from the national forests during the fiscal year ending June 30, 1913, shall be available at the end thereof, to be expended by the Secretary of Agriculture for the construction and maintenance of roads and trails within the national forests in the States from which such proceeds are derived; but the Secretary of Agriculture may, whenever practicable in the construction and maintenance of such roads, secure the cooperation or aid of the proper State or Territorial authorities in the furtherance of any system of highways of which such roads may be made a part.

In all, for general expenses, $3,110,299.

Mr. RAKER. Mr. Chairman, I move to amend by striking out, in line 1, page 37, the word "ten" and inserting in lieu thereof the word "twenty-five," so that it will read "an additional 25 per cent."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 37, line 1, by striking out "ten" and inserting "twenty-five."

Mr. LEVER. Mr. Chairman, I make the point of order against that that it is a change of existing law.

The CHAIRMAN. The Chair would like to ask the gentleman from South Carolina, What is the existing law on the subject?

Mr. LEVER. Mr. Chairman, in the Digest of Laws applicable to the Department of Agriculture, page 164, it is provided:

That hereafter, on or before the 1st day of January of each year, the Secretary of Agriculture shall submit to Congress classified and detailed reports of all receipts by the Forest Service and classified and detailed estimates of all expenditures intended for that service for the next fiscal year and detailed reports of all expenditures under any appropriation for such service during the preceding fiscal year; *And provided further*, That 10 per cent of all moneys received from each forest reserve during any fiscal year, including the year ending June 30, 1906, shall be paid out of the fund thereof by the Secretary of the Treasury to the State or Territory in which said reserve is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and the public roads of the county or counties in which the forest reserve is situated.

Mr. RAKER. Will the gentleman permit a question?

Mr. LEVER. Yes.

Mr. RAKER. That does not relate to the additional 10 per cent?

Mr. MANN. That has been raised to 25 per cent, and then comes along another 10 per cent, and now the gentleman wants to raise that to 25 per cent. Why not make each one 50 per cent and get four or five items together? Next year I am going to strike out this item on the point of order before it gets to the amendatory stage.

Mr. LEVER. In fact, the item is subject to the point of order.

Mr. MANN. The item is subject to the point of order, and it will be made the next time.

The CHAIRMAN. In the opinion of the Chair, no point of order having been made to the paragraph, which would be out of order, it can be perfected or changed by any germane amendment.

Mr. RAKER. Mr. Chairman, on that matter I want to read what the Chief Forester said in regard to this in his testimony before the committee. This is on page 54 of the testimony:

Mr. GRAVES. May I add a word about this road item before leaving it?

The CHAIRMAN. Yes, sir.

Mr. GRAVES. I favor very emphatically this item, and last year I expressed myself to individual members of the conference committee, when I was consulted about this, as even in favor of the 25 per cent. There are in the national forests so many remote ranches and communities where a small expenditure will be of enormous benefit in the development of the country. We have knowledge of a great many of these points, where settlers are able to raise perhaps a few hundred dollars, and by assistance from the Government of a few hundred or a few thousand dollars they may actually shorten the distance from their ranches and settlements to the nearest town or railroad by a good many miles. For instance, there is a case in one of the forests where 40 miles of haul for products of the farms will be saved; another, where it will be reduced from 50 to 27 miles; and a great many instances of that sort where the assistance to the settlers as a result of this first appropriation will be very great indeed.

Now, I have thought about the condition of the members on the committee, and I know they are giving the best attention they can to this item; but there is but one gentleman on the committee who has been in a position to actually go over these reserves and know what it means to the Government to put proper roads and trails over this property that it is now holding and controlling and for which it is collecting rent from the permittees and off of which it is selling large quantities of lim-

ber. The State is assisting half and half in places through its counties, and certainly the National Government as a private individual, or if it was part of the county so that it could assist in building the roads or trails, would expend money for the purpose of building those roads and trails for the accommodation of the people living in those communities, to say nothing about the question of the protection from fire; and undoubtedly it is the object and intent of Congress in such legislation to give the residents living adjacent to these forest reserves fair roads, decent trails, to go from one community to the other over the reserves that you have created, and particularly where you take 25 per cent of the money actually collected from the reserves to build these improvements.

Mr. HAWLEY. Mr. Chairman——

Mr. MONDELL. Mr. Chairman——

Mr. LAMB. I think we have discussed this about long enough.

Mr. HAWLEY. I would like to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HAWLEY. Is the point of order of the gentleman from South Carolina [Mr. LEVER] still pending?

Mr. LAFFERTY. I make the point of order that we have passed the point where a point of order can be raised.

The CHAIRMAN. All points of order have been overruled.

The question is on the amendment of the gentleman from California [Mr. RAKER].

Mr. MANN. Mr. Chairman, as I recall it, we now pay 25 per cent of the gross receipts from the forest reserves to the States for school and other purposes in lieu of taxation. In addition to that, we now pay 10 per cent of the gross receipts to the States for the building of roads and trails. In addition to that we appropriate $400,000, which we expend in the forests for the same purpose. That amounts to more than 50 per cent of the gross receipts from the national forests. Whenever the constituents of my distinguished friend from California [Mr. RAKER] are willing to pay 10 per cent of the gross receipts from their business for taxation, I will be glad to join him in providing that the Government shall pay more than 50 per cent of the gross receipts from our operation of the national forests.

Mr. RAKER. Will the gentleman yield right there?

Mr. MANN. It strikes me that it takes more gall than anything else I know of for these people to insist that out of the gross receipts in the operation of the national forests we shall spend more than one-half in lieu of taxation in the States.

Mr. CULLOP. I would like to ask the gentleman from Illinois [Mr. MANN] a question. What is the amount of the receipts from the forest reserves?

Mr. LEVER. A little over $2,000,000. Now it is proposed to take 25 per cent of that $2,000,000 and add it to the $400,000 appropriated to go into the road fund.

Mr. MONDELL. Mr. Chairman, some time ago I introduced a bill proposing an increase in this item to 20 per cent, and I did it after a very thorough investigation into the conditions of the forest reserves in my State. The gentleman from Illinois [Mr. MANN] thinks we have a great deal of "nerve" out that way when we ask for simple justice. The only difficulty is that he does not fully understand the situation.

Mr. MANN. I never think that, because that is what you never ask for.

Mr. MONDELL. This particular item is intended to give the States and communities an opportunity to build and maintain roads on main lines of communication. One reserve in my State that I visited last fall has a road some 40 miles in length, extending across the reserve, that was built before the reserve was established. It was a fairly good mountain road. Since the reserve has been established there has been a decline in activities on the reserve, and under our laws it is doubtful if we can use the revenues obtained from taxation for the construction of roads on reserves. The result is that this road, which was built years ago, is falling into disuse, and a mountain road which I traveled without difficulty some years ago I found almost impossible to get over last year. This is coming to be a common experience.

Now, there are many main lines of communication—main roads—which the department does not feel justified in maintaining, much less in constructing, with the item of $400,000 carried elsewhere in the bill. Those main roads must be built and maintained. We are not asking anything that is not eminently fair and reasonable when we ask that a part of these taxes which our people pay to the Forest Service shall be used for the maintenance of main roads across the reserves. I hope the item may be increased to 25 per cent. It ought to be. We are entitled to that much of these revenues for these purposes.

Mr. LAFFERTY. Mr. Chairman——

Mr. LAMB. Mr. Chairman, I ask that all debate be closed on the paragraph and amendments thereto in five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LAFFERTY. Mr. Chairman, I favor the amendment offered by the gentleman from California [Mr. RAKER]. I see no reason for getting excited over a little amendment of this kind, offered here in the Committee of the Whole during the consideration of questions which we are in duty bound to decide for the people of this country. The only question involved here is one of common sense. There is no use in gentlemen from one section of the country accusing gentlemen from another section of the country of having too much gall or wanting something that is unfair.

This amendment of the gentleman from California merely authorizes the Secretary of Agriculture to utilize an additional 25 per cent of the receipts from the national forests, to be used for what purpose? For the improvement of those very national forests. Where is the Member that will say that it is justice for the Federal Government to set aside as a national forest one-fourth and a little more of the area of a great State in this Union, as has been done in the State of Oregon, and then sit back supinely and refuse to build public highways across that great area?

Mr. McKENZIE. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. LAFFERTY. Certainly.

Mr. McKENZIE. Is it not a fact that the Government of the United States is now paying out a great deal more money for the conservation of these forests than it is receiving from them?

Mr. LAFFERTY. I understand that up to the present time the expenses of the national forests have exceeded the revenues therefrom. But here we do not propose any additional appropriation by this amendment. We propose only to set apart 25 per cent of the proceeds from the sale of timber and grazing privileges within the national forests.

Mr. McKENZIE. Mr. Chairman, will the gentleman yield for another question?

The CHAIRMAN. Does the gentleman yield?

Mr. LAFFERTY. Yes.

Mr. McKENZIE. Then, as a matter of fact, you are asking the United States to build roads out there for you, are you not?

Mr. LAFFERTY. Yes; and there is no reason why all of the proceeds from the sale of timber and grazing privileges within the national forests should not be used by the Secretary of Agriculture for the improvement of these forests in the way of roads, trails, telephone lines, and those other things which will go to prevent fire and permit the public to travel across those large withdrawals. In fact it could not amount to anything that would injure the Federal Government, because, as has been suggested, the Federal Government is, as a matter of fact, already expending more than the total receipts of the national forests upon the conservation work of the country at this time.

Why should not the proceeds be spent for this purpose? Why should we not specifically say by this amendment of the gentleman from California that one-quarter of the proceeds shall be expended within the national forests for the building of good roads?

The CHAIRMAN. The time of the gentleman has expired. The question is on agreeing to the amendment offered by the gentleman from California [Mr. RAKER].

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

Mr. MONDELL. Mr. Chairman, I offer an amendment as a separate paragraph at the end of line 11, page 37.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Wyoming.

The Clerk read as follows:

Insert at end of line 11, page 37, as a new paragraph, the following: "To enable the Secretary of Agriculture to cooperate with any State or States which shall have provided by law for the destruction of predatory wild animals and in which national forests are located, upon request of the proper State officials and upon such conditions as the Secretary may deem advisable, in the organization and maintenance of a plan for the destruction of such animals upon the national forests and the lands adjacent thereto, and out of the appropriation herein provided there shall be paid, upon proper certification by the Secretary of Agriculture, to the proper officer of each State in which forest reserves are located, a sum equal to that proportion of the amount expended by the State for the destruction of predatory wild animals for the preceding fiscal year that the area of permanently reserved forest lands in the State bears to the entire area of the State, $200,000."

Mr. LAMB. Mr. Chairman, I make a point of order against that. It is too long. [Laughter.]

The CHAIRMAN. The gentleman from Virginia [Mr. LAMB] makes a point of order against the amendment.

Mr. MONDELL. Mr. Chairman, I trust the gentleman will withhold his point of order for five minutes.

The CHAIRMAN. Does the gentleman from Virginia withhold his point of order?

Mr. LAMB. Yes; for five minutes.

Mr. MONDELL. Mr. Chairman, my amendment proposes an appropriation of $200,000 to aid in the destruction of predatory wild animals, and provides that of that sum the Secretary of Agriculture shall pay to the proper officer of each State having forest reserves a sum equal to that proportion of the bounty appropriation of the State that the area of the forest land bears to the entire area of the State.

In other words, the appropriation is in recognition of the fact that the General Government should bear its proportion of the cost to the State of the destruction of predatory wild animals. Forest reserves are, unfortunately, a breeding ground for wolves, coyotes, bears, and other predatory wild animals. Although the forest reserve may constitute one-third of an entire State—in the case of my State about one-eighth—the Federal Government bears no part of the cost of destroying these animals. It seems to me eminently fair and just that the Federal Government should pay its share of the cost of the destruction of these animals.

Most of the Western States make appropriations each year for the payment of bounties for the destruction of these animals, and it is simply proposed to have the Federal Government pay its share of this bounty expense. Nothing could be fairer. We are only asking the Federal Government to pay on the acreage it retains from the jurisdiction of the State, and largely from settlement.

I trust that the chairman of the committee will not insist on the point of order. Out in the western country we are being overrun by these animals. The loss annually in the destruction of sheep, cattle, horses, and particularly calves and colts, runs into the millions, and States go to great expense each year in providing for the destruction of these animals. In addition to that, stock associations in many cases pay very heavy bounties, and it is only fair that the Federal Government should do its share toward keeping down the number of these animals. Furthermore, I implore all lovers of game animals to join me in support of the appropriation so that predatory animals shall not multiply in the forest reserves to such a degree as to destroy the deer, antelope, elk, and other game.

Mr. BARTLETT. How about birds?

Mr. HELM. Do these animals which you have described destroy any Federal property?

Mr. LAMB. Mr. Chairman, I insist on the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. RODDENBERY. I move to strike out the last word. I hope the committee will see fit to allow the gentleman from Wyoming to have this little appropriation added to the bill. From his statement it is evident that there is nothing for the Government to appropriate for in Wyoming except predatory wild animals, national forests, sheep, Army posts and reservations, public buildings, and the salaries of able statesmen. Certainly, the gentleman ought to be allowed this small item. [Laughter.]

The Clerk read as follows:

That hereafter the Secretary of Agriculture is authorized to reimburse owners of horses, vehicles, and other equipment lost, damaged, or destroyed while being used for necessary fire fighting, trail, or official business, such reimbursement to be made from any available funds in the appropriation to which the hire of such equipment is properly chargeable.

Mr. FOWLER. I reserve a point of order against that paragraph.

Mr. MANN. I make the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. RAKER. Is there no way of having the gentleman withhold his point of order for a moment?

Mr. MANN. If we are going to pass the appropriation bills we have got to make progress with them.

The Clerk read as follows:

That hereafter the employees of the Forest Service engaged in office work in cities or towns outside of the District of Columbia, or in forest supervisors' offices, or who are assigned to permanent duty in Alaska, may, in the discretion of the Secretary of Agriculture, without additional expense to the Government, be granted leave of absence not to exceed 30 days in any one year, which leave may, in exceptional and meritorious cases where such an employee is ill, be extended, in the discretion of the Secretary of Agriculture, not to exceed 30 days additional in any one year.

Mr. COX. I make a point of order against that paragraph.

Mr. LAMB. The point of order is conceded.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

Total for Forest Service, $5,346,259.

Mr. BOOHER. Mr. Chairman, I move to strike out the last word for the purpose of asking a question. Will the chairman of the committee tell me what the gross receipts of the Forest Service are?

Mr. LAMB. Two million one hundred and fifty-seven thousand three hundred and fifty-six dollars.

Mr. BOOHER. What are the gross expenses?

Mr. LAMB. They are $5,346,259.

Mr. BOOHER. Will the chairman tell me whether or not the deficit is greater this year than last year?

Mr. LAMB. It is nearly the same. There are some contracts not realized on.

Mr. BOOHER. Then we are not getting anywhere near an even break in this matter.

Mr. LAMB. We will later, because the timber sales in the future will wipe it out.

Mr. BOOHER. Yes; I heard a former chief forester say that we would be even 10 years ago, and we are getting further away every year.

Mr. LAMB. Well, it takes a long time to develop a big business. The forester has in charge a territory larger than New England, New York, and Pennsylvania.

Mr. MANN. Let me say to the gentleman from Missouri that, in relation to the expenses, the gentleman from Virginia is not quite accurate, because we have taken 25 per cent of the gross receipts for schools and 10 per cent more for the construction of roads and trails in addition to the expense carried by the bill.

Mr. BOOHER. So the deficit is a million dollars more than appears in the bill.

The Clerk read as follows:

BUREAU OF CHEMISTRY.

Salaries, Bureau of Chemistry: One chemist, who shall be chief of bureau, $5,000; 1 chief clerk, $2,000; 1 supervising clerk, $2,500; 1 executive clerk, $2,000; 7 clerks, class 4; 9 clerks, class 3; 1 clerk, $1,440; 12 clerks, class 2; 1 clerk, $1,200; 18 clerks, class 1; 13 clerks, at $1,020 each; 11 clerks, at $1,000 each; 22 clerks, at $900 each; 1 clerk, $840; 1 chief food and drug inspector, $3,000; 1 food and drug inspector, $2,250; 10 food and drug inspectors, at $2,000 each; 14 food and drug inspectors, at $1,800 each; 1 food and drug inspector, $1,620; 13 food and drug inspectors, at $1,600 each; 4 food and drug inspectors, at $1,400 each; 4 laboratory helpers, at $1,200 each; 1 laboratory helper, $1,020; 4 laboratory helpers, at $1,000 each; 4 laboratory helpers, at $960 each; 2 laboratory helpers, at $900 each; 6 laboratory helpers, at $840 each; two laboratory helpers, at $780 each; 20 laboratory helpers, messengers, or laborers, at $720 each; 2 laboratory helpers, messengers, or laborers, at $660 each; 26 laboratory helpers, messenger boys, or laborers, at $600 each; 1 laboratory assistant, $1,200; 1 tool maker, $1,200; 1 sampler, $1,200; 1 janitor, $1,020; 1 student assistant, $300; 2 messengers, at $840 each; 1 skilled laborer, $1,050; 1 skilled laborer, $840; 2 messenger boys or laborers, at $540 each; 8 messenger boys or laborers, at $480 each; 3 messenger boys or laborers, at $420 each; 1 messenger boy or laborer, $360; 6 charwomen, at $240 each; in all, $272,860.

Mr. FOWLER. Mr. Chairman, I make a point of order against the paragraph.

The language, "one chemist who shall be chief of bureau, $5,000," changes existing law. The statute provides for a chemist at $2,000.

When the various agencies of this department were organized into bureaus, it was especially provided that all the laws in existence at that time should be applicable to the various bureaus. The Bureau of Chemistry, of Plant Industry, of Animal Industry, the Bureau of Soils, and, as I recollect, one other in 1902. It was especially provided in that act, as I will read for the benefit of those interested—

That all existing statutes relating to the Division of Soils be reorganized into the Bureau of Soils, the Division of Forestry reorganized into the Bureau of Forestry, the Division of Chemistry organized into the Bureau of Chemistry—

and others that I will not take the time to read—

shall remain in effect as applying to the respective bureaus into which the divisions named have been organized.

The statute of 1862 provided that the salary of the chemist shall be $2,000. I am reading now from the annotated Federal statutes in 10 volumes.

Mr. LEVER. Mr. Chairman, in the act creating the Department of Agriculture, sections 520, 521, and 522, it is provided that there shall be in the Department of Agriculture one chief clerk at a salary of $2,000, one chemist at a salary of $2,000 a year. In addition to that, section 523 provides that the Commissioner of Agriculture shall appoint such other employees as Congress may from time to time provide.

I take the position that the point of order of the gentleman from Illinois is not well taken, because the statute does not fix the salary of the Chief of the Bureau of Chemistry. The statute does fix the salary of one chemist at $2,000 per annum, but the fact is that we are employing many chemists in the Department of Agriculture at salaries much above the salary fixed in the fundamental law for the one chemist to which the gentleman has referred. There is no place in the statute any-

where fixing the salary of the Chief of the Bureau of Chemistry, and that salary has been fixed from time to time under section 523 by provisions on the appropriation bill.

The CHAIRMAN. The Chair will ask the gentleman from South Carolina if the one chemist provided for in the original act has come down through the various changes to be recognized a Chief of the Bureau of Chemistry?

Mr. LEVER. I will say frankly I do not know; but I call the attention of the Chair to a well-recognized rule of law, and that is that you can not look to persons in the interpretation of the law, but we must look to the position rather than the person who fills the position.

The CHAIRMAN. Under the authority of that statute creating the Department of Agriculture do I understand that the word "employees" would be broad enough to cover the chief of division, like the Chief of the Bureau of Chemistry?

Mr. LEVER. In reply to the suggestion of the Chair permit me to call the attention of the Chair to the debate on the floor of the House some years ago with reference to the creation of the Remsen Board and for the employment of different chemists from the appropriation carried in this bill. I want to call attention to the fact that the Chair held that under the language there—"persons and other employees"—that it was decided that the Secretary of Agriculture had the right to employ such persons as would enable him to carry out the fundamental purpose of the creation of his department.

The CHAIRMAN. The Chair will call the attention of the gentleman from South Carolina [Mr. LEVER] to what occurred during the consideration of the last agricultural appropriation bill, when a point of order was made by the gentleman from Florida with respect to the solicitor for the department. That same article of the statute which the gentleman from South Carolina has just read was relied upon partly as furnishing authority for the existence of an official of that kind. It is the recollection of the Chair that the gentleman from Missouri [Mr. BORLAND], who presided over the committee at that time, held that that language with respect to an employee would not cover such an official as the head of a bureau or such an official as the Solicitor in the Department of Agriculture.

Mr. LEVER. But the fact is that the gentleman from Missouri, presiding at that time over the committee, overruled the point of order made by the gentleman from Florida and sustained the position of the committee.

The CHAIRMAN. Yes; but that was because the word "hereafter," which occurred in the agricultural appropriation bill of 1910, extended that law beyond that year.

Mr. LEVER. Mr. Chairman, it seems to me that there is not to be found anywhere in the statutes any language which fixes the salary of the Chief of the Bureau of Chemistry, and that the only language fixing it must be found in an appropriation bill, the current law, and that the point of order is not well taken.

If the Chair will permit, let me call his attention to the fact that there is no law anywhere except the fundamental law of the Department of Agriculture, in this section 523, and the last appropriation bill, the current law, which fixes either the position of the Chief of the Bureau of Chemistry or the salary attached to it; but we feel we have a right to fix his salary and position under the fundamental law.

Mr. FOWLER. Mr. Chairman. I have before me the Annotated Statutes of the United States, and I have gone through with the various acts pertaining to the Agriculture Department, and nowhere has there been a change from the existing law passed since 1862 creating the position of chemist.

The CHAIRMAN. May the Chair ask a question right there? Did the gentleman find the statute which changed the title of that official from chemist to chemist who shall be chief of bureau?

Mr. FOWLER. No.

The CHAIRMAN. Did he discover where that language first came into the bill?

Mr. FOWLER. I do not know when it was attempted to make this chemist the chief, but, Mr. Chairman, the fact that there is in the permanent law a provision for a chemist fixing the salary permanently can not be destroyed by a committee undertaking to place upon that name any additional words for the purpose of qualifying it. The very statute at the time when this bureau was created declared that all existing law should then be applicable to the Bureau of Chemistry, and for that reason, when a point of order was made against the appropriation bills for the various departments of the Government during this session, where it was sought to say that a chief clerk who should do some other things should get an increase of salary, the Chairman held that the chief clerk's salary was fixed by law, and his identity could not be destroyed by virtue of any additional words qualifying it.

The CHAIRMAN. The Chair is ready to rule.

Mr. LEVER. Mr. Chairman, before the Chair rules I desire to call his attention to the following language:

> An exception to these general principles referring to the fact of legislation on appropriation bills is found in the established practice that in the absence of a general law fixing a salary the amount appropriated in the last appropriation has been held to be the legal salary.

The CHAIRMAN. The Chair would say to the gentleman from South Carolina there is no dispute about that proposition. It occurs to the Chair that inasmuch as the act creating the Department of Agriculture provided for one chemist and fixed the salary at the sum of $2,000, and that in this bill the first item under the Bureau of Chemistry is for one chemist, who shall be chief of bureau, $5,000, it would be the judgment of the Chair that that is the chemist whose salary was fixed in the bill creating the Department of Agriculture, and he is therefore constrained to sustain the point of order.

Was the point of order of the gentleman from Illinois directed simply to that office?

Mr. FOWLER. Mr. Chairman, I do not desire to press the point of order any further.

The CHAIRMAN. The gentleman makes the point of order to that salary alone?

Mr. FOWLER. What I read, "one chemist, who shall be chief of bureau, $5,000."

The CHAIRMAN. The point of order is sustained.

Mr. MANN. The item is stricken out?

The CHAIRMAN. The item of "one chemist, who shall be chief of bureau, $5,000," is stricken out.

Mr. FOWLER. Mr. Chairman, I offer an amendment, "one chemist, $2,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amend page 38, by inserting after the word "chemistry," the words "one chemist, $2,000."

Mr. MANN. Mr. Chairman, I hope that amendment will not be agreed to. It will be a distinct reflection upon this House, upon this Congress, and upon the Department of Agriculture and the chief chemist, Department of Agriculture, to insert on the floor of the House an amendment designed to cover his office at $2,000. My colleague has availed himself of the privilege, which he has the right to do, to strike out the item in the bill on a point of order, but it ought to be left out instead of being restored at $2,000, because that would be an insult to this chief chemist, whoever he may be. I have not an acquaintance with him. The place which Dr. Wiley held for years ought not to be discredited by the House by the adoption of such an amendment. [Applause.]

Mr. FOWLER. Mr. Chairman, I desire to be heard for a moment upon the amendment. I have offered my amendment, Mr. Chairman, in good faith. The statute of the United States provides for a chemist of the Agricultural Department and fixes the salary at $2,000. If there is need of other officers in this department, Congress has ample power and ought to be willing to create whatever other positions are necessary to carry into effect the objects of this department. If a chief chemist is necessary to preside over the Bureau of Chemistry, then I say that Congress is derelict in its duty if it does not create such a position and fix a definite and adequate salary therefor, and for my colleague from Illinois [Mr. MANN] to say that it is a reflection upon Dr. Wiley to amend the paragraph to make it conform to the statute is to say that Congress, of which he has been a Member for the last 16 years, has neglected its duty in not providing for the position of a chief of chemistry. It is an acknowledgment of the deplorable condition of this department. Instead of trying to reflect upon me in my efforts to comply with the statute my colleague [Mr. MANN] ought to go back home and get down on his knees by the side of his bed to-night before he goes to sleep and pray to the God of heaven to forgive him for his sins of omissions of duty which he has committed as a Member of Congress for lo these many years.

The question was taken, and the amendment was rejected.

Mr. LAMB. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose, and the Speaker having resumed the chair, Mr. BEALL of Texas, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 28283, the Agricultural appropriation bill, and had come to no resolution thereon.

HOUR OF MEETING TO-MORROW.

Mr. GARNER. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 10.30 o'clock to-morrow.

The SPEAKER. The gentleman from Texas [Mr. GARNER] asks unanimous consent that when the House adjourns to-day it adjourn to meet at 10.30 o'clock to-morrow morning.

Mr. LAFFERTY. Mr. Speaker, a parliamentary inquiry; that means when the House adjourns to-night?

The SPEAKER. Why, of course, that does not interfere with the order adopted. Is there objection? [After a pause.] The Chair hears none.

CONFERENCE REPORT ON LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I have to present a conference report on the legislative, executive, and judicial appropriation bill. The statement has not been signed by my colleague on the conference committee. I ask unanimous consent that at the evening session, after I get that statement signed, I be permitted to present it under the rule.

The SPEAKER. The gentleman from South Carolina [Mr. JOHNSON] asks unanimous consent that at the evening session that is set apart for the consideration of private bills that he may have leave to present the conference report on the legislative, executive, and judicial appropriation bill for printing in the RECORD. The reason that he does not do so now is because some member of the conference committee has not signed it. Is there objection? [After a pause.] The Chair hears none.

EXTENSION OF REMARKS.

Mr. MOORE of Pennsylvania. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of Italian labor on the farm.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD on the subject of Italian labor on the farm.

Mr. RAKER. Mr. Speaker, reserving the right to object, as a part of the same request I ask unanimous consent that I have the right to extend my remarks in the RECORD upon the interstate shipment of liquor bill which passed Saturday.

Mr. BARTLETT. That has been already granted.

Mr. RAKER. No; I did not get a chance to speak.

Mr. MANN. If the gentleman couples that with the other I shall object to both.

Mr. RAKER. I certainly couple it.

Mr. MANN. Then I object.

The SPEAKER. The gentleman from Illinois objects to both requests.

Mr. MANN. Mr. Speaker, I will not object to the request of the gentleman from California if he will make it by itself.

Mr. RAKER. I withdraw my objection to the request of the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. Mr. Speaker, I renew my request.

The SPEAKER. The gentleman from Pennsylvania [Mr. MOORE] asks unanimous consent to extend his remarks in the RECORD on the subject of Italian labor on the farm. Is there objection? [After a pause.] The Chair hears none.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that I may extend my remarks in the RECORD on the bill relative to the interstate shipment of liquor passed on last Saturday.

The SPEAKER. The gentleman from California [Mr. RAKER] asks unanimous consent to extend his remarks on the bill relative to the interstate shipment of liquor. Is there objection?

There was no objection.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 8861. An act for the relief of the legal representatives of Samuel Schiffer;

H. R. 28186. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes;

H. R. 16450. An act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same; and

H. R. 18425. An act for the relief of Simon Nager.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 27986. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27944. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27987. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27988. An act to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

H. R. 27879. An act providing authority for the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota;

H. R. 1332. An act regulating Indian allotments disposed of by will;

H. R. 21524. An act for the relief of Frederick H. Ferris;

H. R. 25002. An act to amend section 73 and section 76 of the act of August 27, 1894, entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes"; and

H. R. 8861. An act for the relief of the legal representatives of Samuel Schiffer.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 8297. An act to transfer the Pacific Branch of the National Home for Disabled Volunteer Soldiers to the War Department; to the Committee on Military Affairs.

S. 8348. An act waiving the age limit for admission to the Pay Corps of the United States Navy in the case of Minor Meriwether, jr.; to the Committee on Naval Affairs.

RECESS.

The SPEAKER. The Chair declares the House in recess until 8 o'clock p. m.

Accordingly (at 5 o'clock p. m.) the House was in recess until 8 o'clock p. m.

EVENING SESSION.

The recess having expired, at 8 o'clock the House was called to order by the Speaker.

BILLS ON THE PRIVATE CALENDAR.

The SPEAKER. The Clerk will report the special order.

The Clerk read as follows:

> *Ordered*, That on next Monday, February 10, 1913, the House shall stand in recess from the hour of 5 o'clock p. m. until the hour of 8 o'clock p. m., at which time it shall be in order to consider in the House, as in Committee of the Whole, bills on the Private Calendar which are not objected to.

The SPEAKER. The Clerk will call the first bill on the Private Calendar.

HENRY HARRISON HALL.

The first business on the Private Calendar was the bill (H. R. 20721) to authorize the President to reappoint Henry Harrison Hall a second lieutenant in the Army.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois [Mr. MANN] objects.

RELIEF OF HEIRS OF MYRA CLARK GAINES.

The next business on the Private Calendar was the bill (H. R. 17501) for the relief of the heirs of Myra Clark Gaines, deceased.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois objects.

RELIEF OF THE SNARE & TRIEST CO.

The next business on the Private Calendar was the act (S. 2512) for the relief of the Snare & Triest Co.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois objects.

CAPT. HAROLD L. JACKSON.

The next business on the Private Calendar was the bill (H. R. 19788) to restore Capt. Harold L. Jackson, retired, to the active list of the Army.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois objects.

RELIEF OF HEIRS OF BENJAMIN S. ROBERTS.

The next business on the Private Calendar was the bill (H. R. 4125) for the relief of the heirs of Benjamin S. Roberts.

The SPEAKER. Is there objection?

Mr. MANN. I object.

The SPEAKER. The gentleman from Illinois objects.

REIMBURSEMENT OF CERTAIN FIRE INSURANCE COMPANIES, HAWAII.

The next business on the Private Calendar was the act (S. 2819) to reimburse certain fire insurance companies the amounts paid by them for property insured by fire in suppressing the bubonic plague in the Territory of Hawaii in the years 1899 and 1900.

The SPEAKER. Is there objection?

Mr. MANN. I object to that, Mr. Speaker.

The SPEAKER. The gentleman from Illinois objects.

MAJ. GEORGE A. ARMES.

The next business on the Private Calendar was the bill (H. R. 11397) authorizing the appointment of Maj. George A. Armes, United States Army, retired, to the rank and grade of major general on the retired list of the Army.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois objects.

GUSTAV A. HESSELBERGER.

The next business on the Private Calendar was the bill (H. R. 15286) for the relief of Gustav A. Hesselberger.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois objects.

HERMAN HAUPT.

The next business on the Private Calendar was the bill (H. R. 20613) for the proper recognition of the services rendered by Herman Haupt during the Civil War.

The SPEAKER. Is there objection?

Mr. MANN. I object.

The SPEAKER. The gentleman from Illinois objects.

LIEUT. COL. CONSTANTINE MARRAST PERKINS.

The next business on the Private Calendar was the bill (H. R. 9290) for the reinstatement of Lieut. Col. Constantine Marrast Perkins to the active list of the Marine Corps.

The SPEAKER. Is there objection?

Mr. MANN. I object.

The SPEAKER. The gentleman from Illinois objects.

ANTONIA SOUSA.

The next bill on the Private Calendar was the bill (H. R. 2070) for the relief of the estate of Antonia Sousa, deceased.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby authorized and directed to pay, out of the naval pension fund, to the estate of Antonia Sousa, deceased, late a musician in the Marine Corps of the United States, the sum of $19.50 per month from March 4, 1886, to April 27, 1892, both inclusive, being the amount of allotment granted to the said Antonia Sousa by the Secretary of the Navy under section 4756, Revised Statutes of the United States, which was wrongfully withheld from him by the former Commissioner of Pensions, and the necessary amount is hereby appropriated out of the naval pension fund.

The following committee amendment was read:

Strike out in lines 6, 7, 8, 9, page 1, and line 1, page 2, the following words: "The sum of $19.50 per month from March 4, 1886, to April 27, 1892, both inclusive, being the amount of allotment granted to" and insert in lieu thereof the words "the sum of $1,431.25, the total amount found to be due the estate of the pensioner."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

TRANQUILINO LUNA.

The next business on the Private Calendar was the bill (H. R. 19819) to authorize the payment of $2,000 to the widow of the late Tranquilino Luna in full of his contest expenses in the contested-election case of Manzaneres against Luna.

The SPEAKER. Is there objection?

Mr. FOSTER. I object.

WILLIAM F. NORRIS.

The next business on the Private Calendar was the bill (H. R. 3668) for the relief of William F. Norris.

The SPEAKER. Is there objection?

Mr. MANN. I object.

SETTLERS IN SHERMAN COUNTY, OREG.

The next business on the Private Calendar was the bill S. 295, an act to adjust the claims of certain settlers in Sherman County, Oreg.

The SPEAKER. Is there objection?

Mr. FOSTER. I object.

BOLOGNESI, HARTFIELD & CO.

The next business on the Private Calendar was the bill (H. R. 21403) for the relief of Bolognesi, Hartfield & Co.

The SPEAKER. Is there objection?

Mr. FOSTER. I object.

JOHN T. HAINES.

The next business on the Private Calendar was the bill S. 4778, an act to correct the military record of John T. Haines.

The SPEAKER. Is there objection?

Mr. HOWARD. I object.

Mr. ANTHONY. Will the gentleman withhold his objection?

Mr. HOWARD. I will withhold it.

Mr. ANTHONY. I want to state that I believe this to be a particularly meritorious bill, and if the gentleman would look into it I think he would not make an objection. It is to correct the military record of an officer of the Army who was appointed major from the grade of captain, but two days before the Senate confirmed it he died. His rank had been reached; he was entitled to the rank, and his name was sent to the Senate, but he died two days before the Senate confirmed it. This bill is simply to give his widow the right to the extra six months' pay for his rank as major over what it would have been for his rank as captain.

The SPEAKER. Is there objection?

Mr. COX. I object.

H. C. HODGES AND OTHERS.

The next business on the Private Calendar was the bill (H. R. 20692) for the relief of H. C. Hodges, H. A. Powell, John Smith, and Joseph Ridley.

The SPEAKER. Is there objection?

Mr. ANTHONY. I object.

H. J. RANDOLPH HEMMING.

The next business on the Private Calendar was the bill (H. R. 21526) for the relief of H. J. Randolph Hemming.

The SPEAKER. Is there objection?

Mr. MANN. I object.

Mr. SLAYDEN. Will the gentleman withhold his objection for a minute?

Mr. MANN. I will reserve it for a minute, but the bill is so thoroughly bad——

Mr. SLAYDEN. As long as the gentleman denounces a bill to which my name is attached as bad——

Mr. MANN. I did not notice that the gentleman's name was attached to it.

Mr. SLAYDEN (continuing). I feel as if I would like a few moments to make a statement. I never heard of Mr. Hemming until a year or two ago when a Senator from a Western State called the bill to my attention and convinced me that Mr. Hemming had been employed by a representative of this country in India, and that he helped to protect the United States against the infringement of certain of its laws.

I introduced a bill at the request of the Senator, and it was taken to the Committee on Claims, gone over very thoroughly, and while the amount claimed by Mr. Hemming was not allowed they investigated it and the gentleman from Missouri, Mr. DICKINSON, particularly found that Mr. Hemming had been employed by an official representative of this Government, and that he had rendered considerable and valuable services, and had incurred some outlay of money. I do not know anything about the facts except as they are set forth in the document. Judge DICKINSON, who gave more attention to it than any other man in the committee, became convinced of the justice of his claim and that we ought to give the man what was properly due him. That is all my interest in the matter, and with that I am willing to leave it to the House.

Mr. MANN. Mr. Speaker, this is the case of an attorney in India—in Bombay or Calcutta, I do not know which—who claimed that he had been employed by a consular officer with authority. That was denied. The consular officer did at one time say that the services rendered were probably worth $500. This gentleman is now or has been recently in this country prosecuting the claim and has announced that he proposes to have it adjudicated as a claim by a citizen of Great Britain against the United States under the commissioners that were appointed for the purpose of settling such claims. The bill was introduced for $10,000. If the gentleman has a claim for $10,000 which is legitimate, he ought to have $10,000. The consular officer reported that there might properly be paid to him $500. The committee reports $2,000. I think he had better follow his rights, if he has any, to the $10,000 in the regular manner. I object.

ELLEN M. STONE.

The next business on the Private Calendar was the bill (H. R. 2461) to provide for the repayment of the ransom of Ellen M. Stone.

The SPEAKER. Is there objection?

Mr. HOWARD. I object.

Mr. FOWLER. Mr. Speaker, I trust the gentleman will not object to the consideration of this bill.

Mr. HOWARD. Mr. Speaker, I demand the regular order.

The SPEAKER. The gentleman from Georgia objects.

GEORGE P. HEARD.

The next business on the Private Calendar was the bill (H. R. 23080) for the relief of George P. Heard.

The SPEAKER. Is there objection?

Mr. FOSTER. I object.

Mr. BLACKMON. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

Mr. FOSTER. It will be.

The SPEAKER. It will be.

GASTON LEE HOLMES.

The next business on the Private Calendar was the bill (H. R. 14607) authorizing the President to reinstate Gaston Lee Holmes as a midshipman in the United States Naval Academy.

The SPEAKER. Is there objection?

Mr. COX. Mr. Speaker, I object.

JOHN W. WEST, DECEASED.

The next business on the Private Calendar was the bill (H. R. 6544) for the relief of the heirs of John W. West, deceased.

The SPEAKER. Is there objection?

Mr. MANN. I object.

CHARLES LEWIS CLIFFORD.

The next business on the Private Calendar was the bill (H. R. 14593) authorizing the President to reinstate Charles Lewis Clifford as a midshipman in the United States Naval Academy.

The SPEAKER. Is there objection?

Mr. SLAYDEN. Mr. Speaker, I object.

L. D. HILDEBRAND.

The next business on the Private Calendar was House resolution 567 (in lieu of H. R. 15207), for the relief of L. D. Hildebrand, administrator of the estate of John W. Hildebrand, deceased, and referring the same to the Court of Claims.

The SPEAKER. Is there objection?

Mr. MANN. I object.

THEODORE DEHON.

The next business on the Private Calendar was the bill (H. R. 9136) for the relief of the heirs of Theodore Dehon.

The SPEAKER. Is there objection?

Mr. ANTHONY. Mr. Speaker, I object.

GEORGE E. PAYNE, DECEASED.

The next business on the Private Calendar was the bill (H. R. 22311) for the relief of the legal representatives of George E. Payne, deceased.

The SPEAKER. Is there objection?

Mr. COX. Mr. Speaker, I object.

CHARLES A. COOLIDGE.

The next business on the Private Calendar was House resolution 580 (in lieu of H. R. 24844) for the relief of Charles A. Coolidge, and referring the same to the Court of Claims.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to say, for the information of the House, that these bills that are being called at this time on the Private Calendar have, in the main, already been objected to, so far as unanimous consent is concerned, on a prior occasion. Gentlemen ought not to take exception to objections at this time. I object.

JAMES EASSON.

The next business on the Private Calendar was the bill (H. R. 265) for the relief of James Easson.

The SPEAKER. Is there objection?

Mr. ANTHONY. I object.

Mr. SISSON. I object.

GEORGE IVERS.

The next business on the Private Calendar was the bill (S. 100) to carry into effect the findings of the military board of officers in the case of George Ivers, administrator.

The SPEAKER. Is there objection?

Mr. SISSON. I object.

ERSKINE R. K. HAYES.

The next business on the Private Calendar was the bill (S. 3459) for the relief of Erskine R. K. Hayes.

The SPEAKER. Is there objection?

Mr. MANN. I object.

FRED R. PAYNE.

The next business on the Private Calendar was the bill (H. R. 15241) for the relief of Fred R. Payne.

The SPEAKER. Is there objection?

Mr. MANN. I object.

MARCUS P. NORTON.

The next business on the Private Calendar was the bill (H. R. 25201) for the adjudication and determination of the claims arising under joint resolution of July 14, 1870, authorizing the Postmaster General to continue in use in the postal service Marcus P. Norton's combined post-marking and stamp-canceling hand-stamp patents.

The SPEAKER. Is there objection?

Mr. HOWARD. Mr. Speaker, I object.

HENRY A. V. POST.

The next business on the Private Calendar was the bill (H. R. 17323) for the relief of Henry A. V. Post.

The SPEAKER. Is there objection?

Mr. SISSON. Mr. Speaker, I object.

SAM MANA.

The next business on the Private Calendar was the bill (H. R. 21195) for the relief of Sam Mana, owner of the schooner *Moi Wahine*, sunk in collision with a Government vessel.

The SPEAKER. Is there objection?

Mr. SISSON. Mr. Speaker, I object.

SCHOONER "MOI WAHINE."

The next business on the Private Calendar was the bill (H. R. 21043) for the relief of the owners of the cargo laden aboard the schooner *Moi Wahine*.

The SPEAKER. Is there objection?

Mr. MACON. Mr. Speaker, I object.

LIEUT. CYRUS R. STREET.

The next business on the Private Calendar was the bill (H. R. 21019) to restore Lieut. Cyrus R. Street, retired, to the active list of the Army.

The SPEAKER. Is there objection?

Mr. SISSON. I object, Mr. Speaker.

GEORGE OWENS AND OTHERS.

The next business on the Private Calendar was the bill (S. 2014) for the relief of George Owens, John J. Bradley, William M. Godfrey, Rudolph G. Ebert, Herschel Tupes, William H. Sage, Charles L. Tostevin, Alta B. Spaulding, Grace E. Lewis, and Dolly Neely.

The SPEAKER. Is there objection?

Mr. ANTHONY. Mr. Speaker, I object.

CHARLES M. AND ELIZABETH FRANCIS BUTLER.

The next business on the Private Calendar was House resolution 603 (in lieu of H. R. 25052) referring to the Court of Claims the claim of heirs of Charles M. and Elizabeth Francis Butler.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I object.

ERIC BERGLAND.

The next business on the Private Calendar was House resolution 608 (in lieu of H. R. 24773) referring to the Court of Claims the claim of Eric Bergland.

The SPEAKER. Is there objection?

Mr. MANN. I object, Mr. Speaker.

J. W. DEVERS.

The next business on the Private Calendar was House resolution 615 (in lieu of H. R. 14762) referring to the Court of Claims the claim of the estate of J. W. Devers, deceased.

Mr. SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I object.

DAVID C. M'GEE.

The next business on the Private Calendar was the bill (H. R. 18565) for the relief of David C. McGee.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker, I object.

JOSEPH BLOCK, DECEASED.

The next business on the Private Calendar was House resolution 629 (in lieu of H. R. 25707) referring to the Court of Claims the claim of the heirs of Joseph Block, deceased.

The SPEAKER. Is there objection?

Mr. ANTHONY. Mr. Speaker, I object.

EVAN URNER RINEHART.

The next business on the Private Calendar was the bill (H. R. 25428) waiving the age limit for admission to the Pay Corps of the United States Navy in the case of Evan Urner Rinehart.

The SPEAKER. Is there objection?

Mr. COX. Mr. Speaker, I object.

ROBERT N. CAMPBELL.

The next business on the Private Calendar was the bill (H. R. 24739) to reinstate Robert N. Campbell as a first lieutenant in the Coast Artillery Corps, United States Army.

The SPEAKER. Is there objection?

Mr. COX and Mr. SISSON. I object.

LEWIS MONTGOMERY.

The next business on the Private Calendar was the bill (H. R. 16601) for the relief of Lewis Montgomery.

The SPEAKER. Is there objection?

Mr. ANTHONY. Mr. Speaker, I object.

Mr. HAY. Mr. Speaker, I move that the House do now adjourn.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. POU. Division, Mr. Speaker. Mr. Speaker, I ask unanimous consent that I may be heard for one minute.

Mr. BOOHER. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. On this vote the ayes are 18, and the noes are 42, and the gentleman from Missouri [Mr. BOOHER] makes the point of order that there is no quorum present.

Mr. POU. Mr. Speaker, I ask the gentleman to withhold his point of order for a moment.

Mr. BOOHER. Oh, yes; I will.

Mr. POU. Mr. Speaker, I ask unanimous consent that I may be heard for two minutes.

The SPEAKER. The gentleman from North Carolina asks unanimous consent that he be heard for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. POU. Mr. Speaker, I would like to say to the House that there are quite a number of meritorious bills on this calendar. The members of the Committee on Claims have worked like a lot of court referees for nearly two years, and to-night will probably be the last chance, I am afraid, for any of these bills to be passed by the House. So I hope the House will not adjourn now and leave these bills on the calendar. Furthermore, I do hope that gentlemen will not object unless they have investigated the records in the respective cases and feel that they are exercising a legislative duty by entering such objections.

Now, there is not a single one of these bills in which I have any interest, except that interest which every Member feels in desiring to see meritorious bills passed. I believe that can be said of every member of the Committee on Claims. We have worked very hard to accommodate the Members of this House interested in the bills on this calendar, and you have an opportunity to pass them now. I hope the House will not adjourn, and I hope gentlemen will not object unless they feel impelled to do so from a sense of legislative duty. [Applause.]

Mr. BOOHER. Mr. Speaker, if these bills are going to be disposed of as we have been disposing of them there is not any use of the House staying in session. However, to see whether any of these bills will be considered, I will withdraw my point of no quorum at present.

Mr. SISSON. Mr. Speaker, I make the point of order that there is no quorum present.

Mr. SLAYDEN. Mr. Speaker, I move that we adjourn.

Mr. FOSTER. I move that the House do now adjourn.

The question was taken; and the Speaker announced that the "ayes" seemed to have it.

Mr. LEVER. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 19, noes 46.

The SPEAKER. There is no quorum present.

Mr. FOSTER. Mr. Speaker, I move a call of the House.

The question was taken; and the Speaker announced that the "noes" seemed to have it.

Mr. LEVER. Mr. Speaker, I ask for a division.

Mr. FOSTER. I move that the House do now adjourn.

The SPEAKER. Those in favor of a call of the House will rise and stand until they are counted.

Mr. MANN. Mr. Speaker, I ask for the yeas and nays.

The SPEAKER (after counting). Thirty-nine gentlemen have risen in the affirmative; a sufficient number.

Mr. SAUNDERS. The other side, Mr. Speaker.

The SPEAKER. Those opposed to the yeas and nays will rise and stand until they are counted. [After counting.] Eleven gentlemen have risen in the negative. Thirty-nine is more than one-fifth of fifty; so the yeas and nays are ordered. The question is on the call of the House. Those in favor of the call of the House will, as their names are called, answer "yea," and those opposed will answer "nay."

The question was taken; and there were—yeas 84, nays 42, answered "present" 11, not voting 244, as follows:

YEAS—84.

Akin, N. Y.	Ferris	Kahn	Pray
Anderson	Fields	Kendall	Raker
Bell, Ga.	Fitzgerald	Kennedy	Rouse
Blackmon	Foster	Kinkaid, Nebr.	Russell
Booher	Fowler	Knowland	Sabath
Burke, Wis.	French	La Follette	Scott
Burnett	Gill	Langley	Sherley
Byrnes, S. C.	Godwin, N. C.	Lee, Pa.	Small
Candler	Good	Lever	Smith, J. M. C.
Cary	Gray	Lindbergh	Stephens, Cal.
Cooper	Greene, Mass.	McKinney	Stephens, Miss.
Copley	Greene, Vt.	McMorran	Sterling
Cox	Hamilton, Mich.	Maguire, Nebr.	Stone
Daugherty	Harrison, Miss.	Mann	Sulloway
Dent	Hauzen	Moore, Pa.	Taggart
Dickinson	Hawley	Norris	Talcott, N. Y.
Difenderfer	Hayden	Page	Taylor, Ala.
Dixon, Ind.	Hayes	Pickett	Taylor, Ark.
Donohoe	Heald	Porter	Taylor, Colo.
Esch	Howell	Post	Vare
Falson	Humphreys, Miss.	Pou	White

NAYS—42.

Adair	Edwards	Hensley	Sherwood
Alexander	Ferguson	Holland	Sisson
Anthony	Floyd, Ark.	Howard	Slayden
Buchanan	Francis	Jacoway	Switzer
Callaway	Gallagher	Macon	Tuttle
Campbell	Goodwin, Ark.	Morgan, Okla.	Willis
Cantrill	Gregg, Tex.	Moss, Ind.	Wilson, Pa.
Cravens	Hamlin	O'Shaunessy	Witherspoon
Cullop	Hammond	Peters	Young, Kans.
Curry	Harrison, N. Y.	Powers	
Doughton	Hay	Saunders	

ANSWERED "PRESENT"—11.

Adamson	Farr	Madden	Reddenbery
Browning	Johnson, S. C.	Murray	Sparkman
Curley	McDermott	Rainey	

NOT VOTING—244.

Aiken, S. C.	De Forest	Henry, Tex.	Martin, Colo.
Ainey	Denver	Higgins	Martin, S. Dak.
Allen	Dickson, Miss.	Hill	Matthews
Ames	Dies	Hinds	Mays
Andrus	Dodds	Hobson	Merritt
Ansberry	Doremus	Houston	Miller
Ashbrook	Draper	Howland	Mondell
Austin	Driscoll, D. A.	Hughes, Ga.	Moon, Pa.
Ayres	Driscoll, M. E.	Hughes, W. Va.	Moon, Tenn.
Barchfeld	Dupré	Hull	Moore, Tex.
Barnhart	Dwight	Humphrey, Wash.	Morgan, La.
Bartholdt	Dyer	Jackson	Morrison
Bartlett	Ellerbe	James	Morse, Wis.
Bates	Estopinal	Johnson, Ky.	Mott
Bathrick	Evans	Jones	Murdock
Beall, Tex.	Fairchild	Kent	Needham
Berger	Finley	Kindred	Neeley
Boehne	Flood, Va.	Kinkead, N. J.	Nelson
Borland	Focht	Kitchin	Nye
Bradley	Fordney	Konig	Oldfield
Brantley	Fornes	Konop	Olmsted
Broussard	Foss	Kopp	Padgett
Brown	Fuller	Korbly	Palmer
Bulkley	Gardner, Mass.	Lafean	Parran
Burgess	Gardner, N. J.	Lafferty	Patten, N. Y.
Burke, Pa.	Garner	Lamb	Patton, Pa.
Burke, S. Dak.	Garrett	Langham	Payne
Burleson	George	Lawrence	Pepper
Butler	Gillett	Lee, Ga.	Plumley
Byrns, Tenn.	Glass	Lenroot	Prince
Calder	Goeke	Levy	Prouty
Cannon	Goldfogle	Lewis	Pujo
Carlin	Gould	Lindsay	Randell, Tex.
Carter	Graham	Linthicum	Ransdell, La.
Clark, Fla.	Green, Iowa	Littlepage	Rauch
Claypool	Gregg, Pa.	Littleton	Redfield
Clayton	Griest	Lloyd	Rees
Cline	Gudger	Lobeck	Reilly
Collier	Guernsey	Longworth	Reyburn
Conry	Hamill	Loud	Richardson
Covington	Hamilton, W. Va.	McCall	Riordan
Crago	Hardwick	McCoy	Roberts, Mass.
Crumpacker	Hardy	McCreary	Roberts, Nev.
Currier	Harris	McGillicuddy	Rodenberg
Dalzell	Hart	McGuire, Okla.	Rothermel
Danforth	Hartman	McKellar	Rubey
Davenport	Heflin	McKenzie	Rucker, Colo.
Davidson	Helgesen	McKinley	Rucker, Mo.
Davis, Minn.	Helm	McLaughlin	Scully
Davis, W. Va.	Henry, Conn.	Maher	Sells

Sheckleford	Stanley	Thomas	Watkins
Sharp	Stedman	Tilson	Webb
Simmons	Steenerson	Towner	Weeks
Sims	Stephens, Nebr.	Townsend	Whitacre
Slemp	Stephens, Tex.	Tribble	Wilder
Sloan	Stevens, Minn.	Turnbull	Wilson, Ill.
Smith, Saml. W.	Sweet	Underhill	Wilson, N. Y.
Smith, N. Y.	Talbott, Md.	Underwood	Wood, N. J.
Smith, Tex.	Taylor, Ohio	Volstead	Woods, Iowa
Speer	Thayer	Vreeland	Young, Mich.
Stack	Thistlewood	Warburton	Young, Tex.

So a call of the House was ordered.

The Clerk announced the following additional pairs:

For the session:

Mr. BARTLETT with Mr. BUTLER.

Mr. HOBSON with Mr. FAIRCHILD.

Until further notice:

Mr. BATHRICK with Mr. DE FOREST.

Mr. BEALL of Texas with Mr. FOSS.

Mr. BORLAND with Mr. FULLER.

Mr. BULKLEY with Mr. GUERNSEY.

Mr. BURGESS with Mr. HELGESEN.

Mr. BURLESON with Mr. HIGGINS.

Mr. BYRNS of Tennessee with Mr. HOWLAND.

Mr. CARTER with Mr. HUGHES of West Virginia.

Mr. CLARK of Florida with Mr. HUMPHREY of Washington.

Mr. CLAYPOOL with Mr. JACKSON.

Mr. COLLIER with Mr. KENT.

Mr. COVINGTON with Mr. KOPP.

Mr. DIES with Mr. LAWRENCE.

Mr. DUPRÉ with Mr. LOUD.

Mr. GARNER with Mr. MCKINNEY.

Mr. GARRETT with Mr. MCLAUGHLIN.

Mr. GRAHAM with Mr. MARTIN of South Dakota.

Mr. HARDWICK with Mr. MILLER.

Mr. HARDY with Mr. MONDELL.

Mr. HEFLIN with Mr. MOTT.

Mr. HELM with Mr. MURDOCK.

Mr. HENRY of Texas with Mr. NELSON.

Mr. JOHNSON of South Carolina with Mr. GILLETT.

Mr. LEVY with Mr. LAFFERTY.

Mr. LLOYD with Mr. ROBERTS of Massachusetts.

Mr. MCCOY with Mr. RODENBERG.

Mr. MCGILLICUDDY with Mr. SELLS.

Mr. MOON of Tennessee with Mr. STEENERSON.

Mr. MORRISON with Mr. WOODS of Iowa.

Mr. PADGETT with Mr. AMES.

Mr. PEPPER with Mr. WARBURTON.

Mr. PUJO with Mr. YOUNG of Michigan.

Mr. RAUCH with Mr. MCGUIRE of Oklahoma.

Mr. SMITH of Texas with Mr. REYBURN.

Mr. RUCKER of Missouri with Mr. CRAGO.

Mr. SIMS with Mr. DAVIS of Minnesota.

Mr. STANLEY with Mr. PAYNE.

Mr. STEDMAN with Mr. DYER.

Mr. STEPHENS of Texas with Mr. PLUMLEY.

Mr. WEBB with Mr. PRINCE.

Mr. YOUNG of Texas with Mr. REES.

Mr. ALLEN with Mr. DALZELL.

Mr. BARNHART with Mr. AUSTIN.

Mr. ASHBROOK with Mr. BATES.

Mr. AYRES with Mr. BURKE of Pennsylvania.

Mr. HULL with Mr. NEEDHAM.

Mr. HOUSTON with Mr. MOON of Pennsylvania.

Mr. GOULD with Mr. HINDS.

Mr. RAINEY with Mr. MCCALL.

Mr. RICHARDSON with Mr. THISTLEWOOD (either to be released when the other would vote the same way).

Mr. MCKENZIE. Mr. Speaker, I desire to vote.

The SPEAKER. Was the gentleman in the Hall listening when his name was called?

Mr. MCKENZIE. No.

The SPEAKER. Then the gentleman does not bring himself within the rule.

Mr. LAMB. I desire to vote, Mr. Speaker.

The SPEAKER. Was the gentleman in the Hall listening when his name was called?

Mr. LAMB. No, sir; I was not. I just came over from my office.

The SPEAKER. The gentleman does not bring himself within the rule.

Mr. FARR. Mr. Speaker, did the gentleman from New York, Mr. UNDERHILL, vote?

The SPEAKER. He did not.

Mr. FARR. I voted "aye," but I have a pair with the gentleman, and I desire to withdraw my vote and vote "present."

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. FARR, and he answered "Present."

Mr. JOHNSON of South Carolina. Mr. Speaker, I voted "aye," but I was paired with the gentleman from Massachusetts, Mr. GILLETT. I wish to withdraw my vote and vote "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. JOHNSON of South Carolina, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and——

Mr. SISSON. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from Mississippi [Mr. SISSON] moves that the House do now adjourn. The question is on agreeing to that motion.

The question was taken, and the Speaker announced that the "noes" seemed to have it.

Mr. LAFFERTY. A division, Mr. Speaker.

The House divided; and there were—ayes 41, noes 80.

So the House refused to adjourn.

Mr. GREENE of Massachusetts and Mr. FARR demanded the regular order.

The SPEAKER. The Clerk will call the roll.

Mr. POU. Mr. Speaker, I ask unanimous consent that further proceedings under the call be dispensed with, and that we proceed with the call of the Private Calendar under the original order of the House.

Mr. MANN. That is impossible by unanimous consent or otherwise until we get a quorum.

The SPEAKER. The gentleman from Illinois [Mr. MANN] is correct. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Dyer	Langham	Reyburn
Aiken, S. C.	Ellerbe	Lawrence	Richardson
Ainey	Estopinal	Lee, Ga.	Riordan
Allen	Evans	Lenroot	Roberts, Mass.
Ames	Fairchild	Lindsay	Roberts, Nev.
Andrus	Finley	Linthicum	Rodenberg
Ansberry	Flood, Va.	Littlepage	Rothermel
Ashbrook	Focht	Littleton	Rubey
Austin	Fordney	Lloyd	Rucker, Colo.
Ayres	Fornes	Lobeck	Rucker, Mo.
Barchfeld	Foss	Longworth	Scully
Barnhart	Fuller	Loud	Sells
Bartholdt	Gardner, Mass.	McCall	Sheckleford
Bartlett	Gardner, N. J.	McCoy	Sharp
Bates	Garner	McCreary	Simmons.
Bathrick	Garrett	McGillicuddy	Sims
Beall, Tex.	George	McGuire, Okla.	Slemp
Berger	Gillett	McKellar	Sloan
Boehne	Goeke	McKinley	Smith, Saml. W.
Borland	Goldfogle	McLaughlin	Smith, N. Y.
Bradley	Gould	Maher	Smith, Tex.
Brantley	Graham	Martin, Colo.	Speer
Broussard	Green, Iowa	Matthews	Stack
Brown	Gregg, Pa.	Mays	Stedman
Burke, Pa.	Griest	Merritt	Steenerson
Burleson	Gudger	Miller	Stephens, Nebr.
Butler	Guernsey	Mondell	Stephens, Tex.
Byrns, Tenn.	Hamill	Moon, Pa.	Stevens, Minn.
Calder	Hamilton, W. Va.	Moon, Tenn.	Sweet
Cannon	Hardwick	Moore, Tex.	Talbott, Md.
Carlin	Hardy	Morgan, La.	Taylor, Ohio
Carter	Harris	Morrison	Thayer
Clark, Fla.	Hartman	Morse, Wis.	Thomas
Clayton	Heflin	Mott	Tilson
Cline	Helgesen	Murdock	Towner
Collier	Helm	Needham	Townsend
Conry	Henry, Conn.	Neeley	Tribble
Covington	Henry, Tex.	Nelson	Turnbull
Crago	Higgins	Nye	Underhill
Currier	Hill	Oldfield	Underwood
Dalzell	Hinds	Padgett	Volstead
Danforth	Houston	Palmer	Vreeland
Davidson	Howland	Parran	Warburton
Davis, Minn.	Hughes, Ga.	Patten, N. Y.	Watkins
Davis, W. Va.	Hughes, W. Va.	Payne	Webb
De Forest	Humphrey, Wash.	Pepper	Weeks
Dent	Johnson, Ky.	Plumley	Whitacre
Denver	Jones	Prince	Wilder
Dies	Kent	Prouty	Wilson, Ill.
Dodds	Kinkead, N. J.	Pujo	Wilson, N. Y.
Doremus	Kitchin	Randell, Tex.	Wood, N. J.
Draper	Konig	Ransdell, La.	Young, Mich.
Driscoll, D. A.	Konop	Rauch	Young, Tex.
Driscoll, M. E.	Kopp	Redfield	
Dupré	Korbly	Rees	
Dwight	Lafean	Reilly	

The SPEAKER. One hundred and forty-nine Members have answered to their names—not a quorum.

Mr. POU. Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. HAMLIN) there were 66 ayes and 62 noes.

Mr. FARR. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered by 45 ayes and 9 noes.

The question was taken; and there were—yeas 54, nays 78, answered "present" 8, not voting 244, as follows:

YEAS—54.

Adair	Doughton	Kindred	Scott
Alexander	Faison	Kinkaid, Nebr.	Sisson
Anthony	Fergusson	Lever	Slayden
Byrnes, S. C.	Floyd, Ark.	Lewis	Sloan
Callaway	Foster	Macon	Stanley
Campbell	Francis	Maguire, Nebr.	Switzer
Cantrill	Gill	Morgan, Okla.	Taggart
Cox	Godwin, N. C.	Moss, Ind.	Tuttle
Cravens	Gregg, Tex.	Pou	Willis
Cullop	Hamlin	Powers	Wilson, Pa.
Dickinson	Hart	Rouse	Witherspoon
Dickson, Miss.	Hay	Russell	Young, Kans.
Difenderfer	Hensley	Sabath	
Dixon, Ind.	Holland	Saunders	

NAYS—78.

Anderson	French	Jackson	Patton, Pa.
Bell, Ga.	Gallagher	Jacoway	Pickett
Blackmon	Good	Kahn	Pray
Booher	Goodwin, Ark.	Kendall	Raker
Buchanan	Gray	Kennedy	Roddenbery
Candler	Greene, Mass.	Knowland	Sherwood
Cary	Greene, Vt.	Lafferty	Smith, J. M. C.
Claypool	Hamilton, Mich.	La Follette	Stephens, Cal.
Cooper	Hammond	Lamb	Stephens, Miss.
Copley	Harrison, Miss.	Langley	Sterling
Curley	Haugen	Lindbergh	Stone
Curry	Hawley	McDermott	Talcott, N. Y.
Daugherty	Hayden	McKenzie	Taylor, Ala.
Dent	Hayes	McKinney	Taylor, Ark.
Donohoe	Heald	McMorran	Taylor, Colo.
Edwards	Hellin	Madden	Thistlewood
Esch	Hobson	Martin, S. Dak.	Vare
Ferris	Howard	Moore, Pa.	Woods, Iowa
Fields	Howell	Norris	
Fowler	Humphreys, Miss.	Olmsted	

ANSWERED "PRESENT"—8.

Adamson	Browning	Mann	Rainey
Akin, N. Y.	Farr	Murray	Sparkman

NOT VOTING—244.

Aiken, S. C.	Dyer	Langham	Rees
Alney	Ellerbe	Lawrence	Reilly
Allen	Estopinal	Lee, Ga.	Reyburn
Ames	Evans	Lee, Pa.	Richardson
Andrus	Fairchild	Lenroot	Riordan
Ansberry	Finley	Levy	Roberts, Mass.
Ashbrook	Fitzgerald	Lindsay	Roberts, Nev.
Austin	Flood, Va.	Linthicum	Rodenberg
Ayres	Focht	Littlepage	Rothermel
Barchfeld	Fordney	Littleton	Rubey
Barnhart	Forness	Lloyd	Rucker, Colo.
Bartholdt	Foss	Lobeck	Rucker, Mo.
Bartlett	Fuller	Longworth	Scully
Bates	Gardner, Mass.	Loud	Sells
Bathrick	Gardner, N. J.	McCall	Shackleford
Beall, Tex.	Garner	McCoy	Sharp
Berger	Garrett	McCreary	Sherley
Boehne	George	McGillicuddy	Simmons
Borland	Gillett	McGuire, Okla.	Sims
Bradley	Glass	McKellar	Slemp
Brantley	Goeke	McKinley	Small
Broussard	Goldfogle	McLaughlin	Smith, Saml. W.
Brown	Gould	Maher	Smith, N. Y.
Bulkley	Graham	Martin, Colo.	Smith, Tex.
Burgess	Green, Iowa	Matthews	Speer
Burke, Pa.	Gregg, Pa.	Mays	Stack
Burke, S. Dak.	Griest	Merritt	Stedman
Burke, Wis.	Gudger	Miller	Steenerson
Burleson	Guernsey	Mondell	Stephens, Nebr.
Burnett	Hamill	Moon, Pa.	Stephens, Tex.
Butler	Hamilton, W. Va.	Moon, Tenn.	Stevens, Minn.
Byrns, Tenn.	Hardwick	Moore, Tex.	Sulloway
Calder	Hardy	Morgan, La.	Sweet
Cannon	Harris	Morrison	Talbott, Md.
Carlin	Harrison, N. Y.	Morse, Wis.	Taylor, Ohio
Carter	Hartman	Mott	Thayer
Clark, Fla.	Helgesen	Murdock	Thomas
Clayton	Helm	Needham	Tilson
Cline	Henry, Conn.	Neeley	Towner
Collier	Henry, Tex.	Nelson	Townsend
Conry	Higgins	Nye	Tribble
Covington	Hill	Oldfield	Turnbull
Crage	Hinds	O'Shaunessy	Underhill
Crumpacker	Houston	Padgett	Underwood
Currier	Howland	Page	Volstead
Dalzell	Hughes, Ga.	Palmer	Vreeland
Danforth	Hughes, W. Va.	Parran	Warburton
Davenport	Hull	Patten, N. Y.	Watkins
Davidson	Humphrey, Wash.	Payne	Webb
Davis, Minn.	James	Pepper	Weeks
Davis, W. Va.	Johnson, Ky.	Peters	Whitacre
De Forest	Johnson, S. C.	Plumley	White
Denver	Jones	Porter	Wilder
Dies	Kent	Post	Wilson, Ill.
Dodds	Kinkead, N. J.	Prince	Wilson, N. Y.
Doremus	Kitchin	Prouty	Wood, N. J.
Draper	Konig	Pujo	Young, Mich.
Driscoll, D. A.	Konop	Randell, Tex.	Young, Tex.
Driscoll, M. E.	Kopp	Ransdell, La.	
Dupre	Korbly	Rauch	
Dwight	Lafean	Redfield	

So the House refused to adjourn.

The result of the vote was then announced as above recorded.

Mr. FOSTER. Mr. Speaker, I offer the following order.

The Clerk read as follows:

Ordered, That the Sergeant at Arms take into custody and bring to the bar of the House such of its Members as are found absent without leave of the House.

The SPEAKER. The question is on agreeing to the order.

The question was taken, and the order was agreed to.

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. I have a short letter addressed to me touching a matter of legislation which I desire at a subsequent time, in a day or so, to present to the House.

Mr. MANN. Mr. Speaker, I make the point of order that the gentleman is out of order.

Mr. RODDENBERY. If I could read it now——

The SPEAKER. No business can be transacted at this time except to bring in the absentees or to adjourn.

Mr. ANTHONY. Mr. Speaker, I move that the House do now adjourn.

The question was taken, and the House refused to adjourn.

Mr. MANN. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The question is on the motion of the gentleman from Illinois that the House do now adjourn. The rule provides that if this motion be seconded by a majority of those present it may be considered. Those in favor of seconding the motion will rise and stand until counted. [After counting.] Sixty-five Members have risen. The Chair will count those present. [After counting.] One hundred and nine Members are present. The rule provides that at any time after the roll has been completed the Speaker may entertain the motion to adjourn if seconded by a majority of those present, to be ascertained by actual count of the Speaker, and that if the House adjourn all proceedings under this section shall be vacated. A majority of those present have seconded the motion to adjourn. The question is on the motion of the gentleman from Illinois that the House do now adjourn.

The question was taken, and the motion was agreed to.

Accordingly (at 10 o'clock and 6 minutes p. m.) the House adjourned until to-morrow, Tuesday, February 11, 1913, at 10.30 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named as follows:

Mr. HAY, from the Committee on Military Affairs, to which was referred the bill (S. 8273) authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls, reported the same with amendment, accompanied by a report (No. 1493), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. TAYLOR of Colorado, from the Committee on the Public Lands, to which was referred the bill (S. 8092) granting to the Emigration Canon Railroad Co., a corporation of the State of Utah, permission, in so far as the United States is concerned, to occupy, for a right of way for its railroad track, a certain piece of land now included in the Mount Olivet Cemetery, Salt Lake County, Utah, reported the same without amendment, accompanied by a report (No. 1494), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FOSS, from the Committee on Naval Affairs, to which was referred the bill (S. 4584) to promote the efficiency of the Naval Militia, and for other purposes, reported the same with amendment, accompanied by a report (No. 1496), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. TAYLOR of Colorado, from the Committee on the Public Lands, to which was referred the bill (H. R. 26200) granting cities and incorporated towns coal lands for municipal purposes, reported the same with amendment, accompanied by a report (No. 1499), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HAY, from the Committee on Military Affairs, to which was referred the bill (H. R. 28613) to construe the name of

E. T. Bourger, as the same appears in the report of Hawkins-Taylor Commission in relation to Company F, Osage County Battalion, Missouri Home Guards, to refer to Joseph Bourgeret, of Osage County, Mo., reported the same without amendment, accompanied by a report (No. 1492), which said bill and report were referred to the Private Calendar.

Mr. HEALD, from the Committee on Claims, to which was referred the bill (H. R. 24971) for the relief of E. I. Du Pont de Nemours Powder Co., a corporation organized under the laws of the State of New Jersey, reported the same with amendment, accompanied by a report (No. 1495), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 24972) for the relief of the International Smokeless Powder & Chemical Co., a corporation organized under the laws of the State of New Jersey, reported the same without amendment, accompanied by a report (No. 1495), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CLARK of Missouri: A bill (H. R. 28715) to authorize the St. Louis & Western Traction Co. to construct a bridge across the Missouri River near Weldon Springs Landing, in the State of Missouri; to the Committee on Interstate and Foreign Commerce.

By Mr. GLASS: A bill (H. R. 28716) to erect an extension to the post-office and courthouse building at Lynchburg, Va.; to the Committee on Public Buildings and Grounds.

By Mr. YOUNG of Kansas: A bill (H. R. 28717) authorizing the Secretary of War, in his discretion, to deliver to the city of Beloit, Kans., condemned bronze or brass cannon with equipment, etc.; to the Committee on Military Affairs.

By Mr. RAINEY: A bill (H. R. 28718) to authorize the St. Louis Belt, Illinois & Eastern Traction Co., to construct a bridge across the Mississippi River near the mouth of the Missouri River; to the Committee on Interstate and Foreign Commerce.

By Mr. BURGESS: A bill (H. R. 28719) to increase the limit of cost of public building at Cuero, Tex.; to the Committee on Public Buildings and Grounds.

By Mr. TAYLOR of Arkansas: A bill (H. R. 28720) authorizing the construction of a post-office building at Stuttgart, Ark.; to the Committee on Public Buildings and Grounds.

By Mr. WARBURTON: A bill (H. R. 28721) for the creation of a commission for the location, construction, and maintenance of interstate and military highways, and providing the necessary revenues for the same; to the Committee on Agriculture.

By Mr. TILSON: A bill (H. R. 28722) increasing the cost of erecting a Federal building at New Haven, Conn.; to the Committee on Public Buildings and Grounds.

By Mr. MOON of Tennessee: Resolution (H. Res. 825) authorizing the appointment by the Speaker of an additional clerk; to the Committee on Accounts.

By Mr. MURDOCK: Resolution (H. Res. 826) relating to American interests in Mexico; to the Committee on Foreign Affairs.

By Mr. HAMILL: Joint resolution (H. J. Res. 395) for safeguarding American lives and interests in Mexico; to the Committee on Foreign Affairs.

By Mr. TOWNSEND: Joint resolution (H. J. Res. 396) granting permission to the Woman's Titanic Memorial Association to erect a memorial structure in Potomac Park, in the city of Washington; to the Committee on the Library.

By Mr. CLAYTON: Joint resolution (H. J. Res. 397) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. CARY: Joint resolution (H. J. Res. 398) authorizing the Commissioners of the District of Columbia to revoke licenses under certain conditions; to the Committee on the District of Columbia.

By Mr. FERRIS: A memorial from the Legislature of the State of Oklahoma, urging Congress to amend the Sherman anti-trust law; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FERRIS: A bill (H. R. 28723) granting an increase of pension to David Wolroth; to the Committee on Invalid Pensions.

By Mr. WATKINS: A bill (H. R. 28724) for the reinstatement on the active list of the Army and retirement of Gordon A. Dennis, former second lieutenant in the Infantry; to the Committee on Military Affairs.

By Mr. FITZGERALD: A bill (H. R. 28725) to remove the charge of desertion against Edward Deegan, otherwise known as Edward Degan; to the Committee on Naval Affairs.

By Mr. OLMSTED: A bill (H. R. 28726) to correct the military record of James E. Zerbe; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANSBERRY: Petition of the Downtown Taxpayers' Association, Brooklyn, N. Y., favoring an amendment to the naval appropriation bill providing for the building of one of the new battleships in a Government navy yard; to the Committee on Naval Affairs.

By Mr. CARY: Petition of various chapters of the Order of the Daughters of the American Revolution, favoring the passage of legislation to give and grant the building, the Old Colonial Exchange, Charleston, S. C., to the Order of the Daughters of the American Revolution in the State of South Carolina; to the Committee on Public Buildings and Grounds.

Also, petition of the American Wood Preservers' Association, Baltimore, Md., protesting against the passage of legislation removing creosote oil from the free list; to the Committee on Ways and Means.

Also, petition of the Merchants' and Manufacturing Association of Milwaukee, Wis., protesting against the passage of House bill 26678, to facilitate transportation and to prevent the use of railroad cars for storage purposes; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Merchants' and Manufacturing Association of Milwaukee, Wis., favoring the passage of House bill 16450, to punish the unlawful breaking of seals of railroad cars containing interstate and foreign shipments; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Association of Manufacturers, New York, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. ESCH: Petition of the congregations of the Baptist, Congregational, Methodist, and Presbyterian Churches of Baraboo, Wis., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. FITZGERALD: Petition of the Downtown Taxpayers' Association, Brooklyn, N. Y., favoring the placing of a clause in this year's naval appropriation bill providing for the building of one of the new battleships in a Government navy yard; to the Committee on Naval Affairs.

By Mr. KONOP: Petition of the American Wood Preservers' Association, Baltimore, Md., protesting against the passage of legislation removing creosote oil from the free list; to the Committee on Ways and Means.

By Mr. McKENZIE: Petition of citizens of Prophetstown, Ill., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. MANN: Petition of the Illinois Vigilance Association, Chicago, Ill., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. MARTIN of South Dakota: Petition of teachers of Sioux Falls, S. Dak., favoring the passage of the McLean bill granting Federal aid for the protection of all migratory birds; to the Committee on Agriculture.

By Mr. OLMSTED: Petition of the Council of the Organizations of Christian Men of Lebanon, Pa., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the Council of the Organizations of Christian Men of Lebanon, Pa., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. RAKER: Petition of members of the California State Board of Forestry, favoring the passage of legislation making additional appropriations for Federal aid in protecting forests at the heads of navigable streams from fires; to the Committee on Agriculture.

By Mr. SCULLY: Petition of 26 citizens of Lakewood, 24 citizens of Keyport, and 19 citizens of New Monmouth, N. J.; the Baptist Ushers' Union, New Monmouth, N. J.; and the Keyport (N. J.) Baptist Church, favoring the passage of the Kenyon-McCumber bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. TAYLOR of Colorado: Petition of citizens of Nucla, Colo., praying for an investigation of the prosecution of the editors of the Appeal to Reason by Government officials; to the Committee on Expenditures in the Post Office Department.

By Mr. TUTTLE: Petition of 17 voters of Summit; 27 citizens of Blairstown; 28 citizens of Roselle; the Fulton Street Methodist Episcopal Church, of Elizabeth; the First Baptist Church of Roselle; the First Presbyterian Church of Hamburg; and the Presbyterian Church of Beanstown, all in the State of New Jersey, favoring the passage of the Kenyon-McCumber bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of business men of the fifth district of the State of New Jersey favoring the passage of legislation to compel concerns selling goods direct to the consumer by mail to contribute their portion of the funds in the development of the local community, the county, and State; to the Committee on Interstate and Foreign Commerce.

By Mr. UNDERHILL: Petition of the American Wood Preservers' Association, Baltimore, Md., protesting against the passage of legislation for the removal of creosote oil from the free list; to the Committee on Ways and Means.

Also, petition of the California Club, San Francisco, Cal., favoring the passage of legislation making further appropriations for the suppression of the white-slave traffic; to the Committee on Appropriations.

Also, petition of the American Forestry Association, Washington, D. C., protesting against the passage of House bill 23293, for the protection of the water supply for the city of Colorado Springs and the town of Manitou, Colo., as amended by the Senate; to the Committee on the Public Lands.

By Mr. WILLIS: Petition of the Chamber of Commerce of Steubenville, Ohio, favoring the passage of legislation for the establishment of a tariff commission to aid Congress in its tariff legislation; to the Committee on Ways and Means.

By Mr. WILSON of New York: Petition of the American Wood Preservers' Association, Baltimore, Md., protesting against the passage of any legislation removing creosote oil from the free list; to the Committee on Ways and Means.

Also, petition of the California Club, of San Francisco, Cal., favoring the passage of legislation making further appropriations for the suppression of the white-slave traffic; to the Committee on Appropriations.

SENATE.

TUESDAY, *February 11, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GRONNA and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 2070. An act for the relief of the estate of Antonia Sousa, deceased;

H. R. 5948. An act to prohibit in the District of Columbia the intermarriage of whites with Ethiopians, Malays, or Mongolians;

H. R. 21700. An act to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia; and

H. R. 21714. An act to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

H. R. 16450. An act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same;

H. R. 18425. An act for the relief of Simon Nager; and

H. R. 28186. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a joint memorial of the Legislature of Oregon, which was referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

UNITED STATES OF AMERICA,
STATE OF OREGON,
Office of the Secretary of State.

I, Ben W. Olcott, secretary of state of the State of Oregon and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of house joint memorial No. 5 with the original thereof filed in the office of the secretary of state of the State of Oregon on the 4th day of February, 1913, and that the same is a full, true, and complete transcript therefrom and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 4th day of February, A. D. 1913.

[SEAL.] BEN W. OLCOTT,
Secretary of State.

House joint memorial 5.

To the honorable Senate and House of Representatives of the United States of America:

Your memorialists, the Legislative Assembly of the State of Oregon, respectfully represent that—

Whereas the Willamette River, a navigable stream, has a tendency in past years of deviating from its proper course, at Independence, and attempting to cut through the fertile lands situated immediately below the city of Independence, consisting of the largest and best hop lands in the world, thus rendering the present channel unfit for navigation; and

Whereas in former years the Government, recognizing the necessity of preserving the present channel of the Willamette River, at Independence, in its integrity, caused a revetment to be built at a cost of $60,000; and

Whereas this revetment is a decided success so far as it is possible for a revetment of its size, but it is only half large enough and does not afford sufficient protection to prevent the river encroaching on the banks, and this destruction goes on from one high water to another; and

Whereas this encroachment of the river upon the banks has a tendency to cut an entirely new channel or to cause a division of the present channel which will make futile the work already done aside from being a direct menace to the navigation of said upper Willamette River above Salem; and

Whereas an appropriation is necessary for the immediate improvement and future preservation of the navigation of the Willamette River at the revetment at Independence; Therefore be it

Resolved, That your memorialists favor an appropriation sufficient to improve and preserve this revetment to the end that navigation of the upper Willamette River above Salem be preserved and that the lands adjoining be protected.

Adopted by the house January 28, 1913.

C. N. MCARTHUR,
Speaker of the House.

Concurred in by the senate January 30, 1913.

DAN J. MALARKEY,
President of the Senate.

The PRESIDENT pro tempore presented a joint memorial of the Legislature of Oregon, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed in the RECORD, as follows:

UNITED STATES OF AMERICA,
STATE OF OREGON,
Office of the Secretary of State.

I, Ben W. Olcott, secretary of state of the State of Oregon and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of senate joint memorial No. 7 with the original thereof filed in the office of the secretary of state of the State of Oregon on the 4th day of February, 1913, and that the same is a full, true, and complete transcript therefrom and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 4th day of February, A. D. 1913.

[SEAL.] BEN W. OLCOTT,
Secretary of State.

Senate joint memorial 7.

To the honorable Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the Legislative Assembly of the State of Oregon, respectfully represent that—

Whereas a bill has been introduced into the United States Senate for passage, being Senate bill 8003, providing for the construction, maintenance, and improvement of post roads and rural-delivery routes through the cooperation and joint action of the National Government and the several States in which such post roads or rural-delivery routes may be established; and

Whereas the passage of said bill by Congress would greatly inure to the benefit and advantage of the State of Oregon and its subdivisions: Now therefore be it

Resolved, That your memorialists favor the enactment of Senate bill 8003 by Congress of the United States, which will greatly inure to the benefit and advantage of the State of Oregon in the construction of its roads and public highways; and be it further

Resolved, That the secretary of state of the State of Oregon be directed to transmit a copy of this memorial to the President of the United States Senate and the Speaker of the House of Representatives of the United States and to each of the Senators and Representatives of the State of Oregon in Congress

Adopted by the house January 31, 1913.

C. N. MCARTHUR,
Speaker of the House.

Adopted by the senate January 29, 1913.

DAN J. MALARKEY,
President of the Senate.

The PRESIDENT pro tempore presented a joint memorial of the Legislature of Oregon, which was referred to the Committee on Agriculture and Forestry and ordered to be printed in the RECORD, as follows:

UNITED STATES OF AMERICA, STATE OF OREGON,
Office of the Secretary of State.

I, Ben W. Olcott, secretary of state of the State of Oregon and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of senate joint memorial No. 8 with the original thereof filed in the office of the secretary of state of the State of Oregon on the 4th day of February, 1913, and that the same is a full, true, and complete transcript therefrom and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 4th day of February, A. D. 1913.

[SEAL.] BEN W. OLCOTT,
Secretary of State.

Senate joint memorial 8.

To the honorable Sixty-second Congress of the United States assembled:

Your memorialists, the Senate and House of Representatives of the State of Oregon, in the Twenty-seventh Legislative Assembly, respectfully represent that—

Whereas the Sixty-first Congress recognized the duty of the Federal Government to protect from fire the forested watersheds of navigable streams in the passage of the Weeks law; and

Whereas under the provisions of section 2 of the said law the Secretary of Agriculture during 1911 and 1912 allotted to Oregon the sum of $115,000, which was expended with splendid results under the direction of the State forester in protecting from fire the watersheds of practically every navigable stream in the State, and it appears that because of lack of funds the Secretary is unable to continue the cooperation on the same scale as it has been conducted during the past two years; and

Whereas, representing a Commonwealth to which the protection of its great forest resources, forest industries, and navigable streams from the injurious effects of forest fires is of vital importance, and which supports such protection through liberal appropriations by its own legislature and great expenditure of private money and effort: Now therefore be it

Resolved, That your memorialists, the Senate and House of Representatives of the State of Oregon, in the twenty-seventh legislative session assembled, respectfully and earnestly petition and urge the Congress of the United States at its present session the continuation of Federal cooperation to the same end as provided in section 2 of the Weeks law, and that provision therefor be made one of the annual appropriations by Congress; and be it further

Resolved, That the secretary of state be authorized and directed to forward a copy of this memorial to the Presiding Officer of the United States Senate, the Speaker of the House of Representatives, the chairmen of the House and Senate Committees on Agricultural Appropriations, the Secretary of Agriculture, and to each of the Members of the Oregon delegation of said National Congress.

Adopted by the house January 31, 1913.

C. N. MCARTHUR,
Speaker of the House.

Adopted by the senate January 29, 1913.

DAN J. MALARKEY,
President of the Senate.

The PRESIDENT pro tempore presented a joint memorial adopted by the Legislature of Oregon, which was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed in the RECORD, as follows:

UNITED STATES OF AMERICA,
STATE OF OREGON,
Office of the Secretary of State.

I, Ben W. Olcott, secretary of state of the State of Oregon and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of house joint memorial No. 6 with the original thereof filed in the office of the secretary of state of the State of Oregon on the 4th day of February, 1913, and that the same is a full, true, and complete transcript therefrom and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 4th day of February, A. D. 1913.

[SEAL.] BEN W. OLCOTT,
Secretary of State.

House joint memorial 6.

To the honorable the Senate and the House of Representatives of the United States of America in Congress assembled:

Your memorialists, the Legislative Assembly of the State of Oregon, respectfully represent that—

Whereas we are convinced that the requirements of the repayment of the cost of construction of Government irrigation projects in 10 years is too great a burden upon the landowner under said projects, and its enforcement will eventually mean the ruin of the majority of those whom the reclamation act was designed to assist and benefit; and

Whereas we are convinced that the applicants for water under said project should be given a period of 25 years in which to return to the Government the money expended for the construction and maintenance of said projects, and that the money which would otherwise be used in making payments to the United States for said water-right charges could be more beneficially used in development work within the said projects; and

Whereas we are convinced that the requirement of residence on irrigation projects constructed by the Reclamation Service of the United States is an unjust and unreasonable requirement; that it prevents the landowners in these projects from engaging in their accustomed occupations during the time when the land is being developed and produces nothing in return: Now therefore be it

Resolved by the house of representatives (the senate concurring), That our Representatives and Senators in Congress be, and the same are hereby, memorialized and requested to amend section 5 of the act of June 17, 1902, known as the reclamation act, so as to read as follows:

"No sale of water right shall be made for any land in private ownership in excess of 160 acres to any one landowner, and no sale shall be deemed complete until all payments therefor are made, but the time for said payments for said water right may be extended for a period of time not to exceed 25 years from date of water-right application, at the discretion of the Secretary of Interior."

Adopted by the house January 28, 1913.

C. N. MCARTHUR,
Speaker of the House.

Concurred in by the senate January 30, 1913.

DAN J. MALARKEY,
President of the Senate.

The PRESIDENT pro tempore presented resolutions adopted by the Woman's Wilson and Marshall League of Seattle, Wash., favoring the recognition by the United States of the Republic of China, which were referred to the Committee on Foreign Relations.

He also presented a petition of the Worley Bible Class, of Bethany Baptist Sunday School, of Washington, D. C., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. HITCHCOCK presented a memorial of the Farmers' Educational and Cooperative Union of Scribner, Nebr., remonstrating against the passage of the so-called agricultural extension bill, which was ordered to lie on the table.

He also presented memorials of sundry citizens of Gosper County and Beatrice, in the State of Nebraska, remonstrating against the passage of the so-called Owen health bill, which were ordered to lie on the table.

Mr. MYERS presented a memorial of the congregation of the Seventh-day Adventist Church of Rollins, Mont., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. THOMAS. I present a senate joint memorial adopted by the Legislature of Colorado, relating to the bill (S. 8403) to establish the Rocky Mountain National Park in the State of Colorado, and for other purposes. I ask that the memorial be printed in the RECORD and referred to the Committee on Public Lands.

There being no objection, the memorial was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

Senate joint memorial 4.

To the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the General Assembly of the State of Colorado, would respectfully represent that under and by direction of the Secretary of the Interior, the Hon. R. B. Marshall, chief geographer of the department, recently visited Colorado to determine by personal observation whether there should be established in Colorado a national park.

That the said Marshall, following the said order, visited Colorado, and after a careful and painstaking examination of the country proposed to be included in said national park, recommended the creation of the same.

That the people of Colorado desire that said park shall be established. It includes the highest mountain peaks in the State; the area is little adapted to either agriculture or grazing; its scenery for sublimity and grandeur is not excelled on the continent; its location is easy of access to America's millions who seek health and recreation in the summer months, it being situated in the front and main range of the Rocky Mountains.

We therefore urge that you pass an act creating the said Rocky Mountain National Park, adopting the metes and bounds as set forth in the report of said Chief Geographer Marshall to the Secretary of the Interior, and embodying provisions as contained in a bill for an act creating the said park, prepared and introduced in the National House of Representatives for that purpose.

And this your memorialists will ever pray.

Mr. GRONNA presented a telegram in the nature of a petition from the Missouri Slope District North Dakota Bankers' Association, praying for the passage of the so-called agricultural extension bill, which was ordered to lie on the table.

Mr. BRANDEGEE presented resolutions adopted by the New England Club of Library Commission Workers, favoring the adoption of certain amendments to the parcel-post law, which were referred to the Committee on Post Offices and Post Roads.

Mr. SMITH of Arizona presented a memorial of the congregation of the Seventh-day Adventist Church of Globe, Ariz., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. SMITH of Maryland presented a petition of members of the faculty of Westminster Theological Seminary of Maryland,

praying for the passage of the so-called Kenyon "red-light" injunction bill, which was ordered to lie on the table.

Mr. SMOOT presented memorials of sundry citizens of Washington, D. C., remonstrating against the enactment of legislation compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. GALLINGER presented a petition of sundry citizens of Washington, D. C., praying that an appropriation be made for the opening and extension of Sixteenth Street NW., which was referred to the Committee on Appropriations.

REPORTS OF COMMITTEES.

Mr. SMOOT (for Mr. BRYAN), from the Committee on Claims, to which was referred the bill (S. 2708) for the relief of the owners of lighter *No. 128*, reported adversely thereon, and the bill was postponed indefinitely.

He also (for Mr. BRYAN), from the same committee, to which was referred the bill (S. 6028) for the relief of the heirs of the late Samuel H. Donaldson, reported it with an amendment.

Mr. JOHNSON of Maine, from the Committee on Finance, to which was referred the bill (H. R. 27323) to provide for refund or abatement under certain conditions of penalty taxes imposed by section 38 of the act of August 5, 1909, known as the special excise corporation-tax law, reported it without amendment and submitted a report (No. 1204) thereon.

Mr. CRAWFORD, from the Committee on Claims, to which was referred the bill (S. 7878) for the relief of Severin and Berthe L. Evensen, dependent parents of Sigurd Evensen, reported it without amendment and submitted a report (No. 1205) thereon.

Mr. DU PONT, from the Committee on Military Affairs, to which was referred the bill (S. 8410) to authorize the sale of lands contained in the abandoned military reservation at Fort Hancock, near Bismarck, N. Dak., asked to be discharged from its further consideration and that it be referred to the Committee on Public Lands, which was agreed to.

TERMS OF DISTRICT COURT IN NEW JERSEY.

Mr. O'GORMAN. On behalf of the Committee on the Judiciary, I report back favorably, without amendment, the bill (H. R. 28094) to amend section 96, chapter 5, of the act of Congress of March 3, 1911, entitled "The Judicial Code." I ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. The Senator from New York asks unanimous consent for the present consideration of the bill just reported by him. Is there objection?

Mr. SMOOT. Let the bill be read, Mr. President.

Mr. O'GORMAN. I will say to the Senator from Utah that the bill merely relates to the holding of terms of court in Trenton and Newark, N. J.

Mr. SMOOT. I have no objection.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend section 96, chapter 5, of the act of Congress approved March 3, 1911, and therein designated "The Judicial Code," so as to read as follows:

SEC. 96. The State of New Jersey shall constitute one judicial district, to be known as the district of New Jersey. Terms of the district court shall be held at Newark on the first Tuesday in April and the first Tuesday in November and at Trenton on the third Tuesday in January and the second Tuesday in September of each year. The clerk of the court for the district of New Jersey shall maintain an office, in charge of himself or a deputy, at Newark and at Trenton, each of which offices shall be kept open at all times for the transaction of the business of the court; and the marshal shall also maintain an office, in charge of himself or a deputy, at Newark and at Trenton, each of which offices shall be kept open at all times for the transaction of the business of the court.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SENATORS FROM WEST VIRGINIA.

Mr. DILLINGHAM. From the Committee on Privileges and Elections I send up a report of that committee on papers referred to it in relation to the nomination and election of CLARENCE W. WATSON and WILLIAM E. CHILTON as Senators of the United States. I ask to have the report read. It is accompanied by a resolution, for which I will ask immediate consideration after the reading of the report.

The PRESIDENT pro tempore. The Senator from Vermont submits a report from the Committee on Privileges and Elections, which will be read.

The Secretary read as follows:

Mr. DILLINGHAM, from the Committee on Privileges and Elections, submitted the following report (No. 1206):

The Committee on Privileges and Elections, to whom was referred the petition of William E. Glasscock, William Seymour Edwards, Herschel C. Ogden, David B. Smith, and F. A. MacDonald, citizens of West Virginia, making certain charges and allegations of fraud and corruption connected with the nomination and election of CLARENCE W. WATSON and WILLIAM E. CHILTON as Senators of the United States from the State of West Virginia, report

That a careful examination of the said petition and of all the papers submitted by the Senate to the committee discloses—

First. That the Legislature of West Virginia, which convened on the 11th day of January, A. D. 1911, chose Messrs. CLARENCE W. WATSON and WILLIAM E. CHILTON as Senators of the United States from the State of West Virginia, and that they appeared, took their oath of office, and are now sitting as Senators in this body. The petitioners do not state or allege that in such election any individual member of the legislature was bribed to vote for either of the persons named, or that, in voting for them, or either of them, any member thereof was actuated by any corrupt or improper motive.

Second. It does not appear upon any of the papers before this committee that in such election any member of the Legislature of West Virginia was improperly approached by any person interested in the election of either of the said Senators, or that any improper offer or inducement of any kind or nature was made to any such member to cast his vote for said Senators, or either of them.

Third. The only direct charge that money was improperly used, or attempted to be used, by anyone is contained in a purported statement of L. J. Shock, a member of the West Virginia Legislature, that, on the 18th day of January, 1911, prior to the caucus of the Democratic members of the legislature, which was held to nominate party candidates for United States Senators, he was paid $1,000, and promised a further sum, to vote for Messrs. WATSON and CHILTON for United States Senators. This statement was read by Hon. George W. Bland, a State senator, before the Joint Assembly of the Legislature of West Virginia on the 25th day of January, 1911. But it affirmatively appears, from the papers submitted to this committee, that the charge made by Mr. Shock was without foundation, and has been fully retracted in a statement made by him to Senator WATSON, of which the following is a copy:

BURNSVILLE, W. VA., *January 8, 1913.*

Hon. C. W. WATSON,
Washington, D. C.

DEAR SIR: The time has come when you should know the truth about the so-called Shock statement. I never have signed any statement that was read before the legislature and I never have been under oath. I have let the talking go on because I hated to be put in a wrong light. The truth is that I set up the whole business. Nobody tried to buy my vote, and would not swear that they did. I wanted to nominate McGraw, and I thought if I got this thousand dollars and made this play, it would hurt you and CHILTON. The trick failed to work, and now you have the truth. I do not know you, and am sending this to you because I want justice to be done. So far as I know, your election and CHILTON'S was honest and fair, and it is wrong to have this report going around.

Very truly, yours, L. J. SHOCK.

Fourth. All other matters contained in the petition aforesaid are rumors without apparent foundation—statements of individual opinion, newspaper stories, and speculations as to general conditions existing in and about the legislature and throughout the State of West Virginia just previous to and at the time of such election. These do not in any instance refer to the action of any particular member of the Legislature of West Virginia. They do not charge any act of bribery or attempted bribery. They neither name any member of that body as having received, nor as having been asked to receive, money for his vote, nor do they indicate any person who made any attempt to bribe or improperly influence any member of the legislature. They are of that general character too frequently indulged in both by individuals and by the public press on the occasion of elections in connection with which great public interest is aroused, and, while calculated to arouse suspicion and create prejudice, they do not, in the opinion of the committee, present a proper basis for action on the part of the Senate.

The committee are unanimously of the opinion that the prayer of the petition should not be granted, and submit the following resolution:

Resolved, That the Committee on Privileges and Elections be discharged from further consideration of the subject.

Mr. DILLINGHAM. I ask for the present consideration of the resolution.

The PRESIDENT pro tempore. The Senator from Vermont asks for the present consideration of the resolution which has just been read. Is there objection? The Chair hears none.

Mr. STONE. Mr. President, my attention was diverted. I wish to be certain what this is.

The PRESIDENT pro tempore. The Secretary will again read the resolution.

Mr. STONE. No; I desire to be certain just what it relates to.

The PRESIDENT pro tempore. It relates to the question of the validity of the election of the Senators from West Virginia, Senator WATSON and Senator CHILTON. The resolution has been read to the Senate. It is now before the Senate for action. [Putting the question.] The resolution is unanimously agreed to. The report, the Chair understands, is a part of the action of the Senate. The report is adopted and the resolution is agreed to.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ROOT:

A bill (S. 8454) to amend section 914 of the Revised Statutes; to the Committee on the Judiciary.

By Mr. MYERS:

A bill (S. 8455) granting to the trustees of the Diocese of Montana of the Protestant Episcopal Church, for the benefit of Christ Church On-the-Hill, at Poplar, Mont., lots 5, 6, and 7, in block 30, town site of Poplar, State of Montana; to the Committee on Public Lands.

By Mr. FLETCHER:

A bill (S. 8456) authorizing the Director of the Census to collect, collate, and publish statistics relating to the turpentine and rosin industry; to the Committee on the Census.

By Mr. CHILTON:

A bill (S. 8457) for the relief of Sarah Miller (with accompanying paper); to the Committee on Claims.

A bill (S. 8458) granting a pension to Benjamin F. Eagle (with accompanying paper);

A bill (S. 8459) granting a pension to Cynthe Harrah (with accompanying paper);

A bill (S. 8460) granting a pension to Gideon Hill (with accompanying papers);

A bill (S. 8461) granting a pension to Lucinda Patterson (with accompanying papers);

A bill (S. 8462) granting a pension to Mollie C. Warren (with accompanying paper);

A bill (S. 8463) granting a pension to Sarah Hunter (with accompanying paper);

A bill (S. 8464) granting an increase of pension to Jacob Hilfinger (with accompanying paper);

A bill (S. 8465) granting an increase of pension to William A. Holton;

A bill (S. 8466) granting a pension to Harriet A. Glasscock (with accompanying paper);

A bill (S. 8467) granting an increase of pension to Richard Woods (with accompanying paper);

A bill (S. 8468) granting a pension to Elizabeth S. Ryan; and

A bill (S. 8469) granting a pension to Jacob H. Wetzel (with accompanying paper); to the Committee on Pensions.

By Mr. O'GORMAN:

A bill (S. 8470) granting a pension to Mary E. Allen (with accompanying paper); to the Committee on Pensions.

By Mr. SMITH of Michigan:

A bill (S. 8471) granting a pension to Michael Reichard (with accompanying papers);

A bill (S. 8472) granting a pension to Amanda M. McKinney (with accompanying paper); and

A bill (S. 8473) granting an increase of pension to Charles H. Eding; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8474) granting an increase of pension to John Robinson (with accompanying papers); to the Committee on Pensions.

By Mr. DU PONT:

A bill (S. 8475) to authorize the award of medals for service in battle; to the Committee on Military Affairs.

By Mr. CATRON:

A bill (S. 8476) making the act approved April 28, 1904, commonly known as the Kinkaid Act, applicable to certain public lands in New Mexico; to the Committee on Public Lands.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MYERS submitted an amendment proposing to appropriate $50,000 for the improvement of New York Avenue NW. from Florida Avenue to the Bladensburg Road, etc., intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. CULBERSON submitted an amendment proposing to appropriate $20,000 for continuing the study of rice production, etc., intended to be proposed by him to the Agriculture appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. SMITH of Michigan submitted an amendment providing for the survey of the Pere Marquette River, Mich., from deep water in the harbor of Ludington, following the south branch of the river to the State Road and Iron Bridge, and thence to the city of Scottville, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. O'GORMAN submitted an amendment proposing to secure a depth not to exceed 35 feet in the through channel of the East River, N. Y., and not to exceed 30 feet elsewhere, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. NEWLANDS submitted an amendment proposing to appropriate $50,000 to enable the Chief of Engineers of the Army and the Board of Engineers for Rivers and Harbors to make a report upon the relative importance of the various improvements recommended as worthy of being undertaken by the United States upon methods of standardization by which the waterways of the country may be improved, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $100,000 to enable the Chief of Engineers of the Army and the Board of Engineers for Rivers and Harbors to report to Congress upon the saving accomplished by the adoption of a continuing contract system upon methods of standardization by which the waterways of the country may be improved uniformly in proportion to their capacities, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

WITHDRAWAL OF PAPERS—DAVID LOWRY.

On motion of Mr. CRAWFORD, it was

Ordered, That the papers accompanying the bill (S. 3011) for the relief of David Lowry be withdrawn from the files of the Senate, no adverse report having been made upon the same.

WITHDRAWAL OF PAPERS—FRANCIS M'CABE.

On motion of Mr. MCCUMBER, it was

Ordered, That the papers accompanying S. 6102, Sixty-second Congress, "granting an increase of pension to Francis McCabe," be withdrawn from the files of the Senate, there having been no adverse report thereon.

COMMISSION ON RURAL CREDITS (S. DOC. NO. 1071).

Mr. SMITH of Georgia. Mr. President, the Senate is familiar with the fact that the Southern Commercial Congress is organizing a commission consisting of men from each State who are to leave for Europe during the month of April to spend three months abroad studying in foreign countries the systems of cooperation which have contributed toward improving rural credits and agricultural finance.

The work of this commission was formally indorsed both in the Senate and in the House by a joint resolution at the last session of Congress.

I desire to present to the Senate the plan of work of this commission and the program which it will seek to carry out, together with indorsements of the work.

Among these indorsements are expressions taken from the national platforms of each of the three great political parties commending efforts to improve rural credits and agricultural finance, also a letter from ex-President Roosevelt, a short speech from President Taft, and a letter from the next President, together with short speeches from Senator FLETCHER and Sir Horace Plunkett upon the same subject.

There are also several other short matters in this material which I am presenting to the Senate, and as I do not wish to mention them in detail, I have submitted to the chairman of the Committee on Printing, the Senator from Utah [Mr. SMOOT], that he might see what they are and approve them.

Although the work of this commission is to be borne by private expense, it is one which might well have been provided for from the National Treasury.

I can not too highly express my own appreciation of the proposed work of this commission, and I ask that the papers which I present be printed as a public document.

The PRESIDENT pro tempore. The Senator from Georgia asks that the papers which he has presented, the nature of which he has indicated, may be printed as a public document. Is there objection? The Chair hears none, and it is so ordered.

DECISION OF JUDGE M'PHERSON ON WATER POWER (S. DOC. NO. 1070).

Mr. BURTON. I ask unanimous consent to have printed as a Senate document a decision of Judge Smith McPherson in a case in the southern district of Iowa. It relates to the question of water power and navigable streams.

The PRESIDENT pro tempore. The Senator from Ohio asks that the paper, the purport of which he has indicated, be printed as a public document. Is there objection? The Chair hears none, and it is so ordered.

MEMORIAL ADDRESSES ON THE LATE REPRESENTATIVE JAMES P. LATTA.

Mr. HITCHCOCK. Mr. President, I should like to give notice that on Saturday, March 1, I will ask the Senate to consider resolutions commemorative of the life and public services of the late JAMES P. LATTA, a Member of the House of Representatives from Nebraska.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. GALLINGER. On yesterday the bill (H. R. 17593) to divest intoxicating liquors of their interstate-commerce character in certain cases was received from the House of Representatives and at my request was read twice by its title and ordered to lie on the table. I now ask that the bill be taken from the table and referred to the Committee on the Judiciary.

The PRESIDENT pro tempore. The bill will be referred to the Committee on the Judiciary.

PENSIONS AND INCREASE OF PENSIONS.

Mr. McCUMBER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 14053) to increase the pension of surviving soldiers of Indian wars in certain cases, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter stricken out and inserted by the Senate insert "twenty"; and the Senate agree to the same.

P. J. McCUMBER,
MILES POINDEXTER,
Managers on the part of the Senate.
WILLIAM RICHARDSON,
IRA W. WOOD,
W. A. DICKSON,
Managers on the part of the House.

The report was agreed to.

Mr. McCUMBER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, and 6, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same with an amendment as follows: In lieu of the matter stricken out by the House insert:

"The name of Thomas M. F. Delaney, late of Company G, Fourth Regiment Wisconsin Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving."

That the Senate recede from its disagreement to the amendment of the House numbered 4, and agree to the same with an amendment as follows: In lieu of the matter stricken out by the House insert:

"The name of John J. Ledford, late of Company F, Fourth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $16 per month."

That the Senate recede from its disagreement to the amendment of the House numbered 5, and agree to the same with an amendment as follows: In lieu of the matter stricken out by the House insert:

"The name of John F. Burton, late of Company B, Fifth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving."

That the Senate recede from its disagreement to the amendment of the House numbered 7, and agree to the same with an amendment as follows: In lieu of the matter stricken out by the House insert:

"The name of Carl W. Carlson, late of Company B, Third Regiment United States Volunteer Cavalry, War with Spain, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

And the House agree to the same.

P. J. McCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.
WILLIAM RICHARDSON,
IRA W. WOOD,
W. A. DICKSON,
Managers on the part of the House.

The report was agreed to.

DEPARTMENT OF LABOR.

Mr. LODGE. I ask that the bill (H. R. 29013) to create a department of labor be reprinted with certain amendments intended to be proposed by me, the amendments to be printed in small capitals.

The PRESIDENT pro tempore. Without objection, it is so ordered.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on the District of Columbia:

H. R. 21709. An act to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia; and

H. R. 21714. An act to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia.

H. R. 5948. An act to prohibit in the District of Columbia the intermarriage of whites with Ethiopians, Malays, or Mongolians was read twice by its title and on motion of Mr. GALLINGER referred to the Committee on the Judiciary.

H. R. 2070. An act for the relief of the estate of Antonia Sousa, deceased, was read twice by its title and referred to the Committee on Claims.

YELLOWSTONE RIVER BRIDGE, NORTH DAKOTA.

Mr. GRONNA. I ask unanimous consent to call up from the calendar two bridge bills—Senate bill 8089 and Senate bill 8090. The session is drawing to a close, and it is urgent that they should be passed at as early a date as possible.

I ask the Senate first to consider the bill (S. 8089) permitting the building of a railroad bridge across the Yellowstone River from a point on the east bank in section 15 to a point on the west bank in section 16, township 151 north of range 104 west of the fifth principal meridian, in McKenzie County, N. Dak.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill had been reported from the Committee on Commerce with an amendment, on page 2, line 4, after the words "North Dakota," to strike out the colon and all of the bill down to and including line 23, on page 3, and to insert ", in accordance with the provisions of the act entitled 'An act to regulate the construction of bridges over navigable waters,' approved March 23, 1906," so as to read:

Be it enacted, etc., That the consent of Congress is hereby granted to the Minneapolis, St. Paul & Sault Ste. Marie Railway Co., a railway corporation organized under the laws of the States of Michigan, Wisconsin, Minnesota, and North Dakota, its successors or assigns, to build a railway bridge across the Yellowstone River from a point on the east bank in section 15 to a point on the west bank in section 16, township 151 north of range 104 west of the fifth principal meridian, in McKenzie County, N. Dak., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MISSOURI RIVER BRIDGE, NORTH DAKOTA.

Mr. GRONNA. I now call up Senate bill 8090, providing for the building of a railroad bridge across the Missouri River, N. Dak., and ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 8090) permitting the building of a railroad bridge across the Missouri River from a point on the east bank in section 14, Mountrail County, N. Dak., to a point on the west bank of said river in section 15, in McKenzie County, N. Dak., in township 152 north, range 93 west of the fifth principal meridian, which had been reported from the Committee on Commerce with amendments.

The first amendment was, in section 1, page 2, line 5, after the word "meridian," to strike out:

Provided, That the plans for the construction of said bridge and appurtenant works shall be submitted to and approved by the Chief of Engineers and the Secretary of War before the commencement of the construction of such bridge: *And provided further*, That said Minneapolis, St. Paul & Sault Ste. Marie Railway Co., its successors or assigns, shall not deviate from such plans after such approval, either before or after the completion of the said bridge, unless the modification of said plans shall have previously been submitted to and received the approval of the Chief of Engineers and of the Secretary of War, and any changes in said bridge which the Secretary of War may at any time order in the interest of navigation shall be promptly made by said company at its own expense.

SEC. 2. That in case any litigation arises from the building of said bridge or from the obstruction of said river by said bridge, cases may be tried in the proper courts, as now provided for that purpose in the State of North Dakota and in the courts of the United States: *Provided*, That nothing in this act shall be so construed as to repeal or modify any of the provisions of law now existing in reference to the protection of the navigation of rivers, or to exempt said bridge from the operation of same.

SEC. 3. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains over the same and over the approaches thereto upon payment of a reasonable compensation for such use; and in case of disagreement between the parties in regard to the compensation to

be paid or the conditions to be observed all matters at issue shall be determined by the Secretary of War.

SEC. 4. That any bridge built under this act and subject to its limitations shall be a lawful structure and shall be recognized and known as a post route upon which no higher charge shall be made for the transmission of mails and the troops and munitions of war of the United States over the same than the rate per mile paid for the transportation over the railroad or approaches leading to the said bridge; and it shall enjoy the rights and privileges of other post roads in the United States, and equal privileges in the use of said bridge shall be granted to all telegraph and telephone companies, and the United States shall have the right of way across said bridge and its approaches for postal telegraph and telephone purposes.

And to insert:

In accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

So as to read:

That the consent of Congress is hereby granted to the Minneapolis, St. Paul & Sault Ste. Marie Railway Co., a railway corporation organized under the laws of the State of Michigan, Wisconsin, Minnesota, and North Dakota, its successors and assigns, to build a railway bridge across the Missouri River from a point on the east bank of section 14, Mountrail County, N. Dak., to a point on the west bank of said river in section 15, in McKenzie County, N. Dak., in township 152 north, range 93 west, of the fifth principal meridian, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

The amendment was agreed to.

The next amendment was, in section 6 (3), page 4, line 8, after the word "hereby," to insert "expressly," so as to make the section read:

SEC. 3. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DEPOSIT OF PUBLIC MONEYS IN NATIONAL BANKS.

The PRESIDENT pro tempore. Morning business is closed. The Chair lays before the Senate a resolution coming over from yesterday, which the Secretary will read.

The Secretary read the resolution (S. Res. 462) submitted by Mr. POINDEXTER on the 10th instant, as follows:

Resolved, That the Secretary of the Treasury be, and he hereby is, directed to transmit to the Senate any information in his possession touching his authority to make the order for the disposition, custody, and disbursement of the public moneys embodied in department circular No. 5, issued by said Secretary of the Treasury on January 9, 1913; also to transmit to the Senate any information in his possession touching the effect of said order upon the system and mode of receiving, caring for, handling, and disbursing said public moneys in effect prior to the issuance of said order, and especially what change in said system was effected by said order; also any information in his possession as to the manner and in what proportion the public moneys specified in said order are distributed among the several national banks therein referred to, and to designate what, if any, additional banks have been designated as Government depositories on account of the change in the custody of the public moneys specified in said order, and where the same are located; also the amount of daily receipts of the Government which have been deposited in banks since said order went into effect, and what, if any, security therefor or interest thereon has been required by said Secretary of the Treasury from the said banks, and what amount or proportion of said daily receipts has been deposited in banks in New York City; also to state the monthly average amount of all funds in the custody of disbursing officers which said order requires to be deposited in banks, but which prior thereto were deposited with the Treasurer or an Assistant Treasurer of the United States; also what is the average monthly amount of United States disbursing officers' accounts in New York City.

Mr. POINDEXTER. Mr. President, in explanation of this resolution, I desire to add a few words to what I said on yesterday, when it was introduced, as to the question of whether or not the Secretary of the Treasury has the discretion of directing that these vast sums of money shall be deposited in private banks. The accounts of the disbursing officers of the Government in cities where there are subtreasuries or the Treasury of the United States amount to more than $400,000,000. The resolution which I submitted on yesterday, and which is now before the Senate, requires of the Secretary of the Treasury information as to his authority in the matter.

Mr. LODGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Massachusetts?

Mr. POINDEXTER. I yield.

Mr. LODGE. On that point of authority, as the Senator was cut off on yesterday, I could not then call his attention to the statutory provision. There is no question about the removal of the restrictions. In what was known as the Aldrich-Vreeland Act section 5153 of the Revised Statutes was amended. Section 5153 of the Revised Statutes provides:

SEC. 5153. All national banking associations, designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary.

When that section was amended by the act to amend the national banking act, approved March 4, 1907, it was amended so as to read:

All national banking associations designated for that purpose by the Secretary of the Treasury shall be depositories of public money under such regulations.

Thus taking out the exception of the customs receipts. I have looked with some care to see if there was any other provision, and I find there is no other provision except this one, which removes the restriction and brings them within the general class of public money which can be deposited at the discretion of the Secretary of the Treasury in duly authorized depositories of public money.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Utah?

Mr. POINDEXTER. I yield to the Senator.

Mr. SMOOT. I simply desire to say to the Senator that while he is discussing the question I wish to call his particular attention to the circular No. 5, referred to by him yesterday, and to state that it only applies to banks designated as special depositories of public money, and other depositories are not affected by circular No. 5. Its provisions only apply to those banks designated as active depositories, and therefore, if the Senator will take that into consideration, no doubt he will immediately see that the statement made by him as to the amounts daily deposited in these particular banks is not what he says they would be.

Mr. STONE. How much are they?

Mr. SMOOT. Mr. President, I really do not know; I have not had time to look it up; but it is only a very few banks where such moneys are deposited, and therefore all the customs receipts can not be included. The Senator from Massachusetts has already called attention to the fact that section 5153, the original section, was reenacted in 1907, eliminating the words——

Mr. LODGE. Eliminating the restriction in regard to customs receipts.

Mr. SMOOT. Eliminating the restriction in regard to customs receipts—"except receipts from customs." Those words were left out of the act of 1907.

Mr. OVERMAN. How would the Senator designate an "active depository"?

Mr. SMOOT. That is designated by the Secretary of the Treasury.

Mr. OVERMAN. I understand there are depositories in every State in the Union. The Senator used the words "active depository." Why is not every bank that has deposits of money in it an active depository?

Mr. SMOOT. They are not all active depositories. For instance, I will call the Senator's attention to the depository in his own city—no doubt there is one there, and perhaps more than one—but such banks are not active depositories. When a bank has a hundred thousand dollars or fifty thousand dollars of Government deposits, as the case may be, such deposits are hardly ever drawn on; there is hardly any change ever made; and their amount is only augmented by the receipts that may come from local collections.

Mr. OVERMAN. What I want to get at is, What is an "active depository"?

Mr. SMOOT. An illustration would be a depository in the city of New York, where customs receipts are received and where transfers are made rapidly every day, perhaps.

Mr. OVERMAN. It means, then, that "active depositories" are only located in the great cities of the country?

Mr. SMOOT. That would be about the effect of it; yes.

Mr. POINDEXTER. Mr. President, I presume that during the time since this resolution was introduced the Senator from Massachusetts, who has paid attention to the subject, has investigated the matter more or less carefully. He cited one section of the law of 1907, which he says authorizes the order made by the Secretary of the Treasury. That section of the law of 1907, as he points out, amends section 5153 of the Revised Statutes. Now, I should like to call the attention of the Senate and of the Senator from Massachusetts to another section of the Revised Statutes, not affected in any way by the law which he cites or by any other law that has been passed. I refer to section 3620, which provides:

SEC. 3620. It shall be the duty of every disbursing officer having any public money intrusted to him for disbursement, to deposit the same with the Treasurer or some one of the assistant treasurers of the United States, and to draw for the same only as it may be required for payments to be made by him in pursuance of law; and all transfers from the Treasurer of the United States to a disbursing officer shall be by draft or warrant on the Treasury or an assistant treasurer of the United States.

Then there is an exception to that to the following effect:

In places, however, where there is no treasurer or assistant treasurer, the Secretary of the Treasury may, when he deems it essential to the public interest, specially authorize in writing the deposit of such public money in any other public depository.

What the Secretary of the Treasury has done in this case is to undertake to extend the authority conferred upon him by section 3620 of the Revised Statutes in cities where there is no subtreasury to cities where there is a subtreasury, in which cities the statute in a most mandatory manner directs that the disbursing officers shall keep their funds in the subtreasury located there.

Mr. SMOOT. Mr. President, I should like to call the Senator's attention——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Utah?

Mr. POINDEXTER. I yield to the Senator.

Mr. SMOOT. I should like to call the Senator's attention to an amendment to the section which he has just read. If he will turn to section 5488, he will notice that——

Mr. POINDEXTER. My attention was diverted. To what section did the Senator refer?

Mr. SMOOT. Section 5488 of the Revised Statutes. If the Senator will turn to that section, he will see that it reads:

Every disbursing officer of the United States who deposits any public money intrusted to him in any place or in any manner "except as authorized by law"—

If the Senator will notice, those words are an amendment of the section to which he referred.

Mr. POINDEXTER. Mr. President, of course I respect the opinion of the Senator from Utah, but I must say that this language can not possibly be an amendment to section 3620. It deals with a different subject.

Mr. LODGE. Mr. President, if the Senator will allow me——

Mr. POINDEXTER. Just let me finish the sentence. Furthermore, the exception to which the Senator calls attention, "except as provided by law," does not touch the question at all, because the very contention I am making is that it is expressly provided by law that the disbursing officers can not deposit the public funds in their possession in private banks in cities where there is a subtreasury.

Mr. LODGE. Mr. President, of course the act of March 4, 1907, like all other acts, whether expressly or not, repeals any act or parts of acts inconsistent therewith. So far as section 5488 is inconsistent with it, of course it is repealed by the later act.

If the Senator will look at the index in the volume of the statutes, he will see that the reference to the act contains this statement:

Restriction on the deposit of customs receipts in national banks removed.

And it gives this section. That being removed, of course, no earlier act can possibly interfere with it. If it is inconsistent, it is repealed.

Mr. POINDEXTER. Mr. President, it is not inconsistent. It does not conflict with the other section in any way at all, because it deals with a different subject matter. The section of the law to which the Senator from Massachusetts refers relates to the deposit of customs receipts. The section of the law to which I refer relates to an entirely different subject, the accounts of disbursing officers, which contain moneys transferred and intrusted to the disbursing officers from all the receipts of the Government. The place of deposit of the receipts from the customs, when they are received, is one subject. I differ from the Senator as to the effect of the law of 1907, even as to the deposit of customs receipts. But that has no relation whatever to the requirement as to the place where the accounts of disbursing officers shall be kept, and consequently can not repeal it by implication.

Mr. HITCHCOCK. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Nebraska?

Mr. POINDEXTER. I yield to the Senator.

Mr. HITCHCOCK. I should like to ask the Senator from Washington whether he will accept an amendment to his resolution, to render it a little more specific and to gather further information which may be of assistance? I propose to add:

Also a list of the national banks authorized to receive national deposits, public moneys, or postal-savings funds, and the amount on deposit in each December 31, 1912.

So that we may have a definite and clear statement of the condition as it existed on the first of the year.

Mr. POINDEXTER. Mr. President, I have no objection to that amendment.

Mr. HITCHCOCK. Then I offer the amendment.

The PRESIDENT pro tempore. The amendment will be received and acted upon at the proper time.

Mr. SMOOT. Will the Senator allow the resolution to be reported now, as amended, so that we can get it in our minds?

Mr. POINDEXTER. Yes.

The PRESIDENT pro tempore. Does the Senator from Washington accept the amendment proposed by the Senator from Nebraska?

Mr. POINDEXTER. I accept the amendment.

The PRESIDENT pro tempore. Without objection, the amendment will be considered as part of the original resolution.

Mr. LODGE. I should like to have it read so that we can see just what it is.

The PRESIDENT pro tempore. The Secretary will read the resolution as amended.

The Secretary read as follows:

Resolved, That the Secretary of the Treasury be, and he hereby is, directed to transmit to the Senate any information in his possession touching his authority to make the order for the disposition, custody, and disbursement of the public moneys embodied in department circular No. 5, issued by said Secretary of the Treasury on January 9, 1913; also to transmit to the Senate any information in his possession touching the effect of said order upon the system and mode of receiving, caring for, handling, and disbursing said public moneys in effect prior to the issuance of said order, and especially what change in said system was effected by said order; also any information in his possession as to the manner and in what proportion the public moneys specified in said order are distributed among the several national banks therein referred to, and to designate what, if any, additional banks have been designated as Government depositories on account of the change in the custody of the public moneys specified in said order, and where the same are located; also the amount of daily receipts of the Government which have been deposited in banks since said order went into effect, and what, if any, security therefor or interest thereon has been required by said Secretary of the Treasury from the said banks, and what amount or proportion of said daily receipts has been deposited in banks in New York City; also to state the monthly average amount of all funds in the custody of disbursing officers which said order requires to be deposited in banks, but which prior thereto were deposited with the Treasurer or an Assistant Treasurer of the United States; also what is the average monthly amount of United States disbursing officers' accounts in New York City; also a list of the national banks authorized to receive national deposits, public moneys, or postal savings funds, and the amount on deposit in each December 31, 1912.

Mr. SMOOT. Mr. President, I desire to call the attention of the Senator from Nebraska to the fact that the information called for in the latter part of the resolution as read, which I believe is his amendment, is all in print, and can be given him in five minutes' time, although I am not objecting if he wants it in this general report. I simply want to tell the Senator that it is all in print, and can be had in a very few minutes.

Mr. HITCHCOCK. I presume it is in print in a certain form, but I suggest it as an appropriate item of information to go with the Senator's resolution, because it fixes a certain date and, I think, will be helpful to the Senate.

Mr. SMOOT. I have not the least objection to the amendment, nor have I any objection to the resolution. The resolution can pass now, so far as any objection on my part is concerned.

Mr. POINDEXTER. Mr. President, I shall not proceed much further, but I should like to answer now the suggestion made by the Senator from Utah that this order will not have the effect of changing the place of deposit of very large sums of the public money. I have noticed the statement from the office of the Secretary of the Treasury that money would be drawn out as fast as it would be put in. That was the substance of it—that the daily expenditures out of these funds, through checks cashed by private banks where they were deposited, would amount to as much as the daily receipts. But that does not affect the question in any way at all. You might reverse the statement and say that the daily receipts would equal the daily expenditures, so the balance of the account would remain the same.

The simple fact, which all of the argument and all of the sophistry in the world can not avoid, is that there is a million dollars or more of customs receipts, for one thing, that heretofore has been deposited in currency and coin in the subtreasury, that under this order will be deposited daily in the national banks. It does not make any difference whether they are inactive depositories or whether they are active depositories. The matter of creating depositories is in the discretion of the Secretary of the Treasury. I imagine that a great many banks that were indifferent about it before, now that this vast sum of money is to be distributed among the banks, will be making application to the Secretary of the Treasury to be designated as Government depositories, so that they will be eligible to receive a large portion of these funds.

Mr. SMOOT. Mr. President, I do not want the Senator to misunderstand the statement I made. Of course during the whole year there will probably pass through these banks, as he suggests, $400,000,000. But the balances at any particular time, on any particular day of the year, will never exceed the customs receipts on that day.

In other words, if the customs receipts are $1,500,000 a day, they are deposited in special depositories on that particular day; but checks are immediately drawn upon them. The account is an active one. It is the same as if the Senator himself had an account in which he was depositing every day and drawing his personal checks against his deposits. So far as the amount of money is concerned, there will be very little money left on any particular day in the year. That is what I should like the Senator to direct his remarks to if he misunderstood my former statement.

Mr. POINDEXTER. I did not misunderstand the former statement of the Senator. Everybody knows the contingencies to which checking accounts are subject. Every Government disbursing officer constantly has a balance on hand, and that balance fluctuates. It is being replenished, it is being reduced. It is a very large average balance. The customs receipts, which are subject to the same suggestion just made by the Senator from Utah, are a million dollars a day. If a million dollars is drawn out, a million dollars is put in, so that the average balance is a million dollars.

Reverting again to the suggestion of the Senator from Massachusetts [Mr. LODGE], the law of 1907 amending the Revised Statutes as to customs receipts does not in any way specifically undertake to authorize the deposit in national-bank depositories of any other kind of public moneys than those which were authorized before. It is true that it leaves out a certain exception; but there were certain specific prohibitions as to what funds could be deposited in national-bank depositories, and those prohibitions are not amended or repealed. When a statute is passed which says that public moneys, in those words, in that most general form of expression, may be deposited in national-bank depositories, it means such public moneys as the law authorizes to be deposited there.

Mr. NELSON. Mr. President, will the Senator yield to me for a minute?

Mr. POINDEXTER. I yield to the Senator.

Mr. NELSON. I desire to call the attention of the Senator from Washington to two facts:

Away back in 1846, I think, a law was passed prohibiting the deposit of any public moneys in banks. That took the money out of circulation. It put it into the subtreasury and took it out of circulation. In the sixties—I think in 1864—we amended the law so that the internal-revenue receipts were to be deposited in the banks. The restriction against depositing customs receipts was found in section 5153 of the Revised Statutes. That exception as to customs receipts was eliminated by this amendatory section of the act of 1907. But, aside from that, I think it is strictly within the law now to deposit customs receipts as much as internal-revenue receipts.

I want to call the Senator's attention to this fact: Two of the great vices of our financial system have been, first, the lack of sufficient elasticity in our paper currency, and the next, the fact that our subtreasury system has taken the revenues of the Government and put them into the subtreasuries, hoarded them there, piled them up, and taken them out of the channels of commerce and trade. In all other countries—in France, in Germany, in England, and in the minor countries—the receipts of the Government are put into a large bank, they are checked against, and the money of the country remains in circulation in the channels of trade. Under our artificial subtreasury system those receipts have been taken out of the channels of trade and hoarded up until we have had as much as $300,000,000 of surplus, and what has been the result? The result has been that at the times when we have been threatened with panics, or have had any financial stress in the country, people have come to the Treasury Department and have said, "For God's sake, deposit in the banks some of this money that is in the subtreasuries."

Under this law, and under the recent rules of the Treasury Department, we have finally come to the same basis as the other countries of the world, and that is that the fiscal affairs of the country are transacted through the banks of the country. The money goes into the channels of commerce and trade, and moves through them instead of being piled up in the Treasury. If the Senator would stop to consider the financial systems of other countries and compare them with our old and obsolete subtreasury system he would see the necessity for this change. We never can put our financial system on a safe basis till we adopt the system whereby the receipts of the Government go into the banks of the country and remain in circulation and are checked against in that way.

Otherwise it is just as though the Senator from Washington should put all the money he received in the course of a year into a safe, and keep it locked up all the year, and keep that money out of circulation. It would do nobody any good. That is exactly what transpires under our subtreasury system. We corrected it, as I said, in 1864, I think, by allowing internal-revenue receipts to be put there. Now, under this legislation we allow the customs receipts to be put there. I think it is a great progress and a great step in advance in our financial system. If we can only change our paper currency so as to make it more elastic, we shall put ourselves on a par with the other great countries of the world.

Mr. POINDEXTER. Mr. President, the speech just made by the Senator from Minnesota would be very applicable to a discussion in the Senate of a change in the fiscal policy of the Government, but it is not applicable to the question as to whether or not the Secretary of the Treasury, without any legislation, without such a discussion, without hearing the views of the Senator from Minnesota and the Members of both branches of Congress, may make this order in his own discretion, upon his own authority, revolutionizing the fiscal policy of the Government, and, as stated in the circular issued by the National City Bank of New York, undertaking to do it under the very statute which that circular says was supposed to prohibit the thing that he has done.

Mr. NELSON. Will the Senator let me interrupt him a moment further?

Mr. POINDEXTER. I will yield for a question, but not for a speech.

Mr. NELSON. I do not want to make any extended remarks. I call the Senator's attention to section 5153 as it is found in the Revised Statutes:

All national banking associations designated for that purpose by the Secretary of the Treasury shall be depositaries of public money, except receipts from customs.

That is the language of the Revised Statutes.

By the act of March 4, 1907, that section is reenacted and that exception is eliminated. So that in fact national banks if they are designated as depositaries are lawful custodians of customs receipts as well as internal-revenue receipts.

Mr. POINDEXTER. That has no application whatever to the $400,000,000 that are paid out by the disbursing officers of the Government in cities where there are subtreasuries. Section 3639 of the Revised Statutes, as far as it is applicable to this question, is as follows:

The Treasurer of the United States, all assistant treasurers, and those performing the duties of assistant treasurers, all collectors of the customs, all surveyors of the customs, acting also as collectors, all receivers of public moneys at the several land offices, all postmasters, and all public officers of whatsoever character are required to keep safely, without loaning, using, depositing in banks, or exchanging for other funds than as specially allowed by law, all the public money collected by them, or otherwise at any time placed in their possession and custody, till the same is ordered, by the proper department or officer of the Government, to be transferred or paid out.

Section 3620 is still more specific. It provides that—

It shall be the duty of every disbursing officer having any public money intrusted to him for disbursement to deposit the same with the Treasurer or some one of the assistant treasurers of the United States.

To indicate that the Secretary of the Treasury is fully aware of the statute I have just read and recognizes that it is still in force, we have only to turn to the forms of the checks and certificates of deposit and to the name of the account which he has devised in this circular No. 5 to conduct the business of the Government under this new system.

The checks drawn by the disbursing officers are drawn on the Treasurer of the United States. Why? Because the law requires the account to be kept with the Treasurer of the United States. Where are they presented? Where are they paid? They are presented at the national banks. They are paid by the national banks. The money is in the national banks. The account is the account of a disbursing officer, but it is listed in the bank as the Treasurer's account in order to make it in form comply with section 3620 of the Revised Statutes, while in fact it does not comply with it but is a direct violation of it, because the money, which is the account spoken of in the law, is on deposit in the bank when the law says it shall not be on deposit there.

Mr. STONE. Mr. President, will the Senator from Washington yield to me?

Mr. POINDEXTER. I yield for a question.

Mr. STONE. This is a resolution directing the Secretary of the Treasury to report certain information to the Senate. I assume there is no opposition to the passage of the resolution, and when the information comes in we can discuss it. I think it is a very timely resolution. I should like very much to see it adopted, and I have no doubt it will be unanimously agreed to. But in looking it over I fear it does not call for one thing I should like to have, and that is the exact reason or reasons that influenced the Secretary of the Treasury to make the order.

I suggest to the Senator from Washington an amendment which I have prepared, in line 8, after the word "Senate," to insert the words "the reason or reasons for the making of such order and," so that it will read:

Also to transmit to the Senate the reason or reasons for the making of such order and any information in his possession touching the effect;

And so forth.

Mr. POINDEXTER. I have no objection to the suggestion of the Senator from Missouri.

The PRESIDENT pro tempore. Does the Senator from Washington accept the amendment?

Mr. POINDEXTER. I accept the amendment and submit the resolution.

The PRESIDENT pro tempore. The Secretary will read the resolution as it has been amended by agreement.

The SECRETARY. Insert, after the word "Senate," in line 8, the words "the reasons for making such order and," so that it will read:

Resolved, That the Secretary of the Treasury be, and he hereby is, directed to transmit to the Senate any information in his possession touching his authority to make the order for the disposition, custody, and disbursement of the public moneys embodied in department circular No. 5, issued by said Secretary of the Treasury on January 9, 1913; also to transmit to the Senate the reasons for making such order and any information in his possession taking the effect of said order, etc.

The PRESIDENT pro tempore. The question is on agreeing to the resolution as amended.

The resolution as amended was agreed to.

CLAIMS OF GOVERNMENT EMPLOYEES.

Mr. CRAWFORD submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 24121) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, and 15, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "$22,231.38"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: In lieu of the language stricken out insert the following: "To pay $1,500 to Oscar F. Lackey for injuries received while in the employ of the Isthmian Canal Commission as assistant engineer in construction of the Panama Canal on November 21, 1905"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "two thousand"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "seven hundred and fifty"; and the Senate agree to the same.

COE I. CRAWFORD,
W. L. JONES,
Managers on the part of the Senate.
EDWARD W. POU,
JOHN A. MAGUIRE,
Managers on the part of the House.

The report was agreed to.

CONNECTICUT RIVER DAM.

The PRESIDENT pro tempore. The morning business is closed, and the agreement requires that Senate bill 8033 be laid before the Senate for its consideration and action.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut.

Mr. BANKHEAD. Mr. President——

Mr. POINDEXTER. If the Senator from Alabama will yield to me to make a request out of order, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD an editorial from the Porto Rico Review on the subject of granting American citizenship to Porto Ricans, a question which is now pending in this body.

The PRESIDENT pro tempore. The Senator from Washington asks unanimous consent to have printed in the CONGRESSIONAL RECORD an article the nature of which he has stated.

Mr. SMOOT. I did not hear what the article is.

Mr. POINDEXTER. It is an editorial on the question of granting American citizenship to the inhabitants of Porto Rico, printed in the Porto Rico Review.

Mr. SMOOT. The Senator asks that it be printed in the RECORD?

Mr. POINDEXTER. In the RECORD.

Mr. BRANDEGEE. I have no objection unless the morning business would be reopened. I do not want to violate the unanimous-consent agreement.

The PRESIDENT pro tempore. The Chair would have to sustain the objection.

Mr. BRANDEGEE. If it could be done without reopening the morning business, I have no objection.

The PRESIDENT pro tempore. The Chair can not entertain the request of the Senator from Washington. The Senate is limited to the matters embraced in the unanimous-consent agreement. The Senator from Connecticut is correct.

Mr. FLETCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	Martine, N. J.	Smith, S. C.
Bacon	Gallinger	Nelson	Smoot
Bankhead	Gamble	O'Gorman	Stephenson
Bourne	Gardner	Oliver	Sutherland
Brady	Gore	Overman	Swanson
Brandegee	Gronna	Page	Thomas
Bristow	Jackson	Paynter	Thornton
Bryan	Johnson, Me.	Percy	Tillman
Burnham	Johnston, Ala.	Perkins	Townsend
Burton	Jones	Poindexter	Warren
Catron	Kavanaugh	Richardson	Webb
Chamberlain	Kenyon	Root	Wetmore
Clapp	La Follette	Sheppard	Williams
Clarke, Ark.	Lodge	Simmons	Works
Dillingham	McCumber	Smith, Ariz.	
Dixon	McLean	Smith, Md.	
du Pont	Martin, Va.	Smith, Mich.	

Mr. WEBB. My colleague [Mr. LEA] is necessarily absent.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 65 Senators have responded to their names. A quorum is present. The Senator from Alabama will proceed.

Mr. WARREN. The Senator from Alabama is about to debate the Connecticut River bill?

Mr. BANKHEAD. I am.

Mr. WARREN. Will the Senator yield to me to dispose of a conference report, so that the matter may go back into conference? The unanimous-consent agreement provides for such business.

Mr. BANKHEAD. How long will it take?

Mr. WARREN. I hope it will take only a minute.

Mr. BANKHEAD. If I may be allowed to do so under the agreement, and if the Senator insists, I will yield, although I do not like to do it.

Mr. WARREN. If it is a matter that will lead to extended debate, I will drop it.

Mr. BANKHEAD. Very well.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WARREN. I ask the Senate to take up the conference report made on yesterday on House bill 26680, being the legislative appropriation bill.

The PRESIDENT pro tempore. The conference report which was submitted to the Senate and printed and which is a partial agreement is before the Senate. The question is on agreeing to the report.

The report was agreed to.

Mr. WARREN. I move that the Senate further insist upon its amendments in disagreement and ask for a further conference with the House on the disagreeing votes of the two Houses thereon and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. WARREN, Mr. WETMORE, and Mr. OVERMAN conferees on the part of the Senate.

CONNECTICUT RIVER DAM.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut.

Mr. BANKHEAD. Mr. President, before approaching the discussion of this subject, I desire to say to the Senate that I have no personal or pecuniary interest whatever in any water-power company, nor have I any interest in any public-utility company of any character. Therefore the only interest I feel in the final disposition of this question leads to a desire on my part to protect, as far as may be, the interests and the rights of the States and the property owners therein.

I send to the Secretary's desk an amendment which the majority of the Committee on Commerce offer to the pending bill, and I ask that the Secretary read the amendment for the information of the Senate.

The PRESIDENT pro tempore. Without objection, the amendment will be read.

The SECRETARY. It is proposed to amend by striking out of section 1, beginning after the word "act," in line 15, on page 2, the following:

And provided further, That the rights and privileges hereby granted may be assigned with the written authorization of the Secretary of War, or in pursuance of the decree of a court of competent jurisdiction, but not otherwise: *And provided further*, That the Secretary of War, as a part of the conditions and stipulations referred to in said act, may, in his discretion, impose a reasonable annual charge or return, to be paid by the said corporation or its assigns to the United States, the proceeds thereof to be used for the development of navigation on the Connecticut River and the waters connected therewith. In fixing such charge, if any, the Secretary of War shall take into consideration the existing rights and property of said corporation and the amounts spent and required to be spent by it in improving the navigation of said river, and no charge shall be imposed which shall be such as to deprive the said corporation of a reasonable return on the fair value of such dam and appurtenant works and property, allowing for the cost of construction, maintenance, and renewal, and for depreciation charges.

Mr. BANKHEAD. Mr. President, of course the majority of the Committee on Commerce will exercise its rights under the rules and practice of the Senate to perfect the pending bill before other amendments are acted upon. The majority of the committee are opposed to the provisions contained in the amendment and assign, as their reasons, in part the following:

First. The Federal Government having no right to control the use of water power in the Connecticut River, it can not legally legislate on the subject of control.

Second. A valuable resource of the State will be practically confiscated.

Third. The control, regulation, and disposition of water power in the Connecticut River being questions of State policy, Congress has no right to demand compensation in any form.

Fourth. The Federal Government has no right to withhold a permit for the construction of a dam, because it will not interfere with navigation, but improve it.

Fifth. If the Secretary of War is given authority and discretion to fix the amount of charge to be collected, it is an attempt to delegate to the head of a department the power to levy and collect taxes, a function which belongs to Congress alone.

Mr. President, there can be no question but that the amount sought to be collected from the Connecticut River Co. is a tax; it can not be construed in any other way. If it is a tax, Congress has no constitutional power or authority to delegate that power to the Secretary of War or to any other subordinate. If that power can be exercised by Congress, it may as well delegate to the Secretary of the Treasury the power to levy and collect duties on imports at his own will and discretion; if it may delegate the taxing power to a subordinate of the Government for one purpose, it may do so for all purposes; it may delegate the power to the Director of the Mint, for instance, to coin money and, in his own discretion, to fix the value and the fineness of the coin. There is no limit, Mr. President, to this delegation of power if it can be constitutionally exercised at all.

I beg the indulgence of the Senate while I attempt to reply to the argument of the distinguished Senator from Ohio [Mr. BURTON] when he addressed the Senate a few days ago on this bill. The Secretary of War and the Senator from Ohio proclaim that whatever the Government can legally and constitutionally do it may do by an agent. Mr. President, I concede that; but I insist that what the Government can not legally and constitutionally do, it can not do that illegal and unconstitutional act by its agent.

The Senator from Ohio, in attempting to maintain his position as to the right of the General Government to levy and collect a tax, or if you prefer to call it a toll, upon water powers in the United States where a dam, the land, and other appurtenant works are owned and constructed by private parties, in my judgment signally failed in the effort.

The Senator from Ohio, in the discussion of the question, called the attention of the Senate to a number of bills. His references are to be found on page 111 of the document I hold in my hand—Federal Control of Water Power—and will also be found in the CONGRESSIONAL RECORD as a part of his remarks. He undertook to criticize the majority of the Committee on Commerce for the declaration that no law of Congress had ever been enacted authorizing, as is proposed in the pending bill, the Government to levy and collect a toll. All the committee intended was that no law of Congress had ever authorized the collection of a toll for the use of the surplus waters of a navigable river where the structure was erected by private enterprise, and that no act of Congress authorizing the collection of a toll at any dam anywhere in the United States can be found except where the Government itself constructed the work and was the riparian owner.

The Senator from Ohio cited a number of cases which he claimed established his contention, and among them was the Muskingum River, in the Senator's own State. The provisions of that bill are that—

The Secretary of War be authorized and empowered to grant leases or licenses for the use of the water powers, at such rate and on such conditions and for such periods of time as may seem to him just, equitable, and expedient.

Mr. President, the lock and dam there belongs exclusively to the United States. It was at one time the property of the State of Ohio or of private owners. The Government bought it and paid for it and, consequently, took over all the rights that the State of Ohio had and all the rights that the riparian owners had. So it is not a parallel case at all. No one, perhaps, will contend that the Government of the United States may not collect a reasonable amount for the use of a structure that it may build, thereby creating a power; but nobody who has investigated this question thoroughly will say that the Federal Government can legally collect a toll or a tax for surplus water, or otherwise, in a river where the title to the dam and the land is in private parties. That is our contention. The case of the Green and Barren Rivers is similar. The Cumberland and Tennessee is also a similar case; in fact, Mr. President, all the cases referred to by the Senator tend to establish the contention of the majority of the committee, that the Federal Government has never asserted ownership in the surplus water of a navigable river except where it was riparian owner, and, therefore, has nothing to sell.

I want to call particular attention to one of the references made by the Senator from Ohio—the Cumberland and its tributaries. In that instance Congress authorized private parties to construct a lock and dam, giving them the power to collect toll from every vessel, barge, or other craft that went through the lock, the rates, of course, to be subject to the approval of the Secretary of War, and at the expiration of 40 years its owners are to transfer the lock and dam to the Government free of cost, retaining ownership of the dam and all the power rights and privileges to themselves. That is another case cited to establish the contention of the distinguished Senator from Ohio.

I have endeavored to show, and I think I have shown, that there have been no dams or locks constructed by private parties, who are the riparian owners, where the Government has ever insisted it was entitled to compensation or toll for its use, except in all cases it has been required, perhaps—and it should be required—that the power company shall furnish current to operate the lock and light the dam. It is perfectly proper that the Government should require power companies to furnish power to operate the locks, because it is a part of the navigation of the stream; but beyond that requirement the Government has never gone and has never attempted to go.

Mr. President, how can the Government acquire property for the construction of a lock and dam on a navigable river? What do they acquire when, by purchase or condemnation, they have secured a site upon which a lock and dam may be erected in aid of navigation?

I assert as a correct principle that the Federal Government can not go into any of the sovereign States of the Union and condemn a site for a lock and dam for any purpose except navigation; and when they have so condemned it they can not use it for any purpose except navigation. In this contention the majority of your committee are sustained by a number of decisions.

I want to read briefly from a case in the Forty-third Southern Reporter, page 791, bearing directly on this question:

This case arose in my own State, where a railroad company condemned the right of way over which to construct its road, and during the construction a valuable sand bank was discovered. When the road was completed and in operation the railroad people undertook to sell the sand for a profit. The original owner from whom the lands had been taken came into court and said: "You can not use that right of way for any purpose except that which is required to operate your road. Whatever else of value may be there belongs to me, from whom you originally took the land." The court very promptly decided that he was entitled to whatever of profit the railroad had

derived from the sale of the sand and required the road to pay him for it.

Mr. BURTON. Mr. President, will the Senator from Alabama yield to me for a question?

Mr. BANKHEAD. Certainly.

Mr. BURTON. The Senator from Alabama does not maintain that that is at all analogous to this case, does he? That is a statement of an elementary principle which we all recognize. The other, the condemnation for navigation, involves the development of a water power incidental to the main purpose. The case of the sand bank is something entirely distinct. It is not a part of the operation of the railroad.

Mr. BANKHEAD. Mr. President, I think it is entirely analogous. This road was built for the development of commerce over the road. The river is improved for the development of commerce over the river. It seems to me the principle is the same.

But in another case, Sixty-sixth Iowa, page 606 (55 Am. Rep., 281), the court held that stone taken from the cut through which a railroad was built, not necessary for the construction of the road, belonged to the original owner from whom the land was acquired, and when the railroad company undertook to sell it as a matter of merchandise or commerce, the court said, "No; you did not condemn anything but the right of way, and you have no interest there but for a right of way. Whatever else there may be of value belongs to the original owner," and the court compelled the road to pay to the original owner the market value of the stone that had been sold by the railroad.

If the Government of the United States can go to Colorado or to Connecticut or to Alabama and condemn a site for a lock and dam under the commerce clause of the Constitution, does anybody believe for a moment that it could use that site for any other purpose than navigation? Does any Senator believe that the Government could go on that site and erect a Government distillery, for instance, or any other commercial or business enterprise it might choose? Why, certainly not. And if they did, under all the decisions of all the courts, the Government would be required to pay to the original owner from whom the land was condemned for navigation purposes whatever profit it received beyond its use for navigation.

Mr. President, the right to regulate and supervise and control properly belongs to the States. I anticipate that all the States of this Union have laws and public service commissions—and if they have not, they will very soon come to it—perfectly competent to deal with this question and to regulate all the affairs and business of a water-power corporation or any other public utility corporation that may be doing business in the State.

To whom does the water in the Connecticut River belong? Does it belong to the Federal Government, or does it belong to the State of Connecticut and the riparian owners in that State? What right or interest has the Government in the waters of that river beyond what is necessary for navigation in the river? If it has no legal right, if it has no moral right, to appropriate it to its own use for a profit, then we have no power whatever to pass this bill as reported to the Senate.

Mr. President, I want to show the Senate, if I can, how great minds change on a subject of this sort. I want to read from a report bearing directly on the question now under consideration made by Gen. Mackenzie to the Secretary of War for his approval.

The Chief of Engineers, at that time Gen. Mackenzie, was perhaps one of the ablest of that corps. When he came to report on this question he said what I am about to read:

In connection with legislation of this kind careful consideration should be given to the question of the limitations of the power of the Federal Government over navigable waters. By virtue of its power to regulate commerce, Congress may exercise control, over the navigable waters of the United States, but only to the extent necessary to protect, preserve, and improve free navigation. The Federal Government has no possessory title to the water flowing in navigable streams, nor to the land comprising their beds and shores, and hence Congress can grant no absolute authority to anyone to use and occupy such water and land for manufacturing and industrial purposes. The establishment, regulation, and control of manufacturing and industrial enterprises, as well as other matters pertaining to the comfort, convenience, and prosperity of the people, come within the powers of the States, and the Supreme Court of the United States holds that the authority of a State over navigable waters within its borders, and the shores and beds thereof, is plenary, subject only to such action as Congress may take in the execution of its powers under the Constitution to regulate commerce among the several States.

That report of Gen. Mackenzie went to the Secretary of War, who is now the President of the United States, and here is what he said in an indorsement approving the report:

WAR DEPARTMENT,
January 17, 1905.

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the accompanying report of the Chief of Engineers, United States Army, of yesterday's date, and to drafts of bills therein referred to. The report seems to me to be very comprehensive, accurate, and instructive.

That was the opinion of the Secretary of War at that time.

I desire now to read again from the President of the United States while Secretary of War in an opinion on the Des Plaines River case, where application was made that the department should not interfere with a private dam:

The department is not going to take any action, and has not taken any action. The advisory step, taken at the instance of Mr. Snapp, or the persons who intended to put some sort of water-power construction in the Des Plaines River, was extra official, and really was beyond the authority of the Chief of Engineers, except as he was accommodating to express an opinion in the interest of explanation. The truth is that the Des Plaines River not being a navigable stream, no permit was necessary to put any obstruction into it which the War Department could prevent. But even if it had been a navigable stream, and even if the application had been made and properly made to this department to say whether this would interfere with navigation, if the department concluded it would not interfere with navigation then it is not within the power of the department to withhold its expressing such an opinion and granting such a permit, so far as the United States is concerned, for the purpose of aiding the State in controlling the water power. If the State has any control over the water power which it may exercise in conflict with the claimed rights of the riparian owner, then it must exercise it itself, through its own legislation and through its own executive officers. All the United States does, assuming it to be a navigable stream, is merely to protect the navigation of the stream. With reference to the water power, it has no function except in respect to water power which it itself creates by its own investment in property that it itself owns; and then, of course, it may say how that water power shall be used.

But with respect to the water power on a navigable stream, which may be exercised without interference with the use of the river for navigation purposes, that is controlled by the laws of the State. It is controlled by the riparian ownership and by the common law as it governs those rights. Therefore I do not see, with reference to this matter, that this department has any function to perform or which it can perform.

Again, the Secretary of War says:

There are two answers to that. The department is not going to take any action, and has not taken any action.

The department is not going to issue a permit, because it has no business to do it. It has no authority to do it unless navigation is interfered with.

The application * * * is for this department to take no official action which may interfere with the State control of the water power which may be developed in the Des Plaines River under a proposed improvement by the construction of a 14-foot waterway; and also to take no action which may interfere with the waterway as a waterway.

One more quotation. Now, listen, Mr. President:

It is not that we approve this; it is not that we disapprove it. It is that we have nothing whatever to do with it.

Nothing to do with what? Granting a permit for the construction of a dam on a navigable river where navigation is amply provided for.

That is the truth of it. If the State wishes to control the matter of the water power, then it is for the legislature, through which it can express that view, in so far as it may constitutionally effect it by legislation.

That is the opinion of the Secretary of War, speaking as a great judge, as one who had been on the bench for many years and had been called on many times to construe the Constitution and the laws enacted under it.

Mr. President, the other day I had the Secretary read, for the information of the Senate, a paragraph from the report of the National Waterways Commission. I want to insert this in the RECORD, and therefore I intend to read it as a part of my remarks. It will be observed that this report was made by a commission composed of Senators and Representatives, appointed for the express purpose of inquiring into the very question that we are now discussing, and to determine what the interests of the Government and the State and the riparian owners were in the navigable waters of the United States.

Here is what they said:

The commission is of the opinion that the Federal Government has no proprietary right or interest in navigable waters which would authorize the collection of tolls. The right, if it exists at all, rests upon either the second or third theory stated. As regards the second theory, it should be said that the imposition of tolls, unless based upon a more substantial foundation than the mere authority to grant or withhold consent—an authority arising solely from the control of the Federal Government for the purposes of navigation—does not commend itself to the commission, and it is to be doubted whether, even in case a bill should be passed or other action taken by Congress for granting this permission, with a provision for charging tolls, such tolls could be collected.

That was the unanimous opinion of this commission.

Now, Mr. President, in connection with what I have read I wish to read the names of the Members composing this commission in order that the Senate may judge how able they were to deal with this question and therefore can place the greatest confidence in their conclusions. The members of the commission were THEODORE E. BURTON, chairman; JACOB H. GALLINGER, from New Hampshire, vice chairman; Samuel H. Piles, WILLIAM ALDEN SMITH, F. M. SIMMONS, William Lorimer, JAMES P. CLARKE, D. S. Alexander, FREDERICK C. STEVENS, Irving P. Wanger, S. M. SPARKMAN, and JOHN A. MOON.

Mr. President, when that declaration was read the other day the Senator from Ohio [Mr. BURTON] in reply said, "Well, I

have changed my mind since then." It appears that the Secretary of War, now the President, has also changed his mind on this question. However, the fact remains, although these gentlemen have changed their minds, the Constitution has not changed. It is the same now as it was when these views were expressed, and there is no means of changing it that I know of except to submit an amendment to the States for their ratification.

Now, so much for that. I have read in the presence of the Senate the views of the Secretary of War indorsing the report of the Chief of Engineers, and I do not deem it necessary to pursue that branch of the subject any further.

I wish to quote another authority briefly on the question of the rights of riparian owners, and I read from Kent's Commentaries. In discussing the rights of the riparian owner Chancellor Kent said:

Every proprietor of lands on the banks of a river has naturally an equal right to the use of the water which flows in the stream adjacent to his lands, as it was wont to run (currere solebat), without diminution or alteration. No proprietor has a right to use the water to the prejudice of other proprietors above or below him unless he has a prior right to divert it or a title to some exclusive enjoyment. He has no property in the water itself, but a simple usufruct while it passes along. Aqua currit et debet currere ut solebat is the language of the law. (b) Though he may use the water while it runs over his land as an incident to the land, he can not unreasonably detain it or give it another direction, and he must return it to its ordinary channel when it leaves his estate. Without the consent of the adjoining proprietors he can not divert or diminish the quantity of water which would otherwise descend to the proprietors below, nor throw the water back upon the proprietors above without a grant or an uninterrupted enjoyment of 20 years, which is evidence of it. (c) This is the clear and settled general doctrine on the subject, and all the difficulty that arises consists in the application. The owner must so use and apply the water as to work no material injury or annoyance to his neighbor below him, who has an equal right to the subsequent use of the same water; nor can he by dams or any obstruction cause the water injuriously to overflow the grounds and springs of his neighbor above him.

Those are the views of this eminent author on the rights of the riparian owner. Of course, all this is subject to the right of navigation.

Mr. Farnham, in his work on "Waters and Water Rights," says:

Conflict between riparian and navigation rights: The right of an individual to use a waterway for the purpose of navigation comes to him as one of the public, and he has no more rights than belong to the public in the use of a public highway, unless he is a riparian owner on the stream, when his rights may depend on different principles. Waterways constituting the highways lie along land the title to which is usually in private individuals, and in many instances the individuals have the title to the bed over which the water flows. This contiguity to the water gives certain rights which belong to the owner of the land as an individual and not as one of the public. With these rights the public can not interfere. They are private property within the protection of the constitutional provisions against taking property for public use without compensation. The rights of a member of the public are no greater than those of the entire public, so that the individual, in exercising his rights of navigation, must respect the rights of the owner of the bank. But the public right of way is paramount. That is the principal use of the stream when it is navigable, and other rights must give way to it so far as necessary to preserve the right of navigation. This does not mean that the riparian owner can make no use of the stream or its bed which will in any way interfere with the right of navigation. Such a requirement would be unreasonable, because during large portions of the year the stream may not be capable of navigation, and at such times it would be unreasonable to deprive the riparian owner of the opportunity to utilize the water power in the stream or to erect barriers to the passage of stock or make other reasonable uses of the property. In many cases, also, a little yielding of absolute right by both interests will permit both to obtain greater benefit from the stream. When it is said that the right of the public is paramount, nothing more is meant than that the riparian owner can do nothing to close the highway. He can not divert the water from the stream nor consume it so as to defeat the possibility of navigation, nor can he place insuperable obstructions in the stream. Conversely, the right of public navigation is not such as to destroy the rights of the riparian owner. The right can not be exercised to the unnecessary or wanton destruction of private rights or so as to deprive riparian proprietors of the use of the stream for legitimate purposes which will not unreasonably interfere with the right of navigation. The navigation right is a right of passage merely, and so long as that right is preserved without unreasonable impairment the riparian owner may bridge the stream or use water therefrom, or even throw a dam across it, if he makes provision for the right of passage. The rights may be said to be reciprocal, each modifying the other, each to be used so as not to interfere unreasonably with the other right. The riparian owner is not bound to provide a better passage than is furnished by nature. He may even abridge the rights to some extent if he leaves a convenient passageway.

Now, Mr. President, I want to quote briefly from another distinguished judge and juror as well as a United States Senator. I beg the indulgence of the Senate while I read an extract from the report of Senator O'GORMAN made to the Judiciary Committee. It will be remembered that a resolution introduced by the Senator from Washington [Mr. JONES] was referred to the Judiciary Committee, the provisions of which directed the committee to inquire into all the branches and phases of this question. In reporting on that resolution to the full committee the Senator from New York [Mr. O'GORMAN] said:

The contention in favor of the right of the Federal Government to lease the excess water power is without authority or reason to sustain it. Kaukauna Co. v. Green Bay (142 U. S., 254), and Green Bay Co. v. Patten (172 U. S., 58), are not in point and do not support the proposition.

He quotes Supreme Court decisions which were relied upon by the distinguished Senator from Ohio [Mr. BURTON] to sustain his contention the other day in the discussion of this question before the Senate.

The commerce clause was not involved in either case.

Says the Senator from New York [Mr. O'GORMAN]—

In the former case the controversy arose between the State and a riparian owner, and in the latter case the right of the Federal Government grew out of a grant and was not based upon the commerce clause.

As I understand the facts in this case, the Government of the United States many years ago donated, perhaps, to the Territory of Wisconsin certain lands to be used for the purpose of improving the navigation of the Fox River. A company was organized to do the work, and the State turned over the land or proceeds finally to this company, conveying to the company all the right the State had and that the riparian owner had in the property. The Senator from New York [Mr. O'GORMAN] in his report says:

The claim is made that the Government's improvement creates the excess power, but the fact is that the water that produces the power concededly belongs to the State, and the only effect of the improvement by the Government is to enlarge the potentiality of the State's water at the point of improvement.

The Government has no more right to claim ownership of the increase of the water than the State or a riparian owner would have to require the Government to make compensation for impairment of the stream at other points resulting from the improvement. Where depreciation is necessarily caused by the improvement for navigation the State must bear the loss; where appreciation results from the improvement the State is entitled to the gain. In either case the property affected belongs to the State. As we have seen, the title of the State includes the water as well as the bed of the rivers. The right of the State, under its title, to appropriate the water, subject only to the power of the Government under the commerce clause, is recognized by the cases cited, and the State's title necessarily excludes dominion over its waters by the Government except for the single purpose above indicated. The Government may improve navigation; it can not confiscate the property of the State.

Mr. President, I wish to read very briefly from a report made by the chairman of the Committee on Commerce, the senior Senator from Minnesota [Mr. NELSON]. It will be found on page 96 of the document I hold in my hand.

Says the Senator in his report:

In this connection, and as a further response to the interrogatory, it must be noted that the mere grant by the Federal Government of authority to construct a dam in a navigable river, not for purposes of navigation, but really for the creation of a water power, is merely a license or permit, the effect of which is that if the dam is constructed and operated conformable to plans approved by the Government, it will not be deemed an obstruction or impediment to navigation. And in such case the Government would be authorized to charge a nominal license fee for inspecting and passing upon the plans and for watching over the work to see that it conforms to the plans and is properly maintained; but the regulative power of the Government would not extend to the use of the water for other purposes than navigation and interstate commerce. In such a case it seems to us that the Federal Government has no water power to sell or charge compensation for, for it is only authorized by the Constitution to regulate interstate and foreign commerce, which in this case means navigation.

Further on, Mr. President, I quote from a speech of the distinguished Senator from Idaho [Mr. BORAH], to be found on page 19 of the report I hold in my hand. I shall quote only briefly:

The water and the streams of the States belong to and are subject to the control of the States and are not subject to the control of the National Government except in so far as it is necessary to control them in the regulation of commerce.

And again he observes:

The National Government can not, under the guise of regulating commerce, effect objects and purposes not authorized by the Constitution of the United States. Justice Marshall said:

"Should Congress, under the pretext of executing its powers, pass laws for the accomplishment of objects not intrusted to the Government, it would become the painful duty of this tribunal, should a case requiring such a decision come before it, to say that such an act was not the law of the land."

The Senator from New York [Mr. O'GORMAN] says further in his report:

Federal expenditures must be reimbursed exclusively through taxation. The function of taxation is to secure sufficient money to perform the delegated governmental functions. This power was limited by section 8, Article I, as follows:

"The Congress shall have the power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States."

Mr. President, we are opposed to the provisions of this bill because the tax sought to be levied would ultimately fall on the consumer. If water-power companies are required to pay a corporation tax, and they all are—if they are subject to the taxing laws of the State, and the Secretary of War is authorized by the provisions of this bill to add an additional tax or charge at his discretion—all this added burden must necessarily be met by the consumer of power.

It would be a gross discrimination, Mr. President, against other enterprises and power companies. There are many miles

of transmission lines conveying power from dams constructed upon nonnavigable streams in various sections of the country. To authorize the levy of a tax upon water power on a navigable river that must come in competition with power generated on nonnavigable rivers would be an unjust and an unequal tax, and ought not to be imposed.

The chief objection to my mind included in the provision which the majority of the committee are endeavoring to eliminate is that it would usurp the authority of the State, and would, in a large measure, take from the State the power it now exercises and controls over corporations and in fact all public-utility companies. If for no other reason, that should be sufficient to satisfy the mind of an ordinary man that this invasion of the right of the State to control its internal affairs should not be permitted.

There can be no question, Mr. President, that the passage of this bill in its original form would bring on conflicts between the States and the Federal Government, the result of which no one can tell. It would to a degree create a twilight zone that can not be navigated, if you will permit the expression, without coming in contact with the breakers that always present themselves on doubtful questions of this character.

Let us see how jealous the governors of certain States in this country are on this particular question.

It will be remembered a few days ago the Interstate and Foreign Commerce Committee of the House was considering a proposition which gave to the Federal Government control over certain surplus water in a navigable stream in the State of New York. The governor of that State, once a Member of the House and chairman of the Foreign Affairs Committee, when his attention was called to it, sent a telegram, copy of which I am about to read, to the chairman of the committee in charge of the bill.

I protest against the principle of this bill, asserting ownership on behalf of this State to the water power covered by the bill, and ask that the State be not only permitted to fix the rates by the public-service commission but also be permitted to control the development and distribution of power, subject to Federal control only for purposes of navigation, and urge the committee to give New York State a hearing on the bill.

Mr. BURTON. Will the Senator yield for a question?

The PRESIDING OFFICER (Mr. DIXON in the chair). Does the Senator from Alabama yield to the Senator from Ohio?

Mr. BANKHEAD. Certainly.

Mr. BURTON. Is it not true that the Committee on Foreign Affairs of the House unanimously reported that bill?

Mr. BANKHEAD. I am not so sure about that. Perhaps it did. I am not talking about the committee; I am talking about the views of the governor of the great State of New York.

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from New York?

Mr. BANKHEAD. Certainly.

Mr. O'GORMAN. So that there may be no confusion in the mind of the Senate respecting the matter referred to by the Senator from Ohio, it should be stated that before the Committee on Foreign Affairs in the House there was not only involved the question as to the power of the Federal Government under the commerce clause, but also the power residing in the Federal Government under the provision of the Constitution permitting the Federal Government to make treaties, that a treaty had been made between the United States and Great Britain respecting the boundary waters between the State of New York and Canada. Everyone conceded, even those asserting the very proper views now urged by the Senator from Alabama, that the rights of the State of New York in the waters of the Niagara River were subject not only to the commerce provision of the Constitution, which allows the Government to intrude only for the purpose of navigation, but that the rights of the State were also subject to the terms of any treaty made between the United States and Great Britain respecting the quantity of water which might be taken out of the Niagara River. But it was asserted, and, if I mistake not, by a majority of the committee, that the right of the State of New York to the waters of the Niagara River on its northern boundary were supreme and exclusive with the exception of the two features to which I have called the attention of the Senate.

Mr. BANKHEAD. I am very much obliged to the Senator from New York.

Again, Mr. President, I desire to quote from a former distinguished Member of this body and at one time governor of the State of Connecticut where this dam is proposed to be built. I refer to ex-Senator Bulkeley. Here is what he said when his attention was called to the provisions of this bill:

What I am opposed to is the sudden claim of the Federal Government that it has anything to say about the Connecticut or any other inland river other than concerns navigation. The Connecticut River, or so much of it as lies within the State, is solely the concern of the State government and not the Federal Government, so far as this improvement is involved. The Federal Government is presenting a brand-new claim after 300 years.

Now, then, in conclusion on this phase of the question, I want to add this: The Senate will find every State in the Union asserting its right to its natural resources in its rivers as the property of the State and its riparian owners, and these contentions on the part of each State will be confined to no particular portion of the country, but will come from the West, the North, the East, and the South whenever the confiscation of the natural resources of any State is attempted, as is attempted now under this bill in the State of Connecticut.

If these so-called new principles are persisted in and Congress ever adopts them, there will be but one conclusion to these conflicts and one settlement of them, and that will be another repeated decision of the Supreme Court deciding that the States own and control their navigable and nonnavigable rivers and that Congress can never by any sort of constitutional legislation in any way control or regulate these natural resources owned by the States.

Mr. President, I believe I have said about all I care to say on this subject. I would not in this discussion refer at all to the so-called Coosa River Dam bill if it were not for the assertions and the direct declarations made in a paper which I hold in my hand. It is headed "For immediate release. Progressive Headquarters, Washington, D. C., February 9, 1913." I will ask the Secretary to read it, because I want it to go into the RECORD.

The PRESIDENT pro tempore. The Secretary will read as requested, without objection.

The Secretary read as follows:

PROGRESSIVE HEADQUARTERS,
Washington, D. C., February 9, 1913.

Information has reached the legislative reference committee of the Progressive Party that certain interests in Congress are scheming to revive the Coosa River Dam bill and pass it over the President's veto. The committee issues the following statement on the general considerations which should govern the disposition of water powers, and contrasting the Coosa River bill with the Connecticut River bill, which is to be voted on by the Senate on February 11:

Efforts are now being made in Congress to revive the indefensible policy of giving away public water powers of enormous and increasing commercial value without safeguards against extortion and without reserving to the people any share in the profits arising from their use. These efforts to betray the public interest are focused in the Coosa River Dam bill, which grants valuable public property to a foreign corporation for nothing and leaves the consumer without appeal to the Government which grants the rights. The issues raised by this bill are of vital and immediate significance. Already over 30,000,000 tons of coal are annually saved by water power, and of present undeveloped water powers the Coosa is one of the most important.

The legislative reference committee of the Progressive Party emphatically condemns the effort to pass the Coosa River Dam bill over the President's veto and asserts that the disposition of public water powers should be controlled by the following principles:

1. Water power belongs to the people. The sites where it is produced should never be permitted to pass out of their hands, for only in this way can effective control be secured.

2. The public has the right to complete information about every business based on the use of public property.

3. Where public development is not desirable the right to use water-power sites should be leased for periods long enough to permit sound and profitable investment, but no longer. At the expiration of each lease all rights should return to the people who gave them.

4. Corporations or individuals who make money out of rights granted by the people should share their profits with the people.

5. The right to regulate the rates and conditions of service of corporations acting under Federal grants should be exercised by the State or local authorities or by national authority when local authorities fail to protect the consumer against extortion.

In contrast with the Coosa River Dam bill, which represents a wrong principle, is the Connecticut River bill, which will be voted upon on February 11. The Connecticut River bill recognizes the right of the Government to control the use of its property by requiring publicity of accounts, participation by the people in profits produced from public property, and reasonable safeguards against the watering of stock. For these reasons the legislative reference committee of the Progressive Party warmly indorses the principle of the Connecticut River bill.

WILLIAM DRAPER LEWIS, *Chairman,*
GIFFORD PINCHOT,
JANE ADDAMS,
JAMES R. GARFIELD,
FRANCIS J. HENEY,
CHARLES E. MERRIAM,
HERBERT KNOX SMITH,
BEN B. LINDSEY,
WALTER E. WEYL,
HENRY F. COCHEMS,
Legislative Reference Committee of the Progressive Party.

Mr. BANKHEAD. Mr. President, I have asked the Secretary to read that document in order that the Senate might inquire, if it chooses to do so, who this self-constituted committee on progressive legislation is and what their purposes and objects are. I had it read for another reason. This legislative committee of the Progressive Party are undertaking to poke their noses into everything; they are undertaking to make false impressions upon everybody, and everybody knows who a portion of that committee is. One of them I have the honor to know personally, and only one. He acquired fame as a member of a kitchen cabinet that is now bygone. He played tennis in the back yard of the White House, and that is all I know of his doing that could be construed as a public service. I know not why he should come into this controversy. That document is intended for the Associated Press, to be released this morning, and I suppose it has gone to the country. I hope so. It is marked for "immediate release," but a copy fell into my hands and I thought I would obey the instructions and release it by having it read to the Senate.

The reference in this article made by this legislative committee to the Coosa River Dam bill is unwarranted and untruthful, so far as the statement is concerned.

I have said, Mr. President, that I will have no objection to the passage of this Connecticut River bill if the amendment proposed by the majority of the committee shall be adopted. The bill is in substantial conformity to the general dam act. There may be some details that are unnecessary, but they are there and I have no objection to them.

The truth of the business is—and it may as well be stated to the Senate—that these Connecticut River Dam people who came down here to get this permit were taken by the throat, so to speak, and told, "If you do not consent to the provisions that I prescribe, if you do not agree to my policy with reference to this matter, you can have no legislation at all and your bill will be vetoed." Under those circumstances and with that pressure these gentlemen consented, no doubt, that these provisions might be written into the bill. They could perhaps afford to do it. Where this dam is located there is the greatest market, probably, for electrical current in the United States; they can no doubt sell at a profit every horsepower produced. I hope they can; but I want to say to the Senate that if this provision which we are endeavoring to strike out of this bill had been incorporated in the Coosa River bill or in any other bill I should be just as much opposed to it as I am to its insertion in this bill. I am opposed to it on principle, not as a matter of policy.

What has been the effect of the veto by the President of the Coosa River Dam bill? What has been the result? Arrangements had been made and a contract entered into for the construction of a nitrogen plant to take nitrogen from the air by a process recently discovered. It must be remembered that nitrogen is an essential component of high-grade fertilizers; we can not make cotton and corn without it; and I want to admonish Senators from the grain States that the time is very near when they, too, must fertilize their land if they want to keep the production up to the consumption in this country. There was one of the greatest opportunities for conservation of resources ever presented to Congress by means of the construction of a dam and the erection of a nitrogen plant. They would have made the fertilizer, instead of our importing it from Chile, where there is an export duty of $11.16 a ton before it can enter the United States.

What happened? The promoters were compelled to transfer their activities to another country; they were compelled to go to Canada, across the line, near Niagara, where cheap power could be had, and there to-day they are building their plant, which ought to have been constructed in Alabama or in some other State where cheap power could be obtained. That is the result.

Talk about conservation of resources! Such a plant would have saved millions and millions of tons of coal that must necessarily be consumed in the production of power in the absence of this water-power product; millions and millions of cords of wood, thereby conserving our timber resources. That is one result.

We would have conserved all these natural resources—coal, wood, the forests, the land, and the water. As it is now, we are burning our coal by the ton, burning our wood by the cord, importing our fertilizers from Chile, and our water running idly and wastefully to the sea. Is that conservation? That is the kind of conservation that this self-constituted legislative committee would have us enact; that is the kind of conservation they are telling the people of this country must be adopted if our resources are to be conserved.

Mr. President, does conservation mean reservation? Does conservation mean that the natural resources of this country, all of which belong to the people, are to be denied them, are to be tied up indefinitely? Are we to be told, and is this Congress to enact a law that confirms the explanation, or the conclusion of these conservationists, that the way to conserve is to reserve and to prevent the development of the resources of this country? How long are they to be tied up? The Coosa River and the Connecticut River are the oldest rivers in the world, perhaps. These resources, these magnificent water powers, have been running idly for years and years to the sea, worth nothing to anybody. Past generations have neglected their opportunities, but the present generation is endeavoring to utilize them, and yet these gentlemen come to Congress and say, "another hundred years must pass before you can intelligently go to work to develop the natural resources of the country." That is what it all means.

Now, Mr. President, I want to call the attention of the Senate, since I have been compelled to notice the allusions made to the Coosa River, to this item. I remarked a while ago that our nitrates were all imported from Chile; that that country imposed an export tax of $11.16 per ton on them; and that 62 per cent of the entire revenues of that country are derived from its export of this product alone. So important do they regard it, so valuable an asset do they esteem it, that here is what has happened:

[From the Paris edition Daily Mail, Dec. 28, 1912.]

£500,000 PRIZE.

SANTIAGO DE CHILE, *Friday.*

Senator Bulnes has introduced a bill into the Chilean Senate offering a prize of £500,000 to the inventor of a process which will completely extract the nitrates contained in the raw substance called caliche. (Reuter.)

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Caliche was the name given to Chile saltpeter, which occurs as natural deposits in Chile, and which contains from 50 to 75 per cent of sodium nitrate. The nitrates obtained from caliche are used as an artificial manure. The industry is of great importance to Chile.

That little Government, proposing to offer a reward to the inventor who will discover a means by which these nitrates can be completely extracted, put into a marketable form, and sold to those all over the world who from necessity must use it, is willing to pay the enormous sum of $2,500,000 to somebody who will invent a process by which these ingredients can be extracted and made marketable; and here we are, Mr. President, in this great country, surrounded everywhere by this valuable product—nitrogen. It is in the air everywhere; it can not be exhausted; it can only be extracted by means of cheap power—power so cheap that coal and wood can not produce it successfully, power that can only be obtained by the utilization of our water power—and we are told that we can not avail ourselves of this rich asset, that we can not control our own water power, that we can not build dams and locks, provide for navigation, and turn them over to the Government without cost, navigation having been amply provided for, and use the balance of the water, if there is a surplus, introducing this essential article of commerce that must be had if our farms are to be kept up to that state of production where home consumption can be supplied. What kind of conservation do you call it? I have no name for it that I would venture in this presence, Mr. President.

How long are we going to be misled, how long are we going to be deceived, how long are we to have our prejudices played upon by these self-constituted legislative committees, simply thrusting their views upon an innocent public, who have never thought it necessary, perhaps, to give them a serious consideration?

Mr. President, I am now going to yield the floor to the Senator from Colorado [Mr. THOMAS]. I have said all I care to say on this subject. Others could have said it better, no doubt; but I have endeavored as best I could to present the views of the majority on this important question. I believe, and I think they believe, that the general dam law as it has been worked out and as it is now in operation is entirely sufficient to protect the interests of the Government and to promote the interests of private owners of water power, the State, and the riparian owner, and upon that we are willing to stand.

At the proper time, Mr. President, I shall ask the Senate to vote upon the amendment which I have had read at the desk.

Mr. WORKS. Mr. President, I desire to submit some remarks upon the pending bill; but as the Senator from Colorado [Mr. THOMAS] desires to address the Senate, I shall withhold them until he can be heard.

Mr. GALLINGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JONES in the chair). The Senator from New Hampshire suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hitchcock	Percy	Swanson
Bankhead	Johnson, Me.	Perkins	Thomas
Brady	Johnston, Ala.	Poindexter	Thornton
Brandegee	Jones	Richardson	Tillman
Bristow	Kavanaugh	Root	Townsend
Bryan	Kenyon	Sheppard	Warren
Burton	McCumber	Simmons	Webb
Catron	McLean	Smith, Ariz.	Wetmore
Chamberlain	Martine, N. J.	Smith, Ga.	Williams
Culberson	Nelson	Smith, Md.	Works
Dillingham	O'Gorman	Stephenson	
Gallinger	Oliver	Stone	
Gamble	Page	Sutherland	

Mr. WEBB. I desire to announce that my colleague, the senior Senator from Tennessee [Mr. LEA], is necessarily absent from the Senate.

The PRESIDING OFFICER. Forty-nine Senators have answered to their names. A quorum of the Senate is present.

Mr. THOMAS. Mr. President, if the pending bill concerned only the Connecticut River Co. I would not actively oppose its passage. I might not approve of the principle involved, but I would not actively oppose it. If it were a measure so far local in its consequences as to involve the interests only of the two States which are divided by the Connecticut River and of the other two which are traversed by it, I might not feel warranted in making any active opposition to it.

The State which I have the honor in part to represent here touches Connecticut only when the roll of the States is called. Geographically it is far distant from Connecticut, located in a different section of the Union, and possessing a climate and soil which demand a different domestic policy and a different code of laws. Nevertheless, this bill, as I am compelled to view it, involves an exercise of Federal power which will be invoked in support of other, although perhaps unrelated, legislation applicable to the national domain and to the waters of the natural streams within the State of Colorado.

The Senator from Ohio [Mr. BURTON] is therefore in the main correct in saying that there would be no objection to this bill in the Senate except for the opinion of certain Senators that it creates a precedent which might be embarrassing to them. My objections, however, go beyond the suggestion of the Senator from Ohio; they involve the question of the authority of the Government of the United States, acting through Congress, to grant such a privilege as this measure embodies. Indeed, they are fundamental in character, or, perhaps I should say, they are both fundamental and practical, for they affect both the merits of the bill and the jurisdiction of Congress over its subject matter.

It was said by the Senator from Ohio on last Wednesday that the agitation for this improvement—that is, the improvement of navigation in the Connecticut River—assumed active form about 1898, which would be some 15 years ago, but that Congress has refused to make the necessary appropriation for the improvement of the river. I assume, therefore, that the aspect of that agitation was public rather than private, or semi-private, in its nature, and took definite form in an effort to secure an appropriation of funds for the purpose of conducting the work of improving the Connecticut River by the Government directly and under its undoubted authority to control and improve its navigation.

I also assume that if the public demand for this improvement were so insistent, and began so long ago, its urgent and important nature and the exigencies of navigation would long since have resulted in the appropriation of sufficient money for the purpose of perfecting the end desired. I assume this for the reason, chiefly, that the four States which either border upon or are traversed by this river have been at all times well and ably represented in both Houses of the National Legislature. Their Representatives have been at all times fully alive to the interests of their respective constituencies, and anxious for the development of the resources of their several States by perfecting as a commercial highway the navigability of the Connecticut River. It would seem, however, that this urgent situation has not until now crystallized into a definite effort to obtain some sort of legislation by Congress upon the subject. It has now assumed definite form, and the bill under consideration is designed to effectuate the purpose through the medium of the Connecticut River Co.

Yet river and harbor bills for many years have contained items of appropriation covering improvements, some actual and necessary, others not so necessary, and the need for which was perhaps more imaginary than actual, involving enormous amounts of money, frequently arousing a large degree of public disapprobation largely justified by these conditions. If there had been crying demand for this improvement in one of the great rivers of the country traversing a thickly populated region devoted to active manufacturing industry, who doubts that ample provision would have been made for it through the active effort of New England Senators and Representatives?

I assume, therefore, that the proposed improvement, instead of being desired by the people or essential to the improvement of the navigability of the stream for purposes of trade and commerce, is primarily designed to create a water power for the benefit of the grantee in the bill, and that this measure is prompted by the necessity, if this concern would enlarge its business, of making the best possible sort of an agreement with the Government of the United States through a bill of this kind that will enable it to extend and enlarge its equipment so as to meet the demands for power of the present or at least of the future.

It was stated by the Senator from Ohio that the commerce of the river for the year 1912, if I remember correctly, was represented by a traffic of 683,000 tons of the value of $23,000,000, which could be largely increased by the improvements contemplated in this measure; that it would also extend the benefits of river navigation, and I presume therefore, by way of implication, the benefits of competition arising from this extension, to a number of thickly-settled communities lying above the point of obstruction in the stream. The Senator also referred to a line of boats for passengers plying between Hartford and New York whose business would be favorably affected by the improvement.

But this want was doubtless as insistent, relatively at least, between 1898 and the present time as it is to-day. Yet for some reason, not up to this time disclosed, the Government of the United States has not, in its governmental capacity, seen fit or has not been urged to make the improvement on its own account. This is a subject of proper comment, in view of the sudden urgency which the situation has assumed and which may be due to other motives than that of river navigation.

It might be pertinent, therefore, to inquire what particular agency, if any, transacted this business upon the river and transported so many passengers and so many tons of merchandise upon its waters. We know, the whole country knows, that the transportation business of the New England States is under the control and domination of a single great company, which has extended its powers and dominion over the great domain of transportation so completely that there no longer exists such a thing as opposition to the monopoly which it enjoys. Has this company had something to do with the retardation of the improvement of this river? Its monopoly in transportation justifies the inquiry as to the good faith of the insistence that the purpose of the bill is to improve the navigation of the river; that it is urgently demanded by the people; and the further inquiry whether, if so improved, the improvement will benefit, if it benefits anyone, any other than the New York, New Haven & Hartford Railroad Co. This suggests the further query whether the benefit to that corporation will consist of the added miles of navigation to the stream or the added capacity of the Connecticut River to generate electric current for its use.

The Connecticut River Co. was chartered by the State of Connecticut in 1824, nearly 100 years ago, "for the purpose of improving the boat navigation of the Connecticut River." If we may judge by what has been said about it, the company was not incorporated for any other purpose. Its original grant of powers may have been sufficiently great to embrace other subjects and other operations; but in the absence of further information we must assume that its original and perhaps its only purpose was the improvement of boat navigation upon the Connecticut River. Its charter may have since been amended.

But recently another power company has competed with it for what the Senator from Ohio has called the "franchise" involved in the body of this bill; and being at odds, nothing was attempted here until they either united their forces or the other quit the field. "Being at odds," says the Senator from Ohio, "it was useless to grant a franchise to either."

This expression of the Senator conveys to my mind the notion that the primary, the real, purpose of this bill is to grant a franchise—which, of course, is a privilege, the value depending very largely upon the subject matter—to a private corporation organized under the laws of the State of Connecticut under the guise of improving navigation. The notion that it is a franchise is also borne out by the recital on page 6, line 6, of the bill itself, which refers to—

> The value of the authority hereby granted.

We have a right to assume, I think, that up to this time the franchises of this company, whatever they may have been, were conferred upon it by State and not by Federal legislation or action. It was said that it has had authority to and has been generating electric current for some time since 1909, and this, of course, must have been by State authority to manufacture and market it.

This leads up to the proposition that the bill in its simplest terms relates to a power scheme already established, and seeks through the agency of Federal authority to extend itself by the increase of its water power. In other words, the main purpose of the bill is to increase the energy of the stream for private purposes through the operation of the power of the Government to regulate commerce among the States.

The ostensible purpose of the bill, and of kindred measures, is to prevent monopoly. The Senator from Ohio so said, and he certainly believes that such will be the effect of the bill. It is no possible reflection upon his good faith and integrity of

purpose to assert that instead of preventing, this bill will promote or continue a tendency to monopoly in water power that has been in operation in this country for a long time.

I take it that the Senator's support of this bill is entirely due to his belief that it will tend to prevent a monopoly in water power by the exercise of a sort of governmental control, to some extent at least, over the property and the power and the methods of the company.

The Senator said:

> Mr. President and Senators, I maintain that a condition of that kind is absolutely necessary to prevent monopoly in this very valuable asset of the Nation. Already there has been a very considerable degree of consolidation. The head of the Bureau of Corporations made a report some time since, in which he showed this tendency to concentration in the hands of a limited number of corporations, and that under this tendency a very large share of the water power of the country was falling under the control of certain corporations which have been alert and active in seeking to gain for themselves this very valuable privilege.

In this connection let me refer to this statement of the Senator a little later on:

> Those who are seeking it—
>
> That is, this privilege—
>
> are willing, and indeed anxious, to accept on the terms proposed.

This therefore is the situation: The Government upon one hand, under the provisions of this bill, proposes to limit, if not to prevent, the creation of a monopoly in water power, while the company which is to be benefited and also to be injuriously affected by this measure, so far as it corrects any tendency to combination, is not only willing but anxious to accept the grant upon the terms proposed.

These considerations bring me to my first objection to the bill, Mr. President, which is that the bill instead of preventing serves to enhance a monopoly now existing. Therefore in my judgment it can not carry out the purposes for which it seems, at least in part, to have been designed.

I assert that there is a monopoly of water power in this country already, as shown by the report of the Bureau of Corporations, to which the Senator referred. It is of far-reaching dimensions. It is in the control of a few hands. It is enormously overcapitalized. It is imposing prices for power out of all proportion to the capital actually invested in it. I am making at present no particular comment upon this condition. I am merely stating a well-known fact—a fact to which we can not shut our eyes; a fact that is becoming more and more prominent as time passes. Whether it is caused by the natural laws of commercial evolution, by conspiracy in restraint of trade, by lack of State control, or as a result of the indifference or imbecility or corruption of the governing powers, or by all these causes combined, is not material here. It is not only a menace of the future, but it is a condition of the present.

Its correction must come, if at all, from other sources than legislation of the kind here proposed.

I may say in passing that my own view of the subject is that the generation and use of electric current constitutes a natural monopoly in which there can be no real permanent competition; and as a consequence the business should be subject not only to governmental control but to governmental operation, if not governmental ownership, if that should prove essential to its control. The important bearing of the existence of this condition upon the measure now under consideration is that much of this monopoly's most valuable assets have been acquired through the enactment by Congress of measures like this. That value, in so far as congressional action is concerned, consists not alone in the intrinsic worth of the water power secured, but in its probable exemption from State taxation, State regulation, and State control, because it is stamped with the impress of Federal ownership.

In defending the proposition that Congress may, as an incident to the control of navigation, confer upon a private corporation a franchise like this, the Senator from Ohio referred to preceding legislation of a similar character, and cited a list, appearing in the CONGRESSIONAL RECORD on pages 2802 and 2803, of acts heretofore passed by the Congress of the United States relating to the same subject—that is to say, to the "grant," if I may so term it, by Congress to private corporations of rights in water power.

These several acts of Congress begin with one dated the 11th day of August, 1888, and end with one bearing date the 2d day of March, 1907. A significant circumstance attaching to this list is that the exercise of this power to grant franchises in water power is of recent exercise, and, therefore, I may say, of recent origin. Another significant circumstance connected with it, Mr. President, is that these grants began coincidently with the rise in the commercial world of electric power as an agency of commerce and of industry.

It would seem as though, contemporaneously with the realization of the enormous value of electric current in the commercial world as an agency of business and of industry and of civilization in all its various phases, the eyes of business foresight and sagacity were turned upon Congress, or upon the Federal power as a possible agency through the medium of which these enormously valuable concessions could be obtained, and, being obtained from Federal authority, might be the more valuable by reason of their possible exemption in consequence from State or local control.

The exercise of an authority that is born with the sudden origin of a demand by means of which a new departure is made in exercising, or at least a novel construction is placed upon a power already ample, in its manifold development throughout the history of the country, shows to my mind that instead of being the exercise primarily of a control over navigation, it is a pretended exercise of that power for the real purpose of producing some other result and reaching some other end. This bill, for example, instead of being designed to benefit navigation, is designed, through the power of Congress, to so exercise that authority as to create and confer valuable rights and franchises upon certain industrial activities of the country. Thus a sovereign attribute of the Federal Government seems to have been transformed, or is being transformed, into a commercial asset for the benefit of great private interests.

We have heard a good deal during the past few years about "dollar diplomacy." Whether founded upon a proper basis or not, it is the popular impression, which I think well justified, that the diplomatic powers and agencies of the Government of the United States have in recent years been diverted into currents of commercialism, and that in our negotiations with and our relations to other countries the opening up of new and attractive avenues for investment by capital upon a large scale has been the dominating thought and the dominating motive of our diplomatic policies. "Dollar diplomacy" has, therefore, become a popular expression, defining conditions which, in my judgment, largely justify its use. Our activities in this direction have become so insistent in recent times that occasions have arisen making it necessary to reenforce them with the presence of battleships in the Caribbean and the establishment of receiverships in Santo Domingo.

We are now supplementing "dollar diplomacy" through the enactment of measures like this, and creating, through their agency, what may be termed a "dollar sovereignty," which goes hand in hand with our "dollar diplomacy." They are the Gold Dust Twins of our new nationalism, born of the alliance between high finance and the national authority. If it be true that through this species of legislation we are virtually creating private interests through the guise of exercising a sovereign power for a great public purpose, then it is equally true that the fact should appear, and should appear as its most prominent feature, to the end that its true nature and character may be fully understood and estimated by the people of this country.

So far as the legislation of Congress is concerned, although I may be mistaken, nevertheless I think I am safe in asserting that prior to the time when, through the development and discoveries of science, electric energy became the great moving force in our industrial civilization, it never occurred to any legislator or to any lawyer, constitutional or otherwise, that the power to control navigation under the commerce clause of the Constitution could be made an agency for the creation of property belonging to the Government as its creator, which in turn could be made the subject of a grant for the benefit of private parties.

The Green Bay cases, to which frequent reference has been recently made, are cases which I have read with much care since the beginning of this argument. In my judgment the opinions therein are entirely susceptible of the construction which was placed upon them by the Senator from Ohio, and they support as well the construction which is insisted upon by the Senator from New York. But they grew out of and were based upon an act of Congress of 1846, whereby certain lands were conveyed to the State of Wisconsin, the proceeds of which were to be utilized for the improvement of navigation in the Fox and Wisconsin Rivers. The State for some reason found itself unable to perform the trust imposed upon it by this act of Congress, and therefore contracted with a private corporation to make the desired improvement. That company was also unable to carry out the object of its creation, in consequence of which all its rights, whatever they were, fell into the hands of the Green Bay Co. through processes of law. That company, falling also into financial straits, conveyed or granted to the Government of the United States all of its property and improvements in the rivers, with the exception of the power or the right to use the force generated by the stream, together with

its power plant. In other words, it reserved its riparian rights from the operation of the grant.

Hence the real question here involved—although it seems to have been discussed and to some degree decided by the Supreme Court of the United States in these cases—was evidently injected into the record without reference at all to the commerce clause of the Constitution or to the powers of Congress thereunder. If the right of the Government to acquire property, and to grant a franchise in waters of a flowing stream navigable in character under the commerce clause had been directly presented in those cases, I think it is safe to say that a different or more modified conclusion would have been reached by the court.

I am not aware of any other cases in which it is claimed that the direct point has been involved or was judicially disposed of, and inasmuch as there is such a wide discrepancy of opinion between good lawyers in this body as to the meaning and effect of these decisions it is pertinent at least to insist that the question is still an open one, in so far as the courts of the country are concerned.

Referring once more to the list of acts of Congress which are cited as precedents for the one now under consideration, and assuming that they also were designed or intended or believed by their advocates to have been intended to prevent a monopoly in water power, it is somewhat remarkable to find that, with one exception, none of them place any restrictions whatever, in so far as a tax or toll may be said to be a restriction, upon the exercise of the powers therein conferred upon the grantee. True, they all invest the Secretary of War with almost unlimited authority in making leases to impose conditions which he may or may not exercise. They confer wide discretion, but they do not fix any restriction whatever upon the exercise of this authority, and none upon the enjoyment of the property right, unless the Secretary of War sees fit to impose them.

One of them, that relating to Lock No. 4, at Coosa, Ala., does provide that, beginning with 1925, 12 years from now and 14 years after its enactment, the grantee shall pay to the United States $1 per annum per horsepower, with an increase if the normal flowage is increased by storage reservoirs.

I am entirely at a loss, Mr. President, to comprehend how the mere investiture of an administrative officer with a discretionary power of control over the operation of a franchise granted to a corporation can amount in any degree to a restriction or limitation upon the power and authority of the grantee of that franchise, except in so far as some particular feature may call into active exercise the authority of that officer. This certainly appears to me to be a most inefficient method either of preventing a combination of the several grantees among themselves or with others or in any manner affecting their relations to the public or to the private consumer.

This brings me to a short consideration of the bill under discussion. I contend that there is nothing in any of its recitals which in the slightest degree restricts or limits the powers or the rights of the grantee in the bill, except in so far as the discretion of the Secretary of War may be said to be such a restriction. Instead of preventing, therefore, I insist that it actually promotes the possibility of a combination by clothing the grantee of the franchise with full power and authority to act as its interests or inclinations may afterwards prompt it to do, subject only to those easy limitations which may readily be complied with or avoided. Let us see what the alleged controlling and restricting provisions are:

And provided further, That the rights and privileges hereby granted may be assigned with the written authorization of the Secretary of War, or in pursuance of the decree of a court of competent jurisdiction, but not otherwise.

"The rights and privileges hereby granted" may be assigned either by "the written authorization of the Secretary of War, or in pursuance of the decree of a court of competent jurisdiction." Either of these may be easily obtained whenever the conditions calling for the exercise of the power are favorable to or desired by the company.

Now, we know from our experiences at the bar that judgments of this sort, especially when they are sought by both parties to the transaction, or where there is no opposition to the application, are perfectly easy of obtainment. There be courts and courts.

This right of assignment by judgment is limited, Mr. President, to the action of no particular court. Any "court of competent jurisdiction" may grant the right. How then can it be said that if there arises an exigency or an occasion for assignment which appeals to the interests of the company and those who control it, the authority to sell and dispose of the franchise can not be easily obtained?

I do not, in speaking thus, reflect upon the courts; at least I do not intend to do so. I merely state what seems to me to be an apparent truth, that the condition or limitation imposed upon assignment by this measure is practically no condition or limitation at all, but that when the exigency or the occasion arises, an appeal to the Secretary of War or to the courts will be followed beyond a doubt by granting the required permission.

There is and can be nothing in this measure which in any manner interferes or which can interfere with or be a limitation upon the transfer of a controlling interest in this concern by an assignment of its shares of stock to any other corporation or any other individual or individuals.

There are many ways of creating a combination, of which perhaps a holding company is the most familiar and most popular at the present time. By the simple assignment of a majority of the shares of its stock to any concern desirous of securing them, the holding company or some other, there is just as complete an assignment, and therefore as much monopoly followed by as great a degree of benefit or injury to the patrons or consumers of this concern as though there had been an assignment of the franchise itself under a decree of court or by the written authorization of the Secretary of War.

Instead, therefore, of placing a limitation upon the power to create monopoly, the bill merely provides one method whereby it may be accomplished, leaving all others open to the company to avail itself of them if it should care to do so.

Another provision in the bill which is said to "prevent monopoly" is:

That the Secretary of War, as a part of the conditions and stipulations referred to in said act, may, in his discretion, impose a reasonable annual charge or return, to be paid by the said corporation or its assigns to the United States, the proceeds thereof to be used for the development of navigation on the Connecticut River and the waters connected therewith.

It can not be pretended that this proviso imposes upon the Secretary of War a duty to impose a reasonable or any annual charge upon the corporation. It simply invests him with the power to impose such a charge or not, as he may see fit. It delegates to him, in other words, a quasi judicial power, an authority entirely permissive in its character to do what he pleases, and which he may exercise or decline to exercise as the appeals of the company or as his own information or inclination, or both, may ultimately determine.

There is this limitation, however, that—

In fixing such charge, if any, the Secretary of War shall take into consideration the existing rights and property of said corporation and the amounts spent and required to be spent by it in improving the navigation of said river, and no charge shall be imposed which shall be such as to deprive the said corporation of a reasonable return on the fair value of such dam and appurtenant works and property, allowing for the cost of construction, maintenance and renewal, and for depreciation charges.

To my mind that means nothing whatever. It simply provides that before the Secretary of War can fix any charge at all upon the operation of the company's affairs he must take into consideration these various expenditures, and having taken them into consideration they may be so large in their amount, when contrasted with the volume of the company's business, as to discourage him from imposing any charge at all.

Now, apart from the unwisdom, in my judgment, of investing a single administrative officer with this large discretion, apart from the dangers which, I think, are involved in the attempted exercise of such a power, when it is considered that once exercised it does not remain a fixed quantity, but may be withdrawn or changed or diminished or enlarged, it becomes a disturbing factor in the operations of the grantee's business. In effect the Government says to the Secretary:, "You may do what you please in the matter of imposing annual charges upon the company; you may regulate the amount which it shall pay into the Treasury of the United States from its earnings; you may decline to exercise the authority if you see fit; or, having exercised it, you may continue to do so from time to time by enlarging or diminishing or removing the charge as you shall deem proper."

This is a loose method of arranging for or providing restrictions against a danger the menace of which is urged as the prime reason for the enactment of an important measure.

Mr. SMITH of Arizona. Will it interrupt the Senator if I should ask him a question?

Mr. THOMAS. Not at all.

Mr. SMITH of Arizona. What protection does the mere supervision of the Federal power give to the ultimate consumers of this power?

Mr. THOMAS. None whatever.

Mr. SMITH of Arizona. It gives no power further than to tax.

Mr. THOMAS. That is a power which may or may not be exercised. It depends entirely upon the point of view of the

man who happens to be Secretary of War on any given occasion.

It is significant, also, that this is the feature of every act included in the list prepared by the Senator from Ohio, with a single exception, which does not take effect until 1925.

I may say to the Senator from Arizona that this provision does not give any protection to the consumer, because the charge imposed may be added to the amount which he must pay for power, and thus the burden of the Government charge is shifted from the corporation to the customer.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. JONES in the chair). Does the Senator from Colorado yield to the Senator from Idaho.

Mr. THOMAS. Certainly.

Mr. BORAH. The Senator from Colorado says that it may be shifted to the consumer. It would almost inevitably be shifted to the consumer, would it not?

Mr. THOMAS. I think so.

Mr. BORAH. Even if we were not fixing the rate, if some other tribunal was fixing the rate, and this burden was placed on this power, they would be able to shift it to the consumer.

Mr. THOMAS. I think it follows inevitably that such would be the method.

Mr. POINDEXTER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Washington?

Mr. THOMAS. Certainly.

Mr. POINDEXTER. I should like to ask the Senator from Idaho if that would not be true in case the State levied a tax on it to the same extent. A tax by the State or any charge applied by the State would be just as proper to be taken into consideration in estimating what charges for power would be reasonable as a tax or charge levied by the Federal Government. So the effect of the point made by the Senator and others who take that view is that there should not be levied any charge or any tax.

Mr. BORAH. Of course, if a tax was levied either by the State or by the Federal Government, in my judgment, the consumer would ultimately pay it. For that reason I believe in erecting a tribunal which will fix a tax for the protection of the consumer and not for the purpose of obtaining some money with which to build up a great department to dredge rivers.

Mr. THOMAS. Mr. President, I do not believe that because the National instead of the State authority imposes a burden by way of a tax upon the corporation it would make any difference in its effect upon the consumer. The natural tendency, perhaps the inevitable practice, is that all these extra charges are carried along and the consumer ultimately bears them. That is almost a self-evident consequence. It might not perhaps be an objection to the imposition of the tax, but I refer to the subject because it is urged here by the advocates of this bill as a protection to the consumer, as a protection to the public, and above all as a prevention of monopoly. Now, that it can operate in either of those directions seems to me to be impossible in view of these considerations.

Hence I come back to the proposition stated a few moments ago, that my fundamental objection to this bill is that its paramount object and the object of all kindred measures is not to improve navigation but to utilize the Government's sovereign power to control navigation merely as an agency in behalf of a private enterprise, to create a property to be claimed by the Government and by it donated to private parties, or conveyed to them under conditions which make it virtually a donation. I do not think the Government of the United States, even if it had the authority to do so, should go upon the streams of the country and under the pretense of improving navigation become virtually an agency of private concerns to invest them, first, with a property which the Government does not possess and then with a franchise which exempts them from State control.

The Constitution never designed the investiture of the Federal Government with this far-reaching power for any such purpose. In all the writings of commentators upon that great document nothing can be found, so far as my investigation goes, which lends countenance to the use of so great an attribute of sovereignty for so ignoble a purpose. It is the utilization of a sovereign attribute of the Federal Government in other words, for commercial purposes and private interests.

There can be no doubt in my mind, after an examination of these bills, and the Connecticut River bill is one of them, that the alleged improvement of the river is wholly secondary and subordinate to the creation of a physical condition in the stream which will add to the assets and the wealth of the Connecticut River Co., and that, too, by investing it with an asset which does not belong to the Government of the United States and over which it has and should have no control except in so far as is necessary and incidental to the purpose and for the power can be lawfully exerted.

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Connecticut?

Mr. THOMAS. Certainly.

Mr. BRANDEGEE. What is the asset which the Government of the United States confers upon the licensee in this case?

Mr. THOMAS. I am going to come to that very soon. I may say to the Senator from Connecticut, however, it is the energy created in the stream by the improvements made in it and which is to be used to generate an article of commerce.

Mr. BRANDEGEE. Mr. President, if the Senator will permit me to say a word——

Mr. THOMAS. Certainly.

Mr. BRANDEGEE. That is conferred by the franchise this company has held from the State of Connecticut since the year 1824.

Mr. THOMAS. That being the case, why is the company here ready and anxious to obtain this franchise, as it is called by the Senator from Ohio?

Mr. BRANDEGEE. The Senator from Ohio may have named it that, and the Senator from Colorado has been quick to seize upon that term, but I do not agree that it is a franchise. The consent of Congress is given for this company to relocate an existing dam practically in the same place where it has been in existence for 80 years. It is moved a short distance from its present site, where it gets a better location, and where a larger lock in the interest of navigation can be maintained than at the present point. When the company can not place any obstruction in a navigable river without the consent of Congress, and has come here to get it with such limitations as Congress may impose, how that can be properly described as conferring property in the waters of a stream within the State and conferring a valuable franchise I can not see.

The clause the Senator from Ohio quoted on page 6, where the words "value of the authority hereby granted" appear, is a clause which prevents acquiring any property by the issuing of this permit, because it occurs in connection with the scheme for the assessing of whatever property the company may have, if the Government does not renew the license after 50 years, and provides distinctly that "the value of the authority hereby granted" shall not be taken into consideration in estimating what shall be paid to the company.

Mr. THOMAS. Mr. President, I am unable to see that the Connecticut River Co. is ready to make this improvement because inspired by a philanthropic desire to improve navigation in the Connecticut River, nor that it is anxious to reconstruct its dam and, in addition thereto, to build a lock of great value and present it to the Government of the United States, unless it is going to get something valuable in return. I am not very particular as to what that thing which it gets may be called, for designations amount, after all, to comparatively little in a matter of this sort.

What we are concerned with is that this is a contract between the Government of the United States as party of the first part and the Connecticut River Co. as party of the second part, in which each undertakes to do certain things. The benefit, whatever it may be called, which is conferred upon the company is the result of the improvements which it is permitted to make and which is so valuable that the Senator from Ohio says these conditions are required in the bill to prevent the creation of a monopoly by its bestowal. That monopoly, if there is danger of the creation of one, must find for its basis the thing, whatever it is, which springs into existence as the result of the performance of this contract.

If the Government has nothing to convey, then certainly it can exercise no control or authority over this company in so far as its revenues are concerned. If the Government is not conferring an asset upon it, how can it tax the company upon the assumption that it has given it a right and power and property not enjoyed in common with others, from which others are excluded, and which depends for its existence upon the performance of the things required in the bill from the company?

When interrupted I was calling the attention of the Senate to the real purpose of the bill, and I was stating that to accomplish it we were proposing to utilize a sovereign authority of the Government for the benefit of the party of the second part to this contract. The Senator from Ohio before concluding his speech made a statement which, I think, supports my present contention. He said:

While I was connected with the Rivers and Harbors Committee of the other House I knew of cases where the building of locks and dams was advocated under the guise of improving navigation, when the real object, after the dam had been constructed, was to obtain water power.

That is the thing which is being accomplished here, the real object being to obtain a water power, not to improve the navigation of the river except in so far as that results as a consequence from the thing to be done, and except in so far as it is necessary, in order to secure the doing of the thing, to base and pivot it upon the assumption that the primary purpose of the measure is to improve navigation.

I have no doubt in the river and harbor bill which this body will soon be called upon to consider there will appear many items—which the Senator from Ohio will readily recognize when his attention is called to them—in which the object is not to improve navigation at all, but to obtain water power at public expense. These matters, Mr. President, are prompted and encouraged by the introduction and attempted passage of bills like this. The time will come, and perhaps it will come shortly, when the Government may throw off all pretense of improving navigation and devote itself to the enactment of these measures, utilizing the river and harbor bill chiefly for the creation of water power, not perhaps for the purpose of conferring it upon individuals or corporations, but to acquire what the protest which was read here a few moments ago by the Senator from Alabama calls public water powers, or water powers belonging to the public. Just what is meant by that expression I confess I do not fully understand, for I know of no such thing as a public water power in the sense that such a power belongs to the General Government or to the States, unless the one or the other has created it for some public purpose appurtenant to the particular government acquiring it.

These conditions, Mr. President, provoke raids upon the Treasury, and bill after bill will be introduced, and doubtless have been introduced, for the purpose that is sought to be, and will be, accomplished by this measure if it becomes a law.

Another objection I have to the measure is that the Federal Government, having no property interest in the subject matter of the grant, is without authority to enact the law.

Mr. McLEAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Connecticut?

Mr. THOMAS. I do.

Mr. McLEAN. Before the Senator passes to the other objection, I should like to ask if he would be willing to give us his opinion as to how he would circumvent this impending monopoly of water power? Do I understand him to say that he thinks such corporations should be under State ownership and State control?

Mr. THOMAS. My own belief as to this and kindred matters, Mr. President, is that no public utility whatever should be committed to the keeping of private individuals. I believe that this, being a natural monopoly, should be under the control, if not the ownership, of the respective States where the power plants are located. I will go further and say that if the States should prove to be unable to control the monopoly, and it should appear that the power of control can only be found in the Government of the United States, then measures should be taken, if necessary, by an amendment to the Constitution, whereby the American people in their sovereign capacity should take charge of and control them; and, if necessary to such control, ownership appears to be essential, then such ownership should follow on the general proposition that the welfare and the necessities of the public and of the individual should be the supreme consideration of the national authority.

Mr. McLEAN. Do I understand the Senator to say that he would include with the water power the public charge of all public utilities?

Mr. THOMAS. If necessary; yes.

Mr. McLEAN. By condemnation?

Mr. THOMAS. The Senator from Connecticut asks me for my opinion, and of course I can not express an opinion as to how, in my judgment, a particular public utility that is a natural monopoly can be controlled without extending that view to all similar conditions.

Mr. McLEAN. Whether it be a water power upon a navigable or a nonnavigable river?

Mr. THOMAS. Yes, sir.

Mr. McLEAN. And you would recommend as the only solution for this dilemma in which we are put by these impending monopolies a condemnation by the State if necessary?

Mr. THOMAS. Yes.

Mr. McLEAN. And State ownership and control?

Mr. THOMAS. Yes. The General Electric Co. and its various constituencies, according to the official record or report of the Bureau of Corporations, practically dominate the electric energy of the Nation.

Mr. POINDEXTER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Washington?

Mr. THOMAS. Certainly.

Mr. POINDEXTER. I should like to get the opinion of the Senator from Colorado as to whether or not a State or a number of States could effectively regulate such a monopoly as that where the power plant is located in one State and the power is conveyed into other States.

Mr. THOMAS. Absolutely. The mere fact that some part of the current created is utilized in another State does not in any wise affect the power of a State over the corporation owning the property and subject to its jurisdiction.

Mr. POINDEXTER. The levy of a tax by a State upon the sale of the power undoubtedly would be claimed by the company resisting it to be an attempt on the part of the State to regulate interstate commerce.

Mr. THOMAS. It is not necessary to accomplish the end by placing a tax upon the property.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Idaho?

Mr. THOMAS. Certainly.

Mr. BORAH. I was going to say to the Senator from Washington [Mr. POINDEXTER] that I have introduced an amendment to this bill providing that the Interstate Commerce Commission shall fix the price of all power transferred from one State to another.

Mr. POINDEXTER. I think that that is a good amendment. It is a principle for which we are contending.

Mr. BORAH. My idea was that we ought to begin to take into consideration after awhile the men who are going to consume this power—the people who are going to burn the electric lights and otherwise use electricity.

Mr. POINDEXTER. Yes; I think we ought to take them into consideration; but the trouble is that a great many of those who are seeking to get franchises or grants of this kind are unwilling to take the consumers into consideration or to have any such conditions attached to their bills as the one which was just now suggested by the Senator from Idaho [Mr. BORAH]. They ask for a grant and insist upon an unconditional grant.

Mr. THOMAS. Mr. President, at some other time I shall be more than willing to enter into a discussion or a statement of whatever views I may entertain as an individual upon the most interesting subject of regulating monopolies. I do not, however, conceive it to be entirely germane to the objections which I am attempting specifically to state against the measure now under consideration.

I said a few moments ago that another objection which I had to this measure was that the Federal Government, having no property interest in the subject matter of the grant, is without authority to make it. The subject matter, by whatever name it may be called, is a right to a supply of water power for the generation of electric current. What the subject matter is called is largely immaterial; the thing itself is the important consideration.

The Senator from Nevada [Mr. NEWLANDS] the other day said that there could be no property in running water; that it was as free as air; and he likened its condition in law to that of a flying bird, which, until reduced to physical possession, was the property of no man. Now, these abstract propositions we may concede, but if the Government is not as a subject matter conferring upon the company the right to generate electricity from water power to which it asserts ownership, then it is selling nothing at all.

The Senator from Nevada said that what were really the subjects of the grant were the structures placed in the river which made this increased current possible; but a moment's reflection, I think, will show the fallacy of that position, for the structures in the river are not placed there by the Government at all. They are constructed by the company which gives or presents the lock to the Government, retaining its title to the dam. It is the dam which creates the current, and not the locks. If that view of the situation be correct, then, certainly the Government is without power to exact from the grantee here a direct tax upon its own structure.

Mr. NEWLANDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Nevada?

Mr. THOMAS. Certainly.

Mr. NEWLANDS. Mr. President, I assume that the Senator from Colorado will admit that that structure can alone be put there by the National Government or by its agent in so far as the structure itself is in aid of navigation.

Mr. THOMAS. Well, I may concede that for the sake of the argument, but the conclusion announced by the Senator from Nevada does not follow at all.

Mr. NEWLANDS. Then, let me add one word further, that the company is simply the agent of the Government in erecting in this stream a structure in aid of navigation; and my argument was that if this structure created a head of water which through the use of the structure could be made valuable, the Government could utilize that head of water; and if the Government could utilize it, its agent, this power company, could utilize it.

Mr. THOMAS. An agent, Mr. President, must have a principal, and certainly the Senator from Nevada will not, upon reflection, contend that an agent who pays the cost of the entire transaction, instead of the principal, is the kind of an agent that is contemplated by the legal use of the term. I do not think there is any agency about it.

Mr. NEWLANDS. Well, Mr. President, my assumption is that the Nation has the right as sovereign under the commerce power of the Constitution to erect this structure——

Mr. THOMAS. Certainly.

Mr. NEWLANDS. That no individual can put up this structure without its consent, and that the Government can act either directly or through an agent in the exercise of the commerce power; directly it can put up this structure, or it can act indirectly through an agent, and the terms upon which that agent is to be permitted to put up that structure are simply a matter of contract and agreement between the principal, the sovereign, and the agent thus authorized.

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from New York?

Mr. THOMAS. Certainly.

Mr. O'GORMAN. Does the Senator from Nevada claim that an agreement may be made between the Federal Government and an agent, whereby the property of a State may be taken without the consent of the State?

Mr. NEWLANDS. I do not.

Mr. O'GORMAN. Does the Senator from Nevada claim that the Federal Government has any right, under the commerce clause, to do more than to enter the stream for the single, naked purpose of promoting its navigation, and that when it performs that purpose it exhausts every power granted to the Federal Government under the Constitution—that the right to go into a stream for the purpose of promoting its navigation can not be construed into a grant of property rights in the possession of the State? The stream belongs to the State before the Federal Government enters it for the purpose of exercising this naked right, and the stream continues the property of the State even after the Federal Government exercises this right. The right exercised by the Federal Government is akin to a limited agency conferred by a principal upon an agent to do a specific thing, and it can not be extended or enlarged, as I understand the Senator from Nevada is disposed to enlarge this power.

Much of the discussion here to-day and previously relates to a question of policy and ignores the vital proposition that under this bill recognition is proposed to be given to a principle which would be destructive of the rights reserved to the States.

Mr. NEWLANDS. Mr. President, will the Senator from Colorado permit me?

The PRESIDING OFFICER. Does the Senator from Colorado yield further to the Senator from Nevada?

Mr. THOMAS. Certainly.

Mr. NEWLANDS. It is not necessary, in order to answer the Senator from New York [Mr. O'GORMAN], to enter into all the refinements which he has considered with reference to the rights of the States and the rights of the Nation. Every man will admit that the Nation has a right in aid of navigation to construct the structure, which is authorized by this bill. If the Nation constructed it, it would be the owner of it; and, being the owner of it, it could put that structure to any beneficial use it chose.

Mr. O'GORMAN. Whether provided for by the Constitution or not?

Mr. NEWLANDS. It could put it to any beneficial use it chose—that is my contention—because it is the owner of the structure, and every right of ownership attaches to it as the owner of the structure. In this case the agent is designated by the National Government to put up that structure. The agent would have the same right as the Government itself in that structure if those rights are secured by the contract with the National Government. It is a matter simply of contract between the National Government and the agent regarding the construction and regarding the use of a structure which the National Government has the right to create or which it can authorize an agent to create. That is my contention. That structure in that stream creates a certain head of water which can be used beneficially either by the Government or by the agent, and the use of that head of water created by the structure which no one else can erect does not invade any right of the State in the stream.

Mr. THOMAS. Mr. President, the Senator is logical, and his conclusion is consistent with his premise, but the fundamental difference between us is evolved at the threshold of his statement. If it be true that the Government, after constructing a dam of its own for the improvement of navigation, can use it for any purpose it pleases consistent with navigation, then it is equally true that if it authorizes me to build a dam I can use it for every purpose consistent with its original purpose of the improvement of navigation. But the Government's power, Mr. President, is measured and limited by the purpose contemplated in the commerce clause of the Constitution. To say that it can be extended further in one direction is to concede that it can be extended further in any direction; and when that is given due consideration the consequences, it seems to me, conclude the existence of the authority.

Now, proceeding with the discussion, I maintain that the grant here proposed to be made by Congress to the Connecticut River Co. must consist of property or property rights, or both, belonging to or under the exclusive proprietary control of the Federal Government or it can not be made at all.

I contend, further, that the Federal Government can not, through the exercise of the sovereign Federal authority or power to regulate or improve a navigable stream, acquire interests or rights to its waters as the owner or proprietor thereof which may be used or conveyed or sold or leased to others for purposes wholly foreign to navigation. It is a fundamental proposition that you can not lease or sell or dispose of property unless you own it or have some interest in it which is the subject of a transfer; and I do not perceive any difference—certainly there is no essential difference—between the proprietary powers of the Government of the United States in that regard and those of an individual.

This proposition, apart from its self-evident truth, to my mind was ultimately conceded by the Senator from Ohio before he took his seat and concluded his discussion. On page 2815 of the CONGRESSIONAL RECORD he is reported to have made this statement:

> First, that whenever an improvement is made which promotes navigation and in such improvement, whether by locks or dams or otherwise, a water power is created—

Which, of course, means that it did not before exist; which means that it was brought into existence by virtue of the improvement—

> that water power is an incident to the principal fact, and it belongs to the State or Government which seeks to promote navigation.

Hence, unless it can be said that this power so created does belong to the Government, its authority, acting through Congress, to enact this measure falls to the ground. We therefore are at one with reference to the fundamental condition underlying the exercise of this power. I might paraphrase the expression of the Senator from Ohio by stating the proposition thus: Wherever an improvement is made which promotes navigation, but which improvement is primarily designed to develop water power and to promote navigation merely as an incident to the principal fact, such water power does not belong nor become subject to the control of the Government either in its proprietary or sovereign capacity.

In the document entitled "Federal Control of Water Power," printed for the use of the Committee on Commerce, is a legal opinion by Hon. Rome G. Brown which discusses this general proposition so thoroughly and exhaustively as to make any addition to it practically impossible. On page 274 of that pamphlet he says:

> 1. The only power of control belonging to the Federal Government is under the commerce clause of the Constitution, to regulate navigable streams as highways—that is, for the purpose of navigation—and this power excludes every proprietary element and is purely a limited sovereign power of control for a specific purpose.

Again, on page 246, he says:

> Conservation—the reserving of that which one has—is legal and proper, but the attempted appropriation of any beneficial use or the proceeds or advantage thereof from another which has passed to the latter in private ownership is not conservation; it is confiscation.

These expressions seem to me to embody a correct statement of the very important principle which is here involved, and, if they be correct, then I deny that the Government in its sovereign or any other capacity can, through the exercise of some authority conferred upon it for a wholly different purpose,

carve a property right out of that which belongs under the laws of the country to some one else, the State or an individual, or both, and make it a subject of barter and sale; yet that is precisely what this bill assumes to do, and the fact that so many of these measures have already been enacted indicates how eager those exploiting these powers are to secure them through the agency of the Government of the United States under its exercise of the power conferred by the commerce clause of the Constitution.

It is said, Mr. President, and earnestly contended in fact, that those of us opposing this bill do so because of our ultra and extreme regard for the rights of the States. That is no doubt true to a very great extent. I believe as firmly as any Member of this body can believe in the preservation of the rights of the States, whatever those rights may be, but I do not have now and never had had, although affiliating all my life with the Democratic Party, any superstitious reverence for what in general terms is denominated "State rights."

My reading of history teaches me that the general principle has been advocated and repudiated by every political party in existence since the adoption of the Constitution, as the particular emergency or exigency seemed to demand, and, if I read history aright, I am also convinced that a power supposed to belong to the States absolutely to-day may be conceded to be one pertaining to the Federal Government to-morrow, and that some rights originally possessed exclusively by the States relate to subjects which have been affected by conditions expanding them into an area sufficiently large to justify their supervision and control by the National Government. I believe firmly with Mr. Bryan that there is no such thing as a twilight zone between the limitations and boundaries of national and State authority, but that both of them together cover—and cover completely—all powers of government which should exist, and which are, in fact, possessed by every country, whatever its form of government may be, which is sovereign in its character and in its capacity.

But, Mr. President, it seems to me that this is not a question of State rights, so much as it is a question of State property, or property of individuals who are citizens of the State, and of which the Federal power assumes the right to dispose; it is not so much a question as to whether some authority is being taken from the States, over which the States have exclusive control, as it is whether the General Government can engage in a deliberate seizure of a property right which belongs to the State in its proprietary capacity, or which belongs to the individuals owning the property bordering on the streams, or both. Hence, State reservations and State powers are only incidentally concerned in this discussion, if I properly understand it. They are concerned to this extent: If the Government can confer a right or a franchise like this upon the Connecticut River Co., that company may claim an exemption from State laws concerning taxation as to that property, whether it be a franchise or whether it be an asset in the strict sense of the term. Because it is a subject of franchise, Federal limitations are placed upon it; and the company could well, and I think successfully, appeal to the Federal courts to protect it against any attempt on the part of the State government to bring it within the jurisdiction of its revenue laws.

Consequently, in one respect at least, there is an element which makes the question of the rights of the States important. But if the State of Connecticut is the owner of this increased power, or if the company, which I suppose has long been a riparian owner, is entitled to this power, then the Government has no right and no authority to impose these conditions upon its exercise of authority to improve the navigation of the river. It is not a matter of obstruction. There is no pretense that anything that is going to be done will obstruct navigation. It is conceded that these improvements are necessary—not only necessary, but highly important and beneficial; that there has been a crying need for them for years; and that efforts have been made to secure action by the Government itself in the way of making them. That being the case, I deny unqualifiedly that the Government has any power or any authority to repeat the precedents of the past with reference to this matter, but that a halt should be called now and forever upon the attempted exercise of this sovereign right to control navigation as subordinate to the creation of property to be conferred upon citizens and corporations.

The legal phases of this matter have been discussed at length in this Chamber, with their usual exhaustive ability, by the Senator from Idaho [Mr. BORAH], and by my own lamented predecessor, Senator Hughes, of Colorado. As I have before stated, the question never would have arisen but for the tremendous value of water power as an agency for hydroelectric purposes.

But it is said that there is a necessity for Federal control over matters of this sort because of the supineness or indifference or lack of authority on the part of the States to prevent these combinations, and their consequent effects upon the public. This has been asserted by very high authority, not once but several times, and frequently by the extreme advocates of conservation.

In other words, it is proposed that the Government of the United States shall exercise a power of supervision, through the agency of legislation like this, because the States either can not or will not control these huge aggregations; necessity, in other words, being pleaded for the existence and the exercise of the authority.

I need only suggest that if the national authority can invade the domain of State power upon the assumption that it is necessary because of the supineness or indifference of the State itself to undesirable public conditions, then the State, per contra, may do the same thing, as against the Nation, within its own borders. As a result thereof, reprisals would be the order of the day; and instead of having a constitutional government, we would be confronted with repeated conflicts of authority and usurpations of power, necessarily leading to anarchy if not to revolution, or to both.

The assumption that a power not existing can be invoked and exercised because necessary has always been the most dangerous element in popular government, and its recognition and enforcement have always proven most calamitous. Such a basis for the exercise of such an authority certainly can not be seriously urged in this Chamber on this or on any other occasion.

But the argument is without merit, Mr. President. Let me say right here that the interest of the West in this question is due to its interest in a policy which, perhaps for want of a better name, is known as conservation. These acts of Congress, affecting navigable rivers in the humid States, are merely pieces or parts of legislation that are supposed to dovetail into a common scheme of universal national supervision of what are called public resources. It is because of the fact that they are part of such a policy that they become of such tremendous importance to the people living in the public-land States, and particularly in the arid States, of the West.

I say, and I do not believe it can be successfully disputed, that all of the evils from which conservation was born, or nearly all of them, and to correct which legislation of this kind is resorted to, were the outgrowth of national legislation and national administration; that there is not, and never has been, a monopoly in any of the natural resources of this country which had not its origin and source in the laws of Congress and in their administration by the national authorities. I state that broadly, because I am not aware of any exception.

The forest-reserve policy furnishes a good illustration of this truth. It has been the prolific cause of more monopoly in the public lands than all other causes, perhaps, put together. That may be too broad a statement. Certainly it has been the prolific source of many of them.

For example, many forest reserves created under the operation of the law authorizing them have been extended so as to include within their boundaries much worthless property owned in fee by private individuals or by railroad or other corporations. Under the laws of the United States the owners of these lands have been freely permitted to exchange them for what are popularly known as lieu lands, or lands taken in exchange therefor. One can at once perceive the enormous possibilities for wrongdoing involved in such a condition.

Mr. SMITH of Arizona. If the Senator will permit me the suggestion, scrip has been issued to be placed on similar lands.

Mr. THOMAS. Yes; I am coming to that also. In many instances lands have been taken to be afterwards included in forest reserves by the use of scrip, as the Senator from Arizona has suggested, for the sole and only purpose of thereafter exchanging those lands for the best timberlands in this or any other country.

I saw a statement the other day in one of the newspapers—I forget which—giving a list of the great timber owners of the country, with the Southern Pacific Co. at its head, owning, I think one hundred and twenty-two thousand millions of feet of standing timber, and Mr. Weyerhaeuser a very close second, with a number of other huge concerns bringing up in the rear. I assert, and I believe the record will show it, that the greater portion of that timber was acquired by these individuals and corporations through the manipulation by Federal authority of the law to create forest reserves. I know that in my own State individuals and corporations were active in securing an extension of the lines of so-called forest reserves so as to embrace lands upon which a tree never grew and never can grow, utterly worthless for forestry purposes but valuable for others, and which, after their inclusion in forest reserves, have been exchanged for magnificent acres of standing timber.

I am one of the advocates of the forest-reserve system, which, properly applied, must necessarily subserve a most beneficent purpose. But, Mr. President, forest reserves are the creation of national law, and their locations have been the result of national authority applied thereunder to the public domain, and manipulated for the creation of the greatest monopoly in timber that now exists anywhere in the civilized world.

Is it possible that the States, or any of them, can be accused of indifference or of neglect, or of want of power or of collusion with these interests, if you please, resulting in such tremendous consequences?

Take the coal lands: I can speak with some degree of personal knowledge with reference to some aspects of the so-called coal monopoly, for I well recall the summer in which the Union Pacific officials secured filings from almost every individual out of employment to be found on the streets of the city of Denver, which filings were immediately assigned to its officials, covering magnificent measures of virgin coal on the public domain of the United States, and near the line of the Union Pacific national highway.

Did this result from any inactivity on the part of the State? Can you tell me how the State of Colorado in any way could have prevented such conditions or such practices? These were carried on under the protection and through the medium of national law and administration. Of course, I do not pretend to say, nor do I want to be understood as meaning, that this conduct was even within the letter of the law, because I do not think it was, although it was claimed to be. I am merely stating a condition resulting from congressional legislation, and from the administration and application of the laws of the country by the Federal authorities over which the States could exercise no sort of restraint.

Take water power. The bills to which attention have been called, and the filings which have been made under the guise of securing land for agricultural and other purposes, have been the fruitful source of the monopoly in water power. After all these things have been accomplished, after these huge aggregations have acquired the very cream of the national resources, this policy of conservation has come to the front, justified very largely by them, but pressing in its application upon the innocent citizens of the West.

He who commits a crime sometimes suffers, but the weight of punishment falls upon others. The helpless wife and the innocent children bear the principal burden of his offending. By way of comparison I may say that we of the West, the helpless citizens of the country, are having these offenses against national law and national authority visited upon us and upon our children. I am afraid even to the third and the fourth generation. The reason given for it is that we, as a State, are either unable or unwilling to interfere with and to correct these monopolistic conditions, and by reason of that fact the doors of the stable must be locked after all the horses belonging to us, or all but two or three, have been stolen.

I assert broadly, therefore, that even if it were true that the national authority might be invoked because of inaction by the States without reference to the division of powers, the conditions here do not justify the taking of such action.

In this connection let me say that State administrations of the lands and resources of the States throughout the West at least have generally been in grateful and shining contrast to Federal administrations in the same section. The State of Texas perhaps does not realize how well off it has always been in that it owned its own public lands. We have an enormous area given to us by the largess of the Government for schools and kindred public or semipublic purposes. They have been administered ever since the admission of the State by a State land board wisely, prudently, economically, to the end that the purposes of the grant might be accomplished and the general welfare of all concerned in good administration might be promoted. We have sold much of that land to bona fide settlers. We have conveyed some of it at nominal prices to irrigation companies. But the bulk of it has been conserved in very truth, and the increment resulting from its use has been devoted to the purposes for which the grants were made.

When I describe this condition in my own State I am simply giving an example of that which, so far as I know, prevails generally throughout the West. We may say, therefore, that in handling these great public matters the administrations of the States have been far superior to the domestic administration of the General Government, and that the abuses which are now invoked as an excuse for our partial delimitation had their origin in Federal laws and in Federal administration. We therefore have some right, I think, to protest against this stretch of national power, only one aspect of which is involved in the bill now under consideration.

One test of the validity of an asserted power, I think, is found in ascertaining the extent to which it can be carried if its existence is admitted. If the Government of the United States has authority to enact this measure, it may enact many others concerning the subject matter of the grant. If it may be leased or disposed of for a term of years, it may be sold and conveyed outright. The Government may execute a deed of conveyance, or issue its patent for this asset, whatever it may be, just as well as to make a lease or a franchise of it for 50 years.

Do Senators believe it is possible that a patent of the Government may be issued to the Connecticut River Co. for the force or energy in the waters of the Connecticut River, or for the current, or for the structure, as is contended for by the Senator from Nevada [Mr. NEWLANDS]? Yet the one is quite as much within the authority of the Federal Government as the other. And if it may dispose of the surplus power for a revenue to be devoted to improving the river, why may it not be disposed of for a revenue to be used in improving the Missouri River, or, if you please, in paying the expenses of the Forest Reserve Bureau or the Pension Bureau? Or why may not the fund be turned into the Treasury on general account and utilized pro tanto for the payment of the expenses of the Government?

If the Government has the power to collect revenue by this method, you can place no limitations except those imposed by the Constitution upon the disposition to be made of the fund after it has been secured, and these may also be enlarged by construction.

I have already spoken of the exemption or the possible exemption of this property right from State taxation consequent upon the assertion of Federal control. If it is property, Mr. President, and we can grant to another the right to its use, why may not the Government use the power on its own account and operate it in competition with others in the same business? In other words, why may not the United States develop this power and become a manufacturer of and dealer in electric current, supplying power to the cities and citizens of Hartford, Springfield, and other communities in competition with those now engaged in the business? Being immune from State taxation, would it not have such an advantage over its competitors as ultimately to put them out of business if it were so disposed? And if it should find no market for the current thus produced, why may not the Government create one by invading the street railroad business, if you please, or by building establishments of its own for the manufacture of articles of merchandise, and so utilize the power as to bring the highest possible revenue? Why may it not go still further and develop power on its own account in all parts of the Nation to be used in its own pursuits, thus coming in competition with the people everywhere on every river in the country susceptible of such a pursuit?

Let me again say that I should much prefer that method of procedure to what is here proposed if the Government has the power to act at all. It would be far better for the people of this Nation, in my judgment, if this water power is a great national asset, that instead of conferring it on any terms upon private corporations the Government should utilize it directly and through its own agencies for the benefit and welfare of the masses of this country.

Another consequence which must flow from the exercise of this power or this authority or this property right, by whatever name it may be called, is that if it is a Government asset the latter may not only use it as it may determine, by sale or lease or operation on its own account, but it may refrain from using it at all and prohibit its use by anybody else. In other words, it may lay an embargo upon a great national asset by denying to others the right to develop it and by refusing to develop it on its own account. If it is property and owned by the Government in its proprietory capacity, then its ownership is without limitation as to power of disposition, of control, of operation, or of refusal to operate.

The Senator from Ohio [Mr. BURTON], in discussing this branch of the proposition and in asserting Federal ownership and control, referred to certain instances where the Government, in permitting bridges to be thrown over navigable waters, reserved the right to cross them with its troops free of charge, and also to the custom in some of the States, when they have surplus room not needed for public purposes in public buildings, of leasing them to attorneys and others, as analogies to this situation. In the instance of the bridge, if the Government imposed as a condition to its permit a percentage by way of rent or compensation upon the receipts of the bridge company, to be paid into the Treasury of the United States, it might be an analogous instance. But the mere fact that a reservation is made of the right to use the bridge for a governmental purpose is far different from the right to use an item of property created by

private capital as a source of revenue to itself and imposed under a claim of ownership thereof by the Government as contradistinguished from the State or the maker of the improvement, or both.

The analogy furnished by the Senator's illustration is parallel to that of reserving the right to generate power from the current or requiring the grantee to supply power to the Government free of charge for the operation of the improvement after it is made. While it may be true, and doubtless is true, that in many instances the State authorities lease superfluous rooms in public buildings and obtain a revenue thereby, I know of no instance in which the Government of the United States has done it, or in which it has been deemed permissible.

The Senator from Iowa [Mr. CUMMINS] inquired of the Senator from Ohio [Mr. BURTON], during the course of the discussion, what his opinion was with reference to the power of the Government of the United States, as I understood the question, in dealing with a corporation like the Connecticut River Co. to endow it with the right to exercise the power of eminent domain within the State, and I understood the reply to be that in some instances that could be done. But can it be done except that it may be exercised for the purpose of improving navigation? For example, can the Connecticut River Co., under the provisions of this bill, or under any provision that might be inserted in it, exercise the right to condemn property in the State of Connecticut which might be necessary for the purpose of enabling the company to carry out the purposes and objects of its existence, the generation of power and the sale of current? But if the company is dependent upon the United States and an act of Congress for its authority to do business and for the utilization of its property held by virtue of the laws of Connecticut, may it not be said to be equally within the power of the United States to confer upon it a general authority to exercise the right of eminent domain, notwithstanding such exercise might in the manner directed conflict with the requirements of the laws of Connecticut upon the same subject? When once we admit the existence of this Federal authority we can place no limitation upon the consequences that may flow from it. We arm the Government with a power so vast in its proportions as to be practically beyond the ken of man to predict the ultimate extent to which it may be carried.

I do not, of course, assert that it would be carried to an extreme. I do not believe it would. I know the composition of the body which I am now addressing would have to change very materially to make such a result possible. But the test of an authority asserted is the extent of its possible operation in the event its existence is conceded or established.

It seems to me, therefore, Mr. President, that when we consider what the Government may do, even were this authority conceded, we should hesitate to apply or exercise it except in some instance of the most urgent and exigent character.

Mr. President, I prefer to continue what I have to say, if the Senate will consent, some time after the order of business set for to-morrow has ended. I can continue to-day if desired, but I shall probably have to occupy the time of the Senate for about an hour longer.

Mr. BRANDEGEE. In view of what the Senator from Colorado has stated, and in view of the fact that there is an order upon the calendar as to the counting of the electoral votes, stating that the Senate has agreed to leave the Chamber "at 10 minutes before 1 o'clock on Wednesday, February 12, 1913," and "proceed to the Hall of the House of Representatives," unless there is some other Senator who desires to occupy more time this evening, I move that the Senate take a recess until to-morrow at 12.40 o'clock.

The PRESIDENT pro tempore. The Senator from Connecticut moves that the Senate now take a recess——

Mr. CRAWFORD. Will the Chair please withhold that motion for the introduction of a report? Will it be permissible to present a report?

The PRESIDENT pro tempore. The Chair is of the opinion that unless it relates to one of the excepted classes it can not be received. If it relates to an appropriation bill or if it is a conference report it will be in order.

Mr. CRAWFORD. It is desirable that it shall be presented if the rule will permit it.

The PRESIDENT pro tempore. Unless it relates to an appropriation bill or a conference report it can not be received.

Mr. CRAWFORD. Very well.

The PRESIDENT pro tempore. The Senator from Connecticut moves that the Senate now stand in recess until to-morrow at 12.40 p. m.

The motion was agreed to; and (at 5 o'clock and 6 minutes p. m., Tuesday, February 11) the Senate took a recess until Wednesday, February 12, 1913, at 12 o'clock and 40 minutes p. m.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February 11, 1913.*

The House met at 10.30 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Infinite spirit, God, our heavenly Father, we thank Thee that in the eternal fitness of things virtue is its own reward, while sin is its own condemnation; that defeat calls for explanation, while victory explains itself. Help us, therefore, to abhor that which is evil and cleave to that which is good, that Thy kingdom may come and Thy will be done on earth as it is in heaven, for Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

AGRICULTURE APPROPRIATION BILL.

Mr. LAMB. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 28283, the Agriculture appropriation bill.

The motion was agreed to; accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 28283, the Agriculture appropriation bill, with Mr. BEALL of Texas in the chair.

The CHAIRMAN. The Clerk will report the title of the bill.

The Clerk read the title, as follows:

A bill (H. R. 28283) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914.

The Clerk read as follows:

For the investigation of soils and for indicating upon maps and plats, by coloring or otherwise, the results of such investigations, $175,000.

Mr. BURKE of South Dakota. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the committee if the item which appears on page 43, lines 1 to 3, is the appropriation for soil surveys?

Mr. LAMB. Yes.

Mr. BURKE of South Dakota. Now, I would like to ask the gentleman whether or not there is an increase in the appropriation over what it was for the present fiscal year, and if so, how much?

Mr. LAMB. Ten thousand dollars.

Mr. BURKE of South Dakota. I would like to ask the gentleman what the estimate for this purpose was?

Mr. LAMB. They asked $20,000 and we gave them half.

Mr. BURKE of South Dakota. Does the gentleman think $175,000 will be sufficient for the work that ought to be done in the next fiscal year?

Mr. LAMB. The committee were of the opinion that it is.

Mr. BURKE of South Dakota. That is all, and I withdraw the pro forma amendment.

The Clerk read as follows:

BUREAU OF ENTOMOLOGY.

Salaries, Bureau of Entomology: One entomologist, who shall be chief of bureau, $4,500; 1 executive assistant, $2,250; 1 chief clerk, $1,800; 1 clerk, class 4; 3 clerks, class 3; 6 clerks, class 2; 6 clerks, class 1; 6 clerks, at $1,000 each; 1 superintendent of moth work, $2,750; 1 entomological assistant, $1,800; 2 entomological draftsmen, at $1,400 each; 1 entomological draftsman, $1,080; 4 foremen, at $1,080 each; 2 entomological preparators, at $840 each; 1 entomological preparator, $720; 6 entomological preparators, at $600 each; 1 messenger, $840; 2 messengers or laborers, at $720 each; 1 mechanic, $840; 1 mechanic, $750; 1 laborer, $540; 2 charwomen, at $480 each; 1 charwoman, $240; in all, $59,910.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph, in lines 12 and 13, "one entomologist, who shall be chief of bureau, $4,500."

Mr. CANDLER. We can not hear the gentleman.

Mr. FOWLER. On lines 12 and 13, page 43, this paragraph provides "one entomologist, who shall be chief of bureau, $4,500." The statute provides for one entomologist in the Department of Agriculture at a salary of $2,000.

The CHAIRMAN. The Chair will ask the gentleman from Virginia and the gentleman from South Carolina if they know of any change in that statute?

Mr. LAMB. Nothing except what has been said on that subject.

The CHAIRMAN. The point of order is sustained.

Mr. FOWLER. That is all, Mr. Chairman.

The Clerk read as follows:

For the maintenance of the Montana National Bison Range and other reservations under supervision of the Biological Survey, including construction of fencing, wardens' quarters, shelters for animals, landings, roads, trails, bridges, ditches, telephone lines, rockwork, bulkheads, and other improvements necessary for the economical administration and protection of the reservations, and for the enforcement of section 84 of the act approved March 4, 1909, entitled "An act to codify,

revise, and amend the penal laws of the United States," $21,000, of which sum $2,500 shall be used for the purchase, capture, and transportation of game for national reservations.

Mr. MARTIN of South Dakota. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 47, by inserting, after line 12, the following:

"For protection and improvement of the Wind Cave National Game Preserve in South Dakota, $2,500."

Mr. MARTIN of South Dakota. Mr. Chairman——

Mr. LAMB. Mr. Chairman, I think a point of order would lie against that. I reserve it, if the gentleman wants to speak.

Mr. MARTIN of South Dakota. Mr. Chairman, a year ago a national game preserve was established in one of the national parks of South Dakota, embracing an area of some 10,000 acres, and the jurisdiction placed under the Department of Agriculture. I suppose that under this paragraph undoubtedly the Secretary will have funds and authority to administer that preserve, so far as the matter of the placing of game and their care is concerned. There is, however, another feature of that park which differs from the ordinary game preserve. The Wind Cave itself is a very remarkable cavern, of a very large extent, and some years ago was created into a park upon the requisition of the Department of the Interior, the Commissioner of the General Land Office, and other officials, and there is a superintendent employed there at a salary of $900, and a small hotel for the accommodation of visitors, a building over the entrance to the cave, and each year the sum of $2,500 has come in the usual estimates for the maintenance of this place. Against that there are certain revenues which come to the park by virtue of licenses for automobiles that bring visitors from near-by places. This $2,500 item appears in the estimates for the current year from the Department of the Interior, and in the sundry civil bill there has appeared this item at different times, but it occurred to me that inasmuch as the jurisdiction of the premises is now in the Department of Agriculture, we ought not to have this dual method of appropriating a part for the care of the game, which, of course, would include a warden and other necessary expenses, and a part for the convenience of visitors to the cavern itself, but that it ought to be carried under one jurisdiction.

Mr. COX. Will the gentleman yield for a question?

Mr. MARTIN of South Dakota. I will.

Mr. COX. I see that the act creating this Wind Cave National Park Reserve gave the power for purchase or condemnation of adjacent lands. Can the gentleman tell the committee whether any lands have been condemned for that purpose?

Mr. BURKE of South Dakota. There has been none condemned. There are two or three pieces that contain an additional water supply, on which the Secretary of Agriculture has taken options.

Mr. COX. What is the sum total of the land that has been purchased or that they contemplate purchasing?

Mr. MARTIN of South Dakota. None has been purchased, but the sum total is in the neighborhood of $8,000 or $10,000, or something like that.

Mr. COX. What does it cost per acre to purchase?

Mr. MARTIN of South Dakota. Very little, indeed. There is one option on 160 acres at $2,000.

Mr. COX. One hundred and sixty acres?

Mr. MARTIN of South Dakota. One hundred and sixty acres, and I may say the sole purpose of buying these small tracts is for increasing the water supply for the animals of the preserve.

Mr. LAMB. I think I can satisfy the gentleman about this matter. It is current law, and therefore it has been omitted here, but $25,000 will be available to be expended.

Mr. MARTIN of South Dakota. That is the item carried in that bill for the current year for the purpose of purchasing this additional land for water supply to which the gentleman from Indiana [Mr. COX] has referred, and also for fencing the preserve, which is in process of construction now, or about to be constructed.

Mr. LAMB. I think it will all be taken care of under this appropriation bill.

Mr. MARTIN of South Dakota. I will remind the gentleman that the Secretary of the Interior has sent in with the estimates for the coming fiscal year the item which I have here offered, and it is only a question as to whether that part of the administration which has reference to the cave itself and the accommodation of visitors, some thousands of whom visit there every summer, should be carried in this bill or in another one, and I thought the whole subject ought to be taken care of under one administration.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LAMB. I will say that the department did not ask for it.

Mr. COX. Mr. Chairman, I move to strike out the last word. I want to get a little information here. I see this item on page 47 provides for the construction of wardens' quarters. Is there any limitation on the amount of money that can be expended for that construction?

Mr. LAMB. Six hundred and fifty dollars.

Mr. COX. It can not exceed that?

Mr. LAMB. No.

Mr. COX. Another question. This item carries $2,500 for the purchase, capture, and transportation of game for national reservations. What kind of game is it that it is proposed to purchase for that $2,500? And what good is it proposed to do to the people of this country? Can the gentleman from South Dakota [Mr. MARTIN] answer that question as to what kind of game is proposed to be purchased with this item of $2,500, and what general good is to be subserved to the people of this country by it?

Mr. MARTIN of South Dakota. I will say to the gentleman that the committee probably have more information and more familiarity with that general proposition than I; but I may say with reference to this Montana National Bison Range that the American Bison Society has agreed to furnish free of any cost to the Government a herd of buffalo for that preserve, and there are abundant elk under the control of the Government now.

Mr. AKIN of New York. If the gentleman will permit, I can perhaps inform him on that point. It is political "game."

Mr. LAMB. I do not think the gentleman is correct about that. This is a project to preserve the game in this country. It is very important. This small amount of $2,500 is to provide such game as they need in this range. It is for the preservation of the species of such game.

Mr. COX. Now, Mr. Chairman, I ask unanimous consent to withdraw my pro forma amendment.

The CHAIRMAN. The gentleman from Indiana withdraws his pro forma amendment.

Mr. COX. I move, Mr. Chairman, to strike out on page 47, beginning with the word "of," the remainder of line 11 and all of line 12.

The CHAIRMAN. If the gentleman will withhold a moment, the amendment of the gentleman from South Dakota [Mr. MARTIN] should be first disposed of. The question is on agreeing to the amendment offered by the gentleman from South Dakota.

The question was taken, and the amendment was rejected.

Mr. COX. Now, Mr. Chairman, beginning with the word "of," in line 11, I move to strike out the remainder of line 11 and all of line 12.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Indiana [Mr. COX].

The Clerk read as follows:

Amend, page 47, by striking out after the word "of," in line 11, the remainder of line 11 and all of line 12.

Mr. COX. Just a moment, Mr. Chairman. It seems I am unable to get any information that will satisfy my mind about this matter—anything showing it is a matter of necessity at all. I am unable to get information as to what kind of game they propose to buy and what general benefit is to inure to the people at large in consequence of this item.

Now, I am not opposed to any appropriation whatever in this bill which can plainly be seen to inure to the benefit of the people of this country. But here is an appropriation which appears, so far as I have been able to discover, for the first time it has ever occurred in this bill, and it is simply a beginning, an entering wedge, to further appropriations of this sort.

Mr. LAMB. The gentleman is mistaken about that.

Mr. COX. In a very few years this House will be called upon to appropriate countless thousands of dollars for the purpose of buying game, and no public benefit can come from it.

Mr. GARNER. Is it not subject to a point of order?

Mr. COX. I do not think it is. But I think my amendment ought to prevail. The item ought to go out of this bill.

Mr. LEVER. Mr. Chairman, I think I ought to be heard for a moment on this item.

The CHAIRMAN. The gentleman from South Carolina is recognized.

Mr. LEVER. The Bureau of Biological Survey is engaged in a number of lines of work. One of them is the preservation of the various species of game in this country, especially those species that are rapidly disappearing from this continent, and while we may not be able to trace any actual money benefit to the people from this appropriation, yet I think there is not a Member of Congress here who is not interested in the proposition of preserving the game species of this country. I think there is no man here who would object to a small appropriation for the purpose of buying bison or buffalo or some other species that is rapidly disappearing.

Mr. COX. I understood from the gentleman from South Dakota [Mr. MARTIN] that the friends of that species of game are willing to stand the entire expense of buying the bison.

Mr. MARTIN of South Dakota. I was simply speaking of that particular reserve that the gentleman was inquiring about. I have no doubt that this item is justified.

Mr. GARNER. The department did not request that a provision should be carried in the bill to the effect that $2,500 must be expended. Are you going to expend it whether it is advisable or not? Why not leave it to their discretion?

Mr. LEVER. Let me say to my friend from Texas that that is true. This item might better be worded by inserting the word "may" instead of "shall," but it has been carried in this way in the appropriation bill from year to year, and I am confident that the man at the head of this service will use it wisely and for the benefit of the Government.

Mr. COX. If the gentleman will permit an interruption right there, may I ask him if the man at the head of this bureau has expended the $2,500, and, if so, what kind of game has he bought with it?

Mr. LEVER. I can not put my hand on that information just at this moment, but——

Mr. LAMB. Let me say, Mr. Chairman, that when the gentleman from Indiana says that this is something new, he is mistaken. I hold in my hand a copy of last year's act and a copy of the act of the year before, and they both contain that item of appropriation.

Mr. COX. Then I withdraw my statement about that. Although this is a small item, it is simply calling upon Congress to maintain this practice.

Mr. LAMB. This is a legitimate line of work in the direction indicated.

Mr. GARNER. Mr. Chairman, will the gentleman from Virginia permit me?

Mr. LAMB. Certainly.

Mr. GARNER. If the gentleman from Virginia will permit, the Agricultural Department ought to furnish your committee with some information as to how the money was expended and the necessity for it in the future. It does seem a ridiculous proposition for the committee to come in here with an appropriation as simple as $2,500, when the department has not given any information to the committee as to how they have spent the money or the necessity for it in the future.

Mr. LAMB. Why, yes; it is only a part of the sum of $21,000 which may be used in the discretion of the Secretary——

Mr. COX. Oh, no; you say "shall be used."

Mr. LAMB. "Shall" means "may" and "may" means "shall."

Mr. MARTIN of South Dakota. Mr. Chairman, I have a preferential motion. I move to strike out from line 11, page 47, the word "shall."

Mr. LAMB. I have no objection to that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Indiana [Mr. COX].

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For investigating the food habits of North American birds and mammals in relation to agriculture, horticulture, and forestry, including experiments and demonstrations in destroying noxious animals, and for investigations and experiments in connection with rearing of fur-bearing animals, including mink and marten, $55,000, of which sum $15,000 shall be used for the destruction of ground squirrels on the national forests and public lands in California.

Mr. MANN. Mr. Chairman, I reserve a point of order to the paragraph. May I ask the gentleman from Virginia in reference to the proposition of authorizing the destruction of ground squirrels on public lands in California in addition to the national forests? Is it designed to have the Government enter upon the project of destroying squirrels on all of the public lands of the United States?

Mr. LAMB. Where they raid on farms and destroy the products of the farmer they are a great nuisance, a pest. The farmer can not go out into the forest reserves and destroy them, and somebody must do it.

Mr. MANN. We have for years, I believe, made some appropriation for the destruction of squirrels in the national forests. That is because we keep control of the national forests and do all the administrative work; but this proposition now is to go outside of the national forests and undertake the destruction of ground squirrels on public lands. If we do that in California, why not do it all over the country?

Mr. LAMB. I suppose private citizens would not be permitted to go into the forests.

Mr. MANN. I am not raising any question as to the destruction of squirrels in the national forests. That policy we entered upon, but why do you enlarge it now by undertaking to destroy squirrels on the public lands?

Mr. LAMB. I will read from the hearings on this subject:

Mr. LEVER. What is the principal necessity for $15,000 for the destruction of ground squirrels on the national forests in California?

Mr. HENSHAW. That has to do with the prevention of the plague, and is a very serious matter in California. Let me say that the State has passed a law compelling the landowners to free their lands of these ground squirrels; if they do not do the work then the county supervisor has the right to do it and charge it up against the land. Now, the complaint is made that while the farmers are willing to do their part of it they say the Government owns large areas of forest land and large areas of public land which are infested with ground squirrels, and they say it is not fair to compel them to kill off the ground squirrels on their lands if you kept a nursery right outside the boundaries which reinfests their lands.

Mr. MANN. That statement all relates to national forests, but here it is proposed at this time to enter upon the destruction of squirrels on the public lands. We have had this matter up before the House on repeated occasions. The provision has never got into the bill; I do not know whether it was kept out on a point of order or not, but I think the gentleman from Virginia ably opposed the provision last year, and other Members did. If we undertake to destroy the ground squirrels on all of the public lands of the Government throughout the country, why not also undertake to destroy other pests?

Mr. SIMS. If the gentleman will pardon me, as I understand, the object of destroying these squirrels in California is to prevent the spread of a very dangerous disease. Under our power to control the public health, would we not have a right to do that?

Mr. GARNER. It is not a question of right; it is a question of advisability.

Mr. SIMS. It would seem to be advisable to kill them in the States where they are likely to spread this disease.

Mr. HAMILTON of Michigan. What disease is it that they are likely to spread?

Mr. SIMS. The bubonic plague.

Mr. MANN. We have had this matter discussed by the week in times past.

Mr. GARNER. And the gentleman from Virginia was very much opposed to the amendment last year.

Mr. LAMB. We sometimes reverse ourselves; we may be a defender to-day and a prosecutor to-morrow.

Mr. MANN. Mr. Chairman, I make a point of order against the language in line 20, page 47, "and public land."

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

DIVISION OF ACCOUNTS AND DISBURSEMENTS.

Salaries, Division of Accounts and Disbursements: One chief of division and disbursing clerk, who shall be administrative officer of the fiscal affairs of the department, $4,000; 1 assistant chief of division, $2,750; 1 chief of office of accounts and fiscal agent, $2,500; 7 district fiscal agents, at $2,000 each; 1 supervising auditor, $2,250; 1 auditor, $2,000; 1 cashier and chief clerk, $2,250; 1 deputy disbursing clerk, $2,000; 2 accountants and bookkeepers, at $2,000 each; 2 clerks, class 4; 11 clerks, class 3; 18 clerks, class 2; 9 clerks, class 1; 4 clerks, at $1,000 each; 5 clerks, at $900 each; 1 custodian of records and files, $1,400; 1 messenger, $720; 1 messenger or messenger boy, $600.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FOWLER. In lines 9, 10, and 11, page 48, provision is made for a disbursing clerk at $4,000. The statute provides that such disbursing clerk shall receive a salary of $1,800. I make a point of order against that part of the paragraph. Also, in line 14 there is an increase, one cashier and chief clerk at $2,250, an increase of $250. I make a point of order against that increase.

Mr. LAMB. Mr. Chairman, just one remark. This increase of $250 is for an employee who has been in the Government service for about 15 years, who is under bond, and who is a very efficient man. During the absence of the chief of the division he looks after the work of the disbursing officer as assistant chief, and is detailed at the Weather Bureau. I concede the point of order in each case.

The CHAIRMAN. The point of order is sustained.

Mr. LAMB. I ask to return to line 14, and to insert the figures "$2,000" in place of the "$2,250" stricken out.

The CHAIRMAN. The gentleman offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 48, line 14, amend by inserting, after the word "clerk," the figures "$2,000."

The amendment was agreed to.

The Clerk read as follows:

DIVISION OF PUBLICATIONS.

Salaries, Division of Publications: One editor, who shall be chief of division, $3,250; 1 editor, who shall be assistant chief of division, $2,500; 1 chief clerk, $2,000; 2 assistant editors, at $2,000 each; 4 assistant editors, at $1,800 each; 1 assistant editor, $1,600; 1 assistant editor, $1,400; 1 assistant editor in charge of indexing, $2,000; 1 indexer, $1,400; 1 assistant in charge of illustrations, $2,000; 1 draftsman or photographer, $1,600; 1 draftsman or photographer, $1,500; 1 draftsman or photographer, $1,400; 1 draftsman or photographer, $1,300; 6 draftsmen or photographers, at $1,200 each; 1 assistant photographer, $900; 1 assistant in charge of document section, $2,000; 1 assistant in document section, $1,800; 1 foreman, miscellaneous distribution, $1,500; 1 forewoman, $1,400; 1 clerk, class 3; 7 clerks, class 1; 13 clerks, at $1,000 each; 41 clerks, at $900 each; 21 clerks, at $840 each; 1 skilled laborer, $900; 9 skilled laborers, at $840 each; 4 skilled laborers, at $780 each; 16 skilled laborers, at $720 each; 1 chief folder, $1,000; 2 folders, at $900 each; 1 skilled laborer, $1,100; 1 skilled laborer, $1,000; 2 messengers, at $840 each; 2 messengers, at $720 each; 3 messengers or messenger boys, at $600 each; 2 messengers or messenger boys, at $480 each; 2 messengers or messenger boys, at $420 each; 2 messengers or messenger boys, at $360 each; 1 laborer, $840; 1 laborer, $600; 4 charwomen, at $480 each; 3 charwomen, at $240 each; in all, $165,010.

Mr. FOWLER. I reserve a point of order against the paragraph.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FOWLER. On page 49, lines 2 and 3, there is a provision for four assistant editors at $1,800 each, a change in the salaries of three of these editors from $1,600 to $1,800.

The CHAIRMAN. The point of order is sustained.

Mr. FOWLER. On the same page, in line 6, one draftsman or photographer at $1,600, a change from $1,500 to $1,600. A point of order against that change.

The CHAIRMAN. The Chair will ask the gentleman from Illinois if he is sure that this is an increase? It is not shown by the report.

Mr. LAMB. I concede the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. FOWLER. In line 13, at the beginning of the line, one forewoman, $1,400, an increase of $200, against which I do not desire to make any point of order.

The CHAIRMAN. The gentleman withdraws his point of order. The Clerk will read.

Mr. LAMB. Mr. Chairman, I ask unanimous consent to return to page 49 to correct the totals there.

The CHAIRMAN. The gentleman from Virginia will offer his amendment.

Mr. LAMB. In lines 2 and 3, page 49, amend by inserting "$1,800."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 49, line 2, by inserting: "three assistant editors at $1,800 each."

Mr. FOWLER. It ought to be three.

The CHAIRMAN. Will the gentleman from Virginia please repeat that amendment?

Mr. LAMB. In line 6, "one draftsman or photographer, $1,500."

The Clerk read as follows:

Amend, page 49, line 6, by inserting, after "$2,000," the words "one draftsman or photographer, $1,500."

The amendment was agreed to.

Mr. LAMB. There is another assistant editor in line 3. On page 49, lines 2 and 3, amend by inserting "four assistant editors, at $1,500 each."

Mr. FOWLER. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The Chair will ask the gentleman from Illinois if it is not $1,600?

Mr. FOWLER. Yes; $1,600. That is correct.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 49, lines 2 and 3, insert "4 assistant editors at $1,600 each."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken, and the amendment was agreed to.

Mr. CULLOP. Mr. Chairman, in the same line, I desire to ask if the point of order was not sustained against one assistant editor at $1,600 because it was an increase of $100? That should be amended so as to be $1,500.

Mr. LAMB. Mr. Chairman, I offer the amendment on that.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 49, amend by inserting, in line 3, "1 assistant editor, $1,500."

Mr. FOWLER. Mr. Chairman, I make the point of order against that amendment.

The CHAIRMAN. What is the point of order?

Mr. FOWLER. Mr. Chairman, in lines 2 and 3 there is a change of three editors from $1,600 to $1,800.

Mr. LAMB. We have offered an amendment changing them back to $1,600 and it has been adopted.

Mr. FOWLER. I do not so understand.

The CHAIRMAN. That is the understanding of the Chair. They put back four assistant editors at $1,600.

Mr. FOWLER. Mr. Chairman, there ought to be three editors at $1,600 each.

The CHAIRMAN. Is that the point of order that the gentleman is making?

Mr. FOWLER. Yes.

The CHAIRMAN. The point of order is overruled.

Mr. HAWLEY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HAWLEY. Did the Chair put the question on the amendment, in line 2, for two assistant editors at $1,800 each?

Mr. LAMB. Yes.

The CHAIRMAN. It is the recollection of the Chair that there is one assistant editor at $1,600, and the point of order was sustained to that, and the Chair has not yet put an amendment on that.

Mr. LAMB. Mr. Chairman, I ask to have that amendment voted on.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia to insert $1,500 in lieu of what now appears to be $1,600.

The question was taken, and the amendment was agreed to.

Mr. FOWLER. Mr. Chairman, on page 49, line 2, there is a provision for four assistant editors at $1,800 each. It ought to be one assistant editor at $1,800 and four assistant editors at $1,600.

Mr. LEVER. That is correct.

Mr. FOWLER. I do not so understand it. I understand that there has been only a correction of two editors at $1,600, whereas there ought to have been a correction of three assistant editors.

The CHAIRMAN. The Chair will state what he understands to be the situation. As the item appeared in the bill, it was four assistant editors at $1,800 each. The gentleman from Illinois directed a point of order against that because it was an increase of salary from $1,600 to $1,800.

Mr. FOWLER. For three editors.

The CHAIRMAN. That item went out. It appears in the bill as four editors. As the Chair understands the matter, under the rules the committee has the right to increase the number of assistant editors, but no right to increase the salary that heretofore prevailed for that place.

Mr. LAMB. That is correct.

The CHAIRMAN. The Chair sustained the point of order. Then the gentleman from Virginia offered an amendment to insert four assistant editors at $1,600 each. The gentleman from Illinois directed a point of order against that, which the Chair overruled, and the amendment was adopted.

Mr. LAMB. This provides for a promotion of three assistant editors from $1,600 to $1,800 each, an increase of $200 in each case.

Mr. FOWLER. If that amendment was offered and agreed to, I did not so understand, because the paragraph carries one assistant editor at $1,600 when it ought to be three.

The CHAIRMAN. The gentleman made the point of order against that because it was a raise of $100, from $1,500 to $1,600, and the Chair sustained the point of order.

Mr. FOWLER. The amendment ought to be for three assistant editors at $1,600 each.

Mr. LAMB. I move to amend:

Page 49, lines 2 and 3, strike out "four assistant editors, at $1,800 each," and insert "one assistant editor, $1,800."

Same page, line 3, strike out "one assistant editor, $1,600," and insert "four assistant editors, at $1,600 each."

Same page, at the end of line 6, strike out "$1,600" and insert "$1,500."

The CHAIRMAN. The Chair put the amendment for four. That was in order, and it was adopted.

Mr. LAMB. No; the Chair is mistaken. The amendment I have just offered is in keeping with the point of order made and sustained, and restores the language and salaries carried in the current law.

The Clerk read as follows:

BUREAU OF STATISTICS.

Salaries, Bureau of Statistics: One statistician, who shall be chief of bureau, $4,000; 1 assistant statistician, who shall be assistant chief of bureau, $2,500; 1 chief clerk, $1,800; 6 clerks, class 4; 9 clerks, class 3; 12 clerks, class 2; 2 clerks, at $1,800 each; 17 clerks, class 1; 17 clerks, at $1,000 each; 21 clerks, at $900 each; 2 messengers, at $840 each; 2 messengers or laborers, at $720 each; 2 messengers,

messenger boys, or laborers, at $660 each; 1 messenger or messenger boy, $480; 1 charwoman, $540; 2 charwomen, at $360 each; in all, $115,380.

Mr. FOWLER. Mr. Chairman, I make the point of order against the paragraph. In lines 23 and 24 there is a provision for one statistician who shall be chief of bureau, $4,000. The Revised Statutes provide for a statistician at $2,000, and I make the point of order against this provision.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

LIBRARY, DEPARTMENT OF AGRICULTURE.

Salaries, Library, Department of Agriculture: One librarian, $2,000; 1 clerk, class 3; 1 clerk, class 2; 2 clerks, class 1, one of whom shall be a translator; 6 clerks, at $1,000 each; 5 clerks, at $900 each; 1 clerk, $840; 2 cataloguers, at $1,200 each; 3 cataloguers, at $1,000 each; 1 messenger, $720; 2 messengers or messenger boys, at $600 each; 1 messenger, messenger boy, or laborer, $480; 1 charwoman, $480; in all, $27,020.

Mr. FOWLER. Mr. Chairman, I make a point of order against the paragraph, especially that portion in regard to one librarian, $2,000. The Revised Statutes provide for one librarian for this department at $1,800.

The CHAIRMAN. The point of order is sustained.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. SLAYDEN having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bill of the following title in which the concurrence of the House of Representatives was requested:

S. 4043. An act divesting intoxicating liquors of their interstate character in certain cases.

AGRICULTURE APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Contingent expenses, Department of Agriculture: For stationery, blank books, twine, paper, gum, dry goods, soap, brushes, brooms, mats, oils, paints, glass, lumber, hardware, ice, fuel, water and gas pipes, heating apparatus, furniture, carpets, and matting; for lights, freight, express charges, advertising, telegraphing, telephoning, postage, washing towels, and necessary repairs and improvements to buildings, grounds, and heating apparatus; for the purchase, subsistence, and care of horses and the purchase and repair of harness and vehicles, for official purposes only; for the payment of duties on imported articles, and the Department of Agriculture's proportionate share of the expense of the dispatch agent in New York; for official traveling expenses; and for other miscellaneous supplies and expenses not otherwise provided for, and necessary for the practical and efficient work of the department, $100,000.

Mr. LEVER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 53, line 8, by striking out the period and inserting a semicolon and the following language: "*Provided*, That not exceeding $1,000 may be used for the purchase of an oil painting of James Wilson, late Secretary of Agriculture, for the Department of Agriculture."

Mr. COX. Mr. Chairman, I reserve a point of order on that.

Mr. LEVER. Mr. Chairman, in the first place I would rather the gentleman would make his point of order.

Mr. COX. I make the point of order.

Mr. LEVER. I would like to be heard on the point of order. The language of the amendment, I think, is so drawn as to make it distinctly and definitely a limitation upon this appropriation. It leaves it within the discretion of the Secretary of Agriculture to purchase an oil painting of the late Secretary of Agriculture. It does not direct the Secretary of Agriculture to do anything. It leaves it to his discretion, and I think the rule is pretty well established by the House that an amendment in the form of a limitation upon an appropriation bill is in order upon an appropriation bill.

Mr. SLAYDEN. Will the gentleman yield for a question?

Mr. LEVER. Certainly.

Mr. SLAYDEN. In point of fact, how can a proposition to buy something which we have not heretofore had be a limitation on an expenditure?

Mr. LEVER. It is not a direction, I will say to my friend from Texas, to do anything; it is leaving it to the discretion of the Secretary of Agriculture to buy something if he desires to exercise his discretion.

Mr. SLAYDEN. Then, amending the question, how can that conditional purchase, or authority to make a purchase of something we have not yet had, possibly be a limitation on expenditures?

Mr. LEVER. The fact is, Mr. Chairman, that in the Department of Agriculture we now have an oil painting of each of the Secretaries of Agriculture who have held that office heretofore. The purchase, I understand, was made out of the contingent expenses of the Department of Agriculture, but this committee thought that it was due to the Secretary of Agriculture that this Congress ought to recognize his 16 years of splendid service in the interest of the American people by distinctly saying that Congress wanted an oil painting made of him that it might be used in the Department of Agriculture. [Applause.] I want to say, Mr. Chairman, if the gentleman will reserve his point of order, because I have doubt it is in order myself——

The CHAIRMAN. Does the gentleman reserve his point of order?

Mr. COX. I will reserve the point of order as long as the gentleman wishes to be heard on it.

Mr. LEVER. I want to say, Mr. Chairman, this: The Federal Government was a long, long while in giving recognition to agriculture in this country, although the fathers of the country, including Washington, Jefferson, and Hamilton, in the very dawn of the Nation foresaw that agriculture was to be its chief asset. It was not until 1862 that any substantial recognition was given to this great occupation of mankind. In fact, up to that time agriculture was not considered a profession; it was considered an occupation in which anybody with a strong piece of land, a strong mule, and a strong pair of arms could do just about as well as anybody else; but in 1862 President Lincoln signed a bill which established the agricultural colleges of this country. Following that came the Hatch Act in 1887, and then, in 1887, too, the Department of Agriculture was created, and this great profession of so many of our people was given a seat at the Cabinet table of the President of the United States. We have had four Secretaries of Agriculture since the creation of the Department of Agriculture—Norman J. Colman, of Missouri; J. M. Rusk, of Wisconsin; J. Sterling Morton, of Nebraska; and James Wilson. Secretary Wilson has served as head of this department for 16 years—longer than any man has ever served in any Cabinet position in the history of our Government.

I have been intimately associated with him in his work for 10 years. He is a Republican from a rock-ribbed Republican State. I am from a rock-ribbed Democratic State, but in the administration of the affairs of that great department, which in 16 years he has built up to be one of the most useful in this country, Secretary Wilson has never known party or sectional lines. [Applause.] I believe it can be said with complete truthfulness that there is not a man in official life to-day who is more universally loved by the people that I have the honor to represent in part than is James Wilson. [Applause.] I wish every Member of Congress could have witnessed the scene I witnessed, along with the other members of the Committee on Agriculture last week, when Secretary Wilson rose before 800 boys and girls from the South—the Corn Club boys and the Tomato Club girls—the splendid ovation given the old man, and I wish you could have seen how deeply touched he was by it. This amendment of mine proposes to set aside the small sum of $1,000 to show the appreciation which I feel every Member of Congress feels, on this side and on that, for the splendid services rendered this country by James Wilson. His life, coming as he did from Scotland to this country a mere boy, and the work he has accomplished are an inspiration to every farm boy in America. You may walk through the corridors of every public building in Washington over which presides a Cabinet officer, and you will see oil paintings there of past Secretaries, of Jefferson, of all the great leaders that have gone before, and it does seem to me that this Congress ought to be willing to set aside this small sum to commemorate the services, the statesmanship, the broad-minded liberality of this great man who has presided over this great department and made it what it is during the past 16 years. [Applause.]

And I earnestly hope that my friend from Indiana [Mr. COX], representing, as he does, a great agricultural constituency and a great State, who himself believes in the ultimate destiny of these people as an agricultural people, will not press this point of order against this little tribute to this great chieftain, this great leader of agricultural thought, this great man who is about to leave us.

Mr. ADAIR. Will the gentleman yield for just one question?

Mr. LEVER. Yes.

Mr. ADAIR. I just want to inquire if there ever has been an appropriation made for an oil painting for any of his predecessors?

Mr. LEVER. There never has been a distinct appropriation, but each one of these men—Mr. Colman, Mr. Morton, and Mr. Rusk—have their oil paintings in the office of the Secretary of Agriculture.

Mr. SLAYDEN. And have these paintings to which you refer been bought without authority?

Mr. LEVER. I so understand—without expressed authority. I have not been able to find any authority in the law, but they are there, and they were bought out of these funds. But we do not want Secretary Wilson's picture bought in that way. We want this Congress to pay a just tribute to a great man. [Applause.]

Mr. SLAYDEN. The gentleman's statement is a rather serious indictment of previous administrations of the Department of Agriculture, and suggests that the Committee on Expenditures in the Department of Agriculture might well have done some work in the line of investigation.

Mr. MANN. Will the gentleman yield?

Mr. LEVER. In just one moment. I make the statement without having investigated the matter thoroughly. I have not gone back to all the acts.

Mr. SLAYDEN. And so this is the first time an attempt has ever been made to authorize it?

Mr. LEVER. That is my judgment, without a thorough investigation.

Mr. MANN. The gentleman knows that every department of the Government has adopted the same course through every party administration.

Mr. SLAYDEN. And the gentleman also knows it has resulted in the purchase of pictures here in the Capital and in the accumulation of a large number of portraits and paintings that reflect no credit on the country as works of art.

Mr. MANN. And the gentleman knows the same thing is true of the pictures of the Presidents in the White House.

Mr. SLAYDEN. I can not go that far.

Mr. MANN. I mean as to the purchase.

Mr. SLAYDEN. I mean as to the artistic excellence of the portraits.

Mr. MANN. The gentleman knows that the House of Representatives did the same thing as to ex-Speakers.

Mr. SLAYDEN. It authorized by a distinct act of Congress the purchase of a job lot of pictures, and bad enough they mostly were.

Mr. MANN. It was only recently that the gentleman's committee reported in a bill to repicture the Halls of the House—throw away the old pictures and put in new ones.

Mr. HAMILTON of Michigan. No; to paint the pictures of Speakers whose portraits had not already been painted.

Mr. SLAYDEN. And appropriated $9,500 for painting 19 pictures and naming the originals.

Mr. MANN. And threw away the old ones that we had, which were purchased in the same manner—out of the contingent fund.

Mr. SLAYDEN. That was a waste.

Mr. HAMILTON of Michigan. I do not think any painting was thrown away.

Mr. MANN. They were not paintings. They were lithographic pictures.

Mr. BURKE of South Dakota. Mr. Chairman, I will ask the gentleman if it is not better administration to make a specific appropriation for painting the portrait of the head of a great department than to have the picture made, as it was made in one instance that I know of, where the picture was paid for out of an appropriation for a miscellaneous fund for the particular department concerned and was itemized as "paint, oils, and canvas, $500"? [Laughter.]

Mr. HAMILTON of Michigan. In that case it was properly itemized, was it not?

Mr. MANN. I believe that was discussed in the House, but I think it is better to make a specific appropriation. That we shall have a picture in the end is inevitable. Why not give Secretary Wilson the proper tribute?

Mr. SLAYDEN. Does not the gentleman think there should be some condition stated in the statute that the portrait shall at least be made by some one capable of making a desirable portrait?

Mr. MANN. Oh, I shall be willing to trust the judgment of the next Secretary of Agriculture, Mr. BURLESON, in making appropriate arrangements for the work. [Applause.]

Mr. SLAYDEN. Of course, if you get a Texan at the head of that department, the work will be done properly. [Applause.]

Mr. COX. Mr. Chairman, I believe the author of the amendment practically concedes the point of order is well taken. I do not desire to detain the committee but for a very short time.

I do not care what Mr. Wilson's politics is, though he differs from me politically. I freely subscribe to everything that the gentleman from South Carolina [Mr. LEVER] has said about Mr. Wilson's greatness. If I recollect aright, he became the head of that great department when its expenditures were only about $2,000,000 a year. He has presided over its destinies and aided in its growth until the sum now carried in this bill, after he has carried on his great work for 16 years, amounts to something between $17,000,000 and $18,000,000.

Mr. Chairman, you could appropriate $100,000 or any other amount to have Mr. Wilson's picture painted and it would never add one iota to his greatness. He is already enthroned in the hearts of the farmers of this country, and there is no doubt in my mind but that he will live in the hearts of his countrymen, dear to each and every one of them, for countless ages yet to come. While I concede his greatness, Mr. Chairman, I object to appropriations being made in this way and in this manner.

We have a committee organized in this House, ably presided over by the gentleman from Texas [Mr. SLAYDEN], whose duty it is to report bills to this House, when he sees fit, covering the identical subject or subjects intended to be covered by the amendment of the gentleman from South Carolina [Mr. LEVER]. I hope that no man will feel for a moment that in urging this point I do it on any political grounds whatever.

Mr. MANN. We do, though.

Mr. COX. Oh, the gentleman from Illinois does not believe that for a minute, and he knows he does not believe it.

Mr. MANN. Yes; I do.

Mr. HAMILTON of Michigan. Yes. Mr. Chairman, will the gentleman yield to me for a question?

Mr. COX. And no other man who has known me for six years will believe that.

Mr. HAMILTON of Michigan. Mr. Chairman, will the gentleman yield to me for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. COX. Yes.

Mr. HAMILTON of Michigan. I wish to ask the gentleman if it is not particularly appropriate that this House in the consideration of the agricultural appropriation bill should make this appropriation for a portrait of James Wilson?

Mr. COX. No. If I did I would not make this point of order.

Mr. HAMILTON of Michigan. I should like to know why not?

Mr. COX. I will answer the gentleman and tell him why. A bill should be brought in here in the natural way and in the natural channel for that purpose. It has been admitted here this morning that appropriations for contingent expenses have heretofore been used for this purpose without any authority of law whatever; but does any man believe for a moment that we would be justified, without any warrant of law, in appropriating this sum or any other sum——

Mr. SLAYDEN. That is what we are trying to do now.

Mr. COX (continuing). For the purpose of having a portrait painted of any Cabinet officer?

Mr. LAMB. Mr. Chairman, will the gentleman yield to me for a moment?

The CHAIRMAN. Does the gentleman yield?

Mr. COX. Yes; for a moment.

Mr. LAMB. I have sat here and listened to what my colleaugue on the committee [Mr. LEVER] has said, and I want to say frankly that I did not know anything about this amendment, because the matter was taken up in the committee when I was called out for one purpose or other, and I did not notice the record when I returned. But I want to say that this amendment does, in the open and in the presence of this House, exactly what has been done heretofore under this contingent-fund appropriation, as I am informed, with reference to the other Secretaries of Agriculture, and it will only pay to this worthy retiring officer a deserved tribute that has already been paid to his predecessors in office.

And, while I admit that the point of order lies, I hope the gentleman from Indiana, after what has been suggested here, will withdraw this point of order and allow this portrait of a worthy, noble, patriotic officer, whose heart is equal to his head, to hang in the Department of Agriculture when he has retired from office, loved and honored by his countrymen. [Applause.]

Mr. HAMILTON of Michigan. I suggest to the gentleman that he do not disarm the Chair in advance by admitting the point of order.

The CHAIRMAN. The Chair feels obliged to hold, under the rule, that the amendment offered by the gentleman from South Carolina [Mr. LEVER] is not a limitation, but affirmative legislation.

Mr. HAUGEN. I will ask the gentleman from Indiana to withhold his point of order for a minute.

Mr. COX. I only made it in the interest of time.

Mr. HAUGEN. May I have a minute?

Mr. COX. I will withhold it.

Mr. HAUGEN. Mr. Chairman, we all take a just and pardonable pride in our Nation's growth and greatness, and in the fact that we are living in this age of marvelous expansion. And no matter what one's political affiliation, creed, or occupation

may be, as has been stated by the gentleman from South Carolina [Mr. LEVER], our duty to give honest and thoughtful consideration to the development of our farm and natural resources, to see to it that every consideration is given to the development of mechanical appliances, the skill and genius of American labor—for the upbuilding of this great Nation. I wish to record the statement here that no man has contributed more to this Nation's growth and greatness, especially agriculture, than this great and grand man, James Wilson, of Iowa [applause], and I believe that Congress can well afford to spend a few thousand dollars in recognition of his great service. He needs no eulogy here. His popularity is not confined to the border lines of the State of Iowa or of the District of Columbia. No, it has gone far beyond the border lines of these; yes, even beyond those of our Nation, into the remotest parts of this world. I trust that the gentleman from Indiana will withdraw his point of order. [Applause.]

Mr. MARTIN of South Dakota. May I ask the gentleman a question?

SEVERAL MEMBERS. Regular order!

Mr. SLAYDEN. Does the gentleman renew the point of order?

Mr. COX. I make the point of order.

The CHAIRMAN. The Chair is compelled to sustain the point of order.

The Clerk read as follows:

For Forest Service, $25,075.

Mr. LEVY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment which the Clerk will read.

The Clerk read as follows:

Page 53, line 16, after "Forest Service," strike out "$25,075" and insert in lieu thereof "$20,000."

Mr. LAMB. Mr. Chairman, we have no information touching this particular item. Let me say here for the information of the committee that there is no change in the total amount of the appropriation for rent in the District of Columbia, although several changes have been made in the amounts specified for rent for the various bureaus. The total amount provided in this bill, $95,329, is the same as that carried in the act for the current fiscal year. If this item in line 16 is changed it will disarrange these other amounts apportioned for rent in other bureaus.

The amendment was rejected.

The Clerk read as follows:

For additional rent in cases of emergency for any bureau, division, or office of the department, $7,608.

Mr. AKIN of New York. Mr. Chairman, I should like to ask the chairman of the Committee on Agriculture as to this item—

For additional rent in cases of emergency for any bureau, division, or office of the department.

How does the committee get the amount of $608? Why is it not $8,000 or $7,000, when this is an emergency appropriation, the amount of which no one can determine? Why was it figured down to $7,608?

Mr. LAMB. So far as the fractional amount is concerned I can not tell the gentleman, but it is very wise to provide for any emergency that may arise by reason of accident, fire, or what not, such as comes to all business people everywhere. In proof of that, just a day or two ago they had a fire down there which will necessitate the renting of other quarters.

Mr. MANN. I think I can give the gentleman from New York the information he asks for. Each bureau figures up the amount that it is actually paying for rent and that is carried in the item, and then the committee, desiring not to make any increase in the total appropriation for the year, subtract the total of rent paid by the different bureaus from the total of the appropriation for the current year. In the current law this emergency appropriation was $10,000, and by this method of subtraction the amount left is $7,608.

Mr. HAWLEY. That is a very ingenious theory.

Mr. MANN. There is no theory about it at all. That is the fact.

The Clerk read as follows:

General expenses, Office of Experiment Stations: To carry into effect the provisions of an act approved March 2, 1887, entitled "An act to establish agricultural experiment stations in connection with the colleges established in the several States under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto," the sums apportioned to the several States and Territories to be paid quarterly in advance, $720,000.

Mr. STEPHENS of Texas. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by inserting at end of line 23, page 54, the following: "*Provided*, That $50,000 of said sum shall be used for the purpose of establishing one of said stations at Plainview, Tex."

Mr. LAMB. Mr. Chairman, I make a point of order to that.

Mr. STEPHENS of Texas. Will the gentleman withhold it for a moment?

Mr. LAMB. Out of reverence to my friend, I will.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to say that a bill for this purpose has passed the Senate. I have been diligently endeavoring to get the bill reported favorably by the Committee on Agriculture, and I know that it should be passed for the benefit of the plains of Texas. There are about 40 counties that this agricultural experimental station would serve by demonstrating to the people the benefits of improved agricultural methods. This is a new country, and an experiment station would be of great benefit to the agricultural interests in connection with the State work now being carried on there. It has been earnestly requested by the beautiful little city of Plainview and by the State authorities and also by the United States authorities to be located at this point. The Committee on Agriculture of this House has not as yet seen fit to report the bill, but has turned it down, and I now sincerely hope that they will accept this amendment. That part of the country is a semiarid country, consisting of level plains, and the soil is very rich and suitable for wheat and cereal crops and has developed into a fine farming and stock-raising country.

Mr. MANN. Will the gentleman yield?

Mr. STEPHENS of Texas. Certainly.

Mr. MANN. Is not Texas getting the $15,000 out of the $720,000?

Mr. STEPHENS of Texas. I think so.

Mr. MANN. If you take off $50,000 from this $720,000 which States would lose it?

Mr. STEPHENS of Texas. It would come out of the lump sum.

Mr. MANN. But some States would have to lose it.

Mr. STEPHENS of Texas. Each State, I suppose, would lose a proportional part.

Mr. MANN. Then the law could not be complied with.

Mr. STEPHENS of Texas. I understand that the department now has the authority to appropriate a sum of money for the purpose of establishing an experimental station at that point, but has declined to do so.

Mr. LAMB. I think my friend is mistaken. I want to say to the gentleman from Texas in regard to the committee being indifferent as to his bill and not acting upon it, the next day after he presented it to the committee I appointed a subcommittee and they had it under consideration. We did act upon it, and placed it in the hands of a subcommittee. We were not in a situation to create any new experimental station. We struggled hard to reduce the bill to the proper amount so that we thought it would receive the consideration and approval of the House. The proposition of the gentleman from Texas would mean taking so much away from some other State. This line of legislation must be taken up and considered by some future Congress, if at all.

Mr. STEPHENS of Texas. Is it not a fact that you have added a million dollars to this bill?

Mr. LAMB. No; about $800,000. That is on account of the increase in the work of the department as well as the creation of new laws which necessitated this increase.

Mr. STEPHENS of Texas. I hope the gentleman from Virginia will withdraw his point of order and give Plainview this small sum of $50,000 for this experimental station.

Mr. LAMB. Mr. Chairman, I feel constrained to make the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. RAKER. Mr. Chairman, while that amendment and ruling applied to the State of Texas, I do not think it applies to California, and therefore I offer the following amendment.

The Clerk read as follows:

Provided, That $25,000 of said sum shall be used for the purpose of establishing one of said stations at Dorris, Siskiyou County, Cal.

Mr. LAMB. To that, Mr. Chairman, I make a point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

To enable the Secretary of Agriculture to establish and maintain agricultural experiment stations in Alaska, Hawaii, Porto Rico, and the island of Guam, including the erection of buildings, the preparation, illustration, and distribution of reports and bulletins, and all other necessary expenses, $105,000, as follows: Alaska, $30,000; Hawaii, $30,000; Porto Rico, $30,000; and Guam, $15,000; and the Secretary of Agriculture is authorized to sell such products as are obtained on the land belonging to the agricultural experiment stations in Alaska, Hawaii, Porto Rico, and the island of Guam, and to apply the money received from the sale of such products to the maintenance of said stations, and this fund shall be available until used.

Mr. MANN. Mr. Chairman, I reserve the point of order on the paragraph. May I ask the gentleman how much money was

received during the last fiscal year from the sale of products at these various farms?

Mr. LAMB. Mr. Chairman, I can not place my hand on the amount just now.

Mr. MANN. Here we are making an appropriation of $30,000 for the maintenance of a farm in Alaska, $30,000 for the maintenance of a farm in Hawaii, $30,000 for the maintenance of a farm in Porto Rico, and $15,000 for a farm in the island of Guam, and we are making those appropriations annually. Even a fancy kid farmer, a dress-suit farmer, could run a farm fairly well if he gets $30,000 annually in addition to the amount he realizes from the farm. He could run a farm that way and really have the champagne cost less than the milk. How much do they make on these farms? Do they turn the amount over again, if they get a bonus or subsidy of $15,000 a year for running a farm in Guam, where they do not raise anything to speak of except coconuts?

Mr. LAMB. Mr. Chairman, my friend knows as well as I do that the proceeds from these farms are nil. This is an experiment to teach these people. It is a part of the program of the country to extend this work and educate the people in farming.

Mr. MANN. Mr. Chairman, taking my distinguished friend at his word that the farms are only for educational purposes, and the proceeds are nil, I make the point of order against the language on page 56, in lines 4, 5, and 6, as follows:

And to apply the money received from the sale of such products to the maintenance of said stations.

Mr. LAMB. Mr. Chairman, I do not object to that.

Mr. COX. What is the purpose of making that point of order?

Mr. MANN. Then if they receive any proceeds they will be paid into the Treasury as miscellaneous receipts, and we will ascertain at some time in reference to what they do.

Mr. SLAYDEN. Mr. Chairman, does not the gentleman from Illinois fear that this transfer of earnings from their own coffers to the Public Treasury will dislocate the finances?

Mr. LAMB. No; not at all. I could answer that.

The CHAIRMAN. The Chair understands the gentleman from Illinois to make the point of order to the language on page 56, beginning on line 4:

And to apply the money received from the sale of such products to the maintenance of said stations.

Mr. MANN. Yes.

The CHAIRMAN. The point of order is sustained.

Mr. FOSTER. Mr. Chairman, what is to become of the language following:

And this fund shall be available until used.

Mr. MANN. Mr. Chairman, that has been carried for years, and I think properly so, because these farms do not operate by the fiscal year. The appropriation is by the fiscal year, but unfortunately the farm is not managed on the basis of the fiscal year.

Mr. FOSTER. But they get so much appropriation each year.

Mr. MANN. Yes; but take the appropriation this year, for instance. They make their plans accordingly. It is current law. That appropriation would cease to be available on the 1st of July unless this language were in the bill.

Mr. FOSTER. But another appropriation comes in at that time.

Mr. MANN. That is true; but they have made their plans on that appropriation, and this has been carried for years, so it is six of one and a half a dozen of the other.

Mr. FOSTER. If they do not use all their appropriation this gives it to them for other years.

Mr. LEVER. That is in keeping with the Hatch and other acts. They get $15,000 a year until used.

Mr. SLAYDEN. Mr. Chairman, I want to suggest to the gentleman from Illinois that in the case of Alaska, where the seasons are short and the crops have to be expedited if they are produced, conditions require that the appropriations shall go over.

I do not know how it is in that land of perpetual summer—Guam. I am not so certain about that; but I know that appropriations made in the military appropriation bill for work on roads and things of that kind in Alaska have to be made available for 15 months, otherwise they can not be used frequently.

Mr. MANN. Mr. Chairman, my colleague will understand the department has no authority in making its arrangements this spring in Alaska to assume that Congress is going to make an appropriation available after the 1st of July, and they are forbidden to assume that.

Mr. FOSTER. I see that. I think it is right.

The Clerk read as follows:

Irrigation investigations: To enable the Secretary of Agriculture to investigate and report upon the laws of the States and Territories as affecting irrigation and the rights of appropriators, and of riparian proprietors and institutions relating to irrigation, and upon the use of irrigation water at home and abroad, with especial suggestions of the best methods for the utilization of irrigation waters in agriculture, and upon the use of different kinds of power and appliances for irrigation, and for the preparation and illustration of reports and bulletins on irrigation, including the employment of labor in the city of Washington and elsewhere, rent outside of the District of Columbia, and all necessary expenses, $108,000.

Mr. COX. Mr. Chairman, I reserve a point of order on the paragraph. I want to call attention of the gentleman in charge of the bill to the language in line 8 in regard to an investigation of irrigation laws at home and abroad. Does the gentleman believe that that language is of any benefit there? How is it carried out? Do we actually send people abroad to investigate the irrigation laws of other countries?

Mr. LAMB. I do not know; I suppose we have sometimes. I do not see why they put "abroad" in there, unless at some time they send people to other countries.

Mr. COX. Is there any law now—I mean basic or organic law—which would empower the Agricultural Department to send representatives abroad for the purpose of acquiring a knowledge of foreign laws upon the subject of irrigation?

Mr. LAMB. I do not know; I do not think so.

Mr. COX. I make the point of order, Mr. Chairman, on the language "at home and abroad."

Mr. LAMB. I concede the point of order—no, I do not; it has been carried heretofore; it has been carried all the time, and I do not think it would be if there is not some good reason for it, but I can not lay my hands on it now.

Mr. RAKER. I want to call the attention of the committee to the fact that this has been in here for a good many years with a good deal of benefit. Now, I have not the statute before me to say whether or not this has been carried by act——

Mr. COX. I have no quarrel to make at all about the investigation at home, but it is about this investigation abroad.

Mr. RAKER. I am referring especially to abroad. You will observe from the works and pamphlets on irrigation relative to irrigation abroad that that has been done for 500 years, and there has been great use and benefit derived from it. It is one of the beneficial things, and it has given the department some of the ideas relative to their work here.

Mr. COX. Are not the laws obtainable at the Public Library without sending men abroad?

Mr. HAWLEY. It is not an investigation of the laws, but an investigation of the use of the water.

Mr. COX. The language is, "To enable the Secretary of Agriculture to investigate and report upon the laws of the States and Territories," and so forth.

Mr. HAWLEY. That is only a part; the gentleman will read after that.

Mr. RAKER. "And upon the use of irrigation water at home and abroad."

Mr. HAWLEY. It is not an investigation of the laws abroad, but the use of irrigation water abroad—the systems of irrigation.

Mr. COX. Does the gentleman believe that any representative of this country can go abroad and get facts so as to be able to tell our engineers how to handle irrigation projects?

Mr. RAKER. Yes; and these older countries can give these people some lessons on how to irrigate, as they have been irrigating there for centuries.

Mr. COX. I think they are making wonderful progress in this country, and I make the point of order on that language "and abroad." I do not want to cripple the service——

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

Drainage investigations: To enable the Secretary of Agriculture to investigate and report upon the drainage of swamp and other wet lands which may be made available for agricultural purposes, and to prepare plans for the removal of surplus waters by drainage from such lands, and for the preparation and illustration of reports and bulletins on drainage, including the employment of labor in the city of Washington and elsewhere, rent outside of the District of Columbia, and all necessary expenses, $97,600.

Mr. HOBSON. Mr. Chairman, I ask unanimous consent to return to page 56, just passed. It is in line 17——

Mr. FOSTER. Reserving the right to object, I would like to know what it is for.

Mr. HOBSON. I will say to the gentleman it is for the purpose of asking that provision be made for having the information at the disposal of the Agriculture Department put in the form of courses equivalent to correspondence courses, as well as in the form of bulletins, so that it can be sent to the teachers in the public schools through the agency of the Office

of Experiment Stations; and I would like to read, if there is no objection and the gentleman will reserve the point of order, what is said about it——

Mr. FOSTER. The department now issues these bulletins of investigations of nutrition.

Mr. MANN. Does the gentleman from Alabama desire to return for the purpose of offering an amendment or for discussing it?

Mr. HOBSON. Yes; for the purpose of offering an amendment.

Mr. MANN. What is the amendment which the gentleman desires to offer?

Mr. HOBSON. It is not for nutrition, I will say to the gentleman from Illinois [Mr. FOSTER], but the paragraph before that. It is to change $23,000 to $33,000, to enable the Office of Experiment Stations to have two experts, with a limited additional clerical force, under which they estimate. They could then proceed with their existing machinery to have the experiment stations and the State agricultural colleges and State superintendents and county superintendents of education to reach the teachers in the rural schools——

Mr. MANN. I object, unless the gentleman will state what his amendment is.

Mr. HOBSON. It is to strike out $23,000 and insert $33,000.

Mr. MANN. Is that all the amendment?

Mr. HOBSON. That is all the amendment.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to return to page 56 of the bill for the purpose of offering an amendment as indicated by him. Is there objection?

Mr. FOSTER. Mr. Chairman, I object.

Mr. MANN. Mr. Chairman——

Mr. HOBSON. Mr. Chairman, if there is no objection, I would like to insert the letter of the chief of the bureau.

The CHAIRMAN. Is there objection to the gentleman from Alabama [Mr. HOBSON] extending his remarks in the manner indicated?

There was no objection.

The following is the letter referred to:

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF EXPERIMENT STATIONS,
Washington, D. C., January 30, 1913.

HON. RICHMOND PEARSON HOBSON,
House of Representatives, Washington, D. C.

DEAR SIR: In accordance with your request upon Mr. Crosby at the conference in your office this morning, we have considered the question of extending the agricultural education work of the office so as to reach the teachers in public schools, and have come to the conclusion that no change is needed in the language of the appropriation bill as contained in the paragraph beginning with line 7 and ending with line 17, page 56, H. R. 28283, to enable the office to cooperate with the agricultural colleges and other State educational forces in preparing and disseminating material on agricultural subjects to be used in correspondence courses or reading courses for teachers in the public schools.

As Mr. Crosby explained to you this morning, we have already prepared quite a number of bulletins especially for the use of teachers, and it is our hope not only to add materially to the number of these publications but also to issue publications for teachers at frequent, regular intervals, so as to have a medium through which we can communicate with them regularly and frequently concerning the progress of agricultural education and the development of better methods of teaching.

In order to inaugurate this work and to put ourselves in a position to cooperate with the State agricultural colleges, as suggested above, we estimate that it would require the services of at least two additional experts, trained not only in the science of agriculture but also in pedagogy and the methods of the schoolroom. To secure the services of two such men, whose qualifications would command the respect of educators throughout the country, and to supply them with the necessary clerical help, office facilities, and means for a limited amount of travel, would require an addition of about $10,000 to the item in line 17 on page 56 of the appropriation bill referred to above.

I wish to thank you for the interest you have taken in this matter, because we think of the work in the rural public schools as being fundamental to the permanent advancement of agriculture, and, more important than that, to the advancement of the people living in the country and depending upon the land for subsistence and the means of educational and social development.

Very respectfully, yours,
A. C. TRUE, *Director.*

Mr. MANN. Mr. Chairman, in reference to the matter that the gentleman from Alabama [Mr. HOBSON] just referred to, I should have supposed that that could be taken care of under the Lever bill when that becomes a law, as I hope it will. May I ask the gentleman in charge of the bill in reference to whether he has any information concerning the report that was ordered to be made at the beginning of this session of Congress upon the feasibility and economy of irrigation by the reservoir system in western Kansas and Oklahoma?

Mr. LAMB. I have not.

Mr. MANN. We carried an item in the bill last year requiring the Secretary to make a report at the opening of the "next session," which is this session, on that subject, and I await with anxiety a report from some of the gentlemen from western Kansas or Oklahoma in reference to this matter. They were very urgent last year to have the item inserted in the bill, and ought to be here to give us the information as to what is the result of that investigation.

Mr. LAMB. Mr. Chairman, I am sorry to say I have not the information.

Mr. CAMPBELL. We do not need it down in the southeastern part of the State, I will say to the gentleman.

Mr. MANN. I understand.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

OFFICE OF PUBLIC ROADS.

Salaries, Office of Public Roads: One director, who shall be a scientist and have charge of all scientific and technical work, $4,000; 1 chief clerk, $1,900; 1 clerk, class 4; 2 clerks, class 3; 1 clerk, $1,500; 1 clerk, $1,440; 1 clerk or instrument maker, $1,440; 1 clerk, $1,380; 2 clerks, at $1,320 each; 4 clerks, at $1,260 each; 2 clerks, class 1; 1 clerk or photographer, $1,200; 1 clerk or photographer, $1,000; 2 clerks, at $1,140 each; 1 clerk, $1,080; 1 clerk, $1,020; 4 clerks, at $1,000 each; 1 clerk, $900; 1 clerk or instrument maker, $1,200; 1 messenger or laboratory helper, $840; 2 messengers, laborers, or laboratory helpers, at $720 each; 1 messenger or laborer, $660; 4 messengers, laborers, or messenger boys, at $600 each; 2 messenger boys, at $480 each; 2 charwomen, at $240 each; in all, $47,400.

Mr. MADDEN. Mr. Chairman, I move to strike out the last word. I would like to ask one of the gentlemen in charge of the bill just what all this clerical force in the Good Roads Bureau in the Department of Agriculture does for a living?

Mr. LAMB. Will the gentleman state that again?

Mr. MADDEN. I would like to ask what this clerical force in the Good Roads Bureau of the Department of Agriculture does for a living.

Mr. LAMB. They work on the experimental part of good-road making. Here is what the chief of the bureau says:

At the last session of Congress an appropriation of $500,000 was passed in the Post Office bill for public roads in connection with the rural free delivery of mail, the States and local subdivisions to cooperate and apportion twice the amount. As there is no provision in the appropriation of $500,000 carried in the Post Office bill for clerical services in Washington, it will be necessary to materially increase the clerical force provided for public roads in the agricultural bill.

Mr. MADDEN. Everybody knows that there has been no part of this $500,000 expended. Everybody knows that no part of the $500,000 could be expended, and everybody ought to know, if they do not, that there is no reason why a large force of high-priced clerks should be added to the Good Roads Bureau of the Department of Agriculture just because it happened that $500,000 was appropriated to be used through the Post Office Department in the cooperation of the Federal Government with the States in the construction of good roads.

Mr. LAMB. Mr. Chairman——

Mr. MADDEN. The total amount of money appropriated for the Good Roads Bureau in this bill is $274,000. The total amount of money expended for clerical force is $47,400—20 per cent of the whole appropriation expended for salaries.

Mr. LAMB. This whole thing is for salaries, my friend. The whole business down there is salaries, or 90 per cent, anyway.

Mr. MADDEN. If it is all salaries, then it is of no use. If we do not do any practical work for the money we appropriate, except to pay salaries, we accomplish no purpose.

Mr. LAMB. How do you know they are accomplishing no purpose, my dear fellow?

Mr. MADDEN. I am just telling you that they are accomplishing no purpose. The supposition is that this bureau is to expend a part of the appropriation in the construction of sample roads. But the chairman of the Committee on Agriculture says that it is all salaries.

Mr. LAMB. A great portion of it is for salaries. I do not mean by that that every dollar is expended in that way.

Mr. MADDEN. I do not see why you should expect any practical results if nothing more practical than drawing salaries is done.

Mr. LAMB. I will say very frankly in answer to your first inquiry as to the $500,000, which, perhaps, has not been utilized, as we know, the work necessitates a great correspondence. I suppose hundreds of thousands of letters would not be an exaggeration of the amount that they are receiving. You have received a great many, I think, yourself as to this very bill. I know I have.

Now, that is only one of the reasons he gives here for asking an increase. I want to say that we did not allow half of what he asked for, both as to newer places and as to money.

Now, as to what the results are—and that is what the gentleman wants and what we all want—this good-roads proposition is educational. The officer in charge of that bureau ascertains what material will make good roads. He sends that information to the people in the States in pamphlets. He has hundreds, and I might say thousands, of letters every day to answer, and he is doing all the work he can do and the best

work he can do, and we are trying to confine it to experimental and instruction work alone.

Mr. MADDEN. Let me say to the gentleman in charge of the bill that there is a joint commission of the House and Senate now considering the question of cooperation with the States in the matter of road building, and I know of no reason on earth why any addition should be made to the force of the Bureau of Good Roads in the Department of Agriculture until there is some intention manifested by Congress to cooperate with the States in the construction of good roads.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MADDEN. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. SHACKLEFORD. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. SHACKLEFORD. I would like to ask the gentleman from Illinois whether he does not believe that at this time to considerably increase the cost and expenses of bureaucracy can not but have an injurious effect on the good-roads movement, in which the people are now all very much interested? I want to ask him whether or not one of the fears that have been expressed by some of those who oppose roads legislation has not been that it might lead to a very extensive and expensive bureaucracy here at the seat of the Federal Government, and whether he does not think that if we were now to commence building up the bureau with additional help and additional expenditure it would have a serious detrimental effect upon the cause of good roads, which many of us are now trying to promote?

Mr. MADDEN. I certainly do, Mr. Chairman. I believe this, that, to begin with, the construction of roads ought to be left to the jurisdiction of the States. I believe the Federal Government, if it should cooperate at all with the States, should cooperate with them in the construction of good roads initiated by the States; and whatever may be the percentage of the cost of those roads, either for construction or maintenance, or both, as may be decided upon by the Congress as wise for the Government's share, should be turned over to the States only after legislation has been enacted by the States and by the Congress, so that there will be no bureaucratic government in the management of the roads to be constructed throughout the United States.

Mr. HOBSON. Mr. Chairman, will the gentleman yield for a question?

Mr. COX. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. To whom does the gentleman yield?

Mr. MADDEN. I yield to the gentleman from Alabama [Mr. HOBSON].

Mr. HOBSON. The question I desire to ask is simply to bring to the attention of the gentleman the interstate character of highways, and to ask if the gentleman does not approve the principle of the Federal Government coordinating and cooperating where such highways overlap from State to State, and in order to do that does he not think the Government, with its facilities, should establish and maintain what would be the equivalent of a survey for such roads, a highway survey, through this bureau or some other bureau?

Mr. MADDEN. I will say to the gentleman from Alabama that I believe if the Government of the United States is to cooperate with the States in the construction of good roads, the Congress should enact a fundamental law which should operate automatically, which would offer to the various States of the Union a certain percentage of the cost of any roads that might be constructed by the States when those roads are approved by the Government of the United States, and that any State desiring to come in under the provisions of the Federal law should be required to make uniform provisions for the construction of roads, as provided in the fundamental act passed by the Congress.

Mr. LAMB. Mr. Chairman, I move that all debate on this paragraph close in 10 minutes.

Mr. MADDEN. I do not believe, Mr. Chairman, that at this stage in the development of the good-roads question a large increase should be made in this bureau in the Department of Agriculture, because if the Congress finally does enact a law under which cooperation with the States shall become a fact, this matter of road construction and cooperation should be left with the Post Office Department. The Post Office Department has jurisdiction over the rural-mail routes of the country, and this institution is the proper institution to take jurisdiction of the subject.

And whether it be through the bureau that is now in existence in the Agricultural Department or through some other machinery, I am not in favor at the present time of increasing the number of men to be employed in this bureau.

Mr. COX. The gentleman propounded some interrogatories a moment ago of the gentleman in charge of the bill, making an inquiry as to what these clerks do.

Mr. MADDEN. Yes.

Mr. COX. If the gentleman will take the estimates, he will find that of the total of $272,400 estimated for 1914 the amount of $85,000 is estimated for traveling expenses.

Mr. MADDEN. That shows the extravagant way in which money is appropriated for this purpose. I move to strike out the paragraph.

Mr. LAMB. I renew my motion, and make it 5 minutes instead of 10.

The CHAIRMAN. The gentleman from Virginia [Mr. LAMB] moves that all debate on this paragraph and amendments thereto be closed in five minutes.

The motion was agreed to.

The CHAIRMAN. Does the gentleman from Illinois [Mr. MADDEN] make a motion to strike out the paragraph?

Mr. MADDEN. I do.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 58, strike out the paragraph included between lines 1 and 17.

Mr. CANDLER. Mr. Chairman, I certainly hope that the motion of the gentleman from Illinois [Mr. MADDEN] to strike out this provision, which is in the interest of the building of good roads, will not prevail nor, indeed, be seriously considered.

Mr. WILLIS. It will not be.

Mr. CANDLER. Because of the fact that there is nothing to-day that is interesting the American people more than the construction of good roads, and the result shows that there is nothing which accomplishes more good than the money expended in the construction of good roads. These clerks in this bureau are used for the purpose of cooperating with the various States throughout this Union in reference to this great question.

Mr. MADDEN. Will the gentleman from Mississippi allow me to ask him a question?

Mr. CANDLER. Why, with pleasure.

Mr. MADDEN. Does the gentleman know any place where this bureau has ever started a road that has been finished, or does he know any place in Mississippi, for example, where any advantages have been gained by the expenditure of this vast sum of money by this Bureau of Good Roads in the Agricultural Department?

Mr. CANDLER. Not only in Mississippi, but throughout the country they have constructed object-lesson roads in almost all the States. These object-lesson roads have brought about marvelous results, because they have been taken as patterns from which other roads have been constructed. That is true not only in Mississippi, but in other States. We were down in the great State of South Carolina the other day——

Mr MADDEN. Where, for instance, in the State of Mississippi?

Mr. CANDLER. They have constructed sand-clay roads in a great many places.

Mr. MADDEN. Where?

Mr. CANDLER. I stated in South Carolina; and they have been built elsewhere, for that matter. These clerks in this bureau are used in cooperation with the work of the several States, and in 1911 the States of this Union expended or authorized the expenditure of $141,298,209 for the construction of good roads. My own State of Mississippi authorized an expenditure of $2,627,500.

Mr. MADDEN. I know; but what has that to do with this bureau?

Mr. CANDLER. This bureau cooperates with the States.

Mr. MADDEN. Oh, nonsense. They do not cooperate with them at all.

Mr. CANDLER. In that statement the gentleman is mistaken. The department sends these representatives of this Bureau of Good Roads throughout the country to confer with local authorities in reference to road material and to advise and consult with the State and local authorities in reference to the construction of good roads.

Mr. MADDEN. Not once has any representative of the Bureau of Good Roads communicated directly with anybody in Illinois concerning the expenditure of any money by the State, or any political subdivision of it.

Mr. CANDLER. Probably the gentleman has not asked for any cooperation.

Mr. MADDEN. We do not need them. We know more than they do about it.

Mr. CANDLER. If you had asked them, they would have been very glad to help you, as they have helped the people in other States. Of course, if you know more than they do, you do not need them and ought not to have them.

Mr. MADDEN. We do not want the help of people who do not know as much about it as we do.

Mr. CANDLER. Those who are so wise as not to need help ought not to have it; and the reason you did not get it is because you thought yourselves wise and therefore did not ask for aid; you did not want it, and it was not forced upon you. Sometimes there is no greater folly than to believe ourselves so wise as to refuse information when offered to us or to fail to avail ourselves of it when it is at our command. [Applause.]

Mr. MANN. Did not some one make the statement a moment ago that $70,000 or $80,000 or $90,000 was used for traveling expenses?

Mr. COX. I said the Book of Estimates for 1914 estimated $85,072 for traveling expenses.

Mr. MANN. That includes other items, because the amount expended for traveling expenses in the last fiscal year was only $7,000.

Mr. CANDLER. When they send their engineers throughout the country it costs money; but I feel sure the gentleman from Indiana is incorrect and the gentleman from Illinois is nearer the mark.

Mr. MANN. The department makes a report of the actual traveling expenses paid, which report I hold in my hand.

Mr. COX. I do not know anything about it except the Book of Estimates. I get my figures directly from that.

Mr. CANDLER. The Book of Estimates is what it purports to be, "a book of estimates," and, hence, does not show actual expenditures. It shows only estimates proposed. Expenditures are money actually expended, which is a very different proposition.

In view of the statement of the gentleman from Illinois, I submit the following record of achievements in the past 16 years of the Office of Public Roads, which I have secured from an authentic source:

RECORD, OFFICE OF PUBLIC ROADS, FOR 16 YEARS.

During the past 16 years the Office of Public Roads has grown from a small organization, with an annual appropriation of $8,000 and employing 7 persons, to a thoroughly developed organization, with 165 permanent and temporary employees, and an annual appropriation of $202,120. There is also an appropriation for the current year of $500,000, made by Congress, to be expended under the direction of this department on post roads. It is provided that in order to avail themselves of this appropriation the States or localities interested shall contribute $2 for every $1 contributed by the National Government. The Department of Agriculture, through its Office of Public Roads, will thus direct the expenditure of $1,702,120 this year.

During the fiscal year 1896–97 the office directed the construction of 7 object-lesson experimental roads, while during 1911–12 there were built 31 object-lesson roads, involving 400,775 square yards of surfacing. From 1897 to 1912, inclusive, 343 object-lesson and experimental roads have been constructed. It has been found that object-lesson roads built under the direction of engineers from the office are a most effective method of carrying information concerning standard construction to the various localities. The cost of construction is borne by the localities in which roads are built. The number of roads built each year by the office from 1897 to 1912, inclusive, is as follows:

	Roads.
1897	7
1898	16
1899	4
1900	7
1901	14
1902	15
1903	8
1904	17
1905	21
1906	17
1907	16
1908	18
1909	57
1910	49
1911	52
1912	31
Total	343

The activities of the office reflect in a measure the progress and present condition of the road movement in the United States. Sixteen years ago only four States had passed State-aid laws and established State highway departments to direct the work, viz: New Jersey, Massachusetts, Connecticut, and California. At the present time, however, the principle of State aid has been adopted in 40 States.

The Office of Public Roads was originally the Office of Road Inquiry in the Department of Agriculture, and was established under authority of an act of Congress of March 3, 1893, with an appropriation of $10,000. It was provided by law that the Secretary of Agriculture should make inquiries in regard to systems of road management throughout the United States, make investigations in regard to the best methods of road making, prepare publications, and assist agricultural colleges and experiment stations to disseminate information concerning roads.

During three fiscal years the appropriation and the wording of the original bill remained the same. The appropriation, however, for the year 1897 was reduced to $8,000, and a provision was added authorizing the investigation of road-making materials in the several States. The appropriation remained $8,000 annually during the years 1898, 1899, and 1900, and no change was made in the wording of the bill, although the name of the office was changed from Office of Road Inquiry to Office of Public Road Inquiries in 1899.

The Agriculture bill for 1901 carried an appropriation of $14,000, and provided for conducting experiments in the city of Washington and elsewhere and for collecting, reporting, and illustrating results of such experiments. The appropriation for 1902 was $20,000, and the bill provided for an investigation of the chemical and physical characteristics of road materials.

In 1903 the appropriation was increased to $30,000, in 1904 to $35,000, in 1906 to $50,000, in 1907 to $70,000, in 1909 to $87,390, in 1910 to $116,460, in 1912 to $160,720, and in 1913 to $202,120, making in all a total for the Office of Public Roads, from 1897 to 1913, inclusive, of $1,039,150. The bill approved March 3, 1903, changed the name of the office from Office of Road Inquiries to Office of Public Roads and established a statutory organization.

For the fiscal year 1912 Congress appropriated $10,000 to conduct field experiments in various methods of road construction and maintenance and to investigate various road materials and preparations. This appropriation has enabled the office to conduct a series of independent experiments along comprehensive lines.

In December, 1900, a laboratory was established in the Bureau of Chemistry for the testing of road materials. This laboratory was transferred in 1905 to the Office of Public Roads, where its present organization has been developed and perfected. From 1900 to June 1, 1912, 6,060 samples of road materials have been tested, including rock, gravel, sand, slag, clay, brick, cement, iron, steel, asphalt, oil, tar, rubber, and various other substances.

Much has been accomplished in the development of the physical tests of rock for road building, and the methods here adopted are now practically standard throughout the United States.

Research work in concrete has been productive of promising results. The properties of oil-mixed Portland cement concrete have been investigated and indicate this material to be one of merit for damp-proofing purposes. A public patent has been granted for this material, so that anyone may now use it without the payment of royalties. Measurements of the expansion and contraction of concrete while hardening which are of value to concrete engineers have aroused considerable interest and serve to explain certain phenomena in connection with concrete construction.

Experiments have been conducted to determine the efficiency of oils, tars, asphalt, and other preparations used for the purpose of preventing dust and preserving macadam roads under modern traffic conditions. Laboratory experiments have been accompanied by service tests and experiments in the field. The office has also conducted investigations to determine the feasibility of building sand-clay and burnt-clay roads in the Southern States and in the Mississippi Valley. Such construction has been found to be practicable for certain regions where materials are available and climatic conditions favorable.

Successful efforts are constantly made to bring about a more general use of the split-log drag in the maintenance of earth and gravel roads.

In order to demonstrate the fundamental principles of road construction better, the office has built a number of models of various standard types of roads and bridges and of road-building equipment, including road machines, rollers, and crushers. A set of models was first exhibited at the Alaska-Yukon-Pacific Exposition. Since that exposition closed similar exhibits have been shown in many parts of the United States through the medium of expositions and by means of exhibit trains operated by various railroad companies. The cost of making such demonstrations has been paid by the exposition or by the railroad companies interested. Lecturers and demonstrators from the office have accompanied exhibits and made them, to a large degree, schools in road building.

Realizing the need for trained highway engineers, the office inaugurated a plan in the year 1905 whereby a number of graduates in engineering are appointed each year from engineering schools and colleges after competitive examinations. These men are given a thorough training in road building, while they also render practical service to the Government. An efficient corps of highway engineers is thus prepared to carry out road building along correct lines. A number of engineers from the office are already connected with State and county highway departments in various parts of the United States, while several of them are constantly retained in the Government service.

The office has investigated the decomposition of rock powders under the action of water and discovered important facts with reference to their use as road materials. Investigations into the corrosion of iron and steel culverts and fences have also been productive of important results, and the matter of protective coatings has been extensively studied.

In May, 1907, the office inaugurated a project designed to introduce improved standard systems of construction, maintenance, and administration of roads into various counties throughout the United States. Under this plan experienced engineers are assigned to make thorough investigations on all phases of the road work of various counties, and to prepare exhaustive reports with plans, estimates, and recommendations. This method has already resulted in saving thousands of dollars to the counties where such model systems have been adopted.

Thorough and systematic methods of organization have been introduced into the administration of the office. Each employee is given specific duties to perform, and a careful system of reports and records is kept of work done and expenditures made on every project. The most approved system of filing is in use, and a library has been established containing a complete collection of periodicals, manuscripts, pamphlets, reports, and books on all phases of road work. This library is being added to constantly. Seventy-two periodicals are now regularly received, of which 41 are donated.

The office has in its files 8,237 photographic negatives and about 5,000 lantern slides illustrating nearly every item of road improvement. These slides are extensively used by representatives of the office in lecture work. During the year just closed 1,135 lectures were delivered by representatives of the office, nearly all of which were illustrated with lantern slides.

From 1897 to the present time the office has issued 28 bulletins, 73 circulars, 10 farmers' bulletins, 19 yearbook extracts, 15 annual reports, and 1 lecture syllabus, a total of 146 publications.

Investigations are now under way to determine the economic benefits resulting from road improvement and the particular relation of such improvement to agriculture. It is evident that when $142,000,000 constitutes the annual expenditure for road purposes in this country improved business management in our road work is imperative. Much statistical work is therefore carried on, particularly on the subjects of mileage, cost, and financing. The method of financing road construction by bond issues is becoming very common and is receiving considerable attention from the office, with the view to giving appropriate information to those who contemplate such methods of road financing. In order that the office may be kept in close touch with road work a collaborator is employed in each State to act as representative and to correspond monthly with the office.

An investigation was begun in 1904 to ascertain the mileage of improved and unimproved roads, rates of levy, and sources of revenue in every county in the United States. This work was finished in June, 1907, and shows that there were then over 2,150,000 miles of roads in the United States, of which only 7.14 per cent were improved. The expenditure in money and labor for that year amounted to nearly $80,000,000. A similar investigation begun in 1909 shows that there were in that year 2,199,645 miles of public roads in the United States, of which 190,476 miles, or 8.66 per cent, were improved. Information in regard to expenditures on all the public roads in the United States was collected during the year 1911. This investigation shows that the expenditures for that year amounted to approximately $142,000,000.

The Office of Public Roads is alive to the present problems of highway development, and its efforts are constantly and systematically directed toward their solution. The normal development of the office during the past 16 years has placed it in such a position that it may now be called a clearing house for all road questions.

The following is the approximate road expenditures and bond issues authorized in the several States during the year 1911, which are the last available statistics on the subject.

Approximate road expenditures and bond issues, 1911.

State.	State aid.	Local bond issues.	Local revenues.[3]	Total.
Alabama	$154,000	$1,260,000	$1,600,000	$3,014,000
Arizona			175,000	175,000
Arkansas		100,000	2,450,000	2,550,000
California	[2] 135,000	415,000	3,500,000	4,050,000
Colorado	162,000		1,000,000	1,162,000
Connecticut	[4] 1,500,000		2,275,000	3,775,000
Delaware	30,000	95,000	100,000	225,000
Florida		570,000	750,000	1,320,000
Georgia	[4] 1,285,400	335,000	2,500,000	4,120,400
Idaho	53,000	23,795	500,000	576,795
Illinois	[5] 155,000		5,000,000	5,155,000
Indiana		71,920	4,500,000	4,571,920
Iowa		100,000	3,500,000	3,600,000
Kansas	6,500		1,500,000	1,506,500
Kentucky			2,500,000	2,500,000
Louisiana	[6] 132,354	16,000	1,032,926	1,291,280
Maine	250,000		2,000,000	2,250,000
Maryland	[7] 1,250,000	1,562,000	1,000,000	3,812,000
Massachusetts	800,000		2,500,000	3,300,000
Michigan	250,000	2,365,000	3,500,000	6,115,000
Minnesota	150,000		2,000,000	2,150,000
Mississippi		627,500	2,000,000	2,627,500
Missouri	300,000	371,000	2,500,000	3,171,000
Montana			500,000	500,000
Nebraska			1,000,000	1,000,000
Nevada		10,000	50,000	60,000
New Hampshire	375,000		1,000,000	1,375,000
New Jersey	405,901	818,000	4,500,000	5,723,901
New Mexico	[1] 100,000		200,000	300,000
New York	[4] 11,000,000	1,512,156	7,000,000	19,512,156
North Carolina	5,000	765,000	2,000,000	2,770,000
North Dakota			1,000,000	1,000,000
Ohio	600,365	1,639,150	6,000,000	8,239,515
Oklahoma	[8] 5,000	760,000	1,500,000	2,265,000
Oregon			1,000,000	1,000,000
Pennsylvania	[10] 4,000,000	2,285,000	7,500,000	13,785,000
Rhode Island	97,000		500,000	597,000
South Carolina		85,000	1,000,000	1,085,000
South Dakota			500,000	500,000
Tennessee		3,175,000	1,500,000	4,675,000
Texas		8,915,500	6,000,000	14,915,500
Utah	355,750	200,000	500,000	1,055,750
Vermont	450,000		500,000	950,000
Virginia	300,000	2,734,000	1,250,000	4,284,000
Washington	[11] 900,000	325,000	2,000,000	3,225,000
West Virginia		440,000	1,000,000	1,440,000
Wisconsin	390,000		3,000,000	3,390,000
Wyoming	10,000		500,000	510,000
Total	25,607,273	31,576,021	99,902,926	157,085,220

[1] Estimated.
[2] Not including expenditures from $18,000,000 bond issue for trunk-line highways.
[3] $1,000,000 of which was expended on trunk-line highways.
[4] This is the estimated value of the labor of 4,618 State prisoners who were employed on the public roads.
[5] Includes $90,000, estimated value of 300 State prisoners used in crushing rock.
[6] Not including value of State prison labor and surplus revenues of oyster, fish, and game commissions.
[7] $1,050,000 of which was for trunk-line highways.
[8] $6,000,000 of which was for trunk-line highways.
[9] Estimated value of license fees from automobiles used by State highway department.
[10] Of which $3,000,000 was used for trunk-line system.
[11] Estimated value of 1-mill tax used for State highways.

TOTAL EXPENDITURES FOR THE YEAR 1911.

NOTE.—It is estimated that not over one-fourth of the amount shown in column 2 was expended during the year, and that about an equal sum derived from previous bond issues was expended, which makes the total estimated expenditure for the year 1911 $141,298,999.

Mr. Chairman, the above statistics demonstrate the interest in the subject of road building exhibited throughout the States. The Office of Public Roads has done a great work and accomplished great results with the amount of money which has been heretofore appropriated. I am greatly interested in the subject of good roads, and I believe that no money can be expended in a better way than to aid the people in the construction of good roads throughout the country. In this way benefit is derived not only in the distribution of money among the people, but no money expended brings greater material benefit to the people than the amount expended for the improvement of our public roads. It is estimated at the present time that the expense of transportation over the "dirt road" is 25 cents per ton per mile and that where the roads are improved it reduces this expense more than one-half. Statistics further show that the improvement of the roads increase the value of the land along these roads on an average of 25 to 50 per cent, and in some instances even more. It further benefits the people by giving them comfortable travel, which brings about closer association in the community and adds much to the comfort of rural life, and hence I earnestly favor the improvement of our public roads and hope the day may speedily come when this great Government will aid in this good work. [Applause.]

There is another provision in this Agriculture appropriation bill worthy of the highest consideration. It is as follows:

To enable the Secretary of Agriculture to acquire and diffuse among the people of the United States useful information on subjects con-

nected with the marketing and distributing of farm products, and for the employment of persons and means necessary in the city of Washington and elsewhere there is hereby appropriated the sum of $50,000.

Under the provision it is proposed to confer upon the Agricultural Department authority and power to investigate the subject of the marketing of farm products in the United States. At the present time there is too much difference in the value of farm products on the farm and to the producer and their cost on the table to the consumer. The statistics show that the crop for 1912 will yield to the producer $6,000,000,000, yet when these same crops reach the consumer they will have increased in cost to the enormous sum of $13,000,000,000. In other words, the producer gets $6,000,000,000 while the distributor gets $7,000,000,000, clearly showing that under the present system it is more profitable to distribute than to produce farm products. If the Government will take up the question of the distribution of farm products and deal with it with the same energy and enthusiasm as it has dealt with the production of farm products, the enormous waste now prevalent throughout the country will be turned into profit for the farmer and be added to the sum total of the Nation's wealth.

If this provision is enacted into law, it will bring the producer and consumer closer together and consequently reduce the difference between them now existing in the prices paid to the producer and the prices paid by the consumer, and the farmers will be furnished accurate information to enable them to find the best and the quickest market for their products. In the interest of the farmer and the producer in this great country I sincerely hope that this provision in this bill will become a law, and if it does it will contribute much to putting into the pockets of the farmers, who by their toil produce the products, their value and give to them the benefit of their labors, and in benefiting them aid the general prosperity of the whole country. I have often stated on the floor of this House, and I now repeat it, that when we help the farmers of this country we benefit and aid every other class of our citizenship, for at last it is upon the farmer that the prosperity and development of the country must stand; therefore help the farmers and thereby help everybody else in the country and thus bless and prosper all of our noble, liberty-loving, and patriotic citizenship. Let us as true servants of the people emblazon our banners with "America for Americans," and prosperity, if possible, for all our citizens. Give them help when we can and thus bless all our homes, the bulwark of American citizenship and free institutions. [Loud applause.]

Mr. MANN. The total traveling expenses for the whole thing amounts to less than $6,000 a year.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. MADDEN] to strike out the paragraph.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For conducting field experiments and various methods of road construction and maintenance, and investigations concerning various road materials and preparations; for investigating and developing equipment intended for the preparation and application of bituminous and other binders; for the purchase of materials and equipment; for the employment of assistants and labor; for the erection of buildings; such experimental work to be confined as nearly as possible to one point during the fiscal year, $45,000.

Mr. BATHRICK. Mr. Chairman, I move to strike out the last word for the purpose of asking the gentleman if this appropriation of $45,000 is not a duplication of two other appropriations, particularly the one in lines 7 to 9, inclusive, "for the investigation of the best methods of road making and the best kind of road-making materials and for furnishing expert advice on road building and maintenance"?

Mr. LAMB. I think not. This is an increase for conducting field experiments. One is information and the other is a test. This experiment work is of the greatest importance. They study the materials of different types for road construction, particularly those types calculated to eliminate the dust nuisance and provide a dustless road. Then it is extremely desirable to exercise some control and supervision over the roads after they are made in order to estimate the value and cost of the experiment. A large amount of this appropriation is to be used for the purchase of crude material.

Mr. BATHRICK. I wish to call attention, Mr. Chairman, to these various methods pursued in the Department of Agriculture to secure appropriations for the same purpose for larger amounts than they expect to get in one paragraph. This item might have been included under the same head with the $100,000 item in lines 7 to 9. It seems to be the same thing. It illustrates how the department has hitherto secured more money by these subterfuges in having appropriations made in different classes for the same purpose.

Mr. LAMB. I want to say to the gentleman that the Committee on Agriculture has carefully considered this particular part of the bill and endeavored to keep it down as low as possible. These appropriations we could not resist, as they are supported by public demand and public sentiment in this country for road improvement.

Mr. BATHRICK. I am not resisting the public demand or public sentiment, but I say that here are two items that could be well placed under the same head. It is quite apparent that it is a scheme to increase appropriations and escape the notice of the House.

The Clerk read as follows:

Enforcement of the insecticide act: To enable the Secretary of Agriculture to carry into effect the provisions of the act of April 26, 1910, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded Paris greens, lead arsenates, and other insecticides, and also fungicides, and for regulating traffic therein, and for other purposes," in the city of Washington and elsewhere, including chemical apparatus, chemicals, and supplies, repairs to apparatus, gas, electric current, official traveling expenses, telegraph and telephone service, express and freight charges, and all other expenses, employing such assistants, clerks, and other persons as may be considered necessary for the purposes named, $95,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word. This item when inserted in the bill was inserted on the floor of the House. It does not belong under the head of "Miscellaneous"; it is for ordinary work of the department, and ought to be inserted ahead of "Miscellaneous," because it is permanent law and the permanent policy of the Government.

Mr. LEVER. I think the gentleman from Illinois is right, and we will take care of it next time.

Mr. FOSTER. Mr. Chairman, there is another suggestion that I think might well be made, and that is that when it is made permanent law it ought not to be carried year after year in a lump sum, as it is here, but that these different salaries should be segregated.

Mr. MANN. I will say to my colleague that it is a little difficult to do that. They have not yet reached the point where they could segregate the operation under the pure-food law.

Mr. FOSTER. I thought that in one year they might be able to do it. A lump-sum appropriation is not a good appropriation to make if it can be made the other way.

Mr. MANN. It is not all expended under the Chemical Bureau, but it is expended in the Bureau of Animal Industry and, it may be, one or two other bureaus. It is apportioned by the Secretary.

Mr. LEVER. Yes; it goes to salaries of inspectors and others. I think both suggestions, however, are good.

Mr. MANN. I withdraw the pro forma amendment.

Mr. KNOWLAND. Mr. Chairman, I move to strike out the last two words. I would like to ask the gentleman in charge of the bill what has been done to carry out the provisions of this act? I feel somewhat interested, because I reported the bill out of the Committee on Interstate and Foreign Commerce.

Mr. LAMB. I can not go into the details of it, for I do not know, except that it is under the charge of the Secretary, and he is given a broad authority here to exercise his discretion.

Mr. KNOWLAND. Is there anything in the hearings as to what has been done?

Mr. LAMB. I do not recall that there is.

Mr. KNOWLAND. Mr. Chairman, a very large appropriation—$95,000—is asked for without any information at all as to whether anything has been done.

Mr. MANN. Mr. Chairman, there has been very little done under this paragraph in the current law up to date, except in reference to the Mediterranean fly and its importation from Hawaii into the United States. There is quite a full explanation relating to this item in the report of the Secretary of Agriculture for this year.

Mr. LEVER. Mr. Chairman, in addition to that, permit me to call the attention of the gentleman to the fact that we have the statement of Dr. Haywood, taken before the committee, who is in charge of the enforcement of this act, and he tells us in substance that the principal part of his work heretofore has been the organization of his work—gathering together the force with which to enforce the act—and if we had the time I would be very glad to read from his statement just what he has done.

Mr. KNOWLAND. Mr. Chairman, my attention is called to the fact that in the report of the Secretary of Agriculture for the year 1912 there are two references to this act, and if there is no objection I will ask to have them inserted in the RECORD.

Mr. LEVER. If the gentleman cares, he can insert the statement of Dr. Haywood.

Mr. MANN. Mr. Chairman, I desire to state that the reference I made a moment ago to the Mediterranean fly does not apply to this provision of the appropriation at all. That is another matter. The department, however, has made a number of investigations along the same line as pure-food investigations under this item, and the result has been that Paris green and other insecticides can now be purchased in the market, in the

main, quite safely, whereas before this law went into effect the chances were that the farmer who purchased an insecticide of that character purchased something that was worse than useless to him. It might have no strength, or if, perchance, it had strength it was usually so strong that if the farmer followed the formula he would destroy his trees instead of protecting them.

Mr. KNOWLAND. Mr. Chairman, was permission granted to insert these extracts from the report?

The CHAIRMAN. The gentleman from California asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

The references referred to are as follows:

INSECTICIDE ACT.

The first apparent violation of the insecticide act of 1910 was reported for prosecution in December, 1911. In all, 58 cases under this statute were reported during the year. Six of these cases resulted in convictions, and in one a decree of condemnation and forfeiture was entered. The goods in the latter case were subsequently released to the claimants under bond after payment of the costs. The Insecticide and Fungicide Board has completed its organization for obtaining evidence of violations of this statute.

INSECTICIDE INVESTIGATIONS.

The chemical examination of insecticides and fungicides has been a potent factor in improving the purity of products now sold on the market. Some idea of the value of such work to the farmer is gained by consideration of the loss occasioned by the ravages of plant diseases and insects. Experts have estimated that there is a loss of 20 per cent from these two sources, which, when applied to the farm crops of 1911, valued at $5,367,000,000, would indicate a loss of about $1,000,000,000. Probably one-third of this enormous sum could be saved by the proper application of insecticides and fungicides of the requisite strength and purity. Any inferiority in the quality of these materials means the additional loss of the labor in applying them.

The early studies of this subject showed that many of the insecticides on the market were of practically no value whatever, owing to the fact that they contained little or no active ingredients. Other insecticides which contained some active ingredients were adulterated by the addition of inert substances for the purpose of increasing the bulk of such a quantity that they were of no value whatever.

As a result of the data secured by these investigations an insecticide and fungicide law was passed and approved April 26, 1910, which has greatly improved the conditions. Now it is a violation of law to ship in interstate commerce for sale any insecticide or fungicide which is adulterated or misbranded in any particular. A farmer in buying a supply to protect his crops can be reasonably sure he is getting exactly what he asks for and what he pays for. The insecticide laboratory of this bureau does a large part of the analytical work on the samples collected for the enforcement of the law. This laboratory, which conducted the investigations previous to the enactment of the law, did valuable pioneer work in developing methods for the analysis of these products. No methods of analysis had ever been worked out for many of the insecticides.

STATEMENT OF DR. J. K. HAYWOOD, CHAIRMAN OF THE INSECTICIDE AND FUNGICIDE BOARD.

Dr. HAYWOOD. Mr. Chairman and gentlemen of the committee, I presume I had best start by telling you the reason for asking for an increase of $13,000 in the appropriation this year; that is, an increase from $87,000 to $100,000. The insecticide act of 1910 is, I believe, the most important act to the farming community now being enforced; it directly applies to the farmers of the country, because it is for the purpose of having pure insecticides and pure fungicides. Now, it has been estimated, and estimated on conservative figures, that the annual damage in this country from insect pests is over a billion dollars, the exact figures being about $1,152,000,000. Over half of these insect pests and diseases caused by fungi can be controlled by means of insecticides and fungicides. So you at once see how important it is to the farmer that these should be pure and up to standard. I think that this law more directly applies to the farmer and is of greater benefit to him than even the food and drugs act, because he has here something that actually saves him dollars and many dollars each year if his insecticides and fungicides are pure. In the case of the food and drugs act he is not protected very much by that, because he grows most of his food himself and does not have to be protected against the illegitimate manufacturer of foods. Now, in enforcing this law we have found, up to the present time, that it will take all of the appropriation that we have, and by the end of the year we will be spending at the rate of the total appropriation; that is, we will have claims against it that will cover the whole $87,000 for next year, and we need an increase for next year.

We only have three inspectors traveling around the United States collecting samples of insecticides and fungicides, so that we may test them in the laboratory and in the field to find out whether they are true to name and whether they are adulterated or misbranded, and we badly need a fourth inspector and the necessary scientists to examine the samples collected by such inspector. We can cover three sections of the country, and we need to cover a fourth section of the country. You see, we have the far West, the Middle West, the South, and East, and we need another inspector to cover one of those sections, and that is the reason why we ask for an increase of $13,000.

You will perhaps be interested in knowing just a few of the adulterations and misbrandings that would cause no end of trouble if allowed to go on. In the case of lead arsenates, for example, in the United States there are several hundreds of thousands of dollars' worth of lead arsenates sold each year, and it is very common to find excessive soluble arsenic in these lead arsenates. Soluble arsenic means the spoiling of a tree if sprayed upon it; it defoliates and the fruit is spoiled. It may even kill the tree. Such a sample of lead arsenate means that the farmer, instead of protecting his crop against insects, is ruining his crop. We have many cases of short weight, which I think is about the lowest form of deception that a man can practice. We have just seized two carloads of Paris green, which, instead of weighing 1 pound, as claimed on the label, weighed about nine-tenths of a pound.

Of course, that one-tenth of a pound did not mean very much on a single package, but on a total output it amounts to a great deal of gain for the manufacturer and a great deal of loss for the farming community. We constantly run across lice powders for poultry which consist of more than 50 per cent of road dust. A man has the right to put road dust in his insect powder, if he desires to do so, but our law makes him say that he has put it in, and under such circumstances the consumer knows exactly what he gets, i. e., that he is getting 50 per cent of road dust and 50 per cent of materials that are really of some value to him. Another very common form of adulteration is to adulterate with water. Take, for example, the lead arsenates on the market. They come in paste form, and the law allows 50 per cent of water in the lead arsenates, because that is the best form in which to give them to the farmers in that they can be stirred up easier for spraying purposes, but we have come across cases where we have found 60, 70, and even 80 per cent of water present. You can at once see that in such a case as this the farmer is paying for water at the price of lead arsenate. We have gone very slowly about the enforcement of this act; we wanted to be sure of our ground as we went along. It was a new act, and we have not appointed men rapidly, but have appointed them just as they were needed. At the present time, to take care of the samples that are being collected by inspectors, it is going to be necessary for us to appoint more scientists to make examinations of the samples, and that will be taken care of by the $87,000 appropriation; but to appoint a new inspector, which we need badly, that means the appointment of more scientists to examine the extra samples collected by the new inspector, and we can not take care of the United States certainly with less than four inspectors.

Mr. LEVER. What salaries do you pay the inspectors?

Dr. HAYWOOD. They get $1,400 a year and their expenses when traveling.

Mr. LEVER. Their expenses for traveling amount to about their salaries?

Dr. HAYWOOD. I should say that certainly their traveling expenses would equal their salaries, and by the time that they have purchased samples, the amount used by each inspector is considerably more than his salary. You see, they have to purchase all of the samples of insecticides and fungicides and pay for them out of this fund. There is nothing in the law that compels the dealer to give us a sample for nothing, and we have to purchase them. Some of them are quite expensive, and it means that usually an inspector costs us about $3,000 a year, in addition to his salary; that is, to purchase the samples, to pay traveling expenses, etc.

Mr. WHITACRE. Do you examine samples sent to you by individual farmers?

Dr. HAYWOOD. No, sir; because in order to prove a case under this insecticide act of 1910 we have to have the record showing interstate shipment and other facts in connection therewith, and we find that nobody except our inspectors, or somebody trained in that line of work, can give us the data necessary to show in court that an interstate shipment of the goods has been made.

Mr. WHITACRE. That is, if I buy a keg of lead arsenate and take out of it a can and send it to you, you would not tell me whether it was good or not?

Dr. HAYWOOD. No, sir.

Mr. WHITACRE. Then what good is that to me as a farmer?

Dr. HAYWOOD. The good to you is that we have improved and are improving straight along the lead arsenates and other insecticides that come on the market and the farmer is protected from buying lead arsenates that are not good, and the dishonest manufacturer is afraid to send out samples of lead arsenate that are adulterated or misbranded. He is afraid to send out such goods because he knows our inspectors are scouring the country for adulterated or misbranded insecticides or fungicides, and whenever we find that a manufacturer has sent out one that is adulterated or misbranded into interstate commerce, then the fact is reported to the Secretary of Agriculture, he refers it to the Department of Justice, and the man is prosecuted under the law, being given a fine. As soon as the courts have passed upon the matter the whole matter is published and sent all over the United States. The consequence is the manufacturers do not desire to pay the fines and do not desire the notoriety of their products being shown to be adulterated and misbranded, because it hurts the sale of them, and competitors use that against them. Therefore they prefer to send out pure insecticides and fungicides.

Mr. HOWELL. How many prosecutions have you instituted for violation of this act?

Dr. HAYWOOD. I have the figures here exactly, I think. We have referred to the Department of Justice for prosecution 101 cases, or perhaps I had better read the total number that we have collected. There are now undergoing examination in the various bureaus interested in this work 524 samples; we have placed 257 samples in permanent abeyance. That means that the samples were either found not adulterated or misbranded or that the adulteration or misbranding was not flagrant, that it was just technical in nature, and that we took it up by correspondence with the manufacturer in place of prosecuting him. We have referred to the Department of Justice for prosecution 101 cases; there are held in temporary abeyance, pending further information in the cases, 57; there are pending and awaiting hearing, after citation, 78; that means they have not been finally acted upon, but that the manufacturers have been cited and told their products were adulterated or misbranded, and we have notified them that if they have anything to say in regard to the findings—that is, that they were unjust—that they will be given an opportunity to be heard. And if they show that the findings are wrong we will not prosecute them, but if they can not show that the case then goes on to prosecution. Then we have referred to the Solicitor of the department 60 cases, making a total of 1,088 cases, out of which 101 have been sent to the Department of Justice for prosecution and 15 have been considered by the courts; and the decisions have been favorable to the department's contention in every case.

Mr. WHITACRE. Do you publish a list of those concerns whose products are found to be adulterated or misbranded?

Dr. HAYWOOD. No; we do not feel that we should publish a list of manufacturers whose products are, in our opinion, adulterated or misbranded unless the courts have decided that they are adulterated or misbranded. We may be wrong in our contention, and the courts are the ones to pass upon it. However, as soon as the courts have passed upon it and decided that we are right in our contention that the product is adulterated or misbranded, then it is published in the form of a notice of judgment, and these notices of judgment are sent broadcast and to anybody who asks for them.

Mr. RUPLEY. How many cases have you had in which the courts rendered decisions?

Dr. HAYWOOD. Fifteen have been decided, and every one in favor of the Government.

Mr. HAUGEN. The Bureau of Chemistry has a number of inspectors doing practically the same thing that you inspectors do. Do you co-

operate with the Bureau of Chemistry in this work, because, it seems to me, the work is similar?

Dr. HAYWOOD. Yes: this work is being done in cooperation with the Bureau of Chemistry to a large extent. I will explain the formation of the board. The board consists of a member of the Bureau of Chemistry, a member of the Bureau of Plant Industry, a member of the Bureau of Animal Industry, and a member of the Bureau of Entomology. They work without additional compensation; that is, do this work in addition to their regular duties. All of the chemical examinations of what are termed "dips," and things of that character, are made in the Bureau of Animal Industry by the chemist or bacteriologist and paid for from board funds; in the same way the Bureau of Chemistry examines all insecticides and fungicides except dips, and the chemists necessary to do that work are paid from the board funds. In the Bureau of Entomology there are certain entomologists who test these goods and see if they will perform what are claimed for them on the labels, and in the Bureau of Plant Industry they do that same thing; that is, they do for fungi what the entomologists do for insecticides—all of these people being paid from board funds. However, they do their work in the four bureaus involved and do it in quarters furnished by those four bureaus. When the law first went into effect it was our idea that we could probably get along without any inspectors, so the Secretary of Agriculture wrote to each one of the four bureaus involved and said, "Have your field agents collect samples for the insecticide and fungicide board." It was a failure for the following reasons, I suppose: The men in the field felt that they had their regular duties to attend to and that it took all of their time to attend to such duties; therefore the insecticide and fungicide work was put aside as a purely secondary consideration in every case.

Mr. HAUGEN. Well, this made it as much their duty as any other duty that had been assigned to them, and it was natural to assume that they would perform one duty as well as they would any other duty.

Dr. HAYWOOD. The only way in which I can answer that question is that if a man is a food and drugs inspector, we will say, he has as much work as he can do as a food and drugs inspector, and it is only natural for him when it comes to neglecting anything, if he is obliged to neglect anything, to neglect the insecticide and fungicide work, in which he is not so directly interested. So we found, in the practical working out of the scheme, that we had to appoint these inspectors, and have only appointed three up to the present date, and those three inspectors have in the time that they have been appointed, which has been, well, I should say certainly less than a year, collected more insecticide and fungicide samples and have done more toward cleaning the market of adulterated and misbranded insecticides and fungicides than all of the inspectors of the bureaus together, and they consist of some 100 men.

Mr. HAUGEN. I have no doubt they have done good work, but if the work could be done by these other inspectors, thereby saving this expense to the Government, they ought to do it.

Dr. HAYWOOD. I think it ought to be done, if it could be done, but the field agents of the various bureaus have as much as they can attend to in their own line of work, and I do not suppose they feel they can take up such an extra line of work, which makes more work than they can perform. I was talking to the chief food and drugs inspector about it a short time ago, and he said his men were doing as much work as they could do along their own line, and that he needed a good many more inspectors, and that they could only take up this as a secondary consideration. If it is a secondary consideration, that always means that the work is not done.

Mr. TALCOTT. And the adulteration and misbranding of these insecticides and fungicides leads to the loss of many dollars?

Dr. HAYWOOD. It leads to the loss of millions of dollars to the farmer. Before this law went into effect it was the most common thing in the world to find a lead arsenate that had enough soluble arsenic in it to absolutely ruin a whole orchard on which it was sprayed. It was the most common thing to find a lice powder with 80 per cent of road dust in it. These conditions we have improved; that is, the market has greatly improved in regard to adulterated and misbranded insecticides and fungicides, and, not only that, but we have improved the conditions at the factories. The head selling agent of one of the large insecticide manufacturing companies said to me the other day, "Well, you have caught us two or three times, but I thank the Lord you did, because it means that now they will put on enough chemists in our factory to see that these things come out right." He said that before this time his company would not incur the expense of putting on additional chemists, but now they had added three or four chemists to their staff to see that these insecticides came out unadulterated in any way.

Mr. TALCOTT. Then it was not always due to fraudulent intentions but to careless methods?

Dr. HAYWOOD. A great deal of it was due to careless methods of manufacture, but due to intention when you had 80 per cent of road dust in a lice powder, or if you took Persian insect powder, and instead of using flower heads of pyrethrum to make the insecticide, you took 80 per cent of the stems of that plant and ground it in with the heads so that you could not tell whether it was all heads or all stems, then you could not attribute it to anything else but fraudulent intentions.

Mr. TALCOTT. But by analysis you could ascertain that fact?

Dr. HAYWOOD. Yes.

The CHAIRMAN. Have you anything else you wish to say?

Dr. HAYWOOD. I do not think of anything else.

The Clerk read as follows:

Fighting and preventing forest fires in emergency: For fighting and preventing forest fires in cases of extraordinary emergency, $200,000, or so much thereof as may be necessary.

Mr. WEEKS. Mr. Chairman, I offer the following amendments. There are two of them applying to the same subject, and I would like to have them both read and pending.

The CHAIRMAN. Without objection, both amendments will be read and considered pending at this time.

There was no objection.

The Clerk read as follows:

In line 8, page 61, insert in place of "$200,000," "$400,000."

After the word "necessary," in line 9, page 61, insert the following: "*Provided*, That not to exceed $200,000 shall be used for preventing forest fires in those States which appropriate a similar amount for the same purpose, and which have organized a fire-protection system which meets the approval of the Department of Agriculture."

Mr. LAMB. Mr. Chairman, I make the point of order against the last amendment, or I will reserve it, if the gentleman desires.

Mr. BATHRICK. Mr. Chairman, a parliamentary inquiry. I desire to move to strike out this paragraph, and I want to know when such a motion will be in order?

The CHAIRMAN. It is in order first to perfect the paragraph, and then a motion to strike out would be in order.

Mr. WEEKS. Mr. Chairman, my purpose in increasing the appropriation provided in this paragraph is to renew an appropriation that was included in what was known as the Appalachian forestry bill. This proposed appropriation, as I understand it, is for emergency purposes on the public lands. The appropriation to which I refer was made for general fire purposes in the various States throughout the Union, and it had attached to it the proviso that money should only be expended in those States which appropriated the same amount for the same purpose. I am informed that the appropriation of $200,000 which was made for that purpose is practically exhausted, and also that the results obtained from that appropriation of $200,000 have been the means of saving tens of millions of dollars of forests in the various States.

I doubt if any appropriation made in recent times has brought a better result than the $200,000 appropriated in the Appalachian bill, and the appropriation should be continued not only in this bill but in all successive appropriation bills providing for the Agriculture Department.

Mr. MANN. Will the gentleman yield for a question?

Mr. WEEKS. Yes.

Mr. MANN. How was that $200,000 expended and to whom was it paid by the Government?

Mr. WEEKS. It has been expended through the fire-control systems established by the States, as I understand.

Mr. MANN. Yes; but what States got the money?

Mr. WEEKS. There were some 12 or 15 States which received a portion of the money.

Mr. MANN. I know, but can the gentleman tell us what States got the money?

Mr. WEEKS. I do not recall all of them. I know Minnesota, Wisconsin, New Hampshire, Vermont, and several other States did; but I do not remember all of them.

Mr. MANN. It seems to me, when the gentleman says this money has done more good than any other money appropriated, he or somebody else ought to be able to tell us what States got the money and how much and what was done with it.

Mr. WEEKS. Mr. Chairman, the reason I have not these statistics at hand is because I had in mind that the $200,000 carried in this bill was to renew the appropriation which I desire made until I came into the House to-day, and for that reason I have not the statistics at hand.

Mr. BATHRICK. Will the gentleman yield?

Mr. WEEKS. Yes.

Mr. BATHRICK. On page 34, lines 21 and 22 is an item—

For fighting and preventing forest fires and for other unforeseen emergencies, $150,000.

It seems the same language is included in this paragraph, but $200,000 is added. This is for the same purpose.

Mr. WEEKS. I shall have to ask the gentleman to ask the chairman of the committee in charge of the bill for an answer to that inquiry.

Mr. BATHRICK. The word "emergencies" is used in the item on page 34 and "emergency" on page 61.

Mr. LAMB. All of this amount is to be used as an emergency fund, and that is held in the Treasury, subject to the order of the Secretary of Agriculture, in case there is an outbreak of fire, an unusual outbreak of fire. Last year only $22,[illegible]00 of this $200,000 was used at all.

Mr. BATHRICK. In other words, you have a surplus of $178,000.

Mr. LAMB. Surely.

Mr. BATHRICK. Here is a $200,000 proposition in an emergency fund.

Mr. LAMB. Yes; the same appropriation as last year.

Mr. MANN. Will the gentleman yield?

Mr. LAMB. Certainly.

Mr. MANN. Is not this the fact, that for the first appropriation in the bill of $150,000, it is proposed to be used in the main for preventing forest fires held for an extraordinary emergency and the other carried under miscellaneous is not supposed to be used, except for the purpose of fighting forest fires?

Mr. BATHRICK. Why, the word "preventing" is used in both these items.

Mr. MANN. I understand that is to avoid trouble with the comptroller because, sometimes in fighting forest fires, you have to use preventive measures in advance of where the fire is

to head off the fire, and while that has been the purpose that course has been observed up to date by the department.

Mr. LAMB. I will say to the gentleman that this emergency fund was $1,000,000 previous to the past year, and we reduced it to $200,000, thinking this would be sufficient, and it has proven to be so.

Mr. BATHRICK. Does the gentleman favor the amendment of appropriating $200,000 more?

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEEKS. I would like to have a couple of minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. WEEKS. I thought the chairman of the committee wished to ask me a question.

Mr. LAMB. No.

Mr. WEEKS. Then I do not desire the time.

The CHAIRMAN. The question is on the first motion of the gentleman from Massachusetts, to strike out $200,000 and substitute $400,000.

The question was taken, and the amendment was rejected.

Mr. LEVER. Mr. Chairman, I make the point of order against the next amendment.

The CHAIRMAN. The point of order is sustained. The Chair will recognize the gentleman from Ohio if he wants to offer an amendment.

Mr. BATHRICK. No, Mr. Chairman; I do not desire to do so now.

The Clerk read as follows:

To enable the Secretary of Agriculture to meet the emergency caused by the continuous spread of the chestnut-bark disease by continuing the study of the nature and habits of the parasitic fungus causing the disease, for the purpose of discovering new methods of control, and by putting into application methods of control already discovered, $80,000; and the Secretary of Agriculture is hereby authorized to expend said appropriation in such manner as he shall deem best, in cooperation with the authorities of the States concerned or with individuals, and to pay all necessary expenses for the employment of investigators, local and special agents, experts, assistants, and all labor and other necessary expenses, including rent, in the District of Columbia and elsewhere, as may be required: *Provided*, That of this sum not exceeding $10,000 shall be used in the study of the relation of insects to the chestnut-bark disease.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I desire to ask the chairman of the committee how extensive this chestnut-bark disease is and what classes of trees it attacks and affects?

Mr. LAMB. It has extended all through certain portions of Pennsylvania and all of West Virginia—nearly everywhere the chestnut is—and has destroyed very much, practically all, in Virginia and a great deal in New York, I understand.

Mr. MONDELL. Does it affect any tree except the chestnut?

Mr. LAMB. I do not know. I suppose it does, though.

Mr. MONDELL. How long has this appropriation been carried?

Mr. LAMB. Since just last year.

Mr. MONDELL. What progress has been made, if any, in checking the ravages of the disease? It seems to me rather a large amount of money to spend for checking the ravages of one particular disease affecting a particular kind of tree, and that a tree which does not enter into commerce to a very considerable extent.

Mr. LAMB. It is a very valuable tree. It is being destroyed all over the United States.

Mr. LEE of Georgia. It is very valuable for tanning purposes.

Mr. LAMB. The chestnut itself is valuable.

Mr. MONDELL. The chestnut is a nice nut, and I should regret if we should be deprived of chestnuts in their season, but this is a good deal of money to spend. What progress have we made?

Mr. LAMB. The same progress that we are making in regard to destroying the other pests in the forests. They did not tell us exactly what they had done.

Mr. MONDELL. The department started in a number of years ago to spend a large amount of money in an attempt to destroy the pine beetle in the western country, and, so far as I know, they have made little progress. They are now about where they started.

Mr. LAMB. They have not had a long time in which to experiment with this pest. We just put it in last year.

Mr. LEVER. Dr. Howard in his statement before the committee says that they have progressed so far under the appropriation carried in the current year that, with this appropriation in this bill available for the next current year, in one more year's time they ought to be able to complete the job.

Mr. MONDELL. They hope to entirely wipe out the disease?

Mr. LEVER. That is the statement; to get it under control and stop it from spreading.

Mr. MONDELL. How long will it be before it again breaks out and we must again expend $80,000 a year?

Mr. LEVER. The gentleman understands the only way to get rid of the chestnut-bark beetle is, as I understand, to cut the tree down and destroy it, burn it; but the proposition is here to prevent the rapid spread of the disease; to throw lines around it, and to stop it from going to other States and forests.

Mr. MONDELL. To protect private property?

Mr. LEVER. I guess so. You understand that the chestnut tree is one of the most valuable trees in this section of the country, both for the purpose of tanning and for telegraph and telephone poles and things of that kind. It is a very valuable forest product.

Mr. MONDELL. I presume all the chestnut trees would be diseased if it were not for this $80,000 expenditure by the Government?

Mr. LEVER. All the tree chestnuts.

Mr. MONDELL. There might be a few chestnuts left, but not the sort that are affected by the appropriation.

The CHAIRMAN. The time of the gentleman from Wyoming [Mr. MONDELL] has expired.

Mr. BOOHER. Mr. Chairman, I move to strike out the last two words in order to secure some information. I want to ask the chairman of the committee if this is not a duplication of this work?

Mr. LAMB. I think not.

Mr. BOOHER. On page 15 of the bill, a part already passed, I find this:

For the control of diseases of forest and ornamental trees and shrubs, $29,510.

Is not the investigation of the chestnut-tree disease covered under that appropriation?

Mr. LAMB. Twenty-nine thousand dollars would not go anywhere in controlling the chestnut-bark trouble. They wanted more money than this.

Mr. BOOHER. Is not that money enough to investigate and find out what causes it?

Mr. LAMB. You must go into the woods and destroy these pests, just as they did the moths in New England, and teach the people how to destroy them.

Mr. BOOHER. Have you got to go in the forests and destroy a hundred acres of trees in order to find the cause of the disease, or can you go to one tree and make a test on that tree and learn the cause?

Mr. LAMB. As to the modus operandi I can not tell you. I am not a scientist. I see here that we did not interrogate them closely as to this $80,000, because it is a new project, and we have every reason to trust scientists like Dr. Howard in matters like this.

Mr. HAWLEY. Will the gentleman from Missouri [Mr. BOOHER] yield to me?

Mr. BOOHER. With pleasure.

Mr. HAWLEY. Part of this money will be used, I understand, in making known to those who own the trees the nature of the disease and the remedy. The sending out of men to induce these people to destroy valuable forests is a work of considerable magnitude. The only way to check the ravages of the pest is to destroy the affected trees, and naturally men who have good forests dislike to cut them down unless they are entirely persuaded of the necessity of it.

Mr. BOOHER. I would like to ask the gentleman this question in reply: Is it necessary to go to each man who owns a forest of chestnut trees and ask him to cut them down personally, or is a general order to that effect sufficient?

Mr. HAWLEY. We can not make an order.

Mr. BOOHER. But you issue bulletins?

Mr. HAWLEY. Yes.

Mr. BOOHER. Will not these men who own the forests be governed by what is said to them in the bulletins, or must you pound it into them with a club?

Mr. HAWLEY. I am inclined to believe that men who have many thousands of dollars tied up in a forest would hesitate, after merely reading a bulletin, to do that.

Mr. BOOHER. He would not undertake to help himself unless you went to him and had a personal interview with him and convinced him that it was to his advantage to cut down his trees?

Mr. HAWLEY. I will say to the gentleman that the birds light on the trees and carry these spores that cause the blight on their feet, and thus spread the disease to many other men's chestnut trees, and in order to protect the entire forests on the Appalachian Mountains it is necessary to persuade the men whose forests are affected to get rid of the affected trees.

Mr. BOOHER. These are private forests, are they not?

Mr. HAWLEY. Yes. These are forests in the Appalachian Range, and the birds will go to other forests not yet affected and carry with them the infection.

Mr. BOOHER. The gentleman thinks this amount of money is necessary?

Mr. HAWLEY. Yes; I believe this is the least amount that would be adequate for the purpose, and I think it would be prudent to appropriate this amount.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

That on and after July 1, 1913, all publications issued by the Department of Agriculture shall be distributed under the direction and supervision of the Secretary of Agriculture, and the salaries or compensations of persons engaged in addressing, wrapping, mailing, or otherwise dispatching such publications, and necessary expenses for materials and supplies to be used in the work, shall be paid out of the appropriations for the Department of Agriculture. And the Public Printer shall return to the Department of Agriculture the machines, equipment, and unused materials, if any, transferred to the Government Printing Office in compliance with section 8 of the act of August 23, 1912 (37 Stat., p. 414).

Mr. FOSTER. Mr. Chairman, I make a point of order against the paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] makes a point of order against the paragraph.

Mr. LAMB. Mr. Chairman, will the gentleman reserve his point of order?

Mr. FOSTER. I will withhold it.

Mr. BORLAND. Then, Mr. Chairman, I make the point of order.

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] makes a point of order. The point of order is sustained.

Mr. MANN. Will not the gentleman reserve it?

Mr. BORLAND. Yes; if requested to do so by the committee.

Mr. LAMB. I concede the point of order.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

To enable the Secretary of Agriculture to effect an exchange of lands and indemnity rights with the State of Montana, $25,000, to be available until expended when the said State shall have appropriated a like amount to be used in cooperation with the Forest Service for the aforesaid purpose: *Provided*, That such exchanges shall be made on the basis of approximately equal area and value.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] moves to strike out the last word.

Mr. MONDELL. I do so for the purpose of asking the chairman of the committee what is proposed under this item which has just been read?

Mr. LAMB. This is a new item. Similar arrangements have been effected with other States where conditions are analogous—arrangements for the exchange of property in other States, just as in this instance, in North Dakota and Idaho. It is believed that these exchanges will subserve the best interests of both the Federal and State Governments. They want to exchange these lands where the State owns some land in a forest reserve for some land outside the forest reserve. It is an interchange of property. That is all it is.

Mr. MONDELL. Why does that interchange of lands entail such an expense as this?

Mr. LAMB. When the matter came up, I wrote to the Secretary and asked him to please fortify me with reasons along this line. I will read them.

Mr. BATHRICK. Mr. Chairman, I desire to reserve a point of order on that paragraph.

Mr. LEVER. The point of order comes too late.

Mr. LAMB. Mr. Chairman, I will read the following letter from Secretary Wilson on this subject:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, December 19, 1912.

Hon. JOHN LAMB,
Chairman Committee on Agriculture, House of Representatives.

DEAR CAPT. LAMB: Your letter of December 14 with inclosures is received.

The proposed amendment of Mr. PRAY, of Montana, which you inclose is to appropriate $25,000 to effect an exchange of lands and indemnity rights with the State of Montana; the money to be available until expended, when the State shall have appropriated a like amount to be used in cooperation with the Forest Service for the aforesaid purpose. The memorandum, which you also inclosed with your letter, setting forth the reasons why the money should be appropriated states the case, as I understand it.

The location of State lands within the boundaries of national forests has for some time been one not easy of satisfactory adjustment to the Federal Government nor to the States. Sections 16 and 36 scattered throughout the State boundaries belong to the States if the official surveys were extended to those regions prior to the creation of the national forests. If, however, the boundaries of the Federal reservation were established prior to the identification of these selections by survey, the lands remain under the jurisdiction of the Federal Government, but the State has the right to select other unappropriated, unsurveyed, public lands within the State boundaries under the act of February 28, 1891 (26 Stat., 796). The State officials have informed me, however, that most of the lands open to selection by this State are of values inferior to the lands within the forest boundaries which the State would have to surrender. For this reason an agreement has been submitted to me signed by the governor of Montana in which it is proposed to effect an exchange of these lands. The State is to take lands of approximately equal value and area, after an examination is made and an appraisal made of the lands surrendered and the lands to be selected, the State selections to be made just within the boundaries of the national forest, but along the boundary line. When the examination and appraisal are completed, is is proposed to ask the President to sign a proclamation authorizing the exclusion of the selected lands and reducing the national forest boundaries accordingly.

A similar arrangement was effected with the State of South Dakota. That State has surrendered all of its indemnity rights within the national forest boundaries, and has secured title to a block of land in exchange for its scattered holdings. A similar agreement is now in force with the State of Idaho, which will permit Idaho to relinquish its indemnity rights for national forest lands as was done in the South Dakota case.

An estimate has been made by forest officers that the Montana exchange will cost approximately $50,000. The State officials have informed me that they will contribute one-half of this amount if the Federal Government will appropriate $25,000 for its share of the work.

I believe that these exchanges are in the best interests of both the Federal and the State Governments, and that the States are entitled to lands of approximately equal areas and values to the lands or indemnity rights surrendered; whereas, under the present conditions, with most of the valuable unappropriated public lands disposed of, the State can not secure the same values except by effecting an exchange for lands within the boundaries of national forests.

I have the honor, therefore, to recommend that Mr. PRAY's amendment be given favorable consideration by your committee.

Very sincerely, yours,

JAMES WILSON, *Secretary.*

The committee gave the matter favorable consideration, and this is the result.

Mr. MONDELL. The Secretary's letter is very interesting, and it sets forth a state of facts with regard to which we are—some of us—quite familiar.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. I ask that I may have two minutes more. Most of my time was occupied by the gentleman from Virginia.

The CHAIRMAN. The gentleman from Wyoming asks that his time be extended two minutes. Is there objection?

There was no objection.

Mr. MONDELL. I do not think the Secretary makes it very clear that the Government ought to be called upon to make so large an appropriation as this in connection with these exchanges. That the exchanges ought to be made is, I think, clear beyond question, but it rather appears to me that the State is endeavoring to unload the cost of the exchanges upon the Federal Government very largely.

Mr. LAMB. It is simply a trade of lands, just such as would be proper to make between individuals.

Mr. MONDELL. Yes; and there is no reason on earth why the Forestry officials in the ordinary discharge of their duties can not perform every act which is necessary to be performed without additional expense or without so large an expenditure as this.

Mr. LAMB. I think it is in the interest of the State and Federal Government to exchange the lands.

Mr. MONDELL. I think so; but it does not necessarily follow that we should throw away money because we are doing a good thing. I will not move to reduce, but I think the item large.

The CHAIRMAN. The time of the gentleman has again expired.

The Clerk read as follows:

That nothing contained in the act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1913, and for other purposes, approved June 26, 1912, shall be so construed as to prohibit the payment from the appropriations for the Department of Agriculture of expenses incidental to the delivery of lectures, the giving of instructions, or the acquiring of information at meetings by its employees on subjects relating to the work of the department authorized by law.

Mr. FITZGERALD and Mr. MANN reserved a point of order against the above paragraph.

Mr. LAMB. It is stated to the committee that the principal and most effective means of disseminating information by the Department of Agriculture is by lectures and addresses before organized bodies of farmers, such as farmers' institutes, grange meetings, lumbermen's associations, State and Federal chemists' associations, State agricultural societies, and the like, by officials in all branches and bureaus of the department; and unless some such proviso as the foregoing is enacted into law the work of the department will be greatly crippled or practically destroyed. This provision is to correct a mistake or error that was enacted into law last year at the suggestion of the Committee on Appropriations.

Mr. FITZGERALD. Mr. Chairman, there was no mistake or error or misunderstanding in enacting that provision. It was

enacted to eliminate one of the most vicious abuses in the entire governmental service, the practice of paying the expenses, membership fees, and other incidental expenses of various governmental employees attending meetings at various times. I do not say that the Department of Agriculture has no important work to do, and that the necessary expenses of certain employees of the department appearing before certain bodies to present their views by means of lectures should be paid. But this paragraph in the bill makes available every appropriation made for the Agricultural Department, without any limit, for this purpose. This department was one in which the greatest abuses existed. If I can prevent it, I do not propose that the same conditon shall be restored that existed prior to the enactment of the provision last year proposed to be repealed.

Last year three great reforms were instituted in connection with the governmental service. One was the consolidation of the distribution of public documents in the city of Washington, one was the elimination of the abuse connected with the payment of membership fees in societies and traveling expenses of Government employees attending meetings, and the third was prohibiting the increase of salaries in lump-sum appropriations, either by increase in the compensation or by transfers of persons upon the statutory roll at a fixed salary to the lump appropriation at a greater salary.

This bill proposes to take the Department of Agriculture from the operation of the three provisions of law enacted to obviate these abuses in the one department of the Government which was most notorious for abuses existing and one at which the provisions of law were aimed. I propose to take out this provision and the next provision, because they violate the rules of the House.

Mr. LEVER. Mr. Chairman, I presume that nothing I may say will induce either of the gentlemen who reserved the point of order from making it at the proper time. If I was absolutely sure of that fact, I would not take up the time to discuss the proposition, but I want to call the attention of these gentlemen and the members of the committee to this fact: The Department of Agriculture is a little differently constructed and situated to any other department of the Government. That is necessarily true. The law creating the Department of Agriculture directs it to collect and diffuse information relating to agriculture in the broadest and most comprehensive sense of that word.

The department must get its information not in its laboratories in Washington, not in its offices here, but it must go out into the field and get the information with which to educate the people in the field. It is necessary, therefore, in collecting the information, first of all, that the experts and scientists of the Department of Agriculture should attend from time to time the meetings of associations which involve membership of a character similar to theirs. For instance, it is a very important matter to have some gentleman from the Department of Agriculture attend the meetings of the Association of Agricultural Colleges and Experiment Stations of the United States. These men who are carrying on the great work of educating the youth of the country along agricultural lines impart much valuable information to representatives of the department, who have the opportunity of hearing these lectures and discussions, and in turn can make available a great mass of information to the agricultural people of the country in general.

Another thing, throughout the country we have associations, for example, the National Live Stock Association, the dairy associations, and associations of all descriptions touching agriculture in its various phases.

It is absolutely necessary for the Department of Agriculture, if it is to maintain its high standard of leadership in agriculture, that its experts should be allowed to attend the meetings of these associations, not only to get information which is valuable, but what perhaps is more valuable, to be able to give information to these various associations composed of men scattered throughout the United States in every State. To do that it is necessary that these men, whose salaries are not exorbitant, should be given their traveling expenses, incidentals, and such expenses necessary in the attendance at the meetings of these associations.

That is all we desire to do in the item we have submitted here. If there are any abuses, the Committee on Agriculture knows nothing about it. Probably there have been abuses. I would like to know what service there is in the Government into which there does not creep from time to time abuses and to which we might point the finger on the floor of the House. I do not believe that the Department of Agriculture is any more guilty of a violation of the law or direction or intent of Congress than any other department of the Government, and I resent the imputation of the gentleman from New York on that proposition. I do not believe that the Department of Agriculture will violate this section for one minute. I do not believe it will violate the sections we are trying to repeal. If the Department of Agriculture is to continue its great work, if it is going to collect and disseminate information on agricultural subjects, then some way must be provided by which the expenses of the men gathering the information and giving it out shall be borne by the General Government.

Mr. LAMB. Mr. Chairman, in regard to what has been said, I want to say that when Secretary Wilson was before our committee I asked him this question:

The CHAIRMAN. The next subject, Mr. Secretary, is one of considerable importance to us. It is the matter, you know, of traveling expenses, attending meetings, conventions, etc. You wrote me a long communication about it showing how it would touch the different bureaus, and I would like to have you express to the committee your frank and candid opinion about the matter.

Secretary WILSON. Well, you know our work is all outside of Washington. We keep the books in Washington, and things of that kind, but the actual work is out in the field among the people, and it is an educational work in nearly all respects. And when farmers want to hear from one of our people here we regard it as a good opportunity to give information, and so we always have been sending out some people. The privilege may have been abused, but nobody ever abused any of those privileges without being disciplined for doing it, and it is very rarely that I have ever been able to detect any abuses; very rarely. I think that my successor ought to have a pretty free hand in sending out men to give information. That is one of the ways by which the farmers get educated.

The CHAIRMAN. Well, the following language, it seems to me, which you suggest, will relieve the situation. I will read it for the benefit of the committee, that it may get into the record:

"Nothing contained in the act making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June 30, 1913, and for other purposes, approved June 26, 1912, shall be construed so as to prohibit the payment from the appropriations for the Department of Agriculture of the expenses incidental to the delivery of lectures, the giving of instruction, or the acquiring of information as needed, by its employees, on subjects relating to the work of the department authorized by law."

That is what you suggest.

Secretary WILSON. That is intended to cure that. The matter is set forth fully in my letter to you under date of December 17, 1912, as follows:

DECEMBER 17, 1912.

Hon. JOHN LAMB,
Chairman Committee on Agriculture, House of Representatives.

DEAR CAPT. LAMB: The act making appropriations for the District of Columbia for the present fiscal year contains a provision reading as follows:

"SEC. 8. No money appropriated by this or any other act shall be expended for membership fees or dues of any officer or employee of the United States or of the District of Columbia in any society or association or for expenses of attendance of any person at any meeting or convention of members of any society or association, unless such fees, dues, or expenses are authorized to be paid by specific appropriations for such purposes or are provided for in express terms in some general appropriation."

You will recall that when the far-reaching effect of this provision became apparent that a section was included in the sundry civil act approved August 24, 1912, reading as follows:

"SEC. 10. That section 8 of the District of Columbia appropriation act, approved June 26, 1912, shall not take effect or be operative during the fiscal year 1913 except to the extent that it prohibits the payment of membership fees or dues in societies or associations: *Provided*, That during the fiscal year 1913 expenses of attendance of officers or employees of the Government at any meeting or convention of members of any society or association shall be incurred only on the written authority and direction of the heads of executive departments or other Government establishments or the government of the District of Columbia; and a detailed statement of all such expenses incurred from June 30 until December 1, 1912, shall be submitted to Congress on or before January 1, 1913."

It thus appears that unless remedial legislation is enacted, section 8 of the District bill as originally enacted will become operative on July 1, 1913. As this section prohibits the payment by the department of expenses of attendance of any person at any meeting or convention of any society or association, which has been construed to include farmers' meetings, the effect will be to practically paralyze some of the most important lines of work which the department is carrying on, as well as seriously interfere with many other phases of work.

Below is a summary of the manner in which the various bureaus, offices, and divisions of the department are affected by this legislation:

WEATHER BUREAU.

The Chief of the Weather Bureau, as well as the officers and employees of the bureau located in various parts of the country, is frequently called upon to explain to farmers' associations, commercial bodies of various kinds, and similar organizations the work of the Weather Bureau, and how the results of its investigations may be more fully utilized. The section in question will stop work of this nature entirely. It will also prevent the presentation of the work of the bureau before various scientific bodies except through publications.

BUREAU OF ANIMAL INDUSTRY.

The majority, if not all, of the lines of work conducted by the Bureau of Animal Industry are represented by associations, societies, etc. In order to secure efficient cooperation and keep in touch with the associations and societies conducting similar work it is essential that representatives of this bureau attend meetings of the associations; otherwise they will lose not only the opportunity to gain valuable information, but to explain, interest, and instruct those connected with various industries. A great deal of the work is also conducted in cooperation with city, county, and State governments. Cities are constantly asking the bureau for aid in securing pure milk; farmers want help in eradicating cattle ticks, sheep scabies, etc., in improving the stock of horses and cattle, and in many other lines of work.

The attendance of representatives of this bureau at county fairs, farmers' institutes, etc., affords the cheapest and most efficient way for the bureau to furnish the information desired.

BUREAU OF PLANT INDUSTRY.

One of the principal and most effective means by which the bureau is able to secure the practical application by the farmers of the country of the many important discoveries which have been made by its experts and investigators is through addresses before organized bodies of farmers, such as farmers' institutes, grange meetings, farmers' unions, and the like. The effect of section 8 is to entirely cut off this important medium for the dissemination of information of great value to the farmers of the country.

It will be impossible to do effective organization work in connection with the boys' and girls' club work which has had such a marked benefit upon agricultural conditions in the South and which the bureau is now planning to extend through the northern States. Unless the local commercial and agricultural organizations can be interested in this work its chances of success are very slight.

It will be impossible to effectively carry out important work which has recently been inaugurated with a view to improving the present methods of growing, handling, grading, and marketing cotton, the fundamental basis of this work being the organization of the farmers in various sections into cotton-growing associations.

It will be impossible to keep in touch with the grain trade, which has been done heretofore through the various grain dealers' associations, in order to secure their cooperation in connection with the grain-grading investigations.

FOREST SERVICE.

By the attendance of members of the Forest Service at meetings of lumbermen and timberland owners much valuable information is gained by the service regarding the proper conduct of timber sales and information imparted as to forestry methods.

In connection with section 2 of the Weeks Act of March 1, 1911, the attendance of a representative of the service at the meetings of an association known as the Northwestern Foresters, including the State foresters of practically all of the States of the Northeast, is essential for the cooperative protection of the navigable watersheds from fire as contemplated by the act.

The 25,000 grazing permittees of the national forests are represented almost exclusively through various associations, with which associations the service must deal in connection with matters relating to grazing regulations. A proper understanding of the situation by all parties concerned requires the attendance of representatives of the service at meetings of the various associations.

For the better protection of the forests from fires the timber owners in the West have organized themselves into fire-protective associations. These associations hold frequent meetings to devise and discuss means of protection. It is evident that the Forest Service has much to gain by sending representatives to these meetings.

The effect of the section in question will be to practically prohibit the attendance of its members at any meeting of the character indicated above.

BUREAU OF CHEMISTRY.

One of the most serious effects of the section in question will be to prevent the attendance of scientists of this bureau at the annual meetings of the Association of Official Agricultural Chemists, which is made up of State and Federal chemists. At this meeting technical methods for making chemical analyses are discussed and adopted. This is very important, for the reason that the regulations under the food and drugs act of June 30, 1906, require that the methods of analysis employed in the examination of samples in the enforcement of that act shall be those prescribed by the foregoing association.

Inability to attend meetings of the farmers' and trade organizations will not only stop one of the most effective ways of disseminating information obtained for the betterment of these industries but will greatly increase the cost of securing data necessary in many investigations. By attending a convention of the leading men of an industry it is frequently possible to secure information that would require travel to nearly every State in the Union if the information was obtained by visiting the individuals.

Some of the most important investigations are made in cooperation with semiofficial organizations, such as the United States Pharmacopoeia Convention, and it is of great value to the men who are in charge of the investigations to get in touch with the workers in other organizations for the mutual exchange of ideas and reports of progress. This can best be done by attendance of the men at the conventions and meetings, which will be prevented by this section.

BUREAU OF SOILS.

The section in question will prevent the attendance of officers or employees of this bureau at meetings of technical societies, trade associations, meetings of farmers' associations, State agricultural societies, and county organizations. Experience has shown that attendance at such meetings is frequently the best and most effective way to disseminate information and data secured by the bureau, and very often discussion with groups of individuals at such meetings is the only practicable method and generally the cheapest method of obtaining information and data of inestimable value to the work of the bureau.

BUREAU OF ENTOMOLOGY.

Section 8 will prove a serious detriment to the work of this bureau by prohibiting attendance at meetings of owners of timber and manufacturers of forest products to explain the results of its investigations and demonstrate practical methods of control or prevention of depredations by insects or meetings of entomologists to discuss scientific questions relating to the habits of insects and methods for their control. It is exceedingly convenient and economical to meet farmers at agricultural gatherings and address them on subjects in which they are vitally interested. The enforcement of this section would prevent in a great measure the attainment of one of the primary objects of the bureau, namely, the dissemination of information and instruction on practical results secured from scientific investigations.

BUREAU OF BIOLOGICAL SURVEY.

Much of the work of this bureau is done in cooperation with numerous National, State, and local associations, such as National and State game associations, National and State Audubon societies, State experiment stations, and ornithological societies, whereby it is enabled to accomplish vastly more work than would otherwise be possible. In order to continue this mutually beneficial relationship it is frequently necessary that representatives of the bureau attend meetings of such associations where lines of work similar to those carried on by the bureau are discussed and future work of a like character planned. Attendance by representatives of the bureau at such meetings not only extends opportunities for cooperative work, but the bureau obtains valuable publicity for its own investigations, thereby greatly extending its usefulness to the public. To withdraw this privilege would seriously cripple some of the most effective and valuable work of the bureau.

OFFICE OF EXPERIMENT STATIONS.

This office has for many years worked in closest connection with and formed a very vital part of the Association of American Agricultural Colleges and Experiment Stations. The work with this association has been one of the largest features of the office's activity, and the meetings of the association have furnished the most valuable opportunity that could be presented for the discussion of matters pertaining to the experiment stations and the development of agricultural instruction.

The work of the office for the farmers' institutes of the country in their better organization and higher efficiency has been carried on effectively through the American Association of Farmers' Institute Workers. There is no means by which the department can as effectively prosecute its work for the advancement of the farmers' institutes as through this association.

In the conduct of its work in the interest of irrigation and drainage its men are constantly called upon to attend meetings of farmers' clubs, water users' associations, drainage associations, or other bodies who take an active interest in irrigation and drainage.

The attention which the National Education Association is now giving to matters pertaining to agricultural instruction has developed largely out of the work which representatives of this office have done in the association by attendance at its various meetings. All of the foregoing activities will be seriously checked, if not entirely stopped, by the section in question.

OFFICE OF PUBLIC ROADS.

During the fiscal year just ended the representatives of this office delivered over 700 lectures and addresses, most of these lectures being given at farmers' meetings, such as farmers' institutes, grange meetings, gatherings called especially for the purpose of discussing road problems, and at colleges, universities, and public schools, and before road conventions and associations.

This method of disseminating information has been productive of excellent results, and it is believed if this work is stopped that it will have a baneful effect upon the good-roads movement in the United States.

In order to secure relief from the difficulties set forth above it is suggested that a paragraph similar to the one below be embodied in the pending Agricultural bill:

"Nothing contained in the act making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June 30, 1913, and for other purposes, approved June 20, 1912, shall be construed so as to prohibit the payment from the appropriations for the Department of Agriculture of expenses incidental to the delivery of lectures, the giving of instruction or the acquiring of information at meetings by its employees on subjects relating to the work of the department authorized by law."

Respectfully,

JAMES WILSON, *Secretary*.

Then follows the letter he refers to, which he sent me in reply to my inquiry. He states that of about 13,000 employees in the department there are only a small number in Washington. These people go out and get information, and if you fix the law so they can not go out you stop the operation. That is the sum total of this proposition, and it is for the House to say what it will do.

Mr. MONDELL. Mr. Chairman, a number of years ago I moved two amendments to the Agriculture appropriation bill, which are carried on page 36 of the bill, prohibiting the payment of certain traveling expenses, prohibiting payment for certain classes of publications, and so forth. At the time those amendments were adopted it was very apparent that the Agriculture Department, and particularly the Forestry Bureau, had expended a large amount of public money in sending men about over the country to influence local gatherings. At one meeting held in the far West there were over 100 representatives of the Agriculture Department, and what ought to have been a meeting expressing the sentiment of the locality, for it was called for that purpose, became a meeting largely controlled or influenced by Federal officials. The Forestry Bureau at one time kept men going about the country giving lectures. It paid, as the gentlemen from New York [Mr. FITZGERALD] has just said, for instruction in colleges and for traveling expenses of rangers, Federal officials attending, going back and forth to these schools. I heard an echo of that sort of practice the other day in a demand made on a former ranger in the service for the return to the Federal Government of the moneys advanced to pay for his transportation going to and returning from a forestry school.

I grant you, Mr. Chairman, that it would be perfectly lovely if some of us—of course we could not all enjoy that privilege—could invite into our districts gentlemen connected with the Agriculture Department, with beautiful lantern slides and fine lanterns, and have them edify and possibly instruct our people relative to the activities of the department. This sort of thing might be so worked as to be very valuable as an adjunct of a campaign, and far be it from me to refuse to any gentleman who ought to return to the House the opportunity of increasing his majorities in this way.

But the difficulty is that the departments have not been inclined to confine their activities to the dissemination of knowledge or to the entertainment of our constituencies, to our considerable benefit, alone, but they have gone about deliberately manufacturing public sentiment oftentimes contrary to the announced policy of Congress. This was formerly done by employees of the Forestry Service, of the Bureau of Good Roads; by employees of other bureaus.

We all ought to realize that the more active and forceful a man is in the discharge of his public duties in the bureaus the more necessary it sometimes becomes to prevent him, in the

exuberance of his enthusiasm, from attempting to use the money and the influence of the Government for the purpose of developing sentiment in lines and directions which Congress has not approved. And it seems to me that even should we go so far as to provide for illustrated lectures for the benefit of gentlemen fortunate enough to secure them for their constituents, we at least ought not to deliberately appropriate the people's money for the purpose of having it used to build up the bureaus rather than to disseminate information and to cultivate a sentiment favorable to the extension of Federal activities into questionable fields.

If this provision goes out, these gentlemen will still have abundant opportunities to appear at meetings. There are lawful and proper ways to accomplish that to a reasonable extent. The people expect it, and such appearances and the information and entertainment that Federal officials can and do furnish is very helpful and useful. The authority now asked would likely be abused.

The CHAIRMAN. Does the gentleman from New York insist upon the point of order?

Mr. FITZGERALD. Mr. Chairman, I make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

That hereafter section 7 of the act approved August 26, 1912 (37 Stat., p. 262), shall not apply to the payment, out of moneys appropriated or which may be hereafter appropriated in lump sum for the Department of Agriculture, for personal services of employees engaged in scientific or technical work: *Provided*, That nothing contained herein shall be construed to authorize the transfer of any person employed at a specific salary and the payment of compensation from lump-sum appropriations at a rate greater than said specific salary.

Mr. FITZGERALD. Mr. Chairman, I make the point of order to the paragraph.

Mr. LAMB. Mr. Chairman, I will ask the gentleman to reserve the point of order.

Mr. FITZGERALD. Very well.

Mr. LAMB. Mr. Chairman, I would like the House to know what the Secretary said on this subject when we had him before us:

It is possible that the committee does not fully appreciate the extent of the department's annual loss due to the resignation of capable and trained employees, particularly scientific and technical employees, who are offered and accept more lucrative employment either in other branches of the Government service or the commercial world outside. Appreciating the fact that our losses on this account were considerable, and desiring specific and exact information on the subject, I recently requested the chiefs of the various bureaus of the department to submit to me a list of the scientific and technical employees under their supervision who had separated from the service during the preceding year for the purpose of bettering themselves financially elsewhere. I discovered that during the period of one year prior to last October the department had lost in this way not less than 203 efficient and valuable employees of this character.

The number itself is impressive. It should also be remembered that offers from the outside are always made to men of particular value to us. In addition, the department also loses many of the executive and clerical employees in the same way, but it is not so difficult to fill their places as it is in the case of scientific and technical employees. These losses will possibly continue, for men of scientific training command larger salaries in the commercial world than in the Government service, and it would seem to be a distinct gain to the Government by means of reasonable recognition of valuable service to check such losses as far as possible. So, Mr. Chairman, we will have to lift the salaries just a little bit to keep the educators of the department. That is what this provision is for. When we transferred from the lump sum to the statutory roll all of these people we brought along with us men who were receiving salaries from $1,200 to $1,500, and there is no opportunity for these people to get any increase now save by congressional action.

Mr. FOSTER. Let me ask the gentleman from Virginia, does not the gentleman think it is bad practice for men to be paid out of lump-sum appropriations?

Mr. LAMB. I will say to the gentleman that if we had at the head of every one of these bureaus men of iron will and nerve that perhaps it would be the best way possible. I know of instances here in other departments where men of that character have taken charge of bureaus and with two-thirds of the men have done more work than was before done in the bureau.

Mr. FOSTER. That may be so in some instances, but if you can do better with lump-sum appropriations why not appropriate for the Agriculture Department $17,000,000 and say to them, "Go and do what you will with it and show us the result"?

Mr. LAMB. My friend well knows that in the Agricultural Department, with all these bureaus and divisions, with the great Animal Industry, the Weather Bureau, the Plant Industry, and so forth, that it would be simply impossible to do it, hence we have a lump-sum fund and a statutory roll.

Mr. FOSTER. I agree with the gentleman, but I think that the Congress ought to fix the salary.

Mr. LAMB. Do not understand that I fail to appreciate the difficulty connected with it, but we encounter difficulties everywhere.

Mr. FOSTER. The gentleman will recall the abuses that have grown out of these matters have been where you have had lump-sum appropriations and the head of the department has been permitted to fix the salaries of men which have been out of proportion to what other men in the Government service have been receiving, men just as competent.

Mr. LAMB. I have made my statement, gentlemen, and I leave it to you.

Mr. FITZGERALD. Mr. Chairman, there is no doubt this provision stops a very gross abuse and this would permit it to be reestablished in this department which by this practice took away from every other department of the Government the most competent men. Nobody can prevent or stop men from leaving the Government service to better themselves outside. I insist on the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

To enable the Secretary of Agriculture to acquire and to diffuse among the people of the United States useful information on subjects connected with the marketing and distributing of farm products, and for the employment of persons and means necessary in the city of Washington and elsewhere, there is hereby appropriated the sum of $50,000.

Mr. BORLAND. Mr. Chairman, I reserve a point of order on the paragraph.

Mr. LEVER. What is the point of order? We might as well dispose of it.

Mr. BORLAND. The point of order is that it is new legislation.

Mr. LEVER. I am willing to challenge that proposition.

Mr. MANN. It is not legislation at all, it is an appropriation.

Mr. BORLAND. I want to say further, Mr. Chairman, in discussing the point of order that there is a very grave question whether the marketing of crops or anything else is a part of the agricultural appropriation bill.

Mr. MANN. Will the gentleman from Missouri yield for a moment?

Mr. BORLAND. Yes.

Mr. MANN. We are met with a peculiar situation. Last year we directed the Secretary of Agriculture to make an investigation and report upon this subject matter, and he has reported in a volume that covers several hundred pages. I do not know whether the gentleman from Missouri has examined that volume or not. It has been rather difficult to obtain. I received a copy and read it through and sent it to another gentleman who was anxious to get it. The limit of the number published was 1,000, and it has been very difficult to obtain it. He went into this subject very fully. The Senate has passed a bill to create a division under the Bureau of Statistics in the Agricultural Department. That bill has been reported to the House by the Committee on Agriculture in the House.

In this report of the Secretary of Agriculture it clearly appears that to carry out the provisions of the bill that the Senate has passed, and which is now standing before the House, would involve untold sums of money. No one can dream how much it would cost, but my judgment leads me to believe that it would be from $200,000,000 to $1,000,000,000 a year.

Now, here is a proposition to undertake this work in a progressive and sensible manner, and see what it will cost and what can be done before it is enacted into law. The same item would be subject to a point of order another year. But if this Senate bill passes the House, and my judgment is it will pass the House, and this item goes out of the appropriation bill, then we have an organic law that will involve the expenditure there of hundreds of millions of dollars a year and a control by the Government of the market supplies throughout the United States on every agricultural product. With that view of it, is it not more sensible to try this experiment at a cost of $50,000 for one year? And if it works well undoubtedly it would be increased in the course of time to a larger sum, but never out of the control of the gentleman from Missouri [Mr. BORLAND], if he is here, on a point of order.

Mr. BORLAND. Does not the gentleman's argument reach necessarily in the direction of increasing these amounts from year to year? He says the purpose in view under the Senate bill would require an untold amount of money and perhaps involve the Federal Government in the marketing and distribution of all agricultural crops.

Mr. LEVER. Not at all.

Mr. BORLAND. Now, is not this the first step toward that sort of a plan?

Mr. MANN. I think this would present that sort of a plan. The adoption of this item in the bill would prevent the adoption of the plan proposed by the Senate bill. The Agricultural Department, in the report made by the Secretary, does not desire the passage of the Senate bill; and we will know more by this experiment, and yet will not have written into the organic law a provision authorizing the appropriation of untold sums which we will not wish to appropriate, but which will be appropriated if this authority is given.

Mr. LEVER. This language enables the Department of Agriculture to do nothing more than to acquire and diffuse among the people information on the subject of the marketing and distribution of farm products. It is not necessary to control the marketing or to gather information.

Mr. BORLAND. It must necessarily lead to the control of the marketing, else there would be no advantage in it. Market reports are sent out from live-stock agencies, from produce companies, and from elevator companies every day now. There is no lack of market reports.

Mr. CAMPBELL. We see them in the newspapers every day.

Mr. MANN. I think if the gentleman has read this book, issued by the Department of Agriculture, he will understand how they can profitably expend at once $50,000, and possibly $100,000, a year, without entering upon the proposition carried in the Senate bill. And the department does not wish to do it. For instance, this is a part of the general summing up of the book published by the department:

General market-news service is not recommended.

Although that would be covered by the Senate bill.

If such service were derived from telegraphic reports, the expense would be enormous.

That is not urged and not carried by this, although it would be carried by the Senate bill. All along the line it would be the same thing. I hope in the interests of economy the gentleman will withhold his point of order.

The CHAIRMAN. Will the gentleman withhold for just a question?

Mr. BORLAND. Certainly.

The CHAIRMAN. The Chair will read from the section of the statute creating the Department of Agriculture:

SEC. 520. There shall be at the seat of government a Department of Agriculture, the general design and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture, in the most general and comprehensive sense of that word, and to procure, propagate, and distribute among the people new and valuable seeds and plants.

Now, taking that definition of the purpose of the Department of Agriculture, and then looking at the language of this section, the Chair would like to have the gentleman from Missouri [Mr. BORLAND] indicate in what way he thinks this paragraph is not in order.

Mr. BORLAND. Mr. Chairman, there are two reasons why I think this paragraph is not in order. One is that it provides for a new branch of activity not contemplated by the fundamental act of the Department of Agriculture, and the other is that it provides for a branch of activity which is not within the jurisdiction of the Department of Agriculture or of the Federal Government. But I understand, Mr. Chairman, that this is an experimental appropriation.

Mr. LEVER. Mr. Chairman, I would like to hear what the gentleman from Missouri is saying.

The CHAIRMAN. The committee will be in order.

Mr. BORLAND. I say I have grave doubts whether this is in the power of the Department of Agriculture as it is created, or whether it is within the power of any department of the Government to collect and furnish these market reports. But I understand that this is an experimental appropriation. The amount is so small that necessarily it must be experimental, because very little information could be collected and disseminated for $50,000 over a country as large as this. It is to determine whether the thing is feasible and to what extent it can be carried. The point of order would be just as good against the renewal of this appropriation in succeeding years, and for that reason I withdraw the point of order.

The CHAIRMAN. The point of order is withdrawn.

Mr. HEFLIN. Mr. Chairman, I ask unanimous consent to address the House for 10 minutes.

The CHAIRMAN. The gentleman from Alabama [Mr. HEFLIN] asks unanimous consent to address the House for 10 minutes. Is there objection?

There was no objection.

Mr. HEFLIN. Mr. Chairman, I send to the Clerk's desk and ask to have read an editorial from the Louisville (Ky.) Courier Journal.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

LESTER BRYANT.

There will be general and profound sorrow in Kentucky because of the tragic end of Lester Bryant, the boy corn grower of Warren County. His death by asphyxiation in a Washington rooming house was a most pitiful and unexpected termination of what otherwise would have been one of the memorable events of his life. Lester Bryant's labor was worth much to his county and his example was worth much to his State. His untimely death is a loss not only to his parents, his friends, and his county, but, in some degree, a loss to the Commonwealth and to the country at large. Boys of his sturdy character and manly achievements are needed in State and in Nation.

Mr. HEFLIN. Mr. Chairman, last year young Kimbrough, a 15-year-old boy from my district, came to Washington to receive a prize for having produced more corn on 1 acre of ground than any other boy in the State of Alabama. He produced on 1 acre 224 bushels of corn. Well do I remember the impression he made upon me when I saw him in the gallery of this House, how I looked with admiration upon the manly little fellow and prophesied the time when he would become an ideal farmer in my State.

Mr. Chairman, a few days ago a Kentucky boy, Lester Bryant, came to Washington to receive a prize that he had won for producing more white corn on 1 acre of ground in Kentucky than any other boy produced on a like area in half a dozen States around him. He died in this city and now sleeps on the slope of a hill near the field where he wielded the hoe and guided the plow in producing that record-breaking yield. While we have under consideration the agricultural appropriation bill, as a member of the Committee on Agriculture, I want to lay a simple and deserved tribute upon the new-made grave of this little Kentucky boy who did so much for agriculture in the United States. I know, Mr. Chairman, that what I may say will not affect him now, but it may be of some comfort to his loved ones and friends and may be of some value to some farmer's boy somewhere.

He was born and reared on a Kentucky farm, and when the Secretary of Agriculture called for boy volunteers to help increase the corn supply of the United States he became a volunteer in the army of American corn growers. This army was composed of 75,000 American boys, and Lester Bryant was only a private in the ranks; but, Mr. Chairman, there was chance for promotion, and opportunity was given to become an honored captain in that industrial army. This youthful Kentucky farmer at the end of 12 months' service was one of 50 boys chosen from the ranks of 75,000 as a prize winner in a contest where industry and skill of a high order were essential to success. He won his promotion from the place of a private in the ranks to the office of a captain in this industrial army, and he came here to receive his commission at the hands of the Secretary of Agriculture, the commander in chief of the corn boys' army.

When his eyes beheld for the first time this glorious capital of our country, how beautiful the vision to his enraptured gaze. But, Mr. Chairman, within a few hours of the time when he would have heard the Secretary of Agriculture say, "Well done, my boy; you have won the prize," death touched him and he fell into that mysterious sleep that kisses down his eyelids still. The news of his sad and untimely death sent a pang of sorrow through this House and over the country. Plucked out of life when hope was high and the future seemed so bright—dead in the morning of a happy, buoyant youth time. And yet, Mr. Chairman, he did more in his brief time on earth to teach the art of intensive farming than thousands of men who have lived long and died of sheer old age. He has done more for his State and Nation in emphasizing the marvelous possibilities of 1 acre of ground than thousands of men who have lived their threescore years and ten. He was a little missionary carrying to the farmers of his State and Nation the gospel of intelligent, scientific farming, and the fact that he did accomplish so much by the intelligent cultivation of 1 acre of ground will stand out an example and beacon light to every farmer boy who aspires to become a successful farmer. He broke the soil deep, carefully prepared the ground, and selected the seed corn that he planted. He devoted time and labor to the careful cultivation of that 1 acre of ground, and when the harvest time came, amongst all those seeking the prize for the greatest yield of white corn on 1 acre of ground, his name led all the rest. The soil yielded her increase and gave to this farmer boy a record-breaking yield, and Lester Bryant in the sweat of his face became a hero on the field of agriculture.

Mr. Chairman, he was on the corn boys' firing line in the battle for bread. He had enlisted in a noble cause, and before he was 15 years of age surpassed all that had been accomplished on the British farm in the heyday of its production, when, as Goldsmith in his "Deserted Village" wrote, "Every rood of

ground maintained its man." He produced on 4 roods of ground, or 1 acre, enough corn to maintain not 4 but 11 men. He had overcome difficulties that stood in the way of generations of farmers before him. He had removed the barriers over which thousands of farmers had stumbled in their efforts to make the earth yield her increase. He wooed the soil and she told him her secrets. He touched the growing corn with the magic wand of his skill and genius and it responded with luxuriant growth to his intelligent touch. This young Kentucky farmer, this little wizard of the cornfield, has rendered his State and Nation a great service in showing the productive possibilities of the soil. He has made a splendid contribution to scientific agriculture. He has produced from 1 acre of ground six times as much as used to be considered a fair yield. Mr. Chairman, we are told that the man who makes two blades of grass to grow where only one grew before is a benefactor. How much greater, then, the service of this little boy who made 6 bushels of corn to grow where only 1 grew before. This little Kentucky boy bade fair to become an ideal farmer. The example of his sturdy life and the work that he has wrought will be of benefit to his fellows in the years to come. He did not lean upon his hoe and gaze upon the ground, as did the desponding peasant in Markham's "Man with the Hoe," but with head erect and light upon his face stood there on his father's farm a perfect little prince in the kingdom of agriculture. The father looks with affection and pride upon such an industrious, sturdy son, and the good mother blesses the day that he was born. Some boys despise work. John Ruskin has truly said:

There is an idle class among both rich and poor, weak, wicked, and miserable. There is a working class among both rich and poor, strong, healthy, and happy.

Lester Bryant belonged to the working class of which John Ruskin spoke. He had enlisted for life in the agricultural army of his country. Mr. Chairman, it is a sad thing to see a boy drifting aimlessly along, devoid of pluck and energy, lazy, and indolent; but how supremely refreshing and how pleasing to see a boy full of vim and energy, buoyant, industrious, and hopeful, doing what his hands find to do. This youthful Kentucky farmer was such a boy. He was a blessing to his parents and a distinct benefit to his day and generation. Peace to his ashes.

The hoe that he wielded will be covered with dust,
The plow that he guided be still;
The trace chains be red with rust,
While he sleeps on the slope of the hill.

But the things that he wrought on the old Kentucky farm will live long after he has passed into silence and pathetic dust. My heart goes out to his loved ones.

How sadly they miss him there now,
But God in his goodness will comfort the home
Where the little boy guided the plow.

[Loud applause.]

Mr. LEVY. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from New York [Mr. LEVY] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Add, at the end of line 13, page 64, the following as a new paragraph: "*Provided*, That no part of this appropriation for rent of buildings used by the Agricultural Department in the District of Columbia shall exceed 6 per cent and taxes for the District of Columbia on a fair valuation of such buildings and grounds."

Mr. LAMB. I make the point of order against that.

Mr. LEVY. This is a limitation.

Mr. MANN. I make the point of order, Mr. Chairman, that it is not offered at the proper place in the bill.

The CHAIRMAN. The Chair sustains the point of order, that it is not germane to the portion of the bill to which it has been offered.

Mr. LEVY. I ask unanimous consent, Mr. Chairman, to return to page 53 of the bill for the purpose of offering the amendment.

Mr. LEVER. I object.

The CHAIRMAN. The gentleman from South Carolina objects.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

A few moments ago, in the discussion of a point of order raised by the gentleman from New York [Mr. FITZGERALD], the chairman of the Committee on Agriculture gave it as his opinion that the officials of the department could be depended upon not to abuse any discretion lodged in them. I agree with the gentleman that public officials generally—possibly the officials of the Department of Agriculture particularly—can quite generally be depended upon to keep within the purview of the law. There are, however, some possible exceptions. We must recall the ambition of men to extend their authority and jurisdiction, and we must remember that the best of men are sometimes prone to extend as far as possible their authority under the law.

Several years ago it came to the attention of the Committee on the Public Lands that at one time and another there had been reserved by Executive order and otherwise a number of so-called bird reserves, mostly along the Gulf of Mexico and the two coasts; and we were informed that there was no law under which the birds on those reserved lands could be protected, and therefore a bill was presented providing for the protection of those birds in the following language:

Whoever shall hunt, trap, capture, willfully disturb, or kill any bird of any kind whatever, or take the eggs of any such bird, on any lands of the United States which have been set apart or reserved as breeding grounds for birds, by any law, proclamation, or Executive order, except under such rules and regulations as the Secretary of Agriculture may, from time to time, prescribe, shall be fined not more than $500, or imprisoned not more than six months, or both.

In addition to what I have read, which is the law, there was a provision that the President should thereafter have authority to create such reserves. Those words were stricken out. The committee had some hesitation about passing the law, and thereby, by inference, either justifying what had been done or making lawful the reservations already made; but being assured that there were only a few of them, and being informed as to their locality and the character of the land embraced in them, the act was passed. It undoubtedly validated so far as we could the acts by which these reserves were created; but the committee declined to report, and the Congress did not grant authority to create so-called bird preserves.

Immediately after the passage of that bill there were created by Executive order many so-called bird preserves. At any rate there are 30 or 40 of them at this time; possibly more, for I have not kept track of the matter of late. My attention was called to the matter by reason of one of those reserves in my State, which was a rather peculiar proposition to say the least.

Application had been made for the right to flood certain lands and form a lake for irrigation storage purposes, and around the border of that proposed lake a bird preserve, I think 300 feet in width, was attempted to be created by Executive proclamation, and as the lake was to be of considerable size it formed a preserve, if it formed anything at all, some 300 feet in width, a complete circle around the lake some 9 miles in diameter, a gigantic doughnut. Well, the reservoir was never created. The land is still dry, and this ring around the rosy of a bird pasture is still there, so far as an Executive proclamation can place and keep it there. There have been some very interesting speculations as to just what would occur if some one stood off the reserve and shot on to it, or stood upon the reserve and fired a gun in the other direction, contrary to the rules and regulations made and established by the Department of Agriculture.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. I ask that I may have five minutes more.

Mr. LAMB. What is the gentleman's purpose?

Mr. MONDELL. I want to call attention to the excuse the department gave for doing this thing that I have referred to.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MONDELL. Naturally I made inquiry as to the authority of the department to go within a State, create a bird pasture, and attempt to prohibit the control of the State over the game birds within its borders. I asked to be cited to the statute under which it was accomplished. This statute which I have just read was cited as authority; this statute in the enactment of which the committee and Congress refused to grant any authority to create these reserves; this statute, which did nothing else, and did that only at the earnest plea of the Bureau of Biology of the Department of Agriculture, that we validate, if we could, those Executive orders that had been issued, creating certain bird preserves, mostly on rocky and uninhabited and uninhabitable islands along the coast. This law, which by no possible reasonable construction, either on the basis of language or intent, can be held to grant such authority, is being invoked from time to time by the department as authority to do that which Congress refused to do.

We have many of these so-called reserves. We have them about all of the storage reservoirs of the Reclamation Service. We have them scattered in many places where men have asked for rights of way to impound water for agricultural reclamation purposes within the borders of States, without authority of law. In the bill before us is an appropriation for carrying out the provisions of that act I have referred to. That appropriation, if used for the care of the reserves established prior to the passage of the act which I have read, will be used legally and properly, but it will no doubt also be used in an attempt

to care for and protect birds on reserves attempted to be established without authority of Congress and contrary to the provisions of the Constitution of the United States.

I suppose, however, it is rather superfluous to refer to that feature of the situation, because what is the Constitution, anyway, in the face of the desire of a bureau to extend its authority and jurisdiction?

I simply refer to this as an illustration of the fact, somewhat doubted evidently by the gentleman from Virginia, that sometimes very good men in the bureaus, in their ambition to extend their jurisdiction, authority, and control, very curiously interpret acts of Congress.

The Clerk resumed and completed the reading of the bill.

Mr. MANN. Mr. Chairman, there was more or less said a little while ago in reference to the traveling expenses under the Department of Agriculture, on account of lectures, and so forth, and gentlemen might obtain the impression that the Department of Agriculture had been grossly extravagant in the past in the matter of traveling expenses. The present law forbidding the pay for traveling expenses for lectures, and so forth, only went into the current law last summer. I hold in my hand the report of the Secretary of Agriculture of the traveling expenses incurred by the Department of Agriculture for the fiscal year ending June 30, 1912.

It is a document of some 144 pages long, giving in detail all of the expenditures for travel. The total appropriation for the Department of Agriculture for that year, including permanent appropriations, amounted approximately to nineteen or twenty million dollars, and the total traveling expenses were about 1 per cent, or $190,105.31. That is not an extravagant amount, considering that the large share of the work of the Agricultural Department must necessarily be done by people going from one place to another. I ask unanimous consent that I may insert in the RECORD certain memoranda showing the total expenditures by the different divisions for that year for traveling expenses.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The memoranda referred to is as follows:

Expenditure for travel, Department of Agriculture, during fiscal year ending June 30, 1912.

General expenses, Weather Bureau, 1912	$2,551.65
General expenses, Bureau of Animal Industry, 1912:	
Inspection and quarantine	4,475.88
Eradicating cattle ticks	705.00
Dairy industry	9,600.21
Animal husbandry	7,229.48
Diseases of animals	2,577.05
Administrative expenses	1,118.24
Cooperative experiments in animal feeding and breeding, 1912	2,024.14
Meat inspection, Bureau of Animal Industry, 1912	5,880.60
General expenses, Bureau of Animal Industry, 1911-12	43.88
General expenses, Bureau of Plant Industry, 1912:	
Pathological laboratory	79.48
Fruit diseases	3,693.12
Forest pathology	2,859.07
Cotton and truck diseases	3,026.47
Crop physiology	2,189.31
Bacteriology and nutrition	1,704.41
Crop acclimatization	2,289.51
Drug and other plants	2,112.61
Crop technology	713.35
Cotton standardization	2,708.28
Grain standardization	1,763.54
Physical investigations	1,223.46
Special seeds and plants	391.16
Seed-testing laboratories	1,116.84
Grain investigations	9,411.93
Tobacco investigations	519.72
Forage crop investigations	2,591.13
Paper plant investigations	1,403.71
Alkali and drought resistant plants	1,859.02
Sugar plant investigations	2,586.85
Taxonomic and range investigations	1,768.56
Farm management	14,687.80
Farmers' cooperative demonstration work	972.21
Dry land agriculture	1,155.31
Western agricultural extension	2,339.00
Pomological investigations	12,297.94
Arlington farm and horticulture	3,412.43
South Texas Garden	595.74
Administrative and miscellaneous	656.07
Purchase and distribution of valuable seeds, 1912:	
Congressional seed distribution	1,705.52
Foreign seed and plant introduction	4,309.16
Investigating the chestnut-tree bark disease, 1911-12	216.99
General expenses, Forest Service, 1912:	
Maintenance and supplies	315.65
Forest products	1,832.71
National forest range investigations	908.24
Management of forests	6,325.51
Market and miscellaneous investigations	519.01
General administration	9,575.51
Cooperative work, forest investigations	123.76
Acquisition of lands for protection of watersheds of navigable streams, 1912	2,108.33
General expenses, Bureau of Chemistry, 1912:	
Laboratory, miscellaneous expenses	$5,362.83
Food and drugs act	13,001.26
General expenses, Bureau of Soils:	
Soil laboratory investigations	375.21
Soil survey	6.89
Administrative expenses	47.10
Investigations of fertilizer resources	1,054.90
General expenses, Bureau of Entomology, 1912:	
Citrus fruit insects	104.60
Miscellaneous insects	492.10
Preventing spread of moths, Bureau of Entomology, 1912	93.70
General expenses, Bureau of Biological Survey, 1912:	
Game preservation	1,562.16
Food habits of birds and mammals	4,176.30
Biological investigations	1,784.32
Administrative expenses	904.93
General expenses, Bureau of Statistics, 1912 (special investigations)	2,316.66
Library, Department of Agriculture, 1912	97.98
Contingent expenses, Department of Agriculture, 1912	842.41
Agricultural Experiment Stations, 1912	1,610.77
Farmers' institutes	1,777.48
Station at island of Guam	158.70
Nutrition investigations, 1912	291.25
Irrigation investigations, 1912	1,067.50
Drainage investigations, 1912	499.80
General expenses, Office of Public Roads, 1912:	
Road management	2,325.13
Investigating road building and maintenance	2,021.54
Road material	1,650.82
Enforcement of the insecticide act, 1912	362.82
Total	190,105.31

Mr. FOWLER. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD upon the bill.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD upon the bill. Is there objection?

There was no objection.

Mr. AKIN of New York. Mr. Chairman, I make the same request.

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. LAMB. Mr. Chairman, I ask unanimous consent that the Clerk be instructed to correct all the totals where necessary.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the Clerk change the totals where necessary. Is there objection?

There was no objection.

Mr. LAMB. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the amendments with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. BEALL of Texas, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28283) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914, and had directed him to report the same back with sundry amendments with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. LAMB. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

There was no demand for a separate vote.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. LAMB, a motion to reconsider the vote whereby the bill was passed was laid on the table.

PENSION APPROPRIATION BILL.

Mr. BARTLETT, from the Committee on Appropriations, by direction of that committee, reported the bill (H. R. 28730) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1914, and for other purposes, which was read the first and second times and, with the accompanying papers, was ordered printed and referred to the Committee of the Whole House on the state of the Union. (H. Rept. 1504.)

Mr. MANN reserved all points of order on the bill.

Mr. BARTLETT. Mr. Speaker, I give notice that immediately after the termination of the diplomatic and consular appropriation bill, I shall call up the pension bill for consideration.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 28094. An act to amend section 96, chapter 5, of the act of Congress of March 3, 1911, entitled "The Judicial Code."

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 14053) to increase the pensions of surviving soldiers of Indian wars in certain cases.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 24121) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. CLAYTON. Mr. Speaker, by direction of the Committee on the Judiciary, I move to take from the Speaker's table for present consideration the bill S. 4043, and I desire to make an explanation.

Mr. FITZGERALD. I make a point of order that the motion is not in order.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 4043) divesting intoxicating liquors of their interstate character in certain cases.

Be it enacted, etc., That the shipment or transportation, in any manner or by any means whatsoever, of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that this motion is not a privileged motion, and I demand the regular order.

The SPEAKER. The Chair will hear the gentleman on that point of order.

Mr. FITZGERALD. Mr. Speaker, under the rule, Senate bills on the Speaker's table, substantially similar to House bills which have been favorably reported and which do not require consideration in the Committee of the Whole House on the state of the Union, may be laid before the House for consideration upon the request of the committee having jurisdiction. I wish to call the attention of the Speaker to the fact that the bill as passed by the Senate is not substantially the same as that reported by the House committee. The House committee reported a bill and proposed that certain amendments be adopted, but the text of the bill is substantially different from the form in which it passed.

The purpose of this rule, as appears from some of the Precedents, was to permit the House to consider certain classes of business which did not require consideration in Committee of the Whole House on the state of the Union under certain conditions. It has invariably been held that in order to consider a Senate bill the House bill must not only have been reported from the committee in advance of the passage of the Senate bill, but must actually be on the House Calendar.

There is no such House bill now in the House nor in any committee of the House. The bill which had been reported by the committee on this subject has been disposed of by the House, and the Chair will not find, in my opinion, any precedent, nor can he recall any instance, in which it has been held in order to call up a Senate bill under conditions where the House bill was not actually on the House Calendar.

There is no House bill upon the House Calendar. There is no House bill in the House at all. It has left the House. The purpose of the rule was to give an opportunity to consider a Senate bill in lieu of the House bill that was awaiting consideration. I have looked through the precedents. I have inquired of gentlemen of some service in the House. I have tried to recall instances in the House myself. It is possible that I have overlooked some such cases, but I have no knowledge of any ever having been considered. It is very apparent from the fact that there is no such instance that the rule and the practice under the rule does not operate to permit such a motion as this to be made, unless the bill is actually on the House Calendar awaiting consideration.

For instance, if a committee of the House has a bill under consideration and the Senate passes a bill which goes to the Speaker's table, if it is not of such a character as would require consideration in the Committee of the Whole House on the state of the Union, and subsequently, but prior to the disposition of the bill on the Speaker's table the House committee reports a bill substantially the same, it is not possible to consider the Senate bill from the Speaker's table. The Speaker's table is one of the calendars of the House. It is a calendar to which a certain class of business goes under the rule for disposition, and the theory of this rule is that a House bill not requiring consideration in the Committee of the Whole House on the state of the Union being on one particular calendar, the House Calendar, and a Senate bill, substantially the same, coming to the House and being upon another calendar, the Speaker's table, in order to facilitate the disposition of the bill it is in order to consider the bill on the calendar known as the Speaker's table rather than to await the day to call up the bill upon the House Calendar. I do not know of any precedent under which the motion is in order to proceed to consider this bill, in view of the fact that the House bill is no longer in the House. I do not wish to unduly delay the matter, but my investigation convinces me that this is a novel and unknown and unusual attempt to construe a rule far beyond what was intended or what has been the practice in the House.

Mr. CLAYTON rose.

Mr. MANN. Mr. Speaker, before the gentleman from Alabama proceeds, I suggest that he permit me to proceed, as undoubtedly he will desire to answer both the gentleman from New York [Mr. FITZGERALD] and myself.

Mr. CLAYTON. I will yield to the gentleman with great pleasure.

Mr. MANN. Mr. Speaker, the bill as reported to the House, which, it is claimed, would authorize the calling up of the Senate bill, is House bill 17593. That bill contains a number of provisions which are not in the Senate bill. One of those provisions, which went to the very essence of the House bill as reported to the House, is:

And any and all contracts pertaining to such transactions are hereby declared to be null and void, and no suit or action shall be maintained in any court of the United States upon such contract or contracts or for the enforcement or protection of any alleged right based upon or growing out of such contract or contracts, or for the protection in any manner whatsoever of such prohibited transactions.

That provision was an essential provision in the House bill as introduced. The Committee on the Judiciary in reporting the bill back to the House recommended various amendments to the House bill, including the striking out of the provision which I have read. It is quite clear, I take it, that if the House bill is to be considered as introduced into the House, then the present Senate bill is not substantially similar to the House bill, because in the Senate bill the provision which I have just read does not appear; but the Committee on the Judiciary of the House in reporting the bill back to the House recommends the striking out of that provision, and, I take it, the question is now before the Speaker whether, in determining if the Senate bill is substantially similar to the House bill, the Speaker shall consider that the amendments proposed by the Judiciary Committee have been adopted at the time the bill is reported back to the House.

I am aware of the ruling made by the Speaker, and the proper ruling, that if the committee had proposed to add new, substantive propositions, then the Senate bill must be similar to those, but the matter comes in the same way that it does in respect to the reference of a bill to the House Calendar or the Union Calendar. If this bill, as introduced into the House, was a House Calendar bill, carrying no appropriation when reported back, it would go to the House Calendar. If, however, the Committee on the Judiciary had proposed an amendment to the bill carrying an appropriation that amendment would carry the bill to the Union Calendar. On the other hand, if the bill as introduced had carried an appropriation, that would carry it to the Union Calendar, nor would a committee amendment to strike out the appropriation take it from the Union Calendar and refer it to the House Calendar. Either by way of committee amendment or by way of original provision in the bill, if an appropriation is involved, it must go to the Union Calendar.

I maintain that the same principle relates to Senate bills called up from the Speaker's table, that if there is a provision in the House bill which the committee proposes to strike out by way of amendment, or if the committee proposes to add by way of amendment a new provision, either one of which is substantially different from the provision in the Senate bill, then the bill can not be taken from the Speaker's table. The Speaker will notice the taking of a Senate bill from the Speaker's table is an exception to the general rule, and ought not to be permitted unless the rule is complied with. I do not think the Speaker can assume, when a bill is reported to the House from a committee, with amendments to strike out part of the language, that that language is to be excluded in considering the question as to whether the bill is similar. Any other ruling would lead to this: Suppose a House committee wishes to bring some matter before the House by way of a Senate bill entirely different from the provisions that they wish enacted into law. Some gentleman in the House introduces a bill containing very important propositions which have not been included in the Senate bill, and thereupon the committee reports the bill back with the recommendation that all of its provisions be stricken out and get the right to call up the Senate bill, and the right would at once exist to add to the Senate bill by amendment and other provisions which the committee has reported in favor of striking out and does not intend to have stricken out. A ruling of that kind, it seems to me, gives a much wider power to the committees in reference to the procedure of the House than they now have, and committees now absorb—I was going to say too much power in the House—certainly quite enough power in the House, and there is no pretense that this Senate bill as it comes over here is similar to the House bill, the Webb bill, as introduced into the House or as reported into the House, unless the Speaker considers that the amendments are agreed to when the bill is reported back to the House.

Mr. CLAYTON. Mr. Speaker, I would like to proceed with this discussion, so the matter may be terminated early, but the gentleman from Georgia [Mr. HARDWICK] desires to address the Chair in opposition to my motion, and I have no disposition to prevent him from speaking and giving his views, and I therefore yield to him.

Mr. HARDWICK. Mr. Speaker, I want to say I feel that the point of order is well taken on this motion. I think so for two reasons, both of which have been given by the gentlemen who have already addressed the Chair in support of the point of order; and yet I want to elaborate somewhat, if I can, on both of them. Section 2 of Rule XXIV provides, among other things:

But House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in the Committee of the Whole, be disposed of in the same manner on motion directed to be made by such committee.

Now, Mr. Speaker, as the gentleman from New York [Mr. FITZGERALD], who made this point of order, called to the attention of the Chair in the beginning of his remarks, the practice has always been, without exception, as far as my investigation discloses—and I have endeavored to make some investigation—that these House bills, substantially similar in character, which are referred to by this rule must be pending on some House calendar when the effort is made to call up a Senate bill that is substantially the same from the Speaker's table.

The SPEAKER. The Chair would like to hear the gentleman from Georgia or the gentleman from New York or the gentleman from Illinois state if he can find a precedent for taking that position?

Mr. HARDWICK. I think I have one that comes very near to it, and I will read it to the Chair and then the Chair can judge.

The SPEAKER. The Chair will be obliged to the gentleman.

Mr. HARDWICK (reading):

On May 11, 1898, Mr. Lorenzo Danford, of New York, called up from the Speaker's table, by direction of the Committee on Immigration, the bill (S. 112) to amend the immigration laws of the United States, and asked its consideration on the ground that it was substantially the same as a House bill already on the House Calendar.

Now, I do not say, Mr. Speaker, that that point has ever been precisely ruled that the bill must be at the time on the House Calendar—and the Chair sees in the case I cite the statement is that a substantially similar bill was pending on one of the House calendars.

I venture this assertion, and I do not think it can be successfully contradicted either now or later, here or elsewhere, that nowhere in the precedents will you find any case in which a bill has been called up from the Speaker's table under circumstances like these, when nowhere on any House calendar was it pending in the House of Representatives.

Now, Mr. Speaker, I can argue only from the reasoning that is back of this rule. The rule intends that the House may not be surprised. Of course it may be true, as gentlemen will doubtless urge in conclusion, that the House will not be surprised in this particular instance, at least. Of course not, as a matter of fact, so far as this particular matter is concerned.

Let us see to where that would lead the Chair and to what theory it would commit the House if this motion be held in order. If this can be done in the way that is proposed now, then if a House bill reported by any committee of the House were passed the first day of the first session, and went to the Senate and slumbered there, and everybody lost sight of it and forgot about the proposition, and it was not pending before any committee or on any House calendar, and on the last day of the session of the same Congress, if the Senate happened to pass a similar bill it could be called up without notice to anybody, without its being pending on any House calendar, even though the House calendars are for the admitted purpose of giving notice to Members of the matters that are pending and that may be called up.

It might be called up two years after the original proposition had passed the House and everybody had forgotten it. It seems to me on reason or principle it would be a most dangerous precedent. It seems to me it would be an unsafe thing. It seems to me it would be the liberalization of this rule to such an extent that it would be very dangerous and unsafe. We could not tell what position we would be in at any time if this procedure were adopted.

Now, Mr. Speaker, while the point has not been precisely ruled in any authority I can find, it seems to me when you consider the reasoning back of this rule, when you consider the principle on which this rule rests, when you consider the safeguards that were intended to be thrown around the House in order to keep it from being surprised, if the Speaker should rule this motion in order, although it would not work any injustice at all in the present case, yet as a matter of practice and parliamentary law it would be unsound and dangerous to a degree.

Now, I want to address myself briefly to the point raised by the gentleman from Illinois [Mr. MANN]. It seems to me that his position is absolutely sound. I do not believe it can be answered. The House bill referred to in this rule is a bill introduced into the House and not the bill reported by the committee. If the report of the committee could change the character of the bill and change it, as the gentleman from Illinois suggests, from one calendar to another, from the Union Calendar to the House Calendar or the Private Calendar, as the case might be, then you would see there would be absolutely no way in keeping out of inextricable confusion as to when this rule could be applied. The Senate bill that it is now proposed to call from the Speaker's table for immediate action of the House is substantially and materially different from the bill introduced by the gentleman from North Carolina [Mr. WEBB] and which was voted on Saturday.

I freely confess that in this particular instance no hardship would be worked on the House; but if this precedent be established—and I appeal to the Chair because of the precedent that would be established if he permits this motion to be entertained—if this precedent be established, it will rise up to plague us in the days yet to come. We can not tell when some bill that was lost in the scrap heap at the other end of the Capitol will come back, months and even years afterwards, like this, to an unsuspecting House, with no notice given to the House by any of its calendars.

Mr. Speaker, in no instance can gentlemen cite a case in which this motion was made where the bill was not pending in the House and on some one of its calendars, and I feel that the Speaker ought to conclude that a fair construction of the rule means that the House itself has to be in a position of having the bill on one of its calendars before this motion shall be entertained.

Mr. GARRETT. Mr. Speaker, I take it that it is always in order to apply good common sense to the construction of the rules in this House.

What have we here? This rule which has been read provides:

But House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in Committee of the Whole.

Now, Mr. Speaker, the bill that has been taken from the Speaker's table and which has been read to the House is not only substantially the same as the bill which was reported from the Committee on the Judiciary and passed upon by the House, but it is precisely the same, with the exception of one word,

which in no respect changes its substance or its form, as that passed by the House and Senate, too.

The purpose of the rule is not to protect men who are not diligent in keeping up with the legislation of the House and the Senate, but the purpose is to enable the House in a logical, easy, orderly manner to work its will where it has demonstrated its will in regard to this legislation.

A bill precisely the same as that which passed the Senate and is now on the Speaker's table passed the House and was reported from the committee. It is true that the bill which was introduced in the House was not the same, but the bill that was reported from the committee with the committee amendments was precisely the same. I take it that the Speaker, in construing the rule, will apply common sense and look to the substance and not so much to the form.

That is all, Mr. Speaker.

Mr. CLAYTON. Mr. Speaker, I take issue with the statement of fact made by the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. The gentleman has said that twice before.

Mr. CLAYTON. When I made that statement a while ago the gentleman from Illinois [Mr. MANN] interrupted me, and I yielded to him. Therefore I desire to take up the thread of my discourse where, through courtesy, I left it off. Again, Mr. Speaker, I repeat it for the edification of the gentleman from New York, who uttered sotto voce the statement that twice I had said that. Perhaps, Mr. Speaker, in other instances the gentleman from New York has not been accurate in his statement of facts. Certainly he has not been accurate in this instance.

Now, Mr. Speaker, the bill that came from the Committee on the Judiciary is precisely the bill which is now on the Speaker's table. The bill as introduced by its author, Mr. WEBB, and which was reported by the Committee on the Judiciary, was reported in the precise words of its author, with one exception. Where the word "used" in a particular place was employed by the author, the committee struck out the word "used" and substituted the word "sold," in no wise interfering with the bill or with its intent or with its operation.

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. CLAYTON. If the gentleman will permit me to conclude this statement, I was going to show another thing.

Mr. MANN. I wanted to point out an error in the gentleman's statement.

Mr. CLAYTON. I was about to say we had stricken from the Webb bill some other language.

Mr. MANN. I understood the gentleman to say that only one change had been made.

Mr. CLAYTON. I was completing my statement, and I did not have the opportunity to complete it.

Mr. MANN. The gentleman mentioned only one, and in that he was erroneous about what was done.

Mr. CLAYTON. Well, the Member who has at this time the privilege of addressing the Chair thinks he is accurate; and I again repeat, Mr. Speaker, that, with the exception I have noted, and with this other exception that I was about to explain, this bill as it came from the Senate is precisely the Webb bill as it was introduced by the author and precisely the bill as was reported. The Webb bill had other language in it before it passed the House. The committee amended that bill by striking out some words as being unnecessary, some of them as being superfluous, and some that the committee did not agree to. But the Webb bill was preserved in its primary purpose and intent from the time it was introduced by the gentleman from North Carolina [Mr. WEBB] until it was reported by the committee and as it was reported by the committee.

Now, Mr. Speaker, so much for the statement of fact made by the gentleman from New York [Mr. FITZGERALD] and the gentleman from Illinois [Mr. MANN].

I understand that the reason the gentleman from New York urges to sustain his point made against the motion is that the rule requires a bill to be on the calendar and that otherwise this motion to take up the Senate bill can not now be entertained.

Mr. Speaker, that brings us to the rule. Of course, everybody knows the twofold object of the rule. The first object is to expedite the business of the House. Now, no one will deny that this motion which I have made by direction of the Committee on the Judiciary has as its object the expediting of the business of the House.

The other reason for the rule is that the House may be informed of the subject matter covered by the motion, the nature of the bill, and the bill itself. Now, if that reason is complied with, if the House understands that, if the House can fairly infer from what has happened and from the previous action on the bill, together with reference to this bill, what is covered by the particular motion, the reason of the rule that the House should be informed has been complied with. If the reason for the rule ceases, the rule itself ceases. The complement of that is that if the reason for opposition to the rule ceases, the rule ought to be enforced.

Now, let us examine the text of this rule. It is Rule XXIV, subdivision 2:

Business on the Speaker's table shall be disposed of as follows: Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from heads of departments, and other communications addressed to the House, and bills, resolutions, and messages from the Senate may be referred to the appropriate committees in the same manner and with the same right of correction as public bills presented by Members; but House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine—

Now here is the part that is material—

as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House.

So the test is, Is this bill substantially the same as the House bill which has heretofore been favorably reported by the Committee on the Judiciary? If it is, then this objection will not lie. If it is not substantially the same bill, the objection is well taken.

That brings us to the consideration of the two measures. Gentlemen are mistaken in saying that the Senate bill is not precisely the same as the House bill. With my associate, the gentleman from North Carolina [Mr. WEBB], I have compared the text of the two, and we find that the text of these measures now on the Speaker's table and the bill passed by the House on last Saturday are identical in words, except that the Senate bill changes the caption and changes the number at the top of the bill. The title of the House bill was—

An act to divest intoxicating liquors of their interstate commerce character in certain cases.

The Senate bill, which we now have on the Speaker's table, is entitled—

An act divesting intoxicating liquors of their interstate character in certain cases.

Almost, but not exactly, the same title—substantially the same.

Now, Mr. Speaker, it is useless for me even to suggest that the title of a bill is not a part of the law. The title of the bill is no more a part of the substance of the law than the Speaker's name is a part of his anatomy. So we can dispose of that question. And the mere numbering of the bill, the striking out of "H. R. 17593" and substituting "S. 4043," in no wise changes that feature of the bill.

Mr. Speaker, we know why the bill came to us in this particular shape. We know that when the Webb bill was offered somewhere else it required unanimous consent for it to be substituted. That unanimous consent was denied, and then another bill was amended by striking out all after the enacting clause and inserting in lieu of the language stricken out the language of the Webb bill.

The gentleman from Illinois [Mr. MANN] urges this point in opposition to my motion, that the House bill as it passed the House was not the bill that was introduced by its author originally in the House. Mr. Speaker, if you carry out that process of reasoning, if you split hairs to that extent, I dare say you would never find a bill here that would escape a point of order predicated upon that ground.

I do not recall in all my service here any bill in which there was not something changed by striking out and substituting or something added or something subtracted from it. So you see the absurd position we might be in hereafter if we should adopt what the gentleman from Illinois [Mr. MANN] believes to be ineluctable logic. I am glad to see the lawyers around me smile at my words. If they had read the decisions of a very high court carefully, they would find that I have appropriated the language used by a distinguished jurist.

Now, Mr. Speaker, I think the point made by the gentleman from New York [Mr. FITZGERALD] is not well taken for the reasons I have given, and the reasons given by the gentleman from Illinois, if adopted by the Chair, would lead us into an impossible position, and an embarrassing position. It would defeat the expedition of the business of the House. It would be putting a construction upon the rule which it does not bear. The House is fully informed after three hours' debate on this particular bill last Saturday, and after full consideration of the bill as it came from the committee. So nobody can doubt but what this bill is the bill which the Committee on the Judiciary reported to this House and the precise bill that this House considered and acted on last Saturday.

There is nothing in the rule which requires that the bill of the House should be on the calendar, for the language is "a bill substantially the same as House bill already favorably

reported by committee of the House." If a favorable report of the committee of the House can inform the House under this rule, how much more is the House informed by that favorable report followed by debate in the House and by action of the House? It is more than a mere report of the committee. The House has acted on it, and it is the identical bill.

Mr. CULLOP. Will the gentleman yield?

Mr. CLAYTON. Yes.

Mr. CULLOP. Is not the proper construction to be placed on the rule that the gentleman has just read that the bill which is the substance of the one that has come over from the Senate must be at the time either in the committee or pending in the House?

Mr. CLAYTON. I do not think so, Mr. Speaker. I have been endeavoring to show that I did not take that view of it, but perhaps I was unfortunate in my use of language.

Mr. CULLOP. Is not that the dispute arising over the construction of this rule? There is no bill now pending in the House either in the committee or reported from the committee, because the bill that was here has been disposed of and there is no such a bill here now.

Mr. CLAYTON. Is the gentleman through with his question?

Mr. CULLOP. Yes.

Mr. CLAYTON. I answered in all frankness, Mr. Speaker, by recognizing the situation in the beginning, that this bill is not now on the calendar. It passed the House last Saturday, but I was not fortunate enough to impart to the gentleman from Indiana what I believed to be the determining consideration of the question. My contention is that the bill now on the Speaker's table is identically the same as the House bill already favorably reported on the subject and which passed the House last Saturday. I do not think it is necessary that the bill be now pending on the calendar. That is a question that the Chair is called upon to decide.

Mr. FITZGERALD. Will the gentleman allow me an interruption?

Mr. CLAYTON. Certainly.

Mr. FITZGERALD. Suppose there was a controversy as to whether the Senate bill is substantially the same as the House bill. The House bill has gone from the House. How is that matter to be determined? There is nothing in the House, either in the Journal or in the official record, by which the Speaker can ascertain what the House bill was or is, unless the bill is on the calendar and in the House.

In a controversy arising, how will the Speaker determine whether the bills are substantially the same or not? After the bill has left the House, he can not refer to anything, although perhaps he might assume to do so. I ask this question in good faith.

Mr. CLAYTON. I take it that the gentleman has put his question in good faith. The gentleman is well aware of the fact that in the law there is such a thing as judicial knowledge, and I take it that the Chair and the House has a right to know something without having the paper before them all the time. We have the RECORD of last Saturday, when the Webb bill was passed, now before us, and there are prints of that bill here in the House and in the document room. I shall not admit that either the Speaker or the House itself is ignorant of the bill which passed the House Saturday last. We knew then and we know now what it was, and no kind of refinement of parliamentary law can take away from us this information, which is actually in our possession.

Are we going to admit, and is the Speaker going to admit, that we do not know what we passed last Saturday, that we solemnly debated a bill for three hours, and each one of us voted on it on a roll call, and yet the Speaker and this House are utterly ignorant of the subject matter of the bill? The suggestion is an absurdity. The Speaker knows what the bill is and this House knows what the bill is, and if the gentleman has any doubt about the bill that we passed, I beg to refresh his memory by now handing him a copy of the bill that we passed on Saturday last.

Mr. FITZGERALD. Mr. Speaker, let me suggest that it is not necessary to inform me as to what passed through the House. This happens to be a bill of two pages. Perhaps the gentleman from Alabama would be able to determine if two bills were substantially the same, the bills consisting of 60 pages, but I doubt it.

Mr. CLAYTON. If it were an appropriation bill, I do not think I would.

Mr. FITZGERALD. It would not necessarily be an appropriation bill, but the only manner in which it can be determined whether the Senate bill, which is now before the House, and the House bill, which is not in the possession of the House, are the same or substantially the same would be by a comparison of the two bills, and that is of such an important character that if the original of a bill instead of being at the Clerk's desk be in the committee room, the House can not consider it.

Mr. CLAYTON. Mr. Speaker, the gentleman's suggestion that we do not know what the House passed, it seems to me, is begging the question, or, to use another expression that I have sometimes found in the lawbooks, it seems to me to be sticking in the bark here and not going to the real question. The Speaker knows and the House knows what the bill was that the committee favorably reported. I am not going to say that either the House or the Speaker is ignorant of events so recent as last Saturday and ignorant of measures now pending in Congress.

Mr. GARRETT. Mr. Chairman, will the gentleman permit me to make a suggestion?

Mr. CLAYTON. Certainly.

Mr. GARRETT. In the CONGRESSIONAL RECORD, which is the official record of Congress, the bill appears, showing upon its face that it is the House bill, appearing on page 2920 of the RECORD.

Mr. CULLOP. Mr. Speaker, will the gentleman from Alabama permit a question?

Mr. CLAYTON. Certainly.

Mr. CULLOP. When the Webb bill passed the House and was sent to the Senate, the House then lost jurisdiction. Members may individually know what was done, but they can not judicially or officially know it.

The SPEAKER. The Chair would like to ask the gentleman from Indiana one question. What is the reason the Chair has not as good a right to find out what is in a bill as any other Member of the House?

Mr. CLAYTON. It is his duty to do it if he is not informed.

Mr. CULLOP. I assume the Chair individually remembers what was in the bill, but the Chair has no right as a legal proposition to take official notice of what was in the bill in order to rule on this question, because the Chair lost jurisdiction of the measure when it passed here and went to the Senate. To know a thing individually is one proposition, but it is an entirely different one to know it officially.

Let me put a case to the Chair. Suppose this had been a lawsuit and judgment had been rendered and the record signed, the case ended, and supposing when another case came into court some lawyer who wanted to introduce that record in evidence should stand up and refer to the record of the former case and say the court knew what had been done in the case, the court could take no notice of such a procedure——

Mr. CLAYTON. Mr. Speaker, is this the question that the gentleman is asking?

Mr. CULLOP. I am answering the Speaker's question. The court would have no right to say that he judicially remembered what had been done and would consider that as evidence in the case, but the record itself would have to be introduced. This bill was passed and sent from the House to the Senate. That disposed of it here. This House lost jurisdiction. It passed into the records of the House.

The bill went out of the House, and under this rule there is no such bill pending here. Some one has suggested that it has come back. True; but when it came back, there was no such bill pending in this House, and under the rule it had to be referred to the committee, and it was no longer a pending measure here, which could be substituted for the bill that had been introduced in the House, and I take it that this is the same as the legal proposition I laid down would be in a court of record—that the court can take no judicial notice of a case that has been disposed of in court, though it is a part of a record of his court and the court remembers all about it. That would not suffice, and the fact that we can look at the CONGRESSIONAL RECORD to see what was done does not help the matter in the least for the purpose for which it is contended. Now, does the rule read here as authority give such power to the Speaker as is contended by those who invoke it for that purpose? I contend it does not, and if it does I assert it is a very dangerous rule and may be invoked as an instrument of great harm and injustice if expediency should require it. The proper construction of that rule, I contend, is that where a bill passes the Senate as a Senate bill, although it may contain the exact language of a bill that has passed the House, when the measure comes to this House, if no such bill is pending on any of the calendars of the House, it can not be taken from the Speaker's table and passed without suspending the rule which refers it to a committee, but must be referred to the proper committee and be reported out of the committee. This is required in order for the House to have jurisdiction of it.

Mr. CLAYTON. Mr. Speaker, the gentleman is in error in thinking that the rule requires that the bill shall be pending.

It is sufficient compliance with the rule if it be a bill substantially the same as the House bill that is favorably reported by a committee of the House, and when once you determine that question in the affirmative you answer all the arguments made by the gentleman from Indiana [Mr. CULLOP] in his criticism on this motion.

Mr. Speaker, some gentlemen on last Saturday urged constitutional objections against this bill, and some of them now invoke parliamentary law to delay or defeat its passage. I hope that common sense and a correct interpretation of parliamentary law will now enable the House to carry out its intention expressed last Saturday in behalf of the enactment of this legislation.

Mr. LENROOT. Mr. Speaker, regarding the suggestion made by the gentleman from Indiana [Mr. CULLOP] that the House has lost jurisdiction of the House bill and the Chair has lost jurisdiction to take notice of what has been done by this House with reference to that bill, while the House has lost jurisdiction of the bill, the Chair has jurisdiction to take notice of what has been done in reference to it in this House. There is not a day passes, not a session passes, that the Chair does not take notice and act upon what the House has done upon a previous day. So much for that argument. Now, Mr. Speaker, it is entirely clear, it must be clear, that this motion complies with the spirit and letter of this rule in every particular, unless the contention made by the gentleman from Illinois and some others be correct that because the original House bill differs from the bill as proposed to be amended by the House Judiciary Committee that makes it lose this privileged status. But, Mr. Speaker, I want to direct your attention to this proposition: That in determining the status of this bill at this time it is not the original text of the bill of the House that must be taken into consideration. The only question to comply with the rule is, What did the committee favorably report? And if the answer be that they did favorably report a bill substantially similar to the Senate bill the ruling is complied with in every respect. I desire to call the attention of the Speaker to a decision of former Speaker Reed, in 1890, where he construed this rule, and construed it very clearly. He says——

The SPEAKER. What section is the gentleman reading from?

Mr. LENROOT. Section 3100, last paragraph, volume 4, Hinds' Precedents, page 166. He says:

There are three safeguards. First, that it—

Namely, the Senate bill—

has been favorably reported in substance by a committee of the House.

Now, everyone must concede that has been complied with in this case and that the Judiciary Committee did report not only substantially the Senate bill but identically the Senate bill. That is one of the requisites to give the bill a privileged status.

Second, that it is not a bill that is required under our rules to be considered as in the Committee of the Whole.

It is conceded that that has been complied with.

And, third, that the committee asks for its consideration.

So, Mr. Speaker, with the proposition that it is the favorable recommendation of the committee that determines the status and not the original text of the bill, whether this rule be construed liberally or whether it be construed strictly, the motion is within the rule.

The SPEAKER. The Chair is ready to rule. This question divides itself into two parts. One is whether the status of this bill brings it within the rule, and the rule, which has been read three or four times, provides:

But House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine—

Of course that is not this case—

as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in the Committee of the Whole, be disposed of in the same manner on motion directed to be made by such committee.

The second division of this question is whether or not these two bills are substantially the same. The rules of the House are intended to expedite the transaction of business instead of being intended for the purpose of retarding the transaction of business. These two bills are not only substantially the same, but they are almost identical.

The gentleman from Illinois [Mr. MANN], for whose mental acumen, industry, and intelligence the Chair has a great deal of respect, contends to-day that the Senate bill must be substantially identical with the bill as originaly introduced. On the 9th day of August, 1912, a question a good deal like this arose, and Mr. MANN, on page 10604 of the CONGRESSIONAL RECORD, said:

Mr. Speaker, I make the point of order that the bill on the Speaker's table (S. 6453) is not similar to the House bill on the calendar, and that the House bill on the House Calendar is on the improper calendar, and should be on the Union Calendar, and hence it is not in order to take this bill from the Speaker's table at all.

Of course the last part does not apply.

The SPEAKER. The second objection could be very easily remedied, but the first, if it turns out to be correct, can not.

Mr. MANN. The second could not either, Mr. Speaker, if the bill is improperly on the House Calendar.

The SPEAKER. That could be very easily remedied, but the first objection can not be, if it turns out to be the fact.

Mr. MANN. The second objection might be remedied by transferring the bill from the House Calendar to the Union Calendar, but that would not permit this bill to be taken up.

The SPEAKER. Wherein does this bill differ from the House bill?

Mr. MANN. Mr. Speaker, I am about to call it to the attention of the Speaker. This bill coming from the Senate is similar to a bill which was introduced in the House and which was reported to the House with a number of amendments. This bill does not contain the amendments recommended by the Naval Committee on the House bill. I contend that, under the rule, if a bill is introduced in the House and the committee recommends a lot of amendments which changes to a large extent the bill, and that then the Senate passes a bill like the original bill, without the amendments, it is not a bill similar to the bill on the House Calendar.

And the Chair sustained the gentleman's contention that day.

Mr. MANN. Of course, the argument I just made was not made without the knowledge of the decision of the Chair, which has just been reread. But what I endeavored to point out awhile ago was that there was an amendment adding something to the bill, which would have sent the bill to the Union Calendar. Here is something endeavoring to detract from the original bill. My contention, then and now, is that if it is dissimilar as introduced or as proposed to be amended by the addition of new matter, then it is not a substantially similar bill.

The SPEAKER. The Chair will ask the gentleman from Illinois if this Senate bill is not verbatim, with the small difference in the title which the Chair pointed out, the very bill that was debated here on last Saturday for three mortal hours and no debate hinged on those amendments. Neither the gentleman from Illinois [Mr. MANN] nor the Chair has to quit exercising the faculty of memory to consider one of these points of order.

Mr. MANN. If the Chair asked me the question, I would say the bill is not substantially similar. I think the Chair has not examined the House bill, from which the gentleman form Alabama was endeavoring to quote one amendment, but quoted it erroneously, and did not give the other amendment to the Chair. I think the Chair has the right to examine the House bill and quote it.

The SPEAKER. The Chair did. On the second division on this question let us see if this bill is in a status justified by this rule:

As may also Senate bills substantially the same as House bills already reported by the committee of the House—

Was that bill favorably reported by a committee of the House or not? Of course, everybody knows that it was—

would not be required to be considered in the Committee of the Whole.

Of course, that does not apply.

Now, there are three things there. One is that the bills must be substantially alike. There must not be anything in them to refer to the Committee of the Whole; and there is not. It must be called up by the authority of the committee; and it is. Hence all the conditions precedent are complied with.

The contention of the gentleman from Indiana [Mr. CULLOP] that the Chair has no way of finding out what was in the bill last Saturday is untenable. In the first place, the Chair can remember what was in the House bill. We have the CONGRESSIONAL RECORD to see what that bill was. In addition to that, if the Chair had any cause to believe that the CONGRESSIONAL RECORD had been tampered with, he could send out and get the original bill. That is still within the jurisdiction of the House and the Speaker. We do not send an original bill over to the Senate. We send a certified copy.

Mr. MANN. We send the original engrossed copy, Mr. Speaker; the only engrossed copy.

The SPEAKER. There is no question but that anybody, especially if he is half as industrious as the gentleman from Illinois [Mr. MANN], can verify a bill that has been passed by this House.

The rule may now not be what the rule ought to be. If a majority of Members believe that the rule ought to read, "Bills already reported by a committee of the House and on the calendar," then I submit the Committee on Rules ought to put that amendment in when the rules are revised. It is the duty of the Chair to construe the rules as he finds them.

So the points of order are overruled. The gentleman from Alabama [Mr. CLAYTON] is recognized.

Mr. CLAYTON. Mr. Speaker, I desire to move the previous question on the motion which I submitted.

The previous question was ordered.

The SPEAKER. The question is on the third reading of the Senate bill.

Mr. FITZGERALD. There is 40 minutes' debate, I believe.

The SPEAKER. If anyone wants to debate it, yes. [Cries of "Vote!" "Vote!"]

Mr. CLAYTON. Mr. Speaker, I have no desire to debate this bill now. We debated it last Saturday. [Applause.]

The SPEAKER. If any gentlemen want to debate this bill on either side, there will be 20 minutes allowed to those against the bill and 20 minutes to those for it. The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

The SPEAKER. The question is, Shall the bill pass?

The question was taken, and the bill was passed.

On motion of Mr. CLAYTON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, and further insisted upon its amendments disagreed to by the House of Representatives, asked a further conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. WARREN, Mr. WETMORE, and Mr. OVERMAN as the conferees on the part of the Senate.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. FERRIS, for 10 days, on account of important business.

To Mr. CARTER, for 10 days, on account of important business.

To Mr. TALBOTT of Maryland, indefinitely, on account of sickness in family.

INVESTIGATION OF FINANCIAL CONDITIONS.

Mr. LLOYD. Mr. Speaker, I present the following privileged resolution.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

House resolution 519 (H. Rept. 1508).

Resolved, That all expenses that may be incurred by the Committee on Banking and Currency in making the investigation authorized by House resolution 429, as amended by House resolution 504, to an amount not exceeding $25,000, in addition to that heretofore authorized by House resolution 465, shall be paid out of the contingent fund of the House of Representatives on vouchers ordered by the said committee, signed by the chairman thereof and approved by the Committee on Accounts, evidenced by the signature of the chairman thereof.

Mr. LLOYD. Mr. Speaker, the purpose of this resolution is to authorize what is known as the Pujo committee to continue its investigation. By a resolution previously adopted that committee was authorized to make an expenditure of not exceeding $25,000. The purpose of this present resolution is to increase the amount of that expenditure.

Up to the present time there has been expended by that committee not quite $20,000. According to the estimates that have been submitted by the committee, it is necessary to have to complete their work an amount aggregating about $60,000, or $35,000 additional.

There is a committee amendment pending asking for an increase of this $25,000 to $35,000, making the total amount that will be authorized for expenditure by this committee $60,000.

Mr. FITZGERALD. Mr. Speaker, will the gentleman yield?

Mr. LLOYD. Yes.

Mr. FITZGERALD. Has any expense been incurred in excess of the $25,000?

Mr. LLOYD. No bills have been allowed by the Committee on Accounts in excess of the $25,000.

Mr. FITZGERALD. Has any expenditure or obligation been incurred in excess of the $25,000 authorized by the House?

Mr. LLOYD. That must be answered by the committee itself. I yield to the chairman of it [Mr. PUJO] to answer the question.

Mr. PUJO. The chairman of the committee is here present, and will be pleased to answer questions that may be propounded in reference to the work of the committee and the additional appropriation requested by this resolution.

Mr. LLOYD. In order that the gentleman from New York [Mr. FITZGERALD] may have an opportunity to propound the questions which he desires to propound to the chairman of that committee, I yield 10 minutes to the gentleman from Louisiana [Mr. PUJO], the chairman of the committee.

The SPEAKER. The gentleman from Louisiana [Mr. PUJO] is recognized for 10 minutes, in order to give the gentleman from New York [Mr. FITZGERALD] an opportunity to catechise him. [Laughter.]

Mr. FITZGERALD. I desire to inquire of the gentleman from Louisiana whether any obligations have been incurred in excess of the $25,000 authorized by the House.

Mr. PUJO. No legal obligation has been incurred in excess of the amount set aside to make this investigation authorized by the House of Representatives.

Mr. FITZGERALD. I know that no legal obligation has been incurred, because the gentleman's committee can not incur any obligation legally in excess of the $25,000.

Mr. PUJO. But obligations have been tentatively incurred for the purpose of making this investigation and reporting to Congress the result of the work of the committee during this session, in an amount approximating $29,000, in addition to the $22,000 already spent.

Mr. FITZGERALD. Does the gentleman mind stating to the House how the money expended has already been disbursed and what these tentative obligations are?

Mr. PUJO. Not in the slightest. The expenses incident to procuring bank returns, addressed to the various banks throughout the United States when the investigation was first authorized by this House, approximate $3,300, covering the preparation of forms, the mailing of them, the clerical force necessary to audit these returns, classify them, and such other work as is usually incident to assembling statistics of that nature. For supervising this general work, commencing last April and continuing until the present time, the expense of the clerical force is $3,300.

For supplies and equipment, $137.50.

For the work of experts in compiling statistics running through books of reference, authorized financial publications and publications of that kind, for the purpose of furnishing the committee with what is known as interlocking directorates, approximately $3,500.

The expenses of the committee for holding hearings in the city of New York last June, including railroad fare and other expenses, June 6, 7, 11, 12, and 13, were $1,051.60.

Expenses incident to serving subpœnas by the office of the Sergeant at Arms have been $1,061.

The expenses incident to the appearance of witnesses before the committee in Washington have been $2,119.25.

To Dr. Richardson, for a trip to Miami, Fla., to examine the condition of Mr. William Rockefeller, $2,561.16.

Expenses incident to mailing hearings, $42.50.

Expenses incident to indexing hearings, $160.

At the conclusion of this explanation I will file a tabulation, so that the itemized statement will appear in the RECORD.

The estimated expenses which the committee will have to pay in carrying out the instructions of this House to make an intelligent investigation and report the results of its work to the House of Representatives are as follows:

	April.	May.	June.	July.
Expenses incident to procuring bank returns, etc	$868.33	$1,929.08	$922.98	$243.00
Supervising and general	527.17	600.00	600.00	329.97
Supplies and equipment			137.50	
Interlocking directorates			600.00	800.00
Total	1,425.50	2,529.08	2,260.48	1,372.97

	August.	September.	October.	November.	December.
Supervising and general	$200.00	$200.00	$200.00	$100.00	$306.67
Interlocking directorates	733.32	700.00	400.00	246.67	56.00
Total	933.32	900.00	600.00	346.67	562.67

Itemized statement.

Total of office work	$10,930.69
Expenses incident to trips to New York, including hotel bills, railroad fares, and other expenses, June 6, 7, 11, 12, and 13 (expenses incurred by committee on account of hearings held in New York)	1,051.60
Expenses incident to serving subpœnas by office of Sergeant at Arms	1,061.24
Expenses incident to appearance of witnesses before committee in Washington	2,119.25

Expenses subcommittee No. 2 (Mr. GLASS)	$1,703.20
Dr. Richardson, trip to Miami to examine Mr. Rockefeller	2,561.15
Assistant counsel and special work	3,343.45
Expenses incident to mailing hearings	42.50
Expenses incident to indexing hearings	160.00
Total vouchers issued	22,973.08

Expenses to be met by additional appropriation of $35,000 asked for by the House Committee on Banking and Currency.

Samuel Untermyer, Esq., counsel for the committee	$15,000.00
Scudder Bros., expert statisticians	5,000.00
Subcommittee of Hon. CARTER GLASS	3,000.00
Stenographers to the committee	3,000.00
Balance due assistant counsel, Mr. Todd	2,500.00
Indexing hearings	490.00
Percy Morse & Co., expert witnesses before the committee	216.75
Mailing force	157.50
Harris & Ewing, enlargements of charts	180.00
Total	29,544.25

NOTE.—This estimate does not include expenses of trip incident to the taking of Mr. Rockefeller's testimony; expenses of Mr. Farrar, who was of counsel of the committee; expenses of Mr. Untermyer; and other minor expenses.

Now, if there are any further questions by the gentleman from New York or anyone else, I will give them such information as I may be possessed of.

Mr. O'SHAUNESSY. Will the gentleman yield?

Mr. PUJO. Certainly.

Mr. O'SHAUNESSY. I notice that the doctor's bill was $2,561. What service did he perform?

Mr. PUJO. Dr. C. W. Richardson, a throat specialist, of the city of Washington, by authority of the committee, was employed to go down and make an examination of Mr. Rockefeller as to his health. He charged $500 a day and his actual expenses. He reported to the committee and presented his bill, which was audited and the warrant issued.

Mr. O'SHAUNESSY. Did it take him five days to determine Mr. Rockefeller's condition?

Mr. PUJO. He had to go to Miami, Fla.

Mr. O'SHAUNESSY. And that would take him how long?

Mr. PUJO. It took him two days to go, and, I presume, two days to come back.

Mr. O'SHAUNESSY. Two days to go down?

Mr. PUJO. I think so; and two days to come back. That sum includes the railroad fare and hotel bills, and the bill is sworn to and is on file in the office of the Committee on Accounts.

Mr. O'SHAUNESSY. I want to say that I thought it was an excessive bill for an examination that would perhaps take half an hour or perhaps less.

Mr. PUJO. The examination proper took only one hour, but he had to go to Miami and there make the examination. In that connection I will say that a request was made that he should be sent to Nassau, Bahama Islands, but the chairman of the committee declined to accede to that request.

Mr. O'SHAUNESSY. Did the committee consider the employment of any other physician?

Mr. PUJO. No, sir; not to my knowledge.

Mr. RAKER. Will the gentleman yield for a question?

Mr. PUJO. Yes.

Mr. RAKER. I notice that there is $1,000 for the Sergeant at Arms' expenses—undoubtedly in summoning Mr. Rockefeller. There is also $2,500 for a doctor to go and see Mr. Rockefeller. How does it come that the Sergeant at Arms did not serve him with a subpœna?

Mr. PUJO. The subpœna issued last June for Mr. Rockefeller to appear as a witness, but service was not had upon him. As the time came near when it was desired to obtain his testimony, the Sergeant at Arms was instructed to make service upon him, and finally service was accepted by counsel for Mr. Rockefeller in the city of New York. The subpœna upon which service had been accepted was returnable the 13th of January. It was claimed that Mr. Rockefeller could not report at that time, and so it was found necessary to send a physician to satisfy the committee as to his condition.

Mr. RAKER. As a matter of fact, the Sergeant at Arms did not have him corralled at his mansion in New York?

Mr. PUJO. That is a disputed fact. I think he was there at the time.

Mr. RAKER. It seems as though the House ought to know that if, as a matter of fact, a rich man, one with the wealth of that man, can come, through his attorney, and say they will accept service when the committee must have known and the attorney must know that the acceptance of service by an attorney amounted to absolutely nothing. The committee would not treat an ordinary man that way under ordinary circumstances. It seemed to me peculiar when I read it that this great committee with its attorneys would accept service on Mr. Rockefeller through an attorney for a witness bidding him to appear before them and then let him go to the South Seas and send a doctor down there at an expense of $2,500 to examine him. They would not do it to anybody else. I am not criticizing the committee or any of its members, but it just seems strange to me.

Mr. PUJO. Mr. Speaker, the gentleman is entirely in error in his premise as to the law, and he is entirely in error in his premise as to the fact. Acceptance of service could be made for any witness before the committee, be he rich or poor.

Mr. RAKER. Mr. Speaker, will the gentleman yield?

Mr. PUJO. Wait a moment; not now. The committee, and, I dare say, its counsel did not know where Mr. Rockefeller was when service was accepted. I do not suppose the gentleman from California [Mr. RAKER] knew. If so, it was his duty to inform the committee.

Mr. RAKER. Would the gentleman yield there?

Mr. PUJO. Certainly.

Mr. RAKER. The gentleman does not intend to state that under the law of any State or of this House an attorney can accept service for a witness and the attorney can bind that witness to appear, which would give the House authority to punish him for contempt if he did not appear?

Mr. PUJO. Unquestionably I do.

Mr. RAKER. Absolutely the law is to the contrary. It requires personal service.

Mr. PUJO. Let the gentleman show me a decision to the contrary ever rendered in the United States.

Mr. RAKER. Mr. Speaker, it seems to me that to spend this money for the purpose of permitting this man to get out of the jurisdiction is not a very proper way to spend the people's money.

Mr. PUJO. The gentleman is drawing on his own imagination and attributing motives that never existed, either as to the members of the committee or the chairman of the committee, in saying that service was accepted to permit Mr. Rockefeller to get out of the jurisdiction of the committee, or of the United States. On the contrary, the chairman of this committee insisted that he should come back to the United States and obey the mandate of Congress in so far as submitting himself to examination.

The SPEAKER. The time of the gentleman from Louisiana has expired.

Mr. MANN. Mr. Speaker, I will ask the gentleman from Missouri to yield me some time.

Mr. LLOYD. Mr. Speaker, I yield one minute more to the gentleman from Louisiana.

Mr. PUJO. I will be glad to answer any question the gentleman from Illinois desires to ask me.

Mr. MANN. I did not desire to ask the gentleman any question.

Mr. PUJO. I do not want any more time myself.

Mr. LLOYD. How much time does the gentleman from Illinois want?

Mr. MANN. Ten minutes.

Mr. LLOYD. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois.

Mr. MANN. Mr. Speaker, I have no doubt that in the opinion of the gentleman from California [Mr. RAKER] and possibly the opinion of some other Members of the House, and probably of some other people in the country, the committee ought to have hanged Mr. Rockefeller offhand without any further consideration.

Mr. RAKER. Mr. Speaker, will the gentleman yield right there?

Mr. MANN. For what?

Mr. RAKER. For a question.

Mr. MANN. Yes.

Mr. RAKER. Would not the gentleman say that Mr. Rockefeller should be treated just like any other man when a subpœna was served on him?

Mr. MANN. Certainly; but he was not. If Mr. Rockefeller had not been Mr. Rockefeller—a rich man—neither the gentleman from California [Mr. RAKER] nor anyone else would have tried to take his testimony at the risk of his life. [Applause.] It was only because he was rich—richer than we are—that he we pursued through feelings of personal animosity.

Mr. Speaker, my recollection is that this committee was authorized to make investigations with a limit of cost of $25,000, to be paid out of the contingent fund. I will ask the gentleman from Missouri whether I am correct in that?

Mr. LLOYD. Yes; the limit was $25,000.

Mr. MANN. Mr. Speaker, we have a good many statutes on the books in reference to expenditures of appropriations by administrative officers and the incurring of obligations in addition to the appropriations. Only last year this House inserted two

provisions in a bill not wholly covering the question of appropriations, but partly covering the question of expenditures. One of them reads in this way:

Any person knowingly violating the provisions of this section shall be summarily removed from office, and may also, upon conviction thereof, be punished by a fine of not more than $1,000 or by imprisonment for not more than one year.

The next section of the bill, covering the same and similar matter, provides:

Any person violating section 4 of the legislative, executive, and judicial appropriation act approved August 5, 1882, shall be summarily removed from office, and may also, upon conviction thereof, be punished by a fine of not more than $1,000 or imprisonment for not more than one year.

We have a somewhat similar provision in reference to the expenditure of appropriations by the monthly theory. We are very careful in making laws and providing penalties for the violation thereof, as to what the executive departments shall do about incurring obligations contrary to law, and when our own committees do the very thing for which we would send a man to the penitentiary if he were an administrative officer, we condone the offense and pay the bill.

It is little enough that we do not apply a penalty to a committee which incurs an obligation and violates the law. This committee had no authority to incur a single obligation beyond the $25,000 authorized, and when it did that it violated the law, and instead of being punished, as it ought to be, it asks us to pay these exorbitant and outrageous bills, which ought never to have been incurred in the first place. Oh, we have heard a great deal about economy. We have heard a great deal about how a Democratic House—a Democratic Congress—was going to reduce appropriations. Here is an investigation of no value which cost, as gentlemen now say, $60,000. Sixty thousand dollars thrown away! Economy! Everywhere the appropriations are piling up. The naval appropriation bill will carry over a century and a half of money—a hundred and fifty-odd million dollars—every appropriation bill reaching over the limit! Economy, with no management on that side of the House [laughter]; with no organization on that side of the House; a disorganized mob [laughter and applause on the Republican side] in control of the legislation of this House, piling up the appropriation bills and condoning the offense of an investigating committee when it violates the law by incurring obligations which it had no right to incur. I hope we may have a return to economy, to some idea of proper legislation, and to the Members of Congress living up to the law themselves. [Applause.]

Mr. LLOYD. Mr. Speaker, I yield 10 minutes to the gentleman from Texas [Mr. GARNER], a member of the Committee on Accounts.

Mr. GARNER. Mr. Speaker, I want for just a moment to call the attention of the House to the attitude of the Committee on Accounts, or at least one member of it, with reference to the expenditures for investigating committees of this House. The Congress authorized an investigation of the so-called Money Trust, and the gentleman from Illinois [Mr. MANN] and his side of the House voted for it. Your Committee on Accounts understood that this limit of cost was to be $25,000. It is impossible, under the rules governing your instructions, for the Committee on Accounts to control that expenditure. For instance, if Mr. PUJO and his committee come to the conclusion that a certain amount of money is to be expended for a certain purpose, they immediately arrange to expend that money, and your Committee on Accounts does not know anything about it until the bills are sent in, and we must either pay them or repudiate what a committee of this House has already done. I myself am not in favor of these continuous expenditures allowed by the House, but when a committee comes into the Committee on Accounts and says, "We have spent the money you have allowed us; we have contracted these obligations on the part of the House of Representatives and the Congress under your direction," what is your Committee on Accounts to do? Either to repudiate what the committee has done or else bring in a resolution and ask the Congress to give the amount that has already been contracted for. When this matter was submitted to the Committee on Accounts Mr. PUJO gave the committee the information there that he has given this House this afternoon. There was nothing for us to do except to either repudiate what the committee had done or report a resolution into the House and ask the Congress to give him the $35,000.

Now, when you make your appropriations and authorizations, you must either give your Committee on Accounts the authority to veto every contract made by one of these investigating committees or we are absolutely helpless to protect the contingent fund, and it is impossible to do that unless we summons the committee of the House that is making the investigation before the Committee on Accounts, and instruct them by saying, "Gentlemen, before you enter into any contract, before you make any arrangement to make this investigation, you must submit your estimates, plans, and specifications to the Committee on Accounts." I undertook to do that in the first instance, and before I got far I had two or three gentlemen of this House passing by me without speaking [laughter], saying by such action, "I am going to take care of the Treasury, I am as capable of taking care of it as you are, and I do not want you or the Committee on Accounts viseing or auditing beforehand what I am going to do." The result was I concluded I had better wait, and I have waited. There have been only one or two instances in this House but what a committee on investigation has gone beyond what Congress originally permitted them to do. Now, that is the condition, and there ought to be, there is no question in my mind, some manner, some way by which when this House passes a resolution for investigation it may know the limit, and before a single dollar is contracted in excess of that limit they must come back to this House and say, "We have not got sufficient money, you must give us more money in order to complete the work you have placed in our hands," rather than complete the work and then come to your Committee on Accounts and put them in the attitude of either having to report a resolution or repudiate the debt.

Mr. MANN. Now, will the gentleman yield?

Mr. GARNER. I yield to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Is it not a fact that the Committee on Accounts recommended, and we passed, an authorization limiting the amount of expenses that the Committee on Banking and Currency could incur to $25,000?

Mr. GARNER. It is.

Mr. MANN. Did they have any authority under the law to incur any other obligation?

Mr. GARNER. I do not know, unless it would be to imply authority to the fact that Congress had commissioned them to do certain work.

Mr. MANN. Was it not commissioned under the limitation of $25,000?

Mr. GARNER. They were commissioned, and my only criticism is that when a committee is commissioned to do this specific work and the appropriation is not sufficient, it is the duty of the committee to come back to the House itself and ask the House to give them an additional appropriation to carry out what they are authorized to do.

Mr. MANN. Is it not the duty of the committee to do that and to come to the House and ask for it before they have incurred an indebtedness of over $25,000?

Mr. COOPER. Mr. Speaker——

Mr. GARNER. I yield to the gentleman from Wisconsin [Mr. COOPER].

Mr. COOPER. Of course the gentleman knows the familiar rule of law that where an agent exceeds his authority and incurs obligations the obligations incurred do not bind the principal at all, but do bind the agent. And a person dealing with this committee knew that it got its authority from the House of Representatives and could very easily have ascertained under what authority it was acting.

Mr. GARNER. That simply emphasizes the thoughts that I have already indicated. In this particular instance I disagree with the gentleman from Illinois [Mr. MANN] as to the value of this work. I do not believe there was ever $60,000 spent by any Congress on the face of the earth that will do the good that has been done by this committee in investigating the Money Trust. I hear gentlemen say that no good has been accomplished. This much has been accomplished: We have put in form of affidavits testimony of men concerning conditions that have been existing in our minds for a number of years, and have got the information upon which we hope to pass intelligent legislation later on.

Mr. MANN. But you will not.

Mr. GARNER. I say, then, that no $60,000 could be spent for a better purpose. I am saying now what ought to be the future course of an investigating committee, and that is, when they have a limit placed upon them, they should come back to Congress before they exceed that limit; and we should require in the certificate not only the chairman's name, but it should be by authority of his committee, which means a majority of them. But any man who has ever been on that committee and has had any observation of its work knows that it is a physical impossibility for its members to meet there as a committee and audit each one of these items, and the result is that we trust to the chairman [Mr. LLOYD] to look after that matter.

I simply wanted to call the attention of the House at this time to the fact that in the future the chairmen of committees

conducting investigations ought to come back to the House and ask that they be given further funds with which to complete their work. [Applause.]

Mr. HUGHES of West Virginia. I ask that the gentleman from Missouri [Mr. LLOYD] give me two minutes.

Mr. LLOYD. I yield to the gentleman from West Virginia [Mr. HUGHES], a member of the committee, two minutes.

Mr. HUGHES of West Virginia. Mr. Speaker, as a member of the Committee on Accounts I voted against this resolution, and I did so because I thought the Committee on Banking and Currency was exceeding its authority by going over the country playing horse with William Rockefeller. I thought this was a needless expenditure of the people's money, and I thought it was not necessary to do this in order to get at the facts that this committee was appointed to ascertain, as an eminent physician had already given this information to the committee, and I still think so.

The only strong argument that was used for the passage of this resolution before the Committee on Accounts was that this expenditure was not half as much as what some other committees had expended in doing not as much work.

Now, I differ with my colleague on the committee [Mr. GARNER] in his idea that it was not within the power of the Committee on Accounts to have turned down this resolution. I think the Committee on Accounts should have turned down this resolution and should not have brought it in for the payment of this money, and thus teach the Members of this House and members of these junketing committees that they must keep within the limits of the amounts that are allowed by this House for their expenditure. [Applause.]

Mr. LLOYD. Mr. Speaker, how much time has been used?

The SPEAKER pro tempore (Mr. HAY). The gentleman has 22 minutes remaining.

Mr. LLOYD. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. FITZGERALD].

The SPEAKER pro tempore. The gentleman from New York [Mr. FITZGERALD] is recognized for five minutes.

Mr. FITZGERALD. Mr. Speaker, I shall not vote for this resolution. It is useless for committees of this House to spend all the session in attempting to impress upon the administrative officers of the Government that when they are authorized to conduct a service within a certain sum they must do so and so arrange their service as to conduct it in that way when committees authorized by the House to do a specific service within a specific sum absolutely disregard the order of the House and make arrangements to spend such sums as they please.

I believe that there is in the contingent fund of the House to-day, or there was about a week ago, $100, and there are requests pending for $100,000 to supply the deficiencies for the balance of this fiscal year.

The gentleman from Illinois [Mr. MANN] has not overexaggerated the picture as to what is likely to happen at this session of Congress. No one can tell just how much the appropriations at this session will be, but I think it is a conservative estimate to say, Mr. Speaker, that they will far exceed the appropriations that have been made at any session in the history of the Government.

I have done my part and have done my best in some way to curtail the expenditures; not to interfere with the legitimate functions and services of the Government, but to stop the expenditure of public moneys to gratify every whim and to please every fancy, either of individuals or of Members. Everyone seems possessed, however, of a determination to obtain moneys to maintain and extend that particular branch of the public service in which he or his constituents is particularly interested and then to make fragmentary, spasmodic efforts to save in some other direction in which neither he nor his constituents will be affected.

Such a condition can not long continue. I understand that the bills reported at this session of Congress will probably provide for the expenditure of the $100,000,000 which it is anticipated will be raised by an income tax. It reminds me somewhat of an incident that occurred in the Committee on Appropriations when $27,000 was requested for a certain public service in anticipation of the enactment of some legislation at the next session of Congress.

I want to say, Mr. Speaker, that unless this side of the House wakes up to a sense of its responsibility, not only will the appropriations be grossly extravagant, but they will amount to so much that talk of a revision downward of the tariff will be the most hollow mockery. [Applause.]

Mr. LLOYD. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman from Missouri still has 17 minutes.

Mr. LLOYD. The Committee on Accounts, Mr. Speaker, has endeavored as faithfully as any committee in this House to discharge its duty, and anything that has been said this afternoon with reference to overlapping and extending beyond the authorization that is allowed to committees does not in any way apply to the Committee on Accounts. This committee has from time to time done all in its power to keep down the expenditures made from the contingent fund, and I think those of you who have watched the work of this committee must say that we have done more to curb the incidental expenses of this House than any committee has done which is connected with this House. Ours is a small work, but if you knew the number of propositions that we have turned down, the number of efforts that have been made to raid this fund, and if you stopped to consider what we have done in undertaking to curb the expenses of the House, you would feel like commending this committee.

I want to say this, with reference to the expenditures that have been made in investigations: In some instances they have gone beyond the authorization in making contracts. In this particular case it may be that they have gone beyond the limit of expenditure in authorizing contracts. But I am perfectly safe in making this statement: That never in the history of the American Congress has there been as much work done in the way of investigation for as little money as has been done during this Congress. Why, think of it, this money investigation, running into all manner of inquiries, necessitated much of expenditure that nobody could have supposed in advance was necessary to be made. Yet this total expenditure is not to exceed $60,000. Do you remember an immigration commission that we had a short time back? Do you remember the work that they did? I am safe in making the statement that this committee has accomplished as much for the American people as did the immigration commission, and it has only cost about one-tenth as much.

Mr. MANN. Will the gentleman yield for a question right there?

Mr. LLOYD. Yes.

Mr. MANN. Is it not a fact that immediately after this $25,000 was promised, this committee made an agreement of some sort with Mr. Untermyer which involved a large fee?

Mr. LLOYD. Do you mean the Banking and Currency Committee?

Mr. MANN. Yes.

Mr. LLOYD. I do not know. I suppose they did, because he has been at work for a considerable length of time; but the Accounts Committee did not do it.

Mr. MANN. Nobody is criticizing the Accounts Committee. We understand the position of that committee with reference to the matter.

Mr. LLOYD. As far as Mr. Untermyer is concerned, when it was first suggested that he be employed, I personally was opposed to it. I said time and again that I did not believe it was wise to employ Mr. Untermyer; but I do want to say that since he has been employed he has rendered a splendid service, and in my judgment has earned every dollar of the $15,000 that it is proposed to give him.

Mr. MANN. I regret that I can not agree with the gentleman.

Mr. CAMPBELL. Will the gentleman from Missouri yield?

Mr. LLOYD. Yes.

Mr. CAMPBELL. Much will depend, in my vote on this resolution, on whether or not Mr. Untermyer has had that $15,000 paid to him.

Mr. LLOYD. He has not had the $15,000 paid to him.

Mr. CAMPBELL. Then I shall vote against this resolution.

Mr. LLOYD. Mr. Speaker, unless somebody else wishes to be heard, I move to amend the resolution by striking out "twenty-five" in line 4, and inserting "thirty-five"; and I move the previous question on the resolution and the amendment to the final passage.

The SPEAKER. The gentleman from Missouri moves the previous question on the resolution and amendment to the final passage.

The previous question was ordered.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend, line 4, by striking out the word "twenty-five" and inserting in lieu thereof "thirty-five."

The SPEAKER. If there be no objection, the amendment will be considered as agreed to.

Mr. MANN. Oh, well, Mr. Speaker, I object.

The question being taken, the Speaker announced that the noes appeared to have it.

Mr. LLOYD. Division!

The House divided; and there were—ayes 43, noes 54.

Mr. LLOYD. Mr. Speaker, I demand tellers.

Tellers were ordered, and the Speaker appointed Mr. LLOYD and Mr. MANN.

Mr. OLMSTED. Mr. Speaker, may we have the amendment reported?

The SPEAKER. If there be no objection the amendment will be again reported.

The amendment was again read.

The House again divided; and the tellers reported—ayes 60, noes 55.

Accordingly the amendment was agreed to.

The SPEAKER. The question is on agreeing to the resolution.

The question being taken, the Speaker announced that the ayes appeared to have it.

Mr. MANN. I make the point of order that there is no quorum present.

The SPEAKER (after counting). One hundred and forty-three Members, not a quorum, present. The Doorkeeper will close the doors, the Sergeant at Arms will bring in absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 130, nays 117, answered "present" 13, not voting 123, as follows:

YEAS—130.

Aiken, S. C.	Doughton	Heflin	Padgett
Alexander	Dupré	Helm	Pujo
Allen	Ellerbe	Henry, Tex.	Raker
Bathrick	Estopinal	Hensley	Ransdell, La.
Bell, Ga.	Faison	Hobson	Reilly
Blackmon	Fergusson	Howard	Rothermel
Booher	Fields	Humphreys, Miss.	Rucker, Colo.
Borland	Finley	Jacoway	Rucker, Mo.
Broussard	Flood, Va.	Kahn	Russell
Buchanan	Floyd, Ark.	Kendall	Sherley
Bulkley	Foster	Kindred	Sims
Burgess	Fowler	Kinkead, N. J.	Small
Burke, Wis.	French	Konop	Smith, J. M. C.
Burleson	Garner	Lamb	Smith, Tex.
Burnett	Garrett	Lee, Pa.	Stanley
Byrnes, S. C.	Gill	Lever	Stedman
Carter	Glass	Littlepage	Stephens, Cal.
Cary	Goodwin, Ark.	Lloyd	Stephens, Miss.
Clark, Fla.	Gould	McCoy	Stephens, Nebr.
Cline	Graham	McCreary	Stephens, Tex.
Collier	Gray	McDermott	Stone
Cooper	Gregg, Tex.	McGillicuddy	Sweet
Copley	Gudger	McGuire, Okla.	Talcott, N. Y.
Cravens	Guernsey	McKellar	Taylor, Ala.
Curley	Hamlin	McMorran	Taylor, Colo.
Daugherty	Hardwick	Maguire, Nebr.	Townsend
Davis, Minn.	Harrison, Miss.	Martin, Colo.	Turnbull
Dent	Hart	Moore, Tex.	Tuttle
Dickinson	Hay	Morgan, Okla.	Watkins
Difenderfer	Hayden	Mott	Webb
Donohoe	Hayes	Nye	Wilson, Pa.
Doremus	Heald	Oldfield	Witherspoon

NAYS—117.

Akin, N. Y.	Fairchild	McKenzie	Rees
Ames	Fitzgerald	McKinley	Roberts, Mass.
Anderson	Focht	McKinney	Rodenberg
Austin	Foss	McLaughlin	Rouse
Barnhart	Francis	Macon	Saunders
Bartholdt	Fuller	Madden	Scott
Bartlett	Gallagher	Maher	Sherwood
Bates	Godwin, N. C.	Martin, S. Dak.	Sisson
Beall, Tex.	Green, Iowa	Merritt	Slayden
Berger	Greene, Mass.	Miller	Sloan
Brantley	Greene, Vt.	Moon, Pa.	Steenerson
Burke, Pa.	Hamilton, Mich.	Moon, Tenn.	Sterling
Burke, S. Dak.	Hardy	Morrison	Sulloway
Butler	Haugen	Moss, Ind.	Switzer
Byrns, Tenn.	Henry, Conn.	Murdock	Taylor, Ark.
Callaway	Higgins	Nelson	Towner
Campbell	Hinds	Olmsted	Tribble
Candler	Howell	O'Shaunessy	Vare
Claypool	Howland	Page	Volstead
Clayton	Hughes, W. Va.	Patton, Pa.	White
Cox	Humphrey, Wash.	Payne	Wilder
Curry	Kennedy	Pepper	Willis
Dalzell	Kinkaid, Nebr.	Pickett	Wood, N. J.
De Forest	Kopp	Plumley	Woods, Iowa
Denver	La Follette	Post	Young, Kans.
Dodds	Langley	Pou	Young, Mich.
Driscoll, M. E.	Lawrence	Powers	Young, Tex.
Edwards	Lenroot	Pray	
Esch	Levy	Pronty	
Evans	Lindbergh	Redfield	

ANSWERED "PRESENT"—13.

Adamson	Cullop	Johnson, S. C.	Thistlewood
Ashbrook	Farr	Mann	
Bradley	Hawley	Murray	
Browning	Hill	Riordan	

NOT VOTING—123.

Adair	Ayres	Cannon	Crago
Ainey	Barchfeld	Cantrill	Crumpacker
Andrus	Bechne	Carlin	Currier
Ansberry	Brown	Conry	Danforth
Anthony	Calder	Covington	Davenport
Davidson	Hartman	McCall	Sells
Davis, W. Va.	Helgesen	Matthews	Shackleford
Dickson, Miss.	Holland	Mays	Sharp
Dies	Houston	Mondell	Simmons
Dixon, Ind.	Hughes, Ga.	Moore, Pa.	Slemp
Draper	Hull	Morgan, La.	Smith, Saml. W.
Driscoll, D. A.	Jackson	Morse, Wis.	Smith, N. Y.
Dwight	James	Needham	Sparkman
Dyer	Johnson, Ky.	Neeley	Speer
Ferris	Jones	Norris	Stack
Fordney	Kent	Palmer	Stevens, Minn.
Fornes	Kitchin	Parran	Taggart
Gardner, Mass.	Knowland	Patten, N. Y.	Talbott, Md.
Gardner, N. J.	Konig	Peters	Taylor, Ohio
George	Korbly	Porter	Thayer
Gillett	Lafean	Prince	Thomas
Gooke	Lafferty	Rainey	Tilson
Goldfogle	Langham	Randell, Tex.	Underhill
Good	Lee, Ga.	Rauch	Underwood
Gregg, Pa.	Lewis	Reyburn	Vreeland
Griest	Lindsay	Richardson	Warburton
Hamill	Linthicum	Roberts, Nev.	Weeks
Hamilton, W. Va.	Littleton	Rodenberg	Whitacre
Hammond	Lobeck	Rubey	Wilson, Ill.
Harris	Longworth	Sabath	Wilson, N. Y.
Harrison, N. Y.	Loud	Scully	

So the resolution was agreed to.

The following pairs were announced:

For the session:

Mr. UNDERWOOD with Mr. MANN.

Mr. LITTLETON with Mr. DWIGHT.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. RIORDAN with Mr. ANDRUS.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. FORNES with Mr. BRADLEY.

Mr. SCULLY with Mr. BROWNING.

Mr. PALMER with Mr. HILL, commencing January 8.

Until further notice:

Mr. WHITACRE with Mr. WILSON of Illinois.

Mr. WILSON of New York with Mr. WARBURTON.

Mr. THOMAS with Mr. VREELAND.

Mr. SMITH of New York with Mr. TAYLOR of Ohio.

Mr. SHARP with Mr. SPEER.

Mr. SHACKLEFORD with Mr. WEEKS.

Mr. SABATH with Mr. SAMUEL W. SMITH.

Mr. RUBEY with Mr. SLEMP.

Mr. PETERS with Mr. SIMMONS.

Mr. PATTEN of New York with Mr. SELLS.

Mr. NEELEY with Mr. RODENBERG.

Mr. LOBECK with Mr. ROBERTS of Nevada.

Mr. LINTHICUM with Mr. REYBURN.

Mr. LEWIS with Mr. PRINCE.

Mr. LEE of Georgia with Mr. PORTER.

Mr. KORBLY with Mr. NORRIS.

Mr. JOHNSON of Kentucky with Mr. MOORE of Pennsylvania.

Mr. HUGHES of Georgia with Mr. MONDELL.

Mr. HOUSTON with Mr. MATTHEWS.

Mr. HOLLAND with Mr. LOUD.

Mr. JAMES with Mr. LONGWORTH.

Mr. DAVENPORT with Mr. LAFFERTY.

Mr. HARRISON of New York with Mr. LANGHAM.

Mr. HAMILL with Mr. LAFEAN.

Mr. GOLDFOGLE with Mr. KNOWLAND.

Mr. GEORGE with Mr. JACKSON.

Mr. DANIEL A. DRISCOLL with Mr. HELGESEN.

Mr. DIXON of Indiana with Mr. GRIEST.

Mr. DIES with Mr. GARDNER of New Jersey.

Mr. DAVIS of West Virginia with Mr. CANNON.

Mr. COVINGTON with Mr. DRAPER.

Mr. CONRY with Mr. DYER.

Mr. CANTRILL with Mr. DANFORTH.

Mr. CARLIN with Mr. AINEY.

Mr. BOEHNE with Mr. ANTHONY.

Mr. AYRES with Mr. CALDER.

Mr. ANSBERRY with Mr. BARCHFELD.

Mr. MORGAN of Louisiana with Mr. GOOD.

Mr. RAINEY with Mr. MCCALL.

Mr. HULL with Mr. NEEDHAM.

Mr. RICHARDSON with Mr. THISTLEWOOD (from January 22, either to be released when the other would vote the same way).

Mr. FINLEY with Mr. CURRIER.

Mr. KITCHIN with Mr. FORDNEY.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. JOHNSON of South Carolina with Mr. GILLETT.

Mr. MURRAY with Mr. HARRIS.

Mr. UNDERHILL with Mr. FARR.

On this vote:

Mr. BROWN (for resolution) with Mr. CULLOP (against).

Mr. MANN. Mr. Speaker, I voted "no," but I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I wish to withdraw my vote and be recorded as present.

Mr. THISTLEWOOD. Mr. Speaker, I voted "no," but I am paired with Mr. RICHARDSON, and I wish to withdraw that vote and be recorded as present.

The result of the vote was then announced as above recorded.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 18425. An act for the relief of Simon Nager;

H. R. 16450. An act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same; and

H. R. 28186. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 8035. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. HAY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 28699) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1914, and for other purposes. Pending that, Mr. Speaker, I ask unanimous consent that general debate on the bill may be dispensed with.

The SPEAKER. The gentleman from Virginia moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Military Academy appropriation bill. Pending that he asks unanimous consent that general debate be dispensed with. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ascertain from the gentleman how late he intends to keep the House to-night?

Mr. HAY. I do not think it will be more than half an hour. I think we can get through the bill in that time.

Mr. MANN. I think that is likely, but can not we have some definite time set?

Mr. HAY. I would not stay after half past 6 o'clock.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the Military Academy appropriation bill, with Mr. GRAHAM in the chair.

Mr. HAY. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read as follows:

For pay of one professor of law (lieutenant colonel), in addition to pay as major, $500.

Mr. MANN. Mr. Chairman, I move to strike out the last word. A good many gentlemen are making inquiries about to-morrow. I do not know just how long it is likely to take to count the electoral vote, but as I understand the resolution which was passed, it provides that the Senate shall come to the House to-morrow at 10 minutes to 1 o'clock, at which time every Member of the House in the city ought to be in the Chamber.

Mr. BURKE of Pennsylvania. Mr. Chairman, I would state that four years ago the counting of the electoral vote was concluded at 1 o'clock and 43 minutes, so that it took a little less than an hour.

The Clerk read as follows:

For extra pay of three teamsters (artillerymen), at 30 cents each per day, $388.25.

Mr. HAY. Mr. Chairman, I desire to amend by striking out the figures "30" and inserting in lieu thereof the figures "35." That was a typographical error.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 8, line 24, by striking out the figures "30" and inserting in lieu thereof the figures "35."

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk read as follows:

PAY OF CIVILIANS.

For pay of one teacher of music, $1,700.

Mr. MILLER. Mr. Chairman, I move to strike out the last word. I notice this item is for pay of one teacher of music, $1,700. Is that the band instructor or the organist at the chapel?

Mr. HAY. He is not the organist. The organist is paid $1,200.

Mr. MILLER. Is that in a separate item?

Mr. HAY. That is in a separate item. The gentleman will find the item further along in the bill.

Mr. MILLER. I thought it was in a separate item in last year's bill, but I had not been able to discover it.

Mr. HAY. The gentleman will find that on page 11, line 12.

Mr. MILLER. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

For pay of chapel organist and choirmaster, $1,200.

Mr. MILLER. Mr. Chairman, I move to strike out the figures "$1,200" and insert in lieu thereof the figures "$1,800."

Mr. HAY. Mr. Chairman, on that I make the point of order.

Mr. MILLER. Mr. Chairman, I trust the gentleman will withhold his point of order for a moment.

Mr. HAY. How much time does the gentleman desire?

Mr. MILLER. Three or four minutes.

Mr. HAY. Very well. I will reserve the point of order for a moment or two.

Mr. MILLER. Mr. Chairman, I acknowledge that this is subject to a point of order, because this is an increase in the salary, but I very much hope that the gentleman in charge of the bill will not find it necessary to insist upon his point of order. The present organist at the chapel is undoubtedly one of the most skilled organists in this country who has ever touched his fingers to the keys of such an instrument.

He is there not because of the amount of the salary that he gets, but because of his liking to be in that part of the country and that particular place, and he is willing to stay, as I understand it, providing that he can have really enough to live on. I notice a clerk to treasurer and various subordinate employees carried in this bill are getting as high as $1,800. It does not seem to me that the Government of the United States ought to expect a man of his skill and standing to continue in the work that he is now doing at a salary not sufficient to enable him to live on.

Mr. KAHN. Does the gentleman know that the amount suggested by the commandant was only $1,700?

Mr. MILLER. Well, I am willing to make it $1,700, instead of $1,800. I will say, Mr. Chairman, further, that, as other Members have, I have visited the academy at West Point. I think the one thing about that institution that commends itself in the highest terms above all others is that beautiful chapel, not because it cost a large sum of money, but because of the exquisite taste of its architectural arrangement, and the finest feature of the chapel is the organ, and the finest part of the organ is the organist. It certainly is not an ornamental part of the course of instruction at West Point, but it is of the utmost importance that these cadets have good music, music of this character, in connection with their devotional exercises and in connection with their work at West Point. And, therefore, I certainly trust that the gentleman from Virginia will not insist upon his point of order.

Mr. HAY. Mr. Chairman, I will state to the gentleman from Minnesota that the committee considered this item very carefully, and we concluded that we ought not to raise the salary of this particular employee. I therefore am constrained to make the point of order.

The CHAIRMAN. The gentleman from Virginia insisting on the point of order, the point of order is sustained.

The Clerk read as follows:

For stationery, namely: Blank books, paper, envelopes, quills, steel pens, rubbers, erasers, pencils, mucilage, wax, wafers, folders, fasteners, rulers, files, ink, inkstands, typewriters, typewriting supplies, office furniture, penholders, tape, desk knives, blotting pads, and rubber bands, $2,500.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the committee what is the idea of including the word "quills" in this item?

Mr. HAY. I can only say to the gentleman that the word "quills" has been included in that item for a great many years, ever since I have known the item. If they do not buy any quills it does not cost any more.

Mr. MURDOCK. Does the gentleman understand they do not buy the quills?

Mr. HAY. I do not understand that they do.

Mr. SLAYDEN. If the chairman of the committee will permit me, the statement was made that they do not, that the word is preserved in the item as a tradition more than anything else. It is an old thing, dating from the beginning of the academy.

Mr. MURDOCK. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk resumed and concluded the reading of the bill.

Mr. HAY. Mr. Chairman, I move that the committee do now rise and report the bill and amendment to the House with the recommendation that the amendment be adopted and the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GRAHAM, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 28699, the Military Academy appropriation bill, and had directed him to report the same with an amendment with the recommendation that the amendment be agreed to and the bill as amended do pass.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HAY, a motion to reconsider the vote by which the bill was passed was laid on the table.

DISPENSING WITH PROCEEDINGS UNDER CALENDAR WEDNESDAY.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that the proceedings in order to-morrow, under the rule, be dispensed with.

The SPEAKER. The gentleman from New York asks unanimous consent that proceedings in order to-morrow be dispensed with.

Mr. KAHN. Mr. Speaker, I object to that.

Mr. HAY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. Will the gentleman withhold that for half a minute? The Chair will state that there are some Members who have not been here when the counting of the electoral vote takes place. The arrangement and rule is that a sufficient number of seats on the right-hand side of the Speaker be vacated and chairs are put around here to accommodate the Members. The Senate sits over here, and, as the gentleman from Illinois [Mr. MANN] suggested, they come over here at 1 minutes to 1 o'clock. The Vice President presides, the Speaker sitting by him. The gentleman from Virginia moves that the House do now adjourn.

ADJOURNMENT.

The motion was agreed to; accordingly the House (at 5 o'clock and 49 minutes p. m.) adjourned to meet to-morrow, Wednesday, February 12, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, a report of examination and survey of Coal River, W. Va., from the mouth to Boone (H. Doc. No. 1384); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Elk River, W. Va., from the mouth to Clay (H. Doc. No. 1385); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

3. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of George P. Morrow, heir of Isaac Morrow, deceased, v. The United States (H. Doc. No. 1379); to the Committee on War Claims and ordered to be printed.

4. A letter from the chairman of the Interstate Commerce Commission, transmitting annual report of the District Electric Railway Commission respecting the enforcement of the act of Congress governing the street railways in the District of Columbia (Public, No. 134, approved May 23, 1908; S. Doc. No. 1068); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting, for the consideration of Congress, a list of judgments rendered by the Court of Claims, amounting to $16,361.62, which have been presented to this department and require an appropriation for their payment (H. Doc. No. 1378); to the Committee on Appropriations and ordered to be printed.

6. A letter from the Secretary of the Treasury, transmitting a record of a judgment of the United States District Court of the Eastern District of Virginia, sitting as a court of admiralty in the case of claim of the owners of the British steamship *Maroa* (H. Doc. No. 1373); to the Committee on Appropriations and ordered to be printed.

7. A letter from the Secretary of the Treasury, transmitting, pursuant to law, a list of judgments rendered against the United States by the circuit and district courts of the United States, and which require an appropriation for their payment (H. Doc. No. 1374); to the Committee on Appropriations and ordered to be printed.

8. A letter from the Secretary of the Treasury, transmitting, pursuant to law, schedules of claims amounting to $280,415.69, allowed by the several accounting officers of the Treasury Department under appropriations the balances of which have been exhausted or carried to the surplus fund under section 5 of the act of June 20, 1874 (H. Doc. No. 1372); to the Committee on Appropriations and ordered to be printed.

9. A letter from the Secretary of the Treasury, transmitting, for the consideration of Congress, a communication from the Attorney General, submitting a list of judgments rendered by the Court of Claims in favor of claimants in Indian depredation cases, which require an appropriation for their payment (H. Doc. No. 1376); to the Committee on Appropriations and ordered to be printed.

10. A letter from the Secretary of the Treasury, transmitting, for the consideration of Congress, copy of a communication from the Secretary of State, submitting estimate of appropriation of $5,000 to enable the Government Printing Office to make an exhibit at the International Exhibition for the Book Industry and the Graphic Arts at Leipzig, Germany, May to October, 1914 (H. Doc. No. 1375); to the Committee on Appropriations and ordered to be printed.

11. A letter from the Secretary of the Treasury, transmitting for the consideration of Congress copy of a communication from the Secretary of the Interior, submitting an increase in his estimate for fees and expenses of examining surgeons, pensions, for the fiscal year ending June 30, 1914 (H. Doc. No. 1377); to the Committee on Appropriations and ordered to be printed.

12. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Deep Creek, N. C. (H. Doc. No. 1383); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

13. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Sturgeon Bay and Lake Michigan Ship Canal, Wis. (H. Doc. No. 1382); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

14. A letter from the Attorney General of the United States, transmitting information to the House of Representatives in response to resolution adopted February 7, 1913, relating to indictment returned in United States court, Texas, against Standard Oil Co. et al. (H. Doc. No. 1380); to the Committee on the Judiciary and ordered to be printed.

15. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Youngs Bay and River, Oreg. (H. Doc. No. 1386); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

16. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of the Narrows of Lake Champlain, N. Y. and Vt. (H. Doc. No. 1387); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

17. A letter from the Secretary of War transmitting, pursuant to House resolution 790, information relative to the military record of each active officer of the Army with the rank above that of colonel (H. Doc. No. 1381); to the Committee on Military Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill

(H. R. 28022) authorizing the Minneapolis, St. Paul & Sault Ste. Marie Railway Co. to build a bridge across the Missouri River in sections 14 and 15, township 152 north, range 93 west of the fifth principal meridian, in the State of North Dakota, reported the same with amendment, accompanied by a report (No. 1505), which said bill and report were referred to the House Calendar.

Mr. BROUSSARD, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 28633) to amend the act approved January 27, 1912, entitled "An act to authorize the construction of a bridge across Caddo Lake, in Louisiana," reported the same without amendment, accompanied by a report (No. 1507), which said bill and report were referred to the House Calendar.

Mr. HENSLEY, from the Committee on Expenditures in the Interior Department, submitted a report (No. 1506) together with the views of the minority on the matter of the investigation of the Salt and Gila Rivers Reservations and Reclamation Service, which report was referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. RUSSELL, from the Committee on Invalid Pensions, to which was referred the bill (S. 8314) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, reported the same with amendment, accompanied by a report (No. 1500), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (S. 8274) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, reported the same with amendment, accompanied by a report (No. 1501), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (S. 8178) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, reported the same with amendment accompanied by a report (No. 1502), which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON, from the Committee on Pensions, to which was referred the bill (S. 8275) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, reported the same with amendment, accompanied by a report (No. 1503), which said bill and report were referred to the Private Calendar.

Mr. McKELLAR, from the Committee on Military Affairs, to which was referred the bill (H. R. 28137) to correct the lineal and relative rank of First Lieut. Thomas J. Leary, Medical Corps, United States Army, reported the same without amendment, accompanied by a report (No. 1509), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 28625) granting a pension to Thomas M. Carew Birmingham, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. LINTHICUM: A bill (H. R. 28727) to provide for the purchase of a suitable number of acres of land and the erection thereon of the necessary buildings for a modern sanitary dairy farm for the United States Naval Academy; to the Committee on Public Buildings and Grounds.

By Mr. HAY: A bill (H. R. 28728) to increase the efficiency of the aviation service of the Army, and for other purposes; to the Committee on Military Affairs.

By Mr. SPARKMAN: A bill (H. R. 28729) to establish a fish-cultural station at some suitable point on the Gulf coast of Florida; to the Committee on the Merchant Marine and Fisheries.

By Mr. BARTLETT: A bill (H. R. 28730) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1914, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. WICKERSHAM: A bill (H. R. 28731) to extend the time for the completion of the Alaska Northern Railway, and for other purposes; to the Committee on the Territories.

By Mr. SHERWOOD: Resolution (H. Res. 827) authorizing the payment of $1,200 to Allen D. Albert, for extra and expert services rendered to the Committee on Invalid Pensions; to the Committee on Accounts.

By Mr. CARTER: Resolution (H. Res. 828) requesting the President of the United States to furnish the House of Representatives with information about the civil service; to the Committee on Reform in the Civil Service.

By the SPEAKER (by request): Memorial from the Legislature of the State of Oregon, favoring the enactment of Senate bill 8003; to the Committee on the Post Office and Post Roads.

Also (by request), memorial from the Legislature of the State of Oregon, requesting that Congress amend section 5 of the act of June 17, 1902, known as the reclamation act; to the Committee on Irrigation of Arid Lands.

Also (by request), memorial from the Legislature of the State of Oregon, favoring an appropriation to preserve and improve the revetment at Independence on the Willamette River, to preserve navigation and protect adjoining lands; to the Committee on Rivers and Harbors.

Also (by request), memorial from the Legislature of the State of Oregon, urging Congress to continue Federal cooperation to the same end as provided in section 2 of the Weeks law; to the Committee on Agriculture.

By Mr. LAFFERTY: Memorial of the Legislative Assembly of the State of Oregon, favoring and urging appropriation sufficient to improve and preserve revetment of Willamette River near Independence; to the Committee on Rivers and Harbors.

Also, memorial of the Legislative Assembly of the State of Oregon, favoring the enactment of Senate bill 8003, for construction, maintenance, and improvement of post roads and rural-delivery routes through the cooperation and joint action of the National Government and the several States in which such routes or roads may be established; to the Committee on the Post Office and Post Roads.

Also, memorial of the Legislative Assembly of the State of Oregon, favoring the Weeks law for the protection of forested watersheds of navigable streams from fire and the continued appropriation to make the same effective; to the Committee on Agriculture.

Also, memorial of the Legislative Assembly of the State of Oregon, favoring an act to extend the time for payment under the reclamation law from 10 to 25 years; to the Committee on Irrigation of Arid Lands.

By Mr. ASHBROOK: Memorial of the Legislature of Ohio, urging upon Congress the need of examining into the necessity and feasibility of constructing levees, embankments, and flood walls for the protection of the towns and villages along the Ohio River; to the Committee on Rivers and Harbors.

By Mr. CURRY: Memorial from the Legislature of the State of New Mexico, protesting against the contemplated transfer of the public lands in New Mexico; to the Committee on Indian Affairs.

By Mr. LEVER: Memorial from the Legislature of the State of South Carolina, memorializing Congress to appropriate $100,000 to be used in the repair of public roads in South Carolina upon which free-delivery mail routes are established; to the Committee on Agriculture.

By Mr. RUCKER of Colorado: Memorial from the General Assembly of the State of Colorado, memorializing Congress to enact a law creating the Rocky Mountain National Park; to the Committee on the Public Lands.

By Mr. CARTER: Memorial from the Legislature of the State of Oklahoma, favoring the passage of the Page vocational education bill; to the Committee on Agriculture.

Also, memorial from the Legislature of the State of Oklahoma, favoring legislation for the regulation of trusts; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HULL: A bill (H. R. 28732) for the relief of W. H. Mohler; to the Committee on Military Affairs.

By Mr. O'SHAUNESSY: A bill (H. R. 28733) granting an increase of pension to Mary E. Davis; to the Committee on Invalid Pensions.

By Mr. PUJO: A bill (H. R. 28734) for the relief of Arthur J. Coney, sole heir of L. J. J. Coney, deceased; to the Committee on War Claims.

By Mr. SMITH of Texas: A bill (H. R. 28735) authorizing the payment of damages to persons for injuries inflicted by Mexican Federal or insurgent troops within the United States during the insurrection in Mexico in 1911, making appropriation therefor, and authorizing the Secretary of State to proceed, in conformity with diplomatic usage and international law, to secure reimbursement therefor from Mexico; to the Committee on Foreign Affairs.

By Mr. SPEER: A bill (H. R. 28736) granting an increase of pension to Richard M. Hovis; to the Committee on Invalid Pensions.

By Mr. STEENERSON: A bill (H. R. 28737) granting a pension to John A. McLaughlin; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of the Worley Bible Class, Bethany Baptist Sunday School, Washington, D. C., extending their thanks to the House of Representatives for passing the Webb liquor bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. FOSS: Petition of Charles M. Stewart and other citizens of the tenth congressional district of Illinois, favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. KINDRED: Petition of the American Laundry Machinery Co., of Rochester, N. Y., favoring the passage of the Weeks bill (H. R. 27567) for 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of the National League of Government Employees, Washington, D. C., favoring the passage of House bill 20995, granting to certain employees of the United States the right of compensation for injuries sustained in the course of their employment; to the Committee on the Judiciary.

Also, petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of any legislation to transfer the control of the national forests to the States wherein they lie; to the Committee on Agriculture.

Also, petition of the Remington Typewriter Co., New York, protesting against the passage of the Oldfield patent law revision bill (H. R. 23417) making certain changes in the present patent laws; to the Committee on Patents.

Also, petition of the Thread Agency, New York, N. Y., favoring the passage of House bill 16663, permitting corporations, joint-stock companies, etc., to change the date of filing annual returns to the close of their fiscal year; to the Committee on Ways and Means.

Also, petition of the New York State Fruit Growers' Association, favoring the passage of the Nelson bill (S. 7208) proposing certain radical changes in the law of the United States relating to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Chamber of Commerce of the State of New York, protesting against the passage of the Nelson bill (S. 7208) proposing radical changes in the law of the United States relative to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Philadelphia Coal Exchange, Philadelphia, Pa., favoring the passage of legislation to repeal the mercantile tax bill; to the Committee on Ways and Means.

Also, petition of the New York State Legislative Board, Brotherhood of Locomotive Engineers, favoring the passage of the Federal workmen's compensation bill; to the Committee on the Judiciary.

By Mr. KINKAID of Nebraska: Petition of numerous citizens of Cherry County, Nebr., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. LAFFERTY: Petition of Albert Hart, of Leonsl, Clonney & Co., favoring the passage of legislation repealing the tariff duty on sponges; to the Committee on Ways and Means.

Also, petition of the Astoria Retail Merchants' Association, favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. LINDSAY: Petition of the Central Federated Union of Greater New York and vicinity, New York, N. Y., relative to the payment of the crews of the Panama Steamship Line and the special privileges granted to said company, which is controlled and owned by the United States Government; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Children's Aid Society, New York, favoring the passage of Senate bill 3 granting Federal aid for vocational education; to the Committee on Agriculture.

By Mr. O'SHAUNESSY: Petition of the Woman's Christian Temperance Union of Rhode Island, Providence, R. I., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the League of Improvement Societies in Rhode Island, Providence, R. I., favoring the passage of the McLean bill granting Federal aid for the protection of all migratory birds; to the Committee on Agriculture.

Also, petition of the System Federation of the Harriman Lines, favoring the passage of legislation for enforcing the inspection of the locomotive boilers and safety appliances for railway equipment, and also an investigation by Congress relative to improving the condition of the American railway employees; to the Committee on Interstate and Foreign Commerce.

By Mr. PALMER: Petition of citizens of Berwick, Pa., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. PUJO: Papers to accompany bill for the relief of Arthur J. Coney, sole heir of L. J. J. Coney, deceased; to the Committee on War Claims.

By Mr. RUCKER of Colorado: Petition of the Farmers' Educational and Cooperative Union of America, Denver, Colo., protesting against the passage of legislation lowering the tariff duties on sugar and other farm products; to the Committee on Ways and Means.

SENATE.

WEDNESDAY, *February 12, 1913.*

(Legislative day of Tuesday, February 11, 1913.)

The Senate reassembled at 12 o'clock and 40 minutes p. m. on the expiration of the recess.

Mr. CULLOM. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore (Mr. BACON). The Senator from Illinois suggests the absence of a quorum. The Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cummins	McCumber	Smith, Ga.
Bacon	Dillingham	McLean	Smith, Md.
Bankhead	Fletcher	Martine, N. J.	Smith, Mich.
Bourne	Foster	Myers	Smoot
Bradley	Gallinger	Nelson	Stephenson
Brady	Gamble	O'Gorman	Stone
Brandegee	Gardner	Oliver	Sutherland
Bristow	Gronna	Overman	Swanson
Brown	Guggenheim	Owen	Thomas
Bryan	Hitchcock	Page	Thornton
Burnham	Jackson	Paynter	Tillman
Burton	Johnson, Me.	Percy	Townsend
Catron	Johnston, Ala.	Perkins	Warren
Chamberlain	Jones	Pomerene	Webb
Clapp	Kavanaugh	Richardson	Wetmore
Clark, Wyo.	Kenyon	Root	Williams
Crane	La Follette	Sheppard	Works
Crawford	Lippitt	Simmons	
Cullom	Lodge	Smith, Ariz.	

Mr. WEBB. I wish to state that my colleague [Mr. LEA] is necessarily absent from the Senate.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 74 Senators have responded to their names, and a quorum of the Senate is present.

CONNECTICUT RIVER DAM.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut.

Mr. JONES. I desire to offer an amendment intended to be proposed to the bill. I ask that it may be read.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. After the word "otherwise," in line 18, page 2, insert the following additional proviso:

Provided further, That if at any time said Connecticut River Co. or its assigns shall be owned or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that it shall form a part of or in any way effect any combination or be in any wise controlled by any combination in the form of an unlawful trust, or enter into any contract or conspiracy in restraint of trade in the production, development, generation, transmission, or sale of any power or electrical energy, then the permit herein granted

may be forfeited and canceled by the Secretary of War through appropriate proceedings instituted for that purpose in the courts of the United States.

The PRESIDENT pro tempore. The amendment will be printed and lie on the table.

COUNT OF ELECTORAL VOTES.

The PRESIDENT pro tempore. The hour of 12 o'clock and 50 minutes having arrived, the Senate, under the previous order made, will now proceed to the Hall of the House of Representatives to take part in the count of the electoral votes for President and Vice President of the United States.

The Senate, preceded by the President pro tempore, the Secretary, and the Sergeant at Arms, thereupon proceeded to the Hall of the House of Representatives for the purpose of participating in the count of the electoral votes for President and Vice President of the United States.

The Senate returned to its Chamber at 2 o'clock and 15 minutes p. m., and the President pro tempore resumed the chair.

Mr. DILLINGHAM, one of the tellers appointed on behalf of the Senate in pursuance of the concurrent resolution of the two Houses to ascertain the result of the election for President and Vice President of the United States, said:

Mr. President, the tellers on the part of the Senate submit the following report as the result of the ascertainment and counting of the electoral votes for President and Vice President of the United States for the term beginning March 4, 1913, and ask that the report may be entered upon the Journal of the Senate without reading.

The PRESIDENT pro tempore. Without objection, it will be so ordered.

The state of the vote for President of the United States, as delivered to the President of the Senate pro tempore, is as follows:

The whole number of the electors appointed to vote for President of the United States is 531, of which a majority is 266.

Woodrow Wilson, of the State of New Jersey, has received for President of the United States 435 votes;

Theodore Roosevelt, of the State of New York, has received 88 votes;

William Howard Taft, of the State of Ohio, has received 8 votes.

The state of the vote for Vice President of the United States, as delivered to the President of the Senate pro tempore, is as follows:

The whole number of the electors appointed to vote for Vice President of the United States is 531, of which a majority is 266.

Thomas R. Marshall, of the State of Indiana, has received for Vice President of the United States 435 votes;

Hiram W. Johnson, of the State of California, has received 88 votes;

Nicholas Murray Butler, of the State of New York, has received 8 votes.

This announcement of the state of the vote by the President of the Senate pro tempore shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, each for the term beginning March 4, 1913, and shall be entered, together with a list of the votes, on the Journals of the Senate and House of Representatives.

The report of the tellers as entered on the Journal is as follows:

The undersigned, WILLIAM P. DILLINGHAM and JAMES E. MARTINE, tellers on the part of the Senate, and WILLIAM W. RUCKER and H. OLIN YOUNG, tellers on the part of the House of Representatives, report the following as the result of the ascertainment and counting of the electoral votes for President and Vice President of the United States for the term beginning March 4, 1913:

Number of electoral votes to which each State is entitled.	States.	For President.			For Vice President.		
		Woodrow Wilson, of New Jersey.	Theodore Roosevelt, of New York.	William Howard Taft, of Ohio.	Thomas R. Marshall, of Indiana.	Hiram W. Johnson, of California.	Nicholas Murray Butler, of New York.
12	Alabama	12			12		
3	Arizona	3			3		
9	Arkansas	9			9		
13	California	2	11		2	11	
6	Colorado	6			6		
7	Connecticut	7			7		
3	Delaware	3			3		
6	Florida	6			6		
14	Georgia	14			14		
4	Idaho	4			4		
29	Illinois	29			29		
15	Indiana	15			15		
13	Iowa	13			13		
10	Kansas	10			10		
13	Kentucky	13			13		
10	Louisiana	10			10		
6	Maine	6			6		
8	Maryland	8			8		
18	Massachusetts	18			18		
15	Michigan		15			15	
12	Minnesota		12			12	
10	Mississippi	10			10		
18	Missouri	18			18		
4	Montana	4			4		
8	Nebraska	8			8		
3	Nevada	3			3		
4	New Hampshire	4			4		
14	New Jersey	14			14		
3	New Mexico	3			3		
45	New York	45			45		
12	North Carolina	12			12		
5	North Dakota	5			5		
24	Ohio	24			24		
10	Oklahoma	10			10		
5	Oregon	5			5		
38	Pennsylvania		38			38	
5	Rhode Island	5			5		
9	South Carolina	9			9		
5	South Dakota		5			5	
12	Tennessee	12			12		
20	Texas	20			20		
4	Utah			4			4
4	Vermont			4			4
12	Virginia	12			12		
7	Washington		7			7	
8	West Virginia	8			8		
13	Wisconsin	13			13		
3	Wyoming	3			3		
531		435	88	8	435	88	8

WM. P. DILLINGHAM,
JAMES E. MARTINE,
Tellers on the part of the Senate.
W. W. RUCKER,
H. OLIN YOUNG,
Tellers on the part of the House of Representatives.

The PRESIDENT pro tempore. Unless there be objection, the Chair will direct that the certificates which have been read in the House of Representatives shall now be placed on the permanent files of the Senate.

Mr. OWEN. I wish to present a resolution of the House of Representatives of the State of Oklahoma, and ask that it be printed in the RECORD.

The PRESIDENT pro tempore. It is not in order. Under the unanimous-consent agreement nothing is in order except the pending bill. The Chair dislikes to make this suggestion to the Senator, but the unanimous-consent agreement confines the Senate strictly to the pending bill and to conference reports and appropriation bills.

Mr. OWEN. I was not aware of that.

INDIAN APPROPRIATION BILL.

Mr. GAMBLE. I am directed by the Committee on Indian Affairs, to which was referred the bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with the various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, to report it with amendments. I desire to state that I will submit at a later day a report to accompany the bill.

The PRESIDENT pro tempore. The report presented by the Senator from South Dakota is within the terms of the unanimous-consent agreement. The bill will be placed on the calendar.

CONNECTICUT RIVER DAM.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut.

Mr. BRANDEGEE. When the Senate took a recess yesterday afternoon, the Senator from Colorado [Mr. THOMAS] was in the

midst of his address upon the pending bill, and gave notice that he would proceed upon the meeting of the Senate at this time. I do not see him upon the floor, and I do not know whether any other Senator would feel at liberty, in view of the notice he gave, to interrupt his address.

Mr. STONE. Mr. President, is the hour for morning business——

The PRESIDENT pro tempore. The Senate has been in recess and has reconvened as a part of the legislative day of yesterday. There is no morning business to-day until the pending measure shall be disposed of.

Mr. STONE. I ask unanimous consent——

The PRESIDENT pro tempore. That can not be done. The Senate is now operating under a unanimous-consent agreement, and nothing can be done which will vary that in any particular.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum. The Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Dillingham	Newlands	Smoot
Bacon	Gallinger	Oliver	Stone
Bankhead	Gamble	Overman	Sutherland
Bourne	Gardner	Page	Swanson
Brady	Gore	Percy	Thomas
Brandegee	Gronna	Perkins	Tillman
Brown	Jones	Poindexter	Townsend
Bryan	Kavanaugh	Pomerene	Warren
Burton	Kenyon	Root	Webb
Catron	La Follette	Sheppard	Wetmore
Chamberlain	Lodge	Smith, Ariz.	
Clark, Wyo.	McLean	Smith, Ga.	
Crawford	Nelson	Smith, Md.	

Mr. WEBB. My colleague [Mr. LEA] is necessarily absent. I hope that this announcement may stand for the day.

Mr. STONE. I desire to state that my colleague [Mr. REED] is absent for two reasons—one because of the serious sickness of his wife, and the other because of very important business. I wish this announcement to stand for the day.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 49 Senators have responded to their names. A quorum of the Senate is present. The Senator from Colorado [Mr. THOMAS] is entitled to the floor.

Mr. THOMAS. Mr. President, up to the hour of adjournment yesterday I had discussed the pending measure from the general standpoint of the power of the Congress to enact it, and, at the same time, with reference to specific objections both fundamental in their character and practical in their operation. What I shall further say refers, as far as I am able to do so, to the application or the relation of the principle embodied in this measure to interests which are different from but which nevertheless are comprised within the general policy of conservation as that term is popularly understood and which is considered to be as broad and comprehensive as the material resources of the Nation. A process here involved and of interest to Connecticut finds its support largely in physical conditions wholly different from those characteristic of other parts of the country; yet they are defended by arguments and assertions identical with those which are employed to sustain a policy applied to the resources and the people of the West and without regard to our entirely dissimilar environment.

My active opposition to the measure is therefore prompted by my view of its effect upon the Western States and their interests. There is the danger to us in the use that will inevitably be made of this measure as a precedent for the exercise of similar authority under largely divergent conditions. In the far West conservation finds practical application on a very much larger scale than anywhere else, with the possible exception of Alaska. This is true by the very nature of things, because in the public-land States there is so much territory belonging to and under the control of the National Government.

Abundant provocation occurring in many parts of the country and covering a period of many years has been given and has justified the action of the Government in its commendable efforts to prevent monopoly of the public resources, and also to conserve those resources for the future. There can be no question, as I said yesterday, that in the practical operation of the national land laws and laws related to kindred subjects, abuses, various in their nature and enormous in their extent, have arisen, which abuses lie at the foundation of those enormous aggregations of property which have arrested public attention and which have aroused a very just and salutary public opinion, thereby spurring the Government to action designed for the protection of the people's heritage, preserving their resources, and administering the laws both in the letter and the spirit. I say the provocation has been abundant, and a wise policy of law, properly and lawfully, and I may say, popularly enforced—for such a thing is easy—would meet with the hearty support of all the people of the West, who realize more fully and as vividly as those of any other section of the country, the necessity for change in many features of our public-land laws and the abandonment of previous methods of applying them or permitting them to be applied by great interests upon their own account and without regard to the general welfare.

I am, and at all times have been, an advocate of conservation, not only as an expedient, but as essential policy. I have lived in the State which I have the honor in part to represent here for a period of more than 41 years. I have witnessed its expansion from a frontier Territory of 39,000 white inhabitants to a Commonwealth of 800,000 people, during which time many of the evils which gave birth to the conservation system—if system it may be called—have been evolved from the operation of the public-land laws and from the practices of men. Contemporaneously with the development of that great State have been the institution and the operation of abuses the absence of which would have redounded to our prosperity and to the good name of the Government. What is true, Mr. President, of my own State is doubtless true of those States which also contain within their boundaries large areas of the public lands. Hence the somewhat recent assertion by the Government of a new line of domestic policy and administration met with my enthusiastic commendation, because I recognized its necessity and applauded the fact that it had become generally recognized everywhere. I want, therefore, to disabuse the public mind of that impression, which is largely prevalent in the East, that the people of the West are radically and fundamentally opposed to all governmental regulation of its own property and resources or that it presents a solid front against all forms of conservation, desiring, on the other hand, the free and continued play of the old régime, without change or control or without regard to consequences.

It may be true, Mr. President, that this impression has for its basis a reasonable foundation, in that extremists everywhere are always loudest in their advocacy of or opposition to any given question or any given measure. For the words and the opinions of the extremists are those which furnish the basis for headlines and for exciting and attractive newspaper publications. They carry further than the more sober and less extravagant sentiments of the masses of the people, whose view is confounded with that of the radical few.

We of the West believe that we are the real conservationists of the country; we think so because, living where the abuses which the conservation policy is designed to correct or to mitigate have arisen and expanded, we can best determine their character as well as the remedies which should be applied for their extinction. It was very easy and natural for the people of the Atlantic seaboard to pass judgment upon western policy and opinion as affecting Indian affairs in the old frontier days, when there was constant strife with them upon the border. We believed then, and we still believe, that the men accustomed by contact with the Indian, familiar with his character, his requirements, and conditions, alive to the dangers ever menacing the pioneers, their wives and children, exposed to sudden and unprovoked attack, were the best judges of the traits, habits, conditions, and needs of the aborigines. But those in authority generally thought otherwise, with results not always anticipated or desirable. It is that experience derived from contact and association, from observation in the immediate atmosphere of any given condition which, after all, furnishes the best basis of education, and furnishes an equipment capable of determining the best and wisest methods of procedure designed to promote a good cause or to destroy a bad one. Living in the midst of the national domain stretching in every direction from the range of the Rocky Mountains, knowing the necessities of the people there residing, and conscious of the abuses which have crept into the general administration of the land laws, we believe that we can as well—and perhaps better—determine what is necessary or expedient to our upbuilding and conservation as can those more fortunate portions of the people occupying Commonwealths whose domains are held by private ownership.

I am conscious of the fact that it may be retorted that my point of view condemns my presumption in criticizing or attempting to criticize the justice or policy of the pending measure, which relates to a water course in the oldest portion of the Nation, and which is in no sense related to the conditions which exist in the far West.

I concede freely the justice of this view, but unfortunately, as stated before, this and kindred measures are constantly used as active instances of the governmental authority over the general question of conservation, concluding our challenges both

of its legality or its wisdom, and as justifying similar or entirely different methods of procedure over all the public possessions from New England to the farther reaches of the continent. It is because of that fact that I have had the presumption to take any part whatever in this discussion. There can be no question but that the Senators from the four States directly interested in this proposed improvement are more conversant with conditions there existing than I possibly can be. There can be no question but that they can far better interpret the wants, the wishes, and the interests of their respective constituents than can I; but when a measure they advocate can be invoked to justify the enactment of one which applies to the people of my section which they and I oppose, it becomes essential to resist, because the ultimate evil is far more serious than the immediate good designed to be secured. Hence we must regard the pending bill as an integral part of a great governmental policy, comprehending and comprising universally every phase of what is called governmental conservation. If it rests upon the assumption of an authority, the exercise of which may involve serious consequences to any section of the Union, I would be remiss in the performance of a public duty if I remained passive because ignorant of the wishes or the welfare of the people of New England. The avowed purpose of all these measures of legislation, of all these enterprises, and of all these concessions is conservation of national resources for the prevention of monopoly, a term as broad as the territorial limits of the Republic and extending beyond the seas into and including our insular possessions thousands of miles away.

We of Colorado have no navigable streams either in a general or in a limited sense. The great rivers which find their way ultimately into the Mississippi Valley on the east and into the Gulf of California upon the west and southwest have their birth in the summits of the Rocky Mountains. The State of Colorado rests upon the crest of the continent. The melting snows of its mountains flow impartially toward the Pacific and the Atlantic seaboard. The streams are small in dimensions and turbulent in character. Therefore to call them, by the widest stretch of the imagination, "navigable streams" is to indulge in a poetic license that the gravity of this question would, if no other objection existed, prevent.

Notwithstanding the absence of any navigable streams within our borders, the national policy regards the waters of the State in some respects as it regards those of navigable streams; not, perhaps, in its requirements when used for the generation of electricity so much as in the direction of its use for reclamation purposes; which, of course, is one phase of the use of water for irrigation. As to hydro-electric purposes, the Government pursues in the West a method of procedure entirely opposite to that policy which prevails in the Eastern States. In the East it assumes to grant licenses for the use of the water, to which it asserts title of some sort; in the West it assumes to withdraw power sites from entry. In the one case it proposes to exact a revenue by the imposition of certain conditions upon the use of the energy in the stream under a claim of ownership, while in the other it proposes to derive a revenue by a grant of the right to use the land which it owns, the water being merely incident thereto, and justifies its conduct or policy in both instances by the same line of reasoning. So far as reclamation projects are concerned, it assumes to appropriate the water outright as a private user does, and then forbids any interference with its action on the part of later proprietors or previous ones who have not actually diverted the waters to a beneficial use.

Perhaps the most prominent and possibly the only contradiction involved in this situation is that the authority given to Congress to regulate commerce, sovereign in its character, is so applied through the interests and demands of conservation in the East that the Government must exercise power over navigation as though it was a proprietary right. Federal ownership of the national domain, on the other hand, is essentially proprietary in character, but the demands of conservation require the Government, in carrying out is policy, to regard and administer the trust as a sovereign attribute. For example, in the acquisition of water by the Government for purposes of reclamation—one of the most commendable and, in my opinion, the most commendable of all forms of conservation—the Government exercises a power which is analogous to, if indeed it is not, eminent domain, but without compensation; while in the East it never assumes authority to carry out and to enact a measure of this sort, except such as is derived from the commerce clause of the Constitution.

Something was said during the course of the discussion by the Senator from Ohio [Mr. BURTON]—I do not pretend to give his exact language upon the subject—which conveyed to my mind the idea that in his opinion the Government could not under the commerce clause of the Constitution extend its control of the waters of streams not navigable in character. I referred yesterday to a question of the Senator from Iowa [Mr. CUMMINS] to the Senator from Ohio as to the power of Congress to invest a corporation undertaking to improve a navigable stream under Federal law with power to condemn property within the limits of the State where the grant of Congress was to be carried into operation or exercised, and I think it was in that connection that the reference of the Senator from Ohio to which I refer was made.

I think he also stated that, in his opinion, the Government could, for the purpose of making effective an authority of this kind, confer upon the agency or the contracting party, the right to condemn such property as might be necessary to make it effective, of course, upon the theory that such power was necessary to effectuate the project of improving navigation. I deny broadly the power of Congress to invest a corporation, whether a creature of the State in which its operations are to be conducted or a creature of some other State doing business in the State where the business is to be conducted through the comity and courtesy of the laws of the latter State, with the right to exercise any power of eminent domain whatever. Such corporation must derive such authority from the State in which it is to be exercised, unless the process of condemnation is invoked solely to acquire property absolutely essential to the public improvement as distinguished from the private enterprise. That is to say, the power of Congress to confer such an authority must be limited to the power which Congress itself could exercise if it, instead of the agency selected, was making the improvement on its own account and at its own expense; yet it has been contended that such a power may be given to companies operating in States where similar Federal concessions have been made to the use of the waters in nonnavigable rivers, and in the State of Iowa particularly.

Now, Mr. President, what is the situation in the West as regards the operation of the laws and policy of the Government of the United States upon certain of our natural resources? I have attempted—not very clearly perhaps—to illustrate the relation which governmental authority asserts between measures of the sort now pending and other measures which are also instituted and sought to be made effective through the so-called general policy of conservation. The waters of the natural streams of the arid States—it is so provided in the constitution of our State—belong to the people thereof, subject to appropriation for beneficial uses. They do not belong to the General Government, not even where the streams traverse the public domain, except in so far as they may not have been or may not be appropriated by the citizen. They belong to the people for appropriation for beneficial uses. That constitutional declaration, Mr. President, although it has received the sanction of the National Legislature and has been expressly recognized and approved by the Supreme Court of the United States, is not a grant from the Government to the people; it is merely declaratory of a condition preexisting. In the very nature of things the waters of the natural streams in an arid country must belong to the people, because otherwise it would not be habitable; otherwise there could be no population, no civilization, neither development nor conservation of natural resources.

In my school days, the geography which I studied pictured the continent west of the Missouri, almost to the Pacific Ocean, as "The Great American Desert." It was represented to the young mind of that generation as being as desolate and bleak as Sahara or the Desert of Gobi. It was uninhabited and uninhabitable, and must ever remain a space upon the map which thoroughfares might traverse, but in which human kind could not subsist. That was the natural result of the lack of complete knowledge and information as to the character of the soil and the climate of that region and the extent to which the land could be fertilized by irrigation.

But as population extended farther and farther to the west and pressed upon the resources of nature the desert disappeared and was made to blossom as the rose, through the application to its brown and bleak surfaces of the waters of the country. A common law sprang into existence, as it alway does in Anglo-Saxon communities, in harmony with the necessities of man, of the peculiarities of soil, and of climate and other conditions; and under the imperious requirements of these conditions the doctrine of riparian rights—I will not say "disappeared," because it never existed; it never could have obtained recognition under those conditions. Therefore the declarations of our constitution and of other States relating to waters were merely declaratory or confirmatory of a preexisting right as absolute and unquestioned and as necessary to human habitation as the breath of the air to human life.

Prior to the existence of an organized community, away back in the days of the administration of James Buchanan, before the Territory of Colorado had been organized, when society existed, if at all, in a fragmentary condition, without written laws, without any cohesive attributes; when every man stood for himself, and against only the common enemy, the waters were diverted from our streams and carried away from the riparian owner or occupant and utilized upon lands owned or in the possession of the man diverting the water for his essential requirements. Out in California, where the discovery of gold caused an enormous migration in 1849, the precious metal in the sands and on the mountainsides required the use of water for its separation from the other substances that it might be given to commerce and industry, thereby enriching the people everywhere. To do this required the diversion of water from the channels of the streams; and that diversion necessarily grew into a property right accruing to him who made the diversion and applied the water to a beneficial use, the latter being as absolutely essential to ownership as the act of diversion, and the two together constituting the basis of the property right.

So in 1866, on the occasion of the enactment of the first mining law, Congress expressly recognized this right, and the Supreme Court of the United States declared the statute to be a mere declaration or confirmation by Congress of a legal status already existing, and needing no such declaration for its creation or enforcement. So out of these conditions grew the necessity of ownership in the water, without reference to its origin or its natural flow, by the people of that section of the country.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. STONE in the chair). Does the Senator from Colorado yield to the Senator from Idaho?

Mr. THOMAS. Certainly.

Mr. BORAH. I desire to ask the Senator's opinion, in connection with the subject he is discussing, as to this proposition: Has the Senator any doubt but that a private individual may appropriate the water of a stream running by Government lands?

Mr. THOMAS. Not a particle.

Mr. BORAH. And thereby appropriate it to the individual's use, to the exclusion of the Government as a proprietor and a riparian owner?

Mr. THOMAS. I have no doubt whatever of it, Mr. President; the only limitation being that fixed by the Supreme Court of the United States in the Rio Grande case, in One hundred and seventy-fourth United States.

Mr. BORAH. I had in mind the Rio Grande case, where Mr. Justice Brewer uses some language which to me is a little bit difficult to understand.

Mr. THOMAS. I am coming to that later on, because unfortunately the phraseology employed by that court has been utilized as the basis of an authority to control the use of our waters which can not be reconciled with the right of the citizen to divert them, there being no riparian right in the country where the diversion is made.

Mr. BRANDEGEE. Mr. President, while the Senator is on that point, will he allow me to ask him a question?

Mr. THOMAS. Certainly.

Mr. BRANDEGEE. I do not know whether or not I correctly understood the Senator, and I wish to make sure. If a natural person is the riparian proprietor upon one side of a stream and the Government is the riparian proprietor of the land upon the other side, did I correctly understand the Senator to say that the Government does not have all the rights of ownership that the natural person has?

Mr. THOMAS. Not exactly that. There is no such thing as a riparian proprietor in Colorado, or in Idaho, or in Wyoming, or in Arizona in the sense that the term is used and applied here. What I said was that the Government had no title to the water running through the public domain, provided it had been or provided it should be appropriated by some user and diverted from the Government land to his own land and applied to a beneficial use.

Mr. BRANDEGEE. Of course, Mr. President, we are all aware of the doctrine of prior appropriation that obtains in some of the Western States, particularly the arid States. But if what the Senator has just said is his answer to the question of the Senator from Idaho [Mr. BORAH], then I did not understand the question asked by the Senator from Idaho. I thought I restated to the Senator from Colorado substantially the question asked by the Senator from Idaho.

Mr. THOMAS. No; no.

Mr. BRANDEGEE. It is my mistake, then, Mr. President.

Mr. THOMAS. The situation is well expressed by the Supreme Court in the case of Boquillas Co. against Curtis, a case arising in Arizona and reported in Two hundred and thirteenth United States, page 349. It sums up the law in that case with this sentence:

> The right to use water is not confined to riparian proprietors. Such a limitation would substitute accident for a rule based on economic considerations.

The ownership of the waters of the arid States, being in the people of the State and being absolute and unquestioned except in so far as the Government may interfere for purposes of controlling or improving navigation, is not subject to control, directly or indirectly, by national authority, save as decided in the case of United States v. Rio Grande Co. (174 U. S., p. 80). There the Supreme Court held, in substance, that this ownership of water is subject to two conditions. In the first place, it can not be so used as to impair the navigability of streams. The second condition is stated in the part of the opinion to which the Senator from Idaho referred. I had not intended to give the exact language, but perhaps I had better do it, as I have it here, so that there can be no question about the correctness of my statement.

I read from a document entitled "Federal Control of Water Power," on page 80. It is a citation from the Rio Grande case:

> Although this power of changing the common-law rule as to streams within its dominion undoubtedly belongs to each State, yet two limitations must be recognized: First, that in the absence of specific authority from Congress a State can not by its legislation destroy the right of the United States, as the owner of lands bordering on a stream, to the continued flow of its water, so far, at least, as may be necessary for the beneficial uses of the Government property. Second, that it is limited by the superior power of the General Government to secure the uninterrupted navigability of all navigable streams within the limits of the United States. In other words, the jurisdiction of the General Government over interstate commerce and its natural highways vests in that Government the right to take all needed measures to preserve the navigability of the navigable watercourses of the country even against any State action.

The first exception or condition I will repeat:

> That in the absence of specific authority from Congress a State can not by its legislation destroy the right of the United States, as the owner of lands bordering on a stream, to the continued flow of its water, so far at least as may be necessary for the beneficial uses of the Government property.

If we may concede, for the sake of argument, that this could not be done "in the absence of specific authority from Congress," the reply is that the act of 1866 and the act of 1870, the recitals of the constitution of the State of Colorado, sanctioned by the approval of the President and of Congress, and the recognition of its validity by the Supreme Court of the United States, give abundantly the specific authority from Congress which here is declared to be essential to the exercise of the right to divert this water from Government lands.

But there is another limitation upon the condition as it is here formulated:

> A State can not by its legislation destroy the right of the United States * * * to the continued flow of its water, so far at least as may be necessary for the beneficial uses of the Government property.

What is "a beneficial use of the Government property"? If the Senator from Idaho files upon a homestead which is intersected by a stream of running water and obtains a patent from the Government for his filing, he gets the land; but he gets the water only if he has appropriated it under the laws of the State. And if I, prior to the patent or after the patent, and before his appropriation, file upon the water so running through that quarter section and divert it to other territory for beneficial uses, the water becomes mine, and does not pass to the Senator from Idaho by virtue of his filing or by virtue of his patent.

Mr. WORKS. Mr. President, I should like to ask the Senator from Colorado whether he means to say that the holder of the property gets his title to the water by virtue of the patent?

Mr. THOMAS. No; that is quite the contrary of what I intended to say. What passes by the patent is the land. The water is acquired by appropriation, and whoever appropriates that water owns it if he applies it to a beneficial use. Hence, my impression is that what was meant by the learned justice who wrote this opinion, and who, perhaps, was better qualified to pass upon questions like this than any of his contemporaries, was that, as far as might be necessary for the beneficial uses of the Government in some scheme of reclamation, perhaps, or its devotion to the improvement, if you please, of the land bordering upon the stream through some method of its own and within its authority, that right could not be destroyed by State legislation in the absence of specific Federal authority.

Mr. SMITH of Arizona. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Arizona?

Mr. THOMAS. Certainly.

Mr. SMITH of Arizona. Did the court probably mean that the governmental use might be in those cases in which the Government has the absolute title by dedication of land to a governmental purpose?

Mr. THOMAS. It might be.

Mr. SMITH of Arizona. May not that very language mean that if the Government had such title, as in the case of a fort, for instance, or an arsenal, you might not divert from that; but could the Government itself obtain title to that water, even for its own governmental purposes, without first taking it from the stream?

Mr. THOMAS. Except by appropriation. That has been determined in a case, the name of which I can not now recall. It is mentioned in the document which I hold in my hand. The facts in the case, as I recollect them, were that the Government made an appropriation of water in connection with one of its western military posts. Afterwards the remaining water comprising the volume of the stream was appropriated and utilized by a citizen for his own purposes. The Government afterwards sought to use all the water of the stream for its own purposes, its post having outgrown the volume of its appropriation. The courts declared that it could not do this unless it condemned the right which had been acquired through the operation of the State laws by the citizen who had made and used the appropriation.

I may say that if this first exception to the extent of the title of the people to the waters of the State should be carried beyond the suggestions which I have made, and the suggestion which was also made by the Senator from Arizona [Mr. SMITH], its operation would come in direct conflict with a number of later decisions of the same court upon the same subject, and I think would also directly contradict the general doctrine in the Kansas-Colorado case, to which I shall refer later on. Perhaps I had better do it now, because it is germane to this part of the discussion.

The decision in the case of Kansas against Colorado is one of the great opinions of the Supreme Court of the United States. To my mind it easily ranks with the most notable judicial pronouncements of that great tribunal, and as time passes, I believe that fact will be more and more recognized; perhaps I should say particularly with reference to its definition of the powers of the Government and the distinction it so clearly draws between those powers and the reserved powers of the States.

The Arkansas River has its headwaters in that part of the Rocky Mountains included within the boundaries of the State of Colorado. It runs in a southeasterly direction, crossing the western boundary line of Kansas, which is the eastern boundary line of Colorado, and continues in its course southeasterly, traversing the southerly part of the State of Kansas. That section of the Arkansas Valley within the boundaries of Colorado is one of the most productive and fruitful regions in the world. It has been populated and cultivated within the past 25 or 30 years, prior to which time it contained comparatively few settlers. It depends entirely for its prosperity and productiveness upon the application of the waters of the river to the soil, and as a consequence these waters have been appropriated several times over and made to do duty as far as is possible to the end that the area of cultivation may be as large as conditions permit.

The State of Kansas filed this bill in the Supreme Court of the United States, declaring that the appropriations in the State of Colorado and the consequent diversions of the waters of the Arkansas River resulted in great damage and injury to the people of the State of Kansas and also to the State of Kansas as a proprietor of lands bordering on the stream. It asserted the old riparian doctrine as one of the bases of its action. It also declared its right to have the waters of the stream delivered at the State line in the same volume that would flow eastward if the river and the surrounding country were still in a state of nature; in other words, that the people of the State of Colorado could not diminish the volume of that stream to the injury of the State of Kansas. This presented an issue the success of which as against the people of the State of Colorado would have resulted in the practical depopulation of four or five great agricultural counties and would have practically restored to the desert the area which had been wrested from it. As a consequence it was the most important controversy in which the State or any of its people had been involved.

The Government of the United States asked to intervene in that case upon the ground that it was the owner of a large area of land in the Arkansas Valley and its tributaries, and that it was engaged in the work of reclamation under acts of Congress, in consequence of which it asserted an interest in the waters of the stream and of the tributaries to it of such a nature and of such a character as not only to justify but to require its intervention for the protection and preservation of its own property and also as a common sovereign interested in the outcome of a very serious question at issue between two of the States of the Union and which at the same time might affect its property interests.

Testimony was taken by the respective parties to the suit for a period of nearly two years. The case was heard in the Supreme Court under suspension of the rules, whereby the time of argument was largely extended. The decision was that the State of Kansas had not proved that it had suffered any injury; that the law of riparian ownership or proprietorship had no existence in Colorado; that the Government of the United States had no such property in the running streams of the State, as it asserted, and, as a consequence, was not a party in interest. It also declared that the reclamation act of Congress was invalid because ultra vires, except in so far as it was applicable to the Territories which were under the immediate dominion of Congress.

I might, if I had the time and the Senate had the patience, read at length from this opinion. But I will ask merely the privilege of inserting in the CONGRESSIONAL RECORD two or three pages of it.

The PRESIDING OFFICER (Mr. JOHNSON of Maine in the chair). Without objection, it is so ordered.

The matter referred to is as follows:

> But it is useless to pursue the inquiry further in this direction. It is enough for the purposes of this case that each State has full jurisdiction over the lands within its borders, including the beds of streams and other waters. (Martin v. Waddell, 16 Pet., 367; Pollard v. Hagan, 3 How., 212; Goodtitle v. Kibbe, 9 How., 471; Barney v. Keokuk, 94 U. S., 324; St. Louis v. Myers, 113 U. S., 566; Packer v. Bird, 137 U. S. 661; Hardin v. Jordan, 140 U. S., 371; Kaukauna Water Power Co. v. Green Bay & Mississippi Canal Co., 142 U. S., 254; Shively v. Bowlby, 152 U. S., 1; Water Power Co. v. Water Commissioners, 168 U. S., 349; Kean v. Calumet Canal Co., 190 U. S., 452.) In Barney v. Keokuk, supra, Mr. Justice Bradley said (p. 338):
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> "And since this court, in the case of *The Genesee Chief*, 12 id., 443, has declared that the Great Lakes and other navigable waters of the country, above as well as below the flow of the tide are, in the strictest sense, entitled to the denomination of navigable waters and amenable to the admiralty jurisdiction, there seems to be no sound reasons for adhering to the old rule as to the proprietorship of the beds and shores of such waters. It belongs to the States by their inherent sovereignty, and the United States has wisely abstained from extending (if it could extend) its survey and grants beyond the limits of high water."
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> In Hardin v. Jordan, supra, the same justice, after stating that the title to the shore and lands under water is in the State, added (pp. 381, 382):
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> "Such title being in the State, the lands are subject to State regulation and control, under the condition, however, of not interfering with the regulations which may be made by Congress with regard to public navigation and commerce. * * * Sometimes large areas so reclaimed are occupied by cities and are put to other public or private uses, State control and ownership therein being supreme, subject only to the paramount authority of Congress in making regulations of commerce and in subjecting the lands to the necessities and uses of commerce. * * * This right of the States to regulate and control the shores of its tidewaters and the land under them is the same as that which is exercised by the Crown of England. In this country the same rule has been extended to our great navigable lakes, which are treated as inland seas; and also in some of the States to navigable rivers, as the Mississippi, the Missouri, the Ohio, and in Pennsylvania to all the permanent rivers of the States; but it depends on the law of each State to what waters and to what extent this prerogative of the State over the lands under water shall be exercised."
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> It may determine for itself whether the common-law rule in respect to riparian rights or that doctrine which obtains in the arid regions of the West of the appropriation of waters for the purposes of irrigation shall control. Congress can not enforce either rule upon any State. It is undoubtedly true that the early settlers brought to this country the common law of England, and that that common law throws light on the meaning and scope of the Constitution of the United States, and is also in many States expressly recognized as of controlling force in the absence of express statute. As said by Mr. Justice Gray in United States v. Wong Kim Ark (169 U. S., 649, 654):
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> "In this, as in other respects, it must be interpreted in the light of the common law, the principles and history of which were familiarly known to the framers of the Constitution. (Minor v. Happersett, 21 Wall., 162; Ex parte Wilson, 114 U. S., 417, 422; Boyd v. United States, 116 U. S., 616, 624, 625; Smith v. Alabama, 124 U. S., 465.) The language of the Constitution, as has been well said, could not be understood without reference to the common law.

Mr. THOMAS. I may be pardoned for referring to the syllabus:

> Kansas having brought in this court an original suit to restrain Colorado and certain corporations organized under its laws from diverting the water of the Arkansas River for the irrigation of lands in Colorado, thereby, as alleged, preventing the natural and customary flow of the river into Kansas and through its territory, the United States filed an intervening petition claiming a right to control the waters of the river to aid in the reclamation of arid lands. It was not claimed that the diversion of the waters tended to diminish the navigability of the river.
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> Held, that—
>
> The Government of the United States is one of enumerated powers; that it has no inherent powers of sovereignty; that the enumeration of the powers granted is to be found in the Constitution of the United States, and in that alone; that the manifest purpose of the tenth amendment to the Constitution is to put beyond dispute the proposition that all powers not granted are reserved to the people; and that if in the changes of the years further powers ought to be possessed by Congress they must be obtained by a new grant from the people. While Congress has general legislative jurisdiction over the Territories and may control the flow of waters in their streams, it has no power to control a like flow within the limits of a State except to preserve or improve the navigability of the stream; that the full control over those

waters is, subject to the exception named, vested in the State. Hence the intervening petition of the United States is dismissed, without prejudice to any action which it may see fit to take in respect to the use of the water for maintaining or improving the navigability of the river.

I think I have read perhaps enough of the syllabus to illustrate the scope of the decision as it relates to the two fundamental questions or propositions of present interest, one being that there is no control or ownership, although the word "control" is used—perhaps because it could not be very well contended that there was ownership of a character to give the United States any standing in the courts of the country—and the other being that the right of reclamation could not rest upon any expressed power delegated to the General Government in so far as the exercise of such right be made or attempted to be made applicable to the States of the Union.

It is perhaps interesting to refer, as it is emphasized in the opinion, to the argument of counsel for the Government in this case, for it is so similar to the assertions which the extreme advocates of conservation make to justify their invasion of the powers of the States for the conservation or preservation of the natural resources. The court says:

Appreciating the force of this—

That is, of the subjects which were covered by the syllabus that I have read, and I read from page 89 of the opinion—

counsel for the Government relies upon "the doctrine of sovereign and inherent power"—

That is, that it could reclaim lands and assert its domination over waters belonging to other people by virtue of a sovereign and inherent power—

Appreciating the force of this, counsel for the Government relies upon "the doctrine of sovereign and inherent power," adding, "I am aware that in advancing this doctrine I seem to challenge great decisions of the court; and I speak with deference." His argument runs substantially along this line: All legislative power must be vested in either the State or the National Government; no legislative powers belong to a State government other than those which affect solely the internal affairs of that State; consequently all powers which are national in their scope must be found vested in the Congress of the United States. But the proposition that there are legislative powers affecting the Nation, as a whole, which belong to, although not expressed in the grant of powers, is in direct conflict with the doctrine that this is a government of enumerated powers. That this is such a government clearly appears from the Constitution, independently of the amendments, for otherwise there would be an instrument granting certain specified things made operative to grant other and distinct things. This natural construction of the original body of the Constitution is made absolutely certain by the tenth amendment.

Then the court, in a series of statements which are absolutely incontrovertible, determines that the power asserted by the counsel for the Government of the United States does not and can not exist or be maintained upon any notion of sovereign and inherent authority, and then applies it to the facts in hand.

This very matter of the reclamation of arid lands illustrates this: At the time of the adoption of the Constitution within the known and conceded limits of the United States there were no large tracts of arid land, and nothing which called for any further action than that which might be taken by the legislature of the State in which any particular tract of such land was to be found, and the Constitution therefore makes no provision for a national control of the arid regions or their reclamation. But, as our national territory has been enlarged, we have within our borders extensive tracts of arid lands which ought to be reclaimed, and it may well be that no power is adequate for their reclamation other than that of the National Government. But if no such power has been granted, none can be exercised.

It does not follow from this that the National Government is entirely powerless in respect to this matter. These arid lands are largely within the Territories—

This decision was rendered before the admission of New Mexico and Arizona into the Union—

and over them, by virtue of the second paragraph of section 3 of Article IV, heretofore quoted, or by virtue of the power vested in the National Government to acquire territory by treaties. Congress has full power of legislation, subject to no restrictions other than those expressly named in the Constitution, and therefore it may legislate in respect to all arid lands within their limits. As to those lands within the limits of the States, at least of the Western States, the National Government is the most considerable owner and has power to dispose of and make all needful rules and regulations respecting its property. We do not mean that its legislation can override State laws in respect to the general subject of reclamation. While arid lands are to be found, mainly if not only in the Western and newer States, yet the powers of the National Government within the limits of those States are the same—no greater and no less than those within the limits of the original thirteen, and it would be strange if, in the absence of a definite grant of power, the National Government could enter the territory of the States along the Atlantic and legislate in respect to improving by irrigation or otherwise the lands within their borders. Nor do we understand that hitherto Congress has acted in disregard to this limitation.

In connection with the application of the principle of this decision to what I am about to discuss it may be well to refer to the eighth section of the reclamation act. That section was prepared, if I am correctly informed, by my distinguished predecessor in this body, Senator Teller, and was designed by him to meet a possible condition which soon developed in the application of the requirements and provisions of the statute to the objects which it was designed to accomplish. It reads:

That nothing in this act shall be construed as affecting or intending to affect or to in any way interfere with the laws of any State of Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this act, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof: *Provided*, That the right to the use of the water acquired under the provisions of this act shall be appurtenant to the land irrigated, and beneficial use shall be the basis, the measure, and the limit of the right.

I can conceive of no language that could be more appropriately employed to safeguard any infraction of the laws of the State or any invasion, through the operation of the statute, of the property rights in water of the individual in the arid-land States of the West.

But let us come to the application of this law which finds justification by the same process of reasoning which is employed to justify the existence of governmental authority to enact a measure like the one under consideration.

I am told that some time ago a certain proposition relating to conservation was under discussion before the House Committee on Public Lands; that the proponents of conservation there present were confronted by this decision, and that their answer to it was that the Bureau of Forestry and the Reclamation Service had gotten far beyond this decision, as indeed they have.

Mr. SMITH of Arizona. The Senator did not doubt the correctness of the statement?

Mr. THOMAS. On the contrary, I perceived its correctness, and marveled that it should have been so candidly expressed.

I may say that the policy of control of water power in our section of the country is based upon the theory that the tributaries to the Rio Grande and the Arkansas and the Missouri Rivers in Colorado are under the jurisdiction of the General Government, under its power to control navigation, because the diversion of some of the little streamlets in the Rio Grande, for example, to these beneficial purposes might so affect the flow as to interfere with navigation somewhere between the mouth of the river and its actual head of navigation, a contingency quite as liable to occur in these days when river navigation has practically disappeared as is the possibility of supporting the exercise of such a power on such a line of reasoning.

Mr. President, I hesitate to adversely criticize the reclamation policy of the Government, because it is one of the most beneficent policies, properly administered, that the national authority has ever assumed to accomplish. It means the bringing under cultivation of large areas of land which unreclaimed are of no use whatever to human kind because of the lack of water to make them productive. They possess all the elements of fertility, moisture alone excepted, and vast sums of money must be expended, if water is secured, for the purpose of making them cultivable. The Government, and the Government alone, seems to be financially able to conduct and carry out these great enterprises.

There are several schemes now in an unfinished condition in my own State and in other parts of the West. I should feel very badly to see them abandoned or interfered with, especially where they have not thus far in any manner conflicted with the saving clauses of section 8 of the act.

But it is nevertheless apparent that in continuing the exercise of this power in the States by the General Government since the Kansas-Colorado decision it has been disregarded, and the Reclamation Bureau has proceeded, nothwithstanding the decision, as it did before then, probably upon the theory that the end justifies the means. I am candid enough to confess that I would not, if I could, gratuitously interfere with them in so far as these improvements are necessary and beneficial, as practically all of them are. But the Government, in carrying out and administering the law, has gone to an extent which can find no justification in my mind, even under the most liberal construction of it that could have been made by the Supreme Court in this case in the other direction had it been sustained.

The most notable instance of this I may be pardoned for referring to. The Government is and for some years past has been engaged in constructing an enormous dam and reservoir in the southeastern portion of the State of New Mexico. It is building a structure, called the Engel Dam and Reservoir, across the Rio Grande, near the point where it becomes an international boundary between the United States and Mexico. Its purpose is to reclaim 240,000 acres of land within the boundaries, respectively, of the United States and Mexico; that is to say, there are 60,000 acres of land in Mexico, the remainder of the 240,000 acres being located in the States of Texas and New Mexico.

It is the purpose of the Government, said to be due to some treaty relation and relating to some claim of the Republic of Mexico to participation in the waters of the Rio Grande for irrigation purposes, to furnish and supply the people of that Republic with water sufficient to irrigate 60,000 acres of land.

It is, as I said, a project commendable in itself, a desirable improvement, vast in extent and in possibilities, and one which must result in great benefit to that section of the country. But it has appropriated, as an individual might attempt to appropriate, from the waters of the Rio Grande and its tributaries 2,500,000 acre-feet of water for the purpose of the enterprise.

Now, 3 acre-feet of water in that section of the country is ample for every agricultural purpose; that is to say, a body of water an acre in extent and 3 feet thick furnishes sufficient moisture, climatic conditions being duly considered, to guarantee fertility. If you multiply 240,000 by 3 the result is 720,000 acre-feet, which are ample for the purposes of that enterprise. Yet the Government has seized and holds more than three times the quantity of water needed for the enterprise and which it could not use if it would.

In making these appropriations, however, the Government of the United States has invaded the property rights of the State of Colorado and filed its appropriations upon the waters of the Rio Grande and all its tributaries within the boundaries of that State upon the theory, I presume, first, that it is necessary to the enterprise; and, second, that it has the power to obtain this water as the general sovereign from any and all States which encompass the Rio Grande and its tributaries without reference to the local welfare, and also without reference, perhaps, to appropriations made by private individuals and corporations upon the same streams and the same sources of water supply which have not actually been diverted for beneficial uses.

As a consequence, it has laid an embargo upon the use of all the waters of the Rio Grande in the State of Colorado except those which had previously been appropriated and used, to the end that a dam to be constructed, if you consider the windings and meanderings of the stream, some six or seven hundred miles away and wholly within the jurisdiction of another State may be supplied with water for irrigation purposes.

Section 8 of the reclamation act has been ignored. The property of the people of the State of Colorado, guaranteed to it by the Constitution, has been practically confiscated, and some 200,000 acres of our land which could easily be made cultivable and habitable if we could use this water ourselves must continue to remain a part of the San Luis desert.

My assertion is that this is an exercise of a power wrongfully, even if it existed, and what makes it the more unbearable is that it seems to be so unnecessary, because, Mr. President, if we were permitted to conserve these waters by building reservoirs of our own and utilizing the reservoir spaces with which nature has supplied us, we could first use and then pass this volume of water farther down the reaches of the stream without serious diminution, and the amount necessary for the Eagle Reservoir enterprise would still be quite as available as it is now, this water not being, under present conditions, susceptible of use in my State at all.

What power has the Government to do this? What clause of the Constitution of the United States directly or by necessary or other implication confers upon the Reclamation Bureau the authority to invade the sovereign State of Colorado and seize upon waters belonging to it for use in a project away down in another part of the Union and entirely within the boundaries of two other States and designed, in part, for the citizens of a foreign republic? What power has the Government under any provision of the Constitution to take the waters of the State of Colorado in order that a supply may be utilized for the reclamation of 60,000 acres of land in a foreign country? What treaty stipulation between the two countries can be found to justify this course? I concede that great benefit to the good people of New Mexico and of Texas must come from the project, but I deny the right of the Government by any system of procedure that is known or recognized to be right or lawful to carry out and to effectuate such a condition at the expense and to the injury of the people of another Commonwealth without compensation or any thought of it.

We have appealed in vain to the Interior Department for relief. Under the statutes of the United States when the waters of a stream are appropriated for reservoir and irrigation or power purposes requiring the use of the public lands, a filing must be made in the office of the Secretary of the Interior, and that filing must be approved. This requirement is mandatory upon that department, as we contend, if the law itself is complied with and its purposes are to be subserved. Yet since these appropriations of the Government, since this improvement has begun, the embargo is so far extended that it is impossible to obtain the approval of any filing that may be made upon waters or on reservoir sites within the basin of the Rio Grande River inside the boundary lines of the State of Colorado, so that apart from previous appropriations there is some water everywhere, but not a drop for State development.

It was demonstrated in the Kansas-Colorado case that in the early days before the settlement of that section of country the Arkansas River disappeared in the sands some 150 miles east of the western boundary of Kansas and afterwards reappeared at the surface some distance below. It was known locally as a broken river. A remarkable phase of the testimony in that case demonstrated that as a result of irrigation, the taking of the waters out of the stream and utilizing them upon the sides of the valley, created a sort of subterranean reservoir of supply for the river, in consequence of which the waters of the stream were actually increased instead of diminished. The point where the waters of the stream sank out of sight into the sands had therefore traveled eastward, reversing the general practice of humankind to go West.

But with all these physical facts in our favor, with the law of the land for our protection, the people of the San Luis Valley, to use a western expression, are "up against it." They are practically without relief unless and until the attention of the country is concentrated upon these conditions and a halt be placed upon the march of what, in my judgment, in that particular case is the reverse of conservation.

Now, I contend that the logical result of these conditions is that if it should so happen that the appropriations of water made by the General Government for this purpose should, after the improvement is completed, for any reason be found insufficient, the reclamation bureau may confiscate the waters of the State theretofore appropriated by the citizen by a reappropriation thereof and add them to the appropriations already made under the guise of their necessity for the success of the Government enterprise. Why not? Such action differs in no material respect from the appropriations hitherto made, and both may be justified, if either can be, under a general power to do whatever the requirements of the Government project may demand, albeit the Supreme Court has otherwise declared.

Mr. FLETCHER. May I ask the Senator from Colorado a question?

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Florida?

Mr. THOMAS. Certainly.

Mr. FLETCHER. I wish to inquire whether or not the river is navigable in Colorado where these waters are attempted to be appropriated by the Government?

Mr. THOMAS. I made the statement some time ago, when perhaps the Senator was out of the Chamber, that there was no such thing as a navigable stream anywhere within the limits of my State.

Mr. FLETCHER. Does the question of riparian ownership enter into consideration?

Mr. THOMAS. It never has prevailed in that section; it is excluded by the laws of man and of nature.

Mr. FLETCHER. The Government has not reserved the shores of the river?

Mr. THOMAS. On the contrary, the Government ownership in the water, if it ever had any, has passed to the people of the State by the practices and common law of the State and by the express provision of the Constitution.

Mr. WILLIAMS. I should like to ask the Senator from Colorado a question.

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Mississippi?

Mr. THOMAS. Certainly.

Mr. WILLIAMS. The Senator mentioned where a bureau of the Federal Government has recalled a decision of the Supreme Court. Is there no way of getting before the court the question as to the right of the Federal Government to stop the further appropriation of water from the Rio Grande up in Colorado? If, for example, somebody went to work and erected a dam, the Government would have to stop it in some way, and that would precipitate a lawsuit of some manner, and if the Government did not contend that what it was proposing to do was because of the desire to improve or to preserve the navigability of the river, the question could be brought up fairly in some way, it seems to me.

Mr. THOMAS. I will say to the Senator from Mississippi that is a subject to which a number of leading lawyers in my State have been giving close and careful attention for some time.

If they have reached a conclusion I have not been informed of it. I know that the present session of the general assembly has appropriated or proposes to appropriate a fund, among other things, for the purpose of testing that question to the full. Of course, if we can not obtain relief from the courts we must obtain it through national action or go without it.

Mr. WILLIAMS. Of course you can not sue the Government of the United States.

Mr. THOMAS. Of course we can not sue the Government.

Mr. WILLIAMS. But you can make the Government of the United States sue you, or take some process against you, by just violating these orders of the bureau.

Mr. THOMAS. The Government, of course, is not the subject of a direct action. The difficulty, I think, that has presented itself to the minds of the gentlemen who are investigating the question lies in the probability that the act of the Secretary of the Interior or his subordinates in refusing to accept filings for these appropriations and reservoir sites is so far discretionary as to be beyond judicial control, and that is one of the essential conditions for immediate action. They are also considering the serious question, however—and there are some authorities, and respectable ones, in support of it—as to whether the State of Colorado or its citizens may not condemn, notwithstanding the fact that they are located upon the public domain, reservoir sites and rights of way for ditches.

Mr. WILLIAMS. But back of that is the point that if these streams are nonnavigable the United States Government as a Government has nothing to do with them, and therefore a law which would require a permit to be gotten in order to put a dam upon a nonnavigable stream, it seems to me, would be itself invalid.

Mr. THOMAS. The Senator's premises are correct, but his conclusion is not in practice. The Government does assert its right to have something to do with them in many ways. For example, a statement of Mr. Justice Brewer, to which I called attention a few moments ago, has been used as the basis of treating all those streams, because they are tributaries to navigable streams, as largely within the control and under the domination of Federal power.

Mr. WILLIAMS. I understand if the Government were to come in and say we have issued these orders or we have refused these permits, which would render the Rio Grande lower down nonnavigable or might decrease its navigability, that would be all right; but if you could meet that by showing that it would not and that that was not the real object or the effect, which is the main thing, it seems to me that the decision, so far as the Senator has read it, would not apply.

Mr. THOMAS. I think so; and yet, in my judgment, the Government is quite as logical in saying that it can control these streams through the exercise of its power over navigation as in saying to the Connecticut River Co., "We will give you a franchise on the Connecticut River and the control over property in its waters that do not belong to us." The one is the outcome of the other, or rather it finds some support in the other, which, as I have previously stated, requires me to resist the passage of that measure to the extent of my ability.

There is another manner in which the Federal authorities invade this property right of the States in their waters and the right of their citizens to appropriate the same for beneficial uses, and that is by the withdrawal of power sites from entry and patent. The Government has made what I may term, perhaps with perfect justification, a wholesale withdrawal of everything that even looks like a power site bordering upon or near streams running through the public domain. Its purpose is—and from one standpoint it may be commendable; I have no doubt it is sincere and supposed to be necessary—to require those desiring to generate power to lease these sites for a term of years upon terms to be fixed by some governmental authority, and thereby derive a governmental revenue to be utilized as in its wisdom may be determined. This policy is inspired, as I understand it, not from the desire of gain, but to restrain the forces of monopolistic control, a purpose which has my entire approval.

The use of water varies. It is manifold. In our section of the Union it is absolutely essential for domestic and for irrigation purposes. These two uses are therefore placed ahead of and made superior to all others. Water may also be appropriated for mining and for manufacturing purposes, which include appropriations for power. These are not mere abstractions; they are rights created by law, which belong to all those who desire to utilize them, the primal and absolute condition to their permanency being beneficial use. One can not appropriate water and then hold it, so that others desiring to apply it beneficially may be prevented from doing so. There is only one power in the world that I know of that can do that, or which actually does do it, and that is the Government of the United States; in other words, the man who makes an appropriation of water must follow it by diversion and by application. If the Government holds a power site from entry and fixes terms for its lease, which terms must be complied with before the power that is latent in the body of the stream can be utilized and made effective, and the terms are not such as to address themselves to the business judgment or consent of the other contracting party, I contend that it is as much a deprivation of a property right existent and potential in the people as would be the actual seizure of visible property. It is conversion to a so-called public use followed by withdrawal without making due compensation. If we are entitled, under our Constitution, to make these appropriations, if the water belongs to the people of the State, and that fact is recognized, then the right to use it, when dependent upon the use of the land adjoining, is utterly destroyed just as soon as the right to use the land is withheld.

It may be said that the terms of the Government are easy to comply with, and I may concede it, but the Government reserves the right to change the condition imposed for its use whenever it sees fit; in other words, it exercises, or proposes to exercise, a power contingently, remittently at any time subject to the discretion, if you please, the prejudice, if you please, or both it may be, of some individual clothed with authority either by act of Congress or by an assertion of the right through so-called departmental regulations. The result is that the power sites of the West are practically nonusable. As a consequence the property which is potential in the stream and which may be made the subject of appropriation, as was stated by the Senator from Ohio the other day, is running to waste.

For my part, as I have said, I have no objection to the withdrawal in some respects, because my own opinion is that it is the State which should utilize and own these power sites, appropriate the power in the water, and furnish electric current as a public utility to the needs of the Commonwealth and of its people, but that can not be done by it or by anyone except under these terms and regulations, which may be as variable in time as the changes that occur in a revolving kaleidoscope. As a consequence it does not and can not attract; it necessarily must repel all business caution and foresight. Instead of conserving, Mr. President, it destroys or atrophies the resources of the Commonwealth.

Conservation certainly should not, as applied, result in confiscation. But some of the phases of its operation, as applied to the activities of the West, tends to that result, albeit its energizing principle is the same as that urged in the discussion of the Senator from Ohio—the prevention of monopoly.

I assert deliberately, Mr. President, that the methods to which I have called attention, instead of preventing, tend to promote and perpetuate monopolistic conditions in the West. Many of those who favor the continued policy of the Government in that section are precisely those who to some extent have acquired, or hope to acquire, a greater or less monopolistic control of the necessities of the day. The concern which has an enormous power plant is precisely the concern which wants to see all the power sites the use of which might create competition withdrawn from public use; the man who holds enormous stretches of splendid timber land is the loudest of all advocates of conservation as it is actually applied, not because he may believe in conservation, but because it confirms him in an advantage which he has, owing to the existing conditions when the law went into effect. I have heard of some of the largest live-stock dealers in the country who believe in the leasing system, if you please, because they are in such a position financially as to give them practically a monopoly of the leasing privilege when it shall have been extended. I know of no section of the West where monopoly has been prevented or diminished as a result of the operation in practice of the system of conservation. Believing in it as firmly as I do, Mr. President, I want to see it made operative in a proper, practical, effective, and satisfactory manner.

I spoke of the extension of timber reserves yesterday as sometimes made with the design of including an area of country where a tree never grew, and never will grow, and never can grow, and all those extensions in the interest of those owning barren stretches, whereby they were enabled to exchange them for some of the best timber land of the country. I do not charge the Forestry Bureau or anybody connected with it with being responsible for those conditions or with approving them; on the contrary, I believe that they are as sincere and as well deserving, from their standpoint, a class of men and women as exist anywhere in the country. And it is only fair to say that these extensions, for the most part, preceded the organization of the bureau. The difficulty lies in the fact that enthusiasm is con-

founded with practical conditions. The consequent result is a generally widespread and constantly increasing resentment against and the unpopularity of the system itself.

The Use-book, so called, of the Forestry Bureau is a book nearly as thick as the book which I hold in my hand [exhibiting]. I think it contains rules for the regulation and operation of the department covering almost every subject under the sun. Those who come in contact with these rules are those who entertain the most irritation and resentment against the policy.

I think it is a fact in human experience which can not be denied, Mr. President, that where a given policy comes in direct contact with a part of the people who unite in repudiating that policy, resent its existence, and deny its beneficial features, there is something radically wrong either with the policy itself or with the method of its operation, or with both. I hope in this instance it is the method of operation which makes it unpopular; but certain it is that the opinions of those who experience, through immediate contact, the consequences of the operation of any given policy, and the universal state of mind which is produced in consequence of it, ought to be a pretty good index of its success or the opposite. It is also the best test of the wisdom of its methods of procedure.

In the old days of carpetbagism and reconstruction the man who came in daily contact with its operation was the best judge of its character; I think that his opinion, as the result of his experiences, was worth more than that of all other men combined; and it was the collective resentment of the great people of that section of the country toward the reconstruction régime which finally aroused the national conscience, or at least so allayed its active sympathy with the system as to enable the South to rid itself of that horrible incubus. Far be it from me, Mr. President, to contrast conservation with those awful conditions, for they are as wide asunder as the poles. I merely use the illustration as applicable to the general proposition, that it is the experience of those coming into contact with and directly affected by any given policy that should ultimately determine its nature and its character, and which, if favorable, calls for its continuance, and if otherwise for its correction, either in substance or in practice. There must be, therefore, some radical defect either in the policy—and I do not think it is so much in that—or in its application—and I think there is the difficulty—which has caused the conviction everywhere throughout the public-land States that this is a policy directed against them; an unjust policy, which retards their development and interferes with their prosperity and continued growth.

I sometimes wonder how the people of Pennsylvania or of New York or of Illinois would feel if one-third of the area contained within their boundaries was segregated from occupancy, was practically controlled by a central authority substantially outside of their territory, and in the operation of which policy those intrusted with its administration came in daily contact with the people of the State, producing friction, irritation, resentment, hostility, and suspicion.

I think the people of these States by imagining such a condition can well understand, if they do not approve, that dislike, to use no harsher term, of a system which practically segregates one-third of the territory of the State from settlement and largely removes it from the operation of the local laws.

Local self-government doubtless had its origin, among other causes, in the necessity of determining from the experience of the people the benefit or injury flowing from the policies operating directly upon them, coming in daily contact with them, and touching them in their various walks of life. The Government of the United States in its so-called forest policy has segregated and withdrawn millions upon millions of acres of land, stretching from the borders of Mexico on the south to the Dominion of Canada on the north. A citizen of the United States can traverse his country through sovereign States of the Union an unbroken path, practically without any obstruction, upon reserved Government domain within the physical boundaries, but without the civil jurisdiction of the State, all of which has been done in the name and in the interest of conservation.

Of course, it is asserted that a man may go upon this territory and locate an agricultural claim, and that is true; or discover and locate a mine, and that is true; but the truth lies in the fact that such is the law, while the difficulty is that these express privileges of the statute are virtually neutralized by departmental regulation. It is not the judgment of the homesteader as to the value for agricultural purposes of his 160 acres he would file upon that governs; it is the judgment of somebody connected with the Bureau of Forestry, and whose word upon the subject is almost final.

It is not the prospector, Mr. President, who discovers a mine and locates it, who may determine whether it contains gold or silver sufficient to justify development, but an employee of the Forestry Bureau who visits it, and, after passing judgment upon it, permits or prevents the location. One can well understand what his own feelings as an American citizen would be if, with these express provisions of the law in his behalf, when he attempted to assert them, some employee of the Government should say, "By my leave, sir, alone can you make your location or perfect your entry. I will determine, and not yourself, whether the conditions exist which, under the law, give you the right to make this location."

It is the existence of these conditions which have largely modified my original views, Mr. President, upon the subject of conservation, and which I think require a halt in the direction of nitraconservation, to the end that the people of the West may continue to develop their resources and add wealth and population to the common country, and extend the area of their taxable wealth over all the territory comprised within their respective boundaries.

I have here an example of how conservation under present conditions sometimes operates. I refer to a clipping from the Saturday Evening Post, a paper published, as we all know, in the far East. It is from the issue of the 25th of January, 1913, and is so apt an illustration of conservation in practice, as contradistinguished from conservation in theory, that I shall read it into the RECORD:

SELLING GOVERNMENT TIMBER.

The Government's windmill battle against monopoly is admirably illustrated by its timber policy. Its own reports show a monopolistic situation with regard to standing timber.

An important part of the total supply, aside from that owned by the Government, is in few hands. A rise of more than 60 per cent in the price of lumber since 1897 indicates that owners of the commodity have had a leverage on the market.

Now the Government itself owns one-fifth of all the standing timber in the country, many billion feet of which are ripe for the ax and even deteriorating from overripeness. In offering this ripe timber for sale the Government "makes a close estimate of the cost of manufacturing it into boards and of the market price of the product." It then fixed a minimum selling price, based on the two foregoing factors, which will "give a fair operating profit to the purchaser on his investment, but no more."

In other words, the Government acts upon the theory that it will charge for its timber to the consumer practically all that the traffic will bear.

The words quoted are from the report of the Secretary of Agriculture.

Obviously, under this policy the Government's timber can never be sold on the market any cheaper than the monopolized timber in private hands is sold, because the Government's price is based on the market price; and the market price, of course, is fixed—or largely controlled—by private owners of timber.

That is to say, the monopolists, which the conservation policy is designed to destroy, actually fix the price at which the Government commodity is offered to the consumers of the country. It would seem to me that in practice, therefore, the Government has become a part of, instead of an opponent of, the existing monopoly in the timber lands of the great West.

Mr. SMITH of Arizona. Mr. President, if the Senator will permit me, that might help the Treasury a little, but what effect does it have on the consumers of that commodity? It takes from them an extra price and puts the money into the Treasury of the United States.

Mr. THOMAS. It does not help either, as I will proceed to show from this article:

If private owners boosted prices 50 per cent, the price of Government timber would automatically advance 50 per cent; and, though the public owns one-fifth—

The public, mind you, not the bureau—

of all the standing timber of the country, it can not get lumber any cheaper than private owners offer it.

Another effect of this policy is that the Government's ripe timber is not cut, but stands and decays.

That is why I say that neither party benefits by it.

The "fair profit on his investment, but no more," which the Government offers to the timber operator, does not attract him, as is shown by the fact that it is selling only one-tenth of the timber it should sell to keep the forests in a healthy condition.

Having adopted a policy that in fact amply protects monopoly at every point, the Government then goes through a great rigmarole of restrictions and conditions designed to prevent its timber from falling into the hands of monopolists.

The whole thing beautifully illustrates our antimonopoly policy, which consists in putting a lot of words on paper and ignoring essential facts.

I heard a statement the other day while riding from my hotel to the Capitol that falls in line with the general current of this discussion. The statement was made by one gentleman to another to the effect that the Government had hitherto followed a mistaken policy in opening the mineral domain to prospecting, discovery, location, and patent; that, if it had pursued a policy of conservation from the outset, the millions of gold, of silver, of lead, and other metals wrested from the mountains by private enterprise would have constituted a revenue almost suffi-

cient to have defrayed the expenses of the Government. Mr. President, success always attracts us; we forget misfortune as rapidly as we can, even when it is brought to our immediate notice. It is the successful mine which fixes public attention and gives to the unthinking the notion that all mining locations are valuable mining properties.

If the Government had pursued any other policy than the one which has been in existence since 1866, the result would have been few, if any, discoveries of the tremendous treasure houses of metal that have since been uncovered and utilized. That policy gave and should continue to give an incentive to the prospector, prompting him to make the search for these hidden deposits and to make locations and developments accordingly. As a consequence, it enabled the Government to sell millions upon millions of acres of domain worthless for any other purpose, and shown by development to be worthless even for that one, which it could not otherwise have disposed of; for I do not think I exaggerate, Mr. President, when I say that where one mining location becomes profitable four or five thousand remain utterly barren and worthless, bringing misfortune and disappointment instead of financial success to their owners and locators. Take, for instance, the Cripple Creek mining district. It embraces about 17,000 patented mining claims, upon which millions of dollars have been expended in the search, and the vain search, for gold. Out of 17,000 perhaps 250 have been profitable. In that small percentage were found all that constitutes that great mining district. When you consider the tremendous sums of money expended in the hope of finding gold and compare them with the yield of the few locations which have proved profitable, the balance is upon the debit side of the ledger, and the Government, not the citizen, is ahead in the process. The policy in this respect pursued in the past has been conservation, in my judgment, in the best and truest sense. It is a policy which has been practically destroyed by the regulations of the Forestry Bureau, for these have resulted, among other things, in the virtual disappearance of the prospector from the Rocky Mountain region.

This policy has practically extinguished one of the hardiest, most resolute, and daring class of citizens who ever contributed to the development and to the settlement of a mighty Nation. I think the present depression in mining circles in the Rocky Mountains is largely, if not entirely, due to the practical interdict that has been laid by a mistaken process of conservation upon the energy, the ability, the courage, and the daring of that splendid class of men who ask nothing of the country except the right to explore the public domain at their own expense and to take their chances on the result.

While upon this subject let me call attention to a kindred matter. I do it for the purpose of illustrating and enforcing the causes—and they are good ones—which lie at the basis of the opposition of the people whom I in part represent here to the general policy of the Government in this direction.

The cities of Manitou and Colorado Springs, together with the suburbs in their immediate vicinity, comprise something like fifty or sixty thousand people. They are great health resorts. In the summer season not less than 100,000 people are gathered in that section of the State. Their water supply comes from the melting snows of Pikes Peak and adjacent mountains. They are entirely dependent upon it for their supply and must guard it against all impurities affecting health, for the reputation of the two places as health resorts is one of their chief assets and one of the sources of their growth and prosperity.

Experience has proven the necessity, for sanitary reasons, to obtain jurisdiction in some method over a very considerable area of country embracing this source of water supply in order that sanitary conditions may be enforced and the purity of the water supply at all times maintained. That forms the Pikes Peak Forest Reserve, and is under the jurisdiction of that department of the Government.

I charge nothing against the sincerity and good faith of these gentlemen who are in charge and who are good citizens, who administer the law as they are required to, and who do their best to make that law effective. Yet a country which attracts consumptives necessarily must be very careful about sanitary conditions, particularly in view of the recent discoveries of medical science which have convinced us that the disease is contagious, to the end that no bad results may follow to the community. Yet a great many of these unfortunate people in the summer time go and plant their tents upon the mountain sides without hindrance from the authorities; and while these transient residences may be nothing but a menace, nevertheless they may become more than a menace to the well-being of the community unless controlled by regulations to be made and enforced by the local authorities for the common good.

A bill was presented in the House of Representatives some time ago, there passed, and afterwards reported here and passed, and is now in conference committee, giving the governments of the towns of Manitou and Colorado Springs joint jurisdiction with the Government authorities over a very considerable area of territory for the purpose, and only for the purpose, of conserving their water supply. They should have the title to this territory and exclusive control over it, but they are merely given concurrent jurisdiction for that purpose. The bill was threshed out in committees and every possible objection, substantial and otherwise, was presented to it. Finally it was enacted in such form as to meet, generally speaking, I will not say the wishes, but the consent, the passive consent, both of the governmental authorities and of the representatives of the cities mentioned. As I stated, it is now in conference as a result of the failure of the House to agree to one or two amendments that were here made to the bill.

Immediately after the conference committee was appointed this letter, written upon a letterhead of the American Forestry Association—a vice president of which is the honorable Secretary of the Interior and another the Hon. Gifford Pinchot—to the conference committee, as I suppose, was called to my attention:

AMERICAN FORESTRY ASSOCIATION,
Washington, D. C., February 5, 1913.

MY DEAR SIR: May I ask your consideration of the following facts regarding a bill which threatens the gradual disintegration of the national forests and the removal of jurisdiction over the national forests by the Federal Government?

The bill (H. R. 28293) "for the protection of the water supply of the city of Colorado Springs and the town of Manitou," as amended in the Senate, where it passed on February 3, 1913, will, if enacted, practically prevent the Secretary of Agriculture from administering that part of the Pike National Forest.

It embraces an area of many thousand acres of forest land and many improvements erected thereon by the Federal Government. In the last three years the experiment station alone has cost more than $30,000.

As shown by the reports on this bill, the arrangement to have the Secretary of Agriculture administer the areas in cooperation with the municipalities was entirely satisfactory to them.

The amendments in section 3 should be defeated.

Your consideration of the matter will be appreciated by the American Forestry Association.

Sincerely, yours,

P. S. RIDSDALE,
Executive Secretary.

No movement, however commendable, no measure, however necessary, even though it may affect the lives and health of 100,000 people, is permitted to stand for a moment against the determination of this bureau to absolutely control and administer in all their aspects the forest reserves of the great West. And here, upon the threshold of the enactment of a measure which has been pressed upon the attention of the National Congress for the past three years, comes this final protest, based upon the unsupported assertion that its enactment will threaten, if it passes, the gradual disintegration of the national forests.

I want to say, Mr. President, that even if it had that effect—which I absolutely deny—the bill should appeal to the conscience and the justice of every Member of Congress in both Houses, because it is designed to give to two great communities the means of preserving their own health and their own welfare by enabling them to preserve their water supply from contamination. It is just such interferences as these, just such protests as these, that cause many people of the West to hate and to loathe the very name of conservation.

The people who inhabit these two cities are among the best, most intelligent, highly educated, and wealthy of the State of Colorado. They have the best of reasons for insisting upon the enactment of this measure. One can readily understand, by bringing the lesson home to himself, what his own opinion would be of a system containing so much of good and so much of benefit, when its administration is accompanied by such petty interferences and tyrannies as result from or attend its practical operation in the various sections of the West.

Now, let me call attention to another illustration of the manner in which the conservation policy is administered.

Mr. SMITH of Arizona. If I may interrupt the Senator, by whom is the letter signed?

Mr. THOMAS. It is signed by P. S. Ridsdale, executive secretary.

I have spoken of the acts of 1866 and 1870, I think, recognizing and confirming rights of way for the diversion of water over the public domain. The Supreme Court has frequently had occasion to treat these rights and to confirm them expressly as vested rights, as property rights. The Roaring Fork Electric Water & Power Co.—I think that is the name of it—is a corporation organized many years ago for the purpose of supplying the city of Aspen, in Pitkin County, Colo., with water and with power, and supplying the mines in that section with power as

well. Its plant was completed in 1891, and consists of an appropriation of water and a flume or canal leading from the point of diversion to the reservoir of the company, about 2 miles of which now lie within the boundaries of the Mount Sopris Forest Reserve—a reserve created years after the right had been acquired. This company, like many others, raised the money necessary for the completion of the enterprise by an issue of bonds, secured upon the plant, including the reservoir and the right of way.

I think no one will deny that that company has an absolute, positive, vested, property interest in that right of way by availing itself of a privilege given by the laws of the United States, an easement the existence of which is so clearly recognized and safeguarded that every patent issued by the Government of the United States excepts it from the operation of the grant.

But 12 months ago the Forestry Bureau demanded of this company that it should take out a permit or lease from the Government for the use of its own vested right of way across an insignificant corner of the Mount Sopris Reserve, and in effect notified the company that failing to do so it might be ejected. Conferences developed the fact that the amount demanded was so nominal as to be almost ridiculous, always accompanied, however, by the condition that at any time the Government saw fit to do so—and by the Government I mean the bureau—these terms and conditions could be changed or the grant or privilege terminated absolutely.

Of course the company was advised that it could not afford to recognize this demand, because it necessarily involved an admission that the title to this vested interest, in so far as it was included within the boundaries of the forest reserve, belonged to the Government of the United States and not to the corporation. The company offered to submit the matter to the courts upon an agreed statement of facts, but the bureau has so far declined to accept the proposition. A few days before I left the city of Denver for the city of Washington I received in my mail a copy of a letter from the head of the department in Denver to the manager of the company notifying him, in effect, that unless this permit was taken out, and taken out at once, the Government would unloose its engines of legal war and invoke the court to enforce the demand of the Forest Bureau, which every man of ordinary intelligence knows to be as unjust as it is unlawful.

I might repeat instances ad nauseum of similar character. I appeal to Senators from other States whether, if these practices prevailed in their own Commonwealths, they would not, as we do, insist that some change should be made at least in the method of administration of this policy? I justify my opposition to this measure from the State of Connecticut, because it is a part and parcel of this same system of administration, claiming the right to exercise the same authority, and justified by the same appeal, to wit, that all of these things are necessary for the prevention of monopolistic conditions.

I shall not detain the Senate, Mr. President, by any further instances illustrating the unfortunate methods which are sometimes resorted to in the supposed administration of this great public trust.

Let me say, in conclusion, that if this policy had been adopted and adhered to from the beginning of the Government, there would have been neither population nor settlement to speak of west of the Allegheny Mountains. On the contrary, that region would have remained practically undeveloped and uninhabited, or developed and inhabited by an alien people. The tendency of the American people has been westward, obeying some great instinct or impulse of human nature driving them onward. The Government in other days, wisely recognizing that impulse, and encouraging instead of opposing it, opened wide the doors of opportunity, and said not only to Americans, but to all men, "Go out and occupy and possess the domain of the country and improve it, to the end that its latent wealth may be quickened into being and contribute to the greatness and the glory of the Republic."

Responding to that privilege and that impulse, the march of empire has always been westward, to the Mississippi River and across it, through the great States of Iowa and Missouri. It has traversed the plains of the Great American Desert, converting it into one of the most prosperous and happy sections of the country, covered with a teeming population of men and women and children, anchored to the soil, having a stake in the progress and welfare of the Nation—citizens constituting that great middle class which the President of the Republic of Mexico once told me was absolutely essential to the success of republican institutions everywhere, and without which popular government is impossible.

In the section known as the public-land area of the country there is a great population. It has overcome obstacles compared with which those of the Mississippi Valley were almost as nothing. It has traversed areas that were practically without water or the means of livelihood, and has settled up the valleys and slopes of that great mountain region. The products of those States are enormous, but their growth is arrested by a governmental policy which visits the sins of monopoly upon its own citizens and endeavors to correct the evils and abuses springing out of the laws of Congress and their methods of administration by denying opportunities to the hundreds of thousands of people who are anxious to improve and devote them to the common welfare. When a people like ours are face to face with these bureaucratic conditions you can well understand that their currents of resentment may sometimes overflow the confines of prudence and of moderation.

Let me say, Mr. President, that the greatest element of conservation in this country or anywhere else is the conservation of men and of women and of children. They constitute the great asset of the Nation. We must conserve them, to do which we must utilize the resources of the Nation now and wisely and honestly and for the common benefit.

No country in the world was ever possessed of the resources and the natural wealth that have blessed and have been so conspicuous in America. Yet all those resources were here before, just as they have been since, until the white man came. The Indian was your true conservationist. He was here long before we were here. No laws, conservative or otherwise, restrained him. He was a child of nature, and lived from hand to mouth, as barbarians always do. Natural resources made and could make no appeal to his untutored mind. It was but natural, therefore, that he should have retired before the advancing hosts of the white man, whose energy and capacity had been conserved through centuries of struggle and therefore of growth and development. When the white man came in contact with these forces of nature, the union of the two made possible the growth and the population and the development of this mighty Nation. And now, in this twentieth century of man's advancement, out in the solitudes of these great reserves we find the same conditions that confronted the Indian at the time this country was first populated, with the difference that the white man is there desiring to develop them, while the conserving hand of bureaucracy lays its interdict upon him.

Conservation that does not conserve both the man and the thing is not that conservation which, in my judgment, should be the policy of this great Nation.

If, therefore, we of the West permit, without protest, aggressions of this sort, beginning in the waters of the Connecticut River, we can not expect that the Government will halt in its continuation of that policy with us, notwithstanding the fact that the conditions of nature and of environment are so radically and essentially different.

Hence I oppose this measure, because of the so-called principle which is its underlying foundation and which seems to me in its consequences to be injurious to the people of the entire country.

Mr. BRANDEGEE. Mr. President, if I may have the attention of the Senator from Arizona [Mr. SMITH], I desire to ask him a question. I understood that the Senator from Arizona was going to submit some remarks upon the pending bill at some time, and I rose to ask him if it would be convenient for him to proceed this evening.

Mr. SMITH of Arizona. No; I can not proceed this evening, both on account of my throat and my head. I should prefer not to do so. I do not know that I will take the time of the Senate at all, but certainly I do not feel inclined to proceed this evening.

Mr. BRANDEGEE. Mr. President, I desire to submit a parliamentary inquiry before making a motion. We are proceeding upon the legislative day of Tuesday. I wish to inquire whether that fact involves any question about our right to take a recess until 12 o'clock to-morrow, which is the ordinary time for convening on a calendar day. I have been informed, I do not know whether correctly or not, that when the Senate is upon a legislative day it is the custom to recess to an hour just prior to the time of convening on a regular calendar day. If that has been the custom, it was broken yesterday when we took a recess until 12.40 p. m. to-day.

The PRESIDENT pro tempore. In the opinion of the Chair, it is not necessary, although it is customary, simply to avoid all question. The Chair does not think it can be a matter of doubt as to the right of the Senate to take a recess to any hour it may see fit and prolong the legislative day.

Mr. BRANDEGEE. It would give rise to no complication if we took a recess until 12 o'clock to-morrow?

The PRESIDENT pro tempore. The Chair thinks not, though the Senator may name some other hour if he prefers it.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 28283. An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914; and

H. R. 28699. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1914, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

S. 8605. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

H. R. 24121. An act to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims; and

H. R. 28094. An act to amend section 96, chapter 5, of the act of Congress of March 3, 1911, entitled "The Judicial Code."

HEALTH STATISTICS (S. DOC. NO. 1072).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of the 6th ultimo, certain information relative to the expense to the Government for the year 1912 of its departments, branches, or bureaus of the Health and Medical Service, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

ARMY APPROPRIATION BILL.

Mr. DU PONT. From the Committee on Military Affairs I report favorably with amendments the bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914, and I submit a report (No. 1207) thereon. I give notice that, if permitted to do so, I will call up the bill for consideration on Friday immediately after the routine morning business.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. LODGE submitted an amendment proposing to amend section 6 of the act approved July 1, 1902, relative to household and other belongings not held for sale and owned by any person in the public service temporarily residing in the District of Columbia who is a citizen of any State or Territory, and who is taxed on such personal property in such State or Territory, intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. BRISTOW submitted an amendment proposing to appropriate $9,000 for the completion of an addition to the post-office and courthouse building at Salina, Kans., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. SMITH of Maryland submitted an amendment authorizing the Postmaster General to admit to the mails and forward to the delivery office return-reply envelopes and post cards without stamps affixed, etc., intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

OMNIBUS PUBLIC BUILDINGS BILL.

Mr. CRANE submitted an amendment proposing to appropriate $5,000 to enable the Secretary of the Treasury to procure and submit to Congress plans and estimates of cost of a pneumatic, electric, or other underground tube system of connection for the transmission of letters and messages, documents, etc., between the Capitol, office buildings of the Senate and House of Representatives, the executive departments, and other Government establishments in the city of Washington, etc., intended to be proposed by him to the omnibus public buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

HOUSE BILLS REFERRED.

H. R. 28283. An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914, was read twice by its title and referred to the Committee on Agriculture and Forestry.

H. R. 28699. An act making appropriation for the support of the Military Academy for the fiscal year ending June 30, 1914, and for other purposes, was read twice by its title and referred to the Committee on Military Affairs.

Mr. BRANDEGEE. I move that the Senate take a recess until 12 o'clock noon to-morrow.

The motion was agreed to; and (at 5 o'clock p. m., Wednesday, February 12) the Senate took a recess until Thursday, February 13, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February 12, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

God of the ages, our fathers' God and our God, who hath never forsaken Thy children, continue to bless, guide, and protect us. We thank Thee that the name of Abraham Lincoln, the world's great commoner, will not only be hallowed to-day by the people of his country, but by all the liberty-loving people round the world. We can not exalt him, but we may exalt ourselves by keeping his memory green and by striving earnestly to follow his illustrious example. We thank Thee for the special order of the day, which illustrates in a preeminent degree the integrity of the American people in selecting a President and Vice President. Let Thy blessing, we beseech Thee, follow the outgoing President, that he may continue to be a faithful servant wherever he is called to serve. And we most fervently pray that the incoming President may be attended by Thy grace, mercy, justice, and truth; that the laws of the land may be faithfully executed and the affairs of state wisely administered; that the ties of peace between us and other peoples may be strengthened and peace and prosperity reign throughout our borders, and everlasting praise be Thine. In the spirit of Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday, and the unfinished business is the bill H. R. 27876.

LINCOLN'S BIRTHDAY.

Mr. RUSSELL. Mr. Speaker, this is the birthday of Abraham Lincoln, and I ask unanimous consent to have read at the desk his memorable speech made 50 years ago at Gettysburg.

The SPEAKER. The gentleman from Missouri [Mr. RUSSELL] asks unanimous consent to have read the Gettysburg speech of Abraham Lincoln. Is there objection?

Mr. HEFLIN. I reserve the right to object, for the purpose of making an inquiry. If the time is consumed between now and 1 o'clock in the reading of this address, it will not interfere with the order?

The SPEAKER. Not a particle. It will not take 10 minutes to read the address, anyway. Is there objection? [After a pause.] The Chair hears none. Without objection, the Chair will designate the gentleman from Missouri [Mr. RUSSELL] to read the address. [Applause.]

Mr. GRAHAM. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Illinois [Mr. GRAHAM] rise?

Mr. GRAHAM. As this is the anniversary of the birthday of Abraham Lincoln, and as I come from his old home and the district he once represented in this body, I ask unanimous consent that I may address the House on the subject of Abraham Lincoln after the reading of the Gettysburg speech.

The SPEAKER. For how long?

Mr. GRAHAM. Well, 30 minutes.

The SPEAKER. The gentleman from Illinois [Mr. GRAHAM] asks unanimous consent that after the Gettysburg address is read he may have 30 minutes in which to address the House. Is there objection?

Mr. FITZGERALD. Mr. Speaker, reserving the right to object, I wish to give notice that when the proceedings by unanimous consent are finished I shall move to proceed with the regular order for to-day.

The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. GRAHAM], from the Springfield district,

where Abraham Lincoln is buried, to have 30 minutes in which to address the House after the gentleman from Missouri [Mr. RUSSELL] has read the Gettysburg oration? [After a pause.] The Chair hears none, and it is so ordered.

Mr. FITZGERALD. Mr. Speaker, I wish to give notice that I propose, when the unanimous-consent proceedings are over, to move to dispense with the regular order of the day.

Mr. MANN. Mr. Speaker, I demand the regular order.

The SPEAKER. The gentleman from Missouri [Mr. RUSSELL] will proceed.

Mr. RUSSELL, from the Clerk's desk, read as follows:

LINCOLN'S GETTYSBURG ADDRESS.

ADDRESS DELIVERED AT THE DEDICATION OF THE CEMETERY AT GETTYSBURG, NOVEMBER 19, 1863.

"Four score and seven years ago our fathers brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal.

"Now we are engaged in a great Civil War, testing whether that Nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battle field of that war. We have come to dedicate a portion of that field as a final resting place for those who here gave their lives that that Nation might live. It is altogether fitting and proper that we should do this.

"But in a larger sense we can not dedicate, we can not consecrate, we can not hallow this ground. The brave men, living and dead, who struggled here have consecrated it far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here. It is for us, the living, rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion; that we here highly resolve that these dead shall not have died in vain; that this Nation under God shall have a new birth of freedom, and that government of the people, by the people, for the people shall not perish from the earth."

[Prolonged applause.]

The SPEAKER. The gentleman from Illinois [Mr. GRAHAM] is recognized for 30 minutes.

ABRAHAM LINCOLN.

Mr. GRAHAM. Mr. Speaker, in the growth and development of a nation it would be difficult to overestimate the value of great examples, of high ideals, and one of the compensating benefits we derived from the Civil War is the long list of heroic actions of magnanimous and noble deeds performed by men on either side.

Never before in the history of the world did the vanquished exhibit greater valor, and never did the victor in a great war treat the vanquished with such splendid generosity as in that titanic struggle. No Roman triumph marked the final victory. Napoleon's standards waved at one time or another from the citadels of almost every capital in continental Europe. The Germans took literal possession of conquered Paris, but Grant turned from Richmond at its very gate. No humiliating terms were imposed at the surrender of the great Confederate commander. He received the courteous and chivalric treatment which brave men always accord to brave men. Perhaps the greatest moment in the life of the silent commander was when asked at Appomattox what disposition was to be made of the horses of the Confederate cavalry, which were mostly owned by the men who rode them, and he replied in his quiet way, "Let them keep them; they'll need them for the spring plowing."

Deeds of personal heroism were so numerous that it would be invidious to mention any particular ones. There were, indeed, giants in those days. That awful struggle was in truth a struggle of Titans. But out of it all one great gaunt figure rises and stands above the others like a cedar of Lebanon, towering beyond his fellows in massive grandeur, unique, alone, for in the whole field of profane history there is neither prototype nor parallel for Abraham Lincoln.

I was not always an admirer of President Lincoln. When a boy the first book I read about the Civil War was Pollard's Lost Cause, which was published in Richmond before the heat of the conflict had time to cool.

But later in life a number of circumstances conspired to attract me to a study of the career of this wonderful man, this first American, as Lowell called him.

For many years I have lived within a stone's throw of his old home in Springfield. He once represented in Congress the district I now have the honor to represent, and the fourteenth of April, the anniversary of his martyrdom, reminds me of the too frequent recurrence of my own birthday anniversary.

I have loved to talk of him with the few men still left in Springfield who knew him and admired him long before the general public appreciated him. I have marveled at a career which far outdistances romance. Many a time have I traveled with him in spirit over that long and weary journey from the Kentucky cabin to the White House. I have tried to understand him, to estimate his character, only with this result, that as my own vision broadened I saw in him new strength, new wisdom, new self-control, new elements of greatness, till he became to me, as Stanton said of him, "the most perfect ruler of men the world had ever seen," and I am forced to the conclusion that in the providence of God he was destined to be the savior of the Republic, the preserver of government of the people, by the people, for the people. [Applause.]

Having said this much, you are not surprised to hear me say that I regard Abraham Lincoln as one of the world's greatest men.

What is the real test of greatness? How is greatness to be weighed or measured? By what method is it to be determined?

If a man's greatness is to be measured by the service he rendered his fellow men, then indeed was Lincoln great.

If we accept the criterion that he that ruleth his own spirit is greater than he that taketh a city, still was Lincoln a great man.

If the ability to recognize and understand right principles and to stand for them and stand by them, in gloom and defeat as well as in sunshine and victory, is a sign of greatness, still was Lincoln great.

If absolute and abiding faith in the ultimate triumph of that which is right because it is right is a sign of greatness, he had it.

If the broadest charity, the greatest magnanimity, the most complete absence of the spirit of resentment is an evidence of greatness, then was Lincoln superlatively great.

If a deep, strong, boundless, active, and abiding sympathy for all those who labor and are heavy laden is an evidence of greatness, he had it in a degree approached by few other human beings.

Unbounded courage, unwavering determination, unlimited capacity to work and to suffer are essentials of greatness. Lincoln had them all in a remarkable degree.

Nor were these admirable qualities marred by any vice or weakness, barring a supposed weakness resulting from his excessive human sympathy.

He was absolutely unselfish; he had in him no element of cupidity; he was incapable of the feeling of mere revenge, and his greatest ambition was to be right and to be of service to his country and to humanity.

Who can be named who had all these qualities in such degree as this rail maker of the Sangamon? If we are to measure greatness by the power to accomplish, by the conquest of obstacles, by difficulties overcome, whom can you name fit to be compared with this untaught and unaided child of the forest and the prairie?

The so-called "ladder of fame" furnishes us with at least a figure of speech by which we are wont to measure and compare the achievements of the great. Let me use that rhetorical figure for the purpose of a brief comparison between Lincoln and some of the great ones of the earth whose names fill the pages of the histories and whose fame comes ringing down the ages.

I will not attempt more than mere suggestion, but I invite you at your leisure to go into the details and ascertain what each did for himself and what others did for him; where each began his individual career of accomplishment and where he ended it; in other words, how far he traveled, through his own efforts, on this strenuous and toilsome journey up fame's ladder.

Let me illustrate what I mean by citing just a few of the names of the world's great which at once occur to anyone—Alexander, Cæsar, Charlemagne, Napoleon.

Alexander was the son of a great monarch and heir to a kingdom. He had all the advantages position could give. He had as his private tutor the philosopher Aristotle, one of the greatest intellects the world has known. At the age of 20 his father's death placed him on the throne of Macedon. Thus, without any special personal effort, he found himself, before he reached his majority, far up fame's ladder.

Cæsar was of patrician birth and had both wealth and family influence behind him. He enjoyed the benefit of the best schools, and official preferment awaited his desire. His family connection and social position enabled him to begin life well up fame's ladder.

Charlemagne was a worthy descendent of the famous Charles Martel, a King of France. He was, in truth, a great empire builder, but he, too, was born well up the ladder of fame.

And Napoleon, that wonderful man of destiny, was the son of a general, a graduate of one of the greatest military schools of the time. Others prepared him for the opportunity he seized so promptly and utilized so completely.

Nor is our own land without illustrations. Washington had all the advantages that wealth and station could give, and Jefferson added to these advantages a thorough college training.

So that all these, through inherited advantage, began their life work well up fame's ladder. But what of Lincoln? What advantage of birth or wealth or environment had he? Absolutely none. He was born on the frontier in a log cabin 14 feet square. His parents were poor, shiftless, and ambitionless, and the father tried hard to repress his son's desire for knowledge. He lived till manhood amid the poorest and most depressing surroundings, away from schools and schoolmasters, enjoying only eight meager months of school opportunity in his entire life.

He did not start in the race halfway up fame's ladder, not even within sight of it. He had to clear away the brush and traverse the swamps and overcome innumerable difficulties to get within view of it; and these difficulties he overcame, not because of his surroundings, but in spite of them, till he finally planted his feet on the lowest round and, without influence or assistance, began the toilsome ascent.

And who will say that any of those favored sons of fortune climbed higher than he?

If my theory be sound, if we are to measure the greatness of the man by the distance covered from start to finish in life's journey, whom can you recall who began so low, and, of his own strength, rose as high as Abraham Lincoln?

The opinion is quite too prevalent that Lincoln's greatness developed after his election to the Presidency. That is a mistake. The truth is he was always great, but it was, of course, after his election that the people were convinced of his greatness.

While he was fond of office and was somewhat persistent in seeking it, he never sacrificed, or even modified, his opinions in order to gain it.

He was a real leader of public opinion; he never changed his views to be in accord with that opinion. When the public differed from him he set to work to win the public to his view.

As early as 1837 he filed a written protest against slavery in the Illinois Legislature, of which he was then a member, being joined by but one other member. Nothing could at that time be more unpopular, as he well knew.

Just prior to the debate with Douglas, when he prepared the Springfield speech in which he used the illustration that "a house divided against itself can not stand," he submitted it to a number of his personal and political friends and admirers. They were almost stunned at his rashness in using this biblical quotation. They felt that it would kill him politically, but in spite of protest, regardless of results, he used it, and time has surely vindicated his sagacity and his courage. The men who knew him in those days say that it was habitual with him to draw out the views of others on political subjects while he withheld his own. Even in those days he had supreme confidence in himself. But it was not mere pride of opinion that made him so self-confident, for he did not hesitate to adopt the views of others when it seemed wise to do so.

His supreme self-confidence and his intense patriotism are evidenced by his choice of a Cabinet. A smaller or less patriotic man would have hesitated to choose as his adviser one who almost held him in contempt or one who was generally supposed to so far outclass him as to cast him altogether in the shade.

I never heard of anyone who so grievously offended Lincoln as did Mr. Stanton, but that did not prevent him from making Stanton Secretary of War.

Few other men could have borne the conduct of Secretary Chase as Lincoln did under intolerable provocation, but he realized Chase's value to the country and made all else subservient to that; and later, in spite of his disloyalty to his chief, Lincoln appointed him to the highest place within his gift—Chief Justice of the Supreme Court. He placed at the head of his Cabinet his chief rival for the presidential nomination, Mr. Seward, and quietly tolerated Seward's assumption of superiority, confident that time would determine their relative positions, as indeed it soon did to the Secretary's complete discomfiture. Lincoln felt intuitively that he had nothing to fear from comparison with any man. He was, therefore, entirely devoid of envy or jealousy, first, because of this supreme and abiding confidence in himself, and, second, because he was ready at any time to adopt the views of others if they seemed sounder than his own.

The breadth and depth of Lincoln's charity passes ordinary comprehension. The sight of misery in man or beast touched him profoundly.

I believe he spoke with absolute sincerity and out of the fullness of his great heart when in his second inaugural he urged Congress to proceed "with malice toward none, with charity for all."

His patience, his justice, his honesty, his sincerity conquered everyone who really knew him. Douglas, his rival in love, in the law, and in politics, pronounced him the honestest man he ever knew. Wendell Phillips, who bitterly assailed him because he was not an abolitionist, finally declared that he was "God given, God led, and God sustained." Seward, who at first thought lightly of him, lived to refer to him as "a man of destiny with character made and molded by divine power to save a nation," and Stanton, whose treatment of him when they first met was almost contemptuous, truly said, as the gentle spirit left the body, "Now he belongs to the ages." The rail splitter, the flatboat hand, had conquered them all, and the conquest was complete and enduring. [Applause.]

Our country has been abundantly blest in the fact that it owes everything to the common man, nothing to aristocracy or royalty. What an array of names—Columbus, Washington, Franklin, Jefferson, Jackson, Lincoln—all springing from the common people, but none of them quite so near the common clay as this child of the frontier, this—

> Kindly-earnest, brave, foreseeing man,
> Sagacious, patient, dreading praise, not blame,
> New birth of our new soil, this first American.

Truly does the poet say he was new birth of our new soil. Generations separated him from the ways and the amenities of cultivated society. He was so close to nature that, as another poet well says of him:

> The color of the ground was in him—the red earth;
> The tang and odor of the primal things;
> The rectitude and patience of the rocks;
> The gladness of the wind that shakes the corn;
> The courage of the bird that dares the sea;
> The justice of the rain that loves all leaves;
> The pity of the snow that hides all scars;
> The loving kindness of the wayside well;
> The tolerance and equity of light that gives as freely to
> The shrinking weed as to the great oak flaring in the wind—
> To the grave's low mound as to the Matterhorn
> That shoulders out the sky.
>
> * * * * * * *
>
> And when the step of Earthquake shook the house,
> Wrenching the rafters from their ancient hold,
> He held the ridgepole up and spiked again
> The rafters of the Home. He held his place—
> Held the long purpose like a growing tree—
> Held on through blame and faltered not at praise.
> And when he fell in whirlwind, he went down
> As when a kingly cedar green with boughs
> Goes down with a great shout upon the hill,
> And leaves a lonesome place against the sky.

Abraham Lincoln was the very incarnation of the spirit of democracy, of the rule of the common people. His thoughts were their thoughts, their joys were his joys, and their sorrows were his, too. His sad, deep-furrowed face was so marked with melancholy that he seemed to bear all the burdens of his people.

What a man, and what a career! Just look for a moment with the eyes of your imagination and behold this awkward, barefoot, backwoods boy at ten trying to do a man's part in the woods with his ax; living in a forest hut entirely open on one side; at night dragging his tired frame to his attic nest of leaves by climbing on pegs driven into the logs, to find himself ere morning sleeping under a coverlet of snow; walking miles to borrow a book and lying prone on the floor to read it by the light of the blazing pine knots; wading waist deep through the wintry waters of a creek to rescue a worthless dog; guiding a flatboat down the Mississippi; making rails to fence the little farm on the Sangamon for his father and stepmother before leaving them to make his own way in the world, before starting out at twenty-two on the quest for the road leading to that figurative ladder on which he was destined to climb so high. Again see him start from Springfield on a flatboat trip to New Orleans; see him find a way to extricate the stranded boat when older and more experienced men fail, just as later on, in affairs of greater moment, he always found a way; see him as grocer's clerk treating all with rigid, scrupulous honesty, walking three miles before breakfast to bring to a customer the modicum of tea which the accidental use of a wrong weight deprived her of the evening before; see him postmaster, with the mail in his hat, and see him laying away at the end of his term the very pennies which belonged to the Government, to be produced years afterwards when called on for a settlement. Step by step see

him progress on the toilsome way, now storekeeper, now surveyor, soldier, politician, and lawyer, but ever and always faithful student, good citizen, and honest man. [Applause.]

Then see him arrive in Springfield at the age of twenty-eight, bringing with him little credit, and less money, and riding a borrowed horse. See him gradually rise, gaining steadily in public estimation. See him in the State legislature and in Congress, and when the question of slavery extension becomes acute see him challenge for a joint discussion his opponent for senatorial honors, the ablest debater of his day, Stephen A. Douglas, the Little Giant of the Prairie State. The whole civilized world knows the result of that debate.

Like a skillful general Lincoln so directed the course of the contest that he lost a skirmish in order to win a battle. He was beaten for the Senatorship only to gain the Presidency.

On May 18, 1860, he was nominated by the national convention of his party at Chicago, and duly elected in November. On the 11th of the following February he departed from his Springfield home never to return alive.

I can see in imagination the parting scene. In a pouring rain he stood bareheaded on the coach platform at the old Wabash depot and bade good-by to his friends and neighbors. Listen to him:

> My friends, no one not in my situation can appreciate my feeling of sadness at this parting. To this place and the kindness of these people I owe everything. Here I have lived a quarter of a century, and have passed from a young man to an old man. Here my children were born, and one is buried. I now leave, not knowing when or whether ever I may return, with a task before me greater than that which rested upon Washington. Without the assistance of that Divine Being who ever attended him I can not succeed. With that assistance I can not fail. Trusting in Him who can go with me and remain with you and be everywhere for good, let us confidently hope that all will yet be well. To His care commending you, as I hope in your prayers you will commend me, I bid you an affectionate farewell.

[Applause.]

How touching, how sincere, how full of faith in God. And the language itself—how rhythmic, how direct, how simple it is. Where did this man, who scarcely entered the schoolhouse and knew not the college or the university, get this magnificent, this perfect command of language? How and where and when did he master that elusive thing called style so thoroughly that some of his letters and speeches adorn the walls of great institutions of learning as specimens of perfect English? Let me read to you his letter to Mrs. Bixley, which both graces and adorns a wall of Oxford University as a specimen of perfect composition:

> DEAR MADAM: I have been shown in the files of the War Department a statement of the adjutant general of Massachusetts that you are the mother of five sons who have died gloriously on the field of battle. I feel how weak and fruitless must be any words of mine which should attempt to beguile you from a loss so overwhelming, but I can not refrain from tendering you the consolation that may be found in the thanks of the Republic they died to save. I pray our Heavenly Father may assuage the anguish of your bereavement, and leave you only the cherished memory of the loved and lost and the solemn pride that must be yours to have laid so costly a sacrifice on the altar of freedom.
>
> Yours, very sincerely and respectfully,
>
> ABRAHAM LINCOLN.

[Applause.]

His Gettysburg address is conceded to be the best short speech in the language, but short as it is and excellent as it is, I shall not now ask you to listen to it. Indeed, were I to indulge in quoting specimens of his eloquence, I should find no reasonable stopping place. I can not, however, resist the impulse to quote the prophecy which concludes his first inaugural:

> I am loath to close. We are not enemies, but friends. We must not be enemies. Though passion may have strained, it must not break our bonds of affection. The mystic chords of memory, stretching from every battle field and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature.

[Applause.]

And may I not also recite the hymn with which he closes his second inaugural?—

> With malice toward none, with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the Nation's wounds; to care for him who shall have borne the battle, and for his widow and his orphan—to do all things which may achieve and cherish a just and a lasting peace among ourselves and with all nations.

[Applause.]

What rhythm, what majesty, what patriotism!

If we did not know that his spare moments from boyhood up were given to the study of the Bible and to the companionship of Æsop and Bunyan and Defoe and Burns and Shakespeare, we might well exclaim as did the doctors and the scribes of old concerning Him who spake as man never spake, "Whence hath this man letters, having never learned?" But we know that his mastery of his native tongue, the only one he knew, did not come unsought. It was acquired by persistent and resolute effort, and was tinged and tempered by the tenderness of a nature filled with love for God and man and country. It reflected his patience, his fortitude, his fidelity, his absolute fairness and sense of justice, as well as his courage, sincerity, and resolution. In short, with him, as with every master of diction, the style bespoke the man.

Almost forty-seven years have come and gone since the fateful night when the hand of a poor deluded lunatic, without a moment's notice or a word of warning, struck him down. What a shock he gave the world and what a cruel wound he thus inflicted on the torn and bleeding Southland! By that blow he struck down the only man who had the strength and the will to stay the ruthless hands of those greedy and unscrupulous adventurers who, at the close of the war, promptly proceeded to plunder the stricken South. I give it as the opinion of his lifelong friends in Springfield that Lincoln never lost his love and sympathy for his native Southland, and that had he lived he would never have permitted the reign of robbery and ruin which that fair land experienced in reconstruction days. The hand, the only hand, which had the strength to save them was paralyzed in death by one who vainly imagined he was aiding their cause.

As for Lincoln, it was far beyond the poor power of the assassin to rob him of one tittle of his fame. Indeed, he added the one thing needed, if anything were needed, to enshrine his memory forever in the hearts of the American people, and that was the martyr's crown. And for this he chose, most opportunely, the moment when his victim had reached the summit, nay, the very zenith of his fame.

The war was practically over. The dove of peace hovered over the land. The Union was saved. Government of the people, by the people, and for the people had not perished from the earth. The ship of state was safe at anchor. The shackles were struck from the limbs of four million slaves. And the people gave Lincoln credit for it all. The world was filled with the sound of his praises. His feet were on the topmost round of fame's ladder. Millions of his countrymen would cheerfully have laid down their lives to save his life. There was little glory left for him to gain, and then, lest he trip and stumble, fate closed and sealed the splendid record.

With what dramatic force Walt Whitman tells the pathetic story:

> O Captain! my Captain! our fearful trip is won.
> The ship has weathered every rack, the prize we sought is won.
> The port is near, the bells I hear, the people all exulting.
> But Oh heart! heart! heart!
> Oh the bleeding drops of red,
> Where on the deck my Captain lies,
> Fallen cold and dead.
>
> O Captain! my Captain! rise up and hear the bells;
> Rise up—for you the flag is flung—for you the bugle thrills,
> For you bouquets and ribboned wreaths—for you the shore's acrowding,
> For you they call, the swaying mass, their eager faces turning;
> Here Captain! dear father!
> This arm beneath your head!
> It is some dream that on the deck
> You've fallen cold and dead.
>
> My captain does not answer, his lips are pale and still.
> My father does not feel my arm, he has no pulse nor will.
> The ship is anchored safe and sound, its voyage closed and done,
> From fearful trip the victor ship comes in with object won!
> Exult, Oh, shores, and ring, Oh, bells!
> But I, with mournful tread,
> Walk the deck my Captain lies
> Fallen cold and dead.

In the very heyday of his fame he fell at the post of duty; and so we shall always think of him as he was at his best, not a single shadow, not a single blur, not a single flaw in the picture.

As the years file slowly past, as we get further and further away from his time and see him in clearer and truer perspective, his splendid moral and intellectual proportions, his patience, his fidelity, his sense of justice, his foresight, his charity, his patriotism—in a word his greatness—become more and more apparent.

In a spirit of patriotic devotion, imbued with a feeling of profound gratitude for the blessing of a reunited country under the old flag, let us reverently bless God that He vouchsafed us such a captain to direct the ship of state at such a time. [Prolonged applause.]

COUNTING THE ELECTORAL VOTE.

The SPEAKER. It is customary for the House to rise when the Senate comes into the Chamber. Gentlemen in the first four rows of seats at the right of the Speaker will please vacate their seats and accommodate themselves elsewhere.

At 1 o'clock the Doorkeeper announced the President pro tempore and the Senate of the United States.

The Senate entered the Hall, preceded by their Sergeant at Arms and headed by their President pro tempore (Mr. BACON) and the Secretary of the Senate, the Members and officers of the House rising to receive them.

The President of the Senate pro tempore took his seat as the presiding officer of the joint convention of the two Houses, the Speaker of the House occupying the chair on his left.

The PRESIDENT of the Senate pro tempore. Gentlemen of the Senate and House of Representatives, in obedience to the Constitution and laws of the United States, and in compliance with the concurrent resolution adopted pursuant thereto, the Senate and House of Representatives are now met in joint convention for opening the certificates and ascertaining and counting the electoral votes in the election for President and Vice President of the United States. The tellers previously selected on the part of the Senate and those selected on the part of the House will please take their places at the desk.

Senators DILLINGHAM, of Vermont, and MARTINE, of New Jersey, the tellers appointed on the part of the Senate, and Representatives RUCKER, of Missouri, and YOUNG, of Michigan, the tellers on the part of the House, took their places at the Clerk's desk.

The PRESIDENT of the Senate pro tempore. With proper respect for the high function which we now perform in the presence of the American people, and with due regard to the decorum which should mark so important and solemn an occasion, it is not deemed proper that there should be applause or manifestation of approval or disapproval during any stage of these proceedings. This has been the rule upon similar occasions in the past, and it is confidently expected that it will be scrupulously observed upon this occasion, both upon the floor and in the galleries.

The Chair will now open and place in the hands of the tellers the certificates in the alphabetical order of the States, showing the electoral vote of each State. Unless there be objection, the reading of the formal portions of these certificates will be dispensed with, and the tellers will read, count, and announce the vote as shown by the certificate from each State.

There was no objection.

The PRESIDENT of the Senate pro tempore. The tellers will now read, count, announce, and make a list of the electoral votes from the State of Alabama.

Mr. DILLINGHAM (one of the tellers). The certificate of the electoral vote of the State of Alabama seems to be regular in form and properly authenticated, and it appears therefrom that Woodrow Wilson has received 12 votes for President of the United States, and that Thomas R. Marshall has received 12 votes for Vice President of the United States.

The PRESIDENT of the Senate pro tempore. Is there objection to this certificate? None being offered, the tellers will proceed to read, count, and announce the vote of the State of Arizona.

The tellers then proceeded to read, count, and announce, as was done in the case of Alabama, the electoral votes of the several States in their alphabetical order; and in each case objections, if any, were called for by the presiding officer.

The PRESIDENT of the Senate pro tempore. All of the certificates having been opened and read and the votes counted, the tellers will make a list of the same and report the result to the presiding officer.

Mr. DILLINGHAM (one of the tellers). The undersigned, WILLIAM P. DILLINGHAM and JAMES E. MARTINE, tellers on the part of the Senate, and WILLIAM W. RUCKER and H. OLIN YOUNG, tellers on the part of the House of Representatives, report the following as the result of the ascertainment and counting of the electoral vote for President and Vice President of the United States for the term beginning March 4, 1913:

Number of electoral votes to which each State is entitled.	States.	For President.			For Vice President.		
		Woodrow Wilson, of New Jersey.	Theodore Roosevelt, of New York.	William Howard Taft, of Ohio.	Thomas R. Marshall, of Indiana.	Hiram W. Johnson, of California.	Nicholas Murray Butler, of New York.
12	Alabama	12			12		
3	Arizona	3			3		
9	Arkansas	9			9		
13	California	2	11		2	11	
6	Colorado	6			6		
7	Connecticut	7			7		
3	Delaware	3			3		
6	Florida	6			6		
14	Georgia	14			14		
4	Idaho	4			4		
29	Illinois	29			29		
15	Indiana	15			15		
13	Iowa	13			13		
10	Kansas	10			10		
13	Kentucky	13			13		
10	Louisiana	10			10		
6	Maine	6			6		
8	Maryland	8			8		
18	Massachusetts	18			18		
15	Michigan		15			15	
12	Minnesota		12			12	
10	Mississippi	10			10		
18	Missouri	18			18		
4	Montana	4			4		
8	Nebraska	8			8		
3	Nevada	3			3		
4	New Hampshire	4			4		
14	New Jersey	14			14		
3	New Mexico	3			3		
45	New York	45			45		
12	North Carolina	12			12		
5	North Dakota	5			5		
24	Ohio	24			24		
10	Oklahoma	10			10		
5	Oregon	5			5		
38	Pennsylvania		38			38	
5	Rhode Island	5			5		
9	South Carolina	9			9		
5	South Dakota		5			5	
12	Tennessee	12			12		
20	Texas	20			20		
4	Utah			4			4
4	Vermont			4			4
12	Virginia	12			12		
7	Washington		7			7	
8	West Virginia	8			8		
13	Wisconsin	13			13		
3	Wyoming	3			3		
531		435	88	8	435	88	8

WM. P. DILLINGHAM,
JAMES E. MARTINE,
Tellers on the part of the Senate.
W. W. RUCKER,
H. OLIN YOUNG,
Tellers on the part of the House of Representatives.

The PRESIDENT of the Senate pro tempore. By the report of the tellers and the list made by them of the electoral votes cast, as shown by the certificates from the several States, it appears that the state of the vote for President of the United States, as delivered to the President of the Senate pro tempore, is as follows:

The whole number of the electors appointed to vote for President of the United States is 531, of which a majority is 266.

Woodrow Wilson, of the State of New Jersey, has received for President of the United States 435 votes.

Theodore Roosevelt, of the State of New York, has received 88 votes.

William Howard Taft, of the State of Ohio, has received 8 votes.

The state of the vote for Vice President of the United States, as delivered to the President of the Senate pro tempore, is as follows:

The whole number of the electors appointed to vote for Vice President of the United States is 531, of which a majority is 266.

Thomas R. Marshall, of the State of Indiana, has received for Vice President of the United States 435 votes.

Hiram W. Johnson, of the State of California, has received 88 votes.

Nicholas Murray Butler, of the State of New York, has received 8 votes.

This announcement of the state of the vote by the President of the Senate pro tempore shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, each for the term beginning March 4, 1913, and shall be entered, together with a list of the votes, on the Journals of the Senate and House of Representatives.

Gentlemen of the Senate and House of Representatives, the purpose for which the convention assembled having been accomplished, the presiding officer dissolves this joint convention, and the Senate will retire to their Chamber.

The Senate retired from the Hall, and (at 2 o'clock and 13 minutes p. m.) the Speaker resumed the chair and called the House to order.

RECESS.

Mr. WEBB. Mr. Speaker, I ask unanimous consent that Senate bill 4043, as passed by the House yesterday afternoon, be printed for the use of Members and placed in the document room.

Mr. MANN. Mr. Speaker, four years ago the House, by unanimous consent, took a recess for five minutes in order that the chairs temporarily placed in the Hall for the seating of Senators might be removed and the Members' seats replaced.

The SPEAKER. Does the gentleman ask that that be done now?

Mr. MANN. I suggest that to the majority side of the House.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the House stand in recess for five minutes. Is there objection?

There was no objection.

Accordingly (at 2 o'clock and 14 minutes p. m.) the House took a recess until 2 o'clock and 19 minutes p. m.

AFTER THE RECESS.

The recess having expired, the House was called to order by the Speaker.

Mr. WEBB. Mr. Speaker, I now renew my request for unanimous consent that the bill "An act (S. 4043) divesting intoxicating liquors of their interstate character in certain cases," passed yesterday, be printed as a House document.

The SPEAKER. The gentleman from North Carolina asks unanimous consent that the bill S. 4043 be printed as a House document. Is there objecion?

Mr. HARDWICK. Mr. Speaker, reserving the right to object, I want to ask the gentleman if he has consulted with the gentleman from South Carolina [Mr. FINLEY], chairman of the Committee on Printing?

Mr. WEBB. I have not. I could not find him.

Mr. HARDWICK. Then I shall be forced to object.

Mr. MANN. Let me make a suggestion to the gentleman from North Carolina. What he wants is more copies of his bill, I suppose.

Mr. WEBB. I want it printed as a House document. They can be procured in the document room of the Senate, but not in the House document room.

The SPEAKER. Does the gentleman from Georgia object?

Mr. HARDWICK. I do.

THE PRIVATE CALENDAR.

Mr. POU. Mr. Speaker, I offer the following order and ask unanimous consent for its present consideration.

The Clerk read as follows:

Ordered, That on next Friday, February 14, the House shall stand in recess from the hour of 5 o'clock p. m. until the hour of 8 o'clock p. m., at which time it shall be in order to consider, only in the House as in the Committee of the Whole, bills on the Private Calendar which are not objected to, beginning with House resolution 643 (Private Calendar 225) and continuing until the end of the Private Calendar is reached, after which it shall be in order to consider the remainder of said calendar.

The SPEAKER. Is there objection?

Mr. MOORE of Pennsylvania. Mr. Speaker, reserving the right to object, I would like to ask the gentleman where this leads us in regard to the 36 bills that were objected to?

Mr. POU. The order provides that the calendar shall be taken up where the House left off last Monday night, and that the remainder of the bills on the calendar shall be called. After the calendar is disposed of, if the House desires to consider other bills, if there is no objection, it can do so.

Mr. MOORE of Pennsylvania. I object.

Mr. GARNER. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. GARNER. Is this a continuing order, and will it take us over into Saturday in case the bills are not disposed of on Friday night?

The SPEAKER. The House would have a right to adjourn, but the gentleman from Pennsylvania objects.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 24121. An act to pay certain employees of the Government for injuries received while in the discharge of their duties and other claims; and

H. R. 28094. An act to amend section 96, chapter 5, of the act of Congress of March 3, 1911, entitled "The Judicial Code."

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 24121. An act to pay certain employees of the Government for injuries received while in the discharge of their duties and other claims; and

H. R. 28094. An act to amend section 96, chapter 5, of the act of Congress of March 3, 1911, entitled "The Judicial Code."

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 8089. An act permitting the building of a railroad bridge across the Yellowstone River from a point on the east bank in section 15 to a point on the west bank in section 16, township 151 north of range 104 west of the fifth principal meridian, in McKenzie County, N. Dak.; and

S. 8090. An act permitting the building of a railroad bridge across the Missouri River from a point on the east bank in section 14, Mountrail County, N. Dak., to a point on the west bank of said river in section 15, in McKenzie County, N. Dak., in township 152 north, range 93 west, of the fifth principal meridian.

ORDER OF BUSINESS.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with the business of Calendar Wednesday to-day.

Mr. HEFLIN. Mr. Speaker, I make the point of order that the gentleman's motion comes too late. The Chair has announced that it was Calendar Wednesday and that the House would automatically resolve itself into Committee of the Whole House on the state of the Union.

The SPEAKER. That is the time for the gentleman to make his motion. There are five minutes' debate on each side.

Mr. MANN. Mr. Speaker, I make the point of order that no quorum is present.

The SPEAKER. Evidently no quorum is present.

Mr. FITZGERALD. Mr. Speaker, I move a call of the House.

The question was taken, and a call of the House was ordered.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Fuller	Lafferty	Prouty
Ames	Gardner, N. J.	Lamb	Pujo
Andrus	George	Langham	Randell, Tex.
Ansberry	Gill	Langley	Redfield
Anthony	Gillett	Lindbergh	Reyburn
Bathrick	Gooke	Lindsay	Richardson
Bradley	Goldfogle	Littlepage	Roberts, Nev.
Brown	Good	Littleton	Rubey
Butler	Gould	Longworth	Sharp
Campbell	Griest	McCall	Simmons
Carter	Gudger	McLaughlin	Slemp
Clark, Fla.	Hamill	McMorran	Smith, J. M. C.
Clayton	Hamilton, W. Va.	Madden	Smith, Saml. W.
Conry	Hammond	Martin, Colo.	Smith, N. Y.
Covington	Harris	Matthews	Speer
Cravens	Harrison, Miss.	Mays	Stack
Danforth	Harrison, N. Y.	Merritt	Stanley
Davenport	Hartman	Moon, Pa.	Stephens, Nebr.
Davidson	Hawley	Morgan, La.	Sterling
Davis, W. Va.	Heald	Morse, Wis.	Talbott, Md.
Dies	Higgins	Murdock	Taylor, Ohio
Dodds	Hobson	Neeley	Thomas
Donohoe	Howell	Norris	Tilson
Doremus	Hughes, Ga.	Nye	Townsend
Driscoll, D. A.	Hull	Parran	Vreeland
Dyer	Jackson	Patton, Pa.	Warburton
Fairchild	Jones	Peters	Wilson, Ill.
Ferris	Kinkead, N. J.	Pickett	Wilson, Pa.
Focht	Kopp	Pou	Wood, N. J.
Fordney	Korbly	Powers	Young, Mich.
Francis	Lafean	Pray	

The SPEAKER. On this call 256 Members have answered to their names—a quorum.

Mr. HEFLIN. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with proceedings in order to-day under the rule, so that we may facilitate the transaction of the public business.

The SPEAKER. The gentleman from New York moves to dispense with proceedings in order to-day under the Calendar Wednesday rule. The gentleman from New York has five minutes and the gentleman from Alabama [Mr. HEFLIN] has five minutes.

Mr. FITZGERALD. Mr. Speaker, last Wednesday I called the attention of the House to the condition of the public business, and it is quite apparent that it is necessary that we continue to consider the appropriation bills if they are to be enacted at this session of Congress. There are now on the calendar waiting to be taken up the diplomatic and consular appropriation bill and the pension appropriation bill, and there are still to be reported the naval appropriation bill, the sundry civil appropriation bill, and the general deficiency appropriation bill.

I wish to remind this side of the House that our opponents have at times charged that the Democratic Party has adopted certain changes in the rules of the House which make it impossible effectively to transact the public business. While I did not favor certain of the changes that were made, I believe it is possible for this side of the House promptly and efficiently to discharge the public duties devolving upon them under these present rules if they will undertake to do so. In order to do so, however, it is necessary to do what has always been contemplated, and that is, at a time like this, at this stage of the session, the important public business be given preference over all other business. If for any reason any of the general appropriation bills should fail at this session of Congress, our opponents will use it as an argument to criticize and denounce what they will term the inefficiency and incompetency of the Democratic Party. I have no desire to accomplish anything except to promote and facilitate the public business, and in view of the situation, of what happened last Wednesday, and from what I can gather is likely to happen to-day unless we proceed to consider the general appropriation bills, I am convinced that this day will be as fruitless in results, so far as the transaction of the public business is concerned, as was last Wednesday. I hope that this side of the House will determine to devote the balance of this day to the consideration of the diplomatic and consular appropriation bill.

Mr. HEFLIN. Mr. Speaker, I wish to say to the gentleman from New York [Mr. FITZGERALD] that in my judgment we could have completed the bill now on the calendar within the time consumed in the call of the House. On yesterday an appropriation bill passed through the House in one hour, and I congratulate the chairman of that committee and the committee itself on having that bill in such good shape when it came in to the House. The gentleman from New York [Mr. FITZGERALD] knows as well as I know that we are going to put these appropriation bills through before this Congress adjourns. Certainly we are. We are going to have night sessions, as we ought to have and will have. If gentlemen really want to oppose this measure, they will have the opportunity to do so, and I am perfectly willing to have them do so and the committee is willing to have them do so.

But this bill, I want to say to the gentleman, is a part of the public business. This Government, through its Congress, solemnly passed through this House and the Senate a resolution directing the President of the United States to invite the nations of the earth to an exposition to be given in honor of a great American project. That invitation has been extended, and 24 nations have accepted it and are waiting now to see what our Government will do about its own exhibit. My judgment is, Mr. Speaker, that if we do not provide for an exhibit the nations of the earth will not come with their exhibits. Would you blame them if they did not? This bill has already been discussed at length. We can go into the Committee of the Whole under the five-minute rule and finish the bill in a little while. It can be amended and perfected as gentlemen desire to see it amended and perfected. I want the House to take action and let the country and the world know what we are going to do. We ought to do that.

I want to say in conclusion, Mr. Speaker, we boast that this is the greatest country on the earth, and it is. [Applause.] We have invited the nations of the earth to come here and join us in celebrating the greatest engineering feat of all time, and I want the nations of the earth to come here and behold the blessings and benefits enjoyed by the greatest people in all the world. [Applause.]

Mr. Speaker, I trust that the motion of the gentleman from New York will not prevail. [Applause.]

I desire to print in the RECORD the committee report on this bill and a letter from the Louisiana delegation on this subject.

The report is as follows:

[House Report No. 1358, Sixty-second Congress, third session.]

PANAMA-PACIFIC INTERNATIONAL EXPOSITION.

Mr. CULLOP, from the Committee on Industrial Arts and Expositions, submitted the following report, to accompany H. R. 27876:

The Committee on Industrial Arts and Expositions, to whom was referred the bill (H. R. 27876) to provide for the participation of the United States in the Panama-Pacific Exposition, having considered the same, report thereon with a recommendation that it do pass with the following amendments:

Page 4, in line 17, after the word "board," insert a colon and the words:

"*Provided*, That any one or all of the buildings hereby authorized to be erected shall be of a permanent and suitable character for the use of the Government on said military reservation."

Page 5, in line 5, after the word "States," insert a comma and the words "within 30 days after the passage of this act."

Page 5, in line 10, strike out the words "as soon as convenient" and insert in lieu thereof the words "within 30 days."

Page 6, in lines 1 and 2, strike out the words "or with foreign exhibitors regarding space, location, and the awarding of premiums; and" and insert in lieu thereof the words "the commissioners of foreign Governments and said Panama-Pacific International Exposition Co. whenever a formal request for such action is made by any foreign commissioner; and said commission."

Page 7, in line 2, after the word "premiums," insert the words "salaries and expenses herein provided for."

Amend the title so as to read: "An act to provide for the participation of the United States in the Panama-Pacific International Exposition, and for other purposes."

The President, in his message communicated to Congress on December 19, 1912, made the following reference to the Panama-Pacific International Exposition:

"In conformity with a joint resolution of Congress, an Executive proclamation was issued last February, inviting the nations of the world to participate in the Panama-Pacific International Exposition to be held at San Francisco to celebrate the construction of the Panama Canal. A sympathetic response was immediately forthcoming, and several nations have already selected the sites for their buildings. In furtherance of my invitation, a special commission visited European countries during the past summer and received assurances of hearty cooperation in the task of bringing together a universal industrial, military, and naval display on an unprecedented scale. It is evident that the exposition will be an accurate mirror of the world's activities as they appear 400 years after the date of the discovery of the Pacific Ocean.

"It is the duty of the United States to make the nations welcome at San Francisco and to facilitate such acquaintance between them and ourselves as will promote the expansion of commerce and familiarize the world with the new trade route through the Panama Canal. The action of the State governments and individuals assures a comprehensive exhibit of the resources of this country and of the progress of the people. This participation by States and individuals should be supplemented by an adequate showing of the varied and unique activities of the National Government. The United States can not with good grace invite foreign Governments to erect buildings and make expensive exhibits while itself refusing to participate. Nor would it be wise to forego the opportunity to join with other nations in the inspiriting interchange of ideas tending to promote intercourse, friendship, and commerce. It is the duty of the Government to foster and build up commerce through the canal, just as it was the duty of the Government to construct it.

"I earnestly recommend the appropriation at this session of such a sum as will enable the United States to construct a suitable building, install a governmental exhibit, and otherwise participate in the Panama-Pacific International Exposition in a manner commensurate with the dignity of a Nation whose guests are to be the peoples of the world. I recommend also such legislation as will facilitate the entry of material intended for exhibition and protect foreign exhibitors against infringement of patents and the unauthorized copying of patterns and designs. All aliens sent to San Francisco to construct and care for foreign buildings and exhibits should be admitted without restraint or embarrassment."

The exposition is to be a celebration of a national achievement of world-wide importance. The cost of the celebration, however, is not borne by the United States, but by the people of California. Of all the international expositions held in the United States the Panama-Pacific International Exposition is the only one that has not asked for aid from the Government, and the Panama-Pacific International Exposition Co. has pledged itself not to ask for such aid. The exposition is amply financed, over $20,000,000 having been provided by California and its people.

In response to the President's invitation 25 nations have already officially notified the Department of State of their intention to participate in the Panama-Pacific International Exposition. These countries are: Argentina, Bolivia, Canada, China, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, France, Great Britain (provisionally), Guatemala, Haiti, Honduras, Japan, Mexico, Netherlands, Nicaragua, Panama, Peru, Portugal, Salvador, Spain, Sweden, and Uruguay.

In September last, after the expiration of the period of mourning for the late Emperor of Japan, the commissioners from Japan appointed for that purpose selected the site of the Japanese buildings and gardens at San Francisco, within the grounds of the Presidio Military Reservation, set apart for foreign exhibitions. The commissioners announced that the Japanese Government would expend more than $1,000,000, and that at the close of the exposition the buildings and gardens would be presented to the Government and people of the United States as a testimonial of good will.

The Governments of China, Canada, the Netherlands, Portugal, Spain, Brazil, and Sweden have sent commissioners to San Francisco to select sites for their buildings. Some of these sites have been chosen, and the work of preparing for construction and installation is in active progress. The French commissioners have asked for a reservation of 8 acres, and will arrive soon to confirm the selection. The Department of State is in receipt of communications from our representatives abroad, indicating that many other countries are preparing to accept the invitation to participate and to erect buildings.

Meanwhile, great interest is manifested in the exposition by the States of this Union. Thirty-five States have officially decided to make exhibits of their resources and activities, and the legislatures of the remaining States are now considering the subject. Many of the States have already selected the sites of their buildings and commissioners are at work arranging for construction.

Individual applications for exhibit space have been received from all parts of the world. The amount of space already applied for exceeds the allotment. Therefore, the process of selection and elimination has already begun, with the object of making the exposition a compact and complete epitome of the world's activity rather than a mere huge aggregation of exhibits.

The size and character of foreign government participation, as well as the extent of participation by the American States, will be affected largely by the attitude of this Government toward the exposition. It can not be expected that foreign nations will enter enthusiastically into this universal undertaking if its sponsor—the United States—is half-hearted or niggardly. Congress appropriated $1,379,000 for a Government exhibit at St. Louis, in addition to an outright gift of $5,000,000 and a loan amounting to $4,000,000, which loan was repaid. The pending bill provides for an appropriation of $2,000,000 for a Government exhibit at San Francisco, with a provision that the building or buildings shall be of a permanent character, suitable for the use of the military authorities at the Presidio Military Reservation, and with the further provision that the United States shall not be bound to extend any pecuniary aid or assistance to the Panama-Pacific International Exposition. This appropriation is regarded by your committee as moderate and suitable, and in accordance with the dignity of the United States as a host of the nations of the world.

The bill provides that the Government exhibit shall be in charge of a board of Government employees, appointed by the heads of the executive departments, the independent commissions and bureaus, the Smithsonian Institution, etc. The exhibit as a whole will illustrate the functions and activities of the National Government, showing the nature and growth of our institutions and their adaptation to the wants of the people, and the progress of the Nation in the arts of peace and war. Comparatively few citizens of the United Stses have an opportunity to visit the National Capital, and still fewer are able to gain a comprehensive idea of the manifold operations of their Government. By means of the exhibit at the Panama-Pacific International Exposition the people of the country will be enabled to obtain accurate information regarding the methods of government, the expenditure of the public funds, and the development of national institutions. In no other way could this desirable object be accomplished to such good advantage.

The bill provides that a commission shall be appointed by the President to act as a board of arbitration in case of differences arising between the exposition authorities and foreign Governments of exhibitors, and to require suitable provision to be made for the entertainment of the representatives of foreign nations who may visit the exposition in response to the invitation heretofore extended by the President by authority of Congress. The salaries and expenses of this commission are to be paid by the exposition company, and no expense whatever in this connection is to be borne by the National Government.

Your committee beg leave to commend the public spirit and generosity of the people of California in assuming the entire burden of financing and managing this universal exposition, and to emphasize the fact that the participation by the Government to the extent provided for in this bill is barely more than a formal recognition of its duty in the premises.

HOUSE OF REPRESENTATIVES UNITED STATES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D. C., February 10, 1913.

DEAR COLLEAGUE: The Louisiana delegation asks you to kindly read this short statement in regard to the Panama Exposition. New Orleans contested with San Francisco for the honor of being selected as the exposition city. San Francisco won.

New Orleans contended that an international exposition without foreign exhibits would not be a success and that foreign nations would not exhibit unless the United States had an exhibit of its own and a commission representing the authority of the Government. San Francisco believed that a successful exposition could be conducted without these provisions.

Recent developments have demonstrated that New Orleans was right and that San Francisco was wrong. Some of the leading foreign nations are hesitating about accepting our Government's invitation to participate until the United States provides for its own exhibit and appoints a Government commission with which foreign nations can deal.

Whether San Francisco erred when it stated that it would not ask for a national exhibit, or whether it used the argument for the purpose of obtaining a material advantage over its competitor, should not be considered at this time. It is essential that a national exhibit be authorized and adequate appropriation be made to secure the participation of foreign powers, without which the exposition must fail; and we urge that no right-thinking American will contribute to such humiliation.

The citizens of Louisiana and the entire country want the exposition to be a success. Our national prestige is at stake. We have invited foreign nations to be our guests, and we must not fail in our duty. New Orleans is anxious to help her late rival to make the exposition a success, and we urge upon Congress the absolute necessity for a Government exhibit and the creation of a Government commission.

The question is not local, but national. The mere fact that San Francisco made a mistake two years ago does not justify Congress in now making the mistake of refusing to do what is absolutely necessary to insure a successful exposition.

R. F. BROUSSARD.
JOS. E. RANSDELL.
A. P. PUJO.
J. T. WATKINS.
ALBERT ESTOPINAL.
H. GARLAND DUPRÉ.
LEWIS L. MORGAN.

The question was taken.

The SPEAKER. In the judgment of the Chair, two-thirds having failed to vote——

Mr. FITZGERALD. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 84, noes 72.

Mr. FITZGERALD. Mr. Speaker, I ask for the yeas and nays.

The SPEAKER. Those in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] Seventy-two gentlemen have risen—a sufficient number—and the yeas and nays are ordered.

The question was taken; and there were—yeas 134, nays 121, answered "present" 5, not voting 121, as follows:

YEAS—134.

Adamson	Candler	Fields	Hardy
Aiken, S. C.	Cannon	Finley	Hay
Ainey	Cline	Fitzgerald	Helm
Akin, N. Y.	Collier	Flood, Va.	Henry, Conn.
Alexander	Cox	Floyd, Ark.	Hensley
Allen	Curley	Fornes	Higgins
Ashbrook	Daugherty	Foster	Hill
Ayres	Denver	Fowler	Holland
Bartlett	Dickinson	Francis	Houston
Bathrick	Dickson, Miss.	Gardner, Mass.	Howard
Bell, Ga.	Difenderfer	Garner	Humphreys, Miss.
Boehne	Dixon, Ind.	Garrett	Jacoway
Booher	Doremus	Gill	Kinkead, N. J.
Borland	Doughton	Glass	Kitchin
Buchanan	Driscoll, M. E.	Goodwin, Ark.	Konop
Burgess	Edwards	Green, Iowa	Lawrence
Burleson	Evans	Gudger	Lee, Ga.
Byrnes, S. C.	Faison	Hamlin	Lever
Byrns, Tenn.	Fergusson	Hardwick	Littleton
Lloyd	Page	Sherley	Taylor, Ark.
McCreary	Patten, N. Y.	Sherwood	Taylor, Colo.
McKellar	Pepper	Sims	Tribble
Macon	Post	Sisson	Turnbull
Maguire, Nebr.	Pou	Slayden	Vare
Maher	Randell, Tex.	Small	Webb
Merritt	Redfield	Smith, Tex.	Wilder
Moon, Tenn.	Reilly	Stedman	Willis
Moore, Tex.	Roddenbery	Steenerson	Wilson, N. Y.
Morrison	Rouse	Stephens, Miss.	Wilson, Pa.
Moss, Ind.	Rucker, Mo.	Stephens, Nebr.	Witherspoon
Norris	Russell	Stephens, Tex.	Young, Mich.
Oldfield	Sabath	Sweet	Young, Tex.
Olmsted	Saunders	Taggart	
Padgett	Shackleford	Talcott, N. Y.	

NAYS—121.

Adair	Draper	Kendall	Pickett
Anderson	Dupré	Kennedy	Plumley
Austin	Dwight	Kent	Porter
Barchfeld	Esch	Kindred	Powers
Barnhart	Estopinal	Knowland	Pray
Bartholdt	Fairchild	Konig	Prince
Bates	Farr	La Follette	Raker
Berger	Fess	Langley	Ransdell, La.
Broussard	French	Lee, Pa.	Rees
Bulkley	Fuller	Lenroot	Roberts, Mass.
Burke, Pa.	Gallagher	Levy	Rodenberg
Burke, S. Dak.	Graham	Linthicum	Rothermel
Burke, Wis.	Gray	Littlepage	Rucker, Colo.
Burnett	Greene, Mass.	Lobeck	Scott
Campbell	Greene, Vt.	Loud	Sells
Cantrill	Gregg, Pa.	McDermett	Sloan
Cary	Hamilton, Mich.	McGillicuddy	Smith, J. M. C.
Clark, Fla.	Haugen	McGuire, Okla.	Stephens, Cal.
Claypool	Hayden	McKenzie	Stevens, Minn.
Clayton	Hayes	McKinley	Stone
Cooper	Heflin	McLaughlin	Sulloway
Copley	Helgesen	McMorran	Switzer
Crago	Henry, Tex.	Madden	Thayer
Crumpacker	Howell	Martin, S. Dak.	Towner
Cullop	Howland	Mondell	Underhill
Currier	Hughes, W. Va.	Morgan, Okla.	Volstead
Curry	Humphrey, Wash.	Mott	Weeks
Dalzell	Jackson	Needham	Young, Kans.
Davis, Minn.	James	Nelson	
De Forest	Johnson, Ky.	Patton, Pa.	
Dodds	Kahn	Payne	

ANSWERED "PRESENT"—5.

Browning	Riordan	Sparkman	Thistlewood
Mann			

NOT VOTING—121.

Ames	George	Lamb	Roberts, Nev.
Andrus	Gillett	Langham	Ruby
Ansberry	Godwin, N. C.	Lewis	Scully
Anthony	Goeke	Lindbergh	Sharp
Beall, Tex.	Goldfogle	Lindsay	Simmons
Blackmon	Good	Longworth	Slemp
Bradley	Gould	McCall	Smith, Saml. W.
Brantley	Gregg, Tex.	McCoy	Smith, N. Y.
Brown	Griest	McKinley	Speer
Butler	Guernsey	Martin, Colo.	Stack
Calder	Hamill	Matthews	Stanley
Callaway	Hamilton, W. Va.	Mays	Sterling
Carlin	Hammond	Miller	Talbott, Md.
Carter	Harris	Moon, Pa.	Taylor, Ala.
Conry	Harrison, Miss.	Moore, Pa.	Taylor, Ohio
Covington	Harrison, N. Y.	Morgan, La.	Thomas
Craegens	Hart	Morse, Wis.	Tilson
Danforth	Hartman	Murdock	Townsend
Davenport	Hawley	Murray	Tuttle
Davidson	Heald	Neeley	Underwood
Davis, W. Va.	Hinds	Nye	Vreeland
Dent	Hobson	O'Shaunessy	Warburton
Dies	Hughes, Ga.	Palmer	Watkins
Donohoe	Hull	Parran	Whitacre
Driscoll, D. A.	Johnson, S. C.	Peters	White
Dyer	Jones	Prouty	Wilson, Ill.
Ellerbe	Kinkaid, Nebr.	Pujo	Wood, N. J.
Ferris	Konp	Rainey	Woods, Iowa
Focht	Korbly	Rauch	
Fordney	Lafean	Reyburn	
Gardner, N. J.	Lafferty	Richardson	

So, two-thirds not having voted in favor thereof, the motion to dispense with proceedings under Calendar Wednesday was rejected.

The Clerk announced the following pairs:

For the session:

Mr. TALBOTT of Maryland with Mr. PARRAN.
Mr. RIORDAN with Mr. ANDRUS.
Mr. UNDERWOOD with Mr. MANN.
Mr. PALMER with Mr. HILL.
Mr. FORNES with Mr. BRADLEY.
Mr. HOBSON with Mr. FAIRCHILD.
Mr. SCULLY with Mr. BROWNING.

Until further notice:

Mr. BROWN with Mr. DYER.
Mr. BRANTLEY with Mr. AMES.
Mr. BLACKMON with Mr. ANTHONY.
Mr. BEALL of Texas with Mr. CALDER.
Mr. ANSBERRY with Mr. BUTLER.
Mr. RAINEY with Mr. MCCALL.
Mr. MORGAN of Louisiana with Mr. GOOD.
Mr. GOULD with Mr. HINDS.

Mr. MURRAY with Mr. HARRIS.
Mr. JOHNSON of South Carolina with Mr. GILLETT.
Mr. SPARKMAN with Mr. DAVIDSON.
Mr. KITCHIN with Mr. FORDNEY.
Mr. RICHARDSON with Mr. THISTLEWOOD (either to be released when the other would vote the same way).
Mr. CALLAWAY with Mr. DANFORTH.
Mr. CARLIN with Mr. FOCHT.
Mr. CARTER with Mr. GARDNER of New Jersey.
Mr. COVINGTON with Mr. HARTMAN.
Mr. DAVENPORT with Mr. HAWLEY.
Mr. DAVIS of West Virginia with Mr. HEALD.
Mr. DENT with Mr. KINKAID of Nebraska.
Mr. DIES with Mr. KOPP.
Mr. DONOHOE with Mr. LAFEAN.
Mr. DANIEL A. DRISCOLL with Mr. LAFFERTY.
Mr. FERRIS with Mr. LINDBERGH.
Mr. GOLDFOGLE with Mr. LONGWORTH.
Mr. GEORGE with Mr. MCKINLEY.
Mr. GREGG of Texas with Mr. MATTHEWS.
Mr. HARRISON of New York with Mr. MILLER.
Mr. HARRISON of Mississippi with Mr. MOON of Pennsylvania.
Mr. HUGHES of Georgia with Mr. MOORE of Pennsylvania.
Mr. HULL with Mr. MURDOCK.
Mr. KOEBLY with Mr. NYE.
Mr. LEWIS with Mr. PROUTY.
Mr. MCCOY with Mr. REYBURN.
Mr. NEELEY with Mr. ROBERTS of Nevada.
Mr. O'SHAUNESSY with Mr. SIMMONS.
Mr. PETERS with Mr. STERLING.
Mr. PUJO with Mr. SLEMP.
Mr. RAUCH with Mr. SAMUEL W. SMITH.
Mr. RUBEY with Mr. SPEER.
Mr. SHARP with Mr. TAYLOR of Ohio.
Mr. SMITH of New York with Mr. TILSON.
Mr. STANLEY with Mr. VREELAND.
Mr. THOMAS with Mr. WARBURTON.
Mr. TOWNSEND with Mr. WILSON of Illinois.
Mr. TUTTLE with Mr. WOOD of New Jersey.
Mr. WATKINS with Mr. WOODS of Iowa.
Mr. WHITE with Mr. LANGHAM.

Mr. MANN. Mr. Speaker, I voted "yea," but I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote and be recorded as "present."

The SPEAKER. The Clerk will call the gentleman's name.

The name of Mr. MANN was called, and he voted "Present."

Mr. BROWNING. Mr. Speaker, I voted "nay." I am paired with my colleague, Mr. SCULLY, and I wish to withdraw my vote and be recorded as "present."

The SPEAKER. The Clerk will call the gentleman's name.

The name of Mr. BROWNING was called, and he voted "Present."

Mr. THISTLEWOOD. Mr. Speaker, I voted "nay." I have a general pair with the gentleman from Alabama, Mr. RICHARDSON, and if he has not voted I desire to withdraw my vote and vote "present."

The SPEAKER. The Clerk will call the gentleman's name.

The name of Mr. THISTLEWOOD was called, and he voted "Present."

The result of the vote was announced as above recorded.

The SPEAKER. Two-thirds not having voted in the affirmative, the motion to dispense with Calendar Wednesday is rejected, and the House resolves itself——

Mr. HEFLIN. Mr. Speaker, pending that I ask unanimous consent that general debate on this bill be considered as closed, and that we take the bill up immediately under the five-minute rule.

The SPEAKER. The gentleman from Alabama [Mr. HEFLIN] asks unanimous consent that general debate on this bill be considered as closed, and that when the House goes into the Committee of the Whole House it be taken up under the five-minute rule.

Mr. COLLIER, Mr. SISSON, and Mr. MANN objected.

Mr. HEFLIN. Mr. Speaker, I move that general debate upon this bill be considered as closed.

Mr. MANN. Mr. Speaker, I move as an amendment that further general debate on the bill be limited to two hours and a half.

Mr. SHERLEY. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SHERLEY. Is it in order, the House having refused to dispense with Calendar Wednesday, to do anything than to go into Committee of the Whole automatically for the consideration of business?

The SPEAKER. This is Calendar Wednesday, and, if the Chair ruled the other way, they never would get through with it.

Mr. SHERLEY. Does not the rule require it?

The SPEAKER. The rule requires that the House shall go into Committee of the Whole automatically, and it is in exactly the same position then as when a gentleman gets up ordinarily and moves to go into Committee of the Whole. The Chair has ruled that way three or four times, and he believes it is right.

Mr. MANN. On my amendment I ask for the previous question.

The SPEAKER. The gentleman from Illinois amends the motion, or offers to amend it.

Mr. GARDNER of Massachusetts. And, Mr. Speaker, I move to lay it on the table.

Mr. CANNON. Had you not better have the previous question apply to them both?

The SPEAKER. You must take them one at a time. The gentleman from Alabama [Mr. HEFLIN] moves that the debate be considered as closed.

Mr. SISSON. Mr. Speaker, I did not have an opportunity to speak four or five hours.

The SPEAKER. This question is not debatable, and the gentleman from Illinois [Mr. MANN] moves that the general debate close in two hours and a half, and on that he moves the previous question.

Mr. GARDNER of Massachusetts. And I make a preferential motion to lay that on the table.

Mr. CANNON. I suggest to the gentleman that he move the previous question on both the motion and the amendment.

Mr. MANN. I have moved the previous question on my amendment.

Mr. HEFLIN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HEFLIN. I moved that the general debate be considered as closed. The gentleman from Illinois [Mr. MANN] moves to limit general debate to two hours and a half. The gentleman from Massachusetts [Mr. GARDNER] moved to lay that motion on the table.

Mr. MANN. Oh, no.

The SPEAKER. The gentleman from Illinois [Mr. MANN] moves the previous question——

Mr. MANN. On my amendment.

The SPEAKER. And on that the gentleman from Massachusetts moves to lay it on the table.

Mr. CANNON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CANNON. If the previous question should be ordered, or whether it is ordered or not, does the previous question cover the amendment only?

Mr. MANN. That is all the previous question covers. I moved the previous question on my amendment.

The SPEAKER. The gentleman from Illinois [Mr. MANN] simply moves the previous question on his own amendment.

Mr. HEFLIN. Mr. Speaker, would it be in order to move the previous question on the previous question?

The SPEAKER. The Chair will decide that in a minute.

Mr. CANNON. It seems to me, Mr. Speaker, the gentleman from Alabama should have opportunity to move the previous question on both.

Mr. MANN. He had an opportunity to do that and did not do it.

The SPEAKER. The gentleman from Alabama had an opportunity to do that and did not do it, and the gentleman from Illinois [Mr. MANN] did it, as far as he wanted to do it. [Laughter.]

Mr. CANNON. Mr. Speaker, another parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CANNON. If the previous question should be ordered and the amendment disposed of, then I will ask whether the gentleman from Alabama would be recognized to promptly move the previous question on his motion, and, if ordered, whether he would not thereby cut off an infinity of business?

The SPEAKER. He could if he were quick enough.

Mr. COOPER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. COOPER. As I understand it, the gentleman from Alabama made a motion, and the gentleman from Illinois [Mr. MANN] amended it. Would it not be in order now to move the previous question on the original motion and the amendments?

The SPEAKER. Not now. It would have been at one time, but it is now too late, and the gentleman from Massachusetts—to finish the statement of that situation—moved to lay the gentleman's motion on the table.

Mr. GARDNER of Massachusetts. To lay the amendment on the table.

Mr. COOPER. The motion of the gentleman from Massachusetts is a preferential motion and not an amendment to either of the other motions.

The SPEAKER. Of course, the motion of the gentleman from Massachusetts is preferential.

Mr. KAHN. Mr. Speaker——

Mr. HEFLIN rose.

The SPEAKER. For what purpose does the gentleman from Alabama rise?

Mr. HEFLIN. The gentleman from Massachusetts moves to lay the amendment of the gentleman from Illinois [Mr. MANN] on the table. If that motion prevails, what situation would the original motion be in?

The SPEAKER. That kills his amendment.

Mr. HEFLIN. And leaves the original motion as it was?

The SPEAKER. No. The original motion would go to the table with the amendment of the gentleman from Illinois.

Mr. COOPER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. COOPER. Under parliamentary law an amendment in the third degree is not permissible, but there is only one amendment before the House.

The SPEAKER. That is true.

Mr. COOPER. That is the amendment of the gentleman from Illinois [Mr. MANN], to have the general debate run two hours and a half, and on that he moves the previous question.

The SPEAKER. Yes.

Mr. COOPER. Why is it not in order to amend that still further and have the previous question apply to the original motion and to this amendment?

Mr. MANN. Because the previous question has been demanded on my motion.

The SPEAKER. What the gentleman from Wisconsin [Mr. COOPER] suggests could have been done at the proper time.

Mr. KAHN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. KAHN. If the motion of the gentleman from Massachusetts to lay on the table should carry, would that take with it the bill and everything else connected with it?

The SPEAKER. It would not.

Mr. PAYNE. Mr. Speaker, I submit, as a part of the parliamentary inquiry, whether the motion to lay upon the table the amendment does not also take the motion of the gentleman from Alabama which is sought to be amended, and lay that upon the table?

Mr. WEBB. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from North Carolina rise?

Mr. WEBB. I move that the House do now adjourn.

Mr. PAYNE. I make the point of order that that is clearly dilatory.

Mr. MANN. That is dilatory.

Mr. WEBB. It is not dilatory.

Mr. MARTIN of South Dakota. It looks like it.

The SPEAKER. The question is on the motion of the gentleman from North Carolina to adjourn. That is the highest motion that can be made in this House.

The question being taken, the Speaker announced that the noes appeared to have it.

Mr. WEBB. I demand the yeas and nays, Mr. Speaker.

The question being taken on ordering the yeas and nays, the Speaker announced 41 ayes, not a sufficient number.

Mr. WEBB. I demand the other side.

The negative vote was taken.

The SPEAKER. On ordering the yeas and nays, the ayes are 41 and the noes are 115. More than one-fifth having voted in the affirmative, the yeas and nays are ordered. The question is on the motion of the gentleman from North Carolina that the House do now adjourn.

The question was taken; and there were—yeas 77, nays 183, answered "present" 6, not voting 115, as follows:

YEAS—77.

Adamson	Byrns, Tenn.	Fields	Helm
Akin, N. Y.	Cline	Flood, Va.	Henry, Conn.
Anderson	Collier	Floyd, Ark.	Hill
Ashbrook	Davis, W. Va.	Foster	Houston
Bartlett	Denver	Garner	Howard
Bathrick	Dickinson	Garrett	Humphreys, Miss.
Booher	Dickson, Miss.	Gregg, Tex.	Jacoway
Borland	Doremus	Gudger	Johnson, Ky.
Buchanan	Edwards	Hamlin	Kinkead, N. J.
Burgess	Evans	Hardwick	Lewis
Burleson	Falson	Hardy	McKellar
Byrnes, S. C.	Fergusson	Hay	Macon
Madden	Randell, Tex.	Small	Webb
Moon, Tenn.	Roddenbery	Smith, Tex.	Whitacre
Moore, Tex.	Rouse	Steenerson	Willis
Morrison	Saunders	Stephens, Miss.	Witherspoon
Oldfield	Sherwood	Stephens, Tex.	Young, Tex.
Padgett	Sims	Taylor, Ark.	
Page	Sisson	Tribble	
Pepper	Slayden	Turnbull	

NAYS—183.

Adair	Ellerbe	Kinkaid, Nebr.	Plumley
Aiken, S. C.	Esch	Knowland	Porter
Ainey	Estopinal	Konop	Post
Alexander	Fairchild	Kopp	Pou
Allen	Farr	La Follette	Powers
Austin	Fitzgerald	Langley	Pray
Barchfeld	Fornes	Lee, Ga.	Prince
Barnhart	Foss	Lee, Pa.	Raker
Bartholdt	Fowler	Lenroot	Redfield
Bates	Francis	Lever	Rees
Bell, Ga.	French	Levy	Roberts, Mass.
Blackmon	Fuller	Lindbergh	Rodenberg
Boehne	Gallagher	Linthicum	Rothermel
Brantley	Gardner, Mass.	Littlepage	Rucker, Colo.
Broussard	Gill	Littleton	Rucker, Mo.
Browning	Glass	Lloyd	Russell
Bulkley	Godwin, N. C.	Lobeck	Sabath
Burke, Pa.	Goodwin, Ark.	Lond	Scott
Burke, S. Dak.	Graham	McCoy	Scully
Burke, Wis.	Gray	McCreary	Sells
Campbell	Green, Iowa	McDermott	Sherley
Cannon	Greene, Mass.	McGillicuddy	Sloan
Cantrill	Greene, Vt.	McGuire, Okla.	Smith, J. M. C.
Cary	Gregg, Pa.	McKenzie	Stedman
Clark, Fla.	Hamill	McKinney	Stephens, Cal.
Claypool	Hamilton, Mich.	McLaughlin	Stone
Clayton	Hayden	McMorran	Sulloway
Cooper	Hayes	Maguire, Nebr.	Sweet
Copley	Heflin	Martin, S. Dak.	Switzer
Cox	Helgesen	Merritt	Taggart
Crago	Henry, Tex.	Miller	Talcott, N. Y.
Crumpacker	Hensley	Moore, Pa.	Taylor, Ohio
Cullop	Higgins	Morgan, Okla.	Thayer
Curley	Hinds	Moss, Ind.	Towner
Currier	Hobson	Mott	Tuttle
Dalzell	Howell	Murdock	Underhill
Davis, Minn.	Howland	Murray	Vare
De Forest	Hughes, W. Va.	Needham	Volstead
Dent	Humphrey, Wash.	Nelson	White
Difenderfer	Jackson	Norris	Wilder
Dodds	James	Olmsted	Wilson, N. Y.
Doughton	Kahn	O'Shaunessy	Wood, N. J.
Draper	Kendall	Patten, N. Y.	Woods, Iowa
Driscoll, M. E.	Kennedy	Patton, Pa.	Young, Kans.
Dupré	Kent	Payne	Young, Mich.
Dwight	Kindred	Pickett	

ANSWERED "PRESENT"—6.

Johnson, S. C.	Riordan	Stevens, Minn.	Thistlewood
Mann	Shackleford		

NOT VOTING—115.

Ames	Ferris	Korbly	Reyburn
Andrus	Finley	Lafean	Richardson
Ansberry	Focht	Lafferty	Roberts, Nev.
Anthony	Fordney	Lamb	Rubey
Ayres	Gardner, N. J.	Langham	Sharp
Beall, Tex.	George	Lawrence	Simmons
Berger	Gillett	Lindsay	Slemp
Bradley	Goeke	Longworth	Smith, Saml. W.
Brown	Goldfogle	McCall	Smith, N. Y.
Burnett	Good	McKinley	Sparkman
Butler	Gould	Maher	Speer
Calder	Griest	Martin, Colo.	Stack
Callaway	Guernsey	Matthews	Stanley
Candler	Hamilton, W. Va.	Mays	Stephens, Nebr.
Carlin	Hammond	Mondell	Sterling
Carter	Harris	Moon, Pa.	Talbott, Md.
Conry	Harrison, Miss.	Morgan, La.	Taylor, Ala.
Covington	Harrison, N. Y.	Morse, Wis.	Taylor, Colo.
Cravens	Hart	Neeley	Thomas
Curry	Hartman	Nye	Tilson
Danforth	Haugen	Palmer	Townsend
Daugherty	Hawley	Parran	Underwood
Davenport	Heald	Peters	Vreeland
Davidson	Holland	Prouty	Warburton
Dies	Hughes, Ga.	Pujo	Watkins
Dixon, Ind.	Hull	Rainey	Weeks
Donohoe	Jones	Ransdell, La.	Wilson, Ill.
Driscoll, D. A.	Kitchin	Rauch	Wilson, Pa.
Dyer	Konig	Reilly	

So the House refused to adjourn.

The following additional pairs were announced:

Until further notice:

Mr. BURNETT with Mr. ANTHONY.
Mr. DIXON of Indiana with Mr. HAUGEN.
Mr. FINLEY with Mr. LAWRENCE.
Mr. CANDLER with Mr. CURRY.
Mr. CONRY with Mr. GRIEST.
Mr. HAMILTON of West Virginia with Mr. GUERNSEY.
Mr. HULL with Mr. WEEKS.
Mr. HOLLAND with Mr. HAWLEY.
Mr. MOSS of Indiana with Mr. HARTMAN.
Mr. REILLY with Mr. DANFORTH.

Mr. MANN. Mr. Speaker, I voted "no," but I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I wish to withdraw my vote and answer "present."

The result of the vote was then announced as recorded.

The SPEAKER. When the gentleman from North Carolina swept everything out of the way temporarily by his motion to adjourn, there were three or four parliamentary inquiries pending, one by the gentleman from California [Mr. KAHN], one by the gentleman from New York [Mr. PAYNE], and one by the gentleman from Wisconsin [Mr. COOPER]. The Chair will answer them all at once. In the first place, if the motion of the gentleman from Massachusetts [Mr. GARDNER] to lay on the table, which comes first, carries, that carries the amendment offered by the gentleman from Illinois [Mr. MANN], and with it the proposition of the gentleman from Alabama to close the debate. It does not carry with it the bill. It has nothing to do with the bill. If the motion of the gentleman from Massachusetts fails, then the vote comes on the motion of the gentleman from Illinois [Mr. MANN] on ordering the previous question, and then the vote on the amendment offered by the gentleman from Illinois.

Mr. MANN. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. If the Gardner motion to lay on the table should be agreed to, thereby carrying the Heflin motion to limit debate, would it then be in order for the gentleman from Alabama to again be recognized to move to close debate at once?

The SPEAKER. No, not at once; but it would be to close it in one minute or three hours, or any time between. The question now is on the motion of the gentleman from Massachusetts [Mr. GARDNER] to lay the Mann amendment on the table.

Mr. MANN. And on that, Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The Clerk will call the roll.

The question was taken; and there were—yeas 130, nays 111, answered "present" 6, not voting 134, as follows:

YEAS—130.

Ainey	Dwight	Kahn	Post
Akin, N. Y.	Esch	Kendall	Pou
Allen	Estopinal	Kennedy	Powers
Anderson	Fowler	Kent	Pray
Ashbrook	Francis	Kinkaid, Nebr.	Prince
Austin	French	Knowland	Raker
Ayres	Fuller	Konop	Ramdell, Tex.
Barchfeld	Gallagher	Lafferty	Rees
Blackmon	Gardner, Mass.	La Follette	Roberts, Mass.
Browning	Gill	Langley	Rodenberg
Bulkley	Glass	Lee, Pa.	Rucker, Colo.
Burke, Pa.	Godwin, N. C.	Levy	Russell
Burke, S. Dak.	Gould	Linthicum	Scott
Burke, Wis.	Graham	Littlepage	Sells
Campbell	Greene, Mass.	Lobeck	Sherley
Cantrill	Greene, Vt.	McGillicuddy	Sloan
Clark, Fla.	Gudger	McKenzie	Stephens, Cal.
Claypool	Hamill	McKinney	Stevens, Minn.
Cooper	Hamilton, Mich.	McMorran	Stone
Crago	Hayden	Madden	Sulloway
Crumpacker	Hayes	Martin, S. Dak.	Sweet
Cullop	Heflin	Merritt	Switzer
Currier	Helgesen	Miller	Taggart
Curry	Henry, Conn.	Morgan, Okla.	Thayer
Dalzell	Henry, Tex.	Mott	Towner
Davis, Minn.	Higgins	Murdock	Underhill
Davis, W. Va.	Hinds	Murray	Volstead
De Forest	Howell	Needham	Willis
Dent	Howland	Nelson	Wood, N. J.
Dodds	Hughes, W. Va.	Olmsted	Young, Kans.
Draper	Humphrey, Wash.	Payne	Young, Mich.
Driscoll, M. E.	Jackson	Pickett	
Dupré	James	Plumley	

NAYS—111.

Adair	Doremus	Humphreys, Miss.	Roddenbery
Adamson	Doughton	Jacoway	Rouse
Aiken, S. C.	Edwards	Kinkead, N. J.	Rucker, Mo.
Alexander	Ellerbe	Kopp	Sabath
Barnhart	Evans	Lamb	Saunders
Bartlett	Falson	Lee, Ga.	Scully
Bell, Ga.	Fergussen	Lever	Sherwood
Boehne	Fields	Lewis	Sims
Booher	Fitzgerald	Lindbergh	Sisson
Borland	Floyd, Ark.	Littleton	Slayden
Brantley	Foster	Lloyd	Small
Buchanan	Garner	McCoy	Smith, J. M. C.
Burgess	Garrett	McCreary	Smith, Tex.
Burleson	Goodwin, Ark.	McGuire, Okla.	Stedman
Byrnes, S. C.	Gray	McKellar	Steenerson
Byrns, Tenn.	Gregg, Tex.	Macon	Stephens, Miss.
Callaway	Hamlin	Maguire, Nebr.	Stephens, Tex.
Candler	Hardwick	Mondell	Talcott, N. Y.
Cary	Hardy	Moon, Tenn.	Taylor, Ark.
Cline	Harrison, Miss.	Morrison	Taylor, Colo.
Collier	Haugen	Moss, Ind.	Tribble
Cox	Hay	Norris	Turnbull
Curley	Helm	Oldfield	Whitacre
Daugherty	Hensley	O'Shaunessy	Wilder
Denver	Hill	Padgett	Wilson, N. Y.
Dickinson	Holland	Page	Witherspoon
Dickson, Miss.	Houston	Patten, N. Y.	Young, Tex.
Difenderfer	Howard	Pepper	

ANSWERED "PRESENT"—6.

Fornes	McDermott	Riordan	Shackleford
Johnson, S. C.	Mann		

NOT VOTING—134.

Ames	Finley	Lawrence	Rothermel
Andrus	Flood, Va.	Lenroot	Ruhey
Ansberry	Focht	Lindsay	Sharp
Anthony	Fordney	Longworth	Simmons
Bartholdt	Foss	Lond	Slemp
Bates	Gardner, N. J.	McCall	Smith, Saml. W.
Bathrick	George	McKinley	Smith, N. Y.
Beall, Tex.	Gillett	McLaughlin	Sparkman
Berger	Goeke	Maher	Speer
Bradley	Goldfogle	Martin, Colo.	Stack
Broussard	Good	Matthews	Stanley
Brown	Green, Iowa	Mays	Stephens, Nebr.
Barnett	Gregg, Pa.	Moon, Pa.	Sterling
Butler	Griest	Moore, Pa.	Talbott, Md.
Calder	Guernsey	Moore, Tex.	Taylor, Ala.
Cannon	Hamilton, W. Va.	Morgan, La.	Taylor, Ohio
Carlin	Hammond	Morse, Wis.	Thistlewood
Carter	Harris	Neeley	Thomas
Clayton	Harrison, N. Y.	Nye	Tilson
Conry	Hart	Palmer	Townsend
Copley	Hartman	Parran	Tuttle
Covington	Hawley	Patton, Pa.	Underwood
Cravens	Heald	Peters	Vare
Danforth	Hobson	Porter	Vreeland
Davenport	Hughes, Ga.	Prouty	Warburton
Davidson	Hull	Pujo	Watkins
Dies	Johnson, Ky.	Rainey	Webb
Dixon, Ind.	Jones	Ransdell, La.	Weeks
Donohoe	Kindred	Rauch	White
Driscoll, D. A.	Kitchin	Redfield	Wilson, Ill.
Dyer	Konig	Reilly	Wilson, Pa.
Fairchild	Korbly	Reyburn	Woods, Iowa
Farr	Lafean	Richardson	
Ferris	Langham	Roberts, Nev.	

So the motion to lay on the table was agreed to.

The Clerk announced the following additional pairs:

Until further notice:

Mr. BATHRICK with Mr. BARTHOLDT.

Mr. CLAYTON with Mr. CANNON.

Mr. JOHNSON of Kentucky with Mr. COPLEY.

Mr. JONES with Mr. FOSS.

Mr. MAHER with Mr. GREEN of Iowa.

Mr. PALMER with Mr. PORTER.

Mr. REDFIELD with Mr. LOUD.

Mr. ROTHERMEL with Mr. HARTMAN.

Mr. WEBB with Mr. MCLAUGHLIN.

Mr. TAYLOR of Alabama with Mr. VARE.

Mr. HART with Mr. TAYLOR of Ohio.

Mr. BERGER. Mr. Speaker, I did not hear my name called, though I was about here. I desire to vote.

The SPEAKER. Was the gentleman in the Hall, listening, when his name should have been called?

Mr. BERGER. Mr. Speaker, I believe I was in the Hall. I do not know whether I was in the Hall in time. I tried to get over in time from the House Office Building.

The SPEAKER. Was the gentleman in the Hall when his name was called?

Mr. BERGER. I do not know about that.

The SPEAKER. The gentleman does not bring himself within the rule.

Mr. MANN. Mr. Speaker, inadvertently I voted "yea" on this roll. I wish to withdraw that vote and vote "present," as I am paired with the gentleman from Alabama, Mr. UNDERWOOD.

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

Mr. GARDNER of Massachusetts. Mr. Speaker, I now move to close debate in three hours, and on that motion I demand the previous question.

Mr. MANN and Mr. COOPER rose.

Mr. HEFLIN. Mr. Speaker, I move to lay the motion of the gentleman from Massachusetts on the table.

Mr. MANN. That is right. I was just going to make that motion myself.

Mr. GARNER. Mr. Speaker, it must be clear to everyone in the House——

The SPEAKER. Debate is not in order on a motion to table.

Mr. GARNER. Then I desire to make a motion to adjourn.

The SPEAKER. The Chair will hold that motion to be dilatory.

Mr. GARNER. Mr. Speaker, do I understand the Speaker to hold, at 20 minutes of 5 o'clock, when a motion has been made that we have three hours of debate, and another motion to lay that motion on the table has been made, that a motion to adjourn is dilatory?

The SPEAKER. The Chair holds that at this stage of the session, with the business in the condition that it is, at 20 minutes of 5 o'clock in the evening a motion to adjourn is dilatory. [Applause.]

The gentleman from Massachusetts moves that debate close in three hours, and on that motion he demands the previous

question. The gentleman from Alabama [Mr. HEFLIN] moves to lay that motion on the table. The question is on the motion to lay on the table.

The question was taken; and on a division (demanded by Mr. MANN) there were—ayes 119, noes 81.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 133, nays 113, answered "present" 3, not voting 132, as follows:

YEAS—133.

Adair	Dwight	Kent	Pickett
Ainey	Esch	Kinkaid, Nebr.	Plumley
Anderson	Estopinal	Knowland	Post
Austin	Farr	Konig	Pou
Barchfeld	Fees	Konop	Powers
Batchart	Fowler	Kopp	Pray
Bell, Ga.	Francis	Lafferty	Raker
Berger	French	La Follette	Ransdell, La.
Broussard	Fuller	Langley	Rees
Browning	Gallagher	Lawrence	Roberts, Mass.
Bulkley	Goodwin, N. C.	Lee, Pa.	Rodenberg
Burke, Pa.	Gould	Lenroot	Rucker, Mo.
Burke, S. Dak.	Graham	Levy	Russell
Burke, Wis.	Greene, Mass.	Lindbergh	Sabath
Calder	Gudger	Linthicum	Scott
Campbell	Hamill	Lobeck	Sells
Cantrill	Hamilton, Mich.	Loud	Sloan
Claypool	Hayden	McGuire, Okla.	Stanley
Cooper	Hayes	McKenzie	Stephens, Cal.
Crago	Heflin	McKinney	Stephens, Nebr.
Crumpacker	Helgesen	McLaughlin	Stone
Cullop	Henry, Conn.	McMorran	Sweet
Curley	Higgins	Madden	Switzer
Currier	Hinds	Martin, S. Dak.	Talcott, N. Y.
Curry	Hobson	Miller	Thayer
Dalzell	Howard	Morgan, Okla.	Towner
Davenport	Howell	Mott	Vare
Davis, Minn.	Howland	Murdock	Volstead
De Forest	Hughes, W. Va.	Needham	Wood, N. J.
Dent	Humphrey, Wash.	Nelson	Young, Kans.
Dodds	James	Norris	Young, Mich.
Draper	Kahn	Olmsted	
Driscoll, M. E.	Kendall	Patton, Pa.	
Dupré	Kennedy	Payne	

NAYS—113.

Adamson	Evans	Kinkead, N. J.	Sisson
Aiken, S. C.	Falson	Lee, Ga.	Slayden
Akin, N. Y.	Fergusson	Lever	Small
Alexander	Fields	Lewis	Smith, J. M. C.
Allen	Fitzgerald	Littlepage	Smith, Tex.
Ashbrook	Floyd, Va.	McCoy	Stedman
Bartlett	Floyd, Ark.	McCreary	Steenerson
Bathrick	Foster	McKellar	Stephens, Miss.
Booher	Gardner, Mass.	Macon	Stephens, Tex.
Borland	Garner	Maguire, Nebr.	Taggart
Buchanan	Garrett	Moon, Tenn.	Taylor, Ark.
Burgess	Gill	Moore, Tex.	Taylor, Colo.
Burleson	Glass	Morrison	Tribble
Byrnes, S. C.	Goodwin, Ark.	Moss, Ind.	Turnbull
Byrns, Tenn.	Gray	Murray	Tuttle
Callaway	Green, Iowa	Oldfield	Underhill
Candler	Gregg, Tex.	O'Shaunessy	Webb
Cary	Hamlin	Padgett	Whitacre
Cline	Hardy	Page	White
Collier	Harrison, Miss.	Patten, N. Y.	Wilder
Cox	Hay	Pepper	Willis
Daugherty	Helm	Roddenbery	Wilson, N. Y.
Denver	Henry, Tex.	Rothermel	Wilson, Pa.
Dickinson	Hensley	Rouse	Witherspoon
Difenderfer	Hill	Saunders	Woods, Iowa
Doremus	Holland	Shackleford	Young, Tex.
Doughton	Houston	Sherley	
Edwards	Humphreys, Miss.	Sherwood	
Ellerbe	Jacoway	Sims	

ANSWERED "PRESENT"—3.

Fornes	McDermott	Mann

NOT VOTING—132.

Ames	Dickson, Miss.	Hartman	Merritt
Andrus	Dies	Haugen	Mondell
Ansberry	Dixon, Ind.	Hawley	Moon, Pa.
Anthony	Donohoe	Heald	Moore, Pa.
Ayres	Driscoll, D. A.	Hughes, Ga.	Morgan, La.
Bartholdt	Dyer	Hull	Morse, Wis.
Bates	Fairchild	Jackson	Neeley
Beall, Tex.	Ferris	Johnson, Ky.	Nye
Blackmon	Finley	Johnson, S. C.	Palmer
Boehne	Focht	Jones	Parran
Bradley	Fordney	Kindred	Peters
Brantley	Gardner, N. J.	Kitchin	Porter
Brown	George	Korbly	Prince
Burnett	Gillett	Lafean	Prouty
Butler	Goeke	Lamb	Pujo
Cannon	Goldfogle	Langham	Rainey
Carlin	Good	Lindsay	Randell, Tex.
Carter	Greene, Vt.	Littleton	Rauch
Clark, Fla.	Gregg, Pa.	Lloyd	Redfield
Clayton	Griest	Longworth	Reilly
Conry	Guernsey	McCall	Reyburn
Copley	Hamilton, W. Va.	McGillicuddy	Richardson
Covington	Hammond	McKinley	Riordan
Cravens	Hardwick	Maher	Roberts, Nev.
Danforth	Harris	Martin, Colo.	Rubey
Davidson	Harrison, N. Y.	Matthews	Rucker, Colo.
Davis, W. Va.	Hart	Mays	Scully
Sharp	Speer	Taylor, Ala.	Underwood
Simmons	Stack	Taylor, Ohio	Vreeland
Slemp	Sterling	Thistlewood	Warburton
Smith, Saml. W.	Stevens, Minn.	Thomas	Watkins
Smith, N. Y.	Sulloway	Tilson	Weeks
Sparkman	Talbott, Md.	Townsend	Wilson, Ill.

So the motion to lay on the table was agreed to.

The Clerk announced the following additional pairs:

Until further notice:

Mr. LINDSAY with Mr. MCLAUGHLIN.

Mr. MARTIN of Colorado with Mr. TAYLOR of Ohio.

Mr. RUCKER of Colorado with Mr. SULLOWAY.

Mr. DICKSON of Mississippi with Mr. VREELAND.

Mr. GOEKE with Mr. PRINCE.

Mr. SHARP with Mr. MERRITT.

Mr. AYRES with Mr. BARTHOLDT.

Mr. KINDRED with Mr. PROUTY.

Mr. CLARK of Florida with Mr. GREENE of Vermont.

Mr. BRANTLEY with Mr. DANFORTH.

Mr. HARDWICK with Mr. JACKSON.

Mr. MANN. Mr. Speaker, I voted "no." I desire to withdraw my vote, because I am paired, and ask to be recorded as answering "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

Mr. HEFLIN. Mr. Speaker, I move that general debate close in five minutes, and on that I demand the previous question.

Mr. MANN. Mr. Speaker, I move to lay that motion on the table.

Mr. LENROOT. Mr. Speaker, I make the point of order that the motion is dilatory.

Mr. MANN. I wish to be heard upon that.

The SPEAKER. Upon what?

Mr. MANN. Upon the point of order which the gentleman has made.

The SPEAKER. What is it the gentleman desires to be heard on?

Mr. MANN. The gentleman from Wisconsin made a point of order that some motion was dilatory—I suppose the motion which I made to lay on the table. Now, Mr. Speaker, the House has just laid on the table two motions, and to say that a proposition to lay a third on the table is dilatory is wild imagination. If the House had refused to lay on the table a former motion, it might with some justice be claimed that a motion to lay on the table a third time was dilatory; but when the House has laid two of these propositions—one to close debate instantly, one to close debate in three hours—on the table, it seems to me that the House has shown its disposition to not endeavor to close debate at all.

Mr. LAFFERTY. Will the gentleman yield to me for a question?

Mr. MANN. If it is a parliamentary question.

Mr. LAFFERTY. It is a question touching the argument of the gentleman. Is it not a fact that the House has twice shown that it wants to vote on the main question involved and that——

Mr. MANN. It has not, because if it had even the gentleman from Oregon would not have voted to lay the main question on the table if he wanted to vote on it, and he so voted twice.

Mr. LAFFERTY. The parliamentary skirmish here is to avoid voting on the main question.

The SPEAKER. The Chair thinks the motion is dilatory, and every man in the House believes the same. [Applause.] The question is on ordering the previous question.

The question was taken; and the Speaker announced the noes seemed to have it.

Mr. CULLOP. Division, Mr. Speaker.

The SPEAKER. The gentleman from Indiana demands a division.

The House divided; and there were—ayes 86, noes 89.

Mr. HEFLIN. Mr. Speaker, I ask for the yeas and nays.

The SPEAKER. The gentleman demands the yeas and nays. Those in favor of ordering the yeas and nays on the previous question will rise and stand until they are counted. [After counting.] Eighty-five gentlemen have risen, a sufficient number, and the Clerk will call the roll.

The question was taken; and there were—yeas 114, nays 117, answered "present" 1, not voting 149, as follows:

YEAS—114.

Ainey	Browning	Cantrill	Cullop
Anderson	Bulkley	Cary	Curley
Austin	Burke, Pa.	Clayton	Currier
Bates	Burke, S. Dak.	Cooper	Dalzell
Bell, Ga.	Calder	Crago	Davis, Minn.
Broussard	Cannon	Crumpacker	De Forest

Dent	Helgesen	McGuire, Okla.	Rodenberg
Dodds	Higgins	McKinney	Rothermel
Dupré	Hinds	McLaughlin	Russell
Dwight	Hobson	Martin, S. Dak.	Scott
Esch	Howell	Merritt	Slemp
Estopinal	Howland	Miller	Sloan
Farr	Humphrey, Wash.	Morgan, Okla.	Smith, J. M. C.
Fess	Kahn	Murdock	Stephens, Cal.
Fowler	Kendall	Murray	Stevens, Minn.
Francis	Kennedy	Needham	Stone
French	Kent	Nelson	Switzer
Gallagher	Kinkaid, Nebr.	Norris	Thayer
Gill	Knowland	Patton, Pa.	Towner
Godwin, N. C.	Konig	Payne	Underhill
Gould	Konop	Pickett	Vare
Greene, Mass.	Kopp	Plumley	Volstead
Hamill	Lafferty	Porter	Weeks
Hamilton, Mich.	La Follette	Pou	White
Harrison, N. Y.	Lee, Pa.	Pray	Woods, Iowa
Hart	Lenroot	Raker	Young, Kans.
Hayden	Levy	Ransdell, La.	Young, Mich.
Hayes	Lobeck	Rees	
Heflin	McDermott	Roberts, Mass.	

NAYS—117.

Adair	Falson	Lee, Ga.	Sims
Adamson	Fergusson	Lever	Sisson
Aiken, S. C.	Fields	Lewis	Slayden
Akin, N. Y.	Fitzgerald	Lindbergh	Small
Alexander	Floyd, Ark.	McCoy	Smith, Tex.
Allen	Foster	McCreary	Stanley
Ayres	Gardner, Mass.	McKellar	Stedman
Barnhart	Garner	Macon	Steenerson
Bartlett	Garrett	Maguire, Nebr.	Stephens, Miss.
Bathrick	Glass	Mann	Stephens, Nebr.
Beall, Tex.	Goodwin, Ark.	Moon, Tenn.	Stephens, Tex.
Booher	Gray	Moore, Tex.	Sweet
Borland	Green, Iowa	Morrison	Taggart
Buchanan	Gregg, Tex.	Moss, Ind.	Talcott, N. Y.
Burgess	Gudger	Oldfield	Taylor, Ark.
Byrnes, S. C.	Hamlin	O'Shaunessy	Taylor, Colo.
Byrns, Tenn.	Kardwick	Padgett	Tribble
Callaway	Hardy	Page	Turnbull
Candler	Harrison, Miss.	Pepper	Tuttle
Cline	Hay	Post	Webb
Collier	Helm	Powers	Whitacre
Cox	Hensley	Prouty	Wilder
Denver	Hill	Redfield	Willis
Dickson, Miss.	Holland	Roddenbery	Wilson, N. Y.
Difenderfer	Houston	Rouse	Wilson, Pa.
Difremus	Humphreys, Miss.	Sabath	Witherspoon
Doughton	Jacoway	Saunders	Young, Tex.
Edwards	Johnson, S. C.	Scully	
Ellerbe	Kinkead, N. J.	Shackleford	
Evans	Lawrence	Sherwood	

ANSWERED "PRESENT"—1.

Olmsted

NOT VOTING—149.

Ames	Driscoll, M. E.	Kindred	Rainey
Andrus	Dyer	Kitchin	Randell, Tex.
Ansberry	Fairchild	Korbly	Rauch
Anthony	Ferris	Lafean	Reilly
Ashbrook	Finley	Lamb	Reyburn
Barchfeld	Flood, Va.	Langham	Richardson
Bartholdt	Focht	Langley	Riordan
Berger	Fordney	Lindsay	Roberts, Nev.
Blackmon	Fornes	Linthicum	Rubey
Boehne	Fuller	Littlepage	Rucker, Colo.
Bradley	Gardner, N. J.	Littleton	Rucker, Mo.
Brantley	George	Lloyd	Sells
Brown	Gillett	Longworth	Sharp
Burke, Wis.	Goeke	Loud	Sherley
Burleson	Goldfogle	McCall	Simmons
Burnett	Good	McGillicuddy	Smith, Saml. W.
Butler	Graham	McKenzie	Smith, N. Y.
Campbell	Greene, Vt.	McKinley	Sparkman
Carlin	Gregg, Pa.	McMorran	Speer
Carter	Griest	Madden	Stack
Clark, Fla.	Guernsey	Maher	Sterling
Claypool	Hamilton, W. Va.	Martin, Colo.	Sulloway
Conry	Hammond	Matthews	Talbott, Md.
Copley	Harris	Mays	Taylor, Ala.
Covington	Hartman	Mondell	Taylor, Ohio
Cravens	Haugen	Moon, Pa.	Thistlewood
Curry	Hawley	Moore, Pa.	Thomas
Danforth	Heald	Morgan, La.	Tilson
Daugherty	Henry, Conn.	Morse, Wis.	Townsend
Davenport	Henry, Tex.	Mott	Underwood
Davidson	Howard	Neeley	Vreeland
Davis, W. Va.	Hughes, Ga.	Nye	Warburton
Dickinson	Hughes, W. Va.	Palmer	Watkins
Dies	Hull	Parran	Wilson, Ill.
Dixon, Ind.	Jackson	Patten, N. Y.	Wood, N. J.
Donohoe	James	Peters	
Draper	Johnson, Ky.	Prince	
Driscoll, D. A.	Jones	Pujo	

So the previous question was rejected.

The Clerk announced the following additional pairs:

On the vote:

Mr. CAMPBELL (for the previous question) with Mr. BURLESON (against).

Mr. STERLING (for the previous question) with Mr. PATTEN of New York (against).

Until further notice:

Mr. SHERLEY with Mr. OLMSTED.

Mr. BLACKMON with Mr. VREELAND.

Mr. ASHBROOK with Mr. MICHAEL E. DRISCOLL.

Mr. CLAYPOOL with Mr. FULLER.

Mr. HOWARD with Mr. JACKSON.

Mr. UNDERWOOD with Mr. TAYLOR of Ohio.

Mr. JAMES with Mr. LANGLEY.

Mr. OLMSTED. Mr. Speaker, I voted "yea," but I am paired with the gentleman from Kentucky, Mr. SHERLEY, and, finding he did not vote, I desire to withdraw my vote and vote "present."

The name of Mr. OLMSTED was called, and he voted "Present."

The result of the vote was announced as above recorded.

Mr. HEFLIN. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The Chair wishes the gentleman would withhold that motion for a moment, until the House can transact some routine business.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to—

Mr. DIES, for 3 days, on account of illness.

Mr. DANFORTH, indefinitely, on account of illness.

Mr. DONOHOE, for 10 days, on account of illness.

RESIGNATION FROM A CONFERENCE COMMITTEE.

The SPEAKER. The Chair lays before the House a letter he has received from Hon. SCOTT FERRIS, of Oklahoma, which the Clerk will report.

The Clerk read as follows:

FEBRUARY 12, 1913.

To the Hon. CHAMP CLARK,
Speaker House of Representatives,
Washington, D. C.

SIR: Owing to the necessity of my being absent from the House of Representatives on important business during the next 10 days, I respectfully ask to be relieved from serving on the conference committee on the part of the House of Representatives on H. R. 23293, and ask you to substitute in my place Hon. EDWARD T. TAYLOR, of Colorado, the next ranking member on the committee, and oblige,

Yours, respectfully, SCOTT FERRIS.

The SPEAKER. Without objection, the gentleman from Oklahoma [Mr. FERRIS] will be excused from service on the conference committee, and the Chair will appoint Mr. TAYLOR of Colorado in his place.

There was no objection.

BILLS ON THE PRIVATE CALENDAR.

Mr. POU. Mr. Speaker, I ask unanimous consent for the present consideration of the following order, which I send to the desk.

The SPEAKER. The gentleman from North Carolina [Mr. POU] asks unanimous consent for the present consideration of the following order, which the Clerk will report.

The Clerk read as follows:

Ordered, That on Friday next, February 14, the House shall stand in recess from the hour of 5 o'clock p. m. until the hour of 8 o'clock p. m., at which time it shall be in order to consider only, in the House or in Committee of the Whole, bills on the Private Calendar which were not considered and objected to on Monday, February 10, after which it shall be in order to consider the remainder of said calendar.

Mr. MANN. Reserving the right to object, Mr. Speaker, I thought the gentleman from North Carolina desired to ask that bills which were not objected to on Friday night should be considered with a view to giving every Member with a bill on the Private Calendar an opportunity to bring it before the House on a kind of unanimous-consent private calendar.

Mr. POU. Mr. Speaker, I ask leave to modify the order.

The SPEAKER. The gentleman from North Carolina asks leave to modify the order.

Mr. POU. I submit the order in a modified form.

The SPEAKER. The Clerk will report the order as modified.

The Clerk read as follows:

Ordered, That on Friday next, February 14, the House shall stand in recess from the hour of 5 o'clock p. m. until the hour of 8 o'clock p. m., at which time it shall be in order to consider, by unanimous consent only, in the House as in Committee of the Whole bills on the Private Calendar which were not considered or objected to on Monday, February 10, after which it shall be in order to consider the remainder of said calendar.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Under that order, as I understand, bills on the Private Calendar will be called and the question raised whether objection has been made to them, as it has been made heretofore.

Mr. POU. That is the object of the order. It was intended that it should be drawn that way.

The SPEAKER. The intention of this order is to enable the House to proceed exactly as the House proceeded on Monday night, beginning where it left off then. Is there objection?

There was no objection.

HOUR OF MEETING TO-MORROW.

Mr. FOSTER. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn until 10.30 o'clock to-morrow morning.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] asks unanimous consent that when the House adjourns to-day it adjourn until 10.30 o'clock to-morrow morning. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, is it the understanding that the diplomatic and consular bill shall come up the first thing to-morrow?

Mr. FOSTER. Yes.

Mr. MANN. Why not make it 11 o'clock to-morrow?

Mr. FOSTER. Well, I will make it 11 o'clock a. m.

The SPEAKER. Is there objection?

There was no objection.

REPRINT OF SENATE BILL 4043 RELATING TO INTERSTATE SHIPMENT OF LIQUORS.

Mr. WEBB. Mr. Speaker, at the request of the gentleman from South Carolina [Mr. FINLEY], chairman of the Committee on Printing, I renew the request that there be printed as a document Senate bill 4043 as it passed the House. There is not a copy to be had in the document room of this House or of the Senate.

Mr. MANN. Does the gentleman mean to have it printed in bill form?

Mr. WEBB. Yes.

The SPEAKER. Is there objection?

There was no objection.

EXCHANGE OF LANDS FOR SCHOOL SECTIONS IN GOVERNMENT RESERVATIONS.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to have printed in the RECORD a letter from Hon. Walter L. Fisher, Secretary of the Interior, relating to the bill (S. 5068) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes. The Committee on Public Lands have made a report, and this is an important letter relating to that bill.

The SPEAKER. The gentleman from California asks unanimous consent to have printed in the RECORD a letter from the Secretary of the Interior in relation to Senate bill 5068. Is there objection?

There was no objection.

Following is the letter referred to:

DEPARTMENT OF THE INTERIOR,
Washington, February 11, 1913.

Mr. SCOTT FERRIS,
Chairman Committee on the Public Lands,
House of Representatives.

SIR: My attention has been recently called to S. 5068, being a bill "to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes."

The general purpose of this bill is similar to H. R. 19344. The Senate bill as amended was passed by the Senate August 15, 1912. The matter of exchange, the subject of these bills, has been the subject of several previous reports from this department addressed to your committee. The bill as passed by the Senate seems to safeguard the public interests, and I would recommend its passage if the last proviso is stricken from the bill. Thereby it is provided: "That the provisions of this act shall not apply to the State of Idaho."

This is a general exchange measure authorizing the Secretary of the Interior, in his discretion, to make exchanges of lands within the several States for those portions of the land granted in aid of common schools, whether surveyed or unsurveyed, which lie within the exterior limits of any Indian, military, national forest, or other reservation, the exchange to be made in the manner and form and subject to the limitations and conditions of sections 2275 and 2276 of the Revised Statutes, as amended by the act of February 28, 1891 (36 Stat., 796). The department has heretofore made exchanges of this sort under sections 2275 and 2276, as amended, and, as before stated, believes the sections above quoted ample authority therefor, even though this legislation should fail.

The necessity for the bill results from an opinion by Judge Wellborn in the case of Hibbard v. Slack (84 Fed. Rep., 571), in which it is held that an act of February 28, 1891, amending sections 2275 and 2276, Revised Statutes, does not contemplate an exchange of lands between the State and the United States, but only indemnity for loss to a State because of inclusion of school lands within a forest or other reservation prior to their identification by the Government survey. Although this decision has never been followed by the Land Department in the administration of the school grants to the several States, it has nevertheless been thought by interested parties that the passage of this legislation would greatly relieve the situation. When it is remembered that the department has heretofore made these exchanges under the sections above quoted and has exchanged with the State of Idaho already about 350,000 acres, that there are at least that many additional selections pending unacted upon, and that the present bill merely authorizes exchanges in the manner and subject to the conditions and limitations of those sections, the effect of the last proviso to the bill as passed by the Senate can readily be appreciated. Assuming that it may not affect exchanges heretofore made—that is, carried into effect by final approval and acceptance by the Secretary of the Interior—it would certainly raise the question as to whether further exchanges of this sort were permissible with the State of Idaho.

The State, by its legislature, in 1911 authorized its officers to make exchanges of this sort with the United States and ratified and approved all previous exchanges made or applied for. The purpose in including this proviso, therefore, can not be understood; but should the bill be passed retaining the proviso, I would not feel free to make further exchanges of this sort with the State. I therefore earnestly recommend to the consideration of your committee the advisability of eliminating this proviso. With its exclusion, however, as hereinbefore stated, I think the public interest will be preserved, and I should recommend its early enactment.

Very respectfully,

WALTER L. FISHER, *Secretary.*

ADJOURNMENT.

Mr. HEFLIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 38 minutes p. m.) the House adjourned, in accordance with the order previously made, until to-morrow, Thursday, February 13, 1913, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Galveston Harbor and adjacent waterways, Texas (H. Doc. No. 1390); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Savannah River at North Augusta, S. C. (H. Doc. No. 1389); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Terrys Creek and Back River from the mouth to its junction with Mackeys River, tributary to Brunswick Harbor, Ga. (H. Doc. No. 1391); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

4. A letter from the Acting Secretary of Commerce and Labor, referring to Senate bill 8369 to donate the Old Exchange Building in Charleston, S. C., to the Daughters of the American Revolution and advising Congress that the building is now used by the Lighthouse Service (H. Doc. No. 1388); to the Committee on Public Buildings and Grounds and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. TAYLOR of Colorado, from the Committee on the Public Lands, to which was referred the bill (H. R. 26189) granting certain coal lands to the city of Grand Junction, Colo., reported the same without amendment, accompanied by a report (No. 1511), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. SWEET, from the Committee on Military Affairs, to which was referred the bill (H. R. 26648) for the relief of David Crowther, reported the same without amendment, accompanied by a report (No. 1510), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CULLOP: A bill (H. R. 28738) for the erection of a public building at Washington, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. COX: A bill (H. R. 28739) to purchase a post-office site at French Lick, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. LANGLEY: A bill (H. R. 28740) for the appointment of a commission with the view of providing a reservation in Oklahoma for the Five Civilized Tribes; to the Committee on Indian Affairs.

By Mr. FARR: A bill (H. R. 28741) to authorize the Secretary of War to donate two condemned brass or bronze cannon and cannon balls to Lieutenant Ezra S. Griffin Post, No. 139, Grand Army of the Republic, Scranton, Pa.; to the Committee on Military Affairs.

By Mr. LOBECK: A bill (H. R. 28742) authorizing the Shoshone Tribe of Indians residing on the Wind River Reservation in Wyoming to submit claims to the Court of Claims; to the Committee on Indian Affairs.

By Mr. GARDNER of Massachusetts: Resolution (H. Res. 829) directing the Secretary of the Treasury to furnish the House of Representatives with certain information; to the Committee on Ways and Means.

By the SPEAKER (by request): Memorial from the Legislature of the State of Idaho, asking that the three-year homestead bill, approved June 6, 1912, be amended so as to not require cultivation of homesteads; to the Committee on the Public Lands.

Also (by request), memorial from the Legislature of the State of California, praying for the passage of the Newlands bill to create a board of river regulation and to provide a fund for the regulation and control of the flow of navigable rivers; to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. EDWARDS: A bill (H. R. 28743) for the relief of the heirs of Andrew D. Kent, deceased; to the Committee on War Claims.

By Mr. LAWRENCE: A bill (H. R. 28744) granting an increase of pension to Margaret Kelley; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 28745) to remove the charge of desertion from the military record of Jacob Snyder; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of H. D. Arnot and 90 other citizens of Newark and Hanover, Ohio, asking that Congress investigate the conduct of the Interior Department with reference to the Uncle Sam Oil Co.; to the Committee on the Public Lands.

By Mr. AYRES: Petition of the New York State Conference on Taxation, Binghamton, N. Y., favoring the passage of legislation for the extension of the work of the Census Department; to the Committee on the Census.

By Mr. BROWNING: Petition of James Milton Conover, Carlisle, Pa., favoring the passage of legislation placing the Military and Naval Academies in the classified civil service; to the Committee on Reform in the Civil Service.

By Mr. DICKINSON: Papers to accompany bill (H. R. 27596) granting an increase of pension to George W. Wade; to the Committee on Invalid Pensions.

Also, petition of citizens of Rich Hill, Worland, Butler, Foster, Adrain, Archie, Eldorado Springs, Montrose, Rockville, Drexel, Amsterdam, Merwin, Amoret, and Hume, all in the sixth congressional district of Missouri, favoring the passage of legislation for the regulation of express rates and express classifications; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Leeton, Blairston, Windsor, Belton, Harrisonville, Holden, Calhoun, Centerview, and Warrensburg, all in the sixth congressional district of Missouri, favoring the passage of legislation compelling concerns selling direct to the consumer by mail to pay their portions of the funds for the development of the local community, county, and State; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Petition of citizens of Lime Ridge and vicinity, Wisconsin, favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. FORNES: Petition of the Children's Aid Society, New York, N. Y., favoring the passage of the Page bill (S. 3), granting Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the New York State Conference on Taxation, Binghamton, N. Y., favoring the passage of legislation for the extension of the work of the Census Department; to the Committee on the Census.

By Mr. LAFEAN: Petition of Ladies' Auxiliary No. 49, National Association of Letter Carriers, Braddock, Pa., favoring the passage of the Hamill retirement bill, providing for pensioning Government clerks; to the Committee on Pensions.

By Mr. LA FOLLETTE: Petition of the System Federation of Harriman Railroads, favoring passage of legislation for making investigation of the condition of equipment of the railroads and for the improvement of the condition of the American railway employees; to the Committee on Interstate and Foreign Commerce.

By Mr. LANGLEY: Petition of members of Company I, First Regiment Kentucky State Guard, favoring the passage of the Langley-Russell bill, for extending the provisions of the Sherwood bill to include the State militia; to the Committee on Invalid Pensions.

Also, petition of veterans of the Civil War of Auburn, Me.; Josiah Whipley, Newell, W. Va.; John Otterbacker, Charlottesville, Va.; W. M. Sterent, Beaver Dam, Pa.; George Shange, Wesley, Pa.; and Wesley J. Knaggs, Bay City, Mich., favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. LINDSAY: Petition of the New York State Conference on Taxation, Binghamton, N. Y., favoring the passage of legislation for the extension of the work of the Census Department; to the Committee on the Census.

Also, petition of the Pratt Institute, Brooklyn, N. Y., and Clarence E. Meleney, associate city superintendent department of education, New York, N. Y., favoring the passage of the Page bill (S. 3), granting Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Central Labor Union of Brooklyn, N. Y., favoring the insertion of a clause in this year's naval appropriation bill providing for the building of one of the new battleships in the Brooklyn Navy Yard; to the Committee on Naval Affairs.

By Mr. OLMSTED: Petition of citizens of Shippensburg, Pa., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. O'SHAUNESSY: Petition of Anne Langworthy Waite, Westerly, R. I., favoring the passage of the Prouty "red-light" bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the Rhode Island Field Naturalist Club, Providence, R. I., favoring the passage of the McLean bill granting Federal aid for the protection of all migratory birds; to the Committee on Agriculture.

By Mr. PATTEN of New York: Petition of the New York State Conference on Taxation, Binghamton, N. Y., favoring the passage of legislation for the extension of the work of the Census Department; to the Committee on the Census.

By Mr. PETERS: Petition of the American Academy of Arts and Sciences, Boston, Mass., protesting against the use of the "American Academy of Arts" by the American Academy of Arts and Letters, now seeking incorporation in the House of Representatives and Senate; to the Committee on the Library.

By Mr. RAKER: Petition of the citrus growers of southern California, favoring the passage of legislation making an appropriation of $100,000 for assistance and protection of fruit and citrus growers of California; to the Committee on Agriculture.

Also, petition of the National Association of Shellfish Commissioners, Boston, Mass., favoring the passage of legislation making appropriations for investigations for the development of the shell fisheries; to the Committee on the Merchant Marine and Fisheries.

By Mr. WEEKS: Petition of the Outlook Class of the Central Congregational Church, Newtonville, Mass., and the Men's Class, Phillips Church, Watertown, Mass., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Men's Class, Phillips Church, Watertown, Mass., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.